UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 88th CONGRESS
SECOND SESSION

VOLUME 110—PART 10

JUNE 4, 1964, TO JUNE 16, 1964
(PAGES 12633 TO 14046)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1964

DEPOSITED BY THE
UNITED STATES OF AMERICA

Congressional Record
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PROCEEDINGS AND DEBATES OF THE 88th CONGRESS, SECOND SESSION

SENATE

Thursday, June 4, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 9 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. Metcalf).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

O merciful God, whose law is truth, and whose statutes stand forever: At this altar of Thy grace, we bow, seeking the renewal of our inner strength, for these are troublous times; and we who would be the servants of Thy will, stand in need of courage, fortitude, and stability.

We pray for the undergirding with Thy might of those who in this Chamber are lifted into the ministry of public service, that putting aside mere partisan divisions, they may be given tallness of stature to see, above the flimsy curtains of prideful opinion, the good of the largest number.

With such ominous threats from beyond our borders, forbid that the precious fuel of our national unity be spilled upon the ground, to ignite selfish fires. May that oil of a patriotism pure and undefiled still feed the flame of freedom's torch as it enlightens the whole darkened earth.

We ask it in the Redeemer's name. Amen.

THE JOURNAL

On request of Mr. Mansfield, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, June 3, 1964, was dispensed with.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, following the conclusion of a quorum call, there be the usual morning hour, under the usual conditions, with statements therein limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TO 9 A.M., FRIDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock on Friday morning, tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 267 Leg.]

Aiken
Allott
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Ellender
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Lausche
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Nelson
Neuberger
Pastore
Pell
Proxmire
Randolph
Russell
Saltonstall
Scott
Stennis
Talmadge
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. Anderson], the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Hawaii [Mr. Inouye], the Senator from Massachusetts [Mr. Kennedy], the Senator from Missouri [Mr. Long], the Senator from Louisiana [Mr. Long], the Senator from Minnesota [Mr. McCarthy], the Senator from Rhode Island [Mr. Pell], the Senator from Connecticut [Mr. Ribicoff], the Senator from Virginia [Mr. Robertson], the Senator from Florida [Mr. Smathers], and the Senator from South Carolina [Mr. Thurmond] are absent on official business.

I also announce that the Senator from West Virginia [Mr. Byrd], the Senator from Pennsylvania [Mr. Clark], the Senator from Mississippi [Mr. Eastland], the Senator from Oklahoma [Mr. Edmondson], the Senator from North Carolina [Mr. Ervin], the Senator from Tennessee [Mr. Gore], the Senator from North Carolina [Mr. Jordan], the Senator from Michigan [Mr. McNamara], the Senator from Maine [Mr. Muskie], the Senator from Alabama [Mr. Sparkman], and the Senator from Missouri [Mr. Symington] are necessarily absent.

I further announce that the Senator from California [Mr. Engle] is absent because of illness.

Mr. SALTONSTALL. I announce that the Senator from Kentucky [Mr. Cooper], the Senator from Kansas [Mr. Pearson], and the Senator from Vermont [Mr. Prouty] are detained on official business.

The Senator from Illinois [Mr. Dirksen], the Senator from Hawaii [Mr. Fong], the Senator from Arizona [Mr. Goldwater], the Senator from California [Mr. Kuchel], the Senator from New Mexico [Mr. Mechem], the Senator from Wyoming [Mr. Simpson], and the Senator from Texas [Mr. Tower] are necessarily absent.

The Senator from Maine [Mrs. Smith] is absent on official business.

The ACTING PRESIDENT pro tempore. A quorum is present. Morning business is in order.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

Two concurrent resolutions of the Legislature of the State of Mississippi; to the Committee on the Judiciary:

"House Concurrent Resolution 30

"Concurrent resolution memorializing the U.S. Congress to propose and submit for ratification an amendment to the Constitution of the United States relating to article V thereof

"Whereas the National Legislative Conference, at its 15th annual meeting held in Phoenix, Ariz., in September 1962, adopted a resolution looking toward an effort to propose certain amendments to the U.S. Constitution, said amendments having as their purpose the strengthening of the 10th amendment to the U.S. Constitution so as to make it more meaningful; and

"Whereas the Federal-State Relations Committee of the National Legislative Conference presented its report in this matter to the Council of State Governments biennial general assembly of the States held in Chicago, Ill., in December 1962; and

"Whereas a majority of the States present and voting at the said general assembly of the States approved the said report of the Federal-State Relations Committee of the National Legislative Conference, and endorsed the proposed amendments to the U.S. Constitution therein contained, and recommended that all the States introduce and pass them in 1963; and

"Whereas it is the studied conclusion of the Legislature of the State of Mississippi that the accelerating trend of centralization of power into the Federal Government at the expense of the reserved powers of the several States and the people must be stopped in the national interest, and that the proposed amendment to the U.S. Constitution is, therefore, necessary in the national interest: Now, therefore, be it

"*Resolved by the House of Representatives of the State of Mississippi (the Senate concurring therein)*, That the Legislature of the State of Mississippi respectfully petitions the Congress of the United States to propose and submit for ratification the following article as an amendment to the Constitution of the United States:

" 'ARTICLE —

" 'SECTION 1. Article V of the Constitution of the United States is hereby amended to read as follows:

" ' "The Congress, whenever two-thirds of both Houses shall deem it necessary, or, on the application of the legislatures of two-thirds of the several States, shall propose amendments to this Constitution, which shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States. Whenever applications from the legislatures of two-thirds of the total number of States of the United States shall contain identical texts of an amendment to be proposed, the President of the Senate and the Speaker of the House of Representatives shall so certify, and the amendment as contained in the application shall be deemed to have been proposed, without further action by Congress. No State, without its consent, shall be deprived of its equal suffrage in the Senate."

" 'SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within 7 years from the date of its submission.'; and be it further

"*Resolved*, That if Congress shall have proposed an amendment to the Constitution identical with that contained in this resolution prior to January 1, 1965, this application for a proposed amendment shall no longer be of any force or effect; and be it further

"*Resolved*, That a duly attested copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, and to each Member of the Congress from this State.

"Adopted by the house of representatives, March 19, 1964.

"GEORGE PAYNE COSSAR,
"*Acting Speaker of the House of Representatives.*

"Adopted by the senate, May 21, 1964.

"CLARENCE MARTIN,
"*President of the Senate.*"

"HOUSE CONCURRENT RESOLUTION 32

"Concurrent resolution memorializing the U.S. Congress to propose and submit for ratification an amendment to the Constitution of the United States relating to the judicial powers of the Federal courts

"Whereas the National Legislative Conference, at its 15th annual meeting held in Phoenix, Ariz., in September 1962, adopted a resolution looking toward an effort to propose certain amendments to the U.S. Constitution, said amendments having as their purpose the strengthening of the 10th amendment to the U.S. Constitution so as to make it more meaningful; and

"Whereas the Federal-State Relations Committee of the National Legislative Conference presented its report in this matter to the Council of State Governments biennial general assembly of the States held in Chicago, Ill., in December 1962; and

"Whereas a majority of the States present and voting at the said general assembly of the States approved the said report of the Federal-State Relations Committee of the National Legislative Conference, and endorsed the proposed amendments to the U.S. Constitution therein contained, and recommended that all the States introduce and pass them in 1963; and

"Whereas it is the studied conclusion of the Legislature of the State of Mississippi that the accelerating trend of centralization of power into the Federal Government at the expense of the reserved powers of the several States and the people must be stopped in the national interest, and that the proposed amendment to the U.S. Constitution is therefore necessary in the national interest: Now, therefore, be it

"*Resolved by the House of Representatives of the State of Mississippi (the Senate concurring therein)*, That this legislature respectfully petitions the Congress of the United States to propose and submit for ratification the following article as an amendment to the Constitution of the United States:

" 'ARTICLE —

" 'SECTION 1. No provision of this Constitution, or any amendment thereto, shall restrict or limit any State in the apportionment of representation in its legislature.

" 'SEC. 2. The judicial power of the United States shall not extend to any suit in law or equity, or to any controversy, relating to apportionment of representation in a State legislature.

" 'SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission'; and be it further

"*Resolved*, That if Congress shall have proposed an amendment to the Constitution identical with that contained in this resolution prior to January 1, 1965, this application for a proposed amendment shall no longer be of any force or effect; and be it further

"*Resolved*, That a duly attested copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, and to each Member of the Congress from this State.

"Adopted by the house of representatives March 19, 1964.

"GEORGE PAYNE COSSAR,
"*Acting Speaker of the House of Representatives.*

"Adopted by the senate May 21, 1964.

"CLARENCE MARTIN,
"*President of the Senate.*"

EXTENSION OF REORGANIZATION ACT OF 1949—REPORT OF A COMMITTEE (S. REPT. NO. 1057)

Mr. McCLELLAN. Mr. President, on behalf of the Committee on Government Operations, I submit, without amendment, a report on the bill (H.R. 3496) to further amend the Reorganization Act of 1949, as amended, so that such act will apply to reorganization plans submitted to the Congress at any time before June 1, 1965.

The objective of the proposed legislation is to reinstate the authority granted previously to the President by the act, which permitted him to submit reorganization plans to the Congress for reorganizations within the executive branch of the Government. The act has been extended by previous Congresses, but expired on June 1, 1963.

The committee has had this bill under consideration for some time. Due to the legislative situation which has existed in the Senate, requiring all Senators to give their attention to the pending bill, and the fact that there had been no indication of opposition to extending the authority for another year, the committee, on April 7, 1964, agreed unanimously, by a poll of its members, to report the bill favorably to the Senate. In an effort to expedite Senate approval of the bill, as approved by the House of Representatives, I endeavored to submit a favorable report to the Senate on April 10. The proposed report was not permitted to be filed, however, on a point of order raised by a Member of the Senate on the basis that a regular scheduled meeting had not been called with a majority of the members present and voting to report the bill to the Senate.

Thereafter, I again sought at various times to persuade the Senator who had raised the point of order to waive the point of order so that the bill might be reported favorably, since there was no opposition to it, and since the membership of the committee had unanimously agreed that it should be reported, but I was unable to prevail upon the Senator to change his position.

It was therefore necessary to hold an executive session to overcome the point of order made against reporting the bill, despite the fact that all the members of the committee had already given their approval. Accordingly, in order to afford an opportunity to the Senate to vote on the bill, an executive session was scheduled for Tuesday morning, June 2, 1964, at 8:30 a.m., at which time the committee again voted unanimously to report H.R. 3496, a quorum being present. There were also proxy votes in favor of reporting it. This unusual time was set due to the fact that no committee can meet when the Senate is in session, and members of the committee had previously indicated that they had one or more other committee meetings scheduled when the pressure of the floor debates permitted committees to meet. The leadership of the Senate had also announced that, beginning immediately after the Memorial Day weekend, the Senate would meet at 9 a.m. each day until a date for cloture was set, in an attempt to stop debate on the so-called civil rights bill.

Mr. President, although the committee voted to recommend that the reorganization act be extended, there are certain aspects related to the authority granted to the President thereunder which I feel it is my duty to call to the attention of the Senate.

The act has been extended under previous amendments, usually for periods of 2 years. During the first 5 years after its enactment, following the submission of the recommendations of the First Hoover Commission, 51 reorganization plans were submitted to the Congress of which 40 were permitted to become law. In the past 10 years under extended authority, however, only 17 plans have been submitted, of which 7 were rejected by the House or the Senate. The report I am filing on the pending bill includes a full tabulation of all plans submitted to the Congress under the act, and actions taken by the Congress on each of the plans.

As I have stated, the proposed extension of the act was unanimously approved by the committee, to confer the reorganization authority on President Johnson, as it has been conferred on other Presidents in various forms since 1929. Nevertheless, there has been some hesitancy in the past on the part of some Members of Congress in approving further extensions since such action is considered by them to constitute a surrender of legislative authority to the President.

In order to point up the importance of the reorganization power and its potential use, if continued indefinitely, I directed the staff of the committee to prepare a summary of all reorganization proposals submitted so far in the 88th Congress, providing for the creation of new departments, agencies, boards, commissions, committees, and so forth, and major reorganizations effected in existing agencies. This data is included in addenda to the report I am submitting on H.R. 3496, beginning at page 13. The tabulations also include legislative recommendations of the President involving reorganization matters, and a listing of bills supported by the administration which propose new organizations and reorganization of existing functions.

The information compiled relative to all legislative proposals for the creation of new agencies in the 88th Congress reflects that there were 17 bills providing for the creation of 11 new departments with Cabinet rank, and more than 60 internal reorganizations effected in existing departments during the first 15 months of the 88th Congress. Other reorganizations of the executive branch of the Government, proposed or put into effect, involve approximately 150 new or existing agencies, resulting from acts of Congress, Executive orders, departmental orders and memorandums, or other procedures, or were proposed by more than 320 bills or resolutions introduced in the Senate or the House of Representatives.

During the same period, there were estimated to be in excess of 500 separate bills and resolutions filed or Executive orders issued to create or expand an estimated 150 new, proposed, or existing Federal Commissions, and 280 such proposals to establish, extend, or abolish 90 different congressional or administrative committees. These proposals for extensive reorganizations cover only the first 15 months of the 88th Congress.

At my direction the staff also included a tabulation of reorganization proposals from 1947, when the Legislative Reorganization Act became effective and the committee was established with its present jurisdiction, including bills and resolutions filed in the 80th through the 87th Congresses.

The reorganizations proposed to be made, in addition to those which were approved during that period, are so extensive as to tax the imagination. For instance, there were more than 200 separate bills and reorganization plans submitted proposing the creation of 40 new departments with Cabinet status, or four times as many as presently exist. There were approximately 500 separate bills, resolutions, executive and departmental orders filed or issued. These involved the creation, extension, reorganization or abolishment of an estimated 260 existing departments, agencies, administrations, boards, services, bureaus and other types of Federal activities, prior to the beginning of the 88th Congress.

Emphasis should be placed upon the fact that all of these figures are conservative, and include only those reorganizations which were brought about as the result of an act of Congress, or approval of reorganization plans, the issuance of Executive orders by the President or by the heads of departments or agencies effecting important changes in organizational structure by authority of law. There were many internal transfers and realinements of components in reorganization involving the reassignment of functions which were not included in the tabulations.

Further, not counting the proposals introduced in the 88th Congress, to which I have already made reference, there were more than 800 bills or resolutions introduced in the Congress—or originated by Presidential action—which proposed the extension, or establishment of approximately 250 new commissions during the period beginning with the 80th and extending through the 87th Congress.

To further illustrate the fact that the Federal Government is literally bursting at the seams with all types of operating units, and the facts that there are such incessant demands for further expansion of Federal activities, the staff tabulated a total of more than 600 bills, resolutions, and other proposals to establish a total of in excess of 200 separate committees—legislative, interdepartmental, advisory, or Presidential—which cover practically every conceivable subject—and some of which are inconceivable.

The committee has been informed that the Bureau of the Budget, in recognition of the fact that the establishment of numerous committees for every conceivable purpose has become so rampant that some sort of control is essential. The Bureau of the Budget has, therefore, issued Circular No. A-63, requiring that all agencies submit annually to the Bureau an identification of all interagency committees established by Executive order, legislation, or directive of the President, with reporting date of May 31, 1964. This does not cover special public advisory groups, composed of private citizens, now estimated to total approximately 2,000 committees, in addition to those listed in the above tabulation.

When careful consideration is given to the numerous proposals for the expansion of the activities of the Federal Government, as set forth in the report, it becomes crystal clear that some brake must be put upon the continuing expansion of Federal activities which are constantly building up a central government directed at controlling virtually every aspect of American life and every activity of our people.

The ever-increasing cost of operating the Federal Government now involves annual budgets in excess of $100 billion, or an increase of $56 billion over total budget expenditures for fiscal year 1951. These expenditures result in annual deficits of billions of dollars, adding to the national debt, now in excess of $300 billion, and rising at the rate of more than $8 billion annually. This pyramiding of the already astronomical national debt dictates the compelling necessity of reducing the cost of Government, where it is prudent to do so, in order to restore sound fiscal policies. The continuing increase in Government activities, and the addition of new Federal programs and operating units required to implement them, does not provide a solution to these problems, but results, instead, in increasing deficits. Unless proposed reorganizations are consolidations of existing agencies or coordination of activities already authorized, extensive Federal expansions compound these problems.

The increasing cost of the Federal Government can be, to a large extent, traced to the outlined extensions of Federal activities into all areas of public interest. When the many proposals for further extension of Federal activities affecting the lives of all our people, which have been proposed but not yet acted upon, are considered, the increased cost involved is staggering to the imagination. If all of them were approved, it would inevitably lead to national bankruptcy.

The committee recognized, of course, that some of the proposals listed in the tabulations did not involve expansion of Federal activities, but were attempts to coordinate or consolidate existing programs and operations, and to bring about more efficiency and economy in the operations of the Government. This is in accord with the objectives of the committee in recommending the extension of the Reorganization Act. In doing so, however, it was considered proper and desirable to point up the increasing tendency of the executive and legislative branches of the Government to propose further expansions, in the name of reorganizations, which actually add to the incessant growth and increasing cost in the operations of Federal programs, through the resultant necessity of establishing the supporting agencies required to administer them.

The ACTING PRESIDENT pro tempore. The report will be received and printed, and the bill will be placed on the calendar.

AMENDMENT OF SECTION 503 OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949—REPORT OF A COMMITTEE

(S. REPT. NO. 1058)

Mr. PELL. Mr. President, from the Committee on Government Operations, I submit a favorable report, without amendment, on H.R. 6237, a bill to provide authorization for grants for the collection, reproduction, and publication of documentary source material significant to the history of the United States. This bill has been unanimously approved by the Committee on Government Operations. The legislation was approved by the House of Representatives on October 15, 1963.

Mr. President, under the authority granted to the General Services Administration in this legislation, the U.S. Government will, at long last, begin a service which has been badly needed for many years—the collection and publication of documents and other source materials significant to the history of our Nation.

Presidents of the United States, as far back as Thomas Jefferson, have endorsed the idea of careful compiling of our historic documents. Former Presidents Hoover, Truman, Eisenhower, and Kennedy, as well as President Lyndon Johnson, have urged more attention to the problem of collecting source documents which provide better understanding of our national beginnings, tradition, and history.

Under the provisions of this legislation, an amount not to exceed $500,000 will be appropriated to the General Services Administration for the fiscal year ending June 30, 1965, and for each of the 4 succeeding years. It is expected that this amount will be matched by private contributions, so that a total amount of $1 million will be utilized in this important work, annually.

The General Services Administration provided our committee with a list of papers significant to the development of our Nation. It is apparent that much of this work will go undone if some assistance is not provided to the colleges, universities, scholars, and private groups who are interested in such undertakings. Informed witnesses told the committee that a number of projects are being held in abeyance for lack of some small support. Many universities can provide personnel and research facilities, but lack the little extra money to fully implement historical research projects. This appropriation is expected to give them the impetus to go ahead.

Thus far, our country has not given the support to this type of project that other nations have provided, but, under this legislation, we can expect to do slightly more than most other countries are doing. It is hoped that we can overcome any lag which may exist.

During the course of our hearings, this legislation was endorsed by many historic societies, historians, and officials of universities and colleges. The members of the Commitee on Government Operations in reporting H.R. 6237 expects that enactment of this legislation will give assistance and encouragement to the collection, reproduction, and compilation of documents which bear significantly on our history and heritage.

The ACTING PRESIDENT pro tempore. The report will be received and printed, and the bill will be placed on the calendar.

AMENDMENT OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, RELATING TO TITLE III THEREOF—REPORT OF A COMMITTEE (S. REPT. NO. 1059)

Mr. PELL. Mr. President, from the Committee on Government Operations, I submit, without amendment, a report on S. 1232, a bill to amend the Federal Property and Administrative Services Act of 1949, to make title III thereof directly applicable to procurement of property and nonpersonal services by executive agencies, and for other purposes.

On February 18, 1964, the chairman of the Committee on Government Operations appointed a special subcommittee consisting of myself, chairman, Senators McINTYRE, RIBICOFF, MILLER, and PEARSON, to consider S. 1232 and two other bills which were introduced in the Congress at the request of the Administrator of General Services as a part of the GSA legislative program for 1964. The subcommittee held a hearing on these bills on March 11, 1964, at which time Mr. Charles W. Gasque, Deputy General Counsel and Mr. Robert T. Davis, Director of Legislation of the General Services Administration appeared and testified on S. 1232. On May 28, 1964, the subcommittee held an executive session to review the proposed legislation and unanimously agreed to report the bill favorably to the full committee. The committee met in executive session on June 2, 1964, and after carefully considering the purpose and justification of the proposed legislation, unanimously approved the bill and ordered it reported favorably to the Senate.

Title III of the Federal Property and Administrative Services Act of 1949, which this bill will amend, represents a modernized code of procedures for procurement by the Government of property and nonpersonal services. It concerns such matters as advertising, negotiation, small business, antitrust laws, covenant against contingent fees, cost-plus and incentive-type contracting, examination of contractor's books and records, and advance payments. Chapter 137 of title 10 of the United States Code—derived from the Armed Services Procurement Act of 1947—provides a similar version of this code for the Armed Forces and NASA. For agencies which do not use title III procedures pursuant to the delegation of authority made by the Administrator of General Services, or which do not come within the Armed Services Procurement Act, must rely on section 3709 of the Revised Statutes. Section 3709 merely requires formal advertising for procurement for the Government, except in certain specified cases. It is narrow and limited in application, and silent as to other important facets of procurement procedure, such as those provided in this bill.

The primary purpose of this bill is to make a modern code of procurement procedures contained in title III of the property directly applicable by statute to executive agencies of the Government not now so covered. At the present time use of this modern code by such agencies is entirely on a permissive, delegated basis. This code will also replace use of the limited provisions of section 3709, Revised Statutes, governing advertising and negotiation. A common statutory foundation of procurement authority will further enable the Administrator of General Services to prescribe uniform procurement policies and procedures for agencies and to develop uniform procurement practices for the benefit of both the Government and the businessman contracting with the Government.

The bill includes provisions that would effect certain less significant improvements in procurement. It will exclude the procurement of personal services from the operation of title III of the Federal Property Act, which is essentially a property management code of procedures. The bill will also make certain limitations of section 304 of the act—concerning fees of cost-type contracts, contingent fees, examination records, and so forth—applicable to contracts negotiated by executive agencies under any law.

Procedures corresponding to those ol title III already apply to procurement by the Army, Navy, Air Force, Coast Guard, and National Aeronautics and Space Administration—10 U.S.C. 2303(a). Accordingly, section 1 of this bill recognizes the existing authority as well as other authority of agencies to procure without regard to all, or part of the Federal Property and Administrative Services Act of 1949, as provided in section 602(d) of the act.

In approving this proposed legislation the committee took the view that the enactment of this bill will make possible improvement in the procurement of goods and services throughout the Government, bring about uniformity in the regulations and effect savings in manpower and the cost of carrying out the programs and activities administered by the executive branch of the Government.

The ACTING PRESIDENT pro tempore. The report will be received and printed, and the bill will be placed on the calendar.

PRINTING OF ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "A REPORT OF A STUDY OF U.S. FOREIGN AID IN 10 MIDDLE EASTERN AND AFRICAN COUNTRIES"—REPORT OF A COMMITTEE

Mr. GRUENING, from the Committee on Government Operations, reported an original concurrent resolution (S. Con. Res. 88) ; which, under the rule, was referred to the Committee on Rules and Administration, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Government Operations two thousand additional copies of its committee print of the Eighty-eighth Congress, first session, entitled "A Report of a Study of United States Foreign Aid in Ten Middle Eastern and African Countries," a study made by Senator ERNEST GRUENING for the Subcommittee on Reorganization and International Organizations.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PELL (for himself and Mr. PASTORE):

S. 2889. A bill to amend title I of the Housing Act of 1949 in order to provide that no contract shall be entered into for any capital grant under such act unless such contract requires that an amount not to exceed 5 percent of the financial aid to be provided in such contract will be expended by the locality involved for programs of code enforcement; to the Committee on Banking and Currency.

(See the remarks of Mr. PELL when he introduced the above bill, which appear under a separate heading.)

By Mr. HOLLAND:

S. 2890. A bill to designate one of the locks in the Cross Florida Barge Canal as the Bert Dosh Lock; to the Committee on Public Works.

By Mr. ROBERTSON:

S. 2891. A bill to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury; to the Committee on Banking and Currency.

(See the remarks of Mr. Robertson when he introduced the above bill, which appear under a separate heading.)

By Mr. KEATING:

S. 2892. A bill for the relief of Eleftherios Georgalos; to the Committee on the Judiciary.

CONCURRENT RESOLUTION

PRINTING OF ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "A REPORT OF A STUDY OF U.S. FOREIGN AID IN 10 MIDDLE EASTERN AND AFRICAN COUNTRIES"

Mr. GRUENING, from the Committee on Government Operations, reported an original concurrent resolution (S. Con. Res. 88) authorizing the printing of additional copies of the committee print entitled "A Report of a Study of U.S. Foreign Aid in 10 Middle Eastern and African Countries," which under the rule, was referred to the Committee on Rules and Administration.

(See the above concurrent resolution printed in full when reported by Mr. Gruening, which appears under a separate heading.)

PROVISION FOR HOUSING CODE ENFORCEMENT IN URBAN RENEWAL PROJECTS

Mr. PELL. Mr. President, I have always favored a sound and efficient urban renewal program to rid our cities of the blights of congested areas and crowded slums. But the best slum clearance program in the world is of little worth if the housing that remains is in substandard condition.

One facet of the urban renewal program which has not been accommodated is the need for an effective local program of housing code enforcement. At present urban renewal grants are made conditional on community maintenance of a workable program of minimum housing code enforcement, but beyond this general requirement there is no reasonable criteria of what a workable program should be.

In Providence, the capital of my own State, for example, the division of minimum housing now has a staff of 8 inspectors when, I am told, it should have 16 or more. On a nationwide basis, Providence is doing quite well, however, spending an average of 46 cents per resident on the administration of housing codes, while other cities are spending as little as 3 cents per resident. Obviously, there is wide interpretation as to what constitutes a workable program of code enforcement when there is such a wide disparity in administrative costs.

The bill that I introduce now for appropriate reference—cosponsored by my senior colleague, Senator Pastore—would remedy the situation by suggesting a minimum level of expenditures for enforcement activities. It provides that 5 percent of the funds granted for an urban renewal project be expended for such a program of code enforcement. This bill will help insure that adequate standards of health, sanitation and safety are met.

I might say in conclusion that the need for this proposed legislation was called to my attention by the chairman of the Rhode Island Advisory Center to the U.S. Commission on Civil Rights, Rev. Raymond E. Gibson. Subsequently, I have been informed of the need for such action by the Subcommittee on Housing of the Urban League of Rhode Island. It is my understanding that the plan has the full endorsement of the Providence city administration, of the Providence Human Relations Commission and of housing officials in that city. I should imagine that it would be a welcome reform throughout the country.

I ask unanimous consent that my bill be printed in full in the Record at this point.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 2889) to amend title I of the Housing Act of 1949 in order to provide that no contract shall be entered into for any capital grant under such act unless such contract requires that an amount not to exceed 5 percent of the financial aid to be provided in such contract will be expended by the locality involved for programs of code enforcement, introduced by Mr. Pell (for himself and Mr. Pastore), was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the Housing Act of 1949 (42 U.S.C. 1451) is amended by adding the following new subsection at the end thereof:

"(e) No contract shall be entered into for a capital grant under this title unless such contract requires that an amount not to exceed 5 per centum of the financial aid to be provided in such contract will be expended by the locality involved for programs for the enforcement of housing, zoning, building, and other local laws, codes, and regulations relating to land use and adequate standards of health, sanitation, and safety for buildings, including the use and occupancy of dwellings."

DIRECT PURCHASES OF TREASURY BONDS

Mr. ROBERTSON. Mr. President, I have received from the Treasury Department a letter transmitting a draft of a proposed bill to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury.

This authority now expires June 30, 1964. The draft bill would extend this date to June 30, 1966. A ceiling of $5 billion is placed on the total of such purchases.

This is a standby authority which was first granted in 1942 and has since been extended from time to time, though it has not been used since 1958. The existence of this standby authority, however, makes it possible for the Treasury to operate on a lower cash balance than would otherwise be prudent.

I introduce, for appropriate reference, the bill, and ask unanimous consent that the letter from the Treasury Department, together with the enclosures, may be printed in the Record at this point.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the letter and enclosures will be printed in the Record.

The bill (S. 2891) to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury, introduced by Mr. Robertson, was received, read twice by its title, and referred to the Committee on Banking and Currency.

The Secretary of the Treasury,
Washington, May 20, 1964.

Hon. Carl Hayden,
President pro tempore of the Senate,
Washington, D.C.

Dear Mr. President: There is transmitted herewith a draft of a proposed bill, "to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury."

The proposed legislation would extend for an additional 2 years, from June 30, 1964, to June 30, 1966, the present temporary statutory authority under which the Federal Reserve banks may purchase directly from the Treasury public debt obligations not to exceed $5 billion outstanding at any one time. The present direct purchase authority was originally provided in 1942 for a period of 2 years. The authority has been extended since then on a temporary basis, with the latest extension, enacted in 1962, expiring on June 30 of this year.

Although the direct purchase authority has not been utilized since 1958, and then only for a 2-day period during which the maximum amount outstanding was $207 million, the Department considers the continuation of the authority essential to the proper and economic management of the public finances. The main value of the authority derives from its continuing availability, rather than from any need to make frequent or extensive use of the authority. Even though the authority has not been used either frequently or extensively, especially in more recent years, its availability as a standby arrangement allows the Treasury in its financial planning to operate with a narrower margin to cover the uncertainties in estimating receipts and outlays than would otherwise be possible. The direct purchase authority thus permits the Department to operate with lower cash balances than would otherwise be required—at times balances as much as $1 billion lower—since it provides a technical device for meeting large unexpected cash outflows on an emergency basis. In other words, the possibility of immediate direct access to Federal Reserve credit serves as a precautionary reserve against unforeseen contingencies that would need to be provided by maintaining higher operating cash balances. As a result, the authority has permitted some saving to be made in the interest cost of the public debt, with correspondingly lower budget expenditures than would otherwise be necessary.

The direct purchase authority also serves as a valuable tool for improving the coordination of the monetary policies of the Federal Reserve System and the debt management policies of the Treasury Department. Temporary market conditions which can arise from time to time may make it desirable for monetary policy reasons to postpone Treasury financing operations for a short period. The standby direct purchase authority makes it possible for the Treasury to let its cash balance fall temporarily to abnormally low levels and thereby permits somewhat more flexibility in the timing of new issues.

Similarly, the direct purchase authority can make a contribution to the coordination of monetary and debt management policies at times, such as those during major taxpayment periods, when the Treasury might otherwise find it necessary to float new issues in the market even though the funds are needed for only a few days. Such temporary borrowing could lead to an undesirable and unintended degree of monetary restriction unless offset by large Federal Reserve purchases in the market which would later have to be reversed by large sales to mop up funds released by the Treasury immediately after the taxpayment date. At such times, the value of the standby line of credit with the Federal Reserve is not necessarily indicated by the use of the line of credit. Its availability, however, provides the margin of safety which may permit the Treasury to reduce its cash balances to extremely low levels at such times.

In addition to the foregoing reasons, the availability of this means of temporary accommodation is an important element in the Treasury's financial planning for a national emergency. Such an emergency could result in disruption of the financial markets and the ordinary channels for Treasury financing for a shorter or longer period of time. The result could be that the Federal Reserve would become the only major source of funds required to meet obligations of the Federal Government until such time as the Congress could act upon the matter. Short of this, even a temporary disruption of the financial markets could have serious financial consequences, especially if the Treasury were required to raise any amount of new money. The direct borrowing authority in circumstances of national emergency could, in fact, serve as a major instrument for maintaining the general credit of the Government.

In requesting the extension of the direct purchase authority, the Department would like to point out that it strongly believes that the authority should be exercised only as a temporary accommodation and only under the most unusual circumstances. The Department believes that ordinarily, as a safeguard against any possibility of the abuse of central bank credit, Treasury obligations should be floated only in the private market. That the authority has not been abused in the past is evident from the attached table showing amounts outstanding under the authority day by day since 1942.

The Department would also like to emphasize that while the authority has been generally used at the request of the Treasury it can be exercised only at the discretion of the Federal Reserve Board under section 12A of the Federal Reserve Act. Thus, the authority does not provide a means by which the Treasury can improperly influence the levels of interest rates, affect the overall availability of credit, or interfere with the independence of the Federal Reserve System. The widespread publicity that is given to any use of this authority provides an additional and powerful deterrent against abuse. Whenever the authority is exercised, its use must be shown in the weekly Statement of Condition of the Federal Reserve Banks and in the daily statement of the Treasury Department. In addition, the Federal Reserve Board is required by statute to include information in its annual report to the Congress as to the use of the authority. Moreover, borrowing by the Treasury under the authority is subject to the debt limit in the same manner as any other Treasury borrowing.

There is enclosed for your convenient reference a comparative type showing the changes in existing law that would be made by the proposed bill.

It would be appreciated if you would lay the proposed bill before the Senate. A similar proposal has been sent to the House of Representatives.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this proposed legislation to the Congress.

Sincerely yours,

G. D'ANDELOT BELIN,
Acting Secretary.

Direct borrowing from Federal Reserve banks, certificates of indebtedness, special series

[Millions of dollars]

1942	*Amount outstanding*
June 16	58
June 19	70
June 20	47
June 22	34
June 23	94
Sept. 15	324
Sept. 16	189
Sept. 17	286
Sept. 18	76
Sept. 19	53
Nov. 27	139
Nov. 28	329
Nov. 30	422
Dec. 1	98
Dec. 10	16
Dec. 15	145
1943	
Jan. 29	115
Jan. 30	202
Mar. 2	3
Mar. 4	174
Mar. 5	354
Mar. 6	543
Mar. 8	591
Mar. 9	648
Mar. 10	632
Mar. 11	790
Mar. 12	940
Mar. 13	1,043
Mar. 15	1,302
Mar. 16	1,250
Mar. 17	981
Mar. 18	836
Mar. 19	778
Mar. 20	768
Mar. 22	603
Mar. 23	700
Mar. 24	512
Mar. 25	432
Mar. 26	384
Mar. 27	304
Mar. 29	104
Mar. 30	40
June 15	805
June 16	659
June 17	350
June 18	256
June 19	212
Sept. 8	11
Sept. 9	126
Sept. 10	243
Sept. 11	246
Sept. 13	214
Sept. 14	179
Sept. 15	424
Sept. 16	258
1945	
Mar. 15	4
Dec. 4	107
Dec. 5	318
Dec. 6	374
Dec. 7	484
Dec. 8	484
Dec. 10	202
1949	
June 15	202
June 16	127
1950	
Mar. 15	108
June 15	105
1951	
June 1	100
June 2	100
Dec. 17	320
1952	
Jan. 22	55
Jan. 23	22
Mar. 17	811
Mar. 18	442
Mar. 19	311
Mar. 20	338
Mar. 21	338
Mar. 22	338
Mar. 24	189
Mar. 25	170
Mar. 26	14
Mar. 27	123
June 16	472
June 17	536
June 18	413
June 19	249
June 20	231
June 21	170
June 23	74
June 24	47
Sept. 15	103
Sept. 16	257
Sept. 17	221
Sept. 18	242
Sept. 19	134
Sept. 20	134
Sept. 22	6
1953	
Mar. 18	110
Mar. 19	104
Mar. 20	189
Mar. 21	189
Mar. 23	333
Mar. 24	186
Mar. 25	63
Mar. 26	49
June 5	196
June 6	196
June 8	374
June 9	491
June 10	451
June 11	358
June 12	506
June 13	506
June 15	999
June 16	1,172
June 17	823
June 18	364
June 19	992
June 20	992
June 22	908
June 23	606
June 24	296
1954	
Jan. 14	22
Jan. 15	169
Jan. 16	169
Jan. 18	323
Jan. 19	424
Jan. 20	323
Jan. 21	306
Jan. 22	283
Jan. 23	283
Jan. 25	203
Jan. 26	3
Mar. 15	134
Mar. 16	190
1958	
Mar. 17	143
Mar. 18	207

Source: Office of the Secretary of the Treasury, Office of Debt Analysis.

NOTE.—Sundays and holidays omitted.

Comparative Type Showing Changes in Existing Law Made by Proposed Bill

Changes in existing law made by the proposed bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter in italic):

Section 14(b) of the Federal Reserve Act, as amended (38 Stat. 264; 12 U.S.C. 355):

(b) To buy and sell, at home or abroad, bonds and notes of the United States, bonds issued under the provisions of subsection (c) of section 4 of the Home Owners' Loan Act of 1933, as amended, and having maturities from date of purchase of not exceeding six months, and bills, notes, revenue bonds, and warrants with a maturity from date of purchase of not exceeding six months, issued in anticipation of the collection of taxes or in anticipation of the receipt of assured revenues by any State, county, district, political subdivision, or municipality in the continental United States, including irrigation, drainage and reclamation districts, such purchases to be made in accordance with rules and regulations prescribed by the Board of Governors of the Federal Reserve System: *Provided,* That notwithstanding any other provision of this Act, (1) until [July 1, 1964] *July 1, 1966,* any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities either in the open market or directly from or to the United States; but all such purchases and sales shall be made in accordance with the provisions of section 12A of this Act and the aggregate amount of such obligations acquired directly from the United States which is held at any one time by the twelve Federal Reserve banks shall not exceed $5,000,000,000; and (2) after [June 30, 1964] *June 30, 1966,* any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market. The Board of Governors of the Federal Reserve System shall include in their annual report to Congress detailed information with respect to direct purchases and sales from or to the United States under the provisions of the preceding proviso.

CIVIL RIGHTS—AMENDMENTS

AMENDMENT NO. 806

Mr. WILLIAMS of New Jersey. Mr. President, I submit an amendment, intended to be proposed by me, to title I of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes, and I ask unanimous consent that the amendment be considered as having been read, for the purpose of qualifying under the cloture rule.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table, and the amendment will be considered as having been read.

The amendment (No. 806) is as follows:

On page 2, line 11, after "Federal" insert "or State".

On page 2, line 19, after "Federal" insert "or State".

On page 3, line 2, after "Federal" insert "or State".

On page 4, line 5, after "Federal" insert "or State".

On page 4, line 13, after "House of Representatives" insert ", and the words 'State election' shall mean any other general, special, or primary election held in any State solely or in part for the purpose of electing or selecting any candidate for public office".

AMENDMENT NO. 807

Mr. RUSSELL submitted an amendment, intended to be proposed by him, to House bill 7152, supra, which was received, ordered to lie on the table and to be printed.

(See the above amendment (No. 807) printed in full when submitted by Mr. RUSSELL, which appears under a separate heading.)

AMENDMENTS NOS. 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, AND 818

Mr. McCLELLAN. Mr. President, I send to the desk 11 amendments to the bill (H.R. 7152) which I ask to have received, printed, and read, under the rule of the Senate.

The ACTING PRESIDENT pro tempore. Does the Senator ask that the amendments be read?

Mr. McCLELLAN. I should like to have my amendments read. I have started on that course; I think it is the safest one. I do not know what technical parliamentary situation may develop. I prefer to have the amendments read.

The ACTING PRESIDENT pro tempore. The amendments will be stated.

The legislative clerk read the amendments, as follows:

Amendment No. 808

On page 2, beginning with line 1, strike out all through line 11, on page 6 (title I).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

Amendment No. 809

On page 6, beginning with line 12, strike out all through line 23, on page 14 (title II).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

On page 72, line 21, strike out "sections 205 and" and insert in lieu thereof "section".

Amendment No. 810

On page 15, beginning with line 1, strike out all through line 21, on page 16 (title III).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

Amendment No. 811

On page 17, beginning with line 1, strike out all through line 2, on page 23 (title IV).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

On page 15, line 11, strike out "section 401 of title IV hereof", and insert in lieu thereof "subsection (c)".

On page 16, after line 12, insert the following new subsection:

"(c) For purposes of this section, 'public school' means any elementary or secondary educational institution, and 'public college' means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source."

Amendment No. 812

On page 23, beginning with line 3, strike out all through line 20, on page 32 (title V).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

Amendment No. 813

On page 32, beginning with line 21, strike out all through line 9, on page 35 (title VI).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

Amendment No. 814

On page 35, beginning with line 10, strike out all through line 19, on page 68 (title VII).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

Amendment No. 815

On page 68, beginning with line 20, strike out all through line 23, on page 69 (title VIII).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

Amendment No. 816

On page 70, beginning with line 1, strike out all through line 18 (title IX).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

Amendment No. 817

On page 70, beginning with line 19, strike out all through line 24, on page 72 (title X).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

On page 11, beginning with ":*Provided,*" on line 10, strike out all through line 4, on page 12, and insert in lieu thereof a period.

On page 12, line 5, strike out "206." and insert in lieu thereof "205.".

On page 14, line 10, strike out "207." and insert in lieu thereof "206.".

Amendment No. 818

On page 73, beginning with line 1, strike out all through line 23, on page 74 (title XI).

AMENDMENT NO. 819

Mr. MILLER submitted amendments, intended to be proposed by him to the amendment (No. 656) in the nature of a substitute, submitted by Mr. DIRKSEN (for himself and other Senators) to House bill 7152, supra, which was received, ordered to lie on the table and to be printed, and which was considered as having been read, as follows:

On page 73, in line 13, strike all after the word "of" through the period in line 14 and insert in lieu thereof: "$500 nor shall imprisonment for any term be imposed."

On page 73, line 23, strike all after the word "of" through the period in line 1, page 74, and insert in lieu thereof: "$500 nor shall imprisonment for any term be imposed."

On page 73, line 16, after the period add the following: "This subsection shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court."

FACILITATION OF MANAGEMENT, USE, AND PUBLIC BENEFITS FROM THE APPALACHIAN TRAIL—ADDITIONAL COSPONSORS OF BILL

Mr. NELSON. Mr. President, I ask unanimous consent that at the next printing of the bill (S. 2862) to facilitate the management, use, and public benefits from the Appalachian Trail, a scenic trail designed primarily for foot travel through natural or primitive areas, and extending generally from Maine to Georgia; to facilitate and promote Federal, State, local, and private cooperation and assistance for the promotion of the trail, and for other purposes, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Tennessee [Mr. WALTERS] be added as cosponsors of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. RANDOLPH:

Address by Hon. John E. Horne, delivered before the National Association of Small Business Investment Companies at the Greenbrier Hotel, White Sulphur Springs, W. Va., May 29, 1964; congratulatory message from President Lyndon B. Johnson; resolution commending Mr. Horne adopted by NASBIC.

THE COLD WAR GI BILL

Mr. YARBOROUGH. Mr. President, several times I have had occasion to speak on this floor about the deplorable situation of the wasted talents of our cold war veterans. It is not unusual to find these statements printed in a record which is fraught with pleas for conservation, more education, relief of poverty, and reduction of unemployment. At these times I have often pointed to the disparaging inequality between the opportunities provided for the 44 percent of our youth who enter military service, and the 56 percent who continue uninterrupted in their peaceful careers.

Yesterday I received a letter from Mr. Michael Price which grounded these remarks in real experience, as he outlined a situation which no legislative body interested in education could allow to continue unaided. This young man was discharged from the Air Force at age 20, and tried to attend college between the split shifts in his job. Despite his sacrifice he found it impossible to earn enough to both live on and go to college. Now this young man is 25 years old, trying to raise a family, and more than ever wants to complete his education.

This is nothing unusual. It is emblematic of the situation of 5 million veterans of the cold war.

Mr. President, I think it is time that we realize what it means to spend 2 to 4 years defending one's country and then try to attain the position of the 56 percent of his peers who have prepared themselves for their careers. Either we express an interest in their potential by providing them with S. 5, the cold war GI bill, or we say to these 25-year-old youths that it is too late, that by defending their country they have missed the chance for an education.

To illustrate our interest in the future of these young men, I ask unanimous consent that Mr. Price's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GARLAND, TEX.,
May 26, 1964.

Hon. RALPH YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SIR: After leaving the U.S. Air Force at the age of 20, my ambitions were to get a college education, to find a good job, then get married and have a family.

Since I had no outside financial help, I had to get a job. The job I chose was driving a city bus in Houston, Tex. This job gave me the opportunity to work split shifts and go to school between shifts. The problem was money. I made enough to live, but not enough to go to school.

I then got married, with the hope of college still in mind, but my wife became pregnant, and then college was completely out of the question.

Now at the age of 25, with a fine family of two boys, I more than ever want to complete my education and buy a house for my family.

I pray the cold war GI bill passes and if there is any way I could be of help, please feel free to call on me. I know of other young men who feel the same way I do about this bill.

Very truly yours,
MICHAEL R. PRICE.

Mr. YARBOROUGH. Mr. President, though few of us are speaking, these 5 million are speaking, as illustrated by the letter I have placed in the RECORD.

CIVIL RIGHTS ACT OF 1963 (AMENDMENT NO. 807)

Mr. RUSSELL. Mr. President, I had intended to make a statement with respect to an amendment to be proposed to H.R. 7152, but in light of the counterfilibuster, and without knowledge as to whether there will be any intermissions in the counterfilibuster, I would like to see that this amendment will be considered. Therefore, I send to the desk an amendment which I shall propose at the proper time, and ask that it may be printed, lie on the table, be printed in the RECORD, and be considered as having been read for all purposes under the rules.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The amendment will be received, printed, will lie on the table, and will be printed in the RECORD.

The amendment intended to be proposed by Mr. RUSSELL is as follows:

On page 50, line 5, strike out "of its enactment" and insert in lieu thereof "this Act becomes effective as provided in section 1201".

On page 50, line 8, immediately after "immediately" insert "upon the effective date of this Act as provided in section 1201".

On page 50, line 10, strike out "enactment of this title" and insert in lieu thereof "the effective date of this title as provided in subsection (a)".

At the end of the bill insert the following:

"TITLE XII—EFFECTIVE DATE

"SEC. 1201. The first eleven titles of this Act shall take effect only if the qualified voters of the several States signify their approval of this Act in the national referendum provided by title XIII. If the qualified voters of the several States signify their approval in such referendum, the first eleven titles of this Act shall become effective on the day on which the results of such referendum are declared under section 1311 of this Act.

"TITLE XIII—NATIONAL REFERENDUM

"SEC. 1301. (a) Each State is requested to conduct a referendum for the purpose of ascertaining whether the qualified voters of such State approve the provisions of the first eleven titles of this Act. Such referendum shall be conducted by each State consenting to do so at the general election to be held in such State in 1964 for the purpose of electing its Representative or Representatives in the House of Representatives of the United States.

"(b)(1) As used in the remaining sections of this title, the term 'referendum,' when used in reference to any State, means the national referendum referred to in section 1201 insofar as it is conducted within the jurisdiction of such State.

"(2) As used in sections 1302, 1303, and 1304, the term 'State' means only a State which consents to conduct the referendum within its jurisdiction.

"SEC. 1302. Each State shall be entitled to reimbursement for the expenses incurred by it in conducting the referendum. Reimbursement shall be made in the manner provided by section 1311.

"SEC. 1303. Except as otherwise specifically provided in this title, the referendum shall be conducted in each State according to the election laws and regulations of such State. Any State the constitution or laws of which authorize the submission of State laws to the voters of such State for their approval or disapproval may conduct such referendum in the same manner as referendums conducted with respect to its State laws. Each State, through its legislature or the proper State officers, shall be the sole judge of the manner of conduct of the referendum within its jurisdiction.

"SEC. 1304. The qualified voters in the referendum in each State shall be the persons who are qualified to vote for Representative in the House of Representatives of the United States in the election at which the referendum is conducted.

"SEC. 1305. (a) The Governor of each State which consents to conduct the referendum shall so notify the President before September 1, 1964. The President shall provide for the conduct of the referendum, in the manner provided in this section, in any State which does not consent, or is unable, to conduct the referendum. The referendum shall be held in any such State on the same day on which it would be held under section 1301 if it were conducted by such State.

"(b) The President may provide for the conduct of the referendum in any State or States under this section—

"(1) by any department or agency of the Federal Government, or

"(2) by a commission established for such purpose under the authority of subsection (c).

Subject to the provisions of subsection (e), the referendum conducted in any State under this section shall be conducted pursuant to such rules and regulations as the President may prescribe.

"(c) The President is authorized to establish a commission to conduct the referendum in any State or States which do not consent, or are unable, to conduct it. Any commission established pursuant to this subsection shall be composed of an even number of members and not more than one-half of the members shall be of the same political party. The President shall designate one of the members as chairman of the commission.

"(d) The President shall have such powers as may be necessary to enable him to carry out the duties and functions imposed on him by this section, including the power—

"(1) to appoint such experts, consultants, and other employees as may be necessary, and

"(2) to make such expenditures as may be necessary.

The President is authorized to delegate any of the powers conferred upon him by this subsection to any department or agency designated by him to conduct the referendum in any State, or to any commission established under subsection (c).

"(e) Except as otherwise specifically provided in this title, the referendum conducted in any State under this section shall be conducted, insofar as possible, in conformity with the election laws and regulations, and the referendum laws and regulations, if any, of such State. The qualified voters in the referendum in any such State shall be the persons who would be qualified voters if the referendum were conducted by such State. Such State is requested to furnish lists of such qualified voters to the President, and shall be entitled to reimbursement, out of funds appropriated to the President under section 1312, for expenses incurred in furnishing such lists. If such State refuses, or is unable, to furnish lists of such qualified voters, the determination as to the qualifications of any person to vote in the referendum in such State shall be made pursuant to rules and regulations prescribed by the President.

"SEC. 1306. (a) The Joint Committee on Printing shall have printed by the Government Printing Office copies of this Act, and copies of provisions of any laws amended by the first eleven titles of this Act in which the amendments thereto shall be indicated in boldface type. Such copies shall be in such form and style as to be suitable for exhibition at the polling places in the States for the information of the persons voting in the referendum.

"(b) The Joint Committee on Printing shall furnish to each State which conducts the referendum such number of the copies of this Act and of provisions of any laws amended by the first eleven titles of this Act printed pursuant to subsection (a) as each State may request. The Joint Committee shall furnish to the President, for use in any State or States in which the referendum is conducted under section 1305, such number of such copies as the President may request.

"(c) Each State which conducts the referendum is requested to exhibit, in conformity with the laws of such State, at the polling places at which voting in the referendum is conducted such number of the copies of this Act and of provisions of any laws amended by the first eleven titles of this Act printed pursuant to subsection (a) as may be necessary for the information of the persons voting in the referendum.

"SEC. 1307. The form of the question to be presented at the referendum shall be substantially as follows:

" 'The Congress of the United States has enacted a law known as "The Civil Rights Act of 1964", which is divided into thirteen titles, the last two of which relate to this referendum. This law provides that the first eleven titles shall take effect only if approved by the qualified voters of the several States in this referendum. Indicate by making a cross (X) in the proper square (or by pulling the proper lever) whether you approve or disapprove of these titles.

" 'Approve--------------------

" 'Disapprove------------------'.

"SEC. 1308. (a) At the request of the Governor of any State, the Attorney General shall assign agents or employees of the Federal Bureau of Investigation to such of the polling places in such State as the Governor thereof may designate.

"(b) In any case in which the President deems it necessary or advisable, the Attorney General shall assign agents or employees of the Federal Bureau of Investigation to such of the polling places in any State as the President may designate.

"(c) It shall be the duty of any agent or employee of the Federal Bureau of Investigation assigned to any polling place under subsection (a) or (b)—

"(1) to observe the conduct of the referendum at such polling place,

"(2) to observe the counting and tabulation of the votes cast in the referendum at such polling place, and

"(3) to submit a report to the Attorney General with respect to the duties imposed on him by paragraphs (1) and (2).

"(d) Each agent or employee of the Federal Bureau of Investigation assigned to any polling place under subsection (a) or (b) shall be given access to such polling place and the place where votes cast in the referendum at such polling place are counted and tabulated in order that he may carry out the duties imposed on him by paragraphs (1) and (2) of subsection (c); but no such agent or employee shall interfere in the conduct of the referendum, or of the election in conjunction with which such referendum is held, by the State officials, or in the counting and tabulating by such officials of the votes cast in the referendum.

"(e) The Attorney General shall furnish to the Governor of any State in which agents or employees of the Federal Bureau of Investigation are assigned under subsection (a) or (b) a copy of the reports submitted to him under subsection (c)(3) by the agents or employees assigned in such State.

"(f) The Attorney General is authorized, for the purpose of carrying out the duties imposed on him by subsections (a) and (b), to appoint, without regard to the civil service laws and regulations, such temporary employees as may be necessary, and to fix their compensation in accordance with the Classification Act of 1949, except that the rate of compensation of such number of such temporary employees as he determines necessary may be fixed at rates not in excess of $75 per day.

"(g) The Attorney General shall, before January 10, 1965, submit a report to the Congress with respect to the duties imposed on him by this section, which shall contain a summary of the reports submitted to him pursuant to subsection (c)(3).

"SEC. 1309. (a) The Governor of each State which conducts the referendum shall certify the results of the referendum conducted in his State to the President of the Senate before January 10, 1965.

"(b) The President shall certify the results of the referendum conducted in any State or States under section 1305 to the President of the Senate before January 10, 1965.

"SEC. 1310. (a) The Senate and the House of Representatives shall assemble in a joint meeting in the Hall of the House of Representatives on January 15, 1965 (or as soon thereafter as possible), at which the certificates from Governors of the States, and from the President, shall be opened, read, and the results thereof tabulated. The President of the Senate and the Speaker of the House of Representatives, acting jointly, shall declare the results of the referendum.

"(b) If a majority of the votes cast in the referendum approve of the first eleven titles of this Act, such titles shall become effective, except with respect to title VII which shall be subject to section 718, on the date on which the declaration of the President of the Senate and the Speaker of the House of Representatives is made.

"(c) If a majority of the votes cast in the referendum disapprove of the first eleven titles of this Act, such titles shall not become effective.

"SEC. 1311. Each State which conducts the referendum may, through its proper State officer, request reimbursement of the expenses incurred by it in conducting the referendum by submitting a statement of such expenses to the chairman of the Committees on Appropriations of the Senate and the House of Representatives. Such requests shall be reviewed and allowed by the Committees on Appropriations of the Senate and the House of Representatives, acting jointly, and shall be certified by the chairman of the two committees, acting jointly, to the Secretary of the Treasury for payment out of moneys appropriated therefor pursuant to section 1312.

"SEC. 1312. There are authorized to be appropriated to the President such sums as may be necessary to enable him to carry out the duties and functions imposed on him by section 1305. There are authorized to be appropriated to the Joint Committee on Printing such sums as may be necessary to enable it to carry out the provisions of section 1306, including such sums as may be necessary to reimburse the Government Printing Office for expenses incurred by it under such sections. There are authorized to be appropriated to the Attorney General such sums as may be necessary to enable him to carry out the provisions of section 1308. There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to reimburse the States pursuant to section 1311 for expenses incurred in conducting the referendum."

Mr. RUSSELL. Mr. President, I believe this amendment is of vital importance and significance. It provides for the submission of this very perplexing question, on which the American people are so little advised, to all the people for a referendum in the November election.

In studying this measure I have been intrigued by the similarity between the amendments to title VII, the Federal employment section, and the recommendations of the U.S. Chamber of Commerce. I can understand, of course, how a conservative would support the chamber of commerce, but it is rather difficult for me to understand why a flaming liberal, such as two members of the troika, the Attorney General and the Senator from Minnesota [Mr. HUMPHREY], should have adopted each and every one of those recommendations.

I ask unanimous consent to have printed in the RECORD the letter, which is a form letter, sent to all Members of this body from the president of the U.S. Chamber of Commerce, under date of May 12, 1964, together with a brief analysis of their recommendations and the status of these recommendations under the troika draft of this bill.

There being no objection, the letter and analysis were ordered to be printed in the RECORD, as follows:

CHAMBER OF COMMERCE OF
THE UNITED STATES,
Washington, D.C., May 12, 1964.

Hon. RICHARD B. RUSSELL,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR RUSSELL: Members of the Chamber of Commerce of the United States have been following with great interest and deep concern the Senate's discussion of title VII of the proposed Civil Rights Act, H.R. 7152.

Now that you have reached the point where voting on amendments to the bill has begun, I want to urge your favorable consideration of a number of changes in title VII.

The suggested changes are designed to clarify the language of title VII, which is imperative in any law that attempts to define unlawful employment practices.

In its present form, many of the terms used in title VII are inadequately defined. The meaning of certain provisions is vague. The authority granted Federal administrators is excessive.

These and other deficiencies, which I shall enumerate, could be seriously harmful to the conduct of American business. They also would help defeat the very purpose for which title VII is being urged—to expedite the elimination of any discrimination in employment based upon race, color, religion, sex, or national origin.

The national chamber recommends that the powers of the Federal Equal Employment Opportunity Commission, which section 706 of H.R. 7152 would authorize, be limited to conciliation and persuasion. We are very dubious about the value of court proceedings and orders to accomplish the hoped-for results.

But in the event Congress decides to retain provisions for court enforcement of actions recommended by the Commission, the minimum requirement is that you give careful consideration to the need for seven amendments to title VII.

The first of these would amend section 707(e) to specify that only willful acts of discrimination should constitute violations of the law. Good faith should be made a defense for all persons accused of discrimination.

The proposed Commission should have no jurisdiction in States which already have laws forbidding discrimination. In any case where an accused person contends he has been improperly charged, he should have the right to appeal the issue of jurisdiction to the circuit court of appeals in the circuit where the proceeding arises. A provision to this effect should be added to section 709.

The onerous recordkeeping requirements imposed in section 709 should be eliminated. We feel that there is no justifiable reason for writing such requirements into this bill. It should be noted that the Taft-Hartley Act does not impose such recordkeeping requirements with respect to discrimination on account of union activity.

If court proceedings are to be used, they should be possible only in the judicial district of the alleged discrimination. This would be more convenient for the parties involved and would preclude the harassment of having to transport witnesses great distances or of having to rely unreasonably upon the use of depositions.

The bill should be amended to specify that an employer who chooses to discontinue his business may do so.

Only a person who is aggrieved, as this term is used in section 707(a), should be allowed to file a charge of discrimination. And this should be permitted only within 90 days after the alleged discrimination. Unless these limitations are written into the bill, the promotion of questionable cases of alleged discrimination, by other than the aggrieved parties, will be encouraged.

Finally, only the Commission itself should be able to institute court proceedings. If individuals are allowed to bring court proceedings, two or more members of the Commission should be required to approve such proceedings by any individual who charges discrimination. Such an amendment to section 707(c) is essential to preclude frivolous cases brought for the purpose of harassment.

I sincerely hope you will give careful and favorable consideration to the need for these amendments. If there is an opportunity to do so, I urge you to support appropriate language to implement them.

But in the event no changes, or only inconsequential changes, are put forward as amendments to title VII, then I strongly urge you to press for its complete elimination from H.R. 7152.

The national chamber has no position on the other titles of H.R. 7152.

Sincerely,

WALTER F. CAREY,
President.

CHAMBER OF COMMERCE RECOMMENDATIONS

1. Amend section 707(e) to specify that only willful acts of discrimination should constitute violations of the law.

2. Commission should have no jurisdiction in States having laws forbidding discrimination; but, if so, accused person should have right to appeal the issue of jurisdiction to the circuit court of appeals in circuit where proceedings arise.

3. Elimination of onerous recordkeeping requirements imposed by section 709.

4. If at all possible, court proceedings should be possible only in the judicial district of the alleged discrimination.

5. Employer should have expressed right to discontinue his business.

6. Only aggrieved party (as term is used in section 707(a)) should be allowed to file a charge of discrimination and only within 90 days of such alleged discrimination.

7. Amend section 707(c) to provide that only Commissioner or individuals, whose charges have been approved by two or more members of Commission, may institute court proceedings.

NEW REDRAFT

1. In the new language the term "intentionally" is used rather than the term "willfully." The Cyclopedic Law Dictionary discloses that "intentionally" is synonymous with "willfully."

2. Under the new language the Federal Commission has jurisdiction in all 50 States but if the alleged unlawful employment practice occurred in a State having an FEPC law the aggrieved must commence action under State law. The State agency has 90 days to act and the 90 days can be extended to 180 days during the first year of the Federal act before aggrieved party or member of Commission can file charges with the Federal Commission.

3. The new language eliminates duplication of records by not requiring records different from those by State agency or the President's Committee on Equal Employment Opportunity.

4. The new language provides that action may be brought in any judicial district in the State in which discrimination occurred, in the judicial district where the records are maintained, or in the judicial district wherein the plaintiff would have worked but for the discrimination.

5. The new language declares that it is not an unlawful employment practice for an employer to apply different standards of compensation for different terms, conditions, or privileges of employment to employees who work in different locations, provided that such differences are not the result of an intended discrimination because of race, color, religion, sex, or national origin.

6. Under the new language the aggrieved party must file a charge of discrimination in writing, under oath, within 90 days after the alleged unlawful employment practice occurred.

7. The new language provides that if the Commission, after complaint of discrimination is filed, is unable to obtain voluntary compliance, then a civil action may be brought against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by a member of the Commission for any person whom the charge alleges was aggrieved by the discrimination.

Mr. RUSSELL. Mr. President, I hope the leadership will relent in the counterfilibuster and will permit us to proceed to vote on some amendments. We have at least five we are willing to submit and have the Senate take action on them.

Mr. MANSFIELD. Mr. President, I was very interested in what the distinguished senior Senator from Georgia had to say concerning a counterfilibuster and his desire to vote on at least five amendments at this time.

I was also interested to read on the news tickers yesterday and in certain papers today statements by various Members of the Senate to the effect that this is a curious situation in which those who have been saying "Vote, vote;" are now saying, "Let us talk." Others have said that they regretted the refusal of the leadership to let the southerners have some votes at this time.

Mr. RUSSELL. Would the Senator indulge me a moment. We wish the Senate to vote, not just the southern Senators.

Mr. MANSFIELD. Yes; I understand.

Mr. RUSSELL. If there were any way the southerners could vote, we could dispose of the bill in a matter of seconds.

Mr. MANSFIELD. The Senator is correct—I can well understand. Then, of course, the action of the leadership in announcing that there would be a motion laid down for cloture on Saturday has been called indefensible by some Senators. Other Senators have stated that the Senate should have the right to vote on these amendments now that some 68, 69, or 70 days have passed.

UNANIMOUS-CONSENT REQUEST

Mr. President, let me say that I find a great deal of sympathy with those remarks and in an attempt to be accommodating, I should like, on behalf of the distinguished minority leader and myself at this time to propound a unanimous-consent request, and if the Senate will allow me to ask that it be read at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I had better do it myself.

Mr. President, I ask unanimous consent that 1 hour after the Senate convenes on Monday next, the Senate proceed to vote on the Long-Smathers perfecting amendment and that the time prior thereto be equally divided between and controlled by the majority leader and/or the minority leader, and the Senator from Georgia [Mr. RUSSELL]; and that immediately after such vote, the Senate proceed to a vote on any further perfecting amendments to the Talmadge jury trial amendment, after allocating one-half hour to each such amendment, the time to be equally divided between and controlled by the same parties; and that upon the disposition of the Talmadge jury trial amendment, as amended, the Dirksen-Mansfield, Kuchel-Humphrey amendment in the nature of a substitute to H.R. 7152 will be laid down and made the pending business.

Thereafter, 2 hours will be allocated to such substitute amendment and additionally one-half hour will be allocated to any amendment, now lying on the desk and subsequently called up, to the substitute amendment or to the bill itself, the time thereon to be equally divided and controlled by the majority leader and/or the minority leader, and the Senator from Georgia [Mr. RUSSELL].

I make this unanimous-consent request on behalf of the distinguished minority leader and myself.

The PRESIDING OFFICER (Mr. BAYH in the chair). Is there objection?

Mr. RUSSELL. Mr. President, reserving the right to object, I must express my surprise that the majority leader, with all of the "brains" he has available to him, would require 1 day to formulate this effort to place responsibility for the counterfilibuster on the shoulders of those who are willing to vote on the pending amendment now.

In common parlance, it has taken a long time to figure out this very poor means of taking the "monkey" off the backs of the leadership and putting it onto the backs of those who are opposed to the bill.

Of course, we cannot agree to this proposal. The outlines, the methods which the leadership would attempt to employ, would prevent us from having votes without operating under a unanimous-consent request on such vital parts of this bill as title VII, which we shall endeavor to strike from the bill, and title VI, which we shall endeavor to strike from the bill.

Under those conditions, we could not accede to the unanimous-consent request.

I believe perhaps the "brain trust" had better reconvene and include something that relates to certain amendments which would not be disposed of within the next space of time, because I cannot agree to this unanimous-consent request.

I object.

Mr. MANSFIELD. Mr. President, if I may be heard again, I do wish to say that the leadership has been considering this subject for the past several days since the distinguished Senator from Georgia announced that he thought it was time to begin voting on some of the amendments to the Talmadge amendment. However, I did not know how far the leadership should go until other Senators began to raise questions about the leadership's steamrolling the legislative process at this time, saying that it was too soon for cloture, that there had not been time enough to consider the Dirksen substitute; and I thought that in all fairness a proposal of this kind which would bring in a time limitation and allow votes on all the amendments to which I believe the distinguished Senator from Georgia has referred, plus those at the desk, which might be given some additional serious consideration within a time limitation.

Mr. RUSSELL. Why does the Senator object to voting now on the pending amendment? Why does he wish to go over to next week? It seemed to me that we might dispose of two or three amendments today, or tomorrow, and on Saturday.

Mr. MANSFIELD. That is what I mean. Today, tomorrow, and Saturday—2 or 3 amendments—while another 300 to 400 amendments remain on the table. If we go on the basis which the Senator from Georgia has outlined, we shall be here until 1984 and we will still be voting on amendments. Some agreement encompassing all the amendments is really the best way to compress time and get to meaningful votes and comply with the distinguished Senator's desire for a vote very shortly.

Mr. RUSSELL. I believe that is a rather extravagant statement, to project it to 1984. Of course, there are a number of amendments pending. Senators refer to the large number of amendments. However, an analysis of them, will indicate that there is a great deal of duplication in the amendments—in a number of instances more than one Senator has offered the same amendment.

We regard this as a vitally important bill. Indeed, it is the most comprehensive bill ever brought before the Congress. It covers more territory, it will have more effect on our institutions, social and economic, and on our way of life, and on the three fundamental rights spelled out in the Constitution of the United States—those of life, liberty, and property—than ever before. It will have a very violent effect on property. I believe that it contains provisions which are in direct conflict with the 13th amendment to the Constitution in that the provisions of the bill would impose a condition of involuntary servitude on citizens of the United States.

I know of no reason why the Senate cannot start voting now. The Senator from Montana is anxious to have voting start under his proposal. Why does he not start and have some votes now; we can then see how far we may be able to go.

There will be no disposition to debate a number of amendments at any considerable length. I can see no reason why the Senate cannot start voting today.

Mr. MANSFIELD. Mr. President, will the Senator from Georgia yield at that point?

Mr. RUSSELL. I am glad to yield.

Mr. MANSFIELD. In an attempt to be cooperative, I would be prepared to reoffer this unanimous-consent request and instead of starting next Monday to start tomorrow or Saturday, because I believe we should get——

Mr. RUSSELL. No—the Senator is thinking much faster than he had up until the present time. We cannot agree to any such unanimous-consent request as that on this new bill that is brought in here by the "troika."

I have not included the distinguished Senator from Montana in the "troika," because I consider he probably occupies the position of driver. He was in the driver's seat and had been driving the "troika." However, we could not vote under any such time limitation on the bill, but I hope that—and I respect all of his prerogatives of leadership, and shall try to cooperate with him in procedures—in this case he will withhold his unanimous-consent request and let us proceed to have some votes on the amendments.

Mr. MANSFIELD. I understand the situation.

TELEVISION DRAMATIZATION OF BOYHOOD OF HUBERT H. HUMPHREY AND JAMES BALDWIN

Mr. PROXMIRE. Mr. President, early this week, television stations throughout the country broadcast a remarkable program which showed in contrast the boyhood of the majority whip, the distinguished senior Senator from Minnesota [Mr. HUMPHREY], and the boyhood of Negro Author James Baldwin.

The television presentation was remarkably sensitive and perceptive in showing the forces at work in the molding of the life of one who, to me, is one of the greatest Americans of our time—Senator Humphrey. It demonstrated the vision, wisdom, maturity, and especially the love that his father gave him. This film showed how Senator Humphrey developed from his dad the belief in hard work, which has characterized Senator HUMPHREY throughout his life. The portrayal was most impressive.

The program also dramatized very starkly the terrible forces at work in the life of James Baldwin, the highly talented Negro author, who has written so tellingly and forcefully concerning the problems of the Negro.

I have called this broadcast to the attention of the Senate because it was such an unusual departure from the usual television approach. The photography was excellent without fanfare. The entire narration was done in the voices of Senator HUMPHREY and Mr. Baldwin.

Fortunately, the Associated Press published an article on this television program, and it has appeared in newspapers over the country. It was published in the Milwaukee Sentinel on Tuesday.

I ask unanimous consent to have printed at this point in the RECORD the article, which describes this television program not only because it gives a fine insight into two outstanding Americans, but also because it provides insight more starkly than anything I have seen, into the problems of the American Negro.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATOR, NEGRO RECALL YOUTH—"WONDERFUL"—"NIGHTMARE"

NEW YORK, N.Y.—Two Americans of humble origin, Senator HUBERT HUMPHREY, Democrat, of Minnesota, and Negro author James Baldwin, of New York, described their contrasting childhoods on a program shown Monday night by WNEW–TV in New York.

Only the two men's voices were heard, while the camera recreated scenes they described.

Here are their stories:

Humphrey remembered his childhood in Doland, S. Dak., as "simply wonderful," until the depression forced his father to sell the family home.

The catastrophe, he said, taught him that no matter how competent or good people are, they can be wrecked by forces over which they have no control.

He lived in the old house from the age of 3 to 18, he said, and remembers it with special joy.

He recalled his father as a pal reading to him when he was ill with influenza; his mother cooking breakfasts of oatmeal and brown sugar; big company dinners with milk, homemade bread, vegetables, chicken, and mashed potatoes.

Humphrey's father was a druggist and took his son to hundreds of farms, delivering medicine for the people or livestock. "It was a real education in the barnyard for me," he recalled, "an education that I'd never forget." Humphrey recalled sitting in simple church services with his friend, the minister's son, making innocent jokes about the words of hymns. He remembered that he did well in school because he was expected to, but also that he sat in class and listened to the Chicago North Western train whistle and thinking about the State capitol, thinking about Washington, and dreaming about that kind of thing.

A neighbor drove 300 miles to Minneapolis to get medicine that saved his life during the 1918 flu epidemic, he said. While he was recovering, his father read to him from Emerson, Longfellow, Edgar Guest, and Walt Whitman.

"They were good years in Doland," he said, "and we had a happy, full life. But then something happened * * * the great depression.

"The people lost everything. They lost their land. They lost their property. And many of them even lost their lives."

He said he vividly recalls coming home from school one afternoon and finding his parents in tears, standing in the orchard.

"He told me we simply had to sell the house. This was the only way he could cover and pay his bills.

"And I seemed to learn then, that no matter how competent my father may have been, or how good my mother, or how fine my community, that it could be destroyed, and it could be wrecked by forces over which we had no control.

"That this little secure world of my hometown just wasn't strong enough to fight off the powerful forces that seemed to be crowding in on us."

Baldwin described his childhood in New York's Harlem as a "nightmare."

"You don't accept it," he said, "because it is literally unacceptable. Those who have accepted it are all, without exception, dead.

"Either they are criminals, which is one way to die, or they're junkies, or they're drunkards. Or they're like my father was: Fanatically self-righteous and cruel."

Baldwin said his father was the son of a slave, with a face like a mask of an African chieftain.

"He claimed to be proud of his blackness," Baldwin said, "but it had fixed bleak boundaries to his life. He was always at the mercy of some other man, who was always white." Baldwin recalled the Harlem church, where his father was a deacon, with its music that "swept on like fire, flood, or judgment." What he saw in church, the writer said, was that his father saw it as a way of getting back at white people. "He wanted to kill them, and he couldn't kill them. So he hoped God would. And he hoped that all his life."

Baldwin recalled that he was once stopped by two police officers who frisked him, taunted him, and knocked him down, although he had done nothing.

Baldwin said he started going to a public library three or four times a week, "looking in books for a bigger world than the world in which I lived." He said he read everything, particularly Dickens and Dostoyevsky.

By the age of 14, he had decided to be a writer, and wrote plays, poetry, and stories.

His father told him he was the ugliest child he had ever seen, and Baldwin said he'd accepted that nobody would ever love him.

"But, do you know," he said, "nobody cares what a writer looks like. I could write to be 80 and be as grotesque as a dwarf, and that wouldn't matter. For me, writing was an act of love and it seemed the only way to another world."

Baldwin said he knew, as a child knows, that his father did not like him, and he felt alone and betrayed. It wasn't until much later, he said, that he realized his father was terribly proud and could not feed his children, and this is why he was always in a rage and so unapproachable.

He recalled that one night his father did not come home from work on time, and he went to the subway station to look for him.

"He was sitting on the bench, all by himself. I walked over to him and when he couldn't get up—my father and I were not friends—so I couldn't ask him what was wrong.

"But I made him stand up. He had to lean on me, and I took him out. That was the beginning of the illness that killed him, finally."

ELECTION PROCEDURES IN THE DISTRICT OF COLUMBIA

Mr. HUMPHREY. Mr. President, on Tuesday, June 2, it was my privilege to present to the District of Columbia Board of Elections certain material relating to elections in the District of Columbia. It may be recalled that I was rather critical of the election process, especially the long delays encountered, and other difficulties. It was respectfully suggested to me that rather than be critical, I might offer some constructive proposals.

That suggestion was merited, and I took the liberty to prepare a statement which I presented to the Committee on the District of Columbia Board of Elections on primary election procedures, under date of June 2. I ask unanimous consent that it be printed at this point in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Hubert H. Humphrey to the District of Columbia Board of Elections on Primary Election Procedures, June 2, 1964

Mr. Mayer, Mr. Schein, and Mr. Martin, first let me thank you for having invited me to appear before you at the public hearing on the recent party primary election and the election law for the District of Columbia. I regret most sincerely my inability to appear personally; I am sure you will understand that my current responsibilities as floor manager of the civil rights bill in the Senate preclude such an appearance.

I offer this statement in the spirit of good will and of constructive commentary. I am confident that you, the members of the Board of Elections, will receive my statement in the same spirit, for we all seek the same objective: to provide the voters of Washington a practicable, convenient, and democratic method of exercising their will in local elections.

On May 8, 3 days after the District primary elections, I stated on the floor of the Senate that "I know of no other community in America that conducts an election in such a crude, primitive, unorganized, disorganized, and incredible manner as the District of Columbia." At that time, ballots were still being counted and voters' complaints of several varieties had reached me and others interested in District affairs, including the two major newspapers of Washington.

Since May 8 I have reviewed the evidence carefully and I have tried to relate the election law, for which Congress is responsible, to the actual conduct and procedures of the May 5 election. My efforts during this period have not prompted me to retract my statement; it was not directed toward the Board or toward other particular individuals involved in the election, but rather toward the system under which the election took place and especially toward the body which bears the ultimate responsibility for the electoral framework of this city: the Congress of the United States. By way of elaborating my May 8 statement, I shall first offer my general conclusions on the conduct of the election, followed by several suggestions which I believe to be timely, necessary, and practicable.

GENERAL CONCLUSIONS

1. It is important to say first that the primary election machinery was in the hands of dedicated, hard-working, and well-motivated people from the Board of Elections down to the most modest election worker laboring under several hardships imposed by the electoral system. Whatever criticism might be made of the election, it cannot properly include the charge of widespread incompetence or fraudulent activity.

2. One of the greatest weaknesses of election procedures in the District is the lack of experience and sophistication on the part of voters and some election workers alike. This weakness is manifested both in the awkwardness and inconvenience of certain procedures and in the exaggerated complaints by voters who suffered the awkwardness and inconvenience. Thus, complaints of delays, irregular behavior of workers at polling places, etc. issue directly from workers, and overreaction to it by voters whose own inexperience led them to expect all parts of the election machinery to function without a hitch.

It is in this sense that I referred to the election system as "crude," "primitive," "unorganized," and "disorganized." The facts are that the two parties of the District are just beginning to learn the intricacies of primary elections and of effective party organizations, residents of the District are not yet accustomed to exercise the birthright so familiar to most other Americans, and the learning process for parties and voters alike occurs under the handicap of an election law which clearly stands in need of revision. To say that an election system is "primitive" is not to say that it cannot work properly if it is based upon an adequate and clear election law.

THE ROAD BEHIND US AND THE ROAD AHEAD

A political jurisdiction which has had no elections to public office for 90 years cannot be expected to blossom into electoral splendor in a few short years, especially when elections are restricted to party office. The District parties are young, and so is the election law under which they operate. Election machinery for party office had its crude beginnings in 1952, when each of the two parties conducted its own primary. Not until 1956 did the parties organize an election under an election law, passed in 1955. It was the election of 1956—8 years ago—on which party voters of Washington cut their political teeth.

With insufficient funds, an excessively long ballot, the first registration, and the general novelty of such an event, the newly created Board of Elections, the two parties and about 45,000 voters began a pattern repeated to a large degree in 1960 and mirrored again, with modifications, in 1964. The pattern is now clear, its difficulties are obvious, and the need for change is imperative if elections in the District of Columbia are to merit the respect and support of Washington voters. The outstanding problems, based upon past experience and current criticism, are as follows:

1. The 4-year election cycle: Party organizations and voters alike, thrive, in a democratic system, upon relatively frequent elections. The District of Columbia is unique in its confinement to a 4-year election cycle, with elections held only for party office. For the first time, 1964 will bring to District voters the long-awaited fulfillment of their right to vote for President and Vice President. Ironically, the District ballot in November will be the shortest in the United States; the District of Columbia primary ballots were among the longest. Before the end of 1964, and after the District has experienced the extremes of a maximum of party offices elected in one election and a minimum of public officials chosen in another, party machinery and voters' dispositions will revert to a state of dormancy until 1968. The same phenomenon can be expected—rather, it can be predicted with confidence—in 1968 unless action is taken by Congress to provide the basis for continuing and vital political organization.

This is not the occasion to discuss the obvious justification for home rule in the District of Columbia. Laying that question aside as an issue in itself, there is equally obvious merit in the familiar proposal to provide the District with a nonvoting delegate to the House of Representatives. Fifty States and the Commonwealth of Puerto Rico have a voice in the House; the District of Columbia is silent. On its own merits, the nonvoting delegate proposal is a minimal recognition that the city of Washington is occupied by people who can think, who can vote, who have interests to defend, and goals to be reached. In addition, the delegate proposal is a key to an improved and effective system of party organizations and elections in the District. Elected every 2 years, the District of Columbia delegate would help to keep alive the organization which is so vital to living political parties. One might say that elections beget organization, organization begets effective party systems, effective party systems beget a seasoned electorate and a smoothly functioning electoral system.

I suggest that 1964 is the time for Congress to give serious consideration—not lip-service—to the proposal for a nonvoting delegate in the House of Representatives for the District of Columbia. The proposal has its ultimate justification in the unexceptionable principle of representative government, to be sure. I am advancing it on the additional ground that it would keep alive the electoral and party machinery which has been functioning in 1964, but which will retire to inactivity if its only reason for being is a party election 4 years away rather than a general election 2 years hence.

2. The long ballot: Many of the complaints lodged by District voters since 1956 relate to the length of the ballot in District of Columbia primaries. On May 5 the Democratic primary voter was called upon to make 67 choices (for national committeeman, alternate national committeeman, national committeewoman, alternate national committeewoman, delegates and alternate delegates to the Democratic National Convention, members of the party central committee, and party issue questions) and the Republican primary voter faced a slightly smaller chore, with 58 members of that party's governing body.

Contrary to what may be a firm conviction in some quarters, the Democratic quality of an electoral system does not vary directly with the length of a ballot. Indeed, voters in party elections and general elections alike can easily be spared unnecessary and burdensome choices. The number of names on a ballot reflects all too often the vanity of party hopefuls whose careers could be made equally secure with a rational ballot and a measure of temporary anonymity.

Specifically, the District of Columbia ballot could be shortened by more than two-thirds if certain steps—all of them safe and rational—were taken by Congress in revising the election law.

First, the law could provide that the Board of Elections may adopt any particular electoral system used currently by any State. Such a provision would guarantee the use of some existing and presumably proven system, in emulation of State practices.

In the alternative, the law could provide a specific format for the Board of Elections to follow. For example, the ballot would be shortened by approximately one-third if compulsory slate voting were adopted for convention delegates. Such a procedure prevails, for example, in California, Florida, South Dakota, and Wisconsin. There is no clear need to list the names of convention delegate candidates and to require, or even allow, separate voting on each name. By the same token, such a method would solve the familiar dispute over presidential preference questions on the District of Columbia ballot; the question could be put and answered with one stroke of the pencil by the voter as he chooses a slate of delegates.

Second, members of the party central committee need not be elected at large. Indeed, the vitality of precinct organization could be enhanced, and the ballot reduced in size by another third, if members were to be elected on a precinct basis, with weighting in membership according to the precinct party vote in the preceding election. Starting with a minimum number of members for each precinct, additional members could be allotted on the basis of the party vote in the previous election. The central committee might well be authorized to add at-large members according to its own procedures; the point is that a listing of all central committee candidates by name, at large, accomplishes no useful purpose and contributes to the forbidding appearance of the ballot.

Third, there is little, if any, justification for separate voting on a given office and on an alternate for the same office. Alternates and principals could easily and sensibly be combined into slates, again shortening the ballot and preserving a meaningful choice for the voter.

Fourth, party questions should be removed completely from the ballot. The District of Columbia is the only jurisdiction in the United States in which party questions appear on the primary ballot. It is quite natural, in a way, for young and growing party organizations to ask the rank and file for determination of policy questions. But one of the major purposes of party organization itself, including the governing bodies of parties, is to formulate and advance questions of public policy. There seems to be little justification for appending such questions to a ballot on which the voter is also being asked to choose the governing body as well. Elimination of party questions would shorten the ballot by another quarter, with no real loss to the party or to the voter.

Related to the four points above is the question of costs. A shorter ballot means fewer delays and difficulties in counting ballots, and these two factors combined point quite obviously to lower costs of conducting an election.

3. Procedural problems: Among the major procedural problems reflected in the primary elections thus far are (1) voting hours, (2) verification of voter registration, (3) training of election workers, and (4) other physical arrangements at polling places.

Voting hours should be arranged, of course, for the convenience of the voters. It seems clear by now that the closing of polling places at 8 p.m. created an unnecessary bottleneck at the end of the day for voters who had not found it possible to appear until late. Admitting the inevitable effect of Parkinson's law on the appearance of voters during any stated hours, I support the suggestion of the President's Commission on Registration and Voting Participation that polling places be opened from 7 a.m. until 9 p.m. There could be little justification for complaints if the hours for voting extended from before until well after the working hours prevalent in the District. An extension of 2 hours with its attendant requirements for manpower, materials, and costs, seems a small price to pay for a solid turnout at the polls.

Verification of voter registration caused a number of frustrating delays during the May 5 primary. To the extent that it did so, the problem can be overcome by simplifying and rationalizing these procedures. Detailed changes can best be worked out by the Board and by election workers on the basis of experience. Bottlenecks which occurred in proper voter identification, signature identification, and convenient handling of IBM records can be easily disposed of by clarifying written election procedures in conformity with well-tested practices in a number of States.

One of the long-range and most pressing needs—and one which can be fulfilled with the growth and refinement of parties in the District—is the proper training of those who man the polling places on election day. Training or briefing by party election officials should leave no question in the workers' minds as to their proper role in poll watching, assistance to voters, and so on. It is obvious to me that the confidence and cooperation of voters on election day rests largely with the proper conduct of trained, alert, and helpful election officials and workers.

My review of the May 5 primary does not reveal evidence of any serious shortages of ballot boxes in the 91 precincts of the District. It does appear, however, that ballot boxes in several instances became full before they were replaced by empty ones. This is, in essence, a minor problem which can be solved with proper planning. I am unaware of any shortage of voting booths; indeed, my information is that the Board can be proud of the highly efficient and low-cost system of movable voting booths, a system which need not impair the precious secrecy of the ballot and which offers continuing flexibility for District elections. Complaints of lack of secrecy are easily overcome by providing adequate shielding among, behind, and before the booths.

The Board will note that I have not mentioned the use of voting machines in the District. My efforts since May 8 have revealed only the obvious folly of employing voting machines. The 4-year cycle does not justify the cost; the voting booths we have are incomparably cheaper and more flexible than machines, and present or prospective election procedures would indicate no clear advantage to be derived from their use.

In summary, I have presented observations which I believe to be most salient to the question of proper election procedures in the District, and I have offered suggestions for improvement of those procedures. None of those suggestions, I am sure, is novel to the Board. Many of them will look familiar to District of Columbia voters and election workers who have helped me with their thoughtful comments. They are suggestions which could, if adopted, bring greater rationality, efficiency, and convenience to the District of Columbia election system. Their adoption rests principally upon the authority of Congress. Despite the exigencies of a burdensome legislative agenda, despite the special forces attendant upon a presidential election year, and despite the normal inertia and apathy inside and outside Congress on questions of bringing the people of Washington into the status of full citizenship, I support these suggestions and I believe they can be adopted. Their adoption should redound to the advantage of all Americans, whether or not they live in the Federal city.

Again, I thank the Board for the opportunity to present my views, and I assure you of my full cooperation and support.

TESTIMONIAL DINNER IN HONOR OF REV. EDWARD A. CONWAY, S.J.

Mr. HUMPHREY. Mr. President, on June 2 the Catholic Association for International Peace gave a testimonial dinner in honor of Father Edward A. Conway, S.J., at the Sheraton-Park Hotel. Father Conway is one of my close personal friends and is a true champion of the cause of peace.

Scientists, educators, peaceworkers, and men in Government assembled to pay tribute to the energy and devotion of Father Conway on behalf of peace education for a quarter of a century. From the beginning, and long before most of us knew the word "ecumenical," Father Conway developed peace education on an interfaith basis.

There is not a phase of the problem of peace that he has not probed and worked on. He helped to mobilize public support for a Commission on Human Rights in the U.N. at the time the charter was being drafted at San Francisco. He has been active in promoting world law study groups. All of the problems of arms control and disarmament have been brought into seminars and discussions. Father Conway is one of the founders of the Strategy for Peace Conference, one of the most searching and thorough seminars in existence on the problems of peace. In most recent years he has been a one-man missionary to major defense industries, counseling and motivating concern for the problems of the economic impact of shifting or reduction of defense contracts. In all these activities, Father Conway has been a communicator between groups, points of view, and opinion, and the educator and gadfly to all. His regular post is that of chairman of the department of political science at Creighton University. At Creighton, he has established the Peace Research Center, which is now impressive in the material it has gathered and collated.

Father Conway's breadth of knowledge, intelligence, years of work, and irenic spirit were recognized by our late President Kennedy, who appointed him to the Advisory Council of the Arms Control and Disarmament Agency.

Father Conway has left many monuments in deeds, but it was most fitting that many friends should have given this special testimonial to him.

Dr. James E. Dougherty, of the University of Pennsylvania Foreign Policy Research Center, delivered the main address at the dinner. It is a remarkably thoughtful and solid address in its own right and is a symbol of the kind of attitude Father Conway has bred in many—and in that I should like to include myself. I ask unanimous consent that Dr. Dougherty's address be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ARMS AND THE WESTERN CONSCIENCE

(Address by Dr. James E. Dougherty, at a testimonial dinner of the Catholic Association for International Peace, in honor of Father Edward A. Conway, S. J., Washington, D.C., June 2, 1964)

We are all in agreement that the arms problem which weighs so heavily upon modern man is a profoundly spiritual one. In every age, the specter of war has prompted poets to ponder what man has made of man. All the great religious teachers have warned against the lust for power. Philosophers have cautioned rulers to be slow to resort to force, lest man become indistinguishable from the savage beast. Countless writers have condemned certain modes of warfare as being immoral, illegal, or uncivilized. Prophets have held forth visions of a day when swords would be beaten into ploughshares and men would no longer be given to war.

To delve into the issues of war and peace, we can perhaps select no better point of departure than that of the Western conscience. This conscience has been a mighty force in history. It is still a uniquely sensitive instrument for analyzing the affairs of governments. This does not mean that Western civilization alone has produced a sense of public morality regarding the use of force by states. In other great civilizations, the leading ethical teachers have counseled against an excessive reliance upon arms, and some of them have preached a doctrine of nonviolence and harmlessness toward all living things. In fact, India's Gandhian tradition has had some impact upon the development of pacifist thought in the West. Nevertheless, I would suggest that the disarmament and peace movements of our day draw their inspiration mainly from a form of idealism which is distinctive to Western culture.

The nuclear pacifist is quite right to insist that the issues of defense policy involve moral questions of the utmost gravity. In this respect, he serves the society better than the technocrat who cannot be bothered with morality. But the pacifist is wrong if he assigns to himself a monopoly of virtue—if he thinks that his own approach to the problems of nuclear weapons constitutes the only authentic moral response. Some of our policymakers seem ill at ease when moral questions are raised. They suspect vaguely that any attempt to examine the arms problem from a moral point of view might strengthen the case for or the cause of unilateral disarmament, or else push our country toward complete disarmament too fast and at almost any cost in concessions to the Soviets. But sound moral analysis need not put the United States at any military, strategic or political disadvantage. Morality is the application of the highest reason, and reason does not play tragic tricks upon its practitioners. If some people fear that moral analysis does entail disadvantages, this unfortunate impression must perhaps be attributed to the fact that extremists in the peace movement have often equated the so-called moral approach with all sorts of irresponsible proposals.

There are many good but naive people in the peace movement who believe that the last best hope of earth is the willingness of men to picket the White House or to march to Aldermaston. They proclaim in effect that all advocates of rapid disarmament stand among the elect, in contrast to the misguided or malicious proponents of defense policies. Only the propagandist wishes that the lines between good and evil could be drawn so simply. For pacifists to look upon all supporters of a nuclear defense policy as potential Dr. Strangeloves is no more justified than for the advocates of deterrence to brand all demonstrators for total disarmament as Communist sympathizers.

Not all the marchers for total disarmament are necessarily moral in their motivations. The peace movement derives at least some of its strength not from any altruistic ideals but from the sheer desire for biological survival. No one can deny that the preservation of the human species is a fundamental moral imperative. All other moral efforts presuppose this. But moral values themselves must arise from something spiritually deeper than the brooding fear of self-extinction. Fear should be the beginning, not the end, of wisdom. Any man who is more anxious to prolong his own existence than to uphold the quality of human life itself will hardly make a sacrifice for any cause, however noble. The crass epicurean will purchase his physical safety and comfort at the expense of all those values which fall below the threshold of his own survival.

It would be grossly unfair to suggest that most pacifists belong to this school. The true pacifist is opposed to the use of force precisely because he is interested in values and in the quality of human life. He detests the notion of nuclear violence, and this does not mean that he is indifferent to freedom and justice. He believes firmly that the moral order cannot, in the final analysis, be safeguarded by physical force. The genuine pacifist fears that a nation which rests its security upon the massive deterrent of nuclear power unconsciously undermines the moral quality of its own life. At his finest, the pacifist is not preoccupied with self-existence. He is moved by a concern over the preservation of civilized life on this planet (as every intelligent man must be). Beyond this, he testifies to a spiritual concept of man which transcends the notion that right needs might. When he meets a Christian who supports the policy of nuclear deterrence, the pacifist chides him for being caught in a basic self-deception—for threatening to do something in retaliation which cannot morally be done, while hoping that he shall never have to carry out his threat.

For many years, the barbs of the pacifists have been piercing my thick spiritual hide. Nevertheless, after much soulsearching, I cannot accept the pacifist position. In my reading of the relationship between the Old Testament and the New, between the person and the state, between the natural and the supernatural, and between the orders of justice and charity, it does not seem that the maintenance of a nuclear deterrent is intrinsically immoral, or that the law of force has been historically abrogated by the law of love. Not he alone is Christian who despises all instruments of power as evil, who shuns modern weapons technology and washes his hands of it and flees from it as though it were the work of the Devil. Some Christians recognize that massive power exists and must be managed. The mere existence of these modern weapons is tragic but not immoral; we often confuse the two. Morality is determined by purpose and intention. How and to what ends shall we use this power in our hands? These are moral questions. The pacifist says that they will surely come to no good and hence must be renounced. My answer is that we hope they will be productive of good and that the worst thing to do in the present historical context is to downgrade the deterrent by embracing a lopsided, unilateral pacifism. So long as nuclear force can be used as an instrument of terror and injustice, the same kind of force must be retained as a deterrent tool of justice.

I realize that states always appeal to the justice of their policies as the figleaf of their moral respectability. But this fact fails to prove that there is no such thing as justice in the world. Some Christian pacifists argue that when all the corrupt and immoral tendencies in modern Western culture have been taken into account, our civilization turns out to be no better than any other, not even a totalitarian one. The Christian must always remember the beam in his own eye. He cannot deny that, East and West, we have all gone astray together. All men in all social systems stand equally in need of redemption. Yet when he has made his mea culpa, he must still strive for an objective view of the international situation. When I do this, I am convinced that the political principles, the social values, the spiritual ideals and even most of the institutions of the Western liberal civilization are superior to those of the Communist system, and are worth defending with force.

Western culture has given to the world modern science, the modern democratic state, and the idea of a refined humanity. Indeed, what is best in Marxist socialism is the fruit of Western culture, with its Jewish and Christian, its Greek and Roman, and its European, content. The idea of independence which has burned in the breasts of Asians and Africans, spurring them on in the postwar period to throw off the yoke of Western imperialism, can be traced to no other source than Western education. Never in history has there been such a smooth transition from colonialism to independence. The process succeeded largely because Western elites were basically sympathetic with the movement. The Western nations have done by far the most to promote the economic and social development of the emerging countries, and will continue to do so. On the whole, the record of the West in the recent past is one that the West can be proud of, instead of indulging in unprofitable self-recrimination over the sins of the more remote past.

Finally, the vision of an international family of free states united in a pluralist community, living and letting live, working out their problems peacefully and decently, is a distinctive product of Western liberal thought. If the United Nations is someday to be what its architects dreamed of, then the ideals of the West must remain a dynamic, creative force in world history; whatever synthesis of social systems may ultimately emerge, it must embody more respect for the free person than adulation of total social control. The West still has a great deal to offer the world, and a great deal to do for the world. It is by no means a perfect society, but it renews itself by engaging in constant moral self-evaluation. Its peoples measure the policies of their governments against ethical standards more so than in any other region of the world. If the West should ever go under, mankind would be incomparably poorer; the loss would be incalculable.

This is why I reject the contention that pacifism is the acid test of Christianity in the 1960's. The Western nations are entitled to maintain a nuclear deterrent against an adversary who is likely to be impressed by that power. We would do well to remember, as Max Lerner has pointed out, that we really face two great dangers, not one: "There is the danger that the world will become a mound of radiated ashes, and there is also the danger that it will become an ant colony, under a commanding elite that * * * does not hesitate to use the conscience of atomic man for its own power purposes." Both of these represent high moral challenges to our ingenuity. We shall fail if we worry about only one of them. Americans must wield its vast power responsibility, and shrewdly, to influence the course of events in two directions—toward a more stable peace and toward the greater freedom of the human spirit.

Most pacifists are offended by the suggestion that the policy of responsible deterrence has succeeded in discouraging at least overt aggression. Deterrence alone, of course, does not solve all our problems. We need much more in the nonmilitary sector. We most certainly should increase our efforts—doubling or tripling them in the next 10 years—to help the peoples of the developing countries create the conditions for the production of social wealth. We are not afraid of engaging the Soviets on the field of peaceful competition. In fact, we are happy to do so. But if the international strategic contest is being lifted to a higher, more constructive plane, this is not because the Communists disdain military power; it is because they respect it. The superiority of the American deterrent is the indispensable condition of peaceful competition, until effective solutions to the arms problem can be reached.

We should not fail to explore any opportunities which may open up for meaningful arms agreements with the Soviets—agreements which will enhance the safety of the international environment. At the same time, we should remain on our guard against unwarranted optimism. The world is changing rapidly in many respects. But not everything changes. Certain features of the cold war are more persistent than some of us like to think. A system which for four decades has institutionalized the techniques of conflict and expansion can hardly be expected to shift course suddenly. Catholics are sometimes accused of adhering rigidly to the thesis that communism cannot change. This is a most inaccurate interpretation of the Catholic attitude (if one can speak of such a thing).

In history, everything changes except the inner essence of Christianity and of the church. No one can rule out the possibility that Soviet communism may evolve in a more benign direction. But after only 1 year or so of ambiguous detente, it is premature to declare that the Soviets are permanently mellowing in their foreign policy. More than once in the past we have learned to our regret that one swallow does not make a spring. Although the Soviets are encountering economic difficulties at home and political squabbles within their state system, there is no evidence that their foreign policy is suffering setbacks in southeast Asia, in Egypt, in India, in Cyprus, and in other areas of the globe. When we assess the current phase of Soviet-American relations, we should not let the wish be father to the thought.

To secure the peace, it is not enough to describe the horrows of war. Since the clear pronouncements of Pope Pius XII, Catholic theologians will not defend a strategy which intends the wholesale obliteration of cities. But neither will the church condemn nuclear weapons and nuclear deterrence as intrinsically immoral. Pope John XXIII refused to do this in "Pacem in Terris." He warned that nations cannot always depend for peace upon a mechanistic balancing of forces, and that nations must seek to base their relations on mutual trust. He added, however, that no nation can be expected to subscribe to an arms reduction plan which involves placing itself at an unfair disadvantage. The late holy father said that arms reduction must be reciprocal and subject to effective control. This is what the long years of negotiations have been all about.

On the disarmament front, the prospects for general and complete disarmament are now being looked at more soberly than was the case a few years ago—on both sides—and practical partial measures are under discussion again. The Soviets are still sensitive on the subject of international inspection; their position has not changed noticeably in recent years. There are still some fundamental technical and political problems which have not been solved: I am thinking of the question of hidden stockpiles out of previous production; Soviet reluctance to strengthen the peacekeeping machinery of the United Nations; and the problems posed by France and China. If the Soviets are as worried about China as they sometimes appear to be, they might be unable to contemplate seriously any actual destruction of weapons. The Soviets would probably be content to live in a bipolar nuclear world for a while if they could be reasonably sure that it would not become intolerably multipolar. In my estimation, they are not terrified by us. Cuba taught them many lessons. One was that the United States is capable of carefully defining its irreducible national interest—tardily but carefully. The other is that the United States is capable of acting with consummate restraint; it does not pursue strategic advantages ruthlessly.

The arms problem, as you all know, is almost a bottomless pit in its complexity. The most lurid description of the effects of an H-bomb blast, the most caustic critique of the size of our stockpiles, will not serve to lead us out of our impasse. It does us no good to wring our hands and lament that there is so little time. If we have only a little time, then we are in bad shape, because we are going to need a long time. We have been moving into our present predicament for a long time, for several decades; we cannot untangle ourselves as easily as some pacifists believe—through a sudden moral conversion of governments. We are trying to grapple, all at once, with the nature of modern technology, with the structure of the nation-state system, with very real philosophical differences, and with the orneriness of men. The task confronting us demands a penetrating intelligence uncommon in history—such an intelligence as cannot be hurried by the manipulations of propagandists. In this era of nuclear-tipped missiles, it can be most dangerous to think in terms of readily perceived panaceas to the enduring dilemmas of world politics.

Man has divined the secrets of the atomic universe. He cannot erase from his mind this awful knowledge by any form of political or scientific exorcism, but must live with it for the rest of time. The best he can hope to do is manage this power with wisdom until it can be organized under the world public authority for which Pope John XXIII called. This will require a much greater consensus of values with respect to the nature of the social and moral universe which is man's habitat. It may well be that the two superpowers both wish to avert nuclear war. This is more of a coincident negative interest than a common positive purpose. We have a long way to go to work out, in a spirit of genuine mutuality, a common vision of the kind of international order to which we wish to belong. The effort to do this has been missing through many years of debate. Instead of focusing almost exclusively upon the technical aspects of the arms problem, the United States should challenge the Soviets to enter upon a broader, nonpolemic discussion with us about man—a true political, philosophical and theological dialog about the relation of past and future, of person and collective, of heaven and earth, of justice and injustice, and the many other questions which divide us to the depths of our souls.

In closing, I would urge that the partisans of peace and the fighters for freedom reopen their lines of communication. The peace movement still has a lot of homework to do on political, technological, and strategic matters. The strategists for defense can stand to turn away occasionally from the cold calculus of deterrence and meditate upon the grave moral and human issues confronting man. Both groups can help each other to arrive at a deeper understanding of reality. Both groups should recognize the dangers of the intellectual schism which has appeared in our country in recent years between the advocates of peace and the advocates of freedom. If we remain divided, the cause of neither peace nor freedom will be served well. The will to peace is not the will to surrender; the will to freedom is not the will to holocaust. This, I take it, is the message which the man whom we honor tonight has been striving these many years to get through to us.

CONSUMER EXPERT COMMENTS ON COLLEGE LOANS

Mr. HARTKE. Mr. President, Sidney Margolius is a well-known writer and expert in consumer affairs. He has written on these subjects for the Ladies' Home Journal, McCall's magazine, and other publications. For some years he has produced a regular column, widely printed in labor union and co-op publications, and currently being used in some 90 such papers and magazines.

Among other consumer expenditures, he has kept a close watch on the costs of college education, and has written pamphlets dealing with college scholarships and other means of dealing with these costs.

Mr. Margolius recently devoted one of his regular columns of consumer advice to a discussion on the theme, "Borrowing To Go to College." In that article he makes reference to portions of my testimony before the Education Subcommittee on my bill, S. 2490, concerning the cost of loans for college education, particularly the high rates of interest charged by some lenders.

It has been my own contention, and provisions of my bill reflect that concern, that there is a vast need for loan funds for college education. Mr. Margolius confirms this need in his first sentence, when he says:

> With college costs soaring, borrowing has become the fastest-growing method of financing post-high school education.

The article points up the definite need for enactment of the bill.

Therefore, Mr. President, I ask unanimous consent that the text of the article be printed at this point in the Record, as it appears in the April issue of the Machinist, published by the International Association of Machinists.

There being no objection, the article was ordered to be printed in the Record, as follows:

Borrowing To Go to College

(By Sidney Margolius)

With college costs soaring, borrowing has become the fastest-growing method of financing post-high school education. Some finance companies and insurance firms especially are pushing the idea of borrowing to go to college. Devereaux Josephs, chairman of the New York Life Insurance Co. and recently chairman of a Government Committee on Higher Education, even recommended that colleges should raise fees to charge the student "the full cost of his education, and what the student or parents cannot pay from past savings and current earnings, they should borrow."

But President Eldon Johnson of the University of New Hampshire, has warned that overreliance on borrowing may create a new form of "indentured service, in which the poor pay for 20 years while the better off start life debt free."

One of the most shocking practices this writer has encountered is the large number of well-known colleges that recommend high-cost loan companies to students in their catalogs, either in ignorance or disregard of the true costs of such loans.

Recently Senator Vance Hartke, Democrat, of Indiana, has been criticizing education loans offered by finance companies which charge parents the equivalent of true per-annum interest of 26 percent and more, and in two cases, 54 to 60 percent. These examples were based on a survey by the magazine of the Credit Union National Association.

First of all, parents and students need to understand that a so-called $4,000 plan offered by a bank or finance company operating a tuition or education plan is not really a $4,000 loan. As this department previously has pointed out, the money is advanced only for each semester or quarter at a time. Thus the lender really may advance only $500 at a time on a $4,000 plan. This is a $500 loan, not a $4,000 loan.

In the case of the very high rates cited by the credit-union researchers and Senator Hartke, the true per-annum cost is especially steep because the borrower really prepays part of his loan. For example, for a $1,000-a-year tuition plan for 4 years, on which the lender really advances $500 at a time, the borrower repays $106 a month for 40 months. The $240 of finance charge is only somewhat higher than the typical $150 to $200 charged for similar 4-year plans by banks and other lenders. But in this case, the payments are completed in 40 months, instead of the usual 48 months. Thus, during the last few months, the borrower has prepaid some of the money he supposedly is borrowing.

The finance company charging this rate argues that the credit unions and Senator Hartke have not taken into account the fact that insurance is included in the cost of the loan. The company also points out that it does not charge late fees as do some other lenders, and in case of prepayment, gives a full rebate of the remaining finance charge, instead of the more-usual proportionate rebate.

Granting these points, the finance charge still is high since the insurance provided is merely inexpensive decreasing term insurance, for which the more moderate-cost banks charge 50 cents a year for each $100 borrowed. Thus, on what is actually a $500 loan, the insurance is worth about $2.50 a year.

There is no need to pay such rates. The AFL-CIO Education Department points out that the National Defense Education Act provides student loans at a true interest rate of 3 percent. Nor does the interest charge begin until after the student graduates. You have 10 years to repay (actually 11 since you don't have to begin repayments until a year after graduation). Moreover, if you go into teaching, you will have 10 percent of your loan canceled for each year you teach, up to 50 percent. For students interested in teaching, Defense Act loans actually can serve as a kind of partial scholarship.

If you can't get a Defense Act loan, or other loan directly from your college, here are other sources in order of increasing cost:

State-sponsored college loans: Among States that now have their own or semiofficial programs of college loans, are Florida, Illinois, Louisiana, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, Virginia, Wisconsin, and Wyoming. Usually these loans are guaranteed by a State or semipublic agency but made by local banks. Your State education department, student-aid office, or high school guidance counselor can tell you which banks participate. In some cases, students attending post-high school vocational or nursing schools also are eligible.

United student aid fund loans now are available through more than 400 colleges in some 41 States, usually those that do not have their own State programs. The interest rate is a reasonable true 6 percent per annum, including credit life insurance. No payments are required until after graduation. Unlike the National Defense Act loans, these loans do accrue interest while the student is still in school. The actual loans are made by cooperating hometown banks. Your college can give you additional information.

Hometown, religious, nationality organizations have a large number of student loan funds at low cost. These organizations include PTA's, high schools, women's clubs, churches, civic organizations as Rotarians and Elks, the Grange, fraternal organizations as Knights Templar, and many others. In some cases, loans are limited to members; in other cases, any applicant is eligible. Your high school can tell you about local loan funds.

NEW YORK SCHOLARSHIP AND EDUCATION HONORED

Mr. JAVITS. Mr. President, I wish to call the attention of the Senate to the signal honor paid New York scholarship and education by reason of the fact that New York State is the only one of 50 States of the Union which has four winners in the group of Presidential scholars of 1964. The announcement of the Presidential scholars was made yesterday by President Johnson.

It is significant that the four New York winners are divided among private schools, public schools, and parochial schools. That is a very interesting commentary on the educational system in New York State.

I am proud to point out that of the 121 Presidential scholars, no other State has more than 2. New York has, as I have said, four; they are: Kenneth Mark Minkoff, of Laurelton, Queens; Miss Jill Elizabeth Ramsey, of Briarcliff Manor; Miss Margaret Rosoff, of Brooklyn; and John O'Farrell Stevenson, of Brooklyn.

I ask unanimous consent that there be printed in the Record an article on this subject which is published today in the New York Herald Tribune.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW YORK STATE TOPS COUNTRY: FOUR PRESIDENTIAL SCHOLARS

WASHINGTON.—New York State has topped the country with four of the Presidential scholars of 1964, announced yesterday by President Johnson. The 121 scholars include 2 outstanding high school graduates from every State and the District of Columbia, and 12 States boast 3 winners. But New York is the only State with four—two boys and two girls.

President Johnson will confer a bronze medallion on each of the 121 winners in a White House ceremony next Wednesday. The President authorized the program last April 16 "to recognize the most precious resource of the United States—the brainpower of its young people" and "to encourage the pursuit of intellectual attainment among all our young people."

The New York winners are:

Kenneth Mark Minkoff, 138-06 229th Street, Laurelton, Queens, graduating this month from Andrew Jackson High School.

Miss Jill Elizabeth Ramsey, 63 Scarborough Road, Briarcliff Manor, graduating from the private Mary A. Burnham School in Northampton, Mass.

Miss Margaret Rosoff, 1561 East Ninth Street, Brooklyn, of Midland High School.

John O'Farrell Stevenson, 550 Throop Avenue, Brooklyn, of Brooklyn Preparatory School, run by the Jesuits.

THE ROLE OF NEW YORK STATE IN THE ATOMIC AGE

Mr. JAVITS. Mr. President, the New York State Atomic Research and Development Authority, a public benefit corporation created in 1962 by the Legislature of New York, has for some time pioneered efforts by the States in the field of atomic energy. As my colleagues may recall, the authority early this year completed plans for the construction, with its own funds, of an advanced pulsed reactor at the Malta Test Station in Saratoga County, northeast of Schenectady, N.Y. Under the New York State Research and Development Authority's ownership and private industry's operation, the Malta Test Station will be expanded into a complete Space Technology and Atomic Radiation—STAR—Center, to meet national defense requirements for the development and testing of equipment associated with military and aerospace programs. The principal users of the Malta Test Station have been contractors of the National Aeronautics and Space Administration, the U.S. Air Force, and the U.S. Army. Because no Federal service organization is operating to serve the combined testing needs of a group of Federal agencies in scientific and technological fields, the New York State authority believes it is demonstrating that a proper and useful role in this area may be assumed by the States.

In April of this year, the New York State Atomic Research and Development Authority entered into an agreement with the Long Island Lighting Co. to undertake a joint program leading to the construction on eastern Long Island of the first dual-purpose, nuclear-powered, water desalting and electric generating plant of pilot plant size ever built. The plant is designed to demonstrate the technical feasibility of utilizing atomic energy for these combined purposes and will produce electricity at a level of between 2,500 and 6,000 kilowatts, and desalinized water at a level of between 1 and 4 million gallons a day.

I am most gratified by the continued initiative and leadership of the New York State Atomic Research and Development Authority in this most important field of atomic energy and by its effective effort to accomplish a mission of national importance and value in conjunction with private industry.

I ask unanimous consent that an announcement by the New York State Atomic Research and Development Authority concerning the new nuclear-powered water desalting and electric generating plan be printed in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

NEW YORK, N.Y.—The New York State Atomic Research and Development Authority announced today that the Authority and the Long Island Lighting Co. have agreed to undertake a joint program leading to the construction on eastern Long Island of a small-scale nuclear-powered water desalting and electric generating plant designed to demonstrate the technical feasibility of utilizing atomic energy for these combined purposes.

No such dual purpose nuclear plant currently exists anywhere in the world.

The project is being undertaken to serve as a pilot plant and training facility for subsequent large-scale electricity and water plants expected to be installed on Long Island in the 1970's and also to demonstrate the economic feasibility of constructing and operating similar small-scale plants within the next few years in many parts of the world where electricity and water are unusually scarce.

The joint program will involve the solicitation of price quotations on existing designs of small-scale nuclear reactor facilities from the U.S. nuclear equipment industry. The program will also involve the preparation of a conceptual design of a new approach to small-scale reactor technology by the engineering consulting firm of Hittman Associates, Inc., of Baltimore, Md. The Hittman design will be directly aimed at eastern Long Island water and electricity requirements.

The work by Hittman Associates will be sponsored equally by the Long Island Lighting Co. and the State office of atomic and space development. The office is cooperating with the Authority and the Long Island Lighting Co. in the electricity and water reactor program.

In the course of their work, Hittman Associates will also assist in selecting the preferred site for the small-scale demonstration project. The amount of land required for the site is not expected to exceed 70 acres. The two areas to be looked at primarily are the Mastic-Shirley area and the Greenport-Southold area. The final site selection will be substantially influenced by the quantity of water required, and the price offered by water distribution agencies, in the two general areas.

The authority desires that 4 million gallons of water per day be purchased at a price reflecting current costs as well as projected water costs on eastern Long Island during the next two decades. The Long Island Lighting Co. has agreed to purchase the power that the dual purpose plant will produce in a range of from 2,500 to 6,000 kilowatts depending upon the ultimate size of the plant as determined by the demand for water.

It is the authority's intention to seek Federal participation in the project to the extent that the project serves the national purpose of advancing nuclear desalting technology and demonstrates the economic feasibility of installing small-scale electricity and water plants in water short parts of the world.

In connection with today's announcement, Oliver Townsend, chairman of the authority, said:

"At the request of the Long Island Lighting Co. our authority has temporarily set aside consideration of a large-scale nuclear-powered electricity and water plant on eastern Long Island. We have deferred these plans inasmuch as the company has informed us that it wishes, before participating in a large-scale project, to have the benefit of the demonstrated technology, experience, and personnel training advantages that will result from pilot plant operation.

"In the meantime, the authority is most pleased that the company has joined us in the furtherance of this program which can have great significance, not only to Long Island and the State of New York, but also to the Nation and the world."

THE 18TH ANNIVERSARY OF THE REPUBLIC OF ITALY

Mr. KEATING. Mr. President, June 2 marks the 18th anniversary of the full and enthusiastic endorsement of the people of Italy for a free and republican form of government. On June 2, 1946, the people of Italy voted, in their first elections after World War II, to embark upon the continuously challenging, but deeply rewarding paths of representative government.

The war years, when Hitler's Germany reduced Italy to a subordinate position of suffering and exploitation, had taken a heavy toll. The devastation of the war, the hardships, and looming famine were a grim picture before the people of Italy. The enormous task of rebuilding the nation physically and working out the details of a workable political and economic structure lay before the land of Italy.

Yet, Mr. President, today, as we look back on the 18 years of the Italian Republic, we see progress equal to or surpassing that of any similar period in Italy's history. The skill and patriotic unity with which the people of Italy moved have been one of the miracles of the West European republic. Italy shares fully in the military, political, and economic groupings of Western Europe, and is today a key member of the NATO alliance. Just recently, Italy's former Ambassador, both to the United States and to France, Manlio Brosio, who is a friend of many of the Members of this body, was selected Secretary-General of NATO.

Mr. President, the people of the United States have felt particular pride and satisfaction in the remarkable economic and political development of the new Italian Republic. The ties between the United States and Italy have, through the years, been warm and close. Our own country has gained tremendously through the many achievements that Americans of Italian descent have contributed to our national life.

Mr. President, just a few months ago, the United States was honored to welcome Italy's President, Antonio Segni, and to reaffirm the close link between the United States and Italy. As Europe moves into an era of even greater economic prosperity and political security, the people of the United States will be drawn even more closely to their warm friends and loyal allies, the people of Italy. We welcome the opportunity to work closely with the Government and the people of Italy in finding a common defense against tyranny of every kind, and a common victory against the forces of poverty and destitution.

Mr. President, I take this opportunity to extend my warm greetings and congratulations to the people of Italy, and to the friends of Italy throughout the world, on this important anniversary.

CIVIL RIGHTS BILL MAIL

Mr. KEATING. Mr. President, when the debate on the civil rights bill began, in March, there was considerable discussion in regard to the mail which Senators had been receiving concerning the bill—both the mail in favor of the bill and the mail in opposition to the bill. I participated in that discussion. Much of the mail against the bill was based on misinformation about it—charges, for example, that the bill would destroy union seniority, or that it would force the sale of homes to Negroes, or that it would require widespread busing of schoolchildren to correct racial imbalance in the schools.

After exposing these misconceptions, mail in opposition to the bill became less frequent. One might even say the long-drawn-out debate on the bill has had one good side effect, in that it has given the proponents of the bill time to dispel the many untruths which have been circulated by paid lobbyists against the bill, and has given us time to expose such falsehoods and to present the truth to the American people.

In February of this year, 10 out of every 17 New Yorkers who wrote to me about this bill opposed it. The balance shifted the very next month, and has remained in favor of the bill ever since. I am pleased to report that in May, the pro-civil-rights mail reached an all-time high in my office. During that month, I received a total of 33,604 letters on the civil rights bill. Of these, 1,842 opposed the measure, and 31,762 urged its passage. In addition, I received thousands of letters from outside New York; and they were about 15 to 1 opposed to the bill.

I am proud that the citizens of the Empire State have once again demonstrated their dedication to the cause of civil rights, and I am pleased that in this manner they have ratified the position of their two Senators.

VIOLENCE IN NEW YORK

Mr. STENNIS. Mr. President, all of us are concerned about the wave of terrorism and vandalism which has been taking place in recent weeks in the city of New York.

Almost every day we find new accounts in the press of senseless murders, assaults, terror, intimidation, and destruction of private and public property by teenage and older hoodlums.

Perhaps the latest and most ridiculous series of crimes was reported in the New York Times of June 1, 1964, where the story is related about 20 young hoodlums who terrorized and robbed passengers and vandalized an elevated train in Brooklyn in the middle of the night. This dastardly crime followed by only 9 minutes a separate assault where two youths and two men threatened the motorman and passengers on an elevated shuttle train near Prospect Park in New York City.

On the night before, 20 teenagers ran wild on a Staten Island ferry, dancing and shouting at the passengers, swept food and drinks off the refreshment counter, and stole $90 from the cash register.

The New York Times story points out that 16 of the marauders were arrested, all Negroes and mainly teenagers.

Let me emphasize, Mr. President, that I am not singling out the State of New York for criticism because of these senseless incidents and the unprovoked attacks and vicious crimes which are happening on the streets of its great city. We have law enforcement problems, not only in New York City and in Washington, D.C., but all over the Nation.

But I am gravely concerned that the Senator from New York [Mr. JAVITS] has tried to place the blame for these lawless activities in the city of New York squarely on the shoulders of the South and suggesting that such crimes could be avoided by the prompt passage of a civil rights bill. Of course I do not impute bad faith to the Senator from New York.

I firmly believe that the Senator from New York is clearly mistaken. The State of New York for many years has held itself up as the model of the Nation for integration and equal opportunity, and whatever steps New York has taken in this field on its own is the business of the State of New York and no one else.

But these steps have not prevented this reign of terror in the city of New York.

On June 2, 1964, the Senator from New York [Mr. JAVITS] made the following statement on the Senate floor:

> It is my deep conviction that what is occurring is the repercussion from the fact that Negroes have for so many decades been denied fundamental and equal opportunity, especially in the southern part of the United States. And let us not forget that there has been an enormous migration of Negroes from the South to New York City, to Newark, N.J., Detroit, Chicago, Boston, and other areas of the North. Therefore, Mr. President, we in the North have had our own backlash from the denial of opportunity and the denial of justice suffered by the Negroes for many decades in the South.

For several years, it has been obvious that those from certain Northern States have attempted to use the South as its favorite whipping boy to explain away the existence of many of the problems in northern cities. The statement above quoted is another clear example of this attitude.

This reign of terror in the city of New York cannot be blamed on the South. To attempt to do so is stretching one's imagination to the breaking point or merely echoing propaganda put out by minority groups to cover up ugly facts.

The statement of the Senator from New York on this question, blaming the South, is not the first time that I heard such a baseless charge. It runs through the literature of minority groups that has been sent out over the Nation for decades.

The one bright fact in the whole ridiculous mess which happened during the latest reign of terror was the heroism of a Negro from Mississippi, completely innocent of all wrongdoing who saved another person's life during the New York subway rampage. As reported in the Washington Daily News of June 2, 1964, an 18-year-old Negro from Mississippi was credited with saving the life of Howard Weiner, aged 16, who was brutally beaten and knocked unconscious by the gang.

Larry, whose last name and address were withheld for his own protection—think of that, Mr. President: His name was withheld for his own protection. He was one of the innocent passengers on the subway and frightened off the gang of attackers when he cried out: "The cops are coming."

No wonder Larry is quoted as saying: "I'm scared of my life up here—it's safer in Mississippi."

No wonder he is thinking of returning to Mississippi because he said: "The things I have seen in New York are so vicious." Young Weiner later said, "Larry saved my life. He is a real hero."

I ask unanimous consent that the article referred to and which appeared in the Washington Daily News of June 2, 1964, be printed in full in the RECORD at this point.

There being no objection, the article was ordered to be in the RECORD, as follows:

[From the Washington Daily News, June 2, 1964]

NEGRO, 18, SAVED VICTIM ON SUBWAY

An 18-year-old Negro from Mississippi was a hero during a New York subway rampage by a gang of young Negro toughs Sunday, the New York Daily News reported today.

Larry, whose full name and address are being withheld for his own protection, was one of the innocent passengers terrorized by the subway invaders. He is credited with saving the life of Howard Weiner, 16, who was brutally beaten and knocked unconscious by the gang.

The toughs finally let up on young Weiner and fled when Larry frightened them off with the cry, "the cops are coming."

But nobody is more frightened than Larry, himself, "I'm scared of my life up here," he said. "It's safer in Mississippi."

Larry, who was roughed up a bit during the gang's attack, feels he is caught in the middle. He's frightened by the gang and also fears others will believe he is a member of the mob.

Young Weiner, who was hospitalized with a concussion, says: "Larry saved my life. He's a real hero."

But Larry, who came to New York to earn some money for the support of his widowed mother, said he was thinking of returning to Mississippi because "the things I have seen in New York are so vicious."

Mr. STENNIS. Mr. President, I am for law and order in Mississippi and in New York. I feel that the duly constituted law-enforcement officers of Mississippi and New York are fully capable of enforcing their own laws and handling their own situations.

I am glad to know that Mayor Wagner has taken steps to build up the police strength on the streets and in the subways of New York.

In Mississippi, our State and local officials have taken steps to bolster our law-enforcement capacity in preparation for the onslaught of outside agitators and zealots who, the newspapers have promised, would be traveling to Mississippi this summer to violate our State laws.

The PRESIDING OFFICER. The time of the Senator has expired. Does the Senator wish additional time?

Mr. STENNIS. Mr. President, I ask unanimous consent that I may have 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Do not blame the South for the reign of terror in the city of New York. The facts are the other way. I hope that we shall have no more reckless and baseless charges about the South in some way being responsible for the unfortunate and regrettable reign of terror that is occurring in New York and elsewhere, because they are not based upon facts. I know that the Senator from New York has always opposed lawlessness. I have never seen a Senator acting with more vigor than did the Senator from New York when he thought certain individuals were about to block the passageways to the New York World's Fair.

It is unfortunate that sectionalism has come out during the debate. However, the debate shows that when great numbers of people are turned loose anywhere with a little encouragement from others higher up, they will run amuck. That statement is not limited merely to their race. I hope we shall not hear anymore about lifting blame from one area of the country—New York or anywhere else—and trying to place it on some other area. The facts do not support such a charge. The charge is baseless and unfounded.

As I have illustrated, a little colored boy from Mississippi, in the bedlam, confusion, and riots in the subway in sophisticated New York, is given credit—I do not know whether he deserves it or not, but the man whose life was saved has given him the credit—for breaking up the riot and saving the man's life.

Mr. JAVITS. Mr. President, I ask unanimous consent that the Senator from Mississippi may have 2 additional minutes so that he may yield to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. STENNIS. I yield to the Senator.

Mr. JAVITS. Mr. President, the context of what the Senator has read that I said contradicts the Senator's statement that I made a charge blaming the South. In fact, the context was no more than a condemnation of violence wherever it takes place—New York, the South, or any other place.

I was speaking entirely in sorrow, and not at all in anger. I charged only one thing—and I charge it again—and that is if we do not pass an effective civil rights bill by this summer, we shall invite disaster in the North, South, East, and West. That is the timetable which is forced upon us by the sociological facts of life. None of us can sweep those facts under the rug. We have a common problem. That is the only thing I had to say. If I said it inartistically then, I say it in the proper way now. I am not trying to make the South a scapegoat. I have sat here for months while Senators have been trying to make New York the scapegoat for every small incident of crime, ballooning it up into a great crime wave involving the morality of the people of New York. When I produced Federal Bureau of Investigation's latest crime statistics, it was evident that New York in fact has a lower crime rate than a considerable number of southern cities. But the crime rate everywhere is not something to crow about; it is something to cry about. I join Senators in deploring and being enraged over it. I take no joy in that; I do not want them to take any joy in our troubles.

All I say is—and it was the whole point of my statement that day—that I condemn violence, no matter what its justification, perpetrated by the misguided and unhappy people whose frustrations and problems lead them to it. If the Senator has read my whole statement, he knows that is what I was trying to do in this instance.

The point I am making now, and the point I made at that time, is that we are dealing with a deep national problem in which there should be a fundamental national standard of equal opportunity. In my judgment, as one Senator, I am trying to do my best, in good conscience, to deal with this grave national problem, so that there may be stability. The whole point is that the bill would give us a much better chance to deal with outbreaks of such violence throughout the Nation.

That was the fundamental point I was trying to make.

I have made the statement many times before that I respect the South. I respect our fellow Americans of the South. I have no desire to unburden on them the guilt or responsibility of the whole country. I was only pointing out that we are at a critical crossroads in American life; and, together with many other Senators, I think this prescription is essential in order to give us a means to deal justly with the problem.

I hope New York will not be made a scapegoat. I have not the remotest interest in trying to make the South a scapegoat.

Mr. STENNIS. I thank the Senator. I am disappointed that he has not said anything about the Negro youth from Mississippi who saved a life. I am also sorry that he referred to this incident that happened as a small incident.

Does the Senator wish to refer to the happenings of the last few days, the reign of terror, as a small incident?

Mr. JAVITS. If the Senator will yield, in the first place, with reference to the young man from Mississippi, he is now in New York. If he wants to go back to Mississippi, where he thinks he will find things more to his liking, God bless him. I doubt that he will. Certainly he is heroic. I give him credit for it.

Second, I was not at all calling anything that imperils life a small incident. I said that every incident of crime in New York is ballooned up to a great, big thing. For example, the situation of neighbors standing by while a poor woman is killed is a ghastly and inhuman incident. No one will deprecate it more than I. No one will condemn it more than I. But it is used, entirely irrelevantly, as a direct argument against enactment of the civil rights bill.

What I was calling attention to was that while without any qualification, I condemn the violence and pledge myself to take all measures within my power against it, no matter what justification the people performing those acts may claim to have, I also called attention to the fact that as we govern, we must be intelligent, and in governing we must recognize that there is urgent need of this law as a standard to which this country can repair.

Mr. STENNIS. On the question of this being a small incident, I had not intended to place this article in the RECORD, but now I ask unanimous consent to have printed at this point in the RECORD an article from the New York Times of June 1, by Mr. Emanuel Perlmutter, with respect to the incident to which I referred, so people can judge whether it is a small incident or not.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 1, 1964]

YOUTHS TERRORIZE PASSENGERS ON TWO SUBWAYS AND A FERRYBOAT

(By Emanual Perlmutter)

Twenty young hoodlums terrorized and robbed passengers and vandalized an IND elevated train in the Bensonhurst section of Brooklyn early yesterday.

Ninety minutes earlier two youths and two men cowed the motorman and passengers on a BMT Franklin Avenue elevated shuttle train near Prospect Park, threatening them with a meat cleaver.

On Saturday night, 20 teenagers ran wildly about on a Staten Island ferry, dancing, and shouting at passengers. They swept food and drinks off the refreshment counter and took $90 from the cash register.

Sixteen of the marauders were arrested. All were Negroes, mainly teenagers, and the police had to intervene to prevent reprisals by white persons.

The most serious fracas occurred at 2:30 a.m., on the IND "D" train, on the elevated run between Coney Island and the Kings Highway station. The youngsters, who got on at Coney Island, beat and robbed white passengers, and smashed windows and light bulbs.

The police said the vandals concentrated on the first three cars, causing some of the riders to move to rear cars.

At Kings Highway, the motorman stopped the train to go for help. One of the passengers, Howard Weiner, 17 years old, of 1812 East Fourth Street, Brooklyn, tried to leave the train and was struck on the head with a bottle and knocked unconscious. He was robbed of his wrist watch and $3.

The vandals then ran down to the street and broke the window of a beauty parlor at 480 Kings Highway, destroyed the window display and stole $90 from the register.

By this time, seven police radio cars and four detective squad cars had converged on the scene. Residents of the district, which is predominantly white, poured out into the street and shouted racial epithets at the rioters. The police prevented the white residents from attacking the teenagers.

HELD FOR HEARING

Twelve youths were arrested for their part in the train disorders and at the beauty parlor. Two were charged with the assault and robbery of Howard Weiner. One was accused of the burglary of the beauty parlor when he was found to have a roll of coins identified as belonging to the business.

They were arraigned in Brooklyn Weekend Court before Criminal Court Judge Har Serper and held in varying amounts of bail for a hearing Wednesday.

Weiner was taken to Coney Island Hospital for treatment of a cerebral concussion. His condition was said to be fair. One of the youths identified as a rioter, Clarence Blackman, 17, of 379 Riverdale Avenue, Brooklyn, was also taken to the hospital with a cut on the leg. It was suffered, the police said, when the beauty parlor window was broken.

Nicholas Philippides, 54, of 1834 East 21st Street, Brooklyn, was treated at the hospital and released. A passenger on the IND train, he suffered bruises when he was pummeled by the hoodlums.

The earlier train disorder occurred at 1 a.m. on the shuttle that runs between Fulton Street in Bedford-Stuyvesant and Prospect Park in Flatbush. One of the four assailants threatened the motorman, George Dauenheimer, with a cleaver after asking him whether he was a white man or a Negro.

When Mr. Dauenheimer said he was white, the man with the cleaver said, "I'm going to get you." His associates held him back. The four men got off at the Prospect Park station and crossed the platform to a waiting BMT Brighton Beach line train.

The police said the four continued their disorderly conduct on the Brighton train, threatening passengers with the cleaver.

Finally, Clifford Renaus, 24, an usher at the Paramount Theater, pulled the emergency cord as the train pulled into the Parkside Avenue station. He ran up to the cashier's booth and telephoned the police. Two policemen responded in a radio car and arrested the four suspects.

The four men were arraigned before Judge Serper, who held them for a hearing, June 8.

No arrests resulted from the incident on the Staten Island ferryboat, *Cornelius G. Kolff*. Although five squad cars were waiting for the boat when it pulled into the slip at the Battery, Miss Rafaela De Jesus, operator of the refreshment counter, said she could not positively identify the youths who had robbed her. The youths were then released.

Those arrested for the IND "D" train disorders, in addition to young Blackman, were all from Brooklyn.

Mr. RUSSELL. Mr. President, in my judgment, all these incidents have a direct bearing on the proposed legislation that is before the Senate. That is the only reason I have seen fit to call attention to the various tragic incidents which could not be called small had they occurred in any area or community on earth that was smaller than New York City.

Murder, rape, mass assaults, and wholesale destruction of the property of others should not ever be considered "small" incidents.

It will be more impressive to suggest we follow the example of New York if their methods were more effective. Until now their procedures have not resulted in conditions that any rational mind would wish to emulate.

The laws of New York to assure absolute social and economic equality between the races have not produced results calculated in inspire others to enact similar statutes. The chaos there leads to the suspicion that the old saw that misery loves company may cause those from States who boast of their "civil rights" and equal rights laws to wish to foist them on the rest of the country in order that all might live in the same kind of mess.

The reason it is important to call attention to these incidents is that we are told the pending bill will correct all these conditions and therefore we must enact it into law. In the next breath we are told New York has more far-reaching laws to correct these conditions and to prevent alleged discrimination than the pending 11-in-1 proposal contains, and that we should follow the example of New York in passing similar laws for the entire country.

The fact is that we are citing these tragic incidents, which are not small to anyone not under the influence of the immensity of New York City, to show to the country what can be expected if laws such as those in New York State are enacted—laws which have miserably failed to cure conditions the proponents say the bill is designed to cure.

In this connection, let me read a paragraph from an editorial in this morning's New York Herald Tribune, and then I shall place the entire editorial in the RECORD. It refers to New York, where segregation was supposed to have been abolished years ago:

> Now the inescapable fact is that instant and complete racial integration is out of the question. The schools can't be integrated any more than the city is integrated.

That is from this morning's New York Herald Tribune. Yet we are told that New York has laws which we should adopt for the rest of the country, which would remedy these conditions. We are urged to enact laws similar to those in that State, where racial violence and racial crimes occur almost daily. We are told we must pass this bill to remedy these conditions. Indeed, many of our colleagues sit back and say, "We have more far-reaching laws in our State." Yet such laws have failed utterly to cure those conditions in their States or to quiet the demonstrations of Negro groups demanding more and more privileges to them as a class.

I ask unanimous consent to have this editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune, June 4, 1964]

WHO'S IN CHARGE OF THE SCHOOLS?

The civil rights organizations contend that the board of education and Superintendent Gross don't go far enough with school integration. The Parents and Taxpayers Council, who insist on sticking to neighborhood schools, blast the Gross program as wrongheaded.

Obviously not everybody can be pleased. And equally obviously the school system, for all the virtues of consultation, must make the decisions. It cannot operate by chaos.

Now the inescapable fact is that instant and complete racial integration is out of the question. The schools can't be integrated any more than the city is integrated. Dr. Gross can do only what is possible—to work now and for the future against the educational ghetto with every emphasis on quality schools.

In this dilemma the school system must take a stand, and hold to it. The partisans on either end of the integration scale can help by being less stubborn. For Dr. Gross can't do the impossible, at least not immediately.

Mr. RUSSELL. In the same newspaper there is a headline which reads, "Rights Groups Threaten Boycotts on Too-Slow School Integration." Mr. President, this headline does not refer to Atlanta or to Birmingham, but to New York City, the great city where there is no discrimination, in the State which has had antidiscrimination laws for decades, so that no discrimination will be practiced against any individual in the great "utopia" for all people of all races—New York.

Yet we are asked to enact a law for the whole country that will lead to chaos and confusion, to law violations and the stabbings, and to the destruction of property as occur in New York, which has on its statute books all the wonderful laws that are supposed to be the solace and the balm, and to embody the objectives, of all the Negro people of the Nation.

In my remarks to the Senate on Tuesday, I stated that the substitute bill had been drafted deliberately, so as not to apply to any part of the country except the South, particularly in regard to school integration; I also stated that it afforded no protection to one-half of the Negroes of the country insofar as school integration is concerned.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks an article from today's New York Herald Tribune dealing with school integration, where the people of New York have been living under these benign civil rights laws for all these years.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RUSSELL. I reiterate, Mr. President, that reference to these incidents of violence has an important bearing on the debate, because we are told we must drink of this poison before we can be cured. We are told we must go through years of the Gethsemane, that the people of New York are compelled to endure, though they live under laws which we are assured the entire Nation must have if we are to put an end to lawlessness and have a time of peace and perfect tranquillity.

Mr. SPARKMAN. Mr. President, following the discussion just had, I suggest to the able Senator from Georgia that the bill is held up to be an ideal bill to bring perfect conditions to the Negro everywhere. I wonder what will be the reaction when the Negroes in Harlem, Cleveland, Pittsburgh, and New York, and all the other northern cities which were discussed yesterday by the Senator from Georgia, find out that the bill will not liberate them, will not desegregate them, and will not bring them these perfect conditions.

Mr. RUSSELL. They will find it is anything but ideal when it comes to school segregation in those areas. Title IV of the substitute bill has been drawn so as even to deny the Federal courts jurisdiction to issue an order dealing with racial segregation growing out of imbalance in the population pattern.

Mr. SPARKMAN. And to make a decision regarding the Constitution.

Mr. RUSSELL. Not many Negroes are being deceived. Adam Clayton Powell made a statement the other day in which he stated that there was nothing in the bill for any Negro in New York State. They have laws in New York State, but how effective are they? They have been living under these laws for years now, and they are still complaining about segregated schools, condemning the school boards and boycotting the schools. Because of that condition, Negroes are now rampaging on the streets and in groups of 20 or 30 are attacking people and destroying public property in protest against their oppression in New York City where, we are told, there are already laws that go much further to assure equality than would the provisions of the pending bill, and therefore we should be willing and able to go along to that extent.

That is like saying to a man that we have had a full glass of poison, and we are slowly dying, but we insist that he must have a half a glass of poison in order that he may be cured of his ailments.

Exhibit 1

[From the New York Herald Tribune, June 4, 1964]

Rights Groups Threaten Boycotts on Too-Slow School Integration—NAACP, CORE Urge Action Now on State Report

(There is no substantial first desegregation steps (in the board of education's plan). Segregation is not reduced. It is even more firmly entrenched than ever before. If the board fails to adopt the Allen report and to implement the first substantial beginning steps recommended by the commissioner, we will have no alternative but to consider the extreme step of an extended school boycott in the fall to meet an extreme problem.—CORE and NAACP statement.)

(By Joseph Michalak)

The board of education was threatened yesterday with extended school boycotts next fall unless it steps up its integration efforts in line with State recommendations.

The threatening notices came from the NAACP and CORE and from Rev. Milton A. Galamison, leader of this year's two citywide 1-day boycotts. NAACP and CORE, which staged a "symbolic" boycott on May 18, split with Mr. Galamison after the first boycott, on February 3.

The NAACP and CORE, in a statement issued shortly before the board met to consider formal adoption of the plan submitted last week by School Superintendent Calvin E. Gross, charged that segregation in city schools "is even more firmly entrenched than ever before."

They urged the board not to approve Dr. Gross' recommendations, and warned that they would have to consider a boycott unless the board adopted "the beginning steps" recommended last month by the integration committee of State Education Commissioner James E. Allen, Jr.

Mr. Galamison, calling the Gross measures "a colossal deception," made his boycott threat during a news conference called by five other civil rights groups, including the Urban League and Mr. Galamison's Citywide Committee on Integrated Schools.

Using similar language and ideas to NAACP's and CORE's, the other groups charged that the board's integration plan was "diametrically opposed to the spirit and intent" of the State proposals.

Mrs. Thelma Johnson, representing the Harlem Parents Committee, agreed with a questioner that desegregating the city's schools "calls for creativity," but noted that "when a man makes $133 a day (alluding to Dr. Gross), he ought to come up with creative ideas for dealing with the problem."

All seven groups urged that the board keep Dr. Gross' staff on the job, "on an emergency basis," throughout the summer to come up with new integration measures.

NAACP and CORE also urged that the Institute of Urban Studies at Columbia University's Teachers College be called in to assist in developing "specific first steps and steps for the next 5 years" to implement the commissioner's recommendations. The institute had aided Dr. Allen's advisory committee.

All civil rights groups charged, in effect, that Dr. Gross' plan consists merely of moving Negro children from one segregated school to another in ghetto areas rather than concentrating in "fringe" areas—as Dr. Allen had recommended.

The board plan, adopted informally last week before President James B. Donova returned from Europe, calls for the transfer of about 10,000 pupils in 33 elementary schools and 10 junior high schools.

About half of the pupils would move from the fifth grades of elementary schools to help form new sixth-to-eighth-grade junior highs. The other half would move from the junior highs to form ninth grades in senior high schools.

All groups charged that the switching would produce little integration below the ninth grade.

ASK MIDDLE SCHOOLS

They also urged the creation this fall of "the first series" of nonsegregated "middle" schools and educational complexes (combining primary and middle schools in an area under a single administrator).

They also called for the end of segregation in all 31 junior high schools now classed as segregated, or, where this was not possible, to close the schools and move the pupils elsewhere. Present board plans would affect three of the segregated schools.

NAACP and CORE also proposed the opening of enrollment in all high schools to all students. Dr. Gross' plan affects 33 high schools and looks to citywide open enrollment in the future.

All groups expressed their endorsement of the four pairings of racially different elementary schools, but suggested that this idea could be extended to other parts of the city. NAACP and CORE specifically singled out for adoption the pairing of predominantly Negro P.S. 191 and the predominantly white P.S. 199 on Manhattan's West Side.

All the pairings have been violently opposed by chapters of the Parents and Taxpayers Coordinating Council (PAT), which has supported the neighborhood-school concept throughout the turmoil over the schools this year.

The civil rights organizations also praised the board's decision to postpone action on its construction program to make certain that it fits into integration efforts, and the proposed creation of four comprehensive high schools, offering both academic and vocational courses. Both actions were recommended by the Allen Committee.

Meanwhile, the Gross measures received across-the-board support from the Public Education Association. Dr. Frederick C. McLaughlin, PEA director, agreed with Dr. Gross "that the time has come for positive action on better integration."

COLD WAR GI BILL

Mr. WILLIAMS of New Jersey. Mr. President, as one of the 39 cosponsors of S. 5, the cold war GI bill, I was pleased to read an article in the Dallas Times Herald of Tuesday, May 26, 1964, referring to the efforts of Senator Yarborough on behalf of this bill. As chairman of the Subcommittee on Veterans' Affairs, the senior Senator from Texas has been a moving force in urging the consideration of this bill, and he has expended considerable efforts in gathering support for educational benefits for the cold war veterans.

To illustrate the public awareness of Senator Yarborough's work, I ask unanimous consent that this article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Dallas Times Herald, May 26, 1964]

Senator Plugging Pet Project Daily

(By John Schoellkopf)

Washington.—Practically every day—despite the dialog over civil rights—a Texas Senator rises on the floor to talk about education.

Ralph Yarborough wants Congress to vote this year on his bill to provide education aid and home loans to cold war veterans.

"This is the worst type of inequity," says Senator Yarborough concerning the lack of educational compensation to post-Korean war veterans.

"When the Government grabs somebody by the scruff of the neck and puts them into the Army, the Government denies them a right," he said. "These young men should be given a chance to be equal to those who didn't have to go in the Army and besides this will be money in the pocket of the Government."

The bill now boasts the backing of 39 Senators but it is doubtful the leadership will call for a vote this session. Unless—

"I don't know anyone who is against the bill except persons in Government," argued Senator YARBOROUGH. "As I've campaigned, people have asked more about this bill than any other except the civil rights bill."

The cold war veterans' readjustment assistance for 36 months of education or training for all honorably discharged veterans since the Korean war.

Single persons would receive $110 a month for full-time college, and persons with one or more dependents would receive $135 or $160 respectively.

Senator YARBOROUGH and other supporters believe the bill's $300 million annual cost is chicken feed compared to the increased tax revenues that the Government will reap from educated veterans.

The GI bills of the Second World War and the Korean war prove this, explained YARBOROUGH.

KHRUSHCHEV ENCOURAGES WAR ON ISRAEL

Mr. DODD. Mr. President, I wish to call the attention of all my colleagues to an article entitled "K. Encourages War on Israel" which appeared in the New York Herald Tribune for last Saturday, May 30. The article was written by Mr. Seymour Freidin, foreign executive editor of the New York Herald Tribune and one of the most experienced and distinguished members of the American corps of foreign correspondents.

In his article, Mr. Freidin states that Prime Minister Khrushchev has given Nasser and the other Arab leaders the green light for the destruction of Israel. He states that, whereas, Nasser's original timetable called for an attack on Israel during Easter, 1966, when Egypt's rockets would be in operational readiness, as a result of Khrushchev's visit, the Arab leaders have been encouraged to step up their timetable so that they today boast that "the glorious day" is now at hand.

In addition, Mr. Freidin states that Khrushchev's visit has encouraged Nasser in other aggressive projects, including the ousting of the British and United States bases in Libya and the takeover of American oil investments there, and the ousting of the British from Aden and from the immensely rich oil sheikdom of Kuwait.

Coming from a correspondent of Mr. Freidin's stature, I believe that these warnings should command the closest attention of our policymakers, and that they should be taken into consideration in any future negotiations with the Soviets.

There are those in the Western World who have read into some of Prime Minister Khrushchev's more dulcet statements the meaning that he is genuinely committed to coexistence with the non-Communist world and that he has abandoned the aggressive ways that have heretofore characterized Communist conduct. If anything, the tendency toward wishful thinking has become more prevalent and more difficult to resist in the world of the hydrogen bomb than it ever was before.

Men of good will can only hope that some way can be found of teaching the Soviet leaders to moderate their ways. But meanwhile, all the facts point to the conclusion that the Soviet Union, instead of abandoning subversion and aggression as instruments of foreign policy, is, in fact, acting as the chief instigator and organizer of the threatened Indonesian aggression against Malaysia as well as of the threatening Arab aggression against the State of Israel.

In the light of the facts revealed by Mr. Freidin, I hope that we will not remain completely passive. It is futile to hope that this situation will pass away if we do nothing. It is a situation, on the contrary, that calls for the firmest declaration that we will not tolerate aggression by any Middle Eastern state against its neighbor. And I believe it would also be in order to advise Prime Minister Khrushchev that the expansion of East-West trade and the availability of credits to the Soviet Union will be heavily dependent on whether the Soviet Government acts to encourage or discourage military aggression by Nasser and the other Arab expansionists, either against the State of Israel or against their Arab neighbors in the area.

Again I wish to urge all of my colleagues to give Mr. Freidin's article the attention which I believe it merits.

Mr. President, I ask unanimous consent to have Mr. Freidin's article printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune,
May 30, 1964]

K. ENCOURAGES WAR ON ISRAEL

(By Seymour Freidin)

LONDON.—By becoming the self-appointed protector of Islam, Soviet Premier Khrushchev just handed a no-limit license to the Arab world to open the hunting season on Israel.

Hardly did the heat-seared Soviet No. 1 return for relief from Egypt to the draftier recesses of the Kremlin than Arab leaders began to circulate most confident counsel. On high and low levels, they boast that "the glorious day" is at hand.

People, hearing and reporting this, are convinced it is not a sharper, more malevolent propaganda line. Some alarmed listeners, pressing for a wee more detail in North Africa and the Middle East, got a shattering explanation.

Namely, it adds up to the Arab conclusion that Khrushchev is unalterably, down the line on the side of the Arabs and their main aspirations. Going a bit further, the Arab higher level talkers speak in operational terms of the destruction of Israel. They discuss it as a fact, in hardnosed terms to the most aggravated sources of all—the nonaligned and presumably peaceably motivated nations who want no disturbances of any kind.

TIMETABLE

Even the timetable inspired by Colonel Nasser has been well advanced. It seemed set for Easter 1966, when Egypt's rocketry would be operationally poised. Much sooner, say Arab State counselors, since K.'s visit. Why? They contend that he advocates destruction of the State of Israel and he cannot welsh on it.

There might be deliberate Arab misinterpretation of K.'s generalization about liquidating imperialism, by his lights. It may well have not committed Russia to the abolition of the Israeli State. The Arabs insist that it did, and they say so.

Thus, in their euphoric obsession with smashing Israel, Arab leaders are hepped on joint D-day and H-hour times, to be coordinated, of course, with Colonel Nasser as the mainspring of Middle East power.

They ignore Khrushchev's irritated ambivalence on Arab unity and his attack on the oil-opulent sheiks of Araby. In sum, the Arab leaders looking so zestfully to the destruction of Israel claim Khrushchev cannot get out of his commitment to the Arab world.

On Israel, Khrushchev is with us all the way, is the triumphant theme peddled by high-level Arabs on a worldwide basis. A perplexed West German troubleshooter, just in Egypt to try and persuade Nasser to avoid more flirtation with East Germany (successful, by the way), also found the end-of-Israel theme prevalent.

CASH

What apparently has not been realized from Khrushchev's sun-scorched visit to Egypt was that it tied Nasser more closely than ever before to Russia. The economics of the journey to the Aswan Dam alone cost the U.S.S.R. another $280 million. This may be Khrushchev's gesture of contempt to Red China, which hasn't much more than that total in her present hard-currency reserves.

More important, Nasser's projects of the future—steel works, the next phase of Aswan and powerplants—are now dependent on Soviet cash, credits and technicians. No matter how Nasser linked arms with Ben Bella, of Algeria; and President Aref, of Iraq, the economics cannot be disregarded.

Ben Bella not only got the red carpet treatment in his Soviet visit; he also got tangible, signed promises of Russian aid. Aref, a much more conservative Arab, got only a small helping. But Nasser softened the great Aref expectations with an agreement to help out Iraq and the beginnings of new union, Egypt-Iraq.

Getting so enmeshed with the Soviet Union meant to the Arab leaders that K. bought unstintingly their basic objective: destroy Israel. That seemed a fair enough bargain, as some have started to explain to rather horrified listeners in the nonaligned world.

There will, in this often sanctimonious grouping, no longer be the restraining hand of the late Premier Nehru. Too little credit has been given the Indian leader for his most energetic and lucid persuasion to deter Nasser from perilous adventures.

POWER

In the past, Nasser listened to Nehru. After he got over his awe at the world figure Nehru cut, he argued back. Usually, he subsided. The Nehru logic in terms of power politics, particularly after Red China stormed over northern India, prevailed.

Nasser, however, grew more restless. The campaign in the Yemen, so costly to him, had been received with horror by nonaligned men of state. Nasser proudly contends that he is nonaligned, himself, but he embarked on a straight, old-fashioned imperialist venture.

He does not intend to extricate himself from the Yemen, despite suggestions to the United States that he might begin a withdrawal. The Khrushchev trip, instead, appears to have reinvigorated his appetite for bigger, more dangerous projects.

Count, among them, the British and United States bases in Libya as well as the American oil investments there. The organized attempt to outflank the British base at Aden and then, the huge oil revenues of Kuwait is another.

PARTNER

Khrushchev is with Nasser and his supporting Arab outriders in these "justifiable wars of liberation." So, say the spokesmen in the Arab world today. Mainly, Khrushchev is with them, they fervently contend in their war against Israel. They've even moved up the date to prove it. It may well be a hotter summer than usual in the Middle East this season.

TRIBUTE TO EDVARD BENES

Mr. PELL. Mr. President, May 28 was the 80th anniversary of one of Czechoslovakia's greatest leaders, Edvard Benes. He stands as a symbol of the aspirations of independent Czechoslovakia.

Edvard Benes was the 10th child of a Czech farmer, but he managed nevertheless to work his way through a fine education at the universities of Prague, Paris, and Dijon. When he returned to Prague from France he began to teach at the University of Prague.

Early in World War I Benes indicated his life-long dedication to his nation by joining the group fighting for the independence of Czechoslovakia under the patriot, Tomas Masaryk. Benes was Foreign Minister of the Czechoslovak provisional government which emerged on October 14, 1918. As such he represented Czechoslovakia at the Paris Peace Conference, where he spoke out magnificently for the right of his people to freedom from foreign domination.

Between wars Benes was foreign minister for 17 years, Czechoslovakia's leader in the League of Nations and a notable contributor to international peace. In 1935 he became President of Czechoslovakia. Forces outside his control brought about the Munich debacle by which Germany was appeased by the cession of the Sudetenland. He hated this capitulation so much that he resigned and left Czechoslovakia, his beloved homeland, for England and the United States.

Nevertheless when war came again, he became the eminent leader of Czechoslovak democratic forces in exile. He and Jan Masaryk, son of Tomas, were the outstanding leaders of the new Czechoslovakia established in 1945.

Thereafter for 3 years President Benes tried to direct his country toward the democracy in which he so strongly believed. But unrelenting subversion and manipulation by the Communists overpowered his regime. Rather than sign the new Communist constitution which marked the subject of his nation to Soviet rule, President Benes resigned.

On September 3, 1948, he died, brokenhearted, regretting to the last the sad end to which his free Czechoslovakia had come. I recall the grief of his nation particularly vividly, as I was then a U.S. consul in that unhappy country. Today we honor a great patriot and democratic leader. His example and his democratic philosophy should continue to inspire Czechoslovaks everywhere.

GLAD, BUT SAD—EMPLOYMENT OF NEGROES

Mrs. NEUBERGER. Mr. President, the advertising industry comes in for a fair amount of brickbats, including a few from me because of ill-judged cigarette advertisements. But a recent issue of the journal of the trade—Advertising Age—contained an article and an editorial which say some encouraging things about the employment of Negroes.

The article highlights the story of Mr. Rudy Winston, the first Negro to be hired as a salesman for the Curtis Publishing Co. He is apparently a most successful salesman, but he had been turned down for 68 sales jobs previously even though he is a graduate of Haverford College and Columbia University's Graduate Business School. Some firms were willing to hire him as a deskman inside the office, but no one was willing to take the plunge and put him in outside contact work.

We rejoice at Mr. Winston's success, but what a sad commentary and indictment that hiring a Negro should be thought unique and newsworthy so that it merits special attention in the trade or my bringing it to the attention of the Senate. I wonder how many years will have to pass before this type of story will be the rule rather than the exception? Passage of the civil rights bill will perhaps speed that day.

Mr. President, I ask unanimous consent that the material from the Advertising Age be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Advertising Age, May 18, 1964]

"RACE QUESTION" DOESN'T BOTHER CURTIS' WINSTON—PUBLISHER'S FIRST NEGRO SALESMAN STROVE FOR JOB; WORKS SINGLE-MINDEDLY

(By Fred Danzig)

NEW YORK, May 13.—"Can he sell?"

That was the first question asked by members of the Saturday Evening Post sales staff last November after Curtis Publishing Co. hired Rudy Winston to help them.

What imparts a special meaning to this otherwise obvious question is the fact that Mr. Winston is a Negro, the first to be hired as a Curtis salesman.

For the past 6 months Mr. Winston, 31, has been demonstrating that he takes to selling the way Willie Mays takes to the batter's box. Starting with 45 accounts, Mr. Winston now is responsible for 100, including Richardson-Merrell Inc., Chesebrough-Pond's, J. B. Williams, Chemstrand, Consolidated Cigar, Pharmacraft, Ex-Lax, and Kayser-Roth, plus record companies and book publishers.

"Right from the start, the attitude at the Post was, 'If he can sell, we need him,' " Mr. Winston recalled. "My accounts? They've all accepted me for what I am—a salesman. Oh, maybe if I walk in objectively looking, I might recognize an initial look of surprise. But really, this is too small a thing to talk about. I go in with a set purpose—to sell the Post. And if they want to discuss the Negro, the civil rights movement, wade-ins, or stall-ins, or what-have-you, I tell them to meet me in the bar downstairs at 5:30 and we'll talk—after I get the order. But first I let them know we'll talk about why they should be in the Post.

"If anything, my color is an advantage for me. I have their attention. And you know, in this business, this is the battle you fight all the time. I have their attention right from the start through this wonderful thing of pigmentation."

Lean, athletic, and poised, Mr. Winston speaks and moves with a calm, confident air. A native of Philadelphia, he was encouraged to follow in the professional footsteps of his father, a doctor. The youngster couldn't develop an interest in medicine, however, and he was graduated from Haverford College with a degree in chemistry and a growing feeling that his future was in selling.

He's not surprised that he has made it, only a mite disturbed that it took so long. And having come to New York to study at Columbia less than 6 years ago, without a nickel to spare, he's ready now to help guide some "disadvantaged" or "less qualified" Harlem youngster into the Madison Avenue milieu.

"I'm lucky to have what I have, and I know it's because there are people who thought enough of me to say, 'We'll give you an opportunity.' I think people with advantages must come back to help the disadvantaged, if we're to avoid serious trouble. This applies to any 'out' people, not just the Negro minority.

"Today, there is the opening for the 'qualified' Negro. But the 'qualified' Negro is white, except for his skin," Mr. Winston says. "That is, he's been to a 'white' school, possibly an Ivy League school, and he's qualified. He finds a job.

"But what about the slum kid who can't go to college? What do we hold out for him? Now I've been given an opportunity to be a living example, to lead. And I've embarked on an informal, personal little program of my own.

"I'm concerned about the kid who doesn't have the academic qualifications or the job experience, but who has the potential for learning. I know he can be helped. I've spoken to one agency about this, in general, and they've agreed to look at the fellow I send along. This will be a kid with latent ability and if he runs into a problem on the job, help is only a phone call away. He won't be a 'showpiece' either. This business is too demanding to have showpieces in it. Our future is in being able to bring out the best in people, and in letting their talents move them ahead."

His confidence in the talent-will-out theory is demonstrated by his own career. He defied the warnings of friends 6 years ago to embark on a course that would take him into advertising as a contact man in sales. After working his way through Haverford and Columbia University's graduate business school, Mr. Winston was turned down for 68 sales jobs while his classmates were being hired after 2 or 3 interviews.

Company after company drew the line at contact work for Mr. Winston. One personnel man said, "Rudy, if I take you back with me, I'm fired." The offers were for inside work. Mr. Winston turned them down, even though he had a wife and two kids.

"At that point I had nothing to lose. I could make a living waiting on tables. But I knew I didn't want to compromise that early in the game. I knew if I set my sights lower, at that stage in life, it would be too easy to make compromises all the rest of my life. I wanted to give myself a chance," he said.

Finally, International Business Machines came through with the best offer: Training as a systems analyst, "I was disappointed, because it wasn't contact work, and I felt it was far below my qualifications, but I agreed to give it a try," he said. He left in August 1960, after 3 months.

Next, he tried selling insurance and mutual funds. Ebony hired him as a space salesman in November.

"I didn't know a bleed from a half page at the time, and everyone else there knew the Negro market story backward and forward. I told my wife I'd try it for 2 years. I didn't want to limit myself to the Negro market, though. I see the future as a world marketplace, not one segment of it," said Mr. Winston.

"I thrived on the work, I gained a tremendous amount of knowledge there, and they were very patient with me. After 13 months, I felt I was able to handle any kind of selling situation in the business. Amalgamated Publishing (ad representative for Negro newspapers) was starting up at that time (January 1962), and they asked me to come along. I was there 6 months, and then I met an old school chum who told me Columbia Broadcasting System had an executive training course and I'd be a natural for it."

The move to Columbia, out of Negro-market selling, had its bright spots and its disappointments—Mr. Winston couldn't get into sales—and he switched to the Columbia Records division in April 1963, to sell promotional programs. "There is no color in the music business, and the Negro is never an oddity in it. It was very nice," Mr. Winston recalled.

Then last October 16, "out of the blue," came a phone call from Curtis, put on the Winston trail by Ebony.

Now Mr. Winston is about to move from a four-room Manhattan apartment to a rambling old house in Roslyn Heights, N.Y., with his wife Nancy (Bryn Mawr, 1955) and their four children (ages 8, 7, 4, and 1).

An athlete of sorts (in Haverford, it was tennis, basketball, cross-country, and ping-pong; during his 3 years in the Army he played in tennis tournaments all over Germany). Mr. Winston still enjoys playing tennis. Even with clients, however, he shows no mercy. "I always play to win. And I don't expect a client to be upset by this attitude," Mr. Winston explained.

Having prevailed in getting an outside sales job, Mr. Winston isn't letting himself grow complacent. "On the job, I want to do my best and get ahead. Off the job, I want to help the disadvantaged—to show that ability is what really counts around here."

[From the Advertising Age, May 25, 1964]

ONE MAN'S COURAGE

It was encouraging to read in these pages last week the story of Rudy Winston. Mr. Winston is a salesman for Curtis Publishing Co. And Mr. Winston is the first Negro salesman that Curtis has hired.

But as you read Mr. Winston's story, you begin to wonder how he ever made it. Despite the fact that he had worked his way through Haverford College and Columbia University's graduate business school, he says he was turned down for 68 sales jobs, while his white classmates were being hired after only 2 or 3 interviews.

But Mr. Winston persisted, and finally achieved his goal. And now, in addition to making good in his own right, he wants to lend a hand to young people, black or white, who are underprivileged.

Let's hope that his help, and the help of a lot of other people, will make jobs available to many more qualified people—and make them available without having to suffer through 68 job interviews.

TRIBUTE TO SENATOR WILLIAMS OF DELAWARE

Mr. SCOTT. Mr. President, any time Fortune magazine publishes a story about how one of our Members began life on a farm, and through hard work, courage, diligence, and intelligence became a nationally known personality, that story is worthy of special attention.

In the June issue of Fortune, Author Harold B. Meyers relates a factual account of the life of Senator John J. Williams, of Delaware; and I ask unanimous consent that the article be printed in the Record.

One of the most interesting of the many comments in the story is that Senator Williams is described, at one point, in this manner:

> Drop John Williams into a gathering of farmers, grain dealers, small-town merchants or Rotarians, and it would take a keen eye to pick out the U.S. Senator in the group.

Then there is the account of how Senator Williams, in his first race for office, actually toured the State with his opponent, in order to campaign. Indeed, this is a worthwhile commentary on American life; and I commend Fortune magazine and Mr. Meyers for the article.

Mr. MILLER. Mr. President, I wish to associate myself with the Senator from Pennsylvania [Mr. Scott] and commend him for having printed in the Record an article from the June issue of Fortune magazine, which is highly complimentary to the senior Senator from Delaware [Mr. Williams]. It is a tribute richly deserved by my colleague, who has a reputation second to none in ferreting out wrongdoing in the Federal Government.

I join heartily in the sentiments expressed by by the Senator from Pennsylvania.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Fortune magazine, June 1964]

THE LONE-WOLF GUARDIAN OF FEDERAL MORALITY

(By Harold B. Meyers)

Washington wits call him "Whispering Willie" because his voice is all but inaudible when he addresses the Senate, and they like to recall that he was once a Delaware chicken-feed dealer. But John J. Williams is no laughing matter in the Capitol, and interest was high one afternoon last October when he rose at his second-row seat on the Republican side of the aisle. "We in America are extremely fortunate," said Williams, as Senators and reporters strained to hear him, "in that we have one of the best forms of government ever conceived by mankind. But that form of government will stand only so long as its public officials respect the integrity of their offices and it can hold and maintain the confidence of the American people."

For days Williams had been conducting a lone-wolf investigation of the labyrinthine affairs of Robert G. Baker, and as a direct result Baker had resigned as secretary to the Senate's Democratic majority rather than try to explain away the evidence of improper conduct that Williams had gathered. Now it was time, Williams told the Senate, without ever mentioning the name of Bobby Baker, for a formal probe into the conduct of Senate employees so that the Senate itself might continue worthy of confidence. "The integrity of the U.S. Senate is at stake," Williams warned. Amid fervent salutes to Williams' own "moral principles" and integrity, the Senate unanimously approved the investigation he called for.

The Senate's expeditious action on a matter so close to its own tender toes was a testament to the unparalleled reputation John Williams has forged for himself as morality's guardian Senator. In his three terms (he will run for a fourth in November), Williams has done more than any other individual Member of Congress to expose and correct ethical abuses in Government. It was Williams who doggedly pursued corruption in the Internal Revenue Service back in the Truman era and set off investigations that sent at least 125 men to prison. Again it was Williams who, in the early fifties, exposed the scandalous tax evasions of Frank Costello, "Greasy Thumb" Guzik, and other notorious racketeers. Over the years, in Republican as well as Democratic administrations, Williams has looked into everything from waste in the Pentagon involving millions of dollars to picayune chiseling on annual leave by Federal employees; from the high cost of storing agricultural commodities to the bungled construction of a veterans' hospital in Boston. No branch of Government has escaped his scrutiny, and he has won hands down the title of the most effective free-lance investigator now serving in Congress. "What I've mostly got," he says, "is a lively curiosity."

The public has generally overlooked the importance of the role Williams played in the Baker investigation. As a Republican, Williams had never had much to do with the secretary to the Democratic majority. All he had heard of Baker's outside interests was that he was part owner of the $1,200,000 Carousel Motel—advertised as a "high-style hideaway for the advise and consent set," not far from Williams' Delaware home. "As far as I knew, he was just a nice young fellow called Bobby," Williams says. Then he saw newspaper accounts of a $300,000 civil suit filed against Baker and several associates by Ralph Hill, then president of Capitol Vending Co. Hill alleged in his suit (which has not yet come to trial) that he had paid Baker $5,600 over a period of months for the influence he had used in getting Capitol Vending a contract with an aerospace company, but that the contract was canceled when Hill refused to sell Capitol's assets to Baker's own newly established vending-machine company, the Serv-U Corp. Baker promptly denied the allegations. For the first time Williams began to wonder just how nice a young fellow Bobby really was.

THE PAGE BOY FROM PICKENS

With characteristic secrecy, Williams invited Hill to his office in suite 2213 of the New Senate Office Building to talk about Baker. Hill proved to be as well informed as he was talkative. He was able to tell the curious Senator a good deal about Baker's surprisingly far flung financial and personal interests. For the next several days Williams put all other business aside to check out the tips and rumors that Hill had provided. He interviewed Baker's Senate coworkers, his friends, enemies, and business associates. Not all would talk, but many were glad to contribute their knowledge—and, frequently, their documents. "Once you got into it," Williams says, "it just rolled all over you. Almost exploded."

The things that rolled all over Williams added up to a paper fortune of $2 million or more for the 35-year-old Baker, the poor-boy page from Pickens, S.C., whose rise to riches on the wings of influence is now Capitol Hill legend. After some 10 days of digging, Williams took his findings to Majority Leader Mike Mansfield. By this time the press was in full cry after Baker, and Williams disguised the purpose of his visit to Mansfield by saying he wanted to talk about "a pair of pending maritime bills." Mansfield was shocked at what he heard about his aid's out-of-hours activities, and called in Republican Leader EVERETT DIRKSEN. The upshot was that, on WILLIAMS' suggestion, they offered Baker a chance to explain; when he declined, they agreed to join WILLIAMS in pressing for a full investigation of Baker's affairs by the Senate Rules Committee.

There is good reason to believe that the investigation might have stalled at the beginning had it not been for JOHN WILLIAMS. He was the first witness before the investigating Senators, giving them all the leads and documented information he had. Then, as the committee went its lackadaisical way, WILLIAMS patiently handed over more and more material. He turned up insurance man Don "Buck" Reynolds, who went before the committee to testify that he had given a $585 stereo set to Lyndon Johnson and bought $1,200 worth of advertising time on Mrs. Johnson's Austin, Tex., television station in connection with writing $100,000 of insurance on Johnson's life. Again, WILLIAMS found the pots-and-pans salesman who took over the TV time and the tax accountant whose name had been signed to tax returns he had not prepared for Baker. Since the Rules Committee hearings were suspended—cut short by the committee's Democratic majority without calling a score of witnesses suggested by its Republican members—WILLIAMS has been awaiting its report and recommendations, as well as possible action by the Department of Justice, before deciding whether Baker's affairs require further vigorous action on his part. Meanwhile he has continued to check out new leads. "We've got to close this one out, and it must be done in a manner that will expose any cancer that may be present in our system," WILLIAMS says. "I don't know if new laws or new rules will be necessary. What this comes back to is the question of morality in public office. A man's ability to serve in a public office should not depend just on his ability to stay out of the penitentiary."

A GATHERING OF ROTARIANS

WILLIAMS believes with flintlike consistency that his Government must conform with the same clear-cut, faintly old-fashioned moral code that he learned and practiced in rural Delaware. His code for morality in public office reflects his own business background—in feed grain—and WILLIAMS clearly recognizes that it involves a certain amount of instinct in distinguishing right from wrong. "It's like a pretty girl who gets a gift from a man," he says. "She knows when it's all right to accept. Don't ask her how—but she knows."

A lot of faceless Government employees, the lower echelon Indians in the bureaucracies, share WILLIAMS' instinct for right and wrong, and they have freely supplied him with grist for his mill. They seem to look on him as a safety valve for good Government when normal channels for the correction of improprieties or illegalities appear to be clogged by corruption or indifference. Their anonymity is safe with him. "The information I get comes from people who gamble their own security—their own jobs—in order to expose bad situations they haven't been able to cope with otherwise," WILLIAMS says. "They could sit back and let it go. But they risk their security because they care about good government."

Drop JOHN WILLIAMS into a gathering of farmers, grain dealers, smalltown merchants, or Rotarians, and it would take a keen eye to pick out the U.S. Senator in the group. WILLIAMS is completely and unashamedly the product of his rural past. He neither sounds, acts, nor looks like a politician, At 60, he has the tanned, fit look of the outdoorsman, and his hair, though thin, is still brown. His shy-seeming smile is warm and ready, but when it fades, his mouth folds to a thin slit that looks misleadingly harsh and censorious. His grammar is uncertain; though a whiz at adding figures, he sometimes has trouble getting subject and predicate to agree. He is a meat-and-potatoes man, does not drink or smoke, and avoids Washington cocktail parties and dinners whenever possible (which, for a strait-laced type like WILLIAMS, is virtually all the time). Most evenings he spends working on his investigations either at his Senate office or in the small suite he has occupied at the Mayflower Hotel since 1947.

He has no intimate friends in the clubby Senate and some of his colleagues once looked upon him as a pretty simple spoilsport. Such was the general view a few years ago, for example, when he attempted to return $1,500 to the Treasury from the $1,800 stationery fund given each Senator annually. It got to be a big thing. The Treasury refused to accept the refund and advised WILLIAMS that he could keep the money if he simply certified that he had spent that much out of his own pocket for supplies. WILLIAMS declined to lie and compared the proposal to cheating on an expense account. Then the Treasury, arguing that the money was available to WILLIAMS just as it was to other Senators and therefore was income, attempted to make him report it and pay taxes on it. WILLIAMS stuck to his guns and ultimately the Comptroller General ruled that he had been right all along. The Treasury was forced to accept the unexpended balance and quit trying to tax the Senator on income to which he had no right.

The Senate long since has come to accept WILLIAMS as a man to be respected, reckoned with, and somewhat feared. His personal code of ethics provides an inflexible, if sometimes inconvenient, yardstick for his colleagues. He accepts no gifts from anyone who might conceivably have the faintest opportunistic motive. Nor does he accept political contributions; his austere campaigns are financed either out of his pocket or by the Delaware Republican State Committee. WILLIAMS would not necessarily impose these stringent campaign restrictions on others with more serious problems of reelection, but he does urge Senators and Representatives to live by these tenets of a congressional code of ethics:

1. Members of Congress should give no constituent—whether an individual, a corporation, or a community—any special assistance in seeking Government favor. Information on dealing with Federal agencies—where to go, whom to see—may be given freely. But no helpful telephone calls. No friendly little notes to influential officials. No intervention with any agency to help obtain a loan, a contract, a special ruling, or a compromise settlement of a tax obligation.

2. All Members of Congress should be required to file a list of their investments and annual income with a designated committee or the Comptroller General. This would make more certain the scrupulous observance of the rule that now forbids a Member of Congress to advance or support a proposal in which he has a major direct financial interest. Says WILLIAMS: "That does not mean that a Member of Congress or a public official must divest himself of all his securities or investments, nor does it mean that he cannot with propriety vote on legislative proposals involving a question in which he may have a secondary interest. It all boils down to the question of reasonableness, the extent of their interests, and the motives behind their actions."

3. Members of Congress should be barred for 2 years after leaving office from "representing any client on any case, before any Government agency" when their prior public service might provide some undue advantage. In addition, each should be required to file a report on liaisons formed with corporations within the same 2-year period, providing information on salary, the date that arrangements for employment were made, and a summary of all public actions in which he had participated that might have benefited the corporations.

4. Members of Congress should abandon the current practice of announcing Government contract awards, grants, or loans to their States or districts. For a Congressman or Senator to release news of such an executive action implies that he was responsible for arranging it—which would be misleading if not true, and often improper if true. "When Government contracts are awarded to any company or State on the basis of the influence of the Senator or Congressman, it is morally if not legally wrong," WILLIAMS says.

To attack improper use of influence at its source, WILLIAMS believes the trend toward expansion of the Federal bureaucracy must be reversed, even at this late date. The larger Government grows as it takes over more functions from States and local communities, the greater the gap between the governed and the governing—and the greater the opportunity for the influence peddler and bureaucratic chiseler. Says WILLIAMS, whose conservative voting record attests to his consistency in opposing big Government: "Just as too much honey attracts flies, so, too, does easy money invite influence and corruption."

BROILERS IN A BIG BACKYARD

There is no question but that JOHN WILLIAMS is a distinct species in the Senate's disparate membership of 100. And doubtless one reason is the remarkably stern environment from which he came. He was born at Frankford, Del., in 1904, the ninth of 11 children of a farmer who never learned to read and could write only his name. "You couldn't say he was a dirt farmer," says WILLIAMS, "and you couldn't say he was a poultry farmer. He was just an average, all-around good farmer, who worked hard for very little money." His father set strict standards for him, and WILLIAMS from earliest childhood carried his full share of the farm chores.

He completed the 3 years of high school offered in Frankford, and for a time clerked in a general store owned by a sister and brother-in-law. When he was 18 he and a brother set themselves up with borrowed capital in the feed business in Millsboro, 6 miles from Frankford. In Millsboro he met a farm girl named Elsie Steele, and in 1924, when he was 19 and she 18, they were married. After the Millsboro Feed Co. prospered sufficiently to let them buy a home of their own, Elsie helped out for some years by raising broilers in their large backyard. More of WILLIAMS' brothers joined him in the feed company. They soon had several branches and did a thriving business selling Williams Super Chicken Feed and Larro Pig Builder in their southern Delaware area, which claims the largest concentration of chickens per square mile in the United States.

MR. WILLIAMS GOES TO WASHINGTON

By the late thirties WILLIAMS had become comfortably well to do. Besides the feed-grain business, he owned interests in 2,500 acres of farm and timberland, and had a summer cottage at Rehoboth Beach and a duckhunting island in Rehoboth Bay. He and Elsie got to Paris for a Rotary International Convention and traveled in South America as well. In 1940 WILLIAMS was elected to the nonpartisan Millsboro Town Council. Then one day in 1946, irate over the growth and centralization of power in the Federal Government in the Roosevelt and Truman administrations, he decided all on his own to run for the U.S. Senate. "If Washington was going to run my business," he later explained, "well then, I thought I'd move on up to the front office."

WILLIAMS seemed an unlikely candidate. He lacked poise, he was shy, and he had given but few public speeches—most of them to the Millsboro Rotary Club. Worse, he was so little known outside his own sparsely populated, Democratic area of southern Delaware that when he first announced that he would run for the Senate most of his friends thought he meant the State senate. But 1946 turned out to be a good year for an unknown to break into Republican politics in Delaware. The professional politicians were convinced that the Democrats would sweep the election, and none was eager to make the Senate race. WILLIAMS was welcomed as a sacrificial lamb, particularly since the Republican ticket needed a candidate from southern Delaware to provide geographical balance. Some of the Du Ponts gave him their endorsement, and the State convention nominated him gladly. No one in the know expected him to win, but WILLIAMS campaigned hard on the issue of Government controls (often traveling with his liberal Democratic opponent, who remained a good friend). In November, Delaware went Republican and JOHN WILLIAMS went to Washington. "I was on the tide and I rode through," he says.

In January 1947, WILLIAMS settled unobtrusively into a back-row seat in the Senate. His voting record was ultraconservative and economy geared. About the only attention he got in Washington was from Drew Pearson, who in 1947 ranked him among the least effective Senators in town. His standing changed largely by chance. WILLIAMS began to get a lot of mail from constituents complaining of irregularities in the Wilmington Internal Revenue Office. At the time a House appropriations subcommittee was investigating discrepancies in the Boston tax collector's office. WILLIAMS suggested that the subcommittee take a look at Wilmington also. With some embarrassment, the committee soon reported back to the astounded Senator that one JOHN J. WILLIAMS, of Millsboro, was among delinquent taxpayers listed in the Wilmington office. WILLIAMS had his canceled checks—$15,000 for himself, $7,500 for Mrs. Williams—to prove that he had paid up, so obviously something fishy was going on. The evidence was enough to send an IRS assistant cashier to prison for embezzlement. But what really bothered WILLIAMS was that Treasury officials had known for months that something was wrong in the Wilmington office, and had taken no action. Late in 1947, to an empty Senate, WILLIAMS whispered his first public denunciation of the Treasury's apparent indifference to wrongdoing in its ranks.

This initial, almost accidental exposure of corruption brought WILLIAMS his first large dose of national publicity. The publicity, in turn, brought him a flood of tips about other gamy situations. One such tip came from a Department of Agriculture employee who reported that the books of the Commodity Credit Corporation—charged with the administration of the farm-support programs—were in an unholy mess. The CCC, because of confusion dating back to the war years, could not account for $367 million in appropriated funds. At first the Truman administration denied a shortage, but months of sleuthing by WILLIAMS ultimately forced the Agriculture Department to admit it. In the end, all the money was accounted for except $96 million—still a huge sum. But the CCC was reorganized and brought under closer supervision of the Agriculture Department, and made more directly responsible to Congress.

Once again the publicity opened up new trails for WILLIAMS to follow. An old friend in Delaware told him that the CCC scandal was nothing beside the one that existed in the New York tax collector's office. The friend outlined a shocking story of tax fixing, bribery, and extortion among Internal Revenue agents, and he had some names, dates, and incriminating details. On questioning, the Treasury brusquely denied any wrongdoing. But WILLIAMS made an important discovery, one he has relied upon ever since: "Sometimes in getting denials I get a suspicion of the truth."

WILLIAMS persisted for nearly 2 years, fed with documentary evidence by honest Internal Revenue employees who were just as outraged as he was. Ultimately he proved beyond question that irregularities existed not only in New York, but also in Washington, Boston, St. Louis, and San Francisco. The trail led even to the Justice Department and the White House, where some top officials were helping their friends get favorable tax treatment. Stirred to action by WILLIAMS' evidence, congressional committees and grand juries joined the chase and cleaned up the rankest tax scandals in U.S. history, netting 165 indictments and 125 convictions, including those of 5 regional tax collectors, Assistant Attorney General T. Lamar Caudle, and White House Appointments Secretary Matthew Connelly.

A TALENT FOR GRASPING FRAUD

Before the end of his first term in 1952, Senator WILLIAMS was fully established as a natural-born sleuth and a unique voice of virtue in Government. He had perfected a basic technique of careful preparation, thorough documentation, and absolute protection for his sources of information. Today his staff is one of the smallest in the Senate—only nine in all—and the investigating is done entirely by WILLIAMS and his loyal secretary, Eleanor Lenhart. He is equipped mostly with his own rare talent for grasping quickly the intricacies of a fraud or manipulation. When WILLIAMS receives a tip about some malefactor's operation, the first thing he does is sit down and master the mechanics of it. "Once I see how I could do it myself," he says, "then I can go out and track down someone else who's already done it."

From the beginning he has relied greatly on the General Accounting Office, the arm of Congress designated to keep tabs on the executive branch and administered by the Comptroller General. In addition to having the GAO check out information he gathers, he often reads the agency's independent reports into the CONGRESSIONAL RECORD. WILLIAMS' standing with the GAO is high, but some executive agencies are less fond of him—particularly those he has caught short at one time or another. Even among these, however, his admirers can be found. A spokesman for one agency frequently criticized by WILLIAMS concedes: "Like it or not, what WILLIAMS has done has been necessary, and he has gone about it responsibly."

While pursuing his investigations, WILLIAMS has amassed a respectable legislative record. As a member of the Finance and Foreign Relations Committees, he has often put his imprint on committee bills. This is particularly true of Finance, on which he is the ranking Republican member and a frequent ally of Chairman HARRY BYRD. Much of his legislation, of course, has been directed toward the elimination of waste and impropriety in government wherever it might be found. It was WILLIAMS, for example, who finally felled the U.S. Spruce Production Corporation. Formed in 1918 to provide timber for the war effort, the U.S. Spruce Corporation fulfilled its purpose within a few months. But it lingered in the U.S. budget for almost 80 years, each year getting an appropriation, sometimes as much as $20,696, to maintain a "president," his chauffeur, and his two-man staff. The only duty these functionaries had was to accept an annual payment of $11,433 from the Government-owned Alaska Railroad and transfer the money to the U.S. Treasury. Previous efforts had been made to kill U.S. Spruce, but it somehow always survived. Soon after he went to Washington, WILLIAMS successfully introduced an appropriations rider forbidding payment of any more money to U.S. Spruce. Thereafter the Alaska Railroad sent its annual check directly to the Treasury, and U.S. Spruce toppled at last.

RATS IN THE GRAIN BIN

Waste in government has continued to be a favorite target for the frugal Senator. Let the U.S. Government pay a British company $2,156,679 for radar equipment that was later declared surplus and sold back for $114,500 to the manufacturer, who then resold the same equipment to Portugal for $493,500—as actually happened in the midfifties—and WILLIAMS will denounce the transaction on the floor of the Senate as displaying a "complete lack of concern for the American taxpayers." Or, as in 1960, let the Air Force agree to buy 272,710 screws for $1 each from a contractor who was buying them from the manufacturer at 5.5 cents each, and WILLIAMS will tell the Senate: "This is another typical example of the indefensible carelessness with which the Air Force has been negotiating contracts and wasting the taxpayers' money."

Early in his career WILLIAMS disclosed that grain later estimated to be worth $10 million had disappeared from Government storage bins. Secretary of Agriculture Charles Brannan attempted to minimize the loss. It amounted to only $1,500,000, he said, "and rats eat that much." Retorted WILLIAMS: "If a farm boy got that many rats in his bins, he would go after them."

Farm boy WILLIAMS has been after rats in the Government's agricultural bins ever since. He has periodically dug out and publicized the huge sums paid to elevator operators to store the surpluses engendered by the absurd crop-support laws. He also has published the names of farmers, individual or corporate, receiving large support payments. The soil-bank program set up in the Eisenhower administration provided plentiful instances of chicanery for WILLIAMS to expose—e.g., a Colorado rancher paid $139,200 for a 6,960-acre ranch, and then illegally arranged to collect $271,000 over 10 years from the Government for not farming it. WILLIAMS' disclosure of the arrangement brought a change in the law and a suit against the rancher to recover the money already paid out.

WILLIAMS' latest farm vigil is over a legal windfall that cotton brokers are getting through a quirk in the support program. Loan prices are set by grades and regions, and the differences of a penny or two a pound make it profitable, in spite of freight charges, to ship cotton from a lower to a higher priced region before putting it under loan. WILLIAMS first carefully checked Agriculture Department cotton schedules and freight tariffs and figured out how he himself could make money on the differential. He then turned his calculations over to the GAO for investigation. If the GAO establishes that the practice is as widespread and profitable as WILLIAMS believes, he expects the Agriculture Department will make administrative corrections. If legislation is needed to wipe out the cotton brokers' bonanza, WILLIAMS will introduce it.

In the inpouring of tips that now comes his way, WILLIAMS has to ignore many, and so lives with the fear that one day he'll pass up the biggest scandal of all. He wryly recalls that he came perilously close to doing just that last summer when he exposed a scandal involving the sale by Tony De Angelis of millions of pounds of improperly packaged vegetable oil to the Government. Williams denounced the deal to the Senate and said no one should be surprised that the Government was cheated when it dealt with "disreputable sources." Williams got an angry wire from De Angelis accusing him of an irresponsible effort to upset the commodity markets. The Senator did not know at the time that De Angelis was attempting to corner the vegetable oil market—or, of course, that many of the futures contracts he was juggling were on nonexistent oil. "I was the most surprised man in the world," when the full $150-million extent of the De Angelis scandal was later revealed, Williams says.

WHEN THE BRICKS FELL IN BOSTON

In the case of the bungled veterans' hospital, Senator Williams tackled a situation that had defied correction in three administrations. This 1,000-bed, 14-story structure was built in Boston on a $10,500,000 contract awarded in 1950 to McCloskey & Co., founded by Matthew H. McCloskey, the Democratic fund raiser who was appointed Ambassador to Ireland by President Kennedy in 1962. Before the hospital was even completed, ghastly defects began to show up. They grew worse as the years passed. Windows would not open. The brickwork cracked; bricks fell out. By 1961 a task force of inspectors estimated that repairs would cost $4 million. Nothing happened in a Federal way until Williams demanded a full report from the Army Engineers (the supervisory agency) in 1962. He later inserted the report in the Congressional Record with the comment: "The contractor should be held financially responsible." After all the years of inaction, in January the Justice Department filed a suit to recover $4,900,000 from McCloskey & Co. and its associates. The suit is still pending and the contractors have denied in the press the allegations made against them. "You can't be in business all the years I have and not run into a few headaches," McCloskey has said. "We're going to try this thing in the courts."

HOPE FOR THE HONEST MAN

As John Williams prepares to campaign for another term in the Senate, his investigative zeal shows no sign of flagging. He keeps a sharp eye on unfinished business such as the Bobby Baker affair, or the diversion he revealed last summer of $32 million worth of U.S.-owned grain, which was supposed to go to Austria but actually wound up in other countries. But he has plenty of new business as well. He may well make his next headlines out of a scandal in the Federal Housing Administration's program for the elderly. Typically, the case was taken to Williams by an employee of the agency, who offered detailed proof of fraudulent appraisals on property on which Federal grants and loans were made. Williams held off any public statement for months to work quietly with the GAO and the Justice Department. As this issue of Fortune went to press, two indictments had been returned in Dallas and others appeared to be in the offing elsewhere.

Some of those Williams suspects of cheating on housing for the elderly are ministers of denominations that act as sponsors for the projects. But even this indication of human frailty does not dim John Williams' essentially optimistic view of mankind. After nearly 18 years of turning up corruption and battling influence peddlers, Williams is neither vengeful nor downcast. "I don't think the whole world has gone to pot," he says. "I've found most men are honest." He goes so far as to give "Washington representatives" and influence peddlers the unkindest cut of all by declaring that their importance in obtaining Government contracts has been much overrated. Says Senator Williams: "I'd like to think that not one-tenth of what business gets from Government comes for any reason but the low bid of a responsible bidder." So long as the voters of Delaware keep sending Whispering Willie Williams back to the Senate, that doubtful one-tenth is assured of a searching scrutiny.

NEBRASKA RURAL ELECTRIC ESSAY WINNERS

Mr. CURTIS. Mr. President, as the organization has done for several years, the Nebraska Rural Electric Association again this year is sponsoring a youth tour to Washington. The group making the tour is composed of boys and girls who were judged winners of essay contests conducted by individual Nebraska rural electric power systems, in cooperation with the Nebraska Rural Electric Association.

I am particularly pleased, Mr. President, that one of the winners represents my hometown of Minden, Nebr.

I ask unanimous consent to have five of the winning essays printed in the Congressional Record. All of the essays are entitled, "The Value of Rural Electrification in Our Home and Community."

The first essay was written by Dorothy Olson, 17, a junior attending Minden, Nebr., High School. She is sponsored by the Franklin County Rural Public Power District.

The second is the work of Larry J. Peregrine, 16, of Grant, Nebr., and a junior in Perkins County High School. Larry is sponsored by the Midwest Electric Membership Corp.

Connie Rickertsen is the author of the third essay. Connie is 17 years of age, and a junior in her hometown Lexington High School. She is sponsored by the Dawson Public Power District.

The fourth essay is by Jeannie Stevens, 17, of Grant, Nebr., a junior in the Perkins County High School. Jeannie is sponsored by the Midwest Electric Membership Corp.

Alan Little, of Bassett, Nebr., wrote the fifth essay. Alan is 17 years of age, and a junior in the Rock County High School. He is sponsored by the KBR Rural Public Power District.

There being no objection, the essays were ordered to be printed in the Record, as follows:

(By Dorothy Olson)

Rural electrification in the home and community has revolutionized our lives from that of hard work and drudgery to one of pleasure and luxury. This valuable accomplishment has been a major factor in the cultural development of our country.

The people of today seem to take this electrical energy for granted and fail to realize that just 29 years ago, homes were lighted with gas and kerosene lamps and heated by coal and wood stoves. Modern conveniences that now run our homes so efficiently were almost unheard of.

Electricity provides the lowest cost power for more purposes than all other sources of energy combined and for this reason the benefits of rural electrification have been extended to millions of people. Without this important advancement the few household conveniences we consider necessities would only be a dream.

Because of rural electrification our homes are healthier. We are now able to have pressurized water systems which allow for modern and sanitary bathroom facilities. Air conditioners keep the home cool and free from dust. Electricity enables us to have proper lighting systems which is important in lessening eyestrain. It makes it possible to have warm homes at "flick of a button" and so we can be comfortable the year around.

With electricity the housewife can preserve foods and prepare meals with greater ease and convenience and in a shorter time than ever imagined. The modern sewing machines help save on the family's clothes bill which is so important in today's high standard of living. With the new electric washers and dryers, the homemaker can clean clothes with the turn of a knob, and in all kinds of weather.

The housewife has been greatly benefited by rural electrification but we cannot forget the help it has given the farmer. With the many power tools available, they can repair machinery in about the same time it would take to disassemble it and take it to town for repairs. With these same tools he can construct many laborsaving devices, saving money on unnecessary purchases. The big boost for the farmer has been irrigation. With it the farmer can increase his yield of crops and save hours of worrying. The electric "hired hand" is constantly finding ways to put electricity to work. Livestock can be protected by electric fence, better lighting and better heating systems. Feeding is made easier by electrically hoisting hay or grinding feed.

Because of rural electrification we can enjoy the many forms of entertainment right on our own farms. Television seems to be a necessity in most homes. Stereo may be used for listening pleasure and may also subject the family to classical music and cultural education with the great variety of records available.

Listed are only a few of the countless ways rural electrification has modernized the rural areas. Newer and better ways of harnessing electricity are created every day. We, in the United States, have one of the greatest farm systems in the world, but without rural electrification it would be impossible. This great advancement in progress has given the farmer and his family more time for leisure and participation in community activities and has shown that we can all live better electrically.

(By Larry J. Peregrine)

As you drive along the country roads in our community, there are several things to remind you that this is rural America. Perhaps it is a field of ripening wheat, swaying in the Nebraska breeze, or maybe a speedy jackrabbit will leap suddenly across the road.

At almost any crossroad in our community you will also find a scene which, in the last years, has become a very sure way of recognizing the farmlands of our country—the REA power pole, equipped with its transformer and humming powerlines. What kind of power? Power to run our rural community, power to keep American farmers producing more and better products than any other farmers in the world.

Since May 11, 1935, when Franklin D. Roosevelt signed the Executive order which made available $100 million for the purpose of rural electrification, we have come a long way. A mere 10 percent of the farms were electrified in 1935; today there are a proud 96 percent.

What value is this to an average community like ours?

Many times the Nebraska weather is a real challenge to anything man has built. Severe winds, sleet, and lightning will knock out power in the community, and, when the power fails, our rural family realizes the full value of its silent slave.

With the power off, the farm comes to a standstill. The lights dim and flicker out, time on the clock stands still, the water pump stops, pressure goes down and soon there is no water. Even the heat goes off, because the electric motor that runs the blower on our forced air heating system cannot function. If the livestock need water, and the reserve supply in the stock tank runs out before the power comes on, we have no way to water them. With an automatic water system for the caged hens, the water supply is soon diminished.

The area most affected on the farm is our home. The number of jobs electricity performs there are many and varied. The frozen foods in the freezer must be preserved, for many times our supply of meat for winter is stored there. My mother finds that her daily tasks become more difficult—tasks such as ironing, sewing, cleaning, mixing, all of which have been made easier by her electric appliances.

You can see then that it is very gratifying to hear a sudden click, and whirr as the lights and motors spring to life when the power is restored by the REA linesmen and their constant on-the-job vigil over our community's lifelines.

Think about it the next time you see these lifelines riding high on the sentinel of the plains, the REA power pole, humming efficiently with uncomparable power; power for rural America, dotting the nighttime country side with twinkling light, power that makes our lives so much better in a thousand ways, power that beyond all doubt helps us live better—electrically.

(By Connie Rickertsen)

Our Platte Valley has long been famous for its rich farmland and prosperous cattle industry. We who have lived here all our lives often take for granted the innumerable assets of this area and regard them as if they had always been here. The fertile valley which we know today was once avoided by pioneers because of the vast expanses of treeless plains which characterized the landscape. Today, with the luxuriant crops thrusting their green shoots through the fertile soil and the modern farms and ranches which infest the valley, one would never believe that this was once known as the great American desert.

Rural electrification, since it was created in Nebraska in 1935, has played a major role in the development of this great American desert. Ninety-eight percent of all farms in Nebraska receive rural electrification service as of November 1963, compared to 7 percent when the Dawson Power was first organized. The creation of this publicly owned organization has expanded the horizon of agricultural and domestic development in rural Nebraska.

Today electric irrigation wells dot the countryside, carrying gallons of lifegiving water to the lush green fields of towering corn, sweet-scented alfalfa, and an abundance of other crops. The modern farmer relies on electricity for the production of recordbreaking yields for which this valley is noted.

Here in the valley, rural electrification has brought low-cost electricity to everyone, farmer and housewife alike.

A typical farm workshop displays all types of electrical equipment: drills, saws, sanders, and welders. Only the imagination limits the possible uses of electricity.

On our farm, when baby pigs or lambs arrive in the cold of winter, the electric heat lamps work full time to provide warmth for the shivering young. Other areas in which electricity takes the drudgery out of farming are chicken brooders and livestock water heating systems.

New developments such as feed bunk heating cables, Port-O-Trol light and appliance switches, and snow-melting pads for driveways and sidewalks provide further advancement in farm management.

The rural electrification system supplies the homemaker with power to alleviate the drudgery of many of her everyday chores. We think nothing of turning on a faucet and having hot or cold water instantly at our disposal.

Electric vacuums, sewing machines, washing machines, dryers, dishwashers, homefreezers, and mixers each play a part in lightening the load of the modern homemaker. Even winter can be dialed away with modern electric heating.

Three years ago, we built a new home. Our electric heating system makes it possible to keep each area of our home at the desired temperature by simply setting a thermostat.

More comfortable living and more profitable farming are results of using electricity wisely and safely.

From the irrigation wells on which we rely for crop production to the electric heat which keeps summer in the house all year long, rural electrification is daily bringing comfort and convenience to every farm family in our community.

(By Jeannie Stevens)

In considering the value of rural electrification in our home and community, one immediately realizes the complexities of the word "value" in this sentence. Do we think only of this from a monetary point, or from all the many ways it affects our everyday lives making it a fuller and richer era in which we live?

I was a very small girl when my parents first received electricity, so I cannot remember living without it. When I look for the things not done electrically around our farm, I see only the momentoes of the so-called good old days. The sad iron is now a door stop. The kerosene light is an attractive table lamp. The churn barrel is a beautiful planter. The washboard is a novel trellis. The pump handle is the base for the mailbox. The once necessary milk stool is still used, but only for our patio leisure. If the tasks of "the good old days" were to be accomplished with these tools, I would prefer the easy times of electrical living and apply myself to greater challenges of the time and money saved by this wonderful modernization. I am happy and appreciative that all of these things are momentoes only, and can be seen in our museums as steps in the ladder of progress.

We rural people are the envy of the world today. This is not just by chance, but rather by choice. Our farmers could still be farming the way their grandfathers and those before them did, but instead they have grasped for better things through the years. When the availability of reasonable priced electrical energy for farms was offered, it was accepted wholeheartedly. This step, however, has been more far reaching than the most optimistic of daydreamers could imagine.

The newest member of the rural electric family is the mercury vapor light on the farms of the service areas. This is another guiding light, showing the leadership of farmer-owned electrical cooperatives in this modern age. I speak of this as a guiding light because only recently it was just this. When a severe blizzard was sweeping our entire end of the State, numerous stalled motorists found peace of mind in following its beam to friendly and hospitable farm homes.

I would liken the values of rural electrification to the many tenacled octopus. While one tenacle of this power is automatically accomplishing a very time consuming job, another tenacle may be affording us the pleasure of television, lighting our homes, and one and one in a seemingly never ending line of work and pleasure.

Rural electrification has been a revolution in the lives of rural Americans. What was once the farmstead of yore is now the envy of the confined city dweller. This is understandable as the farm has all, and usually more, conveniences than are found in the city homes. An abundance of clean fresh air makes one feel like enjoying and utilizing these modern electrical conveniences that rural electrification makes possible.

We cannot put a set value on anything of this type, but rather think of it in terms of providing a full rounded life helping us to enjoy to a maximum, not only the pleasure of our creative instinct, but also our craving for a purposeful living.

(By Alan Little)

The old saying that one must be deprived of a thing in order to appreciate it certainly holds true with rural electrification.

Electricity, that invisible and silent servant that does our bidding at the touch of a switch, is easily taken for granted. Only by comparing rural life before electricity was available with the comfort, convenience, and efficiency of the present can we truly realize the value of rural electrification.

KBR energized our ranch in 1953. I wasn't old enough to do much ranch work so it was my task to carry the lantern. It never gave enough light or cast its rays in the right places but, nevertheless, that glimmering relic of the last century set the pace for our home and ranch operation.

So it was a red letter day when electricity came, making it possible for us to modernize the heating, lighting, plumbing, cooking, and refrigeration facilities that were 1900 vintages. How much easier the work seemed with lights in the barn, corrals, yard, and house; a water system that provided a constant supply of water both indoors and out at the turn of a faucet; a well-equipped farm workshop that could handle minor repairs that used to necessitate a trip to town; and the innumerable appliances that all helped to lighten housekeeping tasks. It is impossible to measure the value of a source of power so versatile that it can warm a chilled calf in the barn while turning the electric ice cream freezer in the house.

Our community has experienced many changes with the coming of electricity, and these are probably only a forerunner to the many we will see in the future. Electricity will play a major role in expanded cattle feeding as it has in modern milk production. Milk processing and meatpacking plants in our area are now a very real possibility.

Not to be overlooked when naming the benefits provided by rural electrification are those now enjoyed by the teachers and pupils of country schools. No longer must rural pupils study in the shadows on a cloudy day. Modern plumbing and heating systems, movie projectors, and record players are bringing the little red schoolhouse up to date.

Electrical helpers have given rural people more time and energy to devote to their communities. As their living and working conditions improve, they no longer feel relegated to the role of country cousins. This spirit of cooperation between the residents of town and country is evident in the mutual participation in Farmer-Rancher Day, the time and effort put into our community betterment program, and the blending of talent in the community chorus.

In the evening, our lights and those of our neighbors seem to signal the end to the "dark ages" on the farm and beacon the way toward a bright new future for those of us who choose to live in rural America.

IMPACT OF DEFENSE SPENDING SHIFTS AND CURTAILMENTS ON SMALL BUSINESS—NOTICE OF HEARINGS

Mr. SPARKMAN. Mr. President, I am pleased to announce that public hearings of the Senate Small Business Committee will be held this year, beginning on June 23, on the impact of defense spending shifts and curtailments on small business.

For many years now, our national defense requirements have been the heaviest single burden on the shoulders of the American taxpayer. Defense spending in the present fiscal year is over half the entire Federal budget and close to 10 percent of the gross national product. We are reaching a time when it appears that this burden will be lightened.

Until recently, we have been accustomed to assume that substantial reductions in military spending depended upon the conclusion of successful disarmament agreements with the Soviet Union. Now, however, we know that a combination of management efficiency in the Pentagon and the near attainment of our goals in strategic weapons permits this Nation to cut its massive arms budget even without such agreements.

This is a welcome turning point for the Nation and the world; but all of us in this body have already had some reminders that any cuts in defense spending present immense problems.

Late in April, Secretary of Defense McNamara announced that 54 defense installations in 29 States were scheduled for closing or consolidation. Several months earlier, the Defense Department had revealed plans for shutting down over 100 other installations in 35 States.

On May 25, the Senator from West Virginia [Mr. RANDOLPH], a member of the Small Business Committee, inserted in the RECORD a statement by the Senator from South Dakota [Mr. McGOVERN] to the Commerce Committee, which included a list of these installations by States.

Not only defense installations are involved, but defense contract work is ending or phasing out for many companies, both large and small.

In the coming fiscal year 1965, under President Johnson's budget as presently proposed, Department of Defense expenditures will be $1.3 billion less than in fiscal 1964. In a much discussed article published in the April issue of Foreign Affairs, former Deputy Defense Secretary Roswell L. Gilpatric predicted that, by 1970, the defense budget may be cut by as much as 25 percent.

The statement inserted in the May 25 RECORD by the Senator from West Virginia [Mr. RANDOLPH], to which I have referred, also included a list of major military procurement programs not funded after fiscal year 1963, and a further list of major military procurement programs not funded beyond the first 6 months of fiscal 1964. These are the completions, cancellations, and phaseouts that have already occurred. These are the programs whose endings have produced the headlines haunting us today in so many States. These are the cutbacks and shifts that have occurred before any impact will be felt from the overall reduction of $1.3 billion planned for the new fiscal year beginning next month.

Let me read you one of these headlines, from the New York Herald Tribune of May 28, 1964: "Defense Cuts—First Jolt Idles 28,000." In the article written by Laurence Barrett, these sentences appear:

> A survey of member companies by the Aerospace Industries Association of America showed a 3.2-percent drop in jobs during the 6 months ending last March. The prediction for the following 6 months is for an additional decrease of 3.4 percent.
>
> * * * * *
>
> AIA polled 55 of its largest members for the survey. These corporations account for 70 percent of all aerospace employment, which averaged 1,250,000 during 1963.
>
> The 55 companies had a total of 877,678 employees last September. By March the figure was down to 849,182, or a reduction of 28,496. The companies predicted an additional decline of 28,786 by September.
>
> A spokesman for AIA said there was little doubt that the rest of the industry was being affected in the same way. Subcontractors were also laying off men.

As chairman of the Senate Small Business Committee, I was, of course, particularly interested in that sentence:

> Subcontractors were also laying off men.

But the article contained no details on this. A little further on, Reporter Barrett wrote:

> One of the difficulties is a shortage of comprehensive data. The AIA survey is by no means complete because it does not include all prime contractors—or any subcontractors that are not considered to be in the aerospace industry. Also, AIA's figures vary somewhat from the Labor Department's, which do not indicate so serious a situation. Difference in compilation methods accounts for the variation.

This article is typical of many that all of us have seen recently.

Much has been said and written of late about the impact of defense spending reductions on large businesses and their employees. Prof. Seymour Melman, of Columbia University, for example, has prepared a list which tabulates 67,085 recent and pending layoffs by 196 major defense contractors in 6 States.

Less has been done thus far in assessing the effect upon small business. It will be my committee's purpose to begin the task of making that assessment.

Recently, an important start has been made in this area by the Senate Commerce Committee. On May 25, that committee began hearings on a bill—S. 2274—to establish a National Economic Conversion Commission.

I have consulted the Senator from Washington [Mr. MAGNUSON], chairman of the Commerce Committee, and the Senator from South Dakota [Mr. McGOVERN], principal sponsor of the bill, and we plan to coordinate our activities at every step. I am confident that our respective efforts will complement rather than duplicate one another. The questions presented are so numerous and difficult that there is probably room for every committee of both Houses to consider separate aspects of the gigantic task the Nation faces today and in the years ahead.

Despite the dearth of facts, it seems to be an obvious conclusion that many of those affected by the closing of bases and the cancellation of defense contracts are small businessmen. Small businessmen sell goods and services to defense workers and their families, and to military servicemen and their families. Small businessmen are prime contractors and subcontractors in defense procurement programs. It seems probable that reductions in military spending extend far beyond the defense plant and the Army base to the small supplier of electronic components, the restaurant owners, the real estate agent, and the local banker.

It is my hope that, before we are through, the Small Business Committee will compile information on the problems of small businesses brought about by defense spending shifts and curtailments in several States, in regions, and in the Nation at large.

To begin, we are undertaking a case study of one State, New Jersey. As a State which receives a substantial share of defense contracts but which is not overly dependent on them, New Jersey provides a focus for hearings which should prove useful and illuminating for small businessmen there and in other States.

I have asked the Senator from New Jersey [Mr. WILLIAMS], a valued member of the Senate Small Business Committee, to cochair with me the initial hearings, which will be concerned with his State.

The first hearing sessions are now scheduled for June 23 and July 1, beginning at 9 a.m. The places and witnesses will be announced in the near future.

Mr. President, I ask unanimous consent that the article from the New York Herald Tribune, from which I read, may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DEFENSE CUTS—FIRST JOLT IDLES 28,000

(By Laurence Barrett)

WASHINGTON.—Employment in the aerospace industry dropped markedly between September and March and the downward trend is expected to continue at least through next September.

A survey of member companies by the Aerospace Industries Association of America showed a 3.2 percent drop in jobs during the 6 months ending last March. The projection for the following 6 months is for an additional decrease of 3.4 percent.

Shifts in Defense Department spending away from strategic nuclear delivery vehicles and the more expensive manned aircraft accounted for much of the decline. Continued spending by the National Aeronautics and

Space Administration failed to compensate for the Defense Department reductions.

AIA polled 55 of its largest members for the survey. These corporations account for 70 percent of all aerospace employment, which averaged 1,250,000 during 1963.

The 55 companies had a total of 877,678 employees last September. By March the figure was down to 849,182, or a reduction of 28,496. The companies predicted an additional decline of 28,786 by September.

EFFECT ON INDUSTRY

A spokesman for AIA said there was little doubt that the rest of the industry was being affected in the same way. Subcontractors were also laying off men. There was no hard estimate on the total number of jobs lost by the leveling off of defense spending for missiles and major combat aircraft.

The job losses are not a direct result of the pending reduction in the Defense Department budget. That cut does not take effect until July 1.

AIA's findings point up a problem that is receiving increasing attention in Washington—economic dislocation caused by changes and reductions in defense spending. A Presidential committee now is studying ways to ameliorate the impact. Also, Congress is considering a number of bills that bear on this area.

One of the difficulties is a shortage of comprehensive data. The AIA survey is by no means complete because it does not include all prime contractors—or any subcontractors that are not considered to be in the aerospace industry. Also, AIA's figures vary somewhat from the Labor Department's, which do not indicate so serious a situation. Differences in compilation methods account for the variation.

IMPACT ON ECONOMY

Pentagon leaders have admitted that it is presently impossible to trace defense procurement dollars to their ultimate impact on the economy, even though 10 percent of the work force makes its living from these dollars.

Studies are now underway to develop a system to reduce this ignorance.

The AIA survey showed that effects within the industry were very uneven. Plants with heavy emphasis on missiles and associated products dropped 9.9 percent of their workers in the first 6-month period and expected a decline of 6.9 percent in the second period. Those plants heavily involved in the space program showed an employment gain of 11.4 percent in the first period and expected a further gain of 1.8 percent. Factories producing aircraft, engines, and parts showed a job loss of 1.1 percent initially. They predicted a subsequent loss of 4.3 percent.

Mr. WILLIAMS of New Jersey. Mr. President, I am delighted that the Senate Small Business Committee is to look into the defense spending cutback problem. I am especially pleased, of course, that the committee's distinguished and able chairman [Mr. SPARKMAN] has so graciously agreed to my suggestion that our first look be directed at the State of New Jersey. I am honored that he has asked me to cochair that portion of the hearing that is concerned with New Jersey.

There is much that the Senate, the Small Business Committee, and the American small businessman can learn from a careful study of what is happening in New Jersey. I am sure that what we hear and learn about my State will have instructive, useful application as the committee goes on to study this problem in other States and regions and the Nation at large.

In fiscal year 1963, New Jersey was the fourth highest State in terms of defense dollars spent on prime military contracts. It received $1.2 billion in prime contract awards, 5 percent of the national total. That represented an increase both in dollar amount and in percentage of total over 1962. And 1962, in turn, had shown an increase in dollar amount, though not in percentage, over 1961.

For 1964 the picture, when all the numbers are in, will be quite different. The trend is shown by a comparison of the totals for the first three quarters of fiscal years 1963 and 1964:

July–March:	*Millions*
Fiscal year 1963	$874.2
Fiscal year 1964	603.1

What has a decline of some $271 million in prime defense contract dollars meant to New Jersey? No one can give a full answer to that question at this time; but some of the indicators are in, and they cause real concern.

In New Jersey in the last 16 months, more than 20,000 engineers, technicians, and production workers in defense industries have lost their jobs. These layoffs have been in electronics, shipbuilding, and aircraft, and the effects of the President's cutback orders have yet to be fully felt. Most of these losses have been in big business; but small businesses are inevitably affected. Not only the defense subcontractor, who is directly affected, but the small retailers and their small suppliers, serving these suddenly jobless workers, feel the pinch.

On May 6, 1964, the chairman of the National RCA Conference Board of the International Union of Electrical Workers—IUE—AFL–CIO—Mr. Daniel Arnold, wrote to the President of the United States to describe his city of Camden as "a stricken area—stricken almost as though it had been hit by a natural disaster."

Mr. Arnold's letter continues:

> But even that becomes an understatement because it is not long after a natural disaster such as a flood or hurricane that the majority of unemployed are back at some kind of work.
>
> But the tragedy of our mass unemployment in what we refer to as the Camden complex is that it has now persisted for a year or more; and, for many, nearly 2 years.
>
> The national unemployment rate, as you know, has hovered around 5.4 percent. But here in the city of Camden the unemployment rate is almost twice as high.

Mr. Arnold's letter to President Johnson closed by requesting that he have "a special inquiry made into [the] continuing condition of economic urgency in the southern New Jersey area." Mr. Arnold also asked for the application to southern New Jersey of "such special relief measures, under your programs to combat unemployment and poverty, as may be found necessary"—see exhibit 1.

In an extremely sympathetic reply signed by Ralph Dungan, the White House advised Mr. Arnold of some of the relief measures that are available and being applied under existing law, and adverted to the additional help that could be provided if the Economic Opportunities Act became law—as I surely hope it will. No mention was made, however, of any acceptance of the idea of a special study of the impact of defense spending cutbacks in the Camden area. It is my hope that the Senate Small Business Committee's hearings may go at least part way toward meeting that need. Mr. Dungan's letter is appended as exhibit 2.

As the Senator from Alabama [Mr. SPARKMAN] has stated, we shall open the hearings in Washington on June 23 and continue them on July 1. We already have some outstanding witnesses committed to appear. Their names will be announced shortly.

We wish to hear from State government officials and from the representatives of business, large and small, in New Jersey. We wish to hear from management and from the leaders of organized labor in these defense plants. We wish to hear from local government and from local merchants affected. It is our hope that the people who have been hurt will come forward to tell us how much they have been hurt, and what they see ahead. We wish to know what they think we in the Congress can and should be doing about it.

For my own part, I am by no means dismayed. I will not admit for 1 minute that Karl Marx was right in his premise that the capitalist nations require interminable spending on arms as an economic prop. I believe that we must apply imagination and foresight and—though the word still seems to jar some citizens—planning to find substitute outlets for the creative energy and capital that has gone into building up our essential defenses.

When we come to think of it, what a veritable host of substitutes there are. How many crying national needs have been waiting for this very moment in our national life, when at last some of this energy and effort and capital can be turned to the creation of a better world instead of merely a militarily safe one. What irony, what tragedy, what foolishness, if we let talented people remain idle and despairing while so much is yet to be done.

Professor Melman, to whom the Senator from Alabama [Mr. SPARKMAN] referred, has made some excellent suggestions about possible matchings of excess military production capacity and surplus materials to unmet civilian needs. He told the Economic Club of Detroit on last March 2:

> For example, the U.S. Government now holds 729,000 tons of aluminum in a stockpile. We have and will soon have more military airframe capacity as surplus. We also have a very considerable undersupply of acceptable housing at a low rate of rent. Is it possible to join these three capabilities and requirements and use these aircraft industry plants to fabricate largely aluminum-based sections with which we can redo the shape of our cities?

This is the type of question for which I should be pleased to have our hearings elicit thoughtful and constructive answers. If that particular question eventually must be answered in the negative, let other constructive ideas be advanced. We, of course, can probably scratch only the surface. That is why I am a cosponsor of the McGovern bill, S. 2274, to create a commission on economic conversion, which could study these problems in depth.

The first steps—quite a few of them—in this challenging and exciting national journey have already been taken. I ask no more than that our Small Business Committee hearings take us a few steps further still down a road which, I believe, contains far more of promise than of fright.

Mr. President, I ask unanimous consent that there be inserted in the RECORD at this point the exhibits to which I have referred in this statement, and two additional ones to which I did not refer: First, the letter of May 6 from Daniel Arnold to the President; second, White House reply to Mr. Arnold; third, letter to me dated May 23, 1964, from Assistant Secretary of Defense—Installations and Logistics—Thomas D. Morris, with appended tables, on defense spending in New Jersey; and, fourth, an article from the Philadelphia Bulletin of March 27, headed "RCA To Lay Off 100 Engineers at 2 Plants."

The PRESIDING OFFICER. Is there objection to the request by the Senator from New Jersey? The Chair hears none, and it is so ordered.

(See exhibits 1, 2, 3, and 4.)

EXHIBIT 1

NATIONAL RCA CONFERENCE BOARD
OF THE IUE–AFL–CIO,
Camden, N.J., May 6, 1964.

President LYNDON B. JOHNSON,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: May I respectfully bring to your attention, on behalf of many thousands of union members in southern New Jersey, a continuing condition of economic urgency in the vital Camden industrial area.

I write to you as an international executive board member of the International Union of Electrical, Radio & Machine Workers, AFL–CIO, but also, by consent, I bespeak the appeal of a number of other major unions of this area.

Mr. President, this is a stricken area—stricken almost as though it had been hit by a natural disaster. But even that becomes an understatement because it is not long after a natural disaster such as a flood or hurricane that the majority of unemployed are back at some kind of work.

But the tragedy of our mass unemployment in what we refer to as the Camden complex is that it has now persisted for a year or more; and, for many, nearly 2 years.

First, however, Mr. President, let us tell you in one single figure, if we can, just how acute our problem is. The national unemployment rate, as you know, has hovered around 5.4 percent. But here in the city of Camden the unemployment rate is almost twice as high in Camden as nationally. It follows that the extent and the intensity of economic hardship and suffering in Camden is twice as harsh as in the Nation as a whole.

One of the area's largest employers—an employer often considered nearly indispensable for our national defense and security, Radio Corp. of America—has laid off at least 5,000 production and maintenance workers in the past 2½ years.

These jobless have been joined by approximately 1,000 engineers and 1,500 technicians also laid off by RCA; and it should be emphasized that the bulk of these layoffs have occurred in what is termed defense production work as opposed to civilian production.

The Camden unemployment situation has been aggravated by mass layoffs at another industrial complex that has also been termed—before, during, and after two World Wars—as vital to our national security. I refer to the shipbuilding industry of this area, which has been as disastrously hurt as any in the Nation.

Mass unemployment figures tell their own story, Mr. President, especially when they are double the national rate. But what they cannot portray, of course, are the many individual human tragedies. For example, many RCA workers with 25 years of seniority—and some even with 30—have been laid off. This can be heartbreaking, especially if the prospects for reemployment look bleak, for men who may be on the verge of pensioned retirement and who suddenly find themselves, helplessly and desperately, on the streets.

Like you and your administration, the IUE and other unions are greatly concerned with preserving and developing the skills of our engineers and technicians. That is why we are appalled that so many engineers and technicians in the Camden complex have now been unemployed not just for weeks or months but for a year or more. Therefore, these engineers and technicians comprise both a personal and national tragedy—personal, in that they and their families are suffering from unemployment and that their skills are deteriorating; and, national, in that the country is losing the fruits of their technical and engineering skills today and tomorrow.

Mr. President, the labor movement has pledged your administration full support; and particularly has organized labor commended your proclaimed resolution to war "uncompromisingly" against the curse of poverty and unemployment.

May we request that you have a special inquiry made into what I characterized, at the beginning of this letter, as a continuing condition of economic urgency in the southern New Jersey area.

We ask that you do this with a view to applying to southern New Jersey such special relief measures, under your programs to combat unemployment and poverty, as may be found necessary.

But we ask, Mr. President, that your inquiry and your action be undertaken with all possible speed. The crisis of Camden and southern New Jersey, the deprivation and widespread hardship, has been permitted to persist far too long.

Respectfully yours,

DANIEL ARNOLD,
Chairman, IUE–RCA Conference Board; Member, International Executive Board, IUE–AFL–CIO.

EXHIBIT 2

THE WHITE HOUSE,
Washington, D.C., May 27, 1964.

Mr. DANIEL ARNOLD,
Chairman, National RCA Conference Board, International Union of Electrical, Radio & Machine Workers, AFL–CIO, Camden, N.J.

DEAR MR. ARNOLD: The President has your letter calling to his attention the serious unemployment conditions that exist in the Camden industrial area. The President, as you well know, is much concerned about continued high levels of unemployment in certain geographical areas. Everything possible is being and will be done to help those areas, those communities, those workers confronted with serious unemployment.

The Department of Labor's reports indicate that unemployment in the area is serious. The entire Philadelphia labor market area, of which Camden is a part, has had substantial unemployment for a considerable period of time. The area is eligible for various kinds of special Government programs.

As part of the effort of this administration to assist areas with substantial unemployment, a number of training projects have been approved in the Camden area under the terms of the Manpower Development and Training Act. In addition to these programs to help the unemployed worker develop skills for the changing job market, work is going ahead in Camden under the accelerated public works program to provide more jobs in the area for those without work.

Much more needs to be done. Under the authority of the Economic Opportunity Act now before the Congress, additional help could be given to areas such as Camden. With the help of your organization and others, this legislation, hopefully, will be passed before this session of Congress is concluded. With this additional authority, we will do what is possible to help your area and others similarly situated throughout the United States.

You can be assured we will do whatever is possible under existing and proposed programs and authority to continue to combat unemployment and poverty wherever it is found.

Sincerely,

RALPH A. DUNGAN,
Special Assistant to the President.

EXHIBIT 3

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., May 23, 1964.

Hon. HARRISON A. WILLIAMS, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: This is in further reply to your letter of May 5, 1964, to Secretary McNamara, requesting reports and forecasts of Defense dollars and employment, by program and by plant in New Jersey.

Unfortunately, we do not have data on the location of subcontract work, or on current employment in individual plants or States. We have made special studies of a limited number of individual plants in the past, but the employment statistics which we obtained were proprietary, and in any case are now out of date. The Office of the Secretary of Defense has undertaken a project to develop a plan for a comprehensive system of Defense economic impact analyses, but results cannot be available for a substantial period of time.

The only comprehensive information which we now have on Defense procurement in New Jersey or other States is the statistical data on prime contract awards to establishments located in the State.

While the prime contract data do not reflect subcontract dollar flows into or out of the plant, they do measure changes in the volume of direct sales to the Defense Department. In the hope that such data will be of use to you, we have updated past studies of prime contract trends in the plants of seven New Jersey companies which received about 70 percent of the State total in the past 2 years. In the enclosed tabulation, we have also listed all other plants which received as much as $5 million in prime contracts in fiscal year 1963.

The State total averaged about $1.1 billion per year from fiscal year 1959 through fiscal year 1963, increasing substantially above that level in fiscal years 1960 and 1963, when ship contracts at New York Shipbuilding Co. and Nike contracts with Western Electric Co. were unusually high.

It is not possible to predict contract totals with any degree of certainty because a very large proportion of the total is awarded after competition. However, totals for the first 9 months of fiscal year 1964 show that contracts in New Jersey were running about $270 million less than in fiscal year 1963.

There are indications that the New Jersey total may decrease further unless the companies involved succeed in obtaining substantial new business to replace major programs that are phasing downward. The following illustrations are based on statistical reports of transactions involving $500,000 or more each.

The largest prime contract program at RCA-Camden in fiscal year 1963 was $15.5 million for Dyna-Soar communications and tracking equipment. This program was canceled in December 1963.

The largest program at RCA-Moorestown was $39.8 million for work on the BMEWS system. While maintenance and operational functions will continue, the funding will be at reduced levels in the future.

Work on the Strategic Air Command control system at I.T. & T., for which the company received $62 million in prime contracts in fiscal year 1963, also will phase downward sharply after fiscal year 1964.

Work on the Pershing guidance and control system was the major prime contract program at Bendix-Teterboro, accounting for $46 million or more than half of the plant total in fiscal year 1963. Funding of this program will be 15 percent less this year than last, and fiscal year 1965 will be 70 percent less than in fiscal year 1963.

The mobile midrange ballistic missile was the largest program at the Kearfott Division of General Precision, Inc. ($42 million in fiscal year 1963).

There may be some offsetting effects in programs in other plants. Chief among these is the Nike X program at Bell Labs of Western Electric Co. ($60 million in the first half of fiscal year 1964). Development effort on this program will continue at a high level for some time to come.

The programs referred to above are the only New Jersey prime contracts for work in the United States which involved as much as $15 million in fiscal year 1963 or the first half of fiscal year 1964. The general trend of the defense effort in New Jersey will depend heavily on the success of its contractors in bidding on the multitude of small prime and subcontract projects, and the annual shipbuilding programs which are competitive from year to year.

All of the programs in New Jersey plants mentioned on page 8925 of the CONGRESSIONAL RECORD of April 23, 1964, were being performed under subcontract, except for a fiscal year 1964 contract of $4,829,000 with Bendix Corp. for autopilot amplifiers for use on A-4E aircraft.

I hope that this information will be of use to you in assessing the situation of New Jersey defense suppliers.

Sincerely,

THOMAS D. MORRIS,
Assistant Secretary of Defense, Installations and Logistics.

Military prime contract awards of $10,000 or more to establishments in New Jersey

Fiscal year	Millions of dollars	Percent of United States
1954	448.0	4.2
1955	985.0	7.1
1956	879.0	5.3
1957	848.2	4.7
1958	884.6	4.2
Average	809.0	
1959	918.9	4.2
1960	1,274.7	6.2
1961	949.7	4.3
1962	1,063.1	4.3
1963	1,251.6	5.0
Average	1,091.6	
July–March:		
Fiscal year 1963	874.2	4.9
Fiscal year 1964	603.1	3.5

Military prime contract awards of $10,000 or more to major contractors in New Jersey

[In millions of dollars]

	Fiscal year 1959	Fiscal year 1960	Fiscal year 1961	Fiscal year 1962	Fiscal year 1963	1st half, fiscal year 1964
Radio Corp. of America	199.7	370.6	287.8	207.4	178.2	72.6
New York Shipbuilding Co	([1])	87.4	18.2	11.5	163.3	12.2
Western Electric Co	36.3	209.2	33.0	50.7	147.8	67.6
International Telephone & Telegraph Co	([1])	51.8	87.3	142.6	143.1	59.7
Curtiss-Wright Corp		47.9	48.2	125.0	106.9	8.8
Bendix Corp., Teterboro		31.0	52.6	162.6	86.2	51.0
General Precision, Little Falls	([1])	6.6	13.5	21.2	53.7	23.7
Total above		804.5	540.6	721.0	879.2	295.6
All other		470.2	409.1	342.1	372.4	109.2
Federal Electric Corp					45.2	6.8
De Laval Turbine, Inc					14.1	.5
Lockheed Corp					13.5	1.7
Thiokol Chemical Corp					13.2	.5
Welsbach Corp					7.0	0
Terminal Construction Co					6.5	0
Aircraft Radio Corp					6.1	.2
State total	918.9	1,274.7	949.7	1,063.1	1,251.6	404.8

[1] Not available.

EXHIBIT 4

[From the Philadelphia Bulletin, Mar. 27, 1964]

RCA TO LAY OFF 100 ENGINEERS AT 2 PLANTS

Some 100 engineers at Radio Corp. of America plants in Camden and Moorestown were given layoff notices yesterday.

The engineers are members of the Association of Scientists & Professional Engineering Personnel.

Henry Andreas, executive secretary of the union, said the dismissals are in addition to another 110 released in January and brings to 800 the number of engineers who have lost their jobs in the past 18 months.

Nearly 80 production workers at the Camden plant received similar notices on Wednesday. Unions at the plant and the company have been in long disagreement over reasons for the layoffs which have totaled more than 4,000 in the past 2 years.

An RCA spokesman said yesterday most of the engineering layoffs resulted from completion of the $1.3 billion ballistic missile early warning system developed for the Army by RCA at its Moorestown plant.

The spokesman said the company still expects to stabilize its work force in the Camden area at between 15,000 and 16,000 employees.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. WILLIAMS of New Jersey. I yield.

Mr. McGOVERN. I commend the Senator from Alabama [Mr. SPARKMAN] and the Senator from New Jersey [Mr. WILLIAMS] for their vision and foresight in undertaking this investigation.

Reduction in defense spending, to which the Senator refered here a moment ago, can be a hopeful and a helpful development to the American people, but only if we undertake some positive steps to prevent dislocations and economic suffering from occurring in the wake of these reductions.

We should all be grateful for the leadership of the Senator from Alabama and his committee, and also for the vigor and the leadership of the Senator from New Jersey [Mr. WILLIAMS] for the approach they are making in the investigation of one of our important defense areas, which includes study of conversion potentialities and rejects the Marxist theory that our economy will collapse without large military expenditures. I commend them for it.

Mr. WILLIAMS of New Jersey. Mr. President, I certainly thank the Senator from South Dakota for his remarks.

ARMENIAN INDEPENDENCE DAY

Mr. WILLIAMS of New Jersey. Mr. President, May 28 marked the 46th anniversary of the declaration of independence of the ancient land of Armenia. Throwing off the yoke of centuries of ravage and rule by many conquerors, the Armenian National Council issued its proclamation of freedom on May 28, 1918—even as the Armenian Army, under General Silikian, was driving back the Turks at the historic Battle of Sardarabad. We who thrill to accounts of our own battles for independence can imagine how much jubiliation greeted that electrifying news, and how many prayers were said. A nation had been born again. The Armenians—who had refused to yield their Christian faith and their cultural heritage to invaders such as the Ittihad Turks, Abdul Hamid, Tamerlane, and Genghis Kahn—could then look forward to taking their rightful place in the brotherhood of free nations.

When Armenia declared its independence, she was in a precarious position. She had been the "little ally" of the great allies during World War I. Armenian legions had fought with the Allies on many fronts; and Armenians, in bearing the brunt of some of the heaviest fighting in the Caucasus, had been very valuable to the British Army in Mesopotamia. Armenians had always looked hopefully westward for their salvation, and regarded our great President, Woodrow Wilson, as their champion.

But Armenia was alone in the Caucasus, and, it seemed, out of the reach of her friendly allies. With his country in ruins and crowded with refugees, H. Kachaznooni, first Premier of Armenia, when speaking to the first Armenian Parliament, described these early conditions as catastrophic.

From this chaos, a stable state had to be created. It seemed a hopeless task; but the Armenian people—whose very existence was a sociological phenomenon, a triumph of human fortitude and endurance—succeeded in building the structure of their democratic state. One year after its founding, Armenia had a functioning administrative machinery. On April 22, 1920, the United States followed the example of other countries in recognizing Armenia as an independent republic, and received that republic's representative in Washington.

Fervently patriotic Armenians from all corners of the world began sending money to the new country. American-Armenians, alone, raised $2 million; and the Melkonian brothers bequeathed their entire fortune of $10 million to Armenia. Armenians from many lands returned to their homeland, bringing with them capital and machinery with which to develop their country's industry and agriculture. Armenian intellectuals—professors, doctors, engineers, architects, agronomists, writers, and artists—returned in great numbers. To these industrious and enthusiastic people, working for their homeland, a new era had dawned. Perhaps they even allowed themselves to think that Armenia's independence was now blessedly secure.

Yet the Armenian republic lived less than 3 years. In September 1920, Kemalist Turks allied themselves with the Bolsheviks, and attacked Armenia. Caught between these ferocious enemies, Armenia urgently appealed to the Allies for immediate help. Resolutions passed in the League of Nations showed that the member nations were aware of what one resolution called "the horrible Armenian tragedy." The League invited all member governments and the Government of the United States to mediate between Armenia and the Kemalists. But the Kemalists were hostile and intransigent.

On December 2, 1920, Armenia, already defeated by the Turco-Bolshevik combination, was forced to sign an agreement which declared that Armenia was an independent Soviet republic. The Government was turned over to the Bolsheviks, and Armenia became the first victim of the Communists expansionist tendencies.

Right after the sovietization of Armenia, persecutions started against the non-Bolshevik elements. Armenian prisons were crowded with thousands of men. Members of the former Government and of the Parliament were arrested. Fifteen hundred officers of the Armenian Army were sent into exile in Russia. Before the eyes of the Bolsheviks, about 30,000 Armenians were massacred and Armenian villages and towns were pillaged by Turks who refused to leave the occupied territories.

Infuriated by these excesses, the Armenians drove out their oppressors in February 1921. The February revolt is still commemorated today; but again the life of the republic was short. In July, the Red army arrived from Russia, and reestablished the Soviet Government. In December 1922, Armenia and two other countries, by an arrangement with Moscow, formed the Confederated Republic of Transcaucasia; a few weeks later, that republic became part of the Soviet Union. In 1936 the Confederation was dissolved, and the three countries entered the Soviet Union as separate republics "reserving to themselves the right to secede."

Today, Armenia is a captive nation—about one-third the size of the independent Armenia which President Wilson conceived, and which lives on in the hearts and the minds of all hopeful and patriotic Armenians. After the Treaty of Lausanne—which ignored the Armenian question and the question of Armenian territorial rights in Turkey—was signed, in 1924, a Turkish newspaper commented:

> The Armenians in Turkey are to enjoy two privileges only; namely, to pray to their God and to bury their dead.

Mr. President, the Armenians—who in A.D. 301 became the first people to adopt Christianity as their state religion—have continued to pray to their God. Let me say that during this commemorative period of Armenian Independence Day, we add our prayers to theirs, in the hope that we shall build a world in which all nations will be free.

TRANSPORTATION RATE REDUCTIONS WILL HELP SOME ALASKANS

Mr. GRUENING. Mr. President, since I began my service in the Senate as a Senator from the new State of Alaska, I have, on numerous occasions, called the attention of my colleagues to the desperate situation of Alaska with respect to the unbearably high costs of transportation to our State. To all intents and purposes, Alaska, although physiographically part of the continent, is an island widely separated from sources of supply which must depend almost wholly on water transporation to our ports of entry for virtually everything we Alaskans require for everyday life.

Added to the inconvenience of dependence on faraway centers of commerce for our daily needs is the real handicap of exorbitantly high costs of transporting the goods consumed.

Water carriers to Alaska, notably the dominant carrier, the Alaska Steamship Co., have, throughout our history sought to take advantage of our dependence upon them by charging everything—and more—that the traffic will bear. I have alluded a number of times to the constant battle we have fought, as a territory and now as a State, to accomplish reform in the regulatory system governing water carriers necessary to establish fair and reasonable rates on shipments to Alaska. The recent action of the Federal Maritime Commission in ordering a review of a general rate increase for the Alaska Steamship Co., which would yield that company a bonanza in the form of higher rates than ever, gives us a glimmer of hope there may be progress on that front. The Commission has also recently acted vigorously to limit increases on rates in the seasonal trade of the Alaska Steamship Co., the final order now being contested by the company in litigation pending in the Ninth Circuit Court. The decisions of the Federal Maritime Commission in these cases give promise of improved regulation of the water carriers for which we have long fought.

Allied with the problem of high costs of water transportation is the existence of unduly high freight rates for rail carriers transporting commodities across the continental United States to ports of departure for Alaska, notably the port of Seattle.

Alaska has suffered, in addition to excessive water transportation costs, an unjustifiable discrimination by the continental rail carriers for transfer of goods bound for points of destination in Alaska. The railroads have charged higher domestic rates for all shipments to Alaska than the lower export-import rates applicable on all shipments to all other points of destination in the Pacific Ocean area. The disparity in costs was brought to the attention of the Interstate Commerce Commission by the General Services Administration in a complaint filed by that agency in 1955. Although there was a favorable examiner's decision in the case, the Commission—with minority exceptions—ruled contrary to the examiner's findings and held that the railroads could continue to charge more for shipments bound for Alaska than to other Pacific Ocean destinations.

Efforts to change this discrimination by legislation have, so far, been unsuccessful. Recourse has also been had to negotiations with the railroads concerned with a view to obtaining voluntary reductions of rates that would afford Alaskans the same advantages of low rail rates available to Hong Kong, the Fiji Islands, Japan, Guam, the trust territories and every other nation and place beyond the west coast of the United States.

The railroads have continued to resist changes that would reduce the basic rates to conform Alaskan charges with those applicable elsewhere in the Pacific Ocean area.

However, there has been a significant breakthrough that gives some hope of future progress, meanwhile accomplishing a reduction in transportation costs that will surely benefit some of the people of Alaska.

I refer to the recent filing of a tariff with the Interstate Commerce Commission by the Trans-Continental Freight Bureau, to become effective June 10.

In discussing this progressive development in Alaska transportation, I would commend the General Services Administration which, as shipper for the Government, has labored diligently to reduce rates to Alaska. As taxpayers, all Americans should be grateful to the General Services Administration and its competent staff for working conscientiously to obtain rates for shipment of goods for the account of the Government at the lowest possible rates. For Alaskans this benefit is not only a reduction of tax liability but has an added and even greater impact as a reduction in costs of shipping goods to the State.

It was the General Services Administration that persisted in efforts to achieve publication of the new tariff which may encourage development of Alaska's economy—hobbled before the disaster of March 27 largely because of high freight rates—and now stunned by the dreadful earthquake and resulting seismic waves that damaged us so badly.

The new tariffs, which will result in rate reductions on many thousands of commodity descriptions—according to the General Services Administration—will be limited in application to shipments moving by rail-water-rail via all western gateways to Seattle, Wash., thence via the Great Northern Railroad to a terminal in British Columbia, thence via Alaska Trainship Corp.—an affiliate of the Alaska Steamship Co.—to Whittier, Alaska, thence via the Alaska Railroad or via Seattle, Wash., thence via Puget Sound-Alaska Van Lines to Whittier, Alaska, thence via the Alaska Railroad, and also via the same carriers to Whittier, thence Alaska Railroad to Nenana, Alaska, for delivery at points served by the Yutana Barge Lines.

The reductions which are anticipated from the new tariff are significant. For northbound shipments at class rates, reductions will range from 70 cents per 100 pounds on shipments of 30,000 pounds to 25 cents per 100 pounds on shipments of 60,000 pounds or greater. Reductions on southbound tonnage will range from 12 cents per 100 pounds to 35 cents per 100 pounds, representing reductions in rates in a trade already operating at lower base rates than northbound shipments.

Commodity rates will also be lower on many items, including machinery and equipment now urgently needed for reconstruction of the State as a result of the earthquake. For tractors, tractor parts, scrapers, tractors and scrapers combined, stone crushers, power shovels, the rate reduction will amount, when compared with current rates of shipment via Alaska Steamship Co. vessel from Seattle, to a saving of $1.64 per 100 pounds, on a minimum shipment of 70,000 pounds.

For groceries, including more than 100 miscellaneous items such as wax paper, insecticides, paper products, napkins, towels, soap and cleaning agents, reductions on costs of shipments of 60,000 pounds from Chicago, Ill.—for example—to Anchorage, Alaska, will amount to approximately $1.83 per 100 pounds.

Tables have been developed to show examples of transportation cost reductions that will result from the new tariffs. I ask that these be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRUENING. Mr. President, a major factor in the achievement of the lower transportation costs has been the elimination of transfer charges at Seattle, an expensive component of charges incident to shipment via the Alaska Steamship Co. By utilizing the through routes as described above charges for car unloading, ranging from 12.4 cents per 100 pounds to 63.9 cents per 100 pounds; wharfage charges of 4 cents per 100 pounds; and handling charges of, for example, 11.25 cents per 100 pounds are eliminated. Shipment via Alaska Steamship Co. will still require such charges.

Also of great importance in improving transportation to Alaska is the availability of a service in which shippers may forward commodities from any point in the United States to any point served by the Alaska Railroad and Yutana Barge Lines beyond Nenana on one bill of lading. This eliminates additional costs of service and inconvenience required by paperwork now required to ship goods via a combination of carriers involving transfer at Seattle and possibly at other points en route to final destination.

The new tariffs filed at the Interstate Commerce Commission represent a welcome development, and I hope the reductions in rates to the Alaska railbelt will give Alaska some of the encouragement it needs to rehabilitate lives, homes, and industries, so seriously hurt by the earthquake.

This is good news and, so far as they go, the new tariffs will help reduce the ever-rising cost of living in Alaska.

Unfortunately, I fear the new tariffs filed with the ICC represent only a beginning of the long fight still ahead to reduce shipping costs to all of Alaska. It is exceedingly important to help the railbelt of Alaska, especially, since much of this part of our land was destroyed by the earthquake. However, all the other communities of Alaska, not served by the 470-mile-long stretch of the Alaska Railroad will gain no benefit from this tariff at all. For Ketchikan, Wrangell, Petersburg, Sitka, Juneau-Douglas, Haines, and Skagway in southeastern Alaska, around the sea to Kodiak, Dillingham, Nome, Kotzebue and the westernmost ports of Alaska, there will be no relief from the constant pressure of exorbitant charges for transportation.

There is still work to do and progress to be made.

The basic rates of the transcontinental railroads have not changed at all. Alaska is still at a railroad rate disadvantage as compared with all other Pacific Ocean ports. Alaska must still achieve an equitable water transportation rate policy applied by the Federal Maritime Commission.

We are going to keep working until Alaska has effective transportation service at reasonable cost.

EXHIBIT 1

EXPLANATION OF STATEMENT NO. 1

This statement shows the present rates via the Puget Sound-Alaska Van Lines in hydrotrain service at various minimum weights from Seattle, Wash., to Anchorage, Alaska, which rates are now used in constructing combination rates to Alaska from origins such as Chicago, Ill. These rate factors are compared with the approved rate factors to be added to the transcontinental rates in making joint through rates to the State of Alaska.

The statement shows reductions for each weight ranging from 25 cents to 70 cents per 100 pounds below the present rates. The new rates to be used in constructing the through tariff rates scheduled to be filed with the Interstate Commerce Commission are those now applicable only via Prince Rupert, British Columbia.

The class rates for classes 40 and lower covering mixed carloads of commodities not specifically provided for in the tariff will yield lower charges than the "freight all kinds" rates for such commodities at minimum weights of 60,000 pounds or more as indicated in statement No. 3. For example, class 40 commodities would move under the rate factor of 222 cents per 100 pounds and class 30 commodities at the class rate factor of 205 cents per 100 pounds, while the "FAK" rate (statement No. 3) for 60,000 pounds is 224 cents. Alternation of class and commodity factors in constructing the through rates has been approved.

STATEMENT NO. 1.—*Statement showing class rate factors beyond Seattle included in making through rates proposed by GSA compared with factors or arbitraries for application beyond Seattle approved by transcontinental railroads—Example: Seattle, Wash., to Anchorage, Alaska*

[Rates are in cents per 100 pounds]

Class rates northbound	Minimum weight (pounds)	Classes								
		100, 92½	85, 77½	70, 65	60, 55	50, 45	40, 37½, 35, 32½	30, 27½	25, 22½	20, 17½, 16, 14½, 13
Present Seattle	20,000	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Approved Seattle	20,000	527	502	477	460	444	427	410	402	393
Present Seattle	30,000	507	482	457	440	424	407	390	382	373
Approved Seattle	30,000	437	412	387	370	354	337	320	312	303
	Reduction	70	70	70	70	70	70	70	70	70
Present Seattle	40,000	427	402	377	360	344	327	310	302	293
Approved Seattle	40,000	387	362	337	320	304	287	270	262	253
	Reduction	40	40	40	40	40	40	40	40	40
Present Seattle	50,000	377	352	327	310	294	277	260	252	243
Approved Seattle	50,000	350	325	300	283	267	250	233	225	216
	Reduction	27	27	27	27	27	27	27	27	27
Present Seattle	60,000	347	322	297	280	264	247	230	222	213
Approved Seattle	60,000	322	297	272	255	239	222	205	197	188
	Reduction	25	25	25	25	25	25	25	25	25
Present Seattle	70,000	327	302	277	260	244	227	210	202	193

[1] No rates at this minimum weight.

Statement No. 1.—*Statement showing class rate factors beyond Seattle included in making through rates proposed by GSA compared with factors or arbitraries for application beyond Seattle approved by transcontinental railroads—Example: Seattle, Wash., to Anchorage, Alaska*—Continued

[Rates are in cents per 100 pounds]

Class rates northbound	Minimum weight (pounds)	Classes								
		100, 92½	85, 77½	70, 65	60, 55	50, 45	40, 37½, 35, 32½	30, 27½	25, 22½	20, 17½, 16, 14½, 13
Approved Seattle	70,000	302	277	252	235	219	202	185	177	168
	Reduction	25	25	25	25	25	25	25	25	25
Present Seattle	80,000	312	287	262	245	229	212	195	187	178
Approved Seattle	80,000	287	262	237	220	204	187	170	162	153
	Reduction	25	25	25	25	25	25	25	25	25
Present Seattle	90,000	307	282	257	240	224	207	190	182	173
Approved Seattle	90,000	282	257	232	215	199	182	165	157	148
	Reduction	25	25	25	25	25	25	25	25	25
Present Seattle	100,000	302	277	252	235	219	202	185	177	168
Approved Seattle	100,000	277	252	227	210	194	177	160	152	143
	Reduction	25	25	25	25	25	25	25	25	25
Present Seattle	Excess over 100,000	287	262	237	220	204	187	170	162	153
Approved Seattle	do	262	237	212	195	179	162	145	137	128
	Reduction	25	25	25	25	25	25	25	25	25

EXPLANATION OF STATEMENT NO. 2

This statement shows the present rates via the Puget Sound-Alaska Van Lines in hydrotrain and rail service at various minimum weights from Anchorage, Alaska, to Seattle, Wash., which rates are now used in constructing combination rates from Alaska to such destinations as Chicago, Ill. These rate factors are compared with the approved rate factors to be added to the transcontinental rates in making joint through rates to points east of the Rocky Mountains.

The statement shows reductions ranging from 12 cents to 35 cents per 100 pounds below the present rates. The new rates to be used in constructing the through tariff rates scheduled to be filed with the Interstate Commerce Commission are those now applicable only via Prince Rupert, British Columbia.

The class rates for classes 40 and lower covering mixed carloads of commodities not specifically provided for in the tariff will yield lower charges than the "freight all kinds" rates for such commodities at minimum weights of 80,000 pounds, class 30 or lower at minimum weights of 70,000 pounds, and class 25 and lower at minimum weights of 60,000 pounds. Alternation of class and commodity factors in constructing through rates has been approved.

Statement No. 2.—*Statement showing class rate factors, Anchorage, Alaska, to Seattle, Wash. (southbound), included in making through rates proposed by GSA compared with factors or arbitraries approved by transcontinental railroads*

[Rates are in cents per 100 pounds]

Class rates southbound	Minimum weight (pounds)	Classes								
		100, 92½	85, 77½	70, 65	60, 55	50, 45	40, 37½, 35, 32½	30, 27½	25, 22½	20, 17½, 16, 14½, 13
Present Seattle	20,000	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Approved Seattle	20,000	352	327	302	285	269	252	235	227	218
Present Seattle	30,000	342	317	292	275	259	242	225	217	208
Approved Seattle	30,000	307	282	257	240	224	207	190	182	173
	Reduction	−35	−35	−35	−35	−35	−35	−35	−35	−35
Present Seattle	40,000	302	277	252	235	219	202	185	177	168
Approved Seattle	40,000	282	257	232	215	199	182	165	157	148
	Reduction	−20	−20	−20	−20	−20	−20	−20	−20	−20
Present Seattle	50,000	277	252	227	210	194	177	160	152	143
Approved Seattle	50,000	264	239	214	197	181	164	147	139	130
	Reduction	−13	−13	−13	−13	−13	−13	−13	−13	−13
Present Seattle	60,000	262	237	212	195	179	162	145	137	128
Approved Seattle	60,000	250	225	200	183	167	150	133	125	116
	Reduction	−12	−12	−12	−12	−12	−12	−12	−12	−12
Present Seattle	70,000	252	227	202	185	169	152	135	127	118
Approved Seattle	70,000	240	215	190	173	157	140	123	115	106
	Reduction	−12	−12	−12	−12	−12	−12	−12	−12	−12
Present Seattle	80,000	245	220	195	178	162	145	128	120	111
Approved Seattle	80,000	232	207	182	165	149	132	115	107	98
	Reduction	−13	−13	−13	−13	−13	−13	−13	−13	−13
Present Seattle	90,000	242	217	192	175	159	142	125	117	108
Approved Seattle	90,000	230	205	180	163	147	130	113	105	96
	Reduction	−12	−12	−12	−12	−12	−12	−12	−12	−12
Present Seattle	100,000	240	215	190	173	157	140	123	115	106
Approved Seattle	100,000	227	202	177	160	144	127	110	102	93
	Reduction	−13	−13	−13	−13	−13	−13	−13	−13	−13
Present Seattle	Excess over 100,000	232	207	182	165	149	132	115	107	98
Approved Seattle	do	220	195	170	153	137	120	103	75	86
	Reduction	−12	−12	−12	−12	−12	−12	−12	−12	−12

[1] No rates at this minimum weight.

Statement No. 3.—*Currently published tariff rates on "freight, all kinds" compared with carrier-approved rates and also with GSA's proposed rates from Chicago, Ill., to Anchorage, Alaska*

[Rates are in cents per 100 pounds]

	20,000 pounds	30,000 pounds	40,000 pounds	50,000 pounds	60,000 pounds	70,000 pounds	80,000 pounds	90,000 pounds	100,000 pounds	Excess over 100,000 pounds
Current tariff rates via Alaska Steamship Co.:										
Northbound:										
To Seattle, Wash	461.00	461.00	369.00	369.00	369.00	369.00	369.00	369.00	369.00	369.00
Car unloading	12.40	12.40	12.40	12.40	12.40	12.40	12.40	12.40	12.40	12.40
Wharfage	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00
Handling	11.25	11.25	11.25	11.25	11.25	11.25	11.25	11.25	11.25	11.25
To Seward (AQ)	196.00	196.00	196.00	196.00	196.00	196.00	196.00	196.00	196.00	196.00
Wharfage	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00
Handling	33.50	33.50	33.50	33.50	33.50	33.50	33.50	33.50	33.50	33.50
Car unloading	23.00	23.00	23.00	23.00	23.00	23.00	23.00	23.00	23.00	23.00
Byd (24,000)	122.00	122.00	122.00	122.00	122.00	122.00	122.00	122.00	122.00	122.00
Total	873.15	873.15	781.15	781.15	781.15	781.15	781.15	781.15	781.15	781.15

STATEMENT No. 3.—*Currently published tariff rates on "freight, all kinds" compared with carrier-approved rates and also with GSA's proposed rates from Chicago, Ill., to Anchorage, Alaska*—Continued

[Rates are in cents per 100 pounds]

	20,000 pounds	30,000 pounds	40,000 pounds	50,000 pounds	60,000 pounds	70,000 pounds	80,000 pounds	90,000 pounds	100,000 pounds	Excess over 100,000 pounds
Present through boxcar service, Puget Sound-Alaska Van Lines (first effective July 12, 1963):										
Northbound:										
To Seattle	....	(36M) 461	369	369	369	369	369	369	369	369
Beyond	....	424	344	294	249	229	214	209	204	189
Total	....	885	713	663	618	598	583	578	573	558
Present through boxcar service, carrier approved [1] (effective June 10, 1964):										
Northbound:										
To Seattle	....	(36M) 461	369	369	369	369	369	369	369	369
Beyond	460	354	304	267	224	204	189	184	179	164
Total	....	815	673	636	593	573	558	553	548	533
Through boxcar service GSA's proposed factor (Aug. 27, 1962, as amended Aug. 29, 1963):										
Northbound:										
To Seattle	340	275	233	222	192	....	145	145	145	....
Beyond	337	300	285	267	224	....	189	184	179	....
Total	677	575	518	489	416	....	334	329	324	....
Difference, carrier approved rates under current conventional rates:										
Northbound	....	−58.15	−108.15	−145.15	−188.15	−208.15	−223.15	−228.15	−233.15	−248.15
Difference, carrier approved rates under present through boxcar rates. (Present through boxcar rates were published about 8 months after GSA proposal was filed.):										
Northbound	....	−70	−40	−27	−25	−25	−25	−25	−25	−25

[1] Applicable on all traffic rated lower than class 60.

LIVESTOCK FEED PROGRAM—DROUGHT RELIEF TO PENNSYLVANIA FARMERS

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD, on behalf of the Senator from Pennsylvania [Mr. SCOTT], a statement by him to which are appended some letters.

There being no objection, the statement and letters were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR SCOTT

A drought in Pennsylvania in 1962 and 1963 made it impossible for farmers in my State to raise enough oats, barley, and corn to feed their dairy cattle. The Department of Agriculture, under the livestock feed program, made feed available at a Government discount price.

Last month I wrote to the Department and asked that this program be extended, at least until October 1, when feed grain crops that are now under cultivation are ready for harvest.

The Department replied that because prospects for grain are good, and because dairy feed prices have not risen, it plans to permit the program to terminate in Pennsylvania on July 15, 1964.

But crops now under cultivation will not be ready until this fall. In the meantime, if the program is discontinued, farmers will be forced to pay the open-market price for feed which is substantially higher than the Government discount price. Thus, an undue hardship, and in some cases an impossible one, will be placed on Pennsylvania farmers.

I believe the real reason why this program is being discontinued was given at a conference on May 12, 1964, among members of the Pennsylvania dairy industry and representatives of the Agriculture Department.

J. Lin Huber, chairman of the Pennsylvania Milk Control Commission, wrote to me that when he requested further feed aid, he was told by Raphael V. Fitzgerald, Deputy Administrator for Commodity Operations of the Agriculture Stabilization and Conservation Service of the Department of Agriculture:

"Let me see. You men come from that part of the Nation where you have been in opposition to many of our programs. I believe you voted against our wheat referendum bill last spring. You don't seem to like what we do for you."

What has the 1963 wheat referendum got to do with drought relief to Pennsylvania farmers in 1964?

The wheat referendum was held on a plan by the administration to curtail the production of wheat through rigid controls.

In order to attract a favorable vote, the Agriculture Department unleashed a massive nationwide campaign. It distributed millions of booklets and hundreds of television and radio tapes to sell the plan. It also used some obvious brass knuckles techniques.

The Secretary of Agriculture warned of all sorts of dire consequences if farmers did not vote right. The Department provided money to farmer committeemen for organizational techniques and it utilized news management and scare tactics. Throughout, there was the implied threat that farmers would regret a vote against the plan.

On May 21, 1963, farmers throughout the Nation voted in the referendum to reject the administration's control plan. In Pennsylvania the vote went about 4 to 1 against.

Now apparently the Department is going to make farmers regret their vote. To judge by the report I have of the meeting last month the Department wants Pennsylvania farmers to know that they are being punished and therefore their pleas for a small extension of drought relief will not be considered.

This is a shocking abuse of Federal power. Rather than changing anyone's mind in Pennsylvania, this most recent action by the Agriculture Department confirms our belief that the Department needs less, not more, control over farmers and consumers.

MAY 14, 1964.

Hon. ORVILLE FREEMAN,
Secretary of Agriculture,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: I am writing to bring to your personal attention the effect of recent drought conditions in the Commonwealth of Pennsylvania.

Unseasonably dry weather in 1962, and again in 1963, ruined the feed corn crop and periled the economy of the Pennsylvania dairy industry. These producers of milk and other vital foods were unable to raise an adequate supply of food for their dairy cattle. Because crops now under cultivation will not be ready for harvest until this fall, a very difficult shortage of feed corn still exists.

The Department of Agriculture first recognized the seriousness of this unfortunate condition in October 1962, and subsequently made feed grains available under the emergency feed program. Yet, in spite of the urgent need to continue the program until this fall when the 1964 harvest of feed corn will be available, the emergency feed program will terminate July 15, 1964, unless you take immediate action.

I respectfully urge you to extend the emergency feed program through October 1, 1964. By this date, the harvest of the corn crops should allow the dairy industry of Pennsylvania to return to its natural economic balance. Your prompt action would assist not only the dairy industry but would play a vital role in the economy of the Commonwealth of Pennsylvania.

Sincerely,

HUGH SCOTT,
U.S. Senator.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., May 21, 1964.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: This is in response to your letter of May 14, 1964, concerning the need for extending feed grain assistance to

October 1, 1964, in the designated counties of Pennsylvania.

Public Law 127, 87th Congress, authorizes the Secretary of Agriculture to make CCC-owned feed grains available during periods of emergency resulting from flood, drought, etc. Such grains are to be made available at not less than 75 percent of the current support price for assistance in the preservation and maintenance of foundation herds of cattle (including producing dairy cattle), sheep and goats.

Since the purpose of the act is to preserve and maintain foundation herds during an emergency period, we have to be very careful not to continue the program beyond the emergency. We do not interpret the term "preserve and maintain" as a requirement to furnish CCC-owned grain until all of the feed crops are harvested for the year following the emergency.

Pasture and hay prospects are excellent, and barley prospects in the designated counties are good. With adequate moisture a good oat crop can be expected. Dairy feed prices have not risen; in fact, they are slightly below a year ago, and milk prices have held to about the same level as for this season last year. Under these circumstances we cannot conscientiously extend the livestock feed program in Pennsylvania.

We appreciate your interest in this matter and assure you if at a later date the State USDA Disaster Committee determines that conditions have worsened sufficiently to warrant feed grain assistance, careful consideration will be given to their report and recommendations.

Sincerely yours,

Robert S. Reed,
Assistant to the Secretary.

Commonwealth of Pennsylvania,
Milk Control Commission,
Harrisburg, May 19, 1964.

Hon. Hugh Scott,
U.S. Senate,
Washington, D.C.

Dear Senator Scott: I am taking the liberty to report to you concerning a meeting that was held in Washington, D.C., with a Mr. Fitzgerald, Harry Peters, a subordinate, along with another gentleman whose name I do not remember, of the ASC Division of the Department of Agriculture, on a matter that I am sure you are familiar with. Dr. James Honan, general manager of Inter-State Milk Producers, Bennet Carter, president of Interstate Milk Products and myself were in Washington on Tuesday, May 12, 1964, concerning an extension on the termination date for the purchase of corn for farmers in Pennsylvania under the drought relief program.

Dr. Honan stated the importance of dairy farmers being able to purchase corn at the discount Government price of approximately $1.08 versus their necessity of having to buy it from retail merchants on the open market at about $1.75 and the almost impossibility of these farmers being able to raise the funds to purchase this corn at the higher price. Therefore, since the drought of 1962 and 1963 has not yet made it possible for these farmers to grow their own grain, I felt that we were justified in asking for a continuance of the period through which we might purchase this at the discount Government price.

At this point, I came into the conversation and pointed out to Mr. Fitzgerald that the drought last fall made it impossible for many Pennsylvania farmers to plant barley, and oats, the first crop that could be planted in the spring of 1964, was still 90 days or more from the harvest when it might be used as feed, that I also felt that this was an extreme hardship on all dairy farmers in the many counties of Pennsylvania that have been declared disaster counties owing to the drought of the 2 years previously.

Mr. Fitzgerald then said to us, "Let me see. You men come from that part of the Nation where you have been in opposition to many of our programs. I believe you voted against our wheat referendum bill that we had up last spring. You don't seem to like what we do for you."

Senator Scott, this to me was an insult and I took the floor at this point and explained to Mr. Fitzgerald and his associates that, as an American, it seems to me that it is not necessary for me to agree with your programs or vote for those persons who come in power in order that we farmers in Pennsylvania might receive the same kind of treatment that would be dealt to farmers in any other part of the country regardless of their politics. I am calling this to your attention because I feel that Pennsylvania was highhandedly discriminated against because what should be our given right in a democracy of deciding what political party we want to be a part or what Government programs we wanted to vote for or against should not be used for or against us when decisions are to be made by employees of the Department of Agriculture.

Thanking you for your consideration of this whole matter, I remain,

Sincerely yours,

J. Lin Huber,
Chairman.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CIVIL RIGHTS ACT OF 1963

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendments (No. 577) proposed by the Senator from Louisiana [Mr. Long] to the amendments (No. 513) proposed by the Senator from Georgia [Mr. Talmadge] for himself and other Senators, relating to jury trials in criminal contempt cases.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 268 Leg.]

Aiken
Allott
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Ellender
Ervin
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Lausche
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Nelson
Neuberger
Pastore
Pell
Proxmire
Randolph
Robertson
Russell
Saltonstall
Scott
Sparkman
Talmadge
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. Burdick in the chair). A quorum is present.

THE POINT OF NO RETURN

Mr. McGOVERN. Mr. President, the status of the Negro in American life is the most serious moral crisis facing the Nation today.

That crisis has come to a head in the Senate of the United States during these long weeks of argument and struggle centering on the civil rights bill. We have examined in microscopic detail every section, every phrase, every word, and every conceivable interpretation of this bill.

Every feature of the proposed legislation has been hammered by charges, questions, and criticisms. Every one of the arguments against the measure have been patiently and painstakingly evaluated and answered. Nearly all of them were exaggerated, distorted, or largely false. Those that had even a shred of merit have been carefully weighed and in some cases incorporated in the proposed amendments to the bill.

But for the most part, the charges against the bill have been groundless. Most groundless of all is the repeated charge that the bill is unconstitutional. Actually, it seeks to guarantee basic constitutional and moral rights long denied to a minority of our citizens which the rest of us take for granted. As the late President Kennedy put it:

> We are confronted primarily with a moral issue. It is as old as the Scriptures and is as clear as the Constitution.

The Constitution does not limit the benefits of freedom to those born of white parents. Nor does the history of freedom in America leave any doubt on this issue. No one need fear this bill who really accepts the concept of equal dignity, equal freedom, and equal opportunity under the law for all our citizens. No one need fear this bill who really practices the implications of our Judeo-Christian tradition. That tradition rests on the twin foundation of the fatherhood of God and the brotherhood of man. That tradition does not confine itself to whites or Baptists or rich men or the native born; it proclaims: "All men are brothers."

As we used to sing in Sunday school:

Jesus loves the little children,
All the children of the world, red or yellow, black or white,
They are precious in His sight,
Jesus loves the little children of the world.

If we could just accept the message of that simple little Sunday school song, we would have embraced this civil rights bill months ago. Indeed, there would be no need for the bill if we truly believed in our hearts and practiced in our daily lives the simple truths of brotherhood.

But the facts are that we have not fully accepted brotherhood in our hearts or in our land. The proof of our unfinished business is in the black ghettos of our great cities of the North where millions of human beings are living on the edge of despair. They live in stinking, ugly, overcrowded tenements. Their children grow up on the sidewalks and in the alleys where the law of the jungle prevails. Their schools, churches, businesses, and recreational facilities deteriorate while the whites head for the suburbs.

The proof of our unfinished business is also in the South where the coldblooded killer of Medgar Evers runs free; where the brutal murderers of four little Alabama Sunday school girls still are on the loose spreading their message of hate and death; where ministers of the Gospel are beaten and clubbed because they have had the courage to stand up for the rights of Negro Americans.

The proof of our unfinished business is in Indiana, and Wisconsin, and Maryland where a crusading demagog whose career rests on discrimination against his fellow man was able to secure a sizable vote in his incredible bid for the Presidency.

Nor can we justify our unfinished business with the excuse that we have not yet had time to act.

Last year marked the 100th anniversary of the Emancipation Proclamation, whose unfulfilled hope continues as our most conspicuous failure in the cause of human dignity, both at home and abroad.

It is no longer possible to separate our domestic condition from our international posture. Thus, no weapon in the Communist propaganda arsenal is so damaging as the stark truth about race relations in the United States. In a world of oppressed colored people struggling for new dignity, no amount of millions spent on the Voice of America can offset the louder voice of racial discrimination across our country.

Four out of every five human beings of the globe are nonwhites. Since World War II, they have been largely caught up in an irrepressible demand for national independence. They have sounded the death knell to colonialism and they are now demanding the right to be treated as equals. Their leaders are proud and sensitive and impatient. And they will mock the pretensions of those who preach democracy but practice discrimination. We cannot possibly maintain our leadership in the world and close our eyes to our racial sins.

But the real crisis for America is not so much the image that we project abroad as it is the moral strength that we maintain in our own land and in our individual hearts. Let us pray to God that the Senate of the United States and the American people will meet that crisis in the best traditions of the Republic. For if we fail here, we shall fail everywhere. What is now at stake is the message of our churches and the practice of democracy.

I do not believe that any of us can really be proud of the present position of the Negro in American life. We have comforted ourselves in the knowledge that some steps have been taken on behalf of the Negro. To be sure, a series of decisions of the Supreme Court have cleared important ground. Furthermore, recent administrations have worked harder and accomplished more through executive action for the Negro than previous administrations. Likewise, important civil rights legislation was passed in 1957 and 1960.

So, some of us have been amazed to find that in spite of progress, we have misjudged the cry of the Negro for full citizenship. But it is now clear that we must swiftly muster all the wisdom and courage we can and then act quickly on a much broader scale. The Negro people have set in motion a moral revolution based on the Judeo-Christian ethic and the politics of Jefferson and Lincoln. That is the power of the democratic ideal which in the long run cannot be denied. It can be resisted, and clubbed, and shot at from ambush, but it cannot be contained, and each new advance will feed new demands until every American is fully free.

As Walter Lippmann puts it:

> There is, so to speak, a point of no return in a movement for the redress of grievances. That point is where gradual reform and token appeasement become suddenly not only insufficient but irritating. Then, instead of putting up with a little done slowly, there is a demand that much must be done suddenly.

This is one of the enduring lessons of the American Revolution. That Revolution was not born of the cruelest oppression in British Imperial history. Indeed, the Colonies enjoyed a comparatively high degree of freedom and independence. Yet, in a condition far better than others had endured, there suddenly came from the ferment of freedom a demand for independence—a willingness to stake lives, fortunes, and sacred honor on the gamble for liberty. Why?

Certainly, the idea was not born in 1776. It had long been affirmed in the ancient scriptures which the colonial fathers knew so well. Likewise, for centuries prior to 1776, the political and legal expression of the brotherhood of man and the sanctity of the individual had been growing in Anglo-Saxon thought. When Jefferson penned the Declaration of Independence, he borrowed heavily from the earlier words of the Englishman John Locke.

The day before our forefathers were Americans, they were Englishmen steeped in English traditions of law and government. Yet, they severed the ties with the mother country. They insisted on the full measure of their heritage. They insisted on being better Englishmen and truer practitioners of English philosophy than King George III desired. Their demands and demonstrations—of which the Boston Tea Party is only the most celebrated—reached a point of no return, the revolution was on, and Englishmen along the eastern shore of this continent became Americans.

I think if we can understand the spirit of 1776, we can better appreciate the rising expectations that are convulsing the American Negro community and the developing continents of the globe.

The American Revolution and countless other historic demands for a redress of grievances all indicate that the cause of freedom is fired by its own gains. The Negro's march toward full acceptance will accelerate rather than diminish with the victories of each passing day.

Roy Wilkins, A. Philip Randolph, Martin Luther King, James Farmer, James Meredith, Medgar Evers, and others have, without question, moved the Negro's demand for full citizenship to the point of no return.

Passage of the civil rights legislation now before the Senate is the next order of business. The alternative is a rising tide of racial unrest and disturbance.

I think it is quite possible that, if the Senate were to reject this long-awaited charter of rights, the people of the United States will be plunged into racial strife that will tear apart the fabric of our society. We would then see infuriated minority leaders and inflamed mobs and sulking killers on an unprecedented scale.

The Negro moderates who have counseled patience and legal redress would be swept aside by the radicals who preach hate and violence. We would then see the Bible of Martin Luther King and the long-suffering patience of Roy Wilkins replaced by the dangerous direct action of Malcolm X and his kind. Race riots, night bombings, assassinations would rage until blood flowed in the streets.

Make no mistake about it: The Negro militants are waiting in the wings, hoping that this bill will be defeated, thus discrediting the moderates and opening the way for a radical takeover of the Negro leadership. Malcolm X recently said:

> I intend to prove that you can't get civil rights in this country. The black man is maturing, he is waking up. That is why I say that we will have real violence.

I know that there are some Senators who want this bill defeated, but they are not hoping for its defeat as ardently as the radical Negro extremists who are hungrily waiting for a chance to prove that the moderates are wrong.

If I were living in the South or in a great northern city with a sizable Negro population, I would be on my knees praying for the safety of my family if the Senate spurned the reasonable, patient Negro and white leadership that most earnestly supports this bill.

The legislation now pending before the Senate calls for:

First. Extension of the Civil Rights Commission.

Second. Strengthening of Negro voting rights.

Third. Empowering the Attorney General to file school desegregation suits.

Fourth. Prohibition of racial discrimination in public places, restaurants, stores, hotels, and theaters.

Fifth. Prevention of discrimination in federally assisted programs; and

Sixth. Establishment of a Commission on Equal Employment Opportunity.

The bill before us would incorporate a full charter of civil rights in the law of the land.

We are going to enact this bill because the American people will not tolerate the only remaining alternative, which is a massive suppression on a mounting scale of the Negro and his white friends.

The Negro's demand for civil justice is greatly complicated by his hunger for better jobs and better schools and better housing at a time when all of these are in short supply for both whites and Negroes. The only answer here is a stepped-up U.S. economy leading to full employment, a stronger program of Federal assistance to schools, and expansion of home construction.

I am one Senator who believes that these domestic needs are so urgent and so fundamental to the strength of our Nation that we ought to shift some of our massive military budget to constructive purposes here at home. We already have the capacity to destroy the world several times over. Why not settle for a military capacity along more reasonable lines, and divert a few billion to the desperately needed priorities of jobs, education, health, and housing for those Negroes and whites who languish at the bottom of our affluent society? There can be no denying the fact that racial tensions are aggravated when there are not enough jobs and houses and schools to meet the Nation's needs. Thus, the cry of the Negro for a bigger piece of the national pie has set in motion new pressures for fuller employment in an expanding economy. We should not forget that once the colonists launched the war for independence from England, they unleashed forces that led also to a social revolution of American life.

Even this is not the whole issue in the Negro's challenge, however, and perhaps not the most fundamental. The late President Kennedy referred to a "moral problem" rooted in our hearts where laws cannot reach. This is the longing of every human being to be accepted as a person of worth, not because it is the law, but because it is right.

I think that in their own way the Negro demonstrator and his spokesmen are trying to reach this deeper dimension of the racial problem.

We may be better able to comprehend the message of Cambridge, Birmingham, and Jackson of today if we see it as a continuance of the forces unleashed at Philadelphia and Boston in 1776. For it seems to me that the Negro is saying to the white man: "If we are not accepted as your brothers, you cannot hold the birthright of America. If we are not free and equal, you cannot be free and equal. If we are not full members of society, your pursuit of happiness is endangered. If America cannot exemplify human dignity and equality at home, she cannot hold steady the torch of freedom around the world."

The Negro, in short, is echoing the words which Adams and Paine and Jefferson dispatched to King George nearly two centuries ago.

I do not press the analogy to suggest that the American Negro wants to withdraw from the Union. The Black Muslim may talk this way, but in so doing, he stands outside the mainstream of Negro life—both religiously and politically; thus, his leadership of his own people is limited to a small fragment.

The American Negro longs to be an American first and a Negro second. He has been molded by America's traditions and culture. He has been schooled in the doctrine of freedom and has died for it on foreign battlefields. The Negro revolution is different from other revolutions in that it does not seek to upset the established government or the economic system. It does not seek to burn the palace or cut off the king's head or storm the walls. Instead, it says in effect, "the American system is wonderful; let us in on it."

The nonviolent resistance of Martin Luther King—the lunch counter sit-ins, the bus rides, the street parades—have been associated with Gandhi. But Gandhi borrowed the idea from Henry David Thoreau and the New Testament.

The Negro's capacity to refrain from violence even when he is being kicked in the face stems from the religious and cultural traditions of his American past. It came first from the slave balconies of the churches, then from the segregated "colored church" and from preachers barely literate enough to read Scriptures and sing the gospel hymns. They were sensitive to the longings of the soul, however, and beyond some doctors of divinity they were attuned to that "man of sorrows, acquainted with grief." Out of the depths of his spirit the Negro created indigenous American art—the spiritual, the blues, and jazz.

In this spirit the Negro writer is saying that the frustration which drives the Negro into the streets, the lunchrooms, and the bus terminals is a desperate act of caring about the American ideal. He has been carrying on an unrequited love affair with America until his heart has burst its bounds.

Many voices may be heard in the Negro writer, but I would illustrate with James Baldwin who has been poignant on the theme of the estrangement of both Negro and white in America from each other and from their past. Baldwin was rebel enough and like many a white American who became an expatriate to Europe after World War I, he sought out Paris after World War II.

He found out what the best of his predecessors did—that he had to come home. It is more remarkable in him, though, for he did not know he had a home. From the vantage point of Europe, he found his country. He found out how profoundly American he was. He develops the theme in many places in his "Notes of a Native Son," the very title being significant. One brilliant essay develops his confrontation with a native African with whom he had tried to identify in order to recover his racial past. He finds it cannot be done. He is too deeply an American. A hybrid American perhaps, physically and in every other aspect of life which is dominated by the memory of the auction block, but still American and linked to his white brother:

> Dimly and for the first time there begins to fall into perspective the nature of the roles they have played in the lives and history of each other. Now he is bone of their bone, flesh of their flesh; they have loved and hated and obsessed and feared each other and his blood is in their soil. Therefore he cannot deny them, nor can they ever be divorced.

Baldwin goes on to say that he just cannot explain this to the African. Of course, he must establish himself in relation to a past, but he knows that it must be an American one:

> What time will bring Americans—

He writes—

> is at last their own identity. It is on this dangerous voyage and in the same boat that the American Negro will make peace with himself and with the voiceless many thousands gone before him.

In a recent television spotlight on the Negro in Washington, a colored minister said of his people:

> They are too sophisticated to pray, and too angry to laugh.

I thought in response that the white man is also "too sophisticated to pray, and too anxious to laugh." The way back will not be easy for either of us, either to the petition for grace on both sides, or the facing of his guilts by the white and the disciplining of his anger by the Negro. It will take us a while to meet and talk and pray as equals. We do not necessarily need to agree upon all matters. Dignity and reason and hopefully a little humor will show the way.

I believe that as both of us renew our heritage, as we relearn our history and tradition, we shall together reearn freedom. The great Goethe once wrote:

> What you have inherited from your fathers, earn it, in order truly to possess it.

The Reverend S. D. Whitney, Negro minister of Jackson, Miss., speaking at a memorial service for the slain Medgar Evers, said:

> Somewhere in the dark a sniper waited to play his part as the coward. But bullets do not destroy ideas. Nothing destroys an idea but a better idea. And the best idea is freedom. That is what he was fighting for.

And that is what we are called to do. If we heed that call, old words will be born anew and we will indeed become "one Nation, under God, indivisible, with liberty and justice for all."

Mr. President, I yield the floor.

PROPOSED REMODELING OF PENNSYLVANIA AVENUE

Mr. LAUSCHE. Mr. President, President Kennedy appointed a Council to study the planning and development of Pennsylvania Avenue. The title of that Council was, "The President's Council on Pennsylvania Avenue."

Recently, the Council filed a report; and it is my purpose now to express my opinion as to what that report contains.

In substance, the committee recommended the acquisition and clearing of 40 acres of land in an area to be known as the Grand Axis between the Capitol and the White House.

The land to be cleared lies between 6th and 13th Streets. There is contemplated, after the clearance of this land, the establishment of a great open space between the White House and the Capitol. The estimated cost would be $500 million.

When I heard the cost of this project, I began to wonder what concept these advisers have as to the ability of the taxpayers to continue to finance these inordinate spending programs. A recent

Washington Evening Star editorial properly described this project as "pie-in-the-sky planning."

Regarding the pertinent aspects of the recommendation, I go beyond the grand park which is recommended under the representation that there are not adequate spaces in Washington for public entertainment and otherwise.

I ask, how do people develop thoughts of this type? How does the Council reach the conclusion that $500 million should be spent on Pennsylvania Avenue by tearing down buildings which are presently good and usable and leveling them to the ground, and that the taxpayers will supinely endure that type of treatment?

I believe Congress is principally responsible for that kind of thinking. Congress is spending money as if it meant nothing. It has set an example so that members of the President's Council on Pennsylvania Avenue merely took a page out of the book of Congress past performance on what to do with the taxpayers' money.

The urban renewal program originally contemplated the removal of slums from the cities. When I was Governor of Ohio, I urged the adoption of laws by the Ohio Legislature which would implement urban renewal. The theme was that city slums are nontax producing because of their debilitated and disintegrated state, and that with a modest expenditure they could be acquired and torn down and modern new structures erected in their place, which would return new and additional taxes to the government. That was the original purpose of the urban renewal program.

In this proposed remodeling of Pennsylvania Avenue, the council recommends the acquisition of 40 acres of land and the tearing down of the buildings upon them—namely, the National Press Club Building—which I intermittently visit—a very usable, sound, solid structure, occupied by business enterprises from all over the country. I believe it stands 14 stories high. It would be one of the buildings that would be pounded to pieces by the iron ball and flattened by the bulldozer. Other usable buildings in the area would also be torn down.

Where will it lead us, if Washington, D.C., sets this kind of example? Where will it stop when other cities in the country will wish to tear down existing and usable buildings and construct new ones, primarily at the expense of the taxpayers of the Nation?

If we do it for Washington, how can we refuse to do it for other places in the country?

I made inquiry this morning about the Cleveland urban renewal development. Cleveland is my hometown. In Cleveland, there are six projects. Four of the projects were definitely slum areas. They were eliminated. The downtown project—the Erie View—falls out of that category in some small degree. For the city of Cleveland, with six projects, $43 million was expended by the Federal Government. Here it is intended to spend $500 million for one lone project in the downtown area, in effect, to make a park of it.

The world must laugh at us. I wonder what people from other areas say when they behold what we are doing? Frankly, I think that we are suffering from mental aberrations, delusions of grandeur without any concept of realism. It is a delight to see that agencies are speaking up on this item.

Mr. President, I ask unanimous consent that the very excellent editorial entitled "Bad Start" published in the Evening Star of Wednesday, June 3, 1964, be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Evening Star, June 3, 1964]

BAD START

Commissioner Tobriner suggests that a couple of safeguards should be added before anyone takes seriously the new plan advanced by the President's Council on Pennsylvania Avenue. Mr. Tobriner is too charitable.

The Council's proposals for the grand axis between the Capitol and the White House are excessive and needlessly destructive. They are a prize example of pie-in-the-sky planning, without regard for economic or political feasibility.

Obviously the Council's intentions were the very best. Unlike the frozen phalanx of massive Federal buildings along the south side of the avenue, for example, the new north side ought to be an attractive, lively blend of public and private structures. But saying this is quite different from the multitiered monstrosity which the Council proposes along the north side—requiring the clearance of 40 acres between 6th and 13th Streets. The complexities are simply unimaginable.

The plan's most offensive feature, however, is its enormous, barren "urban square," into which Pennsylvania Avenue would dead end near the Treasury Department. Heaven knows Washington sorely needs more means of enlivening its downtown area. But this vast and artificial desert—in an environment already abounding in open spaces—surely is not one of them. The proposal to raze any number of perfectly good buildings in this area from Pennsylvania Avenue all the way to F Street is particularly objectionable. What is architecturally wrong with the Willard Hotel? Must everything old—everything that imparts a sense of growth and solidity and familiarity in cities—give way to the wrecker's ball? This is not our idea of urban esthetics.

The failings of the Council scheme do not obscure, of course, the fact that some plan is urgently needed to establish a framework both for improvements to the avenue itself and for the reclamation of its shoddy, rundown northern boundary. What to do?

The Council plan is a bad start; but it is the only start we have. The logical next order of business, therefore, is to salvage its worthwhile features, and to shake the whole into a feasible program which the President, the Congress and the community can support with some hope that its proposals eventually will materialize.

President Johnson should request a set of specific recommendations toward that end from the agencies primarily responsible—the National Capital Planning Commission, the Fine Arts Commission and the District Commissioners. In view of their customary sluggishness, even on less difficult assignments, he by all means should set a deadline. For much of the area along Pennsylvania Avenue already is being transformed. And it would be nice to think that a workable program might be produced while there is still something left to plan.

Mr. LAUSCHE. Mr. President, in this editorial, the writer of this editorial asks:

> What is architecturally wrong with the Willard Hotel? Must everything old—everything that imparts a sense of growth and solidity and familiarity in cities—give way to the wrecker's ball? This is not our idea of urban esthetics.

The question contains implications that are absolutely true:

> What is architecturally wrong with the Willard Hotel? Must everything old—everything that imparts a sense of growth and solidity and familiarity in cities—give way to the wrecker's ball?

I was primarily—I might say practically solely—responsible for the establishment of the Cleveland Planning Commission. The Commission can do a good job, and it will do a good job in Washington, if, in devotion to its duty, its efforts are confined to planning.

The Planning Commission of Cleveland has done a good job. But it has occasionally moved toward the extravagant concept of what should be done. The bulldozer, the wrecking ball, the crane are seen too often tearing down good buildings, usable buildings in connection with the urban renewal program.

I venture to say that if this story can get back to the grassroots—where the citizen, laboring daily to keep himself sustained, is forced to carry the tax burden—there would be a deluge of complaints.

We talk about families of four with incomes of less than $3,000 a year being in poverty. Yet, here it is suggested: "Spend $500 million and make those families pay the tax." We are not going to improve the destitution of the fiscal struggle of citizens and families by this type of conduct with taxpayers' money.

More and more we shall be crushing them into the ground and making it impossible for them to carry out their responsibilities. I think it is wrong. I cannot understand it. I repeat that we had better look into the mirror and get the concept of what that mirror reflects—spendthrifts, unmindful of the citizens' rights.

Mr. President, I yield the floor.

Mr. ALLOTT. Mr. President, before the distinguished Senator from Ohio leaves the floor, I commend him for what he has had to say.

I think even a reasonable man could look at the philosophy behind the Urban Renewal Act and ask whether it did not actually help induce cities to become slum areas. Nevertheless, Congress did, in its wisdom, pass the act, and I supported it.

The questions that arise today are questions that we see arising more often before Congress. I think we should ask ourselves in a very hard way, in the light of the fiscal situation existing in this country, whether the Urban Renewal Act was ever intended to do such a thing as is contemplated here.

We have before us at this time in the Committee on Interior and Insular Affairs a bill for the relief of Alaska. In that case, it is asked that the Urban Renewal Act be extended to open areas. There perhaps is justification for this exception. The city of Valdez was, as the testimony taken showed, almost completely destroyed, and they must go into an entirely new area to rebuild the city.

But I do not believe and I cannot conceive that these points of historical interest, these old buildings, merely because they are old and represent an architecture of another era, which is not described as being a "box with a bunch of glass in it," should be destroyed for the purpose of making a park.

I agree with the Senator from Ohio on this subject, and I commend him for his statement.

Mr. LAUSCHE. I thank the Senator from Colorado for his statement.

TRIBUTE TO SENATOR HAYDEN

Mr. ALLOTT. Mr. President, I recently read an article entitled "Salute to Service," published in the Mining Congress Journal, relating to the President pro tempore of the Senate, the distinguished senior Senator from Arizona [Mr. HAYDEN]. I only wish that the picture of CARL HAYDEN when he was a very young man could be reproduced in the RECORD, but I know that that is not possible. Nevertheless, this fine article, a tribute to Senator HAYDEN, is one in which I feel certain every Senator will be interested. The tribute paid Senator HAYDEN is extremely well deserved. His long service to the Senate and his country should be an outstanding landmark for all Senators and the youth of the country.

Mr. President, I ask unanimous consent that the article may be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Mining Congress Journal, April 1964]

A JOURNAL TRIBUTE TO SENATOR CARL HAYDEN—SALUTE TO SERVICE

"During my boyhood in Arizona the Apaches were on the warpath. I can remember seeing their signal fires on the mountain peaks, and also remember when a sword was presented to Gen. Nelson A. Miles at Tucson in gratitude for the capture and deportation to Florida of Geronimo and his band of hostile Apaches."

These words were spoken recently in Washington by the President pro tempore of the U.S. Senate. At 86, Senator CARL HAYDEN, of Arizona, has broken all the longevity records for service on Capitol Hill. He has served in Congress for more than 52 years. When Arizona became a State in February 1912, HAYDEN was the State's first Representative. He served in the House for 15 years. In 1926 he was elected to the Senate for the term beginning in March 1927. He has served in the Senate ever since. He now holds the record for consecutive service in the Senate as well as for total service in that body.

A Democrat, HAYDEN's career in public service began long before 1912. In 1902 he was elected to the Town Council of Tempe, Ariz., his birthplace. In 1907 he was elected sheriff of Maricopa County.

It is obvious from HAYDEN's 52 years of service in the Congress that the people of Arizona have found themselves well served. So, too, have all Americans. A lifelong friend of the mining industry, Senator HAYDEN's special legislative interests cover such diverse fields as defense, public lands, Indian affairs, reclamation, highways, and agriculture. From his position as chairman of the powerful Senate Appropriations Committee, his influence affects every area of the Federal Government.

In reflecting on his remarkable career, the Senator himself put it best: "The real award for serving America is the knowledge that you have served her, and you never finish with that kind of service. It runs from the cradle to the grave, gives purpose and direction to our lives."

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. ALLOTT. Mr. President, we are discussing here a serious and great question, a fundamental, moral issue. The bill which we are now considering will, if adopted, work many changes not only in our legal order, but in our economic order as well. In this sense, the bill is not a moderate measure. Let us face that fact. It will bring about changes in the established scheme of things, and it is intended to do just that. It may affect certain parts of our Nation more than it will other parts. But it is a philosophical and moral issue about which we speak; not a regional or partisan matter.

When the time comes to vote on this bill—and I hope that the time will come soon—Senators will have to choose between two conflicting philosophies. The philosophy which is embodied in H.R. 7152, as amended by the substitute proposed by Senator DIRKSEN, and which underlies all its provisions, is democracy—equality, if you will; equality of opportunity for all our citizens. It is a reaffirmation of the philosophy expressed in our Declaration of Independence, "that all men are created equal, that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness."

When we discuss a moral question, we instinctively turn to the Bible, and to great men who have gone before us, who by their thoughts and lives have shaped the course of history. One of the great authors of our Republic and of our democratic ideals was Thomas Jefferson. In many of his writings he made clear his insistence on equal opportunity for all men. He faced the future with confidence—he was not fearful for the future of our country—if the so-called common man was allowed the full measure of citizenship. What he feared was the establishment of an oligarchy in America.

His was the mind which gave us the thought which I quoted before from the Declaration of Independence: "All men are created equal." He also expressed the choice which Senators will have to make when the time comes to vote on the bill now under discussion. He wrote:

> Men by their constitutions are naturally divided into two parties:
>
> First. Those who fear and distrust the people, and wish to draw all powers from them into the hands of the higher classes.
>
> Second. Those who identify themselves with the people, have confidence in them, cherish and consider them as the most honest and safe, although not the most wise depository of the public interests. In every country these two parties exist; and in every one where they are free to think, speak, and write, they will declare themselves.

Again, he said:

> I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion.

Speaking of these thoughts, Abraham Lincoln said of Jefferson:

> All honor to Jefferson—to the man who, in the concrete pressure of a struggle for national independence by a single people, had the coolness, forecast, and capacity to introduce into a merely revolutionary document, an abstract truth, applicable to all men and all times, and so to embalm it there, that today, and in all coming days, it shall be a rebuke and a stumbling block to the very harbingers of reappearing tyranny and oppression.

So, Mr. President, we have been engaged these past several weeks in this matter, discussing what rights men should have. In the bill before us are provisions dealing with voting rights, access to public accommodations, access to public facilities, educational opportunities, prohibition of discrimination in the use of Federal funds, equal employment opportunities, and so forth. Each of these areas stands by itself as a subject of discussion in this context. Some I may discuss later, but one deals particularly with a practice which is actually a discrimination against other States, and it is this which I would like to discuss now.

The title to which I refer is title I, voting rights. Its purpose is to forbid discrimination in registering voters. It is aimed to close out some of the more subtle discriminatory practices which have grown up in withholding the right to the ballot. Such practices as applying different standards of literacy to white and Negro applicants for voting registration have been documented, and undoubtedly do exist. I feel sure that no Senator condones this, or would argue that it is proper. Various other practices have been documented, designed as stumbling blocks to real suffrage.

Some Senators of the Southern States do argue, however, that the lower incidence of Negro voting registration in those States is due not to a lack of opportunity, but to a lack of desire to vote on the part of Negroes in those States. I think that two facts demonstrate the fallaciousness of this line of argument.

One of these facts is the demonstrated desire which Negroes have shown through picketing and marching in places where they have been denied the right to vote but are now asserting that right. Along this line, we had in Colorado, in the years just before Colorado was admitted to statehood, a serious disagreement over the question whether Negroes should be given the vote. In 1861, they were granted that right, but in 1864 it was revoked by the territorial legislature. A man named Barney Ford, who was a runaway slave, was instrumental in restoring that right.

Barney Ford was an amazing man. He went to Colorado in 1860, where he first tried prospecting. When he was driven off two mining claims, he opened a barbershop in Denver. When this was burned down in the fire of 1863, he went to the Kountze Bros. Bank to see if he could borrow $1,000 to rebuild. Luther Kountze refused to loan him the $1,000 because it was not enough with which to earn a living. Instead, he told Ford to find out what it would cost to put up a two-story building, then loaned him $9,000 to build it. Barney Ford opened the building with a restaurant, a bar, and a barbership in it. He repaid the loan in full in 90 days. This, a runaway slave did in Colorado in 1860.

Ford won and lost a fortune several times in the boom-and-bust years of early Colorado history. He entertained Gen. Ulysses S. Grant in his home, together with Generals Sherman and Sheridan, when Grant was in Denver during his campaign for the Presidency. He owned a home on Capitol Hill, in Denver, and his wife was listed in the social register. He established Denver's first adult education classes, designed to prepare Negroes to exercise the vote intelligently. Although he had never had any formal schooling, he was a voracious reader. He was a member of the Denver Republican County Central Committee, active in politics, and instrumental in convincing the Colorado Legislature to pass a State civil rights act.

Incidentally, Mr. President, there were in Colorado, near Breckenridge, two places named, until recently, Nigger Hill and Nigger Gulch. Because that term has come to be used in a derogatory sense, I requested that the names be changed to Barney Ford Hill and Ford Gulch, respectively; and I was gratified when I was recently informed that these name changes have been made, and that the former obnoxious names will no longer appear on the maps.

When we can point to individuals such as Barney Ford, and when we see evidence that Negroes are asking for, but are being denied, the right to vote, I find it difficult to believe that the low Negro vote in some of the Southern States is by choice of the Negroes themselves.

I have here some figures comparing the proportion of the population voting in certain Southern States with the proportion voting in certain predominantly Negro areas in New York and Chicago. I feel that these figures speak for themselves, and are ample refutation of the assertion that Negroes do not want the right to vote. I ask unanimous consent that these figures be inserted in the RECORD at this point in my remarks, as table A.

The PRESIDING OFFICER (Mr. MCGOVERN in the chair). Without objection, it is so ordered.

The table is as follows:

TABLE A

	Total population (1960 census)	Total vote in 1960 presidential election	Percent of total population voting
Georgia	3,943,116	733,349	19
Mississippi	2,178,141	298,171	14
South Carolina	2,382,594	386,688	16
11th assembly district, New York	90,318	42,344	47
14th assembly district, New York	139,440	37,344	30
2d ward, Chicago	75,361	26,664	35
3d ward, Chicago	53,160	25,172	47
4th ward, Chicago	83,398	33,159	40

Mr. ALLOTT. Mr. President, it is interesting to note that the table shows that the percentage of the population voting in the predominantly Negro wards of New York and Chicago is much greater than the percentage in Georgia, Mississippi, and South Carolina.

Mr. President, the denial of the right to vote is unconscionable. It is morally and legally wrong; and it is a wrong which discriminates, not only against the man who is deprived of his vote, but also against the citizens of other States. Why? Because the vote cast in a State which discriminates in voter registration may be worth several votes in a State which freely grants the elective franchise. The Constitution itself recognizes this fact, when it calls for a reduction of representation of States where the right to vote is abridged. As Senators know, this provision is found at section 2 of the 14th amendment, which provides:

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

I assume that provision is modified by the constitutional amendment, subsequently ratified, which gives to women the right of suffrage.

I recognized that this penalty has not been enforced, Mr. President; but I call attention to the fact that our Constitution recognizes and provides for the possibility that the right to vote may be denied or abridged.

I have prepared some figures which show some striking differences between the situation in States of the South and that in the rest of the country—see table I. The figures are based on the 1960 census and on the 1960 votes cast for presidential electors. I have here a table which shows first, the percentage of voting-age population in various States which actually cast a ballot for presidential electors in 1960; second, the Negro population as a percentage of the total population in each of those States; and third, the average number of voters—that is, those who actually voted for presidential electors in 1960—represented by one Congressman in those States.

The Southern States show a consistently lower percentage of the voting-age population voting. This ranges from a low of 25.6 percent in Mississippi to a high of 54.3 percent in North Carolina, with three other States below 32 percent—Alabama, 32.2 percent; Georgia, 31.3 percent; and South Carolina, 31.5 percent. In every one of those Southern States the percentage voting is below the U.S. average.

I have also listed in this chart the other States of the Union which have 7.5 percent or more Negroes in their population. In this group of States, the percentage voting-age population which voted in 1960 is significantly higher than in the Southern group. It ranges from a low of 58 percent in Maryland to a high of 76.2 percent in Illinois. Maryland is the only State of this group where the percentage of voting-age population actually casting a ballot was lower than the U.S. average. There are nine States in this group.

I also computed the number of Representatives which Colorado would be entitled to send to Congress, based on the 1960 vote, if total voters casting ballots for presidential electors, rather than total population, were the basis for apportioning representation.

This is shown in the table marked II. On the basis of Mississippi's 5 Representatives, Colorado would be entitled to 12—three times what she now sends to Congress. I have prepared a table which lists the States which, on the basis I have been speaking of, are overrepresented, to the extent that Colorado would be entitled to at least six Representatives, rather than her present four. Excluding Alaska and Nevada, each of which had less than 300,000 population in 1960, there are 14 States which, on this basis, are overrepresented. Of those 14, 3 are outside the southern bloc; and of those 3, 1 is a border State. I have also included in this table, for comparison purposes, the States of Pennsylvania, Illinois, and Oregon. The table shows the number of Representatives each of these States would be entitled to, compared with the number for the 14 States mentioned.

As an example, Pennsylvania would gain 57 Representatives compared to Mississippi, for a total of 84 Representatives if representation were based on the votes cast; Illinois would get 80 compared to Mississippi, rather than her present 24; and Oregon would be entitled to 13 rather than her 4.

I ask unanimous consent that these tables may be inserted in the RECORD at this point in my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I

	Percent of voting-age population casting ballot	Negro population as percent of total	Average number of voters represented by 1 Congressman
U.S. average	63.8	10.5	158,248
Colorado	73.1	2.3	184,000
SOUTHERN STATES			
Alabama	31.2	30.0	71,250
Arkansas	41.7	21.8	107,250
Florida	49.8	17.8	128,667
Georgia	31.3	28.5	73,300
Louisiana	45.7	31.9	101,000
Mississippi	25.6	42.0	59,600
North Carolina	54.3	24.5	124,455
South Carolina	31.5	34.8	64,500
Tennessee	50.6	16.5	116,889
Texas	43.4	12.4	100,521
Virginia	34.4	20.6	77,100
OTHER STATES WITH AT LEAST 7.5 PERCENT NEGRO POPULATION			
Delaware	74.3	13.6	197,000
Illinois	76.2	10.3	198,209
Maryland	58.0	16.7	131,875
Michigan	73.4	9.2	174,632
Missouri	72.9	9.0	193,400
New Jersey	72.5	8.5	184,867
New York	67.6	8.4	177,829
Ohio	71.3	8.1	173,417
Pennsylvania	70.5	7.5	185,444

TABLE II.—*States in comparison to which Colorado would be entitled to 6 or more Representatives* (*based on 1960 vote*)

State	Number of Representatives elected	Comparatively, entitled to—			
		Colorado (elects 4)	Pennsylvania (elects 27)	Illinois (elects 24)	Oregon (elects 4)
Alabama	8	10	70	67	11
Arizona	3	6	38	36	6
Arkansas	4	7	47	44	7
Florida	12	6	39	37	6
Georgia	10	10	68	65	11
Hawaii	2	8	54	51	8
Louisiana	8	7	50	47	8
Maryland	8	6	38	36	6
Mississippi	5	12	84	80	13
North Carolina	11	6	40	38	6
South Carolina	6	11	78	74	12
Tennessee	9	6	43	41	7
Texas	23	7	50	48	8
Virginia	10	10	65	62	10

NOTE.—Excluded: Alaska (12) and Nevada (7), each of which had under 300,000 population as of 1960.

TABLE III.—*States not listed above, which have at least 7.5 percent Negro population*

	Number of Representatives elected	Colorado
Delaware	1	4
Illinois	24	4
Michigan	19	4
Missouri	10	4
New Jersey	15	4
New York	41	4
Ohio	24	4
Pennsylvania	27	4

Mr. ALLOTT. Mr. President, I do not intend to argue this matter at great length. It seems to me that the correlation between Negro population and comparative overrepresentation in the Southern States, plus the corroborating evidence of denial of the right to vote which we have heard here on the Senate floor in the past weeks demonstrates that the withholding of the right to vote in one State is unfair to citizens of other States. Title I, even as it came from the House, is a reasonable, workable approach to the problem of voting discrimination. The amendments proposed to this title by the Senator from Illinois [Mr. DIRKSEN] for the leadership are not major, and regardless of whether those amendments are or are not adopted by the Senate, I believe that title I merits full support by all Senators.

I would like to move now to another title of the pending bill, one which has come under heavy attack by my southern friends.

A great deal has been said—pro and con—about title VI. Attempts have been made to picture that title as an unwarranted interference in private affairs by the Federal Government; as punitive—it has been termed a "blackjack"—as giving arbitrary power to minor bureaucrats; as an abdication by Congress of its legislative functions, and so forth.

I think it is time to get down to some very elementary first principles. Title VI states and makes effective a very simple, elementary principle—a principle of basic justice and morality. Section 601 declares that—

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Can there be any doubt about this? Does anyone question this principle? Does anyone say that the Congress of the United States should authorize, or permit, or condone racial discrimination in the use of Federal funds? If so, I have not heard them.

On April 7, the Senator from Connecticut [Mr. RIBICOFF] said:

> I would be glad to yield to any opponent of this bill who contends that discrimination in federally aided programs is justified.—CONGRESSIONAL RECORD, page 7064.

No one asked to be heard, then or later, to defend racial discrimination in the use of Federal funds. No one, during the weeks this bill has been debated, has made any attempt to justify racial discrimination in the use of Federal funds. No one could. It is too obviously right and necessary that funds to which all citizens contribute, regardless of color, should be spent so as to benefit all citizens, regardless of color. Those who distribute Federal funds must be just as colorblind as those who collect them.

Obvious as this principle is, the distressing fact is that it is not now being carried out. I shall not take time to repeat the many examples of discrimination in the use and enjoyment of the benefit of Federal funds that have already been cited by other Senators during this debate. The essential fact that there is such discrimination in the use of Federal funds has not been challenged. It is high time for the Congress of the United States to accept its responsibility to do something about that fact.

Some of our southern friends have, it is true, seemed to suggest that it is all right for the Federal Government to support, indeed to help create segregated schools, segregated hospitals, and the like so long as both Negroes and whites receive some benefits. I have not heard this argument made explicitly, but it has been suggested by the tenor of some questions that have been asked. To any such argument there are two answers. First, "separate" often does not mean "equal." The record contains ample evidence that, where the system of racial segregation is maintained, the result is all too often that Negroes receive the benefits of less Federal money per capita for education, for school lunches, for medical care, and so forth, than do whites; that Negroes are excluded from federally assisted training for the more skilled jobs and professions; and so on. Second, and more basic, what happens when Federal funds go to support a segregated school or hospital is that the U.S. Government is helping to support and maintain a violation of the U.S. Constitution. There is no way in which such support can be justified, either legally or morally. How can we expect our citizens to have any respect for the Constitution if the Federal Government itself gives aid and comfort to violations of the Constitution—consistently, year after year—and Congress does nothing to stop it? How can we Senators be true to our oaths to support the Constitution if we allow this to go on?

And so I hope that as we debate title VI further we can at least all agree on one fundamental point—that the policy expressed in section 601 is right, is necessary, and is the only possible position which the Congress of the United States can take.

Just as there can be no argument over the principle which is stated in section 601 and which underlies the whole of title VI, I submit that there also can be no argument about the right and obligation of the Congress to deal with this subject. Other titles of the bill may raise legitimate questions as to the respective functions of the Federal Government as compared with the State and local governments, or the extent to which it is appropriate that any government regulate private conduct. I can sympathize with the arguments made, along these lines, against the public accommodations provisions—title II—for example, and against the equal employment opportunity section—title VII—although I feel these arguments are outweighed by other considerations in view of the pending substitute. But title VI does not involve any extension of Federal power over State and local governments or over private individuals. The Federal Government has, right now, the power and responsibility to control the way in which Federal funds are spent. And it now exercises that responsibility in all sorts of ways, which involve at least as much "interference" in State and local affairs, or the affairs of private businessmen, as would anything authorized by title VI. When I compare the attacks made on title VI with what the Federal Government is now doing in some of these programs, with general acceptance, I am impelled to ask "What is all the shouting about?" The whole argument has an air of unreality.

The simple fact is that if Federal money is to be spent on programs Congress not only has the obligation, but also it has the duty to prescribe the way and the manner in which those funds shall be used. How else may Congress assure itself that the moneys so appropriated are diverted to the purposes it intended? This is really all title VI does. The Federal Government collects taxes from all. This title would provide all people with the right to participate in them equally in the respective areas they encompass.

Let us look at a few of the conditions which are now placed on Federal grants and loans.

I shall begin with the Hatch Act, enacted in 1940 and amended in 1948 and 1949 (5 U.S.C. 118k). By that act, Congress prohibited State and local officers and employees, whose principal employment was "in connection with any activity which is financed in whole or in part by grants or loans made by the United States," from taking active part in political management or political campaigns, and from certain other political activities. In other words, the Congress said to the States and localities, "If you accept Federal grants or loans for highway construction, old age assistance, or any of the other purposes for which Federal grants or loans are made, then the State and local officials administering these programs have to live up to a certain ethical code prescribed by act of Congress and by the regulations of the Civil Service Commission under it." If a State or local officer or employee does not live up to this code, the Civil Service Commission can order that he be fired, and if he is not fired, can reduce the grant or loan by an amount equal to 2 years' pay for the offending officer or employee.

Under this law, which has been on the books for 24 years, a Federal administrative agency can order a State, a county, or a city to fire a named officer or employee because, in the Federal agency's opinion, he has not lived up to Federal standards as to the political activity which is proper for a public official.

I must qualify that sentence and say I am referring in that instance to areas in which the Federal Government provides money by way of grant or loan.

It does not matter that such activity may be regarded as wholly proper and lawful by the State, county, or city; these officials handling Federal money have to live up to a Federal code. If it is appropriate for the Federal Government, as a condition of making grants or loans, to tell State and local governments what kinds of political activities their officers and employees can engage in, I submit it is no less appropriate for the Federal Government, as a condition of making grants or loans, to require that State and local governments comply with the U.S. Constitution by refraining from racial discrimination in their use of the Federal funds.

The Hill-Burton Act—and I may mention that the distinguished Senator from Alabama [Mr. HILL], one of the authors of that act, is now in the Chamber—affords another example of the detailed regulation of both State and private activities which is a frequent concomitant of Federal grant programs. Under that act, as under most Federal programs for aid to construction, the Surgeon General must approve the detailed plans and specifications of the project. He has issued regulations prescribing basic construction standards, which cover 40 pages in the Code of Federal Regulations—42 C.F.R. 53.132 and the following. Let me mention just a few of the things his regulations prescribe—and remember that they apply to both public and private hospitals, nursing homes and the like, which receive Federal grants. In a general hospital, to be eligible for a grant—

> No room should have more than four beds. Each room shall have a lavatory. Nursing units composed of multibed rooms shall have a quiet room. No patients' bedrooms shall be located on any floor which is below grade (42 C.F.R. 53.134(c)).

The Hill-Burton Act was enacted in 1946 with bipartisan support, including the support of the distinguished Republican Senators from Ohio, Senators Burton and Taft. Under authority expressly conferred by that act, the Surgeon General, by regulation, has required, as a condition of any grants under the act to hospitals within a State, that the State officials administering its plan for hospital construction must be selected and promoted in accordance with a merit system, the essential features of which are spelled out in the Surgeon General's regulations, and must avoid any conflicts of interests. See 42 U.S.C. 291f; 42 C.F.R. 53.213. Here a Federal official, as a condition of making grants, is telling the States how they shall appoint and promote their officials, and what conflicts of interests they must avoid. And the act specifically provides that the Surgeon General can stop all payments to hospitals in a State if he finds the State is not complying with those requirements—42 U.S.C. 291j. The Social Security Act contains similar provisions. See, for example, 42 U.S.C. 602(a)(5). If it is appropriate for the Federal Government, as a condition of a grant, to require that a State adopt the merit system for its employees—with competitive examinations, tenure, classification of positions according to difficulty and responsibility, and so forth—and that State employees refrain from certain conflicts of interests, it certainly seems to me that the Federal Government can require, as a condition of a grant or loan, that the grantee or borrower refrain from racial discrimination.

The requirements of the Hatch Act were challenged in the courts as an interference with State sovereignty, and the Supreme Court in 1947, in *Oklahoma* v. *Civil Service Commission*, 330 U.S. 127, rejected that challenge. The Court said, at page 143:

> While the United States is not concerned with, and has no power to regulate, local political activities as such of State officials, it does have power to fix the terms on which its money allotments to States shall be disbursed.

In other, earlier cases, the Supreme Court also sustained the power of the United States to impose and enforce conditions on grants. They involved land grants, but the principle is the same whether the grant is of land or of money.

One such case involved railroad land grants. By several acts between 1866 and 1870 Congress had granted large tracts of public lands to several railroads, on the condition that the lands not needed for railroad purposes be sold to actual settlers, in quantities not to exceed one quarter section per purchaser, and at a price not to exceed $250 per acre. The railroads did not comply with these conditions in all instances; they sold some lands in greater quantities and at a higher price than those specified, and withdrew other lands from sale so that they could conduct timber operations on them. The Supreme Court, in 1914, enjoined all further sale of the lands or disposition or use of the timber thereon till Congress could act further; and after Congress had enacted the Chamberlain-Ferriss Act of 1916 it entered its final order, the effect of which, briefly summarized, was to transfer back to the United States all of the granted lands which had not been sold and to require the railroad to account for its profits from unauthorized sales and timbering operations. *Oregon and California R.R. Co.* v. *United States*, 238 U.S. 393 (1914); 243 U.S. 549 (1917). In other words, because the grantees did not live up to the conditions specified by Congress, the grants were revoked, except as to lands which had been acquired by third parties, and the grantees were required to account for the profits from actions which violated the conditions of the grant.

So the principle embodied in title VI is an old and well-established one. Congress has the power, in making grants of land or money, to impose such reasonable conditions on the grant as it deems to be in the public interest. Congress has the power, as the Court said in the Oklahoma case, "to fix the terms on which its money allotments shall be disbursed."

Let me continue with some other examples of the way grant programs are now being administered.

Mental hospitals must provide theater facilities, chapel facilities with three offices for ecclesiastics, and three prayer rooms; and recreation facilities, including bowling alleys, a billiard room, a ping pong room, a patients' beauty shop, a canteen, a library, and music rooms—42 C.F.R. 53.136(l).

Doors must be at least 3 feet 8 inches wide. "No door shall swing into the corridor except closet doors." Corridors must be at least 7 feet wide and stairs at least 3 feet 8 inches wide—42 C.F.R. 150(a).

The regulations prescribe in considerable detail the kind of finish required for floors, walls, and ceilings. For example, ceilings of some areas must be painted with waterproof paint, while certain other ceilings must be accoustically treated—42 C.F.R. 53.151(a).

And so on, for 40 pages.

It is not my purpose to criticize these regulations, or to suggest that the Surgeon General has gone into excessive detail in his control of construction standards. My point is, simply, that if it is appropriate for the Federal Government, as a condition of a grant, to tell a private hospital how many beds it may have in a room, or which way doors can swing, or how many prayer rooms it must provide in a chapel, it certainly is appropriate to prohibit the hospital from discriminating on grounds of race, color, or national origin.

Under many Federal grant programs, there is quite detailed regulation of the contract arrangements under which the work is done, and of wage rates, hours, and other labor matters. Let me say, in this respect, that one of the outstanding examples, of course, is the Bacon-Davis Act. Many statutes require payment of prevailing wages, as established by the Secretary of Labor, for construction work assisted by Federal grants and loans; for example, the Federal Highway Act, 23 U.S.C. 113; the Housing Act of 1949, 42 U.S.C. 1459; the School Construction Act, 20 U.S.C. 636(b)(1); the Hill-Burton Act, 42 U.S.C. 291h(a); the Federal Airport Act, 49 U.S.C. 1114(b). In such cases, Congress, by the Work Hours Act of 1962, 40 U.S.C. 327, has also specified the 8-hour day and 40-hour week, with time and a half for overtime. The Highway Act prohibits use of convict labor—23 U.S.C. 114. The Airport Act contains a similar prohibition, and also requires that preference be given to veterans—49 U.S.C. 1114(c). Regulations under the Highway Act prohibit discrimination against labor, materials, or contractors from outside the State—23 C.F.R. 1.16, 1.19, 1.24(b)—and, by Executive Order 11114, issued June 23, 1963, contractors on construction financed by Federal grants and loans are prohibited from racial or religious discrimination in employment.

All these requirements, I wish to emphasize, apply to private construction firms which enter into contracts with State or local agencies, where the cost of the contract is paid, in whole or in part, by Federal grants or loans. They typically apply also to any subcontracts let by these contractors.

The kind of detailed control over construction contractors that may be exercised under a grant program is exemplified by the "instructions to applicants" issued by the Commissioner of Education under the School Construction Act—Public Law 815. These instructions require among other things: First, that "all proposed preconstruction documents" be submitted to a Federal official for his prior approval; second, that significant changes in the construction contract let by the school board be submitted to a Federal official for prior approval; third, that the contractor furnish specified bid and performance bonds; fourth, that the construction contract must provide that Federal officials "at all times will be permitted to inspect all work, materials, payrolls, records of personnel, invoices of material, and other relevant data and record"; fifth, that the architectural agreement must require the architect to perform appropriate on-site inspections and to submit biweekly reports to a Federal official; sixth, that adequate financial records will be maintained; seventh, that a list of all equipment to be purchased be approved by a Federal official; eighth, that a Federal official will advise with respect to development of specifications and procurement procedures for such equipment; ninth, that each award of a contract to suppliers of such equipment must be approved by a Federal official.

Failure to comply with any of these requirements can result in cutting off Federal funds for the project. See 20 U.S.C. 641.

Let me give just one more example. In the whole field of State welfare programs which receive Federal grants under the Social Security Act, Congress has provided that the details of the State plan must be approved by the Social Security Administrator, and has itself prescribed various features of such plans. For instance, a State plan for aid to dependent children, in order to be eligible for assistance by a Federal grant, must satisfy each of 12 requirements. Among other things, it must "provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly associated with the administration of aid to dependent children"—42 U.S.C. 602(a)(8)—and it may not require more than 1 year's residence in the State as a condition of eligibility—42 U.S.C. 602(b). If these or other requirements are not complied with, payments are cut off—42 U.S.C. 604. There is no judicial review of such a cutoff. See *State of Arizona* v. *Hobby*, 221 F. 2d 478 (C.A.D.C. 1954).

I perhaps should apologize for laboring at such length a point which seems obvious—namely, that when the Federal Government extends financial assistance to States, localities, or private persons, it has the right to attach reasonable conditions to that assistance. But it is precisely this point which seems to be ignored in most of the attacks which have been made on title VI. Title VI is treated as if it involved some vast new extension of Federal power over State and local governments and private persons, instead of simply an exercise of the traditional and long-established right of the United States to fix the terms on which Federal funds will be disbursed.

So the second point which I hope will be generally accepted in any further discussion of title VI is that the Congress of the United States has the right and the power to specify, as a condition of any grants or loans of Federal funds, that the grantee must abide by the policy of the United States that there shall be no discrimination based on race, color, or national origin in the use of these Federal funds, or in participation in and receipt of the benefits of the program and activities which they help finance.

Not only does the Congress have the right to say this, I submit it has a clear obligation to say it. I have already pointed out that, where Federal funds go to support racially segregated schools and other public institutions or activities, the result is that funds of the United States are used to support and maintain a violation of the Constitution of the United States. Can there be any doubt as to our obligation to make sure that this does not happen? Can there be any doubt that it is our duty, as Senators sworn to uphold the Constitution, to see to it that funds authorized by Congress are not spent in a manner which supports violations of the Constitution?

The point is not confined to those programs which involve payments to States and localities. The Federal courts have ruled that racial segregation by a private hospital which receives Hill-Burton grants is a violation of the Constitution. We do not know yet how far this principle goes as a matter of constitutional law, but there is at least a serious question whether other grants to private organizations which engage in racial segregation or other racial discrimination may not involve a violation of the Constitution. Do we want to run this risk? Is this not an area in which the United States must—like Caesar's wife—be above suspicion?

But my point is more basic. Racial discrimination is morally offensive. It has no place in our society. There are limits on how far the Federal Government should go in prohibiting such discrimination by private persons. But surely it has an obligation to see to it that funds of the United States are not used to support, maintain, and promote such discrimination. At a time when the Congress is legislating to protect the rights of minorities to be free from racial discrimination, we surely cannot allow Federal funds to be used to promote and maintain such discrimination.

So I say to the Senate that title VI would enact into law a principle which is legally and morally sound; that Congress has the unquestioned right to enact that principle into a law which will control the expenditures of Federal funds; and that, in view of the evidence which has been presented to us, we have a clear moral obligation to do so. Indeed, such a step is long overdue. It is a shocking thing that, for 10 years since the Supreme Court declared school segregation unconstitutional, the Federal Government has been using funds authorized and appropriated by Congress to help build and operate schools which operate in violation of the Constitution. It is a shocking thing that the courts have had to declare unconstitutional the "separate but equal" provision of the Hill-Burton Act, and that similar provisions are still on the statute books. It is high time that the Congress of the United States accepted its responsibilities, and began to catch up with the courts and the executive branch on this matter. Enactment of title VI is many years overdue. Let us not delay it any further.

Mr. HICKENLOOPER. Mr. President, will the Senator from Colorado yield?

Mr. ALLOTT. I am very happy to yield.

Mr. HICKENLOOPER. I wonder whether the Senator from Colorado draws any parallel between the very pertinent statements he has made in connection with the table he has submitted, which gives a comparison based on the percentage of the total population voting in certain States and in certain districts or wards, and the situation now existing in the Senate Chamber. I understand that Senators who recently have discussed at some length the pending proposals, said, the day before yesterday, "We are through; now let us vote on the amendment." However, for some strange reason, a number of Senators—but not the Senator from Colorado—who are proponents of the bill, are now objecting to the taking of votes. Therefore, we find that we are wasting time today, and that we wasted time yesterday, and that undoubtedly we shall continue to waste time tomorrow.

Does the Senator from Colorado care to comment on that situation?

Mr. ALLOTT. I can speak only for myself, not for others. For about 2 months I have been denied the right to vote on these proposals. Therefore, I hope cloture will be ordered.

Mr. HICKENLOOPER. But does the Senator from Colorado know of any reason why the Senate cannot vote today?

Mr. ALLOTT. I have my own opinion about that. I believe it reasonable to wait several days, following the preceding 65 or 70 days of Senate proceedings.

Mr. HICKENLOOPER. Very well; I shall not question the Senator from Colorado further about that matter.

Mr. ALLOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 269 Leg.]

Aiken
Allott
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Case
Cooper
Curtis
Dodd
Dominick
Douglas
Ellender
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Jackson
Javits
Jordan, Idaho
Keating
Lausche
Magnuson
Mansfield
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Mundt
Neuberger
Pearson
Pell
Proxmire
Randolph
Saltonstall
Scott
Sparkman
Talmadge
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. Walters in the chair). A quorum is present.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may have leave to yield to sundry Senators for what will be, in effect, morning-hour business; that then I may have leave in the course of my speech to yield to the Senator from Massachusetts [Mr. Saltonstall], for more extended remarks; and also to the Senator from Minnesota [Mr. Humphrey], for more extended remarks; and that in that connection I shall not lose my right to the floor or shall not be charged with making more than one speech during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDRESSES BY PRESIDENT JOHNSON AT THE U.S. COAST GUARD ACADEMY AND THE ELECTRIC BOAT CO.

Mr. DODD. Mr. President——

Mr. JAVITS. Mr. President, at this time I yield to the Senator from Connecticut [Mr. Dodd].

The PRESIDING OFFICER. Without objection, the Senator from Connecticut is recognized.

Mr. DODD. Mr. President, yesterday, June 3, President Lyndon B. Johnson visited Connecticut. It was my privilege to accompany him, along with Senators Ribicoff, Magnuson, Thurmond, and Pell and several Members of the House.

Everywhere the President went he was warmly greeted by huge and enthusiastic crowds. There has never been such a turnout as the one we witnessed in New London yesterday.

The President's address at the commencement exercises at the Coast Guard Academy was one of the most impressive, eloquent, and balanced statements on national policy that it has been my privilege to hear. President Johnson told America and the world awesome facts of our military might, facts which will cheer our friends and sober our foes. And having made clear that that might will be used wherever necessary to defend freedom, he stated in equally clear terms that we seek to use it only in the service of peace.

This is a policy which every American should applaud, and on which the whole Nation can and will unite.

The President then visited the Electric Boat Co., at Groton, Conn., to take part in the keel-laying of the submarine *Pargo*. His reception there by the many thousands of employees of the Electric Boat Co. was, to say the least, tumultuous. His brief address, in which he characterized the men and women who build our Polaris submarines as "defenders of America's freedom," warmed the hearts of all who heard it.

It was altogether a great day for Connecticut, and we are tremendously pleased and deeply grateful that the President came to spend a day with us.

Mr. President, I ask unanimous consent that the President's address at the U.S. Coast Guard Academy in New London, and his remarks at the keel laying of the *Pargo* be printed in the Record.

There being no objection, the addresses were ordered to be printed in the Record, as follows:

Remarks of the President at the Coast Guard Academy, New London, Conn.

Admiral Roland, Admiral Smith, Secretary and Mrs. Dillon, Governor Dempsey, Connecticut's great and able Senators, my good friends, Tom Dodd and Abe Ribicoff, Senator Magnuson, Senator Thurmond, Senator Pell, Members of Connecticut's fine delegation to the Congress, and other Congressmen who work so hard in behalf of our Coast Guard, my fellow Americans, in 1790, the Nation which had fought a revolution against taxation without representation, discovered that some of its citizens weren't much happier about taxation with representation. And so, in what was probably the country's first economy drive, the Coast Guard was founded at a cost of $10,000 for 10 cutters.

In tribute to your traditions, and in anticipation of your achievements, as Commander in Chief I hereby grant a general amnesty, and do excuse all Coast Guard cadets from any penalties which you may now carry with you.

The official mission of the Coast Guard, which hangs in each room of this Academy, places you "in the service of [your] country and humanity."

That mission, your mission, is also the mission of your Nation. For today we Americans share responsibility not only for our own security but for the security of all free nations, not only for our own society but for an entire civilization, not only for our own liberty but for the hopes of all humanity.

In pursuit of such responsibilities national security requires more than national strength. It requires, first of all, a nation dedicated to justice and to the improvement of life for its own people. It requires a nation determined to help others eliminate the despair and the human degradation on which the enemies of freedom feed. It requires a nation devoted, through speech and deed, to showing those who may grow weary of will, or fearful of the future, that the cause of human dignity is on the march, its shadow is lengthening, and victory is moving nearer. But our hope for success in the aims of peace rests also on the strength of our arms.

As Winston Churchill once said: "Civilization will not last, freedom will not survive, peace will not be kept, unless mankind unites together to defend them and show themselves possessed of a power before which barbaric forces will stand in awe."

We, as well as our adversaries, must stand in awe before the power our craft has created and our wisdom must labor to control. In every area of national strength America today is stronger than it has ever been before. It is stronger than any adversary or combination of adversaries. It is stronger than the combined might of all the nations in the history of the world.

And I confidently predict that strength will continue to grow more rapidly than the might of all others.

The first area of this increasing strength is our ability to deter atomic destruction. In the past 3 years we have increased our nuclear power on alert 2½ times, and our nuclear superiority will continue to grow until we reach agreement on arms control.

We have more than 1,000 fully armed ICBM's and Polaris missiles ready for retaliation. The Soviet Union has far fewer, and none ready to be launched beneath the seas. We have more than 1,100 strategic bombers, many of which are equipped with air-to-surface and decoy missiles to help them reach almost any target. The Soviet Union, we estimate, could with difficulty send less than one-third of this number over targets in the United States.

Against such force the combined destructive power of every battle ever fought by man is like a firecracker thrown against the sun.

The second area of increasing strength is our ability to fight less than all-out war. In the past 3 years we have raised the number of combat ready divisions 45 percent. They can be moved swiftly around the world by an airlift capacity which has increased 75 percent. Supporting tactical aircraft have been increased over 30 percent, and the number of tactical nuclear warheads in Europe has been raised 60 percent. We and our NATO allies now have 5 million men under arms. In addition we are now ready to mobilize large reserves in the event of conflict. Six divisions, with all supporting units, can be moved into action in a few weeks.

And we are continuing to build our forces. In a few years our airlift capacity will be five times what it was in 1961. Advanced weapons and equipment are flowing to our armies. Our fleet is being modernized through a decade-long shipbuilding program. And new tactical aircraft are being built.

A third area of increasing strength is the struggle against subversion. Our adversaries, convinced that direct attack would be aimless, today resort to terror, subversion, and guerrilla warfare. To meet this threat we began a large effort to train special forces to fight internal subversion. Since January 1961 we have increased these specialized forces eight times. We have trained more than 100,000 officers in these techniques. We have given special emphasis to this form of warfare in the training of all military units.

Our Army now has six special action forces on call around the world to assist our friendly nations. They are skilled in the languages and problems of the area in which they are stationed. The Navy and Air Force have several thousand men whose abilities, training, equipment, and mission are designed to combat clandestine attack. And behind these groups are five brigade-size backup forces ready to move into instant action.

But just as subversion has many faces, our responses must take many forms. We have worked to increase and integrate all the resources, political, and social as well as military and economic, needed to meet a threat which tears at the entire fabric of a society.

But success in fighting subversion ultimately rests on the skill of the soldiers of the threatened country. We now have 344 teams at work in 49 countries to train the local military in the most advanced techniques of internal defense.

Subversive warfare is often difficult, dirty, and deadly. Victory comes only to those with the desire to protect their own freedom. But such conflict requires weapons as well as will, ability as well as aspiration. And we will continue to increase this strength until our adversaries are convinced that this course too will not lead to conquest.

The fourth area of increasing strength is in the development of new weapons for deterrence and defense. In the past several years we have begun many important new weapons systems. Minuteman II will have twice the accuracy of the first Minuteman. The new Nike-X, when its development is completed, will give us the option to deploy, if national security requires it, the best antiballistics missile available to any nation. We are developing a new aircraft, the F-III, with much greater range, payload, and ability at air combat than present tactical bombers or fighters.

The LANCE missile, the EX-10 torpedo, the A7A attack aircraft, a new main battle tank, new antitank missile systems, are the emerging products of development that we are carrying on. And that effort is without parallel in all the world. We will continue to carry forward new projects which offer hope of adding substantially to our strength. I can assure the American people that the United States is, and will remain, first in the use of science and technology for the protection of the people.

The fifth area and the most important of increasing strength is the ability of the American fighting man. However impressive or ingenious, our weapons can be no better than the men who man them. The complexities of modern weapons require men of high skill. The complexities of modern warfare require men of great knowledge. The complexities of the modern world require men of broad outlook.

Today 52 percent of our enlisted men are under 25 and are high school graduates, compared with 39 percent in the country as a whole who are high school graduates. Sixty-five percent of our commissioned officers are college graduates today, compared with 7 percent in the Nation. Twenty-five thousand officers hold graduate degrees and thousands more are studying for such degrees.

In encampments across the world millions of men and women have chosen to serve with low pay and high hazard, with deep devotion and silent sacrifice, so that their fellow Americans might enjoy the rich legacy of liberty. They stand the hard vigil that we may pursue the high vision of flourishing freedom in a world at peace. These are the sources of the strength we build, knowing, in the words of the Bible, "When the strong man armed keepeth his palace, his goods are in peace."

The necessities of our strength are as varied as the nature of our dangers. The response must suit the threat. Those who would answer every problem with nuclear weapons, display not bravery but bravado, not wisdom but a wanton disregard for the survival of the world and the future of the race.

No one can live daily, as I must do, with the dark realities of nuclear ruin, without seeking the guidance of God to find the path of peace. We have built this staggering strength that I have told you about not to destroy but to save, not to put an end to civilization but, rather, to try to put an end to conflict.

Thus, in the past 3 years, as our strength rose—and, in large part, as a consequence of that rising strength—we have been able to take more tangible steps toward peace than at any time since the cold war began. We established an Arms Control and Disarmament Agency. We agree with the Soviet Union on a statement of disarmament principles. We signed a test ban treaty. We established the hot line. We supported a U.N. resolution prohibiting the orbiting of nuclear weapons. We cut back on nuclear production while the Soviet Union did the same. And we have just completed the negotiation of a new consular agreement.

And, as the Geneva Conference reconvenes, we have before it a series of proposals that I submitted, designed to freeze strategic nuclear delivery systems, to stop the spread of nuclear weapons, and to prohibit the use of force to solve disputes. And we will welcome any other proposal by any nation which promises realistic progress toward peace.

In farflung corners of this strife-girdled globe ambitious adversaries continually test our tenacity and seek to erode our endurance. American strength is engaged and American blood is being shed.

It requires patience and understanding to continue the search for peace while our adversaries so beset us. But this is what we must do. It is what, God willing, I intend to do.

If we are successful in that search it will be because you, and men like you, gave their lives to duty that our children might live their lives in freedom.

So let us hope that this Nation can someday, not too distant, lay aside its awesome power, and direct all its genius to the betterment of man. Let us hope that we may soon be able to say "The night is far spent, the day is at hand; let us therefore cast off the works of darkness and let us put on the armor of light."

REMARKS OF THE PRESIDENT AT THE KEEL LAYING OF THE "PARGO" (SSN-650), AT THE ELECTRIC BOAT CO., GROTON, CONN.

I declare the keel of the submarine *Pargo* well and truly laid.

Men and women of General Dynamics; the distinguished chief executive of Connecticut, Governor Dempsey; my longtime able friends Senator Tom Dodd and Senator Abe Ribicoff; Senator Claiborne Pell and Senator Strom Thurmond; Senator Magnuson; your own very able Congressman Bill St. Onge; other Members of the congressional delegation; those Congressmen from other States who have worked to improve our defenses and to make America safe; my fellow Americans, on the Fourth of July in Paris nearly 130 years ago, a great Frenchman, who knew America well, undertook to explain to his countrymen the importance of Connecticut. He told them that "little yellow spot on the map * * * makes the clock peddler, the schoolmaster, and the senator."

"The first," he explained, "gives you time; the second, tells you what to do with it; and the third makes your law and your civilization."

Your State of Connecticut has a long tradition, and a worldwide reputation, for fine craftsmanship, for fine workmanship, for outstanding scholarship, and for intellectual leadership. Connecticut also has a reputation in Washington for some of the most outstanding statesmen to serve in the United States, and that reputation is being upheld by my two old and good friends, TOM DODD and ABE RIBICOFF, and your own fine Congressman, BILL ST. ONGE. They are helping to make the laws of your land sound and make them wise, and in the same tradition your work here in this yard is helping to preserve and to defend American civilization.

I wanted to come here today to see firsthand some of the men and women who have labored to put new muscle into America's military might. All of you know that we are a nation of peaceful people. We have stated time and time again that all we seek for all the world is peace—peace built on freedom and mutual respect among men and nations. But commonsense dictates that peaceful purposes must be supported by purposeful power. There are those who oppose freedom and security in the world today, so they seek by fear and by subversion to thwart man's hope for peace. If they do not understand our motives for peace, we must be sure they do not misunderstand our means of power. The nuclear-powered submarines that you men and women are building here are indispensable to the free world strength. One of these subs armed with 16 Polaris missiles has an explosive punch greater than all the destructive power unleashed by all the guns and cannon, planes and ships, on both sides during all of World War II.

Unthinkable, isn't it? They can stay at sea months without refueling. They can stay under water as long as their crews can stand the strain. And they are ready for instant action.

The *George Washington* built in this yard, has been deployed for 3½ years. Since then, 14 of her missiles were ready to fire at any time. And all 16 were ready to fire 95 percent of the time. Four years ago, this country had only 2 of these submarines deployed with 32 missiles. We now have 15 at sea with 240 missiles. And we have increased the total Polaris program from 24 submarines with 384 missiles to 41 submarines with 565 missiles.

You men and women have made that increase possible—made it possible by your skill, your energy, your labor. You have been the keepers of the peace along with the sentinels on the wall in Berlin, and our soldiers that are stationed in the outposts around the world. By your devotion to this cause, you have been defenders of a larger cause, the cause of freedom and peace around the world.

Since the first submarine was built here by an Irish immigrant in 1900, Americans of every race, every color, every religion, from every region, have labored together here in this yard to build a stronger and a more secure country. We cannot relax our efforts now. We must not confine them only to the production of new weapons for our military arsenal. For a nation with an unbeatable military power can still be toppled if it does not preserve its morale power. Only an America which practices equal rights and social justice at home will be heard as it proclaims those ideals abroad. Only an America which has fully educated its people can remain strong. Only an America that cares for its sick, offers a helping hand to its poor, and compassion to its old—only this kind of America can really with the respect of those whose destiny is bound up with ours. And only an America which is growing and which is prospering can sustain the worldwide defenses of freedom while proving to all onlookers the opportunities of our system.

So, men and women, ladies and gentlemen, my friends, by the work that you do in this yard you are defenders of America's freedom. But by the work you do as citizens beyond this yard—and I hope there will be much of that kind of work, too—you are the designers of America's future. As President of your country, I am proud of you, and that pride is shared by men in every land who rely on our power to keep the peace in this troubled but hopeful world.

So let never any of us shrink from our responsibility. Let us sustain our pledge to work for the day when all people everywhere will know the vindication of that ancient vision: "peace on earth, good will toward men." Thank you.

THE PUBLIC DEFENDER BILL

Mr. JAVITS. Mr. President, for many years of my public service, beginning with my service in the House of Representatives, and through my service as attorney general of the State of New York and as Senator from New York, I have consistently championed the establishment of an effective public defender system, to assure that the capacity to obtain justice under the law in the courts of the United States is not, as it often is at present, limited by the financial capacity of the defendant. In recent years, I have supported the repeated passage by the Senate of an effective bill, the latest being S. 1057, which the Senate passed on August 6, 1963. The other body passed the measure in amended form on January 15, 1964; the Senate asked for a conference on February 18; and, since March 24, when the House agreed to the conference, the matter has been virtually deadlocked. I very much hope a satisfactory agreement will soon be arrived at, so this very much needed reform may at last become law.

I ask unanimous consent that there be printed in the Record a report, dated May 25, 1964, of the Committee on Federal Legislation of the New York County Lawyers' Association through the chairman of its committee on legal aid, Joseph E. Steigman, and the chairman of its committee on Federal legislation, Francis A. Brick, Jr., urging enactment of S. 1057 and favoring the Senate version of the bill.

There being no objection, the report was ordered to be printed in the Record, as follows:

Report of Committee on Federal Legislation on S. 1057 and H.R. 7457

RECOMMENDATION: APPROVAL

To implement the Criminal Justice Act of 1963 S. 1057 and H.R. 7457 have been introduced in the Senate and in the House of Representatives, respectively.

The bills provide that in every criminal case arising under the laws of the United States, the U.S. Commissioner for the court must advise the defendant of his rights to be represented by counsel and counsel will be appointed or assigned to represent him if he is financially unable to retain counsel. Unless the defendant specifically waives his right to counsel, the U.S. Commissioner or the court shall make an appropriate inquiry as to the defendant's ability to retain counsel and if justified that he is financially unable to do so the Commissioner or the court shall then either appoint counsel from a panel designated or approved by the district judge or shall assign counsel made available by a bar association or legal aid society. Separate counsel shall be assigned for defendants who have conflicting interests. One salient distinction between the Senate and House bills is that the Senate version provides that, in addition to the assignment of counsel through a local bar association or local legal aid society, a further option is allowed the local community in the form of a public defender office if it is felt that that form of representation is best suited to the needs of a particular locality.

In this respect the Association of the Bar of the City of New York and American Bar Association have expressed themselves in support of the Senate version of the Criminal Justice Act. Our committee on legal aid, after studying the matter, has also voted to support this version. Francis A. Brick, Jr., chairman of the Committee on Federal Legislation of the New York County Lawyers' Association has advised the chairman of the committee on legal aid that his committee has no objection to this disposition.

The Criminal Justice Act also provides that the defendant shall be entitled to representation by counsel at every stage of the proceedings, from his initial appearance through appeal. Compensation is prescribed for counsel and provision is also made to authorize investigative, expert, or other necessary services for the defendant in order for him to provide an adequate defense where the court has determined that he is not in the position to obtain them within his own resources.

Report prepared for the committee by Joseph E. Steigman, chairman, committee on legal aid.

Respectfully submitted.

Francis A. Brick, Jr.,
Chairman, Committee on Federal Legislation.

CIVIL RIGHTS PETITION BY CORNELL UNITED RELIGIOUS WORK

Mr. JAVITS. Mr. President, a magnificent rally on behalf of passage of the civil rights bill was held recently at the New Senate Office Building, by a large number of persons of deep religious views. Their organization is the Cornell United Religious Work; and they come from Ithaca, N.Y., the home of Cornell University. Ithaca is a great educational center.

They brought with them a petition signed by more than 3,000 members of the Ithaca community. The signatures include those of the president of Cornell University, the mayor of Ithaca, the chief of police of Ithaca, members of the Ithaca Common Council, members of the Ithaca Board of Education, members of the Ithaca Rotary Club, the 15 chaplains at Cornell University, who represent all the major American religious faiths, and many, many other persons, including many university administration and faculty members, including a Nobel Laureate in chemistry, as well as hundreds of housewives, teachers, physicians, students, lawyers, laborers, and businessmen.

I ask unanimous consent that their petition be printed in the Record. It was handed to me at the fine convocation held at the New Senate Office Building by the several hundred representatives of Cornell University and Ithaca, N.Y., who came to this city to express the deep feeling of the people of that community in regard to the pending civil rights bill. Let me state that the petition has the original signatures of more than 3,000 members of that very distinguished educational community.

There being no objection, the petition was ordered to be printed in the Record, as follows:

A Petition From the Citizens of Ithaca, N.Y.

To the Senate of the United States:

We, the undersigned members of the Ithaca community, respectfully urge you to do your utmost to enact a strong and comprehensive civil rights bill. It is our deep conviction that the time has come to commit ourselves firmly to the elimination of discrimination and segregation in whatever form.

The present House version of the Civil Rights Act of 1963 (H.R. 7152) goes far toward providing a satisfactory law. We therefore hope that you will vote for the bill, without weakening deletions or amendments. We hope that you will remain in the Capitol for quorum calls during the debate. We hope that you will vote for cloture, if that is necessary to insure passage of such a bill.

It is within your power to help this Nation realize the great historic rights and aspirations embodied in our Constitution and Bill of Rights. We shall be proud indeed of our Congress and our country when you make the great decision on which we confidently and hopefully count.

Respectfully,

—— ——.

April 1964.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. JAVITS. Mr. President, the Senate has been discussing the jury trial amendment and the proposals to perfect that amendment, in connection with the pending civil rights bill.

In connection with this debate, many references have been made to various disorders and criminal incidents which have taken place recently in and around New York City. These have been referred to by some in order to endeavor to discredit the civil rights laws in effect in the State of New York and in order to endeavor to draw a parallel, by saying that if the presence of those laws on the New York statute books and their bona fide enforcement do not end disorders there which can, in any conceivable way, be related to racial issues, the Nation should not have such a law.

However, that argument begs the central question, which is, first, that laws should be based, not on the negative factor of disorders, but on the positive factor of doing justice. In that connection, we who are proponents of this bill have shown very clearly that justice is being denied. Furthermore, we point out that we do not have to be intimidated, in order to be willing to do justice. Therefore, neither the presence nor the absence of violations of law should be the controlling factor in that connection.

However, it is also very important that we keep clearly in mind the importance of the timing of the measures we enact in order to promote justice, and the fact that the timing should be such as to promote, insofar as possible, domestic tranquillity in the Nation.

Therefore, Mr. President, I point out that we have a real timetable in connection with the civil rights bill, because as the summer wears on, the danger of incidents of violence grows all the greater.

A prodigious effort has been made to make us believe that in the South everything is quiet, and there are no problems, and that if we will only let the Southern States alone, everything will be fine and dandy; that it is we who are stirring up difficulties by insisting on the enactment of a civil rights law; that it is only as a result of our insistence that such a law be enacted that there is any excitement at all about the matter; and that law and order and law enforcement in the South are to be remarkably contrasted with the situation existing in New York City and in other great cities.

However, Mr. President, nothing could be further from the truth; and I say that advisedly.

I wish to make it clear that, as I refer to many of the serious incidents of violence and disorders in the South, I do so only to demonstrate that there is no immunity anywhere from such happenings. I revert to my original subject as to the basis for why we are having this trouble, both in the South and in the North. Violence is to be condemned, and I have condemned it many times. I shall not exculpate or excuse any Negro from violence because he is frustrated or treated unjustly. There is no condoning of violence or illegality under any constitutional statute in this country by anyone for any reason. I make that crystal clear.

As people who are given authority to govern, however, we must look into these questions in order to see what they really amount to. I have analyzed the situation in the following way:

First, we have had a great denial, in my judgment, of the basic rights guaranteed by the Constitution in an important section of the country; namely, the South, for 100 years. That has created the fundamental revolt which we are all experiencing now in varying degrees. In the South the main disorders and difficulties have been attributable to a violent effort to repress the demonstrations and the just demands for redress of grievances.

In the North the violence, to be condemned as much as it is in the South, has been attributable, where it is at all related to race, to the fact that efforts are made to advance beyond the basis which the existing State law, comprehensive as it is, makes possible.

For example, there are schools which are located in neighborhoods heavily populated by Negroes. We have comprehensive laws on the State statute books and the city law books in New York assuring nondiscriminatory housing opportunities. But there are basic limitations in the desire of Negroes to live in contiguity with each other where they do not find the necessary congeniality in other communities. Our task, then, is to deal with the social question of congeniality. That is beyond the law. The law does not cover that subject.

Also there are economic limitations on Negroes moving out of the ghettoized areas in various parts of the city and into the suburbs. Again we are trying to deal with job opportunities, training, and education in order to improve housing opportunities.

In relation to job opportunities themselves, there have been so many years of neglect in terms of education and training opportunities for Negroes that in many cases they find it extremely difficult to get jobs at higher economic levels and to obtain promotions, notwithstanding the fact that the antidiscrimination laws as to employment are being fully enforced.

We have our problems with trade unions. Trade unions, as a practical matter, de facto, somehow or other manage to keep Negroes out. Whether it is because the Negroes have not acquired competence in a particular branch of work, such as the various building trades, or for some other reason, that is something which seems to have gotten beyond the laws that are on our books. It is a social and an economic question. We are doing our utmost to fight it out and to arrive at an adjustment, so that there will be equal opportunity.

Nonetheless, we are suffering, though the basis of our suffering is beyond what the law requires and what it should properly require for the whole Nation, because people are restless and unwilling to accept a different status for themselves because their skin happens to be black, notwithstanding the fact that the law cannot and does not cover them, for reasons which are beyond the reach of the law. All that a person like myself is saying is that we need a fundamental standard in the Nation for everyone—for New York, for the Southern States, and for every other place—which would assure the fundamental constitutional and moral rights. We believe that, given that bedrock of fundamental assurance in the law with regard to equal opportunity in voting, in education, and in public facilities and public accommodations, so that one may go without humiliation into a store and buy what one needs, and in the enjoyment of the help which the Federal Government gives to local governments in so many different fields, from welfare, training, and employment to health and similar fields, then a bedrock of stability will be created so that we shall be better able to deal with the problems which we shall continue to have in the North, and will furnish a very material basis for dealing with and curing the problems in the South.

We do not say that the millennium will come. It never does in government. But we do say that it will give us an answer to the great majority of the Negro community which will enable us to get their support, rather than having, as we find today, if we give no answer, a whole people, 20 million strong, feeling deeply outraged and aggrieved at what is taking place.

Mr. President, I take no pride and no joy whatever—on the contrary I consider it most deplorable, most unhappy, and most tragic—in the fact that there are disorders, difficulties, deaths, and injuries which can be connected with racial relations anywhere in the United States. But I cannot allow the record to stand with the false implication that we are having disorders in New York but that all is quiet and peaceful in the southern part of the country because they have no civil rights laws on their statute books and do not want any.

Mr. President, the record is replete and sad, burdened with tears, with violence, and difficulties occurring every day in the southern part of the country because of protests against repression in respect to civil rights. Almost any list that one may consult tells the story. I happen to have a list compiled by the Southern Regional Council of Atlanta, Ga., which has white as well as Negro participants. The list is headed "The Civil Rights Crisis: A Synopsis of Recent Developments." The list takes up chronologically, over the period from April 1963 through December 1963, case by case, State by State, the instances of killing, wounding, and destruction of property in the southern parts of the country attributable to racial relations. The list is unhappily led off by the murder of William Moore, a Baltimore postman, at Attalla, Ala. Mr. Moore was hiking to Jackson, Miss., on a one-man civil rights crusade.

The sad and tragic list covers the Birmingham riots from April 3 to June 21, 1963, including two bombings of Negro property; the Tallahassee riots at the end of May 1963; and the Albany, Ga., demonstrations, with over 200 arrests and violence during May and June 1963, including, as everyone knows, the use of police dogs, cattle prods, and all the paraphernalia with which we are now too familiar in respect to the repression of racial demonstrations, no matter how peaceful and how protected by the Constitution. The list also covers the Savannah, Ga., demonstrations in June 1963, involving more than a thousand arrests over a period of 2½ weeks. The list includes the murder of Medgar Evers at Jackson, Miss., on June 12, 1963, the execution, really, of a leader of the NAACP. It includes the Fayetteville, N.C., demonstrations in May and June 1963, involving 1,500 marchers daily for more than a week and an effort to repress the Negroes and keep them from demonstrating with tear gas. The list shows Lexington, N.C., where a killing occurred during a demonstration in June 1963; and Danville, Va., where during May and June 1963, firehoses were used to break up civil rights rallies and demonstrations and about 45 persons were injured. We have the sad case of Gillett, Ark., where a rural Negro church was bombed with dynamite during the week of June 24, 1963; in St. Augustine, Fla., the home of a leader of the NAACP was shot into on July 2, 1963.

The list shows that at Savannah, Ga., at least six were wounded during demonstrations in July 1963. The list includes the terrible case of the Birmingham bombings in September and October 1963, especially the church bombing on September 15 resulting in the killing of four Negro children and two who were killed later in the riots which resulted from the bombing of the Negro church.

I shall not trouble the Senate with every one of these incidents. We have on the list Gadsden, Ala.; Ocala, Fla.; Americus, Ga.; Plaquemine, La.; Thomasville, N.C.; Tuscaloosa, Ala., just to name a few more. Mr. President, the list is replete. We have picked out a minimum of 25 major incidents or outbreaks of the character described, with great violence, in the list of several hundred incidents.

I repeat, I take no pleasure in this whatever. On the contrary, it is the saddest possible duty one could perform. It shows that the protestation that all is disorder, difficulty, and crime in the North—especially in New York City—and that everything is peaceful and quiet in the South is simply not the fact.

There is a tremendous revolt and ferment going on in this country; and our job as a responsible part of government is to see what we can do about it, and not to repress it, because repression will only breed more of the same, and probably much more serious trouble.

We had a very illuminating report from the Mississippi Advisory Committee to the U.S. Commission on Civil Rights, issued in January 1963. I should like to read to the Senate exactly what that report contained about the matter of disorders and repression attributable to racial problems. Before I do that, let me say that this committee was composed of Mississippi residents. They are all distinguished and important people in Mississippi. Mississippi is, if anything, one of the strongest ramparts of segregation in the country.

Yet the Mississippi Advisory Committee to the U.S. Commission on Civil Rights, which unanimously made this report, was made up of southerners, citizens of Mississippi, and I should like to read their names into the RECORD:

Mrs. Wallis I. Schutt, chairman, Jackson, Miss.

Dr. James L. Allen, vice chairman, Columbus, Miss.

Dr. A. D. Beittel, secretary, Tougaloo, Miss.

Adm. Robert P. Briscoe, Liberty, Miss.

Dr. Albert B. Britton, Jackson, Miss.

Rev. Thomas E. Johnson, Jackson, Miss.

Rev. Charlemagne P. Payne, Sr., Jackson, Miss.

Dr. George E. Powers, Pass Christian, Miss.

The committee was just about evenly divided as between Negroes and whites. This is what the committee wrote:

> The committee's investigations have indicated that in all important areas of citizenship, a Negro in Mississippi receives substantially less than his due consideration as an American and as a Mississippian. This denial extends from the time he is denied the right to be born in a nonsegregated hospital, through his segregated and inferior school years and his productive years when jobs for which he can qualify are refused, to the day he dies and is laid to rest in a cemetery for Negroes only. This committee could have chosen to concentrate on any aspect of discrimination and found a plethora of examples of denial of equal protection of the law. This includes the denial of the fundamental right to vote and have that vote counted in elections. Sixty-five sworn voting complaints from 13 Mississippi counties have been received by the Commission. This is third highest in the Nation.

Then the report continues as follows:

> We name no names in this report, and reach no final conclusions in individual cases. We do, however, believe that a pattern exists in our State—

That is Mississippi—

> That leads to the denial of constitutional rights and, in some instances, to brutality and terror. From the moment a Negro adult is hailed as "boy" or "girl" by a police officer, through his arrest, detention, trial—during which his Negro lawyer is treated with contemptuous familiarity by the judges and other officers of the court—and eventual imprisonment, he is treated with a pernicious difference. This difference is incompatible with Christian ideals about the dignity of man and with the principles of Anglo-Saxon criminal law.

I wish that all persons who take kindly to segregation or who feel strongly in opposition to the civil rights bill will ponder those words of the people of Mississippi who were acting upon this committee.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. JAVITS. May I read those words again before I yield:

> This difference is incompatible with Christian ideals about the dignity of man and with the principles of Anglo-Saxon criminal law.

Those are not my words—they are the unanimous words of the members of the advisory committee from Mississippi.

Now I yield to the Senator from Florida.

Mr. HOLLAND. I thank the Senator for yielding. I wonder if he would place in the RECORD the date of that report. The date of the list he referred to, as published by the Southern Regional Council, I think went back about 2 years. The date refers to the report of last year, 1963, but I think the RECORD should show both.

Mr. JAVITS. As I stated when I began, the report of the Mississippi Advisory Committee shows that the report, which is the last report we have had from there, is dated January 1963. The date of the Southern Regional Council report covers from April 1963 through December 1963. The developments to which I referred are the most recent that are available in this consolidated form.

The synopsis extends from April 24, 1963, beginning with the killing of William Moore, a Baltimore postman, on a public road in Alabama, through to a report of arrests of demonstrators in Danville, Va., on December 10, 1963.

This is current information. We could, of course, cull the newspaper reports of the first few months of this year. But these are the last consolidated records we have, and I believe they bring the situation reasonably up to date.

Mr. ELLENDER. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. ELLENDER. A moment ago the distinguished Senator from New York discussed the title dealing with education in the new proposal, that is title IV.

I noticed in today's New York Times the following headline:

> **Opposition Rises to School Plan. Civil Rights Group Assail Proposal and Threaten An Extended Boycott.**

The article is, in part as follows:

> The Board of Education's plan for "quality integrated education" was caught in a sharp crossfire of criticism as the board met to act on it last night.
>
> Civil rights leaders denounced the plan yesterday as "a colossal deception" and threatened extended school boycotts in the fall unless more substantial steps were taken to desegregate the city's public schools.

I wonder if the Senator will tell us what effect on the integration of New York schools will the new language added in the Dirksen substitute have, and which appears on page 21, beginning on line 18?

Section 407 provides, in part:

> **Provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge existing power of the court to insure compliance with constitutional standards.**

This does prohibit the Federal courts from ordering desegregation where busing would be required to achieve it. The import of this provision is to preserve de facto segregation of New York's neighborhood schools.

Mr. JAVITS. The Senator's question takes me somewhat away from the continuity of my address, but I am glad to answer him.

In my judgment, what this language seeks to do is to leave the courts free to deal with school desegregation cases where the right to enter a school is denied on racial grounds, in any way that the courts believe and the Supreme Court will sustain as a proper method to prevent segregation of schools under the equal protection clause of the 14th amendment to the Constitution.

What it provides is that a correction of racial imbalance is not deemed to be that kind of wrong which the statute is seeking to correct and, therefore, that by using the terms "segregation," and so forth, in the statute, we are not seeking to bring in under this statute cases where there is racial imbalance in a school, even though there is no unconstitutional denial of admission to that or any other school on racial grounds.

As I understand it, the Supreme Court has held that one of the civil rights guaranteed by the Constitution with respect to schools is the right to admission to a school, whatever may be one's race or color, if it is a public school. It is not a right to attend a racially balanced school; in other words, the Constitution does not guarantee that one will go to a school which has any given percentage of white and Negro pupils. The equal protection clause guarantees only that one has the right to be admitted to any school, subject to reasonable regulations for admission, without regard to color or race.

What we are trying to do, with this language in the bill, therefore, is to express in words that we are not trying to legislate in this bill in a way which the Supreme Court has not held to constitute a civil right under the Constitution. We are trying only to give the Attorney General the power to enforce rights already held to be guaranteed by the Constitution, not to create new rights regarding education.

In my judgment, therefore, to express myself practically, if a court finds that there has been a denial to a student of admission to school on racial grounds in violation of the Constitution the court could make any order which the situation required, including busing—notwithstanding the language of the bill involved here—if a court believes, and the appellate court sustains it, that that is essential in order to correct the situation of unconstitutional denial to which I have referred.

A classic case—I will not take a southern case—is the New Rochelle school case where Judge Kaufman found that there was a denial of admission on racial grounds, and then ruled that there had to be a limited amount of busing in order to cure that situation. I believe he stated that he would limit the time and the mileage in his order.

In my judgment, nothing we have written into the section would prevent another judge from making that same kind of order. If I may complete my answer, because I believe it is an important part of legislative history to make clear what we have written into the bill, it would only prevent the Attorney General from instituting under this statute a suit seeking to deal with racial imbalance in a school, and seeking to get an order of the court to correct that racial imbalance, in a case which is not within the Supreme Court's concept of a denial of equal protection of the laws and therefore not within our concept under this particular statute.

Mr. ELLENDER. Was the Senator from New York in full accord with this language when it was presented to him?

Mr. JAVITS. I would have preferred the language in the House bill, which was much briefer, and dealt with the subject better. There is no question that this is excluded from the statute with or without this language. I would have been just as happy with no reference to it whatever, but inasmuch as there was a reference to it, and as the Supreme Court has very recently made this concept even clearer by denying certiorari in the Gary, Indiana, case, I had no objection to spelling it out more amply as this language does.

Mr. ELLENDER. Is it not a fact that the substitute bill leaves the matter to school districts or school boards to make the decision as to the busing of children from one neighborhood school to another?

Mr. JAVITS. It leaves the matter to the machinery of the State education——

Mr. ELLENDER. Local authority.

Mr. JAVITS. Yes—to the local authority in one sense. To explain it further to the Senator, it does not all lie with the local school board. In New York, the State Commissioner of Education also has some authority, and I did not wish to give an answer which would prejudice that.

Mr. ELLENDER. As I understand the bill that came to us from the House originally——

Mr. JAVITS. Would the Senator kindly repeat that?

Mr. ELLENDER. As I understand the House bill that came to us originally, there was a provision in it which more or less prevented the busing of students from one neighborhood school to another.

Mr. JAVITS. Yes. Under this particular statute, an effort was made to prevent it. No effort goes beyond this statute.

Mr. ELLENDER. I understand. To the House provision, there has been added the provision I have just read, which is plain to me. It provides that nothing in the statute—

> Shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another.

In other words, it fortifies my opinion of what the House sought to do; is that not correct?

Mr. JAVITS. I believe that is true, but I wish to point out to the Senator that this does not prohibit a court of the United States from issuing an order of this kind under all circumstances. It makes a prohibition as to the authority of this statute, but if the court finds some other legal basis——

Mr. ELLENDER. Such as—will the Senator be more specific? Such as what?

Mr. JAVITS. For example, I can conceive of the possibility of State and local orders with relation to education which might be challenged in a private suit in Federal court under the equal protection clause, not under this statute.

Mr. ELLENDER. But the Senator does not expect that to happen in New York?

Mr. JAVITS. It may very well happen in New York.

Mr. ELLENDER. I doubt it seriously, because the Senator has said on the floor of the Senate many times that the State of New York already had laws to deal with integration; is that not correct?

Mr. JAVITS. Not dealing with integration. It has laws against discrimination or segregation.

Mr. ELLENDER. I understand, but——

Mr. JAVITS. That is—if the Senator will allow me to finish—a very different thing. We are not trying to compel integration. We cannot do that. We cannot do that under the New York constitution. We cannot do that under the Federal Constitution. We can only try to prohibit discrimination and segregation. That is a very important distinction.

The newspapers—and Lord bless them, I have never quarreled with them and I do not now—speak of something called "de facto segregation in New York." That is a complete misrepresentation under the law, because there is no segregation in law in New York. There is segregation in law where there is a denial of the opportunity to enter a particular school because of race, but it is not segregation in law where there is no denial of that opportunity because of race, de facto or otherwise, and where the State and local authorities, far from requiring segregation by race, make every effort, not merely to forbid segregation, but also to go beyond that to eliminate racial unbalance even where they are not required to do so by the Constitution. Therefore, I believe that it has lent fuel to the cause of those who oppose the civil rights bill because those same words have been used which mean unlawful denial to describe an entirely different situation.

I do not condone racial imbalance. I will move heaven and earth to try to correct it, as I feel many of the educational authorities in my State wish to do. But I believe that the difference between this and segregation under the law must be very clearly pointed out.

Mr. ELLENDER. Does not the Senator agree with me that the definition that I have just read on page 17, line 9, which says: "desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance." And the additional language appearing on page 21, beginning on line 18, which, in effect, states: "provided that no court shall interfere" will have a tendency to perpetuate the neighborhood school pattern? And I might further say that segregation is segregation, whether de facto or de jure.

Mr. JAVITS. Nothing can be further from the fact.

Mr. ELLENDER. Will the Senator tell us why?

Mr. JAVITS. I shall be glad to spell it out exactly. The city of New York, through its board of education, has full authority to determine what children shall go to what school. There may very well be suits brought in the Federal courts by individuals under the equal protection clause of the 14th amendment. All that this title does is deal with suits by the Attorney General.

There may very well be suits in the Federal courts—under the equal protection clause—to test the legality of the activities of the board of education of the city of New York in its effort to correct racial imbalance. In those suits, there could be decrees with reference to busing. They would not be affected by anything said here. They would not be brought under this particular provision. Also, it is entirely possible that the same may be true with respect to whatever authority the State commissioner of education has over the Board of Education of New York City, or any other city school system.

In short, the question of racial imbalance is a State matter which may be cognizable by the Federal courts. I can easily conceive that it could be. And it would be entirely unaffected by what may be said here.

My answer is: "Yes. I confidently expect that the Federal courts will be asked to invoke their authority in Federal suits to issue decrees with reference to racial imbalance." But, it will not be possible to invoke this statute, which we are now debating, as authority for that power.

Mr. ELLENDER. Such a suit would probably be brought under State laws, or as a result of action taken by the school board, subject to its interpretation of State laws.

Mr. JAVITS. That is true, except that State laws are also subject to the Federal Constitution. We saw that in the Prince Edward case in Virginia, where the Supreme Court held that, notwithstanding the fact that the Virginia Supreme Court stated that Prince Edward County could close its schools, the equal protection clause of the Federal Constitution required that children in the entire State of Virginia be treated equally. Therefore, a decree was issued which related to State law, but which also was a decree based upon the Federal Constitution. Exactly the same thing could conceivably take place in New York with relation to racial imbalance in schools. It has nothing to do with the authority given to the Attorney General in this statute.

Mr. ELLENDER. I do not want to have my good friend from New York give out confidential information but when the so-called package was under discussion I wonder to what extent the Senator from New York objected to the language which appears on page 21, beginning on line 18, when it was submitted to the Republican Senators who were present.

Mr. JAVITS. The Senator has already asked me that, and I have spelled that out exactly. There is no secret about my views. I told the Senator I would have preferred to have nothing whatever in the bill on this subject. I do not believe the subject is cognizable within the concept which this title of the bill covers. But, nonetheless there was something written in the bill on this subject, and the desire was to spell it out more fully in light of the Supreme Court's recent decision. I could not take any exception to that. I thought it was a work of supererogation. I thought it was unnecessary. But often a man will say to another man, "If it is so, why not say so?" On that ground, I did not demur.

Mr. ELLENDER. As I understand, the Senator concludes that insofar as this particular bill is concerned, no official or court could interfere with the busing of students from one neighborhood school to another unless there were a violation of a State law or some action were taken in violation of law by the school board in New York in an effort to provide for a racial balance of students by busing school children from one area to another.

Mr. JAVITS. The Senator from New York says that the proposed statute—whether we wrote this language into it or not—would have nothing to do with that situation. That would be cognizable not only under State law, but also under the equal protection clause of the 14th amendment of the Federal Constitution.

Mr. ELLENDER. Is the Senator cognizant of any law in New York that would prevent the transfer of school children from one neighborhood to another?

Mr. JAVITS. There are limitations in the New York law upon pupil assignment, but, at the moment, I am unaware as to exactly what those are. We have a New York City plan which has been proposed. We have a State recommendation which is the result of the work of an advisory committee appointed by the State commissioner of education. And, knowing the competence of the people concerned in both the State and the city groups, as the plans do involve some busing, I believe that there is certainly no inhibition upon the subject in the New York law, either State or city, to the extent that these recommendations have gone. I am unaware of anything beyond that. I would have to check it.

Mr. ELLENDER. Is the Senator familiar with any steps, legal or otherwise, which are being taken by New York citizens in an effort to force busing from one neighborhood school to another?

Mr. JAVITS. I am unaware of pending litigation. I have a recollection of litigation to restrain any plan which involves busing. But I have no recollection of any litigation to compel busing on the basis of pure racial imbalance.

Mr. ELLENDER. Does the Senator know whether any court decree has been rendered in respect to the busing of Negroes from one school district to another in the State of New York?

Mr. JAVITS. The Senator has asked me some questions which may require a little research. But, one thing does occur to me immediately, and that is the case to which I referred, the New Rochelle School desegregation case in which a decree involving busing was handed down by Judge Kaufman and the Supreme Court denied certiorari in that case.

That is some indication of the State law on the subject, as we have been discussing it.

Mr. ELLENDER. There is no law providing for enforcement of busing from one neighborhood school to another?

Mr. JAVITS. I would say that the board of education would appear to have the power to do it under State law; but I know of no law that compels it to be done.

There is one other thing I should like to say to the Senator. In New York, we have central school districts. At the same time, we have a school attendance law. That is, attendance of children at school is mandatory, and parents are liable if they refuse to send their children to school. Transportation of children in those circumstances might be construed as mandatory busing, because there is really no way for many children to get to a central school district except by buses. Taking those two requirements together—mandatory school attendance and the right to consolidate local school districts into a central school district—we have what is tantamount to a mandatory requirement for that kind of transportation.

Mr. ELLENDER. I am not trying to have the Senator repeat what he said before; but since there is no State law forcing the busing of children from one school district to another, would he not conclude that the amendment in the nature of a substitute would make it almost impossible for Negro children to be bused from one school district to another under the statute?

Mr. JAVITS. No; not remotely. I think our courts and our law are such that this could very well be compelled. In the first place, I have described the situation in central school districts. Second, if pupil assignments are legal under State law—and I believe there are a great many areas where there could be a separation of a child from his school by a measurable distance—it would be absolutely inherent in that situation that there should be busing. No court could compel a parent to put his child on a school bus. What the court could enforce is the authority of the State law to require school attendance.

The parent might prefer to get the child to the school in his own car or take him on a public bus. That would be perfectly satisfactory; nobody could complain about it. So I do not think the question is one of compulsory busing. The question is one of location of the school to which the pupil is assigned. If inherent in that location would be separation by distance, I do not know of anything in our State law that would prevent appropriations for the purpose of supplying buses in order to fill the gap.

Mr. ELLENDER. In the question I just propounded to the Senator, I may not have made myself clear. I was assuming that there was not a State law that would compel the busing of students from one area to another. Let us assume that there is no such State law. Would the pending measure assist Negroes who are now opposing the plan that has been devised by the school board in New York? Would they have any relief at all under the bill we are now considering, if enacted?

Mr. JAVITS. The bill would not affect that situation one way or the other. That, I think, is the purpose. It would not affect a situation in which there is no segregation through a denial of the opportunity to attend a public school normally assigned.

Mr. ELLENDER. That was the impression I received, and that was the reason I suggested last week that the authors of the new "package" exempted from its effect the citizens of New York, Chicago, and other large cities.

Mr. JAVITS. I thoroughly disagree with the Senator from Louisiana. I now know what he was getting at. I can tell him that New York would not be exempted at all. New York would be just as liable as Louisiana. The standards are exactly the same. If we deny a Negro child admission because of race to a school to which, under perfectly lawful, constitutional provisions he is assigned, we shall be subject to an order of the court, under title IV of the bill, to desegregate that school, including busing. New York will be just as much bound as Louisiana. There is nothing in this provision which would change that fact one whit. Let us have that flat and clear. The provision would be just as effective for New York as it would be for Louisiana.

Mr. ELLENDER. I cannot imagine why such an amendment was placed in the bill, if it was not to do what I have just stated. Of course, the fact is that in most of the big cities children are allowed to attend only the schools in their district, which are usually predominantly white or colored.

Mr. JAVITS. The Senator from New York has stated exactly what it will and will not do. Someone has said that it makes a difference when the shoe pinches. We are perfectly happy to accept its applicability to us; the constitutional requirement has been applied to us, as I pointed out, in the New Rochelle case and it was accepted. We hope very much that our southern colleagues will accept it as applicable to them.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HOLLAND. First, the remarks which I placed in the RECORD the other day brought out the fact that two suits are now pending in the courts of New York. They do not go quite so far as was indicated in the question of the Senator from Louisiana. Both those suits—one brought, by the way, by a Negro mother—questioned the right of the school board to assign a pupil, from among her children, to another neighborhood school. The question was not so much one of busing, but whether there is a right for schoolchildren in New York to attend their neighborhood school, provided they are of the proper age to go to the classes maintained there. So the question is in court at this time, as my remarks of the other day will show, by the bringing of two suits, one by a Negro mother and one by another mother, whose race was not stated in the information I placed in the RECORD.

Is it not true that the local school board, and particularly its superintendent, Dr. Gross, has suggested an approach to the problem of de facto segregation, in the effort to improve present conditions, which would pair schools, meaning by that the putting together for administrative purposes and for schoolroom mixing, two schools, one of which is predominantly white and one of which is predominantly nonwhite? Is not that the program of the local school board?

Mr. JAVITS. It is one of the programs. They are also considering the so-called Princeton plan, to consolidate by grouping certain grades in one school and certain grades in another.

Mr. HOLLAND. Is it not true that the advisory board appointed by State school officials—especially Dr. Allen—that board being headed by Dr. Fisher, head of the College of Education at Columbia University, recommends an entirely different approach for the solution of this problem, which I shall not discuss in detail, but which is stated in detail in my earlier remarks, and which goes a great deal further in connection with the moving of children from place to place after the fourth grade, and which also goes a great deal further in the way of expense by setting up new consolidated schools and school centers which would serve as many as 15,000 children in 1 center?

Mr. JAVITS. The division is not quite so sharp as all that. The Senator speaks about going "a great deal further." The New York City Board of Education thinks it is meeting a good many of the State commissioner's recommendations already in the ideas which it has put forward. I do not understand what the Senator from Florida means when he says "a great deal further." I do not believe there is any contemplation on the part of either the State or the city for a sensational, sudden break into expensive busing. What they have in mind is to utilize present facilities more adequately. They believe the city is meeting the State certainly halfway by the pairing idea. The State wants to start in places where it is possible, with a reduction in the amount of time spent in its so-called junior high schools, and increasing the amount of time spent in senior high schools, because senior high schools blend themselves better to improve racial balance, travel, and so forth.

The idea ultimately—and this is where the expense comes in—is to have major school complexes. Such a complex would be located in one place and would include all grades from elementary school to junior high school to senior high school concentrated in a school center. But all this would be done gradually. I do not believe the authorities are sharply divided.

In other words, they are all moving in the direction of doing their utmost to bring about a better racial balance in our schools; but neither the city nor the State is, in my judgment, moving in a radical or precipitate way, considering the means available to them and the convenience of the parents and the children.

I also feel that there is no sharp difference of position or attitude between the city and the State. To the contrary, the city is very understanding, and is rather accepting the State's ideas, and is moving in that direction, by means of its present plans.

Mr. HOLLAND. I have read all the items I could find in the New York newspapers—principally in the New York Times and the New York Herald Tribune, but also in some of the other New York newspapers—for the past few weeks; and I note such a very great deal of confusion and difference of approach between the local school board and the State plan, and particularly between the Parents and Taxpayers Council and the desegregation organizations—meaning the racial groups, the NAACP, CORE, and Reverend Galamison's group, that it seems to me that usually the situation there is very properly referred to—as it is today, in the editorial in the New York Herald Tribune—as a chaotic one.

I wonder whether the Senator from New York has read the editorial entitled "Who Is In Charge of the Schools?" as published today in the New York Herald Tribune?

Mr. JAVITS. I have not read it, but I shall read it.

Mr. HOLLAND. I wonder whether the Senator from New York will object to my reading it into the RECORD at this time?

Mr. JAVITS. No, not at all.

Mr. HOLLAND. The editorial published today in the New York Herald Tribune reads as follows:

> WHO'S IN CHARGE OF THE SCHOOLS?
>
> The civil rights organizations contend that the board of education and Superintendent Gross don't go far enough with school integration.

That reference is to the local school board, as I believe the Senator from New York will agree.

Mr. JAVITS. That is correct.

Mr. HOLLAND. I read further from the editorial:

> The Parents and Taxpayers Council, who insist on sticking to neighborhood schools, blast the Gross program as wrong-headed.

The Gross program is the program of the local school board.

I read further from the editorial:

> Obviously not everybody can be pleased. And equally obviously the school system, for all the virtues of consultation, must make the decisions. It cannot operate by chaos.

Now the inescapable fact that instant and complete racial integration is out of the question. The schools can't be integrated any more than the city is integrated. Dr. Gross can do only what is possible—to work now and for the future against the educational ghetto with every emphasis on quality schools.

The Senator from New York will recall that throughout this debate, I have been insisting that quality education, better schools, must be provided in order to deal properly with, and to meet, this situation; and more and more editorials and educational writers of newspaper articles and magazine articles and educators are recognizing that fact.

I read further from the editorial:

In this dilemma the school system must take a stand, and hold to it. The partisans on either end of the integration scale can help by being less stubborn. For Dr. Gross can't do the impossible, at least not immediately.

That concludes the editorial. I have read it into the RECORD because it seems to me very clear that the editorial and the difficulties which have preceded its publication and the news articles which have been published show the existence at the present time, in the New York schools, of a chaotic situation.

I wonder whether the Senator from New York will permit me also to have printed at this point in the RECORD the lead article in the local section of today's issue of the New York Herald Tribune. The article is entitled: "Rights Groups Threaten Boycotts on Too-Slow School Integration. NAACP, CORE Urge Action Now on State Report."

Mr. JAVITS. Of course.

Mr. HOLLAND. Then, Mr. President, I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune, June 4, 1964]

RIGHTS GROUPS THREATEN BOYCOTTS ON TOO-SLOW SCHOOL INTEGRATION: NAACP, CORE URGES ACTION NOW ON STATE REPORT

(By Joseph Michalak)

(NOTE.—There are no substantial first desegregation steps [in the Board of Education's plan]. Segregation is not reduced. It is even more firmly entrenched than ever before. If the board fails to adopt the Allen Report and to implement the first substantial beginning steps recommended by the Commissioner, we will have no alternative but to consider the extreme step of an extended school boycott in the fall to meet an extreme problem.)—CORE and NAACP statement.

The board of education was threatened yesterday with extended school boycotts next fall unless it steps up its integration efforts in line with State recommendations.

The threatening notices came from the NAACP and CORE and from the Reverend Milton A. Galamison, leader of this year's two citywide 1-day boycotts. NAACP and CORE, which staged a "symbolic" boycott on May 18, split with Mr. Galamison after the first boycott, on February 3.

The NAACP and CORE, in a statement issued shortly before the board met to consider formal adoption of the plan submitted last week by School Superintendent Calvin E. Gross, charged that segregation in city schools "is even more firmly entrenched than ever before."

They urge the board not to approve Dr. Gross' recommendations, and warned that they would have to consider a boycott unless the board adopted "the beginning steps" recommended last month by the integration committee of State Education Commissioner James E. Allen, Jr.

Mr. Galamison called the Gross measures "a colossal deception," made his boycott threat during a news conference called by five other civil-rights groups, including the Urban League and Mr. Galamison's Citywide Committee for Integrated Schools.

Using similar language and ideas to NAACP's and CORE's, the other groups charged that the board's integration plan was "diametrically opposed to the spirit and intent" of the State proposals.

Mrs. Thelma Johnson, representing the Harlem Parents Committee, agreed with a questioner that desegregating the city's schools "calls for creativity," but noted that "when a man makes $133 a day [alluding to Dr. Gross], he ought to come up with creative ideas for dealing with the problem."

All seven groups urged that the board keep Dr. Gross' staff on the job, "on an emergency basis," throughout the summer to come up with new integration measures.

NAACP and CORE also urged that the Institute of Urban Studies at Columbia University's Teachers College be called in to assist in developing "specific first steps and steps for the next 5 years" to implement the commissioner's recommendations. The institute had aided Dr. Allen's advisory committee.

All civil rights groups charged, in effect, that Dr. Gross' plan consists merely of moving Negro children from one segregated school to another in ghetto areas rather than concentrating in "fringe" areas—as Dr. Allen had recommended.

The board plan, adopted informally last week before President James B. Donovan returned from Europe, calls for the transfer of about 10,000 pupils in 33 elementary schools and 10 junior high schools.

About half of the pupils would move from the fifth grades of elementary schools to help form new sixth-to-eighth-grade junior highs. The other half would move from the junior highs to form ninth grades in senior high schools.

All groups charged that the switching would produce little integration below the ninth grade.

ASK MIDDLE SCHOOLS

They also urged the creation this fall of "the first series" of nonsegregated "middle" schools and educational complexes (combining primary and middle schools in an area under a single administrator).

They also called for the end of segregation in all 31 junior high schools now classed as segregated, or, where this was not possible to close the schools and move the pupils elsewhere. Present board plans would affect three of the segregated schools.

NAACP and CORE also proposed the opening of enrollment in all high schools to all students. Dr. Gross' plan affects 33 high schools and looks to citywide open enrollment in the future.

All groups expressed their endorsement of the four pairings of racially different elementary schools, but suggested that this idea could be extended to other parts of the city. NAACP and CORE specifically singled out for adoption the pairing of predominantly Negro P.S. 191 and the predominantly white P.S. 199 on Manhattan's West Side.

All the pairings have been violently opposed by chapters of the Parents and Taxpayers Coordinating Council (PAT), which has supported the neighborhood-school concept throughout the turmoil over the schools this year.

The civil rights organizations also praised the board's decision to postpone action on its construction program to make certain that it fits into integration efforts, and the proposed creation of four comprehensive high schools, offering both academic and vocational courses. Both actions were recommended by the Allen committee.

Meanwhile, the Gross measures received across-the-board support from the Public Education Association. Dr. Frederick C. McLaughlin, PEA director, agreed with Dr. Gross "that the time has come for positive action on better integration."

Mr. HOLLAND. In that connection, I call attention to part of the article, because, as I recall, a few minutes ago the Senator from New York said he understood that the effort was not for anything immediate in this field. Therefore, I quote the following part of the article, which refers to the groups which call for integration:

They also urged the creation this fall of "the first series" of nonsegregated "middle" schools and educational complexes (combining primary and middle schools in an area under a single administrator).

They also called for the end of segregation in all 31 junior high schools now classed as segregated, or, where this was not possible, to close the schools and move the pupils elsewhere. Present board plans would affect three of the segregated schools.

In other words, if my understanding is correct, the racial groups are insisting upon immediate action; but the State agencies are insisting on something less than immediate, but more sweeping than what the local agency is calling for; and in each instance the citizens are objecting to all three of the proposed approaches; and there is now pending in the New York courts litigation against even the moving on foot of pupils as far as 10 blocks from one school to another, in order to bring about better racial balance. Am I correct in my understanding?

Mr. JAVITS. The Senator from Florida is incorrect in some respects, and is correct in other respects. He is incorrect in stating that I recommend or that these agencies recommend that nothing be done now. We recommend that a great deal be done now. We say that a great many of these plans can be effectuated, and should be effectuated now. We do not feel disposed to attempt to put all of them into effect now; so we look for a continuing process.

Second, I do not accept the use of the word "segregation"—de facto or otherwise—in connection with the New York schools. That simply is not true; and the contrast between the situation in New York and that in the South is as great as the difference between day and night. In New York City there are more than 600 schools. Not one of them is completely Negro or completely white. Indeed, in 91 percent of those schools there is no question of racial imbalance. That question arises only in 9 percent of the New York City schools. So when the Senator from Florida refers to the allegations by some groups that 31 junior high schools in New York City are segregated, I point out that they are not segregated in fact or in law or in any other way, in the way the schools in the South are segregated. In the New York City schools, any white children or any Negro children can be admitted.

But contrast that situation with the situation in the Southern States. That is what we are talking about. In the biracial school districts, according to the report of the U.S. Civil Rights Commission for 1963, 8 percent of the total number of Negro pupils are enrolled in desegregated schools; and in the case of one State—to wit, the State of Mississippi—not even token desegregation has even been begun; and in other States the desegregation is miniscule.

The Senator from Florida has referred to what is happening in New York. Let me, in turn, point out what is happening in Florida.

In Florida, there is an enrollment of 1,183,714 pupils—956,423 white and 227,291 Negro.

Of those Negro students less than 1 percent, or 1,551, are now in desegregated situations.

In other words, we are trying. We are moving heaven and earth to better a situation which differs as day does from night from the situation where desegregation is being resisted. I cannot allow myself to be drawn into all the refinements about New York without making it crystal clear that New York is obeying what should be the law of the land, and certainly what is its own law. We are in a situation in which we are trying to go beyond the requirements of the law to a social order which we believe to be consistent not only with the letter, but with the spirit of the Constitution. That situation cannot be used as any justification or defense on the part of State after State where in 10 years literally nothing has happened in this particular area, and where, therefore, the bill which the Senate is debating today is absolutely and urgently required if we are to begin to satisfy the most elementary justice for people who have been denied the most elementary component of equal opportunity in the United States—equal opportunity for an education—for so many years.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HOLLAND. The Senator's objection to the words that the Senator from Florida used is really an objection to the words used in the editorial of the New York Herald Tribune, because I quoted those words from that editorial and from the news article written by a very able reporter, Mr. Michalak.

However, as to the Florida figures, I wonder if the distinguished Senator knows that the State Board of Control of Florida which has charge of all the public institutions of higher learning, ruled 3 or 4 years ago that all the institutions of higher learning in our State would be segregated, and that notwithstanding the fact that we probably have the leading Negro institution of higher learning in the Nation, not a single white student has sought to enter or has entered the Florida Agricultural and Mechanical University at Tallahassee. There are approximately 2,880 Negro youngsters there. The school has a very fine record, which I frequently and pridefully read into the RECORD here. At the University of Florida, Florida State University and the University of South Florida, all of which are desegregated, the number of Negroes who have applied to those schools rather than to the Tallahassee institution—and they have a perfect right to go to those predominantly white institutions if they desire to do so—is so small that there are practically none. My recollection now is that three professional Negro students are at the University of Florida at Gainesville, where there are more than 14,000 students.

Similar situations exist at Florida State University at Tallahassee and at the University of South Florida at Tampa.

So I believe the distinguished Senator would find, if he checked on the situation, that the truth is that Negro parents and Negro children prefer schools where they may be associated with their own, and they are happy there. They are making fine records there, and we do not find any condition which a prominent newspaper in Florida has to refer to as a "chaos" existing in the public school system of our State in the sense that that word is used by the New York Herald Tribune today in referring to the situation in the public school system of New York City. So I believe the distinguished Senator is really pointing to a situation which reflects the fact that Negro children and Negro parents generally desire better schools, but they prefer to have their children with youngsters of their own race, and they seem to be happier there. If they have shown that attitude anywhere, it has been in Florida, where they have the complete right to go to any institution they wish to attend, so far as higher education is concerned.

Mr. JAVITS. Mr. President, in the first place, we were not talking about higher institutions of learning at all. The 1954 Supreme Court decision did not apply to higher institutions of learning, such as colleges and universities, which had many years earlier been required to desegregate, and the figures I gave had no reference to them whatever. We are not comparing them even remotely.

Secondly, for years we have heard the argument about Negroes being satisfied, but they have been satisfied under a social order which, by a combination of tradition, economics, influence, and depression in terms of fear, has kept them from expressing their dissatisfaction whether they liked it or not.

They have demonstrated by the multiplicity of suits which have been started within the last years, when it became possible to start them, that they are not a bit satisfied. They are not satisfied; and the Nation is not satisfied. It has no right to be satisfied under those circumstances.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HOLLAND. I note that the Senator again has used the word "social." He used it twice in his previous statement. I think he would be the first to admit that what he is talking about is a social order. That is exactly what the white people of the South—and I believe the Negro people of the South also—do not want to indulge in. They do not wish to indulge in a common social order. When it is sought to bring about, through school legislation or school litigation, a situation which would force a common social order, there is where the real objection arises. I hope that the Senator will realize that the real chaos, the real difficulty, and the real disturbance at present, so far as school subjects are concerned, is largely in his part of the country and not in ours.

SUPPLEMENTAL APPROPRIATIONS—CONFERENCE REPORT

The PRESIDING OFFICER. Will the Senator suspend to permit the Senate to receive a message from the House of Representatives?

Mr. JAVITS. I yield for that purpose.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11201) making deficiency appropriations for the fiscal year ending June 30, 1964, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 8, 9, 10, 11, 13, 14, 15, 18, 20, 21, and 22 to the bill, and concurred therein, and that the House receded from its disagreement to the amendments of the Senate numbered 2, 6, 12, and 16 to the bill, and concurred therein severally with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 10392. An act authorizing the Commissioners of the District of Columbia to locate a portion of a vehicular tunnel under parts of the U.S. Capitol Grounds and the U.S. Botanic Garden Grounds, and for other purposes; and

H.R. 10503. An act to authorize appropriations for the fiscal years 1966 and 1967 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on Public Works:

H.R. 10392. An act authorizing the Commissioners of the District of Columbia to locate a portion of a vehicular tunnel under parts of the U.S. Capitol Grounds and the U.S. Botanic Garden Grounds, and for other purposes; and

H.R. 10503. An act to authorize appropriations for the fiscal years 1966 and 1967 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

ORDER OF BUSINESS

Mr. HOLLAND. Mr. President, I shall not move to take up the conference report immediately, but I wish to give notice, if the Senator will yield to me, and the distinguished Senator from Massachusetts [Mr. SALTONSTALL], who I am sure is interested in the bill, since he is the ranking minority member of the Committee on Appropriations, will agree. I have already given notice to the distinguished Senator from North Dakota, though I have not been able to see the Senator from Massachusetts, that the chairman of the Committee on Appropriations, the Senator from Arizona [Mr. HAYDEN] would like the Senate to consider the conference report and dispose of it within the next hour or two.

Mr. SALTONSTALL. Mr. President, I know of no objection to the conference report.

Mr. HOLLAND. May I ask the distinguished Senator from New York how long he thinks it will be before the termination of his remarks? I am not trying to hurry him at all.

Mr. JAVITS. Mr. President, I shall yield to the Senator from Massachusetts [Mr. SALTONSTALL] in about 5 minutes, depending upon how extended the colloquy will be. We shall be through in a few minutes, and then I shall resume the floor when he is through. So I should say that 5 minutes would be all that I would require at this time.

Mr. HOLLAND. Mr. President, if the Senator will yield——

Mr. JAVITS. I yield.

Mr. HOLLAND. I understand that the Senator from Massachusetts has a speech which he believes will take about a half hour. I wonder if we can inform the secretaries on both sides of the aisle to notify any interested Senators that at the conclusion of the speech of the distinguished Senator from Massachusetts we hope to be able to take up the conference report and dispose of it, because it involves certain emergency items.

Mr. JAVITS. Mr. President, I have the floor. I have received unanimous consent that I may yield to the Senator from Massachusetts [Mr. SALTONSTALL] and to the Senator from Minnesota [Mr. HUMPHREY]. I do not have unanimous consent to yield for the purpose of considering the conference report. I shall do my utmost to obtain an agreement on that subject from the Senator from Minnesota. If he agrees, I shall then ask unanimous consent for that purpose.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HOLLAND. I have not talked with the Senator from Minnesota, but I have talked with the leadership on my side of the aisle. I understand it is the common wish of the leadership on both sides of the aisle to have the conference report disposed of as soon as possible.

Mr. JAVITS. I shall certainly cooperate.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. JAVITS. Mr. President, I should like to finish the one point which we were discussing. The Senator has spoken about the social order. I have spoken about the social order. The point is that unconstitutional means have been used in the South to perpetuate the social order of segregation. No one can have any constitutional objection to a social order where constitutional means are used for the purpose of perpetuating it if they can. I doubt that they can, but nonetheless that is the situation.

But what we have been objecting to is the use of unconstitutional means, such as the denial of opportunity for the Negro child in the public schools to enroll in a school where he belongs, in his own neighborhood, whether it is mixed or whether it is only white or colored. That is the real essence of the argument—that unconstitutional means have been used to perpetuate this so-called social order.

Mr. President, I have received unanimous consent that I might yield to the Senator from Massachusetts [Mr. SALTONSTALL] for the purpose of his addressing the Senate. I now do so.

Mr. SALTONSTALL. Mr. President, I thank the Senator from New York. I appreciate his yielding to me, and I understand that he has done so without losing his right to the floor and having his entire speech considered as but one speech.

Mr. President, I rise to support the Dirksen-Mansfield substitute amendment to H.R. 7152, the Civil Rights Act of 1964. I do so because I believe it represents a sound and realistic approach to the most fundamental problem which has come before the Congress in my 20 years in this body.

The civil rights debate which has been going on in earnest for the past year has not been confined to the Congress. In a very real sense, it has been a historic debate, national in scope, reaching into every section and group of our Nation. Seldom have the goals of legislation or the means by which they are to be attained been discussed so fully or examined so carefully. I believe that a national consensus has evolved from these helpful discussions, and I believe the time has come to implement this consensus with legislation. I further believe that the Dirksen-Mansfield substitute is the best means of doing this.

We must remember that today the Senate is in the 70th day of discussing civil rights. Both proponents and opponents of civil rights legislation have had ample opportunity to analyze carefully the bill which passed the House of Representatives, to comment on it, and to propose changes to it. Almost 300 amendments to the House-passed bill have been filed by Senators, and to date we have voted on only 2 amendments which were offered to a pending jury-trial amendment.

This is the most comprehensive civil rights bill which has ever been considered by the Congress, and time was needed to study it. That time has been provided. I do not regret the extended discussion which has taken place, nor the excellent opportunity it offered for a detailed study and analysis of the bill. It has served to clear up misunderstandings regarding what the bill would and would not do, to dispel unfounded fears, and to reveal areas in which the bill might be improved while retaining the fundamental principles on which it is based. The discussion has led to constructive changes which make the bill both more acceptable and more effective than that passed by the other body. It has provided time for the education of the American people and of the Congress regarding the problem it seeks to correct and the most satisfactory ways in which to meet it.

The Dirksen-Mansfield substitute is the byproduct of the efforts of many Senators, although Senators DIRKSEN, MANSFIELD, HUMPHREY, and KUCHEL have demonstrated unusual leadership with respect to it. It is, in fact, a cooperative undertaking in which scores of Republicans and Democrats have made valuable contributions. It is a truly bipartisan measure. Its provisions have been shaped in a series of bipartisan discussions of the Democratic and Republican Senate leadership, in which representatives of the Department of Justice participated, and in extended discussions held by the Democratic and Republican conferences. As a participant in the leadership meetings and as chairman of the Republican conference of Senators, which devoted four long sessions to proposed revisions of the House bill, I know how carefully Senators have examined the substitute, how interested they have been in obtaining a realistic, clear bill and how helpful they have been in proposing modifications.

The Dirksen-Mansfield substitute, then, is not a hastily conceived measure, arbitrarily drawn, with little understanding of the problem or inadequate consideration of alternative ways of meeting it. Various viewpoints have been considered and actively solicited, and a real effort has been made to incorporate constructive suggestions in a meaningful measure which will accomplish results in the most satisfactory way. No one who is interested in civil rights wants a punitive bill. No one wants a bill which pays lip-service to the ideals toward which we strive but is meaningless in achieving them. The Dirksen-Mansfield substitute is neither punitive nor meaningless. It is neither a "half a loaf" measure nor an excessive one which extends unnecessarily the power of the Federal Government. I believe it provides the means to do the job which needs to be done and that it does this while preserving the opportunity and authority of the State and local governments to work out their own problems if they are willing to do so.

Throughout the bill an opportunity is provided to resolve disputes by means of mediation and conciliation, thus stressing the principle of voluntary compliance with the law. In these important areas, as well as in others, I consider it an improvement over the House-passed bill.

No doubt each Senator can point to a provision or two he would like to modify in some way. I, for example, have sponsored legislation to make the Civil Rights Commission a permanent agency, whereas the Dirksen-Mansfield proposal only would extend the Commission's life for 4 years. But we could tinker with the outline of this bill forever without ever moving to vote on it. I think it is time we got down to the job of enacting legislation, and I am hopeful that we will take the first important step in this regard next Tuesday. The leadership has assured us that an opportunity will be provided to consider amendments to this substitute. Let us get on with the job.

The substitute amendment contains all 11 titles of the House-passed civil rights bill and retains in each title its principles and objectives. The major changes relate to the public accommodations and fair employment practices sections of the bill, the two sections which generally have been regarded as the most controversial. Before addressing myself to those provisions, I should like to mention briefly some of the more important proposed modifications of the other nine titles.

The right to vote is probably the most fundamental right of our democratic system of government. It must be safeguarded. Congress has recognized this, and in 1957 and again in 1960 enacted legislation to insure this basic right to all American citizens. Unfortunately, the task is not yet completed. Additional legislation is required, and this substitute seeks to provide it.

Title I requires registration officials to apply uniform standards in registering voters and prohibits denial of registration because of immaterial errors or omissions on voting applications in Federal elections. It creates a rebuttable presumption that a citizen who has completed a sixth-grade education is literate for voting purposes. It further provides that where literacy tests are employed as a qualification for voting, the tests must be conducted wholly in writing and certified copies maintained. The substitute bill permits the Attorney General to exempt from the literacy tests provisions those States which he determines are not discriminating in voting registration and procedures.

This title authorizes the Attorney General or a defendant to request a three-judge court to hear and dispose of voting cases. It is particularly important to settle voting cases promptly because the right to vote is of little value after the election has been held.

Title III secures for all citizens the right of equal access to State maintained public facilities, such as parks, playgrounds, or libraries. It authorizes the Attorney General to initiate or intervene in suits to desegregate such facilities when individual citizens are unable to initiate and maintain appropriate legal proceedings. The language in the substitute bill clarifies the criteria which the Attorney General will use in making this determination.

Section 302 of the House bill was deleted from title III and placed in title IX. The section authorized the Attorney General to intervene in any Federal court action filed for the purpose of seeking relief from the denial of equal protection of the law on account of race, color, religion, or national origin. This broad authority is not restricted to cases arising under title III, and the section 302 language, therefore, is more properly included in a general section of the bill.

Title IV authorizes the Attorney General to initiate and intervene in public school desegregation cases where students or parents are unable to institute and maintain legal proceedings. It provides for Federal technical and financial assistance when requested by school boards and communities to assist in the desegregation of their schools.

The substitute bill proposes several language changes to clarify the intent of this section. It provides that the Attorney General must receive a complaint in writing which charges that a school board is denying children equal protection and must determine that the complaint is meritorious prior to initiating action. The Attorney General must give notice of a complaint to the appropriate school board or college authority and give them a reasonable time to correct the situation. It deletes authorization for dependents allowances when school personnel attend special training sessions. A new section 410 states that nothing in this title is intended to prohibit classification and assignment of schoolchildren for reasons other than race, color, religion, or national origin.

The substitute amendment further defines the intent of Congress with respect to the question of racially balanced schools. New language added to section 407(a) provides that nothing contained in this title shall empower the U.S. courts to issue any order which seeks to achieve by busing or any other means racial balance in public schools. Simply stated, this means that this title does not grant to the Federal courts any power which they do not now have to insure the equal protection of the laws. The new language conforms to the 1954 Supreme Court decision on segregation of public schools. In that decision, the Court specifically ruled that assignment of students to public schools on the basis of race or color constituted a denial of the equal protection of the laws. Many constitutional authorities believe that this bars the assignment of pupils by race in order to end racial imbalance, just as it bars assignment by race to maintain segregation.

Title V extends the life of the Civil Rights Commission for 4 years and broadens and adds to its duties. The Commission will serve as a national clearinghouse for information on the equal protection of the laws, and is authorized to investigate charges of fraud or discrimination in Federal elections. The changes made in title V by the substitute bill relate primarily to the rules of procedure for Commission hearings. The new procedural rules more nearly comply with those now in effect for other Federal administrative agencies.

Title VI would permit the withholding of Federal funds from programs administered on a segregated basis. Final action to withhold such assistance will be taken only after efforts to achieve voluntary compliance with the law have failed. The new language will insure that Federal funds will be cut off for only those political entities or particular programs or parts of programs in which discrimination is practiced. This means that all Federal aid to a State or aid to a particular program will not be cut off because one particular part of the program or institution is being operated in violation of the law.

Furthermore, it is important to note that section 602 states that any rules or regulations established to effectuate the provisions of this title "shall be consistent with achievement of the objectives of the statute authorizing the financial assistance." Thus, where Federal funds are used to feed needy children through a program which is operated on a segregated basis, this section does not intend that the children be deprived of the food because the administrators of the program are violating the law. However, we cannot justify the expenditure of Federal funds collected from all citizent on programs which are being administered in a way which clearly deprives some of them of the equal protection of the laws.

Title VIII directs the Secretary of Commerce to make a survey of registration and voting statistics in geographical areas recommended by the Civil Rights Commission. A Census Bureau survey would include a count of persons of voting age by race, color, and national origin, plus statistics on the extent to which persons are registered to vote and have voted for Members of the House of Representatives since January 1960.

The substitute bill, while recognizing the value of having available this type of information, includes language to preserve the privacy of census information and provides penalties for disclosure violations. It provides that persons who do not wish to disclose their race, color, national origin, political party affiliation, or voting preference are not required to do so, and must be fully informed of their right to refuse to answer such questions.

Title IX provides the right of appeal from remand of a civil rights case to a State court from which it was removed. It also includes the section formerly written as section 302 in title III.

Title X establishes a Community Relations Service to assist State and local communities in the solution of racial problems arising out of discriminatory practices. The objective of this new agency would be to secure voluntary compliance with the law through conciliation and mediation of these disputes. Personally, I believe that the Service will make a very valuable contribution in the complex area of civil rights. From my experience as Governor of Massachusetts, I know the value of getting disputing parties together to try to resolve such problems without resort to court action. The assistance which can be offered by this agency will, I believe, prove to be in the public interest of the communities in which these disputes arise, and of the people who live in them.

Mr. President, in Massachusetts there is a commission against discrimination, which over a period of 17 years has handled almost 4,700 complaints and investigations. Only two cases out of that number have been appealed to the Massachusetts courts. Over 3,000 cases were closed after investigation and conference with the disputing parties. More than 1,150 were dismissed for lack of jurisdiction or probable cause. I believe that is the way to solve these problems, wherever possible.

Title XI of the substitute bill contains the jury trial amendment originally filed by Senators DIRKSEN and MANSFIELD. It is similar to the language which the Congress wrote into the 1957 Civil Rights Act, and its provisions are applicable to cases arising under this act as well as under the 1957 act. I have stated my support of the Dirksen-Mansfield substitute jury trial amendment which I intended to vote for in the event it had been called up as a separate amendment.

Section 1103 of title XI states the intent of Congress that nothing in this civil rights act is intended to preempt any State laws on the same subject matter unless such State laws are inconsistent with the purposes of this act. This section was added to the bill by the House of Representatives to assure those States which have enacted and are enforcing effective civil rights laws that the Federal Government does not intend to supplant their efforts to protect the rights of their own citizens. I believe it is an important section because I am convinced that wherever possible racial disputes should be settled at the local level.

I wish now to discuss the major changes offered to title II and title VII. The new language relates primarily to the method of enforcement of the provisions of these sections and the relation of Federal-State jurisdiction in resolving complaints arising under them.

In general the amended language in both sections provides that, where States or local governments have enacted and are enforcing effective civil rights laws comparable in scope to what is provided in this bill, complaints will be referred initially to the State or local agencies for a reasonable period of time to resolve the dispute or obtain compliance with the law. The State or local agencies will be given an opportunity to settle the complaint by voluntary methods wherever possible or through local enforcement when necessary.

Second, where State or local governments have not enacted laws which guarantee these same rights for all their citizens, an aggrieved party may initiate action under the provisions of this bill on the Federal level. In such cases, provision is made for Federal conciliation in an effort to secure voluntary compliance with the law prior to court action.

In addition to the relief which the substitute language provides for an individual complainant, authority is also given to the Attorney General to file action on public accommodation or unfair employment practices complaints where a pattern or practice of resistance to the law is found.

Specifically, title II provides that no citizen shall be subject to discrimination because of his race, color, religion, or national origin in certain places of public accommodation. To date, some 30 States, the District of Columbia and several cities have enacted public accommodation laws similar to what is provided in title II. Under the substitute language, an aggrieved party involved in a dispute arising within one of those States or local jurisdictions must wait 30 days before filing civil action under the provisions of this bill. After 30 days, during which the State or local agencies can attempt to resolve the dispute, the aggrieved party may file an action in a Federal court. The court is authorized to receive the case without cost, may furnish an attorney for the complainant and may permit the Attorney General to intervene in the action. The court may also stay the proceedings pending termination of State or local enforcement action. This extension authority is necessary because many State public accommodation statutes provide criminal penalties and the State courts must be allowed sufficient time to hear and decide the case.

Where a complaint arises in a State which does not have comparable public accommodation laws, the Federal court may receive the case and refer the complaint to the community relations service for a period of 60 days, which can be extended to not more than 120 days, in an attempt to obtain voluntary compliance with the law.

Title II also authorizes the Attorney General to file action to secure compliance with the law when he has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the law. In such actions, the Attorney General may request a court of three judges to hear and determine the case.

The new language of title II provides effective relief for aggrieved parties both in instances where there are individual violations of the law and in situations where there is massive resistance to the law requiring action by the Federal Government to protect the rights of all citizens.

The enforcement provisions in title VII are similar to those in title II. Title VII provides that employers, labor unions, and employment agencies whose actions affect interstate commerce are prohibited from discriminating on the basis of race, color, religion, sex, or national origin against an individual seeking employment. The substitute bill provides that a charge of an unfair employment practice must be filed by the person aggrieved or by a member of the Equal Employment Opportunities Commission which is established by this title. In the case of an alleged unlawful employment practice occurring in a State or local community which have laws prohibiting practices comparable to what is provided in this bill, the person cannot file the charge with the Commission prior to 60 days after he has instituted proceedings under the State or local law, unless such action has been earlier terminated. The bill extends this period to 120 days during the first year after enactment of a comparable State or local law. Where a charge of an unfair practice is filed by a Commission member, the Commission shall notify the appropriate State or local agency and afford them the same period of time in which to resolve the complaint.

The Equal Employment Opportunities Commission is given a maximum of 60 days in which to obtain voluntary compliance with the provisions of the law. If they are not able to do so, the aggrieved party in the case may file an action in the Federal district court in which the practice has occurred. Like title II, the bill authorizes the court to accept the case without costs, furnish the complainant legal assistance, and permit the Attorney General to intervene in the action. If the court finds that the respondent has intentionally engaged in or is intentionally engaging in unlawful practices, the court may order such affirmative action as may be appropriate.

Again, under this title, the Attorney General may bring a civil action where he finds a pattern or practice of resistance to the law and may request a three-judge court to hear the case.

In addition, numerous revisions were made in the recordkeeping section of this title. The substitute language provides that where records on employment practices are required by State laws or Federal Executive orders, any additional information required by this law may be added to what is already being kept.

The Dirksen-Mansfield proposal deals with human rights and needs, and provides no more than simple justice. It is concerned with respect for the dignity of the individual and with the protection of his rights. It is not, I believe, an unwarranted invasion of the privacy of individuals, nor is it an attempt by the Federal Government to preempt the responsibility of State and local governments to secure the basic rights of all of their citizens.

Certainly we want to secure for all citizens their right to vote. This is the principle on which our democratic system of government operates, and we do not want it to be violated in even the smallest way.

We want to eliminate the indignities and humiliations suffered by some of our citizens and of guests from foreign countries when they are unable to stop, eat, or rest at places of public accommodation. Such establishments are offering their services to the public. All of our citizens comprise "the public." They should be adjudged for acceptance at these places as citizens, not on the basis of the color of their skin or their religious beliefs.

We want to provide for our young people the best possible educational opportunities. The school years are the most impressionable and receptive years in a person's life, and we want to provide all of our children with the opportunity to take full advantage of them.

We must seek ways to improve employment opportunities for all citizens. Men and women should be free to compete for and hold jobs on the basis of their training and qualifications. They should not be barred from employment strictly because of their race or creed. Yet these factors have served to prevent underprivileged groups throughout our country from improving their status. The chance to be gainfully employed at a skill commensurate with a person's education and ability is of paramount importance in a person's life. From this he derives many of the benefits offered in a free society such as ours.

The legislation before us today provides no preferential treatment for any group of citizens. In fact, it specifically prohibits such treatment. It seeks to assure that all citizens can exercise their rights under our laws and can share the equal opportunities guaranteed by those laws.

I am sure that we all recognize that this legislation will not solve all the racial or minority group problems which we now have and which will arise in the future, for we are aware of the simple truth that while Congress can pass laws on civil rights, human understanding is necessary for real progress. We know we all must continue to work together to increase that understanding. But this legislation represents a giant step forward. The time for further delay and inaction has passed. We must address ourselves to the task at hand—enactment of this civil rights legislation.

As the Reverend Dr. Eugene Carson Blake put it so succinctly:

> Justice, equality, and freedom for all men are right. Segregation, discrimination, and prejudice are wrong. It is as simple as that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New York has the floor.

ORDER OF BUSINESS

Mr. SALTONSTALL. Mr. President, I ask unanimous consent that I may be permitted to withdraw my request for a quorum call. And in the interest of the Senator from New York, who is now present, and who has the floor, I ask unanimous consent that he not lose the floor, and further that any additional remarks he may make will not constitute a second speech. I have been informed that the Senator from Florida will take only a moment to present a conference report on the deficiency bill.

Mr. JAVITS. Mr. President, may I ask the Senator from Florida if he has cleared that report with the majority. It has been cleared with the minority.

Mr. HOLLAND. Mr. President, I was told by the leadership on this side that it had been cleared all around. I have not personally cleared it with the minority leader. Suppose we let the quorum call proceed a little further while the Senators satisfy themselves on this point. The information that came to me was that the bill had been cleared by everyone interested.

Mr. JAVITS. Mr. President, if the Senator will allow me, I would like to inform Senator HUMPHREY what the Senate is about to do. I had unanimous consent to yield to the Senator from Massachusetts, who has finished, and then to yield to the Senator from Minnesota.

The request has been made by the Senator from Florida that before yielding to the Senator from Minnesota, I yield to the Senator from Florida [Mr. HOLLAND] for the purpose of considering the conference report on the deficiency appropriation bill.

If the Senator from Minnesota [Mr. HUMPHREY] is agreeable, I shall do that.

Mr. HUMPHREY. Mr. President, I would hope that we might do that. It is very important.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may yield to the Senator from Florida [Mr. HOLLAND] without losing my rights to the floor, and without my subsequent remarks being counted as an additional speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFICIENCY APPROPRIATIONS—1964—CONFERENCE REPORT

Mr. HOLLAND. I thank the distinguished Senator from New York and the distinguished Senator from Massachusetts for their courtesy in this matter. I make this request for the leadership on both sides, although I had not had that assurance until the Senator from Minnesota came in the Chamber.

Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11201) making deficiency appropriations for the fiscal year ending June 30, 1964, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. WALTERS in the chair). The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. HOLLAND. Mr. President, for the information of the Senate, the following is an explanation of the conference results on H.R. 11201, the Deficiency Appropriation Act for 1964. The total arrived at in conference is $1,336,687,143. This is an increase of $71,773,454 over the House-approved amount of $1,264,913,689, and a decrease of $12,950,000 from the Senate approved total of $1,349,637,143, and is a reduction of $99,490,600 from the total supplemental requests of $1,436,177,743.

Among the more significant differences resolved either in the conference report or in the accompanying motions approved by the House are:

First. The provision of $20 million for manpower development and training activities, for which $55 million had been requested and $24,300,000 provided in the Senate version of the bill.

Second. The sum of $41,370,000 of a recommended $46,570,000—Senate version of bill—for items relating to the Alaskan earthquake.

Third. The sum of $4 million of the Senate-recommended $6 million for payments to air carriers; that is, liquidation of contract authorization.

Fourth. The sum of $4 million of the Senate-recommended $5 million for emergency conservation measures for repair of farm and range lands damaged by excessive drought, flood, and other natural disasters.

I shall be happy to answer any questions which Senators may wish to ask.

First, however, I wish to state that the distinguished Senator from Rhode Island [Mr. PASTORE], who is chairman of the subcommittee that handled the bill and would normally have handled the conference report, is away from the Senate this afternoon on official business. It is for that reason that I have been asked to handle the conference report.

A large group of items in the bill has to do with the Alaska earthquake disaster, for which a total of $41,370,000 is recommended. All of that amount does not have to be spent in this fiscal year, but may continue to the end of fiscal 1965.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. HOLLAND. I am glad to yield to the distinguished Senator from Alaska.

Mr. BARTLETT. I thank the Senator from Florida. Ordinarily in a report on a bill of this size—namely, $1,336 million—I would not comment upon the Alaska items. However, I shall do so in this case because the aggregate amount of $41,370,000 for Alaska, agreed to by the conference, is of extraordinary significance in the rebuilding effort which has already been launched in our State, following the Good Friday earthquake—an effort in which the Federal Government is playing such an instrumental part.

Of the $41 million earmarked by the committee for Alaska use, and agreed to by the conference, $20 million will go to the Alaska Railroad for rebuilding the rail line from Portage to Seward and reconstructing the dock and terminal facilities at Seward, the southern terminus of the Alaska Railroad. This is essential work.

Seventeen million dollars will go to the State and local governments of Alaska to tide them over the months ahead when their tax revenues will be greatly diminished. This money will insure the continuance of the essential services these governments provide.

I would be remiss if I did not at this time express my gratitude and the sincere appreciation of all Alaskans to President Johnson for submitting this budget request to Congress so promptly; to the members of the Committees on Appropriations of both Houses, the conferees, and the Congress itself for acting so affirmatively and so promptly.

A great deal remains to be done; but the money now provided will allow us, after the dreadful disaster of March 27, to make an effective start. This is the kind of help that Alaskans expected from their fellow Americans. This is the kind of help we shall receive. We are grateful.

Mr. SALTONSTALL. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I am glad to yield to the Senator from Massachusetts.

Mr. SALTONSTALL. This is a unanimous report. It provides for the basic needs of the country up to June 30, the end of this fiscal year, and also provides for the immediate needs for reconstruction purposes, following the unfortunate earthquake in Alaska.

Mr. HOLLAND. Yes; the bill is a combined deficiency and supplemental bill, because it provides for needs beyond July 1, as in the case of Alaska. Certain items, including agricultural items, have no expiration time that is near. As I recall, some of the Alaska items will run to the end of 1965; and some of the others have no time limit. The bill also includes emergency disaster items.

All of the Alaska items included in the Senate bill were allowed in full in conference, except one, the item relating to the Alaska Railroad rebuilding and the rebuilding of the port, docks, and wharves, at Seward, which was reduced somewhat. However, the part that relates to Seward alone, the rebuilding of the wharves, yards, and docks, was not reduced at all. The reduction is to be applied only in the reconstruction of the railroad, and that only because the time for the spending of the money is such that it probably could not all be spent within the approaching year.

Mr. BARTLETT. Mr. President, will the Senator yield on that particular point?

Mr. HOLLAND. I am glad to yield.

Mr. BARTLETT. The Senator is correct. The bill contains language permitting the Department of the Interior, through the Alaska Railroad, to turn over $7,800,000 to the Corps of Engineers for the actual rebuilding job at Seward. The conferees, in their wisdom, decided that the appropriation for the Alaska Railroad might be reduced in the amount of $5 million, for the reasons the Senator from Florida has stated.

Was it not the understanding of the Senator from Florida at the conference, as it was mine, that this was done without any prejudice whatsoever to later requests for the total of $5 million, if based upon the most sound engineering concepts?

Mr. HOLLAND. The Senator is correct. Every sympathy was expressed with the situation in Alaska, including the necessity of rebuilding the Alaska Railroad. The only reason for the reduction in the item was that the conferees felt that the $20 million allowed, from which would be deducted that part which goes to Seward, was ample for the time in which the deficiency bill would operate. If that is found to be insufficient, there will be no problem with the Senate Committee on Appropriations, because it has complete sympathy with Alaska and Alaska's problems and would want to help in every way it could.

Mr. BARTLETT. I am glad the Senator from Florida has made that explanation. It is in complete harmony with my understanding.

Mr. YOUNG of North Dakota. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I am glad to yield to the distinguished ranking member of the subcommittee which handles deficiency appropriations.

Mr. YOUNG of North Dakota. I wish to support the adoption of the conference report. For the most part, it contains a number of items for which the Federal Government has already obligated itself. It also provides funds for the necessary commitments in Alaska, and for a few other items that were cut to the bone.

Mr. HOLLAND. The Senator is correct. Although I am not the chairman of the subcommittee—the Senator from Rhode Island [Mr. PASTORE], who could not be present today, is the chairman—I express my complete gratitude, and that of Senator PASTORE also, to the Senator from North Dakota [Mr. YOUNG] and his colleagues on that side of the aisle. There was complete harmony in handling the bill, both in our committee and in the conference committee. I do not believe that in the long years the Senator from North Dakota and I have been taking part in conferences we have ever sat through a conference which was any more pleasant.

Mr. YOUNG of North Dakota. I wish they could all be as agreeable.

Mr. HOLLAND. I join the Senator from North Dakota in that wish.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. HOLLAND. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 2, 6, 12, and 16.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2, and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$4,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6, and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert: "$4,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12, and concur therein with an amendment, as follows: In lieu of the sum of $25,200,000 named in said amendment, insert "$20,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16, and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$20,000,000".

Mr. HOLLAND. Mr. President, I ask unanimous consent that these amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLAND. Mr. President, I move that the Senate concur in the amendments of the House to Senate amendment Nos. 2, 6, 12, and 16.

The motion was agreed to.

Mr. HOLLAND. Mr. President, I ask unanimous consent that there be printed in the RECORD the usual table summarizing the budget estimates, the House and the Senate versions of the bill, and the conference results.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

The deficiency appropriation bill, 1964 (H.R. 11201)

Chapter	Department or activity	Budget estimates	Bill		Conference
			House version	Senate version	
I	Agriculture	$25,600,000	$13,600,000	$18,750,000	$17,600,000
II	Defense	1,042,000,000	1,003,200,000	1,003,200,000	1,003,200,000
III	District of Columbia	(1,085,956)	(921,956)	(353,856)	(353,856)
IV	Independent Offices	51,893,000	42,695,000	49,395,000	47,095,000
V	Interior	62,217,000	16,367,000	61,817,000	56,617,000
VI	Labor, and Health, Education, and Welfare	220,062,000	165,062,000	189,362,000	185,062,000
VII	Legislative	100,400	117,300	174,800	174,800
VIII	Public Works	7,680,000	2,040,000	2,040,000	2,040,000
IX	State, Justice, Commerce, and the Judiciary	1,868,900	646,900	1,766,900	1,766,900
X	Treasury and Post Office	11,925,000	11,600,000	10,300,000	10,300,000
XI	Claims and judgments	12,831,443	9,585,489	12,831,443	12,831,443
	Total	1,436,177,743	1,264,913,689	1,349,637,143	1,336,687,143

Comparative statement of budget estimates and amounts recommended in the bill

H. Doc. No.	Department or activity	Budget estimates	Bill		Conference
			House version	Senate version	
	CHAPTER I				
	DEPARTMENT OF AGRICULTURE				
	AGRICULTURAL MARKETING SERVICE				
	Special milk program			$150,000	
	AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE				
203	Expenses	$13,600,000	$13,600,000	13,600,000	$13,600,000
197	Emergency conservation measures	12,000,000		5,000,000	4,000,000
	Total, chapter I	25,600,000	13,600,000	18,750,000	17,600,000
	CHAPTER II				
	DEPARTMENT OF DEFENSE—MILITARY				
	MILITARY PERSONNEL				
197	Military personnel, Army	215,000,000	189,000,000	189,000,000	189,000,000
	By transfer	(27,200,000)	(27,200,000)	(27,200,000)	(27,200,000)
203	Military personnel, Navy	245,000,000	242,800,000	242,800,000	242,800,000
203	Military personnel, Marine Corps	47,000,000	47,000,000	47,000,000	47,000,000
197	Military personnel, Air Force	430,000,000	422,700,000	422,700,000	422,700,000
	By transfer	(2,000,000)	(2,000,000)	(2,000,000)	(2,000,000)
203	Reserve personnel, Army	500,000	500,000	500,000	500,000
203	Reserve personnel, Navy	2,800,000	2,800,000	2,800,000	2,800,000
203	Reserve personnel, Marine Corps	1,400,000	1,400,000	1,400,000	1,400,000
203	Reserve personnel, Air Force	2,600,000	2,600,000	2,600,000	2,600,000
203	National Guard personnel, Army	8,500,000	6,200,000	6,200,000	6,200,000
203	National Guard personnel, Air Force	3,200,000	3,200,000	3,200,000	3,200,000
203	Retired pay	86,000,000	85,000,000	85,000,000	85,000,000
	Total, chapter II	1,042,000,000	1,003,200,000	1,003,200,000	1,003,200,000
	CHAPTER III				
	DISTRICT OF COLUMBIA				
	DISTRICT OF COLUMBIA FUNDS				
	Operating expenses:				
227	General operating expenses	(23,270)	(23,270)	(23,270)	(23,270)
197	Public safety	(200,000)	(146,000)	(146,000)	(146,000)
227, 197	Health and welfare	(358,500)	(248,500)	Language	
227	Personal services, wage-board employees	(485,900)	(485,900)	(166,300)	(166,300)
227, 197	Settlement of claims and suits	(16,021)	(16,021)	(16,021)	(16,021)
227	Repayment of loans and interest	(2,265)	(2,265)	(2,265)	(2,265)
	Total, chapter III	(1,085,956)	(921,956)	(353,856)	(353,856)
	CHAPTER IV				
	INDEPENDENT OFFICES				
	CIVIL AERONAUTICS BOARD				
S. 76	Payments to air carriers (liquidation of contract authorization)	6,000,000		6,000,000	4,000,000
	GENERAL SERVICES ADMINISTRATION				
203	Operating expenses, Public Buildings Service	2,338,000			
	SELECTIVE SERVICE SYSTEM				
284	Salaries and expenses	3,098,000	2,238,000	2,938,000	2,638,000
	VETERANS' ADMINISTRATION				
203, 284	Medical care	10,457,000	10,457,000	10,457,000	10,457,000
197	Compensation and pensions	30,000,000	30,000,000	30,000,000	30,000,000
284	Loan guaranty revolving fund	Language	Language	Language	Language
	Total, chapter IV	51,893,000	42,695,000	49,395,000	47,095,000
	CHAPTER V				
	DEPARTMENT OF AGRICULTURE				
	FOREST SERVICE				
203	Forest protection and utilization	13,000,000	13,000,000	13,000,000	13,000,000
S. 77	Forest protection and utilization	650,000		650,000	650,000
S. 77	Forest roads and trails	350,000			
	DEPARTMENT OF THE INTERIOR				
	BUREAU OF LAND MANAGEMENT				
203	Management of lands and resources	2,197,000	2,197,000	2,197,000	2,197,000
	By transfer	(303,000)	(303,000)	(303,000)	(303,000)
	BUREAU OF INDIAN AFFAIRS				
203	Resources management	440,000	440,000	440,000	440,000
	By transfer	(60,000)	(60,000)	(60,000)	(60,000)
S. 77	Construction	1,000,000		1,000,000	1,000,000
	NATIONAL PARK SERVICE				
203	Management and protection	275,000	225,000	225,000	225,000
203	Maintenance and rehabilitation of physical facilities	400,000	400,000	400,000	400,000
	BUREAU OF COMMERCIAL FISHERIES				
S. 77	Construction	650,000		650,000	650,000
	BUREAU OF SPORT FISHERIES AND WILDLIFE				
S. 77	Construction	50,000		50,000	50,000

Comparative statement of budget estimates and amounts recommended in the bill—Continued

H. Doc. No.	Department or activity	Budget estimates	Bill		Conference
			House version	Senate version	
	CHAPTER V—Continued				
	DEPARTMENT OF THE INTERIOR—Continued				
	THE ALASKA RAILROAD				
S. 77	Payment to the Alaska Railroad revolving fund	$25,200,000		$25,200,000	$20,000,000
	FUNDS APPROPRIATED TO THE PRESIDENT				
S. 77	Transitional grants to Alaska	17,000,000		17,000,000	17,000,000
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE				
	PUBLIC HEALTH SERVICE				
S. 77	Construction of Indian health facilities	750,000		750,000	750,000
	INDEPENDENT OFFICES				
	FEDERAL RECONSTRUCTION AND DEVELOPMENT PLANNING COMMISSION FOR ALASKA				
S. 77	Salaries and expenses	150,000		150,000	150,000
	SMITHSONIAN INSTITUTION				
203	Salaries and expenses	67,000	$67,000	67,000	67,000
	NATIONAL GALLERY OF ART				
203	Salaries and expenses	38,000	38,000	38,000	38,000
	Total, chapter V	62,217,000	16,367,000	61,817,000	56,617,000
	CHAPTER VI				
	DEPARTMENT OF LABOR				
	MANPOWER ADMINISTRATION				
203	Manpower development and training activities	55,000,000		24,300,000	20,000,000
	BUREAU OF EMPLOYEES' COMPENSATION				
203	Employees' compensation claims and expenses	5,000,000	5,000,000	5,000,000	5,000,000
	Total, Department of Labor	60,000,000	5,000,000	29,300,000	25,000,000
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE				
	PUBLIC HEALTH SERVICE				
203	Accident prevention	[1] (18,000)	[1] (18,000)	[1] (18,000)	[1] (18,000)
203	Chronic diseases and health of the aged	[1] (252,000)	[1] (216,000)	[1] (216,000)	[1] (216,000)
203	Communicable disease activities	[1] (184,000)			
203	Community health practice and research	[1] (67,000)	[1] (36,000)	[1] (36,000)	[1] (36,000)
203	Control of tuberculosis	[1] (22,000)	[1] (22,000)	[1] (22,000)	[1] (22,000)
203	Control of venereal diseases	[1] (19,000)	[1] (11,000)	[1] (11,000)	[1] (11,000)
203	Dental services and resources	[1] (60,000)	[1] (52,000)	[1] (52,000)	[1] (52,000)
203	Nursing services and resources	[1] (41,000)	[1] (33,000)	[1] (33,000)	[1] (33,000)
203	Hospital construction activities	[1] (26,000)	[1] (18,000)	[1] (18,000)	[1] (18,000)
203	Environmental health sciences	[1] (15,000)	[1] (15,000)	[1] (15,000)	[1] (15,000)
203	Air pollution	[1] (59,000)	[1] (45,000)	[1] (45,000)	[1] (45,000)
203	Milk, food, interstate, and community sanitation	[1] (74,000)	[1] (64,000)	[1] (64,000)	[1] (64,000)
203	Occupational health	[1] (49,000)	[1] (42,000)	[1] (42,000)	[1] (42,000)
203	Radiological health	[1] (245,000)	[1] (232,000)	[1] (232,000)	[1] (232,000)
203	Water supply and water pollution control	[1] (130,000)	[1] (89 000)	[1] (89,000)	[1] (89,000)
203	Hospitals and medical care	[1] (1,331,000)	[1] (1,331,000)	[1] (1,331,000)	[1] (1,331,000)
203	Foreign quarantine activities	[1] (108,000)	[1] (98,000)	[1] (98,000)	[1] (98,000)
203	Indian health activities	[1] (737,000)	[1] (737,000)	[1] (737,000)	[1] (737,000)
203	Biologics standards	[1] (30,000)			
203	Salaries and expenses, Office of the Surgeon General	[1] (49,000)	[1] (20,000)	[1] (20,000)	[1] (20,000)
	Total, Public Health Service	(3,516,000)	(3,079,000)	(3,079,000)	(3,079,000)
	ST. ELIZABETHS HOSPITAL				
203	Salaries and expenses	[2] (462,000)	[2] (462,000)	[2] (462,000)	[2] (462,000)
	WELFARE ADMINISTRATION				
203	Grants to States for public assistance	159,600,000	159,600,000	159,600,000	159,600,000
	Total, Department of Health, Education, and Welfare:				
	Direct appropriations	159,600,000	159,600,000	159,600,000	159,600,000
	Indefinite appropriations	462,000	462,000	462,000	462,000
	Total	160,062,000	160,062,000	160,062,000	160,062,000
	U.S. SOLDIERS' HOME				
203	Limitation on operation and maintenance and capital outlay	(120,000)	(40,000)	(40,000)	(40,000)
	Total, chapter VI:				
	Direct appropriations	164,600,000	164,600,000	188,900,000	
	Indefinite appropriations	462,000	462,000	462,000	462,000
	Total	220,062,000	165,062,000	189,362,000	185,062,000

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[1] To be derived by transfer from the appropriation for National Heart Institute, fiscal year 1964.

[2] Indefinite appropriation.

Comparative statement of budget estimates and amounts recommended in the bill—Continued

H. Doc. No.	Department or activity	Budget estimates	Bill		Conference
			House version	Senate version	
	CHAPTER VII				
	LEGISLATIVE BRANCH				
	SENATE				
	CONTINGENT EXPENSES OF THE SENATE				
---------	Folding documents	---------	---------	$10,000	$10,000
	HOUSE OF REPRESENTATIVES				
---------	Gratuities to widows of deceased Members	---------	$67,500	90,000	90,000
	ARCHITECT OF THE CAPITOL				
	CAPITOL BUILDINGS AND GROUNDS				
203	Capitol buildings	$20,000	16,000	16,000	16,000
203	Capitol grounds	4,500	4,000	4,000	4,000
203	Legislative garage	800	800	800	800
203	Senate office buildings	31,000	---------	25,000	25,000
203	House office buildings	13,000	5,000	5,000	5,000
203	Capitol powerplant	13,500	10,000	10,000	10,000
	LIBRARY BUILDINGS AND GROUNDS				
203	Structural and mechanical care	13,000	12,000	12,000	12,000
	BOTANIC GARDEN				
203	Salaries and expenses	4,600	2,000	2,000	2,000
	Total, Architect of the Capitol	100,400	49,800	74,800	74,800
	Total, chapter VII	100,400	117,300	174,800	174,800
	CHAPTER VIII				
	DEPARTMENT OF DEFENSE—CIVIL				
	DEPARTMENT OF THE ARMY				
	CORPS OF ENGINEERS—CIVIL				
S. 77	Construction, general	5,600,000	---------	---------	---------
203	Operation and maintenance, general	1,700,000	1,700,000	1,700,000	1,700,000
	DEPARTMENT OF THE INTERIOR				
	BONNEVILLE POWER ADMINISTRATION				
284	Operation and maintenance	380,000	340,000	340,000	340,000
	Total, chapter VIII	7,680,000	2,040,000	2,040,000	2,040,000
	CHAPTER IX				
	DEPARTMENT OF JUSTICE				
	LEGAL ACTIVITIES AND GENERAL ADMINISTRATION				
203	Fees and expenses of witnesses	400,000	300,000	300,000	300,000
	FEDERAL PRISON SYSTEM				
203, 284	Salaries and expenses, Bureau of Prisons	140,000	140,000	140,000	140,000
203	Support of United States prisoners	200,000	200,000	200,000	200,000
	Total, Department of Justice	740,000	640,000	640,000	640,000
	DEPARTMENT OF COMMERCE				
	COAST AND GEODETIC SURVEY				
S. Doc. 77	Salaries and expenses	1,120,000	---------	1,120,000	1,120,000
	By transfer	(600,000)	---------	(600,000)	(600,000)
	THE JUDICIARY				
	SUPREME COURT OF THE UNITED STATES				
203	Care of the buildings and grounds	8,900	6,900	6,900	6,900
	Total, chapter IX	1,868,900	646,900	1,766,900	1,766,900
	CHAPTER X				
	TREASURY DEPARTMENT				
203	Office of the Secretary, salaries and expenses (by transfer)	(29,000)	(29,000)	(29,000)	(29,000)
203	Bureau of Customs, salaries and expenses (by transfer)	(115,000)	(115,000)	(115,000)	(115,000)
203	Coast Guard:				
	Operating expenses	10,800,000	10,800,000	10,300,000	10,300,000
	By transfer	---------	---------	(500,000)	(500,000)
	Retired pay	1,125,000	800,000	---------	---------
	By transfer	---------	---------	(800,000)	(800,000)
	Reserve training (by transfer)	(700,000)	(700,000)	(700,000)	(700,000)
	Total, chapter X	11,925,000	11,600,000	10,300,000	10,300,000
	CHAPTER XI				
	CLAIMS AND JUDGMENTS				
300 S. 50 S. 74 S. 75	---------	12,831,443	9,585,489	12,831,443	12,831,443
	Grand total, chapters I through XI, inclusive	1,436,177,743	1,264,913,689	1,349,637,143	1,336,687,143

Mr. HOLLAND. Mr. President, I express the appreciation of the members of the Appropriations Committee, on both sides of the aisle, I am sure, to the Senator from New York [Mr. Javits] for his courtesy.

Mr. JAVITS. I have been glad to yield.

Mr. GRUENING subsequently said: Mr. President, the Senate and the House today again have dramatically demonstrated why we are 50 United States. Through its prompt action on the 1964 deficiency appropriation bill, H.R. 11201, the Congress has provided needed funds which will help Alaska recover from the crushing blows it received from the March 27 earthquake and subsequent seismic waves.

Acting promptly, the concerned members of the Appropriations Committees of the Senate and the House incorporated in the deficiency appropriations bill the sum of $41,370,000, which will be used to repair or replace Federal facilities damaged by the earthquake and high waters. The investment is sound. The Senate had appropriated $25,200,000 for the rebuilding of the Alaska Railroad. This figure has been cut back to $20 million by the House but my colleague, Senator Bartlett, and I have been assured that if more funds are required during the next fiscal year they will be appropriated.

So we concur and we thank our colleagues for their continuing concern and action.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, on the same basis, I ask unanimous consent that I may yield to the Senator from South Carolina [Mr. Thurmond], the Senator from West Virginia [Mr. Byrd], and the Senator from Minnesota [Mr. Humphrey].

The PRESIDING OFFICER (Mr. Nelson in the chair). Without objection, it is so ordered.

Mr. THURMOND. I thank the Senator from New York.

THE SUPREME COURT DECISIONS AGAINST PRAYERS IN THE SCHOOLS

Mr. THURMOND. Mr. President, the recent Supreme Court decisions against prayers in our schools and the adverse fallout effects from these decisions are still subjects of much concern to the overwhelming majority of the American people. I have been very much pleased to read four eloquent statements on this subject, one by Mr. Thurman Sensing, executive vice president of Southern States Industrial Council; another by Dr. Norman Vincent Peale, the famous minister-author-columnist of New York City; another by Miss Carolyn Fritsch, a high school senior; and another by Mr. William Randolph Hearst, Jr., editor in chief of the Hearst Newspapers.

The statement by Mr. Sensing was published by the Manion Forum in the May 24, 1964, issue; and the article by Dr. Peale was printed in the June 2, 1964, Manchester, N.H., Union Leader. The article by Miss Fritsch was published in Christian Economics of May 26, 1964; and the editorial by Mr. Hearst was printed in the May 31, 1964, issue of the Hearst Newspapers.

In order that these statements may be made available to all Members of the Congress, I ask unanimous consent that they be printed in the Record at the conclusion of these remarks.

There being no objection, the statements, articles, and editorial were ordered to be printed in the Record, as follows:

[Broadcast on the "Manion Forum," May 24, 1964]

We Must Restore Prayer to the Schools in Order To Defeat Communism

(By Thurman Sensing, executive vice president, Southern States Industrial Council)

Dean Manion. While we are, and because we are, considering 1964 presidential possibilities, we must ponder the ominous, wholesale decline of morality in the United States. In his farewell address to the American people, our first President, George Washington, said this:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness—these firmest props of the duties of men and citizens.

"The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked: Where is security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instrument of investigation in courts of justice?

"And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle."

In the context of this solemn warning, I am yielding this microphone now to a distinguished speaker, writer and businessman, Mr. Thurman Sensing, of Nashville, Tenn., who for many years has been the executive vice president of the influential Southern States Industrial Council. Mr. Sensing, welcome back to the "Manion Forum."

Mr. Sensing. Thank you, Dean Manion. I want to deal in this broadcast with two recent Supreme Court decisions and their aftermath—events which are contributing greatly to the declining morality in our country.

It was a tragic day in the life of our Nation when atheists were allowed to veto recognition of Almighty God in our public schools. Isn't it strange that it took the Supreme Court of the United States 186 years to find out that prayer and Bible reading in our public schools is unconstitutional?

I believe in separation of church and state all right, but I do not believe in separation of God and state—and that is exactly what the atheists, supported by the Supreme Court decisions, are trying to do. To do this is to deny our whole history and tradition as a nation.

In June 1962 the Supreme Court held that the prayer used in the New York State public schools, "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country," was unconstitutional and could no longer be used.

In view of the Christian heritage of this Nation, banning such a prayer was idiotic to begin with, but many otherwise well-meaning people went along with it, even pastors, church educators, and others, because, they said, it was written and prescribed by the State Board of Regents of New York.

When they were asked, "Don't you see where this will lead?" they replied that this would be the end of it, that the ruling was simply against the use of a prayer composed by a governmental agency; in other words, simply a separation of church and state.

How shocked at least some of them must have been a year later, when in June 1963 the Supreme Court again ruled, at the instigation of suits brought by atheists, that the use of the Lord's Prayer and reading of the Bible in public schools was also unconstitutional.

Certainly, the New York State Board of Regents did not write, nor did any other governing bodies in this country write, the Lord's Prayer; they did not write the Bible. The June 1962 decision was leading in the very direction it was inevitably destined to lead from the day it was handed down. And in the direction that it must inevitably continue to lead—unless the people speak.

What must the children in the classroom feel when the teacher discontinues saying the Lord's Prayer at the opening exercises without explanation? But what can a teacher say to the children? If the student asks whether there is a God, may the teacher answer the question? To do so might offend the believers in atheism and this, according to the Supreme Court, could violate the Constitution.

DECISION CREATES DILEMMA FOR TEACHERS

But who can be sure what affect there will be on the mind of the schoolchild who has been told day after day that there is a God, and then suddenly is told that the Supreme Court has ordered the teacher not to say so any longer in the schoolroom or to permit any prayers whatsoever in a public school?

From the founding of the first public schools in this country, reading from the Bible has been an accepted practice. It has contributed to the moral character of generations of Americans. It has symbolized that ordinary men must obey, not only the laws of their State and Nation, but the higher law of God. Are the traditions of our Nation to be thrown away?

The Declaration of Independence clearly states the author's trust in a divine providence. Again and again through all the state papers of our country and its Presidents and our Governors is faith in Almighty God stressed as the cardinal principle of American life.

The thousands of churches that dot our landscape and dominate our cities, the dozens of seminaries, and the respect accorded religious observances, all characterize this Nation and people as religious in the deepest sense. America is a land of liberty because free citizens believe that their freedom is rooted in religious freedom and respect for God's will.

The effect of these two decisions of the Supreme Court was to move the United States toward the status of an officially godless nation, thereby placing us in the same category with the Communists. In fact, these two decisions might very well have been rendered by a Russian court.

Benjamin Franklin's words of warning in the Constitutional Convention are particularly apropos today in trying to maintain our Republic against the onslaughts of the godless. He said: "We have been assured, sir, in the sacred writings, that 'except the Lord build the house they labour in vain that build it.' I firmly believe that without His concurring aid we shall succeed in this political building no better than the builders of Babel." Such was the conception of all the great founders of our Nation, and such has been the conception of all great patriots since. The people of America must not allow the godlessness of communism to destroy our Nation.

One of the most shocking things to sincere churchgoing people is the fact that the National Council of Churches has upheld the two Supreme Court decisions and is opposing any effort to amend the Constitution to assure recognition of God in our public life.

One of the lobbyists of the National Council of Churches on Capitol Hill is reported by the Wall Street Journal to have made the sarcastic and insulting comment, "We're up against the saints of the American Legion and the junior chamber of commerce, and they're pretty formidable."

Which is simply one more piece of evidence that the National Council of Churches, which claims to represent and to speak for 40 million Protestants, does no such thing; all polls have indicated that 75 to 90 percent of U.S. laymen are in favor of a constitutional amendment which would remedy this situation.

Of course, there are eggheads in the field of religion just as there are in political science, in economics and other fields. They all have a common characteristic; namely, they attempt to display their erudition by belittling the intelligence of their opposition.

One of these egghead religionists, lecturing at Vanderbilt University, in my home city of Nashville, Tenn., recently said that many supporters of constitutional amendments which would permit prayers and Bible reading in the schools are "protagonists of low grade religion." Fortunately, the rank and file of the American people have too much sense and too much high grade religion to pay any attention to these freaks.

As the months have passed since the two Supreme Court decisions, it has become very clear where this is leading us. As Dr. Billy Graham has warned us, "there is a movement gathering momentum in America to take the traditional concept of God out of our national life."

ATHEISTS AND EGGHEADS NOW RUNNING ROUGHSHOD

The atheists and the secularizers are now bringing to court efforts to invalidate the use of the words "under God" in the "Pledge of Allegiance." The second verse of "The Star-Spangled Banner," which contains the words "In God is our trust" is also under attack. In New York, the State education commissioner has decided that students shall not sing the fourth stanza of "America" because it refers to God.

In Sacramento County, Calif., schoolchildren have been saying a little grace over their lunch: "God is great. God is good. Let us thank Him for our food." The judiciary in that State has ruled it unconstitutional. The words "so help me God" in the oath of testimony are under attack. Also under attack is the inscription "In God We Trust" on our coins, and the use of chaplains in the armed services.

A bill authorizing the inscription of the words "In God We Trust" above the bench of the Supreme Court was sent to the Chief Justice for comment. He rejected the proposal on the grounds that it would destroy the symmetry of the building. Maybe Chief Justice Warren places his trust in communism. According to a chart in the CONGRESSIONAL RECORD of May 2, 1962, in the first 8 cases dealing with communism in which he participated after being appointed to the Bench, he supported the Communist position 5 times; after that, he supported the Communist position in 62 cases, without deviation.

In view of the logic—if it can be called logic—of the two Supreme Court decisions handed down to which we have been referring, there can hardly be any question but that the Court would uphold the invalidation of all these references to God in our public life, along with any others that might be referred to it.

The apathy, the lethargy, the resignation with which so many people, so many Members of Congress, even so many of the clergy, have received these decisions are all indicative, of the low moral state we have reached in this country. But it is not to be believed that this attitude is the will of the majority of people.

Congress can do something about it—if it will. When the Supreme Court strives to drive God out of the schools of the country and out of our official life, then it is time for the people and the Congress to take action to repudiate a ruling that outrages the deepest beliefs of generations of citizens.

After long months of delay, mainly due to the opposition of the chairman, the House Judiciary Committee is finally holding hearings on proposed constitutional amendments to permit Bible readings and prayers in the public schools, also to permit public recognition of God in all other phases of our political life.

There is no doubt whatever but that such an amendment, if it ever reaches the floor of the House, would pass overwhelmingly. If the committee does not vote favorably on such a measure, the chances are it will be taken directly to the House floor by petition of a majority of the Members. Such a petition has been on file for months and already has 164 of the 218 signatures required.

I believe the faith of our fathers is living still, and that public and official acknowledgement of this faith cannot be destroyed by the secularists, the atheists, the Communists, or any other agency in this world. I believe the people of the United States as a whole have this faith. If the people will speak, the Congress will act.

Dean MANION. Thank you, Mr. Thurman Sensing.

My friends, in the letter and spirit of honest constitutional construction, the recent no-prayer decisions should never have been made by the Supreme Court. But having been made, they must be corrected—and the sooner the better for the country.

(Quote from "Subversion in the Schools," by E. Merrill Root)

Double-standard liberals, backed up by the U.S. Supreme Court, would deny the right of participation in school prayer; at the same time such liberals demand freedom to subject our children to the dogmas of nihilism. Here, for example, are questions presented to students for a flat "yes" or "no" answer:

5. The world would be better off if science replaced religion as the guiding principle of men's lives (yes__; no__).

10. God answers prayers by actually intervening in people's lives (yes__; no__).

16. Christ was born of a virgin, as the New Testament says (yes__; no__).

17. After death, man will be judged by God for the way he lived on earth (yes__; no__).

22. The world would be better off without religion, because it is based on superstition (yes__; no__).

24. Although there may be a God who created the world, man has no moral obligation to him (not capitalized) (yes__; no__).

33. There is no apparent eternal purpose for man's existence in the universe (yes__; no__).

In commenting on the foregoing test questions the "Report of the Joint California Legislative Committee on the Public Educational System" stated: "These questions interfere with freedom of religion. They would compel the student to question and doubt his religious beliefs. Such interference with religion is illegal." But do the liberals raise a protest? No; for such liberals are not interested in freedom at all, but only in their own license to propagate the dogmas of relativism, agnosticism, nihilism."

[From the Manchester (N.H.) Union-Leader, June 2, 1964]

SUPERDUPER LIBERALS SEE PRAYER AS CORNY—IS IT "GOODBY, CHAPLAINS"?

(By Norman Vincent Peale)

I hear that those who are zealous to eliminate God from all public affairs are now out after the chaplains. Suddenly it seems a terrible thing to have Catholic, Jewish, and Protestant chaplains in the Armed Forces of the United States.

Reason? Well, you see chaplains represent God and their salaries are paid by the U.S. Government, which is now supposed to be a godless organization. So a movement is on to get rid of all chaplains and substitute social workers for them.

I wonder how this would work out. Let's imagine the case of an American soldier dying in some foreign land. Mortally wounded in battle this boy's life force is ebbing rapidly. His red blood is oozing onto the earth. His eyes grow dim. His limbs are becoming cold. Being only a boy, he has longing thoughts of home, mother, wife, or sweetheart. Maybe he even thinks fondly of the old church in his hometown. Deep thoughts of his religion crowd in upon him. Death is at hand.

At this moment of his dire extremity, who should bend over him but a uniformed social worker. "Son," he says in a brisk social-concern voice, "before you die I must get some statistical information. Just how do you feel about our great social problems, such as integration and public housing?"

Of course, the poor dying soldier is pretty well past all such matters vital as they are in life. In the hour of his death, an American soldier dying for freedom and ideals and brotherhood (all of which are spiritual concepts) would, I rather guess, want to see bending over him a man on whose uniform was the Cross of Christ or the Star of David.

Service in the Armed Forces is a responsibility and privilege of citizenship. For some men it isn't exactly what they might choose at the particular time in their lives. And in wartime it's no picnic. Boys away from home develop special problems, and so a wise and friendly chaplain comes in pretty handy for counseling and spiritual advice, good practical advice, too. It means something to a man to realize that his Government is sufficiently concerned about his spiritual welfare to provide chapels for all faiths and a Chaplains Corps to take care of the deeper interests of troops serving our country. It's just good commonsense, too, because men who are happy and peaceful in their minds will better contribute to morale, and they will serve better, militarily speaking.

But the argument is raised, "Let the churches pay for the chaplaincy and separate it from the Military Establishment." In such an event what is the Department of Defense going to do about Methodist chapels, Baptist chapels, Dutch Reformed chapels, Jewish temples, and Catholic chapels, together with offices—all built on Government property?

And how is the whole independent project to be organized? How would you settle the relationship between denominational chaplains and military social workers? The chaplains couldn't wear uniforms, as that symbolizes government, so you end up having a lot of civilian preachers, priests, and rabbis on military posts—and who is in charge of what? Anyway, to be consistent, what right do the clergy have to be on Government property if God has no relationship to said Government?

It could be the day would come when American boys who still consider they have souls might say, "Why should I go out and get myself killed for a government that thinks of me only as a body?" They might even go so far as to recall that the first commander in chief of our Armed Forces, a man named George Washington, was actually caught praying in the snow at Valley Forge. But pardon me for mentioning this. That's considered corny now by our superduper liberals, and maybe even illegal.

Guess you heard about the teacher who saw a half-dozen boys down on their knees in a school hallway. Armed with a Supreme Court decision she charged down upon them.

"What are you doing on your knees?" she demanded.

"Shooting craps," they admitted guiltily.

"Thank God," she said with relief, "I thought you were praying."

America, you might say, isn't exactly what it once was.

[From Christian Economics, May 26, 1964]

"IN THE NAME OF GOD, AMEN"

(By Carolyn Fritsch, a high school senior)

America stands as a giant sequoia in the forest of nations. Her branches give shelter to the homeless and her leaves give shade to the weary of all countries. Her military might protects her, as bark protects the tree, from those who seek to destroy with force of arms. Within the circle of its armor lies the intellectual and moral fibers of her people which give the tree its strength. But, through the tree must flow lifegiving sap or the tree will be no better than a dead stump. This lifegiving fluid is the spiritual life of Americans; without it America will die.

Today the roots of America have grown deep into the soil of freedom, but we often forget the beliefs of those who planted the seed and watered it with their tears and fed it with their labor and their prayers.

America was built on the first words of the Mayflower Compact, "In the name of God, amen." Our forefathers recognized their dependence on God, and so, as the Israelites of old, claimed this promised land in His name. The Pilgrims also faced their "giants in the land of Canaan." Their spies told them of Indians, wild animals, cold and hunger, but they did not face these alone. They, like the Israelites, praised God and through His strength became the victors.

Whatever America is today she is because her founders had faith and because they put that faith in the God of their fathers. Today there are those who seek to destroy this faith which is the priceless heritage of America.

Little by little, like a malignant growth, a minority seeks to drain the spiritual life of America from her people. This minority is attempting to undermine our educational system under the pretense of freedom of religion—but Americans fail to realize that the freedom and will of the majority is becoming a plaything of the minority and the courts.

God is carefully avoided in classroom lectures so that none might be offended—but, should not the majority of God-fearing people be offended when their children are denied the privilege to be taught from books that encourage respect for the God of their fathers? Our schools do not teach against God, but by ignoring or avoiding Him are they not teaching our children, in the words of W. E. Hocking, "atheism by omission"? Can a godless education prepare future generations to lead a spiritually alive America? The tree must be fed—for without the proper nutrients, prayer and faith, it shall surely die.

Schools are not the only battlegrounds in this fight for the spiritual life of this country. Our national motto has been threatened and traditional prayers to begin public and government meetings have been challenged. Since the Constitutional Convention was opened in prayer and the Founding Fathers placed the motto, "In God We Trust," on the great seal of the United States of America, our leaders have publicly and without shame called upon God to guide them and this country. Will this be the decade, the year, that their voices shall be silenced and their prayers go unspoken? Must we stand by silently while the last verse of "America" is banned for use in school exercises because it mentions God? Will our national anthem, too, be censored? After this, what? Will there be anything left that once was sacred?

Once the spiritual life of America ceases she will begin to rot from the inside. Then her hollow shell will provide shelter for the rodents of the forest who live on dead and dying things and spread disease and death to the living.

In a totally materialistic society, one that scorns spiritual values, man is considered an animal, which, through eons of time evolved to his present state. The dignity of man does not exist and he lives only to do the bidding of the state. He becomes a telephone pole which was once a tree, but is now stripped of its bark and branches and drained of life. These telephone poles are useful in supporting wires, but it is not man's destiny to stand in rigid rows. It is man's destiny to live and grow mentally and spiritually.

As her people grow, so does America grow. The tree must grow straight and strong and be free of parasites and pests that seek to destroy it. We must uproot the weeds that seek to draw from the surrounding soil the privileges of freedom so necessary to its growth.

[From Hearst Newspapers, May 31, 1964]

THE RIGHT TO PRAY

(By William Randolph Hearst, Jr.)

As some of you regular readers of this column may recall, I have felt since the beginning of the controversy over outlawing prayer in school that the Supreme Court was misinterpreting the Constitution.

Specifically I don't believe that the Founding Fathers of this country, in adding the first amendment to the Constitution, meant to prohibit other than establishment of an official state religion, such as they had then and still have in England.

Evidence for many who believe as I do is in the Virginia State constitution. Its religious liberty provision was largely the work of the same man who was the main author of the U.S. Bill of Rights—James Madison, later to become our fourth President.

It took Madison (with an assist from Thomas Jefferson), 7 years to get Virginia to write in the sense of the simple statement that "all men are equally entitled to the full and free exercise of religion." A determined band of opponents, with "give me liberty or give me death" Patrick Henry in the vanguard, fought for an established church, like the British one they were used to.

Four years after that, in 1787, Madison helped write the main body of the Constitution, and in 1789 proposed the amendments we call the Bill of Rights. As finally ratified, the first of these says "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

This then was the wording the Supreme Court interpreted as making it illegal to say a voluntary nonsectarian prayer in public schools. I contend the ruling goes far beyond the intent of the Founding Fathers.

As forecast in this column after the Supreme Court ruling, it was inevitable that the handful of secular-minded persons who successfully carried their own objections to prayer through the courts should try for further outlawing of other people's religious rights.

Now an avowed atheist mother, who instigated one of the school prayer suits, is seeking to have the words "under God" removed from the Pledge of Allegiance to the Flag. Those words were inserted by law after a campaign by our Hearst Newspapers, I am proud to say, and I say it would be a sorry concession to opponents of religion if the courts were ever to remove them.

Please don't get the idea that I am applying the label of "secular" or "atheist" to all those who are on the side of the Supreme Court's prayer decisions. I don't believe more than a few are anything of the sort.

I do believe, however, that the fears of thousands of well-meaning persons—that an amendment of the Constitution would be "tampering" with our system of government—are ill-founded.

That is not the only erroneous (according to my view) reason which has impelled a good number of clergy and laymen to side with the court's decision.

Some have expressed worry lest restoration of the right to school prayer open the door for "establishment" of majority religion to the detriment of minorities.

Some clergy have opposed nonsectarian school prayer on the grounds—seeming odd to me—that it is a dilution of religion.

Let's look at each of these objections close up:

1. The Constitution itself provided the procedure for amending it. The Founding Fathers were never so egotistic that they believed they had all the answers. In fact the freedoms guaranteed by the Bill of Rights are the first 10 amendments (the 10 which passed, of 12 proposed). "Tampering" fears don't stand up. Can you imagine the course of history if Supreme Court decisions upholding prohibition were to have prevented the 21st, or "repeal" amendment, from wiping out the infamous prohibition 18th?

2. The proposed amendment specifically aims to clarify ambiguity found in the first amendment. It just wants to stress that prayer in public schools—voluntary and nonsectarian—is not what the words "establishment of religion" mean, as some of the fearful imply. In fact it is, I strongly believe, an assertion of the right to free exercise of religion expressed in the same first amendment.

3. In this day and age, when religions are moving under the guidance of wise men toward public respect for each other while retaining private beliefs which distinguish them, a nonsectarian prayer to God in public institutions is a strengthening, not a weakening, devotion. Belief in God is the common basis of all our great faiths.

I personally hold with the Biblical injunction, expressed in Deuteronomy 6:6 and 6:7, which is the elaboration of the Ten Commandments:

"And these words which I command you this day shall be upon your heart; and you shall teach them diligently to your children and shall talk of them when you sit in your house, and when you walk by the way, and when you lie down, and when you rise."

I was taught that prayer anywhere, anytime, in or outside a house of worship, is appropriate. I find it extremely illogical to assume it could dilute or in any way interfere with people's regular devotions in churches or synagogues of their choice.

David Sentner, the veteran Washington correspondent of the Hearst newspapers, has been observing the House hearings on the prayer amendments. He has found the parade of witnesses, lay and clergy, revealing deep divisions—even inside our major faiths.

He reports strong support for a compromise—a resolution expressing the right to school prayer as "the sense of the House"—as a possible outcome. He points out that an amendment, if passed by the House, wouldn't have much chance fighting its way past the logjam of Senate business in order to be acted upon in this session.

Dave wrote his observations—fittingly—in words echoing Biblical style. Here they are:

"Now it came to pass in a certain country that the high judges made a ruling that there should be no prayers nor reading of the Bible in the public schools if ordered by the authorities lest there be violation of the edict of separation of church and state and possible creation of a state religion.

"Immediately there was heard a boom of protest across the land from the population who had built their way of life and government on the rock that there was a God and that this belief in a Supreme Being was recorded from the time the first President had proclaimed a day of thanksgiving to God for His help in founding a free nation where citizens could worship as they please.

"Also riding the crest of this mountainous wave of indignation was the claim that the High Court decision might eventually overturn the administering of the oath of office, the convening of parliamentary gatherings with prayer and even the use of the inscription "In God We Trust" on the coinage of the realm.

"It was further charged that the august judges had departed from their assigned function of interpreting the law and instead had appointed themselves as lawmakers.

"Nevertheless there were many holy men who bulwarked the decision of the high judges in the sincere belief that there was no way to insure a prayer for the schoolchildren which would not lean toward one particular faith.

"There were additional objections from good citizens against a proposed amendment to the Constitution to reverse the ruling. They contended that religion was a matter for the home and church and not intended as part of the educational system.

"Also there was opposition by legal students and theoreticians as to the wisdom of an amendment which would in truth merely amend the amendment which guaranteed religious freedom.

"However, the sense of outrage among the populace continued unabated despite the forceful arguments and logic of those upholding the ruling of the higher Court. There was much emotionalism exhibited in the charges rising from the mainstream of the people in which it was maintained that support of the High Court ruling provided aid and comfort to atheism and the anti-God Communist global movement.

"The vehement differences of opinion permeated a forum of solons for many weeks.

"And then a ray of light appeared through the wall of words with the suggestion that perhaps a resolution rather than an amendment to the Constitution might be worked out to please all factions. It was proposed that such a resolution would express the sense of Congress that the higher Court clarify its ruling to allow the recital of a nonsectarian prayer on a voluntary basis in the public schools.

"And if this did not prove the solution an amendment might be considered later.

"Ignoring the pros and cons of the debate, no matter how well grounded, the simple sentiment kept mounting throughout the land like a pillar of fire in support of the traditional right of schoolchildren to pray to their kind of God if they felt like it and finding it hard to understand all the lint-picking on the alternatives.

"So it came to pass that wise men lined up on both sides of the issue began mulling over the idea of a resolution instead of an amendment as a sensible way out of the dilemma—God willing."

I think something needs to be done to prevent further attempts by the tiny handful of militant atheists to impose their will on the vast majority of us who worship God—in differing ways, but the same God.

I am convinced that a House resolution is the practical way to do it for now. It is a way to express the feelings of most of the people. It should have a persuasive effect on the thinking and future rulings of the Supreme Court, which has leaned over backward too far in order to protect the rights of those who do not believe in God.

This has unfortunately created a divisive issue which I am sure the Justices never meant to do. They are not irreligious men themselves, but their error rises from this Court's majority philosophy of putting individual rights above those of society in general.

Let those who don't want God in their lives try to evade Him. Clarifying the legality of voluntary and nonsectarian public prayer merely restores the rights of the rest of us—who do want God in our lives.

WILLIAM RANDOLPH HEARST, Jr.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. **BYRD** of West Virginia. Mr. President, I thank the Senator from New York for his courtesy in yielding to me.

It has often been argued that "human rights" are superior to "property rights"; but the history of mankind supports the belief that the right to own, manage, and control the use of property constitutes a basic human right. The lives, liberties, and properties of Englishmen have been entitled to the protection of the sovereign since King John signed the Great Charter in the meadow at Runnymede on June 15, 1215. The authors of the fifth amendment to the American Constitution did not confine the due process clause of that amendment to the deprivation of life and liberty. They included property. The three are coequal, and not one is subordinated to any other.

Title II, the so-called public accommodations title of the civil rights bill, provides that no person may be discriminated against in the full and equal enjoyment of goods, services, facilities, and so forth, of any inn, hotel, motel, or other establishment which provides lodging to "transient guests," other than an establishment actually occupied by the proprietor as his residence and containing not more than five rooms for rent. Note that a proprietor occupying a lodging house with five rooms for rent could discriminate in the choice of transient guests, whereas a proprietor across the street, occupying a tourist home with six rooms for rent, could not discriminate without violating the law. Picture, also, a widow who rents rooms in her home to tourists or other travelers. If she has six rooms to rent, she will be forced either to remove one room from the rental market or to rent all rooms to persons of any race, color, and so forth. If she is a Negro, she can be forced to rent to whites, and vice versa. If she refuses, although for reasons apart from reasons of race, she faces a possible legal suit. And what is meant by "transient" guests? This term is all inclusive, and automatically makes interstate commerce that which is obviously intrastate in nature. For example, a Beckley, W. Va., resident traveling to Sutton, 90 miles away, would be a transient, who could not be denied service at a tourist home in Summersville, which is located between the two communities, unless the home had no more than five rooms for rent and was occupied by the owner. If private property rights can thus be violated by the Federal Government through use of the word "transient," then the rights of private property are no longer secure.

Any restaurant, cafeteria, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises would be included if such facility "serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or other products which it sells, has moved in commerce." What is meant by "substantial portion"? No standard is provided to guide the business owner in determining whether he comes within the law. How is he to know what constitutes a "substantial portion" or whether a substantial portion of the products he sells has moved in commerce? Bona fide private clubs are generally exempt.

Civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved or by the U.S. Attorney General. Where there are State public accommodation laws, the Attorney General must first afford State officials a reasonable time in which to act, before he institutes an action.

The power of Congress to enact any piece of legislation must be traceable to a grant of such power in the Constitution. The supporters of title II seek to base it upon the 14th amendment, but the crucial words in that amendment are these: "No State shall." Therefore, action on the part of a State or a political subdivision thereof is the vital touchstone for the exercise of Federal power authorized by the 14th amendment. The prohibitions in the 14th amendment are restrictions on State action. That amendment does not prohibit discrimination by an individual against another individual. There must be some official State action resulting in invidious discrimination. Yet, title II seeks to regulate and prohibit purely private individual acts of discrimination by motel owners, innkeepers and other owners of private property who engage in accommodating the public. Moreover, the 14th amendment is further limited in that it does not authorize Congress to adopt general legislation, but only such legislation as is corrective and necessary for counteracting such laws as States may adopt or enforce. Title II would not be corrective legislation, but would be general and positive in nature.

In 1883, the Supreme Court, in the *Civil Rights Cases* (109 U.S. 3, 11), held unconstitutional a public accommodations law which had been enacted in 1875

(18 Stat. 335). That public accommodations statute was similar to title II which we are importuned to enact now. Mr. Justice Bradley, who delivered the opinion of the court, referred to the 14th amendment and said:

> It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment.

Some people advance the notion that where the operation of a business is State regulated by virtue of the simple act of licensing, the action of the individual owner becomes State action and is thus within the scope of 14th amendment prohibitions. The act of licensing is unquestionably a State action, but as Justice Harlan stated in *Petersen* v. *City of Greenville*, 373 U.S. 244, 249 (1963):

> This is not the end of the inquiry. The ultimate substantive question is whether there has been "State action of a particular character"—whether the character of the State's involvement in an arbitrary discrimination is such that it should be held responsible for the discrimination.

There is clearly no connection between the fact of licensing and the act of private discrimination. If the State is to be held responsible for the conduct of a privately owned but licensed business, say, a laundry, may not the State likewise be responsible for the loss of my shirt. The Achilles heel of this argument rests in the confusion between a license and a franchise.

The proponents of title II have also sought to find shelter in the commerce clause of the Constitution. The congressional power to regulate commerce "among the States" is very broad, but it does have reasonable limits. In *N.L.R.B.* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1, 30 (1937), the court said that the commerce powers—

> May not be pushed to such an extreme as to destroy the distinction, which the commerce clause itself establishes, between commerce "among the several States" and the internal concerns of a State. That distinction between what is national and what is local in the activities of commerce is vital to the maintenance of our Federal system.

A statute which requires one person to render involuntary personal labor for another immediately raises the question of its constitutionality under the 13th amendment which specifically says:

> Neither slavery nor involuntary servitude * * * shall exist within the United States.

Personal service in the form of labor, even though compensated for, must be entered into voluntarily and without compulsion or coercion, for however short a time. Of course, a person is free to cease from the form of servitude at any time, as did the barber who recently closed his shop in the Ohio racial dispute, but such an argument overlooks the fact that when a person must serve another on pain of leaving his chosen profession there is involuntary servitude, since the alternative to the servitude is punishment.

A Negro's money is as good as a white man's money. Yet, in dealings between men, both cannot be free unless each acts voluntarily. Otherwise, one is subjected to the other's will. Many white persons who do not serve Negroes adopt that policy either because their clientele insist upon exclusiveness or because their employees are reluctant to render intimate personal service to nonwhites. Although some people disagree, I submit that both the clientele and the business operator have a constitutional right to discriminate in their private affairs upon any conceivable basis. The right to exclusiveness, like the right to privacy, is essential to freedom, and no one is legally aggrieved by the exercise of that right.

Title II constitutes a radical departure from established constitutional principles, and would constitute an invasion of the property rights of owners of privately owned business establishments. If this title is enacted as written, and if it should then be sustained by the Supreme Court, one can conceive of but few human activities which may not be regimented to Federal authority.

Mr. HILL. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. HILL. I commend the distinguished Senator from West Virginia on his exceptionally able exposé of the pending civil rights bill. The Senator is most able, and always makes a fine address. What he has had to say today is most important and challenging. I congratulate him on his statement.

Mr. BYRD of West Virginia. I thank the Senator from Alabama for his kind remarks.

WHITLEY AUSTIN, EDITOR AND PUBLISHER OF SALINA JOURNAL, AWARDED WILLIAM ALLEN WHITE JOURNALISM AWARD

Mr. HUMPHREY. Mr. President, I ask unanimous consent that I may yield to the Senator from Kansas [Mr. PEARSON] for the purpose of insertions in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, recently Whitley Austin, editor and publisher of the Salina Journal, was awarded the William Allen White Journalism Award by his Kansas colleagues.

This honor was bestowed perhaps in part because his colleagues understood that the sweep of his mind through a single subject could range from sophisticated humor to God's own words.

On Sunday, May 31, Mr. Austin composed an editorial entitled "Should This Be Said at Commencement?" Therein he describes the world of paradox and revolution which defaces the American dream and the need for a common goal in the minds and hearts of men.

I ask unanimous consent that the editorial herein referred to be placed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Salina Journal, May 31, 1964]

SHOULD THIS BE SAID AT COMMENCEMENT?

This is the time to string jokes together on a thread of platitudes and call it a commencement address.

But what does one tell graduates that is both true and helpful?

Here is an attempt, not altogether successful:

As I look over this sea of upturned eager, flushed, perspiring faces, my first thoughts are not directed to the class of 1964 but rather to their elders who are charged with the responsibilities for their education.

Great heavens, gentlemen. Has this institution never heard of air conditioning? Are rational thought, and vision, and hope, and inspiration expected to come, like incubation, from this steam room? Is it within the limits of Christian charity and commonsense to shroud this noble assemblage of graduates and academicians in flowing robes and then to confine them in this hot house to listen to a warm version of "Finlandia" and a damp speaker?

Facetious as these comments may seem, they do illustrate one of the messages I would bring you this afternoon.

It is that you are graduating into a world of paradox and of revolution, a revolution we have been running at breakneck speed to catch but which so far has eluded our grasp.

The newspapers tell us daily of big brushfire wars, in faraway jungles and on tiny islands. But they also tell us of little brushfire wars, which we may encounter in our neighborhood and which in some ways are more disturbing. You never know when a chance bump of an elbow at a baseball game may erupt into vileness, and then bottle-throwing, and then knives. A heckler at a political rally can turn the meeting to a shambles of fists and placard hurling. You walk warily past the little knot of youths gathered on the downtown street corner. And riots seem to breed riots, spreading from the picket lines to basketball games to reformatories to the mass demonstrations and gunfire in the streets.

The biggest of the revolutions is woven inextricably into the American fabric.

It stems from the determination of the American Negro, weary of doubletalk and hypocrisy and delay, to gain for himself those basic rights with which he was born but which, largely through fear and ignorance, have forever been denied him.

Certainly it is the tragic paradox of our time that this Nation, founded on a belief in the dignity of the individual, should be the setting for an upheaval caused by a denial of dignity to 10 million Americans.

Second on the list of paradoxes is the appalling poverty in the midst of plenty, of corporate profits at alltime peaks, of our greatest employment, coupled with the pitiful sight of thousands of Americans scratching along on handouts or on incomes of less than $100 a month. Where can be their vision? What nightmares have supplanted their version of the American dream?

You graduate into other paradoxes. The conquering of space, but no technology telling us how to conquer inner space and put man at peace with himself. Of $60 billions a year to perfect our ability to kill and destroy, but a local school district refusing to spend the money for a decent education of its youth.

Of our intense search for personal prosperity and satisfaction of whims, coupled with the appalling apathy that persuades us not to lift a finger when a thug ravishes a woman or a man falls in the street.

When I occupied a chair where you now sit, our class was graduating into a Nation still struggling with its greatest depression. In the years since, classes have graduated as the monstrous evils of nazism and fascism threatened the world, as the war clouds gathered, as they dumped their death and destruction, as this Nation began its self-appointed task of restoring the world, as communism lighted its fire.

Momentous and perilous as all these periods seemed, the task confronting you looks tougher than any before.

For the simple fact is, in those earlier crises we knew clearly what the enemy was. We also felt imbued with a common purpose, the unity of mankind and of our country. We knew, as individuals and as a Nation, that we must lick depression, destroy Hitler and all he stood for, reconstruct the world, roll back communism.

We can detect little of that unifying spirit today. The revolution is not everyone's revolution, at least, not yet. Poverty is not everyone's problem. We are compartmentalized; space is for physicists, peace is for diplomats, unemployment is for politicians, schools are for educators.

So, the basic problem for the class of 1964 is to find that common goal, to become imbued with a common idealism, and thus to overcome the paradoxes and cope with the revolutions.

And so I close with the same words offered to a score of classes before you, words which may be the only guide toward finding that light for you to follow. They come from Mark's Gospel, telling one of the great moments of history, a moment that has influenced all our lives and the course of the world.

This academician, this scribe, had asked our Lord which was the first commandment. He had two answers for his question:

"Love God, and thy neighbor as thyself."

And the scribe, stunned for a while, eventually gives the highest lesson, for his time and for ours:

"And to love him with all the heart, and with all the understanding, and with all the soul, and with all the strength, and to love his neighbor as himself."

UNANSWERED POLITICAL QUESTIONS OF 1964—ADDRESS BY HON. ALF M. LANDON

Mr. PEARSON. Mr. President, on May 23, 1964, Hon. Alf M. Landon delivered a most interesting address to the American Institute of Banking in Topeka, Kans.

Governor Landon posed several unanswered political questions which will be of interest to many of my colleagues.

Mr. President, I ask unanimous consent to insert the address in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

UNANSWERED POLITICAL QUESTIONS OF 1964

Unanswered questions on political policies—action and counteraction—international and domestic—that will have a profound effect on the destiny of mankind, are coming into focus more than usual in this year.

That creates a multiplicity of events—the significance of which is worthwhile to stop and list occasionally.

Adding them up accurately is another matter. Nevertheless, some kind of an objective balance sheet is worthwhile to voters—especially in an election year. The difficulty, of course, is that frequently it takes some years before mistakes in policies and decisions become evident. For instance, the national administration's new and untried fiscal policies will either be a great success or disaster. The trouble is we won't know for several years. For another case in point, the pictures of Khrushchev and Nasser pushing the button that diverted the waters of the Nile at Aswan Dam bring to mind the terrible blunder of the Eisenhower administration in withdrawing from that project after we had initiated it.

Khrushchev promptly moved in to occupy the position America had abandoned to the great advantage of Russia—politically, economically, and militarily.

Another picture of Khrushchev in the papers last week is so different from any others that it is worth noticing. It is quite a contrast to his shoe-pounding-on-the-table stunt at the U.N. some years ago to demonstrate his contempt for both that organization and free world countries. Chairman Khrushchev's new picture is that of a benevolent grandfather leading his two little grandchildren by the hand on a beautiful spring-day walk—without a care in the world.

That picture can be interpreted in two ways: That of a man of peace and goodwill—the friend of all mankind. Or, it can be interpreted as the pose of a man who believes he has the "world by the tail on a downhill drag." Chairman Khrushchev undoubtedly hopes it will be taken either or both ways—to cover up the loss in the past year of major political positions for the Soviets—with all the Communist colonies, and with the Communist Parties everywhere. Major policies of disagreement are threatening the basic structure of Communists all over the world.

The clash between Moscow and Peiping for the top position in communism, plus the failure of the Communist system to produce sufficient food, consumer goods, or even industrial output for its people, has forced the Soviet to loosen its dominant position over its Eastern European colonies who are now seeking to establish trade relations with Western popular government countries.

Furthermore, those Russian colonies, including even Russia itself, are forced to loosen their police-state methods. The result of the Communist system in 40 years can be added up accurately. That is—that socialism will not work, even with all the assistance it had from America, amounting to billions of dollars and priceless technical secrets.

I am not afraid even of China, with its mass of ignorant coolies, succeeding industrially, agriculturally, or with modern military equipment, until it too is forced to turn to the basic principle of the contrasting capitalistic system. That is, individual initative—the profit motive—as has been true of Russia and her colonies.

Sooner or later, we will see Mao forced to court public support in China for a higher standard of living, instead of deliberately planning a nuclear war—because there would be more Chinese left than any other people.

A big imponderable is whether there has been some slowdown in the Soviet's belligerence that is worth close attention. The support Chairman Khrushchev gave last week to Nasser, in his campaign against England and Israel is rating serious consideration in state departments all over the world.

Americans are waiting for two highly important decisions by our President. One is South Vietnam. The other is the civil rights bill now pending in the U.S. Senate.

Secretary of Defense McNamara has made five trips to South Vietnam in 2 years—three in the last 6 weeks without a comprehensive report to our country on all the factors involved in whatever position we take. In fact, the Secretary has made conflicting statements. Only last December he was repeating earlier sunny predictions that our American boys would be out of South Vietnam and home by 1965.

In his most recent statement on May 14, the Secretary said it will be "a long, hard war and the path to victory will be long"—that "might force a reappraisal of the U.S. plans to withdraw its forces in South Vietnam by the end of the year."

According to a statement this week by Mr. Gallagher, general manager of the Associated Press, "the official Washington view of Vietnam (until recently) was that everything was going well. It was a policy view dictated from Washington and, by force of government, echoed by officials in Saigon.

"Any correspondent who reported otherwise was heavily criticized and there grew up an ensuing and unnecessary bitterness between a few top American officers in Vietnam and correspondents.

"Subsequent events proved that things were not going well—and they haven't gotten any better. This was not political censorship, but it was an attempt to create an image for the public that was neither justified nor true, by manipulating news at the sources."

Now, we are getting the truth at last. But does it square with President Johnson's request Monday of this week for a piddling $125 million increased appropriation to step up military and economic aid to South Vietnam?

Time is running out on America in South Vietnam. We have either got to get in to win—or get out.

An additional $125 million is a mere trickle compared to what it will cost in money and American blood to win. The approximate $1 billion a year we are now spending in South Vietnam will hardly be a good start.

Of course, there is no popular sentiment to do more. Americans are not discouraged about South Vietnam. How does this administration expect public concern for South Vietnam when its position was that everything was hunky-dory, and by labeling our soldiers as "trainees" and "advisers," trying to maintain a phony noncombat role that conceals from the American public the hard facts of life that exist in South Vietnam.

Our national policy is confined to retraining the South Vietnamese militarily, economically, and politically, into an entirely new and different life than they have ever known heretofore. Countless generations in that unhappy country have learned to fear and avoid oppressive governments. We are told that while it will take a long time—all we need is patience. I raise these questions—how are you going to educate them to read and write—educate them in democratic processes—retrain their primitive philosophy? How are you going to do all that on a battlefield—in the midst of shot and shell—of death and the destruction of their pitiful huts, squalid villages and ricefields? In the meantime, American soldiers, flying obsolete miiltary planes, are being shot down. That's plain murder, for which the national administration is to blame for not furnishing our troops modern equipment.

How did we get into this fix? We got into it, to begin with, because the Eisenhower administration tried to brush off South Vietnam. That is still unfinished business. The Johnson administration still is not treating it realistically.

Our position in South Vietnam is steadily deteriorating. The Communists' victories are steadily increasing in numbers and size. We have got to fish or cut bait.

Communist military activities are increasing in Laos.

Cambodia is thumbing its nose at us. It still remains to be seen whether the NATO countries did likewise, by and large, to Secretary of State Rusk's recent request for aid and assistance in South Vietnam.

There is a deadly parallel with Korea. We got into Korea because the Truman administration tried to brush it off. Secretary of State Dean Acheson said it was beyond "the periphery of American defenses." Then, of course, Mao did not wait long to start his Korean invasion. Mr. Truman did not wait long to reverse that incredible, stupid statement of his Secretary of State. Mao was undoubtedly surprised to find the American forces moving in to meet his.

The South Vietnam terrain is similar to Korea. The mass of the people is similar in both an extremely limited existence and outlook.

Again we have a comparison with Korea in the overall division in strategy in the two succeeding administration circles for the same reason—expectations of Russian military interference.

Mr. Truman stopped General MacArthur's plan of advancing to the Yalu River. Across the Yalu was the Communists' base of supplies. If we had seized the Korean bridgeheads, that base would have been immobilized.

We dominated the air. Our military planes were not permitted to bomb acres of tanks, trucks, cars, guns and stocks of ammunition and food like sitting ducks in China—across the Yalu.

That policy cost American soldiers untold casualties—prolonged the war—until General Eisenhower settled for half of Korea. Half a loaf, as it were.

The base of supplies for the Communist Vietcong is North Vietnam.

Just as there was a division of opinion in the military in Korea on attacking the Communist base of supplies in China, so is there a division of opinion in high military circles on whether to attack the Communist base of supplies in North Vietnam from the air and from the sea.

I cannot speak with any military information. Rationalizing as a citizen on our problems in South Vietnam, I must say I question whether we can win any victory or even hold the position we now occupy in South Vietnam by the limited-noncombat pose of President Johnson.

The responsibility is President Johnson's. He, alone, has all the information essential to that awesome decision.

To win the war in South Vietnam can cost us as much in casualties and money as did Korea. That is—unless cutting off the Vietcong supplies is the answer.

If we surrender South Vietnam to the Communists, it not only means we lose all of southeast Asia; sooner or later South Vietnam then becomes a dagger pointed straight at the heart of the Philippines and Australia. We are back on Pearl Harbor for our Pacific defense. Just as Cuba today is a dagger pointing straight at the heart of America.

The danger is not from the Vietnamese—or the Cubans themselves. It is from Communist forces occupying these key countries as a political and military base.

Now we come to the mysterious maneuvering on the civil rights bill. President Johnson's public position is for the bill unchanged as it passed the National House of Representatives. Yet, we read that the Attorney General, Robert Kennedy, and Democrat majority leaders in charge of the administration civil rights bill on the floor of the Senate, are meeting with Republican Senators working out amendments to the bill. President Johnson is opposed to amending—even if Congress stays in session all the rest of the year.

It is evident that there must be a marked difference between what Mr. Johnson is saying publicly and what he is saying privately to his Attorney General and congressional leaders.

It is unthinkable that Attorney General Kennedy and the Democrat leaders of the Senate would carry on conversations behind the President's back—contrary to his views and without his approval.

It is clear—as always—when America is blessed with a strong President—that he is the key to national legislation. Particularly is that true of legislation like civil rights.

A way of equity and justice must be found—not only in this most important legislation in many years, but also to enable the Congress to get on with other business.

Now, comes closer to home.

A big, unanswered question is how the cash price of wheat—after harvest—relates to the lower price support that goes into effect July 1. Wheat is moving rapidly out of storage.

The question is, How much good, marketable wheat is left? The carryover figures will not be known until harvest is completed. Neither can anyone tell for sure what that will amount to.

Because of the uncertainty of price and supply and administration policies in the implementation of the new wheat program will the average figure of the support price of around $1.30 a bushel prevail, or a better cash price?

That makes a lot of difference to the economy of Kansas and the country generally from the Canadian border to Mexico.

EXPANDING CAPABILITY OF KANSAS STATE UNIVERSITY

Mr. PEARSON. Mr. President, last week I called attention to the expanding capability of Kansas State University to carry on increasingly effective research and education in cereal grains as a result of the recent establishment at that university of a new research program and curriculum in baking.

The value of this development as a basis for preparing young people for promising careers is recognized in an editorial which appeared in the May 26, 1964, edition of the Kansas City Times. There is a definite demand in the cereals industry for persons trained in that specialty and this program at Kansas State University is well geared to meet that demand. I would emphasize that as many as 500 students may now be accommodated in this program.

I ask unanimous consent that the editorial be included in the RECORD along with my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Kansas City Times, May 26, 1964]

NEW KANSAS STATE CURRICULUM: A ROUTE TO NEW JOBS

The new bakery curriculum at Kansas State University emphasizes the employment opportunities that await young men who have the proper training for this particular industry. The baking program was added at the behest of the industry and with its support. Obviously, the industry needs men trained specifically in its field.

Kansas State already had a department of flour milling and feed technology. Kansas long has conducted research work in improving wheat quality. Thus, with the baking school, it now has a complex that covers wheat from the farm through all its processing areas.

President James A. McCain of the university reports that requests from industry for graduates of the flour and feed department have been running five times greater than the supply. Nevertheless, this department of the university is not overcrowded. In fact, Dean Glenn H. Beck of the college of agriculture has appealed to millers and bakers across the land to send their own sons and sons of their employees to the school. As many as 500 could be accommodated, he said. Of course, a farm background is not a necessity for employment in cereal industries.

It is puzzling that more young people have not taken advantage of opportunities offered in the Kansas State cereals department. In part it may be because rural youths are not industry minded. Another possibility is that boys and girls don't know about all the opportunities in this highly industrialized age. Industry and school counselors thus have the task of keeping young people better informed. In fact, the eventual success of the Kansas State University cereal complex will depend to a large degree on how prospective students the Nation over are made aware of its existence.

Mr. PEARSON. I thank the Senator from Minnesota for yielding to me.

Mr. HUMPHREY. I am very happy to have accommodated the Senator from Kansas.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

PRESENT PARLIAMENTARY SITUATION OF H.R. 7152

Mr. HUMPHREY. Mr. President, I wish to take a few minutes to discuss some of the recent proposals that have been offered in the Senate, one in particular by the distinguished Senator from Georgia [Mr. RUSSELL], that the Senate now proceed to vote on the pending Long amendment, and perhaps—and I say that word "perhaps" with underscoring lines—other amendments dealing with jury trials.

I believe it is essential that this offer to vote be placed in accurate perspective in relation to the overriding concern now before the Senate; namely, to proceed to consider and vote on the more than 360 amendments to H.R. 7152 at the desk, and then on the bill itself.

At this time I wish to ask the Presiding Officer to indicate to me the number of amendments at the desk so that my figure may be accurate.

The PRESIDING OFFICER (Mr. BYRD of West Virginia in the chair). The Presiding Officer is advised by the Parliamentarian that the exact number of amendments is not presently known, but, in the opinion of the Parliamentarian, there are between 375 and 400 amendments at the desk.

Mr. HUMPHREY. I thank the Presiding Officer for that information.

Mr. HILL. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. I yield.

Mr. HILL. It is evident that the Senator from Minnesota has not had an opportunity each time to examine these amendments. I am quite sure that if he had, he would have found that there is much duplication in the amendments, which is natural. One Senator does not know whether another Senator may have offered a certain amendment. So he does not know whether the amendment that he submits is the same or substantially the same as amendments submitted by other Senators.

So I am not sure the figure given connotes too much unless the Senator knows how much duplication there is in the amendments. I am quite certain that there is much duplication in them.

Mr. HUMPHREY. I recognize the validity of that argument, in part. However, I have noticed that some of our colleagues have offered 20, 30, 40, 60, or perhaps 70 amendments. They are distinguished, brilliant colleagues, and I know they would not duplicate.

Mr. HILL. The Senator could not presume they would not duplicate. When a Senator is preparing an amendment, he does not check with the other 99 Senators to ascertain whether a similar amendment is to be offered. He concludes, after studying the bill, what amendments he should offer, and then he proceeds to prepare and offer them.

Mr. HUMPHREY. The Senator is correct. I still say there are 375 to 400 amendments at the desk, all of which are subject, theoretically, possibly, at some time, either here or in the hereafter, to some action by this distinguished body.

Mr. HILL. Will the Senator yield further?

Mr. HUMPHREY. I yield.

Mr. HILL. There is bound to be considerable duplication in the amendments.

Mr. HUMPHREY. The Senator gives me consolation. I appreciate that that may be a possibility. It gives me some reassurance, but let me say that if the duplication applies to half of them, or 50 percent, there are still about 200 amendments, and that is enough to make the point I am about to try to make—which is that a broader perspective is needed if Senators and the general public are to reach an accurate evaluation of this offer to vote which was proffered by the Senator from Georgia on Tuesday of this week.

On March 9, 1964, the Senate began the consideration of the motion to make H.R. 7152 the pending business of the Senate. Under normal procedures the Senate devotes but a few seconds of its time to the consideration of this motion.

But, as has become apparent to all Senators, the country, and the world, we have not been operating under normal procedures in the consideration of this bill. Instead of considering this motion to make H.R. 7152 the pending business immediately, the Senate debated it for no less than 16 days.

We know that ordinarily the procedure is to have the majority leader move to make a bill the pending business, the motion is quickly put, the Chair places the question before this body, and the Senate proceeds to its consideration.

Mr. HILL. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. I yield.

Mr. HILL. In the many cases the Senator refers to it is almost an invariable fact that the bill has been considered by committee, that the committee has had witnesses, has received testimony from those witnesses, has gone into executive session, has considered the bill line by line, provision by provision, and section by section, before the bill is ever put on the calendar and made available to be taken up. Is that not correct?

Mr. HUMPHREY. That is correct. The only reason that was not done this time was that, if there is one lesson that a person learns, either early or late, it is that history has a tendency to repeat itself. I recall in the early days of the discussion that several Senators listed for the RECORD the number of bills that had been introduced in the field of civil rights, and they all ended in the same cemetery. I think 121 bills had been introduced. One was finally reported, by direction of the Senate. The precedent we had was not encouraging to prompt one to believe that favorable action would be taken by sending the bill to committee, so we took it up in this rather unusual, but entirely legitimate, manner.

Mr. HILL. Mr. President, will the Senator yield further?

Mr. HUMPHREY. I yield.

Mr. HILL. Is it not true that a motion is always in order to discharge a committee from further consideration of a bill and have the bill go on the calendar?

Mr. HUMPHREY. That is true. It is also true that it is always proper to consider a bill as it comes over from the House by placing it directly on the calendar. Bills had been sent to the committee, and it was like sending them, if not to oblivion, at least to suspended animation, a kind of Rip Van Winkle sleep of 20 years.

Mr. HILL. Will the Senator yield further?

Mr. HUMPHREY. I yield.

Mr. HILL. Does the Senator imply that the committee was Rip Van Winkle?

Mr. HUMPHREY. No; the Senator implies that the failure of the committee to act equaled the long stretch of sleep that Rip Van Winkle was able to contribute to American culture.

Mr. HILL. There must have been some Rip Van Winkle stretch of sleep on the part of the proponents to let the bill remain in committee without making a motion to discharge the committee from further consideration of the bill and bring the bill to the calendar.

Mr. HUMPHREY. The Senator is entitled to his observations. He is always so persuasive, even when he is not logical, that one is tempted to agree with him, but I say to him that we are all creatures of habit. We like to respect the jurisdiction of committees. We gave the committee time, time, time, just as we sometimes excuse a child or other dear one whom we love. Even though there may be mistake after mistake, there is forbearance and forgiveness. Then there comes the moment of truth. That moment of truth and that hour of decision require the Senate to take action. But, as the Senator from Alabama has said, this was not normal procedure, even if it was legitimate.

We finally reached a vote on the 16th day, only by threatening to invoke cloture if a vote did not soon occur. When finally given the opportunity to vote on this preliminary motion, the Senate adopted it by the overwhelming margin of 67 to 17. That was within this year—it seems so long ago.

Let me refresh the memory of Senators. On March 30, 1964, the Senate began consideration of H.R. 7152 itself. In my opening remarks on this legislation, I issued the following challenge:

> We intend to seek a decision by the Senate exercising its will to vote yea or nay on every provision of the bill.
>
> I sincerely hope that Senators opposed to this legislation will be equally willing to permit the Senate to work its will after an opportunity for a searching examination and analysis of every provision.
>
> We issue this friendly challenge: We will join with you in debating this bill; will you join with us in voting on H.R. 7152 after reasonable debate has been concluded? Will you permit the Senate and, in a sense, the Nation, to come to grips with these issues and decide them, one way or the other? This is our respectful challenge. I devoutly hope it will be accepted.

The proponents acknowledged that every Senator had the legitimate right—in fact, the obligation—to debate H.R. 7152 at length. We recognized the importance of this bill and the Senate's responsibility to consider it carefully and thoughtfully. The proponents then proceeded to occupy the floor for approximately 10 days and endeavored to present the so-called affirmative case for this legislation. We were prepared to discuss each and every title of this bill—and we did.

The Senate normally devotes no more than a week to floor debate on important measures. On the tax bill—the most far-reaching revenue measure ever to come before the Senate in a decade—we debated it on the Senate floor for 7 days. Yet the proponents of the civil rights bill had no desire to rush the Senate's consideration unduly—we took 10 days to present our affirmative case.

We then thought it only proper for the opponents of the bill to respond for a reasonable period of time, to raise their legitimate concerns with particular titles, to offer amendments, to debate and to perfect this legislation. This we have done. Following the period of time devoted to our affirmative presentation, the opponents of the bill proceeded to debate H.R. 7152 in this fashion for 10 more days.

I hasten to note that no Senator spoke about cloture at this juncture. We had no desire to seek cloture under those conditions—and if we had sought it, we would have failed.

Mr. President, under these conditions we should have failed. At that point, a period of about 10 days was given to opposition to the bill. That was not an undue amount of time.

The Senate had the obligation to debate the pros and cons of H.R. 7152 at this point in time. I note, however, that we had already devoted 36 days to the question of civil rights, including the days devoted to debating the motion to consider H.R. 7152.

On April 21, 1964, the distinguished Senator from Georgia [Mr. TALMADGE] offered his so-called jury trial amendment. That was offered on the 21st of April. The bill came before the Senate more than 20 days prior to that, on March 26. Again, I wish to stress that my friend from Georgia was completely within his rights in offering this amendment. Many Senators have expressed concern over the question of jury trials in cases of criminal contempt arising under this bill. The leadership shared this concern and expressed no objection to giving this matter the most detailed and thoughtful consideration. With these developments, the pending business became the amendment by the Senator from Georgia to extend the right of jury trials to all cases of criminal contempt arising in Federal courts.

We have now been "debating" the jury trial amendment for a full month and a half.

During the past 2 days, we have been told repeatedly by those in opposition to the bill that they are "ready for a vote" and that they are, for the time being at any rate, willing "to withhold further speeches on the so-called jury trial amendments" so that the Senate could have one or more votes. The leadership has been criticized for failing to allow these votes which the opponents now so eagerly desire.

More than 375 amendments are now at the desk, including the possibility of some duplications. To have one or more votes would not exactly expedite the work of the Senate on conclusive action upon this legislation.

Mr. HILL. Mr. President, will the Senator from Minnesota yield at that point?

The PRESIDING OFFICER (Mr. NELSON in the chair). Does the Senator from Minnesota yield to the Senator from Alabama?

Mr. HUMPHREY. I yield.

Mr. HILL. Is it not true that voting on a jury trial amendment would expedite action on one of the most important questions and one of the most vital questions to be raised in this debate?

Mr. HUMPHREY. The Senator is correct. The Senate will vote on the jury trial amendment in due time and under the proper conditions, and I shall explain to the Senator so that he will be most happy.

Mr. HILL. Is the Senator from Minnesota going to tell us why it is not proper to do so today, and why it was not proper yesterday, the day before yesterday, and Monday of this week?

Mr. HUMPHREY. Yes; I shall tell the Senator just that. He will have a delightful experience, listening to the good news which is about to come.

Mr. President, there are good reasons for the course the leadership has chosen. The Senate deserves to hear these reasons so that there may be no misunderstanding as to the motives of those who have worked to achieve enactment of this bill.

On Monday of this week the majority leader announced that the leadership intended to file a cloture petition on Saturday next when there will have been 72 days debate on this bill, the longest filibuster—the longest debate or the longest filibuster, we can take our choice as to words—in the history of the country.

Mr. HILL. Mr. President, will the Senator from Illinois yield at that point?

Mr. HUMPHREY. I yield.

Mr. HILL. To which filibuster does the Senator refer? Is he speaking of the opponents of the bill as filibustering, or is he speaking on the part of the proponents of the bill who are now preventing votes being taken on the very important jury trial amendments? Is it his filibuster, or the other?

Mr. HUMPHREY. That is a very fair question, since the Senator from Alabama is a very fairminded man. By the end of this week there will have been 72 days of debate. In that period of time, the proponents will have taken 15 days. If the Senator deducts 15 from 72, he will come up with a figure of 57.

If the Senator wishes to call the "15 dayers" filibusterers, and the "57 dayers" debators, that is his privilege; but I will leave it to any jury of fairminded men and women. I have great faith in the jury-trial system.

Mr. HILL. Mr. President, will the Senator from Minnesota yield further?

Mr. HUMPHREY. I yield.

Mr. HILL. It is very gratifying and most encouraging to hear the Senator at last speak up for having some faith in the jury-trial system.

Mr. HUMPHREY. I have great faith in the jury-trial system, if for no other reason than the fact that the Senator from Alabama is for it. When I find out that the Senator from Alabama is for something, I am usually persuaded. It is when he is against something that I begin to worry. In this instance, his opposition to the bill causes me some discomfort. But I say with all due honor to the Senator from Alabama that a very powerful case has been made for jury trial in certain instances. Because of that, the Senator from Montana [Mr. MANSFIELD] and the Senator from Illinois [Mr. DIRKSEN] have offered a fair and reasonable, a proper, balanced, and judicious jury-trial proposal that Senators can readily accept with full confidence that justice will be done.

Mr. HILL. With all courtesy to my good friend the Senator from Minnesota, I do not believe he really understands the right to trial by jury when he speaks in such glowing terms of this wholly inadequate, half-baked proposition, the Mansfield-Dirksen amendment.

Mr. HUMPHREY. The Senator's description of that amendment disturbs me somewhat but, while I may, on occasion, be a slow learner, in one and a half months of discussion of the jury trial amendments by the able opponents of the bill, I believe that the message has gotten through. The trouble is that the message does not do what it should do; namely, give any answers to the problems that face the Nation, or give any real support to effective enforcement of the provisions of the civil rights bill.

Immediately after this announcement that a cloture petition would be filed on Saturday, the Senator from Arkansas [Mr. McCLELLAN], himself an opponent of the bill, asked, in view of the announcement, whether the leadership expected any votes this week. The majority leader answered that to his knowledge, and to the knowledge of the Democratic and Republican leadership, there would be none. The Senator from Arkansas [Mr. McCLELLAN] responded:

> Therefore, those of us who have made engagements to make commencement addresses and to fill other speaking engagements in our respective States will be reasonably safe in doing so, and would not risk missing the cloture vote if they were absent.

The Senator from Arkansas also mentioned that:

> Other Senators have the same interest that I do in knowing so far as we can ahead of time.

I remind Senators that what the Senator from Arkansas has said is true. As the Senate knows, this is the week of commencement and graduation exercises throughout the country and many Senators have requested of the leadership an opportunity to be away from Washington during these days so as to be able to fill some of these speaking engagements. Other Senators have been away because of elections and because of official duties. Consequently, the offer of the opponents of the bill to vote on these amendments comes at a time when the leadership has given assurance to many Senators that they would probably be safe in returning to their respective States for graduation exercises, election responsibilities, and other engagements.

But, more important, on the introduction of the Dirksen substitute amendment, and again upon the announcement of the planned filing of the cloture petition on Saturday, requests were made by the distinguished Senator from North Carolina [Mr. ERVIN], the senior Senator from Georgia [Mr. RUSSELL], and the junior Senator from Iowa [Mr. MILLER], and others, that they be given time to study the substitute and that an explanation of its provisions be made by its major authors. In particular, the distinguished Senator from Illinois [Mr. DIRKSEN] was asked to be heard from. I recall vividly that the Senator said: "We want time to examine the bill so that we can offer amendments to it."

This exposition has been underway, and I intend to do some more of it this afternoon. It had been planned to commence on Wednesday and Thursday of this week. Unfortunately, the distinguished Senator from Illinois [Mr. DIRKSEN] has been ill and has been unable to proceed with his speech for these 2 days. It is our hope that he will be well enough to deliver his remarks on either tomorrow or Saturday.

In the meantime the Senator from Minnesota has consulted with the Senator from Illinois [Mr. DIRKSEN], and I shall this afternoon go over the respective provisions of the substitute and try to explain them as best I can.

However, the Senator from Illinois is the main proponent. He is the introducer of the substitute. We are his coworkers, or cosponsors. I await his remarks. I know they will be very meaningful.

The Senator from Massachusetts [Mr. SALTONSTALL] has spoken today in reference to the substitute provisions. The Senate deserves a thorough explanation of the new provisions in the substitute before being called upon to vote on the matter.

I can well imagine what would happen if we did not discuss the substitute in some detail. The cry would go up: "Gag rule. They are preventing the Senate from hearing about the provisions of the substitute. There has been no adequate debate. There has been no adequate time for study."

Mr. President, the time for study and debate is at hand. This is the week. Next week the time for action will be at hand. The substitute was introduced on May 26. Staff members have been able to study it. Legal counsel have been able to study it. Senators have been able to study it. Its proponents are making their explanations on behalf of it. Let the opponents come forth and debate.

Mr. President, I believe the only reason the southern opponents have chosen to allow a vote or votes on "some amendments" is because the leadership has announced its intention to attempt to invoke cloture. Certain Senators got cloture jitters. I think they can sense what might happen. Their strategy, which is certainly legitimate and within their rights, is, of course, designed to once again deflect the Senate's attention from the main issue of facing up to its responsibility on this entire bill, and to focus our attention, once again, on an important, though subsidiary, issue, the jury trial amendment, which we have been considering now as I have said for well over a month and a half. Mr. President, an offer to vote "on some jury trial amendments" has been made before, and on the 1st day of May the Senate was hopefully and yet surely led down the primrose path of believing it would be allowed to vote on the then pending Dirksen-Mansfield compromise jury trial amendment.

I read from the CONGRESSIONAL RECORD of May 1, page 9810:

> ANNOUNCEMENT OF POSSIBLE VOTE ON WEDNESDAY, MAY 6
>
> Mr. MANSFIELD. Mr. President, for the information of Senators, and on behalf of the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN] and myself, I express the hope—and we feel that the hope is a valid one—that it will be possible for the Senate to vote on the pending question on Wednesday next. The purpose of making the announcement is to give notice to Senators that such is our intention. We feel very much encouraged that the vote will take place on Wednesday next; and we wanted the RECORD to show that an announcement had been made.
>
> Mr. DIRKSEN. Mr. President, I concur in the hope expressed by the distinguished majority leader. Probably the only other question that ought to be explored would be the hour on Wednesday that we might use as a target for the purpose of reaching a vote. I gather that it should come late in the afternoon of that day.
>
> Mr. MANSFIELD. That would be my assumption at the moment. While we have no way of pinpointing the time, it would be my guess that the vote would be late in the afternoon.
>
> Mr. RUSSELL. Mr. President, I understand the desire of the distinguished majority leader and the distinguished minority leader to have some votes on the pending bill. I perhaps do not share their anxiety to the same degree. But I am sure that we can find some way whereby the Senate can vote, even though this vitally important amendment has not been discussed at the length which its importance would justify.
>
> I wish to say, however, that if there is a question of timing involved, if we have a vote, it may be necessary to call upon the leadership to arrange pairs for one or two Senators who have engagements that will take them out of the city. I should like to have an understanding that if a vote can be reached then, pairs will be arranged for at least the two Senators whom I have in mind who may be compelled to be out of the city.
>
> Mr. DIRKSEN. Mr. President, I assure the distinguished Senator from Georgia that, so far as the minority leader is concerned, I shall be more than glad since I believe almost everyone knows my views, to provide a pair for whomever the Senator has in mind.
>
> Mr. MANSFIELD. Mr. President, I give the same assurance.
>
> Mr. RUSSELL. I thank the Senators. With that statement, I think the Senate may look forward, unless something unforeseen happens, to an opportunity to express itself on some phases of the pending business in relation to the jury trial amendment. Of course, other amendments may be offered that will require additional votes.
>
> Mr. MANSFIELD. We understand.

Mr. President, it is quite obvious that an offer was made that there would be some votes, and the hope was expressed that there might be some votes. That hope was expressed by the majority leader [Mr. MANSFIELD], the minority leader [Mr. DIRKSEN], and by the distinguished senior Senator from Georgia [Mr. RUSSELL]. But such was not to be the case. There were some votes, but not very many. Instead of being allowed to vote on this important provision, when the time came for a vote it turned out the vote was only to take place on perfecting amendments, the Morton amendment and the Cooper amendment, and after they were disposed of, the Mansfield-Dirksen jury trial amendment was once again pending, and still unvoted upon. Then on May 6 the leadership was again given at least some cause to believe a vote might be had the following week on the Mansfield-Dirksen jury trial amendment.

Mr. President, I read from the CONGRESSIONAL RECORD of May 6, page 10212:

> Mr. MANSFIELD. For the information of Senators it is thought that it might be advisable at this time to make a statement as to what the program will be for the remainder of the week and the first part of next week.
>
> Mr. President, is my understanding correct that the pending business is the Mansfield-Dirksen amendment?

The pending question was the Mansfield-Dirksen jury trial amendment.

I continue to read:

> The PRESIDING OFFICER. The Senator is correct.
>
> Mr. MANSFIELD. And that before any other business can be taken up, that amendment will have to be disposed of, unless in the meantime perfecting amendments are offered to the Talmadge amendment?
>
> The PRESIDING OFFICER. The Senator is correct.
>
> Mr. MANSFIELD. I have discussed this matter with the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN], and the floor managers in charge of the bill, my distinguished colleague from Minnesota [Mr. HUMPHREY], and the distinguished Senator from California [Mr. KUCHEL].
>
> It appears that the best we can look forward to in the way of a possible vote—and this implies no commitments and no understandings—is the possibility of a vote either late Monday or at a fairly early hour on Tuesday. We do not know whether or not this estimate has too much validity, but it is our best combined judgment at this time.
>
> Our purpose in making this announcement is to put the Senate on notice as to what the situation may well be insofar as a vote on the Dirksen-Mansfield amendment is concerned.

Mr. President, no vote has taken place. We are faced here today with yet another "perfecting amendment" which indeed could be voted on, up or down, but which vote would, I am afraid bring us no nearer to a final resolution of this difficult measure. Because of the parliamentary situation endless other "perfecting amendments" could be offered, and many have already been offered, before the Dirksen-Mansfield compromise jury trial amendment could be voted on.

Mr. President, in my opinion the offer of the opponents to have "some votes on some amendments" is an empty offer which we have accepted before and which has carried the Senate no nearer to the conclusion of its responsibilities in this serious matter.

The leadership therefore has chosen to carry out its responsibility to explain the numerous provisions of the new substitute package and to attempt to stand by its commitments to many Senators so they could fulfill their other obligations. We have chosen to adopt this course rather than engage in the rather futile exercise of voting on some amendments which are unlikely to advance us any further toward any ultimate resolution of this bill.

I point out one further fact of which every Senator should be aware, namely, that all of the pending jury trial amendments are amendments to the House text which will be eliminated from the bill if the Dirksen-Mansfield substitute is adopted.

I ask now as a parliamentary inquiry, Mr. President, if it is not true that before the substitute measure can be voted upon, all other amendments must be disposed of?

The PRESIDING OFFICER. That is correct.

Mr. HUMPHREY. I wish to propound a series of parliamentary inquiries, and I ask the attention of the Presiding Officer and the Parliamentarian:

The complete Dirksen-Mansfield-Humphrey-Kuchel substitute to H.R. 7152 contains the same jury trial provision as the Dirksen-Mansfield substitute to the Talmadge jury trial amendment. If the Talmadge jury trial amendment were adopted, what would then be the pending question?

The PRESIDING OFFICER. If the Senate disposed of the substitute to the bill, it would then be open to amendment.

Mr. HUMPHREY. Perhaps I do not make my question clear. After the Senate had disposed of perfecting amendments to the Talmadge jury trial amendment, what would be the pending question?

The **PRESIDING OFFICER**. The question then pending would be the Dirksen-Mansfield substitute to provide for jury trial.

Mr. **HUMPHREY**. The Dirksen-Mansfield substitute to provide for jury trial. If the Dirksen-Mansfield substitute to provide for jury trial were adopted by the Senate, would it replace all the language of the Talmadge amendment, including the perfecting amendments adopted prior thereto?

The **PRESIDING OFFICER**. It would.

Mr. **HUMPHREY**. If after the adoption of the Dirksen-Mansfield jury trial amendment the Talmadge amendment, as amended, were adopted, would it be in order to call up the Dirksen-Mansfield-Humphrey-Kuchel amendment in the nature of a substitute for H.R. 7152?

The **PRESIDING OFFICER**. That would be in order, provided no further amendment had been offered.

Mr. **HUMPHREY**. In other words, if the Senator from Illinois [Mr. DIRKSEN] or the Senator from Montana [Mr. MANSFIELD] could gain recognition, and if the Chair recognized either of them, it would be possible to call up and make the pending business the Dirksen-Mansfield-Humphrey-Kuchel amendment?

The **PRESIDING OFFICER**. That is correct.

Mr. **HUMPHREY**. If the said substitute amendment were made the pending business, would it be open to amendment in two degrees, the same as if it were original text?

The **PRESIDING OFFICER**. It would.

Mr. **HUMPHREY**. If the substitute were subsequently agreed to, as amended, would it replace entirely the text of H.R. 7152, including any amendments adopted to the House text prior thereto, such as the jury trial amendments?

The **PRESIDING OFFICER**. It would.

Mr. **HUMPHREY**. Thus, if the procedure were followed of subsequently offering the Dirksen substitute to H.R. 7152, any action now on jury trial amendments would be wiped out entirely with the adoption of the Dirksen amendment in the nature of a substitute and further jury trial amendments would have to be offered?

The **PRESIDING OFFICER**. The substitute amendment would be open to amendment.

Mr. **HUMPHREY**. So that I may have the Chair's ruling made perfectly clear, if the amendment in the nature of a substitute offered by the leadership were adopted, and since the substitute contains the jury trial amendment, any action now on jury trial amendments would have to be repeated if the Senate wished to change the language of the substitute jury trial provision other than presently exists in title XI?

The **PRESIDING OFFICER**. That is correct.

Mr. **HUMPHREY**. In other words, what we would be doing, if we acted on jury trial amendments now, would be going up the hill only to come down the hill later?

The **PRESIDING OFFICER**. That is correct.

Mr. **HUMPHREY**. I thank the Presiding Officer.

Mr. **HILL**. Mr. President, will the Senator from Minnesota yield?

Mr. **HUMPHREY**. I yield.

Mr. **HILL**. The Senate would not be going up the hill only to come down the hill unless it decided it wanted to come down the hill. If it agreed to the amendment, it would not have to come down the hill. Because the Senate agreed to one amendment would not mean that it would have to reverse everything it had done. I hope the Senator has enough faith in the wisdom of the Senate to believe that it would not merely turn around and come down the hill after it had gone up.

Mr. **HUMPHREY**. If the Senator from Alabama wishes to offer a jury trial amendment in the nature of the Talmadge amendment, it could be offered at any time, under the cloture rule, and the Senate could vote it up or down.

It is expected that a cloture motion will be offered on Saturday and a vote taken on Tuesday. If the vote is successful, and if these conditions prevail, some of the amendments may be open to review when the so-called amendment in the nature of a substitute is offered later. That is the ruling of the Chair, is it not?

The **PRESIDING OFFICER**. That is correct.

Mr. **HUMPHREY**. I realize it is great fun for Senators to vote, but it is more fun to vote when they can vote on something that counts. It is more meaningful.

I emphasize what every Senator should surely be aware of; namely, that the pending jury trial amendment to the amendment of the House text, if adopted, would be eliminated from the bill if the Dirksen amendment in the nature of a substitute were adopted. Is that not correct?

The **PRESIDING OFFICER**. That is correct.

Mr. **HUMPHREY**. Since the Dirksen substitute will be subject to amendment in two degrees, the new jury trial amendment could be offered at such time as the pending question was on agreeing to the Dirksen amendment in the nature of a substitute. Is not that correct?

The **PRESIDING OFFICER**. That is correct.

Mr. **HUMPHREY**. Earlier today, the majority leader, in response to a charge that the proponents were filibustering the bill, offered a unanimous-consent agreement to vote, not merely on some amendments, but on all amendments and on the bill as well. For the reasons I have outlined and the unrewarding history of the bill in the Senate, I firmly believe this is the only meaningful agreement or understanding to vote which can now be accepted. I therefore intend shortly to reoffer the unanimous-consent agreement offered earlier as the only useful understanding that might be reached.

If the opponents are truly ready to vote, let them agree to this unanimous-consent request, which would permit votes on the jury trial amendments, all other amendments, and finally on the bill itself. This is not a new procedure. It has been followed thousands of times in this body. But let us not continue to indulge ourselves in the fantasy that after the Senate votes on the jury trial amendments, it will somehow continue to vote on other amendments unless we have firm agreements.

The experience we have had with legislation in the Senate does not give one much confidence to believe that after there have been a couple of votes on jury trial amendments, the Senate will proceed forthwith to discuss each amendment and vote on it. There is very little basis for thinking that there would be any validity to that claim. Every Senator knows that if we started to vote on the jury trial amendments without such an agreement, we would soon find ourselves returned to the quagmire of debate and filibuster which has delayed us so long. Every Senator knows this is the case, and it is time someone said so publicly. So I decided to say so.

I do not know whether the opponents will be willing to enter into the proposed unanimous-consent agreement. Today, it was rejected. But I hope they will accept it. Hope springs eternal in the human breast, and it is always more hopeful in the spring.

If the opponents do not agree to enter into the proposed unanimous-consent agreement, then I earnestly hope the Senate will understand the course which the leadership has chosen, and will not allow itself once again to be derailed and distracted from its full responsibility.

This responsibility is not to vote on one or two amendments, and then hope for the best. We first tried that course, and began on it in March. But it is now the 4th of June. We went rabbit hunting, and got off into the bushes; and since then we have not been able to find the main road. This responsibility is to take whatever steps are necessary to guarantee that the legislative process begun last March 9 can now be brought to a conclusion, one way or the other.

So either the majority leader or the majority whip will continue to seek any agreement which will permit the Senate to achieve this objective. No other honorable course is available.

Therefore, Mr. President, tomorrow we shall consider reoffering the proposed unanimous-consent agreement, and we shall hope and hope and hope. In the meantime, we shall do whatever we can, in terms of exercising our powers of persuasion, to attempt to get distinguished Senators to agree to a time limitation on the debate on the amendments which are at the desk and on other amendments to the text of the bill, so that we can dispose of the proposed civil rights legislation one way or the other.

But let the burden of responsibility for expediting this legislation rest on the proper shoulders. I hope this discussion has helped clarify the issue somewhat.

THE CIVIL RIGHTS SUBSTITUTE AMENDMENT

Mr. President, at this time I wish to discuss the so-called package of amendments that was worked out in conferences between Democratic Senators and Republican Senators, and is embodied in the amendment in the nature of a substitute that has been presented by the distinguished minority leader [Mr. DIRKSEN], for himself, the distinguished majority leader [Mr. MANSFIELD], the distinguished minority whip [Mr. KUCHEL], and myself. This amendment is in the form of a substitute "clean" bill that reflects 2 months of Senate debate on the version of the bill that was passed by the House. Many of the changes are technical, as we have noted. The major substantive changes give increased emphasis to the role of State and local authorities and to methods of securing voluntary compliance. This is both salutary and consistent with the basic philosophy of the bill—that, whenever possible, the problems dealt with by the bill should be resolved locally and voluntarily.

Mr. President, I had planned to speak after the Senator from Illinois had presented the case for the substitute. But in the past 2 days, Senators have been addressing themselves to the so-called substitute bill. Therefore, I shall now attempt in a rather systematic manner to go through the amendment in the nature of a substitute, which is known as the Dirkensen-Mansfield-Kuchel-Humphrey amendment in the nature of a substitute.

In the first weeks of debate on H.R. 7152 there were several particular points in the bill that caused honest concern among Senators who were sincere supporters of civil rights. These troublesome points were explained by the floor managers and others. It seems to me that I did a great deal of explaining, myself. There was one objection that was very hard for us to answer, however. Our friendly critics would reply: "If that is what you mean, why does not the language of the bill say so precisely?" That was a very hard argument to answer.

After about a month of floor debate, the distinguished minority leader took the initiative to deal with this problem. I have taken part in many conferences with the minority leader and other Senators in regard to the substance of the debate. It can be said that every day the full substance of the debate on the preceding day has been analyzed.

Although we have had a long debate, which at times has been termed a filibuster, I believe that honor requires that it be frankly stated that the debate in general has been relevant and germane and to the point. As a result—although much of the debate was redundant, which is inevitable when many Senators speak on a measure as complicated as this one—we have progressed to the point of making modifications and adjustments. That is what the substitute includes—the modifications and changes which the sponsors of the amendment in the nature of a substitute believe are necessary, as a result of the discussions with Senators and the study of the debate.

We began a series of conferences to discuss amendments to improve the bill. This was a invaluable service on the part of the able Senator from Illinois. He will go down in history as one of the great friends of civil rights and one of the chief architects of the Civil Rights Act of 1964; and I pay appropriate and proper tribute to him. His contributions have been invaluable, and his devotion to the urgent need to enact a reasonable, yet fully effective, civil rights bill of undiluted strength has never wavered. He has truly played the role of a statesman.

I am happy to be able to state that I predicted that that would be the role of the Senator from Illinois [Mr. DIRKSEN]. I said so on one of the great television shows, "Meet the Press," on which I was privileged to appear. I then said that I was of the opinion that the Senator from Illinois would place the great needs of the country above any partisan consideration, and would do what was right. My faith in him has not been misplaced.

Democratic and Republican Senators began to meet to discuss possible amendments to the House bill. The Democratic Senators who participated, directly and through their able staff members, include the senior Senator from Pennsylvania [Mr. CLARK], the junior Senator from Michigan [Mr. HART], the senior Senator from Washington [Mr. MAGNUSON], and myself. Among the Republican Senators represented were the distinguished minority leader, the distinguished senior Senator from Massachusetts [Mr. SALTONSTALL], the distinguished senior Senator from Vermont [Mr. AIKEN], and also Senators KUCHEL, CASE, KEATING, JAVITS, and others.

These negotiations were completely amicable and constructive. All were working to achieve the same goal, and were motivated by the same desire to draft a strong and effective bill that would meet the legitimate concerns expressed by various persons. The meetings illustrated once again the fact that this bill is, and always has been, a bipartisan effort. Just as the House version of the bill was supported by a majority of Republicans and a majority of Democrats, so, too, is the Senate version.

After a series of meetings, the proposed amendments were incorporated in a draft substitute bill.

I do not recall any time when members of the staffs worked with greater energy, determination, and dedication than they did when they were engaged in assisting us in drafting the substitute. I believe it is fair to say that the Senators I have mentioned and other Senators gave unstintingly of their time and energy.

This draft was then presented, in separate meetings, to conferences of Democratic Senators and Republican Senators. At those conferences, the draft was analyzed, and further changes in it were made. This is the amendment in the nature of a substitute that has been presented by the distinguished minority leader [Mr. DIRKSEN], on behalf of himself, the Senator from Montana [Mr. MANSFIELD], the Senator from California [Mr. KUCHEL], and myself.

There have been no changes in the basic coverage of any title of the bill. The changes are concerned chiefly with procedures for enforcement. We have made a number of points clearer and more specific. In other instances, we have expressed in specific legislative language what has always been intended. We have attempted to refine or revise language in certain provisions to meet well founded questions and criticisms.

The most important changes give greater recognition to the role of State and local action against discrimination. At the same time the Attorney General is authorized to institute prompt suit or intervene in significant cases of noncompliance with, or resistance to, the act. I would like to discuss these major points in some detail, and then describe other changes on a title-by-title basis. Before I do, however, let me say a word about the parilamentary situation with respect to the amendment.

When the cloture motion is filed it will include H.R. 7152, the proposed substitute bill, and all other amendments that have been presented and read prior to the vote on the cloture motion. That is, amendments that have been presented after the cloture motion is filed, but before the vote next Tuesday, will be covered by the cloture motion.

The proposed amendment in the nature of a substitute introduced by the minority leader may, after cloture is invoked, be amended in two degrees, as we once again documented there today. That is to say, amendments to the substitute may be considered, and amendments to those amendments may be considered.

Finally, the Chair has ruled that any amendment which was introduced to the original bill need not be reintroduced to have it considered as an amendment to the substitute. In other words, Senators who introduced amendments before last week need not reintroduce them in order to have them considered with respect to the substitute.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield. I am sorry that I did not yield to the Senator sooner.

Mr. JAVITS. I wish to develop with the Senator one critical point which involves the parliamentary situation. No one ever anticipated that a unanimous-consent request would be agreed to. Everyone has anticipated that there would be a cloture showdown. On the table are almost 300 amendments. Under those circumstances are we not almost in a position—and I make the statement without any effort to plead a case but I am really asking the Senator for his view—where nothing else can be done except to invoke cloture and cloture will limit the time of every Senator to 1 hour, which itself is some governor on the number of amendments that any Senator can call up? Otherwise, even a unanimous-consent agreement, if it could conceivably be entered into—and I do not know that it could—would involve a time which, when added to the time already taken, would be back-breaking in terms of the business of the United States.

So I ask the Senator whether, since we are being faced with all kinds of charges about the alleged counter-filibuster and the willingness to vote on a half dozen amendments or 10 amendments or any number that we could under the circumstances, the leadership was not faced with a situation which arose because of the expectation that there would have to be a move for cloture; namely, the filing of so many amendments, that it became almost impossible to resolve the issue and get a civil rights bill except by that route.

Mr. HUMPHREY. It is my view that the cloture route, difficult as it is to obtain—and I do not underestimate its difficulty——

Mr. JAVITS. Neither do I.

Mr. HUMPHREY. It is well nigh impossible, but we hope to do the impossible. That route is about the only effective way we have of dealing with the mass of proposed amendments. However, we could, of course, arrive at a unanimous-consent agreement. But I presume there would be great difficulty in obtaining such unanimous consent. However, if there are to be any votes outside the cloture procedure, we shall have to arrange them on the basis of unanimous consent; otherwise there would be nothing but dilatory or delaying action for weeks and weeks. We have been down that primrose path twice before.

I say further to the Senator that while there is a limitation of 1 hour under the cloture procedure for each Senator, that 1 hour does not preclude, once it is used, the right of a Senator to call up his amendment and to have his amendment read and voted upon.

I ask for a ruling of the Chair on that question once again.

The PRESIDING OFFICER. A Senator would have the right to offer the amendment but no right to debate it.

Mr. HUMPHREY. That is correct. The Senator has a right to offer it and have it read.

Mr. JAVITS. And to have it voted upon.

Mr. HUMPHREY. And to have it voted upon.

The PRESIDING OFFICER. If the amendment were germane, it would be eligible to be considered.

Mr. JAVITS. Will the Senator yield for a further parliamentary inquiry?

Mr. HUMPHREY. I yield.

Mr. JAVITS. In addition, notwithstanding the expiration of the 1 hour which would be allotted to him, a Senator would have the right to rise in his place and call up his amendment and be recognized for the purpose without debate.

The PRESIDING OFFICER. The Senator is correct. The Senator would have a right to offer his amendment, but would have no right to debate it.

Mr. JAVITS. If I may continue, I agree with the Senator from Minnesota. I was not trying to say that there would not be unanimous consent. I hope that there can be. But I was pointing out the fact that the situation which has grown up, and which faces us, is susceptible to resolution only either by unanimous consent or by cloture route, and the route we are now asked to take, in view of the great backlog we have built up on the amendment side, for reasons we all understand, would make any other route but unanimous consent or cloture impossible.

Mr. HUMPHREY. I agree with the Senator. There is no other route but unanimous consent or cloture, but unanimous consent is frequently applied in the Senate in order to expedite action on a bill.

That procedure has been followed in relation to highly important pieces of proposed legislation. Cloture is the last resort. I have been asked 100 times if I have been asked once whether we have the votes for cloture. No one knows. I think the vote will be very close. I am very hopeful that we have the votes. Senators have the right to protect or conceal their own feelings as to how they will vote until the moment of decision comes. I only appeal to Senators on the basis that if we are to dispose of the proposed legislation one way or the other—either vote it up or down, amend it, substantially alter it or leave it as it is, whatever the will of the Senate may be—we must come to a vote. I wish to make it perfectly clear that the President of the United States and the leadership of this body have said that if we have to be here until January and go over into next year we shall be considering the proposed legislation. It is that plain and that simple, Mr. President. The will is here to do it. The country ought to know that.

These are not idle threats. These are not merely words. The statement is a commitment that has been made from the highest office of the land by two Presidents and by the leadership of two political parties.

So we ought to buckle down to the task of getting the job done. I wish to say again to Senators that it will be the intention of the Senator from Minnesota, as the Senator in charge of the bill, to give every consideration to every Senator in terms of offering amendments. For example, I know that there are some Senators who wish to strike titles from the bill. That sort of amendment could be offered and could be debated under the cloture motion. That would be a significant amendment and the Senate should vote upon it. I would hope that the amendments which would apply to title I would all come at the same time, one after another on that title, and that amendments relating to title II would come one after another on title II. The Senator from Minnesota will do everything he can to encourage orderly processing of the proposed legislation and do everything he possibly can to cooperate with other Senators. I know that Senators have differences on the bill. Every Senator is entitled to those differences and to state his differences, and is entitled to the respect of fellow Senators. I have talked many times with Senators who are opponents of the bill, and I wish to say publicly what I have said privately, that every right will be protected. Every opportunity will be given to state the case, and to have an up-or-down vote on the amendments. That statement does not preclude the fact that at some time it may be necessary, if there are dilatory tactics, to use the device of tabling. On major amendments, however, it is my hope that there will be votes on the merits of the amendments.

Mr. HILL. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Alabama.

Mr. HILL. Does not the Senator agree that no amendment may be offered by a Senator after cloture is voted unless that amendment had been submitted and read prior to the vote on cloture?

Mr. HUMPHREY. The Senator is correct. However, after the cloture petition is filed on Saturday, any amendments filed after that automatically qualify so that they fall within the cloture rule, once cloture is voted on Tuesday.

Mr. HILL. But after cloture is voted, no further amendment can be offered or voted upon.

Mr. HUMPHREY. That is my understanding.

Mr. HILL. I read from the cloture rule. The rule reads:

> Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time.

Mr. HUMPHREY. That is my understanding. I ask the Presiding Officer if that interpretation is correct.

The PRESIDING OFFICER. That is the interpretation of the Parliamentarian.

Mr. HUMPHREY. The rule is very clear. I think it is well to have the rules defined precisely for this purpose.

The Chair has ruled that any amendment which was proposed to the original bill need not be reintroduced to have it considered as an amendment to the substitute bill.

The most important changes in the bill are in title II, dealing with public accommodations, and title VII, which prohibits discrimination in employment. The changes in these titles parallel each other. For the most part the changes are concerned with the enforcement provisions of the two titles.

Provisions have been inserted in both titles to give States which have public accommodations laws or fair employment practices laws, as the case may be, a reasonable opportunity to act under State law before the commencement of any Federal proceedings by individuals who allege discrimination. In the public accommodations title the State has 30 days to act. In the equal employment opportunity title the State has 60 days to act; this period is lengthened to 120 days during the first year the State law is in effect.

I may add that there is provided a period of 1 year's grace before any provisions of title VII will go into effect.

In States which do not have public accommodations laws a person aggrieved by such discrimination may seek relief in the Federal courts immediately. The court may, in its discretion, refer his case to the Community Relations Service for a limited period for an attempt at voluntary settlement of the alleged discrimination.

In States where there is no fair employment practices legislation the aggrieved individual may file a complaint immediately with the Equal Employment Opportunity Commission. If the procedures before the Commission are unsuccessful, the complainant may seek relief in the Federal courts. The court may appoint an attorney for him and may authorize the payment of attorney's fees and court costs. Furthermore, the Attorney General may intervene in the case, with the permission of the court.

The Attorney General is given authority to sue under title II or title VII whenever "he has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights" secured by either title.

Now let me turn to a more detailed discussion of these and other changes which have been made in the proposed substitute. Let us take up the titles one by one and discuss the important changes that have been made in each of them.

TITLE-BY-TITLE ANALYSIS

Title I provides additional safeguards for the right to vote in Federal elections and modifies the judicial procedures applicable to voting cases. It is changed in two major respects.

One change concerns the requirement that literacy tests must be given in writing. The House bill provides for an exception to this requirement where a State law authorizes oral tests and an individual asks for such a test. But even then, under the House bill, the individual could request a written transcript of the oral questions and answers. The effect of these provisions would be to require the maintenance of written records even in places where there is no problem whatever about discrimination by manipulating literacy tests. This provision could impose an unnecessary burden on some State or local officials.

Therefore, we are offering an amendment which provides that the Attorney General can make agreements with the appropriate State authorities under which compliance with procedures prescribed by State or local law would be deemed to constitute compliance with the written literacy test requirements of title I. The amendment would provide that special arrangements for blind or otherwise handicapped persons might be made where written tests are necessary.

The other important change in title I has to do with the authority given either the Attorney General or a defendant in a voting suit to request trial before a three-judge court. The proposed amendment would limit this authority to the more important voting discrimination cases. It provides that a three-judge court may be convened only where the Attorney General requests a finding of a pattern or practice of discrimination, as authorized under present law by subsection (e) of section 1971 of the Civil Rights Act of 1960.

We have made this change because it seems desirable that the power to request a three-judge court should be limited to important cases which involve something more than isolated cases of discrimination. This change is consistent with the new provisions in titles II and VII, which also provide for three-judge courts where the Attorney General alleges that a pattern or practice of discrimination exists and where he certifies that the case is of general public importance.

In other words, unless this provision is made, the courts will be jammed with hundreds of individual cases, and it will be literally impossible for the courts to fulfill their responsibilities. Furthermore, we have no intention of making the Attorney General's office a legal aid society for each and every case and citizen.

The three-judge court version of title I would also be changed by inserting the word "entire" in the provision authorizing requests for a three-judge court, to make it perfectly clear that the three judges are to hear and decide not only the pattern or practice question but also all other questions involved in the case.

The proposed amendment would require that the Attorney General request such a court at the time he files a complaint. In the event he fails to do so, the defendant may make a request for a three-judge court within 20 days after service of the complaint.

There are other minor and clarifying changes, but only two of these changes deal with substantive matters. We have taken out any reference to poll taxes in recognition of the new 24th amendment, which prohibits poll taxes in connection with Federal elections. The other change ensures that the expediting provisions of title I dealing with single-judge cases remain, as in the House version, applicable to voting intimidation cases. These cases are not covered by the "pattern or practice" provision of the 1960 Civil Rights Act and therefore are not eligible for trial by a three-judge court under the proposed substitute. The expediting directives, however, would be made applicable not only to any proceeding in which a request for a pattern or practice finding would have been made, but also to "any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section", that is, to voting intimidation cases brought by the Attorney General.

I come now to title II.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Does title I of the substitute still propose to establish the completion of the sixth grade as a rebuttable presumption of literacy in Federal elections?

Mr. HUMPHREY. It does. That provision is continued from the original House bill.

Mr. BYRD of West Virginia. Does not the distinguished whip believe that such a provision would in effect establish, on the part of the Congress, a voter qualification?

Mr. HUMPHREY. I do not. I discussed this matter at length when I opened the debate on the civil rights bill for the proponents on April 1. I believe this should be termed merely an additional rule of evidence.

Mr. BYRD of West Virginia. Does not the Senator agree that article I, section 2, clause 1 of the U.S. Constitution provides that electors for Members of the House of Representatives shall have the qualifications requisite for electors of the most numerous branch of the State legislature?

Mr. HUMPHREY. Yes; I am very familiar with that provision.

Mr. BYRD of West Virginia. Does the distinguished whip agree that the 17th amendment to the Federal Constitution provides that electors for U.S. Senators shall have qualifications requisite for electors of the most numerous branch of the State legislature?

Mr. HUMPHREY. I do.

Mr. BYRD of West Virginia. Does not the distinguished whip agree that article II, section 1, clause 2 of the U.S. Constitution provides that, in connection with appointment of presidential electors, these shall be appointed in such manner as each State legislature may direct?

Mr. HUMPHREY. Yes; I am familiar with that provision. I addressed myself to that very subject matter when I discussed title I on the opening day of the debate.

Mr. BYRD of West Virginia. Do these two articles and the amendment to which I have just referred in essence provide that the States shall have the prerogative of determining the qualifications of electors for Members of the U.S. House of Representatives, electors for Members of the U.S. Senate, and presidential electors?

Mr. HUMPHREY. The statement of the Senator is correct.

Mr. BYRD of West Virginia. Then, does the distinguished Senator from Minnesota not feel that the rebuttable presumption which is provided for in the substitute bill would contravene the 17th amendment to the Federal Constitution and would contravene article I, section 2, clause 1 of the Federal Constitution, and article II, section 1, clause 2 of the Federal Constitution?

Mr. HUMPHREY. I do not. May I say most respectfully a number of well-qualified and highly respected constitutional lawyers agree with me that it does not in any way contravene those constitutional provisions.

Mr. BYRD of West Virginia. Does not the distinguished majority whip also agree that a number of very competent, highly qualified, and reputable constitutional lawyers disagree with the Senator from Minnesota on this point?

Mr. HUMPHREY. There may be some who do, but the former Attorneys General of the United States in two administrations, the Eisenhower administration and this administration—and I believe even further back—do not find themselves in disagreement, and they support the constitutionality of the presumption of literacy.

Mr. BYRD of West Virginia. But does the distinguished Senator from Minnesota not agree with me that if Congress can establish a rebuttable presumption of literacy, it can also establish a rebuttable presumption of competency and a rebuttable presumption of character?

Mr. HUMPHREY. The State can establish any qualifications it wishes, so long as those qualifications are applied fairly and equitably to all citizens, without regard to race or color, or to any other quality of citizenship, so long as they are deemed to have some relation to the act of voting in conjunction with appropriate constitutional standards.

Mr. BYRD of West Virginia. If title I of the substitute bill were to be approved as written, I ask the Senator from Minnesota whether a State would not be precluded from requiring, as a qualification for voting in Federal elections, that an individual must have an 8th-grade education or a 12th-grade education if it so desired?

Mr. HUMPHREY. If the State said that an individual must have a 12th-grade education, and if the State said that criteria were established which applied equally, without favor to all citizens, it would probably be a valid requirement for voting.

Mr. BYRD of West Virginia. How could a State do so if Congress had already, by favorable action upon title I of the civil rights bill, established the completion of the sixth grade as a rebuttable presumption of literacy?

Mr. HUMPHREY. That is where the State requires that the individual be literate and does not specify any particular grade but merely requires that the individual be literate. It is a rebuttable presumption that if a person has a sixth grade education, he can therefore read and write. It is merely a rule of evidence.

Mr. BYRD of West Virginia. May I ask the distinguished Senator——

Mr. HUMPHREY. Let me just add, if the Senator will permit me——

Mr. BYRD of West Virginia. Of course.

Mr. HUMPHREY. I have been looking for a statement in reference to this, which was used earlier, so that the record may be cogent and relevant.

Title I provides that a sixth-grade education is a rebuttal presumption of literacy for purposes of literacy. This is a rebuttable presumption——

Mr. BYRD of West Virginia. What does it say, again?

Mr. HUMPHREY. It says that if the individual has a sixth-grade education, it is presumed he is literate, but this is rebuttable in court.

Mr. BYRD of West Virginia. Does the substitute provide that one must have a sixth-grade education?

Mr. HUMPHREY. It does not.

Mr. BYRD of West Virginia. That is what the Senator from Minnesota has just said.

Mr. HUMPHREY. I have said that if a State has a literacy test, a person with a sixth-grade education will be presumed to be literate unless the State can prove to the contrary.

Mr. BYRD of West Virginia. Does it use the words "sixth-grade education"?

Mr. HUMPHREY. Let me quote——

Mr. BYRD of West Virginia. Or does it refer to one's having "completed" the sixth grade?

Mr. HUMPHREY. If one has completed the sixth grade, he has a sixth-grade education.

Mr. BYRD of West Virginia. Not necessarily. Many students complete the sixth grade without having acquired a sixth-grade education and are functional illiterates.

Mr. HUMPHREY. If, in any proceedings, literacy is a relevant fact, it shall be a rebuttable presumption that any person who has not been adjudged an incompetent, and who has completed the sixth grade in a public school or a private school accredited by any State or territory or the District of Columbia, and so forth, possesses sufficient literacy comprehension and intelligence to vote in any Federal election.

Mr. BYRD of West Virginia. I submit that——

Mr. HUMPHREY. The State can introduce admissible evidence demonstrating that the applicant is in fact illiterate; and if it can be demonstrated that the party is illiterate then, of course, the person would not be entitled to vote in that State.

Mr. BYRD of West Virginia. The burden is, therefore, upon the State to prove that the applicant is not, in fact, literate?

Mr. HUMPHREY. The Senator is correct. It will have to be admissible evidence, demonstrating that the applicant is in fact an illiterate, if the individual can show that he has been through the sixth grade in public or private school. It is not a qualification—the States can still establish qualifications—but rather it is a rule of evidence in the Federal courts.

Mr. BYRD of West Virginia. If the Senator from Minnesota will permit me to say so, I submit that the mere completion of the sixth grade is not to be equated with a sixth-grade education. Many illiterates have been passed from grade to grade until they have completed the sixth grade, but they have failed to acquire a "sixth-grade education." I further state, Mr. President, that the establishment of the completion of the sixth grade as a rebuttable presumption of literacy in effect contravenes article I, section 2, clause 1 of the Constitution; it contravenes article II, section 1, clause 2 of the Constitution, and it also contravenes the 17th amendment of the Federal Constitution.

Mr. HUMPHREY. I know that the Senator believes this, and I fully respect his right to believe what he has just stated; but I say with equal candor that learned constitutional lawyers who have studied the provisions—and the Senator from West Virginia [Mr. BYRD] is a learned lawyer—see no conflict with the constitutional provisions. That language in the bill from the House, and in the substitute proposed, is constitutional.

Mr. President, the Constitution does not provide that there shall be one kind of test for a black man and another kind of test for a white man. The Constitution provides that a test, whatever the qualifications may be, must be applied equally, must be applied without discrimination.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Minnesota yield further?

Mr. HUMPHREY. I yield.

Mr. BYRD of West Virginia. I agree with the provision in title I which would require that literacy tests be applied uniformly——

Mr. HUMPHREY. The Senator is correct.

Mr. BYRD of West Virginia. As between white and nonwhite applicants who wish to vote; but the rebuttable presumption provision is quite aside from this. I have no quarrel with the Senator on the point that there should be uniformity.

Mr. HUMPHREY. I fully understand that.

Mr. BYRD of West Virginia. I cannot find in the Constitution a basis for establishment by the Congress of a rebuttable presumption of literacy because, in essence, this is to establish a voter qualification.

I should like to state to the distinguished Senator from Minnesota—and I believe the Senator will agree with me—that Congress can act only when there exists a grant of power by the Constitution.

Mr. HUMPHREY. That is correct.

Mr. BYRD of West Virginia. I should like to have the distinguished Senator indicate to me where in the Constitution may be found the basis upon which this rebuttable presumption might be enacted.

Mr. HUMPHREY. The rebuttable presumption would have its constitutional base in the 15th and 14th amendments.

The language of the 14th amendment is comprehensive:

> SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The rebuttable presumption language relating to the question of literacy is predicated upon the known evidence, the incontrovertible evidence, the incontestable evidence, that on the question of voting rights there has been a denial of the equal protection of laws to a number of our citizens because of race.

Section 4, article I, of the Constitution states:

> SEC. 4. The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the places of chusing Senators.

It is under section 4 of article I, section 1 of the 14th amendment, and the provisions of the 15th amendment that the provisions that we have been discussing in title I of the civil rights bill are to be adjudged constitutional.

That is the view of the Senator from Minnesota, and, I am happy to say, the view of many others who are much more learned in the law than is the Senator from Minnesota.

Mr. President, in title II——

Mr. BYRD of West Virginia. Mr. President, the Senator from West Virginia is not convinced that the Senator from Minnesota has established a basis in the Constitution for the establishment by Congress of a rebuttable presumption of literacy. The Senator from Minnesota has referred to section 1 of amendment 14, and he has attempted to base the rebuttable presumption provision upon the equal protection clause of that section. I have already indicated that the provision of title I, which would require uniformity in the application of a literacy test is a provision which I support. That in itself would seem to cover the equal protection requirement to which the able Senator from Minnesota has referred, namely, that all citizens should be treated alike when it comes to applying a literacy test, or whatever other test may be utilized in determining the qualifications of voters.

Section 1 of amendment XV reads:

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

I contend that the rebuttable presumption of literacy, which is to be found in title I of the civil rights bill and in the substitute therefor, makes no reference to race, color, or previous condition of servitude.

It applies across the board, to whites and nonwhites alike. Therefore, its thrust is not as it should be, if it were bottomed upon section 1 of amendment 15.

Mr. HUMPHREY. Mr. President, I respectfully suggest to the Senator that this is a subject that has been given a great deal of thought, particularly in light of the fact that a minor filibuster was waged upon the so-called literacy test bill in the Senate 2 years ago.

As a result, in the preparation of the proposed legislation, the Justice Department and the committee of the House, the Members of the House, and those of us in the Senate who worked on this problem have sought the advice and counsel of the most able constitutional lawyers that we could obtain. On the occasion of my presentation in the Senate on March 30 I discussed the constitutional basis of title I. I said there would undoubtedly be an attack on the constitutionality of the title based on the fact that the establishment of voting qualifications, even for Federal elections, is typically a matter subject to the regulatory powers of the States. Article II, section 1 of the Constitution provides that "each State shall appoint, in such manner as the legislature thereof may direct, a number of electors" to elect the President and Vice President. Article I, section 4, provides that:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the places of chusing Senators.

The opponents of title I also rely upon the 17th amendment provision that declares that persons eligible to vote for the election of Senators shall have the same qualifications required for electors of the largest house of the State legislature. From these sources, they conclude that the States have the sole and exclusive constitutional power to regulate elections, whether State or Federal, and to set qualifications for voters.

However, this argument ignores the existence of the 14th and 15 amendments to the Constitution, which confer upon Congress authority to legislate with respect to discriminatory denials of the right to vote—the abuses against which the amendments are specifically directed. Section 1 of the 15th amendment provides that the "right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

Each of the practices with which title I deals is a device which has been used to deny equal rights to Negroes.

We are not discussing theory here. This question has been examined by courts of law. It has been examined by the Civil Rights Commission, the Justice Department, and by university foundations. The evidence as to the denial of the right to vote to Negroes is as obvious as the nose on one's face.

The Supreme Court has decided, in *Lane* v. *Wilson*, 307 U.S. 268, 272 (1939), that the 15th amendment is directed against all "contrivances by a State to thwart equality in the enjoyment of the right to vote by citizens of the United States regardless of race or color." This includes "sophisticated as well as simple-minded modes of discrimination." The Court went on to say that the 15th amendment forbids "onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race." Section 2 of the 15th amendment confers upon Congress the power to enact "appropriate legislation" to enforce section 1. This power includes the enactment of all measures adapted to counteract discriminatory devices. Congressional jurisdiction in this area is also supported by these Supreme Court decisions: *United States* v. *Raines*, 362 U.S. 17, 25 (1960), *Hannah* v. *Larche*, 363 U.S. 420, 452 (1960).

Moreover, practices of discrimination against Negroes in the applications of tests, standards, and the like also constitute denial of equal protection of the laws guaranteed by the 14th amendment. See, for example, *Davis* v. *Schnell*, 81 F. Supp. 872 (S.D. Ala., 1949), affirmed, 336 U.S. 933. The 14th amendment, like the 15th, is directed to action by a State and authorizes the Congress to enforce its provisions by "appropriate legislation."

So far as the election of Senators and Representatives is concerned, there are additional and unquestionable constitutional sources for title I. Those who attack the constitutionality of the title in this respect overlook the last clause of article I, section 4, which authorizes Congress "at any time by law [to] make or alter such [voting] regulations" as may be prescribed by each State. In connection with this provision, the Supreme Court has stated:

> It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns, in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved.—*Smiley* v. *Holm*, 285 U.S. 355, 366 (1932).

That Court was not known as the most liberal of the courts. There was further court action, in which Congress was supported.

Congress may also legislate with respect to Federal elections because it possesses powers, which, although not specifically enumerated in the Constitution, are implied because they "are necessary and proper" within the meaning of article I, section 8, clause 18.

In *Burroughs and Cannon* v. *United States*, 290 U.S. 534, a case decided in 1934, the Supreme Court ruled that the implied powers of Congress extend to measures to insure purity of the Federal ballot. In sustaining the validity of the Corrupt Practices Act, the Court declared:

> Congress, undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from impairment or destruction, whether threatened by force or by corruption.

There is much evidence that relates to the right and power of the Federal Government to insure that Federal elections are held in a nondiscriminatory manner, and to make certain that State laws do not deny citizens of the United States the right to participate in Federal elections or, in order words, to see to it that State laws do not discriminate against citizens of the United States who participate in Federal elections.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. BYRD of West Virginia. I do not argue with the Senator from Minnesota with reference to the fact that some citizens have been denied the right to vote and that discrimination has been practiced on the basis of race or color at some times and at some places. I have already indicated that we are in agreement as to the desirability of a uniform application of literacy tests and that we are in agreement in our support of the provision of title I in H.R. 7152 and of title I of the amendment in the nature of a substitute, which would underwrite the uniform application of literacy tests. We are not in disagreement on that point.

But I maintain that any act of Congress must be traceable to a constitutional grant of power.

Mr. HUMPHREY. I have no disagreement with the Senator from West Virginia on that point.

Mr. BYRD of West Virginia. In my judgment, the Senator from Minnesota has failed to trace to the Constitution that grant of power which would be needed to support the establishment by Congress of a rebuttable presumption of literacy such as we have here. The Senator has referred to article I, section 4, clause 1 of the Federal Constitution, which refers to the times, places, and manner of electing Senators and Representatives.

Mr. HUMPHREY. That is correct.

Mr. BYRD of West Virginia. Is the distinguished and amiable Senator from Minnesota familiar with the significant dictum in the dissent by Justice Field in the case of *Ex parte Clark*, 100 U.S. 399, page 404? Justice Field said, with reference to article I, section 4, clause 1 of the Constitution, that the power to make and alter regulations concerning times, places, and manner of holding elections for Senators and Representatives "does not authorize Congress to determine who shall participate in the election, or what shall be the qualification of voters. These are matters not pertaining to or involved in the manner of holding the election, and their regulation rests exclusively with the States."

Therefore, I say, with all proper respect, that in my judgment, the Senator from Minnesota cannot bottom this provision of title I upon article I, section 4, clause 1 of the Federal Constitution.

Mr. HUMPHREY. I have a high regard for the late Justice Field; but I respectfully submit to my good friend from West Virginia that his holding was dictum in an opinion; it was not the prevailing opinion of the Court.

Mr. BYRD of West Virginia. I agree that it was dictum, but I also make the point that the constitutionality of Federal legislation prescribing voter qualifications has not been before the Supreme Court of the United States. Therefore, until such a case is brought before the Supreme Court, the best guidance we have is the dictum I have just read.

Mr. HUMPHREY. I respectfully submit to the distinguished Senator from West Virginia that the best and most reliable evidence we have is found in the rulings of the Court in a host of cases involving Federal elections, where there has been discrimination on the part of State officers or State law. The Court has held that there is discrimination not only when there is obvious tangible evidence of discrimination, but when impediments are placed in the way of election, and where devices are used to deny the voter the right to participate in voting.

Also, if there is any doubt in the Senator's mind, the bill contains a provision of separability, which means that each and every provision of the act, if the bill should be enacted, shall be subject to separate constitutional test. A test can be made of each provision.

But those who have studied this question for a long time came to the conclusion that the language in title I, relating to literacy tests, was constitutional. It was, moreover, the best way to protect the rights of citizens from the distortion of literacy requirements in certain States.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Minnesota further yield?

Mr. HUMPHREY. I yield.

Mr. BYRD of West Virginia. I repeat that the provision of title I which would require the uniform application of literacy tests constitutes adequate protection, and, in my judgment, would not run afoul of the Constitution of the United States.

The provision of the title we are discussing, which has reference to literacy tests, makes no reference to State denial or abridgement of voting rights based on race, color, or previous condition of servitude. Section 1 of the 15th amendment to the Federal Constitution provides:

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

I submit that the provision we are discussing will apply to all citizens, white and nonwhite alike, and that it makes no reference whatever to State denials or abridgements based on race, color, or previous condition of servitude.

Mr. HUMPHREY. The Senator from Minnesota and the Senator from West Virginia are not going to agree on this point this afternoon. That is the reason we have debates on these provisions. I have presented, in two instances, the cases as best I can. The Senator from West Virginia presents a powerful, strong case in his behalf. We shall have to rely upon the jury—the Senate.

Mr. BYRD of West Virginia. I have great respect for the Senator from Minnesota. He has attempted to make a good case for his point, and in his judgment he has made a good case. I share his belief that no citizen should be discriminated against on the basis of race, color, or previous condition of servitude when it comes to voting.

But I maintain that any congressional act which is passed must be traceable to some grant of power in the Federal Constitution. I cannot conscientiously find such grant of power upon which it is attempted to base such a rebuttable presumption of literacy as is contained in title I of the civil rights bill.

Mr. HUMPHREY. I conclude my remarks by once again referring to the rulings made in the cases of *United States* v. *Raines*, 362 U.S. 17, and *Hannah* v. *Larche*, 363 U.S. 420, both decided in 1960, and which relate to the power under the 15th amendment to enforce section 1 of that amendment. The court held that the power includes the enactment of all measures adopted to counteract discriminatory devices.

I must say with all the sincerity at my command that the use of literacy tests in some areas of America has been a discriminatory device.

Mr. BYRD of West Virginia. I do not intend to labor the point. I agree that there have been cases of discrimination in the use of literacy tests; but I again make the point that the provision in title I which would require uniformity in the application of literacy tests is all that is needed.

The rulings of the court, to which the Senator from Minnesota has referred, are not on the point at issue here; namely, the power of Congress to establish voter qualifications in Federal or State elections.

Mr. HUMPHREY. I ask the distinguished Senator from West Virginia, who is a lawyer, to read the case of *Lane* v. *Wilson*, 307 U.S. 268, decided in 1939. In that case the court held that the 15th amendment is directed against all "contrivances by a State to thwart equality in the enjoyment of the right to vote by citizens of the United States regardless of race or color."

I repeat that at times literacy tests have been used as contrivances, devices, tricks, snares, and delusions with which to deny Americans the right to vote. So the reason for the inclusion in title I of this language, relating to literacy, is the known evidence that literacy tests and requirements have been used as means of denying Americans the right to vote.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Minnesota yield again to me?

The PRESIDING OFFICER (Mr. NELSON in the chair). Does the Senator from Minnesota yield to the Senator from West Virginia?

Mr. HUMPHREY. I yield.

Mr. BYRD of West Virginia. I agree that no contrivances should be used to deprive individuals of the right to vote, if otherwise they would qualify.

But again I make the point, and emphasize it, that the provision of title I which would require uniform application of literacy tests to both whites and nonwhites should relieve the situation, and should provide the solution which both the Senator from Minnesota and I are striving to achieve.

Mr. HUMPHREY. I thank the Senator from West Virginia.

TITLE II

Mr. President, at this point I wish to say a few words about title II of the proposed substitute.

The intent of the House version of the bill was to provide an opportunity for voluntary compliance and for State and local action in cases of alleged discrimination in public accommodations. The bill has been changed, so as to make that intention specific and to embody it in a set of specific procedures. Under the proposed amendments, an individual retains the power to bring a civil action in Federal court, and the court may allow the Attorney General to intervene in such a case. The Attorney General may not, however, initiate suit on behalf of an individual complainant.

If the alleged discrimination occurs in a State or locality that has a public accommodations law covering the practice alleged, the individual cannot, under the substitute, bring his suit in Federal court until 30 days after he has registered a complaint with the proper State or local authorities. If these authorities then initiate enforcement proceedings under the State or local law and such proceedings have not been completed by the time suit is filed in Federal court, the Federal court may at its discretion stay the suit until such proceedings are terminated.

If the alleged discrimination has occurred in a State or locality without a public accommodations law, the individual who is aggrieved may bring suit in Federal court immediately. The court may refer such a case to the Federal Community Relations Service for efforts to settle the dispute by voluntary methods. The Service is authorized to investigate the case for that purpose. The time limit on such a referral to the Community Relations Service is 60 days, although, upon expiration of this period, the court may extend the referral for up to another 60 days, if it still believes there is a reasonable possibility of obtaining voluntary compliance.

Since the experience in States that have public accommodations laws is that most complaints can be settled by voluntary procedures, it is expected that discretionary referral under these provisions will further the purposes of the title without requiring Federal court orders in many cases.

At the same time, these changes give to State and local officials a greater responsibility and a greater opportunity to achieve voluntary compliance without Federal action. The intent of these changes is to preserve the power of the Federal courts as a last rather than a first step.

The Attorney General has two roles to play in public accommodations suits. One of these is to intervene, at the discretion of the court, in suits brought by aggrieved individuals. This intervention provision is specifically included in title II, in addition to the provision in section 902, in order to cover legal actions which do not involve deprivation of constitutional rights but which are violations of title II.

While the Attorney General would not have power to initiate suits in individual cases, he would have authority to initiate legal action on his own under title II when "he has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyments of any of the rights secured by this title." In such cases the Attorney General need not refer the complaint to the Community Relations Service, although he could if he wanted to. Nor is there any requirement for exhaustion of State or local remedies beforehand. If the Attorney General files a certificate that the case is of general public importance, a three-judge court with a mandate to act expeditiously would be appointed. Provision is also made for expedited proceedings in cases filed by the Attorney General in which he does not ask for a three-judge court.

In short, where the Attorney General believes that a suit brought by an individual under title II is important—because, for example, the points of law involved in it are of major significance or because the particular decision will constitute a precedent for a large number of establishments—he may request intervention, in order to present the Government's point of view. And where he believes there is a pattern or practice designed to perpetuate discrimination, he may sue directly.

It is expected that this power of the Attorney General will be an important aid to maintaining public order in cases in which repeated discrimination in public accommodations has given rise to demonstrations and public violence. Since these are among the most explosive and disruptive instances of discrimination, we felt that the Attorney General had to have power to act quickly and decisively in the interest of public peace and harmony.

Legal assistance to persons aggrieved: The amendments would authorize the court, in such circumstance as it deems just, to appoint an attorney for a person aggrieved and to permit his suit to be filed without the payment of fees, costs, or security. Relief would be possible for persons experiencing denial of their rights under title II, who, for financial or other justifiable reasons, are unable to bring and maintain a lawsuit.

In short, these proposed amendments to title II in no way diminish the basic rights set forth in the title nor do they decrease the number of establishments covered by the title. These amendments deal only with the procedures to be used in enforcing the title. They do not impose serious burdens on individuals who have complaints of discrimination. The Attorney General would be authorized to intervene in a title II suit started by a private complainant. And the Attorney General would himself be able to initiate a suit where a pattern or practice of discrimination appears. Finally, he would be able to obtain a three-judge court or otherwise expedite proceedings in a suit of that nature.

TITLE III

The primary purpose of title III is to authorize the Attorney General to initiate suits to desegregate public facilities. There is no major change in this provision. Section 302 of the House bill, which deals with a broader subject than desegregation of public facilities, has been moved from title III to title IX.

In section 301(a) the description of the right protected by the title would be changed from "access to or full and complete" utilization of public facilities to their "equal" utilization.

No substantive change is intended by this amendment. The view had been expressed that the House version was confusing because, while intended to enforce the equal protection clause of the 14th amendment, section 301 did not contain the word "equal." This amendment is designed to clarify the point that the Attorney General may sue to redress the deprivation of the right to the "equal protection" of the laws with respect to the use of public facilities.

Of course, it hardly need be added that use of the word "equal" in no way countenances the unconstitutional doctrine of the separate-but-equal use of facilities. The phrase "equal protection" in the 14th amendment can no longer be interpreted in that way, and the word "equal" in this title is intended to reflect this fact.

Section 301(a) would be amended to require that any complaint by an individual to the Attorney General, alleging denial of equal utilization, be in writing, and to condition the Attorney General's power to sue on his belief that the complaint is meritorious. A new section 304 would be added, to make clear that the sanctions of 18 U.S.C. 1001, the False Writing and Document Act, are applicable to the written complaints filed with the Attorney General.

Another change in title III concerns the description in section 301(b) of the conditions under which the Attorney General is authorized to initiate litigation. In the House version, as in the proposed amended version, he would be able to do so when he deemed that the complainants were unable to initiate and maintain appropriate legal proceedings. The House version declares that the Attorney General may deem a person unable to do so whenever, among other things, "he is satisfied that the institution of such litigation would jeopardize the employment or economic standing of, or might result in injury or economic damage to, such person or persons, their families, or their property."

The proposed amendment deletes the phrase "might result in injury or economic damage to," and inserts the words "personal safety," so that this provision now reads:

> Whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families or their property.

It was felt that the House language was somewhat redundant with respect to economic consequences to the complainant, and that it did not clearly state that the individual's personal safety may be considered by the Attorney General. Sections 301(a) and (b) both recognize that the Attorney General must necessarily have discretion in determining whether to bring suit and in determining whether the facts of a particular case meet the criteria set forth in section 301(b).

Another minor amendment would delete from section 301(a) the phrase "the public policy of the United States favoring," where the Attorney General is directed to consider whether bringing suit will "materially further the public policy of the United States favoring the orderly progress of desegregation in public facilities."

Inclusion of this phrase was deemed unnecessary, in light of the fact that title III itself, by authorizing the Attorney General to bring suit to desegregate public facilities, clearly declares the existence of such a public policy. The phrase was also somewhat confusing, since the public policy of the United States is to favor compliance with the requirements of the Constitution as expressed in the equal protection clause, which would be the basis of action under title III.

TITLE IV

Title IV, dealing with public school desegregation, is amended and clarified in several respects in our substitute.

One amendment would provide that before the Attorney General can institute suit he must believe that the complaint, filed with him by an individual concerning a denial of equal protection, is meritorious. A further change would provide that any such complaint must be in writing.

Another amendment provides that prior to instituting suit, the Attorney General must give notice to the appropriate school authorities, and must certify that he is satisfied that these authorities have had a reasonable time in which to adjust the conditions alleged in such complaint. This is intended to recognize and preserve the importance of voluntary action by local authorities.

Next, changes are made to resolve doubts that have been expressed about the impact of the bill on the problem of correcting alleged racial imbalance in public schools. The version enacted by the House was not intended to permit the Attorney General to bring suits to correct such a situation, and, indeed, said as much in section 401(b). However, to make this doubly clear, two amendments dealing with this matter are proposed.

The first provides that nothing in title IV "shall empower any court" or official of the United States to issue "any order" seeking to achieve "a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance or otherwise enlarge the existing power of the court to insure compliance with constitutional standards." This addition seeks simply to preclude an inference that the title confers new authority to deal with "racial imbalance" in schools, and should serve to soothe fears that title IV might be read to empower the Federal Government to order the busing of children around a city in order to achieve a certain racial balance or mix in schools.

Furthermore, a new section 410 would explicitly declare that "nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin."

Thus, classification along bona fide neighborhood school lines, or for any other legitimate reason which local school boards might see fit to adopt, would not be affected by title IV, so long as such classification was bona fide. Furthermore, this amendment makes clear that the only Federal intervention in local schools will be for the purpose of preventing denial of equal protection of the laws.

Another amendment, by some appropriate changes in the wording of section 401(c) which defines "public school," corrects a technical deficiency of language, and makes clear that the power to sue, as granted the Attorney General by title IV, is limited to bringing suits to desegregate public or publicly supported schools, not private schools. Of course, it was never intended to reach private schools, which are not prohibited by the 14th amendment from discrimination. The amendment would make this explicit.

Other minor changes include deleting the concept of the "public policy of the United States favoring" the orderly achievement of school desegregation, for the same reason the phrase would be deleted in title III; and a revision, identical to that made in title III, of the guidelines for the Attorney General concerning when in his judgment he may deem persons unable to initiate and maintain appropriate legal proceedings for relief. And, as in title III, the criminal sanctions of the false writing and document statute, 18 U.S.C. 1001, are made applicable to complaints filed with the Attorney General.

TITLE V

The major change in title V sets out in greater detail the procedures the Civil Rights Commission must follow, particularly with respect to its hearings. While the Commission already follows many of these procedures, the purpose of these amendments is to write these procedural safeguards into the Commission's basic charter. These specific procedural requirements are designed to afford additional protection to witnesses appearing before the Commission. While the bill would retain the present provision that a witness before the Commission may be accompanied and advised by counsel, it would extend the protection by providing that counsel may examine his client, object on the record, and argue briefly in support of the objection.

The amended version would also extend the protection afforded persons who may be defamed or incriminated by testimony given at a Commission hearing. As in the House version of the bill, if the Commission thinks any testimony may tend to defame or incriminate, it is required to receive the testimony in executive session. The amendment would further provide that before the Commission may decide to use such evidence it must afford the person affected by the testimony the opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses. Furthermore, if the Commission decides to release the defaming testimony, this material must first be presented at a public session and the defamed individual shall be allowed to appear at this session and to file statements in his behalf.

The Commission will also be required first, to publish in the Federal Register notice of any hearings it intends to hold, including the time, place, and subject matter of the hearing; second, to give a copy of its rules to prospective witnesses; and third, to make transcripts of all its hearings. Witnesses will be entitled to purchase or inspect transcripts of testimony and the general public also may purchase transcripts of public sessions of the Commission. The Commission will also have to publish in the Federal Register its organizational structure, its methods of operation, and its rules.

The Commission will be restricted to the rules, organizations, and procedure as published. And, by amendments to section 506, it will be required that first, hearings may be held only by the Commission or by a subcommittee thereof composed of members of both political parties; second, subpenas may be issued only in accordance with the rules specified in the act; third, the holding of hearings must be approved by a majority of the members present at a meeting at which at least a quorum of four members are present; and fourth, that the courts may require the production before the Commission only of evidence which is "pertinent, relevant, and nonprivileged."

The other principal change in title V amends section 504, which lists the Commission's duties. This amendment makes it clear that the functions of the Commission are not to be expanded beyond matters constituting "denials of" the equal protection of the laws "because of race, color, religion, or national origin or in the administration of justice." This change does not alter to any significant extent the function of the Commission since it has in the past largely confined itself to this phase of denials of equal protection. The change is designed merely to conform the statutory powers of the Commission to the areas in which it has in the past operated and in which it contemplates operations. Basically, as the amendment indicated, these are denials of equal protection because of race, color, religion, or national origin, and denials of equal protection in the administration of justice, whether or not related to race, color, religion, or national origin.

I believe the revisions of title V have been very helpful, and I hope that Senators will study those revisions most carefully.

TITLE VI

We have made no changes of substance in title VI, which is concerned with discrimination in programs that receive financial assistance from the Federal Government. We have made several minor adjustments and, in addition, we have modified the language to make explicit the declared intention of this title.

Section 601 would be amended by striking the introductory phrase, "Notwithstanding any inconsistent provision of any other law." No substantive alteration is intended by this deletion and there is no intention to revitalize or otherwise preserve the provisions of any other statute which would authorize discrimination in Federal programs or preclude action in accordance with the provisions of this title to prevent such discrimination. And, of course, in accordance with the many prior explanations given here and on the floor of the House, title VI would still have no effect on already existing executive authority in areas beyond the scope of the title.

Some Senators have expressed the fear that in its original form title VI would authorize cutting off of all Federal funds going to a State for a particular program even though only one part of the State were guilty of racial discrimination in that program. And some Senators have feared that the title would authorize canceling all Federal assistance to a State if it were discriminating in any of the federally assisted programs in that State.

As was explained a number of times on the floor of the Senate, these interpretations of title VI are inaccurate. The title is designed to limit any termination of Federal assistance to the particular offenders in the particular area where the unlawful discrimination occurs. Since this was our intention, we have made this specific in the provisions of title VI by adding language to 602 to spell out these limitations more precisely. This language provides that any termination of Federal assistance will be restricted to the particular political subdivision which is violating nondiscrimination regulations established under title

VI. It further provides that the termination shall affect only the particular program, or part thereof, in which such a violation is taking place.

It is understood, of course, that a Federal agency would take such action as was necessary to effectuate a limited cutoff if a State agency attempted to continue payments to an offending local agency.

I might add that the discussions on the floor of the Senate, particularly by the Senator from Vermont [Mr. AIKEN], the Senator from Tennessee [Mr. GORE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Connecticut [Mr. RIBICOFF], and the Senator from West Virginia [Mr. BYRD], were taken into consideration in the revision or preparation of the amendments to title VI.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Can the Senator from Minnesota assure the Senator from West Virginia that under title VI school children may not be bused from one end of the community to another end of the community at the taxpayers' expense to relieve so-called racial imbalance in the schools?

Mr. HUMPHREY. I do.

Mr. BYRD of West Virginia. Will the Senator from Minnesota cite the language in title VI which would give the Senator from West Virginia such assurance?

Mr. HUMPHREY. That language is to be found in another title of the bill, in addition to the assurances to be gained from a careful reading of title VI itself.

Mr. BYRD of West Virginia. In title IV?

Mr. HUMPHREY. In title IV of the bill.

Mr. BYRD of West Virginia. Will the Senator from Minnesota read that language in title IV?

Mr. HUMPHREY. Yes; I would be more than happy to do so.

The provision merely quotes the substance of a recent court decision, which I have with me, and which I desire to include in the RECORD today, the so-called Gary case. The language appears on page 21 of the substitute bill beginning on line 18. It refers back to matters of desegregation. The language is as follows:

> *Provided,* That nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards.

Mr. BYRD of West Virginia. What does the word "herein" mean?

Mr. HUMPHREY. It means within the act.

Mr. BYRD of West Virginia. Does it mean the act or the title?

Mr. HUMPHREY. It means the act. If the Senator would like to offer an amendment, if he believes we have not been sufficiently precise, I wish he would do so. As Senator in charge of the bill, I would entertain such an amendment.

Mr. BYRD of West Virginia. But would the Senator from Minnesota also indicate whether the words "provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance" would preclude the Office of Education, under section 602 or title VI, from establishing a requirement that school boards and school districts shall take action to relieve racial imbalance wherever it may be deemed to exist?

Mr. HUMPHREY. Yes. I do not believe in duplicity. I believe that if we include the language in title IV, it must apply throughout the act. However, the courts would hold that if there were gerrymandering of school districts to provide for segregation, the order of the court to declare such gerrymandering unconstitutional would prevail. That is what we call the de facto school segregation problem.

Mr. BYRD of West Virginia. Yes.

Mr. HUMPHREY. As the law in the Federal court now stands, while intentional gerrymandering of school districts to perpetuate segregation has been held to be a violation of the 14th amendment, normal residential zoning resulting in de facto school desegregation will apparently be upheld by the courts. As to racial balancing, Judge Beamer's opinion in the Gary case is significant in this connection. In discussing this case, as we did many times, it was decided to write the thrust of the court's opinion into the proposed substitute. There was quite an argument about it among those of us who tried to prepare the substitute, but the Senators may recall that the Supreme Court refused to grant certiorari in this case. In effect, the ruling of the circuit court has been upheld.

Mr. BYRD of West Virginia. That may be true, but I must give my most careful attention to the proposal which we are studying and which may be enacted by the Congress. I merely wish to make doubly sure that the language is not unclear on the point, and I do not state at this time that I am opposed to the busing of children or that I support the busing of children. There is a great question in the minds of many Senators—and there is a question in my own mind—as to whether the subject, as treated herein, is completely unambiguous.

I agree that the language in title IV should make the point clear, insofar as title IV is concerned. I agree that no court, on the basis of this provision, would be empowered to issue any order seeking to achieve a racial balance in any school. But it does not mean that any agency in the Government could not cut off Federal assistance. The issuance of a court order and the termination of Federal assistance are two different matters. Title VI in section 601 provides:

> SEC. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Section 602 is for the purpose of implementing the policy laid down in section 601.

Mr. HUMPHREY. Correct.

Mr. BYRD of West Virginia. But in order to implement that policy it is provided in H.R. 7152 that each Federal department and agency, and this includes the Office of Education, which is empowered to extend Federal financial assistance to any program or activity by way of grant, loan, or contract other than a contract of insurance or guarantee, shall take action.

I believe that in the substitute bill the language "is authorized and directed," is used, which means "shall take action," with respect to such program or activity, to effectuate the policy that is enunciated in section 601.

It provides further:

> Such action may be taken or pursuant to rule, regulation, or order—

These words may have been changed in the substitute, which I do not have before me—

> of general applicability.

It provides further:

> After a hearing, compliance with any requirement—

I repeat "any requirement." "Any requirement" means "any requirement"—

> adopted pursuant to this section.

Suppose the Office of Education establishes a regulation that there shall be no racial imbalance in the schools of any district which receives Federal assistance. Cannot the Office of Education, pursuant to carrying out this regulation, deny assistance to school districts wherein racial imbalance exists?

Mr. HUMPHREY. Let me read from the substitute:

> *Provided,* That nothing herein shall empower any official or court of the United States to issue any order.

Mr. BYRD of West Virginia. "To issue any order," but does it provide that the Office of Education shall not cut off Federal assistance?

Mr. HUMPHREY. But in order to cut off Federal assistance, the President would have to issue the order, if the Senator will read section 602.

Mr. BYRD of West Virginia. The words are:

> No such rule, regulation, or order shall become effective unless and until approved by the President.

Mr. HUMPHREY. That is correct.

Mr. BYRD of West Virginia. What assurance does the Senator give me that the President will not approve such a requirement?

Mr. HUMPHREY. Because I do not believe the President will violate the law.

Mr. BYRD of West Virginia. The Senator says "I do not believe."

Mr. HUMPHREY. I cannot go to the White House and take a blood oath from him, but the President can read——

Mr. BYRD of West Virginia. The President would not be violating the law if such a requirement were established with his approval.

Mr. HUMPHREY. It is already provided in the proposed substitute that—

> Nothing herein shall empower any official or court of the United States to issue any order.

Mr. BYRD of West Virginia. That is correct, but that is in title IV.

Mr. HUMPHREY. But it applies to the act.

Mr. BYRD of West Virginia. It may so apply.

Mr. HUMPHREY. If the Senator wishes to offer an amendment to clarify it, he may do so. I said I would be more than happy, as manager of the bill, to accept such an amendment. He has made his point. He should not convince me to the contrary.

Mr. BYRD of West Virginia. I am not convinced that the words "any requirement" cannot be utilized by the Office of Education, if it so desires, to achieve an objective of racial balance in the schools. That provision does not require that a court issue an order. It merely provides that, at the stroke of a pen, some bureaucrat in the Office of Education may cut off Federal assistance to a particular school district which does not act to comply with "any requirement" to correct racial imbalance.

Mr. HUMPHREY. I want to set the troubled mind of the distinguished Senator at rest. What we have done is to take into consideration the concern of the distinguished and able Senator from West Virginia. We remember his discussion on the floor. Under title IV and under title VI I have already indicated to the Senator that the word "herein" applies to the act——

Mr. BYRD of West Virginia. The Senator from Minnesota has said that.

Mr. HUMPHREY. But I am manager of the bill, and, as a part of the legislative history, that would have some importance. It would not be important because those words came from Senator HUMPHREY, but it would be important because the Senator from Minnesota is manager of the bill. I shall be glad to accept an amendment to clarify that point to make it more precise. One cannot get anything more definite than that.

Mr. BYRD of West Virginia. The Senator refers to legislative history.

Mr. HUMPHREY. Yes.

Mr. BYRD of West Virginia. He did that in the conference.

Mr. HUMPHREY. We will not worry about legislative history. We will accept the amendment. Where the language reads "herein," we will amend it to mean "herein in this act."

Mr. BYRD of West Virginia. I do not think that is sufficient. I think the Senator will agree with me that if we wanted to make it entirely unambiguous, we would have to write language more specifically to the point into title VI.

Mr. HUMPHREY. If the Senator will read all of title VI——

Mr. BYRD of West Virginia. I have, not once, but many times.

Mr. HUMPHREY. The worry is that some bureaucrat may issue an order that would cut off funds to a department or instrumentality or agency of a State or local government or school or some such activity or institution. What did we do to make sure that would not happen? We provided the language:

> No such rule, regulation, or order shall become effective unless and until approved by the President.

Then comes this language:

> Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate—

Like the Appropriations Committee of which the distinguished Senator from West Virginia is a member—

> having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

Mr. BYRD of West Virginia. The Appropriations Committee does not have legislative jurisdiction.

Mr. HUMPHREY. It reads "having legislative jurisdiction over the program or activity involved."

The Appropriations Committee has the power of the purse.

Mr. BYRD of West Virginia. That is not legislative jurisdiction. The language reads: "legislative jurisdiction."

Mr. HUMPHREY. That is correct. I say most respectfully that the Appropriations Committee has a way of being able to get into practically every committee activity, because it has the power of the purpose.

I cannot believe the Senator's worries are well grounded. We are willing to listen to the Senator's arguments or his amendment, for I think he would probably secure great support.

Mr. BYRD of West Virginia. Mr. President, it is not my purpose to harass the Senator from Minnesota, or to attempt to do so. I simply feel that the language in title VI which reads "any requirement" is not clear and that this language would permit the Office of Education, if it desired to do so, to establish a requirement to correct racial imbalance, whatever that is, and I am not sure anyone knows. Of course, the President could approve that requirement without violating the law; and even though President Johnson might not do so, perhaps some subsequent President would approve such a requirement. If that happened, it seems to me the Office of Education could terminate or refuse to grant assistance to any school district in the country if it did not comply with such requirement. Now, the very able and friendly Senator from Minnesota has referred to the making of legislative history on this point. As to legislative history, I should like to read from People against New York Central R.R. Co., Court of Appeals of New York, 1855—these words:

> If its language—

Referring to a statute—

> is plain and unambiguous, there is no room for construction.

It seems to me that the language "any requirement" is plain and unambiguous.

(At this point Mr. METCALF took the chair as Acting President pro tempore.)

Mr. HUMPHREY. Unless one has a proviso. We are always adding a proviso to something. We can say, "The President of the United States shall do this, provided that he shall not do that." What we have done here is to provide that, "You shall do certain things, provided that," and then we list what cannot be done.

Mr. BYRD of West Virginia. Where is the proviso in title VI which would prohibit the Office of Education from doing what I have just stated it might conceivably do?

Mr. HUMPHREY. There is such a thing as having a statement written into an act that covers the act. One does not have to repeat it in every other paragraph.

Mr. BYRD of West Virginia. Mr. President, there is——

Mr. JAVITS. Mr. President, will the Senator allow me to interject at that point?

Mr. HUMPHREY. I yield.

Mr. JAVITS. I believe I know what the Senator from West Virginia [Mr. BYRD] is asking about. I had a great deal to do with drafting the point we are talking about.

I should like to point out that the operative words of section 602 in title VI are these: "which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance."

I invite the attention of the Senator from West Virginia to page 33, lines 9, 10, and 11 of the amendment in the nature of a substitute.

In short, the only time there can be a cutoff of funds is if the segregation or discrimination is being practiced in respect to a matter which if stopped will still not throw us out in this definition as to the "achievement of the objectives of the statute authorizing the financial assistance."

Taking the case of the schools to which the Senator is referring, and the danger of envisaging the rule or regulation relating to racial imbalance, it is negated expressly in the bill, which would compel racial balance. Therefore, there is no case in which the thrust of the statute under which the money would be given would be directed toward restoring or bringing about a racial balance in the schools. If such a rule were adopted or promulgated by a bureaucrat, and approved by the President, the Senator's State would have an open and shut case under section 603. That is why we have provided for judicial review. The Senator knows as a lawyer that we never can stop anyone from suing, nor stop any Government official from making a fool of himself, or from trying to do something that he has no right to do, except by remedies provided by law. So I believe it is that set of words which is operative.

Let me give the Senator an example, because we discussed the question in great detail. We discussed in great detail the situation in which a contractor on Government work—that is, work in which the United States puts up some of the money. Assume he is a road contractor and was discriminating in his business against hiring Negroes, but he was not discriminating on that particular job.

I state for the RECORD that because he was discriminating generally, but was not discriminating on that job, we could not cut off his funds because the statute which permitted the Federal Government to put up its share of the money did not apply to the contractor's general business operations. It applied only to the construction of the road.

Mr. BYRD of West Virginia. Only where the funds were being applied.

Mr. JAVITS. The Senator is correct. If his nose was clean, to use a curbstone phrase, in terms of employment practices on the road job, that is as far as we could go.

(At this point, Mr. BURDICK took the chair as Presiding Officer.)

Mr. BYRD of West Virginia. I thank the Senator from New York for his interpretation of the language. I trust that it will help to clarify the intent of the title. I also thank the Senator from Minnesota for yielding additionally.

In closing, if the Senator from Minnesota will permit me, I should like to read into the RECORD one excerpt from the case of *Woollcott* v. *Shubert* (111 N.E. 829):

> It is established law, however, that the statements and opinions of legislators uttered in the debates are not competent aids to the court in ascertaining the meaning of statutes.

If we are going to talk about legislative history, I believe that we had better not lean too much upon the assurance of the distinguished Senator from Minnesota, which he gave to me in one of the conferences, and which he has reiterated on the floor of the Senate today, that we will, through this debate, establish legislative history to make clear the intent of the statute. I believe that the words of title VI—"any requirement adopted pursuant to this section"—are presently clear in themselves, and words uttered by us, the legislators, in this debate may not constitute competent aids to the courts in establishing a true legislative intent.

Mr. HUMPHREY. I recognize that the Senator has quoted the citation. I can give him quotations contrary to that one, without fear of contradiction. I am not a lawyer, but I have studied jurisprudence, constitutional law, and case law, and I know of no time when a court of competent jurisdiction has said that statements made by legislators relating to a law are without meaning or that they have no effect upon the interpretation of law or the application of law. To the contrary.

Mr. BYRD of West Virginia. The Senator says he knows of no cases in which the courts have so held. However, I have just cited one case. I can cite the Senator another. *Duplex Printing Press Co.* v. *Deering* (254 U.S. 443):

> By repeated decisions of this court, it has come to be well established that the debates in Congress expressive of the views and motives of individual members are not a safe guide, and hence may not be resorted to, in ascertaining the meaning and purpose of the lawmaking body.

It was for this reason that I joined with others in attempting to send the bill to committee, in the first instance, so that the courts would have a reliable committee report upon which to gage and judge and ascertain the intent of the legislative body.

Mr. HUMPHREY. I say most respectfully to the Senator that in the circumstances in which we find ourselves, if the Senator in charge of the bill, or the Senator who submits an amendment to a bill makes a statement relating to the bill, while it is not conclusive, it is considered to be relevant and considered to be interpretive of the statute.

But there is an easy way to answer the Senator's question: Let the Senator put what he wants into an amendment. I do not see any reason for him to be on the fringes of this issue. All he has to do is to offer an amendment, if he has any doubts.

The Senator has been discussing the amendment with me. There is no problem. I should be happy to join him in encouraging Senators to approve of his amendment.

I should like to make one further reference to the Gary case. This case makes it quite clear that while the Constitution prohibits segregation, it does not require integration. The busing of children to achieve racial balance would be an act to effect the integration of schools. In fact, if the bill were to compel it, it would be a violation, because it would be handling the matter on the basis of race and we would be transporting children because of race. The bill does not attempt to integrate the schools, but it does attempt to eliminate segregation in the school systems. The natural factors such as density of population, and the distance that students would have to travel are considered legitimate means to determine the validity of a school district, if the school districts are not gerrymandered, and in effect deliberately segregated. The fact that there is a racial imbalance per se is not something which is unconstitutional. That is why we have attempted to clarify it with the language of section 4.

Mr. BYRD of West Virginia. I concede that the statement by the Senator as floor manager of the bill would doubtlessly stand upon a more solid footing than would statements by certain other Senators when it comes to ascertaining the intent of this legislative body by the courts.

I close by saying that the discussion we have had today points up, in my judgment, the fact that there is much about the substitute which needs further exploration, further explanation, and a considerable amount of additional debate in order that the language might be made unambiguous and clear to all Senators who will vote on the bill.

In my judgment, the language that we have been discussing is not at all clear. I appreciate the interpretations that have been placed upon it by the distinguished Senator from Minnesota and by the distinguished Senator from New York [Mr. JAVITS]. I think they have been helpful. But it is just such discussions as this which will be of assistance to us as we proceed to move in the direction of a vote on cloture, and, if cloture is invoked, a vote on the bill. But I insist that there is much language in the substitute, as there is much language in the bill, which is unclear to this Senator. And I would judge that it is unclear to other Senators.

Mr. HUMPHREY. Mr. President, I say most frankly to the Senator from West Virginia that I have never voted on a bill yet and I have been in the Senate for 15 years now—when I was perfectly clear on the bill. We voted on the tax bill a few months ago. It was more than 300 pages long and there are more than 1,000 amendments in the tax code. No lawyer in the United States knows exactly what it means. It will be debated in the law from now until kingdom come. But we voted on it because we thought we knew enough about it to come to a decision on it.

Mr. BYRD of West Virginia. Mr. President, this Senator would not insist that he is ever perfectly clear on each and every bill that he votes on in the Senate. I agree with the Senator from Minnesota that we all vote on bills which are not perfectly clear to all of us, and concerning which we do not have a thorough and complete understanding. Often we have to depend upon the chairman of the committee, which committee has carefully studied the bill. But at least, we usually have committee reports which we can rely upon, and from which we can glean understanding. But, in this instance, we do not have even a committee report.

Mr. HUMPHREY. The Senator is correct.

Mr. BYRD of West Virginia. We can only lean upon the understanding as it is meted out to us or expressed by the floor manager of the bill, and upon our own understanding from a reading of the bill.

I feel that in connection with our action on this bill, the impact of the passage of which will be so far reaching and profound upon our society, we cannot excuse ourselves by saying that we often vote upon bills concerning which we do not all have a thorough understanding. We certainly do; but this is a different type of bill. It is a number of controversial bills rolled into one bill. It is emotion packed. It is politically motivated. Its constitutionality, its wisdom, and its enforceability can be seriously questioned. And if it were not so different, in nature and effect, from the bills which normally come before us, we would not have debated it for 3 months without having come to some conclusion on it.

The mere fact that we have been debating the bill for 3 months, and the mere fact that there will be an attempt to invoke cloture in order to reach a vote on the bill are indicative that we are dealing with an entirely different type of measure here than most bills that we vote up or down in this body.

Mr. HUMPHREY. I thank the Senator for his comment. I would only say that out of the past 20 years of the history of the U.S. Senate—and I could go further, but we will put it within 20 years—there has never been a report from the Committee on the Judiciary on a civil rights bill. When a report was finally prepared, after the committee was directed by the Senate to prepare it, it was a one-page report. The record of the Committee on the Judiciary with regard to civil rights bills is a record of death. It is as stale as the tomb, and everyone knows it.

There is a committee report from the House of Representatives. And that report will be looked upon with as much validity by the court as a report from a Senate committee.

We are talking about an amendment in the nature of a substitute. There generally are not reports to amendments in the nature of a substitute offered on the floor of the Senate. The Senator from Minnesota is discussing an amendment in the nature of a substitute.

There is a committee report from the other body on H.R. 7152. I deeply regret that we do not have a committee report. I deeply regret that civil rights legislation never gets a fair chance in this body. There are committee reports on the FEPC, in title VII, by the Committee on Labor and Public Welfare, and on public accommodations, in title II, by the Committee on Commerce.

Committees did take some action upon those particular aspects of the civil rights legislation. But the tragedy of this body is that we have never been able to legislate as we ought to on civil rights, because we have never been able to utilize the normal procedures of Congress.

Before the Senator from Montana commences to preside, since he asked me to yield to him, and since he is a great lawyer and former judge, I am delighted to yield to the Senator from Montana.

Mr. METCALF. Mr. President, I am delighted to have the Senator from Minnesota yield. I wish to address myself to some comment made by the Senator from West Virginia. I feel that he made a contribution to the legislative record of this bill, and to the interpretation that the courts will put upon it. The Senator from Oregon [Mr. Morse] stated that when the bill was first brought up there was no committee report. All of these facts are a part of the legislative record.

I am not familiar with the line of cases to which the Senator from West Virginia referred. But I would suggest that perhaps those are cases where, after the fact, some legislator came in and tried to testify as to the interpretation of the bill on which he voted.

There is a rule of legislative interpretation to the effect that "we will take an act by its four corners, and we will interpret it, just as we interpret a contract or anything else."

But we also look to the things that were said on the floor of a legislative body before the act was enacted. And we can look into the conditions and the situations that arose.

I am sure that the Senator from West Virginia has cited cases that are strong in States such as Montana where there is no record of what goes on in the Committee of the Whole and no way of ascertaining just what the legislators said about the legislation. But those cases do not apply to the Senate of the United States, where we have a Congressional Record before the fact of the enactment of the bill, and the statement that the manager of the bill made as to the impact of the bill upon the situations outlined.

The important statement of the Senator from West Virginia [Mr. Byrd] will be taken into consideration when the Supreme Court, the circuit court, or district court is required to interpret this legislation. So I think this colloquy has been important.

Again, as the Senator from Minnesota said, it needs clarification. If any Senator is doubtful about it—this Senator is not doubtful about the present language of the bill—but if any Senator is doubtful about it, an amendment should be offered, and all Senators will agree and concur that such amendment should be adopted.

Mr. HUMPHREY. I thank the Senator from Montana. I yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator from Minnesota for yielding to me on a number of occasions this afternoon. He has been most generous in yielding, and most patient and courteous to me.

In response to the statement made by the distinguished and very able Senator from Montana, I wish to say that the case of *Duplex Printing Press Company v. Deering* is a Supreme Court case. The citation is 254 U.S. 443, 65 L. Ed. 349, 16 ALR 196, 41 S. Ct. 172.

I repeat the paragraph which I read earlier:

> By repeated decisions of this Court, it has come to be well established that the debates in Congress expressive of the views and motives of individual Members are not a safe guide, and hence may not be resorted to, in ascertaining the meaning and purpose of the lawmaking body.

That is not the statement of the Senator from West Virginia or some other Senator; it is by the Supreme Court of the United States.

In closing, I say to the Senator from Minnesota that the committee report of the House of Representatives, to which he has referred, was a report on the bill which went to the floor of the House of Representatives. It was not a report on the bill as it was finally passed by the House of Representatives. A number of amendments were offered in the House. I think the number was in the neighborhood of 130 or 135. A minority of them were adopted. So we really have no committee report concerning the bill which was finally passed by the House of Representatives, nor do we have any committee report whatsoever concerning the bill, in the nature of a substitute amendment which has been offered by a number of Senators and which is being explained by the majority whip, the distinguished Senator from Minnesota [Mr. Humphrey].

I again thank my friend, the Senator from Minnesota. He has been most generous, very patient, and characteristically courteous.

Mr. HUMPHREY. I thank the Senator from West Virginia.

The purpose of my presentation today on the several titles of the bill and the substitute has been to develop an interpretation of the meaning of the legal language in the substitute. Either tomorrow or on Saturday, the able minority leader [Mr. Dirksen] will offer his presentation on the amendment in the nature of a substitute. I am sure that what he will have to say will be most helpful.

Mr. President, I ask unanimous consent to have printed at the conclusion of my discussion of title VI a memorandum entitled "De Facto School Segregation." The memorandum should be of significant help to Senators, in light of the court decisions relating to racial imbalance.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUMPHREY. Mr. President, I invite the attention of Senators to the record of the Committee on the Judiciary from 1953 to 1963 on civil rights bills—121 bills were referred to that committee; 67 days of hearings were held; one bill was reported, in 1960. The committee had been instructed to report to the Senate on a specific date, and the report on the bill, which I hold in my hand, consists of 1 page of 15 lines. I ask unanimous consent that a statement and report be printed at this point in the Record.

There being no objection, the statement and report (Rept. No. 1205, 86th Cong., 2d sess.) were ordered to be printed in the Record, as follows:

Comments by Senator Humphrey on Proposals To Send the Civil Rights Bill to the Judiciary Committee

I have commented on the sad fate of civil rights bills referred to the Committee on the Judiciary. In the 10 years through

1963, 121 such bills were referred to the committee and only 1 bill was reported. The one exception was in 1960, and that came about because it was referred to the committee with instructions to report back to the Senate in 5 days.

I think that the history of the Judiciary Committee on the 1960 civil rights bill deserves closer scrutiny. In 1959 the Constitutional Rights Subcommittee of the Judiciary Committee held hearings on a civil rights bill from March through May. It reported a weak bill to the full committee on July 15. The full committee began consideration of the bill in August and was still considering it when the Senate adjourned on September 15. By March of the following year, in the 2d session of the 86th Congress, the Judiciary Committee still had not reported out a civil rights bill. On March 24 the Senate referred the House bill to the committee with instructions to report back by midnight, March 29. The committee waited until the day before the deadline and then held hearings with three witnesses. The bill was then reported to the Senate, in accordance with instructions.

Now, it has been argued that we need a committee report on the present civil rights bill in order to make legislative history. But what kind of report did the Judiciary Committee provide us with in 1960? The entire committee report consists of only 16 lines, and says only that the committee met in executive session, heard three witnesses, and is reporting the bill. This is not the stuff of which legislative history is made.

I would also remind the Senate that President Kennedy's civil rights bill was sent to the Senate Committee on the Judiciary in June of last year, at the same time that it was sent to the House Judiciary Committee. Since then the House bill has been considered, analyzed, amended and reported by the relevant subcommittee of the Judiciary Committee, by the full Judiciary Committee, and by the House Rules Committee. That bill was reported to the floor of the House many weeks ago, and, of course, has since been passed by an overwhelming vote. In the same length of time the Senate Committee on the Judiciary heard only one witness on the civil rights bill, and he was questioned by only one member of the committee. The Judiciary Committee has not held a hearing on the civil rights bill since last September, although there has been nothing to prevent it from doing so.

REPORT No. 1205

The Committee on the Judiciary, to which was referred the bill (H.R. 8601) to enforce constitutional rights, and for other purposes, having considered the same, reports the bill in conformity with instruction of the Senate, with amendments.

STATEMENT

By order of the Senate, agreed to March 24, 1960, H.R. 8601, to enforce constitutional rights, and for other purposes, was referred to the Committee on the Judiciary, with instruction to report back to the Senate not later than midnight Tuesday, March 29, 1960.

The committee met in executive session on March 28 and 29, 1960, during which time testimony was received from the Attorney General of the United States, William P. Rogers; the Deputy Attorney General, Lawrence E. Walsh, and the special deputy attorney general of the State of Georgia, Charles J. Bloch.

The committee considered numerous amendments. The amendments agreed to by the committee are set forth in the bill as reported to the Senate.

Mr. JAVITS. Mr. President, will the Senate yield?

Mr. HUMPHREY. I yield.

Mr. JAVITS. I should like to ask the Senator a question with respect to title VI; I think it is important. We have noted that title VI, as now incorporated in the Dirksen-Mansfield substitute, omits, in section 601, words which are contained in the bill as it came to the Senate from the other body: "Notwithstanding any inconsistent provision of any other law."

It was argued that the definition of policy which was contained in section 601, plus the provision with respect to the achievement of the objectives of the statute authorizing financial assistance, which is contained on page 33, lines 10 to 12, made unnecessary the broad brush sweep of "notwithstanding any inconsistent provision of any other law."

Mr. HUMPHREY. That is correct.

Mr. JAVITS. However, a number of serious questions have been raised with respect to the Department of Health, Education, and Welfare. I raise them now. The Senator may not be ready to answer them now, but I think they must be answered before we are through.

There are two categories of cases in which HEW has not given satisfaction in terms of what it can and cannot do about the use of Federal funds in federally approved programs which are in part segregated.

One is the Hill-Burton hospital program, as to which the law itself provides that there may be separate-but-equal facilities. That law has been held unconstitutional in the Cone case. But to rely on a suit in the case of each federally assisted hospital would be a painfully slow case-by-case proposition. Certainly after Congress enacted title VI, I would hope that it would not be necessary to return to court for a decision in every federally aided hospital case.

Also, the Morrill Land Grant College Acts contain the same separate-but-equal provision. We know it is unconstitutional from decisions of the Supreme Court. But the HEW will have to be placed in a position in which it will not draw an intendment from the striking out of the words from title VI that it was intended to leave those unconstitutional statutes exactly as they were.

So my first question is whether the able Senator from Minnesota understands very clearly that sections 601 and 602, as they would be amended by the package amendment, establish policy and provide for the carrying out of that policy, which would require the HEW administrators to act with respect to programs which are segregated, notwithstanding that there is vestigial language on the statute books regarding the separate-but-equal provisions for Negroes and whites.

Mr. HUMPHREY. The Senator's interpretation of section 601 and section 602 is proper and correct. The deletion of the language that was contained in the House bill was made because of the court decisions and because it was felt that the language was redundant and unnecessary, particularly because of the policy statement in section 601 and the statement in lines 9 through 12, on page 33, of section 602.

Mr. JAVITS. The Department of Health, Education, and Welfare has need to issue new regulations on that subject. The regulations as they stand still permit support, under the Hill-Burton Act, of segregated hospitals.

The second point is one of lesser degree, and is one about which I think there is really no question. But I state it because I should like to submit it to the Senator.

There is another group of statutes as to which HEW has said it is awaiting the enactment of title VI before it acts to require that Federal funds shall not be used in State-segregated programs. These include statutes which, although they do not specifically include separate-but-equal language, are nevertheless considered by HEW to be so specific as to require giving Federal aid to States when certain conditions are met. The General Counsel of HEW has consistently held that even though the policy of the Federal Government is against the support of segregated programs, even if such programs are segregated, nonetheless the HEW Administrator has no discretion because Congress has allowed none. Once the specified conditions are met, he must grant the money. Those programs are the following, so that they may be specifically noted:

The fellowship training and grant programs, and the research grant programs, under the National Defense Education Act; the federally-impacted area school programs, in cases in which children live off the base, as distinguished by the Department of Health, Education, and Welfare from cases in which children live on the base; and in vocational education programs. The HEW has heretofore taken the position that the question of segregated vocational education must ride with the desegregation of public schools in which the vocational education was being carried on, and they are helped under the Public Health Service Act.

In all these cases, HEW has gone merrily on its way, notwithstanding everything that has been said and done in Congress, and has given support to programs that may be segregated on the ground that the specific statutory conditions have been complied with and the Secretary had no discretion.

In those cases, they have said that they are awaiting the enactment of title VI.

I ask the Senator whether we now have a clear understanding that if title VI shall be enacted as it is now proposed, the express and clear policy of Congress against aiding discrimination will prevail, and that it is expressly intended to reach the very statutes as to which the precise conditions are set out, under which now HEW believes it is required to give Federal aid despite the fact that segregated programs were being carried out in the States with that Federal aid?

Mr. HUMPHREY. I am happy to reply to the Senator from New York, although I hope that in these instances he will also direct his questions to the minority leader [Mr. DIRKSEN].

Mr. JAVITS. Of course I will.

Mr. HUMPHREY. Because I believe that in order to have accurate legislative history made on these points, it will be necessary to have the main sponsor comment.

Mr. JAVITS. Yes.

Mr. HUMPHREY. Inasmuch as the Senator's question was directed in general to the purposes of House bill 7152 and, in particular, to the objectives of title VI, let me point out that on the opening day of the debate on the bill I said:

> Some Federal agencies appear to have been reluctant to act in this area. Title VI will require them to act. Its enactment will thus serve to insure uniformity and permanence to the nondiscrimination policy.

That is my view. So it is my view that the Department of Health, Education, and Welfare should clarify its former ambivalence in this connection and its ambiguity of statement and policy, and should make sure that the precise language here set forth—and the language of title VI is precise—is adhered to.

Mr. JAVITS. I thank the Senator from Minnesota. The Senator from Michigan [Mr. HART] and I have carried on a longstanding effort, with all the departments, in connection with Federal-aid programs which we charge have been segregated. This effort has been quite collateral to the efforts which, as the Senator from Minnesota knows, I have made and other Senators have made. Our chief problem was with the Department of Health, Education, and Welfare, which of course distributes enormous amounts of Federal aid.

So I believe it necessary that we make clear what we want done and plan and intend to have done with respect to the real impact of this title of the bill.

Mr. HUMPHREY. Yes. I am sure the Senator from New York will also agree with me that we place considerable emphasis on the parts of title VI which emphasize the use of conciliation and voluntary procedures in order to fulfill and achieve the results we seek, because certainly we seek fulfillment of the true objectives of all these programs, including the program under the National Education Act; and I am sure the Senator from New York, who has been one of the stanchest supporters of this program, will agree with me.

Mr. JAVITS. I certainly do.

The Senator from Minnesota will recall that in referring to my objectives, I coupled the questions I asked. One of them was with respect to the objectives in connection with section 601. The other was with respect to the objectives in connection with section 602. Certainly we wish this agency and other agencies to do their jobs correctly. Therefore, I coupled my questions in that way, in order to cover my point that we wish to insure both nondiscrimination and nonsegregation.

Mr. HUMPHREY. I thank the Senator from New York.

Mr. President, by means of the substitute, a new section 604 would be added, to preclude action by a Federal agency under title VI with respect to any employment practices of an employer, employment agency, or labor organization, except where a primary objective of the Federal financial assistance involved is to provide employment. This provision is in line with the provisions of section 602 and serves to spell out more precisely the declared scope of coverage of the title.

Finally, several other technical or clarifying changes in wording have been made in section 602. For example, the somewhat ambiguous use of the word "may", in connection with the adoption of rules or regulations implementing the policy of the title, has been changed to "shall."

EXHIBIT 1

DE FACTO SCHOOL SEGREGATION

On May 4, 1964, the Supreme Court denied a petition for writ of certiorari in the Gary, Ind., school case and thus left standing the holdings of the lower courts that de facto school segregation, brought about by residential patterns and bona fide zoning on the neighborhood school principle, does not violate the constitutional rights of Negro students.

The Gary suit was brought by some 100 Negro students who alleged that the board had intentionally so drawn school district boundaries as to maintain a segregated school system. There were, in fact, many schools which were completely, or almost completely attended by persons of only one race.

The district court found that the board had established school districts on the principle of the neighborhood school, and that "an examination of the school boundary lines in the light of the various factors involved, such as density of population, distances that the students have to travel and the safety of the children, particularly in the lower grades, indicates that the areas have been reasonably arrived at and that the lines have not been drawn for the purpose of including or excluding children of certain races.

The court further pointed out that residential patterns formed the basis of the de facto segregation in certain schools, and found "no support for the plaintiffs' position that the defendant has an affirmative duty to balance the races in the various schools under its jurisdiction, regardless of the residence of students involved." As to the permissibility of such racial balancing (although this issue was not before the court) Judge Beamer stated (as dictum):

"Requiring certain students to leave their neighborhood and friends and be transferred to another school miles away, while other students, similarly situated, remained in the neighborhood school, simply for the purpose of balancing the races in the various schools, would, in my opinion, be indeed a violation of the equal protection clause of the 14th amendment. (*Bell* v. *School City of Gary*, 213 F. Supp. 819 (1963).)

The Court of Appeals for the Seventh Circuit affirmed Judge Beamer's holdings, adopting much of the district court's language (324 F. 2d 209 (1963)), and, as noted, the Supreme Court refused review.

The Gary case is not the first to involve de facto school segregation, but it is the first to reach the Supreme Court of the United States on the issue of purely residential, nongerrymandered attendance zones. I should like to discuss briefly some of the earlier decisions in this field.

In 1961, the District Court for the Southern District of New York had a de facto school segregation problem before it in *Taylor* v. *Board of Education of New Rochelle*, (195 Fed. Supp. 231, 294 F. 2d 36, certiorari denied, 368 U.S. 940). There, the court found deliberate and intentional gerrymandering of school districts in order to achieve a segregated Negro school. To remedy this denial of the rights of the Negroes the court ordered the board to permit any child residing in the Lincoln School District (the gerrymandered district with a preponderant Negro enrollment) to transfer to other schools, in accordance with an executive procedure detailed by the court, but it also provide that the board was not required to furnish transportation. Then, in June 1963, at the board's request, the court entered a further order to permit closing of the Lincoln School, whose operation had become economically impracticable because of reduced attendance due to transfers. The court amended its previous decree to permit assignment of the Lincoln district pupils to other schools "in such a manner to achieve the utmost in equality of educational opportunity and to preserve the racial balance in said schools." The court also required the board to furnish transportation to schools more than 1½ and less than 10 miles from a pupil's residence. The Taylor case, of course, in contrast to the Gary case, depends for its result entirely upon the finding that the school authorities had deliberately gerrymandered district lines so as to achieve segregation.

The two most far-reaching decisions in this field were rendered by Federal district courts in New York. *Branche* v. *Board of Education*, 204 F. Supp. 150 (E.D. N.Y. 1962), involved de factor segregation in Hempstead, Long Island. School boundaries had not been altered there since 1949, and it was claimed that this resulted in the restriction of Negroes to predominantly Negro schools. The court held that:

"Defendants show facts compatible with an absence of responsibility on their part for the racial segregation that exists in the schools but these facts do not demonstrate that there has not been segregation because of race. Segregated education is inadequate and when that inadequacy is attributable to State action it is a deprivation of constitutional right. The educational system that is thus compulsory and publicly afforded must deal with the inadequacy arising from adventitious segregation; it cannot accept and indurate segregation on the ground that it is not coerced or planned but accepted.

"Failure to deal with a condition as readily inflicts it as does any grosser imposition of it."

It should be noted that (1) there has not yet been a trial on the merits of this case since the matter is only in the preliminary motion stage, and (2) the decision antedates the denial of certiorari in the Gary case.

Blocker v. *Board of Education*, 226 F. Supp. 208 (E.D. N.Y. 1964), involved de facto segregation in the public schools of Manhasset, Nassau County, Long Island. All the Negro elementary children attended one school, with 0.8 percent of the white elementary school enrollment—the so-called Valley School; 99.2 percent of the white elementary pupils attended two all-white schools. Attendance areas, on the neighborhood school principle, had remained the same since 1929. School segregation was due to residential patterns. Apparently a large increase of Negro population in the Valley area had occurred over the years.

In January 1964, Judge Zavatt ruled that the board had an affirmative duty to end this de facto segregation and ordered submission of a plan by April 6, 1964. On April 7, he issued an order requiring the board to permit transfers from the Negro school to the two white schools. Judge Zavatt found that neither the New Rochelle nor Gary cases involved nearly so drastic a degree of segregation as did the Manhasset case, and held that the Manhasset segregation "is segregation by law—the law of the school board. In the light of the existing facts, the continuance of the defendant board's impenetrable attendance lines amounts to nothing less than State-imposed segregation. The defendant board 'cannot accept and indurate segregation on the ground that it is not coerced or planned but accepted. Failure to deal with a condition as really inflicts it as does any grosser imposition of it.'" (226 F. Supp. 208, 226.) The court distinguished between a duty to balance the racial composition of the schools (the Gary issue) and a duty to cease perpetuating actual segregation. Judge Zavatt in his April 7, 1964, decree, made it clear that:

"Nothing in the court's opinion of January 24, 1964, supra, requires a compulsive distribution of schoolchildren on the basis of race in order to achieve a proportional representation of white and Negro children in each elementary school within the district or the closing of any elementary school for such a purpose. The court did not hold that the neighborhood school policy per se is unconstitutional but, rather, that it is not immutable. It is the rigid nontransfer policy of the board and its continued enforcement, despite the unusual facts of this case, which is tantamount to segregation by law in a district in which 100 percent of the Negro elementary schoolchildren are separated from 99.2 percent of the white children."

Again it should be noted that the Manhasset decision was rendered before the denial of certiorari in the Gary case.

Another case coming out of New York—this time out of the State courts—is *Balaban* v. *Rubin*, 242 N.Y.S. 2d 973 (New York S. Ct., Kings County, September 1963; reversed by appellate division, March 10, 1964; reversal affirmed by court of appeals, May 7, 1964). That case was brought by white children to annul the proposed zoning of a new school in Brooklyn which would have required the plaintiffs to attend schools outside their neighborhood attendance area in order to achieve racial balance in the school system.

The lower court held that such assignments were in violation of State law, forbidding exclusion from any school on account of race, creed or color. The appellate division reversed, holding that the State law was designed to prevent segregation and that a school board is responsible for zoning new schools in order to prevent the creation of a segregated public school. The court of appeals upheld this decision, but limited its holding to declaring it to be the right (rather than the duty) of a school board to take such action to reduce racial imbalance. The decision was apparently limited to situations in which the correction of racial imbalance would not require a pupil to travel farther to the new school than to his "neighborhood" school.

There is also a decision in California on the de facto problem. In *Jackson* v. *Pasadena City School District*, 382 P. 2d 878 (1962), a Negro plaintiff sued to compel the school board to permit him to transfer from a predominantly Negro to a predominantly white school. He alleged racial gerrymandering of school areas.

Reversing the lower courts, the Supreme Court of California stated that even in the absence of gerrymandering "a student under some circumstances would be entitled to relief where, by reason of residential segregation, substantial racial imbalance exists in his school."

The Pasadena case may open up an avenue of activity under State law. Such laws or regulation might require school boards to act affirmatively to deal with the effects of residential segregation. As the Pasadena case points out, the California State Board of Education has adopted regulations encouraging transfers to avoid segregation, and similar transfer action has been taken in New York City and elsewhere.

As the law in the Federal courts now stands, however, while intentional gerrymandering of school districts to perpetuate segregation has been held to be a violation of the 14th amendment, normal residential zoning resulting in de facto school segregation will apparently be upheld by the courts. As to racial balancing, Judge Beamer's opinion in the Gary case is significant in this connection. In discussing the testimony of a sociology professor who appeared as witness for the plaintiffs, the court stated:

"Dr. Wolff defined a segregated school as 'any school where the percentage of Negro to white students was one-third greater or one-third less than the percentage of Negro students to white students in the entire system.' Applying his formula to the Gary schools he concluded that any school with less than 36 percent Negro students was a segregated white school and any school with more than 72 percent colored students was a segregated Negro school. Dr. Wolff cited no authority for his definition of segregated schools other than himself. Dr. Wolff's definition of a segregated school may be a good sociological definition, but the Court can find no authority which would indicate that it is a good legal definition. The Court is of the opinion that a simple definition of a segregated school, within the context in which we are dealing, is a school which a given student would be otherwise eligible to attend, except for his race or color or, a school which a student is compelled to attend because of his race or color."

Among the law review articles on the subject of de facto segregation is a study by Prof. John Kaplan, in volume 58, No. 2 (1963) of the Northwestern University Law Review, pages 157–214, entitled "Segregation Litigation and the Public Schools—Part II: The General Northern Problem." Part I, in volume 58, No. 1, deals with the New Rochelle case and the issue of gerrymandering. Professor Kaplan discusses the district court opinion in the Gary case and points out that "if Judge Beamer's opinion is followed and his obiter dictum ignored [the probable unconstitutionality of forced racial balancing], Negroes will be remitted to the political arena"—i.e., that the courts will not interfere with the use of normal residential zoning established on purely nonracial principles. In support of the decision Mr. Kaplan writes:

"In view of the enormous variety of local conditions which might influence a school board to adopt one system of school organization instead of another, perhaps the best that we can expect from the courts in this area is to ensure that the political bodies remain neutral as far as race is concerned. It is difficult to find in the Constitution support for any greater duty.

* * * * *

"Probably the most serious drawback to the plaintiffs' argument is that their interpretation of the Constitution would require governmental authorities to reenter the field of racial classification. This is exactly what the plaintiffs' attorneys urged the Supreme Court to prohibit in the Brown case, and for good reason. Although today a court might rule that the State is required to consider race in a benign way, tomorrow this might well prove a precedent for a much less happy result. Moreover, even today it is not easy to decide whether a given racial classification is benign."

Will Maslow, writing on the Villanova Law Review, vol. 6, pages 353–376, spring (1961), on "De Facto Public School Segregation," concludes:

"De facto segregation is not an inevitable byproduct of metropolitan life. It can be attacked and, if not altogether eliminated, at least be considerably reduced. Segregated education is educationally undesirable. School authorities have therefore at least an educational, a moral and in some situations a legal obligation to do all within their power to achieve integration and to equalize educational opportunity for all the children entrusted to their care."

On the other hand, the author of a case note on the Branche case in the Northwestern University Law Review, volume 57, pages 722–737 "De Facto Segregation—A Study in State Action," concludes that:

"Once reasonable, nonracial classification of students has been effected, the only cure for racial separation in the schools rests in the eventual elimination of de facto residential segregation. As a practical matter, a school board will find the maintenance of reasonable school zone boundaries to be a difficult chore, even without having to mitigate the fortuitous racial separation. If Judge Dooling [in the Branche case] intended to announce that, hereafter, all predominantly Negro schools are unconstitutional until the racial separation is mitigated, the case will probably not be followed.

"However, if the Judge intended to announce that schools cannot be segregated even by passive gerrymandering, then he has made a proper and worthwhile addition to the school segregation cases."

TITLE VII

GENERAL

Mr. HUMPHREY. Mr. President, there are a number of proposed amendments to title VII; but the major changes relate to its enforcement procedures. The basic coverage and the substantive prohibitions of the title remain almost unchanged. The title continues to apply to employers, employment agencies, labor organizations, and joint labor-management committees in industries affecting commerce. There is no change in the provisions extending the coverage of the title over a 4-year period for employers and labor organizations with 100 or more employees or members to those with 25 or more employees or members, nor have there been any significant changes in the sections specifying what actions constitute unlawful employment practices.

The major changes in title VII have been in three areas: First, the relationship of Federal to State laws and procedures; second, the authority to bring suit; and third, the provisions for recordkeeping.

First. Relationship to State laws: As it was passed by the House, section 708 preserved the effectiveness of existing State antidiscrimination laws, and granted the Equal Employment Opportunity Commission authority, in States and communities where there were effective antidiscrimination statutes, to enter into agreements with State and local agencies. In effect, these agreements would give jurisdiction over complaints to such agencies wherever the practice complained of also violates State or local law. This authority is preserved in section 709(b) of the substitute.

If the practice complained of occurs in a State or locality which has a law prohibiting such practices and establishing an agency to deal with them and there is no such agreement, the individual complainant cannot file his charge with the Commission until the State or local agency has been given an opportunity to handle the problem under State or local law. However, after the agency has had 60 days to adjust the complaint, or after it terminates proceedings on it, the complainant may go to the Federal Commission. The 60-day period will be 120 days during the first year that a State or local law is in effect. Similarly, when a complaint filed by a member of the Commission alleges a practice which violates State or local law, the Commission must give the State or local agency 60 days—or 120 days, in the case of a new State law—to remedy the complaint before the Commission can act.

Second. Authority to bring suit: It is in connection with the authority to bring suit that the most significant change has been made in title VII. Under the House version, if conciliation by the Commission failed, the Commission, if it determined that there was reasonable cause to believe that the respondent had violated the title, could bring suit for relief against him in Federal court. If the Commission for any reason failed to bring suit, the individual complainant, with the consent of one member of the Commission, could bring suit in his own name and at his own expense.

The amendments of our substitute leave the investigation and conciliation functions of the Commission substantially intact. However, if the Commission has not been able to achieve voluntary compliance within 30 days—this period may be extended by the Commission to 60 days—the Commission must so notify the person aggrieved, who then may within 30 days bring his own suit in Federal court for enforcement of his rights. No permission from a Commission member is required for such a suit.

Where a suit has been brought, the court may stay proceedings for up to 60 days, pending the termination of proceedings under State or local law or further efforts at conciliation by the Commission. Since it is recognized that the maintenance of a suit may impose a great burden on a poor individual complainant, the Federal court may, on application of the complainant, appoint an attorney for him and authorize the commencement of the action, without the payment of fees, costs, or security.

The role of the Federal Government in obtaining enforcement of the title through litigation is preserved, but not through the Commission. Instead, the Attorney General is given authority to intervene, with the permission of the court, in any action brought by an individual under title VII. More important, the Attorney General is authorized by section 707 to institute suit whenever he has reasonable cause to believe that there is a pattern or practice of discrimination in violation of title VII. Therefore, in significant cases of discrimination in employment the United States will have adequate authority to initiate legal action.

Third. Recordkeeping: Section 709(c) of the House version authorized the Commission to prescribe recordkeeping requirements for employers, employment agencies, labor organizations, and joint labor-management committees covered by the title. This authority has been limited, in the substitute, to prevent duplication of recordkeeping requirements. Where the employer, agency, organization, or committee is also subject to a State fair employment practice law, the Commission may not prescribe general recordkeeping requirements. Instead, it may require such notations on existing records or records required by law as are necessary because of the differences in methods of enforcement or of coverage between the State and the Federal law. Furthermore, to eliminate the possibility that employers who are Government contractors may have to prepare and file separate reports for two Government agencies, it is provided that where the employer files reports on his employment practices with the President's Committee on Equal Employment Opportunity, the Commission shall not require the filing of additional reports. It is likely that even without such a provision, the Commission and the President's Committee would have coordinated their respective reporting requirements; but this provision offers assurance to employers on that score.

ORDER OF BUSINESS

Mr. MORSE. Mr. President, will the Senator from Minnesota yield for a question?

The ACTING PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Oregon for a question?

Mr. HUMPHREY. I yield.

Mr. MORSE. I am sure the Senator from Minnesota will be as frank as he always is, when he responds to my question. I do not wish to interrupt his remarks, if he believes it important that he continue them without interruption.

I am slightly at a loss to understand the procedure followed in the Senate in recent hours. I would not wish to interfere with the pro-civil-rights filibuster, or prolonged debate, or whatever other term may be used to describe these proceedings; but if it would not inconvenience the Senator from Minnesota, I should like to have him yield now to me, with the understanding that in doing so, he will not thereby jeopardize his right to the floor, and with the further understanding that his subsequent remarks will not be charged against him as a second speech by him. I wish to speak in my capacity of chairman of the Subcommittee on Latin American Affairs, of the Senate Foreign Relations Committee, in order to pay tribute to a great public servant who has left the Foreign Service; and then I should like to ask the Senator from Minnesota a few questions about our procedure for the remainder of this week and for next week.

Mr. HUMPHREY. I say most respectfully to the Senator that it is my desire to complete my statement on the substitute bill. I have been put in a position, because of the illness of one of our colleagues, to lead off on the presentation of the substitute proposals, or the amendment in the nature of a substitute. I am practically through. When I am through, I should be more than happy to listen to the tribute which the Senator wishes to pay to one of our distinguished servants of Government.

Mr. MORSE. I shall be delighted to wait.

Mr. HUMPHREY. I shall be happy to try to answer any question which the able and distinguished Senator from Oregon may present.

Mr. MORSE. I am delighted to wait. I always find the Senator's speeches very enlightening.

Mr. HUMPHREY. I thank the Senator.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. HUMPHREY. Mr. President, I have been discussing the changes in title VII.

MISCELLANEOUS CHANGES

I have stated the most significant changes in title VII. I shall now run through the title describing briefly the other principal changes which have been made:

First. In section 701—formerly 702—the definition of "employer" has been clarified to provide needed certainty as to coverage of employers where the number of employees fluctuates above and below the figure requisite to application of the title. Coverage is limited to those employers who employ more than the required minimum number of employees for at least 20 weeks out of the year.

Second. In section 701(b) a statement had been added that it is the policy of the United States to insure equal employment opportunity for Federal employees. This hardly represents a change in the law, but it was thought desirable because the United States, like all governmental units, State and local, is generally excepted from the category of employers covered by the title.

Third. New provisions have been added dealing specifically with hiring halls maintained by labor unions. Section 701(a) has been amended to provide that wherever a labor organization maintains a hiring hall which supplies workers for employers covered by the title, that labor organization is deemed to affect commerce and is covered by the title. The prohibitions applicable to labor organizations have also been appropriately clarified to include discrimination in the classification and referral of workers.

Fourth. Section 704—formerly 703—has been amended to limit the general exemption of religious groups to those practices relating to the employment of individuals of a particular religion to perform work connected with the employer's religious activities, and to extend the exemption to private educational institutions with respect to the employment of individuals to perform work connected with the educational activities of such institutions.

Fifth. In section 703(e) the exemption where religion, sex, or national origin is a bona fide occupational qualification, which in the House bill is available only to employers, is extended to employment agencies, labor organizations, and joint labor-management committees.

Sixth. Section 704(f) of the House bill, providing that it should not be an unlawful employment practice for an employer to discriminate against atheists, has been deleted, largely because of its doubtful constitutionality.

Seventh. A new section 703(g) provides that it shall not be an unlawful employment practice for a job to be denied, or a person to be fired, because of his inability to obtain a security clearance when the position involved requires such a clearance. Of course, this provision may not be used as a pretense for denying employment on the basis of race, religion, sex, or national origin. Thus, if employers normally require their employees to apply for clearances only after they are hired, such employers may not refuse all Negro job applicants on the ground that they lack a security clearance at the time they apply for a job. Actually, this provision is intended to cover the obvious situation where a person, for one reason or another, is simply not able to obtain a required security clearance. In such cases, the employer should not be liable under this title if he refuses to hire or discharges such a person for that reason.

The provision thus adds no new substantive exemption, but merely makes express what would have been possible even without the amendment. The title, as presently drawn, would not have prevented those covered by it from refusing or terminating employment on bona fide security grounds, where applicable, and the amendment does no more than make this clear.

Eighth. A new subsection 703(h) has been added, providing that it is not an unlawful employment practice for an employer to maintain different terms, conditions, or privileges of employment either in different locations or pursuant to a seniority, merit, or other incentive system, provided the differences are not the result of an intention to discriminate on grounds of race, religion, or national origin. For example, if an employer has two plants in different locations, and one of the plants employs substantially more Negroes than the other, it is not unlawful discrimination if the pay, conditions, or facilities are better at one plant than at the other unless it is shown that the employer was intending to discriminate for or against one of the racial groups. Thus this provision makes clear that it is only discrimination on account of race, color, religion, sex, or national origin, that is forbidden by the title. The change does not narrow application of the title, but merely clarifies its present intent and effect.

Ninth. A new subsection 703(j) is added to deal with the problem of racial balance among employees. The proponents of this bill have carefully stated on numerous occasions that title VII does not require an employer to achieve any sort of racial balance in his work force by giving preferential treatment to any individual or group. Since doubts have persisted, subsection (j) is added to state this point expressly. This subsection does not represent any change in the substance of the title. It does state clearly and accurately what we have maintained all along about the bill's intent and meaning.

Tenth. A new subsection 703(i) has been added permitting enterprises on or near Indian reservations to follow preferential hiring practices toward Indians. This exemption is consistent with the Federal Government's policy of encouraging Indian employment and with the special legal position of Indians.

Eleventh. Section 705(g)(4) has been revised to make it clear that the Commission's authority to assist employers in obtaining the cooperation of their employees in effectuating the provisions of the title is not an independent source of enforcement powers. To obtain remedial action the Commission must rely on conciliation and on the enforcement authority provided elsewhere in the title.

Twelfth. A new paragraph (6) is added to section 705(g) authorizing the Commission to refer matters to and consult with the Attorney General. This provision is made necessary by the transfer of litigating responsibilities from the Commission to the Attorney General.

Thirteenth. Several changes have been made in section 706—formerly 707.

(a) The right to file a charge "on behalf of" a person claiming to be aggrieved is deleted. This is of little practical importance, since the person aggrieved can always obtain assistance in the preparation and prosecution of a charge.

(b) The determination of reasonable cause preliminary to attempts at conciliation is to be made by the Commission rather than by two members. It will thus be left to the Commission to prescribe the procedure for arriving at this determination.

(c) The provision for obtaining a written agreement from the respondent as part of the conciliation effort is deleted. Since the Commission never had authority to require such an agreement it would rarely be obtained and would serve little purpose unless the respondent were willing to comply with the title anyway. If the Commission and the respondent wish to make some sort of memorandum of agreement regarding future practices, nothing in the section as amended would prohibit them from doing so.

(d) The last sentence of the subsection is revised to protect the confidentiality of conciliation procedures.

Fourteenth. Provisions preserving the confidentiality of Commission procedures have been added to sections 706(a) and 709(e). Section 706(a) provides that a charge filed with the Commission shall not be made public and provides a criminal penalty for a Commission employee who violates this rule. Section 709(e) prohibits the Commission and its employees from making public information obtained by compulsory process in the course of its investigation except in the course of litigation arising under the title.

It should be noted that this is a ban on publicizing and not on such disclosure as it necessary to the carrying out of the Commission's duties under the statute. Obviously, the proper conduct of an investigation would ordinarily require that the witnesses be informed that a charge had been filed and often that certain evidence had been received. Such disclosure would be proper. The amendment is not intended to hamper Commission investigations or proper cooperation with other State and Federal agencies, but rather is aimed at the making available to the general public of unproven charges.

Fifteenth. The provisions of section 706(b)-(e) have been thoroughly revised to reflect the changes I have already discussed with respect to the relationship of Federal and State procedures and the authority to sue. Section 706(b) provides that in a State with a nondiscrimination law the individual must first follow State procedures for 60 days (or in some cases, 120 days). However, to avoid the possible imposition of onerous State requirements for initiating a proceeding, subsection (b) provides that to comply with the requirement of prior resort to the State agency, an individual need merely send a written statement of the facts to the State agency by registered mail. Section 706(c) provides a parallel procedure of referral to a State agency where the complaint is initiated by a member of the Commission rather than by the person aggrieved. Section 706(d) establishes a 90-day period of limitations on the filing of a charge, with appropriate provisions to extend the period in the situation in which prior resort is had to a State agency. Moreover, section 706(d) is carefully worded to protect an individual who, in good faith, unnecessarily seeks to comply with the requirement of initial resort to State or local authority. Such a person will not lose his right to seek Federal relief simply because the 90-day period for filing with the Federal Commission has elapsed while he seeks to pursue State remedies.

Section 706(e) provides for suit by the person aggrieved after conciliation has failed, and for intervention by the Attorney General at the discretion of the court. The substance of this subsection has been described already in my remarks.

Sixteenth. Section 706(f) revises the venue provision of section 707(d) of the House bill. The House bill provided for suit in either the district in which the unlawful employment practice occurred or in the district of the respondent's principal office. Section 706(f) provides that suit may be brought in any district in the State in which the practice occurred, in the district in which the relevant employment records are kept, or in the district in which the plaintiff would have been employed but for the alleged discrimination. Furthermore, in the rare case where the respondent cannot be served in any of these districts, suit may be brought in the district of his principal office.

Seventeenth. Section 706(g) is amended to require a showing of intentional violation of the title in order to obtain relief. This is a clarifying change. Since the title bars only discrimination because of race, color, religion, sex, or natural origin it would seem already to require intent, and, thus, the proposed change does not involve any substantive change in the title. The express requirement of intent is designed to make it wholly clear that inadvertent or accidental discriminations will not violate the title or result in entry of court orders. It means simply that the respondent must have intended to discriminate. Other minor language changes are made in subsection (g). In the last sentence "sex," which was omitted by oversight from the House bill, is inserted, and an ambiguity as to relief available in case of a violation of section 704(a) is clarified.

Eighteenth. Section 707(f) of the House bill, providing for the appointment of masters, is deleted. There is provision in rule 53 of the Federal Rules of Civil Procedure for the appointment of masters in appropriate cases but the rule does not encourage the practice. It is not believed that cases under title VII warrant any specific provision relating to the appointment of masters. The deletion of subsection (f) will leave appointment of masters subject to rule 53.

Nineteenth. Section 706(j) gives the Commission authority to go to court to seek compliance with a court order previously issued under title VII.

Twentieth. Section 706(l) provides for the award of attorney's fees to the prevailing party, other than the Commission and the United States. This should make it easier for a plaintiff of limited means to bring a meritorious suit. The provision for the taxing of costs against the Commission and the United States is similar to that in section 707(h) of the House bill.

Twenty-first. Section 707 is a new section, authorizing suits by the Attorney General. It has previously been described in general terms and is similar to the new section 206 in the public accommodations title. It provides that the Attorney General may institute suit on behalf of the United States when he has reasonable cause to believe that there is a pattern or practice of intentional resistance to the full enjoyment of any of the rights secured by title VII. As in title II, there is no requirement for exhaustion of administrative remedies prior to exercise of this authority by the Attorney General and there is no requirement of prior referral to Federal, State or local agencies, though the Attorney General would remain free to make such a referral if he deemed it useful. There is provision for the convening of a three-judge court at the request of the Attorney General, just as in title II, and also provisions for expeditious handling and for taxing costs against the United States.

Twenty-second. The provision in section 708(b) of the House bill for Federal-State agreements is incorporated into section 709(b) and revised to provide for general cooperation between the Commission and State agencies and for agreements dealing not only with the right to sue but with the duty to keep records and to report.

Twenty-third. The provisions for the investigative powers of the Commission have been entirely rewritten. Section 710 now provides that the Commission, if it seeks to compel compliance with its demands for documents or for the testimony of witnesses, must first go to court and secure an order for compliance. The Commission may, however, formally demand certain documents and if the person upon whom the demand is served objects to the demand, he is required to go to court within 20 days or waive objections to a subsequent court order.

Section 710 narrows the powers originally given to the Commission in the House bill and already possessed by the Federal Trade Commission and the Federal Power Commission.

Section 710(b) of the House bill, providing that the Commission may obtain information from other agencies of the Government whenever disclosure of such information is not prohibited by law, has been omitted as unnecessary.

Twenty-fourth. Section 711 has been reworded to specify the contents of notices required to be posted. Also, section 711(b) has been amended to reduce the maximum penalty for violation from $500 to $100.

Twenty-fifth. Section 715, authorization of appropriations, and section 716, separability, of the House bill have been omitted. They are unnecessary because there are authorization and separability provisions in title XI applicable to the whole bill. The appropriations authorization clause had been inadvertently included in title VII and the deletion of the separability clause will work no substantive change.

Twenty-sixth. Section 715—formerly 717—has been amended to extend for 1 year the deadline for the report by the Secretary of Labor on discrimination in employment because of age. It is clear that such a report could not be prepared by the date specified in the House bill, June 30, 1964.

TITLE VIII

Title VIII provides for a survey to gather statistics on registration and voting. We have made two changes in it.

The first change applies section 9 of title XIII of the United States Code to title VIII. This merely guarantees that information obtained by the Bureau of the Census under this title will remain confidential.

Second, we have incorporated chapter 7 of title XIII of the United States Code, which provides the customary sanctions of the Census Code for refusals to provide information to the census takers. However, it is specifically provided that "no person shall be compelled to disclose his race, color, national origin, political party affiliation, how he voted, or the reasons therefore, nor shall any penalty be imposed for his failure or refusal to make such disclosure," and furthermore, that every person "interrogated orally, by written survey or questionnaire or by any other means with respect to such information shall be fully advised with respect to his right to fail or refuse to furnish such information."

TITLE IX

Section 302 of the House bill has been moved to title IX where with only minor changes it appears as section 902. This section authorizes the Attorney General to intervene in any suit brought in Federal court "seeking relief from the denial of equal protection of the laws" on account of race, color, religion, or national origin. The old section 302 has been amended to make clear that this guarantee of equal protection of the laws refers to the 14th amendment. A second amendment would require that the Attorney General, before intervening in such a case, must certify that the case is of general public importance.

TITLE X

The principal amendment to this title would remove the provision in the House bill that limited the staff of the Community Relations Service to six persons. A staff of six would be inadequate, if only because of the new provisions allowing court referrals to the Service under title II.

Another amendment would provide that the conciliation activities of the Service shall be conducted in confidence and without publicity.

Section 1004, which provides for the exclusion of material given in confidence from the annual reports of the Service, would be amended to bring within that exclusion confidential information stemming from court referrals under title II.

Finally, a provision would be added to title X authorizing criminal sanctions for violations of the requirements for keeping information confidential. It is understood, of course, that this is a prohibition on publicizing and not on such disclosure as is necessary to discharge the obligations of the Service. What is forbidden in general is the public disclosure of confidential information and disclosure of other information for reasons other than the furtherance of the work of the Service.

TITLE XI

Title XI of the House bill contained only miscellaneous technical provisions. We have added to it the so-called Mansfield-Dirksen jury trial substitute, which deals with trial procedures in cases of criminal contempt. This new section 1101(a) provides that in any criminal contempt trial under the bill against a natural person the accused may be tried with or without a jury at the discretion of the judge, provided that in any such trial without a jury the aggregate fine shall not exceed $300 and the cumulative imprisonment shall not exceed 30 days. Furthermore, the maximum sentence, regardless of how the case is tried, shall be a fine of $1,000 and imprisonment for 6 months.

In the House bill there was a jury trial requirement only with respect to cases under the public accommodations title. This amendment extends that provision to criminal contempt cases in all titles of the bill. The 30-day limitation on the possible jail sentence reduces by 15 days the maximum sentence permitted under the Civil Rights Act of 1957, and section 1101(b) amends the earlier act so that the 30-day limit applies to it also. The 1957 act is also technically amended to make it conform to the new subsection 1101(a).

CONCLUSION

Mr. President, an objective analysis of the proposed changes to H.R. 7152 as set forth in the substitute package reveals several basic concerns which guided the labors of the negotiators. First, we were concerned that States and localities be afforded every opportunity to resolve these difficult problems of racial justice by means of their own agencies and instrumentalities. In this respect it is perfectly proper to describe the substitute package as a "States rights bill," and, I may say, a "States responsibilities bill."

We recognized the good sense of permitting the appropriate State agencies ample time to resolve disagreements arising under titles II and IV and VII, in particular, through voluntary conciliation and mediation. We recognized that many States already have functioning antidiscrimination programs to insure equal access to places of public accommodation and equal employment opportunity. We sought merely to guarantee that these States—and other States which may establish such programs—will be given every opportunity to employ their expertise and experience without premature interference by the Federal Government. In the opinion of the Senator from Minnesota, this is good sense and good legislation. We sought to improve this bill, and I believe we did.

At the same time, we recognized the absolute necessity of providing the Federal Government with authority to act in instances where States and localities did not choose to exercise these opportunities to solve the problem of civil rights in a voluntary and localized manner. The basic rights protected by H.R. 7152 are rights which accrue to citizens of the United States; the Federal Government has the clear obligation to see that these rights are fully protected. In instances where States are unable or unwilling to provide this protection, the Federal Government must have the authority to act. This is the formula which we sought to implement in the substitute package; I believe we were successful.

We also sought to perfect the language of the bill as passed by the House of Representatives. As the distinguished Senator from Illinois [Mr. DIRKSEN] has so correctly noted, the substitute package contains 74 printed pages as compared with 55 pages for H.R. 7152 as passed by the House. This additional language resulted from our desire to remove certain ambiguities and uncertainties which existed in the House text. Many Senators assisted in this task and many amendments offered by various Senators were included in the substitute package.

These, then, were our two guiding objectives: First, substantive changes which provided ample opportunity for State action, yet preserved the ultimate authority of the Federal Government to protect the civil rights of the citizens of this country, and second, technical changes which sought to clarify ambiguities and uncertainties in the House-passed version of H.R. 7152.

I must again pay my highest tribute to the leadership and statesmanship displayed by the distinguished Minority Leader, Senator DIRKSEN. He will go down in history as one of the great friends of civil rights and one of the chief architects of the Civil Rights Act of 1964. He dedicated his efforts to achieving this objective and this objective only; namely, the production of an improved civil rights bill that can pass both Houses of Congress. It was my great privilege to join with him in this historic effort on behalf of human rights.

I say, most respectfully that I believe we have presented a reasonable, workable, acceptable piece of legislation. If enacted, it can provide the framework of law within which men and women of good will and of reason, dedicated to the preservation of the dignity of human rights, can meet the difficult problems of civil rights, or, should I say, adjudicate civil wrongs.

I now yield to the Senator.

PROCEDURE ON CLOTURE

Mr. MORSE. Mr. President, will the Senator from New York permit me to direct a few inquiries on procedural matters to my good friend from Minnesota?

Mr. JAVITS. Of course.

Mr. MORSE. As my whip knows, the senior Senator from Oregon is greatly perturbed and concerned about the schedule before this august body and the handling of the civil rights issue vis-a-vis cloture. I want the Senator from Minnesota to know I do not address critical questions; I seek only guidance and enlightenment from the leadership.

Mr. HUMPHREY. Yes.

Mr. MORSE. But, as the Senator from Minnesota knows, some days ago I came to my whip and said, "Tell me what you think the program is for a possible cloture petition in the Senate. I find myself somewhat in a difficult position because a little high school at Myrtle Creek, Oreg., through its senior class, has invited me to give a commencement speech."

I have made it a practice of giving a commencement speech each year at a small high school that may have a graduating class of 6, 8, 10, or 18 students more or less. I speak at other commencements, but the little high schools are entitled to public service, too.

I explained to my whip that I would like to accept the invitation from this smaller high school. In fact I had accepted it but I wanted to make sure that I could keep the engagement. I asked about the date of June 10 and whether there would be a vote on cloture before then. I said I would not want to get caught in a bind and find that there would be a cloture vote. "Oh," said my good friend, "I am sure there is no such danger." He made no commitment. But he assured me that he did not think there was any chance of their being a cloture vote before June 10. Even had I had a commitment, I would not have held my whip to it because of the nature of the situation. But I want to keep the record straight because of certain facts I want to bring out momentarily. He said, "I do not think there is any danger of there being a cloture vote before June 10." I said, "That is fine. I will take the chance." So I made my plans to keep the commencement engagement.

I could imagine the disappointment that my not being there would cause if I could not go. I then went to the majority leader, after talking to the whip. I explained the situation to the majority leader. The majority leader said, "Oh, I do not think there would be any danger of any vote before June 15."

I felt somewhat relieved. Of course, I do not go home to make only one speech. I am like the Senator from Minnesota—I campaign all the time.

Mr. HUMPHREY. And quite successfully.

Mr. MORSE. I have to campaign all the time or I would not be successful, with most all the newspapers against me.

Mr. President, I thought my majority leader had a pretty good idea of the possibility of a vote before June 15 and his prediction that he did not think there would be a cloture vote before that date reassured me. Then, to my astonishment and bewilderment, I read in the press that my majority leader got up the other day and announced he was going to file a cloture petition this Saturday. I thought I was still a member of the Democratic Party, although I know there are some who wish I were not——

Mr. HUMPHREY. I know of none.

Mr. MORSE. At least I am a member of the pro-civil-rights group in the party. I had not been consulted. I went around, trying to find some Democrat who had been consulted prior to the announcement, of the majority leader. The only Senators I could find who knew anything about it were on the Republican side. They seemed to know all about it. So far as I know, the only one who knew about it on the Democratic side was the majority leader.

I was disturbed. When I suggested that perhaps the motion could be filed on Monday rather than Saturday, which would bring the vote on the 10th—a difference of 1 day—do you know, Mr. President, what I discovered? I discovered that there is a great institution up in Massachusetts called Harvard University——

Mr. HUMPHREY. What was that place?

Mr. MORSE. Harvard. It is in Massachusetts, near Boston.

I discovered that one of my Republican colleagues was an overseer at Harvard, which has a great medieval tradition. Have any of my colleagues seen a Harvard commencement and the part that the overseers play in it? Imagine how important it would be for a politician to participate in that procession, with all the old, medieval customs, including the wearing of a headgear that might be called a hat, or turban, or head spire, worn on the head?

I discovered that June 10 is the day of the Harvard commencement. That could not possibly be the date for a vote on cloture, and cause any inconvenience to the Republican Harvardites, especially a Harvard overseer. So I came to the conclusion that there was some cause-to-effect relationship between Republican convenience and the announcement of Saturday as the day for filing the cloture petition.

I am at a little loss to understand why Democrats ought to have the schedule of the Senate determined in any way by meeting the convenience of a Republican Harvardite. Particularly would this seem to be true in view of the prior notice of convenience requests made by Democrats. Not even the seniority custom, outmoded as it is, would seem to justify this act of discrimination in favor of a Republican Harvard overseer.

I do not know whether the majority whip is aware of this unfair discrimination but June 10 is out, apparently, because of Harvards commencement parade. Harvard causes many dislocations in Washington and this is the latest one, evidently. But I asked that June 11 or any other date—in fact I asked for a conference on this issue of convenience—I am a great believer in conferences; but we Democrats do not believe in conferences any more on cloture. Apparently, we are going to have decisions made for us.

Therefore, I am in this sad predicament tonight.

(At this point Mr. METCALF, the Acting President pro tempore, took the chair.)

Mr. MORSE. Mr. President, I wonder if my majority whip would give me any hope that reason will finally prevail among the pro-civil-righters on the Democratic side of the aisle who are in charge of the schedule for this historic debate, and give me some indication as to whether the 12th, the 13th, the 14th, or the 15th of June, might be substituted for June 9 as the date for voting on cloture? That is question No. 1.

As an ardent supporter of civil rights, as one who has said from the beginning that I will vote for cloture whenever we can get the cloture petition, but also as one who has always said not to bring it up until we have the votes, my second question is: Can the majority whip give me any assurance that if we vote on Tuesday next we shall have the necessary votes?

If we do not have the votes, not only would it be unfortunate from the point of view of convenience to individual Senators, but it would be tragic from the standpoint of the issue before us. I happen to believe—all levity aside for the moment—that bringing up cloture and not having the votes would result in suffering a major defeat on civil rights, which would set the bill back at least a month or longer. It might lead to its emasculation or defeat.

I have not been able to find any Senator today who could give me assurance on this point. I do not wish to disappoint the high school graduates and tell them that I cannot be with them, assuming that I cannot get back by some form of transportation—and I see no chance of that and then have cloture defeated next Tuesday. It would be tragic if we do not have the votes to put it over.

If that should be so, I believe now is the time to count the "noses." As a Democrat, I do not believe my leadership, under any circumstances, can justify taking us into a vote on cloture next Tuesday unless we know well in advance as to whether we can pass the cloture motion.

Those are my two questions. I know that the Senator from Minnesota will always be understanding, kindly, and lenient toward the "prima donna" from Oregon.

Mr. HUMPHREY. That leaves only 99 others.

Mr. MORSE. There are many prima donnas in the Senate, but I am the only one who admits that I am a prima donna.

Mr. HUMPHREY. No—I should like to join the Senator.

Mr. MORSE. I knew that the honesty and frankness of the Senator from Minnesota would cause him to join me. That leaves 98.

Mr. HUMPHREY. Does the Senator from Alabama [Mr. HILL] wish to get in on this?

Mr. MORSE. If I could have an answer to these two questions, one personally important to me, and the other important to me as a Senator in the capacity of one who wishes to carry out his trust to the people of his State, especially in connection with civil rights. I am concerned about my inability to receive assurance from my leadership that the "noses" will be there on Tuesday, voting for cloture in sufficient numbers to pass the motion.

Mr. HUMPHREY. I respond to the inquiries of my good friend, the Senator from Oregon, first by saying to him that his recitation of his discussions with me is accurate. I indicated to him that I doubted very much that we would be filing a cloture motion much before June 10, and the Senator did not ask for any commitment. He wished only information to guide him.

Mr. MORSE. The Senator is correct.

Mr. HUMPHREY. I say to the Senator that I regret it has not been possible for me to be of more help to him.

Second, I want the people of Oregon to know that the Senator from Oregon did inquire. He was advised. Regrettably, the advice received was altered, and the Senator's plans have, therefore, been seriously affected.

In reference to the second question—I really feel sad about the first question, of course—I should like to say to the Senator——

Mr. MORSE. I mean no criticism either of the whip or the majority leader. The Senate cannot be operated so as to accommodate every Senator. We cannot operate the Senate without changing policies from time to time. I fully appreciate that situation. That is why I asked for no commitment. Had I received one, I would not have held anyone to it.

Mr. HUMPHREY. In regard to the second question, I have agreed consistently with the Senator from Oregon as to the necessity of being as sure as we could possibly be about votes when we filed the cloture motion, and when we sought the cloture vote, because I know that if we fail on this cloture vote, the price to get the extra votes for cloture will be very high indeed. One of the reasons why we worked so diligently, so long, and so hard on this whole matter of the substitute was to see if we could not revise the bill so as to obtain support for it from a larger number of Senators.

I must say in all candor that we tried to do it, and I believe we did do it without sacrificing the basic enforcement power of the bill, its basic features, or its coverage.

I have consulted a number of Senators. I did not consult the Senator from Oregon as to whether he would vote for cloture, because he has indicated that at the proper time, after plenty of debate which he agreed was necessary, he would vote for cloture. But the members of the staff in the Chamber this afternoon have all worked very diligently, and have been consulting a number of Senators' offices, and I imagine Senators as well—I know they have consulted with the assistants of Senators—and we have compiled a list which we believe is reasonably accurate as to how Senators feel on the issue of cloture.

The Senator from Oregon was very candid when he classified himself as a prima donna; I should like to classify him as an unusually able Senator, a man of independence, a man of conviction, and a man of integrity.

Mr. MORSE. I am about ready for the incision now.

Mr. HUMPHREY. Let me say to the Senator that there is no thrust or incision about to come. But every Senator is a man of independence. Each Senator was elected after a great deal of effort and sacrifice. Each Senator has his own point of view. Every time I have been responsible for anything in the Senate I have found that out. I am sure that the Senator from Oregon, handling as he did so expertly and so effectively the education bills, which required obtaining a majority vote on some highly controversial matters, found that out also, that there are many independent judgments exercised in the Senate. The Senator from Alabama [Mr. HILL] has found that out as well, because he has handled so many important items of legislation.

When we come down to an issue as touchy and sensitive as the issue of cloture, we go to a Senator in a spirit of friendship and understanding, yet we have a responsibility—which the Senator from Oregon has indicated we have, in this instance—and we say, "Senator, I am only trying to find out how you feel on the subject of cloture."

Oftentimes a Senator will say: "I am for it" or "I am against it," or "I will vote for it," or "I will vote against it."

About 75 percent of one's colleagues will answer one way or another. Then we talk to a colleague who says: "I do not know. I have not made up my mind." When one comes back a week later or a day later, he still says the same thing. One can come up to the end of the line now and, as I have said to some of our associates here, I think I can pretty well tell where we stand by about Friday night. I must revise that now and say, "By about Monday night." I have consulted a number of our colleagues on both sides of the aisle, but mostly on this side of the aisle.

I have in my hand a list of what we call special attention and possibilities. And if I have ever wanted to be persuasive in my life, it is as I look at the names of the "special attention" category, and the "possibilities" on the Democratic side. Our colleagues on the Republican side have given me some indication of those they are sure of, or reasonably sure of, and they have the category of "special attention."

What an intricate and complex design I have here in my hand. I can only say that at no time have the chances looked better for the Senate to obtain cloture. I doubt that they will look any better at any other time. I hope to be able to do everything I can between now and that hour on Tuesday when we vote on cloture to make sure that two-thirds of the Senators present and voting will vote for cloture.

If I were required at this moment to give an opinion as to whether or not we shall obtain cloture, I would say: "Yes, provided that all of my colleagues are here, provided that the winds of good luck blow our way, and provided that I have not miscalculated." Those are three provisos. In all seriousness, I agree with the Senator that, if we were to fail, it would be most unfortunate.

However, if we do fail, I want the Senator to know that we will immediately start again on another cloture petition, with perhaps a day or so in between. Therefore, we cannot fail. I have appealed to a number of my colleagues on the basis that we have debated the bill ad infinitum. We will have debated it for 3 months on June 9. I have assured every colleague that any amendment of substance that relates to a particular provision of the bill will be voted upon, that those amendments that seek to modify seriously or strike a title can and should be called up early under the cloture rules, debated, and voted upon on their merits.

The Senator from Minnesota wants to reassure his colleagues—whatever is their persuasion on the bill—that they will be treated fairly. Every opportunity will be given to a Senator to present his amendment and be heard, and have his amendment voted upon. I assure the Senate that the Senator from Minnesota will do all he can to see that that is accomplished.

I personally believe that the cloture vote will be the most important vote that any Senator will cast for many a year in this body. I cannot emphasize that fact too strongly—the most important vote to occur in this chamber in many years, perhaps in this generation.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MORSE. Mr. President, may I respond to the Senator for a moment?

Mr. HUMPHREY. I could see that the Senator from Oregon wanted to respond. I yield to my good friend from Oregon.

Mr. MORSE. I say to my friend from Minnesota that I am deeply moved by his comments. One of my most cherished friends, for whom I have the affectionate regard, is the wonderful wife of the Senator from Minnesota. I now understand for the first time how she happened to marry the Senator from Minnesota, for he is one of the most persuasive wooers to whom I have ever listened. He has wooed me into making this announcement, that, difficult as it is for me to disappoint constituents, if it develops that there are no means of air transportation that can get me back from Myrtle Creek, Oreg. in time to vote on next Tuesday I shall cancel my trip to Oregon. I am still trying to find out from the staff whether or not the vote will be at 10 o'clock in the morning, 12 o'clock, or 2 o'clock. But if I cannot make the speech in Oregon and get back for the cloture vote I will cancel that speech. That shows how persuasive the Senator from Minnesota is.

Mr. HUMPHREY. Allah.

Mr. MORSE. Difficult as it was for me to reach that conclusion, I have done so.

I want to make this additional comment, that if I can be of any help—and I am sure I cannot be—but if I can be of any help in buttoning down, as we say, any doubtful votes, I shall continue to be at the service of the Senator from Minnesota.

In dead seriousness, I think next Tuesday is a day of history in this Republic. We must see to it that we follow a course of action on next Tuesday that means a vote on cloture which will make it possible for us to pass an acceptable civil rights bill.

As the Senator knows, I am not very happy with some of the compromises in the modified bill. I have talked with the Senator, and I have talked to others in the Senate. I have talked with some—but not all—of my friends who are leaders in the civil rights movement outside the Senate, although some with whom I have talked are not very happy about some parts of it, either.

Mr. HUMPHREY. I agree.

Mr. MORSE. They have been fair enough to say when I put to them the $64 question, "What would you do if you sat in my seat in the Senate and you were called on to vote? Would you vote for it or against it?" In each case, they say, "I would have to admit that I would vote for it."

I have not talked with them all. I hope to talk to others, but I doubt if there will be much chance of much improvement in the bill over the package compromise bill that has been brought forth.

I want the Senator from Minnesota to know that I am not critical of his part in it, but I am highly complimentary.

Mr. HUMPHREY. I thank the Senator.

Mr. MORSE. I know the terrific job that the Senator from Minnesota has done as floor leader of the bill. It has been a magnificent job. I would have given him the decisive voice in determining all procedural matters connected with the handling of the bill. If a Senator is to manage a bill, he ought to also manage the procedure for handling the bill. But that is another matter which we can discuss in greater detail elsewhere.

I wanted to tell the Senator of the plight I am in, and the view that I have about the importance of our making certain before we file any cloture motion on Saturday that we not only have the probabilities of a favorable vote, but also that we have as much certainty as it is possible to be certain about anything in the Senate. And I want to say to my leadership, and I am sure the majority leader will read my comments:

The majority leader or the majority whip should not let the motion be filed on Saturday if they are not satisfied that they have the votes. The passage of more time prior to a vote on cloture will increase the possibility of a successful cloture vote.

I am afraid there has been a tendency in the Senate to speed up the debate to the disadvantage of cloture. The Senator from Minnesota has heard the Senator from Oregon say for many weeks past on the floor of the Senate that we will get cloture when American public opinion demands it, not before. In the last 2 weeks there has been an increase in the tempo of the public demand for cloture. There has been increasing anxiety among various groups within American public opinion as to what will happen to some other legislation in which they have selfish vested interests if we do not end the civil rights debate by adopting cloture.

That is why the Senator from Oregon played an unpopular role of blocking the handling of legislation in the Senate. I was seeking to develop that favorable climate in American public opinion to which I have just referred. I believe it is developing.

For what it is worth, I suggest to the Senator from Minnesota that I do not believe it is of vital importance that a cloture motion be filed on Saturday. If Senators are ready to accommodate their convenience and give assurances that there will be a favorable vote on cloture next Tuesday, the motion ought to be filed. It ought to be filed as soon as we can be certain that there will be a favorable vote on cloture. But I have grave doubts about the proposed procedure. I am not sure that it would not be better to wait until June 15 or June 20, or thereabouts, to permit a little more public opinion and consideration of the issue to develop.

The interesting thing is that it takes time for the public to catch up with the Senate. I should like to have a period for "cussing" available to the public.

Mr. HUMPHREY. The Senator means that we have had discussing up until now?

Mr. MORSE. No; I think there should be a period for just straight "cussing" on the part of the public. It would be good to have the American people "cuss" the Senate out for 10 days or so because we are not bringing an end to the debate. That would afford greater assurance of a cloture vote than if we dealt with it too speedily.

On the other hand, the Senator is my leader; and if he decides on Saturday that that is the time to file the motion, I shall cancel my trip to Oregon and shall be here to support him come next Tuesday.

Mr. HUMPHREY. I thank the Senator from Oregon for his reassuring comments. He has taken a great weight from my shoulders.

I thank the Senator from New York for his helpful attitude and his cooperation this afternoon in letting me make this presentation. I felt that we had an obligation, as sponsors of the substitute amendment, to place in the RECORD an interpretation of the amendments that have been offered.

Mr. JAVITS. I agree; I am delighted that I did so.

I should like to say, both to the Senator from Oregon and the Senator from Minnesota, that I endorse what they have said about the emphasis on the cloture vote as being the vote on civil rights. We have said that many times. It is important that this fact, too, go out to the country, as the Senator from Oregon has said, so that the people will understand that no matter what a Senator may say concerning how he feels about a particular part of the bill, whether he may like it or not like it, whether he may wish it in or wish it out, the fact that he supports the bill will not mean anything unless he votes for cloture. We shall never have an opportunity to vote on any part of the bill unless we vote for cloture. This is the all-important message that I think will go out over the Nation from the colloquy we have been having on the floor today.

THE FUTURE OF FOREIGN AID—REPUBLICAN CITIZENS COMMITTEE—CRITICAL ISSUES COUNCIL

Mr. JAVITS. Mr. President, I have made it a practice to place in the RECORD, because I think they are of broad, general interest, the findings of the Republican Citizens Committee, Critical Issues Council, which has had various task forces working on a number of major matters. They have issued a report today entitled "The Future of Foreign Aid." The report was submitted by a task force headed by Dr. Walter H. Judd, a former Representative from Minnesota, whom we all know.

I ask unanimous consent that a summary of the report and the report itself may be included in the RECORD, with this caveat. It applies to me as well as to the members of the Critical Issues Council:

> Not every member of the Critical Issues Council, its task force, or Republican Citizens Committee necessarily subscribes in every detail to all the views expressed. The council endorses its papers as a substantial contribution to public awareness of current critical issues and to the presentation of positive solutions.

I have submitted all these documents with the same conditions, so far as I am concerned.

There being no objection, the summary and statement were ordered to be printed in the RECORD, as follows:

THE FUTURE OF FOREIGN AID

(By Republican Citizens Committee; Critical Issues Council)

The Republican Citizens Committee's Critical Issues Council, headed by Dr. Milton S. Eisenhower, in the report of a task force chaired by former Representative Walter H. Judd, of Minnesota, today asked for a sweeping revision of the U.S. foreign economic aid program, warning that without fundamental changes "5 years hence this essential program will still be floundering, if indeed the American people by then have not scrapped it in frustration and disgust."

"What is under attack is unselective aid; aid given according to no defined principles; aid used as a crutch rather than a foundation for self-help in the developing nations," the council declared, adding:

"We have yet to come to grips with the heart of the problem—the failure, waste, and ineffectiveness arising out of the use of aid for shortrun political purposes; and the lack of firm principles to guide decisions on whom and how to aid."

To correct these deficiencies, the council proposed a reshaping of the program based on a clear definition of the fundamentals of foreign aid and a clear recognition of the shift that has occurred from recovery in the developed countries * * * to development in the emerging countries.

The council report, the eighth in a series on major problems facing the Nation, was drafted by a task force chaired by Dr. Walter H. Judd, former Congressman from Minnesota.

The report recommended several changes in the broad purposes of the foreign aid program, in the criteria by which countries are selected for aid; in the principles governing the form of aid given to specific nations, and in the administration of the aid program.

The council said the United States must discontinue the use of foreign aid as "a multipurpose gadget to be taken out of the kit as found convenient—a kind of bribe or bludgeon to accomplish any and all kinds of foreign policy purposes."

The President should have a special fund from which to advance short-range political objectives in foreign countries. "This fund should be labeled for what it is and not be confused with the economic and technical assistance directed toward what we believe is foreign aid's appropriate role of achieving constructive longer-range purposes."

The council asserted that the main purpose of foreign aid is to strengthen the will and capacity of newly developing countries to maintain independence and to develop by peaceful means with increasing individual freedom, provided they themselves are so determined. This purpose conflicts with the policy of using aid to influence every country wobbling on the borderline between freedom and communism.

"What the world needs most from us is not our wealth, but the secret of our wealth," the council said, explaining that technical and economic assistance should be used to bring about "a release of the energies of the people * * * to broaden and strengthen the foundations for freedom and democratic government."

Turning to the decisions on what countries to aid the council set forth the following criteria:

1. Limit U.S. aid to those countries that demonstrate by action as well as word a determination to achieve development in ways that preserve their national independence, maintain peace, expand individual freedom, and base their government on the consent of the people. "This means limiting economic assistance to countries that have made up their minds on fundamental directions."

In cases where economic aid cannot be justified, the council added that it might still be practical to grant technical aid "to foster * * * the concepts and attitudes inherent in the philosophy of freedom."

2. Economic aid would only be granted to those countries which would undertake the self-help measures essential to the effective utilization of American aid.

3. The recipient country must positively encourage the private sector of its economy, although the council would not necessarily be opposed to some government ownership. "Far more important than where a country stands at the moment, in its reliance on private enterprise, is the direction in which it is headed."

The council's paper suggested the following principles to determine what kind of aid to give a country:

1. Tailor aid to where the country is at the time. "Vast differences" in the problems and stage of development in the emerging countries "make it imperative that aid programs be tailored to the needs and capabilities of the country at the particular time. This means * * * not undertaking unessential projects. It means * * * a creative effort to help countries concentrate on those projects most needed in its particular situation."

2. Greater attention should be given to overcoming psychological factors such as inherited attitudes, value, and customs which can make development slow and difficult.

3. Emphasize education, health, and agriculture.

4. Limit U.S. bilateral economic assistance to building up the primary factors affecting development. This would include supporting facilities such as power, transportation, communications, and where appropriate, housing and rural reform designed to strengthen the foundations of the people's well-being.

The main thrust of industrial development, however, the productive enterprises in their many ramifications, would be financed from the country's own resources, from private foreign investment, and from international lending agencies.

In discussing the program's administration the council cites the frequent reorganization of the agency with the resulting poorly defined and shifting lines of responsibility and authority as a major cause for the high rate of turnover in personnel and the difficulty of obtaining competent career employees.

To improve the situation the council recommends:

1. Make AID more genuinely responsible for its day-to-day operating decisions, within a framework of clearly defined policy and mission as set by the State Department and under the overall control of the American Ambassador in the field.

2. Better training and orientation for personnel, comparable to that given military assistance advisory groups.

3. Undertake a systematic evaluation of outstanding successes and failures in the handling of personal relations between AID and host country officials, using the authority under section 241, title V, of recent foreign assistance acts.

The council deplored the "frequent failure to achieve constructive cooperation between the legislative and executive branches of the Government. At times it has appeared that some in each branch regard the other as the main enemy to be overcome or outflanked." Greater candor should be created between branches "in a common search for measures and methods that will make the program more successful."

Finally, the council paper concluded that "a resolution of the controversy over aid depends in the end on the quality of the political leadership exerted in its behalf. Aid has no * * * constituents and few politicians ready to fight for it. More important, there are few ready to educate for it."

The council urged that "a wide, sustained educational effort should be promoted to bring the aid story to more people."

Other members of the council's foreign aid task force are: Dr. Raymond T. Moyer, former Director for Far Eastern Operations, AID, and Chief of Aid Missions in Korea and Formosa; John N. Irwin II, former Assistant Secretary of Defense for International Security Affairs; James T. Ivy, associate director of administration, the Ford Foundation; Clinton Morrison, former member of the U.S. Chamber of Commerce task force on foreign aid; Mansfield D. Sprague, former Assistant Secretary of Defense for International Affairs; and Samuel C. Waugh, former President and Chairman, Export-Import Bank.

[From the Critical Issues Council Paper No. 8]

TEXT OF STATEMENT ON THE FUTURE OF FOREIGN AID

America's foreign economic aid program, which has known controversy since its inception, is in an especially serious crisis today.

On balance, the aid program has been a solid success in achieving its primary purpose of helping to keep the free world free. No country with leaders sincerely dedicated to national independence—and to which we have given well-conceived aid, moral support, and sound advisory assistance—has fallen to Communist imperialism.

Yet, criticism mounts. Some call flatly for an end to the whole program, uncertain whether aid now serves America's vital interests. There is confusion, frustration, and a sense of fatigue.

What causes lie behind today's controversy regarding economic foreign aid, and explain the criticism? Criticism of aid arises in part from failures and waste due to ill-conceived projects, mistakes in planning, blunders in execution. Endless administrative reshuffling has robbed the program of consistent direction and undermined the morale of its personnel. But, more important, what is under attack is unselective aid; aid given according to no defined principles; and aid used as a crutch rather than a foundation for self-help in the developing nations.

Repeated and sincere efforts have been made to improve the program. One device has been a long series of investigating committees and commissions. Another favorite, employed four times in recent years, has been to reshuffle the organization and structure of the foreign aid agency. Tougher field administration is frequently advanced as a cure-all.

The fact that criticism continues despite these efforts indicates some deep, unresolved difficulty. We have yet to come to grips with the heart of the problem—the failure, waste and ineffectiveness arising out of the use of aid for shortrun political purposes; the lack of firm principles to guide decisions on whom and how to aid; inadequate attention to the selection and development of personnel, oriented and trained to their complex task; and indecisive administration made worse by poorly defined and constantly shifting lines of responsibility and authority.

What is needed is a reshaping of the program based on a clear definition of: (1) the broad purposes which foreign aid is expected to advance; (2) the criteria to be applied in selecting countries to aid; (3) the guiding principles which should govern the makeup of specific individual programs; (4) the approaches and arrangements necessary drastically to improve the program's administration.

These need not only to be more sharply defined; they need also to be consistently applied, and made clear both at home and abroad. Effective individual programs, streamlined for the long-range task in newly developing countries, is the ultimate aim. But it is with fundamentals that we must start. Unless these are defined in terms making sense in today's situation, and foreign aid's substance and administration overhauled to conform, 5 years hence this essential program will still be floundering, if indeed the American people by then will not have scrapped it in frustration and disgust.

Any reshaping of foreign aid must at the outset take fuller account of the basic shift that has occurred from recovery in the developed countries of Europe to development in the emerging countries of Asia, Africa, the Middle East, and Latin America. This has been an important and sound shift. The substance and administration of this program must be put within the framework of a sound and convincing philosophy and approach, adapted to the new circumstances and tasks.

THE PURPOSE OF AID

Foreign aid often is spoken of as a tool of U.S. foreign policy. But it is a selective tool. Fundamentally, its purpose is to help build conditions aimed at a peaceful resolution of today's struggle with international communism and with this to help shape a certain kind of world community. In their essence, such purposes are political.

We believe, however, that a policy should be established and firmly adhered to, not to use foreign aid for merely shortrun political purposes. Such shortrun purposes include using aid in the hope of encouraging or enlarging cracks in the solidarity of international communism, as the aid previously given to Yugoslavia. Another example is to keep a foot in the door or to provide an alternative to Communist-bloc aid, as in Cambodia. Aid also should not be given in the hope that it will win to the free world governments still on the fence.

The effect has been to give an impression that as a tool of U.S. foreign policy, foreign aid is a multipurpose gadget to be taken out of the kit as found convenient—a kind of bribe or bludgeon to accomplish any and all kinds of foreign policy purposes. This has led to confusion regarding its real purposes and helped defeat them.

This is not to say the United States should abandon efforts to achieve short-range political objectives. It is to say that the use of foreign aid for such purposes is not the way. In cases where shortrun financial assistance is deemed in the national interest, the money should be made available out of a special fund at the disposal of the President, appropriated for that specific purpose. This fund should be labeled for what it is and not be confused with economic and technical assistance directed toward what we believe is foreign aid's appropriate role in achieving constructive longer range purposes.

To strengthen independence and development under freedom

The first main purpose of aid is to strengthen the will and capacity of newly developing countries—which themselves are so determined—to maintain their national independence and, by peaceful means, to make sound accelerating progress toward national strength and dignity with increasing individual freedom.

The phrase "which themselves are so determined" conflicts with the policy of using aid to influence every country wobbling on the borderline, and is a cardinal point in the theory of aid we advocate.

In countries that are so determined, the major role of economic and technical assistance should be to help advance economic and social progress, and improve the well-being of people—the conditions making independence and freedom possible. In a few countries economic assistance also continues to be necessary to help stabilize economies endangered by expenditures for large military forces maintained to counter Communist aggression—as in Korea, Pakistan, and Vietnam.

In all such situations our aid helps both to erect a barrier against communism's aggressive advance, and to build the kind of foundations in the emerging countries which will improve prospects for achieving the kind of world in which free people would like to live. When aid given to strengthen independence and freedom is successful, both results are achieved.

To advance the free alternative to communism

The second purpose of aid should be to advance the free alternative to communism as the most certain means of gaining these results. The soundness of the free alternative has been demonstrated in our own experience. Our forefathers came to this country not to get government to do things for them but to get a chance to do things for themselves. They devised a system whereby people control government instead of government controlling people. It worked. It released the creative capacities previously unrecognized in all sorts of people from all races, climes, and countries. It led to an unprecedented outburst of creative energy, imagination, effort, production, and progress.

Yet, we have not sought by all feasible means to push the validity of our vision, our experience, our deepest beliefs. Not yet have we set ourselves, vigorously and with imagination, to the task of making clear what we are for. What the world needs most from us is not our wealth, but the secret of our wealth.

The application to economic and technical aid is clear: the full potential for sustained accelerating growth by the developing countries will never be realized without a release of the energies of the people, an employment of the people's initiative, and the active participation of a whole people in all sectors of the nation's development. If so directed, technical assistance can help foster ideas and institutions leading to such a release in the vital economic sector. Economic assistance can help make a tangible demonstration of the benefits of progress under freedom applied to the people's common problems, in terms they understand. This is a grassroots way to broaden and strengthen the foundations for freedom and democratic government.

Mutuality in national interests and purposes

The above major purposes have properly been stated in terms of our own national interest and foreign policy goals. But foreign aid is not based on interests and objectives of the United States alone. In actual operation aid is assistance to sovereign foreign powers for programs which they themselves carry out. Giving and receiving aid thus involves cooperation, on a voluntary agreed basis.

In any such cooperative venture both sides are likely to have certain national interests and objectives not shared by the other. Cooperation takes place around the midground where interests overlap, and the two parties hold objectives in common. A sound and effective aid program is possible only when it rests on a solid basis of concurrent national interests and purposes, mutually understood and agreed upon.

Being clear about this is important because, otherwise, an improper emphasis only on United States national interests and purposes enables insistent nationalism in some countries, fanned by subversive agents, to create the false impression that we provide aid only to serve U.S. interests. We feel it imperative, therefore, that the basic principle of mutuality in these programs be once more brought to the fore in the philosophy of foreign aid, and be reflected in every phase of its operation.

CRITERIA DETERMINING WHAT COUNTRIES TO AID

Our first criterion is a requirement that the prospective host country demonstrate, by action as well as proclamation, a determination to achieve its long-range development in ways that preserve its national independence, maintain and foster international peace, expand individual freedom, and base its government upon the consent of the people through means appropriate to its own institutions.

This means limiting economic assistance to countries that have made up their minds on fundamental directions. If such assistance is to advance its broader purposes effectively, it must be tied to a positive decision in the host country establishing the general ideological route along which it intends to travel in pursuing its national destiny.

Adopting this criterion would not exclude holding out the prospect of aid should the country take action fulfilling the necessary conditions. It would exclude giving aid outright in the mere hope of such action. The requirement that development be conducted in a manner that "maintains and fosters international peace" would make ineligible for aid any country which, after the criterion had been established, embarked on actions disrupting world peace and thereby began to destroy the conditions necessary for achieving mutually agreed upon purposes of the aid.

It is imperative, however, that we distinguish clearly between hostility and mere differences of opinion, or even sharp clashes of view on particular matters. The proposed criteria do not include a requirement that the country have an identity of opinion with the United States on all points of foreign policy. The country's direction must be clear; but, in pursuing basic objectives on which there is agreement, differences in judgment will always be found on individual points of foreign policy. Moreover, our own judgment may not always be right. Besides, we stand for independence, and in exercising independence countries must be free to seek their own way through the perplexities of today's situations, in a manner they believe serves their own interests. We are trying to build free nations, not to make satellites. It is communism that demands subservience.

We also would emphasize the significance attached to words such as "increasing" and "direction," used throughout this paper. We recognize that, until firmer foundations have been laid, democracy and freedom in the Western sense can in most cases be expected only gradually, in degree. It is the overall direction of the nation's development that must be the determinant. Where freedom may appear vulnerable, U.S. aid should be directed to building those institutions—such as education—which are likely to encourage and strengthen the nation's will to freedom.

In cases where economic aid cannot be justified under our proposed criterion, it often may be in the U.S. interest to grant certain kinds of technical aid. Unknown young men of today may be leaders in a new regime tomorrow. It is important that we not ignore a nation completely just because of disagreement with its current leadership. There will be instances where it may be practical through technical aid to foster among individuals the concepts and attitudes inherent in the philosophy of freedom which our aid is intended to promote.

Commitment to development

The second proposed criterion would require that the host country desire U.S. aid enough to undertake on its own behalf the self-help measures essential both to effective use of aid in a particular project, and to achievement of the broader mutual purposes toward which the larger program of aid may be directed.

Aid intelligently applied can stimulate and strengthen economic progress in a country; often it can be the critical component making success in an undertaking possible. But aid is no substitute for what a country can and ought to do of itself. Accelerating progress in national development starts when the government and people of a country settle down seriously to taking responsibility for themselves.

Among self-help actions commonly emphasized is the essential one that the host country make sound use of all its own resources. This point is especially important because financial aid, used for economically sound purposes, might make it possible for a country to shift an equivalent amount to some profligate or even destructive use. Where a nation uses aid as a substitute for its own resources, rather than as a supplement to them, U.S. assistance should be stopped.

Also essential, and insufficiently emphasized is the supplemental action by the country frequently needed to help achieve the goal of specific projects. One example was insistence that sound rate structures be established in Korea as the condition necessary to justify our aid for electric power and transportation.

Achieving agreed goals when an exceptionally ambitious and costly aid program is involved may require action on broader economic and social measures, such as the modernization and effective administration of tax systems, land reform, and the formulation of annual and medium-term development programs incorporating use of the country's own and all other available resources. Action taken on such measures by the Republic of China has been an indispensable factor behind the striking progress achieved on Taiwan. Failure to get adequate action on such measures in Latin America has been a major reason for the disappointing results thus far achieved under the Alliance for Progress.

Domestic private enterprise

The third criterion we propose is a requirement that prospective recipients of aid positively encourage the private sector of the country's economy.

Year after year, the question of public ownership versus private enterprise in the developing countries has been warmly debated. Interest in this debate has centered largely on the importance of attracting and protecting foreign private investments. Sound foreign private investment is clearly in the long-range economic interest of the United States. It is even more in the interest of developing nations as an important source of capital and of technical and managerial skills. In most nations foreign private investment can become a much more helpful influence in speeding development than it has been.

Looking toward the longer range future, however, it is clear that the critical emphasis should be placed on private enterprise within a host country itself if its economy is to derive the great benefits possible from harnessing the initiative and financial resources of its own citizens. In India, for example, it is the private sector of the economy that has proven itself the most dynamic, but it has been inhibited from realizing its full potential by the Government's oppressive controls and licensing procedures. The further freeing of the private sector is clearly called for.

In our approach to private enterprise we do not believe the United States, in giving aid, must always oppose all government ownership and control of economic enterprises. In our own country Government investment has played its role along with private. Furthermore, systems found effective in the United States are not thereby necessarily the best under all circumstances; economic and other demands may dictate different patterns. In some countries, private enterprise does not connote the socially responsible system into which capitalism has grown in the West, but an exploitative-type experience under colonialism or feudal systems in the past, too little concerned with human values, the well-being of the worker and his essential role in the development process, and the nation's general welfare.

Accordingly, we are convinced that far more important than where a country stands at the moment, in its reliance on private enterprise, is the direction in which it is headed. Essential is a firm decision by the country to give positive encouragement to widespread and direct participation by the people in economic development through responsible private economic initiative, whatever Government investment it also may undertake. What is needed most is to establish a direction and start a movement, growing out of a conviction regarding the indispensable contribution that can come from the initiative and resources of the country's own people.

The soundness of this position is strikingly illustrated in the remarkable industrial development of Japan over the last century. Launched during the latter part of the eighteen hundreds, with a great deal of Government help, this development from the beginning had the benefit of a vigorous private sector, which the Government encouraged. Today, the overwhelming bulk of Japan's economic enterprise is in private hands, constituting the main thrust behind the nation's amazing economic progress. One consequence has been that Japan's private industries have themselves attracted an enormous amount of foreign private investment, including numerous contracts with foreign firms to provide technical and managerial help.

GUIDING PRINCIPLES ON WHAT KIND OF AID TO GIVE

Tailor aid to where the country is at the time

Each country selected for U.S. aid deserves to be considered more or less independently, in the light of factors peculiar to itself. Central in our growing knowledge of the emerging countries is the fundamental fact that all are in the process of a revolutionary transition from traditional societies into the modern world, radically altering every aspect of their national life. However, there are vast differences in background and stage of development, and these make it imperative that aid programs be carefully tailored to the needs and capabilities of the country at the particular time.

This means, on the one hand, not to undertake unessential projects, nor those which the country is unable to use effectively. Abiding by this rule will reduce disappointment, frustration, and waste. It means, on the other hand, a creative effort to help the country concentrate on those projects most needed in its particular situation to remove impediments and advance development soundly at a growing pace.

Greater attention to psychological factors

As a second guiding principle we propose a more thorough search for effective means of overcoming the powerful influence of psychological factors, inherited from the past, often making development slow and difficult. An example is the distrust of the United States sometimes found in Latin America which prevents full cooperation. Even more fundamental impediments are the rudimentary concepts of public service and the public servant, the acceptance of standards that tolerate corruption, and the failure of a country to take responsibility for adequate corrective measures. Where these factors exist, generally they trace to attitudes, values, and customs persisting from past history or the traditional culture. Until modified they exert a powerful influence shaping decision and action on matters determining how rapidly a country is to progress.

The problem is complex; and we recognize that as a practical matter, it has only one solution; namely, to man the aid program with personnel of sufficient understanding to grasp the importance of these factors, and trained to give them effect through concrete application in the daily work.

One specific form of action to meet the problem is to give greater conscious attention in aid programs to implanting and encouraging sound concepts in the minds of thinking citizens in host countries. We presently are grievously underestimating the effort and the influence of intellectuals in emerging nations upon the course of their nation's history. Their ideas, inevitably, will help powerfully to shape the political, economic, and social systems that rise as change crumbles the old. We forget the impact on our own revolutionary period of the thinking of men such as John Adams, Thomas Jefferson and contributors to the Federalist Papers.

An example of the problem is the development of democracy in government, of concern to the United States and certain to remain an issue in many developing countries for decades to come. If we are seriously to entertain hope that the emerging countries, so shallowly rooted in democratic soil, will eventually establish enduring governments based on democratic principles, then now is the time to help them construct the necessary foundations.

Private U.S. foundations should be encouraged to expand in this field, particularly where American Government aid may not be a suitable instrument. Large-scale gifts of books to schools and universities, the endowment of university chairs and centers for the study of Western thought, and the encouragement of research are just a few of the ways through which sensitive help may be given to individuals and institutions seeking to articulate an intellectual basis for their nation's development under freedom, suited to their own culture.

Emphasis on education, health, and agriculture

Our third proposed guiding principle is that U.S. assistance should include strong emphasis on education, health, and agriculture. People must see progress in all these fields if they are to have hope and if there is to be sound sustained economic and social growth. All directly affect the human factor, recognized increasingly as the key to development in the emerging nations.

Education is often hailed as the great answer to the need for building up effectiveness in people, and its role cannot be overemphasized. Yet, development lags seriously in Korea, for example, despite a 90-percent literacy rate and many colleges and universities bulging with students. Accordingly, the educational objectives we encourage in emerging countries need reexamination. The deep-lying problems of countries in transition require that education be concerned with more than professional competence and technical skills. Education must be related effectively to the whole range of problems in countries going through the dynamic process of building a nation. Such a task requires not only specialists, but citizens imbued with the ideas, values, and attitudes necessary for progress in a modern world that is to move in the free direction.

Assistance also must continue strong emphasis on health. Programs need to be extended to the rural as well as the urban areas.

Our proposal that agriculture be particularly emphasized stems from its many-sided contribution to economic development and human well-being. In total, its varied contributions are so essential that satisfactory economic development seldom takes place without vigorous development in the agricultural sector. An additional consideration, significant in many countries, is that economic and social health among the rural masses is essential to internal stability and success in thwarting attempts at subversion.

Meeting the varied demands on agriculture, however, requires action going well beyond technical programs along standard lines, vital as these are. Needed, in effect, is a broad agricultural and rural program providing the motive as well as the knowledge and means for farmers to act. Such a program would provide effective extension arrangements, getting improvements into use on farms, channels for marketing to advantage, farmer-controlled farmer organizations, adequate irrigation, just land tenure arrangements, and credit at reasonable interest rates. Reference already had been made to the importance also of good health and education.

An outstandingly successful agricultural and rural program, incorporating many of these features, has been developed on Taiwan, aided through the Joint Commission on Rural Reconstruction (JCRR). This program, and some of the more successful programs in community development, ought to be studied for their lessons in this field, so all-important in many of the developing countries.

Limit the scope of bilateral U.S. economic aid for development

As a fourth guiding principle, it is proposed that U.S. bilateral development assistance be limited to primary functions of production and growth. This represents a significant change in the basic structure of development aid given in U.S. programs.

Under this concept aid loans for capital investment to advance industrial development would be available only for supporting facilities such as power, transportation, and communications, possibly extended in special cases to include the manufacture of certain basic items essential to general economic progress, such as cement and fertilizer.

Where needed to achieve mutually held objectives, as in the Alliance for Progress, economic aid also would be available for projects strengthening the foundations of the people's well-being, such as housing, rural reform, and malaria control.

The main thrust of industrial development—the productive enterprises in their many ramifications, and the supporting facilities as soon as development becomes self-sustaining—would be financed from capital supplied by the country's own citizens and public funds, from foreign private investment, from the Export-Import Bank, from such international lending agencies as the International Bank for Reconstruction and Development (the World Bank), its soft-loan counterpart, the International Development Association (IDA), and the Inter-American Development Bank.

Limiting U.S. bilateral involvement in this way would separate U.S. aid from the incalculable cost of development going on and on. Combined with technical assistance it would concentrate the aid we do give on the crucial foundations vitally affecting the rate of progress and final success of the development effort, and on the ideas, attitudes, and institutions influencing the nature of the political, economic, and social systems adopted ultimately.

Of the greatest importance, the proposed shift in aid emphasis would put the rate of development squarely up to the country itself—its economy will grow or not grow depending on the vigor it shows in encouraging savings and investment by its own citizens, in attracting foreign investors, in securing help from countries other than the United States, and in meeting conditions for multilateral loans.

Moreover, aid from sources other than the U.S. Government often can achieve U.S. policy objectives better than U.S. aid itself, especially in encouraging domestic private enterprise as described earlier. It has been learned from experience that frequently there is less resentment and resistance from an underdeveloped nation when the World Bank, for example, rather than AID, conditions a loan on a specific Government concession to private enterprise. If the proposed shift in developmental aid is to be effected, greater U.S. assistance to appropriate multilateral agencies may well be necessary. Special assistance may be needed for agencies like the Inter-American Development Bank and the International Development Association (IDA) which lend to developing nations at low rates and extended repayment terms appropriate to their financial position.

In many countries, almost the first essential in preparation for investment is a comprehensive survey of the country's natural resources and the training of leaders and managers able to carry out sound development projects—the particular function which the U.N. Special Fund was set up to perform.

Under the proposed shift an expanded role in encouraging the growth of domestic private enterprise is also anticipated for American private investment, which may deserve greater encouragement. The U.S. Government might find that with various financial incentives American companies abroad can assist nationals in the development of new businesses (transportation or the manufacture of supplies are examples) tangential to that of the U.S. company itself. In this way an enlarged entrepreneurial class could be stimulated, with all the ramifying good effects on the stability and outlook of the nation's government and prospects for still further U.S. private investment.

We are convinced that, if the proposed shift were adopted, progress would be greater, ultimate success more assured, and the total cost of aid substantially less.

IMPROVING PROGRAM ADMINISTRATION

Probably no section of the Federal bureaucracy has been as frequently and thoroughly scrutinized, with so little resultant satisfaction on the part of anyone involved, as the Agency for International Development and its predecessors. Three administrations have reorganized the aid agency seven times in 15 years. Six committees of Congress have authority to oversee aid operations, exercising it yearly, and several other committees periodically review aspects of the program.

Nor has U.S. aid lacked for special official studies: Eight Presidential Committees, four congressional studies, and three intra-administration studies have reported since 1948.

Many useful proposals have come from such committees, but the result of constant reshuffling of AID departments has caused confusion among employees and indirectly has been a major factor in the high rate of turnover, especially in top positions. Also, inasmuch as aid is described officially as a temporary program, and even some friends of aid speak hopefully of its termination in 5 or 10 years, it is difficult to obtain career employees, talented men and women for whom AID is more than a 1- or 2-year diversion or a steppingstone to permanent employment. Critics of AID who speak of its incompetents fail to appreciate the relationship between these factors and the quality of personnel. Improvements in matters of administration are urgently called for.

One improvement we propose is that the Agency for International Development be made more genuinely responsible for its day-to-day operations, within a framework of clearly-defined policies and assigned missions just as the Pentagon has authority for the operation of military assistance programs within its own defined framework. On first thought this might seem to encourage the bad situation often found where AID is going in one direction and the State Department in another. On the contrary, we believe it should help correct such situations. The ambassador must always have control over all U.S. activities in a country. It is to prevent conflicts, overlapping, and confusion in operations that each agency should perform its own and only its own functions within the policy framework set by the State Department and under the overall control of the ambassador in the field.

Another improvement bears on the frequent failure to achieve constructive cooperation between the legislative and executive branches of the Government on aid matters. At times it has appeared that some in each branch regard the other as the main enemy to be overcome or outflanked. Yet both desire only what will best serve the Nation. Complete frankness by executive agencies in reporting on past projects and in presenting new requests is absolutely essential if congressional confidence is to be restored. The world situation with which this program deals is too dangerous for anything less than full candor in a common search for measures and methods that will make the program succeed. The surest way to save money is to make the program more successful.

But it is in field missions where aid ultimately succeeds or fails; and particularly vital to success there are wisdom and sensitivity on the part of American aid administrators in handling relationships with officials of the host country. This matter is of central importance because a large part of the responsibilities of aid administrators has to do with encouraging host country planning and operations, rather than operations which he conducts directly. Yet, on this crucial matter administrators in the field are left largely to their own devices, without benefit of guiding principles. Toward formulating these, a systematic evaluation of outstanding successes and failures in the handling of relationships should be undertaken, using authority provided by Congress under section 241, title V, of recent foreign assistance acts.

High professional qualifications in staffs of aid missions abroad also are essential, and will become increasingly so. But their attitudes and the approach they use in carrying out assignments have proven equally essential to success, and a common cause of failure. Understanding of the country, earnestness and zeal, a sympathetic interest in the country's rightful aspirations, and a sensitivity to the niceties involved in personal relations often make all the difference. Exclusiveness and arrogance have cost us friends, and weakened rather than strengthened self-help.

One major reason for the dissatisfaction expressed with performance of personnel overseas is that they have not been given orientation in time or depth, comparable for example, with that given officers assigned to military assistance advisory groups and volunteers for the Peace Corps. We strongly recommend this in AID as a means of providing the vital extra that is essential, in combination with the other administrative measures proposed above that are needed at the same time to secure the requisite competence.

A CHALLENGE FOR LEADERSHIP

A resolution of the controversy over aid depends in the end on the quality of the political leadership exerted in its behalf. Aid has no U.S. constituents and few politicians ready to fight for it. More important, there are few ready to educate for it. Presidential leadership has been lacking in this respect during this administration. Seldom in the past has the White House informally consulted on legislative content and strategy with various aid supporters in Congress, and almost never with the Republicans among them. Only when a vote was hours from the floor were there appeals for help.

As key aid supporters are not properly consulted by AID or the White House, the public is not properly informed. A broadside call for support is issued through the headlines, of course, but if aid is to have not only the superficial support of citizens but also their deeper understanding and commitment, a wide, sustained educational effort should be promoted to bring the aid story to more people.

This means that the aid enterprise deserves and must have strong leadership from the White House. When one considers the world in which aid was started as a crash program, without precedent or experience to guide it, its overall accomplishments have been extraordinary. Too great praise cannot be given many of its pioneers in the field for their imagination and devotion. It is inexcusable that their Government in Washington even at this late date has failed to get its foreign aid house in order. Adopting the approach proposed in this paper, we believe, would go far toward achieving this and establishing this program on a basis on which it could be supported with increased confidence.

But the plain fact remains that there is no quick, easy or cheap way to resolve those problems in the present world situation to which foreign aid relates. Rather, the outlook ahead is for a long hard pull. The struggle which aid is intended to help win is certain to continue, possibly for the balance of this century.

We believe that, in the face of the worldwide threat of Communist aggression and subversion, whatever demonstrably increases the ability of peaceful nations to maintain their independence and to improve the well-being of their people increases the security and well-being of the United States.

Our decision lies between two alternatives: we can permit world events to take a course engineered by the Communists, and then deal as we can with the almost certain consequence of growing instability, violence and despair. Or, we can undertake, through all available means and in bold cooperation with others, to influence events toward the expansion of justice, prosperity and freedom throughout the world.

RESIGNATION OF TEODORO MOSCOSO AS U.S. REPRESENTATIVE ON INTER-AMERICAN COMMITTEE ON ALLIANCE FOR PROGRESS

Mr. JAVITS. Mr. President, I yield to the Senator from Oregon under the same conditions that I heretofore yielded to the Senator from Minnesota.

Mr. MORSE. I thank the Senator from New York.

Mr. President, I wish to take a few minutes to speak in my position as chairman of the Subcommittee on American Republic Affairs. Although I have not discussed this matter with other members of the committee, I think it fair to say that my remarks express the viewpoint of the members of my subcommittee, as I pay my thanks in behalf of the subcommittee to Ted Moscoso, who recently resigned his position in the State Department, where he served as the Chief Director of the Alliance for Progress. Mr. Moscoso is returning to Puerto Rico, where he has a long record of distinguished public service. His departure from the position he occupied in the State Department in connection with coordinating the Alliance for Progress will be a distinct loss to the program and a distinct loss to the State Department.

In one of his many speeches on the Alliance for Progress, Teodoro Moscoso remarked that the important thing in life is to seek to do well, without seeking credit.

Ambassador Moscoso has now resigned his post as U.S. Representative on the Inter-American Committee on the Alliance for Progress, and will serve on the Commission on the Status of Puerto Rico.

On the occasion of this change, I would like to take the opportunity to say—and I know that my colleagues will share my belief—that Ambassador Moscoso has done exceedingly well.

And, although I am certain that he would prefer that I not, I would like to give him credit for what he has done.

During his 2 years as U.S. Coordinator of the Alliance for Progress, and over this past half year as U.S. Representative on the Inter-American Committee on the Alliance for Progress, he has worked—almost without respite—and fought—courageously and valiantly—for the dream of a democratic and prosperous hemisphere, united in freedom.

His efforts against obstacles, which I repeatedly have called attention to on this floor, has advanced us measurably closer to the achievement of the dream that he shared so fully with President John F. Kennedy.

If there is still much to be done, it is not that he did not do it, but that it could not be done, within his time, or within this time that has elapsed.

I most certainly agree with President Johnson—who himself spoke so eloquently on the Alliance for Progress—that the counsel of this "able and dedicated man" will be sorely missed.

We owe him our thanks—and such thanks are inadequate.

I extend to him my best wishes for a continued successful career in Puerto Rico. If I can ever be of service to him, I want him to call upon me for that service.

Mr. JAVITS. Mr. President, I wish to join the Senator from Oregon in paying sincere tribute to Teodoro Moscoso.

I had the great privilege of working closely with Mr. Moscoso in connection with the Atlantic Community Development Group for Latin America—ADELA—on which the Senator from Minnesota [Mr. HUMPHREY] and I have long been engaged, and in connection with which the Senator from Oregon has been most helpful. We found Mr. Moscoso extremely conscientious and devoted to that work, which he performed with deep sincerity and great effectiveness. Certainly all concerned appreciate very much and value most highly the fine work he did.

Therefore, Mr. President, I am delighted to have this opportunity to join the Senator from Oregon in expressing our sincere commendation of Mr. Moscoso for the excellent, devoted, and effective work he has performed.

EVENTS IN VIETNAM—VIEWS OF GREATER PORTLAND, OREG., COUNCIL OF CHURCHES

Mr. MORSE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter which I have received under date of June 2, 1964, from the Greater Portland Council of Churches, supporting the position I have taken in regard to the desirability of laying the whole South Vietnam-southeast Asia crisis before the United Nations, in keeping with the charter of that body.

The letter is signed by Robert H. Bonthius, chairman of the Christian Social Concerns Commission, and by William B. Cate, executive secretary, of the Greater Portland Council of Churches. I read the following from the body of the letter:

> As to the policy of the United States in Vietnam, we hope it will not seem presumptuous to you for us to state that the considered view of this commission of the Council of Churches is that negotiation and the use of the United Nations as a mediator is far preferable to the extension of the war beyond its present limits and the further use of violence or force. We are very much concerned that we not act unilaterally in this crisis.

Mr. President, I ask unanimous consent that the entire letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE GREATER PORTLAND
COUNCIL OF CHURCHES,
Portland, Oreg., June 2, 1964.

Hon. WAYNE MORSE,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR MORSE: Like you, we are deeply concerned about events in Vietnam.

Our Commission on Christian Social Concerns has today unanimously requested us to express the very deep concern of the Greater Portland Council of Churches that the war in Vietnam not be used for party political ends.

We consider that the issues are far too grave, involving as they do, many human lives and the possibility—even the probability—of a more general conflagration.

As to the policy of the United States in Vietnam, we hope it will not seem presumptuous to you for us to state that the considered view of this Commission of the Council of Churches is that negotiation and the use of the United Nations as a mediator is far preferable to the extension of the war beyond its present limits and the further use of violence or force. We are very much concerned that we not act unilaterally in this crisis.

Praying God's blessing upon you as you bear your heavy burdens and His Spirit's guidance for you as you exercise your influence affecting the welfare of this Nation and of all mankind, we are, sir,

Yours sincerely and respectfully,
ROBERT H. BONTHIUS,
Chairman,
Christian Social Concerns Commission.
WILLIAM B. CATE,
Executive Secretary.

Mr. MORSE. Mr. President, I do not intend to speak at length, tonight, on the South Vietnam crisis, although I would not want a day to pass without registering my continuing protest against the illegal course of action the United States is following in South Vietnam. It is illegal both from the standpoint of our Constitution and from the standpoint of our obligations under the charter of the United Nations.

The letter from the Greater Portland Council of Churches causes me to state to the Senate that my mail on this subject continues to be voluminous. At an early date, I intend to have additional letters on this subject printed in the CONGRESSIONAL RECORD. When I do, it will be noted that the churches of America and the church people of America and, in fact, all the people of this country can be counted upon to recognize, once they know the facts, that Government policy must be based upon the same moral principles that personal policy must be based upon. Our people realize that if our Government does not live up to its spiritual obligations, the people themselves are doomed.

These church people are now beginning to realize, as the facts are finally getting through to them—not by means of the American press, but through other media and through other sources, that the position of the United States in regard to South Vietnam cannot be justified on the basis of any moral principle, for it is an immoral position. Killing unnecessarily is immoral; and in connection with South Vietnam, the United States has not followed a course of action by which our Government has sought to prevent killing. On the contrary, our Government has deliberately, wantonly, and with premeditation, followed, in connection with South Vietnam, a policy that can result in nothing but killing.

So, Mr. President, I am glad the church people of this country are beginning to recognize the moral issue at stake in connection with this critical matter, about which I have been speaking in the Senate several times a week, together with the Senator from Alaska [Mr. GRUENING], the Senator from Louisiana [Mr. ELLENDER], and, more recently, the Senator from South Carolina [Mr. JOHNSTON]. I am glad the church people of America are now beginning to recognize that the facts in conection with our policy in regard to South Vietnam condemn the United States on moral grounds.

I continue to hope the Government of the United States will change its policy, will return to the framework of international law, will submit the entire issue to the United Nations, for the action for which the Charter of the United Nations provides, and will announce to the world that we are going to start supporting the United Nations in keeping the peace, and will stop following a course of action of making war.

I thank the Greater Portland Council of Churches for the support and encouragement their treasured letter has given me.

I yield the floor.

PARLIAMENTARY SITUATION

Mr. JAVITS. Mr. President, I rise to propound a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from New York will state it.

Mr. JAVITS. Today, I have very carefully endeavored to obtain unanimous consent of the Senate whenever I have yielded to other Senators. I wish to be sure that the result has been that I shall be charged with having made only one speech today.

The ACTING PRESIDENT pro tempore. Yes; the Senator from New York has thereby made only one speech this afternoon.

Mr. JAVITS. I thank the Chair.

ORDER OF BUSINESS

Mr. HUMPHREY. Mr. President——

Mr. JAVITS. Mr. President, I ask unanimous consent that at this time I may yield, under the same conditions under which I have yielded earlier today to other Senators, to the Senator from Minnesota [Mr. HUMPHREY].

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TO 10 A.M., FRIDAY

Mr. HUMPHREY. Mr. President, earlier today the distinguished majority leader had entered an order to the effect that when the Senate concluded its business today, it would stand in recess until 9 a.m. tomorrow, Friday. I wish to modify that order: I ask unanimous consent that when the Senate concludes its business today, it stand in recess until 10 a.m. on Friday, tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONVENING OF THE SENATE AT NOON ON TUESDAY, JUNE 9

Mr. HUMPHREY. Mr. President, I ask unanimous consent that when the Senate concludes its business on Monday next, June 8, it stand in recess until noon on Tuesday, June 9.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUMPHREY. That will mean, as I recall the rule, that the vote on the question of cloture will come immediately following a quorum call 1 hour after the Senate convenes on Tuesday, June 9.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. HUMPHREY. I give this notice now, so that Senators may have this information to use in making their plans.

Mr. JAVITS. Mr. President, I yield the floor.

RECESS TO 10 A.M. TOMORROW

Mr. HUMPHREY. Mr. President, if there is no further business to come before the Senate at this time, I move, in accordance with the order previously entered, that the Senate stand in recess until tomorrow, Friday, June 5, at 10 o'clock a.m.

The motion was agreed to; and (at 7 o'clock and 8 minutes p.m.) the Senate took a recess, under the order previously entered, until tomorrow, Friday, June 5, 1964, at 10 o'clock a.m.

HOUSE OF REPRESENTATIVES

THURSDAY, JUNE 4, 1964

The House met at 12 o'clock noon.

Rev. Charles Scragg, Grace Methodist Church, Keyser, W. Va., offered the following prayer:

Our Heavenly Father, we would shut out the thoughts of a busy world and draw ourselves away from the business of the day and seek communion with Thee. We confess that we need divine guidance to meet the great responsibilities that are ours to Thee and those whom we serve. We would pray for truth to be ours and for the integrity to carry out this truth as Thou dost reveal it. We would pray for wisdom that we may be more able to judge those shades of truth that are camouflaged between good and evil. We would pray for light that we may see more clearly those things which must be done to help humanity. Let Thy blessings be upon this body. Endow the Speaker, each Congressman, with the strength of conviction to know the right and under the guidance of Thy spirit to use it constructively for the building of a better world. Endow them with honesty of heart, purity of mind, and depth of spirit so they may serve all Thy children in such a way that freedom is not hollow mockery but rings with genuine reality. Now let our hearts and minds be free from malice, hate, envy, and strife; let Thy spirit come so we may see more clearly, we may work more diligently for the building of Thy kingdom, through Jesus Christ our Lord. World without end. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

IMMIGRATION HEARINGS

Mr. FEIGHAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. FEIGHAN. Mr. Speaker, I take pleasure in announcing that hearings on pending immigration legislation will begin on Thursday, June 11, at 10 a.m.

Before hearing witnesses from the executive agencies and the general public, the subcommittee will schedule Members who have introduced proposed legislation on this subject and who wish to be heard. Opportunity is open for all Members to be heard or to submit prepared statements for inclusion in the record of hearings.

The executive agencies are being informed of this action and definite schedules are being arranged for the appearance of witnesses.

Arrangements will be made for as many representatives of nongovernmental organizations with an interest in pending immigration legislation and the general public to appear before the subcommittee, as time permits.

The first witness invited to appear at these hearings is the Honorable EMANUEL CELLER, chairman of the House Judiciary Committee.

PROCEDURE OF THE HOUSE OF REPRESENTATIVES

Mr. JONES of Missouri. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. JONES of Missouri. Mr. Speaker, in view of what transpired in the House yesterday, when a point of order was raised during the special orders hour, resulting in the quorum call which brought many Members from their offices where they were engaged in important work, I think it is time that we have some understanding of the "ground rules" under which we operate.

I think it has been generally understood that after the legislative program of the day has been completed, and Members have reserved time for special orders, that other Members would not be called back to the floor. As far as I have been able to determine there is no desire on the part of anyone to "gag" any Member or to invoke cloture, but at the same time I believe most Members resent having a point of order made that a quorum is not present to listen to the speakers who have special orders.

Personally, and acting on this belief, I believe that when a point of order is made in order to bring about a quorum call to listen to speeches delivered under special orders, that the House is justified in adjourning, in order to prevent Members being called from other work of a more important nature, especially when such speeches may be extended in the RECORD.

Actually, Mr. Speaker, I believe that such action is not only justified but in some instances in the past this procedure has been followed, and I regret that the leadership on my side of the aisle did not see fit yesterday to adjourn the House, especially in view of the unusual and unreasonable demand which had been made on the other side of the aisle. In closing, may I say that I have no apology to make for any part I played in the delay which was caused in adjourning the House yesterday, and if a similar occasion arises, I hope the leadership will take such action as is necessary to prevent a quorum call after the House has completed its legislative program for the day, and has moved to special orders.

SHOULD A CONGRESSMAN SIGN AWAY HIS VOTE?

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. LONG of Maryland. Mr. Speaker, I call the attention of Congress and our Nation to an attempt by a leading organization to get me to pledge my future vote—and the admitted refusal by that organization to endorse me when I declined to sign the pledge. This attempt to make a Congressman trade his vote for a political endorsement demonstrates a lack of respect for Congress, and I publicize it in the hope of preventing it from being repeated.

Shortly before the AFL–CIO Committee on Political Education—COPE—was to endorse congressional candidates in the recent primary election, the Baltimore council asked me to sign a pledge to vote for legislation to outlaw right-to-work laws. When I did not comply, President Fornaro called me and said that, although my labor record was good, COPE needed this pledge in time to make its endorsements.

Now I do not favor right-to-work laws; it is quite possible that when this bill comes to the floor I will vote to outlaw them. But I can never sign away my future vote.

After my refusal, COPE did not endorse me. The Baltimore Sun quoted President Fornaro's explanation that "Congressman LONG did not sign an AFL–CIO pledge against right-to-work laws." On primary election day COPE distributed a "workingman's ballot" for Baltimore County which omitted my name. Whether the lack of endorsement hurt me at the polls is hard to say. I defeated my major competitor in areas of union strength by margins ranging from 2 to 1 to 12 to 1. Many union members have agreed with me that a Congressman should not be asked to promise his vote to get an endorsement.

I shall always try to represent the workingman, whether as an individual or as a union member, and I do not object to stating my views on important issues. But I believe it is wrong to sign away my vote, and twice as wrong to sign it away for a political endorsement—from either the AFL–CIO or a business association. The day I must pledge my vote to get elected to Congress is the day I shall leave Congress to take up some other line of work.

TRIBUTE TO JOSEPH McCAFFREY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ALBERT. Mr. Speaker, among those who render very important service to the American people in their work on Capitol Hill, of course, are the members of the Press, and the Television and Radio Galleries.

I am happy to call the attention of the House today to the fact that one of the most distinguished members of the reporting group on Capitol Hill—Joe McCaffrey—is this week completing 20 years of service analyzing news in Washington.

His first assignment for Columbia Broadcasting Co. was 20 years ago at the Pentagon on D-day, June 6, 1944. He had previously been discharged from the Army, because of injuries received while an Infantry officer.

Over the years since 1944 Joe has served all four of the major radio and television networks. For a number of years he has been building up a substantial following in the Nation's Capital with his fine analysis of the news and his valuable daily reporting of the activities of the Congress over WMAL radio and television in Washington.

He is highly respected among Government officials and members of both parties in Congress as well as the citizens of Washington and the Washington area for his integrity and fairness. Joe has been in the newspaper, radio, and television business for many years, and his contributions to intelligent and honest reporting have been appreciated by all of us.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ALBERT. I yield to the majority whip.

Mr. BOGGS. I would like to join in the expressions made by the distinguished majority leader with respect to

Joe McCaffrey. I think one of the really great attributes of this reporter is the fact that he understands the House of Representatives and respects this institution. He is knowledgeable, and his reports are so factual that many of us listen to him to help us in our work. I am very happy that the majority leader noted his outstanding service.

Mr. ALBERT. I thank the gentleman.

Mr. BOW. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOW. Mr. Speaker, Joe McCaffrey this week marks 20 years of work in Washington as a reporter—most of that time specializing in the work of Congress.

He was an Army officer in World War II, was hospitalized here for injuries received in an airplane crash in the Atlantic and after discharge from the service began his career in broadcasting with the Washington bureau of CBS. Since that time he has, at various times, worked for all four major radio and TV networks.

His daily WMAL report on Today in Congress is a most valuable summary of Congress' activities for Members of Congress, for Government officials and for the citizens of Washington and this area.

I have known Joe McCaffrey for many of his 20 years here and have always had the highest regard for his work. He is a fair, honest reporter who is a great credit to his profession.

DEFICIENCY APPROPRIATION BILL, 1964

Mr. MAHON. Mr. Speaker, I call up the conference report on the bill (H.R. 11201) making deficiency appropriations for the fiscal year ending June 30, 1964, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Speaker, reserving the right to object, this bill is coming up under unusually short notice, and I assume the gentleman will take some time to tell us what changes were made in the bill in conference.

Mr. MAHON. That is right.

Mr. GROSS. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT (H. REPT. No. 1457)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11201) "making deficiency appropriations for the fiscal year ending June 30, 1964, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 4.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 5, 17, 19, 23, and 24, and agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,638,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 2, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 21, and 22.

GEORGE H. MAHON,
ALBERT THOMAS,
MIKE KIRWAN,
JAMIE L. WHITTEN,
BEN F. JENSEN,
WALT HORAN,
GERALD R. FORD,
Managers on the Part of the House.

JOHN O. PASTORE,
CARL HAYDEN,
SPESSARD L. HOLLAND,
LISTER HILL,
A. S. MIKE MONRONEY,
WILLIAM PROXMIRE,
E. L. BARTLETT,
MILTON R. YOUNG,
LEVERETT SALTONSTALL,
KARL E. MUNDT,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11201), making deficiency appropriations for the fiscal year ending June 30, 1964, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to each of such amendments namely:

CHAPTER I

Department of Agriculture

Amendment No. 1—Deletes the proposal of the Senate to appropriate $150,000 for a special milk program.

Amendment No. 2—Emergency conservation measures: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment with an appropriation of $4,000,000, instead of $5,000,000 as proposed by the Senate.

CHAPTER III

District of Columbia

Amendment No. 3—Deletes the proposal of the House to appropriate $248,500 for health and welfare.

Amendment No. 4—Deletes the proposal of the Senate to increase the rates paid to Children's Hospital. The managers on the part of the House feel this matter should be the subject of consideration in connection with the regular District of Columbia appropriation bill for 1965.

Amendment No. 5—Appropriates $166,300 for personal services, wage board employees, as proposed by the Senate instead of $485,900 as proposed by the House.

CHAPTER IV

Independent offices

Amendment No. 6—Civil Aeronautics Board—payment to air carriers: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment with an appropriation of $4,000,000 instead of $6,000,000 as proposed by the Senate.

Amendment No. 7—Appropriates $2,638,000 for salaries and expenses of the Selective Service System instead of $2,238,000 as proposed by the House and $2,938,000 as proposed by the Senate.

CHAPTER V

Department of the Interior, etc.

Amendment No. 8—Forest Service, Department of Agriculture: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment appropriating $650,000 for forest protection and utilization.

Amendment No. 9—Bureau of Indian Affairs, Department of the Interior: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment appropriating $1,000,000 for construction.

Amendment No. 10—Bureau of Commercial Fisheries, Department of the Interior: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment appropriating $650,000 for construction.

Amendment No. 11—Bureau of Sport Fisheries and Wildlife, Department of the Interior: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment appropriating $50,000 for construction.

Amendment No. 12—The Alaska Railroad: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment with an amendment appropriating $20,000,000 instead of $25,200,000 as proposed by the Senate.

Amendment No. 13—Transitional grants to Alaska: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment appropriating $17,000,000.

Amendment No. 14—Public Health Service: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment appropriating $750,000 for construction of Indian health facilities.

Amendment No. 15—Federal Reconstruction and Development Planning Commission for Alaska: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment appropriating $150,000.

CHAPTER VI

Department of Labor

Amendment No. 16—Manpower Administration: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment with an amendment appropriating $20,000,000 for manpower development and training activities instead of $24,300,000 as proposed by the Senate.

CHAPTER VII

Legislative branch

Amendment No. 17—Appropriates $10,000 for folding documents, Senate, as proposed by the Senate.

Amendment No. 18—Payment to widow of deceased Member of the House. Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment.

Amendment No. 19—Appropriates $25,000 for Senate Office Buildings, as proposed by the Senate.

CHAPTER IX

Department of Commerce

Amendment No. 20—Coast and Geodetic Survey: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment appropriating $1,720,000 for salaries and expenses.

CHAPTER X

Treasury Department

Amendment No. 21—Coast Guard: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment providing that $500,000 of the appropriation involved shall be derived by transfer.

Amendment No. 22—Coast Guard: Reported in technical disagreement; the managers on the part of the House will offer a motion to concur in the Senate amendment providing that the sum of $800,000 for retired pay be derived by transfer.

CHAPTER XI

Claims and judgments

Amendments Nos. 23 and 24—Appropriate $12,831,443 for claims and judgments as proposed by the Senate instead of $9,585,489 as proposed by the House, including the items set forth in Senate Documents Nos. 74 and 75. The House bill made provision for items in Senate Document No. 50 and House Document No. 300.

George H. Mahon,
Albert Thomas,
Mike Kirwan,
Jamie L. Whitten,
Ben F. Jensen,
Walt Horan,
Gerald R. Ford,
Managers on the Part of the House.

The SPEAKER. The gentleman from Texas is recognized for 1 hour.

Mr. MAHON. Mr. Speaker, it will be recalled that this deficiency appropriation bill which passed the House on May 11 carried $1,264,913,689. The largest portion of this amount grew out of the fact that Congress had approved pay increases for the military subsequent to action on the 1964 budget and that it was necessary for Congress to provide the appropriations to cover these additional pay costs. There were, of course, other items in this bill. When the bill went to the other body, they were called upon to consider additional budget estimates which had not been presented to the House.

CALL OF THE HOUSE

Mr. HARDING. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. MAHON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 146]

Andrews, Ala.
Ashmore
Aspinall
Baring
Barrett
Bass
Battin
Becker
Blatnik
Bolling
Bray
Brock
Bromwell
Bruce
Buckley
Burke
Burton, Calif.
Burton, Utah
Cahill
Cameron
Cederberg
Celler
Chamberlain
Clark
Colmer
Cooley
Corman
Cramer
Dawson
Derounian
Diggs
Dorn
Dulski
Dwyer
Edmondson
Elliott
Everett
Farbstein
Flynt
Forrester
Fulton, Tenn.
Gallagher
Giaimo
Grabowski
Grant
Gray
Griffiths
Halleck
Harrison
Harsha
Harvey, Ind.
Harvey, Mich.
Healey
Hébert
Herlong
Huddleston
Hull
Hutchinson
Ichord
Jarman
Joelson
Johnson, Wis.
Jones, Ala.
Kee
Kelly
Kilburn
King, Calif.
Kyl
Landrum
Lankford
Leggett
Lesinski
Lindsay
Long, La.
McCulloch
McFall
McIntire
Macdonald
Martin, Mass.
Matsunaga
May
Meader
Michel
Miller, N.Y.
Minshall
Montoya
Morris
Morrison
Mosher
Multer
Pepper
Pilcher
Pool
Powell
Rains
Reifel
Riehlman
Roberts, Ala.
Roberts, Tex.
Roudebush
St Germain
Schadeberg
Scott
Selden
Sheppard
Short
Sikes
Skubitz
Slack
Stinson
Stubblefield
Teague, Tex.
Toll
Tollefson
Tupper
Ullman
Van Pelt
Wallhauser
Weltner
Whitener
Wilson, Ind.
Winstead
Wright

The SPEAKER. On this rollcall, 306 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

DEFICIENCY APPROPRIATION BILL, 1964

The SPEAKER. The Chair recognizes the gentleman from Texas [Mr. Mahon].

Mr. MAHON. Mr. Speaker, just prior to the quorum call, we were beginning a discussion of the deficiency appropriation bill for 1964. The conference report that is now before us provides for an appropriation of $1,336,687,143.

The reduction below the budget estimates is $99,490,600.

When this bill passed the House, on May 11, the major item in the bill then and now was for pay increases for the military.

Congress authorized the pay increases, and it then became necessary to provide the additional funds. The pay increase had not progressed to the point where it was possible to put the money in the regular annual appropriation bill at the time it was passed last year.

There are a number of other items, also.

About the time the bill passed the House and went to the other body, the Bureau of the Budget sent down a number of additional estimates. A large portion of these grew out of the damages which took place in Alaska during the catastrophe in that State on Good Friday. A total increase of $69,405,000 was agreed to in conference in connection with these estimates not considered when the House took action.

In the conference there were no major items of disagreement. There were some differences, and compromises were made, but the conference report was agreed upon without too much difficulty.

As I stated, we are approximately $100 million below the budget estimates, and most of these items are absolutely required as a result of most unusual circumstances or existing law.

Unless there is some special question, I shall not discuss these items at length.

One of the items which was before us had to do with an additional $150,000 for the special milk program for schools and summer camps. Senator Proxmire was very much concerned about this, and was responsible, in large part, for the amendment which was adopted in the other body.

I believe all of the members of the conference are strongly in support of the milk program, but we did not feel that these funds should be made available at this time, especially since the fiscal year is nearing its conclusion and the school term in most areas has expired. I believe it is fair to say that the members of the conference—certainly I, myself—do support the milk program and want it to proceed. This can be handled best in the regular annual bill as has been the practice heretofore. We hope that the program will continue to be sufficiently well financed.

There was another amendment having to do with the District of Columbia Children's Hospital, which has a considerable deficit. The Children's Hospital is doing great work. There was some difficulty in the committee as to what should be done about raising payments for hospital care of indigents in order to meet a portion of the deficit. That whole matter was deleted in conference. I wish to say that all of us are sympathetic toward the problems of the hospital, and we hope that some way may be found to solve this problem. There is widespread interest in it in the District of Columbia and among Members of the House.

With respect to the manpower development and training program, the other body placed $24,300,000 in the bill. The conference agreement was for $20 million. This is a part of the overall program of manpower training. The budget estimate was $55 million.

The House did not act upon this request in connection with the deficiency bill due to the fact that it technically was a supplemental rather than a deficiency request, but did consider it in conjunction with the 1965 budget estimate of $411 million. The committee's decision, which was subsequently supported by the House, was to allow $327,906,000 in total. Rather than allow part of this as a supplemental and part as the regular 1965 appropriation, the House disallowed the entire amount of the supplemental and allowed $327,906,000 for 1965, but with a language proviso that these funds would be available immediately upon enactment. Thus a portion of the amount allowed would be a supplemental for 1964 were the bill to be enacted prior to next July 1.

Thus the situation was that if the House conferees agreed to any part of the Senate amendment on the deficiency bill, and then the Senate were to approve the full amount included in the regular 1965 bill by the House, this would result in an increase over the total that the House had originally approved for the backlog in 1964 plus the 1965 program, and the House conferees on the regular bill would have no chance to work out any compromise in conference. This situation was discussed in some detail in the conference. I am also putting it on the record now so that it may be abundantly clear to all who will have a part in future action on the regular appropriation for this activity, which is included in the labor-health, education and welfare appropriation bill. I trust that due consideration will be given to this unusual situation both by the other body when action is taken on the regular bill, and in conference on that bill.

Unless there are further questions I shall make no additional references to the bill, especially in view of the fact that we discussed the appropriations at greater length when the bill was before the House a short time ago.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Florida.

Mr. HALEY. Would the gentleman from Texas inform the House as to whether this report is above or below the bill which passed the House? I realize the gentleman stated that additional programs came in, but I should like to know how much is involved, with respect to the House figures.

Mr. MAHON. This bill is now $71,773,454 above the amount as it passed the House. In fairness we must point out that this is based on more than that amount of additional budget estimates which were submitted directly to the other body and not considered by the House.

Had those items been considered by the House, there is no doubt that there would have been some increase in the figure recommended by the Committee on Appropriations at the time it was originally presented to and passed by the House.

Mr. HALEY. I thank the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I would like to insert a table in the RECORD which shows the action on each chapter of this bill from the budget estimate through the conference report with certain comparisons.

Deficiency appropriation bill, 1964

Chapter	Budget estimate	House bill	Senate bill	Conference report	Conference report compared with—		
					Budget	House	Senate
I. Agriculture	$25,600,000	$13,600,000	$18,750,000	$17,600,000	−$8,000,000	+$4,000,000	−$1,150,000
II. Defense, Military	1,042,000,000	1,003,200,000	1,003,200,000	1,003,200,000	−38,800,000		
III. District of Columbia	(1,085,956)	(921,956)	(353,856)	(353,856)	(−732,100)	(−568,100)	
IV. Independent Offices	51,893,000	42,695,000	49,395,000	47,095,000	−4,798,000	+4,400,000	−2,300,000
V. Interior, etc	62,217,000	16,367,000	61,817,000	56,617,000	−5,600,000	+40,250,000	−5,200,000
VI. Labor-HEW	220,062,000	165,062,000	189,362,000	185,062,000	−35,000,000	+20,000,000	−4,300,000
VII. Legislative	100,400	117,300	174,800	174,800	+74,400	+57,500	
VIII. Defense, Civil	7,680,000	2,040,000	2,040,000	2,040,000	−5,640,000		
IX. Justice, Commerce, and Judiciary	1,868,900	646,900	1,766,900	1,766,900	−102,000	+1,120,000	
X. Treasury	11,925,000	11,600,000	10,300,000	10,300,000	−1,625,000	−1,300,000	
XI. Claims and Judgments	12,831,443	9,585,489	12,831,443	12,831,443		+3,245,954	
Total	1,436,177,743	1,264,913,689	1,349,637,143	1,336,687,143	−99,490,600	+71,773,454	−12,950,000

Mr. MAHON. Mr. Speaker, I yield to the gentleman from Iowa [Mr. JENSEN].

Mr. JENSEN. Mr. Speaker, there is not a great deal more to be said relative to this bill than what our good chairman has already stated. I think it should be said that this is not purely a deficiency appropriation bill. There are a number of items in this bill that must be placed in the supplemental category, but most of those items arise as a result of an act of God which brought about that terrible earthquake in Alaska. There are 9 items in this bill for Alaska, amounting to a little over $41 million.

In reply to the gentleman from Florida [Mr. HALEY] I might say, Mr. Speaker, when the Senate considered the deficiency appropriation bill, they acted on approximately $130 million of budget estimates that were not considered by the House in connection with this bill. It was largely as a result of these additional budget estimates that the Senate raised the House bill from $1,264,913,689 to $1,349.637,143. The conference agreement that we bring to the House today totals $1,336,687,143. This is $71,773,454 over the House bill and is less than the Senate bill by $12,950,000.

Most of the items added by the Senate are not true deficiencies. Because of this, I was somewhat reluctant to agree to many of them, for I had hoped that this bill could be kept to true deficiencies as was done when it originally passed the House. However, while these items were not true deficiencies, many of them do represent urgent needs that should be cared for without undue delay. In view of the uncertainty of final enactment of the regular appropriation bills for 1965, I have concurred with the other House conferees and we bring you a unanimous report.

Well over half of the increase over the House bill, which the conferees agreed to, is for emergency items directly resulting from the earthquake in Alaska.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. JENSEN. Yes. I yield to the chairman of the committee.

Mr. MAHON. I think the gentleman probably should point out that these emergency items involving Alaska, while they are not truly deficiency items, were of an urgent nature because the construction season in Alaska is rather short, and haste in providing the necessary funds is required. For that reason, we had no hesitation in including the items in this bill, although they do not represent a deficiency in the technical use of the term.

Mr. JENSEN. That is right. There are nine of these items and they total $41,370,000. The only other items involving relatively large amounts are $4 million for emergency conservation measures of the Department of Agriculture and $4 million for payments to air carriers, both of which are almost mandatory under existing law; and $20 million for manpower development and training activities. While the last item is not mandatory and perhaps could have waited for the regular 1965 appropriation bill, there is a large backlog of applications which have been approved up to the point of funding. These are of considerable importance to certain localities in the United States and this appropriation will let them go forward without further delay.

This $4 million item in the bill for the Department of Agriculture was necessitated by several factors. In a number of areas that were badly flooded this spring a lot of sand was deposited on the bottomlands, which requires deep plowing in order to restore the land to production. Also, there has been a severe drought in certain areas of the country which has resulted in serious damage to fields and pastures. It is a matter which we are obligated to handle. These are Federal streams that are under the jurisdiction of the Federal Government which caused this sand to be deposited on these lands. Also emergency conservation measures are needed to restore pastures and protect the lands for future use.

Mr. Speaker, other than that I can only say that I hope we have not set a precedent here that will bring people to believe that they can get almost anything adopted by Congress under a deficiency bill that they feel they should have. It is not going to be that way, I can assure you. But when an act of God occurs, such as the Alaska catastrophe, it is our responsibility to see to it that the people there, who are our people, are taken care of. And so I am happy to have a part in initiating an appropriation for the relief of those good people.

Mr. MAHON. Mr. Speaker, I ask unanimous consent that those Members who have spoken on the conference report have permission to revise and extend their remarks and to include appropriate tables and explanations of the items in the conference report.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 2: Page 2, line 14, insert the following:

"EMERGENCY CONSERVATION MEASURES

"For an additional amount for 'Emergency conservation measures' to be used for the same purposes and subject to the same conditions as funds appropriated under this head in the Third Supplemental Appropriation Act, 1957, the Supplemental Appropriation Act, 1958, and the Supplemental Appropriation Act, 1962, $5,000,000, to remain available until expended."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$4,000,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 7, line 3, insert the following:

"CIVIL AERONAUTICS BOARD

"Payments to air carriers (liquidation of contract authorization)

"For an additional amount for "Payments to air carriers (liquidation of contract authorization)", $6,000,000, to remain available until expended.".

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert: "$4,000,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 8: Page 8, line 15, insert the following:

"Forest protection and utilization

"For an additional amount for 'Forest protection and utilization', for 'Forest land management', $650,000, to remain available until June 30, 1965."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9: Page 9, line 9, insert the following:

"For an additional amount for 'Construction', $1,000,000, to remain available until expended."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 10: Page 9, line 20, insert the following:

"FISH AND WILDLIFE SERVICE

"Bureau of commercial fisheries

"Construction

"For an additional amount for 'Construction', $650,000, to remain available until expended."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 11: Page 10, line 1, insert the following:

"Bureau of Sport Fisheries and Wildlife

"Construction

"For an additional amount for 'Construction', $50,000, to remain available until June 30, 1965."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 12: Page 10, line 5, insert

"THE ALASKA RAILROAD

"Payment to the Alaska Railroad revolving fund

"For payment to the Alaska Railroad revolving fund for authorized work of the Alaska Railroad, including repair, reconstruction, rehabilitation, or replacement of facilities, including equipment, damaged or destroyed as a result of the Alaska earthquake, to remain available until expended, $25,200,000, of which $7,800,000 may be made available to the Corps of Engineers for reconstruction of the Seward dock facilities."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein with an amendment, as follows: In lieu of the sum of $25,200,000 named in said amendment, insert "$20,000,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 13: Page 10, line 15, insert:

"FUNDS APPROPRIATED TO THE PRESIDENT

"Transitional grants to Alaska

"For an additional amount for 'Transitional grants to Alaska', as authorized by section 44 of the Alaska Omnibus Act (75 Stat. 151), as amended, $17,000,000, to remain available until June 30, 1965."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 14: Page 11, line 1, insert:

"DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

"Public Health Service

"Construction of Indian Health Facilities

"For an additional amount for 'Construction of Indian Health Facilities', $750,000 to remain available until expended."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 15: Page 11, line 8, insert:

"INDEPENDENT OFFICES

"Federal Reconstruction and Development Planning Commission for Alaska

"Salaries and Expenses

"For necessary expenses of the Federal Reconstruction and Development Planning Commission for Alaska, established by Executive Order 11150 of April 2, 1964, including services as authorized by section 15 of the Act of Agust 2, 1946 (5 U.S.C. 55a), but at rates for individuals not to exceed $75 per diem, $150,000, to remain available until June 30, 1965."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 16: Page 12, line 11, insert:

"MANPOWER ADMINISTRATION

"Manpower development and training activities

"For an additional amount for 'Manpower Development and Training Activities', $24,300,000, to be available without regard to the provisions of section 301 of the Act: *Provided,* That these funds shall be used only for training programs and State and local related costs under title II."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert: "$20,000,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 18: Page 15, line 18, insert "For payment to Ida W. Cannon, widow of Clarence Cannon, late a Representative from the State of Missouri, $22,500."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows: Senate amendment No. 20:

Page 18, line 10, insert:

"DEPARTMENT OF COMMERCE

"Coast and Geodetic Survey

"Salaries and Expenses

"For an additional amount for 'Salaries and expenses', to remain available until June 30, 1965, $1,720,000, of which $600,000 shall be derived by transfer from the appropriation to the Department of Commerce for 'Participation in Century 21 Exposition'."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows: Senate amendment No. 21:

Page 19, line 18, insert "$10,800,000 of which $500,000 is to be derived by transfer from the appropriation for 'Salaries and expenses, Office of the Treasurer', fiscal year 1964."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 20, line 3, insert "to be derived by transfer from the appropriation for 'Salaries and expenses, Office of the Treasurer', fiscal year 1964."

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

NATIONAL COMMISSION ON FOOD MARKETING

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 737, and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 977) to establish a National Commission on Food Marketing to study the food industry from the farm to the consumer. After general debate, which shall be confined to the joint resolution and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. MADDEN. Mr. Speaker, I yield 30 minutes of my time to the gentleman from California [Mr. SMITH], and pending that I yield myself such time as I may consume, at this time.

Mr. Speaker, House Resolution 737 provides for consideration of House Joint Resolution 977 to establish a National Commission on Food Marketing to study the food industry from the farm to the consumer. The resolution provides an open rule with 2 hours of general debate.

The Commission is to be made up of 15 members. The resolution states that the Commission is to be bipartisan in nature.

Americans today enjoy the lowest food prices—less than 19 percent of take-home pay—in relation to consumer income in the history of the world. One of the reasons for this tremendous boon is the revolution in production that has taken place on the American farm. Today less than 8 percent of our population produces the food and fiber for all of the population plus an amount that is shared with those abroad in the form of $4 billion in exports for dollars and $2 billion in exports through food-for-peace programs.

The farmer's successes in the area of improved production have not brought to them the security and income that such an achievement should normally produce. His share of the food dollar spent by the consumer has declined steadily from 47 cents in 1950 to 37 cents today. In the past 16 years the prices received by farmers for their products have dropped 12 percent, while the prices paid by consumers for farm-produced food have increased by 29 percent.

There has been no satisfactory explanation for the sharp increase in spread between what farmers receive for what they sell and what the consumer pays for the food he purchases in the marketplace.

Mr. Speaker, the American public is vitally interested in the information that will be disclosed by the study to be performed by the National Commission on Food Marketing, and I urge that House Resolution 737 be adopted.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as stated by the gentleman from Indiana [Mr. MADDEN], House Resolution 737 provides 2 hours of general debate under an open rule to consider House Joint Resolution 977. I concur in the remarks of the gentleman from Indiana as to the purpose of this resolution and the makeup thereof.

I have several things I would like to bring to the attention of the House. If this is to be considered a bipartisan national commission I somewhat feel we should go back to the time the Hoover Commission was started. It would be better to have an equal number of Members from both sides of the aisle; in other words, four from the House, four from the Senate, and four to be appointed by the President of the United States rather than the odd number of five individuals.

I think the powers given this Commission go quite a long way. This will give the Commission tremendous authority. I would also like to bring to your attention the fact that the pay of each one of the Commission members will be at the rate of $100 a day. The entire cost of the program is to be $1½ million.

Mr. Speaker, I am going to offer an amendment to this particular bill which I would like to call to the attention of the Members at this time. The reason I offer this amendment is because the newspaper in Pasadena, Calif., in my district, the Star-News, over the months has sent me information having to do with the Marketing News Service in the Department of Agriculture. My friend, Mr. Ben Ridder, who publishes this fine newspaper, is concerned about this matter. It involves the same debate we had when the Agriculture appropriation bill was considered last week.

In section 5, page 3 of this bill, one of the authorities given to this Commission is to investigate the effectiveness of the services and the regulatory activities of the Federal Government in terms of present and probable developments in the industry.

My amendment will place a comma after the word "services" and then insert the following words, "including the dissemination of market news,".

This is not in any way to be a restrictive amendment. I want to make the record perfectly clear on that, because the first five words probably permit this Commission to do this in the first place when it says, "The effectiveness of the services"; but to make it clear, I want to add those particular words, so that this can be one of the items the Commission can look into. At least, they will have the authority. It is not meant in any way to be restrictive. It is to be broadening, including all the other services. I have attempted to clear it as best I could on both sides of the aisle. I do not think there will be any serious objection to the amendment.

Mr. Speaker, I have one request for time. I yield 2 minutes to the gentleman from Nebraska [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I support this legislation. I introduced a companion bill. I am pleased to see that the committee adopted one of the amendments which I suggested when I testified in favor of the legislation before the Committee on Agriculture.

The reason I favor this legislation is that I think a study of this kind is needed and is long overdue. There is a spread between what the producer receives and what the consumer pays. I know this particularly well because I come from the largest meatpacking and livestock center in the world, which is Omaha, where we have depressed prices to the producer but this does not reflect itself in the prices paid by the consumer. So I am particularly concerned about that.

There are some people that hold a halo over this spread. There are other people who believe there is some skulduggery afoot. I do not know which is true, but I think this study will prove once and for all why this spread exists. It will clear the air. Therefore, I wanted to make these remarks in support of the rule and, of course, the passage of the joint resolution.

Mr. MADDEN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

Mr. POAGE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 977) to establish a National Commission for Food Marketing to study the food industry from the farm to the consumer.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Joint Resolution 977 with Mr. Charles H. Wilson in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. Poage] will be recognized for 1 hour and the gentleman from Iowa [Mr. Hoeven] will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas [Mr. Poage].

Mr. POAGE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this resolution provides for the appointment of a 15-man bipartisan commission to make a comprehensive study into all aspects of the marketing of agricultural products from the farm through to the consumer.

Most of us have overlooked the tremendous change that has taken place in agriculture and agricultural marketing within the last generation. No industry in the world has made the great changes which have been made in American agriculture. The productivity of our modern agriculture is, of course, the wonder of the world. In fact, our agricultural productivity has been so tremendous that it has caused us to have many, many problems. But most of us have failed to recognize that those very problems grow, in large part, out of that very productivity itself.

Farmers have pretty well learned how to produce, and certainly the food industry has learned how to distribute. Whether that distribution takes place at a reasonable cost is, of course, a matter of keen debate. There are many people who feel very strongly that somewhere in between the farmer and the consumer there is too large a spread. Whether that is true or not, I am not in a position to say and I doubt that any of my colleagues are in a position to say with any degree of assurance. But the fact that there is a large spread is undeniable.

The consumer today buys a dollar's worth of groceries and the producer gets about 38 cents out of that dollar. Back in the fifties, the producer got more than 50 cents of that dollar. Obviously, the spread is growing and it is going to continue to grow.

Mr. GATHINGS. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman.

Mr. GATHINGS. The 38 cents really goes to the farmers and not to the consumers, as the gentleman stated.

Mr. POAGE. I beg pardon. The consumer pays 38 cents out of his dollar to the producer. That is what I should have said. If I said anything else, I was mistaken.

The amount that the producer gets or the percentage that the producer gets is growing smaller and smaller every day. Agriculture is still our biggest industry. It involves the welfare and the employment of more people than any other industry in America. Certainly, the price structure involves every citizen of America because while we may not all buy automobiles and we may not all buy radios, we all do buy food, or somebody gives it to us. So we are all involved in the price structure of agricultural products. We want a distribution system which is as efficient as we can make it. We want that system to operate as efficiently and as cheaply as it is possible for it to operate, in order that the consumer may get food and fiber at reasonable prices.

The resolution undertakes to set up a commission to study those relationships, to give us some definitive answers, to give us something on which we can make plans with the assurance that we know the facts.

The resolution provides for a commission frankly patterned after the Hoover Commission—a bipartisan commission of 15 members, 5 to be selected from the general public by the President, 5 by the Speaker from this House, and 5 from the other body.

We believe that by following this procedure we shall have such congressional representation that we will then know, when we get a report, it is something we can use in the Congress and not merely something we read in the newspapers.

We feel that enough work has been done in the Committee on Agriculture to be certain that such a study is needed. Our staff has prepared a document, which many Members have seen, outlining a rather brief and rather inconclusive study of agricultural prices.

Mr. MONAGAN. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Connecticut.

Mr. MONAGAN. I congratulate the committee for the conception of this commission. I believe it is a wonderful thing and that there is a great demand for it.

One question occurs to me. I notice that in the report there is a reference to beef and bread, and the references so far have been to products which are produced in this country as well as distributed here. I have heard a great deal of talk about the price of coffee and criticism of the price changes. I wonder if it will be a part of the work of the commission to consider products like coffee, not produced in this country but distributed here.

Mr. POAGE. It will be the duty, or at least the function, of the Commission to study the prices of all agricultural products in the distribution system. It is one system, as I view it. We no longer have what was known as a coffeeshop. We use the name, but there is no longer any such place as one which sells only coffee and nothing else.

The great chainstores sell thousands of items in each store, and the price of one of those items vitally affects the prices of the other items.

It is at least our belief that some commodities are used quite often as so-called "loss leaders," whereby, let us say, the stores attract the public into the premises to sell them something else at a profitable price.

I do not believe it would be possible to divorce any particular commodity from the study.

Mr. MONAGAN. I am happy to hear that. I thank the gentleman.

Mr. HOEVEN. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Iowa.

Mr. HOEVEN. The gentleman from Connecticut may be advised that under the general duties of the Commission, as set out in section 4 on page 2 of the bill, there is the following:

> The Commission shall study and appraise the marketing structure of the food industry, including the following:

There then are listed some five subjects to be included. Under this general language I assume the Commission would be authorized to study and appraise the marketing structure of every phase of the food indstry.

Mr. MONAGAN. I thank the gentleman.

Mr. POAGE. It is quite clear that the basic purpose of this study is to get a clear understanding of how our food distribution system works.

It may not be that there is too much spread. I am not making any charges. It may be that there are not any of our foods which are overpriced, although we sometimes think they are. It may be that we are getting the very best distribution system in the world. I rather think we have the best system in the world now. However, we do not want to let a $70 billion business—and I am talking about the whole distribution of food, all the way through—we do not want to let the largest business in the

United States simply slip into any kind of errors because we pay no attention to it. In fact, we should give greater study to and have a clearer understanding of the relationship which exists between the producer and the consumer of food than exists in any other business institution in the United States, because it affects more people and involves more money. So the purpose of this resolution is to try to get this out where there will be an intensive and exhaustive study made, where we will have, as soon as the report can be made, real information on which we can act with assurance rather than on the guesswork which has formed the basis of so many of our conclusions in the past.

I think that the resolution is well safeguarded. It provides for a bipartisan Commission representative of the people all over the United States. It certainly provides for adequate representation from the Congress of the United States. It attempts to give to this Commission the tools with which to do the job. It allows the creation of what I believe is an adequate staff to perform the studies that are needed and to present them to the American people. I very much hope that we can adopt this resolution and get this study underway.

Mr. Chairman, I reserve the balance of my time.

Mr. HOEVEN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, this bill which establishes a 15-man bipartisan Commission to study food marketing will, I hope, undertake to provide both the public and the Congress with facts. The Commission will be delving into a complex and complicated subject which has previously been examined by many groups, both private and government. This matter has been explored many times during my service on the Committee on Agriculture. We have never been able to find out just who was really "getting the gravy." We are all interested in finding out just who is "getting the gravy" and the Commission may do so.

It is certainly our purpose to prevent a witch hunt or a fishing expedition in this kind of investigation. So I express the hope that the investigation may be objective and that we will try to get at the facts which will be helpful not only to the farmers but also the consuming public. And we want to insure an orderly and thorough study of the longstanding and perplexing question of why the consumer pays more and the farmer receives less. Everyone knows that the farmer today is really in a price-cost squeeze. We all know it and I think we all want to do something about it. The question is just how we can meet this problem.

The committee has limited the use of the subpena power to instances where a majority of the Commission authorizes it. I think this is a wholesome provision. It will stop a so-called witch hunt or fishing expedition which would be detrimental to the entire inquiry. This is a substantial improvement over the original proposal to allow individual members or the staff of the Commission to issue subpenas on their own initiative. We want to get away from star chamber proceedings, and not to delegate subpena authority to an individual member of the Commission or to the staff of the Commission. So this added protection makes it a better bill.

Another committee amendment requires the Commission to file its report within 1 year. It also provides for interim reports which may be filed by the Commission from time to time.

Section 6(e) of the bill allows the Commission to exist for 90 days beyond July 1, 1965, so its life would extend for approximately 15 months from now. The original version provided for a final report by July 1, 1966. We have amended the bill so as to make it read July 1, 1965. It seems to me that this committee amendment is worthwhile. Whatever job is to be done certainly can be done within a year. The great bulk of the statistical and professional materials that will be needed is already published and prepared.

The Department of Agriculture and the respective land-grant colleges have a lot of this information on hand.

And, so, within a period of 1 year, most certainly, the Commission can devote itself to the task, already having acquired a lot of information which we will not have to duplicate.

Furthermore, the incentive of a time deadline will expedite and give a needed sense of urgency for the Commission to complete its task as quickly and as expeditiously as possible.

The committee has also reduced the authorized amount of funds that can be appropriated from $2.5 million to $1.5 million. The Senate bill provides for an authorization of $2.5 million over a period of 2 years. The House bill provides for an authorization of $1.5 million for approximately this 15-month period to which I have referred.

In my opinion this amount of $1.5 million is still excessive. At the appropriate time during the discussion of this bill I intend to offer the same amendment which I offered in the Committee on Agriculture, to reduce the authorization to $500,000. My amendment failed in the committee on a 16 to 16 tie vote, after one member of the committee changed his vote so the original amendment prevailed. One of the reasons why I propose this amendment is so that the conferees on the part of the House will be in a position to do a little better bargaining.

Mr. Chairman, it seems to me that if we adopt the amendment which I propose to cut this to $500,000, then we will be in a very good position to bargain with the other body and come up with a reasonable figure which in my judgment will be sufficient to carry on the work over the period of the next 15 months.

Another committee amendment which improves this legislation is the one which directs the Commission to make findings and conclusions only. The original bill provided that the Commission should make recommendations to the Congress and to the President.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. HOEVEN. Mr. Chairman, I yield myself an additional 5 minutes.

The committee has also adopted amendments to require at least three members of the Commission to be present in order to conduct a hearing. This was done in order to prevent one-man star chamber proceedings. Our committee has never approved of one member of the committee conducting a hearing and we do not think it makes sense for one member of the Commission to hold star chamber proceedings and conduct hearings. So, we have provided that at least 3 members of the 15-man Commission shall be present if a hearing is conducted.

Another amendment authorized the Commission to require Government agencies to cooperate with the Commission rather than authorizing these agencies to do so, as was originally proposed. When the Commission wants this information they do not want to simply authorize and leave it up to the whims of any department as to whether or not they shall furnish the information. We direct them to furnish the information when requested.

Finally the committee bill provides that the Executive Director of the Commission will be hired by the full Commission rather than by the Chairman alone.

If this is going to be a bipartisan effort we want to make it bipartisan all the way through. We do not want one individual to be able to hire all the employees of the Commission. The full Commission certainly should have something to say about it.

Furthermore, the amended bill provides that the Executive Director, with the approval of the Chairman, will hire and fire the staff. These changes are a modest improvement, but I submit something else must be done. Therefore, I propose to offer another amendment at the proper time to insure as fully as possible that this Commission and its staff will be as truly bipartisan as possible. If we are going to have a bipartisan Commission let us have a bipartisan approach to the hiring and firing of the employees of the Commission also. I think that makes sense. If we want to do an objective job and keep this investigation out of politics, we must approach this matter on a bipartisan basis all the way through.

Under the bill as now written the executive branch will have direct control of the staffing of this Commission because the Chief Executive will appoint the Chairman of the Commission and the Chairman in turn will appoint the Director. This provision in the bill is undesirable in legislation which is designed to create a bipartisan commission. We all realize the political facts of life and know the Commission would include a preponderance of members of the majority party, including staff members.

The minority members of the Commission should be assured of sufficient technical and professional help to prepare and present thorough and accurate dissents if necessary. Conversely, the members of the Commission who for one reason or another may not subscribe fully to each and every finding and conclusion of the Commission should also have professional and technical assistance available to them.

My amendment is a simple one. I propose merely to provide that the staff selections be left to the Commission rather than to the executive branch through the Chairman and the Executive Director.

In summary, Mr. Chairman, this legislation has a worthy and valuable purpose. I can foresee a significant contribution toward a better understanding of the agricultural-business community if the Commission proceeds with its work in an efficient, expeditious manner. The Committee on Agriculture has adopted several amendments to this bill which improve it substantially over its original form. I propose two more amendments in an effort to further improve the bill. The authorized amount of funds is still excessive, and the staffing procedure needs revision.

I hope that these amendments will receive favorable consideration.

Mr. McLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. HOEVEN. I yield to the gentleman from Illinois.

Mr. McLOSKEY. I thank the gentleman for yielding.

First, I should like to compliment the distinguished gentleman from Iowa for his very fine explanation of this bill, likewise the chairman of the committee for presenting this bill on the floor of the House.

As the gentleman now in the well knows, I come from a district which is largely agricultural. I am certainly in agreement with the statement made by the gentleman from Iowa that those who are engaged in farming at this time have found themselves in a real price squeeze. While I think many of the answers that this Commission may find are already available if we will use them, I am hopeful that this report will be factual, that it will be worth while, and that ultimately from this we will gain enough knowledge which can help the people in the agricultural business.

For this reason I am supporting the bill, and I desire to associate myself with the statement of the gentleman from Iowa [Mr. HOEVEN].

Mr. BETTS. Mr. Chairman, will the gentleman yield?

Mr. HOEVEN. I yield to the gentleman from Ohio.

Mr. BETTS. I would like to inquire of the gentleman if this proposed Commission and its actions would contemplate any effect on meat prices?

Mr. HOEVEN. I think that is included. I called attention to that matter a few moments ago. If the gentleman will refer to page 2 of the bill, section 4, under "duties of the Commission" he will find the following:

> The Commission shall study and appraise the marketing structure of the food industry, including the following:

Then it goes on to name five items which may be included. In my judgment section 4 of the bill would include investigation into the matter of meat imports as they reflect on meat prices.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. HOEVEN. I yield to the gentleman from Illinois.

Mr. FINDLEY. I intend to offer an amendment to clarify this joint resolution further. The wording of my amendment will include among the purposes of the Commission to study the effect of imported food on U.S. producers, processors, and consumers. I believe my amendment if accepted will lessen the effect of imported meat.

Mr. HOEVEN. I approve of the gentleman's amendment and expect to support it.

Mr. POAGE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. ROOSEVELT].

Mr. ROOSEVELT. Mr. Chairman, President Johnson in his farm message to the Congress called for an investigation of the effects of marketing power in food distribution. As you will recall, the President said:

> There is one more pressing need if American agriculture is to be strengthened. The recent changes in the marketing structure for distribution of food are as revolutionary as those in production. There are some 200,000 retail grocery stores, but we know that $1 out of every $2 spent for groceries goes to fewer than 100 corporate, voluntary, or cooperative chains. Our information about how this greatly increased concentration of power is affecting farmers, handlers, and consumers is inadequate. The implications of other changes that take place as vertical integration and contract farming have not been fully explored. I urge that the Congress establish a bipartisan commission to study and appraise these changes so that farmers and business people may make appropriate adjustments and our Government may properly discharge its responsibility to consumers.

In response to the President's proposal, the Committee on Agriculture has now placed before us, with its favorable recommendation, House Joint Resolution 977, which was introduced by the chairman of that committee, the most distinguished and able gentleman from North Carolina [Mr. COOLEY]. I have had the honor to join with the gentleman from North Carolina [Mr. COOLEY] in sponsoring a resolution identical to the one presently before us for consideration. I fully concur in the amendments which the committee added after holding hearings and fully considering the matter.

The food industry has a direct bearing on our entire economy and our entire population. The prosperity of our farm people, the prices paid by consumers, the very existence of hundreds of thousands of small businessmen, the vitality of our entire Nation's economy—each of these is immeasurably affected each day by the workings of the intricate marketing processes which bring food daily to the tables of over 190 million Americans.

As President Johnson has pointed out, recent years have seen great increases in concentration of power within the food sector of our economy. Retail chainstores have proliferated; food manufacturers have diversified and grown to unprecedented sizes; vertical integration has taken place to a degree undreamed of in the past. Retailers have entered into both the processing and production phases of the industry. Processors have entered into marketing. The entire structure of the industry has undergone many transformations as a result of the vast growth in market power of the industry's largest firms.

Far too little is known concerning the effect of this increasing concentration. As the members of the Federal Trade Commission said on December 9 of last year when they appeared before my Small Business Subcommittee on Distribution:

> There is a considerable void in our economic intelligence in matters such as vertical integration forward toward the market or backward toward the extracted industry. * * * There are no data on the costs and profits of larger corporations—which would afford intelligent appraisal of the "degree to which marketing or other levels of integrated firms are subsidized by other activities of the firms." No adequate data are available on price trends. * * * Information as to supply squeezes is wholly inadequate. * * * These gaps in our economic intelligence are a major problem. * * * In short, it is the view of the Commission's economic staff that current statistics in this area are inadequate.

The National Commission on Food Marketing which would be established under the provisions of House Joint Resolution 977 presents an opportunity for an intensive study of these problems within the food industry.

One of the areas that would receive prime emphasis of the study to be undertaken by the National Commission on Food Marketing would be the impact of current marketing practices and conditions upon the farm sector of our economy. This is most important. The farm people of our Nation are entitled to a fair return for their labor and their investment. Nothing is so vital to a nation's people as an adequate supply of food. Available evidence indicates that at the present time our farmers are not receiving their fair share of the food dollar.

As a Representative from an urban district, I am naturally concerned with seeing that the consumer gets a square deal. It is hard to understand why food prices continue to increase while simultaneously the farmer receives less for the same goods. If market power is being misused or abused, the consumer is entitled to know this fact. If remedial legislation is necessary, the Congress must have all the facts before we can act intelligently.

Lying between the farmer and the consumer is the entire processing and distributing structure of the food industry. Conditions in this sector of our economy are of concern in terms of their effect on the farmer and the consumer. There is also cause for alarm in the erosion of opportunity for small businessmen resulting from the staggering growth of economic concentration and the resultant increase in raw market power of dominant firms. Nor are all the problems in this industry structural in nature. There are—as the antitrust lawyers put it, behavioral problems as well. On February 3 I placed in the CONGRESSIONAL RECORD a list of 32 recent cases involving the food industry, which are under study by my Small Business Subcommittee on Distribution. These cases are before the courts and the Federal Trade Commission and involve such practices as price fixing, the restricting of competition, coercion, bid rigging, and similar conduct. I do not mean to imply that the majority of companies in this industry have engaged in these practices, nor would I want it thought that the mere filing of a case implies guilt. The number of these cases does, however, strongly suggest that study by the proposed Commission could be most beneficial.

We live in an age of increasing bigness. The June 1 issue of U.S. News & World Report states that in the first 3 months of 1964, 25 percent of all corporate profits went to 8 large companies; 18 percent of all corporate profits went to the 64 next largest companies. The remaining 57 percent of profits were shared by 1.3 million companies. This movement into bigness is growing across the spectrum of our entire economy.

The corner grocery store has long since been a victim of this trend. Many predict that the family farmer will soon join him. Although I do not share their views, the statistics in this respect are not altogether reassuring.

My Small Business Subcommittee on Distribution has done a great deal of work on this problem. During the 86th Congress, we held hearings in Washington, in Denver, Colo., and in San Francisco, Calif. At our San Francisco hearings alone over 2½ tons of documents were studied by the staff of the subcommittee. We found that the fresh fruit and vegetable industry in California was dominated by the representatives of 15 firms known as the California Street Buyers. Small processors of fruit and vegetables were faced with the competitive economic buying power of these 15 who appeared to be operating as a team. The committee was told that when a small processor or seller suggested that the price offered by the buyers was too low—frequently below his costs—he was referred to as "uncooperative." It was shown that an uncooperative seller would not fare very well in his dealings with the team. If he spoke out against the conditions, according to the testimony received by my subcommittee—"he would be punished."

Because of the enormity of the logistics of the problem, and the sharply limited source of the subcommittee, we found great difficulty in digging out all the facts. Despite the dedicated work of the committee general counsel, Everett McIntyre, now a member of the Federal Trade Commission, we found it impossible to do all that needed to be done.

Time and time again witnesses would come to us informally and tell us what was going on and conclude by saying that they simply could not take the stand and testify to these matters as it would mean bankruptcy for them.

A number of the conditions that we were able to uncover, however, were literally appalling. While many areas enjoyed the benefits of healthy competition we found others in which major chains appeared to be operating under an agreement not to compete, a situation in which each chain would exclusively serve a portion of a city or other major market. The share of the market held by individual firms was, in many areas, found to exceed the national level. For example, we found that 3 major chains operated at that time in 1,713 counties which contained 90.1 percent of all U.S. families accounting for 92.5 percent of total U.S. food store sales. At the national level, these three chains enjoyed 20.4 percent of total U.S. grocery store sales.

It is almost impossible to comprehend the complete disparity between this kind of market power and that possessed by the individual farmer or small food processor who sits across the bargaining table from these large firms.

It is inevitable that such disparity would lead to the kind of unfair practices which we found such as price discrimination and other preferred treatment demanded by large buyers from small sellers.

It is my hope that this House will act favorably upon House Joint Resolution 977 and that there will be appointed to the Commission an objective, impartial group representing the points of view of all the many interests who have so vital a stake in the preservation of competition in the food industry, and the continuance of an adequate supply of food at reasonable prices to our growing population.

Mr. POAGE. Mr. Chairman, I yield such time as he may desire to the gentleman from New Jersey [Mr. JOELSON].

Mr. JOELSON. Mr. Chairman, I am pleased to support the bill under consideration as I feel it to be in the best interest of consumers.

We constantly hear pleas for help from representatives of farming areas who tell us that farmers are in trouble economically and that farm income is off. Yet the cost of living indexes regularly indicate a rise in the price of food.

I certainly hope that full investigation will be made of the strange paradox and puzzling contradiction whereby farmers call for help from their Government while consumers are paying skyrocketing prices in order to feed their families adequately.

It is high time that all the facts are laid on the kitchen table. The public should know if it is the victim of unconscionable profiteering somewhere along the line.

Mr. HOEVEN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. LATTA].

Mr. LATTA. Mr. Chairman, I approve of the objectives of this study as proposed in House Joint Resolution 977. In fact, a couple of years ago when the price of hogs fell to $11 a hundredweight and pork chops were selling in stores at 89 cents a pound, I proposed that our committee make an investigation into this price differential. I thought our committee could have done a very good job at that time and that that investigation should have been carried out. Likewise, I think our Agriculture Committee could do a very good job in investigating this matter today. I proposed the same in the committee and it was rejected. Having been voted down, I go along with the objectives of this study by an independent commission. It may be that it will have more time to study this matter, which will consume a considerable amount of time, than our Agriculture Committee will have.

I agree that this should be a bipartisan commission and I hope when the time comes for the Commission to hire a staff, it will abide by the bipartisan nature as set forth on page 1 of the resolution.

I think it is most necessary that this Commission get to work immediately. I just read a release by UPI that our farm income had hit the lowest point in 7 years. Certainly, as has been pointed out here today already, the farmer is not getting very much of the consumer's dollar that is spent on food. We should find out why.

The UPI release read as follows:

> FARM INCOME NOW LOWEST IN 7 YEARS
>
> WASHINGTON.—Prices farmers received for crops and livestock fell two-fifths of 1 percent during the month ending May 15, the Agriculture Department reported Thursday.
>
> This decline left farm prices 2 percent below a year ago, and the lowest at mid-May since 1957.
>
> Cattle prices, which have become a major economic headache, declined again during the month and were at the lowest level since October 1957.
>
> The Department's monthly farm price report also showed that the cost of production and living supplies purchased by farmers fell one-third of 1 percent from April's record high, primarily because of lower prices for feeder livestock and livestock feed. Farm costs were one-third of 1 percent above the level a year ago.
>
> A comparison of farm commodity prices and farmers' costs that showed prices in the month ending May 15 averaged 75 percent of parity. This was unchanged from the mid-April figure, the lowest in many years, and compared with 77 percent in mid-May a year ago.
>
> Parity is the price needed to put the value of products sold by farmers on a theoretically fair level in comparison with the cost of things they buy. The parity figures do not, however, measure such farm income supplements as direct Federal payments to farmers or the cashable marketing certificates which some wheat producers will get later this year.
>
> The Department said lower prices for cattle, wholesale milk, and eggs were mainly responsible for the decrease in the index of prices received by farmers during the month. These declines were partially offset by higher prices for potatoes, apples, and hogs.

With this lower farm income being cited by the Department of Agriculture, I think it is most timely that this Commission be created and that it get down to work immediately.

I am glad that the committee saw fit to recommend an amendment to speed up the report of this committee to July 1, 1965, rather than to have the committee report on July 1, 1966.

I am in agreement with the amendment recommended by our committee that three members of the Commission may conduct hearings rather than to have only one member conducting these hearings.

However, I disagree with the amount of money authorized for this Commission. Certainly, $1,500,000 is a lot of money to be spent by a commission in 1 year's time. According to the Department of Agriculture, there will be 74 positions which will cost about $740,000 in this Commission's setup. By comparison, our Committee on Agriculture has a budget of $150,000. We only have 12 employees including the typists and clerks employed by our committee. This Commission wants 74. I think this appropriation is too much. I think the job could be done with the cooperation of the Congress and with the Department of Agriculture for a much lesser sum, and I shall support an amendment to reduce the amount from $1,500,000 to $500,000.

Mr. POAGE. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. ROSENTHAL].

Mr. ROSENTHAL. Mr. Chairman, I rise in support of the legislation and urge its adoption. As a cosponsor of the bill to create a National Commission on Food Marketing, I would like to join with my colleagues in asking the House to support this necessary legislation.

During the past two decades there has been a tremendous growth and development within the marketing structure of the food industry, and I firmly believe that now is the time to conduct a thorough study of the changes which have taken place.

On April 5 of this year the Committee on Agriculture, of which I am a member, issued a report entitled "Food Costs—Farm Prices," which pointed to the ever-widening spread between the prices the farmer receives and what the consumer pays for food. There have been many voices raised within and without the food and farm industries seeking an explanation of this ever-widening gulf. The development in the farm and food industries raises many questions. If the family farm is disappearing, as many allege, has not the family grocery store also seen its demise? What has replaced this grocery store? Is there a small size wholesaler still in existence; if not, who or what has replaced him? Is there a family processor still serving the community; and if not, who has replaced him? If, as reported, in the last 10 years more than 130,000 food retailers closed their doors, who has replaced them? If, as reported, the largest 10 percent of the retail outlets do more than two-thirds of the dollar sales, is there a benefit to the farmer, the consumer or anyone? Would it be wise to reverse any of these changes, or is it in the interest of all Americans to stimulate this type of growth? Has the battle of the brands and the concomitant advertising costs been borne by the American consumer and his ally, the former family farmer?

In 1963 consumers paid $67 billion for food produced on the farm, and from that sum farmers received $21.3 billion. Is there an adequate explanation from someone as to where the $45.7 billion went? In the past 10 years the price of bread to the housewife rose 21.8 percent. The amount the farmer received was down 2.2 percent. In the same 10 years, prices on milk and other dairy products were up 7.3 percent for the housewife, but down 5.2 percent for the farmer; meat products were up 5.8 percent for the housewife, but down 15.2 percent for the farmer; shortening was up 1.3 percent for the housewife, but down 25 percent for the farmer; and other food products cost the consuming public an additional 9.7 percent, while the farmer received 5.3 percent less.

Growth of American industries and business is generally regarded as good and healthy for the economy, and thus for all Americans. But one sometimes wonders if that growth is at the expense of other participants in our society.

Safeway Stores Inc., has increased sales from $1,800 million in 1954 to $2,650 million in 1963; Grand Union has increased sales from $201 million in 1953 to $630 million in 1962; Great Atlantic & Pacific has increased sales from $3,989 million in 1953 to $5,310 million in 1962; the Kroger Co. has increased sales from $1,108 million in 1954 to $2,102 million in 1963.

It may well be that each of these companies both earned and deserved their increased capacity to serve the American housewife. We know that the shockwaves emanating from their growth have disturbed previously established patterns in the processing, packing, and transportation of food. But we do not know if these changing patterns have affected the farmer and the consumer either favorably or adversely. It is important that we understand these patterns better.

Our population is increasing rapidly and there will continue to be, and should be, greater production and consumption of food in America. The marketing structure and distribution of this No. 1 product deserve public attention and public scrutiny because, in the last analysis, it is the public that has the great and paramount interest. A comprehensive study, impartial in nature, by responsible citizens, including Members of Congress, would generate great interest in this subject and would unquestionably permit greater public understanding of a highly involved but useful segment of the American private enterprise system. It may be that the Commission would find that the food industry has rendered commendable, useful service and that there is neither room for improvement nor reason for modification. On the other hand, the Commission may find that the system which brings food from the farm to the dinner table requires the attention of this lawmaking body.

All Americans—farmer and consumer alike—have a right to know if their efforts and their money are being appropriately used in the free marketplace, within the confines of the free enterprise system. Most retailers welcome this inquiry so that they will have an opportunity to present their case to the American public.

It is obvious, I believe, that the American people want their national food policy based upon the production and the utilization of abundance. They are willing to pay for this kind of a food policy. Yet they have the right to know if they are getting what they pay for—whether their expenditures are being directed to the right places for the right reasons—and if there is an equitable sharing of privileges and responsibility all along the line in food production, processing, distribution and sales.

The proposed National Commission on Food Marketing, representing the American people, can make a substantial and constructive contribution to the public's right to know, and I am hopeful it will be launched on this task with all possible speed.

Mr. POAGE. Mr. Chairman, I yield to the gentleman from Texas [Mr. MAHON].

Mr. MAHON. Mr. Chairman, this study will cost money, but in my judgment it will be money well spent. I wish to be recorded as strongly supporting this legislation. This study could mean much to both producers and consumers.

Mr. HOEVEN. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. QUIE].

Mr. QUIE. Mr. Chairman, I rise in support of House Joint Resolution 977.

Even though there have been a number of studies previously conducted, in the Department of Agriculture and elsewhere, with respect to the cost of food, from its production on the farm to the processing and marketing of that food, I believe this Commission can bring all the studies together and make a report which will have a meaningful effect.

There have been commissions specially set up before for agriculture. There was a Presidential commission set up in 1908 which went a long way toward enabling us to develop such activities as the Extension Service and many other activities that have been beneficial to agriculture.

Even though food is a bargain, people are asking today why food costs so much at the retail store and why the farmer is receiving so little. Especially now with beef prices down for the producer to drastically low levels, it is a question in the marketing of beef.

As I talk with my farmer friends in Minnesota, I find many of them point their fingers at imports, which we in the Congress at least have been talking about doing something about, although this Congress has done nothing to date. They talk about the problems caused by the increase in production of beef in this country. Many are concerned about the effects on the market which the food chains and packers have had because of the feeding of livestock themselves.

There are some interesting figures in this regard. The USDA has provided them for the record. I should like to cite them.

The food chains in 1957 fed out 25,600 cattle, and in 1962 it was the same amount. This was one-tenth of 1 percent of all the commercial slaughter in this country. So during that period of time, from 1957 to 1962, this has been a relatively steady amount, approximately one-tenth of 1 percent throughout the entire period.

The 10 major packers have shown an increase. In 1957 the percentage of commercial slaughter of cattle fed out by the 10 major packers was six-tenths of 1 percent, and in 1962 it was 1.1 percent. It can be seen that this was about double, though not quite double—157,100 in 1957 and 296,400 in 1962.

There were other packers who fed out 1.4 percent of all commercial slaughter in 1957, and this increased to 2.4 percent in 1962.

The total for all the packers and the chainstores in 1957 was 2.1 percent of all commercial slaughter, and this increased to 3.6 percent in 1962.

This may not seem like a large amount. However, what appears to be, with respect to the total, a slight change in production pattern in our country, may be having quite a substantial effect, especially in some local communities where the feeding by chains or packers might be conducted on a greater scale than in other communities, to affect prices there.

There are adjustments going on in the food industry. Some appear small in percentage, but have a drastic effect on the farmers or producers of the food.

Many of these changes have also had the effect that the consumer has seen no sign of decreased farm prices. The changes that have come along, such as built-in maid service and other factors such as this, have had a very substantial effect on increasing the price to the consumer. I think this Commission will lay to rest many of the suspicions that have been aired throughout this period of time and it will give an authenticity to the studies, many of which have been made privately, and by the Department of Agriculture. I would have preferred that fewer Members of Congress would have served on this Commission, although I do not plan to offer an amendment to that effect. I say this because I think five Members of the House and five of the Senate will have a difficult time in taking the time to make this study. Due to that fact, we will have to depend a great deal on the professional staff they will have hired. I think that it would have been better had there been more lay people on that Commission; that is, people who have had some related experience in industry and production in order that they might have a background of understanding of the problems in this field. However, I do not think it is serious enough so that we ought to go through with an amendment.

Livestock fed by meatpackers for 30 days or more with comparisons, 1957–62 [1]

Type of packer and year	Cattle			Calves			Cattle and calves	
	Number of firms	Thousand head	Percent of commercial slaughter	Number of firms	Thousand head	Percent of commercial slaughter	Percent of fed marketings	
							13 States [2]	28 States [3]
10 major packers:								
1957	8	157.1	0.6	2	1.9	(4)	1.7	----------
1958	7	208.2	.9	3	9.4	0.1	2.2	----------
1959	6	144.5	.6	2	13.6	.2	1.5	----------
1960	8	239.8	1.0	3	22.7	.3	2.4	----------
1961	8	294.5	1.2	2	19.1	.3	2.6	----------
1962	8	296.4	1.1	2	19.8	.3	2.6	2.2
Retail food chains:								
1957	3	25.6	.1	----------	----------	----------	.3	----------
1958	3	19.5	.1	----------	----------	----------	.2	----------
1959	3	30.0	.1	1	.7	(4)	.3	----------
1960	4	27.1	.1	1	.1	(4)	.3	----------
1961	4	39.0	.2	----------	----------	----------	.3	----------
1962	2	25.5	.1	----------	----------	----------	.2	.2
Other packers:								
1957	135	361.6	1.4	25	11.4	.1	4.0	----------
1958	161	461.0	2.0	36	31.0	.3	5.1	----------
1959	143	418.6	1.8	31	9.7	.1	4.1	----------
1960	148	548.3	2.2	26	18.7	.2	5.1	----------
1961	191	532.0	2.1	39	34.6	.5	4.8	----------
1962	197	614.4	2.4	47	25.3	.3	5.2	4.5
Total:								
1957	146	544.3	2.1	27	13.3	.1	5.9	----------
1958	171	688.7	2.9	39	40.4	.4	7.5	----------
1959	152	593.0	2.6	34	24.0	.3	5.9	----------
1960	160	815.2	3.2	30	41.5	.5	7.8	----------
1961	203	865.5	3.4	41	53.7	.7	7.7	----------
1962	207	936.3	3.6	49	45.1	.6	8.0	6.9

[1] Summarized from annual reports of packers filed with the Packers and Stockyards Division, AMS. Livestock fed separately by owners, directors, officers, and employees of packer or nonreporting subsidiaries and affiliates are not included.

[2] The 13-State fed cattle marketing data when published by the Statistical Reporting Service, USDA, included Ohio, Indiana, Illinois, Minnesota, Iowa, Missouri, South Dakota, Nebraska, Kansas, Texas, Colorado, Arizona, and California.

[3] Prior to 1960, the 28-State fed cattle marketing data were not tabulated by the Statistical Reporting Service. Includes 13 States listed in footnote 2 and Pennsylvania, Michigan, Wisconsin, North Dakota, Georgia, Alabama, Oklahoma, Montana, Idaho, Utah, Wyoming, New Mexico, Nevada, Washington, and Oregon.

[4] Less than 0.05 percent.

Therefore, Mr. Chairman, I support House Joint Resolution 977 as it is.

Mr. Chairman, I yield back the balance of my time.

Mr. POAGE. Mr. Chairman, I yield such time as she may desire to the gentlewoman from Missouri [Mrs. SULLIVAN].

Mrs. SULLIVAN. Mr. Chairman, I congratulate the chairman of the Committee on Agriculture, the gentleman from North Carolina [Mr. COOLEY] for the prompt and effective manner in which he and his committee have acted on House Joint Resolution 977 to establish a National Commission on Food Marketing. I am glad to take this opportunity to express my appreciation for the cooperation he has given to the President and to the consumers of this country, as well as to the farmers, in seeking answers in this fashion to the complex problems resulting from the changing pattern of food marketing in this country.

As chairman of the Subcommittee on Consumer Affairs of the Committee on Banking and Currency, I have become familiar with many of these problems and have been struck by the bowling-pin effect of everything which happens in the marketing of food.

By "bowling-pin effect" I mean that each segment of the food industry is pounded and churned around in succession by anything affecting a particular segment. If crop damage occurs, prices immediately rise from processor to wholesaler to retailer to consumer, even though the damage may have been to a crop to be harvested sometime in the future. On the other hand, when there are surpluses, the consequences down the line are much slower in being felt, but as price cutting finally takes place, it also acts like a bowling ball crashing into the midst of the 10 pins.

Now these things are not necessarily unusual in any field where supply and demand are the controlling factors, but in the food industry, much has changed in recent years and the patterns are not nearly as clear cut as they used to be. Marketing and pricing policies vary widely among stores of the same chains across the country; for instance, here in Washington, with so many major food chains competing very vigorously for customers, I understand the average markup is much lower than in the country generally, and frequently advertised prices for chainstore items here are much lower than the prices the same chains advertise the same items for elsewhere.

MUCH BROADER THAN PROBLEMS OF LIVESTOCK INDUSTRY

I am aware of the fact that much of the pressure for the investigation this resolution would authorize came originally from the beef raisers seeking answers to the questions they raised as to why retail prices of beef did not in many instances reflect the lower prices received by the livestock raisers. But I am glad that in the formation of the plans for an investigation, the administration and the Committe on Agriculture broadened the scope to include all aspects of food marketing, rather than this one narrow issue of livestock prices as compared to retail beef prices.

On the whole, the American consumer eats better, and at the cost of a lower percentage of total income, than any other group of consumers in the world. For this we can thank our farmers, the food industry, and Government—for Government has for many years played a major role in the assurance of abundance and in the assurance of quality and of the wholesomeness of our food. Of course much remains to be done in the field of consumer protection insofar as food wholesomeness is concerned—new problems arise all of the time as a result of technological changes, and people still get poisoned. But on the whole, our food is nutritious, appetizing, high in quality, and generally reasonable in price.

For the average-income family, therefore, a trip to the supermarket means stocking up not only with the usual staple foods and meats but with all sorts of luxury items our parents never dreamed of being able to afford as a frequent thing, or even as a rare treat. The low-income family, on the other hand, finds a trip to the grocery store a painful experience, for spread before it are the most attractive of food products which it just cannot afford.

FOOD STAMP PROGRAM HELPS TO FILL GAP

Worse, it is often difficult for the very-low-income family to save money by buying foods which do not reflect the so-called "built-in maid service" the industry boasts of providing.

The food stamp program, in those areas of the country where it is now operating on a pilot basis, has provided these families for the first time with an opportunity to share in the great abundance of food in this country, and to approximate the American standard of living at the dinner table. Subsidizing the food purchases of low-income families is a far more efficient and even less costly—or no more costly—way of helping the farmer to reduce surpluses than handing out unappetizing surplus food packages to the needy at monthly intervals, such as is being done in most areas of the country where there are substantial numbers of needy people. I think, whatever this proposed commission finds or reports about food marketing, the need for the food stamp program will remain.

I believe that the proposed commission can perform a great service to the American public, and particularly to consumers, by analyzing the food industry as it now operates; by looking ahead to the probable changes likely to materialize in food marketing; by studying the interrelationships of the various segments of the industry to determine if the farmer, the processor, the wholesaler, and the retailer battle under relatively fair conditions for a fair share of the consumer dollar, and to determine if the vaunted power of the consumer is really effective in enabling him to buy what he wants rather than what the industry wants to sell; and, also, and this is most important, analyzing the effectiveness of the services and regulatory activities of the Federal Government in this field.

I support the resolution and urge its adoption.

Mr. POAGE. Mr. Chairman, I yield such time as he may desire to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Chairman, as a cosponsor of House Joint Resolution 977 and the sponsor of an earlier, similar measure, House Joint Resolution 974, I want to commend the committee and Chairman COOLEY for their prompt and constructive action in bringing the National Commission on Food Marketing to an early House vote. The committee's amendment accelerating the Commission report to July 1, 1965, indicates how widespread the feeling is that there is little time to spare in unearthing essential and presently unknown information about the chain of commerce which makes up our agri-business complex. And, as the House and Senate hearings revealed, this sense of interest and urgency is shared by virtually all those involved, including the major farm organizations, consumer representatives, food processors, independent retailers, and the major spokesmen for the supermarket industry.

Mr. Chairman, the purpose of the National Commission is to investigate a miracle—the miracle of America's food revolution which has made this the best and most cheaply fed industrial nation in the world. Like so many miracles, this one is surrounded by certain mysteries and, increasingly, by growing doubts. These doubts center on mounting evidence that farmers and consumers as well as many processors and retailers may not be participating equitably in the present or future benefits of the food revolution.

For example, in the period 1947–49 to 1963, the consumer price index for all commodities rose 31 percent, while the marketing margin of the average consumer food basket rose by a substantially higher rate—44 percent. During this time, prices received by farmers fell over 12 percent. Some part of the sharp increase in market basket prices is certainly due to the rises in labor, packaging, and distribution costs, but the fact remains that the chain food stores are now enjoying net returns on stockholder's equity which are almost 20-percent higher than the comparable figure for department and specialty stores, according to the latest edition of the "Marketing and Transportation Situation" published by the Department of Agriculture.

Mr. Chairman, figures such as these, and others showing the growing concentration of power within the food industry, indicate the problem, but they do not really describe it. What we need to know, and what the Commission would attempt to discover, is the way in which our food industry—America's largest business—got the way it is, and whether the industry's pattern of growth is or will continue to be a rational and beneficial one.

To do this, the Commission will have to do more than take a sequence of still pictures of the industry. It will not be enough to compile a series of graphs and charts showing the decline in the number of independent retailers, or the decline in the number of buyers who make the decisions which control a specified percentage of food purchases throughout the country.

An essential aspect of the Commission's duties will be an examination of the actual marketing behavior in the agri-business complex, to determine what factors have contributed to its present structure, and what the future result of these practices is likely to be.

Thus, as an example of a pertinent subject of inquiry, the Commission might want to determine whether large farmers, processors, or retail chains enjoyed competitive advantages, for any reason, in seeking credit resources; in acquiring equipment, farm commodities, or other goods; in getting promotional space from their buyers; or in receiving transportation rate differentials. In short, the Commission would be authorized to inquire into competitive practices and terms of trade both within the food industry, and between the food industry and its suppliers. This is clearly the intention of section 4 of the resolution, but I think it should be spelled out for the record to avoid possible confusion at a later time.

Mr. Chairman, it would be impossible to overemphasize the significance of the work which this Commission would perform. The structure and organization of the American economy have experienced dramatic changes since World War II, perhaps nowhere more far reaching than in the so-called agribusiness complex of farming, food processing, and food distribution. I suspect most Americans have not been aware of the magnitude of these changes nor of their potential implications for all Americans. In our preoccupation with the pressing problems of the day, we may be guilty of neglecting the competitive health of America's oldest, largest, and, in many respects, most important industry.

Our agricultural complex eclipses nearly all others. In 1963, the total assets of America's several million farms amounted to $214 billion. This was about nine times greater than the total assets of all corporations manufacturing motor vehicles and equipment and about seven times greater than the total assets of all the corporations in the primary metals industries. As a matter of fact, the total assets of American farms exceed the combined assets of the country's 500 largest manufacturing corporations.

Agriculture is only the first step in the agribusiness complex. There are about 30,000 manufacturers of food and related products. In 1962 these concerns had combined assets of about $26 billion and employed 1,681,000 persons.

Finally, in 1963 there were 321,000 retail food stores, which employed well over 1 million persons. Currently, sales of retail food stores are running at an annual rate of near $60 billion; this is greater than the sales of any other American industry.

Radical changes are occurring in the competitive organization and behavior of the food industries. Two industries with which I am particularly familiar are the dairy and vegetable canning industries. I suspect recent happenings in these fields mirror those occurring in many other segments of food processing. Consider these facts. Between 1950–51 and 1961–62 the total number of fluid milk plants in the United States declined from 16,089 to 7,176, or by over one-half. There also has been a substantial decline in the number of ice cream plants since 1950. Whereas in 1950–51 there were 4,202 ice cream plants in the United States, by 1961–62 this number had declined to 3,226. A recent study conducted by the University of Wisconsin indicates that in Wisconsin the number of dairy plants manufacturing various types of products experienced a similarly drastic decline. For example there were only 67 percent as many butter plants in 1958 as in 1951. The comparable percentages for other important products were as follows: Cottage cheese 50 percent; ice cream 82.6 percent; milk distribution 47.7 percent; and cheese factories 68.9 percent.

The fruit and vegetable canning industry has experienced a similar transformation in the past few decades. Between 1947 and 1958, the number of fruit and vegetable canning plants in the United States dropped from 3,007 to 2,337. In my home State of Wisconsin the decline has been similarly precipitous. Whereas in 1945 there were 138 canners in Wisconsin, by 1963 the number of canners declined to 69.

It is clear from these figures that small independent businesses in the dairy and canning industries have experienced an extremely high mortality rate in recent years. The economic causes and competitive significance of these changes are by no means clear. But it seems to be conceded by most close observers of the food industries that many changes at the farm and processor levels in the food industries are reactions to changes in the structure of the food retailing segment of the industry. Close competitive interrelationships exist among the various segments of the food complex and competitive behavior at one level necessarily is reflected at other levels. It is, therefore, not surprising that there is a keen interest in the broad structural changes which have occurred at the food retail segment in recent years.

Information concerning the broad structural changes at the retail level are quite well documented. There has been a drastic decline in the number of independent retailers since World War II. For example, between 1948 and 1958 the number of grocery stores declined from about 378,000 to 260,000, or over 10,000 per year. On the other hand, the share of total grocery store sales accounted for by chains with four or more stores increased from about 32 percent in 1945 to about 50 percent in 1963. This increase in market share represents a shift in sales in favor of chains of about $10 billion, which is larger than the total sales of most other American industries. Another important development is the growth of so-called voluntary and cooperative chains of independents. These groups have helped many independent retailers survive and grow by giving them some of the most important advantages of large-scale operations. However, one inevitable effect of such group has been to bring about a further increase in the degree of concentration of buying power which small canners, dairies, and other food processors face in selling their products to food retailers. As President Johnson explained in his agricultural message:

> There are some 200,000 retail grocery stores, but we know that $1 out of every $2 spent for groceries goes to fewer than 100 corporate, voluntary, or cooperative chains. Our information about how this greatly increased concentration of power is affecting farmers, handlers, and consumers is inadequate.

A recent Federal Trade Commission study also illustrates the high degree of buyer concentration food processors often face when selling in local markets. The FTC analyzed the degree of concentration in 15 cities and found that, on the average, the largest chain retailer or retailer group accounted for 30 percent of all retail sales and that the four largest accounted for about 63 percent of such sales. This illustrates vividly how dairy and other firms selling to retailers in particular metropolitan areas face very few alternatives in the sale of their products.

I have recited these facts to illustrate some of the recent changes that have occurred in the food industry. I am not accusing any segment of this industry of willful wrongdoing. I am well aware that the food industry, and by this I mean all segments of the food industry from the farmer through to the food retailer, have perfected an economic distribution system unparalleled elsewhere in the world. But many important questions are crying for responsible answers. This is not a problem which can be blinked away. More reliable knowledge is needed and this can be accomplished only by a wide-ranging inquiry into recent trends in the food industries, particularly studies of the changing structure and conduct of grocery retailing, and of how and to what degree these changes are being manifested in pressures to change the structure and performance of the overall agribusiness complex. The ultimate purpose of these studies will be to trace the effects of these changes on farmers, food processing and retailing enterprises, and on American consumers.

Much is at stake here. Certainly we cannot afford to ignore the future competitive organization, behavior, and performance of America's largest industry. The National Commission on Food Marketing provides a precedented but unequaled opportunity to understand this industry, and thereby contribute to its future growth as a rational and beneficial leader among other industries in the American economy.

Mr. POAGE. Mr. Chairman, I yield such time as he may desire to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, I want to commend the committee for the work it has done on this resolution. I think it is important not only to producers and consumers but also to all of the food industry that facts and trends be determined and available. I support the legislation and urge its adoption.

Mr. POAGE. Mr. Chairman, I yield such time as he may desire to the gentleman from Ohio [Mr. VANIK].

Mr. VANIK. Mr. Chairman, I would like to ask the chairman of the committee whether it is intended that this Commission will also investigate the price-fixing activities of organized growers and processors. Yesterday I paid 37 cents for a 4-ounce can of frozen orange juice. I remember paying 12 cents a can for this same product about 4 years ago. While I recognize the effect of frost damage on the citrus crops and the curtailment of production, I also recognize that price levels could be effectively maintained by organizations of growers and processors. Since the production of citrus fruits for concentrates is located pretty much in one section of the country, it is in effect possible for a relatively small group of people to control the market.

Is it contemplated that this Commission will also study the price-fixing activities of such organized groups of processors and producers?

Mr. POAGE. It is contemplated that this Commission will study all of the aspects of pricing of agricultural products all the way from the producer to the consumer and in any segment of agriculture, which would certainly include citrus fruits or any other commodity.

Mr. VANIK. I thank the gentleman.

Mr. HOEVEN. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. FINDLEY].

Mr. FINDLEY. Mr. Chairman, I introduced House Joint Resolution 1009 which is very similar to the resolution which is now before this body. I believe this proposal is a hopeful step, one which can bear fruit for the farmers and consumers of the United States. One aspect of the resolution which does concern me, however, is the amount of money provided. We ought to realize the practical facts of the present situation. The other body has already passed a resolution providing $2½ million for this study. The resolution before this body provides $1½ million. History, if it is any guide, would indicate that out of the conference we will have a conference report between the amount authorized by this body and the $2½ million provided by the other body. I hope there will be support for reduction in the authorization down to the $500,000 level.

I hope some of those who feel that $500,000 may be a little skimpy will still support the move, realizing full well that in negotiations between conferees undoubtedly a figure will be established somewhat between the two levels.

In this connection I also draw the attention of Members of this body to the language on page 12 of the appropriation bill for the Department of Agriculture as it was adopted late last month by this body. That language reads as follows:

> *Provided*, That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and consumer:

This appropriation was for the Economic Research Service, salaries and expenses of the U.S. Department of Agriculture. On the face of it this provides for the next fiscal year an expediture of $350,000 to gather statistics and conduct a special study in the very same field with which this proposed Commission would deal. It is my hope that the Appropriations Committee, when the time comes to make an appropriation for this Commission, will remember that it has already provided a minimum $350,000 to the Economic Research Service; that it will remember that this Commission can make contracts with the Economic Research Service by the language of this resolution and has authority to reimburse any branch of the Federal Government out of the authorized moneys herein named for any services rendered.

It seems to me only commonsense that this $350,000 already appropriated by this body for this same type of study be a part of the authorization which will eventually be made available to this

Commission; and that the sense of this body be that the Economic Research Service will be reimbursed out of this authorization for whatever expenditures it does make.

Finally, Mr. Chairman, I would invite your attention to an amendment which I shall offer to page 3, line 19, to insert the following as a purpose of the Commission to study "the effect of imported food on U.S. processors, producers, and consumers."

The effect of imported meat on the price being received by U.S. livestock producers has been badly neglected. I believe it would be helpful if this Commission would study the situation and bring promptly to light the damaging effect which these imports have had on the livestock producers of America, and thus hopefully lead to remedial action by the administration in the level of meat import quotas it has established with New Zealand, Australia, and Ireland.

Mr. HOEVEN. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska [Mr. BEERMANN].

Mr. BEERMANN. Mr. Chairman, I think it is well appreciated by the members of the Committee on Agriculture and the Members of this body that the American farmer today is receiving a mighty small portion of the American food dollar. The reason why he receives such a small share seemingly cannot be arrived at or ascertained easily.

Therefore, Mr. Chairman, I wholeheartedly support the intent and purpose of this bill which is now pending before us. However, I want to voice a few thoughts in reference to it.

First of all, Mr. Chairman, I believe that if this study is going to arrive at worthwhile conclusions and an unbiased report, it should explore every phase of marketing that adds to the cost which must be passed along to the consumer. In addition, the study should make crystal clear any findings as to inequitable costs. What I have in mind is this committee may encounter a situation where an element in the marketing stream is receiving a disproportionate share of the consumer dollar. If it does, I hope it thoroughly studies these situations.

In addition, I hope it devotes considerable time and study to demand, shipping costs, labor, and local, State, and Federal taxes. When we understand these items fully and their effect on price, we are going to have a much better understanding of why 20-cent beef on the hoof results in 35-cent to $1.50 beef on the hook, or over the counter. The same information needs to be known for other food items. Lack of knowledge in this field has been extremely harmful to the producer, the farmer, the processors, and for all practical purposes it probably has been harmful also to the marketing segment of the food industry in this country.

Then, I think that if this bill is to be meaningful we should examine perhaps, and make some sort of record here as to its bipartisan requirements. The bill, as stated in the first paragraph, states that it shall be a bipartisan effort. In that light the bill calls for five Members from the House of Representatives, five from the other body, and five to be appointed by the President.

Now, Mr. Chairman, as to the bipartisan appointment of these 15 members, what ratio shall we use? Shall we use the 2-to-1 Democrat-Republican ratio in the other body, or the 3-to-2 Democrat-Republican ratio in the House of Representatives? What ratio will the White House use?

Frankly, Mr. Chairman, if this committee is to be representative of the people, I think a much truer relationship, and one that would reflect the people's political ratio as of the last Presidential election, might be to appoint a committee of eight Democrats and seven Republicans. A committee composed of this ratio comes as close as possible in representing the country.

Mr. Chairman, I believe it is important that we emphasize the true factfinding nature of this committee. It is not a witch hunt. It is not designed to provide a background for preconceived ideas on the American pattern of food marketing. It is not a play to have the Federal Government underwrite the cost of smearing American marketing systems. It should be, as it states, a study to determine facts.

Mr. Chairman, I dislike mentioning some of these things but they have to be mentioned in view of previous assertions made in reference to food marketing and in view of current thought that is prevalent in some quarters. These assertions have to some extent led the American public to believe that our marketing system is a stuffed corporate giant being grossly overfed on profit from the public as it grinds the farmer under its heel. I do not believe this is the case.

However, I plead no special cause. I believe in the private enterprise marketing system. What I want are the facts to base a decision on. I want all the facts determined without any preconceived ideas. In other words, I want a detailed study made of our marketing system; not by those who may have preconceived ideas but by those who have an open and curious mind.

Here is another point I would like to bring out: We all realize that Members of Congress are busy and have very little free time, if any. They will be able to devote only a limited time to this study. So much of the work and some of the responsibility for the study's objectivity will fall on the staff. In view of this I certainly hope the bill's bipartisan provision extends through the staff, and that it will be composed of people who will come up with factual and unbiased information.

Mr. Chairman, I would like to concur in the remarks of my colleagues as to the effect of meat imports on prices, and their economic effect on the food industry of this country.

This Commission study on food is sorely needed if for no other reason than to show the consuming public that although the average farmer raises food for about 27 people the return for his enterprise is highly inadequate, particularly under federally regulated programs.

It is also needed because it will bring home to the consumer why his access to the most abundant and wholesome supply of food in the world is an enviable position indeed, maintained at a comparatively low cost to him.

With this view in mind and with unanimous consent, I submit an article titled "Who's Making the Money on Your Beef?" from the June issue of the Farm Journal. The author of the article followed fat cattle from the Ted Panning farm in Nebraska to the meat counter in Ohio and his report goes far to enlighten the consumer as to why 20-cent beef on the hoof is 35 cents to $1.50 beef on the hook, or over the counter.

WHO'S MAKING THE MONEY ON YOUR BEEF?

(By Ovid Bay)

We've just had a big hassle on beef imports; now Congress is about to investigate how the food industry buys and prices food. Farm Journal decided to do some investigating of its own right now, because the Government probe will drag on for months or years. These were the instructions I got: Follow a steer from a feedlot through a packinghouse and into a chainstore right to the meat counter. Tell what happens to the animal and the price every time he changes hands along the way. Find out why steaks from a Choice 1,050- to 1,100-pound steer, which brings 19 to 21 cents per pound at the farm, often sell for over $1 per pound at the meat counter. See if you can find out how the packer and the chainstore decide what the price of dressed beef will be today and tomorrow. And get going; this is Friday, and we go to press in 12 days.

TOTAL $215.31 AT TED PANNING FARM

I started on the 240-acre farm of Mr. and Mrs. Ted Panning in Dodge County, Nebr. They grow corn, alfalfa, and soybeans, and raise about 300 hogs a year in addition to feeding cattle.

As we sorted out the top end of 42 Montana yearlings that he bought late last October, Ted explained that he had paid an average of $24.05 for them at an average weight of 616 pounds—$148.15 a head. "I don't have accurate feed records," he said. "But I figure the gain cost me about 22 cents per pound, not counting all the overhead."

When Ted's cattle and I hit the Omaha stockyards, it was a rainy, dreary Monday morning, with an estimated 14,000 cattle on hand and a slow market.

After the usual bickering and dickering, Willard Howl, head cattle buyer for Armour & Co., bought 17 of the Panning steers at $20.50 per hundredweight, with 3 others out at $19.50. Salesman was Bill Yancey, Bowles Commission Co., Omaha.

The steer I'd picked to follow weighed 1,073 pounds, so at $20.50 he brought $219.96. Less marketing costs of $4.65, he netted Ted $215.31 at the market. Add the average feeder cost of $148.15 and cost of gain per steer of $102.08, and each steer cost Ted $250.23. So he lost $34.92 per head on the average.

TOTAL $240.50 AT THE PACKINGHOUSE

Next, we moved into the Armour packing plant at Omaha. The 17 steers averaged 664 pounds cooler weight for a 61.45 dressing percent.

Nine out of the 17 carcasses met the specifications of the Kroger Co. in Cincinnati, Ohio. Three were too heavy (over 700 pounds), one graded "Good," and four had bruises which discounted the 17 for an average loss of 98 cents per steer to Armour.

The steer I had selected yielded a high-quality, 660-pound carcass. It had about 0.7 inch of fat over the ribeye and graded about middle Choice.

The records in Armour's accounting office at Omaha show that it costs them a total of $18.46 to process one steer. Labor and fringe benefits account for $9.50 of this, and the remaining $8.96 goes for overhead such as buildings, equipment, administration and sales, taxes, etc.

"That $9.50 per steer looks like too much labor costs," I commented to Ed Clarke, beef plant department manager, as we watched 120 people move about 170 cattle an hour through the killing and dressing line. But Hubert Lockard, who has been working for Armour since 1925 and is president of local 8 of the packinghouse workers union, had a different view of it. We found him splitting steer carcasses with an electric saw. He makes $3.54 an hour at this, and after 39 years is one of the highest paid men in the plant.

We figured that Lockard is making $141.60 per week, or $7,363 a year without any overtime. He admitted that this is more than double what he was getting 10 or 15 years ago, but points out that the 6 men in the line splitting cattle are handling as many cattle as 13 men used to and at a faster clip. That's primarily due to the electric saws and better equipment provided by management and Armour stockholders.

Here's what's happened to Armour's labor costs since 1947:

Wage rates and fringe benefits are up sharply. In 1947, the average common laborer at Armour's plant in Omaha was making $1.02 an hour. By 1953, the rate for all workers under contracts was up to $1.63, plus fringe benefits averaging 35 cents an hour, to total $1.98. By 1963, these figures had climbed to $2.72 for wages and $1.12 for fringes to total $3.84 per hour—an increase of 276 percent in 15 years.

I moved on to the sales department where I found that carcasses like the one I had just left were being sold by the packer at 34 cents a pound.

"How do you really arrive at the price of beef?" I asked Dick Shay, Armour Beef Co., as he and other beef salesmen stayed on the phones haggling with one buyer after another all day long. "It is sometimes charged that chainstore meat buyers set the price every Tuesday, and you just record the orders as they come in."

This brought him off his chair.

"Chainstore buyers don't call us up and set the price on anything," Shay exclaimed. "You see us here on the phones talking to meat buyers all over the country—big ones and little ones—us trying to get the last fraction of a cent and them trying to pay the least possible."

I watched and listened as Shay called prospective customers, and it was a two-way street so far as I could tell. He was initiating most of the calls, but there was a lot of beef to sell that day. When a store is short of its needs, Shay gets some calls from meat buyers. Even so, it's a matter of dickering, not dictation, Shay says. For instance, here's how we got 34 cents for these carcasses today.

"On checking around, we found that the dressed beef market was sluggish on the east coast and we still have to keep on selling; the run of fat cattle continues to include large numbers too heavy for most of the store buyers; and the dressed beef market on Choice 600- to 700-pound carcasses closed at 34 to 34½ cents in Chicago yesterday," he said. "In Omaha, we average about one-half below Chicago (freight differential), so I figure 34 cents is all I can get for these carcasses today. I hope tomorrow will be higher."

TOTAL $301.11 AT THE CHAINSTORE

We moved on 931 miles to Kroger's meat warehouse in Cincinnati. It supplies 73 stores in the area with carcass beef. Here the carcass went into Kroger's tenderay process which tenderizes the meat through controlled temperature and humidity over about 44 hours. The shrink in transit and in tenderizing brought the weight down to 656 pounds.

Then I followed the carcass out to Kroger's Hyde Park Plaza retail store. Kroger cuts their beef at the stores.

"It's the waste fat and bone, and the processing cost of beef that kills us," said Joel Greenisen, as we started cutting up the carcass. "Beef takes more labor per pound than any other meat to prepare for the meat counter. Poultry ranks second and pork third."

I saw what he meant about waste fat and bone, as I watched them separate and weigh 124 pounds of fat, 57 pounds of bone and 4 pounds of waste. And 4 pounds of "cutting shrink," and you get 189 pounds—with a total value of only $3.06—off our 656-pound carcass. You have to see it to believe it.

This left 467 pounds to sell—only 43.5 percent of the 1,073-pound steer ended up as beef over the counter. (Just 16.6 percent of the 656 pounds was steak.)

The meat department in the Hyde Park Plaza store is staffed by seven people and can process about 20 sides of beef in 8 hours, along with pork and broilers.

I pointed out to Dick Federle, head of the department, that his meatcutters were getting a wage increase of $4 a week effective May 5—at the very time cattle feeders were taking heavy losses.

"Yes, and that will bring them up to $3 an hour, $120.60 a week, or $6,271 a year," he replied. "Is that too much for a man with a family and city living expenses, trying to own a home and send his children to college? No one suggested an increase for meatcutters when cattle went to 30 cents a pound."

On checking, I found this history on wages of meatcutters:

In 1949, $1.27 per hour for a 48-hour week, fringes worth 13 cents an hour; in 1959, $2.39 per hour, 40-hour week, fringes worth 67 cents; in 1964, $3 per hour, 40-hour week, fringes worth exactly $1 per hour. And Kroger has a profit-sharing plan that can sometimes amount to as much as 5 percent of an employee's salary.

Kroger records show that it costs them a total of $10.44 per hundredweight to process and sell beef, or $68.48 for this carcass. Add the $224.40 Kroger paid Armour, the $18.56 for moving the carcass to the warehouse and the store, and the $68.48 for all processing and overhead and we get $311.44 total cost.

So, taking the Kroger list for regular prices, our 467 pounds of meat plus the fat (2 cents) and bone (1 cent per pound) would have a total return of $375.54. Their price list for sales reduces the total return to $269.22. If they sell 70 percent of our carcass on sale and 30 percent at regular prices, total return is $301.11. With total costs of $311.44, that means a loss of $10.33.

They'd make a profit of $10.94 if they sold 50 percent on sale and 50 percent at regular prices but wouldn't move as much volume.

"We're now selling about 70 percent of our beef tonnage at special sale prices which run 3 or 4 days a week instead of just weekends," stresses Robert Braunschweig, who is in charge of all meat merchandising for Kroger. "Only 30 percent goes at regular prices now, but it used to be about 50 percent."

"Why sell so much beef on sales?" I asked. "In response to the heavy oversupply of beef, we moved 27.3 percent more beef through all our stores in 1963 than we did in 1962," stressed Braunschweig. "The only way we've found to get people to pick up that much beef is to feature beef more often—in big ads and at lower prices."

Price, of course, is a big factor. And it's been dropping steadily. Kroger averaged 55.99 cents for every pound of beef it sold in 1962, 52.04 cents in 1963 and 48.55 for the first 4 months of this year.

At Chicago, Choice steers on the hoof have dropped from an average $27.67 in 1962 to $23.96 in 1963 and off to $21.63 to May 1 this year.

Over this 28-month period, the average Choice steer has dropped about $6 per hundredweight on the hoof; the carcass, at retail, about $7.50.

To say the least, the business of processing and selling beef is a complicated one. In reporting the various steps along the way, I tried to make an honest appraisal for you after looking at all their records.

At any rate, looking back over the whole journey from Ted Panning's place in Nebraska to the retail meat counter in Cincinnati, it seemed to me that everybody is making a little money or losing less than Ted. And that the chief beneficiary, at Ted's expense, is the consumer.

The spread between feedlot and consumer was $81—Here's where it went—Box score on this steer

Feeder:	
Ted Panning sold 1,073 pounds at 20½ cents	$219.96
Less trucking, marketing costs	4.65
Total	215.31
Cost as feeder $148.15 plus feed cost of $102.08	250.23
Loss	34.92
Packer:	
Cost to Armour & Co., Omaha	219.96
Total labor and overhead in Omaha plant	18.46
Total cost	238.42
Sale of 660-pound carcass at 34 cents to Kroger	224.40
Value of byproducts and hide	16.10
Total return	240.50
Net return	2.08
Food chain:	
Cost of carcass to Kroger, Cincinnati	224.40
Freight to Cincinnati and branch store	18.56
All costs of processing at $10.44 per hundredweight	68.48
Total cost	311.44
Sale value, 70 percent at "sale," 30 percent "regular"	301.11
Loss	10.33

If 50 percent of carcass moved at "sale" price, 50 percent "regular," return would be $322.38, or a profit of $10.94.

Mr. HOEVEN. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. HALL].

Mr. HALL. Mr. Chairman, I appreciate this time as a nonmember of the Committee on Agriculture, but as a Representative of a proud area of small family farms.

I generally do not favor additional study groups, but believe the National Commission on Food Marketing, which would be created by passage of the bill, House Joint Resolution 977, before this House today, can and will make a valuable contribution. It should objectively ferret out answers to questions that plague the operators of both large and family-sized farms in America.

In southwest Missouri, the average dairy farmer receives a price for his milk that does not come close to the cost of producing that milk as determined by the

U.S. Department of Agriculture, which sets parity prices. Yet by the time that milk has been transported from his farm, processed, taxed, packaged, distributed, and sold at the retail level, it has multiplied in price. After that milk leaves the farmer's barn or "parlor," everyone it touches along the way is doing pretty well; the truckdriver, the operator, and employees of the processing plant, the retailer, and his employees; and most certainly the government at all levels, local, State, and National, who derive tax revenue each step along the way by direct or indirect means.

The middlemen are doing reasonably well. Even the Government price structure in Federal milk marketing order areas seems to assure that everyone along the way will make a reasonable living; everyone, that is, except the farmer whose long hours of labor, investment, sweat, and skill—along with a little help from the cow—produced the milk in the first place. There is a set differential established, for example, for transportation. It does not make any difference whether there are a lot of trucks competing for the business, or one firm with a monopoly.

The consumer who buys the milk seldom realizes that of all the people who handle it, the farmer is the least protected by the marketing system which ultimately brings it to our tables.

We know for example that wage rates paid to labor involved in processing and distribution will remain firm, whether the price of milk goes up or down. We know that Government will extract its steady rate in taxes regardless of whether the price of milk goes up or down, whether or not there is a surplus or a shortage. But the farmer suffers every time there is a variance. When there is a surplus of milk being produced, it is the farmer's price which drops, not the income of the man in the assembly plant which processes it, not the profit of the plant which handles it, not the revenue of the Government which taxes it. In other words, as a nation we have allowed wage fixing and are rapidly approaching price fixing in all areas except those who control our priceless and basic resource of agriculture.

There is a need, Mr. Chairman, to find out why the farmer is the man at the end of the whip who always feels the sting when it is cracked. We need to find out whether there is something in our whole marketing structure which makes the farmer more susceptible to its vagaries than anyone else, whether he produces milk or beef or corn. We need to know the impact of sectional calculation of parity, the impact of State Department directed imports, and yes, even of alleged "vertical integration."

If the Commission which we are authorizing today will study these matters with a view toward helping the farmer more than helping any politician—or political party—then it will well be worth the relatively small amount of funds that will be needed to sustain it. I hope the bill properly amended will be adopted.

Mr. HOEVEN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I shall support the passage of House Joint Resolution 977 to establish a National Commission on Food Marketing to study the food industry from the farmer to the consumer. As the report of the House Agriculture Committee indicates, it is clear that the farmer's share of income from the food dollar has not kept pace with what it should have been. It is manifestly clear that his share of each food dollar that is spent by the consumer has declined steadily from around 47 cents in 1950 to 37 cents today. Therefore, it is difficult to see how anyone could oppose the formation of a bipartisan, entirely objective investigation of the reasons for this situation. The radical change that has taken place in recent years in the whole industrial process is an equally valid subject of inquiry. The fact, again indicated from the report of the committee, that about 2,000 buyers make the buying decisions for 90 percent of all retail outlets, deserves some special scrutiny and attention. When one stops to consider that the Nation's total food bill is about $70 billion annually, the impact that this can have on our whole economy is quite clear.

Mr. Chairman, while I shall vote for this resolution and support the investigation that it proposes, I should like to point out that it represents no real solution to the problem of the American farmer. More specifically, it certainly will do nothing now to alleviate the critical situation that has been faced for many months by livestock producers who find themselves in an adverse economic situation. Just this morning I received a letter from an Illinois livestock farmer who said that he had lost more money in the last 2 years than he had been able to make in the last 10-year period prior thereto. This was not an isolated or exaggerated example.

Countless letters with similar statements have come across my desk during the past year as we have witnessed the "Johnson livestock market" taking an unprecedented toll among the cattle producers in this vital domestic industry. If press reports are accurate, the President informed a recent meeting of Secretary of Agriculture Freeman's advisory committee on livestock, composed of American cattlemen, that if Congress were to pass any special legislation to protect the American livestock raiser from the adverse effects of heavy imports from such countries as Australia and New Zealand, that the President would veto such legislation. This represents, in my opinion, a definite endeavor on the part of the President and his administration to brazenly ignore the plight of our domestic livestock industry. Mr. Johnson loves to pose as a Texas rancher in a wide sombrero. Of course, he has family enterprises including a radio and television empire reported to be worth $7 million. Perhaps this enables him to view steadily declining cattle prices with some detachment. However, there are thousands of livestock producers in this country who do not own radio and television stations. Indeed, their entire livelihood is derived wholly from the business of supplying the markets of American consumers with the finest beef and pork in the world. These people cannot derive much solace from a 15-member commission which some 15 months hence may or may not recommend action of some significance.

Mr. Chairman, we can ill afford to wait for the results of such an investigation if the President is of such inclination that press accounts show; namely, that he will not consider recommendations favorable to the American livestock producer. If you will recall, it was the late President who once said, "Time has not been our friend."

Mr. Chairman, time will not be our friend in this instance unless effective, remedial action is taken promptly. We must obtain action immediately. The time to act is now. We must stop the precipitous and ruinous decline in livestock prices. Therefore, I call upon the President of the United States to repudiate promptly any statement that he will veto any bill that Congress might pass to aid the American livestock industry. Let the President and his administration begin to show that when they say they are concerned about conditions of poverty, let them also care about the plight of our domestic livestock farmer. It is said that "charity begins at home." Let the administration adopt a charitable attitude toward our own producers. They are not asking for a handout or a Government dole. All they ask is that their means of livelihood be taken into consideration and that they be afforded some protection against excessive foreign imports during times of cyclical oversupply here in the United States.

Mr. EVINS. Mr. Chairman, America is the best fed nation in the history of the world. Our supermarkets are the envy of all mankind. But despite this unprecedented bounty, there exists great concern about prices and concentration in the food marketing industry.

As the Representative of a district in which agriculture is a major factor, I know from personal experience that if our Nation's farmers are to prosper, they must receive a fair share of the prices paid for their crops by consumers.

Consumers are entitled to purchase food at prices which include the cost of production—with a fair return to the farmer—and the cost of processing and marketing—again with a fair return to these industries. The consumer cannot expect to buy for less than this, neither should he be forced to pay more.

Available evidence strongly suggests that farmers are not receiving their fair share of the food dollar. The farm-retail price spread has continued to increase—in the past 16 years, prices to the consumer have gone up on many commodities while the farmer has received less for the products which he grows.

I am not insensitive to the fact that costs of processing and marketing have increased but this alone cannot explain why during this period the price of bread has gone up 53.9 percent while the price of wheat has gone down 15 percent—or why the price to the consumer for potatoes has increased 29 percent while the price paid to the farmer has decreased 45 percent. Beef costs the housewife 26 percent more while the farmer receives 14 percent less.

This cost-price spread is not only bad news for the consumer—it is worse news for the farmer and the cattleman.

The depressed condition in the beef cattle industry needs immediate attention, not only by the Commission here proposed, but by the Secretary of Agriculture, the Secretary of State, and others.

We must not permit the heavy increases in imports of beef to further injure the cattle farmers, the stockmen, and the beef cattle producers.

I have urged the State Department and the Secretary of Agriculture to take action to limit the number and amount of imports of beef into our country.

Many feel that the prime cause for these price situations is the growing market power of a few giant firms—the increasing economic concentration which is taking place within the food industry. If present trends are not reversed, it is possible that 10 to 12 firms may soon control the entire food industry.

The small businessmen of our Nation likewise have a vital stake in this matter.

As chairman of the House Small Business Committee, I am proud of the historic role played by my committee in the fight to maintain freedom of opportunity within this industry. For many years now our committee has probed in this area: many hearings have been held on this issue—thousands of pages of testimony have been compiled. Milk, eggs, poultry, meat, fruits, vegetables—the entire gamut of the food industry has been studied.

I believe our subcommittees have pinpointed many of the problems and practices that need investigation. The Commission that is proposed by House Joint Resolution 977 is needed.

I strongly support the pending resolution and urge its adoption.

Mr. WHARTON. Mr. Chairman here we have another study group, two-thirds to be comprised of Members of Congress, which is apparently designed to duplicate the duties of our regular congressional committees. Until it is demonstrated that such commissions are justified in their duplication of effort, I am opposed to them.

A daily perusal of our committee schedules at this time, when a presidential election is fast approaching, fails to disclose any great pressure of business. In fact, one might even detect a certain amount of lethargy and I can see no reason why the field contemplated by House Joint Resolution 977 could not be fully covered by the appropriate House committee in the closing weeks of the present session.

The administration, after 4 years of its best effort, has failed to go into the important subject of food marketing as it affects low producer returns, as well as a constantly increasing cost to the consumer.

It appears that through such state of inertia, we are now faced with the problem of voting for the proposed Commission, or in the alternative, no action whatsoever. Is not this just another example of artfully delaying the fateful day until after the presidential election?

Mr. GILL. Mr. Chairman, this bill can open a small window on an area which daily becomes more mysterious. Not only do we find a growing spread between farm prices and retail prices, but we also find unexplained food price increases where none seem justified.

In Hawaii, we have long suffered from the results of both horizontal and vertical integration of commodity distribution and industry. An island economy is particularly susceptible in this regard.

Recently, we have seen a strange gap in hamburger prices, which found our retail prices substantially higher than in San Francisco, when the Hawaiian meat supply and produce prices would suggest the opposite.

We have also noted a recent increase in bread prices of 2 cents a loaf. The implication was given that this increase was due to wheat prices when the facts do not bear this out.

I hope this Commission will not only determine the reasons for price spreads across the Nation, but will also help us determine the more difficult reasons for high consumer food prices in my island State. We need to know the relationship between freight rates, control of import facilities, control of credit, and ability to substantially control retail markets.

When the Commission is established, I will certainly ask that it include Hawaii in its investigation.

There are few problems in Hawaii more pressing than the cost of living which daily bleeds the wages and salaries of our people and weakens our economy to the damage of business and consumers alike.

Mr. SMITH of Iowa. Mr. Chairman, while we are considering food marketing legislation and producers' problems today, we also hear a lot about consumption problems.

So many seem to think poverty only exists in Appalachia or on some street other than where we live, that I think an article published in the Shenandoah, Iowa, Weekly Times of May 13, 1964, should be of interest.

So that others might more readily have it available, I am inserting it in the RECORD and it is as follows:

THE TIMES OF OUR LIVES

(By F. S. "Toke" Nelson)

"I believe in an America where every family can live in a decent home in a decent neighborhood—where children can play in parks and playgrounds, not the streets of slums—where no home is unsafe or unsanitary. Where a good doctor and a good hospital are neither too far away nor too expensive—and where the water is clean and the air is pure and the streets are safe at night." President John F. Kennedy stated these ideals during his brief, historic dedication to the Presidency of the United States.

"Let the word go forth from this time and place, to friend and foe alike, that the torch has been passed to a new generation of Americans—born in this century, tempered by war, disciplined by a hard and bitter peace, proud of our ancient heritage—and unwilling to witness or permit the slow undoing of human rights to which this Nation has always been committed." These were President Kennedy's words in his inaugural address in January 1961.

"Let it be recognized that this administration recognizes the value of dissent and daring, that we greet healthy controversy as the hallmark of healthy change." Again, words that keynoted the administration which right now guides the destiny of our Nation. The beloved, late President also said, "When President Roosevelt was running for a second term—some garment workers unfolded a great sign that said, 'We love him for the enemies he has made.' Well, I have been making some good enemies lately."

Lyndon Johnson, a different type man, with a different character than J.F.K.—but steadfastly dedicated to the same American ideals and principles, has taken over the job of fulfilling these ideals. President Johnson has opened an entire new vista of responsibility for us all with his war on poverty.

It is nearly impossible for us to grasp the true, painful meaning of poverty. L.B.J. last week said this would be the most difficult task in the war on poverty—to get the uneffected population of the Nation to really relate to the plight of poor people.

Here in Shenandoah and Red Oak—in Page County, Fremont County, Montgomery County, Adams County, Mills County, and Atchison County, Mo., there are alarming amounts of poverty—desperate need. In each of the above areas, one out of every four families is in the "acute poverty" class. That is hard to grasp if you look up and down the prosperous-appearing street you live on, isn't it?

As I write this on Sunday—a glorious Mother's Day when May is splendorous—two young brothers flit past the window. Their father is gone; their mother does housework part-time to clothe them. Here is a family of four existing on less than $25 per week. If I truly look up and down the streets—all the streets—in my neighborhood I start to discover there really is poverty. And this acute situation (doing without many, many necessities that most of us take for granted daily) exists in alarming numbers in our rural areas. Drive off the highways or the neat blacktop farm roads. Drive up the rutted sideroads. You'll discover squalor, inadequacy—pain, sorrow, hunger, and hopelessness. One thing about poverty—it breeds more poverty.

Ironically, poverty works about the same as abundance. Poverty multiplies poverty—it, births it. A contrast to the axiom "it takes money to make money."

An undeniable moral truth is that we are our brother's keeper—whether it be in a civil rights fight for integration—or to raise the standard of living of our neighbors. It will always be so.

It would be wise—and healthy for each of us—to discover our personal position in the battlelines in this local war on poverty. For we cannot have true joy anywhere in Timesland—indeed in America—as long as other American families are "in need, want, or fear."

We ought to prayerfully, fearlessly close ranks today in our own frontlines. We must recognize, deal with, and alleviate poverty from our communities and rural areas—for the peace and happiness of our fellows and ourselves. This is done simply by sharing of our own, ourselves!

Recalling more wisdom of our late President J.F.K., "It is the fate of this generation to live with a struggle we did not start, in a world we did not make. But the pressures of life are not always distributed by choice. And while no nation has ever faced such a challenge, no nation has ever been so ready to seize the burden and the glory of freedom.

"Let us not seek the Republican answer or the Democratic answer, but the right answer."

Mr. HOEVEN. Mr. Chairman, I have no further requests for time.

Mr. POAGE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read the joint resolution for amendment.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a bipartisan National Commission on Food Marketing (hereinafter referred to as the "Commission").

Sec. 2. Organization of the Commission.—(a) The Commission shall be composed of fifteen members, including (1) five Members of the Senate, to be appointed by the President of the Senate; (2) five Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and (3) five members to be appointed by the President from outside the Federal Government.

(b) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original position.

(c) Eight members of the Commission shall constitute a quorum.

Sec. 3. Compensation of Members.—(a) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Each member of the Commission who is appointed by the President may receive compensation at the rate of $100 for each day such member is engaged upon work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

Sec. 4. Duties of the Commission.—(a) The Commission shall study and appraise the marketing structure of the food industry, including the following:

(1) The actual changes, principally in the past two decades, in the various segments of the food industry;

(2) The changes likely to materialize if present trends continue;

(3) The kind of food industry that would assure efficiency of production, assembly, processing, and distribution, provide appropriate services to consumers, and yet maintain acceptable competitive alternatives of procurement and sale in all segments of the industry from producer to consumer;

(4) The changes in statutes or public policy, the organization of farming and of food assembly, processing, and distribution, and the interrelationships between segments of the food industry which would be appropriate to achieve a desired distribution of power as well as desired levels of efficiency; and

(5) The effectiveness of the services and regulatory activities of the Federal Government in terms of present and probable developments in the industry.

(b) The Commission shall make such interim reports as it deems advisable, and it shall make a final report of its findings and conclusions to the President and to the Congress by July 1, 1965.

Sec. 5. Powers of the Commission.—(a) The Commission, or any three members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by majority vote—

(1) to require, by special or general orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpena or order issued under paragraph (a) of this section to invoke the aid of any district court of the United States in requiring compliance with such subpena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under subparagraph (3) and (4) above; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in case of refusal to obey a subpena or order of the Commission issued under paragraph (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) The Commission is authorized to require directly from the head of any Federal executive department or independent agency available information deemed useful in the discharge of its duties. All departments and independent agencies of the Government are hereby authorized and directed to cooperate with the Commission and to furnish all information requested by the Commission to the extent permitted by law.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conducting of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) When the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held confidential and shall not be disclosed by the Commission or its staff: *Provided, however,* That the Commission shall permit business firms or individuals reasonable access to documents furnished by them for the purpose of obtaining or copying such documents as need may arise.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designated individuals on its staff and to make such rules and regulations as are necessary for the conduct of its business, except as herein otherwise provided.

Sec. 6. Administrative Arrangements.—(a) The Commission is authorized, without regard to the civil service laws and regulations or the Classification Act of 1949, as amended, to appoint and fix the compensation of an executive director and the executive director, with the approval of the Chairman, shall employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, but no individual so appointed shall receive compensation in excess of the rate authorized for GS–18 under the Classification Act of 1949, as amended.

(b) The Chairman is authorized to obtain services in accordance with the provisions of section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), but at rates for individuals not to exceed $100 per diem.

(c) The head of any executive department or independent agency of the Federal Government is authorized to detail, on a reimbursable basis, any of its personnel to assist the Commission in carrying out its work.

(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services: *Provided,* That the regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 46c) shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Administrator for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Commission: *Provided further,* That the Commission shall not be required to prescribe such regulations.

(e) Ninety days after submission of its final report, as provided in section 4(b), the Commission shall cease to exist.

Sec. 7. Authorization of Appropriations.—There is hereby authorized to be appropriated such sums not in excess of $1,500,000 as may be necessary to carry out the provisions of this joint resolution. Any money appropriated pursuant hereto shall remain available to the Commission until the date of its expiration, as fixed by section 6(e).

Mr. POAGE (interrupting the reading of the joint resolution). Mr. Chairman, I ask unanimous consent that the balance of the joint resolution be considered as read and that the resolution be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Page 3, beginning on line 19, strike out all of subsection (b).

Page 3, line 22, strike out "(c)" and insert "(b)".

Page 3, line 23, following the word "report" insert "of its findings and conclusions."

Page 3, line 24, strike out "1966" and insert "1965".

Page 4, line 2, strike out "member" and insert "three members".

Page 4, line 4, following the word "opinions" insert "pertinent to the study".

Page 4, line 5, following the word "authorized" insert "by a majority vote".

Page 5, line 14, strike out "request" and insert "require".

Page 5, line 18, following the word "authorized" insert "and directed".

Page 6, line 20, strike out "it deems" and insert "are".

Page 6, line 21, strike out the period at the end of the sentence and insert ", except as herein otherwise provided."

The committee amendments were agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

On page 6, line 23, strike out "Chairman of the".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

On page 7, line 1, after the word "and" insert "the executive director, with the approval of the Chairman, shall employ and fix the compensation of".

AMENDMENT OFFERED BY MR. HOEVEN

Mr. HOEVEN. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Hoeven to the committee amendment: Page 7, line 2, strike the word "Chairman" and insert in lieu thereof the word "Commission".

Mr. HOEVEN. Mr. Chairman, my amendment is simple. It merely changes the word "Chairman" to "Commission" in the committee amendment in line 2 on page 7.

The effect of my amendment will be to insure as much as is possible that the staff of the Commission will be selected on a bipartisan basis. The Commission itself is to be selected on a bipartisan basis, so I can see no reason why the staff should not also be selected in this manner.

As the bill now stands, the White House would control the staffing of the Commission. The President selects the Chairman, and the Chairman approves the staff under the present language of the bill. My amendment makes the Commission itself responsible for staff approval.

The argument that the full Commission will not have time to consider each and every typist and clerk is not a sound one. Under my amendment, the staff director can be given this authority by the Commission itself. What I want to insure is that competent and skilled technicians and professionals regardless of party affiliation will have a chance to serve as staff members and employees of this important Commission. I also want to insure that any dissenting views on the Commission have an opportunity to be heard.

In preparing my amendment, I took a little time to look at the last bipartisan Commission created by legislation originating in the Committee on Agriculture. This was the Commission on Increased Industrial Uses for Agricultural Products created in 1956 under President Eisenhower.

Section 209(a)(3) of that statute provided as follows:

> The Commission is authorized to appoint and fix the compensation, without regard to the civil service laws and the Classification Act of 1949, as amended, of an executive director and such chemists, engineers, agriculturists, attorneys, and other assistants as it may deem necessary.

In others words, the last time a bipartisan commission was created, the Commission itself hired its own staff. The White House did not control its staff selection.

That particular Commission operated effectively and made some very useful and constructive findings.

I would like to preserve that same approach in this legislation. Let the Commission select its own staff. Then it can get about its job quickly and expeditiously and be free of undue White House domination.

It is interesting to note that at the time the Hoover Commission was appointed, the supporting legislation provided as follows:

> The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable in accordance with the provisions of the civil service laws and the Classification Act of 1923, as amended.

Not only do we have a precedent as far as the Hoover Commission is concerned, but also in the commission set up to investigate industrial uses for agricultural products.

I certainly hope this amendment will be adopted.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. HOEVEN. I yield to the gentleman.

Mr. POAGE. I was about to suggest that I do not think this amendment is worth any discussion whatsoever and I do not think it is going to make the slightest difference, and I do not see any reason for carrying on a fight about it.

Mr. HOEVEN. Is the gentleman accepting the amendment?

Mr. POAGE. I would not accept it, but I certainly would say I do not see any reason for carrying on a fight about it. I am perfectly willing to let the gentleman put it in. I am not going to accept it.

Mr. Chairman, this was discussed in the committee. The gentleman knows the objections to it and the dangers involved. After all, the Chairman is going to pick the executive director, and the executive director will not last long unless he is in accordance with the views of the Commission and the Chairman.

I do not see that it will make any particular difference one way or another. It will just go through one more step, that is all.

Mr. HOEVEN. I merely call attention to the fact that if we are to have a bipartisan Commission I am most anxious that it be bipartisan all the way through.

The CHAIRMAN. The question is on the amendment to the committee amendment offered by the gentleman from Iowa [Mr. Hoeven].

The amendment to the committee amendment was agreed to.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 8, line 9, strike out "(c)" and insert "(b)".

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will state the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 8, line 13, strike out "$2,500,000" and insert "$1,500,000".

AMENDMENT OFFERED BY MR. HOEVEN

Mr. HOEVEN. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Hoeven to the committee amendment: On page 8, line 13, strike the figure "$1,500,000" and insert in lieu thereof the figure "$500,000".

The CHAIRMAN. The gentleman from Iowa is recognized.

Mr. HOEVEN. Mr. Chairman, this amendment would authorize the expenditure of up to $500,000 for the Commission's work. The committee amendment provides for $1.5 million.

The other body has already passed the same legislation authorizing the expenditure of $2.5 million over a 2-year period. If the House goes to conference with a $1.5 million authorization, the authorized appropriation will surely be increased in conference. If the House goes to conference with $500,000, our House conferees will be in a much better bargaining position.

The plain fact is, Mr. Chairman, that the Commission will not need $1.5 million. Let us remember that 2 weeks ago the Agriculture Department appropriation bill for fiscal year 1965 provided $350,000 to the Department of Agriculture for research similar to that contemplated by this legislation. There seems to be adequate money for research.

Let us remember also that the 1956 Commission on Increased Use of Agricultural Products needed only $150,000.

The witnesses before our committee did not justify this expenditure of $1.5 million. Secretary Freeman submitted a statement for the record, stating that during each year the Commission anticipated spending $730,000 on salaries and related benefits for 74 permanent positions—$730,000 for 74 permanent positions—$110,000 on travel; $100,000 on supplies, equipment, and printing; $125,000 on automatic data processing; and $185,000 on other expenses; for a total of $1,250,000 per year.

Mr. Chairman, I do not believe there is a single committee of this Congress which spends $730,000 on its entire operation in 1 year, much less $730,000 just on annual salaries. During the consideration of this bill in the committee I offered an amendment to set the level of authorized expenditures at $500,000. My amendment carried by one vote, but, upon a switch by one member of the committee, my amendment failed on a tie vote of 16 to 16. It was the feeling of at least half of the committee at that time that this sum was excessive.

Mr. Chairman, many Members of the House are economy minded. So this is a good economy vote. We know full well when the conference report is agreed upon we will have all the money we need and more. If it should become necessary for any reason to increase the amount later, the Congress will still be here. I submit that a vote for my amendment is a good economy vote.

Again I contend we should have a little bargaining power when we meet with the other body in conference. Furthermore, we have already authorized the sum of $350,000 in the agricultural appropriation bill which will duplicate some of the work. I hope my amendment will be adopted.

Mr. ROOSEVELT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] Seventy-two Members are present, not a quorum.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 147]

Abbitt
Andrews, Ala.
Ashley
Ashmore
Aspinall
Auchincloss
Barrett
Bass
Becker
Blatnik
Bolton,
Frances P.
Bray
Bromwell
Bruce
Buckley
Burke
Burton, Calif.
Burton, Utah
Cahill
Cameron
Carey
Cederberg
Celler
Chamberlain
Colmer
Cooley
Corman
Davis, Tenn.
Dawson
Derounian
Devine
Diggs
Dorn
Dulski
Dwyer
Edmondson
Elliott
Everett
Farbstein
Flynt
Forrester
Frelinghuysen
Fulton, Tenn.
Gallagher
Giaimo
Grabowski
Grant
Gray
Griffiths
Gubser
Halleck
Hanna
Hansen
Harrison
Harsha
Harvey, Ind.
Harvey, Mich.
Hays
Healey
Hébert
Herlong
Holifield
Huddleston
Hull
Hutchinson
Ichord
Jarman
Johnson, Wis.
Jones, Ala.
Kee
Kelly
Kilburn
Kyl
Laird
Landrum
Lankford
Leggett
Lindsay
Long, La.
McCulloch
McIntire
Macdonald
Martin, Calif.
Matsunaga
May
Meader
Michel
Miller, N.Y.
Minshall
Montoya
Morris
Morrison
Mosher
Multer
Passman
Pilcher
Pool
Powell
Rains
Reifel
Riehlman
Roberts, Ala.
Roberts, Tex.
Rooney, Pa.
Roudebush
St Germain
Schadeberg
Scott
Selden
Sheppard
Short
Slack
Steed
Stinson
Teague, Tex.
Thompson, N.J.
Toll
Tollefson
Tupper
Van Pelt
Weltner
Whitener
Williams
Wilson, Bob
Wilson, Ind.
Winstead
Wright

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CHARLES H. WILSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration House Joint Resolution 977, and finding itself without a quorum, he had directed the roll to be called, when 306 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. For what purpose does the gentleman from Texas [Mr. POAGE] rise?

Mr. POAGE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is probably the only amendment of substance which will come before the committee—at least, it will probably be the only one which the committee will feel it must oppose. This amendment if passed raises a serious question, both as to the effectiveness of the Commission, and it raises a serious question as to the proper approach we should use to try to work out differences of opinion with the other body.

As to the effectiveness of the Commission, I think, we will all agree that should the Commission be created and be limited to half a million dollars, it is perfectly obvious that it cannot do the work which is expected of it.

If I understood the gentleman from Iowa, he agrees it would take about $1,500,000 and that that amount is about what we should wind up with. So probably the difference of opinion exists merely as to how we should go at this matter of achieving a final bill which will provide the $1,500,000 for this Commission which he and I both feel will probably be needed.

Mr. Chairman, I would hope that we might have the attention of the Members for the next 5 or 10 minutes because I think this is a turning point in this whole discussion. I think we must all agree if this Commission is to do the serious work which we all believe it should do, and there is full agreement on both sides of the aisle that we need to have this work done, if it is to be done, it is going to take something on the order of $1,500,000 to do it.

The resolution was introduced providing for $2,500,000. The other body passed a similar resolution providing $2,500,000. Our committee felt in the first place that we should reduce the period during which the Commission should function. We felt that it would take at least a $1 million a year to keep the Commission running, and something more for the first year to cover the original organization of the Commission. We based those figures upon a comparative study of figures relating to similar activities of this kind. For instance, the Hoover Commission which was a 12-man Commission rather than a 15-member Commission actually spent about $1 million each year. The first Hoover Commission in 22 months spent $1,939,000 approximately at the rate of $1 million a year—actually just over that amount. The second Commission spent a little more than that, spending $2,839,000 in 23 months.

So we felt in providing this fund, we were providing approximately the same amount of money that that agency has spent even though costs are greater today. Incidentally, I would call to your attention the fact that the Hoover Commission had an unlimited authorization—and that is what we are talking about here.

The authorizations for both Hoover Commissions were absolute blank checks, a key to the Treasury with absolutely no limitations. The figures I gave you are the amounts they actually spent. The present minority Members found no basis for any concern when we gave that Commission unlimited spending authority.

Now we are talking about a commission of comparable magnitude. I do not want to give it the kind of blank check we gave the Hoover Commission but neither do I want to tie it down so that it cannot do a good job. Our committee felt that it would be wise to provide at least $1.5 million for the little more than a year's work provided for under the terms of the resolution as it now stands.

I believe it is fair to point out that the ranking minority Member expressed himself as agreeing we needed to make this meaningful, but he feels—and I understand the feeling—that if we should authorize $1.5 million, since the other body has authorized $2.5 million, there might be a compromise worked out on the basis of a 50-50 split which would result in a $2 million authorization. I do not believe that is a correct assumption, nor do I feel that is the proper way to get sound legislation in a conference between the two Houses.

To the contrary, it seems to me that the House should establish a reputation for honesty, a reputation for sincerity, a reputation for passing the kind of legislation we believe should become law. Then we would stand in a far better position all the way down the line.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. POAGE was given permission to proceed for an additional 5 minutes.)

Mr. POAGE. Mr. Chairman, I am somewhat reluctant to continue this discussion, because I would like to have a vote, but earlier in my discussion there was a little disturbance in the Chamber, and I have had to repeat a number of things.

I believe it is quite clear that if we are to establish a sound policy in meetings with the other body in conference we must do so on the basis that what we pass is what we believe is sound legislation, rather than on the basis that we are passing something for "trading purposes" only.

That is exactly what the gentleman told us he proposed with his amendment—not to pass what he believed was needed by the country, but rather to pass what he believed would provide a good trading position.

I hope that the gentleman will serve on the conference. I assume I may serve on the conference, if there is a conference. Actually I am quite hopeful that if we pass this bill as the committee suggests that the other body will accept it. I suggest to the gentleman that it is my belief that the $1.5 million will be adequate. Unless someone can show me a reason for raising that figure, it will not be my purpose to try to raise it or to split the difference with anybody. I believe it is a sound figure, and I believe we ought to insist on a sound figure, one which is adequate and one which we can defend in conference. We should not go to conference with a record already written, saying "We did not believe in what we passed, but we passed it in order to try to make a trade with you."

I do not believe that is a sound way to trade with anybody. If anybody came to me with that kind of proposition, certainly I would draw back from it. I assume our brethren on the other side of the Capitol feel the same way about it.

It seems to me that there is no basic difference between the viewpoint of the leader on the minority side and myself. We all agree that a job should be done. The question is how to get it done.

From a mechanical standpoint, I believe the gentleman has suggested an impractical method. I hope he will agree to go along and to accept the figure which he himself feels should be the final figure for the legislation.

Mr. HOEVEN. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Iowa.

Mr. HOEVEN. I believe the gentleman is putting words in my mouth. I did not commit myself to any figure.

Mr. POAGE. No; but the gentleman did say that he wanted to get us in an advantageous trading position. He did say he felt that if we cut this down to one-half million dollars, since they have provided $2.5 million on the other side, we could trade out at the figure where we are—that is of $1.5 million. He did feel that if we passed this at $1.5 million then we would have to trade out at something higher.

Mr. HOEVEN. As I stated before, I believe we should be in a position to bargain with the other body. They have a reputation for always upping the appropriations and standing fast on their authorizations and other proposals.

I certainly wish to adequately provide for the work of this Commission. We must take these things into consideration. I most certainly would not exceed the amount that the committee wrote into the bill.

I still believe, as I pointed out before, that $350,000 was provided in the Agriculture Department appropriation bill, and that can be used for a lot of research which will be duplicated in the effort of this Commission.

This is a good economy vote, to vote for this $500,000 authorization at this time. Then we can come back here, in my judgment, and I sincerely hope so, with a reasonable figure which will carry on the work of this Commission as it should be done. As I pointed out previously, if it is found that we have not authorized or appropriated enough money, I shall certainly be a party to seeing that they have adequate funds, but let us not go all out on this thing at the present time.

Mr. POAGE. Mr. Chairman, the gentleman has made perfectly clear, I believe, the point which I was trying to make. He is suggesting not a figure which he thinks is needed by the Commission in order for them to do a sound job but, rather, a figure which he thinks will look good. He says it will be "a good economy vote" here and then you can raise it in conference. I do not think if we operate on the basis that we are going to cast our votes just to look good today, and that we deliberately intend to then raise the amount in conference, that we are doing the kind of thing which will ever enable this body to deal on an effective basis while trying to compromise with the other body. On the contrary, I would prefer that we pass what we know is needed to meet our obligations and then stand fast when we deal with the other body.

It is agreed by the minority Members that we may need around $1,500,000. Let us authorize this amount. I offered the amendment in the committee to cut this figure from the $2.5 million contained in the original, not because I wanted to "trade" with the other body—not because I was seeking a "good economy vote," but because I felt this much was needed; and that it was all that was needed. Let us keep it.

Mr. GATHINGS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, when this legislation was before the House Committee on Agriculture, the time of the investigation was cut to 1 year instead of 2. As a result of cutting down the time to 1 year, the gentleman from Texas [Mr. POAGE] presented an amendment to cut by $1 million the cost of the investigation from $2.5 million to $1.5 million. Subsequently the bill was considered in the Senate and the Senate agreed to $2.5 million but had a 2-year limitation. On that basis the Senate provision carries $1.25 million and the House provision carries $1.5 million. The gentleman from Iowa [Mr. HOEVEN], presented the amendment to cut the cost to $500,000. When that amendment was voted upon it was a tie vote. I supported the gentleman's amendment, because I think it was sound and just and proper. I believe now that it is a sound, just, and proper amendment, because if the Senate has $1.25 million written in it and the House has $500,000, you are still going to come up with something like $800,000 for this study for the first year. If additional money is needed, that money will be granted by this Congress in order to do this job. Whatever is needed will be made available.

Let us look at some of the other committees that have been created by the House of Representatives. Time and time again we have created select committees and given those committees $25,000 or $50,000 for a few months' work, and they have done a good job. Let us look at the Committee on Small Business. This is a great committee and is doing a fine piece of work in this House. We appropriated $250,000 a year to do that work. They have a staff of 24 to 25 men on the Small Business Committee. They do that work for $250,000 a year. Quite a lot of work is needed to be done in this food study. But I want to say to you that if the House provides $500,000—we will be providing at least $800,000 if we compromise between the $1,250,000 the Senate put in its bill and some $500,000 here.

Mr. Chairman, I want to call the attention of the Committee to the Committee on Government Operations, the Subcommittee on Investigations, of the U.S. Senate. The appropriations for that subcommittee in the 88th Congress, 2d session, was $450,000. Do you not think they have done a pretty good job with $450,000?

Let us give this committee whatever they need but at the same time let us keep it down within limits. We do not need 70 employees on this committee as proposed here.

Mr. HOEVEN. Mr. Chairman, will the gentleman yield?

Mr. GATHINGS. I am glad to yield to the gentleman from Iowa.

Mr. HOEVEN. I thank the gentleman for his timely comments. I would like to point out that the Joint Committee on Taxation, the Joint Economic Committee, the Committee on Appropriations, and Committee on Ways and Means—none of them, to my knowledge, is spending $730,000 a year on salaries. We have had all kinds of committees in this House which have operated on less money and have done very effective jobs.

Mr. GATHINGS. And they will do it here, too. The Committee on Small Business has done a splendid job with 24 employees. If they need more employees they can come back and get a supplemental authorization.

Mr. Chairman, I hope the amendment offered by the gentleman from Iowa will be agreed to.

Mr. TEAGUE of California. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I do not feel the call very often to come down into the well, but I do this time. This is by no means a partisan issue. Those Members who were not here when the gentleman from Iowa [Mr. HOEVEN], offered his amendment, should know that we are here involved with a good attempt, which I support, to cut an authorization from $1.5 million to $500,000. Let it be made perfectly clear that I certainly do not oppose the establishment of the National Commission on Food Marketing. I know very few people on either side of the aisle who do. But there has been a lot of talk about economy and frugality. I am sure all of us, when we get back to our districts, say quite properly we are not for wasting Federal moneys. If we authorize $1.5 million for the use of this Commission, in my opinion, that is exactly what we would be doing.

Let me offer for those who did not have this information before, the fact that Secretary Freeman has indicated this in his official report to the committee, that he needs only $1,250,000 a year. I do not know any man in the executive branch who is inclined to minimize his requirement. He says he needs $730,000 for salaries of this Commission when there are still 120,000 employees in the Department of Agriculture, many of whom could be loaned to this division to help in its studies. Also he said they need $110,000 for travel, $100,000 for supplies and equipment and printing, $125,000 for automatic data processing service and $185,000 for other expenses. To me these figures are exorbitant, unreasonable and unjustified.

Further, let me point out to you, those who have not realized it yet, that the agricultural appropriation bill which we passed just a few days ago has in it a provision that:

> Not less than $350,000 * * * shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and consumer.

That is exactly what this Commission is going to be doing. This is a floor and not a ceiling—not less than $350,000.

Mr. Chairman, Secretary Freeman, if he wishes, can make $1 million available through that source. So, everything considered and gathered together, it is my opinion that it is perfectly unrealistic to provide any such sum as $1.5 million.

Mr. Chairman, in conclusion permit me to say with respect to the statement which has been made by the gentleman from Texas [Mr. POAGE] that the Hoover Commission spent perhaps $1 million, the studies of the Hoover Commission ran far beyond the particular and specified function of this particular Commission.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. I am glad to yield to the gentleman from Illinois.

Mr. FINDLEY. As the gentleman has informed the House, the spending for this type study, even though we provide no authorization at all in this bill, could rise as high as $9 million because the Department of Agriculture appropriation bill which we very recently passed provided that sum for the Economic Research Service of the Department of Agriculture. And, as the gentleman has pointed out, $350,000 of that amount, a minimum of $350,000 of that amount, must be devoted to a study of the very same type which this Commission is proposed to undertake.

Further, Mr. Chairman, this joint resolution would authorize a contract between the Commission and any Federal agency, including the Economic Research Service of the Department of Agriculture, which would make available the vast dollar and manpower resources of that Service.

So, Mr. Chairman, there is no danger of this Commission running out of money.

Mr. TEAGUE of California. No. If the amendment which has been offered by the gentleman from Iowa [Mr. HOEVEN] is adopted, we would have $500,000 authorized, plus a minimum of $350,000 in the general agriculture appropriation bill.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. I am delighted to yield to the gentleman from California.

Mr. HOSMER. This is the kind of task that has often been taken up by economics departments of the various universities and by private research organizations, under contracts.

Was there any discussion of that alternative and was that considered by the committee?

Mr. TEAGUE of California. Yes. If I remember correctly, that is authorized under the pending bill.

Mr. HOSMER. If the gentleman will yield further, that kind of study with reference to putting a lot of people on the payroll, as the gentleman has related, certainly seems preferable to me. Certainly, if the amount authorized is cut to the amount as proposed in the amendment, it would put the study into the hands of students who can make these studies, and out of the hands of possibly some people who are appointed on a political basis here in Washington.

Mr. TEAGUE of California. I thank the gentleman for his contribution.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know whether I heard the gentleman from Texas [Mr. POAGE] correctly or not, but it seems to me that a few minutes ago he said something to the effect that this $1.5 million is needed to establish the honesty and integrity or reputation of Congress.

Well, if we can establish the honesty and integrity of the Congress in all of its ramifications with $1.5 million, perhaps, this might be cheap.

I do not know what the other body has spent on the Bobby Baker investigation, but they have not been able to remove the stigma despite the expenditure of a good many thousands of dollars.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman from Texas.

Mr. POAGE. I want to call to the attention of the gentleman from Iowa [Mr. GROSS] that the gentleman did misunderstand my remarks and did not hear the gentleman from Texas correctly. I said nothing whatsoever about establishing the honor of Congress.

Mr. GROSS. I am glad to have that statement from the gentleman from Texas, but I hope the gentleman will look closely at his remarks. He made a statement very similar to that.

Mr. Chairman, for the life of me I cannot understand how with 10 of the members of the proposed Commission already on the congressional payroll, it can possibly spend $1.5 million, especially in view of the fact that a great amount of information necessary to this inquiry must be already in the hands of the Department of Agriculture, the Federal Trade Commission, the Department of Commerce, and various other agencies and departments of Government.

I do not see how it can possibly, and with justification, spend $1.5 million on this investigation over a 1-year period.

Mr. Chairman, I am for a complete investigation because there is altogether too much of a spread in some respects as between the farmer-producer and the ultimate consumer. But I am unable to understand how in the world they can spend $1.5 million on this investigation, with only five public members to be paid on a per diem basis.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Yes; I am glad to yield to the gentleman from California.

Mr. ROOSEVELT. I believe it is important to point out to the gentleman from Iowa that on page 7, line 12, the joint resolution says that:

> The head of any executive department or independent agency of the Federal Government is authorized to detail, on a reimbursable basis, any of its personnel to assist the Commission in carrying out its work.

In other words, it is not, I will say to my friend the gentleman from Illinois [Mr. FINDLEY] possible for the Department of Agriculture to be asked to do this for the Commission because it must be reimbursed by the Commission. Therefore, the money would not be available out of the appropriations made to the Department of Agriculture.

I should also like to point out to one of the previous gentlemen who said the Small Business Committee could operate on a $250,000 budget. I am here to testify that we in the limited manner in which we were able to go into this field failed in our overall purpose because we could not afford the staff, we did not do the job because of the financial situation. If you are for this bill and if you do not want to see it stymied, I can assure the gentleman I do not believe it can be done for less money. This money has been justified before the committee, and it seems to me when you want to cut it down to $500,000 you just do not want these matters looked into.

I hope the pending amendment will be defeated.

Mr. GROSS. I have no desire to cast any reflection on this committee, but I have not heard from members of the Agriculture Committee a good justification for the $1.5 million.

The Hoover Commission has been mentioned. I do not know how many members of the Hoover Commission were public members and, therefore, paid on a per diem basis, plus expenses.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. FINDLEY. The Economic Research Service has been charged with the duty of conducting such a study, a similar study to that to be undertaken by this Commission. Certainly there would be no obligation on the part of the Economic Research Service to be reimbursed for any studies that might be coordinated and tied into the study of this Commission and become part of it.

Mr. GROSS. I thank the gentleman. I was pleased to hear the gentleman from Texas [Mr. POAGE] say the Commission will have authority to go into imports and the effect of imports on prices in this country. Earlier this year, the House passed a measure implementing the International Coffee Agreement. At that time I tried to warn the International Coffee Agreement would result in increased cost of coffee to the consumers of this country. At that time the chairman of the Committee on Ways and Means, who had charge of the bill on the floor, insisted this would not be the case. Only the other day, in connection with another coffee import bill which came to the House floor, the chairman said he very frankly had been disappointed, that there had been an increase—a substantial increase—in the prices of coffee to American consumers. I hope the investigation goes into that.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent (at the request of Mr. HOEVEN), Mr. GROSS was allowed to proceed for 3 additional minutes.)

Mr. HOEVEN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to my colleague from Iowa.

Mr. HOEVEN. I would like to point out to the Committee the justifications submitted by the Secretary of Agriculture who appeared in behalf of the administration and presented the proposed budget relation to this National Commission on Food Marketing showed $1.25 million per year, which is $250,000 less than the committee amendment, of $1.5 million.

In this justification for the year 1965 we have salaries and related benefits of $730,000, which provides for 74 permanent positions, travel $110,000, supplies, equipment, and printing $100,000, automatic data processing services $125,000, other expenses, rent, utilities, services of other agencies, miscellaneous support, $185,000, or a total of $1.25 million, which is $250,000 less than the committee authorization of $1.5 million.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. HOEVEN. I yield to the gentleman from California.

Mr. ROOSEVELT. I think it would be fair to say to the gentleman from Iowa that that amount which was justified deals only with that part of the work that has to do with the Department of Agriculture. What about the Federal Trade Commission work, what about the work of the Department of Justice in antitrust matters?

Mr. HOEVEN. This estimate is obligations for the National Commission on Food Marketing, the very proposal that is before us at this time. In addition, the Department of Agriculture has $350,000 in the appropriation bill we passed the other day, which would be a duplication.

Mr. ROOSEVELT. I think, however, the gentleman will see that this deals with the Department of Agriculture and the Commission. It has no reference in it and could not very well make reference to what the Federal Trade Commission would want in the way of reimbursement for doing the job.

Mr. HOEVEN. The gentleman from California is mistaken. This is in the testimony of Secretary Freeman when he appeared before our committee on the very bill we are discussing, and that has nothing to do with the Department of Agriculture.

Mr. ROOSEVELT. No, what I said was that this applies only to the Department of Agriculture work the commission is going to do. It does not take into consideration anything they would have to do with the Federal Trade Commission and the Department of Justice.

Mr. HOEVEN. I submit this pertains only to the work of the commission and nothing else.

Mr. ROOSEVELT. That is what I am saying and have said over and over to the gentleman.

Mr. HOEVEN. The Secretary's testimony related to the work of the commission, not to the work of the Department of Agriculture.

Mr. ROOSEVELT. But only as to agricultural matters.

Mr. ROONEY of New York. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield.

Mr. ROONEY of New York. I have listened very carefully to this debate. It would seem to me since the gentleman referred to coffee prices that he and his distinguished colleague from Iowa would want to look into the cream that goes into that coffee.

Mr. GROSS. Yes, also Australian beef, lamb, and mutton, and the ham that is coming in from Poland.

Mr. ROONEY of New York. I wonder what Senator GOLDWATER thinks about this.

Mr. GROSS. Do not worry about Senator GOLDWATER; I suggest you worry about President Johnson.

Mr. AYRES. Mr. Chairman, I move to strike out the last word, and ask unanimous consent to speak out of order.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. AYRES. Mr. Chairman, in the past few days we have seen a number of young people visiting the Capitol from their various districts who were local spelling bee champions. I should like to relieve your anxiety. Just a few moments ago my constituent won the national spelling bee championship. Little Billy Kerek and his teacher, Miss Estella Swearengin, who has been here five times before, trying for the championship. This is the first time her student has won. Billy's parents were also present when he spelled the final word.

Mr. ROONEY of New York. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield.

Mr. ROONEY of New York. Surely the distinguished gentleman did not have anything to do with that, did he?

Mr. AYRES. Indirectly I did, because I was interested in getting a bond issue passed to build the Bolich Junior High School, that this young man attends. Further, he was sponsored by the Akron Beacon Journal, which supported me. But I should like to add in a nonpartisan vein that the schoolteacher is a Republican, and I think his mother is a Democrat. I congratulate all those who were involved in the contest with a special hurrah for the new national spelling bee champ, Billy Kerek.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. HOEVEN], to the committee amendment.

The question was taken; and on a division (demanded by Mr. HOEVEN), there were—ayes 57, noes 68.

Mr. HOEVEN. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. HOEVEN and Mr. MATTHEWS.

The Committee again divided, and the tellers reported that there were—ayes 76, noes 94.

So the amendment to the committee amendment was rejected.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. MATTHEWS. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the resolution. I hope it will be approved by an overwhelming majority.

Mr. Chairman, the National Commission on Food Marketing, which has been proposed by President Johnson to study and appraise changes in the marketing structure of the food industry, is of vital concern to every citizen of the United States. As President Johnson has said:

> The growth and stability of our entire economy depends, to a large extent, upon the food industry. We do not know enough about the new character of the industry. The Commission would gather the necessary information and report to the Congress, the President, and the public.

The House Agriculture Committee in its unanimous report on the Marketing Commission, stated:

> The American public is vitally interested in the information that will be disclosed by the study to be performed by the National Commission on Food Marketing. The public is vitally concerned that our system will continue to furnish a great abundance of food and fiber at low costs. The Congress and the Executive will carefully consider the recommendations and findings of the Commission when its work is completed. The Committee on Agriculture urges prompt action on this legislation so that the members can be appointed and the staffs employed to begin the study as soon as possible.

Secretary Freeman has called the proposed Commission study:

> The most significant inquiry to be proposed since the late Senator Joseph C. O'Mahoney launched the historic Temporary National Economic Committee (TNEC) in the late 1930's.

The food industry of the United States accounts for annual retail sales of $70 billion and provides employment for about 11 million wage earners. It is our most basic industry, which directly touches the life of every American every day.

Changes in the food industry in the past two decades have been dramatic and far reaching. Business relationships among producers, assemblers, processors, wholesalers, jobbers, retailers and other traditional types of marketing firms have been altered, and in many cases these traditional functionaries have lost their separate identities. Through a process of growth, specialization, merger, horizontal and vertical integration and various forms of contractual arrangements, food marketing has evolved into a system of interrelated and highly coordinated business operations.

The changes of the past two decades have brought great advances in physical efficiency and service to consumers. They also have resulted in significant concentrations of market power and have altered the relationships among various groups in the food industry. Some have gained; others have lost during this period of rapid change.

We urgently need an assessment of the social benefits and the social costs of the changes which have been taking place. We need an evaluation of the road we have been traveling and the direction we believe the food industry of the United States should take for the future. This will require the best talents we can muster.

The National Commission on Food Marketing proposed by the President—made up of outstanding public leaders, with the services of a competent professional staff—offers the best hope for completing the type of objective study and evaluation which is needed. We all have a large stake in the successful completion of this work.

AMENDMENT OFFERED BY MR. HOEVEN

Mr. HOEVEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOEVEN: Page 7, line 8, strike the word "Chairman" and insert in lieu thereof the words "executive director, with the approval of the Commission,".

The CHAIRMAN. The gentleman from Iowa is recognized for 5 minutes.

Mr. HOEVEN. Mr. Chairman, this amendment will make the hiring of consultants, experts, and temporary employees subject to the approval of the full Commission rather than just the Chairman. It will vest the basic responsibility in the executive director as both my earlier amendment and the committee amendments do.

It incorporates the same principle involved in my earlier amendment. It simply lets the Commission, not the executive branch, select the Commission's advisers and experts. It would adopt exactly the same method of selecting experts as was done by the Commission on Increased Industrial Uses of Agricultural Products created in 1956, as well as the Hoover Commission in 1947.

It is an amendment designed to insure the bipartisan selection of competent and skilled experts.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. HOEVEN. I yield to the gentleman from Texas.

Mr. POAGE. So far as I am concerned, I accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: On page 3, after line 25, insert: "(6) The effect of imported food on United States producers, processors, and consumers".

The CHAIRMAN. The gentleman from Illinois is recognized for 5 minutes.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I am glad to yield to the gentleman from Texas.

Mr. POAGE. I expect to accept the amendment, but I believe it should be after line 18 instead of after line 25, on page 3.

Mr. FINDLEY. I believe the gentleman will find that subsection (b) above applies to number (5), so it should be at the bottom of the page.

Mr. POAGE. I would be glad to accept the amendment, if put at the end of section (5), but I believe it is entirely out of order, as stated.

Mr. FINDLEY. Mr. Chairman, I ask unanimous consent to correct my amendment, to make it appear after line 18, if that is the proper place.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment, as corrected.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: On page 3, after line 18, insert: "(6) The effect of imported food on United States producers, processors, and consumers".

Mr. HOEVEN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I am glad to yield to the gentleman from Iowa.

Mr. HOEVEN. I understand that the gentleman from Texas [Mr. POAGE] is willing to accept the gentleman's amendment, inserted at the proper place, and I join in accepting the amendment.

Mr. FINDLEY. I thank the gentleman. I urge support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FINDLEY].

The amendment was agreed to.

Mr. McLOSKEY. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McLOSKEY. Mr. Chairman, I compliment the gentleman from Illinois for the introduction of this amendment and compliment the Chairman of the Agriculture Committee for agreeing to same.

To those of us who are representing agriculture districts, and specifically those who represent areas where livestock feeding is so important, this amendment means a great deal.

We have been concerned for months by depressed cattle prices and I am most pleased that this new Commission will now include in its study, the effects of beef imports on contributing to this problem.

It is my hope that when the Commission completes its findings it will make specific recommendations whereby this Congress may pass intelligent and useful remedial legislation.

AMENDMENT OFFERED BY MR. SMITH OF CALIFORNIA

Mr. SMITH of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of California: On page 3, line 16, after the word "services" insert a comma and add the following language: "including the dissemination of market news".

The CHAIRMAN. The gentleman from California [Mr. SMITH], is recognized for 5 minutes.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Texas.

Mr. POAGE. I should like to accept the gentleman's amendment. I should like to ask if he did not intend to put a comma at the end of the phrase, simply as a matter of mechanics?

Mr. SMITH of California. So far as I am concerned, if grammatically the gentleman believes that to be correct, it is all right with me. I believe the comma is not necessary, but I am perfectly willing to have a comma there.

Mr. POAGE. I suggest that be done.

Mr. SMITH of California. I ask unanimous consent that be done.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. POAGE. Mr. Chairman, so far as the committee members are concerned, it is a perfectly proper amendment.

Mr. SMITH of California. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California.

The amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. CHARLES H. WILSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H.J. Res. 977) to establish a National Commission on Food Marketing to study the food industry from the farm to the consumer, pursuant to House Resolution 737, he reported the resolution back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. BEERMANN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count.

Mr. BEERMANN. Mr. Speaker, I ask unanimous consent to withdraw my point of order.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The SPEAKER. The question is on the passage of the joint resolution.

The joint resolution was passed.

A motion to reconsider was laid on the table.

Mr. POAGE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (S.J. Res. 71) to establish a National Commission on Food Marketing to study the food industry from the producer to the consumer.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a bipartisan National Commission on Food Marketing (hereinafter referred to as the "Commission").

SEC. 2. ORGANIZATION OF THE COMMISSION.—(a) The Commission shall be composed of fifteen members, including (1) five Members of the Senate, to be appointed by the President of the Senate; (2) five Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and (3) five members to be appointed by the President from outside the Federal Government.

(b) The President shall designate a Chairman from among the members of the Commission.

(c) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original position.

(d) Eight members of the Commission shall constitute a quorum.

SEC. 3. COMPENSATION OF MEMBERS.—(a) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Each member of the Commission who is appointed by the President may receive compensation at the rate of $100 for each day such member is engaged upon work of the Commission, and shall be reimbursed for travel expenses including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

SEC. 4. DUTIES OF THE COMMISSION.—(a) The Commission shall study and appraise the marketing structure of the food industry, including the following:

(1) The actual changes, principally in the past two decades, in the various segments of the food industry;

(2) The changes likely to materialize if present trends continue;

(3) The kind of food industry that would assure efficiency of production, assembly, processing, and distribution, provide appropriate services to consumers, and yet maintain acceptable competitive alternatives of procurement and sale in all segments of the industry from producer to consumer;

(4) The changes in statutes or public policy, the organization of farming and other food production and of food assembly, processing, and distribution, and the interrelationships between segments of the food industry which would be appropriate to achieve a desired distribution of power among Federal agencies as well as their desired levels of efficiency; and

(5) The effectiveness of the services and regulatory activities of the Federal Government in terms of present and probable developments in the industry.

(b) The Commission shall recommend such actions by Government or by private enterprise and individuals as it deems appropriate.

(c) The Commission shall make such interim reports as it deems advisable, and it shall make a final report to the President and to the Congress by July 1, 1966.

SEC. 5. POWERS OF THE COMMISSION.—(a) The Commission, or any member thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by majority vote—

(1) to require, by special or general orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpena or order issued under paragraph (a) of this section to invoke the aid of any district court of the United States in requiring compliance with such subpena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under subparagraph (3) and (4) above; and

(6) to pay the witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in case of refusal to obey a subpena or order of the Commission issued under paragraph (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) The Commission is authorized to require directly from the head of any Federal executive department or independent agency information deemed useful in the discharge of its duties. All departments and independent agencies of the Government are hereby authorized and directed to cooperate with the Commission and to furnish all information requested by the Commission to the extent permitted by law.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conducting of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) When the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held confidential and shall not be disclosed by the Commission or its staff: *Provided, however,* That the Commission shall permit business firms or individuals reasonable access to documents furnished by them for the purpose of obtaining or copying such documents as need may arise.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designated individuals on its staff and to make such rules and regulations as are necessary for the conduct of business, except as otherwise provided.

SEC. 6. ADMINISTRATIVE ARRANGEMENTS.—(a) Without regard to the civil service laws and regulations or the Classification Act of 1949, as amended, the Chairman of the Commission is authorized to appoint and fix the compensation of an executive director, and the executive director, with the approval of the Chairman, is authorized to appoint and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, but no individual so appointed shall receive compensation in excess of the rate authorized for GS-18 under the Classification Act of 1949, as amended.

(b) The Chairman is authorized to obtain services in accordance with the provisions of section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), but at rates for individuals not to exceed $100 per diem.

(c) The head of any executive department or independent agency of the Federal Government is authorized to detail, on a reimbursable basis, any of its personnel to assist the Commission in carrying out its work.

(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services: *Provided,* That the regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 46e) shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Administrator for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Commission.

(e) Ninety days after submission of its final report, as provided in section 4(c), the Commission shall cease to exist.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such sums not in excess of $2,500,000 as may be necessary to carry out the provisions of this joint resolution. Any money appropriated pursuant hereto shall remain available to the Commission until the date of its expiration, as fixed by section 6(e).

Mr. POAGE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. POAGE: Strike out all after the resolving clause of Senate Joint Resolution 71 and insert the provisions of H.J. Res. 977 as passed.

The amendment was agreed to.

The joint resolution was ordered to be read a third time, was read the third time and passed.

A motion to reconsider was laid on the table.

A similar joint resolution (H.J. Res. 977) was laid on the table.

Mr. POAGE. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to Senate Joint Resolution 71 and ask for a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The Chair appoints the following conferees: Messrs. COOLEY, POAGE, ROSENTHAL, HOEVEN, and DAGUE.

GENERAL LEAVE TO EXTEND

Mr. HOEVEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on House Joint Resolution 977 as passed.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

STATES' INHERENT RIGHT TO TAX INCOME

Mr. HAGAN of Georgia. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. HAGAN of Georgia. Mr. Speaker, a major problem confronting State governments and the business community is the lack of more uniform methods of allocating and apportioning multistate income. The States have an inherent right to tax income derived from sources within their respective jurisdictions and the business community has a right to some uniform basis of tax accounting to the States in which it does business.

Mr. Fred L. Cox, director of income taxes for the State of Georgia, and a nationally recognized authority in this field, has prepared what I believe to be a fair and equitable apportionment measure for adoption by the States imposing a tax measured by income.

The proposal of Mr. Cox embraces the formula for apportionment sponsored by the National Conference of Commissioners on Uniform State Laws, approved by the house of delegates of the American Bar Association, and is being submitted with a committee recommendation for approval, to the upcoming National Governor's Conference, the National Conference of Attorneys General and the National Association of Tax Administrators. The Council of State Governments is also interested in the adoption of the measure.

LEGISLATIVE PROGRAM FOR THE WEEK OF JUNE 8, 1964

Mr. ARENDS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ARENDS. Mr. Speaker, I have asked for this time to inquire of the majority leader concerning the program for next week.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. ARENDS. I yield to the gentleman.

Mr. ALBERT. In response to the inquiry of the gentleman from Illinois, the program is as follows:

Monday is District day, but there are no District bills scheduled.

For Tuesday and the balance of the week, as follows:

H.R. 11380, Foreign Assistance Act of 1964. This has an open rule, with 4 hours of general debate, waiving points of order.

H.R. 11376, Excise Tax Rate Extension Act of 1964.

This announcement is made, of course, subject to the usual reservation that conference reports may be brought up at any time and that any further program may be announced later.

Mr. Speaker, I should like to advise the Members of the House that there is a possibility of announcing on Monday or Tuesday additions to this program and that these additions may include the so-called pay bill.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. ARENDS. I yield to the gentleman from Iowa.

Mr. ALBERT. Mr. Speaker, will the gentleman permit me to say that the announcement is to be made on Monday or Tuesday as to whether or not this will be done.

Mr. GROSS. But the gentleman is not saying that the pay increase bill will be called up next Monday?

Mr. ALBERT. No; I am saying that an announcement will be made on Monday or Tuesday of next week as to whether it will be called up next week.

Mr. GROSS. Mr. Speaker, I thank the gentleman.

Mr. ARENDS. Mr. Speaker, I thank the gentleman from Oklahoma.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS NEXT WEEK

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

ADJOURNMENT OVER TO MONDAY, JUNE 8

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. GROSS. Mr. Speaker, reserving the right to object—and I shall take only a minute or two—am I to understand that the debt ceiling increase will not be taken up next week?

Mr. ALBERT. The gentleman's understanding coincides with mine.

Mr. GROSS. Mr. Speaker, I hope that the distinguished majority leader is going to be consistent in bringing the debt ceiling increase bill in before he brings in the salary increase bill. I should not like to think that the Members of Congress are going to vote to increase their salaries or even have the opportunity to vote on it before the debt ceiling increase bill is disposed of.

Mr. ALBERT. I believe the Members of Congress are courageous and will vote their convictions regardless of when certain bills are called up.

Mr. GROSS. I believe that in order to be consistent—and this is going to increase the debt and deficit by a half billion dollars, the salary grant bill—we ought to know whether the House is going to increase the debt limit or not.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

SUPPOSED FLIGHT OF AIRCRAFT BY ANTI-CASTRO PERSONNEL FROM FLORIDA TO CUBA AND BACK WITHOUT DETECTION BY U.S. AIR DEFENSE RADAR

Mr. ROGERS of Florida. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include a letter from the Deputy Secretary of Defense.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS of Florida. Mr. Speaker, in a copyrighted news story which appeared last week, a claim was made that a civilian aircraft was flown by anti-Castro personnel from Florida to Cuba and back without detection by U.S. air defense radar.

Upon receipt of this information I related it to the House, and urged that an investigation of the circumstances surrounding this story be launched. Chairman CARL VINSON of the House Armed Services Committee was good enough to honor my request, and he urged the Secretary of Defense to look into the matter and make a full report.

You will recall that this flight was reportedly to have been made for the purpose of airdropping medical equipment for anti-Castro guerrillas inside Cuba. My concern was that U.S. air defenses had again been eluded as they had been earlier this year when a Cuban helicopter landed in Florida without being intercepted by U.S. authorities.

The results of the Defense Department investigation have just been reached, and they have been turned over to Chairman VINSON, who is to be commended for expediting this entire matter. The Defense Department has given assurances that the flight did not take place, and that the Nation's air defenses were not eluded.

This assurance should be related to the American people. It is good to know that our Armed Forces are maintaining careful vigilance in this troubled area of the Caribbean, and that every precaution is being taken to guard gainst impulsive acts which might originate from the Cuban situation.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., June 4, 1964.

Hon. CARL VINSON,
Chairman, Committee on Armed Services,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your letter of May 28, 1964 enclosing a letter from Hon. PAUL G. ROGERS of Florida concerning an alleged undetected flight of an aircraft from Miami, Fla., to Cuba and return.

At the time of receipt of your letter, the Department of Defense had already initiated a thorough investigation of this matter, which was brought to our attention as a result of news stories in the Florida press.

We have now completed two separate but coordinated investigations conducted by the North American Air Defense Command and the Defensse Intelligence Agency, with the assistance of the Federal Bureau of Investigation and the Central Intelligence Agency. As a result of these investigations one of the individuals involved in the alleged "Phantom Raid" has indicated to our investigators that the raid did not take place. Mr. Frank Fiorini, president of the International Anti-Communist Brigade, which allegedly conducted the raid has signed the following statement:

"To the best of my knowledge a so-called 'Operation Phantom,' a raid in Cuba on May 25, 1964, did not take place. I declare that U.S. radar defenses were not violated while leaving or entering U.S. territory."

On the basis of the investigations we conclude that:

(a) The 30th of November revolutionary movement used the alleged incident for publicity.

(b) The flight as alleged in some published reports did not take place.

(c) The radar defenses of southern Florida were not evaded on May 25.

We are grateful for your interest in this matter.

Sincerely,

CYRUS VANCE.

Mr. EDMONDSON. Mr. Speaker, will the gentleman yield?

Mr. ROGERS of Florida. I am glad to yield to the gentleman from Oklahoma.

Mr. EDMONDSON. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from Florida for bringing the results of this investigation to the attention of the Members of the House. I know that a lot of Members shared the gentleman's concern about the report when such report appeared in the newspapers.

Mr. Speaker, it is reassuring to know that no such flight has taken place off our shores.

DAUGHTER OF HENRY FORD TO BE ON ADVISORY COMMITTEE OF YOUNG CITIZENS FOR PRESIDENT JOHNSON

Mr. PUCINSKI. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The **SPEAKER.** Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PUCINSKI. Mr. Speaker, the Associated Press carried the following story today, which I believe is of significant interest to many Members of the Congress, and particularly to those Members on this side of the aisle.

The story which appeared under a Washington dateline by the Associated Press is as follows:

Miss Charlotte Ford, daughter of automaker Henry Ford II, will be on the advisory committee of the newly organized Young Citizens for Johnson, an official of the group said today.

Gene Theroux, assistant director, said Miss Ford and several other members of the advisory committee will be on hand for a news conference tomorrow kicking off the Young Citizens group's activities.

Mr. Speaker, I am very pleased to see the daughter of the distinguished president of the Ford Motor Co. join the young people of this country in supporting the cause and impressive program of President Johnson.

Mr. Johnson has followed the tradition of former President Kennedy in realizing the many problems of the young people of America. President Johnson is carrying on a program which provides the young people of this country a rallying point for all of their hopes and, I am sure, for progress in America.

Mr. Speaker, I am sure all of us are proud that Miss Ford will play an important role in this Young Citizens group for President Johnson. Certainly, I hope that her example will draw many, many other young people into the political arena. It is good for the young people of this country to take an interest in the body politic. We, as Democrats, are particularly pleased that Miss Ford, like her distinguished father, has chosen to use her energy in support of President Johnson.

POLITICAL POLLSTERS: "THE MORE I'M WRONG, THE BETTER I GET"

Mr. HALL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The **SPEAKER.** Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HALL. Mr. Speaker, I suppose that today Mr. Lou Harris is saying to himself, "The more I'm wrong, the better I get."

When the Literary Digest made its famous miscalculation about the outcome of the Roosevelt-Landon race, it went out of business. But the more the Lou Harris poll guesses wrong, the more insistent his clients are in using his Democrat Party inspired propaganda. Unfortunately these clients include newspapers, magazines, and television networks who insist on giving him a platform to try to sink the Republican Party, especially the popularly phrased conservative wing.

In view of his "accuracy" to date, I think Republicans should take heart in the Harris allegation that "40 percent of the GOP voters prefer Lyndon Johnson to either Goldwater or Rockefeller."

That is a typical statement to be expected from one who has spent much of his career in the employ of a Democrat Senator and the Democrat National Committee. But if his statement is on a par with his predictions in the New Hampshire, Oregon, and California primaries, then L.B.J. has cause to worry about a possible 40-percent defection of Democrats to the Republican standard bearer next November. Indeed the outcome of the Wisconsin, Indiana, and Maryland Democrat primaries are more cause for L.B.J. worry than the Harris propaganda is for GOP worry.

Attached is a story in the New York Times by Earl Mazo which bears out this contention:

CALIFORNIA REPUBLICAN PRIMARY TRIPS THE POLLSTERS FOR THIRD TIME IN ROW

(By Earl Mazo)

Major opinion polls went wrong again in forecasting the winner of the California Presidential primary.

Erroneous predictions by nationally published and broadcast polls in three successive Republican primaries have caused the opinion research profession to approach the election this year with a reputation recalling 1948, when nearly all polls picked Gov. Thomas E. Dewey to defeat President Truman.

The setback is evident from mounting criticism in Congress and elsewhere, even though only a few of the Nation's 200 professional pollsters conducted surveys in the California, Oregon, and New Hampshire primaries.

Among others, Senator WILLIAM PROXMIRE, Democrat, of Wisconsin, charged in the Senate yesterday that pollsters were getting such a reputation for failure this year that their currently unanimous victory forecasts for President Johnson could mean "the Republicans will win the greatest victory in the history of this country."

And the Senate Republican leader, EVERETT MCKINLEY DIRKSEN, of Illinois, joined the chorus by characterizing the California primary as "a computed election to end all computers."

Experienced polltakers are painfully aware that prophesying a primary result is more difficult than calling a general election. Also, there are additional hazards this year because of the unusually volatile situation within the Republican Party.

But what counts to poll readers—laymen and politicians—is whether the professional pollster is right or wrong in naming the winner.

And only in an election itself can the public check pollster reports.

Thus, when Senator BARRY GOLDWATER won California with 53 percent of the vote, it was obvious that the pollsters who had predicted otherwise were in error.

For example, readers of Louis Harris' election eve newspaper column could judge the accuracy of its report that Governor Rockefeller was leading by 2 percent.

HARRIS PREDICTION

But the public may have to await the election in November before checking another report made by Mr. Harris:

"The plain fact is that 40 percent of these GOP voters prefer Lyndon Johnson to either Goldwater or Rockefeller."

None of the professionals who polled in California called it right, not even Samuel Lubell, whose election eve report came closer than any other that was published.

Mr. Lubell, published in the Scripps-Howard newspapers, found Governor Rockefeller to have "the edge of victory through the whole State," but he reported Senator BARRY GOLDWATER was gaining rapidly enough to be given "a fair chance of winning."

The Lubell poll accurately pointed to Governor Rockefeller's surprise victory in the Oregon primary on May 15 and Ambassador Henry Cabot Lodge's write-in triumph in the New Hampshire primary on March 10.

Mr. Harris, the only other nationally syndicated opinion researcher in the three Republican primaries, failed to predict the winner of any.

Two pollsters who operate at the State and regional level also inaccurately forecast victory for Mr. Rockefeller.

They were Mervin D. Field, whose poll is published in newspapers throughout California, and Don Muchmore, polltaker for the Long Beach Independent Press Telegram.

Mr. Field explained the error in his poll in terms of its timing.

"Our final preelection surveys have to be terminated a week or more before an election," he said. "A lot can happen in the closing days, if not the closing hours of a campaign."

Mr. Harris, who was a confidential opinion sampler for President Kennedy and now is pollster for the Los Angeles Times Syndicate, Newsweek magazine, and the Columbia Broadcasting System, insisted yesterday that his polls have been "absolutely right as of when they were taken."

But he conceded, indirectly, that his figures and findings may have become outdated when published a few days later.

Mr. Rockefeller lost to Mr. GOLDWATER in California "on Sunday, Monday, and Tuesday," Mr. Harris said. He listed a range of reasons, including "the birth of the Rockefeller baby."

Critics of pollster performance this year also have raised questions about the speed with which Mr. Harris and other experts declared Senator GOLDWATER to be the victor in California on primary night.

The Columbia network was first. Just 22 minutes after the first polls closed, Mr. Harris announced Mr. GOLDWATER had swept the primary with 53 percent of the vote.

Eyebrows were raised when Mr. Harris later revised that margin downward, finally settling on 51 percent.

Meanwhile, other networks came through with Goldwater declarations. And as the vote between the rival condidates narrowed through the night, those early announcements—based on computer projections—were hedged and revised.

A Republican leader in California complained yesterday that Columbia's hurried and overgenerous pronouncement for Mr. GOLDWATER could actually have contributed to the Rockefeller defeat.

At the time, said the party figure, voting was still in progress in many Northern California precincts—and "a bandwagon feeling" for Mr. GOLDWATER may have influenced many voters.

ON RECENT AND CURRENT MONETARY POLICY—FED'S "TIGHT MONEY" POLICY IN ACTION

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Mr. Speaker, on Tuesday, June 2, President Johnson told the Nation that, "our record economic expansion which entered its 40th month yesterday, is showing new vitality." The President's observation is 100 percent correct. This new vitality in the economy reflects a sharp rise in the growth of the money supply from July 1963 to mid-January 1964. But I am apprehensive that this new vitality will be short lived. I say this because the Federal Reserve has apparently changed its policy once again and is determined to tighten money.

The business upswing we have been experiencing since February 1961 was made possible by an expansive Federal Reserve policy. The Fed shifted from a downright depressive to a moderately expansionary policy in July 1960. For the next 2 years. the volume of money increased at an annual rate of 2 percent. During the following year, the Fed pursued an even more expansionary policy and the money supply increased by 3.4 percent. From July 1963 to mid-January 1964, the Fed's policy was still more expansionary. During this half-year period, the annual rate of increase in the money supply was stepped up to 6.2 percent. No one can study these facts without realizing the importance of monetary policy for the growth of our economy, the full employment of our labor, and the profitability of our business enterprises.

The sharp increase in the money supply beginning in the summer of 1960 has provided the base for our now 40-month-old economic expansion, an expansion which has been marked by a great rise in business profits and investment, together with falling unemployment in every part of the country, including Appalachia, and among every group of workers including nonwhites and those over 60.

In view of the healthy effects of monetary expansion, one can only wonder why it took the Fed so long to increase the money supply at an adequate rate. For, from July 1957 to July 1960, the rate of growth of the money supply was less than 1 percent per year.

More important, one must wonder why the Fed has been shifting to a tight money policy recently. The Fed's latest restrictive policy is now beginning to effect the growth of the money supply. Figures released today on the volume of money for last month show that it has not grown at all, and in fact has actually decreased a little from the level of mid-January. Why has the Fed been preventing the money supply from growing in 1964? Is it because the Board's Chairman and other ranking executives of the System do not want interest rates to fall? Earlier this year, Chairman Martin said that he expected interest rates to rise and, professing his belief in the free market, he said the Fed would do nothing to stop this from happening. It occurs to me that market forces were working to decrease interest rates, not to raise them, in 1964, and the only reason that interest rates have not fallen is because the Fed has pursued a tight money policy since last January. When market forces are not working to pull up interest rates, they decline as the availability of money rises. Since January the money supply has fallen and interest rates have been stable. Thus the market has not been working to pull up interest rates and so, if the Fed had expanded the money supply at a moderate rate in 1964, interest rates certainly would have fallen. I am always puzzled by the Fed's reluctance to follow a moderately expansionist monetary policy when free market forces are working to bring interest rates down. Is the Fed's professed belief in the free market one-sided? Do they not believe in letting the free market work when it is working to bring down interest rates?

Now by a moderately expansionist monetary policy, I do not mean necessarily one that increases the volume of money at the rate of 6 percent per year. Perhaps this is too rapid, although the more than 6 percent per year growth that occurred from July 1963 to mid-January 1964 did not produce an inflation. But though 6 percent might be too rapid, a 1 percent growth of the money supply definitely is too low, and a fall in the money supply is even more depressive. Is there no possibility of a 5-, 4-, 3½-, or 2½-percent rate of growth in the money supply? Must we have another period of monetary starvation?

There is no reason in the world for the Fed to cause the money supply to fall. The President, in his Tuesday speech, predicted the current economic expansion will continue "well into 1965." It will, if—but only if—the Federal Reserve cooperates with the administration's efforts to achieve "maximum employment, production, and purchasing power" by buying Government securities from the banks and others so as to provide banks with additional reserves. These extra reserves can be loaned to businessmen and others who will spend what they borrow and thereby a satisfactory growth in the money supply can be achieved.

The authority which the Federal Open Market Committee has to act independently of the administration and Congress must not be abused once again. The Fed cannot be permitted to force the economy to suffer again from monetary strangulation and recession, as I am afraid it is beginning to do. It is not too late for the Fed to reverse its course by purchasing Government securities and thereby allowing for a moderate increase in the money supply. The money supply must be allowed to grow at a rate which is large enough to permit maximum employment and production, but not so large as to cause inflation. Only if this is done can an attempt to eradicate poverty succeed. Antipoverty programs must not be allowed to fail because monetary policy does not allow for normal economic growth.

Let me add a postscript for the benefit of those of you who oppose the President's antipoverty program. Possibly we would not need some of these antipoverty projects if only monetary policy were conducted more sensibly.

DESIGNATION OF A GROVE OF REDWOOD TREES AS A MEMORIAL TO THE LATE DAG HAMMARSKJOLD

Mr. DON H. CLAUSEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include a copy of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DON H. CLAUSEN. Mr. Speaker, I would like to serve notice on this honorable body that a major celebration will be held in the city of San Francisco next year. The year 1965 will mark the 20th anniversary of the founding of the United Nations in that city, Mayor Jack Shelley, our former colleague here in the Congress, is planning a celebration, I am told.

The United Nations, like its predecessor, the League of Nations, has been a center of controversy since its inception. Some people are of the opinion that the U.N. tends to restrict the United States in the conduct of International affairs, with the potential loss of our nation's sovereignty. Some see it as the only political structure to air the complex ideological difference of our rapidly changing world.

Despite all of this, the feeling is widespread throughout our country that the United Nations still carries the hopes of all men for world peace. To the last man on this floor, we all hope and pray for this to come to pass.

In connection with the 20th anniversary celebration in San Francisco, I think proper recognition should be given at the time to one of the great early leaders of the U.N.—Dag Hammarskjold. To that end, I am introducing this day a resolution expressing the sense of the Congress that a silent, timeless Redwood forest in my district be designated the Dag Hammarskjold Memorial Grove.

To fully explain this proposal, I will attempt to relate the real meaning of Sequoia sempervirens—the ever-living Redwood. A book I have been reading tells the story of the life of one tree. I would like to attempt to summarize this story in a few words, if I may.

During the founding of the Babylonian empire 2,200 years ago, a sprout emerged from a seed no bigger than a matchhead. It creeped up, straight and true, a few inches a year toward a patch of sky between the cover of the huge trees surrounding it. Two hundred years later, about the time Jesus of Nazareth began to preach his parables, our tree was 100 feet tall and 3 feet thick at the base. Over the centuries it inched up, expanding a fraction of an inch in girth each year as empires rose and fell, as the dark ages came and disappeared into the Renaissance, as Columbus discovered the New World and a new nation with a new idea of government based on freedom and individual responsibility grew to maturity.

During these millenniums, monumental natural calamities struck. Floods of the centuries crept up the trunk of the tree, depositing several feet of new soil over its root system. Six times in its life, the tree grew a new set of roots closer to the surface to gather forest nutrients. Several major forest fires seared its skin and ate its flesh, but each time it healed its wounds with decades of new growth until 1849, the year of the great gold rush to California. That year, a forest fire burned a 17-foot-wide scar on its side, killing all the roots under the wounded area. The tree, over the next decades, started to lean. At the same time, it began growing a brace to shore up its wounded side. In 106 years, it grew a buttress projecting 4 feet to shore up its great weight. But the centuries needed to fully protect itself from natural disaster were not to come before the next natural onslaught.

Everyone recalls the 1955 floods in California when levees broke, Yuba City was flooded, and scores of people were drowned. This same flood made a bog around the tree and the buttress sank in as the tree leaned farther and farther. Finally, its 1,000 tons of redwood snapped its good roots and crashed to the ground along a 350-foot path. When its great trunk was cut, most of the history of modern civilization could be traced on its life rings.

This, Mr. Speaker, is why national interest has been aroused over preservation of suitable groves of these stately trees. The life of Dag Hammarskjold was in concordance with the deep and pervading majesty of the redwoods among which we find spiritual refuge and gain a more profound realization of his own thought that "we each have within us a center of stillness surrounded by silence."

Dag Hammarskjold, until his death in 1961, served 8 years as Secretary General of the United Nations, carrying on his widely significant and courageous search for world peace. By their very grandeur, the giant redwoods imbue us with a strong realization of human dignity, tolerance, and stateliness so characteristic of Dag Hammarskjold's life.

This, Mr. Speaker, is largely the sentiment expressed in my concurrent resolution. I think it altogether fitting that a redwood grove in my district be selected by the State of California as a memorial to this world leader, and I would urge my colleagues to join me in this recognition.

The resolution follows:

HOUSE CONCURRENT RESOLUTION EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE DESIGNATION OF A GROVE OF REDWOOD TREES AS A MEMORIAL TO THE LATE DAG HAMMARSKJOLD

Whereas the Dag Hammarskjold International Foundation, the American Association for the United Nations, the State of California Dag Hammarskjold Memorial Grove Committee, and numerous cooperating groups including the Save-the-Redwoods League are carrying forward the proposal for a Dag Hammarskjold Memorial Redwood Grove; and

Whereas the life of Dag Hammarskjold was in concordance with the deep and pervading majesty of the redwoods, among which we find spiritual refuge and gain a more profound realization of his own thought that "we each have within us a center of stillness surrounded by silence"; and

Whereas Dag Hammarskjold until his death on September 17, 1961, served 8 years as Secretary General of the United Nations, carrying on his widely significant and courageous search for world peace; and

Whereas by their very grandeur the giant redwoods imbue us with a stronger realization of human dignity, tolerance, and stateliness so characteristic of Dag Hammarskjold's life: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that it is appropriate to designate a grove of redwood trees as selected by the State of California, as the Dag Hammarskjold Memorial Redwood Grove.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Iowa.

Mr. GROSS. I thought that the first celebration that would be held in San Francisco would be on or about July 13 with the nomination of Senator GOLDWATER for President.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman.

Mr. HAYS. I would just like to comment if what the gentleman from Iowa says is going to happen in San Francisco on July 13 that that will be the beginning of a long period of mourning for the Republican Party.

Mr. DON H. CLAUSEN. I do not think that particular point is appropriate, Mr. Speaker.

EDDIE SACHS

Mr. ROONEY of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include an editorial.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ROONEY of Pennsylvania. Mr. Speaker, there are not many occasions, I am sure, when a Member of this distinguished House rises to eulogize a close, personal friend and is forced, at the outset to say that, to many, his death may have seemed a waste.

But I must, in this case, for in the aftermath of last Memorial Day's 500-mile race at Indianapolis, a good many words have been written to that effect regarding the death of Eddie Sachs.

Eddie was a resident of Allentown. We were neighbors and friends the greater part of our lives, and we were both relatively young men.

Although I cannot say that I ever shared his enthusiasm for risk taking and high speeds such as those involved in professional racing, I can, and do, say that I admired and respected Eddie Sachs' determination and devotion to the sport he loved.

I suppose it seems different somehow, when a man says he will not be satisfied until he wins a race like the 500—but, for Eddie, that was just the same as dreaming about pitching a no-hitter or running a recordbreaking mile, if he had been a pitcher or a runner.

But he was not. He was a driver. And he was one of the finest there was in the country.

I realize that what happened at the Indianapolis Speedway last Saturday shocked most of those who were watching it—either in person or on television.

My own feeling was simply one of personal loss—the loss of a friend and grief at the loss suffered by his charming and wonderful wife, Nancy.

But it goes beyond that.

Eddie Sachs was, in every sense of the word, a true competitor, a man who set goals for himself and never lost sight of them, a man who recognized the unbelievable risks he was taking but would not—or could not—back away from them simply because they were so enormous.

In its very real meaning, Eddie Sachs was gifted with a spirit of nobility. He believed in challenges. He did his absolute best to meet them.

The "500" was Eddie Sachs' Mount Everest. He had to beat it "because it was there."

I think American racing has been diminished by his death; and I am proud to have called him my friend, in life.

There was a fine editorial in Monday's issue of the Bethlehem Globe-Times about Eddie. I include that editorial as part of these proceedings, in testimony to a spirit which some men, some chosen few, are able to bring to the challenges before them:

EDDIE'S MEMORIAL

"You can't beat fun," Eddie Sachs always used to say, and Saturday he tried to prove it at Indianapolis.

Eddie said when he moved away from Center Valley not long ago that he intended to keep on competing in the famous "500" until he won. He came close to it, winning third place in one race and a second in 1961. But he never got the coveted first, and he couldn't beat racing.

Eddie was doing fine on Saturday when a rookie driver's car came roaring out of the west, went into a spin, hit a wall, and caused the four-car crash that killed Eddie, burned several other drivers, and caused the death, an hour or so later, of the rookie, MacDonald, himself.

So Eddie's "Red Ball Express" never made it, and all that Nancy, his wife, had left when it was over was a white cap bearing his emblem, lying on the ambulance seat. The hopes, dreams, and ambitions that had impelled Eddie Sachs to his daredevil end had flamed to death with him.

The hucksters in the stands and on radio broadcasts continued to promote their wares as workmen cleared the charred cars from the track, and doctors were summoned to attend the victims. The race was held up an hour and 45 minutes. Such was racing's testimonial to Eddie Sachs.

It was "in memoriam" all right at Indianapolis on Saturday, a startling American custom of venerating our war dead.

SENATOR GOLDWATER'S VICTORY IN CALIFORNIA REPUBLICAN PRIMARY

Mr. DEVINE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. DEVINE. Mr. Speaker, on the way to work this morning I was listening to the radio, and I was astounded to hear comments from out of the United States about the selection of Senator GOLDWATER in the California primary on Tuesday. The press in London, the press in Berlin, the press in Stockholm, and the press in many other foreign nations—many of which have had their arms in the Federal till of the United States, through foreign aid, up to their armpits—deem it part of their business to tell us what we should do in this country and what a terrible thing it might be if Senator GOLDWATER should become the President of the United States.

I believe it ill befits these countries to interfere in the internal affairs of this great Nation.

I happen to be one of many Members of this House who consider Senator GOLDWATER a great American. He not only scored a resounding victory in California against the other candidate but did more. There is a program called "Meet the Press." The Senator "beat the press" in this particular instance, because he was not getting a favorable press.

There were some in the media of TV, some of the purveyors of doom and gloom, who, when they appeared on the television Tuesday night, had an expression on their faces of stunned amazement, that this great American might become the President of the United States.

Perhaps we might look into the communications media, to determine why all of the non-Republican liberals are trying to select the Republican candidate for President, so that in November they can try to beat him over the head.

I believe it is up to the Republicans to select their own candidate.

FALSE EMPLOYMENT PROPAGANDA: GAO REPORT CHARGES OVERSTATEMENT OF NUMBER OF JOBS EXPECTED TO BE CREATED UNDER ACCELERATED PUBLIC WORKS PROGRAM BY 128 PERCENT AND JOBS ACTUALLY CREATED BY 83 PERCENT

Mr. CRAMER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CRAMER. Mr. Speaker, I call the attention of the House to the report of the Comptroller General dated June 3, 1964, which justifies the position taken by many of us with respect to the accelerated public works program. This report shows conclusively that pump-priming through public works projects is not the answer with respect to unemployment and as a sound means toward the creation of new jobs.

The report of June 3 shows conclusively—and it is a shocking report, so far as I am concerned—that there was, in my opinion, a purposeful intent to falsify the records of the accelerated public works program, first, in its presentation to the Congress to justify it; and, second, as it relates to what it has accomplished in the way of new jobs.

I, for one, abhor this falsification of the record.

I once stated that the estimated spending cost per job if all employment accomplished was new employment, was $10,000 per man-year average. I now up that estimate to at least $15,000 per job on the basis of this report. This proves it is imprudent to try to buy jobs through spending for public works as an answer to unemployment.

The key is in the report. This shows that the estimates made by the different agencies for the accelerated public works program were overstated to this Congress, in the presenting of the case for this as an antipoverty program and an employment program, by 128 percent. The report also shows that these agencies could not even add up the number of new jobs created after the projects were underway. Those were overstated by 83 percent.

So the report shows conclusively that there was an intentional and purposeful effort to falsify the record. This is done obviously with an intent of trying to show a justification now for the Appalachia program, which is partially public works, and also for the antipoverty program, which is partially public works; and I say that Congress should be informed, as this report indicates, as to how much the jobs through public works are actually costing. It is at least $15,000 per year per man.

I submit the report for the RECORD, to be printed at this point:

REPORT TO THE CONGRESS OF THE UNITED STATES—OVERSTATEMENT OF NUMBER OF JOBS CREATED UNDER THE ACCELERATED PUBLIC WORKS PROGRAM, AREA REDEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

(By the Comptroller General of the United States, May 1964)

COMPTROLLER GENERAL OF
THE UNITED STATES,
Washington, D.C., June 3, 1964.

To the Speaker of the House of Representatives and the President pro tempore of the Senate:

In our examination into the accuracy and reliability of selected information pertaining to the accelerated public works program reported to the Congress and other interested parties by the Area Redevelopment Administration, Department of Commerce, we found that the reports contained significant overstatements of the number of jobs estimated to be created by accelerated public works projects approved by the Community Facilities Administration, Housing and Home Finance Agency. We found also that the reports contained overstatements with respect to the number of actual man-months of work created by Community Facilities Administration approved projects already under construction.

A comparison of the estimated 21,814 man-months of work reported by the Area Redevelopment Administration for the 190 projects included in this review with the 9,553 on-site man-months actually worked on these projects shows that the estimates were overstated by 12,261 man-months, or about 128 percent. If what we found in the 190 projects is true for the other Community Facilities Administration projects, the estimated 55,300 on-site man-years of work for the 2,842 projects approved by the Community Facilities Administration as of November 1, 1963, would appear to be overstated by about 31,000 man-years. The total number of man-years of work estimated to be created by all projects approved by the various participating departments and agencies as of November 1, 1963, was 93,400. Our examination also disclosed that the 50,853 on-site man-months reported as having actually been worked on 497 Community Facilities Administration projects were overstated by 23,008 man-months, or about 83 percent. Projecting this percentage of overstatement to that agency's 1,228 projects under construction at November 1, 1963, indicates that the reported 131,942 actual on-site man-months of work were overstated by about 60,000 man-months.

The overstatements resulted from inaccurate estimates by the applicants for grants and from the Community Facilities Administration's use of these inaccurate estimates, rather than contractor payroll information, to calculate the amount of actual onsite employment. As the Community Facilities Administration projects account for almost one half of all funds appropriated for the accelerated public works program, these overstatements take on added significance.

The Community Facilities Administration and the Area Redevelopment Administration separately reviewed project payrolls and arrived at basically the same results as we did concerning the overestimates. Neither agency believes, however, that the projects reviewed are representative of all the Community Facilities Administration projects. The reviews covered almost all that agency's projects completed at the time, included large and small projects in large and small communities, accounted for about 15 percent of all the agency's projects under construction, and accounted for over 6 percent of all the agency's projects approved as of November 1, 1963.

After being advised of the nature and extent of our findings, the Area Redevelopment Administration revised the format of its report so that it no longer shows the cumulative number of man-months of onsite work created by individual projects. In addition, the Area Redevelopment Administration changed the method of determining onsite man-months of employment from the actual basis previously prescribed to a basis using the number of workers on the project site on one given day of the month.

We believe the change in the format of the directory and the change in the basis for determining onsite employment will not result in a meaningful report of the progress and accomplishments of the accelerated works program with respect to the creation of employment. Accordingly, we are recommending that the Administrator of the Area Redevelopment Administration devise a reporting system which can be used consistently to provide meaningful cumulative information on actual on-site man-months of work created by accelerated public works projects.

We are also recommending that the Administrator of the Area Redevelopment Administration take steps to improve the reliability of the information reported in the directories of approved accelerated public works projects by periodically verifying information reported and evaluating procedures used to obtain such information. We are also recommending that the Commissioner, Community Facilities Administration, take steps to provide that procedures followed by that agency result in accurate reporting on its portion of the program. The Administrator has informed us that the Area Redevelopment Administration is giving serious consideration to our recommendation.

Copies of this report are being sent to the President of the United States, the Secretary of Commerce, and the Administrator, Housing and Home Finance Agency.

JOSEPH CAMPBELL,
Comptroller General of the United States.

INTRODUCTION

The General Accounting Office has made a review of the policies, procedures, and practices of selected Federal agencies pertaining to the reporting of progress in the creation of jobs under the Public Works Acceleration Act (42 U.S.C. 2641). Our review was made pursuant to authority in the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67) and was conducted at the Area Redevelopment Administration (ARA), Department of Commerce, and the Community Facilities Administration (CFA), Housing and Home Finance Agency.

The purpose of our review was to examine into the accuracy and reliability of information reported to the Congress and other interested parties by the Area Redevelopment Administration pertaining to the progress and accomplishments of the accelerated public works program in creating employment. We examined records and reports and reviewed procedures at ARA and CFA in Washington, D.C. We also examined records maintained at the regional offices of CFA in Chicago, Ill., Atlanta, Ga., and Philadelphia, Pa.

BACKGROUND

The Public Works Acceleration Act authorizes Federal grants-in-aid from 50 to 75 percent of the cost of projects to local agencies to accelerate or initiate public works projects intended to provide immediate useful work for the unemployed and underemployed of eligible areas of the Nation. Accelerated public works (APW) program grants-in-aid are made by the Federal agencies which administer the law authorizing such assistance. For example, grants for public facilities such as water supply, administrative buildings, roads, and streets are made by CFA; whereas, grants for hospitals and waste-treatment plants are made by the Department of Health, Education, and Welfare. As of December 31, 1963, $880 million had been appropriated pursuant to the authorization of the Public Works Acceleration Act.

Pursuant to Executive Order No. 11049, dated September 14, 1962, and the regulations promulgated by the Secretary of Commerce on November 14, 1962 (44 C.F.R. 801.1 et seq.), ARA was made responsible for the evaluation and coordination of the APW program. In carrying out its responsibilities, ARA is required by regulations of the Secretary of Commerce to maintain records of progress and accomplishments under the act and to review periodic and special reports and other information of the several participating departments and agencies. ARA is also required by these regulations to prepare consolidations and statistical summaries, together with appropriate recommendations, to apprise the Secretary of Commerce of the status of the APW program and to serve as the basis for the Secretary's recommendations to the President. The head of each department or agency of the Federal Government participating in the APW program is required by regulation to submit to ARA such periodic and special status reports and other information as requested.

In accordance with its responsibilities to maintain records of progress and accomplishments of the APW program, ARA issues a periodic publication called the Accelerated Public Works Program Directory of Approved Projects. The November 1, 1963, directory is the 10th issued and contains projects cleared by ARA and approved and announced by the participating Federal agencies as of that date. It lists the amounts of State, local, and Federal funds going into these projects; and, where such information is available, it also shows the degree of completion of each project, the estimated number of man-months of work to be created by each project, and the actual number of on-site man-months worked.

The information presented in the directory of approved APW projects for September 1, 1963, was used extensively during the hearings of the Committee on Public Works of the House of Representatives in October 1963 concerning amending the Public Works Acceleration Act to authorize an additional appropriation of $900 million for the APW program. The summary tabulations in the directory, which show the estimated number of on-site man-months of work which will be created and the actual number of onsite man-months worked on the projects, are the only readily available measures of the progress and the accomplishments of the APW program regarding the generation of on-site work.

As of November 1, 1963, ARA reported that 7,021 projects involving APW assistance of $789,125,000 had been approved by the participating Federal departments and agencies. It was estimated that these projects would create 1,120,983 man-months, or about 93,400 man-years of on-site work. Of the total, CFA had approved 2,842 projects which were to receive grants of $422,439,000 and were estimated to create 663,911 man-months, or about 55,300 man-years of on-site work.

A list of principal management officials of the Department of Commerce and the Housing and Home Finance Agency responsible for matters discussed in this report is presented as an appendix of this report.

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

Reports on progress and accomplishments under accelerated public works program inaccurate

The ARA directories of approved APW projects, which, as related to the creation of jobs, are the only readily available measures of the progress and accomplishments of the $880 million APW program, contain significant overstatements of the number of on-site man-months of work estimated to be created by the APW projects. In addition, the directories contain significant overstatements of the number of man-months of on-site labor which have actually been worked on the APW projects already underway or completed.

Estimates of jobs to be created by projects overstated

A comparison of the estimated 21,814 man-months of onsite work to be created, as reported by ARA for 190 CFA–APW projects, with the 9,553 onsite man-months actually worked on these projects, shows that the estimates were overstated by 12,261 man-months, or 128 percent. If what we found in the 190 projects is true for the 2,842 projects approved by CFA as of November 1, 1963, it would appear that the estimated 663,911 man-months (55,300 man-years) of work reported for these projects by ARA is overstated by about 373,000 man-months (31,000 man-years).

We examined the payroll records and other data for 36 APW projects in the CFA regional offices in Atlanta, Ga.; Philadelphia, Pa.; and Chicago, Ill. These projects were located in 12 States, were completed or substantially completed at the time of our review, and included such projects as sewer, water, recreation facilities, and public buildings. ARA reported in its November 1, 1963, directory that an estimated 7,098 on-site man-months of work would be created by these projects. Our review of the available contractors' payroll records for these projects indicates that the actual number of man-months of work created was only 3,133, based on an 8-hour day and a 40-hour week. Accordingly, the estimated man-months of labor shown in ARA's directory of APW projects was overstated by 3,965 man-months, or about 127 percent.

After being informed of our findings, CFA requested its regional offices to forward to Washington payroll data and records on about 200 CFA–APW projects, including the 36 projects covered by our review. These projects represented about 15 percent of the CFA projects actually started at November 1, 1963, and almost all the CFA projects indicated by the November 1, 1963, directory as being 100 percent completed. Separate analyses of 190 of these projects by ARA personnel and of 138 of these projects by CFA personnel indicated the same basic variance between the estimated and the actual onsite man-months of work as that disclosed by our review of 36 projects. The following tabulation indicates the results of the General Accounting Office (GAO), CFA, and ARA reviews.

	Number of projects	Estimated man-months per Nov. 1, 1963, directory	Actual man-months	Man-months over-estimated	Percentage of over-estimate
General Accounting Office	36	7,098	3,133	3,965	127
Community Facilities Administration	138	14,038	6,120	7,918	129
Area Redevelopment Administration	190	21,814	9,553	12,261	128

The actual man-months shown in the above tabulation were computed from payroll data submitted to CFA by contractors. In converting man-hours as shown on payrolls to man-months, we generally used an 8-hour day and a 22-day month, which equals 176 hours per month. This was one of the methods prescribed by CFA directives in effect at the time of our review. CFA used an 8-hour day and a 21-day month, or 168 hours, to convert man-hours to man-months. ARA used the 176-hour month in its computations. We did not include on-site supervision, engineering, or clerical labor in our computations when this data was not readily available on payroll records. CFA and ARA generally added an allowance for this type of labor when it was not reported on the actual payrolls submited. The 190 projects analyzed by ARA and the 138 projects analyzed by CFA included only 35 of the 36 projects audited by us. Inclusion of the results of our analysis of this additional project with the results of the CFA and ARA audits would reduce the percentage of overestimate shown for CFA to 119 percent and for ARA to 122 percent.

The estimates of onsite man-months of work to be created by the approved APW projects were submitted by the applicants for the APW grants. CFA engineers reviewed these estimates when the applications were processed and in some cases changed the applicants' estimates. Our review showed that, on an overall basis, the CFA engineers reviews did not result in a significant correction of the applicants' estimates. The CFA engineers with whom we discussed the variances between the estimated and the actual months of work created by the APW projects included in our review offered no specific reasons for the significant differences on a case-by-case basis. These engineers informed us, however, that the generally low onsite labor yield may have resulted from such factors as (1) extensive use of construction machinery, (2) prefabrication and the use of such materials as ready-mix concrete, which require very little onsite labor, and (3) use of unrealistic or erroneous standards for estimating labor yields.

The architect-engineers for some of the projects covered in our review, when queried by CFA regarding the variances between the estimated and actual on-site man-months of work generated by the APW projects, attributed the cause to many varied factors such as contractor efficiency, actual construction costs being less than estimated, good weather, advanced technology, unfamiliarity of engineers with the concept of estimating onsite employment, offsite fabrication, inclusion in estimates of labor an amount for labor used in the manufacture and transportation of materials and supplies, and excavation by machine. ARA has informed us that the replies indicate that the estimates of onsite labor prepared by these architect-engineers contain almost uniformly a built-in and unavoidable bias toward the high side. In only one locality did we vote general agreement concerning the cause of the variances put forth by the various architects, engineers, and public authorities. The CFA review included 17 APW projects constructed in this locality for which the ARA directory showed that an estimated 971 on-site man-months of work would be generated. The actual on-site work generated by these projects was only about 310 man-months, or less than one-third of the estimate. This wide variance was generally attributed to the unrestricted use of construction equipment by contractors in substitution for manual labor, on which the estimates apparently were based.

The November 1, 1963, directory of approved APW projects shows that CFA had approved 2,842 projects as of that date, estimated to create 663,911 on-site man-months of work. If what we found in the 190 projects is true for the other CFA projects, the 663,911 man-month estimate, for all the CFA projects approved as of November 1, 1963, would appear to be about 373,000 man-months, or about 31,000 man-years, overstated.

After reviewing the results of our examination, ARA informed us that, although no satisfactory method was available to revise the individual estimates on a project-by-project basis, it would revise the national summary tables of its subsequent directories to bring the CFA totals in line with the labor yield which may be expected from the total CFA program based on the Bureau of Labor Statistics (BLS), Department of Labor, studies of on-site labor yields of various types of construction.

In our opinion a large amount of actual data on labor yields of APW projects has been and is being developed. We believe that this data is representative of the current construction techniques being used on APW projects and is also representative of employment conditions in APW areas, which may not be the same as those encountered nationally and covered by BLS studies. Accordingly, we believe that actual data developed on the completed CFA–APW projects provides a sound basis for adjusting the national summary tables or forecasting future employment to be generated by the APW program.

Reports of actual project accomplishments overstated

Our review of data relating to 497 of the 1,228 CFA projects under construction as of November 1, 1963, disclosed that the 50,853 actual on-site man-months of work reported for these projects by the ARA directory, was overstated by 23,008 man-months, or about 83 percent. When this data is projected to the 131,942 actual on-site man-months of work reported by the ARA directory as having been performed on the 1,228 CFA projects under construction, the report appears to be overstated by about 60,000 man-months. This situation resulted from CFA's use of estimated data rather than contractor payroll information to calculate actual onsite employment.

Our review of the APW reporting procedures being followed by the Reports and Control branch, CFA, disclosed that, prior to December 1963, the CFA regional offices generally were not submitting reports showing the number of actual man-months of work performed on APW projects. Instead of insisting that the regional offices submit the required data, the CFA Reports and Control branch used the estimated percent of project completion to calculate the figure it reported to ARA as the actual onsite man-months of work. For example, if the regional office reported that a project was 60 percent completed and it was originally estimated that the project would provide 1,000 man-months of work, CFA reported to ARA that 600 actual on-site man-months of work had been performed.

In December 1963, CFA realized that the data it was reporting to ARA was not correct and requested its regional offices to obtain and submit the actual cumulative on-site man-months of work performed on APW projects through October 31, 1963. This information was not processed by CFA to ARA in time to be included in the November 1, 1963, directory which was issued by ARA in December 1963.

We compared the actual number of on-site man-months reported by the CFA regions with the data shown in the ARA directory for 497 projects and noted that, although only 27,845 on-site man-months of work had been reported as having been actually performed, the ARA directory showed 50,853 man-months as having been worked. The directory, therefore, was overstated by 23,008 man-months, or about 83 percent. By projecting the percentage of overstatement indicated by our test to the 1,228 CFA projects actually started as of November 1, 1963, we estimate that the 131,942 man-months reported by ARA would be about 60,000 man-months overstated.

Agency comments

We were informed by CFA that its reports on the APW program were prepared on the basis of the best information available to it at the time and that, when it became aware of discrepancies in the reports, it acted promptly to correct them. Further, CFA does not believe that the entire APW program can be projected statistically on the basis of the first projects completed, especially since these projects are generally smaller than the average CFA project and not representative of the distribution by types of projects approved by CFA.

The average CFA grant is about $150,000 and the majority of the CFA projects are for sewer and water facilities. Analysis of the individual cases examined in this review shows that the overestimates for the projects with grants of $150,000 or more and projects for sewer and water facilities were higher than the average overestimates. Further, this review included almost all projects which were completed at the time and accounted for about 15 percent of all CFA projects under construction and over 6 percent of all CFA projects approved as of November 1, 1963.

ARA has informed us that there is strong, although not yet conclusive, evidence that the estimates of on-site man-months submitted to CFA by the applicants and published in the ARA directories have been almost uniformly too high. According to ARA, however, the overestimates are not nearly as large as indicated by our review. ARA contends that our review covered only a small number of projects, that these projects were relatively small in size, and that the projects were located in small- and medium-sized towns where traditionally a great deal of construction work in done by self-employed carpenters, electricians, plumbers, etc. Further, ARA does not believe that the payrolls submitted by the contractors represent a true picture of on-site employment because of the possibility that wages paid to on-site supervisory and clerical employees, earnings of self-employed artisans and their helpers, and wages paid to the operators of equipment rented under a contract, which includes the services of the operator, may not appear on the payrolls. ARA believes that the above items represent a significant portion of the on-site labor cost of the projects making up the GAO sample.

Our findings are based on a review of payrolls and other data covering almost all completed CFA projects at the time of our review. Similar audits of these projects were performed separately by CFA and ARA and show almost identical overestimates. As stated above, the larger projects and the most typical type of CFA projects had a greater than average overestimate. Eighteen of the 190 projects examined by ARA were located in 5 large cities with populations of over 250,000. The average overestimate for these 18 projects was about 140 percent compared with the average overestimate of about 128 percent for all 190 projects.

With respect to the payrolls used in the computations of the actual on-site man-months of work, we believe that they include almost all the actual on-site work force. This belief is based principally on a survey conducted by CFA of some of the project applicants or their architect-engineers in an attempt to ascertain the reasons for the wide variances between the estimated and actual labor yields. One of the questions asked in the survey was whether the applicant or its architect-engineer believed that the labor shown on the contractors' payrolls furnished to the agency field engineers reflected an accurate accounting of contractor on-site labor actually performed at the project site. Twenty-three of the 24 survey results made available to us by CFA showed an answer to this question and 20 of these were in the affirmative. Further, CFA and ARA computations of man-months include an allowance for on-site supervisory and clerical work, and an analysis of the work force classification for 25 projects showed that many drivers and equipment operators were included in the payrolls reported to CFA.

Conclusions

The ARA directories of approved APW projects contain overstated estimates of the man-months of on-site work which will be provided by the APW projects approved by CFA. In addition, the amounts reported as actual on-site man-months of work generated by CFA projects have been overstated. As the APW projects administered by CFA account for almost one-half of all funds appropriated for the APW program, the extent of the overstatements takes on added significance.

ARA is responsible for the evaluation and coordination of the APW program, and the summary tables of its directories are the only readily available measures of the progress and accomplishments of the APW program with respect to the creation of employment. CFA is responsible for supplying the information from which ARA develops the statistics appearing in the consolidated reports on the APW program. We believe, therefore, that both agencies should have periodically verified the information reported and should have taken appropriate measures at an early date to provide that the information appearing in the reports on the APW program be accurate and reliable. The data contained in the September 1, 1963, directory of approved APW projects was used extensively in ARA testimony before the Committee of Public Works, House of Representatives, in October 1963 to demonstrate the progress and accomplishments achieved under the Public Works Acceleration Act with respect to the creation of employment.

In February 1964, ARA issued the January 1, 1964, directory of approved APW projects. This issue of the directory no longer includes cumulative data on the number of onsite man-months of work created by APW projects. Instead, it shows only the number of persons employed on site during the month of December 1963. In addition, ARA has issued instructions to participating agencies that, commencing with the reports for February 1964, they are no longer to report the number of on-site man-months of work on each project. The participating agencies have been instructed to report to ARA the number of persons employed on each project site on the last regular working day of the week ending nearest the 15th day of the month. We were informed by ARA officials that these changes were necessitated because of CFA's difficulty in obtaining timely and accurate data on the number of actual on-site man-months of work being created by APW projects.

In our opinion, the changes in the ARA directory and the basis for computing on-site employment will not result in an adequate report on the progress and accomplishments of the APW program with respect to the creation of employment. As the directory will no longer show on-site employment for each project on a cumulative basis, there will no longer be any readily available means of ascertaining to what extent each project has been successful in creating a specific and measurable amount of work. Further, the number of employees at work on a project on any 1 day of the month may not be an effective or accurate means of measuring the number of man-months or man-years of work being created by APW projects, because the number of persons actually employed on the job site, particularly in construction work, may vary considerably from day to day and the conversion of such data to actual on-site man-months of work might be subject to distortion. Contractor payrolls for all APW projects are readily available which show the actual number of hours worked and the number of employees at work on the project site. From these payroll records it is relatively easy to calculate the number of equivalent man-months actually worked on each APW project. We therefore believe that it would be preferable to report on-site man-months of work computed from actual payrolls on a cumulative basis in order to be consistent with prior reports and to show the extent that each project has been successful in achieving the employment objectives of the APW program.

Recommendations

In order to improve the reliability of the information reported in the directories of the approved APW projects, we recommend that the Administrator, ARA, take steps to periodically verify the information reported by the agencies participating in the program and to evaluate the methods used to obtain such information. We have been advised by the Administrator that ARA will give serious consideration to this recommendation.

In addition, we recommend that the Commissioner, CFA, take steps to provide that procedures followed by that agency result in accurate reporting on its portion of the APW program.

We further recommend that the Administrator, ARA, devise a reporting system which can consistently be used to provide meaningful, cumulative information on actual on-site man-months of work created by APW projects.

APPENDIX

Principal management officials of the Department of Commerce and the Housing and Home Finance Agency responsible for matters discussed in this report

	Tenure of office	
	From—	To—
DEPARTMENT OF COMMERCE		
Secretary of Commerce: Luther H. Hodges.	January 1961	Present.
Administrator, Area Redevelopment Administration: William L. Batt, Jr.	May 1961	Do.
Deputy Administrator for Public Works Acceleration: Paul Southwick.	November 1962	May 1963.
Assistant Administrator for Public Works Acceleration: Dr. Johannes U. Hoeber.[1]	December 1962	Present.
Director, program evaluation staff, Area Redevelopment Administration: Richard H. Adams.	do	Do.
HOUSING AND HOME FINANCE AGENCY		
Administrator: Robert C. Weaver.	February 1961	Do.
Commissioner, Community Facilities Administration: Sidney H. Woolner.	do	Do.
Assistant Commissioner, Operations and Standards Division, Community Facilities Administration: Ralph B. Cornell.	do	Do.

[1] Dr. Hoeber has also been the Acting Deputy Administrator for Public Works Acceleration since May 1963.

ANNOUNCEMENT

Mr. MacGREGOR. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Foreman] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FOREMAN. Mr. Speaker, yesterday, during the vote on H.R. 10503, the Federal Highway Act of 1964, I was unavoidably absent from this Chamber briefly. Had I been here, I would have voted "yea" in support of this legislation.

BEEF IMPORTS AFFECT BOTH DAIRY AND BEEF PRODUCERS

Mr. MacGREGOR. Mr. Speaker, I ask unanimous consent that the gentleman from Kansas [Mr. Shriver] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SHRIVER. Mr. Speaker, beef and veal imports into the United States continue to depress the domestic livestock industry. The impact of these imports is not confined to beef producers alone. Attention has been called by dairy producers and packers in my congressional district in Kansas to the effect which increasing imports are having upon both beef and dairy producers.

Mr. Leo Suttle, general manager of the Southwest Milk Producers Association, which is headquartered in Wichita, Kans., has written me to express concern over the recent level of beef imports and its effect on Kansas dairy farmers. Mr. Suttle explained in his letter, dated May 27, 1964:

> Imports of beef into the United States are generally of the lower classes of beef—that which is supplied by cows and bulls in the United States. Many people are not aware of the fact that dairy animals supply a substantial portion of the lower classes of beef in the United States. In 1963, dairy cows accounted for 36.3 percent of the total cows on farms. This percent has been decreasing for a number of years; but dairy animals are, and will continue to be, a dominant factor in the domestic supply of the lower classes of beef. Therefore, any factor which affects the beef industry also affects the dairy industry in at least two ways.
>
> First, the price for all grades of cows affects the extent of culling by dairymen of low-producing cows. When cow prices are low, dairymen are inclined to keep low-producing cows on the farm another year in anticipation of higher cow prices. Many times these cows are bred to beef bulls in an attempt to increase the value of the offsprings which further aggravates the price-reducing forces for beef. This decreases the incentive for dairymen to reduce their production of milk to be more in line with the demand for dairy products which contributes to an overproduction of milk, low milk prices, and increased Government expenditures for supporting the price of dairy products.
>
> Second, when beef prices are low over an extended period of time, there is a gradual shift by farmers from beef production to milk production. The longrun effects of this shift to dairy from beef are the same as the shorter run effects; i.e., increased production, lower prices, and greater Government expense.

Mr. Suttle also pointed out that cow numbers have been increasing for a number of years but cow prices have taken a substantial drop only recently. He stated:

> There is no doubt that the importation of beef into the United States has depressed beef prices. Although the exact amount of the price reduction attributed to imports is not known, the November issue of Livestock and Meat Situation gives us some conservative estimates of the influence of imports on domestic beef prices. This publication says that 1-percent increase in imports will cause a 0.74-percent decrease in the prices of utility cows and a 0.29-percent decrease in the price of Choice steers. Relating these figures to the current level of imports of 11 percent of domestic production, imports are currently responsible for a 8.14-percent reduction in utility cow prices, and a 3.19-percent reduction in Choice steer prices. In dollars and cents, imports account for at least a reduction in cow prices of $1.08 per hundredweight, and a reduction in Choice steers of 79 cents per hundredweight. Assuming 33 million pounds of cattle will be slaughtered in 1964, this means that imports will decrease the income of beef and dairy farmers at least $275 million this year, if imports are maintained at the level of 11 percent of domestic production.
>
> Imports of beef are a very significant factor in the price and profits of beef producers and dairy producers. Unless some method of restricting the level of beef imports is devised by Congress, domestic producers of beef will continue to be seriously hurt in the marketplace. The end result will be an even lower income for farmers who are already subsidizing all consumers by not deriving a fair return on their investment, labor, or managerial skills.

Mr. Speaker, the president of the Excel Packing Co. in Wichita, Kans., Mr. Sam Marcus, also has expressed concern over the problems which imports are creating for our domestic livestock industry. In a letter, dated May 18, 1964, Mr. Marcus explained:

> The imported boneless beef has been and is still being sold at a penny or 2 cents per pound under domestic beef. A penny or two does not sound like much, but it is the difference between profit or loss for the independent domestic cow beef boners and has almost put them out of business thus destroying part of the market for our cows. Coincidentally it created a ceiling price on cows that made it uneconomical for the farmer to liquidate cows that rightfully should have been culled from his herd. Feeder calf prices being what they were, he could do better raising another calf with that cow. Had our own supply and demand factors been allowed to function, cow prices would have risen and cows would have been marketed. Thus we would not have had the buildup in cow herds and calves that has caused the present depressed price condition in the industry.

These are but a few of the voices which are being raised throughout the Nation to alert the Congress and the administration to the economic impact of imports upon a domestic industry which is vital to the health, welfare, and security of the United States.

Mr. Speaker, today we have considered House Joint Resolution 977 which would establish a National Commission on Food Marketing. Perhaps the consumer and the farmer will benefit from the study to be performed by this commission. The efficiency and knowledge of American agriculture has helped produce an abundance of food to the American consumer at the lowest prices in the history of the world.

It seems, however, that the administration, through policies of the Departments of State and Agriculture, is turning its back on America's cattle industry in order to reserve a portion of U.S. beef consumption for foreign producers.

There are many bills now pending in the House Ways and Means Committee which would provide assistance to the U.S. cattle producers by further limiting imports of foreign beef, veal, and mutton. The establishment of this Commission on Food Marketing should not be used as a vehicle for "brushing off" the problems of the livestock industry. I urge the chairman of the House Ways and Means Committee to expand executive discussions held today with the Secretary of Agriculture into full public hearings on the bills introduced by myself and many of my colleagues.

EXISTING POVERTY PROGRAMS

Mr. MacGREGOR. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. Taft] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. TAFT. Mr. Speaker, yesterday during the special order on the Economic Opportunity Act of 1964, mention was made of 42 existing Federal programs dealing with poverty with budgeted expenditures of approximately $32 billion. A list of these programs with figures provided by the Bureau of the Budget is submitted herewith for information of the Congress.

Federal programs currently operating to combat poverty (appropriations for fiscal year 1964)—Agency and programs

[In thousands]

	1964 appropriation
DEPARTMENT OF AGRICULTURE	
Extension services	$80,180
Rural renewal	1,200
Rural housing for elderly	3,500
Direct loans	486,000
Rural housing repairs	3,355
Housing for domestic farm laborers	3,000
Food distribution:	
Sec. 32 and CCC (domestic)	416,200
Food stamp	44,600
School lunch	182,000
Special milk	100,000
Forestry and soil conservation	509,000
Subtotal	1,829,035
DEPARTMENT OF COMMERCE	
Vocational training and retraining in redevelopment areas	8,500
Industrial and commercial loans, public facility loans, and public facility grants	132,000
Technical assistance	4,500
Subtotal	145,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE	
Public health	1,483,787
Indian health	65,048
Maternal, child health, and crippled children	68,777
Vocational education	56,917
Public library services and construction	7,500
Aid to impacted areas	344,410
National Defense Education Act	235,788
Teachers of handicapped children	14,185
Old age, survivors, and disability insurance benefits	17,071,940
Public assistance	2,886,055
Child welfare services	32,943
Juvenile delinquency	6,950
Vocational rehabilitation	128,407
Manpower development and training	164,977
Subtotal	22,567,684
HOUSING AND HOME FINANCE AGENCY	
Urban planning	21,150
Urban renewal—contract authority	1,400,000
Appropriation to liquidate contract authority	104,805
Mortgage insurance—permanent indefinite authorization to expend from corporate debt receipts	142,395
Low-rent public housing	212,484
Public facility construction—financed from authorization to expend from public debt receipts enacted in 1961	----------
Low-income housing demonstration projects	43
Contract authority	5,000
Appropriation to liquidate contract authority	1,157

Federal programs currently operating to combat poverty (appropriations for fiscal year 1964)—Agency and programs—Con.

[In thousands]

HOUSING AND HOME FINANCE AGENCY—continued	*1964 appropriation*
Loans for housing for the elderly	$100,000
Federal National Mortgage Association—financed from authorization to expend from public debt receipts enacted in prior years	-----------
Subtotal	1,987,034
DEPARTMENT OF THE INTERIOR	
Indian Affairs	217,541
Conservation:	
Bureau of Land Management	126,364
Geological Survey	63,700
Bureau of Reclamation	357,531
National Park Service	128,976
Fish and Wildlife Service	109,449
Research in health and safety in mining operation	1,596
Territories and the Trust Territory	46,506
Subtotal	1,051,663
DEPARTMENT OF LABOR	
Employment services	173,330
Unemployment compensation	4,009,199
Labor standards	18,400
Subtotal	4,200,929
FUNDS APPROPRIATED TO THE PRESIDENT	
Accelerated public works	30,000
Subtotal	30,000
Total	31,811,345

LITTLE LEAGUE BASEBALL

Mr. MacGREGOR. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. Bob Wilson] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. BOB WILSON. Mr. Speaker, of the thousands of very worthy projects for young people, I can think of none that I could be more proud to commend today than Little League baseball.

As this organization of the men of tomorrow celebrates its 25th anniversary, there is no real way to measure the contribution which it has made to our society. There can be no doubt, however, that this fine movement has brought out the best of the American character—both in the youth and in their adult counselors.

America owes a real debt to the thousands of unsung heroes—the parents, teachers, men and women from all walks of life—who have given so much of their time and energy to build one of the finest institutions in the world. Although Little League baseball seems typically an American institution, it has today expanded to include such nations as Japan, Turkey, Australia, and many others.

The qualities that the participants of this program develop and those they are exposed to provide a mutual benefit not only to the youngsters and their leaders but to the whole community. The spirit of competition, the sense of fairplay, the glory of victory and the sadness of defeat are all contributing factors which help develop character. The youngsters and the oldsters who have worked and played together over the past 25 years as part of the Little League have shared all this, and in their own way, helped to make this country, and the whole world, a better place for it.

Mr. Speaker, my hat is off to the Little League. In my book it is strictly big league.

IT DOES NOT MAKE SENSE

Mr. MacGREGOR. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Alger] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. ALGER. Mr. Speaker, with a lack of a sensible foreign policy the way the administration squanders the hard-earned money of the American taxpayer is becoming complete nonsense.

We are stepping up the war in Asia to stop communism. At the same time we are beefing up Communist nations in Europe which, in turn, use our money to strengthen the Communist enemies we are fighting in Asia. At the same time we protest our allies dealing with Cuba.

The President and Secretary of State never bother to explain such ridiculous procedure. They expect the American people to pay and pay, but never to question. I think it is about time we not only asked some serious questions but also demanded of the administration a foreign policy in the interest of the United States and its people rather than the continued efforts to shape our policy to meet the approval of the makers of Red propaganda.

The following editorial from the Chicago Tribune of June 4 points out how our aid is being used:

Cascading Aid

King Mahendra of Nepal is a go-getter who has managed to wheedle aid out of the United States, Russia, Red China, and India, all at once. India's contribution is $109 million for a hydroelectric plant and $18.4 million toward the expenses of Nepal's 3-year economic plan. India's aid to Nepal amounts to about twice ours.

Meanwhile India continues to appeal to the rest of the world for vast amounts of aid and has received it from 19 countries, led by the United States and Russia and including, according to the Indian Information Service in Washington, Communist Yugoslavia and Poland.

These two countries, in turn, have received, respectively, about $2½ billion and $500 million from the United States. We aid them in the forlorn hope of luring them out of the Communist camp. They, in turn, aid India, presumably in the hope of keeping it out of the capitalist camp. We give India billions of dollars to keep it out of the Communist camp, and India passes aid along to Nepal to further Indian policies which are directed largely against Red China but also against our military ally, Pakistan.

The more aid India gives to Nepal, the more it needs from us and others. And as Yugoslavia and Poland pass aid along to India, they will need more aid from us, and India will expect more aid from us to offset their aid, and Pakistan will demand more aid from us to offset our aid to India.

In Europe there is a term, "cascading taxes," to describe successive taxes levied on the same item in various stages of production and distribution. They are called cascading because each tax adds to the cost of the item and thus increases the amount paid in subsequent taxes. What we have in the world today is a system of cascading foreign aid, with U.S. programs enabling other countries to finance aid programs of their own, often in conflict with ours, and with the harassed American taxpayer at the source of it all.

THE LATE PRESIDENT—JOHN FITZGERALD KENNEDY

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island [Mr. Fogarty] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FOGARTY. Mr. Speaker, last week our Nation paused to mark two important occasions.

On Friday, the aniversary of the birth of our late and beloved leader, President John Fitzgerald Kennedy, and on Saturday, Memorial Day, a day given over to those brave Americans who gave their lives for the things in which we believe.

Among this group, of course, was John Fitzgerald Kennedy, who gave his life for his country just as surely as if he had died on that faraway island many years ago, as he almost did.

Pausing to reflect on the life and death—and on the accomplishments of the late President Kennedy evokes both sorrow and pride.

Sorrow because his life had been cut short at the height of his career.

Pride because during his brief span he was able to accomplish so much good and because so many of the causes he espoused are being carried on so well by those whom he interested in his ideas and his programs.

In one particular field, this was brought home to us forcefully on Friday, when the Joseph P. Kennedy Jr., Foundation, named in honor of President Kennedy's older brother who had given his life in battle, announced the publication of three new pamphlets on mental retardation.

This was a cause especially close to his heart. Close because of his family's own problem in this field. Close because in his effort to correct the injustices man often imposes on his fellowman, he had recognized this as one of the areas of the grossest kind of discrimination.

The mentally retarded became his special cause. He directed many efforts to alleviating their plight.

He gathered together the Nation's leaders in this field for special consultations about what could be done to prevent mental retardation, about what could be done to improve the lots of those already afflicted, about what could be done to ease the burden of the families of those who are afflicted.

When his panel reported to him, he followed this with a conference of all those who needed to be interested in this field. Meanwhile, he had appointed a special assistant on mental retardation, Dr. Stafford L. Warren, a distinguished scientist who had earned the respect of his fellow doctors for his work as a doctor, as a researcher, as an administrator, and as an educator.

President Kennedy also addressed to the Congress the Nation's first Presidential message on mental retardation.

And he set forth a program, which the Congress adopted, to provide funds for building new facilities for the retarded, for assisting in research into this field, to help improve educational and other services needed by the retarded.

He set a program into motion. He gave it momentum and it is still moving.

His principal assistants in this movement, aside from Dr. Warren and those of us in the legislative branch, whom he recruited, have been the members of his own amazingly talented family.

Together with the office of the special assistant on mental retardation, they have been carrying on his work aggressively, intelligently, and with great success.

Those who have contributed of their time and talents unstintingly, include in the forefront, his sister, Eunice Kennedy Shriver and his brother-in-law, R. Sargent Shriver, who serve as executive vice president and executive director, respectively, of the Joseph P. Kennedy, Jr., Foundation.

It is they who have done so much to keep the momentum going, through the foundation and through their own associations in all walks and at all levels of public life.

These new pamphlets are typical of their efforts, for they are concerned with first, expectant mothers and what they should know about mental retardation; second, the education of the retarded; and third, providing recreation for the retarded.

The first, addressed to expectant mothers, can be of great service in reducing the incidence of mental retardation for it informs the expectant mother of the importance of prenatal care in preventing prematurity which so often results in mental retardation.

It stresses the importance of postnatal care in uncovering conditions which could lead to mental retardation—conditions like phenylketonuria—PKU—and how the child can be treated to prevent these conditions from resulting in mental retardation.

The booklets on education and recreation stress the importance of giving those already afflicted developmental opportunities at least equal to those offered the normal child.

Actually, the opportunities should be greater since these children need more education, more help in recreation, than do the normal children.

The pamphlets do something further—they suggest to all those who will read them, opportunities for them to help in their own communities, to help mobilize action, to help assure that each community will have at least the basic services that the retarded need.

The pamphlets can be a help in implementing the work of the President's Panel on Mental Retardation and a help in implementing the legislation which we in the legislative branch have provided.

For they provide the people with the kind of information they must have to make their needs known to their State governments which currently are working to translate Federal legislation into services and facilities for the retarded.

And, actually, all of these pamphlets—as is true of all the activity on behalf of the retarded—are of significant value to all of us, to every American, either as a parent, a grandparent, or simply as a taxpayer.

For retardation prevented means a reduction in the cost of government as the need for providing institutions or services for them is reduced.

And retarded helped—educated and trained—means others taken from the roll of government charges and added to the rolls of the gainfully employed, who help pay the cost of government.

The publication of these pamphlets is another answer to the charge given to the Nation by the President's Panel on Mental Retardation; especially to that portion of the report of October 1962, which pointed out that an expanded program of information and education is essential if we are to make significant progress in this important field.

Last Friday, the anniversary of the birth of President Kennedy, was a day to remember the tragedy which removed him from our ranks.

But it was a day also to remember—thanks to the prodding provided by these pamphlets—that his work goes on, that John Fitzgerald Kennedy's work for the mentally retarded will continue, under the able direction of persons like Eunice Kennedy Shriver and Sargent Shriver and Dr. Stafford Warren.

The publication of these new pamphlets is continuing evidence of this.

And the fact that the pamphlets are being made available by the thousands on thousands—free of charge to the general public—is further evidence that the generosity which surrounded the efforts of the late President, is continuing to be demonstrated also.

Thus is President Kennedy's memory honored, thus does his work go on, hopefully, to the point where mental retardation can be eliminated someday and meanwhile assuring that those afflicted with it will be permitted to function in the community to the full extent of their abilities.

THE NEED FOR AN URBAN RENEWAL PROGRAM

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. Joelson] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. JOELSON. Mr. Speaker, with the approval of Edwin J. MacEwan, executive vice president of the Chamber of Commerce of Greater Paterson, N.J., I am pleased to insert in the Congressional Record a copy of a letter written to the U.S. Chamber of Commerce.

It indicates that the chamber of commerce of the largest municipality in the congressional district which I represent does not agree with the opposition of the U.S. Chamber of Commerce to the Federal urban renewal program.

I applaud the Paterson Chamber of Commerce for its progressive and enlightened position. Frankly, I am at a loss to understand how an organization such as the U.S. Chamber of Commerce can fail to realize that without the solid Federal assistance contained in the urban renewal program our older industrial cities will wither and stagnate.

The letter to which I refer follows:

April 22, 1964.

Arch N. Booth,
Executive Vice President, Chamber of Commerce of the United States, Washington, D.C.

Dear Mr. Booth: While our chamber of commerce concurs in and supports the majority of the items comprising the program of work of the Chamber of Commerce of the United States, our board feels that it must take at least one exception to the position you have taken in regard to urban renewal.

At the last meeting of our board of directors held on April 8, a resolution was passed to the effect that the Greater Paterson Chamber of Commerce believes sincerely that the only possible way in which we can save the central business district and much of our industrial area is through the assistance of urban renewal funds and the planning assistance of that agency.

We shall not at this time go into the many details which were discussed before arriving at this conclusion, but if you are sufficiently interested in sending an observer to confer with us in order that we may point out the reasons for reaching these conclusions, we shall be more than happy to give him the time necessary to explain our position in complete detail.

Sincerely yours,

Edwin J. MacEwan,
Executive Vice President.

TERRORIST GANGS IN NEW YORK

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the gentleman from Louisiana [Mr. Waggonner] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WAGGONNER. Mr. Speaker, after 3 days of studiously avoiding mentioning that the terrorist gangs running wild in New York over the weekend were Negro youths, the press has finally made this admission. They were undoubtedly forced to admit it following the action of New York Mayor Wagner in pledging $5 million and almost a thousand more policemen to the battle for law and order.

One cannot read this sickening story without knowing that this is the whirlwind we are reaping; a whirlwind sown by the repeated encouragement these terrorists have received in recent times to take their grievances into the street, obey only those laws they believe in and encourage such outlaws of society and humanity as the Black Muslims.

We have seen the Nation's Capital turned into a jungle by these Negro terrorists and the largest city in the United States is now the scene of the same sickness. As millions pour into New York for the World's Fair, I can only shudder to think how many of them will be mugged, robbed, or slain by these Negro gangs.

The mayor is to be commended for his valiant effort to protect New Yorkers and their guests. How much easier his job would be if all this had not been brought about under the guise of civil rights. The curtain is only beginning to rise on the tragedy which will be played out in this country if the bill now in the Senate becomes law.

A story in the Washington Post tells in graphic detail the sorry situation developing in New York and I commend it to the attention of my colleagues:

Five Million Dollars More for Police: New York Mayor Declares All-Out War on Roving Negro Terrorist Gangs

New York, June 2.—Mayor Robert F. Wagner today declared all-out war on roving Negro terrorist gangs—and other hoodlums as well—pledging $5 million to beef up the police force with 900 more men to stem a rising tide of violence on streets and in subways.

The announcement came after an emergency meeting of top city officials called by the mayor to deal with the situation which has grown so desperate in some areas that one newspaper, the World-Telegram and Sun, suggested citizens may soon be forced to travel in armed groups for safety.

"We are determined to see that we have law and order in this city of ours," Wagner said. "And we have agreed to a number of emergency moves."

Police Commissioner Michael J. Murphy warned that while the latest terrorism and violence has been in Brooklyn, hoodlumism could break out in other parts of the city as well.

Dozens of special policemen and undercover agents have been working for weeks, for instance, in Harlem investigating reports that rebel Black Muslims have been recruiting teenagers as "blood brothers" and training them to fight in case of racial disturbances.

Teenage Negro gangs terrorized white passengers on four subway trains during the weekend. The whites were attacked with knives, bottles, fists and even a meat cleaver.

Another gang rioted on a Staten Island ferry.

For the past 2 weeks, Jewish volunteers known as the Maccabees, have been patrolling the crime-ridden Crown Heights section of Brooklyn to protect their community from muggings, rapes, and murder.

Brooklyn District Attorney Edward S. Silver charged before Wagner's emergency meeting that no city department showed the proper "sense of urgency" and warned of more violence and more murders to come.

A young Negro is being sought in the Crown Heights section for the rape-slaying of a young schoolteacher over the week-end and a rape of a young Negro girl a short time later.

PRESIDENT LYNDON B. JOHNSON'S ADDRESS AT THE UNIVERSITY OF TEXAS COMMENCEMENT

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Purcell] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PURCELL. Mr. Speaker, on Saturday last in Austin, Tex., President Johnson spoke to a capacity crowd in the municipal auditorium on the occasion of the commencement ceremonies of the University of Texas.

The university awarded President Johnson an honorary doctor of laws degree that evening, and awarded Mrs. Johnson an honorary doctor of letters degree. These were only the third and fourth honorary degrees granted by the University of Texas in this century. The last was presented to John Nance Garner in 1935. He was Vice President of the United States at the time.

President Johnson's outstanding address in Austin presented the challenges our Nation faces in building the "Great Society." I wholeheartedly commend the address to my colleagues. The text follows:

Text of President Johnson's Speech at University of Texas Commencement

Dr. Ranson, Mr. Heath, and the Board of Regents, Governor Connally, Senator Yarborough, members of this graduating class, my fellow Americans:

Several days ago I received a clipping from the Daily Texan, which read as follows: 'The student body at the university and the people of Texas, as a rule, may not agree with the President in politics, but they are much too broad minded not to honor the office which he holds."

"Besides"—your editor added generously—"he has some good qualities anyhow."

Happily the date on that clipping was 1905, and the visiting President, Theodore Roosevelt. But knowing the candor and the freedom of this university, I would not have been surprised if the date had been 1964.

Your presence and my Presidency—your opportunities and this occasion—are a tribute to the courage and the capacity of the men who built this State.

In the emptiness of this land they carved an empire for their people. They endured terrible dangers to achieve independence for their own sake, and then yielded that independence for the sake of their children. Thus they gave up the hope of present gain for the hazard of future grandeur. And that vision has been richly rewarded in a booming State in a bountiful land.

Your challenge, the challenge for all young people in America, is to be worthy of this heritage. Today the future is rushing in upon us.

In the lifetime of many of you here—in the next 50 years—America will be a nation of 400 million people. The world will be the home of 6 billion men and women. This will crowd our cities and strain our resources.

A century ago, the prospect of such increasing population would have meant the promise of impending disaster. But today we can also look forward to a world where human invention and human knowledge will multiply even faster than human population. It will be a world where man will search out the secrets of the stars and farm the beds of the seas, although you may choose to leave that to Texas A. & M. It will be a world whose science has advanced as far from us, as we from the knowledge of the frontiersman.

The only way we can hope to deal with the population explosion is with the knowledge explosion. For we are at a turning point in the history of our Nation.

One road leads to the great society, where man's spirit finds fulfillment in the works of his mind. The other road leads to a legacy of despair and degradation where man's hopes are overwhelmed by change he cannot control. This is the time for decision. You are the generation which must decide.

Will you decide to leave the future a society where a man is condemned to hopelessness because he was born poor? Or will you join to wipe out poverty in this land?

Will you decide to leave the future a society where a man is kept from sharing in our national life because of the color of his skin, or the church he attends, or the place of his birth? Or will you join to give every American the equal rights which are his birthright? Will you leave the future an America slowly declining from a position of world leadership? Or will you join to keep America strong enough to defend against any enemy—wise enough to seek peace among nations?

Will you leave the future a society where lawns are clipped and the countryside cluttered, where store buildings are new and school buildings old—a society of private satisfaction for some in the midst of public squalor for all? Or will you join to build the great society? The choice is yours—the power to shape the future is in your hands—the path is clear. It is the path of understanding and unity. The first of these is understanding—the knowledge that brings hope.

The inscription over this main building reads: "Ye shall know the truth and the truth shall make you free."

Only by opening the truths of knowledge to all our people can we free them for a future of greatness. Yet, today only 13 percent of our young people are completing college. Each year 100,000 young people, of proved ability, fail to go to college simply because they do not have the money. And each year our high schools are producing more and more graduates equipped for college work.

Last night I visited my old high school in Johnson City. In my graduating class, in 1924, there were six boys and girls. Last night there were 30, although Johnson City's population has not changed. In the next 10 years alone, college enrollment across the country will almost double, and we will still not be able to provide for all who want to learn. In 1946 the Employment Act set a goal of a job for every American.

I now call for a goal of a higher education for every young American with the desire and the capacity to learn. No one should be kept from knowledge because there is no room, or no teacher, or no library, or because he has no money.

The Higher Education Facilities Act of 1963, which I recently signed, is a step in this direction. So is the poverty bill now before the Congress. Recently, I announced my intention to establish a group to evaluate the needs of education in America. I will set this goal before them so we can develop policies to meet it—policies which will call for the cooperative action of State and Nation, private citizens and public institutions. I will continue to pursue this goal until all our people have the satisfactions which flow from knowledge, and America has the strength which flows from a people who have achieved understanding. But for understanding to prosper we need unity of purpose.

Our land often sounds to many discordant voices. They are the voices of those who seek to divide our purpose and separate our people. But the din of these voices must not fool us into believing that we live in a divided nation.

I have traveled to every part of this country. And one thing is clear. The farmer in Iowa, the fisherman in Massachusetts, the worker in Seattle, the rancher in Texas, have the same hopes and harbor the same fears. They want education for their children and an improving life for their families. They want to protect liberty and pursue peace. They expect justice for themselves and they are willing to grant it to others. This is the real voice of America. It is one of the great tasks of political leadership to make our people aware of this voice, aware that they share a fundamental unity of interest, purpose, and belief. I am going to try and do this. And, on the basis of this unity, I intend to try and achieve a broad national consensus which can end obstruction and paralysis and liberate the energies of the Nation for the work of the future.

I want a happy nation, not a harassed people—a people who love instead of hate—a people who are fearless instead of fearful—men with pride in their ancestry and hope for their posterity—but humble before their God and concerned always with the wants and needs of their fellow human beings. For in a democracy, high purpose, no matter how nobly conceived, must surely fail without the understanding and unity of the people.

A few nights ago in Washington, thousands of people, among them leaders from all parts of the country, rose from their seats with me as the band played: "The Eyes Are Upon You." Such a moment was full of pride for any Texan. But today it is not just the eyes of Texas which watch you. The eyes of the Nation, the eyes of millions in faraway lands, the eyes of all who love liberty, are upon you. You cannot get away. Do not think you can escape them until you have brought us to the early morn of a nation without rancor and a world without fear.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11201) entitled "An Act making deficiency appropriations for the fiscal year ending June 30, 1964, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to Senate amendments numbered 2, 6, 12, and 16 to the above-entitled bill.

PENNSYLVANIA LEADS THE NATION AS EMINENT DOMAIN BILL IS ADOPTED UNANIMOUSLY BY LOWER HOUSE

The SPEAKER pro tempore (Mr. ALBERT). Under previous order of the House, the gentleman from New Jersey [Mr. WIDNALL] is recognized for 15 minutes.

Mr. WIDNALL. Mr. Speaker, Pennsylvania has taken the lead in showing other States what can be done to modernize the eminent domain laws.

I would call the attention of the Members of this House to a most encouraging report on this matter published in the Philadelphia Evening Bulletin of May 15, 1964. The text of this report follows:

[From the Philadelphia (Pa.) Evening Bulletin, May 15, 1964]

EMINENT DOMAIN BILL PASSED UNANIMOUSLY BY HOUSE

HARRISBURG, May 15.—The eminent domain reform bill was unanimously adopted by the house last night and sent to the senate for concurrence.

In a rare display of unity, 184 legislators voted for the measure, then gave themselves a hearty round of applause for doing so.

Representative Herbert Fineman, Democrat, of Philadelphia, one of the bill's four sponsors, urged unanimous approval "to impress the senate with the importance of this legislation."

In 1963, similar legislation passed the house but was killed in the senate.

ALL PHASES COVERED

The act controls all phases of land condemnation for public use, liberalizing compensation for families and businesses uprooted by eminent domain proceedings.

No action is expected on Project 70 until the eminent domain bill clears the senate.

House leaders maintain that rural legislators will withhold their votes authorizing a $70 million bond issue to acquire open spaces until they are assured their constituents will receive fair prices for land taken for the project under eminent domain.

MAJOR PROVISIONS

Major provisions of the bill include:

Payment of 100 percent of the estimated value of the condemned property 60 days before acquisition.

Payment of "reasonable expenses" for moving of equipment and household furnishings.

Payment of up to $5,000 in damages for loss of good will to ousted businessmen.

Payment of damages to property owners whose land abuts on condemned property and suffers a decline in value.

Permission for the condemnee to repurchase his property if it is not used for the announced purpose within 3 years after condemnation.

The house also adopted unanimously an act providing pensions for war veterans blinded through service-connected injuries.

This bill, one of five submitted by Governor Scranton in his special sesssion call, liberalizes definition of the term "blind" to include more wounded veterans in its coverage.

As the Philadelphia Evening Bulletin points out, the 184 members of the Pennsylvania House, in a rare display of unity, voted for the measure. Credit for the passage of this legislation must go not only to Representative Herbert Fineman, Democrat, of Philadelphia, and the three cosponsors of the bill, as well as to the members of the Pennsylvania House of Representatives of both political parties, but to Gov. William W. Scranton who made the passage of the eminent domain legislation one of the major planks of his administration.

In his message to the Pennsylvania General Assembly on February 11, 1964, Governor Scranton said:

> The next major improvement I recommend to you is enactment of a fair, equitable, and uniform eminent domain law for Pennsylvania.
>
> Eminent domain is the process through which a public body arranges to purchase, through condemnation, land and buildings from an owner. Pennsylvania should start to give a square deal to the small property owner in these situations, and that's exactly what this new legislation would do.
>
> Consider just a few of its pioneer provisions:
>
> "For the first time all owners of condemned property will be entitled to receive 80 percent of estimated just compensation within 60 days after filing of a declaration of taking. This will end forever the outrageous practice of holding property in limbo for months and even years, while it is of no value to the owner and yet brings him no compensation from the condemning authority.
>
> "For the first time the State will pay damages for effects of business dislocation. The corner druggist or grocer who is required to move to another site to make way for an urban renewal project will at last be compensated for loss of the years of good will he has built up among his customers.
>
> "For the first time the tenant will be given a fair deal through compensation for moving expenses and business dislocation damages, even though he is not entitled to payment from the condemnation itself.
>
> "For the first time a landowner who finds the value of his property beaten down through the effects of a change of grade for a highway that crosses an abutting lot will be compensated for his loss.
>
> "For the first time the rights of the owner of a property will be protected against an agency or an authority which takes his land and then attempts to resell it on a speculation basis. Under the new code, property which has not been improved will not be resold for 3 years after condemnation without the original owner having the opportunity to buy it back for the same amount he was paid for it.
>
> "Finally, the new code would provide that owners of properties damaged by mine cave-ins in the coal regions of our State be paid the value of the property before its damage, if such properties are included in Federal urban renewal projects."
>
> With all these provisions the new eminent domain code is model legislation for the Nation. Already, other States and the Federal Government are inquiring about it, and we can be justifiably proud that once again our Commonwealth is leading the Nation.

Earlier this year, I introduced a Republican housing bill, H.R. 9771, which has an entire title devoted to the subject of just compensation, a title which would modernize the application of the eminent domain law in the field of urban renewal projects in the same spirit, and with the same objectives, and even with some similar provisions, to those in the just compensation legislation adopted by the Pennsylvania House of Representatives.

I include for the information of my colleagues at this point the text of my explanatory statement at the time I introduced my proposal:

> This is the first major attempt to bring together a number of basic reforms suggested in the past to compensate tenants and owners more fully for losses and damage sustained as a result of an eminent domain taking, including replacement and moving costs. For too long the cost of urban renewal has been largely borne by the people it is supposed to help. Any continuation of the program must provide these basic reforms. The urban renewal concept cannot succeed without widespread support from those it directly affects.
>
> Included in our bill is a provision requiring each local public agency applying for Federal assistance to submit a compensation plan indicating that either through usual eminent domain compensation awards, or through awards coupled with supplemental payments, every person whose property interest would be lost or damaged will receive proper compensation. Both the pri-

vate individual and business, the tenant and the landlord are covered. The individual would receive either the actual value of the interest taken or its replacement cost, whichever is greater. Payments for damages would be limited to net decrease in actual value of the property, provided the parcel is adjacent to the urban renewal project.

Under our bill replacement costs, provided the individual does replace his property interest, he would receive the entire cost of acquiring substantially the same interest he lost. He would be entitled to the purchase price of land, buildings, improvements, and equipment, all moving expenses including temporary storage, insurance and temporary quarters, profits or rentals lost as a result of an interruption in the business, the cost for the installation of fixtures and equipment, advertising and special promotions for business reopenings, attorney's fees, commissions, and any duplication of taxes, rents or interest.

One major problem in the past has been the fact that business or individuals leaving a project area before the condemnation of their property could not qualify for moving expenses. We propose to change that limitation and allow anyone moving before condemnation, but after official project approval, all moving costs. This will also avoid the problem of higher prices for rents and land caused by holding property owners and tenants until after condemnation and then releasing them all on the market at one time.

In some cases, businesses may not be able to move out until the area is almost emptied of their customers. We propose that the local public agency, if it has acquired the land on which the business is still operating, be required to lower the rent in correspondence to the decrease in sales.

Although the housing and urban renewal bill submitted to the Congress by President Johnson made some effort to improve compensation payments to those evicted from an urban renewal area, the Housing Administrator chose to ignore the possibilities of combining ideas and instead objected on two general and one specific ground to the much more comprehensive Republican proposals for just compensation.

I compared the just compensation features of my own bill, with the administration bill in my reply to the Housing Administrator on March 2, 1964, which I included in the CONGRESSIONAL RECORD on March 5, 1964, pages 4530–4536. Part of my explanation at that time follows:

> 1. HHFA objects that the standards of compensation provided in H.R. 9771 would exceed existing constitutional and statutory provisions of a majority of the States.
>
> Standards of compensation have proven to be inadequate in the past both for individuals, families and business establishments. This is borne out by studies made by the National Federation of Independent Business and by the Small Business Administration. The fact that HHFA does acknowledge the limitations and the comprehensiveness of the Republican bill is perhaps the best recommendation that bill could have.
>
> Adverse statutory provisions, of course, can be changed, and no doubt would be changed in these States wishing to continue in the program. Constitutional limitations, as interpreted by the courts, go to the question of just compensation for a taking of a property interest through the power of eminent domain. There is no known court decision stating that a State or its instrumentality cannot make supplemental payments which is what this bill deals with in its replacement value sections.
>
> 2. HHFA claims that since no Federal money is provided for in the bill for these supplemental payments, State or local funds being not available for this purpose, required compensation plans would not be developed in many areas.
>
> It should be noted that existing law could be changed on a State level to allow for supplemental payments being included in the local share of the cost of the project. The Republican bill assumes that this can be done, and that there is therefore no need to provide for specific Federal payments, since the Federal Government will pay its share of the increased costs of the project through paying its share of the project cost in total.
>
> 3. HHFA questions specifically only one aspect of H.R. 9771 in regard to compensation for tenants and whether it is complete enough. From that question HHFA decides that this bill will help big business more than small business.
>
> In fact, the small businessman receives greater protection under the Republican bill and greater help to relocate and stay in business than under the administration bill. There is no limitation on moving expenses, there would be payments for loss of profits, for rent for temporary quarters, for removal and installation of equipment and fixtures, for attorney fees, and for replacement of the leasehold interest taken. In contrast, the administration bill includes a $1,000 payment plus another $1,500 separation fee if the business cannot relocate after a year's time. This is hardly more than a consolation prize to the small businessman and his employees. Many of these establishments are owned by, employ, and serve minority groups.
>
> No mention is made by HHFA of these additional payment provisions, nor of the provision which would make available to the evicted individual or business money for relocation and replacement at an earlier point in time than at present. Nor does HHFA speak of the provision which would provide for compensation for damage to property interests as well as for an actual taking. Republican members intend to give careful consideration to the rental payments provision of the administration bill, and hope that HHFA will reconsider its position with respect to H.R. 9771.

The Reader's Digest has shown a keen interest in the problems of just compensation, and printed an excellent article titled, "Bulldozers at Your Door," in its September 1963, issue. I included this in the CONGRESSIONAL RECORD, volume 109, part 13, pages 17674–17676.

Mr. Speaker, this article was condensed from the publication National Civic Review, and was written by Sidney Z. Searles, chairman, Subcommittee on Condemnation, Association of the Bar of the City of New York.

Mr. Searles makes a strong case for reform of the eminent domain procedures, and suggests that a starting point could be the adoption of laws similar to some in England, Canada, and a number of States, including Wisconsin, Florida, Wyoming, and Oregon.

The Reader's Digest article points out that our eminent domain procedures are, in the words of a 1962 American Bar Association report, the product of "rules laid down in a bygone, comparatively uncomplicated age" when land was plentiful and government property seizures were few.

Mr. Searles states that—

> In the last decade the conditions these old rules govern have been transformed by the explosion of our population and technology. We have begun to crowd the land for living space and, simultaneously, for everything from airports and rocket bases to reservoirs and cemeteries. In the process the formerly little-used power of eminent domain has been given to so many different public agencies, and even private corporations, that today literally tens of thousands of them are condemning private property.
>
> Over 500 separate local agencies have the light of eminent domain for urban-renewal projects, and in the next decade will dispose of $2 billion worth of land, five times the amount received from all sales of the public domain between 1785 and 1956. The interstate highway program will by 1972 take $6 billion worth of land: 730,000 parcels in all, on which it is impossible to estimate how many millions of people are presently living.

We are in the midst of a Federal-aid building program which, for sheer size, dwarfs any engineering project ever undertaken by any other government in history.

Mr. Searles says that the two major components of the building program—highways and urban renewal—presumably will bring enormous social and economic benefits, "But unless the laws are changed soon, these benefits will be achieved at the expense of millions of us who happen to be in the bulldozers' path."

Mr. Speaker, in any Government project involving potential condemnation, whether it is public housing, urban renewal, or highway development, the property owners live in a state of economic blight until the bureaucratic plan is completed. They suffer indefinitely—through plan changes, amendments, personnel reorganizations, the unending search for developers, and all kinds of bureaucratic difficulties.

The mere announcement of an urban renewal study involving an area can create hardships. Property owners, for example, have difficulty, both in renting, particularly on a lease basis, or in selling their properties. At the same time that these properties are being assessed at their most profitable use, as conceived in the urban renewal plan, their owners in all probability are being faced with a decline in real estate market values. As a result, properties are left unimproved, and real estate speculation of the worst type is encouraged.

At the same time, there is no way that property owners can obtain a quick decision. They know that in the indefinite future their property will be taken, but when, and for how much, they have no idea. In the meantime, there is no compensation available for the immediate losses the property owner is suffering.

This clearly is an area which deserves investigation if we are to provide our citizens with adequate protection of their property rights, and avoid the possibility that the economic cost of public improvements may outweigh the benefits these improvements are supposed to provide.

CLERK AUTHORIZED TO RECEIVE MESSAGES AND SPEAKER AUTHORIZED TO SIGN ENROLLED BILLS

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until Monday next, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Weltner (at the request of Mr. Albert), for today, on account of official business.

Mr. Wallhauser (at the request of Mr. Arends), for June 3 and 4, on account of illness.

Mr. Teague of Texas (at the request of Mr. Boggs), on account of official business.

SPECIAL ORDER GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to Mr. Widnall (at the request of Mr. MacGregor), for 15 minutes, today; to revise and extend his remarks and include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Congressional Record, or to revise and extend remarks, was granted to:

Mr. Pucinski in two instances.

Mr. Beermann and to include an article from the June 1964 Farm Journal following his remarks in the Committee of the Whole on House Joint Resolution 977.

(The following Members (at the request of Mr. MacGregor) and to include extraneous matter:)

Mr. Rumsfeld.

Mr. Goodling.

(The following Members (at the request of Mr. Stratton) and to include extraneous matter:)

Mr. Rivers of South Carolina.

Mr. Davis of Tennessee.

Mr. Baring.

Mr. Daddario.

Mr. Fisher.

ADJOURNMENT

Mr. STRATTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 10 minutes p.m.) under its previous order, the House adjourned until Monday, June 8, 1964, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OLSEN of Montana: Committee on Post Office and Civil Service. S. 1833. An act to authorize Government agencies to provide quarters, household furniture and equipment, utilities, subsistence, and laundry service to civilian officers and employees of the United States, and for other purposes; with amendment (Rept. No. 1459). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURRAY: Committee on Post Office and Civil Service. Study of manpower utilization in financial management functions in the Defense Establishment. (Rept. No. 1460). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROYBAL: Committee on Post Office and Civil Service. H.R. 5708. A bill to amend the Federal Employees Health Benefits Act of 1959 to extend coverage to certain U.S. commissioners; with amendment (Rept. No. 1461). Referred to the Committee of the Whole House of the State of the Union.

Mr. ROYBAL: Committee on Post Office and Civil Service. H.R. 8827. A bill to extend the act of September 26, 1961, relating to allotment and assignment of pay, to cover the Government Printing Office, and for other purposes; without amendment (Rept. No. 1462). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLS: Committee on Ways and Means. H.R. 11375. A bill to provide, for the period ending June 30, 1965, a temporary increase in the public debt limit set forth in section 21 of the Second Liberty Bond Act; without amendment (Rept. No. 1463). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLS: Committee on Ways and Means. H.R. 11376. A bill to provide a 1-year extension of certain excise-tax rates; without amendment (Rept. No. 1464). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JOHANSEN:

H.R. 11497. A bill to provide for the issuance of a special postage stamp in honor of the memory of the late General of the Army Douglas MacArthur; to the Committee on Post Office and Civil Service.

By Mr. NIX:

H.R. 11498. A bill to provide that the Secretary of the Navy shall convert the facilities of the Philadelphia Naval Shipyard to facilities adequate for a nuclear shipyard; to the Committee on Armed Services.

By Mr. PATMAN:

H.R. 11499. A bill to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury; to the Committee on Banking and Currency.

By Mr. WATSON:

H.R. 11500. A bill to provide for the issuance of a special postage stamp in commemoration of the anniversary of the birth of the late General of the Army Douglas MacArthur; to the Committee on Post Office and Civil Service.

By Mr. ABERNETHY:

H.R. 11501. A bill to provide for the designation of certain Veterans' Administration facilities; to the Committee on Veterans' Affairs.

By Mr. COLLIER:

H.R. 11502. A bill relating to the tariff treatment of parts designed for use or chiefly used in agricultural or horticultural implements or in tractors suitable for agricultural use; to the Committee on Ways and Means.

By Mr. HARDY:

H.R. 11503. A bill to amend section 5149 of the act of August 10, 1956, 70A Stat. 290, as amended, section 5149 of title 10, United States Code; to the Committee on Armed Services.

By Mr. HORAN:

H.R. 11504. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Manson unit, Chelan division, Chief Joseph Dam project, Washington, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PILLION:

H.R. 11505. A bill relating to the status of volunteer fire companies for purposes of liability for Federal income taxes and for certain Federal excise taxes; to the Committee on Ways and Means.

By Mr. ROOSEVELT:

H.R. 11506. A bill to amend section 3 of the Travel Expense Act of 1949, as amended, to provide authority for the payment of per diem for certain travel of employees of the Department of the Navy; to the Committee on Government Operations.

By Mr. DON CLAUSEN:

H. Con. Res. 312. Concurrent resolution expressing the sense of the Congress with respect to the designation of a grove of redwood trees as a memorial to the late Dag Hammarskjold; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARING:

H.R. 11507. A bill to authorize the Secretary of the Interior to convey certain public lands in Washoe County, Nev., to Mrs. Ralph Haukland; to the Committee on Interior and Insular Affairs.

By Mr. EDMONDSON:

H.R. 11508. A bill for the relief of Loi Sing Yip, his wife Szeto Pik Shun Yip, and their minor son Koon Ying Yip; to the Committee on the Judiciary.

By Mr. FASCELL:

H.R. 11509. A bill for the relief of Vito Grillo and Vincenza di Giorgi Grillo; to the Committee on the Judiciary.

By Mr. GRAY:

H.R. 11510. A bill for the relief of Mrs. Margarita Bacolas; to the Committee on the Judiciary.

By Mr. PASSMAN:

H.R. 11511. A bill to direct the Secretary of the Interior to adjudicate a claim to certain land in Union and Jackson Parishes, La.; to the Committee on Interior and Insular Affairs.

By Mr. RHODES of Arizona:

H.R. 11512. A bill for the relief of Angelo Iannuzzi; to the Committee on the Judiciary.

By Mr. RYAN of New York:

H.R. 11513. A bill for the relief of Panagiotis Kapitanellis; to the Committee on the Judiciary.

By Mr. SIBAL:

H.R. 11514. A bill for the relief of Antonio Liburdi; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 11515. A bill for the relief of Chariklia Karakatsani; to the Committee on the Judiciary.

By Mr. CHARLES H. WILSON:

H.R. 11516. A bill for the relief of Masako Adachi; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

914. The SPEAKER presented a petition of Henry Stoner, Avon Park, Fla., relative to proposing amendments to the Constitution of the United States, which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

Hon. John E. Horne Receives Distinguished Service Award of the National Association of Small Business Investment Companies During Meeting at Greenbrier Hotel, White Sulphur Springs, W. Va.

EXTENSION OF REMARKS
OF

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, June 4, 1964

Mr. RANDOLPH. Mr. President, it is gratifying to note that the significant contributions of Hon. John E. Horne to small businesses in the United States have not gone unrecognized. As former Administrator of the Small Business Administration Mr. Horne worked diligently to aid smaller firms in their struggle to achieve a progressive position in the Nation's marketplace. He has ever championed the cause of the independent businessman.

Now a member of the Federal Home Loan Bank Board, Mr. Horne remains attuned to the problems and prospects encountered as we seek to continue the business upswing enjoyed over recent months.

At the midyear meeting of the board of governors of the National Association of Small Business Investment Companies, combined with the summer meeting of that group's southern and mid-Atlantic regional associations, appropriate honors were conferred on this effective public servant. Convening at the beautiful Greenbrier Hotel in White Sulphur Springs, W. Va., these respected organizations presented their 1964 distinguished service award in acknowledgment of his positive influence in strengthening small business investment companies.

In accepting Mr. Horne commented on the rapid expansion in the small business investment area. He pointed out:

> The SBIC program, while certainly not inevitable, did have a force all its own. Representing a partnership of the private and public sectors of our economy, it is a logical outgrowth of our free enterprise system. Victor Hugo wrote, "Nothing in this world is so powerful as an idea whose time has come." In the America of the 1960's, the "time has come" for the small business investment company program.

Previous worthy recipients of the NASBIC Distinguished Service Award have been Representative WRIGHT PATMAN of Texas, in 1962, and last year, Senator JOHN SPARKMAN, of Alabama.

Among those present were the presidents of the Southern, and Mid-Atlantic Regional Associations of Small Business Investment Companies, Lewis W. Barron and T. Eugene Smith. Presiding was NASBIC President William E. Francis, and the efforts of Executive Director Walter B. Stults, and General Counsel Charles M. Noone lent much to the success of the proceedings. An honored guest was Deputy SBA Administrator, Hon. Richard E. Kelley.

Mr. President, it was my privilege to participate as keynote speaker at the dinner program on May 29, and to discuss various aspects of the relations between small business and the Federal Government.

I ask unanimous consent that the following materials be printed in the CONGRESSIONAL RECORD: Address of Hon. John E. Horne in accepting NASBIC Distinguished Service Award, May 29, 1964; congratulatory message paying tribute to Mr. Horne from President Lyndon B. Johnson; resolution commending Mr. Horne adopted by the National Association of Small Business Investment Companies.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMENTS DELIVERED BY HON. JOHN E. HORNE, MEMBER, FEDERAL HOME LOAN BANK BOARD, AND FORMER ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION, ACCEPTING DISTINGUISHED SERVICE AWARD OF THE NATIONAL ASSOCIATION OF SMALL BUSINESS INVESTMENT COMPANIES

President Francis, Senator RANDOLPH, distinguished guests, ladies and gentlemen, it is not necessary that I tell you how pleased I am with this occasion. It is an example of the compensations derived from public service—a reward that cannot be measured in dollars and cents but one that is far more satisfying.

Thus, I accept your Distinguished Service Award with pride and with gratitude. And I sincerely thank each of you for this honor.

It is understandable, I hope, that I recall with some degree of pride my work for a decade or so with those on Capitol Hill who fathered the Small Business Investment Company program. I am sure that Charlie Noone and Walter Stults also feel a sense of satisfaction with what they did in behalf of bringing this program to life.

Naturally, any review of the origin of the SBIC movement and its present status would include such legislative giants as Senator SPARKMAN, of Alabama, and Congressman PATMAN, of Texas. President Johnson would also have to be included. He was majority leader, you may recall, when the program was enacted, and he made the unusual request that he be a sponsor of the measure.

Another who has contributed greatly to this program and to the welfare of small businesses generally is your speaker, Senator RANDOLPH. One of my most satisfying and encouraging experiences as Administrator of the Small Business Administration was his constant support of programs aimed at helping small firms. Every small businessman is indebted to him.

As you know, following my appointment to the Small Business Administration, I worked from within the executive branch for 2½ years in an effort to help clear the path of obstacles which will, in retrospect, seem small—but which loomed large to an infant trying its first faltering steps. Now, like the uncle who visits periodically to measure the nephew's growth, and marks the inches on a doorjamb, I read and relish the periodic reports of your growth—as measured, not by inches, but by new SBIC's, new investments, and by those first, elusive, long-awaited profits.

So in a way, we have both graduated—you to the eminence of what might at least be termed early adolescence, and I to the role of ex-adviser. And to make certain I am not misunderstood, I emphasize the prefix "ex" in the word "ex-adviser."

Opportunity comes to few men to participate in a new and challenging endeavor. Such an opportunity came to you and to me, when we first became associated with the small business investment company program. But we would be making an error of judgment if we consider ourselves to have been indispensable to the birth of the SBIC. True it is that visionary legislators, able businessmen, sympathetic regulators, and an energetic trade association were all necessary. But the fact is that the SBIC program, while certainly not inevitable, did have a force all its own. Representing a partnership of the private and public sectors of our economy, it is a logical outgrowth of our free enterprise system. Victor Hugo wrote, "Nothing in this world is so powerful as an idea whose time has come." In the America of the 1960's, the "time has come" for the small business investment company program.

So I think those who had the vision to initiate the legislation are due credit. They remind me of the point made in a story I read on the way about the man who answered the call at the Maine revival meeting and went to the front of the church to give his testimonial. "I'm a sinner, a miserable sinner," he said. "I have been for years, but I never knew it before tonight." "Sit down," said his neighbor, "the rest of us knew it all the time."

President Johnson has declared this to be Small Business Week, asking us "to participate in ceremonies recognizing the great contribution made by the 4.6 million small businesses of this country to our prosperous society and to the well-being and happiness of our people." The purpose of your meeting may be less to extol the virtues of small business in America than to celebrate the glories of Greenbrier in May, but it is nonetheless fortuitous.

I have no intention of expounding on the contributions of small business, but it does seem appropriate to point out that, in a very special sense, the institution which you represent is one expression of the finest which the American experience has been able to produce. In our never-ending competition with the forces of communism and other forms of would-be dictatorship, we say to uncommitted nations and to uncommitted minds the world over:

Look at our capitalistic system:

It is not designed simply for the benefit of the industrial giant, but also for the welfare of the small independent enterpreneur.

It does not ignore desirable social and economic goals, but makes it possible for private interests to aim for those goals—and to make a profit in doing so.

It does not set up a conflict between Government and business, but rather devises partnerships so that each may work for the benefit of all.

Surely, the Small Business Investment Co. program represents a manifestation of these ideals—admittedly limited in scope, admittedly young in years, but nonetheless real, and nonetheless significant.

Nothing I have said has been intended to imply that your troubles are all behind you, that the future holds for you only smooth sailing and capital gains. I simply mean that I share the feeling of cautious optimism which you demonstrate by your presence here.

For much of the last year I have been intensely concerned with a financial institution which is, in comparison with the commercial banking industry, not much older than your own. I remind you that the savings and loan industry has had its share of problems—indeed as any newspaper read knows, it still does. But it succeeded because it, like the SBIC, meets a genuine need. Here, as elsewhere in life, that criterion is the final test of any commodity, any service, any idea.

Macaulay said: "A single breaker may recede, but the tide is coming in." Let us not mistake the inevitable ebb and flow with quiescence or stagnation. So long as men of good will, both public and private, continue to harness their resources and their energies toward the aims of this program, the tide will come in for SBIC's.

In conclusion, I want to stress something that many, if not all of you, have heard me say before:

Don't become impatient with this program. Few things worth while reach fruition overnight.

Every now and then review the legislative history of this program if for no other reason than to understand why you were given birth. If you adhere to the basic purpose that Congress has in mind, your friends there will make amendments to the original legislation as the need is proved.

Work together through your trade association. In unity there is strength, is even more true of the members of a new industry than of an old one.

You have an excellent trade association whose staff is able, dedicated, and knowledgeable. Continue to give them your confidence and support, and they will justify your faith in them.

At least once a week I have an occasion to advocate to someone the SBIC program. I do so enthusiastically, not because I worked with others to help launch the program but because it is needed.

And even though I am no longer officially connected with the SBIC movement, I shall always be interested in it. It was a real pleasure, for example, during this last year—1963 and 1964—to talk to friends on Capitol Hill and to assist in every way I could to bring about the new legislation that Congress has just enacted to help your program.

In respect to this legislation, I want especially to mention the very effective aid given by Lew Odom at the staff level. Those of you who know the details of his efforts will agree, I am sure, that they were truly timely and brilliantly conceived.

And, of course, I was glad that the legislation authorized the SBIC's to deposit insured funds in savings and loan associations up to the insured amounts, presently $10,000.

I know that Gene Foley and Dick Kelley were also delighted with the new legislation. It will, in my opinion, prove to be a real stimulant to the growth of the SBIC program.

I will continue to be helpful in any way that I can.

Again, I thank you most sincerely for this honor. It is one that I shall always cherish.

WALTER B. STULTS,
Executive Director, National Association, Small Business Investment Companies, the Greenbrier, White Sulphur Springs, W. Va.

The distinguished service award which the National Association of Small Business Investment Companies is presenting to John E. Horne for his contributions to American small business is a well deserved recognition for his outstanding contributions to this country's small, independent enterprises.

In a career of distinguished public service John made a fine record as Administrator of the Small Defense Plants Administration and as Administrator of the Small Business Administration.

I join with you, and I am sure with many thousands more in extending sincerest congratulations to Mr. Horne on receiving this honor.

LYNDON B. JOHNSON.

RESOLUTION BY THE NATIONAL ASSOCIATION OF SMALL BUSINESS INVESTMENT COMPANIES, CONVENED IN A BUSINESS MEETING IN THE CITY OF NEW YORK

Whereas the small business investment company program has become an increasingly significant part of this country's growing economy through the supplying of venture capital to America's small businesses; and

Whereas the Honorable John E. Horne, in his service to the U.S. Government and specifically in his capacity as Administrator of the Small Business Administration did by his steadfast devotion to the interest of small business concerns and the small business investment company program demonstrate himself to be an outstanding leader in the cause of economic opportunity for small business; and

Whereas during his earlier distinguished service to the U.S. Senate, Mr. Horne also devoted his talents and his efforts to the welfare of independent business: Now, therefore, be it

Resolved, That the National Association of Small Business Investment Companies in grateful recognition to a true friend presents the NASBIC Distinguished Service Award to the Honorable John E. Horne in acknowledgment of its deep appreciation for his accomplishments on behalf of America's small business and for his contributions to the small business investment company program.

This resolution approved unanimously by the membership of the National Association of Small Business Investment Companies on December 12, 1963, and presented to Mr. Horne at White Sulphur Springs, W. Va., on May 29, 1964.

Swedish Constitution Day

EXTENSION OF REMARKS

OF

HON. DONALD RUMSFELD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1964

Mr. RUMSFELD. Mr. Speaker, on Saturday, June 6, the Swedish people will celebrate the 155th anniversary of their Constitution and Flag Day. It was in 1809 that the present constitutional monarchy was established under which the Swedish people have flourished and progressed.

Many in the world regard Sweden as a well organized and happy democracy and there is much interest in her social, economic, and political conditions. Throughout her history, Sweden has furthered the traditions of freedom, courage, respect for religion, high regard for the individual, education, progress, and peaceful cooperation. Her political institutions, built on foundations of popular government and political freedom which were laid in primitive times, have had a great influence on her social and economic forms. What the world learned from the American and French Revolutions and from constitutional government in England was not new to the Swedish people, whose modern democracy has roots in the Middle Ages and has contributed greatly to the practical experiences of government and individual freedom.

Mr. Speaker, we in the 13th Congressional District of Illinois are proud of our Swedish communities. The people who came from that country to start new lives in Illinois and their children today have instilled in them these political and social forms and traditions which have so greatly enhanced the social, economic, and political advancement of my great district. These citizens of Swedish origin are our good neighbors, and we are proud to join with them in commemorating this memorable day.

Memorial Day, Gettysburg, Pa.

EXTENSION OF REMARKS

OF

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1964

Mr. GOODLING. Mr. Speaker, on May 30 of each year we pay tribute to those who helped make and keep this country free.

Thousands of American flags wave over graves in military cemeteries all over the world. Poppies grow "Between the crosses, row on row," a symbol of the eternal sleep of our Nation's military dead. Each contributed his last full measure of devotion, never having had a chance to play his complete part on the stage of life. Geniuses who rightfully should have belonged to tomorrow's history lie buried in those cemeteries.

Each year at the National Cemetery in Gettysburg a tribute and a sincere thank you is said to those men who kept their appointment with an unkind fate in the morning of their lives.

This year nature appeared to cooperate in paying this tribute. Under a cloudless sky, with the temperature at a near perfect degree, grass at its greenest, trees and shrubs with varying degrees of color, made a perfect setting for 1,500 schoolchildren to strew flowers on the graves in a most impressive ceremony.

Judge Clarence Sheely presided over exercises at the rostrum.

The following prayer was offered by Rev. Merlin G. Shull, pastor of the Church of the Brethren:

Almighty God, Creator of all the earth and Lord of all the nations, we invoke Thy presence with us as we are gathered here at this place of precious memories. We thank Thee for this goodly land which Thou hast granted unto us for a heritage, for the people from many lands and races that make up this great Nation, and for the ties of blood and love that bind us to all the inhabitants of Thy world. Send, we pray, the blessing of health, wisdom, and courage upon the President, the Congress, and all in our world who hold temporal power, that upholding what is right, and following what is true, they may obey Thy holy will and fulfill Thy divine purpose. Grant that we may never selfishly seek to reserve solely unto ourselves the blessings which fall in such abundance upon us. Help us to go from this place with increased devotion to the task of promoting the well-being of all Thy children, that peace may come and Thy will be done on earth as it is in heaven. Amen.

Senator BOURKE B. HICKENLOOPER, of Iowa, delivered the main address for the ceremonies, and I should like it to be made a part of my remarks at this time:

ADDRESS BY SENATOR BOURKE B. HICKENLOOPER, REPUBLICAN, OF IOWA, MEMORIAL DAY EXERCISES, GETTYSBURG NATIONAL CEMETERY, GETTYSBURG, PA., MAY 30, 1964

Congressman George Goodling, Judge Sheely, Chairman Colonel Shriver, Mayor Weaver, reverend clergy, veterans of our Nation's service, schoolchildren of Gettysburg, and fellow Americans, when this "hallowed ground" was dedicated 100 years ago there were many persons then living who had spanned more than the "four score and 7 years" of our national life. Today, there are a few whose lives have traversed this past century. Thus, we can say that this Nation of ours, still young in years but mature in progress and world responsibility, was born and has grown to that maturity and accepted leadership during the period of two consecutive long lifetimes. A few men and women of today actually knew some of those who "brought forth a new Nation."

You have honored me greatly with your invitation to participate in this annual Memorial observance in Gettysburg today. One cannot stand on this ground in meditation without feeling the overpowering presence of the shades of men locked in mortal struggle for the preservation of their convictions and on this field 101 years ago the fate of this Nation—its preservation as a national union—was determined.

When Abraham Lincoln dedicated this National Cemetery in 1863 he knew, without doubt, that the high point of uncertainty as to the outcome of the war had been passed in the first 3 days of July. The tide of battle was running inexorably with the North and victory was in sight. But he did not boast of victory or exult over the defeat of opponents—instead, his matchless address with clarity, comprehension and unequalled conciseness restated the founding concept of our country—he honored all those "living and dead" who struggled here and his compassion was not for the North or the South but for all of our people.

Victory in the war was not the end but the security for continuing the work of consolidating and developing our Union. The indefensible system of slavery was the emotional trigger of the war—it was tragic that it was not met and peacefully solved as a political matter, but when the war broke out the immediate and controlling issue became the preservation of the Union—if the Union failed the cause of freedom would fail.

A century ago we began again the consolidation of our Union. There were deep wounds to be healed and ways of life to be recast, but a rich land of opportunity and promise was open to a finally united people. The work of binding our country and people together was intensified—highways and railroads spanned the continent—industry and agriculture developed rapidly—markets became available for products of the interior and we grew strong and great under our assured Federal system.

During the first half of our national life, geography kept us out of most world conflicts, but in the last 66 years we have been engaged in four wars—each time against aggression or tyranny and in aid of freedom for others with no thought of enrichment for ourselves. We have gone to the far corners of the earth to help those who would be free and our own great strength has been the determining factor in those adventures. Today there is no other nation or combination of nations that can or will give the responsible leadership for the free world to which we are dedicated.

In free systems, however, there is often conflict of thought, if not of ultimate goals. Free people generate their own thoughts and try to compose their differences. In tyrannies, such as those under communism, the people are told what to think and independent ideas are received only at the whim of the despots.

In a free system the individual has responsibility and opportunity—his limitations are measured only by his ability and effort—he can create, improvise, experiment, venture—and he can own and control the fruits of his efforts. In a free system the citizen controls his government but in a tyranny he is controlled by government.

It is such a system of freedom under a Federal union, pioneered in this land by the founders and preserved by the great struggle a century ago, that has maintained a political climate under which we have outstripped all other peoples in strength, comfort, and prospect. Our solemn obligation is to keep it so.

As we develop, however, so do the other peoples of the world. Science and technology have destroyed distance and those in the jungle and the wilderness know about, although they may not yet understand, the miracles that have been developed in the past half century. No doubt many of you remember the first airplane—no one thought it would really fly, of course, and now we know that men will soon be living in space—the magic carpet is outmoded and so are the seven league boots.

Sixty years ago anyone suggesting that soon you could turn a switch and see people and things half way around the world was considered mad.

Tomorrow, many of you here today will see miracles that will make those of today seem crude by comparison.

These things we all know, but we must never forget that they have been accomplished by freemen—tyrants and slaves have contributed little if anything to human progress, and whenever men of genius have been born under despots they have had to flee to places of freedom before their genius can benefit mankind.

Economic and social problems beset us—and we must and shall solve them. They will be followed by others and this is the pattern of continued progress. We are a nation in which equal rights and opportunities for all must prevail. Where they are deficient, we must make correction, but in making correction for one deficiency we must be careful that we don't create others—but freedom demands that we maintain justice as well as combat injustice.

While we have many domestic problems confronting us none is more emotionally charged at this moment than the civil rights issue and perhaps no issue is more misunderstood or subject to distortion of its various phases. One difficulty confronting us is that emotion on either side of this issue may so becloud it as to hamper objective consideration. Propaganda abroad charges that the Negro in this country is still a slave. Every American knows that this is false and that the Negro not only has physical freedom and equality of property rights but they also are far better off than the Negro in any part of the world. This is not to say that he has not suffered indignities and that in certain limited areas he has not been prevented from exercising some of the rights which should be inherent with all Americans. Unfortunately, and from a standpoint of informing the world about the truth, those who have charge of our propaganda emphasize certain indefensible areas of discrimination but either minimize or fail entirely to point out those areas and conditions where equality and opportunity do exist.

The Congress has been struggling with legislation hopefully designed to correct injustice or to establish and protect full equality of rights that are basic. The conflict, in the main, arises from the concern of many that in attempting to legislate the establishment and equal protection of basic rights the law may go further and attempt to control or dictate social adjustments normally reserved within the personal sovereignty of the individual. I am sure, however, that within our framework of public opinion and representative government this issue can be fairly and properly resolved.

While we may be preoccupied with internal affairs we must not lose sight of the vital struggle going on in the world between the tyranny of international communism and freedom. The issues have been sharply drawn and are as clearly defined today for those who will see as they ever have been. In broad terms the issue is simply whether men will rule themselves through intelligent self-determination or whether they will be ruled by closely knit groups of autocrats—whether men will be free to exercise their own genius or whether they will be stifled in their development by central government dictation.

Unfortunately, many people are overanxious to assume that when Moscow or Peiping put on a smiling face for a moment or mouth platitudes of peace and coexistence it means that they are altering their basic purpose. We have those who say that we must trust the Communists more. No more tragic mistake could be made than to follow this line of reasoning. For every gesture or protestation of peaceful purpose emanating from Moscow there are dozens of declarations of conquest and destruction of the West.

World dominion is, as it always has been, the ultimate goal toward which international communism is driving and while we as a nation respect the rights of other nations, when freely determined by their people, to set the form of their own government, we must resist and combat the unaltered program of those countries governed by international communism which is determined to enslave the rest of the world.

The last year or two we have seen quarrels and vicious declarations of mutual distrust between the Red Chinese and Moscow but those who feel that this rift may mark a fundamental change in the objectives of communism may indeed have a rude awakening one day. The quarrels and vilifications between the leaders of the Communist world seem to go to the question of tactics and leadership rather than to any change of purpose and I think there is little doubt that in any emergency in which international communism is in danger of receiving a severe setback they will unite against what they consider to be the common enemy—the nations of freedom.

As a nation we have not only resisted this enemy program but we have spent vast sums of money since World War II to help guide the more uncertain countries toward a plateau for the development of self-determination and partnership in a free world. The task, of course, has not been finished, indeed it may have only begun, in point of time, but we must continue our vigilance. More than that we must exercise every effort to enlist the greater cooperation and unity of other free nations of the world in this struggle. We are the greatest and strongest of all countries and yet our strength cannot be matched successfully against that of all of the rest of the world or against a substantial part of the world with the rest occupying roles of indifference or uncooperation.

Our great strength has too often led us into the belief that we can do everything. We can do much. However, we must not and we cannot be expected to erode our own strength and the vitality as a nation in this conflict while others sit idly by and fail to contribute their fair share of strength and vigor.

When Abraham Lincoln dedicated this sacred ground in that address in 1863 which will be accepted as the charter for freedom as long as freedom exists, he called upon us to dedicate ourselves to the task of building a greater and greater citadel of opportunity and freedom. We have, as a nation, magnificently responded to this call, but just as the work of building a nation was unfinished in 1863 so the work continues to be unfinished; as long as free men and women are permitted to reach out for more and better freedom and happiness and opportunity the work will always be unfinished.

We should not reserve Memorial Day alone as the time when we renew our determination to keep the faith with those who have sacrificed to build and preserve a nation; rather we should, daily, with Lincoln "highly resolve that these dead shall not have died in vain—that this Nation under God, shall have a new birth of freedom and that government of the people, by the people, for the people shall not perish from the earth."

Graduation Address at the U.S. Naval Academy by the Honorable Carl Vinson, Chairman, Committee on Armed Services, on June 3, 1964

EXTENSION OF REMARKS

OF

HON. L. MENDEL RIVERS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1964

Mr. RIVERS of South Carolina. Mr. Speaker, yesterday, June 3, 1964, the graduating class at the U.S. Naval Academy had the great privilege of hearing an address by the incomparable chairman of the House Armed Services Committee, the Honorable CARL VINSON.

Mr. Speaker, I wish every Member of the House, every member of our armed services, every civilian official of the Department of Defense, and every thinking American citizen had been present on this momentous occasion.

Fifty years of brilliant service to the Nation was reflected in the clear, strong, confident words of Chairman VINSON as he talked to the graduates and 10,000 others in the audience about "The Navy of the Future."

His words of wisdom; his vision of things to come; his sage advice; his confidence in the future, his understanding of our national defense structure; and his reassurance to the graduates on the future of the Navy will long be remembered by those who heard him and never forgotten by those who study his address.

Yesterday was graduation day at the Naval Academy, but it could more appropriately have been called CARL VINSON Day at the Naval Academy for not only was CARL VINSON made an honorary member of the Class of 1964, but he captivated the entire audience.

I have always been proud to serve under CARL VINSON, but my pride in our friendship and association reached a new height yesterday for CARL VINSON was superb, sagacious, and supreme.

I ask unanimous consent to insert his address in the CONGRESSIONAL RECORD so that his words will be available for posterity, and especially for those who may have any doubts about the future of our great Navy.

The address follows:

THE NAVY OF THE FUTURE

(Representative CARL VINSON, Democrat, of Georgia, Chairman of the Armed Services Committee, Address to the 1964 Graduating Class at the U.S. Naval Academy, June 3, 1964)

Mr. Secretary, Admiral Minter, members of the graduating class, distinguished guests, ladies and gentlemen, it is a grand experience, thrilling and unforgettable, to address the graduating class of the world-famous U.S. Naval Academy.

And for me—after almost a lifetime spent with the Navy and its leaders—this is an especially stirring event. It is filled with recollections of years gone by, and with eager anticipation of things to be.

I just do not have the words to tell you how deeply I cherish this occasion.

For every citizen in the Nation, these graduation exercises reawaken pride in our great Navy.

Here, on this day, is reinstilled among all of us a confidence in the continuing strength and the future security of this, the greatest free nation the world has ever known.

How I envy you, as you launch your careers in the most powerful naval force that man has ever seen.

You will man the ramparts of a land of liberty, bountifully blessed by Divine Providence.

Today, you begin a lifetime of guardianship of a priceless heritage—freedom.

Lives so dedicated cannot fail to be enriched by such a challenge—for our precious freedom carries no guarantee.

It must be guarded anew, nurtured anew, cherished anew, year by year.

The fact that liberty is still ours today is owed to the sacrifices of millions before us.

Here today the torch of freedom passes to you.

You receive this torch at a time when it brightly burns—when the United States of America has become the sword and the shield of liberty everywhere on earth.

We are the shining symbol of hope for the dispirited, the dejected, the oppressed, and the exploited everywhere beyond our shores.

Today, through the Commander in Chief, the President of the United States, a trusting people repose their faith in you by appointing you regular officers of the U.S. Navy and the U.S. Marine Corps.

How proud you and your parents have a right to be that today your names become forever inscribed upon the rolls of the guardians of the free.

A tremendous responsibility is about to be placed upon your shoulders.

The lives and well-being of thousands upon thousands of fine young men whom you will command over coming years will depend upon your judgment, your wisdom, your knowledge, and your understanding.

But yours is to be an even greater responsibility, for, from this day forward, yours is a special charge and a sworn duty—to protect and to defend our country.

There can be no higher calling.

We are living in an era of unrest and discord—an era in which no one can foresee the problems of tomorrow.

What is to be your future in so uncertain a world as you enter this honored profession as Navy and Marine Corps officers?

It will be the unending prayer of your countrymen, throughout your careers, that the service which you will render this Nation will reinforce peace and justice among a tormented humanity.

May your service never require your involvement in war.

That, certainly, is my own prayer here today.

And yet, ready for war you must ever be, for the annals of the human race disclose a terrible preoccupation with force and violence and inhumanity toward man.

Man stands indicted that in 2,300 years his world has been wholly at peace only 270 years.

It once was wisely said that what is past is prologue, which suggests that warfare, chronic in years gone by, will remain the arbiter of human affairs.

But paradoxically, through a new-found nuclear capability, our very capacity to destroy and to incinerate millions in a flaming instant, and to consign scores of millions of others to lingering death has, in itself, aroused new hopes of lasting peace.

At this time, when we measure explosive power in megatons, when "victory" in a nuclear holocaust can mean only a barbaric grubbing for survival, a world-engulfing conflict has become unthinkable.

So mighty has man's destructive power now become that no longer can he unleash his force.

This is so, provided we never lose sight of one profoundly important thing.

The security of this Nation and the peace of the world absolutely require that America maintain a powerful national defense—a defense that can surely destroy any enemy, or any combination of enemies—a defense that will assure our survival if nuclear war should be forced upon us.

At the same time it would be folly to believe that we have forever seen the last of small wars.

I suppose that as long as man resides on this globe there will be, as the Holy Book tells us, wars and rumors of wars.

All of us must work for peace, but the price of peace is unmistakable firmness, dignified patience, and constant preparedness.

The goal of all peoples of the world should be a universal reduction in the capability of nations to destroy one another.

But here I must assert a deep conviction that I hold.

Readiness for war is the sentinel of peace in this threatened world.

This Nation will invite a terrible fate if it allows itself to be tricked or cajoled into unilateral moves to disarm.

Carefully and cautiously we can—and we should—take short, slow steps to ease the crushing burdens imposed by modern armaments.

But each step we take must be clearly mutual—it must be unquestionably aboveboard—it must be unchallengingly trustworthy.

And until the objective of universal peace is fully attained, we must stand ready to win any kind of war that may be forced upon us.

In this continued readiness for war, the Navy has an indispensable role. For today it possesses a flexibility of response unmatched by any other force in the world.

Let us not forget that while equipment and weapons may force changes in the naval tactics of the future, fundamental strategy will remain the same.

Our Navy and Marine Corps exist for one purpose—to maintain undisputed supremacy over the ocean highways of the world.

Seapower was vital to our existence in the past. It is vital today. So it will remain tomorrow.

Let us, then, heed the motto of this Naval Academy—"From Knowledge—Seapower."

Since ships first sailed the seas, nations that could deny the waters to their enemies or could assure their freedom to all who sailed them, possessed a supremacy that assured them world leadership.

What then must this mighty Navy do to assure the maintenance of its supremacy over the oceans of the world?

Clearly its greatest present challenge is to neutralize the submarine threat to itself, to our military-industrial population centers, and to our maritime commerce.

The Navy must devise new means to free the country of these dangers.

There is no doubt that our nuclear submarine force—the great Polaris—will continue to play a critical role through the proven reliability of its strategic missile capability.

Indeed, all the Navy must convert to nuclear power as quickly as this becomes militarily advantageous.

And as we thus keep the fleet abreast of the times, many of our naval vessels, especially those built during or just after World War II, must be replaced.

I am deeply convinced that a program to modernize the entire fleet must be promptly undertaken by Congress.

True it is that our arsenals are brimming over with missiles and nuclear warheads which are reliable and which have awesome power.

But it will be disastrous if this Nation allows itself to over-rely upon any one weapons system.

Naval guns, for instance, on naval vessels have not been displaced, nor will they be.

We prayerfully hope that our mighty missiles will keep a nuclear war at bay. But where missiles could never be used, Navy guns may save the peace.

Your Navy of the future will also be concerned with the technical realm of space, new sources of power, new forms of transportation and communication, and new methods of transmitting energy.

Your Navy will also have to monitor a maze of technical developments with an eye toward applying those which may have Navy potential.

To you as officers, what do these challenges of tomorrow mean?

Organizationally the system you now enter—the Department of Defense—is sound, efficient, and modern. I see no reason for further statutory changes.

Endless legislative tinkering in this area pours sand into the gears.

In this there is meaning for each of you in this graduating class.

It means that during your Navy careers there not only will continue to be Secretaries of the Navy, but these Secretaries will also continue to shoulder heavy responsibilities. Departmental leaders will not be scuttled in any defense structure that I envision.

It means, too, that we will not discard our time-tested Joint Chiefs of Staff system. This in turn means that each of you may continue to aspire to become Chief of Naval Operations or Commandant of the Marine Corps.

It means, further, that the separate identity of the four services will be preserved.

You will probably hear much about merger as the years move along—but if we are wise—as I think we will be—we will avoid it as we would a plague. The merger of our services into one mold would be a terrible thing.

The merger of our keenly competitive, distinct and prideful services into one formless and gigantic aggregation of faceless fighting men, bereft of pride of service and insensitive to unit, would be the one sure way to unman the defenses of the Nation.

I am confident that there will always be a Navy.

Believe me—it must be, and it will be, an even larger Navy in the years ahead.

As a matter of fact, the very geography of the world dictates it. For science and computers can never alter the fact that water still covers more than 70 percent of the earth's surface—and this, my friends, is one range that only a Navy can ride.

Some contend, of course, that faster ships and nuclear power can offset sheer numbers. But, we would be foolhardy if we thought that those in the world who would bury us will not continuously sharpen their own capabilities.

We would fail our trust even more were we to assume that future crises will occur only one at a time, or in not more than two areas simultaneously. Our enemies are far too ingenious to allow us that luxury.

One aspect of your future service intrigues me particularly.

The recent advances of technology have bordered on the fantastic. They are bound to multiply the power of the Navy in myriad and unforeseeable ways.

Today, we verge upon aircraft which can take off and land vertically, yet fly horizontally at high speed.

We are close to the development of beams of light which can transmit energy with pinpoint accuracy.

Research and development are fast perfecting a navigational system which at all times will instantly and accurately fix the position of a ship or an aircraft.

And the day is near when long-distance radar will peer around the curve of the earth.

I do not doubt that during your own careers we will perfect a method of detecting submarines, regardless of their depth.

Engineering officers are already expert in methods of using oil and nuclear power to develop steam. But the engineering officers of tomorrow will surely develop more direct methods of applying nuclear power to propulsion systems.

Here among you, are certain to be future commanding officers of surface ships which will be designed exclusively to launch missiles with nuclear warheads.

Not a few of you may spend much of your careers in research, ferreting out the mysteries of soundless power, deep underwater communications, and new ship design.

Perhaps some among you may be discouraged over the future of the aircraft carrier. Well, let me tell you this—their size may change, their designs may change, their weaponry and equipment will doubtless change. But we shall always need a type of ship capable of launching naval aircraft.

Now, Mr. Secretary, over many years I have been privileged to know and admire hundreds upon hundreds of our finest naval officers.

My own life has been enriched by these associations with men who have dedicated their lives to the Navy and the Nation's defense. There is no finer group.

A few weeks ago, I was honored by a gracious letter from a former naval officer, the President of the United States. It was he who asked me here today to share with this splendid group a few personal observations derived from a lifetime with the Navy.

So—these admonitions I presume to offer you:

Develop to the utmost your leadership ability.

Effective leadership is ever our most critical skill, and people gifted with the ability to inspire and to lead are the most valued asset in our entire national inventory.

Think always in terms of the whole Navy, never of a single force or of a single type. And never forget—you will be members of a four-service team whose success is dependent upon a genuine spirit of cooperation and understanding.

Educate yourselves on the total world mission and involvement of the Navy.

Since the days of John Paul Jones, competency of a naval officer has meant reaching beyond the parochialisms of service to comprehension of international affairs, national objectives, economic resources, and political events.

Hold to the realization that professional accomplishment and pride, are of more lasting importance than monetary gain.

The profession of arms, like most other public service, has never offered a fortune in gold, but it compensates richly in many other ways, notably in the knowledge that your service accords you a place of honor among your countrymen.

Ever remember the words of the late President Kennedy to the 1961 class: "The life of service is a constant test of your will." Master that test, and yours is certain to be a rewarding life.

While respecting the chain of command, never fail in loyalty to those whom you command, as well as to those who command you.

Look tirelessly for ways to improve the Navy. Use your initiative, and fear not to speak your mind. Parroting the views of others will win you neither respect, nor friends.

Observe traditions, but don't become their slave.

Do your very best in every one of your assignments, including those which from time to time may seem barren of challenge. Make important everything you do in your naval career.

Finally, and I say this to you with the greatest of earnestness—never lose your pride.

Be proud of your service, proud of your heritage, proud of your leaders, proud of this greatest of all nations on earth—and then, be moderately proud of yourself.

For when all is said and done, the tomorrow of this Nation is being entrusted to you—to you, the Navy of the future, guardians of the land of the free.

Mobile Trade Fair Program

EXTENSION OF REMARKS

OF

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1964

Mr. PUCINSKI. Mr. Speaker, a mobile trade fair program recently was announced by Secretary of Commerce Luther H. Hodges as another step in the Government's drive to promote and expand sales of "made in U.S.A." products overseas.

The Secretary told a Washington press conference that the Department would give financial and technical support for mobile trade fairs operated by private industry, pursuant to legislation enacted in the 87th Congress, for which $200,000 was recently appropriated.

In mobile trade fairs, U.S. firms ship their goods aboard U.S.-flag ships or aircraft and display them in foreign ports and other commercial centers overseas.

The new program will give impetus to mobile trade fair programs already initiated by private industry. The Government is not a competitor with private enterprise, but is lending assistance to soundly conceived and economically operated mobile trade fairs.

U.S. industry-sponsored mobile trade fairs complement the Commerce Department's own international trade fair, trade center, and trade mission programs. The goal is the same: Promote our foreign commerce through an expansion of export sales.

Exhibiting at land-based trade fairs has long been recognized as an effective means for expanding our foreign markets, but not until 1960, when the Isbrandtsen Co., Inc., an American-flag steamship company, inaugurated its own Mobile Trade Fair, did this bold and imaginative idea for expansion of U.S. exports catch fire with the industry, the Congress, and the Government.

Even so, the idea of mobile trade fairs is not new. Other maritime nations have experimented with mobile trade fairs in varying degrees since the mid-1950's, with Japan undoubtedly being the most successful. Japanese floating trade fairs have sailed into ports in Asia, Africa, Europe, and South America, displaying and selling Japanese products.

Floating trade fairs have also been dispatched by Australia, Brazil, Denmark, Sweden, and Spain to the world's leading commercial ports. In most cases, these mobile trade fairs were supported by Government funds.

While the Isbrandtsen line was the first American shipping firm to send its floating showcases of U.S.-made products around the world, Maine businessmen, like the Yankee traders of yesteryear, have gone to sea to develop new markets for their products. During the recent Caribbean training cruise of the Maine Maritime Academy ship, *State of Maine*, the ship doubled as a floating display case for Maine products. Aggressive Maine businessmen foresee new Latin American business of some $2 million a year resulting from their initial mobile trade fair experience.

As the result of growing interest in the United States in this new method of displaying "made in U.S.A." products abroad, the Congress considered several legislative proposals for the establishment of mobile trade fairs. These efforts culminated in the enactment on October 18, 1962, of Public Law 87–839, amending the Merchant Marine Act, 1936, "to develop American-flag carriers and promote the foreign commerce of the United States through the use of mobile trade fairs."

The act authorizes the Secretary of Commerce to provide technical support and financial assistance for operators of mobile trade fairs who use U.S.-flag vessels and aircraft exclusively in transporting American goods for display in oversea ports and foreign commercial centers.

Expenses which the Commerce Department will defray are limited to items pertaining to foreign-port entry and clearance, exhibit space and facilities abroad, transportation and related services in foreign countries, and advertising costs incurred in attracting visitors to the fairs.

The new mobile trade fair program is being handled by the Office of International Trade Promotion—OITP—a unit of the Department's Bureau of International Commerce. OITP already conducts the Department's interagency trade fair, commercial fair, trade center and trade mission programs.

In addition to providing financial assistance to private-industry-operated mobile trade fairs to cover certain expenses incurred abroad, the Department of Commerce is considering the placement of business information centers—BIC's—in some of the projects. Manned by experienced personnel and stocked with a comprehensive U.S. business library, these BIC's would offer U.S. and foreign businessmen an opportunity to exchange trade proposals.

Since Secretary Hodges' announcement of the Commerce Department's program to support mobile trade fairs, OITP has received a number of proposals from operators requesting assistance. Following prescribed regulations, these proposals are now being evaluated in terms of their economy to the Government and their anticipated effectiveness in promoting export sales.

The following mobile trade fair projects have requested various types of support from the Commerce Department:

Delta Steamship Lines, Inc., Post Office Box 50250, New Orleans, La. Delta Lines and the Mississippi Valley World Trade Council of New Orleans are cosponsoring a mobile fair departing from New Orleans, May 14, 1964, for a 44-day tour of six South American ports. Exhibits will be mounted aboard the Delta ship SS *Del Sud*.

Mobile Trade Fairs, Inc., 26 Broadway, New York, N.Y. Mobile Trade Fairs, Inc., in cooperation with American Export-Isbrandtsen Lines, Grace Lines, and Farrell Lines, propose to depart the United States about July 15, 1964, visiting 31 cities in the Mediterranean, Africa, and South America. This is a containerized mobile trade fair concept modeled after the experience of the original Isbrandtsen mobile trade fair program launched in 1960. Each series of containers will consist of exhibits featuring a single major product category that can be trucked inland to major commercial cities or to established trade fair sites.

Trade Fair Ship, Inc., 46 South Street, New York, N.Y. Trade Fair Ship, Inc., is planning to convert an oil tanker to a permanent exhibit ship. The vessel is scheduled to depart New York about November 15, 1964. She will carry over 400 exhibits to 52 countries.

International Ship Fair, Inc., 107 Terrace Court Drive, Pittsburgh, Pa. This corporation is planning to construct a new ship designed primarily as an exhibit ship. The first sailing will probably be after 1965.

Global Presentations, Inc., Post Office Box 190, New York International Airport Station, Jamaica, Long Island, N.Y. The mobile trade fair project sale planes, promoted by Global Presentations, Inc., calls for the use of a DC–7 aircraft, converted into an exhibit plane. The plane will have space for 20 exhibits plus passenger space for exhibitor representatives. The first flight from New York to Europe is scheduled for 1964. The first proposed project is being sponsored by the Huntington, N.Y., Chamber of Commerce.

International Trailer Caravan, Harold Meyer Exposition, Inc., 310 Madison Avenue, New York, 17, N.Y. This group proposes to organize an exhibition using a series of 35-foot truck-trailer vans with exhibits mounted inside that will be brought as a caravan to about 30 European cities. No departure date is available.

Western Shipping Corp., pier A, berth 6, Long Beach 2, Calif. Western Shipping Corp. plans to carry U.S. exhibits around the world in a cargo ship to be converted to an exhibit ship.

Foreign Trade Section, Maine Department of Agriculture, Augusta, Maine. During a fall 1964 cruise of the training ship *State of Maine*, the Maine Department of Agriculture intends to promote the sale of Maine agricultural and industrial products in Caribbean ports.

I am happy to have been able to play a part in working toward passage of legislation to make this program possible.

Mr. Speaker, we all owe a debt of gratitude to Congressman BONNER, chairman of the Merchant Marine and Fisheries Committee, for sponsoring the legislation and to Congressman JOHN ROONEY, of New York, for making it possible for funds to be appropriated so the very worthwhile program can be started.

William Leavitt Given Writing Award

EXTENSION OF REMARKS

OF

HON. EMILIO Q. DADDARIO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1964

Mr. DADDARIO. Mr. Speaker, I recently noted the 1963 writing awards of the Aviation Space Writers Association. Two of these awards were given to William Leavitt, an associate editor of Air Force/Space Digest. Bill Leavitt received the Robert S. Ball Memorial Award for outstanding and meritorious space writing. His award winning article, "Space Technology: Today's Tool for Controlled Peace," was in the April 1963 issue of the magazine. In addition to this award, Bill also received the AWA 1963 Writing Award for the best writing in the aviation-space magazine field. This award recognizes his excellence in writing on space in all media—radio, TV, newspapers, and books. He has thus been doubly honored for his work.

Bill is a native of New England, having been raised in Boston. He was graduated from Northeastern University in 1950. After 2 years of service in the Army, he began work with the General Electric Co. in editorial and public relations capacities. He continued in this capacity until 1957, except for that period 1954–55 during which he obtained a master's degree from the Columbia Graduate School of Journalism. Since 1957, he has been employed on the staff of Air Force/Space Digest.

Mr. Leavitt's work has not been confined solely to magazine articles. He coedited the book "Speaking of Space" and was a contributing writer to three other books: "Space Weapons," "Man in Space," and "Reflections on Space." This is indeed an impressive record for a man of such relative youth. He has only been writing in this field for 7 years, and his recent awards demonstrate proof of his excellence.

Bill, at 36, is a promising young writer with a dedicated interest in the space program and the Government's role in space exploration. He has often attended sessions of the Committee on Science and Astronautics on which I serve and has well covered the committee's activities. His monthly column, "Speaking of Space," is one of the most widely read features of the magazine. His opinions in this area are highly valued by leaders in all fields—industrial, military, and governmental, as well as literary.

The Select Subcommittee on Real Property Acquisition

EXTENSION OF REMARKS

OF

HON. CLIFFORD DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1964

Mr. DAVIS of Tennessee. Mr. Speaker, under leave to extend my remarks, I am including an address I made before the general session of the 1964 national seminar of the American Right of Way Association in Detroit, Mich., on May 28, last.

The speech follows:

I want to talk with you today about the Select Subcommittee on Real Property Acquisition on which I am privileged to serve as chairman.

Before proceeding further, I should like to acknowledge the fine, intelligent, and dedicated efforts of Henry Krevor, the chief counsel for the committee. Many of you know him personally because he has attended some seven of the seminars. You have expressed to me today, since coming to Detroit, your recognition of his ability, sincerity, and industry. As the chief counsel for the committee, he has supervised the professional staff and all connected with the responsibility assigned us. Administratively he has provided leadership on a bipartisan basis. Our committee has made its studies without any political suggestions.

This subcommittee is nearing completion of a comprehensive 2½-year study of the laws and practices governing real property acquisitions in all Federal and federally assisted programs. Our purpose is to determine whether property owners and tenants affected by these programs receive fair and equal treatment, considering the value of their property and the expenses and losses they incur in reestablishing their homes, farms, and businesses; and keeping in mind the interest of the general public which benefits from these programs and must pay for them.

The Committee on Public Works of the House of Representatives created the subcommittee because it was deeply concerned by the growing number of complaints in all parts of the country questioning the adequacy of present laws and practices. There were reports of many property owners and tenants suffering severe hardships and financial losses, and of some property owner being overpaid. And there was particular concern about the lack of uniformity in the various programs, with citizens apparently being given varying amounts of compensation or other assistance depending more on the program involved than the actual loss suffered.

This is the first broad study of its kind ever undertaken by the Federal Government. The subcommittee is bipartisan, with my good friend and colleague, Representative HOWARD ROBISON, of New York, as ranking minority member. I am happy to say that we have worked as one team every step of the way.

This subcommittee is not investigating anyone, and we are not questioning the desirability of programs or the location or design of specific projects. We have made good progress, and before the end of this year we will submit a report with specific recommendations to the Congress.

Quite naturally, the scope of the study made it necessary for us to assemble and analyze an almost overwhelming amount of technical material. Our work involved a great deal of legal research and intensive reviews of many different agency policies and procedures. In addition, we gave special attention to various economic and social studies of families and businesses displaced by public acquisition programs. The diverse laws and practices under which Federal agencies operate, and the hundreds of different State and local laws, court decisions, and administrative practices governing Federal-aid programs of highways, public housing, urban renewal, and others, of course complicated the picture.

We recognized at the outset that there were many divergent views on this subject, and we decided to obtain as wide a sampling of opinion as possible. We have been in close contact with Federal, State, and local public agencies. The staff has visited various project areas to talk with property owners and tenants, and agency field personnel. We have invited comments and suggestions from every Federal judge and many State and local judges; from members of the American and Federal bar associations, and many State and local bar groups; leading appraisal societies; universities, State and local eminent domain study committees, and other research bodies; housing and redevelopment officials, reclamation associations, farm organizations, and of course the American Right of Way Association, among others.

During the past year the subcommittee conducted seven public hearings in the field, two in Tennessee, three in California, one in Massachusetts, and one in Rhode Island, to enable interested persons to express their views and to make certain that our members would have a clear picture of the principal problems. These hearings produced a wealth of important information. The records are being printed, and copies will be available shortly.

I cannot tell you what specific recommendations the subcommittee is going to make when the study is completed. However, I want to comment generally on several of the basic questions we have been considering.

It seems to me that a good deal of the confusion and controversy in this field stems from the failure to distinguish between the payment of compensation for real property needed for a public project, and the treatment of other losses and expenses which property owners or tenants may incur as a direct result of the project.

In the United States, a man has a constitutional right to just compensation for his property, and the courts decided long ago that this generally means he is entitled to be paid its fair market value. Whether supplemental payments or other assistance should be provided to relieve him of additional losses and expenses is then a question of public policy and must be dealt with by the Congress and the State legislatures.

There is no conflict or inconsistency in paying the fair market value of real property to satisfy the constitutional obligation of just compensation, and also providing supplemental payments or other assistance to satisfy a moral obligation recognized by the Congress or a State legislature. As Mr. Justice Sutherland said, in delivering the opinion of the U.S. Supreme Court in the Joslin case:

"In respect of the contention that the statute extends the right to recover compensation so as to include these (business losses and moving costs) and other forms of consequential damages and thus deprives plaintiffs in error, as taxpayers of the city, of their property without due process of law, we need say no more than that, while the legislature was powerless to diminish the constitutional measure of just compensation, we are aware of no rule which stands in the way of an extension of it, within the limits of equity and justice, so as to include rights otherwise excluded (262 U.S. 668, 676–677; 1923)."

Those who believe that the Government's responsibility to persons affected by public programs is properly limited to the payment of the fair market value of real property argue that this reflects the reasonable principle that when the Government acquires real property it should incur no more cost than would a typical prudent buyer in a private transaction.

I cannot accept this point of view, for it rejects any consideration whatever for the many difficult problems inflicted on people by the Government's activity. Also, the argument is specious, for it ignores the fact that in a private transaction, a typical prudent seller would not sell his property at its market value if he felt it would cause him economic losses and damages over and above the value of the property itself. In a public acquisition, however, the seller is often unwilling, but is compelled to sell his property at its market value, regardless of any such additional losses or damages.

We have to recognize the tremendous effect which public programs today have on the individual. Here he feels the power of his government, and he will not soon forget the day the government takes his home, his farm, his business, or his means of livelihood.

The courts adopted market value as the general measure of constitutional just compensation in a comparatively uncomplicated period of our history, when land was plentiful and government acquisitions skirted cities and bypassed homes and businesses, causing few displacements and relatively little damage. In contrast, it is expected that by 1972 the urban renewal and interstate highway programs alone will have caused the displacement of a million families and more than 100,000 businesses.

A large number of those being displaced are tenants who frequently receive no payment whatever. Many displacees are low- and moderate-income families, and owners of very small businesses for whom the shock of a forced move can be particularly severe. Payment of constitutional just compensation alone can hardly be satisfactory for the owner of a small home who cannot replace his property for the price paid by the Government, or obtain financing for replacement property at terms within his means; for the renter who must stand the expense of relocation, and pay more rent for his replacement housing than he can afford; or for the owner of the small retail or service establishment who may find it very difficult, and often impossible to stand the pressure of reestablishing in a new location.

Many of these small businesses are operated by elderly people, in rented space, and at minimal levels; and their loss may have little economic effect on the community.

Nonetheless they provide at least some return to the owners, and more important, they provide jobs for the owners—jobs which many cannot readily replace.

These citizens argue with considerable logic, that where individuals suffer substantial, clearly established losses and damages as a direct consequence of a public acquisition program, fundamental fairness requires the public, the beneficiary of the program, to bear these losses and damages just as it bears the expense of real property acquisition, design, physical construction, and other project costs. Otherwise they are compelled to bear a disproportionate part of the real economic cost of the program—they pay taxes like other citizens to support the program, and they pay again to the extent they suffer uncompensated losses and expenses.

Fear of uncompensated losses and hardships undoubtedly accounts for much of the resistance we find to various programs, and for many of the serious highway location controversies which all too frequently delay construction and increase the cost of projects.

There is also little doubt that, out of concern for persons who may have to bear such losses, many trial courts engage in "judicial" legislation, juries effect compromises, appraisers sometimes exercise a degree of flexibility in estimating value which strains, if it does not completely distort the appraisal process, and negotiators and others authorized to approve settlements frequently depart from market value concepts, all in the name of serving what they regard as "basic justice." But this is not justice; for it gives preferential treatment to some without equal protection to all, and the possible abuses arising out of such practices are as obvious as they are dangerous. Where present laws or procedures are inadequate or unfair, they should be changed.

I believe that all public acquisition programs must become more responsive to human needs. Congress has already provided a number of helpful aids to alleviate hardships. The difficulty is that they are still too limited in certain respects; they are not available on a consistent basis from one program to another; and where available, they are not always fully utilized. This we hope to remedy. Our people should all be treated alike, for it obviously makes no difference to the party suffering a loss whether the public action has its origin in a program for a road, a park, a reservoir, a Federal office complex, a commercial center, a public housing site, or any other purpose.

Now, I am not suggesting that the fair market value measure should be discarded and a new standard adopted in its place. On the contrary, despite its imperfections I know of no better standard for estimating the value of real property in public acquisitions. There are many cases, particularly where dislocation is not a factor, in which the market value standard can produce a figure which is entirely fair to the property owner and to the public. What I do say, is that there are factors other than the value of real property that must be recognized and treated.

There is also a need to take a close look at the market value standard, to be sure that it has the same meaning for all of us. There are so many different definitions of market value that I have lost count of the number. There is obviously no single magic figure which constitutes "the" market value of a property; and ordinarily a parcel of real estate can be expected to sell at any one of several prices, within a reasonable range of one another.

The question then which needs to be answered is: Which of these prices should we be trying to find in public acquisition programs? Is it, or should it be the Government's objective to estimate the highest price at which a property could reasonably be expected to sell if exposed for sale for a reasonable period under open market conditions? the average price? the most probable price? the lowest price? or some other figure? Whatever the objective may be, is it clearly understood by all the parties concerned with the value determination?

If, as frequently seems to be the case, the meaning of market value is left to the discretion of the individual appraiser—if all appraisers do not have the same precise objective—can we even hope to achieve equal treatment for property owners affected by public acquisitions? This question is not academic. For in public acquisitions, we are generally dealing with a man's most important possession. He is being forced to sell his home or other property, and the meaning given to the term "market value" can have a material effect on the amount of the payment he will receive.

I want to call attention to another important element of the fair market value standard, and that is the date of valuation. The general rule, as you know, is that property is to be valued as of the date it is taken. Unfortunately, strict application of the rule in many States has led to serious inequities both for property owners and for public agencies.

Frequently property owners suffer economic losses because of the announcement of a project and the prospect that the property will be condemned. Where this occurs several years before the actual acquisition of the property, as it often does in some programs, tenants move out or fail to renew their leases and new tenants cannot be obtained. Buildings are abandoned, the neighborhood deteriorates or is deserted, and vandalism often sets in. By the time the property is taken, values have depreciated sharply.

On the other hand, in some instances the announcement of a public project has a reverse effect and sets the speculative instinct to work, driving prices upward. An excellent example is the activity near planned interchanges of the Interstate System.

Federal law, while not entirely clear in every detail, suggests that neither the property owner nor the public agency should be penalized for changes in value of this kind. Property is still valued as of the date of taking; but the rule is subject to the qualification that increases or decreases in value occurring after the Government is committed to a project will be disregarded in determining just compensation, if the change is due to the project. The general principle is sound; however, problems arise because it is not always certain when the Government becomes "committed" to a project.

Unfortunately, in many State and local jurisdictions the market value is determined strictly as of the date of taking regardless of the hardships it may cause to some property owners or the windfalls it may give to others. In other jurisdictions, the law relieves public agencies of any obligation to pay enhanced property values caused by a project, but apparently gives no protection to an owner whose property may be lessened in value because of a project.

The problem is analogous to the questions frequently encountered in partial taking cases involving severance damages and benefits which, as you right-of-way men know, is one of the most complex in the field of eminent domain.

Many complaints we receive relate to the administrative policies and practices of land acquisition agencies rather than legal concepts of compensation. I believe that any administrative policy, to be "fair" must be directed to giving the property owner the full measure of compensation authorized by law promptly, with a minimum of inconvenience, and without forcing him to prolonged negotiations or to costly condemnation suits.

To me this means that a land acquisition agency should always pay the property owner the full amount which it believes the property to be worth. It should make this amount available for the use of the owner, whether or not he agrees to sell the property at this price. It should do so promptly, and in any case before requiring parties in possession to vacate the property. It should provide sufficient lead time and adequate notice of its possession requirements, so that all persons lawfully occupying the property will have a reasonable period to secure suitable replacement property, and to reestablish themselves in their new locations. And it should make available effective and meaningful advisory services for all displaced families and businesses desiring help in their relocation problems.

I must say quite frankly that my colleagues and I have been shocked to find that some public agencies still try to acquire real property at prices below their own opinions of value. One major acquisition agency, as I recall, actually acquired about 20 percent of its properties over a 3-year period in this manner. Fortunately, policies of this kind are in the minority. I hope we can soon make them a matter of history.

During this half hour I have tried to touch briefly on a number of the principal issues which caused the creation of the Select Subcommittee on Real Property Acquisition, and brought about the comprehensive study we soon will conclude.

In a letter to the Secretary of Commerce and the Housing and Home Finance Agency Administrator in April 1962, President Kennedy expressed his appreciation for their Joint Report on Urban Transportation, and said:

> "I noted particularly that you concerned yourselves with the human as well as the technical and financial considerations involved. Many thousands of our citizens, as your report states, must unavoidably surrender their homes and places of business to make way for public transportation improvements. We should not expect them to suffer the heavy personal cost of such public benefits without due recompense and assistance. Where public necessity imposes such sacrifices, it should be accompanied by public concern for the people displaced."

President Johnson demonstrated his serious concern about these problems in his special message to Congress on Housing and Community Development in January of this year. The President urged additional assistance to displaced families and business concerns, and called attention to the fact that:

> "Despite existing programs assisting families and persons displaced by urban renewal projects, the human cost of relocation remains a serious and difficult problem."

This concern underscores the purpose of this subcommittee. Obviously, if our Nation is to be strong, public improvement programs are essential. Land acquisition is an inevitable consequence. Delicate considerations of property rights and human rights are involved. Inequities and hardships must be avoided wherever possible.

"Mobocracy"

EXTENSION OF REMARKS

OF

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1964

Mr. PUCINSKI. Mr. Speaker, last week it was my privilege to address a Memorial Day observance in my district sponsored by the Norwood Park Citizens Council in tribute to those heroic Americans who gave their lives that this Nation may be free.

I chose as my topic for this Memorial Day observance an appeal to all Americans to recognize the inherent dangers to this Nation in the growing trend toward "mobocracy." More and more, Americans take the law into their own hands and; show impatience with our time-tested democratic institutions of justice, turn to mob rule for an expression of their grievances.

It is my judgment that this trend in America toward "mobocracy" could seriously endanger the Nation's democratic institutions.

I should like to include in the RECORD the text of my remarks on this subject, with a fervent hope that others will speak out on this issue and that we as Americans can again rally the support of all citizens for law and order. There can be no doubt that no matter how just may be the cause, "mobocracy" is not the road to survival for those institutions of freedom which gallant soldiers throughout our wars of history fought so heroically to preserve.

Mr. Speaker, the text of my remarks follows:

Ladies and gentlemen, we are assembled here this morning to pay tribute to those Americans who have made a supreme sacrifice to preserve those fibers of democracy which in our Nation have given all Americans a degree of freedom and dignity unparalleled in the history of mankind.

It is fitting that on this Memorial Day we review briefly how well have we managed the legacy of freedom and democracy which these brave heroes left us.

In paying tribute here today to the men and women who gave their lives in the War Between the States—and certainly these heroes rank in equal stature with all other American heroes who fought through our various wars—I should like to remind you of the eloquent statement made by President Lincoln in Springfield, Ill., in 1838, when he warned that America's danger will never come from without but, if our freedom is ever to be destroyed, it will spring from amongst us.

In reviewing today how well we have managed the survival of democracy, let us pause just briefly to repeat the eloquent words of Abraham Lincoln when he said:

"At what point shall we expect the approach of danger? By what means shall we fortify against it? Shall we expect some transatlantic military giant to step the ocean and crush us at a blow? Never. All the armies in Europe, Asia, and Africa combined could not by force take a drink from the Ohio or make a track on the Blue Ridge in a trial of a thousand years.

"At what point then is the approach of danger to be expected? I answer that if it ever reaches it must spring from amongst us. It cannot come from abroad. If destruction be our lot, we ourselves must be the authors and the finishers.

"As a nation of free men, we must live through all times or die by suicide. Let reverence for the law be breathed by every American mother to the lisping babe that prattles on her lap. Let it be taught in the schools, in the seminaries, and in the colleges. Let it be written in primers, in spelling books, and almanacs. Let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice; and, in short, let it become the political religion of the Nation, and let the old and the young, the rich and the poor, the grave and the gay, of all sexes and tongues, and colors and conditions, sacrifice unceasingly at its altars."

Those words of Mr. Lincoln are as alive today as they were more than 100 years ago when this Nation was threatened with destruction from within.

The alarming growth and tendency in our Nation today toward what many of us call "mobocracy"—government by mob rule—should be of deep concern to all Americans. It is a growing tragedy that in our Nation governed by the most complicated system ever devised by man, there are those who turn to mob rule because they seek expediency based on impatience and a desire to resolve all matters through mob rule.

We are living in an era that tests the very strength and courage of our Republic. We need from our people today a depth of understanding unparalleled in the history of this Nation. We have had too many examples in recent years of "mobocracy"—the most morbid enemy of constitutional government.

Too often we associate mob rule and demonstrations with race conflicts and disturbances. It should be of deep concern to all of us that the mania for taking the law into their own hands is spreading today into many areas which have nothing to do with racial disturbances. The increasing violence of demonstrations on college campuses is but one example of mob rule. The tragic demonstration by a group of housewives last week in bodily trying to stop trains from operating because they opposed the new work rules is but another example of a growing tendency to violent descent from law and order.

It can be clearly shown that even in the civil rights struggle, 90 percent of all the gains made in this country within the last two decades have been made through the orderly processes of legislation and judicial review. We have a right to question whether the great harm being done to America and its image abroad justifies mob rule and violence for the remaining 10 percent of gains.

I hope the day will never come when the American people will be compelled to march in a single cadence like the people behind the Iron Curtain or the Bamboo Curtain in Red China. I hope the day will never come when the people of this country will not be permitted to exercise their right to be different; to exercise their right to disagree. But I also hope the day will never come when the impatience, when the seemingly slow-moving pace of our democratic process, will overwhelm the people, and they will try to find more expedient ways of giving meaning to their views by mob rule or other violent changes.

I have faith in this Constitution. I have faith in the democratic processes of this Nation. I have faith that the American people will take the trouble to learn the complex structure of the world situation today, and then in a dignified, orderly manner manifest their views to their respective representatives. Great civilizations have fallen to mob rule.

God grant that our land shall never meet this fate.

I Am Proud To Be a Patriot

EXTENSION OF REMARKS

OF

HON. WALTER S. BARING

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1964

Mr. BARING. Mr. Speaker, under leave to extend my remarks, I should like to have inserted in the CONGRESSIONAL RECORD a reprint of a speech I made before the American Legion's district 1 annual convention at Reno, Nev., on May 16, 1964.

I AM PROUD TO BE A PATRIOT

(Campaign speech of 1964 by Congressman WALTER S. BARING)

Mr. Chairman, distinguished guests, fellow Nevadans, and fellow Americans, there is an old saying—"Give credit where credit is due." That is what I intend to do right now, because I believe that the people of the State of Nevada are to be highly complimented. Judging from the correspondence which comes over my desk, I believe that the people of this State are about the best informed citizens in this country. I really mean this.

The people of this State have awakened to the fact that there is more than politics involved in this year's elections—that there are very important issues involved—and they have taken time to become informed on these issues. From the letters that pour into my office, I know that there is a real grassroots movement afoot in this country—to protect our American form of government. This movement goes beyond the realm of party politics, because it concerns our very way of life—the American way of life. I am convinced that the people of this State feel that regardless of what administration happens to be in power in Washington, they are intensely interested in seeing that the Constitution of the United States is preserved and upheld.

Two years ago I campaigned on a platform of Americanism. The overwhelming majority I received at the polls was significant proof that the people of Nevada were solidly behind the principles I supported. I uphold these same principles today.

We hear a great deal these days about liberals and conservatives in government. Actually, I believe that it is not so much a matter of party politics in this year's elections as it is a matter of a choice between ultra liberals (who have moved further and further away from constitutional government) and conservatives (who see a great danger in abandoning the principles upon which our American form of government was founded).

We hear a great deal these days, also, from what might be termed the "liberal left," about such things as progress, and not wanting to return to the "horse and buggy days." The liberal press which dominates this country's news, has made a concerted effort to brainwash the reading public into believing that to adhere to the U.S. Constitution is to "turn back the clock."

I want everyone to know that I am proud to be called a conservative. A conservative is one who wants to preserve our free institutions and who battles against the welfare state and the socialistic tendency that he sees in America today. A conservative is one who believes that the principles which guided our Founding Fathers in the documents of freedom—the Declaration of Independence, the Constitution and the Bill of Rights—under which we have lived all of these years, are just as true now as they were then. The Socialist, on the other hand, believes that these institutions, principles and documents are all outmoded and outworn and should be abandoned.

Fortunately, there are countless red-blooded Americans who have not fallen for this deceptive line of radical leftist thinking. They have done a little thinking of their own, and they have come up with the conclusion that there are some very important and valuable American principles at stake. These conservative thinkers have, from their own observation, seen many individual rights and freedoms "go down the drain." They have seen Government controls grow stronger and stronger. They have watched more and more power delegated to the executive branch of the Government, while our system of checks and balances has been brushed aside.

They have seen Government bureaus extended and extended until individual enterprises and small businesses are gradually choked out by the "octopus" known as Federal bureaucracy. They have seen taxes become more and more oppressive. They have seen a Federal grab for power deceptively presented as civil rights legislation. Any right-thinking person would be in favor of true civil rights, but the American people are witnessing the greatest grasp for executive power in the Nation's history in the House-passed civil rights bill. I might add that J. Edgar Hoover has confirmed the fact that Communist agitators are influencing the Negro civil rights movement.

The people of this country have also seen the national debt increase to a place dangerously near the national bankruptcy. Here, in Nevada, we have seen our own mining industry suffer and disappear, while our Federal Government has turned its back on our domestic mining, and extended foreign aid to mining overseas. We have seen our foreign policy follow a path of weakness, withdrawal, and appeasement.

We have seen our Monroe Doctrine ignored and abused, while a Communist base has been established in Cuba, just 90 miles from our shore. We have watched Government spending, under the guise of welfare, take on stronger and stronger controls. We have seen radical liberals in Government try to steer our Nation into a socialistic welfare state. We have seen Supreme Court decisions set aside constitutional law. We have seen States rights swept away. All of the American principles and traditions which for almost 200 years have made us the greatest nation on earth, the so-called "liberals" would now like to make us believe have become outdated. It is enough to make Jackson and Jefferson turn over in their graves. Unfortunately, this extreme liberal element (which works to destroy our American form of government) has wormed its way into both political parties. This insidious infiltration of ultra liberals has been going on a long time. With high-sounding phrases and a skillful use of doubletalk, these far-out leftists have perpetrated all kinds of un-American practices—all in the name of progress. We have only to look at the crimes that have been committed in the name of urban renewal, to see how little attention the bureaucrats have paid to our Bill of Rights.

I think that wide-awake, thinking Americans should be proud to be called conservatives, and battle all the harder against the hypnosis of "going along" with deadly socialistic propaganda. I, for one, refuse to be a "rubber stamp" for any administration if it violates the Constitution, or endangers the American way of life. It was Cincinnatus, speaking to the Roman senate, who once said, "It is better to die on one's feet fighting for freedom, then to live on one's knees as a slave. It is better to eat dust, than the bread of despotism."

Today, through "managed news" and the liberal dominated press, we are led to believe that left is right; that black is white, that we "get out of the red" financially, by going further into debt; that we are protecting the peace by giving aid to our Communist enemies. They would like us to believe that "patriotism" is a dirty word. We are subjected to "smears" and ridicule by the leftist extremists if we stand up and say that we hold sacred our American heritage, and refuse to "go along" with their socialistic programs. I am here to say that it is not a disgrace to be a patriotic American.

I have faith to believe that there are good Americans enough left, who believe that the time has come to begin naming things what they are. They are able to recognize socialism when they see it, and are not afraid to name it what it is. I say that now is the time for all good Democrats (and all good Americans) to come to the aid of their country. It is not too late to bring this country back on its feet—providing we all have the courage to stand up and be counted.

If J. Edgar Hoover, Chief of the FBI, says that we are being undermined by subversive influences which aim to destroy our American way of life, then it's time to get busy and do something about it. If being a good American means being an "extremist," then let's be extremists. There is nothing wrong about being a super patriot. I would say that some of our illustrious forebearers—Patrick Henry, Nathan Hale, Washington, Franklin, Hamilton, Madison, Jackson, and Jefferson—to name just a few—qualified nobly as super patriots. Why this sudden objection, then, to being a patriotic American? There is no stigma attached to being a patriot. Maybe we should start placing the stigma where it belongs.

If there is one thing that the Communists fear above all else, it is an upsurge of American patriots. Khrushchev has boasted that he intends to bury us. The only way that he can bury us is if the American people remain asleep. I don't believe that they are going to remain asleep. In fact, I believe that many American patriots are already awake. They have awakened to what is going on, and they are ready to stop this internal drift toward socialism, which is but an easy drift into Soviet-type socialism—or communism.

For the past 30 years we have watched more and more Government handouts, and we have seen more and more of our personal freedoms taken away. This bears out the statement which I made 2 years ago, "a government which is big enough to give you everything you want is big enough to take it all away." It is also big enough to tie you hand and foot with government red tape. We need only to look about us to see all the earmarks of a carefully planned welfare state.

Let us turn our attention, now, to our foreign policy. For many years our State Department has followed a policy of withdrawal and retreat. Beginning with East Berlin, all of us know that when the Berlin wall was just a barbed wire fence, two or three good American tanks could have gone in and demolished that so-called "wall." For a few more well-known fiascos, look at the tragic history of Korea, Katanga, Cuba and Vietnam. Our boys over in Vietnam tell us that there is no reason on earth why we can't win that war. But we have had Averill Harriman and Henry Cabot Lodge over there engineering one of the most disgraceful fiascos in history. Time and time again we have seen our Government taking sides against the freedom fighters, while giving American support to the enemies of freedom. It has been both nauseating and disgusting to witness the red carpet rolled out for such dictators as Khrushchev, Tito, and Castro * * * right here in our own country.

Speaking of Vietnam, I wonder if you read the story of Air Force Captain "Jerry" Shank, which was published in the May 4, 1964, issue of U.S. News & World Report. I am going to quote a few lines from Captain Shank's letter dated November 27, 1963, which was published with the permission of his widow The American pilot was killed while flying an air-strike mission against the Communists on March 24, 1964. The letter said.

"Although this is called a dirty little war and it is far from the shores of the old United States of America, it's a big, mean war. We are getting beat. We are undermanned and undergunned. The United States may say they are in this, but they don't know we need help over here. If the United States would really put combat people in here we could win and win fast. It seems to be the old story of a half-hearted effort."

On December 21, 1963, he wrote:

"It's so mixed up over here—there are over 3,000 Air Force in Vietnam, yet there are only 50 combat crews (B-26 and T-28). What a ridiculous ratio."

On February 24, 1964, he wrote:

"We're down to five airplanes now, all of them at SOC TRANG. We have actually got nine total, but four are out of commission because of damage. The B-26's aren't flying yet, but they've been more or less released. I don't know what United States is going to do, but whatever it is I'm sure it's wrong. Five airplanes can fight the war—that's just ridiculous. Tell this to my dad. Let him know, too, how much the country is letting everyone down. We fight and we die but no one cares. They've lied to my country about us."

Now, this is very heartbreaking information, especially when the U.S. Congress has provided the needed appropriations for national defense. I, personally, think that Secretary McNamara and his mixed-up "McNamara's band" should be asked some questions as to just how they are running this hot war, which they try to brainwash the American public into believing is a cold war.

No wonder we hear more and more people asking the question, "What is wrong with our State Department?" I can tell you what's wrong. Our State Department has been following a losing policy of compromise, cooperation, and coexistence with the Russians. That is what is wrong.

Time and again the United Nations has sought a stalemate with the Communists, rather than victory. Our State Department has adopted and employed a policy of paralysis, and in this plan of stalemate, our State Department has repeatedly tied the hands of our fighting men. Every withdrawal, every compromise has brought us to the rude awakening that we are losing, not winning, the so-called cold war. There is no compromise with communism. This is something that our State Department refuses to see.

The United Nations, we are told, is becoming a major problem to the older nations of the world. Out of the 113 member nations which make up this body now, 77 of them are from the newer nations, principally Africa. Most of these newer nations are being run by dictators who are inclined toward communism, rather than the democratic ways of the West, who gave them every good thing that they have. With each nation now in the United Nations having a vote, these newer nations now have the distinct majority and the balance of power in the United Nations. Just imagine the havoc which could be wrought if Red China should be admitted, to help these people solidify their struggles. It is apparent that a real power struggle is coming. The democratic kind of governments face a grave danger.

There was a time, I am sure, when most of us looked with hope toward the United Nations, but experience has taught us a sad, sad story. With Uncle Sam footing the bill, and the Communists calling the shots, no wonder Mr. Khrushchev is laughing up his sleeve while he talks of peaceful co-existence.

Coming now to the homefront, the Federal Bureau of Investigation warns us of the Communist menace within our own country, but the ultra liberals assure us that there is no such threat. Do you remember that a great American statesman, the late Senator Pat McCarran, spent most of his final years trying to warn the American people—in fact, he pleaded with American citizens to wake up and see what was going on. He warned against Communist infiltration in key Government positions. He warned against Communist propaganda which had crept into our schools through textbooks and other insidious influences.

He tried to engender a spirit of patriotism and a desire to stand up and protect our precious American heritage, but many people then did not recognize the seriousness of his plea.

Today we are paying the penalty of that lack of concern—that comfortable lethargy which clings to the bromide, "it can't happen here." We are realizing that it can happen here—that it is happening here. We see that we are not only losing the cold war abroad, but that we are being undermined right here at home. The opinion has been expressed that "closing the Russian Embassy would close the biggest spy center in the Western Hemisphere." Do we need any further proof of the threat of communism in our midst? The assassination of the President of the United States right here in our own country, should be all the proof that we need. Furthermore, we might ask the question, "Why all the hush-hush treatment concerning this national atrocity, when the public was promised a complete report on the investigation?" (The Supreme Court has announced that we might not hear the details of this tragedy during our lifetime.) Why all of this secrecy? Is it because our Government is afraid to offend the Communists?

J. Edgar Hoover, in a recent address in New York City, said, and I quote: "During the past 2 years, Communist spokesmen have appeared on nearly 100 campuses from coast to coast. Their purpose—to create confusion, raise questions, and spread doubt among our young people concerning the American way of life. If their constitutional right to free speech allows them to use the public school forum to promote the secular creed of Marxism-Leninism, which openly and avowedly denies God—does their constitutional freedom of religion also prohibit the rest of us from using the same public school forum to express our faith that God does exist?"

I want to read a short news item which appeared recently in the Nevada State Journal. It is datelined May 3, 1964, from Moscow: "A mob of about 4,000 Soviet youths jeered and taunted Russian priests and worshipers Sunday as they celebrated the Orthodox Easter at Moscow's Central Epiphany Cathedral. 'Down with your religion—why don't you learn atheism,' one teenager shouted at the priests as they led worshipers around the cathedral just after midnight in the symbolic 'search for the risen Christ.' The mob—mostly teenagers—were mainly 'militant atheists' who annually harass Russian believers on the occasion of Easter—the church's most holy celebration. But this year the teenagers appeared to be further fired up by the Government's stepped-up campaign to stamp out religion."

Now, someone might say, "Oh, but that's Russia. It couldn't happen here." To this, I can only say, "Have you been noticing the attempts that are being made to stamp out religion in our own country?" Have you seen the results of the Supreme Court's ruling which banned prayers and the reading of the Bible in a public school? While this was an isolated case, immediately there were forces in this country which seized upon the opportunity to attempt to outlaw God in other ways.

There have been demands made to remove the "under God" phrase from our pledge of allegiance, as well as efforts made to remove the motto, "In God We Trust" from our coins. Is this what the great majority of the American people want? I am sure they do not. What, then, are we going to do about it? Are we going to let atheistic Communists continue to enter our colleges and poison the minds of our youth with their anti-American doctrines? America became a great nation because its people believed in God. Statistics show that juvenile delinquency has reached the highest rate in American history. There is a greater and greater disregard for the Ten Commandments. Many young people are totally ignorant of the Golden Rule. What is the reason for this lack of spiritual values? Maybe we should take a closer look at the philosophies to which some of our young people are being exposed. Remember, communism is atheism, and atheism breeds crime. In a larger sense, when we (as a nation) have dealings with the Communists, we should remember that when people do not believe in God, they generally do not hesitate to engage in lies and to break the laws of God.

Our Founding Fathers were men who believed in God, and they established a nation built upon spiritual principles. They created an immortal Constitution, which you and I were taught to revere. Someone has said, "If the Constitution be picked away by piecemeal, it is gone, and gone as effectively as if some military despot had grasped it at once, trampled it beneath his feet and scattered its loose leaves in the wild winds." Can you tell me who made this quotation? Does this seem to describe what is going on now in our own United States of America?—this piecemeal picking away at the Constitution? Do you think that some extreme rightist—(or a conservative)—may have uttered these words in modern days? No, it was none other than Daniel Webster.

In closing, I want to say that I am proud to be an American—and I am proud to be a constitutional Democrat.

Birth Control Lethal Tool Against Poverty

EXTENSION OF REMARKS

OF

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1964

Mr. FISHER. Mr. Speaker, the pending foreign aid bill and the antipoverty legislation serve to remind us that these proposed expenditures will be but an exercise in futility unless more is done to curb the booming rate of population increase.

This would be a good time to review this problem, both at home and worldwide. Let us think in terms of the cause of our problems, rather than just floundering about in attempting to treat the symptoms.

At the present rate of growth there will be 200 million people in this country in 1967, only 3 years from now. It is estimated we will have 260 million by 1980. One authority says we can expect more than 700 million by 2050, only 85 years hence, if the present growth rate is continued. That would make us almost as crowded as Red China is now.

During the past 10 years our population has risen by the equivalent of adding two States the present size of New York and Pennsylvania. We are gaining at the rate of about 3 million each year, or a rate of 1.7 percent. The world average is about 2 percent.

Even now, the United Nations estimates that nearly half a billion people are suffering from hunger or malnutrition, caused chiefly by overpopulation.

World Bank President Eugene Black recently said that present population growth rates threaten to nullify all our efforts to raise living standards in the poorer countries. The Congress is being asked to provide money to help alleviate low living standards abroad with foreign aid, which we must know cannot be achieved unless the population problem is recognized and effectively attacked.

The Indian Ambassador to the United States recently said:

> We have received massive aid from the United States in helping us to industrialize our country. But this economic aid will only bear fruit and produce full results if we can arrest the growth of our population.

The same problem which relates to efforts to raise living standards of the more underdeveloped countries of the world apply with equal meaning to efforts now being pushed to alleviate conditions among our own people who are plagued with low incomes. In the so-called war on poverty, efforts to raise the living standards of these people will be nullified unless at the same time more is done to reduce population growths in the affected areas. It is just that simple.

Mr. Speaker, let us look for a moment at the world picture. It is appalling.

We know that population is no guarantor of prosperity. China and India can testify to that fact. India, with its 438 million, is now gaining at the rate of 2 percent per year—a net gain of from 8.5 to 10 million each year.

Just 10 years ago the population of the world was about 2½ billion; it had increased only 1 billion in the previous 50 years. At the present rate, this will increase nearly 4 billion in the second half of this century—more than double the 1960 population within the next 40 years.

It took untold thousands of years to reach the first billion in world population, which was achieved in 1850. But look what has happened since then. The second billion was recorded by 1930; and the third billion required only 30 years. And the fourth billion will require only 15 years.

This population explosion rate has resulted mainly from effective death control through the use of miracle drugs, insecticides, and other health-protecting measures. Since our peacetime foreign aid program began in 1945 the world rate of population growth has doubled. Birth rates are increasing, while death rates are dropping.

The world is gaining population at the rate of about 50 million a year. Within the next few years, experts say, the accelerating rate may add 70 to 80 million more people to the world total each year.

In Ceylon, for example, the mortality rate was slashed 40 percent in 1 year by spraying DDT in an antimalarial drive. Many similar examples can be cited.

World population was held in check for centuries by what Rev. Thomas Malthus called the iron law of war, famine, and pestilence. But science has found the answer to many of the problems associated with famine and pestilence.

Unfortunately, the growth rate today is much higher in the so-called underdeveloped countries. Latin America now has the largest population rate increase of any area in the world, with a 2.5 percent annual average. Rates elsewhere, according to the United Nations, are 1.7

in the United States and Canada; Asia, excluding Japan, 2.3 percent; Africa, 1.9 percent; Europe, 0.8 percent; the U.S.S.R., 1.8. Japan by a rigid system of birth control since the war has managed to reduce its former high rate to only 1 percent.

A Committee on Science and Public Policy of the National Academy of Sciences, after an exhaustive study of the subject, recently reported on the depth and seriousness of the problem. Its report began thus:

> All nations are committed to achieving a higher standard of living for their people—adequate food, good health, literacy, education, and gainful employment. These are the goals of millions now living in privation. An important barrier to the achievement of these goals is the current rate of population growth. The present world population is likely to double in the next 35 years, producing a population of 6 billion by the year 2000. If the same rate of growth continues, there will be 12 billion people on earth in 70 years and over 25 billion by the year 2070. Such rapid population growth, which is out of proportion to present and prospective rates of increase in economic development, imposes a heavy burden on all efforts to improve human welfare. Moreover, since we live in an interconnected world, it is an international problem from which no one can escape.

Indeed it is said that if the present growth rate is continued for 600 years, this would leave every inhabitant of the world with only 1 square yard to live on. By the year 3500 the weight of human bodies on the earth's surface would equal the weight of the world itself.

The world's gain in population during the past 23 years has been equal to more than the total number of people on the earth in 1800.

But much can be done to change this trend, and avoid much of the chaos that is faced in an otherwise jam-packed world.

Not long ago a large group of the world's leading thinkers, including more than 200 Nobel Prize winners, addressed an urgent communication to the United Nations, in which they said:

> We believe that widespread, effective and voluntary use of medically sound and individually acceptable birth control is an essential factor in any humane design to raise world living standards and achieve international peace as well as social and family stability.

That same group continued:

> Unless a favorable balance of population and resources is achieved with a minimum of delay, there is in prospect a dark age of human misery, famine, undereducation and unrest which could generate growing panic, exploding into wars fought to appropriate the dwindling means of survival.

Now, Mr. Speaker, what is being done to cope with this problem? Surely in this enlightened age mankind will not blink its eyes to what is happening before its eyes.

I have already alluded to the success being achieved in Japan. Much is being done in India where in 1961 1,800 family-planning clinics were established, with a goal of 8,200 by 1966. Chile has a committee, directed by the Government, studying methods of checking population growths. The problem there was pinpointed recently when it was revealed that there are now 60,000 illegal abortions annually in Santiago alone. Surely there is a better way of handling the problem.

In Egypt Mr. Nasser, who long opposed birth control, announced 2 years ago:

> This year we have added to our number 800,000 persons. * * * We cannot go on at this rate. * * * I consider it the duty of the state to advise people on methods of birth control.

In Pakistan, plagued with overpopulation and resulting poverty, Ayub Khan found that the rate of growth in his country, if unchecked, will lead to a standard of living "little better than that of animals." And a birth control drive is underway there.

In Mexico, where little is being done, a bleak outlook is faced unless effective birth control measures are undertaken. In 200 years Mexico will have a population of 30 billion, at present growth rates, according to Dr. Ansley J. Coale, head of the Office of Population Research at Princeton.

In this enlightened country of ours, which should take the lead, there has been foot dragging in facing up to this problem. There have, however, been some significant efforts in the field of research. We spend only a little more than $6 million annually in the Government's efforts to find better solutions. But progress is being made. Both Catholic and non-Catholic clergymen have agreed that governmental research in family planning is desirable.

Dr. John Rock, professor emeritus of Harvard, himself a Catholic and codeveloper of the first effective birth control pills, has urged the Government to undertake a crash program of research on fertility control. He has called for establishment of at least 10 major research centers committed to the study of human reproduction.

William H. Draper, Jr., who has been a Presidential Special Adviser, has joined Dr. Rock in alerting the Nation to the seriousness of this problem, and has been very active in his efforts. Perhaps no one man in this country has done more.

In our Government a National Institute of Child Health and Human Development has been founded. One of its major aims is to encourage the development of an effective method of birth control for global use.

This is indeed a responsibility of government. A tremendous challenge is faced. Science undoubtedly has the answer within its reach—a simple, inexpensive method of birth control for those who care to make use of it on a voluntary basis. Already there have been significant breakthroughs in this area, but it is recognized that more needs to be done. Pills, taken orally, with no adverse effect on health, are now in use, but the research must be continued and intensified, and the results made available to everyone who is interested, without cost to those who cannot afford to pay for them. We should spare no expense in promoting this effort.

Mr. Speaker, it is sheer folly for our Government to send foreign aid to underdeveloped countries, ostensibly for the purpose of helping raise the living standards of the poor, unless such aid is accompanied by a program of dissemination of birth control information. Otherwise the effort is futile and indeed borders on stupidity, because overpopulation is admittedly the basic cause of most of their ills.

It is likewise folly for the Congress to undertake an expensive war on poverty, designed to alleviate the low income problems of millions of Americans, unless we at the same time attempt to treat the cause of many of these problems—that is, overpopulation.

Let us treat the disease—not just the symptoms.

Mr. Speaker, under leave to extend my remarks, I include an editorial which appeared in the May 27, 1964, issue of the San Angelo Standard-Times, of San Angelo, Tex. This publication, one of the leading newspapers of Texas, here recognizes the implications of this problem, and advocates positive action.

The editorial follows:

BIRTH CONTROL LETHAL TOOL AGAINST POVERTY

> The need for planned parenthood is obvious in the records of the welfare agencies today meeting some of the problems of our world as population expands. Unfortunately much of the expansion comes from the economic fringes where families have not enough material blessings to meet the needs of life in a complex society.
>
> Now that the Nation is taking a more aggressive effort toward eliminating poverty, it probably should take steps to eliminate some of those who come into the world without choice and are destined always to contend with adversity. The elimination step would be taken in the birth control measures such as are advocated now by Representative O. C. FISHER of the 21st Texas Congressional District.
>
> Mr. FISHER said recently the Government is not using the most lethal weapon in the war against poverty—the dissemination of birth control information.
>
> Children born into poverty and compelled to live in an environment that does not provide opportunity unfortunately may become a continuing burden to themselves and to society. Every person born should have the opportunity to overcome the economic penalties that often apply right from the time of birth on. These penalties grow as a youth is denied the chance to get a complete education, and that is the primary determinant of success.
>
> Right now, the leaders in the poverty war maintain that lack of training and the mastery of an essential vocation is back of the plight of millions who lack adequate shelter, food, and jobs.
>
> The United States is growing and ultimately may have 150 million more persons than it has today. We may multiply the problems of the indigent unless there is an all-out assault on besetting problems that today deny lesser numbers the fruits of adequate training. Would it not be better to curb uneconomic and unsocial growth at the point of inception?
>
> Representative FISHER's discussion of the matter helps to bring it into the open. It will take similar courage on the part of society to take the one indispensable step in ameliorating the lot of the poor.
>
> We must recognize that many have lifted themselves from poverty to affluence and the good life, but there is no good reason why society should not take steps to prevent the multiplication of misery when the control is so easily available.

SENATE

Friday, June 5, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. Metcalf).

Rabbi Israel Porath, dean of the Orthodox Rabbis of Cleveland, Ohio, delivered the following prayer:

Eternal: Thy children, here in session as duly representative spokesmen for our population, lift up their hearts unto Thee to invoke Thy blessing. May Thy pleasantness be upon them, and establish Thou the work of their hands.

At these crucial times of universal unrest, racial tension, and anxiety, grant them, O God, spiritual guidance and moral strength to observe events keenly, to weigh them carefully, to react properly, to deliberate judiciously, and to assume responsibilities with courage and vigor, with prudence and dignity.

Let us reverently conceive, and humbly realize, that things said or done in this Chamber may affect the fate of multitudes here and abroad, now and hereafter. Let us, therefore, weigh and measure our thoughts and expressions, to speak the inner truth of our hearts, and work for the genuine good and welfare of our constituents and of mankind at large.

May we strive to realize the vision of the Psalmist: that kindness and truth shall meet together, and righteousness and peace embrace each other. Amen.

THE JOURNAL

On request of Mr. Mansfield, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, June 4, 1964, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Jones, one of his secretaries.

EXECUTIVES MESSAGES REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting several nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the joint resolution (S.J. Res. 71) to establish a National Commission on Food Marketing to study the food industry from the producer to the consumer, with an amendment, in which it requested the concurrence of the Senate; that the House insisted upon its amendment to the joint resolution; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Cooley, Mr. Poage, Mr. Rosenthal, Mr. Hoeven, and Mr. Dague were appointed managers on the part of the House at the conference.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, following a quorum call, there be the usual morning hour period, under the usual conditions, and that statements therein be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TO 9 A.M., SATURDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of today's business, the Senate stand in recess until 9 o'clock on Saturday morning, tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS AT CLOSE OF BUSINESS ON SATURDAY UNTIL NOON ON MONDAY, JUNE 8

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business on Saturday, tomorrow, it stand in recess until 12 o'clock noon, on Monday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO CONVENE AT 10 A.M. ON TUESDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next, it stand in recess until 10 o'clock on Tuesday morning next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLOTURE MOTION TO BE PRESENTED ON SATURDAY

Mr. MANSFIELD. Mr. President, let me state that it is also the intention of the leadership to present the cloture motion tomorrow. It is hoped that all Senators who are interested in allowing the Senate to face up to its responsibilities—regardless of their views on the pending legislation—will join in the motion, to the end that we may make as good a showing as possible. Senators will now be on notice that on Tuesday next the cloture motion will be voted on.

(Note.—See further debate in today's proceedings.)

CONTROL OF LIMITED TIME ON TUESDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time during the 1 hour after the convening of the Senate on Tuesday be divided equally between the distinguished senior Senator from Georgia [Mr. Russell] and the majority leader.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

(Note.—See further debate in today's proceedings.)

CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll; and the following Senators answered to their names:

[No 270 Leg.]

Aiken
Bartlett
Bayh
Beall
Bennett
Bible
Burdick
Cannon
Carlson
Case
Cotton
Curtis
Dirksen
Dodd
Douglas
Ellender
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Holland
Hruska
Humphrey
Jackson
Javits
Jordan, Idaho
Keating
Lausche
Mansfield
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Morton
Mundt
Nelson
Neuberger
Pearson
Pell
Proxmire
Robertson
Russell
Scott
Smith
Sparkman
Stennis
Talmadge
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. Anderson], the Senator from Virginia [Mr. Byrd], the Senator from Idaho [Mr. Church], the Senator from Arkansas [Mr. Fulbright], the Senator from Hawaii [Mr. Inouye], the Senator from South Carolina [Mr. Johnston], the Senator from Massachusetts [Mr. Kennedy], the Senator from Missouri [Mr. Long], the Senator from Louisiana [Mr. Long], the Senator from Minnesota [Mr. McCarthy], the Senator from Arkansas [Mr. McClellan], the Senator from Maine [Mr. Muskie], the Senator from Rhode Island [Mr. Pastore], the Senator from West Virginia [Mr. Randolph], and the Senator from Connecticut [Mr. Ribicoff] are absent on official business.

Also I announce that the Senator from Maryland [Mr. Brewster], the Senator from West Virginia [Mr. Byrd], the Senator from Pennsylvania [Mr. Clark], the Senator from Mississippi [Mr. Eastland], the Senator from Oklahoma [Mr. Edmondson], the Senator from North Carolina [Mr. Ervin], the Senator from Alabama [Mr. Hill], the Senator from North Carolina [Mr. Jordan], the Senator from Washington [Mr. Magnuson], the Senator from Wyoming [Mr. McGee], the Senator from Michigan [Mr. McNamara], the Senator from Utah [Mr. Moss], the Senator from Florida [Mr. Smathers], the Senator from Missouri [Mr. Symington], and the Senator from South Carolina [Mr. Thurmond] are necessarily absent.

I further announce that the Senator from California [Mr. Engle] is absent because of illness.

Mr. DIRKSEN. I announce that the Senators from Colorado [Mr. Allott and

Mr. Dominick] and the Senator from California [Mr. Kuchel] are absent on official business.

The Senator from Delaware [Mr. Boggs], the Senator from Hawaii [Mr. Fong], the Senator from Arizona [Mr. Goldwater], the Senator from New Mexico [Mr. Mechem], the Senator from Massachusetts [Mr. Saltonstall], the Senator from Wyoming [Mr. Simpson], and the Senator from Texas [Mr. Tower] are necessarily absent.

The Senator from Kentucky [Mr. Cooper] and the Senator from Vermont [Mr. Prouty] are detained on official business.

The ACTING PRESIDENT pro tempore. A quorum is present.

Morning business is in order.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Report on Export Control

A letter from the Acting Secretary of Commerce, transmitting, pursuant to law, a report on export control, covering the first quarter of 1964 (with an accompanying report); to the Committee on Banking and Currency.

Expenditure of Appropriated Funds for Insurance Covering the Operation of Motor Vehicles in Foreign Countries

A letter from the Attorney General, transmitting a draft of proposed legislation to authorize the expenditure of appropriated funds for insurance covering the operation of motor vehicles in foreign countries (with an accompanying paper); to the Committee on Foreign Relations.

Report on Available Government Quarters and Messes Not Used by Military Personnel Attending Classes at Contractors' Facilities

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on available Government quarters and messes not used by military personnel attending classes at contractors' facilities, Department of the Air Force, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

Validation of Certain Payments Made to Employees of the Forest Service

A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to validate certain payments made to employees of the Forest Service, U.S. Department of Agriculture (with accompanying papers); to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

The petition of Juei Miyajima, chairman, Assembly of Koza City, of the island of Okinawa, praying for a quick solution of the prepeace treaty compensation issue; to the Committee on Armed Services.

A letter in the nature of a petition, signed by Henry Stoner, of Avon Park, Fla., relating to the number of publications in the Government Printing Office subscribed to by the Russian Government; to the Committee on Foreign Relations.

The petition of Henry Stoner, of Avon Park, Fla., relating to the Holland amendment to the Constitution relative to voting for State and Federal officials; to the Committee on the Judiciary.

The petition of C. R. Mead, of Westport, Conn., relating to his claim for a redress of grievances; to the Committee on the Judiciary.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. MONRONEY, from the Committee on Commerce, without amendment:

H.R. 8673. An act to amend title V of the Federal Aviation Act of 1958 to provide that the validity of an instrument the recording of which is provided for by such Act shall be governed by the laws of the place in which such instrument is delivered, and for other purposes (Rept. No. 1060).

By Mr. MONRONEY, from the Committee on Commerce, with amendments:

S. 1336. A bill to provide that the price at which the Coast and Geodetic Survey sells radio avigation charts and certain related material to the public shall not be less than the cost thereof (Rept. No. 1061).

Mr. LAUSCHE. Mr. President, let me ask the Senator from Oklahoma what the bill deals with.

Mr. MONRONEY. These are two small bills. One deals with the filing of certificates of title to airplanes; the other deals with the allocation of all costs of production of radio avigation charts and coast and geodetic maps in the price at which they are sold to the public.

Mr. LAUSCHE. Both were passed on by the committee, were they?

Mr. MONRONEY. Yes, they were passed on in the full committee.

BILL AND JOINT RESOLUTION INTRODUCED

A bill and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. KEATING:

S. 2893. A bill for the relief of Sawsan Gheith; to the Committee on the Judiciary.

By Mr. SPARKMAN:

S.J. Res. 180. Joint resolution temporarily extending the program of insured rental housing loans for the elderly in rural areas under title V of the Housing Act of 1949; to the Committee on Banking and Currency.

(See the remarks of Mr. Sparkman when he introduced the above joint resolution, which appear under a separate heading.)

TEMPORARY EXTENSION OF PROGRAM OF INSURED RENTAL HOUSING LOANS FOR THE ELDERLY IN RURAL AREAS

Mr. SPARKMAN. Mr. President, I introduce, for appropriate reference, a joint resolution temporarily extending the program of insured rental housing loans for the elderly in rural areas under title V of the Housing Act of 1949.

The purpose of the joint resolution is merely to extend a feature of the Housing Act—that particular part dealing with housing for the elderly in rural areas under title V of the Housing Act. The act as it now stands expires on June 30 of this year. I hope that action can be taken because this is a very fine and helpful, even though small, program, and I earnestly hope that action can be taken to prevent its lapse.

The PRESIDING OFFICER (Mr. Nelson in the chair). The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 180) temporarily extending the program of insured rental housing loans for the elderly in rural areas under title V of the Housing Act of 1949, introduced by Mr. Sparkman, was received, read twice by its title, and referred to the Committee on Banking and Currency.

INCREASED APPROPRIATIONS TO CARRY OUT THE PROVISIONS OF THE PUBLIC WORKS ACCELERATION ACT—AMENDMENT (AMENDMENT NO. 820)

Mr. MILLER. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (S. 1856) to increase the amount authorized to be appropriated to carry out the provisions of the Public Works Acceleration Act. I ask unanimous consent that the amendment be printed in the Record and appropriately referred.

The PRESIDING OFFICER. The amendment will be received, printed, and lie on the table, and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

At the end of the bill insert a new section as follows:

"Sec. 2. Section 3(a) of the Public Works Acceleration Act is amended by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word 'and', and by inserting after such clause a new clause as follows:

"'(3) those areas which the Secretary of Commerce determines, after consultation with the Secretary of Agriculture, are areas in which (A) farming is a major industry, (B) there has been a substantial decrease (or there is a continuing marked decrease) in the number of persons engaged in farming as a major source of their income or livelihood, (C) there is a substantial migration of such persons out of the area, and (D) as a result of such decrease and migration, a condition of substantial and persistent unemployment or underemployment exists or is caused in other areas.'"

CIVIL RIGHTS — AMENDMENTS (AMENDMENT NOS. 821 THROUGH 829, INCLUSIVE)

Mr. ERVIN. Mr. President, I ask unanimous consent, as follows: First, that I may submit at this time eight amendments to amendment No. 656 to H.R. 7152, the so-called civil rights bill, and one amendment to H.R. 7152; second, that these amendments may be printed and lie on the table until called up; third, that the reading of these amendments be waived for all purposes under the rules of the Senate, and that they be considered as having been read.

The PRESIDING OFFICER. Without objection, the request of the Senator from North Carolina is agreed to. The amendments will be received, printed, and lie on the table, as requested.

The amendments submitted by Mr. Ervin are as follows:

Amendment No. 821

On page 70, lines 15 and 16, strike out "certifies" and insert in lieu thereof "satisfies the court after notice and opportunity to be heard are given to the adverse parties."

Amendment No. 822

On page 70, lines 17 and 18, beginning with "In" strike out everything through "action" on line 18.

Amendment No. 823

On page 9, lines 5, 6, and 7, change the comma on line 5 to a period and beginning with the word "except" on line 5, strike out everything through the designation (b) on line 7.

Amendment No. 824

On pages 17, 18, 19, 20, 21, 22, and 23, strike out title IV in its entirety and renumber the remaining titles and sections appropriately.

Amendment No. 825

On pages 20, 21, 22, and 23, beginning with line 16 on page 20, strike out everything through line 2 on page 23 (sec. 407).

Amendment No. 826

On pages 32, 33, 34, and 35, strike out title VI in its entirety and renumber the remaining titles and sections appropriately.

Amendment No. 827

On pages 35 through 69 both inclusive, strike out title VII in its entirety and renumber the remaining titles and sections appropriately.

Amendment No. 828

On page 74, insert a new section between line 2 and line 3 reading as follows:

"Sec. 1102. No person should be put twice in jeopardy for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime based upon the same act or omission.

"Renumber sections 1102, 1103, 1104, and 1105 respectively as sections 1103, 1104, 1105, and 1106."

Amendment No. 829

On page 54, insert a new section between line 8 and line 9 reading as follows:

"Sec. 1101. No person should be put twice in jeopardy for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime based upon the same act or omission.

"Renumber sections 1101, 1102, 1103, and 1104 respectively as sections 1102, 1103, 1104, and 1105."

AMENDMENT NO. 830

Mr. KEATING. Mr. President, on behalf of myself, and Senators Javits, Kuchel, Case, and Fong, I submit an amendment, intended to be proposed by us, jointly, to amendment No. 656, in the nature of a substitute, submitted by the Senator from Illinois [Mr. Dirksen], for himself and other Senators, to House bill 7152, and ask that it be considered as read for all purposes.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be received, printed, and lie on the table.

The amendment is as follows:

On page 2, line 11, insert the following: strike out the words "under State law or laws" and the word "Federal."

On page 2, line 14, strike out the words "under such law or laws" and insert after the word "individuals" the words "found qualified to vote."

On page 2, line 16, after the word "subdivision" insert the words "of the State," and strike remainder of line 16.

On page 2, strike out line 17.

On page 2, line 19, strike out the word "Federal."

On page 3, line 1, strike out the word "Federal."

On page 3, after line 21, insert the following: "(B) the word 'election' shall have the same meaning as in subsection (f) of this section; and"

On page 3, line 22, strike out "(B)" and insert in lieu thereof "(C)".

On page 4, line 10, strike out the word "Federal" and after the word "election" insert "as defined in subsection (f) of this section."

On page 4, strike out lines 13 through 18, both inclusive, and insert the following new subsection:

"(f) when used in this section, the word 'election' shall mean any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for public office, or any referendum, proposition or other issue submitted to the voters."

AMENDMENT NO. 831

Mr. MUNDT. Mr. President, I send to the desk an amendment to the amendment in the nature of a substitute (No. 656) to House bill 7152, dealing with the rights of our American Indians, who have now become the most distressed minority in the United States.

I ask unanimous consent that the amendment be considered as read for the purposes of legislation or in the event cloture comes before us.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be received, printed, and lie on the desk.

The amendment (No. 831) is as follows:

On page 35, line 24, immediately after "United States," insert "an Indian Tribe,".

Mr. MUNDT. Mr. President, I also ask unanimous consent, if it is possible, that in the event the amendment in the nature of a substitute is not adopted, it may be in order to have my amendment considered as read as to the original bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NOS. 832, 833, 834, AND 835

Mr. GORE submitted four amendments, intended to be proposed by him, to the amendment in the nature of a substitute (No. 656) intended to be proposed by Mr. Dirksen (for himself and other Senators) to House bill 7152, the so-called civil rights bill, which were received, considered as having been read, and were ordered to be printed and to lie on the table, as follows:

Amendment No. 832

On page 32, beginning with line 21, strike out all through line 9, on page 35 (title VI).

Renumber the succeeding titles and sections of the bill.

Amendment No. 833

On page 32, line 24, after "color," insert "religion,".

Amendment No. 834

On page 33, line 2, after "assistance" insert "by way of grant, loan, or contract, other than a contract of insurance or guaranty".

Amendment No. 835

On page 34, line 1, strike out "authorized by law" and insert "provided by the statute authorizing Federal financial assistance to such program or activity".

AMENDMENT NOS. 836, 837, 838, AND 839

Mr. GORE also submitted four amendments, intended to be proposed by him, to House bill 7152, the so-called civil rights bill, which were received, considered to have been read, and were ordered to lie on the table and to be printed, as follows:

Amendment No. 836

On page 25, line 22, after "color," insert, "religion,".

Amendment No. 837

On page 25, beginning with line 18, strike out all through line 20, on page 27 (title VI).

Renumber the succeeding titles and sections of the bill.

Amendment No. 838

On page 25, line 25, after "assistance" insert "by way of grant, loan, or contract, other than a contract of insurance or guaranty".

On page 26, line 6, strike out "may" and insert "shall".

On page 26, line 18, strike out "may" and insert "shall".

On page 26, line 18, strike out "authorized by law" and insert "provided by the statute authorizing Federal financial assistance to such program or activity".

Amendment No. 839

On page 26, line 19, after "That" insert the following: "(A) no such action shall be taken which terminates, reduces, denies, or discontinues, or has the effect of terminating, reducing, denying, or discontinuing, Federal financial assistance to such program or activity in its application within the jurisdiction of any political subdivision in which persons are not being excluded from participation in, being denied the benefits of, or being subjected to discrimination under such program or activity on the ground of race, color, religion, or national origin, and (B)".

AMENDMENT NO. 840

Mr. THURMOND submitted an amendment, intended to be proposed by him, to the amendment numbered 513, submitted by Mr. Talmadge (for himself and other Senators) to House bill 7152, the so-called civil rights bill, which was received, considered to have been read, and was ordered to lie on the table and to be printed, as follows:

On page 2, beginning with line 1, strike out all through line 9 on page 4.

On page 3, between lines 4 and 5, insert the following:

"Sec. 1101. In any proceeding arising under this Act for criminal contempt for willful disobedience of or obstruction to any lawful writ, process, order, rule, decree, or command of any court of the United States or any court of the District of Columbia, the accused, upon demand therefor, shall be entitled to trial by a jury, which shall conform as near as may be to the practice in criminal cases.

"This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court.

"Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

"Persons convicted under the provisions of the section shall be punished by fine or imprisonment, or both, but in no event shall the fine exceed the sum of $800 nor shall imprisonment exceed the term of six months."

AMENDMENT NOS. 841 THROUGH 853, INCLUSIVE

Mr. THURMOND submitted 13 amendments, intended to be proposed by him, to amendment No. 656, in the nature of a substitute, submitted by Mr. DIRKSEN (for himself and other Senators) to House bill 7152, the so-called civil rights bill, which were received, considered as having been read, and were ordered to lie on the table and to be printed, as follows:

AMENDMENT No. 841

On page 73, beginning with line 1, strike out all through line 2 on page 74, and in lieu thereof, insert the following:

"SEC. 1101. In any proceeding arising under this Act for criminal contempt for willful disobedience of or obstruction to any lawful writ, process, order, rule, decree, or command of any court of the United States or any court of the District of Columbia, the accused, upon demand therefor, shall be entitled to trial by a jury, which shall conform as near as may be to the practice in criminal cases.

"This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court.

"Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

"Persons convicted under the provisions of the section shall be punished by fine or imprisonment, or both, but in no event shall the fine exceed the sum of $800 nor shall imprisonment exceed the term of six months."

AMENDMENT No. 842

On page 4, line 7, beginning with the word "where" delete down through and including the first comma on line 9.

AMENDMENT No. 843

On page 17, line 17, substitute a period for the second comma and delete lines 18, 19, and 20.

AMENDMENT No. 844

On page 29, line 21, delete the words "being accorded or".

AMENDMENT No. 845

On page 32, line 24, following the word "color" insert the word "religion."

AMENDMENT No. 846

On page 47, beginning on line 3, delete the following language: "The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman.", and insert in lieu thereof the following language: "The Commission shall elect its own Chairman and Vice Chairman."

AMENDMENT No. 847

On page 46, beginning on line 14, delete all down through line 9 on page 67.

On lines 11 and 22 of page 67, change designation of sections 714 and 715 to 705 and 706 respectively.

Between lines 19 and 20 on page 68, insert the following:

"SEC. 707. Any violation of this title shall be punished by fine or imprisonment or both: *Provided, however,* That the fine to be paid shall not exceed $1,000, nor shall imprisonment exceed the term of six months."

AMENDMENT No. 848

On page 46, beginning on line 14, delete all down through line 9 on page 67.

On lines 11 and 22 of page 67, change designation of sections 714 and 715 to 705 and 706 respectively.

Between lines 19 and 20 on page 68, insert the following:

"SEC. 707. Any violation of this title shall be punished by fine or imprisonment or both: *Provided, however,* That the fine to be paid shall not exceed $2,000, nor shall imprisonment exceed the term of two years."

AMENDMENT No. 849

On page 46, beginning on line 14, delete all down through line 9 on page 67.

On lines 11 and 22 of page 67, change designation of sections 714 and 715 to 705 and 706 respectively.

Between line 19 and 20 on page 68, insert the following:

"SEC. 707. Any violation of this title shall be punished by fine or imprisonment or both: *Provided, however,* That the fine to be paid shall not exceed $5,000, nor shall imprisonment exceed the term of five years."

AMENDMENT No. 850

On page 6, line 12, delete the words "Injunctive Relief Against."

On page 9, beginning on line 24, delete all down through line 23 on page 14.

Between lines 23 and 24 on page 9, insert the following:

"SEC. 204. Any violation of the provisions of this title shall be punished by fine or imprisonment, or both: *Provided, however,* That the fine shall not exceed $1,000, nor shall imprisonment exceed a term of six months."

AMENDMENT No. 851

On page 6, line 12, delete the words "Injunctive Relief Against."

On page 9, beginning on line 24, delete all down through line 23 on page 14.

Between lines 23 and 24 on page 9, insert the following:

"SEC. 204. Any violation of the provisions of this title shall be punished by fine or imprisonment, or both: *Provided, however,* That the fine shall not exceed $2,000, nor shall imprisonment exceed a term of two years."

AMENDMENT No. 852

On page 6, line 12, delete the words "Injunctive Relief Against."

On page 9, beginning on line 24, delete all down through line 23 on page 14.

Between lines 23 and 24 on page 9, insert the following:

"SEC. 204. Any violation of the provisions of this title shall be punished by fine or imprisonment, or both: *Provided, however,* That the fine shall not exceed $5,000, nor shall imprisonment exceed a term of five years."

AMENDMENT No. 853

On page 35, between lines 9 and 10, insert the following new section:

"SEC. 605. The Secretary of Health, Education, and Welfare is hereby directed to withhold funds, granted or loaned under any Federal program presently in effect or hereafter enacted, from any school district in any State, the District of Columbia, or any territory or possession of the United States, which has voluntarily desegregated its public schools without being required to do so by order of a Federal court, when the school district does not attempt, by busing or otherwise, to correct a racial imbalance which may exist in any public school of that school district."

AMENDMENTS NOS. 854 THROUGH 867, INCLUSIVE

Mr. THURMOND submitted 14 amendments, intended to be proposed by him, to House bill 7152, the so-called civil rights bill, which were received, considered to have been read, and were ordered to lie on the table and to be printed, as follows:

AMENDMENT No. 854

On page 9, line 22, strike out "himself" and insert in lieu thereof "the United States district court for the district wherein the prohibited act is alleged to have occurred".

AMENDMENT No. 855

On page 33, line 2, immediately after "origin", insert the following: "or because such individual is not a member of a labor organization".

On page 33, line 9, immediately after "origin", insert the following: "or because such individual is not a member of a labor organization".

On page 33, line 13, immediately after "origin,", insert the following: "or because such individual is not a member of a labor organization,".

On page 33, line 15, strike out "or national origin" and insert in lieu thereof the following: "national origin, or membership in a labor organization".

On page 34, line 11, immediately after "origin", insert the following: "or because such individual is not a member of a labor organization".

On page 36, line 15, strike out "or national origin" and insert in lieu thereof the following: "national origin, or membership in a labor organization".

AMENDMENT No. 856

On page 4, line 2, beginning with the word "where" delete down through and including the first comma on page 4, line 4.

AMENDMENT No. 857

On page 14, line 8, substitute a period for the comma and delete the language on line 8 following the comma and delete all on lines 9 and 10.

AMENDMENT No. 858

On page 23, line 18, delete the words "being accorded or".

AMENDMENT No. 859

On page 25, line 22, following the word "color" insert the word "religion."

AMENDMENT No. 860

On page 37, beginning on line 9, delete the following language: "The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman.", and insert in lieu thereof the following language: "The Commission shall elect its own Chairman and Vice Chairman."

AMENDMENT No. 861

On page 36, beginning on line 20, delete down through line 8 on page 49.

On lines 10 and 16 of page 49, change the designation of sections 716 and 717 to 706 and 707 respectively.

On line 4 of page 50, change the designation of section 718 to 708.

Following line 25 on page 50, add the following:

"SEC. 709. Any violation of this title shall be punished by fine or imprisonment or both: *Provided, however,* That the fine to be paid shall not exceed $1,000, nor shall imprisonment exceed the term of six months."

AMENDMENT No. 862

On page 36, beginning on line 20, delete down through line 8 on page 49.

On lines 10 and 16 of page 49, change the designation of sections 716 and 717 to 706 and 707 respectively.

On line 4 of page 50, change the designation of section 718 to 708.

Following line 25 on page 50, add the following:

"SEC. 709. Any violation of this title shall be punished by fine or imprisonment or both: *Provided, however,* That the fine to be paid shall not exceed $2,000, nor shall imprisonment exceed the term of two years."

AMENDMENT No. 863

On page 37, beginning on line 20, delete down through line 8 on page 49.

On lines 10 and 16 of page 49, change the designation of sections 716 and 717 to 706 and 707 respectively.

On line 4 of page 50, change the designation of section 718 to 708.

Following line 25 on page 50, add the following:

"SEC. 709. Any violation of this title shall be punished by fine or imprisonment or both: *Provided, however,* That the fine to be paid shall not exceed $5,000, nor shall imprisonment exceed the term of two years."

AMENMENT No. 864

On page 6, line 1, delete the words "Injunctive Relief Against."

On page 9, begininng on line 15, delete all down through line 17 on page 11.

On page 9, between lines 14 and 15, insert the following:

"SEC. 204. Any violation of the provisions of this Title shall be punished by fine or imprisonment, or both: *Provided, however,* That the fine to be paid shall not exceed $1,000, nor shall imprisonment exceed a term of six months."

AMENDMENT No. 865

On page 6, line 1, delete the words "Injunctive Relief Against."

On page 9, beginning on line 15, delete all down through line 17 on page 11.

On page 9, between lines 14 and 15, insert the following:

"SEC. 204. Any violation of the provisions of this Title shall be punished by fine or imprisonment, or both: *Provided, however,* That the fine to be paid shall not exceed $2,000, nor shall imprisonment exceed a term of two years."

AMENDMENT No. 866

On page 6, line 1, delete the words "Injunctive Relief Against."

On page 9, beginning on line 15, delete all down through line 17 on page 11.

On page 9, between lines 14 and 15, insert the following:

"SEC. 204. Any violation of the provisions of this Title shall be punished by fine or imprisonment, or both: *Provided, however,* That the fine to be paid shall not exceed $5,000, nor shall imprisonment exceed a term of five years."

AMENDMENT No. 867

On page 27, between lines 20 and 21, insert the following new section:

"SEC. 604. The Secretary of Health, Education, and Welfare is hereby directed to withhold funds, granted or loaned under any Federal program presently in effect or hereafter enacted, from any school district in any State, the District of Columbia, or any territory or possession of the United States, which has voluntarily desegregated its public schools without being required to do so by order of a Federal Court, when that school district does not attempt, by bussing or otherwise, to correct a racial imbalance which may exist in any public school of that school district."

AMENDMENT NO. 868

Mr. HICKENLOOPER submitted an amendment, intended to be proposed by him, to House bill 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 869

Mr. MORTON submitted an amendment, intended to be proposed by him, to House bill 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

AMENDMENT OF ALASKA OMNIBUS ACT—AMENDMENTS (AMENDMENT NO. 870)

Mr. GRUENING submitted an amendment, intended to be proposed by him, to the bill (S. 2881) to amend the Alaska Omnibus Act to provide assistance to the State of Alaska for the reconstruction of areas damaged by the earthquake of March 1964 and subsequent seismic waves, and for other purposes, which was referred to the Committee on Interior and Insular Affairs, and ordered to be printed.

WILLIAM M. CHINN

Mr. MANSFIELD. Mr. President, it was my good fortune to visit my home State of Montana over the Memorial Day weekend. During my visit to Butte I participated in the annual memorial services on May 30.

One of the leaders in the services was an old friend of mine, William M. Chinn, who is the commander of the Butte Veterans of Foreign Wars Post.

I have known Bill Chinn for many years. He is the son of immigrant parents. He has come up the hard way. He has served his country in uniform and has made great contributions to the city of Butte, the county of Silver Bow, and the State of Montana.

I ask unanimous consent that an editorial from the Montana Standard of May 31, 1964, entitled "VFW Shows Way—'We Practice What We Preach,'" relative to Bill Chinn, be incorporated in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VFW SHOWS WAY—"WE PRACTICE WHAT WE PREACH"

William M. Chinn was elected commander of Butte's Veterans of Foreign Wars Post because he had all the qualifications, including Armed Forces service in foreign territory and in two wars. The VFW requires such service as a basic qualification for those who would hold membership or office in it.

No more, no less, was asked of Chinn than has been asked of past commanders and will be asked of those who seek the position in the future.

Chinn is set apart from these others only by race. He is of Chinese ancestry. For that reason, his election attracted more than usual attention and evoked far more than ordinary comment. This is natural and it is good.

In the territory of Montana, now celebrating its centennial, and in the State that territory was to become, Chinese were maligned, persecuted and demeaned. That was not peculiar to Montana. It went on throughout the Old West, to which Chinese came to perform the hardest and most menial tasks and, in the days of easy gold, to work the poorest claims and the tailings scorned by white men.

Bret Harte wrote of them in reflection of prevailing opinion in his time: "For ways that are dark and for tricks that are vain, the heathen Chinese is peculiar," and again: "We are ruined by Chinese cheap labor—and he went for that heathen Chinee." Being different, the Chinese were misunderstood and therefore distrusted. In their first generation in this country they were victims of discrimination and occasional violence.

They hung on, commanded grudging respect where they could not gain forgiveness for being Chinese. In their second and third generations they became Americans in thought and deed, and now are widely accepted as such. Where they cling to their "Chinatowns," as in San Francisco, and as once they did in Butte, they do so for business reasons, for they have found Americans of other origins to be ready and generous customers, fascinated by visits to districts where they can see and admire reasonable simulations of that which Americans of other generations despised and deplored.

It has become clear that "ways that are dark and tricks that are vain" translate into business acumen and the ability to turn disadvantages to profitable account. These are characteristic of the great majority of Americans of Chinese descent. Their names are found on no public relief rolls. They are found in prominent places in business and industry, and in the professions and sciences, and in one State at least—Hawaii—in politics.

They have accepted the challenges directed at a racial minority and have prevailed. Other racial and national minorities have done likewise, and still others are making progress. Advances by one become examples for all.

Butte is justified in congratulating itself, and in expecting congratulations from elsewhere, in its exemplification of an all-embracing Americanism. Oliver Atkins, prominent in the VFW, said as he acted as installing officer for Commander Chinn:

"At a time when segregation is being discussed and argued, when integration is a major topic of conversation and a cause of violent action in parts of our land, we here at Butte Post No. 1448 are showing the city, the State, and the Nation—the world—that we practice what we preach. 'Regardless of race, creed, or color' is not a meaningless phrase here."

With a long way to go before all is well on the Nation's racial fronts, the step taken here shows that Butte will not be among communities resisting inevitable change.

JOHN T. FOLEY—OUTSTANDING AIRMAN OF THE YEAR

Mr. MANSFIELD. Mr. President, a friend and constituent from Wolf Point, Mont., Mr. Severin Pederson, recently directed my attention to the selection of the Air Force Association's Outstanding Airman of the Year Competition. This year Glasgow Air Force Base in north central Montana will be represented by John T. Foley, a 29-year-old personnel sergeant major assigned to the 91st Wing Headquarters Squadron.

According to a news account, the base has selected an extremely well qualified entry for the nationwide competition. Sergeant Foley has an impressive list of accomplishments to his credit, both on and off duty with the Air Force. The sergeant is also devoted to his role as husband and father.

I want to take this opportunity to extend my best wishes to this year's Outstanding Airman of Glasgow Air Force Base and to wish him well in his future endeavors.

Mr. President, I ask unanimous consent to have printed at the conclusion of my remarks in the Congressional Record a news story appearing in a recent edition of the Glasgow Courier.

There being no objection, the article was ordered to be printed in the Record, as follows:

Chosen as GAFB Airman of Year

One of the youngest master sergeants in the Air Force has been named to represent Glasgow Air Force Base in the Air Force Association's Outstanding Airman of the Year competition.

He is John T. Foley, 29-year-old personnel sergeant major assigned to the 91st Wing Headquarters Squadron.

Each year the Air Force Association asks that each major air command in the Air Force nominate an individual as the outstanding airman of the year, in the particular command. Each man so selected is honored at the association's annual convention held in Washington, D.C. As Glasgow Air Force Base's nominee, Sergeant Foley will compete with other base level nominees for the honor of representing 15th Air Force in the Strategic Air Command competition.

Announcement of the SAC winner is expected by June 15.

Sergeant Foley was selected from among nominations submitted by squadron commanders, stressing both on and off duty outstanding accomplishments by their men during 1963.

He leads three lives as a noncommissioned officer in the Air Force, a prime supervisor at Glasgow Air Force Base, and a husband and father. The awards that have been won by this NCO are numerous. His file is filled with many letters of appreciation from commanders and staff officers in return for the professional services that have consistently been rendered to them and to their activities by the nominee.

Despite his busy schedule, Sergeant Foley is a strong believer in the military suggestion program. Even before the current emphasis on cost reduction and big "R," Sergeant Foley was busy cranking out his ideas on Air Force forms 1000. During the summer of 1963, out of seven military suggestions he submitted, three were approved, two were forwarded to 15th Air Force for consideration and one was pending approval at SAC headquarters. He currently has 16 big "R" suggestions under evaluation.

Sergeant Foley's contacts in the civilian community of Glasgow during the past 3½ years include many of the prominent businessmen, including close association with the Red Cross director and various members of city and county government. During the month of March 1964, Sergeant Foley compiled a very comprehensive economic survey which was directed to higher headquarters. Sergeant Foley's single visit to the appropriate city agencies provided the basis for the entire report. In addition, he assisted members of all tenant organizations in the preparation of their reports to their respective major air commanders. In addition, Sergeant Foley was selected to meet with several prominent businessmen from the city of Glasgow to formulate basic plans and to serve as a judge for the "Mrs. Glasgow AFB" contest which was held for the first time at this base during the month of October 1963.

The awards that have been garnered by this NCO are numerous. He has been selected as the "Outstanding NCO" of every NCO grade that he has held. He was twice selected as the semiannual outstanding NCO of Glasgow Air Force Base in an 18-month period, the latter being for the period January to June 1963. Last winter, he was selected to represent 15th Air Force in a special personal meeting with Gen. Thomas S. Power, CINCSAC, on the subject of publications management. He earned the Air Force Commendation Medal in 1961 upon his PCS to Glasgow, while serving as the sergeant major of the 303d Bomb Wing at Davis-Monthan Air Force Base, Ariz.

VISIT TO THE SENATE BY HON. KIL CHAE-HO, HON. HAN TONG-SOK, AND HON. HONG IK-PYO, MEMBERS OF THE NATIONAL ASSEMBLY OF KOREA

Mr. LAUSCHE. Mr. President, today three members of the Korean Parliament are visiting the Senate. I am personally pleased to welcome them to this assembly.

I cannot but recall with tenderness the great heroism of the Korean people during our encounter with the Communists on their land about a decade ago. The Koreans endeared themselves to the members of our military.

Dealing with the various areas of the world into which our military men have been sent, I do not know of any area where the people have commanded the affection of the troops of the United States as deeply as those in Korea.

With us today are two members of the opposition party of the Korean Parliament and one member of the majority party. Mr. Kil Chae-ho is a member of the majority party; Mr. Han Tong-Sok and Mr. Hong Ik-pyo are members of the minority party.

It is my honor and privilege to present these gentlemen of the Korean Parliament to my colleagues in the Senate. [Applause, Senators rising.]

TRUTH IN LENDING BILL WOULD HELP STAMP OUT COSA NOSTRA JUICE RACKET

Mr. DOUGLAS. Mr. President, last year Joe Valachi, the Cosa Nostra hoodlum, testified before the McClellan investigation subcommittee that he had made his living over many years by engaging in the illegal small loan business. It was disclosed that most of Valachi's customers were residents of his neighborhood and that they had been paying anywhere from 400 to 500 percent annual interest in order to borrow money through the Cosa Nostra.

Valachi's testimony also disclosed that the loan shark racket, or "shylocking" as I understand it is called in the Cosa Nostra, is a primary source of income for the crime syndicate.

Yesterday the Chicago Sun-Times exposed another sordid chapter of the involvement of the Cosa Nostra in the illegal small loan racket. In the Midwest the Cosa Nostra's small loan activities are known as the "juice racket." Yesterday's Sun-Times article explains in detail exactly how the racket is working in Chicago and also explains why the most recent attempts to convict hoodlums in the juice racket have failed.

One of the side benefits of S. 750, the truth in lending bill, which has now been stalled in the Senate Banking and Currency Committee, is that it would help stamp out the Cosa Nostra's small loan or juice racket.

The bill requires that all lenders fully disclose to the borrower in writing the costs of the loan or credit transaction. The finance charge would have to be stated in two ways, in terms of the dollars and cents charge and in terms of the true annual interest rate. Thus, the Cosa Nostra's juice men would be required to put in writing the fact that they are charging exorbitant interest rates as high as 1,000 percent per year, according to the Chicago Sun-Times. However, if, as is most likely, the Cosa Nostra refused to disclose the cost of credit to the borrower in writing as required by the proposed truth in lending law, the Justice Department would then be able to move against the crime syndicate for willful failure to comply with this Federal law. Thus, a Truth in Lending Act would, like the income tax laws, serve as a valuable adjunct in the arsenal of weapons to help stamp out the organized crime syndicate.

I hope that the Banking and Currency Committee will meet soon so that the members of the committee will have an opportunity to vote on the bill and so that the Senate may have an opportunity to express its will on what I think is a vitally needed reform measure.

Mr. President, I ask unanimous consent that the article from the Chicago Sun-Times be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Juice Ledgers Disclose $111,000 Profit in Year

(By Ray Brennan)

Documentary evidence that two accused syndicate hoodlums collected $390,225 from the juice racket in a year has been obtained by the Sun-Times.

Records of 127 underworld loans had been kept—ill advisedly, investigators said—by two former Chicago policemen turned mobsters.

The payoffs, enforced by violence and threats, were made by unhappy victims who borrowed a total of $278,780. The profit came to $111,445—with no income taxes paid, presumably.

Accountants said the true figures undoubtedly were much higher because records of many additional loans were destroyed after they were paid in full.

LEDGER SHEETS

Confiscated by police intelligence division men were ledger sheets showing detailed figures on 127 loans. All were examined by a Sun-Times reporter.

One of the account sheets was disclosed weeks ago, but the others were kept secret. Police, the State's attorney's office and the Justice Department had the only copies.

The ledgers showed loans ranging from $100 to $31,000, all at exorbitant interest rates of up to 20 percent a week. The borrower of $3,100 agreed to repay $4,100, for example.

Investigators said the loan sharks' net returns would have been multiplied many times had not the police crippled the mob with arrests last December 9.

Collections stopped at least temporarily, at that time, with tens of thousands of dollars in principal and interest remaining unpaid on the underworld loans.

KEEPERS OF THE BOOKS

The keepers of the books were identified as Chris (Dick) Cardi, 31, a 210-pound bruiser, and Albert A. Sarno, 29, who poses as an Oak Park homebody and family man.

Two weeks ago, they and three other defendants were acquitted of kidnaping, torturing and robbing a borrower, Joseph Weisphal, 47.

Weisphal, an ex-convict and financial misfit, became the first Chicagoan ever to dare go to the law against the juice terrorists. He has predicted he will be murdered as a result.

Cardi and Sarno were paid employees, hired to make collections by terrorism, and the big money went to their bosses in organized crime, investigators said.

LEGAL TECHNICALITY

Because of a legal technicality, the loan ledgers were excluded as evidence at the Weisphal trial. Law enforcement officials have called the acquittals in the case the worst jolt to justice here in 25 years.

From the records could be read stories of how the gangsters used the juice racket to grab control of legitimate businesses. That angle reportedly is under investigation by the Senate Rackets Committee.

Businessmen, in emergency trouble and desperate for cash, apparently borrowed from the loan sharks as a last resort. Some of those borrowers fell hopelessly behind, and the gangsters took over their properties.

By such merciless usury, the mobsters got control of a big West Side restaurant, a North Side bowling emporium, and other enterprises, investigators said.

Most of the borrowers were persons with almost total financial irresponsibility, the ledgers kept by Sarno and Cardi indicated. They included ex-convicts, drunks, compulsive gamblers, forgers, and thieves.

Often they paid the face value of their loans many times over in weekly juice and still remained in debt for the original amounts. Instructions from the enthusiastic collectors were blunt:

COSA NOSTRA BOSSES

"Bring in the money. We don't care how you get it, but bring it. Rob a place. Cash a bum check. Send your wife out on the street."

Cardi and Sarno were only two of many collectors employed by two Cosa Nostra bosses—little William (Wee Willie) Messino, 45, and tall, balding Joseph (Joe Gags) Gagliano, 49—investigators declared.

Nobody knows the magnitude of the racket, but it was big enough to have caused at least eight murders in 4 years, police officials said.

A detective posing as a mobster obtained the records from Cardi's home at 5241 West Jackson within a few minutes after his arrest.

The hoodlum's wife gave up the documents after the detective told her: "Dick has been arrested and the boys want the books before the cops get here with a search warrant."

Intelligence division men, led by Sgt. Michael O'Donnell, have worked on the figures for 6 months. They have provided leads for future prosecutions.

BARRED AT TRIAL

But Judge Nathan M. Cohen ruled them inadmissible at the trial of Cardi, Sarno, Messino, Gagliano and John (No Nose) DiFronzo, 35, because they were obtained by trickery.

One of the sheets showed that Weisphal, the fast-talking ex-convict and check forger, borrowed $1,000 early in 1963 and agreed to pay back $1,800 at $50 a week.

Weisphal probably would have been laughed out of any Chicago bank or legitimate loan agency, if he applied for a loan. His credit was nil. He hadn't worked steadily in months. He had no honest income potential.

But to the juice racketeers, Weisphal was a good risk. He was an accomplished confidence man. He had cashed hundreds of worthless checks around the country and he could be persuaded to cash more.

Because of his long criminal record, it was unlikely that he would complain to the law.

THE 13 WEEKLY PAYMENTS

Weisphal made 13 regular weekly payments for a total of $650, the record showed. Each Tuesday he went to the mob's headquarters in a restaurant on West Chicago Avenue and left the money in an envelope for "Willie," the ex-convict said.

He had been passing bad checks to pay the juice, and he was arrested on a Highland Park charge. The gangsters got him out on bond and, he said, Messino told him to go cash some more checks.

Weisphal got deeper in debt. The ledger reflected it when the loan sharks required him to have his red-haired girl friend cosign a note for $2,000 in her home on North Pulaski.

He got his final lesson on July 12, Weisphal said, when he was kidnaped and tortured for 10 hours. The ledger showed he paid off $250 after that—and then he went into hiding and to the police.

Assistant State's Attorneys James J. Flynn and Louis B. Garippo planned to use the ledger material to corroborate Weisphal's testimony at the trial of the five defendants. The law blocked them.

ANOTHER SHEET

Another ledger sheet on which the prosecution relied bore the name of Mrs. Frances Mondzyk, then of 1011 North Laramie, wife of a man often arrested for jewel robberies. She borrowed $500 and agreed to pay $25 a week in juice alone, the record showed.

Mrs. Mondzyk paid off faithfully for 14 weeks. The mobsters had collected $350 from her, but she still owed the original $500. Another $25 was due on December 9.

That was the date of the arrests. Mrs. Mondzyk, in common with other debtors, got a respite. Whether she resumed payments since the acquittals is unknown.

Her name was found by chance in the possession of John Lang, a Lombard attorney who testified for the defense in contradicting some of Weisphal's story. Evidence was offered that she made "Willie" payments in the West Side restaurant, but it could not be backed up with the ledgers.

THE $80 WEEKLY IN JUICE

Another ledger sheet covered the account of a West Side man who borrowed $800 and agreed to pay $80 weekly in juice. He turned over $1,960 to the gangsters, according to the record, and he still owed $800 at the time of the intelligence division arrests.

There was a mysterious character identified only as "Doc" who obtained $20,000 from the racketeers on December 21, 1962. He paid back $22,000 a day or two later, the record indicated.

Investigators said he probably was a professional man who needed money desperately for some illicit purpose, and went to the juice men until he could arrange a bank loan or mortgage.

Three sheets covered loans to a Tom Smith, with no address or other identification. On his final account sheet, he was shown as paying $330 a month on a $3,000 loan, including $500 juice and still owed $1,300 on December 9.

EYE BANK NETWORK OF "HAM" RADIO OPERATORS

Mr. MILLER. Mr. President, on May 17, the Picture magazine of the Des Moines, Iowa, Sunday Register published an article on an unusual program, the brainchild of two Iowans.

Written by the able Reporter Ed Heins, it tells the story of the role of an eye bank network of ham radio operators in providing communication between eye banks throughout the country that have corneas, and those that have emergency needs but no local supply.

According to the article, the original idea and the organizing force in making the network a reality came from Dr. A. E. Braley, head of the State University of Iowa Hospital's eye department, and Ted Hunter, a psychology professor and inventor at the university.

This warm story merits the interest of everyone who believes in humanitarian efforts by those who care.

I ask unanimous consent that the article entitled "Amateur Radio Links Donor and Receiver as Amazing Eye Bank Network Saves Iowan's Sight," may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMAZING EYE BANK NETWORK SAVES IOWAN'S SIGHT

(By Ed Heins)

Two years ago, an Iowan lost his sight because the State University of Iowa eye bank in Iowa City didn't have a cornea available for an emergency transplant operation. This year, Ralph Paysen, of Camanche, a student at Iowa State University in Ames, underwent a similar emergency. But, this time, the eye was available in time.

The difference: the unique eye bank network.

Ham radio operators in cities across the country which have eye banks have banded together to provide an eye clearinghouse. The network provides communication between eye banks that have corneas and those that have emergency needs but no local supply.

The original idea and the organizing force which made the network a reality came from two Iowans, Dr. A. E. Braley, head of the State University of Iowa Hospital's eye department, and Ted Hunter, a psychology professor and inventor at the university.

MORE THAN 50 CITIES NOW ON THE NETWORK

After the Iowan lost his sight 2 years ago because there was no cornea available, Dr.

Braley and Hunter decided to do something about it. The supply problem occurs because transplant operations must take place within hours after an eye donor dies. Doctors haven't been able to preserve the eyes for long periods as they can blood for transfusions. Although the Lions Clubs across Iowa, who sponsor the Iowa Eye Bank, have signed up thousands of potential donors, an Iowa donor's eyes aren't always available at the exact time an emergency occurs.

But, Braley and Hunter felt there would certainly be an eye available somewhere in the country if they could just inform the other eye banks of their needs. The communication answer was a natural for the two because they are both amateur radio operators with ham friends across the country.

The network first went on the air in December 1962, with 15 stations. The network now involves ham operators in more than 50 cities.

THE RESPONSE WAS IMMEDIATE

Braley and Hunter join with two others, Dr. C. D. (Kip) Adams and Gene Weiner, to man the Iowa City station on the ham network.

Ted Hunter says, "The eye bank network arranged for transportation of 270 eyes for emergency operations from the time we started until the end of April this year."

He adds proudly, "I don't think we've ever missed getting an eye for an emergency."

Only emergency requests are put on the network on the regular 7 a.m. and 7 p.m. programs. There is a minimum of conversation during the twice-daily sessions, with only those operators who need eyes or who have some doing the talking.

It was 7 p.m. early in April when Dr. Braley came on the network to ask for an eye to use for the corneal transplant for the Paysen youth. The response was immediate from Omaha. By the next morning, the eye had been shipped to Iowa City and the operation was undertaken.

Paysen went home late in April to recuperate. He plans to stay out of college until next fall when he'll be back at Iowa State.

The record of success for the ham radio network has been fine but it wasn't accomplished without effort on the part of many people. Braley says one of the problems during the early days was in getting cooperation from the doctors in eye banks in other cities. "The doctors didn't understand that ham operators could actually communicate anywhere in the country," he explains.

THE BLIND HELP, AS DO THE CRIPPLED

The Iowa City station had a chance earlier this year to take part in one of the most distant shipments of eyes. An Iowa donor's eyes were used to save the sight of two young girls in Hong Kong. Arrangements for the shipment were handled by ham operators of the eye bank network.

Many of the hams are handicapped. Travis Harris, the Oklahoma City contact, is blind, as is the radio operator at Topeka, Kans. Jim Breckenridge at Denver is crippled with war wounds.

But young Ralph Paysen, recovering from his operation on his family's Clinton County farm, is good evidence that the hams across the country know how to make their system work.

SITUATION IN SOUTHEAST ASIA

Mr. MILLER. Mr. President, like all other Americans, I am hopeful that out of the top-level talks recently held in Hawaii will come the assurances of more definitive action to end the demoralizing situation existing in southeast Asia.

I hope that the talks will not result in substituting more impatient motion for considered solutions. I hope that any decisions forthcoming will portend the end of the kangaroo foreign policy which appears to be the basis of our operations in so many parts of the world—a policy premised upon a determination of how many ways it can jump without pursuing a definite course.

The problem in southeast Asia, as now appears to be recognized, cannot be shoved aside until after the elections in November. Now is the time for firm action, unless we are willing to reconcile ourselves to the belief that all is lost in southeast Asia, especially in South Vietnam and Laos.

As New York Times Correspondent Peter Grose observed last Sunday, the danger we now face in southeast Asia is a psychological collapse. If we cannot shore up the sagging morale by firm action demonstrating that we believe in the cause of freedom, then we may as well withdraw from southeast Asia.

Let us hope that whatever action we may take will not be too late.

I ask unanimous consent that the New York Times article of May 31, entitled "The War in South Vietnam: Even Optimist Is Gloomy," may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE WAR IN SOUTH VIETNAM: EVEN OPTIMIST IS GLOOMY

(By Peter Grose)

SAIGON, SOUTH VIETNAM, May 30.—In South Vietnam today it is the optimists who think the war will be a long one. Pessimists look for some critical decisions much sooner. They fear that political developments in South Vietnam will bring an end to 10 years of pro-Western government.

In between are those who look for a deliberate extension of the campaign—a redrawing of the West's military perimeter in southeast Asia to present a more tenable line of defense against Chinese Communist expansionism.

[In Dalat, four generals who were members of the former ruling junta were freed, reliable Government sources reported. They were arrested when Maj. Gen. Nguyen Khanh seized power in Saigon January 30.]

To all observers it is clear that the Vietnamese-American war effort against the Vietcong is in serious trouble.

NO SUDDEN DETERIORATION

Nothing drastic has just happened in South Vietnam; there has been no sudden deterioration. If anything the last 4 months under the Government of Premier Khanh have been scattered and superficial improvements in many important sectors.

Nor does the trouble arise from a fear of imminent military defeat. The Communist insurgents have shown increased military capability in recent months, but their own propaganda organs are the first to concede that a purely military decision is well beyond their grasp.

The danger the Vietnamese and Americans alike now fear is a psychological collapse.

Internally, there is a clearer manifestation of weariness with a war that seems to lead not to peace but only to more war.

Externally, there is turmoil in neighboring Laos and Cambodia and the feeling that if any new international negotiations are undertaken concerning those countries, readjustments in South Vietnam will naturally follow—and not necessarily to the benefit of the West.

External psychological pressure comes also from Paris, where President de Gaulle points the way to just the neutralism that the pro-American leaders here fear most. It also comes from the United States, where an election campaign indicates that Americans are far from united in support of a long and costly war.

Compared with 4 months ago, or even a year ago, the most cheering fact to American observers is the character of South Vietnam's Premier, the jaunty young general who took power last January 30.

"Under General Khanh this country has a better government than at any time in past years," said a senior American policymaker.

It was a year ago that Buddhist opposition to President Ngo Dinh Diem flared into the open and started the crisis that led to his downfall last November. General Khanh supplanted the junta that had ousted the Ngo family's regime.

General Khanh's energy and swift footwork have not flagged since the day he seized power in the inauspicious circumstances of a coup d'etat that no one seemed to expect or want.

Against many predictions, he has kept several steps ahead of those who wish him ill. The idea of another coup or of a reshuffle under the threat of force seems less and less attractive—except to those who see that as a way to end the war.

Assassination is a different matter, but for a man undoubtedly in this danger, General Khanh seems amazingly relaxed and confident. He has two houses in Saigon and lives in one or the other without a fixed pattern. Avoiding the tight security that used to surround Mr. Diem, General Khanh is easily accessible and frequently mingles with the people.

The Premier quickly found a loyal supporter in the U.S. Secretary of Defense Robert S. McNamara who, associates say, has stepped out of character to become personally, even emotionally, committed to the 36-year-old general.

"If anyone can do the job here, Khanh is the man," said one Washington-based official. To observers here the "if" clause weighs heavily.

The hard truth is that General Khanh seems to have nothing keeping him in power except his own shrewdness—and U.S. support.

American fieldworkers report that the name of Nguyen Khanh and the picture of the round-faced man with the little goatee have become more familiar to people in the countryside but have failed to arouse any feeling of loyalty.

"He seems to be just another man at the top," said one civilian official in the provinces.

There is no evidence of a widespread willingness to fight for Nguyen Khanh or, for that matter, for any government Saigon has offered in recent years. This fact alone indicates the size of the task confronting those who are trying to mobilize the civilian population.

Premier Khanh's efforts to establish a strong political base of support, if only among the politically articulate of Saigon, have failed to make even 4 months' worth of progress.

POLITICAL PROBLEM BIGGEST

In relaxed moods General Khanh admits that the political side of his job is the one that gives him the most trouble and the one that, as a former army field commander, he least reckoned with.

Since the January 30 coup the main political voice has come from the old Dai Viet, or Greater Vietnam Party, a nationalist and anti-Communist movement dating from the 1930's.

But the Dai Viet cannot speak with one voice. Through years of clandestine activity while the party was illegal before and during the Ngo regime, its allegiances have become fragmented and tenuous.

The recognized leader of the predominant faction is the quiet and unimposing Nguyen Ton Hoan, General Khanh's Deputy Premier for Pacification, who rushed home from his Paris exile within days of the January coup expecting to be Premier.

When General Khanh saw that the naming of a prominent politician to the top position would only alienate all other groups, Mr. Hoan had to be content with a second-rank job. His relations with General Khanh have frequently been abrasive, but, despite the urgings of some of his followers, he has chosen to stay in office.

AMERICAN BLIND SPOT

U.S. officials who long tended to overlook Vietnamese political activity as simply the "quibbling of civics students" are suddenly realizing their fault. If the politicians are not capable of governing, it is recognized, they and their army contacts are fully capable of delivering the coup de grace to the pro-American, pro-war government.

Except for leading members of the Dai Viet, few political figures have rallied to the Khanh government. Their argument is that they want to wait and see—to see whether the Khanh government really intends to pursue the social revolution that the overthrow of the autocratic Ngo dynasty was to unleash.

Observers, both foreign and Vietnamese, see a more unsettling motive behind the unwillingness of ambitious political figures to be associated with Nguyen Khanh and Robert McNamara.

Through 25 years of war and political upheaval—the adult life of most Vietnamese public figures—the instincts for self-preservation have become highly developed. A few Vietnamese given to frankness will acknowledge their attitude to close friends.

"If the Communists or neutralists take over here, I do not want to be identified with the war government," said one.

The implications of this belief explain the new-found interest of Americans like Ambassador Henry Cabot Lodge in the intricacies of party politics.

NEUTRALIST FRONT USED

The mechanism for the Communists' planned takeover of South Vietnam, working under the guise of neutralism, is the National Liberation Front of South Vietnam the political organization of the Vietcong.

The second Indochina war was already well underway when this revolutionary party was founded with North Vietnamese guidance on December 20, 1960.

At its first congress in February 1962—held, by coincidence, in the week that the U.S. Military Assistance Command was established in Saigon—the front affirmed the political goals it still retains: the end of the war, the withdrawal of all U.S. troops and the establishment of a neutral area in Indochina comprising South Vietnam, Cambodia, and Laos.

Advocates here and overseas of a neutralist solution can put forth many arguments, but one cannot be that it is a compromise since neutralism is what the Vietcong have announced they are fighting for.

The president of the National Liberation Front is a Saigon lawyer, Nguyen Hu Tho, who, his friends say, entered politics in March 1950, when he led an anti-French demonstration. Formerly a prominent figure in Saigon, Mr. Tho is well known to most politicians now active here.

LEADERS CONSIDERED OUTLAWS

Leaders of the front are, of course, considered outlaws by the Saigon authorities. They are believed to operate between the North Vietnamese capital of Hanoi and the front's headquarters in Cambodia.

Two key questions about the front are preoccupying intelligence officials: What success is it having in winning non-Communist Saigon politicians over to its antiwar platform? How does France's advocacy of neutralism relate to the same policy of the front?

Evidence on either point is hard to come by.

French involvement with the front, and even with the Vietcong fighing forces, has been rumored without proof.

General Khanh has charged that French agents were active with members of the former military junta to introduce a neutralist settlement. Three Frenchmen were quietly expelled 2 weeks ago; one of them a 36-year-old teacher said to have led a society of students and intellectuals advocating neutralism.

In April a well-qualified American military adviser in central Vietnam reported that he had spotted a white man who spoke French accompanying a Vietcong unit of about two companies along a remote road.

EVIDENCE IS OBSCURE

Earlier this year a well-known French officer living in Saigon was seen in several hamlets in the Mekong Delta openly advocating the policy of neutralism.

Evidence on contacts between the National Liberation Front and Saigon politicians is even more obscure. The politicians themselves acknowledge that these contacts exist, both through friends in Paris and Pnompenh, the Cambodian capital, and through Vietcong agents in Saigon.

Even the anti-Communist Dai Viet does not escape these suspicions.

The immediate purpose of the front's activity is to bring about a government in which members of the front, or Communist sympathizers, would participate alongside other parties, the classic prelude to a Communist takeover.

There is a third force in South Vietnam that shows more cohesion and countryside strength than either of the others: Buddhism, the family religion of about 70 percent of the people.

The display of Buddhist loyalty and organizational ability at celebrations this week was awesome. Ceremonies across the country recalled that it was Buddhists who first opposed Mr. Diem successfully. Indeed, many observers credit them with having brought about his downfall through pressure on the army.

BUDDHIST-CATHOLIC TENSIONS

Buddhism triumphant has angered many Roman Catholics, even those not closely identified with the Catholic-dominated Ngo regime. Buddhist-Catholic tensions may flare at any time despite pleas of moderation from both sides' leaders.

No one—perhaps not even the Buddhist leaders themselves—appears to know where the Buddhists will turn next. Their stand is not against the government, nor is it for the government. The belief is that as Buddhism goes, so goes Vietnam.

On the military side of the struggle, there is no indication that any amount of aid can enable the government to defeat the Vietcong except after a long period of concerted political effort at the hamlet level. However, time is a luxury neither Saigon nor Washington can reasonably expect to be granted without the intervention of external developments.

By the same token, the Vietcong are incapable of forcing a military decision so long as the government controls the air with American planes. Military and other moves thus assume importance mainly for their psychological effect.

Acts of terrorism in Saigon and in the countryside have received wide attention in recent months. President Johnson cited an upsurge in terrorist activities as a main reason for increasing aid to the Vietnamese war effort.

In fact, terrorism for specific psychological purposes has been a principal Vietcong weapon since the insurrection began in 1957.

VIETCONG MILITARY PATTERN

The Vietcong military pattern is the same both in the strategic Mekong Delta, where the bulk of South Vietnam's population, which exceeds 15 million is concentrated, and in the central provinces. The pattern is economy of effort to produce maximum psychological gain and a reluctance to engage in any actions that would make them vulnerable to large-scale action, particularly from the air.

In the southern provinces, the Vietcong have found one answer to the drawback of vulnerability—the sanctuary of Cambodia. It is no coincidence that most of the spectacular recent Vietcong attacks have taken place within reach of the Cambodian frontier.

The South Vietnamese Government, relying on detailed intelligence reports, has charged that the Vietcong are using Cambodian territory systematically to train and regroup their forces and launch attacks. Cambodia has denied the charges.

The proposal to station a United Nations force along the frontier is aimed at ending any tactical aid to the insurgents. As such it could remove one source of Vietcong strength in the delta, though there is little reason to think longstanding Vietcong bases and support in the villages would suffer significantly.

Another situation outside South Vietnam has affected the Vietcong military posture in the central provinces. This is the question of Laos, specifically the control of the Laotian border area along a strategic highway route that has been used by the pro-Communist Pathet Lao forces.

ROUTE FOR INFLATION

This has opened a relatively direct way for political infiltrators from North Vietnam. They have been detected in propaganda and terrorist activity all the way to the coastal plains, once tightly controlled by Saigon.

This is the tense and insecure military position from which General Khanh, aided by the United States, is starting a long-neglected bid to win back the countryside.

It would take time for the best army in the world to make headway against insurgents entrenched in the hamlets during the years of Government inaction. The South Vietnamese Army is clearly not the best.

Most observers believe that the army's doubts and confused loyalties are merely reflections of the insecurities that affect the population at large.

Premier Khanh has been widely criticized abroad for many of his command changes with consequent dislocations that interfered with vital tasks. Some have indeed been disastrous, but in less spectacular positions, the many of his changes have been for the good, in the opinion of American advisers.

On the other hand, one of the main domestic criticisms has been that General Khanh has not replaced enough of the subordinate officials left over from the Ngo regime.

American reactions to events in Vietnam are watched with acute interest here, for the Vietnamese know that decisions critical to the fate of southeast Asia lie in Washington.

After Senator BARRY GOLDWATER discussed ideas about the use of atomic bombs in Vietnam, a local newspaper editor called up an American correspondent in a mixture of despair and anger.

"What kind of information are Americans getting that they could have such ideas?" he asked. "Don't they realize there are no military targets in this war?"

Recent impressions issuing from official Washington seem to observers here to be closely related to the presidential election campaign.

When pessimism appeared in statements after Mr. McNamara's last visit, it was not derived from any new military or political crisis here. It seemed, rather, to follow upon the realization that the problems here cannot be pushed aside until after the election and that the full dangers of the gradual erosion of recent months should not be underplayed.

The American effort is going through much the same phase of reorientation and improvement that Premier Khanh is giving to his Government—with the concomitant fear that it may be too late.

Some of the best American efforts have gone unnoticed recently, because, as one senior official pointed out, "they were to prevent catastrophes which then did not occur."

Officials from Secretary McNamara down seem committed to the strategy of pacification through civic and political action rather than relying on purely military moves. Little more than lipservice has been paid to the policy for years.

TRUTH IN LENDING

Mr. ROBERTSON. Mr. President, the recent statement of the distinguished senior Senator from Illinois [Mr. DOUGLAS], that it is necessary to pass his "confusion in lending bill," because State laws are no good and State officials are no good, is typical of what is happening on the floor of the Senate. The Senator tells of a crime organization which is openly and blatently violating the lending laws of his own State, but he says that we must have his bill to control the situation if we are to have any law enforcement.

There are many State laws and statutes for the protection of civil rights, and there are many provisions in the Federal code; but we are told that State laws are no good, that if there is a local jury in a Federal court it is no good, and that we must have a law creating new crimes and placing them in the hands of a Federal judge to impose the penalty—all because, so we are told, State laws and State juries are no good. A proposal has even been made—on the theory that States can no longer be dependend upon to send honest men to the Senate—that we must have a new code; that we must have a group in the Senate to pass on one's honesty, that a Senator must disclose almost every detail of his income and make the information public and available to the press, to all the pressure groups, and to all his opponents as well.

The charge has been made that the lending bill has been stalled in the committee. Those were the words of the Senator——

Mr. DOUGLAS. That is correct.

Mr. ROBERTSON. All right. I referred the bill to the Senator's subcommittee, and his subcommittee stalled it for more than 4 years. He was partially responsible for the stalling, because after he resorted to the unprecedented procedure of going to New York, Boston, and elsewhere for hearings, he held up the printing of the record of the hearings for 7 long months. Now, suddenly, the Senate cannot meet in the morning without the charge that the committee has stalled his bill.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. ROBERTSON. Mr. President, I ask unanimous consent that I may proceed for 3 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERTSON. Think of it. More than 4,000 pages of testimony have been taken before the Banking and Currency Committee, and a similar bill pending all that time on the House side, not one witness has testified on the House bill. All the States in the Union have had the privilege of adopting a bill like S. 750, and not one would adopt it. But the States are no longer any good, we are told. The Federal Government must move in and legislate if we are to save the Nation. This is one instance in which, without any constitutional authority, we are moving in on the States and we may soon have interest rate controls as well as the discourse requirements.

I am calling a meeting of the committee to consider this bill and other bills next Tuesday morning, on the understanding that the Senate will not meet until 12 o'clock next Tuesday.

Mr. MANSFIELD. Mr. President——

Mr. ROBERTSON. I yield to the Senator from Montana.

Mr. MANSFIELD. Would the Senator consider the possibility of calling a meeting of his committee on Monday?

Mr. ROBERTSON. The Senator, with all due deference, has never called a subcommittee meeting on a Monday except on one prior occasion when we could not obtain a quorum. In recent years we have abandoned the effort to obtain a quorum——

Mr. MANSFIELD. I am referring to Monday.

Mr. ROBERTSON. The committee will not meet on Monday, but it will meet on Tuesday, on the assumption that the leadership will be able to provide an opportunity. We do not wish any more debate. At 1 o'clock the Senate will vote. But if the Senate is going to meet at 10, I will have to call off the committee's meeting at 10.

Mr. MANSFIELD. It is anticipated that the leadership will try to obtain unanimous consent to recess at the conclusion of business tomorrow until noon on Monday, and then at the conclusion of business on Monday to recess until 10 o'clock on Tuesday. What I am thinking of, at the moment, is the very deserving plea and the attempts being made by the distinguished senior Senator from Florida to have the galvano joint resolution reported by the committee, which would cost nothing. The joint resolution is most meritorious, and marks a moment of great historical significance on the 13th of this month. I hope that some way can be found to dispose of it.

Mr. ROBERTSON. The Senator from Virginia has said there is no objection to it. I have no objection to the committee's being discharged. It is the distinguished Senator from Illinois [Mr. DOUGLAS] who is holding up the joint resolution. The chairman is not holding it up. Any time the Senate wishes to do so, it can pass that measure by unanimous consent.

Mr. MANSFIELD. That is right.

Mr. ROBERTSON. I am calling a meeting for Tuesday in the hope that it can be passed by unanimous consent. If some Senator objects, it will not be the Senator from Virginia. So I am saying that next Tuesday morning, at 9:30, there will be a meeting to consider a nomination to the Export-Import Bank. They only have a quorum of the Board of the Export-Import Bank, and when any member of that Board is abroad, it is very difficult for them to carry on business.

The PRESIDING OFFICER. The additional time of the Senator from Virginia has expired.

Mr. ROBERTSON. Mr. President, I ask unanimous consent that I may have additional time to explain further.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTSON. The Board is having great difficulty under these circumstances. This nomination was submitted on the 2d of April and the committee has not been able to meet. The nominee is a very distinguished lady from Massachusetts. I received a letter today from the President of the Bank urging confirmation of the nomination. So I am calling a meeting at 9:30 on Tuesday to consider that nomination. At 10 o'clock consideration will be given to the galvano measure, the forest tract bill, the credit union bill, and S. 750.

Mr. MANSFIELD. Mr. President, would the Senator call up the galvano measure at 9 o'clock? The committee will not be able to meet after 10 o'clock on Tuesday.

Mr. ROBERTSON. What day is the Senator referring to? If it is Tuesday of next week, the Senate will not meet until 12 o'clock on Tuesday. I have before me the RECORD of yesterday, from which I read, at page 12733:

> ORDER FOR CONVENING OF THE SENATE AT NOON ON TUESDAY, JUNE 9
>
> Mr. HUMPHREY. Mr. President, I ask unanimous consent that when the Senate concludes its business on Monday next, June 8, it stand in recess until noon on Tuesday, June 9.
>
> The order was entered.

Mr. MANSFIELD. That was done by mistake. The Senator from Minnesota [Mr. HUMPHREY] did not have information with respect to commitments which the leadership had made. I should like to get the galvano measure out of committee. It means a great deal to Pensacola and to Florida.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HOLLAND. I thank the majority leader. He has been very helpful, as has also the minority leader, in connection with the effort to have this little, harmless measure passed. It would not cost the Federal Government a penny, but it would mean a great deal to Pensacola, in that it would mark the 50th anniversary of the great Naval Air Training Station at Pensacola.

The Senator from Virginia has stated that he will not object to discharging the committee. My distinguished seat mate, the senior Senator from Oregon [Mr. MORSE], has stated that he will not object, as he customarily does. The minority leader and the minority group have agreed to the proposal.

If I may be heard to make a unanimous-consent request, I should like at this time to ask unanimous consent to discharge the Committee on Banking and Currency from further consideration of House Joint Resolution 889, commemorating the golden anniversary of the Naval Air Station, Pensacola, Fla., and authorizing the design and manufacture of a galvano in commemoration of this significant event.

My colleague from Florida and I, as the joint sponsors of a similar joint resolution, introduced it in January. It seems to me that if there be any such thing as comity in the Senate, this matter could be very quickly disposed of.

Mr. ROBERTSON. I shall not object. I hope no other Senator will object.

The PRESIDING OFFICER. Is there objection?

Mr. DOUGLAS. Mr. President, reserving the right to object—and I do not intend to object—I should like to take the floor on a matter of personal privilege, to reply to certain remarks made by the Senator from Virginia [Mr. Robertson].

The Senator from Virginia has said that I held up the last reports for 7 months.

If he will look at the record, he will find that the last hearings were held in Boston on January 11. I should like to ask him if that is or is not the fact.

Mr. ROBERTSON. That is correct, but the Senator had authorization to hold hearings. It took him 7 months to do it.

Mr. DOUGLAS. We were holding our last hearings in Boston on the day that President Kennedy was assassinated. Of course we recessed those hearings out of deference to our beloved President. The next time we continued the hearings was on January 11.

We sent the proofs to the various witnesses, and the report was issued as promptly as it could be issued.

Therefore I hope the Senator from Virginia will withdraw his statement that I held up the printing of the hearings for 7 months.

Mr. ROBERTSON. I withdraw that statement. The hearings were authorized by the committee in July 1963, and the printed volumes of testimony were not finished until March of this year. The Senator has no right to say that I stalled the hearings, when he stalled them. I do not withdraw that statement.

Mr. DOUGLAS. Hearings were held in Pittsburgh, Louisville, and New York. We were scheduled to hold hearings in Boston on November 22 and 23 of last year. President Kennedy was assassinated on the 22d. After the morning hearing was held we recessed further hearings, with the understanding that we could return later. There has been no stalling whatever in any respect so far as the Senator from Illinois is concerned.

Mr. ROBERTSON. I shall give the distinguished patron of the bill an opportunity to obtain a vote next Tuesday. I hope that at that time the majority will lay the bill on the table, reconsider the vote, and kill the bill. I think that is what should be done.

Mr. DOUGLAS. Who has the floor?

Mr. ROBERTSON. I have the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOUGLAS. I ask for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. I have always been ready to attend any meeting at any hour that the Senator from Virginia might designate. I was present at 10 minutes to 10 on Wednesday, ready to take part in reporting the galvano measure and in bringing up S. 750. The morning hour was closed suddenly, and a second quorum call was had at 10 minutes to 10. It was necessary to hold up the meeting. The chairman adjourned the hearing, because he did not believe the committee should meet while the Senate was in session.

I have been trying to obtain a meeting of the full committee on S. 750 since March 16. There has been one delay after another; one device after another. I hope there will be an early decision on this matter. I understand the Senator's opposition to the truth-in-lending bill.

I have no objection to the plea of the Senator from Florida. It is a somewhat unusual procedure to go through, to discharge a committee. I have voted to discharge committees in the past. I certainly shall not object in the future. I do believe that the Senator from Florida has, in general, opposed discharging a committee to consider measures directly. I have no objection to the galvano measure. I am ready to join my colleague from Virginia, and I hope the Senate will pass the joint resolution.

Mr. HOLLAND. I thank my distinguished friend from Illinois very warmly. I ask the majority leader if he has any objection to the immediate consideration of Senate Joint Resolution 889.

Mr. MANSFIELD. I have no objection.

COMMEMORATION OF THE GOLDEN ANNIVERSARY OF THE NAVAL AIR STATION AT PENSACOLA, FLA.

Mr. HOLLAND. Mr. President, I ask unanimous consent that the Committee on Banking and Currency be discharged from the further consideration of House Joint Resolution 889, and that the Senate proceed to consider it at this time.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The Legislative Clerk. A joint resolution (H.J. Res. 889) commemorating the golden anniversary of the Naval Air Station, Pensacola, Fla., and authorizing the design and manufacture of a galvano in commemoration of this significant event.

The PRESIDING OFFICER. Is there objection? Without objection, the Committee on Banking and Currency is discharged from the further consideration of House Joint Resolution 889. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 889) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. HOLLAND. On behalf of my colleague [Mr. Smathers] and myself I thank all concerned—the chairman of the committee, the leaders on both sides, the distinguished Senator from Illinois, and the distinguished Senator from Oregon. Apparently graciousness has prevailed. I appreciate it very much.

INVESTIGATION OF ROBERT G. BAKER BY COMMITTEE ON RULES AND ADMINISTRATION — THE BAKER CASE

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent to have printed in the body of the Record an article by Mr. Henry Taylor which appeared in the June 3 issue of the Wilmington Morning News, entitled "Baker Case: The Lid on It Is Lyndon's."

There being no objection, the article was ordered to be printed in the Record, as follows:

Baker Case: The Lid on It Is Lyndon's

(By Henry Taylor)

This writer, for one, is entirely willing to assume that the Bobby Baker case does not involve Lyndon Johnson. But it does involve the office of the President of the United States. There's a difference.

Any President lives at two levels. He is a political man, the leader of the Democratic or Republican Party, a man who may want to win reelection, a campaign speaker, a partisan. But he is also the President of all the people, temporarily entrusted with the sanctity of that office.

This office—the Presidency of the United States—does not belong to him. He is merely passing through it. He is a wayfarer, a traveler, beholden to an office that is not beholden to him.

Mr. Johnson, however, claps the telescope to the blind eye.

Baker's political salt came from Johnson's table. Rumors, charges, denials—whispers, whispers everywhere—about his misconduct and influence peddling surged through Washington's well-watered grapevine for months before Baker finally left office on October 7, 1963.

This came 7 weeks before the Dallas horror. Mr. Johnson was Vice President. That Baker's influence was derived from Johnson is incontestable, although it is not so widely recognized that many—if not most—of Baker's alleged manipulations occurred after he stopped working directly for Johnson when the Texan became Vice President in 1961. Baker continued working under Senator Mike Mansfield, Democrat, of Montana, the new majority leader, and the continuity is there. He is associated in the Nation's mind everywhere as "Lyndon Johnson's boy"—which he was, and remained.

Johnson's Senate helper, Walter Jenkins, now in the White House (a completely different type of man from Baker and of notably superior character), is also deeply involved. Insurance Man Donald Reynolds' sworn testimony about kickbacks flatly contradicted Jenkins' testimony absolving Mr. Johnson. Yet the committee refused to recall Jenkins and the White House likewise refused to have Jenkins testify again under oath. Moreover, apparently all this is just the crust, not the core, of the coverup.

From the very beginning, in his role of a political man, Mr. Johnson has condoned the committee's stalling tactics (or they couldn't have occurred), the refusal to summon at least 20 additional witnesses produced by Senator JOHN J. WILLIAMS, Republican, of Delaware, and others, the spiriting abroad of the German girl who gave another phase of the smelly mess its British Profumo case odor. His power to reverse all this coverup—unused—makes Mr. Johnson the decisive participant. That is a tragedy, nearly as much as the mess itself, for Mr. Johnson does a disservice to himself.

Lyndon Johnson is the undisputed leader of his party. His party overwhelmingly controls the Senate: 67 Democrats, 33 Republicans. Seldom has the domination been so complete. It possesses the chairmanship of every Senate committee and holds the majority on every committee. It controls the Rules Committee, hearing the Baker case, 2 to 1: six Democrats, three Republicans.

A mere 1-minute phone call by Mr. Johnson to the committee could take the lid off the investigation and let the chips fall where they may. This would be bad politics but, in truth, the lid is on only because Lyndon Johnson permits it.

This is bad enough in Johnson, the political man, but in Johnson, the President, it is intolerable.

In exchange for his opportunity in the greatest office in the world each President faces a moral requirement. He is responsible to our Nation as a whole—and to the world this office so profoundly influences—for the safekeeping of its dignity, integrity, probity, and prestige.

Johnson, the President, must be a President in this matter and leave Johnson, the political man, behind. For 6 solid months his Presidential duty has made this demand. And this duty now requires him to countermand the investigation shutoff.

It's square in Mr. Johnson's lap. He's in charge. And his custodianship of the American Presidency prohibits giving the green light to a whitewash.

There are certain kinds of errors the Presidency cannot afford, and Lyndon Johnson is not entitled to make this one.

MISMANAGEMENT IN THE PROCUREMENT POLICY OF THE DEFENSE DEPARTMENT

Mr. WILLIAMS of Delaware. Mr. President, the Comptroller General has just issued two more reports in which he gives some more damaging examples of gross mismanagement in the procurement policies of the Defense Department.

In one report, No. B153721, dated June 2, 1964, he calls our attention to the illegal awarding of a $12 million contract at the Andrews Air Force Base.

In this instance on the same day that the bids were opened the Department proceeded to make modifications in the original specifications, with the result that an additional $1.2 million was added to the contract.

The original bid had been $13,000 below the second lowest bid. Rather than reject all bids and incorporate these modifications in the new specifications and allow all the contractors to bid competitively, the Lane Construction Corp., Meriden, Conn., was given the contract with the $1.2 million additional payments, and this change was approved by the Corps of Engineers.

The Comptroller General denounced this as unfair to the other bidders and raises questions as to the legality of the procedure.

Continuing in his report the Comptroller General charged that this action showed poor management or a lack of recognition on the part of the procurement officers of their responsibility to protect the taxpayers. I will go further and charge this as being an indefensible example of stupidity.

The second report to which I shall refer is dated March 24, 1964, No. B–153721, and refers to the construction and repair of concrete airfield pavements at Selfridge Air Force Base, Mount Clemens, Mich.

In this report the Comptroller General states that $2.7 million will be required to restore the pavements to operating condition because when the contract was first awarded the Corps of Engineers had approved specifications which permitted the use of materials that were known to cause serious pavement defects.

Worst yet, after having approved these specifications which permitted the use of inferior materials the contractor furnished and the Corps of Engineers accepted materials which did not even meet these inadequate specifications.

It is time that the Defense Department starts demoting and firing some of its own incompetent personnel.

I ask unanimous consent that the Comptroller General's letters dated June 2, 1964, and March 24, 1964, accompanying Reports Nos. B–146894 and B–153721, respectively, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Comptroller General of
the United States,
Washington, D.C., June 2, 1964.

To the Speaker of the House of Representatives and the President pro tempore of the Senate:

We found that the work contemplated under an advertised construction contract, for about $12 million after modifications, awarded to the Lane Construction Corp., Meriden, Conn., by the U.S. Army Corps of Engineers, differed so substantially in kind and quantity from that advertised that the contract must be considered as having been illegally awarded. Prior to award of the contract the Air Force decided that it required a new narrow-gage-type runway lighting system, and a decision was made to incorporate the change through a contract change order. The contractor also knew prior to award that this significant change would be made to the lighting system.

The new narrow-gage lighting that was subsequently added to the contract was estimated to cost $1.2 million. The estimated cost of the remainder of the lighting system included in the work for which bids were solicited was about $914,000. The known change in the scope of the work, therefore, was of such significance that it was inappropriate and illegal to award the contract in an unrevised form. To allow such a procedure would be grossly unfair to other bidders and would not afford the Government the full advantages of true competition.

Instead of awarding the contract for work significantly different from that known to be required, the contracting officials should have followed other methods available to them to assure that the Government received the best possible price. For example, they could have reissued invitation for bids after all known requirements were incorporated therein or, if time or other circumstances did not permit procurement by formal advertising, could have used competitive negotiated procurement.

The only proper method for payment under the circumstances is on the basis of the fair value of the work performed. Thus, the Army should make a study to determine the value of the work performed and recover any amounts paid to the contractor in excess of reasonable value. We are requesting that the results of the study be furnished to this office.

In a review of limited data available to the Government on the cost of work added to the basic contract by modifications, we also found indications of excessive costs of about $85,000 attributable to the contracting officer's failure to properly evaluate the contractor's cost proposals for the modifications. In making the study to determine the value of the work performed, agency officials should be particularly on the alert for excessive charges of this type.

This case illustrates that contracting officials must carefully consider all pertinent factors before bids are solicited and when negotiating prices for work to be accomplished under negotiated modifications to an advertised contract. The successful bidder has such inherent advantages that, as a practical matter, the Government is almost precluded from bringing free competition into modification negotiations. We are recommending that the Secretary of Defense bring this report to the attention of contracting officials to emphasize (1) the legal requirement for including in the invitation for bids the work actually required at the time of the award and (2) the possible adverse effects of amending advertised contracts by negotiated change orders.

We believe that the actions of the Army and Air Force officials responsible for the illegal award and the unnecessary and questionable expenditures in connection with work accomplished under modifications to the basic contract showed poor judgment and/or a lack of recognition of their individual responsibility for care and compliance with existing laws in managing their activity. Under these circumstances the Army and Air Force should consider the manner in which this responsibility was met in evaluating the performance of these officials in making future assignments.

Copies of this report are being sent to the President of the United States, the Secretary of Defense, and the Secretaries of the Army and Air Force.

JOSEPH CAMPBELL,
Comptroller General of the United States.

Comptroller General of
the United States,
Washington, D.C., March 24, 1964.

Hon. PORTER HARDY, JR.,
Chairman, Subcommittee for Special Investigations, Committee on Armed Services, House of Representatives.

DEAR MR. CHAIRMAN: Our examination into the construction and subsequent repair of concrete airfield pavements at Selfridge Air Force Base, Mount Clemens, Mich, disclosed that about $2.7 million will be required to restore the pavements to operating condition because, when the pavements were constructed in 1958 and 1959, the Air Force and the Corps of Engineers approved specifications which permitted the use of materials that were known to cause serious pavement defects. The pavement problem was made more acute when the contractor furnished, and the Corps of Engineers accepted, materials that did not meet even the inadequate specifications.

At your request, the contents of this report were presented by a representative of this Office at open hearings before your subcommittee on March 18, 1964. We therefore did not follow our usual procedure of obtaining comments from the interested parties, since these parties are being given an opportunity to appear before your subcommittee to present their views on the deficiencies disclosed.

As your subcommittee has this matter under review, we do not plan any further consideration of it at this time but will be glad to furnish any additional information you may desire.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

POLITICAL FUNDRAISING

Mr. WILLIAMS of Delaware. Mr. President, on May 26 I submitted Senate Resolution 332, the purpose of which was to instruct the Attorney General of the United States to investigate the charges that pressure had been exerted on civil service employees to make their $100 contributions to the Democratic Party in connection with recent fundraising dinners held in Washington on May 26 and in other parts of the country during this same period.

This resolution is pending on the Senate Calendar awaiting the disposal of the pending civil rights bill, at which time I shall ask for its consideration.

Yesterday there appeared in the Washington Post an article by Mr. Jerry Kluttz entitled "President Acts To Stop Pressure Fundraising."

I ask unanimous consent that this article be printed in its entirety at this point in the RECORD; however, I wish to add that while I commend the President for his belated interest in stopping this unlawful pressure which was being exerted upon the civil service employees, I regret that he did not become more interested in this proposal until after the damage had been done. I still insist upon consideration of the resolution which instructs the Attorney General to investigate these allegations and to report back to Congress.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, June 4, 1964]

THE FEDERAL DIARY: PRESIDENT ACTS TO STOP PRESSURE FUNDRAISING

(By Jerry Kluttz)

Even the best friends and defenders of big government are frequently discouraged and frustrated by its failure to follow orders and to carry out policies of the administration in power.

Clear-cut directives from the President are known to have been misinterpreted, or ignored, as they seep down through the huge bureaucracy. People down the line are apt to adopt a he-doesn't-really-mean-it attitude.

A recent incident that has just come to light best illustrates this point.

President Johnson, who must have long and sensitive ears, heard about a month ago that there were employees in General Services who felt they were being pressured to buy $100 tickets to the Democratic gala in his honor which was held last week in the armory here. (Similar complaints were made to this reporter.)

The President's temper flared. He dashed off a quick note to Budget Director Kermit Gordon in which he demanded an immediate end to any pressure-selling tactics if an inquiry revealed their existence.

Mr. Johnson made it unmistakably clear that he didn't want civil servants to be solicited to buy tickets in Government offices (a clear violation of the Corrupt Practices Act) or to be pressed to buy them under any circumstances.

Since the problem was of such a delicate nature, Gordon sent his trusted executive assistant, William D. Carey, the Bureau's top career civil servant, to GSA to check the report and to talk with Administrator Bernard L. Boutin.

Boutin expressed surprise at the charge. He said he had warned his top staff that there was not to be any arm-twisting of employees to buy tickets. He did observe that an increasing number of his employees had bought tickets in each of the years he had been here and he assumed they did it voluntarily.

The GSA Administrator followed up by reading the riot act to his staff and by threatening to fire anyone who violated his no-pressure policy.

Word was relayed to the White House that the GSA matter was well in hand but the President wasn't completely reassured until he was given a statement, signed by both the Budget Director and Boutin, which in effect certified that it was a fixed and firm GSA policy not to subject employees to pressure of any kind to buy the tickets; that they had no knowledge of any pressure being used, and that an inquiry had failed to turn up any complaining employee.

From what I could learn at GSA, any eager-beaver official who thought he could gain favor with his boss by selling tickets to his underlings changed his tactics after the Boutin blast. I've had no recent complaints from GSA employees. Apparently the word got through there.

The main point of this story is that the President's policy was passed along to Cabinet members and agency heads but the no-pressure message either did not get through to them or down to their chief subordinates. Perhaps a few just thumbed their noses at the policy.

In any event during the couple of days preceding the May 26 gala, employees at State and elsewhere were openly solicited at their offices to attend the affair. Incidentally, the last hasn't been heard of State's participation in the political fund-raising affair. A "quiet investigation" is slated and if it reveals that the ticket-selling tactics used there were as "brazen" as charged, the offenders will get more than a slap on their wrists.

A career official in another agency was visited by a political superior after the gala to ask why he didn't attend and to hint he had let the Secretary down and that he better buy a ticket next year.

Some of the most interesting reactions have been reported to me from half a dozen different persons in different agencies. In each case these people say they are Democrats who are anxious to support their party and they consider the gala as something of a bargain because they would have made contributions anyway.

But these career people agree that the tactics and methods used to sell tickets give them and their colleagues a feeling that this is a form of "political blackmail" to insure their having no job troubles. This they resent. They fear its deadening effect on the merit system if it's continued and unless political fundraising is completely divorced from their jobs and their offices.

Representative NELSEN, Republican, of Minnesota, has called on the Civil Service Commission to investigate agency pressures on employees to buy tickets to the gala. He said he can refer CSC to cases of employees in Rural Electrification who were solicited in their offices. He's a former RFA administrator.

But Democrats don't have a complete monopoly on fundraising in Federal offices. The Republican National Committee recently sent letters to a few employees at their offices here (a violation of law) to solicit contributions for its sustaining fund.

Next year is another year and surely there will be another fundraising affair. If Mr. Johnson is President, as the political experts assume, his refreshing views on political fundraising should be made known throughout the Federal service. If that happens, I suspect the gala will raise just as much or more money than it did this or last year.

DESECRATION OF THE AMERICAN FLAG

Mr. METCALF. Mr. President, June 14 will be Flag Day. We as a people will pause to recall the day when our ancestors in the Continental Congress of 1777 adopted the Stars and Stripes as the symbol of our national unity. I am therefore saddened that I must bring to your attention at this time an abuse of our beloved national emblem.

A certain segment of our population in recent years has appointed itself official protector of God, the dollar, and the flag—not necessarily in that order. These people are often referred to as superpatriots because of their tendency to swathe themselves in the Stars and Stripes.

Many of us have long felt that rather than protecting and furthering the causes they espouse, these self-anointed patriots are actually doing their country a grave disservice. There are those who have been so unkind as to suggest that some of the leaders of this group are motivated by something other than love of country—especially when they brag about how profitable it is to be patriotic.

Thus, although it should not have surprised me, I must confess I was both shocked and saddened to learn last week that one of these superpatriotic elements is actually desecrating the American flag by using it for advertising and decorative purposes on articles of merchandise.

One of the articles of merchandise to which I refer is the postcard I hold here. It was sent to me by a gentleman in Angleton, Tex., with a legitimate message and the best of intentions. As you can see, the picture side of the card is devoted entirely to a representation or replica of the American flag. On the other side is the stamp, the postmark, the address, and his message.

Also on the message side of the card are printed the following words of advertising:

Cards available 50 cents per dozen or $4 per 100 from Poor Richard's Book Shop, 5403 Hollywood Boulevard, Los Angeles 27, Calif., trade distributor.

Another article of merchandise is this bumper sticker with a picture of the American flag in between the words "Honor It—Defend It." The sticker also carries the message:

> All rights reserved by Poor Richard's Book Shop, 5403 Hollywood Boulevard, Los Angeles, Calif.

Poor Richard's Book Shop, Mr. President, specializes in rightwing, John Birch type extremist literature. Some of my colleagues may remember that this was one of the rightwing businesses which 2 years ago was distributing a phony statement, attributed to Soviet Premier Khrushchev, inferring that the President of the United States, Members of Congress, and other elected officials are Communist stooges. The other firm was Coast Federal Savings & Loan Association, also of Los Angeles, whose president, when confronted with the falsity of the statement, said that if it was not an exact quote; it was "a summary of several things Khrushchev has said." See CONGRESSIONAL RECORD, volume 108, part 3, page 3676.

Poor Richard's Book Store is owned by a Mr. Frank X. Ranuzzi, a member of the advisory boards of two rightwing organizations—the Conservative Society of America and the American Committee To Free Cuba. Both organizations have close ties with the John Birch Society as a result of similar purposes and philosophies and interlocking directorates. Mr. Ranuzzi is also the author of a collection of poems entitled "The Death of Joe McCarthy—A Tribute and a Revelation." A sample of one of his poems goes like this:

> A general named Eisenhower welcomed them in
> To raise Hammer and Sickle over Berlin.

Mr. Ranuzzi's patriotic bookstore is apparently quite profitable. According to a Montana newspaper editorial, he has purchased a $21,000 ranch home—which he uses only as a summer home—in the beautiful Sleeping Child area of western Montana.

At any rate, Mr. President, these American-flag postcards and flag-decorated bumper stickers are cheap commercial gimmicks which clearly violate both the letter and the spirit of our National and State laws pertaining to misuse and desecration of the flag.

For example, title 36, chapter 10, section 176, paragraph (i) of the United States Code provides as follows:

> The flag should never be used for advertising purposes in any manner whatsoever. It should not be embroidered on such articles as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard.

Most if not all of our States have laws making it a punishable crime to manufacture, sell, give away, or expose to public view any article of merchandise upon which is printed, painted, attached, or otherwise placed a representation of the flag to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed.

My State of Montana has such a law. The District of Columbia has such a law. The State of Texas has such a law. And the State of California has such a law.

Thus, Mr. President, not only is Mr. Ranuzzi guilty of violating the law, but whoever is making these items for him is also guilty. Further, it would seem that anyone who places one of the flag-decorated bumper stickers on his car—and thereby exposes it to public view—also would be subject to prosecution for violating our flag laws.

It will be claimed, I am sure, that those who make and sell these items have no intention of desecrating the flag. I am sure this is correct, but it is no excuse for the thoughtlessness and disrespect they demonstrate by placing the flag in a position where it will be soiled and stained.

With the bumper stickers, for example, the flag is exposed to defilement by the dirt and oil of the highway. And with the postcard, we have a situation where the American flag is run through postal canceling machines. The card I received, arrived on my desk with ink smudges and cancellation marks on the flag itself.

Mr. President, I do not relish the prospect of some day receiving a Fascist or Communist message on the back of a soiled American flag.

I hope the appropriate State authorities will take immediate action to halt any further manufacture and sale of items such as these.

HIGHER EDUCATION IS AN INVESTMENT, NOT A COST

Mr. HARTKE. Mr. President, there is a change in the way in which we view a college education. Traditionally, it has been an asset which families considered for their children only if they felt they could afford it economically. Higher education, as an item of cost beyond the modest resources of the great majority of families, has been largely confined to those of middle and upper financial brackets.

Happily, that is changing. We now recognize increasingly that college education for our youth is a tremendous potential national resource. Our past policies have too largely overlooked education as a national resource whose development is fully as important to the Nation as to the individual. As the writer of a publication of the Office of Education has put it:

> The returns from investment in education accrue not only to the individual but also to the Nation of which he is a part. In effect, the social benefits from education exceed the private benefits.

This is a basic reason, Mr. President, why we must embark on greater aid by the Nation in the development of this great resource. I believe we can best do so through enactment of my bill for aid to college students through loans, scholarships, and a work-study program.

One of those who has testified on S. 2490 before the Education Subcommittee is Dr. George H. Watson, professor of political science at Roosevelt University and chairman of the Independent Voters of Illinois. Dr. Watson in his testimony cited a Bureau of the Census report showing that in 1960, 44 percent of children from families with more than $10,000 income attended college, but only 9 percent from families with less than $5,000 income. In each intervening bracket, the ratio rises as family income rises: 17 percent in the $5,000–$7,500 bracket; and 32 percent in the $7,500–$10,000 bracket. I quote from the testimony of Professor Watson:

> The "aristocracy of achievement" referred to so movingly by President Kennedy in his education message to Congress in February 1963, must become real and not a vanishing dream. It is based neither on birth nor on one's father's educational or economic achievements. An "aristocracy of achievement" is based on merit. It can only be realized when our society provides sufficient opportunities to all our citizens to advance themselves.

I should like to direct the attention of the Senate to two further paragraphs in the remarks of Dr. Watson. His full testimony, which covers the various sections of the bill, S. 2490, in some detail, will be found in the hearing report which is now being prepared. He says:

> In terms both of economic advantage and equality of opportunity, based on the aristocracy of achievement, the case is unmistakably established for comprehensive Federal aid to higher education based on student needs. The bill before this subcommittee, S. 2490, proposes such a comprehensive program. It is built around the needs of the student. Our Nation owes a debt of gratitude to Senator VANCE HARTKE for introducing this legislation.
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> * * * * *
>
> The bill before you, S. 2490, has the great virtue that it recognizes education as in reality an investment with future dividends. The popular view of education as a cost and burden to the public is as odious as it is wrong. It is a view which, if it continues to be accepted, will severely damage the growth of this country and increase the distance in income and achievement between those born advantaged and those born disadvantaged. S. 2490 provides the means to achieve substantial improvement in opportunities in higher education through a battery of programs, each meeting a different need. The bill as a whole is greater than the sum of its parts. It would be unfortunate to break it up and eliminate any portion.

I sincerely hope and trust that when this bill comes before the Senate, it will receive the firm support not only of those 21 Senators who have joined in cosponsorship, but of the solid majority of this body.

PRESIDENT ROBERT J. HANNELLY, OF PHOENIX COLLEGE, ARIZONA, CALLS FOR GI EDUCATIONAL BILL

Mr. YARBOROUGH. Mr. President, just as progress is the foundation of a successful nation, so education is the foundation of progress. One of the many admirable qualities of our Nation has been our unyielding support in giving our citizens the opportunity to develop their potential through education. It could be said that this has become one of the major tenets of our American philosophy; that if anyone has the ability, coupled with the desire, to forward himself and our Nation through education, then he will not only be given that opportunity, but also that nothing will be placed in his path that may thwart his realization of his ambition.

This is the purpose of S. 5, the cold war GI bill which has been pending on the Senate Calendar since July 1963. I am proud to say that the distinguished Senator now occupying the chair [Mr. NELSON] is one of the 39 cosponsors of this bill.

This bill would reaffirm our Nation's stand for education by allowing our veterans to further themselves and our Nation by developing their talents. Never let us forget that these veterans are men who were willing to pledge, and did expend, a portion of their lives to the security of our Nation. We should never lose sight of the fact that the benefits of the GI bill are twofold: not only will the individual become a more valuable asset to our Nation, but, more important, our country will gain when the fiber of its citizens is strengthened. This opinion was well stated in a letter I recently received from Mr. Robert J. Hannelly, president of Phoenix College in Phoenix, Ariz., when he states:

> From an educational point of view, one of the wisest measures ever passed was to extend this training to the veterans of World War II and the Korean conflict. In my view, it is to the best interest of the Nation and of the men involved to extend this bill.

When we realize that this is only one of the many letters received from educators experienced in the benefits of previous GI bills, it becomes apparent that the passage of this bill is dictated by all standards of past experience and the need to maintain the growing strength of our Nation.

Mr. President, I ask unanimous consent that the letter from Robert J. Hannelly, president of Phoenix College, Maricopa County Junior College District, dated January 29, 1964, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PHOENIX COLLEGE,
MARICOPA COUNTY
JUNIOR COLLEGE DISTRICT,
Phoenix, Ariz., January 29, 1964.

Hon. RALPH YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: As a junior college president, I shall like to urge your support for Senate bill 5 which, as I understand it, would extend the benefits of the GI bill of rights to the veterans of the cold war.

From an educational point of view, one of the wisest measures ever passed was to extend this training to the veterans of World War II and of the Korean conflict.

In my view, it is to the best interest of the Nation and of the men involved to extend this bill.

Very truly yours,
ROBERT J. HANNELLY,
President.

UNITED STATES INVITES UNITED NATIONS TO BEGIN TO BRING PEACE TO SOUTH VIETNAM

Mr. PROXMIRE. Mr. President, the U.N. Security Council today unanimously approved a resolution establishing a three-member subcommittee to investigate the border conflict between Cambodia and South Vietnam.

Sponsors of the resolution made clear before the vote that the resolution could open the entire problem of conflict in southeast Asia to U.N. scrutiny.

It is indicated that there is underlying unanimity on the Council with regard to the desirability of the new United Nations role despite earlier opposition from France, Cambodia, and the Communist members.

Of all the dangerous international situations today the most foreboding dilemma which we face is in South Vietnam. Our administration deserves a world of credit for taking the initiative to bring the United Nations into this matter although it is necessarily on a very limited basis to begin with. This is one way and the most hopeful way in which we can solve the problem, if we are cautious and careful, and if we act while preserving and defending freedom. At the same time we can work constructively for peace through the U.N.

Mr. President, almost every proposed solution in South Vietnam seems cruel or ignominious, whether extending the war to North Vietnam, pulling out, or slugging it out year after year in South Vietnam.

The odds are so often against the U.N. But the U.N. prevailed against odds in the Suez, the Congo, and its being in Cyprus. Do not be against it in South Vietnam.

THE TECHNION—ISRAEL INSTITUTE OF TECHNOLOGY

Mr. KEATING. Madam President——

The PRESIDING OFFICER (Mrs. NEUBERGER in the chair). The Senator from New York.

Mr. KEATING. Madam President, 40 years ago in the city of Haifa, in the then British mandate of Palestine, a small ceremony took place. A new school was opened, to make available to a new generation the training in science and technology and modern industrial development that is essential to progress in this century. The first plans for the Technion had been laid as early as 1909, when Haifa was still a part of the Turkish Empire. War and political difficulties delayed the opening of the institute, and the graduation of the first classes until the midtwenties. From that day to this, despite world upheavals and the struggle for Israel's independence, the Technion has maintained its position as a training ground for young scientists and a center for industrial research and development in the Mideast.

Madam President, Technion Institute is a vital source of the trained manpower that Israel and all other developing nations need. It is a brilliant example of the magnificent dream that has played such a continuing role in the progress and success in the State of Israel. Today, tens of thousands of young men and young women in Israel work with the ambition of attending the Technion and acquiring the critical skills and know-how needed for industrial growth.

Moreover, Madam President, the Technion has opened its doors to students from the new nations of Africa and Asia, so that they can see at firsthand the tremendous challenge of modern technology, and so that they can return to their own countries better prepared to put the miracles of modern science to work in their own struggle for economic growth and higher living standards.

Madam President, Israel is a land of few natural resources. Israel's greatest resources are the human ones—the intelligence, the ability, the determination, and the hard work of Israel's citizens who have resolved to make the desert bloom and to bring prosperity and progress where once there was only empty desert and barren rock. In this effort to maximize the abilities of the Israel people, the Technion, together with the renowned Weizmann Institute, plays a vital and inspiring role.

Madam President, yesterday I was privileged to be the host, together with Senator Javits, Senator Ribicoff, and Senator Douglas, at a luncheon in honor of Gen. Yaakov Dori, the president of Technion, who now is in the United States. General Dori discussed in vivid and meaningful language the mission of the Technion in Israel and the importance of its work to the future economic and humanitarian development of the State of Israel.

Madam President, I have been in Israel many times, and have visited the Technion. I have seen its new and impressive campus on the slopes of Mount Carmel. I have seen the modern facilities, some not wholly completed, and the eager, hard-working students who recognize the value of this education. It is an inspiring sight, and provides hope, not only for Israel, but also for all other developing nations, that man can learn to master the scientific keys to growth and opportunity.

Madam President, the American Friends of Technion—or, to give its full title, of the Technion-Israel Institute of Technology—can well be proud of their important contributions to this institution. Their interest and their support have been most important in connection with its growth and its future plans. I was delighted to have the opportunity to meet with Mr. B. Sumner Gruzen, president of the American Technion Society; Mr. Lawrence Schacht, the vice president; and other influential members of the society, who have been so helpful and have done so much to promote the success of this important institution. I take this opportunity to congratulate all those associated with Technion on their progress over the last 40 years, and particularly since 1948, when Israel became an independent state, and to wish them continuing progress and continuing achievement in the years to come.

STUDY OF FEASIBILITY AND ADVANTAGES OF DIVERTING ADDITIONAL WATER INTO THE GREAT LAKES

Mr. HART. Madam President, on May 8, I reported to the Senate that I had earlier proposed that the International Joint Commission be requested by the United States and Canada to study the feasibility and advantages of diverting additional water into the Great Lakes.

Today, I wish to report that the proposal has been well received in many quarters: by our Government, by the press, by organizations concerned with Great Lakes waters, and by numerous individuals from the State which I am privileged in part to represent.

First of all, among our own colleagues let me note that Senators HUMPHREY, MCCARTHY, PROXMIRE, BAYH, HARTKE, CLARK, and DOUGLAS have associated themselves with this request.

Second. I ask unanimous consent to have printed in the RECORD letters from the Assistant Secretary of the Department of State; the Secretary of the Interior; the Secretary of Agriculture; Major General Jackson, Director of Civil Works; the Deputy Director of the Bureau of the Budget; and the Special Assistant to the President of the United States. All of these letters indicate appreciation of the importance of this problem and keen interest in pursuing it along the lines of my proposal.

In addition, Madam President, I ask consent to have printed in the RECORD a letter, dated May 5, 1964, from Albert J. Meserow, chairman of the Great Lakes Commission, in which the commission "heartily endorses" the objective.

On the Canadian side, as Secretary Dutton states, there is also much comment and discussion of this idea.

Indicative of the kind of response that has come from Michigan is the following quotation from a letter of June 1, 1964, addresed to me by Henry T. Lathrop, of the Bissell Corp., of Grand Rapids. Mr. Lathrop wrote as follows:

> At first blush, this seems like an extravagant boondoggle. However, when one considers the amount of benefit that would be enjoyed by the millions of residents around the Great Lakes and the many people who use the lakes for shipping, I can imagine that in the long run such an expensive venture would be self-liquidating as are our excellent highways.

In view of the daily evidence being presented to me of problems in the Great Lakes area due to pollution and low water levels, I hope our Department of State will be vigorous in pursuing with Canada the possibility of referral to the International Joint Commission.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, May 22, 1964.

Hon. PHILIP A. HART,
U.S. Senate.

DEAR SENATOR HART: I refer to your letter to Secretary Rusk dated April 15, 1964, and my reply to you dated April 30, concerning the problem of Great Lakes water levels.

Since my reply letter to you, the Department has received letters supporting your proposal for a reference by the Governments of the United States and Canada to the International Joint Commission on this matter from Senator EUGENE MCCARTHY, of Minnesota, Senator BIRCH BAYH, of Indiana, and Senator JOSEPH S. CLARK, of Pennsylvania.

During a question period in the Canadian Parliament on May 11, Prime Minister Pearson, of Canada, stated that the question of Great Lakes levels had been discussed during the intergovernmental Cabinet level meetings April 29 and 30 and that the two Governments had referred the matter to technical officials to determine the suitable terms for a reference to the International Joint Commission. You will also be interested to know that on May 8 Premier Robarts, of Ontario, announced his intention to organize an international conference on problems caused by the prevailing low-water levels of the Great Lakes. Formal invitations to attend the conference are to be extended to all Governors of the States bordering on the Great Lakes, as well as the Premier of Quebec. No date for the proposed conference has been set as yet, and it is not certain at this time whether invitations for representation will be extended to the two Federal Governments. It is known that in addition to the immediate problem of water levels, Premier Robarts is concerned about dropping water tables and drought conditions.

The Department will continue to keep you informed of developments in this matter.

Sincerely yours,
FREDERICK G. DUTTON,
Assistant Secretary.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 22, 1964.

Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: Your April 27 letter expresses concern regarding the low-water levels of the Great Lakes, and you request support of your request to the Secretary of State for an International Joint Commission examination of the feasibility of diverting additional waters into the Great Lakes Basin.

As you state, the low-water levels of the Great Lakes are damaging to wildlife and recreation as well as to the quality of water supplies. Other important uses such as hydroelectric power generation and navigation also are affected.

Naturally, the Department of the Interior is much concerned by these adverse conditions and their damaging consequences. For a number of years agencies of this Department have investigated various aspects of the Great Lakes water situation and have collaborated in studies by the Corps of Engineers, the Public Health Service, and others. We would, of course, expect to provide substantial assistance should a study be inaugurated along the lines you propose.

You recognize, I am sure, that there will need to be consideration and consultation among the executive agencies as a basis for an administration position relative to your proposal. The ad hoc Water Resources Council might, it seems to me, be a means for facilitating such interdepartmental consideration and, as Chairman of the Council, I will arrange for the necessary preparatory work by the staff.

Please be assured that the Department is indeed aware of the importance of the problems of the Great Lakes and that it desires to assist in finding practical solutions for them.

Sincerely yours,
STEWART L. UDALL,
Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., May 1964.

Hon. PHILIP A. HART,
U.S. Senate.

DEAR SENATOR HART: We share your concern of the devastating effects of the low-water levels of the Great Lakes, expressed in your letter of April 27, 1964. While there are no program authorities in this Department designed to cope with the water levels of the Great Lakes, we are, nevertheless, vitally concerned with the effects these levels have on the rural economy. Our concern is expressed in a recent study initiated by this Department for the upper Great Lakes region. The vital importance of water is a dominant theme throughout this report entitled "Recreation and Resources in the Northern Great Lakes Region."

Without the abundant supplies of clear water, which are traditional in this area, many of the opportunities for development and multiple uses of the land and water resources spelled out in this report, would no longer exist. Adequate water levels are necessary to meet the recreational needs of the millions of people in the growing cities to the south and north of the Great Lakes, as well as the movement of agricultural products and other goods of commerce. Continuing water supplies are essential ingredients in the prescription for economic development currently being applied in this region. Any significant shifts in water levels would also affect the use and management of forest lands.

This Department is also working with the Special Subcommittee on Western Water Development of the Senate Committee on Public Works, who, under the chairmanship of Senator Moss, is taking a rather serious look at the proposal developed by the Ralph M. Parsons Co. for the development of the total water resources of the Western North American Continent. The proposed transmountain diversion through the upper Mississippi River with the Great Lakes and the St. Lawrence Seaway may bring to light considerations that will be helpful in seeking a solution to stabilizing the water levels of the Great Lakes.

We concur in your letter of April 15, 1964, to the Secretary of State. You can be assured that we will join with you in looking toward a satisfactory solution to this problem.

Sincerely yours,
ORVILLE L. FREEMAN,
Secretary.

HEADQUARTERS,
DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D.C., May 12, 1964.

Hon. PHILIP A. HART,
U.S. Senate.

DEAR SENATOR HART: This is in response to your recent letter concerning the present low-water levels of the Great Lakes and your request to the Secretary of State that he explore with Canada the possibility of undertaking an international study dealing with the feasibility and economic advantages of diverting additional water into the Great Lakes Basin.

As indicated in your letter, studies concerning the lake levels now underway by the Corps of Engineers under existing authority from Congress are limited to consideration of the presently available water supply. Aside from these current studies, the corps in carrying out its authorized activities has for many years been intimately concerned with the hydrology and hydraulics of the Great Lakes Basin and with water resources development throughout the U.S. portion of that basin. For that reason it would be deeply interested in any study of the nature you propose. Accordingly, you may be assured that should the Governments of the United States and Canada determine that such a study is desirable, we will be pleased to cooperate fully in the undertaking.

Sincerely yours,

Jackson Graham,
Major General, U.S. Army, Director of Civil Works.

Executive Office of the President,
Bureau of the Budget,
Washington, D.C., May 15, 1964.

Hon. Philip A. Hart,
U.S. Senate,
Washington, D.C.

Dear Senator Hart: I appreciate receiving your April 27 letter concerning problems of low-water levels on the Great Lakes Bureau of the Budget staff has discussed the problem with the Department of State and we understand that your views have been made known to the Canadian Government. We also are told that the State Department is attempting to ascertain the views of affected Federal agencies with a view to further consideration of your proposal.

We will certainly keep your interest in mind and I have been assured that the State Department is moving as quickly as possible to determine the views of interested Federal agencies on this problem.

Sincerely,

Elmer B. Staats,
Deputy Director.

The White House,
Washington, May 18, 1964.

Hon. Philip A. Hart,
U.S. Senate,
Washington, D.C.

Dear Senator: This is with reference to your letter to the President of May 1, 1964, in which you refer to the letter to the President from Teno Roncalio, Chairman of the U.S. Section of the International Joint Commission, regarding water level and supply problems in the Great Lakes.

The Department of State has communicated your proposal to the Canadian Department of External Affairs and copies of your letter have been referred to interested agencies of the Federal Government with a view to arriving at a possible administration position. The Department of State has also requested the Embassy at Ottawa to inform the Canadian Department of External Affairs about letters from Senator McCarthy and Senator Bayh supporting your suggestions.

The Department of State has assured me that it will keep you informed of developments on this matter.

You may be certain that your proposal wil be given close attention by the interested Federal agencies.

Sincerely yours,

Lawrence F. O'Brien,
Special Assistant to the President.

Great Lakes Commission,
Ann Arbor, Mich., May 5, 1964.

Hon. Philip A. Hart,
U.S. Senator,
Senate Office Building,
Washington, D.C.

Dear Senator Hart: It was with enthusiastic interest that I read the copy of your letter dated April 15, 1964, to the Honorable Dean Rusk, Secretary of State, with respect to your request that he explore with Canada the feasibility of diverting additional waters into the Great Lakes Basin.

We of the Commission have for some time been engaged in the Great Lakes Water Resource Study with the objective of the ultimate management and regulation of the waters of the Great Lakes for all purposes. Included in this proposed study is also the study of the feasibility and economic advantages of diverting additional waters into the Great Lakes from both Canadian sources and sources within the United States. We recognize, as do you, the growth of requirements for more water for domestic and industrial uses, as well as for many other uses, and with the increase in population, the problem becomes more acute with the passing of time.

We heartily endorse your objective and if we can be of any further assistance to you in this project, do not hesitate to communicate with us.

Sincerely yours,

Great Lakes Commission,
Albert J. Meserow,
Chairman.

MR. JOHNSON'S CHANCE OF GREATNESS

Mr. HART. Madam President, it is my hope that many persons may have an opportunity, in a quiet moment, to read an article entitled "Mr. Johnson's Chance of Greatness." The byline identifies the author only as a special correspondent." The article was published on May 11 in the London Times.

To me, the article is a thoughtful projection by an observer from elsewhere in the world, but one familiar with our institutions and the nature of our society. I believe it will repay anyone to take the time required to read the article. It is both sobering and promising. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Mr. Johnson's Chance of Greatness

(By a special correspondent)

The country over which President Johnson shows every sign of presiding for the next 8 years will be a society in crisis. The fact is something of a paradox since normally one connects the risk of crisis with some disastrous failure in national resources or power. In fact, since the end of the war America has remained overwhelmingly powerful and has also grown steadily richer. By 1975, according to a survey published last week by the 20th Century Fund, national income should be well above the $1 trillion mark.

All this hardly sounds like a crisis. Yet a brilliant postwar recovery in the whole Atlantic arena, coupled with sustained prosperity in the United States, does not make up the whole picture. While national income among the Atlantic powers, industrially sophisticated, technologically advanced, grows by never less than 3 percent a year, the preindustrial societies in the undeveloped "south" of the globe keep ahead of their growth in population—if they are lucky—by not much more than 1 percent. The gap widens between the poor nations, poor in everything except aspirations, and the Atlantic group of states, rich, white, and enormously outnumbered. Russia may be successfully contained in Europe. But the risk remains that the Atlantic flank could be turned by a worldwide revolt of the dispossessed.

DOMESTIC POVERTY

The crisis is not simply external. In the past year or so the American public has begun to be aware of startling pockets of domestic poverty—regions deserted by industry, farmers on marginal land, above all, the existence in the core of great cities of racial ghettos where young people without skills or hope turn into tomorrow's delinquents or threaten to add a new edge of violence to the fight for civil rights.

There are some features in common between the external and the internal crisis. Both are concerned with the protest of the poor. Both could acquire dangerous racial overtones. Above all, they are not self-correcting. The growth of Atlantic wealth does not now automatically spark comparable increases in investment and trade around the world. Wealthy nations invest predominantly in other wealthy nations and tend to engross most of the gains from international trade. Similarly, families living in the self-perpetuating cycle of poverty, ignorance, and ill health do not easily break free in an increasingly automated society, demanding ever-higher skills and intelligence.

There is, of course, no physical obstacle to the mounting of a really adequate counterattack. America's national income, already above $600 billion, is growing at present by more than $30 billion a year. If the familiar yardstick of 1 percent of national income were devoted to the worldwide war on poverty and 2 percent to the same war on the domestic front, America would still have virtually an equivalent amount of fresh resources to devote to its other desirable pursuits. There are no physical limitations here.

PURPOSIVE GOALS

But the psychological obstacles are formidable. Any sustained, large-scale attack on domestic and world poverty demands the acceptance of two fundamental ideas—that resources for the task are available, even lavish, and that a society may properly set itself purposive public goals—such as the conquest of poverty. These assumptions run directly counter to some of the most widespread and most publicized beliefs about the American economy. Newspapers, business leaders, senior statesmen are as likely to warn the public of the risks of inflation leading to national bankruptcy as to extol the new scale of national resources. "Purposive goals" become terrifying prospects of compulsory planning by big government. Only a month ago so revered a figure as General Eisenhower warned a wide public, through the pages of the Saturday Evening Post, that inflation was America's urgent problem—even though through the last 3 years of deficit financing and rapid growth there has been no trace of it.

Such invincible mythmaking would present formidable obstacles to effective action, wherever it appeared. Unhappily, it is strong in the crucial arena of Congress. Only large-scale spending on defense—to which one should perhaps add space and highways—has been able fully to legitimize itself. The hatchets are out for the smallest request yet made for foreign aid—$3.4 billion—and men who blithely and unhesitatingly vote a couple of thousand million for an unwanted bomber are anxiously scrutinizing every cent in the President's thousand million dollar program for the domestic war on poverty. Whatever the rising urgency of the crises of race and poverty round the world, they are not yet focused enough either in the public mind or in Congress to be translated into really large scale action.

CONSERVATIVE GIANT

Since, however, it is chiefly psychological obstacles that lie in the way, the issue of effective leadership becomes critical. There is, of course, only one office in the United States to which this function is inescapably attached—the Presidency. Under President Eisenhower the office was used to soothe, not stimulate. President Kennedy's term, tragically cut short, brought new vision and vigor to Washington but left open the question of full national leadership. Congress at least had shown signs of going on strike. Now President Johnson faces the task. His dilemma is to persuade an affluent but conservative giant to pursue and expand a number of liberal policies—in aid, in trade, in domestic redevelopment—which are physically possible but are also, on the full scale required, still "unthinkable," to adopt Senator FULBRIGHT's phrase. What are the prospects?

The President so far has shown uncanny powers of balance. He has carried through Congress Mr. Kennedy's chief measure of sophisticated "Keynesian" reform—the tax cut at a time of budgetary deficit designed to accelerate growth and thus increase revenue. Yet he did so while keeping the budget below the traumatic figure of $100 billion—and while turning out the White House lights to symbolize his care for "frugal government."

He speaks with the accents of a southerner, but his commitment to civil rights is complete and few doubt the civil rights bill will pass this summer. He has come almost literally from the proverbial log cabin but his own escape from poverty has left him not complacent and condemnatory but profoundly compassionate for those still caught in the ancient trap. He has not lost his early commitment to the generosity of the New Deal. Yet his family has made a small fortune. He admires the drive and professionalism of business and extols the merits of free enterprise as a creator of unequaled affluence.

COMMON TOUCH

To this unusual balance of opposites, one should add a flexible, tough, uniquely experienced handling of Congress—"Kennedy respected them too much," say the cynics, "Lyndon knows them"—and a sure touch with the ordinary voter, inviting the Washington tourist into "your White House," greeting the little girl who can see her granny because the rail strike is settled. One can say that the tone is, if you like, as reassuring as General Eisenhower's. But it happens to be telling America very different things. If one were to make a quick survey of the President's recent speeches, one theme above all would seem to be dominant—precisely the theme of the present crisis of poverty in the midst of affluence and the moral duty to act. "God is not mocked," he said to a gathering of editors. We reap as we sow. Our God is still a jealous God—jealous for the least of His children who went unfed while 'the rich sat down to eat and rose up to play'."

This is a new note in American politics since the war—an almost Biblical appeal beyond the frustrations and fears of uneasy affluence to a force and a commitment which America's greatest leaders have never been afraid to evoke—the force of moral obligation, the commitment to a vision of justice. Such an appeal, combined as it is with the President's unique drive of energy, toughness, shrewdness and strategy may well prove a highly effective answer to the challenge of national leadership. The "Johnson era" is certain to be one "piled high with difficulty." But there is a good chance that it will bear the marks of greatness too.

UNDERSTANDING THE MEANING OF LOYALTY

Mr. THURMOND. Mr. President, I have been appalled, to say the least, by the U.S. Supreme Court decision in the case of Baggett against Bullitt, striking down two loyalty oaths which the State of Washington required of its State employees. In my weekly newsletter for next week, I have given expression to my concern about this decision and the twisted and tortured reasoning of the Court's majority opinion. In order that my views might be made available to all Members of Congress, I ask unanimous consent that my newsletter entitled "Understanding the Meaning of Loyalty," be printed in the RECORD at the conclusion of these remarks.

I, also, ask unanimous consent, Mr. President, to have printed in the RECORD an excellent column by the nationally syndicated columnist Mr. David Lawrence on this same subject. This column is entitled "Supreme Court Strikes Down Loyalty Oath," and was published in the June 4, 1964, issue of the Nashville Banner.

There being no objection, the newsletter and column were ordered to be printed in the RECORD, as follows:

WEEKLY NEWSLETTER BY SENATOR STROM THURMOND, OF SOUTH CAROLINA, JUNE 4, 1964

UNDERSTANDING THE MEANING OF LOYALTY

A State can no longer require its employees to swear or affirm that they "will, by precept and example, promote respect for the flag and the institutions of the United States of America" and the State, or exact from them a promise of "undivided allegiance to the Government of the United States."

Neither can a State exact an oath from its employees not to commit, advocate, abet, advise, or teach any person to commit an act intended to overthrow, destroy, or alter "the constitutional form of the Government of the United States" or the State by means of "revolution."

Thus said the U.S. Supreme Court on June 1, 1964, in the case of *Baggett* v. *Bullitt*. According to the Court, such promises are so vague in meaning that their imposition would not meet the requirements of constitutional due process. As a consequence, the Court held both an oath of allegiance and an oath disclaiming subversive activities imposed by the State of Washington to be unconstitutional. The oath of allegiance had been required since 1931. The other oath was identical to an oath upheld by the Court in 1951.

Is it too much to require that State and even Federal employees swear "undivided allegiance to the Government of the United States"? The Supreme Court reached the conclusion that it was unreasonable to expect persons to know exactly what this language required of them, because it was so vague.

Over the years, millions of Americans have daily recited the words "I pledge allegiance to the flag of the United States, and to the Republic for which it stands. * * *" If the Supreme Court is correct in its conclusions, the millions of Americans who recite this pledge do not really understand what they are saying, because the language is "too vague."

The Court was also most disturbed by the fact that the Washington statute which established the oath requirement declared "the Communist Party a subversive organization and membership therein a subversive activity." The Justices concluded that those subjected to this oath "may quite reasonably conclude that any person who aids the Communist Party or teaches or advises known members of the party is a subversive person," and, therefore, that the oath is lacking in "terms susceptible of objective measurement."

Quite obviously, those of us who are so old fashioned and nationalistic as to find no problem in pledging "undivided allegiance to the Government of the United States" are unsophisticated, and just too simpleminded to understand or to care what an unreasonable burden this oath might place upon us or others on whom it is imposed.

The Court was particularly disturbed by the requirement that employees swear that they would not in any way undertake, counsel, abet, or teach the overthrow of our constitutional form of Government by means of "revolution." Significantly, the Court conjectured that such a promise might make it impossible for "one to support participation by this country in a world government." The United States, in its proposal for general and completed disarmament, virtually proposed a world government. If that proposal were to be accepted and ratified by the Senate, which I fervently hope will never occur, no "revolution" would be involved in achieving "world government." Does the Supreme Court fear that it will take a "revolution" in the United States to impose a "world government"?

The effects of this decision on U.S. loyalty and security programs could be disastrous. As pointed out in Justice Clark's dissent, "[The State of] Washington's 1955 act is much more clear than the Smith Act." Where does this leave the Smith Act, which is the basic internal security law of our Nation?

The Court has admitted that it has great difficulty understanding the language of loyalty oaths. One could logically wonder whether the members of the Court have equal difficulty understanding their own oath to "support and defend the Constitution."

[From the Nashville Banner, June 4, 1964]

SUPREME COURT STRIKES DOWN LOYALTY OATH

(By David Lawrence)

The Supreme Court of the United States, by a vote of 7 to 2, has just forbidden the States to pass a law requiring public employees in schools or other governmental offices to take an oath pledging that he or she is not a "subversive person" and not "a member of the Communist Party or knowingly of any other subversive organization." Such a statute enacted by the State of Washington now is held to be "unconstitutionally vague," even though it defines "subversive" as one who "engages in or advocates, abets, advises, or teaches" activities directed at the overthrow of our constitutional form of Government "by revolution, force, or violence."

Virtually the same language is used in the Smith Act, a Federal law, and now it is being asked whether the Federal statute is also to be regarded as unconstitutional.

The majority of the Court declared that the language of the law of the State of Washington requiring a "loyalty oath" of employees is "unduly vague, uncertain and broad," and argued that the statute does not spell out exactly what is "loyal" or "disloyal." It is the vagueness, rather than the objective, which is held to be at fault. There is an inference that the teaching of communism or giving counsel to members of the Communist Party does not necessarily mean an intention to overthrow the Government by "revolution, force, or violence."

But a layman's criticism of the decision is unnecessary, because Justices Clark and Harlan, in a dissenting opinion, set forth in penetrating terms their own denunciation of the majority opinion. The dissenters said in part:

"It is strange that the (Supreme) Court should find the language of this statute so profoundly vague when in 1951 it had no such trouble with the identical language presented by another oath in *Gerende* v. *Board of Supervisors of Elections*, 341 U.S. 56.

"There, the constitutionality of Maryland's Ober law, written in language identical to (the State of) Washington's 1955 act, was affirmed by a unanimous Court against the same attack of vagueness. It is unfortunate that the Gerende (case) is overruled so quickly. Other State laws have been copied from the Maryland act—just as Washington's 1955 act was—primarily because of our approval of it, and now this Court would declare them void. Such action cannot command the dignity and respect due to the judicial process.

"It is, of course, absurd to say that, under the words of the Washington act, a professor risks violation when he teaches German, English, history, or any other subject included in the curriculum for a college degree, to a class in which a Communist Party member might sit. To so interpret the language of the act is to extract more sunbeams from cucumbers than did Gulliver's mad scientist. And to conjure up such ridiculous questions, the answers to which we all know or should know are in the negative, is to build up a whimsical and farcical strawman which is not only grim but Grimm.

"In addition to the Ober law the Court has also found that other statutes using similar language were not vague. An unavoidable example is the Smith Act which we upheld against an attack based on vagueness in the landmark case of *Dennis* v. *United States*.

"It appears to me from the statutory language that Washington's 1955 act is much more clear than the Smith Act. Still the Court strikes it down. Where does this leave the constitutionality of the Smith Act?"

The majority in their opinion declared that "measures which purport to define disloyalty must allow public servantts to know what is and is not disloyal." But this is a good deal like saying that no restrictions can be imposed and no laws passed unless the exact nature of every offense is defined specificaly. Certainly determining whether a man has, in fact, violated a law is a function of the courts, and it is assumed that the words are to be construed fairly and equitably by the judges on the bench. The processes of law themselves provide for correction of mistaken interpretations or of wrongful action. While the oath, for example, specifically bars membership in the Communist Party, it asserts only that the employee is not a member "knowingly" of any other subversive organization.

Many Americans will wonder why it is objectionable to ask a person who applies for a job as a teacher in public schools or colleges to sign an oath stating plainly that he would not advocate or advise or assist anyone else to overthrow the Government of the United States by "revolution, force, or violence."

SWEDISH NATIONAL FLAG DAY

Mr. KEATING. Mr. President, our many friends in Sweden celebrate June 6 as their national flag day. It is much like our Fourth of July, but dates back to June 6, 1523, when Gustavus Vasa became the first King and leader of the united Swedish nation.

The election of Gustavus Vasa as King of Sweden took place at the little town of Strangnas. It was the culmination of many years of strife and rebellion. It marked the beginning of a glorious period in Swedish history.

Gustavus Vasa had three very capable sons who succeeded him one after the other. During their reign Sweden's power and prosperity grew as never before. The Rennaissance came to Sweden in full strength, bringing magnificent architecture and art works, many of which remain today.

There was a play called "Gustavus Vasa, the Deliverer of his Country," which was performed in the cities of colonial America, and was well received by George Washington and his contemporaries. The Swedish people have not failed to see and appreciate the resemblance between their first revolutionary national leader and ours. We should see it also and express our gratitude to the Swedes for their example.

The United States and Sweden have enjoyed many decades of unbroken friendship. Three million Americans trace their families back to Sweden. Many Swedish immigrants were received with open arms and America has never regretted it. All aspects of American culture reflect Swedish influnece. Robert Frost, Jenny Lind, Howard Hanson, Greta Garbo, Ingrid Bergman, Edgar Bergen, and many others are known by nearly every American. Alfred Nobel's philanthropies have been a major Swedish contribution to international arts and sciences. And Dag Hammarskjold Swedish statesman, gave his life in service to world peace through the United Nations.

All of these outstanding events and people are remembered in celebrating Sweden's first national flag day, June 6, 1523. Just as in America, national independence released a great tide of growth and development. It is fitting that we join free, peaceful, Sweden and people of Swedish origins everywhere, in commemorating the events of 1523 and the achievements of the Swedish people.

NEBRASKA RURAL ELECTRIFICATION ESSAY CONTEST WINNERS

Mr. HRUSKA. Mr. President, for the past few years I have been privileged to call the attention of the Senate to some of the winning entries in the annual Nebraska Rural Electrification Essay Contest sponsored by Nebraska Rural Electric Association.

These young people will be visiting Washington next week as their award for their outstanding essays. The quality of the entries continues to be excellent. This year's essays are among the best I have seen.

It is my pleasure to place in the RECORD essays written by the following:

Karen Kouba, 17, junior at the Meadow Grove High School; daughter of Mr. and Mrs. Kenneth Kouba, of Meadow Grove. Sponsor: Elkhorn Rural Public Power District.

Rose Pekny, 18, senior at Clarkson High School; daughter of Mr. and Mrs. Ed Pekny of Clarkson. Sponsor: Stanton County Public Power District.

Larry E. Sitzman, 17, junior at Culbertson High School; son of Mr. and Mrs. Edward H. Sitzman of Culbertson. Sponsor: Southwest Public Power District, Palisade.

Suzanne Broz, 16, junior at Hayes County High School; daughter of Mr. and Mrs. Vincent Broz, Hayes Center. Sponsor: Southwest Public Power District.

Bill Burgess, 17, junior at Hyannis High School; son of Mr. and Mrs. Edward H. Burgess, Ashby. Sponsor: Panhandle Rural Electric Membership Association, Alliance.

Mr. President, I ask unanimous consent that the winning essays of these youngsters be printed in the RECORD.

There being no objection, the essays were ordered to be printed in the RECORD, as follows:

WHAT RURAL ELECTRIFICATION MEANS TO ME AND MY COMMUNITY

(By Karen Kouba, Meadow Grove, Nebr.)

One only needs to compare the life of today's teenage girl with that of one a generation ago to answer this question. My teenage ancestors did not have modern household appliances and mechanized equipment but instead they carried wood and water, ironed with a flat iron, studied by the light of a kerosene lamp, and certainly did not conceive of the wonder of a hair dryer or the pleasure of television—even in her dreams.

Our city relatives often felt sorry for their country cousins because of all the hardships which farmers endured. This is no longer necessary for there has been a fantastic change in the farmhouse in the last two decades. The coal bin is now as obsolete as a team of horses. Its modern counterpart is electric heat which requires a flick of the thermostat, which beats a trip to the basement to fill the furnace.

The pitcher pump is now streamlined faucets with a pressure system insuring a ready supply of water instead of depending on arm muscles. Hot water is commonplace with an electric water heater—a must in every home. Rather than escaping to the shade tree in the summer, the rural family now enjoys air-conditioning.

What would today's teenager do without a radio or record player of his own, not to mention a television or perhaps an electric guitar or organ? These modern forms of entertainment are completely taken for granted by our youth.

The farm home is not the only place which reflects change; but the entire agricultural community has progressed by the use of electricity. By replacing manual labor with mechanized equipment, primarily electric motors, the farmer has increased his farm operation and his profits. Not only has efficiency been increased but also production. An excellent example of this is modern irrigation. The farmer's shop now includes many electric tools, which save costly repair bills and time-consuming trips to town.

The farm wife slaving over the range is no longer the symbol of the farm kitchen. A host of electrical servants make homemaking easy. Since the farm wife is spared the kitchen drudgery she is free to enjoy and participate in civic activities.

The general health of our community is promoted by the scientific advances which are made in medicine. Electricity has played an important role in this research.

Modern forms of communication have increased our knowledge of the world around us. Today events from other countries are brought into our homes via our relay satellite and news items such as the assassination of our President and the launching of man into space. We are also warned of tornadoes and floods and impending dangers.

Yes, the farm has changed since my ancestors started our agricultural heritage. Electricity has been responsible for conveniences and pleasures shared by all the farm family. The real potential of this energy is being realized today in our world, and the rural areas share in this achievement.

THE VALUE OF RURAL ELECTRIFICATION IN OUR HOME AND COMMUNITY

(By Rose Pekny, Clarkson, Nebr.)

As we, the citizens of rural America, ponder the thought of rural electrification, we realize that we will never fully appreciate all of its many benefits. We never know what we have until we have lost it. Today with our well trained and highly skilled electricians, we are not without electricty for more than a few hours.

When we take note of the many appliances that do help us we can, with all sincerity, say that we live on electricity. The clock radio wakes us up along with some fine music to put us in just the right mood. Our electric percolator makes the breakfast coffee, while the electric skillet fries the eggs. And we must not forget the toaster which makes our breakfast complete.

A help to most young mothers is the automatic washer and dryer along with the dishwasher. Her refrigerator and deep freeze enables her to make the most of her time.

The younger children would also find it hard to get along without electricity, especially our brothers. They could no longer operate their electric trains, football and basketball games.

We would never know what would happen in the next episode of our favorite television program. We would never hear our favorite radio program. The news and sports would be missing in our lives.

Electricity can also be beautiful. During the Christmas season every town and many farm homes draw our comment. Lights are strung, Christmas trees are lit, and spotlights are used with tremendous effect. We would feel that something was missing in our Christmas season if we could not use electric lights.

The farmer also has many benefits from electricity. The milking machine and separator are on his side. The electric pump, the barn lights, and pole lights are conveniences that farmers could not be without. Maybe this is best realized when we learn that electricity today performs some 400 jobs on the farm which formerly were accomplished by manual labor.

All of rural America would appeciate the value of electricity if we would realize that one time it was only a vision. It would have been much easier for our forefathers if they could have turned on a light every morning and heated their homes with electricity. Yesterday electricity was a vision; today it is a reality.

RURAL ELECTRIFICATION AND THE VALUE OF ELECTRICITY IN THE HOME AND ON THE FARM

(By Larry Sitzman, Culberton, Nebr.)

Out of obscurity into illumination within the last quarter century—that is the boast of the rural farmer. The rural countrymen had known only the dim, gloomy lights, when electricity changed the darkness to light. Electricity is one of the wonderworkers of the modern world—a force responsible for thousands of the inventions and appliances of today. Early in the 18th century, men began to investigate the possibilities of current electricity—electricity in motion. It became clear that an electric current could be conveyed by means of a conductor from the source of electricity to some other place.

It seems a far cry from the feeble light of an oil lamp to the bright lights of our modern homes. On account of accumulated knowledge, it is possible today to operate high-voltage lines practically without interruption of service to the users. Lines carrying a high voltage of power crisscross our countryside, forming a pattern of development for every household. Each household, each individual enjoys the marvel of this silent helper many times every day, with numerous operations carried out most efficiently.

Credit for the introduction of electricity into rural living should not go to any one individual. Literally, thousands have contributed to the task of bringing electricity to rural America. Its success has come from the vision of rural men and women. The pioneer stock that built our country gave grandmother the courage to do her best with the wood cookstove and washboard. Now, granddaughter bakes away with her electric range and uses her automatic washer and dryer. In the near future, great granddaughter's appliances will add even another page of progress.

Just as important as the household aids, are the ones in the farmyard. No longer does "Old Nell" drink icy water from the tank or wait for Farmer Jones to fill the feed bunk with hay. Many farmyards have become modern jewels, with pushbutton devices to do away with backbreaking chores. Illumination of the yards has helped to stretch the work beyond the sun's timesheet. To the farmer's strength has been added the power of many helping hands. The pitchfork has been replaced by power-driven forks to guide hay into the bunks. Even the fences carry a meager charge that keeps the most straysome bossy at home. The poultry houses are so equipped that the modern hen sometimes can't quite make out whether it is night or day. The physical transformation worked by electrical power on the farm is quite evident.

These are just plain American citizens who have completed a big job in pushing rural America forward. Rural electrification is good for all Americans. One farmer, by its aid, has been able to raise his production ability. Willie Wiredhand has become his able helper. Laborsaving light and power, provided by America's rural electric systems, continues to provide our people with high-quality foodstuffs, which are so essential to a well-fed nation. America is a towering, productive giant and, with the aid of rural electrification and the hands of American farmers, we move ever forward. Once electricity enters the driveway, it spreads inevitably and rapidly throughout the entire farmstead.

RURAL ELECTRIFICATION AND THE VALUE OF ELECTRICITY IN THE HOME AND ON THE FARM

(By Suzanne Broz, Hayes Center, Nebr.)

Has it ever occurred to you that without Benjamin Franklin's and Thomas Edison's work and research concerning electricity, our world today would be one of darkness? People take these outstanding discoveries and inventions as a matter of course, when in reality, they are quite necessary for our daily lives. Without their striking accomplishments, modern living as we know it today might still be a far-off marvel of the future.

Electricity was introduced into rural communities by the Rural Electrificaton Administration in 1935. Changes began taking place almost immediately. Of course, the revolution from oil lamps to electric light bulbs was not spontaneous, but by June 30, 1959, 94.9 percent of all the farms in Nebraska were served by electricity, and 80.3 percent of these farms were served by the REA.

Without the helping hand REA has provided the residents of rural areas of the United States, our homes would, in all probability, be much the same as they were some 40 or 50 years ago.

Before electricity reached the farmer, he and his family were isolated from the rest of the world. His only source of news was perhaps irregular postal service. Today, modern means of communication are available—because of electricity. The radio, television and telephone keep the farmer up to date on current events across the Nation and around the world.

Farm living has been made more comfortable and convenient through electricity. Reliable electrical heating systems in our homes are wonderful—especially during a cold wave in February. And modern electric heat is so clean, quiet, and safe.

A day no longer ends at sunset. A flick of a switch illuminates our homes with sunlike brilliance. Studies are no longer performed before a dim oil lamp, but can be completed with no eye strain whatsoever, due to electricity.

Mom's household chores have been lightened considerably by electrical appliances. The diswasher saves more than half the time it formerly required to do dishes. With the electric vacuum cleaner, washer, drier, and steam iron Mom can complete household chores more quickly and have more time for herself and her family.

Much of the drudgery of farm chores has been revoluntionized by electric milkers, tank heaters, heat lamps, and feed mixers. The electric motor in the shop performs a variety of duties to help the farmer.

Entertainment, as well as timesavers, is made possible through electricity. The radio, and television broadcast many interesting programs in the course of the day. Also, the stereo, hi-fi, and tape recorder supply us with pleasant, fun-filled hours of enjoyment. And what could be more relaxing than watching home movies of last summer's vacation, or listening to a member of the family serenade you on the electric organ?

Our home is part of our very lives. We appreciate it and spend more time there than any place else. We feel secure and safe in a home that provides comfort and happiness, and our Rural Electrification Administration certainly helps make our homes more comfortable and secure.

WHAT RURAL ELECTRICITY MEANS TO ME AND MY COMMUNITY

(By Bill Burgess, Ashby, Nebr.)

My rural community has taken many progressive steps toward improved living conditions since REA appeared upon the local scene about 9 years ago. It brought to us, as it has to much of rural America, standards of convenience which once were enjoyed by city dwellers only. REA contributes to the economic and social health of the whole local society and to the stability of our Nation.

We, in the sandhills, feel very privileged to have electric power because the population is so sparse. The average for rural lines is three customers per mile and there are few neighbors that live within 3 miles of each other in our community, yet we have electric service that is reasonable and within the means of everyone because of the 2-percent interest rate on REA loans.

First, in our homes, were the electric lights, and later, other appliances such as food mixers, automatic coffee pots, irons, and deep freezers. Next, gas water heaters and refrigerators were exchanged for new electric ones. Latest conveniences found in homes are automatic clothes washers, dryers, and dishwashers. Television sets are numerous bringing enjoyment and educational benefits to all. Future homebuilders and remodelers will consider electric heating systems for comfortable, even heat, with dust-free air and improved humidity.

Most ranch shops include an electric welder, air compressor, drills, saws, and other electric tools which speed repairs and let many jobs be done on the ranch that would otherwise require a trip to town.

Outdoor lighting is a boon to the rancher during the calving season as he can observe the heavy cows better when checking them at night. In case of trouble, the barns afford plenty of light for any emergency, regardless of the hour. We used to stumble around with a kerosene lantern that made weird shadows instead of light. If a calf becomes chilled, he can be warmed safely and conveniently with a heat lamp. Baby chicks are brooded more satisfactorily under heat lamps than with the fluctuating heat of oil burning brooders.

Electric service has initiated a quicker and easier way of feeding cattle in winter because of electric water heaters attached to the motors of tractors and caterpillars to insure starting in cold weather. We ride in a warm cab to the feed ground instead of on horseback to catch a feed team, which has to be harnessed and hitched up. We ride home, turn the tractor off and plug in the water heater, which keeps the water system warm and circulating.

According to statistics, rural people double their use of electricity every 7 to 10 years and I'm sure it is proving true in this sandhill area.

Rural electricity means better health, easier work, many added conveniences and comforts, making a better way of life which affords more time for leisure and the pursuit of individual interests for me and my community.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CIVIL RIGHTS ACT OF 1963

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The pending question is on agreeing to the amendments (No. 577) proposed by the Senator from Louisiana [Mr. LONG] to the amendments (No. 513) proposed by the Senator from Georgia [Mr. TALMADGE], on behalf of himself and other Senators, relating to jury trials in criminal contempt cases.

Mr. MANSFIELD. Madam President, I suggest the absence of a quroum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll; and the following Senators answered to their names:

[No. 271 Leg.]

Aiken
Bartlett
Beall
Bennett
Bible
Burdick
Cannon
Carlson
Case
Cotton
Curtis
Dirksen
Dodd
Douglas
Ellender
Gore
Gruening
Hart
Hartke
Hickenlooper
Holland
Hruska
Javits
Jordan, Idaho
Keating
Lausche
Mansfield
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Morton
Mundt
Nelson
Neuberger
Pearson
Pell
Proxmire
Russell
Scott
Smith
Sparkman
Stennis
Thurmond
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. COTTON obtained the floor.

Mr. DIRKSEN. Madam President, will the Senator from New Hampshire yield to me?

Mr. COTTON. I yield, with the usual reservations.

ANNOTATED COPY OF HOUSE-PASSED CIVIL RIGHTS BILL

Mr. DIRKSEN. Madam President, I expect, on tomorow, or perhaps Monday, to make some remarks on the pending bill, but in connection therewith I ask unanimous consent to have printed in the RECORD an annotated copy of the House bill, showing by black brackets and italics, matter deleted and matter inserted.

There being no objection, the annotated copy of the bill was ordered to be printed in the RECORD, as follows:

[Omit the part enclosed in black brackets and insert the part printed in italic.]

An act to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Civil Rights Act of [1963".] *1964."*

TITLE I—VOTING RIGHTS

SEC. 101. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall—

"(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"(B) deny the right of any individual to vote in any Federal election because of an error or omission [of such individual] on any record or paper relating to any application, registration, [payment of poll tax,] or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"(C) employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual *and is conducted* wholly in writing [except where an individual requests and State law authorizes a test other than in writing], and (ii) a certified copy of the test [whether written or oral] and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 (42 U.S.C. 1974–1974e; 74 Stat. 88) [.]*: Provided, however, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.*

"(3) For purposes of this subsection—

"(A) the term 'vote' shall have the same meaning as in subsection (e) of this section;

"(B) the phrase 'literacy test' includes any test of the ability to read, write, understand, or interpret any matter."

(b) Insert immediately following the period at the end of the first sentence of subsection (c) the following new sentence: "If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia or the Commonwealth of Puerto Rico where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any Federal election."

(c) Add the following subsection "(f)" and designate the present subsection "(f)" as subsection "(g)":

"(f) When used in subsections (a) or (c) of this section, the words 'Federal election' shall mean any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives."

(d) Add the following subsection "(h)":

["(h) In any proceeding instituted in any direct court of the United States under this section the Attorney General or any defendant in the proceeding may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. A copy of the request shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge) of the circuit in which the case is pending.]

"(h) In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant in subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a

circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

["In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the] *"In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the* chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

TITLE II—INJUNCTIVE RELIEF AGAINST DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

SEC. 201. (a) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

(b) Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

(1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) any restaurant, cafeteria, lunch room, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;

(3) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

(4) any establishment (A) (*i*) which is physically located within the premises of any establishment otherwise covered by this subsection, or (*ii*) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

(c) The operations of an establishment affect commerce within the meaning of this title if (1) it is one of the establishments described in paragraph (1) of subsection (b); (2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b), it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph (4) of subsection (b), it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

(d) Discrimination or segregation by an establishment is supported by State action within the meaning of this title if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of *the* [a] State or political subdivision thereof.

(e) The provisions of this title shall not apply to a bona fide private club or other establishment not open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

SEC. 202. All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule or order, of a State or any agency or political subdivision thereof.

SEC. 203. No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 201 or 202, or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 201 or 202, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 201 or 202.

[SEC. 204. (a) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted (1) by the person aggrieved, or (2) by the Attorney General for or in the name of the United States if he satisfies himself that the purposes of this title will be materially furthered by the filing of an action.

[(b) In any action commenced pursuant to this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

[(c) In case of any complaint received by the Attorney General alleging a violation or threatened violation of section 203 in a place where State or local laws or regulations forbid the act or practice involved, the Attorney General shall notify the appropriate State or local officials and, upon request, afford them a reasonable time to act under such State or local laws or regulations before he institutes an action.

[(d) In the case of any complaint received by the Attorney General alleging a violation or threatened violation of section 203, the Attorney General, before instituting an action, may utilize the services of any Federal, State, or local agency or instrumentality which may be available to attempt to secure compliance with the provisions of this title by voluntary procedures.

[(e) Compliance with the foregoing provisions of subsection (c) shall not be required if the Attorney General shall file with the court a certificate that the delay consequent upon compliance with such provisions in the particular case would adversely affect the interests of the United States, or that in the particular case compliance with such provisions would prove ineffective.]

Sec. 204. (a) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved and, upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security.

(b) In any action commenced pursuant to this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

(c) In the case of an alleged act or practice prohibited by this title which occurs in a State, or political subdivision of a State, which has a State or local law prohibiting such act or practice and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no civil action may be brought under subsection (a) before the expiration of thirty days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings.

(d) In the case of an alleged act or practice prohibited by this title which occurs in a State, or political subdivision of a State, which has no State or local law prohibiting such act or practice, a civil action may be brought under subsection (a): Provided, That the court may refer the matter to the Community Relations Service established by title X of this Act for as long as the court believes there is a reasonable possibility of obtaining voluntary compliance, but for not more than sixty days: Provided further, That upon expiration of such sixty-day period, the court may extend such period for an additional period, not to exceed a cumulative total of one hundred and twenty days, if it believes there then exists a reasonable possibility of securing voluntary compliance.

Sec. 205. The Service is authorized to make a full investigation of any complaint referred to it by the court under section 204(d) and may hold such hearings with respect thereto as may be necessary. The Service shall conduct any hearings with respect to any such complaint in executive session, and shall not release any testimony *given therein except by agreement of all parties involved in the complaint with the permission of the court, and the Service shall endeavor to bring about a voluntary settlement between the parties.*

Sec. 206. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) In any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

SEC. [205.] *207.* (a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) The remedies provided in this title shall be the exclusive means of enforcing the rights hereby created, but nothing in this title shall preclude any individual or any State or local agency from asserting any right created by any other Federal or State law not inconsistent with this title, including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right.

[(c) Proceedings for contempt arising under the provisions of this title shall be subject to the provisions of section 151 of the Civil Rights Act of 1957 (71 Stat. 638).]

TITLE III—DESEGREGATION OF PUBLIC FACILITIES

SEC. 301. (a) Whenever the Attorney General receives a complaint *in writing* signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to the equal protection of the laws, on account of his race, color, religion, or national origin, by being denied [access to or full and complete] *equal* utilization of any public facility which is owned, operated, or managed by or on behalf of any State or subdivision thereof, other than a public school or public college as defined in section 401 of title IV hereof, and the Attorney General *believes the complaint is meritorious and* certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further [the public policy of the United States favoring] the orderly progress of desegregation in public facilities, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the *personal safety,* employment or economic standing of, [or might result in injury or economic damage to,] such person or persons, their families, or their property.

[SEC. 302. Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action. In such an action the United States shall be entitled to the same relief as if it had instituted the action.]

SEC. [303.] *302.* In any action or proceeding under this title the United States shall be liable for costs, including a reasonable attorney's fee, the same as a private person.

SEC. [304.] *303.* Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in any facility covered by this title.

Sec. 304. A complaint as used in this title is a writing or document within the meaning of section 1001, title 18, United States Code.

TITLE IV—DESEGREGATION OF PUBLIC EDUCATION

Definitions

SEC. 401. As used in this title—

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary school level *provided that such public school or public college is* operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

Survey and report of educational opportunities

SEC. 402. The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.

Technical assistance

SEC. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

Training institutes

SEC. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute *on a full time basis* may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, [including allowances for dependents and] including allowances for travel to attend such institute.

Grants

SEC. 405. (a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

(1) giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(2) employing specialists to advise in problems incident to desegregation.

(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

Payments

SEC. 406. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

Suits by the Attorney General

SEC. 407. (a) Whenever the Attorney General receives a complaint *in writing*—

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived *by a school board* of the equal protection of the laws [by reason of the failure of a school board to achieve desegregation], or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin, and the Attorney General *believes the complaint is meritorious and* certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further [the public policy of the United States favoring] the orderly achievement of desegregation in public education, the Attorney General is authorized, *after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint,* to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section[.], *provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards.* The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the *personal safety,* employment or economic standing of [, or might result in injury or economic damage to,] such person or persons, their families, or their property.

(c) The term "parent" as used in this section includes any person standing in loco parentis. *A "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.*

SEC. 408. In any action or proceeding under this title the United States shall be liable for costs the same as a private person.

SEC. 409. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education [or in any facility covered by this title].

Sec. 410. Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin.

TITLE V—COMMISSION ON CIVIL RIGHTS

SEC. 501. Section 102 of the Civil Rights Act of 1957 (42 U.S.C. 1975a; 71 Stat. 634) is amended to read as follows:

"Rules of procedure of the Commission hearings

"SEC. 102. (a) *At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing.* The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

"(b) A copy of the Commission's rules shall be made available to any witness before the Commission, *and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpena.*

["(c) Witnesses at the hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.]

"*(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.*

"(d) The Chairman or Acting Chairman may punish breaches of order and decorum [and unprofessional ethics on the part of counsel,] be censure and exclusion from the hearings.

"(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. *The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony.* In the event the Commission determines *to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated,* [that] such evidence or testimony, *prior to such public release or use,* shall be given at a public session, *and the Commission* [it] shall afford such person an opportunity [voluntarily] to appear as a *voluntary* witness [and] *or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall* receive and dispose of requests from such person to subpena additional witnesses.

"(f) Except as provided in sections 102 and 105(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

"(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

"(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission [is the sole judge of] *shall determine* the pertinency of testimony and evidence adduced at its hearings.

["(i) Upon payment of the cost thereof, a witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Commission.]

"*(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.*

"(j) A witness attending any session of the Commission shall receive $6 for each day's attendance and for the time necessary occupied in going to and returning from the same, and 10 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of $10 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

"(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process."

"*(l) The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published.*"

SEC. 502. Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a); 71 Stat. 634) is amended to read as follows:

"SEC. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $75 per day for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b–2; 60 Stat. 808)."

SEC. 503. Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(b); 71 Stat. 634) is amended to read as follows:

"(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended (5 U.S.C. 835–42; 63 Stat. 166)."

SEC. 504. (a) Section 104 (*a*) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(*a*); 71 Stat. 635), as amended, is further amended to read as follows:

"Duties of the Commission

"SEC. 104. (a) The Commission shall—

"(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

"(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution *because of race, color, religion or national origin or in the administration of justice;*

"(3) appraise the laws and policies of the Federal Government with respect to *denials of* equal protection of the laws under the Constitution *because of race, color, religion or national origin or in the administration of justice*;

"(4) serve as a national clearinghouse for information in respect to *denials of* equal protection of the laws *because of race, color, religion or national origin,* including but not limited to the fields of voting, education, housing, employment, the use of public facilities, *and* transportation, *or in* the administration of justice;

"(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of presidential electors, Members of the United States Senate, or of the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election; and

"(6) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization."

(*b*) *Section 104*(*b*) *of the Civil Rights Act of 1957* (*42 U.S.C. 1975c*(*b*)*; 71 Stat. 635*) *as amended, is further amended by striking out the present subsection "*(*b*)*" and by substituting therefor:*

"(b) The Commission shall submit interim reports to the President and to the Congress at such times as the Commission, the Congress or the President shall deem desirable, and shall submit to the President and to the Congress a final report of its activities, findings, and recommendations not later than January 31, 1968."

SEC. 505. Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(a); 71 Stat. 636) is amended by striking out in the last sentence thereof "$50 per diem" and inserting in lieu thereof of "$75 per diem."

SEC. 506. *Section 105* (*f*) *and* section 105(g) of the Civil Rights Act of 1957 (42 U.S.C. 1975d (*f*) *and* (g); 71 Stat. 636 *are* amended to read as follows:

"(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 102 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of four members is present.

"(g) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce *pertinent, relevant, and nonprivileged* evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof."

SEC. 507. Section 105 of the Civil Rights Act of 1957 (42 U.S.C. 1975d; 71 Stat. 636), as amended by section 401 of the Civil Rights Act of 1960 (42 U.S.C. 1975d(h); 74 Stat. 89), is further amended by adding a new subsection at the end to read as follows:

"(1) The Commission shall have the power to make such rules and regulations as *are* necessary to carry out the purposes of this Act."

TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

SEC. 601. [Notwithstanding any inconsistent provision of any other law,] No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

SEC. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, [shall take action] *is authorized and directed* to effectuate the provisions of section 601 with respect to such program or activity. [Such action may be taken by or pursuant to rule, regulation, or order of general applicability and] *by issuing rules, regulations, or orders, of general applicability which* shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. [After a hearing] Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding *on the record, after opportunity for hearing*, of a failure to comply with such requirement, *but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found*, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the [*c*]ommittees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

SEC. 603. Any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

SEC. 604. *Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.*

TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY

[SEC. 701, (a) The Congress hereby declares that the opportunity for employment without discrimination of the types described in sections 704 and 705 is a right of all persons within the jurisdiction of the United States, and that it is the national policy to protect the right of the individual to be free from such discrimination.

(b) The Congress further declares that the succeeding provisions of this title are necessary for the following purposes:

(1) To remove obstructions to the free flow of commerce among the States and with foreign nations.

(2) To insure the complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.]

Definitions

SEC. [702] *701.* For the purposes of this title—

(a) the term "person" includes one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankrupcty, or receivers.

(b) The terms "employer" means a person engaged in an industry affecting commerce who has twenty-five or more employees *for each working day in each of twenty or more calendar weeks in the current or preceding calendar year,* and any agent of such a person, but such item does not include (1) the United States, a corporation wholly owned by the Government of the United States, or a state or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: *Provided,* That during the first year after the effective date prescribed in subsection (a) of section [718] *716*, persons having fewer than one hundred employees (and their agents) shall not be considered employers, and, during the second year after such date, persons having fewer than seventy-five employees (and their agents) shall not be considered employers, and, during the third year after such date, persons having fewer than fifty employees (and their agents) shall not be considered employers [—]: *Provided further, That it shall be the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex or national origin and the President shall utilize his existing authority to effectuate this policy.*

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if *(1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2)* the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) one hundred or more during the first year after the effective date prescribed in subsection (a) of section [718] *716*, (B) seventy-five or more during the second year after such date or fifty or more during the third year, or (C) twenty-five or more thereafter, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by an employer.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Island, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

Exemption

SEC. [703] *702.* This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society [.] *with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, or society of its religious activities or to an educational instiution with respect to the employment of individuals to perform work connected with the educational activities of such institution.*

Discrimination because of race, color, religion, sex, or national origin

SEC. [704] *703.* (a) It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership *or to classify or fail or refuse to refer for employment any individual,* in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees [of a particular], *for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his* religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

[(f) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to refuse to hire and employ any person because of said person's atheistic practices and beliefs.]

[*(f)*] As used in this title, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

(g) Notwithstanding any other provision of this title, it shall not be an unlawful em-

ployment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if—

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United Sttaes or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin.

(i) Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

Other unlawful employment practices

SEC. [705.] *704.* (a) It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

(b) It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in *or any classification or referral for employment by* such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

Equal Employment Opportunity Commission

SEC. [706.] *705.* (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

[(e) Each member of the Commission shall receive a salary of $20,000 a year, except that the Chairman shall receive a salary of $20,500.]

(e) The Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2201–2209), is further amended—

(1) by adding to section 105 thereof (5 U.S.C. 2204) the following clause:

"(32) Chairman, Equal Employment Opportunity Commission"; and

(2) by adding to clause (45) of section 106(a) thereof (5 U.S.C. 2205(a)) the following: "Equal Employment Opportunity Commission (4)."

(f) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all of its powers at any other place. The Commission may establish such regional or State offices as it deems necessary [and shall establish at least one such office in each of the major geographical areas of the United States, including its territories and possessions] *to accomplish the purpose of this title.*

(g) The Commission shall have power—

(1) to cooperate with and, *with their consent,* utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

(4) upon the request (*i*) of any employer, whose employees or some of them, *or* (*ii*) *any labor organization, whose members or some of them,* refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or *such* other remedial action *as is provided by this title;*

(5) to make technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to *the public* [interested governmental and nongovernmental agencies].

(6) to refer matters to the Attorney General with recommendations for intervention in a civil action brought by an aggrieved party under section 706, or for the institution of a civil action by the Attorney General under section 707, and to advise, consult, and assist the Attorney General on such matters.

(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

(i) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

Prevention of unlawful employment practices

SEC. [707] *706.* (a) Whenever it is charged in writing under oath [or on behalf of] a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this [Act] *title* has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge[.], *provided that such charge shall not be made public by the Commission.* If [two or more members of] the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such *alleged* unlawful employment practice by informal methods of conference, conciliation, and persuasion [and, if appropriate, to obtain from the respondent a written agreement describing particular practices which the respondent agrees to refrain from committing]. Nothing said or done during and as a part of such endeavors may be *made public by the Commission without the written consent of the parties,* or used as evidence in a subsequent proceeding. *Any officer or employee of the Commission, who shall make public in any manner whatever any information in violation of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.*

[(b) If the Commission has failed to effect the elimination of an unlawful employment practice and to obtain voluntary compliance with this title, the Commission, if it determines there is reasonable cause to believe the respondent has engaged in, or is engaging in, an unlawful employment practice, shall, within ninety days, bring a civil action to prevent the respondent from engaging in such unlawful employment practice, except that the Commission shall be relieved of any obligation to bring a civil action in any case in which the Commission has, by affirmative vote, determined that the bringing of a civil action would not serve the public interest.]

[(c) If the Commission has failed or declined to bring a civil action within the time required under subsection (b), the person claiming to be aggrieved may, if one member of the Commission gives permission in writing, bring a civil action to obtain relief as provided in subsection (e).]

(b) In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

(c) In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State, which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

(d) A charge under subsection (a) shall be filed within ninety days after the alleged unlawful employment practice occurred, except that in the case of an unlawful employment practice with respect to which the person aggrieved has followed the procedure set out in subsection (b), such charge shall be filed by the person aggrieved within two hundred and ten days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

(e) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) (except that in either case such period may be extended to not more than sixty days upon a determination by the Commission that further efforts to secure voluntary compliance are warranted), the Commission has been unable to obtain voluntary compliance with this title, the Commission shall so notify the person aggrieved and a civil action may, within thirty days thereafter, be brought against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (b) or the efforts of the Commission to obtain voluntary compliance.

[(d)] *(f)* Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. [Such actions may be brought either in the judicial district in which the unlawful employment practice is alleged to have been committed or in the judicial district in which the respondent has his principal office. No such civil action shall be based on an unlawful employment practice occurring more than six months prior to the filing of the charge with the Commission and the giving of notice thereof to the respondent, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event a period of military service shall not be included in computing the six-month period.] *Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the plaintiff would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. for purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.*

[(e)] (g) If the court finds that the respondent has *intentionally* engaged in or is *intentionally* engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and [shall] order [the respondent to take] such affirmative action *as may be appropriate, which may include* [, including] reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice) [, as may be appropriate]. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, *sex*, or national origin *or in violation of section 704 (a)*.

[(f) In any case in which the pleadings present issues of fact, the court may appoint a master and the order of reference may require the master to submit with his report a recommended order. The master shall be compensated by the United States at a rate to be fixed by the court, and shall be reimbursed by the United States for necessary expenses incurred in performing his duties under this section. Any court before which a proceeding is brought under this section shall advance such proceeding on the docket and expedite its disposition.]

[g](*h*) The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101–115), shall not apply with respect to civil actions brought under this section.

[(h) In any action or proceeding under this title the Commission shall be liable for costs the same as a private person.]

(i) In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under subsection (e), the Commission may commence proceedings to compel compliance with such order.

(j) Any civil action brought under subsection (e) and any proceedings brought under subsection (j) shall be subject to appeal as provided in sections 1291 and 1292, title 28, United States Code.

(k) In any action or proceeding under this title the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person.

Sec. 707. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to des-

ignate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

Effect on State laws

Sec. 708. [(a)] Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title.

INVESTIGATIONS, INSPECTIONS, RECORD, STATE AGENCIES

Sec. 709. (a) In connection with any investigation of a charge filed under section [706], the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under [investigation or in question.] *unlawful employment practices covered by this title and is relevant to the charge under investigation.*

[(b) With the consent and cooperation of State and local agencies charged with the administration of State fair employment practices laws, the Commission may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered to assist the Commission in carrying out this title.]

(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements and under which no person may bring a civil action under section 706 in any cases or class of cases so specified, or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

(c) [Every] *Except as provided in subsection (d), every* employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship [it] may (1) apply to the Commission for an exemption from the application of such regulation or order, or (2) bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment [service] *agency* or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

(d) The provisions of subsection (c) shall not apply to any employer, employment agency, labor organization, or joint labor-management committee with respect to matters occurring in any State or political subdivision thereof which has a fair employment practice law during any period in which such employer, employment agency, labor organization, or joint labor-management committee is subject to such law, except that the Commission may require such notations on records which such employer, employment agency, labor organization, or joint labor-management committee keeps or is required to keep as are necessary because of differences in coverage or methods of enforcement between the State or local law and the provisions of this title. Where an employer is required by Executive Order 10925, issued March 6, 1961, or by any other Executive order prescribing fair employment practices for Government contractors and subcontractors, or by rules or regulations issued thereunder, to file reports relating to his employment practices with any Federal agency or committee, and he is substantially in compliance with such requirements, the Commission shall not require him to file additional reports pursuant to subsection (c) of this section.

(e) It shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this title involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than one year.

Investigatory powers

[Sec. 710. (a) For the purposes of any investigation provided for in this title, the provisions of sections 9 and 10 of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Commission, except that the provisions of section 307 of the Federal Power Commission Act shall apply with respect to grants of immunity, and except that the attendance of a witness may not be required outside the State where he is found, resides, or transacts business, and the production of evidence may not be required outside the State where such evidence is kept.]

[(b) The several departments and agencies of the Government, when directed by the President, shall furnish the Commission, upon its request, all records, papers, and other information in their possession relating to any matter before the Commission whenever disclosure of such information is not prohibited by law.]

Sec. 710. (a) For the purposes of any investigation of a charge filed under the authority contained in section 706, the Commission shall have authority to examine witnesses under oath and to require the production of documentary evidence relevant or material to the charge under investigation.

(b) If the respondent named in a charge filed under section 706 fails or refuses to comply with a demand of the Commission for permission to examine or to copy evidence in conformity with the provisions of section 709(a), or if any person required to comply with the provisions of section 709 (c) or (d) fails or refuses to do so, or if any person fails or refuses to comply with a demand by the Commission to give testimony under oath, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission have jurisdiction to issue to such person an order requiring him to comply with the provisions of sections 709 (c) or (d) or to comply with the demand of the Commission, but the attendance of a witness may not be required outside the State where he is found, resides, or transacts business and the production of evidence may not be required outside the State where such evidence is kept.

(c) Within twenty days after the service upon any person charged under section 706 of a demand by the Commission for the production of documentary evidence or for permission to examine or to copy evidence in conformity with the provisions of section 709(a), such person may file in the district court of the United States for the judicial district in which he resides, is found, or transacts business, and serve upon the Commission a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with

the provisions of this title or with the limitations generally applicable to compulsory process or upon any constitutional or other legal right or privilege of such person. No objection which is not raised by such a petition may be urged in the defense to a proceeding initiated by the Commission under subsection (b) for enforcement of such a demand unless such proceeding is commenced by the Commission prior to the expiration of the twenty-day period, or unless the court determines that the defendant could not reasonably have been aware of the availability of such ground of objection.

(d) In any proceeding brought by the Commission under subsection (b), except as provided in subsection (c) of this section, the defendant may petition the court for an order modifying or setting aside the demand of the Commission.

Notices to be posted

SEC. 711. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts *from or, summaries of, the pertinent provisions* of this title *and information pertinent to the filing of a complaint.* [and such other relevant information which the commission deems appropriate to effectuate the purposes of this title.]

(b) A willful violation of this section shall be punishable by a fine of not [less] *more* than $100 [or more than $500] for each separate offense.

Veterans' preference

SEC. 712. Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

Rules and regulations

SEC. 713. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) In any action or proceeding based on any alleged unlawful employment practice no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this title if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this title regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this title.

Forcibly resisting the Commission or its representatives

SEC. 714. The provisions of section 111, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

[APPROPRIATIONS AUTHORIZED]

[SEC. 715. There is hereby authorized to be appropriated not to exceed $2,500,000 for the administration of this title by the Commission during the first year after its enactment, and not to exceed $10,000,000 for such purpose during the second year after such date.]

[SEPARABILITY CLAUSE]

[SEC. 716. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of this title or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.]

Special study by Secretary of Labor

SEC. [717.] *715.* The Secretary of Labor shall make a full and complete study of the factors which might tend to result in discrimination in employment because of age and of the consequences of such discrimination on the economy and individuals affected. The Secretary of Labor shall make a report to the Congress not later than June 30, *1965* [1964], containing the results of such study and shall include in such report such recommendations for legislation to prevent arbitrary discrimination in employment because of age as he determines advisable.

Effective date

SEC. *716* [718]. (a) This title shall become effective one year after the date of its enactment.

(b) Notwithstanding subsection (a), sections of this title other than sections *703, 704, 706* [704, 704], and 707 shall become effective immediately.

(c) The President shall, as soon as feasible after the enactment of this title, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this title to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this title when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this title.

TITLE VIII—REGISTRATION AND VOTING STATISTICS

SEC. 801. The Secretary of Commerce shall promptly conduct a survey to compile registration and voting statistics in such geographic areas as may be recommended by the Commission on Civil Rights. Such a survey and compilation shall, to the extent recommended by the Commission on Civil Rights, include a count of persons of voting age by race, color, and national origin, and [a] determination of the extent to which such persons are registered to vote, and have voted in any statewide primary or general election in which the Members of the United States House of Representatives are nominated or elected, since January 1, 1960. Such information shall also be collected and compiled in connection with the Nineteenth Decennial Census, and at such other times as the Congress may prescribe. *The provisions of section 9 and chapter 7 of title 13, United States Code, shall apply to any survey, collection, or compilation of registration and voting statistics carried out under this title: Provided, however, That no person shall be compelled to disclose his race, color, national origin, political party affiliation, how he voted, or the reasons therefore, nor shall any penalty be imposed for his failure or refusal to make such disclosure. Every person interrogated orally, by written survey or questionnaire or by any other means with respect to such information shall be fully advised with respect to his right to fail or refuse to furnish such information.*

Title IX—*Intervention and* procedure after removal in civil rights cases

SEC. 901. Title 28 of the United States Code, section 1447(d), is amended to read as follows:

"An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1443 of this title shall be reviewable by appeal or otherwise."

Sec. 902. Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws under the fourteenth amendment to the Constitution on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action, if the Attorney General certifies that the case is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

TITLE X—ESTABLISHMENT OF COMMUNITY RELATIONS SERVICE

SEC. 1001. (a) There is hereby established in the Department of Commerce a Community Relations Service (hereinafter referred to as the "Service"), which shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate for a term of four years. [The Director shall receive compensation at a rate of $20,000 per year.] The Director is authorized to appoint, subject to the Civil Service laws and regulations, such other personnel [not to exceed six in number,] as may be necessary to enable the Service to carry out its functions and duties, and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Director is further authorized to procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U.S.C. 55(a)), but at rates for individuals not in excess of $75 per diem.

(b) Section 106*a* of the Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2205(*a*)), is further amended by adding the following clause thereto:

"(52) Director, Community Relations Service."

SEC. 1002. It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce. The Service may offer its services in cases of such disputes, disagreements, or difficulties whenever, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby, and it may offer its services either upon its own motion or upon the request of an appropriate State or local official or other interested persons.

SEC. 1003. (a) The Service shall, whenever possible, in performing its functions [under this title], seek and utilize the cooperation of the appropriate State or local, *public, or private* agencies.

(b) The activities of all officers and employees of the Service in providing conciliation assistance shall be conducted in con-

fidence and without publicity, and [T]the Service shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No officer or employee of the Service shall engage in the performance of investigative or prosecuting functions of any [D]department or agency in any litigation arising out of a dispute in which he acted on behalf of the Service. *Any officer or other employee of the Service, who shall make public in any manner whatever any information in violation of this subsection, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than one year.*

SEC. 1004. Subject to the provisions of sections *205 and* 1003(b), the Director shall, on or before January 31 of each year, submit to the Congress a report of the activities of the Service during the preceding fiscal year.

TITLE XI—MISCELLANEOUS

Sec. 1101. (a) In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: Provided, however, That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall imprisonment exceed the term of six months: Provided further, That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: Provided further, however, That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $300 nor any cumulative imprisonment exceed thirty days. If the trial is by a jury, the procedure shall conform as near as may be to that in other criminal cases.

(b) Section 151 of the Civil Rights Act of 1957 (41 Stat. 638) is amended by striking out the third proviso to the first paragraph thereof, and inserting in lieu thereof the following: "Provided further, however, That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $300 nor any cumulative imprisonment exceed thirty days. If the trial is by a jury, the procedure shall conform as near as may be to that in other criminal cases."

SEC. [1101] *1102.* Nothing in this Act shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or of the United States or any agency or officer thereof under existing law to institute or intervene in any action or proceeding.

SEC. [1102] *1103.* Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this Act, or any provision thereof.

SEC. [1103] *1104.* There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. [1104] *1105.* If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons *not similarly situated* or *to other* circumstances shall not be affected thereby.

PRINTING FOR THE USE OF THE SENATE THE HOUSE-PASSED CIVIL RIGHTS BILL AS AMENDED BY THE DIRKSEN SUBSTITUTE (AMENDMENT NO. 656)

Mr. DIRKSEN. Madam President, in connection therewith, I ask unanimous consent that there be printed, for the use of the Senate only, that same document in bill form, so that it will be available in larger type. I understand the limitation is 300 copies.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

EXPLANATION OF CHANGES

Mr. DIRKSEN. Madam President, I further ask unanimous consent that an explanation of the changes made in the substitute amendment styled No. 656 be also printed in the RECORD at this point.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

CIVIL RIGHTS BILL—EXPLANATION OF CHANGES MADE BY SUBSTITUTE AMENDMENT NO. 656

SHORT TITLE

The short title has been amended to read "The Civil Rights Act of 1964."

TITLE I—VOTING RIGHTS

Section 101(b) has been amended by deleting the limiting language "of such individual" in reference to errors in registering to vote. The reference to "payment of poll tax" has been deleted because of the constitutional amendment.

Section 101(c) has been amended to require that where literacy tests are required by State law, they be given in writing. A proviso has been added to permit agreements between the Attorney General and the various States as to the general conduct of their literacy tests including provisions for tests for the blind and physically handicapped.

Section 101(d) is amended by striking that part of the proposed subparagraph (h) dealing with a request for a three-judge court and inserting new language.

The new language provides that at the time that the Attorney General institutes a proceeding under this section and requests a finding of a pattern or practice of discrimination under subsection (e) he may request a three-judge court.

Any defendant within 20 days after service upon him of a copy of the complaint may file a similar request. The language of H.R. 7152 had no requirement for the "finding of a pattern or practice" nor was there a time certain in which a request for a three-judge court could be made either by the Attorney General or any defendant. The procedure to be followed in the event there is no request for a three-judge court has been rephrased to reflect the above changes.

TITLE II—INJUNCTIVE RELIEF AGAINST DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATIONS

Section 201(b)(4) has a technical change as does section 201(d).

Section 204 has been stricken and new sections 204, 205, and 206 have been inserted.

New section 204(a) retains the provisions of H.R. 7152 giving individuals the right to initiate a civil action for preventative relief, however the new language denies the Attorney General the right to initiate such individual suits.

New section 204(b) is the same as 204(b) of H.R. 7152.

New section 204(c) describes the procedure to be followed when an act or practice prohibited by this title occurs in a State having a State or local law prohibiting such act or practice. The aggrieved party must pursue his State or local remedy and may not begin a civil action in Federal court until 30 days after written notice of the act or practice has been given to the State or local authority. The court may stay proceedings in such civil action pending termination of State or local enforcement proceedings.

New section 204(d) describes the procedure to be followed when an act or practice prohibited by this title occurs in a State or political subdivision of a State having no State or local law prohibiting such act or practice. The aggrieved individual may bring a civil action for preventive relief in Federal court immediately. The court may refer the matter to the Community Relations Service, established by title X, to obtain voluntary compliance but only for 60 days. The court may however extend such stay for an additional period, not to exceed 60 days, if the court believes there is a reasonable possibility of obtaining voluntary compliance.

New section 205 authorizes the Community Relations Service to attempt to obtain voluntary compliance in discrimination cases referred to it by the court under section 204(d) and outlines the procedure to be followed by the Commission.

New section 206(a) creates a cause of action by the Attorney General when there is a pattern or practice of resistance to the rights secured by this title. He may file a civil action by filing a complaint (1) signed by himself (or in his absence the Acting Attorney General), (2) setting forth the facts pertaining to such pattern or practice, and (3) requesting such preventive relief as he deems necessary to insure the full enjoyment of the rights described in this title.

New section 206(b) provides the procedure under which the Attorney General may obtain a three-judge court. His request for such a court must be accompanied by a certificate that the case is of general public importance. The balance of the subsection outlines the procedure to be followed if such a request is made, or the procedure to be followed if there is no such request.

Section 205 has been renumbered 207 and subparagraph (c) has been stricken.

TITLE III—DESEGREGATION OF PUBLIC FACILITIES

Section 301(a) has four proposed amendments. The first provides that the complaint must be in writing. The second provides for equal utilization of public facilities in place of full and complete utilization as provided in H.R. 7152. The third provides that the Attorney General must believe that the complaint is meritorious before instituting suit. And, the fourth strikes the language "the public policy of the United States."

Section 301(b) has been amended. The determination to be made by the Attorney General that the bringing of an action by an individual might result in injury or economic damage has been deleted, and the determination must now be made on the basis that the bringing of an action would result in injury or economic damage.

Section 302 is stricken, and in somewhat modified form appears as section 902 in title IX.

Sections 303 and 304 have been renumbered as 302 and 303.

New section 304 has been added. It classifies a complaint filed under this title as a writing or document within the meaning of section 1001, title 18, United States Code.

TITLE IV—DESEGREGATION OF PUBLIC EDUCATION

Section 401(c) is amended by adding the proviso that "such public school or public college" * * * is operated by a State, subdivision of a State * * *, this is a technical change to make it clear that the title applies only to public schools.

Section 404 is amended to require full time attendance at special training institutes to be eligible for stipends and to delete the provision providing an allowance for dependents.

Section 407(a) is amended to provide that the complaint must be in writing.

Section 407(a)(1) is amended to provide that persons who file a complaint with the Attorney General must allege that they are being deprived of the equal protection of the laws by a school board. H.R. 7152 related only to the failure of the school board to achieve desegregation.

Section 407(a)(2) is amended to require that the Attorney General as a condition precedent to filing suit believes the complaint is meritorious. The words "the public policy of the United States favoring" are stricken from this section.

This section is further amended by providing that the Attorney General give notice of a complaint to the proper school board or college authority and that prior to bringing suit he certify that the board or authority has had a reasonable time to adjust the conditions alleged in the complaint. A further proviso is added to this section which provides that nothing herein shall empower an official or court of the United States to require the transportation from one school district to another in order to achieve racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards.

Section 407(c) is amended to provide that a "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.

Section 409 contains a technical amendment deleting the phrase "or in any facility covered by this title."

Section 410 is added and it provides that nothing in title IV shall prohibit classification and assignment for reasons other than race, color, religion, or national origin.

TITLE V—COMMISSION ON CIVIL RIGHTS

Section 501. Rules of procedure of the Commission hearings: The following changes have been made in this section which amends section 102 of the Civil Rights Act of 1957:

(a) This section provides that at least 30 days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

(b) This section provides that a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpena.

(c) This section provides that any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

(d) The authority of the Chairman or Acting Chairman to punish counsel for unprofessional ethics has been deleted.

(e) New language in this section provides that the Commission shall afford any person defamed, degraded, or incriminated by evidence or testimony taken in executive session an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses.

(h) The Commission is authorized to "determine," rather than to be the "sole judge" of the pertinency of testimony and evidence adduced at its hearings.

(i) This section provides that every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

(l) This new paragraph provides that the Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law. A further new provision requires that no person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published.

Section 504. Duties of the Commission: The duty of the Commission to study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution has been specifically related in this section to denials of equal protection of law because of race, color, religion or national origin or in the administration of justice.

The duty of the Commission to appraise the laws and policies of the Federal Government and to serve as a national clearinghouse for information in respect to denials of equal protection of the laws has also been specifically related to such denials because of race, color, religion, or national origin or in the administration of justice.

Section 506: This section is new. It provides that the Commission or, on its authority, any subcommittee of two or more members, at least one of which shall be of each major political party, may hold hearings and issue subpenas in accordance with its rules. Approval for holding hearings is by a majority of members present at a meeting, at which at least a quorum of four members is present.

(g) This section providing for production of evidence before the Commission has been changed to describe the evidence required as "pertinent, revelant and nonprivileged evidence."

Section 507(1): The power of the Commission to make rules and regulations as "it deems" necessary has been changed to make rules and regulations as "are" necessary to carry out the purposes of this act.

TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Section 601: The words "Notwithstanding any inconsistent provision of any other law" are deleted from the first sentence of this section.

Section 602: Agencies and departments extending Federal financial assistance are authorized and directed to effectuate the provisions of section 601, prohibiting discrimination in programs receiving Federal financial assistance.

New provisions added to this section require a finding on the record of failure to comply with requirements under this title and limit the termination or refusal of assistance to the particular political entity or part thereof or other recipient as to whom such finding is made.

Section 604: This section is new. It provides that nothing in this title authorizes action thereunder by any department or agency with respect to employment practices except where a primary objective of Federal financial assistance is to provide employment.

TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY

Findings and declaration of policy

Section 701: This section consisting of findings and declaration of policy is deleted in its entirety.

Section 702 (renumbered 701):

(b) Definition of "employer" is amended to provide a specific test for computing the number of employees of an employer, in determining whether the employer is covered by the bill. Because the United States is exempted from the definition of employer in the bill, the amendment provides that a policy of nondiscrimination also applies to all Federal employees.

(e) This amendment broadens the definition by which a labor organization shall be deemed to be engaged in an industry affecting commerce by adding the provision "it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer" to the criteria enumerated in H.R. 7152.

Exemption

Section 703 (renumbered 702): The general exemption of a religious corporation, association or society from this title of the bill is limited by the amendment to the employment of individuals of a particular religion to perform work connected with its religious activities. A similar exemption is provided for an educational institution with respect to the employment of individuals to perform work connected with the educational activities of the institution.

Discrimination because of race, color, religion, sex, or national origin

Section 704 (renumbered 703):

(c) A conforming change is made in the definition of unlawful employment practices by labor organizations to include the operation of hiring halls by labor organizations. The same change is made, where appropriate, throughout the title.

(e) Proviso (1) of subsection 704(e) provides that it shall not be an unlawful employment practice for an employer to hire employees of a particular religion, sex, or national origin where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise. The amendment broadens the coverage and extends the same treatment to (1) employment agencies when classifying or referring individuals for employment, (2) to labor organization when classifying its membership or classifying individuals for employment, (3) to employers, labor organizations or joint labor-management committees controlling apprenticeship or other training programs.

(f) This subsection containing the atheist exception is stricken.

New subsection (g) provides an exception with respect to individuals who do not meet the requirements of a security program imposed by statute or Executive order.

New subsection (h) provides that an employer may apply different standards of compensation, or different terms, conditions, or privileges of employment (1) pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production, or (2) to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin.

New subsection (i) protects the employment preference for Indians who live on or near a reservation.

New subsection (j) provides that this title does not require preferential treatment be given any individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed, in comparison with the total number or percentage of such persons in that or any other area.

Equal Employment Opportunity Commission

Section 706 (renumbered 705): This section deals with the creation and operation of the Equal Employment Opportunity Commission.

(e) This subsection contains a technical revision to state the compensation of the Commission members in terms of the Federal Executive Pay Act of 1956.

(f) This subsection is revised to provide specifically that the Commission may establish State offices as well as regional offices, and that its principal office may be either in or near the District of Columbia.

(g) Clause (1) of this subsection is amended to expressly require the consent of State or local agencies before they can be utilized by the Commission. Clause (4) of this subsection is revised to limit the remedial action which the Commission may take to the remedial action provided by this title and to extend the provisions of the clause to labor organizations. Clause (5) is amended to make the results of studies made by the Commission available to the public instead of only to governmental and nongovernmental agencies. Clause (6) is new and provides that the Commission can make recommendations to the Attorney General with respect to intervention in a civil action brought by an aggrieved party under section 706 or for the institution of a civil action brought by the Attorney General under section 707, and advise, consult, and assist the Attorney General on such matters.

Prevention of unlawful employment practices

Section 707 (renumbered 706): This section provides for the bringing and processing of the charge of an unlawful employment practice before the Commission.

(a) This subsection is amended to provide that the charge can be brought only by the person claiming to be aggrieved or by a member of the Commission. The authority to bring a charge "on behalf of" a person claiming to be aggrieved is deleted. A provision is added that the charge shall not be made public by the Commission. A technical amendment is made changing "act" to "title."

The provision that two members of the five-man Commission may make a determination is stricken, leaving the required number of members to be determined by the customary rules of agency organization. The provision for obtaining a written agreement describing practices which the respondent agrees to refrain from committing is deleted. The general power of the Commission to obtain conciliation agreements remains, however.

A requirement is added that nothing said or done during the conciliation endeavors may be made public by the Commission without consent of the parties. A criminal penalty is also added to apply to any officer or employee of the Commission who makes public any matter in violation of this subsection.

(b) and (c): These subsections providing for conciliation and court enforcement 90 days after the Commission has determined that voluntary compliance cannot be obtained, and permitting the person aggrieved to bring a civil action in court with the permission of one member of the Commission if the Commission has failed to bring a court action, are substantially modified and are replaced by new subparagraphs (b), (c), (d), and (e) to take into account the many States which have State or local FEP laws.

New subsection (b) provides that where there is such a State or local law, no charge may be filed with the Commission by the person aggrieved until 60 days (120 days during the first year after the effective date of a new State or local law) after proceedings have been commenced under the State or local law. If any requirement for the commencement of such proceedings is imposed other than the filing of a written and signed statement of facts on which the proceeding is based, the 60 days shall begin to run from the time such a statement is sent by registered mail to the appropriate State or local authorities.

New subsection (c) provides that if the charge filed by a member of the Commission instead of by the person aggrieved, and there is a State or local law prohibiting the practice alleged and providing a remedy, the Commission shall not take any action with respect to the charge before notifying the appropriate State or local officials and, upon their request, affording them a reasonable time, but not less than 60 days (120 days during the first year after the effective date of a new State or local law), to remedy the practice alleged.

New subsection (d) requires that a charge must be filed with the Commission within 90 days after the alleged unlawful employment practice occurred, except that if the person aggrieved follows State or local procedures in subsection (b), he may file the charge within 210 days after the alleged practice occurred or within 30 days after receiving notice that the State or local proceedings have been terminated, whichever is earlier. The additional 120 days is to allow him to pursue his remedy by State or local proceedings. The Commission is required to send a copy of any charge filed with it to the State or local agency.

New subsection (e) provides that if the Commission has not been able to secure voluntary compliance within 30 days (which may be extended by the Commission to 60 days if the extension is warranted) after the charge is filed with it, the Commission shall notify the person aggrieved who is then free to bring a civil action in court. Any person named in a charge filed by a member of the Commission is also given the right to bring such a civil action. There is a provision for the court to appoint an attorney for the complainant and to authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application the court may permit the Attorney General to intervene in the civil action, and, upon request, the court may stay proceedings in the civil action for not more than 60 days pending termination of State or local proceedings or the efforts of the Federal Commission to obtain voluntary compliance.

(d) (relettered (f)): This subsection provides for jurisdiction of such civil actions in the U.S. district courts. The provision for venue either in the district in which the practice is alleged to have been committed or in the district in which the respondent has his principal office is modified to require the action to be brought in the district in which the practice was alleged to have been committed, or in which the employment records are maintained and administered, or in which the plaintiff would have worked, provided that if the respondent cannot be served in any such district, the action can be brought in the district in which the respondent has his principal office. A provision has been added making the judicial district in which the respondent has his principal office available both in case of a change of venue for the convenience of parties and witnesses under section 1404 of the Judicial Code, and for dismissal or transfer under section 1406 of the code of a case brought in the wrong district. The provision tolling the statute of limitations for the filing of a charge during military service has been deleted.

(a) (relettered (g)): This subsection dealing with the decision of the court has been modified to require that the court find the respondent has intentionally engaged in the alleged practice as a condition for the granting of relief. The mandatory requirement for affirmative action, including reinstatement and backpay, upon a finding of a violation has been revised to read "may * * * order such affirmative action as may be appropriate, which may include reinstatement and backpay." Two technical amendments (the inclusion of sex and a reference to section 704(e)) were made to conform this section to other provisions.

(f) This subsection relating to the use of masters in such civil actions has been deleted, leaving the provisions of the Federal Rules of Civil Procedure governing the use of masters as controlling.

(g) This subsection is relettered (h).

(h) This paragraph, which originally provided only that the Commission was liable for costs the same as a private person, has been relettered (k) and expanded to permit the court to award the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs and make both the Commission and the United States liable for costs.

New subsection (i) provides that the Commission may commence proceedings for contempt where there has been a violation of an order issued by the court in a civil action brought by the aggrieved party.

New subsection (j) provides expressly for the regular order of appeal from the district court actions in such cases.

New section 707 (a) and (b): This is a new section establishing a cause of action based on a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, provided that the pattern or practice is of such a nature and is intended to deny the full exercise of those rights. This action can be brought only by the Attorney General who must have reasonable cause to believe that the pattern or practice exists, and is of the nature and is intended to deny the exercise of those rights. He, or in his absence the Acting Attorney General, must sign the complaint which must set forth facts pertaining to such pattern or practice and request such relief, including injunctive relief against the person or persons responsible for the pattern or practice of resistance, as the Attorney General deems necessary to insure the full enjoyment of the rights described. As in title II, the Attorney General may request that such an action be heard and determined by a three-judge court if he certifies that the case is of general public importance. The procedures for the invoking of such a court and its operation are the same as provided in title II.

Effect on State laws

Section 708: Subsection (b) which provides for the ceding of Federal jurisdiction is deleted because it has been replaced by the new provisions of section 706 which provide that where there is a State or local law prohibiting the alleged unlawful employment practice, the State or local authorities are given exclusive jurisdiction for a limited period of time.

Investigations, inspections, records, State agencies

Section 709:

(a) This subsection, which permits the Commission to examine and copy any evidence of a person being investigated that relates to any matter under investigation or in question, has been limited to the examination and copying of evidence which relates to unlawful employment practices covered by the title and is relevant to the charge under investigation.

(b) This subsection which provided that the Commission may utilize the services of State or local agencies and their employees on a reimbursable basis has been revised to provide that the Commission may cooperate with State and local agencies as well as utilizing the services of such agencies and employees on a reimbursable basis. A provision also has been added that the Commission may enter into agreements with such State or local agencies that it will refrain from processing a charge in any case or class of cases specified in such agreements. Such agreements may also provide that civil actions may not be brought under this title in the Federal courts and that persons or classes of persons may be relieved from the recordkeeping and other requirements of this section.

(c) This subsection requires the keeping of records and making of reports. It is retained unchanged except as it is superseded by new subsection (d).

New subsection (d) provides that the recordkeeping and reporting requirements of subsection (c) shall not apply to persons subject to a State or local fair employment practices law except that the Commission may require such notations on records as are necessary because of differences in coverage or methods of enforcement between State or local law and this bill. It also exempts employers who are subject to and in compliance with the requirements of Executive Order No. 10925 or a similar order prescribing fair employment practices for Government contractors.

New subsection (e) provides a penalty for any officer or employee of the Commission if he makes public any information obtained pursuant to authority under this section.

Investigatory powers

Section 710: The investigatory powers provided in section 710 as passed by the House would give the Commission the power to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to any matter under investigation. These subpenas could be signed by the Commission and the attendance of witnesses and the production of documentary evidence could be required anywhere in a State. In the case of disobedience to a subpena, the Commission could invoke the aid of any court of the United States and the court could order any person to appear and give evidence or produce documentary evidence. The Commission could also compel any person to appear and give his deposition and produce documentary evidence at the deposition. No person would be excused from attending and testifying or producing documentary evidence on the ground that the testimony or evidence, documentary or otherwise, which was required of him may tend to incriminate him or subject him to a penalty or a forfeiture. However, if he claimed his privilege against self-incrimination, he could not be prosecuted or subjected to any penalty or forfeiture on account of his testimony except that he would not be exempt from prosecution and punishment for perjury in so testifying. Any person who neglected or refused to testify or furnish documents could be punished by a fine of not less than $1,000 and not more than $5,000 or by imprisonment for not more than 1 year, or both. Any person who made any false entries in any records or neglected or failed to make entries in records or refused to submit to the Commission any evidence within his control could also be fined not less than $1,000 and not more than $5,000 or imprisoned for a term of not more than 3 years, or both. Any failure to file any report required by the Commission would subject a corporation to a fine of $100 for each and every day of a continuance of such failure. All these provisions are stricken and a revised section substituted.

The revised section 710 provides that the Commission shall have the authority to examine witnesses under oath and to require the production of documentary evidence relevant or material to the charge under investigation by making a demand to examine or copy the evidence. If any person fails to comply with the demand the Commission may apply to the district court for an order requiring compliance. A person has 20 days after service upon him of the demand for the production of documentary evidence or testimony to file with the court a petition to modify or set aside the demand and he may not thereafter raise any other objections in a proceeding by the Commission to enforce that demand unless the court determines that he could not reasonably have been aware of the availability of the new grounds for objection.

Notices to be posted

Section 711: This section requires employers, employment agencies, and labor organizations to post upon their bulletin boards excerpts from this title. The provision requiring the posting of "such other relevant information which the Commission deems appropriate" was deleted and a provision providing for the posting of summaries of pertinent provisions of the title and information pertinent to the filing of a complaint is substituted for it. The fine of not less than $100 or more than $500 for each separate offense is reduced to a fine of not more than $100 for each separate offense.

Appropriations and severability clause

Sections 715 and 716: These sections dealing with the authorization of appropriations and the separability clause were deleted because they are repeated in title XI containing miscellaneous provisions applicable to all titles.

Study by the Department of Labor

Section 717 (renumbered 715): This section provides for a study of the factors which might tend to result in discrimination in employment because of age and was retained except that the final date for the report was changed from June 30, 1964, to June 30, 1965.

Effective date

Section 718 (renumbered 716): This section dealing with the effective date was retained intact except for technical changes in section numbers.

TITLE VIII. REGISTRATION AND VOTING STATISTICS

Section 801: New language added to this section makes applicable certain sections of the United States Code pertaining to census information required to be kept confidential. Additionally it provides that no person may be compelled to disclose his race, color, national origin, political party affiliation, how he voted or the reasons therefor. It is further provided that every person interrogated concerning this information shall be fully advised of his right to decline to furnish such information.

TITLE IX. INTERVENTION AND PROCEDURE AFTER REMOVAL IN CIVIL RIGHTS CASES

Section 902: This section has been added to title IX and is similar to section 302, deleted from title III. It authorizes intervention by the Attorney General, if he certifies the case is of general public importance, in actions commenced in any court of the United States seeking relief from denial or equal protection of laws under the 14th amendment to the Constitution on account of race, color, religion, or national origin.

TITLE X. ESTABLISHMENT OF COMMUNITY RELATIONS SERVICE

Section 1001: This section contains a technical revision to state the compensation of the Director of the Community Relations Service in terms of the Federal Executive Pay Act. Deleted from this section is a limitation on the number of personnel to be appointed, which was fixed at not to exceed six in number.

Section 1003: The Service is now authorized by new language to cooperate with public or private agencies as well as with appropriate State or local agencies in performing its functions.

Further provisions added require that the Service activities be conducted in confidence and a penalty provision is made applicable to any employee of the Service who makes public any information in violation of this subsection.

TITLE XI. MISCELLANEOUS

Section 1101(a): This section provides that in cases of criminal contempt arising under this act, the accused shall, if convicted, be fined or imprisoned or both.

Where the accused is a natural person the fine shall not exceed $1,000 nor shall imprisonment exceed 6 months. The accused may be tried with or without a jury, however, if he is convicted without a jury the aggregate fine shall not exceed $300 nor shall cumulative imprisonment exceed 30 days. If trial is by jury, the procedure shall conform to other criminal cases.

(b) That section of the Civil Rights Act of 1957 dealing with contempt penalties is amended to conform to these provisions.

Sections 1102, 1103, and 1104 are renumbered and are unchanged.

Section 1105: This section provides that if any provision of the act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby. The words "not similarly situated" and "to other" have been added for precision and to reduce the possibility of a multiplicity of law suits under these provisions.

Mr. COTTON. Madam President, with the same reservations, I ask unanimous consent that I may be permitted to yield to the distinguished Senator from Alaska [Mr. BARTLETT].

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. TRUSTEESHIP OF PACIFIC ISLANDS

Mr. BARTLETT. Madam President, I thank the Senator from New Hampshire for yielding to me.

Earlier in the week I placed in the RECORD an article published in the New York Times, and I commented on that article, which alluded to the favorable reports submitted by the United Nations group on U.S. trusteeship of the far-off Pacific islands.

I ask unanimous consent to have printed in the RECORD the preliminary report made to the United Nations on this subject by Hon. Frank Corner, of New Zealand, a member of the Trusteeship Council and chairman of the visiting mission.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

The PRESIDENT. I propose to complete our work for today by briefly introducing the report of the 1964 Visiting Mission to the Trust Territory of the Pacific Islands. My introduction to this report will be brief, if only because the report itself is so long; and it is so long because the mission has embodied in it all the points which it desires to make.

May I emphasize that the report was adopted unanimously by the four members of the mission, to the other three of whom I offer my gratitude for their cooperation, comradeship, and good counsel. As chairman I count myself fortunate to have had such colleagues.

In particular, may I note that for the first time a woman was a member of a Visiting Mission from the Trusteeship Council. I hope this precedent will be followed. Such missions as this are strenuous; but it has now been demonstrated that a woman can deal with the hardships that are involved. And I can testify that the presence of a woman enables a mission to make a greater range of contacts than would otherwise be possible, at the same time as it advances the cause of equal respect for men and women, which is one of the aims of the United Nations.

The report expresses our appreciation of the cooperation of many people and agencies, in particular our deep gratitude for the welcome given us, as representatives of the United Nations, by the men, women, and children of Micronesia. This is something we shall never forget.

A point the report may not make adequately, but which I cannot refrain from referring to in this introduction, is the respect and trust shown in Micronesia toward the High Commissioner, Mr. Goding. The mission heard many criticisms of policies and people, but even the severest critics were at pains to make clear that they considered Mr. Goding to be the best thing that had happened to Micronesia for many years.

The report contains many detailed recommendations, as well as some broad conclusions at the end of every chapter except the last, the future of the territory, where the mission thought bold summary would be inappropriate. The report also contains many commendations, particularly when dealing with education and health, to which the bulk of the administration's present effort is directed. And it also contains many criticisms and suggestions; particularly in the economic and political fields.

In a sense, the rather thorough nature of the report and the scope of the criticisms and suggestions may be taken as a compliment to the administration. If the trust territory had been in a state of stagnation, there would have been little point in making them; there would have been insufficient foundation on which to build the economic and political proposals which form the most important part of the mission's report. But the territory is now moving and the hum of activity can be heard throughout Micronesia. The territory is reaching the point of political breakthrough; and this makes it possible to face up to the question of the self-determination of Micronesia as a real rather than a hypothetical issue. This being so, the mission felt that an effort at constructive analysis of Micronesia's problems might be useful to the trusteeship council, to the leaders of Micronesia and perhaps, also, if this is not too presumptuous, to the administering authority and to the Congress of the United States which, as the last two chapters of the report make clear, has immense power for good or ill over the evolution of Micronesia in the period immediately ahead.

Speaking as president, I propose to adjourn the meeting until Tuesday, June 2, at 3 p.m., when we shall hear the closing statements on the Trust Territory of New Guinea and take up the questioning of the special representative from the Pacific Islands.

Mr. BARTLETT. Madam President, every 3 years the mission goes out to the Pacific islands from the United States. Never before has such a favorable report been made concerning the interest in the work of the Pacific Trust Territory. Special praise was given by Mr. Corner and his associates to the U.S. High Commissioner, Mr. M. Wilfred Goding.

I should like to quote from Mr. Corner's report to the United Nations:

> A point the report may not make adequately, but which I cannot refrain from referring to in this introduction, is the respect and trust shown in Micronesia toward the High Commissioner, Mr. Goding. The mission heard many criticisms of policies and people, but even the severest critics were at pains to make clear that they considered Mr. Goding to be the best thing that had happened to Micronesia for many years.

I am sure, Madam President, that those words of praise please all of us because the eyes of the world are, to some degree, fastened upon what we are doing in the trust territory, or on what we are not doing. When Mr. Goding went out there approximately 3 years ago, he inherited a bad situation. Little had been done by the United States to improve the lot of the residents of those scattered islands, and too little money was being appropriated for the needs of the trust territory.

Under the leadership of Secretary of the Interior Udall, and upon the recommendation of Mr. Goding, all of this has been corrected to a large degree, and the impetus of his work and its results are shown in the report.

THE RAPIDLY INCREASING SOVIET FISHING FLEET

Mr. BARTLETT. Madam President, there has been increasing mention—and this has been true in the Senate as well as on the part of all of those interested in the fishing industry—of the presence off our shores of large Soviet fishing fleets. These have appeared off the New England coast, the Alaskan coast, and also points farther south.

There is no doubt whatsoever that Russia, with a growing and modern fishing fleet, intends to take first place among the fishing nations of the world. She is well on her way to doing just that. The United States has dropped to fifth position and will drop even lower, unless we take immediate corrective measures.

The current news is that the Russians are fishing in Mexican waters. They are doing so, according to an article published in a newspaper called the News printed in Mexico City, in ships flying the Cuban flag, crewed not by Cubans but by Russians.

According to the article, the Russians have a fleet of 21 ships now operating off the Mexican coast. Mexico fears that these fishing efforts on the part of the Russians will increase to the detriment of Mexican fishermen.

I ask unanimous consent to have printed in the RECORD an article entitled "Big Soviet Fleet Reported Fishing in Waters Off Mexico," published in the Mexico News of May 29, 1964.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ELUDES INVESTIGATION—BIG SOVIET FLEET REPORTED FISHING IN WATERS OFF MEXICO

(By Rodolfo Ochoa)

The Gulf of Mexico has been invaded by a large fleet of Soviet fishing vessels, superior in size and speed to U.S. ships operating in the same waters. They use either the flags of Mexico or the Soviet Union. They reportedly are sacking Mexico's maritime wealth. With clever ruses they dock in Veracruz, Tampico, Isla de Lobos, and other Mexican ports, eluding all vigilance and inspection. They pick up merchandise or people or disembark them without the intervention of immigration, customs or public health inspectors. They don't pay duties. They utilize or threaten Mexican fishermen, as the case may be. They have a network of correspondents in this country.

The foregoing information, backed with a series of long-distance photographs, was provided by a newsman and photographer, Raúl Anaya. Anaya went to Tampico exclusively to get this information and for 6 months worked in the local dailies El Mundo and El Sol.

Isolated bits of information on the Soviets' use of the Cuban fishing fleet to keep Castro malcontents from escaping in these vessels, prompted Anaya to investigate the situation.

He saw the arrival of several fishing vessels of up to 5,000 tons displacement. They displayed the Cuban flag but there wasn't a single Cuban on board. He spoke to several crew members as well as with fishermen, merchants and other persons who came in contact with them. Port authorities, however, unexplainably appeared not to take note of these arrivals.

These alleged fishermen spoke several languages. They speak Spanish, for example, without a trace of accent. The use of certain expressions, however, gives them away, together with the color of their skin, their hair and their eyes, as well as their uniforms. Only when authorities happen to come by they pretend not to know a word of Spanish.

The Russians operate in the gulf with a fleet of 21 ships and crews of 27 to 30. They frequently can be seen with the naked eye from the Tampico coast—that is, a distance of 3 or 4 miles. More frequently, however, they operate 5 or 6 miles from the coast.

They locate fishing banks with radar. They work as a team. The first to discover a bank calls the other ships immediately. They never permit Mexican fishing launches to come close by. Those who have done so have been threatened with machineguns. Some Soviet ships even have tried to ram Mexican vessels.

They have sufficient experience to know that sometimes not even radar is enough to locate the best fishing areas. They need people who know these waters well. They then hire Mexican fishermen who get 2,000 pesos a month. Many Mexicans, however, have been reluctant to work with the Russians because of the bad treatment they receive.

Through these Mexican men it has been discovered that the Soviet fleet has its nominal base in Cuba. They take 10 percent of their catch to Havana and the remaining 90 percent to Russia. They insist on payments in U.S. dollars in Cuba.

U.S. fleets operating in the gulf pay fishing rights. The Soviets unexplainably do not. These Soviet ships are faster, larger, and better equipped than the U.S. vessels. They never permit Mexican officials to come on board. They always use the pretext of disability or bad weather to come into port. A moderately strong wind is all they need for this excuse despite the fact Mexican boats are still out at sea.

The only Mexicans who have been permitted on board these ships have been the fishermen hired by the Soviets. However, they are under close watch day and night and are not permitted to tour the entire ship.

When one immigation official did go on board he was not allowed more than 10 meters from the gangplank.

Mr. BARTLETT. I wish to thank the distinguished Senator from New Hampshire for his courtesy in yielding to me.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. COTTON. Madam President, we are now in what I believe is the 13th week of consideration of the civil rights bill—the 13th week, of course, including the time consumed by the Senate in considering the preliminary question of whether the bill should be taken up.

During those 13 weeks, I have used less than 10 minutes of that time, merely to ask questions on two occasions of the Senator having the floor.

It is not particularly effective, after prolonged debate and consideration of a bill, to speak to a Chamber that has heard so much and become so satiated with arguments and counterarguments. It was not my intention to take any time at all to prolong debate.

However, the debate will not be prolonged, probably, by anything which is said today, for at least it is an open secret that the Senate is on the eve of considering termination of the debate.

As the situation has unfolded, I have felt impelled to make a few observations concerning not only the bill, but also the manner in which the Senate has approached its consideration, and has considered it for purposes of the record at least.

I do not wish to indulge in sweeping statements or extreme characterizations, but I must say that to me, the consideration of the bill has represented legislation and the legislative process at its very worst.

In my years in Congress I have never witnessed the legislative process in a more unfavorable light.

In the first place, of course, we all know, as practical men and women, that there is a certain climate in which Congress is compelled by force of circumstances, and through no fault of its own in particular, to consider civil rights legislation—a climate which differs from that which exists in the consideration of other measures, controversial though those measures may be.

This has been evident in former consideration of civil rights legislation. It was evident in the debate and enactment of the civil rights bills of 1960 and 1957. It was evident in the consideration of other measures which at least affected civil rights or what is generally called the field of civil rights.

In a sense, the Senator from New Hampshire is speaking as a member of a third group in the Senate, a group which is at a considerable disadvantage. Whenever civil rights legislation has come before the Senate, the Senate has had the determined and persistent and perhaps bitter opposition of those who feel that the enactment of any civil rights legislation is an encroachment on the sovereignty of the States and is particularly a threat to constituents in the States they represent.

It should be understood that the Senator from New Hampshire is not suggesting any improper motive in such opposition. He has far too much respect and regard for, and confidence in, Senators to suggest any such thing. But, as a practical matter, civil rights legislation is not a headache, nor does it present great problems, to those who by force of circumstances, to properly represent their constituency, are accepted and rewarded in the public appreciation of those they represent for fighting it with every weapon at their disposal.

By the same token, when a civil rights measure is before the Senate, it presents no particular problem to Senators who represent some of the great metropolitan areas of this country. New York and Illinois are States that embrace such areas. I am not for one moment suggesting that they are not individually, completely, and thoroughly sincere in their attitude toward this problem. After all, they are not posed with any terrific problem, because the harder they fight for a civil rights bill, and the further they go in including in it every provision that is possible to be included, to place in the Federal Government complete power in enforcing it, the more appreciation they receive from the majority of those whom they represent.

So they, as is their perfect right, proceed with a marked singleness of purpose in their advocacy of civil rights legislation, in which every "i" is dotted and every "t" is crossed, and there is included every possible provision, no matter how stringent.

But, Madam President, there are Members of the Senate who represent States in which opinion is sharply divided, who represent States in the Senate, as I do, in which the matter of Federal enforcement of civil rights does not affect our own States or our own people, at least not to the extent that it affects the people of other sections of the country.

I can speak only for myself, but it is my impression that many of us are extremely desirous of having a civil rights bill before us that we can support. But we are equally interested in following the legislative process by weighing such legislation, title by title, section by section, line by line, and provision by provision.

I respectfully submit to the Senate that that is the legislative process that is intended and that should be followed. It is most unfortunate, if we cannot have that privilege and the opportunity to deal with this complicated, long bill, with many provisions, and deal with it, not in its entirety, to either reject it or accept it as a whole, but to deal with it carefully and intelligently.

I doubt if there has been any legislation before Congress at any time in all the history of Congress with respect to which careful appreciation and consideration was more necessary. If Congress is to enact legislation which will definitely and firmly and finally turn the face of the Federal Government against discrimination, it is highly important that it be dealt with carefully. We should see to it that in dealing with it we do not ride roughshod over other rights, or endanger or damage the fundamental safeguards in the Constitution, which in the tradition of this great Republic, are designed to keep government within its bounds and protect all individuals, whatever may be their color or creed.

In 1957 and in 1960 the Senate was able to work its will on a civil rights bill. The Senator from New Hampshire, after voting for certain amendments which were adopted, voted for each of those bills and found himself able to do so. That is not to say that every line in every paragraph suited him. No legislation can be completely acceptable to every member of a legislative body.

But in the consideration of the civil rights bill this year we—when I say "we" I again refer to those of us who are anxious to enact a good bill, with an opportunity to take from it provisions that we think are dangerous and bad—have been disappointed. At least, I have been disappointed and frustrated by the course of procedure.

What I shall say will not be very acceptable to my good friends across the aisle, who are from the Southland. Neither will it be acceptable or pleasing to ardent supporters of the bill on both sides of the aisle. I shall not go so far as to quote Shakespeare and say:

> A plague in both the houses.

That would probably violate the rules of the Senate. It would certainly violate this Senator's idea of courtesy to Senators whom he greatly respects.

Let us see what has happened during the 13 weeks that the Senate has been considering this legislation. It is my understanding—and if I am in error, I am perfectly willing to yield so that I may be corrected—that somewhere along the line it was suggested that not only cloture could be resorted to on the entire bill, but that it could also be voted on title by title, so that time would be permitted in which to discuss and vote on amendments to a title. At the expiration of that time, the Senate could then take up the next title.

I understand that such course of action was rejected by opponents of the bill who felt that they would be relinquishing some of their rights which are precious to them and those whom they represent. So that did not happen. More than 300 amendments have been offered to this measure.

Mr. RUSSELL. Madam President, will the Senator yield?

Mr. COTTON. I yield.

Mr. RUSSELL. Madam President, I am interested in the very analytical and dispassionate statement of the Senator. I can understand how he feels about this issue. But so far as I know, such a proposal as the one mentioned was never made. The opponents of the bill could not have rejected it. If amendments had been offered and brought up which involved a title of the bill, we could not have controlled the imposition of cloture on that title, if there had been enough Senators available to vote on it. So, the proponents, and not the opponents of the bill, had the decision to make as to that.

Mr. COTTON. Madam President, I thank the Senator for his correction.

As I stated, I was acting on information received from those who are at least supposed to be in authority in the Senate. But whatever the distinguished Senator from Georgia states to me, I take as a complete fact, knowing him as I do.

Mr. RUSSELL. I thank the Senator.

Mr. COTTON. However, someone made the decision somewhere along the line. I do not know whether it was the majority leadership, the minority leadership, or someone else.

So far as I know, in spite of the urging from this Senator, and some others, there never has been an attempt to limit the time or, in other words, invoke cloture on any one amendment or any one title of the bill. I think that is unfortunate. I think it is unfortunate that we should wait for 13 weeks. Some of us who have amendments that we are most eager to have considered have not been able to present those amendments because there is an amendment pending. It is impossible to dispose of the amendment at the desk so that other amendments may be offered, called up, and considered.

In addition, we have had the specter of the other body constantly before us in dealing with this legislation. We have been told again and again, when we have suggested that the Senate ought to have the opportunity to work its will upon this legislation as it does on other legislation, that this cannot be done because the bill before the Senate is the bill which passed the other body, and if we were to amend it, we would first have to seek and obtain the approval of the leadership on both sides of the aisle, and perhaps the approval of the Rules Committee of the other body.

Otherwise a conference would be necessary. No legislation could be enacted and another filibuster would be started on the conference report.

I am not greatly impressed by that sort of argument. If we are to have a unicameral legislative body in our Federal Government, let us do it by constitutional amendment. I resent being told that I must accept something that is offered me and swallow it whole because the leaders of another body would not approve of it in any other way. I see no reason why, if a conference took place and another report were to be sent to the Senate, cloture could not be invoked on the conference report. I, for one, would be willing to so vote. But whenever we have talked with our leaders, whenever we have expressed the desire to get along with the consideration of amendments, that is one of the things that always has been thrown up to us: "We have discussed it with Mr. So and So, or Mr. So and So" naming prominent leaders of the other body, "and they will not take it." And, if that were not bad enough, we are constantly being told that it was discussed with the distinguished Attorney General of the United States, or with those in the Department of Justice, and that there is no use in considering this amendment if it is not satisfactory to the Attorney General.

I yield every respect to the chief law enforcement officer of the Nation; but if the time has come when U.S. Senators cannot even obtain consideration for amendments because the amendments are not satisfactory to some Cabinet officer downtown, indeed the Senate has fallen to a low ebb in its history.

We have also been considering this legislation in the shadow of the specter of mob violence and civil disobedience. Time and again, I have been in the Senate Chamber and have heard proponents of the bill speak in favor of the bill and shake their fingers at us and give us a time limit, saying: "If you don't enact a civil rights measure before the 1st of June, or the 1st of July," or, whatever the date might be, "violence will break out such as you have never seen before, and you will be responsible for the bloodshed and the violence."

Madam President, I deplore violence. I deplore bloodshed in this land that is supposed to be viewed by all humanity and by the peoples of every nation as the first great successful government by the people in the history of the world, that has existed for so long a period.

If the time has come when we must enact legislation under the whip and under the threat of demonstrations and violence, I repeat that the Senate has reached a low ebb. Through the years, the Senate has faced votes and decisions that involved far more bloodshed and far more violence and far more human suffering than any that is in prospect at this time. On several occasions, the Senate, with its companion body, has had occasion to declare war and to plunge this great Nation and its people into battle.

Under the administration of Abraham Lincoln, the Senate was compelled to decide whether it would willingly permit this Union to break asunder, or whether the people of the States that adhered to the Union would be called upon to make their sacrifices upon the field of battle, to preserve the Union; and apparently it did not avail anyone to point the finger at Senators and say to them, "If you vote for this, you will be responsible for every drop of blood shed in this terrible war." The Senate met its obligations.

So the attempt to jam and push and thrust through the Senate an entire bill, without giving Senators an opportunity to consider its various provisions, but to compel Senators to vote for it because they are told they will be branded as responsible for violence and bloodshed if they do not meet a certain deadline, has also left me very much unimpressed.

In addition, Madam President, we have been legislating under an aroused storm of public opinion. That is perfectly proper; no Senator should complain if people are aroused on one side or both sides of a measure; and I hope the day will never come when the Senate will not receive and give proper attention and proper consideration to the wishes of those who are interested and who feel, either strongly or otherwise, concerned about the merits of any bill.

But it is a little interesting to trace the course of that "aroused public opinion." For the first several weeks of the consideration of this measure, most of the voters who wrote to me and talked to me—at least, those who were in favor of the bill—were demanding, not just that the Senate pass a civil rights bill; not just that the Senate pass a good, carefully drawn, sound, and enforcible civil rights bill; not that Senators fulfill their sworn duty, as Members of the Senate, to consider, section by section and title by title, the provisions of the bill; but that the bill be passed as it had come to the Senate from the House of Representatives, without making any alteration in it or without adopting any amendment to it. In letter after letter and in petition after petition it was stated, "No amendments. Pass it as it is."

This Senator, at least, responded by pointing out that those who were asking the Senate to pass a bill of 55 pages, with 11 titles, and with scores and scores of provisions and sections and subsections, without dotting an "i" or crossing a "t," were rendering a disservice to the cause of civil rights in this country. However, the pressure continued.

Then, Madam President, I was interested to note that suddenly a change came; suddenly Members of the Senate began to talk about adopting an amendment and about changing the bill. We heard such comments from the very ones who for weeks had been insisting that the bill should be passed without any change; and it was common knowledge in the Senate Chamber and in the cloakrooms—whether it was accurate, I cannot definitely say; but new legislation does not spring into being "from the forehead of Jove"—and it became an open secret that, behind closed doors, "the leadership"—whatever that term embraces—was engaged in preparing to offer amendments to this civil rights bill, and that in due time the curtain would be lifted and Senators would be allowed to look at the amendments and to determine what they included.

It was interesting to note that at the same time the letters and petitions that I was receiving, instead of continuing to call for an unamended bill, called for a new version. Sometimes it was referred to as "the Dirksen version"; sometimes it was referred to as "the leadership version." Some even mentioned again the name of the Attorney General, in connection with it. But instead of calling for Senate passage of the bill exactly in the form in which it had come to the Senate from the House of Representatives, without adding even one amendment, we began to receive requests for the Senate to pass an amended bill.

However, so far as I was concerned, I had no idea what the amendments were. It was apparent that, somewhere along the line, propaganda was going out to the people of the country who are interested in civil rights. I am not speaking disparagingly of them. I respect them greatly; and I, too, wish to vote for a civil rights bill, as I did in 1957 and in 1960. But, somehow, that propaganda went out, so that many persons outside the Senate knew before I did—and, I believe, before most Senators did, except as a result of scuttlebutt in the cloakrooms—that a new version was being prepared, and that it would burst upon us "at the proper time," when we would be taken into the confidence of "the leadership."

What happened? Exactly what had been predicted happened: When "the time came," a new draft—in the nature of a substitute; one which, section by section, encompassed the entire bill—was given to us, for our consideration.

In a conference of Republican Senators, the substitute was explained to those of us on this side of the aisle; and I assume that in a separate conference the same thing occurred among Senators on the other side of the aisle. The substitute was "a package." At no time before "the package" was completed was there a conference with Senators who then had been waiting patiently for 8 or 9 weeks, with their amendments lying on the desk, and who had a sincere desire to correct, in the proposed legislation, certain provisions which some of us, at least, believed to be extremely vicious, dangerous, and subversive of the fundamental principles of this Republic.

There is a certain moral obligation, I assume—at least a certain protocol—that forbids, or at least casts doubt on the privilege of a Senator to discuss or reveal on the floor of the Senate what takes place in a conference of his party. However, if such revelation does not entail a statement of a position taken by any other Senator than himself, I doubt if there is much moral stigma attached to speaking frankly.

I regret that our distinguished minority leader is not present this afternoon. I must say that when the substitute was offered and the request was made that it remain at the desk and be printed, and the statement was made that in due time it would be offered, the distinguished minority leader—my leader, my friend, and a Senator for whom I have, and shall always have, the deepest affection and most profound respect—made the statement that the amendment in the nature of a substitute had been considered in conference, and that all Republican Senators had been given an opportunity to work their will upon it.

I hope I never again have that kind of opportunity. Day after day, from 9 in the morning until after 12 noon, we listened to a section-by-section and a paragraph-by-paragraph reading of the proposed amendment in the nature of a substitute, it being suggested—and quite properly so—that we wait until the end of the reading, and until we thoroughly understood—if we were capable of understanding—all the suggested changes. It was proposed that we should withhold any additional amendments or suggestions that we desired to propose until the explanation had been completed.

I suppose that every Senator has his own idea about what he would like to do with relation to the bill. But I would venture, and if I were a betting man I would wager—and I believe it is generally recognized that perhaps the provision to which I shall refer is the key to the struggle—that the key provision in the bill that aroused the greatest doubt and most determined opposition by many Senators—at least it does with me—is title VII. Discussion of title VII was reserved until the last. Then after it had been read, the suggestion was made that noon had arrived and that the convening bell had rung. There would soon be a quorum call, and the amendment in the nature of a substitute must be printed that afternoon and go to the Senate.

Some of us protested. We protested so vehemently that, with the usual courtesy, our leadership said they would come back at 2 o'clock and let us present our amendments.

I presented my amendment. I have never presented a proposal to a committee which received less attention than my amendment received on that occasion. The leadership listened patiently while I expounded the merits of my amendment. They then said, "It is nice to know how you feel, but we cannot consider it."

I do not know how it is among the Democrats. I have never had the privilege of attending one of their caucuses—if they ever have any. The only conference of Senators which I am entitled to attend being the Republican conference—a very small and select conference—I had supposed that we met as peers and as a group of Senators representing sovereign States, and that we did not meet to have a package handed to us that had come from the joint leadership, the Attorney General, the Justice Department, or anyone else. At least if we did have such a package handed to us—and it is the right, and probably the duty of the leadership to make such a presentation—I am not criticizing them—we were entitled to be heard.

Senators will notice how mild I am. My statement could not be construed as criticism. But I believe that if such a package were presented to Senators, time should be allowed for a Senator at least to have a fair and adequate hearing.

As I said, I felt when I went out as if I had gone before a committee. Senators know that we sometimes sit at a committee table and some crackpot comes in and sounds off. The chairman smiles sweetly and says, "Thank you. We are very appreciative of your being here. We are glad to know your feelings on the subject." Out the man goes—and that is just the way I went out of my conference.

So now we have a packaged substitute.

In fairness, I do not wish to be considered as speaking in anger or in pettiness. Untold work was undoubtedly put into the substitute. It showed careful preparation and study on the part of, I assume, the majority leader, the minority leader, the Attorney General, and his representatives.

In some respects—and perhaps in most respects, though not in all—the amendment in the nature of a substitute is an improvement in workmanship over the original bill. Nevertheless, not a single change in that substitute went to the essence of the provisions to which some of us object with all of the conviction and all the emphasis that we have at our disposal.

We are now about to be faced with a cloture vote sometime early next week. I have said to my people in New Hampshire, publicly and through correspondence, that while I objected strenuously to some portions of the bill, I am only 1 Senator, and the people of our country elected 100 Senators. At the proper time, and somewhere along the line, I would not cast my vote to prevent or attempt to prevent the other 99 Senators working their will and having their way on the measure before the Senate or any other piece of proposed legislation. I qualified that statement by saying that I wished to wait until the bill was thoroughly aired and understood, so far as possible, by the people of this country.

I added the following statement: "And I want to wait until I have received adequate and reasonable consideration of at least one amendment that I think is vital. If I am given an opportunity to speak and to vote on what I think is absolutely vital in safeguarding the bill, even though the Senate votes against me, so long as I have a fair and adequate opportunity, I would be willing to vote to terminate debate and to allow the subject to come to a head after many weeks of debate."

I am not yet bound because I have not had that opportunity. It is my understanding that suggestions are even now being made that an opportunity be given by unanimous consent before cloture is filed. Of course, the Senate cannot vote on 300 amendments.

But we should have an opportunity to speak briefly and vote on what some of us consider to be vital amendments. In my case I am talking about title VII.

I do not know what will happen to that suggestion. The situation in the past few days has not led me to have much hope. The opponents of the bill offered to allow at least one amendment to come to a vote. The leadership rejected it. Then bye and bye, the leadership, after rejecting it and saying it would have no votes until cloture was invoked, turned around and said. "We will reconsider and agree to it." Then the opponents rejected it.

I suspect, under the feeling in the Senate, it may be impossible to have an opportunity to vote. Before I determine my vote on cloture, I want to wait and see.

Madam President, this sounds more like a lament than a constructive speech, and I suppose it is, but I think the RECORD should show some of the things I am saying.

I say to you, Madam President, and to my distinguished colleagues in the Senate, witness the utter hopelessness of getting a chance to really consider vital amendments to the bill with or without cloture. One objection would make it impossible for us to get an agreement to select even one vital amendment such as deleting title VII, which I want to do, or of even limiting it to firms and businesses that employ 100 or more operatives, and not have the number be cut down to 75 and 50 and then 25. I think that would provide some real improvement.

There is not a Member of the Senate, in my humble judgment, who does not know that we would have no more chance of getting adequate consideration of such an amendment after cloture is invoked than we would have of flying home tonight.

So after 13 weeks some of us have had a demonstration of what it means to be caught between two powerful forces—those who will take nothing and those who want everything.

The opportunity for Senators who are not under pressure, because of particular conditions in their own States and their sections, whether they be in the South or in New York or Chicago or somewhere else, to at least try to take out of the bill features we think go far beyond anything that has ever taken place in the history of this Republic will be nil. This will be the first time that has happened, so far as I know. We had an opportunity in 1957, and we had an opportunity in 1960. We cannot get it now.

If what I am saying accomplishes nothing else, it is at least my protest against the combined efforts of the leadership in this body to take from the hands of the rest of us an opportunity to follow the legislative process and at least have a determination of matters we think are essential.

In a sense, that is cloture. We talk about invoking cloture. We have had cloture already for 13 long weeks so far as an opportunity of many Senators to be heard is concerned. Senators should be heard, as I am being heard this morning.

I did not intend to take as long as I did on this matter. I do wish to say a word about the merits of the bill.

In the first place, the Senator from New Hampshire has consistently, through 8 years in the House of Representatives and 10 years in this body, followed, as best he could, his own feelings as to the duty of a Senator in dealing with the field commonly referred to as civil rights.

This Senator comes from New Hampshire. He is a Yankee. He cannot be expected to be as cognizant of racial problems from his own experience as is a Senator from the Deep South or a Senator from the metropolitan area of the North. For that very reason, I think such a Senator is at least in a position to try to evaluate, with some degree of objectivity, questions involving so much passion and emotion.

The Senator from New Hampshire has always been ready to vote for Federal legislation to preserve and protect the rights of the citizenship of every citizen of this country, whatever may be his color, creed, or national origin, and has always voted for such legislation.

The Senator from New Hampshire has never accepted the viewpoint that, in the name of States rights, the Federal Government has no authority or no duty to see to it—to be specific—that every Negro properly qualified by a fair test has his ballot unimpeded and unintimidated.

The Senator from New Hampshire wishes to make such a complete confession of faith today that he will probably antagonize both sides. The Senator from New Hampshire would be even willing to strengthen title I, because in light of subsequent decisions, he believes title I should refer to all elections, and not merely to elections in which Federal officials are chosen.

The position of the Senator from New Hampshire on title VI would not be satisfactory to the opponents of the bill. It has always seemed to me to be a perfectly justifiable policy for the Federal Government to pursue that, when it lays down a great national policy, those who accept the benefits from the Federal Government should be compelled to adhere to that policy.

Therefore, I am not shocked at the proposal that Federal aid can be withheld from certain localities—not States, but counties or cities in which that particular program is shown to be administered with discrimination; and only in that particular program.

Again and again I have voted in the Senate to authorize Federal aid programs, and to write into the authorization that no city or locality shall be eligible which practices discrimination in administering the program. A long time ago, the Supreme Court said, "What the Federal Government subsidizes, it controls." For years I have watched Senators—and I have been guilty at times myself, I do not wish to claim to be "holier than thou"—I have been purer than most because we get very little consideration in the State of New Hampshire, so I have not had to vote too many times, and I am not criticizing Senators for that reason—but in the House of Representatives and the Senate I have watched representatives of the States reaching out to get every last cent they could from the Federal Government. I have done it myself—I have tried to see that the State of New Hampshire got its share of the plunder, to which its taxpayers were required to contribute.

I do not object to that, but I believe it would be a salutary lesson if it were brought home to the people of this country—to the various States and localities—that there is a price to be paid when we accept Federal aid. The price to be paid is to be subject to Federal control. There is no way in the world of getting around that fact. That is the reason I have opposed Federal aid to education. That is the reason I have opposed many programs which have sounded good and which the people may have wanted. We can slice it any way we want, as Al Smith used to say, but when we take Federal aid we also take Federal direction.

Why should it not be so in the case which we are now discussing? Why should the Federal Government have to federalize the National Guard or send paratroopers, or use bayonets to end discrimination or segregation in any place?

Almost every college in this country has research contracts with the Federal Government, with Federal money pouring in to them. Land-grant colleges receive Federal aid as a matter of course.

If a college refused to accept a college student who was otherwise qualified, and if from that moment all aid were to be cut off, and all research contracts terminated after they had expired, and not 1 more cent of Federal money went to that institution, I have a feeling that without violence and without bitterness the people interested in such an institution would have a gradual change of heart and that desegregation would result, not only there, but in most other localities in the country, if they were forced to pay the price of the luxury of segregation.

I would be pleased, however, if there were not so many options in title VI, if the President did not have the authority either to authorize the withholding or to refuse it. I am not suggesting—and I know that no Senator believes I am—that we who have served in the Senate and in the House of Representatives with the present President of the United States would suggest that he or any other President would do this.

However, we are a government of laws and not of men. When we deal with a statute enacted by Congress, we do not do it in light of what we think men will do, but what men can do.

The way the bill is written, there is not a thing in the world to prevent the President of the United States from saying to the Senators from Mississippi, "We are shutting off your aid on this program in Mississippi," and then saying to the Senators from Alabama, "We are going to give you another chance."

I do not say that would happen, but why do we carefully and deliberately write a law to permit it to happen? Any law which is subject to possible inequity and is not universal in application is a questionable commodity indeed.

I am ready and willing to vote for Federal legislation to end segregation and discrimination in any public facility, whether it be a park, a playground, a swimming pool, a school, or anything else, because I feel that the Federal Government must turn its face definitely and forever against discrimination. It is right in doing so if it deals with functions which are governmental.

I have reservations concerning title II. When I was 15 years old, in prep school, I bellhopped during the summers in a resort hotel in my State. I learned a few things about the hotel business. I learned that the people who operated the hotel did not choose its guests. The guests did.

I do not know whether the hotel is still in existence or not, but I have known resort hotels in my State to which rich old dowagers have come from Massachusetts year after year, buying up the best suites. They were old guests, valued guests; and they had their one little table in the dining room, and they all sat together in one corner of the porch and played bridge.

I assure the Senate that if I, as a Senator, should dare to sit down at their table, I would be thrown out of the place. That would be discrimination, but it is discrimination practiced not by the management, but by those who are buying a service and have certain privileges in a certain place.

Of course, that is a very different situation from publicly operated restaurants along, say, Route 40 or similar highways. It is inexcusable that in this country certain members of the diplomatic corps from other countries have been rejected at motels and restaurants but I have reservations about how far the Federal Government can and should go in title II.

But the one feature of the bill which I cannot and will not accept—and if it remains in the bill I shall vote against the bill when the final chips are down and the roll is being called—is title VII.

I would be perfectly willing to provide for an FEPC, with power to step in and enforce fair dealing and to stop discrimination whenever the Commission finds it in any business in this country which enjoys Federal grants or loans or is enjoying the benefit of contracts with the Federal Government. It is the belief of the Senator from New Hampshire that we would be right to impose a national policy against discrimination on private industries and businesses which are enjoying special benefits, because when we turn over taxpayers' money to a business, whether it be in the form of a grant or loan or contract, every taxpayer is participating—black, white, and everyone else. That does not do violence to the feelings of the Senator from New Hampshire.

But when we go into the situation of ultimately going down to the little business which employs 25 or more employees, and give the FEPC the power to step in and force an employer to employ someone he does not wish to employ, or justify himself by expensive litigation in Federal court, there is no more real freedom left in this Nation.

A business with 25 or 50 employees is a personal business; in many cases it is a family business. People have a right, if there is any freedom left in this country, to employ such employees as will be congenial, and will promote good feeling within the business.

There is hardly an insurance agency in any town of any size across this broad land that does not have 25 or more employees. I doubt if there is an insurance agency that would not employ a colored person or a yellow person, or any other person, who could sell insurance. They would be different from Yankee people if they did not do so.

I am told that the provision would not be enforced. I get two answers when I ask about this point. That is what I got when I presumed to lift my voice in my own party conference. I was told that State statutes go down to two or three or four or five employees. That does not impress me. I have no interest in what the State of New York or the State of Illinois or some other State does in the matter of FEPC enforcement.

With the thousands of small businesses in this country, it would be patently impossible to get anything but spotty enforcement of a Federal law. This would result in an unfair, unjust, and pious enactment and, in fact, would present a new form of discrimination.

It is a far cry—and everyone knows it—between having enforcement by a commission in his own State, with investigators in his own county, who know the people and know the situation, and having Federal bureaucrats from Washington telling the small business people of America whom they shall employ.

How we bleed and die for small business. Every time small businessmen come to the Capital from this section or that section, we flock over and tell them how concerned we are about the little independent businessman; that if he does not make good, if he is not allowed to make a profit, if he does not remain in business, the backbone of America will be broken forever.

How we wax eloquent that the real heart and soul of the great surge of free enterprise in this country is not General Motors, is not General Electric, but is down on Main Street, where the humble businessman is trying to employ a few people and make a living and keep going and pay his taxes, Federal, State, and local. In my 18 years in Congress I have seen the tears flow and heard the pathos of the appeals on behalf of small business.

Now it is proposed that we turn around and permit the Federal Government to go in and put its finger on the most sensitive spot in business, the employees.

Anyone who operates a little business and employs someone comes close to choosing a partner. When one chooses a partner, he comes surprisingly close to the decision a man makes when he chooses a wife, because there is involved the ability to work with that person.

I would not want to be told that I could not discharge a stenographer in my office with whom I could not get along, who irritated me, and whom I irritated. If any person comes into my office seeking a job, if he is from New Hampshire, I judge him completely on his ability and experience. I never ask any person what his religion is. I do not care.

I wish to retain the right to have, as far as possible, a congenial, workable association in my office, as does everyone else. That is true of small business. That is why I have vainly sought to take out that part of title VII which goes below 100 employees. One would think that I was trying to gut the whole bill. The proposal even shocks the proponents.

Madam President, I remind the Senate of the words of Woodrow Wilson, a great teacher of government and history, a great president of Princeton University, a great President of the United States. Woodrow Wilson said:

> The history of liberty is the history of the limitation of governmental power, not the increase of it.

That should be inscribed alongside the motto, "E pluribus unum." I wish we had to read that every morning:

> The history of liberty is the history of the limitation of governmental power, not the increase of it.

Then I examined his veto of the national prohibition law, which was passed over his veto. He said:

> In all matters having to do with the personal habits and customs of large numbers of our people we must be certain that the established processes of legal change are followed. In no other way can the salutary object sought to be accomplished by great reforms of this character be made satisfactory and permanent.

I close by making an appeal to every Member of the Senate, an appeal directed particularly to the absent leadership, that we be permitted the chance to consider one or two vital amendments to the measure before our mouths are closed.

I believe that the spectacle of the U.S. Senate paralyzed for 13 weeks—and, even if cloture is adopted Tuesday there will be 2 or 3 weeks more of speeches, and rollcall after rollcall, before the final vote comes—is not good. I feel that ample time has been given to get the issues involved in this controversy to the public.

If Senators are not affected by public reaction pro or con, if their minds are made up, it is not going to matter particularly whether we vote 1 week, 2 weeks, 3 weeks, or 4 weeks from now. I believe that the Senate will act in due time.

After reviewing the limitation and the history of the consideration of the entire bill, I appeal to the leadership, to the southern opponents, and to some of the nothern crusaders for the bill—if I may be permitted to use that word—to give some of us—if Senators wish to call us middle-of-the-roaders—who are trying to view this question objectively, an opportunity to speak, and then have a vote on two or three of the vital amendments. If the vote goes against the Senator from New Hampshire, so be it. But we should have that opportunity. This will be the first time, if it is not done, that we have come to the end of the road and acted on legislation of this vital importance, so delicate in nature, involving human rights of all people under a bloc system, and under dictation from the leadership, and under the handicap of not being permitted to deal with each title and section carefully, thoroughly, and in accordance with recognized legislative process.

Mr. HRUSKA. Madam President, will the Senator yield?

Mr. COTTON. I yield.

Mr. HRUSKA. In the past 71 days, many speeches have been made in the Senate on the subject of civil rights. The one that we have just heard from the Senator from New Hampshire is unique in many ways in addition to being an outstanding contribution.

Unfortunately, as has been the case with so many other fine speeches in the Chamber on this subject, very few of our colleagues were able to be present when the speech was delivered.

The Senator has covered many salient points. He brought to light many things that have needed saying for some time. He expressed points clearly, forcefully, and with unfailing logic. I commend the Senator from New Hampshire.

I should like to add a brief comment, and then pose several questions to the Senator from New Hampshire. I shall deal particularly with the first portion of his remarks—namely, the fashion in which the legislation before us has developed.

When the bill first came to the Senate Chamber, it was accompanied by a hue and cry that the House bill be approved intact and unaltered. Since that time, we have witnessed two things. One has been extended debate which has been conducted almost exclusively by the opponents of the bill. The other development has been a slowly developing awareness by nearly all Senators that the bill which came to the Senate contains many defects which need correcting. As a result, we have seen the evolution of an amendment in the nature of a substitute for the entire bill. These developments are interrelated, one the cause and the other the effect. The causative agent, the extended debate, has often been called a filibuster. In my own mind, a filibuster can most simply be defined as an extended debate which has for its end, obstruction, and finds its means in pure dilatory tactics. This extended debate has resulted in the substitute bill now before us. This Senator personally ascribes its existence and pendency to the extended debate that has been occurring in the Senate. By definition such extended debate is not a filibuster. It bore results. It produces a bill which has been amended in some very substantial ways, and in some ways which, in my judgment, have improved it a good deal, through measures which loosen the cinch where it would chafe while at the same time tightening the reins where they were slack.

I feel that I belong to that middle-of-the-road group to which the Senator from New Hampshire has referred. Senators who want no bill are opposed to everything. Those who want any kind of bill are in favor of the package substitute with no alterations. Some Senators feel that there is a middle ground, and that ground can only be reached through meaningful consideration of certain amendments which we feel to be vital, and on which we have not been allowed to speak.

I was at most of the sessions to which the Senator has referred. His description of them has been most restrained, and may tend to be somewhat charitable. In the dedicated effort to bring out a substitute bill which would be worthy of consideration, the judgment was apparently made that a lack of time precluded a complete discussion of the views of all who were present. As a result we are reluctant to surrender our right before cloture, to speak our minds and state our positions on several of the pending amendments which were not included in the substitute package.

We are confronted with the prospect of being peremptorily silenced. The leadership on the other side of the aisle has declared that a petition for cloture will be filed tomorrow—the vote will occur on Tuesday and they indicated that there will be no further debate or votes in the interim. We shall have been clotured, along with the opponents of the bill, for meaningful and effective debate will be impossible after cloture has been ordered.

I should like to ask the Senator from New Hampshire how we might reasonably call for the opportunity to express ourselves on several important amendments, which we would select and which could then be considered by the entire Senate, while at the same time limit the debate in some reasonable degree? It is important that this be arranged so that we might determine whether we will vote for or against a motion for cloture.

Mr. COTTON. Madam President, I say to the distinguished Senator from Nebraska that he and I, and other Senators, have been discussing this question. I would not want to assume the prerogative of disclosing the situation when other Senators, who are senior to both of us, are involved, and will probably bring the matter up.

It seems to the Senator from New Hampshire that in a group of several Senators, we had no difficulty, as my friend from Nebraska will testify, in deciding on not more than three amendments. I recall that one of them was the jury trial amendment, and another was either the deletion or the amendment of title VII. There was another amendment, but at the moment it escapes my recollection.

Mr. HRUSKA. An amendment to eliminate section 404 was among those considered.

Mr. COTTON. So far as I know, all those Senators were in agreement among themselves, even though they were also interested in other amendments; and it was my understanding that an appeal was to be made to the leadership—for such action could be taken only by unanimous consent—to permit those three amendments to be considered, and with an allowance of 2 or 3 hours for debate by each side, and then for the amendments to be voted on prior to presentation of the motion for cloture. That is the only way I know to handle that matter. Of course, any Senator could object; but I hope objection will not be made, because we are not requesting very much. When this is done, all the other amendments can be brought up and considered, even under cloture. So it is not asking very much to ask that the lid be lifted enough to enable us to try our best to arrive at a determination on these matters.

I grant that some Senators who oppose the bill might take the position that they would not wish to see the bill improved; and some Senators who favor the bill might take the position that these amendments would greatly weaken it.

I repeat that this is the first time since I have been a Member of Congress that a procedure of this sort has been followed—namely, the presentation of a new draft, the result of an agreement by a number of Senators, at a meeting which we did not attend, without taking us into consideration.

We are not saying that if these three amendments are not adopted, we will vote against cloture or we will vote against the bill. Instead, we are merely asking that we be given a brief time to debate these amendments. This is the only way I know to handle these amendments.

Mr. HRUSKA. Although we could state, "Unless these amendments are accepted, we will oppose cloture," yet, it is my understanding that this is not the position of any of the Senators who share the opinion of the Senator from New Hampshire and myself in regard to what amendments should be adopted.

Mr. COTTON. I agree; and I am glad the Senator from Nebraska has stated the matter in that way. I believe it should not be implied that we would vote for cloture or we would vote for the bill only if our amendments were considered; that otherwise we would vote against the bill. After all, to take such a position would be to extend an invitation to Senators from the South, who are sincerely and understandably and deeply concerned, to say, "If we agree that this opportunity shall be provided, we shall be jeopardizing our position on cloture." That is why I have not once suggested that we were saying to other Senators, "If you give us this opportunity, we will vote for cloture; but if you do not give us this opportunity, we will vote against cloture."

Mr. HRUSKA. The Senator from New Hampshire has said that perhaps the leadership will see in this proposal some danger that if an adequate opportunity to consider these amendments is arbitrarily foreclosed, their side will fare badly. However, is it not also possible that the opponents might foresee a similar hazard?

Mr. COTTON. I agree. I would also say that if the leadership rejected even that attempt to obtain a unanimous-consent agreement, there should be loud cheering in Dixie.

Mr. HRUSKA. I thank the Senator from New Hampshire for his kindness and his courtesy in yielding.

Mr. COTTON. I thank the Senator from Nebraska.

Mr. RUSSELL. Mr. President, will the Senator from New Hampshire yield?

The PRESIDING OFFICER (Mr. EDMONDSON in the chair). Does the Senator from New Hampshire yield to the Senator from Georgia?

Mr. COTTON. I am glad to yield to the Senator from Georgia.

Mr. RUSSELL. I am sure it is unnecessary for me to say that my views on the pending legislation, in all of its many and different facets and provisions, do not coincide exactly with those of the Senator from New Hampshire, whatever may be the reasons therefore—whether that is because I have a somewhat different concept of the rights of the States, or whatever else might be the occasion for that situation. It may be that the circumstances in my State differ from those in the State of New Hampshire. At any rate, it is not necessary for those differences to be defined now.

However, Mr. President, today the Senator from New Hampshire has given me a great deal of encouragement, not so much because of what he has said, as because of the fact that he has demonstrated that he has made a very careful study of the proposed legislation.

I cannot help feeling that if all Senators had applied themselves as assiduously as has the Senator from New Hampshire to the study of the bill, there could have been a great deal of voting before now.

On Tuesday of this week the opponents of the bill agreed to vote on a number of amendments, including a motion to strike out title VII and a motion to strike out title VI—the Senator from Tennessee [Mr. GORE] has been especially interested in that motion—and also on the so-called Morton jury trial amendment, which would limit the application to the titles of this bill—instead of reaching out, as the other version would have done, to change the 1957 act—and also an amendment to clarify the double jeopardy aspects of the bill, as to whether a person could be tried for a criminal contempt, and then could be prosecuted, for the same set of circumstances, under a criminal statute.

After we had reached that agreement, I made that announcement to the press. Then I came to the floor, and discussed the matter with the majority leader. I told him we had come to that agreement, and that we were willing to proceed to vote forthwith on the pending amendment, and then to proceed—following a reasonable amount of explanation—to vote on the amendments that would affect these other issues.

I have not been willing to agree to a time limitation as such, but I have said that we would proceed on the amendments without undue delay. I do not know what the attitude of the leadership will be toward the Senator's statement. It is a rather portentous statement. It will probably have as much effect on the final determination of the proposed legislation as any statement that has been made on the floor of the Senate, unless it be the statement of the Senator from Illinois [Mr. DIRKSEN] when he finally saw the light after his conferences with the Attorney General and the Senator from Minnesota [Mr. HUMPHREY].

But the statement of the Senator from New Hampshire is portentous. I am still ready and willing to proceed to vote, after reasonable debate, on the amendments, including the amendment to strike title VII from the bill. I believe it is unnecessary for me to say to the Senator that I heartily concur in his estimate of that provision. I believe it is a contradiction of the whole American free enterprise system and would eventually result in stateism if we ever gave the Federal Government that much power over business.

I was particularly impressed by the Senator's statement with respect to those who weep copiously about the plight of small business; and yet propose to saddle small business with such rigorous Federal control as is proposed in title VII.

I, of course, am not for the bill. I shall not support it if title VII is stricken from the bill and title VI is stricken from the bill. But we are prepared to vote immediately on the jury trial amendment. Then if the next amendment to be offered in order is the amendment to strike title VII from the bill, we are prepared to vote upon that amendment with a minimum of discussion.

Mr. COTTON. I thank the distinguished Senator from Georgia. I share with all the Senate a high regard for him and for his views and I very much appreciate his comments.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. HOLLAND. I should like, first, to express my very great enjoyment of the speech of the distinguished Senator and my appreciation to him for making it. I also wish to say that in many respects I agree with the speech of the distinguished Senator. I particularly agree with his attitude toward title VII. I do not believe that title can be justified by any provision in the Constitution, the precedents, or the whole gambit of the American private enterprise system. To me it is completely unconscionable.

I am glad that our distinguished friend from Georgia has made clear that that is one of the items which the group of Senators coming from the southern part of the United States had agreed to vote upon quickly. It should have been voted upon this week.

I particularly appreciated the quotations which the distinguished Senator made from the public utterances of Woodrow Wilson. How true were those utterances in their application to the subject to which they applied; that is, the prohibition legislation. How completely were they justified by the developments with which Senators are familiar, under which the Nation as a whole repudiated the attempt by national legislation to prescribe what should govern the habits of individuals in that particular field. I cannot help saying that I believe that that statement applies with even greater force and with even greater effectiveness to the field covered by title VII in the pending proposed legislation, because title VII applies to the entire private enterprise system from one end of the Nation to the other, and is only the beginning of encroachment, which under State FEPC laws has come down to affect very much smaller businesses than the smallest ones which would be affected under the present title VII, which would be, within a short time, businesses that have 25 employees or more.

I hope that the leadership will listen to the wise counsel and the determined position of the distinguished Senator from New Hampshire. I hope that at least in respect of the two items mentioned, that is, the item dealing with the right of jury trial in criminal contempt proceedings and the one dealing with the elimination or the reduction in coverage of title VII or the reduction in the enormity of its departure from the American system. I hope that if anything is done in that field, another field might be added for early action prior to the cloture vote. I merely advance for the consideration of the distinguished Senator the proposal to eliminate that provision, which was section 302 in the original bill, and which has now become a later section in another title, under which practically all that was involved in title III of the 1957 legislation is incorporated in the bill, in that the Attorney General would be allowed to intervene in any private suit brought by any individual in the field of civil rights in which he saw fit to intervene. The Attorney General would be entitled to intervene in such a suit in the name of the Federal Government, with all the rights that he would have had in the event he had been able to initiate that suit originally himself—meaning the full right to use criminal contempt procedures in the way that it is proposed to use criminal contempt under the bill.

I so thoroughly appreciate the candor and the courage of the distinguished Senator that I would not have been satisfied without making these brief remarks. I compliment him warmly. May his shadow increase, and may his conviction as he has voiced it on the floor of the Senate, produce some real results.

Mr. COTTON. I thank the distinguished Senator for his very kind comment. I yield the floor.

BABY BLANKET BILL

Mrs. NEUBERGER. Mr. President, last February the Federal Trade Commission decided that infants' receiving blankets were not "wearing apparel." The consequence of this decision was that such blankets could be made of highly flammable substances because they were outside the protection of the Flammable Fabrics Act. I did not agree with the action of the Commission and took the floor of the Senate to comment on their singularly inane conclusion. I quote from my speech of that day:

> One can readily conjure up the image of the new mother, her baby wrapped in a flammable blanket under one arm, stirring a pot over an open gas stove, sitting by a log fire, or smoking a cigarette—unfortunate practices, but by no means rare. It is disturbing, to say the least, to realize that in each such case there now exists—and will continue to exist—a grave risk to the infant's young life.

Rather than allow this incendiary madness to be perpetuated by bureaucratic bungling, I introduced S. 2574. This Neuberger bill amended the Flammable Fabrics Act so as to extend the protection provided by the act to infants' receiving blankets. The bill was referred to the Senate Commerce Committee and as is usual with legislation, the views of the relevant Federal agencies were solicited.

In light of the earlier deliberations and findings of the Federal Trade Commission, I found the reply from the Chairman of the Commission, Mr. Paul Rand Dixon, of particular interest. I ask unanimous consent that a copy of the letter to the Senator from Washington [Mr. MAGNUSON], chairman of the committee, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL TRADE COMMISSION,
Washington, D.C., June 2, 1964.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of March 2, 1964, for our views concerning S. 2574, 88th Congress, 2d session, a bill "To amend the Flammable Fabrics Act so as to extend the protection provided by such act to infants' receiving blankets."

The proposed bill would have the effect of classifying infants' receiving blankets as wearing apparel so as to make them subject to the provisions of the Flammable Fabrics Act (15 U.S.C. 1191, et al.).

Tests by the Federal Trade Commission have proven that these articles are highly flammable and except when worn immediately after laundering would, under the tests provided in the Flammable Fabrics Act, be deemed dangerous when used as a form of clothing for a newborn baby.

The Commission endorses this legislation and recommends its enactment.

Very truly yours,

PAUL RAND DIXON,
Chairman.

MISREPRESENTATION OF FACTS DURING CIVIL RIGHTS DEBATE

Mrs. NEUBERGER. Mr. President, among the many pieces of mail I get each day during the civil rights debate, I find a great deal that is a misrepresentation of the facts. Much of it I am able to discard and just consider the source. But this week I received a newspaper which is particularly flagrant in its dallying with the truth. This is a little sheet called Common Sense. It is published by the Christian Education Association, 530 Chestnut Street, Union, N.J. It bears as its motto on the front page, "The Truth, the Whole Truth, and Nothing but the Truth," and being a Christian organization, I would think it would adhere particularly to its premise. Nevertheless, the issue for March 15 carries a picture with the heading "U.N. 'Peace' Agitator." The caption under the picture says, "Al Levenstein, United Nations delegate from South Africa, photographed while stirring up Negroes, March 7, 1960, in Montgomery, Ala. This Jew, a citizen of a foreign country, toured the South sowing discord and hate among our citizens. As the protocols state, Jews will turn classes and races against each other so that confusion reigns while Marxists spring the trap, as they have done throughout the Communist world."

Now, the fact is, Mr. President, that I know the man pictured. He is not Mr. Levenstein. A misspelling of his name could be an accident, but a telephone call to the United Nations brings forth the information that they do not have and never did have a delegate from South Africa by this name, even though the caption identifies him thus. In addition, it would seem incongruous that any delegate from South Africa would be urging Negroes to "demand their rights" when that is the antithesis of the treatment they receive in South Africa.

Many of our citizens are likely to be deceived by such distortions.

NATIONAL COMMISSION ON FOOD MARKETING

Mr. MAGNUSON. Mr. President, the Senate Committee on Commerce, under the able leadership of the Senator from Wyoming [Mr. MCGEE] held a series of hearings on the problem of food marketing in the United States. Specifically, the Senator from Wyoming directed the hearings toward the problems of meat marketing and meat prices as related to marketing practices and the consumer. However, it developed during the hearings that it was only a small facet of the marketing problems in the United States in relation to protection of the consumer and also with respect to the overall problems of free enterprise marketing of food.

So the committee decided it would support a Senate joint resolution (S.J. Res. 71). I believe other resolutions relating to marketing have been introduced in the Senate.

The distinguished Senator from Michigan [Mr. HART], who is present in the Chamber, has long been active in the problem of fair packaging and related problems, which run the whole gamut of marketing in the United States.

Some weeks ago the President of the United States suggested the establishment of a Commission on Food Marketing, but it would be merely an administrative commission and would probably devote itself to the general proposition rather than to specific aspects of the problem.

The Committee on Commerce decided to introduce and sponsor a joint resolution (S.J. Res. 71) which would by law establish a National Commission on Food Marketing. The Commission would have broad responsibility to go into the matter of marketing practices in the United States and study the food industry from the producer to the consumer. This necessity seems to be dictated in view of some of the testimony produced before the Senate committee.

In the House, four or five resolutions of a similar nature were introduced by Members of the House from both parties, Republican and Democratic. The House took a great interest in this matter.

Under the able leadership of the Senator from Wyoming [Mr. MCGEE] and the Senator from Michigan [Mr. HART], as well as other Senators who have long been concerned with this problem, the Senate passed Senate Joint Resolution 71, which would establish a National Commission on Food Marketing to study the food industry from the producer to the consumer.

The House thought it so important that the inquiry take place that it proceeded, almost simultaneously with the Senate, to combine the measures introduced in that body, but ended by adopting a resolution similar to Senate Joint Resolution 71.

Yesterday afternoon, after a quite lengthy debate, the House passed the measure, practically unanimously, so far as I can ascertain from reading the RECORD.

We feel that this matter is so important that we should proceed immediately to consider the subject, and urge that we get together with Members of the House and try to reach an agreement on the resolution, as to which there is not a great deal of disagreement.

Mr. President, before the clerk reads the House message, let me say that actually the Senate is not in great disagreement with the House on the resolution. This seemed to be the more practical way to speed the inquiry. We shall hold the conference as soon as possible and proceed with it. We shall work with anything the President has suggested in the way of an administrative commission. I am sure that not only will the American public, from the producer to the consumer, be benefited by the inquiry, but that some practices which obviously and patently are bad practices of marketing, which affect the consumer and producer, the two ends of the complex marketing system in the United States, will probably be corrected.

I am sure that the most of the bad practices will be corrected voluntarily by all those engaged in this great segment of the American economy.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the joint resolution (S.J. Res. 71) to establish a National Commission on Food Marketing to study the food industry from the producer to the consumer, which was, to strike out all after the resolving clause and insert:

That there is hereby established a bipartisan National Commission on Food Marketing (hereinafter referred to as the "Commission").

SEC. 2. ORGANIZATION OF THE COMMISSION.—(a) The Commission shall be composed of fifteen members, including (1) five Members of the Senate, to be appointed by the President of the Senate; (2) five Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and (3) five members to be appointed by the President from outside the Federal Government.

(b) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original position.

(c) Eight members of the Commission shall constitute a quorum.

SEC. 3. COMPENSATION OF MEMBERS.—(a) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Each member of the Commission who is appointed by the President may receive compensation at the rate of $100 for each day such member is engaged upon work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

Sec. 4. Duties of the Commission.—(a) The Commission shall study and appraise the marketing structure of the food industry, including the following:

(1) The actual changes, principally in the past two decades in the various segments of the food industry;

(2) The changes likely to materialize if present trends continue;

(3) The kind of food industry that would assure efficiency of production, assembly, processing, and distribution, provide appropriate services to consumers, and yet maintain acceptable competitive alternatives of procurement and sale in all segments of the industry from producer to consumer;

(4) The changes in statutes or public policy, the organization of farming and of food assembly, processing, and distribution, and the interrelationships between segments of the food industry which would be appropriate to achieve a desired distribution of power as well as desired levels of efficiency;

(5) The effectiveness of the services including the dissemination of market news, and regulatory activities of the Federal Government in terms of present and probable developments in the industry; and

(6) The effect of imported food on United States producers, processors, and consumers.

(b) The Commission shall make such interim reports as it deems advisable, and it shall make a final report of its findings and conclusions to the President and to the Congress by July 1, 1965.

Sec. 5. Powers of the Commission.—(a) The Commission, or any three members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by majority vote—

(1) to require, by special or general orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpena or order issued under paragraph (a) of this section to invoke the aid of any district court of the United States in requiring compliance with such subpena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under subparagraphs (3) and (4) above; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in case of refusal to obey a subpena or order of the Commission issued under paragraph (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) The Commission is authorized to require directly from the head of any Federal executive department or independent agency available information deemed useful in the discharge of its duties. All departments and independent agencies of the Government are hereby authorized and directed to cooperate with the Commission and to furnish all information requested by the Commission to the extent permitted by law.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conducting of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) When the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held confidential and shall not be disclosed by the Commission or its staff: *Provided, however,* That the Commission shall permit business firms or individuals reasonable access to documents furnished by them for the purpose of obtaining or copying such documents as need may arise.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designated individuals on its staff and to make such rules and regulations as are necessary for the conduct of its business, except as herein otherwise provided.

Sec. 6. Administrative Arrangements.—(a) The Commission is authorized, without regard to the civil service laws and regulations or the Classification Act of 1949, as amended, to appoint and fix the compensation of an executive director and the executive director, with the approval of the Commission, shall employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, but no individual so appointed shall receive compensation in excess of the rate authorized for GS–18 under the Classification Act of 1949, as amended.

(b) The executive director, with the approval of the Commission, is authorized to obtain services in accordance with the provisions of section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), but at rates for individuals not to exceed $100 per diem.

(c) The head of any executive department or independent agency of the Federal Government is authorized to detail, on a reimbursable basis, any of its personnel to assist the Commission in carrying out its work.

(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services: *Provided,* That the regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 46c) shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Administrator for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Commission: *Provided further,* That the Commission shall not be required to prescribe such regulations.

(e) Ninety days after submission of its final report, as provided in section 4(b), the Commission shall cease to exist.

Sec. 7. Authorization of Appropriations.—There is hereby authorized to be appropriated such sums not in excess of $1,500,000 as may be necessary to carry out the provisions of this joint resolution. Any money appropriated pursuant hereto shall remain available to the Commission until the date of its expiration, as fixed by section 6(e).

Mr. MAGNUSON. Mr. President, I move that the Senate disagree to the amendment of the House of Representatives to Senate Joint Resolution 71 and agree to the conference requested by the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to; and the Presiding Officer appointed Mr. Magnuson, Mr. McGee, Mr. Hart, Mr. Morton, and Mr. Beall conferees on the part of the Senate.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 272 Leg.]

Aiken
Bartlett
Bayh
Beall
Bennett
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Clark
Cooper
Cotton
Dirksen
Dodd
Douglas
Edmondson
Fulbright
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Humphrey
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Lausche
Magnuson
Mansfield
McGovern
McIntyre
Metcalf
Miller
Morse
Morton
Mundt
Nelson
Neuberger
Pell
Proxmire
Scott
Smith
Sparkman
Stennis
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

TALOFA—A TRIBUTE TO YOUNG AMERICAN VISITORS FROM AMERICAN SAMOA

Mr. MANSFIELD. Mr. President, the Nation's Capital and the Capitol Building of the United States were indeed fortunate today in that there were among their visitors a group of young Americans from American Samoa. These youngsters range in age from 14 to 18. They are wonderfully trained in the traditional music and dancing of Samoa and they have been appearing at the New York World's Fair. They were given today off and took that opportunity to visit the Capital and to see, insofar as they could, what makes the wheels of Government work.

It was a great pleasure to meet with them and their outstanding teachers and leaders. Listening to their music and their singing, and watching their dancing, I experienced a feeling of more harmony in those few brief moments than has existed in the Senate Chamber in the past 3 months. They are an eager and splendid group of youngsters who are devoted to their island and to this country. They belong to a people who are trying to help themselves through financing various projects in the beautiful islands on which they live. Recently, the arrangements have been made for building of a hotel which will be off the Pan American airstrip in Pagopago. They are doing other things to make themselves financially sound and viable and to keep Samoa, Samoa.

It was fortunate for us that this group of high school students from almost 8,000 miles away saw fit, on their day off from their performance at the Polynesian Pavilion at the World's Fair, to come to Washington, D.C., to meet some of the the people here and obtain at least an elementary firsthand understanding of what makes the wheels of Government go round.

I have been very much impressed by the people of Samoa. A year ago last December, in company with former Senator Ben Smith, of Massachusetts; Senator Claiborne Pell, of Rhode Island; and Senator Caleb Boggs, of Delaware, I had an opportunity to visit Governor and Mrs. Lee in American Samoa, and to become acquainted for the first time with these warm, friendly, and most sincere people who are a credit to this country of which they are a part. They went out of their way to show us the utmost of hospitality. I hope that we did all that we could today in that respect by way of returning the consideration they showed us.

It was a distinct honor and privilege to have the opportunity to participate with, to meet, and to hear these youngsters who form such an integral and interesting part of America in the Pacific area, 8,000 miles away. Incidentally, this is an American high school group which has come the farthest to visit the Nation's Capital, even though they had to do so by way of the World's Fair. I understand they will be at the fair through the season. My guess is that before it is over, continental Americans are going to discover through them the delightful customs and people of these charming South Pacific islands of the Nation and will want to visit Samoa in great numbers.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. WILLIAMS of New Jersey. Mr. President, several weeks ago I pointed out that this filibuster is the longest filibuster in the history of the Senate. At that time, I said I would support a cloture motion whenever one was filed. The distinguished majority leader is now circulating a petition, which he intends to file on Saturday of this week. I am proud to say that I have signed that petition, along with nearly 40 of my colleagues, and I urge other Senators to add their names to the growing list.

There is a rising tide of feeling in the country in support of this legislation, and that tide cannot be held back by a few Senators who have been trying for weeks to dam up the legislative process. The dam is going to burst because the stream of history and progress cannot be held back indefinitely by men whose views are as outdated as the Senate rules they use to protect them.

The people of this country look to the Senate for leadership. They expect Congress to act, not merely as a body responsive to the wishes of the executive branch, but as the originator and initiator of action. Not only has the Senate failed to initiate; it has also failed to respond. Human nature is not so complicated that Senators cannot understand that the demand for action outweighs the eloquence of empty words. This Chamber has been filled for weeks—for months—with empty words; but no action has been taken.

Senators are asked to sign a cloture motion, not necessarily because they support every provision of the civil rights bill now before us, but because they wish to see this bill voted on by the Senate. I have no hesitation in reaffirming my strong support of this sound and necessary bill, and I ask Senators who may not favor some provisions of the bill to support a cloture motion, so the Senate may at least act on this bill, one way or the other.

The problem before us has been a long time coming. The rights of Negroes have been denied and trampled on for hundreds of years. The Emancipation Proclamation, issued 100 years ago, has never been implemented. Our Negro citizens do not have complete freedom to enjoy the benefits and opportunities which the majority in this country enjoy and take for granted. They cannot get the jobs for which they are qualified. Their children cannot attend schools where they could receive the educational training and opportunities afforded to white children. They cannot stop for a rest in a motel, or eat at a lunch counter, or use libraries or public parks or playgrounds. These deprivations are not new; they have been in practice for many years. What is new is the attitude of the Negroes throughout the country. They have served notice that 100 years is a long time to wait for freedom. I agree. Millions of Americans have become conscious, for the first time in their lives, of the extent to which the constitutional rights and privileges of their fellow citizens are being denied and abridged. Having become conscious that the denial of rights guaranteed to all citizens raises not only a legal question, but also a moral question, the American people have responded with a demand that these grievances and injustices be corrected.

That demand has been laid at the door of the Senate. The other body, by an overwhelming vote, passed this bill and fulfilled its responsibility. The issue is now before us; it has been before us for months. While a revolution rages throughout the country, while citizens petition us for aid in restoring to them what is rightfully theirs, the inaction of the Senate threatens, at any moment, to precipitate a national crisis.

I repeat that this civil rights bill has been laid at the door of the Senate; and now we must take up that bill, and vote on it; or else this body must accept responsibility for the failure to prevent a crisis which will most assuredly materialize if we do not act. The revolution that may come will divide this country, brother against brother; and that cruel and senseless division may not be repaired for years to come.

On the eve of another revolution, the American Revolution, Thomas Paine wrote that "these are the times that try men's souls." Those words ring true today. The American Revolution was fought because, as Thomas Jefferson said, the petitions of the American colonists for a redress of grievances had been rejected by the British, because the British Parliament had failed to listen to the reasonable demands of the colonists and to take action which might have forestalled the Revolution. We should be wise enough to learn from the mistakes committed by others. If history has a lesson for us, it is that we here have a duty and an obligation to deliberate upon the requests of our constituents, and then, acting in accord with our individual consciences, to vote on those requests. To do otherwise can only lead to the total breakdown of the legislative process and to an erosion of the faith in democratic government.

I do not wish to dwell on the subject of what may happen if this bill is not passed. I am not a prophet of gloom, and it is not my intention to suggest that any bill should be passed because of threats of possible violence if it is not passed. But I think that it is time for some of us in this body to face the facts. The demand for civil rights will not die; it will not go away. The problem before us will not disappear because we refuse to face it.

Currently, there is a great deal of talk in the Senate about closing off debate. But closing the debate will be only the beginning, the first step which must be taken before the various sections of this bill can be amended and voted on. The truth of the matter is that passage of this civil rights bill will be only the first step toward solving the problems of discrimination and injustice. Passage of the civil rights bill will not solve all the problems of our Negro citizens, but it will be a beginning. Rather than thinking in terms of ending the debate, Senators should be thinking in terms of beginning to solve the problems of restoring civil rights to the Negro population. That is the real purpose of a cloture motion on this bill.

Every day I receive hundreds of letters from citizens in New Jersey who realize this fact. They believe that this bill cannot be passed without a cloture vote and that unless the bill is passed, the problems cannot be solved. Church leaders, businessmen, labor organizations, and private citizens have demonstrated their courage and their convictions by standing up to be counted among this bill's supporters. When so many citizens are willing to suffer the slings and arrows of criticism directed against them by those with little faith in humanity, how can Members of the Senate fail to summon their courage and to stand up and be counted on this historic issue?

Mr. President, I pay tribute to some of the leaders of our communities who have expressed to me their support of the civil rights bill. I ask that letters, petitions, and resolutions which I have received from these community leaders be printed in the RECORD. The first ones I shall submit, all from members of the clergy, are unanimous in their support of the civil rights bill.

I wish to read certain of the letters included in the group, as follows:

THE LAKEVIEW PRESBYTERIAN CHURCH,
Paterson, N.J., May 29, 1964.

DEAR SENATOR WILLIAMS: May you be assured of support from your fellow Americans in the desire for a strong civil rights bill, and may you pursue that end.

Twenty-five years hence your countrymen will look to you with revere for writing and acting upon the greatest document for the dignity of man in our age. Please do not give us a watered down bill that fails to serve the goals Americans are striving for.

In all the trivia that you are confronted with, be assured that our history dictates the story of a people who have risen above the pettiness of shortsighted standards, and has absorbed into her life all the problems and tensions of social change successfully in time.

Sincerely,
THOMAS SLATER WARD.

Now I shall read a letter from St. John's Episcopal Church, of Passaic, N.J.:

RESOLUTION FROM THE RECTOR, WARDENS, AND VESTRY OF ST. JOHN'S EPISCOPAL CHURCH, PASSAIC, N.J., TO THE SENATOR FROM NEW JERSEY, HARRISON A. WILLIAMS

Whereas the presiding bishop of the Protestant Episcopal Church in the United States of America, the Anglican Congress of the Worldwide Anglican Communion, and the bishop of the diocese of Newark, N.J., in obedience to the Gospel and in response to God's action in the world today, have exhorted us as Christians and as Americans to heal our sinful racial divisions; and

Whereas the Senate of the United States of America is presently engaged in debate on H.R. 7152, known as the civil rights bill: Therefore be it

Resolved, That the Senator from New Jersey, HARRISON A. WILLIAMS, be petitioned by the rector, wardens, and vestry of St. John's Episcopal Church in Passaic, N.J., to bring debate on the civil rights bill to a speedy close so that the provisions of this bill may be soon voted upon; and be it further

Resolved, That the Senator from New Jersey, HARRISON A. WILLIAMS, be encouraged to work actively for the passage of the civil rights bill without weakening amendments.

Respectfully submitted.
MARIAN COOK,
Clerk of the Vestry.

Mr. President, I have indicated to them that I will do, and that I have done, all I could to work actively for Senate passage of the civil rights bill, without weakening amendments; and I have submitted an amendment which I believe substantially strengthens the bill. Later, I shall discuss this amendment, which deals with voting rights. This amendment will extend the provisions of the bill, as they apply to voter qualifications, not only to Federal elections, but to all elections. I am convinced that is within the meaning, the spirit, and, indeed, the letter of the Constitution.

From Rev. William C. Bennett, pastor of the Athenia Reformed Church of Clifton, N.J., I received the following letter:

DEAR MR. WILLIAMS: May I first say how much I appreciate the difficulty any assembled body such as our Congress has trying to interpret what is best for our entire Nation, and in no way am I trying to say what is best to do sitting here in my community, but I hope that you will be given all the strength and insight to bring about the best Civil Rights Act.

You and I fully know that the act in itself is not going to solve the problem, but at least it will give us a basis from which to work from the legal point of view. I hope in the end that it will be the spirit of the law and not the letter of the law that will make the Civil Rights Act most meaningful for all mankind in this Nation of ours.

It is true as you well know that all the people here in the metropolitan area of New York are not agreed on civil rights, but I feel most strongly as one man before God that all men must have equal opportunity to worship, to work, and to live with freedom as long as they are willing to carry out their responsibilities.

Sincerely yours,
WILLIAM C. BENNETT.

The following letter comes to me from Rev. Warren W. Lane and his wife, Virginia P. Lane, of Princeton, N.J.:

DEAR SENATOR WILLIAMS: As citizens of this country and of New Jersey, we urge and encourage every effort which may lead to the speedy enactment of the civil rights bill (H.R. 7152) in as complete a form as possible.

We feel that from simple human justice we cannot continue to withhold from others rights which we take for granted for ourselves. In this situation, where almost anything is too little and too late, we encourage you to uphold in full the provisions of the bill as passed by the House. Both the fair employment and public accommodation sections should be passed without amendments which would substantially weaken them.

In our opinion, it is essential, at this time when Negroes increasingly feel that more and more violent protests are necessary to achieve their just goals, that the Senate, who must now represent the whole people, assure Negroes as soon as possible that they can get justice through the orderly processes of government. We therefore urge that since there has been ample time for debate on the bill, should it become necessary to proceed to voting, you support a cloture motion in the immediate future.

We assure you of our concern for your work and of our confidence in you and your fellow Senators in these crucial issues.

Sincerely yours,
WARREN W. LANE.
VIRGINIA P. LANE.

Mr. President, those are illustrative of the scores—indeed hundreds—of letters that I have received. I suppose that the hundreds have mounted into the thousands since the debate has been underway for such a very long time in the recordbreaking but bad historymaking debate on an issue and a subject that should have been decided long, long ago.

I submit the remainder of those letters, and ask unanimous consent that they be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

HOLY FAITH LUTHERAN CHURCH,
Oak Ridge, N.J., May 25, 1964.

Senator H. WILLIAMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: As a Christian citizen, I urge you to support fully the civil rights bill now in debate. It dare not be made ineffectual or weakened by revisions. I believe this bill is long overdue and look to you to help complete this part of our country's unfinished business.

Sincerely,
ROBERT E. EICHER,
Pastor.

LIVINGSTON, N.J.,
May 31, 1964.

Hon. HARRISON A. WILLIAMS, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: The board of deacons of the Livingston Baptist Church has taken a position in favor of the pending civil rights legislation.

We believe that a moral question is at issue and that segregated facilities represent a status of second-class citizenship, foreign to the ideals and principles of Christianity and Judaism.

We ask you to consider your responsibilities for the health and welfare of this whole country and to do your part to make us a united and enlightened people. We urge you to vote "Yes" on the civil rights bill.

Very truly yours,
M. Y. BARNUM,
Member, Board of Deacons.

BEDMINSTER REFORMED CHURCH,
Bedminster, N.J., June 2, 1964.

Senator HARRISON WILLIAMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: We have been following with keen interest the progress of the civil rights legislation through the Senate.

The time has come to press for cloture and to permit the Senate to express itself on the bill and its amendments.

May I urge you to increase your efforts for the passage of effective legislation, thus demonstrating to the Nation and to the world that we intend to practice what we preach about equality before the law.

Very truly yours,
GEORGE W. CRUMLEY, Jr.,
Minister.

ST. TIMOTHY LUTHERAN CHURCH,
Wayne, N.J., May 27, 1964.

Senator HARRISON WILLIAMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: I wish to add my voice to those urging passage of an adequate civil rights bill that will guarantee equality of all people. We hope that further delays can be cut to a minimum and that we finally begin to guarantee the rights of our citizens as should have been done generations ago. Thanking you for your concern, I remain,

Sincerely,
ROBERT O. COLLICK,
Pastor.

COMMUNITY CHRISTIAN CHURCH,
Berkeley Heights, N.J.
PARK AVENUE CHRISTIAN CHURCH,
East Orange, N.J., May 22, 1964.

Hon. HARRISON WILLIAMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: I appreciate your steadfast support of the proposed civil rights legislation and for a motion for cloture. I have every confidence that that support will continue. This is most gratifying.

In a letter to my colleague, you indicated a willingness to stay in the Senate as long as is necessary to get civil rights legislation. This in itself is commendable, but I hope that you will do everything in your power to bring cloture at the earliest possible date. There is no real need for the Senate to deliberate far into the summer.

Sincerely,

LINCOLN RICHARDSON.

FINESVILLE METHODIST CHURCH,
Finesville, N.J., May 28, 1964.
Senator HARRISON WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: On May 3, 1964, the official board of our church voted to send a statement of support for the civil rights bill now being "debated" in the U.S. Senate. We would urge you to use every means at your disposal to work toward the passage of a strong and effective civil rights measure. We wholly support the granting of full civil rights to every individual in the United States of America, regardless of color or creed. We shall continue to pray for the passage of an effective civil rights bill in the near future. We shall also support your efforts to secure that passage in whatever way we can. Thank you for your attention.

Sincerely,

ROBERT E. BOSSDORF,
Chairman of the Official Board,
Pastor.

Mr. WILLIAMS of New Jersey. In addition, I ask unanimous consent to have printed at this point in the RECORD a letter from the American Newspaper Guild.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN NEWSPAPER GUILD,
Washington, D.C., June 1, 1964
To the Senate of the United States.

GENTLEMEN: With pleasure I convey herewith a copy of the resolution regarding pending legislation before the U.S. Senate, adopted unanimously May 29, 1964, by the international executive board of the American Newspaper Guild.

"The time has come for action on civil rights.

"This means, precisely, an end to the droning of the senatorial filibuster, a disgraceful performance which has already wasted 2 months of the Nation's time in its opposition to action on this most vital moral issue of our day.

"The guild has joined with other labor organizations, church groups, civil rights groups, and fraternal organizations in the effort to obtain for all the citizens of the United States the rights which they should automatically receive under the Constitution. It should not be necessary to guarantee rights to vote, to use public accommodations, public schools, to equal employment opportunity, but a century of experience, climaxed in recent months by the use of bombs and brutality, has demonstrated the need for additional legislation and enforcement.

"The guild feels especially strong on the need for the strongest possible language on equal employment opportunity—an objective for which the guild has constantly fought in its own industry.

"The American Newspaper Guild urges the Senate of the United States to resist any weakening amendments to the civil rights bill, to vote immediately for cloture of debate, and to vote for the passage of this meaningful, this crucial legislation."

We urge your concurrence.

Sincerely yours,

CHARLES A. PERLIK, Jr.,
Secretary-Treasurer.

Mr. WILLIAMS of New Jersey. I also received a resolution from the AFL-CIO Council in Elizabeth, N.J., which I ask unanimous consent to have printed at this point in the RECORD.

There being no objection, the resolution and letter of transmittal were ordered to be printed in the RECORD, as follows:

UNION COUNTY AFL-CIO COUNCIL,
Elizabeth, N.J., May 27, 1964.
Hon. Senator HARRISON A. WILLIAMS,
Senate Office Building,
Washington, D.C.

MY DEAR MR. SENATOR: Enclosed is a copy of a resolution adopted by the Union County AFL-CIO Council on Monday, May 25, 1964.

The resolution is self-explanatory.

Thank you for your cooperation.

Respectfully yours,

JAMES J. RAFFERTY,
President.

CIVIL RIGHTS RESOLUTION

Whereas the Senate of the United States as of May 18, 1964, began its 58th day of debate on the civil rights bill. People are impatient and believe the time has arrived to stop talking and start voting; and

Whereas Negro Americans have waited a full century for the Emancipation Proclamation to be translated into equal citizenship. They have waited since May 17, 1954, for equal educational opportunities, as the U.S. Supreme Court decreed; and

Whereas the prestige of the most deliberate and august body in the world, the U.S. Senate has been seriously impaired due to recent developments on other matters. To repair the damage the filibuster must be broken by whatever legal means necessary to prevent another 1,000 hours of debate: Therefore be it

Resolved the Union County Council AFL-CIO meeting in Elizabeth, N.J., on May 5, 1964, requests the Senate to vote immediately on the civil rights bill in substantially the same form as it passed the House of Representatives; and be it further

Resolved this resolution be mailed to the Honorable Lyndon B. Johnson, President of the United States. The Honorable Senator CARL HAYDEN, president of the Senate, Hon. Senator EVERETT M. DIRKSEN, minority leader; Hon. Senator CLIFFORD P. CASE, and the Honorable HARRISON A. WILLIAMS for their perusal.

(Submitted by James J. Rafferty, president.)

Mr. WILLIAMS of New Jersey. Finally, I ask unanimous consent to have printed in the RECORD the text of two petitions bearing the signatures of hundreds of individuals, all pledging their support for the proposed legislation.

There being no objection, the petition was ordered to be printed in the RECORD, as follows:

PAHR,
Princeton, N.J., May 29, 1964.
Senator HARRISON WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: Enclosed are 82 signatures on the Princeton petition for civil rights which came into our office after the bulk of signatures were submitted to you.

Sincerely yours,

THOMAS CALDWELL,
Chairman, Social Action Committee.

We, the undersigned, residents of the State of New Jersey, want to thank our Senators for their strong support of the Civil Rights Act of 1964, H.R. 7152, now being considered by the Senate. We want them to know of our deep concern that the bill be passed without major alteration and with all possible speed. We urge upon them, and through them upon their fellow Senators, the necessity of bringing the bill to a vote as soon as debate has ceased to have substance.

As citizens deeply concerned for racial justice and peace, we would point out that during these critical days every delay as well as every failure in redressing the grievances of our people weakens the stature of our Nation and the fabric of our common life. We believe that the immediate passage of this legislation is of overwhelming, critical importance.

The Senate itself is being judged on its readiness to act decisively and courageously on behalf of those human rights our country has taught us to cherish.

(List of names submitted but not printed in the RECORD.)

REMCO INDUSTRIES, INC.,
Harrison, N.J., May 27, 1964.
The Honorable HARRISON A. WILLIAMS,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR WILLIAMS: I am enclosing a copy of a petition addressed to you, among others, since you represent our employees and ourselves. We have directed this petition to you in the hope that it will help show you where the hearts and minds of your constituents lie in this matter. We know that you support civil rights and we hope you will redouble your effort in our behalf.

Best wishes.

Very truly yours,

REMCO INDUSTRIES, INC.,
SAUL ROBBINS, *President.*

The Honorable CLIFFORD P. CASE,
The Honorable HARRISON A. WILLIAMS,
The Honorable PETER W. RODINO, Jr.,
The Honorable JOSEPH MINISH,
The Honorable GEORGE M. WALLHAUSER,
The Honorable RICHARD HUGHES:

The management, the union representing the workers, and the undersigned employees of Remco Industries have watched with great concern the inability of the majority of Senators to break the filibuster of an intransigent minority. This stubborn defiance of the will of the Senate and, more important, of the quite obvious will of the Nation, undermines the law of the United States and the respect of citizens for the lawmakers and the lawmaking process. It is a daily embarrassment to our foreign relations, particularly with the many newly free nations. Most important, it is a blatant denial of basic civil rights to citizens of this country.

We, therefore, respectfully urge you to put your utmost energies behind the drive for passage of this bill—without permitting amendments weakening it.

We believe—and it seems quite obvious—that this is the most critical area of law and human justice which this generation will face and we urge you to give it your complete devotion.

(List of names submitted but not printed in the RECORD.)

Mr. WILLIAMS of New Jersey. Mr. President, all of these communications came into my office in a single day, in addition to hundreds of letters from individual citizens. I have inserted them into the RECORD because I believe the sentiments expressed by these individuals are being echoed by church leaders, businessmen, and labor leaders throughout the Nation. Where the leaders of the community truly lead, where they attempt to enlighten and educate the people as to the meaning of equality, the rights guaranteed by this legislation can be peacefully and effectively implemented.

Where community leaders fail to provide that leadership, that failure has too often prompted street demonstrations and mob violence. Local communities in the South, facing the same difficulties in overcoming the barriers of tradition and prejudice, have dealt with these difficulties in different ways. In one case, the business, church, political, and labor leaders of the community adopt a progressive, forward-looking policy, and the community is successful in its efforts to extend equal treatment to the Negro. In another case, the community's obstructionist policy leads to violence, and precipitates a crisis of national concern.

I would like to call the attention of the Senate to recent significant developments in Cambridge, Md. As I am sure everyone is aware, this small Eastern Shore community has become a symbol of the worst in race relations. The alarming thing is that Cambridge is not much different from many American communities across our land. The people are not bigots or unusual in their approach to the problems surrounding the Negro revolution. In fact, 30 miles from Cambridge lies a similar community, Salisbury, where the situation has been handled in a dramatically different fashion. The same type of people live in both communities, but there are two major differences.

The first is centered around the leadership to be found in Salisbury and in Cambridge. The forward-looking and eloquent editor of the Atlanta Constitution, Ralph McGill, once said that the leadership elements, the clergy, the businessmen, the politicians, make all the difference. In Salisbury, those elements have spoken out loud and clear for moderation and reason. In Cambridge, there has been a total lack of responsibility by those who should be filling this leadership gap. There was once an attempt to form a moderate coalition, but, unfortunately, even they are now predicting a decade of violence and disorder. In Salisbury, people move freely about the streets and are able to conduct their normal business in peace. In Cambridge, the National Guard patrols the streets and has been required to enforce a strict curfew. The effect on the lives of the citizens in these two communities is clear—as should be the lesson to be learned from an abdication of responsibility and an inability to accept a moderate solution to problems.

The second difference falls into an area which may be even more important in its implications than the moral one we have heard so much about. That is the economic situation obtaining in Salisbury and Cambridge. The difference is so dramatic it is hard to see how anyone could avoid noticing it and drawing the obvious conclusions. Salisbury is the bustling and active site of new industry and low unemployment. The prospects for continued growth are good, citizens and businesses look to the future with optimism. In Cambridge, on the other hand, the unemployment rate is over 10 percent, many businesses have relocated; the average level of income has been lowered to $3,000 for 36.3 percent of the families in the county; and the prospects for new job opportunities are minimal.

This situation has been aided by the racial violence and unrest that has currently been going on. For what business, trying to make a decision between operations in two towns so close together, would choose Cambridge? However, it would be unfair to charge that the racial tension has been the sole reason for the economic problems facing the town. It would so be unrealistic to think that the economic deprivations which have been visited upon the community have been equally shared by Negro and white alike. As statistics have consistently shown, the Negro is the last to be hired and the first to be fired, and this has proved to be sadly true in Cambridge.

However, a ray of light has been injected into this unhappy situation which has tried the ingenuity and the patience of State and Federal officials, including that of the Honorable Daniel Brewster, the distinguished Senator from Maryland, and I might add, the victorious candidate in Maryland's recent presidential primary. On Monday it was announced that the Labor Department was awarding a contract to Morgan State College under MDTA to train, in on-the-job situations, 200 disadvantaged citizens from Cambridge. This, it is hoped, may do something to reverse the dismal trend of events there.

The planning for this project began in September of 1963 when the Labor Department gave Morgan State College a contract to counsel, test, and job-orient 150 people in Cambridge. This training and counseling, it might be added, was open to all; but those that came were primarily Negro. This is explained by the fact that many of the Negroes on the Eastern Shore have received little education and what they have received has not been such as to fit them for responsible jobs. Therefore, it was necessary for the Morgan State project to do remedial education before a reliable testing result could be gotten.

That Morgan State project, I am happy to say, worked extremely well. So well, in fact, that now a new and enlarged program is required to meet the need. An article appearing on the front page of the Washington Post on June 2, 1964, outlined this project. It should be noted that this article points out that:

> Maryland officials hope to provide a number of Cambridge youths with job training this summer through the State Department of Forests and Parks. Both moves reflect a conviction that Cambridge's enduring racial problems cannot be solved unless the large Negro unemployment is dramatically reduced. Nearly 1 out of 3 Cambridge Negroes is out of work and the median income for a Negro family is $2,450, the lowest in the State.

The median income is low for everyone in Dorchester County, by the way, with 36.4 percent of the family incomes adding up to less than $3,000 per annum, while the statewide statistic on family incomes below $3,000 is 15 percent.

Mr. President, I ask unanimous consent that the Washington Post article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, June 2, 1964]

United States Offers Cambridge Work Plan—Job Training for Unemployed Negroes Is Set Up

(By William Chapman)

A concentrated on-the-job training program to help Cambridge's unemployed Negroes was announced yesterday by Attorney General Robert F. Kennedy and Secretary of Labor W. Willard Wirtz.

The plan to bring at least 200 unskilled Negroes up to employable standards was described by Kennedy as an attempt to "instill a hope for the future" in the hard-core unemployed.

It was also learned yesterday that Maryland officials hope to provide a number of Cambridge youths with job training this summer through the State Department of Forests and Parks.

BASIC PROBLEM

Both moves reflect a conviction that Cambridge's enduring racial problems cannot be solved unless the large Negro unemployment is dramatically reduced. Nearly one out of three Cambridge Negroes is out of work and the median income for a Negro family there is $2,450, lowest in the State.

Kennedy, whose office has tried for a year to settle the Cambridge conflict, said, "We have felt that so many difficulties arise from the lack of employment and from a feeling that there is no hope of employment."

His office has had frequent conversations about jobs with the leadership of Cambridge's Negro movement, he said, but there is no agreement that the training program will mean an end to demonstrations this summer.

Nearly $95,000 from existing manpower development and training funds will be spent on the program, which will be directed by a Morgan State College team under contract.

SEEK EMPLOYERS' AID

A Morgan State economics professor, Melvin Humphrey, said an attempt will be made immediately to enlist eastern shore employers willing to hire and train Negroes. About $40,000 of the funds will be used to defray the training costs incurred by employers.

The program will include construction, clerical, sales, agricultural, fishery, and semiskilled manufacturing jobs. The employees will be spread among many small industries, perhaps only one or two workers for each firm.

Wirtz said he wants to see the first 50 trainees on the job in 2 weeks and at least 100 within a month.

Mr. WILLIAMS of New Jersey. Of more significance, perhaps, is the editorial which appeared in the Baltimore Sun on June 3. In it the editors point out that:

> The statements of Secretary of Labor Wirtz and others have placed the emphasis on job training for Cambridge Negroes, but in reality a federally sponsored program could not and should not be racially exclusive. The high unemployment rate in the Cambridge area affects white as well as Negro residents. And some of the former are as much in need of job training or retraining as many of the others are. Indeed, a valuable contribution to race relations may develop if some white residents derive personal benefits from a program initiated by Negroes, thereby demonstrating

that the civil rights movement seeks communitywide progress rather than advances for just one group.

I ask unanimous consent that the entire editorial of the Baltimore Sun be included in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Baltimore Sun, June 3, 1964]

CAMBRIDGE JOBS

The on-the-job training program which is being established in Cambridge by the U.S. Department of Labor through a contract with Morgan State College is aimed at alleviating one of the primary causes of racial unrest in that troubled city. Expanded employment opportunities have been a steady demand among the Negro activists in the Dorchester County seat, and for many of those without work, "opportunity" means not only job openings but the training needed to fill the jobs that are available.

The last monthly report (April) puts the unemployment rate in the Cambridge area at 10 percent, which is better than the 15-percent figure which prevailed a year ago there, but still 2½ times the average in Maryland as a whole. A training program for 200 persons is only a start, when there are more than 1,100 out of work, but it is an important start if it results in employers' opening their doors to trainees and in the development of supplemental programs, such as the park-work plan now advanced by State officials.

The statements of Secretary of Labor Wirtz and others have placed the emphasis on job training for Cambridge Negroes, but in reality a federally sponsored program could not and should not be racially exclusive. The high unemployment rate in the Cambridge area affects white as well as Negro residents, and some of the former are as much in need of job training or retraining as many of the others are. Indeed, a valuable contribution to race relations may develop if some white residents derive personal benefits from a program initiated by Negroes, thereby demonstrating that the civil rights movement seeks communitywide progress rather than advances for just one group.

Mr. WILLIAMS of New Jersey. Mr. President, I agree with those sentiments and hope that this program will be carried out without regard to the color of the unemployed resident in Cambridge. However, it should be noted that the 1960 census showed that while there was an alarming 15.2 percent overall unemployment, the rate for Negroes was 29.5 percent. And that 21 percent of the Negroes 25 years of age or older had not gone beyond the fourth grade. This clearly shows that there is a critical need for training and rehabilitation for the Negro in Cambridge, Md.

Mr. President, I ask unanimous consent that an editorial which appeared in this morning's Washington Post describing the Cambridge situation and the effect which the Morgan State College Manpower Development and Training Act project will have on that county, be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Washington Post, June 5, 1964]

JOBS FOR CAMBRIDGE

This week 1,450 people, out of a labor force of 13,500, are looking for work in Dorchester County, Md. About two-thirds of those out of jobs are Negroes. "The Negro has more unemployment, less education, worse housing, and a lower income in Cambridge than in any other Maryland city," the State's advisory committee to the Civil Rights Commission declared earlier this year. There is an obvious relationship between Cambridge's economic instability and the extraordinary violence of the street demonstrations there in which, unlike almost every other recent example of racial protest, the Negroes were quick to reach for firearms.

The collision between whites and Negroes has largely obscured the slow but substantial improvement in the county's supply of jobs. There has been a net addition of perhaps 1,000 jobs in the last 6 years, according to one well-informed estimate. There were 875 applications filed for unemployment compensation in the last week of May this year, compared with 948 a year earlier.

The intensive training program announced by the administration is intended to prepare Negroes to take advantage of these new jobs. The new employers are a different cut than their predecessors, and they demand higher standards of labor. Many men who have worked in the past, are, by the current definitions, unemployable. Attorney General Kennedy and Secretary of Labor Wirtz have now set in motion a campaign to prepare some 200 of them for employment again through education, counseling, and vigorous missionary work among local companies. Simultaneously the State of Maryland intends to hire between 100 and 300 youths to work in the park system.

Five hundred new jobs would make quite a difference to the atmosphere in Cambridge. The question is whether this opportunity will show its effect fast enough to avert further bloodshed this summer, and to mollify the enmities that have brought Cambridge to its present paralysis of judgment. But while higher employment cannot guarantee civil peace in that unhappy city, it is clear enough that without more jobs nothing else can be accomplished.

Mr. WILLIAMS of New Jersey. Mr. President, MDTA is not the only Federal project which has come to the aid of Cambridge. ARA has provided loans which have helped employ 1,500 people in the town since September of 1961. In September of that year, a sewage project was approved which provided 875 jobs; in June of 1962, a seaport project was approved which provided 250 jobs, and in October of 1962, an electronics firm was relocated in Cambridge, providing 425 jobs.

I suggest that is a most responsible and responsive application of the Area Redevelopment Act to an area in very critical need. Perhaps the ARA program suffers, once in awhile, a few slings and arrows in this body and on Capitol Hill, but it has been my experience with Mr. Batt and the ARA that they are dynamic in their response to the needs of communities that have desperate economic problems. They are sympathetic to the human factors involved in high employment, and to the personal tragedy that is involved, and hardheaded in their approach to good business practice. They also are interested in stimulating businesses that have a high probability of succeeding. And, I also have been impressed by their success in meeting the needs of the productive energy of the unemployed men and women in areas that are distressed.

Thus, it is clear that the Federal Government is doing all it can to aid this area which is economically as well as racially distressed. Now the burden is upon the citizens of Cambridge and Dorchester County to turn away from violence and turn toward a better future where there will be peace and harmony as well as jobs.

As Senators will remember, I made reference earlier in this speech to the distinguished editor of the Atlanta Constitution, Mr. Ralph McGill. In line with my remarks at that point, I invite the attention of the Senate to a column written by Mr. McGill which was published in the Asbury Park (N.J.) Evening Press on May 29, 1964.

In this editorial, Mr. McGill discusses the situation at the University of Texas which desegregated its law school in 1950. He calls attention to the fact that Texas has taken a forward looking and courageous stand and concludes that:

> Texas provides an example for other Southern States. Certainly none would argue that the Lone Star State was not a major member of the Southern Confederacy. It provided some of the better known military commanders, its troops gained great reputation by the ferocity of their fighting qualities. The southern tradition was nowhere stronger than in Texas. Some time ago, Texas decided it has no "Divine call to stand eternal guard by the graves of dead issues."
>
> Texas learned that education and progress in research, science, and the new industrial developments go hand in hand. The State has acted quietly without turning her educational decisions over to racist political demagogues.
>
> There is not a single Southern State university that could not complete the process as begun and concluded by Texas with the same ease. There is lacking only the will so to do. This lack stems from several groundless fears, among which is that of being overrun by Negro applicants. Almost a century of crippling educational practices makes that fear a myth.
>
> The South is learning that she has discriminated harshly against her young people of whatever color, and that in so doing she has impaired her ability to move ahead. Texas is moving ahead. Those States that lag behind will do so only at great present and future cost.

I agree with Mr. McGill and applaud his efforts to give credit where credit is due in the South.

Mr. President, I ask unanimous consent to have Mr. McGill's editorial printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Asbury Park (N.J.) Press, May 29, 1964]

TEXAS EXERCISES LEADERSHIP IN DROPPING RACIAL BARRIERS

(By Ralph McGill)

Fourteen years ago the University of Texas desegregated its law school. This event occurred 4 years before the historic decision by the U.S. Supreme Court ruling that the inequities and discrimination of education, segregated by race, enforced by State or local statutes and ordinances, violated the constitutional rights of those separated.

In passing to a later development at the State university in Texas, it is fitting to note that 1950 was the year of the law school desegregation. A great many persons, especially in the more directly affected Southern

States, greeted the Court's 1954 decision with stunned surprise. There were angry charges that the decision had been made suddenly, capriciously, and without giving the 17 States which had segregated systems time to prepare. This attitude, as the Texas story illustrates, simply was not true.

For at least a decade before the 1954 decision, the Federal courts had been ringing the awakening bell and blowing the warning whistle.

EARLY RULINGS NOTED

There were early rulings in Arkansas, Oklahoma, and Texas. These involved the first cases brought against discrimination in segregated education. They involved the graduate schools. It was one of the shameful facts of education in the South and its border States that no public law, medical, dental, or other professional schools were open to the qualified Negro students in those States.

By the early 1950's, decisions by Federal district courts had opened the doors of university graduate departments in Arkansas, Texas, and Oklahoma. At least 2 years before Governor Faubus' political ambitions influenced him to bring the chaos of riots to the Little Rock public school system, his State university had been graduating rather large numbers of Negro students at integrated commencements.

The University of Texas similarly had admitted and graduated Negro students in its professional schools. This university, which now has colleges and institutions in 8 cities and a total of some 22,000 students, has completed the move begun 14 years ago. It has desegregated all dormitories and dining halls. Athletic teams previously had been open to all students. There presently are about 150 Negro students in the main institution in Austin, and Negroes have attended other divisions.

TEXAS' POSITION CLEAR

Texas provides an example for other Southern States. Certainly none would argue that the Lone Star State was not a major member of the Southern Confederacy. It provided some of the better known military commanders; its troops gained great reputation by the ferocity of their fighting qualities. The southern tradition was nowhere stronger than in Texas. Some time ago, Texas decided it had no "divine call to stand eternal guard by the graves of dead issues."

Texas learned that education and progress in research, science, and the new industrial developments go hand in hand. The State has acted quietly without turning her educational decisions over to racist political demagog.

There is not a single Southern State university that could not complete the process as begun and concluded by Texas with the same ease. There is lacking only the will so to do. This lack stems from several groundless fears, among which is that of being overrun by Negro applicants. Almost a century of crippling educational practices makes that fear a myth.

The South is learning that she has discriminated harshly against her young people of whatever color, and that in so doing she has impaired her ability to move ahead. Texas is moving ahead. Those States that lag behind will do so only at great present and future cost.

Mr. WILLIAMS of New Jersey. Mr. President, earlier I mentioned the fact that I had submitted an amendment to the civil rights bill, an amendment which I believe, if accepted—and I believe it should be accepted, quite obviously—would very much strengthen not only the proposed legislation, but the implementation of our most basic right in this country, the right not to be discriminated against in the polling place, where we express ourselves in democratic fashion.

We know that the bill deals with national Federal elections and in a good, sound way—and certainly in a constitutional way.

In order to extend the necessary provisions to State elections as well as to Federal elections within the States, and within the Constitution, I have submitted my amendment; and I should like to address myself to that subject at this time.

Mr. President, I have submitted an amendment to the pending civil rights bill, H.R. 7152, which inserts the word "State" after the word "Federal" at appropriate places in title I. The effect of this amendment, if adopted, would be to extend title I to State elections as well as to Federal elections.

It seems unquestionably clear to me that we owe an obligation to the citizens of this country to provide a uniform protection for the most sacred of all rights in a democracy—namely, the right to vote.

The right to vote, like the right to freedom of speech or association, should be a uniformly guaranteed right. It should not be subject to the vagaries or arbitrary whims of individuals or local officials who may wish to prevent the exercise of that constitutional right by citizens who are qualified and entitled to vote.

There is no question that there is overwhelming support, both in Congress and in the country generally, for the principle that no citizen should be denied his constitutional right to vote on account of his race or color. Title I of this bill will insure that Negro citizens who are otherwise qualified to vote are able to do so in Federal elections.

Yet the right to vote in State and local elections is not only as important to minority groups as voting in Federal elections; it is more important. I earnestly submit that it has become increasingly evident in recent years that Governors, mayors, sheriffs, and other locally elected officials can be potent barriers to the enforcement of constitutional guarantees. The consequence is that Negro citizens in the South are frequently the victims of a vicious circle; since they are barred from voting in State and local elections, they are powerless to use the weapon of the ballot box against those who deprive them of their constitutional freedoms.

I emphasize the importance of the locally elected officials who may be the representatives of people who may be their next door neighbors.

Without the right to vote, how are these injustices to be corrected? Who can speak for the Negroes of the South on the State level? Who can insure their rights, listen to their requests, and represent their interests? The fact is that title I of the civil rights bill does not provide satisfactory answers to these questions. Unless the provisions in this bill guaranteeing voting rights are applied to the States, the remedies afforded by this proposed legislation with respect to the protection of the exercise of suffrage will be inadequate; it will be truly a case of too little and too late.

The principle of universal suffrage knows no geographical boundaries. Do we really wish to say to a voter: "You are qualified to vote for the President of the United States, but you cannot vote for the Governor of your State?" What is the rationale for presuming a man sufficiently intelligent to cast his ballot in deciding who shall occupy the highest and most powerful office in the world, and at the same time holding him incompetent to vote for men of lesser responsibility and powers? Mr. President, I submit that it is neither logical nor is it fair.

Congress cannot afford to foster the dual system of standards inherent in the bill. We cannot grant half a franchise to those who, deprived of their fundamental rights for so long, seek only a redress of grievances.

In 1957 and again in 1960, we took great strides forward to enact legislation designed to protect civil rights in the field of voting. These laws were, in fact, the first meaningful laws enacted by Congress in the area of civil rights in nearly a century. But the 1957 and the 1960 Civil Rights Acts drew no distinctions between Federal and State elections. Why should we now hesitate to apply a uniform standard to the language and intent of title I of this bill? My amendment proposes only that whatever we do for Federal elections, we do for State elections as well.

The reports of the Civil Rights Commission and the well-known low percentage of Negro voters in certain States all bespeak the need for uniform protection. The Commission, in both its 1961 and 1963 reports, recommended that voting rights legislation cover both Federal and State elections. In its 1963 report, the Commission pointed out that:

> In 1956, the last year before the passage of legislation to secure the right to vote, about 5 percent of the voting-age Negroes in the 100 counties of 8 Southern States were registered to vote. Despite the subsequent passage of 2 civil rights acts, the institution of 36 voting rights suits by the Department of Justice, and the operation of several private registration drives, Negro registration in these counties has been only 8.3 percent.

Instead of attempting to encourage voting and registration, many southern States have devoted their energies to devising new methods for preventing Negroes from voting in State elections. When the constitutional amendment was adopted abolishing the poll tax requirement for voting in Federal elections, several States immediately moved in the direction of instituting dual registration systems, of compiling separate voter eligibility lists, or holding off year State elections in order to avoid complying with the intent and purpose of the Constitution.

There are clear indications that, if this legislation is passed in its present form, similar tactics will be employed by Southern States seeking to subvert the purpose of title I of this bill.

Those who constantly interject a defense of States rights into this debate, must recognize that States rights carry with them States responsibilities. And the fact of the matter is that these State responsibilities have not been met. There has been a massive and continuing denial of voting rights in the Southern States. Often State officials not only refuse to carry out their responsibilities, but they also prevent local officials, who might wish to comply with the law, from doing so. The statistics contained in the Civil Rights Commission reports show that registration and voting percentages of Negroes in the South vary widely from State to State, and from county to county within a State. One county may have as much as 47 percent of its Negro residents registered while in the neighboring county only 2 or 3 percent of the Negro population is eligible to vote. It is an intolerable fact that the disposition of a local official must, in too many cases, decide whether or not thousands of citizens are permitted the exercise of a constitutional right that is their birthright.

Clearly, there is a need for uniform protection of the right to vote. Equally clear is the responsibility of Congress to see that a uniform standard of protection is adopted and enforced. The 15th amendment, ratified in 1870, designates Congress as the institution responsible for the protection of the right to vote. The amendment provides:

> SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
>
> SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The intent of this amendment is self-evident. It empowers Congress to enact legislation to protect the right to vote. The protection enures to the citizens of the United States and operates against both the United States itself and "any State." The amendment does not state that the courts are empowered to enforce its provisions; though, of course, the courts may adjudicate legal suits arising from conflicting interpretations of the meaning of the Constitution without a mandate from Congress.

But the fact is that the courts have been reluctant to base their decisions on the 15th amendment in those cases involving the infringement of voting rights and they have done so only because Congress has failed to live up to its responsibilities to supply legislative remedies. Nevertheless, that responsibility, to protect the right to vote, rests squarely with Congress.

Moreover, the 15th amendment does not state that the right to vote in Federal elections is protected. It states that the general right to vote is protected, and States are specifically enjoined from interfering with that right. No sophistry is needed to understand the intent of this amendment. Those who wish to exclude the right to vote in State elections from the right of franchise protected by the 15th amendment must add that limitation to the language of the amendment. For there is nothing which is now contained in that amendment that promotes the legal subtleties employed by those who seek to abridge the right of citizens of the United States to vote. The technical barricades which have been thrown up in the name of prejudice to prevent Negroes from voting cannot replace the substantive right guaranteed by the Constitution. Inconsequential errors in spelling, minor mistakes, such as underlining rather than circling a word, or so-called literacy tests where the Negro voter is required to interpret to the registrar's satisfaction an impossibly complicated section of the State constitution cannot be acceptable reasons for violating the intent and purpose of the 15th amendment. As Justice Frankfurter declared in *Lane* v. *Wilson*, 307 U.S. 268 (1939):

> The 15th amendment nullifies sophisticated as well as simpleminded modes of discrimination. It hits onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race.

If my amendment to title I of this bill is adopted and if the protection of the rights to vote is extended to include State and local elections, all citizens will take a renewed pride in their American citizenship. I am confident that the ultimate result of such an extension of title I would be to encourage more of our citizens to exercise their right of franchise. More Americans should vote. Our voting laws should encourage, rather than restrict, the priciple of universal suffrage. Indeed, what greater claim to freedom and justice can a democracy have than to say that its citizens vote, and vote in great numbers, and that they have overcome the prejudicial barriers to this cherished right of freemen everywhere.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. WILLIAMS of New Jersey. I am glad to yield.

Mr. PROXMIRE. I congratulate the Senator from New Jersey on his superlative and eloquent speech. I did not realize until I had the privilege of listening to the Senator from New Jersey what the situation was in Cambridge, Md., as compared with Salisbury, and how much the situation in Cambridge depends on the economic situation, namely, that jobs are not available. Did I correctly understand the Senator to say that 1 out of 3 Negroes in Cambridge is unemployed?

Mr. WILLIAMS of New Jersey. Yes.

Mr. PROXMIRE. In Salisbury the employment situation is much better?

Mr. WILLIAMS of New Jersey. I did not recite the comparable statistics, but everything is different.

Mr. PROXMIRE. My understanding is that the administration has announced a program, and that it is working to provide training in Cambridge. Is that correct?

Mr. WILLIAMS of New Jersey. Yes. That is the program that Morgan State has been asked to develop. Most of the early applicants for training were Negroes. It was indicated that their educational aptitude was such that it was necessary to start with basic education before the students could receive job training. There are also white people who are in a position of deprivation. It is our hope that people, regardless of their present situation, will find this program helpful in solving their economic need.

Mr. PROXMIRE. This, in a way, is an opportunity to study the problem on a pilot basis.

Mr. WILLIAMS of New Jersey. Mr. President, in the areas of most intense discrimination, we find the most tragic economic statistics, the lowest income, greatest unemployment, poverty, and discrimination. These are handmaidens.

Mr. PROXMIRE. Those figures haunt me, when it is said that 1 person in 3 is unemployed. We talk about the very serious national unemployment problem. It is our most serious economic problem. It is a nagging, tough problem. But the unemployment rate is about 5½ precent, or about 1 person in 20. When we have a situation involving 1 person in 3, that is worse than it was in the depths of the depression of 1931 to 1940. It never became that bad nationally, as I recall. I believe the worst figures were something like 25 percent or 26 percent of the work force. So the unemployment situation which now exists among the Negro population in Cambridge is worse than the country as a whole has ever had in its entire history.

Mr. WILLIAMS of New Jersey. That is a sad fact.

Mr. PROXMIRE. This gives a better understanding of the economic forces that are at work in causing these unfortunate displays of violence in Cambridge that is disturbing the Nation. Not only are people from Washington and New York aware of it, but I notice also that the people in Wisconsin are aware of the situation.

Mr. WILLIAMS of New Jersey. The Senator and I have an opportunity to work on the ARA program. We are carrying out the responsibility of the Committee on Banking and Currency. It has been our experience that where the ARA has been developing the education program, the economic problems have worked out much better.

In my home State of New Jersey, the ARA program was applied to a group of unskilled farmworkers. They all happened to be of Mexican or Latin background. They had to be taught English before they could learn the operation of tractors, combines, and other mechanical equipment for the farm. I saw the program in operation. I observed them training. I saw 20 men who were doomed to at least half a year of unemployment while they had to learn the skills that would give them round-the-year employment. I saw the program work. I saw these people learn the skills and then get the jobs.

Mr. PROXMIRE. I understand that the Senator's amendment would provide for voting in State and local elections, as well as national elections. Is that correct?

Mr. WILLIAMS of New Jersey. That is the effect of the amendment.

Mr. PROXMIRE. The Senator's amendment represents an excellent opportunity to stress the moderation of the bill. If the bill passes in its present form, it will do nothing to increase the opportunity of Negroes to vote for the Governor in a State election, to vote for the mayor in a local election, to vote for a school board, to vote for sheriff, or to vote for any of the officials in the community with which we are concerned as to civil rights. It would be confined strictly to national elections. Is that correct?

Mr. WILLIAMS of New Jersey. That is correct. Speaking first of the possibility of accepting this amendment as a part of the bill, I have spoken to men in politics and elective office from Southern States. They have expressed to me a feeling of agreement, that if there is to be Federal attention to voting rights, as is contemplated in the bill, it would be wise to extend it to local elections. Otherwise, we shall have dual voter lists. We shall have what will be called the elite list for the sheriff, the mayor, the council; and the general election list for the Congress, the U.S. Senate, and for President. Such a dual voting and registration list could be most unjust to Senators who come from those States. Their electorate would be different than the electorate electing the local officials.

Mr. PROXMIRE. The Senator is exactly correct. That is what would happen unless there were some fallout, some flowover from the fact that this provision as it enables an additional number of Negroes to vote for Members of Congress and for the President, it may help them indirectly vote for State and local office. But the election for the House, the Senate, and the President is likely to occur in November of the even years; and the other elections would be at other times. So there would be very little "fallout" or pressure to give the Negroes an opportunity to vote in all elections.

The Senator's position is extremely important. His amendment would be helpful and constructive. I have found from talking with people in my area that the one section of the bill that has the most widespread support is the voting title. Almost everybody agrees that every American citizen should be allowed to vote. There are those who have very strong reservations as to title II, the public accommodations section, and title VII, the Fair Employment Practices Commission section. Most people will agree that if a man is a citizen and has to pay taxes, he should have the right to vote in every election.

Mr. WILLIAMS of New Jersey. That is the way I feel. Every citizen of our State who meets the residence requirements is an eligible voter. My only complaint is that too many of them do not register so that they can vote. A major part of our political activity in the late summer and early fall is persuading people to register.

Mr. PROXMIRE. The Senator from New Jersey and the distinguished Representative THOMPSON from New Jersey are two of the most successful advocates in the country of persuading the citizens to do their duty, to register and vote. I think they have set a great example for constituents all over the country.

Mr. WILLIAMS of New Jersey. I must give credit where it is due. Both my friend and colleague from New Jersey, Congressman FRANK THOMPSON, and I learned how we could contribute to democracy through increasing the registration and thus the vote from one of the truly great public servants of our State.

I should like to mention that public servant here and now. His name is Thorn Lord. His experience in providing a more vital electorate in New Jersey was well known to the late President Kennedy, and is well known to President Johnson. He has become a national leader in working for a more effective democracy through registering a far larger percentage of the electorate. He has done this by going to people who are qualified to vote and entitled to vote, but who are not on the list of eligible voters, and convincing them of the need to register and vote. Thorn Lord has set an example for us in New Jersey—a very worthy example.

Mr. PROXMIRE. I thank the Senator.

Mr. WILLIAMS of New Jersey. Mr. President, I yield the floor.

Mr. PROXMIRE obtained the floor.

Mr. STENNIS. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I am glad to yield, with the understanding that in doing so, I shall not thereby lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Very well; I yield.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. McINTYRE in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 273 Leg.]

Bartlett
Beall
Bennett
Burdick
Byrd, W. Va.
Carlson
Clark
Cotton
Curtis
Dirksen
Douglas
Edmondson
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Holland
Hruska
Humphrey
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Mansfield
McGovern
McIntyre
Metcalf
Miller
Morton
Mundt
Pell
Proxmire
Scott
Smith
Sparkman
Stennis
Thurmond
Walters
Williams, N.J.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. GRUENING in the chair). A quorum is not present.

Mr. HUMPHREY. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After a little delay, Mr. BREWSTER, Mr. CANNON, Mr. COOPER, Mr. MAGNUSON, Mr. MONRONEY, Mr. PEARSON, Mr. RUSSELL, Mr. SMATHERS, and Mr. YARBOROUGH entered the Chamber and answered to their names.

The PRESIDING OFFICER (Mr. McINTYRE in the chair). A quorum is present.

Mr. PROXMIRE. Mr. President, without losing my right to the floor, I ask unanimous consent that I may yield to the distinguished Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DOUBLE STANDARD ON LOAN INTEREST

Mr. GRUENING. Mr. President, on May 25, 1964, I spoke on the floor of the Senate with respect to the double standard under which U.S. dollars are loaned abroad to aid the private sector of foreign countries at the low interest rate of three-fourths of 1 percent per annum while disaster loans are made available to the victims of Alaska's Good Friday earthquate at 3 percent per annum.

My May 25 remarks were one of a number of statements I have made in the Senate on this same subject.

In this series of statements on the double standard, I have sought to make two simple points:

First, U.S. dollars have been flowing, directly and indirectly, to aid the private industrial sector of foreign countries.

Second, many of these loans have been made directly to foreign industries at rates as low as three-fourths of 1 percent per annum. Actually, this is not called an "interest rate" but rather a "service charge."

In my speech of May 25, I discussed the second of these points using a list of projects in the private sectors of foreign countries aided with U.S. dollars at three-fourths of 1 percent "service charge" which I brought to the attention of the Administrator of the Small Business Administration, Mr. Eugene Foley, in my letter of April 24, 1964, a copy of which I inserted in the CONGRESSIONAL RECORD on the same date.

Mr. Foley has not refuted the accuracy of those examples.

It would be difficult for Mr. Foley to do so since I have no secret sources of information on AID program loans. My information comes directly from the AID administration itself. My source of information is a booklet issued by the Agency for International Development entitled "Status of Loan Agreements as of June 30, 1963" and further identified as Document W-224. This is a public document. It is not classified. It is available for the asking by any of my colleagues as well as by the general public.

I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD at this point in my remarks exact reproductions of pages 22, 32, 46, 61, and 71 from this document showing the information made public by AID on the projects listed in my letter of April 24, 1964, to Mr. Foley.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Status of loans, by country from inception through June 30, 1963

NEAR EAST AND SOUTH ASIA

Country and loan number	Borrower and purpose	Date of loan agreement	Initial amortization date	Repayable (years)	Interest rate (percent)	Amount of loan agreement	Loan disbursements	Repayment of principal	Exchange rate adjustments	Balance outstanding	Interest collections
INDIA											
Loans repayable in dollars:											
386-H-056 (AID 14)	Government of India: Bandel Thermal Power	June 21, 1962	Oct. 1, 1972	40	¾	$38,000,000.00	$13,527,476.99			$13,527,476.99	$6,411.29
386-H-057 (AID 15)	Government of India: Patherdik Coal Washery	do	Nov. 1, 1972	40	¾	4,200,000.00	3,398,223.42			3,398,223.42	8,270.49
386-H-058 (AID 35)	Government of India: 4th railways	do	Mar. 18, 1973	40	¾	43,000,000.00	14,493,950.07			14,493,950.07	
386-H-059 (AID 30)	Premier Automobiles, Ltd.: 2d Premier auto loan	June 28, 1962		40	¾	3,000,000.00					
386-H-060 (AID 33)	Delhi Cloth & General Mills Co., Ltd.: Rayon tire cord	do		40	¾	9,800,000.00					
386-H-061 (AID 34)	Government of India: Pamba-Kakki hydroelectric	do		40	¾	20,200,000.00					
386-H-062 (AID 36)	Industrial Finance Corporation of India: Development bank.	do		40	¾	20,000,000.00					
386-H-063 (AID 37)	The Tata Hydroelectric Power Supply Co., Ltd., and the Andra Valley Power Supply Co., Ltd.: Trombay thermal power station.	June 28, 1962	Jan. 2, 1973	40	¾	17,900,000.00	2,804,456.64			2,804,456.64	
386-H-067 (AID 48)	The Tata Engineering & Locomotive Co., Ltd.: Truck plant expansion.	Sept. 25, 1962	Mar. 28, 1973	40	¾	13,700,000.00	390,287.20			390,287.20	
386-H-070 (AID 51)	NAPCO Bevel Gear of India, Ltd.: Precision gear plant	July 27, 1962		40	¾	2,300,000.00					
386-H-066 (AID 46)	Hindustan Motors, Ltd.: Expansion of Hindustan motor-truck plant.	Nov. 8, 1962		40	¾	15,800,000.00					
386-H-082	Government of India: Nonproject imports	Feb. 25, 1963	Apr. 26, 1973	40	¾	240,000,000.00	32,220,478.75			32,220,478.75	
386-H-069 (AID 50)	Government of India: Delhi C thermal power	Mar. 8, 1963		40	¾	16,000,000.00					
386-H-077	Government of India: Satpura thermal power	do		40	¾	25,100,000.00					
AFGHANISTAN											
Loans repayable in dollars:											
306-B-001 (TCA 2)	Government of Afghanistan: Commodity assistance	Jan. 8, 1953	Jan. 15, 1959	35	2½	1,433,933.19	1,433,933.19	$164,117.43		1,269,815.76	315,957.18
306-B-002 (ICAX 06-2).	Government of Afghanistan: Project assistance	June 29, 1956	Dec. 1, 1961	40	3	5,000,000.00	5,000,000.00	7,579.80		4,992,420.20	264,374.25
306-B-003 (ICAX 06-3).	do	June 28, 1957	April 1, 1962	40	3	5,750,000.00	5,750,000.00	8,716.77		5,741,283.23	344,913.50
306-H-004	Government of Afghanistan: Ariana Afghan Airlines	Mar. 23, 1963		40	¾	2,625,000.00					
Grand total for Afghanistan.						14,808,933.19	12,183,933.19	180,414.00		12,003,519.19	925,244.93
CEYLON											
Loans repayable in local currency with MOV:											
383-B-001 (ICAX 83-1).	Government of Ceylon: Project assistance	May 14, 1957	July 1, 1961	40	A	2,500,000.00	2,500,000.00	6,348.24		2,493,651.76	247,710.39
383-A-002 (DLF 4)	Government of Ceylon: Irrigation and land development	June 24, 1958	June 1, 1959	20	3½	1,475,942.29	1,475,942.29	251,892.58		1,224,049.71	167,347.74
383-A-003 (DLF 8)	Government of Ceylon: Highway development	July 28, 1958	June 1, 1960	10	3½	894,495.25	894,495.25	217,058.48		677,436.77	66,365.36
383-A-004 (DLF 9)	Government of Ceylon: Rehabilitation of highways	Sept. 3, 1958	July 1, 1962	20	3½	726,000.00	689,700.00	20,000.00		669,700.00	21,253.16
383-G-005 (ICAX 83-2).	Government of Ceylon: Project assistance	Mar. 25, 1959	Jan. 1, 1964	30	B	3,320,000.00	1,243,382.32			1,243,382.32	183,677.33
383-G-006 (ICAX 83-3).	do	Sept. 23, 1959	Sept. 1, 1964	30	3½	6,000,000.00	2,932,138.81			2,932,138.81	223,058.38
383-A-007 (DLF 156)	Government of Ceylon: Airport construction	Jan. 30, 1961	Oct. 13, 1963	20	3½	165,080.00	88,412.60	10,000.00		78,412.60	1,774.44
Total						15,081,517.54	9,824,071.27	505,299.30		9,318,771.97	911,186.80
Loans repayable in local currency without MOV (Ceylon rupees):											
383-G-008 (ICAX 83-4).	Government of Ceylon: Project assistance	Sept. 22, 1961		30	4	7,238,240.00					

Status of loans, by country from inception through June 30, 1963—Continued

NEAR EAST AND SOUTH ASIA

Country and loan number	Borrower and purpose	Date of loan agreement	Initial amortization date	Repayable (years)	Interest rate (percent)	Amount of loan agreement	Loan disbursements	Repayment of principal	Exchange rate adjustments	Balance outstanding	Interest collections
TURKEY											
Cooley loans repayable in local currency without MOV (Turkish lire):											
277-E-034	Wyeth Laborautuvarlari, A.S.: Pharmaceutical manufacturing facilities.	Oct. 22, 1962	Oct. 22, 1964	8	7	$10,600,000.00	$6,700,000.00			$6,700,000.00	
277-E-038	Turk Maadin Sirketi, A.S.: Produce chrome ore and ore concentrate.	Feb. 26, 1963		5	7	7,000,000.00					
277-E-040	Yarimca Nisasta Ve Glikoz Fabrikalari, T.A.S.: Corn products plant.	June 5, 1963	Dec. 21, 1965	4	7	3,000,000.00	2,177,000.00			2,177,000.00	
277-E-032(C-12)	U.S. Royal Lastik Turk Anonim Sirketi: Manufacture rubber tires and tubes.	Apr. 6, 1963	Dec. 1, 1965	7½	8	11,250,000.00					
277-E-039	Chrysler Sanayi Anonim Sirketi: Establish and operate truck and passenger car manufacturing facilities.	June 18, 1963		9½	7	35,000,000.00					
Total lire						224,466,000.00	145,126,844.00	$22,075,677.35		123,051,166.65	$12,111,115.74
Total U.S. dollar equivalent.						24,940,666.67	16,125,204.89	2,452,853.04		13,672,351.85	1,345,679.52
Grand total for Turkey (dollars and dollar equivalents).						603,883,002.46	355,562,537.32	5,894,405.49	($779,276.42)	348,888,855.41	20,889,167.99
UNITED ARAB REPUBLIC (EGYPT)											
Loans repayable in dollars:											
263-H-014 (AID 17)	Societe Misr Pour La Rayonna: Cellophane plant	Apr. 26, 1962	Dec. 12, 1972	40	¾	3,000,000.00	680,554.73			680,554.73	2,236.29
263-H-015 (AID 18)	Government of United Arab Republic: Grain storage facilities.	Apr. 26, 1962	Sept. 27, 1972	40	¾	17,000,000.00	756,879.65			756,879.65	1 498.28
263-K-016 (AID 27-A).	Government of United Arab Republic: Economic stabilization.	June 1, 1962	Aug. 15, 1965	10	2½	20,000,000.00	10,390,789.14			10,390,789.14	25,064.98
263-K-019 (AID 27-B).	do	Sept. 25, 1962	do	10	2½	10,000,000.00	2,159,369.54			2,159,369.54	
263-H-020	Government of United Arab Republic: Cairo west power project.	Feb. 20, 1962		40	¾	30,600,000.00					
Total						80,600,000.00	13,987,593.06			13,987,593.06	28,799.55
BOLIVIA											
Loans repayable in local currency without MOV (Bolivian pesos):											
511-G-007 (AID 11-4).	Government of Bolivia: Project assistance	May 7, 1962	Jan. 1, 1967	20	4	34,011,600.00	32,128,925.21			32,128,925.21	
511-G-012	Government of Bolivia: Economic development	Apr. 4, 1963	June 1, 1967	20	¾	62,751,402.00	10,850,000.00			10,850,000.00	
511-G-013	do	May 13, 1963		20	¾	80,777,550.00					
Total pesos						210,817,087.00	76,255,460.21			76,255,460.21	
Total, U.S. dollar equivalent.						17,716,602.48	6,385,097.07		36,415.37	6,421,512.44	
Grand total for Bolivia (dollar and dollar equivalent).						41,564,751.65	15,840,486.05	30,999.49	36,415.37	15,845,901.93	44,515.86

BRAZIL											
Loans repayable in dollars:											
512-H-004 (AID 1)	Government of Brazil: Procurement of imports	Nov. 20, 1961	Dec. 1, 1971	40	¾	$74, 500, 000. 00	$74, 500, 000. 00			$74, 500, 000. 00	$783, 205. 42
512-L-007	Companhia Pernambucana de Borracha: Synthetic rubber plant	Sept. 24, 1962	June 30, 1965	10	¾	3, 400, 000. 00	1, 457, 322. 16			1, 457, 322. 16	
512-L-008	Credito e Financiamento, S.A.: Development bank	Mar. 6, 1963		40	¾	4, 000, 000. 00					
512-L-009	Companhia de Carbonos Coloidois: Carbon black plant	Mar. 11, 1963		40	¾	2, 000, 000. 00					
512-K-010	Government of Brazil: Emergency stopgap assistance	Apr. 24, 1963	May 6, 1973	40	¾	25, 500, 000. 00	25, 500, 000. 00			25, 500, 000. 00	
Total						109, 400, 000. 00	101, 457, 322. 16			101, 457, 322. 16	783, 205. 42
Loans repayable in local currency with MOV: 512-G-002 (ICAX 12-2).	Government of Brazil: Project assistance	Dec. 31, 1956	Feb. 1, 1963	40	A	117, 895, 000. 00	84, 472, 292. 50			84, 472, 292. 50	
HONDURAS											
Loans repayable in local currency with MOV: 522-A-003 (DLF 137).	Empresa Nacional de Energia Electrica Canaveral Hydroelectric.	Sept. 9, 1960	Mar. 8, 1963	25	3½	2, 800, 000. 00	1, 786, 914. 42	$5, 000. 00		1, 781, 914. 42	16, 739. 47
Total						10, 798, 967. 66	9, 346, 784. 59	510, 964. 74		8, 835, 819. 85	443, 931. 74
Grand total for Honduras.						15, 048, 967. 66	10, 596, 784. 59	1, 010, 964. 74		9, 585, 819. 85	579, 647. 50
JAMAICA											
Loans repayable in dollars:											
532-L-001 (AID 57)	Government of Jamaica, project assistance	Aug. 31, 1962		25	¾	2, 200, 000. 00					
532-L-002	Government of Jamaica, Jamaica housing	May 1, 1963		30	2	1, 700, 000. 00					
Grand total for Jamaica.						3, 900, 000. 00					
MEXICO											
Loans repayable in dollars: 523-H-020 (AID 43).	Nacional Financiera, S.A.: Supervised agricultural credit	June 30, 1962	June 19, 1973	40	¾	20, 000, 000. 00	2, 000, 000. 00			2, 000, 000. 00	
Total						30, 333, 751. 72	12, 333, 751. 72			12, 333, 751. 72	944, 881. 99
Cooley loans repayable in local currency without MOV (Mexican pesos):											
523-E-002 (C-23-3)	Sears, Roebuck De Mexico, S.A. De C.V.: Retail merchandising facilities.	July 21, 1958	Feb. 1, 1960	5	10	6, 082, 715. 42	6, 082, 715. 42	3, 747, 784. 82		2, 334, 930. 60	1, 397, 372. 24
523-E-003 (C-23-10)	Negociacion Textile "La Concordia," S.A.: Dyeing and finishing synthetic fabrics facilities.	do	Aug. 1, 1960	5	10	2, 990, 471. 08	2, 990, 471. 08	1, 200, 000. 00		1, 790, 471. 08	1, 123, 608. 24
523-E-004 (C-23-7)	Grace y Cia (Mexico), S.A. de C.V.: Folding boxes facilities.	July 29, 1958	Feb. 1, 1960	5	10	4, 900, 000. 00	4, 900, 000. 00	3, 360, 000. 00		1, 540, 000. 00	1, 591, 331. 53

Mr. GRUENING. Mr. President, it should be noted that on this material supplied by AID in the column headed "Borrower," in the instances I have cited there appears the name of the private company, not the foreign government.

In each instance, of course, loans at three-quarters of 1 percent interest or "service charge" amounts to an outright grant to the industry or country aided of an additional 75 percent of the face value of the loan since the United States pays about 4 percent for the money it borrows.

If we can afford to make such grants to foreign borrowers, why can we not make similar grants by way of three-quarters of 1 percent interest loans through the Small Business Administration to the victims of Alaska's disastrous earthquake of 1964?

Attempts have been made to pooh-pooh the notion that the rate of interest is important to disaster victims in Alaska and that they are most happy to receive disaster loans from the Small Business Administration at 3 percent interest.

Those who take such an approach overlook the congressional intent in providing for Small Business Administration disaster loans. If the Congress had intended the interest rate for such disaster loans to be set at 3 percent it would have so specified in the legislation.

But the Congress did not do that.

As the able and distinguished senior Senator from South Carolina has stated, the intent of Congress in giving the Administrator of the Small Business Administration discretion to set interest rates on disaster loans at rates up to a maximum of 3 percent was to give the Administrator discretion to vary the rate up to that maximum rate to tailor the aid to suit the circumstances of individual disaster victims. Senator Johnston's statement on the floor of the Senate as to the intent of the Congress is certainly the best evidence of such intent, since he is the author of the disaster loan provision of the Small Business Administration law.

Of course the disaster victims in Alaska are pleased to be granted small business loans at 3 percent. They are pleased with and grateful for all the assistance given them by their solicitous fellow Americans since disaster struck them on Good Friday last. But gratitude is not the issue.

The issue is whether the disaster program of the Small Business Administration is being administered according to the intent of the Congress so as to bring the greatest measure of relief to the victims of disasters. That is the issue.

In the words of the author of the disaster provision of the Small Business Administration law:

> Some borrowers were being charged a 5-percent rate of interest. We believed that was too much. So we put the figure 3 where the figure 5 had been, with the understanding that borrowers could be charged even less than that amount.
>
> I hope the Senator will continue to tell Senators about the problems in his State, especially in connection with the recent earthquake there. We should let them have these loans as cheaply as they can get them anywhere else in the world.

"Anywhere else in the world," indeed all over the world the United States has been making loans at three-fourths of 1 percent under our foreign assistance program.

Why not equal treatment to Americans who have been the victims of unprecedented disaster?

The mandate to the Small Business Administrator from the Congress is clear. I hope it will be carried out.

DEFENSE OF THEIR COUNTRY: YES—VIETNAM: NO

Mr. GRUENING. I am in receipt of an advertisement published in the New York Herald-Tribune which I think should be taken seriously by our legislators.

It contains the names of young men from a great variety of States in the Union who underscore the policies espoused by Senator Morse and by me, and say that they would refuse to fight against the people of Vietnam.

I feel they are quite right. As I have repeatedly stated, this is not our war, and all of Vietnam is not worth the life of a single American boy.

I might point out that since the war in Vietnam is an undeclared war and one on which the Congress has taken no action, these young men of draft age cannot be charged with disloyalty or any corresponding offense.

I ask unanimous consent that this advertisement be placed in the Record at the conclusion of my remarks.

There being no objection, the advertisement was ordered to be printed in the Record, as follows:

> We the undersigned are young Americans of draft age. We understand our obligations to defend our country and to serve in the Armed Forces but we object to being asked to support the war in South Vietnam.
>
> Believing that U.S. participation in that war is for the suppression of the Vietnamese struggle for national independence, we see no justification for our involvement. We agree with Senator Wayne Morse, who said on the floor of the Senate on March 4, 1964, regarding South Vietnam, that "We should never have gone in. We should never have stayed in. We should get out."
>
> Believing that we should not be asked to fight against the people of Vietnam, we herewith state our refusal to do so.
>
> (Below is a partial list:)
>
> Kim Allen, Massachusetts; Victor Alonso, New York; Robert Apter, New York; Robert Ault, Massachusetts; John H. M. Austin, Connecticut; Barry Barlow, Oregon; Peter Barnett, Pennsylvania; Lee Baxandall, New York; Bernard Berman, Pennsylvania; Jacob Bernstein, Massachusetts; Dean R. Billing, California; Hugh Blachly, Pennsylvania; Harvey Blume, New York; Stephen Bonime, Robert Bott, Jeff Briggs, Pennsylvania; Frank Brodhead, Larry Brownstein, Connecticut; Leland Bruch, Oregon; Charles Buchanan, New Jersey; James Bundy, Pennsylvania; Edward Campbell, Connecticut; B. Catalinotto, New York; Thomas Christy, Edward Christy, Pennsylvania; Edward Clark, Kentucky; Kenneth Clouse, Pennsylvania; John Coatsworth, Wisconsin; M. Covian, Salvatore Cucchiari, Peter Cummings, New York; Robert D'Amato, Massachusetts; Doyle Davis, Pennsylvania; James Drinkhall, California; Roger Eaton, Robert Eisenberg, Pennsylvania; John Ewell, Connecticut; Joe Eyer, Pennsylvania; David French Feingold, Illinois; Douglas Ferguson, California; Shannon Ferguson, Connecticut; H. Quin Foreman, Peter H. Freeman, New York; Robert Gallway, James Garahan, Pennsylvania; Jeremiah Gelles, New York; Frank Ghigo, Pennsylvania; Andrew Goodman, Marcus Gordon, New York.
>
> Marc Graham, Connecticut; Edmund Hazzard, Michael Hedgepeth, Pennsylvania; Harold Hill, Oliver Holmes, Illinois; Alfred Hopkins, New York; Christopher Horton, Illinois; Robert Hume, Pennsylvania; Douglas Ireland, New York; Lance Jackson, Pennsylvania; John Jaros, David Jette, James Johnson, Dan Kalb, New York; Harvey Kahn, Massachusetts; Martin Kanner, New York; Clark Kissinger, Wisconsin; Robert Klein, Pennsylvania; Richard Kling, Illinois; David Koteen, Pennsylvania; Levi Lee Laub, New York; E. Daniel Larkin, Pennsylvania; Carl Laws, Maine; Edward Lemansky, North Carolina; Donald Leslie, Oregon; William Levy, Illinois; James Lewark, Jr., Louisiana; Victor Lippit, Connecticut; Eric Lob, Pennsylvania; Phillip Abbott Luce, Shelbourne Lyman, New York; Andrew MacEwan, Illinois; Albert Maher, Texas; William Malandra, Pennsylvania; David B. Martin, California; Richard Martin, Massachusetts; Paul Mattick, Jr., Pennsylvania; Melvyn Maurer, Robert V. Maxwell, Don McKelvey, New York; John Meeks, Pennsylvania; Alvin Meyer, Gerald Meyer, New Jersey; Paul Miller, Charles Mills, Pennsylvania; George Mitchell, Illinois; James D. Moue, Wisconsin; H. D. Muller, New York; Anthony Murad, California; Martin Nicolaus, Massachusetts.
>
> Theodore A. Ostrow, Peter Owins, New York; Robert Pardum, Colorado; William Parham, Connecticut; Ronald Payne, Massachusetts; David W. Piper, Pennsylvania; Robert A. Potter, Kentucky; David Raboy, Massachusetts; David Raskin, Connecticut; Frank Redfield, R. M. Rhoads, New York; Martin Reisberg, Illinois; Nathan Riley, Massachusetts; Charles Rosen, New York; Jacob Rosen, Georgia; Anthony Rosner, Pennsylvania; Jeffrey Roven, New York; Ralph Sacks, Wisconsin; Michael Samberg, Eric Schutz, New York; Larry Seigle, Minnesota; Jeffrey Shero, Texas; Joel A. Shuflo, Illinois; Charles M. Smith, Texas; Peter Snider, Vermont; Ben Stackler, Illinois; Russell Stetler, Jr., Pennsylvania; Eugene Straus, Reed Straus, New York; Allen Strasburger, New Jersey; William Tabb, Wisconsin; Roger Taus, John J. Thomson, New York; Frank Thompson, Oregon; Mark Tishman, Jack Trompetter, New York; Bruce Tulloch, Pennsylvania; Kent A. Valen, Massachusetts; Richard Van Berg, Richard Van Brunt, Pennsylvania; Doug Wagner, Illinois; David Watts, Pennsylvania; R. Wax, Jerry Weinberg, New York; Charles Weinstein, Massachusetts; Jim Williams, Kentucky; Allan Williamson, Pennsylvania; Robert Wright, District of Columbia; David R. Yale, New York; Philip Zaret, Michigan.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may yield to the distinguished senior Senator from Iowa without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

AMENDMENT NO 868

Mr. HICKENLOOPER. Mr. President, first I send to the desk an amendment to strike sections 404, 405, and 406 of the House bill, and ask unanimous consent that it may be considered as having been read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HICKENLOOPER. I ask unanimous consent that it may be numbered, and that the number may be inserted in the unanimous-consent request at the appropriate point when I refer to it later.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 868) is as follows:

On page 15, beginning with line 12, strike out all through line 24 on page 16.

AMENDMENT NO. 869

Mr. HICKENLOOPER. Mr. President, I ask unanimous consent that the Senator from Kentucky [Mr. MORTON] be permitted to file an amendment at the desk under the terms that he requested. These two amendments should carry numbers which would connect them with the unanimous-consent request which I shall propose in a moment. But I should like to make a preliminary statement before presenting the unanimous-consent request.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. MORTON. Mr. President, I ask unanimous consent that the amendment be filed, printed, be permitted to lie at the desk and considered as read. I further ask unanimous consent that when the amendment is assigned a number, that number be placed among those assigned to the amendments of the Senator from Iowa.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table; and without objection, will be considered as read.

The amendment No. 869 reads as follows:

On page 2, beginning with line 1, strike out all through line 8 on page 3.

On page 3, strike out all of line 9 and insert in lieu thereof:

"TITLE XI—JURY TRIALS OF CRIMINAL CONTEMPTS"

On page 3, strike out lines 10 through 16, and insert the following:

"SEC. 1101. In any proceeding for criminal contempt arising under title II, III, IV, V, VI, or VII of this Act, the accused, upon demand therefor, shall be entitled to a trial by jury, which shall conform as near as may be to the practice in criminal cases. Upon conviction, the accused shall not be fined more than $1,000 or imprisoned for more than six months."

On page 3, line 17, strike out the single quote before "This".

On page 3, line 22, strike out the single quote before "Nor".

On page 3, lines 22 and 23, strike out "or in any other provision of law".

On page 4, line 4, strike out the single quote.

On page 4, line 5, strike out "1103" and insert "1102".

Mr. HICKENLOOPER. Mr. President, many Senators are not particularly happy with many provisions of the House bill as it came over. Some of those objections will carry over to certain provisions of the so-called package amendment in the nature of a substitute which has been laid down.

There has been a great deal of discussion over the past many weeks. There has been a great deal of discussion about reaching a vote on amendments. Some of us who have convictions no deeper than the convictions of other Senators—but we happen to have some similar convictions about some of these matters—have been discussing the desirability, the advantage, and the propriety of asking the indulgence of the Senate, and the permission of the Members of the Senate to be able to vote on certain amendments which we believe to be very important. Regardless of whether Senators vote for them or against them, we would like to proceed to vote on these amendments.

Mr. President, I believe I speak for approximately 20 Senators on this side of the aisle. There are about 3 whom I have not directly consulted on this matter, but there are about 17 with whom I have talked. So I am speaking from direct contact and personal expression on their part. I cannot quote the other three to whom I shall be referring, nor can I say exactly how they feel. But I know enough about their thinking to say that I believe they are in full sympathy with this procedure. They are concerned. Many of them have not made up their minds what they will or will not do in connection with future action on the bill. Some have. But there is a substantial number whose minds have not been fully crystallized, and who are concerned. Therefore we have the proposal or suggestion that three amendments which have been thrashed out from among a good many might receive the indulgence of the Senate by way of a vote.

I am well aware that probably all of us have various types of amendments, corrections, or alterations which we would like to see made to many sections of the bill. Legislation is not necessarily always exactly as each Member would like to have it. But the amendments which I will propose for consideration under a unanimous-consent request do represent some important approaches to the bill. And as I say, without in any way having a unanimous-consent request to commit any Senator to a vote on either side of an amendment, or on any future action here, the burden and thrust of this presentation is that there will be 2 hours to a side for a discussion of the three particular amendments, and then will vote.

I will attempt to read the unanimous-consent request, Mr. President. I cannot yet fill in the numbers of the jury trial amendments unless they are now at the desk.

The PRESIDING OFFICER. The numbers are now available.

Mr. HICKENLOOPER. I thank the Chair. I have the numbers assigned to the respective amendments.

Therefore, I am prepared to make this request. I hope the Senate will indulge me if I read this request, rather than send it to the desk at the moment, because there may be some amplifying explanation as we go through it.

I submit the following proposed unanimous-consent agreement:

UNANIMOUS-CONSENT REQUEST

I request unanimous consent that:

1. On Monday, June 8, next, beginning at 2 p.m the Senate proceed to the consideration of amendment No. 869, proposed to the pending bill with debate limited to 2 hours on a side, to be controlled by the proponent of the amendment and the majority leader respectively; that at the conclusion of such 4-hour debate, vote on the amendment shall be postponed until immediately after the ascertaining of a quorum following the convening of the Senate on Tuesday, June 9, next.

2. That immediately following such vote the Senate shall proceed to the consideration of amendment No. 868 to strike sections 404, 405, and 406 to H.R. 7152 with 2 hours debate limitation on each side as proposed and to be controlled as provided in 1 above k and that at the conclusion of such debate the Senate shall proceed to vote on said proposed amendment.

3. That following such vote the Senate shall proceed to take up amendment No. 606 (referred to as Cotton amendment) proposing to limit the jurisdiction of the Federal Government to employers of 100 employees (under the formula in such provision) and that debate be limited as in 1 and 2 above to 2 hours on each side, the time controlled as provided in 1 above; and that immediately following the termination of such 4-hour debate, the Senate proceed to vote on said proposed amendment.

4. Provided further, that the time consumed by any amendment or substitute (if eligible) proposed to any of said three amendments referred to in 1, 2, or 3, above, shall be included in, and not be in addition to, the debate limitation time above provided for; provided further, that any proposed amendments or substitutes (if eligible) to each of said proposed amendments refered to as 1, 2, or 3 shall be germane thereto.

I shall now proceed to discuss the unanimous-consent agreement in detail. The first part reads:

Mr. President, I request unanimous consent that (1) on Monday, June 8, next, beginning at 2 p.m., the Senate proceed to the consideration of amendment No. 869—

Parenthetically, that is the jury amendment proposed by the Senator from Kentucky—

proposed to the pending bill, with debate limited to 2 hours on a side, to be controlled by the proponent of the amendment and the majority leader respectively; that at the conclusion of such 4-hour debate, vote on the amendment shall be postponed until immediately after the ascertaining of a quorum following the convening of the Senate on Tuesday, June 9, next.

I think I should explain to Senators the reason for that rather unusual procedure or request. A long time ago, Members of the Senate who have occupied the office of Governor of their respective States made arrangements with the Governors' conference—which meeting starts tomorrow, I believe, in Cleveland—for a gathering of former

Governors as a cooperative gesture with the Governors' conference. That was set a long time ago for Monday, June 8. The Senators who can go are going out Monday morning. They will attend the ceremonies late Monday morning, and Monday afternoon. They will fly back here late Monday afternoon.

I think it is only fair, in view of the fact that this has been arranged for some considerable time, that a certain amount of deference be given to them, rather than to have them cancel these engagements which they had no way of anticipating might be interfered with by this action at this time. Therefore, I propose in this unanimous-consent agreement that beginning at 2 o'clock next Monday, the 4-hour debate begin, which should conclude the debate on amendment No. 869 by 6 or 6:30, depending on quorum calls, and things of that kind, and that then the vote on amendment No. 869 be postponed until immediately following the ascertainment of a quorum the next day, Tuesday morning, when the Senate convenes.

> 2. That immediately following such vote the Senate shall proceed to the consideration of amendment No. 868, to strike sections 404, 405, and 406, to H.R. 7152, with 2 hours of debate limitation on each side as proposed, and to be controlled as provided in No. 1 above, and that at the conclusion of such debate, the Senate shall proceed to vote on said proposed amendment.

Mr. President, I believe that is clear.

> 3. That following such vote, the Senate shall proceed to take up amendment No. 606 (referred to as the Cotton amendment)—

It was submitted by the Senator from New Hampshire—

> proposing to limit the jurisdiction of the Federal Government to employers of 100 employees (under the formula in such provision) and that debate be limited as in 1 and 2 above to 2 hours on each side, the time controlled as provided in 1 above; and that immediately following the termination of said 4-hour debate, the Senate proceed to vote on said proposed amendment.
>
> 4. *Provided further*, That the time consumed by any amendment or substitute (if eligible) proposed to any of said three amendments referred to in 1, 2, or 3, above, shall be included in, and not be in addition to, the debate limitation time above provided for; *Provided further*, That any proposed amendments or substitutes (if eligible) to each of said proposed amendments referred to in 1, 2, or 3, shall be germane thereto.

Mr. President, in effect, this means that the No. 1 amendment, No. 869, would be debated on Monday afternoon; the debate would end, under the limitation, in the neighborhood of 6 p.m. or 6:30 p.m.; and the vote on that amendment would be postponed until after the ascertainment of a quorum on Tuesday morning. After the vote on amendment No. 1, the Senate would proceed immediately, under the 4-hour limitation, with debate on amendment No. 2, which is amendment No. 868. After the debate-limitation time has expired—presumably the 4 hours would be used—the Senate would proceed immediately to vote; and after that vote was taken, the Senate would then proceed immediately to take up amendment No. 606, referred to as the Cotton amendment—the amendment submitted by the Senator from New Hampshire; and after the termination of the 4 hours of debate, the Senate would proceed immediately to vote on that amendment.

Mr. President, I shall discuss the matter further, because I do not want any misunderstanding in connection with it.

There is not the slightest intention on the part of any Senator who joins in this proposal for unanimous consent to bind any Senator in regard to any matter, unless he wishes to participate in the debate on the amendments. No Senator would be expected to vote on these amendments except as his conscience dictates. There would be no commitment, so far as I know, other than those contained in the proposed agreement. Every Senator would be a free agent, subject only to the limitations and terms of this proposal.

I submit that this is not a dilatory or delaying proposal or request of any kind—at least, certainly it is not intended to be; but I also submit that it would afford many Senators who would like to have a specific opportunity for debate directed and solely to this amendment or to that amendment to participate and to have the satisfaction of expressing their views, and then proceed to vote.

I suppose I shall have to submit in orderly fashion my interspersed explanations in connection with the proposed agreement.

Mr. MANSFIELD. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. I am happy to yield to the majority leader.

Mr. MANSFIELD. I will support the proposed unanimous-consent agreement submitted by the distinguished senior Senator from Iowa. I have discussed this matter with the manager of the bill on this side of the aisle [Mr. HUMPHREY], and he has assured me that although he has some questions, in general the proposed agreement meets with his approval.

It is our contention that if a unanimous-consent proposal of this kind is entered into, it may well shorten the debate, rather than extend it. It would, of course, mean that a cloture motion would have to be delayed, but by only 1 day, because I wish it understood that if the proposed unanimous-consent agreement were entered into by the Senate, it would be the intention of the distinguished minority leader [Mr. DIRKSEN] and it would be my intention, and the intention of other Senators to present a cloture motion on Monday next, rather than on tomorrow, Saturday; and if that were done, it would mean that the invoking of the time limitation relative to a cloture motion would take place 1 hour after the Senate convened on Wednesday, next.

So, Mr. President, while I approve and support the request made by the distinguished senior Senator from Iowa, I also wish the RECORD to show that if the proposed agreement is entered into, insofar as the leadership is concerned, the agreement will mean a delay by only 1 day in presenting a cloture motion.

Mr. HICKENLOOPER. I thank the majority leader.

I wish to state—and I am sure he understands this—that in connection with this matter, there has not been the slightest intention to bypass the leadership.

Mr. MANSFIELD. That is true, for earlier today the Senator from Iowa discussed this subject with the leadership. Although originally I had some questions about the proposal, on further study I have come around to the point of view of the Senator from Iowa.

Mr. HICKENLOOPER. I wish to make clear that no Senator on this side of the aisle or no Senator who supports the proposed agreement had the slightest desire, or could be accused of intending to do so, to bypass the leadership, in connection with a substantive matter of this sort.

So far as cloture is concerned, I would say to the Senator from Montana that cloture is not a part of this proposal, in either one way or another, because, as I understand, a cloture motion can be presented whenever 16 Senators sign a cloture motion and send it to the desk. So that matter is quite apart from this proposal; and any Senators who wish to sign a cloture motion have a perfect right to do so whenever they wish to. As a result, in connection with this proposal, no effort was made to deal with that possibility.

Mr. MANSFIELD. That is correct.

Mr. HICKENLOOPER. Mr. President, I send to the desk the proposed unanimous-consent agreement, in its formal form. I have had it printed in full in the RECORD, prior to my explanatory interpolations as I read the proposed agreement from the floor, so that my remarks on this proposal would follow its printing in the RECORD.

The PRESIDING OFFICER. Does the Senator from Iowa desire to have the proposed agreement read again?

Mr. HICKENLOOPER. No, Mr. President; not unless some other Senator wishes to have that done. I have already read the proposed agreement; and I have no desire to read it again, unless some Senator is uncertain in regard to its contents.

Mr. HOLLAND. Mr. President——

Mr. HICKENLOOPER. I yield to the Senator from Florida.

Mr. HOLLAND. Will the Senator from Iowa object to having the Clerk read the numbered amendment to which the Senator from Iowa referred? I refer to the amendment which relates to jury trials. I am not certain in my mind as to the various amendments.

Mr. HICKENLOOPER. I have no objection to having that done. I think it can be read by the Clerk.

Mr. HOLLAND. I believe the Senator said it was amendment No. 268.

Mr. SMATHERS. It is amendment No. 869.

Mr. MANSFIELD. Yes; it is amendment No. 869.

Mr. HICKENLOOPER. Mr. President, the jury trial amendment is the one which has just been submitted by the Senator from Kentucky. In effect, it is the original Morton amendment, properly tied into the pending business, insofar as the bill is concerned, but leaving out any application to title I.

So it would apply the jury trial amendment to all the bill except title I. I am reminded that it would not apply to the 1957 act.

The number assigned to the amendment is 869.

Mr. HOLLAND. Mr. President, may I ask the Senator another question?

Mr. HICKENLOOPER. Yes, indeed.

Mr. HOLLAND. Is the amendment to which the Senator referred now the pending business?

Mr. HICKENLOOPER. Probably it cannot be the pending business. It has just been submitted as a sort of amendment, I believe, to the amendment of the Senator from South Carolina, or whatever is the pending jury trial amendment.

Mr. RUSSELL. Mr. President, the amendment submitted by the Senator from Kentucky has just now been submitted. Of course, the effect of the unanimous-consent request, if it were agreed to, would be to displace the pending amendment with the amendment submitted by the Senator from Kentucky.

Mr. HOLLAND. Then the Smathers amendment would be displaced by the amendment called up by the Senator from Kentucky?

Mr. RUSSELL. I believe so.

Mr. BENNETT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BENNETT. Would not the effect of the action be to displace the pending business with the Morton amendment as of next Monday, leaving all day tomorrow to discuss and, if possible, come to a vote on the pending question?

Mr. HICKENLOOPER. Mr. President, for the information of the Senator from Florida, the Morton amendment, which was just submitted, and which is really an amendment intended to clarify the situation—whatever the parliamentary situation may be, for I am not quite sure—is No. 869. The other amendment, which is one which I submitted to strike sections 404, 405, and 406, is amendment No. 868, that number having just been assigned by the desk.

Mr. HOLLAND. I thank the Senator.

Mr. GORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, the Senator from Wisconsin has the floor and has yielded to the Senator from Iowa [Mr. HICKENLOOPER] with the understanding that he would not lose any of his rights to the floor.

Mr. HICKENLOOPER. The Senator from Wisconsin has been very kind. I thought it was inherent in his yielding that we could dispose of the question.

Mr. PROXMIRE. Yes, indeed. I do not wish the Chair to recognize another Senator, which would have the effect of causing the Senator from Wisconsin to lose his right to the floor.

Mr. HICKENLOOPER. If I have the permission of the Senator from Wisconsin, I should be happy to yield to the Senator from Georgia [Mr. RUSSELL]. I believe he has the right to reserve an objection.

Mr. GORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GORE. Is a unanimous consent request pending before the Senate?

The PRESIDING OFFICER. It is now being considered.

Mr. GORE. Does not any Senator have the right to reserve objection, unless the regular order is demanded?

The PRESIDING OFFICER. Any Senator has the right to reserve an objection and to make a brief statement accompanying his objection.

Mr. GORE. Mr. President, reserving the right to object, the junior Senator from Tennessee does not claim that he had any agreement with the leadership, and certainly he does not rely upon any such understanding.

Nevertheless, I had discussed with a number of Senators on both sides of the aisle the possibility of offering an amendment with respect to title VI following the disposition of the issue on jury trial. I have today consulted with legal authorities who have expressed the opinion that the TVA payments in lieu of taxes to various counties in a seven-State area would be affected by title VI. Under the Dirksen-Mansfield substitute, any Federal agency providing financial assistance is directed—and I use the word "directed" as a quote—to proceed to implement the policy of section 601 of title VI.

Mr. President, the State of Tennessee has made considerable progress in this vexatious field. It is proceeding with good will. Yet we have not eliminated in every county in Tennessee the practices that have prevailed for 100 years; nor can we do so over night. Many of our counties would be virtually bankrupt without the usual revenue from this source. I would hesitate to have my amendment completely displaced by priority of other amendments. I wonder if the distinguished senior Senator from Iowa would not be content with the granting of consent on the first amendment, permitting other Senators to take their chances on obtaining recognition for the calling up of additional amendments? So far as I am concerned, if I am recognized to call up an amendment with respect to title VI, I shall agree to a limitation of 2 hours of debate, but I would not wish to be completely displaced.

At least I would prefer not to be; and though I would hesitate to object, or be reluctant to object to the request, I point out that title VI is a far-reaching section. Every time the issue of denying Federal aid or using the threat of the denial of Federal aid as a means of forcing political conformity has been before the Congress, the Congress has rejected it, and yet title VI proposes exactly that. It is the fundamental question of whether Congress wishes to permit the denial or the threat of denial of Federal aid to needy communities and needy people as a means of forcing political conformity. Perhaps the Congress wishes to do that, but we should face the issue squarely. Congress has faced it before. The answer has always been in the negative. Yet that is proposed as a part of the bill and would not be included, as I read the unanimous-consent request, in the request of the distinguished senior Senator from Iowa.

Mr. HICKENLOOPER. The Senator is correct. I am in a situation in which I feel in good faith I must try to adhere to the unanimous-consent request that is proposed. I have misgivings about title VI. I believe the package bill has some corrective approaches to title VI. That subject was given considerable attention. While it may or may not be satisfactory even as it was considered under the so-called package bill, the provision was modified to a considerable extent, or at least clarified, and it was not included in the request. The basic reason why it was not originally included was that the issue was not raised.

The points mentioned were the three things upon which the general consensus indicated a desire for specific votes. I do not know what we will do in respect to any future unanimous-consent agreement, but at this point I fear that if we should begin, let us say, to change title VI, other changes might be proposed. I have a great many amendments which I would like to see specifically voted on in relation to title VII, including some rather "revolutionary amendments"—depending upon how one might look at it—which I proposed to title VII, but I decided not to include them. I tried to compromise by at least hoping that a vote could be had on these three particular provisions.

Because of all the discussions which have occurred, I would feel constrained to keep good faith with Senators with whom we have talked, including discussions with the leadership. Much as I regret to do so, I am afraid I would have to stay with the unanimous-consent request that has been presented.

Mr. GORE. Mr. President, further reserving the right to object, it is true, as the distinguished senior Senator from Iowa has stated, that the substitute Mansfield-Dirksen amendment would make some improvement in title VI. I believe the most substantial change proposed by the substitute bill is with respect to title VI. But the basic issue remains.

The revised amendment goes to a considerable extent in undertaking to pinpoint denial of funds to a division or subdivision of government in which discrimination allegedly exists. This, however, is only partially achieved. The difficulty arises because in many of the aid programs, the contractual relationship is between the Federal Government and the State government—for example, in the Smith-Hughes Agricultural Act, Federal aid to home economic teachers, and to vocational agriculture teachers in high schools throughout every State, the contract is between the Federal Government and the State government, not a county or city department of education.

Under the provision of the bill as it is pending, and under the substitute amendment, any Federal department or agency which is empowered to extend Federal financial assistance to any program or activity is directed to effectuate the provisions—in other words, is directed to proceed with steps to deny aid.

Suppose Smith County, Tenn., or Iowa, does not comply with all the requirements—the language used in the title is "any requirement"—the Federal Government has no way of reaching that county except through the State. So the Federal Government would proceed, I take it, to persuade the State to deny aid to that particularly county, or Federal Government aid would be denied to the entire State.

Mr. HICKENLOOPER. That question has been discussed. I am not clear as to exactly how the provision would work.

Mr. GORE. I do not mean to say that it is clear as to how it would work, but it ought to be clear before we vote for the bill, or before the vote for cloture, which would bring the bill to passage. I should like to have clarification of that point before cloture is voted.

If this is a move to foreclose—and I know the Senator does not so intend it—it would operate to foreclose the Senator from Tennessee, in which State this is an important issue. Then I would feel that my rights as a Senator were impaired.

If the Senator will proceed with his consent request based on a pending amendment, or upon the first item, I will give my consent. Then, if he should receive recognition on the next one, I would give my consent.

I hope that I would obtain recognition, but that would be up to the Chair.

If I may continue for a moment, let me cite a few facts for the Senator. In a county adjoining my home county, the Negro high school burned down last year. After this tragedy, the county school board held an open mass meeting, open to citizens of Putnam County, Tenn. After this mass meeting, the county school board decided not to rebuild a segregated high school, but, instead, invited the Negro student body and Negro faculty into the Central High School of Cookeville, Tenn. In Cookeville, Tenn., this year, or throughout the past school year, there has been one high school, with an integrated student body and an integrated faculty.

I challenge anyone to cite an example of better working race relations than that.

Yet, among the 95 counties in Tennessee there are some in which this condition could not come about in the immediate future, in my opinion.

Yet I am asked to vote for a bill which, in its present form, and under the revised amendment, would not only grant authority, but provide direction, to any Federal agency providing Federal financial assistance to proceed with steps to deny assistance unless there were political conformity to "any requirements" set out by some unknown official.

I say that is a far-reaching provision. I say it should be eliminated; and, if not eliminated, certainly modified.

At least, we need to know what we are doing before we pass the bill or vote for cloture, which would lead to passage.

Mr. HICKENLOOPER. I share some of the concern of the Senator from Tennessee about certain provisions in title VI. My basic philosophy has been that I have never believed in punishing innocent children because of the defalcations of some adults. In other words, I do not believe in punishing everybody because some individuals will not conform to the law. That is a broad philosophy, but it expresses my basic attitude.

However, I suggest to the Senator from Tennessee, who is an extremely practical man, who has had long experience in the Senate, whose associations with me have been pleasant, and who served in the House, that there have been discussions which have finally been brought to the point of a hoped for agreement.

I would certainly not object—in fact, I would encourage the Senator, as a separate matter—to his asking unanimous consent to set a time for debating title VI. That would suit me. I would not object, if it came as a matter of a unanimous-consent request, to some other proposals in the bill being set aside for specific debate and action. I am not particularly for cutting off this debate, but I do respect the colleagues with whom I have discussed this matter—almost entirely on this side of the aisle—and a consensus was arrived at that they wanted these three amendments voted on.

We have discussed the question with the leadership. It is in a situation of practical finality so far as I am concerned. I would not want to take the responsibility for modifying the requested agreement. I would not do so. I do not believe I could do it in good faith.

I certainly would be sympathetic toward the Senator on another unanimous consent request, if he wished to set aside specific time for debate on title VI. There are many provisions of title VII with which I am most unhappy. I should like to see a considerable amount of specific time devoted to title VII. However, in any kind of compromise discussion of consensus, when one is trying to arrive at an agreement, as we did, we cannot always get our own way all the way through—at least, I have never been able to do so. These three items were settled upon as being important items for voting and discussion, and therefore the unanimous consent request was brought together.

I know that the Senator is well aware of the fact there are certain practical considerations that enter the picture when we deal with divergent views. Some people like to put a different slant on amendments. That is the position in which I find myself.

The Senator from Tennessee knows that any accommodation I can ever give to him I shall be delighted to provide. He has accommodated me on many occasions. We have sometimes disagreed, and we have also agreed a great many times.

The Senator is a most valiant foe, and a most valued ally, depending on which side of the fence he is on. But I am sure the Senator knows that if in the course of legislative procedure there is anything I can do for him within the limits of my conscience, I shall be delighted to do. But he also knows that there is a certain amount of mechanics involved which would prevent my doing anything other than to adhere to the understandings which we have tried to hammer out in this particular unanimous-consent agreement.

Mr. GORE. Referring to the practicalities, the best I can make of it is that my concern for title VI seems to be practically left out in the cold with respect to the pending unanimous-consent request.

The Senator from Iowa, whose friendship I cherish, knows the practicalities of the Senate as well as I do. Once cloture is voted and the triphammer of tabling amendments begins to fall, what right and what opportunity will I have to modify or to eliminate a section which I believe has no place in the bill, which might be oppressive to needy people, including the children to whom the Senator refers, if priority is given to three or four other amendments in which the Senator is concerned?

I hope the Senator will modify his request to proceed with amendment No. 1, and then I shall try to obtain recognition to offer mine. If he obtains recognition, I shall not withhold consent to limitation with respect to whatever amendment he offers.

Mr. HICKENLOOPER. Under general procedural conduct, I believe that a certain amount of mutual confidence has been placed in the arrival of the final compilation contained in the unanimous consent agreement, which may not be satisfactory to all Senators who have supported it, but it represents the general consensus of things that they would like to see voted on. I urge the Senator to understand that I am just not in a position where I can do so without having a great many meetings with a great many people, and getting into all kinds of situations which would not do any good.

I am extremely sorry. The Senator from Tennessee knows that any reasonable or proper accommodation which I can give to him, I shall be glad to give him.

Mr. DOUGLAS. Mr. President, reserving the right to object, apparently the Senators in charge of the bill, on this side of the aisle at least, have given their agreement to the unanimous consent request of the Senator from Iowa [Mr. HICKENLOOPER].

It is not my intention to try to displace the leadership on this matter. I shall be glad to accept their judgment, so it is not my intention to object.

However, I am mystified as to the reason for the proposal. It seems to be based on the tacit assumption that if cloture should be voted, there will be no opportunity to pass on amendments.

We all know that rule XXII provides that if a cloture motion is approved, each Senator will then be entitled to speak for an hour, so that there will be a potential 100 hours of debate.

I believe that there are about 30 to 35 hard core opponents of the bill, and therefore they would have an opportunity to speak on amendments to be proposed, aggregating 30 to 35 hours. Replies would be made of equal duration and we could have, therefore, between 60 and 70 hours of debate—perhaps such "free lance" debate as might be indulged in by Senators.

Assuming an 8-hour day, we could take up another 8 to 10 days in debate. The implicit assumption seems to be that passage of cloture is a gag rule. It is not a gag rule at all. It is merely a limitation of debate. I am puzzled as to why the unanimous-consent request should be made on passing amendments prior to cloture, rather than after cloture.

I suppose there are many secrets that cannot be revealed in public, but I am mystified by this request and the considerations which may underlie it. I fear that if we accept the proposal we shall open a Pandora's box.

My dear friend the Senator from Tennessee, one of the ablest and most resourceful Senators, has virtually served notice that he wishes to be included, if some variation of the Hickenlooper unanimous-consent request is approved.

Mr. GORE. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. Yes, I am glad to yield.

Mr. GORE. What is wrong with being included?

Mr. DOUGLAS. I do not say that there is a thing wrong with it. I am certainly not condemning my friend the Senator from Tennessee. I am merely saying that that seems to be the fact.

Mr. GORE. Mr. President, will the Senator from Illinois yield further?

Mr. DOUGLAS. I yield.

Mr. GORE. I have talked personally with the Senator about this, and he knows that I am deeply concerned with the principle of threatening to deny aid, or actually denying aid to needy communities and the people therein as a means of forcing political conformity.

The Senate should face this issue squarely. It has done so before. Each time it has said "No." Yet it seems to me that I am about to be dealt out. As the Senator says, I wish to be included. He is correct.

Mr. DOUGLAS. The Senator is correct. Of course the Senator feels very deeply on this subject. Doubtless, there are other Senators who feel as deeply.

Mr. President, I hold in my hand the amendments to the bill. I believe they number about 375—or did, before the Senator from Iowa [Mr. HICKENLOOPER] and the Senator from Kentucky [Mr. MORTON] submitted theirs—which would make the total approximately 377. Each Senator feels intensely on this subject. If cloture is postponed until each Senator has had an opportunity to bring up his amendments prior to cloture, I fear that there will be no end. I am very much afraid that this might open a Pandora's box, but perhaps I am too apprehensive.

I believe that a part of this fear could be allayed if the majority leader and the minority leader would state that it is not their intention to move to table any amendment, but that with a limit of 1 hour for each Senator each amendment could be considered.

I hope that the Senator from Tennessee can obtain a vote on his amendment, but why must the votes be taken prior to cloture? Why could they not be taken after cloture, if cloture should be approved?

Mr. GORE. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. GORE. The question I raise is with respect to the advisability of giving priority to three specific amendments before cloture, and then, if cloture is voted, having all the other amendments subject to the tabling triphammer.

Mr. DOUGLAS. I hope the managers of the bill will give an open pledge that they will not do as they did in the summer of 1962; namely, move to table the amendments once the cloture motion is adopted. That was bad procedure. I resented that procedure then. I resent it now. I would dislike to see our southern friends treated in this way. A pledge not to do so would be helpful.

Mr. GORE. The Senator refers to the unfortunate events, in which he and I were associated, with respect to the Satellite Communications Act. I believe subsequent events have demonstrated that the Senate was unwise in applying cloture. Very little progress has been made toward the achievement of the necessary international agreements as a prerequisite to a global system of satellite communications. That was the basic mistake. It would have been better for Congress to have debated the bill until its fallacies had been exposed, than to rush in pellmell, close debate, and pass the bill.

I believe that in the pending bill it would be far better to pass a good bill in July than a hasty bill in June.

Mr. DOUGLAS. It is not a hasty bill.

Mr. GORE. Perhaps I used the wrong word in this case.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. DOUGLAS. I shall be happy to yield as soon as I have concluded my remarks on this point.

I have no intention of objecting or of intruding my fears upon the judgment of the managers of the bill. I am mystified as to why this proposal should be made. I fear very much that its adoption would pave the way to additional requests from Senators who have equal concerns with those of the Senator from Kentucky and the Senator from Iowa.

Now I am glad to yield to the Senator from Pennsylvania.

Mr. CLARK. Mr. President, reserving the right to object—and I shall not object, because I intend to follow my leadership on this matter—I desire to point out the absolutely ridiculous position we place ourselves in when we must determine an important matter of this sort by unanimous-consent agreement.

Why in the name of heaven can we not decide this procedural question as every other legislative body in the civilized world decides it, by majority vote? Why can one Senator determine whether the Senator from Iowa [Mr. HICKENLOOPER] shall have his way, or whether the Senator from Tennessee [Mr. GORE] shall have his way, or whether the Senator from Illinois [Mr. DOUGLAS] shall have his way?

I point out how absurd the whole plan of operations in this body is.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. RUSSELL. Mr. President, I first wish to congratulate the distinguished Senator from Iowa for being so much more persuasive with the leadership about some of the amendments than I was. On Tuesday last I offered to vote on the pending jury-trial amendment, and the modification that was suggested by the Senator from Kentucky [Mr. MORTON] and on the motion to strike title VII from the bill, as well as on the motion to strike title VI from the bill; and I assured Senators that there would not be lengthy debate. There was also an amendment to assure that no person would be placed in double jeopardy under the same situation by being tried under a criminal statute as well as for criminal contempt under the provisions of the bill.

I was met, as I believe the New York Times said, with a grin on the part of the majority leader, and a very polite declination. A counterattack was immediately launched in the nature of a counterfilibuster, if you will, which has been carried on until this hour.

For some reason the majority leader and the generalissimo in charge of the bill on this side of the aisle and the other side of the troika have now agreed that it is a highly desirable procedure to cease and desist in their filibuster and to move into the area of unanimous-consent agreement.

I regret that the Senator from Iowa is not in the Chamber because I have some grave misgivings with respect to the unanimous-consent request.

I fear that the agreement was very hastily drawn, and I do not think that it will do the job that perhaps he has in mind. In the first instance, under the unanimous-consent request as it is stated at the moment, the amendment of the Senator from Kentucky [Mr. MORTON] would be to the original bill and would have no effect whatever on the original Mansfield-Dirksen jury trial provision which is included in the substitute, and which is not now pending.

We understood that the substitute would be offered for the entire original bill. Here we would be spending 4 hours debating an amendment to the original bill, which would be—if the troika has its way—stricken down, destroyed, and supplanted by the substitute. The same thing is true with respect to the other proposed amendment.

It is a rather remarkable procedure to offer amendments after a unanimous-consent request is proposed. I have not seen the amendment suggested by the Senator from Kentucky. I am confident it is carefully and well drafted and that it would achieve the result he has in mind. However, I should like to have an opportunity to read the amendments before any unanimous-consent agreement is made with respect to them.

I am perfectly willing to agree to part 1 of the unanimous-consent request. I have no idea at this time of objecting to the other parts of it when they are brought forward later, but I really think if the Senator——

Mr. HICKENLOOPER. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. HICKENLOOPER. I may say that the very point which the Senator has raised was discussed. The question was raised to what parliamentary procedure these amendments should be pointed. The only thing before the Senate at this time is the bill itself. We could not offer it as a unanimous-consent request to the so-called package amendments, because the package has not yet come up. The only thing before us is the bill. We discussed that question at some length. We discussed the propriety and also the possibility of asking unanimous consent that, for instance, if and when the amendment should be adopted, it would automatically be translated to the substitute package. There is some difficulty about that.

In any event, the authors of the package, if the amendment should be adopted to the bill, could adopt the amendment to their own amendments. I believe they would have the right to do that. We did discuss that question. We were not unmindful of it. The Senator from Georgia, with his vast parliamentary expertness, probably can find a solution for us.

This is the only place where we knew it could be put, by making the unanimous consent apply to the bill as it now stands before the Senate.

Mr. RUSSELL. From a parliamentary standpoint, it may only be offered to the bill. But the Senator proposes to displace the Dirksen-Mansfield jury trial proposal, the Talmadge jury trial proposal, and the Long-Smathers jury trial proposal by this unanimous-consent request. I do not like to——

Mr. GORE. Mr. President, will the Senator yield before he leaves that point?

Mr. RUSSELL. I yield.

Mr. GORE. Is not a unanimous-consent request, insofar as parliamentary procedure and action is concerned, tantamount to an amendment?

Mr. RUSSELL. It has some aspects of an amendment.

Mr. GORE. It seems to me that I would have a right to demand a division of the question, if the Senator will yield for a parliamentary inquiry.

Mr. RUSSELL. I am not sure that that would hold true if the Senate grants a unanimous-consent request. The Senator has an opportunity to object to the unanimous-consent request.

Mr. GORE. That is what I say. If the Senator would yield for such an action, I would now demand a division of the question. Will the Senator yield for that purpose?

Mr. RUSSELL. I have the floor.

Mr. HICKENLOOPER. The Senator has the right to reserve the right to object. I do not assume that I have the floor on this. But if I do have the floor, I would raise the question as to whether or not the proposer of the unanimous-consent request controls the request. I doubt whether it would be eligible for a division on a demand, as in the case of an amendment.

Mr. RUSSELL. It may be that the other Senator could object.

Mr. HICKENLOOPER. I do not know.

Mr. GORE. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. GORE. I believe a Senator has a parliamentary right to demand a division of a complicated consent request, the same as an amendment. When Congress acts upon a consent request, thereby giving its approval, it is essentially the same parliamentary procedure as agreeing to an amendment, thereby giving to it its approval. There is a unanimous-consent request on three separate amendments, not one of which the junior Senator from Tennessee has had an opportunity to read. They deal with three different sections of the bill. Therefore, I demand a division of the consent request.

The PRESIDING OFFICER. The Senator is not permitted to ask for a division on a unanimous-consent request. He has a right to object.

Mr. GORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GORE. If a Senator objects to the provisions of a consent request in three parts, would it then be in order to request consent seriatim of the separate parts?

The PRESIDING OFFICER. The Senator can object to the unanimous-consent agreement. And the Senator offering the agreement could make such request.

Mr. SMATHERS. Mr. President, will the Senator yield so that I may ask a question?

Mr. RUSSELL. Mr. President, I yield first to the Senator from Iowa.

Mr. HICKENLOOPER. I do not mean to displace the Senator from Florida, but I merely wish to make it clear that because of the association of others and the discussion of this matter which eventuated in connection with this unanimous-consent request, I could not in good faith divide this request. I would have no authority. A great many Senators participated in the development of this request, and I could not divide it.

Mr. SMATHERS. Mr. President, would it be possible if the Senator then objected to the unanimous-consent request of the Senator from Iowa, and the Senator did not feel as though he wanted to make a unanimous-consent request on the first part, could not the Senator from Tennessee ask for unanimous consent on the first part on behalf of the Senator from Iowa?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that this could be done. The Senator then could offer his own unanimous-consent request.

Mr. RUSSELL. Mr. President, these amendments have not yet been printed. Senators have not had an opportunity to study them. A great deal of discussion has occurred with respect to these proposals. I assume, from the decision reached by the majority leader and the floor manager of the bill after further study, that it may have some relation to their procedure in calling for cloture or the gag rule. I would be pleased if the Senator from Iowa would withhold this unanimous-consent request until tomorrow. If it is made in the morning, the motion for cloture could be filed at any time tomorrow. The agreement could be voted on on the same day.

I hope that the Senator from Iowa will not compel us to make a shotgun decision on the spur of the moment here. If the Senator would withhold the unanimous-consent request temporarily and give us an opportunity to consider it during the evening and the early hours of tomorrow morning, he could achieve exactly the same effect. By presenting it on Saturday, it would have exactly the same effect with respect to the cloture petition as if it were acted on this afternoon.

I hope the Senator will not press it this afternoon.

Mr. HICKENLOOPER. Mr. President, I have great respect for the Senator from Georgia, for his position, and his leadership. Fundamentally and basically, his request is not an offensive one at all. There is only one thing that I would suggest. Insofar as I am concerned, I would be happy to yield to the Senator's suggestion on the condition that it is satisfactory to other Senators. I hesitate because a number of Senators are interested in this question.

Mr. RUSSELL. Mr. President, I think the Senate ought to consider this question a little further with relation to the amendment to the so-called package bill, as the Senator calls it, or the troika amendment, as I call it. Certainly we should come to some conclusion as to how it should be offered. And if it can be offered to the bill by unanimous consent, it can be offered to the package.

Mr. HICKENLOOPER. I suggest that there are one or two other considerations. It has been my understanding that there is a desire on the part of Senators who were advocating the filing of a cloture motion to submit it to the Senate tomorrow. If a cloture motion is filed, it seems to me that that then pretty much blocks this unanimous-consent request. I do not know what the leadership would do. I would rather anticipate that if this unanimous consent could be entered into this afternoon, I do not know that there would be much use, in my own mind, in having any session tomorrow. I do not know whether the leadership planned that. That is within their province. But, depending upon the attitude of the leadership, I would hope that if any postponement were had, we might consider it prior to the filing of any cloture motion. I do not know what Senators who intend to file the cloture motion are thinking about.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. MANSFIELD. Mr. President, if the unanimous-consent request of the Senator from Iowa is agreed to—and I hope it will be—the leadership would be most happy to see that done, and go over to Monday. Otherwise, the Senate would meet tomorrow and, I assume, the cloture motion would be filed.

Mr. HICKENLOOPER. I have no control over that. I assume that a cloture motion can be filed any time 16 Senators sign the motion and deposit it on the desk. To have it lie over for the evening would not be a fatal defect.

Mr. RUSSELL. I suppose I have been about as regular in my attendance in the Senate for the past 8 or 9 weeks as any other Senator. I would rejoice, as much as any other Senator, in having a day of rest tomorrow. Certainly my desk is in as much need of attention as the desk of any other Senator possibly could be.

There are matters that the staff did not handle and that I have not had an opportunity to handle. I would like to work on these matters tomorrow. But I cannot escape the conclusion, after hearing all of this discussion, that—although I do not attribute it to the Senator from Iowa—there is, so far as the leadership is concerned, some connection between the unanimous-consent request and the motion for cloture.

Much as I regret to object—and I do not believe I would object tomorrow, I believe I shall be compelled to ask that this matter go over until tomorrow.

Mr. HICKENLOOPER. May I inquire of the leadership? All of us would like to have a day off, of course. I was supposed to be at one of the Iowa colleges, tomorrow, in connection with a rather special occasion; but I am in the process of canceling that engagement.

Let me ask the majority leader whether it would be possible to make the first order of business tomorrow morning the further discussion of this proposed unanimous-consent agreement. I wish to accommodate as many Senators as I can, and I suppose that is the general desire among Senators.

Mr. MANSFIELD. If the Senator from Iowa wants action taken, it had better be taken tonight.

Of course, anything can be discussed tomorrow; but I understand that the Senator from Georgia suggests that this matter should go over.

Mr. RUSSELL. After all, I did not have the knowledge of this proopsal that the Senator from Montana, the Senator from Minnesota, and other Senators had. It had already been brought up on the floor before I had knowledge of it; and some of us have a very deep interest in the subject matter of the bill to which this proposal relates.

Mr. MANSFIELD. But the Senator from Georgia received a copy of this proposal within 15 minutes of the time I did. So I would not say there was much difference between the time when he received it and the time when I received it.

Mr. RUSSELL. Then when did the Senator from Montana give it all the "further study" to which he has referred? He has said he gave it considerable study.

Mr. MANSFIELD. That is correct.

Mr. RUSSELL. It seems to me he must have given it rather short study if he received it only 15 minutes before I did. Even the brilliant mind of the Senator from Montana would be unable to give the proposal very much study in 15 minutes; that would be a rather short study. Can he assure me that he had not conferred with some Senators about this matter before then?

Mr. MANSFIELD. I assure the Senator that I had not. I said I discussed the matter earlier today with the Senator from Iowa, and I stated my attitude.

But I think the Senate should act on the proposal today: Either agree to the proposed order—and I hope the Senate will agree to it—or object to the proposed order. Of course I hope no Senator will object.

Mr. HICKENLOOPER. There has been no roundrobin discussion of this proposal, because those of us who are responsible for having the proposal drawn up did not wish to become involved in connection with any other attitude—for example, the position of Senators on the question of ordering cloture. The ordering of cloture is not involved in this proposal, even though I am sure the possibility of ordering cloture has been involved in the procedure in the Senate all along, because cloture is always "standing in the wings," and sometimes it "stalks acros sthe stage." However, the possible ordering of cloture has not been involved in this proposal. We did not discuss that possibility in connection with this proposal. We hoped we could obtain votes on these amendments after a specific amount of debate. First, we proposed 3 hours. Then we said perhaps 3 hours would be too long, and perhaps 2 hours would be sufficient.

The discussion with the majority leader was only for the following reasons: Not only as a courtesy to the leadership on both sides—to the Senator from Montana [Mr. MANSFIELD] and the Senator from Illinois [Mr. DIRKSEN], the majority leader and the minority leader, but also to be sure that we were not considered as trying to usurp the normal prerogatives of leadership or the normal rights of leadership.

We did discuss it a few minutes ago, before this matter was presented. I again asked the majority leader and the minority leader whether, as a result of this proposal, they thought there was any insinuation that we were attempting to do something which they should do. Both of them assured me "by no means."

The Senator from Montana had a copy of this proposal a short time before it was presented to the Senate; and shortly thereafter the Senator from Illinois [Mr. DIRKSEN] received a copy of it. To my knowledge, that was the first time they had seen it, because I held the copies in my hand, and I handed these copies to them because they are the leadership.

Mr. RUSSELL. Mr. President, the Senator from Iowa is the last person whose good faith I would question or whose word I would challenge. However, this morning, at about 10:30 or 11 o clock, I heard that there would be a postponement of the cloture motion vote, and that the Senator from Illinois [Mr. DIRKSEN] had agreed to have the cloture motion vote postponed, in order to have the Senate vote on these three amendments. Someone may have had a crystal ball which enabled him to foretell future events; but evidently there was a little "leak" from some source, this morning; and I heard of that at about 10:30 or 11 o'clock.

Mr. HICKENLOOPER. I assure the Senator from Georgia that this morning there was no such agreement on the part of the minority leader. Some of us met around 10:30 this morning; and, as a matter of courtesy, because we are Republicans, we asked the minority leader to listen to us while we expressed our views. There was a general agreement that some such thing would be developed and proposed as a unanimous-consent agreement; but at that time it had not been reduced to writing. The minority leader did not then agree. Not only was there no assurance at that time that the vote on the cloture motion would be postponed, but there was also no assurance that this proposal would even be accepted. However, we said we would propose it.

Thereafter, the minority leader did not present this proposal, although of course he would have had a perfect right to do so.

He never agreed to support it, I say to the Senator from Georgia; and, so far as I know, there was no discussion to the effect that the vote on cloture was going to be postponed.

At first, I included a provision—like the fellow who said he made a fiddle "out of his own head," and had enough wood left over to make another one—[laughter] that a cloture motion would not be received in connection with the proceedings under this proposed agreement. Because I realized this proposal might be considered hostile by some persons, at first I included a provision, just this afternoon, and it was reduced to writing, that a cloture motion would not be received in a connection with the proceedings under this agreement. But I thought that provision might result in a hassle, so I deleted it.

Mr. RUSSELL. In any event, it would be redundant.

Mr. HICKENLOOPER. Well, I did not take it out because of that.

Mr. RUSSELL. But it would be redundant, because if the proposal now before us were entered into, unanimous consent would be required in order to proceed with the vote on a cloture motion, during the effective period of the proposed agreement.

Mr. HICKENLOOPER. At any rate, I thought the words used in that part of the proposal might be offensive to some Senators, so I drew my pencil through those words.

But let me say to the Senator from Georgia that I am utterly convinced—because I heard nothing to the contrary—that postponement of the vote on the cloture motion was not discussed by the minority leader. I do not understand how the minority leader could have said the vote on the cloture motion would be postponed.

Mr. RUSSELL. I did not say the minority leader said that. I said I heard that would be done. As I have said, that word might have come as a result of some prescience or some ability to foretell future events. At any rate, I did hear of it at about 10:30 or 11 o'clock this morning; at about that time, I did hear that there would be some such proposal, so that these three amendments could be voted on.

What I heard was rather inadequate. I heard that the amendments, particularly the amendment of the Senator from New Hampshire [Mr. COTTON], who made such a magnificent and eloquent speech today, and the right of jury trial amendment, would be voted upon before any petition for cloture was filed.

Mr. HICKENLOOPER. Certainly that was the object of the meeting, and the discussion which was had was on that subject. Some of us hoped that the amendments could be voted upon. That was the basic purpose of the unanimous-consent request.

I do not see how any Senator could be authorized in any way to say, or could have said with any assurance whatsoever, this morning, at noon, or even up until now——

Mr. RUSSELL. What I have stated was in the rumor category, I assure the Senator.

Mr. HICKENLOOPER. That cloture would be postponed or that any of the amendments would be voted upon. That is what we are now discussing. We are not necessarily talking about the postponement of a vote on cloture, but we are talking about whether the Senate will vote on the amendments, with a time set aside to consider each of them. I do not know what the Senate will do. I still do not know. I could not state with any accuracy what the Senate will do.

Mr. RUSSELL. I believe that many of us are in that position. I believe the entire Senate is in that position at the present time.

I have a very deep affection for the Senator from Iowa. I do not like to do anything to prevent a class or a large audience in his State from being enlightened by a speech from him. I know how those things run. I hope that the Senator will not press his unanimous-consent request this afternoon. Some other Senator can offer it for him tomorrow if the Senator from Iowa is not present. While the Senator who would offer the proposal might not be as effective as the Senator from Iowa, with the groundwork which the Senator has already laid and the fact that he has already secured the approval of the majority leader, the generalissimo in charge of the bill, and the minority leader, it is highly unlikely that any harm would be done in carrying the request over until tomorrow. I hope he will not press it.

Mr. HICKENLOOPER. I have said to the Senator that from my personal standpoint I would not raise any objection, provided that at the conclusion of the quorum call tomorrow morning the proposal was made. I dislike to keep Senators here unnecessarily on Saturday, but perhaps it is now necessary to do so. The business of the Senate is necessary. But if I could obtain the floor tomorrow immediately upon the ascertainment of the presence of a quorum in order to renew my request, and not run smack up against the fact that previously a petition for cloture had been filed, which would foreclose me—I do not wish to get myself into that kind of box——

Mr. RUSSELL. That procedure would rest entirely, solely and completely with the majority leader and the minority leader. I am quite confident that since they agreed to the unanimous-consent request this afternoon, they would not object to it tomorrow. A cloture petition could be filed at 5 o'clock tomorrow afternoon, and it would have exactly the same effect as if it were filed at 9:01 in the morning. The petition would be voted upon on the same day. In view of all that has taken place, and the very great importance of the whole question, I can only express the profound hope that the Senator will let it go over. The majority leader has already agreed to that suggestion, and will not come rushing in, as soon as the quorum call tomorrow is completed, and slap a cloture petition on the desk.

Mr. MANSFIELD. How does the Senator know?

Mr. RUSSELL. The Senator can change his mind again. I agree that he can. Perhaps he will not have so much time for further study tomorrow and will not object.

Mr. HICKENLOOPER. I am perfectly willing to be present if there is a reasonable hope or understanding that I can present the request. I hope that Senators will have made up their minds overnight as to whether or not to object.

Mr. RUSSELL. The Senator understands that I am wholly in accord with what he is undertaking to do. If the Senator will offer his proposal as a separate unanimous-consent request, I assure him that I shall not object. But I have been objecting to all unanimous-consent requests that have been made heretofore, and the present request places me in a position in which I feel I should consult with my colleagues who have agreed that we would not permit any unanimous-consent requests. I am perfectly willing to agree to the first part of the request now. But so far as I am concerned, I shall not object to the others when they are proposed after the conclusion of the votes on the first proposals. But we are placed in a rather embarrassing position, with Senators like the Senator from Tennessee [Mr. GORE] and others who have amendments that they think are of equal importance, if we are asked to agree to the request now.

Mr. HICKENLOOPER. I have not discussed the point with any Senator. No one has told me this. I cannot read the mind of anyone. But I am of the opinion that if we approach the question piecemeal there will be considerable confusion. I am not authorized, as I regretfully said to the Senator from Tennessee, to vary the request at the present moment, except to say that I would be willing to take a chance on the good will and the genuine objective cooperation of Senators by coming in and sitting at the "mouth of the cave" when the quorum call in the morning has been completed, trying to obtain the floor, to renew the request. I hope that Senators will have made up their minds by that time. They could either object——

Mr. RUSSELL. I assure the Senator that I shall have made up my mind. I shall discharge my obligation.

Mr. HICKENLOOPER. I understand. The Senator meets his obligations magnificently. He always has. I understand that.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HICKENLOOPER. I yield to the Senator from Montana.

Mr. MANSFIELD. It appears to me that the proposals offered by the distinguished Senator from Iowa are easily understandable. It seems to me that on the basis of 2 hours, at least, of debate on this unanimous-consent request, the Senate is a responsible enough body either to agree to it or reject it. On the basis of suggestions by various Senators that they are willing to consider the proposal piecemeal rather than together, it seems to me that their objections very likely would not dissipate overnight. So I would hope that the Senate in its wisdom would decide the question one way or the other this evening so that the leadership could have a little more idea as to what to do in the few days ahead.

Mr. HICKENLOOPER. As a sponsor, along with my colleagues, of the proposal, I am in the following position: The proposal is subject to objection by any Senator for any of a variety of reasons. I do not desire to try to force any action this evening. I could not do so if I wished. Any Senator could object immediately. I have no power to force the proposal through. I have no intention of trying to do so.

I have no objection to the proposal going over, and with good faith cooperation, if I could obtain the floor the first thing in the morning, I could again ask that the proposal be considered. There may be objection to that procedure. I cannot control it, and I would not attempt to do so. Therefore, I shall have to leave the request in that position.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. HICKENLOOPER. I yield to the Senator from New Hampshire.

Mr. COTTON. I am bound to say that the discussion is not working out much differently from the way in which I anticipated it would. First, it is difficult for the Senator from New Hampshire to understand what inherently dangerous feature is contained in any one of the three amendments that are proposed by unanimous consent for debate and vote at a time definite. It is difficult for the Senator from New Hampshire to say what requires such a careful, painstaking study and weighing of the procedure, with all due respect to the Senator, for whom I have a high regard——

Mr. RUSSELL. I can tell the Senator one very important reason that has been in my mind since the beginning. We had hoped that the Senator from New Hampshire would offer an amendment which would strike title VII from the bill. If the Senator does not offer such an amendment, it will be offered. But if the other amendment is voted on first and should carry, the Senator well knows that we would not have any chance whatever of eliminating title VII from the bill. The Senator is an experienced parliamentarian. He can see that that would place us at some disadvantage.

Mr. COTTON. The Senator from New Hampshire would not for a moment pit his parliamentary knowledge against that of the Senator.

Mr. RUSSELL. I am not talking about parliamentary knowledge.

Mr. COTTON. In the first place, the three amendments would be to the bill. The distinguished Senator from Georgia has already pointed out that technically when the substitute comes along, they will not apply.

Senators who desire an opportunity to vote on these amendments are relying almost entirely on the sense of fairness and justice of the Senate—that if the amendments were adopted to the bill, they would be adopted to the substitute.

Mr. RUSSELL. I think that is a fair reliance.

Mr. COTTON. However, even after cloture, my understanding is that any Senator who wanted to eliminate the entire title VII could do so as an amendment to the substitute. Is that correct?

Mr. RUSSELL. That is correct; but if the Senate had already taken the other action, the Senator knows it would stand by that action.

Mr. COTTON. It is inclusive. I should like to see title VII entirely eliminated. This is half a loaf. If a Senator comes along with a full loaf afterward, I will take it.

I did not want to engage in a dispute, but the situation is working out as usual. Some of us who are anxious to vote on two or three of these proposals find ourselves between two millstones. The distinguished Senator from Georgia is going to object tonight, and the distinguished majority leader indicates that tomorrow morning he will probably file his cloture motion, and we shall find ourselves where we were in the beginning.

I wanted to add this thought to my friend the distinguished Senator from Tennessee [Mr. GORE] and other Senators who rightfully are interested in other amendments. So far as these amendments are concerned, they had to be selected because a group of us have been deeply concerned about the fact that we could not see any prospect of having an adequate opportunity to amend the bill—that we had to take it all or vote against it all, for all intents and purposes, because of tactical limitations, not technical limitations, that would be in effect after cloture came. Because we have been considering those facts and trying to have a meeting of the minds, this proposal has resulted. I was not very optimistic that we would have an opportunity to vote on them.

Mr. RUSSELL. I am more optimistic than the Senator from New Hampshire. Based on the statement of the Senator, I believe he has a chance to get a vote.

Mr. COTTON. It seems to me that the Senator from Georgia will object tonight, and the majority leader will operate in the morning on his cloture motion, and that will be it.

Mr. RUSSELL. Mr. President, I am loath to believe that the majority leader, after having agreed to the request on these amendments this afternoon, would adopt a directly contrary course tomorrow. I do not believe the majority leader will follow that procedure.

Mr. COTTON. Nothing will be lost in considering these three amendments except 1 day. If they are bad amendments, the Senate will not adopt them. If they are adopted and Senators have afterthoughts about them, they will have another "go-round" when the substitute is offered. The fact that they must be offered as amendments to the bill does not mean that any other Senator is precluded from offering other amendments. It will depend on the sense of the Senate. We may lose out on all three amendments. If we do, we will make no complaint. We will have had our day in court.

Mr. RUSSELL. The Senator made that clear in his eloquent speech. He stated clearly this morning that after cloture was adopted he would not have a fair chance to have a vote.

I am happy that the Senator from Iowa has indicated he is willing to let the matter go over until tomorrow.

Mr. DOUGLAS. Mr. President, reserving the right to object, one of the pleasures of being a "back bencher" is that he is permitted to surmise about considerations which lie behind all the sword play and parliamentary tactics in this body. It is a mild but delicious pleasure. It has been interesting to me to listen to this discussion and wonder what the real considerations are behind this illuminating and at the same time obfuscating discussion.

I see no logical reason for the unanimous-consent request, because amendments can be proposed and fully debated after a motion for cloture is adopted, as well as before. There is no reason why these amendments must be considered prior to cloture. They can be considered after cloture is voted. And there is no justification for the request on the grounds Senators are suspicious about motions to table, because a motion to table can be made either before or after cloture.

I have been driven to the belief that there have been secret arrangements entered into.

Mr. GORE. Not including me.

Mr. DOUGLAS. No; obviously not including the Senator from Tennessee.

I have wondered whether the price of the agreement for this unanimous-consent request is the understanding that possibly some vote would be gained for cloture itself.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. MANSFIELD. There has been no understanding. The Senator from Iowa has made it very clear that no votes were involved in this consideration. Nothing was asked for. Nothing was promised. We thought this was one way in which to expedite the business of the Senate. I hope the Senator will accept that statement in good faith.

Mr. HICKENLOOPER. Mr. President, will the Senator from Illinois yield on this particular point?

Mr. DOUGLAS. I yield.

Mr. HICKENLOOPER. It is regretted that the Senator's articulate presentation of his facts goes to the point where he raises the question as to whether a "deal" has been entered into.

Mr. DOUGLAS. I did not say a "deal"—an arrangement. I was very careful to avoid the word "deal."

Mr. HICKENLOOPER. Theoretical fancies can take some great flights on occasion. An innuendo can mean a great deal.

I will say to the Senator, on my honor and on my word, that, so far as I know, there has been no suggestion of any agreement either way. It has been made clear to the majority leader and the minority leader that this proposal did not involve any consideration of votes on cloture, for or against. So far as I know, no Senator supporting this proposal is letting it particularly influence his vote for cloture or against cloture.

I say that to the Senator from Illinois for his information; and if he cares to pursue his facetious remarks along that line, he can do so now, in the face of that positive statement.

Mr. DOUGLAS. I am very glad to accept the statement from the Senator from Iowa. He is a very honorable man.

This leaves me more mystified than ever. What is the purpose of having a vote prior to cloture on these matters, when a vote can be taken after cloture?

Perhaps I have read too much of Sherlock Holmes and too many detective stories, but this naturally forces me to indulge in the innocent pastime of surmise. If that has been astringent and wounding to the Senator from Iowa, I am deeply sorry.

But if we proceed to deal with these unanimous-consent requests on amendments prior to cloture, I think I shall have to take counsel with some of my colleagues to decide whether we should not present some amendments to the bill designed to make it stronger because, thus far, the amendments which have been offered are weakening amendments. I do not believe that the so-called compromise agreement or substitute substantially weakens the bill, but I do wish to have an opportunity to read the projected amendments of the Senator from Iowa and the Senator from Kentucky, which I have not yet had an opportunity to read, to see how weakening those amendments are. If they are to be made a prior matter before the cloture vote is taken—and some of us, also, feel intensely on the subject, as does my good friend from Tennessee [Mr. GORE] who wishes to be included—we should like to be included, also.

Mr. HUMPHREY. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. WALTERS in the chair). The question is on agreeing to the amendments (No. 577) proposed by the Senator from Louisiana [Mr. LONG] to the amendments (No. 513) proposed by the Senator from

Georgia [Mr. TALMADGE], for himself and certain other Senators, relating to jury trials in criminal contempt cases.

Mr. HUMPHREY. Mr. President, I have listened with keen attention to the discussion this afternoon with reference to the unanimous-consent request.

I wish to state for the benefit of the RECORD, and also for the benefit of Senators, that my first information relating to the unanimous-consent request came during the time of the quorum call, when the Senator from Iowa and other Senators were conversing with the majority leader and the minority leader with reference to the proposed unanimous-consent request.

I wish to be equally candid, that during the past few days I have talked with a number of Senators on both sides of the aisle about their concern over the procedure that was being followed. I know that certain Senators wish to vote for the civil rights bill, but feel some concern over certain provisions. I have tried to be understanding of those problems and of their attitude. I have tried to assure every Senator it has been my privilege to talk to that when and if cloture were to be obtained, it would be my intention, as Senator in charge of the bill on this side of the aisle, to give an opportunity for a yea-and-nay vote on the substance of the amendment.

I have said also, however, that if there were obvious use of dilatory tactics only to prolong forever and ever the proceedings of this body without any reference or relationship to the substance of the bill, it might be necessary to use tabling motions.

I wish to make it clear that I have stated to several Senators, particularly on this side of the aisle, who have been willing to confer with me, that on major amendments related, for example, to title VII and title VI, or to title II, amendments that would strike the title or basically modify it—amendments which of course I would oppose—nevertheless, I would wish to see that there was a yea-and-nay vote on the substance of the amendments.

No commitment has been made to any Senator, except one commitment, namely, that if the unanimous-consent agreement were entered into, the majority leader and the minority leader would offer the petition for cloture on Monday instead of on Saturday, and that the Senate would vote on cloture on Wednesday instead of on Tuesday.

I wish to be very frank about it. I have been doing a great deal of hoping. I am supposed to be one of the perennial optimists in the Senate, but I am running short of optimism. Today, it was even said by one Senator that he thought I was running a little short of what he called "bounce," which should not be unexpected, under these conditions. But it is my hope that if Senators who have proposed this unanimous-consent request were able to obtain agreement to that request, if we were to engage in debate and then vote—and however that vote may result, I assure all Senators that I will do all I can to defeat the amendments—we could go to Senators and say, "You have had your day. You have put up a good fight. You won this one, or you lost that one. Do you mind if I have a word with you about cloture?"

I believe that, as a result of these discussions, we shall have a reasonably good understanding of the procedure that would be followed and of the attitude that would prevail.

Mr. President, it is of course true that we can, after cloture, utilize 1 hour on each amendment by the author of the amendment, and 1 hour on the part of any Senator who may wish to oppose the amendment, if that is the only amendment he is interested in.

Frequently, we have disposed of amendments in the Senate, on important issues like the tax bill and the defense bill, or even on a treaty, under a time limitation of 1 hour to each side.

But it was my view, after long discussion—not so long today, only a few minutes—but for days in the past, that if we were to be able to come to some resolution of our difficulties at this moment, we would have to seek every possible way and means to accommodate Senators.

I have not been very persuasive thus far, but I should like to keep at it. I am going to be a persevering Senator. But let it be made clear to everyone—and I wish I could say to the contrary—that the Senator from Iowa and those for whom he has spoken did not come to me, or to the majority leader, and say, "If you are in agreement, we will do this." I wish they had, may I say to the Senator from Iowa, because he would have made my day a happier one.

Since the question is going over until tomorrow, I may wish to talk with the Senator from Iowa about it tonight, but I do not believe I shall get anywhere, because I have been talking with the Senator from Iowa for a long time about some of these matters. But, so far as I am concerned, I am willing to be patient.

Tomorrow, I hope that my majority leader, if we can come to a unanimous-consent request, will agree to file the petition on Monday, and that the Senate will vote on cloture on Wednesday, I hope that we can have a good debate on Monday afternoon and Tuesday, and that we can vote down the amendments offered by the Senators who have presented their amendments today. On Wednesday I hope that we can proceed to the cloture motion and that 1 hour after convening and voting we shall have obtained cloture. Then we can proceed to a discussion of the other amendments.

Let me say one thing further to the Senator from Iowa. There is such a thing as honor in the Senate. If the amendments should prevail which the Senator from Iowa and those included in his unanimous-consent request—the Morton amendment, the so-called Cotton amendment, and the amendments relating to school desegregation, title IV, I believe, offered by the Senator from Iowa—I would consider it a matter of honor that they be included in the substitute. It would represent as of this moment, indeed, a kind of consensus of the Senate, but we do not take votes for practice. If the Senate were to vote on those amendments—I must say I hope it does not—it could do it again. Then, following cloture, let me say to the Senator from Iowa, if he should win on those amendments, over my stern resistance—whatever that may mean—I would consider it a matter of honor that those amendments should be included in the substitute.

In this matter, I believe that we should treat each other as we would in a contractual relationship. I want a good civil rights bill. We are not going to get one unless we buckle down and do some voting. I do not believe that we are going to get a good civil rights bill until we get cloture. After cloture, I shall do everything I can to protect the rights of Senators under the terms of cloture. The use of tabling motions will be sparing, if at all. So let us have the record clear.

Mr. HICKENLOOPER. First, I wish to suggest something to the Senator from Minnesota, and then I wish to clarify the parliamentary situation with regard to the unanimous-consent request.

The Senator from Minnesota was not consulted about this matter, for a very important reason, I believe. Neither was the Senator from Montana consulted, except for some information. The reason why that happened was to avoid any possible color of accusation on the part of anyone that any deals were being made back and forth. This is the responsibility of the group which brought it together. While we have all the respect in the world for the gentlemen and lady on the other side, we did not enter into this matter with the throught of being placed in the position of making any agreements or having any understandings on parliamentary procedure or anything else with any particular group or faction. We tried to limit the debate on those three items.

I very much like to discuss things with the Senator from Minnesota. He usually tells me many things that I do not know. I do not say how they test out afterward. He is a most intelligent gentleman. I assure him that on many occasions when I have discussed matters with him it has always been a delight and a joy.

I should like to make a parliamentary inquiry. I heard a rumor a moment ago—where it came from I do not know—that there was some thought to the effect that the unanimous-consent agreement may have gone out the window somehow.

The PRESIDING OFFICER. The Chair would like to inquire of the Senator from Georgia [Mr. RUSSELL] if the Chair's understanding is correct that the Senator from Georgia objected to any agreement to the unanimous-consent agreement being entered into today.

Mr. RUSSELL. I had requested the Senator from Iowa to carry the matter over until tomorrow. I understood he had agreed to it.

Who has the floor, Mr. President?

Does not the Senator from Wisconsin [Mr. PROXMIRE] have the floor?

The PRESIDING OFFICER. Yes; when the agreement has been disposed of.

Mr. RUSSELL. Regretfully, I request the regular order.

Mr. HICKENLOOPER. I should like to know what the situation is. When the Senator from Georgia said he hoped this request could go over and be presented again tomorrow, I said I had no objection. I did not consider that at that point there was any objection on his part.

Mr. RUSSELL. I have not objected. I wish to avoid making a formal objection. That is why I urged the Senator as earnestly as I could to let the matter go over until tomorrow.

Mr. HICKENLOOPER. I do not know that I have control of the situation. I cannot control it.

Mr. RUSSELL. I request the regular order. That will dispose of the unanimous-consent request.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Is it correct to state that when the distinguished Senator from Wisconsin yielded to the distinguished Senator from Iowa, he did so for the purpose of offering a unanimous-consent request?

The PRESIDING OFFICER. That is correct.

Mr. MANSFIELD. Has the Senate disposed of the unanimous-consent request?

The PRESIDING OFFICER. Not as yet.

Mr. MANSFIELD. Does the Senator from Iowa have the right to ask unanimous consent to dispose of his request one way or the other?

The PRESIDING OFFICER. It would seem so, under the agreement.

Mr. RUSSELL. Ordinarily, when a legislative matter or a unanimous-consent request is brought up, either the Senator holding the floor loses the floor or else a request for the regular order eliminates the intervening business. There is no question about that. When a bill is temporarily laid aside to take up another bill, any demand for the regular order will displace the bill that has been taken up. The same thing is true with reference to a unanimous-consent request.

The PRESIDING OFFICER. The Senator is correct.

Mr. MUNDT. I believe that at the beginning of this colloquy the Senator from Wisconsin yielded with the understanding that he would not lose his right to the floor, and that it was for the purpose of disposing of a unanimous-consent request. While I certainly do not wish to tangle over procedure with the best parliamentarian in the business, I believe perhaps he did not fully hear the unanimous-consent request which was made, which certainly makes the unanimous-consent request the regular order, because it was with the understanding that this should occur and the Senator from Wisconsin would not lose his right to the floor, and this was done. Am I not correct?

The PRESIDING OFFICER. Will the Senator from Iowa withdraw his request for unanimous consent? I believe that will clarify the situation.

Mr. HICKENLOOPER. That will clarify it right down the alley. I will do it. I do not know what control I have over the parliamentary situation, but I think a disposition should be made of it. I think that was the purpose. I ask unanimous consent, under the circumstances, that this matter go over until the first thing in the morning after the convening of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. If the Senator will yield before his request is passed on, do I correctly understand that it is not his intention to bring his unanimous-consent request to a decision today?

Mr. HICKENLOOPER. I will say to the Senator that it seems to be as clear as anything that I may run smack up against an objection, which will put me out of business. I do not know. I may run up against an objection on the other side. I may be between two rocks.

Mr. MANSFIELD. It appears to me that no Senator would willingly want to object. Therefore I would assume that the Senate is in a rather favorable mood toward agreeing to what the Senator from Iowa has asked for. In view of the development and the request made by the distinguished Senator, I should like to make a unanimous-consent request.

Mr. HICKENLOOPER. If it is in connection with a further attempt to solve this particular problem, I believe it would be parliamentarily correct to do so.

Mr. MANSFIELD. This has not been discussed with the Senator from Iowa or with any other Senator.

Mr. President, I request that immediately upon the Senate's convening tomorrow the Senator from Iowa [Mr. HICKENLOOPER] be recognized to offer his unanimous-consent request. I ask further unanimous consent that the Senator from Iowa yield at that time to the Senator from Montana for the purpose of offering a cloture motion; further, I ask unanimous consent that, if the unanimous-consent agreement of the Senator from Iowa is agreed to the cloture motion be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. RUSSELL. I should like to hear that again. I shall read it from the Senator's statement.

I have no objection. I am sure this would be the course that would be followed in any event. If there is objection to the unanimous-consent agreement, the cloture motion can be filed. I assume the Senator from Montana has the motion in his pocket, full of signatures, and is ready to file it. I hope he does not have as many as 67 signatures.

Mr. HICKENLOOPER. May I clarify the request? As I understand, it is that, at the hour of convening tomorrow, as the first order of business, I shall be recognized to again present the unanimous-consent request; that at that time or coincidentally with that, the Senator from Montana will be yielded to, to file his cloture motion. We shall then proceed to the consideration of the unanimous-consent request which I have propounded.

If no objection is lodged and the unanimous-consent request is agreed to, the Senator from Montana will at that time withdraw, at least for the moment, the cloture motion.

Mr. RUSSELL. I do not like that "for the moment."

Mr. HICKENLOOPER. Mr. President, a cloture motion is always sudden death. It can be filed at any time. I do not know of any way that it can be avoided. But the cloture motion will be withdrawn if the unanimous-consent request is agreed to. Is that correct?

Mr. MANSFIELD. That is correct.

Mr. CLARK. Mr. President, will the Senator from Montana yield.

Mr. MANSFIELD. I yield.

Mr. CLARK. What happens if there is no quorum tomorrow?

Mr. MANSFIELD. Some Senators can raise the darndest questions.

Mr. GORE. Mr. President, reserving the right to object, do I correctly understand that the senior Senator from Iowa is to be recognized tomorrow for the purpose of offering a unanimous-consent request?

Mr. HICKENLOOPER. The same one.

Mr. GORE. Does the request confine the senior Senator from Iowa to the specific terms now in the request?

Mr. HICKENLOOPER. That was my understanding.

Mr. GORE. I had hoped that I might confer with the Senator overnight. Why does the Senator not propose an agreement to the effect that he is to be recognized to offer a unanimous-consent request?

Mr. MANSFIELD. No. "The" request. That is what we have been discussing for 3 or 4 hours.

Mr. GORE. I shall not object, but I may have to object tomorrow.

The unanimous-consent agreement, subsequently reduced to writing is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That immediately upon convening tomorrow, that the Senator from Iowa [Mr. HICKENLOOPER] be recognized to reoffer his unanimous consent request. *Ordered further,* That the Senator from Iowa yield at that time to the Senator from Montana [Mr. MANSFIELD] for the purpose of offering a cloture motion, and that if the agreement of the Senator from Iowa is agreed to that the cloture motion be considered as having been withdrawn.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. MAGNUSON. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. I yield.

Mr. MAGNUSON. I want to know whether we shall proceed with the debate on the amendment tomorrow, or what the procedure will be.

I ask the majority leader, if the unanimous-consent request of the Senator from Iowa is granted, whether we shall proceed tomorrow on the 4 hours, or 2 hours debate on his amendment, or will that go over until Monday?

Mr. MANSFIELD. Monday. Mr. President, may I say that in this job, all one can do is hope. One cannot go around and ask for a petition. If one does that, we know what would happen. All one can do is enter into an arrangement which it is thought will function to the interest of the legislation under consideration. The big word to remember is, as the distinguished majority whip has pointed out, the hope that the action taken will result in a bettering of the results which the majority would like to see.

Mr. MUNDT. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. MUNDT. Mr. President, I started primarily to try to visit aloud with my good friend and highly regarded senior partner on the Appropriations Committee, the Senator from Georgia, about one statement that he made which disturbed me very greatly. I have set through, helped arrange, and participated in the meetings of the Senator from Iowa [Mr. HICKENLOOPER]. We have been working for a long time to try to get some action underway on some amendments that we thought were very important. I have tried to generate a little optimism on our side in our conferences. When all hope had failed and predictions were made that this or that Senator would object, I would say: "I think the rule of reason can prevail."

My only purpose in addressing the Senator from Georgia is to plead with him that, after he has struggled with his conscience and consulted with his colleagues overnight and arrived at a decision, that his decision will be either to proceed with these three amendments, or object. I hope that he does not muddy the water by suggesting that we take up one amendment at a time as he earlier proposed. I make that suggestion because of the growing pains we went through in arriving at these three amendments. We started out with a hatfull of them, and worked them down to three that had enough general appeal so that Senators though it was a worthwhile effort to propose we provided under unanimous consent to discuss amendments and to vote on them without the coercion and restrictions of cloture. I think they are highly important. If we start on them, one at a time, however, we run the risk that one or two of them will be blocked out of adequate consideration by a single objection. It is not our purpose to be dilatory. I hope that the Senator from Georgia will not insist on his objection or his proposal to break the unanimous-consent request down so specific consent will be required one at a time. That would be doing indirectly what it seems to me ought to be done directly. If he does not think this is a good suggestion, I hope he will object to the consolidated unanimous-consent request so we can learn once and for all whether it is possible to proceed with the orderly amendatory process.

Mr. RUSSELL. I have not objected to taking up the amendments in this order. On Tuesday last, I went to the leader and tried to get voting started on the amendment that is No. 1 on the list of amendments submitted by the Senator from Iowa, and I was told that that was impossible, that votes on the amendments would not be allowed. The proponents were going to have all or nothing under the cloture motion. Of course the Senator from Iowa and others, not being as firmly committed against cloture as I am, were more persuaded, and they agreed to that proposal.

I cannot object to taking these amendments up in the order proposed. But I cannot at this time make any commitment as to what my position will be tomorrow. If I could, I would have taken the position today.

Mr. MUNDT. I know the Senator cannot now make a commitment. The Senator from South Dakota is not seeking one, other than to express the fact that this constructive step, which it has taken us some time to develop, is based on confidence that both the proponents and opponents of these amendments were willing to get down to the business of voting, and that there would not be any objection to getting started in that direction. If the Senator from South Dakota has been wrong in that optimistic approach, of course, the Senator can object to the proposal, but I hope he will not insist that the amendments be considered one at a time. That destroys the arrangement by which we tried to agree upon a series of amendments, some of which appeal more to some Senators while others appeal more to others. Many Senators say, "Let the tail go with the dog. They are going to have cloture anyway." But I say to the Senator that there is a reason why these amendments should be debated without the restrictions of cloture. Cloture is a gag rule, any way we look at it. Cloture is a desperate tactic to be used as a last resort. Our proposal provides for orderly, germane debate, targeted at significant, specific issues, with 4 hours of debate on each one. We feel this is a constructive procedure and that it should be handled in this way on these basic issues.

Mr. HICKENLOOPER. Mr. President, if the Senator will yield, I merely want to thank the Senator from Wisconsin for his indulgence and patience in yielding for the presentation of this matter this evening. I appreciate it very much.

Mr. PROXMIRE. I thank the Senator from Iowa. I was very much interested in the discussion.

Mr. President, I ask unanimous consent that I may yield briefly to the Senator from Pennsylvania for an insertion in the RECORD.

THE NEED FOR NATIONAL ARTS LEGISLATION

Mr. CLARK. Mr. President, on Monday, May 6, the junior Senator from Rhode Island [Mr. PELL] delivered an address before the National Society of Arts and Letters at the Mayflower Hotel. I commend it to my colleagues. I ask unanimous consent that it may be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE NEED FOR NATIONAL ARTS LEGISLATION

(Address by Senator CLAIBORNE PELL before the National Society of Arts and Letters, Washington, D.C., May 6, 1964)

Mrs. Strong, members of the National Society of Arts and Letters, distinguished friends of the arts, it is indeed an honor for me to have the opportunity of speaking to you on the occasion of your 20th anniversary luncheon honoring your founders, Mrs. Jesse W. Nicholson, of Chevy Chase, and Mrs. A. E. Nielsen, who is the mother of your president, Mrs. Strong.

This relationship expresses the continuing traditions of your society, whose objectives include scholarships to deserving students in the fields of arts and letters. These objectives are particularly significant to our times; for the United States is sometimes criticized for placing undue stress on material values, and it is essential that we emphasize the development of our cultural resources—now, and not in an indefinite tomorrow. A brief look at one aspect of our remarkably changing patterns of daily life will underscore the central role which the creative artist can play: a role which we need more than ever before.

Throughout our history America has been known as the land of the free. Traditionally, these words have described our national heritage of independence. Today, however, we are a free people in yet another way: we have more free or leisure time than any people have ever had at any time or any place on earth—and we are rapidly entering a new period when the whole concept of leisure will become increasingly important.

Particularly will it become important to young people; for they will reap the benefits as well as facing the challenges of this new leisure time. Creative and constructive use of leisure can greatly strengthen our country. On the other hand, the misuse of leisure can seriously undermine the very principles through which our country has flourished.

It has been said that history repeats itself, that there are repeating cycles which past civilizations have followed. These can be classified in seven stages in which mankind moves from bondage to faith, from faith to courage, from courage to freedom, from freedom to abundance—then from abundance to selfishness, from selfishness to apathy, and finally from apathy back to bondage once more.

We have inherited in the United States the advantages and opportunities of freedom; and we have prospered to the point of abundance, with the highest standard of living of any nation in the world. We have reached the stage which combines freedom with abundance. But our goals are still before us. We can do much more for the cause of freedom, both at home and abroad. Indeed, freedom exists only when constant and renewing efforts are made in its behalf. Abundance has by no means yet reached the whole of our country.

As we continue to advance toward the goals we seek—to preserve freedom and enhance the opportunities it implies, to bring abundance to increasing numbers of our own citizens and to developing nations beyond our shores—we must make certain that we do not slide backward into stages of selfishness and apathy, into self-satisfied indifference. As I am sure you know, we need only to turn the pages of history to see the dangers inherent when a civilization or a society reaches a high living standard and overemphasizes the material, the luxurious aspects of life. We must insure that no future historian can write a tome entitled "The Rise and Fall of the American People"; or that, in the latter part of the 20th century, the United States added to the old standbys of reading, writing, and arithmetic—those standard "three R" cornerstones of education—a fourth "R" namely; that of resting on our laurels.

You may well remark, however, that leisure is rest, that it implies rest. And so it does. We all need holidays. We need the supreme luxury of waking up on a holiday morning with the sudden realization that for a certain period of time our tasks are accomplished. But it must be a prescribed time; it cannot be indefinite. Leisure is somewhat like a blank check based on the inner stimulation of the individual. It can refresh the very core of our beings; but it must be filled in and cashed; for if it is left lying idle too long, no amount we write in can revive its purpose.

To be properly used, then, leisure must contain an element of discipline: an objective. If we wake up on too many consecutive mornings with nothing to do, we disintegrate as human beings. We lose the whole aim and purpose of life.

Leisure must refresh and stimulate not only our physical well-being, but, most important, the intangible attributes and values of the human spirit. Leisure is often a time for contemplation, for gaining perspective on our own undertakings and those of the world around us. Leisure is intertwined with memories of the past, and the storing up of memories for the future. Leisure is, above all, a time of opportunity. It means a temporary halt before we proceed anew.

The American spirit of enterprise has always been associated with hard work. As artists and friends of the arts, you know full well the hard work entailed in artistic undertakings.

But let us take a look at some of our national working averages, as contrasted between today and the past. A 35-hour workweek has already been proposed by important labor organizations. In some specialized cases, the work week is less than this. The national average is now approximately 40 hours per week. Contrast this with the 84-hour week once customary to the oldtime steelworker, or to the 56-hour working week common in the early decades of this century, when paid holidays and paid sick leave were unknown. These figures disclose that we have virtually cut in half the number of hours worked each week by our grandfathers.

Our grandmothers were similarly industrious. The chief labor saving devices our grandmothers had at their disposal were our grandfathers. Appliances, such as the modern washing machines and vacuum cleaners we take for granted, had not yet appeared in the American household. Today 96 percent of American homes have a washing machine and less than a quarter are without a vacuum cleaner.

Many things have changed, but the number of hours in a week has not. The total is still 168. We continue to need approximately 56 hours of sleep a week; we may eat with slightly greater rapidity, and sometimes with less formality, than did our ancestors; but we still take time to perform this necessary function. Our high-speed transportation systems get us to and from work more quickly than did the horse and carriage, although there are times in rush hours of traffic on our Washington thoroughfares when I could gladly give up my automobile for the faster conveyance of a horse. No horse, however, with the possible exception of Pegasus, could compete with a jet airplane or with the high-speed passenger rail line which as you may know I am seeking to effect between Washington, New York, Providence, and Boston. And all things considered, a bit of simple arithmetic will reveal that we have more than 3 extra hours of leisure time per working day than we did 50 years ago. Figured out on a yearly basis, that comes to an extra month per year.

To project this hourly gain in leisure forward, it is estimated that by the year 2000, Americans will have a total of 660 billion more hours of leisure than they did in 1950. Some leading economists call this rather staggering figure highly unrealistic because it is too conservative. One recently published estimate forecasts that before another 25 years have passed 2 percent of our population will be able to produce all the goods and food which the remaining 98 percent can possibly consume. If that should happen leisure time would grow to truly astronomic proportions.

Automation and enormous industrial technological improvements are, of course, responsible for the increase in hours which can be used for leisure. To give you one graphic example, an automobile engine part formerly produced at the rate of 38 per hour by 5 men and 2 machines is now produced by 1 man and 1 machine at the rate of 750 per hour. This constitutes almost a 200-fold increase in efficiency.

But automation is far from an unmixed blessing. Its geometric progressions of acceleration must be intelligently harnessed. Certainly, we must not allow an efficient but dehumanized society to emerge by default. Certainly, we need something else besides pristine new machines and young men and women to run them into an ever higher spiral of prosperity. And certainly we need to know how best to utilize the 660 billion additional hours of leisure time projected for the year 2000. Here is where the concepts of culture and leisure are combined.

Throughout our land—because of the growth in leisure time, because of our preeminent standard of living and improving education—we are witnessing a great burgeoning desire on the part of our people to participate in activities related to cultural growth. This desire is wholly new in the breadth of its appeal; and it is of the utmost importance that we respond to it in the most enlightened way possible.

Just as we are on the verge of new scientific accomplishments, so are we on the threshold of a cultural renaissance, or in the words of Robert Frost, "a new Augustan age." Your society exemplifies this concept. Another striking example exists in the fact that the number of museums which serve as cultural centers in the United States has increased from 1,500 to 5,500 during the past 30 years. And these museums are now annually visited by close to 200 million people—more than twice the numbers who attend the American national pastime of baseball. Yet a great majority of these museums are struggling with financial problems, and there is a growing financial crisis throughout the whole spectrum of the arts in this country. Private philanthropy, on which we have traditionally depended to enhance cultural progress, simply is no longer adequate to meet the new demands.

Before the Senate Special Subcommittee on the Arts, at hearings conducted last autumn under my chairmanship, witness after witness—distinguished representatives from virtually every art form we possess—repeatedly stressed this crisis and the forces motivating it. As a result, the Senate passed, just before Christmas, legislation which would establish a National Council on the Arts and a National Arts Foundation. This legislation, modest in its appropriation but the most comprehensive in scope which a body of the Congress has ever passed, is now before the House of Representatives, which has been extremely reluctant to support such legislation in the past, even in modified versions dating back some 15 years. The need is greater than ever at present.

To my mind, the Council and Foundation would combine the finest artistic talents we have to meet the new desires and demands already mentioned. The members or trustees would be private citizens, without other governmental function. In assuring against Federal interference in the arts, the bill would enable each State, and qualified nonprofit professional groups, to set up their own programs for the development of our cultural resources. This legislation would mean greater opportunities to enjoy and participate in the theater, literary creativity, opera, ballet, orchestral productions. In a word, it would enable all the arts to spread throughout the whole of our country. So remember H.R. 9587, the bill's number.

The appropriation for this legislation is $10 million annually. At the Senate subcommittee hearings, the Commissioner of Education estimated our unmet needs in the arts now total $320 million. But it can be demonstrated that an initial governmental appropriation can engender as much as eight times its sum in private support over a 3-year span. This is the kind of cultural impetus we urgently need. The formula is based on matching grants, partial assistance, mutual cooperation. Artists from all over the United States stressed that this is the kind of help they would welcome. Basically, the appropriation would mean 5 cents per person per year.

In Canada, in Great Britain, in the countries of free Europe, such an amount would seem modest indeed. Discounting the fact that our standard of living is higher than theirs, the Governments of Canada and Great Britain spend double this amount for the arts on a per capita basis. Italy spends over three times as much. France and West Germany four times as much. Greece over five times as much. And comparatively tiny Austria almost 30 times as much on the same per person basis.

Putting it another way, with a national budget one-fiftieth the size of our own, the Austrian Government has been supporting its five major theaters, its museums, music programs, art academies, and literary undertakings with a sum of $10 million annually—roughly comparable to a $500 million expenditure in the United States. In addition, the Austrian Government spent $9 million to house its renowned Salzburg festival, and another $10 million to rebuild the Vienna opera house after the poverty-stricken and ravaged days of World War II. If the numbers of museums in the United States were to equal those in Austria on a per capita basis, we would have to build an additional 2,000.

A brief look at Greece—included in a recent study of European culture undertaken with the cooperation of our State Department and officials abroad—reveals that in Athens alone 25 theaters, aided by the Greek Government, are in operation, producing over 100 plays a year, and with a top price per ticket of $1. Scarcely a scalper's paradise.

Perhaps the most famous Italian art institution which receives governmental assistance is the La Scala Opera in Milan; but theaters and opera houses are supported in a great number of Italian cities. In fact, the Opera Directory lists 49 theaters presenting opera in Italy, as compared with 38 in the United States. And our population is four times the size of Italy's.

The French Government has supported the celebrated Comedie Francaise since 1804. In West Germany $60 million goes to the support of the arts from local state governments, in addition to federal allocation.

Throughout free Europe governmental support for the arts is considered synonymous with cultural vitality. And this relates importantly to the concept of leisure. We are ahead of the Europeans in the amount of leisure time we have; but we are definitely behind them in the facilities to take maximum advantage of it.

Many countries in Europe have official leisure committees whose function it is to assure the availability of cultural resources. Visit even a small European town and you will find a tree-lined square for thought and conversation, and most likely you will also find a place set aside for an open-air musical performance.

The town or village square with its bandstand is a part of our New England heritage; in my home State of Rhode Island, we have examples of this, but the numbers are dwindling in many New England towns, and the bandstands, which once so pleasantly brought people together, are less often used. But walk through a small European town and you will hear, if you listen, the sound of a piano: Chopin or Schubert, Mozart or Verdi, Palestrina or Debussey; the 16th century, the 20th; the old and the new—the musical instrument, or the voice, the sounds of a rich cultural past, projected into the present and continuing: sounds which stem from the vigor of a culture which was thriving along before Columbus crossed the seas.

These are the values of the mind which we can increase. We need to pause and think, to compose and write, to read. It is interesting to note that in Scandinavia, for instance, where the winters are long and harsh, the woodsman or farmer, forced indoors by the weather, traditionally uses the time freed from his physical labors to improve his mind in this fashion: creatively he fulfills his inner needs. Of course, the arts are a demanding pursuit. You cannot easily became a writer or a composer, sculptor, painter, or musician, but you can learn to appreciate, to assimilate, to expose yourself to creative thought and expression. In so doing you contribute not only to your own maturity, but to your fellow human beings.

In sum, therefore, can we not afford in this prosperous Nation of ours 5 cents per person per year for our cultural welfare and well-being?

H.R. 9587, the legislation I have discussed with you, can produce benefits such as these:

It can help decentralize the arts in the United States, so that they will no longer be concentrated only in the large cities.

It can increase the exposure of our citizens to creative and interpretative excellence, so that they may appreciate, assimilate, and learn.

In bringing together the very best talents of private citizens in our country on the National Council and the National Foundation, this legislation will enable us to plan how best to develop our cultural growth.

It will give to the American artist the recognition he has long yearned to possess in the United States.

And it will help enable our artists to experiment on occasion, and not feel the constant necessity of adhering to what at a given moment is commercially acceptable. Just as it does in the field of science, so in art experimentation acts like a catalytic agent for the creative mind.

The Congress has already approved funds for the construction here in Washington of a cultural center named in honor of our late President, John Fitzgerald Kennedy, who did so much during his remarkable lifetime to enhance artistic achievement. But to fulfill the potentials we possess, our cultural resources must now be nourished throughout the whole of our land, in every State.

This is a timely moment for action, and I am personally urging all those who are interested to expend their best efforts in the bill's behalf. It is progressing in the House of Representatives, but it must clear the Rules Committee before it can come up for full debate. If you are favorably disposed, I would suggest that you write to your appropriate Congressman, and particularly that you write to members of the Rules Committee, whose chairman is Congressman HOWARD W. SMITH, of Virginia. To repeat, the bill's number is H.R. 9587. It can greatly strengthen the administration's plans to improve our cultural welfare, and it can add significant meaning, substance and scope to the important tasks of Mr. Roger Stevens, recently appointed by President Johnson to help enhance the development of our Nation's cultural resources.

Let me conclude with another reason for this legislation, perhaps more important than all the rest.

Our most needed scientific explorations, our scientific research, for which we spend billions of dollars annually; our billions spent to maintain the position of strength we require in the world; our billions spent to provide the physical amenities of a better life for our citizens—all these will mean very little, if the culture of our people stands still or, worse yet, is allowed to erode.

We are in conflict today with the materialism of totalitarian forms of government, which by definition stifle creative thought. We must contribute to the world something better than this, something more lofty, something in tune with freemen, something to inspire them.

Let us make certain, therefore, that we make the best possible use of our own advantages. Let us make sure that we use our new leisure, our new free time well, and that the working artist, who can so immeasurably invigorate this newly gained time for us all, is given the maximum climate for developing his or her creative and imaginative spirit.

If we do these things, we will give to the world a truly meaningful heritage.

PUBLIC INTEREST AND PRIVATE INTEREST: THE CRUCIAL ROSS APPOINTMENT

Mr. PROXMIRE. Mr. President, the Charles Ross reappointment to the Federal Power Commission now pending in the White House is literally crucial for the future of the regulation of a massive, politically potent industry that provides much of this Nation's fuel: The Nation's great gas-oil industry.

Division on the FPC between those who favor and those who oppose effective regulation of this industry is now 3 to 2 in favor. Ross is with the majority. If he is replaced with a Commissioner who opposes effective regulation, the ball game is over. The carefully reasoned decisions of the Supreme Court, the hard-fought battles of those who have won for the consumer will be academic. Higher gas bills in millions of American homes will become a certainty.

Mr. President, is this an exaggeration? Consider the nature of the Federal Power Commission.

In December 1960, just after President Kennedy had been elected, he asked the dean of the Harvard Law School, James Landis, to come to Washington to study the regulatory bodies and make recommendations on them. After very careful study—and this is a highly competent man who devoted a lifetime to the law, who understood the Federal Government and the administrative process very well—he said that the Federal Power Commission was the supreme example in Government of the breakdown of the administrative process. He pointed out that ever since 1954 the Federal Power Commission had failed to enforce the clear law of the land, which had been determined by the Supreme Court in the famous Phillips decision, in which the Court said the law required regulation of the price of gas at the wellhead.

Mr. President, the Federal Power Commission can function or not function, depending on who the Federal Power Commissioners are. The importance of appointments to the Federal Power Commission can best be understood by considering the history of the Federal Power Commission, which I wish to review this evening.

The origin of the Federal Power Commission can be traced to the gradual development, in the first decade of the 20th century, of the national movement to conserve natural resources. Conservationists, supported by Theodore Roosevelt, led the fight for the national regulation of waterpower sites, while power interests consistently fought against control.

After two decades of struggle, Congress passed the Federal Waterpower Act of 1920, which created a Federal Power Commission composed of the Secretary of War, the Secretary of the Interior, and the Secretary of Agriculture. This Commission was to license all waterpower developments on national public land or on navigable waters subject to national jurisdiction.

In the political climate of the 1920's, the Federal Power Commission was not prepared to use its regulatory authority. Its personnel was inadequate; its leaders were burdened with other, more important responsibilities; and there was little demand from Congress, the administration, or the country for national regulation of electric power development. In 1930, the Commission was reorganized as an independent body, with five full-time Commissioners; but, under extremely conservative direction, it remained largely inactive.

RECREATED BY NEW DEAL

While the Federal Power Commission existed before 1933, it was, in effect, recreated by the New Deal; and in part it has been recreated by the New Frontier. Today there is a far stronger case to provide the kind of revision in the public interest that is needed. At stake are, not a few million dollars, but actually of billions of dollars, in the cost of gas to consumers throughout the country.

In the 1930's, the profound change in public attitudes toward the role of Government in economic affairs was quickly reflected in the Federal Power Commission. Once key personnel changes were made in the Commission and its staff, it began to exert its authority and to expand its operating jurisdiction.

From the experience the country had with the Federal Power Commission during the New Deal, it is clear that it is now possible for an administration, without a drastic revision of the law, to secure a great change by appointing the right kind of Commissioners.

The Roosevelt administration did not merely make appointments; it also succeeded in having very significant and far-reaching legislation enacted. For example, in 1935, with the support and leadership of the President, Congress passed the Federal Power Act, which provided for regulation of interstate transmission of electrical energy. In 1938, Congress passed the Natural Gas Act, conferring upon the Federal Power Commission the power to regulate the transportation and sale of natural gas in interstate commerce.

These successive additions to its jurisdiction and the continued support and leadership by the President were the principal factors in maintaining a spirit of freshness and vigor in the revitalized Federal Power Commission for a few years. The crusading spirit characteristic of a commission in its first years of regulation was evident in the Federal Power Commission, not in the 1920's when the Power Commission was first created, but, rather, in the early years under the New Deal.

But, contrary to the theory of most writers, who see a Commission's coming into being because of a public outcry, and being vigorous in championing the public interest, but later losing its vitality, the Federal Power Commission was reluctant, slow, gradual, and almost inactive in the 1920's; and it was only after it had been in existence for some time that the power of the Roosevelt legislation and I think, more importantly, nature of the Roosevelt appointments made themselves felt.

Opportunity for that kind of service and for constructive public regulation of utilities depends clearly on appointments of that sort to the Federal Power Commission.

SPIRIT FADES OUT

Mr. President, many studies have been made, by competent persons, of the Federal Power Commission; and many studies of other regulatory agencies have been made. In all of them, the same conclusion has been reached. In that connection, let me quote from one or two. Bernstein, in his outstanding study and analysis of the regulatory agencies, states:

> Gradually, the spirit of controversy fades out of the regulatory setting, and the Commission adjusts to conflict among the parties in interest. It relies more and more on settled procedures and adopts itself to the need to fight its own political battles unassisted by informed public opinion and effective national political leadership.
>
> It does so, of course, until it is infused with new spirit by appointees of a new administration.

Emmette Redford, in the "Administration of National Economic Control," has described this period as follows:

> Later, there comes a period of maturity, when the agency has lost the original political support, when it has found its position among the contending forces in society, and when it has crystallized its own evolved program. It then becomes part of the status quo and thinks in terms of the protection of its own system and its own existence and power against substantial change.

Mr. President, I may say that when it looks for protection of its own existence, obviously it must look to the area where most of the pressure and drive and virtually all of the study and relentless day-after-day criticism originates—namely, to the industry itself.

Mr. Redford went on to say:

> Its primary function in government is to operate the mechanisms which have been developed in its creative stage and adjust these as circumstances change. It is too much to expect that, after maturity is reached, government will find all the origination and perspective which it needs in its administrative institutions alone.

That point emphasizes, once again, the importance of appointing to the Commission individuals who really believe in the public interest and, at the very least, are separated from identification with the vested interest which will be regulated.

There is a long history of appointment to the Federal Power Commission of Commissioners who either were involved with or were identified with or were clearly sympathetic with the industry and its viewpoint, on the one hand, or on the other hand Commissioners who had an independent competence and an independent viewpoint and were willing to fight for equity and justice, on the basis of an independent view, and were willing to stand up against the industry and for the public interest.

Mr. Ross is not either "a consumer man" or "an industry man." He is an independent, competent Commissioner who has proven his ability, and is urgently needed if the public interest is to have a real chance, because Commissioners of his capacity, of his proven understanding of the industry, and, now, of his experience in dealing with the industry, are very, very hard to find. At best, the appointment of any other person as a Commissioner would be a gamble.

In the period of a commission's maturity, regulation usually becomes more positive in its approach. Its functions are less than those of a policeman, and more like those of the manager of an industry. The approach and point of view of the regulatory process begin to partake of those of business management. The Commission becomes accepted as an essential part of the industrial system.

As the program of regulation becomes broader in scope and impinges more directly on the functions of management, the stakes become greater.

PUBLIC NEEDS RALLYING POINT

They become greater for whom? Obviously, they become greater for both the public and the regulated industry, but the public, as we said before, is inchoate. It is disorganized. It has no rallying point, unless it can find a rallying point in the Congress of the United States, and especially in the U.S. Senate, at the time appointments are made to the Commission.

The Commission is no longer concerned with protecting the public, which was, of course, the initial purpose of this regulatory body—its only real excuse for being. Instead it is involved with the industry it regulates, and, cut off from the mainstream of public standards. Consequently, its regulations are determined in the light of the desires of the industry affected.

Perhaps the most marked development in a mature regulatory commission is the growth of a passivity that borders on apathy. There is a desire to avoid conflicts and to enjoy good relations with the regulated groups.

EASY TO GIVE IN

After all, the most common attribute of most people, especially successful people, is to adjust themselves to their friends and neighbors. None of us likes to be disliked. None of us likes to be criticized. Therefore, the thing to do, especially when one is active in public life, is to do all one can to give in to whatever pressure is exerted. That is the easy way. It is the predictable way. There is a desire to have good relations with the people with whom one comes in contact on such a commission—the lawyers, the owners, the accountants, the statisticians, and other representatives of the gas industry itself.

Without the spur of congressional demand for regulatory progress and without prodding and leadership from the White House, a commission is apt to take a rather narrow view of its responsibilities.

Emery Troxel's picture of the mature State public utility commission is equally applicable to the National Commission:

> A commission can become so firmly attached to certain purposes and procedures of control that the study of new objectives and experimentation with new regulatory methods is neglected. Like any other organization in our society, a commission acquires some inflexibility as it ages. And a regulator often wants to avoid constant conflicts with utility companies.

SHOULD REPRESENT PUBLIC INTEREST

Mr. President, this is exactly why a nominee to a regulatory commission should be a man who will be willing to accept these conflicts, to meet them, and to recognize them as a challenge. He should be a man who feels very strongly that his job is to do all he can to provide public representation of the broad public interest.

Charles Ross has shown very well by his deeds that he is exactly that kind of public representative.

The tendency of commissions to be passive toward the public interest is a problem of ethics and morality as well as administrative method. Graham compares the passive immorality of mature commissions to the willingness of many municipal police systems to come to terms with the forces of organized crime.

In saying that, I wish to make it clear in the RECORD that the gas industry is a very important and vital industry which performs a useful and necessary service. However, I believe that this is an interesting analogy. The police come to terms with organized crime, and the regulators of the gas industry come to terms with the people they are supposed to regulate.

It seems to me that the whole story emphasizes very clearly to all scholars of our regulatory bodies—that it is exceedingly important that appointments to this Commission be men of unusual vigor, character, and idealism; men who have the will to stand up against pressure, the will to recognize the very human tendency on the part of all of us to want to cooperate, to get along, and to be liked by those with whom we come in contact every day. Those whom the FPC must regulate are highly skilled at getting their way, and they plead their case with great competence. Unless the Commissioners are persons like Charles Ross, there will not be much opportunity for the public to be represented in the future as it has so fortunately been represented in the past 2 or 3 years.

Mr. President, the reason why it is so vital that a man like Mr. Ross be reappointed is transparent in a statement by Mr. Joseph C. Swidler, Chairman of the Federal Power Commission, before the

Subcommittee on Independent Offices of the Senate Subcommittee on Appropriations on FPC appropriations for the fiscal year 1965. That was long before the appointment came up. Certainly Mr. Swidler did not have this in mind. At that time he indicated what was the Commission's major job, what was its achievement, and it seems to me it is clear from the statement why Mr. Ross should be reappointed. Mr. Swidler said:

NATURAL GAS PIPELINES

> The Commission's major success in the past 2½ years was to clear up the enormous backlog of pipeline rate cases. In so doing we have reversed the upward trend of natural gas prices which have plagued gas consumers and the industry in recent years. The backlog of pipeline rate increases which reached a cumulative total of $1.6 billion is now down to a working inventory of about $90 million. Over $550 million have been ordered in pipeline refunds. In these 2½ years the city-gate price of natural gas has been reduced by a net amount of over $124 million annually, a reduction in the cost of living which consumers receive every year.
>
> A necessary part of the Commission's program to stabilize runaway natural gas prices has been the interim price ceilings for new sales by gas producers. The Commission has adhered to these ceilings and adjusted them downward in some areas in which the existing ceiling prices were out of line. The stabilizing of prices in the field, coupled with pipeline refunds and rate reductions, has renewed public confidence in natural gas as a low-cost fuel.
>
> The refunds and rate reductions we have ordered speak for themselves as to the benefits to natural gas consumers. Wiping out the Commission's backlog of pipeline rate cases has also been of large benefit to the natural gas industry. For the first time in years the financial status of pipeline companies is not clouded by contingent refund obligations so large as to make it difficult to appraise the financial status of the companies. Pipeline securities can now be valued on a firm financial basis in the light of the industry growth to supply the ever-increasing demand for natural gas by both industrial and domestic consumers. The lower rates are big factors in enabling the industry to meet the stiffening competition from other energy sources.

Lawyers, engineers, and economists vie with each other for dominance in the policymaking channels of the agency.

CAPTIVE OF REGULATED GROUPS

Politically isolated, lacking a firm basis of public support, lethargic in attitude and approach, bowed down by precedence and backlogs, unsupported in its demand for more staff and money, the Commission that is not invigorated by appointments like Charles Ross finally becomes a captive of the regulated groups.

This is true. This is a sorry and depressing description of what actually has happened in regulatory bodies so often in the past. Not only the experiences of the New Deal with the FPC, but also other experiences have indicated that a regulatory body cannot be revivified and reconstructed if appointments to it are of people who are not vigorous and dedicated to effective regulation in the public interest.

The development of the characteristics of old age is not confined exclusively to independent regulatory commissions. But commissions seems more susceptible to debility and eventual collapse than other types of agencies. As multiheaded agencies normally cut off from continuing political support of the Chief Executive, they tend to lack dynamic administrative leadership.

NECESSARY FOR GAS REGULATION

Mr. President, authority to regulate sales of natural gas is essential in the public interest because of the characteristics inherent in the process of shifting gas from the field to the consumer. That is the real issue that has been before the Federal Power Commission. It was before the Supreme Court. It has been fought out for years on the floor of the Senate. The leader of the forces for equity and justice has been the senior Senator from Illinois [Mr. DOUGLAS], who fought so hard, so long, and so well back in the early 1950's and throughout the 1950's. The issue has been whether or not the gas utility should be regulated, and particularly at the wellhead. That is the issue, and it is an issue which has been before the Federal Power Commission. It is immensely important if the price is to be held down to the consumer, and men like Mr. Ross, who understand the issue and who have shown that they have the character, the will, and the competence to stand up against the kind of pressure they are up against can do so.

Unlike purchasers of coal and oil, purchasers of natural gas cannot easily move from one producer to another in search of lower prices. Natural gas is transported to consumers by pipelines and is distributed in a given consuming market by a single company. The pipeline companies, and, in turn, the consumers of natural gas are bound to the producers in a given field by the physical location of the pipelines, which represent large investments of funds and cannot be readily moved to other fields in search of a better price.

These characteristics of the natural gas business impose natural restrictions upon effective competition among sellers. Competition is further limited by the degree of concentration of ownership of natural gas reserves. While there are a large number of producers and gatherers, a relatively small number of them own a substantial majority of the gas reserves. Furthermore, the demand for natural gas has been growing phenomenally in recent years, and its natural advantages as a fuel coupled with its present price advantage indicate that demand may soon be pressing hard upon total supplies.

Under these circumstances, competition is very unlikely to be effective in holding prices to a reasonable level.

In many areas—in almost all of Wisconsin—there is one single producer who provides all of the natural gas. We either pay his price or we do not get it.

I think it is an impressive testimonial to the fairness of the Federal Power Commission that, until recently, the Commission has not attempted to regulate the prices charged by independent gas producers and gatherers, although those prices have been advancing. The reason for these price increases is a natural one. The interstate lines built since the war have offered a far wider market than existed previously and have resulted in increased competition among buyers. So long as price adjustments of this type continue, based on competition, such changes are satisfactory when they are held within reasonable limits.

The fact that the Federal Power Commission is now operating in the public interest is demonstrated by the contrast between the decisions of the U.S. Supreme Court in FPC cases this year with those in the late 1950's. In 1959 in the famous Catco decision, which permitted the price of natural gas to escalate to a new high, the Supreme Court noted, "that prices have leaped from one plateau to the higher levels of another" and that this evidence "signals the existence of a situation that would probably not be in the public interest." The Supreme Court stressed that the "purpose of the Natural Gas Act was to underwrite just and reasonable rates to the consumers of natural gas."

This case was remanded to the Commission, and in 1962 the Kennedy-appointed members of the Commission reduced the price by approximately 3 cents per thousand cubic feet. This was followed by a series of decisions which have held the line on producer prices in the interim period while just and reasonable rates are being determined on an area basis.

Mr. President, those decisions are 3 to 2 decisions. Mr. Ross is one of those on the majority. If Mr. Ross is replaced by a man who votes the other way, it means that all these advances will be wiped out, and it means that higher prices will be paid by millions of housewives in America.

By way of contrast, the Supreme Court in the past year affirmed the action of the Federal Power Commission in the public interest in all three of the opinions it rendered involving the FPC.

In one case the Supreme Court upheld the Commission's right to prohibit H. L. Hunt from increasing the price of gas while his sales were made under a temporary certificate.

In another major opinion involving Texaco, the Court approved the Commission's rule banning the so-called favored nations clauses and other indefinite escalation clauses which had been largely responsible for the upward spiral of gas prices in the field.

The third major opinion involved the Commission's electric power jurisdiction. There the Court agreed with the Commission that it had jurisdiction over all interstate sales of electric power at wholesale by public utilities.

These Supreme Court decisions reflect the FPC's present rule of protecting gas and electric consumers against windfall profits by the first and sixth largest industries in the country—the electric power industry and the natural gas industry.

Mr. President, the most immediate reason for discussing this regulation by the FPC, especially under the Kennedy and Johnson administrations, is the fact that most of the crucial FPC decisions involving public interest during these administrations have been by three to two votes. One of the three votes in these crucial cases has been cast by Charles Ross, the Republican appointee of President Kennedy in 1961. Mr. Ross' appointment will expire on June 22, 1964.

I believe that it is extremely important for the entire principle of public regulation, for consumers, for the economy, and for the Nation, that Mr. Ross be reappointed for a full 5-year term. Such a reappointment would underscore the important role that FPC is playing in protecting basic public interests.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am glad to yield to the distinguished Senator from Illinois, who, as I said, has been the real leader in the fight to give the consumer an equitable and a just break against the monopolies that control the gas industry.

Mr. DOUGLAS. I thank the Senator from Wisconsin. I congratulate the Senator from Wisconsin for his very appropriate and very brave remarks in support of Commissioner Ross.

Some big issues are at stake in the regulation of the gas industry. There have been no less than three legislative attempts to strip the Commission of any power to regulate the price of gas at the wellhead.

The Moore-Rizley bill of 1946, 1947, and 1948, was defeated.

Then, in 1950, we had the Kerr bill, which would have deprived the Commission of this authority. Simultaneously with the Kerr bill, the Chairman of the Federal Power Commission, who had favored regulation, was denied confirmation.

Shortly afterward, Mr. Buchanan, another public-spirited member of the Commission, was refused confirmation.

The Kerr bill passed the Senate and the House, after determined opposition by some of us, but President Truman vetoed it. However, it is true that the Federal Power Commission somewhat slept on its authority and, in effect, for some years did not exercise the powers which were in its hands.

In 1956, the third attempt was made to change the act. It passed the House and the Senate, but not until after Senator Case, of South Dakota, had exposed the offer of a contribution of $2,500 which had come to him from one of the gas companies interested in the legislation——

Mr. PROXMIRE. A contribution which he indignantly and properly refused.

Mr. DOUGLAS. That is correct. It was one of the most courageous acts I have seen in the Senate. In all probability other contributions had been made to candidates and Members of Congress. The exposure of this act aroused such popular indignation that, even though the bill passed Congress, President Eisenhower vetoed the bill and prevented it from becoming law.

So three efforts to deny the Federal Power Commission authority to regulate gas prices at the wellhead were beaten by a series of circumstances, including two Presidential vetoes.

But the gas industry never rests. I am informed that another, a fourth, legislative effort is in the making. But the same end can be obtained by getting control of the Commission.

As the Senator from Wisconsin has correctly stated, at present the situation is like a knife's edge. Three members of the Commission believe that the Commission should regulate according to the powers which are vested in it, and according to the powers which the Supreme Court in the Phillips case said properly belong to the Commission. Two members of the Commission disagree with this point of view. Mr. Ross is one of the three. If he is denied reappointment, and a man favorable to the contentions of the gas industry is appointed, I think we can probably bid farewell to the exercise of the administrative power and responsibility of the Commission to regulate prices at the wellhead.

This is an important issue to the State of Wisconsin, to the city of Milwaukee, and to the Wisconsin Public Utilities Commission, which conducted a valiant and effective fight in the Phillips effort. The Senator from Wisconsin is following the great traditions of his State, first laid down by Bob La Follette, in the proper regulation of private utilities, as well as in the needs of his State.

I hope very much that Mr. Ross will be reappointed. I do not know him personally. He came to the Commission with the recommendation of the senior Senator from Vermont [Mr. AIKEN], who in this, as in so many other matters, is a real defender of the public interest. There have been certain other appointments to the Commission which I do not regard as being as fortunate as this one of Mr. Ross. The Senator from Wisconsin and I have protested and voted against one of those appointments. It would be a public calamity to have the composition of the Commission changed in this vital respect.

The special interest forces which are at work never rest and they never sleep, whereas the forces of the public are diffused and tend to be quiescent or uninformed. Therefore, I believe the Senator from Wisconsin has performed a valuable service in sounding this warning, and pointing out this harbinger of hope.

Mr. PROXMIRE. I thank the distinguished senior Senator from Illinois.

Mr. President, before I yield the floor, and before I move that the Senate stand in recess, I should like to state that tomorrow I intend to make a shorter speech in which I shall discuss the excellent record, and the specific record that Mr. Charles Ross has achieved as a Federal Power Commissioner. I hope to detail and document the justification for his reappointment.

RECESS UNTIL 9 O'CLOCK A.M. TOMORROW

Mr. PROXMIRE. Mr. President, if there is no further business to come before the Senate, I move, pursuant to the order previously entered, that the Senate stand in recess until 9 o'clock tomorrow.

The motion was agreed to; and (at 6 o'clock and 32 minutes p.m.) the Senate took a recess, under the order previously entered, until tomorrow, Saturday, June 6, 1964, at 9 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate June 5 (legislative day of March 30), 1964:

SECURITIES AND EXCHANGE COMMISSION

Hamer H. Budge, of Idaho, to be a member of the Securities and Exchange Commission for the term of 5 years expiring June 5, 1969.

THE JUDICIARY

Walter Ely, of California, to be U.S. circuit judge, ninth circuit, vice Oliver D. Hamlin, Jr., retired.

SENATE

SATURDAY, JUNE 6, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 9 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

Rev. Dr. Clair M. Cook, of the Methodist church, and legislative assistant to Senator VANCE HARTKE, offered the following prayer:

Our God, Creator of life's spark in us and in all being; Keeper of our destiny, both here and hereafter; righteous Judge, before whom we stand in defenseless accountability for our misdeeds; and loving Father, whose will is to diminish strife among all Thy children, without regard to color or aught else, on this day we, gathered here, pause for our customary moment to seek together Thy blessing. May our innermost motives be unselfish; may our failures and shortcomings be not deliberate. Remind us that the acts we take here, and the words we say here, are not private sayings and deeds, but are public and open to the sight of all the world. Keep before us the sobering knowledge that as the Nation's spokesmen we must seek the greater good of all its citizens, whether poor or wealthy, educated or illiterate, white or black. Goad the conscience of each of us to the truest expression of Christian concern, in love, for solution of the grave matters before us. As Thou hast entrusted us with responsibility, give us wisdom in measure equal to its fulfillment.

We stand grateful, O God, for this Nation and for the role Thou hast permitted to us within it. Bestow Thy rich blessing and guidance this day upon our President; upon the officers and employees of Government in every rank; and upon these Thy servants that they may serve truly and well. In gratitude for the past, in hope for the future, in confidence of the present, we trust ourselves to Thee. Amen.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the unanimous-consent agreement entered into last night, the Senator from Iowa [Mr. Hickenlooper] is recognized to resubmit the agreement proposed by him.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HICKENLOOPER. I yield to the Senator from Montana because he is the majority leader, of course, but also in accordance with the agreement of yesterday.

Mr. MANSFIELD. I thank the Senator. Mr. President, I send to the desk the cloture motion on H.R. 7152.

The ACTING PRESIDENT pro tempore. Will the Senator from Iowa let the Chair make the following statement. The rules require the Presiding Officer to state the motion to the Senate. If there be no objection, the Chair will direct the clerk to make such statement. Is there objection? The Chair hears none. The clerk will read the motion.

Mr. RUSSELL. Mr. President, I did not understand the ruling of the Chair.

The ACTING PRESIDENT pro tempore. Instead of the Chair stating the cloture motion, the Chair wants the clerk to read the motion.

Mr. RUSSELL. I have no objection.

The legislative clerk read the motion, as follows:

Cloture Petition

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (H.R. 7152), an act to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Everett M. Dirksen, Mike Mansfield, Thomas H. Kuchel, Hubert H. Humphrey, Clifford P. Case, Daniel Brewster, Jennings Randolph, Hiram L. Fong, Edmund Muskie, Joseph S. Clark, Kenneth B. Keating, Pat McNamara, Abraham Ribicoff, J. Glenn Beall, Gordon Allott, Daniel K. Inouye, Leverett Saltonstall, Paul H. Douglas, Edward Kennedy, Stephen M. Young, Thomas J. Dodd, Philip A. Hart, John Sherman Cooper, Lee Metcalf, Vance Hartke, Frank E. Moss, Wayne Morse, Henry M. Jackson, Tom McIntyre, John O. Pastore, Claiborne Pell, Gaylord Nelson, Maurine Neuberger, Harrison Williams, Birch Bayh, Hugh Scott, J. K. Javits.

Mr. HICKENLOOPER. Mr. President, in order to keep the parliamentary situation in order, am I correct in my interpretation of the order of yesterday, that after the filing of this cloture motion I am to again make my unanimous-consent request of yesterday; and, further, that if there is no objection to the unanimous-consent request, and it therefore becomes effective, the cloture motion will be withdrawn as of this time?

The ACTING PRESIDENT pro tempore. The Senator from Iowa is correct.

Mr. HICKENLOOPER. Mr. President, in keeping with the discussion of yesterday, I again send to the desk a unanimous-consent request and ask that it be read.

The ACTING PRESIDENT pro tempore. The clerk will state the unanimous-consent request, as follows:

The legislative clerk read the unanimous-consent request, as follows:

Unanimous-Consent Request

I request unanimous consent that:

1. On Monday, June 8, next, beginning at 2 p.m. the Senate proceed to the consideration of amendment No. 869, proposed to the pending bill with debate limited to 2 hours on a side, to be controlled by the proponent of the amendment and the majority leader, respectively; that at the conclusion of such 4-hour debate, vote on the amendment shall be postponed until immediately after the ascertaining of a quorum following the convening of the Senate on Tuesday, June 9, next.

2. That immediately following such vote the Senate shall proceed to the consideration of amendment No. 868 to strike sections 404, 405, and 406 to H.R. 7152 with 2 hours' debate limitation on each side as proposed and to be controlled as provided in 1 above k and that at the conclusion of such debate the Senate shall proceed to vote on said proposed amendment.

3. That following such vote the Senate shall proceed to take up amendment No. 606 (referred to as Cotton amendment) proposing to limit the jurisdiction of the Federal Government to employers of 100 employees (under the formula in such provision) and that debate be limited as in 1 and 2 above to 2 hours on each side, the time controlled as provided in 1 above; and that immediately following the termination of such 4-hour debate, the Senate proceed to vote on said proposed amendment.

4. Provided further, that the time consumed by any amendment or substitute (if eligible) proposed to any of said three amendments referred to in 1, 2, or 3, above, shall be included in, and not be in addition to, the debate limitation time above provided for: *Provided further,* That any proposed amendments or substitutes (if eligible) to each of said proposed amendments referred to as 1, 2, or 3 shall be germane thereto.

Mr. HICKENLOOPER. Mr. President, there was considerable discussion of this request yesterday. It went over by general agreement under the terms that were arrived at. I therefore offer it as read.

Mr. RUSSELL. Mr. President, reserving the right to object, I should like to submit a parliamentary inquiry as to the construction of the proposed unanimous-consent request. I cannot locate it in the Record before me now.

The ACTING PRESIDENT pro tempore. It is on page 12843 of the Congressional Record.

Mr. RUSSELL. Paragraph No. 4 reads:

4. *Provided further,* That the time consumed by any amendment or substitute (if eligible) proposed to any of said three amendments referred to in 1, 2, or 3, above, shall be included in, and not be in addition to, the debate limitation time above provided for.

My question is, Where is the time allocated to any Senator who might offer an amendment or a substitute, and what would be his rights, if any, to debate his proposed amendment or substitute?

Mr. HICKENLOOPER. Mr. President, it is not specifically set out in the proposed agreement which was drawn in a very short time yesterday afternoon. I inserted that proviso against the possibility that an amendment might be offered to one of the proposed amendments which would be eligible to be offered. I am not familiar enough with the parliamentary situation which would obtain. So I put in the qualification: "If eligible."

If an amendment to one of the three amendments should be offered during the 4-hour period, I would assume that the time would still be controlled by the proponent of the main amendment and the majority leader. I would hope that they would be at least considerate in granting some time.

Mr. RUSSELL. Mr. President, I believe this is a question of some consequence if an amendment were offered. The Senator from Illinois has given notice that he was considering offering amendments to still further strengthen the bill. While the Senator is not given to boasting, it is indeed a proud claim of any man if he thinks he can strengthen a bill which is as far reaching and punitive in its effects as is the pending measure. But in the event that that amendment is offered, would the Senator from Illinois have time to debate the amendment as a matter of right, or would he debate it at the sufferance of the Senator from Kentucky, under the time allotted on the first amendment, or the majority leader?

The ACTING PRESIDENT pro tempore. It is the understanding of the Chair that there will be available 4 hours on each amendment, and if an amendment to an amendment were offered, the proponent of the amendment to the amendment would have to have time granted by the Senator who is in lotted on the first amendment, or the majority leader.

Mr. RUSSELL. So in the instance of the first amendment, under the first part of the unanimous-consent request, in which we would consider the amendment of the distinguished Senator from Kentucky [Mr. Morton], would the Senator from Illinois, if he were to offer an amendment—to suggest a hypothetical example—to abolish all jury trials in any case arising under any Civil Rights Act, whether it be for contempt or under a criminal statute, be compelled to get time from the Senator from Kentucky or our majority leader, the Senator from Montana [Mr. MANSFIELD], before he could debate the amendment?

The ACTING PRESIDENT pro tempore. The answer is in the affirmative. He would be obliged to get time from one or the other of the Senators in charge.

Mr. RUSSELL. It seems to me that in the event the unanimous-consent agreement is arrived at, we shall have already applied a rather effective gag rule. However, I am sure that one of those Senators, particularly the majority leader, would grant some time. In the past few days he has been very generous with every Senator except the Senator from Georgia and the small group associated with him in their effort to save the Constitution of the United States.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. RUSSELL. I am glad to yield.

Mr. MANSFIELD. I am sure that the Senator from Kentucky [Mr. MORTON] would be just as agreeable to yielding time.

Mr. RUSSELL. I shall not go into that question right now. But I doubt very much that the Senator from Kentucky would yield much time to any Senator who had an amendment which would abolish all forms of jury trials that might possibly arise under the bill.

Mr. MANSFIELD. Merely as a matter of courtesy.

Mr. RUSSELL. Such action would certainly be contrary to any position that the Senator has taken heretofore.

Mr. MORTON. Mr. President, will the Senator yield?

Mr. RUSSELL. I am glad to yield to the Senator from Kentucky.

Mr. MORTON. Four weeks ago today one of the most spectacular sporting events of all time—the Kentucky Derby—was run in exactly 2 minutes. If we can dispose of that great race in 2 minutes, I believe that we shall have time in 2 hours to take care of most of the so-called strengthening amendments.

Mr. RUSSELL. I agree. I think the time allowed on these amendments, ordinarily speaking, under unanimous-consent agreements, is quite generous, and that is particularly true with reference to the second part of the unanimous-consent request.

Mr. President, this has been a very graceful parliamentary ballet or dance, though I must confess that I have not derived a great deal of pleasure from it, nor have I led any of the applause.

I would be less than frank if I did not say that I am acting under a form of compulsion today. We endeavored to start voting on these very amendments on Tuesday of this week, and our pleas and offers were not only refused but they were scorned. I am not surprised by any aspect of the cloture motion that was presented. We were expecting that, and we were prepared for it. But I am greatly concerned about the other aspects of the question, for we are likely to be impaled on one horn or the other of a dilemma. If I object to the unanimous-consent request, some of our colleagues on the other side of the aisle who have not made up their minds as to how they would vote on the important question of cloture or gagging the Senate would say, "We were trying to help you by offering amendments to the bill and you have objected to it under a request that would have delayed execution for at least 1 day, and therefore we shall proceed to vote on Tuesday for cloture."

If we agree to the unanimous-consent request, it conforms to the rule laid down by the Senator from New Hampshire yesterday, when he said, with great vigor, eloquence, and persuasive power, as it later eventuated, that unless he had an opportunity to offer his amendment, he doubted very much that there would be any cloture voted on the bill at this time. That statement obtained results.

But I derived very little comfort from that. Under all circumstances I have, over a period of years, enjoyed the friendship of the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Kentucky [Mr. MORTON], and the Senator from New Hampshire [Mr. COTTON]. I recall that once many years ago one of the columnists claimed that I had some kind of deal with the Senator from Iowa on a certain parliamentary question. I have forgotten what it was. But the statement was without a scintilla of truth.

But we are now caught "between a rock and a hard place." I have been in that position before, but the rock has not been so large nor the place so hard as it is today. I have concluded that there is very little chance of my winning anything out of this situation, but out of deference to the wishes of the Senator from Iowa, and after having given the subject further study—much more than the Senator from Montana did yesterday, with the 15 minutes that he devoted to it, although of course, with his elastic mind he could cover the subject much more quickly than the Senator from Georgia could—I have concluded not to interpose an objection to the unanimous-consent request.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. RUSSELL. I am glad to yield.

Mr. MANSFIELD. The mind of the distinguished senior Senator from Georgia is as elastic as the mind of the Senator from Montana.

Mr. RUSSELL. The mind of the Senator encompassed the situation very quickly.

Mr. MANSFIELD. We were both impaled on the horn of a dilemma.

Mr. STENNIS. Mr. President, may we have order? Some of us are only 3 or 4 feet from the speakers, and yet we cannot hear.

The ACTING PRESIDENT pro tempore. The Senator is correct. The Senate is not in order. The Senators will suspend until the Senate is in order.

The Senator may proceed.

Mr. MANSFIELD. I believe the Senator from Georgia recognizes that fact.

Mr. RUSSELL. Mr. President, the old saw that misery loves company does not obtain in the present instance. I would prefer not to be in this kettle with the Senator from Montana, but I know of no way to extricate myself from it. Therefore, I have no objection to the unanimous-consent request.

Mr. LAUSCHE. Mr. President——

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Ohio under a reservation of his right to object.

Mr. LAUSCHE. Do I correctly understand that if the unanimous-consent request is granted, a vote on the cloture motion will not take place on Tuesday?

Mr. MANSFIELD. The Senator is correct. If the unanimous-consent request is granted, the motion will be withdrawn and will be resubmitted on Monday. The vote will then take place on Wednesday instead of on Tuesday.

Mr. LAUSCHE. I make the inquiry because of my engagement to address the Governors Conference on Tuesday night. I have an inescapable obligation to be present at that conference and will object to any unanimous-consent request which will interfere with my ability to fulfill that engagement and my desire to vote on the cloture motion in the affirmative.

Mr. MANSFIELD. Mr. President, I would hope that the distinguished Senator from Ohio, who has always exercised an extremely high degree of responsibility, would take into consideration the fact that the Senate as a whole has a responsibility, and would reconsider and guide himself accordingly, so that the welfare of the whole can be given the consideration which I know he thinks is its due.

Mr. LAUSCHE. I will not object to the unanimous-consent request unless it creates a situation in which there will not be a vote Tuesday morning on the cloture motion.

Mr. HICKENLOOPER. Mr. President, as I understood the Senator's statement—I am not sure that I did understand it—he said he would not object unless it would interfere with a vote on Tuesday.

Mr. LAUSCHE. That is correct.

Mr. HICKENLOOPER. If the unanimous-consent request is not agreed to, the cloture motion will remain at the desk and automatically will be voted on Tuesday. If the request for the unanimous-consent agreement is agreed to, the cloture motion will be withdrawn today. The majority leader has asserted he will again file it on Monday, which will automatically bring it up for a vote on Wednesday.

Mr. LAUSCHE. That clears the matter.

Mr. President, may I have unanimous consent to subscribe my name to the cloture motion?

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. ERVIN. Mr. President, I reserve my right to object until I can propound a parliamentary inquiry and make an observation.

I should like to inquire whether or not an amendment to strike out the entire title VII would be germane as an amendment to the amendment of the able and distinguished senior Senator from New Hampshire [Mr. COTTON].

The ACTING PRESIDENT pro tempore. The Chair cannot rule on that inquiry offhand.

Will the Senator state the relationship between his proposed amendment and the amendment of the Senator from New Hampshire?

Mr. ERVIN. As I construe the amendment suggested by the able and distinguished Senator from New Hampshire, it is an amendment to restrict coverage of title VII to those businesses which employ 100 or more persons. My inquiry is whether or not an amendment to strike the entire title VII from the bill would be germane to the amendment of the able and distinguished Senator from New Hampshire.

Mr. HOLLAND. Mr. President, may I be heard?

The ACTING PRESIDENT pro tempore. The Chair desires some guidance on this question. The Senator from Florida is recognized.

Mr. HOLLAND. I call attention to the fact that there is paragraph No. 4 in the proposed unanimous-consent agreement, which, by its terms, would permit not only amendments, but also substitutes, to each of the three proposals which would come up as amendments under the unanimous-consent agreement. It would seem rather clear to me that the amendment suggested by the Senator from North Carolina would be a substitute rather than an amendment.

Mr. HICKENLOOPER. Mr. President, in order to clarify the situation—and I am not commenting on the merits or demerits—I intended to put in the unanimous-consent request the qualification "if eligible." I was not attempting to pass on the question of eligibility of amendments. That would be up to the Chair. I intended to include the qualification that an amendment would be included, if eligible.

The ACTING PRESIDENT pro tempore. It is the opinion of the Chair that an amendment such as proposed by the Senator from North Carolina would be in order under the terms of the unanimous-consent agreement.

Mr. ERVIN. Mr. President, I commend the majority leader for postponing for a few moments the filing of a motion for cloture. I think it is entirely in order, because the substitute proposed by the able and distinguished Senator from Illinois [Mr. DIRKSEN], on behalf of himself and the Senator from Montana [Mr. MANSFIELD], the Senator from Minnesota [Mr. HUMPHREY], and the Senator from California [Mr. KUCHEL], was not offered until the 26th of May 1964. It makes many alterations in the original bill.

I should like to point out that virtually all the time since amendment No. 656, in the nature of a substitute, was submitted by the Senator from Illinois [Mr. DIRKSEN], on behalf of himself and other Senators, the proponents of amendment No. 656 have been filibustering in behalf of that proposed substitute.

So at least there is a possibility that some of the opponents of the substitute may get in about 15 minutes of "conversation" in respect to its various sins and inequities before the motion for cloture is voted upon.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MILLER. Mr. President, perhaps the Senator from Iowa did not understand the question of the Senator from North Carolina, but it seems to me the question amounted to whether or not an amendment in the third degree would be permitted.

May I ask the Chair, with respect to the first part of the unanimous-consent agreement—I believe the amendment is No. 869—whether that amendment will be subject to an amendment from the floor?

The first amendment listed in the proposed unanimous-consent agreement is amendment No. 869, as I understand. That is an amendment to the Talmadge amendment.

The ACTING PRESIDENT pro tempore. The Talmadge amendment can be amended in one degree.

Mr. MILLER. And the first amendment would do so, is that correct?

The ACTING PRESIDENT pro tempore. The Parliamentarian informs the Chair that amendment No. 869 is an amendment to the Talmadge amendment. The Parliamentarian informs the Chair that neither an amendment nor a substitute to No. 869 would be in order.

Mr. MILLER. I thank the Chair.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. The unanimous-consent request is agreed to, and the cloture motion is withdrawn.

Mr. MUNDT. Mr. President, I should like to have the attention of the majority leader. I wonder if now, by unanimous consent, the Senate should not revoke the unanimous-consent agreement of yesterday to have part of the time on Monday allocated to the Senator from Georgia [Mr. RUSSELL]. I think we should have all this time to debate the measure. The majority leader obtained unanimous consent to do that on Monday——

Mr. MANSFIELD. Yes; that is in the unanimous-consent request agreement for Monday.

Mr. MUNDT. Should it not be revoked?

Mr. MANSFIELD. No.

Mr. RUSSELL. Mr. President, I suggest the absence of a quorum——

Mr. MANSFIELD. Mr. President, will the Senator withhold that request until an understanding is developed?

As I understand the situation today, certain Senators will discuss portions and segments of the Dirksen substitute under the unanimous-consent agreement entered into, but the limitation on time will not begin until Monday. It is my understanding that under that agreement there will be 4 hours of debate on the Morton amendment, 2 hours to a side, but there will be no voting on Monday because of the fact that many Senators who have been former Governors will be attending the Governors' conference in Ohio.

Shortly after the convening of the Senate on Tuesday, a vote will be taken on the Morton amendment, to be followed by 4 hours on the deletion of sections 404, 405, and 406, I believe of title IV, after which a vote will be taken. Then 4 hours on the Cotton amendment, after which a vote will be taken.

That is about it.

Furthermore, the cloture motion which has been withdrawn will be filed again on Monday.

Mr. MUNDT. I understand the Senator from Montana exactly. What I was alluding to was the unanimous-consent agreement entered into, to this effect, on page 12787 of yesterday's CONGRESSIONAL RECORD which states:

> Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time during the 1 hour after the convening of the Senate on Tuesday be divided equally between the distinguished senior Senator from Georgia [Mr. RUSSELL] and the majority leader.

It seems to me that under the new arrangement we should vacate that order, because on Tuesday we shall be voting under terms of the new unanimous-consent agreement.

Mr. RUSSELL. It is automatically vacated.

Mr. MANSFIELD. I understand. I am a little "dense" this morning.

Mr. MUNDT. I believe I misspoke myself before.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that in view of the responsible request made by the distinguished Senator from South Dakota, the unanimous-consent agreement referred to be vacated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. I am glad the Senator from South Dakota caught that.

Mr. RUSSELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BREWSTER in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RUSSELL. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUSSELL. I understand that there will be a morning hour for the transaction of routine business. If the leader asks for and obtains a morning hour, I desire to announce that at the conclusion of the morning hour I will renew the suggestion of the absence of a quorum.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Has a request been made for a morning hour?

The PRESIDING OFFICER. No order has been entered for a morning hour.

TRANSACTION OF ROUTINE BUSINESS

Mr. HUMPHREY. Mr. President, I ask unanimous consent that there be a morning hour, with statements limited to 3 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. HUMPHREY:

S. 2894. A bill to authorize, in the case of the dependent spouse and children of any member of a uniformed service who dies while serving on active duty, medical care from civilian sources at Government expense for a period of 90 days following the death of such member; to the Committee on Armed Services.

By Mr. COTTON:

S. 2895. A bill for the relief of Danuta Kurowska; to the Committee on the Judiciary.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2896. A bill to conform the penalties of the Intercoastal Shipping Act, 1933, with the Shipping Act, 1916; to the Committee on Commerce.

(See the remarks of Mr. MAGNUSON when he introduced the above bill, which appear under a separate heading.)

TO CONFORM THE PENALTIES OF THE 1933 SHIPPING ACT WITH THE 1916 SHIPPING ACT

Mr. MAGNUSON. Mr. President, on behalf of myself and the senior Senator from New Hampshire [Mr. COTTON] I introduce, by request and, for appropriate reference, a bill which would conform the 1933 Intercoastal Shipping Act with the 1916 Shipping Act with respect to the penalty provisions that apply to violations of the tariff-filing provisions of each act.

Under present law, a carrier in the foreign trade could be penalized up to but not to exceed $1,000 a day while a carrier in the domestic trade would be penalized not less than $1,000 a day and up to $5,000 a day for the same type offense. This bill proposes to bring these penalty provisions into line by giving the court discretion to impose the same penalty for violations of tariff filing requirements of carriers in the domestic trade as provided for a similar offense by carriers in the foreign trade.

I ask unanimous consent that the explanation of this bill, provided by the Pacific American Steamship Association, be included in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the explanation will be printed in the RECORD.

The bill (S. 2896) to conform the penalties of the Intercoastal Shipping Act, 1933, with the Shipping Act, 1916, introduced by Mr. MAGNUSON (for himself and Mr. COTTON), by request, was received, read twice by its title, and referred to the Committee on Commerce.

The explanation presented by Mr. MAGNUSON is as follows:

PACIFIC AMERICAN STEAMSHIP ASSOCIATION

This bill would conform the 1933 Intercoastal Shipping Act (the regulatory act for ocean carriers servicing the domestic commerce between the continental United States and the noncontiguous States and territories) with the 1916 Shipping Act (the regulatory act principally for ocean carriers engaged in foreign commerce), by equalizing the penalty provisions applicable to the tariff filing requirements of each.

Both acts are administered by the Federal Maritime Commission. At present, section 2 of the 1933 act (46 U.S.C. 844) provides for penalties of not less than $1,000 or more than $5,000 for each day of a violation of the tariff filing provisions, while section 18 of the 1916 act (46 U.S.C. 817 (b)(6)) provides for penalties of not more than $1,000 for each day of violation. There is no legislative history in support of such a disparity and it is apparently a legislative oversight.

Congressional intent, in the matter of penalties, was most recently expressed in the 1961 amendments to the 1916 act (the dual rate bill—Public Law 87-346). In Public Law 87-346 penalty provisions twice received attention. The penalty for a violation of section 15 of the 1916 act (46 U.S.C. 814) requiring certain agreements of common carriers to be filed and approved by the Federal Maritime Commission was changed from "$1,000 for each day such violation continues" to "not more than $1,000 for each day such violation continues." And the penalty for a violation of the newly enacted tariff filing provisions of section 18 of the 1916 act (46 U.S.C. 18(b)) was also fixed at "not more than $1,000 for each day such violation continues."

Paradoxically, under present law, carriers serving the foreign trades have a ceiling of $1,000 per day while carriers operating in noncontiguous domestic ocean trades are saddled with "not less than" $1,000 per day. It was an oversight on the part of the affected carriers not to have sought an equalizing amendment in the 1933 act at the time the 1916 act was undergoing amendment in 1961. Therefore, carriers engaged in the trade to Hawaii, Alaska, Guam, and Puerto Rico are now seeking such an amendment so as to remove from law an inadvertent discrimination which presently exists.

CIVIL RIGHTS—AMENDMENTS

AMENDMENTS NOS. 871 AND 872

Mr. CLARK. Mr. President, on behalf of the able senior Senator from New Jersey and myself, I send to the desk two amendments, one to the pending bill, H.R. 7152, the so-called civil rights bill, and the other an amendment to the substitute amendment, No. 656, offered by the Senator from Illinois [Mr. DIRKSEN]. I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendments will be received, printed, and lie on the table.

Mr. CLARK. Mr. President, I ask unanimous consent that a brief statement outlining the content of the amendments may be printed in the RECORD at this point in my remarks.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

OUTLINE OF AMENDMENTS OF SUBSTITUTE FOR THE DIRKSEN AMENDMENT

The substitute amendment and the amendment to the bill are identical. They contain the principal provisions of the House-passed bill combined with a number of provisions from the Dirksen amendment No. 656 which offers substantial improvements to the House version. These changes are listed below:

1. Extension of equal employment opportunity policies to Federal employees (proviso added to section 702(b) at p. 3 of the substitute).

2. Deletion of section 704(f) of the bill authorizing discrimination against atheists.

3. Exemption permitting preferential treatment for Indians employed on or near an Indian reservation (a new section 704(f) at p. 9 of the substitute).

4. A new section 704(h), taken from the Dirksen amendment, provides that nothing in the act should be interpreted to require an employer to grant preferential treatment to any individual or group because of any racial imbalance in his employment pattern (at p. 9 of the substitute).

5. A new section 706(e) gearing the salary provision of the members of the Equal Employment Opportunity Commission to the Federal Executive Pay Act of 1956. This is in the nature of a technical or perfecting amendment (at p. 13 of the substitute).

6. Section 706(g)(4) has been extended to cover labor organizations as well as employers. This deals with the authority of the Commission to conciliate in cases where employees or members of labor organizations refuse to go along with the requirements of the bill (at p. 14 of the substitute).

7. Section 707 has been rearranged, refined and edited with respect to some of the procedural aspects of the Commission's work (at pp. 15–17 of the substitute).

8. A new subsection 707(b) has been added which incorporates the provisions of the Dirksen amendment with respect to injunction actions by the Attorney General in cases of patterns or practices of resistance to the bill. The provisions of the Dirksen amendment dealing with such actions by the Attorney General have been incorporated in its entirety (at pp. 18–20 of the substitute).

9. The provisions of the Dirksen amendment with respect to cession agreements between the Commission and the FEP States or local agencies have been substituted for the comparable provisions appearing in section 708(b) of the bill. The Dirksen amendment is modeled after provisions in S. 1937 authorizing the Commission to agree to reimburse the States in such cases and is a decided improvement over the provisions of the House bill. The new material appears as an amendment of section 709(b) of H.R. 7152 (at p. 21 of the substitute).

10. The provisions of section 713(b) of H.R. 7152, covering good faith defense in cases of reliance on offered interpretations have been clarified and simplified (at p. 25 of the substitute).

11. Following the Dirksen amendment, sections 715 and 716, dealing with appropriations and separability have been eliminated. Authorizations and separability are amply covered by the overall miscellaneous provisions in title XI of H.R. 7152 (sections 1103 and 1104 at p. 54 of the House bill).

The amendments (Nos. 871 and 872) submitted by Mr. CLARK (for himself and Mr. CASE) are as follows:

AMENDMENT No. 871

Beginning with line 21 on page 27, strike out over through line 25 on page 50 and insert in lieu thereof the following:

"TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY

"Findings and declaration of policy

"SEC. 701. (a) The Congress hereby declares that the opportunity for employment without discrimination of the types described in sections 704 and 705 is a right of all persons within the jurisdiction of the United States, and that it is the national policy to protect the right of the individual to be free from such discrimination.

"(b) The Congress further declares that the succeeding provisions of this title are necessary for the following purposes:

"(1) To remove obstructions to the free flow of commerce among the States and with foreign nations.

"(2) To insure the complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.

"Definitions

"SEC. 702. For the purposes of this title—

"(a) The term 'person' includes one or more individuals, labor union, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

"(b) The term 'employer' means a person engaged in an industry affecting commerce who has twenty-five or more employees, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, or a State or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: *Provided*, That during the first year after the effective date prescribed in subsection (a) of section 716, persons having fewer than one hundred employees (and their agents) shall not be considered employers, and, during the second year after such date, persons having fewer than seventy-five employees (and their agents) shall not be considered employers, and, during the third year after such date, persons having fewer than fifty employees (and their agents) shall not be considered employers: *Provided further*, That it shall be the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex or national origin and the President shall utilize his existing authority to effectuate this policy.

"(c) The term 'employment agency' means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance.

"(d) The term 'labor organization' means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

"(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) one hundred or more during the first year after the effective date prescribed in subsection (a) of section 716, (B) seventy-five or more during the second year after such date or fifty or more during the third year, or (C) twenty-five or more thereafter, and such labor organization—

"(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

"(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

"(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

"(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

"(5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

"(f) The term 'employee' means an individual employed by an employer.

"(g) The term 'commerce' means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

"(h) The term 'industry affecting commerce' means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry 'affecting commerce' within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

"(i) The term 'States' includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

"Exemption

"SEC. 703. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society.

"Discrimination because of race, color, religion, or national origin

"SEC. 704. (a) It shall be an unlawful employment practice for an employer—

"(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

"(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

"(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

"(c) It shall be an unlawful employment practice for a labor organization—

"(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

"(2) to limit, segregate, or classify its membership in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

"(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

"(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

"(e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees of a particular religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

"(f) Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

"(g) As used in this title, the phrase 'unlawful employment practice' shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

"(h) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

"Other unlawful employment practices

"SEC. 705. (a) It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

"(b) It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

"EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"SEC. 706. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

"(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

"(c) The Commission shall have an official seal which shall be judicially noticed.

"(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

"(e) The Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2201–2209), is further amended—

"(1) by adding to section 105 thereof (5 U.S.C. 2204) the following clause:

"'(32) Chairman, Equal Employment Opportunity Commission'; and

"(2) by adding to clause (45) of section 106(a) thereof (5 U.S.C. 2205(a)) the following: 'Equal Employment Opportunity Commission (4).'

"(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place. The Commission may establish such regional offices as it deems necessary, and shall establish at least one such office in each of the major geographical areas of the United States, including its territories and possessions.

"(g) The Commission shall have power—

"(1) to cooperate with and utilize regional, State, local, and other agencies, both public and private, and individuals;

"(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

"(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

"(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or such other remedial action as is provided by this title;

"(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies.

"(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

"(i) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

"Prevention of unlawful employment practices

"SEC. 707. (a)(1) Whenever it is charged in writing under oath by or on behalf of a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this Act has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the 'respondent') with a copy of such charge and shall make an investigation of such charge. If two or more members of the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such unlawful employment practice by informal methods of conference, conciliation, and persuasion and, if appropriate, to obtain from the respondent a written agreement describing particular practices which the respondent agrees to refrain from committing. Nothing said or done during and as a part of such endeavors may be used as evidence in a subsequent proceeding.

"(2) If within ninety days following the filing of a charge under paragraph (1) the Commission has failed to effect the elimination of an unlawful employment practice and to obtain voluntary compliance with this title, the Commission shall determine whether there is reasonable cause to believe the respondent has engaged in, or is engaging in, an unlawful employment practice and, if it so finds, shall, within ninety days, bring a civil action to prevent the respondent from engaging in such unlawful employment practice, except that the Commission shall be relieved of any obligation to bring an action in any case in which the Commission has, by affirmative vote, determined that the bringing of such action would not serve the public interest.

"(3) If the Commission has failed or declined to bring an action within the time required under paragraph (2), the person claiming to be aggrieved may, if one member of the Commission gives permission in writing, bring an action to obtain relief as provided in paragraph (5).

"(4) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have and shall exercise jurisdiction of actions brought under this subsection. Such actions may be brought either in the judicial district in which the unlawful employment practice is alleged to have been committed or in the judicial district in which the respondent has his principal office. No such action under this subsection shall be based on an unlawful employment practice occurring more than six months prior to the filing of the charge with the Commission and the giving of notice thereof to the respondent, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event a period of military service shall not be included in computing the six-month period.

"(5) If in any action under this subsection the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and shall order the respondent to take such affirmative action, including reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), as may be appropriate. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin.

"(6) In any action under this subsection in which the pleadings present issues of fact, the court may appoint a master and the order of reference may require the master to submit with his report a recommended order. The master shall be compensated by the United States at a rate to be fixed by the court, and shall be reimbursed by the United States for necessary expenses incurred in performing his duties under this subsection. Any court before which an action is brought under this subsection shall advance such proceeding on the docket and expedite its disposition.

"(b)(1) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

"(2) The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this subsection, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

"(3) In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case. It shall be the duty of the judge so designated to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

"(c) The provisions of the Act entitled 'An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes,' approved March 23, 1932 (29 U.S.C. 101–115), shall not apply with respect to civil actions brought under this section.

"(d) In any action or proceeding under this title the Commission on the United States shall be liable for costs the same as a private person.

"Effect on State laws

"SEC. 708. Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title.

"Investigations, inspections, records

"SEC. 709. (a) In connection with any investigation of a charge filed under section 707, the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question.

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements and under which no person may bring an action under section 707(a) in any cases or class of cases so specified, or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may (1) apply to the Commission for an exemption from the application of such regulation or order, or (2) bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

"Investigatory powers

"SEC. 710. (a) For the purposes of any investigation provided for in this title, the provisions of sections 9 and 10 of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Commission, except that the provisions of section 307 of the Federal Power Commission Act shall apply with respect to grants of immunity, and except that the attendance of a witness may not be required outside the State where he is found, resides, or transacts business, and the production of evidence may not be required outside the State where such evidence is kept.

"(b) The several departments and agencies of the Government, when directed by the President, shall furnish the Commission, upon its request, all records, papers, and other information in their possession relating to any matter before the Commission whenever disclosure of such information is not prohibited by law.

"Notices to be posted

"SEC. 711. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts of this title and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title.

"(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

"Veterans' preference

"SEC. 712. Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

"Rules and regulations

"SEC. 713. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

"(b) In any action or proceeding based on any alleged unlawful employment practice or other violation of this title, no person shall be subject to any liability or punishment for or on account of any act or omission if he pleads and proves that such act or omission was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, notwithstanding that after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

"Forcibly resisting the Commission or its representatives

"SEC. 714. The provisions of section 111, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

"Special study by Secretary of Labor

"SEC. 715. The Secretary of Labor shall make a full and complete study of the factors which might tend to result in discrimination in employment because of age and of the consequences of such discrimination on the economy and individuals affected. The Secretary of Labor shall make a report to the Congress not later than June 30, 1965, containing the results of such study and shall include in such report such recommendations for legislation to prevent arbitrary discrimination in employment because of age as he determines advisable.

"Effective date

"SEC. 716. (a) This title shall become effective one year after the date of its enactment.

"(b) Notwithstanding subsection (a), sections of this title other than sections 704, 705, and 707 shall become effective immediately.

"(c) The President shall, as soon as feasible after the enactment of this title, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this title to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this title when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this title."

AMENDMENT No. 872

Beginning with line 10 on page 35, strike out over through line 19 on page 68 and insert in lieu thereof the following:

"TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY

"Findings and declaration of policy

"SEC. 701. (a) The Congress hereby declares that the opportunity for employment without discrimination of the types described in sections 704 and 705 is a right of all persons within the jurisdiction of the United States, and that it is the national policy to protect the right of the individual to be free from such discrimination.

"(b) The Congress further declares that the succeeding provisions of this title are necessary for the following purposes:

"(1) To remove obstructions to the free flow of commerce among the States and with foreign nations.

"(2) To insure the complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.

DEFINITIONS

"SEC. 702. For the purposes of this title—

"(a) the term 'person' includes one or more individuals, labor union, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

"(b) The term 'employer' means a person engaged in an industry affecting commerce who has twenty-five or more employees, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, or a State or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: *Provided,* That during the first year after the effective date prescribed in subsection (a) of section 716, persons having fewer than one hundred employees (and their agents) shall not be considered employers, and, during the second year after such date, persons having fewer than seventy-five employees (and their agents) shall not be considered employers, and, during the third year after such date, persons having fewer than fifty employees (and their agents) shall not be considered employers: *Provided further,* That it shall be the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex or national origin and the President shall utilize his existing authority to effectuate this policy.

"(c) The term 'employment agency' means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance.

"(d) The term 'labor organization' means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

"(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) one hundred or more during the first year after the effective date prescribed in subsection (a) of section 716, (B) seventy-five or more during the second year after such date or fifty or more during the third year, or (C) twenty-five or more thereafter, and such labor organization—

"(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

"(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

"(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

"(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

"(5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

"(f) The term 'employee' means an individual employed by an employer.

"(g) The term 'commerce' means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

"(h) The term 'industry affecting commerce' means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry 'affecting commerce' within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

"(i) The term 'State' includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

"Exemption

"SEC. 703. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society.

"Discrimination because of race, color, religion, or national origin

"SEC. 704. (a) It shall be an unlawful employment practice for an employer—

"(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

"(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

"(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

"(c) It shall be an unlawful employment practice for a labor organization—

"(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

"(2) to limit, segregate, or classify its membership in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

"(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

"(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

"(e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees of a particular religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

"(f) Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

"(g) As used in this title, the phrase 'unlawful employment practice' shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

"(h) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

"Other unlawful employment practices

"Sec. 705. (a) It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

"(b) It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

"Equal Employment Opportunity Commission

"Sec. 706. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

"(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

"(c) The Commission shall have an official seal which shall be judicially noticed.

"(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

"(e) The Federal Executive Pay Act of 1956, as amended (5. U.S.C. 2201–2209), is further amended—

"(1) by adding to section 105 thereof (5 U.S.C. 2204) the following clause:

"'(32) Chairman, Equal Employment Opportunity Commission'; and

"(2) by adding to clause (45) of section 106(a) thereof (5 U.S.C. 2205(a)) the following: 'Equal Employment Opportunity Commission (4).'

"(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place. The Commission may establish such regional offices as it deems necessary, and shall establish at least one such office in each of the major geographical areas of the United States, including its territories and possessions.

"(g) The Commission shall have power—

"(1) to cooperate with and utilize regional, State, local, and other agencies, both public and private, and individuals;

"(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

"(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

"(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or such other remedial action as is provided by this title;

"(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies.

"(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

"(i) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

"Prevention of unlawful employment practices

"Sec. 707. (a) (1) Whenever it is charged in writing under oath by or on behalf of a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this Act has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the respondent) with a copy of such charge and shall make an investigation of such charge. If two or more members of the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such unlawful employment practice by informal methods of conference, conciliation, and persuasion and, if appropriate, to obtain from the respondent a written agreement describing particular practices which the respondent agrees to refrain from committing. Nothing said or done during and as a part of such endeavors may be used as evidence in a subsequent proceeding.

"(2) If within 90 days following the filing of a charge under paragraph (1) the Commission has failed to effect the elimination of an unlawful employment practice and to obtain voluntary compliance with this title, the Commission shall determine whether there is reasonable cause to believe the respondent has engaged in or is engaging in, an unlawful employment practice and, if it so finds, bring a civil action to prevent the respondent from engaging in such unlawful employment practice, except that the Commission shall be relieved of any obligation to bring an action in any case in which the Commission has, by affirmative vote, determined that the bringing of such action would not serve the public interest.

"(3) If the Commission has failed or declined to bring an action within the time required under paragraph (2), the person claiming to be aggrieved may, if one member of the Commission gives permission in writing, bring an action to obtain relief as provided in paragraph (5).

"(4) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have and shall exercise jurisdiction of actions brought under this subsection. Such actions may be brought either in the judicial district in which the unlawful employment practice is alleged to have been committed or in the judicial district in which the respondent has his principal office. No such action under this subsection shall be based on an unlawful employment practice occurring more than six months prior to the filing of the charge with the Commission and the giving of notice thereof to the respondent, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event a period of military service shall not be included in computing the six month period.

"(5) If in any action under this subsection the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and shall order the respondent to take such affirmative action, including reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), as may be appropriate. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin.

"(6) In any action, under this subsection in which the pleadings present issues of fact, the court may appoint a master and the order of reference may require the master to submit with his report a recommended order. The master shall be compensated by the United States at a rate to be fixed by the court, and shall be reimbursed by the United States for necessary expenses incurred in performing his duties under this subsection. Any court before which an action is brought under this subsection shall advance such proceeding on the docket and expedite its disposition.

"(b) (1) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

"(2) The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this subsection, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

"(3) In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case. It shall be the duty of the judge so designated to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

"(c) The provisions of the Act entitled 'An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes,' approved March 23, 1932 (29 U.S.C. 101–115), shall not apply with respect to civil actions brought under this section.

"(d) In any action or proceeding under this title the Commission or the United States shall be liable for costs the same as a private person.

"Effect on State laws

"SEC. 708. Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title.

"Investigations, inspections, records

"SEC. 709. (a) In connection with any investigation of a charge filed under section 707, the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question.

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements and under which no person may bring an action under section 707(a) in any cases or class of cases so specified, or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may (1) apply to the Commission for an exemption from the application of such regulation or order, or (2) bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

"Investigatory Powers

"SEC. 710. (a) For the purposes of any investigation provided for in this title, the provisions of sections 9 and 10 of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Commission, except that the provisions of section 307 of the Federal Power Commission Act shall apply with respect to grants of immunity, and except that the attendance of a witness may not be required outside the State where he is found, resides, or transacts business, and the production of evidence may not be required outside the State where such evidence is kept.

"(b) The several departments and agencies of the Government, when directed by the President, shall furnish the Commission, upon its request, all records, papers, and other information in their possession relating to any matter before the Commission whenever disclosure of such information is not prohibited by law.

"Notices to be posted

"SEC. 711. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts of this title and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title.

"(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

"Veterans' preference

"SEC. 712. Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

"Rules and regulations

"SEC. 713. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

"(b) In any action or proceeding based on any alleged unlawful employment practice or other violation of this title, no person shall be subject to any liability or punishment for or on account of any act or omission if he pleads and proves that such act or omission was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, notwithstanding that after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

"Forcibly resisting the Commission or its representatives

"SEC. 714. The provisions of section 111, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

"Special study by Secretary of Labor

"SEC. 715. The Secretary of Labor shall make a full and complete study of the factors which might tend to result in discrimination in employment because of age and of the consequences of such discrimination on the economy and individuals affected. The Secretary of Labor shall make a report to the Congress not later than June 30, 1965, containing the results of such study and shall include in such report such recommendations for legislation to prevent arbitrary discrimination in employment because of age as he determines advisable.

"Effective date

"SEC. 716. (a) This title shall become effective one year after the date of its enactment.

"(b) Notwithstanding subsection (a), sections of this title other than sections 704, 705, and 707 shall become effective immediately.

"(c) The President shall, as soon as feasible after the enactment of this title, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this title to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this title when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this title."

AMENDMENTS NOS. 873 THROUGH 896

Mr. ERVIN. Mr. President, I ask unanimous consent that I may submit at this time some amendments to the amendment in the nature of a substitute, amendment No. 656, to H.R. 7152.

I also ask unanimous consent that these amendments may be printed at this point in the body of the RECORD.

I also ask unanimous consent that they may be printed otherwise and lie upon the table until called up.

I also ask unanimous consent that the reading of these amendments be waived and be considered as having been read for all purposes under the rules of the Senate.

The PRESIDING OFFICER. The amendments will be received, printed, and will lie on the table; and, without objection, the amendments will be considered as having been read.

The amendments are as follows:

AMENDMENT No. 873

Beginning with the colon in line 15, page 69, strike out all to and including the word "information" in line 23, page 69.

AMENDMENT No. 874

Beginning with the words "In furtherance" in line 21, page 59, strike out all to and including line 9, page 60.

Beginning with line 17, page 61, strike out all to and including line 13, page 62.

AMENDMENT No. 875

On page 56, lines 14 and 15, strike out the words "has reasonable cause to believe", and insert in lieu thereof the words "determines upon the basis of a full and complete investigation conducted by the Federal Bureau of Investigation".

On page 56, line 16, strike out the word "in", and insert in lieu thereof the words "knowingly in continuing conduct which provides clear and convincing evidence of".

On page 57, line 4, immediately after the period, insert the following new sentence: "It shall be a complete defense to any action instituted under this section for a defendant to show that the conduct as to which complaint is made in that action is based upon considerations other than race, color, religion, or national origin.".

AMENDMENT No. 876

On page 53, line 19, immediately after the word "complainant", insert the words "with the consent of such attorney".

AMENDMENT No. 877

In lines 21 to 23, inclusive, page 53, strike out the following: "Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action.".

AMENDMENT No. 878

On page 44, line 21, immediately after the period, insert the following new sentence: "Nothing contained in this title shall apply to any business or enterprise on or near any other area within which local customs favor the giving of preferential treatment to individuals of any other race, color, or national origin.".

AMENDMENT No. 879

Beginning with line 4, page 51, strike out all to and including line 14, page 52, and redesignate succeeding subsections accordingly.

Beginning with the comma in line 17, page 52, strike out all to and including the word "agency" in line 2, page 53.

Beginning with the word "or" in line 4, page 53, strike out all to and including "warranted)" in lines 8 and 9, page 53.

On page 54, lines 1 and 2, strike out the words "the termination of State or local proceedings described in subsection (b) or".

AMENDMENT No. 880

On page 40, strike out all in lines 1 to 3, inclusive, and insert in lieu thereof the following: "the selection, training, assignment, or duties of members of the clergy of the religious denomination concerned or to".

AMENDMENT No. 881

On page 34, line 14, immediately after the period, insert the following new sentence: "If before the termination of such period of thirty days judicial review of such action is sought, such action shall not become effective until judicial review thereof has resulted in the entry by the court of a final judgment, decree, or order to the effect that such action may be taken lawfully.".

On page 34, line 24, strike out the word "may", and insert in lieu thereof the words "shall be entitled to".

AMENDMENT No. 882

Beginning with the word "and" in line 15, page 36, strike out all to and including the word "policy" in line 16, page 36, and insert in lieu thereof the following: "pursuant to law hereafter enacted by the Congress".

AMENDMENT No. 883

On page 34, line 13, strike out the word "days", and insert in lieu thereof "calendar days (exclusive of Sundays and holidays) of a regular session of the Congress".

AMENDMENT No. 884

On page 34, line 3, immediately after the word "persons", insert the following: "(including the Attorney General or chief legal officer of the State within which such failure has occurred)".

AMENDMENT No. 885

On page 33, line 13, immediately after the period, insert the following new sentence: "To the greatest practicable extent all such rules, regulations, and orders shall be uniform in application and effect with respect to all programs and activities subject to the provisions of this title.".

AMENDMENT No. 886

On page 33, lines 5 and 6, strike out the words "grant, loan, or contract other than a contract of insurance or guaranty,", and insert in lieu thereof the words "grant or loan".

AMENDMENT No. 887

On page 32, line 23, immediately after "SEC. 601.", insert the subsection designation "(a)".

On page 33, between lines 2 and 3, insert the following new subsection:

"(b) No program or activity listed hereinafter in this subsection shall be deemed for any purpose of this title to be a program or activity receiving Federal financial assistance:

"(1) insurance of bank deposits by the Federal Deposit Insurance Corporation;

"(2) insurance of savings and loan accounts or equities by the Federal Savings and Loan Insurance Corporation;

"(3) Federal Crop Insurance;

"(4) National Service Life Insurance;

"(5) Federal employees group life insurance;

"(6) mortgage insurance and guarantees of the Veterans Administration and the Federal Housing Administration;

"(7) financial payments made or assistance granted to any employer under any program which is not intended primarily to provide direct benefits for employees of such employer;

"(8) grants, loans, payments, and assistance under the Agricultural Adjustment Act, the Commodity Credit Corporation Act, or any other statute providing for the benefit of farmers any agricultural price support assistance or marketing program; and

"(9) contracts for the procurement of goods or services which do not constitute direct grants of Federal funds to the recipient;".

AMENDMENT No. 888

Beginning with the comma in line 18, page 21, strike out all to and including the word "standards" in line 1, page 22.

AMENDMENT No. 889

On page 14, between lines 9 and 10, insert the following new subsection:

"(c) No civil action may be brought under subsection (a) until the expiration of thirty days after written notice of the alleged act or practice upon which that action is based has been given to the appropriate State or local authority by registered mail. In any civil action brought under subsection (a) the court may stay proceedings in such civil action pending the termination of State or local proceedings for the termination of such act or practice."

AMENDMENT No. 890

On page 12, line 7, strike out the words "in a", and insert in lieu thereof the words "knowingly in continuing conduct which provides clear and convincing evidence of a".

On page 12, line 21, immediately after the period, insert the following new sentence: "It shall be a complete defense to any action instituted under this section for a defendant to show that the conduct as to which complaint is made in that action is based upon considerations other than race, color, religion, or national origin.".

Amendment No. 891

On page 12, line 6, strike out the words "has reasonable cause to believe", and insert in lieu thereof the words "determines upon the basis of a full and complete investigation conducted by the Federal Bureau of Investigation".

Amendment No. 892

On page 10, line 7, immediately after the word "discretion", insert the words "and upon a showing of substantial cause for intervention".

Amendment No. 893

Beginning with line 10, page 3, strike out all to and including line 18, page 3, and insert in lieu thereof the following: "That such special provisions as may be necessary for the preparation and conduct of such tests for persons who are blind or otherwise handicapped may be made.".

Amendment No. 894

On page 10, line 10, immediately after the word "complainant", insert the words "with the consent of such attorney".

Amendment No. 895

On page 70, line 17, immediately after the word "importance", insert the words "and the court determines that the ends of justice require such intervention".

On page 70, line 17, strike out the words "United States", and insert in lieu thereof the word "plaintiff".

On page 70, line 18, strike out the words "the same relief as if it had instituted the action", and insert in lieu thereof the words "such relief as the court may determine to be appropriate".

Amendment No. 896

Beginning with line 18, page 10, strike out all to and including line 5, page 11, and insert in lieu thereof the following:

"(c) No civil action may be brought under subsection (a) until the expiration of 30 days after written notice of the alleged act or practice upon which that action is based has been given to the appropriate State or local authority by registered mail. In any civil action brought under subsection (a) the court may stay proceedings in such civil action pending the termination of State or local proceedings for the termination of such act or practice."

AMENDMENT NO. 897

Mr. MORTON. Mr. President, I offer an amendment to the substitute, amendment No. 656, proposed by the Senator from Illinois [Mr. Dirksen] and others.

I ask unanimous consent that it may be printed and considered as read for all purposes under the rules of the Senate.

The PRESIDING OFFICER. The amendment will be received, printed, and lie on the table; and, without objection, the amendment will be considered as having been read.

The amendment (No. 897) is as follows:

On page 73, beginning with line 2, strike out all through line 16, and insert in lieu thereof the following:

"Sec. 1101. (a) In any proceeding for criminal contempt arising under title II, III, IV, V, VI, or VII of this Act, the accused, upon demand therefor, shall be entitled to a trial by jury, which shall conform as near as may be to the practice in criminal cases. Upon conviction, the accused shall not be fined more than $1,000, or imprisoned for more than six months."

Mr. MORTON. Mr. President, I ask unanimous consent that there may be inserted in the Record at this point the language which will obtain should my amendment, which will be the pending business on Monday, be adopted.

In other words, this is a new copy, a smooth copy, of how the section will read as amended if my amendment is adopted.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Language of Talmadge Amendment as Modified by Morton Amendment

On page 54, between lines 7 and 8, insert the following new title:

"TITLE XI—JURY TRIALS OF CRIMINAL CONTEMPTS

"Sec. 1101. In any proceeding for criminal contempt arising under title II, III, IV, V, VI, or VII of this Act, the accused, upon demand therefor, shall be entitled to a trial by jury, which shall conform as near as may be to the practice in criminal cases. Upon conviction, the accused shall not be fined more than $1,000 or imprisoned for more than six months.

"This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court.

"Nor shall anything herein be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

"Sec. 1102. Section 151 of part V of the Civil Rights Act of 1957 (71 Stat. 638; 42 U.S.C. 1995) is hereby repealed."

On lines 15, 16, and 17 of page 11, strike out subsection (c) of section 205.

On line 8 of page 54, change the designation of title XI to title XII.

On lines 9, 14, 22, and 24 of page 54, change the designation of sections 1101, 1102, 1103, and 1104, to sections 1201, 1202, 1203, and 1204, respectively.

HONORARY DOCTOR OF HUMANITIES DEGREE AWARDED TO SENATOR RANDOLPH, OF WEST VIRGINIA

Mr. CLARK. Mr. President, 1 week ago today, on May 30, West Virginia State College, one of the leading institutions of learning in the mountain area, an integrated institution of learning, awarded an honorary degree to our able and distinguished colleague the Senator from West Virginia [Mr. Randolph].

The citation and the investiture both speak in high praise of our able colleague, who was awarded the honorary degree of doctor of humanities.

I ask unanimous consent that a copy of the citation and a copy of the investiture may be printed in the Record at this point.

There being no objection, the citation and investiture were ordered to be printed in the Record, as follows:

Citation

Mr. President, it is a pleasure to present for the honorary degree of doctor of humanities the Honorable Jennings Randolph, U.S. Senator from West Virginia.

From graduation at Salem College in 1924 Senator Randolph entered journalism, thence to education in the fields of public speaking and journalism, thence to legislative halls where he served the people of West Virginia as Congressman from 1933 to 1947, and Senator from 1958 to the present. During the interim between these periods he was a successful business leader.

In his career of public service his interests largely have involved humanitarian programs. His efforts on the part of the handicapped are well known and based upon the noble premise that all men should have maximum opportunities to develop as useful, productive, happy citizens in atmospheres and under circumstances that would communicate confidence, optimism, and faith in the benevolence of God.

Although this has been a prime interest of his, the broad fields of legislation affecting all areas of life of the people of West Virginia and of the Nation have been given his earnest and thoughtful attention.

He has acted in these matters as a truly free individual, desiring freedom for all. He is, therefore, an outstanding citizen of West Virginia.

Dean Harrison H. Ferrell.

May 30, 1964.

Investiture

Senator Jennings Randolph: Because you have given exemplary service to people regardless of their mental, physical, social, economic, religious, or racial status; because you have desired all people to be full citizens in spite of their handicaps; because you have rendered distinguished service to all people of your State, and therefore of your Nation, indicating your sincere interest in people and in the welfare of your fellow men, I am happy to confer upon you, with the approval of the West Virginia Board of Education, the degree of doctor of humanities, with all the rights and privileges appertaining thereunto.

William J. L. Wallace,
President,
West Virginia State College.

May 30, 1964.

MISREPRESENTATION OF FACTS DURING CIVIL RIGHTS DEBATE

Mr. HART. Mr. President, yesterday, the junior Senator from Oregon [Mrs. Neuberger] inserted in the Record a flagrant misstatement of fact which is being circulated by a group which includes in its title the word "Christian."

Last night, when I returned home, there was waiting for me an airmail letter addressed to me at my home address, from the California League of Christian Parents.

I assume that this letter has been sent to most, if not all, Members of the Senate. Over the years we accumulate, if we wish to save them, typical examples of extremism and, indeed, irresponsibility. But I think this letter would so shock the conscience of a person that it would not be inadvisable, through the columns of the Congressional Record, to have the people of America begin to develop an understanding of the extremes to which some people go in their efforts to subvert the operation of this institution.

This letter, which is dated June 30—and it is rather brief—says, among other things:

> The Civil Rights Act of 1963 being at present before the Senate to be voted upon means that at this very moment the fate of the American people's freedom is actually in your hands determining its right to complete freedom as conceived by the Founding Fathers.
>
> It becomes daily more and more evident to the majority of the American people that our Christian institution called Constitution, our faith and our flag are being dragged down in the mire of communism.
>
> The number of Congressmen who have voted in favor of this Communist civil rights bill in contradiction to their oath of office is deeply disturbing.

Parenthetically, none of us in his right mind believes that any Member of the House who voted for the bill did so other than out of a deep conviction that it made sense and in pursuance of his oath of office. The letter continues:

> Active agents and leaders of communism who wield influence over Congressmen of the Senate and House are to be found in the ranks of the Antidefamation League of the International Order of the B'nai B'rith. One of their main lines of action—

It is this statement that I think should shock the careful reader of the RECORD—

> One of their main lines of action is an organized control of Congressmen, bodily and individually, through the insidious use of blackmail and threats of exposure of mistakes and frailties such as may have occurred to many in the course of a long life.
>
> We fear such a policy may be just now in vigorous action and that the country, through Congress, is wholly at the mercy of fully organized blackmailers.

Then this question is asked of me—and I assume of others who received it:

> Can you, dear Senator, courageously withstand blackmail and rise above it and cast your vote against the Civil Rights Act of 1963?
>
> Such is the disturbing question when the very freedom of the American people is at stake.
>
> For Christ and country,
>
> P. DE SHISHMAREFF
> (And numberless Christian Americans).

The letterhead is attractive:

> California League of Christian Parents, Post Office Box 596, San Bernardino, Calif.

Six names are identified as officers. At the bottom of the letter, as a part of the printed material of the letter, and in quotation marks is the following:

> Suffer the little children to come unto me, and forbid them not; for of such is the Kingdom of God.

I make no further comment about the letter. I ask unanimous consent that it be printed in the RECORD, as a means of developing across the country a proper understanding of the extremes to which some people—I assume decently motivated, but I find it impossible not to add "irrationally performing"—would go to seek to destroy the Senate.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> CALIFORNIA LEAGUE OF CHRISTIAN PARENTS,
> *San Bernardino, Calif., June 3, 1964.*
>
> DEAR SENATOR: The Civil Rights Act of 1963 being at present before the Senate to be voted upon means that at this very moment the fate of the American people's freedom is actually in your hands determining its right to complete freedom as conceived by the Founding Fathers.
>
> It becomes daily more and more evident to the majority of the American people that our Christian institution called Constitution, our faith and our flag are being dragged down in the mire of communism.
>
> The number of Congressmen who have voted in favor of this Communist civil rights bill in contradiction to their oath of office is deeply disturbing.
>
> Active agents and leaders of communism who wield influence over Congressmen of the Senate and House are to be found in the ranks of the Anti-Defamation League of the International Order of the B'nai B'rith. One of their main lines of action is an organized control of Congressmen, bodily and individually, through the insidious use of blackmail and threats of exposure of mistakes and frailties such as may have occurred to many in the course of a long life.
>
> We fear such a policy may be just now in vigorous action and that the country, through Congress, is wholly at the mercy of fully organized blackmailers.
>
> Can you, dear Senator, courageously withstand blackmail and rise above it and cast your vote against the Civil Rights Act of 1963?
>
> Such is the disturbing question when the very freedom of the American people is at stake.
>
> For Christ and country,
>
> P. DE SHISHMAREFF,
> (*And numberless Christian Americans*).
>
> A little child shall lead them.
>
> President emeritus, Dr. David Calderwood; president, Mrs. P. De Shishmareff; treasurer, Mrs. L. M. Roberts; first vice president, Mrs. Ruth Howlett; second vice president, Mrs. Richard Merrifield; secretary, Mrs. Anne Collins.
>
> "Suffer the little children to come unto me, and forbid them not; for of such is the kingdom of God."

BANKERS ASSOCIATION SUPPORTS BASIC AIMS OF HARTKE EDUCATION BILL

Mr. HARTKE. Mr. President, I have previously remarked upon the unusual unanimity of opinion which has been evidenced throughout the country in support of the Hartke college student assistance bill, S. 2490, which is before the Education Subcommittee.

Among the organizations which presented testimony during the hearings which have now been concluded was the American Bankers Association. As an organization of lending institutions, they directed their remarks primarily to the effect of this bill upon educational loans furnished by banks and upon the proposal of the bill for a federally guaranteed insurance system for such loans. Not unexpectedly, they took exception to some of the bill's proposals in this area.

But it has been most gratifying that in the first portion of the statement by this highly respected organization, there was set forth clear support for the "package" concept of assistance embodied in the bill. Specifically, they agreed that "there is a need for scholarships and grants, with some coming from governmental sources." Further, they said that they "find merit in financial assistance provided through programs of part-time employment." And they acknowledged that "for the immediate future there will continue to be a need for some direct loan assistance from governmental sources."

With the understanding, Mr. President, that the bulk of the testimony is directed toward an effort to show that the proposed Federal guarantee program is unnecessary, I should like to quote the full text of the first four paragraphs of the testimony. The American Bankers Association makes clear that it believes there is need for the kind of assistance my bill offers, even though it takes exception to part of the proposed remedy for the lack of aid to students. The statement reads:

> The American Bankers Association deeply appreciates this opportunity to present to the Subcommittee on Education of the Senate Committee on Labor and Public Welfare its views with respect to S. 2490, the "Higher Education Student Assistance Act of 1965."
>
> Certainly one of the foremost challenges facing our Nation today is the development of the means and methods whereby our qualified young people, regardless of their financial circumstances, may have the opportunity to obtain a college or university level education. This challenge has been made all the more demanding by the dramatic growth in our college-age student population and the steadily rising costs of higher education which have occurred over the past decade.
>
> So great is this challenge and so varied are its component problems, it is quite obvious that success in meeting this challenge can only be achieved through a multiplicity of programs and efforts. Overall success in this area will continue to require a high degree of individual effort and commitment from the student and his family; it will require governmental effort at the Federal, State, and local levels; and it will demand continued and growing participation by our private financial institutions.
>
> The program embodied in S. 2490 seems to reflect a conviction that no single category of assistance program, operating alone, is going to be adequate to meet the future financing requirements of our young people who desire to obtain higher education. The American Bankers Association shares this conviction. We agree that for the gifted student of very limited means there is a need for scholarships and grants, with some coming from governmental sources. We find merit in financial assistance provided through programs of part-time employment. We acknowledge that for the immediate future there will continue to be a need for some direct loan assistance from governmental sources. We also believe that student loan activity by private lenders can and will be stimulated by programs of guarantee and insurance.

SOUTHERN SENTIMENT FAVORABLE TO CIVIL RIGHTS BILL

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed as a part of my remarks certain expressions of opinion from distinguished individuals from the southern part of the United States relating to the pending bill, indicating that there is thoughtful acceptance of this critically important measure in the great crisis facing our country.

One letter is from the Southern Sociological Society, an association of professors and teachers of sociology in southern colleges, signed by Bryce Ryan, president, who is at the University of Miami, Coral Gables, Fla.

Another is a petition by professors who are members of the faculty and staff of Davidson College, Davidson, N.C., also in the same vein.

A third communication is from the highly respected and nationwide American Newspaper Guild and contains a resolution of that organization adopted May 29, 1964, by its international executive board. The letter is signed by Charles A Perlik, Jr., secretary-treasurer.

There being no objection, the letters were ordered to be printed in the Record, as follows:

The Southern Sociological Society,
May 26, 1964.

Hon. Jacob K. Javits,
U.S. Senate Office Building,
Washington, D.C.

My Dear Senator Javits: Please be advised that the membership of the Southern Sociological Society, in annual convention at the George Vanderbilt Hotel, Asheville, N.C., unanimously adopted the following resolution in its general business meeting on Saturday, April 18, 1964:

The need for adequate civil rights legislation on the basis of democratic and humanitarian considerations is so overwhelming as to require no review by this body. Beyond these broad considerations of a nonprofessional nature is the importance of such legislation to the maintenance and advancement of the professional activities of sociologists in the southern region. In this regard, it is essential to have legislative support to secure full and equal public accommodations for all its members.

We therefore call upon Congress to pass the administration's civil rights program without delay, and in particular, the section on public accommodations.

A copy of this resolution is being forwarded to the President of the United States, to the Members of the Senate, and to the Members of the House of Representatives.

Respectfully yours,
Bryce Ryan,
President.

Davidson College,
Davidson, N.C., May 28, 1964.

The Honorable Jacob K. Javits,
U.S. Senate,
Washington, D.C.

Dear Mr. Javits: Enclosed is a copy of a petition, the original of which was mailed to Senator Humphrey, signed by 34 members of the faculty and staff of Davidson College, Davidson, N.C. You and Senator Humphrey have permission to make whatever use of the petition that you think will be the most helpful in your magnificent efforts to secure passage of the civil rights bill.

With best wishes and highest regards, I am,

Yours faithfully,
E. F. Patterson,
Associate Professor.

P.S.—An alphabetical list of the signers is attached to the petition.

Believing that the ends of civil rights legislation are morally and ethically sound and reasonable, and further believing that the means proposed by the proponents of a Federal law to achieve these ends do not violate any moral, legal, or constitutional principle of our country, we, the undersigned members of the faculty of Davidson College, Davidson, N.C., respectfully but strongly urge the Senate to pass without further delay, except that necessitated by the normal legislative processes, a strong and adequate civil rights bill:

E. F. Patterson, John D. Kelton, James Y. Causey, C. Griffin, James S. Purcell, Donald W. Tucker, Max E. Polley, James R. Gross, W. G. McGavock, W. H. Tilley, James V. Applewhite, Robert C. Young, Winfred P. Minter, W. B. Patterson, George L. Abernethy, Donald B. Plott, Preston M. Faggart, Jr., Douglas Houchens, Ralph W. Gable, W. G. Workman, Joseph M. Drake, Jas. H. Ostwalt, Philip B. Secor, H. Alden Bryan, David F. Richey, Wilmer H. Welsh, Earl R. MacCormac, Fritz O. Wruck, Thomas F. Clark, Frank W. Bliss, Norman M. Johnson, J. Clifton Albergotti, S. D. Maloney, and Dan D. Rhodes.

American Newspaper Guild,
Washington, D.C., June 1, 1964.

To the Senate of the United States.

Gentlemen: With pleasure I convey herewith a copy of the resolution regarding pending legislation before the U.S. Senate, adopted unanimously May 29, 1964, by the international executive board of the American Newspaper Guild:

"The time has come for action on civil rights.

"This means, precisely, an end to the droning of the senatorial filibuster, a disgraceful performance which has already wasted 2 months of the Nation's time in its opposition to action on this most vital moral issue of our day.

"The guild has joined with other labor organizations, church groups, civil rights groups and fraternal organizations in the effort to obtain for all the citizens of the United States the rights which they should automatically receive under the Constitution. It should not be necessary to guarantee rights to vote, to use public accommodations, public schools, to equal employment opportunity, but a century of experience, climaxed in recent months by the use of bombs and brutality, has demonstrated the need for additional legislation and enforcement.

"The guild feels especially strongly on the need for the strongest possible language on equal employment opportunity—an objective for which the guild has constantly fought in its own industry.

"The American Newspaper Guild urges the Senate of the United States to resist any weakening amendments to the civil rights bill, to vote immediately for cloture of debate, and to vote for the passage of this meaningful, this crucial legislation."

We urge your concurrence.

Sincerely yours,
Charles A. Perlik, Jr.,
Secretary-Treasurer.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. JAVITS. Mr. President, I should like to propound a parliamentary inquiry.

The PRESIDING OFFICER (Mr. Brewster in the chair). The Senator from New York will state it.

Mr. JAVITS. Would amendments to title IX of the pending measure, with relation to amending the provisions of existing law for civil and criminal relief for denial of civil rights, be eligible as amendments to any of the amendments that are the subject of the unanimous-consent agreement entered into today? For the information of the Parliamentarian, the text of the amendments to which I refer are contained in printed amendment No. 805.

The PRESIDING OFFICER. Under the unanimous-consent request heretofore agreed to, paragraph 4 of that agreement reads:

> 4. *Provided further,* That the time consumed by any amendment or substitute (if eligible) proposed to any of said three amendments referred to in 1, 2, or 3, above, shall be included in, and not be in addition to, the debate limitation time above provided for: *Provided further,* That any proposed amendments or substitutes (if eligible) to each of said proposed amendments referred to as 1, 2, or 3 shall be germane thereto.

Mr. JAVITS. My parliamentary inquiry, therefore, is whether those amendments, to which the rule of germaneness will apply, need not be amendments to the particular section or title of the bill which is referred to in the main amendment to which it may be offered.

The PRESIDING OFFICER. After conferring with the Parliamentarian, the Chair is of the opinion that an amendment will be in order if it is germane to the bill and to the amendment to which it is offered.

Mr. JAVITS. May I make a further parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Are those coupled? In other words, if offered to an amendment—let us say, the jury trial amendment—must the amendment offered, to be eligible, be germane to that particular amendment; or may it be an amendment which is germane to the bill, although it may not be germane to that particular amendment?

The PRESIDING OFFICER. The Chair is of the opinion that in this particular case the amendment offered would have to be germane to the jury trial amendment.

Mr. JAVITS. And similarly with the amendment regarding technical assistance to school desegregation?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. And similarly with respect to the limitation of the number of employees covered by title VII?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. We therefore understand the Chair to have ruled that the germaneness of any new amendment or amendment to an amendment, applies not only to the bill, but to the bill and to the amendment then pending before the Senate.

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. Both are required?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. May I ask the Chair, as there seems to have been some misunderstanding about the matter, whether that represents any variance from any rulings heretofore made today?

The PRESIDING OFFICER. The Chair is of the opinion that all rulings have been consistent.

Mr. JAVITS. May the Senator from New York then ask the Chair whether an amendment to title VI of the pending bill may be made to any one of the three amendments offered to the unanimous-consent request. None of them relate to title VI. Title VI relates to the use of Federal funds for State programs.

Mr. MUNDT. Let me say to my good friend from New York that yesterday there was a very substantial colloquy on the floor on this very point. This is an amendment in which the Senator from Tennessee [Mr. GORE] was vitally interested. It was brought out that, as the unanimous-consent request was presented and adopted, an amendment to title VI would not be in order.

The Senator from Tennessee gave serious thought—in fact, he urged the Senator from Iowa to expand it to four amendments, but the Senator from Iowa was not in a position to do so. The Senator from Tennessee has given the subject serious thought; and he may still try to implement it and ask for a unanimous-consent agreement of his own to deal with title VI. But it is not in the package, as the legislative history clearly discloses.

Mr. JAVITS. If the Chair will recognize me, the point of my inquiry is that an inquiry was made by the distinguished Senator from North Carolina [Mr. ERVIN] on that very subject.

Mr. MUNDT. That was on title VII.

Mr. JAVITS. The question I ask is whether any ruling was made as to amendments to title VI. Were any of such amendments covered by the unanimous-consent request?

The PRESIDING OFFICER. If an amendment were offered to title VI which is not germane to the three amendments referred to in the unanimous-consent request, it would not be in order.

Mr. JAVITS. I thank the Chair.

Mr. ERVIN. Mr. President, I made no reference to title VI. My inquiry was directed only to title VII.

Mr. JAVITS. Mr. President, I thank my colleague.

Mr. ERVIN. And to the amendment offered by the distinguished senior Senator from New Hampshire [Mr. COTTON] in relation to title VII.

Mr. JAVITS. I thank my colleague.

THE TRUE RIGHTS CRISIS

Mr. HUMPHREY. Mr. President, I should like to call to the attention of the Senate a perceptive column written by William S. White, a distinguished newspaperman and author.

In his column, which appeared in the Washington Evening Star on June 3, Mr. White looks beyond our vote on cloture next week—indeed, beyond the passage of the civil rights bill.

He wisely points out that:

> Laws of real meaning are based upon more than the decision of any Congress. They are based, at last, upon a consensus of the people.

Mr. White writes that:

> The true debate is not within the Senate, but rather within the national community at large. Those who wish to see not simply an enacted bill, but an effective bill resting upon real public acceptance need to lift their eyes far above the marching and countermarching in the Senate of the United States.

Mr. President, earlier this week I had the high honor of addressing the graduating class at Fisk University in Nashville, Tenn. I said in my speech that the passage of the civil rights bill of 1964 will "strike down the legal barriers barring the full participation of our Negro fellow citizens in our democracy." And that after this barrier is removed:

> Will come the real test of the maturity of our people. The bill itself will be but an expression of the determination of the American people to destroy discrimination. The test will be whether the two great races in America can together work not only to dissolve the barriers between them, but to develop a healthier and more active sense of community. That task will test the wisdom, the patience, the judgment, and the courage of leaders in both the Negro and white communities.

I ask unanimous consent, Mr. President, to have printed in the RECORD at this point the column by Mr. White and the text of my address at Fisk University.

There being no objection, the article and address were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Star, June 3, 1964]

THE TRUE RIGHTS CRISIS

(By William S. White)

The true crisis on the civil rights issue is not the showdown coming next week in the Senate on the efforts of the bill's backers to invoke cloture and so end filibustering debate there.

This, tactically important though it is, is only a battle of the short term. Whatever happens here—whether the civil rights forces succeed or fail in this first attempt to put down the gag rule on resisting Senators—the great war itself will go on unchanged.

For even the imposition of cloture—and indeed even the eventual passage thereby of the bill itself—will settle nothing that is fundamental. The crucial question will yet remain. This is not whether a civil rights bill can, in fact, be passed. Rather, it is whether any civil rights bill that may be passed will become an actual and enforceable, and not merely a theoretical and nullified, part of the structure of law in this Nation.

What is still the heart of the matter, cloture or no cloture and bill or no bill, is the obtaining of the true consent of the country, North as well as South, to a legislative innovation that seeks by Federal force to overcome racial discrimination.

Laws of real meaning are laws based upon more than the decision of any Congress. They are based, at last, upon a consensus of the people. A law that may be violently unpopular even to a large and determined minority is no law at all, as we saw in the years of prohibition.

And the wise will see that nothing could be so bad as the passage of an act that became a dead letter. The anger and disillusion that would then inevitably follow among the minority groups would give reasonable cause to fear for the Republic itself.

VITAL DRAMA ELSEWHERE

Thus, while the parliamentary maneuvers in the Senate are at center stage in public attention, the vital drama is being played out elsewhere. It is being played out among the convictions of the American people: How far are they prepared to go to extend Federal force in this area?

Thus, too, the true debate is not within the Senate, but rather within the national community at large. Those who wish to see not simply an enacted bill but an effective bill resting upon real public acceptance need to lift their eyes far above the marching and countermarching in the Senate of the United States.

Most of all, the Negro leadership, which has provided the impelling force toward the bill now in the Senate, needs to seek understanding and reconciliation with the white public, northern perhaps even more than southern.

It would be unfair to blame the responsible Negro leadership for the now intolerable violence practiced in such human powder kegs as New York by marauding bands of Negro hoodlums.

To say, as some are saying, that brutal crimes of this sort are merely the result of Negro unemployment and so on is to speak dangerous nonsense. To say that racist gangsterism will not be halted until a civil rights bill has been approved is to deal in a moral blackmail that will recoil upon the civil rights movement itself.

BANKRUPT ARGUMENTS

But it is equally poor reasoning to suggest that simply because there are Negro hoodlums on the prowl there should be no civil rights action at all. Both arguments are logically bankrupt. But while the Negro leadership has accepted this truth so far as the second argument is concerned, it has not yet truly accepted it so far as the first argument is concerned. Too many Negro leaders still contend, against all commonsense, that if only a civil rights law were on the books, terrorist Negro bands would terrorize their white neighbors no more.

This, then, is what the Negro leadership must do to effect that reconciliation with the white community which is essential to any effective civil rights legislation: In rejecting the proposition that Negro violence should be punished by a denial of all legislation, the leadership must equally and in total good faith reject the proposition that such violence is, anyhow, more or less to be condoned.

ADDRESS BY SENATOR HUBERT H. HUMPHREY

(The following is the text of an address by Senator HUBERT H. HUMPHREY, Democrat, of Minnesota, prepared for commencement exercises at Fisk University, Nashville, Tenn., Monday morning, June 1, 1964.)

President Wright, members of the board of trustees, members of the 1964 graduating class of Fisk University, ladies and gentlemen. It is a high honor to come to Fisk University, which has played so eminent a role in the intellectual and moral life of the South and of our Nation—and to share this platform with your distinguished president, Dr. Stephen J. Wright, only recently honored once again by his academic colleagues with a doctorate of law from the University of Notre Dame.

President Wright's predecessor, the late Charles S. Johnson, said in his inaugural address: "The most important asset that a society can have is men who can apply the knowledge of the time to the needs of the time." I doubt that any Fisk graduating class has looked out on a Nation and a world so bristling with challenges. What caliber of intellectual toughness, of flexibility, of poise and creativity, of moral courage and perseverance, is required for the breakthrough generation—for you and your contemporaries who will be moving into the American mainstream in numbers and at a rate beyond the imagining of any other generation of American Negroes.

This is a time of troubles and turmoil, a time of change and ferment. Yet it is also a glorious time to be alive. For out of the pain and difficulty of these years there is being forged in America a great consensus—that there will be liberty and equal opportunity in fact for every American.

The vision of that great southerner who drafted the Declaration of Independence is coming to reality nine generations later. America is late, oh so late, in growing to its full maturity. But in these years of the sixties, we are, indeed, becoming a mature Nation. Yes, we shall soon pass the civil rights bill of 1964.

The consensus of the American people—and I feel in my soul that in the hearts of the white South there is this same moral conviction—is that this Nation must strike down the legal barriers barring the full participation of our Negro fellow citizens in our democracy.

Yes, there will be a day soon on which most Americans will be justified in walking a little more proudly and finding it a little easier to recite the Pledge of Allegiance—especially the portion which runs "One Nation, under God, indivisible, with liberty and justice for all."

A great barrier will begin to swing aside on that day when the civil rights bill has passed—a barrier that for generations has been damming back tremendous intellectual resources, incalculable energy and vitality lost to the American Nation.

I say "begin." For if the door is being unlocked, if the door is swinging open, it is only just ajar. There will be no miracle wrought overnight. Rather, then will come the real test of the maturity of our people. The bill itself will be but the expression of the determination of the American people to destroy discrimination. The test will be whether the two great races in America can together work not only to dissolve the barriers between them, but to develop a healthier and more active sense of community. That task will test the wisdom, the patience, the judgment, and the courage of leaders in both the Negro and the white communities.

I cannot tell you how greatly I respect and admire the self-discipline and perseverance of the leadership of the Negro community. What terrible provocations they have withstood. What bitter tea they have tasted. It would have been all too easy to have taken the path of demagoguery and violence and destruction—and to have lost everything.

There is a time for sowing and a time for reaping. Your leaders have sowed well. They have worked. They have persisted. They have won respect. And now, as we approach the time of the harvest of civil rights, the leadership of both great races in America will be able to work together to translate the law of civil rights into the practice of nondiscrimination and equal opportunity.

Soon will be the time of the harvest. It will be hard work and it will take long years before it is finished. It will require a continuing spirit of conciliation and a willingness to work together, a steadiness and a steadfastness.

There will be much yet to do when President Johnson has fixed his signature to the bill for which he and our late President, John F. Kennedy, fought so courageously.

Free access to a table at a restaurant will be scant comfort to a man who cannot afford even a modest price for a meal. And FEPC will be scant comfort for a worker who discovers the hard truth that there is nothing he can do that will pay him enough to support his family.

Education and training. Training and education. These are the watchwords. We must invest and invest again in bringing not the worst but the finest of education to those who need it most, to those whose early lives have been blighted by a heritage of indifference and discrimination and poverty. Whatever the cost, it will be less than the cost of not making such an investment. And whatever the cost, it must be paid.

We must begin in the preschool ages, and we must continue up through the grades, striving for excellence, striving for incentive to study and to learn, striving to light in those young minds the fire of hope and ambition, to make them feel that there is regard for their hard work, that there is an outlet for their training.

As the artificial barriers to advancement fall—and they are falling—we must be certain that there are trained and educated young people ready to step in to compete on an equal basis.

Oh, yes, we are far yet from finding those barriers fully down. The civilian economy has yet to train and upgrade and employ without regard to race or creed, as our Defense Establishment has done with increasing success. Companies and unions, North and South, must yet scrap their unwritten dogmas of precedence and place—of who must give orders and who take them, of "sensitive" positions traditionally off limits to Negroes. But we are already beginning to develop a healthier tradition in this country. Dr. John Hope Franklin, Judge Wade McCree, my good friend L. Howard Bennett, of the Department of Defense, and other distinguished alumni of this college, are among the thousands of able men and women who are relegating the myths of racism to the ash heap of history.

Such men are pathfinders, pioneers. They are examples and challenges to the younger men and women who are coming up out of the colleges, and to those children who are coming into the world of education for the first time.

I am pleased and proud, as a man in politics and government, to see so many of your generation taking an interest in politics. I believe strongly in the value of politics as a means of bringing about useful change. I am encouraged when I see young men like State Senator Leroy Johnson of Georgia run for political office and win. It is a good thing for the legislature of that State to have him there. It is a good thing for the Negro and white schoolchildren of that State to come into the now desegregated galleries and see him there. It is a good thing for all Georgians to have him sponsor and secure passage of legislation useful to his own constituents and all the other people of Georgia. Indeed, where Negro Southerners have won the vote in recent years they have lined up firmly on the side of good government.

As the barriers to voting in the South continue to come down, I am certain that other more subtle barriers will fall faster. The ballot is a powerful force. It must be used with intelligence, with judgment, with responsibility—but above all it must be used.

Use the tools of education and the ballot. This is the way upward into that sunlight you have yearned for. This is the path that you young leaders must show to those who follow after you. Yes, it is a hard and stony path ahead. The way is not easy for you.

Neither will it be easy for others of your fellow Americans. Deeply rooted habits of thinking and behavior cannot be changed overnight. Change in social patterns is hard won and slowly accomplished. And the problems will be as severe in the northern cities as in the South—different, but as difficult. But in a spirit of conciliation and mutual respect, above all in a spirit of fellowship under God, the great remaining task of forging a new and vital and enduring relationship between Negro and white in America can be accomplished. The crucial role that has been played by the churches in the struggle to pass the civil rights bill must be continued. It is imperative, North and South, that the moral leadership of the great religious bodies of America continue to make itself powerfully felt. Men and women must be persuaded, ultimately, to do what is right and just. There must be a consensus developed—in the North and the South—to accept and to live by the principles which the Congress will reaffirm in the civil rights bill.

As we pass the civil rights bill of 1964, then, let us be exalted, but not exultant. Let us mark the occasion with sober rejoicing, and not with shouts of victory. The larger task remains before us—a duty in which every American shares, and the fruits of which task, successfully accomplished, every American will also share.

The danger is that we shall too soon become weary, that we shall not have the staying power, the confidence and the forbearance. The danger is that we may settle for too little, that we may accept token advances, that we may not persevere to the end.

I know that you young men and women will persevere, that you will be equal to the task. And I know that young men and women throughout both the North and South who are graduating this month will not fail the task. You, and they, will see it through together.

Dr. Mordecai Johnson, 17 years ago, spoke some prophetic and moving words at Fisk. He told us what we would see before us, in this summer of 1964: "Then we shall see—not a defeat for the South, but the first emergence of the untrammeled and hitherto suppressed and crippled soul of the South's noblest people. Then we shall be on our way—South and North, black and white—to that city which Thomas Jefferson saw when he wrote the Declaration of Independence and which we Negroes have seen and loved in the hearts and lives of those who have taught us here at Fisk University and her kindred institutions." To which I say "Amen."

NORTH AND SOUTH DEMONSTRATE SUPPORT FOR H.R. 7152

Mr. HUMPHREY. Mr. President, today I wish to bring to the attention of my colleagues three more significant civil rights petitions which have been received in my office.

The first is from the Dayton council of the National Council of Negro Women. It is startling enough to receive a thousand signatures on any subject from a city the size of Dayton, so it is triply impressive to realize that this is the third installment of the council's petition. Every time another thousand persons sign the petition, their names are sent in. I hope they don't stop since there are always people who refuse to believe anything until you show them the names on the dotted line.

The second petition is from a place where most persons are thought to oppose the civil rights bill, New Orleans. Nearly 600 students from Loyola University voiced their disagreement with the position of the Louisiana congressional delegation on H.R. 7152. I think this sort of statement is very useful. It is all too easy for us to assume that the South is monolithically opposed to racial equality, and the signatures of 600 thoughtful students are very helpful in giving us a truer perspective of the real situation. This statement is quite similar to the one recently released by over 500 members of the Presbyterian Church, U.S.

The third petition is also from the South, the State of North Carolina. It is a message in support of H.R. 7152 signed by 34 members of the faculty and staff of Davidson College. It gives me no small pleasure to learn that some of the Tarheel State's most eminent citizens are willing to speak out in favor of civil rights. These men realize that the civil rights bill is not a measure aimed at the destruction of the South. They know it is an instrument of justice which will be received gladly by many Southerners, despite cries to the contrary from those who claim to speak for this entire great section of the country.

Mr. President, I request unanimous consent that the text and covering letters of these three petitions be printed at this point in the RECORD.

There being no objection, the petitions and covering letters were ordered to be printed in the RECORD, as follows:

DAYTON COUNCIL OF THE
NATIONAL COUNCIL OF NEGRO WOMEN,
Dayton, Ohio, May 25, 1964.

Mr. HUBERT HUMPHREY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HUMPHREY: Enclosed find our third thousand signatures in favor of the civil rights bill.

Yours very truly,
ELLA A. LOWRY
Mrs. Herbert J. Lowry.

PETITION BY DAYTON COUNCIL OF THE NATIONAL COUNCIL OF NEGRO WOMEN

We, the undersigned, petition the U.S. Senate to pass the civil rights bill with no "crippling" amendments.

(Names omitted from the RECORD.)

MAY 25, 1964.

Senator HUBERT HUMPHREY,
U.S. Senate Office Building,
Washington, D.C.

SENATOR: The following is a petition taken up by a small group of students here at Loyola University in New Orleans, La. Copies are also being sent to Senators DIRKSEN, ELLENDER, and LONG. We realize that this is not very much, but we want you to know that some people in Louisiana are in favor of the present civil rights bill. We also want to encourage you to continue in your efforts to secure immediate passage of the present bill.

Thank you.

JOHN R. CONNOLLY,
Loyola University,
Senior, Secular Education.

Grasping our full moral and democratic responsibility to the future of these United States (and, therefore, to ourselves), we, the undersigned, advocate the immediate passage of the pending civil rights bill, H.R. 7152, in its entirety. Racial and religious discrimination as well as a graduated citizenship must be immediately dispelled if our Nation is to live up to the principles upon which it was founded.

(Names omitted from the RECORD.)

DAVIDSON COLLEGE,
Davidson, N.C., May 28, 1964.

Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR MR. HUMPHREY: Enclosed is a petition urging the Senate to pass, without further delay, a strong and adequate civil rights bill signed by 34 members of the faculty and staff of Davidson College, Davidson, N.C.

A copy of the petition is being mailed to Senator JAVITS. You and Senator JAVITS have permission to make whatever use of the petition that you think will be the most helpful in your magnificent efforts to secure passage of the civil rights bill.

An alphabetical list of the signers is attached to the petition.

With best wishes and highest regards to you, I am,

Yours faithfully,
E. F. PATTERSON,
Associate Professor.

Believing that the ends of civil rights legislation are morally and ethically sound and reasonable, and further believing that the means proposed by the proponents of a Federal law to achieve these ends do not violate any moral, legal, or constitutional principle of our country, we, the undersigned members of the faculty of Davidson College, Davidson, N.C., respectfully but strongly urge the Senate to pass without further delay, except that necessitated by the normal legislative processes, a strong and adequate civil rights bill.

(Names omitted from the RECORD.)

THE PRESIDENT SPEAKS OUT FOR CIVIL RIGHTS IN THE SOUTH

Mr. HUMPHREY. Mr. President, as we approach a number of historic votes on civil rights, it is refreshing to note the courageous and outspoken posture which President Johnson has taken on this issue—in both the North and the South.

I ask unanimous consent that an editorial from the Kansas City Star entitled, "L.B.J. Talks Civil Rights in the South" and a column by Eugene Patterson which appeared in the Atlanta Constitution be printed at this point in the RECORD.

There being no objection, the editorial and article were ordered to be printed in the RECORD, as follows:

[From the Kansas City Star, May 9, 1964]

L.B.J. TALKS CIVIL RIGHTS IN THE SOUTH

In the Deep South State of Georgia, President Johnson told members of the legislature and other leaders that racial strife is not limited to the South. He also said "In our search for justice, you have a sure and faithful guide—the Constitution of the United States." The President was applauded by the Georgians.

The President from the Southwest, speaking in the South, could have limited his remarks to poverty, foreign policy, unemployment or the general state of the economy. Instead, he chose to discuss the issue that is uppermost in the minds of Southerners. Moreover, the President went to the heart of the matter when he said, "Because the Constitution requires it, and because justice demands it, we must protect the constitutional rights of all our people."

Generally, the key to the entire civil rights struggle in the South is contained in two articles of the Constitution. Article XV says that "The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State on account of race or color."

Article XIV says that "All persons born or naturalized in the United States * * * are citizens of the United States. * * * No State shall make or enforce any law which shall abridge the privileges or immunites of any citizens of the United States * * * nor deny any person within its jurisdiction the equal protection of the laws."

The vote, the privileges of citizenship, and equal protection of the laws were what the President was talking about. The Constitution does not say that only persons or a certain race are citizens of the United States. It says that all persons born or naturalized in the country are citizens. And, as the President declared, "The rights of no single American are truly secure until the rights of all Americans are secure." These may be familiar words. The important thing is where the President has said them.

[From the Atlanta (Ga.) Constitution, May 7, 1964]

THE PRESIDENT MUST HAVE HELP

(By Eugene Patterson)

Lyndon Johnson comes to Georgia possessed of the deepest presidential understanding of the South since Franklin D. Roosevelt, who lived much and died here.

F.D.R. called the South "this truly American section." It contained, he noted, "a population still holding the great heritages of King's Mountain and Shiloh."

The region happened to be busted when Roosevelt said that. But he honored its worth as he set about restoring its means.

Now another President comes to a generally prospering Georgia, intent still on restoring its remaining places of poverty, and possessed still of respect for the South's inherent worth.

Georgia in turn has taken steps to merit that respect. As State Representative James Mackay said Wednesday, "We are beginning to function like a State, and not like a province. It is giving us all a sense of belonging to our Nation, which is a heartening and inspiring thing."

President Johnson comes as the spokesman for all Americans, not just southerners. But he is in great measure dependent on the help of his fellow southerners if he is to succeed in speaking for all Americans.

If southerners quaver, cavil, and quit on the first of their number to hold the presidency since the 1860's, he cannot succeed in convincing the country that southern leadership is worthy of national trust.

In his guaranty of racial justice he especially needs the South's help, not its hindrance. He he, too, is a southerner. He is trying to show a still-doubtful nation that a southern President can and will do the right thing. If his words are negated by southern acts, he can be unhorsed by his own legion.

So it is that in a particular way President Johnson needs the hand and the help of the South. The South—both of its races—need presidential understanding; they have that. He in turn needs southern deeds to sustain his words. He is getting some from Georgia, which is determined to be a State and not a province.

There is a Baptist preacher in Richmond, Va., who has played a leading part in persuading that city to end racial discrimination (60 of Richmond's restaurants have stopped discrimination voluntarily compared to about 20 in Atlanta). Yet the preacher is from Ohio. Why did Richmond accept a Yankee's leadership? An old preacher told him when he went South, he says, to approach southerners in only one way: "First, earn their love. Then speak softly to them." He took that course.

President Johnson was born with the affection of the South, and once in power he has spoken softly to us. As in Richmond, the response now is ours to make. I think the southern President can count on this southern State not to fail him.

THE GOOD SOCIETY

Mr. HUMPHREY. Mr. President, in his address at the commencement exercises at the University of Michigan, President Lyndon Johnson discussed his vision of the good society. This is surely an inspiring and challenging vision. The Washington Post in an editorial commenting on the good society, praised the President's foresight in setting forth the tasks which lie ahead if such a society is to be within our grasp 50 years hence. This is a thoughtful editorial, and I ask unanimous consent that it be printed at this point in the RECORD.

I also ask unanimous consent that an editorial from the Winston-Salem Journal entitled, "A President Who Cares," be printed at this point in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, May 24, 1964]

THE GOOD SOCIETY

President Johnson, in his address at the University of Michigan on Friday, voiced an eloquent and moving appeal for a national effort to make our cities places in which men can live the good life. And he joined this to an appeal for the preservation of the beauty of our countryside.

He put the task of the cities very well when he said that within 50 years there will be 400 million Americans of whom four-fifths will live in urban areas. This growth, he pointed out, will require homes, highways, and other facilities equal to all those built since the settlement of the country. This is a measure of our physical task. What this more crowded America will require is not just more physical facilities, but facilities of infinitely better design and greater durability involving infinitely more planning ingenuity.

We cannot say with any confidence that we even have begun to meet this challenge. The President put forward a catalog of our deficiencies—decay in city centers, despoliation of the suburbs, shortages of housing and transportation, destruction of ancient landmarks.

The President summoned the country to build cities to which future generations will come not just to live, but to live the good life. That we are so far failing to do this is made doubly deplorable by the fact that here and there our planners and architects and construction engineers demonstrate plainly that they have the creative capacity, the scientific skill, and the ingenuity to make urban life good. But the occasional exhibition of their art is concealed largely by the mediocre, the illy planned, the badly designed. Cities are being rebuilt at a very rapid rate, but much of the rebuilding is tasteless, cheerless, and unimaginative. The rate of new construction is so rapid that in a few decades we are going to have a great many virtually new cities, but we cannot say with as much confidence that they will be better cities. It is the same with our suburbs. There are enough attractive, inspired, and well-planned suburbs to show what can be done. They are too often eclipsed by suburban sprawl, planless, tasteless, and depressing.

And beyond the suburbs, there is distressing evidence enough that we are, as the President said, threatened with an ugly America unless we act swiftly to preserve the countryside.

The President has promised a series of conferences on these problems. But it will not be enough to assemble the best thought and broadest knowledge of the country, as he proposes to do. The conferences must be followed by action if they are to be given meaning and effect. And the action, in many cases, will have to diminish that degree of private discretion in the utilization of urban and rural land that we have regarded historically as indispensable to private ownership. Previous conferences and good intentions have come to naught, in the face of opposition engendered by historic notions of proprietary rights. Go ahead and have the conferences, Mr. President, but follow them up with action that will achieve your good society. Words alone will not be enough.

[From the Winston-Salem (N.C.) Journal, Apr. 27, 1964]

A PRESIDENT WHO CARES

Lyndon Johnson has brought to the Presidency a highly individualistic style that offers a great deal of promise.

Mr. Johnson is not as articulate as John F. Kennedy.

He may never be the father image that Dwight Eisenhower was.

He has not shown himself to be the tough fighter that Harry Truman was.

He is not the visionary that Franklin Roosevelt was.

And yet as we watch this big, leathery Texan, whether earnestly pleading with the two sides in a rail dispute or talking to a poor family in Appalachia, we are persuaded that he is offering America something that it needs.

Lyndon Johnson is said to be—sometimes it is almost an epithet—"a compromiser." His powers of persuasion, which were already legendary, acquired an aura of magic after the rail settlement. Perhaps more than any other man in our time, Lyndon Johnson sees the legislative processes as the seeking of a consensus.

Is it not possible that, in this era, what the country needs most earnestly is a consensus?

The great domestic issues of the 1950's and 1960's have sharpened our consciences perhaps, but they have also hardened the lines that divide Americans. Too many men distrust too many other men. Issues, it sometimes seems, have become more important than people. The man in search of a consensus says that the order needs to be reversed.

Lyndon Johnson is blessed with another quality that ministers to the needs of the people: Compassion. The antipoverty programs may in the end prove to be so much folderol. Poverty will not surrender meekly before all the concerted powers of the Federal Government.

But Lyndon Johnson cares, and few can honestly doubt that he cares. The old plains populism sticks out, like so much hayseed, all over the man. There is the Texas of the nouveau riche, and Mr. Johnson is a part of that. But there is also the Texas that knows what it is like to be poor, and Mr. Johnson is a part of that too.

The poor cannot live on compassion alone, but it helps. Especially it helps, when the one who is concerned is the President of the United States.

Lyndon Johnson says he wants to be "President of all the people." That is asking for a great deal. But Lyndon Johnson is trying, and his effort is truly something to behold.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

CIVIL RIGHTS BILL CONTRARY TO RECOMMENDATIONS OF PRESIDENT KENNEDY

Mr. STENNIS. Mr. President, last June the late President John F. Kennedy submitted to Congress his recommendations for the passage of civil rights legislation. Since his tragic assassination, sponsors of the legislation have sought to pass the bill as a memorial to the late President Kennedy. Of course, Mr. President, I am opposed to this bill because of its substance.

But the claim that the bill in its present form should be passed as a memorial to the late President is contrary to fact and contrary to logic.

The fact of the matter is that the bill which the leadership proposes to submit to the Senate for a vote is in truth and in fact a repudiation of the bill and the recommendations submitted by the late President Kennedy.

The so-called package proposal now being discussed for Senate adoption is a far cry from the original bill recommended by the late President Kennedy. It has been changed in many material and substantial respects.

The original civil rights bill presented a year ago said nothing whatever about the creation of an FEPC. That bill would have created a Commission on Equal Employment Opportunity to insure integrated employment in all Government contracts and subcontracts. It was completely silent about giving the Attorney General, or the FEPC, authority to force the employment of persons in private industry having nothing to do with the Government or Government business.

In fact, the late President expressly declined to include such a provision in the bill he recommended.

Further, the late President Kennedy recommended assistance to school districts for the purpose of aiding them "in carrying out desegregation or in dealing with the problems of racial imbalance." The original administration bill referred to the "problems of racial imbalance" in no less than eight instances in title III of that bill.

But sponsors of the bill have heard from their constituents—in the city of New York and other great metropolitan centers. These constituents do not want a racial balance in the public schools, and I do not blame them one bit. So the sponsors of the bill repudiated President Kennedy's recommendations in the House, and now the bill as passed by the House said nothing whatever about correcting any so-called racial imbalance.

And the "package" bill now being proposed in the Senate is a further repudiation of the late President Kennedy's recommendation—it spells out in clear and unmistakable terms that "desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance." This provision is section 401(b) of title IV in the "package" proposal.

Not only that, section 407(a) of title IV of the "package" proposal now proposes a prohibition and limitation on the power of any official or court of the United States to issue any order seeking to achieve a racial balance in any school by transporting students from one school district to another school district. This absolute limitation is in the following language:

> Provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards.

Mr. President, there could not be a further repudiation of the recommendation made by the late President on that subject than is done by the proposed package.

Still further, the original proposal by the late President Kennedy would have authorized the cutoff of Federal funds upon a finding of discrimination in the administration of Federal financial assistance in any program or activity "by way of grant, contract, loan, insurance, guaranty, or otherwise." This provision was widely recognized as one which would lead very quickly to "open housing" all over the Nation, in view of the widespread loan and guarantee programs of the Federal Government, operated through the Federal Housing Administration, the Veterans' Administration, the loan programs of banks, and the guarantees of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Federal Savings and Loan Insurance Corporation.

But all reference to such "insurance or guaranty" has now been deleted from the bill, further repudiating the recommendations of the late President Kennedy.

The original administration bill included a broad announcement of the policy of the Government of the United United States against discrimination based on race, color, religion, or national origin. That finding of policy has been deleted.

The original administration bill did not grant to the Attorney General broad authority to represent individual litigants charging discrimination based on race, color, religion, or national origin as proposed in the notorious title III debated and defeated in the Senate during consideration of the Civil Rights Act of 1957. But the "package" proposal now being discussed would give the Attorney General the authority to intervene for and in the name of the United States in any suit already commenced in any Federal court. It is obvious, of course, that it is a simple matter for someone to file a suit when he knows the Attorney General is ready to come in and take over the case for him—lock, stock, and barrel.

This provision is a "sleeper" and was tucked away and largely ignored as section 302 of title III in the bill which was adopted by the House of Representatives. But for some reason known only to its sponsors, this "sleeper" has been taken out of title III and now appears in the "package" proposal as section 902 of title IX. This blatant effort to breathe new life into old title III, which has been defeated time and time again on the floor of the Senate and in committee, is not only a repudiation for the late President Kennedy but is also a repudiation for the present President of the United States, Lyndon B. Johnson.

In 1957 President Johnson opposed title III giving such broad powers to the Attorney General. He made the motion to table the amendment proposing title III and spoke eloquently against giving the Attorney General such broad and sweeping power. The motion to table made by President Johnson—then Senate majority leader—was carried by a vote of 55 to 38.

And, Mr. President, it continues to astound the Senator from Mississippi that any person in the United States of America can conscientiously oppose the right of a trial by jury to any defendant whose liberty might be taken from him as the result of criminal charges made against him. I refer, of course, to the conviction of a person charged with criminal contempt of court in cases arising under the civil rights bill—a bill of such far-reaching consequences that it would create a vast arena of new crime.

The principle of trial by jury is so firmly imbedded in our whole system of government that the Senate should unanimously adopt the amendment proposed by the Senator from Georgia [Mr. TALMADGE], which I have been pleased to cosponsor along with several other Senators, and which is now pending, in effect, before the Senate.

This is the same amendment, word for word, that the Senate adopted in 1957 with a vote of 51 to 42. This is the same amendment that the late President John F. Kennedy voted for at that time. It is the same amendment which President Lyndon B. Johnson, in a major Senate speech, spoke for and voted for.

The continued opposition to this basic and fundamental right by the proponents of the bill, day in and day out, is a constant repudiation of the position of both President Johnson and the late President Kennedy.

Mr. President, if the so-called "package" civil rights bill is rammed through the Senate, it will not be a memorial to the late President John F. Kennedy but will be a sweeping repudiation of many of his own recommendations.

CHARLES R. ROSS: IN THE FPC'S BEST TRADITION

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may proceed for 10 minutes during the morning hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I have stressed in statements on the floor over the past few days the importance of the reappointment of Mr. Charles R. Ross as a Commissioner of the Federal Power Commission. The principal reason for emphasizing the importance of this reappointment is simply that the Congress has assigned certain responsibilities and functions to the FPC. To put it simply, to do its best to see that the profit earned by the major gas producers and the price paid by millions of American housewives in every State of the Union is fair and equitable to both producers and consumers.

In my judgment, Charles Ross, during the approximately 3 years he has been on the Commission, has met his responsibilities both to producers and consumers. Let us see exactly the type of cases in which Mr. Ross has participated and the nature of his decisions.

In the important area of the tax allowance to be included in utility rates, Ross has been a leader in limiting such allowances to that which the utility has an obligation. These tax issues have been decided by the narrowest of margins—3-to-2 votes—with two Commissioners advocating a so-called normalization theory which would increase the rates paid by consumers to the advantage of the utilities.

Some major pipelines conduct oil and gas exploration and production activities and take the position that a premium return should be allowed. This claim has been found to lack adequate justification and has not been allowed, again by 3-to-2 votes.

Ross has been effective in keeping down the price at which gas is currently sold for interstate consumption. He has formed a critical majority in some cases, and he supported lower prices than the majority were willing to concede in others.

Ross has also been particularly concerned to protect the rights of pipeline customers, and has evidenced this concern in a number of instances.

Let me summarize briefly some of the major cases in each of these general areas, the importance of these cases, and the role played by Commissioner Ross.

DECISIONS ON CASES ALLOWED IN GAS COMPANY RATES

In the case of the *Cities Service Gas Co.*, opinion 396 and 396–A, July 15, 1963, the issue was to determine the tax to be included in the rates of a pipeline company which participated in the filing of a consolidated return. The Commission, by a 3-to-2 vote, Ross supervising, held that the tax allowance to the pipeline should not exceed the total tax liability actually incurred by the consolidated system. The decision allocated the consolidated tax for the system between utility and nonutility companies on the basis of their respective incomes. Minority would have allowed a greater tax allowance in the pipeline's rates.

Investment tax credit interim accounting order, docket No. R–232, January 23, 1964: Expresses the Commission conclusion that the proper accounting treatment of the investment tax credit under existing law is flowthrough to income. Swidler, Ross, and Black formed the majority. O'Connor and Woodward dissented.

In the case of the *Alabama-Tennessee Natural Gas Co.*, opinion 417 and 417–A, February 3, 1964, by still another 3-to-2 vote—Swidler, Ross, and Black in the majority—the Commission announced a policy of computing the tax allowance of pipeline companies by bringing into consideration the deductions they are entitled to by virtue of section 167 of the Revenue Code; that is, liberalized depreciation. Commission further refused to include a return on the amounts collected by the pipelines in rates in excess of that needed to pay taxes under the prior Commission's policy.

DECISIONS UPHOLDING THE COMMISSION'S AUTHORITY UNDER THE NATURAL GAS ACT OVER SALES OF GAS AT WHOLESALE IN INTERSTATE COMMERCE

In the Lo Vaca Gathering Co. case, which was decided on October 23, 1961, by a 4-to-1 vote—Swidler, Kuykendall, Morgan, and Ross; O'Connor dissenting—held that a producer could not avoid the Commission's jurisdiction of its sales to an interstate pipeline where the gas is mixed in a stream going into interstate commerce simply by a contractual arrangement purporting to limit the gas for nonjurisdictional uses.

Bulk sale of gas in place—Rayne Field—by producers to a pipeline—Texas Eastern—was subject to the jurisdiction of the Commission as was any other type sale of gas by producers to pipelines. The proposed sale was not approved because of the excessive price of the gas and the parties were permitted to work out new arrangements. Swidler, Morgan, and Ross joined in the opinion. O'Connor filed a separate concurring statement and Woodward dissented.

Montana-Dakota Utilities Co., opinion No. 395, July 15, 1963: Essentially the same issue was presented here as in Lo Vaca. Here Kuykendall had left the Commission, and the vote was 3 to 2: Swidler, Morgan, and Ross; O'Connor and Woodward dissenting.

United Gas Pipe Line, opinion 401, August 26, 1963: A 3-to-2 opinion by Ross, joined by Swidler and Morgan—O'Connor and Woodward dissenting—holding that a certificate from the FPC is required regarding sales from an interstate transmission system to distributors for resale, which sales were made within the State where some of the gas was produced.

DETERMINATION OF APPROPRIATE RATE OF RETURN FOR PIPELINE PRODUCTION

In the El Paso Natural Gas Co. case, decided October 19, 1962, the Commission held by a 3-to-2 vote—Swidler, Ross, and Morgan; O'Connor and Woodward dissenting—that El Paso had failed to demonstrate that it was entitled to a premium rate of return for its production activities, and allowed a return equivalent to that granted its transmission function. O'Connor and Woodward would have allowed a higher rate of return for production.

Southern Natural Gas Co., opinion 379, February 18, 1963: Another pipeline rate case involving the question of return on pipeline production. No premium allowed by 4-to-1 vote. In separate concurring statement Ross spells out in detail the principles that should be applied to this issue. Morgan and O'Connor filed concurring statements; Woodward dissented.

In the Union Producing Co. case, decided on March 6, 1964, the Commission held, in a 3-to-2 decision—Swidler, Black, and Ross; O'Connor and Woodward dissenting—Commission disallowed Union's rate increases, and refused to allow a premium rate of return or fair field prices since Union was an affiliate of United Gas Pipeline. Black filed concurring statement.

DECISIONS INVOLVING THE INITIAL PRICE AT WHICH THE SALES OF GAS BY PRODUCERS SHOULD BE CERTIFICATED

In the Skelly Oil Co. case, decided August 30, 1962, Ross dissented to the majority's failure to condition to 15 cents per thousand cubic feet, sales of gas in Texas district 4, initiated between September 28, 1960, and August 30, 1962, which sales were tried in the case. Ross concurred in the majority's conditioning the sales instituted prior to September 28, 1960, to 15 cents. Morgan joined Ross' statement.

Fifth amendment to statement of general policy, August 30, 1962: Ross dissented to majority's establishment of a 16-cent guideline ceiling price for gas sales from Texas district 4, and stated that 15 cents was the proper price. Morgan also dissented to the same effect.

Tenneco Oil Co., docket No. CI63-334, December 28, 1962: Ross dissents to majority's refusal to schedule a hearing to determine the appropriate price of a producer sale, as requested by the New York Public Service Commission.

In the Texaco Seaboard, Inc., case, decided March 27, 1963, the Commission conditioned proposed producer sales of gas to 16 cents per thousand cubic feet in district 3. Ross, joined by Morgan, dissented on the basis that the public interest required that a price no higher than 15 cents be paid.

Sixth amendment to statement of general policy, March 27, 1963: Ross, Morgan dissent to majority establishing a 17-cent guideline ceiling with respect to producer sales of gas from Texas district 3; said 16 cents was proper price.

Hassie Hunt Trust, opinion 412 and 412-A, December 9, 1963: Same issue presented here regarding sales in Texas district 2 as in Skelly, opinion 362. Ross, joined by Black dissent to majority's failure to take action on the applications involving sales instituted between September 28, 1960, and December 9, 1963, tried in that case by conditioning the price to 15 cents, which was the action taken on the district 3 sales tried in the case which were begun prior to September 28, 1960.

Eighth amendment to statement of general policy, December 9, 1963: By a 3-to-2 vote—Swidler, Ross, and Black; O'Connor and Woodward dissenting—Commission reduced guideline price for Texas district 2 from 18 to 16 cents per thousand cubic feet.

Amarada Petroleum Corp., opinion 422, March 23, 1964: Majority, relying on temporary authorizations, holds that 16 cents per thousand cubic feet is the proper price for the sales initially heard in Skelly and retried in this case, and other similar sales from Texas district 4. Ross dissents contending that 15 cents is the price required by the public interest.

RESPONSIBILITY OF NATURAL GAS COMPANIES TO MAKE REFUNDS

Midwestern Gas Transmission Co., opinion 394, July 12, 1963: Opinion requiring Midwestern to refund the amounts it received from its affiliate Tennessee representing producer refunds from the sale of gas. Decision was 3 to 2: O'Connor and Woodward dissenting; Swidler, Ross, and Morgan in majority.

Placid Oil Co., opinion 398, July 17, 1963: One issue involved a producer's obligation to make refunds down to the level found consistent with the public interest during the term of temporary authorization. Ross, joined by Morgan, dissented to majority's refusal to order such refunds.

ACCEPTANCE OF ARTIFICIAL PRODUCER PRICE ESCALATIONS (TRIGGERING)

Shell Oil Co., opinion 382, March 15, 1963: Morgan and Ross take the position that no producer price increases to excessive levels should be permitted to take effect if they are based on artificial factors until economic justification is shown. The majority would prohibit such increases only on a prospective basis.

Union Texas Petroleum, docket Nos. G-13221, et al., order of November 19, 1963: Ross dissents to acceptance of one producer settlement because, according to the majority position in Shell, FPC acceptance of the settlement would confirm the producer price as a legal triggering rate. Black joins in Ross' dissent.

Docket No. R61-2, order of November 19, 1963: Ross, joined by Black, declares in a dissent that temporary authorizations are not legally sufficient to trigger producer prices.

CASES INVOLVING RIGHTS OF PIPELINE CUSTOMERS

American Louisiana Pipe Line Co., opinion 402, September 17, 1963: Ross dissented to FPC certification of a lucrative direct sale by a pipeline, when the local distributor was currently making the sale. Ross recommended that this issue be remanded for a full disclosure of any public interest reasons for the switch.

Graridge Corp., opinion 408, October 31, 1963: Commission opinion by O'Connor joined by Woodward and Swidler, holding that authorizing producer sales of gas to pipelines should be granted by the Commission without conditions as to price when the Commission had authorized a similar sale from a predecessor in interest. Black and Ross dissented, stating their agreement with the distributors' position that the Gas Act required the Commission to weigh carefully the public interest aspects of granting new certificates to new parties.

Carolina Pipeline against Southern Natural Pipeline Co., opinion 423, March 30, 1964: Ross, in a dissenting statement, stated that a pipeline customer cannot discriminate among its various customers in the delivery of interruptible gas by the use of an undefined and ambiguous tariff.

POWER DECISIONS

Black Hills Power & Light Co., memorandum opinion, December 27, 1962: By 3-to-2 vote—Swidler, Morgan, and Ross;

O'Connor and Woodward dissenting—the Commission did not approve a stock option plan for management officials in the absence of evidence showing that the plan was consistent with the requirements of section 204 of the Power Act.

Pacific Power & Light Co., opinion 381-A, August 19, 1963: Ross and Morgan dissent to the requirement imposed by the majority on the State of California to contribute a portion of the operating costs of a fish hatchery which was required to compensate for the licensee's interference with the fish runs.

Yadkin, Inc., project No. 2197, order of October 3, 1963: Ross filed a supplemental statement in the order amending the license in which he advocated the immediate institution of a formal proceeding to adduce evidence with respect to the power, recreational, and other public uses for which the project was licensed in view of the numerous complaints filed to the application.

South Carolina Electric & Gas Co., opinion 411, November 21, 1963: This case involved granting a license for a hydroelectric project constructed in 1905. In a comprehensive statement, Ross described those areas which the Commission should explore in granting licenses for old projects. He emphasized the practical necessity of determining whether the project was economic.

There is a whole series of similar cases. If time permitted, I could go into great detail on them, but they all corroborate the point I am trying to make—that Mr. Ross has been fighting hard to bring justice between the utilities and the consumers, and his decisions have been, in many crucial cases, 3-to-2 decisions, on the side of the consumer.

ROSS DECISIONS CONSISTENT WITH LAW

It may well be asked if the positions taken by Ross in these cases are consistent with the congressional intent in passing the Natural Gas Act and if they are consistent with the law itself. The best assessment of this question is provided by the Supreme Court, which reviews the decisions of the Federal Power Commission, to judge their consistency with the law.

Mr. President, I ask unanimous consent to have incorporated in the RECORD brief excerpts from what the Supreme Court has said about this law and the role of the FPC.

Summarizing, the Supreme Court's decisions are, one for one, very consistently along the line decided, and decided, in my judgment, very ably and competently, by Commissioner Ross.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

F.P.C. *v.* HOPE GAS CO., 320 U.S. 591 (1944)

The primary aim of this legislation—the Natural Gas Act—was to protect consumers against exploitation at the hands of natural gas companies. Due to the hiatus in regulation which resulted from the *Kansas Gas Co.* case and related decisions State commissions found it difficult or impossible to discover what it cost interstate pipeline companies to deliver gas within the consuming States; and thus they were thwarted in local regulation. House Report No. 709, supra page 3. Moreover, the investigations of the Federal Trade Commission had disclosed that the majority of the pipeline mileage in the country used to transport natural gas, together with an increasing percentage of the natural gas supply for pipeline transportation, had been acquired by a handful of holding companies. State commissions, independent producers, and communities having or seeking the service were growing quite helpless against these combinations. These were the types of problems with which those participating in the hearings were preoccupied. Congress addressed itself to those specific evils.

PHILLIPS PETROLEUM CO. *v.* WISCONSIN, 347 U.S. 671 (1954)

We noted that "[e]xceptions to the primary grant of jurisdiction in the section [1(b)] are to be strictly construed," id., 331 U.S. at 690, 691, and held that section 1(b) conferred jurisdiction over such sales on the Federal Power Commission, stating:

"Petitioner asserts * * * that the sales to the three pipe-line companies are a part of the gathering process and consequently not within the Commission's power of regulation. This basic contention has given rise to a great many subsidiary questions such as whether the sales were made from petitioner's 'gathering' lines or from petitioner's 'transmission' lines and whether the gathering process continued to the [680] points of sale or was, as the Commission found, completed at some point prior to surrender of custody and passage of title. We have found it unnecessary to resolve those issues. The gas moved by petitioner to the points of sale consisted of gas produced from petitioner's wells commingled with that produced and gathered by other companies and introduced into petitioner's pipe-line system during the course of the movement. By the time the sales are consummated, nothing further in the gathering process remains to be done. We have held that these sales are in interstate commerce. It cannot be doubted that their regulation is predominantly a matter of national, as contrasted to local concern. All the gas sold in these transactions is destined for consumption in States other than Louisiana. Unreasonable charges exacted at this stage of the interstate movement become perpetuated in large part in fixed items of costs which must be covered by rates charged subsequent purchasers of the gas, including the ultimate consumer. It was to avoid such situations that the Natural Gas Act was passed." (Id., 331 U.S. at 692, 693.)

The short answer to this contention is that the jurisdiction of the Federal Power Commission was not intended to vary from State to State depending upon the degree of State regulation and of State opposition to Federal control. We expressly rejected any implication to the contrary, in the Interstate Case.

The cases discussed above supply a ready answer to the determination of the Commission and also to petitioners' suggestion that "production or gathering" should be construed to mean the "business" of production and gathering, with the sale of the product considered as an integral part of such "business." We see no reason to depart from our previous decisions, especially since they are consistent with the language and legislative history of the Natural Gas Act.

In general, petitioners contend that Congress intended to regulate only the interstate pipeline companies since certain alleged excesses of those companies were the evil which brought about the legislation. If such were the case, we have difficulty in perceiving why the Commission's jurisdiction over the transportation or sale for resale in interstate commerce of natural gas is granted in the disjunctive. It would have sufficed to give the Commission jurisdiction over only those natural-gas companies that engage in "transportation" or "transportation and sale for resale" in interstate commerce, if only interstate [682] pipeline companies were intended to be covered. See *Federal Power Com.* v. *East Ohio Gas Co.*, 338 U.S. 464, 468, 94 L. ed. 268, 275, 70 S. Ct. 266.

Rather, we believe that the legislative history indicates a congressional intent to give the Commission jurisdiction over the rates of all wholesales of natural gas in interstate commerce, whether by a pipeline company or not and whether occurring before, during, or after transactions.

ATLANTIC REFINING CO. *v.* P.S.C. 360 U.S. 378 (1959)

II. The validity of the order

The purpose of the Natural Gas Act was to underwrite just and reasonable rates to the consumers of natural gas. *Federal Power Commission* v. *Hope Natural Gas Co.*, 320 U.S. 591 (1944). As the original section 7(c) provided, it was "the intention of Congress that natural gas shall be sold in interstate commerce for resale for ultimate public consumption for domestic, commercial, industrial, or any other use at the lowest possible reasonable rate consistent with the maintenance of adequate service in the public interest" (52 Stat. 825). The act was so framed as to afford consumers a complete, permanent and effective bond of protection from excessive rates and charges. The heart of the act is found in those provisions requiring initially that any "proposed service, sale, operation, construction, extension, or acquisition * * * will be required by the present or future public convenience and necessity," section 7(e), 15 U.S.C. section 717f(e), and that all rates and charges "made, demanded, or received" shall be "just and reasonable," section 4, 15 U.S.C. section 717c. The act prohibits such movements unless and until the Commission issues a certificate of public convenience and necessity therefor, section 7(c), 15 U.S.C. section 717f(c). Section 7(e) vests in the Commission control over the conditions under which gas may be initially dedicated to interstate use. Moreover, once so dedicated there can be no withdrawal of that supply from continued interstate movement without Commission approval.

In view of this framework in which the Commission is authorized and directed to act, the initial certificating of a proposal under section 7(e) of the act as being required by the public convenience and necessity becomes crucial. This is true because the delay incident to determination in section 5 proceedings through which initial certificated rates are reviewable appears nigh interminable. Although *Phillips Petroleum Co.* v. *Wisconsin,* 347 U.S. 672, was decided in 1954, cases instituted under section 5 are still in the investigative stage. This long delay, without the protection of refund, as is possible in a section 4 proceeding, would provide a windfall for the natural gas company with a consequent squall for the consumers. This the Congress did not intend. Moreover, the fact that the Commission was not given the power to suspend initial rates under section 7 makes it the more important, as the Commission itself says, that "this crucial sale should not be permanently certificated unless the rate level has been shown to be in the public interest" (17 F.P.C. 563, 575).

New price plateaus will thus be created as new contracts are made and unless controlled will result in "exploitation" at the expense of the consumer, who eventually pays for the increases in his monthly bill.

The fact that prices have leaped from one plateau to the higher levels of another, as is indicated here, does make price a consideration of prime importance. This is the more important during this formative period when the ground rules of producer regulation are being evolved. Where the application on its face or on presentation of evidence signals the existence of a situation that probably would not be in the public interest, a permanent certificate should not be issued.

There is, of course, available in such a situation, a method by which the applicant and the Commission can arrive at a rate that is in keeping with the public convenience and necessity. The Congress, in section 7(e), has authorized the Commission to condition certificates in such manner as the public convenience and necessity may require. Where the proposed price is not in keeping with the public interest because it is out of line or because its approval might result in a triggering of general price rises or an increase in the applicant's existing rates by reason of "favored nation" clauses or otherwise, the Commission in the exercise of its discretion might attach such conditions as it believes necessary.

SUNRAY OIL CO. *v.* F.P.C., 364 U.S. 137 (1960)

The consequences of petitioner's argument do not stop there. The identical provisions of the Natural Gas Act regulate pipeline companies as well as independent producers. If producers can insist in their certificates on the inclusion of a provision relieving them in advance from their obligation to continue the supply of gas, as of a date certain, pipeline companies—whose dealings with local distributing companies generally also take the form of a "sale" of gas to them—could insist on a similar provision. If an individual producer were thus left free to discontinue his supply, the transmission company would be forced to find a supplier of gas elsewhere, and make connection with him, to continue its service; and the consumer ultimately would pay the bill for the rearrangement. If the pipeline company were left free to cease its service to the local distribution company, a local economy which had grown dependent on natural gas as a fuel would be at its mercy. And this, though the primary practical problem that led to the passage of the act was the great economic power of the pipeline companies as compared with that of communities seeking natural gas service. See *Federal Power Comm'n* v. *Hope Natural Gas Co.*, 320 U.S. 591, 610.

CONCLUSION

Mr. PROXMIRE. Mr. President, from the very moment the Supreme Court's Phillips decision was handed down, the producers have untiringly strained—and are striving at this moment—to break the bond of effective regulation. As Senator Douglas pointed out in the Senate yesterday, three times they have been rebuffed in their attempts to secure "corrective" legislation, and a fourth attempt is presently underway. I referred several days ago to the article in the Washington Post, May 31, 1964, page 1, pointing out the photo promoted by a PR firm for the producers.

Their efforts do not stop here. The producers—at least the large producers—are incessant in attempting to subvert effective regulation under the Natural Gas Act. For example, once it appeared that the former do-nothing Commission would be forced, by the Supreme Court's Catco decision, to take some action on skyrocketing producer prices, the producers conspired with the pipelines to avoid FPC scrutiny of their interstate sales by the device of a so-called in-place sale. Under this scheme, a producer hypothetically sells certain leases to a pipeline, known to contain substantial volumes of gas. A mere transfer of leases, the producers, and the pipelines argued, was outside the sphere of FPC jurisdiction.

If this ploy were successful, producer regulation would today be an exercise in futility. It is obvious that virtually every interstate sale of gas by producers to pipelines could be fashioned by clever lawyers as an in-place sale. But a majority of the present Commission was not deceived.

Commissioner Charles R. Ross authored the opinion and decision in one of the earliest of this type of case to come before the Commission—Tennessee Gas Transmission Co., docket No. G–16842, and others, September 19, 1963, opinion No. 403. In that case, a group of four producers contracted to sell the Ship Shoal leaseholds to Tennessee Gas Transmission Co. for $97⅓ million. These are no small transactions. While the sale was labeled as one of leaseholds, a close examination of the various documents incident to the sale revealed that the actual purchase price varied according to the volume of gas and oil actually produced. These and other pertinent factors were clearly described in the carefully prepared opinion in that case.

This is but one example of the critical necessity of appointing capable knowledgeable persons to the FPC—persons who have a real appreciation for the primary role of that agency—a role which the Supreme Court has heralded again and again: To protect this Nations' consumers from exploitation at the hands of natural gas companies. This is why it is so important for Commissioner Ross to be reappointed for a full term on the Federal Power Commission.

D-DAY, JUNE 6, 1944

Mr. PROXMIRE. Mr. President, today is the 20th anniversary of D-day, the invasion of Europe by the Allied Forces on June 6, 1944. It was a day of great heroism on the part of American troops who landed in Europe, racing squarely into the firepower of German guns. It was a great day for a former President of the United States, General Eisenhower.

I ask unanimous consent that an eloquent New York Times editorial paying tribute to those who fought and lived and died on June 6, 1944, in the famous landings be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

June 6, 1944

It was, for Western Europe, the end of the long, long night, the beginning of the dawn. The Allied invasion, 20 years ago, of Festung Europa opened the last chapter of the Hitler tyranny. It prefaced the liberation of half a continent. It established new superlatives in military power. It marked a historical turning point. Schoolchildren a generation hence will memorize the date—June 6, 1944—and will study its significance.

But this is not the way the men who were there would like to be memorialized. Not that they were unaware of the responsibilities of freedom, nor that they were unaware of drama. They knew they occupied the center of the stage of history; the world waited in the wings.

But the complex of human emotions which move those who face death in battle, who stormed the beaches of the "far shore" in Normandy, is not easily depicted for those who were not there, and least of all for generations yet to come, far removed from topical passions. Those fighting legions were young, and they wanted, with all the fierce ardor of the young, to live, to breathe, to have their being.

They were afraid to die and yet more afraid of inner cowardice than of German guns. There was the bond of comradeship, and the sense of obligation. There was the melding of the self into an army with a common purpose. There was a belief in country and a respect for leaders who braved the same hazards as the led.

Those men who were there during the long and bitter hours on Omaha and Utah, Sword and Juno beaches would like to be remembered—both those who lived and those who died—as human beings peaked to high purpose in a moment of high destiny. They did not think much about themselves as makers of history, but they would like to live in history, as men who tried, who did their duty as they could, and who, in trying, opened—as they hoped—a new and better period in man's relationship to man.

RELIEF FOR SENECA INDIANS

Mr. JAVITS. I wish to call the attention of the Senate to what I consider to be a most unhappy and deplorable situation, affecting the Seneca Indians who live in my State. The Senecas have been the constant concern of my former colleague, Senator Ives, my present colleague [Mr. Keating], and myself, with respect to their displacement from a very important part of their reservation as a result of the construction of the Kinzua Dam.

It is a unique case in that the United States, in a treaty signed by George Washington in 1794, bound itself never to claim these lands or "disturb the Seneca nation."

The courts have nevertheless held that, on the ground of eminent domain and public policy, the Government can override the solemn promises made to the Indians. But it certainly puts our Government under a very grave moral obligation to this nation of Indians. The late Senator Ives urged, and my colleague [Mr. Keating] and I have urged the need for fulfilling the responsibility involved in our moral obligations in respect to the displacement of the Seneca Indians.

Yet, the Senate and House conferees are now completely tied up in deciding to what extent the Government shall compensate the Senecas for loss of their land and homes. In fact, according to press reports, the conferees have not met for 6 weeks, in an effort to adjudicate the amount to which the Indians are entitled. The House had allowed $20,146,575, as compared with the Senate allowance of $9,123,123.

The conference remains deadlocked.

The Indians have to find new homes by October 1. They are still looking for elemental justice.

When the bill was before the Senate, it was reduced by more than $11 million, which would have gone into a rehabilitation fund for these Indians, to which my colleague [Mr. Keating] and I felt they are justly entitled. But we thought we would not stand athwart the bill because it might delay the matter further and we thought that a conference would speedily resolve the difference.

However, the Indians are not getting the money to which they are entitled, on the basis of either the Senate or the House version, or some compromise between them. Grave difficulties are involved, as well as hardships, and the danger of compounding the violation of deep moral responsibility on the part of the United States.

In a case like this, it is the duty of the conferees, if they cannot agree, to come back and ask to be discharged so that the Senate may dispose of the matter by appointing new conferees, or to accept the House bill, or in some other way to deal with this urgent situation.

This situation has been called to the attention of the country by an article in the New York Times today. I ask unanimous consent that it may be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, June 6, 1964]

Congress Stalls Seneca Payment—Deadlock Continues Over Funds for Lost Homes

(By Warren Weaver, Jr.)

Washington, June 5.—Time is running out for the Seneca Indians while Congress remains almost hopelessly deadlocked over the merits of their cause.

The Indians live on a 30,400-acre reservation near Salamanca, N.Y., a third of which will be flooded next fall by the Kinzua Dam on the Allegheny River in northwestern Pennsylvania, inundating their homes.

A Senate-House conference committee that is trying to decide how much the Federal Government owes the Indians for a share of their reservation has not held a meeting in 6 weeks and has none scheduled.

This committee is charged with reconciling two Seneca bills: A House measure that would give the Indians $20,146,575 for their loss of property and resulting damages and a Senate bill that provides only $9,123,123.

DIVISION IS DEEP

So deep and fundamental is the division between supporters of the two versions that those who have attended the only two conference meetings see little immediate possibility of resolving the difference.

Meanwhile, the 482 Senecas who will be displaced by the flooding have until October 1 to find themselves new homes, and they have no money to do it with.

The $11 million discrepancy between the two bills results almost entirely from the size of a rehabilitation fund. This, in turn, hinges on how much responsibility the Government has for rehabilitating a people to whom it has broken its word.

In 1794, the Government set up the reservation and provided in a treaty that "the United States will never claim the same nor disturb the Seneca Nation."

VIOLATION IS CONCEDED

The dam and the flooding concedely violate that treaty; the question is, What constitutes just recompense for the violation?

Members of the House Interior Committee felt the Senecas deserved more than mere reimbursement for land and moving. They included in their bill a $16.9 million fund to initiate construction of an "Indian Williamsburg" on a section of the remaining reservation.

This would be an educational tourist attraction, an authentic re-creation of early Indian life operated by the Senecas. It would include motels, swimming pools, parking lots, and similar facilities, as well as exhibits.

The Senate Interior Committee, which cut this back to $6.1 million, is convinced that such spending bears no valid relationship to the injury the Senecas have suffered.

When a conference committee is deadlocked, it stops meeting until its senior members detect some shift in opinion that would justify hope of agreement. For the Seneca funds, no such shift has come.

Mr. JAVITS. Mr. President, I believe that this problem should appeal to the conscience of the Senate. I hope very much that Senators who are concerned will carefully consult their consciences in light of the situation and facilitate, at long last, a final disposition of the matter which I believe is so trying and imposes such hardship on the Indians concerned, especially in view of the solemn promise of the U.S. Government.

I repeat, if the conferees cannot agree—the conferees have not even met for 6 weeks—they should seek to be discharged. Let us then appoint new conferees, or otherwise deal with the problem.

TRIBUTE TO THE GREAT HEROES OF THE NORMANDY INVASION, JUNE 6, 1944

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the Record a tribute to the great heroes of our Nation who landed on the beaches of Normandy 20 years ago, as published in editorials today in the New York Times and the New York Herald Tribune.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the New York Times, June 6, 1964]

June 6, 1944

It was, for Western Europe, the end of the long, long night, the beginning of the dawn. The Allied invasion, 20 years ago, of Festung Europa opened the last chapter of the Hitler tyranny. It prefaced the liberation of half a continent. It established new superlatives in military power. It marked a historical turning point. School children a generation hence will memorize the date—June 6, 1944—and will study its significance.

But this is not the way the men who were there would like to be memorialized. Not that they were unaware of the responsibilities of freedom, nor that they were unaware of drama. They knew they occupied the center of the stage of history; the world waited in the wings.

But the complex of human emotions which move those who face death in battle, who stormed the beaches of the "far shore" in Normandy, is not easily depicted for those who were not there, and least of all for generations yet to come, far removed from topical passions. Those fighting legions were young, and they wanted, with all the fierce ardor of the young, to live, to breathe, to have their being.

They were afraid to die and yet more afraid of inner cowardice than of German guns. There was the bond of comradeship, and the sense of obligation. There was the melding of the self into an army with a common purpose. There was a belief in country and a respect for leaders who braved the same hazards as the led.

Those men who were there during the long and bitter hours on Omaha and Utah, Sword and Juno beaches would like to be remembered—both those who lived and those who died—as human beings peaked to high purpose in a moment of high destiny. They did not think much about themselves as makers of history, but they would like to live in history, as men who tried, who did their duty as they could, and who, in trying, opened—as they hoped—a new and better period in man's relationship to man.

[From the New York Herald Tribune, June 6, 1964]

D-Day-Plus 20

Twenty years ago this morning, at 6:30 a.m., American steel, combined with American, British, and Canadian blood, hit the five beaches of Normandy (Utah, Omaha, Gold, Juno, and Sword), breached the supposedly invincible Atlantic wall, and sped like an arrow straight at the heart of Hitler and Hitlerism in Berlin. It was the beginning of the end of the most terrible war waged on earth.

Looking back on that unforgettable day in history, as the supreme commander of the operation, General Eisenhower, will do in a series of articles beginning in tomorrow's Herald Tribune, there are at least three elements we must thank for that glorious feat. First, the guts of the GI. Then, the sure instinct and the ingenuity of the British. Finally, luck.

The guts of the GI carried him through the tortures of seasickness which only those who suffered endless hours of buffeting by the angry waters of the English Channel can begin to imagine. And they carried him, notably at Omaha Beach, through the fearsome fire of German batteries which our intelligence had failed to detect in time.

The British, by insisting on the longer crossing to Normandy, tricked the Germans into believing we would take the shorter and more obvious passage to Pas-de-Calais and enabled us to catch Hitler's armies completely by surprise, saving countless Allied lives and promoting the success of the undertaking.

Luck, which General Eisenhower plucked from the heavens, gave him the favorable elements of weather without which the greatest single assault by man could have turned into the greatest disaster in history.

Today the beaches, from which the dead have long been removed, are filled with children playing in the sunshine. The waters are filled with holiday sailboats. And the hearts of free men everywhere are filled with gratitude to all those who produced the change, there and around the world.

TRANSPORTATION'S NO. 1 PROBLEM—BOOTLEG TRUCKING

Mr. COTTON. Mr. President, one of the key issues in transportation policy today is the problem of illegal trucking. This is a neglected, often misunderstood aspect of our transportation system, which has aptly been described as a cancer that threatens to sap the strength and vitality of our common carrier haulers of freight. I believe that the time has come when the Congress, and the country, must focus more clearly on the problem and the means of attacking it.

The average motorist on any crowded highway in the United States would not know an illegal or "bootleg" truck from any other. But they are there—and by the thousands. Some authorities estimate that as many as 27 out of every 100 trucks engaged in intercity transportation are bootleg operators, and that at least 5,000, and some say up to 30,000, trucks move illegally along the Nation's highways every day.

What is illegal transportation?

Common carriers are regulated by State and Federal laws to assure that the Nation has a basic transportation system which will provide the public with adequate service at reasonable rates without unfair preference or discrimination.

Competing with these carriers are many thousands of unregulated motor carriers who, quite legally, can haul a long list of commodities, mostly agricultural, which are specifically exempt from Federal regulation. Business concerns also may use their own trucks to move their own goods without regulation.

The trouble comes from the nonregulated trucker who hauls commodities for hire that by law are supposed to move only under public regulation; and from the private carrier who engages in for-hire operations by transporting freight other than his own.

Often a truck may operate legally in one direction, then, to prevent an empty haul back, will carry an illegal load of goods on the return trip.

Many of these illegal operations involve the use of disguises and subterfuges to mask their true nature. For example, a Federal inspector stopped a refrigerated truck in Georgia. The driver promptly produced a paper showing the load consisted of fresh vegetables, which he could legally carry, but when the inspector looked inside the trailer, he found bathtubs. Truckers have been known to use washable paint to change the name on the door of the truck for each load they carry so that they can claim to be private carriers.

Improper "buy and sell" operations are often involved in illegal trucking. The trucker supposedly buys the goods he carries and then sells them at his destination, claiming he is a private carrier legally hauling his own property. The classic case of this type involved a truckload of razors and razor blades worth $5,500, which the driver claimed he owned. Yet, according to the law enforcement officer, he had only 30 cents in his pocket and had not even shaved. Illegal shipping associations and illegal agricultural cooperatives also contribute to the problem.

The problem is the more critical because illegal transportation is big business. The Interstate Commerce Commission, on the basis of road checks in 42 States, has estimated that it involved a minimum of $500 million a year. Many other experts feel the cost of illegal transportation is much higher, amounting to from $1 to $5 billion a year. They base their higher estimate on the obvious shortcomings of the 42-State road check which let many of the fish slip through the net. I am inclined to believe that the cost of illegal transportation exceeds the ICC minimum figure by a considerable amount.

While this annual cost of a billion dollars or more is a direct measure of the revenue lost by the regulated carriers, both truckers and railroads, to illegal transportation, it is much more than that.

First, the loss is serious in terms of the common carrier industry, which is regulated in the public interest, because these carriers are the backbone and muscle of the Nation's transportation system. They are of crucial importance because of their obligation to serve all kinds of customers in virtually every community in the Nation, in good weather and bad, in good times and bad. Without common carriers with a universal obligation to serve the public, transportation would quickly deteriorate into a means of promoting the concentration of economic activity in a few hands and in a few locations. The public interest requires that we protect these carriers against the abuses of those who do not assume any public obligation for service.

Furthermore, the presence of bootleg trucking penalizes the shipper, the community, and the public more directly. The illegal operator often finds that he can evade the tax laws as well as evade the transportation laws, and the law abiding pay the difference. The public also pays more for goods, because freight moved illegally takes revenues from the lawful common carriers, and rates must go up to pay fixed operating costs such as labor, maintenance, and equipment. Furthermore, the evidence to date indicates that illegal truckers are far more prone to highway accidents than are the lawful operators, whether they are common, contract, or private carriers.

For these reasons, then, illegal transportation is a major problem, one that requires some action by Congress, by the States, and by all those affected. This problem has been called the "gray area" of transportation. This is a clear misnomer. The problem is not gray, but black. It arises from illegal transportation, not from legitimate private carriers acting in furtherance of their primary business activity, not from the legal transportation of exempt commodities, and not from the activities of lawful shippers associations or farm cooperatives.

New definitions of illegal transportation are not required, but there is a critical need for better laws and stepped up efforts for the enforcement of present bans against unlawful, bootleg transportation. A four-pronged approach is required, in my opinion: Better enforcement laws at the Federal level, strengthened efforts by Federal agencies to police the situation, improved Federal-State cooperation, and better enforcement and laws where needed at the State level. I might add, there are some States that are doing a good job in combating illegal transportation, but there are many that are not. The first three of these methods fall within the jurisdiction of the Congress, and I believe it is high time we took some action on them.

Two of these avenues of attack can be approached through the enactment of new legislation now pending before the Senate Commerce Committee. This is S. 2796, which the Senator from Washington [Mr. MAGNUSON], chairman of the committee and I originally introduced, to strengthen and improve our national transportation system.

The bill would muster new weapons in the legal fight against unlawful transportation. It would increase the penalties for unlawful transportation activities, ease some of the legal burdens which handicap the ICC effort, and provide new means of legal recourse for those damaged by illegal operations.

Furthermore, it would also clear the way for improved cooperation between the Federal agency, the Interstate Commerce Commission, and the various State enforcement agencies. I regard this as particularly important because Federal-State cooperation, with primary emphasis on State action, is a sound and effective means of proceeding. This approach has won the wholehearted support of many groups, including the National Association of Railroad and Utilities Commissioners, the National Conference of State Transportation Specialists, the Committee Against Unlawful Transportation sponsored by the Transportation Association of America, and the Committee on Transportation Practices, which is a joint activity of the Regular Common Carrier Conference, the Common Carrier Conference—Irregular Route, and the National Motor Freight Traffic Association, all affiliates of the American Trucking Association. The Association of American Railroads has also endorsed this approach.

Thus, the proposals in S. 2796 have already won widespread support from virtually all the sometimes warring elements among the various modes in our highly competitive transportation industry. They have also had strong support from the Senate, and from the House Committee on Commerce. I can see no gain in waiting longer to write them firmly and finally into law.

The enactment of S. 2796 will not end the problem of illegal transportation. It is no panacea, but it would be an effective, positive step in the right direction, toward a strengthened, improved national transportation system proving adequate service and reasonable rates to all.

We must also increase the effectiveness of the Interstate Commerce Commission by strengthening its enforcement force, and we must encourage the States to act affirmatively to enforce their own prohibitions against illegal transportation. All of these things we can do now, at this session of Congress, without waiting for anything or anyone.

The alternative is inaction—to sit still and do nothing while illegal transportation insidiously undermines the foundations of the world's finest transportation system.

Mr. MAGNUSON. Mr. President, I compliment the Senator from New Hampshire on his remarks, which have been addressed to a very important problem.

Mr. COTTON. I thank the distinguished Senator from Washington.

TRIBUTE TO JOSEPH F. McCAFFREY, ABC COMMENTATOR, ON 20 YEARS' SERVICE ON CAPITOL HILL

Mr. MANSFIELD. Mr. President, I should like to express my high regard for Mr. Joseph F. McCaffrey, commentator for the American Broadcasting Co., who this week will complete 20 years of service as a Capitol Hill commentator on radio and television.

Joe McCaffrey occupies a special niche in the media of communications. Speaking personally, I find that I become better informed listening to his programs as to what is going on in both House and Senate, as well as in the committees of both Houses.

He has rendered an impartial and outstanding job of reporting during the many years he has been stationed among us. He has tried to show both sides of all questions and, in my opinion, has given fair, decent, and impartial consideration to the views of both parties.

I hope that the first 20 years of Joe's service marks only the beginning of an already illustrious career, and that the years ahead will keep him with us so that we will be better informed as to what is going on within the Congress, and in its committees; and also that he will be able to continue to bring forth his views of the legislative process, as to what goes on therein, to the people of the Nation's Capital as well as to the Nation as a whole.

In my opinion he is one of the Nation's outstanding reporters. I have always admired his work. I wish him well in the years ahead, and I assure him that he can number me among his steady listeners.

Mr. ERVIN. Mr. President, I desire to concur in the remarks the distinguished majority leader has made concerning Mr. Joseph McCaffrey, and to commend Mr. McCaffrey for his 20 years of service as an ABC commentator on Capitol Hill.

I do not believe it would be possible for any commentator upon the passing scene to report current public events with a higher degree of accuracy, a higher degree of impartiality, or a higher degree of objectivity than Mr. McCaffrey.

Mr. MAGNUSON. Mr. President, I wish to join the Senator from North Carolina in commending Mr. McCaffrey on his 20 years of service on Capitol Hill.

It seems to me that the great contribution he makes is that he can take a day in the Senate—a long day—a day that may be complicated, with all kinds of viewpoints, subjects, rollcalls, and the general business of the Senate being conducted and, toward the end of the day, put what was done into two or three succinct and easily understood paragraphs.

It has always been illuminating to me, even to those of us who might have participated during many long days in the Senate, to see how simple and down to earth he makes it seem, at the end of the day.

I join the majority leader and the Senator from North Carolina in commending Mr. McCaffrey.

BIPARTISAN CIVIL RIGHTS NEWSLETTERS

Mr. MAGNUSON. Mr. President, the bipartisan floor leaders of the civil rights bill make a practice of placing our daily newsletters in the Record at periodic intervals. I ask unanimous consent that newsletters Nos. 66 through 71 be printed at this point in the Record.

There being no objection, the newsletters were ordered to be printed in the Record, as follows:

Bipartisan Civil Rights Newsletter No. 66, June 1, 1964, 50th Day of Debate on H.R. 7152, 67th Day of Debate on Civil Rights

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator Hubert H. Humphrey and Senator Thomas Kuchel, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Monday's schedule: The Senate will convene at noon and will remain in session until early evening. Beginning Tuesday, the Senate will convene at 9 a.m., and extended sessions are anticipated. Floor captains for Monday: Democrats, Metcalf, 12 to 3; Williams, of New Jersey, 3 to 6; Bayh, 6 to recess; Republicans, Saltonstall, all day; Keating, all day.

2. The quality of education in Prince Edward County: The following is an excerpt from a New York Daily News account of the opening day of the Prince Edward County free schools, 4 years after the county, rather than integrate its schools, had closed them:

"When the free schools opened on September 16, about 1,600 of the 1,700 Negro children eligible were registered. Eight white children soon joined them. The Prince Edward public school buildings, at least, were integrated.

"A generation of barely literate Negroes, now 11 to 17 years old, entered school for the first time. A 17-year-old returned to the third grade. A 22-year-old quit his job at the lumber yard to resume high school.

"'I thought it would be a good thing to mark the opening day of school if we said the allegiance to the flag together,' Supt. Neil Victor Sullivan recalls, 'but the only ones who knew it were Bill vanden Heuvel, the newsman and myself.'

"Only one child recognized the national anthem when it was played—and then only as 'the baseball song.'

"'The damage was devastating,' Sullivan said. 'All we could do was jump in and start teaching.'"

3. Voter registration in Mississippi: Dr. Ernst Borinski, sociologist at Tougaloo Southern Christian College near Jackson, Miss., and Oscar Chase, a Yale Law School graduate, have described the voter registration process in Mississippi: "The test," says Dr. Ernst Borinski, "requires the applicant to copy and interpret a section of the Mississippi constitution. A misplaced comma or incorrectly capitalized letter can result in a man being declared illiterate."

Explains Chase, "There are some 285 sections of the State constitution, and the document is one of the most complex and confusing in the Nation. The examiner points to a section and tells the applicant to copy and interpret it. On the tester's cognizance, you pass or fail. He has absolute power. His decision is not reviewable, and there are no standards by which it can be judged in court.

"In addition, a prospective registrant has to pay a poll tax of $2 or $3 for 2 consecutive years before he can vote. This is a lot of money to sharecroppers in the Mississippi Delta, and saving and paying it calls for more foresight than many people there are accustomed to.

"Finally, an applicant can be required to state the 'duties and obligations of citizenship' before he is registered. There is no established answer. The examiner sets his own."

Bipartisan Civil Rights Newsletter No. 67, June 2, 1964, 51st Day of Debate on H.R. 7152, 68th Day of Debate on Civil Rights

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator Hubert H. Humphrey and Senator Thomas Kuchel, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Tuesday's schedule: The Senate will convene at 9 this morning and will stay in session until late this evening. The same schedule will be followed the rest of the week. Live quorums should be expected at any time today. Floor captains for Tuesday: Democrats, Williams of New Jersey, 9 to 12; Kennedy, 12 to 3; Magnuson, 3 to 6; Hartke, 6 to 9; Republicans, Case, all day; Pearson, all day.

2. Cloture: According to present plans, the cloture petition will be filed on Saturday of this week and the vote will take place the following Tuesday, June 9.

3. News from the Mississippi front: Two recent reports from Mississippi reveal the continuing pattern of mob violence and official denial of civil rights in that State. There is no more persuasive argument for the civil rights bill than the news from Mississippi. The first of these articles is from the May 31, 1964, issue of the Washington Post. It describes another example of official indifference to lynch law.

"MISSISSIPPI MOB BEATS INDIAN

"Canton, Miss., May 30.—About 15 white men in 3 cars forced another vehicle to stop near here last night, yanked an Indian student from the car and roughed him up, a white minister said.

"The student, who was not seriously hurt, was identified as Hamed Kizilbash. He attends Tougaloo College at Jackson, a predominantly Negro school.

"Witnesses said the men, all well dressed, were beating the Indian student when one said, 'hold it, he's an Indian.'

"The Reverend Ed King, a white chaplain at Tougaloo, said that he was in the car and he and his wife were not harmed.

"The three were en route to a mass meeting designed to cap a day of voter registration activities in Madison County.

"Reverend King said that the license number of one of the cars was taken and a complaint was made to the highway patrol. A spokesman for the highway patrol said today, however, that there is no procedure for taking such a complaint. He added that the complaint would have to be reported to county authorities."

The second article is from yesterday's New York Times. It shows that the right of accused persons to be represented by legal counsel is not yet well established in Mississippi when civil rights is the issue.

"FIFTY-TWO DENIED COUNSEL IN MISSISSIPPI JAIL

"Canton, Miss., May 31.—Two men representing the National Council of Churches and 50 Negroes arrested Friday in a demonstration here were held in jail for the third day today without being allowed legal counsel.

"Carsie Hall, a Negro lawyer of Jackson, said he had tried to visit those arrested at the county jail here yesterday and today and had been turned away.

"The Reverend Glenn Hosmen, a Methodist minister from Emporia, Kans., and Charles Mory, a theological student at Eden Seminary of the United Church of Christ at St. Louis, are the two National Council of Churches workers being held.

"Two other members of the council group picked up by the police Friday while standing on the street as observers during a voter-registration demonstration were released 2 hours later without charges.

"One of the two, the Reverend Darrell Yarney, a Presbyterian minister from Emporia, said today that he and the Reverend Robert Goodson of Hayes, Kans., had been pushed roughly with rifle butts by officers and taken into custody along with the demonstrators.

"The Reverend Robert Beech, formerly from Illinois, who has been working with the church council group in Mississippi, said he had not been able to learn the charges against those held. City Attorney Robert Goza said the charge was parading without a permit and those arrested were being held under $500 bond."

BIPARTISAN CIVIL RIGHTS NEWSLETTER NO. 68, JUNE 3, 1964, 52D DAY OF DEBATE ON H.R. 7152, 69TH DAY OF DEBATE ON CIVIL RIGHTS

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Wednesday's schedule: The Senate will convene at 9 this morning and will stay in session until evening. Live quorums should be expected at any time today. Floor captains for Wednesday: Democrats, NELSON, 9 to 12; BARTLETT, 12 to 3; McGOVERN, 3 to 6; McGEE, 6 to close; Republicans, COOPER, all day; DOMINICK, all day.

2. Quote without comment: The following is from the Washington Star for May 20:

"ANALYSIS OF DEFEAT: WALLACE BLAMES NEGROES

"His aids were trying to get him to eat his ham, but Gov. George Wallace was too interested in analyzing and reveling in the results of the Maryland Democratic primary.

"Thumping the tabulations from the predominantly Negro districts of Baltimore which voted overwhelmingly against him, the Alabama Governor commented:

"'Look here. If it hadn't been for the nigger bloc vote, we'd have won it all. We have a majority of the white vote. And, why, why if the Republicans could've crossed over, we'd have beaten the hell out of 'em, sure enough.'"

"Governor Wallace paused as if inviting anyone present to challenge his conclusion. When no one did, he said in a low voice to his wife and a reporter sitting beside him in the roadside diner:

"'Incompetent press. They can fool some of the people some of the time but not all of the people all of the time.'

"To this paraphrase of Abraham Lincoln, he added: 'The press is beginning to see that they are not as influential as they think they are. Why, all the papers were against me. The church too. They brought in TED KENNEDY and 10 Senators and the unions. Look what happened.'

"Governor Wallace made a candid and colorful comment about what would have happened in Alabama had his Maryland primary opponent, Senator DANIEL BREWSTER, come here to campaign against him. Then, he quickly declared the remark off the record.

"'It sounds like I'm gloating,' he explained.

"Governor Wallace revealed he already is thinking about other States.

"He intends to devote himself in the months before November to speeches throughout the country.

"He was vague about his purpose, but an assistant suggested that he will try to accelerate the southern movement to choose presidential electors who will not be obligated to vote for the candidate of either major party.

"Governor Wallace continuously was interrupted by admirers who came to his table to thank him for fighting in Maryland, to seek his autograph or just to share in adulation.

"Before all of them, he assumed the modest, statesmanlike role he so carefully has cultivated in all of his public appearances in the North.

"When someone made a bitterly irreverent statement about the hostility of the churches toward him, he replied:

"'There's nothing bad to say about the clergy. I think people should have a right to say what they want to say, to do what they want to do.'

"To a remark hostile to Negroes, he said: 'This is not a vote against any segment of the population.'

"Away from the crowd, Governor Wallace was more relaxed. Frequently using the term 'nigger,' he launched into a general discussion of big city crime and the race issue.

"He asserted that Alabama handled street crime more effectively than Washington and New York by being stricter in its punishment of Negroes. And he defended the use of 'hot sticks,' as he called the electric cattle prods used against racial demonstrators in the South, declaring that they were more effective and humane than police blackjacks used in the North.

"As to the solution of the racial problem, he said education for the Negro was the ultimate key.

"When he finished dinner, Governor Wallace struggled through approving crowds to the American Legion hall in Towson, Md.

"There, a chanting throng greeted him with Confederate banners and great ovations. The shouting gathering several times tried to sing 'Dixie,' but the tune apparently was so unfamiliar to most of the people there that they never succeeded in completing a stanza.

"Earlier in his motel room, Governor Wallace had chortled as Senator BREWSTER in television interviews tried to explain away the significance of the Maryland vote.

"Now, he told his hundreds of sympathizers that his enemies couldn't alibi away his astonishing vote by calling him 'nasty names.'

"He declared that the vote carried 'a message, loud and clear' to Washington."

BIPARTISAN CIVIL RIGHTS NEWSLETTER NO. 69, JUNE 4, 1964, 53D DAY OF DEBATE ON H.R. 7152, 70TH DAY OF DEBATE ON CIVIL RIGHTS

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Thursday's schedule. The Senate will convene at 9 this morning and will stay in session until late afternoon or early evening. Live quorums should be expected at any time.

2. Quote without comment. The following is an editorial from the July 26, 1963, issue of the Daytona Beach (Fla.) Morning Journal:

"A BLIGHT ON THE STATE'S NAME

"A staff member of the U.S. Commission on Civil Rights picked up his copy of the New York Times yesterday, and began to read accounts of the Nation's racial strife, and he noted the dateline of St. Augustine, Fla.

"What he read made him gasp, and he put in an immediate call to the secretary of the Florida Advisory Committee. 'Can such a thing be true in this country?' he demanded.

"The 'such a thing' was the act of County Juvenile Judge J. Charles Mathis in St. Augustine taking seven juveniles from their parents and lodging them in the county jail. He did so because the parents refused to sign a form the judge presented them that said they would keep their children from indulging in any more demonstrations against segregation until they were 21.

"Such an action as this is common under totalitarian systems. Fidel Castro has taken young children from their parents and sent them to Moscow for indoctrination. Dictators on the right and left think it is their prerogative to tell parents how to rear their children, or to restrict them in what knowledge they get or what actions they may perform.

"But to think that such tactics could be exercised in the United States—and in its oldest city.

"This ancient cradle of the New World has no right to expect that it is going to escape the drive for equality of American citizens that is being pushed down every American thoroughfare. It is doubly a target because there all the harsh methods of denial are being practiced, and are maintained by a combination of political and business power.

"This fact intensified the determination of young Negroes to demand change.

"The demonstrations last week were made by 16 Negro teenagers who visited a lunch counter. Wanting to keep their protest peaceful, they responded to a signal of a watcher and left the counter before a deputy arrived. But they were arrested anyway—arrested on the street as they were walking away from the place, and charged with trespassing.

"These cases were set for last Tuesday, and it was their attorney's understanding that they would get a continuance until their regular attorney returned to the city. But, when the hearing opened, Judge Mathis presented the promise to desist forms for the seven who were under 14—four girls and three boys. But because St. Augustine has no juvenile detention home for Negroes, they were lodged in county jail—a jail that supposedly is the place for common criminals.

"Florida is going to get a black eye over this case.

"Big brotherism of this stripe has no place in the American system of jurisprudence. It is abhorrent for a judge to decide he has the right to prevent young people from indulging in peaceful protest because their rights are being denied. It is a disgrace that he would take them from their parents because the parents refused to sign their rights away.

"Governor Bryant should inquire into this case immediately, and let the rest of the country know that the State does not countenance such a use of the Nation's system of law."

BIPARTISAN CIVIL RIGHTS NEWSLETTER NO. 70, JUNE 5, 1964, 54TH DAY OF DEBATE ON H.R. 7152, 71ST DAY OF DEBATE ON CIVIL RIGHTS

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152 headed by Senators HUBERT H. HUMPHREY and THOMAS KUCHEL, will distribute this newsletter to the offices who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Friday's schedule: The Senate will convene at 9 a.m. and will stay in session until late afternoon. Live quorums should be expected at any time. Floor captains for Friday: Democrats, HART, 9 to 12; PROXMIRE,

12 to 3; MORSE, 3 to 6; Republicans, BENNETT, all day; HRUSKA, all day.

2. Opponents of the civil rights bill often say that the Federal Government should not interfere with local concerns. Their position seems to be that no higher governmental body should take any action on community issues. It is interesting to contrast this emphasis on the sacredness of local government with the actions of various southern Governors when local officials have done something that displeased them. When this happens, suddenly the doctrine of local rights goes out the window. Several instances of such State interference are discussed in today's newsletter.

ARKANSAS

In accordance with a plan submitted by the Little Rock School Board, a Federal court ordered desegregation to begin at the high school level in the autumn of 1957. On the day before school was to open, Governor Faubus proclaimed a state of emergency and sent troops of the Arkansas National Guard to keep Negro students out of the one high school which was to be desegregated. The troops were withdrawn only after the Federal court issued an injunction. The Negro students subsequently entered the high school under the protection of the federalized National Guard.

The following September 1958, after unsuccessfully attempting to have the desegregation order suspended by the courts, Governor Faubus invoked State law and closed the Little Rock schools.

ALABAMA

When Federal courts ordered desegregation of public schools in Birmingham, Mobile, Huntsville, and Tuskegee (Macon County) in the fall of 1963, Governor Wallace ordered postponement of school openings and sent hundreds of State troopers to the cities scheduled for desegregation to prevent the opening of schools and admission of Negroes. During a week of tension and disorders many local officials and parents protested the Governor's actions. Schools were eventually reopened after all five Federal district judges in Alabama had enjoined further interference by the Governor and President Kennedy had sent the federalized National Guard to preserve peace and order.

BIPARTISAN CIVIL RIGHTS NEWSLETTER NO. 71, JUNE 6, 1964, 55TH DAY OF DEBATE ON H.R. 7152, 72D DAY OF DEBATE ON CIVIL RIGHTS

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant; daily, if necessary.)

1. Saturday's schedule: The Senate will convene at 9 a.m. Under the unanimous-consent agreement, the Chair will immediately recognize Senator HICKENLOOPER, who will reoffer his unanimous consent request, providing for the limitation of debate to 4 hours each on (1) amendment No. 869, a modification of the original Morton jury trial amendment, (2) amendment No. 868, a Hickenlooper amendment to eliminate the provision for training institutes from title IV, and (3) amendment No. 606, the Cotton amendment to limit jurisdiction in employment cases to employers of more than 100 employees.

Senator HICKENLOOPER will then, by agreement, yield to Senator MANSFIELD, who will offer the cloture motion. The Senate will then consider the Hickenlooper request, and, if the request is agreed to, the cloture motion will be considered as having been withdrawn, and will then be filed on Monday. The Senate will convene on Monday at noon.

Floor captains for Saturday: Democrats, HARTKE; Republicans, MORTON.

2. Mississippi prepares to welcome summer visitors: The following excerpts are from a New York Times article of May 30, describing the impending summer voter registration drive which has enlisted the support of student volunteers from outside the State:

"Officials of civil rights organizations contend that a reign of terror has been instituted against Negroes in the counties of Pike, Amite, Wilkinson, Adams, Franklin, and Jefferson in the State's southwestern corner.

"Five Negroes have been reported slain in that area in the last 6 months. Others have been flogged. Still others have fled from their homes after receiving threats.

"Some homes have been fired into at night. A Negro cafe and a barbershop have been bombed.

"Economic sanctions have been imposed against Negroes and a few whites.

"Crosses were burned in 64 of this State's 82 counties the night of April 24.

" 'There's something badly wrong here,' observed E. W. Steptoe, Sr., as he sat in the neat though unpainted living room of his tarpapered home on his 240-acre farm in Amite County, on the Louisiana State line.

" 'I don't know what the Negro could be doing to displease the white people," he continued. 'Looks like they're trying to do everything to satisfy them.'

" 'They're not asking for nothing out of reason—just the vote,' he said."

3. Voter registration in North Carolina: Following is an incident related by Luther J. Carter, Washington writer for the Norfolk, Va., Virginian-Pilot:

"One registrar once told me how exasperated he became during one of his ingenious literacy tests when a Negro schoolteacher answered every question propounded; being something of a student of American history, he tested the applicant on such fine points as the Missouri Compromise and the Dred Scott decision.

"Finally, he simply told him: 'Well, you just can't register.' That was the idea in the first place."

RACIAL BALANCE IN PUBLIC SCHOOLS

Mr. MAGNUSON. Mr. President, during most of this week the Senator from Washington and other Senators have been quite attentive in listening to much of the debate on civil rights. Although a great deal of it has been directed to a discussion of the whole problem of jury trials and what we should or should not do in relation to this fundamental American tradition and right in a civil rights bill, there has crept up during the debate some discussion about the transportation of children from one school to another, to achieve what is called a balance of integration in schools.

Some people refer to the House bill; others refer to amendments that are pending; and still others refer to the original proposals that might be contained in other bills, and seek to labor that point. This is done mainly by those who are opposed to the use of authority by any court or anyone else to require the transportation of pupils or students from one school to another, to achieve racial balance.

Perhaps this has been overlooked, but it should be stated that after the long discussions and conferences on the so-called substitute, which has been proposed by the majority leader, the minority leader, the majority whip and the minority whip, and others of us who participated in the many days of discussions, it was practically our unanimous opinion that we should include in the bill which will be before the Senate a provision which applies to this situation.

On page 21 of the substitute I call attention to the language beginning in line 18, which reads:

> *Provided,* That nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

It seems to me that that disposes of that question, if and when the Senate begins to consider or passes on the so-called Talmadge substitute to the bill now before the Senate.

I do not believe this point has been made clear. There has been a great deal of talk about it. I know that in some places in the United States, particularly in New York, although in other places also, this practice has been going on, and it has been subject to great controversy in many places.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MAGNUSON. I ask for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. It seems to me that any further discussion of this subject or any discussion that would depreciate the civil rights bill because of this situation is unwarranted, because we have said, in language that I believe anyone can understand, that this practice shall not take place.

We went further, and provided that if such an attempt is made, or if such action takes place, the Attorney General can intercede and stop it.

I merely wished the RECORD to show that this is a practical question, and that I hope on Tuesday or Wednesday, when this section of the bill will be discussed, it will be clearly understood. I wished to have this point clear in the RECORD over the weekend, to show that we have taken care of this very controversial question.

Mr. ERVIN. Mr. President, I believe that the provision of the bill to which my able and distinguished friend the Senator from Washington, has just alluded has been fully understood by those of us who oppose the enactment of the bill. We correctly interpret this provision as a provision which is designed not to require desegregation of public schools in those areas of the Nation where de facto segregation arises out of residential patterns.

Since the residential patterns in the South are quite different from the residential patterns in the big cities in the North and the East, we quite well understand that it is a provision which is designed to make the bill apply to the South, while at the same time exempting the large centers of population in northern and eastern States from the practical application of the bill in so far as the provision of the title dealing with desegregation of public schools is concerned. I add, however, that I am personally opposed to "busing" schoolchildren from one area to another merely to mix schools racially.

AUTHORIZATION FOR PRESIDENT PRO TEMPORE TO SIGN ENROLLED BILLS DURING SENATE RECESS

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the President pro tempore or Acting President pro tempore be authorized to sign enrolled bills during the recess of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL NOON ON MONDAY

Mr. MAGNUSON. Mr. President, unless there is further business to come before the Senate, I move that the Senate stand in recess until next Monday at noon, under the previous order.

The motion was agreed to; and (at 10 o'clock and 49 minutes a.m.), the Senate took a recess, under the previous order, until Monday, June 8, 1964, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

Monday, June 8, 1964

The House met at 12 o'clock noon.

Rev. Harold E. Meade, St. Mary's Church, Berea, Ohio, offered the following prayer:

O, Holy Father, Almighty Everlasting God, guardian and protector of all those who trust in You, in Your clemency look down this morning upon us as we pause to raise our minds and hearts to You.

Conscious of our many shortcomings and limitations, we look to You for guidance and inspiration. At the beginning of this critical summer there are so many issues which must be faced with confidence and resolved with courage. Our people all over this land look to us to reassure them by the maturity of our deliberations, to reinforce them by the wisdom of our decisions, and to reemphasize their faith in our way of freedom by our earnest striving for peace and harmony throughout our land.

Help us then, Heavenly Father, to accept these responsibilities in faith, to meet these issues in hope and with true charity to promote justice for all men everywhere. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, June 4, 1964, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate disagrees to the amendment of the House to the joint resolution (S.J. Res. 71) entitled "Joint resolution to establish a National Commission on Food Marketing to study the food industry from the producer to the consumer," agrees to the conference requested by the House on the disagreeing votes of the two houses thereon, and appoints Mr. Magnuson, Mr. McGee, Mr. Hart, Mr. Morton, and Mr. Beall to be the conferees on the part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

June 5, 1964.

The Honorable the Speaker,
House of Representatives.

Sir: Pursuant to authority granted on June 4, 1964, the Clerk received from the Secretary of the Senate today the following message:

That the Senate passed House Joint Resolution 889 entitled "Joint resolution commemorating the golden anniversary of the Naval Air Station, Pensacola, Fla., and authorizing the design and manufacture of a galvano in commemoration of this significant event."

Respectfully yours,
Ralph R. Roberts,
Clerk, U.S. House of Representatives.
By John A. Roberts.

HOUSE BILL AND JOINT RESOLUTION ENROLLED

Mr. BURLESON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles:

H.R. 11201. An act making deficiency appropriations for the fiscal year ending June 30, 1964, and for other purposes; and

H.J. Res. 889. Joint resolution commemorating the golden anniversary of the Naval Air Station, Pensacola, Fla., and authorizing the design and manufacture of a galvano in commemoration of this significant event.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Thursday, June 4, 1964, he did on June 6, 1964, sign the following enrolled bill and joint resolution of the House:

H.R. 11201. An act making deficiency appropriations for the fiscal year ending June 30, 1964, and for other purposes; and

H.J. Res. 889. Joint resolution commemorating the golden anniversary of the Naval Air Station, Pensacola, Fla., and authorizing the design and manufacture of a galvano in commemoration of this significant event.

PRESIDENT JOHNSON HAILS ILGWU HEALTH CENTER

Mr. RYAN of New York. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record and include extraneous matter, including an address by President Johnson.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RYAN of New York. Mr. Speaker, the last bill signed by President John F. Kennedy on November 20, 1963, authorized the striking of medals in commemoration of the 50th anniversary of the founding of the first union health center in the United States by the International Ladies Garment Workers Union.

Last Saturday, June 6, 1964, was described by ILGWU President David Dubinsky as, "A great day in the life of our union," for on that day President Lyndon B. Johnson unveiled and dedicated a plaque and replica of the special medal at the Union Health Center at 275 Seventh Avenue in New York City.

President Johnson said that the founders of the union "understood the vocabulary of compassion." He pointed out:

> Against the bitter obstinacy of entrenched interests they battled first to free workers from the slavery of sweatshops—then to free them from sickness and disease.

Later at the commemoration meeting at the High School of Fashion Industries President Johnson promised:

> And we will also keep our commitment to provide hospital care under social security for all of our older citizens.

Mr. Speaker, I want to join in saluting the wisdom and vision of the International Ladies' Garment Workers Union in pioneering health and welfare benefits through free collective bargaining. Under the dynamic leadership of David Dubinsky the union has forged new paths of progress which were marked by the commemorative exercises.

Mr. Speaker, I include at this point in the Record the text of President Johnson's remarks at the High School of Fashion Industries on June 6, 1964:

> Over the years I have enjoyed a very pleasant association with you and this union—not only as a man with a wife and two daughters who have helped to keep you busy, but as a public official who admires your achievements of the past and applauds your aspirations for the future.
>
> On this occasion, we meet to honor 50 years of responsible and progressive leadership by one of this country's most responsible and most progressive labor organizations—the International Ladies' Garment Workers Union.
>
> Fifty years ago this health center stood alone—the first of its kind to be established in our country by a trade union for workingmen and workingwomen.
>
> Your union stood resolute in the thin ranks of those who carried on the struggle for security for the helpless, who fought the battle for a better life for every citizen.
>
> That great cause of compassion suffered many setbacks. But like an irresistible ocean tide, each time it returned with greater force and further reach than before.
>
> And that concern of your union, 50 years ago, is today imbedded in the conscience of our country, the laws of our land, and the highest hopes of our people.
>
> DECADES OF DECISION
>
> These last 50 years have been decades of decision.
>
> In our conscience and in our laws, we have decided that children belong in classrooms—not in coal mines. That young women

should work in surroundings of decency—not in sweatshops of degradation. That the sick and the suffering, the blind and the deaf, the mentally ill and the mentally retarded should have our care—and not our curses.

In these 50 years, we have set for America a direction toward human decency and dignity. We have held our country to a course of compassion.

The course we have set over those years—the course you helped set—is the course of today's America.

We will not abandon our past achievements. And the American people will not abandon them.

We will not stand still, complacent with past conquests.

We are going to keep America moving. We are going to move forward with the American people.

The earliest goal of American society, the beckoning promise which brought men to these shores, has been a nation where each citizen would find his achievements limited only by his ability, and where the helpless need not abandon hope.

This is the meaning of justice when we pledge ourselves to liberty and justice for all.

GREATER GAINS FORESEEN

I predict that in the next 10 years we will make greater gains toward this goal—toward justice and social progress—than at any time in the long history of our Republic.

We will do this in two ways. First, by keeping the commitments we have already made, completing the programs we have already begun. Second, by moving to transform the forces of future change into an instrument for our progress rather than a threat to our prosperity.

In 1946 we committed ourselves to seek a job for every worker.

In the month of May employment rose to an alltime high of more than 71 million jobs—70.7 million when seasonally corrected.

The unemployment rate dropped to 5.1 percent.

For married men the unemployment rate dropped to 2.6 percent, the lowest in 7 years. This means that 97.5 percent of all married workers now have jobs.

In the last 12 months alone we have added 2 million jobs to the American economy. And we have lowered unemployment, even though 1.4 million people have entered the labor market in the past 5 months, compared with a normal full-year increase of 1.2 million.

Thus has promise become progress. For these achievements are not the easy product of chance or circumstance. They have resulted from the patient, determined pursuit of policies, including the largest tax cut in our history, designed to deter recession and generate growth.

And we will continue this pursuit until every American who wants to work can find a job.

Thirty years ago we promised that no American who reached retirement would find a lifetime of labor rewarded only by years of neglect and fear and despair.

In the past 4 years we have extended new and increased social security benefits to 5 million people—reduced the male retirement age—given greater scope to what could be earned without losing benefits—and taken a series of steps to strengthen our entire social security system.

PROMISE TO THE ELDERLY

And we will also keep our commitment to provide hospital care under social security for all of our older citizens.

Across a wide range of measures we must carry forward the goals of the past to fulfillment in the future.

We will help the underprivileged and the underpaid by extending minimum wage and unemployment compensation.

And we have mounted attack upon the final fortresses of poverty. Your children will live to see the day when poverty has been transformed from a real menace to a remote memory.

We will continue the 100-year struggle to give every American—of every race and color—equal opportunity in American society.

We have proposed, and we will pass, the strongest civil rights bill in American history.

But now is the time to look beyond that bill—to struggle to eliminate the heavy weight of discrimination in the hearts and homes of people—to give to members of minorities, the training, the education, the housing which will enable them to pass through the doors of opportunity. Laws can give men rights. But only when justice resides in the spirit of men, will it become a living reality in the society of men.

But the guidance of the past is not adequate to the goals of our future. Our second task is to resolve problems which will not yield to old slogans, or historic programs, or tested resolves.

A NEED FOR THE NEW

What Thomas Jefferson said almost two centuries ago is true for us today: "The new circumstances under which we are placed call for new works, new phrases, and for the transfer of old words to new objects."

In only 16 more years there will be more young Americans under 25 than the total of all Americans living in 1930. In less time than that there will be nearly as many Americans beyond the age of 65 as all Americans in the North and the South at the time of the Civil War.

In the past we fought to eliminate scarcity. In the future we will also have to learn the wise use of abundance. Yesterday we worked to equalize competition between business and labor, government and special interest. Tomorrow we will also have to find new ways of cooperation. Yesterday we fought to create growth. Tomorrow we will also have to control growth.

A few weeks ago I talked about some of these problems—the need to make our cities a decent place to live—to preserve the fading beauty of our countryside—to give all our children education of the highest quality.

But these problems are only a beginning. From the encouragement of creativity in science and art to the fruitful use of resources liberated by automation and the possibility of enforcible arms control, we face towering tests of our imagination and ingenuity, our leadership, and our labor.

In those battles, too, this union will be in the lead.

The problems are new.

But the weapons are the same—compassion and concern, faith in the future, and dedication to the dignity of man.

The enemies are the same—indifference and injustice, selfishness and shortsightedness.

The goals are the same—progress and justice for all Americans.

These are your goals, and they are America's goals. These are your enemies and they are America's enemies.

These are the weapons of your past glories, and they will be the tools of America's future triumphs.

AMERICA AND ITS DREAM

That is why I know, as this country marches toward vistas beyond, the farthest visions of those who built your union, the ILGWU will always be in the front ranks of our advancing Nation.

"One day," Franklin Roosevelt said, "a generation may possess this land, blessedly beyond anything we now know, blessed with those things—material and spiritual—that make man's life abundant. If that is the fashion of your dreaming then I say: Hold fast to your dream, America needs it."

Franklin Roosevelt and John Kennedy are gone. But people still dream on.

Old hopes have been reached and new horizons beckon.

Old targets have been met and new triumphs await.

We will dream on together, you and I, and those dreams will point the way toward the destiny of our Nation.

Mr. Speaker, I include at this point in the RECORD a review of the 50 years of the health center which was printed in the ILGWU commemorative program:

FIFTY YEARS

The first cry of pain in the world was the first call for a physician. And from that ancient moment to the present, two themes stand out in the scientific progress of the medical arts and the endless seeking of all people for health and security.

One thread in that vital story is the scientific search for ever more powerful weapons against disease, disability, and death. The other, woven with it, is the social struggle to enlist those lifesaving weapons for the "little people"—the wage earners and their families—those whose cries of pain, all too often, went unheard or were answered too late.

In that historic endeavor to remove the price tag from medical care and broaden security for all, the ILGWU has long been credited with the role of pioneer and trailblazer. On this occasion the symbol of that recognition is the "national medal" authorized by act of Congress. Two Presidents participated * * * the congressional bill was the last signed by John F. Kennedy * * * Lyndon B. Johnson honors the ILGWU by dedicating it.

NATION'S FIRST UNION HEALTH CENTER

Garment shops in 1914 were not far from death traps. Contagion raged. Inhuman working conditions joined slum living on the "lung blocks" of the old East Side to fatten a disability and death rate far above the average. Sickness fell with devastating weight upon the garment worker's family which went destitute and hungry when the pay envelop skipped even a single week during "the season."

A momentous step to illuminate the road to mass medical care as we know it today was taken by the International Ladies' Garment Workers—a union of "immigrants" who took the American ideal to heart.

New York City's ILGWU Union Health Center—first of its kind in the Nation and pioneer of them all—opened its doors in 1914—two small rooms at 31 Union Square. Dr. George M. Price, high on the roster of the small dedicated group that developed the field of industrial medicine, was its first director. The equipment—a few chairs, a secondhand examining table covered with dish towels and what the thin and intense Dr. Price could carry in his "little black bag."

Succeeding years showed steady progress and a big step forward was taken in 1935 when the center was moved to its present skyscraper home at 275 Seventh Avenue taking over 13,000 square feet of floor space. Comprehensive expansion projects to keep pace with expanding needs and the progress in medical equipment have multiplied the floor space nine times. Today the center registers 45,000 individual patients a year performing some 600,000 "services" for them through 127 physicians, 35 nurses, and 178 other trained workers including pharmacists and laboratory technicians. An average of 172,000 out-going prescriptions are filed annually. Many authorities credit it with being the largest ambulatory clinic of its kind in the world.

INSPIRATION TO OTHERS

That first center was tiny in facilities—but gigantic in conception. It was the acorn from which has grown the splendid chain of ILGWU institutions summarized in the statistical table below. They win the admiration of the medical and social service professions and draw visitors from all the free countries of the world. The inspiration of the ILGWU social invention is pictured in the fact that many other unions and socially minded organizations concerned with the health of their memberships have established scores of similar institutions performing their lifesaving functions for many millions of wage earners throughout the country today.

LIFESAVING

The centers, all of which sponsor powerful and consistent educational campaigns, are truly dedicated to the ideal of preventive medicine. The records show many thousands of unsuspected ailments turning up under the scrutiny of routine diagnostic examinations. This devotion to preventive medicine, aborts catastrophic illness, and prolongs useful living free from invalidism.

NEW WAY OF LIFE AND LIFESAVING

One social invention often gives birth to others. The fruitful concept of medical care as a human right that inspired the pioneer ILGWU Health Center a half century ago is credited with planting the seed for the whole conception of health, welfare, vacation, maternity, retirement, severance, and death benefits negotiated through free collective bargaining as the social obligation of industry. The so-called fringe benefit has become a way of life and lifesaving. In a typical year ILGWU members receive some $75 million from the host of ILGWU benefit funds.

WARM THANKS

On this 50th anniversary of the first union health center in the United States, the International Ladies' Garment Workers' Union expresses its warm thanks to the many thousands of devoted men and women, known and unknown, who helped create and expand it and to the many honoring the ILGWU by participating in the ceremonies.

Mr. Speaker, I am sure my colleagues will also be interested in the following article published in the New York Times on June 7, 1964.

[From the New York Times, June 7, 1964]

A TWO-ROOM CLINIC AND HOW IT GREW: ILGWU CENTER WENT FROM A STAFF OF 7 TO 340

(By Benard Weinraub)

Half a century ago a clinic was started in two small rooms at 31 Union Square with a few chairs and a secondhand examining table covered with dish towels.

Dr. George M. Price, a slim, bespectacled, white-haired man was chief of the seven-man medical team whose aim was the detection of "the garment worker's disease"—tuberculosis. Yesterday the clinic—the International Ladies' Garment Workers' Union health center—was hailed by President Johnson as he dedicated a plaque that duplicates the commemorative medal authorized by Congress in the last bill signed by President Kennedy, on November 20, 1963.

The medal's inscription describes the center as the "first ever operated by a trade union in the United States."

The center moved to its present quarters at 275 Seventh Avenue in 1935. It has a medical staff of 340, including 127 physicians. In 1963 more than 39,000 X-ray examinations and 15,000 electrocardiograms were given. The center's pharmacy is said to fill more prescriptions than any other in the world.

TOTAL 45,000 TREATED IN 1963

Last year nearly 45,000 persons sought medical care at the clinic, whose facilities are free to members of the ILGWU.

The clinic is also open to the families of members at nominal charges underwritten by the union.

"It's a great day in the lives of members of the union," David Dubinsky, ILGWU president, said yesterday as he recalled the early struggle for better medical facilities, a struggle waged against the backdrop of slums and sweatshops.

At the time a leader of Pressers Local 35 said he "saw horrible scenes of distress in the office of the local."

"Men with pale and emaciated faces, infected with consumption, would come to the office and beg and cry for help," she said.

In 1912 a mass examination of cloakmakers revealed that 800 to 900 suffered from some form of tuberculosis. Other garment workers were found to have defective vision, flat feet, nasal catarrh.

"Take the Second Avenue elevated railroad to Chatham Square and ride up half a mile through the sweaters' district," wrote Jacob A. Riis, the journalist. "Men and women bending over their machines or ironing clothes at the window half-naked. Proprieties do not count on the East Side. * * * Men stagger along the sidewalk groaning under heavy burdens of unsewn garments."

HEALTH BOARD SET UP

As a result of these conditions, a Joint Board of Sanitary Control was set up by garment employers and union representatives. Dr. Price, a former inspector for the New York City Health Department, was named director of the board.

Led by the Russian-born, white-mustached physician, the board inspected shops, examined workers and issued health and safety proposals to city agencies.

"By a system of drastic inspection that has been unflinching and unafraid, some amazing results have been achieved," a writer in Munsey's magazine declared in 1913.

PUERTO RICAN DAY

Mr. RYAN of New York. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RYAN of New York. Mr. Speaker, yesterday's annual Puerto Rican Day parade along Fifth Avenue was a colorful and memorable event in the life of New York City. Some 50,000 marchers symbolized the unique contribution of the Puerto Rican people to our city, State, and Nation. The theme of the parade was "Advancement Through Education," which signifies the determination of the Puerto Rican community to achieve quality integrated education for their children—the leaders of tomorrow.

Gov. Luis Muños-Marin, of Puerto Rico, was on hand to review the parade and greet the marchers, and Doña Felisa Rincon de Gautier, mayoress of San Juan, rode in a convertible as she showered sunshine on the multitude of spectators.

Mr. Speaker, I want to congratulate Gilberto Gerena-Valentin, the president of the parade committee, all those who worked so tirelessly with him, and José R. Erazo, the grand marshal of the parade, for the overwhelming success of the parade.

I join in the refrain which echoed throughout the parade, "Viva Puertorriqueños."

BOWEN HIGH SCHOOL'S HONORED PLACE IN ROTC PARADE

Mr. O'HARA of Illinois. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. O'HARA of Illinois. Mr. Speaker, last Saturday was a great and glorious day in Chicago, with 7,900 cadets of the Reserve Officers Training Corps participating in a parade that thrilled thousands of spectators and was reviewed by Mayor Richard J. Daley, School Superintendent Benjamin C. Willis, Brig. Gen. John D. Lawlor, of the 5th Army, and Maj. Gen. Francis P. Kane, of the 33d Illinois National Guard.

Thirty-two public high schools were represented in the parade, among them Gage Park High School and Bowen High School, the ROTC of which two schools had been proclaimed the best in Chicago by a recent Federal inspection.

Bowen High School is in the district that I have the honor to represent, and Cadet Lt. Col. Richard Ray K. Cortelloni and all the members of his company may be sure that everyone in the great Second District is happy and proud because of their high accomplishment. We also are proud of 3-year-old John Kearney, Jr., of 2331 East 67th Street, Chicago, who is pictured on the first page of the Chicago Tribune of June 6, 1964, leading the Bowen contingent in the parade with the military posture and step that must have been General MacArthur's when he was three. I confidently predict for John a brilliant future.

Cadet Col. David T. Osborn of Fenger High School, who with Cadet Col. Michael E. Suwe led the parade, formerly resided in the Second District, but regretfully I lost him as a constituent to my friend and colleague, the gentleman from Illinois, Congressman WILLIAM MURPHY, in the reapportionment.

It was Congressman MURPHY, by the way, who saved the ROTC at Calumet High School when its demise had been decreed for failure to meet numeral requirements. Congressman MURPHY is a graduate of Calumet High School and an outstanding friend and champion of ROTC.

I AM RUNNING FOR PRESIDENT

Mr. SILER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. SILER. Mr. Speaker, I rise to announce my candidacy for President of the United States.

I am running with the understanding that I will resign after 24 hours in the White House and let my Vice President take over the duties thereafter. Accordingly, I want an able and sufficient Vice President to run with me and then succeed me after that first day.

What I propose to do in my 1 day as President is to call home our 15,000 troops in South Vietnam and cancel our part of that ill fated, unnecessary, and un-American campaign in southeast Asia.

The Viet war has been costing us well over $1 million daily, and just this week it was announced that 141 Americans had already died in this useless conflict since 1961.

Vietnam is 6,878 miles from San Francisco. It is not quite as big as Missouri and not quite as populous as California.

They have been in a war over there for 19 years. France lost this war with her soldiers and substance for 9 years and then we took over the task 10 years ago and we have been losing our shirts in it ever since. Secretary McNamara has been over there five times to see about this foolish campaign. But nothing has been accomplished and nothing will be accomplished until we remember the warning of George Washington about staying out of these foreign entanglements and then decide to bring our boys back home and look after our own knitting 6,878 miles this side of Saigon. Right then we will accomplish something.

The chief products of Vietnam are rice, rubber, and coal. But we are not trying to insure a flow of those supplies to our country. We have all of them in good quantity and do not need any more.

The religion is 70 percent Buddhism and surely we are not trying either to sustain or demolish that prevailing belief of the people by the force of our arms.

Vietnam's fight is between the northern part which is called the Democratic Republic of Vietnam and the southern part which is called the Republic of Vietnam. Although the northern end is under communism and the southern end is supposedly under a more constitutional form of government, yet the government in each segment is rather totalitarian and the average Vietnam citizen would not recognize democracy if he should meet it in broad open daylight out on Main Street of Saigon. Neither would he seek after "Dame Democracy" with his heart's desire, knowing little if anything of the ins or outs of such a government.

If we want to sustain democracy and combat communism, we do not have to travel 6,878 miles to do so. We only need to go 90 miles to the island of Cuba and there we could quickly join battle over this very issue if that should be deemed wise.

The best thing, the wise thing, the American thing, the patriotic thing, the George Washington thing, the practical thing would be to close up our part in this 19-year-old fight in Vietnam, call our boys home, quit trying to defend and support all points of the world's compass.

This is my presidential 1-day only platform. I would not be elected and very few will agree with me, but this is the way I see it and I have said some things that ought to be said by somebody.

STOP-GOLDWATER CAMPAIGN

Mr. JENSEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. JENSEN. Mr. Speaker, the stop-Goldwater campaign, which is still in progress in a few scattered areas, did not succeed in California, and I predict will not succeed for the following reasons:

First. Barry Goldwater is known nationwide as an able, honorable statesman of the highest order by millions upon millions of Americans who know him well, as do I.

Second. The American people are entitled to, and anxiously await a chance to choose between a President who tries to be all things to all men worldwide, and who in effect advocates that the Federal Government must spend billions upon billions of all our taxpayers' dollars in order that the welfare state can spoon feed all of us while on a hilarious joyride to national and personal bankruptcy.

Third. Barry Goldwater knows full well, as does every well-informed, thinking American, that every nation in recorded history which blindly marches the full road on which we have marched for the past three decades, has reaped the grim harvest of every sort of misery and strife imaginable. Hence, Barry wants no part of it for the American people and says so straight from the shoulder.

Fourth. A few so-called liberals in our party seem to endorse the welfare state idea, but they say they can do it better. Barry Goldwater and a majority of voters in both parties want to preserve local and State government, wherein the people are masters of their own destiny, wanting the Federal Government to take over only such responsibilities and costs which our Founding Fathers clearly spelled out to be the duty of the Federal Government.

Mr. Speaker, while it is true we have marched a long way down the road to bankruptcy and try to solve all the problems of the world, I firmly believe and sincerely hope there is yet time to save our blessed land from the miseries that have befallen every nation on earth which marched down that futile road. Let us put Senator Barry Goldwater at work to do this all-important job after January 20, 1965.

SALE OF WHEAT TO THE SOVIET UNION

Mr. LIPSCOMB. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LIPSCOMB. Mr. Speaker, I am sure most Americans believed that the recent wheat sale to the Soviet Union was meant solely for the Soviet people for humanitarian purposes. Even though the Communist government is dedicated to our destruction, it is typical of the American people to open their hearts to anyone in need. It is equally typical for the American people to get angry when it becomes apparent that they are being used.

Americans will reach that conclusion, as I have, when reviewing the May 22, 1964, report entitled "Export Licenses Approved and Reexportations Authorized." This report listed an item which showed that $12,589,000 worth of our wheat was authorized for reexportation from the Soviet Union to Rumania. The reexportation license was granted by the Department of Commerce under the Export Control Act.

These facts, however, have not been made sufficiently clear to the American people.

The wishes of the American people and Congress were made known in many ways to the executive branch. Yet this reexportation was approved without any apparent consideration for the wishes of Congress or our citizens.

Congress and the people should raise at least the following questions:

First. How real was the need for wheat in the Soviet Union if they can afford to transship that large an amount to a satellite?

Second. Since the wheat we sent was subsidized wheat—which means the American people paid a significant part of the total—is the Soviet Union now making a profit on this sale, a profit for themselves on an investment of our citizens' tax dollars?

Third. Is this another attempt by the administration to get around the demands of the American maritime unions? The maritime unions, against all kinds of Federal Government pressure, took a firm stand that 50 percent of the vessels which shipped the wheat should be American bottoms. One of the key issues which prolonged the negotiations between the maritime unions and the administration was over the question of whether or not satellite nations would follow the same formula. This issue is still not resolved. Is this the administration's answer to getting around the demands of our laboring people who are most seriously affected by this? I have already asked the Department of Commerce about this matter.

Mr. Speaker, last Thursday, I noted an item in the Baltimore Sun which stated, "Russia wants more wheat." It went on to say:

> Russia wants to purchase from 700,000 to 1 million additional tons of U.S. wheat immediately—provided it can all be transported on foreign-flag ships.

Further it stated:

> American labor has been approached as to whether it would go along with this plan.

The deal the administration will make is that it will give American-flag ships an extra 350,000 to 500,000 tons of cargo to carry under Public Law 480—the aid program to friendly nations.

The American maritime unions have already indicated such an arrangement was unacceptable, pointing out that such a deal would mean the Russians would be given a favorable lower freight rate than nations friendly to the United States. The maritime unions and their members should be commended for their integrity and commonsense.

Also within the past few days, we have seen reports which state that we are going to expand trade and establish embassies with Rumania. The major argument being used is that Rumania has shown that it wants to be more independent of the Soviet Union and we will encourage this by such actions. This argument is foisted upon the American people when during the past few weeks, the administration knew that Rumania was buying our wheat and others items from the Soviet Union thereby showing dependence. More importantly, if this administration were consistent in their story, they would have refused the transshipment of wheat from the Soviet Union and sold wheat direct.

Mr. Speaker, Congress and the American people must raise these questions to protect the security and integrity of this Nation.

BARRY GOLDWATER HELPS ELECT REPUBLICAN CONGRESSMEN

Mr. BERRY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. BERRY. Mr. Speaker, only BARRY GOLDWATER will elect a Republican Congress. He, more than any other of the Republican candidates, has been a highly influential factor in the election of Senators and Representatives now sitting in Congress.

His ability in electing Republicans to the House and Senate has been proven in the crucible of experience. His ability has been demonstrated in the past. There is no guessing on what he can do. As chairman of the Republican senatorial campaign committee, he has been responsible for the election of Republicans from every part of the country—not only the West, the South, the North, but also in the East, and Republicans of every color of the political spectrum—conservatives, middle-of-the-roaders, and liberals. He has fought for them. He has elected them.

BARRY GOLDWATER has elected many Republicans to the House and Senate, and as a candidate for President, will assure a Republican majority in the House, and at least six or eight new Republican Members in the Senate.

NOMINATION OF BARRY GOLDWATER BY REPUBLICAN PARTY

Mr. RHODES of Arizona. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RHODES of Arizona. Mr. Speaker, since Senator BARRY GOLDWATER's victory in the California presidential preferential primary, there has been much conjecture as to the future of the Republican Party. It is interesting to note that most of this conjecture comes from liberal columnists who have never demonstrated any love for the Republican Party; in fact, if there has been any set of people who have been dedicated to the demise of the Republican Party as an effective political instrument, it is many of these gentlemen.

It has never come to my attention that such columnists as Walter Lippmann, Joseph Alsop, and Drew Pearson have ever wished the Republican Party anything remotely resembling victory at the polls. As I interpret their writings, to them the Republican Party should be a cheap imitation of the Democrat Party which exists only because it is necessary to have some nominal opposition in a representative republic.

Can it be that the liberals who are shedding crocodile tears for the Republican Party's death are really afraid that a Republican victory could be in the offing? Is it their real fear that if the GOP offers the people a "choice, not an echo" that they will accept that choice and reinstate in Washington a Government dedicated to the principles of free enterprise?

If I am any judge of the temper of the members of the Republican Party, and the independent voters of this country, I feel that I can now say to these purveyors of gloom and doom that the words of Mark Twain apply to this situation, and their reporting of the death of the Republican Party is greatly exaggerated.

TWENTIETH ANNIVERSARY OF D-DAY

Mr. HALL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HALL. Mr. Speaker, 20 years ago this month—in fact, the day before yesterday—the Allied Expeditionary Forces led by Gen. Dwight D. Eisenhower landed on the coast of Normandy. The assault upon those beaches symbolizes mankind's most massive determination, to oppose tyranny and preserve liberty.

Even today, it is hard for the mind to imagine, what the world would be like and what the fate of America would have been, if the D-day effort had been repulsed and the Nazis' "fortress Europe" had remained their impregnable bulwark.

In two World Wars, Missourians have played an important part in the military leadership that led us to victory, Gen. "Jack" Pershing in World War I, and Gen. Omar Bradley, one of the key figures on General Eisenhower's staff in World War II.

But as we think of D-day today, our hearts go out first of all to the family and friends of those young men who gave their lives on that momentous day and on the days that followed so that we might retain our precious heritage of liberty. To those of us who were spared, and to those of us who are entrusted with the direction of government today, remains the obligation of seeing that they have not died in vain, and that the cause for which they gave the last full measure of devotion is as sacred to us as it was to them.

THE SUGAR ACT

The SPEAKER. Under previous order of the House, the gentleman from California [Mr. HAGEN] is recognized for 60 minutes.

Mr. HAGEN of California. Mr. Speaker, since our time under this order is limited, we ask general permission for all those taking part in this discussion to revise and extend their remarks and include extraneous matter.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. HAGEN of California. Mr. Speaker, I secured this special order in order to clear the record with respect to the sugar situation and its relationship to legislation that has been introduced in the House and the Senate. The eastern refining interests, through various media, have served to confuse the situation. This is a bipartisan or nonpartisan effort to correct that confusion. The confusion is similar to that of the farmer who became intoxicated and instead of attempting to shear his sheep, he attempted to shear his pigs, and he got a lot of noise but very little wool.

Mr. Speaker, as you are well aware one of the important measures on which the Congress still must legislate before the end of this session is the Sugar Act. The law which governs and regulates the supply and marketing of sugar in this country has many ramifications. It affects the people on our farms in more than half the States of the Union, literally from Maine to California on this continent and extending to the huge corporate plantations of Hawaii in the Pacific and to the Commonwealth of Puerto Rico and the Virgin Islands in the Caribbean. The Sugar Act affects the well-being of consumers throughout the land, as well as producers.

Admittedly the Sugar Act is not simple legislation. Yet the issues to be resolved when we consider legislation this time are simple and clear. Basically they resolve into the one fundamental issue of whether the American consumer and the broad national interest are to be served by permitting the continental beet and cane sugar producers to market the sugar they have produced and are producing at Government request—or whether a handful of cane sugar refining interests are to retain their present exclusive grasp on 70 percent of the U.S. sugar market regardless of the needs of American consumers.

Unfortunately a deliberate and concerted effort has been underway in recent weeks, vigorously conducted by that handful of large and wealthy cane sugar refining interests, to obscure the fundamental issue by raising a smokescreen of confusion and misrepresentation. My distinguished colleagues and I, Mr. Speaker, desire to clarify the issues by presenting facts. We sincerely hope that this clarification will be helpful to the deliberations of this body when the legislation is actually before us. If precedents of the past are followed, debate at that time will be extremely limited and there may not be sufficient opportunity, before the vote, to present to the Members of this body all the facts that should be presented for a sound decision.

Since our time under this special order also is limited, Mr. Speaker, we ask general permission for those taking part in this discussion to revise and extend their remarks.

Mr. Speaker, fully to understand what is at stake in sugar legislation this session, and why the legislation we have introduced is in the consumer and national interest, as well as a matter of simple justice to the American sugarbeet producers, we must review briefly the circumstances of last year in the sugar world—circumstances which led to the developments that make an increase in the basic beet sugar quota this year imperative.

A situation developed early last year which was far different from what all the sugar experts, both in and out of government, anticipated when we enacted the amendments to the Sugar Act in July of 1962. At that time it appeared there was still the usual world surplus of sugar, and there were no observable warning signs that the surplus was about to disappear and that world production would fall far short of world consumption. Yet that is what happened. There is no need to detail the reasons for the change. They were summarized recently by Albert Viton, a noted economist with the United Nations Food and Agriculture Organization. He said:

> Lower production Europe in 1962-63, massive Cuban exports to the U.S.S.R., and China and a sharp fall in its total production, the steady expansion in world demand due to rising income, standards of living and improvements in transport and marketing facilities—all these and other factors combined to bring about the change.

In any event, the world sugar shortage began to make its effect felt in the marketplace before the end of 1962, and the situation grew more acute during the early part of 1963. During this period, the cane sugar refiners demonstrated their inability to obtain sugar supplies for American consumers, at the times and in the quantities our consumers needed, at reasonable prices. The cane sugar refiners gave no evidence of resisting the climbing prices, but simply added at least their customary margins, their markups, to the soaring raw sugar prices and passed the increased cost on to the consumer.

The cane sugar refiners, of course, do not add a single ounce to the world's supply of sugar. They cannot do so, because of the very nature of their business. They do not produce sugar. They merely take the raw cane sugar someone else has produced and convert it to refined sugar. What is called raw sugar is crystallized sugar that has only 1 to 2 percent of the molasses still clinging to the sugar crystals. Essentially, the cane sugar refining operation consists merely of removing this 1 to 2 percent of the molasses—laundering the raw sugar—and marketing the product which after the laundering process is known as refined cane sugar.

It was only natural, therefore, and sound governmental policy under the circumstances existing early in 1963, that the administration would not turn to the refiners but would turn to the segment of the American sugar industry that could best add to the total supply of sugar—the beet sugar industry—and urge that segment to produce to the limit. The administration did this on March 14, 1963, by announcing that there would be no acreage restrictions on sugarbeet production during 1964, and specifically stating that the action was being taken to encourage immediate expansion of facilities so the maximum amount of sugar could be produced.

The March 14 announcement included this statement:

> It is assumed that the industry will attempt in 1963 to produce at the maximum capacity of its plants. Today's action is expected to encourage plant expansion. First, it should encourage existing plants to modernize and expand their facilities since they can now be assured of at least 2 years of unrestricted operations; second, new plants under construction for operation in 1963 and 1964 could be expanded immediately to their ultimate capacity so as to take advantage of this opportunity for full production and the building of production and marketing history in excess of the tonnage provided from the national acreage reserve.

Later, as a further encouragement for expanding production, the Government announced there would be no acreage restrictions on sugarbeet planting in 1965.

The response of American sugarbeet producers to the exhortations of their Government for more sugar for American consumers—at reasonable prices—was remarkable. They produced 20 percent more sugar than the year before. And because all quotas had been inflated in the Government's efforts to obtain more foreign sugar, the beet sugar industry was also able to market 20 percent more sugar than the year before. Moreover, the industry sold this sugar, during the height of the sugar crisis, at $1 to $3 per hundred pounds less than cane sugar, refined from high-priced foreign raws, was selling for in the same markets. This was outstanding performance in behalf of American consumers—and in stark contrast to the cane refiners' policy of riding up with the market.

As a result of their response to the Government's pleas for more production, however, sugarbeet producers today find themselves today in a situation which requires legislative action to correct. Because they responded, their production now is considerably higher than the marketing quota the present law provides. The crop now in the ground is expected to yield some 3,350,000 tons to 3,400,000 tons or more sugar. Under the present law, the beet sugar quota for 1964 is only 2,700,000 tons. The 1965 crop—and let me remind you the growers were told by their Government that there would be no acreage restrictions in 1965, either—is expected to be still larger than 1964, and by 1966 the beet sugar industry will have a production capability of 3,800,000 tons or more. Obviously, remedial action by the Congress is necessary. Without a quota adjustment, domestic sugarbeet producers will be cut back drastically.

Now in their frenzied attempt to force a drastic cutback in beet sugar production, the cane sugar refiners are, among other things, accusing the sugarbeet producers of backing out on a supposed agreement to support the domestic features of the law as it was enacted in 1962.

In the first place, Mr. Speaker, it is an affront to the Congress of the United States for any interest group—the cane sugar refiners or anyone else—to claim that a so-called agreement among interest groups should prevent the Congress from taking action on the sugar law or any other law at any time the Congress deems it is in the national interest to do so. The Congress was not a party to any agreement that may or may not have existed among the various segments of the sugar industry, and the Congress should never and could never be a party to any such agreements. It is high time that the cane sugar refiners learned that the Congress, and not the cane sugar refiners, determines when and how the Congress will legislate.

In the second place, Mr. Speaker, the law which was finally enacted by the Congress in July of 1962 was not the legislative proposal on which an industry agreement was negotiated. Nor was the final act the same law which the House initially passed, nor was it the bill in support of which the single spokesman for all segments of the domestic sugar industry, refiners as well as producers, testified before the House and Senate committees. Amendments were added in the Senate, after the hearing, which changed the law considerably. Among those amendments was one which established a significant protection against reduction of acreage allocated for new beet sugar processing plants. In the event of a drastic cutback in acreage—which will be inevitable unless the beet sugar marketing quota is increased—the acreage for those new plants would be protected from reduction, and thus all the burden of the acreage cut would be thrown on the established industry, on the people who responded so outstandingly to the Government's pleas for more production. This amendment makes the present situation for the established growers, not in the areas of the new plants, all the more difficult.

In the third place, testimony was presented by the single witness for the entire domestic sugar industry, cane refiners as well as cane and beet producers, which recognized the inherent right of the Congress to amend the law at any time, should changed circumstances require such amendment. I quote now from page 24 of the printed record of the hearing on the Sugar Act Amendments of 1962, before the House Committee on Agriculture, on May 15, 1962. My distinguished colleague, the gentlewoman from the State of Washington, is questioning Mr. Kemp, the industry witness:

> Mrs. MAY. Mr. Kemp, one more question along that line. If during the life of this extension there might be serious national or international developments (which we hope would not occur), that might make it obvious we must become more dependent on our own domestic production, for an assured supply of sugar, do we not still have the right to petition Congress for a change?
>
> Mr. KEMP. Not only that but the Congress, Mrs. MAY, has the right to act to meet those facts. When the first war came about, it was not but a few weeks after Pearl Harbor before they suspended quotas to let the Nation produce the things that we needed. And I am sure that were any facts to appear that in the judgment of this committee make necessary change, they would be considered.

It is to be noted, Mr. Speaker, that when he made that statement, Mr. Kemp was serving as spokesman for the sugar cane sugar refiners as well as for the rest of the domestic sugar industry. And so in raising the false "agreement" issue, the cane refiners are themselves attempting to "walk out" on the statement of their own witness.

Mr. Speaker, in summary let me say:

First. The sugar world has changed so greatly since the 1962 amendments to the Sugar Act were passed that Congress should and must review the entire law this year.

Second. The increases in beet sugar production, which make a corresponding increase in the beet sugar marketing quota imperative, were made at the specific request of the Government—for the benefit of American consumers.

Third. It is the responsibility of the Congress to enact remedial legislation to fit the situation which is so vastly different from the situation of 2 years ago.

As my distinguished colleagues join in this discussion additional facts will be presented against this background. One of the most important is the consumer interest in permitting the beet sugar industry to market its production. I now yield to my distinguished colleague, the gentlewoman from the State of Washington.

Mr. ANDREWS of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. HAGEN of California. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Speaker, I would like to compliment the gentleman from California [Mr. HAGEN], for showing the foresight to take this special order on a matter of such great importance to all of us. The gentleman from California is a native of the Red River Valley, which I am fortunate enough to represent in Congress. His judgment and wisdom stem, I am sure, from that background. You know, we have heard a lot of talk about opportunity in America, and there is no better way of providing that opportunity than to allow Americans to produce those goods which Americans need. We have heard about wheat surpluses. In our area 2 acres are taken out of production of wheat for each acre planted to sugarbeets. Increasingly we hear of the need for job opportunities. The production of sugar in America provides such job opportunities not only in factories but in rural areas and service industries so vital to producing sugar. Lastly, all Americans deserve, need, and must have a dependable source of this staple commodity—this can only be assured by increasing American production. I think as a sugarbeet grower myself I am closer to this issue than many other of my colleagues in the Congress, and I want to again take this opportunity to personally thank my colleague from California for doing a great service in bringing this serious and very important issue to the attention of the House.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. HAGEN of California. I yield to the distinguished gentleman from Texas [Mr. MAHON].

Mr. MAHON. Mr. Speaker, I wish to applaud the action of the gentleman from California in securing the time for this discussion today. I want to be associated with those who propose to do everything in their power to provide a means to continue a sugarbeet expansion program in the United States.

I realize there are limitations, but I do not want to see all the new growth and all the possible tonnage withheld from new growers and old growers of beet sugar. The program we have had since 1962, and which is soon to expire, has been helping new growers, and I feel we have to enact legislation which will continue to give the new grower some reasonable place in this picture.

Does the gentleman from California share this view?

Mr. HAGEN of California. I share the view, and I thank the gentleman who perhaps is the man in the Congress best acquainted with our security through his handling of the budget of the Defense Department. I wish he would relate the liability of our sugar production in this country to the security of the country.

Mr. MAHON. I am glad the gentleman has mentioned that point. The production of an adequate supply of sugar is essential to the security of the country. It is an important element to be taken into consideration in connection with our defense. Sugar is a crop in this country which is not in surplus supply. We need to utilize and exploit this productive capacity in a way that will be for the best interests of the country from the standpoint of defense and from the standpoint of the economy generally. We do not want to exclude all foreign importations, but we have to face up to this issue and give the highest priority to our own people and our own self-interest as a nation.

Mr. Speaker, I would like to insert at this point in the RECORD a statement by the officers and directors of the High Plains Sugar Beet Growers, Inc., with headquarters in Plainview, Tex.:

STATEMENT BY HIGH PLAINS SUGAR BEET GROWERS

The officers and directors of High Plains Sugar Beet Growers, Inc., make the following two specific recommendations:

1. That the Sugar Act of 1948 be amended to direct the Secretary of Agriculture to reserve each year from the national sugarbeet acreage requirement established by him the acreage to yield 75,000 short tons raw value of sugar for distribution to new growers supplying a new factory in a new area for a 4-year period including the years 1967, 1968, 1969, and 1970—75,000 short tons of sugar raw value per year for a 4-year period would permit the construction of six new sugar mills, each producing 50,000 short tons raw value sugar.
2. That the quota for domestic sugar producing areas under section 202(a)(1) of the Sugar Act of 1948 as amended be increased 1 million short tons raw value sugar for the calendar years 1965, 1966, 1967, 1968, 1969, and 1970.

These two programs would clearly be in the national interest for the following reasons:

1. World sugar stocks are at a low level and there will continue a shortage of sugar for world consumption for an extended period in the future.
2. There is a steadily rising per capita consumption of sugar on a worldwide basis which was slowed last year by higher prices but which will continue to increase as the world economy expands.
3. The population explosion is causing and will cause a steady increase in sugar use on a worldwide basis.
4. Many of the foreign countries supplying sugar to our domestic market are of doubtful reliability because of present or potential political instability as in the case of Cuba.
5. The domestic beet sugar industry continuing to share in the increasing domestic market will afford price protection for domestic users by protecting such users from pressure of higher sugar costs in times of world sugar shortages.
6. The domestic beet sugar industry having a larger share in the increasing domestic market will reduce the number of dollars we send abroad and will help alleviate our Nation's balance-of-payments problem.
7. This is a time of declining farm profits. Many agricultural areas of the United States need a nonsurplus crop which would permit them to grow such crops for profit. These areas of the United States have demonstrated their ability and desire to grow sugarbeets. The economic benefits resulting from increasing production of sugarbeets in this country far outweigh any alleged losses.

Mr. MAHON. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include a few quotations.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mrs. MAY. Mr. Speaker, will the gentleman yield?

Mr. HAGEN of California. I yield to the gentlewoman from Washington.

Mrs. MAY. Mr. Speaker, the paramount consideration involved in the proposed revision of the Sugar Act to increase the beet sugar industry's annual marketing quota is whether such a quota adjustment will serve the best interests of this Nation's consumers. Assuring adequate supplies of sugar at all times, and at reasonable prices, has always been a fundamental goal of our national sugar program, a goal which has been achieved in remarkable fashion. Measured in terms of dollars and cents, sugar prices in the United States have been no more than the average of prices in other countries around the world. Measured in terms of relative standards of living, wages, and personal income, our sugar prices generally have been the lowest in the world.

To evaluate properly the sugar program and proposed revisions thereof in terms of consumer interest demands as a prerequisite a thorough understanding of the term "sugar consumer" in the context of today's world. It must be realized that sugar is far more than a delightful energy food that adds zest to living. In a very real sense it has become an important "raw materials" essential to the continued successful operations of bakers, beverage makers, confectioners, and a great variety of food processors such as canners and packers and others. Almost 70 out of every 100 pounds of sugar distributed in this country today is delivered not directly to the home and the ultimate consumer, but is received by the industrial sugar user as an essential ingredient in his product or products. Hence, sugar has taken on a new importance in our total economy. Supply and price considerations are critical. In the final analysis, of course, the ultimate consumer is that individual who pays the bill and is able to enjoy, or must do without, available food stocks in direct proportion to his or her ability to pay the going price.

The domestic beet-sugar industry has, down through the years, compiled a noteworthy record of service to consumers, a strong recommendation in itself for enlarging the industry's ability to serve. Beet-sugar sellers have had a demonstrable restraining influence on price increases. Beet sugar never sells for more than cane sugar in the same markets in the United States, and it usually sells for less. The cane raw sugar refiners enjoy approximately 70 percent of the total U.S. sugar market, a position which enables them to set the price ceilings through which a smaller competitor obviously cannot go. On the other hand, the beet-sugar industry can and does sell for less than the can sugar refiners, and in markets where beet sugar is sold, it brings about a condition of significant benefit to consumers. This effect becomes most notable when sugar prices in the Northeast and the so-called Chicago-West marketing territories are compared. In the Northeast, where the market is normally held exclusively by cane sugar refiners, base prices are the highest in the Nation. In contrast, in the Chicago-West territory, where beet sugar is a vigorous participant, base prices are the lowest in the Nation. Some cane refiners sell sugar in both markets. The variation in their base prices, obviously, may be accounted for in terms of the beet sugar competition. Where such competition is virtually nonexistent, prices are the highest in the Nation. Where such competition is substantial, prices are the lowest. It is, therefore, reasonable to conclude that by increasing the beet-sugar industry's ability to serve a wider portion of the total national market, even greater restraint will be brought to bear on upward price pressures, to the significant benefit of consumers.

Recently there appeared in the Boston press a news story reporting statements made by one of New England's leading candy manufacturers to the effect that New England confectioners might soon be forced to relocate in the Midwest to obtain sugar at Chicago-West prices, or to abandon their business completely. Candy manufacturers in New England, this businessman was quoted saying, could put up with the high cost of sugar in their region only so long, and then they will be forced to move or quit.

During the sugar emergency of 1963, there was another noteworthy demonstration of the beet-sugar industry's recognition of and willingness to serve the consumer interest. When sugar supplies tightened beginning early in the past year, the Government called upon the beet industry to produce to the hilt in order that a sugar shortage might be averted. Almost overnight, the beet-sugar industry stepped up production by about 20 percent, an accomplishment requiring substantial effort and investment of sugarbeet growers and sugarbeet processors alike.

As to price, beet sugar sold at from $1 to $3 a hundred pounds less than cane sugar in the same markets when there was a definite threat of runaway prices and when, in fact, a 43-year price peak was momentarily reached in May 1963. The cane refiners themselves grudgingly have admitted that the beet-sugar industry put the brakes on price increases. In the 1963 annual report of the Hawaiian Sugar Planters' Association there are a number of extremely revealing statements made by HSPA officials and officers of the California and Hawaiian Sugar Refining Corp., the wholly owned refining and marketing arm of the planters' association. For example, the C. & H. president was quoted in the report as saying:

> At times during May (1963), the beet price in the Northwest was $40 per ton below C. & H. prices in the same area, and $71 per ton below prices in the Northeast. For eastern refiners, the price of refined sugar must be determined largely by the price they pay for raw supplies. But with beet processors this relationship is reversed. The raw material costs are determined by selling prices. Thus, even in such a period as we experienced in 1963, beet processors were able to hold down the price of their principal raw material simply by not raising the refined price.

Elsewhere in the same Hawaiian report there were statements bemoaning C. & H.'s inability to push up sugar prices west of the Mississippi River to levels as high as those reached east of that river. It is more than a coincidence that the territories west of the river are those in which beet sugar is available in substantial quantity, while regions east of the river are dominated by cane refiners. Such statements provide eloquent testimony as to services rendered consumers by the beet-sugar industry.

During the sugar crisis last year, when the beet-sugar industry responded to Government pleas for greater production, it was able not only to supply consumers in its normal marketing area, but it was also able to send stocks eastward into territories traditionally served by cane refiners. Beet sugar shipped east helped to avert shortages and sold at prices considerably below cane prices, as indicated in the statement I referred to a moment ago in which it was pointed out that the beet price was as much as $71 per ton lower than the cane price in the Northeast. In today's nervous world, a sugar crisis such as was experienced in 1963 could be repeated at almost any time. We must prepare against that possibility.

All of this leads to the inescapable conclusion that as beet sugar production and permission to market are enlarged, so too is that industry's ability to serve consumers and the benefits are extended over a greater proportion of the Nation. Our consumers want, need, and are entitled to the benefits to be derived from adjusting the beet-sugar industry's annual marketing quota upward to accommodate the production increases already achieved in response to Government urgings and to permit reasonable growth of this important domestic industry in the future.

Mr. HARVEY of Michigan. Mr. Speaker, will the gentleman yield?

Mr. HAGEN of California. I yield.

Mr. HARVEY of Michigan. Mr. Speaker, in visiting with sugarbeet growers in Michigan's Eighth District and from heavy correspondence, it is obvious that the over 5,000 families in Michigan and Ohio are visibly concerned with the future of the sugar industry.

The need to increase the basic sugarbeet quota by 750,000—from the present 2,650,000 tons to 3,400,000—is real. As has been pointed out earlier, it is in the interest of U.S. sugar consumers and is vital to American farmers who need sugarbeets as a cash crop and as an alternate or replacement for crops now in surplus production.

It is important to keep in mind that unless the basic sugarbeet quota is increased, established sugarbeet growers will be faced with a 40-percent cut in acreages.

The sugar industry is important to Michigan. In 1963, Michigan farmers grossed over $16 million from the sale of sugarbeets. Besides thousands of farmers, over 6,000 persons are employed in the producing, processing, and distribution of the product. More than $7.5 million has been invested in expanding Michigan sugar factories. New factories are extremely costly. It does not seem reasonable to expect the persons will invest millions of dollars for factories when it appears possible that quotas will be imposed in the near future.

And, let us not forget that, from 1962 to May 1963, sugar prices jumped from 4.8 cents per pound to 12.6 cents because of a dwindling supply and rising world consumption. Faced with this situation, the Department of Agriculture announced that acreage allotments would be removed for 1963–65. This was done to stimulate domestic production. The domestic sugarbeet industry responded with immediate and substantial increases in production, far above existing quota levels. It saved millions of dollars for U.S. consumers in 1963. This increase is warranted, it is justified, and it is deserving.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. HAGEN of California. I yield to the gentleman from Idaho.

Mr. WHITE. Mr. Speaker, I want to compliment the gentleman from California for taking this time to discuss this important matter.

Mr. Speaker, 2 months ago today I joined with 50 Members of this body in asking President Johnson to recommend an increased sugarbeet quota of 750,000 tons. Shortly before that date I introduced legislation which would increase the 1964 quota by 500,000 tons and the 1965 and 1966 quotas by 1 million tons. I believe the proposed legislation and the request of the President are based on sound economic principles and realistic foreign policy. The sugarbeet industry's future depends directly upon the action we take on quotas this year. After considering every aspect of this question, I firmly believe that the best interests of this country will be served by our enactment of legislation which will provide for the steady growth of the sugarbeet industry.

In years past the competition for sugar quotas tended to slow the growth of sugarbeet production. We cut the pie in such a way that unreliable sugar sources were guaranteed the lion's share of our sugar market. When the chief supplier, Cuba, discontinued fulfillment of its quota, we experienced a sharp rise in sugar prices. Our Government then recognized the importance of the domestic suppliers and gave them incentives for greater production. Sugarbeet growers in this country rose to this challenge and played a key role in leveling out sugar prices. Today the beet growers are faced with possible reductions in their marketing levels unless we enact legislation similar to my bill, H.R. 10569.

Basically there are two reasons why we should provide for increased domestic sugarbeet quotas; first, because beet production is a healthy segment of our agricultural economy which can alleviate some of our other farm problems and secondly, because domestic producers are a surer source for this commodity, which benefit accrues to the American consumer.

We all know the problems of agricultural surpluses and the difficulty we have in attaining a satisfactory solution to them. Such is not the case with sugarbeets. Our sugar consumption is nearly three times our domestic sugar production. Farm acres which are devoted to beet production are not mounting the surpluses in other agricultural commodities, but are producing a crop which we need very much. I believe we should legislatively provide for more acreages devoted to crops we need and certainly a first-rate example is the sugarbeet.

I have spoken before on this floor about the necessity for providing a healthy climate for our domestic producing industries. The sugarbeet industry is another of the basic producing parts of our economy which should receive prime consideration. In the past we have overallocated our sugar allotments to foreign sources and the consumer ultimately bore the cost of our mistake. This year, by guaranteeing a fair share of our own sugar market to domestic producers, we can prevent repetition of the past errors.

Finally, I want to point out that our beet producers should have an early assurance for increased quotas. The production of sugarbeets is geared by its processing and increases in processing facilities are costly and long-range projects. The processors should have adequate time for plant modifications. I urge every Member to favorably and promptly act on the legislation which has been introduced.

Mr. HAGEN of California. I thank the gentlewomen from Washington.

Mr. Speaker, at this time I yield such time as he desires to use to the gentleman from Minnesota [Mr. OLSON].

Mr. OLSON of Minnesota. Mr. Speaker, I wish to congratulate the gentleman from California for securing this special order to discuss one of the most important subjects which will come before this Congress in the coming months, vitally affecting farmers, laborers, and all consumers.

Mr. Speaker, in their seemingly almost frantic efforts to prevent enactment of legislation which would increase the beet sugar industry's annual marketing quota, the cane raw sugar refiners have sought to distort out of all proportion the employment provided by their industry in comparison with the beet-sugar industry. They have even planted fear among some whose jobs are not affected, whether the Sugar Act is amended or not.

As an example of the latter, the California & Hawaiian Sugar Refining Corp. has created the impression on the Pacific coast and in Hawaii—locale of most of its operations—that a beet-sugar industry quota increase would jeopardize C. & H. refinery workers' jobs. Now how could this happen? Whether or not the quota provisions of the Sugar Act are revised to permit the beet-sugar industry to continue to produce and market at levels already achieved, the Hawaiian quota will not be touched—at least not under terms of any proposal I have heard about. There is no suggestion, and I have never heard of one in connection with the current situation, that the Hawaiian quota be lowered or changed in any respect. If C. & H. refinery workers' jobs are in jeopardy, the culprit more probably is automation than it is beet sugar competition. In the 1963 annual report of the Hawaiian Sugar Planters' Association, owners of the California & Hawaiian Sugar Refining Corp., the following statement is made by the C. & H. president—with some obvious pride—to the corporation's stockholders:

> It is of interest to note that our high production and shipping performance was achieved with a record low in the number of employees on roll. The peak employment in 1963 was 1,525—the lowest peak figure on record. In comparison, last year's peak was 1,605—and the year before 1,700. This represents a significant reduction despite higher daily melts and a heavy shipping program, and is evidence that we have not relaxed our efforts in the area of cost control.

Mr. Speaker, if we want to talk about employment opportunities, let us talk about facts, not manufactured bogeymen. Statistics published by the U.S. Can Sugar Refiners' Association state that the industry, as a whole, provides 17,500 jobs. It does not indicate whether these are strictly refinery jobs, or a combination of refinery and agricultural workers in the Hawaiian segment of the industry. But let us assume that 17,500 is an authoritative total. If this be true, then the refiners are not even in the same ball park with the beet-sugar industry, so far as providing employment opportunities is concerned. I am informed that the beet-sugar industry provides jobs for something on the order of 130,000 individuals. A point the refiners fail to mention when discussing the labor topic is that most of the labor input in the raw sugar they "launder" at their plants was expended in sugarcane fields and sugarcane mills—mostly in foreign countries.

The fact is that imported raw sugar from a foreign country makes only a minimal contribution to employment of American workers. Production of sugar from the good earth up—as in the case of our domestic beet-sugar industry—provides jobs for many more persons than does just the final stages of refining at a seaport refinery. The U.S. workers, it must not be forgotten, buy many American products of farm and factory; they pay taxes here. The money they earn plays an important role in stimulating the total U.S. economy. It does not—as is the case with many of our dollars spent for sugar in some foreign lands—go into huge private fortunes. One of the keystones of our national sugar program are those provisions which make mandatory a fair division of the returns from domestic sugar among farm workers and others contributing to the production of our domestic sugar. There are no such guarantees, badly as they may be needed, in the foreign countries from which the refiners buy raw cane sugar.

We do not, Mr. Speaker, want to deprive any man of his job or the opportunity to have a job. On the contrary, I am talking about doing just the opposite—making jobs available and keeping them available for our American workers—not exporting our labor needs abroad at the expense of our own workers.

Beet sugar production is a far cry from simply laundering sugar grown somewhere else. The beet-sugar industry processing companies alone expend from a half to three-quarters of a billion dollars a year in this country—for payrolls, cash to farmers, taxes, fuel, bags and packaging materials, transportation, electric power, repairs and maintenance, research, capital expansions, and improvements and such.

Farmer income from sugarbeets in 1963 amounted to almost $350 million. The processors' payrolls aggregated approximately $75 million. Raw materials used in processing, supplies, and services cost the processing companies more than $57 million last year. Freight costs paid by processors on sugar, sugarbeets, byproducts, and supplies exceeded $75 million in 1963. Taxes amounted to almost $100 million.

The beet-sugar industry, exclusive of the enormous investments of sugarbeet growers in their land, improvements, machinery, and equipment, has a replacement value in current factory capacity of almost three-quarters of a billion dollars. It is estimated that the Nation's sugarbeet growers annually expend approximately $225 million to produce their crop. This is money paid for seed and fertilizer, labor, equipment and machinery, water, and so forth. I understand that new growers recently were advised that they should be prepared to invest no less than $11,000 to handle a 75-acre sugarbeet contract. This means buying the many things needed to produce the crop.

I have sometimes thought that to really comprehend what this industry means to our economy, one might attempt to consider the void that there would be if this industry were to vanish overnight—the people thrown out of work, the suppliers who would no longer enjoy the industry's business, the acres of productive land that would lie fallow or be planted to surplus crops, the impact on the tax structure of many a town and county. And one shudders to think that the alternative to increasing the beet sugar quota to enable this productive industry to retain its present capacity to provide needed sugar is a 40-percent cutback in sugarbeet acreage. And 40 percent cannot be considered trimming—it is outright amputation.

There cannot be any question as to the duty we must perform. Over a period of more than 80 years the U.S. beet sugar industry has devoted itself to building and building well to serve our Nation, our consumers and to providing gainful employment for many of our people. Such a part of our agricultural-industrial enterprise in this land must not be strangled. It must be granted the right to remain vigorous and healthy, to serve us well in the future as it has in the past.

Mr. HAGEN of California. Mr. Speaker, I thank the distinguished gentleman from Minnesota [Mr. OLSON] for a very outstanding statement.

Mr. Speaker, I now yield to the distinguished gentleman from California [Mr. TEAGUE].

Mr. TEAGUE of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, my distinguished colleagues are discussing with their usual clarity and perception some of the many issues involved in the question of whether American sugar beet producers should be permitted to market the sugar they are producing at the urgent request of their Government. It is a most illuminating and enlightening discussion, and I am sure the facts that are being presented here today will be welcomed by all the Members of this body, and will be a major influence in the final decision the House reaches on sugar legislation this year.

I should like to touch on another issue involved, and that is the issue of fair play.

As has been pointed out, during the sugar crisis of 1963, when prices were skyrocketing because foreign sugar was not coming to the United States in the quantities and at the times required, our Government in effect said to the American sugarbeet producer:

> We need your help. Your Nation needs more sugar, and we want you to produce all the sugar you can produce. To encourage you to do this, we are announcing here and now that there will be no restrictions on your planting of sugarbeets in 1964 or in 1965. We expect you to produce to the hilt.

That, in effect, is what the Government said to the sugar beet producers.

The exact language of this exhortation, given in a press release of the U.S. Department of Agriculture on March 14, 1963, began as follows:

> It is assumed that the industry will attempt in 1963 to produce at the maximum capacity of its plants. Today's action is expected to encourage plant expansion.

May I call your attention to those specific words: "Today's action is expected to encourage plant expansion."

The Government was saying, in other words: "Sure, we know you will have to spend some money to increase your production capacity, but we are lifting acreage controls to encourage you to make that investment."

Then the announcement illuminated this point. The press release said:

> First, it should encourage existing plants to modernize and expand their facilities since they can now be assured of at least 2 years of unrestricted operations. Second, new plants under construction for operation in 1963 and 1964 could be expanded immediately to their ultimate capacity so as to take advantage of this opportunity for full production and the building of production and marketing history in excess of the tonnage provided from the national acreage reserve.

Again, Mr. Speaker, this was encouragement to invest the additional funds necessary to increase substantially the beet sugar processing capacity—not only the capacity of the existing facilities, but also the capacity of the new beet sugar mills that were under construction under the national acreage reserve program put into the law by the Congress in 1962. You may recall, Mr. Speaker, that under this program, the Secretary of Agriculture authorizes the reserving of a specific number of acres for the construction of new beet sugar processing plants, and protects that acreage for a period of 3 years. The number of acres allocated in each instance is the minimum required for the minimum practical operation of a new sugar plant.

But in this exhortation to produce, the Government urged those who were building those new plants under the reserve program to build more than the minimum capacity. The announcement urges the builders to expand the new plants, in the language of the release, "immediately to their ultimate capacity." In other words, the Government was saying:

> Don't stop at the capacity of the acreage the area of your new plant has been allotted, but build now to handle more, much more, as much as you had hoped over the years to build your plant to handle—and do it now.

We know how sugarbeet producers and the beet sugar processors responded to these appeals from their Government. They did invest the millions of dollars required to expand the capacity of existing plants and of the new mills under construction. On the farms, the sugarbeet growers also invested the substantial sums in additional equipment and machinery required to expand their production, to take on more acres.

As a result of this response to the appeals of their Government the producers of sugarbeets and beet sugar increased their sugar production in 1963 by 500,000 tons over 1962, and with the impetus of the expansion push still being felt, they will produce another quarter million tons this year more than last. Moreover, as we all know, the beet sugar industry marketed its sugar with full regard to the welfare of the sugar consumers of the United States—selling well below cane sugar in the same markets, and reaching out into new markets and bringing the benefits of lower prices to consumers in areas which normally are "captive markets" of the higher priced cane sugar refiners.

But now the sugarbeet industry of the United States is faced with a situation which, unless it is resolved legislatively, is not, I submit, is not in keeping with the true American spirit of fair play. For the additional production achieved at Government request is far in excess of the statutory marketing quota of the beet sugar industry in the present law. Unless that quota is increased, the industry will receive a severe cutback, will suffer severe losses, for having responded so well and so admirably to the Government's pleas to produce more. Cutbacks as much as 40 percent will have to be imposed. In my State of California, this will result in a loss of $45 million to the economy of the State, and the loss will also be severe in all the other producing States, which embrace half the Nation.

Is this the way to repay the people who responded so well to their Government's urging to produce? Is it in keeping with the American spirit of fair play to kick a man in the teeth when he has performed a national service his Government has asked him to perform?

I submit that it is not.

The Congress, of course, has the ultimate responsibility of establishing the quotas in the Sugar Act. And I am confident that the Congress will demonstrate the American spirit of fair play and will prevent the severe hardship a drastic cutback of this essential American industry would impose.

But I submit, Mr. Speaker, that the administration should also be imbued with that spirit of fair play in the recommendation on sugar which it sends to us. As a practical matter, we all recognize that the Administration's recommendation on this complicated legislation carries particular weight with some members of both bodies. Moreover, Mr. Speaker, I maintain that the administrative branch of the Government, which exhorted our sugarbeet producers to produce more, now has the grave moral responsibility to recommend a proposal which will enable the beet sugar industry to market its full production.

Anything less, Mr. Speaker, is not in the American tradition, is not in the American spirit of fair play.

Mr. HAGEN of California. Mr. Speaker, I thank the gentleman from California.

Mr. Speaker, at this time I yield to the distinguished gentleman from Idaho, Congressman HARDING, a member of the House Committee on Agriculture.

INCREASED DOMESTIC SUGARBEET QUOTA WILL NOT HARM ALLIANCE FOR PROGRESS

Mr. HARDING. Mr. Speaker, one reason that a revision of the present Sugar Act is in the national interest and in the consumer interest, is a requirement in the present act that forces our consumers to rely on foreign nations for about 40 percent of their sugar supplies. The cane sugar refiners, as has been pointed out, now have a legal monopoly, under the present law, of some 70 percent of the total sugar marketed in the United States. The cane refiners are not producers—they are merely converters, "launderers" of raw sugar—and so they need to obtain raw sugar somewhere, and under the present law, more than half of their raw sugar supplies come from foreign nations. We should reexamine this feature of the law, from the point of view of our foreign policy, our national defense policy and from the point of view of the sugar consumers of the United States.

Except for the suspended Cuban quota and the Republic of the Philippines quota which is set by a trade treaty, 28 foreign nations have individual country quotas for the United States under the present sugar law. Seventeen of these countries are in Latin America—that is to say, in the Caribbean, in Central America, and in South America. These 17 countries are assigned basic quotas that total 89.21 percent—90 percent—of the basic quotas for all foreign nations except for the suspended Cuban quota and the Philippines Treaty quotas which I mentioned earlier. The tonnage of the basic quotas for these 17 Latin American nations adds up to 1,209,620 tons.

These basic quotas would be untouched—they would not be reduced by so much as a single ounce—by the proposals that are now before the House of Representatives to increase the basic beet sugar quota to the levels of production which the beet sugar industry has achieved and is now achieving. Yet the cane sugar refiners, in their highly organized propaganda campaign are trying frantically to leave the false impression that the Latin American quotas would be cut and that, therefore, the Alliance for Progress would be jeopardized.

Mr. Speaker, let us examine this claim of the cane refiners for a few minutes.

In the first place, it is a complete falsehood that the Latin American quotas, or any other definite foreign country quota now in effect, would be cut. If—and it is a big "if," as I shall show in a moment—if the Latin American sugar quotas are essential to the goals of the Alliance for Progress, the other half of that claim likewise is false for the same reason—because the quotas would be untouched by the increased beet sugar quota.

The increase in the beet sugar quota proposed by my bill and the other bills like it would come from the so-called global quota. It was apparent from their action, or lack of action, earlier this year, that Latin American nations are extremely selective in their degree of willingness to subscribe to the global quota. We all observed the difficulty the Department of Agriculture experienced earlier this year in obtaining commitments from foreign nations to commit sugar to the United States for the global quota. Less than half—only about 40 percent—of the million tons available was filled by Latin American nations, and half of that amount was committed by one nation, Mexico. So we are justified in assuming that as a group the Latin American sugar-producing nations are interested primarily in only their basic quotas.

But, Mr. Speaker, there is serious questions as to whether in most of those countries the cause of the Alliance for Progress is advanced at all by sugar purchases by the United States. In fact, in most of those countries, the opposite is true—the goals of the Alliance are thwarted and retarded by our support of the cane sugar industries in those nations. The reason is that for the most part we find in those cane sugar industries the feudalistic conditions, the oligarchic control, the misery of the landless, the worst of the undesirable social and economic conditions the Alliance seeks to eliminate. Trained observers have repeatedly called attention to this. For example, Dr. Milton S. Eisenhower, in his 1963 book "The Wine Is Bitter," points out that, and I quote:

> It is anachronistic and inhumane to maintain in agriculture a baron-and-serf relationship that forces workers to live in poverty and impedes national economic growth—as nearly all of Latin America does.

In the May 12 edition of the Washington Post, Dan Kurzman, writing from Brazil, describes graphically how, after the Goulart downfall, the feudalistic landlords and sugar millowners in northeast Brazil took brutal revenge on the persons who had tried, through organizing the underpaid and underprivileged cane fieldworkers, to better the lot of this large impoverished group. Certainly this demonstrates a fundamental attitude that is diametrically opposed to the splendid goals of the Alliance for Progress.

Mr. Speaker, at this point in the RECORD, I should like to insert Mr. Kurzman's article from the Washington Post of May 12, 1964:

FEAR, HATRED SIMMER IN BRAZIL'S NORTHEAST

(By Dan Kurzman)

RECIFE, BRAZIL, May 11.—Pernambuco State, the impoverished, overpopulated heart of northeast Brazil, is simmering with hatred, fear, and vengefulness in the wake of the April military revolution that ousted President Joao Goulart.

Under the deposed regime, there had been an extreme polarization of leftist and rightist forces in the region, with the Communist-led Peasant Union at war with the state, feudalistic landowners and sugar mill proprietors. Moderates on both sides were caught in the middle, and virtually lost their voices.

The revolution changed the nature of the war, but did not end it. With the military suppressing the Communists, the struggle is now a less violent but equally intense one between the vested interests and the peasant workers as a whole.

FEUDALISTS GO ON SPREE

Following the revolution, the feudalists, for whom the military takeover was as much a victory for the social status quo as a defeat for the Communists, went on a spree of vengeance against their workers ended only when the police and Army stepped in. In the last 3 weeks or so, emotions have cooled as a result, but the atmosphere remains poisoned.

According to responsible Brazilian sources, about 60 percent of the plantation owners and 40 percent of the sugar mill operators in Pernambuco, where sugar is the principal product, are determined to destroy unionism on their properties. And they make no distinction between Communist and democratic unions.

Hundreds of cases have been reported in which peasants, many of them representatives of free, church-sponsored labor unions, were beaten and humiliated by landlords during and immediately after the revolution.

MAYOR ACTS WITH HOODLUMS

In one case the mayor of Condado, accompanied by two hoodlums, beat up the president and other officials of the local democratic peasant union, as well as the wives of some, including one who was pregnant. They also dragged the president's mother from her home and ripped off her clothes in public.

In another village, Jose Lopes, a sugar plantation owner and former Congressman, sent strong-arm men from hut to hut to beat up peasants who had led strikes before the revolution.

In Carpina armed masked men entered the home of a peasant strike leader and abused his wife and daughters.

Near Primavera, on the sugar plantation of Joao Francisco Santo, several men posing as policemen attacked peasants with revolver butts and shovels, breaking one's shoulder, crushing the chest of another and nearly blinding a third.

The plantation owner, a small red-faced man, told me that 11 peasants had "left" his farm but denied that any had been hurt, though free union leaders claimed they had driven the wounded men to a hospital.

In any event, the landowners said, all unions were Communist-run and strike leaders deserved to be punished.

UNION LEADERS JAILED

Other landlords threw many of their peasants off their property. And, in fact, almost all democratic union leaders, together with the Communists, were dragged off to jail by the landowners, who told police authorities that they were Reds.

The police and army finally ordered the release of all free union leaders and issued statements that all financial and other advantages gained by the workers before the revolution—salaries had greatly increased—would remain in force. Those guilty of attacking the peasants have been warned to mend their ways, and some may be brought to trial.

Thus, a cooling-off period has resulted, with moderates in both camps pushing for an informal 2-month agreement whereby employers would not abuse or punish workers and workers would not agitate and would strike only under the most pressing circumstances. But fear and bitterness linger explosively.

The land and mill owners are disillusioned by the official warning and fear that non-Communist unions will now have, as no unions had before the revolution, military backing that will make reforms stick.

The peasants, however, fear that pressures on the army from the landlords will prevail, which would mean the weakening or destruction of unions and a "return to slavery."

Gen. Justino Bastos, 4th Army commander who exerts absolute power in this region, would not clarify his attitude toward free unions during an interview though he promised that peasants would not lose benefits already gained. He denied that there was any conflict today between the peasants and their overlords.

Mr. Speaker, in other countries, the goals of the Alliance are likewise opposed and thwarted by the cane sugar producing industries. In Peru, for example, the sugar industry has been able to get the huge sugar haciendas exempt from the land reform laws which are so essential to achieving the Alliance goals.

And so we may go, country by country. And let us remember that in the cane fields of Cuba, Fidel Castro found his most avid supporters in his rise to power. The fact is that conditions in the sugar industries of too many of the Latin American countries are the conditions that breed communism. And when we help to perpetuate those conditions by supporting those industries, we are not working in the best interests of the United States.

The political instability of an area upon which we now depend, under the present law, for nearly a million and a quarter tons of basic quota sugar surely is of direct concern to every sugar consumer in the United States. Of equal concern is the incontrovertible fact that nearly one-third of the world's sugar production is under Communist control, and that this control gives the Communists the power to influence the sugar markets of the world to whatever may be their purposes of the moment.

Mr. Speaker, in view of the true situation with respect to sugar supplies and uncertainties in the world, the national interest plainly calls for greater reliance upon production within the continental United States. I submit, Mr. Speaker, that the 750,000-ton increase in the beet sugar quota proposed by our bills—bringing marketing rights up to production—is indeed only a minimum requirement from the consumer's point of view.

And I suggest that these are facts to which the Congress will want to give full and earnest consideration when the legislation comes to the floor.

Mr. HARDING. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. HAGEN of California. Mr. Speaker, I thank the gentleman.

I ask unanimous consent that I may have an additional 20 minutes to proceed under this special order.

The SPEAKER pro tempore (Mr. PATTEN). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HAGEN of California. Mr. Speaker, I yield to the gentleman from North Dakota [Mr. SHORT], a member of the Committee on Agriculture.

Mr. SHORT. Mr. Speaker, I thank the gentleman for yielding to me. I want to join with the others who have already commended the gentleman from California for taking this time in an attempt to familiarize the Members of Congress and other people with the realities of the sugar situation. There is probably no legislation that comes before the Congress that is more involved, less understood, more complicated and, perhaps I should say more controversial, than sugar legislation, unfortunately.

It also seems that we are usually dealing with this most important legislation in the wee small hours of the closing hours of one of the sessions of the Congress. This is most unfortunate. Again I want to commend the gentleman from California for taking this time in order that we might develop as completely as possible the realities of this sugar situation. To me it seems completely ridiculous that we have a policy of securing a large portion of this very critical food supply from foreign sources when we have a capability here in the United States to produce our entire supply at a price to our consumers that would probably be lower than were the entire supply secured from foreign sources.

The gentleman from Idaho a moment ago mentioned a situation that I think should not be lost sight of in this discussion of sugar legislation, and that is the simple fact that the Soviet Union and some of the Communist satellite nations comprise among themselves the largest single bloc of sugar-producing countries in the world. With this capability to produce sugar the Communists, including the Soviet Union, certainly have an ability to manage the price of sugar to our disadvantage, particularly inasmuch as the Soviet Union is now working hand in hand with Castro's Cuba, and Cuba, as has already been mentioned here, was at one time the largest sugar-producing nation in the world.

I think it is extremely interesting and should be interesting to the Members of this House and to the American people that we have a policy that holds down the production of sugar in the United States when we are telling the American farmer that he produces too much. We have too much wheat, we have too much beef, we have too much cotton, and innumerable other agriculture commodities. I reiterate, we do not produce too much sugar in the United States. Every acre that is put into sugar production would replace essentially two acres of wheat production or some of the other important American crops because sugar production requires summer fallow where the land must lie fallow for 1 year before sugarbeets are raised.

It would be amusing, if it were not so important, that we seem to have the policy in the United States of protecting the interests of sugar producers in foreign countries, that are in great part large corporations, when we like to talk in the United States, about preserving our family-type farm production. I repeat that most of the sugar produced in foreign countries is produced by extremely large corporate-owned farming enterprises.

I would also call to your attention the fact that most of the sugar produced in foreign countries is produced under wage-hour laws that would be completely illegal in the United States. In the United States and particularly in the Hawaiian Islands producers pay probably the highest wages in the world for sugar workers, yet we are asked to hold down our sugar production for the benefit of some of the foreign countries that pay nowhere near this same level of wages.

The important factor is that here in the United States we are able to produce sugar, as we demonstrated early in this year and in 1963, we in the United States—our beet growers particularly—can produce sugar at a cost and a price to the consumer lower than any other source in the world.

May I say to the gentleman from California I appreciate his yielding to me. I have some prepared remarks that go into some different phases of this sugar situation which I shall include immediately following the remarks I have just made.

Mr. Speaker, the central question in regard to proposed enlargement of the annual marketing quotas assigned to domestic sugar producers, and especially the beet sugar industry of the United States, is whether or not such quota increase is necessary and in the interest of the Nation as a whole. I believe the best way to obtain an answer to this is to review some of the facts of recent history in the sugar world and draw from them certain rather obvious and inescapable conclusions.

It has been pointed out that during the sugar emergency which overtook us rather abruptly in 1963, this Government turned to the domestic sugar producers—and especially the beet sugar producers—with a plea for quick production increases. As an incentive for the substantial investments required in such production increases, assurances were given by the Government that there would be no restrictions on sugarbeet plantings for the 3 years 1963, 1964, and 1965. Reacting in a most remarkable fashion, the beet sugar producers furnished 20 percent more sugar in 1963 than in the previous year, and I am told that if normal conditions prevail through the current crop year, a rather sizable additional increase above the 1963 accomplishment is in the making now. Let me emphasize, Mr. Speaker, that these increases have come as a direct response to Government urgings, the purpose being to assure our Nation's consumers adequate supplies of sugar despite a world scarcity which has developed.

The simple, unquestionable fact is that if the beet sugar industry is to be able to market the production it has been urged to make, its quota must be increased by about 750,000 tons. If such an increase in quota is not enacted, the cut in domestic beet sugar production could amount to as much as 40 percent for those farmers who are not given the special protection in the law for new producers for new plants which the Congress enacted in 1962 to encourage beet sugar expansion.

Not only has the beet sugar industry responded to our needs in time of crisis by accomplishing substantial production increases, but the record also shows that the beet industry provided a brake on what for a time threatened to be runaway sugar prices. It has been pointed out that the beet industry marketed their sugar during 1963 at prices of from $1 to $3 per 100 pounds less, in the same markets, than the cane sugar refiners offered their sugar refined from high-priced foreign raw sugars. It is generally recognized that the position the beet sugar industry took, on prices, kept those prices from going even higher than they did last year, and that even those consumers who did not have direct access to beet sugar supplies still benefited from the beet industry's refusal to charge all that the traffic would bear.

There is no doubt whatsoever, Mr. Speaker, that the consumers of this Nation want the beet sugar industry to be able to continue its great contribution to assuring adequate supplies at reasonable prices; and it would be, in my opinion, a tragic breach of good faith if this industry were now forced to suffer a meat-ax cutback, such as the 40 percent of which I have spoken.

In their efforts to block the obviously necessary and deserved increase in the beet sugar quota, the cane raw sugar refiners have repeatedly raised the cry of "subsidy" as if this well-known fact of our economic life were some new dastardly invention. Economic protection—call it "subsidy," if you will—is woven through our entire economic fabric in the United States. Virtually every phase of our economy, almost every kind of American business—including the cane raw sugar refiners—virtually every American receives some kind of economic protection, or subsidy. That measure of protection afforded the domestic sugar industry under provisions of the Sugar Act is in no sense unique in today's America. It has been the policy of this Nation from the very beginning to foster the production of basic and essential agricultural commodities and industrial products, and even essential services, such as transportation. This national policy has included encouragement of the development and maintenance of a vigorous and healthy domestic sugar industry, from which the benefits have been many. The protection of the domestic sugar industry is basically a protection of the American standard of living, in contrast to standards plainly visible in a number of foreign sugar-producing areas.

The cane refiners, who have raised this issue and have distorted it out of all proportion do not speak at all of their hidden subsidy. Let us take a look at that. A significant protection the cane refiners enjoy is the virtual prohibition of refined sugar imports. Of all the millions of tons of foreign sugar imported by the Nation, only about 75,000 tons of refined foreign sugar may come in without "further processing." This restriction is rigid, even to the extent that if a country having a quota in the United States has only refined sugar to send us, such sugar must be sold to the refiners at raw sugar prices and "rerefined" by the U.S. refiners before being made available to our consumers.

In addition to this very significant economic benefit, the refiners also enjoy another stemming from what is commonly called the refiner's margin. This margin is the difference between what is paid for raw sugar and the price received for the refined product. Obviously, refining, marketing, and other costs are paid out of this margin, which is also the source of the refiners' profits. It is noteworthy, Mr. Speaker, that the U.S. refiners' margin normally is considerably larger than that of refiners elsewhere in the world, frequently a full 2 cents per pound larger. In this instance, and at present levels of refiner business in the country, this economic benefit is worth something on the order of $250 to almost $300 million a year.

I do not wish to be scornful or critical as I say these things. I do wish to point out, however, that it is ridiculous and even dishonest for the agents of the refiners to point the finger and shout "subsidy" as if it were a nasty word. Use of this tactic, I submit, demonstrates the weakness of the position the refining group has taken and the hard-pressed lengths to which they have gone in their efforts to disguise their one true motive which is to hang onto the 70 percent share of the total U.S. sugar market they now have and to attempt to batter back the competition not in the marketplace but in the legislative chambers of this Congress.

The conditional payments made to domestic sugar producers—and let me emphasize that word "producers," for the refiners, it should be noted, are not truly producers, but only converters, or launderers of raw sugar someone else produced—inevitably are drawn into the discussion of economic protection afforded by the Sugar Act. These payments are the keystone of the restrictive provisions of the Sugar Act. They serve as a device for assuring that Government-set minimum wages are paid sugar fieldworkers in this country, that working and living conditions for such workers meet prescribed standards, that the sugar producers comply with acreage and production restrictions, and so on. And the moneys involved are not added to the price of sugar. Compliance payment funds in effect are raised through assessment of a processing tax on all sugars marketed in the United States, regardless of origin. The tax collected far exceeds all the costs of administering the sugar program, paying a handsome annual surplus into the U.S. Treasury. Several economic studies, made and reported by agencies of the U.S. Government, have repeatedly made the point that the tax collected on sugar is not passed forward to the consumer, but is actually passed back to the producers, foreign and domestic.

In this connection, Mr. Speaker, I have before me several statements taken from the history of our sugar program, and issued by President Franklin Delano Roosevelt, and others, which I should like to place in the RECORD at this point without taking time to read them aloud. I also have a tabulation of compliance payments received by members of the Hawaiian Sugar Planters' Association, owners of the California & Hawaiian Sugar Refining Corp., the latter being one of those cane refining companies calling attention to the so-called subsidization of the domestic beet sugar industry. I should like to place this tabulation in the RECORD at this point, also, to show that Hawaiian sugar producers received a total of $8,903,520.16 in Government payments for 1963, and that many of the individual payments received by these Hawaiian producers are in the range of from a quarter-million dollars to more than $1 million.

The domestic beet sugar producers, Mr. Speaker, in seeking a quota increase which will enable them to provide the sugar available from current production capacity ask only that right which they have truly earned and to which they are richly entitled. It is more regrettable that purely self-serving interests have chosen to manufacture unwarranted and unsubstantiated complaints in regard to the proposed beet quota increase. In the final analysis, however, the facts will prevail, in spite of obstructionists and their agents.

Sugar Act payments to Hawaiian producers, 1963

Alexander & Baldwin, Inc.:	
Hawaiian Commercial & Sugar Co., Ltd	$1,074,520.77
Kahuku Plantation Co	200,247.80
McBryde Sugar Co., Ltd	294,161.87
Subtotal	**1,568,930.44**
American Factors, Ltd.:	
Kekaha Sugar Co., Ltd	399,285.52
Lihue Plantation Co	559,892.84
Oahu Sugar Co., Ltd	574,552.89
Puna Sugar Co., Ltd	298,803.48
Pioneer Mill Co., Ltd	444,611.23
Waimea Sugar Mill Co	51,236.59
Subtotal	**2,328,382.55**
C. Brewer & Co., Ltd.:	
Hakalau Sugar Co., Ltd	
Hawaiian Agricultural Co	359,090.02
Hilo Sugar Co., Ltd	219,527.59
Hutchinson Sugar Co., Ltd	287,647.39
Kilauea Sugar Co., Ltd	169,638.86
Olokele Sugar Co., Ltd	312,628.01
Onomea Sugar Co	268,893.31
Paauhau Sugar Co., Ltd	139,861.57
Pepeekeo Sugar Co	362,866.55
Wailugu Sugar Co	296,631.39
Subtotal	**2,416,784.69**

Sugar Act payments to Hawaiian producers, 1963—Continued

Castle & Cooke, Inc.:	
Ewa Plantation Co	$460,721.35
Kohala Sugar Co	332,175.94
Waialua Agricultural Co., Ltd	549,392.78
Subtotal	**1,342,290.07**
Theo. H. Davies & Co., Ltd.:	
Hamakua Mill Co	162,312.03
Laupahoehoe Sugar Co	344,705.63
Honokaa Sugar Co	194,321.46
Subtotal	**701,339.12**
Bishop Trust Co., Ltd.: Gay & Robinson	176,998.15
Grove Farm Co., Ltd.: Grove Farm Co., Ltd	368,795.14
Total	8,903,520.16

SUGAR ACT COMPLIANCE PAYMENTS NOT BORNE BY CONSUMERS

The sugar program was originally enacted, as we know, as the Jones-Costigan Act, an amendment to the Agricultural Adjustment Act, in 1934. In connection with this measure, President Franklin D. Roosevelt on February 8, 1934, sent a message to Congress which included reference to the proposed processing tax on sugar of one-half cent a pound. President Roosevelt said:

> Consumers need not and should not bear this tax. It is already within the executive power to reduce the sugar tariff by an amount equal to the tax. In order to make certain that American consumers shall not bear an increased price due to this tax, Congress should provide that the rate of the processing tax shall in no event exceed the amount by which the tariff on sugar is reduced below the present rate of import duty.

On May 9, 1934, when President Roosevelt signed the Jones-Costigan Act, he issued a statement which included the following:

> I have today signed H.R. 8861, which I am advised will permit a rapid approach to the solution of the many vexing and difficult problems within the industry.
>
> Acting upon the unanimous recommendations of the U.S. Tariff Commission, I have today signed a proclamation * * * reducing the rate of duty on sugar. The rate of the processing tax must not exceed the amount of the reduction as adjusted to this unit of measure * * * [tariff].
>
> This means that the processing or compensatory taxes will not increase in themselves, the price to be paid by the ultimate consumers.

And so we see that because of a simultaneous reduction of the tariff, a reduction equal to the processing tax, the tax did not add to the price of sugar.

In 1936 and 1937 we had a dramatic demonstration not only that the tax does not increase the price to the consumer, but also that the tax-and-payment system does achieve the purpose of helping to assure an equitable division of the income from sugar. The Supreme Court on January 6, 1936, invalidated the tax-and-payment provisions of the entire Agricultural Adjustment Act, including the Jones-Costigan amendment concerning sugar. As I understand that decision, a principal reason for the invalidation was that the tax collections under the act were set aside in a special fund and not included in the general funds of the U.S. Treasury. In any event a period of about 20 months elapsed before new legislation was enacted, a period of 20 months when there was no tax on sugar and no compliance payments to sugar producers.

The record is clear as to what happened to sugar prices during that period, and what happened again after the tax-and-payment system was reinstituted under the Sugar Act of 1937. Various analyses and an examination of prices over the periods when the tax was applied and when it was not applied show that the tax did not increase the price to consumers.

One analysis by the Department of Agriculture, issued on March 15, 1937, said:

> One is likely to assume that excise taxes increase prices under all conditions; but an excise tax on sugar, within certain limits, under a quota system is one of the exceptions.

A little later on, the Department said:

> The tax did not affect the retail price in any way, at least over any appreciable period of time and so could not have been passed on to consumers.

In a comprehensive report entitled "Agriculture Adjustment 1936" and published by the Department of Agriculture on June 15, 1937, we find another analysis of the effect of removal of the tax on sugar. I quote from pages 103 and 104 of that report:

> Invalidation of the sugar processing tax (by the Supreme Court on January 6, 1936) presumably did not affect the cost of sugar to consumers, who paid an average price of 5.7 cents a pound for sugar in 1935 and 5.6 cents during 1936. The decision did result, however, in a wide redistribution of income under the quota system; there was a loss to growers, laborers, and taxpayers and a corresponding gain to domestic sugar processors and foreign producers.

The report continues, a paragraph or two later, in these words:

> Invalidation of production-adjustment payments to producers also destroyed the only practicable means that had been found to assure labor an equitable share in the income from sugarbeet and sugarcane production. Consequently, both growers and laborers were denied assurances of an equitable and reasonable share in the income of the domestic industry under a program in which they, as well as the processors, were intended to be the beneficiaries.

And so we see, from these analyses and reports, that while the tax-and-payment system did assist materially in obtaining an equitable division of the sugar dollar among processor, farmer, and farmworker, the tax was not reflected in an increase in the price of sugar. The accuracy of these analyses and reports were incontrovertibly verified by history. This is shown when we compare average retail prices for the three periods; first, when the original Jones-Costigan Act was in effect; second, when the tax-and-payment features were eliminated; and third, when they were reinstated.

In the 19-month period before the Supreme Court invalidated the system, the average retail price of sugar in 51 cities throughout the Nation was 5.65 cents per pound. This is the period from June 1934 to January 1936.

In the 20-month period from the Supreme Court decision to the enactment of the Sugar Act of 1937, when there was no tax, the average retail price in those same cities was 5.60 cents a pound. Thus, the elimination of the tax over that period had virtually no effect, over the long range, on the average price of sugar.

Then the tax was restored under the Sugar Act of 1937, which was signed by the President on September 1, 1937. What happened to the price of sugar? Over the next 30-month period, from September 1937 through February 1940, the retail price in the same 51 cities averaged 5.41 cents a pound—even less than the average during the preceding period when there was no tax.

Thus, the President was indeed well advised when he made the following statement in a message to Congress on March 1, 1937, with respect to sugar legislation:

> I recommend to the Congress the enactment of an excise tax at the rate of not less than three-fourths of a cent per pound of sugar, raw value. I am definitely advised that such a tax would not increase the average cost of sugar to consumers.

Since the tax and payment system does not raise the price of sugar, where does the tax come from? Another analysis of the Department of Agriculture in 1937 reached the conclusion that the grower of sugar crops, as the residual element in the situation, "did bear the burden of the tax as such."

Mr. SHORT. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include some statistical material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. QUIE] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. QUIE. Mr. Speaker, I thank the gentleman from California [Mr. HAGEN] for yielding and commend him especially and my other colleagues as well, for their outstanding presentations in favor of increasing the annual domestic sugar marketing quota.

Mr. SHORT, who preceded me, has an excellent understanding of the sugar situation and especially as it pertains to Minnesota and North Dakota.

I believe that a 750,000-ton increase in the quota is sound judgment. In fact, what we are considering is simply an adjustment in quota figures to continue the original intent of Congress and to play fair with the farmers who complied with a 1962 Executive request for greater production at the time of the sugar crisis.

The congressional intent at the time the present 2,650,000-ton quota was written into law in 1962 was to maintain a stable sugar supply with reasonable prices for both farmers and consumers. This intent continues under this bill, even with the higher quota, because conditions are much different today than in 1962.

At that time, there was a reasonable world market supply of sugar, which is now seriously depleted. Some of the foreign countries are now of doubtful reliability because of present or potential political instability. Nearly one-third of the world's sugar supply is in Communist hands.

The sugar crisis tested the ability of American sugarbeet growers to meet our domestic needs. They rose to the occasion, at Executive request, in an admirable fashion. They increased production and helped maintain both a stable market and a stable consumer price. At the same time, however, they were forced to make investments to expand production.

Unless this bill is passed, the sugarbeet growers face a 40-percent cut in acreage. This does not seem fair to the farmers who responded to the Executive request for greater production and made additional investments as a result.

However, this increase in quota is also justified by present supply conditions. This is due, in part, to the unstable political conditions in many parts of the world which I have already mentioned. There is also a continuing world shortage of sugar stockpiles.

This increase would be absorbed without any ill effects on our import business or to the nations which sell us sugar, for this 8-percent increase in allowable domestic production would be taken from the global quota and not those quotas already allocated to individual nations, which would still enjoy one-third of the total U.S. market.

Cane sugar processors would not be harmed. The sugar crisis showed that the more plentiful supply of beet sugar on the domestic market enabled development of lower legal import levels of cane and as a result the cane refiners' volume rose substantially.

Mr. Speaker, as I see it, a 750,000-ton increase in quota would have desirable effects on four fronts.

It would, first, be beneficial to American sugarbeet growers and to the 27 States which produce sizable quantities of sugarbeets. Of these States, my State of Minnesota is one. Though comparatively few sugarbeets are produced in my congressional district, we know that what affects one portion of our State economy affects us all and so we are concerned for the sugarbeet growers throughout Minnesota, especially in the Red River Valley.

Second, this bill would have a desirable result for the consumer, for it would assure the consumer of a stable sugar supply at a reasonable price.

It would, third, have a desirable effect on our balance-of-payments situation. A greater domestic sugar production would eliminate the need for importing such large quantities of expensive foreign sugar, which would cut down on the number of dollars which must leave the country.

Fourth, it would have a desirable impact on the entire internal economy, for a combination of the preceding three reasons.

Mr. Speaker, as you can see this effort has bipartisan support and I think this is justified in light of the many benefits which it can create.

Mr. TALCOTT. Mr. Speaker, will the gentleman yield?

Mr. HAGEN of California. I yield to the gentleman from California.

Mr. TALCOTT. Mr. Speaker, I thank the gentleman from California [Mr. HAGEN] for yielding. I commend and thank him for taking the time for this special order to explain in more detail the necessity for maintaining the beet sugar quotas. The gentleman from California [Mr. HAGEN] is a member of the Agriculture Committee and as knowledgeable as any other member on the subject of sugarbeets. This special order gives Members an opportunity to express their views and to give other Members the benefit of the knowledge and information now being accumulated about sugarbeet quotas.

I commend those who have spoken. I am grateful for the assistance of the gentleman from California and of others who are bringing the facts to public view.

The largest beet sugar manufacturing plant in the world is in my district. I can attest that the quotas must be maintained. Cane sugar producers also own considerable assets and have large interests in my district. They will not be harmed by maintaining the beet sugar quotas.

The economy of our agriculture and of our Nation would be prejudiced if the beet sugar quotas were reduced.

I urge my colleagues to review the remarks of those who have spoken before me. Without reiterating each remark, I associate myself with the comments of the Members who have spoken previously during this special order of the gentleman from California [Mr. HAGEN].

Mr. HAGEN of California. I thank the gentleman from North Dakota.

Mr. Speaker, when we were considering sugar legislation in 1962 there were many of us active on behalf of the American sugar producers. I would say one of the most active, certainly one of the most vocal, was the gentleman from Texas [Mr. ROGERS]. If we were to strike a medal of meritorious service on behalf of the domestic beet sugar industry we would probably give it to him, to whom I now yield such time as he may desire to use.

Mr. ROGERS of Texas. Mr. Speaker, too frequently in considering the sugar subject there is a tendency to think only of the end product, a delightful, necessary food having attached to it a readily discernible dollar value in trade and commercial channels. Less often considered is the tremendous contribution made to our total national economy by our domestic sugar producers, which is the subject about which I should like to speak for a moment, particularly as it relates to results of expansion of the domestic beet sugar industry.

Aside from what the entire beet sugar industry has meant to our national economy for many years, there is the matter of new beet sugar enterprises now in various stages of development. It is of these that I would speak, for these are significant examples demonstrating the wisdom of seeing to it that this industry is permitted reasonable and healthy growth.

Under provisions of the Sugar Act, as amended in 1962 to encourage expansion of domestic beet sugar production, acreage reserve commitments have been made to six areas in the United States. Several new plants for processing the sugarbeet crop are now in various stages of construction. Let me tell you what these new plants mean to our economy.

First, because not only do I take great pride in its being in the district I have the honor and privilege to represent but also because I am most familiar with the details of what is being accomplished there, let me use as a stellar example of what I am talking about the new beet sugar enterprise now nearing operational stages at Hereford, Tex. Holly Sugar Corp. is constructing there a $21,500,000 beet sugar plant to serve farmers in the High Plains area of Texas and neighboring New Mexico, and scheduled to go into operation this fall. This is realization of a dream which started several years ago when some of the leaders of the community, representing farmers and businessmen, sat together on a cold and blustery winter day to consider what they might do to rejuvenate their community economically, to give it a new stimulus for growth. They decided to attempt to attract a beet sugar company to bring into the area a processing plant, and their tireless efforts over a period of many, many months are now nearing fruition.

Economic stimulation for the community? Let me recite some of the things which have already happened in Hereford and the surrounding region even before the new beet sugar plant has gone into operation. And let me remark here, Mr. Speaker, that what I am about to report can very well be kept in mind in relation to the brandnew national offensive which is being launched against poverty, rural and urban—an offensive we all join in and which must be pushed to victory.

More than 900 craftsmen and others are now employed on construction of the beet sugar factory.

In the city of Hereford, a community now of some 9,500 persons, businesses of all kinds are enjoying new vigor, and many new businesses already have opened with more to come. At one of the community's two banks, alone, bank clearings in May of this year were up more than 33 percent over a year ago—$16,618,358 in May 1964 as compared to $12,375,046 in May of 1963, an increase of $4,233,312 in just 1 year.

Deaf Smith County, in which Hereford and the new sugar factory are located, is one of the few rural counties in the United States showing a population increase in recent years. The Hereford School District has just approved a $2,400,000 bond issue to finance new school construction to accommodate the swelling school-age population.

Deposits in Hereford's two banks and two savings associations during the 13-month period between March 15, 1963, and April 15, 1964, climbed from $25,986,714 to $30,954,670.

There have been 46 new businesses and professional and service establishments to come to Hereford since January 1963, which was about 3 months after announcement of construction of the new beet sugar plant. Let me enumerate: 2 lawyers, 1 dentist, 2 optometrists, 2 clothing stores, 1 office supply company, 1 discount center, 1 loan company, 5 cafes, restaurants, and drive-ins, 2 food stores, 1 motel completed and another under construction, 12 contractors and building supply services, 3 insurance and real estate companies, and 12 other miscellaneous business, professional, and service establishments.

Building permits in Hereford are reaching new record levels. In the late 1950's and early in this decade, building permits annually aggregate just over $1 million. In 1963, after construction of the new sugar factory was well along, building permits issued in Hereford aggregated $3,281,000, almost a 300-percent increase over previous levels.

Other new enterprises which have come or are coming to Hereford under the direct stimulation of the new sugarbeet enterprise include: a new feedlot on the edge of town with a capacity of 15,000 head of cattle; a similar new feedyard at Friona, a nearby community, also with a 15,000-head capacity; a molasses feed industry at Hereford which includes a $150,000 installation; Dolly Textiles, Inc., a sewing center making children's dresses; 3 fertilizer companies—Cyanamid, Monsanto, and Armour & Co.—currently are reported seeking plant sites at Hereford; Allen Packing Co. of California has acquired a site for a $1,250,000 packing plant construction of which is scheduled to begin this fall; another independent packing company is seeking a construction site at Hereford.

Now on the drawing boards with construction imminent is a $1 million shopping center to be constructed in the northwestern portion of Hereford; Shamrock Oil & Gas Co. now is working on a new Hereford fertilizer plant and farm center which will cost an estimated $1,400,000.

At least indirectly involved in this economic upsurge are also the Best Fertilizer Co.'s new $18 million fertilizer plant at Plainview, Tex., just 60 miles from Hereford and serving the farming area where sugarbeets are now growing; and a new Techne Corp. anhydrous ammonia plant at Plainview costing an estimated $3,500,000.

At Dimmitt, Tex., just 20 miles south of Hereford in the sugarbeet country—and itself a foremost prospect for a beet sugar plant of its own—population has grown from 2,960 in the 1960 census to an estimated 5,000 today. There has been a substantial increase in business activity and influx of new businesses at Dimmitt as well as at Hereford. Western Ammonia, a fertilizer company, for example, is putting a new $4 million plant in at Dimmitt.

And as an example of what is happening to the older businesses in the area, the Hereford Tile & Brick Co. 3 years ago had three employees in the plant. Now there are 30 full-time workers, and the owner reports that he is 6 to 8 weeks behind his orders.

There are 27,500 acres of sugarbeets growing in the district now—in future years as the enterprise becomes fully established this figure is expected to rise to 45,000, or more, acres. But from this year's crop alone it is estimated farmer cash income will be between $6 and $6½ million. The nonsurplus sugarbeets they are growing replace surplus crops of small grains and feed grains, still another plus on the ledger.

On May 25 of this year, the Deaf Smith County tax consultant reported to the board of county commissioners that property valuation in the country had climbed another $10 million this year.

This is the prelude at Hereford. This is what is happening in the creation of new wealth, new jobs, new businesses. This is a story that is new and yet it is as old as the beet sugar industry itself in the United States. This is not a boom and bust story. It is one of solid, stable, long-range growth, and economic vigor and vitality. It is, in short, a thrilling story of what a community and a corporation, working hand in hand, can accomplish.

It is beginning to happen in other regions of the United States, too. In Aroostook County, Maine, the fire engines screamed the good news, the people of Presque Isle and other Aroostook communities cheered—and some even wept with joy—when the news came that a new beet sugar plant was to be built there. My esteemed distinguished colleague the gentleman from Maine [CLIFFORD G. MCINTIRE], who had worked tirelessly to help make the Maine dream of sugar production true, greeted the good news with the comment:

> We can look forward to a new crop making an outstanding contribution to the economic well-being of Aroostook and the State of Maine.

The announcement was hailed as the "biggest thing to hit the State since the paper industry." Here again is the story of new employment, new wealth in the form of cash income to farmers, who in turn will require services and supplies and equipment and machinery and all the rest to produce their new crop. And there will be pressure taken off the depressed potato crop.

And up near Auburn, N.Y., in Cayuga County, there was recently also a grand celebration of the good news that there will soon be a beet sugar factory there, a new cash crop for the region's farmers. The Finger Lakes Sugar Beet Growers Association and the Pepsi-Cola Co. are constructing a new plant at an estimated cost of $22 million, which will employ 200 to 250 persons and bring an expected $6,400,000 more in cash income to the region's farmers each year. Pepsi-Cola Co. has issued a statement which shows the following economic benefits: Annual sale of sugar, $9 million; annual direct payment to farmers, $6,400,000; annual factory payroll, $1,500,000; annual sale of byproducts, $1,500,000; annual taxes, approximately $70,000; annual purchase of materials used in plant plus services purchased, transportation, and so forth, $2 million, for a grand total of $20,470,000.

Mr. Speaker, I submit that these are wonderful examples of America on the go, of progress and development tied to the inexhaustible resources of land and people and furnishing needed and wanted products. We face in this Nation some terrible economic problems which are being attacked vigorously and courageously. We seek lasting solutions, not palliatives for the moment. Here, in the production of a commodity that is in deficit supply in the United States from its own sources, is a part of the solution to some of the problems we face. Why should we look halfway around the world for sugar we need when we can find it at home, and with such great beneficial bonuses to our own people?

It is an unthinkable that a source of new wealth, and continuing wealth, such as our domestic beet sugar industry, shall not be given the right to move forward, to grow as it is needed, to take a larger part in furnishing our annual national sugar requirements. The action we here in the Congress of the United States must take is a clear duty. The annual marketing quota of the beet sugar industry must be enlarged lest we stifle—yes, even cripple—an industry which means so much to us all.

Mr. HAGEN of California. Mr. Speaker, I yield to the distinguished gentleman from Michigan [Mr. CEDERBERG] such time as he may desire to use.

Mr. CEDERBERG. Mr. Speaker, I want to state very definitely I support the request for an increase in sugarbeet quotas. I support them because, in my opinion, it is in the best interest of the consumers of the country, in the best interest of the farmers and of the laboring men and also the processors.

Mr. Speaker, the legislative history of the Sugar Act is replete with instances in which all segments of the U.S. sugar industry have come before the Congress with complete unanimity in their legislative proposals. Frequently in the past, this unanimity has been achieved through a most salutary process of negotiation and compromise. Unfortunately, such unanimity does not now exist. The cane raw sugar refiners have undertaken an aggressive campaign in opposition to the recommendation of the President of the United States that marketing restrictions on domestically produced sugar be removed for 1964 and against a proposed increase in the annual beet sugar marketing quota to bring that quota into line with present levels of production.

Under repeated Government urging, domestic beet sugar production was increased more than a half-million tons in 1963 over 1962, and a further quarter-million-ton increase is in very real prospect this year. These increases have been achieved—at no little cost in effort and capital expenditures, I might point out—in the national interest at a time when there is an unresolved world scarcity of sugar. This requested expansion has carried the beet sugar producers to a productive capacity well above their present statutory quota ceiling. Unless there is a quota adjustment, a very critical cutback in sugarbeet acreage and beet sugar production will be imposed as poor reward for valuable services rendered.

In effect, the cane sugar refiners have taken the adamant position that American sugarbeet farmers should suffer a drastic cutback so that the 16 cane sugar refining corporations may retain their approximately 70 percent of the toal U.S. sugar marketed. The refiners have created a tremendous smokescreen to disguise this basic motive. They have tried to create the illusion that multitudes of refinery employees would be thrown out of work, if the beet sugar quota were increased. They have wept bitter tears in behalf of the Alliance for Progress. They have insisted—completely ignoring the facts—that a beet sugar quota increase would not be in the best interests of consumers. They have even tried to sell the idea that the Congress of the United States does not have the right to revise the Sugar Act when the national interest dictates that such revisions must be made at once.

What the cane refiners are really driving at comes clearly into focus when one looks at them closely and examines some of their own unguarded statements which have become a matter of public record and are in direct contravention of the manufactured statements they are now circulating with the aid of expensive and long-practiced professional persuaders.

Mr. Speaker, let us look at the biggest refiner of them all, American Sugar Co., and see what we can learn by inspecting them in some detail. Here is a corporation with five cane raw sugar refineries in the East and South, plus a subsidiary beet sugar company—Spreckels—which operates four sugarbeet processing plants in the West. In the most recent year for which American reported its volume of business, 1962, American Sugar Co. accounted for about one-third of the total refinery output in the United States. In all, with its cane refineries and beet plants, American enjoyed more than one-fourth of the entire U.S. sugar market in 1962. And it is bigger now. Under provisions of the national sugarbeet acreage reserve created by law in 1962 to encourage expansion of the domestic beet sugar industry, American, through its Spreckels subsidiary, has acquired for itself almost one-third of the total expansion reserve—for new plants in California and Arizona.

And yet here is a company that has had the unmitigated gall to include, in its annual report to stockholders, dated February 21, 1964, this amazing statement manufactured in an apparent effort to discourage competition:

> Any proposal that overexpands one sector of the domestic industry at the expense of the operations of another is not in the best interest of sugar consumers or of the industry as a whole.

This same thought evidently also occurred to another of the big cane refining companies, the California & Hawaiian Sugar Refining Corp., which is another aggressive opponent of beet-sugar quota expansion. At the time American Sugar Co. had on file with the Department of Agriculture an application for sugarbeet acreage reserve since granted in Arizona, the C. & H. president wrote to the Director, Sugar Policy Staff, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, as follows:

> We would also like to question the advisability, as a matter of policy, of giving the largest sugar producer of the United States, American Sugar Co., two of the six new plant commitments from the acreage reserve. American has already been the beneficiary of the acreage reserve program through the commitment made to Mendota (California). It appears to us that so long as other alternatives, more accessible to markets, are available the Department should not contribute to the further growth of a sugar company which already markets well over one-fourth of all sugar consumed in the United States.

American and C. & H. are, nevertheless, now shoulder to shoulder in trying to prevent a quota adjustment for the beet sugar industry, which participates, as a whole composed of 14 separate companies, to only about the same extent in the U.S. sugar market as does the one giant of the refining industry, American Sugar Co.

The C. & H. president is quoted in the 1963 annual report of the Hawaiian Sugar Planters' Association, owners of C. & H., in some rather remarkable observations about sugar prices charged U.S. consumers. He speaks eloquently and at some length of the inability of C. & H. to force their prices higher because of the competition of the beet sugar industry and of the frustration experienced in failing to be able to jack up prices, even in a year like 1963 when a 43-year high was reached at one point.

Before leaving the subject of the giant refiner, American Sugar Co., I should like, Mr. Speaker, to make these observations: American Sugar Co. showed an increase in melt in 1962 of more than 30 percent over a base period of 1947–51. Meantime, one of their chief eastern cane refining competitors, the National Sugar Refining Co., showed a 10-percent decline in the corresponding period. Recently, National announced plans to close down refining operations at its New York facility, bitterly implying that beet sugar competition was to blame. In light of the true facts and figures, it would appear that National's problems are caused not by beet competition, but by the huge American Sugar Co. which grows bigger and takes a bigger portion of the U.S. market almost every day.

The vitally needed beet sugar quota increase which the industry seeks could be amply accommodated from a million-and-a-half-ton so-called global quota which is being held aside against the possibility that friendly relations will some day be restored with Cuba, who then will be given the opportunity to fill the 1½-million-ton quota. This so-called global quota has, since it was created, been distributed on a first-come, first-served basis among friendly foreign nations. In response to the suggestion that a portion of this be assigned to the U.S. sugarbeet producers to accomplish the needed quota adjustment for them, the U.S. Cane Sugar Refiners' Association publicly stated that none of the global quota should be assigned to American farmer-producers, but should be assigned to foreigners. Behind this callous attitude undoubtedly was the thought that the U.S. refiners enjoy what is known as the refiner's margin on every pound of imported sugar brought into the United States, a margin amounting to from 1½ to as much as 4 cents per pound, and usually in the range of about 3 cents per pound. The U.S. refiners' margin is greater, incidentally, than that enjoyed by their counterparts elsewhere in the world. If, as I think is the case, the U.S. refiner margin is 3 to 3½ cents per pound as against about 1 to 1½ cents elsewhere, then on the refiners' present volume of some 7 million tons of sugar, the U.S. refining industry enjoys a yearly subsidy on the order of $280 million. Giant American Sugar Co. alone, with about one-third of total refining business, would enjoy upward of $90 million a year of this hidden subsidy. It should also be noted that foreign sugar is required to come into this country as raw sugar, which assures that it must go through a refinery here and thus provide the usual margin for the refiner. If refined sugar is the only sugar a quota country has available to fill its U.S. quota, it still has to come into this country at raw sugar prices and the cane refiners "further improve its quality," even though it might have been perfectly pure when shipped in. This again assures the refiner of his margin, so it is easy to see why the refiners are dedicated to seeing to it that as much of the U.S. total annual sugar supply as possible comes in from foreign sources, and why the refiners so strenuously oppose any increase in domestic sugar production, no matter what is best for the Nation as a whole.

The cane sugar refiners do not actually produce sugar. In the words of one of their own group, they are "converters." The head of one of the large refining corporations stated it thus in his firm's annual report for 1963:

> It should be borne in mind that sugar refiners are essentially converters, and hence their profit is dependent upon the spread between raw and refined sugar prices, rather than upon either of those prices alone.

Their profit also depends, of course, upon the total quantity of sugar they can put through their "laundering" process in the course of a year. Beet sugar is manufactured in one continuous process, from the sugarbeet to the refined sugar ready for market. Cane sugar goes through the first stage milling to the raw sugar stage and then is refined in a second process. The U.S. refiners perform the second process, obtaining their raw sugar from both foreign and domestic producers, and by far the bulk of it is from foreign producers. In a time of sugar scarcity, such as the world now faces, the refiners can contribute nothing to making new supplies available, as did the beet sugar industry last year and again this year when shortages were threatened.

Taking all of these things into account, it becomes crystal clear why the refiners oppose so strenuously a beet sugar quota increase. The less beet sugar permitted on the market, the more there will be for the refiners' laundries with the highly attractive margin to be collected on every pound. But the refiners' selfish interest cannot and must not be allowed to deter us from our duty to revise the Sugar Act so as to continue assurance that the consumers of this Nation shall have adequate supplies of sugar at all times. To achieve this end, we must increase substantially the beet sugar quota, and accomplish this in the very near future.

Mr. Speaker, I want to express again my appreciation to the gentleman from California [Mr. HAGEN], for yielding me this time.

Mr. HAGEN of California. I thank the distinguished gentleman from Michigan.

Mr. Speaker, at this time I yield to the distinguished gentleman from Kansas [Mr. DOLE].

Mr. DOLE. Mr. Speaker, I appreciate the gentleman's yielding to me and take this time to join in the efforts being made by this group. I certainly recognize this to be a very important problem and one important to my district and State. In Kansas we have a very great sugarbeet potential. On March 19, I introduced a bill to increase the amount of domestic beet sugar and mainland cane sugar which may be marketed during 1964, 1965, and 1966.

The basic beet sugar quota of 2.6 million tons should be increased to 3.4 million tons. This increase is in the interest of U.S. sugar consumers, and vital to Kansas beet growers who need sugarbeets as a cash crop, and as an alternate or replacement for crops now in surplus.

The 750,000 increase in the basic beet sugar quota could be made without disturbing any of the present individual country quotas, as the increase would come from the so-called global quota.

This bill can easily be amended to continue the special provision enacted in 1962 which sets up the administrative machinery providing for sugar quotas for new producers and areas of present production. This will attract the necessary financing to insure construction of a processing plant.

Mr. Speaker, I ask unanimous consent to include in the RECORD, as a part of my remarks, two excellent articles from the Wichita Eagle and Beacon of Sunday, June 7, 1964. One is entitled "Sugar Refinery Would Sweeten State Economy" and the other "How Sugar Quotas Work." These articles were written by Lynne Holt, Eagle staff writer, and will be of interest to all those interested in expanding sugarbeet production.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The matter referred to follows:

[From the Wichita (Kans.) Eagle and Beacon, June 7, 1964]

SUGAR REFINERY WOULD SWEETEN STATE ECONOMY

GARDEN CITY, KANS.—This is irrigated country, ideal for producing high quality sugarbeets.

No wonder men and women from nearly every walk of life have united, trying to "sweet talk" Uncle Sam into an increased sugar allotment that will "sweeten the economy of southwest Kansas."

They are determined to get the allotment along with a sugar refinery plant that will "sweeten the pot" of these 19 southwest Kansas counties, as well as the balance of Kansas.

Garden City was founded in 1878, according to City Manager Deane Wiley.

Beet production has been a vital segment of farm income since about 1902.

During the first 4 years the harvested crop was shipped to Colorado for processing.

Then in 1906 the Garden City Sugar Co. refinery here was put into operation, an industry that meant employment for many until it was closed in 1955.

Since then production from this region of Kansas has been shipped to Colorado.

Beet production has steadily increased and the output continues to be shipped west to the Rocky Mountain State.

In an effort to expand the many facets of potential employment, indirect retail sales and investments linked with a growing industry, which some claim will add $5 million in new income annually, the Southwest Kansas Sugarbeet Council was formed.

Mission of this group is to secure an allocation from the national sugarbeet acreage reserve for the 1966 crop.

According to V. L. Bushman, sugar program specialist with the U.S. Department of Agriculture:

The area has met all requirements except proving its financial case. This step involves securing an acceptable processor.

Officials here say they are considering two firms at this time.

Financing is possible through the sale of industrial revenue bonds.

Estimated cost of the facility, which would be located on a 640-acre tract with rail siding, is listed at between $18 and $20 million.

A plant similar to one envisioned for this area is nearing completion at Hereford, Tex. Its cost is $22 million.

Kansas beet growers have agreed to deposit $1 per ton of beets processed in an escrow fund for a maximum of $5 million to defer any loss from operations encountered by the processor.

This same group has expressed willingness to finance storage tanks necessary to inventory the refined sugar for subsequent shipment to market.

Cost for these tanks, approximated at $2 million, would be deducted by the processor from payments to producers over an extended period.

Reports are that production in southwest Kansas currently provides about one-half the supply of raw material for American Crystal Sugar's refinery at Rocky Ford, Colo.

Individuals promoting the project ask that the acreage allotment for this region be increased to provide production to support a new Kansas plant, without affecting the quota for the Colorado facility.

Harold Purdy, Deerfield, president of the Arkansas Valley Beet Growers Association and vice president of the National Association of Beet Growers said:

"Grower representatives are requesting 25,000-acres allotment for 1966 crop year.

"On the production record of the past 6 years this would provide 400,000 tons of beets. One ton of beets should produce 250 pounds of sugar, he said. Total production on this basis would provide 100 million pounds of sugar.

"The plant will be capable of handling from 600,000 to 800,000 tons of beets during the annual 100 to 130 days slicing season."

Within the 19 county area there are approximately 1 million acres of irrigated land suitable for growing beets, according to Purdy.

Recently the Southwest Kansas Sugar Beet Council sent questionnaires to all irrigation farmers within the 19 counties. Responses showed 465 farmers were interested in growing more than 40,000 acres of beets annually.

Under present provisions growers operate under contract with the processor. Without a contract there is no market.

Establishment of a refinery would also pave the way for another new business venture.

This venture—cattle feeding—is welcomed by some, seen as competition by others.

Many refineries operate a feedlot to make fullest utilization of the desugared pulp and other byproducts.

Reports from the Texas plant indicate that approximately 15,000 cattle will be "fed out" annually.

Michael Geisler, chamber of commerce manager here, said there are at least 75 individuals in Garden City who have sugar refining experience.

Labor requirements for the new plant, should it be authorized, would range from 75 to 400, depending upon the season.

With all of these growth potentials and cooperative efforts, there's still the big "if."

The situation is most aptly expressed by the city's fiscal agent representative, a member of George K. Baum & Co., Kansas City, who says: "We're dead without new legislation giving acreage allotment."

[From the Wichita (Kans.) Eagle and Beacon, June 7, 1964]

HOW SUGAR QUOTAS WORK

GARDEN CITY, KANS.—Kansas was bypassed when the U.S. Department of Agriculture doled out its commitments for 65,000 acres expanded sugarbeet production last year.

This was authorized under amendments for 1962 under the Sugarbeet Act of 1948.

Bills are before both Houses of Congress now to provide increases in beet sugar quotas ranging from 250,000 to 375,000 tons for 1964 and from 750,000 to 1,125,000 tons for 1965 and 1966.

It is the latter year that beet producing interests in this area are interested.

Present amendments expire December 31, 1966.

In a recent meeting with businessmen, producers, financers, and industrialists in Southwest Kansas, V. L. Bushman, USDA sugar program specialist, said:

"The Sugar Act makes it possible, as a matter of national security, to produce a substantial part of the Nation's consumer-penalizing device of a high protective tariff.

"The act assures U.S. consumers a plentiful and stable supply at reasonable prices.

"Under the act, friendly foreign countries participate equitably in supplying the U.S. sugar market for the double purpose of expanding international trade and assuring a stable and adequate supply of sugar."

Under provisions enacted in 1962, the quotas for the domestics beet sugar producing areas were increased from 2,110,627 to 2,650,000 tons for the beet area and from 649,460 to 895,000 tons for the mainland cane area on the basis of a 9,700,000-ton requirement total.

A breakdown of this quota:

	Tons
Domestic beet area	2, 650, 000
Mainland cane sugar	895, 000
Hawaii	1, 110, 000
Puerto Rico	1, 140, 000
Virgin Islands	15, 000
Total	5, 810, 000

For every 100,000 tons increase in consumer requirements, the beet sugar area and the mainland cane sugar area are assigned 65 percent of such an increase, according to Bushman.

Beet areas get approximately three-fourths, while one-fourth is allotted to the cane areas.

Concerning the balance of the 9,700,000-ton requirement, the Republic of the Philippines has a fixed basic quota of 1,050,000 tons. Quotas for the other specified foreign countries are established after domestic and Philippine totals have been determined.

Bushman points out that most quotas for the domestic offshore and foreign supply areas are filled with raw sugar, requiring further refining in the United States.

If domestic areas or foreign countries cannot supply quotas, the deficit is allocated to the Philippines and Western Hemisphere countries.

In the last full year of trading with Cuba, that country had a quota of approximately 3,215,000 tons.

Currently, nearly half of the former Cuban quota is assigned to other foreign countries and the remainder to the global quota.

Bushman said a reserve quota approximately 1.5 million tons is being held for Cuba, should trade relations be renewed.

The planted acreage for Kansas in 1964 is estimated at 22,000 acres, compared to 9,100 for 1960.

The USDA spokesman said the Secretary of Agriculture distributes the acreage allotment to provide the 65,000 short tons of raw value sugar by determining:

Suitability of the area for growing beets.

Proximity to other mills.

Need for a cash crop or replacement crop.

Accessibility to sugar markets.

Firmness of capital commitment.

Relative qualifications of localities under these criteria.

Bushman said producers must meet several requirements to receive a "conditional payment" under the Sugar Act.

He listed those provisions:

Marketing beets within the proportionate share established for the farm. (This assignment of acres or tons for a farm is to adjust crop output to the area's quota and normal carryover and to assure that each farm will share equitably in any adjustment.)

Paying field workers in full for work performed at rates not less than those determined by the Secretary of Agriculture to be fair and reasonable. (Migrant workers in the Garden City area in 1963 received an approximate $28 per acre tended during the season.

Strict observance of the child labor law as specified under the Sugar Act.

Mr. HAGEN of California. Mr. Speaker, I thank the gentleman from Kansas.

Mr. Speaker, I think we have demonstrated here, if this record will be reviewed by those interested in sugar legislation, that an increase of at least 750,000 tons in the American beet sugar quota is in the national interest, in the interest of the consumers, and should be approved by this Congress. The people opposing this action are exclusively the cane sugar refiners who get their supplies of sugar from abroad.

I submit that if the record of their activities in respect to legislation is examined over the period of years that sugar legislation has been an issue in the Congress, it is not very savory. You will recall the interest that the distinguished Senator from Arkansas, Mr. FULBRIGHT, took up this subject of foreign sugar lobbying at the time of the 1962 Sugar Act and the record presented was not savory. We on the other hand represent farmers, we who have spoken here today; and basically small farmers. We are interested in seeing that they receive equity under the law and that our U.S. laborers receive jobs. There are very few jobs created by the simple act of refining sugar produced abroad. There are many jobs created by the production of the product from the root through the mill in the case of beet sugar and cane sugar grown in the United States.

Mr. Speaker, we feel we have equity on our side. We are attempting to get our case across to the Congress. We certainly hope we will be successful in joining in this effort the representatives of the cane sugar growing areas of Florida and Louisiana.

Mr. MONTOYA. Mr. Speaker, while New Mexico has never ranked among the major States in production of sugarbeets for sugar, it lays just claim to being the birthplace of the U.S. sugarbeet seed production industry.

Irrigation development in New Mexico and Texas first stimulated experimentation with the sugarbeet as a possible crop for the new irrigated areas. It was through these experiments that the so-called overwintering method of producing sugarbeet seed was discovered, almost by accident.

The U.S. Department of Agriculture and the New Mexico Agricultural Experiment Station had embarked upon a joint project to determine the best time for planting sugarbeets in New Mexico. Beginning on July 1, 1922, it was agreed to make trial plantings of sugarbeets on the 1st and 15th of each month throughout the year.

It was observed that sugarbeets planted in early fall very successfully survived the winter weather and made excellent growth with the advent of warm spring weather. But, it was noted, these overwintering plants sent up seed stalks—"bolted" is the term applied to such growth. This was the key upon which the American sugarbeet seed production industry was founded.

Normally, the sugarbeet is a biennial, requiring 2 years to produce its seed crop. Prior to development of the overwintering method, it was the practice to plant the beets in the spring, allow them to reach root-development maturity by fall, remove the roots and place them in storage throughout the winter and then to replant the roots the following spring. The seed crop would thus be ready for harvesting during the second year of growth.

Now, however, it was learned that by planting in the summer, a seed crop could be harvested the following summer.

The first commercial planting by the overwintering method was made near Las Cruces, N. Mex., in the fall of 1927 for the American Beet Sugar Co., and a good yield of excellent seed was harvested in 1928. Within a year or two, plantings of more than 20 acres of sugarbeets for seed were made and yields had climbed to 3,500 pounds of seed per acre in some plantings.

The commercial possibilities were recognized by several leading beet sugar companies, which added the stimulus for expansion of seed production leading to today's output in this country which not only provides enough seed for all U.S. plantings, but also for some export of seed. Prior to development of the overwintering method, American farmers necessarily imported all their seed from foreign suppliers.

As sugarbeet seed production increased during the early and mid-1930's, the State of Arizona began to emerge as the primary production center. Today, more than 5 million pounds of sugarbeet seed are produced annually in Arizona alone. Other seed production is located in Oregon, Utah, California, and Nevada. Whether for economic or other reasons, New Mexico today produces no sugarbeet seed.

The interest in New Mexico in producing sugarbeets for sugar is not a recent development. The historical record shows that farmers in the Pecos Valley showed a great deal of enthusiasm in the crop as early as the 1890's. In 1896, a small factory was erected near Carlsbad by the Pecos Valley Beet Sugar Co. This factory was destroyed by fire in 1903.

Another small factory was constructed at Maxwell in 1924. Unfortunate circumstances resulted in the closing of this factory before the first crop of beets had been entirely processed.

Since the advent of the Sugar Act of 1937, production of beets has continued on a small scale, with the largest acreage—about 1,900—being planted in 1950. Initially, beets were produced in Bernalillo, Colfax, Sandoval, San Miguel, Socorro, Taos, and Valencia Counties. Later—in 1950—production shifted into Quay, Roosevelt, Santa Fe, and Torrance Counties. Beginning in 1953, beets were only grown in Torrance County. The beets grown in the State during these years have been shipped to plants in Colorado for processing at considerable costs to both farmers and processors.

In recent years, a vast amount of interest has been demonstrated by New Mexico farmers in sugarbeets. This enthusiasm and that of groups from other States wanting to grow the crop resulted in the Congress in 1962, making special provision under the Sugar Act for beet sugar factories in new areas.

Specifically, the Congress in 1962 amended the Sugar Act to provide for the set-aside by the Secretary of Agriculture of enough acreage each year to provide for one new beet sugar factory annually with a fourth factory every 3 years. This provision is sometimes referred to as the sugarbeet acreage reserve provision.

In September of 1962 the Department of Agriculture held a public hearing at which requests for sugarbeet acreage were submitted by interested localities for the crops of 1962 through 1965. At this hearing and in subsequent written statements, requests were received for new factories from 1 locality for 1963, 7 for 1964, and 15 for 1965. In addition, several requests were received from localities wherein existing beet sugar factories were to be expanded. Thus, it can be seen that the interest in sugarbeet acreage far exceeds the acreage available under the sugarbeet acreage reserve provision.

The Sugar Act provides the following criteria for use by the Secretary of Agriculture in making his selection of localities to receive reserve acreage and whenever proposals are made to construct factories in more than one locality: first, firmness of capital commitment; second, suitability—of area—for growing sugarbeets; third, the proximity of other plants—in actual practice this means that a locality which is the farthest away from an existing plant stands a better chance under this particular criterion than those that are closer to existing plants; fourth, the need for a cash or replacement crop, and fifth, the accessibility to sugar markets.

The State of New Mexico meets this criteria and has the resources and manpower available to immediately accept an expansion of her acreage allotment for the growing of sugarbeets sufficient to support the construction of a sugar processing plant.

I would like to point out that both summer and winter beets can be grown in my State and because of a long harvest season, a processing plant would be able to operate more efficiently.

Farm income in New Mexico has declined and another cash crop is sorely needed. We need an acreage allotment of at least 25,000 acres to support such a factory and bring farm income in my State more in line with the national average.

Since New Mexico's farm income decline percentagewise has been the largest in the Nation, it is readily apparent why 15 of the 32 counties are depressed areas, and why 1 of 5 operators of its family-size farms must have outside employment to support his family.

I believe that we should produce a greater quantity of our own sugar—and not be subjected to the whims of foreign producers.

EXTENSION OF REMARKS

Mr. HAGEN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks at this point in the Record.

The SPEAKER pro tempore (Mr. Patten). Is there objection to the request of the gentleman from California?

There was no objection.

MESSAGE TO REPUBLICANS

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Alger] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. ALGER. Mr. Speaker, the nomination of Barry Goldwater by the Republican Convention next month will mean the Republicans will win the White House in November and will win control of the House by picking up 30 or 40 seats.

I have no reservation in making this statement because it is based on a careful study of what Senator Goldwater advocates, the results of the primary elections, and the mood of the American people. During the past 3½ years, as I have traveled America from coast to coast, I have been impressed by the almost unanimous disenchantment of the people with the philosophy of the New Frontier, a philosophy which President Johnson is now moving even farther to the left.

There is an overwhelming desire on the part of the American people for a strong stand on American principles of government—the preservation of the Republic, the strengthening of the capitalist system, and the protection of U.S. sovereignty. Stripped of all the confusion of extraneous wording, this is the basic platform of the American people. It is the basic platform of the Republican Party. At one time, it was the foundation of the platform of the Democratic Party.

Barry Goldwater has enunciated in the most forthright language, the kind of America the people want. An America dedicated to the Constitution. An America which guarantees the freedom of the individual. An America which offers every man unlimited opportunity according to his talent, ability, and willingness to work for an education and for achievement. An America which protects the right of the ownership of private property. An America which makes inviolate the freedom of religion. An America which builds upon our spiritual foundation and gives all mankind the vision and the hope of liberty throughout the ages.

What is the alternative, the program the present administration will offer the people? A program of bigger Federal Government; increased Federal controls; increased taxes to initiate broader welfare programs; more Government competition with private business and industry; more direction of the lives of the people by a centralized Federal bureaucracy; more interference by the Government in every facet of our national life; more years of frustration in meeting the challenge of the Communist conspiracy; more lowering of American prestige and further loss of leadership among the nations of the free world.

The President and the radical liberals push this program by continually downgrading America and American accomplishments and American traditions. The Democrats, under President Johnson, offer a program which has been termed by Dr. Norman Thomas, respected and recognized leader of the Socialist Party, as "socialistic." President Johnson stands firmly on a platform largely initiated and fully supported by Walter Reuther, David Dubinsky, and other national labor leaders who have made no secret of their Socialist Party affiliations and who have struggled throughout the years for a socialist society in America.

This is the choice the Republican Party must offer the people in November. It is the choice the Republicans offer behind the leadership of Barry Goldwater.

By offering a choice between these two philosophies Senator Goldwater does more than revive the hopes of dedicated Republicans. He inspires, as well, the powerful bloc of independent voters, disgruntled Democrats, and all Americans who believe it is our first duty to preserve a free nation of freemen.

The National Democrat Party, spurred on by the ultraliberals who have now closely embraced President Johnson, has left the Jeffersonian principles in which most rank and file Democrats believe.

For all these people the Republican Party offers the only home in which they may realize their hopes for a better America for today and tomorrow; the only party which will make it possible for this generation to bequeath to our children and our grandchildren the blessings of liberty which we inherited.

For this reason I predict a ticket headed by Barry Goldwater will win control of the House; it will pick up those 30 or 40 Republican seats needed. Republican victories on a Goldwater ticket will not be limited to the South, but will blanket the country because the desire to return the Government of the United States to the people is clearly evident in every section and in every State.

Victory for the Republican Party and the American people in November is sure only if we offer this choice. That is the lesson we have been taught by recent political history. It is the lesson of the Nixon campaign and the two Dewey defeats. No major Republican victories have been chalked up on a "me too" campaign.

Republican thinking, the thinking of the American people is clearly not represented by a minority east coast leadership which has dominated past elections.

If one thing is proved by the California election it is that Barry Goldwater has the support of the people despite the tremendous propaganda campaign waged by liberal columnists and commentators. One fact is certain, it is the people who will decide the winner in November just as they decided the winner in California.

BICENTENNIAL OF WINCHENDON, MASS.

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. Conte] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. CONTE. Mr. Speaker, it is a great privilege to direct my remarks to a distinguished town, Winchendon, in my congressional district.

The town of Winchendon was incorporated by an act of the General Court of Massachusetts on June 14, 1764. It was the ending of the colonial wars with France and her Indian allies that made the settlement of Winchendon possible.

When Winchendon was incorporated, George III had been on the throne less than 4 years. The 13 American Colonies were sparsely settled except near their coasts. Before the end of the French and Indian Wars, French colonies, settlements, and military posts stretched on the north and west from the gulf of

St. Lawrence, by Niagara and Pittsburgh, to New Orleans. On the south, Indians and Spaniards bounded the English settlements.

The American colonists were hemmed in by enemies on all sides except the east, where across the Atlantic Britain reached her strong hand for the purposes of repression rather than assistance. The colonists were poor. Their tiny villages were separated by endless miles of forest, over which their meetinghouses might sometimes be seen on the hilltops. Their houses were mostly log cabins. Nothing was manufactured except for domestic use on spinning wheels and looms in rural kitchens. By statute and regulation Britain would not permit even the manufacture of a hobnail in her American colonies. Britain intended to keep the American colonists in continuous economic and political dependence. Years later, Winchendon would give her sons to the revolutionary cause which won American independence.

Colonial Winchendon was on the frontier. A few settlements were scattered here and there in the wilderness between it and Canada, but the greater portion of the lands in this area were in the possession of the Indians. At every outbreak of hostilities between France and England, the French and their Indians would pour down upon the American colonists' outlying towns, burning, pillaging, killing, and taking captives.

Mr. Speaker, Winchendon, in 1764, was a week's distance from Boston, with which it had no regular communication. Efforts to settle Winchendon had been made during many long years, but until the power of France was broken by Wolfe's capture of Quebec in 1759, the insecurity of the area made settlement impossible. However, there were a few settlers in the area previous to the outbreak of the last French war, and some remained through it. Some were with Wolfe at Quebec.

The war lingered on until 1763 when peace was declared, Canada was transferred to England, and all the country between Winchendon and the Canadian line was thus rendered safe for settlement. In Massachusetts, people began to move westward and northward. The population of the area that is now Winchendon increased, and application was made to the General Court of Massachusetts for an act of incorporation, which was granted. In the spring of 1764, 200 years ago, Winchendon became a town.

Mr. Speaker, when the time for its first centennial arrived, Winchendon was too much concerned about the lives of its sons fighting in the Union Army and for the success of the Union cause to conduct extensive centennial ceremonies. As a history of Winchendon, written at about that time, says:

> As the time for the anniversary, the 14th of June 1864, drew nigh, the committee concluded to postpone, for the time at least, the proposed celebration. The principal reason given was that the public mind was too intently and anxiously fixed on the great struggle in the wilderness and beyond, where many of our soldiers were fighting and falling, to enter into the spirit of a centennial celebration. The time therefore passed by, with perhaps an expectation that later in the year a day might be found for the commemorative festivity. But what is not done in its time is generally never done, and thus it proved in this case. We had no centennial proceedings to make a chapter of history.

Nevertheless, on Thanksgiving Day of 1864, that holiday so beloved by New Englanders, all the congregations of Winchendon met to express gratitude for divine favor, and to recall together the past of their town. The address for the day at the North Congregational house of worship described the history of lovely Winchendon. Hymns written especially for the occasion were sung. A stanza of one of them, changed only in one word, is particularly appropriate to the observance which Winchendon now celebrates in 1964:

Then honor to those men of old,
  Who felled the forest trees,
And warred with hunger, want, and cold,
  That we might dwell at ease.
God give us strength our work to do,
  And grace our work to know,
Like those brave, simple men that lived,
  [Two] hundred years ago.

KANGAROO COURT CIVIL RIGHTS—II

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. ASHBROOK] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ASHBROOK. Mr. Speaker, on May 27 I brought to the attention of the House a very interesting series of nine articles from the Lorain, Ohio, Journal which indicated how crying "civil rights" rather than "wolf" can sometimes be more successful. These articles appear at page 12074.

Reporters Jack LaVriha and William E. Scrivo have written the final six installments of this "kangaroo court" episode—or at least the final installments for now—and I want to bring these to the attention of this body. The Lorain Journal and reporters LaVriha and Scrivo are to be commended for this excellent series. Also, on Wednesday, June 3, the same Lorain Journal published an excellent editorial, "Holiday for Crime," which I also include with these remarks:

[From the Lorain (Ohio) Journal, May 21, 1964]

KANGAROO COURT—YOUTH HITS POLICE ACTS

(By Jack LaVriha and William E. Scrivo)

The other half of the Lorain police team which arrested Angelo Morales after an accident on Pearl Road the night of January 12, 1964, said that besides attacking him, Morales accused the two officers of committing unnatural acts.

Yesterday, Patrolman George Ritenauer told his story of the incident at Chris Cafe, 3680 Pearl Avenue, and subsequent events prior to the time the officers turned Morales over to the patrol wagon crew.

His partner, William J. Fazekas, 37, an 8-year veteran of the Lorain Police Department, was the officer attacked by Morales in the tavern where Ritenauer and Fazekas had come to question him.

Just as Ritenauer stated, Fazekas said that Morales spewed out his hatred of police officers after the arrest.

He quoted Morales as saying:

"I know what you guys do when you're working together at night, riding around, nothing else to do."

Morales followed this statement with an obscene accusation, Fazekas said.

Fazekas said that he and Ritenauer walked into the bar and Ritenauer asked Morales about the car involved in the accident with George R. Edwards. When Morales said he stole the car, Ritenauer told Morales he was under arrest.

It was then, said Fazekas:

"Morales took a wild swing missing me, and then he grabbed me by the throat and officer Ritenauer struck him in the midsection."

Fazekas said that some members of the crowd in the tavern became hostile toward the officers at this point.

"They began saying things like 'Do you guys always have to beat up everybody you arrest' and things like that," said Fazekas.

The condition of Morales in the patrol car was described by Fazekas as being "like a wild man."

"He kept repeating foul names and using profane language, laughing and carrying on like a person out of his mind," Fazekas said.

"I have arrested many people who were intoxicated and seen a lot of drunks in the 8 years I have been on the force," he added. "But, I have never yet seen a person act the way Morales acted that evening."

Fazekas also made statements that Sgt. Richard L. Griffith and Patrolman John Kochan had high reputations among law-abiding citizens of the community, as far as he knows.

"Everyone I have ever talked to about Sergeant Griffith seems to like him and considers him a good police officer," said Fazekas.

Kochan, Fazekas said, is the kind of police officer many people think the community needs more of.

"When there is a trouble spot—for example Vine Avenue, in the summer months—they usually send Officer Kochan to walk that beat and without any incident of any kind he seems to be able to clear the matter up," Fazekas said.

Griffith and Kochan were indicted by a Federal grand jury in Cleveland April 22 on charges of violating Morales' civil rights by allegedly beating a confession out of Morales about his narcotic habits.

Morales' accusation was supported by a petition signed by seven prisoners in Lorain City Jail, which was turned over to Federal authorities by a South Lorain priest who had visited Morales at the jailhouse.

[From the Lorain (Ohio) Journal, May 23, 1964]

PRISONER JURY PASSES VERDICT—KANGAROO COURT JEOPARDIZES OFFICERS

(By Jack LaVriha and William E. Scrivo)

Sgt. Richard L. Griffith and Patrolman John Kochan face a trial in Federal court for one basic reason—the claim by a "kangaroo court" of prisoners in Lorain City Jail that they beat Angelo Morales with a whip while attempting to obtain a confession from him.

Two persons have already stated that Morales was in a fight before he was taken to jail—the man with whom he fought, George R. Edwards, and a witness to that fight, Mrs. Ernest Nemeth, operator of the Pearl Road Drive-In on Pearl Road, across from the Chris Cafe in the area where the fight took place.

Morales was taken by police cruiser to the patrol wagon of the Lorain Police Department, where he was placed in the custody of Patrolmen Louis Kosa and Robert L. Pincura.

Both of these men attest to Morales' appearance and condition on the night of January 12 when he was taken to jail. The beating is alleged to have occurred on January 13, after Morales had been in jail for 1 day.

"When we picked him up," said Kosa, "he had on a torn shirt and a pair of pants, shoes, and socks.

"His clothing was all disarranged. He was dirty, very threatening toward everybody."

Kosa said that Morales said he was "going to get even" and that "they're picking on me" when he was placed in the patrol wagon.

Officer Pincura, Kosa's partner on the wagon, bore out his statements.

"He appeared pretty disheveled to me and he looked to me like he was intoxicated," said Pincura.

Pincura said that Morales was reluctant to leave the patrol wagon when it arrived at the police station and had to be commanded to leave several times.

Both Kosa and Pincura said that difficulty was experienced in booking Morales after he was taken into the police station.

Patrolman Arpad (Art) Toth, turnkey at the jail who booked Morales, bore this out.

Toth said Morales appeared "to be highly intoxicated and under some kind of medication because he wasn't acting like a normal drunk would act."

Toth described Morales' actions:

"He would giggle and then he'd become, more or less, quiet and serious. And then he'd giggle and rant and rave and then the next time he'd become abusive, calling us various names again."

Patrolman Gerald Maholic was the turnkey on duty during the questioning of Morales by Sgt. Griffith and Kochan on January 13.

He said there were two different occasions where Kochan took Morales from the cell to the interrogation room upstairs for questioning.

Maholic added that he saw Morales in his cell, lying in a bunk, after the interrogation sessions. He said that Morales had his shirt off and he did not notice anything unusual about his appearance.

Maholic also said that he heard no unusual noise in and about the station during either of the questioning sessions.

Maholic's station is to the right of the entrance to the city jail building at the foot of the stairs that lead to the interrogation room, which is directly above the information-record room occupied by Maholic.

Morales did not complain to him about the conduct of any of the officers, Maholic added.

[From the Lorain (Ohio) Journal, May 23, 1964]

MORALES NOT ACCUSED OF CRIME WHEN QUESTIONED

(By Jack LaVriha and William E. Scrivo)

Angelo Morales was informed during questioning by the two Lorain police officers charged with violating Morales' civil rights that he was not being accused of a crime.

Sgt. Richard L. Griffith and Patrolman John Kochan both said in an interview that they questioned Morales on two occasions to find out what caused Morales' unusual behavior.

They also denied Morales' allegations that they beat him to force a confession about his use of narcotics.

Morales' charge was supported by a "Kangaroo Court" of seven prisoners in Lorain City jail, which resulted in an indictment being returned against Sergeant Griffith and Officer Kochan by a Federal grand jury in Cleveland April 22.

Sergeant Griffith, a 22-year veteran of the Lorain Police Department and an expert in narcotics, and Officer Kochan, an 18-year police veteran, had this to say (in chronological order):

Question. When is the first time you heard of Angelo Morales in connection with this case?

Answer (Griffith). At 2 p.m. on the afternoon of January 13 when we came to work. We were late because of heavy snow. We were handed a note attached to the arrest sheet on Angelo Morales. The note said the chief wanted Griffith to question this man.

(Morales was arrested at about 10 p.m., January 12, charged with disorderly conduct and abusing an officer, to which charges he later pleaded guilty, and a notation was placed on his arrest sheet that he be investigated for dope addiction.)

Question. What was your next move?

Answer (Griffith). We first took care of routine calls. It was probably about 9 p.m. January 13 when we got to Angelo Morales.

Question. What did you do with him?

Answer (Griffith). I told Kochan to get Morales from his cell.

Answer (Kochan). I first took my weapon off, in accordance with departmental procedure. Then I went down and got the keys in the record room because the turnkey was busy. I went downstairs and unlocked the first heavy steel door. Then I unlocked the second door and went into the bullpen between the cells.

When I came to the third door I called for Angelo Morales. I told him we would like to talk to him. I opened the cell and let him out.

He had a rumpled shirt on and looked bedraggled—he was dirty and his hair was mussed up. He came along quietly. He walked out in front of me and I locked the doors as we went out.

I took him to the booking room where Sergeant Griffith was waiting. I introduced him to Sergeant Griffith and told him (Morales) that Sergeant Griffith wished to talk to him.

He sat down in a chair beside Sergeant Griffith and I leaned on a desk in front of Morales.

Question. Did either of you have anything in your hands?

Answer (Griffith). No.

I noticed nothing unusual about his eyes. I then had him strip. His shoes were examined and all seams of his clothing. I found no indications in the usual places of intravenous injections. Indications of subcutaneous (under skin) injections were hard to discern if any were apparent.

Subject was questioned as to the use of narcotics in any form. He denied any such usage. He was then told to dress and that we would talk to him later. He was returned to the cell by Kochan. The whole procedure took about half an hour. He was quiet and not openly hostile during this session.

Kochan: "I went back and got the keys and returned him to the cell. I told him to think it over.

"Said that we probably were going to talk to him again. He was walking in front of me. I did not have a hand on him. I had no weapon on me."

Question. When was the next time you saw Morales?

Answer (Griffith). Since Ritenauer and Fazekas (Patrolmen George Ritenauer and William Fazekas) had mentioned possible narcotics addiction on the arrest sheet, an unusual procedure, I felt the case bore more investigation than usual at this time.

Kochan and I went out and had coffee and returned about 11 p.m. I had Kochan check the records bureau to see what he could find out about friends and acquaintances of Angelo Morales. I also had him call some people.

After we made our contacts I went to the interrogation room on the second floor of the police station and sent Kochan for Morales.

Kochan: "Everything was the same except this time Morales did not have a shirt on. I asked him where his shirt was and if he wanted to catch a cold. He mumbled something and pointed back to the cell. He was very dirty."

Question. What crime was Morales accused of?

Answer (Griffith). He was not accused of any crime. He was asked what caused his unusual behavior. He said "nothin'."

Kochan: "He was fidgety this time."

Griffith: "Very little happened other than questioning about his use of narcotics. This session lasted about half an hour."

Question. Did you or Kochan touch him during this session?

Answer (Griffith). Neither of us touched him in any way.

The two policemen said that about 11:45 p.m. Morales was brought back for questioning, this time to the vice squad office.

Kochan: "The sergeant and I talked things over and compared notes. I said, 'Angelo, do you have anything to say to us?' There was no answer."

At this point, the officers said they set up a tape recorder to record the questioning.

They said Morales finally told Kochan that he would talk.

Griffith said he apprised Morales of his civil rights and told him again that drug addiction was not a crime in the State of Ohio and that he was being questioned as to what caused his unusual behavior.

The recorded statement took from 1:45 a.m. until 2:08 a.m., January 14, according to Sergeant Griffith and Kochan.

They also said that at 8 p.m. that same day Morales made an oral statement which conformed to that on the tape recorder.

Question. What was your condition when he (Morales) left you after the recorded statement?

Answer (Griffith). We were tired and sleepy, just as Morales was.

Kochan reiterated that Morales was dirty and his hair was mussed up.

[From the Lorain (Ohio) Journal, May 25, 1964]

KANGAROO COURT—PAPER SCRAP CITES POLICE

(By Jack LaVriha and William E. Scrivo)

It was only a scrap torn from an ordinary manila bag, but it paved the way for a Federal grand jury indictment against two Lorain police officers on civil rights charges.

On this scrap of paper a "kangaroo court" of seven Lorain city jail prisoners affixed their signatures after Andy Samuel Mehallic, the "jury foreman," scrawled on it the damning petition against Sgt. Richard L. Griffith and Patrolman John Kochan.

Here, for the first time, the wording of the petition is made public.

At the top of the petition are the dates January 13 and 14, 1964. In the left-hand corner is written "The City of Lorain, Ohio, Jail"; under this "To whom it may concern."

Mehallic wrote, in pencil, the following:

"This is to testify we seen the back & chest & head injury, etc., bleeding, etc., on Angelo Morales."

Mehallic was the first to sign the petition. The six other prisoners who signed, in the order and manner of affixing their names were Pete Avolas, Bob Steele, Vincestro Figuoro Perez, John Pivacek, J. Wright, and Don Curry.

Bob Steele is Hubert (Bobby) Steele; J. Wright is John Wesley Wright and Don Curry is Donald Golden Curry, self-appointed "chief justice" of the "kangaroo court" jury.

The manila bag petition was seen by Police Inspector Maurice M. Mumford, who conducted an investigation of the charges against the two policemen for Police Chief Frank L. Pawlak.

Mumford said that he saw the note during the course of his investigation and that it was in the possession of Rev. Lauren Peiffer, assistant pastor of the Chapel of the Sacred Heart.

(The Chapel of the Sacred Heart is located at 1564 East 31st Court. Its membership is comprised mostly of Spanish-speaking residents in the Lorain area.)

"The priest was careful that it did not get out of his sight," Mumford said.

Father Peiffer was given the petition by Morales when he went to the city jail to have a talk with Morales.

Mehallic had said that the petition was "sneaked" out of the cell in Morales' shoe so that it would not be found in the event of a search of Morales or any other prisoner leaving the cell block.

Pawlak said that Mumford's investigation report shows that each of the seven prisoners told Mumford that he voluntarily signed the petition as it was drafted by Mehallic.

Mumford said that Reverend Peiffer had contacted Pawlak and City Prosecutor John Kozich before he [Mumford] suggested that the priest take the matter up with the Federal authorities if he wished to do so.

The police inspector said he was unaware that Ohio has a civil rights law and a Civil Rights Commission.

Pawlak said that Mumford did not take any statements from other prisoners who were in the cell when the seven prisoners signed the petition against the two policemen.

The petition is in the possession of Merle M. McCurdy, Cleveland, U.S. attorney for the northeastern district of Ohio.

In an interview with the writers of this series last week, McCurdy said that the other city jail prisoners who were in the cell block but did not sign the petition were not called before the Federal grand jury.

He noted that they weren't called because Mumford did not mention their names in his investigation report to the police chief.

Sergeant Griffith and Officer Kochan were indicted April 22 by a Federal grand jury, which heard 21 witnesses in a 3-day hearing of the case.

Although defense attorneys for the policemen have filed a motion to dismiss the indictment, McCurdy said there would be a trial some time in September.

[From the Lorain (Ohio) Journal, May 26, 1964]

KANGAROO COURT—JUDGE TELLS OF MORALES

(By Jack LaVriha and William E. Scrivo)

On the morning of January 14, 1964, after a petition had been drawn up by seven prisoners in Lorain city jail accusing two Lorain police officers of beating him, Angelo Morales appeared before Judge John S. Kolena, of Lorain municipal court.

Judge Kolena has cause to remember Morales' appearance before him, because the judge is particularly militant against anyone taking the law into his own hands.

Morales, according to police reports, attacked George R. Edwards after an accident involving Edwards' car and a car operated by Morales' brother, Manuel, in front of the Chris Cafe, 3680 Pearl Road, on January 12, 1964.

"I asked him why he took the law into his own hands," said Judge Kolena. "He seemed to be indifferent," the judge went on, "but he didn't deny he had been in a fight."

Defendants who enter Judge Kolena's courtroom are given a mimeographed sheet which advises them of their rights and the meaning of the various pleas. When time permits, the judge reads the material.

Under "guilty," which was the plea entered by Morales to charges of disorderly conduct and abusing a police officer, the following information appears:

"Guilty: means that you admit the violation, and there is nothing for the court to do but to assess the penalty upon hearing the report of the investigation which will be read by the prosecutor, as well as any statements you wish to make in mitigation of your case."

Also included in the material submitted to the defendants is the fact that they may ask for legal counsel or may seek a jury trial if the fine amounts to more than $50 or there is a jail sentence involved.

Judge Kolena said that Morales was read the charges against him before he entered his guilty plea.

"I asked him if he understood, and he said he did," said Judge Kolena.

Judge Kolena said that Morales made no claim before him that Sgt. Richard L. Griffith and Patrolman John Kochan had beaten him in obtaining a confession on narcotics usage the previous night.

The judge said that he noticed no unusual marks or bruises on Morales as the 18-year-old youth stood before him.

Judge Kolena sentenced Morales to pay a fine of $75 and costs on the disorderly conduct charge, as well as 45 days in city jail, with 35 days withheld pending probation to Police Inspector Maurice M. Mumford for 2 years.

Morales' driver's license was suspended for 6 months or until further notice of the court and he was to refrain from uses of intoxicants and from places that sell intoxicants.

On the charge of abusing an officer, Morales was fined $25.

His fine of $100 and costs amounting to $15 are recorded as having been paid by Rev. Kevin Nugent, pastor of Chapel of the Sacred Heart, on January 15, 1964.

Morales was then released. He missed his first probation appointment with Inspector Mumford, but showed up 5 days later saying that he had forgotten about it.

Morales has also been reported as being in local taverns, but Judge Kolena said no formal complaint concerning this has been made to him.

[From the Lorain (Ohio) Journal, May 27, 1964]

KANGAROO COURT—REHEARING NECESSARY

(By Jack LaVriha and William E. Scrivo)

In this series of articles, the Journal has attempted to show the nature of the case involving Sgt. Richard L. Griffith and Patrolman John Kochan of the Loraine Police Department.

The two officers stand accused and indicted by a Federal grand jury of violating the civil rights of Angelo Morales, 18, a Lorain citizen of Mexican descent.

They are accused of beating Morales with a whip January 14, 1964, in an attempt to obtain a confession from him concerning his usage of narcotics.

The case against Griffith and Kochan is unusual in many respects and could have far-reaching ramifications.

It is the first case of its type in the northeastern Ohio district of the Federal courts in which an indictment was handed down.

Merle M. McCurdy, Cleveland, U.S. attorney for the district, has said that many cases where a policeman is accused of beating a prisoner have come to his attention. In these cases, it is usually the word of the prisoner against the officer, he added, and the cases are not prosecuted.

In the Morales case, it is basically the word of two officers, who said they did not strike Morales, against Morales, who apparently told the Federal grand jury that they did.

Seven prisoners have signed a petition saying that Morales was bruised and bloody when he returned from the interrogation session.

But police officers on duty in the police station have stated that they saw nothing unusual about Morales' appearance after the questioning and those who were close to the interrogation room heard no unusual noises.

A judge who saw Morales the morning after the beating allegedly occurred saw no bruises or marks even though the prisoners said that Morales had a head injury and blood on his back and chest a few hours before he appeared before the judge in Lorain municipal court.

There is evidence that Morales was in a fight on Pearl Road before he went to city jail on the night of January 12, 1964, and he was charged by the city prosecutor and fined by the judge for disorderly conduct because of this fight. The fight was reported by witnesses to have involved rolling on cinders.

It is also true that the officers who questioned Morales were not accusing him of a crime and pointed out to him that using narcotics is not a crime in Ohio.

They were not questioning him in regards to the crimes he was accused of, disorderly conduct and abusing a police officer, and to which he later pleaded guilty.

There is evidence from police officers that Morales threatened them and their families after he was arrested and also statements that these officers felt his condition was not due to simple intoxication.

Morales himself admitted to the two officers in the contested statement that he had taken narcotics for a period of 4 years. For this he could be charged with nothing and given no penalty.

One of the members of the "Kangaroo Court" which "tried" Griffith and Kochan came to a Journal reporter voluntarily with the information that an attempt had been made to frame the two officers and that an attempt was also made to extort money from them to clear them of the charges.

In the light of these facts and others presented in this series, the Journal feels that there should be a complete reevaluation of the case by the Justice Department, which ordered that the matter be pursued.

All the witnesses should be called; if they were not known to the U.S. attorney prior to this series, they are known to him now. The Federal grand jury should hear all of the evidence.

This action is suggested with a desire to find the truth so that sincere law enforcement officers will not feel that they are the potential victims of those who have an understandable hostility toward all law and order.

Civil rights is a privilege of those who are good citizens and obey the laws of this country; they are not a shelter for wrongdoers.

[From the Lorain (Ohio) Journal, June 3, 1964]

HOLIDAY FOR CRIME

Growing violence concentrated mainly in big cities is cause for grim concern. Murder, rape, brutal assaults, thievery, and disorderly conduct in blatant disregard of the law are becoming so commonplace that they might be regarded as routine if not so dangerous to the life, limb, and well-being of average citizens.

New chapters were added in the past few days to New York's sorry record of bloody assault and property damage. Horrible to contemplate was the rape-murder of a defenseless woman in the self-service elevator of her apartment house in Brooklyn. Such a crime is a reflection of the moral deterioration of the times. Almost as shocking, and perhaps potentially even more dangerous, were the gang attacks in which drunken youths terrorized passengers on subway trains and the Staten Island Ferry.

The New York Times commented editorially that for the rampaging youths "to rob, to beat up peaceful citizens, and to inflict senseless property damage is a stunning indictment of the inadequacy of the law-enforcement agencies of the community." In summary, the editorial stated: "The basic problem * * * is the inadequacy of the police force of this city. An increase in the number of police is clearly needed and as soon as possible. We are confident that the overwhelming majority of the city's people are prepared to pay whatever bills are required to assure their physical safety."

The Times, usually sagacious, is missing the point. New York's troubles stem more from a growing tendency of hoodlums, toughs, and dissidents to disregard the law than from lack of a sufficient number of police. Doubling the force will not stop the lawlessness unless there is a renewal of the respect and cooperation that the general public must give to law enforcement if the police are to be effective.

Furthermore, those depraved members of the human race who have no regard in their hearts for anything or anybody must be forced to acquire a different type of respect—the respect that springs from fear.

The killers, the rapists and the wanton brutes who stop at nothing from sadistic sex crimes to child torture cannot be restrained by love taps and sweet reason from crass indulgence in the most vicious crimes—if they think they can get away with the dastardly deeds. And they can, if the police are so boxed in by civil rights restrictions, mawkish regulations which make a policeman's necessary use of force a more serious crime than a hoodlum's deliberate assault, and constant threats of prosecution, that they are unable to enforce the law.

This is not said in defense of police brutality. Absolutely not. This term denotes the senseless and needless use of force against helpless prisoners. That is entirely different than the use of force to restrain a drunken or crazed person who is ready to maim or kill. Force becomes brutality only if used against prisoners already safely in custody.

Modern police methods do not require the use of force, or brutality, to extract information or confessions from prisoners. The old-time "third degree" has been replaced by a less forceful approach.

What the Times overlooked in the plea for more policemen is that the police must have the power and the authority to enforce the law, and the cooperation of the public. The reason is all too obvious. When respect for law enforcement has died, two police officers would have no more chance of stopping the depredations of a gang of rowdies than would one.

The strength of the law is no greater than the public's acceptance of it.

WHO'S A RAT FINK?

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. ASHBROOK] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. ASHBROOK. Mr. Speaker, on June 4, Paul Harvey gave one of his usually excellent editorials on ABC. I think it is worthy of reproduction in the CONGRESSIONAL RECORD so other Americans can receive the benefit of his thinking.

I was at the hearings that the House Committee on Un-American Activities conducted in Buffalo, N.Y., last month. I agree 100 percent with Paul Harvey that Andrew Berecz performed a great service to his country by his undercover service as a member of the Communist Party. A true American all of the time, Mr. Berecz received the abuse and scorn of the men and women he identified as members of the Communist Party. Had any American had the opportunity to sit through these hearings he would have been convinced as I am that America does have a threat to its internal security. Hats off to Paul Harvey for the fine words of commendation for this fine American.

WHO'S A RAT FINK?

(By Paul Harvey)

In the early gangster movies he was called a "stool pigeon" or a "stoolie." Today the mobster who tattles is a "rat."

In fiction there is little sympathy for the stoolie and the rat because in fiction there is supposed to be some honor even among thieves. In fact, there is not.

Our perspective got distorted by this misplaced emphasis. The hoodlum who "sings to the cops" is, in fact, some more decent and much more courageous than the rat he rats on.

Indeed, in the Communist conspiracy there is only one real test of whether a member has had a change of heart. Many profess to have quit the Reds, but few are willing to name their cohorts in the conspiracy.

If a Communist says he has reformed, yet ducks behind the fifth amendment when asked to name his conspirators, he is merely trying to shake his own foot out of a trap while leaving the trap there to ensnare others.

When a Red truly gets "religion," when he "sees the light," when he recognizes the international gangsters for what they are, he wants to preserve, protect, and defend his homeland against them.

He becomes an informant for the FBI.

Few appreciate the importance of the intelligence thus furnished our Government by such men as Andrew Berecz.

The chairman of the House committee which investigates un-American activities appreciates it. He recently said:

Mr. Berecz, before you leave the witness stand I wish to express to you my own deep personal thanks and appreciation for the service you have rendered, also the appreciation of all the members of this committee.

Traditionally the word "informer" has connoted a squealer, a low, despicable person who betrays.

You, on the contrary, have selflessly worked for the good and decent people of your country against criminal conspirators.

At great risk to yourself you have supplied important intelligence information to a duly constituted security agency of your country. For this you deserve only praise.

You have done far more for your country than have your detractors, whatever positions of power and prestige they may occupy.

For your conscientious service to your country you have been hurt, your wife and children have been hurt. From the time you were publicly identified as a Communist in 1957, until you testified in 1962, even good Americans doubted your loyalty and considered you a traitor. Nothing can erase the bitterness of those memories.

It is my sincere hope that you may now enjoy the rewards, the honor, the gratitude of the American people you have served so well.

That is the way to hope, Mr. Speaker, but that is not the way to bet.

Americans have allowed themselves to become so brainwashed by false images that the criminal who does an about-face—the loyal double agent who serves us in the frontlines of the cold war—these men of purposeful deceit we somehow assume to be something less than the vermine they help to exterminate.

If, due to false values, this generation is beyond redemption, surely it is important for the next generation that novelists and historians get the good guys back where they belong in fiction and in fact.

CED SAYS UNITED STATES SHOULD, IF NECESSARY, BARGAIN TO CUT TARIFFS WITH NONCOMMON MARKET COUNTRIES AND DENY MOST-FAVORED-NATION PRIVILEGES TO COMMON MARKET

Mr. CASEY. Mr. Speaker, I ask unanimous consent that the gentleman from Wisconsin [Mr. REUSS] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. REUSS. Mr. Speaker, I have frequently stated my concern that U.S. bargaining strategy for the Kennedy-Johnson round now underway is too exclusively centered on the European Common Market. If the Common Market refuses to recede from its highly protectionist policies in agriculture and to agree to substantial tariff reductions on industrial items, the U.S. strategy appears to be to call off this round of negotiations entirely. Since such an outcome of the Kennedy-Johnson round would be highly injurious to the United States and to all members of the General Agreement on Tariffs and Trade—GATT—I have pointed out the need to be prepared with an alternative strategy. If, despite our best efforts, the Common Market is unwilling to go forward on both agricultural and industrial trade liberalization, the United States should be prepared to use its authority under the Trade Expansion Act to bargain with GATT members other than those in the Common Market, and to deny most-favored-nation benefits to the Common Market.

I am pleased that the Committee for Economic Development, in a report entitled "Trade Negotiations for a Better Free World Economy," released on June 4, agrees with this position.

The text of the CED statement on this matter follows:

IF SUBSTANTIALLY EQUAL TRADE LIBERALIZATION BY ALL TRADERS CANNOT BE NEGOTIATED

It is our objective to propose policies by which the entire free world can greatly and generally reduce barriers to trade, with profit to all. We consider it to be of the utmost importance that all of the major trading countries should subscribe to the trade-liberalizing agreement. The fact of the ability to agree, among countries that are not only trading partners but also allies, is itself important. Also, it would be difficult for any participating country to be assured of reciprocity if some of its main trading partners were outside the agreement and made no concessions. This is particularly true if concessions are now made across the board, rather than selectively.

The negotiations will be difficult. Undoubtedly, in the process of bargaining, situations will arise where failure seems likely. We believe, however, that the common interest of the main trading partners are so great that if they are recognized the negotiations will succeed.

Nevertheless, policy toward the forthcoming negotiations must contemplate the possibility that some principal trading nations might not be able, or willing, to go nearly as far in the liberalization of free world trade as the others can go, and want to go, at this time.

If it should turn out that some major trading unit of the free world should be unwilling or unable to undertake trade liberalization that is substantially equal to what is generally desired, the rest of the free world nations should consider how they could nevertheless enhance their continued economic progress through the benefits of expanded trade, not excluding from consideration a departure from the unconditional most-favored-nation principle, valuable as that principle is.

We regard trade liberalization as embracing the reduction of both tariff and nontariff barriers to the flow of goods and services in international trade, including reduction of the impediments to trade in agricultural goods.

The CED does not discuss the ways in which the United States and other countries could exclude the Common Market from the benefits of tariff reductions, when and if the Common Market refuses to participate to the same extent as other countries. I have attempted to do so in a section of my recent book "The Critical Decade":

MUST THE COMMON MARKET CONTINUE TO MESMERIZE US?

The 1964 Kennedy-Johnson round of trade negotiations will determine the fate of world trade for at least a decade. If negotiations are concluded in 1965, the 5-year phasing of tariff reductions required by the Trade Expansion Act would not be completed until 1970. The upcoming negotiation, therefore, is the cost important in our history.

The French veto of British entry into the Common Market means that we will be bargaining with a Common Market of 6, not one of 13 or more, which would have been the case had the Common Market absorbed the EFTA countries.

Nevertheless, our apparent negotiating strategy for the Kennedy-Johnson round still reflects our old fixation on the Commoı Market as if it were the center of our solar system.

The preliminary skirmishes: The beginnings of the negotiations were not auspicious. Members of the GATT countries met at Geneva in May 1963 to frame a set of rules governing the future negotiations. Once again, we kept our gaze fixed on the Common Market. And once again, the compromises reached appeared to require that the United States and other free world countries would have to give more to the Common Market than they would receive in exchange.

One of the main points at issue during the 5-day meetings was the Common Market's insistence that high U.S. tariffs be reduced relatively more than lower Common Market tariffs on the same commodities. We strenuously opposed this suggestion at the outset, pointing out that at least reciprocal cuts were necessary if the present balance-of-payments surplus in favor of the Common Market countries were not to be further increased. In the end, we had to compromise. This means that on at least some items, to be determined by a working committee, we may find ourselves having to agree to 50-percent cuts in our tariffs in exchange for lower cuts or no cuts at all by the Common Market. The best we can hope for is that, by hard bargaining, this new trading disadvantage will be held to a minimum.

We told the Common Market that we would conclude no bargain on industrial products until the Common Market settled on a common policy for wheat, feed grains, meat, poultry, and rice that was acceptable to the major agricultural exporting countries. Since the Common Market had not arrived at a common policy on these commodities before the GATT session, we asked the Six for an interim agreement to maintain the present level of exports of these commodities into the Common Market. We did not secure such an agreement.

It was our declared objective to secure general agreement that principal exports of developing countries in non-French Africa, Asia, and Latin America would not suffer discrimination by reason of the association of ex-French and ex-Belgian areas of Africa with the Common Market. We failed to get agreement to this principle. The Common Market specifically maintained the need for such discrimination, and there is no assurance that it will not have its way on the matter.

Our apparent strategy: if the Common Market balks, we quit: Though the Six takes only one-fifth of our exports (some $4 billion a year), we apparently intend to bargain principally with her and allow the success or failure of such negotiation to determine what we do about the other 40-odd nations in GATT, to whom we sell four-fifths of our exports (some $16 billion annually).

More than that, there are indications that the United States intends to bring the Kennedy-Johnson round to an end if the Common Market fails to rid itself of its agricultural protectionism. "Before we engage in far-ranging tariff reductions on industrial products," Special Trade Negotiator Christian A. Herter told the U.S. Chamber of Commerce on April 29, 1963, "we feel that we must have indications that the Common Market is not adopting a restrictive trade policy in agriculture."

Unfortunately that is precisely what the Common Market has been doing, to the evident distress of American poultry, wheat, and grain farmers, and their representatives in Congress.

Our bargaining strategy appears to be this: We are going to negotiate mainly with the Common Market; and if she won't give on either agricultural or industrial products, we are going to punish ourselves and the rest of the free world by calling off the negotiations.

The reason given for ending the Kennedy-Johnson round in the event the Common Market is intransigent, without attempting to bargain with the rest of the members of GATT, is that tariffs lowered by such bargaining would simply result in the unjust enrichment of the Common Market because she would have to be extended most-favored-nation treatment. According to Brendan M. Jones, writing in the New York Times on April 28, 1963:

"Should the Common Market be willing to negotiate only a limited number of tariff reductions with this country in the coming discussions an awkward problem would arise. The effect would be to stymie special negotiations with Britain or Japan, for example.

"Tariff cuts made to either of these countries would, under 'most-favored-nation' policy, have to be extended to the Common Market. Thus, the Common Market would gain the benefit of an extra tariff concession without making a compensating one of its own to this country.

"Such unrequited benefits to the Common Market would go very much against the grain for the United States, especially after limited bargaining by the European bloc. It is probable they would also limit new agreements with other countries.

"Consequently, the negotiations with the Common Market are being approached by administration officials as the key to a general lowering of world trade barriers."

What makes such a bargaining position a strategy headed for almost certain failure is that the conditions of failure—Common Market intransigence—are highly likely to come to pass. True, a number of members of the Six undoubtedly want to be reasonable about the upcoming negotiations. But until weighted voting modifies the veto in 1966, any one member can transform the Six into an unreasonable roadblock. France proved that by its January 1963 veto of Britain's entry. The blunt fact is that strong elements exist in the Common Market which are quite content with its proposed agricultural protectionism.

Strong elements exist also which find its relatively high external tariff on industrial goods, coupled with the increasingly free exchange of goods between members of the Six, an economic advantage beyond compare. Here are the mightiest industrial countries of the Continent, invited to form a bloc which gives them a tremendous internal market, and the right to discriminate in their tariffs against the rest of the world—all with the cheers of the free world ringing in their ears. Who wouldn't be happy at being granted a special license to discriminate, while at the same time receiving the applause of those discriminated against?

So the likelihood of intransigence by the Six is very real. A discerning article in the Economist for April 13, 1963, discusses the French attitude toward tariff reductions:

"Not only would a massive incursion of American goods menace several French industries; too radical a reduction in the common external tariff of the Six would jeopardize the cohesion of the Common Market. Paris has not gone to so much trouble to exclude Britain only to let in the United States by the back door. Wholesale concessions to the United States would also be detrimental to the argicultural policy of the Six, as well as to their relations with Africa; this, in the eyes of Paris, weighs as heavily as the threat to France's metallurgical, chemical, coal, and textile industries.

"French industrialists go even further than the Government and * * * in their view a straightforward application of the same rules to the enormous American trusts and to even the largest European undertakings resembles a struggle between a mouse and an elephant (pot de terre contre pot de fer) * * * 'How can there be real competition with General Motors,' M. Villiers, president of the French employers, recently asked, so long as its enormous powers, its fabulous capital resources, its considerable profits, enable it to have recourse to a range of marketing and publicity techniques unattainable in Europe? According to the industrialist, true equality would therefore demand concessions from the United States double or treble those required of Europe."

All this is a gloomy prospect. If the Common Market says "Stop the world, we want to get off" we are apparently about to punish ourselves and the rest of the free world by calling off negotiations then and there.

A SENSIBLE STRATEGY FOR THE KENNEDY-JOHNSON ROUND: BACK TO MULTILATERALISM

This need not be, provided we sidetrack our present strategy of letting the Common Market call the tune, and instead adopt a strategy directed at the whole free world.

Specifically, we should invite the Common Market to join us at the negotiations in working for restrictions on agricultural and industrial products that are low, low, low, and that are nondiscriminatory throughout the free world.

We should thus make clear to the Common Market right at the start that our aim is free worldwide tariff bargaining, and that we hope that the Common Market will join with us toward that end. Passage, even now, of the Douglas-Reuss amendment to the Trade Expansion Act so as to permit down-to-zero bargaining on a substantial list of commodities would give us some needed elbowroom in negotiating. The present 50 percent limits on bargaining unnecessarily tie our hands.

But while we work for the best, we must prepare for the worst. If the Common Market should stick to its proposed protective policy on wheat, feed grains, rice, meat, and poultry; or if it refuses to make adequate concessions to the United States, Canada, Australia, New Zealand, Denmark, and the other countries hurt by its farm policy; or if it refuses to bargain in good faith for substantial lowering of tariffs on industrial products—if any of these happens either now or later, we should keep always in mind the legal remedies available to us:

Possible action against protectionism on agricultural products: Suppose the Common Market turns out to be unyielding in its protectionist policy on wheat, feed grains, meat, rice, and poultry. If it is, most U.S. exports of these commodities, which came to $483 million in fiscal 1962, would be cut off. In such a situation, we have two remedies.

On a unilateral basis, we could invoke section 252 of the Trade Expansion Act of 1962: "Whenever unjustiable foreign import restrictions * * * oppress the commerce of the United States * * * the President shall take all appropriate and feasible steps within his power to eliminate such restrictions." Included within the "steps" which the President may take are to "suspend, withdraw, or prevent the application of benefits of trade agreement concessions to products" of the country imposing the unjustifiable restriction.

On a multilateral basis, we could take advantage of article XXIII of the General Agreement on Tariffs and Trade, which protects countries against the impairment of benefits accruing to them under that agreement by compelling equivalent concessions on other products.

It is hardly likely that the Common Market can offer the United States adequate compensation for agricultural restrictions through reductions of her tariffs on industrial goods. It is impossible for the Common Market to make adequate compensation to countries like Canada, Australia, New Zealand, Argentina, and Denmark, since their exports of industrial goods to the Common Market are insignificant compared to their exports of agricultural products.

Accordingly, if the Common Market adopts its announced agricultural policy, it would be violating article XXIII of GATT and "nullifying and impairing" concessions previously made by its member countries. Under article XXIII, a country which is injured by the Common Market's agricultural policy could be authorized to withdraw previous concessions to the Market's member countries and could also be released from any obligation to them.

There is a precedent for such retaliatory action under GATT. In 1951, the United States introduced restrictions on imports of dairy products. Denmark and the Netherlands complained that this action impaired concessions previously granted. As compensation for damage to cheese exports, the Netherlands Government asked the members of GATT to permit it to restrict imports of wheat flour from the United States during 1953. The GATT signatories agreed, allowing the Netherlands to cut its wheat-flour imports from the United States in 1953 from 72,000 to 60,000 metric tons. Congress thereupon allowed the "cheese amendment," which had caused the trouble in the first place, to expire.

More recently, we ourselves had occasion to apply to GATT under article XXIII. In November 1962 we informed GATT that France, by maintaining quota restrictions on the import of fresh and processed fruit and vegetables, was impairing concessions that this country had given during the 1960–61 Dillon round. The members of GATT found against France and we were therefore given permission to work out a withdrawal of concessions to France.

If the Common Market persists in agricultural protectionism, there is nothing illiberal about U.S. retaliation—either under section 252 of the Trade Expansion Act or under article XXIII of GATT. We would be guilty of far greater disservice to the cause of liberal trade if our inaction condoned trade discrimination by six of the most prosperous countries in the world.

Retaliatory action by a country which has itself been subjected to protectionist treatment by another has the support of the father of liberal trade himself, Adam Smith:

"The case in which it may sometimes be a matter of deliberation how far it is proper to continue the free importation of certain foreign goods, is, when some foreign nation restrains by high duties or prohibitions the importation of some of our manufactures into their country. Revenge in this case naturally dictates retaliation, and that we should impose the like duties and prohibitions upon the importation of some or all of their manufactures into ours. Nations accordingly seldom fail to retaliate in this manner. * * *

"There may be good policy in retaliations of this kind, when there is a probability that they will procure the repeal of the high duties or prohibitions complained of. The recovery of a great foreign market will generally more than compensate the transitory inconvenience of paying dearer during a short time for some sorts of goods. To judge whether such retaliations are likely to produce such an effect, does not, perhaps, belong so much to the science of a legislator, whose deliberations ought to be governed by general principles which are always the same, as to the skill of that insidious and crafty animal, vulgarly called a statesman or politician, whose councils are directed by the momentuary fluctuations of affairs.[1]

Possible action against protectionism on industrial products: If the Common Market proves unyielding in its agricultural protectionism, or fails to make adequate compensation for it, or fails seriously to bargain down industrial tariffs, we should not sulk and retire from the negotiating table.

Instead we should vigorously bargain with the United Kingdom, Sweden, Denmark, Norway, Austria, Switzerland, and Portugal—the European Free Trade Association—with Canada, New Zealand, Australia, Japan, and the rest of the members of GATT. It is particularly important that we bargain with the EFTA countries, since by the end of 1966 these countries will have eliminated all tariffs between themselves on industrial products. This discrimination could seriously harm our exports of such products as paper, machinery, vehicles, instruments, and consumer durables. The only way to eliminate the discrimination is to bargain down tariffs of the individual EFTA countries.

Certainly we should not be deterred from vigorous bargaining with all GATT members except an intransigent Common Market by the notion that the benefits of such negotiations would have to be passed on to the Common Market through the most-favored-nation clause contained in article I of GATT. This is absurd. Trade negotiations are not required to give the dog in the manger the biggest bone. Such a conclusion is required neither by the American history of the most-favored-nation clause, nor by the spirit of GATT itself.

The unconditional most-favored-nation principle was first announced for the United States by Secretary of State Charles Evans Hughes back in 1923. Its purpose was and is an entirely valid one: to protect us and the rest of the free world against special deals whereby the party which has just given a trade concession wipes it out by giving somebody else a still more favorable concession.

In the past we have several times discontinued most-favored-nation treatment to countries which discriminated against us. In 1939, for example, we found that Nazi Germany was discriminating against our commerce by the use of various export subsidy devices. We therefore increased tariffs on imports from Germany without also increasing them on the same commodities from other countries. Similarly, we have long refused most-favored-nation treatment to Communist-bloc countries.

If the Common Market, accordingly, does not comply with the reciprocal spirit of the upcoming GATT negotiations to the same extent as do other countries, the following alternatives could be used to prevent the automatic extension of new benefits to the Common Market:

1. Amending the most-favored-nation clause: Article I of GATT, which now provides for general unconditional most-favored-nation treatment for all contracting parties, could be amended so that such treatment shall not be accorded to any country or group of countries which are important suppliers of a product and which refuse to lower tariffs to the equivalent extent as the dominant supplier of the product.[2] Under the provisions of GATT, such an amendment would require unanimous approval of the membership. If any country chooses to exercise its veto power over amending article I, other alternatives are available.

For example, interested countries could participate in drafting a new trade instrument—very much like GATT except that it would qualify the most-favored-nation clause. This instrument could then be the basis for new trade negotiations.

Such a new method to cope with emerging trade problems has its most famous precedent in United Nations history. When the power of the Soviet veto threatened paralysis in the Security Council at the time of the Korean crisis in 1950, the United States initiated the "Uniting-for-Peace" procedure in the General Assembly where a veto could not block action. Similarly, if the threat of veto in GATT of an appropriate amendment of article I prevents the United States and other countries from entering into trade negotiations, we should unite with other countries to make negotiations possible.

2. Forming a larger free trade area: We might, under the provisions of article XXIV, join with all GATT members other than the Six to form a free trade area under which participating countries would agree to percentage cuts in their entire tariff structure and would work out plans for additional percentage reductions in the future. The benefits of the tariff cuts would not have to be extended to the six—or to any other country—which refused to go along. It is worth noting that on January 1, 1966,

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[1] Adam Smith, "An Inqunry Into the Nature and Causes of the Wealth of Nations" (George Routledge & Sons, Ltd., London), pp. 354–356.

[2] This position—that the benefits of tariff reductions should be accorded only to countries willing to give reciprocal reductions—was pressed by the U.S. delegation to the International Trade Conference at Havana in 1947. See Clair Wilcox, "A Charter for World Trade" (1949), pp. 161–164.

France—most intransigent to the six—loses her veto power, and can be outvoted on a trade question by the other Common Market members, who might not like being isolated from the rest of the free world.

The door would be open to such countries to enter the free world free trade area whenever they desired. While it is true that under article XXIV, a free trade area must eliminate tariffs on substantially all of the trade of its constituent territories, it is not required to do this at once. For example, GATT has not disapproved of the European Free Trade Association because it has not begun to reduce agricultural tariffs within the area, nor agreed on a specific plan for such reductions. The wider free trade area, including most of the major trading countries of the free world, would have actual free trade on all commodities only as a remote objective.

Such a free worldwide bargaining strategy in trade fits in with the concept of free world community. In fact, it is likely to produce a more reasonable bargaining attitude by the Common Market than does our present strategy, which merely rewards the Common Market for her obduracy.

COUNTERFEIT MONEY

Mr. CASEY. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. GONZALEZ] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, the counterfeiting of our currency has represented a threat to the national economy since the days when wampum was the coin of the realm. This threat has continued throughout our history and in recent years has tended to increase at an alarming rate. Now, with counterfeiting at an alltime high, the problem is likely to break out in epidemic proportions as a result of plans of the Bureau of Engraving and Printing to change the method of printing the Federal Reserve notes and the U.S. notes to the inferior dry-paper process.

Until fairly recently the Bureau of Engraving and Printing employed the wet-paper process of engraving exclusively in the production of our currency. This method, the wet-paper process, produced perhaps the most superior form of currency in the world. Let me explain briefly the major differences between the wet-paper process and the dry-paper process.

In the wet-paper process the engraver cuts into the steel engraved plates many variations such as deep cut lettering, shading, and delicate lines. When these are transformed into a printed impression they form the lifelike portrait and the distinctive characteristics of the currency. In order to achieve this result it is absolutely essential that graduated tones and delicate details, which give a third dimensional effect, may be expressed. These features are also extremely difficult, if not impossible, to photograph or reproduce by any other means. It is an indisputable fact that the wet-paper process is the best way to accomplish this purpose.

The wetting process softens the paper and allows it to be forced down into the engraved lines. It thereby absorbs all the ink from the engraved design with a minimum of pressure. This permits the fine lines, heavy lettering, and the delicate background to print in a clear and distinct manner. The impression produced cannot be duplicated by any other method.

With the dry-paper process the paper, to no one's surprise, is left dry. This permits printing at a much greater rate of speed. But because the paper is not softened by wetting the surface remains hard and much more pressure must be used to transfer the ink onto the sheet. The combination of high speed and tremendous pressure requires alterations in the engraving. The alterations are in each instance at the expense of quality. The fine lines are coarsened and the depth of the lettering is made shallower. Due to the altered engraving, the speed of the press, the hard surface of the paper and the tremendous pressure required, the dry print makes a flat, lifeless impression which nullifies the protective artistic effect intended through the wet-paper process.

Why has the Bureau of Engraving and Printing abandoned the tried and tested wet-paper process for the inferior dry-paper process? For reasons of economy. I understand that it is the theory of the Bureau that it will be less costly to produce money with foreign rotary presses by the dry-paper process. Now, it may be true that we will be producing cheaper money in this manner, but will it be less expensive to the general public?

Counterfeiting is in an upward spiral. In the first 9 months of this fiscal year, according to unpublished Government statistics, $5.9 million in counterfeit notes were seized. In all of fiscal year 1963 only $3.4 million in counterfeit money turned up, and there was only $355,299 in all of 1954. Further, these figures represent bogus money we know about. They do not reflect the amount of production.

It is in light of these facts that the Bureau has exercised its discretion to change over to an inferior method of printing. The counterfeiter is bound to be encouraged by this development because he can now more nearly duplicate real money by the offset process. Printing establishments using the offset process can be found in every little village, town, and city in the United States. The offset process will be used by counterfeiters more extensively and with more success because offset printing plates can be easily made through the photographic process. And with the major strides in the graphic arts, with the new advanced automatic photographic and printing equipment, a fast-working counterfeiter will be able to make millions of dollars in a few days. He will no longer have to hand-engrave the plates necessary to duplicate the wet paper process. This conclusion is fully supported in the views recently expressed Mr. John H. Hanly, Secret Service special agent in charge of counterfeiting. Mr. Hanly stated:

> Advances made by the graphic arts now make it possible for forgers to obtain ready-mixed chemicals and inks, presensitized plates, and high grade paper as easily as a housewife can a loaf of bread.

Counterfeiting has always been one of the get-rich-quick projects to attract the criminal. It has even occurred to governments that massive forgeries could go a long way toward wrecking a rival economy. Nazi Germany used this device during World War II and produced an estimated $600 million worth of British bank notes. It was so successful that by 1943 the bank withdrew all existing paper money from circulation and issued a new series. But the cost to the British Government was in the millions and the fake money continued to be circulated and accepted.

So far, to my knowledge the Government has circulated only $1 bills printed by the inferior dry-paper process. The risk involved in counterfeiting such small bills is usually considered too high. Consequently the results of the Bureau's radical changeover in processes has not yet had an impact. But it is my understanding that the inferior process has already been used to produce the higher denominations, the fives, tens, twenties, fifties and one hundreds, although these bills have not yet been placed in circulation.

Mr. Speaker, when the bills in the higher denominations which have already been printed with the inferior dry-paper process are placed in circulation we may see and suffer from a tidal wave of counterfeiting which could very well inundate our entire economic system. I predict that within a short period from the time when the new Government notes are circulated the flood of counterfeit money will reach new heights, outstripping by far the previous rate of increase of this criminal activity.

I have recently written to the Honorable WRIGHT PATMAN, chairman of the House Banking and Currency Committee, setting out these facts and requesting an investigation into the matter. A copy of my letter to Chairman PATMAN follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 13,1964.

HON. WRIGHT PATMAN,
House of Representatives,
Washington, D.C.

DEAR MR. PATMAN: The problem of counterfeit money is of particular interest to all members of the Banking and Currency Committee. The enclosed copy of the article by Sylvia Porter entitled, "Counterfeit U.S. Notes Hit $5.9 Million Mark," which appeared in the Evening Star, May 7, 1964, demonstrates the increased seriousness of this vital matter.

Miss Porter states that the counterfeiting of $5.9 million in the first 9 months of this fiscal year compares with only $3.4 million in all of fiscal year 1963, and only $355,299 in all of 1954. This trend was accurately predicted in 1962 by U. E. Baughman, Chief of the U.S. Secret Service, who in testifying in the Senate hearings on Treasury and Post Office appropriations stated: "By all indicators, counterfeiting is in an upward spiral and there is no reason to be hopeful that the peak has been reached."

In view of this discouraging situation I am especially concerned with the plans of the Bureau of Engraving and Printing to change the method of printing the Federal Reserve notes to the inferior dry-paper process. In the past, the wet-paper process of engraving has produced perhaps the most superior form of paper currency in the world. The new process is admittedly faster and somewhat cheaper, for it utilizes the high speed of the new foreign rotary presses. But the process is inferior because due to the altered engraving, the high speed of the press and the hard surface of the dry paper, plus the tremendous pressure required, the dry print makes a flat, lifeless impression which nullifies the protective artistic effect intended by the wet paper process. Without a doubt, one of the most formidable obstacles to the counterfeiter has been the remarkable detail of U.S. currency which is only possible with the wet-paper process. If we are to convert to the dry-paper process we are removing this protective device and inviting the counterfeiter to duplicate real currency with advanced automatic photographic and printing equipment. The inferior dry-paper product will encourage the counterfeiter because he can more nearly duplicate it by the offset process. Printing establishments using the offset process can be found in every little village, town, and city in the United States.

The danger of infecting this all-important economic lifeline of our Nation is imminent because it is my understanding that even now the new and inferior $5, $10, $20, $50, and $100 bills are being prepared for distribution. I am, therefore, bringing this matter to the attention of the committee in the hope that you will see fit to look into it further and to conduct an investigation into the problem at the earliest possible time.

With every good wish, I remain,

Sincerely yours,

HENRY B. GONZALEZ,
Member of Congress.

AN ALTERNATIVE TO THE BECKER AMENDMENT TO THE CONSTITUTION

Mr. CASEY. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. MULTER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MULTER. Mr. Speaker, on Wednesday, May 27, I was privileged to testify before the Judiciary Committee, in opposition to the efforts to amend the first amendment to the Constitution to permit prayers and Bible reading in the public schools.

I suggested as an alternative to amending our Constitution or enacting legislation of any kind, that we teach the last six Commandments as moral principles. I know of no one—religious or otherwise—who is opposed to these fundamental principles of human behavior.

The following is my formal statement on the subject together with a complete transcript of my testimony:

STATEMENT OF HON. ABRAHAM J. MULTER BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY OPPOSING AMENDING THE CONSTITUTION TO PERMIT PRAYERS IN SCHOOLS, MAY 27, 1964

Mr. Chairman and members of the committee, I appreciate this opportunity to appear before you and express my opposition to the proposed amendments to the Constitution which the committee is considering.

Justice Felix Frankfurter said, in his concurring opinion in *McCollum* v. *Board of Education* (333 U.S. 203 at p. 232): "We have staked the very existence of our country on the faith that complete separation between the state and religion is best for the state and best for religion."

The vital importance of separation—"best for the state and best for religion."—underlies my opposition to these proposed amendments to the Constitution which would alter so radically and in some cases completely nullify the present first amendment, the very first sentence of which states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

The first amendment was added to the U.S. Constitution in 1791. It is well known that many of the original States ratified the Constitution only after they had been promised that the Bill of Rights—including freedom of religion and the prohibition against an establishment of religion—would be added to the Constitution.

For 173 years the first amendment has survived the test of time. Age may not of itself entitle anyone or anything to respect, but those who refer to the Constitution as the greatest document ever conceived by man cannot fail to take into account that the first amendment has been one of the most influential and beneficial parts of it.

The men who drafted the Constitution looked ahead and planned provisions that would stand the test of time—provisions that would be just as applicable throughout future years as they were at the time they were drafted. I believe along with millions of Americans that the Supreme Court's decisions on prayers and Bible reading in schools were consistent with the intent of the founders of our Nation in adding the first amendment to our Constitution and also in conformity with the American concept of religious liberty. The decisions of the Supreme Court frequently cause controversy much of it emotional and illogical with attempts to amend the Constitution or restrict the powers of the Court, or campaigns to impeach the Justices.

This is not a minor matter we are concerned with here today, Mr. Chairman. In the words of James Madison, the author of the first amendment: "It is proper to take alarm at the first experiment on our liberties."

Before any amendment is added to the Constitution, time should be taken to look ahead—to be certain that any amendment added will stand as well through the next 173 years as the first amendment has during the last 173. The proposed amendments now being considered would not.

The people of the United States have been justifiably slow to amend the Constitution. Out of a total of 5,392 proposals for amendments that have been offered throughout the years only 24 have been adopted. Even with the care and selectivity shown by these figures, one amendment—the 18th—proved to be not the will of the people and another amendment—the 21st—was required to nullify it.

Nothing in the history of our Nation, did so much to promote lawlessness and disrespect for law and order as did the prohibition amendment. I dare predict that the enactment of an amendment, such as you are considering now, will do our country even greater harm. It will emotionally set citizen against citizen, even brother against brother.

There is no necessity for these amendments. There are more people convinced now that it would be a mistake to adopt the principle of these amendments than there are people urging their passage. People who are convinced that the Supreme Court was correct in its decisions may not be as vocal as the decisions opponents, but they are numerically stronger. It has been urged that the prayers to be permitted by these amendments will be nonsectarian. Nonsectarian for whom? The Catholics? The Seventh-day Adventists? The Jews? Can a Buddhist and a Catholic in Hawaii agree on such a prayer? For that matter, can a Greek Orthodox and a Roman Catholic agree on such a prayer?

Will the many Protestant sects agree on the wording of this so-called nonsectarian prayer? I doubt it. Do the sponsors of these bills, who are certainly well-meaning men, really think it is possible to get all of the religions of our country to agree to the text of a prayer. I am certain they cannot.

The same of course applies to the reading of the Bible. Among some Jewish sects it is considered sacrilegious to read the Bible in any language other than the ancient Hebrew. It goes without saying that they refer to the Old Testament. Certainly not everyone will agree on whether the New Testament or the Old Testament should be read. And while they may be a very small minority, what of the Mohammedans amongst us? Is the Koran to be read? Are the Analects of Confucious to be read or the sayings of Buddha. Who will devise the prayer for our numerous citizens of Chinese or Japanese descent?

What of the atheists and the agnostics of our society? Which of the religious denominations of the supporters of these amendments gives them the right to say "Ignore the rights of atheists and agnostics"? Are we then to set a new standard in America that will force the irreligious and the nonreligious to participate in prayers and Bible reading? What of those millions of our citizens who believe as the late President John F. Kennedy did, that religious observances are only appropriate in our homes and places of worship? Are they also to be forced to participate in prayers and Bible reading in public schools?

Surely every citizen should and must have the right in a democracy to pray or not to pray, to be religious or irreligious, and not be held up to scorn before his peers for his viewpoint.

Let us assume that this campaign is successful. Let us consider what happens next. In my district, some school boards are overwhelmingly Jewish. Will my Christian neighbors approve the prayer that the Jews choose? In other school districts, the school boards are overwhelmingly Christian. Will the Jews in those districts recite the prayer that the Christians choose? Who will write the prayer in Guam and American Samoa? Will the Buddhists in Hawaii write the prayer for their neighbors? And in what language?

I understand the religious fervor that prompts these proposals. But history recalls to me that it was fervor, though sometimes irreligious, the same joining or government and an aspect of theology, that brought about the destruction of the Temples in Jerusalem; encouraged the crucifixion of Jesus; brought about the inquisition in Spain; the Holy Crusades; the pogroms of Russia and Eastern Europe; Hitler's gas chambers; the witch trials in early Massachusetts and the cross burning and the defiling of places of worship in our own day.

If our religious faith rests on prayers in public schools then religion has failed. If the churches and the parents have not instilled religion into their children in the home and in their places of worship, then no amount of praying in public schools is going to help. If we are indeed becoming a Godless society—which I do not believe—then our generation has failed God—and no number of minutes spent daily listening to Bible reading will bring them salvation.

In *Abington School District* v. *Schempp* (374 U.S. 203) the Supreme Court recognized that religion has been closely identified with our history and Government and that "today, as in the beginning, our national life reflects a religious people," but they hastened to add:

"This is not to say, however, that religion has been so identified with our history and Government that religious freedom is not likewise as strongly embedded in our public and private life."

Belief in liberty of religious opinion is deeply imbedded in this country, and religious opinions come in many different forms. As the country continues to grow in size, religious opinions will come in still more forms.

It is no doubt true that "the family that prays together stays together." That is not always true about a nation. Prayer can be a divisive force.

Dr. Solomon Grayzel, testifying as an expert in the *Abington* case (cited supra) noted marked differences between the Jewish Holy Scriptures and the Christian Bible and he cited instances in the New Testament which were not only "sectarian in nature but tended to bring the Jews into ridicule or scorn." The Court's opinion continued:

"If portions of the New Testament were read without explanation, they could be, and in his specific experience with children, Dr. Grayzel observed, had been psychologically harmful to the child and had caused a divisive force within the social media of the school."

Dr. Luther Weigle, an expert witness for the defense, testified that in his opinion "reading of the Holy Scriptures to the exclusion of the New Testament would be a sectarian practice."

History is filled with illustrations of the divisive power of religious activities. When religious activities enter the schools, they divide the children into separate groups, rather than holding them together as a unified group.

This is harmful to all children, not only to the children of minority faiths.

We do not want anything in the United States today to divide us or drive us further apart as a nation. We need more unifying forces.

With all countries of the world growing constantly closer together geographically, it is certainly wrong to encourage any force which will drive people of this country farther apart.

With constantly increasing pressures from the outside, nothing that creates a divisive pressure from the inside should be encouraged.

These proposed amendments will reawaken the problem of what to do with religion in the public schools. It will divide us again and, more important, divide the next generation who must learn to live and work together to survive.

It will divide them in the formative years before they have had time to do their own thinking on the subject.

Watch any group of young children playing together. They do not need even a common language. They can get along with signs. These children are not divided until adult customs, adult rules and if these proposed amendments should be passed, adult prayers divide them.

In the historic debates that surrounded the adoption of the Constitution by the original States, numerous statements by Madison, Jefferson, and others show that religion and the state, even as represented by the public school, should be kept separated, and yet the men who most earnestly believed in separation were religious men. It is still true today.

Eight of the nine Justices representing three great church organizations, Roman Catholic, Jewish, and several Protestant denominations included in membership in the National Council of Churches of Christ in the U.S.A. decided, in accord with the framers of the Constitution, that religious exercises should not be part of the public school.

Although individual clergymen of many denominations have criticized the decisions of the Supreme Court, spokesmen for most of the major religious groups have written a nearly unanimous brief against the proposed amendments. A study report of the Board of Social Ministry of the Lutheran Church pointed out the difficulty of agreement on which Bible or which parts of the Bible were to be used for reading in the public schools and then added:

"As soon as the public schools become involved in distinctively religious exercises, there is always the possibility of using them to further sectarian purposes or to favor one or more religious groups at the expense of others, thereby contributing to religious divisiveness in the community." The Executive Council of the Lutheran Church, in a statement from the minutes of their sixth meeting, June 28–29, 1963, made the following observation:

"If the 'Lord's Prayer' were to be recited in schoolrooms only for the sake of the moral and ethical atmosphere it creates, it would be worth nothing to the practicing Christian. The 'Lord's Prayer' is the supreme act of adoration and petition or it is debased. Reading the Bible in the public schools without comment, too, has been of dubious value as either an educational or religious experience. The more we attempt as Christians or Americans to insist on common denominator religious exercise or instruction in the public schools, the greater risk we run of diluting our faith and contributing to a vague religiosity which identifies religion with patriotism and becomes a national folk religion."

The Baptist magazine Crusader reported the resolution of the American Baptist Convention opposing prayer and Bible reading in the public schools and then in an editorial said in May 1963:

"In any case if the Supreme Court rules against these practices, expect chaos primeval to leap from press and pulpit. There will be a rash of proposed constitutional amendments introduced in Congress, each intending in one way or another to legalize classroom religious devotions.

"How unfortunate, especially if the proposed amendments to the Constitution make substantial headway. Any Baptist inclined to side with such movements would do well to consider the Pandora's box that would be opened up thereby."

America, a weekly Catholic magazine, on May 25, 1963, carried an editorial urging against "amending the amendment," in which it said:

"But for all practical purposes, the first amendment's religion clauses ought to be regarded as unamendable. * * * It is imperative that all of us should be able to feel a serene confidence that, however much we may quarrel and dispute, no successful attempt will ever be made to change the fundamental terms on which we live together in the secure enjoyment of religious freedom. * * * We have enough faith in the American constitutional system to be sure that good lawyers can persuade the Supreme Court, in the regular course of litigation, to adopt a healthy interpretation of the first amendment's religion clauses without the people having to resort to surgery on the amendment's text."

A Catholic layman wrote recently in the Congress biweekly, a publication of the American Jewish Congress:

"Much has been made of the right of parents to have their children educated in a religious or 'God-centered' atmosphere. But if a parent wants his child to receive a religious education why not send him to a religious school? Freedom of religion is guaranteed in the United States and any religion may operate a private school if there is sufficient demand for such a school and the denomination has enough funds to maintain it. It seems clear therefore that any parent who wants the public school to teach his child to say a prayer is asking the State to do his job for him."

The Synagogue Council of America has firmly backed the Supreme Court's decision. This group, representing all branches of American Judaism, asserts that the home, the church, and the synagogue have the responsibility for religious training and that prayers, Bible reading, and other sectarian practices do not belong in public schools. The council further states that the concept of the separation of church and state "has not led to the separation of Americans from God, but has led to a genuine demonstration of our people in a more lasting union of America under God."

Bishop J. Wesley Lord of the Methodist Church has said, "Unless Bible reading and prayer are performed in an atmosphere of religious devotion often not possible in the public school, the very act may be profaned and secularized to the detriment of the pupils."

Dr. Eugene Carson Blake, chief executive officer of the United Presbyterian Church and former president of the National Council of Churches, issued a statement expressing support for the Court's decision and underscoring the Presbyterian Church's firm belief "that religious instruction is the sacred responsibility of the family and the churches."

In a statement approved by the governing body of the Protestant Episcopal Church, Presiding Bishop Arthur Lichtenberger expressed his support of "the Supreme Court's ruling and declared that it was not hostile to religion but that it reflected the Court's sense of responsibility to assure freedom and equality for all groups of believers and nonbelievers."

The National Council of Churches of Christ in the U.S.A., at its First National Conference on Church and State, adopted a resolution expressing its acceptance and support of the Supreme Court's decision banning State-sponsored Bible reading and prayer recitation in the public schools. The committee report on the resolution said in part "We believe that Christians should welcome the decisions. * * * [They] are consistent with our concern for the religious liberty of all men and our unwillingness to coerce in any way a person's response in faith to the gift of God's grace in Jesus Christ."

Earlier, the general board of the national council had asserted that "neither true religion nor good education is dependent upon the devotional use of the Bible in the public school program."

The evils that have been committed in the name of religion are legion. Let us not add to the opportunities for future similar evils by these proposed amendments to the Constitution.

I am opposed to any modification of the first amendment to the Constitution. I stand with our late beloved President John F. Kennedy when he said: "Let Americans make religion—and prayer—more meaningful in their homes and churches."

I suggest, with all due deference to those who espouse these many proposed changes in the first amendment that they either have not read or, if they have read, they do not understand the Supreme Court decisions. For a proper understanding of these decisions all should realize that every member of the U.S. Supreme Court who participated in the decision of these many cases were religious men, all believing in God. Not one of them could be termed an atheist or an agnostic. What they all did was to conscientiously interpret the basic law of our country, having in mind the necessity of protecting not only their own religious beliefs but all religious beliefs. At the same time it is obvious that they had in mind the necessity of protecting not only the nonbeliever but, more importantly, the right of the believer to change his beliefs as dictated by his conscience.

The lesson I learn from all these decisions is that God needs no protection from man. Those who cry out in support of these proposed changes that they wish to put God back into the schools of our country fail to realize that neither they nor we can put God anywhere. He is everywhere. Most of the ills which have befallen man have come from his mistaken idea that he can control God. It should be most obvious to them that God has turned His back on them every time they have fought about Him or allegedly for Him.

The proponents say that if these decisions stand without their proposed amendment someone may strike from our coins and currency "In God we trust." Have they stopped to think how sacrilegious and blasphemous it is to try to create trust in God by the use of our money? Has any thief or embezzler hesitated to violate the Commandment "Thou shalt not steal" because of the inscription on our money?

They talk about the oath of office that is taken by Government officials from the President down. But they all overlook the fact that the law provides that no one may be required to take the oath if it violates his religious beliefs and that instead of taking the oath he may make an affirmation. They all overlook the fact that the words "So help me God" traditionally added to oaths is no part of the legal oath.

What I fear most is that once we make the slightest change in this part of the first amendment, it will be the forerunner of many other changes. If this effort should succeed, it would soon be followed not by direct repeal of the provisions guaranteeing the other freedoms but by limitations and restrictions which, one by one, would destroy freedom of speech, freedom of assembly, the right to petition our Government for redress of wrong, and even the freedom of the press.

Permit me to conclude my opposition to these proposals with a constructive suggestion which can be implemented without changing the Constitution or the enactment of law.

There probably always has been and perhaps always will be differences of opinion about the first four commandments. I doubt whether man will ever resolve those differences.

At the same time, I dare say that there has never been any difference of opinion as to the moral correctness of the last six commandments. This is not to say that man has always lived by them. It is to say that all civilized men have agreed upon their moral values and have written them into their civil law.

These are the things which we should teach in our schools. Neither the religious nor the irreligious can object to them. There is nothing sectarian about them. The God-loving, the God-fearing, the atheist, the agnostic, the believer, and the nonbeliever all subscribe to them. They are fundamental to all good law. These are the things we should teach to all our children, forever and a day:

"Honor thy father and thy mother.

"Thou shalt not kill.

"Thou shalt not commit adultery.

"Thou shalt not steal.

"Thou shalt not bear false witness.

"Thou shalt not covet."

Again, permit me to express my thanks for the opportunity to present my views to you.

Statement of Hon. Abraham J. Multer, a Representative in Congress From the State of New York

Mr. Multer. Thank you, Mr. Chairman and members of the committee. I appreciate this opportunity to appear before you to express my opposition to the proposed amendments to the Constitution which the committee is considering.

Mr. Chairman, if it is agreeable to you and the committee, I will offer my complete statement for the record and summarize it. I think it might be faster for the committee to do it that way, unless you prefer that I read the entire statement.

The Chairman. We will be glad to accept your statement.

Mr. Multer. Fine. I do that because I know how long and diligently, and vigorously your committee has been pursing this matter. I know that you are familiar with all of the cases on the subject. You have already heard many witnesses advocate the same position as I take this morning.

May I say that nothing in the history of our Nation did so much to promote lawlessness and disrespect for law and order as did the prohibition amendment. I dare predict that the enactment of an amendment such as you are now considering will do our country even greater harm. It will emotionally set citizen against citizen, even brother against brother.

I believe that as of now there are more people convinced that it would be a mistake to adopt the principle of these amendments than there are people who are urging their passage. It has been urged that the prayers that would be permitted by these amendments, and the Bible readings, would be nondenominational, would be nonsectarian. I ask, as I am sure many members of this committee have already asked, nonsectarian and nondenominational as to whom? Catholics? The Seventh-day Adventists? The Jews? Can a Bhuddist and a Catholic in Hawaii agree on such a prayer? For that matter, can a Greek Orthodox and a Roman Catholic agree on such a prayer? Can all of the Protestant sects agree on the wording of this so-called nonsectarian prayer? I doubt it.

I doubt whether the sponsors of these bills, who are certainly well-meaning men, really think it is possible to get all of the religions of our country and all of the sects of these various religions, to agree on the text of a prayer. And certainly the moment we start talking about something being nondenominational and something nonsectarian, obviously it must be related to religion.

All prayers in the context in which they are being used throughout these hearings and amendments are religious prayers. The very basic concept of freedom of religion means whether it is denominational or nondenominational, if there can be such a thing as nondenominational or nonsectarian religion. The moment we admit, as we must that prayer or Bible reading is religious, we must concede it has no place in our schools.

Among some Jewish sects, and I think you have already heard this from some witnesses, and I am sure you will hear it from Rabbi Halpern, one of the witnesses to testify today, among some Jewish sects it is considered sacrilegious to read the Bible in any language other than the ancient Hebrew. It goes without saying that they are referring to the Old Testament. Certainly not everyone will agree on whether the New Testament or the Old Testament should be read.

While they may be a very small minority, what of the Mohammedans amongst us? Is the Koran to be read? Are the Analects of Confucius to be read or the sayings of Buddha? Who will devise the prayer for our numerous citizens of Chinese or Japanese descent? What of the atheists and agnostics of our society?

The Chairman. May I interrupt?

Mr. Multer. Surely.

The Chairman. In connection with your mentioning the sayings of Buddha and the scriptures that might be embraced, the Koran, and so forth, those who are in favor of the amendments speak of the tyranny of the minority, that when we hear of these minorities we hear that this minority, therefore, constitutes tyranny pressing against the majority.

What is your answer to that?

Mr. Multer. The answer is that our Constitution, thank God, was framed to prevent the tyranny of the majority. The minority have certain rights, as the majority have. The minority may not be imposed upon as to their beliefs, particularly their religious beliefs, even by the majority. That is the very fundamental basis of our first amendment, not only as to the freedom of religion, but as to all of the freedoms.

If we are going to rely on a vote of the majority as to what I may believe and what I may pray and what Bible I shall read, then you certainly have also the right to say when and where I may speak.

These are the very things that the framers of the Constitution, I am sure, and every good American today, wanted to be sure that we preserved, that these things will not be submitted to a vote. These are the things that are beyond the ability or the competence of the majority to vote so far as the minority is concerned. To do so is just one step away from tyranny.

The moment we say that we will permit any kind of prayer, any kind of Bible reading in the public schools, that is just one step away from saying what prayer—and we have already had the experience of saying what prayer shall be delivered—and I say it is beyond the competence of any man, religious or otherwise, to propound a prayer that can be satisfactory to the conscience of all. That is the vice of these amendments.

Mr. Feighan. You refer to the conscience of all. Do you include atheists or agnostics?

Mr. Multer. Of course.

Mr. Feighan. Then you would make the provision so that you have a very limited minority who can deprive the majority of their exercise of their rights, which would be done voluntarily and without any disruption or demands upon the minority.

Mr. Multer. No. I think, sir—I respectfully say that you have this in the converse. You are not permitting the atheist or agnostic to say to you how you will pray or how your children will pray, or what they will pray.

Mr. Feighan. But you are saying you cannot pray voluntarily.

Mr. Multer. No. We are not saying you may not pray.

We say that you may not direct the kind of prayer or permit the kind of prayer that you want pronounced in the public schools. You may do this wherever you will—even in the public school, if you will do it silently, if you won't set aside a particular time or place in the school when all of these schoolchildren shall be brought together and some will have to turn their backs or leave the room while others are praying, not only the agnostic or the atheist, but those who say prayer must not be in public, those who do not believe in prayer being said aloud, but say their prayers silently and from the heart, and not in any fixed language that you or I or any religious man may mandate to them.

Mr. Feighan. Would you then be opposed to the utilization of, say, a minute of time during the school period for the voluntary prayer by any of those in the class who would so desire to pray voluntarily, either audibly or silently?

Mr. Multer. If by that, sir, you mean a minute of meditation, when each would be on their own, none would be required to say it aloud, and there would be no prayer reading aloud, no one can find fault, in my opinion, to saying "Now we come to a moment of meditation," or "Before we start our work, let's each meditate on whatever thought comes to our heart or to our mind."

I don't think anybody would object to that. I don't think there is any constitutional restriction against that. What we are afraid of is that the moment you say, we will set aside 1 minute of prayer, and the prayer will be read aloud, either by the teacher or a pupil, the next week that minute can be an hour or a day, and the next year a month.

The instant you begin to prescribe or permit them to have that 1 minute of recital of prayer or Bible reading, you open the door wide.

Mr. FEIGHAN. You are making that statement on the premise such as the regents prayer that was prescribed.

Mr. MULTER. I have that in mind.

Mr. FEIGHAN. Would you not agree that if everyone agreed that there was an Almighty or a Supreme Being, whether he is called God or Allah, that there could be a voluntary prayer by each one, not necessarily directed by any school authority or teacher?

Mr. MULTER. Do you mean in the schoolroom or in the school assembly, and that this prayer would be said aloud by each of the children?

Mr. FEIGHAN. Yes.

Mr. MULTER. Can't you visualize what would happen, what the confusion, and the sound of one child saying "Allah" and another saying "My Lord," and the other saying "God," and the other saying "Neither," or being asked to be excused because under his religious teachings, believing as strongly as you and I do in God, his religious teachings say "This is not the way to pray and you may not participate in public prayer. Prayer is communion between you and your God and it must not be in public"? What do you do with that child?

Mr. FEIGHAN. Now you are saying that one child shall determine——

Mr. MULTER. No.

Mr. FEIGHAN. Shall determine that the majority of these others shall be deprived of the right because he objects.

Mr. MULTER. How are you going to determine what the majority is in each schoolroom, each school assembly, or in each school? By a vote? This is the very vice that the Constitution seeks to prevent. Matters of religion should not be put to a vote in a country such as ours.

This is one of the mistakes, and I say it most respectfully, that Judge Stewart made in the only dissent in the last case. If you will read his opinion of 1962 and his opinion of June 1963, his dissents in each case, you will find that even he has come around to saying it is wrong if there is any semblance of coercion—and there is, he agrees, more than a semblance of coercion—when a child must ask to be excused.

He arrives at his conclusion by saying that it is the wish of the majority. But there was no such evidence in that case. He said in the last case it should be remanded for further evidence because you couldn't take the conclusions standing without evidence even though all the evidentiary facts were admitted in the pleas before him at the time.

He said, "Let's send it back for further evidence so as to determine whether or not the rest of the court," with whom he agrees in principle, "have a right to enunciate the principle in the case." Then he winds up by saying, "But it is the wish of the majority and, therefore, the minority should not interfere with the wishes of the majority." But there was no vote there. There is no indication in any of these cases that any of these parents have come to the school board and said, "We want these prayers." The moment you permit that, you get into trouble.

Mr. FEIGHAN. The minority would be not deprived of any of their right if they remained silent and didn't participate.

Mr. MULTER. I know that you seriously believe that, but I can't believe that anyone who has dealt with children will believe that a child can stand silent while 20, 30, or 40 other children are engaging in prayer or in Bible reading, and not feel that there is something wrong with him or that the other children will not leave that classroom and sometime during the course of the day say, "What is the matter with this buddy of ours? Can we take him as a buddy? Shall we continue to let him be our playmate when he either doesn't pray at all or prays to some God other than our God?" Surely you wouldn't subject your children of tender age to it. I wouldn't want mine submitted to it and I wouldn't want my grandchildren submitted to that kind of situation.

The CHAIRMAN. We often hear in these hearings deprecations against agnosticism and deprecations against atheism. Is it not true that no matter how we may deprecate atheism and agnosticism, atheists and agnostics still have rights which are protected by our Constitution? Am I correct?

Mr. MULTER. There isn't any doubt about that, and in the U.S. Supreme Court, all religious men, none atheists or agnostics, all agree that the atheists and agnostics have the same rights. Who can say that today our belief in God tomorrow may not be their belief not in a God? I hope that day never comes. I don't think it will. But it is within the realm of possibility.

Whether it is or not, these people have the right to believe or not to believe, and our Constitution guarantees it to them and provides that the people will not vote upon that. I think when we consider this without emotion, we will come to the same conclusion. We never want anything like that submitted to a vote of the people. Then emotions and not logic will control.

Mr. FEIGHAN. So long as I have attended these hearings, there hasn't been the slightest indication that the rights of the atheist or agnostic are not as important as the rights of a believer.

The CHAIRMAN. I would say that the chairman has attended all the hearings and we have had many statements of witnesses quite to the contrary of what the gentleman from Ohio says.

Mr. MULTER. I am sure, nevertheless, Mr. Chairman, that every member of this committee, every Member of Congress, will agree that we cannot ignore the rights of the atheists and agnostics, much as we may not like them or their ideas, or even despise their ideas and religious beliefs or what we may call irreligious beliefs. I am sure we will still say that they have the right to those beliefs and we will protect them in that right.

But let's not get the idea for one moment that in protecting their rights they are going to tell us what to do, where to pray or how to pray, because we keep religion out of the schools. I am talking now about religion as such. I am not talking now about the study of comparative religion. I am not talking about studying the moral values of the Bible.

I am talking about reading from the Bible. Somebody must determine what Bible is going to be read from. Are you going to read from some of those parts of the Bible that, without explanation, no child can understand? I am sure you all agree that there are parts of the Bible which seem to teach hate rather than love. Certainly without explanation, that youngster who hears that reading is going to go away with the wrong idea. Do we dare let them learn that?

Take a typical instance of what I have in mind. This quotation from Leviticus, and I am quoting from the Old Testament: "Thou shalt not go up and down as a tale bearer among thy people, neither shalt thou stand idly by the blood of thy neighbor."

This is translated in the King James version, "Neither shalt thou stand against the blood of thy neighbor."

Read either of those without explanation to a child, and the child is going to get the wrong idea. Unless you have a religious man teaching them what is meant by either of those versions, the child goes away with the wrong idea. "Do not stand idly by the blood of thy neighbor," I think, is the very concept of loving thy neighbor, protecting thy neighbor as you would protect your own, yet you can easily translate "Stand against the blood of thy neighbor" as meaning something different.

I am sure the religious men who translated that the way they did didn't mean anything different, but the immature mind will get a different idea about it. Take, for instance, during the Easter holidays——

The CHAIRMAN. Proceed with your statement, will you, Mr. MULTER?

Mr. MULTER. Thank you, sir.

Let us assume that this campaign should be successful. What happens next? In my district, my congressional district, some school boards are overwhelmingly Jewish. Will my Christian neighbors approve the prayer that the Jews choose? In other school districts in the same congressional district the school boards are overwhelmingly Christian. Will the Jews in those districts recite the prayers of the Christians? Who will write the prayer in Guam, or American Samoa? Will the Buddhists in Hawaii write the prayer for their neighbors? And if so, in what language?

I understand the religious fervor that prompts these proposals. History recalls to me that it was fervor, although sometimes irreligious, the same joining of Government and an aspect of theology that brought about the destruction of the temples in Jerusalem, encouraged the crucifixion of Christ, brought about the inquisition in Spain, the Holy Crusades, the pogroms of Russia and Eastern Europe, Hitler's gas chambers, the witch trials in early Massachusetts, and the cross burning and the defiling of places of worship in our own day.

There has been some cry that "We want to put God back in the schools," "We want to go back to the status quo before these decisions came down from the Supreme Court." I have read much of the testimony, although not all of the testimony, adduced before this committee, and the statement has been made time and time again. "Let's put God back in the schools."

The CHAIRMAN. God was never taken out of the schools by the Supreme Court decision, and the Courts went out of their way in almost all the decisions to indicate they never had the slightest idea or conception that they would take, as it were, God out of the schools or out of the Court or out of anything else.

Mr. MULTER. The lesson I learn from these decisions is that God needs no protection from man. Those who cry out in support of these proposed changes that they wish to put God back into the schools of our country fail to realize that neither they nor we can put God anywhere. He is everywhere. Most of the ills which have befallen man have come from his mistaken idea that he can control God, or that he can do God's work.

It should be most obvious to them that God has turned his back on them every time they have fought about Him or allegedly for Him.

Mr. Chairman, I do hope that the changes will not occur, and that no amendment will be reported by this committee to the House dealing with this subject. What I fear most is that once we make the slightest change in this part of the first amendment, it will be the forerunner of many other changes. If this effort should succeed, it will soon be followed not by direct repeal of the provisions guaranteeing the other freedoms, but by limitations and restrictions similar to those they offer now, which limitations and restrictions, one by one, would destroy freedom of speech, freedom of assembly, the right to petition our Government for redress of wrong, and even the freedom of the press.

Mr. Chairman, I don't think it is sufficient to inveigh against these proposals. So I conclude with a proposal which I believe is a constructive suggestion, which can be implemented without changing the Constitution and without enactment of any law.

There probably always has been and perhaps always will be differences of opinion about the first four Commandments. I doubt whether man will ever resolve those differences. At the same time, I daresay that there has never been any difference of opinion as to the moral correctness of the last six Commandments. This is not to say that man has always lived by them. It is to say that civilized men have agreed upon their moral values and have written them into their civil law. These are the things which we should teach in our schools.

Neither the religious nor the irreligious can object to them. There is nothing sectarian about them. There is nothing denominational about them. The God-loving, the God-fearing, the atheist, the agnostic, the believer and the nonbeliever all subscribe to them. They are fundamental to all good law.

These are the things we should teach to our children forever and a day. "Honor thy father and thy mother; thou shalt not kill; thou shalt not commit adultery; thou shalt not bear false witness; thou shalt not covet." These are the principles, the moral principles, that our children are not getting and should be getting. The praying and the reading from the Bible has not stopped delinquency in any of our schools among our youth. The teaching of these moral values may stop it and may give us a better America.

Thank you again, Mr. Chairman and members of the committee, for the opportunity to appear before you.

The Chairman. Are there any questions from members of the committee? Mr. Whitener?

Mr. Whitener. I take it you draw some distinction between a silent prayer and an oral prayer.

Mr. Multer. Yes, I do, sir.

Mr. Whitener. What would you say if a teacher wrote on the blackboard a prayer and said, "Now, children, we will have a moment of silence while you silently read this prayer?"

Mr. Multer. I think, sir, that is teaching religion. That would be wrong, a mistake. No one man, not even the Board of Regents in New York, with or without the aid of religious men, can write a prayer that will be satisfactory to all.

Mr. Whitener. Suppose the teacher said to some child, "You go up and write a prayer that you would like the children today to read from the board quietly."

Mr. Multer. This, sir, I think would even be worse than to trust the writing of the prayer to adults, to let some immature child go to the blackboard and urge or offer that child's version of what is good prayer to the other children. This brings about even more divisiveness in my opinion, among the children who read it.

Mr. Whitener. Where would this child get the silent prayer?

Mr. Multer. This is what I think our late, beloved President Kennedy had in mind when he said religion must be taught to the children in the homes and in the churches, in the places of worship. This is where the child must get its religious training to begin with, in the home and in the church, from the parents, the guardians, and those people of the faith to which their parents subscribe. That is where they should get this religious training. The public school is not the place for it.

The child that wants to go to the religious school will get ample religious training in the religious school, together with the secular education. But we must keep our secular education apart from religious education.

Mr. Whitener. You just don't believe there ought to be any prayer in the public schools, period, then, do you?

Mr. Multer. I venture the opinion that our prayers in the public schools have not turned out better children on the whole, and the failure or the omission of saying prayers or Bible reading is not going to make them any worse. If they don't get this religious training, if they don't get this moral training out of their religion, religion is failing, and if they don't get the moral training in the schools, our schools are failing.

Mr. Whitener. Do you interpret these decisions as barring voluntary prayer?

Mr. Multer. If you mean assembling the children together and having the children recite a prayer or having the teacher recite a prayer for them, this is no longer voluntary in the public schools. This is compulsion.

Mr. Whitener. We have had some of the members of our committee take the position that nothing in the decisions could prevent a child from standing up and leading a prayer in the schoolroom, if it is a voluntary thing. What is your position on that?

Mr. Multer. I have read that testimony. I do not agree with it. I think to have a child stand up and recite a prayer is worse, in my opinion, than having the teacher recite the prayer. I would rather trust it to the teacher than to the child.

Mr. Poff. Will the gentleman yield?

Mr. Whitener. I yield.

Mr. Poff. The district judge of the eastern district of New York happens to agree with the interpretation that the gentleman from North Carolina put upon it. That case is now up on appeal. That is the Stein case. It may be reversed. But the district judge sitting in evidence on that case ruled, as Mr. Whitener indicated, the case indicated he should. So you would disagree with that.

Mr. Multer. I am aware of the decision. I had it in mind in what I said. I don't agree with the judge.

Mr. Poff. Thank you.

Mr. Whitener. Mr. Multer, then you agree with the position taken by the Hicksville, Long Island, school principal who threatened expulsion of the 400 students who decided that they would like to voluntarily engage in a prayer session during the school hours? Are you familiar with the Hicksville, Long Island, incident recently, when 400 high school students decided that they would organize a voluntary prayer group and have prayer together, and were threatened with expulsion from the school if they did not desist with their activities?

Mr. Multer. I am not aware of that decision. That is one I missed.

Mr. Whitener. You would agree that the principal is correct in that case, whether it is one child wanting to pray or 400?

Mr. Multer. I do agree that these children have no right to insist that prayer be said in the public schools.

Mr. Whitener. I noticed one rather remarkable statement in your prepared manuscript which I don't believe you gave us verbally. On page 10 of your prepared statement, at the bottom of the page, you say this:

"The proponents say if these decisions stand without their proposed amendment, someone may strike from our coins and currency 'In God We Trust.' Have they ever stopped to think how sacrilegious and blasphemous it is to try to create trust in God by the use of our money?"

Do you mean to say that you think it is blasphemous for us to print a national motto on coins?

Mr. Multer. I think it is taking the name of the Lord in vain, sir.

Mr. Whitener. I think, then, you agree with the folks who say that we ought to do away with chaplains in the military service.

Mr. Multer. No, sir; I do not.

Mr. Whitener. And at the military academies?

Mr. Multer. No, sir; I do not. As a matter of fact, all of the decisions indicated, of the U.S. Supreme Court indicate, and I agree with them, that nothing they have said in any of these cases affects the right to keep that motto on our coins and currency. Nothing that they have said interferes with the chaplain programs in our hospitals, in our prisons, and in our armed services. To deprive those people of those services would be depriving them of their right of worship, of their freedom of religion. Having confined them, whether in the armed services by certain restrictions or in prisons, or in hospitals, these people still are entitled to religious consolation. Since they can't supply them for themselves, the Government must supply to them the chaplains of their choice.

Mr. Whitener. But unfortunately, Mr. Multer, Justice Douglas in his concurring opinion did create a great deal of concern in the minds of people because, as you will remember, he said that he found nothing wrong with this regents prayer as far as establishing religion, but that it was the expenditure of public funds.

The Douglas theory would proscribe either chaplains in the military, chaplains in the Congress, or anywhere else. Do you go that far?

Mr. Multer. I read all the other opinions, as well as his, very carefully, and I am glad to note that none of the other judges of the Supreme Court agree with Justice Douglas, and I just as vigorously disagree with him as obviously his confreres on the bench do.

Mr. Whitener. Do you have a clear-cut idea you can state in a few words of how far you would go in the recognition of Almighty God in public institutions?

Mr. Multer. I say to you, sir, with all due deference and respect, that we have no right in prayer or bible reading to refer to God in the public schools as part of a religious service or ceremony. If it is offensive to one child or the parents of one child, either because they are atheists or because their belief in God proscribes this public praying, or because they want to refer to God as a supreme being, or Allah, or by any other name, that they are taught by their religion—I think we have no right to offend even the one person by that kind of prayer and bible reading in the classroom or in the public assembly.

Mr. Whitener. I note you said we should all agree on these principles as set forth in the last six Commandments. Are you sure that every religious and nonreligious group would agree that schools should do that?

Mr. Multer. Well, sir, I certainly don't have the knowledge of many of our more learned clergymen, but the study of religion has been one of my hobbies. I believe that all religions subscribe to those tenets. I can't recall a single instance where they do not.

Mr. Whitener. But what about the group of all brands of nonbelievers, and I am sure there must be many brands of those.

Mr. Multer. When we talk about nonbelievers, we are talking about nonbelievers in a God, nonbelievers in religion as religion. When I talk about teaching these commandments, I talk about teaching them as moral concepts. Even the nonbeliever, if he is a good person, or a law-abiding person will subscribe to them. Which of these commandments would he not subscribe to?

Bear in mind, when I take the commandment "Honor thy father and thy mother," I am referring to it in its broadest concept as respect for elders, respect for teachers, as well as their own parents. I cannot believe any nonbeliever, any irreligious person, would not subscribe to that.

"Thou shalt not kill"—we can point to many instances where the most religious did kill and they believed they were killing for their God. This didn't make it right. I am sure their God did not approve it.

Whether it is "Thou shalt not steal" or "Thou shalt not covet," and there, too, I use it in its broadest sense, "Thou shalt not bear false witness"—no one can object to these when taught as moral principle.

Mr. Whitener. That is like it is so easy sometimes to say that certain unfortunate things that happened in the history of the world have been because of religion. You mentioned, for instance, the Spanish Inquisition. I don't think I have ever read any history anywhere that that had any religious connection.

Mr. Multer. That it had no religious connection? All the history I have read about the Spanish Inquisition indicated to me that this was to compel the Jew to convert to Christianity, and the Jew who wouldn't convert was tortured to death. The Maranos today in Spain are descendents of the ancient Jews who converted only outwardly to Christianity and practiced their Judaism secretly.

Mr. Whitener. I think, then, that in this country any of us who feel that we should have recognition of God in our public institutions are perhaps contributing to some unfortunate result in the future, such as the Spanish Inquisition.

Mr. Multer. I most earnestly urge, sir, that the moment we open the door and permit a little bit of this on a voluntary basis, you then are just one step away from making it mandatory. The minute you make it mandatory, you, I, and everybody else, depending on which of us may be the majority, will dictate our kind of prayer and our kind of bible reading.

Mr. Whitener. The door wasn't closed until 1962. Up to then we had been doing mighty well.

Mr. Multer. This is a mistaken conception, too. This was not uniform or universal in our country, prayer reading and Bible reading. There are many States that by their very constitution have prohibited this all through the years. There has been no prayers or bible reading in those schools in those States, and even in other States where it has been permitted it was not practiced.

In New York State it has not been universal or uniform to read prayers and Bibles in all the public schools.

Mr. Whitener. I think that statement has been made, but when we have looked into it, we have found that it has not worked out that way, even in the States where they do have these constitutional prohibitions. There has been, maybe not uniformly, but at places within those States, religious programs. I am not talking about denominational, but religious programs in the public schools.

I certainly thank you. I didn't mean to keep you so long.

Mr. Multer. May I say all of my schooling was in the city of New York. I went to grammar school and high school, all public schools in the city of New York. We had no prayer reading in my day. I don't think I am irreligious because we didn't. I think I still as vigorously and firmly believe in God and am as religious as the next man. Maybe ritually we differ, but I think I am just as religious as the next man. I got none of this in any public school that I attended.

The Chairman. Mr. Libonati.

Mr. Libonati. Congressman, our problem is a legal one, based on law.

Mr. Multer. Yes.

Mr. Libonati. Don't you find that most of the discussions over these decisions are rather focused on the obiter dictum than the decision itself?

Mr. Multer. I believe that is so. I think the fears——

Mr. Libonati. Do you know of any lawyer who disagrees with the decision of the Court on the naked principle of permitting a schoolteacher to give prayers in the school prepared by a superboard called a board of regents? Do you know of any lawyer that disagrees with the decision of the Court on that basic principle?

Mr. Multer. No, sir.

Mr. Whitener. Will the gentleman yield to me at that point?

Mr. Libonati. All right.

Mr. Whitener. Now, this Justice Douglas was a lawyer who disagreed with that, was he not?

Mr. Multer. Yes.

Mr. Libonati. I am talking about lawyers, not judges.

Mr. Multer. The judge is a lawyer first.

Mr. Libonati. The judge is no longer a lawyer. He is on neutral ground. If he were a lawyer, he would have his own personal decision to determine it. He is not representing a client. He is representing the public interest and the public domain of justice. That is the difference between my interpretation, Congressman, and yours, which is definitely the purpose of the judicial branch.

Let's not quarrel over the duties of a judge and the duties of a lawyer. His knowledge may be that identified with his profession, but his sitting upon the bench doesn't give him the right to supply his judicial knowledge as a lawyer to determine his decision, even if the record doesn't, in his estimation, show that counsel took advantage of all the areas he could have in his trial, either in the court or in the upper court of appeals. He has no right to supply his personal judgment and his skill and talents to take either side. He must decide upon the record.

That's right, isn't it? So no lawyer has come in here either and denied the question of the fundamental principle which the court laid down in that manner, in the defense primarily, do you agree, for the minorities to be protected? Is that right, Congressman?

Mr. Multer. I think it is safe to say that all agree on the principle. Our difficulty is in applying the principle. There is where we get into the difference, and there, I am afraid, too frequently, we let our emotions run away with us and forget about the logic of the law.

Mr. Libonati. In your dissertation here, you covered clearly the question of whether or not certain practices are legal in the schools, such as the study of religion. That would be within the purview of the teaching profession, to study the different religions, et cetera, as a matter of course, as we do in the colleges of higher learning. That would be in accordance with the determinations here proper, whether it came in a course in reading or whether it came in a course of determining the historical background of nations, and so forth, and the various inquisitions that took place, the Spanish Inquisition, et cetera.

That would be proper, wouldn't it, to show, in effect, where religions dominate government, much trouble comes, in conformity with the principle laid down in amendment 1 of the Bill of Rights, and the 14th amendment? Is that right?

Mr. Multer. Even there, Congressman, you will get into difficulty as to how we should teach that. While I am not advocating we shouldn't teach it, if I were writing the curriculum for the religious teaching, I would prefer to teach them——

Mr. Libonati. Not religious teaching. Religious study.

Mr. Multer. The comparative study of religion. I would try to eliminate all of those things that stir up the emotions and teach people to hate. I would try to direct the student's mind to the better things that religion teaches us.

Mr. Libonati. But the dissemination of information educates the mind. It doesn't stir the emotions, when the quality of teaching is basic and analytical and has a purpose to it, which is the broadening of the intellect of the individual.

Mr. Multer. Quite right, providing the intellect of the individuals all arrive at the same peaceful conclusion.

Mr. Libonati. You have read of the various cases previous to this case where the same issues were determined and yet did not arouse such public indignation. Do you feel that this public indignation was voluntary or explosive at the spur of the moment, or because of the misinformation printed in the press and disseminated from radio and television stations relative to this problem? Or do you feel that this decision did any less or any more than previous decisions on the same subject relative to prayer in the schools?

Mr. Multer. Let me answer your question by saying that I believe that if every person who signed a petition urging the enactment of one of these amendments, if everyone who has written or taken a position in favor of one of these amendments in some form or another, if they would take the time and the trouble to read each of these decisions, particularly Judge Stewart's dissenting opinion, I think they would all agree that this is the wrong approach and this should not be done.

Mr. Libonati. And the fact that in some States they use this practice in the public schools, that, in itself, affecting the usage or the custom of this situation not in conformity with constitutional law is wrong, isn't it? They did it in violation of this principle, didn't they?

Mr. Multer. That is quite correct. But I am going beyond that. I am saying if we are going to consider changing this constitutional provision now, as you are doing, I say please don't change it. The times call for no change. We will get into more trouble if we do change it.

Mr. Libonati. You said the aftereffects will be greater, then?

Mr. Multer. That is right.

Mr. Libonati. And the cleavage between religion and education will be widened to a point where it would be dangerous to the child. Is that your position?

Mr. Multer. My position is that this will cause more disunity, more division and more harm and trouble among our people and among our youth than it can possibly cause good.

Mr. Libonati. Thank you for your fine declaration, sir.

That is all, Mr. Chairman.

The Chairman. I want to say to the members that this morning we will be hearing the Governor of Florida, who is waiting to testify, and I hope the interrogation will be brief.

Mr. Gilbert. With that admonishment, Mr. Chairman, I want to thank the witness, my distinguished colleague, for appearing here this morning. I am sure we all appreciate the views he has presented.

Thank you very much.

Mr. Corman. I would like to add my thanks to my colleague. I think he has made a real contribution to this very difficult problem.

The Chairman. Mr. Poff?

Mr. Poff. I understand that the gentleman's concern with reference to the chaplains in the armed services has to do primarily with the compulsive aspect of their service and the nonavailability of religious ceremonies but for such chaplains. Is that correct?

Mr. Multer. When we talk of the armed services, it is not all compulsion. We must bear in mind the largest part of our armed services is made up of men who volunteered for enlistment. But having enlisted, their contract of enlistment requires them to restrict their movements. Since under that contract their movements are restricted, they are, nevertheless, entitled to religious consolation and comfort.

Mr. Poff. I understand. Bearing that distinction in mind, how do you feel about the Prayer Room in the Capitol, constructed in the Capitol Building?

Mr. Multer. Here?

Mr. Poff. Yes, sir.

Mr. Multer. There you have as near as you can possibly get, within the major religions, a nonsectarian, nondenominational—no, it is not that. It is all sectarian and all denominational. It is set up in such a way that each of the major denominations, Catholic, Protestant, and Jewish, are satisfied. But this is completely voluntary. Neither you nor I can be compelled to go there. But it is set up there for our convenience, so that when we do want to meditate, we do want to pray, we have a place, a proper room, properly appointed, where we can, in comfort, pray if we want to.

Mr. Poff. What you are saying is, then, in your judgment, the law we passed establishing the Prayer Room in the Capitol does not violate the first amendment to the Constitution, principally the establishment.

Mr. Multer. No, sir. This makes it more convenient for us who must be here to serve—again, must is the wrong word. We volunteered to be elected. But having been elected, our obligation is to serve. In the light of that service being required to be here, we should have a means and a proper place to go to when the desire for prayer is upon us.

Mr. Poff. Just so long as it is all sectarian and all denominational in nature; is that what you say?

Mr. Multer. Even if it were nonsectarian and nondenominational to the extent we can make it so. As long as we provide a proper place to which all of us can resort when we desire to go there. I think this is proper, and this is a proper expenditure of taxpayers' money.

Mr. Poff. Would you say the same thing would apply in reference to a room in a public school building?

Mr. Multer. If you set aside a room to which children could voluntarily go when the desire came upon them?

Mr. Poff. Yes.

Mr. Multer. I think this would be all right.

Mr. Poff. Now, another line of questioning. I am not quite certain that I understood, and maybe you answered this question. If so, please call it to my attention.

You say that you are opposed to the inscription of the national motto upon the Nation's coins.

Mr. Multer. I didn't say I was opposed to it. I did say that in my opinion this is taking the name of the Lord in vain, and that violates one of the commandments in which I believe and to which I subscribe.

Mr. Poff. You don't think it violates the first amendment?

Mr. Multer. No, I do not. That is the motto of this Nation.

Mr. Poff. And you feel the same is true of the use of the words "under God" in the "Pledge of Allegiance"?

Mr. Multer. That, too, is a patriotic ceremony, not a religious ceremony.

Mr. Poff. That is all I have, Mr. Chairman.

The Chairman. Mr. McCulloch.

Mr. McCulloch. I have no questions.

The Chairman. Thank you very much, Mr. Multer.

Our next witness is the distinguished Governor of Florida, Gov. Farris Bryant.

HIGH SCHOOL DEBATES, 1964–65

Mr. CASEY. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Burleson] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURLESON. Mr. Speaker, for the information of all Members of the House, the high school debate material for 1964–65, printed, pursuant to Public Law 88–246, as Senate Document No. 72 and entitled "Should Weapons Be Placed Under International Control?" is now available in the House folding room. Eighty-five copies are allotted to each Member for 30 days. Thereafter, all copies remaining in the folding room will be pooled by the Joint Committee on Printing and, upon request, will be furnished Members to the extent available.

ADDRESS OF HONORABLE JOHN J. ROONEY TO THE FEDERATION OF THE ITALIAN-AMERICAN DEMOCRATIC ORGANIZATIONS OF THE STATE OF NEW YORK, INC., SATURDAY EVENING, MAY 23, 1964, CARNEGIE HALL, NEW YORK, N.Y.

The SPEAKER pro tempore. (Mr. Patten). Under previous order of the House the gentleman from New York [Mr. Rooney] is recognized for 30 minutes.

Mr. ROONEY of New York. Mr. Speaker, on Saturday evening, May 23, last, at Carnegie Hall in New York City I had the great privilege of addressing the Federation of the Italian-American Democratic Organizations of the State of New York, Inc., and of presenting an Amerigo Vespucci award for distinguished community service by Americans of Italian descent to the Honorable Mario T. Noto, Associate Commissioner, Immigration and Naturalization Service, U.S. Department of Justice.

My remarks follow:

I am delighted to again be with so many of my old friends and to participate in a ceremony in honor of the great discoverer, Amerigo Vespucci, at which distinguished persons who made meaningful contributions to the growth of this country of ours are receiving special awards.

Words are inadequate to express the significance of what Italy has meant to man's effort to raise himself from the savagery of his origins. They are particularly inadequate when they come after the wonderful language of music, itself one of Italy's greatest gifts to man. All who appreciate the best will agree with me when I say, "tutta la mia vita, ho, amato, la bella musica italiana."

Our American history begins with the discovery made by a son of Italy.

The name of our land which stirs us with deep emotion is taken from a son of Italy, Amerigo Vespucci. Our continent was explored and major cities founded by the sons of Italy—Vigo—the Tonti brothers—Beltrami.

Our scientific power grows from the same source that gave the world the genius of Galileo and Fermi.

Our Nation was built by the brains and muscles of the countless Italian immigrants who enriched us with their energy and vision.

Whenever we have been threatened, our enemies have felt the force of their commitment to freedom for wherever there are Americans dead on foreign soil there are among them Italian names high on the list of valor. And we are a better land for the fruits of other Italian explorations—explorations into the inner world of music, sculpture, painting, architecture and all that makes our world more alive and colorful.

In short, our history would be far different and our national life far less rich if it were not for the Italians and their descendents who grace our shores.

We are here tonight to do honor to a man in public life who does great honor to us. The son of Italian immigrant parents, this distinguished gentleman has himself been, and continues to be, a bridge of understanding between the immigrant and the native American. By his life he has made us all understand a little better not only what those of Italian extraction are capable of performing, but the immeasurable value of their contributions to America.

This gentleman has given 22 years of dedicated work to the public service of our Nation. His career is a credit to all of Italian extraction and an inspiration to all Americans. He is a forceful leader who has spared no effort to fight the cancer of bigotry. He is dedicated to insure fair and equal treatment of all. With unswerving devotion to duty, throughout his life he has shown a fortitude and determination to prove that this land of ours has unlimited opportunities for those who choose to leave other lands and adopt America as their home. The record of his deeds is a story of the sacrifice of immigrant parents who take the opportunities of America and use them; it is a source of strength, inspiration and hope for the many other immigrants of many nationalities who choose to give their sons and daughters the opportunities of America.

This distinguished gentleman's work and his qualities have been known to me for many years. Ever since he entered the U.S. Immigration and Naturalization Service in 1942, his career has been marked by a series of accomplishments and of increased responsibilities. He now holds the extremely important position of Associate Commissioner for Operations, U.S. Immigration and Naturalization Service.

Last year this gentleman was appointed consultant to the U.S. Department of State to assist the Bureau of Educational and Cultural Affairs on matters relating to the education and cultural exchanges between Italy and the United States.

My friends, I can think of no man who is more deserving to receive the 1964 Amerigo Vespucci award "For Distinguished Service by an American of Italian Descent." For these reasons I feel that he is indeed deserving of the honor which your federation is bestowing upon him tonight. Therefore, I congratulate you in bestowing it and I congratulate my esteemed friend, Commissioner Mario T. Noto on receiving this honor.

Let me add one more word—to Mario—and all my friends here tonight—Cari amici. Sono molto lieto di trovarme con voi. Gracie per la vostra cortesia. Arrivaderci.

Mr. Speaker, at this point I include a copy of the program of the proceedings on this memorable occasion:

I

Presentation of colors by U.S. Immigration and Naturalization Service Post 1789, American Legion:

Color guard and honorary escort: William Shibilski, commander; Peter P. Massimino, Harold Rand, Francis J. Lyons, John Littell, and Howard Cohen, past commanders; Salvatore Vaccaro, and John Keith, colorbearers.

Retreat of colors.

II

Lee Luvisi, pianist.

1. "Three Sonatas," Domenico Scarlatti: "G Major (Kirkpatrick No. 14)"; "A Major

(Kirkpatrick No. 208)," and "A Major (Kirkpatrick No. 209)."

2. "Andante spianato e Grande": "Polonaise Brillante," Opus 22, Frédéric Chopin.

III

Dino Rosi, continental tenor: 1. "Tu Ca Chiagne," De Curtis; 2. "Volare," Modugno; 3. "Malasemena," Toto. Mme. Marcella Geon, piano.

Intermission.

IV

Presentations:

Year: 1964 Amerigo Vespucci Awards for "Distinguished Community Service by Americans of Italian Descent" to the Honorable Mario T. Noto, associate commissioner, Immigration and Naturalization Service, U.S. Department of Justice.

Hon. Dominick F. Paduana, member, the Workmen's Compensation Board, State of New York.

Hon. Joseph P. Vaccarella, mayor of Mount Vernon.

Hon. Carmella Nesi, assistant superintendent of schools, Bronx County Board of Education, City of New York.

Year 1964 George B. de Luca Brotherhood Award for "Outstanding Promotion of Intergroup Relations by an American of Italian Extraction" to Mr. Guido G. Salmaggi, general director, Brooklyn Opera Co., Inc.

Camille M. Cianfarra Memorial Award, "For Projecting the Contributions of Italian-Americans on the American Scene Through Journalism" to Hon. Fortune Pope, publisher.

Presentations to recipients by:

Hon. John J. Rooney, Member of Congress from Brooklyn.

Hon. Joseph P. Addabbo, Member of Congress from Queens.

Hon. Robert V. Santangelo, judge of the Civil Court, City of New York.

Hon. Ferdinand J. Mondello, member of the New York State Assembly from the Bronx.

Mrs. Sarina D'Amato Grande, chairman, board of governors, Federation of Italian-American Democratic Organizations of New York.

Hon. Charles J. Re, first vice president, Federation of Italian-American Democratic Organizations of New York.

Hon. Alfred E. Santangelo, State president, Federation of the Italian-American Democratic Organizations of the State of New York, Inc.

Hon. Sylvester J. Garamella, chairman of the "Concerto Primavera."

V

Special message from the President of the United States to be delivered by Hon. Jack Valenti, assistant to President Lyndon B. Johnson.

VI

Bandstand U.S.A. encompasses the music of the greatest popular appeal played on bandstands throughout the United States from 1900 to 1964. Paul Lavalle and his Band of America.

Part I: 1900 through 1912:

"The Band of America March," Paul Lavalle.

Cavatina, from "La Sonnambula," Vicenzo Bellini, E-flat cornet solo, Fernando Pasqualone.

"Ring the Banjos," "Jeannie With the Light Brown Hair," "Camptown Races," Stephen Foster; arranged by John Krance, vocal solo, Ronald Rogers.

"Listen to the Mocking Bird," Alice Hawthorne; arranged by Paul Lavalle, piccolo solo, Andrew Mikita.

"March of the Toys," "Kiss Me Again," "Italian Street Song," Victor Herbert; arranged by Paul Lavalle, "The Light Cavalry Overture," Franz von Suppé; vocal solo, Jean Castle.

Part II: 1913 to 1964:

"Ragtime, Blues," and "The Dixieland Band Era," "Jazz Era of the 1920's à la Paul Whiteman," banjo solo: Bobby Day, trumpet solo: James Milazzo.

"Broadway's New Musical Comedy Era, 1943;" "Oklahoma," Rodgers and Hammerstein.

"Swing Band Era of the Early and Late 1940's," Harry James; "Ciribiribin." "Trumpet Concerto," solo B-flat trumpet: Fernando Pasqualone.

Benny Goodman, "Let's Dance"; solo clarinet: John Mayhan; solo drums: Chuck Spies.

"West Side Story," Leonard Bernstein; vocal solos: "I Feel Pretty," Jean Castle, arranged by Ted Tyle.

"Maria," Ronald Rogers; "Tonight," Jean Castle and Ronald Rogers.

"Bugler's Holiday," Leroy Anderson; trumpets: Fernando Pasqualone, Richard San Filippo, Frank Clark.

Italian Songs: Jean Castle, with Michael Mattia at the piano.

Selections from MGM and RCA Victor albums as recorded by Paul Lavalle and the Band of America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. Teague of Texas (at the request of Mr. Albert), for today, on account of official business.

SPECIAL ORDER GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to Mr. Rooney of New York (at the request of Mr. Casey), for 30 minutes, today; to revise and extend his remarks and to include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Congressional Record, or to revise and extend remarks, was granted to:

Mr. McCormack (at the request of Mr. Casey), notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $337.50.

(The following Member (at the request of Mr. Martin of Nebraska) and to include extraneous matter:)

Mr. Alger.

(The following Members (at the request of Mr. Casey) and to include extraneous matter:)

Mr. Randall.

Mr. Rogers of Texas.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. BURLESON, from the Committee on House Administration, reported that that committee did on June 6, 1964, present to the President, for his approval, a bill and a joint resolution of the House of the following titles:

H.R. 11201. An act making deficiency appropriations for the fiscal year ending June 30, 1964, and for other purposes; and

H.J. Res. 889. Joint resolution commemorating the golden anniversary of the Naval Air Station, Pensacola, Fla., and authorizing the design and manufacture of a galvano in commemoration of this significant event.

ADJOURNMENT

Mr. CASEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 38 minutes p.m.) the House adjourned until tomorrow, Tuesday, June 9, 1964 at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2147. A letter from the Administrator, General Services Administration, transmitting a notice of the proposed disposition of 10 materials now held in the national stockpile and described in said notice, pursuant to 50 U.S.C. 98b(e); to the Committee on Armed Services.

2148. A letter from the Acting Secretary of Commerce, transmitting the 67th quarterly report covering the 1st quarter of 1964, pursuant to the Export Control Act of 1949; to the Committee on Banking and Currency.

2149. A letter from the Comptroller General of the United States, transmitting a report relating to unnecessary costs incurred with respect to available Government quarters and messes not used by military personnel attending classes at contractors' facilities, Department of the Air Force; to the Committee on Government Operations.

2150. A letter from the Attorney General, transmitting a draft of a proposed bill entitled "A bill to authorize the expenditure of appropriated funds for insurance covering the operation of motor vehicles in foreign countries"; to the Committee on Government Operations.

2151. A letter from the Chairman, Federal Communications Commission, transmitting a copy of the report on backlog of pending applications and hearing cases in the Federal Communications Commission as of April 30, 1964, pursuant to Public Law 554, 82d Congress; to the Committee on Interstate and Foreign Commerce.

2152. A letter from the Secretary of Agriculture transmitting a draft of a proposed bill entitled "A bill to validate certain payments made to employees of the Forest Service, U.S. Department of Agriculture"; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 8080. A bill to authorize the Secretary of Interior to prepare a roll of persons eligible to receive funds from an Indian Claims Commission judgment in favor of the Snake or Paiute Indians of the former Malheur Reservation in Oregon, to prorate and distribute such funds, and for other purposes; with amendment (Rept. No. 1465). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HALPERN:

H.R. 11517. A bill to amend section 5155 of the Revised Statutes relating to branches of national banks; to the Committee on Banking and Currency.

By Mr. KEOGH:

H.R. 11518. A bill to amend section 1212(a) of the Internal Revenue Code; to the Committee on Ways and Means.

By Mr. MULTER:

H.R. 11519. A bill to amend the Civil Service Retirement Act to authorize the retirement without reduction in annuity of employees with 20 years of service involuntarily separated from the service by reason of the abolition or relocation of their employment; to the Committee on Post Office and Civil Service.

By Mr. TOLLESFON:

H.R. 11520. A bill to amend subsection (d) of section 1346 of title 28 of the United States Code relating to the jurisdiction of the U.S. district courts; to the Committee on the Judiciary.

By Mr. TUTEN:

H.J. Res. 1042. Joint resolution to amend section 316 of the Agriculture Adjustment Act of 1938 to extend the time by which a lease transferring a tobacco acreage allotment may be filed; to the Committee on Agriculture.

MEMORIALS

Under clause 4 of rule XXII,

The SPEAKER presented a memorial of the Legislature of the State of Mississippi, memorializing the President and the Congress of the United States to propose and submit for ratification an amendment to the Constitution of the United States relating to article V thereof, which was referred to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BURTON of California introduced a bill (H.R. 11521) for the relief of Mrs. Maxima E. Chua, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

915. By the SPEAKER: Petition of Mrs. Ashby E. Craft, Jr., president, Alaska State Federation of Women's Clubs, Nome, Alaska, relative to the urban renewal assistance in disaster areas which urges the amendment of the existing law regarding urban renewal assistance for these areas; to the Committee on Banking and Currency.

916. Also, petition of Henry Stoner, Avon Park, Fla., relative to the supersonic transport race; to the Committee on House Administration.

917. Also, petition of Henry Stoner, Avon Park, Fla., relative to the printing of the final edition of the CONGRESSIONAL RECORD; to the Committee on House Administration.

918. Also, petition of Henry Stoner, Avon Park, Fla., relative to requesting that an appropriate committee do a study of Henry Morgan and the free enterprise system; to the Committee on Interstate and Foreign Commerce.

919. Also, petition of Henry Stoner, Avon Park, Fla., relative to requesting the U.S. House of Representatives to use its powers under the Constitution of the United States to abolish gerrymandering in congressional districts; representative democracy is on the spot versus communism; let the U.S. House of Representatives show the world that they use all constitutional powers to enforce representative democracy and that it is still effective; to the Committee on the Judiciary.

920. Also, petition of Juel Miyajima, Koza City, Okinawa, relative to settlement of prepeace-treaty claims problem; to the Committee on Foreign Affairs.

SENATE

MONDAY, JUNE 8, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

Rev. Lamar C. Leifeste, minister, First Methodist Church, Brady, Tex., offered the following prayer:

Lead us, O Father, into this day with unshakable faith and trust in those to whom much has been entrusted.

Guide their deliberations by Thy wisdom.

May each conviction spoken be tempered with justice, and may each decision find favor with Thee.

Though there be diversities of thought, may there be unity in purpose as they serve and represent the best interests of all people.

May they daily seek to know Thy will; through seeking, find; and in finding, have the courage to meet the challenge.

We humbly pray and ask in Thy name. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Friday, June 5, and Saturday, June 6, 1964, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the following treaties:

Executive H, 86th Congress, 2d session: An agreement between the United States of America and India for the avoidance of double taxation with respect to taxes on income, signed at Washington on November 10, 1959;

Executive B, 87th Congress, 1st session: A convention between the United States of America and Israel for the avoidance of double taxation of income and for the encouragement of international trade and investment, signed at Washington on September 30, 1960; and

Executive A, 87th Congress, 1st session: A Convention between the United States of America and the United Arab Republic for the avoidance of double taxation of income, the prevention of fiscal evasion with respect to taxes on income, and the elimination of obstacles to international trade and development, signed at Washington on December 21, 1960, which nominating messages were referred to the Committee on Armed Services.

(For nominations this day received, see the end of Senate proceedings.)

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after a quorum call has been completed, there be a morning hour, with statements therein limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1963—CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a motion on House bill 7152.

The ACTING PRESIDENT pro tempore. Without objection, the motion will be read by the Secretary.

The motion was read, as follows:

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

EVERETT M. DIRKSEN, MIKE MANSFIELD, THOMAS H. KUCHEL, HUBERT H. HUMPHREY, CLIFFORD P. CASE, DANIEL BREWSTER, JENNINGS RANDOLPH, HIRAM L FONG, EDMUND MUSKIE, JOSEPH S. CLARK, KENNETH B. KEATING, PAT MCNAMARA, ABRAHAM RIBICOFF, J. GLENN BEALL, GORDON ALLOTT, DANIEL K. INOUYE, LEVERETT SALTONSTALL, PAUL H. DOUGLAS, EDWARD KENNEDY, STEPHEN M. YOUNG, THOMAS J. DODD, PHILIP A. HART, JOHN SHERMAN COOPER, VANCE HARTKE, FRANK E. MOSS, WAYNE MORSE, HENRY M. JACKSON, TOM MCINTYRE, JOHN O. PASTORE, CLAIBORNE PELL, GAYLORD NELSON, MAURINE NEUBERGER, HARRISON WILLIAMS, BIRCH BAYH, HUGH SCOTT, J. K. JAVITS, FRANK J. LAUSCHE, EUGENE J. MCCARTHY.

ADDITIONAL SIGNER OF CLOTURE MOTION

Mr. McGOVERN subsequently said: Mr. President, I ask unanimous consent that my name be added to the cloture motion on the civil rights bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Montana will state it.

Mr. MANSFIELD. Has an order been entered that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning?

The ACTING PRESIDENT pro tempore. That is correct; such an order has been entered.

Mr. MANSFIELD. Mr. President, in view of the fact that a motion to invoke cloture has been made, is it the judgment of the Chair that 1 hour after the Senate convenes on Wednesday next, there will automatically be a vote on the motion?

The ACTING PRESIDENT pro tempore. One hour after the Senate convenes on Wednesday next, there will be a quorum call; and immediately after the quorum call, there will be a vote on the cloture motion, by the yeas and nays.

Mr. MANSFIELD. But is there not to be an hour?

The ACTING PRESIDENT pro tempore. That is correct. If the Senate convenes at 10 o'clock, in accordance with an order, there will be 1 hour—from 10 a.m. to 11 a.m.; at 11 a.m. there will be a quorum call; and immediately after the quorum call, the yeas and nays will be taken on the question of agreeing to the cloture motion.

Mr. MANSFIELD. But, Mr. President, we have not entered an order as to the time when the Senate will convene on Wednesday.

The ACTING PRESIDENT pro tempore. That is true; and the Chair said "if."

Mr. MANSFIELD. So there will be 1 hour, including the quorum call?

The ACTING PRESIDENT pro tempore. There will be 1 hour; and the quorum call will commence immediately, 1 hour after the Senate convenes.

Mr. MANSFIELD. I see.

Mr. President, I ask unanimous consent that that hour be divided equally between the majority leader and the distinguished senior Senator from Georgia [Mr. RUSSELL].

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 274 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Burdick
Cannon
Case
Church
Cooper
Cotton
Curtis
Dirksen
Dominick
Douglas
Ervin
Goldwater
Gore
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Johnston
Keating
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
McNamara
Metcalf
Monroney
Morton
Mundt
Muskie
Nelson
Neuberger
Pearson
Pell
Prouty
Proxmire
Robertson
Smith
Sparkman
Stennis
Symington
Talmadge
Walters
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

Mr. MANSFIELD. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Virginia [Mr. BYRD], the Senator from Pennsylvania [Mr. CLARK], the Senator from Connecticut [Mr. DODD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Michigan [Mr. HART], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Hawaii [Mr. INOUYE], the Senator from Washington [Mr. JACKSON], the Senator from Ohio [Mr. LAUSCHE], the Senator from Missouri [Mr. LONG], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Utah [Mr. MOSS], the Senator from Rhode Island [Mr. PASTORE], the Senator from Connecticut [Mr. RIBICOFF], and the Senator from Georgia [Mr. RUSSELL] are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from West Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from Louisiana [Mr. ELLENDER], the Senator from North Carolina [Mr. JORDAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Florida [Mr. SMATHERS], the Senator from South Carolina [Mr. THURMOND], and the Senator from New Jersey [Mr. WILLIAMS] are necessarily absent.

I further announce that the Senator from California [Mr. ENGLE] and the Senator from Oregon [Mr. MORSE] are absent because of illness.

Mr. DIRKSEN. I announce that the Senator from Delaware [Mr. BOGGS], the Senator from Kansas [Mr. CARLSON], the Senator from Idaho [Mr. JORDAN], the Senator from California [Mr. KUCHEL], and the Senator from Wyoming [Mr. SIMPSON] are absent on official business.

The Senator from Hawaii [Mr. FONG], the Senator from New Mexico [Mr. MECHEM], the Senator from Iowa [Mr. MILLER], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

The Senator from New York [Mr. JAVITS], the Senator from Pennsylvania [Mr. SCOTT], and the Senator from Texas [Mr. TOWER] are detained on official business.

The PRESIDING OFFICER (Mr. WALTERS in the chair). A quorum is present.

Morning business is in order.

ENROLLED BILL AND JOINT RESOLUTION SIGNED DURING RECESS

Under authority of the order of the Senate of June 6, 1964,

The ACTING PRESIDENT pro tempore announced that on June 6, 1964, he signed the following enrolled bill and joint resolution, which had previously been signed by the Speaker of the House of Representatives:

H.R. 11201. An act making deficiency appropriations for the fiscal year ending June 30, 1964, and for other purposes; and

H.J. Res. 889. Joint resolution commemorating the golden anniversary of the Naval Air Station, Pensacola, Fla., and authorizing the design and manufacture of a galvano in commemoration of this significant event.

PUBLICATION OF NOTICE OF PROPOSED DISPOSITION OF 10 MATERIALS IN NATIONAL STOCKPILE

The ACTING PRESIDENT pro tempore laid before the Senate a letter from the Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a copy of a notice to be published in the Federal Register of the proposed disposition of 10 materials now held in the national stockpile, which, with the accompanying paper, was referred to the Committee on Armed Services.

COMPLAINT CONTESTING THE 1964 MARYLAND PRIMARY ELECTION TO NOMINATE THE REPUBLICAN CANDIDATE FOR U.S. SENATOR FROM MARYLAND

The ACTING PRESIDENT pro tempore laid before the Senate a letter signed by William A. Albaugh, of Mount Rainier, Md., contesting the 1964 Maryland primary election to nominate the Republican candidate for U.S. Senator from Maryland, which was referred to the Committee on Rules and Administration.

MEMORIAL

The ACTING PRESIDENT pro tempore laid before the Senate the memorial of Mrs. Nick Elias, of the State of Washington, remonstrating against the enactment of House bill 7152, the so-called civil rights bill; which was ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAYH, from the Committee on the Judiciary, without amendment:

H.R. 9090. An act for the relief of Mrs. Audrey Rossman (Rept. No. 1064).

By Mr. BAYH (for Mr. EASTLAND), from the Committee on the Judiciary, without amendment:

S. 584. A bill for the relief of Yih-Ho Pao and his wife, Joanne T. Pao (Rept. No. 1062);

S. 2629. A bill for the relief of Czeslaw (Chester) Kaluzny (Rept. No. 1065);

H.R. 6308. An act for the relief of Gerard Puillet (Rept. No. 1066); and

H.R. 6843. An act for the relief of David Sheppard (Rept. No. 1067).

By Mr. BAYH (for Mr. EASTLAND), from the Committee on the Judiciary, with an amendment:

S. 2149. A bill for the relief of Aziza (Susan) Sasson (Rept. No. 1068);

S. 2163. A bill for the relief of Alexa Daniel (Rept. No. 1069);

S. 2320. A bill for the relief of Mrs. Anna Soos (Rept. No. 1070);

S. 2354. A bill for the relief of David Lee Bogue (Rept. No. 1071);

S. 2374. A bill for the relief of Milagros Aragon Neri (Rept. No. 1072);

S. 2378. A bill for the relief of Mardiros Kouyoumjiam and his wife, Manig Kouyoumjiam (Rept. No. 1073);

H.R. 8964. An act for the relief of Diedre Regina Shore (Rept. No. 1074); and

H.R. 9220. An act for the relief of Elisabete Maria Fonseca (Rept. No. 1075).

EXTENSION OF TIME FOR WHICH PAYMENTS IN LIEU OF TAXES MAY BE MADE WITH RESPECT TO CERTAIN REAL PROPERTY TRANSFERRED BY RECONSTRUCTION FINANCE CORPORATION TO OTHER GOVERNMENT DEPARTMENTS—REPORT OF A COMMITTEE (S. REPT. NO. 1063)

Mr. McCLELLAN. Mr. President, from the Committee on Government Operations, I submit a report on the bill, H.R. 9964, to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments.

The purpose of this bill is to extend for 2 years from December 31, 1964, the period in which payments in lieu of taxes may be made to State and local taxing authorities by the Federal Government with respect to certain real property on which payments were authorized by Public Law 388, 84th Congress. Public Law 388, 84th Congress, which became law on August 12, 1955, was designed to furnish temporary relief for local taxing authorities which were under an undue and unexpected burden as the result of the transfer of taxable real property from the Reconstruction Finance Corporation, or its subsidiaries, to another Federal agency or department, which transfer operated to take such property out of taxation. The act authorized payments in lieu of taxes with respect to such property only if it was transferred by the RFC, or one of its subsidiaries, to another Federal agency or department on or after January 1, 1946, and only if title to such property has been held continuously by the United States prior to such transfer.

With respect to real property meeting these conditions, the Government department having custody or control was required by Public Law 388 to pay the local taxing authority, for the period commencing on January 1, 1955, and terminating on December 31, 1958, an amount equal to the real property tax which would have been payable on any date on which such taxes would have been due during the specified period if the property were privately owned.

This legislation was originally enacted as a stopgap measure to protect local taxing authorities from serious tax losses which would have resulted from a decision of the U.S. Court of Claims, as implemented by a decision of the Comptroller General of the United States. It appears that the basic legislation establishing the Reconstruction Finance Corporation provided specifically that its real property was to be subject to special assessments for local improvements and to State and local taxation to the same extent, according to its value, as other real property. As various properties of the RFC and its subsidiaries became surplus to the needs of those agencies, the War Assets Administration, and its successor, the General Services Administration, followed the policy and practice of leaving legal title to such property in the Government corporations concerned, even though the property was transferred to another Government agency.

This procedure worked well until July 15, 1952, when the Court of Claims, in a case involving a subsidiary corporation of the RFC, held that, although no change in the tax status of property owned by a Government corporation occurs by a mere declaration that it is surplus, when the transferee agency accepts accountability for such property, even though the corporation retains title, it is immediately taken out of taxation. This was based upon the theory that unless the Federal Government specifically consents to waive its immunity from local taxation, its property canot be taxed. Although such consent had been given in the case of the Government corporation, the court found that retention by the corporation of legal title, without any retention of control, did not operate to continue the property in a taxable status, so long as it appeared that the transferee agency was the true user and was accountable for such property—*Board of County Commissioner of Sedgwick County* v. *United States*, 123 Ct. Cls. 304.

In October 1952, the Comptroller General issued a decision, in a similar situation, which resulted in barring payment of taxes by any transferee agency once accountability for the transferred property had been accepted—32 Comp. Gen. 164. The immediate result of the decision of the Court of Claims and the Comptroller General was to cut off a substantial source of revenue upon which local taxing authorities had come to rely.

At the time of the enactment of Public Law 388, the Committee on Government Operations was engaged in the development of a comprehensive program which was designed to afford permanent relief to all State and local taxing authorities which were being deprived of tax revenues as the result of Federal ownership of property which would have been subject to taxation if privately owned. Although this committee twice reported favorably bills which were expected to accomplish this objective, and one of them, S. 910, was approved by the Senate in the 86th Congress, no final action was taken on the measure in the House of Representatives.

Because the committee felt that the serious fiscal situations of the communities involved justified a continuation of temporary relief, the program provided for by Public Law 388 of the 84th Congress was extended in the next three Congresses, for periods of 2 years each. Unless the pending measure is enacted, payments under the program will terminate on December 31, 1964.

With respect to the cost of continuing this program for 2 additional years, the committee noted that, according to information submitted by the Department of Defense and the General Services Administration, which control all of the properties involved, there has been a significant decline in both the number of properties concerned and the total payments. This decline has resulted from the fact that the agencies holding these properties have been steadily disposing of them to private enterprise. Thus, in fiscal year 1961, the Department of Defense paid $4,346,230 on 40 properties; and the General Services Administration paid a total of $340,555 on 9 properties. In fiscal year 1965, it is estimated that total payments by the Department of Defense on 25 properties will amount to approximately $2,800,000; and the General Services Administration will pay an estimated $565,000 on 4 remaining properties. The increase in the estimated payments by the General Services Administration for fiscal year 1965, despite a decline in the number of properties, is reported to result from an increase in taxes in the communities in which the properties are located. A list of the properties, their location, and the amounts involved will be found in the report on this bill.

The Bureau of the Budget, the Department of Defense, the General Services Administration, and the Comptroller General have advised the committee that they would have no objection to the continuation of the payments authorized for an additional period of 2 years.

Mr. President, the committee found that the impact upon the financial resources of the communities affected, which are located in 16 States, is still considerable since the Congress has not yet enacted a comprehensive program to meet the situation, and the number of properties and the amount of funds involved has decreased considerably since the program was initiated, the committee concluded that its continuance for 2 additional years would be justified.

The PRESIDING OFFICER. The report will be received, and the bill will be placed on the calendar.

CIVIL RIGHTS ACT OF 1963—AMENDMENTS

AMENDMENT NO. 898

Mr. ERVIN. Mr. President, I submit at this time an amendment in the nature of a substitute for amendment 606, which is an amendment to the amendment No. 656, which is also an amendment in the nature of a substitute to House bill 7152, the so-called civil rights bill.

I ask unanimous consent that the amendment may be printed at this point in the body of the RECORD.

I also ask unanimous consent that the amendment may be printed otherwise, and lie upon the table until called up.

I also ask unanimous consent that the reading of the amendment be waived and that it be considered as having been read for all purposes under the rules of the Senate.

The PRESIDING OFFICER. Without objection, the several requests of the Senator are agreed to; and the amendment will be received, printed, and will lie on the table.

The amendment (No. 898) is as follows:

Beginning with the word and figure "title VII" on line 10, on page 35, strike out everything through the word "Title" on line 19, page 68.

Renumber title VIII as title VII and section 801 as section 701.

Renumber title IX as title VIII and sections 901 and 902 respectively as sections 801 and 802.

Renumber title X as title IX and sections 1001, 1002, 1003, and 1004 respectively as sections 901, 902, 903, and 904.

Renumber title XI as title X and sections 1101, 1102, 1103, 1104, and 1105 as sections 1001, 1002, 1003, 1004, and 1005.

AMENDMENTS NOS. 899 THROUGH 906

Mr. ERVIN. Mr. President, the able and distinguished Senator from West Virginia [Mr. BYRD] is necessarily absent today.

I ask unanimous consent that I may submit for him, pursuant to his request of me, certain amendments to the substitute amendment, No. 656, to House bill 7152.

I also ask unanimous consent, on his behalf, that these amendments may be printed at this point in the body of the RECORD.

I also ask unanimous consent, on his behalf, that the reading of these amendments may be waived, and that they may be considered as having been read for all purposes under the rules of the Senate, and that they may lie at the desk until called up.

The PRESIDING OFFICER. Without objection, the several requests of the Senator from North Carolina are agreed to; and the amendments submitted on behalf of the Senator from West Virginia [Mr. BYRD] will be received, printed, and will lie on the table.

The amendments (Nos. 899 through 906) are as follows:

AMENDMENT No. 899

On page 3, strike out lines 25 down to and including line 10 on page 4.

AMENDMENT No. 900

On page 16, beginning with line 13, strike out all of section 302, down through line 15.

Renumber sections 303 and 304.

AMENDMENT No. 901

On page 70, beginning with line 1, strike out all of title IX, down through line 18.

AMENDMENT No. 902

Strike out title VI, beginning on page 35, line 10, down to and including line 19, on page 68.

AMENDMENT No. 903

Strike out title VI, beginning on page 32, line 21, down to and including line 9, on page 5.

AMENDMENT No. 904

Strike out title II, beginning on page 6, line 12, down to and including line 23, on page 14.

AMENDMENT No. 905

On page 71, line 17, insert the following "sex," after the comma following the word "color."

AMENDMENT No. 906

On page 69, lines 5 and 17, insert the following: "sex," after the comma following the word "color."

AMENDMENTS NOS. 907 THROUGH 914

Mr. ERVIN. Mr. President, also on behalf of the Senator from West Virginia [Mr. BYRD], I submit certain amendments to House bill 7152, the so-called civil rights bill. In connection therewith, I make the same unanimous-consent requests as in the case of the other amendments.

The PRESIDING OFFICER. Without objection, the requests of the Senator from North Carolina are agreed to, and the amendments will be received, printed, and will lie on the table.

The amendments are as follows:

AMENDMENT No. 907

Strike out title VI, beginning on page 25, line 18, through line 20 on page 27.

AMENDMENT No. 908

On page 51, line 9, insert the following: "sex", after the comma following the word "color".

AMENDMENT No. 909

On page 53, line 5, insert the following: "sex", after the comma following the word "color".

AMENDMENT No. 910

Strike out all of title VII, beginning on page 27, line 21, down through line 25 on page 50.

AMENDMENT No. 911

Strike out all of title II, beginning on page 6, line 1, down through line 17, page 11.

AMENDMENT No. 912

Strike out all of subsection "(b)", beginning on page 3, line 19, down through line 4, page 5.

On page 4, line 6, strike out "(c)" and insert in lieu thereof "(b)".

On page 4, line 8, strike out "(a) or (c)" and insert "(a)".

On page 4, line 14, strike out "(d)" and insert in lieu thereof "(c)".

AMENDMENT No. 913

On page 51, beginning with line 17, strike out all of title IX, down through line 25.

AMENDMENT No. 914

On page 13, beginning with line 4, strike out all of section 302, of title III, down through line 10.

Renumber sections 303 and 304.

AMENDMENTS NOS. 915 THROUGH 919

Mr. SMATHERS. Mr. President, I submit five amendments to House bill 7152, the so-called civil rights bill, and ask unanimous consent that they may be considered for all purposes as having been read. I ask unanimous consent that an explanation of each amendment be printed in the RECORD.

The PRESIDING OFFICER. The amendments will be received, printed, and lie on the table; and will be considered as having been read. Without objection, the explanations of the amendments will be printed in the RECORD.

The amendments and explanations are as follows:

AMENDMENT No. 915

On page 39, line 22, strike out "or on behalf of".

The explanation accompanying amendment No. 915 is as follows:

The purpose of this amendment is to require that the written charge alleging an "unlawful employment practice" be filed by the person claiming to be aggrieved, and by none other. This will assure that the invoking of the assistance of the Equal Employment Opportunity Commission is in accordance with the wishes of the person alleged to be aggrieved. Without this amendment, it is possible that some overzealous person will hear of what he considers to be an "unlawful employment practice" and, without the knowledge or consent of the individual most directly concerned, will file a written charge in his behalf. This might not only be without his consent; it might be directly contrary to his wishes.

Adoption of this amendment will give the person claiming to be aggrieved full control over his own proceeding, and will protect him against those who might want to use him and his case for their own ends.

AMENDMENT No. 916

On page 9, line 22, strike out "if he" and insert in lieu thereof the following: "upon receipt of a complaint signed by the person aggrieved to the effect that such person is financially unable to bear the expense of the litigation, if the Attorney General".

On page 12, line 3, immediately after "hereof,", insert the following: "and to the effect that he is financially unable to bear the expense of the litigation,".

On page 17, line 8, immediately after "desegregation,", insert the following: "and that such parent or group of parents is financially unable to bear the expense of the litigation,".

On page 17, line 12, immediately after "origin,", insert the following: "and that he is financially unable to bear the expense of the litigation,".

The explanation accompanying amendment No. 916 is as follows:

There are various provisions throughout the bill for permitting the Attorney General to maintain a suit in behalf of an individual or individuals who claim to be the victim or victims of discrimination. This amendment would require as a condition precedent to the Attorney General's doing so that the person aggrieved indicate in writing that he is financially unable to bear the expense of the litigation.

As presently drafted, the bill provides for a determination by the Attorney General regarding the financial inability of the aggrieved party to maintain the suit. This amendment would make it certain that the Attorney General would not make such a determination without having the assurance of the individual concerned that he is financially unable to bear these expenses. Thus the amendment would strengthen this requirement in the bill by providing information upon which the Attorney General could base a more informed conclusion.

AMENDMENT No. 917

On page 11, lines 3, 4, and 5, strike out "and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law."

The explanation accompanying amendment No. 917 is as follows:

This amendment would strike the language in the public accommodations title which directs U.S. district courts to exercise jurisdiction over public accommodations proceedings even if the aggrieved party shall not have exhausted any administrative or other remedies provided by law. By adopting this amendment, we would preserve the present rule that before a proceeding can be brought before a Federal court, there must first be an opportunity for the matter to be corrected by means of other remedy, if available.

There are sound reasons for the present rule, Mr. President. In the first place, where there is a remedy available in a State tribunal, friction between State and Federal Governments is minimized by permitting the State tribunal to pass upon the matter before resorting to the Federal tribunal. This is sometimes referred to as "comity". Second, where there is a Federal administrative remedy, usually the agency or administrative body concerned specializes in such matters and has special competence in handling them. Without the amendment, such agencies could be completely bypassed.

Third, congestion in the Federal courts is avoided by the present rule. Frequently, an aggrieved party can obtain the relief he is seeking without bringing his grievance to the attention of the Federal court. Unless this amendment is adopted, there will be nothing to prevent bringing all public accommodations disputes to Federal courts, thus overcrowding these courts while State forums and Federal administrative forums are unused for this type of dispute.

AMENDMENT No. 918

On page 11, strike out all of lines 15, 16, and 17.

On page 54, between lines 7 and 8, insert the following new title:

"TITLE XI—JURY TRIALS OF CRIMINAL CONTEMPTS

"SEC. 1101. In the event a contempt charged in any proceding for criminal contempt arising under the provisions of any title of this Act shall consist in willful disobedience of any lawful writ, process, order, rule, decree, or command of any court of the United States or any court of the District of Columbia, by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any Act of Congress, or under the laws of any State in which it was done or omitted, the accused, upon demand therefor, shall be entitled to a trial by a jury, which shall conform as near as may be to the practice in other criminal cases."

The explanation accompanying amendment No. 918 is as follows:

Proponents of the bill before us sometimes seek to justify its heavy reliance upon contempt proceedings by citing as precedents the Clayton Act and other commercial statutes. However, the Clayton Act in title 18, United States Code, section 3691, provides that where a failure or refusal to obey a court order also constitutes a criminal offense, the accused, upon demand, is entitled to a trial by jury.

The amendment which I am offering merely adopts the same requirement with respect to criminal contempts under this bill and under the Civil Rights Act of 1957.

If the Clayton Act is to be a precedent for contempt proceedings under this bill, it should also be considered a precedent for requiring a jury trial, upon demand therefor, where the alleged contempt is also a criminal offense.

AMENDMENT No. 919

On page 9, line 22, strike out "if he", and insert in lieu thereof the following: "upon receipt of a complaint in writing under oath or affirmation signed by the person aggrieved, if the Attorney General".

On page 11, line 21, immediately after "complaint", insert the following: "in writing under oath or affirmation".

On page 17, line 3, immediately after "complaint", insert the following: "in writing under oath or affirmation".

On page 19, line 10, immediately after "(c)", insert "(1)".

On page 19, between lines 12 and 13, insert the following:

"(2) Each witness at a hearing of the Commission shall take an oath or affirmation prior to giving any evidence or testimony."

The explanation accompanying amendment No. 919 is as follows:

This amendment would require that complaints in civil rights cases and proceedings be in writing under oath or affirmation and that witnesses before the Civil Rights Commission be placed under oath or affirmation before being allowed to testify.

The advisability of this amendment is plain. It will discourage triviality, gossip, and the use of these proceedings as an instrument of revenge. This is a reasonable safeguard for the benefit of officials, the public, and innocent individuals who might be frivolously and wrongfully accused.

AMENDMENT NO. 920

Mr. SMATHERS. Mr. President, I also submit an amendment, intended to be proposed by me to amendment No. 513, submitted by the Senator from Georgia [Mr. TALMADGE], to House bill 7152, the so-called civil rights bill, and, as in the case of the other amendments just submitted by me, I ask unanimous consent that the amendment be considered as having been read for all purposes of procedure. I ask that the explanation accompanying the amendment be printed in the RECORD.

The PRESIDING OFFICER. The amendment will be received, printed, and lie on the table; and, without objection, the amendment will be considered as having been read, and the explanation of the amendment will be printed in the RECORD.

The amendment (No. 920) is as follows:

On page 2, beginning with line 1, strike out all through line 9 on page 3.

On page 3, between lines 9 and 10, insert the following:

"TITLE XI—CRIMINAL CONTEMPT PROCEEDINGS; PENALTIES; TRIAL BY JURY"

On page 3, line 10, immediately before "In", strike out the single quote and insert in lieu thereof "Sec. 1101."

On page 3, line 10, beginning with "for willful", strike out all through line 4 on page 4, and insert in lieu thereof the following: "arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided, however,* That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall imprisonment exceed the term of six months: *Provided further,* That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $20 nor shall any imprisonment be imposed. If the trial is by a jury, the procedure shall conform as near as may be to that in other criminal cases.".

On page 4, line 5, strike out "1103." and insert in lieu thereof "1102.".

On page 4, line 7, strike out "repealed." and insert in lieu thereof the following: "amended by striking out the third proviso to the first paragraph thereof, and inserting in lieu thereof the following: '*Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $20 nor shall any imprisonment be imposed. If the trial is by a jury, the procedure shall conform as near as may be to that in other criminal cases.' "

The explanation accompanying Senate amendment 920 is as follows:

This amendment to the Talmadge amendment No. 513 is exactly like the Dirksen-Mansfield amendment No. 516 except that the attached limits the fine that can be imposed for criminal contempt in a proceeding without a jury to $20, and it prohibits a punishment of imprisonment in such cases.

The attached amendment provides the same limitation for the 1957 Civil Rights Act.

It is my thought that if the forces advocating trial by jury in all cases of criminal contempt do not prevail, then you can go to the attached amendment in lieu of the Dirksen-Mansfield amendment, which provides that a judge without a jury in criminal contempt proceedings can fine the defendant $300 or imprison him for 30 days.

I chose the $20 figure since in the seventh amendment to the Constitution, trial by jury is guaranteed in all suits at common law where the amount in issue exceeds $20.

AMENDMENTS NOS. 921 THROUGH 935

Mr. THURMOND submitted 15 amendments, intended to be proposed by him to amendment No. 656, submitted by Mr. DIRKSEN and other Senators, to House bill 7152, the so-called civil rights bill, which were received, considered as having been read, ordered to be printed, and lie on the table, as follows:

AMENDMENT No. 921

On page 70, beginning on line 1, delete down through line 18.

AMENDMENT No. 922

On page 51, line 3, change the period to a comma; and add the following: "*Provided, however,* That nothing in this section shall be construed as making it unlawful for any employee to give any such information to any duly authorized committee or subcommittee of the Congress."

AMENDMENT No. 923

On page 68, beginning on line 20, delete down through line 23 on page 69.

AMENDMENT No. 924

On page 72, line 20, change the period to a comma, and add the following: "*Provided, however,* That nothing in this section shall be construed as making it unlawful for any employee to give any such information to any duly authorized committee or subcommittee of the Congress."

AMENDMENT No. 925

On page 70, delete section 902.

AMENDMENT No. 926

Beginning on page 20, delete sections 407, 408, 409, and 410.

AMENDMENT No. 927

On page 7, line 2, after "guests," insert: "from outside the State wherein the inn, hotel, motel, or other establishment is located."

AMENDMENT No. 928

On page 8, line 2, after "travelers" put a semicolon and delete the rest of line 2, all of line 3, and all through the semicolon in line 4.

AMENDMENT No. 929

On page 12, delete beginning with line 5 down through line 9 on page 14.

Renumber section 207 as section 206.

AMENDMENT No. 930

On page 10, line 8, after "complainant" insert "or the defendant."

On page 10, line 10, after "complainant" insert "or such defendant."

AMENDMENT No. 931

On page 10, delete beginning with line 13 down through "and" on line 16 and capitalize "the" before "United States."

Amendment No. 932

On page 14, line 12, strike out beginning with "and" down through "whether" on line 13 and insert in lieu thereof a semicolon and the following: *"Provided, however,* That,".

On page 14, line 13, strike out "any" and insert in lieu thereof "all".

Amendment No. 933

On page 9, strike out beginning on line 8, down through line 14.

Renumber succeeding sections accordingly.

Amendment No. 934

On page 9, line 2, after "thereof," change the period to a semicolon and add: *"Provided, however,* That the enforcement of State of local trespass laws by State or local police officials, upon the express request of the owner, proprietor or person in charge of any privately owned establishment shall not be deemed to be discrimination or segregation supported by State action."

Amendment No. 935

On page 8, line 7, delete "which move in commerce" and insert in lieu thereof "which can be proved to have been moved in interstate commerce."

AMENDMENTS NO. 936 THROUGH 942

Mr. THURMOND also submitted seven amendments, intended to be proposed by him to House bill 7152, the so-called civil rights bill, which were received, ordered to be considered as having been read, printed, and lie on the table, as follows:

Amendment No. 936

On page 9, delete beginning with line 24 down through "and" on line 2, page 10, and capitalize "the" before "United States."

Amendment No. 937

On page 11, line 3, strike out beginning with "and" down through "whether" on line 4 and insert in lieu thereof a semicolon and the following: *Provided, however,* That,".

On page 11, line 4, strike out "any" and insert in lieu thereof "all".

Amendment No. 938

On page 8, strike out beginning on line 24, down through line 5 on page 9. Renumber succeeding sections accordingly.

Amendment No. 939

On page 8, line 17, after "thereof," change the period to a semicolon and add: *"Provided, however,* That the enforcement of State or local trespass laws by State or local police officials, upon the express request of the owner, proprietor or person in charge of any privately owned establishment shall not be deemed to be discrimination or segregation supported by State action."

Amendment No. 940

On page 7, line 22, delete "which move in commerce" and insert in lieu thereof "which can be proved to have been moved in interstate commerce."

Amendment No. 941

On page 7, line 16, after "travelers" put a semicolon and delete line 17 and all through the semicolon in line 18.

Amendment No. 942

On page 6, line 16, after "guests," insert: "from outside the State wherein the inn, hotel, motel, or other establishment is located."

MULTIPLE USE OF SURFACE OF SMALL TRACTS OF PUBLIC LANDS—ADDITIONAL COSPONSOR OF BILL

Mr. CANNON. Mr. President, I ask unanimous consent that at its next printing the name of Senator Moss be added to my bill S. 2765, a bill to amend the act relating to the multiple use of the surface of the small tracts of the public lands in order to provide that certain varieties of sand and gravel shall be considered as valuable mineral deposits under the mining laws of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the Record, as follows:

By Mr. RANDOLPH:

Tributes by him to Col. Charles E. Yeager, Jacqueline Cochran, and Mrs. Virginia Mae Brown.

By Mr. HUMPHREY (for Mr. Robertson):

Correspondence between Senator Robertson and George H. Clements on shortage of coins.

THE FUTURE OF OUR NATION DEPENDS UPON THE QUALITY OF CITIZENSHIP

Mr. McGEE. Mr. President, in these times we hear many criticisms of our Government. At a time when we ought to be concerned with improving it, we can turn to the youth of our land for constructive suggestions. Both the present and the future of our country depend on youthful leadership.

I call to the attention of the Members of this body to the activities and contributions of two young Americans who are with us here today. One of them wrote a winning essay which contained these words:

> The first necessity for making democracy work better is for man to realize that, although democracy is the most practical system ever conceived by the mind of man, it is not a perfect system. The shortcoming of democracy is that its success is directly dependent upon the nature of man and his acceptance of responsibility.

Those are the words of James Richard Rhodes, of Sheridan, Wyo.

From another winning essay, I read the following words:

> Although our democratic Government, with its system of checks and balances, cannot act as promptly as 24-hour dictatorships, it has compensating advantages. The fruits of a democracy ripen slowly and are not spectacular, but their roots grow deep and promote contentment and permanency.
>
> Democracy is a challenge, not to a few, not to "the other fellow," but to all.

Those words are from the essay written by Mary Beth Glode, of Saratoga, Wyo.

I mention these two essays because in the State of Wyoming I have been conducting annually a Senate internship competition among all the graduating high school seniors. The outstanding boy graduate and the outstanding girl graduate each year come to Washington and spend weeks witnessing democracy at first hand, studying literally in the laboratory of democracy.

Mr. Rhodes and Miss Glode, the winners this year, represent the finest we have had to date. Both of these young people are, at age 18, already assuming astute citizens' concern for our country, and are pointing in the direction of new leadership for the country.

I ask unanimous consent that their winning essays on making democracy work better be printed in the Congressional Record.

There being no objection, the essays were ordered to be printed in the Record, as follows:

Making Democracy Work Better

(By James Rhodes, Sheridan High School, Sheridan, Wyo.)

America has been called prosaically a "melting pot." I prefer to think of it as a mosaic, a mosaic of various races, colors, and creeds. Each piece in this mosaic, no matter how individually small or uncolorful, plays a significant part in the design and formation of the brilliant overall picture. For a work to be termed a masterpiece, every part must blend with the whole and be a part of the ultimate effect. Democracy is the force that unites the various pieces in the American mosaic.

The American work of art is a brilliant example of craftsmanship. It was built upon the dreams, the courage, the statesmanship, and the red blood of those who started the construction. It is a living tribute to the millions before us who helped to fabricate it. Democracy has made this achievement possible, but the realization of its full potential is dependent upon the components of the mosaic. What can we, as Americans, do for the continued maintenance, expansion, and ultimate perfection of the American mosaic?

The first necessity for making democracy work better is for man to realize that, although democracy is the most practical system ever conceived by the mind of man, it is not a perfect system. The shortcoming of democracy is that its success is directly dependent upon the nature of man and his acceptance of responsibility.

Society cannot help striving for a condition of equality, but the French philosopher DeTocqueville warned: "It depends upon themselves (man) whether the principle of equality is to lead them to servitude or freedom, to knowledge or barbarism, to prosperity or wretchedness." Let us examine, then, what man must do to make democracy work better so that greater freedom, knowledge, and prosperity can be achieved.

Education is of vital importance to the continued development of our system. From our schools will come the scientists, the engineers, and the businessmen of the future. Americans must be trained to think, to sort out facts from fallacies, and to seek the real meaning behind their existence. An expanding world requires expanded minds. No matter what a person's abilities are, there must always be a place for him in the American mosaic as long as he is willing to work to capacity.

Our American heritage, preserved forever in our literature, can be a source of strength. We Americans are the heirs of a fabulous literary treasure preserved for us by our forefathers. It is our duty to maintain this heritage. Through literature we gain a knowledge of the various cultures and races which helped to build America. The lessons of the past can be a valuable guide to the future. Through literature we can see the emerging pattern of our great American mosaic.

The United States is threatened by decay from within. Prejudice and hatred for our fellow citizens are giving Americans a bad name abroad. These old enemies of democracy weaken our moral and political position in the world and retard our economy. We can help to conquer prejudice by realizing that, although all men are not created equal in ability, they are at least equal in the sight of God. We must have courage to speak out and champion the right of all our citizens to basic civil liberties.

The family is the central figure in the great mosaic. The family is a miniature nation. Tomorrow's responsible citizens will be developed mostly in the home. The future strength of democracy relies to a great extent on the home environment. Sound family life strengthens the children and thereby strengthens the society which they will take over from their parents. The home must provide the training for citizenship. Love and respect for God and country can best be learned there. By fulfilling our obligations to our family, we are also serving our country.

A strong America must be well informed. It must realize the dangers confronting its every step as the world power of our time. Such threats as communism and fascism gain their strength by controlling the minds of men. Americans must take an interest in current affairs on all levels of our society. By reading newspapers daily and keeping informed by good magazines and periodicals, we can help America become a bulwark against the enemies which press her on every side.

Along with the advantages of being an American, there are responsibilities. We must be willing to assume our share of the burden of maintaining freedom. Democracy is too often taken for granted. Democracy can work only as long as the people are willing to work for it. An appreciation of our country comes from an understanding and respect for the laws that govern her. It is the duty of each citizen to know, to understand, and to defend the Constitution. Our respect for the democratic principles of law and order should serve as an example to others.

Americans must take an active part in their government. Walt Whitman warns against becoming merely onlookers in his poem, "I Sit and Look Out" in which he states:

> "All these—all the meanness and agony
> without end I sitting look out upon,
> See, hear, and am silent."

Some ways in which we could cultivate an interest in our government are by attending lectures, by taking part in group discussions, by volunteering our services to worthwhile community projects, and by participating in the activities of our political party at the local level. The success of democracy is dependent upon the intellectual and emotional involvement of its citizens.

The leadership of America requires well-rounded citizens. The American mosaic is a mixture of various cultures, sports, and philosophies. A citizen cannot afford to be one sided. He must develop an interest in both the cultural and physical part of the mosaic. America needs strong men, physically, and mentally, to maintain the peace purchased through two world wars and numerous small ones.

America has just begun to grow. Vast resources lie untapped below her crust. The atmosphere above has barely been pierced. A new ambitious generation with vision is needed to assume the burden of world leadership. Through her citizens, America can continue to grow and prosper. It is our responsibility to continue building and improving the great American mosaic.

MAKING DEMOCRACY WORK BETTER

(By Mary Beth Glode, Platte Valley High School, Saratoga, Wyo.)

"I go for all sharing the privileges of government who assist in bearing its burden," Abraham Lincoln once said. Let us inquire into the nature of this democracy and attempt to discover at least some of the ways in which we, as citizens in this great Government, can help to make democracy function more effectively. Too often many of us are inclined to take the existence of our democratic Government for granted. We forget that others before us established our democracy and passed on to us a working system. Our job is to keep this system working and, if possible, improve it. In order to do this, we must be sure that we understand its basic meaning.

A democracy is that form of government in which sovereign power rests in the people. It is a limited government, in that it can exercise only those powers granted to it by the people. In American usage, the word "democracy" refers to indirect or representative rather than direct democracy. The word "republic" is for us synonymous with representative government.

Democracy is based on the fundamental equality of all men; that all men possess the same rights to "life, liberty, and the pursuit of happiness" without regard to race, color, religion, or economic, or social status. No man is privileged over another before the law, and each is free to develop himself to his fullest extent.

Another basic in democracy is the firm belief in the people's capacity for self-government. This conviction grew with the demand for equal opportunity—at first, political and legal; later, social and economic as well.

Good sportsmanship is also an essential in a successful democracy. All citizens must be good losers and generous winners.

Although our democratic Government with its system of checks and balances cannot act as promptly as 24-hour dictatorships, it has compensating advantages. The fruits of a democracy ripen slowly and are not spectacular, but their roots grow deep and promote contentment and permanency.

Democracy is a challenge, not to a few, not to the other fellow, but to all. It is as James Bryce has said, "No Government demands so much from the citizen as democracy and none gives back so much."

Our personal liberty is very precious. But we must understand that because all men are equal and enjoy the same rights, each man cannot enjoy absolute or complete freedom. Every individual's freedom is relative.

The true meaning of personal liberty is found in the drawing of a proper balance between license and unbridled authority.

As citizens of a democracy, we enjoy many privileges. This liberty, however, is under law. As in any form of government, democracy is dependent upon law and the enforcement of that law for its life. We are proud of our participation in lawmaking, but are we ready to accept the responsibilities and obey the law? And even more significant, are we willing to respect the law? In a democracy, obedience should always be firmly rooted in respect for law. This respect implies an attitude of mind which comprehends the necessity for law and the relationship of each individual to it. The acknowledgement of the responsibility to obey the law, whether or not one approves of a particular law, should have its beginning in the home. We must work until this respect for law becomes a national virtue. If this can be accomplished, the continued success of our democratic system will be assured.

Yet, if democracy is so clearly dependent upon the extent to which its citizens obey the law of the land, we immediately recognize one of the most serious internal problems our democracy faces—crime. Perhaps the most discouraging feature of our crime rate is the juvenile crime percentage increase.

An attack upon the physical causes for crime and an attack upon the human failings which produce it, could solve much of our problem. A proper understanding of the background of youthful lawbreakers is one of the first steps toward elimination. J. Edgar Hoover has pointed out that the press and the movies play a dominant part in creating the attitude of the individual toward the law. He advocates more praise and respect for those who enforce the laws.

Hoover has said that organized crime could be eliminated in the United States within 48 hours by a vigorous law enforcement at the local level. The Senate Kefauver Committee on Crime has proposed giving the Securities and Exchange Commission more authority to expose the infiltration of legitimate business by criminal elements. It proposed placing all wire services transmitting gambling information under the supervision of the Federal Trade Commission. The committee favored requiring all who admittedly profit from locally outlawed activities to file complete financial statements along with their tax returns each year. It also favored the creation of a permanent Federal Crime Commission. But it must be emphasized that this "filth on America's doorstep" can be effectively eliminated only with the active backing of local citizens across the Nation.

An enlightened public is one of the surest, most indispensable requirements of democracy. A firm loyalty is based on knowledge. In order to combat the threat of communism, we must be informed. Naturally, then, because today's youth are tomorrow's leaders, they should be required to study a course in American government and problems. There should be active participation in the many nonpartisan groups formed especially to provide citizens with objective information on public affairs.

However, an informed citizen must also be active. A citizen can participate by intelligent voting, attending public meetings, working with the political party of his choice, and running for a public office. Many cities have gained active participation through the establishment of "gripe offices" in which citizens are invited to complain. Removing the few obstacles to intelligent participation, for example the long ballot, remains one of our serious problems. In this particular situation, the number of elective officials could well be cut down with no harm whatsoever to the democratic process.

An American citizen is actually under four separate governments: Federal, State, county, and local. Although each has different activities, their work often overlaps. A thorough reorganization on each level could well eliminate needless duplication and waste.

Improvement is also necessary in our judicial procedures. These aspects need some reformation: delay, cost, complex organization, occasional overzealousness, and our present jury system.

On the international level, one of the biggest assurances of a continued democracy is the United Nations. Too often this organization's many accomplishments toward peace are overlooked.

We must conclude, then, that the U.S. Constitution could not and does not lay down all details of Government. Many problems have arisen which could not be foreseen. There must be a continuing endeavor on our part to build the best possible life on earth, for all men and for each man. In the course of the unending effort to preserve our rights and improve our condition, we have and will face many critical challenges. But we have and will solve these problems with that firm belief that we are the heirs to a system of government and a way of life which must depend for its very existence upon what we, as people and as individuals are willing to do. Our American heritage—a faith in individualism, in freedom, and in equality—has made us the greatest nation on earth. But the future is in our hands.

WATER RESOURCES RESEARCH ACT OF 1964

Mr. ANDERSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate bill 2.

The **PRESIDING OFFICER** laid before the Senate the amendments of the House of Representatives to the bill (S. 2) to establish water resources research centers at land-grant colleges and State universities, to stimulate water research at other colleges, universities, and centers of competence, and to promote a more adequate national program of water research, which were, to strike out all after the enacting clause and insert:

That (a) this Act may be cited as the "Water Resources Research Act of 1964."

(b) In order to assist in assuring the Nation at all times of a supply of water sufficient in quantity and quality to meet the requirements of its expanding population, it is the purpose of the Congress, by this Act, to stimulate, sponsor, provide for, and supplement present programs for the conduct of research, investigations, experiments, and the training of scientists in the fields of water and of resources which affect water.

TITLE I—STATE WATER RESOURCES RESEARCH INSTITUTES

SEC. 100. (a) There are authorized to be appropriated to the Secretary of the Interior for the fiscal year 1965 and for each of the nine fiscal years subsequent thereto sums adequate to provide $75,000 to each of the several States in the first year, $87,500 in each of the second and third years, and $100,000 each year thereafter to assist each participating State in establishing and carrying on the work of a competent and qualified water resources research institute, center, or equivalent agency (hereinafter referred to as "institute") at one college or university in that State, which college or university shall, unless otherwise provided by act of the legislature of the State concerned, be a college or university established in accordance with the Act approved July 2, 1862 (12 Stat. 503), entitled "An Act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanic arts": *Provided,* That (1) if there is more than one such college or university in a State, established in accordance with said Act of July 2, 1862, funds under this Act shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same subject to the Secretary's determination that such college or university has, or may reasonably be expected to have, the capability of doing effective work under this Act; (2) two or more States may cooperate in the designation of a single interstate or regional institute, in which event the sums assignable to all of the cooperating States shall be paid to such institute; and (3) a designated college or university may, as authorized by appropriate State authority, arrange with other colleges and universities within the State to participate in the work of the institute.

(b) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated to conduct competent research, investigations, and experiments of either a basic or practical nature, or both, in relation to water resources and to provide for the training of scientists through such research, investigations, and experiments. Such research, investigations, experiments, and training may include, without being limited to, aspects of the hydrologic cycle; supply and demand for water; conservation and best use of available supplies of water; methods of increasing such supplies; and economic, legal, social, engineering, recreational, biological, geographic, ecological, and other aspects of water problems, having due regard to the varying conditions and needs of the respective States, to water research projects being conducted by agencies of the Federal and State Governments, the agricultural experiment stations, and others, and to avoidance of any undue displacement of scientists and engineers elsewhere engaged in water resources research.

SEC. 101. (a) There is further authorized to be appropriated to the Secretary of the Interior for the fiscal year 1965 and for the nine fiscal years thereafter sums not in excess of the following: 1965, $1,000,000; 1966, $2,000,000; 1957, $3,000,000; 1968, $4,000,000; and 1969 and each of the five succeeding years, $5,000,000. Such moneys when appropriated, shall be available to match, on a dollar-for-dollar basis, funds made available to institutes by States or other non-Federal sources to meet the necessary expenses of specific water resources research projects which could not otherwise be undertaken, including the expenses of planning and coordinating regional water resources research projects by two or more institutes.

(b) Each application for a grant pursuant to subsection (a) of this section shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the water economy of the Nation, the region, and the State concerned, its relation to other known research projects theretofore pursued or currently being pursued, and the extent to which it will provide opportunity for the training of water resources scientists. No grant shall be made under said subsection (a) except for a project approved by the Secretary, and all grants shall be made upon the basis of the merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of water resources scientists.

SEC. 102. Sums available to the States under the terms of sections 100 and 101 of this Act shall be paid to their designated institutes at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this Act and shall make an annual report to the Secretary on or before the 1st day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any of the provisions of this Act during the preceding fiscal year, and of its disbursement, on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of any institute under the provisions of this Act shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

SEC. 103. Moneys appropriated pursuant to this Act, in addition to being available for expenses for research, investigations, experiments, and training conducted under authority of this Act, shall also be available for printing and publishing the results thereof and for administrative planning and direction. The institutes are hereby authorized and encouraged to plan and conduct programs financed under this Act in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the water problems involved, and moneys appropriated pursuant to this Act shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

SEC. 104. The Secretary of the Interior is hereby charged with the responsibility for the proper administration of this Act and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. He shall require a showing that institutes designated to receive funds have, or may reasonably be expected to have, the capability of doing effective work. He shall furnish such advice and assistance as will best promote the purposes of this Act, participate in coordinating research initiated under this Act by the institutes, indicate to them such lines of inquiry as to him seem most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

On or before the 1st day of July in each year after the passage of this Act, the Secretary shall ascertain whether the requirements of section 102 have been met as to each State, whether it is entitled to receive its share of the annual appropriations for water resources research under section 100 of this Act, and the amount which it is entitled to receive.

The Secretary shall make an annual report to the Congress of the receipts and expenditures and work of the institutes in all States under the provisions of this Act. His report shall indicate whether any portion of an appropriation available for allotment to any State has been withheld and, if so, the reasons therefor.

SEC. 105. Nothing in this Act shall be construed to impair or modify the legal relation existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this Act shall in any way be construed to authorize Federal control or direction of education at any college of university.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 200. The Secretary of the Interior shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with water problems, of State and local governments, and of private institutions and individuals, to assure that the programs authorized in this Act will supplement and not duplicate established water research programs, to stimulate research in otherwise neglected areas, and to contribute to a comprehensive, nationwide program of water and related resources research. He shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this Act, in addition to any direct publication of information by the institutes themselves.

SEC. 201. Nothing in this Act is intended to give or shall be construed as giving the Secretary of the Interior any authority or surveillance over water resources research conducted by any other agency of the Federal Government, or as repealing, superseding, or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its areas of responsibility and concern with water resources.

SEC. 202. Contracts or other arrangements for water resources work authorized under this Act with an institute may be undertaken without regard to the provisions of section 3684 of the Revised Statutes (31 U.S.C. 529) when, in the judgment of the Secretary of the Interior, advance payments of initial expense are necessary to facilitate such work.

SEC. 203. In carrying out the provisions of this Act, the Secretary of the Interior shall adhere to the Statement of Government Patent Policy which was promulgated by the President in his memorandum of October 10, 1963 (3 CFR, 1963 Supp., p. 238).

SEC. 204. There shall be established, in such agency and location as the President determines to be desirable, a center for cataloging current and projected scientific research in all fields of water resources. Each Federal agency doing water resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for general use a catalog of water resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms, and individuals as voluntarily may make such information available.

SEC. 205. The President shall, by such means as he deems appropriate, clarify agency responsibilities for Federal water resources research and provide for interagency coordination of such research, including the research authorized by this Act. Such coordination shall include (a) continuing review of the adequacy of the Government-wide program in water resources research, (b) identification and elimination of duplication and overlaps between two or more agency programs, (c) identification of technical needs in various water resources research categories, (d) recommendations with respect to allocation of technical effort among the Federal agencies, (e) review of technical manpower needs and findings concerning the technical manpower base of the program, (f) recommendations concerning management policies to improve the quality of the Government-wide research effort, and (g) actions to facilitate interagency communication at management levels.

SEC. 206. As used in this Act, the term "State" includes the Commonwealth of Puerto Rico.

And to amend the title so as to read: "An Act to establish water resources research centers at land-grant colleges and State universities, to promote a more adequate national program of water research, and for other purposes."

Mr. ANDERSON. Mr. President, I move that the Senate disagree to the amendments of the House, request a conference thereon with the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. ANDERSON, Mr. BIBLE, Mr. KUCHEL, and Mr. ALLOTT conferees on the part of the Senate.

PRESIDENT JOHNSON, FRONT-PAGE NEWS

Mr. BARTLETT. Mr. President, President Johnson and his administration continue to go from strength to strength. The President has used his great popularity across the country in an effort to produce unity of purpose and resolve, where once there were dissonance and discord. The extent of his success is a tribute, indeed, to this remarkable man. The energy and ability of our President have been felt in Alaska, as well as everywhere else in the 50 States.

I ask unanimous consent that an editorial entitled "President Johnson Remains Page 1 News," from the April 22 issue of the Anchorage Daily times, be made a part of the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PRESIDENT JOHNSON REMAINS PAGE 1 NEWS

Watching President Johnson and the Republicans' would-be Presidents is like watching a bedside lamp trying to compete for attention with an all night neon sign.

He has been getting bouncier and livelier, talking more and doing more, ever since he moved into the White House, perhaps as his confidence increased. But something which happened recently really seemed to charge his batteries.

While public opinion polls put him away in front of any Republican, last Wednesday visiting newspaper editors decided it was not a question of whether he would win in this election year but only by how much.

He has been outdoing himself ever since: A news conference the next day, a meeting with the editors Friday, a news conference Saturday, handshaking Sunday, a big foreign policy speech Monday, another news conference Tuesday.

Most of the time on these occasions he made announcements that got headlines.

The Republicans are whirling around and popping off practically every day.

They criticize him or they offer solutions for the ills here and elsewhere, all the time talking politics, and playing it. His advantage is that he can play politics without mentioning it.

While they sound like a voice in the hills, he gets a big play just by saying something or doing something as President, if it's only shaking hands with tourists or walking in the White House rose garden.

This lucky political position of a President in an election year has been true of every President but none ever realized it better than Johnson or sought to make more use of it.

He has been a politician 24 hours daily since he came to Congress in 1937 but never more so than when he repeats he just wants to be President of all the people and indicates he wouldn't think of talking politics until the campaign begins.

President John F. Kennedy stayed busy trying to keep the public reminded of him. But in this Johnson is outdoing Kennedy who was a master at it.

He can get more attention just dancing, and he loves to dance, than a Republican presidential hopeful like Harold Stassen if he shouted through a bullhorn all day.

Johnson is probably the greatest White House dancer since Theodore Roosevelt, if Roosevelt danced. If not Roosevelt, then it would have to be someone back in the 19th century.

Although, come to think of it, if Calvin Coolidge danced that would have been an exciting spectacle.

A good example of how Johnson keeps himself in the news is to check the front pages of newspapers for the past 2 weeks. There was hardly a day when he didn't do or say something to put him there.

He got a lot of mileage out of the threatened rail strike alone: calling labor and management together, getting the strike pushed off, getting agreement on another 15 days of negotiation, making hopeful statements about the outcome.

Besides that, and going backward for the past 2 weeks, day by day, here is part of what Johnson did:

Warned Cuba not to shoot down American planes flying back over to make a check; announced cutback in material for nuclear weapons; shook hands with tourists after church; raised the possibility of ending the draft within 10 years and tossed out a barrel of figures on the economy; talked about the job of the presidency; another report on the economy and a warning to both sides in the civil rights dispute to use moderation; had his picture taken with Jordan's visiting King Hussein; threw the opening pitch of the baseball season and ordered a freeze on Government employees' grades and salaries; welcomed Soviet Premier Khrushchev as a peace apostle.

In case anyone thinks he may slow down after all this: Today he arranged to go to New York and make a speech opening the World's Fair.

"CONSTITUTIONAL FREEDOM—THE RIGHT TO BE LET ALONE"

Mr. ROBERTSON. Mr. President, ever since prehistoric days when man became associated in tribes and later in nations, there has been tyranny—the strong have oppressed the weak. Throughout recorded history, the struggle of the individual has been the creation of a government which would recognize and protect the rights of the individual. The greatest progress since the dawn of civilization in behalf of a government dedicated to personal freedom was made when the Thirteen Original States ratified the Philadelphia Constitution of 1787. The statesmen who framed that Constitution will never be forgotten, because they fought for the freedom of the pepole.

No lasting monument has ever been built in memory of those who fought to increase the powers of government; yet that is the purpose of the pending bill, that masquerades under the pseudonym of civil rights. It has been blindly endorsed by many liberals, including a large number of Protestant ministers, Jewish rabbis, and Catholic priests, whose intentions are good and who sincerely believe that the bill will promote personal freedom. Yet, Members of the Senate who have studied the technical provisions of the bill know that it is a wolf in sheep's clothing. Instead of moving in the direction of personal freedom through less government control, it moves in the opposite direction. Everything in the bill deals with an increase in the powers of the Federal Government. All of the amendments offered to the bill, and all that will subsequently be offered, deal with limiting the power sought by the bill to be conferred upon the Federal Government.

To illustrate what a farce it is to call the pending bill "a bill to promote personal freedom," we need only to cite the views of one of the greatest liberals who has ever served on the U.S. Supreme Court—Mr. Justice Brandeis. In the case of *Olmstead* v. *United States*, 277 U.S. 438, decided in 1928, Mr. Justice Brandeis said:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure, and satisfactions of life are to be found in the material things. They sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.

Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning, but without understanding.

DEVELOPMENT OF WATER AND POWER RESOURCES

Mr. MUSKIE. Mr. President, two of the most challenging areas of resource development today confronting the United States are water and power. In a period when our population is expanding rapidly and when our water and power requirements are increasing at an even faster rate, it is imperative that our national water and power policies match those demands.

The Kennedy-Johnson administration has accepted its responsibilities in these areas. Under the leadership of Secretary of the Interior Udall, and under the specific direction of Assistant Secretary Kenneth Holum, our programs for conservation and use of the water and power resources of the Nation have been marked by imagination and practical application.

The State of Maine has reason to be grateful for this approach to water power resource development. In 1961, the International Joint Commission rejected the proposed development of the Passamaquoddy tidal power project. At my request, President Kennedy directed the Department of Interior to review the work of the International Joint Engineering Board and the Commission, and to make recommendations to him, based on new engineering and economic data. This was done; and on July 16, 1963, President Kennedy announced and endorsed the new Quoddy project.

In a speech of June 5, 1964, Assistant Secretary Holum outlined to the Rivers and Harbors Congress the kind of approach the Department of Interior has taken to Quoddy and similar questions.

I believe that this address merits the attention of my colleagues, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY KENNETH HOLUM, ASSISTANT SECRETARY OF THE INTERIOR FOR WATER AND POWER DEVELOPMENT, TO ANNUAL CONVENTION OF THE NATIONAL RIVERS AND HARBORS CONGRESS, WASHINGTON, D.C., JUNE 5, 1964

Your invitation asked that I speak to you this morning on "Our National Water and Power Programs." The subject is appropriate and challenging—but I am sure you recognize that I dare not take it too literally—because we do not have a national power program. Nor do we have a national water program.

We do have Federal programs designed to meet the needs of particular situations. We carry out these programs within the framework of certain basic principles. We do have rapidly expanding needs for electric power and growing requirements for fresh, pure water that will continue to challenge the ingenuity of our planners and the zeal of the Nation's conservationists.

We have a national responsibility to make certain that these growing requirements for water and power are satisfied. Because water and electric energy are essential for home, farm, and industry, a national administration that is concerned about economic growth is inevitably concerned that both these basic commodities be available in sufficient supply and at the lowest possible cost.

For 3½ years, under the leadership of President Kennedy and now President Johnson, I have had the exciting opportunity to address my energies to questions related to water and power development. The years have been exciting because the Presidents have recognized the urgent need for aggressive and positive action in resource development and management.

The Department of the Interior has major responsibilities in the total resource areas. Secretary Udall's forward-looking policies and his determination have earned him a nationwide reputation as a man of action. Occasionally and inevitably he has found himself the center of controversy.

After 3½ years, however, I am convinced that individuals charged with national responsibilities for resource development and management and for administering Federal water and power programs can avoid controversy only by evading their responsibility. For there are many individuals and groups who represent different interests and differing points of view on resource development. Some of these differences are almost irreconcilable. Consequently, it is impossible to advance a major proposal and find unanimity of support.

Very few, if any, really significant programs or historical actions our Government has taken has ever been free of controversy. Among the most controversial was the adoption of our Constitution, and the Bill of Rights. There were those who even opposed the settlement of the West.

The advancement of new ideas and new concepts are not for the fainthearted. But progress demands change, reevaluation, and reshaping old plans to fit changing situations. Change inevitably meets resistance. So it was, when we addressed our efforts and attention to the neglected and critical water supply problems of the Pacific Southwest. It is no news to this group that this has involved the Department in a spirited debate that has extended from the top of the Rockies, throughout Arizona and southern California, and even into northern California's Central Valley. We could have avoided this noisy discussion by ignoring the problem and pretending it didn't exist. But the Nation would have been the loser. We could not do so in good conscience.

The population of the Southwest continues to increase at an almost unbelievable rate. Every day water becomes a dearer and more precious commodity. Unfortunately those elements that contribute to the problem do not stand still and politely wait for us to discuss the issue over a protracted length of time. We must act. And President Johnson is providing the leadership that will start this important area of the country back on the road to water sufficiency and the region and the Nation will be richer and stronger because of it.

Early in his administration, President Kennedy directed Secretary Udall to plan the interconnection of the Federal power systems with extra-high-voltage transmission lines. Long, efficient and comparatively inexpensive direct-current transmission lines will make it possible to take advantage of the hydrologic diversities between the Nation's major river systems, enable electric power systems to build large generating plants on the fuel fields, and permit the exploitation of daily and seasonal diversities between regions with different load characteristics.

A nationwide network of high-voltage transmission lines will not only make our country's electric system more efficient, but it can and will be a real tool for conserving both resources and capital.

With the Columbia River system spilling $30 million worth of energy annually and fuel cost comparatively high in the Pacific Southwest, an interconnection between the Bonneville Power Administration system, public and nonpublic systems in California, and Hoover Dam seemed clearly indicated. The Department's detailed engineering and economic studies established benefit-cost ratios in excess of 3 to 1.

In spite of the clearly indicated economic benefits, and the obvious opportunity to advance the Nation's technical know-how, we expected controversy when the Department proposed to interconnect the BPA system with the Bureau of Reclamation's northern California and Colorado River systems and with southern California. The controversy developed as we had anticipated.

Secretary Udall could have avoided 2 years of noisy controversy by ignoring an obvious opportunity to promote real conservation and improve the Nation's electric system. He didn't. I am certain that as a result of a good deal of hard work and patient leadership, there will emerge from this effort a system of high-voltage interconnection in our Western States that will be good for all interests and the country.

Passamaquoddy Bay is 4,000 miles from Hoover Dam. Harnessing the tides requires different engineering skills than building direct-current transmission lines. In the sixties, seventies, and years beyond, America will need to develop the total resources of East and West, North and South. Maine and New England need the development of their greater water and power resource potential to step up the pace of their economy and provide job opportunities for the people through cheaper power and good water for industry.

Harnessing the high tides at Quoddy and putting the energy of the St. John River in Maine to work will no doubt be controversial—and when the debate is over and the works have been built, New England will find its economy stimulated and Maine will find new opportunities emerging for its young citizens.

The administration's support for Trotters Shoals on the Savannah, Devils Jump on the North Fork of the Cumberland, and Knowles Dam on the Flathead River in Montana, has produced local, regional, and even national controversy. However, I am certain that before long these worthwhile projects will be authorized, funded, and constructed. They will add to the Nation's strength when these wise investments have been completed.

We do not have a national water or power policy in a literal sense. However, President Johnson and his administration have certain fundamental approaches in the resource field, which represent a viewpoint that is not merely concerned with today, but looks to meeting successfully the challenges of tomorrow. You can expect vigorous leadership willing to identify opportunities for worthwhile development and improved management and use.

Technological developments will enable us to maximize benefits and conserve resources. You will note increasing Federal leadership encouraging such new potentials as direct-current transmission, mine-mouth generation, harnessing the energy of the tides, economic water desalting, pumped-back storage, and the peaceful use of the atom. However, the established more conventional programs of water and power development continue to be the backbone of the Federal effort.

Our population growth rate and shorter workweek demand an immediate effort to preserve and develop more opportunities for outdoor recreation and relaxation. More and more of our people are living in major metropolitan areas, adding both to the complexity of the job and the urgency of getting it done.

At last, and for the first time, the Federal Government recognizes recreation as a full and equal partner of multipurpose water resource development.

Equally important, the administration is working with congressional leaders to develop nationwide policies governing resource management. These policies will be written into law, providing us with additional tools to protect and develop properly our natural resource treasures.

The land and water conservation fund bill, for example, will provide an urgently needed and rational method of financing an accelerated program of recreation development at water resource projects, as well as helping us preserve and develop other potential recreational opportunities across the land.

H.R. 9032, the Water Project Recreation Act, sponsored by Chairman ASPINALL, of the House Interior Committee, will establish appropriate and urgently needed Governmentwide standards for determining the level of investment in the joint costs of multipurpose water resource development projects that may be treated as a nonreimbursable public expense in the interests of recreation and fish and wildlife enhancement.

S. 1111, introduced by Senator ANDERSON and other distinguished Members of the Senate, should be enacted to provide interdepartmental coordination at the Federal level and full participation by State and local governments in comprehensive river basin planning. The River Basin Commissions, authorized by S. 1111, together with the financial assistance provided for the States, will make certain that all interests are considered and all potential benefits evaluated as comprehensive planning moves forward.

Equally important, the procedures established under S. 1111 will make certain that all pertinent information is available to the Congress and the State Legislatures when the final decisions are made by these legislative bodies.

We are gratified that S. 2, the Water Research Act, has moved so far through the legislative process. Another product of the excellent work of the Senate Select Committee on Water Resources chaired by the late Senator Robert S. Kerr, S. 2, will provide the machinery and the funds to bring about a broad-based research effort to learn more about water, its basic characteristics, its environment, and its behavior.

The land and water conservation fund bill, H.R. 9032, S. 1111, and S. 2, represent significant advances in national policy as it relates to water and indirectly to power. I believe that in each instance they merit the consideration and the support of the National Rivers and Harbors Congress.

Our Nation has never had a national water and power program in the stereotyped sense of a pat set of blueprints. The satisfaction of the needs for water and power is basic to the progress of a modern society. These needs can best be met by a dynamic integration of constantly changing yet forward-looking plans, legislation, financing and construction. It is an effort which will continue to require the maximum of Federal, State, and local, public and private efforts. In meeting our responsibilities we do have certain basic principles that will guide our actions.

We will accept as a responsibility of Government, that all of the Nation have an adequate supply of low-cost power and water. We will carry out the Government's share of this responsibility and we will cooperate with all segments of the economy—private industry, State and municipal agencies, water and power districts, cooperatives and municipalities—in the continuing job of meeting this goal.

Although we recognize the importance of water and power to industry and for the needs of a growing economy, we will still be concerned that the needs of domestic and rural consumers are given proper priority.

We will recognize that, today and more importantly tomorrow, there is no room for waste in this field. We must use the facilities and resources we have in the most efficient manner, and we must be ever vigilant to find better ways of doing the job.

We will always be keenly aware that we are serving in the role of caretaker of our natural resources—that ours is the responsibility to use whatever we need wisely, and to pass on to succeeding generations the potential they will require to perform their tasks.

Finally, we recognize that the merit of what we do or propose, especially in the fields of water and power, has one basic measure—the public interest. To the extent that our actions do not fully measure up to this standard, we shall have failed. To the extent that this is the guiding star of our actions, we shall succeed.

U.S. INTERGOVERNMENTAL RELATIONS

Mr. MUSKIE. Mr. President, a new book, entitled "American Intergovernmental Relations," was recently added by Charles Scribner's Sons to its current list. Its author, Dr. W. Brooke Graves, is a nationally known expert on State and local government and intergovernmental relations. For many years he has been a member of the staff of the Legislative Reference Service of the Library of Congress.

I invite the attention of Senators to this book for a number of reasons. As a former Governor, member of the Advisory Commission on Intergovernmental Relations, and chairman of the Subcommittee on Intergovernmental Relations of the Committee on Government Operations, I have long been interested in this complex subject. Dr. Graves' study can assist the reader in coming to grips with this "hidden dimension of government." It can help us to understand what it is, what its potential is, and in what direction it is moving.

The author's purpose is to show the origins of American federalism, how the system developed over a period of nearly two centuries, and its contemporary problems and challenges. The materials are logically presented in six parts. The study starts with the historical beginnings of American intergovernmental relations, then analyzes the system's policymaking process and the various functional areas which involve Federal-State relations. The last two sections of Dr. Graves' book explore other forms of interlocal and interjurisdictional contact and the many challenges that confront contemporary federalism.

The book is a large one, and rightfully so, since the subject is so broad and so complicated. It is a study which merits the attention of all Senators.

THE MONEY SUPPLY

Mr. DOUGLAS. Mr. President, I invite the attention of the Senate to an excellent editorial entitled "The Money Supply," published in this morning's edition of the Washington Post.

This editorial properly commends Representative WRIGHT PATMAN for the inquiry he has conducted as to whether the money supply is expanding at a proper rate.

Representative PATMAN has invited attention to the fact that there has been little or no growth in the money supply between January and May of this year, and has expressed concern that this may lend itself both to higher interest rates and to less money with which to finance the conduct of new business; hence, that it will depress economic activity.

I ask unanimous consent to have this editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE MONEY SUPPLY

The Washington scene would never be quite the same if hostilities between Chairman WRIGHT PATMAN, of the House Banking Committee, and William McC. Martin and his fellow Governors of the Federal Reserve System were to cease. This dialogue for all its repetition and occasional acrimony has, we think, been quite productive. But the time has arrived for the debate to take a new and more constructive turn, and it is possible that the intense interest in the growth of the supply of money may serve as the catalytic agent.

After the devastating depression of the 1930's and the development of fiscal policies, monetary affairs—and especially the behavior of the money supply—were relegated to a position of secondary importance. But in recent years the work of Milton Friedman at the University of Chicago and that of other monetary economists has produced impressive evidence suggesting that there are important links between the level of overall economic activity and the growth of the money supply. Friedman and his colleagues have demonstrated that every economic recession for which there are data was preceded by a retardation in the growth of the money supply.

These findings have been coupled with criticisms of the Board of Governors of the Federal Reserve System for concentrating on shortrun credit problems and neglecting to take measures which would assure a high and steady rate of money-supply growth.

In his most recent criticism of the Fed, Mr. PATMAN complains that while the money supply expanded at the very high annual rate of 6.2 percent between July 1963 and January 1964, there has been a cessation of growth between January and May. While he readily concedes that the 6.2 percent growth rate might have been too high, even though it generated no inflationary pressures, Mr. PATMAN is concerned about the effects of the sharp drop in the growth rate. He is fearful that the retardation in the growth of the money supply will lead to higher interest rates and that they in turn will depress economic activity.

There are those who would dismiss Mr. PATMAN's strictures as expressions of a strong populist bias. But Prof. G. L. Bach, of the Carnegie Institute of Technology, who heads a distinguished group of economists which has been advising the Board of Governors, adopts very much the same position. He believes the Board of Governors should estimate the growth of the money supply that is required to maintain interest rates at their present levels and conduct their policies with a view to attaining that end.

While many economists and bankers agree that the growth of the money supply is important, there are divergent opinions about the nature of the links between the supply of money and overall economic activity. Some analysts stress the role of interest rates; others do not. Of late the Board of Governors of the Federal Reserve System has manifested a new and healthy interest in what their congressional and academic critics have been saying. And in the dispute over the growth of the money supply there is a golden opportunity through a serious and orderly intellectual exchange, to subject many ideas about monetary policy to rigorous tests.

TRUTH-IN-LENDING BILL NEEDED TO CURB CRIME SYNDICATE

Mr. DOUGLAS. Mr. President, last Friday, I rose on the Senate floor once again to invite attention to the fact that S. 750, the truth-in-lending bill, which has been pending for a vote before the full Senate Banking and Currency Committee for almost 3 months, would be helpful in stamping out the Cosa Nostra's small loan or "juice" racket.

Opponents of the truth-in-lending bill have repeatedly denied that this reform legislation would in any way be helpful in proceeding against the criminal syndicate. Moreover, opponents of the truth-in-lending bill have repeatedly urged that all questions concerning disclosures of credit costs and interest rates be left to State authorities to decide. Indeed, there are even some opponents of the truth-in-lending bill who suggest that the prosecution of the Cosa Nostra's activities in the small loan racket should be left to State authorities.

After returning to my office from the Senate floor last Friday, I received the Friday issue of the Chicago Sun-Times. The banner headline on the front page reads "Sun-Times Story Spurs U.S. War on Juice Racket."

The lead paragraphs read:

> The full power of the U.S. Government in the Chicago area was mobilized Thursday for a war against organized criminals in the juice racket.
>
> U.S. Attorney Edward V. Hanrahan ordered the action after reading an exclusive Sun-Times story exposing documentary evidence of the criminal activity.
>
> "I am outraged," Hanrahan said as he waved a copy of the Sun-Times at a press conference. "This situation is revolting."
>
> MAJOR EFFORT
>
> He declared a major effort would be made to convict Cosa Nostra gangsters in the racket on income tax charges. All Federal agencies will cooperate in the campaign, he said.

I welcome the fact that the full powers of the Justice Department and the U.S. Government will be brought to bear to help stamp out the Cosa Nostra's "juice" racket.

I completely agree with U.S. Attorney Edward V. Hanrahan that it is both proper and essential that the Federal Government move in on the Cosa Nostra's business activities. Moreover, let me state that I hope the members of the Banking and Currency Committee, who now have been deliberating for several months on the truth-in-lending bill, will vote to report S. 750, the truth-in-lending bill, to the Senate.

Mr. President, I ask unanimous consent that the article published in the Chicago Sun-Times, to which I have referred, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUN-TIMES STORY SPURS U.S. WAR ON JUICE RACKETS

(By Ray Brennan)

The full power of the U.S. Government in the Chicago area was mobilized Thursday for a war against organized criminals in the juice racket.

U.S. Attorney Edward V. Hanrahan ordered the action after reading an exclusive Sun-Times story exposing documentary evidence of the criminal activity.

"I am outraged," Hanrahan said as he waved a copy of the Sun-Times at a press conference. "This situation is revolting."

MAJOR EFFORT

He declared a major effort would be made to convict Cosa Nostra gangsters in the racket on income tax charges. All Federal agencies will cooperate in the campaign, he said.

Hanrahan said he learned for the first time from the Sun-Times that his special organized crime division had copies of juice ledgers kept by two accused syndicate racketeers.

The records showed that the two hoodlums collected $390,225 from juice in a year. Of that amount, $111,445 represented profit.

"I want every scrap of information there is on this dirty business," Hanrahan said angrily. "I wonder if the people realize the nature of the beasts in the racket.

"I urge anyone who is a victim to come into my office. I would love to talk with them."

ASKS VICTIMS TO CALL

He asked that victims and informants telephone him for an appointment. The number is 828-5300. He added:

"If people give information, I will assure them of personal consideration and every possible protection within my ability."

Hanrahan said lawyers and many other persons were outraged by a verdict of 12 woman jurors acquitting 5 accused syndicate juice terrorists on May 23.

Among those freed were Chris (Dick) Cardi, 31, and Albert A. Sarno, 35, accused of kidnaping and torturing a delinquent debtor, Joseph S. Weisphal, 47.

The other defendants were William (Wee Willie) Messino, 45; Joseph (Joe Gags) Gagliano, 49, and John (No Nose) DeFronzo, 35. Scores of organized criminals are in the racket, investigators said.

"Weisphal has testified that he was tortured for 10 hours," the Government prosecutor said. "It is shocking that such a thing could happen in the 20th century in Chicago."

LOAN LEDGERS

Hanrahan telephoned Frank J. Kiernan, head of the organized crime unit, and confirmed a Sun-Times report that the loan ledgers—kept by Cardi and Sarno—had been obtained by the office.

Reporters listened while the U.S. attorney barked angrily into the phone.

Kiernan presumably told Hanrahan the ledgers had been suppressed by Judge Nathan M. Cohen as evidence at the recent trial.

The judge ruled the records were inadmissible because they were obtained by police trickery from Cardi's wife, Renee, after the gangster's arrest last December 9.

FBI AGENCY ALERTED

"What the hell is the difference how and where the records were obtained?" Hanrahan said, "We're going to use them. I want the evidence on my desk today."

The first agency Hanrahan alerted to the inquiry was the local intelligence unit of the Federal Bureau of Investigation.

Hanrahan said he had been in touch with Assistant State's Attorneys Louis B. Garippo and James J. Flynn, who prosecuted at the trial, during which two efforts were made to bribe prospective jurors against conviction.

Although they lost the decision, the two Cook County prosecutors were praised widely for brilliant work. In charge of the investigation were Comdr. William J. Duffy's police intelligence men, headed by Sgt. Michael O'Donnell.

MOB INCOME SOURCE

Hanrahan said the juice racket seemed to be a major source of underworld income and that it had to be killed. His tone was angry as he remarked of the Sun-Times exposé:

"It is a strange situation when a newspaper reveals such a sickening situation to the public for the first time."

In Washington, the Senate rackets committee was reported interested in holding public hearings on the syndicate loan racket—based on disclosures that gangsters use juice to muscle into control of legitimate businesses.

The Cardi-Sarno ledgers, examined by a Sun-Times reporter, covered 127 usury loans at interest of up to 20 percent a week. The loans ranged from $100 to $31,000.

UNDER PROTECTIVE GUARD

Weisphal was the first victim ever to have the courage to go to the law against the gangsters. He has been under heavy protective guard in Cook County jail for nearly 8 months.

An ex-convict and financial ne'er-do-well, he had guaranteed $2,000 in loans and agreed to repay $3,300. He testified he made the loans through Messino and others in a restaurant hangout on West Chicago.

At least eight underworld murders have resulted from the racket, Sergeant O'Donnell said.

CIVIL RIGHTS ACT OF 1963—REQUEST TO CONSIDER AMENDMENT NO. 854

Mr. GORE. Mr. President, I ask unanimous consent that following the vote upon the Cotton amendment (No. 606), amendment No. 854 which I have proposed, to strike title VI from the civil rights bill, be considered in the same manner and under the same debate time limitations as provided in the unanimous-consent agreement printed on page 12860 of the CONGRESSIONAL RECORD.

Mr. DOUGLAS. Mr. President, reserving the right to object, I do not see the majority leader in the Chamber. I wonder whether the Senator from Tennessee checked this proposal with him or with his representatives?

Mr. GORE. I have not. In view of that fact, and before it is acted upon, I had intended to suggest—and now, if it is agreeable to the Senator from Illinois [Mr. DOUGLAS], will suggest—the absence of a quorum.

Mr. DOUGLAS. Very well.

Mr. GORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. Mr. President, I ask for action on the unanimous-consent request which I have submitted.

Mr. MANSFIELD. Mr. President, I shall be forced to object to the request of the distinguished senior Senator from Tennessee, because it appears to me, on the basis of the agreement entered into on Saturday, and in view of the time limitation imposed for Wednesday, by the motion for cloture, that it would be almost impossible to give the consideration which the Senator from Tennessee wishes to have the Senate give to his amendment to strike title VI from the civil rights bill.

I realize that he raised this question on Friday. I know that he spoke against that provision several times previously. I should like to point out that if cloture is invoked, the Senator from Tennessee will be able to call up his amendment, and will have an hour in which to discuss it, if he desires to do so. Therefore, it is with great personal regret, I assure the Senator, that I object.

Mr. GORE. Mr. President, will the Senator withhold his objection?

Mr. MANSFIELD. Yes; I withhold it.

Mr. GORE. Mr. President, I hope a request by a Member on this side of the aisle in regard to an amendment of this importance will be given treatment equal to that given to the request which was made and agreed to on Saturday.

My request is no different. It seeks consent to have the Senate consider an additional amendment in identically the same way the Senate has agreed to consider the other three amendments. I did not object to the proposal for consideration of the three amendments before a vote is had on the cloture motion. I believe the vote on the cloture motion will be tantamount to passage of the bill as is.

Therefore, realizing the situation, I wish my amendment to be considered before the vote on the cloture motion is taken. Unless this and other amendments are considered, I shall vote against the cloture motion. I hope my amendment will be considered and adopted.

I thank the distinguished Senator.

Mr. MANSFIELD. I fully appreciate the position in which the distinguished senior Senator from Tennessee finds himself. I am quite certain he appreciates the position in which I find myself. I object.

The PRESIDING OFFICER. The objection is heard.

GROWTH OF GOVERNMENTAL INSTITUTIONS AND CRITICISM OF THE FEDERAL GOVERNMENT

Mr. METCALF. Mr. President, more than ever before, this year's presidential election process will be dominated by emotional charges and slogans about Federal spending, socialistic big Government, and Federal encroachment on State and local rights.

Therefore, I call attention to an article by our distinguished colleague from Maine, Senator EDMUND S. MUSKIE, which was published in the May 1964 issue of National Civil Review. This objective, unemotional analysis puts the growth and role of our governmental institutions in proper perspective and reveals the lack of foundation for most of the common criticisms of Federal Government. The author is well qualified to speak on this topic, because of his past experience as a State legislator and Governor and his current position as chairman of the Senate Subcommittee on Intergovernmental Relations of the Committee on Government Operations.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DOLLARS AND CENTS OF FEDERALISM: FISCAL FACTS RELIEVE FEARS NATIONAL GOVERNMENT GROWTH HAS BEEN AT THE EXPENSE OF STATES, CITIES

(By EDMUND S. MUSKIE)[1]

The American federal system is so intricate that foreign observers rarely understand it. Even Americans are frequently bewildered by its complexity. And no wonder. Federalism operates simultaneously in four spheres of political debate and action.

Theoretically, it establishes a constitutional division of powers between the States and the Federal Government, with local government, as a practical matter, constituting another source of independent authority.

Structurally, federalism has created three separate and autonomous levels of governmental institutions.

Functionally, it comprises a series of public-purpose programs that the Nation, the States, and the local governments jointly sponsor.

Administratively, it has created three layers of bureaucracy and encouraged numerous cooperative arrangements and devices.

Since the founding of the Republic, the need for cooperation has battled with the opportunity for competition in each of these areas. More than three-quarters of a century ago, Woodrow Wilson set forth the basic reasons for this unending debate:

"The question of the relation of the States to the Federal Government is the cardinal question of our constitutional system. At every turn of our national development we are brought face to face with it, and no definition either of statesmen or judges has ever quieted or decided it. It cannot, indeed, be settled by any one generation because it is a question of growth, and every successive stage in our political and economic development gives it a new aspect, makes it a new question."

More than anything else, it is the dynamic quality of federalism and of the American people that explains the continuing agitation in Congress, within the States, and by the public at large over the nature and tendency of our Federal Union.

Are there no stable features, however, in contemporary Federal-State-local relations? A good way to come to grips with this question is to ignore the slogans and campaign oratory and focus attention on the fiscal aspects of intergovernmental relations. The dollars and cents of federalism tell us more about the essential nature of the system than many of the political arguments that clutter up the scene.

To begin with, big government at all levels has been one of the major developments of the 20th century. Over the past 60 years, aggregate Federal, State, and local taxes experienced nearly a hundredfold increase. Total governmental expenditures jumped from $1.7 billion in 1902 to more than seven times that figure in 1934 and to nearly $149 billion in fiscal 1962. Total governmental indebtedness amounted to an average of $41 for every man, woman, and child in 1902. Today it comes to more than $2,041 in current dollars. Past wars, the depression, the cold war, inflation, population explosion, and a mushrooming metropolitan growth are basic causes for these increases. Whether we like it or not, big cities, big counties, big States, and a big Federal Government are with us. And their emergence has occurred in Republican as well as Democratic administrations, in peace as well as war, and during conservative as well as liberal eras.

The real question raised by this development is whether any one level experienced a disproportionate growth to the detriment of another. During the thirties and World War II, Federal revenues greatly overshadowed those of State and local governments. The record since the war, however, clearly demonstrates that this gap is closing rapidly. In 1944 the State and local share amounted to only one-fourth of all governmental revenues. As recently as 1954 it still came to only one-third. State and local taxes now are two-thirds as large as the Federal take, and the Federal Government, of course, must finance defense and foreign policy commitments from its share.

The postwar Federal growth rate, then, has been modest—even conservative—compared with State and local. The figures for the latter demolish the widely shared belief that these levels of government are unwilling—or unable—to assume their proper share of the financial responsibility for the expanding services demanded by the public since World War II. In fact, if we concentrate solely on the total direct civil expenditures for fiscal 1962 (this excludes defense, space, veterans, and interest costs), we find that the Federal Government's proportion came to only 27 percent, as against more than 48 percent for local governments and nearly 25 percent for the States.

Federal aid to State and local governments is probably the most controversial chapter of the intergovernmental relations story. In absolute terms, these expenditures have increased greatly during the past 3 decades. Federal grants totaled only about $200 million a year in the early thirties. Even with numerous depression programs, the figure came to only $2 billion by 1940. During World War II it slipped back to less than $1 billion per annum. Most of the real growth came after 1946 with the expansion of existing grants and the enactment of some 49 new programs.

This development has not been as dynamic as some would have it. Federal contributions to total State and local revenues averaged almost 7 percent in 1946. The Federal share by 1954 had risen to a little over 10 percent and, despite the enactment of the Federal highway program and other new grants, this proportion amounted to only 13.6 percent during the last fiscal year. If Federal aid figures are examined in terms of their relationship to Federal budget expenditures for civil functions, the estimated 1962 grant-in-aid share stood at 26 percent. This represents a 7-percent increase over the comparable figure for 1948 but a 4-percent drop from 1960.

Overall, these figures reveal that the proportionate growth rate of Federal grants and loans during the past decade and a half has been evolutionary rather than revolutionary. In terms of dollars, of course, the Federal aid figure nearly quadrupled during the 1952–62 period. In this connection, we should recognize that the postwar growth in national production, population, urbanization, and the standard of living has generated mounting demands for additional Government services. Any objective assessment of the role of Federal aid, moreover, must recognize the serious difficulties experienced by State and local governments in financing these expanding functions from their own limited resources.

The National Government, of course, has no exclusive monopoly on the grant device. While it was dispersing $7.9 billion to State and local governments during the last fiscal year, the States allotted nearly $11 billion in grants to their own local governments. From the local viewpoint, both National and State aid is of crucial importance. The significance of these two grant sources can be better appreciated when we remember that approximately seven out of eight dollars of local revenue are provided by the much-criticized and overburdened property tax. At present, its $20-billion annual yield nearly equals the combined revenues of all State-imposed taxes. Nationwide, almost half of the greatly increased State and local tax burden required to finance the postwar demands for increased local services has been borne by this tax. In light of this performance, some experts and many local officials believe that this levy has already reached the peak of its endurance.

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[1] Senator MUSKIE is U.S. Senator from Maine, and chairman, Senate Subcommittee on Intergovernmental Relations of the Committee on Government Operations, and is a member of the Advisory Commission on Intergovernmental Relations. He was formerly Governor of Maine.

The equalization factor is another dimension of Federal-State-local fiscal relations that is often overlooked. Since World War II, Congress has paid increasing attention to the question of whether the distribution of Federal grants should take into account the difference in the ability of States to finance these grant-aided programs from their own resources. Recognition of this varying capacity has usually taken the form of attempting to compensate for the imbalance by including an equalization provision in the matching and/or apportionment formulas. Many programs do not include this feature. In some, it has been inserted in a way that fails to accomplish the objectives of Congress; in others, it has been ignored when changing conditions indicate a pressing need for its inclusion. Of all the Federal grants enacted prior to 1963, only about one-third contain fairly explicit equalization provisions. This means that the distribution of funds or the proportion of Federal-State sharing of costs is governed partly by the differing ability of the States to support the aided programs.

Detailed statistical analysis by the Advisory Commission on Intergovernmental Relations and others indicates that these programs have not provided the additional benefit to the less affluent States that was originally intended. To put it more bluntly, Congress intention of leveling out some of the inequalities in grant-aided State programs has not been fully realized. Where equalization is appropriate, greater consideration should be given to a closer examination of the various indexes of program need and of the States' relative ability to support grant activities. Per capita personal income, for example, has some limitations as an effective index of the relative ability of State and local governments to raise revenues. All of these findings demonstrate the need for a judicious congressional reevaluation of the equalization factor.

In brief outline, these are the significant dimensions of intergovernmental finances. But what do they tell us of federalism's essential character? The facts indicate that—

1. Today, big government is a characteristic of all jurisdictional levels.

2. In recent years, State and local governments have demonstrated an amazing capacity and willingness to assume a major share of the fiscal burdens imposed by demands for expanded public services.

3. Federal revenues, debt, and aid to State and local governments have expanded significantly in absolute terms over the past 15 years, but they have experienced only a modest rate of growth when contrasted with the comparable figures for the other levels of government.

4. With soaring State and local budgets, Federal aid has taken on added and crucial significance for decisionmakers at these levels.

5. Specific inclusion of an equalization factor in one-third of the existing grant programs has benefited somewhat the less wealthy States; its exclusion from the remaining two-thirds, however, hinders the reduction of inequality in program performances within the several States.

6. If the present division of expenditures for civil governmental functions is used as an index, a rough balance exists among the Federal, State, and local governments; the only factor disturbing this equilibrium is the somewhat lesser share assumed by the States.

7. In practice, a pattern of collaboration in the fiscal and program areas exists among the three jurisdictions and the Federal and State grants-in-aid are the chief manifestations of this cooperation.

8. This grand design of cooperative federalism has emerged without undermining the independence and freedom of fiscal choice of the States and local units of government; on the contrary, many authorities believe that these joint efforts have actually reinforced the identity of these governments.

Federalism still stands as a bold attempt to combine national unity with political diversity. This analysis clearly indicates that State and local governments are still playing a vital role in intergovernmental relations and that a balance of powers is still a paramount feature of the system. At the same time, these hard dollars-and-cents facts demonstrate that cooperation, not competition, is the best way to achieve national strength while preserving State and local autonomy.

NOMINATION OF HAMER H. BUDGE TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION

Mr. METCALF. Mr. President, I ask unanimous consent that an article appearing in the Wall Street Journal be printed in the Record at this point in my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Budge's Nomination to SEC Irks Liberals, May Spark Resignations Among Its Staff

(By Louis M. Kohlmeier)

Washington.—President Johnson's nomination of a conservative Republican, Hamer H. Budge, to the Securities and Exchange Commission provoked grumbling among liberal Democrats in Congress and rumbles of an exodus among reform-minded staff members inside the SEC.

It also produced reactions bordering on jubilation among some leaders of the securities industry.

"He sounds like a good man to me," declared one prominent Wall Streeter. "Mr. Budge ough to please the industry," said another industry figure.

More than any other Johnson action, this nomination, sent to the Senate Friday for confirmation, substantiated expectations that his Administration will steer the regulatory agencies on a less venturesome course than they followed under President Kennedy.

Mr. Kennedy filled the agencies with liberal-leaning, reformminded types. At the SEC and elsewhere they proved the toughest regulators industry had seen since New Deal days.

MR. JOHNSON'S GOALS

Mr. Johnson, shortly after he was thrust into the Presidency, called the regulators to the White House and told them that, like Mr. Kennedy, he regarded the agencies as an item of "unfinished business on the agenda of American Government." Then the new President offered the thoughts that have been interpreted as signaling a turn in policy. He wants "quality rather than quantity" in regulatory actions, he said, and he wants concentration on "new areas of cooperation before we concern ourselves with new areas of control."

A President's power to direct regulatory agency policies lies in his authority to appoint the members. Mr. Johnson's first two appointments didn't disclose much about his intentions. His selection of Virginia Mae Brown as an Interstate Commerce Commission member stemmed from the search for women to place in high positions. Hugh F. Owens, who served on the Oklahoma Securities Commission, was unknown nationally when Mr. Johnson picked him for an earlier SEC vacancy.

But Mr. Budge is clearly established as a conservative by his voting record during 10 years in Washington as a Representative from Idaho and as a member of the House Interior, Appropriations and Rules Committees. For example, the AFL–CIO's tabulation of voting records on 13 major bills before the House in 1957 and 1958 shows Mr. Budge casting 13 "wrong" votes.

ACCURATE LABEL

Mr. Budge, who became an Idaho State court judge after being defeated for reelection in 1960, agrees the "conservative" label is accurate.

He says President Johnson's reproof to the Kennedy regulators, that they emphasize cooperation with industry rather than control, "makes sense to me."

But the Johnson approach doesn't make sense to some liberals in Congress. "There will be a great deal of grumbling from Democratic liberals," predicts one of them who has tangled with Mr. Budge. He claims the nomination "is strictly a political appointment to win favor with Charlie Halleck." Mr. Halleck, an Indiana Republican and the House minority leader, is a long-time personal friend and political ally of Mr. Budge. After Mr. Budge's 1960 defeat, Mr. Halleck unsuccessfully sought a high appointment in the Kennedy administration for his friend.

Mr. Johnson had to appoint a Republican or an independent to the SEC vacancy, because the five-member agency already has three Democrats, all the law allows. But the type of Republican or independent the President picked was up to him. Mr. Kennedy had no difficulty finding liberal-minded individuals when he went looking for a Republican regulator. In fact, the Republican Mr. Budge is to replace, Jack M. Whitney, consistently voted with the SEC's reformminded Chairman, William L. Cary.

The Capitol Hill discontent with Mr. Budge doesn't look substantial enough at the moment to threaten his Senate confirmation. And the unhappy SEC staff executives installed by the Cary regime aren't likely to walk out immediately. They'll probably delay their decisions until President Johnson names Mr. Cary's successor as Chairman.

The Chairman is expected to leave early next month to return to Columbia University. The White House is looking for a successor but hasn't settled on one yet. It is said the administration would like to find an investment banker or a lawyer with securities law experience who wants the job and has acceptable political credentials.

SATURDAY EVENING POST NOTES HARTKE EDUCATION BILL

Mr. HARTKE. Mr. President, on numerous occasions of late I have spoken in the Senate concerning the response which has greeted the introduction of my bill for financial aid to college students, S. 2490. There is nearly universal agreement on the growing need for loans, scholarships, and work-study programs as a means of enlarging the development of our greatest natural resource, the talents and abilities of our youth when given the opportunities they need to acquire adequate higher education.

I have cited here, as I did before the Education Subcommittee, the extent of rapidly growing high-cost commercial loans to students as one measure of the need. The student loan subsidiaries of two leading finance companies, one of them organized only 4 years ago, by the end of last year had outstanding $114 million in loans to 72,000 students, at high and often burdensome interest rates. Low-cost loans guaranteed by private or public State-wide groups have expanded very rapidly, while the national growth of United Student Aid Funds, Inc., to which the editorial refers, has been remarkable. This highly responsible, low-cost, nonprofit corporation in a little more than 2 years had grown by the end of February 1964, to more than 42,000 loans and a cooperative arrangement with 607 colleges and 4,200 banks.

The question involved is whether private sources will be able to supply the demand at the kind of terms which make possible loan financing for all students with financial needs otherwise unmet. Inability to secure such financing will rob the Nation of a vast amount of its potential human resource. Prof. Seymour Harris has estimated that by 1970 the demand for student loan funds may mount to an anual rate of $2½ billion.

I am pleased that such a great nationally circulated magazine as the Saturday Evening Post has taken note of the Hartke bill in an editorial in its June 6 issue. Its position is flatly opposed to the federally guaranteed loan portion of the bill, which again raises the legitimate question of whether private arrangements can accomplish fulfillment of an acknowledged enormous need, or whether Federal Government support is essential. Even so, the choice of this bill for editorial comment is significant. It shows the editors' judgment that here we have an issue deserving national attention.

The editorial centers upon the remarkable success of United Student Aid Funds in its short existence as a broker, so to speak, in the arrangement of bank loans directly to students. I heartily approve that organization, and wish it continuing expansion and success. But this does not invalidate the belief that the demand is so great that both private and public efforts are necessary. The USAF has set itself a most ambitious goal—no less than that of singlehandedly supplying the entire student loan need. In a submission which will appear in the subcommittee hearing record, its president, Alan Marshall, says:

> United Student Aid Funds set out a little over 3 years ago to meet the total unmet need for low-cost loans to college students.

Mr. Marshall underlines the word "total."

This is laudable, but its feasibility is dubious. The Saturday Evening Post, which appears to base its editorial on Mr. Marshall's 18-page statement, says that "need for Federal activity in this area does not exist." Many of my Senate colleagues, 21 of whom are cosponsors of the bill, and scores of educational leaders do not agree. Mr. Marshall himself cites the Seymour Harris figure of $2½ billion needed for student loan funds by 1970. The loan insurance feature of my bill is estimated to assist 55,000 students the first year, and 110,000 each year subsequently. If each borrowed $1,000, this would still be only $110 million. The Federal program would not exclude the opportunity; but, with the need so great, my bill would doubtless help to stimulate it, for the growth of such private plans as the United Student Aid Funds.

Mr. President, not because I agree with it, but in order that the full text of the Saturday Evening Post editorial may be readily available to other Senators, who I hope and expect will have an opportunity to vote on this bill before the end of this Congress, I ask unanimous consent that the editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHERE FEDERAL ACTION IS NOT NEEDED

When should the Federal Government enter an area where the public interest is involved? When private enterprise, State, and local governments are unable to do the job, we believe. All too often the question is argued in a vacuum, because no agency except the Federal Government is prepared to act. But the converse of this principle is that when private enterprise or State or local government is doing an effective job, the Federal Government should stay out.

Three years ago a private enterprise called United Student Aid Funds went into the business of guaranteeing low-cost loans to needy college students. A nonprofit, tax-exempt corporation, United Student Aid Funds established a contributed fund to guarantee bank loans to students.

The program has worked like a charm. Over 600 colleges and universities and 4,200 banks are now participating. Loans to individual students are permitted up to a maximum total of $4,000—$1,000 per year in any undergraduate year (except the freshman year) and up to $2,000 per year for a graduate year. The average student loan is $530. In the past 26 months, $23,083,562 in loans have been endorsed.

Here is an example of private enterprise effectively supplying an important need. (There is a variety of other private, philanthropic, State and local programs to meet student needs in the United States.) The Senate Subcommittee on Education, however, is considering a bill (S. 2490) introduced by Senator VANCE HARTKE, of Indiana, that, among other things, would bring the Federal Government into the business of guaranteeing student loans. Under Senator HARTKE'S bill, the Federal Government would underwrite loans of up to $2,000 a year with a maximum total of $10,000 a student. The Federal plan gives a student a year's grace after graduation, plus 10 years to repay the loan. The United Student Aid Funds plan requires repayment within 4 years of graduation. Experience has shown that a long repayment period conflicts with other obligations, as the borrower gets married, has a family and takes on additional responsibilities. There have been very few defaults on loans under the private plan.

If there were a demonstrable need for Federal activity in this area, we would favor it. But the experience of the United Student Aid Funds indicates that this needs does not exist. No one argues that the United Student Aid Funds plan has not worked well. Proponents of the Hartke plan say that the need is so acute that Federal action is necessary. Yet United Student Aid Funds has been in the business only 3 years. It is expanding rapidly and today has approximately $23 million in unused capacity to endorse loans.

If the Federal Government moves into this area, the United Student Aid Funds people believe they will not be able to compete with loans that are backed by the credit of the Government. Clearly, this is an area where private enterprise has shown its efficacy, and Federal action is unwarranted.

LOW BEEF PRICES—CAUSES AND CURE

Mr. HARTKE. Mr. President, all of us have been concerned about the drop in beef prices. Let us take a look at the situation, examine the causes, and see what has been done by this administration to plug the price drain.

As Senators know, prices of Choice fed steers at Chicago dropped from an average of $27.67 a hundredweight in 1962 to just under $24 in 1963, and to less than $21 in the spring of this year.

Studies and investigations of the situation have been made by the industry, by the Department of Agriculture, and by Members of Congress. Here is what has been reported to me:

First. The beef cattle industry always has followed a cyclical pattern of herd buildup during a good market-price period. A market-price decline sets in as production exceeds demand. Then the falling prices in turn leading to liquidation of herds and the start of a new cycle.

Second. Herd expansion in the current cycle began in 1958. As some may remember, the price of fed steers rose sharply early in 1950, and reached an annual average of almost $36 a hundredweight in 1951. Prices then declined to $21.99 at Chicago in April in 1953, and in February of 1956 were down to $18.88. Prices improved over the 3 years, 1958 to 1960, averaging $26 to $27 each year. Some decline occurred in 1961; but in 1962 average prices rose to $27.62—the second highest annual average in the past decade.

Third. Then the phenomenal expansion of cattle numbers began to have its impact. From 1950 to 1960, total number of beef cattle rose from 43 to 66 million head—or by more than 50 percent. Since 1960, beef cattle numbers have climbed to 79 million head—an increase of over 4 million in 1962, and almost another 4 million in 1963. The total number of cattle—beef and dairy—increased from 78 to 96 million during the same period.

Fourth. The live weight per head of cattle commercially slaughtered reached an alltime high of 1,024 pounds in 1963. Increased weight per head over 1962 added 450 to 500 million pounds to the beef supply in 1963.

Fifth. The increase of more than 1 billion pounds in domestic beef production in 1963 represented a 7-percent increase in supply. Population had increased, but the per capita supply was up about 6 percent.

Sixth. Larger domestic output of other meats and broilers also contributed to a decline in fed cattle prices.

The output of other meats totaled one-half billion pounds more in 1963 than in 1962. The production of broilers hit an alltime high.

Seventh. Imports had an effect—but was not the only culprit in the price break that first reports tended to blame. In 1962, when imports reached a record level, and amounted to 10.5 percent of our beef production, fed steer prices held strong, at an average of $27.67 per hundredweight.

What is ahead of us? The experts tell me this:

Total beef production is running 13 percent above last year. Marketings of fed cattle during the second quarter of this year will be larger than in the first quarter, and substantially larger than in the second quarter of 1963.

For the year, no real price improvement based on normal market forces can be expected if feedlots continue to be filled and if cattle continue to be fed to heavy weights. It follows that we could well face a serious situation for at least the balance of this year.

In the face of this, what have we done? A number of actions to improve the situation are being taken:

First. Imports of beef and veal have been rolled back to about the 1959–63 average level. This is the level advocated by many groups in the cattle industry.

Second. Supplies of competing meats are leveling off. Supplies of pork are expected to be down 3 to 5 percent for the rest of the year. Supplies of lamb and mutton will be lower and broiler production is being cut back.

Third. Beef purchases for schools and needy persons have been sharply increased. Through May 29, the Government—USDA—had purchased 90 million pounds of frozen and canned beef, at a cost of $52 million, since the special program was announced on February 29. In fact, during the week ending May 16, purchases were approximately 5 percent of weekly production. It is estimated that removal of 5 million pounds of Choice grade beef per week adds about 65 cents per hundredweight to the market price farmers receive for Choice grade steers at Chicago.

Fourth. Vigorous industry-government promotional efforts are underway, with good results. Most of the larger retailers report increases from 8 to 25 percent over sales during the same period a year ago.

Fifth. At the personal instigation of President Johnson, we are moving swiftly to develop export markets for beef. A presidential mission representing cattle producers, the beef industry and the Department of Agriculture reports an export market potential in Europe for our lower grades of beef generally, plus some specialized outlet possibilities for higher grades.

Sixth. A market development agreement between the Department of Agriculture and the American Meat Institute has been concluded, and this program is underway.

Seventh. This administration also has asked Congress to establish a commission to investigate our food marketing structure and its impact on marketing costs and margins. Since 1954, the difference between the price received by the farmer and the price paid by the housewife for beef has increased from about 24 cents a pound to 37 cents.

To sum it up, this administration, working closely with producers and other segments of the beef industry, has done almost everything possible to relieve a critical situation. It will continue to do so; but, as usual, the final solution rests with the industry and a consensus among producers as to just what they want and should do.

THE MORALS REVOLUTION—WHAT HAPPENS NEXT?

Mr. MUNDT. Mr. President, so much of what we hear and of what we read these days is categorized, one might say, in the "bad news division" of life. And, I am afraid, with these reports we find ourselves more and more inclined to take a pessimistic attitude with respect to our fellowman, the world in which we live, and the prospects for our future.

Careful thought, however, reveals that all is not bleak and that we can view our circumstances and our prospects with a good deal of confidence and anticipation.

Possibly it is simply a matter of how we look at things—much like the statement I heard long ago of the difference between a pessimist and an optimist when they viewed a glass of water from which a portion had been consumed. The pessimist looked at the glass, and said, "The glass of water is half empty"; but the optimist said, "No; the glass is half full."

One of the finest optimists I know has addressed himself to the question of what lies ahead. A thought-provoking speech was delivered by William Nichols before the Economic Club of Detroit, a great public forum which I have twice been privileged to address. William Nichols is the editor and publisher of This Week magazine; and if anyone fits the description of "the perennial optimist," it is Bill Nichols.

Mr. President, Bill Nichols, in his excellent address, has provided much food for refreshing thought. Because it is worthy of the attention of the Senate, I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE MORALS REVOLUTION—WHAT HAPPENS NEXT?

(Address by William I. Nichols, editor and publisher, This Week magazine, before the Economic Club of Detroit, Monday, May 4, 1964, Veterans Memorial Building, Civic Center, Detroit)

When it comes to stating the problem before the house, it seems to me that this was done with frightening directness the other day by Eaton Brooks, one of four young defendants up for alleged vandalism during the Southampton debutante party last fall: "Everybody," he said, "knows that the morals of this country are going down the drain."

Well, let's take it from there. Are morals in fact going down the drain? And, if so, why? And is it an inevitable trend? Or is there some chance for a hopeful, constructive turn in the years ahead?

Personally, I subscribe to the hopeful and constructive view. I believe we are moving, not toward decline and fall, but to a great new epoch of human fulfillment. But in order to get there, we have to look far ahead in point of time, and far beyond the more immediate aspects of our present moral crisis. So let's just state swiftly and for the record that we are all aware of the symptoms of that crisis:

Most of us, I am sure, have read Time magazine's recent cover story on "Sex in the U.S.A." and Newsweek's review of "Morals on the Campus."

We have seen the statistics from the FBI, and elsewhere, on the rising tide of crime, delinquency, and addiction.

We have heard the stories of muggings, rapes, and high school pregnancies.

We are aware of the endless flow of sex-drenched books and magazines and movies which are, inevitably, upsetting old standards of taste and behavior.

We know that there are cases of corruption both in public and in private life.

But it isn't enough just to cite the facts and figures. Or to deplore them. It doesn't do any good just to rant and roar about hellfire and damnation. Or to try to reinvoke the pillory, the ducking stool, and all the other symbols of a bygone puritanism, For whatever the situation, and however much we may long to do so, there is no turning back now to anybody's good old days—even if, in fact, those days were really as good as everybody says. The winds of change are blowing with brutal force. The orderly globe we knew in school has been ripped apart, and put together again so that today's maps are hardly recognizable from those we knew a generation ago. These same upheavals have also shaken old concepts and old ways of life. And so the only constructive approach to the moral revolution of our time is to first look at people, within the total context of today's changing world.

Well, the way to start is to look back a little. Whenever I hear people being upset about today's manners and morals I think of an item I read once about what life was really like for the average man in rural England only 200 years ago. All his years, we are told, were spent within a radius of some 7 miles from the parish churchyard—and during his entire lifetime he met less than 300 people.

Alexis de Tocqueville gives us a wonderful description of what average life was like in those bygone feudal days. Each man was, in effect, chained down to his village and locked into a tight network of responsibilities, involving the feudal lord, the village priest, the guildhall, the landowner—plus, of course, the ever-present neighbors and a firm family complex of several generations, closely linked.

All this naturally produced a tight system of supervision and control. Everyone knew everyone else's business. Everyone kept book on everyone's behavior. In short, people were locked up in one vast, all-encompassing, communal chastity belt. No wonder societies were moral—or seemed so, until people broke loose from all restraint, as happened during the Crusades, or the Hundred Years War, or the reign of terror in the French Revolution. What happened then makes you wonder again if the good old days were really so good, or so moral, after all.

But even if they were, one big difference between then and now is that now—if one has criminal or perverse tendencies—or if one simply wants to raise hell and let off youthful steam—one doesn't have to wait to go off to the wars and harass the girls in some far-off foreign land.

And that illustrates the true drama of our time: Now, at last, and for the first time in all human history, we have reached a point in social, economic, and technical development where vast populations are really free.

But let's remember that freedom always has two sides—free for better or free for worse, free for good or free for evil, free to sin or free to seek God.

This is the essential point and it is central to any discussion of morality. Morality is not just a set of numbered points chipped out on a stone tablet. Morality is not just precepts and platitudes wrapped up in a book. Morality is not just a switch on the woodshed wall. Morality is something that is inside you. Its other name is freedom of choice. And it consists of knowing the difference between right and wrong, and which to choose, and when and why.

Obviously in this new world of expanding freedom, it is easier than ever before for people to choose the wrong. Millions have—and for that matter, which of us hasn't done so at one time or another in our own lives? But the important thing is that, more and more, people are slowly beginning to digest all the lightning changes of our technical times; and as they do so they are becoming more and more aware of the importance of moral, spiritual, and human values. This is the hopeful development of our age.

In just a few moments, I shall give you some specific evidence of why I believe this. But first, let's simply recall the extent and magnitude of the technical changes we have had to absorb—and are still absorbing. The philosopher, Alfred North Whitehead, has stated the problem: "In the past," he says, "the timespan of important change was considerably longer than that of a single human life. Thus, mankind could be trained gradually to adapt. But today, the timespan is considerably shorter than that of human life and accordingly our training must prepare individuals to face a novelty of conditions."

Just think what that means in terms of our own lifespan. Let's start 50 years back with the automobile age. I don't need to tell people in this room what an upheaval that was—not just in the economy, but in manners and morals, too. That was a "novelty" which took a lot of digesting. But now think of all the other ages that we have since had to digest—the air age, the atom age, the space age.

And we're not through yet, for now we are on the eve of another age—the automation age, of cybernetics and computers—perhaps the most radical of all. As a foretaste of what that may bring, listen to these words from Prof. Bernard Muller-Thym at MIT "We are living," he writes, "at the end of the Neolithic era. The changes taking place on the world today are not merely changes from one form of society, one form of technology, to another. They are so widesweeping that they are taking us from one major epoch of human history into another.

"This," he continues, "is an order of change which is completely different from anything our ancestors knew, unless we go back about 10,000 years when they invented property, when they invented ownership, when they invented work, and mechanics based on the wheel."

So, gentlemen, hold your hats. We are going round another corner, and a sharp one. We haven't seen anything yet. It is small wonder if we, not to mention our children, are a bit confused.

But through all this, just as God will not be mocked, so I also believe that man's humanity will not be denied. And this brings us to the final and hopeful part of our story.

I said earlier that I believed most people—far from going down young Mr. Eaton Brooks' "moral drain"—are becoming increasingly conscious of moral, spiritual and social values. I also said that I would give you some specific evidence for this belief.

In so doing perhaps I should explain that editors have their own perculiar ways of appraising future trends and probable happenings. It is our job to try to look over the horizon; to try to pick the winners before they have won; or as old President Lowell of Harvard used to say in his definition of an educated man—"to make a reasoned guess on the basis of insufficient information." On that basis there are a number of things which contribute to my hopeful view:

Item 1: For example, if there were time I would like to tell you in detail of a recent nationwide survey conducted for us by Elmo Roper on "The American Sunday." What he discovered would give you good cause to take heart:

For one thing, Roper found, Sunday is far and away America's favorite day of the week. And it is preferred by the large majority for three good, basic, common-denominator reasons: (1) Because it is a day of religious associations; (2) because it is a day of rest and relaxation; and (3) because it is a time for being with family and friends.

Item 2: Or, more recently, the massive survey by the American Association of Advertising Agencies indicates that, on a percentage basis, the subjects on which people have the strongest opinions are in this order: religion, 50 percent; bringing up children, 44 percent; family life, 36 percent; education, 33 percent. Such supposedly hot subjects as sports, fashions, labor and management were way on down the line.

Item 3: In our own operations at This Week we have found that the titles which produce the greatest response are those which connote some form of "betterness," if I may use the term—titles such as "Words To Live By," "The Art of Living," "Family Living," "The Search for Excellence," etc. So much so that we are now revamping the entire publication to emphasize these themes.

Item 4: Another, and to me one of the most significant straws in the wind, comes from Sweden which has for so long prided itself on the complete removal of all moral restraints, and what amounts to the encouragement of sexual promiscuity even in the schools.

But today in Sweden, the toll of disease and unhappiness has been so great that we now read of a growing movement, headed by the country's leading doctors, to put an end to sexual laxity.

Significantly, in their comments, the doctors do not advocate a return simply to curfews and blue laws and other external restraints. Instead, they start out with the statement that, for all their sexual freedom, "Young people in Sweden are not happy today," and urge the schools to spend less time in sex education and more on the kind of religious leadership and instruction which will help children know "what is right and wrong."

Again, you see, we come back to the central point: Freedom of choice, the knowledge of right from wrong, and the desire to choose the right, not for any reasons of technical virtue—but because it is part of the essential and everlasting moral law, and because in the long run this is what produces the greatest sum of human happiness.

There is great wisdom here. In our modern, mobile world you can no longer make anyone be moral but you can encourage him to choose to be. And that I believe is the miracle which may be happening now.

Item 5: Finally, if you want an indication of what I mean, come to the New York World's Fair which opened just a few days ago. When you come, I can't promise that you won't encounter a sporadic sit-in or stall-in. And certainly there are many things that are far from perfect both in the fair itself and the city which surrounds it. We still have a long way to go.

But I also predict that you find many things to lift your heart:

First of all—the people. Here you can see at firsthand the products of all those "ages" we have been talking about. These family groups, coming from all parts of the country, and strolling through from exhibit to exhibit, are the inheritors of this new era of expanding affluence and leisure and education. By and large they looked pretty good to me—eager, alert, curious, responsive and somehow searching for new ways to better life.

And then the exhibits. It's still too soon to make final judgments. There are a lot of doors still to open and a lot of breath is being held. But already one thing is certain—that this time the winners—not just in attendance but in overall significance—are going to be quite different from any fair that has gone before.

By now it is more or less of an axiom that world's fairs have a way of holding mirrors up to their times and reflecting whatever is uppermost in people's minds.

Thus in 1939, the first New York World's Fair belonged to the world of tomorrow—the world of throughways and airfields and electronics—and TV and the Futurama stole the show.

Then came the Brussels Fair in 1958 with its giant atomium, dedicated to all the fears and wonders of the atom age.

Quick on its heels, came the Seattle Fair in 1962, proclaiming the Space Age. Its slender Space Needle was the theme and the prize exhibit, a breathless simulated ride to the moon and on beyond the stars.

In each of these other fairs, science and technology stole the show. But now, at New York, I sense a totally different spirit. So far, at least, the two exhibits most talked about are concerned, one with spiritual and the other with human values.

The first is Michelangelo's "Pieta"; the second, a surprise hit film called "To Be Alive" at the Johnson's Wax pavilion.

The Pieta is of course familiar to you all. But, at the fair, your experience will come not only in seeing this lovely sculpture but from the faces of the people as they observe it. Even after making all due allowance for the power of publicity, or the pull of curiosity, or the debates of the art critics, the general atmosphere of reverence and awe is overwhelming.

As to the film—"To Be Alive" is simply a documentary, beautifully made, of ordinary people doing ordinary things in many places—but always expressing the universal sense of joy and wonder just at the fact of being alive on this earth today. Its theme, as stated by the two producers, is that "there is an abundance of happiness in the world for those who will look for it."

"For millions of people," they say, "life may appear to have become a frustrating round of meaningless activities in today's complex society. But there are other millions who preserve a sense of the underlying wonder of our world, who have a capacity to delight in everyday experience, and find intense joy in simply being alive."

All this is a subtle thing to express in words, and I won't attempt to elaborate. But I do urge you to see the film—first for your own personal pleasure and delight—but also, again, to observe the way the audience responds. Both experiences will send you away with a hopeful feeling about the new spirit of our times.

Summing it up, what I see is a welcome turning of the wheel. For too long we have been told that science and technology have outraced humanity, that they rule our world.

But now at this fair, humanity seems to be catching up. In the process the spaceman is losing a lot of his old glamour and sex appeal. As Time magazine put it last week in its comment on the fair: "The future has become slightly passé."

There is a lot to think about in that seeming paradox. As indicated by the very symbol of this fair—a unisphere or globe—we are coming down to earth again. The emphasis is shifting from the moon back to our own planet. We are growing less concerned with outer space—we are growing more concerned with the inner spirit. We are thinking about man and his present environment and what we can do to make it better, here and now, and on this earth. And I, for one, say it's high time and thank God for it.

Yet all this does not mean that people have turned away from all our technical achievements. On the contrary. The best evidence of that is the enthusiasm with which huge crowds have responded to the splendid displays of the motor manufacturers of Detroit, each an outstanding exhibit of American technology. No; it is simply that people now take all these "things" a bit for granted. They want to push on from there to something new. All the new machinery on display, all these blinking tubes and gleaming gadgets are very thrilling. They are drawing big and fascinated crowds. But everywhere, one senses the same reactions: "So OK," people seem to be saying, "these things are fine. But what's in it for me? Where do they lead in terms of happiness—of my happiness and my family's and the people around me? Sure, we can have these things. But now let's learn to live with them. In short, let's learn to live."

The more this reaction spreads the more our society—which means government, education and business, too—will concern itself with human values. And science will swing much of its emphasis from physical to social concerns.

I foresee that this change will soon be reflected in our schools and universities. In recent times, the most gifted students were drawn almost automatically into fields like physics, mathematics, electronics and other physical sciences. In the years ahead there will be a shifting of emphasis to the social, psychological, and biological sciences. The next great area for both research and action is bound to be the nature of man and the human environment. It will be a far cry from the old space shots and Manhattan projects and it will cover a vast range of man-related subjects going all the way from housing and city planning to education and social psychology, to population control and sea-water conversion, to genetics and molecular biology, to ethics and moral philosophy.

Such a shift will contribute directly to the mental and moral health of future generations. There is a prophetic ring to these words from the late great psychologist and philosopher, Carl Jung, who said: "I am convinced that the exploration of the soul is the science of the future."

In this same spirit, it was Arthur Clarke, famous space expert, former head of the British Interplanetary Society who said to me just last week:

"It is no coincidence that today the most vicious savages come from the rotting concrete swamps and jungles of our cities."

Well, as we push ahead, I predict that we will move out of, and beyond, the atom age, and the space age, and the computer age, on into a new period which we might call the man age. At that time all our vast energies and enterprise and creative powers will be devoted to cleaning up those swamps and jungles and improving the texture and quality of living for all mankind.

So now we are almost through. I hope you don't feel I have strayed too far from our original subject with all this talk of freedom, and free will, and the pursuit of happiness.

Actually all these things are very much in point. We have long since passed the day when morals could be imposed on anyone. No, now they must be chosen, not sullenly to please father, or mother, or the policeman on the block—but freely and willingly. Because—on balance, and in terms of today's conditions—experience and commonsense—plus enlightened leadership from people like those here in this room—are demonstrating that morality and happiness go hand in hand.

And so, in terms of the future—of "what happens next"—I am an optimist. Notwithstanding all the exceptions—all the sad, delinquent stories—all the pitiful mixed-up debutante rumbles—I believe I see more and more people who are aware of the moral issue and who are prepared to make the moral—which is to say, the happier—choice. This is the drama of our time, greater than any scientific or technical marvel. It is the vision of free men and women choosing to build a better society and, now, building it. by our own free will.

COMMISSIONER ROSS, OF THE FEDERAL POWER COMMISSION: THE CASE FOR REAPPOINTMENT

Mr. PROXMIRE. Mr. President, during the last few days I have given a series of speeches on Mr. Charles R. Ross, a Commissioner on the Federal Power Commission, and on the possible reappointment of Mr. Ross for a full 5-year term, beginning June 22, when his present appointment expires.

Today, I wish to summarize the characteristics which I think a good appointee to a regulatory commission should have, and to state how Ross lives up to them.

TRAINING AND EXPERIENCE

Mr. Ross earned an M.A. and a law degree; he has been an instructor in business law and government and business regulation. He has been in private business and in private practice as a lawyer. He has served on, and been chairman of, the Vermont Public Service Commission; he is one of the three U.S. members of the International Joint Commission; and he has been president of the New England Conference of Public Utility Commissioners. He has now served nearly 3 years as a Kennedy appointee to the Federal Power Commission. What better training and experience could we obtain for this post?

RESPONSIBILITY

Prior to Mr. Ross' appointment in 1960, and just after President Kennedy had been elected, but before he took office, Harvard Law School Dean James M. Landis, who was picked by President Kennedy to evaluate the regulatory commissions, said the Federal Power Commission was the supreme example in Government of the breakdown of the administrative process. This was not surprising. As Bernstein indicated in his study, this result would be expected "unless the Commission is infused with new spirit by appointees of a new administration." This is why the appointment of Ross by President Kennedy was so important and why his reappointment by President Johnson is of equal importance.

Consider the results since Mr. Ross has been a member of the Commission. The enormous backlog of pipeline cases, which reached a cumulative total of $1.6 billion, is now down to a working inventory of about $90 million. The significance of this is that it has reversed the upward trend of natural gas prices, which was costing consumers millions of dollars in higher prices annually.

Thus, the injustice which always follows when a court decision is delayed has been almost completely taken care of throughout the whole series of 3-to-2 decisions, which have included Mr. Ross in the razor-thin majority involving the following decisions of cases concerning gas company rates, in which Mr. Ross came down hard on the side of the consumer:

Decisions upholding the Commission's authority under the Natural Gas Act to determine the appropriate rate of return for pipeline production.

Decisions involving the initial price at which sales of gas by producers should be certificated.

Decisions concerning the responsibility of natural gas companies to make refunds to consumers.

A decision relating to the acceptance of artificial producer price escalations. In that case, Ross was in the minority, but was on the side of lower gas prices, and therefore was on the side of the consumer.

Cases involving rights of pipeline customers.

In all these cases, Mr. Ross has been making decisions consistently on the side of the American consumer, and against the great pressure of organized industry.

RECOGNITION OF ROLE

In order to be an effective Commissioner in the Federal Power Commission, it is necessary that an appointee clearly understand the job which is assigned to the Commission by the law and by the courts. It is a striking testimonial to the work of Ross that, prior to his appointment, the Supreme Court was critical of the work of the Commission, following the edicts established by the Congress at the time the Natural Gas Act was passed; but since Ross' appointment, the Supreme Court has consistently upheld the Commission.

In the *Atlantic Refining Co.* case (360 U.S. 378) the Court explicitly pointed out that under the views then being used in the Commission:

> New price plateaus will thus be created as new contracts are made and unless controlled will result in "exploitation" at the expense of the consumer, who eventually pays for the increases in his monthly bill. The fact that prices have leaped from one plateau to the higher levels of another * * * does make price a consideration of prime importance.

That was before Mr. Ross took office.

At the same time, the role of regulation does recognize that circumstances exist where prices should rise. I think it is an impressive testimonial to the service of Mr. Ross on the Commission that some gas prices have been permitted to rise, while others have been held constant. this shows fair, impartial administration, which is the basic role of the FPC.

COURAGE

A Commissioner of the Federal Power Commission must have the courage to be objective. Without question, pressures are placed upon Commissioners from those immediately concerned, and the public interest is almost always diffused and less directly felt. There is always the temptation to take the easy way out and to go along with the pressures. A Commissioner must have the backbone to stand for the truth as he sees it, regardless of the pressures.

This is a major reason for supporting Mr. Ross for reappointment to the Federal Power Commission. Each of the three Commissioners in the Federal Power Commission razor-thin majority of one is under immense pressures to switch, so that the majority by one will become a minority by one. Mr. Ross has been under this pressure. Yet, on repeated occasions when such a vote was appropriate, he has had the courage to vote in favor of consumers.

CONCLUSION

What do we want in a Commissioner on the Federal Power Commission? Do we want training and experience? Do we want responsibility? Do we want recognition of the role of the Commission? Do we want courage? The evidence indicates conclusively that Mr. Ross has all these, and more. He is entitled to reappointment.

IS THE DRAFT A COSTLY SYSTEM?

Mr. KEATING. Mr. President, I ask unanimous consent that I may proceed for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEATING. Mr. President, several weeks ago the cosponsors of S. 2432, a bill to create a commission to study the operation of our draft laws, joined with me in writing a letter to President Johnson. We commended the President for looking into the issue but urged that the draft study not be undertaken by the Pentagon alone but rather by an independent commission of civilian and military men, of experts in and out of Government.

The reply received from the White House indicates that this question will be further considered and that the opposition of the Defense Department to any outside study will be reviewed. Mr. President, I ask unanimous consent to have printed at this point in my remarks the text of the letter to the President and the reply received from the Special Assistant to the President.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MAY 27, 1964.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We would like to commend your efforts to secure a study of the operations of our draft laws. We feel that a comprehensive review of current procedures for the procurement of military manpower is very much in order.

As cosponsors of S. 2432, however, we are disappointed that the Pentagon is apparently scheduled to have full responsibility for an evaluation of its own operations. We feel that an independent commission, consisting of military men and civilians, legislators and executive branch officials, as well as outside experts, could more effectively consider the broad implications of our present system and whatever changes or reforms might be helpful. We are disturbed that the Defense Department is opposed to an independent evaluation, as proposed in S. 2432.

Just as even in the conduct of war, civilian control of policy continues, so military manpower policy should not be left solely in the hands of the Defense Department, but should have a broader base. Civilian participation is required, we feel, by the very scope of the problem of military manpower procurement, which affects significantly not only our military posture, but also our economic posture, particularly in the areas of employment and vocational training.

We believe this issue deserves further attention and wider study, and we urge that the Defense Department and the Bureau of the Budget be asked to reconsider their opposition to this legislation.

Respectfully yours,

E. L. BARTLETT, J. GLENN BEALL, WALLACE F. BENNETT, CLIFFORD P. CASE, JOHN SHERMAN COOPER, PETER H. DOMINICK, PAUL H. DOUGLAS, ERNEST GRUENING, JACOB K. JAVITS, KENNETH B. KEATING, THOMAS H. KUCHEL, GEORGE S. MCGOVERN, JACK MILLER, THRUSTON B. MORTON, GAYLORD NELSON, MAURINE NEUBERGER, WINSTON L. PROUTY, HUGH SCOTT.

THE WHITE HOUSE,
Washington, June 2, 1964.

DEAR SENATOR: The President has received your letter of May 27 urging that the Bureau of the Budget and the Department of Defense reconsider their opposition to S. 2432, which would provide for a study of the adequacy of the present system of compulsory military training.

Your comments are receiving consideration, and you may expect a further reply.

Sincerely yours,

LAWRENCE F. O'BRIEN,
Special Assistant to the President.

Mr. KEATING. Mr. President, it was not surprising that the Defense Department should oppose a study not conducted under its own guidance and control, but it is encouraging that the White House has agreed to look further into the issue before giving the military a completely free hand.

We cannot expect to master the space age in a model T; instead of stopping every few miles to patch up the old buggy, it might be wise to sit down at the drawing boards and design a new one.

There are numerous flaws in the vehicle we have used to procure military manpower for the past 13 years. Its very presumption of universality has become untenable; 50 percent of the eligible young men who are drafted now—and it will be 40 percent before long—are forced to hold their career plans in abeyance for 3, 4, and even 5 years before the letter extending greetings from Uncle Sam lands in his mailbox; when he sees the following to the left of him deferred or exempted—often because of sheer circumstance—is it any wonder that he resents the system? And we all know that it is not the fault of the men who serve on local draft boards, many of whom have worked long and hard to achieve fair results, but of the system itself.

The model T was a fine car in its day, but it can hardly be expected to keep up with the rest of traffic today and tomorrow. The need for an independent study should be clear to all who have looked into the issue of the draft. Take, for instance, the matter of cost. The draft is a very expensive way to procure military manpower. For the fiscal year 1964 to date only 2.8 percent of Army personnel inducted through the draft reenlisted after their 2-year terms were over. This is a smaller figure than at any time over the last 6 years—and although it reflects a change in procedure, it also indicates a growing disenchantment with military service.

If 97.2 percent of those who are drafted leave the military service as quickly as they can get out, that means 97.2 percent of the money spent in training draftees is, from the Defense Department's point of view, virtually wasted.

Although no exact estimate is possible, the cost must be measured in millions of dollars. Would it not then be wiser, as well as more economical, to use some of this money to increase pay and incentives for servicemen and eliminate the draft? I for one would much prefer that every military man's monthly salary be raised $100 than to see that $100 poured into an enormous revolving fund to train reluctant draftees.

After all, what we need is not just muscular manpower, but trained and skilled technicians. As the Cordiner report in 1957 pointed out:

> It is foolish for the Armed Forces to obtain highly advanced weapons systems and not have men of sufficient competence to understand, operate, and maintain such equipment. * * * The solution here, of course, is not to draft more men to stand and look helplessly at the machinery. The solution is to give the men already in the Armed Forces the incentives required to make them want to stay in the service long enough and try hard enough to take these higher responsibilities, gain the skill and experience levels we need and then remain to give the services the full benefit of their skills.

It is going to require a topnotch coalition of economic and statistical brainpower to figure out whether or not we can raise salaries and benefits, particularly educational benefits, for our young servicemen. When President Johnson announced the launching of a new Defense Department study of the draft, to supersede the one that had been in operation for nearly a year, I welcomed this sign of recognition of the problem. Placing the reins of this study in the hands of the horse, however, may not be the best way to get ahead. How can we expect the Defense Department to perform the exhaustive study of economic and sociological, as well as military, aspects of this problem that it requires?

What is clearly needed is an impartial review by a commission that includes civilian and non-Government experts. I am hopeful that the present high-level review will recognize that fact and give a green light for a full-scale and independent study.

Mr. CASE. Mr. President, will the Senator yield?

Mr. KEATING. Mr. President, I ask for an additional 2 minutes.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. KEATING. Mr. President, I yield to the Senator from New Jersey.

Mr. CASE. I thank my colleague. I commend him for the initiative he has taken in this matter. It has been a pleasure and a privilege to be one of those associated with him in sponsoring this proposed legislation.

I think it should be heartening to those of us who have joined the distinguished junior Senator from New York [Senator KEATING] in sponsoring the legislation aimed at investigating the adequacy of the present military draft system to learn that the White House is reviewing the approach taken to the problem in this legislative proposal, S. 2432. Briefly, this approach calls for a comprehensive study of the draft system by competent civilian experts as well as by military representatives.

I hope the administration will reconsider the opposition previously voiced by the Department of Defense to S. 2432. I ask unanimous consent that the letter from the Secretary of Defense of April 29, 1964, to the distinguished chairman of the Senate Armed Services Committee [Senator RUSSELL] expressing opposition to the bill be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, April 29, 1964.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department of Defense with respect to S. 2432, 88th Congress, a bill "to provide for a comprehensive study and investigation of the adequacy of the present system of compulsory military training under the Universal Military Training and Service Act, and for other purposes."

The bill would establish a commission to make a comprehensive study and investigation of all matters relating to the administration of the Universal Military Training and Service Act.

Last year in appearing before your committee in support of extension of the induction provisions of the Universal Military Training and Service Act, Assistant Secretary Paul testified that it was our considered judgment that extension of the induction authority was absolutely essential for meeting our military strength requirements. This view was shared by all of the agencies of the executive branch of the Government which are concerned with the operation of this act or with its impacts upon our civilian manpower situation. Experience during the period since Congress extended the induction authority has reinforced this judgment. For example, more than 150,000 inductees will be required in the current fiscal year in order to enable the Army to maintain its strength. This total is only slightly below the high induction volume in fiscal year 1962 and is higher than the total for any preceding year since fiscal year 1957.

Although the draft has thus been essential for meeting our manpower requirements, we recognize that the projected growth of the population of military service age during the next several years will create a set of circumstances whose implications require thorough study. For this reason the President has directed that the Department of Defense undertake a comprehensive and thorough study of all pertinent manpower policies, geared to the longer range implications and trends in our population and in military manpower needs. The study is designed to explore a wide range of possible alternatives to the existing system of military service obligation as we move toward the 1970's, including possible measures for a broader sharing of the service obligation as well as an appraisal of the circumstances under which inductions might be discontinued in future years.

In this study we expect to explore all aspects of our military manpower procurement and ultilization policies which have a bearing upon the need for the draft and on the length of service required, and to assess the broad national impacts of possible alternatives, as well as the immediate impacts upon military requirements and cost effectiveness in the Department of Defense. This study will be conducted in close collaboration with other agencies of the executive branch concerned with manpower problems, including the Department of Labor, the Department of Health, Education, and Welfare, and the Selective Service System. The study is scheduled for completion in 1 year.

These studies obviously do not preclude any concurrent investigation of these or related problems by the Congress. However, much of the basic information and research required for a thorough assessment of any alternatives to the present system could probably, in any case, be developed by the Department of Defense and other executive agencies concerned.

In view of these considerations, it is the position of the Department of Defense that establishment of the proposed Commission under S. 2432, would not, at this time, best serve the purposes for which it is designed.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

ROBERT S. MCNAMARA.

Mr. CASE. Mr. President, it is significant to note that in his letter the Secretary of Defense himself recognizes that the draft problem is not an exclusively military one. He said in his letter that the Department of Defense in its study expects to "assess the broad national impacts" of possible alternatives to the present draft system. The proper way to make such broad national assessments is by means of a diversely constituted Commission, as called for in S. 2432. A study by the Defense Department officials and military men alone would not be sufficient to consider all the ramifications of the draft problem. In fact, I believe the President's earlier expressed concern for assisting persons rejected by the Selective Service as physically or mentally unqualified demonstrates the need for a wider perspective on the draft, its effect, and its problems.

Lastly, and not of the least importance, S. 2432 insures congressional participation in the study. We should not wait until the Defense Department study is over to express our views and those of the people we represent. It is a fact that Congress in the past has devoted little attention to the draft problem. Last year the Senate passed the draft act extension after only about an hour's discussion. We should not permit ourselves to get into such a situation of helplessness and inactivity on a legislative matter affecting 500,000 or so volunteers and draftees each year.

Now we have time to study the future of this program. We should try to find the answers to such questions as these: Are present priorities for selection fair and equitable? Is the present draft law an efficient instrument for maintaining military manpower in the light of the increasing specialization imposed by modern military technology? How does the draft affect civilian needs for more and better trained professional people? What is the economic and social impact of the draft on young men reaching the draft age and making career plans?

These are the questions that should be considered by a panel of both military and civilian experts, such as envisioned by S. 2432, so that the Armed Services Committee and the Congress can have their findings and recommendations at hand before taking further action on our draft laws.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. KEATING. I yield.

Mr. COOPER. Mr President, I, too, commend the distinguished Senator from New York for his initiative in suggesting that a study of the draft procedure be made by an independent commission.

I am very happy that the Senator asked me to join in cosponsoring his resolution. I think the Senator is correct in pointing out that, if it were possible, it would be preferable to provide incentives and attract volunteers, rather than continue the draft. I must say that I do not believe that at present volunteers will adequately supply our military strength.

The Senator from New York has been in the armed services, and so have I. We served during World War II, and we know that the military services have changed since that time. But, we saw the tremendous waste of time in the training of many military personnel in our armed services. It occurred particularly in the training period. We remember the days of hurried up and intensive training, when the great emphasis would be placed upon continuous training and then the intervals, when for weeks and weeks little would be done. Does the Senator believe the proposed Commission will also look into this problem of the use of time in the armed services, because I have no doubt that it still continues.

Mr. KEATING. I hope so. Even during wartime, which is the time when the distinguished Senator and I served, we frequently encountered that problem. The stories that now come to me, in a time of relative peace, are accentuated manifold because the urgency is not now present.

I hope the study will involve a complete survey of the needs for military manpower and the best method of raising and using that manpower. I anticipate that the subject to which the Senator has so properly referred will be a part of such a study of the military organization. To find the same efficiency which would be required in an industrial enterprise or in some other area might perhaps be too much to expect. But certainly the problem to which the Senator has referred should be included in such a study.

Mr. COOPER. I believe so, too. It is correct that because of the complicated weapons systems, more time is required to train young men to man the systems, and it is necessary for them to remain in the armed services for longer periods of time. But if from the studies you propose, it develops that there are men who, because of greater ability, can learn present systems more quickly, and if also it is found that the armed services can make more effective use of time, it seems to me that it may be found that shorter terms of service than those required today are sufficient for drafted men.

Mr. KEATING. I believe that is quite possible. The very fact that modern preparation for conflict involves such technology as we face now—which was unknown even during World War II—means that the cost of training is also very much greater now than it was. For that reason I pointed out the great loss in resource involved when the reenlistment rate is so high.

For example, in Canada there is no draft, and enlistments are entirely voluntary. Their pay, I believe, is the highest pay of any army in the world, and they have great advantages in the way of education and other perquisites of the position. As a result, their reenlistment rate is extremely high. Even though they pay their men a great deal more—and I have approached the question entirely from the position of not knowing the answer and trying to find the answer—it might very well develop that, in dollars and cents, it would be actually much more profitable to our Government to use a system similar to the Canadian system, rather than our own. I am very grateful to both Senators for their participation in sponsorship of the proposed legislation, and also in the discussion, which has been very helpful.

CUTBACKS IN DEFENSE SPENDING IN NEW YORK

Mr. JAVITS. Mr. President, cutbacks in defense spending in a number of areas of substantial labor surplus in the State of New York involve false economy, because what the Government may save through such cutbacks, it will more than spend as a result of the additional unemployment which will be created.

If the administration wants to take credit for cuts in Defense Department spending, it must also accept full responsibility for the economic dislocation caused by cutback action.

The value of defense contracts to such areas in New York declined $5.6 million in the first three quarters of fiscal year 1964 over the same period a year ago.

The Department of Defense has a special responsibility toward labor surplus areas, since it often contributes to unemployment by shifts in procurement policy and by the closing of military installations. Cutbacks in contract awards to labor surplus areas represent false economy. Continued unemployment places a drag on the Nation's economy, and causes increased Federal spending for unemployment compensation, retraining, and welfare.

The whole question of how defense spending affects the Nation's economy—and particularly the individual communities, workers, and industries directly involved—must be increasingly the concern of Congress.

The Joint Economic Committee's Subcommittee on Defense Procurement would be the most suitable forum for this type of thorough investigation. On May 13, I urged the Senator from Illinois [Mr. DOUGLAS], chairman of both the committee and the subcommittee, to hold hearings on this matter at the earliest possible time.

Of the State's two major surplus areas, Buffalo suffered a $5.8 million decline in its share of prime defense contracts, while Utica-Rome increased its share by $24 million.

Of New York State's 20 minor areas of substantial labor surplus, 8 areas showed substantial declines while 12 showed relatively minor increases.

The four areas showing major declines were Plattsburgh, down $20.7 million; Newburgh-Middletown-Beacon, down $2.2 million; Amsterdam, down $1.1 million; and Elmira, down $1 million.

The four areas showing increases were Geneva-Canandaigua, up $728,000; Oneonta, up $231,000; Catskill, up $214,000; and Jamestown-Dunkirk, up $183,000.

I ask unanimous consent to have printed in the RECORD, as a part of my remarks, a table entitled "Trends in Prime Defense Contract Awards of $10,000 or More in New York State Areas of Substantial Labor Surplus."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Trends in prime defense contract awards of $10,000 or more in New York State areas of substantial labor surplus—1st 3 quarters of fiscal year 1964 compared to 1st 3 quarters of fiscal year 1963

[In thousands of dollars]

Areas and contract awards	July 1963–March 1964	July 1962–March 1963	Fiscal year 1964 compared to fiscal year 1963
Major:			
Buffalo:			
Total	68,897	74,701	−5,804
Preferred	419	975	−56
Utica-Rome:			
Total	28,603	4,572	+24,031
Preferred	1,465	64	+1,401
Minor:			
Amsterdam:[1]			
Total	1,392	2,513	−1,121
Preferred	304	422	−118
Auburn:[1]			
Total	357	827	−470
Preferred	41	432	−391
Batavia:			
Total	342	273	+69
Preferred	0	0	0
Catskill:[1]			
Total	214	0	+214
Preferred	0	0	0
Cobleskill:[1]			
Total	168	134	+34
Preferred	41	134	−93
Elmira:[2]			
Total	1,252	2,257	−1,005
Preferred	0	30	−30
Geneva-Canandaigua:			
Total	1,281	490	+728
Preferred	0	114	−114
Glens Falls-Hudson Falls:			
Total	133	38	+95
Preferred	0	0	0
Gloversville:[1]			
Total	685	753	−68
Preferred	21	23	−2
Jamestown-Dunkirk:[1]			
Total	1,924	1,741	+183
Preferred	345	96	+249
Medina-Albion:[1]			
Total	290	187	+103
Preferred	25	75	−50
Newark:			
Total	246	0	+246
Preferred	26	0	+26
Newburgh-Middletown-Beacon:[3]			
Total	3,677	5,829	−2,152
Preferred	293	246	+47
Ogdensburg[1]-Massena[1]-Malone:			
Total	487	543	−56
Preferred	160	306	−146

See footnote at end of table.

Trends in prime defense contract awards of $10,000 or more in New York State areas of substantial labor surplus—1st 3 quarters of fiscal year 1964 compared to 1st 3 quarters of fiscal year 1963—Continued

[In thousands of dollars]

Areas and contract awards	July 1963–March 1964	July 1962–March 1963	Fiscal year 1964 compared to fiscal year 1963
Minor—Continued			
Oneonta:			
Total	231	0	+231
Preferred	0	0	0
Perry: [4]			
Total	16	0	+16
Preferred	0	0	0
Plattsburgh: [1]			
Total	3,443	24,127	−20,684
Preferred	6	75	−69
Watertown:			
Total	2,053	1,893	+160
Preferred	0	39	−39
Watkins Glen:			
Total	12	0	+12
Preferred	0	0	0
Wellsville: [2]			
Total	45	376	−331
Preferred	0	0	0

[1] Areas of substantial and persistent labor surplus. Such areas are eligible for first preference in the awarding of Federal contracts placed under the provisions of defense manpower policy No. 4 and related programs.

[2] Removed as area of substantial unemployment, September 1963.

[3] Removed as area of substantial unemployment, October 1963.

[4] Removed as area of substantial unemployment, December 1963.

WARTIME EXCISE TAXES—LET THEM DIE

Mr. YOUNG of Ohio. Mr. President, I rise to express a fervent hope that instead of renewing the obnoxious wartime excise taxes which expire June 30, they should be permitted to die unwept, unhonored, and unsung. Excise taxes, such as the 10-percent tax on telephone users, were imposed along with taxes on luxury items, such as country club dues, expensive furs, expensive jewelry, liquor, and cigarettes. These were wartime levies. Forty-three products and services were taxed. These taxes were enacted in the first place in World War II. They were to be temporary taxes. Frankly, there is nothing so permanent as a temporary tax. We in the Congress shall be asked to extend for 1 year these excise or sales taxes now imposed not only on liquor, gasoline, country club dues, electric light bulbs, matches, ballpoint pens, leather goods, plane tickets, nightclub entertainment, and telephone bills, but also on other items and services. Sales taxes are, of course, excise taxes. They are discriminatory. In many instances they tax most those who have least. For example, taxing telephone users in the home, factories, and offices cannot be defended by valid arguments which could be made to continued taxing of country club dues. A 10-percent tax against telephone users is in reality an abominable tax. Telephone service is a public utility service. Yet, other public utilities, water, electricity, and gas, do not suffer by the imposition of such a discriminatory tax. While a tax on expensive jewelry is a tax on a luxury item, certainly excise taxes on inexpensive jewelry, for example, jewelry worth less than $100, cannot be justified, nor can a sales or excise tax on leather goods such as women's handbags have any justification whatever. Such taxes violate every sound principle of just taxation. They are regressive. Taxes should be levied by our Government based upon ability to pay. What justification can be advanced for taxing airplane travel? Such travel is necessary for businessmen, for the self-employed, also for individuals visiting members of their families.

I should like to point out parenthetically that when I make my frequent trips to Ohio, in order to see my constituents, I always pay the excise tax on airplane travel. But I am exasperated when I see lined up at the airplane ticket window, with tax-exempt slips, so that they do not pay the tax, some Washington bureaucrats who plan to visit their homes in Ohio. But a Senator who is visiting his constituents does pay the tax.

This sort of a tax is a penalty against people. In wartime, these taxes were levied to meet an emergency. Every effort must now be made to repeal these taxes, though the revenue brought in is needed by our Government. We simply must enforce more and greater economy in Government operations. Why should the Government discourage the purchase of a particular service? Perhaps a tax on furs exceeding $200 or $300 is justifiable. Admittedly, however, in some sections of the United States a fur coat could be considered a necessity. Even the present tax of 10 percent on night clubs, called the cabaret tax, has extremely bad feasures. It siphons off cash that should be going into the pockets of waitresses, musicians, and bartenders. These people, if they received more for their services, would doubtless spend that extra money; and that would help stimulate the economy of our country. Automobiles, for example, are so greatly needed that taxes on automobile parts should be removed. Sales taxes, or excise taxes, are not only discriminatory, but the line of demarcation is frequently nebulous. For example, consider the taxes levied against toilet preparations and hair dressings. Some bureaucrat ruled that dandruff removers are not taxable. Also consider the fact that products concerning which no claim is made about "improving one's personal appearance" are taxable. A manufacturer of a dandruff remover would have his product taxed if he were careless about his advertising. These excise taxes are wartime fiscal relics. They are economically unsound. It was never intended that they would become permanent. In fact, at the time of the war they represented an attempt to discourage purchases of a particular service or product. Travel by airplane for pleasure was definitely discouraged during World War II, as was the use of our highways. These taxes, ranging from 5 to 20 percent, are patchwork levies resulting in confusion. Remember the date, June 30. Let us hope that many of them will be permitted to die unwept, unhonored, and unsung.

TRIBUTE TO MR. WILLIAM PETTUS HOBBY, FORMER GOVERNOR OF TEXAS

Mr. YARBOROUGH. Mr. President, the State of Texas is saddened by the passing of former Governor William Pettus Hobby, owner of the Houston Post and Houston television station KRPC–TV.

Governor Hobby served Texas during the troubled years of World War I. His 3½ years in the governorship from 1917 to 1921 called upon him to steer Texas throughout World War I, with the draft and rationing, through demobilization, and then hard drought, followed by great floods.

It was a period of change with automobiles coming into widespread popular use, and airplanes and airfields beginning to dot Texas. Governor Hobby was a friendly, broadminded Governor, giving all of his talent to his State and wasting none of it on petty personal vendettas.

He has a place in Texas history for his leadership without egotism, and his ability to govern his State well in a period of rapid transition with a minimum of friction. His thoughtful leadership made his administration a credit to Texas.

Following his service as Governor, he served Texas as a publisher in the State's largest city. As editor of the Houston Post, he was a moving influence, not only in metropolitan Houston, but in the State and Nation as well.

The PRESIDING OFFICER. Is there further morning business? If not, the Chair lays before the Senate the unfinished business.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney

General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. McNAMARA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McNAMARA. Has morning business been concluded?

The PRESIDING OFFICER. Morning business has been concluded.

Mr. McNAMARA. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EFFECT OF SUBSTITUTE PROPOSAL ON TITLE II OF H.R. 7152

Mr. MAGNUSON. Mr. President, at this time I shall speak on the effect the Dirksen, Mansfield, Humphrey, and Kuchel substitute to H.R. 7152 would have upon title II of that bill.

Several weeks ago I spoke at considerable length and in some detail about the provisions of title II. At that time I discussed the constitutionality, wisdom, and effect of the language of that title as it now reads. My purpose today is to merely comment upon the changes in that title suggested by the proposed substitute. The changes are few, yet of considerable importance to the effectiveness and intent of this title.

The changes proposed for title II deal solely with the procedures by which redress is to be obtained for violations of its terms. And the procedures provided by the amendments to this title squarely place the emphasis on voluntary compliance and State or local solutions to problems of discrimination on account of race, color, religion, or national origin by included establishments.

This does not mean that the bill is ineffective or unenforceable as it now reads; rather, it means that the clear intent of title II, that problems of discrimination in public accommodations affecting interstate commerce, or discrimination, supported by State action, would be resolved primarily on the local level with a residual right of Federal enforcement to be realized through these amendments.

The basic changes in the enforcement provisions are as follows:

First. As the bill presently reads, an aggrieved person could initiate suit without first attempting to secure redress under State or local public accommodations laws covering the practice alleged. The substitute would provide that an aggrieved party cannot initiate suit in Federal court until 30 days after he has given notice to the appropriate State or local authorities where such laws exist.

This matter was subject to a great deal of discussion in the Senate Commerce Committee when the committee was in the process of writing up what is known as the committee bill on title II, which is now on the Senate Calendar and which was, of course, amended by the House bill which we are now discussing, and further amended by the so-called substitute on the Senate desk.

Thus, the State or local authorities—and I am speaking of the substitute—would be given at least 30 days' exclusive jurisdiction over the matter before a private suit may be instituted in Federal court. And the Federal court could stay Federal action beyond that time, pending determination of State or local enforcement proceedings, if it so desired.

Second. Where an individual has been discriminated against in a State where there is no State or local public accommodations law, the right to bring suit for relief in Federal court immediately with a waiver of fees, costs, and security, and with the court appointment of an attorney, would be provided for by the substitute title II. In other words, where the State or locality has no effective public accommodations law then the private individual could institute suit in Federal court without meeting the condition precedent to suit discussed above.

Third. Under the substitute title the Attorney General is authorized, with permission of the court, to intervene in suits instituted by an aggrieved party. However, under the substitute title II, the Attorney General could not institute suit on behalf of an aggrieved party as would be the case under the present wording of the bill.

Fourth. The substitute bill gives the Attorney General the right to institute suit only when he has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of a nature intended to deny the full exercise of the rights described in title II. The Attorney General would also be authorized to request the appointment of a three-judge court to hear such cases alleging a pattern or practice of discrimination.

Fifth. In the case of a private suit alleging discrimination in a State or locality without a public accommodations law, the court could, under the substitute title II, refer such a case to the Federal Community Relations Service for efforts to settle the dispute by voluntary methods. Senators may recall that the Community Relations Service is established by title X of the bill.

In short, these are the changes in title II proposed by the substitute bill. There is no change in the duty placed upon the operators of included establishments, the right to nondiscrimination remains unchanged, and the types of establishments subject to the provisions of the title remain the same. As chairman of the Committee on Commerce, I spent many long weeks last summer studying the problems of providing an effective and workable Federal public accommodations law. As the Senate knows, after exhaustive hearings, the Committee on Commerce reported to the Senate a comprehensive bill (S. 1732), dealing with that subject. In addition, as Senator in charge of the bill for title II of H.R. 7152, I spent considerable time familiarizing myself with the language of the bill. On the basis of my careful study of this area, I am convinced that the substitute proposal for title II preserves the fundamental purpose of public accommodations legislation while effectively fulfilling a philosophy of voluntary compliance and local solutions to problems of discrimination in public accommodations.

So that the provisions of the substitute proposal may be readily understood, I shall at this time briefly describe the complete title as it would read if the substitute proposal is adopted.

Section 201(a) declares the basic right to equal access to places of public accommodation, as defined, without discrimination or segregation on the ground of race, color, religion, or national origin.

Section 201(b) defines certain establishments to be places of public accommodation if their operations affect commerce, or if discrimination or segregation in such establishments is supported by State action. These establishments are: First, hotels, motels, and similar businesses serving transient guests, except those located in a building which has not more than five rooms for rent and which is actually occupied by the proprietor of the establishment as his residence; second, restaurants, lunch counters, and similar establishments, including those located in a retail store; and gasoline stations; third, motion picture houses, theaters, and other places of exhibition or entertainment; and fourth, establishments which either contain, or are located within the premises of, any establishment otherwise covered, and which hold themselves out as serving patrons of the covered establishment.

Section 201(c) provides the criteria for determining whether the operations of an establishment affect commerce. Hotels, motels, and similar establishments which serve transient guests are declared to do so if they are included within the description contained in section 201(b)(1). Restaurants, lunch counters, and similar establishments, and gasoline stations affect commerce if they serve interstate travelers or a substantial portion of the food or gasoline they sell has moved in interstate commerce. Motion picture houses, theaters, or other places of entertainment are declared to affect commerce if they customarily present films, performances, athletic teams, exhibitions, or other sources of entertainment which move in interstate commerce. Finally, an establishment within the description contained in subsection 201(b)(4) is declared to affect commerce if it is located within the premises of, or there is located within its premises, an establishment the operations of which affect commerce.

Section 201(d) delineates the circumstances under which discrimination or segregation by an establishment is supported by State action within the meaning of title II. Discriminatory practices are treated as so supported, first, if carried on under color of any law, statute, ordinance or regulation; or two, if carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or third, if required by action of a State or any of its political subdivisions.

Section 201(e) exempts bona fide private clubs or other places not open to the public, except to the extent that their facilities are made available to customers or patrons of a covered establishment.

Section 202 requires nondiscrimination in all establishments and places—whether or not within the categories described in section 201— if segregation or discrimination therein is required or purports to be required by any State law or ordinance.

Section 203 lays the foundation for suits by providing that no one shall deprive or attempt to deprive any person of any right or privilege secured by section 201 or 202, or interfere or attempt to interefer with the exercise of any such right or privilege.

Section 204(a): The changes proposed by the substitute for title II are contained in section 204. Therefore, I shall speak in some detail about the provisions of section 204. Section 204(a) provides that whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief including an application for a permanent injunction, restraining order, or other order may be instituted by the person aggrieved and, upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such a civil action. This discretionary right of intervention is the only means by which the Attorney General is allowed to be involved in a suit by any aggrieved person alleging a violation of title II outside the scope of section 902. Section 902 allows the Attorney General to intervene when certain violations of the 14th amendment are involved. Upon application by the person aggrieved, and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security. In other words, relief would be available for persons being denied their rights under title II who for financial or other reasons would be unable to bring and maintain a law suit without this assistance by the court.

Section 204(b) provides that in any action instituted pursuant to title II the court could in its discretion allow the prevailing party other than United States a reasonable attorney's fee as part of the cost. Such language is necessary for in its absence the court could not award attorneys' fees as they are not considered costs under the Federal Rules of Civil Procedure. Section 204(b) further provides that the United States shall be liable for costs the same as a private person.

Section 204(c) concerns a situation in which an alleged act or practice prohibited by this title occurs in a State, or political subdivision of a State, which has has a State or local law prohibiting such act or practice and such law provides for a State or local authority to grant relief from such practice or to institute criminal proceedings with respect to such practices. In such a case, section 204(c) provides that no civil action may be brought by the aggrieved person under subsection (a) of section 204 before the expiration of 30 days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings. Thus, even though the 30-day period may have elapsed and the aggrieved person is allowed to institute suit in the Federal court, the Federal court could stay its proceedings pending a completion of the State or local enforcement proceedings.

Section 204(d) concerns a situation in which an alleged act or practice prohibited by this title occurs in a State or political subdivision of a State which has no State or local laws prohibiting such acts or practices. Section 204(d) provides that in such instances a civil action may be instituted by the aggrieved person under section 204(a) provided that the court may refer the matter to the Community Relations Service established by title X for as long as the court believes there is a reasonable possibility of obtaining voluntary compliance, but not for more than 60 days. However, if upon the expiration of the 60-day period the court believes there still exists a reasonable possibility of securing voluntary compliance by use of the Community Relations Service it may extend the period of referral for an additional period, not to exceed a cumulative total of 120 days. In other words, the substitute proposal seeks to obtain voluntary compliance and voluntary solutions to problems involving discrimination in public accommodations even where there is no effective State law providing redress for such practices.

Section 205 provides that the Community Relations Service, to which is referred suits arising in States or localities having no State or local law prohibiting such discriminatory acts or practices, is authorized to conduct a full investigation of any complaint referred to it by the court under section 204(d) and it may hold such hearings with respect thereto as may be necessary. The Service shall conduct any hearings with respect to any such complaint in executive session, and shall not release any testimony given therein, except by agreement of all parties involved in a complaint with the permission of the court, and the Service shall endeavor to bring about a vountary settlement between the parties.

It is to be reasonably assumed that the discretionary referrals under section 204(d) and section 205 will greatly enhance the purposes of title II while at the same time reducing the necessity for Federal court orders in many cases. The experience of over 30 States having public accommodations laws is that most controversies involving an allegation of discrimination by a public establishment can be effectively and fairly settled by voluntary procedures such as are provided by sections 204(d) and 205 of the substitute proposal for title II.

Section 206 of the substitute proposal concerns those situations in which the Attorney General may institute suit under this title. Section 206(a) provides that whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights described in title II, the Attorney General may bring a civil action in the appropriate district court of the United States. Such a suit is instituted by filing with it a complaint, first, signed by the Attorney General—or in his absence the Acting Attorney General; second, setting forth facts pertaining to such pattern or practice; and third, requesting such preventive relief, including an application for a permanent or temporary injunction or restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights described in title II.

In such cases the Attorney General need not refer the complaint to the Community Relations Service, although he could if he wanted to. Nor would the Attorney General be required to refer the matter to State or local authorities for exhaustion of State or local remedies before going ahead with his suit.

Section 206(b) provides that in any such proceeding by the Attorney General he may file with the clerk of the court a request for a three-judge court to hear and determine the case. Such a request by the Attorney General would have to be accompanied by a certificate that, in his opinion, the case was of "general public importance." A copy of the certificate and request for a three-judge court would be immediately furnished by such clerk to the chief judge of the circuit in which the case is pending. Upon receipt of the copy of such request it would be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, at least one of whom must be a circuit judge and another of whom must be a district judge of the court in which the proceeding was instituted, to hear and determine such case. It would be the duty of the judges so designated to assign the case for hearing at the earliest practical date and to cause the case to be in every way expedited. An appeal from the final judgment of the three-judge court would lie to the Supreme Court.

The Attorney General need not file a request for a three-judge court, and if he should not request a three-judge court it shall be the duty of the chief judge of the district—or in his absence the acting chief judge—in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the District is available to hear or determine the case, the chief judge of the district, or the acting chief judge as the case may be, shall certify this fact to the chief judge of the circuit—or in his absence the acting chief judge—who shall then designate a district or circuit judge of the circuit to hear and determine the case.

To summarize, the Attorney General can initiate suit under title II only when he believes there is a pattern or practice of discrimination designed to perpetuate discrimination in violation of title II. An example of such a pattern or practice would be a situation in which all or most of the restaurants in a city or town refused to serve persons on account of their race, color, religion, or national origin. Another example of a practice or pattern of discrimination would be the situation in which a dominant hotel or restaurant refused to comply with the provisions of title II and because of its dominant position other hotels or restaurants in competition with the dominant establishment were unable to comply with title II. Action against this key establishment would be surely warranted. Or if a chain of included establishments, such as a chain of hotels or motels, refused to comply with the provisions of title II, then a practice or pattern of discrimination would occur thus allowing suit to be instituted by the Attorney General under the proceedings heretofore mentioned.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. MAGNUSON. I wish to finish my speech; then I shall be glad to yield. I have only until 2 o'clock in which to complete my speech. Then I shall be glad to yield.

Under the substitute proposal for title II, therefore, the Attorney General could be involved in cases alleging discrimination in public accommodations in only two situations. The first would involve intervention at the discretion of the court in a suit instituted by an aggrieved party. The second situation would be that in which a practice or pattern of discrimination in violation of title II occurred. The Attorney General is authorized to institute suit for violations of title II only in the latter instance.

Section 207(a) of the substitute title is the same as section 205(a) in the bill as it now reads. It grants Federal district courts jurisdiction over proceedings instituted pursuant to title II, without regard to whether the party aggrieved has exhausted any other remedies.

Section 207(b) incorporates the provisions of section 205(b) of the bill as it now reads and declares that the remedies provided in title II shall be the exclusive means of enforcing the rights created by title II, but that individuals or States or local agencies are not precluded from seeking other available State or Federal remedies to vindicate rights otherwise created. Thus, State antidiscrimination laws not inconsistent with title II would not be superseded. In fact, as I have explained, their continuation in force and effect is an integral part of the scheme of title II.

Section 205(c) of the bill as it now reads making the jury trial provisions of the Civil Rights Act of 1957 applicable to contempt proceedings under title II is omitted by the provisions of the substitute title II. Title XI of the substitute bill is a new title dealing with jury trial in cases of criminal contempt. It provides that in the event a criminal contempt proceeding is tried before a judge without a jury the aggregate fine shall not exceed the sum of $300 nor any cumulative imprisonment exceed 30 days. All criminal contempts arising out of violations of title II would be subject to the provisions of title XI.

Mr. President, I should like to make some general comments about title II of the pending bill. I would point out that this title is in fact far more moderate than in most of those statutes existing in the 30 States now enforcing public accommodations legislation. Title II gives no right to damages to the injured party, nor does it provide any criminal penalties to those who violate its provisions. The most that can happen to one who violates the law laid down by title II is that he will receive an order from the court compelling him to comply with that law he had originally violated.

As is readily apparent from a reading of these provisions, title II concentrates on categories of public establishments which are a continuing and substantial source of discrimination and as to which Federal legislation can offer prompt and effective relief. The types of establishments covered are clearly and explicitly described in the four numbered subparagraphs of section 201(b). An establishment should have little difficulty in determining whether it falls in one of these categories. If it provides lodging to transient guests, it is covered by section 201 unless it has not more than 5 rooms for rent and is actually occupied by the proprietor as his residence. Establishments which sell food on the premises and gasoline stations, may be expected to know whether they serve or offer to serve interstate travelers, or whether a substantial portion of the products they sell have moved in commerce. Similarly, a place of exhibition or entertainment may be expected to know whether it customarily presents sources of entertainment which move in commerce. Finally, any establishment may be expected to know whether it is physically located within, or contains, a covered establishment.

Moreover, in every case, a judicial determination of coverage must be made prior to the entry of any order requiring the owner to stop discrimination. Thus, no one would become subject to any contempt sanctions until after it has been judicially determined that his establishment is subject to the act and he has been ordered by the court to end this discrimination, and he has violated that court order.

Mr. President, I would further point out that the U.S. Supreme Court has twice sustained the validity of public accommodation laws more stringent than the provisions of title II of this bill. Also I would call attention to the Mississippi Supreme Court decision of *Donnell v. State* (48 Miss. 661 (1873)), in which the Mississippi State Supreme Court unanimously upheld the constitutionality of a public accommodations law more severe than the provisions of title II. I would call attention also to the letter and memorandum addressed to Senators HUMPHREY and KUCHEL, signed by 22 eminent lawyers, upholding the constitutionality of title II and title VII of the pending bill, which appeared in the CONGRESSIONAL RECORD on Tuesday, April 7, 1964. Senators may recall that among the signers of that letter and memorandum were three past Attorneys General of the United States—Francis Biddle, Herbert Brownell, and William P. Rogers—and four past presidents of the American Bar Association—David F. Maxwell, John D. Randall, Charles S. Rhyne, and Whitney North Seymour.

The subject of title II is the equal rights of Americans. This is hardly new business on the national agenda. No subject is closer than this to our traditional values, to the character and quality of our national life, or to our image before the world. Our boast is that success in American life is proportionate to talent and character; yet, discrimination on the ground of race, color, religion, or national origin falsifies that boast every day.

The hard fact is that the American system of equality has, up to now, left out men and women whose skins were of another color. It is now time to abolish second-class citizenship as a century ago we abolished slavery.

There are still some—a few—who assert that what they call the Central Government has no proper role in dealing with this gravest of domestic issues. To preach this doctrine, in my view, is to preach a form of anarchism. The question of the role and responsibility of the National Government was definitely settled nearly a century ago. To ask the National Legislature to acquiesce in the continuance of national injustice is a plea for national irresponsibility. To rely solely for remedy on changes in the hearts of men who pride themselves on resistence to change is to sanction a national policy of default. Had the leaders of segregated areas taken significant steps in the past to remove racial barriers and injustices, the Congress would not be confronted by this situation today.

In summary, I would stress that the amendments to title II proposed by the Dirksen, Mansfield, Humphrey, and Kuchel substitute are amendments going only to the procedures by which redress is obtained for violations of that title. The right to be free from discrimination by included establishments remains unchanged, and the duty to refrain from such discriminatory practices is not affected. The amendments to title II are a logical clarification of the basic intent to provide peaceful and voluntary settlement of the persistent problem of racial and religious discrimination by establishments doing business with the general public. This intent was evident in the public accommodations bill reported by the Senate Committee on Commerce and in the present wording of title II.

Senators may recall that title II as it passed the House of Representatives provided that the Attorney General could, before instituting suit, utilize the services of any Federal, State, or local government agency available to seek compliance by voluntary procedures. Of course, the Attorney General could institute suit only after receipt of a complaint, after having notified appropriate State or local officials, and upon their request given them time to act under their laws before instituting court action unless it would be useless to notify such State or local officials. Clearly the intent of those provisions are to further the possibility of voluntary compliance to disputes arising under title II, and to provide State or local solutions to such disputes if voluntary compliance is unsuccessful.

Similarly, S. 1732, the public accommodations bill reported by the Committee on Commerce following weeks of hearings and many days of executive sessions, placed great emphasis on voluntary settlement of the persistent problem of racial and religious discrimination. That bill, much like the substitute proposal now under discussion, established a condition precedent of 30 days written notice to a State agency or instrumentality authorized to deal with such disputes before suit could be instituted by the aggrieved party in Federal court. In addition, under S. 1732, the Attorney General could not institute suit without first having referred the case for voluntary settlement to an appropriate agency or permitting State or local laws to be utilized unless referral to an appropriate agency of State law would be unsuccessful.

As stated on page 2 of the report of the Committee on Commerce on S. 1732:

> In brief, the measure speaks on the problem solving level with primary reliance placed on voluntary and local solutions. Only when these efforts break down would the residual right of enforcement come into play.

Many weeks of careful hearings and many days of deliberation by the members of the full Committee on Commerce resulted in the conclusion that an effective and workable public accommodations law must place the emphasis on voluntary and local solutions, with Federal enforcement coming into effect only when local solutions fail. The findings and conclusions of the Committee on Commerce are well and amply served by the carefully drafted and explicit provisions of the proposed substitute title II.

Mr. President, I suggest the absence of a quorum.

Mr. HOLLAND. Mr. President, I wish the Senator would reserve his suggestion, and would allow me to ask that he be permitted to have 3 minutes in which to have questions submitted to him.

Mr. MAGNUSON. Mr. President, I shall be glad to do so. I merely suggested the absence of a quorum because the hour of 2 o'clock is mentioned in the unanimous-consent agreement.

Mr. MORTON. Mr. President, I yield 3 minutes of my time for the purpose of this colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the pertinent part of the unanimous-consent agreement.

The legislative clerk read as follows:

UNANIMOUS–CONSENT AGREEMENT

Ordered, That: 1. On Monday, June 8, next, beginning at 2 p.m. the Senate proceed to the consideration of amendment No. 869, proposed to the pending bill with debate limited to 2 hours on a side, to be controlled by the proponent of the amendment and the majority leader respectively; that at the conclusion of such 4-hour debate, vote on the amendment shall be postponed until immediately after the ascertaining of a quorum following the convening of the Senate on Tuesday, June 9, next.

Mr. MORTON. Mr. President, the amendment is now before the Senate, is it?

The PRESIDING OFFICER. Yes.

Mr. MORTON. Mr. President, I yield 3 minutes of my time to the Senator from Florida for colloquy with the Senator from Washington.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. HOLLAND. I thank the Senator from Kentucky.

I wonder whether the Senator from Washington would care to comment on the part of title II which has seemed to cause most concern nationally, and certainly in the State which I represent. That is the portion which says that establishments which are located physically within hotels are also bound by this antidiscrimination law—such establishments as those that involve peculiarly intimate physical relationships, such as barber shops, beauty shops, Swedish massage establishments, and others of that type. Has the Senator, like myself, had objections to the inclusion of services of that type within the coverage of this act?

Mr. MAGNUSON. The Committee on Commerce, of course, went into that matter, and heard a considerable amount of testimony on both sides. The matter did concern the Senator from Washington. But finally this provision was interpreted as meaning the inclusion of establishments of this type when in establishments covered by section 202. That provision is also in the two other bills.

Mr. HOLLAND. Mr. President, that is my understanding

Mr. MAGNUSON. A barbershop in a large hotel catering to transients would involve interstate commerce, and, I think, would be included

Mr. HOLLAND. That is my understanding, too. I ask the distinguished Senator whether it is a fact that in his State there has been difficulty under the FEPC law, particularly with respect to barbershops, about requiring white barbers to serve colored citizens who come in for service.

Mr. MAGNUSON. I cannot cite the cases.

The PRESIDING OFICER (Mr. McIntyre in the chair). The time of the Senator has expired.

Mr. MORTON. Mr. President, I yield 2 more minutes of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. In the State of Washington, the public accommodations law has been in effect for some 17 years. It has been amended once or twice. But there have been some cases in which there have been problems. So far as I know, they have been settled. I know of no pending cases that have caused any trouble. I know of no one who has been penalized to any degree. There may have been some injunctions, but no penalties, I believe. However, I would have to verify that.

There is always trouble in these matters when people are discriminated against. Our State fair employment practices commission handles many cases. I am not very familiar with the individual cases.

Mr. HOLLAND. I thank the distinguished Senator.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the Record an answer I have prepared to the question: "Why only the Attorney General may request a three-judge court under the substitute title II."

There being no objection, the statement was ordered to be printed in the Record, as follows:

WHY ONLY THE ATTORNEY GENERAL MAY REQUEST A THREE-JUDGE COURT UNDER THE SUBSTITUTE TITLE II

Section 206(b) of the substitute bill provides that the Attorney General when instituting suit alleging a practice or pattern of discrimination may file with the clerk of the court a request for a three-judge court to hear and determine the case. The purpose of this provision is to expedite the determination of such cases with a direct appeal to the U.S. Supreme Court.

The question has been raised as to why in title I dealing with voting rights, the defendants as well as the Attorney General may request a three-judge court, while under title II and title VII only the plaintiff may request a three-judge court.

There are several reasons leading to this result that well justify the distinction in procedure between title I and titles II and VII. Suits under title I will be involving deprivation of the right to vote. In all probability the defendants in such cases will be State or local officials. As such, their interest in the handling of the case will be similar, and they may be expected to be agreed upon whether a three-judge court is advisable. In contrast, under titles II and VII the defendants may not be State officials but may be varied private individuals. It is quite possible that one of the several defendants may desire a three-judge court while others of the defendants may not wish to be tried by a three-judge court. Obviously, practical problems arise as to what must be done when one or several of the defendants request a three-judge court while the other defendants may not desire such action. As suits by the Attorney General under title II and suits involving a possibility of a three-judge court under title VII will involve a pattern or practice it is anticipated that most cases will inolve a substantial number of defendants. It is apparent, therefore, that the problems as to whether the defendants should receive a three-judge court are multiplied.

There is also the very real problem of the availability of judicial personnel to hear and determine such cases. When the Attorney General has the right to seek a three-judge court, he may reasonably be expected to not request such under every circumstance. Rather, he will take into consideration the number of justices available to hear and determine such cases, the calendar of the court, and the workload of the judges. As his purpose will not be to seek delay in the course of justice, he would not request a three-judge court when such a request would result in delay. On the other hand, the defendants involved in a suit involving a pattern or practice of discrimination may wish to stall or drag out the judicial process with the idea that justice may be avoided. As such they may be expected to request a three-judge court when, as a practical matter, a speedy determination by a three-judge court would be impossible due to heavy court calendars.

Mr. MORTON. Mr. President, is the Senator from Washington, acting as majority leader, controlling the time?

The PRESIDING OFFICER. That is correct.

Mr. MORTON. Mr. President, I request that I may suggest the absence of a quorum, with the understanding that the time required for the quorum call will be charged equally to both sides.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, with the understanding that the time is to be charged equally to each side.

The PRESIDING OFFICER. Without objection, it is so ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORTON. Mr. President——

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

Mr. MORTON. I yield myself such time as I may require.

Mr. President, I have been asked by many Senators about the differences between the pending amendment and the amendment which the Senate debated at length, voted upon, and defeated by a very close margin of one vote several weeks ago.

The differences are substantive and real.

The pending amendment would not permit a jury trial for criminal contempt in any proceeding that would arise under title I of the pending measure. That is the so-called voting rights title. The amendment would also repeal the paragraph of the 1957 act which permits a judge to sentence a defendant without granting the right of trial by jury in a criminal contempt case, if the penalty is limited to 45 days in jail or a $300 fine, but would require the right of jury trial in any case in which the punishment would be in excess of those two limits.

So what we have accomplished by the pending amendment, which differs sharply from the amendment offered some 3 weeks ago, is that in cases involving voting rights, the judge clearly could use the power of the court under criminal contempt procedures, as he can today under provisions of the criminal code.

Why should voting right procedures be singled out from other provisions of the bill? For one very good reason: In that area of activity, civil contempt procedures indeed would do no good. A citizen might go to the polls and be denied the right to vote—even though he might be properly registered—by the whim of an election official. Or perhaps a citizen might be prevented from registering as a result of the whim of a county clerk, a registrar, or some other public official of some political division of our country. Nothing could change the situation after the polls had closed. The man who had been denied the right to vote still could not vote. Therefore, I believe a judge should have the power to apply criminal contempt procedures with a jail sentence or a fine to such an official who should know the law. The defendant would not be an innocent man who might be running a hamburger stand and who might not know the law; the defendant certainly should know the law, and the case would arise after the fact. The opportunity to vote in that particular election would be gone. For that reason, I believe a judge should have the power to punish.

For many years I have said many of the problems with which we are attempting to deal in House bill 7152 could be solved at the ballot box. If many members or all members of minority groups in all areas of the country were permitted to vote freely, we would not have the school problems we now have, and we would not have questions of integration and segregation. It seems to me that in our country the ballot box could make its weight felt. For that reason I have altered the amendment, so as to be sure the sanctity of the ballot is preserved and to be sure all elements of our society—all people, regardless of race, creed, or origin—will be able to express themselves freely at the ballot box. If such a procedure is maintained, many of the problems that face us today will be solved.

Mr. President, the amendment goes to the vitals of our whole system of jurisprudence. A great deal in the bill is new, and is in a new field of legislation. The right of trial by jury in cases of criminal contempt for the people in most cases should be guaranteed and reguaranteed. However, on the question of voting rights, those who would be subject to a charge of contempt if they were to violate the law are in all cases elected or appointed officers of the State, county, or some political subdivision thereof. I think the exception can and should be made.

Mr. President, in view of the two substantive changes stated—the elimination of title I and the elimination of the privilege of the right to trial by jury under the 1957 act, which dealt primarily with voting procedures—when the vote comes on the amendment tomorrow, I hope it will be adopted.

I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. MORTON. I yield.

Mr. MAGNUSON. As the Senator knows, last year the Committee on Commerce conducted some long hearings on one title of the bill. They were some of the most exhaustive hearings the committee has ever held. We heard a great deal of testimony from many prominent lawyers, deans of law schools, and others, on both sides of the issue. At that time the committee came to a conclusion which, in substance, is generally in line with what the Senator from Kentucky has proposed. We did not feel we should, under our American traditions, recommend abrogation of the right of trial by jury.

Mr. MORTON. The Senator is correct.

Mr. MAGNUSON. A similar provision was included in the bill we reported. I did not hear the beginning of the Senator's speech, but I understand that his amendment, which will be voted on tomorrow, is similar to what the Committee on Commerce agreed to, with one exception, which I did not hear the Senator point out.

Mr. MORTON. Yes, it is similar. As the distinguished chairman well knows, the Committee on Commerce was merely dealing with title II of the bill.

Mr. MAGNUSON. Yes.

Mr. MORTON. We wrote into that title a provision which would require the right of trial by jury in criminal contempt cases that might arise under that title.

Mr. MAGNUSON. The Senator is correct.

Mr. MORTON. My amendment would not in any way affect the right of trial by jury under titles II, III, IV, V, VI, and VII. My amendment would except it only under title I and the 1957 act, because those indeed deal with the issue of voting rights, which has been through the Court. The Court has ordered the registrars to permit the petitioners to vote. If a registrar were to defy the Court, the Court would have a right to punish the offender, through criminal contempt procedures, without the right of trial by jury. But the purpose and effect of my amendment is to do exactly what the Commerce Committee did in the case of title II and the other titles of the bill, but not title I.

Mr. MAGNUSON. I thank the Senator from Kentucky.

Mr. MORTON. I thank the Senator from Washington.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and ask that the time required be taken out of the time available to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORTON. Mr. President, I ask for the yeas and nays on the question of agreeing to the pending amendment.

The yeas and nays were ordered.

Mr. MORTON. Mr. President, I yield such time as may be needed to the distinguished Senator from North Carolina [Mr. Ervin].

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I thank the able and distinguished Senator from Kentucky for yielding to me. I am one of the cosponsors of the amendment which has come to be known as the Talmadge amendment. The Morton amendment, which is now the pending business, is narrower in its scope than the Talmadge amendment. The Talmadge amendment would give the right to a trial by jury to the accused in all criminal contempt proceedings arising under any acts of Congress. The Morton amendment, as I construe it, would be restricted to criminal contempt proceedings arising under the pending bill.

It would not extend to so broad a segment as the amendment which the able Senator from Kentucky [Mr. MORTON] offered some time ago, and which came within one vote of being adopted by the Senate.

As I construe the present Morton amendment, it would give the right to a trial by jury to the accused in all criminal contempt proceedings arising under all the titles of this bill, except title I. The pending amendment would not apply to criminal contempt proceedings arising under title I of the pending bill.

Title I relates to voting rights.

Since voting rights are fixed by constitutional provisions which have been in effect for approximately 100 years a very good case can be made for the proposition that there is sound reason for distinguishing between criminal contempt proceedings arising out of voting rights cases and those arising under the new provisions of the pending bill, which would undertake to create new rights never heretofore in existence.

The Senate should adopt the Morton amendment because it would correct what I honestly conceive to be the most disgraceful procedure known to Federal law—that is, the procedure which governs criminal contempts arising under acts of Congress.

I say this because unless a particular criminal contempt proceeding comes within the purview of the Clayton Act, or the Norris-La Guardia Act, the existing Federal law denies the accused the right to a trial by jury. I join the overwhelming majority of the American people in believing that the right of trial by jury is the most precious of all civil rights.

The Morton amendment in its present form would guarantee the right to a trial by jury at the option of the accused in all criminal contempt proceedings arising under all the provisions of this bill, except title I. Consequently it would secure to the accused in all criminal contempt proceedings arising under all titles of the bill except title I, one of the basic civil rights to which all Americans should be entitled.

I will note at this point another serious objection to the existing Federal law on this subject; that is, that in the absence of an amendment of this character, there would be no limitation on the punishment which could be imposed in criminal contempt proceedings arising under most of the provisions of the bill. The Federal courts have held that a person can be imprisoned for as much as 4 years on a trial for criminal contempt before a judge, without a jury in the absence of an act of Congress limiting punishment. The Federal courts have further held that there is no limitation upon the punishment that can be imposed in criminal contempt proceedings not covered by the Norris-La Guardia Act or the Clayton Act, except the very nebulous limitation imposed by the eighth amendment, prohibiting the imposition of excessive fines and the infliction of cruel or unusual punishments.

Therefore, Mr. President, the pending amendment, offered by the able and distinguished Senator from Kentucky, would do away with this condition, which I consider to be disgraceful in any system of law which professes an interest in justice.

A man convicted in a criminal contempt proceeding, instituted under a Federal law not covered by the Clayton Act or the Norris-La Guardia Act, does not have the protection that a man has in a felony case, because in a felony case a may cannot be tried unless he is first indicted.

The Federal courts have held that in ordinary criminal contempt proceedings not covered by the Clayton Act or the Norris-La Guardia Act an accused has no right to the constitutional provision applicable to criminal cases; namely, that they must be tried in the district in which they arose.

The pending amendment would do away with this phase of the law with respect to criminal contempt. I think this wise because any fair system of law must require that criminal contempt proceedings be tried at a place where the witnesses are readily available. The Morton amendment is a reasonable amendment because it provides for a trial by jury for the same kind of limitation on punishment which is provided under the Clayton Act, which restricts the punishment of a natural person to not more than 6 months' imprisonment or a fine of not more than $1,000, and for a place of trial where the witnesses are readily available.

While it is not as broad as I should like it to be, and while I should like to have the Senate adopt the Talmadge amendment, which would provide a jury trial across the board with respect to criminal contempt proceedings arising under any congressional enactments, the pending amendment is an amendment in the right direction. It is an amendment which will place the bill in a more favorable position in the eyes of the American people. I am convinced that the great majority of the American people believe in the right of trial by jury, and believe that no man ought to be punished in these cases unless he is first given the right of trial by jury. It is a good amendment.

Since the Senate came very close to adopting the other jury trial amendment which was somewhat broader in scope, there is some reason to believe that the Senate will adopt the pending amendment and make it a part of the bill with respect to the titles which undertake to grant new rights never before recognized by Federal law.

It is a simple amendment. It will give every accused in a criminal contempt proceeding under the new titles of the bill the right of trial by jury, and the right to limited punishment which a person now has who comes within the purview of the Clayton Act, that is to say, punishment which cannot exceed 6 months imprisonment or a fine of more than $1,000, and it secures to him a venue where the witnesses are readily available.

It is a reasonable amendment. I believe it ought to be adopted.

Mr. MORTON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Eighty-seven minutes.

Mr. MORTON. I yield 5 minutes to my senior colleague.

Mr. COOPER. Mr. President, as a supporter of the civil rights bill I rise to speak in support of the amendment offered by my colleague from Kentucky.

The jury trial issue has been discussed at length during the last 60 days. I shall not labor it.

I should like to say, however, that, despite many speeches which have been made in the Senate during the last 60 days on the jury trial issue, the courts have held that there is no constitutional right to a trial by jury in criminal contempt cases. It has been urged that such a right exists. However, there has never been any such right in the development of our legal system.

The Supreme Court has never held that such a right exists. It came fairly close to doing so in the recent case of United States against Barnett, when a minority of four, in its dissenting opinion declared that when the offense was grave and the punishment might be severe, that the Court should accord a jury trial in criminal contempt proceedings.

While no constitutional right has yet been declared, the Congress can provide a jury trial. It has seemed to me, following the recent decision, that the proper procedure would be to adopt an amendment to the bill which would give to the courts discretion to grant a jury trial in a contempt proceeding if it so chooses. By such procedure the Court could take into account the severity of the offense and punishment, and yet presume its authority to enforce its orders, without a jury, in line with the recent suggestion in United States against Barnett.

However, the issue before us today is whether Congress shall exercise its prerogative in granting jury trials in criminal contempt proceedings arising under certain titles of this act.

The amendment now being discussed presents the simple question of whether we shall give the right of trial by jury in every case involving criminal contempt under this act except with respect to voting rights, which has its own procedures under the 1957 civil rights bill. Our other choice would be to accept the proposal made by the majority and minority leaders. Their proposal is that in every case of criminal contempt arising under this bill, where the punishment would exceed 30 days or a $300 fine sitting without a jury trial shall be compulsory. In other cases, the court shall impose the punishment.

It seems to me that this second choice or procedure does not offer anything that conforms either with the time-honored practice, or with the recent Supreme Court case in United States against Barnett. We should either hold to the laws which have been established throughout the years, that the court has this authority to hear cases involving criminal contempt, without a jury, or we should provide for jury trials. The Mansfield-Dirksen amendment is neither. How can it be said that imprisonment for 30 days is not great imprisonment? To most men 1 day in jail, or even a few hours in jail, is just as much a disgrace as 2 or 3 years in jail is to a criminal.

These being the choices, I believe the proposal of my colleague is fair, and clear, and it should be adopted.

I have stated my views during this debate that there should be a distinction between titles I, III—(section 301)—and IV, which deal chiefly with offenses committed by officials who obstruct the court, and titles II and VII where cases would ordinarily be between individuals. I offered an amendment to give the Court discretion to impose punishment or grant a jury trial in cases of criminal contempt arising under titles I, III, and IV, and providing jury trials in all other cases, but the proposed amendment was defeated. There is hardly any difference between the amendment offered by the Senator from Montana [Mr. MANSFIELD] and the Senator from Illinois [Mr. DIRKSEN] and the law which now exists. Their amendment would not accord with present practice or with the Supreme Court decision in United States against Barnett. My colleague's proposal is in accord with the precedent established by Congress, that it can provide a jury trial, if it thinks it is fair and wise to do so. This amendment is just and reasonable. I am happy to support it. I believe the amendment should be adopted.

And may I say in closing, as one who has served as a judge, I have never given any strength to the argument that juries will not do their duty. I found that in the overwhelming majority of cases they try earnestly to do their duty.

Mr. MORTON. I thank my colleague.

I yield 5 minutes to the distinguished junior Senator from Georgia.

Mr. TALMADGE. Mr. President, I expect to support the amendment offered by the Senator from Kentucky. The only distinction between the amendment I have proposed and the one the distinguished Senator from Kentucky has proposed is that his amendment is limited to all criminal contempt cases that may arise under the pending bill, except those involving voting rights, or title I, which is covered under the Civil Rights Act of 1957.

Many eloquent speeches have been made in regard to the merits of trial by jury; but I do not believe that anything said on this subject has been more eloquent than the statement contained in a newsletter dated July 31, 1957, written by former Senator Lyndon B. Johnson to his constituents. The newsletter reads as follows:

WASHINGTON NEWS LETTER FROM LYNDON B. JOHNSON

JULY 31, 1957.

"Juries * * * have been the firmest bulwarks of English liberty."—THOMAS JEFFERSON.

DEAR FRIEND: The words above were written in 1789 by a great man—Thomas Jefferson. He was looking back on centuries of British history to find advice to guide the United States. Out of that history, he came to the conclusion that "the opinion of 12 honest jurymen gives still a better hope of right than any other method of determining the truth in a criminal case."

It is time to think about Thomas Jefferson. Clever lawyers have finally devised an adroit method to bypass the jury system. They are attempting to write this method into the law under the name of civil rights.

In its present form, the civil rights bill would:

Enable a Federal district attorney to go into Federal court when he believes someone is to be deprived of a voting right.

Enable the Federal judge to issue an injunction against the acts which the Attorney General suspects may happen.

Enable the Federal judge to decide without a jury when the injunction has been violated.

Enable the Federal judge under criminal contempt proceedings without a jury to assess fixed jail sentences and fines.

In other words, the Federal judge—in each individual case—makes the law, decides when it has been violated, tries the defendants, and fixes the penalties. All of this takes place without a jury.

An amendment has been drawn by three Senators—O'Mahoney of Wyoming, Kefauver of Tennessee, Church of Idaho. All three are liberals. All three believe in voting rights. But they also believe that a man should not be branded a criminal without the opportunity to state his case before a jury.

That is the sole issue involved in the jury trial amendment. Nobody objects to the courts having full power to enforce legitimate decrees and orders. Nobody objects to adequate safeguards for the right to vote.

But many of us object to devious schemes to convict men and women under criminal contempt without trial by jury. That is why we support the O'Mahoney-Kefauver-Church amendment.

I hope you agree with me. I hope you will let me know whether you believe this is the proper course.

That was sound advice by the present President of the United States at the time when he served as a Senator from Texas. It is even more sound today, because the pending bill covers a myriad of titles and is far more significant in its import and effect upon all the people of the United States than was the bill which was before the Senate in 1957.

It is inconceivable to me that the pending bill could even be considered a civil rights bill, when in at least five separate titles it would deny to every American citizen the oldest and greatest constitutional right that mankind has ever possessed in the annals of history—that is, the right of every person to be tried by a jury of his peers, when he is accused of crime.

I thank the Senator from Kentucky for yielding time to me.

Mr. MORTON. Mr. President, I yield 5 minutes to the distinguished junior Senator from Florida.

Mr. SMATHERS. I thank the distinguished Senator from Kentucky for yielding time to me.

Mr. President, I intend to vote for the amendment offered by the able Senator from Kentucky [Mr. MORTON]. It is not so broad an amendment as I would have preferred. I am one who supported, and supported with every bit of energy at my command, the so-called Talmadge-Ervin amendment. As the able Senator from Georgia [Mr. TALMADGE] has just concluded saying, I cannot help but believe that the right of trial by jury is a basic constitutional right, one which has been handed down to us by the Founding Fathers and the framers of our Constitution.

I do not believe that anyone who understands the purpose of our Government would wish to have passed any law, the effect of which would be, in any fashion, to contract or diminish in any way whatsoever the right of any citizen of the United States to be protected in his individual right to have a trial by jury.

I am sure we all are aware that the Constitution of the United States in three places contains specific references to the importance of trial by jury.

Article III of the body of the Constitution provides that all crimes are to be punished after indictment, and after the defendant has had an opportunity to confront his accusers. Under this provision, an accused can be found guilty only after a trial by a jury of his peers.

The sixth amendment to the Constitution makes further reference to the fact that every defendant shall have the right of trial by jury. Again, that right is specifically spelled out to make certain that all citizens will have the benefit of it.

The third instance occurs in the seventh amendment of the Constitution, with respect to civil suits involving sums of more than $20. In such cases the right of trial by jury, once again, is spelled out and guaranteed by the Constitution.

It is inconceivable to me that Senators would be inclined to allow criminals of every description, persons charged with dope peddling, murder, arson, robbery, and the like to have the right of trial by jury, but would prohibit the right of trial by jury to good citizens who might find themselves haled before the majesty of the judiciary in cases involving actions growing out of this civil rights bill which the Senate is now considering.

It is inconceivable to me that we should deny to those people, many of whom would fall within the category of school board members, supervisors of public instruction, owners of public accommodations, such as hotels, motels, and the like, the right of trial by jury. It is inconceivable to me that Congress should pass a civil rights law and not provide such people with the same right and protection as would be guaranteed to criminals and others who have been charged with more serious crimes. I am glad that apparently we shall make some headway in at least this one area covered by the Morton amendment. I hope we shall do so.

I had offered an amendment which was the pending business before the Senate prior to the unanimous-consent agreement entered into the other day.

The **PRESIDING OFFICER.** The time of the Senator from Florida has expired.

Mr. MORTON. Mr. President, I yield 3 additional minutes to the Senator from Florida.

Mr. SMATHERS. Mine was an amendment which combined the better provisions of the substitute for the Talmadge amendment submitted by the Senator from Illinois and the Senator from Montana [Mr. MANSFIELD]. It gave defendants in contempt cases the right of choice to a trial by jury—not the judge. I felt it was needed in order to afford protection to persons who might be charged with criminal contempt arising from actions resulting from the series of proposed statutes that we are now considering. But that amendment has now been laid aside.

I cannot help but think that in all good conscience we should support the amendment of the able Senator from Kentucky [Mr. MORTON], even though it does not go as far as I would like to see it go. But it does at least specifically provide that in every title of this specific bill, with the exception of title I, there will be a jury trial granted to those who find themselves cited with criminal contempt growing out of the civil rights legislation.

I would think that anyone who professes to believe in this system of government, to have reverence and respect for the Constitution of the United States, and who believes that the rights of individual citizens should be protected if we are going to maintain any type of a liberal government—would be forced to vote in support of the amendment offered by the able Senator from Kentucky. I hope the Senate adopts the amendment.

Mr. MORTON. Mr. President, at this particular moment, I have no further request for time. All of the time yielded thus far has been yielded by the proponents of the amendment. I hope that at this point the opponents will yield some time.

Mr. PASTORE. Mr. President, all I have to say on this amendment is that I think there is hardly any dispute but that most Senators want some form of a jury trial amendment. The question is, What shall it be?

Fundamentally, a great deal has been said about the pending amendment. We have the version that has been suggested by the minority leader and the majority leader in the substitute that will come up at some later time. Insofar as the senior Senator from Rhode Island is concerned, he feels that what has been suggested and worked out by the minority and the majority leaders will serve the purposes of the arguments that have been made here.

I await the time for that amendment to come up. I shall vote in the affirmative. It is only for that reason that I think the pending amendment is not the best solution.

I suggest to my colleagues that we ought not to be carried away by the argument that criminal contempt is a crime that shall be dealt with as we deal with any common law crimes or any statutory crimes. It is different from such crimes in that it is not a breach of the social code or its dictates, but is rather an attack on the dignity of the judiciary as an institution. It does not abridge the rights of any individuals per se, but rather attacks an institution of society. It is not a crime in its usual sense because it is of a different character and in some manifestations far more grievous than many crimes against the person.

The power of the court to hold individuals in contempt has been something that the court has had from time immemorial. It is a tradition of the court.

It is true that the Supreme Court lately said that when we have a situation before the Court that involves criminal contempt, where the punishment is to be severe, it might be well within our concept of fairness and jurisprudence to give that individual a trial by jury.

That is precisely what the compromise amendment intends to do. The amendment that has been suggested by the Senator from Montana [Mr. MANSFIELD] and the Senator from Illinois [Mr. DIRKSEN], provides for a jury trial, or rather it specifies that where the court does not grant a trial by jury in any instance, where the court's order is violated by an individual, that the court shall be limited as to what fine it can mete out, and as to what jail sentence it can mete out. And that is the limitation upon which the Barnett case was decided. That is all that I have to say at this particular moment.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. PASTORE. I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, last week it was my privilege to present to the Senate a speech on the summary power of the courts to enforce their own orders in criminal contempt cases.

The Senator from Rhode Island may recall that most of the States of our Union do not provide for jury trial for criminal contempt cases. When I presented documentation on this point to the Senate, I noted, for example, that States such as Iowa, Kansas, my home State of Minnesota, Nebraska, Louisiana, New Mexico, New York, South Carolina, North Carolina, and Mississippi provide that court orders, and many other orders are enforcible by a judge. If such orders are disobeyed, the judge may impose punishment without referring the case to a jury.

The truth is that the historic practice in Federal courts has been to try criminal contempt cases involving disobedience of the court orders without a jury. The Supreme Court gave an extended review of this matter in the case of Green against the United States. It pointed out in that case that the English courts at least by the early 18th century, and from that date on in Anglo-Saxon law, punished disobedience of their orders summarily, in other words, without a jury.

Blackstone, in his "Commentaries," which I noted in my presentation last week, explicitly recognized the use of that summary power.

The Supreme Court, in an unbroken line of decisions has held that criminal contempts, including questions of disobedience of court orders, are not subject to jury trial as a matter of constitutional right. We have established this point quite clearly, that there is no constitutional right for a jury trial in criminal contempt cases—none whatsoever. It is, however, within the purview and the right of Congress to pass legislation providing for such jury trial proceedings in a particular class of cases. As has been indicated, jury trial proceedings have been legislated by the Congress in such laws as the Norris-La Guardia Act, the Clayton Act, and the recent Landrum-Griffin Act.

The decisions of the Supreme Court establish that criminal contempts of court are not required to be tried by a jury under article III, of the sixth amendment, or under the due process clause of the fifth amendment. More than 50 cases of the Supreme Court, to say nothing of the great mass of decisions of the lower Federal courts, support the summary disposition of contempt.

In the Green case, Justice Frankfurter in a concurring opinion named 53 eminent Justices of the Supreme Court who had sustained a court's summary power to punish for contempt. The Justices included such illustrious figures as Chief Justice Marshall, Justices White, Stone, Storey, Holmes, Brandeis, and Cardozo.

I would like to say to those of my colleagues who feel that all liberals should support jury trials in all criminal contempt cases, that some of the most liberal jurists of our time, Justices Holmes, Brandeis, and Cardozo, held in every instance in which they were permitted to rule, that a jury trial in a criminal contempt proceeding was not required.

What we really get down to is the basic issue of whether or not this act which we hope to pass will be an enforcible act; and whether or not the Justices who are required by the Congress under the proposed legislation to enforce the law would have their orders violated or whether those orders would be sustained.

The Federal courts, since the inception of our Republic, without exception, have had the right of sustaining their court orders without trial by jury. If we are going to impose upon those Federal courts a reversal of policy at the very time that we call upon the courts to do more enforcement of law than at any other time in their history, we shall weaken, if not hold in ridicule, the Federal courts of the United States.

Mr. DOMINICK. Mr. President, at this point will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. DOMINICK. I am interested in the Senator's statement, because I have been trying to determine in my own mind why there should be a difference between the treatment of cases which would arise under the bill and the treatment of cases brought under the Landrum-Griffin Act or the Norris-La Guardia Act, which I understand the Senator supported, and which I understand contain provisions for the right of trial by jury. What is the difference in policy? Would we not deal, in many cases, with the same thing—the injunctive orders of the courts? Would we not deal with extremely important and difficult subjects? If in those cases we give the defendants the right of trial by jury, I have difficulty understanding why we should not provide the same right in cases which would come up under the legislation now proposed.

Mr. HUMPHREY. I respectfully suggest that under the pending measure we would frequently deal with public officials who very well might be in complete contempt of Federal court orders. To put it mildly, some officials might ignore those orders. They might also try to obstruct enforcement of court orders directed at others.

Cases arising under the Landrum-Griffin Act would involve private citizens.

Mr. DOMINICK. Mr. President, will the Senator yield further, so that I may, for my own sake and for the RECORD, clarify this point?

Mr. HUMPHREY. I yield.

Mr. DOMINICK. Do I correctly understand that the criminal contempt provision of the proposed amendment would not apply to so-called contempt which might take place in the presence of the court?

Mr. HUMPHREY. I believe that is correct.

Mr. DOMINICK. Second, it is my understanding that the provision of the amendment which would give the right of trial by jury would not apply to the title relating to voting rights. Under that title, clerks and public officials would most likely be involved; is that also correct?

Mr. HUMPHREY. Will the Senator restate his question?

Mr. DOMINICK. It is my understanding that the amendment would not apply to title I, under which public officials would most likely be involved. Is that correct?

Mr. HUMPHREY. On voter registration matters, that is correct.

But under the amendment, jury trials would be required under title II of the bill, would they not?

Mr. DOMINICK. That title deals with public accommodations.

Mr. HUMPHREY. Public accommodations.

Mr. DOMINICK. Which might consist of boarding houses and similar facilities; so probably public officials would not be involved.

Mr. HUMPHREY. In cases in which public officials might aid and abet an individual they might very well be involved. Public officials also might very well be involved under title VII, which is the title related to fair employment practices. And public officials would be involved if they attempted to obstruct a private person's compliance with a court order.

Under title VI public officials could be involved since that title refers to the administration of federally assisted programs.

It seems to me that before we start to reverse what is a long line of historical precedent in our country, we ought to give the subject—and we are indeed giving it—very careful reflection.

I asked a staff member from my office to furnish me some material on the question of labor cases, because the subject has been brought to our attention before. As I said, the Congress has extended the right of trial by jury beyond that contained in 18 U.S.C. 42, which is the Clayton Act, only in certain labor cases. In the Norris-La Guardia Act of 1932 the Congress provided that in criminal contempt proceedings arising under the act, the accused would have the right to trial by jury.

The substance of those provisions, which have been repealed, appears now in 18 U.S.C. 3692. That section does not contain a provision exempting contempts of judicial process entered in an action brought by or prosecuted in the name of or in behalf of the United States. The Norris-La Guardia Act did not apply to the United States, and hence it was felt that where the United States was the employer, there was no right to a jury trial. That point was decided in the case of United States against United Mine Workers. The restraints imposed by the Norris-La Guardia Act, moreover, were applicable to the proceedings under the Taft-Hartley Act.

Mr. DOMINICK. Mr. President, at this point, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. DOMINICK. It is my understanding that under title VII the Government is not considered an employer. In other words, the Government would be exempt.

Mr. HUMPHREY. Yes, under title VII.

Mr. DOMINICK. So it would be very similar to the situation to which the Senator is referring, in respect to the Norris-La Guardia Act.

Mr. HUMPHREY. Yes, under the Norris-La Guardia Act. The concern I have more than anything is in relation to title VI and some cases that might arise under title II. I believe the RECORD is now clear that the amendment would not apply to title I. Does the Senator fully understand that?

Mr. DOMINICK. That is my understanding.

Mr. HUMPHREY. Insofar as title II is concerned and possibly title IV and title III, where public officials would be involved in cases concerning desegregation of public schools, parks, and other facilities, and in what we call the "cut-off of Federal funds" cases, there is the possibility that the established precedents of our Government in Federal courts would be reversed by the amendment.

I should like to get the labor question in proper perspective. As I said, the Labor-Management Reporting and Disclosure Act, commonly known as the Landrum-Griffin Act, provides the right of trial by jury in criminal contempt cases allegedly committed outside the presence of the court in connection with any civil action brought in any court of the United States. There has been special reason for the extension of the right of jury trial in labor cases. We know that the Norris-La Guardia Act stemmed from numerous antilabor injunctions issued prior to 1932 by Federal courts on the basis of highly controversial judge-made law unsupported by any congressional mandate. It was felt that the courts were using their injunctive and contempt powers not to prevent violations of the law but rather to make law and to establish law.

Mr. DOMINICK. I wish to point out to the Senator that a number of people think that is still going on.

Mr. HUMPHREY. The proposed legislation would clarify that point in the areas which it covers. I believe that one of the purposes of the bill (H.R. 7152) is to do away with the ambiguity and ambivalence which exist in terms of the law. The Congress itself is being asked to state the congressional mandate in clear terms, which I believe the package substitute does better than the House bill.

Mr. DOMINICK. I completely agree with the Senator.

Mr. HUMPHREY. My only other comment in reference to the whole procedure is that one of the most disconcerting developments is that the States whose Senators are most concerned about the use of the summary power of the Federal judge to enforce his court orders are the very States which have made it manifestly clear that in their State courts an accused in a criminal contempt proceeding has no right to a trial by jury. The State judge does enforce his court orders. The only question that the lawyers in this body need to resolve—and I am not a lawyer, but I am a concerned citizen—is whether, if we strike out any possible kind of summary power of the courts to enforce their orders, we would weaken the judicial structure of our country. I believe that is the key issue.

Mr. DOMINICK. Mr. President, at this point, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. DOMINICK. I do not mean to be pretentious. I am trying to keep the record as straight as I can. It is my understanding that the provisions of the amendment would apply only to criminal contempt proceedings.

Mr. HUMPHREY. The Senator is correct.

Mr. DOMINICK. It would not apply to civil contempt proceedings.

Mr. HUMPHREY. The Senator is correct. A citizen could be imprisoned under a civil contempt proceeding until such time as he decides to obey.

Mr. DOMINICK. He also "has the key to the jailhouse."

Mr. HUMPHREY. "He has the key to the jailhouse."

Mr. DOMINICK. That would not be true in respect to criminal contempt procedure.

Mr. HUMPHREY. The Senator is correct. I might add that when a man is in jail, whether he has a key or not, he is still in jail. It is a fact, if not a very comforting one. It is a fact that if one is a bit stubborn and feels strongly, he can be incarcerated in the local jail for a long time while he is making up his mind whether he has the keys, and is searching through his pockets and conscience to find them. The person can be there, and the judge can keep throwing him back in there, as long as he resists the order of the court, without any jury trial. That is a fact.

The Mansfield-Dirksen substitute would provide a maximum penalty for criminal contempt, without jury trial, of a $300 fine and 30 days in jail. That is the maximum. That is a considerably smaller penalty than provided under existing law, and much less than has been provided over a century and three-quarters of American Federal judicial practice. I think those are matters that ought to be weighed quite carefully.

Mr. President, I shall yield the floor now. I wish to check a couple more cases in reference to labor law, and I shall respond to the Senator from Colorado in more detail then.

Mr. President, if I have time, I yield now to the Senator from Montana [Mr. MANSFIELD].

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, we have spent an inordinate amount of time considering the various arguments, proposals, and delicacies in the field of criminal contempt and its alleged conflict with the constitutional right to a trial by jury. The pending amendment does not constitute a fresh approach or answer to the conflicting view but rephrases that which has already been offered to the Senate for consideration.

As I said some days ago when I spoke against the original Morton amendment, there is no constitutional right to a jury trial in criminal contempt cases in the Federal courts, nor has the Constitution ever been so interpreted by the Supreme Court since the founding of our Republic; however, there is no constitutional prohibition against the legislature granting a jury trial in such cases. The question therefore is whether Congress, as a matter of legislative policy, should grant such a privilege. I urge meeting the issue on these terms rather than beclouding it by declaring that there is a constitutional abridgment in continuing the traditional and essential power of the judiciary to try criminal contempt without a jury, as has been argued the past several weeks.

The pending Morton amendment clearly would take away the discretion and right of the judiciary to try criminal contempt without a jury in all cases arising under this bill with the exception of title I. The accused would have the discretion to determine whether the court should submit the question to the jury. The issue therefore presented by the Morton amendment is whether we should dilute the traditional and constitutional power of the Federal judiciary in criminal contempt cases to enforce its own orders, vindicate its own dignity, and protect itself from insult without the assistance of a jury.

Although I dislike repeating the thought and argument I made weeks ago in opposing the original Morton amendment, I feel justified because the basic issue is the same. What is the nature of a criminal contempt under this act and what would be the background and proceedings necessary before ever reaching the issue of a possible criminal contempt citation?

A suit would be brought under the act claiming a violation of one of its provisions. The court would consider the complaint on its merits, and after notice to and hearing argument by the named respondent, the court would issue its order. If this order were objected to as invalid by force of the Constitution, by force of a misapplication of the law, or because the basis of the order was not founded upon fact, it could be appealed through the court of appeals to the Supreme Court. If the court order could withstand these appellate attacks and still be found just, fair, and valid, the party subject to the order would then be under compulsion to comply. If he then failed to abide by the order, he would be directed to show cause why he should not be cited for criminal contempt; thus, he would be afforded additional notice and hearing prior to any final citation for contempt. This is the nature of the act we are discussing. This is the background necessary to reach the question of whether the then recalcitrant litigant should be afforded a jury trial as a matter of right, regardless of the punishment to be inflicted. In this context, let us investigate how some of the various States have treated this question of handling similar criminal contempts in their State courts.

In Mississippi, the recent case of *Young* v. *The State* (230 Miss. 525), decided in 1957, reaffirmed the principle that there is no right to jury trial in criminal contempt cases.

The South Carolina Supreme Court recently held in the case of *State* v. *Goff* (88 S.E. 2d 788, 1955) that the power to punish contempt summarily is an "implied and necessary power without which contumacious conduct could well destroy the authority of the court." The South Carolina Code, 1962, in title 10, section 1738, provides that disobedience of a court order "may be punished by the judge as for a contempt."

In North Carolina the principle is set out in *Sofie Mfg. Co.* v. *Arnold* (228 N.C. 375, 389), decided in 1947; in Texas the leading cases are *Crow* v. *The State* (24 Tex. 12, 13) and *Ex parte Winfree* (153 Tex. 12)—the former decided in 1859, the latter in 1953; in Virginia, the general assembly attempted to authorize by statute the right to a jury for contempt, but the Virginia Supreme Court of Appeals declared such right to a jury trial violative of the State constitution; The Virginia Supreme Court said in *Carter* v. *Commonwealth* (32 S. E. 780) in rendering its decision:

> The power to punish for contempt is inherent in the courts, and is conferred upon them by the Constitution by the very act of their creation. It is a trust confided and a duty imposed upon us by the sovereign people, which we cannot surrender or suffer to be impaired without being recreant to our duty.

In Alabama the leading case is *Ex Parte Evett* (264 Ala. 675) decided in 1955; in Arkansas, the Supreme Court of Arkansas said in *Freeman* v. *State* (188 Ark. 1058, 1934):

> The power of punishment for contempt is independent of statutory authority, being inherent in and an immemorial incident of judicial power, its conclusions to be reached and judgments found without the intervention of a jury.

In Florida, section 38.22 of the Annotated Statutes (1961) provides that in contempt cases "the court shall proceed to hear and determine all questions of fact and law." This power of the State court was judicially confirmed in *State* v. *Lewis* (80 So. 2d 685) decided in 1955.

In Georgia, a jury trial may be had in the court's discretion for a criminal contempt. The leading case is *Bennett* v. *Bogwell & Stewart Inc.* (216 Ga. 290) decided in 1960. There is no apparent right to a jury trial except in the case of contempt for failure to pay over money where there is a denial of control over the funds—Georgia Code 24–105.

In Louisiana:

> Every court has authority * * * to punish, as being a contempt, every interference with or disobedience of its process or orders as well as every act interrupting or tending to interrupt its proceedings, or impairing the respect due to its authority." (Louisiana Revised Statutes, sec. 15.11).

In Iowa, section 665.2 of the Iowa Code provides that any court may punish for contempts of its orders without a jury trial. This policy was judicially confirmed in *State* v. *Baker* (222 Iowa 903, 1937); in Senator MORTON's State of Kentucky, section 432.260 of the Kentucky Revised Statutes, 1953, provides for punishing criminal contempt without a jury; in Idaho the leading case is *McDougall* v. *Sheridan* (23 Idaho 191); in Delaware, see *Klein* v. *State* (36 Del. Ch. 111, 127), decided in 1956; in Colorado see *Guirand* v. *Canal Co.* (245 P. 485).

In my speech of some days ago I cited the statutes of my own State and other areas of the country.

Thus, the partial survey of the State's handling of this issue of providing a jury trial in criminal contempt cases is at variance with that proposed for the Federal judiciary under the proposed amendment.

The Dirksen amendment in the nature of a substitute to H.R. 7152, contains a jury trial provision which would limit the heretofore unlimited power of the judiciary to punish without the assistance of a jury for criminal contempt in cases brought by the United States. I proposed several weeks ago that if the opponents of the Dirksen amendment sincerely feel that, since the founding of the Republic, the individual liberties of our citizens have been abused by permitting the courts, during this entire period, to enforce their orders by criminal contempt proceedings without a jury, let us change this traditional power of the judiciary in all the courts of the land—Both Federal and State—by the adoption of a constitutional amendment. If the principle of trying criminal contempt without a jury is unfair and abusive of constitutional rights or any standard of fair play, its heinous character does not stop at the boundary of Federal jurisdiction.

Mr. President, the Dirksen amendment strikes a reasoned balance among the heretofore unlimited power of the judiciary in the trying of criminal contempt without a jury, the constitutional right of a trial by jury and the essential power of the judiciary to have its orders enforced and its dignity protected. I urge the rejection of the Morton amendment which, in my opinion, would unduly dilute only the Federal judiciary.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield to the Senator from Illinois.

Mr. DIRKSEN. Mr. President, the Senate is entitled, of course, to work its will upon the proposition that has been submitted by the distinguished Senator from Kentucky [Mr. MORTON]. We have had literally weeks and weeks of debate on this one single subject. It was almost resolved heretofore, but not quite; and in that interim period the distinguished majority leader and I offered the substitute amendment which modified somewhat the language of the 1957 act. It provided, in the case of a $300 fine, that that would be the aggregate, and beyond that the judge could not go. In the case of a sentence, it was reduced from 45 days to 30 days, and was made cumulative, so that beyond that period of time the court could not go.

Notwithstanding all that, if it is the will of the Senate to adopt the Morton proposal, it can be incorporated in the substitute package which we have offered for the House version of H.R. 7152. I shall most cheerfully abide by the result.

In the nature of things, I am compelled to support the proposal I made, joined in by the distinguished Senator from Montana [Mr. MANSFIELD]. That I propose to do.

I am glad that finally the lightning comes out of the sky, and that we shall get this issue down to earth and resolved, once and for all, so that we can then proceed with the other amendments for which agreement has been granted.

Mr. PASTORE. Mr. President, will the Senator from Montana yield, so that I may ask the minority leader a question?

Mr. MANSFIELD. I yield.

Mr. PASTORE. There has been much discussion this afternoon and before this session today, to the effect that we are not being consistent, that we have from time to time passed jury trial amendments on various legislation. The fact still remains that in 1957 we had the question of civil rights before the Senate. At that time, we did debate the question of jury trial, and the junior Senator from Rhode Island and the senior Senator from Rhode Island voted for it.

The fact is that this particular Morton amendment does exclude title I. As I understand the minority leader now, the version embodied in the compromise package which has been suggested by the majority leader and the minority leader, is even more lenient than the 1957 version which is being excluded from the Morton amendment. I ask the question: Why? Why?

If the Morton amendment is good for titles II, III, IV, V, VI, and VII, then why is it not good also for title I?

The nearest thing to title I is what is being substituted as the compromise. I really do not understand the argument being made that we are becoming inconsistent when, in fact, the compromise amendment is the nearest thing to consistency.

Mr. DIRKSEN. I make only this response. After this matter was concluded in 1957, all we undertook to do in the substitute proposed by the majority leader and myself was to modify the terms of the 1957 act and let it apply across the board.

I even went so far as to indicate my willingness to drop from 45 days to 10 days; but I did wish to see the court have at least some kind of weapon in the case of criminal contempt. I shall concur, however, if that is the will of the Senate, because then the amendment can be incorporated into the substitute package.

Mr. PASTORE. If I may make a further observation—this is my interpretation of the Morton amendment, and if I am wrong I should like to be corrected—the Morton amendment would limit the judge's power to treat criminal contempt in the various titles covered to a tongue lashing, or a lecture not to do it again. The fact is that even in those cases, the respondent would be entitled to a trial by jury if he requested it. Naturally, he is going to request it even if it is not a serious matter which in all probability would be straightened out with a lecture or a tongue lashing; for even in those cases the accused would be brought before the court and he could say, "Your Honor, I claim a trial by jury," and he would have to be granted a trial by jury. When the trial was completed and the accused was found guilty, the judge in that instance would then say, "Don't do it again."

Mr. MORTON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. MORTON. Mr. President, first, there, is a difference between title I and other titles of the pending bill. If a man refuses to sell someone a hot dog, he is cited for civil contempt and put in jail until he sells that man a hot dog. If a man is denied the right to vote in an election and the election is over, nothing can be done to restore that man's right to vote in that election.

In my opening remarks, I explained that this did not only allow a court to proceed without a jury trial in title I, but it also repealed that provision of the 1957 act which granted a jury trial for any penalty greater than 45 days or $300. This, it has been pointed out to me, gives no protection to a man who is being cited for contempt under title I, and gives no limitation; and in cases of certain bail bond cases contempt of court, I believe, has been invoked up to 3 or 4 years.

Therefore, Mr. President, I ask unanimous consent that I may alter my amendment, as follows: On page 4 of the Talmadge amendment, beginning at "SEC." line 5, strike out everything through "respectively" on line 14. This will have the effect of leaving the 1957 act as it is.

I ask unanimous consent that I may so do.

Mr. HUMPHREY. Mr. President, reserving the right to object—although I shall not object—I should like to say to the Senator from Kentucky that I am very pleased he is doing this, because I was about to ask him, in reference to his amendment, if there had been some inadvertence in not restricting that provision to the law of 1957. I believe what the Senator has suggested places it now in conformity with the existing practice; am I not correct?

Mr. MORTON. The Senator is correct. I was inadvertent in that respect. I had assumed that the $1,000 and 6-month limitation prevailed on all criminal contempt cases. I was in error in that assumption. This occurred, as the Senator will recall, when we got into the "hassle" Friday night on the unanimous-consent request; and the amendment was prepared rather hastily. So I ask unanimous consent that this change be made.

Mr. HOLLAND. I should like to check the result that would be achieved if the Senator's request were granted. Will the Senator please repeat his request? I have a copy of the amendment before me.

Mr. MORTON. In effect, it will strike out, on page 4 of the amendment, everything from line 4 to the end of the amendment.

Mr. HOLLAND. Am I correct in my understanding that this would perfect the Senator's amendment insofar as title I is concerned, but leave in effect all of his amendment as it applies to other titles in the act?

Mr. MORTON. Yes. A man who is convicted of contempt under title I will have the same right as will a man who is convicted under the 1957 act. Title I refers to the 1957 act.

Mr. HOLLAND. I have no objection.

Mr. HUMPHREY. To make it perfectly clear, the maximum penalty that could be imposed by a Federal judge in a criminal contempt proceeding would be 45 days' imprisonment or a fine of $300. Is that correct?

Mr. MORTON. The Senator is correct.

Mr. HUMPHREY. And the defendant will have a right of selection of either trial by jury or trial by a judge, will he?

Mr. MORTON. Does the Senator mean for the remaining titles of the bill?

Mr. HUMPHREY. Over and above the 45-day penalty, that is.

Mr. MORTON. Yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky? The Chair hears none, and it is so ordered.

Mr. MORTON. I yield 10 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, on May 5, I spoke in favor of the Morton perfecting amendment to the jury trial amendment offered by the Senator from Georgia [Mr. TALMADGE]. The propositions advanced then are clearly applicable and germane today.

The closeness of the margin of rejection of the earlier Morton amendment and the parliamentary course taken by the pending bill since that time now afford the opportunity to reconsider a slightly modified form of the amendment. In its present language, it will provide an important and necessary improvement in the pending civil rights bill.

This Senator wishes to reaffirm his belief in the value of the right to a jury trial in a criminal contempt proceeding which may arise by enforcing the provisions of the pending bill.

The current version of the Morton amendment has even more to recommend it than the version proposed a month ago. There is clearly more urgency now for all can sense that the struggle over this bill is nearing an end. Thus the need to perfect the bill is more pressing. In addition to facilitating action on the bill, the amendment itself has been more finely drawn to further limit and restrict the scope of the Talmadge amendment. If adopted, it will apply only to those actions for criminal contempt which arise under titles II, III, IV, V, VI, and VII. Title I is no longer within the coverage. This was covered in the last few minutes, and I am sure it is very clear in the RECORD.

It is my belief that jury trials should be provided in all actions which can result in criminal sanctions, whether in the form of imprisonment or a fine. However, the need is not nearly as critical in those instances which could arise under title I. Those cases, which arise as a result of the denial of the right to vote, would not tend to pit the power of the Federal Government against the individual alone. The defendant would, in most instances, be assisted by the governmental subdivision for which he acted. This would not necessarily be the case in actions arising under the other titles of the bill.

REASONS FOR EXCLUDING TITLE I FROM MORTON AMENDMENT

There are logical considerations for excluding title I from the Morton amendment. It deals with proceedings in which time is of the essence. An election day covers only a portion of any given calendar day of 24 hours. Statutory provisions should be as effective as possible to bring about compliance quickly enough to be of value. Summary power of a court to impose punishment for criminal contempt can be justified for this reason as being consistent with this necessity.

In addition, it should be noted that title I is directed to persons "acting under color of law." Hence, any court order or injunction will be directed against a public official responsible for election procedures, not against an individual. A public official is sworn to obey and uphold the law. A court order pertinent to those duties is a part of that law. While it might be in order to appeal from such court order in a manner provided by statute, it should not be within the official's discretion or whim to disregard or violate the official duty he has sworn to perform.

If he does so, he should be answerable to the court which enjoined that duty upon him. Such prompt and direct responsibility will be of value to induce prompt and appropriate obedience to the court order.

Thus it should be clear that there is a substantial difference between the situations arising under other titles of the pending bill and title I:

First. In the main, under titles other than title I, parties to the injunctive process are the officials of the Federal Government against individuals.

Second. In the main, title I deals with highly transitory acts, where the passage of the brief time involved for voting without action will serve to nullify permanently the goal sought.

Third. General subject matter of title I and the statute it seeks to amend and supplement have been regulated by Federal laws for some years now. Its nature does not lead to those delicate, sensitive, and volatile contacts and situations involving personal, social, and business activities in areas totally new and pioneering as a field of Federal law. This should surely serve as a basis for different treatment.

DISTINCTION BETWEEN CIVIL AND CRIMINAL CONTEMPT

The distinction between civil and criminal contempt has been the subject of a number of speeches in the Senate and by any standard has been adequately explored. Suffice it to say that there is a readily identifiable distinction which has been spelled out by the courts and by many Members of this body. This amendment does not apply to those proceedings involving civil contempt and thus will not serve to thwart affirmative compliance with the terms of the legislation itself. It does not deprive the court of its authority to punish those acts of contempt which occur in the presence of the court or in such proximity to it as to constitute an obstruction of justice. The jury trial provision which we seek to incorporate into this bill will apply only when the time for action has passed and all that remains is a question of maintaining the authority of the court. The provision will not weaken any of the constitutional guarantees which this bill is intended to insure. On the contrary, by preserving the historic right to a jury trial in this context we more firmly secure the authority of the court and preserve the integrity of its orders.

MORTON AMENDMENT CONSISTENT WITH NATIONAL POLICY

This amendment does not break new ground. There are several laws already on the books which contain provisions similar to those in the Morton amendment; the Clayton Act, the Norris-La Guardia Act, the Landrum-Griffin Act, and, on a limited basis, the Civil Rights Act of 1957 all provide for jury trials in contempt proceedings.

The Clayton Act was passed to prevent combinations which would seek to fix prices and foster monopolies. The obvious target of such legislation was the large businesses. Injunctive relief is provided for enforcement. Section 22 of the Clayton Act requires that jury trials be provided for those who are subjected to charges of criminal contempt.

The Norris-La Guardia Act, bears the name of an illustrious Senator from my State of Nebraska, George Norris. At the time that act was being discussed, he reaffirmed his belief that the jury system was adequate to the task of preserving the authority and dignity of the courts and that no better system existed. The truth of this is found today in every court in every State every day. The Norris-La Guardia Act provides that in those few instances where the injunction can be used in the covered labor organizing activities, a jury trial will be provided in contempt proceedings. This provision in the Norris-La Guardia Act is not limited to criminal contempt but also includes civil contempt.

The Landrum-Griffin Act, which also deals with the activities of organized labor, provides that there will be a jury trial before anyone is punished for criminal contempt.

This body also recognized the need and provided for jury trials in the 1957 Civil Rights Act. In conference, however, the provision found in present law was substituted.

That is the question we have before us.

There is no way to rationalize treating one class of Americans differently from another in similar situations. Should those who represent big business or big labor be preferred to a citizen who may be accused of running afoul of the provisions in titles II to VII inclusive of the pending bill? To adopt this approach is inconsistent with our traditions of fair play. It flies in the face of the declared objective of this bill itself, the protection of the rights of all Americans.

The motto of the State of Nebraska, "Equality Before the Law" demonstrates the conviction of the pioneer founders of my State that there must be equal treatment under equal circumstances for all under the law. Without this basic equality, there can be no guarantee that any other right or privilege will remain secure. To preserve equality for all, I again urge the adoption of the Morton amendment.

Mr. SYMINGTON. Mr. President, I suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time for the quorum call be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMINGTON. Mr. President, I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I shall take 5 minutes. The Senator from

Missouri did not state the amount of time he yielded to me.

Mr. President, I have heretofore opposed in principle the amendment which is now before the Senate. I have studied carefully the amendment as it has been redrafted. I believe I shall oppose it again, for this reason:

The Senator from Kentucky [Mr. MORTON] and I, in a colloquy when his original amendment was pending, developed two points. We concluded that punishment for criminal contempt has two functions. First, it is intended to punish for a disregard or a flouting of the court's order; second, it is intended to be a deterrent. In other words, the fact that summary punishment is possible, is a deterrent to a willful violation of a court order.

Let us remember that most contempt cases are treated as civil contempts. In most cases courts are able to enforce their mandates by civil contempt proceedings. To say that a person may not be confined in jail for civil contempt is misleading. The amendment does not prevent a judge from jailing a defendant, even without a jury trial; if it is civil contempt for which the judge is punishing a person, he may incarcerate him until he complies with the order of the court.

So defendants will not be saved from confinement in jail by the adoption of this amendment. That is a grand delusion, and it is high time that the situation is made very clear.

The reason I shall oppose the amendment is that the bill contains certain titles in which this deterrent is needed because the wrong committed would be irremediable by civil contempt proceedings. A deterrent is needed with respect to title III, which relates to the accessibility of public accommodations to the individual pursuant to court order. The use of a park, a swimming pool, or a golf course may be involved. What would be punished in such an instance would be the arrogance of an individual government official who would bar an individual citizen from the enjoyment of that particular facility. The opportunity to enjoy the facility on the given occasion would be gone.

Similarly, with respect to title IV, it may well be that a court order would require the enrollment of a child in a school. The child might not be enrolled. If a year passed, the child would lose his opportunity for the education which we feel the Constitution allows. There might be no way for him to make up for the loss of time. He might be admitted later, but in the meantime he would have forfeited that part of his education which would be involved in that particular denial.

One further fact as to the question of the deterrent: I think it is wise and sound, and it has been inherent in our jurisprudence—everything else has been an exception—that courts should have the power to enforce their orders, handed down after due process of law, when enforcement would not be possible unless a person were ultimately subject to summary punishment for willful noncompliance with the order. I have cited two such instances under title III and title IV of the bill.

We now have in the law a built-in guarantee against abuse by a court of the power to punish for criminal contempt. That built-in guarantee dates from the case of United States against Barnett, which was decided April 6, 1964. That decision so changes the situation as to make the pending amendment unduly restrictive, rather than liberalizing. The Barnett case very clearly indicates the Supreme Court's present view that where there is a nonjury trial of a criminal contempt, the courts are restricted to the punishment which generally is applied to petty offenses. It seems to me that though this particular case came in a footnote in the majority opinion, it is being widely accepted as limiting the power of the judge to punish summarily for criminal contempt. It appears at page 14 of the pamphlet decision in United States against Barnett. It has been read here many times. It reads:

> Some members of the court are of the view that, without regard to the seriousness of the offense, punishment by summary trial without a jury would be constitutionally limited to that penalty provided for petty offenses.

There is no description of what constitutes a petty offense. But generally speaking, it falls within the ambit of the maximum penalty which a judge can impose as set forth in the 1957 Civil Rights Act, 45 days and $300. So there is now a built-in guarantee against abuse of the power of the court to punish for criminal contempt.

In regard to titles III and IV of the bill, the doubt which is put in the mind of a defendant that he may possibly with impunity violate an order of the court in criminal contempt, because a jury may let him off, is not worth removing. It is not worth jeopardizing the orders of the court in these cases for what is at stake in granting this jury trial provision, in view of the fact that the individual defendant is now fully protected by the Supreme Court against any penalty more onerous than that for a petty offense. So the Court and the law have themselves very well taken care of the situation in a case that in my judgment puts the demands of justice in balance. For that reason, Mr. President, I believe that if we adopt the Morton amendment, we would be adopting another standard than that set by the Court, which would be prejudicial to the enforcement of certain of the titles of the bill in a way in which we hope they would be enforced.

It is for those reasons that I shall vote against the Morton amendment, and I hope the Senate will reject it.

Mr. SYMINGTON. Mr. President, will the Senator yield?

I have tried to cooperate with the bipartisan leadership on this civil rights bill. On the question of a jury trial in criminal contempt cases, there is an honest difference of opinion, not only among sincere advocates of an effective civil rights bill, but also among Justices of the Supreme Court, dedicated to the cause of civil rights.

I have stated in the past that I would support the Mansfield-Dirksen amendment as a reasonable and proper provision guaranteeing the right of a jury trial before the imposition of serious penalties. I would continue to support the Mansfield-Dirksen amendment on jury trials if it ever comes before the Senate. As the distinguished assistant majority leader remembers, however, at the time the original Morton jury trial amendment came up, I first asked him if there would be a vote on the Mansfield-Dirksen amendment at that time, and he stated that he believed there would be, on that day.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield.

Mr. HUMPHREY. If I was so specific as to say "that day," it was only because of the burning desire and everlasting hope that is in my breast, heart, and spirit for some action on this bill. One of the reasons that the cloture petition was filed today is because it was some 32 days ago, I believe, that the Senator asked me that question. I was of the opinion then, in light of the fact that we were assured that we would be doing some voting on the jury trial amendments, that we would have before us promptly the jury trial substitute. I must now confess to the Senator that my prophecy was as inaccurate as the prophecy of a weatherman in a drought-stricken area who had predicted rain.

Mr. SYMINGTON. Let me say to my good friend from Minnesota that I am dead sure it was without his approval, and against what he thought should have been done at that time. There is not the slightest effort on my part to criticize the Senator.

Mr. HUMPHREY. I understand.

Mr. SYMINGTON. Mr. President, I was away Friday, and notice on page 12852 of the RECORD the assistant majority leader's comments at the bottom of the second column and top of the third.

As I read these comments, let me ask the able Senator if it is true, based on his assurances, that if the Morton amendment passes, it will take the place of the Mansfield-Dirksen amendment in the civil rights package later to be voted on if and when cloture is obtained?

Mr. HUMPHREY. I have been so informed today, which I regret to tell you was not my understanding—I say only my understanding—at the time that the three amendments were offered for the unanimous-consent agreement.

As I would recall the conversation concerning these proposals, it was indicated that they could be amended as long as the amendments were relevant and germane. I now find that the Morton amendment is an amendment to the Talmadge amendment, which therefore is an amendment in the second degree.

May I ask the Parliamentarian or the Presiding Officer to help us on that a bit, so that we may clarify the RECORD. Would the Senator yield for that purpose?

Mr. SYMINGTON. I gladly yield.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The **PRESIDING OFFICER.** The Senator will state it.

Mr. **HUMPHREY.** Mr. President, is the Morton amendment, which is now before the Senate, an amendment of the first degree or second degree?

The **PRESIDING OFFICER.** It is an amendment in the second degree to the Talmadge amendment, which is an amendment in the first degree.

Mr. **HUMPHREY.** Mr. President, is it to be understood then that a substitute amendment would not be in order?

The **PRESIDING OFFICER.** The Senator is correct in that understanding.

Mr. **SYMINGTON.** Mr. President, I should like to make my position clear. The position I have taken for some time in this matter, and put in the CONGRESSIONAL RECORD, is as follows:

Several people have asked about my position on the question of providing jury trials in criminal contempt cases arising under the civil rights bill.

I support the right of jury trials; and I believe the best amendment to that end is the Mansfield-Dirksen amendment, which provides that a judge must grant a jury trial in cases in which the fine is in excess of $300, or the jail sentence is in excess of 30 days.

In a long line of decisions, the Supreme Court has held that a defendant in a criminal contempt action is not entitled to a jury trial as a matter of constitutional right. In this connection, in my own State of Missouri, State law gives the right to try a criminal contempt action without a jury.

The amendment in question actually would create a right to jury trials in situations in which that right previously did not exist.

I believe that the right of trial by jury is so fundamental to our free society that it should not be denied in a criminal contempt action arising under the civil rights bill. As the bill now stands, a judge would have unlimited power to punish for contempt.

At the same time, however, I recognize our obligation to protect the integrity of our Federal courts in the enforcement of their orders.

In my opinion, the Mansfield-Dirksen amendment establishes a proper balance between these two competing considerations, by placing a limit on the punishment which could be imposed in a criminal contempt case tried without a jury. In addition, this amendment takes into consideration the decision in the recent case of United States against Barnett, in which a majority of the Supreme Court intimated that there should be some upper limit on the inherent power to try a criminal contempt action without a jury.

As I remember it, the decision was 5 to 4, four Justices going further to complete disagreement; and those four considered the liberal side of the Court.

I would ask the distinguished Senator from Minnesota whether it is true that, if the Morton amendment is adopted, since it is an amendment in the second degree, the Senate would not have an opportunity to vote on the Mansfield-Dirksen amendment. Is that correct?

Mr. **HUMPHREY.** In the light of the understanding that was at least stated by myself as one of the Senators in charge of the bill, I would feel honor-bound to see that the Morton amendment would become a part of the Dirksen-Mansfield-Kuchel-Humphrey package substitute.

I believe Senators will recall my statement on Friday. To refresh their memory, I said in that instance:

> Let me say one thing further to the Senator from Iowa. There is such a thing as honor in the Senate. If the amendments should prevail which the Senator from Iowa and those included in this unanimous-consent request—the Morton amendment, the so-called Cotton amendment, and the amendments relating to school desegregation, title IV, I believe, offered by the Senator from Iowa—I would consider it a matter of honor that they be included in the substitute. It would represent as of this moment, indeed, a kind of consensus of the Senate, but we do not take votes for practice. If the Senate were to vote on those amendments—I must say I hope it does not—it could do it again. Then, following cloture, let me say to the Senator from Iowa, if he should win on those amendments, over my stern resistance—whatever that may mean—I would consider it a matter of honor that those amendments should be included in the substitute.

So, in the light of the present parliamentary situation, the situation is that, if the Morton amendment prevails, that would be the provision which will pertain to jury trial proceedings. If the Morton amendment is defeated, however, then the Mansfield-Dirksen substitute, to which the Senator from Missouri [Mr. SYMINGTON] has referred, and that has been here on the desk for many weeks, will be included in the package substitute presented by the leadership.

If the amendment of the Senator from Kentucky prevails, the right to trial by jury in all criminal contempt proceedings arising under the bill would apply to all titles in the bill before the Senate, except for title I. For voting rights cases we would have the current law and the 1957 Civil Rights Act.

If the Morton amendment fails—and I appeal to Senators to give the subject some serious consideration, for I believe it would be a mistake to adopt it—but if it should fail, then Senators will have an opportunity to vote for the limited jury trial amendment offered by the Senator from Illinois [Mr. DIRKSEN] and the Senator from Montana [Mr. MANSFIELD].

Mr. **SYMINGTON.** Mr. President, I thank the able assistant majority leader for stating his position frankly; and am sure he realizes, inasmuch as I have stated formally and informally, my belief in the right of jury trial, the problem his statement gives to my position. I thank him for his courtesy.

Mr. **HUMPHREY.** I do, indeed. I am glad that the Senator has asked the questions he did, because the whole subject of the right of trial by jury, may I say respectfully, has gotten out of focus. We are not talking about jury trials in normal criminal proceedings. That right is guaranteed by the Constitution. There is no constitutional guarantee of trial by jury in criminal contempt proceedings. That has been established in the courts. It is established by the statements of distinguished Senators in this body. We are now deciding a question of policy. There is no provision in the Constitution that would prevent what the Senator from Kentucky advocates, and there is nothing in the Constitution that requires it. There have been three instances in the history of our country in which a modified form of right to jury trial in selected cases has been provided by law. Those are cases arising under the Clayton Act in which the U.S. Government is not a party, the Norris-La Guardia Act, and the Landrum-Griffin Act. Those are the only three instances in the long, straight line of court precedents and traditions which provide that the court may not enforce its orders without the right of jury trial. Those are the only three exceptions.

I should like to call to the attention of Senators that we are dealing with a highly emotional issue in relation to the civil rights bill. What we worry about is not so much the concept of jury trial.

I believe candor is always desirable and always refreshing. I personally have very strong feelings about the importance of the right of trial by jury. What I worry about, though, is that under the civil rights bill we would ask the courts to enforce school desegregation. We would ask the courts to enforce public facilities desegregation. We would ask the courts to enforce fair employment practices. We would ask our courts to enforce the whole act. Regrettably, unless those judges can be backed up by the right, which is a historic right and a historic precedent, to enforce their own orders, I am afraid that the whole process of law will break down.

I respectfully suggest to the Senate that I know of not a single judge in any area in which civil rights cases have been brought to public notice or into a court—a single Federal judge in the North, South, East, or West—who has asked that his court orders be enforced by jury trial proceedings. To the contrary, Federal court judges are deeply concerned lest their court orders fail, in which case the whole strength of the judicial structure would be weakened or jeopardized.

Mr. **JAVITS.** Mr. President, will the Senator yield?

Mr. **HUMPHREY.** I yield.

Mr. **JAVITS.** I wish to ask the Senator a procedural question, if he will permit me to do so. I do not believe that the Senator informed the Senator from Missouri quite correctly. The Senator said that Senators would have to vote on the Mansfield-Dirksen jury trial amendment, indicating or implying that they would have to vote on it separately.

Mr. **HUMPHREY.** No; I said that it was in the substitute package.

Mr. **JAVITS.** I know. That is very important for the following reason: The substitute package amendment will be pending when there is cloture. Amendments may be made to the substitute. Whatever happens to those amendments, the substitute finally will be voted up or down as a complete package.

Mr. **HUMPHREY.** The Senator is correct.

Mr. JAVITS. That is a very important point. The Mansfield-Dirksen jury trial amendment does not stand alone. It will all stand up or all go down as part of the leadership's substitute package amendment to the bill. I think that is a very important point. It is a built-in guarantee that, if the Morton amendment is defeated, the Mansfield-Dirksen proposition will be before the Senate in such a way as to make it very unlikely that it will be withdrawn or knocked down standing alone.

Mr. HUMPHREY. I do not get what the Senator is driving at. Perhaps I am weary.

Mr. JAVITS. What the Senator is driving at is that there will not have to be a separate vote on the jury-trial compromise worked out by the Senator from Illinois [Mr. DIRKSEN] and the Senator from Montana [Mr. MANSFIELD].

Mr. HUMPHREY. The Senator is correct. There would not be a separate vote.

Mr. JAVITS. It will be part of the whole compromise-package substitute for the bill.

Mr. HUMPHREY. That is correct.

Mr. JAVITS. Therefore, there is much greater likelihood that the whole thing will carry than if there were a vote "yea" and "nay" on that particular proposition, to wit, that limited jury trial amendment.

Mr. HUMPHREY. Oh yes. I see what the Senator means.

Mr. JAVITS. That is a very serious and important point. The package substitute is the fundamental document before us all. That is part of a large whole. So if it is not broken down by amendments, it will stand as to the total compromise in respect to what the Senate has to vote on.

Mr. HUMPHREY. I understand that, Senator. I appreciate the Senator's bringing that refinement of the question into the discussion, because we shall be asked sometime during the proceedings, when and if we get cloture—and I expect and hope that we will—to vote on the package substitute, which includes the Dirksen-Mansfield jury trial provision.

Mr. MANSFIELD. That is correct.

Mr. HUMPHREY. It is very likely that that measure could be carried—if, may I say, the pending amendment is defeated.

Mr. JAVITS. The other question I should like to ask the Senator is as follows: Does the Senator, as the manager of the bill, think that the Dirksen-Mansfield jury trial provision represents a codification of what the Supreme Court tried to do in the Barnett case by specifying the limit of punishment that a judge can impose, without granting the right of jury trial? Would not a provision for imprisonment for a period not to exceed 30 days or a fine not to exceed $300 codify in very specific terms the indication in the Court's footnote in the Barnett case as to the limitation of punishment in a nonjury case as that for a petty offense?

Mr. HUMPHREY. Exactly. The Senator is entirely correct. If we adopt that amendment, it would place into the United States Code what the Court indicated in the Barnett opinion in reference to the possible abuse of power of the Federal judiciary in enforcing its Court orders.

Mr. JAVITS. I should like to say to the Senator that it is for that reason that I said I would support the amendment.

Mr. HUMPHREY. I am hopeful that Senators will give us an opportunity to accept what is a reasonable and fair proposition—the Dirksen-Mansfield jury trial compromise—which imposes a maximum penalty of a $300 fine and/or 30 days in jail.

I repeat that this type of proposal is a limitation on existing law and that it is fully within the precedents of the history of our country.

Mr. HICKENLOOPER. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. HICKENLOOPER. The Senator expressed concern, as I understand, that if the jury trial amendment were adopted, it might erode our system of court enforcement of their decrees.

Mr. HUMPHREY. Yes.

Mr. HICKENLOOPER. I wonder how the Senator finds that statement compatible with the fact that Congress has seen fit—almost unanimously, so far as I know—to accord jury trial privileges to labor leaders and people in the labor movement. I do not notice that the system or the ability of judges to enforce their decrees has broken down. There was no objection at that time. I was for the jury trial provision. This amendment accords a right to jury trial, as is done in the labor field.

Mr. HUMPHREY. I can give the Senator an answer.

Mr. HICKENLOOPER. I shall be glad to hear it.

Mr. HUMPHREY. The answer is entirely one of the emotions and passions that surround the whole field of civil rights. In the instance of the Labor-Management Disclosure Act, where jury trial is provided, it relates primarily to money, accounting, and unfair labor practice cases. In the present matter, we are dealing with segregation, desegregation, public accommodations, and emotionally charged issues.

I am of the opinion, in light of what we have seen—not of theory, but in light of what we have seen—that in certain areas of our country unless court orders can be enforced by the judges—not on questions of fact or of law, but on questions of open defiance and disobedience of court orders—the power of the court in these instances will be, if not meaningless, at least seriously weakened.

This has not been the view merely of the Senator from Minnesota. It is the view of responsible officials of this Government.

I repeat, I know of no single judge of any district or circuit court of the United States, in reference to the enforcement of these provisions, who does not feel it ought to have the right to enforce its orders, and do it in summary proceedings, rather than go through a jury trial proceeding in every case in which there is open disobedience.

Mr. HICKENLOOPER and Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Minnesota yield; and if so, to whom?

Mr. HUMPHREY. I yield to the Senator from Iowa.

Mr. HICKENLOOPER. I think the Senator's rationale is rather ingenious. I thought every lawyer had always thought it was the purpose of the law and the legal procedures which have been adopted to do two things, among others. First, we got away from enforcement of so-called justice by judges without trial by a jury of one's peers. That was fundamental when we broke away from the European system. We said that in this country we would give people the right of trial by jury.

Mr. HUMPHREY. In a normal criminal case.

Mr. HICKENLOOPER. We carried it into civil cases.

Mr. HUMPHREY. But not in criminal contempt cases.

Mr. HICKENLOOPER. That is right. I shall not burden the Senator with a story about the Supreme Court, to illustrate the fallacy of that argument.

The point is that I have always been under the impression, when practicing as a lawyer, that the court system was not to operate on an emotional basis; that it was to operate on the basis of equality, justice, and reason, not on the basis of social emotion or other considerations that would disturb the calm administration of justice. As I understand the Senator, he says there should be no jury trials because this is an emotional subject. Are we legislating on an emotional basis?

Mr. HUMPHREY. The Senator has made my own case. The court should be able to enforce the law without proceeding on the basis of passion or emotion.

Mr. HICKENLOOPER. The Senator says this is an emotional field.

Mr. HUMPHREY. Because the courts have to make their court orders stand up, and enforce the integrity of the courts.

Section 665.2 of the Iowa Code provides that any court may punish for contempts of its orders. Trial by jury has never been available in Iowa in criminal contempt proceedings. In *State* v. *Baker*, 222 Iowa 903, 270 Northwestern 359 (1937), the defendant was held in contempt for violating a court injunction. Iowa's highest court rejected his contention that he should have the right to a trial by jury. The court said:

> The power to proceed summarily without formal indictment and without a jury to hear charges of contempt and to assess punishment has been an attribute of all courts of record in every stage of the development of our system of judicial procedure.

Also, in the case of Besignano against Municipal Court and Bowermaster against Walker, in 1946 and 1923, the Supreme Court of Iowa again held, without qualification, that a court may proceed in a summary proceeding in a criminal contempt case. No trial by jury is provided whatsoever.

Mr. HICKENLOOPER. Let me say that, so far as this body is concerned, this is the legislative body for the United States. It has seen fit to accord jury trials in labor matters. It did it without objection. But now we would be doing exactly the opposite in this situation; we would be denying jury trials in similar situations in the case of other citizens.

Mr. HUMPHREY. It may well be that we made an error in the other act. While the Senator from Minnesota voted for the Landrum-Griffin bill, which has not exactly been one of the happiest votes of my life, that law need not govern our decisions in all other fields of legislation. It does not prove the validity or desirability of the procedure in a field like civil rights.

I said earlier today, and I repeat it now, that the whole history of the United States in terms of court law and of trial by jury is, first, to the effect that there is no constitutional right to a jury trial in contempt proceedings. This contention is agreed to. The court has stated it in a thousand and one opinions. All Anglo-Saxon law confirms that statement. As stated in Blackstone's "Commentaries," from the late 17th century up to the present time, criminal contempt proceedings were not held with a jury trial. This was stated in Green against United States. Mr. Justice Frankfurter cited opinions of several dozen of the most outstanding judges in American history, men who surely have gained the honor and respect of every lawyer, every jurist, and every lawmaker in the history of this land. It has been constitutional practice on the part of the courts of the United States to be able to enforce their orders by summary proceedings in criminal contempt cases—in other words, without trial by jury.

I have said I know we can alter this policy, and we may very well do it in this instance, as I sense the temperament of this body; but I want to say that in so doing we may as well recognize that the Civil Rights Act will depend for its enforcement upon the integrity of the courts and the capacity and ability of those courts to pass out justice.

We are placing a very heavy burden on our courts. I do not want to see the judicial process of the U.S. Government defied. I do not want to see defiance of the law in this highly emotionally charged atmosphere relating to civil rights and civil wrongs, with demonstrations or violations that we know have occurred and can occur. I do not want to see the judicial system of the United States weakened, nor do I want to see courts, particularly in these provisions, or in the substitute proposal—which are modest in terms of limiting the powers of the court——denied the right to enforce their orders. I am opposed to judicial tyranny, just as I am opposed to tyranny of a legislative body, or of any official. I submit what the Senator stated a while ago; namely, that the Mansfield-Dirksen jury trial substitute which is incorporated in the substitute package carries out the current position of constitutional law. In the Barnett case the Supreme Court decided that there was no absolute right to jury trial in criminal contempt cases, but also indicated that jury trial should be granted if the case is more serious and if it is a case in which a heavier penalty will be assessed.

So, Mr. President, while I am not at all sure what the outcome will be on this amendment, when one realizes that the amendment is being offered by eminent Members of this body who are good lawyers—and I recognize that there are honest disagreements among good lawyers, as there was in the Barnett case—all that I am saying is that I find myself in the conservative, in the traditional, in the constitutional position of supporting 175 years of Federal judicial practice.

Mr. HRUSKA. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. HRUSKA. I am so happy to hear the Senator say that he has joined the ranks of the conservatives.

Mr. HUMPHREY. I thought the Senator from Nebraska would respond to that.

Mr. HRUSKA. Among the conservatives with whom he associates in this regard was Senator George W. Norris, who was one of my predecessors in the line of Senators from Nebraska.

Mr. HUMPHREY. A great Senator.

Mr. HRUSKA. And also Fiorello La Guardia, a Representative and onetime mayor of New York City. They successfully fought for a measure known as the Norris-La Guardia Act which accords jury trials not only in criminal contempt cases but also in civil contempt cases. This Act has not resulted in any destruction or dissipation of the court's authority.

The fact is, there have been three notable instances in which Congress has seen fit to provide the right to trial by jury in contempt cases. The first, as I have mentioned, is the Norris-La Guardia Act which provides for jury trials in both civil and criminal contempt proceedings. The other two are the Clayton Act and the Landrum-Griffin Act, which provide jury trials of criminal contempt proceedings. Under the Clayton Act, representatives of big business who conspire to fix prices and restrain trade are accorded this basic right. The Landrum-Griffin bill was directed against labor racketeering and significantly it too grants a trial by jury in criminal contempt cases.

But the private citizen who may run afoul of the provision of this bill which may soon pass in the Senate—and which I hope will pass in its modified form—will be denied, under the existing provisions, the right to a trial by jury in criminal contempt cases. It is difficult to reconcile the pending provisions which the Senator from Minnesota is urging with the past legislation which I noted.

Mr. HUMPHREY. I was sure that if I uttered that hallowed word "conservative," my good friend, the Senator from Nebraska, would respond with a sparkle in his eyes—and he did. Then he brought up the names of two eminent and great progressives. I should like to strike a bargain with the Senator from Nebraska. If I thought that in his legislative career he would follow a course of political action that was the life of the great George Norris and the great Fiorello La Guardia, I would retreat at once from the field of battle over this jury trial amendment. However, I have the feeling that in this instance the Senator from Nebraska, fine gentleman that he is and able man that he is, is reaching out for Mr. Norris and Mr. La Guardia, these two great public officials, because they happen momentarily to substantiate his case.

But I reached back further into the days of the Republic, even further than that, into Anglo-Saxon law of the 17th century, back to Blackstone's Commentaries, back to John Marshall, back to Chief Justice White, to Charles Evans Hughes, to Associate Justice Storey, to Associate Justice Brandeis, to Associate Justice Holmes, and to Associate Justice Cardozo—just to mention a few.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. HUMPHREY. If the Senator will permit me to call attention to his own State, because in this instance it is noteworthy, many Senators who are arguing so vigorously for a jury trial come from States, and have served in public office there, States which have denied jury trial in criminal contempt proceedings from the very first day of their statehood.

Let us take Nebraska. In a court of record that has the power to punish by fine or imprisonment, or both, if a person is guilty of willful disobedience, or resistance willfully offered to any lawful process or an order of the court, no jury trial is allowed, or if the question involved affects the administration of justice, it may require the prompt action of the court to prevent an obstruction of the law or a failure of justice.

The Senator from Nebraska knows the cases of *Gandhi* v. *State*, 13 Nebraska 445. Also *State* v. *Tush*, 168 Nebraska 367.

Mr. President, two of the States in the Union which have never, never, permitted a jury trial in criminal contempt cases are Iowa and Nebraska.

The senior Senator from Iowa was Governor of that State. The distinguished Senator from Nebraska [Mr. HRUSKA] has a record in Nebraska of eminent public service to his State. The State of Minnesota, let me say, also has a record of not granting jury trials in criminal contempt cases. So does Nevada. So does New Hampshire. So does New Jersey. So does New Mexico. So does New York. So does North Dakota. So does Ohio—and on down the line.

Mr. MORTON. It sounds as though the Senator is running the national convention. Read those again. [Laughter.]

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. HUMPHREY. Let me say to the Senator that I hope the results—in this instance, the jury-trial provision of the Mansfield-Dirksen substitute—will be a little better than what I believe the results of the Republican Convention are going to be.

Mr. DOUGLAS. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. DOUGLAS. Will the Senator permit me to make two or three remarks which ordinarily we do not make on the floor of the Senate?

Mr. HUMPHREY. Yes—so long as they are complimentary. [Laughter.]

Mr. DOUGLAS. Is it not true that one reason why jury trials were demanded in the case of labor injunctions was because it was commonly believed that the Federal judiciary tended to be prejudiced against labor unions and the activities of labor unions—a belief based in part on a series of injunction cases, and notably in the Bucks Stove & Range case in which heavy jail sentences were meted out to Mr. Gompers and Mr. Morrison and, I believe, to one other official? Similar rather severe jail sentences were imposed in other cases. Jury trials were to be used as checks on the Federal judiciary at that time. In those days the Federal judges were largely recruited from the ranks of successful lawyers. Successful lawyers by definition were lawyers with large incomes, and lawyers with large incomes tended to be corporation lawyers and to have represented employers and the top of the power structure.

So the Federal judiciary was largely prejudiced in favor of employers and against organized labor; and the jury trials acted as corrective influences against the believed prejudice of the bench.

Mr. HUMPHREY. The whole record of American history shows that the courts were using their injunction power indiscriminately to prevent labor organization and free collective bargaining, in defiance of the congressional mandate.

Mr. DOUGLAS. The Senator is correct. Here is a point which we ordinarily do not like to mention on the floor of the Senate, because we like to be tender with the practices of the localities from which our colleagues come. The issue of civil rights is not entirely a sectional issue. We have our sins in the North. There is no question about that. But, is it not true that it is in part a sectional issue, as the facts brought out in the debate have shown, and as the long discussion which can be characterized as a filibuster has once again demonstrated? Is it not true that in the case of the so-called Southern States, where violations of civil rights while not occurring exclusively will occur most frequently, that, in the first place, there is very little danger that the Federal judges will be excessively harsh to southern citizens and southern officials?

Mr. HUMPHREY. That is correct.

Mr. DOUGLAS. I should like to ask the Senator from Minnesota if he thinks that there is any danger that the Federal judges in Southern States will be excessively harsh on southern citizens and southern officials who violate a court order.

Mr. HUMPHREY. I do not. What is more, the substitute that we have offered strictly limits the amount of punishment that can be meted out by a Federal court to enforce its orders in cases of criminal contempt.

It is no open-end proposition. It does not permit a judge indiscriminately to issue one order after another, and to throw a man in jail time after time.

The maximum and total monetary penalty is $300. The total, all-inclusive prison term is 30 days. That is a severe limitation on present law.

Mr. DOUGLAS. Is it not also true that, after all, jurors who serve only for a brief period of time, and then go back into the communities in which they live, will be under terrific pressure not to find guilty, persons who have violated a court order in segregation cases? In other words, in segregated sections of the Nation, the pressure of public opinion would be all in the direction of no penalty, whereas in cases tried by Federal judges the decisions could be made largely without this pressure?

Mr. HUMPHREY. During the dark days of the depression in the Midwest, to use my own section of the country as an example, when court orders were issued, and a jury trial was provided, and men and women who were in great economic distress served on those juries, the emotion and passion and feelings of the community could not be ignored by jury members, who came from local communities, and had to go back and live in those communities.

That is why the Federal judiciary in the main has insisted, if it is to have the responsibility for the enforcement of law and for issuing a court order, that it must also have the right to back up its orders in criminal contempt proceedings without jury trials.

Mr. DOUGLAS. Does the Senator remember, when we discussed this issue in 1957, that I introduced in the RECORD the facts as to the procedures used in the selection of Federal jurors? While it is true that the selection of Federal court juries is conducted much more impartially than the selection of State court juries, is it not also true that it is relatively difficult to have Negroes included on jury lists or to have them actually serve on juries? I do not say they are never included. I simply say that generally they are not included.

Mr. HUMPHREY. I recall the Senator's documentation of this subject. I say this most respectfully. I do not want to impute prejudice to any jurors. The Senator has mentioned certain facts of life, and he is recognizing them. I have used my area of the country as an example, not some other part of the country. I have used the area of the country in which I live.

I can remember when Federal judges enforced court orders in the States of North Dakota, South Dakota, Iowa, and Minnesota, without a jury trial; and the only way it was possible to enforce court orders was by the use of criminal contempt proceedings. Jury trials often took place in a highly emotionally charged atmosphere. What I seek to do is not criticize any section of the country. I merely wish to say that if we wish to protect the integrity of the judicial system, we must give it the tools to maintain that integrity.

Mr. President, may I ask the Chair what the time situation is? We may wish to have more time on the amendment tomorrow immediately before we have an opportunity to vote on it. Does the agreement provide that we shall vote immediately after the quorum call tomorrow?

The PRESIDING OFFICER. Yes. Nineteen minutes remain to the opponents, and 54 minutes to the proponents.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. DOUGLAS. We do not like to hurt the feelings of our southern friends. However, is it not true that no matter how strong the case, under the present state of public opinion in most Southern States it is virtually impossible to obtain a conviction by a jury in a matter involving civil rights?

Mr. HUMPHREY. I am of the opinion that if we are to ask the Federal courts to enforce the proposed law, including the present provisions of law, we should respect the tradition which relates to criminal contempt proceedings, and to have it done through summary proceedings rather than by jury trials, because the facts of life have indicated this necessity throughout the years.

That is why the court has attempted to seal itself off from emotions and passions and momentary considerations, so that the judge could protect the integrity of his orders through what we call criminal contempt proceedings of a summary nature.

Mr. DOUGLAS. Does the Senator remember that in 1957 I reviewed the judicial records of various district and circuit court judges in the South and found that almost without exception they were persons who had practiced law in the South for a long period of time, who had been educated in the South, and who had been recommended by Senators from the South for appointment? Was it not reasonable to conclude that there was little possibility that they would be prejudiced against southern whites?

Mr. HUMPHREY. There is all the evidence in the world that these eminent jurists have been fair and judicious and considerate and responsible and loyal to their oath of office.

Mr. DOUGLAS. They could not be accused of being prejudiced against whites? Is that correct?

Mr. HUMPHREY. They could not be accused of being prejudiced. I wish to say again that their record is one which stands well in the annals of this Nation.

Mr. DOUGLAS. I will not go that far, because I think some of them have unfortunately been prejudiced against Negro litigants. However, I will stand by this statement, that certainly they cannot be accused of prejudice against southern whites.

One final point. If by any chance there should be a prejudiced judge who tried to pass out an excessive sentence, he would be checked by the Mansfield-Dirksen amendment which provides that he could not impose a sentence in excess of 30 days in jail or a fine in excess of $300 without permitting the person in question to ask for and obtain a jury trial. Is that correct?

Mr. HUMPHREY. That is correct. The Senator from Illinois is absolutely correct.

I should like to take 1 minute to note for the Record that under date of June 3, as will be found on pages 12574–12577 of the Record, I listed the States in the South that do not provide for jury trials in criminal contempt proceedings. One of the States, interestingly enough, that does not grant the right of trial by jury in criminal contempt cases is Georgia. It has a clear record of summary proceedings, court-enforced orders, and no jury trials in criminal contempt cases.

The same is true in Tennessee, in Texas, and in Louisiana. In fact, the Louisiana Code is very explicit. The same is true in Arkansas, where jury trials are not granted in criminal contempt cases. I gave the citation of the court cases and the findings in the supreme courts of the States. The same is true in South Carolina and North Carolina.

I went through the cases in Virginia. In the case of Yoder against Commonwealth, the Virginia court set aside the action of the legislature, which sought to provide jury trials in criminal contempt proceedings.

So with few exceptions—the long precedent in Federal and State courts of the ability of courts to enforce their orders without jury trials is a part of the great history of this country.

I have 40 pages of documentation with reference to the laws relating to criminal contempt. Some of them are most interesting in the light of the sponsorship and support of the amendments that almost all are before the Senate. It is quite clear that Senators who support an unlimited right of jury trial in all criminal contempt cases, so far as the pending civil rights bill is concerned come from States that deny that right altogether.

I yield the floor.

Mr. HOLLAND. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. McGovern in the chair). The Senator from Florida will state it.

Mr. HOLLAND. As I understand the unanimous-consent agreement, the debate on the pending amendment is limited to 4 hours. But I further understand that after the limitation of time has expired, and if the Senate does not take a recess, debate can continue.

Mr. HUMPHREY. On other amendments.

Mr. HOLLAND. On other amendments or on the pending amendment. But as I understand, the vote on this particular amendment must be taken immediately after the Senate convenes tomorrow.

The PRESIDING OFFICER. It would not be in order to debate this particular amendment tomorrow, because under the unanimous-consent agreement the vote on the amendment is to be postponed until immediately after the ascertainment of a quorum, following the convening of the Senate on Tuesday, June 9. So the vote would come immediately after the quorum call, tomorrow.

Mr. HOLLAND. The Senator from Florida understands that. The real question is whether the 4 hours of controlled time would end the discussion, or may the discussion of the amendment continue if the Senate remains in session?

The PRESIDING OFFICER. There will be no controlled time after the 4 hours have expired.

Mr. HOLLAND. The debate on this amendment or on any other subject a Senator may take up may continue, provided the Senate remains in session after the 4 hours of controlled time has elapsed; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HOLLAND. I thank the Presiding Officer.

Mr. MORTON. Mr. President, I yield myself 2 minutes.

First, the amendment which I have offered certainly does not take away from the Federal courts their power to enforce their orders or edicts. For example, it does not touch civil contempt.

As the Senator from Nebraska has pointed out, in the Norris-La Guardia Act the power to punish for civil contempt without a jury trial was taken away from the courts.

My second point is that the States are in no sense inconsistent in denying jury trials in contempt cases. However, on two separate occasions Congress has provided for jury trials in contempt cases. Congress has said that such cases should be tried on their merits.

Much is said about emotional overtones. It was because of the very fact that emotional overtones prevailed at the time of the passage of the Norris-La Guardia Act that a jury trial amendment was included in that act, and also, to a degree, in the Landrum-Griffin Act.

Mr. JAVITS. Mr. President, will the Senator from Kentucky yield for a question, before he yields the floor?

Mr. MORTON. I yield.

Mr. JAVITS. The argument the Senator is making about the Landrum-Griffin Act and the Norris-La Guardia Act is important. I do not depreciate it at all. But I should like to ask the Senator this question:

Is it not true that by cutting down the Talmadge amendment, the Senator from Kentucky is, for all practical purposes, agreeing that the whole question must be considered on a case-by case basis or a statute-by-statute basis?

I think we should not generically give a person a jury trial in all criminal contempt cases under the whole body of the law at once. That conclusion makes it less important to be consistent from one field to another. Instead we should consider in each case whether under this particular statute, considering the purposes which it is intended to accomplish, we do want to give a jury trial, as we have in three specific instances. So the argument really ought to be upon this particular case as meriting that kind of special treatment, rather than that we are consistent or inconsistent.

Mr. MORTON. The argument has been made that my amendment is inconsistent because it does not grant a jury trial in voting cases. As I pointed out earlier in the day, and as the Senator from North Carolina [Mr. Ervin] pointed out, there is a difference between title I and the other titles. If I lost my vote, there would be nothing that could be done about it; the polls would have been closed and the votes counted. But if I am denied the right to purchase a hamburger, a judge would have the power, through civil contempt proceedings, to punish the owner or proprietor of the hamburger establishment.

I might be denied my right to buy a hamburger or my right to enroll my child in a school. There is a difference in the application of those titles. Let it be called inconsistency; I think the difference is logical. For that reason I have made this change.

Mr. JAVITS. Several titles I believe are in the same general category as the voting provision. Title III relates to desegregation of public facilities, and title IV to desegregation of public schools.

The Senator knows that I am not arguing this question in a hostile manner; we are discussing it as lawyers, anxious to do justice.

What troubles me, for example, is the discriminatory denial by a mayor or other municipal official of access to a public facility, in which case title III is designed to avoid the indignity to the citizen and the derogation of the right of the citizen.

I used the example of a child who seeks admission to a school at the beginning of a term. There may be a lot of fumbling around until 2, 3, 4, or 6 months have passed. In the Prince Edward County school cases, several years passed. Then the law finally catches up. It is that kind of case, rather than the hamburger case that bothers me.

Mr. MORTON. I think a judge could punish in those circumstances, although that might be a week or two later. But a vote is lost when the poll is closed. If the amendment is adopted, a judge would have the power to carry out the mandate of the bill under civil contempt.

Mr. JAVITS. I gave the voting example myself when the Senator's first amendment was pending. I hope it impressed the Senator. I think it is a satisfactory and important change in his amendment. I do feel that was a signal case. But I now refer to cases involving other public officials, who might be prejudicing irremedial rights that cannot be restored.

In the case of desegregation of schools, whatever months or years might be lost, would be lost irremediably if there were no deterrent in the way the Senator has suggested.

Again, I do not say that southern juries are different from other juries. I am talking about the mind of the defendant himself. He might feel he is less likely to be punished if a jury trial is assured.

Mr. MORTON. There is the civil contempt procedure. It may be that a man who operates a swimming pool will spend a week in jail before he will open it. But I do not think that that 1 week would constitute a catastrophic loss.

Mr. JAVITS. Except that the law will not move with that celerity. It may take months.

Mr. MORTON. If it will not move with that celerity, it would not move under the compromise bill.

Mr. JAVITS. But there we have the deterrent factor. The judge himself could punish.

I thank the Senator. I do not want to take his time. But I did want to crystallize the points that trouble me about the amendment.

Mr. MORTON. In my judgment, the judge could still punish under the terms of my amendment.

Mr. President, I yield 10 minutes to the distinguished Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, I thank the distinguished Senator from Kentucky.

I rise in support of the amendment of the distinguished Senator from Kentucky. One of the most precious rights that we have under the Constitution is the right of a trial by jury. Why do we have the right of a trial by jury? After the Revolutionary War was won, the Constitution was adopted. Article III, section 2, of the Constitution contains these words:

> The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crime shall have been committed.

Why was that section put in the Constitution? Mr. President, the colonists, prior to their independence from Great Britain, had been tried without juries. Tyranny was the result. Therefore, when the Declaration of Independence was written, a declaration to this effect was put into the Declaration of Independence. It listed the various grievances and the reasons why the colonists were going to separate from their mother country. This sentence is contained in the Declaration of Independence: "For depriving us in many cases of the benefits of trial by jury."

That is one of the reasons that the colonists declared their independence from Great Britain. They did not attempt to list every reason, but that was one of the important reasons: They had been denied the right of trial by jury.

Some Senators have said criminal contempt is not a crime. The purpose of writing that provision into the Constitution was to prevent the incarceration of a citizen without a trial by jury.

The Constitution says "the trial of all crimes, except in cases of impeachment, shall be by jury." So it would seem that any trial would fall in that category. So if a defendant were to be tried before a judge, without a jury, would not the Constitution be violated? Therefore, to nail down this matter explicitly, so there would be no question about it, 3 of the first 10 amendments to the Constitution refer to the right of trial by jury.

The fifth amendment to the Constitution provides:

> No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury.

This amendment also provides:

> Nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself.

The purpose of those who wrote the Constitution was to place safeguards around individuals charged with offenses or crimes, before they could be incarcerated or put in prison.

But under the theory advanced by the opponents of this amendment, a man charged with criminal contempt would not have an opportunity to have a trial by jury. No safeguards would be provided. The judge would be the prosecutor and the jury and the witnesses. The judge would constitute the entire judicial machinery, when he tried defendants for contempt.

In civil contempt, the purpose of punishment is to bring about compliance with a court order. The purpose of criminal contempt is to punish for violation of a court order. If a man is to be punished for violation of a court order and if he is to be put in prison, should not he have the safeguards that were provided in the Constitution and also in the first 10 amendments?

The sixth amendment to the Constitution provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed.

It says, "In all criminal prosecutions." What difference does it make whether we call it criminal contempt or a criminal prosecution, if the end sought is to put the man in prison? Certainly the purpose of this constitutional provision was that if a man was threatened with being deprived of his liberty or of his life, he would have a right to a jury trial.

The seventh amendment, which pertains to civil cases, provides:

> In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved.

Even in the case of material things, if the value of the goods is more than $20, a man is entitled to a trial by jury. Which is the more important: To give a man a trial by jury if the goods involved are valued at more than $20, or at $100, or at $1,000? The Constitution provides that he shall be entitled to trial by a jury. Is it better to give the right of trial by jury in a civil case, rather than in a criminal case? If convicted in a criminal case, he could be placed in prison.

Mr. President, regardless of what has been the policy with respect to criminal contempt in some of the States of the Nation, I am convinced that the authors of the Constitution intended that when a man's life or liberty was threatened, he should have the right of trial by jury.

In 1914, the Clayton Act was written. In that act, a defendant was given the right of trial by jury, except when the Government was a party to the suit. In 1932, when the Norris-La Guardia Act was passed, the right of trial by jury was given to defendant labor leaders in criminal contempt cases. Under the Landrum-Griffin Act, passed in 1959, a person charged with criminal contempt is entitled to a trial by jury.

So we see the decisions that we have in this matter by the Congress of the United States have given a man charged with criminal contempt the right of a trial by jury in labor cases.

It is true that in 1957—and I did not vote for that bill, and that is the bill that I spoke so long against, because the right of a trial by jury was compromised—it is true that it was provided there that if the punishment was less than 45 days for criminal contempt, or a $300 fine, then the defendant would not get a jury trial, but if the punishment was greater than $300, or more than 45 days punishment, he would get a jury trial.

So there was a partial jury trial in that case. I agree that it was a compromise; but it did grant a jury trial to a substantial degree, although not completely. I do not think that that was a proper statute to have been passed by Congress. It was not in accord with the Clayton Act. It was not in accord with the Norris-La Guardia Act. It was not in accord with the Landrum-Griffith Act.

Mr. President, I should like to call attention to the wording of the Constitution on this question. I wish to go back to article III, section 2, where reference is made to the subject. At that point the Constitution states:

> The trial of all crimes, except in cases of impeachment, shall be by jury.

The Constitution did not state that "it may be" by a jury. It did not say that in some cases it may be by jury. The Constitution states that "the trial of all crimes shall be by jury."

How are Senators going to get around that language if they properly interpret the thinking of those who wrote the Constitution of the United States?

In the sixth amendment to the Constitution the following provision appears:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.

Again the Constitution did not state that the accused may have a jury trial. It states that "the accused shall enjoy the right to a speedy and public trial, by an impartial jury."

Mr. President, the so-called civil rights bill pending before us is one of the most vicious bills ever proposed to this or any other legislative body. In my opinion, it would do more to destroy civil rights than any bill ever presented to the Congress of the United States.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MORTON. Mr. President, I yield 2 additional minutes to the Senator from South Carolina.

Mr. THURMOND. The bill would transfer power from the State level to the national level. The bill would transfer power from individual citizens to the national level. To charge people with crimes under the bill and not give them the right to trial by jury it seems to me would be a deliberate attempt to incarcerate people without giving them their rights under the Constitution of the

United States. I think it would not only be a violation of the Constitution, but also poor policy. I think it would be bad procedure. I think we would set a bad precedent to pass such a measure as the one before the Senate and not provide for the right of trial by jury.

Mr. President, I hope the amendment of the Senator from Kentucky will be agreed to. I support the Talmadge amendment, which provides that in all cases of indirect criminal contempt of every kind an accused will be entitled to a trial by jury. I supported the previous amendment of the Senator from Kentucky, which provided that under all titles of the bill an accused would be entitled to a trial by jury. That amendment was defeated by 1 vote.

Now we have before us an amendment which provides that a man charged with criminal contempt for violating any provision of the bill except title I shall be entitled to trial by jury. That is certainly the very least that the proponents of the bill, it seems to me, could give to those who are charged with a crime. I believe if we do not adopt the amendment, we shall follow a dangerous course. I hope that the amendment will be adopted by the Senate.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. **MANSFIELD.** Mr. President, before I yield 2 minutes to the Senator from New York, I wish to state that the amendment would take away from the Federal judiciary powers which already are accepted in the State courts. I point out to Senators that the nomination of every Federal district judge, every circuit court judge, and every Supreme Court justice is confirmed by the Senate; and the judges must meet certain qualifications, at least, in the minds of Senators who vote in favor of confirmation of their nominations.

I yield 2 minutes to the Senator from New York.

Mr. **JAVITS.** Mr. President, I wish to make one basic point right now. We hear so much about the mainstream of Republican thinking these days that perhaps it would be helpful to refer to the 1957 civil rights bill. At the time that bill was considered the Senate faced exactly the same problem—a so-called jury trial amendment. The amendment at that time was sponsored principally by Senator O'Mahoney, of Wyoming.

Out of 45 Republicans who voted on Senator O'Mahoney's amendment, 12 voted for the amendment and 33 voted against it. Attorney General Brownell, we are told by the Congressional Quarterly, was against the so-called jury trial provision, and he was backed by then President Eisenhower.

Furthermore, it is now crystal clear that the amendment does not assure a jury trial for all those who may go to jail for violation of this bill. They may go to jail just as much under a charge of civil contempt as under a charge of criminal contempt, and this amendment would not give them a jury trial. It is a question of deterrent. It is a question of selected action by the Congress in view of other provisions that are made with respect to other statutes. The selection in this particular case is supported by the difficulty of jury and grand jury action in cases of this character, as reported to us by the Assistant U.S. Attorney General, in charge of the Civil Rights Division. I placed a statement from him in the RECORD, and it appears at page 8244 of the RECORD of April 17, 1964. It is also supported by the U.S. Commission on Civil Rights. I ask unanimous consent to have printed in the RECORD excerpts from the findings on that score of the Department of Justice and of the Civil Rights Commission.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., April 14, 1964.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: You have requested my views on the adequacy of existing criminal statutes (18 U.S.C. 241, 242, and the use of 242 together with 18 U.S.C. 371) to combat racial discrimination in voting, education, and public accommodations and facilities. This issue was, of course, thoroughly considered and debated at the time of the enactment of the Civil Rights Act of 1957. (See hearings on S. 83 before Subcommittee on Constitutional Rights, Senate Judiciary Committee, 1957, p. 3 ff.). The objections to relying solely on criminal sanctions remain the same.

The purpose of Federal civil rights legislation is affirmative rather than negative; ameliorative rather than punitive.

When a person's right to vote is illegally denied he suffers irreparable injury unless this right is promptly restored—as it can be by the injunctive process of the 1957 act. The voting section of the pending bill simply amends that act by defining specific malpractices of registrars which are covered by the legislation. Thus, there is no reason to argue that a criminal statute should or would take the place of this simple amendment of a civil sanction.

Just as criminal penalties in voting right deprivations are inadequate, so would they be in cases involving other rights—the right to desegregated education and free access to public accommodations and facilities. Moreover, it is fairer to the public officials and private defendants who are charged with civil rights violations to use the less harsh yet more meaningful civil procedures.

It would be particularly incongruous to consider the criminal statutes effective remedies against refusals to effect school desegregation in the Southern States. Nearly 1,900 school districts have taken no action toward desegregation. Those who urge that existing criminal rather than civil remedies be employed would hardly wish to be heard to argue that criminal prosecutions be brought against the school officials responsible for this failure to accord constitutional rights. Yet this is what the logic of their position would seem to dictate. Moreover, fines and imprisonment for thousands of school officials would scarcely open the doors of equal educational opportunity to the 3 million Negro children who still attend segregated schools.

The Department's experience with the use of 18 U.S.C. 241 and 242 points up the difficulty of obtaining indictments and convictions in civil rights cases. This is due in considerable part to the reluctance of grand juries to indict and petit juries to convict. It may be due also in part to the very heavy burden imposed by 18 U.S.C. 242 to show willfulness. See *Screws* v. *United States,* 325 U.S. 91; *United States* v. *Classic,* 313 U.S. 299.

Since 1958, when the Civil Rights Division was established, approximately 116 criminal prosecutions have been filed, most of them involving police brutality under 18 U.S.C. 242. In a few cases the conspiracy statute, 18 U.S.C. 241, was invoked, or the general conspiracy statute, 18 U.S.C. 371, was used in conjunction with 18 U.S.C. 242. Grand juries refused to indict in 61 of these cases. In addition, three cases under section 242 were brought to trial by way of information. As of April 1964, 16 convictions had been obtained.

It is clear that the effectiveness of 18 U.S.C. 241 and 242 even in police brutality cases is seriously limited. These statutes would certainly be even less useful in the areas covered by the pending civil rights bill.

Sincerely,
BURKE MARSHALL,
Assistant Attorney General,
Civil Rights Division.

U.S. COMMISSION ON CIVIL RIGHTS REPORT ON ADMINISTRATION OF JUSTICE, 1961

There may also be other difficulties in obtaining an indictment. Grand juries in some places refuse to return indictments under the civil rights acts even in the most heinous of cases; in a recent 2½-year period grand juries refused to indict in at least 16 of the 43 police brutality cases the Department of Justice filed in court (p. 81).

Since section 242, the principal Federal Civil Rights Act, defines only a misdemeanor, prosecution can be instituted by information * * * as well as by grand jury indictment. The former method avoids the delay and the hazard of one more hostile jury, involved in a presentment to a grand jury (p. 84).

Mr. **JAVITS.** So here is an issue which Republicans have been through before, and on which they voted almost 3 to 1 the other way on a previous occasion.

Mr. President, we are buttressed by the practice in the States to which the Senator from Montana [Mr. MANSFIELD] refers; by the fact that the provision would not keep people from going to jail for contempt without a jury trial; and by the fact that we would be exercising our discretion in a selected area of a particular type of statute which may be violated, and using our judgment that that deterrent must be included in this law.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. **MORTON.** Mr. President, I yield 10 minutes to the distinguished Senator from Florida.

Mr. **HOLLAND.** I thank the distinguished Senator.

Mr. President, I think one of the principal values that has come to the country by reason of the determined opposition of those who have opposed the pending bill is illustrated in the debate this afternoon. This is not a debate involving the constitutional theory advanced here so long and so tirelessly by my distinguished friend from Minnesota that the Federal courts have the right to punish for criminal contempt without a jury trial, because, to the contrary, the Senator from Minnesota and those who stand with him are supporting the Dirksen-Mansfield theory under which that right, if there was one, would be taken away from the Federal judges and, to the contrary, a jury trial would be provided in all cases of any seriousness. I say to my distinguished friend, before he rises, that there is a very great difference between the

Dirksen-Mansfield proposal, which applies a limitation or a maximum of a $1,000 fine and 6 months imprisonment in criminal contempt cases, as compared with no limit and no maximum that was provided under most provisions of this bill as it was brought here from the House and as it was first debated on this floor.

I repeat that one of the principal values which has accrued to the country from the long and determined opposition of those of us who have been opposed to the bill is the fact that we are selecting now between two different approaches to the philosophy that the Federal judges should not have an unlimited right, but should have a limitation upon the penalties which they can impose, and should have that limitation imposed upon them. For the most serious part of their jurisdiction they must call a jury.

Neither of those things was provided by the bill that came over from the House, but they are the direct result of the opposition which has been voiced here on the floor of the Senate.

Mr. President, the proposal advanced by the distinguished Senator from Minnesota, who supports the amendment of the Senator from Illinois [Mr. DIRKSEN] and the Senator from Montana [Mr. MANSFIELD], is that there shall be a jury trial for any offense amounting to criminal contempt which would call for a sentence greater than 30 days in punishment in durance vile, or greater than $300 in penalty. In other words, he has come to the position that the Federal judge should not be allowed the unlimited right of being prosecutor, jury, and the imposer of the penalty that he has been arguing here at such great length upon the floor. He, too, is offering a jury trial amendment and supporting the jury trial amendment so that most of the argument today by him has been a begging of the issue.

We are considering two proposed approaches that involve jury trial amendments. The first is the amendment of the distinguished Senator from Kentucky. It would simply place this amendment on the basis of a compulsory jury trial, but with the limitation upon the penalty of either 6 months or $1,000—a very great improvement over the original proposed legislation.

I favor that approach, because it is like unto the other approaches which the Congress of the United States has made to this particular kind of case—the Norris-La Guardia Act—where there was great emotion as between employer and employees, and a feeling on the part of employees that the courts were against them; the Landrum-Griffin Act, in which there was great tension between those temporarily in charge of the unions and union funds and the mere members, who felt they were being deprived of any chance to be properly heard; and the Clayton Act. Certainly no one can assert that those who are given the right of jury trial under the Clayton Act were the abused or underprivileged of our citizens.

Now we are being asked to modify the methods by which we have handled this kind of case by allowing a provision to creep in under which Federal judges can, if the punishment is to be up to 30 days in jail and up to $300 in fine, exercise their judgment exclusively and serve as prosecutors, as jurors, and as judges, all at the same time; and only beyond that punishment would a defendant get the right and protection of a jury trial.

I wonder if my distinguished friend from Minnesota and those Senators who stand with him on this matter realize they are proposing something that is very different from what they have supported in the Norris-La Guardia Act, the Landrum-Griffin Act, and the Clayton Act, and that they are proposing to give judges more authority, up to this limited penalty and limited fine, than they did under the other acts.

The three approaches all come from the same kind of situation, where there is great stress and high tension, where there is great feeling that justice will be withheld.

If there is such a feeling now existent, it is certainly in the civil rights field, whether such a case arises in the South or in New York City under the recent situations there, where persons have lain down before trolley cars and have refused to let the Governor of Florida enter the building on the World's Fair grounds paid for by the people of Florida, and who have done other things of an enormous nature that I shall not attempt to relate.

Is there any reason to believe that there is no emotion involved there and no reason to feel that defendants should be entitled to the right of a trial by jury? The feeling is intense in these recent cases, just as it was in the "yellow dog" cases back in the days when the Norris-La Guardia Act was enacted. And for exactly the same reason, I think the same kind of compulsory jury trial should be enacted.

I call the attention of the distinguished Senator from Minnesota to the fact that this particular provision which the Senator is supporting is more generous to the defendant than the provisions of the Norris-La Guardia Act, because both give the right of jury trial. In the case of the Norris-La Guardia Act, there was no ceiling or top to the penalty and no top to the fine that might be imposed. The same thing was true as to the other matters that have been acted upon by the Congress.

So there should be a feeling of attainment and of victory for the opponents of this bill in the enactment of such a provision as compared with the bill as it came from the House. It is a question of whether we should now depart from approved Federal standards, which we have followed in the case of the other three instances which have been mentioned. I think we should not depart from them greatly. I think there should be a definite right of jury trial, and we should not leave the matter in the hands of a judge, in which he could, by ordering, particularly in the case of people of modest means, punishment by a $300 fine or 30 days, or less, bring about a situation under which a defendant could not get a jury trial.

Defendants have no option to ask for a jury trial; it is the judge who has the sole discretion under the provision of the Mansfield-Dirksen amendment.

There again, I do not like that provision. I think it should be a matter of right. I think the amendment offered by the Senator from Kentucky gives a valuable right like unto that which was given to those who were charged with criminal contempt under the Norris-La Guardia Act and under the other acts I mentioned.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLAND. May I have 2 additional minutes?

Mr. MORTON. I yield 2 additional minutes to the Senator from Florida.

Mr. HOLLAND. In closing, I want to reiterate one other fact which has not been made sufficiently clear.

There is no threat whatever under the amendment to the ability of the court to enforce its order, because in civil contempts a court can keep a defendant in jail for months, if necessary, so long as the defendant refuses to obey the court's order.

The amendment relates solely to the matter of punishment for crime. It is not a question of whether the Constitution means this, that, or the other. It is a question of which of the two methods proposed shall be followed, by taking away from the district court any right it might otherwise have to impose penalties without a right of trial by jury.

Both sides have offered amendments on the subject. The question is, Which is the better? In my judgment, the one that gives the positive right to a defendant to have a jury trial, just as in the case of the three other acts mentioned, is the better. Surely, those acts have not destroyed the power of the courts to carry out their decrees. Why would giving defendants the same right to be tried by juries of their peers in this case destroy the ability of the courts to function? Manifestly, it would not destroy the ability of the courts to function.

I think the Morton amendment should be adopted. I plead for its adoption.

In taking my seat, I remind the Senate that we are not following the thought that the courts shall have untrammeled right to follow their will, but we are following the suggestions of the Supreme Court itself, four of whom were against judge-made law, and the other five of whom suggested Congress should impose legislation which should deal with this subject. That is what Congress would be doing if the Morton amendment is adopted.

Mr. HUMPHREY. Mr. President, how much time do the opponents of the amendment have remaining?

The PRESIDING OFFICER. The proponents have 24 minutes; the opponents have 10 minutes.

Mr. HUMPHREY. I yield myself 5 minutes.

Mr. President, I listened to the remarks of the Senator from Florida. The gist of those remarks, as I understand them, is to the effect that because of the debate on the bill, we have arrived at a point where, no matter what we do now, the Senate will adopt a method or provision relating to the enforcement powers of the court in relation to criminal contempt proceedings. The Senator is eminently correct.

I may add that the Talmadge amendment, the original amendment which is being perfected or modified by the proposed amendment of the Senator from Kentucky, was far-reaching and sweeping in its impact, because it proposed that all cases of criminal contempt, not only those relating to the Civil Rights Act, be tried by jury. The Dirksen-Mansfield substitute was offered as a counterplay to the Talmadge amendment.

It embodies the Court decision in the Barnett case. It is codified, so to speak, the judicial decision or the judge-made law in the Barnett case.

Mr. HOLLAND. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. HOLLAND. Is it not a fact that four members of the Court favored doing away with the judge-made law entirely, and that it was only the five who were a majority who suggested the difference between a petty offense and a major offense?

Mr. HUMPHREY. The Senator is correct, but it was a 5-to-4 decision.

Mr. HOLLAND. Is it not true that it was the five in the majority who suggested that the legislative body could go ahead to terminate the situation and deal with the matter effectively?

Mr. HUMPHREY. The Senator knows, and I have stated it repeatedly, that the issue before us is not one of constitutionality but of legislative policy. Constitutionally, there is no right to a trial by jury in criminal contempt proceedings. None other than the distinguished Senator from North Carolina [Mr. Ervin] said that today in debate on this very proposal. Other distinguished lawyers and Senators have repeatedly stated the same thing.

Mr. President, what we are talking about now is the type of jury trial procedure that we should have. The question which disturbs me most of all is that because of the misunderstanding of the parliamentary situation, we shall be denied an opportunity to have a yea-and-nay vote on the Dirksen-Mansfield substitute. I am sure that we could do this, once cloture is obtained, in this sense: That the Morton amendment is to the Talmadge amendment, which is to H.R. 7152 as it came to us from the House. Is that correct, I ask the Chair?

The PRESIDING OFFICER (Mr. Bartlett in the chair). That is a statement of fact.

Mr. HUMPHREY. If the Morton amendment is adopted, it modifies or amends the Talmadge amendment; and if cloture is obtained, then it would be the Talmadge amendment that would be within the circle of cloture as the Talmadge amendment, modified or amended; is that not correct?

The PRESIDING OFFICER. It is the opinion of the Chair that if the Dirksen-Mansfield amendment is adopted, then there will be a routine vote on the Talmadge amendment, as it might be amended.

Mr. HUMPHREY. Mr. President——

Mr. HOLLAND. Mr. President——

Mr. HUMPHREY. Mr. President, let me ask this question——

The PRESIDING OFFICER. The Chair is of a slightly different opinion at the moment.

The Chair will now state that, in his opinion, if the Dirksen-Mansfield amendment is adopted——

Mr. HUMPHREY. Does the Chair refer to the amendment in the nature of a substitute—the "package"?

The PRESIDING OFFICER. Yes.

The Chair asks the Senator from Minnesota to put his question once more to the Chair.

Mr. HUMPHREY. Let me say more clearly what I have in mind.

If the Morton amendment is adopted as a modification of the amendment to the Talmadge amendment, then let us assume that we obtain cloture on Wednesday, then the Talmadge amendment, as modified or amended, would fall within the circle of cloture, and if, then, the pending business is the leadership's package proposal, the Talmadge amendment as modified could be added, could it not, to the Mansfield-Dirksen-Kuchel-Humphrey package proposal?

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that, first, there would need to be an intermediate step—namely, to vote on the Dirksen-Mansfield amendment relating to jury trials.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. HOLLAND. Am I not completely correct in this statement, that the distinguished Senator from Minnesota assured the Senate on the floor the day that the unanimous-consent agreement was entered into, in the event that any of these three amendments provided for by unanimous-consent agreement were adopted, that it would be substituted for the applicable provisions in the so-called package amendment called the Dirksen-Mansfield substitute?

Mr. HUMPHREY. The Senator is absolutely correct. That is merely what I was attempting to establish. I do it for this purpose: The Senator from Missouri, for example, stated that he wished to have an opportunity to vote upon some type and form of jury trial amendment.

He said that he had been told once by the assistant majority leader that he would have an opportunity to vote on the Dirksen-Mansfield jury trial substitute, but that has not come about.

So what I am about to say is this: That for those Senators who are concerned about the fact that they will not have an opportunity to vote on a jury trial amendment in case the Morton amendment is defeated, I should like the Record to be crystal clear that in the so-called leadership's package substitute the Mansfield-Dirksen jury trial amendment is there. When the vote is cast upon the substitute, which is subject, by the way, to amendment as well, Senators can vote for a modified type of jury trial amendment. So that those who may be reading the Record tomorrow morning should know, before they vote, that if they vote "no" on the Morton amendment, it does not mean that they deny themselves an opportunity to vote on the jury trial amendment later on, because in the leadership's substitute package there is a provision in title XI for a modified jury trial amendment, along the lines of the Dirksen-Mansfield jury trial amendment that is presently at the desk.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired.

Mr. HUMPHREY. Mr. President, I have been getting some parliamentary reviews here for awhile.

Mr. HOLLAND. Mr. President, will the Senator from Minnesota yield for one question?

Mr. HUMPHREY. Mr. President, I yield myself an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 additional minutes.

Mr. HUMPHREY. I yield to the Senator from Florida.

Mr. HOLLAND. In the event the Morton amendment is adopted in the morning, however, on the first vote, and if I understand the distinguished Senator's intention, it is his intention and that of the leadership, both majority and minority, the Senator from Montana [Mr. Mansfield] and the Senator from Illinois [Mr. Dirksen], to substitute the Morton amendment, then adopted, for the provisions in title XI, to which reference has been made, of the Mansfield-Dirksen package?

Mr. HUMPHREY. The Senator is correct.

Mr. HOLLAND. I thank the Senator.

Mr. HUMPHREY. That was the word given by me, and that word will be kept. I merely wish the Record to be clear for those Senators who are concerned lest they will not have an opportunity to vote on any provision relating to a type of jury trial amendment, if the Morton amendment carries. If the Morton amendment is defeated, they will have an opportunity to vote for the leadership package substitute which includes in title XI the jury trial substitute offered by the Senator from Illinois [Mr. Dirksen] and the Senator from Montana [Mr. Mansfield] some 40 days or so ago.

Therefore, there will be plenty of opportunity for Senators to acquit themselves on any commitments which they may have made with respect to jury trial provisions. The difference is whether the Federal courts will have some form of discipline that they can exercise in criminal contempt proceedings without a jury trial, or whether the only form of discipline that the courts will have to enforce their orders will be in connection with civil contempt proceedings, in which jail sentences can be imposed and fines imposed, without a jury trial. That is the fundamental difference that we have before us.

Title I is excluded from the Morton amendment. Title I will remain under existing Federal law, with respect to criminal contempt proceedings, involving trials without a jury, in which penalties can be imposed of up to 45 days in jail and up to $300 by way of a fine.

The Senator from New York pointed out some time ago that this is the fact, and I wish to emphasize it. Senators who are concerned, on the coming vote relating to the Morton amendment, that if they should vote "no" they will have, they feel, no chance to vote for jury trials, are assured by me that if the Morton amendment is defeated, the substitute package will be called up. It contains in title XI, the Mansfield-Dirksen jury trial provision. Therefore Senators will have an opportunity to vote for jury trials.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. JAVITS. Is it not a fact that for all practical purposes the Senator from Minnesota is telling us that the choice is between the Morton amendment and the Dirksen-Mansfield amendment, rather than between the Morton amendment and no provision?

Mr. HUMPHREY. The Senator is correct. He always has a way of getting to the nub of an issue. I thank him.

The PRESIDING OFFICER. The Chair would like to read from the CONGRESSIONAL RECORD of June 4, starting on page 12705 and continuing on the following page, when the Senator from Minnesota [Mr. HUMPHREY] discussed this subject.

Mr. HUMPHREY. From what page is the Chair about to read?

The PRESIDING OFFICER. Page 12705. The Chair had made a ruling; and the Senator from Minnesota said:

> The complete Dirksen-Mansfield-Humphrey-Kuchel substitute to H.R. 7152 contains the same jury trial provision as the Dirksen-Mansfield substitute to the Talmadge jury trial amendment. If the Talmadge jury trial amendment were adopted, what would then be the pending question?
>
> The PRESIDING OFFICER. If the Senate disposed of the substitute to the bill, it would then be open to amendment.
>
> Mr. HUMPHREY. Perhaps I do not make my question clear. After the Senate has disposed of perfecting amendments to the Talmadge jury trial amendment, what would be the pending question?
>
> The PRESIDING OFFICER. The question then pending would be the Dirksen-Mansfield substitute to provide for jury trial.
>
> Mr. HUMPHREY. The Dirksen-Mansfield substitute to provide for jury trial. If the Dirksen-Mansfield substitute to provide for jury trial were adopted by the Senate, would it replace all the language of the Talmadge amendment, including the perfecting amendments adopted prior thereto?
>
> The PRESIDING OFFICER. It would.
>
> Mr. HUMPHREY. If after the adoption of the Dirksen-Mansfield jury trial amendment the Talmadge amendment, as amended, were adopted, would it be in order to call up the Dirksen-Mansfield-Humphrey-Kuchel amendment in the nature of a substitute for H.R. 7152?
>
> The PRESIDING OFFICER. That would be in order, provided no further amendment had been offered.
>
> Mr. HUMPHREY. In other words, if the Senator from Illinois [Mr. DIRKSEN] or the Senator from Montana [Mr. MANSFIELD] could gain recognition, and if the Chair recognized either of them, it would be possible to call up and make the pending business the Dirksen-Mansfield-Humphrey-Kuchel amendment?
>
> The PRESIDING OFFICER. That is correct.
>
> Mr. HUMPHREY. If the said substitute amendment were made the pending business, would it be open to amendment in two degrees, the same as if it were original text?
>
> The PRESIDING OFFICER. It would.

Mr. MORTON. Mr. President, I yield 1 minute to the Senator from Montana.

ORDER FOR RECESS FROM TOMORROW UNTIL 10 A.M., ON WEDNESDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in recess until 9 o'clock a.m., Wednesday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY subsequently said: Mr. President, after consulting with the majority leader, I ask unanimous consent to modify the unanimous-consent agreement obtained in reference to the hour of convening on Wednesday. I ask unanimous consent that when the Senate completes its business on Tuesday, June 9, it stand in recess until 10 o'clock a.m., on Wednesday, June 10.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. MORTON. Mr. President, I yield myself 1 additional minute, to comment on the statements made by the assistant majority leader and the Senator from New York in connection with the coming vote. I do not believe the pending amendment will be defeated; but if it is defeated, the only chance Senators will have to vote on jury trials will be in connection with the overall package, not with respect to a specific amendment to title XI of that package. If Senators think they can vote against the Morton amendment and yet say they support jury trials, they may have some difficulty back home in explaining their vote.

Mr. HUMPHREY. Why does the Senator say that?

Mr. MORTON. Because the Senator is offering only an overall package.

Mr. HUMPHREY. It contains title XI, which contains the jury trial provision.

Mr. MORTON. I will take my chances on campaigning against someone who tries to get out of that situation.

Mr. HUMPHREY. Without campaigning for anything, the Senator's side of the aisle is not in very good shape, in view of what happened on the 1957 issue. The Senator from New York referred to the attitude of the Eisenhower administration on that subject, and read the record of the 33 Senators of the Senator's party who voted against it.

Mr. MORTON. We were opposed by the late President Kennedy and by President Johnson at that time. If the Senator wishes to support the position they took at that time, he will vote for my amendment.

Mr. HUMPHREY. It goes to prove that the world is upside down.

Mr. MORTON. I yield 8 minutes to the Senator from Nebraska.

Mr. HOLLAND. Mr. President, before the Senator yields to the Senator from Nebraska, will the Senator allow me to place one item in the RECORD?

Mr. MORTON. I yield 1 minute to the Senator from Florida.

Mr. HOLLAND. This refers to the statement of the Senator from Minnesota.

Mr. HUMPHREY. It has been read twice into the RECORD. It has been read twice by me.

Mr. HOLLAND. Does the Senator refer to his statement with respect to a matter of honor?

Mr. HUMPHREY. The Senator from Minnesota does not need to be reminded of his word of honor. I read it into the RECORD twice, so that by repeating it, I would seal it.

Mr. HRUSKA. I thank the Senator from Kentucky for yielding to me. Reference has been made to the vote in 1957, and that 33 Republican Senators voted against the amendment. That amendment and the amendment we have before us now, known as the Morton amendment, have little in common.

Before me on my desk is the final vote by the Senate which sent the 1957 bill to the House. Subsequently there was a conference between the two Houses.

The O'Mahoney amendment, which was adopted by the Senate, and against which 33 members of my party voted, dealt with granting of jury trials in all criminal contempt cases, however they arise, and was not limited to the civil rights bill, as the Morton amendment is. As a matter of fact, the Morton amendment applies only to titles II through VII of the pending bill. It was the judgment of this Senator that the O'Mahoney amendment was too broad. There were many ramifications which were not adequately explored, particularly when one considers the host of titles covered by the United States Code.

Therefore, the citation of the 33 Senators who voted against that amendment has no validity in the present situation. If the pending amendment is expanded to embrace the scope of the O'Mahoney amendment, I would vote against it again.

Fortunately the House would not accept these broad provisions as initially specified by the O'Mahoney amendment and a compromise was worked out.

The result was the somewhat arbitrary and curious jury trial provisions now found in the 1957 Civil Rights Act.

Many times during the course of this discussion reference has been made to a memorandum of approximately 72 pages, containing an abstract of the law in the various States. The statement is made that in Nebraska jury trials are not provided in contempt cases. Certainly they are not. However the position of Nebraska has no relevance in this debate, to follow that argument to its logical conclusion would be to urge that the Federal rules of civil procedure should be abolished because Nebraska has retained modified common law pleading in its courts.

Neither is it a valid argument that the Federal judiciary would be deprived of powers which are enjoyed by the State judiciary. The Federal judiciary now lacks power to punish by summary action in certain cases arising under the Clayton Act, the Norris-La Guardia Act, and the Landrum-Griffin Act. Under those acts, criminal contempt charges are tried by a jury. Similarly, under the Civil Rights Act of 1957 certain criminal contempt proceedings are tried by a jury.

If we include the action taken on the O'Mahoney amendment in 1957, this body has said five times that in cases of criminal contempt trial by jury will be provided.

This Senator simply says: Let us be consistent. The little merchant, the little employer, or anyone else, except a voting official under title I, shall be entitled to a jury trial if charges are brought against him for criminal contempt. That will put him on a parity with the corporate officer who disregards or violates a court order when he restrains trade or fixes prices. He receives a jury trial. A labor official in charge of the affairs of his union, if charged with criminal contempt, likewise receives a jury trial. Is the average American who will be affected by this bill entitled to less?

I believe that when we consider the overall picture, we must accord this man the same rights as others who now receive jury trials under the terms of the statutes cited.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. JAVITS. The Senator from Nebraska is a member of the Committee on the Judiciary and is highly knowledgeable in this field. Is it not true that in well over 30 statutes the Federal Government can get injunctions in different cases? When the Senator argues for consistency, consistency in the generality of cases would be to leave the power to punish for criminal contempt in the Federal courts, which have that power in far more cases than those in which Congress has deprived them of it. Congress has made four exceptions. Now the Senator wants Congress to make a fifth. The consistency argument, it seems to me, argues the other way, rather than in favor of another exception.

Mr. HRUSKA. Not at all, I suggest to the Senator from New York, because the Senate once, on August 2, 1957, extended the right of jury trial to all cases, arising under Federal statutes including the 30 to which the Senator refers. However I do not urge such a broadax approach. We are considering a particular statute, a particular field, a particular question. In light of the personal relationships which this bill comprehends and the feelings which will be generated, it is clearly the occasion for another exception. The cases which will arise will not generally involve General Motors or the A.F. of L. against the Federal Government but will be the average man on the street. He is entitled to be tried by his peers.

Whether any of the 30 other existing laws should be altered is a matter for exploration by the Committee on the Judiciary. Let the committee examine them. I have a serious doubt that we will find the same type of action with respect to them that we have in the one before us, if we act according to the Morton amendment.

Mr. JAVITS. Mr. President, will the Senator yield for a further question?

Mr. HRUSKA. I yield.

Mr. JAVITS. I cannot see how the Senator can argue first that the 1957 O'Mahoney amendment vote is not germane, and then argue that the O'Mahoney vote is very germane as showing the temper of the Senate. He cannot have it both ways. Thirty-three Republican Senators out of forty-five voted against the O'Mahoney amendment. So the Republicans—and that is what I was trying to prove—did not share the temper of the Senate. That is all I was trying to demonstrate.

Mr. HRUSKA. The Republicans did not share the temper of the Senate, so far as I am concerned, because we had no opportunity to consider the effect of that amendment on the other 30-odd statutes to which the Senator refers. To legislate on a broad basis, indiscriminately, simply because someone makes that motion is not a sound practice. Here we are equipped to make a judgment in a well-defined area, and we should make it, just as we made it in the case of the Norris-La Guardia Act and the Civil Rights Act of 1957.

Mr. THURMOND. Mr. President, I have been very much impressed with a copy of a letter which I have received in my office. This letter was originally addressed to the editor of the Rome News-Tribune in Rome, Ga., and was written by the pastor of the First Christian Church in Rome, Ga., on May 15, 1964. I ask unanimous consent to have this letter printed in the RECORD at the conclusion of these remarks.

Mr. President, I also call to the attention of my colleagues three resolutions approved by the South Carolina Presbyterian Synod at its annual meeting on June 3, 1964, at Greenville, S.C. One resolution was concerned with the National Council of Churches, another was concerned with the recent publication in the CONGRESSIONAL RECORD of a manifesto by Presbyterian ministers supporting the so-called civil rights legislation, and the last one was concerned with the integration of Presbyterian churches on instructions from the general assembly. I ask unanimous consent that these three resolutions likewise be printed in the CONGRESSIONAL RECORD.

Mr. President, I also ask unanimous consent to have printed in the RECORD at the conclusion of these remarks a letter to the editor which has been printed in the News and Courier of Charleston, S.C., on May 31, 1964. The letter is on this same general subject of the question of church endorsement of the so-called civil rights legislation. This letter was written by Mr. J. Percival Petit, of 1516 Orange Grove Road, in Charleston, S.C. Mr. Petit presents his views in a forthright and eloquent manner as a Christian layman who objects very strongly not only to this proposed legislation, but also to attempts by members of the clergy and other church leaders to give the false impression that they speak for all Protestant ministers on this subject.

There being no objection, the letters and resolutions were ordered to be printed in the RECORD, as follows:

FIRST CHRISTIAN CHURCH,
Rome, Ga., May 15, 1964.

EDITOR, ROME NEWS-TRIBUNE,
Rome, Ga.

SIR: Because I am a pastor, I have been reminded by many organizations about the religious aspects of the civil rights bill now being debated in the U.S. Senate.

A few weeks ago I received a letter from one such group asking me to write my Senator and urge him to support the civil rights bill. Since all I knew about this bill was what I had read and heard from other sources, to have written my Senator would have placed me in the same position as four pastors who went to see Senator RUSSELL, demanding that the bill be enacted—although they admitted to him that they had not read it themselves.

I wonder how many of you readers who are either strongly for or bitterly opposed to this bill have ever read it for themselves? I am afraid too many of us, in the name of religion, are as guilty as hypocrisy as those four demanding pastors.

Well, feeling guilty myself, I wrote my Senator—not to urge his support of the civil rights bill, but to ask him to send me a copy of the bill so I could read it for myself.

After a close reading of this bill as well as several printed booklets both pro and con, my hat goes off to Senator RUSSELL and his able leadership in the stand for constitutional government.

If the people of this Nation believe that the States should be stripped of certain powers that the Constitution gave them in 1788, then in the name of the Constitution let us do it by amendment as with the poll tax. If the time has indeed come for change, let it be by law and not by desecration of the charter of our liberty.

Sincerely,
Rev. WAYNE NIEDERHUTH,
Pastor, First Christian Church.

Whereas the recent general assembly of our church saw fit to answer in the negative several overtures to withdraw from the National Council of Churches; and

Whereas the general assembly of the National Council of Churches will meet in December of this year; and

Whereas the National Council of Churches has been influenced in the past by left wing and liberal influences, and have either knowingly or unknowingly supported issues which aid the movement of the Communist Party in the United States: Therefore be it

Resolved, That the Synod of South Carolina communicate with the representatives of the Presbyterian Church of the United States to the general assembly of the National Council of Churches, to express to our representatives our deep concern in some of the actions and expressions of the national council, and to request that they use their influence to further the cause of the Christian faith and the morals of this Nation, rather than actions and pronouncements which in the end aid the movements of communism and atheism.

Rev. Warren Wardlaw.
Elder Frank Turner.

This is to certify that Congaree Presbytery of the Presbyterian Church, United States, in stated session in the Johnston, S.C., Presbyterian Church on May 19, 1964, passed the following resolution:

"Whereas a group of ministers and laymen of the Presbyterian Church, United States, sponsored by a group known as a Fellowship of Concern, has released a statement calling for passage of a strong and effective civil rights bill by the U.S. Senate, and that they applaud the House of Representatives for its passage of this bill without crippling amendments; and

"Whereas the issuing of this statement as reported by the press and radio carried the implication that members of the Presbyterian Church, United States, favor the passage of such legislation: Be it therefore

"*Resolved,* That Congaree Presbytery publish for distribution to its people the statement that the signers of this petition do not speak for or represent this Presbytery, or any other of the Presbyterian Church courts."

Alex M. Mitchell,
Stated Clerk, Congaree Presbytery, Presbyterian Church, United States.
Columbia, S.C.

Report of the Committee on Bills and Overtures

There were three matters placed in our hands for consideration; namely (1) an overture from Charleston Presbytery asking the synod to explore the matter of reprinting Howe's "History of the Presbyterian Church in South Carolina" and the works of Dr. James H. Thornwell; (2) a resolution regarding "A Fellowship of Concern"; and (3) an overture from Harmony Presbytery, accompanied by and based upon an overture which had been passed by the session of the Williamsburg Presbyterian Church of Kingstree, both dealing with the "instructions" issued by the 1964 general assembly regarding the presbyterial and synodical membership of Negro ministers and Negro churches.

The committee on bills and overtures make the following recommendations:

1. That we answer in the affirmative the overture from Charleston Presbytery regarding the exploring of the matter of the republishing of certain works of historical value. We recommend that the following committee serve: Rev. Arthur M. Martin, chairman; Rev. Frank B. Estes and Rev. J. Benson Sloan.

2. With regard to the resolution on "A Fellowship of Concern" we recommend that attention be called to the fact that the "A Fellowship of Concern" is composed only of individuals who voluntarily join it. It now has a membership of some 400 or more interested members. This organization is not officially affiliated with any Presbyterian (United States) Church court. They speak for themselves as they have a full right to do. Any statement by their leaders or members does not speak for this or any other Presbyterian (United States) Church court.

3. The overture from Harmony Presbytery, strictly speaking, deals primarily with the question of the authority of the general assembly.

The synod calls to the attention of the presbytery the fact that it has the right and privilege to overture the general assembly with reference to the general assembly's power to issue such "instructions."

Whereas, the book of church order gives original jurisdiction of a presbytery to synod and not to the general assembly; and

Whereas, a presbytery must vote affirmatively on the request of any congregation to become a part of that presbytery: Be it therefore

Resolved, That the Synod of South Carolina concurs with Harmony Presbytery in its conviction that the general assembly did not have the authority to instruct Harmony and other presbyteries to receive the Negro churches within their bounds into their membership; be it further

Resolved, That the Synod of South Carolina overture the general assembly to reconsider its action instructing presbyteries to receive Negro churches within their geographic bounds in the light of Presbyterian policy and procedure.

[From the Charleston (S.C.) News and Courier, May 31, 1964]

A Layman Protests

To the News and Courier:

According to Scripture, it was foreordained that Jesus would go to the cross rather than indulge in worldly politics. He was often given the opportunity to "go along with the crowd" or to recant his belief that Caesar was entitled to things that were mundane and expedient but that the riches of God were spiritual.

Jesus might very well have embraced the principles of the class-conscious Sadducees or the money-loving Pharisees (the ancient counterparts of Republicans and Democrats) because they would have been happy to have a great leader and teacher allied with them.

Instead, the conniving high priest, Annas, and his son-in-law, Caiaphas, used Jesus' reluctance to join in the petty politics of that day as an excuse to have Him tried by the "attorney general," Pontius Pilate, without a jury. Herod, on the other hand, was smart enough to dodge his responsibilities by pleading lack of jurisdiction. Pilate merely "washed his hands" of the matter by tossing it to a howling mob of demonstrators in the streets, who were carefully rounded up and planted for the purpose by the high priests.

To carry the parallel further, the very thousands who had heralded His coming as the promised leader, waving and strewing palm leaves, only a short time before, now hid, or stayed supinely in the background, or denied Him openly, unwilling to take a stand or voice a protest. The voiceless, spineless crowd was as bad or worse than the paid demonstrators.

It is a sad commentary that right at the time, since the end of World War II—when religious revival in America was undergoing its greatest growth, a starry-eyed, shortsighted, politically conscious clergy would go so far afield to destroy faith and confidence in things of the spirit and of the heart.

The clergy of today, knowing full well that they have failed miserably to prepare the hearts of men for possible broadening concepts, are daily cheapening the cloth by identifying themselves with street mobs, law violators, graft-mongering politicians, and sociocommunistic groups, such as the National Council of Churches.

The effect and impact of a groveling clergy, hanging on the coattails of a Communist-inspired movement to pit color against color, is a nauseating spectacle to millions of sincerely devout Christians who are having their faith shaken daily.

The sickening picture of a young minister jumping over back fences, violating private property, leading a lawbreaking mob, in order to lie down behind a tractor to prevent another person from being worthy of his hire, is a sad thing to behold. To these crimes against law and order, he also violated God's law by willfully destroying his own life, and at the same time making barren the lives of his wife and children.

This is not a blanket indictment of all the clergy. There are still a few small voices trying to be heard in the wilderness. There are still a few honest and devout ministers of the Gospel who know in their hearts that love cannot be legislated, nor can hate be outlawed. They know that the real answer is not in a force bill that deprives all people of their inherited, God-given rights in order to satisfy an indolent, insatiate minority seeking special privilege.

Unfortunately, many of these few, who recognize the problem for what it actually is, are afraid to take a stand and speak out for fear of reprisal, discipline, or even excommunication from the upper hierarchy.

The only hope for a reversal of the perfidious apostasy is for the lay leaders and communicants to stand solidly together and demand to be heard. Time after time we read of lay leaders and elders and ministers being sent to various assemblies to represent their respective congregations or districts only to find that they have sat serenely through the sessions and watched, numbly, the speedy "railroading" of resolutions in behalf of the civil wrongs bill or in behalf of the National Council of Churches by a handful of misguided leaders.

Many times as a lay leader, I have spoken from pulpits to as many as 700 souls at a time, and have questioned many hundreds personally, and I have yet to find one single lay member who believes that the ills of our time can be cured by a force bill.

It is high time that someone start a movement for a National Council of the Laity, so that the great body of Christians may return to the law of God and the precepts of Christ, without bargaining their birthright for a pot of notoriety.

J. Percival Petit.

Mr. MORTON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. HUMPHREY. I yield back the remaining 3 seconds of the time of the opponents.

The **PRESIDING OFFICER.** All time on the amendment has been yielded back.

TUESDAY EVENING TELEVISION PROGRAM ENTITLED "RED, WHITE, AND BLUE," FEATURING WALTER BRENNAN

Mr. THURMOND. Mr. President, the current issue of TV Channels, a supplement to the Sunday issue of the Washington Post, contains an editorial on a great and dedicated American patriot who is giving his best efforts toward promoting patriotism and belief in God. Featured on the cover of TV Channels for the week of June 7–13, 1964, is the distinguished Hollywood actor, Walter Brennan. Mr. Brennan, the only man to win three Oscar Awards in movie history, will appear on the NBC television network tomorrow evening from 9 to 10 p.m., to present a documentary program on patriotism. It is entitled "Red, White, and Blue." This program is a "Project 20" special. I commend the NBC television network on offering this program, and particularly wish to pay tribute to Mr. Brennan, not only for his past work in behalf of patriotism, but also for his willingness to use his prestige and talents to narrate and present this important program to the American public.

I ask unanimous consent that an article reporting on the program and also presenting several important comments by Mr. Brennan be printed in the Record at the conclusion of these remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Red, White, and Blue

(By Cecil Smith)

A couple of years ago, Don Hyatt, the quiet, tweedy, pipe-smoking, professorial producer of the brilliant "Project 20" series, began thinking about patriotism—not as an abstract philosophy but as a reality. He was concerned not only with sins committed under the guise of patriotic behavior but with the apathy shown toward genuine patriotic efforts.

"You would think," he said, "that people are ashamed to hang out the flag on the Fourth of July. When a parade went by in New York recently, hardly a man took off his hat or showed any sign of respect for the flag."

The result of Don's musing is the latest edition of "Project 20" a study called Red, White, and Blue, which NBC offers in color Tuesday night. To narrate this program (and Hyatt has always believed the choice of the narrator is as important to a documentary as the casting of a star in a play) he selected Walter Brennan.

Brennan said the other day he was honored to be asked. The tall, rawboned actor, the only triple Oscar winner in movie history, is 70 now and has 14 grandchildren. He did a superb job narrating the "Project 20" tribute to his old acting buddy, Gary Cooper, "The Tall American."

He's an outspoken Goldwater Republican who despises men who will not say what they stand for, but he is also an ardent believer in the right of men to think as they please. Above all, he is an American in the ancient God-fearing tradition—and proud of it.

"Patriotism to me," he said, "is like prayer. I don't care whether a man's a Catholic or Protestant or Jew or whatever, if he's got the belief in God, I'm for him. And I don't care if a man's a Republican or Democrat or what he is, if he loves his country, I'm for him.

"It's like the difference in actors. There are lots of actors who are good on the outside, mechanically perfect, better 'n I am—but it's what they are on the inside" tapping his shirtfront, "what's in here that comes over. That's what I look for in a person—what's in here."

Brennan after his 6 years as Amos McCoy has been restlessly sitting out the last couple of TV seasons—a picture for Disney, a few guest appearances, too little for a man who always said "my hobby is working."

He's beginning production this month on his new series, "Tycoon," a comedy about an aged millionaire whom everyone is trying to persuade to retire. The show will be on the ABC network on Tuesday nights next fall.

"They've fitted me with 12 handsome suits for this show," said Walter, "more suits than I ever owned. For a man who made his living in 100 pictures and 6 years of 'The Real McCoys' in overalls, those fancy duds feel awfully strange."

INCREASED PURCHASES FROM AMERICAN COMPANIES BY THE U.S. GOVERNMENT

Mr. MORTON. Mr. President, I ask unanimous consent to have printed in the Record a statement by the junior Senator from Pennsylvania [Mr. Scott] and two letters supplementary to his statement.

There being no objection, the statement and the letters were ordered to be printed in the Record, as follows:

Statement by Senator Scott

I am pleased to inform the Senate that the Secretary of the Treasury, speaking as Chairman of a Cabinet Committee on Balance of Payments, has clarified and made formal policies which insure that the U.S. Government will do a greater share of purchasing from American companies.

This has long been of great concern to me because the increasing amount of foreign buying has contributed to both unemployment in our country and to an unfavorable balance of payments.

In 1961, several of us in the Senate and the House convinced the Government that coal used in U.S. military installations overseas should be purchased from American rather than foreign mines. Some 440,000 metric tons of Pennsylvania anthracite was purchased at that time. Since then the Defense Department has purchased considerably larger quantities of coal and coke from U.S. producers.

Then in June 1962, I wrote personally to the late President Kennedy and urged him to intervene in a situation where the Defense Department intended to award a substantial contract to a foreign company for steel to be used in the construction of U.S. Navy ships. In July 1962, he directed the Defense Department to reply to me that the decision was to be reversed and the lowest American bidder received the contract.

Since that time the Defense Department has followed a policy whereby it makes purchases from American companies except where their bids exceed foreign bids by more than 50 percent.

The Defense Department informs me now that well over $164 million in contracts have gone to American companies—including several in the Commonwealth of Pennsylvania—which otherwise would have gone to foreign firms.

Many dollars have been kept at home, many industries sustained, and many jobs preserved.

Three weeks ago I wrote to President Johnson and asked him if he would confirm reports that the Cabinet Committee on Balance of Payments had endorsed the Defense Department's cost rule.

I am pleased to report today that Secretary of the Treasury Douglas Dillon replied:

"This general subject was recently reviewed by the Cabinet Committee on Balance of Payments, under my chairmanship, and the policies currently being followed by the Defense Department and other Federal agencies reflect recommendations made by this Committee."

He said, further:

"As to procurement for U.S. use overseas, to which the Buy American Act and Executive order do not apply, the 50 percent price differential which the Defense Department has been generally using since 1962 is now being applied by all departments and agencies."

I am delighted with this development. It encourages me to continue to press for legislative strenghening of the Buy American Act. I hope the President will keep open the possibility that he issue an Executive order that would apply this cost rule universally, so that it would apply to all Government agencies, not only for domestic use of these products, but for use in U.S. installations overseas, as well.

Senator Scott's Letter to President Johnson

Dear Mr. President: I would be deeply grateful for your confirmation of reports that a Cabinet-level Committee on Balance of Payments chaired by Secretary C. Douglas Dillon, has endorsed the Defense Department's cost rule with respect to buy-American policies.

As you know, this matter has been one of long-standing interest to me. I was particularly gratified with the positive action of the Defense Department in July 1962, when I asked President Kennedy to prevent a purchase of foreign steel to construct our Navy ships.

Since that time, the Defense Department has been using the rule that, wherever possible, purchasing agents should buy from domestic sources unless the domestic bid exceeds the foreign quotation by more than 50 percent.

I have been advocating the need for a new Executive order which would enable all Federal departments and agencies to use the policy now followed by the Department of Defense. This guideline would be particularly well geared to a period in which we must simultaneously cope with heavy involvement abroad and large-scale unemployment and lagging industry at home.

I would be grateful if you could tell me whether the Cabinet committee has endorsed the Defense Department's cost rule and whether we can expect a more definitive statement from that committee in the near future?

Secretary of the Treasury Douglas Dillon's Reply to Senator Scott

Dear Senator Scott: The President has asked me to reply to your letter of May 22 regarding our current policies on procurement by Federal departments and agencies from foreign sources.

This general subject was recently reviewed by the Cabinet Committee on Balance of Payments, under my chairmanship, and the policies currently being followed by the Defense Department and other Federal agencies reflect recommendations made by this Committee.

On procurement for use in the United States, the present policy of the Defense Department (and also the Coast Guard) is basically to limit procurement to U.S. sources unless the cost is more than 50 percent higher than procurement from foreign sources. This policy is substantially the same as that followed by the Defense Department since July 1962 as one means of reducing its foreign expenditures in line with the administration's overall balance-of-payments program. It is pursuant to sections 3(a) and 5 of Executive Order No. 10582 issued under the Buy American Act. These sections provide for exceptions to the 6- to 12-percent price differential generally applicable under that order on the basis of appropriate determinations by an agency head. We do not contemplate any modification of that Executive order and procurement by other Federal departments and agencies for use in the United States continues to be governed by the basic 6- to 12-percent differential.

A special Budget Bureau study on foreign procurement, recently made available to the Joint Economic Committee, indicates that during fiscal years 1960–62 total foreign procurement by agencies other than Defense which could be affected by a different price standard under the Buy American Act averaged only $10 million per year.

As to procurement for U.S. use overseas, to which the Buy American Act and Executive order do not apply, the 50-percent price differential which the Defense Department has been generally using since 1962 is now being applied by all departments and agencies. In the case of financing by the Agency for International Development of products and services for the use of aid-recipient countries, procurement policy is not based on price differentials but governed instead by our policy under which more than 80 percent of AID's overall commitments finance exports of U.S.-produced goods and services.

No release on this subject is planned by the Committee.

CAPITOL GROUNDS

Mr. MONRONEY. Mr. President, several times in recent months the Members of Congress have discussed the deplorable state of the landscaping and Grounds surrounding the Capitol. One of the most appealing speeches made this year by our distinguished majority whip, the senior Senator from Minnesota—and he has made many appealing speeches this year—dealt with this problem. Senator HUMPHREY's discussion alerted us to the woeful state of the flora planted about this Hill, for the purpose of beautifying it. He described it as less than beautiful; and anyone who strolls about outside our buildings will readily agree with him.

Such a stroll has now been taken by a talented and well-qualified local journalist, Mr. Tom Stevenson, garden counselor for the Washington Post. Mr. Stevenson's criticism of the state of our Capitol plantings was published on Saturday, on the front page of this esteemed newspaper. I am sure all the Members of the Senate already have read it; but in order to emphasize Mr. Stevenson's points, and to make them available for study in the future, I ask unanimous consent to have his article printed in the RECORD.

Before concluding the hearings on the legislative branch appropriations bill, I believe it is now incumbent upon the members of the subcommittee responsible for this expenditure to take a further look at the management of our Capitol landscaping. The members of this subcommittee are indebted to the Members of Congress who have brought the deficiencies of the Grounds to their attention, and to Mr. Stevenson of the Post. The subcommittee has had explanations and excuses from those responsible for the sad state of the Capitol Grounds. The subcommittee would much prefer to have a demonstration of greater effort out in the shrubbery beds and across the lawns.

Most Members of Congress do a little gardening at home from time to time. We know a bad situation in the grassroots when we see it, or at least we hope we do. The condition of the Grounds here, at the doorstep of our principal place of business, is inexcusable; and I intend to do what I can, as chairman of the Appropriations Subcommittee on this matter, to correct it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 6, 1964]

VIEW DRAWS QUICK REBUTTAL: GARDEN EXPERT SAYS DYING TREES, WEED-CHOKED LAWNS GIRD CAPITOL

(By Tom Stevenson)

The majestic U.S. Capitol is the Nation's pride and symbol, but its landscaping is no credit to either building or country.

Dying trees, patchy lawns studded with weeds, shrubs crowded by pesty vines—these and many other objectionable features were observed in a walking tour of the grounds a few days ago.

These observations drew a sharp rebuttal from the man responsible for the grounds, 37-year-old Paul Pincus, chief Capitol landscape architect for nearly 3 years.

Pincus believes some our our findings are wrong and others unfair. They are unfair, he said, because they overlook tourist depredations and the difficulty of covering the Capitol reservation with a limited staff.

An open-eyed stroll around the Capitol makes it clear that—for whatever reason—this rich Nation is not getting superior care for its most significant landmark.

The tour began at the Peace Monument, where Pennsylvania Avenue NW. stub ends at the Capitol Grounds. Here stand two half-dead sycamores.

Just inside the grounds is a maple, three-fourths dead. Several horse chestnut trees with dead branches surround it.

Twenty-two sycamores flank the walk to the Capitol. Their condition varies from poor to quite bad.

The lawn is in poor condition. Broadleaf weeds abound. The turf is a discredit even to an area with heavy foot traffic.

On the Senate side the lawn is scarred by large bare areas, some badly eroded by water from broken sprinkler heads. Probably not even crabgrass would grow here.

In two places poison ivy abounds. A quick count showed 42 plants. Other shoots of the noxious stuff creep up tree trunks.

The ligustrum is poor. Dead branches spike a magnolia. An American holly tree is in even worse condition. Green fruit and deadwood burden a large fig tree.

An unpruned bridal wreath hides a mahonia aquifolium in fair condition. Three other mahonias exposed to view are in bad condition.

Nightshade, a weed vine, almost smothers 24 yuccas about to bloom. These plants will need all their toughness to survive.

Weeds overrun daylilies, hollyhocks, and iris.

The sight of 12 newly planted hibiscus lends an encouraging note. But weeds rear their heads in the cultivated soil around them.

Chrysanthemums need dividing. A dozen to 15 mums grow in an area large enough for only 1 or 2. Chinese hollies are in an unthrifty condition. Osmanthus is half dead. Nightshade overruns the abelia. Azaleas in poor condition screen a desmodium.

Loving hands have planted 50 lantantas in front of ligustrum, boxwood, and azaleas in the plaza, on both sides of the walkway. One plant is dead already.

On the House side, nine large ligustrum need deadwood removed. Other ligustrum, boxwood, and azaleas are in somewhat better condition.

Not a single magnolia in a grove of 34 near the southwest corner of the Capitol is in good condition.

Grounds Keeper Pincus, who works for Capitol Architect J. George Stewart and executive assistant Philip L. Roof, blames much of the disarray on a small staff. Roof says 38 persons are assigned to Capitol Grounds work, exclusive of cleanup work. This total includes nine gardeners and two tree surgeons.

They are responsible for grounds of the Capitol, Supreme Court, congressional office buildings, Library of Congress, and the mile-long domain from Union Station to the power plant.

Pincus had these explanations for our findings:

Tree work is rotated around the grounds on an annual basis and sickly trees will be cared for in turn.

Some patchy lawn areas are a result of construction and will be reseeded.

Poor condition of magnolias is caused mainly by starling droppings.

Some criticized plantings are done in certain ways because of tradition or for a specific purpose. For example, the chrysanthemums are planted close together to create a mass of color. The plants are replaced every 2 years.

The total appropriation for the current fiscal year for Pincus' entire operation is $480,500.

In approving the current grounds maintenance outlay, the House Appropriations Committee said in its official report:

"There is some feeling that the Capitol Grounds are not as well maintained as they should be and that the reason is not altogether a matter of insufficient personnel * * *. The committee thinks the grounds ought to be well maintained."

PRIME MINISTER NEHRU

Mr. McGOVERN. Mr. President, recently, one of the world's giants, Prime Minister Nehru, passed from the scene. By any standards, Mr. Nehru was one of the most remarkable and inspiring leaders of our time.

The June 1960, issue of the magazine Wisdom was devoted to India. A special section of this splendid publication centered on Mr. Nehru. I ask unanimous consent that the section entitled "Nehru, Liberator of India" be printed at this point in the RECORD, together with selected quotations from Mr. Nehru's writings.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

NEHRU, LIBERATOR OF INDIA

(By S. Radhakrishnan, Vice President of India)

"He is pure as crystal; truthful beyond suspicion; a brave and noble knight. The nation is safe in his hands."—GANDHI.

There is a theory that history is made and nations are shaped by deep currents, economic or other, which drive them inexorably into predestined channels. Even outstanding human individuals, whatever they may appear to do, are tossed about in the currents and do not alter anything very much. This view is not altogether correct. There are historical forces beyond the control of men which sway the future course of life, but the quality of great men is not altogether irrelevant to a nation's destiny. Whether it is Caesar or Napoleon, Lenin or Gandhi, they do affect their country and its fortunes. Jawaharlal Nehru is a person of exceptional quality who has had an enduring impact on India's recent history.

If we wish to judge revolutionary heroes we must watch them at close range and judge them at great distance. When we watch Nehru at close range, we feel that we are in the presence of a man of extraordinary gifts, of talents that amount to genius, who has given himself to the service of his fellow men. He could kindle in a whole nation the fire that burned within him and interpret its spirit to itself. Posterity will look upon him as one of the great liberators of humanity.

The greatest title ever offered to human effort is that of liberator. Nehru took a leading part in the struggle for freedom and worked for the great opportunity which he now has of liberating the minds and hearts of the people of India from enslavement from superstition, from outworn ideas, and leading them to their destiny. What made us slaves for centuries was not the strength of the invader, but our own disunion. Consolidation of the country is the task that is set to our generation. Nehru is addressing himself to this great task with all his faith and valor.

Nehru is essentially a democrat. In his way of thinking, there is no place for intolerance, racial or social condescension or national aggressiveness. Even when he acquiesces in policies that are not quite consistent with the spirit of democracy, he does so with the utmost reluctance. In an infant democracy like ours, he is anxious that we should not set up wrong precedents. He is incapable of ruthless action and some may think that no government can govern unless it is hard on evildoers, the perpetrators of sharp practices and corrupt dealings. But one need not be ruthless to be vigilant about incompetence, graft, corruption, and nepotism.

There is some truth in the general impression that Nehru is aloof, that he does not give himself away in conversation, that he is generally reticent and withdrawn with individuals though he is very happy with people. Nehru is readily accessible and is always open to argument, but there are very few who argue with him. That is his misfortune. He is loyal to his friends and that is a noble quality. Being of an introspective turn of mind and very sensitive even to the inaudible currents of public opinion, he strives his utmost to avoid any partiality to friends or unfairness to the country.

He generally inaugurates the Indian Science Congress meetings and pleads for a scientific outlook on all matters. If we do not expand scientific and technical education, we cannot insure our future. India cannot survive if ability and inventiveness are not encouraged. The history of dictatorships is a monument to the misery, poverty, and insecurity of people. If political stability is to be secured, these are required to be removed. Nehru pleads for democracy, which means for him a fuller and more satisfying life in which standards of education, health, and culture enlarge for everyone. He will not sacrifice the freedom of the human spirit for anything.

Toleration and appreciation of other points of view have been with us from the beginning of our history. Every society has its own cultural values. Though they may be different from our own, they carry an underlying likeness to our own. In the present context of the world, Nehru feels that we should develop a new method of settling international disputes.

The doctrine of Panchshila which he advocates requires that force should be reduced to the minimum and persuasion, which implies understanding, mutual consideration, concession, and agreement, should be the dominating factor. He has sought to bridge the chasms that separate races, nations, and systems. That is why his name has such a great international appeal and has become a legend in his own lifetime.

Jawaharlal Nehru is 71. He is still amazingly young in spirit. Till recently he used to give way to raw emotions, though he recovered tranquillity in a minute. The people of India love him so much that they forgive him his few frailties. Perfection lives in realms above. Nehru has vision and courage, fire and intensity. He does not spend much time glorifying the past but is always active meeting the challenge of the future. He is the voice of the people of India, their hopes and aspirations for political stability, for social change, for democratic planning, for world peace. It is our earnest hope that he may live for many years to guide this country on its onward march to freedom and fulfillment.

QUOTATIONS FROM THE WISDOM OF NEHRU

"Nobody is perfect; he has weaknesses and failings. Nobody is thoroughly bad either. We are all mixtures of good and evil. But we should try to further the good in ourselves and in others."

"I do not believe that a person who ignores the small things in life, the small truths, the small decencies, the small pleasantnesses, the small graciousness, can undertake anything big in a big way."

"It seems to me that the modern world is getting completely out of tune with what I might call the life of the mind—I am leaving out the life of the spirit at the moment. Yet, the modern world is entirely the outcome of the life of the mind. After all, it is the human mind that has produced everything that we see around us and feel around us. Civilization is the product of the human mind and yet, strangely enough, one begins to feel that the function of the mind becomes less and less important in the modern world or, at any rate, is no longer so important as it used to be."

"The more I thought and the more I learned the more I saw how little I knew and how much more there was to learn. One of my regrets today is that I have no time to pursue these studies properly by reading or thinking or writing, because writing for me is essentially an aid to thinking. In trying to write, one has to think more concisely than otherwise."

"You cannot talk of God to a starving person; you must give him food."

"What others say or do not say does not worry me very much. But I must be at peace with myself."

"Occasionally one has even to gaze at the stars even though one may not reach them. Merely to lower your ideals because you think they are too high is not right, even though you might not quite achieve these ideals."

"Material riches without toleration and compassion and wisdom may well turn to dust and ashes."

"We go about thinking in terms of improving others. I wish all of us would give up the idea of improving others, and improve ourselves instead."

"There is perhaps nothing so bad and so dangerous in life as fear."

"In the modern world today, you cannot go on for long having big gaps between those at the top and those at the bottom. You cannot make all men equal, of course, but we must at least give them equality of opportunity."

"A university stands for humanism, for tolerance, for reason, for progress, for the adventure of ideas and for the search for truth. It stands for the onward march of the human race toward even higher objectives. If the universities discharge their duty adequately, then it is well with the Nation and the people. But if the temple of learning becomes a home of narrow bigotry and petty objectives, how then will the Nation prosper or a people grow in stature?"

"It takes a long time to build and it does not take very long to destroy."

"People have become more brutal in thought, speech and action. All the graciousness and gentleness of life seem to have ebbed away. The human values seem to have suffered considerably. Of course, plenty of human values still remain; I am not saying that everything worthwhile is completely destroyed, but I do say that the process of coarsening is going on apace all over the world. We are being coarsened and vulgarized because of many things, but chiefly because of violence and the succession of wars. If this process continues, I wonder whether anything of value in life will remain."

"More and more, people seem to lose all idea of what beauty is and to surround themselves with articles which certainly are not beautiful, whatever else they may be. It is quite extraordinary how people are losing any real appreciation of beauty."

"I will not leave integrity of mind and purpose in pursuit of anything. Nothing worthwhile can be gained that way."

"A slight feeling of uneasiness comes over me at the thought of my age, because, after all, I may have only a few more years to live and the only ambition that I have is that to the end of my days I should work my hardest and then when I have done my job I should be thrown on the scrap heap. When I have done my job, there is no need to bother about me further. It is the job and the work that count, not thinking and shouting about people who have done their job and gone. So I shall go on doing my job as best I can."

"It is far better to know our own weaknesses and failings than to point out those of others."

"Greatness comes from vision, the tolerance of the spirit, compassion, and an even temper which is not ruffled by ill fortune or good fortune."

"I do not like people who have no pride and ambition and are just sloppy people. I am not using the words pride and ambition in a small personal sense. I do not mean the pride of getting money, which is the silliest of all types of pride. Pride should consist in doing your job in the best possible manner. If you are a scientist, think of becoming Einstein, not merely a teacher in your university. If you are a medical man, think of some discovery which will bring healing to the human race. If you are an engineer, aim at some new invention. The mere act of aiming at something big makes you big."

"I am interested in this world, in this life, not some other world or future life."

"You may become a distinguished mathematician or an eminent individual otherwise, but you will find you will be an even better mathematician if your body functions properly. I do not like persons going about with a bent back. I want them to be straight like a ramrod and walk erect. I want them to be quick in their walk and not to saunter and loiter, as many do. Basic education stresses both things—physical or cultural fitness and the ability to do things with the hands. You can take it from me that if your hands can do things, your mind will work more satisfactorily."

"We learn by trial and error. And if we have the capacity to learn by trial and error, then on the whole it is well with us. It is only those who refuse to learn that get into greater difficulties."

"We do not know what the morrow may bring but it is rather satisfying to work for the morrow of your choice. It brings something into your life which makes it worthwhile. If you aline yourself to some great purpose or to something elemental, it ennobles you. Whether the reward comes or not, the mere fact of working for it is a reward enough."

"I have felt sometimes that in the modern world, and perhaps in the ancient world also, it is often preferred to break some people's hearts rather than touch others' pockets. Pockets are indeed more valuable and more cherished than hearts and brains and bodies and human justice and dignity."

"If the universities do not teach some kind of basic wisdom, if they think in terms of producing people with degrees who want certain jobs, then the universities may have solved to a very minor extent the problem of unemployment, or provided some technical help or other; but they will not have produced men who can understand or solve the problems of today."

"Means are at least as important as ends; if the means are not right, the end is also likely to be not right, however much we may want it to be right."

"One must journey through life alone; to rely on others is to invite heartbreak."

"The happiest man is he whose thinking and action are coordinated. Happiness, after all, is an inner state of mind. It is little dependent on outside environment. Happiness has very little to do, for instance, with whether you are rich or not rich. Some of the most miserable persons I have come across in my life are the rich people. It is true that poverty makes one miserable in a very acute way. But my point is that it is not wealth but coordination of one's thought and action which removes inner conflicts. It is in that way that integration of personality is achieved."

"The test of an individual is how he treats his wife, his son, or his neighbor. How he behaves toward another, how he functions in a social relationship that is the test of the individual."

"It is dangerous and harmful to be guided in our life's course by hatreds and aversions, for they are wasteful of energy and limit and twist the mind and prevent it from perceiving the truth."

"Setbacks and temporary defeats are common enough in all great struggles. They grieve but one recovers soon enough. One recovers soon if the light of those ideals is not allowed to grow dim and the anchor of principles holds fast."

"Idealism is the realism of tomorrow. It is the capacity to know what is good for the day after tomorrow or for the next year and to fashion yourself accordingly. The practical person, the realist, looks at the tip of his nose and sees little beyond; the result is that he is stumbling all the time."

"We must get rid of the extraordinary notion that manual work is something degrading. There is nothing more ennobling than manual work and nothing better for physical or mental health."

"We are all moderates or extremists in varying degrees, and for various objects. If we care enough for anything, we are likely to feel strongly about it, to be extremist about it. Otherwise we can afford a grievous tolerance, a philosophical moderation, which really hides to some extent our indifferences."

"Restraint is good and is the measure of our culture, but behind that restraint there must be something to restrain and hold back. It has been, and is, man's destiny to control the elements, to ride the thunderbolt, to bring the raging fire and the rushing and tumbling waters to his use, but most difficult of all for him has been to restrain and hold check the passions that consume him."

"The future appears to be full of conflict and difficulty, but I have little doubt that the spirit of man, which has survived so much, will triumph again."

THE MAD HATTER AND THE LOOKING-GLASS HOUSE

Mr. McGOVERN. Mr. President, recently I had occasion to borrow from Lewis Carroll's classic "Alice in Wonderland," in commenting on one of our present-day "Alices"—one by the name of Widener.

And now, as the walrus said, "The time has come to speak of other things"—not of "shoes and ships and sealing wax," but about the "Looking-Glass House" in which Alice and some of her associates conversed.

As Alice carefully explained to the kitten, everything seems backward when one looks at a glass. A poem entitled "Jabberwocky," which she read in the Looking-Glass House, begins:

'Twas brillig, and the slithy toves
  Did gyre and gimble in the wabe;
All mimsy were the borogoves,
  And the mome raths outgrabe.

Beware the Jabberwock, my son!
  The jaws that bite, the claws that catch!
Beware the Jubjub bird, and shun
  The frumious Bandersnatch!

Alice thought "Jabberwocky" pretty; but she said, "It's rather hard to understand."

In recent days, I have come to a new appreciation of the difficulties that faced Alice, for I have read several syndicated columns, by a Mr. Holmes Alexander, which, in Alice's phrase, are becoming "curiouser and curiouser." The title for the series could most appropriately be "Jabberwocky," and their author could very likely be the "Mad Hatter." Indeed, our distinguished colleague, the Senator from Pennsylvania [Mr. CLARK], surmised 2 weeks ago that "Alice in Wonderland" Widener has been conferring with some modern-day "Mad Hatter"—perhaps Holmes Alexander.

In the Looking-Glass House, as the Queen explained to Alice:

> It takes all the running you can do, to keep in the same place. If you want to get somewhere else, you must run at least twice as fast as that.

Whether or not I can talk fast enough to keep ahead of both Alice and the Mad Hatter remains to be seen. But here goes.

THE MAD HATTER

Mr. Holmes Alexander sees himself in the role of a detective who has uncovered some kind of a plot that is leading Senators to prefer world peace to nuclear war. He is afraid the Council for a Livable World, which encourages its members to act like responsible citizens, has gotten too close to the U.S. Arms Control and Disarmament Agency—an agency established by the Congress, at the request of the late President Kennedy.

He believes that the council is a part of "a pacifist lobby" that favors unilateral disarmament" and is anxious to secure the election of Senators who will support that goal.

What are the facts? The Council for a Livable World is a group of distinguished American scientists, teachers, and scholars who believe that they, like other good citizens, have a responsibility to participate in our political process. Many of them, including the late Leo Szilard, are nuclear scientists who helped develop our atomic defense system, and understand how devastating an atomic war would be. For that reason they are especially anxious to support the election campaigns of Senators who, they believe, will work for the prevention of war.

Mr. Alexander somehow imagines that anyone who wants a "livable world" and desires to prevent war is a "pacifist" favoring "unilateral disarmament." This is nonsense. The members of the council, their decorated war-hero Director, Col. Ashton Crosby, and the Senators they have supported—none of these is a pacifist, and none favors unilateral disarmament.

In 1962, the council's supporters contributed to the election campaigns of Senators CARROLL, CHURCH, CLARK, FULBRIGHT, JAVITS, MORSE, and myself.

Speaking for myself and, I believe, for all the Senators and the council, I state that we favor a strong military defense fully adequate to our Nation's needs, combined with positive steps to control—if not reduce—the arms race. Some of us have seen war at first hand; all of us have some idea of what a major nuclear war might mean; and we want to do everything within reason to save our families, our Nation, and our world from incineration. Mr. Alexander may have grown tired of living; but we have not, and we do not think our fellow Americans have, except for a suicidal, extremist minority.

Several hundred people contributed a total of $22,000 to my 1962 campaign after I was endorsed by the council. These contributions were routed through a Washington, D.C., committee. Under District of Columbia law, campaign contributions are not reported. For example, my Republican opponent in the last election received over $60,000 from a Washington, D.C., luncheon; and, following the District of Columbia law, he did not report the names of the contributors. But I am sure he is proud of this support, just as I am proud of the contributions I received. Their average size is about $25, and they came from some of our most respected citizens. Not one of those contributions had a string attached or a special request or a narrow, self-interest angle. Not one of these contributors and no member of the council has ever tried to influence my votes, my public statements, or any aspect of my role as a Senator.

Alexander says that shortly after my election and the support of the council, I began introducing unilateral disarmament legislation. This is pure poppycock. I have never introduced any such legislation. As a matter of personal conviction, without discussing the matter with the council, I have urged the elimination of waste in our gigantic arms budget. I have suggested that we apply to military spending the same searching examination that we do to other parts of the budget, instead of rubberstamping every arms appropriation simply because it is labeled "defense." I intend to go on doing this, in spite of Holmes Alexander, who pretends to be for economy in government, and then asks Senators to vote blindly for every costly military gadget that comes down the pike—even those that the Secretary of Defense does not wish to accelerate, such as the new follow-on bomber. Most of our Federal budget is spent for the military; so we have a special obligation to look for excessive weapons spending, and then have the courage to cut it out when we see it. We also ought to have the commonsense to do what we can to halt or reverse the arms race, so that all the major powers will reduce the horribly wasteful and dangerous pileup of nuclear weapons.

But what of Holmes Alexander's connections? For whom does he speak? Why his strenuous effort to discredit the conscientious patriotic citizens who comprise the Council for a Livable World?

I think the clue is that Holmes Alexander is married to the John Birch Society and is spouting the Birch line.

Beginning in March 1958, Alexander wrote a long series of 12 articles for the magazine, American Opinion, edited by Robert Welch, head of the John Birch

Society. In 1961, Welch copyrighted and published these articles as a book entitled "How To Read the Federalist," by Holmes Alexander.

Robert Welch, Mr. Alexander's publisher, who doubtless paid him handsomely for his articles and his book, is the same man who called the late Republican Secretary of State John Foster Dulles "a Communist agent." He is the same man who said President Eisenhower was a "dedicated, conscious agent of the Communist conspiracy" whose whole purpose was treason.

Our distinguished colleague from North Dakota, Senator MILTON YOUNG, who has himself been shamefully attacked by the Birchers, and who has had the courage to fight them, inserted into the CONGRESSIONAL RECORD of April 12, 1961, selections from Welch's writings.

A few sentences from those writing's of Mr. Alexander's publisher, Robert Welch, as inserted in the RECORD by Senator YOUNG, follow:

> For many reasons and after a lot of study, I personally believe Dulles to be a Communist agent.
>
> While I too think that Milton Eisenhower is a Communist, and has been for 30 years, this opinion is based largely on general circumstances of his conduct. But my firm belief that Dwight Eisenhower is a dedicated, conscious agent of the Communist conspiracy is based on an accumulation of detailed evidence so extensive and so palpable that it seems to me to put this conviction beyond any reasonable doubt.
>
> The Communists can now use all the power and prestige of the Presidency of the United States to implement their plans, just as fully and even openly as they dare. They have arrived at this point by three stages. In the first stage, Roosevelt thought he was using the Communists to promote his personal ambitions and grandiose schemes. Of course, instead, the Communists were using him; but without his knowledge or understanding of his place in their game.
>
> In the second stage, Truman was used by the Communists, with his knowledge and acquiescence, as the price he consciously paid for their making him President.
>
> In the third stage, in my own firm opinion, the Communists have one of their own actually in the Presidency. For this third man, Eisenhower, there is only one possible word to describe his purposes and his actions. That word is "treason."

Mr. President, I consider myself to have made the honor roll when I am attacked by men who "reason" in the way Robert Welch and Holmes Alexander do. Their muddleheaded nonsense does not worry me, as far as my personal peace of mind is concerned; but I do resent their attacks on the Council for a Liveable World, because we need to encourage, rather than discourage, the political participation of good citizens who love their country and the world enough to invest in the cause of peace.

It is not necessary for me to ask that Alexander's many articles attacking the council and numerous Members of the Senate be printed in the RECORD, because Mr. E. Y. BERRY, of the other body, has already taken care of that. It is appropriate that Mr. Berry, like Robert Welch of the Birch Society, should sponsor Mr. Alexander's articles, because Mr. Berry was one of only two Members of Congress who accepted an invitation to attend a Birchite organizational meeting in Washington, some months ago.

Mr. President, I yield the floor.

RECESS UNTIL 10 A.M., TOMORROW

Mr. HUMPHREY. Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in recess, under its previous order, until 10 a.m., tomorrow.

The motion was agreed to; and (at 6 o'clock and 5 minutes p.m.) the Senate took a recess, under the order previously entered, until tomorrow, Tuesday, June 9, 1964, at 10 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate June 8 (legislative day of March 30), 1964:

DEPARTMENT OF THE AIR FORCE

Leonard Marks, Jr., of California, to be an Assistant Secretary of the Air Force, vice Neil E. Harlan resigned.

The Army National Guard of the United States officers named here for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major generals

Brig. Gen. Alfred Carlisle Harrison, O311380, Adjutant General's Corps.

Brig. Gen. Erwin Case Hostetler, O336226, Adjutant General's Corps.

Brig. Gen. Robert Louis Stevenson, O343589, Adjutant General's Corps.

Brig. Gen. Thomas Roberts White, Jr., O348796, Adjutant General's Corps.

EXTENSIONS OF REMARKS

Col. Charles E. Yeager, West Virginia Native, Honored at Smithsonian Institution—Interstate Commerce Commissioner Virginia Mae Brown, of West Virginia, Praised in Separate Gathering

EXTENSION OF REMARKS
OF

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA
IN THE SENATE OF THE UNITED STATES
Monday, June 8, 1964

Mr. RANDOLPH. Mr. President, today the National Air Museum, of the Smithsonian Institution, was presented with portraits of the famed aviation pioneers Col. Charles E. Yeager and Jacqueline Cochran. They were painted by noted artist, Chet Engle. Colonel Yeager, who now heads the U.S. Air Force Aerospace Research Pilot School at Edwards Air Force Base, Calif., is a native West Virginian. Many of his relatives, including his mother, a sister, and two brothers, still reside in the State. On October 14, 1947, while flying the Bell X-1, he became the first pilot to break the sound barrier. Miss Cochran is the holder of numerous women's flight records for distance and speed. She was the first woman to fly faster than the speed of sound, and has recently piloted an F-104 Starfighter at a speed exceeding mach 2.

The portraits were presented by chairman of the Lockheed Aircraft Corp., Courtlandt S. Gross, during ceremonies attended by West Virginia Representative KEN HECHLER.

A luncheon was held in honor of Colonel Yeager and Miss Cochran. On that occasion, I was privileged to greet those present and to commend the service of these two leaders in the world of flight. I was especially gratified to participate, since it was my responsibility to author, while a Member of the House of Representatives, the legislation which established the National Air Museum. This measure, Public Law 79-9555, became law on August 12, 1946.

Mr. President, it is not often that two West Virginians are guests of honor at two separate luncheons, in the same Washington hotel, on the same day. However, that was the case today.

While Colonel Yeager was being feted, at another gathering members of the Interstate Commerce Commission and business leaders assembled to recognize that group's first woman Commissioner, Mrs. Virginia Mae Brown, of West Virginia.

Sponsored by the Transportation Association of America, and attended by approximately 100 persons, this event was a fitting tribute to a public servant who has only recently assumed new responsibilities in the Federal service. Prior to her appointment, Mrs. Brown served West Virginia as assistant attorney general, insurance commissioner, and a member of the State public service commission. I was happy to have the opportunity to speak briefly to those present on that occasion, and to commend Mrs. Brown's contributions to the well-being of citizens of the Mountain State and the Nation.

Remarks of Senator Symington at Dedication of Lutheran Good Shepherd Home in Concordia, Mo.

EXTENSION OF REMARKS
OF

HON. WM. J. RANDALL

OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Monday, June 8, 1964

Mr. RANDALL. Mr. Speaker, in the brilliant sunshine of a beautiful Sunday afternoon near the end of May, our senior Senator, Missouri's STUART SYMINGTON, stood on an outdoor platform before 250 townspeople to dedicate the new Lutheran Good Shepherd Home in Concordia, Mo.

This beautiful new home for senior citizens is situated near the western edge of the city on the crest of a hill which will provide those who live there with a beautiful view of Concordia including St. Paul's College as well as the new Interstate Highway No. 70 to the north which is now nearing completion.

The home is under the direction of a not-for-profit corporation organized by a group of civic-minded people of this area. A portion of the financing was under the new Housing for the Elderly Act which provided assistance through a loan from Housing and Home Finance agency and further assistance came through a grant from Hill-Burton Act funds.

All of Concordia is to be congratulated for this valuable addition to the community. We particularly applaud those unselfish individuals whom I am sure would prefer to remain anonymous yet who worked so long and diligently to generate interest in an enterprise of this kind. They know best the amount of work it takes for planning and construction. They well know it is a long and tedious road to a happy ending. Their efforts were rewarded on this beautiful day of dedication with the realization they have completed a home where many of the community's senior citizens may spend their time amid pleasant surroundings.

It was my high privilege and great honor to be asked to introduce Senator SYMINGTON on this occasion. Because of the thoughts he expressed to his audience including the interesting statistics concerning the aging and their income in rural areas, I am convinced these remarks will be of interest to fellow Members of Congress and should be preserved in the CONGRESSIONAL RECORD as a fitting tribute to the community of Concordia, Mo.

Senator SYMINGTON's remarks follow:

SYMINGTON SPEAKS AT DEDICATION OF NEW HOME FOR SENIOR CITIZENS

CONCORDIA, MO., May 24.—Today we present a fine example of our President's and our Nation's interest in the security and happiness of all our citizens, particularly our senior citizens whose labors and endeavors have preserved this country as a haven of the free and a land of opportunity. That is done through this beautiful home we rededicate here this afternoon.

In a vibrant and growing economy we nevertheless should be proud of our interest not only in assuring that our young people have expanded opportunities and prosperity, but also that those in the late afternoon of their lives may enjoy the personal dignity which befits their place in life.

Of all the people in world history who have reached the age of 65, nearly half are alive today; 500,000 Missourians—11.8 percent of our total population—are in this age group. Missouri has the second highest per capita proportion of any State of people 65 and over.

Over 37 percent of our elderly live in the rural areas of this State, including towns such as Concordia with populations between 1,000 to 2,500.

In this very county—Lafayette—15.2 percent of the residents—nearly 4,000 individuals—are in this age bracket.

The incomes of those over 65 are especially low in rural areas, their median money income in 1960 in rural farm areas being $740, some $200 below that for all persons 65 and over.

It is clear therefore that in these rural areas the elderly are generally the ones left behind. The young leave to enter the labor forces of industry in the cities.

It is shocking to note that, whereas the farm population of all ages is rapidly declining, there actually has been an increase in the number of aged living on farms.

Estimates for April of 1960 and 1961 show a decline of nearly 1 million in the farm population—from 15.7 to 14.8 million. Over the same year, however, the farm population of the aged rose by more than 40,000—from 1,326,000 to 1,369,000; in fact, in a single year, the aged as a percent of the total farm population increased from 8.5 to 9.2 percent.

Because of their increasing aged population, these rural areas greatly need accommodating facilities. As a general rule these areas have fewer facilities for health care for the elderly, but farm families often suffer more disabling illnesses than do urban residents.

Thanks to the marvels of modern medicine, our expected lifespan has been extended to the age of 70. At the same time, our productive capacity makes possible earlier retirement and increased leisure time. To some this can be a blessing; but to many, if not most, families, this trend toward longer life and a large proportion of our population in retirement presents additional problems which must be faced up to by all communities as you are doing in Concordia.

These people have a definite place in any community. They have wisdom and experience to offer. They ask only independence and self-respect. They are a proud and God-fearing people who have already made their contributions to society.

Today we dedicate more than a building, rather a pleasant home of companionship and personal productivity, a place where each senior citizen can develop his or her creative talents, and explore as yet undiscovered interests.

Let us pledge this day—with this home—and with others to follow—that we will meet and conquer the problems of those who in some cases may not be desired.

Our country has depended on them in the past. Surely we should be of comparable service to them in the future.

Time for a New Look at Natural Gas Regulation

EXTENSION OF REMARKS
OF

HON. WALTER ROGERS

OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Monday, June 8, 1964

Mr. ROGERS of Texas. Mr. Speaker, it is essential in my view that the Government create and maintain sound policies to serve the public interest requirements for adequate supplies of natural gas at reasonable cost.

I believe it is essential that Congress now take a fresh look at the current picture of natural gas regulation and its effect on the future of this most important resource.

This date is a significant one. An important anniversary is being marked, and it is well that our colleagues and other Americans now take note of its significance.

June 7, 1964, is a landmark date in the history of governmental relationships with American business.

It is the 10th anniversary of a decision by the U.S. Supreme Court that independent natural gas producers selling in interstate commerce are subject to the jurisdiction of the Federal Power Commission.

It is as well the 10th anniversary of gropings by the Federal Power Commission to find a legal, equitable, and workable means of regulating the production of natural gas.

The past decade has been marked by unusual experimentation by the Federal Power Commission in this area. It has been marked by uncertainties unparalleled in the history of Government regulation of business.

It is no credit to anyone involved that after 10 years the harbingers of a new decade are continuing confusion, more experimentation, and even greater uncertainties.

This game of blind man's bluff with the Nation's sixth largest industry not only has buffeted the natural gas business but has acted against the long-range interests of the consuming public.

Government cannot play games with business and expect business to survive, to grow, to expand in the future. The situation which we have on our hands today is the condition which destroys public confidence in our governmental processes. It gnaws at the very vitals of Government because it demonstrates monstrous inability to govern.

We have here a vitally important area which demands a constructive national policy; but, for 10 long years, it has been circumscribed by doubt and mired in a bog of indecision.

Perhaps this is due in part to the unique nature of the natural gas business. Here may be found the answer as to why the usual type of public utility regulation which dominates the thinking of the Federal Power Commission has not worked and will not work when applied to the natural gas industry.

The name itself suggests one reason. This gas is a product of nature. You do not build a plant to manufacture it, as you do with electricity, for example. To produce natural gas, you must go out and find those areas deep in the earth where nature has hidden away this unusual product. Finding it is difficult, time consuming, and very, very expensive.

Natural gas is a diminishing product, because once consumed it cannot be replaced. An electrical generating facility can be turned on to produce electricity, and will manufacture the product as long as the plant operates. Not so with gas.

Unlike such products as oil or coal, natural gas cannot be transported in trucks or railroad cars to the consuming public unless it is subjected to the technical process of liquefaction for later reconstitution as a gas. As a result, vast pipeline systems are built to gather the gas, transport it to market and distribute it to individual consumers.

All these are facts which distinguish the natural gas industry from other forms of fuel and energy. Trying to apply utility type regulatory procedures to this industry is like trying to add apples and oranges and get a total of grapefruit. The factors of exploration, discovery, development, and transportation to market do not lend themselves to pet formulas and exact computations which constitute the mold into which for 10 years the Federal Power Commission has been attempting to fit the industry.

There is another important factor, and that is the extremely competitive aspects of natural gas. There is competition for drilling rights, and competition for the sale of gas from new fields. In interstate aspects, pipelines compete with each other for market areas. And natural gas must compete for markets and acceptance by the consuming public with oil and coal and electricity.

Natural gas is assuming increased importance both in our daily living and in our modern technology. Today, there are more than 25,000 industrial uses for natural gas and in many industries it is absolutely essential to operations.

New uses are developing all the time. Gas air conditioning, for example, is expanding rapidly. A major part of all the exhibits at the New York World's Fair are both heated and cooled by natural gas. Scientists are working on ideas which may eventually result in natural gas not only heating and cooling a home but being the source for all the electrical requirements for that home.

There are more than 36 million customers of natural gas in our Nation and the number is increasing constantly. This means that the industry must be constantly incited to explore, to develop, and to bring more gas to market.

Under all these circumstances, and particularly in view of the indecision and uncertainty which have surrounded the Federal Power Commission for years, I believe it is essential that Congress take a fresh look at the role of regulation and its effect on the future of natural gas.

We must create an effective, stable, sound policy which will serve the overwhelming public interest of adequate supplies at reasonable cost.

The experience of the past decade vividly demonstrates the results when such policy is lacking. As was pointed out to the House on April 15 last, this past 10 years of confusion has been accompanied by a decline in the ratio of natural gas reserves to production to its lowest point in history at yearend 1963.

Furthermore, as was pointed out on the floor of this House by the able and distinguished chairman of the Interstate Commerce Committee, the gentleman from Arkansas, the Honorable OREN HARRIS, the price of natural gas at the wellhead has increased markedly under the efforts at Federal Power Commission regulation. Consumers are paying the bill, just as they have paid for and are paying the bill for the long and costly hearings and litigation which has marked and will mark this area.

Thus, the concepts of the past have been found wanting. They must be discarded for the future. We cannot make progress today under the theories of the past. It has been said truthfully that he who fails to learn from the past is doomed to repeat its failures, and unless we take heed of the record which has been written we face another decade of confusion and failure.

This is a new day and a new age. We must turn our thinking to concepts applicable to the conditions of today and the potential of the future to encourage the progress of the natural gas industry so that it can make full contribution to the national economy.

This raises some serious questions.

Recently, Chairman Joseph C. Swidler, of the Federal Power Commission, addressed the American Public Power Association. He said that the growth and development of the electric power industry in the next two decades will require that all generation and transmission facilities be planned and built as part of large power networks serving whole areas of the country. Regulation of these large power networks selling electricity at wholesale would be, naturally, in the hands of the Federal Power Commission.

Commissioner David S. Black, of the Federal Power Commission, addressing the Western Conference of Public Service Commissions, echoed the Chairman's words.

Thus, it is apparent that the Federal Power Commission sees itself as the prime controller of all electrical energy generation and transmission in America's future. Its energies obviously will be directed toward that end.

This question occurs: Should the Federal Power Commission have as well complete control of the production and transportation of natural gas, which in many instances competes with electricity? As a matter of fact, Chairman Swidler made a speech not too long ago in which he pointed out that electricity was becoming increasingly competitive with natural gas for home heating and other purposes.

Is the vesting of complete control over these two prime sources of energy in one agency compatible with our American scheme of things?

How will that agency resolve conflicts of competition between them? What will its attitude be as electricity seeks to replace natural gas in the home and natural gas develops methods of replacing electricity through fuel cell research?

Will the agency be in a position to determine that each of these power sources shall perform certain functions to the exclusion of the other, regardless of the initiative and vision of the industries themselves in developing new ideas and promoting their enterprises?

Will it be able to decree that one area of our Nation shall be served by electricity and another by natural gas exclusively, eliminating the public's freedom of choice?

As the new technology develops in both these fields, are we witnessing the creation of a "power czar" in America?

These are questions to which this Congress must address its attention.

And we must find the answers soon, for if we do not act soon to establish a constructive and progressive national policy we will find the answer written for us in the concentration of more and more power in the hands of the Federal Power Commission until a "power czar" has been created whether we will it to be or not.

Does the concentration of power serve the great public interest?

Or will the people fare better if there is a separation of power in the regulation of electricity and natural gas?

Does the concentration of power permit proper competition between the two industries, to the benefit of the consuming public? Or will it reduce competition to arbitrary decisions which may not serve the long-range interests of our people?

It seems to me that both these industries have become so vital to the American economy and so much a part of our daily living that we must seriously question whether their future development should be left to the regulatory policies of a single commission.

We have already witnessed the futility of the Federal Power Commission attempting to impose stereotyped thinking on the regulation of natural gas production—a 10-year record of failure.

With the growing Federal Power Commission authority over electrical generation and transmission, and with the proven failure in the regulation of natural gas production, it would appear that leaving the future regulation of both industries to a single agency is inconsistent with national objectives.

Either the regulatory process must be divided to reflect today's realities, or Congress must spell out in detail a modern concept for natural gas regulation which will acknowledge all factors and pierce the artificial dam of confusion which now exists.

I base this conclusion on the history of the past decade and on today's conditions, which foretell vast technological changes in the future.

It is time for new thinking and new action. National policy in regard to the future of these industries and their capability to serve the public must be as up to date and reflective of today's world as are the industries themselves.

The objective of modern regulatory policy can be achieved, and I intend to devote my attention to it and welcome the aid and assistance of other Members of this body. This must be pursued in the spirit expressed by the President when he said, "Come, let us reason together," and I know that if we set ourselves to the task reasonable and effective results will ensue.

Washington Report

EXTENSION OF REMARKS

OF

HON. BRUCE ALGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 8, 1964

Mr. ALGER. Mr. Speaker, under the leave to extend my remarks in the

RECORD, I include the following newsletter of June 6, 1964:

WASHINGTON REPORT

(By Congressman BRUCE ALGER, Fifth District, Texas)

D-DAY PLUS 20

Twenty years ago this day many Americans died in defense of freedom. It was a day of quiet reflection throughout the United States. Today should be another day of quiet reflection on the part of all Americans. Today, 20 years after D-day, freedom of mankind is under greater attack than it has ever been. More than one-third of once free peoples are now enslaved behind the Iron Curtain of communism. The strong foundations of liberty in the United States are being undermined by a philosophy foreign to our American heritage and ideals. Our own country is steadily but carefully being turned into a Socialist form of government. On June 6, 1964, 20 years after D-day, may we recall the oath of office that the President and every Member of Congress takes, the only oath each takes:

"I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

What better creed for all Americans? The Constitution clearly limits government's role and protects individual liberty.

BEEF IMPORTS

The American cattle industry is in trouble because of inadequate protection against imports. In hearing this week before my Committee on Ways and Means, Secretary of Agriculture Freeman minimized the effect of imports on beef prices and supply, claiming that imports "are a negligible factor." The Secretary claimed that increased domestic cattle production, heavier weight per unit, typical wide cattle price swings, and heavier production of other meats and broilers are reasons for the present trouble in the industry despite greater beef consumption. His solution: more Federal controls, greater interference in the cattle industry by the Federal Government.

I took issue with the Secretary. In testimony later in the day, in answer to my questions, R. B. Carothers, representing the American National Cattlemen's Association and the National Livestock Feeder's Association, directly contradicted Secretary Freeman. Mr. Carothers stated that imports are seriously hurting the American cattle industry.

As I see it, all the Government actions suggested by the Secretary of Agriculture, simply by being Government rather than private enterprise, will distort and further harm the beef situation. Government interference distorts supply and demand and the price factors of the marketplace.

The Government, in this instance, can and should reduce imports and increase exports by inducing foreign countries to reduce tariffs so that American beef producers can compete on the world market. This is another instance of where the United States makes all the concessions and there is little reciprocity on the part of other countries.

EXCISE TAXES WON'T BE REDUCED

The Johnson administration is fighting any move to eliminate or reduce Korean wartime excise taxes. A bill to extend these temporary(?) taxes will be voted on in the House next week. This bill reminds us that we should cut taxes only within a balanced budget. In other words, not borrow to give a tax cut. Also, remembering the earlier tax cut bill, excise taxes (actually, sales taxes) should be repealed first on the principle the "last on should be the first off." Therefore, emergency wartime taxes should be the first to be eliminated. Republicans will focus attention on the repeal of Korean wartime excise taxes on cosmetics, jewelry, furs, and leather goods when the bill comes up next week.

SOCIALISTS SAY POVERTY PROGRAM IS SOCIALISM

Now we have it from an authority on socialism, Norman Thomas, that the President's war on poverty is "a socialistic approach." Speaking to the Socialist Party's National Convention, Dr. Norman Thomas, six-time Socialist Party candidate for President, said of President Johnson:

"We all have reason to be grateful to him in the way he is handling civil rights and poverty. I ought to rejoice and I do. I rub my eyes in amazement and surprise. His war on poverty is a socialistic approach and may be the No. 1 issue in the 1964 campaign."

I have said right along, the issue in the 1964 elections is a choice between socialism and private enterprise, capitalism. Now the leading authority on socialism supports my view.

REPUBLICAN STATE CONVENTION, JUNE 16

I am looking forward to being home next week to attend the Goldwater dinner and to participate in the Republican Convention on Tuesday, June 16. It promises to be a great meeting and will set the stage for victory in November. See you at Memorial Auditorium.

CORRECTION

We do make mistakes. In spite of careful editing and proofreading, we do slip up now and then. In my newsletter of May 23 the referral to the vote on the amendment to the agriculture appropriation bill should have read: CONGRESSIONAL RECORD of Wednesday, May 20. Sorry.

Shortage of Coins

EXTENSION OF REMARKS

OF

HON. HUBERT H. HUMPHREY

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Monday, June 8, 1964

Mr. HUMPHREY. Mr. President, I have been asked by the distinguished Senator from Virginia [Mr. ROBERTSON], in his capacity as chairman of a subcommittee of the Committee on Appropriations, to place in the CONGRESSIONAL RECORD an exchange of correspondence between Senator ROBERTSON and Mr. George L. Clements, president of the Jewel Tea Co., of Chicago, Ill. This correspondence relates to the minting of coins and the domestic shortage for certain fiscal years.

Mr. President, I ask unanimous consent, on behalf of the Senator from Virginia [Mr. ROBERTSON], that the correspondence to which I refer be printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

JEWEL TEA CO., INC.,
Chicago, Ill., June 1, 1964.

Hon. WILLIS ROBERTSON,
Chairman, Senate Committee on Appropriations, Senate Office Building, Washington, D.C.

DEAR SENATOR: The coin shortage is growing so severe at this time of year when normally the usage of coin is at its seasonal low ebb that those of us in the retail business are becoming extremely apprehensive as to what the situation will be this fall and winter when the seasonal demands are at maximum.

Currently, we cannot obtain enough pennies and quarters to supply our stores. We are regularly shorting our stores 75 percent of their needs for pennies and 50 percent of their needs for quarters. For the months of March, April, and May, so far, we have shorted our stores a total of 3,862,000 pieces of coin. Consequently, I have today ordered our company to begin printing paper scrip for use in making change in our stores where needed.

The cost to our company for the effort to obtain coin is almost impossible to calculate, but the extra cost of armored car services, express charges, and special handling runs into a high premium ranging from 4 to 7 percent of the value of the coin. Printing and handling costs of paper scrip will add to these costs.

We are now at a point in our operations where the housewives are being inconvenienced and to explain the problem to them we have posted signs in our stores, sent out letters to all of our employees, and regularly print stories in our publications on the great need to bring in coin and on the conservation of coin.

Not only have our normal sources of coin dried up to the vanishing point but most of our occasional sources of coin are disappearing. Thus, we are at a crisis point in our operations which cannot wait until the new mint is completed in 1967 to be resolved. Emergency action of the following nature is required:

1. Cancel the present plan for the annual close down of the mints this summer. Pay the employees for their vacations and keep the mints in operation until the emergency is past.

2. Approve a supplemental appropriation to permit working the Philadelphia Mint around the clock 7 days a week and also to authorize and provide the funds to contract out to private industry the preparation of the metal strips from which blanks are punched and made into coins.

3. Approve an increase in the budget to operate the mint in the next fiscal year beginning July 1, 1964. I understand that the House has approved an increase of $1.9 million but that your committee has not as yet acted on this bill.

4. Finally, Congress should authorize an investigation of the operation of the mint to determine what its needs are to assure keeping ahead of the country requirements as to coin production. One cannot help but believe that an inadequate job of planning for the future has been done to permit the present crisis to occur.

Your help on a program of this type is urgently solicited.

Respectfully yours,
G. L. CLEMENTS.

JUNE 8, 1964.

Mr. GEORGE L. CLEMENTS,
President, Jewel Tea Co., Inc.,
Chicago, Ill.

DEAR MR. CLEMENTS: Thank you for your letter of June 1, 1964, in which you outline the difficulties which your company has encountered in connection with the shortage of coins. It is very helpful to this committee to receive current information of this nature.

Your letter lists certain emergency actions which should be taken because of the coin shortage, and requests our assistance in a program of this nature. Mint officials appeared before this committee on May 26, 1964, regarding coinage problems and related matters, and I am pleased to present the following information regarding your suggestions, in the order listed:

1. The mint is required by law to have a "yearly settlement of accounts"—title 31, United States Code, section 354. For many years, this operation has been accomplished at the end of the fiscal year, and since it involves a full settlement of all coins, clippings, and other bullion operated upon during the year, it is necessary that operations be discontinued long enough to account for all of the materials. I understand this is also standard practice throughout the precious metals industries.

Normally the mint has been closing down for approximately 4 weeks during the month of June in connection with the annual settlement, and for necessary equipment repairs and maintenance. This year, because of the very critical coin shortage, I am informed that coinage operations will be discontinued for 7 working days only, from June 22 to June 30, even though this seriously retards the equipment maintenance program.

2. A supplemental appropriation was requested by the mint for overtime operations through the end of the current fiscal year. Although this supplemental appropriation was delayed, arrangements were made to divert funds from another source for overtime operations in the mints. This action has permitted employment of overtime operations at both mints, increasing production by approximately 21 million coins per week.

Mint officials informed the committee that a policy was adopted in September 1963 of purchasing rolled nickel strip, ready for blanking, from private industry for production of all 5-cent coins. This permits the mint to use all of its melting and rolling capacity for silver and bronze coins only, greatly increasing the output of all denominations. Although this expedient will cost the taxpayers about $737,000 more in fiscal 1964 than if all operations were performed in the mint, it probably will be necessary to continue this practice until the new Philadelphia Mint is in operation. Careful consideration is now being given to the benefits that would result from purchasing metal in other forms for coinage, to obtain even greater production increases.

3. The mint has requested a much larger budget for fiscal 1965, providing for multiple shift operations at both mints, with extensive overtime operations, throughout most of the year. Approximately 5 billion coins are planned for fiscal 1965, as compared with about 4.2 billion in fiscal 1964. This request is pending before the Senate.

Construction of a minor addition to the Denver Mint, already underway, will substantially increase production at that plant. The addition should be completed late this fall.

4. An extensive survey was recently made of problems related to coinage requirements. Arthur D. Little, Inc., a private management engineering consulting firm, was employed by the Bureau of the Budget to study coinage requirements over the next 25 years, and to determine if minting facilities are capable of turning out the coins needed in future years. You may be interested in the survey report which is reproduced in the attached record of a Senate hearing—see pages 45 through 153 of the enclosed document, "Additional Mint Facilities."

The Treasury Department submitted proposed legislation to the Congress, following submission of the survey report, requesting authority to build a new mint in Philadelphia to replace the present mint in that city. The required legislation was enacted as Public Law 88-102, approved August 20, 1963, and funds were next requested for the new mint. This request has been approved by the House of Representatives, and is now under consideration before the Senate. It is expected that the amount approved by the House will be approved by the Senate.

I am sure that you will be interested to know that the mint has established a new production record for domestic coinage in each of the past 3 fiscal years, 1961, 1962, and 1963. Still greater records will be established during the next 2 fiscal years, 1964 and 1965. A comparison of coinage production over a 10-year period is shown in the following table:

Domestic coinage by fiscal years

[In millions]

1955	937
1956	1,414
1957	1,900
1958	2,010
1959	1,571
1960	2,567
1961	3,059
1962	3,461
1963	3,627
1964 (estimate)	4,200

As previously mentioned, the mint is expecting to produce at least 5 billion domestic coins during the fiscal year 1965. It is expected that the productive capacity of the new Philadelphia Mint, together with that of the expanded Denver Mint, will produce all of the coins required for the Nation's economy.

The Senate committee is very interested in the problems of the mint, and is pleased to receive suggestions such as you have presented. I trust that the above provides the information which you requested on this subject.

Sincerely yours,

A. WILLIS ROBERTSON,
Chairman, Subcommittee on the Departments of Treasury and Post Office and Executive Office.

Massachusetts Committee, Catholics, Protestants, and Jews

EXTENSION OF REMARKS

OF

HON. JOHN W. McCORMACK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 8, 1964

Mr. McCORMACK. Mr. Speaker, a truly great organization, dedicated to extending areas of agreement, and reducing tensions, emotions, and bigotry, is the Massachusetts Committee, Catholics, Protestants, and Jews.

The members of this organization are outstanding men in all walks of human activity who are daily waging the fight for good and against evil.

Each year this committee conducts a banquet with at least 1,200 persons in attendance at which citations of merit are awarded to three persons of different religious beliefs.

The banquet this year, held on May 14, 1964, at the Statler Hilton Hotel in Boston, Mass., was dedicated to the memory of our late beloved President John Fitzgerald Kennedy. The citation of merit from this committee is an outstanding recognition for anyone to receive.

The dinner this year was the 27th annual good-will dinner conducted by this organization of men of good will.

The recipients of the citations this year were Rt. Rev. Msgr. Edward G. Murray, D.D., pastor, Sacred Heart Church, Roslindale, Mass., and president of the trustees of the Boston Public Library; Sidney R. Rabb, chairman of the board, Stop & Shop, Inc.; and Theodore C. Sorenson, special counsel to our late President John Fitzgerald Kennedy.

His Eminence Richard Cardinal Cushing, archbishop of Boston, presented the citations to Sidney R. Rabb; Mr. Ralph Lowell to Rt. Rev. Msgr. Edward G. Murray, D.D.; and Dr. Abram L. Sachar, president of Brandeis University, to Theodore C. Sorenson.

I herewith include the remarks made by the toastmaster, Mr. Edward B. Hanify; a report made by Ben G. Shapiro, secretary, and one of the original founders of the committee; introductory remarks made by Chairman Oscar W. Haussermann; addresses delivered by Rt. Rev. Msgr. Edward G. Murray, D.D., by Theodore C. Sorenson, Sidney R. Rabb, recipients of the citations; remarks made by Mr. Norman Knight; and a telegram from U.S. Senator Edward M. Kennedy.

The constructive actions of this committee should be an inspiration for dedicated men in other sections of our country to evaluate and to follow.

THE MASSACHUSETTS COMMITTEE, CATHOLICS, PROTESTANTS, AND JEWS CORDIALLY INVITES YOU TO ATTEND ITS 27TH ANNUAL DINNER, THURSDAY EVENING, MAY 14, 1964, AT 6:30 O'CLOCK, THE STATLER HILTON, BOSTON

(Citations will be presented to Rt. Rev. Edward G. Murray, D.D., pastor, Sacred Heart Church, Roslindale, and president of the trustees, Boston Public Library; Sidney R. Rabb, chairman of the board, Stop & Shop, Inc.; Theodore C. Sorensen, special counsel to our late President John F. Kennedy)

THE DINNER THIS YEAR WILL BE DEDICATED TO THE MEMORY OF OUR LATE BELOVED PRESIDENT AND FELLOW BOSTONIAN, JOHN F. KENNEDY

(Toastmaster: Edward B. Hanify.)

(Dress informal.)

(H. D. Hodgkinson: general chairman.)

For 27 years, leaders in the Catholic, Protestant, and Jewish faiths have worked together as the Massachusetts Committee, Catholics, Protestants, and Jews, to improve group relations.

Among its many other activities, this committee has cooperated with the good-citizenship program of the Boston Park Department, Tufts University civil education project, Brandeis University three chapels program, Human Relations Center at Boston University, Massachusetts Department of Education. And, in addition, the committee has distributed many thousands of copies of educational material to schoolteachers and heads of educational institutions throughout the United States.

Our 13th annual junior good-will dinner, bringing together boys of the Boston public and parochial schools, held at Fenway Park, Boston, on January 29, created favorable comment by leaders in human relations throughout the country.

Our general aims and purposes: to sponsor good-will work in the general community of Greater Boston; to serve as a medium through which representative citizens can endorse the basic democratic principle of good will among men of different faiths and different racial origins; to bring out and emphasize the many fine things which citizens of different faiths have in common; and to encourage and support those forces in the community which generate in the individual a respect for the validity and dignity of each other individual's particular religious faith, with no qualifications or reservations based upon racial origins.

This committee is a separate, independent association, not connected with any other local or national organization.

The committee appreciates the support of all who have made this work possible in the community. We operate without hired quarters or paid help and with funds derived solely from voluntary contributions by our many friends. To the newspapers, radio, and television who have carried our message of good will to millions of people, we are deeply indebted.

Our annual dinners are dedicated to that ever-widening circle of representative citizens who believe in and respect the rights and the dignity of the individual. They are true exemplars of the concept of brotherhood—their lives are eloquent testimonials to the greatness of our democracy.

Remarks by Toastmaster Edward B. Hanify

As this 27th annual dinner of the Massachusetts Committee of Catholics, Protestants, and Jews reaches its climactic hour, I pause on behalf of the 1,200 people assembled in this ballroom to welcome our fellow citizens of the television audience to our midst.

We hold no grandiose or exaggerated views either of the significance of this dinner, or of the accomplishments of our committee. We offer no panaceas that will readily solve the problems associated with the establishment of justice for all Americans. We can and do make a modest contribution to the spirit and temper with which our society strives to solve those problems—and that contribution is on the side of amity and understanding, not hatred and distrust.

You may say such a contribution is a vague imponderable, the merest platitude. But here I beg you pause. I recall that in 1947 we marked the observance in a similar banquet hall of the 250th anniversary of the founding of the Supreme Judicial Court of Massachusetts. On that occasion Judge Learned Hand, of New York, made a memorable address. He had discussed the role of the judiciary in preserving the fundamental principles of equity and fairplay which our Constitution enshrines, and then turned to a consideration of the future fate of those principles. His words summarize our purpose tonight:

"What will be left of those principles (of justice)? I do not know whether they will serve only as counsels; but this much I think I do know—that a society so riven that the spirit of moderation is gone, no court can save; that a society where that spirit flourishes, no court need save; that in a society which evades its responsibility by thrusting upon courts the nurture of that spirit, that spirit in the end will perish. What is the spirit of moderation? It is the temper which does not press partisan advantage to the bitter end, which can understand and will respect the other side, which feels a unity between all citizens—real and not the factitious product of propaganda—which recognizes their common fate and their common aspirations—in a word, which has faith in the sacredness of the individual. Men must take that temper and that faith with them into the field, into the marketplace, into the factory, into the council room, into their homes; they cannot be imposed; they must be lived. Words will not express them; arguments will not clarify them; decisions will not maintain them. They are the fruit of the wisdom that comes of trial and a pure heart."

The spirit of moderation and faith in the sacredness of the individual as a creature of God—that spirit and that faith—we are striving, in Judge Hand's words, to bring to marketplace, to factory, to council room and to home—merely this and nothing more.

In doing so we dedicate our effort to the memory of our neighbor and friend the late President John Fitzgerald Kennedy who carried that spirit and faith to the White House, demonstrating, by the fact of his election, that they could prevail in America over barriers of prejudice previously deemed insurmountable; and who died as he launched a legislative program designed to give them new practical meaning for millions of his fellow citizens.

In doing so we honor tonight those whose lives have exemplified the spirit and faith which can yet save our riven society.

A Report by Ben G. Shapiro, Secretary, Massachusetts Committee of Catholics, Protestants, and Jews, Annual Dinner, May 14, 1964

Your Eminence Cardinal Cushing, Bishop Burgess, Rabbi Gittelsohn, gentlemen of the clergy, Governor Peabody, Mayor Collins, distinguished guests, ladies and gentleman, I am very proud that our Massachusetts Committee of Catholics, Protestants, and Jews dedicates the 27th annual dinner tonight to John Fitzgerald Kennedy, who was an honorary member of our committee for many years. There is always a need in an organization such as ours to draw new strength from old ideals; new fervor out of old convictions; new dedication out of experiences of the past. In the life and deeds of our late President, I suggest that all of us present and all citizens of our Commonwealth pause and renew ourselves to the ideals of human respect, and understanding, and love for one another. We speak of the great virtues of faith, hope, and charity, and wise men have told us the greatest of all of these is charity. And we know the definition of charity is love.

Love of our fellow man—our neighbor, our employer or employee, our fellow workers—is truly based on knowledge and respect. And respect is derived from a commitment to the basic philosophy phrased in the Constitution of our beloved country. In the 52 words of the Preamble of the Constitution of the United States we have the powerful reminder of what our Massachusetts committee strives to do.

"In order to form a more perfect union. * * * Establish justice. * * * Insure domestic tranquility."

These golden words are woven through the aims and aspirations of the Massachusetts Committee of Catholics, Protestants, and Jews. Who among us does not strive for a more perfect order of life? We know from personal experience that we rise and we fall, but as we fall we rise again, and as we persevere, please God, we advance another step along the way to true brotherhood among all men.

Who among us does not thirst and hunger for the sake of justice—justice for all men, regardless of their economic condition; the origins of their forebears; the manner in which they pray to their God; the color of their skin?

We here tonight seek and yearn for domestic tranquillity.

For the past 27 years we have met at this table; we have broken bread together. We come with one motivation—that while we may disagree on what we think of the Red Sox, the central artery, the MTA, urban renewal, the problems of the schools—that we are an agreeable people. We are people who give our time and talents in destroying the evils of bigotry; in abhoring to the very marrow of our bones the seeds and sins of hatred. We stand together in glorifying our respect for one human being toward another.

Since 1937 the committee has accomplished many things. We are in the debt of the newspapers, radio and television, and advertising media in reporting the progress that we, as an organization, have made.

We take pride in our efforts with the good citizenship program of the Boston Park Department; the funds we provide for the three chapels program at Brandeis University; the training and experience we provide to men and women of varied experiences and background in the field of human relations at Boston University, and the aid to graduate fellows at that institution.

At Tufts University, we are proud of the contributions we have made to the growth of the Lincoln Filene Center for citizenship and public affairs. The Lincoln Filene Center serves as a clearinghouse and service medium for the youth citizenship project of nine of the Northeastern States of our country.

The annual good-will dinners for youths of public and parochial schools are a source of deep and abiding satisfaction, and they are now in their 14th year.

Among our guests tonight are representative young men and women from colleges and universities in the metropolitan area. These young men and women, we feel sure, will follow in the footsteps of some 1,500 students who have broken bread with us in the past years, and who are pursuing the ideals of brotherhood.

Our committee does not look with smugness on the deeds of the past. We constantly strive to improve, to advance, to seek new frontiers of service. At this time, I wish to congratulate Boston College on its proposed institute of human relations, where it envisages a bold, new approach to a whole series of contemporary social problems—problems that cut across all lines of race, religion, or tradition. It is our sincere hope that we will be able to cooperate with this wonderful project of Boston College.

I now have not the form of duty—but the substance of desire—to extend my thanks, my warmest and sincere thanks to all of you who have supported the valuable work of the Massachusetts Committee of Catholics, Protestants, and Jews. My thanks to you scales the heights of mountains, and I hope my words can express the real fullness of a grateful heart.

Finally, I want to conclude my remarks in announcing that our committee is making a contribution of $3,000 to the John F. Kennedy Memorial Library, wherein will be deposited in ink and film the wealth of his wisdom, his warmth for humanity. Among all the treasures and memories of this great man will be some favorite words that appear on our billboard tonight. I wish to repeat them now:

"This Nation, for all its hopes and all its boasts, will not be fully free until all its citizens are free."

These words make us think. Thank you.

Introductory Remarks of Chairman Oscar W. Haussermann, at the 27th Annual Dinner of the Massachusetts Committee of Catholics, Protestants, and Jews, May 14, 1964

Reverend clergy; Your Excellency, Governor Peabody; Your Honor, Mayor Collins; distinguished guests; ladies and gentlemen, this meeting will please come to order. As our notices pointed out, this 27th annual good will dinner of our Massachusetts Committee of Catholics, Protestants, and Jews is dedicated to the memory of our late President, John F. Kennedy. This, I'm sure you'll all agree, is as it should be. President Kennedy was always a friend of our organization and we in turn, in our nonprofessional way, have always supported his efforts to lessen group prejudicies and to assure equal civic rights for all our citizens regardless of race or creed.

I say "in our nonprofessional way" because of the fact that we work nonprofessionally, without the help of paid experts and without hired quarters, using a goodly portion of our funds to help real professionals carry on the good will work which we are not organized to do directly. For some time we've made annual grants to the Civic Education Center of Tufts, to the Human Relations Center of Boston University, and to Brandeis to help it, in a modest way, to finance the expenses of its three chapels setup.

Of course, we do some things directly. Each year at the Fenway Park clubhouse, with the gracious assistance of the Red Sox management, we stage a junior good-will dinner for some 150 boys sent to us by our parochial and public high schools. Our records show that about 2,000 young men have attended these affairs over the past 13 years. We also stage each year, in cooperation with the mayor and the park department of the city of Boston, a luncheon for the youngsters who have won "Citizen of the Year" awards for exemplary conduct on our public playgrounds. We have reason to believe that our assemblying of young people of different faiths and racial origins at these friendly gatherings is sowing good seed on good soil.

Tonight, as in the past, the hard-working souls who comprise our time-conscious dinner committee have gently left me to infer that I am not to enroach on fields left to our distinguished guests of honor but to confine myself to the business of presenting to you your toastmaster. This I shall now do. The gentleman is my friend Edward B. Hanify.

As most of you know, Ed is a graduate of Holy Cross College and of the Harvard Law School and the past president of the National Alumni Association of Holy Cross and the present president of this town's brilliant band of poets, orators and wits, the sui generis Clover Club of Boston, which has never invited an O'Haussermann to any of its frolics. "Who's Who" tells me he's a director of a number of obscure corporations such as American Telephone & Telegraph, the John Hancock Life Insurance Co., Boston Edison, State Street Bank & Trust Co., and the Boston Herald-Traveler Corp.

His pro bono publico activities cover the waterfront. In addition to being a valued member of our committee, he is a life trustee of Tufts, chairman of the Holy Cross Board of Advisory Trustees, chairman of the executive committee of the National Catholic Community Service, vice president of U.S.O., past chairman of a Greater Boston Community Fund campaign, past president of the Boston Dispensary, et cetera, et cetera. Recently he was made an officer and a trustee of the John Fitzgerald Kennedy Memorial Library. I note with envy and admiration that the academic scalps at his belt include at least five well-deserved and impressive honorary degrees.

Early this year, in Hoosier verse, I summed him up as a scholar, a modern Demosthenes and an enlightened laborer in the vineyard of the Lord.

Ladies and gentlemen, your toastmaster, Mr. Edward B. Hanify.

REMARKS BY RT. REV. MSGR. EDWARD G. MURRAY, D.D.

It is certainly a moving experience to receive this citation and I offer my humble thanks. It is the more moving that we are met tonight in commemoration of a son of Massachusetts who in his few years lived a long life and the grief of whose passing will be surpassed in our hearts only by the sturdiness of his memory.

I cherish the memory of the then Senator Kennedy sitting on this very dais many times over the years. He was aware as are we all here tonight of the religious pluralism of our society. He was intent, however, that our differences should not be divisive. More than most he was conscious of the tremendous dynamic of the good will latent in all our divergencies. What force could never bring about would come to pass when it became the free consensus of men who turned to a Being higher than themselves, "Not by might, not by power but by my spirit, saith the Lord."

More than any of the leaders of his time President Kennedy undertook to assess the power of the ideas whose time had come. He saw his duty to marshal support for the causes which needed the elan of leadership before the world would accept them. In this realm of ideas it was uniquely he who was, in a phrase he coined for another, "the great captain of the West."

From him we can learn that there is a virtue in good citizenship and in honorable public life that the common good demands and yet which we cannot take for granted. It demands a commitment and a great price from all of us.

More than any other political society Rome in the days of the Republic is the mirror image of our own society. In that Rome the field both of duty and of honor was politics. To be a good man or a great man was to be a patriotic man. The city on the Tiber was always menaced by external dangers. It survived because the best brains, the strongest characters were always at the disposition of the state. The Roman of the Republic found in the disinterested service of the state his chief fulfillment. When a lesser standard of values gained acceptance, then not only did lesser men come to leadership, but the very life of the state came into jeopardy.

As we are met tonight, citizens of a great Commonwealth whose past stands beyond need of praise, we do well to remember that civic virtue is the bulwark of civic greatness. When such virtue came into dishonor eternal Rome found itself prey to all the stresses by which all other political societies have come to the scrap heap of history. We believe, we pray, that our society is still set aside for greater things—a city set on a hill for all to see. In the words of Boston's motto, "May God be with us as He was with our fathers."

The late President spoke for man. He addressed himself to the moral conscience of the world community in a nuclear age. He led men to their duties with eloquence—he reminded men of their rights as an impassioned tribune of the people. You and I must on our several occasions continue to speak for man. This becomes the more possible and the more exigent as in our day a new clean wind of doctrine has begun to blow through the religious thought of our Western World.

It has made it possible for Christians to see again the great vision of their reunited church. In their clearer concept of themselves as the people of God, they find new identification with the people of Israel with whom first the covenant was made.

We have in other words learned to love one another in terms of a common heritage while we respect the differences which separate us in belief and worship.

We recognize that the spirit of mutual love within which we can become better known one to another is an imperative both of civic and religious conscience.

Our society has a strong commitment to the future. Over our National Archives is inscribed the phrase, "The past is prologue."

Of all the hopes for the years ahead we must make choice, giving to them a scale of values so that necessarily we place first things first. Tonight there can be no hope more meaningful than that we truly live together as the family of men.

No other culture has been given the opportunity which is ours to grasp.

We are not of one race.

We are not of identical religious faith.

Are we not by this fact given the opportunity rather to live by the best of our common insights into the nature of man, and his destiny? Does any of us doubt that this is the great prospect for the future, that only now have we escaped enough from our history to begin the adventure together?

The shape of things to come we do not know. Life gives us no landmarks for the years ahead—yet since, as Nazzini says, "Life is a mission, and every existence is an aim," we cannot be our best selves unless we bend to that portion of the common task which is ours to fulfill. We know our limitations in this work.

But it is work together—

It is work with a sense of the unity of the human family.

It is work which is purposeful, even though its final fulfillment lies beyond space and time.

It is God's work which He asks man to initiate and to carry on until in the day of the Lord it is completed.

It is by living for that future in every present moment that we can best qualify ourselves as members both of the city of man and the city of God. We shall be conscious always of our lack of wholeness, but we can do each day some tasks that will build toward integrity, as we come nearer to Him who alone can heal us—the true and living God.

We best approach Him as each day we do that best portion of a good man's life—"his little nameless, unremembered acts of kindness and of love."

Again my gratitude to the Massachusetts Committee of Protestants, Catholics, and Jews for this recognition and to my superior, Cardinal Cushing, so kindly present tonight, for his encouragement which has made greater whatever small contribution I may have made to our common goal—the brotherhood of man in the fatherhood of God.

REMARKS OF THEODORE C. SORENSEN, MASSACHUSETTS COMMITTEE OF CATHOLICS, PROTESTANTS, AND JEWS, MAY 14, 1964

With a deep-felt sense of honor and obligation I accept your generous citation.

I accept it in the memory of John Kennedy—who did more than any other man to burst the bonds of racial and religious intolerance.

I accept it on behalf of all those on the Kennedy team, in the White House, in the Cabinet, and in the Congress who worked with him, and who are working now, to fulfill his dream of a fair chance for all.

And, finally, I accept this award as a means of paying my respects to the dauntless efforts of countless Americans, in every State, and of every race and creed, who have labored long and hard for brotherhood without awards or rewards of any kind save the inner satisfaction of seeing grievous wrongs set right.

I know that you honor me tonight not for my achievements but for my association—and I am in no way less proud for that reason. For John Fitzgerald Kennedy taught us all to be proud. He gave politicians new pride in their profession, intellectuals new pride in their intellect, and all Americans new pride in their country.

Since that unbelievable, unforgettable day of last November, many Americans have pondered the meaning of his death. But I would stress tonight the lesson of his life.

Some may say that the life of John Kennedy proves only that great wealth assists or even assures great success. But history records many men as richly endowed at their birth, but few so richly honored at their death.

Others may say that his success merely illustrates the uneven operations of fate and fortune which chanced to favor him, until last November, with extraordinary luck in war and marriage, in politics and public events. Yet no man who knew the series of family tragedies that he carried next to his heart, or the piercing physical pain that he bore through most of his life, or the dogged determination with which he fought to implement his ideals against all kinds of pressures and pressure groups, would ever envy the Kennedy luck.

Whatever these differences, clearly one of the most enduring principles which the life of John Kennedy illustrated—and to which that life was dedicated—is the same self-evident truth that draws us together tonight: the principle that no artificial barrier of race or religion should bar any American from contributing his utmost to his country.

In his effort to achieve an office which no other member of his faith had ever achieved, and in his effort to move this Nation to heights of human rights which no other President had ever ascended, John Kennedy was asking us to consider the circumstances of a man's inherent worth, not the circumstances of his birth—to judge men on the basis of their capabilities, not their creed or color.

It is apt that we remember this lesson tonight. Four years ago this very week he tested that proposition in the hills of West Virginia. One year ago this week he insisted upon it in Birmingham, Ala. And this year this week his spirit and inspiration are urging it upon the U.S. Senate as it considers his civil rights program in Washington.

I am not confusing two separate subjects. For racial and religious discrimination are one subject. When a Negro gang attacks a group of Jewish children, or Catholic and Jewish homeowners resent a Negro neighbor, or Jewish conversations perpetuate anti-Catholic myths, it is clear that too many Americans—including even those who themselves are members of minority groups—fail to see that all forms of intolerance are but different manifestations of the same evil.

John Kennedy knew this. He encountered the same arguments, the same hypocrisy, the same groundless fears when he fought to overcome religious discrimination and when he sought to abolish racial discrimination. He encountered many well-meaning people who opposed one form while practicing another. He did not understand how a man who preached on the sins of racial prejudice could take part in anti-Catholic programs, or how a Catholic who resented the slurs on Kennedy's religion could be indifferent to his views on race.

I am not talking about the South. For we learned in 1960 that neither racial nor religious bias is confined to any one section of the country, or to any one race, or to any one religion, or to any one level of learning and income.

Consider, for example, the opposition to the Kennedy candidacy in 1960, by:

A well-known Negro minister who said he liked Kennedy's views against discrimination but he nevertheless could never bring himself to vote for a Catholic President; or

The opposition of a liberal Protestant clergyman who instructed his congregation to vote Republican on the grounds that the political decisions of Catholics were subject to clerical influence; or

The opposition of prominent Catholic politicians who opposed the Kennedy candidacy for fear it would stir up old issues, or call attention to their faith, or worst of all, prevent them from being considered for Vice President; or

The opposition of a Jewish intellectual leader who had fought the McCarthy concept of guilt by association but judged John Kennedy guilty on the basis of a medieval papal encyclical; or even

The opposition of a rightwing extremist newspaper which denounced the prospect of a Catholic in the White House as either a papist or a Communist plot.

John Kennedy won his fight against discrimination in 1960—but, alas, much dis-discrimination is still with us—and, alas, he is not. And that requires each of us, in our daily lives, to carry a little more of his burden a little longer distance than we might if he were here to do it.

I do not believe we need to be reminded. In the darkest period of the French Revolution, Edmund Burke begged that his body be beaten into a drum to arouse all of Europe to eternal battle against tyranny. John Kennedy intended no such sacrifice in the battle against intolerance, for its martyrs were too many already. But the muffled drumbeat of that tearful funeral cortege down Pennsylvania Avenue last November should be enough to forever remind us, in his words, that "this Nation, for all its hopes and all its boasts, will not be fully free until all its citizens are free."

ADDRESS BY SIDNEY R. RABB, MASSACHUSETTS COMMITTEE OF CATHOLICS, PROTESTANTS, AND JEWS DINNER, STATLER-HILTON HOTEL, MAY 14, 1964

To receive this citation on the evening dedicated to our late President, John Fitzgerald Kennedy, who also participated in the work of this committee, is a rare privilege for which I am most grateful.

The reason that a group of civic minded and dedicated citizens banded together 27 years ago, to establish this committee, was to spearhead some means of communicating better the understanding that prejudices were both un-Godly and un-American.

This ideology was not only practiced by President Kennedy in his actions in our own country, but was a stimultant toward spreading this way of living throughout the world. It may not be an overstatement to say that this heritage to posterity may well guide world relationships in a direction more nearly within the teachings of our Judaic-Christian theology, which might not have been the case had he not worked with such zeal to achieve the breakdown of bigotry and intolerance.

During the first over 180 years of our country's history, there was the unfortunate acceptance of the belief that no member of a minority religion in this country could be a successful candidate and become President of the United States. Although a capable candidate was nominated 32 years before, the results clearly indicated that this myth was a reality.

One must accept that during this period there were many forces working toward a change in the thinking of our American people. * * * Many groups—such as this committee of Catholics, Protestants, and Jews—worked toward spreading the gospel of a better understanding of the monotheistic belief that all of us are children of and in the image of God. We have already witnessed how the spreading of hate, indulged in by subversive groups in different parts of the world, almost culminated in world disaster during the holocaust of the dark Hitlerian period.

But, as is so often said and believed, God is on the side of those who do right. There has been a continuing evidence of a trend toward greater willingness by more leaders in many parts of the world—especially in those areas which are classified as in the Western orbit—to improve understanding between people of varying religious denominations, race, and color.

In a very confused world, with new generations being brought up in an atmosphere of cold war, is there any wonder that accomplishments take longer? In our desire to help make this a world of less hate, we must become more willing to accept one another's freedom of choice in religion without permitting the differences, however small or large they may be, to affect our relationships adversely.

It was in this milieu that President Kennedy crystallized his ambitions and accepted the challenge to overcome what had been accepted by so many as an impossible handicap.

Regardless of what our political affiliations might have been—regardless of whether we completely agreed with the platforms, foreign policy, or some other facets of his program—the people of these United States showed, in the election of 1960, that in our kind of society, intolerance was, in fact, a myth. That election was a milestone and a signal for the future.

Being the first of a minority religion in this country to be elected to the highest office within the reach of the people is a contribution to posterity that is immeasurable. It was the greatest blow to bigotry in the history of our country and, undoubtedly, is the forerunner of the many changes now on the horizon.

For this contribution alone, the dedication of an evening by this committee is another significant recognition by his own community. But, in the activities of this committee, it has double significance. By this persistence and confidence, with its attendant success, there is additional stimulus to the hopes in the hearts of those who believe that changes can be accomplished by the stick-to-it-iveness, patience, and foresight that is needed to create such changes. The religious leadership in this community, in no small measure, has spread-eagled its constructive influence by its encouragement, help, and action for which the whole world may be grateful.

Progress is usually slow. We have a good deal to be grateful for because we are living in such a constructive era. Although some may dislike the complexities of our society and remain prophets of doom, those who have followed and evaluated events in our time, such as the Ecumenical Council in Rome, the attitudes in the various meetings of the Federation of Churches, the interchange of pulpits between priests, ministers, and rabbis, and many such activities cannot help but make us all feel the difference in the atmosphere.

And all of this has been accomplished in the space of a few short years. In history, even 100 years is a short time. And, although so many feel that we have not made the kind of progress we should have in the last 100 years, we can take comfort in the fact that there is a sincere interest now, which will undoubtedly make for more intense acceleration in the coming decades.

Man is not perfect and probably never will be. Too many feel that the progress is not fast enough. There should be no criticism of those who are rightfully impatient, but people of maturity realize that no really great changes happen overnight—even though sometimes they appear that way.

The great problem that the majority of people in America face is to find the best way to communicate to our people the need of educating the uninformed, and a way to neutralize the rabble-rousers and ill-wishers of our form of society. In so doing, we stand a better chance to create a climate of give and take, which should make for continuing forward progress.

There is little, if any logic in emotions. Cooler heads necessarily need to find the key to the emotional appeals to the well-meaning but misinformed people, to help them eliminate their dogmatic beliefs that there is a need of some scapegoat to justify individual or group frustrations.

These are the tasks that organizations such as this committee have undertaken. We must remain flexible, so as to be able to adjust ourselves to the ever-changing conditions and moods of our people. We may strive for total success—but be satisfied with continuing inching forward, so long as it is going forward. Historically, this has been the formula toward lasting and permanent successes.

Fortunately, this committee has been able to receive some contributions from our understanding citizens, which have been used to establish courses and opportunities in several of our colleges, affording men and women in the professional field of human relations an opportunity to study advanced techniques—thus enabling them to service our communities with better understanding and know-how. Assistance toward collecting and distributing materials for use in furthering the cause of better human relations has shown what interested and dedicated people can accomplish. We sincerely hope that such participation, with a broader base of more and increased contributions, will be the good fortune of this committee, to enable them to continue the work so sorely needed in this all-important period of helping to solve the civil rights issues.

Thirteen years ago, Ben Shapiro, our executive secretary—a man of vision who has been a guiding force throughout—and Mike Kelleher conceived the idea of the junior good-will dinner. This evening, you have heard from one of the young men who was present at Fenway Park last January. Approximately 150 students of the public and parochial high schools of Boston, chosen by their teachers as likely future leaders in their communities, were invited—through the generosity of the management of the Boston Red Sox and several prominent businessmen—to a dinner where they met with outstanding athletes, members of the city government, the school department, community and industry leaders.

Each year, four of their group have delivered brief talks on how they felt about relationships with other students of different religions and color. To me, as I am sure it would be to you, this is one of the most inspiring and revealing assemblies imaginable.

Many members of the committee who attend, as sponsors, look forward to this as an unusual evening but, more importantly, one sees here in action how young people, who will be the leaders of tomorrow, can live together as equals in a society which can give to all greater satisfaction, happiness, and understanding. As good as we think our programs have been, we know they still leave a lot to be desired. Let us hope that the confidence we have in our young people, by the attitudes they express when they have an opportunity to be together, is as well founded as many of us believe.

The man to whom we have dedicated this evening believed, charted his course, set his hopes and aspirations high, and attained his goal. He has left for us increased emphasis for one of our great heritages—that of respect for the principle of equal opportunity for all.

Can we overcome some of the handicaps that now confront us? He did. So can we. Let us pray that we will.

REMARKS OF MR. NORMAN KNIGHT

Thirteen years ago, the late Michael T. Kelleher and Ben G. Shapiro conceived the idea that bringing young men together from our public and parochial schools would help to indoctrinate these young men in a spirit of brotherhood.

Chosen by their headmasters, these public and parochial students in Boston meet in the press quarters at Fenway Park through the courtesy of Thomas A. Yawkey and the Boston Red Sox organization.

Outstanding leaders in our community act as sponsors of these boys and four lads are chosen to give a short talk on what brotherhood means to them. One is selected to give his speech at our annual good-will dinner.

During these 13 years nearly 2,000 young men have been our guests and we know of no lad who has attended these annual dinners who has been involved in any juvenile delinquency nor at any time been a discredit to themselves or to the schools they represent.

The committee recognizes and appreciates the cooperation it has received from both superintendents of the public schools and the parochial schools in Boston and the community leaders who each year act as hosts.

We are particularly grateful to Tom Yawkey, Dick O'Connell (who is with us tonight) and the entire Red Sox organization who make these facilities available.

Tonight you will hear from one of those young men who spoke at our dinner at Fenway on January 15.

His name is William J. Crowe and he lives at 138 Poplar Street, Roslindale, Mass.

He was a straight A student at Roslindale High School and was marked as "outstanding" in reliability, manner, and cooperation by all his teachers his 3 years at the school, a very rare achievement.

He ranked fourth in class of 234 students and was a member of student council, participated in student government election, member of Key Club, winner of Harvard Book Prize in May 1963, elected to National Honor Society, Roslyn Chapter, May 1963, and a recipient in the U.S. youth program.

His headmaster, Wilfred O'Leary, says of him, "William is one of the finest students I have ever had the pleasure of knowing in my career as a teacher and headmaster. He never is remiss at any task, he is forthright, resolute and determined and never shirks his job."

Now you have the same treat in store for you that we enjoyed on January 15—here's young Bill Crowe with an inspiring message.

MAY 14, 1964.

BEN SHAPIRO,
Massachusetts Committee, Catholics, Protestants, and Jews, Statler Hilton, Boston, Mass.

DEAR BEN: Tonight's dinner will always be warmly remembered by our family. Your personal untiring efforts in the cause of brotherhood are an inspiration, serving as an example to all of us. I understand that the ballroom is oversold and am truly sorry that my floor duties on behalf of the civil rights bill necessitate my remaining in Washington but wish to take this opportunity to congratulate you, Ben, for your leadership, and to Harold Hodgkinson and Oscar Hausserman, and to extend my regards to our friend Ed Hanify serving as your toastmaster, to your superb choices for awardees Sidney Rabb, Monsignor Murray, and Ted Sorenson, and to your distinguished award grantors—Ralph Lowell, remarkable New England philanthropist; Dr. Sachar, the gifted president of Brandeis; and our very dear friend and world example of brotherhood, His Eminence Richard Cardinal Cushing. To the members and guests of the Massachusetts Committee Catholics, Protestants, and Jews, my deep thanks as a citizen for your contributions to brotherhood together with my earnest prayer that our children will reach adulthood with a mutual respect and understanding gained in large measure from the examples we set.

(Signed) EDWARD M. KENNEDY,
U.S. Senator.

WASHINGTON, D.C.,

HOUSE OF REPRESENTATIVES

TUESDAY, JUNE 9, 1964

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Ecclesiastes 12: 13: *Let us hear the conclusion of the whole matter: Fear God and keep His commandments, for this is the whole duty of man.*

God of all love and grace, may our moment of prayer be a deepening of spiritual insight; center of light and consolation where we find guidance and courage; a searching of heart and of high resolve; a new pledge of loyalty to Thy holy will.

Grant us a faith that dares to make trial of the unknown ways of the eternal and as we look out upon the world of today, so troubled and so full of tumult, may the Members of Congress bear witness to the reality and authority of the ideal values and the immutable necessity of devotion and dedication to them.

We penitently confess that in our social order there seems to be a loosening of the moral sanctions and a lowering of the moral ideals. We also humbly acknowledge that there is a drift toward externalism and materialism instead of watching for a light to brighten the skyline of our hopes.

Inspire us to remind humanity that happiness does not depend upon things but upon moral and spiritual values and that without them we are doomed to stumble and falter.

To Thy blessed name we ascribe glory and majesty, dominion and power. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 2) entitled "An act to establish water resources research centers at land-grant colleges and State universities, to stimulate water research at other colleges, universities, and centers of competence, and to promote a more adequate national program of water research," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. ANDERSON, Mr. BIBLE, Mr. KUCHEL, and Mr. ALLOTT to be the conferees on the part of the Senate.

EISENHOWER WRONG ON ITEM VETO

Mr. PELLY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. PELLY. Mr. Speaker, too much power in the hands of the Chief Executive is unwise. I say this because I see where President Eisenhower, yesterday, in Cleveland at the Governors' conference urged a constitutional amendment to give the President power to veto individual items in Federal appropriation bills.

Of course, the idea of a method of cutting out funds for pork barrel projects is attractive, and in fact I myself once introduced legislation to accomplish this very purpose. But, Mr. Speaker, after being around Washington, D.C., for nearly 12 years I recognize the dangers inherent in this otherwise or seemingly desirable proposal. I have seen the results of walks in the White House rose garden, and realize that a President with this item veto power could bludgeon individual Members of Congress so that the independence and integrity of the legislative branch could be destroyed. Such power to influence Members of Congress should never be placed in the hands of any President, nor should the constitutional authority of the legislative branch ever be further limited.

Mr. Speaker, this is what James Madison in the Federalist once warned could lead to tyranny.

The Founding Fathers placed spending of the taxpayers' money under the control of that body of public servants closest to the people—the House of Representatives—whose Members are directly answerable to the people for their actions every 2 years.

Any suggestions to weaken that provision of the Constitution, in my opinion, should be strongly opposed.

The same is true at the State level. For example, the Governor of my State last year, under this veto power, struck out funds for a legislative investigation of his own administration and especially the State liquor board.

The item veto is subject to great abuse and should be defeated.

CUT IT UP—OR CUT IT OUT

Mr. McLOSKEY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McLOSKEY. Mr. Speaker, with mounting unrest throughout the world, with NATO on the verge of collapse, with our failure to enlist the cooperation of our European allies in reducing their trade with Communist Cuba, with the critical situation existing in southeastern Asia, perhaps we should ask ourselves some sobering questions.

Who are our friends today? How successful has our foreign assistance program really been? What are the accomplishments of our apparently misguided assistance activities?

It seems to me that on the occasion when we are discussing and debating the Foreign Assistance Act of 1964 we should give sober reflection to our deliberation before we once again give a blank check to the President's request for funds.

I feel it the proper time for the Congress to regain some control over our aid program. What better time than now?

There are very few who are completely opposed to all foreign aid, but certainly the administration of this program the past few years has failed miserably.

To state that there has been waste and deficiencies is putting it mildly. It occurs to me we have failed miserably in helping those who need it most—certainly we are not helping at the grassroots level.

With another huge debt facing this Nation, with the foregone conclusion that the debt ceiling must again be raised, I feel our own American taxpayers are entitled to some sort of a break.

I understand at the proper time a motion to recommit will be made. I shall support this motion and trust a majority of the Members will do likewise.

Before we pass this authorization bill let us squeeze out some more fat. Let us cut it up or else cut it out.

MINTING OF SMALL COINS

Mr. WHITE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. WHITE. Mr. Speaker, one of the major retailers of the United States is proposing that if the present shortage of small coins is not alleviated, it will print script in denominations of 1 cent, 5 cents and 10 cents to satisfy the need for coins as related to their business.

It seems rather odd to me, Mr. Speaker, that today when we are considering the problems of the rest of the world that we cannot provide for sufficient coinage to satisfy the needs of commerce in the United States. I also submit, Mr. Speaker, that before too long we are going to be faced with the problem not only of the need for additional coinage because of the shortage of such coinage, but also the possible debasement of the coinage that we now have.

Mr. Speaker, a year ago I suggested that this problem was acute and that it was going to become more acute and that ultimately the Congress of the United States would have to face this problem.

This particular matter which has come to our attention this morning and to which I have referred, merely points out that we have a severe and critical shortage developing in our small coins, our subsidiary coinage, that is going to have to be taken care of. I again submit that a country that is able to help solve the problems of the rest of the world should be able to provide a coinage as the Constitution declares that we, the Congress, must provide, to fulfill the needs of commerce in the United States.

CALL OF THE HOUSE

Mr. HALEY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. The gentleman from Florida makes the point of order that a quorum is not present. Evidently, a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 148]

Adair
Ashmore
Baring
Barrett
Bass
Blatnik
Bolling
Bray
Bromwell
Bruce
Buckley
Celler
Corman
Curtis
Daddario
Diggs
Dorn
Findley
Forrester
Gray
Griffiths
Gurney
Halleck
Halpern
Harsha
Harvey, Ind.
Healey
Hébert
Hoffman
Horan
Jarman
Jennings
Jensen
Jones, Ala.
Kee
Keith
King, Calif.
Leggett
Lesinski
Lloyd
McCulloch
McIntire
McMillan
Martin, Mass.
May
Miller, N.Y.
Monagan
Morrison
Morton
O'Brien, N.Y.
Olsen, Mont.
Pelly
Pepper
Pilcher
Powell
Rivers, S.C.
Roberts, Ala.
Rostenkowski
Roudebush
St Germain
Sheppard
Snyder
Stratton
Taylor
Thompson, La.
Thompson, N.J.
Toll
Tupper
Van Pelt
Watson
Whitener
Wilson, Ind.
Winstead

The SPEAKER. On this rollcall 361 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

SUBCOMMITTEE ON NATIONAL PARKS AND OUTDOOR RECREATION

Mr. MORRIS. Mr. Speaker, I ask unanimous consent that the Subcommittee on National Parks and Outdoor Recreation may be permitted to sit this afternoon during general debate.

The SPEAKER. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

FOREIGN ASSISTANCE ACT OF 1964

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 742 and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. SISK. Mr. Speaker, I yield 30 minutes of my time to the gentleman from Ohio, and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 742 provides for consideration of H.R. 11380, a bill to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes. The resolution provides an open rule, waiving points of order, with 4 hours of general debate.

H.R. 11380 authorizes the appropriations of $2,041,600,000 of new money to carry on the foreign assistance program for fiscal 1965. This is the full amount requested by the President and, together with authorizations previously enacted, provides the authority for the appropriation of $3,516,700,000 for foreign aid for the coming fiscal year.

The fact that the President has requested approximately $1 billion less for foreign aid than was requested for fiscal 1964 does not indicate that providing assistance to other nations is any less essential to the implementation of our foreign policy or to the maintenance of our security than in previous years.

U.S. defense strategy is based on the presence in nations which are face to face with Communist territory of military forces sufficient in number and equipment to convince the Communist dictators that they can gain no easy or cheap victories by military action. Except for the major countries of Western Europe, the existence of such forces depends on U.S. aid.

The continued material and cultural advance of the less developed countries as independent states is dependent on the availability to them of U.S. capital, technical assistance, and encouragement.

Subsequent to the sharp cut in foreign aid funds for fiscal 1964, the scope of the foreign assistance program has been curtailed and its administration improved. Even though our problems in the field of foreign relations and the threats to our security remain acute, the more restrictive policies and procedures inaugurated last year have not been relaxed. It is believed that it would impose an unjustified handicap on those responsible for our defense and for the conduct of our foreign policy to authorize a smaller amount.

Mr. Speaker, I urge the adoption of House Resolution 742.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may use, and ask unanimous consent to revise and extend my remarks.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, as the gentleman from California has explained, this resolution makes in order the consideration of H.R. 11380, which is popularly known as the foreign aid authorization bill, and which, is of course, annually passed by the Congress.

The measure carries new money for a total authorization of $2,041,600,000 for the foreign assistance program for the fiscal year 1965 which starts July 1. In addition it continues the authority to expend money that has been previously appropriated for foreign aid purposes and which is now available, so as to bring the total to be authorized under this act up to $3,516,700,000 for foreign aid purposes, which is, I believe, slightly more than actually appropriated by the Congress for the present fiscal year. Of course, the real test for the foreign aid program will be the amount to be appropriated for it by Congress later on and not the amount authorized in this bill.

This measure contains funds listed in various ways and amounts and in various sections and titles, for different purposes, or by different aid projects, such as military, economic, and so forth.

One of the increases made in the original authorization is for some $125 million, I believe, to give to forms of aid to South Vietnam, or to help meet the situation there, at the request of the President, although the bill itself does not specify South Vietnam is to be the recipient of these particular funds; but the $125 million is included in this bill just the same. It is there, as will be explained during the general debate on the bill itself, which will run for 4 hours before the committee is to consider the measure under the 5-minute rule for amendment.

Mr. Speaker, I have no further requests for time.

Mr. MORGAN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MORGAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes.

The SPEAKER. The question is on the motion.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11380, with Mr. Rains in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania [Mr. Morgan] will be recognized for 2 hours and the gentlewoman from Ohio [Mrs. Frances P. Bolton] will be recognized for 2 hours.

The Chair recognizes the gentleman from Pennsylvania [Mr. Morgan].

Mr. MORGAN. Mr. Chairman, I yield myself 20 minutes.

Mr. Chairman, H.R. 11380 authorizes the funds necessary to carry forward the foreign assistance program during fiscal 1965 and make a number of minor amendments to the basic Foreign Assistance Act to improve the effectiveness of the program.

The bill authorizes $2,041,600,000 of which $1,055 million is for military aid and $986,600,000 is for economic aid.

Not all of the funds to finance foreign aid operations during fiscal year 1965 are authorized in this bill. The President has requested an additional $1,475,100,000 for 1965 under authorizations previously enacted. The funds requested which are not included in H.R. 11380 are the Development Loan Fund, $922,200,000; Alliance for Progress, $550 million; and State Department administrative expenses, $2,900,000.

The funds requested for foreign aid for fiscal 1965 are substantially less than the Executive request of last year. The press has described the foreign aid program presented to the Congress this year in various ways: It has been referred to as a "bare bones program." I have seen it characterized as a "bikini-sized program" and it has been rather accurately described as a "preshrunk program."

No matter what you call it, these facts are clear. In January 1963, the President's budget message to the Congress included $4,945,025,000 for foreign aid. After the President received the report of the Clay Committee, the program was readjusted and the foreign aid request submitted to Congress for fiscal 1964 was reduced to $4,525,325,000. The House approved an authorization after the motion to recommit was adopted on the floor last year of a total amount of $3,499,050,000, and the conference with the Senate resulted in an authorization of $3,599,050,000. The amount appropriated under this authorization was $3 billion, plus a reappropriation of unobligated balances.

The President's request for foreign aid funds for fiscal 1965, which has been approved by the Committee on Foreign Affairs, was intended to make available the same amount of money as was appropriated for fiscal 1964, including the reappropriation of unobligated funds in both years.

You will recall that on May 18 the President sent a message to the Congress requesting an additional $125 million for Vietnam. These additional funds have been approved, so that the bill before the House today authorizes funds to finance a program of the same level as the Congress provided for last year, plus an additional $125 million for Vietnam.

SMALLER PROGRAM NO LESS IMPORTANT

The fact that the program has been reduced below previous levels should not be interpreted as meaning that foreign aid is any less important to the security of the United States or to the maintenance of world peace than in previous years.

The Communist threat is still there, although there are apparently some rather responsible people who believe that it is fashionable to pretend that the Communist danger no longer exists. The cold war has not been won.

If the President is deprived of the money and the authority that he has asked for and which is provided in this bill, he will be deprived of his principal weapons for fighting the cold war. We have other means for winning an all out hot war, but if we are to prevent the present conflict from becoming a hot war and if we are to continue to put pressure on the Communists in the cold war, we have to have foreign aid.

MILITARY AID

The biggest item in this bill is an authorization of $1,055 million for military aid. This figure includes the President's original request of $1 billion, plus $55 million for Vietnam. Last year's appropriation for military aid was $1 billion.

There is a surprising number of people in this country who apparently regard military aid as a program designed primarily to help foreign countries. Let me emphasize to begin with that the Secretary of Defense and the Chairman of the Joint Chiefs of Staff have stated most emphatically to the Committee on

Foreign Affairs that they regard the military assistance provided for in this bill as essential to maintaining the security of the United States.

We should never forget that U.S. military strategy is based on the concept of collective defense. The size of our Armed Forces, the way they are organized, the equipment that they have, and their deployment in various parts of the world has been established on the basis that the forces of our allies at various places on the globe will assume certain responsibilities for resisting Communist aggression. If these forces on which we depend are not able to function according to plan, the United States will have to develop a new defense strategy and will have to enlarge, reorganize and relocate our own forces.

Two-thirds of the military assistance funds requested for fiscal 1965 are programed for 11 countries, stretching along the southern and eastern perimeters of the Communist bloc. These countries are Greece, Turkey, Iran, Pakistan, Thailand, Vietnam, Laos, the Philippines, the Republic of China, and Korea. Together these nations maintain 3½ million men under arms.

There are reasons for believing that the forces of these countries bordering the Communist bloc are becoming increasingly important to our defense strategy. There are indications that the Communist threat may be shifting from nuclear attack to what Khrushchev calls "wars of national liberation" which involve guerrilla warfare, insurrection and covert aggression. National forces trained and equipped to fight in wars of this character are essential if we are to resist this type of aggression.

It is even more important for us to be able to deter a military attack than to defend against such an attack when it occurs. The presence of reasonably adequate military forces in these countries on the periphery of Communist power, by eliminating the hope of a quick, easy and cheap victory, reduces the likelihood of Communist attack.

I recognize that there are those who will say: "We are in favor of a certain amount of military aid, but how do we know that the money authorized in this bill is not too much?"

It has been said that military aid funds were cut 30 percent last year and that last year's cut didn't do any harm.

Let me ask you to consider just two things before accepting this argument.

First, in a sense, the military expenditures made in every year when the forces and equipment are not used to fight a war might be regarded as wasted. Except for Vietnam and Laos, neither we nor our allies have had to fight a war during fiscal 1964. If we could have been sure of this a year ago, we might have been justified in curtailing our military assistance expenditures.

On the other hand, what harm would have been done if the forces of our major allies had been called on to fight a war after the curtailment in assistance made necessary by last year's cut, no one can determine.

The second point to bear in mind is that the forces of the nations fronting on Communist territory from Greece across the world to Korea were originally equipped by means of our military aid program with World War II tanks, artillery, planes, and vehicles. We have upgraded this equipment with more advanced weapons and improved models to the extent that our funds were available and the capability of the forces using such equipment permitted. It remains true, however, that this World War II equipment is wearing out, and unless we replace a lot of it every year, the forces of these countries will lose their fighting capability.

As a result of the cut in military assistance last year, the program was substantially curtailed. This reduction in funds made it necessary for the Executive to review and reevaluate the entire program. The Committee on Foreign Affairs has gone over with care what has been cut out of the program as well as what remains in it. We are convinced that the funds authorized in this bill are essential to the maintenance of our security.

The additional funds for Vietnam are needed because the military forces of Vietnam are being increased in size and because more money will be spent for ammunition which is being used up more rapidly than previously. More funds are required also for additional airplanes and other equipment and supplies.

While the military program in Vietnam deserves top priority, a review of the program in other parts of the world has convinced the committee that any effort to squeeze the additional funds needed for Vietnam out of other parts of the bill would endanger the defense of the United States.

ECONOMIC AID

This bill includes authorizations of $986,600,000 for economic aid.

We are confronted with the fact that there are a lot of countries in the world which are unable to support themselves and depend on us for help. It is in our interest to provide this help.

I am aware that there are those who say that this is not the way it should be, who maintain that every nation should stand on its own feet, and that we should take action to correct the situation which exists by cutting off aid to these countries and saying to them "from now on you are on your own."

Before embarking on such a course, however, let us consider what we are doing and why.

SUPPORTING ASSISTANCE

The sum of $405 million is authorized for supporting assistance. This is economic aid which we plan to provide to 13 countries where we believe it is to our military or political advantage to give assistance. Four-fifths of this money is programed for four countries—Vietnam, Korea, Laos, and Jordan.

I do not believe that it requires any argument or recitation of statistics to convince anyone that these four countries could not survive without our help.

Some of the defense support money goes to countries where we maintain military installations of great strategic value.

I recognize again that the argument will be made that it is all right to give economic assistance to these countries and for these purposes, but the question is asked: Why is it necessary to give so much?

Let me point out that, except for Vietnam, the level of defense support is substantially the same as that provided last year, considering the reappropriated carryover. In addition, last year's cuts resulted in the elimination and the postponement of a number of projects and programs in these countries.

I am fully aware that a number of the governments which receive defense support are not very efficient and the results of our aid expenditures are not always satisfactory. We have to face the fact, however, that cutting our aid will not make these governments more competent and that if we curtail the programs and projects which we are financing in these countries, the effect will be to discourage the governments and the people whose support we are seeking.

Mr. GROSS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] Fifty-one Members are present, not a quorum.

The Clerk will call the roll.

The Clerk called the roll and the following Members failed to answer to their names:

[Roll No. 149]

Anderson
Ashmore
Bass
Blatnik
Bolling
Bray
Brock
Bromwell
Bruce
Buckley
Celler
Corman
Curtis
Daddario
Dawson
Diggs
Dorn
Findley
Forrester
Goodell
Gray
Griffiths
Gubser
Gurney
Halleck
Halpern
Hansen
Harding
Harvey, Ind.
Healey
Hoffman
Horan
Jarman
Jennings
Jensen
Johnson, Calif.
Jones, Ala.
Kee
Keith
Kilburn
Landrum
Leggett
Lloyd
McIntire
McMillan
Martin, Mass.
May
Miller, N.Y.
Monagan
Morrison
Morton
Pilcher
Powell
Reuss
Rivers, S.C.
Roberts, Ala.
Rogers, Tex.
Rostenkowski
Roudebush
Sheppard
Smith, Calif.
Springer
Taylor
Thompson, La.
Thompson, N.J.
Toll
Van Deerlin
Van Pelt
Watson
Whitener
Wilson, Bob
Wilson, Ind.
Winstead

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. RAINS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill, H.R. 11380, and finding itself without a quorum, he had directed the roll to be called, when 353 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from Pennsylvania has 4 minutes remaining of the 20 minutes allotted.

Mr. MORGAN. Mr. Chairman, when interrupted by the quorum call, we were discussing the economic portion of the bill. We had just finished the discussion of supporting assistance.

TECHNICAL COOPERATION AND DEVELOPMENT GRANTS

The third largest item in the bill is $224,600,000 for technical cooperation and development grants. This money is programed for 49 countries, 8 less than last year.

We have learned over the years during which our foreign aid program has been in operation that the greatest deficiency in the less developed countries is in human skills. We are now aware that the development of human resources is more important to these countries than capital investment.

I want to point out that 80 percent of this money goes to pay the salaries and expenses of U.S. personnel, both direct hire and under contract, who go out and give technical assistance and training in these countries, and to bring people from these countries to the United States for technical training.

Again, we have to face the question: Do they need this much money? I think the answer is "yes."

It is easy to cut dollars out of a program, but the dollars we cut will mean that U.S. technicians will have to be brought home and that the technical program in the countries which are receiving our assistance will have to be interrupted or slowed down. The committee does not want to assume responsibility for a curtailment of this kind, and I do not believe that the Congress wants to do so either.

Let me return to the statement I made a few minutes ago. We have to face the fact that there are a good many countries in the world which depend on us for economic assistance. Some say that this situation is wrong and that it should not have been permitted to develop. I say that it is in our interest to be in this position.

Whichever point of view you want to take, however, we have to consider the questions: Is now the time to cut off our aid to these countries?

Will the United States be stronger or weaker if we cut off our economic aid?

Will such action on our part help the Communists or hurt them?

A look at the present world situation convinces me that if we were to do anything of this kind, it would create problems, not solve them, and that it would cost us money, not save money.

CONTINGENCY FUND

This bill authorizes $150 million for the contingency fund. This is somewhat less than was available for the contingency fund in fiscal 1964.

Last year the appropriation was for only $50 million, but in addition to this, the unobligated balance of $127,100,000 was reappropriated.

Present estimates are that $139 to $149 million of the contingency fund may be used during fiscal 1964, which would leave $30 to $40 million to revert to the Treasury on June 30 next.

The Agency has stated that it will reduce its appropriation request by the amount unobligated at the end of the fiscal year.

I think it is now generally recognized that AID has been cured of using the contingency fund to finance projects and programs previously disapproved by the Congress. During fiscal 1963 and fiscal 1964, contingency fund money has been used only to meet unforeseen situations and the money not so used has been allowed to revert to the Treasury.

We know there will be unforeseen problems in the year ahead just as there have been in all the years in the past. We have to make funds available to deal with these problems. It is a question of judgment as to how much money should be set aside for contingencies. In the committee's judgment $150 million is the right amount.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

The bill authorizes $134,400,000 for U.S. voluntary contributions to international organizations and programs. Contributions to nine organizations and programs are included, and with one exception all are under the United Nations.

Let me make clear, however, that these funds do not include our assessed charges for membership in these organizations. All such expenses are authorized by other legislation than the Foreign Assistance Act and are included in the State Department appropriation bill, not in the foreign aid appropriation. The funds authorized by this section are for voluntary contributions which the United States makes to the programs to which other nations contribute.

The amounts of our contributions have been agreed to with other nations, and we ought to make good on our commitments.

I might point out that none of this money will go to finance the peacekeeping operation in the Congo, although $5 million has been programed for U.N. technical assistance to the Congo.

None of this money will go for the much discussed U.N. technical assistance program in Cuba. This project, which was approved by the U.N. Special Fund in 1961, has never been started and nobody's money has been spent for this project so far.

INVESTMENT GUARANTEES

This bill authorizes no appropriation of funds for the investment guarantee program, and no new kinds of guarantee coverage are authorized. The bill does raise the ceilings on the amount of guarantees which can be issued, however. The ceiling on all-risk guarantees is raised from $180 to $300 million, and the ceiling on Latin American housing guarantees is raised from $150 to $250 million.

I am glad to be able to report that the investment guarantee program is beginning to come into its own. Over $1.5 billion investment guarantee contracts have been entered into. It is generally recognized that the investment guarantee program provides the best means of getting into the less-developed countries U.S. know-how and management as well as private capital.

MILITARY SALES

The bill contains two provisions to expand our sales of military equipment to our friends and allies.

All of us recognize that many nations of the world are prosperous and can afford to pay for part and, in some cases, all of their defense. I am sure that not many of us realize that we are today selling military equipment to other nations at the rate of $1.5 billion a year. These are sales for which we get paid the full price.

Under existing law, we have for many years permitted our friends and allies to use the services of the Defense Department to procure military equipment from U.S. suppliers, when the buying government guarantees to make payments to us in time for us to make payment to the suppliers when such payments are due. We call these guarantees dependable undertakings. Section 201(c) of the bill expands this dependable undertaking authority to give the buying government 120 days after delivery to make payment to the Defense Department for military equipment purchased by the Defense Department for these governments.

This authority should expand our sales of military equipment because some governments which would like to buy through our Defense Department cannot legally make payment prior to delivery.

The other provisions in the bill, subsections 201 (a) and (d), are intended to expand sales of military equipment by permitting the Defense Department to guarantee commercial credits to finance such sales.

At the present time, U.S. manufacturers of military electronic equipment, vehicles, and other items are making substantial sales to foreign governments on a strictly commercial basis. Such sales are financed by commercial banks and the Export-Import Bank on the same basis as ordinary export transactions. The volume of such sales during fiscal 1964 is estimated as amounting to $262 million.

Additional foreign governments are ready to buy on this basis, but the banks are unwilling to finance the transactions because of the risks involved. A bank may have confidence in the present government of a country but is afraid of what might happen if the government should no longer be in power. To meet this situation, the bill contains authority for the Department of Defense to issue guarantees of credits issued by commercial institutions in such cases.

CONCLUSION

I feel certain that there are very few of any of us here who believe that we should abolish foreign aid. I am confident that the overwhelming majority recognize that the foreign aid program is vital to our security. The big question for many of us is: How much foreign aid is necessary?

I urge that the House approve the present bill. The program was "put through the wringer" last year, and, as a result, substantial adjustments have been made. Those who are responsible for our defense and for the conduct of our foreign policy need the tools to do the job.

If we "put the program through the wringer" again, I believe, and the majority of the Committee on Foreign Affairs believe, that we will impose an unjustified handicap on those who have the responsibility for dealing with the dangers which confront us.

Mr. HALEY. Mr. Chairman, will the gentleman yield at that point?

Mr. MORGAN. I yield to the gentleman from Florida.

Mr. HALEY. May I inquire of the gentleman from Pennsylvania as to the number of personnel employed in this huge giveaway program? Could the gentleman enlighten me on that?

Mr. MORGAN. You mean the entire program, including U.S. citizens and foreign employees?

Mr. HALEY. If I may say so, the statement is made repeatedly here that this is something to fight communism and that these funds are necessary because of military commitments. I would just love to know how much of this program is going to military commitments and how much is going for salaries. I am informed there are approximately 70,000 people employed in this huge giveaway program and that approximately 40 percent of all this money goes for salaries. Could the gentleman from Pennsylvania tell us something about that?

Mr. MORGAN. I think that is not true. I think the program employs around 17,000 people to handle economic aid and, as you know, in the President's message he asked for a reduction of 1,200 of these employees. He asked the Committee on Foreign Affairs for two methods of selection out to help reduce the employees. The committee did not grant this selection out authority, but the total Agency for International Development employees including those overseas is less than 17,000.

Mr. HALEY. Less than 17,000. The gentleman is firm in that statement?

Mr. MORGAN. As I remember it, that is correct.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. Yes. I yield to the gentleman.

Mr. GALLAGHER. In further response to the question of the gentleman from Florida, on the economic side we employ about 7,000 Americans in the United States and 9,700 foreign nationals. There are 9,716 people handling military aid of whom 1,224 are foreign nationals.

Mr. HALEY. Mr. Chairman, will the gentleman yield further?

Mr. MORGAN. I yield to the gentleman.

Mr. HALEY. What percentage, then, of the money in this program goes to salaries? Could the gentleman inform me of that?

Mr. MORGAN. If the gentleman will look at the bill, $52 million of the bill is for administrative funds and most of this goes for salaries. In addition, the salaries of technicians working overseas are paid out of program funds.

Total salaries for economic aid amount to $76 million a year and the payroll for military aid is $43 million, although this figure does not include the pay of U.S. military personnel which is included in the Defense Department budget. That does not take all of the $52 million, but this is where the employees of the AID program are paid, out of administrative funds.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield at that point?

Mr. MORGAN. I yield to the gentleman from Missouri.

Mr. JONES of Missouri. Last year we talked about trying to put a limitation of 33⅓ percent on these special programs. I had some hope that the committee would put that limitation on these special programs, but you did not do that this year, and we are still donating more than 33⅓ percent and up to 100 percent on some of the programs. Is that correct?

Mr. MORGAN. I think there are at least three programs included in this authorization that will be more than 33⅓ percent. One, in which I know that the gentleman from Missouri has a great deal of interest, is the fund for Palestine refugees where the U.S. contribution is approximately 70 percent. Then there is the United Nations technical assistance fund, where our share is limited by law to 40 percent. The U.S. contribution to the United Nations children's fund, UNICEF, is 40 percent. There are no funds authorized in this bill for programs where we make a 100-percent contribution.

Mr. JONES of Missouri. I want to inform the gentleman that I am going to try again this year to get that limitation put on there. I think we should do it.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, the distinguished gentleman from Pennsylvania, Dr. MORGAN, chairman of the Committee on Foreign Affairs of this House, has given you a frank and clear picture of H.R. 11380, the Foreign Assistance Act of 1964. I attended most of the hearings and found them both interesting and illuminating, all of them giving us opportunity to know more of the bill itself as well as the points of view of various differing groups across the country.

He has told you also that the final vote to bring the bill to the floor was 22 for, 7 against, neither the proponents nor the opponents being all one political party. To my mind this is as it should be.

There has always been an opposition group, and I want to take this opportunity, Mr. Chairman, to express my high regard for them all, especially those of the minority, to whose conscientious attendance, careful study, and forceful presentation we all owe much. The distinguished gentleman from Indiana Congressman ADAIR, ranks on the minority side of the table and I am glad to say here and now that his quiet, intelligent efforts to put forward his objections to certain sections of the H.R. 11380 have been both helpful and challenging. Others of this group have contributed much also, although the amendments submitted were defeated in committee except for two. One of those amendments was exceedingly important. It was offered by the gentleman from Iowa [Mr. GROSS]. It was an amendment which deleted the Agency's request for an unprecedented authority to dismiss personnel. That it finally was accepted, 11 to 8, says much for the spirit of determination of the committee as a whole to bring to you as sound a bill as possible with as few pitfalls as might be.

I. THE PEOPLE MUST REALIZE THE DANGER

The fact that the President requested $1 billion less than for the 1964 program does not mean that this effort is less essential to the ultimate worldwide victory for the free world.

Indeed, I am very disturbed that while the need is just as great, there seems to be even less understanding of it and apparently very little interest in it.

When the Congress approved lend-lease in 1940, it did so because our people realized that the measure was necessary to prevent the disaster which would come from the conquest of Europe and Great Britain had we failed to help. Why do we find it more difficult to appreciate similar dangers today? Surely the great majority of our people in this country must realize that humanity itself is at one of the great crossroads in its evolution, that freedom hangs in the balance. Why, then, is there such reluctance to take upon our shoulders responsibility to future generations?

Mr. Chairman, we hear much about the debts we are piling up for the yet unborn. Anyone with half an eye must acknowledge that grim fact. Would they rather stop fighting in the often disheartening battle against the atheist-Communist takeover of the world? Is there not something deep inside you that says, "I will not stop fighting, I will fight, and I will win." Everyone here surely knows that this is a very dangerous moment in history and that we must win.

Mr. Chairman, when General O'Meara testified before the committee, he said he would rather welcome my saying that I thought we had been slow in recognizing the seriousness of the problem with Latin America. At that time I said:

> Most of all, General, you would like to have the Congress of the United States take a new look at the whole of South America and really inform itself upon the very serious situation that we are responsible for down there, would you?

General O'Meara replied:

> In spite of the very broad knowledge that many Congressmen have, I certainly would agree with your expression of my wish.

Mr. Chairman, the American people need to know that this effort is in their interest and that we are defending the continental United States by strengthening the positions of other freedom-loving people on our periphery. Few dispute the value of NATO despite present disagreements. In Asia there are over 400 million people on our side by treaty or sharing the common fear of Communist aggression. Thailand, South Korea, the Philippines, India, Pakistan, and South Vietnam are all participating in this struggle in one way or another. The British armed force strength based in the Singapore area is significant and supports the free people of Malaysia. On Taiwan there is a great deterrent in the armed forces of the Republic of China. Admiral Felt reported to the committee:

> The Republic of China's Air Force has been and still is a No. 1 air force, qualitatively superior to the Chinese Communists. If we allow it to deteriorate by not being able to continue to give them modern equipment, they will be a second-best air force and then there will be weakness for the Communists to take advantage of.

This is something they always do.

Mr. Chairman, in southeast Asia, Red China has declared hostility to all free countries. Again, I would like to quote Admiral Felt:

> The fact is the [Red Chinese] army is supportable for a long time * * * within a period of 30 days in October and November 1950, in the Korean war, they moved 30 divisions into Korea without our people knowing about it. This can be done again.

The fact is that the threat to Korea, Taiwan, as well as South Vietnam, is still very great. Not very many people understand this or a good many people simply have forgotten about it.

In 1958 the test case was in the Formosa Straits. We provided fighter aircraft with Sidewinder missiles and ships.

Today the test is in South Vietnam. Our coordinated efforts with the National Chinese stopped the aggressor. Surely we must do no less now. Again, Admiral Felt said:

> Preparatory actions through programed military assistance and mutual understanding made this possible.

Mr. Chairman, why do we have any aid at all? We spend over $50 billion a year, or better than 50 percent of the Federal budget, on national defense. There are more than 2.7 million Americans under arms with over 1 million outside the continental United States. The foreign assistance program helps protect and build the strength of the free world. The funds requested for fiscal year 1965 represent one-sixteenth of our military budget, or about 4 percent of the Federal budget. It amounts to $17.80 for each American—$5.25 for military assistance and $12.55 for economic and technical help. I am constantly asked what aid ever accomplished. I do not accept the suggestion of failure. Here are some of the accomplishments of foreign assistance. In Ethiopia, in Nigeria, in Peru, in Jordan, in Kenya, in Nepal, in Libya, in Nationalist China, a great many things have been accomplished.

Admiral Felt's closing remarks to the committee are particularly fitting in support of this legislation. He said:

> When I appeared before you 2 years ago, I said that the image of free world strength in the minds of Communist strategists is terribly important to me. It still is. I want to add on this occasion that it is equally important for our allies and friends to have a true image of our strength. They are worried about being abandoned. Your voice in full support of military assistance and the bill now being considered by your committee would be a message of reassurance and encouragement requested by my men and needed by U.S. allies.

That appears on page 696 of the hearings, if you want to read it.

I do not argue that the aid programs under their various names have not been without mistakes of both original decisions and administration. How could it have been otherwise when there were 11 directors in 15 years? The consequent changes of reorganization and poorly defined, shifting lines of responsibility, and authority paint a tragically clear picture. Small wonder that our people have been confused and dissatisfied.

But in spite of all this, AID all along has had the purpose of: First, strengthening the will and capacity of emerging countries; second, to remind ourselves and others of the soundness of freedom as an alternative to the slavery of communism; and third, to build a system whereby people control government instead of the opposite.

Our fathers came to this country not to set up a government that would do things for them, but to devise a system whereby the people would do things for themselves. It worked. This released an unprecedented outburst of the creative energies of all sorts of people of many races, climes, and countries. Unfortunately, we do not seem to have been able to make it clear that it is this, not our wealth, but rather the inner secret of our wealth for which the world is yearning. To attain its full capacity a nation must release the energies of its people in freedom and employ the resultant initiative of a whole people in every area of life. Surely we are having a tragic lesson in what it means when parts of a nation have not been able to participate.

Just as there is no substitute, no alternative to victory, there is none for self-respect, self-development, self-consecration to the growth and good of all.

Full of problems as this program is, it is the one thing we have which, properly used, will give our own people and the rest of the world a clear sense that the United States wants nothing for herself in all this except protection from Communist slavery—which can be had only if the free nations work together in ever-increasing understanding and peace.

Mr. MORGAN. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin [Mr. ZABLOCKI].

Mr. ZABLOCKI. Mr. Chairman, I rise in support of the Foreign Assistance Act of 1964.

At the outset, I want to assure my colleagues that the Foreign Affairs Committee, as in the past, under our able and conscientious chairman, the gentleman from Pennsylvania [Mr. MORGAN], worked long and hard on this legislation. It gave close and careful scrutiny to the budget request submitted by the President for foreign assistance.

After weeks of hearings, study, and review, we came to the inescapable conclusion that the President's request included only what was essential to our national interests. Given the perilous state of our world, this bill is as economical as it can possibly be.

Of course, further developments in the world—unforeseen at this time—might not necessitate the expenditure of the entire amount requested for 1964. In that case, we have been assured by the executive branch, the money will not be utilized.

Mr. Chairman, the amount being requested in the Foreign Assistance Act of 1964, as reported from our committee, actually exceeds the initial request of President Johnson. On May 18, the President asked for an additional $125 million for South Vietnam, with $70 million for economic aid and $55 million for additional military aid.

This was further proof that the President's request was the absolute minimum required to advance U.S. interests and does not allow for unforeseen new demands, as AID Director Bell and Secretary of State Rusk testified in hearings before our committee.

The review of the AID program which the committee undertook in studying the present budget request left me with a deep sense of gratification. At times in the past, activities, projects, and personnel connected with foreign assistance have drawn serious criticism by myself and others because of their shortcomings.

For that reason, I was most pleased with the way in which the Agency for International Development has been administered in the past year. Director Bell and his aids have done a commendable job.

Of course, there is always room for improvement. For that reason the Agency requested "selection out" authority to dismiss marginal personnel. The committee, however—after careful study—came to the conclusion that AID already has a sufficient amount of authority to deal with the present situation.

We have asked the Agency to continue on under its present procedures for the remainder of the year, and to report back to the committee in 1965 on what progress has been made. If AID still believes it needs the "selection out" authority, the committee will once again take it under serious advisement.

It is, of course, essential that the Agency for International Development be staffed with top-level personnel. Only by employing the best possible people in this task can the United States hope to mount a successful foreign assistance program.

One of the significant successes of the Agency for International Development has been to implement the "buy American" program asked by Congress. The Agency's efforts have increased the share of U.S. goods financed by AID from about 41 percent in 1960 to a present level of around 80 percent.

When the committee returns to the House, it is my intention to ask permission to insert a chart listing total procurement in the United States out of AID commodity expenditures, comparing domestic purchases in 1963 with those in 1960:

TABLE A.—*AID commodity expenditures—Total, procurement in the United States, and percent procured in the United States*

[Dollar amounts in millions]

Commodity	Fiscal year 1960			Fiscal year 1963		
	Total AID expenditures	AID expenditures in United States	Percent of total in United States	Total AID expenditures	AID expenditures in United States	Percent of total in United States
Total commodities	$1,010.2	$408.5	41	$1,095.4	$854.6	78
Fertilizers	55.0	9.4	17	46.7	41.9	90
Petroleum and products	82.8	35.8	43	104.0	40.0	38
Petroleum nonfuels	(24.4)	(17.4)	(71)	(43.1)	(39.2)	(91)
Iron and steel mill products	129.6	13.9	11	182.0	160.9	88
Nonferrous metals and products	10.8	1.2	11	73.9	69.0	93
Copper	(2.8)	(.3)	(11)	(47.5)	(47.1)	(99)
Aluminum	(4.2)	(.7)	(17)	(14.5)	(12.2)	(84)
Chemicals and related products	62.0	18.3	30	64.3	53.1	83
Fabricated basic textile	44.3	4.5	10	40.3	32.7	81
Pulp and paper	16.3	3.4	21	27.7	24.3	88
Electrical appliances, including generators and motors	64.1	17.9	28	85.8	57.9	68
Construction, mining, and conversion equipment	28.8	20.1	70	53.1	48.7	92
Miscellaneous industrial machinery, engines, and turbines	78.2	17.8	23	165.9	137.9	83
Tractors and agricultural equipment	12.6	7.7	61	14.5	14.2	98
Motor vehicles, engines, and parts	78.2	40.7	52	56.1	53.2	95
Railroad transportation equipment	33.6	21.6	64	49.4	48.1	97
Locomotives	(23.4)	(21.0)	(90)	(45.8)	(45.1)	(98)
Rubber and products	32.5	3.7	11	25.7	15.2	59
Tires and tubes	(22.4)	(3.0)	(13)	(8.7)	(7.4)	(85)
All other	281.4	192.5	68	106.0	57.5	54

NOTE.—Items in parentheses are breakdowns of larger items immediately above.

Source: Statistics and Reports Division, AID, Feb. 17, 1964.

AID-financed exports of U.S. business and industry to the developing nations of Asia, Africa and Latin America rose from the $400 million level in 1960 to more than $850 million in 1963.

Further, it should be noted that in 1962 foreign aid purchases accounted for one-third of all U.S. exports of locomotives, one-third of all U.S. fertilizer exports, and 21 percent of total U.S. iron and steel exports.

In turn, the oversea development made possible by our assistance increases the market for U.S. commercial products abroad: the more highly developed a nation becomes, the more it buys from the United States. The developed countries are our best customers.

For example, Canada—with a population of some 19 million people—bought more from the United States than all Latin American countries combined, with a population of 215 million persons.

About 40 percent of all we export to the free countries of the Far East goes to one nation with one-tenth of the total population. It is Japan, the most highly developed country in Asia.

This is indisputable proof that U.S. foreign aid has directly increased U.S. exports by fostering development and economic recovery.

Since the Marshall plan and the recovery of Europe, our exports to Western Europe have doubled. In 1962, the United States sold more than $6 billion worth of goods to Western Europe, nearly $2 billion more than our imports from that area.

The areas we are aiding today—Asia, Africa, Latin America—contain over one billion people and represent a potential market for U.S. exports four times the size of our present major customers in Western Europe.

Increased exports mean jobs for our people and continuous expansion of our economy.

There are already signs in the developing countries that trade is beginning to follow our U.S. assistance, just as it did in Europe and Japan. Between 1958 and 1962 there were increases in U.S. commercial exports—not AID financed—of 28 percent to Taiwan, 28 percent to Colombia, and 86 percent to Israel.

These figures are taken from a report on "Foreign Aid and U.S. Exports, a Statistical Analysis," which was prepared in April 1964 by the Office of Program Coordination of AID.

Our U.S. manufacturers are beginning to find that where their products go to foreign lands at first under AID financing, often they obtain new business or recorders under regular commercial terms. These transactions are bringing dollars to our shores, aiding our balance of payments.

I might mention that what is true of our aid-financed products is true too of the agricultural products we have sent abroad under food-for-peace. There is no doubt, for example, that the surplus dairy products sent to countries like Japan and Yugoslavia have created a market for our American milk, butter, and cheese there.

You may recall the Biblical injunction to "Cast your bread upon the waters." That, in a sense, is what the United States has done in its foreign assistance. And—as promised in Scriptures—we are beginning to reap the benefits economically.

Another indication of the success of our aid programs is that we have been able to phase out our assistance in a number of countries which once needed it badly.

Fifteen years ago 86 percent of our assistance went to Western Europe and Japan. Today those countries are thriving on their own and receive none of our economic aid—and only a small amount of military aid.

In some 17 countries the transition to self-support has already been completed and economic aid has been ended. AID officials have indicated their belief that there are some 14 additional countries for which the time is clearly in sight when they will be able to meet their requirements for external financing through normal commercial channels, and will no longer need foreign assistance grants or soft-term loans.

Still another proof of the success of aid is that 10 of the countries which once received it now conduct assistance programs of their own to developing nations. Countries such as Germany, Japan, Great Britain, and France are making major contributions to international economic betterment.

In fact, the total amount given by these countries is more than the United States annually appropriates for foreign assistance. They are showing a willingness to join with this country in preserving humanity and uplifting mankind throughout the world.

We are the richest nation in all of history. Our gross national product this quarter year is close to $610 billion. We are being asked to appropriate as foreign aid less than one-half of 1 percent of that amount. Of our vast national wealth we are being asked to give one-half of 1 percent in order to assist the free people of the world to build better lives for themselves and their children.

Can we do less and think ourselves members of a Judeo-Christian nation? Can we do less and still have the United States counted as the leader of the free world? Can we do less and still preserve a prosperous, free America for our children?

To all three questions—if we are honest—we must answer "No."

We must do what the times and our consciences demand. We should honor the request of President Johnson for the amount he deems necessary to carry out an effective and successful program of foreign assistance. We must, therefore, approve the legislation before us today.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield 8 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, when we discuss the foreign aid bill, we hear such phrases as "global strategy" and "worldwide diplomacy" and "power blocs" more often than not.

We hear more about hundreds of millions of people and billions of dollars in aid and gross national products involving multibillion amounts.

It is not surprising that in our concentration on what is sometimes termed the "big picture," the real reason for foreign aid and the real consequences of our programs are forgotten.

It also appears that one of the reasons for concentrating on generalities is because there is far too little knowledge of the specifics of foreign aid.

Today, in my support of H.R. 11380, the Foreign Aid Assistance Act of 1964, I would like to spend some time discussing the cameos of foreign aid, the little pictures which are often overlooked and neglected because of more gaudy and pretentious projects and programs.

One of these little pictures is set high in the Andes near Cuzco, Peru. Indians from 40 small communities, descendants of the proud Incas, are planting eucalyptus trees. So far this year, they have planted 3 million of these seedlings, and they aim to plant another 6 million next year.

These seedlings are being planted in small pockets of earth, often more than 2 miles high, in land where crops cannot be grown. Some 3,760 acres have been planted in these trees in the first 6 months of this program which started last November.

Eventually, these villagers hope to plant some 100,000 acres of otherwise unusable land in eucalyptus trees. These trees will give lumber which they can sell for cash or build homes. The branches can be used for firewood. The roots will hold the soil in place and prevent further erosion and the trees themselves will provide a windbreak.

The workers in the villages are paid one-half in cash and one-half in food. The food has been of particular help. It has more than doubled the average caloric intake of these workers from 1,000, a near-starvation level, to 2,300 calories for those areas in which these tree plantings are taking place.

This part of Peru has been the center of Communist and extreme leftwing activities for years. The Communists are not licked yet, by a long shot, but there are some encouraging signs that they are losing their influence and control over the Peruvian peasants.

There are reports that Communist agitators have been "forcibly expelled," a polite term for being run out of town, when the tree-planting program has been criticized.

Instead of looking to tomorrow with despair, these villagers now look forward with hope for the future, and there is no more effective medicine than hope to purge communism.

Total cost to the United States for this program is $110,000 with an additional $100,000 in surplus foods.

In the northeast sector of Thailand, bordering embattled Laos, 9 million people live in poverty and disease. The death rate is high, and of the causes of death, 4 out of 10 die from intestinal diseases. These same water-borne and food-borne diseases account for 60 percent of all illness in this area.

The Agency for International Development sent in a handful of technicians and teachers in 1960 to set up a public health and sanitation program in this strategic, yet desperately poor, area. Teams were trained to show villagers how to drill wells and set up primitive sanitary facilities.

Each village organized its own health committee which established its program and recruited villagers to supply their own labor.

The Agency for International Development supplied casings for the wells and supplied materials for the sanitary facilities.

Total cost of this program, which is due for completion in 1966, will be between $300,000 and $400,000 a year.

Total number of people who will benefit through better health and a longer life—9 million.

These are only two relatively unimportant instances of oversea assistance which are fairly typical. They are not considered newsworthy here in Washington because they are not failures and because they are not big enough, in and of themselves, to make a visible impact on what so many like to call the "big picture."

They could be repeated a hundred times in a dozen different countries.

However, despite nuclear-age mathematics, the whole still does equal the sum of its parts.

And each of these projects, each of these programs adds up to a small, successful battle in the war against disease, against hunger, and against despair. Communism feeds on these elements, and if we destroy the nesting grounds of the Reds, then communism eventually will become ineffective and die.

Under the able leadership of our chairman, the gentleman from Pennsylvania [Mr. MORGAN], I believe that the House Foreign Affairs Committee has favorably reported an excellent bill.

This is no "rubber stamp" bill, rushed through the committee without adequate consideration. The committee insisted upon changes when it thought these changes were necessary.

I was happy to have had a hand in one of these decisions and that was to increase the amount of funds authorized for military assistance to help win the battle in South Vietnam.

The President and the Secretary of Defense agreed that more funds were necessary for this purpose, and these new amounts are included in this authorization bill.

However, I intend to offer two amendments to this bill during the course of this debate. The first is a "sense of Congress" amendment to inform the world of the commitment to victory in South Vietnam and our intention to stay put there.

The second would earmark $200 million of the $1,055 million in military assistance funds specifically for South Vietnam.

The reason I am submitting these two amendments is because I believe there is some confusion in the minds of the Nation and the free world as to what we intend to do in Vietnam. I believe that the Congress should help dispel this confusion, and I will speak at greater length about the need for these steps later in the debate.

I would like to emphasize that this is a "tight" bill. There is little room for waste and a greater concentration on essentials than in some previous years. Further, we are seeing a greater emphasis on quality and less on quantity than in previous years. Unfortunately, there have been times when AID and its predecessors failed to see the difference between quantity and quality.

Further, we are beginning to see some definite steps toward progress in the Alliance for Progress, and a greater and more systematic concentration of effort on the pressing problems facing our hemisphere south of the border.

There are still trouble spots, to be sure, but many of these trouble spots are caused by rapid growth rather than stagnation. The important fact is that the situation in Latin America is more stable, more secure and showing greater promise and hope for the future than a year ago or a decade ago.

We have problems, and serious ones, in the Far East, but at last we are beginning to use our oversea aid funds as an implement of policy rather than a buyer of time in this important part of the world.

Our ban on massive aid to Indonesia continues, and we have only a token AID mission left there.

We refused last year to advance U.S. funds for the construction of the Bokaro steel plant, and it now appears that the Agency for International Development was not too unhappy with this decision.

The Russians have agreed to finance this $1 billion, publicly owned steel plant, and I cannot think of a better use for Communist funds, especially since there is some question as to where necessary raw materials are going to be obtained economically when this plant is completed and in operation.

This is not to say that all is right with the world. It is not, and all of us are aware that we have a long way to go.

There are massive efforts on the part of the Communists and the Castroites to spread confusion and dissension in Latin America. These efforts are aimed even at the Peruvian Indians living high in the mountains I mentioned earlier.

There are Communist agitators in Thailand, attempting to undermine and agitate, to spread confusion and eventually cause the overthrow of legally constituted governments.

If we forget for a moment that we are in this ideological war, we stand to lose it. We can be sure that the Communists would not forget for a minute, nor will they permit their followers to forget.

The amount of money requested to be authorized this year is just about $1 billion less than was asked for in the previous year.

The majority of us on the committee, regardless of political affiliation, regard this as a "bare-bones" amount, the minimum necessary to do an adequate job.

Of the $2,041,600,000 authorized to be appropriated under this bill, more than half, or $1,460 million is for either direct military assistance or supporting assistance in those areas confronted headon with the threat of Communist takeover.

I urge adoption of H.R. 11380 as a sound, workable, efficient approach to a problem which must be faced and overcome.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. BARRY].

Mr. BARRY. Mr. Chairman, we are being asked to approve today the smallest annual foreign aid budget ever requested, as well as a bill highly responsive to Congress' repeated criticism of the AID program. This is a tight bill, a daring bill in the sense that it is an authorization coming before us with a request for the exact amount of money needed to run a program pared to the fundamental essentials.

Today we are being asked to approve $3,516 million for foreign assistance—$2,406 million for economic assistance and $1,055 million for military assistance, plus $55 million for administrative provisions. This represents about 4 cents out of every tax dollar, 0.6 percent of the gross national product, and about 4 percent of the Federal budget. It is certainly a significant reduction from the 2-percent gross national product and 11.5 percent of the Federal budget appropriated in 1949.

We are not being asked to "give" money away by approving this bill. May I remind my colleagues that three-fifths of our economic aid is in the form of dollar repayable loans and over 80 percent of the funds will be spent for only U.S. goods and services.

Too often economic and technical assistance is viewed as a handout or as charity instead of being a partnership for mutual benefits. We expect the receiving country and their people to share the costs and labor of development projects and programs. Just as one specific example, in Latin America self-help housing projects require a formula where AID contributes 30 percent of the costs, local government 30 percent and the eventual owner 40 percent.

The spirit of self-help and private enterprise has gone hand in hand. By encouraging self-help, private investment has been growing. The example set by our foreign assistance program in encouraging the receiving governments and their citizens to develop and donate funds, facilities, and services carries over to their other endeavors, helping to eradicate outmoded methods and institutions and developing in their place democratic governments and social well-being through free enterprise.

The bill also offers additional incentives to American private investors in less-developed countries. Last year American business benefited directly from the AID program through nearly $900 million worth of exports alone. This year's bill is expected to increase the roll of American private investment through expanding the ceiling on the investment guarantee program; augmenting U.S. investment surveys to determine the feasibility of new ventures in developing countries, and making these studies readily available to potential U.S. investors; and increasing the use of American private resources in training programs, technical projects, educational and health services.

Involving greater use of private resources in carrying out the AID program is mutually beneficial. First, it makes possible the expansion of American business ventures throughout the world; second, it develops goods and services in countries which would take them years to develop themselves; third, through the example of private enterprise, encourages commercial and industrial development in the emerging nations through private funds.

This reliance on private resources will increase, avoiding Government competition with private enterprise and additional administrative expenses of the Agency for International Development.

Perhaps the most encouraging aspect of our foreign assistance program is that we, as a Nation, are being asked to give less, our allies are contributing more toward international assistance, and we can look back to the number of countries which once received American assistance and are now self-sustaining. In the immediate postwar years we devoted over 12 percent of our Federal expenditures to relieve Europe during her war-incurred misery. Aid to the Marshall plan countries was ended in 1955. Japan, Yugoslavia, and Lebanon are now self-supporting. Greece, Taiwan, and Israel show every promise of self-support soon. In all, some 14 countries which receive American aid are rapidly approaching the point where they can rely entirely on themselves.

And today, when our gross national product and national income is nearly double what it was scarcely 15 years ago, devoting 4 percent of the Federal budget to all aid expenditures, and less than 1 percent of the gross national product, our leadership in foreign aid is being followed by countries throughout the world. More help in the foreign assistance field is being given by our allies than is generally realized. Most of the industrialized countries have established foreign assistance programs, patterned after that of the United States, helping to reduce the U.S. aid burden. Eleven other free world countries, 10 of which once received U.S. aid, now conduct programs of their own: France allocates a greater percentage of her gross national product to foreign aid than we do—and plans to increase that amount. Germany has also steadily increased its aid funds and has liberalized its loan credits. Since last year Britain and Canada have made plans for both increasing the amount of their aid dollars and liberalizing terms. The nations of Western Europe, Canada, Japan, and Australia almost equal our capital aid, and they maintain 14 times as many technicians abroad as we do. There are indications that other governments are planning increases, and the prospects of more equitable assumption of international assistance responsibilities are at hand.

To summarize, a total of $9 billion in foreign aid is currently being extended by the free world, which, in itself is a monument of success for the greatest foreign program in the history of the world.

Through our past leadership we have helped to build the economic foundations of the world and an international conscience that all industrialized, capable nations have an interest in assisting the emerging peoples to live with a measure of dignity and hope. This is not the time for the United States to make drastic cuts in an already minimized program if we hope to encourage our allies to take on greater responsibilities in foreign assistance—or if the West hopes to maintain the leadership of the free world. Remember, the Communist bloc has over 10,000 nationals at work in 30 countries and Red China is aggressively competing in the technical assistance field. Remember Mao Tse-tung said:

> When the enemy attacks we retreat. When the enemy retreats, we pursue and harrass.

To make any further reductions in the foreign assistance budget would constitute the equivalent in the economic sphere of pulling our troops out of Europe, or the Seventh Fleet out of Far Eastern waters.

Foreign aid has been a bulwark against communism by strengthening these nations economically and socially, and the fact that the United States is getting increasing cooperation from our allies is even greater encouragement. Furthermore, we cannot expect shortrun political results from foreign aid. We cannot insist upon momentary political objectives—but we can insist upon guiding the emerging nations along sound lines. To attempt to compel them to do things our way would be self-defeating or to insist that all projects be "visible" would be shortsighted.

In our role as world leader we must abide by certain standards rightly expected of us as a democracy. Underdeveloped nations expect us to be firm, to be just, never overbearing, democratic, and unprejudiced. Certain basic needs are common to all underdeveloped countries. Here we have stepped into the breach to supply some of the basic essentials through cooperative, self-help measures.

Take education—in literally dozens of countries on a self-help basis we have helped to build and staff schools, training institutes, and provide technical advice for teachers and educative systems. In a country like Ethiopia with less than 500 teachers and around 700 makeshift classrooms as of 1950, we helped to build up a system comprising 5,000 teachers and 5,000 classrooms. Now over 200,000 students are enrolled. Organized teacher training programs have had enormous success in Jordan, Turkey, Vietnam, Thailand, Nigeria, Peru, and dozens of other nations. It is a simple fact that a literate and educated person can help his country more than one that is not. We should continue this type of aid.

Take agriculture—it is basic that the production of suitable food be stepped up in the underdeveloped nations, in many of which starvation is an ever-present threat. Again on a self-help basis we have been eminently successful in training at least 10,000 foreign agricultural specialists. New production methods have been taught to hundreds of thousands of farmers. Rural youth groups in over 30 countries have been taught how to do their part. Women's clubs by the thousands have been organized for agricultural and home improvement demonstrations. Millions of pounds of improved seeds have been distributed. Millions of farm animals have been immunized. Agricultural credit institutions have been helped in scores of countries. Above all we have helped to develop land reclamation and irrigation schemes. By encouraging a man and his family to overcome the panic and fear of hunger we are helping him on the road to a better life. Certainly this type of aid should be continued.

Take health—in tropical Africa the majority of people are deficient in health from the day of their birth to the day of their death. Since 1950 our efforts in the eradication of malaria in areas inhabited by over 1 billion people have been most successful. We are making similar efforts in the fight to conquer tuberculosis, smallpox, yellow fever, and cholera. A healthy body and mind are less susceptible to Communist dogma. Our efforts in this regard must be continued.

Take communications in its various forms. Certainly we are assisting in the building of ports, river channels, roads, airports, and transportation facilities by economic grants and loans. Certainly we are assisting in housing—including self-help housing programs. We are doing a great deal in community development work. In dozens of countries we are helping to develop laboring skills, encouraging the growth of free democratic labor unions, and assisting in the increase of industrial productivity. We are participating in management training, public administration, personnel management, and budget and fiscal policy education. We are also assisting in the publishing and radio communications field and in educational and training film production in scores of countries. We are distributing our information in over 100 different languages. By helping the underdeveloped world emerge more fully to participate with us into a more purposeful and satisfying future for all their peoples we are helping to share our abundance. Surely we cannot afford to cut down on this type of economic and technical help?

As the gentleman from Pennsylvania, Chairman MORGAN, has told us, the $3,516 billion are merely the "bare bones" on the overall aid needed—we should fully support this authorization request for the full total.

I am also mindful of the fact that beginning with the requests for Greek-Turkish aid and interim aid in 1946 there has been a most cooperative bipartisan effort by both Republicans and Democrats to give the President the funds needed to effectuate our foreign military and economic policy objectives. This cooperation should be continued now. I ask myself where in any field of human endeavor we may expect so many tangible results as we get from an expenditure of scarcely 4 percent of our total budget? If we were considering the request on the basis of self-interest only, in the advantages to be gained in security enhanced trading opportunities, expanded world markets, increased national productivity and enhanced international good will, we would consider the $3.5 billion a most profitable investment. But it is much more than that. It is an expression of national confidence in our democratic cause for which we have fought three wars in this century. Finally it is the expression of our innate American feeling for we as a nation would rather build than destroy, would rather help construct the foundations for the people of the developed countries than leave them to the exploitative tendencies of the Sino-Soviet bloc. As such we would rather give than receive. I am convinced that by continuing our efforts of the past we shall certainly fulfill our role of world leadership and are now engaged in a cold war.

For those who may be skeptical of the use of the term foreign aid, I would suggest your considering the entire program as having been developed by the cold war committee. This would be a far more appropriate name for the committee of the Congress devoted to bringing before you a mutual security program designed to implement our first and foremost foreign policy; namely, that this Nation will support and strengthen free peoples everywhere in their resistance to a Communist conspiracy and overthrow.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield 6 minutes to the gentleman from Montana [Mr. BATTIN].

Mr. BATTIN. Mr. Chairman, we have been involved in an aid program of one sort or another since the end of World War II. First, there was the Marshall plan. It has changed name, and it has changed personnel, but still we have the basic problem. We have gone from trying to help Europe recover from World War II to the point of giving economic aid to most all of the nations of the world.

I wonder if, in reviewing what the basic purposes of the aid bill has been throughout the years, we could go back to some of the reports that were made by our Committee on Foreign Affairs and presented with each bill as it came to the House for discussion.

In 1954, for example, in the report accompanying the aid bill is this statement:

> Objective (a) strengthen the ability of the United States to meet the threat of Soviet aggression.
>
> (e) Strengthen our ties of cooperation and friendship with the economically underdeveloped nations of the world.

That is the general theme following throughout the report of that year.

In 1955 the report stated:

> The danger to the free world from Communist aggression remains. The peoples of the newer nations and the underdeveloped areas of the world need tangible encouragement to avoid the danger of Soviet imperialism.

This has been the approach in the past and in the President's message of 1964, which came to us on March 19, he said in recommending the bill:

> I recommend this program * * * in the belief that it will * * *: "Aid in frustrating the ambitions of Communist imperialism."

All through the years, and during the debate so far, we again are saying to the world that our main purpose is to frustrate the advances of communism.

Then at the same time the majority calls upon us to aid Communist countries and to justify the inconsistency. I do not know who is being frustrated, whether it is our allies, our friends, or perhaps the American taxpayer.

Looking at the aid program itself, we do not require the aid agency to justify programs it proposes on the same basis that we in the United States would have to justify a public works program such as a highway, a dam, or any other expenditure of Federal money. We simply give them blanket authority and say, "You use it to your best advantage." They come to the committee and talk about a specific program and then turn around and use it for some other program.

I am of the firm conviction that when and if Congress requires the same exact justification for aid in foreign projects as it does for taxpayers' money here in the United States then and only then will the Congress and thus the people regain control of the program. It has cost the taxpayers over $110 billion to date.

There has been argument here today that we are lucky that some of our allies are now putting more money into the foreign aid program. England, France, and Germany have expanded their aid program but they do not do it on the same basis as the United States. In almost every case these allies require from the recipient country a trade tie, so that there is definite recognition and establishment of ties between the country giving aid and the one receiving the aid.

We have a policy in this country that we should just make the funds available without attaching any strings.

I do hope the members of the committee will have an opportunity to read the minority views. They state some of the problems we face and some of the mistakes we have made. There are areas in which we find agreement with the majority and support the programs. Such a case in point is Vietnam.

We need a program that will improve our image in the world—a program that does not confuse our allies and encourage further Communist aggression. This unfortunately is not the bill and we do not presently have the program.

Mr. ZABLOCKI. Mr. Chairman, I yield 5 minutes to the gentlewoman from New York [Mrs. KELLY].

Mrs. KELLY. Mr. Chairman, I commend the chairman of the Committee on Foreign Affairs, Dr. MORGAN, for his usual courtesy and kindness during the hearings on H.R. 11380. Dr. MORGAN in addressing the House addressed his remarks to the format of the bill and briefly analyzed the sections. We know the sections of the bill will be discussed in more detail during the reading of the bill.

This bill is one of the most important bills to be acted upon by Congress. On page 4 of the report it is stated:

> The funds authorized and appropriated for the foreign assistance program provide the principal means of financing our cold war strategy. No other program provides the funds necessary to meet the costs of the varied efforts necessary to carry out this strategy.

It further states that there are many other programs relating to foreign policy objectives and the objectives of these programs should not be confused with those carried out under this Foreign Assistance Act.

It is for this reason, Mr. Chairman, that I rise in support of the Foreign Assistance Act of 1964.

We are living in a time of acute crisis. In most parts of the world, pressures are mounting, disruptive forces are at work, peace and order are besieged.

In the jungles and rice paddies of Vietnam, American and Vietnamese soldiers are giving their lives for the cause of freedom.

In free Asia, Africa, and Latin America, the anguish of the long-exploited and dispossessed masses, fanned by ruthless agitators, is threatening to erupt in a storm of violence.

In the Communist empire, factionalism within the ruling Communist cliques, superimposed on mistreated populations hungering for freedom, makes an explosive combination. And even within our western alliance, the unity of purpose and of direction which welded us together during the postwar period, have given way to resurgent nationalism, to conflicting aspirations of the several nations and of individual leaders.

Whenever I look at the map, I see a world beset by trouble and change, torn by contending forces, divided by conflicting interests and ideologies—a world, in short, which is moving further away from the foundations of order and stability, of justice and peace.

In a world such as this, what tremendous responsibilities fall upon the shoulders of those who have the strength, the resources, and the courage to use both intelligently for the betterment of all mankind.

This is the role in which the United States finds itself at this juncture in history. And this is the role which we must play if freedom is to be safeguarded, if the just aspirations of the people are to be realized, if peace is to be preserved.

The program which is before us today is the instrument which our Government has devised to fulfill the task confronting us in the world scene. It is a program which was born of necessity as well as of conviction. It serves our national interest by strengthening the mutual security of the free world in the face of common danger. It reflects our principles and our tradition by offering to help others—those who want to help themselves—to achieve the very same things which we want for ourselves: A better life in a peaceful and free world.

Mr. Chairman, we have spent some 3 months on this legislation in the Committee on Foreign Affairs. We have heard dozens of witnesses, and taken hundreds of pages of testimony. We have inquired and we have examined. And in the end, by an overwhelming vote, we have recommended the bill which is before the House today.

I believe that this is a sound bill. It proposes the tightest, the most modest, and perhaps the most realistic authorization in years. There is no fat in it. The bulk of the funds proposed to be authorized are intended for those countries which are today in the forefront of the battle for freedom: The ring of nations on the periphery of the Communist empire. From North Korea to Greece, these countries are on the firing line of the great conflict of our age. They need help. They need military help, and they need economic assistance. This bill will provide both.

The next biggest portion of the aid authorized in this bill will go to our sister republics in Latin America. Though we have neglected them for a long time, we are not now proposing to shower them with riches to salve our conscience. We are proposing to offer aid—and generous aid—but only on the condition that they show the will and the determination to help themselves, and begin by setting their own houses in order and adopting reforms for which their people have waited so patiently for so many years.

This requirement of self-help is very clear in this year's program. As Chairman Morgan already pointed out, aid is being terminated to some dozen nations. The principle of selectivity is being applied with increasing consistency and vigor. And the one important element in the process of selecting aid recipients is their own will and determination to help themselves.

As I have said, Mr. Chairman, I believe that this is a reasonable and constructive piece of legislation. When enacted and implemented, it can carry us a step closer to the goal we all seek: the goal of a free and secure world, in which all men of good will can have the opportunity to strive to realize their hopes and dreams of a better life. We need this program. We need it for ourselves and for our children. And we need it for our friends and allies abroad who find in our country's greatness, and its success, a living proof that determined men and women, unafraid of work, can change the world.

The Kelly amendment in the 1962 bill, added a provision prohibiting government-to-government sales of military equipment where the sales are made to developed countries and where the equipment is generally available from commercial sources. The purpose of this amendment was to enable private enterprise to expand its activity in the sale of military equipment and to generally stimulate sales.

The Defense Department by Defense Circular No. 1, recognized the validity of the approach set forth in the amendment and was specifically calculated to reduce Government competition with private sales. Indeed, it went further than the amendment.

In the case of the sale of ordinary commercial goods, the resources of the Export-Import Bank and of the Foreign Credit Insurance Association are available to provide financing for such sales. Both the Export-Import Bank and the FCIA, however, have resisted financing military sales overseas.

The purpose of the present amendments—section 201 (a) through (d)—is to give the authority to the President to provide a mechanism for providing such financing. Under the terms of the amendment, the U.S. Government can provide credit guarantees and credit insurance for sales made by private enterprise overseas of military equipment. It is believed that the amendments contained in 201 (a) through (d) will have the effect of providing a credit mechanism for private sales of military equipment overseas and will thereby stimulate increased sales. Such increased sales will improve our trade balance position and will help stem the flow of gold.

Let me say in connection with Government competition with private enterprise that I hope that the AID is paying attention to and has taken steps to implement the various provisions which we have put in the law on that score.

For example, I hope that AID has let all of its people know about the provision in section 621 of the act which permits the contracting of technical studies to other Government agencies in the fields of education, health, housing and agriculture. The section, however, prohibits such contracting to other Government agencies where the studies are not competitive with private enterprise.

I sometimes wonder whether and what steps AID takes to implement the restrictions which we write.

Mr. Chairman, I sincerely hope that the House will approve this bill in its entirety.

Mrs. **FRANCES P. BOLTON.** Mr. Chairman, I yield 6 minutes to the gentleman from Illinois [Mr. DERWINSKI].

Mr. **DERWINSKI.** Mr. Chairman, the foreign aid bill annually produces the sharpest debate of any measure reaching the House floor. The debate tends to obscure the fundamental problems that face us in this legislation. The administration is guilty of doubletalk in trying to "palm off" increased expenditures requested this year to a long-suffering public. This is especially so when they try to emphasize their interest in stopping the spread of communism when the basic tenet of their foreign policy is accommodation with communism.

When the administration talks of "realism," it is really talking about "accommodation." Consistent emphasis is placed on accommodating the enemy. Far from being progressive, this attitude is dangerously regressive and self-defeating.

In the development of a foreign policy, we must insist on maintenance of our national and international ideals. I support the concept of world-wide freedom and self-determination of peoples. I am interested in the cause of the captive nations behind the Iron and Bamboo Curtains, whose ultimate freedom is necessary for true world peace.

What is the basic problem facing the world? It is the drive of international communism for world control. If the foreign aid bill is a key foreign policy program to stop the threat of world communism, is it not completely inconsistent to aid or provide subsidized trade to any Communist government through this program?

This administration is shutting its eyes to the obvious failings of communism. It is even bolstering existing Communist regimes with our surpluses. We are shutting our ears to Khrushchev's anti-American outbursts, even when they are as recent and bold as the ones made in Egypt. The administration is keeping silent about the lies he has told, the promises he has broken.

Have we forgotten President Woodrow Wilson's pledge to apply the principle of self-determination of peoples throughout the world? This has been a cornerstone of U.S. foreign policy for five decades, yet it is inconsistent with the present policy of subsidizing communism.

I regret that time does not permit me to discuss the inconsistencies of the policy in much greater detail, but let me emphasize two recent developments which show what the administration is thinking. The Assembly of Captive European Nations recently issued a memorandum to "express its deep apprehension" at the increasingly intimate relations between the United States and the East European Communist dictatorships. Before giving aid to Communist Rumania, the memorandum states the United States should insist that article 3 of the Rumanian Peace Treaty be observed. This article guaranteed to the Rumanian people freedom of expression, freedom of the press, freedom of worship, and freedom of political opinion and public meeting.

A second development took place in Bonn and was reported by a respected correspondent of the New York Herald Tribune. He reported that a ranking U.S. State Department official, when asked what the United States would do if the Communist regime in East Germany collapsed from internal pressure, replied: "Under the circumstances, we should support Khrushchev." Is this a progressive or regressive policy? Is it what America wants?

I do not believe we are being progressive when we help Communist governments. We are not being progressive when we seek to accommodate the enemy and, at the same time, consign the peoples of the captive nations to a permanent Communist yoke.

Other examples—a UPI report from the Soviet Union last week told of the closing by the Soviet Government of the holiest shrine of the Russian Orthodox Church and converting it into a secular museum—a headquarter for antireligious propaganda. The shrine I speak of is the Kiev Lavra, an 11th-century monastery, purportedly surrendered to the Government by the Patriarch of the Russian Orthodox Church.

At this point, Mr. Chairman, I ask unanimous consent to revise and extend my remarks and to include as part of my remarks the following:

An article that appeared in the May 18 edition of the Macedonian Tribune, "Communist Countries Put Captive Churches To Work."

[From the Macedonian Tribune, May 18, 1964]

Communist Countries Put Captive Churches To Work: What They Think in Washington

(Note.—Under the above headline in the Indianapolis Times of May 18, 1964, we find a very interesting and informative article. The author, Mr. Ray Cromley, is a respected Washington correspondent who writes for the Scripps-Howard and over 150 other newspapers.

(Because of the revealing facts and objective comments we present the article for the enlightenment of our readers. We believe that it will prove illuminating even for the totally naive who continue to follow and to trust those clergymen who have either been appointed or sent directly here by Communist Sofia.)

Washington.—New U.S. studies indicate Red China and the Soviet Union are making increasing use of their Government-controlled religious organizations to subvert underdeveloped countries.

This is at a time when both Russia and Red China are conducting strong antireligious drives at home.

Red China has been making strong attempts to enlist and organize Buddhist priests and Buddhist organizations in India, Ceylon, Laos, Burma, and South Vietnam.

In the drive for Laos, the local Buddhist priests were a prime objective of the Red organizers. Once some leading Laotian Buddhists and a number of local priests were won, the Communists gained a certain amount of local "respectability" and organization work among the religious-minded peasants went easier.

The North Vietnam Red regime is now attempting to marshal Buddhist priests for service in the South Vietnam guerrilla operations.

The Reds make it clear they think a Buddhist priest network would make an excellent spy organization.

Priests can travel freely and usually without suspicion. They hold, too, that Buddhist priests could better win the conference of local Vietnamese people who might otherwise be suspicious of communism.

What success the Reds are having in their attempts to subvert Buddhist priests for the South Vietnam war is not known.

Though it continues to persecute Buddhists, the Chinese Communist Government keeps up several showplace Buddhist temples in Red China to which foreign Buddhist leaders are invited. Mao Tse-tung has put his own men in key posts in the Chinese Buddhist hierarchy. Buddhists under Red Chinese control regularly attend international meetings of Asiatic and world Buddhist groups.

A new, as yet unpublished U.S. Government research paper reports:

"As an instrument of the Russian state, free of suspicion of foreign or particularist ties, the (Russian) Orthodox Church enjoys the position of a kind of unofficial department of the Soviet Foreign Ministry, entrusted with foreign assignments better conducted in a cassock than a double-breasted suit.

"Cooperation with the government's foreign and diplomatic activities is the price which the Orthodox Church must pay for the small and shrinking freedom of activity it enjoys within the U.S.S.R."

(Despite the Orthodox Church's usefulness to the Khrushchev regime, however, the church and its members are now undergoing the same harsh attacks as other religious believers.)

The study continues:

"There are a number of Orthodox monasteries and other small religious communities in the Middle East traditionally affiliated with the Russian Orthodox Church of the czars to which delegations of Russian churchmen, bearing Soviet passports, hardly ever issued to members of other faiths, make periodic visits.

"The solicitude of the atheistic Soviet state for the spiritual health of a few thousand Christians in the region puzzles the governments of these countries.

"Some observers interpret the exchanges of religious visits with the Ethiopian Coptic Church as a Russian desire to build it up as an African competitor to a more dangerous African rival of the Soviet Union—Islam.

"The Russian Orthodox Church has also (been trying) to regain control of branches of the church in North and South America which became independent when the church in Moscow fell under the control of the Soviet authorities."

The poignant and interesting parts in this article are the excerpts Mr. Cromley states are from a new and as yet unpublished U.S. Government research paper. These excerpts express the undeniable truth based upon accumulated facts.

As in the past we will continue to publish such facts whenever necessary to keep our readers well informed on this important question.

The "Metropolitan" appointed by Communist Sofia may continue to state in his official letters that the Holy Synod of the Bulgarian Orthodox Church enjoys the freedom to make its own decisions and to send at will a Metropolitan to the United States. The findings in the research paper of the American Government repudiate this position and clearly point out that the church activities of many clergymen are directed by the Communist governments. It is openly and unambiguously stated that the church in the Soviet Union is an arm of the foreign office. The same is true for Bulgaria and the other Communist states. Every single action, every move by these churches is planned in advance and approved by the Communist regimes.

To every interested observer who judges actions and events by facts it must be abundantly clear that during the last few years the Communist regimes—in Bulgaria and Yugoslavia—exert every effort, use all available means, to turn the churches into propaganda centers and to establish within them trusted cells in the free world. We have already pointed out that in one of these churches Titoist Communists literature is freely distributed.

Our newspaper, our free churches and the Macedonian patriotic organization will defend valiantly the liberty and the equality we have in the United States and Canada. And because the laws of these countries leave ample room for Communist propaganda too, even some of those who like to label themselves as "nationalists" are perfectly welcome to follow the suggestions coming from the Communist agents.

From the San Francisco Examiner, of Wednesday, May 6, 1964, "Spiritual Hunger in Captive Lands."

Spiritual Hunger in Captive Lands

The riots in Sofia, Bulgaria, last weekend when police barred worshipers from midnight mass on the Eastern Church's Easter, demonstrate the Communist system's failure to suppress people's spiritual hungers. It is as significant as the failure to appease their physical hunger.

It is 47 years since the Communists took over the Soviet Union itself, almost 25 years since the Soviet swallowed the Baltic nations and most of Poland, 20 years since the Red armies fastened their grip on the other Eastern European nations.

In all that time—long enough for a change of generations—the Communists have been unable to stamp out religion. This despite major efforts to indoctrinate the masses of people in the atheism which is a key tenet of Marxism. This also despite a consistent pattern of brutality to deter religious observance.

Right now the government in the Kremlin is engaged in a large-scale attempt to crush the Jewish religion within its own Russian borders, as reported by current articles in the Examiner. Since Jews constitute only 1 percent of the Soviet population, how much larger is the Communist task of ending religious adherence of majority groups?

Perhaps the most notable case is Poland, where an estimated 80 percent of the people remain stanchly Roman Catholic against all harassment by their Communist overlords. The widest read publication there is the religious paper Tygodnik Powwszechny, while Red papers lie unbought on newsstands.

In Lithuania, long a center of religious learning, Catholic clergy have been deported, churches closed. That parallels the harsh methods used against the Jews in the Baltic nations.

In Poland and Czechoslovakia there have also been recent demonstrations against cultural suppression by the Reds—the other side of the spiritual hunger unappeased.

The Soviet and its satellites clamped down on information of wheat purchase abroad after they realized it showed their system's economic failure. Therefore it cannot be ascertained whether they fulfilled the immediate need to feed their people's stomachs.

But in the face of religious persistence, even the most materialist of Marxists must recognize the old truth that bread alone is not enough for man.

An article by Roscoe Drummond, columnist, from the Kansas City Star of May 6, 1967, entitled "Prague Riots Reflect Red Failure."

PRAGUE RIOTS REFLECT RED FAILURE

(By Roscoe Drummond)

WASHINGTON.—No wonder some 3,000 Czech students rioted in Prague on May Day.

Czechoslovakia's Communist regime is a mess. The economy is coming apart at the seams and the pressures and frustrations have become irresistible.

After 16 years during which the Communist Party has had total control to plan and operate the machinery of government at will, the nation has reached a state of unrelieved squalor. May 1 is a day when the lovers of Marx are supposed to cheer. But the Czechs weren't cheering.

The anti-Communist demonstration proved too big and too violent to be covered up. Whereupon the spokesmen for the regime charged that it was all due to a small band of hoodlums.

Don't you believe it. A massive group of students from Prague's Charles University and various high schools had gathered for the traditional May Day singing and poetry readings. But the police came to break it up. When the riot squad took out truncheons and led police dogs into the crowd, the singing turned to chanting and the chantings were ominous: "Long Live Freedom" and "Down With the Gestapo."

What's the trouble? The trouble is that the Czech Communist regime is in dire straits.

This is the careful and considered finding of a correspondent for Reporter magazine, George Bailey, whose knowledge of the Slavic languages and love for Slavic cultures won him trust and candor from the many people he talked with in a recent trip throughout Czechoslovakia. They wanted the story told. Mr. Bailey tells it so well and so thoroughly in the May 7 issue of the Reporter that no one can doubt the truth.

"Sixteen years after the great experiment of Communist planning began," writes Mr. Bailey, "all are agreed that it has resulted in an almost unqualified failure."

In many ways this is a more disastrous failure than in Red China or in East Germany. Czecholovakia was an ideal laboratory in which to prove whether communism was the way to organize society and operate the economy. It had one of the most skilled labor forces of any industrial nation in the world. Despite the war, its productive plant was in good condition.

Communism has turned it all into a colossal mess. The Czech regime, embracing the Soviet version of the Common Market for Eastern Europe, pumped up the manufacture of machines, tools, and finished products on the assurance that its agricultural allies would produce much of the food. They haven't. And today Czechoslovakia's economy is grinding to a halt—and the food isn't forthcoming.

Unneeded plants are working part time producing unwanted products which are piling up in storehouses because they can't be sold. Corrective measures are creating even greater distortions. A crash agricultural housing program has failed by 95 percent.

No wonder the natives are restless.

From Our Sunday Visitor, of May 31, 1964, "Glimpses Behind the Iron Curtain."

GLIMPSES BEHIND THE IRON CURTAIN

(By Floyd Anderson)

Sometimes an anecdote can tell more than a column of statistics, a humorous incident reveal more than a catalog of faults. And so with getting a glimpse behind the Iron Curtain, a real meaning of what actually goes on in that section of the world so many of us know so little about. It is not enough to go as a tourist; for then the country has its face washed, its hands cleaned, and it is putting on its Sunday best—if that word may be permitted in dealing with Communist-dominated lands.

REVEALING TALKS

Recently I was able to talk to well informed people, whose work often takes them to Iron Curtain countries—and it was quite revealing to learn what goes on in the lives of people like you and me. For instance, one of my friends bought six books at one time at a Moscow bookstall. He paid the equivalent of $4 for them—not an exorbitant sum, surely and often not enough to buy one of today's best sellers. But this was a revelation to the bookstore clerk: "He must be a foreigner," she said, "because he is buying six books at a time."

Another friend bought 10 sets of stamps. This caused quite a bit of work for the clerk, because she had to take 10 of each kind of stamps from the drawer, and sort them out.

He said to her, "I hope you are not angry because I have made so much work for you."

"Oh, no," she replied. "I am happy because I can fulfill my quota for today."

A STUDENT'S VIEW

And as my friend asked, what happens to her quota the next day if no one wants another 10 sets of stamps?

Also in Moscow, an interpreter at one of the West European government offices (it might be injudicious to pin this down to embassy, legation or consulate) had had a heavy day and took a stroll in the neighborhood to relax a bit.

It was almost midnight, and he happened to meet a young man, a Jewish student who spoke English quite well. He told the interpreter openly the situation among the young students in Russia.

"The spiritual situation is a very hopeless one. Only a small part of the students are convinced Communists; the larger part are only 'acting Communists.' They play at being Communists because they want to have a career. That is the only way they can have better housing, a better salary—perhaps even a car some day. So they learn by heart the Communist slogans and pretend they are convinced Communists."

The two men walked a bit more, and then the student said: "Many of the students are really opposed to communism, but they are afraid to say anything. In 1919 they said, give us 30 years and this will be heaven on earth, even better than the United States.

"Now it is 45 years. We do not have heaven on earth. We have even had a war. We completely destroyed Germany and divided it into four parts. It was dismantled, it has had to pay reparations, it has been occupied—and today, where is Germany, and where are we?"

The interpreter asked, "Can't you have consolation in a religious belief?"

The student replied, "Yes, I could. I could go to church and nobody would do anything against me. But the next semester my enrollment in school would not be accepted and I would be perhaps a truckdriver in Siberia or something like that."

"Perhaps in philosophy then?" the interpreter said.

"I wouldn't dare do that," was the student's answer. "It would be very unwise. If I am dealing with Marxist philosophy and in the discussions by mistake use an expression which is not in Marxist philosophy, it would be the same as if I went to church—so there is no consolation in philosophy either.

"All that remains for us is vodka, perhaps girls, to shut off as much as possible of the hopeless situation."

STEAL FROM STATE

One of the major problems in many of the Iron Curtain countries is how to make a living, to secure enough money for one's needs. A European diplomat told me about a friend of his in Yugoslavia who has a rather important position. He asked his friend how he was faring.

"I am getting 20,000 dinars," said the Yugoslavian, "but you realize that I need at least 50,000 dinars to live."

"How do you manage it?"

"The same way as the other people," he replied, "I am stealing from the state."

"What is a man doing who works in a quarry? He can't steal anything but rock."

"That, my friend, is a very unhappy man. Either his wife is working too, or he is obliged to be in the quarry from 7 in the morning to 3 in the afternoon—and then begin at 4 o'clock with another job."

In another of the Iron Curtain countries they have what would seem to be an ironclad system to hold down costs on construction. The planners make a budget for a new plant to be built. They carefully make their estimates, and then submit these to the state engineers' office.

TRY TO TRIM

There the state engineers just as carefully go over the plans, and try to cut it as much as they can. They have a "plum" just within reach—for they get 25 percent of all the savings they can effect.

However, the ingenuity of man can surmount even such obstacles as these. The budget engineers' office have gotten together. The budgeteers make the costs quite high; the engineers cut this down to the normal level, and get their 25 percent. Of this the budgeteers get half—and everyone is happy.

In Rumania, the farmers are allowed to have perhaps a little ground of their own, which they can cultivate, then sell the crops in the public market and keep the proceeds. Often, I am told, in driving through Rumania you will see a farmer tending a herd of cows. Most of them will be scrawny, scattered, trying to get some mouthfuls of grass to sustain themselves.

One of the cows, however, will be fat and sleek, and well brushed. It will also have a rope around its neck, with the other end in the farmer's hand. This is his own personal cow, and it is the one that gets all the attention and care.

This is, my friend pointed out, a breakdown in the Communist system. It is a small one, but it is a significant one.

This man spent 2 weeks in Rumania, and heard no one talking about Russia. He did have a discussion with one Rumanian, a good Communist. My friend said he understood much of the Rumanian language; that it has some roots with French and Latin. And then he added, "There are some expressions, perhaps Russian."

The good Communist exploded. "No, no," he said. "We have no slave expressions in our language," he exclaimed quite violently.

SOME CAPITALIST IDEAS

Rumania has copied the United States in some respects. It has built some 28 modern hotels on the Black Sea—one man called it a sort of Miami on the Black Sea.

The service in the hotels is excellent, he said. People from one country are put in the same hotel, and the hotel servants speak that language. This year it is reported that only 5 percent of those going to the hotels are Rumanians; the rest are all foreigners—and in the future only foreigners may be allowed to go there. The cost seems to be unusually low—only about $100 to fly to the Black Sea, spend 2 weeks there (with meals) and take the train back.

One man asked how the income was in proportion to the investment.

He was told that not enough comes back—but then there was this explanation:

"First of all, if we export our wine, we get for a bottle about 20 cents (U.S. currency). At the hotel we sell it at normal prices, about $1. If we export our meat, we get very low prices. In the hotels we get normal prices. Each tourist buys at least some of our handicrafts as souvenirs.

NEED CURRENCY

Then the Rumanian said, "Perhaps that foreign money is not so useful in your countries. Even if we do get a low return, it does come in foreign currency, which we need. And it does not cost us as much to run a hotel as it would in your country. The salaries are far lower here than in your own country."

Yet the Rumanians are anxious to work in these hotels on the Black Sea. The reason is that, while it is supposed to be "no tipping" in the State hotels, the visitors do tip—and the tips are gladly accepted. As my friend said dryly, "The pride of the Socialist worker is not involved any more."

I told my friend that some international hotel people felt the Iron Curtain was breaking down, because they had received overtures to build hotels in those countries. They felt there might be a change in climate because they were being encouraged to build their hotels in these Communist lands.

His comment may have been pessimistic, or perhaps based on a more acute observation than we might make:

"Of course they are encouraging these new hotels—because one day they can be nationalized."

Mr. Chairman, I have attempted to place proper emphasis on the religious persecution being conducted in Communist lands, and the tremendous danger and obvious impracticality of giving aid to Communist countries. May I also emphasize it is especially inconsistent to give aid to Communist countries when they are conducting their own aid programs as part of the Soviet-directed plan to infiltrate Asian, African, and Latin American countries.

Just last week, as an example, there was a report of additional aid from the Polish Communist government to the Kingdom of Nepal, while we have poured millions of dollars into Poland to help the poor, downtrodden people of that nation. What good is American aid to the impoverished residents of Poland if that Red government siphons it off to participate in the international Communist conspiracy?

BALANCE OF PAYMENTS

Mr. Chairman, I wish to point out to the House the rather embarrassing point that I speak as a Member of what Chairman MORGAN affectionately refers to as the minority of the minority, and I wish to make it perfectly clear that I am not speaking for the entire minority.

Notwithstanding the most effective remarks just made by the gentlewoman from New York, I rise to oppose the bill for a number of reasons. The only regret I have is in being limited to 6 minutes, for I can merely brush the surface. It would take hours to accurately describe the defects in the bill.

To be specific, we are told that the problem facing the world, in large part, stems from the menace of international communism. We are told that this bill is a vehicle by which we combat international communism. If this is the case, it strikes me as slightly inconsistent that in this bill over the years we have provided aid to Communist countries. There is something inconsistent between fighting communism and aiding Communist countries.

One of the amendments which may be proposed when the bill is read for amendment is one the gentleman from Indiana [Mr. ADAIR] has in mind, to prohibit aid to those countries which are in turn carrying out their own aid programs.

Last week there was an Associated Press report from India which told of a new foreign aid program being instituted by the Communist government of Poland to the Kingdom of Nepal. Over the years the Polish Communist government has been one of the main recipients of this program.

We are also told that the reason why we must keep a flexible determination in this program toward possible aid to Communist countries is that the Communists are mellowing, that they are not the stern and vicious people perhaps they were 15 years ago when the Marshall plan came into existence. Last week another Associated Press report from Moscow indicated that—evidently in the mood of this new liberalism sweeping the Soviet Union—they saw fit to close the national religious shrine of the Russian Orthodox Church and to turn it into a headquarters for antireligious propaganda. This strikes me as being somewhat inconsistent with our State Department instructions to the effect that communism is liberalizing, or mellowing, and it is progressive statesmanship to deal with it.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. Yes. I will be glad to yield to the gentleman.

Mr. GALLAGHER. I would like to point this out in order to clear up the point that we are not subsidizing communism. Poland is getting no funds under this program.

Mr. DERWINSKI. Not in this particular bill.

Mr. GALLAGHER. Well, that is what we are talking about here.

Mr. DERWINSKI. For all we know, by the time we reach this bill in committee a year from now, Communist Rumania will have slid into line as one of the recipients of funds from the program.

Mr. GALLAGHER. I hope, since Poland is not receiving any funds from this program, that the gentleman will see fit to support it.

Mr. DERWINSKI. I raise this point in anticipation of worse things to come and so I could not possibly do this. However, I thank the gentleman for permitting me to mention one other thing. I believe the House should give attention to this matter; namely, the unnecessary amount of authority we give to the executive branch under this bill. Almost any clause that the Congress has seen fit to write into the bill over the years carries the various provisos permitting the President to waive provisions that the Congress has seen fit to adopt. As a member of the legislative branch, I feel we have given far too much flexibility to the administration in the handling of this program. As long as I have referred to the fact that I was speaking as a member of the minority to the minority, in another sense I should also mention a great feeling of frustration that I have experienced in dealing with the proponents of this bill. Those of us who criticize the program feel that we have an obligation to improve it to the point where our criticism would no longer be necessary. Yet in the original bill that was introduced in our committee the administrator of the foreign aid program requested authority to eliminate from service in his agency incompetent personnel. It would seem to me logical that a program that has been subjected to so much abuse and so much debate and so much frustration in the eyes of the American public would be in such a position that if there are incompetents in this agency, the administrator should be provided with all of the authority possible so as to be able to remove them. I was very disappointed in our committee that the proponents and supporters of this bill saw fit not to support the administrator of the program. I think it was highly inconsistent.

One other point I wish to make, Mr. Speaker, and we have to tie this into two items that are going to reach the House floor shortly after this bill is reached, is as follows: one is the continuation of the excise taxes where we will be told that the status of the Federal budget is such that we cannot cut those taxes.

The CHAIRMAN. The time of the gentleman has expired.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. DERWINSKI. In a week from now we will be asked to raise the debt ceiling from $315 billion to $324 billion. Yet in this bill we have consistently provided funds to other nations to balance their budgets. It seems to me slightly inconsistent for a nation that has run a $25 billion budget deficit over the last 4 years to include under this foreign aid program funds to balance the budgets of other countries. I would hope that we could perhaps discuss this subject in greater detail with some effective amendments, with support from both sides of the aisle, in order to make this bill slightly more palatable to the American taxpayer.

Mr. COLLIER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 150]

Ashmore
Baring
Barrett
Bass
Becker
Bolling
Brademas
Bray
Bruce
Buckley
Celler
Clark
Curtis
Daddario
Davis, Tenn.
Dawson
Diggs
Dorn
Elliott
Evins
Fountain
Giaimo
Goodell
Gray
Griffiths
Halleck
Harsha
Harvey, Ind.
Healey
Hoffman
Horan
Hull
Jarman
Jensen
Jones, Ala.
Kee
Keith
Kilburn
Lloyd
McIntire
McMillan
Marsh
Martin, Mass.
May
Monagan
Morrison
Ostertag
Powell
Reifel
Riehlman
Rivers, S.C.
Roberts, Ala.
Roudebush
St Germain
Schwengel
Sheppard
Sikes
Steed
Taylor
Thompson, La.
Thompson, N.J.
Toll
Tupper
Van Pelt
Watson
Whitener
Wilson, Ind.
Winstead

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. RAINS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 11380, and finding itself without a quorum, he had directed the roll to be called when 361 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. MORGAN].

Mr. MORGAN. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. FARBSTEIN].

Mr. FARBSTEIN. Mr. Chairman, first I want to compliment the chairman of our committee, the gentleman from Pennsylvania [Mr. MORGAN] for his many kindnesses and courtesies that he has extended to me. I also want to compliment him on the calm and cool manner in which he conducted the various and numerous hearings that we held and the courteous treatment that he gave to the various Members of the Congress and the manner in which he treated the various witnesses when they testified. They were all given an opportunity to speak fully. They were all given an opportunity to express their views and opinions and none of them were cut off. So I say, I want to extend to him my thanks and the thanks of all those on our committee.

Mr. Chairman, I should like to join in support of the Foreign Assistance Act as reported by our colleagues on the House Foreign Affairs Committee. I am pleased that they have shown their strong support for this program and for the President, by voting the full $3.5 billion that is being requested for fiscal year 1965. The President has submitted to us a tight, realistic, and minimum request. In doing so, he has placed his faith in the responsibility and good judgment of the Congress. I hope that we will carry out our responsibility to provide the necessary funds for continuation of the foreign aid program.

Mr. Chairman, this program has been with us for many years, but I know that I echo the feelings of many of my colleagues that in all these years, we have never had a better administrator than Mr. David E. Bell. He and his able staff have brought a great measure of cohesion, consistency, and direction to the foreign aid program. One of the best indicators of the fine work being done is the high degree of concentration of aid funds. We hear a great deal of talk, Mr. Chairman, about the need to be selective and more particular about where we spend our money. I could not agree with this more, and I know that the administration agrees with this point of view because that is exactly what they are doing. I urge all those who are critical of this program—particularly on the grounds that we are giving too much to too many—to look at the facts. The facts are these:

First. Fifty percent of all AID assistance in fiscal year 1965 will go to seven countries: Chile, Colombia, India, Nigeria, Pakistan, Tunisia, and Turkey. Each of these countries is pursuing a major program of economic development. Each has a good self-help record and excellent growth prospects. In other words, each of these is a good bet and AID is placing one-half of its money on these countries.

Second. Seventeen percent of the fiscal year 1965 aid program will go to 11 countries, mostly in Latin America, which have good longrun development prospects but at present have not carried out the necessary self-help measures which would qualify them for major support.

Third. Twenty-one percent—this figure will probably be even higher as a result of the additional funds being supplied to Vietnam—goes to seven countries to provide basic support for security and stability where these countries must maintain large defense forces or face grave internal or external threats. The seven countries are: Vietnam, of course; Thailand, Laos, Korea, Jordan, the Congo, and Bolivia.

Mr. Chairman, I have referred to 25 countries which will receive 88 percent of the proposed fiscal year 1965 program, and let me repeat, 7 of these countries will receive 50 percent of all AID assistance. This is clearly a highly concentrated program. I do not know any other way to view it, and the President, Mr. Bell, and the AID people are to be commended for their selective use of the American taxpayers' dollar. They are following the criteria established by Congress to assure that we use funds where they will do the most good.

Now, Mr. Chairman, we hear a great deal of talk about how many countries receive foreign aid from the United States. It is true that AID plans programed for fiscal year 1965 includes 76 countries, but do not let these figures scare you. I have already pointed out that 88 percent of aid goes to 25 countries; that leaves 51 countries. Of these 51, 14 are in the transitional stage; that is, they are approaching the point where they will no longer need soft loan or grant assistance from the United States. Our aid program has been a success and we will soon be pulling out. These 14 countries will receive only 2 percent of the aid in fiscal year 1965.

That leaves 37 countries which will receive 10 percent of AID assistance in the coming year. That is a lot of countries and very little aid, but here again each dollar is spent where it will be most effective. Most of these countries are in Africa and the limited programs which the United States has in these countries have one or more of the following purposes:

First. To maintain access to bases or other vital facilities;

Second. To provide supplemental assistance in cases where other donors, particularly the Europeans, are providing the bulk of assistance;

Third. To assert a U.S. presence in cases where we can accomplish useful results, in certain sectors but cannot work effectively with the present governments; or

Fourth. To encourage independence from Sino-Soviet bloc dominance.

Mr. Chairman, I hope that all the Members will study these figures and study these facts, and I think they will see why the present foreign aid program is as efficient and well-run as it has been in its history. We are seeing results. We are getting returns for our dollar, and we are spending our funds in a highly concentrated manner. This program deserves the support of the House of Representatives just as it deserved the support, and got it, of the House Foreign Affairs Committee.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. GROSS].

Mr. GROSS. Mr. Chairman, the 1964 edition of the foreign handout program, bearing a price tag of more than $3.5 billion, is being laid here today on the doorstep of Congress and thus on the doorstep of every household in this debt-ridden Nation.

Administration witnesses had the gall this year to tell the Foreign Affairs Committee that this is a "temporary" program. This would be laughable were it not for the fact that at least $120 billion has gone down assorted foreign drains since this 5-year, "temporary" program was launched in 1947 and the American people were assured it would be ended in 1952. As of this day and hour, it appears this outpouring of cash will go on until those who pay the bills refuse to listen longer to the siren songs of those who are so free with their money.

Said President Lyndon B. Johnson: "We are the best loved people in the world." Only a week or so before that sugar-coated statement came rolling off the mimeograph machines, the U.S. flag had been hauled down by Marxist Dictator Nkrumah's mobs in Ghana; American diplomats were chased out of Zanzibar, and the U.S. Embassy in Cyprus was bombed.

Then to add frosting to the cake of the wondrous ways of his foreign policy, and the lavish outpouring of cash to every nook and corner of the world, the President emphasized "the steadily growing strength of the worldwide community of freedom."

And where, we ask, is this steadily growing strength in behalf of freedom? Is it evidenced by combat troops from any other nation joining with us in the fighting and dying in Vietnam to bring that country freedom from Communist tyranny?

Britain, France, and Italy, the beneficiaries of billions upon billions of dollars of our foreign handouts since the end of World War II, blithely go their way trading with Red China, the supplier of the enemy we are fighting in Vietnam.

Recently, Secretary of State Rusk called upon the Netherlands to aid in saving southwest Asia. The Dutch responded by saying, in effect, that you helped eliminate us from Indonesia and New Guinea. On what basis do you now expect us to expend our substance in that area of the world?

After dumping hundreds of millions of dollars into Indonesia, Dictator Sukarno tells us to "go to hell" and threatens almost daily to launch a war to break up the newly created Malaysian Federation.

Cambodia, riding the strategic flank of Vietnam, and into which we have poured some $400 million in military assistance and other forms of handouts, has long since told us to get out.

Are these examples of what President Johnson glowingly referred to last February as the steadily growing strength in the worldwide community for freedom?

Or perhaps the reference is to the Central Government that certain officials of the U.S. Government promised to establish in the Congo by throwing out the Belgians and destroying the one disciplined and stabilizing force in Katanga. There is nothing that even approaches a stabilized government in the Congo. Instead that area will be fortunate to escape anarchy.

Of course, the President might have thought he could look to Northern Rhodesia, into which we are already pumping aid although it will not gain its independence from the British until October. But the Prime Minister of that newly emerging nation has already stated the United States is unsuitable for the training of Northern Rhodesians.

This indicates Communist Russia, as in other cases, will be selected to provide training for those who will operate this new government.

The truth of the matter is that we have hurdled from one defeat to another in almost every corner of the world and we have spent scores of billions of dollars in accomplishing this feat.

Hard by our shores, the cancer of communism still thrives on the island of Cuba, from whence it is being exported far and wide to Central and South America. If we are the best-loved people in the world it seems more than passing strange that some of those who presumably hold us in such great affection help keep Castro in power by doing a thriving business with him. Then how is it possible for the ruling politicians of this country to keep a straight face and complain about others aiding Castro's Communists when they ramrod through Congress an act providing for the distribution of wheat to the master Communists in the Kremlin?

Incidentally, and while on the subject of Cuba, when may the citizens of this country expect a report from the special committee that investigated the Bay of Pigs fiasco? This was some 3 years ago. Has this, like some elements of the Bobby Baker scandals, been swept under a convenient rug in the White House?

The foreign handout program has failed through the years by being vastly overfunded and poorly managed. The minority report, available to all members, dwells on this subject and I will not take the time of the committee to repeat it except to say that it makes no sense at all for this Government to peddle so-called sex stimulators on one hand and contraceptives with the other.

Neither does it make sense to call upon the taxpayers of this country to cough up millions of dollars for military assistance to certain foreign countries whose economic situation is as good or better than that of the United States. Administration spokesmen say military assistance to these countries is being continued as an incentive to them to appropriate for their own defense budgets. This is incredible.

Mr. Chairman, this is not a bare-to-the-bones authorization bill. It ought to have been substantially reduced from the appropriation figure of last year. There is more than $6 billion in the pipeline. This ought to be drastically reduced. As a cold matter of fact, there was far more than enough money in the pipeline to take care of all necessary expenditures.

The Department of Commerce estimates that at the end of this calendar year the public and private debt of this country will have reached the astronomical figure of nearly $1,400 billion. This is easily the worst debt-ridden nation in the world, and next week a bill is scheduled to come before the House to increase the Federal debt limit to $325 billion.

Of course, there is still some question as to whether the salary grab bill will be called up before the debt ceiling increase, perhaps because the leadership wants to determine whether the Members will vote themselves a pay increase before they vote for an increase in the debt ceiling; in other words, whether the Members of Congress are going to provide the means by which they can borrow the money to pay themselves a $7,500 or $10,000 a year salary increase.

The taxpayers can no longer afford the luxury of this foreign handout program which in all too many respects has been a dismal failure. I intend to vote for the amendments that will be proposed to reduce the authorization and then vote against the bill.

Mr. FOREMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Yes, I am glad to yield to my friend from Texas.

Mr. FOREMAN. The gentleman from Iowa touched upon Mr. Sukarno's statement that the United States could take its aid and "go to hell." It is my understanding that in this foreign aid authorization bill now pending before the Committee there is some $10 million available for technical aid to Sukarno's Indonesia; is that not correct?

Mr. GROSS. There would be $10 million available, if they want to spend it there.

Mr. FOREMAN. I thank the gentleman.

Mr. GROSS. And I imagine that they will at the slightest provocation spend some or all of it there.

Mr. FOREMAN. And if the gentleman will yield further, send him more aid despite Mr. Sukarno's suggestion where we can send it to?

Mr. GROSS. That is correct.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. HALEY].

Mr. HALEY. Mr. Chairman, it is inconceivable to me that there is a Member of this House who is not aware of the serious financial situation in which this country finds itself today. But I wonder—I am forced by history and by circumstance to wonder—how many Members of this House realize the extent to which our program of lavish worldwide handouts—which we call foreign aid or mutual security—has contributed to the monetary situation in which we find ourselves. And I wonder, too, how many of us realize that it is by the action of those in the Congress—men and women sworn to protect our Nation's interests and welfare—that we are in this critical and even desperate situation.

It will come as no surprise to my colleagues in this body—nor to the gentlemen of the fourth estate in the galleries—that I have risen in opposition to this bill to authorize continuance of the foreign aid handout program. Neither will it come as a surprise to the men and women of the Seventh Congressional District of Florida. They are returning me to the next Congress without opposition, largely I believe because I unfailingly present their overwhelming opposition to this program to drain from this country the wealth of our industrious and prosperous people and bestow it upon the less industrious, less capable nations—or alleged nations—in a plan which is, in effect, nothing less than international socialism.

But I have not arisen to harangue you about this bill. I am against it, but I suspect that a majority of you will vote for it—vote for it although you, too, are against it, and although your constituents, like mine, also are against it. You will vote for it because you have somehow been persuaded that, despite your personal doubts, foreign aid is a program essential to our country and to the free world.

I challenge that supposition. I say that the provable facts are contrary to that supposition. I would doubt that what I have to say will change a single vote in this House. But I nevertheless ask you to listen to the reasons I challenge this glib theory.

As we all know, a major argument of supporters of continued foreign aid is that more than 80 percent of aid funds returns to buy American goods, thus alleviating unemployment, increasing exports, and strengthening our general economy. Bosh.

The truth is that foreign aid has increased, not decreased, unemployment in our country. We have exported jobs, along with over $100 billion, in foreign aid. True it is that the foreign aid program has increased our volume of exports. But how? The answer is that the export increase is in the form of free handouts, and instead of helping us, the increase hurts us, because it is these very handout-exports which are largely responsible for our international trade deficits—which are responsible for the continuing drain on our economically vital gold reserves. I do not think it necessary to tell you how devastating would be the inflation that would come, inevitably, if our gold reserves should be wiped out. But continue foreign aid—and those reserves will disappear, I warn you.

But despite these facts—as harsh as they may be—we are told day in and day out—and we are being told on the floor of this House today—that we must continue this foreign aid program—although on a threadbare and austere level of only $3½ billion—in order to save our country by fighting communism and at the same time helping ourselves.

If these are the reasons for this program—and we are told they are—I now challenge some of the supporters of the bill to answer two questions :

First. Just what good have these foreign aid programs done the United States, that outweighs the harm they have done?

Second. What nations, anywhere in the world, are today stancher friends of the United States, and sterner foes of the Communist masters, than they were before the beginnings of this program?

I would be happy to know that our outlays of more than $140 billion—close to half our crushing national debt—have done some good, somewhere, and I would be happy to be informed by anyone who can tell me, specifically, how and where we have benefited. I have served in this House 11½ years and I have yet to find a proponent of the foreign aid program who can tell in specific terms, not in general and theoretical terms, how and where we have been helped.

I do not wish to belabor the point I am trying to make. But I nevertheless feel that I must cite to you a cold fact which says more plainly than I could ever say it that "friendship is not for sale" and that, therefore, "friendship cannot be bought," even with shining American dollars.

Most of the Members of the House were here a few years ago when President Sukarno of Indonesia appeared before us in a joint meeting of the two Houses of the Congress, as our guest. I do not believe that those who were here can ever forget that our guest—President Sukarno—used that occasion to engage in the roughest form of raw blackmail to obtain increased allocations of our foreign aid money, in what was perhaps the most insulting speech ever made before the legislature of a host nation by a visiting chief of state.

Like the naive people that we are, we knuckled down to Sukarno's brazen demands—for payment not for aid to us but only for so-called neutralism. And what did we get for our millions?

You know and I know what we got. We paid out $881 million of our constituents' money to Indonesia, and no later than last March 25, President Sukarno embarrassed us before the world by shouting in public to our own Ambassador: "To hell with your aid."

Well, that is President Sukarno's opinion. He apparently wants no more of our money, and on that subject, I agree with him. He should, obviously, have no more of our money. But naive as we are, what do we have before us today? We have a proposal that we provide even more aid for Mr. Sukarno's Indonesia—a proposal backed by our foreign aid program director, Mr. David Bell, who has naively—to be charitable about it—told the House Appropriations Committee that, "I do not believe President Sukarno is committed to leading his country in the direction of the Soviet Union."

A reasonable man would think you could not be much more stupid than that. But I assure you that Mr. Bell did not quite reach the outer limits of stupidity. This House could—the Congress could—for instance approve legislation which would provide for payment of even more money to President Sukarno's Indonesia—and to countries whose leaders feel about us just as Mr. Sukarno admits he feels.

Mr. MORGAN. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. CASEY].

Mr. CASEY. Mr. Chairman, I thank the distinguished gentleman from Pennsylvania for allocating to me this time in order to discuss my ideas as to what I have long thought with reference to the foreign aid bill.

Mr. Chairman, as the members of this committee know, I am not a supporter of this bill. One of the reasons for my not supporting it is that every time I have a faint hope that possibly there is something about the bill that I can support, or that I find commendable, I run into a snag.

Mr. Chairman, the purpose of this bill as I have understood it during the time I have been here is to try to convert minds to democracy in order to combat the Communist thinking and the Communist program and to show that our system is the superior system and the free world system is the system that should be followed.

Mr. Chairman, we build dams, we build roads and we build factories in order to show that with our funds we can stimulate the people in the countries in which these projects are constructed to follow a free world pattern. But are we really capturing the minds and the thoughts of the people? Once the factory is built, it is soon forgotten who built it. Once the dam is constructed and the water is backed up and the wheels begin to turn on the power, the credit is taken by whomever is in local authority at the time. He may remain our friend but when he has gone, how about the young people, the masses?

Mr. Chairman, one thing that has appealed to me with reference to this program has been the educational program. There is a university located in Mexico City called the University of the Americas which was formerly Mexico City College. This college was started in 1940. It was started by Americans and the board was composed of American citizens. Recently the former president of Texas Christian University took over as president of the University of the Americas. He stated that this college has been known as "a gringo college. Let us change it." He changed the name and expanded the board and brought in Mexican citizens. It now has a board consisting of both Mexicans and North American citizens. He is undertaking to make this a university which will bring about a melding of the minds and thoughts between North and Latin America.

Mr. Chairman, he asked me:

> Can we get any assistance under the foreign aid program? I have had a Mexican citizen give me a new campus, and I want to know if I can borrow any money under the foreign aid program.

Mr. Chairman, he spent a week up here and he has not obtained a nickel or has not been able to come up with any encouragement to speak of as yet.

Mr. Chairman, I would like to ask the chairman of the Committee on Foreign Affairs, the gentleman from Pennsylvania [Mr. MORGAN], whether or not this university would qualify under any section of the foreign aid program for a long-term loan with which to construct such buildings?

Mr. MORGAN. Yes, they apparently would be eligible for assistance under the program. Although I cannot judge the details of this particular project I do not see why they should not be eligible. Under this bill, as the gentleman knows, we aid the American University in Beirut, the Roberts College in Istanbul, the American College in Egypt and we are aiding American colleges in other parts of the world, and I see no reason why this college in Mexico should not be eligible for a loan.

Mr. CASEY. I would like to ask the chairman if this does not sound like the type of program that should be encouraged?

Mr. MORGAN. From the gentleman's description they certainly should be encouraged.

Mr. ADAIR. Mr. Chairman, will the gentelman yield?

Mr. CASEY. I yield to the gentleman from Indiana.

Mr. ADAIR. I would like to invite the gentleman's attention to section 214 of the bill with which, I am sure, he is familiar. I shall not read it all, but I would like to point out one thing that I think is important. The section which relates to American schools and hospitals abroad, in my opinion, should be underscored. These institutions which do get help are supposed to be "serving as study and demonstration centers for ideas and practices of the United States."

It would be my hope if, as the chairman said, it is possible that money may be made available that that provision would not be overlooked.

Mr. CASEY. I thank the gentleman for his comment, and I assure him I would not be up here encouraging this if I were not familiar with the fact that this university is headed by a gentleman who says he wants to use American techniques and American textbooks, but it is so expensive for a Latin American to go to his university that they go to the Mexico University. From his observation, most of their textbooks are coming from Red countries. He feels this is an opportunity, and he sold me on it, where we can educate some of the minds of Latin America, some of the future leaders, so that they will be more encouraged about our way of life.

I have just received a letter from the University of Wisconsin. This is from the dean of school education. He has returned from a trip to India and Egypt, and he is distressed at the amount of funds going into educational programs over there. I am not familiar with it other than he states we are spending less than 5 to 10 percent of our aid funds on education. He does not think that is enough. I will leave that to the gentleman from Wisconsin.

Mr. ZABLOCKI. I agree with the gentleman from Texas that it would be desirable to increase our educational assistance. I will be happy to check into the dean's complaint. I would like to ask the gentleman, however, if the University of the Americas should receive U.S. assistance, whether the gentleman would support the program?

Mr. CASEY. I will say to the gentleman I supported initiation of the Alliance for Progress, but you threw it in with all the rest of the ball of wax where I have to swallow all or none, and I have no intention of doing that at this time. I have several amendments the gentleman is familiar with that I will offer later on.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield such time as he may require to the gentleman from Pennsylvania [Mr. SAYLOR].

Mr. SAYLOR. Mr. Chairman, each year Congress is requested to make available funds for a foreign aid program. To date the American people, in 20 years, have given away roughly $100 billion in foreign aid, over $500 for every man, woman, and child in the country.

In return, what do we receive for our efforts and deprivations? "Yankee go home," "death to the imperialists," "damn the Yankees," are slogans used by demonstrators in some countries which have accepted our aid. In other states, our embassies are sacked or damaged, our property confiscated, American personnel beaten, manhandled, or sometimes killed.

There comes a time when "No" must be used as an answer for programs suggested by requesting countries. In the nonsense-and-extravagance category, the General Accounting Office on March 7 of this year, showed that $8.5 million was wasted in Turkey and Iran alone when funds were used to build highways and railways that were not needed or ended in the middle of nowhere.

Even more repugnant are cases of governments receiving aid with one hand and signaling demonstrations against the United States with the other. Ghana is a good example of what I mean, where treacherous actions are demonstrated. Obligations and loan authorizations, cumulative through fiscal year 1963, totaled $159 million to Kwame Nkrumah's country. Yet, on February 4, 1964, a crowd of Ghanaians, led by a Government loudspeaker van, converged on our Embassy, holding signs reading, "American imperialists are rumor mongers," and "Yankee rogues go home." The editor of the Ghanaian Times, a paper owned by the Government, declared over the loudspeaker:

> We are fed up with your imperialist American dollars. We will massacre you as you massacred the people in Korea and Germany, in Cuba, and Panama.

The crowd then proceeded to tear down the American flag. When one of our young Negro personnel attached to the Embassy rescued the flag the Ghanaian Times the following morning denounced all American Negro diplomats as "skunks and Judases." These are comments from our needy friends.

Then there is the United Arab Republic. As of June 1963, our aid to President Nasser's country has totaled $862,834,000. The attitude of the Egyptian Government toward the United States has vacillated according to the stand of the United States on international issues. But the wording of the attacks has not varied over the years. On July 6, 1958, the Voice of the Arabs, a Government-sponsored station, broadcasted the following:

> Let us teach the Americans we do not need their tainted dollars nor do we require their conditioned aid. No, America. You shall not come to the Middle East. We shall fight against you with all our resources, with our hands, our feet, our teeth, but we will not allow you to establish your Zionist-controlled influence in our Middle East.

This was said just prior to the landing of Marines in Lebanon during the black hours of that bloody crisis.

On January 22, 1964, it was reported in Cairo, in reply to remarks made by Deputy Undersecretary U. Alexis Johnson, on the guarantee of the status quo in the Middle East:

> The first remark is that the general tone of the American statement * * * gives the immediate impression that the United States considers itself as God's shadow on earth and that, in imitation of the famous Roman peace imposed by the Roman Empire, it wants to impose a new peace—an American peace.

How much "gratitude" like this do we have to accept?

There is still another objectionable form of abuse with regard to our aid program: When our dollars are used as a bribe or bartering commodity in the relentless cold war. The argument, simply stated is that if U.S. aid is not forthcoming, help can always be received from another source—from Communist sources. This attitude has made headway in recent years with the more lenient policy of the United States to grant aid without "strings." Therefore, the neutralist countries, the third bloc, Afro-Asian solidarity, openly welcome aid from both the Western bloc nations and the Eastern bloc.

India and the United Arab Republic have been the most successful Januses in receiving aid from everywhere. India has received from the United States close to $5 billion to date. In return we have been plagued with viturperations of Krishna Menon and remarks from government officials, such as a Mr. Chatterjee, a Member of Parliament, who accused the United States of taking for granted:

> That it has the right to make decisions for us and impose them because it thinks India needs military and economic aid from it.

Even with its back against the wall, when Communist China overran with ease the Indian frontier and forced the Indian Government to beg for massive military support from us, these officials boldly criticized our actions. Even the late Prime Minister Nehru, on March 8, 1964, declared:

> There is no question of our accepting any proposal which we disapprove of because of military or economic aid from the U.S. Government.

He knows that aid from the Soviet Union will continue to be supplied.

The U.S. Government and its aid programs seem to have become the scapegoat of the world. We supply economic aid to Israel and all the Arab States protest. We sign food agreements with the United Arab Republic and Israel claims betrayal. Our decision to send military equipment to India has forced Pakistan, our onetime stanchest ally in this area, into the arms of Communist China. Pakistan itself has received $2,227 million in economic aid and an undisclosed amount, running into the hundreds of millions in military aid. Yet because of the Kashmir dispute, Pakistan fears India's use of U.S. weapons against her forces instead of Communist China. So border agreements, commercial treaties, and airline agreements have been signed with the dreaded nation to the north to counterbalance the increasing strength of India's military might.

Prince Sihanouk of Cambodia has openly blamed the United States for all its wrongs. His diatribes against our Government will long be remembered. His threats, now partially fulfilled, have caused much concern for our strategists in southeast Asia. By ending our aid program which had totaled $355 million in economic aid and $84 million in military aid, and by charging the United States with aiding subversive elements in his country, Prince Sihanouk has triumphantly led his country toward the Communist camp. He has even declared that Cambodia's best friend is now Communist China and has guaranteed that his country will not fall into the hands of the capitalists since his son and heir is now in Peiping with his tutors. The U.S. Embassy in Phnom Penh was sacked and its flag burned after a violent crowd had gathered to abuse our personnel with signs reading, "go home Yankee," "away with foreigners, displeased with our beloved leaders' policy," and "foreign aid is not necessary for the survival of Cambodia." Perhaps American foreign aid is not necessary because a first shipment of arms from Communist China has already arrived in the country. But, true to the art of bribery, Prince Sihanouk has declared that he will delay an intended visit to Communist China in order to give the West a little time to think things over—to give the West time to adhere to his demands.

When the Malaysia crisis began last year, Indonesia's Foreign Minister Subandrio declared that his country was prepared to forgo foreign aid and face a hostile world over its opposition to Malaysia. This threat was carried out when President Sukarno told our Ambassador in Jakarta to "go to hell with your aid," and our aid had amounted to $881 million in economic and military commitments.

In Vietnam with $2 billion in aid, the country is in as bad a condition as it was 7 years ago. Corruption is rampant in some instances: Smuggling is listed as one of the most blatant abuses hampering the aid program in the Republic of the Congo, as is the donation of the aid materials to political backers or the selling of the same to the highest bidder. Nor is the economic phase of our aid program free from the stigma of intrigue, subverting its democratic purposes.

Why should we suffer abuse from our aid recipients? Why must we always be cast in the role of villain? Why must we have a foreign aid program which continues to drain our own resources and deprive from our own needy lifegiving funds? Why do we tolerate verbal attacks and the destruction and confiscation of American property? Finally, when a country is willing to risk jeopardizing its sovereignty and people by enmeshing itself in Communist intrigues, then certainly they are not worthy of aid from us.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield such time as he may desire to the gentleman from Tennessee [Mr. BROCK].

Mr. BROCK. Mr. Chairman, like a malignant cancer, communism is infesting the heart of Asia. Many vital areas have already been lost. American soldiers and flyers are dying in Vietnam and being shot down over Laos while their American families live in constant fear of terrorists. Billions of American aid dollars have been poured into Asia. And now we are once again asked to "rubberstamp" another $3.5 billion for eign aid program, even though virtually none of previous years abuses have been noticed or corrected. This vote must be considered very carefully.

I urge Members of the House to join me in demanding the administration to clarify its goals in southeast Asia. Is the Johnson administration looking for a way to withdraw completely? Are we planning to neutralize Vietnam and let it fall like Laos? Are we going to adopt an attitude of winning in South Vietnam through accelerated military activity, using the most modern weapons at our disposal? We must all agree that a continuation of the "no win" status quo policy now being pursued by this administration must be altered, and now.

If this Communist effort is allowed to spread, the Far East will be lost for all time. Gloated by Asian successes, Red China will—in the not too distant future—be threatening the security of all the free world.

The foreign aid bill presents Members of Congress a unique opportunity to force this administration to adopt a clear-cut policy in the Far East. All our efforts in that troubled area will have been wasted unless the Government decides on a realistic goal and courageously pursues it.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield such time as he may desire to the gentleman from Texas [Mr. ALGER].

Mr. ALGER. Mr. Chairman, over the years the faults of our foreign aid have been so apparent that it seems inconceivable that we have not learned the basic lessons, that foreign aid is self-defeating, antithetical to basic American religious and moral concepts as we subsidize the alien philosophies, and that the wealthy of other countries have padded their bank accounts. The money never reached the people.

I want to compliment the six Republican members of the committee who wrote the minority views which I share.

A bill of particulars might best show why I disapprove this foreign aid authorization. Specifically:

First. The Congress has lost all semblance of control over the aid program.

Second. The executive branch continues to make long-term aid commitments without prior congressional approval.

Third. Trade and aid continues with Communist governments.

Fourth. Much of the military assistance is beyond the capacity of the recipient nation to utilize.

Fifth. The program is overfunded and lacks consistency or direction.

Sixth. There is little evidence that it has been successful in achieving its objectives.

Seventh. The impact of assistance fails to reach the grassroots level.

Eighth. The aid effort is diffused and reasonable criteria in the selection of recipients are lacking.

Ninth. Administrative and program deficiencies abound, including overprograming, hoarding of funds, waste, and extravagance.

Tenth. We are attempting too much for too many too soon.

Eleventh. The AID finances Government-owned facilities which compete with private enterprises.

Twelfth. Fiscal responsibility is not the watchword of the aid administering agency.

Thirteenth. There is no priority in spending to stress the more important goals.

Fourteenth. The war in Vietnam reminds us of two factors: First that our foreign expenditures fail to provide the needed weapons and, second, that we are at war, men being killed but Congress has not declared war.

Fifteenth. True cost of foreign aid this year is not the new authorizations of $2,041,600,000 in this bill or the total authorizations of $3,516,700,000 but is actually a minimum of $7,442,356,000.

Sixteenth. We loan money for less than it costs us, frequently with no interest charge at all.

Seventeenth. Our foreign aid loans do not go for visible programs, and usually the people of any country never know that help was extended by the United States.

Eighteenth. Public Law 480, the food for peace sales, generates counterpart funds which have little value to us and permit further loose spending locally on questionable projects, like building schools to teach socialism and communism.

Nineteenth. There is $4,175,251,000 in economic assistance and $2,087,800,000 in military assistance in the foreign aid pipeline without any new authorization needed. Much of this money could be reprogramed. The minority lists these amounts by country. For example, there are undisbursed loan balances for India of nearly $800 million.

Twentieth. The refund claims show staggering abuse and misuse of money—see page 70 of the report.

Twenty-first. The United States is giving economic or military assistance to a number of countries which themselves are giving aid, including the following: Belgium, Canada, Denmark, France, Germany, Italy, Japan, The Netherlands, Norway, Portugal, United Kingdom, Australia, Kuwait, New Zealand, Sweden, Switzerland.

Twenty-second. The aid and trade with Communist nations is a self-defeating, tragic policy, completely contrary to the arguments advanced for it on behalf of this program. We aid Poland who supports Moscow in Laos; we cooperate and give aid to other Communist countries doing business with Castro, and subsidize the spread of communism; we give massive aid to Yugoslavia, who is infiltrating Africa with Red trained personnel and other Communist nations who increase religious persecution, intensify class warfare, and subjugate people; we subsidize aid to Vietnam to help defeat the spread of communism while other Communists we aid are spreading communism there. We are directly subsidizing communism, even Russia herself; Indonesia with $870 million of our aid says "to hell with U.S. aid." Cambodia with $370 million has asked us to go home. It is quite possible if we had demanded, as a condition to receiving assistance, the social and economic reforms that were necessary to give people hope and assure proper utilization of the aid furnished.

Indonesia's economy might be viable instead of on the verge of bankruptcy; she would be a member in good standing with the free world forces against communism instead of its apt pupil; and Sukarno, kept in power with our aid, would long ago have departed from the international scene; the popular base needed to sustain President Diem's government in South Vietnam would not have been dissipated and thereby encouraging another source of support for Communist insurgents; President Rhee of Korea would have remained as the inspired leader of his people and the unstable situation would not be the problem it presently is; Laos might be wholly free; and Brazil would be realizing its great economic and leadership potential.

As I see it, at the least, action by Congress is needed now to regain control and redirect this program toward meaningful objectives.

Economic aid funds must be substantially reduced.

Bilateral economic aid should not be given to countries that are giving economic development aid directly to other countries.

Sufficient military and economic assistance funds should be earmarked solely for use in Vietnam.

Loans, if made, should be for projects only and so-called balance of payments or program loans stopped.

Funds presently obligated or reserved for loans, grants, or other projects which have not been firmed up should be released.

The Agency should preaudit intended imports to be purchased with U.S. funds to preclude furture imports of ineligible items.

Mr. MORGAN. Mr. Chairman, I yield 10 minutes to the gentleman from Delaware [Mr. McDOWELL].

Mr. McDOWELL. Mr. Chairman, first of all, I wish to join with my colleagues on the committee in thanking our chairman, the gentleman from Pennsylvania, Dr. MORGAN. I know we have many great chairmen in this House. All of them are great chairmen. But in the 6 years I have sat in the Committee on Foreign Affairs I have had opportunities so many times to see the wisdom of our chairman, his fairness, his willingness to be patient with witnesses and members of the committee. I think it is a great tribute to him that the House in its wisdom and in working its will over the years of his chairmanship has always in the final analysis found itself in agreement with the chairman and the majority members of his committee.

Mr. Chairman, I listened to my distinguished colleague from Iowa, who I believe is not on the floor at the moment. He is a member of the Committee on Foreign Affairs.

He painted a great picture of gloom and doom as to the foreign policy of this great country of ours. I know that we have our differences of opinion, and that is as it should be. This is a democracy. This House is the seat of that democracy. It is the greatest deliberative body in the world, and I bow not to the other body in this statement. I am glad to have them a part of the Congress. However I do not believe that it is necessary for us to be carried away in this day and age by some of the old cliches of the isolationist policies and theories that were so rampant in this Nation 20 and 30 years ago.

I believe that the majority of the American people, at least, are well aware of the great responsibilities that have fallen on the shoulders of this country in this age we live in today, and they accept those responsibilities. They do not evaluate the past or the present history of the foreign policy of the United States as being the picture of failure that was painted by the gentleman from Iowa. I wish he were here. Perhaps he will want to respond to my remarks. He very conveniently picks out some of the most troubled spots in the world today in a few countries as an example of the failure of American policy. Of course, when we talk about American foreign policy we are talking about foreign aid, because foreign aid is so much and has been throughout its history so much a part of the course and purpose of American foreign policy.

I should like for a moment to remind my colleagues that back in the early days of this program after World War II when the picture in western Europe was certainly far from bright as to the opportunity of those age-old governments to maintain themselves against the forward thrust of communism then in France and Italy and Turkey and Greece, to mention only a few of those countries, as we then read our daily papers in this Nation we were aware of the dire situation that existed in our former allies in the late war.

It was many years, and a few years after we began the Marshall plan and the Truman doctrine took effect, that we saw gradually these governments turn back to their traditional forms of government and to the democratic ideals and principles which we believe in so firmly in this country.

When the United Nations called its first roll, there were some 53 nations answering that call. Today, there are some 117 nations that answer to that same rollcall.

It is very easy, depending upon what you want to prove and the point that you want to make and to what degree you would evaluate many of these new countries that have come into being in recent years, to say that everything that has happened to these governments and the turmoil that has taken place in the overturn of some governments and the formation of new governments has come about because of or been caused by communism. This is far from the fact. It has been caused for the most part by the same revolutionary desire that existed in many of these countries which brought about the formation of this Nation of ours so many years ago. For it was the desire of people to have self-government. It was the desire of people to throw off the yoke of colonial governments that had ruled them for so long.

I think that has been fitting and proper and I believe the American people desire that it be that way.

I believe that the American people believe we should have given encouragement in every way possible within our means during these periods of formative governments developing throughout the world. For certainly we cannot turn back the pages of history and we cannot revert to that isolationism that almost caused us in this country, in those days, to really lose our prestige and our position of leadership in the world. Certainly, as we went forward domestically in the twenties, we did little to guarantee a real continuity of purpose in the foreign policy of this Nation. It has only been as a result of that experience, I think, that the American people have, as I suggest, accepted new responsibilities of leadership on the part of the greatest nation in the world today, not only in our ability to maintain our domestic economy, but in our military might. Because never was there another nation in the entire course of history that has demonstrated so emphatically its ability not only to maintain a strong national economy at home but to meet these great responsibilities around the globe. No nation has been able to build its military might at the same time that it has provided the bread and butter for its people.

So we should be proud today of the accomplishments of this Nation both at home and abroad. I believe contrary to the views of some, not only that we were never envied at all, but that we were never held in higher esteem by many of the billions of people around the globe in their evaluation of the people and of the Government of the United States as it exists today.

So I think we should be willing to present our arguments, but to present them with reason and with force but also with moderation. When one tries to say that this Nation should apologize not only to our own people but to any other people or to any other nation in the world, I must say that I do not stand here before you as one who would run down the greatest Nation on earth, the Nation that has brought the greatest degree of freedom, liberty, independence, and dignity to the human individual. This is our record and our foreign aid program and our foreign policy year in and year out has made that record.

I hope that my colleagues will use their good judgment in making a final decision as to how to vote on amendments and as to how to vote finally on the question of passage of the bill, for we have the responsibility and it will not go away.

It matters not who may occupy the White House next January and it matters little which political party may control the leadership of this House next January, for the problems which exist today in the world will still be present then and we will still be trying to find the best solutions to them.

Mr. Chairman, the world has changed considerably since Gen. George Washington, our first President, urged our new and weak country to "observe good faith and justice toward all nations." Born with high hopes, great empires failed and fell by the wayside. Great men and heroes entered and passed from the world stage in the relatively short time of about two centuries. But America has slowly, sometimes reluctantly, grown to be a great power and a leading member of the world society.

We seek today, as Americans worked in Washington's time, to protect the life of our free Nation, to preserve the liberty of our citizens, and to pursue the happiness of our people. This, it seems to me, is the touchstone of our foreign policy and our world outlook.

The passage of mankind through history is like an endless ocean voyage. There are periods of relative calm with blue skies and gentle swells. In centuries past, where history reveals the fall of the Roman Empire and the French and American Revolutions, when the pattern of divine rule by kings was shattered—great storms sweep the oceans of history, tossing nations and peoples about with great violence.

In my judgment, we are in such a period today. We cannot demand that the storm subside. To a large degree, we must ride it out. Patience, strength, and wisdom will see us through, but the storm will run its course whether we like it or not.

In the 52 weeks of 1963, there were 53 changes of government in the countries of the world—many of them violent in nature. Few of these changes were brought about by Communists. Most of them resulted from the hard facts on which we must make judgments in a most convulsive period of world history. These changes are symptoms of that convulsion. They will go on regardless of which American citizen is President or which political party is in power.

If there is one word which can best describe the era in which we live, I believe it would have to be the word "revolution." Our own history as a nation began with a revolution. Democracy represented a revolution in political thought and our ancestors bore weapons of war to achieve it. In the last century, we passed through an industrial revolution with far-reaching consequences. But, today, revolution has even greater implications for the future of world affairs. We are in the midst of, not one or two, but at least four concurrent revolutions, all extremely important, all threatening changes we can only faintly sense at this time.

The first revolution I call to your attention is political revolution. The old colonial order which once was supreme is vanishing and self-government is taking its place. The new nations and their governments, created since World War II, have no particular fondness for those who have exploited them in years past. When the United Nations was founded in 1945, about 51 member-states answered to the rollcall. Today, the United Nations consists of about 113 newly created countries which for the most part are populated by people who have never known democracy and who know little about how democracy functions. We should remember that, with a relatively highly educated and articulate citizenry, it took us 170 years to establish a representative democracy in the United States. Surely, it is unreasonable to expect the impoverished and poorly educated peoples of Asia and Africa to establish governments which function somewhat under the principles, freedoms, and safeguards of our own capitalist democracy in 1, 5, or 20 years.

The second change is the economic revolution. Two billion underprivileged people of the world are trying to scale the walls of poverty and ignorance so that they may obtain and enjoy the material advantages which many Americans take for granted today. Words like "capitalism" and "communism" mean little to them. What they seek is to improve their opportunities for an elemental education, to enjoy better health and a longer productive life, and to be gainfully employed in order to support their families with adequate nourishment and housing. I have personally seen the shocking conditions which exist in countries of southeast Asia and the Middle East—in South Vietnam, in Thailand, in Malaysia, and in India—where those citizens fortunate to have employment could only provide a standard of living for their families equivalent to less than $200 in yearly income. Those without employment and income have nothing to look forward to except poverty and disease.

The third revolution is occurring in population. Everywhere populations are on the rise, diluting the effects of economic progress and creating new problems of housing, food, welfare, education, and employment. It took the human race thousands of years to reach 1 billion in population. Now we have passed the 3-billion mark and by the close of the 20th century, if present rates continue, the world population will total about 6 billion. The problem is so enormous that its solution is almost unfathomable. Some even feel that the population problem dwarfs the problems stemming from the cold war.

Then there is the scientific revolution. Atomic energy, the development of nuclear weapons, the jet airplane, man's entry into space, new discoveries in physics, chemistry, and biology, the marvels of rocketry, and the perfection of intercontinental missiles have made the world much smaller, more volatile, and more dangerous. The genie is out of the bottle and we have to learn how to best live with it.

Some have characterized the American people as impatient. We began our history with many tasks and we were anxious to carry them out quickly. We bridged chasms and closed vast distances by extraordinary improvements in transportation and communications. We harnessed rivers and irrigated deserts. And we built a free economy capable of providing our people with the world's highest standard of living. With this restless, dynamic background, we tend to expect quick solutions to problems far outside our borders and shores—and we tend to express impatience when those solutions are not immediately forthcoming.

As long as men and nations are of different minds and different temperaments, we must recognize that there will be no final solutions to world problems. There will always be one nation or more wanting to change the status quo, and other nations wanting to retain changeless conditions. There will always be some new idea to contend with—whether it be fascism, anarchy, socialism, communism, or capitalism and democracy—and in the end these ideas must be met and perhaps defeated as ideas, or they will certainly reemerge at some point to change the old order of social organization. Merely defeating or destroying the men or nations who advocate a new idea will never provide the final solution we might seek.

What goals, then, can we reasonably expect to achieve in our lifetime? Much depends upon our leadership and upon our willingness as a nation to exercise patience and restraint under a variety of pressures and frustrations. I believe that the late President John F. Kennedy succeeded in creating a basic reorientation and a revitalization of American foreign policy. More importantly, he instituted a reeducation of an America that had become frozen in an attitude toward world affairs based largely upon ignorance of fact and irrational fear. President Kennedy's strategy of peace address to the American University on June 10, 1963, was a turning point in American foreign policy. It was a rejection of mere anticommunism as the goal of American foreign policy in favor of a strategy of peace, in which the first steps were the Moscow-Washington hot line, the test ban treaty signed at Moscow and the agreement to ban nuclear weapons from space. President Lyndon B. Johnson has pledged to carry on the strategy of peace concept and he has already taken important steps to reaffirm the American commitment to the relaxation of existing world tensions, to the support of the United Nations, to the achievement of worldwide disarmament, to the maintenance of our alliances, and, in spite of growing opposition here at home, to a continued effort to raise the living standards of the peoples in the undeveloped areas of the world.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield 10 minutes to the gentleman from South Dakota [Mr. BERRY].

Mr. BERRY. Mr. Chairman, first I wish to take this opportunity to commend the chairman of the full committee for his absolute fairness in the handling of the committee and particularly those of us who he knows disagree with his philosophy on this program. In no instance has anyone ever indicated that he felt that the chairman was at any time unfair. He has leaned over backward to recognize all of us and our feelings.

The legislation currently before us authorizes appropriation in the amount of $3.5 billion in economic and military assistance, but this is only a fraction of the amount the United States is actually spending for foreign aid. It is my purpose today to attempt to give the taxpayers of America a more accurate portrayal of our foreign aid expenditures.

There are two areas I wish to discuss in my effort to provide the public with the true facts as to the amount of our foreign assistance given away for the questionable objective of winning friends abroad. One I shall refer to as "direct foreign aid" which includes those expenditures not included in the bill before us today, but which can be identified in specific dollar amounts. The other I shall term "indirect foreign aid," including the hidden subsidies to foreign producers by our liberal trade policy permitting almost unlimited importation of competitive agricultural and industrial products.

In the field of direct foreign aid, which could also be termed "back door foreign aid," we have actually authorized or appropriated funds for the Peace Corps, the food-for-peace program, and a number of multibillion-dollar international lending agencies. All of these programs have provided assistance abroad, yet not a penny is authorized under H.R. 11380, the Foreign Assistance Act of 1964.

The Peace Corps, for example, received $115 million in 1964 to finance its many foreign assistance programs. This money surely should be included as a part of our overall foreign aid expenditures.

Another of our giveaway programs which should properly be included with other foreign aid expenditures but which is camouflaged under the Department of Agriculture and charged to the farmer, rather than the recipient abroad, is the food-for-peace program. In 1964, the cost of this program is $2,215 million. Among the many weaknesses of the program is the fact that although massive quantities of food are distributed abroad with essentially no cash payment to us, the people receiving the food rarely are aware of the fact that it has been provided through the generosity of the U.S. taxpayer. There is a serious lack of identity as to the donor—the United States—among the recipients.

Although the United States receives payment in the currency of the country receiving food under Public Law 480, we receive very little in actual value. During the life of this program, 63.5 percent of the agreed to sales were either granted or loaned back to the foreign government concerned. For example, the sales agreements to India from July 1954 to June 30, 1963, totaled $2.4 billion. Of this, $788 million was granted for economic development, $165 million set aside for loans to private enterprise, $1.2 billion provided for loans to the Indian Government, and only $310 million set aside for U.S. uses.

It is obvious, therefore, that Public Law 480, better known as the food-for-peace program, certainly operates extensively in the field of foreign assistance by returning to the country involved the majority of the so-called sales in the form of grants and loans. I am sure my colleagues will agree, therefore, that we can properly include this expenditure of more than $2.2 billion in the direct aid category.

The assistance rendered to foreign countries by the international organizations to which the United States has contributed likewise must be included in our backdoor foreign aid.

In addition to the Agency for International Development whose funds we are authorizing in the legislation before us today, the following organizations have lending power involving many billions of dollars, part of which has been contributed by the taxpayers of the United States and part of which is covered in the committee report on page 49. These include the International Monetary Fund—total resources, $15.6 billion of which the U.S. quota was $4.125 billion; the International or World Bank—capital subscription of member countries is $20.4 billion of which the U.S. quota was $6.35 billion; the International Finance Corporation—$100 million capital subscription of which $35 million is subscribed by the United States; Export-Import Bank—total resources $7 billion for which the United States is entirely responsible; and of this, $1 billion is capital stock and $6 billion is borrowing authority; the International Development Association; and the Inter-American Development Bank.

In connection with the latter two agencies, my colleagues will recall the recent House action on IDA increasing the U.S. contribution $750 million, to be made in three installments. Our initial subscription had been $320.3 million of the $1 billion total. Thus this year the administration is requesting $312 million for this association, representing the first of the three installments for the increased subscription, and $62 million as the fifth and final installment of the initial subscription.

Recent requests for funds to implement the activities of the Inter-American Development Bank include $750 million for the Social Progress Trust Fund to be made available over a 3-year period, and $412 million for callable capital stock to be appropriated in two equal installments. The total resources of this lending agency are $813 million, with the United States contributing the majority, $450 million.

In summary, the United States has provided in excess of $12 billion to these international lending organizations, all of which has been borrowed. The interest on this borrowed investment exceeds $500 million annually, and this cost, too, must be added to the direct cost of foreign aid, and should be included when we total the cost of foreign aid cash outlay for 1964.

The field of "indirect foreign aid" is more difficult to pinpoint as to actual cost in dollars and cents. One category, however, is the subsidy to foreign countries resulting from our troop disbursements into these countries, which amount to approximately $2.4 billion, which should be included.

Next in the "back door" subsidy category is the opening of our markets to foreign production, both industrial and agricultural.

It is impossible to even estimate the millions and possibly even billions of dollars that this category embraces, but it is an area sponsored by the State Department and by those who are interested in foreign investments. It is an area made possible through the bill forced through Congress in 1962, humorously referred to as the Trade Expansion Act of 1962.

When I said it was impossible to determine the cost to the American taxpayer of such a program, I refer first to the millions of men and women unemployed in this country because cheap foreign imports have put them out of work. These people are now on relief or social security, or some program which drains the Federal Treasury.

These unemployed millions are also responsible for Federal "make work" programs and a so-called war on poverty program—poverty resulting in a substantial degree from jobs being exported through cheap foreign imports.

In this same category is American agriculture. The figure varies, but the latest figure I have seen is 475,000 farmers driven from the farms in America during the past 3 years because agricultural imports have made the operation of their farms impractical. They have been added to the millions of unemployed—they have been added to the millions the President refers to as the "have nots" and which he places in his category of the "poverty stricken."

Under this "foreign aid through trade" the State Department and the Department of Agriculture have been responsible for displacing the production of millions of acres of land, part of which has been rented by the Federal Government in order to assist the landowner, and, to induce him to take it out of production to make room for foreign imports. These dollars must be added to the cost of "back door" foreign aid.

During the past 3 or 4 years the imports of beef have jumped several hundred percent until in 1963 there was imported 1.7 billion pounds of boneless and processed meat or, if you please, the carcass equivalent of 4.1 billion pounds of live beef. This is the equivalent of 4.1 million head of 1,000 pound beef, or, if you please, more beef than was produced and marketed in the States of North and South Dakota, Montana, Wyoming, and Idaho combined in 1962, or 500 million pounds more beef than was produced and marketed in the State of Texas in 1962, or to put it another way, more beef than was produced and marketed in the 19 East Coast States, including Ohio and Indiana.

These unchecked imports, which resulted from increased import duties and import taxes levied by the Common Market countries and Great Britain, and which made the United States the only country in the free world without import restrictions, have resulted in this becoming the "dump" ground of beef in the free world, receiving 60 percent of all beef offered in world trade. All this was done as an aid to these foreign countries which is perfectly proper, if not overdone, but in this instance was responsible for breaking the American beef market, resulting in the American beef producer losing millions of dollars on his beef prices. In fact, cattle prices, the first week in May, fell below $20 per hundred as compared with the average of $27.67 during the year of 1962, which is a good illustration of the price American farmers are paying for "back door" foreign aid.

Beef is only one example. Under the Sugar Act passed under pressure by Congress we distribute to every country in the world 55 percent of the American sugar market while at the same time American farmers are crying for a product to raise on their acreages. Hundreds of farms could be producing sugarbeets—dozens of sugar refineries could be in operation throughout the Middle West, providing employment for hundreds of people if it were not for "back door" foreign aid through sugar importation.

The same thing is true with wool, where the production of millions of acres is supplanted by imports of wool, lamb, and mutton. Imports cost the American farmer millions of dollars. "Back door" foreign aid, through the importation of dairy products, when we have a dairy surplus in our country, adds millions more.

It is impossible to determine the billions of dollars that indirect or "back door" foreign aid is costing the American producer, the American taxpayer, the American Treasury, and worse than all this, the spirit of America which is broken as men are turned out from factories because of foreign imports and when men are driven from the farms by the thousands because of foreign imports.

Mr. Chairman, America owes an obligation to assist other countries in establishing and preserving a free enterprise system but that obligation extends only to the limit to which we ourselves can afford that assistance. We cannot afford to give away our money in the amount of $3.5 billion, our substance through food for peace in the amount of $2.1 billion, our other direct monetary assistance programs which total some $3.9 billion, in addition to our indirect aid of military subsidies in the amount of $2.4 billion, and the billions and billions of dollars that it costs the American producer, the American taxpayer, and the American Treasury through an unlimited open market program.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. BERRY. I yield to the gentleman from Nebraska.

Mr. CUNNINGHAM. I was interested in the remarks of the gentleman from South Dakota, particularly with reference to the importation of foreign beef.

I voted against the 1962 Trade Expansion Act because I feared it would have an adverse effect upon the livestock industry. It is my privilege to represent the largest such market in the world. I said in 1962 that the passage of the Trade Expansion Act would contribute to the skyrocketing of beef imports and that it may cost in my district alone the loss of up to 10,000 jobs. I do not know whether it has yet reached that proportion, but it is very serious.

I was also interested in a recent statement which was made by a Member on the other side of the aisle, the gentleman from Georgia, when he introduced legislation to label imported beef as such. I have introduced companion legislation, the reason being that a good deal of this beef comes in in boneless frozen form. It is then defrosted and ground into hamburger. The housewife may go and buy this defrosted meat, take it home and refreeze it. This is a very definite health hazard. For this reason I believe that imported beef should be labeled. If anyone wishes to purchase foreign beef they should know it is foreign beef. The housewife should be protected in her purchase.

Mr. BERRY. I thank the gentleman. I certainly agree completely with the gentleman.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii [Mr. GILL].

Mr. GILL. Mr. Chairman, I thank the distinguished gentleman from Pennsylvania for yielding to me this time.

Mr. Chairman, I rise in support of this legislation and I hope that it passes without amendment.

Mr. Chairman, one of the remarkable things about the annual foreign aid debate in Congress is the fact that it seems to evoke the same charges from the opponents of aid year in and year out, regardless of how many times the record is set straight.

For example, we shall probably hear again this year the assertion that foreign aid is "the road to bankruptcy, and not a very long road at that."

Or this one: "Why should this country pour out money for the aid of a government bent upon going further into the nationalization of industries."

These charges first saw the light of day in 1948 when we were debating the Marshall plan.

Most certainly we shall be informed that we "cannot buy friendship."

Fortunately we now have a considerable record of progress to show for our foreign aid efforts and achievement is the best argument against these charges.

No one today would argue that the Marshall plan led to bankruptcy for the United States—we are stronger and more prosperous than ever in our history.

No one would argue that the Marshall plan led to further nationalization of industries. Private business enterprise is far stronger in today's prosperous Europe than it was in the shattered, hungry, cold Europe of 1948.

As for the argument that friends cannot be bought, that was true in 1948. It is true today. But it is not at issue. Senator Vandenberg, in his famous speech opening debate on the Marshall plan, did not claim that foreign aid was justified because it would buy friends. He was presenting, he said, "a plan for peace, stability, and freedom. As such, it involves the clear self-interest of the United States." No one today would argue that the Marshall plan did not contribute mightily to peace, stability, and freedom. That was its purpose. And its success is clear.

Many people seem to be under the illusion that while the Marshall plan was a success for foreign aid, we have had no successes since then. This is not so. The evidence on the subject is quite plain.

Success can be demonstrated by the number of countries which have "graduated" from aid recipients to aid donors, and by the number of countries where the need for aid is now coming to an end. Success can be demonstrated by institutions built, lives saved, production increased. Success is demonstrated above all by millions of people who are now able to do things for themselves which they could not do a few years ago.

Economic assistance from the United States, in the form of grants and soft-term loans, has done its work and come to an end in no less than 17 countries thus far—in Japan and Lebanon, as well as 15 countries in Europe.

In 14 more countries in Asia, Latin America, and Africa, the transition to economic self-support is well underway and the need for U.S. economic assistance is drawing to a close. These countries are rapidly approaching the time when they can provide for their own economic and social progress without substantial help from us or from anyone else.

Taiwan can serve as an illustration. Fifteen years ago, the free Chinese on Taiwan were as dependent on U.S. help as are the Vietnamese today. But no longer. Ten years ago, the Chinese conducted a land reform program. They accompanied it with agricultural extension, education, and supply programs. The Chinese farmers have raised their productivity steadily and sharply.

For the last several years, the rate of growth in national output in Taiwan has been one of the highest in the world. Exports have been climbing, reaching about $400 million last year. The major share of Taiwan's needs for technical and capital assistance can already be met through normal commercial channels, including substantial foreign private investment in an economy that is now clearly a going concern and an attractive market.

Greece and Israel are other examples of less-developed countries which are approaching the transition to self-support and the end of the need for special aid. India and Pakistan—although still far from self-support and the end of the need for aid—have made solid and substantial progress in education, in health, in industry and transportation, in agriculture, and community development.

Our total effort in foreign aid, compared with our resources, has been small. We propose to invest only about one-half of 1 percent of our gross national product. In view of this, our impatience with rates of development in underdeveloped countries is hard to explain in terms of our own hardship.

Perhaps it can be better explained by our failure to realize that we are now dealing, in large part, with nations that have little or no tradition of modern industrialization. It does little good to help build a tractor factory for people who don't understand the use of tractors, and for that matter, may never have seen one. We are not now dealing with the sophisticated and technologically competent people of Western Europe or Japan; we are dealing with people many of whom do not yet realize the need to improve their technology and raise their standards of living.

Of course, this takes time; of course, there will be many false starts and some wasted effort. Yet our national salvation is closely tied to raising the underdeveloped nations closer to the level we enjoy, for the world cannot long endure one-third fat and two-thirds starving.

We have the resources to carry this minimal burden; we should have the patience to see the job through; indeed we have no choice.

Mr. MORGAN. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. CAMERON].

Mr. CAMERON. Mr. Chairman, when I was first elected to the California Legislature a few years ago, a very dear friend of mine gave me a little book of satire which I am sure many of the Members have read. The book, "Parkinson's Law," had a chapter describing a meeting of a corporation board of directors where the board in 2¾ minutes approved a $10 million expenditure to build an atomic reactor and then spent a half hour on a $2,300 expenditure for a bicycle shed, and over an hour on a $4.75 expenditure for refreshments for the board meeting.

I believe that the debate described in "Parkinson's Law," is not dissimilar to what has happened to the debate on foreign assistance over the last 17 years. It appears to me that so much emphasis has been put on whether the high muckymuck of some remote spot did or did not abscond with a book from the local library that the American public has nearly lost sight of the objectives of foreign assistance.

Applying Parkinson's law, it is easy to see why the taxpayer wonders what foreign assistance is all about. It is difficult to visualize the abstract—and you can be sure that the headline of the Morning Bugle will not help to clarify the situation—but will lay emphasis on that stolen library book.

For my part, I hope no books are stolen. I hope that the program will run so efficiently that every last dime provided will be used for the intended purpose. But just as I know my church in Whittier has wasted funds in the past—just as I know my professional society, though it be of accountants, has been guilty of errors in judgment—so I know economic assistance will continue to be plagued with the stolen library book.

To me this minutia is not of major importance. What is of crucial importance is the accomplishment of our real objectives. There can be no question that the United States is engaged in a death struggle with communism—a cancerous growth in the universal body politic. To remove this condition, as in most dangerous body growths, we have two alternatives—one is radical surgery, the other is a program of intensive treatment—treatment designed to arrest and ultimately to eliminate the foreign growth. A good physician will, of course, advise his patient of the consequences of both actions and will take all possible steps to protect the life of the patient.

We, sitting here as the Nation's physician, are doing just that. We will provide over $55 billion this year to take care of surgery—should it become necessary. Now, what we are about to do today is provide less than 7 percent of that amount for treatment.

The treatment will be flexible. It will be completely successful on some growths, less so on others and, for the moment, it may fail on still others. But it is the best and only program of treatment we know today. As with any arresting and preventive medicine, as new facts and techniques are developed, they will be incorporated into the program for the good of the patient.

I believe that it is the destiny of the United States to show the world the wonders of a free, democratic, capitalistic society—to show mankind, by example and by deed, that it is possible to live under a government of laws, not of men—to build not just a nation, but a world free from fear, to use the wonders of science for the benefit of all mankind, and to develop a universal philosophy of brotherhood of man.

As imperfect as it may be, the Foreign Assistance Act is our only current means to accomplish these lofty objectives, and the United States is the only country with the resolve and the ability to meet the challenge.

A vote to cut, or a vote against this bill, is a decision for radical surgery and surely fatal surgery on a very sick world.

A vote for the bill in its present form is a decision for prolonged treatment of a patient that has the latent strength to survive.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield such time as he may desire to the gentleman from New Jersey [Mr. WALLHAUSER].

Mr. WALLHAUSER. Mr. Chairman, I rise in support of H.R. 11380.

I hold to the belief that our aid program has been a useful tool in the effort to stem the tide of Communist aggression over the years. It should be continued with reasonable safeguards to prevent waste and mismanagement.

I believe that the situation—unsettled as it is—would be much blacker today if we had not helped our friends recover from the severe economic shocks of World War II and also that many of the newly developing nations would be enveloped by the Communist ideology if we had not indicated our interest and genuine desire to help them make forward progress toward a self-sustaining position. We would be pretty well isolated and would not now be in the dominant position among the world leaders that we are today.

The information given to us indicates a good hard look has been given to the program by the responsible officials of the executive department who administer it, and that a genuine effort has been made to funnel the funds to those areas most in need of our help and which will respond to it with some appreciation and good will.

Precious as our financial stability is, and important as dollars are to the maintenance of this stability, there can be no doubt that the spending of dollars, if well regulated, is far preferable to taking a chance that the world might erupt like a volcano and bullets would be the only weapon left to us.

I do agree that Congress should not be bypassed by the executive branch on long-term aid commitments and that we in the Congress should be more frequently consulted than we presently are regarding the objectives and important decisions of policy.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield 10 minutes to the gentleman from Massachusetts [Mr. MORSE].

Mr. MORSE. Mr. Chairman, we are once again engaged in considering the Foreign Assistance Act—and, in a larger sense, the fundamental issues of our Nation's foreign policy. Our response to those issues should ultimately determine the outcome of this legislation. I say this because the authorization embodied in the bill before the House is neither more or less than the principal means whereby we, as a nation, attempt to carry out our policy on the world scene. For this reason, our objectives—what we hope to accomplish in the world—must first be subjected to close scrutiny and evaluated in terms of our national self-interest. If those objectives are sound, if they are consistent with our national heritage, and if they advance our national self-interest, only then can we intelligently appraise the contribution of the foreign assistance program to the attainment of those goals.

What then are the issues which are basic to our foreign policy undertakings, and have a direct bearing on the legislation before us?

First and foremost among them are the conditions which exist in the world today.

We live in an age of conflict and of rapid change. All around use, the world is in turmoil. The cohesion and the unity which are characteristic of the postwar period—both with respect to the Western alliance and to the Communist empire—no longer obtain. Within each camp, divisive trends are in evidence. And on the larger scene, the clash of competing ideologies; totalitarianism's onslaught on freedom; and the groundswell generated by the concurrent revolutions of the 20th century in education, in communications, in science, and in the rising expectations of the dispossessed masses, contribute to the general atmosphere of uncertainty and instability prevalent today.

Second, the United States continues to be the foremost power in the world. In military and economic strength, we have no equal. The output of our prodigious economy is sufficient to sustain a high level of living for our own people and to provide a measure of help to those in other lands. Our prestige and influence abroad, though frequently maligned, are of considerable proportions.

When we consider these two facts—the condition of the world and of our own Nation—one conclusion emerges: Whether we like it or not, the United States occupies a dominant position in world affairs. This position carries with it enormous responsibilities—both to our own people, and to those abroad. We have a responsibility to lead—to lead in action as well as in words. We must lead at home—by attacking the obstacles to a better life for our citizens—and we must lead in the world—by helping others to attain that which we wish for ourselves: a world of peace, with freedom and justice, in which all men can strive to fulfill their highest aspirations.

This, it seems to me, is the basic goal of our foreign policy. And the foreign assistance program which we are debating today is the instrument devised by our Government to help us attain that goal. That is its sole purpose—and it provides for us as well the justification of our support for this legislation. For if we hope to preserve peace and to enlarge the horizons of freedom, we must be willing to assist those in distant lands who daily resist the encroachments of totalitarian forces; and if our hope for a better life is to be shared by others, we must be willing to lend them a helping hand.

I will not attempt to repeat what other speakers who proceeded me have already stated. I would simply like to stress a few developments which are worthy of our attention.

First, the objectives of the program have been sharpened during the past year.

Second, its scope has been narrowed. Selectivity has replaced the scatter-gun approach. We are concentrating our aid in fewer countries where the promise of success, and the will to self-help, are most clearly in evidence.

Third, the administrative machinery of the Agency for International Development has been improved.

Fourth, greater participation of private enterprise has been secured for this undertaking.

And, fifth, our European allies, and some of those on other continents who have benefited from our aid, have increased their own foreign aid efforts.

Mr. Chairman, I would like to end on a note of caution.

It is all too easy to jump to the conclusion that because the program has been improved in recent years—and because this year's authorization is more realistic than earlier requests—that further progress in the direction of tightening the administration of foreign aid, of improving its effectiveness, is not necessary. To my mind, this is a dangerous assumption. I, for one, will work for, and expect to see, further progress in that direction. I am certain that other members of my committee, and of the House, will do likewise.

Also, I think that it is only fair to warn the recipients of our aid—including our partners in the Alliance for Progress—that we expect them to shape up their monetary and fiscal policies, to adopt necessary tax and land reforms, and generally to put their houses in order. Our good will and our aid are not inexhaustible. Under proper conditions, our aid can mean the difference between failure and success of a soundly conceived and energetically pursued self-help or reform program. Without the proper climate in the receiving country, however, without the will for self-help, all our assistance can come to naught. And I am certain that the Congress, and the American people, have no intention of wasting our resources on futile undertakings.

Mr. Chairman, I urge that the bill pass.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin [Mr. THOMSON].

Mr. THOMSON of Wisconsin. Mr. Chairman, I wish I could join with those who have urged all members of the Committee to vote for this bill without amendment, but I find great need to strengthen this program and remove the cause of embarrassment to the American people, prevent misuse of our money, and save some money.

I have found, in a limited investigation, some amazing uses of American foreign aid funds. To me these uses are inexcusable. I think they can be stopped. I think the American people should demand that they be stopped. I think we should amend the bill to make sure that these uses do not reoccur.

Now the agency is making an effort and they say they are increasing their staff and their determination to prevent improper uses of American foreign aid money and when they discover improper uses, after the money has been spent, they send a statement to the offending nation and ask that the money be repaid. Those statements are called bills.

Well, in 1960 they sent out bills amounting to $9,968,744.

In 1961 that had increased to $15,146,374.

In 1962 it had increased to $19,853,343.54.

In 1963 it had increased to $24,753,362.71.

The amount that was recovered of these claims were as follows:

In 1960 the amount recovered was $9,861,017.29.

In 1961 it was $8,963,217.

In 1962 it was $11,641,000.

In 1963 it was $12,659,000.

But the agency itself reports that collections are not very good this year.

Whereas last year they collected almost $13 million—they report that for the first 3 quarters of 1964 they have only collected $5,375,911 and anticipate collecting only $1,800,000 more.

So the bills that are being sent out for improper use of money are going up and the amount collected is going down.

Here are some amazing items and I am reading to you from the bills for collection from the AID office itself.

Here is Cambodia, that just told us to get out of there with our mission. Here is an item for Metracal, if you please—$6,400.

Here is another one to Cambodia for Metracal, $10,670.

Here is another one to Cambodia for sun and surf lotion, if you please. It is only for $59 but you can buy quite a few bottles of sun and surf, I assume, for that amount.

Then for Turkey—Air Wick, a household deodorant, $10,650.50. I think it is a luxury item.

Here is another. To Pakistan, Odorono, listed as a deodorant skin cream, $1,042.

Here is one for Turkey: Eye shadow, $199. That is very important.

Here is another one for Turkey: Lipstick, $741.60.

Here is another one for Turkey: Electric ice cream freezers, $1,128.50.

Here is one for the Dominican Republic: Hops, $5,131.

Here is another for Turkey: Bubble gum, $999.98.

There are some others which are most amazing and quite disturbing.

To Turkey: Prophylactics, $590.

To Turkey: Contraceptives, $997.50.

To China: Androgenic hormones, listed as a sex stimulant, $2,060.

Here is another for the same purpose, with a different trade name, to the same destination, for $1,950.

Here is another one, listed as Royal Bee Jelly, which is in the same category, $13,500. That is to China. Royal Bee Jelly, $13,500.

If this Agency is going to insist upon permitting these practices to continue, I believe they should send the contraceptives to China and the stimulants to some other destination.

Let us see what happens. What is the result of the improper and illegal use of American taxpayers' money in the country which gets it? I say it is demoralizing to those countries. There are destructive results in the recipient nations.

Now available to all Members, of course, is the report of the Comptroller General of the United States, made in 1962, in which he discusses the AID program in Korea. I shall quote from page 113. He says:

> In Korea the "U.S. AID funds financed imports of luxury or semiluxury materials" and the result of those luxury imports to those countries was "consumption habits beyond the standard possible to be maintained at present by the country's economic resources were encouraged."

We were encouraging the people of Korea to insist on buying, for instance, nylon yarn, which costs $1 or $1.50 a pound when, if they wanted a synthetic, they could have had other yarns such as rayon, costing only 50 cents a pound.

But we whetted the appetite of a country and of a people of luxury items well beyond their means or their ability to produce in that country.

As the Comptroller General also states—and this in a recent letter to me—

> Generally the U.S. assistance is made available to provide a country with needed foreign exchange, and in the cases discussed the net effect is that the aid recipient country has spent some of its own foreign exchange for unnecessary or low-priority commodities.
>
> The purchase of such commodities by AID recipient countries tends to add to the need for U.S. assistance for the financing of essential commodities to that country.

So, this practice we have been following of permitting the improper and inexcusable use of American foreign aid to countries has aggravated the imbalance in the foreign exchange in the country that we are trying to assist and has encouraged consumption habits which are beyond the standards that are possible in that country. I say to you it is costly to the American taxpayers and it is embarrassing to the Members of Congress and should be to the people who are responsible for this. It discourages those who might otherwise like to assist in this program from supporting it.

The CHAIRMAN. The time of the gentleman has expired.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield 2 additional minutes to the gentleman.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield at this point?

Mr. THOMSON of Wisconsin. Yes; but I would first like to make this observation.

As a result of the situation, I intend at the appropriate time, at the reading of this bill, to offer an amendment to the bill which will in effect cut off further assistance to the countries who refuse to repay the claims that America files against them for the improper use of American aid money.

Now, Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. GALLAGHER. The gentleman has some very interesting material as the basis of his speech, but I ask him nevertheless if his material and these facts and vouchers were not in fact supplied by the AID.

Mr. THOMSON of Wisconsin. Naturally. I did not make them up.

Mr. GALLAGHER. No; but you say this was on the basis of a preliminary investigation. It is my understanding of this matter that the AID had found these errors and had already billed these countries for the misappropriation of the funds included in these items and that these items are on a list of items which makes it improper to use these funds or credits for these purposes. Also, that the AID had already taken corrective action and had billed these countries for this money. I ask the gentleman is that not a fact? Therefore, this is not something that we have been doing and making permissible. The Agency and the administration itself have been against this type of practice and have taken corrective action.

Mr. THOMSON of Wisconsin. Let me respond to the inquiry by saying that I went to the Agency, certainly. They have a record of the claims that they have filed for the last 2 years. Prior to that they could not produce them. They said it would be an impossible physical task to get together the claims that had been filed prior to that time.

Mr. GALLAGHER. That is not the question. The question is they made the disclosure themselves and filed it with the committee.

The CHAIRMAN. The time of the gentleman has expired.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. THOMSON of Wisconsin. Maybe the chairman of our fine committee would yield an additional minute so that I may respond to the question.

Mr. MORGAN. Mr. Chairman, I yield the gentleman 1 additional minute.

The CHAIRMAN. The gentleman is recognized for 2 additional minutes.

Mr. GALLAGHER. I ask the gentleman, if he will yield, the following question: I restate my proposition that the very items the gentleman has mentioned were in a presentation made by AID and that they themselves had corrected these errors and have billed accordingly, so that these practices would not continue. Is that not correct?

Mr. THOMSON of Wisconsin. No. I think you should say that the Agency hopes they can prevent the continuance of these practices but they have not been able to prevent them. A year ago, when Senator WILLIAMS of Delaware discovered they were sending great volumes of Metrecal into Vietnam, it created quite a sensation. The AID people wrote on the vouchers, "Pharmaceuticals except Metrecal into Vietnam," but at the same time they were putting the Metrecal into Cambodia.

Mr. GALLAGHER. The gentleman knows that this is in violation of the regulations.

Mr. THOMSON of Wisconsin. Mr. Chairman, the point that I am making is that we should be able to prevent that kind of misuse of American taxpayers' money and it has not been prevented up to this time.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. THOMSON of Wisconsin. I yield to the gentleman from Iowa.

Mr. GROSS. And is it not significant that the foreign handout outfit over here can put out all kinds of releases favorable to the organization; but it is not of record that they put out a release saying that they discovered the peddling and distribution of these items. They do not advertise this fact, do they?

Mr. THOMSON of Wisconsin. They did not advertise the fact, no. They gave me a long list of 13 different types of violations in the use of taxpayers' money by the AID administration. I asked them specifically for violations under two categories from certain countries. I went down to the agency to get it. The gentleman says that they volunteered it. I say that I dredged it out.

Mr. MORGAN. Mr. Chairman, I yield 8 minutes to the gentleman from New Jersey [Mr. GALLAGHER].

Mr. GALLAGHER. Mr. Chairman, we are considering today the Foreign Assistance Act of 1964. This is in itself not remarkable; the foreign assistance program has been before this House in the past many times. What is remarkable is that this year, for the first time in recent memory—some say for the first time in the history of this great endeavor—the Committee on Foreign Affairs has reported out an authorization bill in the full amount requested by the administration.

The action of the committee by a large majority was the culmination of a most painstaking and exhaustive examination. That examination convinced us—Members on both sides of the aisle—of three fundamental facts:

First. The amount requested for economic and military assistance is a tight, realistic, hard-core estimate of the needs for the next fiscal year.

Second. The program is being planned, administered and managed more effectively and more wisely than it has been since the Marshall plan.

Third. The mutual defense and development program continues to be in the best interests of this Nation's security and in keeping with our finest traditions as a people.

The President's request this year—including his supplemental request for $125 million for South Vietnam—was nearly $1 billion less than was requested last year. Before any Member misinterprets that action, let me assure them it is not because the needs of the less-developed countries are any less, nor that the national security of the United States is any less threatened nor that last year's request was inflated. On the contrary, the needs of the underdeveloped nations of Latin America, Asia, and Africa are as great now as ever; the national security of the United States continues to be threatened, particularly in southeast Asia. The reduction in the President's request is due entirely to a different approach in estimating the requirements in our national interest of economic and military assistance. This year the request was based not on possibilities but on probabilities, not on the assumption that every country would meet the standards of self-help and self-discipline set by the United States, but on the careful assessment that major recipients would. This reduced request is in itself a testimonial to the careful planning and effective management of the aid program.

The Committee on Foreign Affairs responded to this demonstration of good faith and responsibility by approving the entire amount requested. As one of our great national newspapers commented the other day:

> The President has presented an honest, startingly realistic request; irresponsible cutting can only lead to irresponsible budget proposals.

The committee has met its responsibility; I am sure the full House will not do less.

The funds requested for military assistance were justified by Secretary McNamara and General Taylor on two separate occasions, by each of the four military field commanders and by civilian and military witnesses of the Department of Defense. Mr. McNamara eloquently and forcefully told of the great damage done by the indiscriminate cutting in last year's budget request. The daily news from southeast Asia underscores the necessity of authorizing and appropriating the full $1.055 billion, 55 million requested for military assistance and the folly of jeopardizing our entire worldwide military position and the continued survival of our allies by refusing to give the President the tools to do the job. Let no one risk defeat in Vietnam or anywhere else through some misguided and shortsighted attempts at false economy.

But, Mr. Chairman, my main concern today is the economic assistance portion of this bill. The President is requesting $922 million for development loans. The Development Loan Fund has become the principal instrument in the foreign assistance program. At the direction of the Congress, the Agency for International Development over the past 2 years has shifted increasingly from grants to dollar-repayable loans—loans which are tied to procurement in the United States and which represent no drain on balance of payments. On the contrary, they represent a growing outlet for U.S. goods and widening markets for U.S. exports. Nearly 60 percent of these loans are for capital projects—dams, powerplants, transportation systems, productive enterprises and so forth. The remaining portion is for so-called program loans which do so much to stimulate private enterprise in the developing nations by providing the commodities, spare parts, plant expansion, raw materials, and machinery necessary for maintaining and utilizing the already existing productive capacity of the more advanced underdeveloped countries such as Colombia, India, Turkey, Chile, and Pakistan. And lest any critic complain that American aid is dispersed and scattered, let me call to your attention the concentration of development lending: two-thirds of all loans will go to only seven countries—Chile, Colombia, India, Nigeria, Pakistan, Turkey, and Tunisia. AID will obligate all of its available loan funds this fiscal year. It is essential that the full amount requested be authorized and that full authorization be appropriated.

Technical cooperation is a concept with which all of us are familiar, and with which all of us should agree. This category represents the most direct visible expression of our concern for the welfare and well-being of the peoples of Asia and Africa. This fund finances technical assistance experts and projects in health, public administration, education, community development, rural electrification, agriculture, public safety, and labor. It trains the manpower in the skills necessary for growing societies bent upon release from centuries-old bondage to poverty, disease, ignorance, hunger, and malnutrition. Technical cooperation is the investment in the future of these nations—a practical expression of faith in the dignity of man—who have yet to realize their full potential but who have yet to give up hope in the peaceful and orderly evolution of a society in which that potential can be realized.

The request for the Alliance for Progress needs no justification in this House which remembers with respect and affection the memory of President Kennedy. The recent reaffirmation by President Johnson of our dedication to the principles of the Alliance for Progress—social progress and economic growth through self-help and reform reminds us only that, as a nation, we are dedicated to these same principles. We are beginning to see tangible results from the joint efforts—however halting and however frustrating—of our Latin American neighbors and ourselves. I have already mentioned Chile and Colombia; recent events in Brazil are signs of hope that nation, the largest in Latin America, has begun its journey backward from the brink of anarchy, Communist takeover, political stagnation, economic chaos, and social instability.

In the year ahead this Government must be ready to meet the opportunity presented by the overthrow of the Goulart regime. It is imperative that full $550 million requested for our share in the Alliance for Progress be made available. At no time since its inception have the prospects for the Alianza looked so promising; and at no time have the threats been so foreboding in Argentina, in Chile, and in Brazil. Let one Cuba and one Castro be enough to remind us—and the Latin Americans—of our common purpose and our mutual interests: The preservation and extension of democratic, progressive, and free societies in a hemisphere devoid of the threat of foreign intervention and subversion. This House can do its duty by voting the full authorization.

Supporting assistance is the category of funds that contributes most directly to the political stability and military security of nations directly threatened by aggression and subversion, nations whose economic capacity to support their territorial integrity is severely limited. The supporting assistance funds authorized in this bill, $405 million, will enable the people of South Vietnam to continue their long struggle for freedom from the domination of Red China. It will enable the Koreans to continue in their tortuous and sometimes convulsive pursuit of economic and political stability under the constant threat of military attack. A few years ago supporting assistance was over $700 million; this bill shows the continual and successful efforts to move countries receiving such grant aid to development assistance. Seventy percent of all supporting assistance is concentrated in four countries—Korea, Laos, Jordan, and Vietnam. Let no one in this House be deluded that victory in South Vietnam will be purely a military one. Essentially, it will be a political victory and one that can only be won by the Vietnamese themselves. Our assistance, both military and economic, is the margin of safety. Neither can be emphasized at the expense of the other; both are needed. Authorizing and appropriating the full amount of supporting assistance will demonstrate to the world our determination to assist the people of Vietnam for as long as they are willing to fight for their freedom and for as long as it may take to win ultimate victory.

Mr. Chairman, there are other categories of funds in this bill. Support for the developing nations through our contributions to international organizations; assistance to American schools and hospitals in their work abroad; the all-important administrative funds necessary to carry out this program; and special provisions for the encouragement of private enterprise. They are no less important than the ones I have already outlined.

I conclude as I started by emphasizing this is a tight, realistic request, it is a program that is increasingly well-managed; it is essential to our national interest. It merits our support and it has earned our confidence. It is succeeding. Fourteen countries in this year's presentation have been identified as being in a transitional stage. They are on the road to self-sufficiency and the U.S. aid program has put them there. Taiwan, Greece, Mexico, the Philippines, and the others over the next few years will take their place in a world of independent, increasingly prosperous nations secure to the free world. It is in this kind of world that America's political, economic, and military security is best protected. It is to this end that we are engaged in foreign aid. However frustrating and however trying the task, the burden shared increasingly by our West European allies and Japan is light compared to the cataclysm of a world at nuclear war or enslaved to totalitarian ideologies.

The United States is committed—and rightly so—to make this long twilight, in which two-thirds of the world's people live, a twilight before the dawn, not the twilight before the night.

Mr. Chairman, I urge adoption of this bill because I believe in our America, our values and our way of life. We should be happy to share them; we should be determined to protect them. This bill does both.

One often hears the critics ask, "Can we afford to continue the foreign aid program? How much does it cost?"

The cost is less than one-half of 1 percent of our gross national product. To put it a different way, it represents less than four pennies out of every tax dollar collected from the American taxpayer.

Our foreign aid program uses that part of the tax dollar of the American taxpayer that costs less than a nickel pack of gum or a package of lifesavers. And yet, imagine what a lifesaver it is to hundreds of millions of our fellow human beings where the difference is life and death, starvation or survival, possessing health or dying slowly of disease. The question should be, Can we really afford not to have a foreign aid program? I do not feel we can.

Senator Vandenberg pointed out in 1948:

> The greatest nation on earth either justifies or surrenders its leadership.

The threat of this thought was continued in the 1963 aid message of President Kennedy:

> The United States—the richest and most powerful of all peoples, a nation committed to the independence of nations and to a better life for all peoples—can no more stand aside in this climactic age of decision than we can withdraw from the community of free nations.

Mr. Chairman, I strongly urge passage of this bill.

Mr. McDOWELL. Mr. Chairman, will the gentleman yield?

Mr. GALLAGHER. I yield.

Mr. McDOWELL. Mr. Chairman, I wanted to inform the gentleman who talked about the item of Metrecal that I am afraid he is sadly misinformed because if he will follow that out to its conclusion he will find that the item Metrecal was never shipped from this country.

Mr. THOMSON of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. GALLAGHER. I yield.

Mr. THOMSON of Wisconsin. Mr. Chairman, when we are back in the House I shall ask to have placed in the RECORD the documents from the AID which show that they billed for the Metrecal. Whether it was shipped from this country is inconsequential, because it was money from the AID that paid for it.

Mr. McDOWELL. But it was never shipped.

Mr. GALLAGHER. Mr. Chairman, the point is that commodity credits are established and unless you have a preaudit on every single item that is being shipped under commodity credit there is no way in which these abuses can be corrected before the act occurs. We have listed certain items that are violations of the regulations. The fact of the matter is that the items the gentleman has just enumerated were on this list. These items were in violation and these countries were billed accordingly.

There has been an inference made that the administration has attempted to withhold information on this very item. The fact of the matter is that it was the AID itself that presented the committee with this information along with the corrective action they had taken to recover the money and also blacklist the companies that had been doing this business. The gentleman who has just enumerated these items was given complete cooperation by the Agency.

He was asked to come down there and all of the bills that he requested were brought forth. The gentleman himself knows that the accounting system down there, and not anyone else, discovered these infringements upon the regulations, and corrective action was taken long before the gentleman made his investigation.

Mr. Chairman, I would like to add that the AID Agency approves for a recipient country an import program, including specific amounts for categories of commodities such as drugs, machinery, chemicals, and textiles, and issues regulations that imports shall include essentials only and not luxuries. Then, in turn, the local government issues import licenses to commercial importers under such a program.

Mr. Chairman, if a violation occurs, it occurs in the free enterprise section of this credit establishment. Therefore, this certainly should not be a condemnation of the AID. In fact what we should do is to applaud the Agency for correcting these violations and recovering for the American taxpayer this money that has been spent in violation of the existing regulations.

Mr. Chairman, it further publishes the rules and takes criminal and/or civil action against importers which make fraudulent statements—and these were fraudulent statements. There are in existence regulations to cover just such infringements as the gentleman would have the members of the committee believe that he discovered. This is just not the case. Therefore, a preaudit situation would impose a heavy blanket of bureaucracy upon any exporter or little importer who would want to take advantage of his opportunity to obtain an export or an import license. Therefore, I believe that the gentleman while he has had some interesting material, he is misrepresenting how this material came to light. It was the agency itself which brought this to light and which had made a full disclosure and which does have regulatory action at its disposal which it is presently using to recover the money.

Mr. ADAIR. Mr. Chairman, will the gentleman yield?

Mr. GALLAGHER. Yes, I yield to the gentleman from Indiana.

Mr. ADAIR. I would like to call the attention of the committee to a chart which appears on page 70 of the report. This chart indicates that in fiscal year 1962 bills were issued in the amount of something over $19 million and collections were effected in the amount of $8.7 million in this type case about which the gentleman is now speaking.

For fiscal year 1963 bills in the amount of $24.7 million-plus were issued, and collections in the amount of $12,474,000 were collected, showing a very substantial balance of uncollected accounts.

Mr. GALLAGHER. I believe it also demonstrates that Mr. Bell is a pretty able bill collector or a better bill collector than previous Administrators and that the Agency itself has been exceptionally good in certain respects in turning up these discrepancies. The fact that there are a number of bills uncollected does not mean that they will not be collected. In fact we are now going through the bill collecting process. I am sure the gentleman will agree that we have made more headway under Mr. Bell and this administration in this field than ever before. I believe this shows great promise that the administration itself has imposed a very strict regulatory action on this type violation. Therefore, the gentleman's figures are correct and I believe they support the administration's attempt to clean up any of these areas where they may be cloudy and to rid the program of any violations that presently exist.

Mr. Chairman, I believe the entire program has been one which has been extremely progressive. It has served well the purposes of the program. I believe Mr. Bell himself has shown a keen awareness of the type of condition that previously existed and that has gone unnoticed. I believe he deserves our praise and our thanks as an extremely able Administrator. The AID has been doing an excellent job.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. ADAIR].

Mr. ADAIR. Mr. Chairman, it has been pointed out earlier today, and I should like to underscore the fact, that the Chairman has certainly been very patient, fair, and in every respect considerate of those of us on the minority side, and especially those of us in the minority of the minority. We appreciate that.

We are also grateful, Mr. Chairman, for the consideration that the gentlewoman from Ohio [Mrs. FRANCES P. BOLTON], as the ranking minority Member, has shown to us. She, too, has been fair, just, cooperative, and helpful, even though our views with respect to this bill do not coincide. So to her also our thanks and our appreciation.

Mr. Chairman, we are here again to consider a bill which has cost at a minimum since 1946 $110 billion. There are those who will find higher figures, as the gentleman from Iowa, if I understood him correctly, earlier this afternoon, used the figure of $120 billion. Of course, this is understandable, because there are so many aspects of foreign aid that the total figure one reaches depends on the various items which are included. But the most recent figures from the Executive now are somewhat higher than those used in our report which, if I remember correctly, indicated an expenditure of $104 billion. I repeat now, the figure to the end of this fiscal year as provided by the Executive is expected to be more than $110 billion.

The question then arises, what have we gotten for this outpouring of money? And are we continuing to give it to countries in the numbers that have heretofore received it? Well, for 1965 our economic aid is to be extended to 73 countries and 3 territories, a total of 76 country and territorial units. That is in the program before us today. But there is a previous year carryover also that will be spent in this next fiscal year. This will go to 10 countries and 3 other territories. So members of the committee will want to have in mind that we will be spending money under present plans on the economic side of this program in 89 countries and territories in the next fiscal year.

That hardly looks like a great retrenchment in the number of countries which are receiving assistance. But to that might be added also those countries which are getting Public Law 480 assistance and are not included in the categories just mentioned. There are four of those and three other territories, to make a total of seven countries and territories which will get Public Law 480 assistance in addition to the pure foreign aid assistance.

So in all of these two categories Members will note that we are planning to extend assistance, in the fiscal year 1965, to a total of 96 countries and territories around the world. That pretty well takes care of most of such countries and territories.

One of the problems which was considered by the committee and to which a great deal of thought was given was this matter which has been alluded to earlier this afternoon, the matter of aid being given by other countries.

Reference has been made to some of the countries, European principally, which do extend assistance on their own account. I think there are some things that need to be kept in mind about those countries.

First of all, the great bulk of that aid is not grand aid, it is loan aid. It is given upon terms much harder than we ordinarily extend our assistance under the foreign-aid bill. Someone has made a calculation as best it could be made and has discovered that most of the loan aid given by other nations is given at rates in excess of 5 percent, far more than ours. It is also given generally for periods of time much briefer than the periods for which we extend assistance. So it is not accurate to say that other nations now are carrying a very heavy proportion of this aid to underdeveloped countries.

I think it is accurate to say that some is being extended, but where it is being extended it is extended largely on the basis of their own national or private self-interest. They do that, if Members will study the record, largely in countries or areas where they have had a history of colonial activity, where they have continuing business connections, so that it is to their national self-interest to extend this sort of assistance.

Along this very same line, one question further discussed in the committee and upon which no action of an amendatory nature was taken was the question of whether or not we should extend aid to nations which then in turn give aid to other nations. The view was expressed that if we give aid to country X and country X then gives aid to underdeveloped country Y, we are in effect simply making it possible for this second country to use the assets of our country to claim credit for assisting the underdeveloped country. I say the committee took no legislative action upon this. There is material in the report which I would commend to the Members of the Committee of the Whole in this connection, because I think as countries other than ourselves, as they give aid of one sort or another to underdeveloped nations, will have to have our very close and continuing scrutiny lest we do find ourselves in the position of the rich uncle who is making it possible for a nephew to make a display of wealth and assistance which is hardly justified.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ADAIR. I yield to the gentleman from Florida.

Mr. FASCELL. I believe the gentleman would like to have the record straight with respect to countries receiving aid giving aid to other countries. Is it not a fact that this matter was considered by amendment before the committee and the amendment was beaten by 22 to 2?

Mr. ADAIR. The gentleman may well be correct. I have forgotten whether the amendment was withdrawn or defeated, but I will agree with the gentleman that it was not successful, whatever the means by which it died, because my memory is not clear on that.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ADAIR. I yield to the gentleman from Iowa.

Mr. GROSS. There were a lot of other amendments that were defeated, too. Will the gentleman agree with that?

Mr. ADAIR. Since the amendment originated with the gentleman in the well of the House now, I will have to agree with the gentleman from Iowa that there were amendments that should have received a happier fate than they did receive from the committee.

Now the matter of the pipeline. Members will observe that it is expected at the end of this fiscal year to be at the rate of about $6.3 billion. This is a modest reduction from last year. It is much higher than the pipeline was in the late fifties. During the period of the Korean war and immediately thereafter, the pipeline was quite large and then in response to congressional prodding, it was reduced. For several years it has been at a plateau at this level of something above $6 billion.

The response to criticism of this is that this money is largely committed or reserved—at least plans are made for its expenditure. But a careful study of the record will reveal that in a very great many cases the money which is programed now never is used for the purposes originally designated. Or there is a great delay. We have accounts which are set forth in the record of the hearings, if my memory serves me correctly, of money that has been tied up for 3 or 4 years and is still not being used.

Therefore, I would say to Members that this is idle money—money that is not needed in the program. It is money which ought to be cut out and removed.

There will be amendments offered. Some were suggested earlier. I would commend them to the Members of the House.

The matter of earmarking funds, both military and economic, for Vietnam, I think, is important. If we mean what we say about giving support to the warfare in Vietnam, then let us show it by earmarking money. Otherwise there is no assurance written into the act that it will be used for that purpose.

Then, Mr. Chairman, there will be amendments offered which will provide Members who think the bill is too high—Members who think the committee should have reduced its dollar value—amendments will be offered which will afford an opportunity to do this.

As was pointed out earlier this afternoon, the committee reported out the bill in the full amount originally requested by the Executive plus the supplemental request of $125 million stated to be for Vietnam. But, I repeat, not legislatively earmarked for that embattled country.

Therefore, I would urge Members to support not only the earmarking amendments which I think are of great importance, but also to support some certain moderate reductions in the dollar value of the bill.

Mr. MORGAN. Mr. Chairman, I yield such time as he may require to the gentleman from New Jersey [Mr. JOELSON].

Mr. JOELSON. Mr. Chairman, I think one of the most significant developments in foreign policy achieved by the United States in the trying months immediately after World War II was the foreign aid program.

We did not patent this invention, and other nations have been quick to see its benefits, which redound both to those who receive and those who give.

If imitation is the sincerest form of flattery, other nations have indeed flattered our aid program.

When President Truman signed the Greek-Turkish aid bill in May 1947, the United States was the only country in the non-Communist world able to provide any substantial help to anyone else. Today, many free world countries other than the United States provide substantial aid to the less-developed nations, and more are undertaking aid programs.

Eleven of these other donors—Belgium, Canada, Denmark, France, Germany, Italy, Japan, the Netherlands, Norway, Portugal, and the United Kingdom—are members, with the United States, in the Development Assistance Committee of the OECD in Europe, the Committee that has become the center for free world aid coordination. These 11 countries account for about 95 percent of the bilateral aid from other than the United States. The other 5 percent comes from six other countries: Australia, Austria, Kuwait, New Zealand, Sweden, and Switzerland.

More aid recipients are becoming donors today. For example, Israel, the Republic of China on Taiwan, and Mexico now provide technical assistance to nations less developed than themselves, although not in a position to grant financial aid.

We have also seen the rise of international agencies equipped to provide technical and capital assistance to the less-developed world, agencies such as the World Bank, the International Development Association, the European Development Fund, and the Inter-American Development Bank. Ten years ago, the World Bank was the only multilateral source of capital for this purpose.

Since 1956, the other developed free world countries have invested more than $13 billion in aid to the less-developed world—about what the United States invested in the recovery of Western Europe through the Marshall plan between 1948 and 1952.

The aid programs of others are increasing steadily in size. By 1960, the total volume of all free world aid commitments had climbed to $6.5 billion, of which 40 percent—or $2.6 billion—came either from multilateral agencies or other countries. By 1962, the total volume of free world aid had increased to $8.5 billion, of which 44 percent, or $3.7 billion was provided outside the U.S. bilateral aid programs.

We no longer face the challenge alone; or with impoverished allies; or without precedent or example in the orderly development of the free world's poor nations. With 17 nations on their feet and self-supporting; with 14 others in Asia, Africa, and Latin America fast approaching that point; with solid growth underway in countries like India, Colombia, Turkey, Nigeria; with other advanced countries helping to meet the challenge of development.

Mr. MORGAN. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. O'BRIEN].

Mr. O'BRIEN of New York. Mr. Chairman, this is the first time in 12 years that I have engaged in the general debate on the mutual assistance bill, and I regret that the position I am taking today will bring me into conflict with a number of distinguished Members of this House whose opinions I respect and whose friendship I treasure.

During those dozen years, Mr. Chairman, I have done a lot of listening. There have been times, after hearing the plight of this country described in dark terms, I have gone out and looked to make certain that the Capitol was still here.

I have heard during the debates during the past dozen years practically every country in the world, including our friends, denounced in various terms—large countries, small countries; every kind of country there is.

I cannot help but think that we are in a sense each year looking at mutual security through a cracked mirror which does not detect only the flaws but gives us and the Nation a distorted picture of the truth.

During these dozen years, under four different Presidents, Mr. Chairman, I have gone along with their requests for mutual security funds; and during 8 of those years our President was a Republican.

I deemed myself a man of courage for so voting, because of the attitudes of some vociferous persons in my district who, after a swift glance at headlines, denounced so-called foreign aid as wasteful, as useless, and even as un-American.

I have now come to the conclusion that some of us who sat on the back benches during these annual debates were not courageous at all. We voted with our Presidents, Republican and

Democratic, but we denied them our voices.

So, Mr. Chairman, I rise today to add the small measure of my oral aid and comfort to the courageous few on both sides of the aisle who have stood here year after year and defended a course which, while unpopular with some extroverts at the end of the bar or in the golf club locker room, was vital to our defense and to our world posture.

So many of those who write to me against foreign aid add a little postscript to their letters—"Give it to me instead. Sacrifice our strength abroad to add a dollar to my pension, to my subsidy, to my tax reduction."

Others say that after spending billions in aid we still have enemies. To them I say that prophets, priests, ministers, and rabbis have been fighting sin for thousands of years, and we still have sin. Should we then tear down our churches and synagogues and let the Devil run wild? We must remember that both the Communists and the Devil have a cute little habit of filling any vacuum anywhere.

Still others say that we who vote to uphold our Presidents are "one worlders." Well, I have a little world which means a lot to me. It contains seven grandchildren. I believe foreign aid makes their world a little safer and, though part of the cost of what we vote will be on their shoulders, I would rather risk a mortgage on their financial future than risk denying to them a future of freedom.

This is a "bare bones" appropriation, Mr. Chairman. Those who fought fat in the past, and sometimes correctly, should realize that the knives which they brandish today are aimed at muscle and bone, at the very heart of something vital to our security.

So, Mr. Chairman, I return to my back seat. My conscience and I are at peace.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I yield 10 minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN].

Mr. FRELINGHUYSEN. Mr. Chairman, as we approach the end of this debate on the foreign aid authorization bill, I believe one of the most surprising things about it is how little serious debate there has been. There have been some very sensible comments from both sides of the aisle, but there has been a matter-of-factness about it, a lack of interest on the part of most Members, which I believe is noteworthy.

I would guess that nothing anyone has said today—and surely nothing I shall say—is going to change a single vote. I myself feel this is probably a good thing. It shows, in my opinion, that the request of the administration for funds for the foreign aid program, which has been thoroughly considered by the Foreign Affairs Committee, is not an unreasonable one.

One point of interest, and a fact that all of us can be thankful for, is that we are considering this bill some 10 weeks earlier this year than the authorization bill was considered last summer. Members will recall that it was toward the end of August when that authorization bill was finally passed, under somewhat heated conditions, and it was not until a 7 a.m. session on the day before Christmas that the appropriation bill itself was passed by the House. So, I think we have made some progress.

Admittedly any foreign aid bill looks somewhat like the one before it. Perhaps that is one of the reasons why there has been some apparent lack of interest here. In my opinion, the amount which is being requested is a reasonable one; it is a relatively small amount. When we talk about billions of dollars in Washington, we tend to discount the fact that these are very considerable sums, but compared to what we spend for direct military support of our own forces, it is a small amount. It is going to fewer recipients than it has in the past. Admittedly, as the gentleman from Indiana [Mr. ADAIR], said, it is no great retrenchment of our program, but there is a concentration of our assistance in areas where the need is greatest.

Admittedly, also, the international situation presents problems to us. Testimony was heard before the Committee on Foreign Affairs just this morning with respect to the situation in southeast Asia, both in Laos and Vietnam. There is, of course, considerable reason for concern about the situation in that area of the world. However, I think we should remember that the frustrations which this country faces today, and must continue to face, regardless of how quickly we would like to resolve them, are going to continue. We must also remember that they are not the result nor the fault of the foreign aid program itself. Indeed, without foreign aid our problems, our relationships with other nations, would be far more serious and the problems which the free world faces would be far harder to cope with.

I myself do not think that this bill we are considering is perfect, I would like to mention a few changes which I think might well be considered favorably. The gentleman from Indiana has discussed the action taken by the committee in authorizing both military and economic assistance for Vietnam. Members will remember that on the 18th of May President Johnson sent a special message to Congress pointing out the necessity for an additional $125 million—$70 million for supporting assistance and $55 million for military aid—to that small country. In my opinion, the President has already specifically earmarked that additional amount of money, if we should make it available. He had pointed out the necessity for providing more money than the administration had previously thought would be necessary in fiscal year 1965. Because this it true and because I think it is highly desirable for this country to back up our policymakers in an area where there is a real test of strength, I think it would not be unreasonable for us to earmark no less than $200 million for economic assistance to Vietnam. It would not mean that this money would have to be used for that country if conditions should change favorably, but it would mean that this amount of money could be used only in that country. We hear the argument that this will decrease the administration's flexibility; but we also hear the argument presented, as it was today, that there is already too much authority granted to the Executive, that there is already too much flexibility confided to the administration. Also, we have specific language in the basic legislation which allows a certain degree of transferability of funds.

In the case of Vietnam I think the situation is somewhat different. As I say, the President has already made it plain that he will spend more money if Congress will make it available. One of the reasons, presumably, that more money was not asked for in March when the Secretary of Defense came before our committee was because the administration thought, for some reason, that they could spend less in Vietnam in the coming fiscal year than they had spent. A few months previous to that, you will recall, there was some talk of withdrawing some of our own armed forces from southeast Asia. Events have proved that this is not likely to develop.

As a member of the committee I thought it unrealistic for the Administration to argue that they would request only $1 billion in military aid, even though $1 billion had not been enough to protect the basic national interests of the country, our own country, last year. It seemed evident to me that we also would have to spend at least as much in Vietnam during the next fiscal year both for military aid and economic assistance. The argument which Secretary McNamara made was that Congress had already made it crystal clear that we would appropriate no more than $1 billion. To my mind that was a reflection not only on the Committee on Foreign Affairs, which had not even heard his case for any spending or what the level of spending should be for the next fiscal year, but it was also a reflection on Congress as an institution. How could we have made it plain that we would not spend more than $1 billion, no matter what the international situation was at the time?

In any event, within 2 months, and after a quick trip to Saigon, Secretary McNamara came back and said in effect that he had made a mistake, that they needed more money both for economic and military assistance. The committee decided to give him this additional money. The committee report on page 21, referring specifically to economic assistance, indicates that we feel this money is to be spent in Vietnam. Yet there is no legislative requirement, as the gentleman from Indiana has pointed out, that this money be spent in that country.

The argument can be made that the crisis may not materialize as it seems to be developing now, and that some other area of the world may need money so therefore we should not tie the hands of the executive branch. My answer to that contention is that if some unexpected development occurs and money cannot be found, either in the contingency fund or in some section of this bill, that the administration should come back and request additional funds, as it has just now, with respect to Vietnam.

One other amendment is somewhat less significant but it also deserves attention, and that is with respect to the Advisory Committee on Private Enterprise. This, you will recall, was authorized in the bill as it passed last year. As it stands now this new advisory committee, which is concerned with ways in which private enterprise can find means of expression overseas, is to submit a report no later than December 31, 1964. It is my understanding that the advisory committee only now has been established, with a chairman and a distinguished group to support him. It is my hope that we will allow the final report of this advisory committee to be submitted no later than June 30, 1965, in order to give them further opportunity to consider this matter.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the Chairman.

Mr. MORGAN. Mr. Chairman, I want to say that I am in perfect agreement with his proposal. I think the extension should be granted and if the amendment is offered tomorrow, I shall be very receptive to an extension of the time for the committee to report.

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for his comments. I might say also that I am considering an amendment which would include an increase in the total amount to be authorized for the use of the committee from $50,000 to $100,000, because the budget of that committee has only now been established.

Mr. MORGAN. Mr. Chairman, if the gentleman will yield further, I think also that the funds for the committee should be increased from $50,000 to $100,000. I think that the committee, now that it has been appointed, should have the money and the time necessary to complete their study.

Mr. FRELINGHUYSEN. I thank the gentleman. During the discussion tomorrow I hope I will have time to indicate the way in which the committee would plan to spend this additional money, if it be made available. As I say, there was no formal budget prepared because no committee had been set up when we authorized the establishment of the committee last year. However, we do now have additional information which indicates that a budget of roughly $100,000 will be needed for the first year.

Mr. Chairman, in conclusion, I should like to add my words to what has already been said by others with respect both to the chairman of the full Committee on Foreign Affairs, the gentleman from Pennsylvania, Dr. MORGAN, and the ranking minority member, the gentlewoman from Ohio [Mrs. FRANCES P. BOLTON]. They have been models of propriety in every way. They have been fairminded and evenhanded and have provided a needed balance. When we have discussed matters which are of considerable significance, but which sometimes become controversial, I believe they have contributed much to what I consider a good bill, and one on which I hope to see favorable action tomorrow.

Mr. MORGAN. Mr. Chairman, I ask unanimous consent that the gentleman from Tennessee [Mr. FULTON] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection?

Mr. FULTON of Tennessee. Mr. Chairman, in the past our foreign aid program has had my support because of my belief that the assistance it renders is essential to the implementation of our foreign policy. However, I am becoming increasingly concerned by the apparent need for improvements within the program.

A basic shortcoming is that the United States, because of the program's structure, does not receive full credit for its many accomplishments. This can be attributed, in large part I am convinced, to the shotgun method of providing assistance grants and loans to recipient nations.

Too often these American dollar programs are made to foreign governments which, in turn, allocate the dollar exchange to importers, some of whom use this money for current consumption imports. An example of the results of such programing can be illustrated by the case in which a university in my own congressional district has had great difficulty in arranging for a $20,000 physics institute in Brazil while, at the same time, program loans under foreign aid are being made to that nation but are not tied to specific visible projects and, in effect, are essentially balance-of-payments loans.

Another result of the current administration of the aid program is the continuing lack of a system of priority in planning and programing aid projects and funds. We cannot possibly do everything for every nation. But, I fear, too often we attempt to do too much under the present crazy patchwork of assistance with the result being ineffectual.

Serious consideration could be given to separation of administration of the economic and military programs as a means to greater efficiency at less cost. The Military Establishment of this Nation is under the management of the Department of Defense. Might not Defense properly be the agency to administer this aspect of our foreign assistance thus relieving the Department of State and Agency for International Development this heavy responsibility while enabling them to concentrate their efforts to more efficient and meaningful economic programs?

What we can and must do through foreign aid is prove to all the nations of the world that freedom and free enterprise not only can but are willing to lead all peoples to the great society of tomorrow.

I am told by our atomic energy scientists that we may be on the verge of a great breakthrough in the desalinization of sea water through atomic energy. What greater showcase for democracy could exist than one of these great desalinization plants, bearing the stamp "Made in the U.S.A.," converting the waters of the Mediterranean and feeding them into the parched deserts of the Near and Middle East turning these wastes into habitable and arable lands?

There can be no doubt that our foreign aid program today is at ebb in the tide of American public opinion. This is due to a lack of understanding on the public's part of the program's goals and achievements.

There is concern that our aid dollars are being used to shore up feudal economies in backward lands where a ruling elite or military strongman maintains a dictatorial stranglehold over all national institutions with no wish nor reason to strengthen the economic or social system of the country so that all, not just a fortunate few, may enjoy a better, longer, and happy life.

There is concern that too often our foreign aid funds never reach the people but fall into the hands of privateers, black-marketeers, and greedy, corrupt government officials.

There is a concern that we are attempting to "buy friends" when in actuality, as I understand it, our ultimate goal is the strengthening of the free world's economic and social development in order that all free peoples may become our partners in prosperity and abundance.

We cannot realize this goal on other than our own terms. Our aid must be made available, not to all who seek it, but to all who are willing and able to put it to its proper use.

This foreign aid request has been trimmed to $3.5 billion, a significant reduction from the $4.9 billion originally requested in 1963. The administration, the Agency for International Development, and the chairman and members of the committee are due our commendation and appreciation for this fine start.

It is my hope that further reductions can be made in the future. They can be if we will tailor our foreign aid program to the needs of this and future decades and abandon those very effective but now outmoded and outdated procedures and methods of the immediate post-World War II era. By instituting reforms, by tightening administration, by cutting redtape we can make American foreign aid a genuine instrument of free world progress and development while, at the same time, we will certainly restore public confidence in our AID program.

Mr. MORGAN. Mr. Chairman, I yield 10 minutes to the gentleman from Minnesota [Mr. FRASER].

Mr. FRASER. Mr. Chairman, included in the report of the Foreign Affairs Committee on the bill now before us is the minority report signed by a minority of the Republican members of our committee.

This minority report, Mr. Chairman, is a remarkable document. Perhaps it can be disregarded as the discordant note sounded by the few whose views failed to carry the day. Yet the persistence of the theme of these dissenters merits some discussion on the floor of this House.

Mr. Chairman, I have read and reread the minority report several times. Here are three conclusions which I believe to be merited after reflecting upon this interesting document:

First. The minority report fails to set forth any comprehensible statement of purposes to which an American aid program should be addressed.

Second. In its bitter attack upon the administration's efforts to weaken the ties of Eastern European countries to Moscow, the minority report finds itself in agreement with the views expressed by Moscow.

Third. If Congress should be persuaded to follow the recommendations of the minority report, the national security of our country would be impaired, the cost of our national defense would rise, and the likelihood of more "hot wars" in which American lives are lost would be increased.

Mr. Chairman, I want to take a few minutes to document these conclusions.

First, the report lacks any understandable statement of the objectives of aid. Perhaps the authors of the minority report could be excused from this task on the grounds that the supporters of aid have the affirmative obligation to outline these objectives. The minority report does not let the matter rest there, however.

In its conclusion on page 74 the minority concludes that our aid programs have accomplished nothing. What is more, they say, the difficulties NATO is having today and the lack of a common NATO policy toward Cuban trading are explicit failures of the American aid program.

Is this a fair test to impose on our aid program? Is its success or failure to be judged by the extent to which our allies see eye to eye with us on the myriad problems which beset this world? To ask the question is to suggest the answer. Aid was not to—and cannot—serve as a yoke upon the necks of our free and independent allies who are as proud of their right to determine where their national interests lie as are we. Every President of the United States since World War II has made it abundantly clear that the aim of America's aid to other nations is to enhance their ability to be free—free of totalitarian systems and free to pursue their own national destinies.

Yet the authors of the minority report, apparently, would have preferred to see Europe submerged by international communism after World War II rather than give them Marshall plan aid, since such aid could not reasonably lead to a community of western nations which shared an identical view of world problems.

The degree of irresponsibility exhibited by the reasoning in the minority report can hardly be overstated. If the authors beg off such a drastic conclusion, then in fairness to this House they should affirmatively state their views on the proper role of aid and the realistic goals to which they believe it should be directed.

Second, the minority report joins with Mr. Khrushchev in deploring enlarged contacts and trade between Rumania and the West. The complaint of the minority is expressed on page 73, while the complaints of Mr. Khrushchev and company have been spread across the pages of our newspapers for the past several weeks.

The similarity of the views of the minority with those of Mr. Khrushchev do not prove, nor should they even suggest, that the authors of the minority report are seeking to aid the cause of the Kremlin. On the other hand, one would expect that the minority would at least pause and reexamine their premises before pushing forward with their condemnation of any encouragement to some of these Eastern European countries to break the solidarity of the Iron Curtain countries with Moscow.

In truth, Mr. Chairman, I have never been able to understand the views of those who would force a country like Yugoslavia to turn away from the West and back to Moscow. Our struggle with international communism is based both upon moral and military considerations. We do not have six divisions of American boys in Europe to protect against the moral threat. Those men in uniform are there to block any aggression from the East. For us to impose upon the satellite nations a dependence upon Moscow which they seek to escape, would serve to increase the military threat to the West.

Such policies—advocated by the authors of this minority report—would obstruct Western efforts to let the fresh winds of freedom blow across Eastern Europe in the hope that increased freedom would prove irresistible over the long run. The entire effort of Radio Free Europe, and the efforts of our Government through agencies such as USIA, are designed to raise questions in the minds of those behind the Iron Curtain—yet when more open contacts with the West are offered, the minority would condemn any favorable response on the part of our Government.

Yugoslavia, a favorite target of these critics, closed its borders to Communist insurgents during the battle for Greece. What would we give today if Cambodia would close its borders to the Vietcong in South Vietnam? Yugoslavia has never joined the Communist trade organization or the Warsaw Pact, the counterpart to NATO. USIA libraries are permitted in that country.

Do the authors of the minority report really want to force Yugoslavia to retrace her steps and become an integral part of the Moscow-controlled satellite nations?

In any event, Mr. Chairman, none of the aid in this bill is scheduled for any of these Eastern European countries.

Third, the minority's position would endanger our national security, raise the costs of our defense, and increase the liklihood of more "hot wars."

Inadvertently, the minority reports make the case. On page 75 the reports state that "sufficient military and economic assistance funds should be earmarked solely for use in Vietnam."

The plain inference to be drawn from this statement is that insufficient military and economic aid should be provided for other nations looking to us for help.

Lest the authors of the minority report disclaim such an inference, let me point out that this is precisely what they call for in their recommendations. They call for a substantial reduction in economic aid funds. They do not tell us where, or how much.

Are the cuts to come from Africa, which receives only 7 or 8 percent of the aid program and consists mostly of technical assistance?

Do they propose that aid should be cut from the Middle East where a tinderbox of emotions continually threatens to spark world war III?

Are the cuts to come from the Alliance for Progress, thus demonstrating to our friends in Latin America a high degree of unreliability?

Or are the cuts to come from the forward defense nations ranging from Greece and Turkey, Pakistan, India, and Laos to Formosa and Korea?

The minority, of course, will argue that there is plenty in the pipeline. Yet how many of them voted to cut defense appropriations on the basis that the Department of Defense has 30 billions in the pipeline?

These obligated but unexpended pipeline funds are not available to start new programs. They have been committed in prior years to programs and projects needed to advance the economic development, military security, and political stability of the recipient countries.

The minority report would have us, presumably, having entered into these commitments and agreements, withdraw these funds and reuse them. Would it have us then withdraw them once again, commit them to other projects on and on in some endless chain of broken commitments? Is the report suggesting that the United States should renege on its promises, deny our reputation for honest dealing with our friends and allies?

These funds remain unexpended because a dam cannot be built by signing a loan agreement, a powerplant cannot be constructed simply by depositing funds in a bank, roads cannot be built simply by extending a credit. Once the funds are committed by the U.S. Government to the countries who are receiving assistance, we are committed to finish that project even though it may take several years, as it does, even in this country. These funds cannot be called back and used elsewhere.

The basic point about the foreign aid pipeline in 1964 is that in every category of assistance but one—the Alliance for Progress—the pipeline is lower in 1964 than it was in 1963. In fact, the total pipeline, military and economic, is substantially lower than in 1963.

Mr. Chairman, I assume that just as last year those who signed the minority report will offer motions to cut funds during the debate on this bill, or as part of a motion to recommit. The most revealing act last year came when these same members, after winning a substantial cut in the program, voted against passage of the reduced bill. In short, they have demonstrated that their goal is to kill the aid program. This is their aim, and their persistent and erratic criticisms of the aid bill are designed, not to improve the aid program, but to gut it. It is unfortunate that these critics cannot offer the type of constructive criticism which was contained in the report of the Republican Issues Council.

Mr. Chairman, I believe this House should be fully informed of the effect that total destruction of the aid program—the goal of these critics—would have upon our national security. A number of witnesses told our committee what this effect would be:

> Question (p. 35). If we kill this bill we, in effect, kill the major part of our effort in South Vietnem.
>
> Secretary Rusk. Yes.
>
> Question (p. 35). This would also be true in your efforts to maintain Laos in its precarious situation. The termination of the aid effort would be giving up in Laos.
>
> Secretary Rusk. Yes; where we and about five other countries have been providing the external economic assistance that Laos has to have to survive as a country.
>
> Question (p. 36). Mr. Secretary, if we kill this bill, we kill the Alliance for Progress, isn't that right?
>
> Secretary Rusk. I think there is no question about it.
>
> Question (p. 36). With respect to the Middle East, if we are to kill this foreign aid program and terminate all aid to the United Arab Republic and the other countries in the Middle East, would it be your judgment that this would increase the likelihood that a war might break out in that part of the world?
>
> Secretary Rusk. I think it is entirely possible, but before that would almost certainly come a stage where the Middle East would almost against its will find itself turning to the north, turning to the Communists. If we are not in a position where we can work with them day by day, despite some of the known difficulties, to help in the face of the difficulties pushing upon them, that Western influence in the Middle East would disappear and that, itself, could move us down the road one more step toward a war.
>
> Question (p. 36). I noticed one statement of an official in the executive department that suggested that killing the foreign aid bill program would amount to a form of unilateral disarmament. Recognizing the limitation of that statement——
>
> Secretary Rusk. Yes; indeed. I think that for us to back away from a strong and effective foreign aid program would have a vaster effect on our security than a substantial measure of unilateral disarmament.
>
> Question (p. 80). * * * I think there is a substantial body of opinion that would have us terminate our aid program. What effect would this have on the whole leadership role——
>
> Mr. Bell. Obviously, I personally, and I am sure anybody speaking on behalf of the executive branch, would regard it as disastrous. Terminating the aid program would mean we would pull out of Vietnam. This is all there is to it. The efforts we are making in Vietnam are supported by the funds in this bill. We would be pulling out of Laos. We would be pulling out of Thailand, the whole of southeast Asia, the whole effort we are making in that part of the world is essentially an effort under the authority of this bill. * * * Nevertheless, the underlying security position of all of the free world rests very heavily on the assistance we are providing for the development of defensive and economic strength in the Indo-Pakistan subcontinent. * * * In a number of African countries the effects would be less severe. * * * In Ethiopia any cessation of U.S. assistance would have immediate and very severe effects. * * * If we stopped our help, their alternatives would be very limited.
>
> Question (p. 529). Would a substantial cut in the supporting assistance, in your judgment, impair the efficacy of the billion dollars that we are proposing to spend for military assistance?
>
> General Wood. Yes, sir. It would.
>
> Question (p. 712). Admiral, we carried this last year, I think—this foreign aid—by some 20- or 30-vote margin. If we were to defeat this bill this year—and we are always running a close margin—this, in effect, would mean the end of our efforts in Vietnam, at least so far as the economic aid and the military assistance program is concerned.
>
> Admiral Felt. If the bill is defeated. That would be the beginning of the end of our forward strategy.

Mr. Chairman, the minority report deserves some further comment beyond that which I have already made. I believe that the House should have an opportunity to hear about some of the other weaknesses which pervade this report.

The minority report seems to suffer from an excess of misinformation and self-contradiction. The report charges that the aid program has not been hard-nosed in providing its assistance. The report then turns around and attacks the aid program for the use of program loans—one of the most effective ways of conditioning assistance to effective self-help and reform on the part of aid recipients. The minority report contains its usual pious talk about the importance of promoting private enterprise, but then seems to attack the Cooley loan program under Public Law 480 for lending money to U.S. private enterprise, instead of providing more for U.S. Government uses abroad, or instead of merely giving away our surplus agricultural commodities.

In another place the minority report is just dead wrong. For example, the reasons enumerated by the minority report for their dislike of program loans are as wrong as the conclusion itself. The minority report implies that program loans do not require detailed technical, financial or economic feasibility studies under section 611 of the Foreign Assistance Act. The minority report is wrong. Standards of section 611 which require cost estimates, engineering surveys, financial and other technical plans to be completed satisfactorily before loan funds can be obligated, apply equally to program loans as well as project loans. No program loans are made without completion of a careful review under the provisions of section 611 of the act.

The minority report charges that the United States does not receive credit for or become identified with assistance provided under program loans. Again the report is wrong. Most of the U.S. equipment and commodities imported under program loans are clearly marked as being AID-financed. Indeed, if one were concerned only with "visibility," it seems to me that program loans would increase the visibility of U.S. assistance because these imported commodities are spread throughout a country to various private enterprises and thus becomes "visible" to more people than a project that is located at one place.

The minority report implies that program loans promote the import of luxury items to recipient countries. Again, the facts contradict the charge. Program lending is limited to a few countries which have undertaken sound development planning and which have achieved successful self-help measures and reforms which enable them to make real development progress. One measure of such self-help is the limiting of luxury-type imports that can come into a country and the insistence on careful use of the country's scarce foreign exchange resources to promote development. It should be noted also that luxury items are specifically excluded from direct financing under AID program lending.

The minority report charges that much of the program lending is used for current consumption imports. The facts are, as I stated a minute ago, that program lending is limited to those countries which are doing an effective job of limiting their imports of current consumption goods and luxury items and are using as much of their scarce foreign exchange as possible to promote economic development.

The minority report quotes at some length a "highly respected private witness" who attacks program lending. That same private witness elsewhere in his testimony praised heavily the AID financed "private investment fund" in Columbia. The witness either did not know or did not mention that this private investment fund is financed by an AID program loan. Indeed the minority report does not mention at all the fact that one good reason for using program lending is that program loans assist private enterprise in the developing countries by providing them with the U.S. equipment and commodities necessary to maintain and expand their own production.

I do not know how other Members feel, but for myself, I think it is more useful for the aid program to undertake activities which really do help build private free enterprise in the developing countries, than to merely mouth pious platitudes about the importance of private enterprise.

Perhaps the strangest part of this strained attack on foreign aid is the minority report charge that bilateral "economic aid should not be given the countries that are giving economic aid directly to other countries. Most of the other free world countries which are providing assistance to less-developed countries are in Europe. None of these European countries receive AID economic assistance and have not for some time. It is true that China, Mexico, and Israel have begun to carry out technical assistance activities and that they received AID economic assistance. The amounts of such assistance to these three countries have declined in recent years as they have achieved capability for self-sustaining growth. Perhaps we should discourage other nations from providing foreign assistance. Perhaps we should tell the Israelis and the Chinese to stop providing aid or we will cut off our assistance even sooner than anticipated. But it seems to me that the beginning of an aid program by these first less-developed countries which have achieved self-sustaining growth themselves is a hopeful and promising sign for the future. This suggestion in the minority report that we should discourage others from giving assistance is one of the most incomprehensible suggestions I have seen in my short stay in the Congress. The administration wants to get to the moon by 1970. It seems to me the minority report is already there.

One short note in passing. I suggest that the people who put together the first part of the minority report should check with the people who put together the last part. On page 73 the report notes with some dissatisfaction that "United States makes loans with no interest and only a service charge of three-fourths of 1 percent." On page 50 the report notes correctly that the minimum interest rate on development loans is now 2 percent.

There is one ray of hope in the minority report. In its conclusions the report states that if U.S. assistance had been hardnosed in earlier years, all would be well with the world, that the vexing problems of foreign affairs at least in the underdeveloped world would have all disappeared.

Today it is clear that our aid is dispensed in a hardnosed fashion. For example, when Brazil did not live up to the self-help provisions of the Bell-Dantes agreement, U.S. aid was withheld. I believe that this hard-nosed approach is necessary and I believe that this administration and Mr. Bell should be commended for it.

Perhaps with a little clearer understanding of our aid program its critics will come around to support it. It needs their support. Attacks by half-truths and innuendo on our foreign aid program cannot serve anyone except those who would succeed most by America's failure in world affairs.

Mr. MORGAN. Mr. Chairman, I yield 5 minutes to the gentleman from Hawaii [Mr. MATSUNAGA].

Mr. MATSUNAGA. Mr. Chairman, it seems to me that too many of us have the notion that the foreign-aid program consists of putting a bunch of dollar bills in bales and shipping them overseas.

When we talk about foreign aid, we should not be talking about dollars only.

We should be talking about a program which helps the less fortunate people of other lands to learn better ways of building things, better ways of growing things, better ways of educating their children, better ways of improving public health, better ways of public administration—and in general, better ways of living.

American goods, services, and technical skills, rather than U.S. dollars are being made available to the less developed countries in our cold war against communism.

For the desperately poor people of these countries, we should not begrudge sharing American know-how.

Foreign aid deals with real people, down-to-earth problems, and practical solutions. Let me give a couple of illustrations.

Nigeria is the most populous country in Africa, with about 55 million people, most of whom live under primitive conditions. One of the major needs in Nigeria is for more protein in the diets, and one of the best ways to provide protein is through poultry and eggs. But until recently the local chickens were weak and scrawny and the local eggs were small and scarce.

Three years ago, an American agricultural specialist named Charlie Davis, from Mississippi, went to work on this problem. He got a group of Nigerian farmers together and offered to start them off with some improved poultry stock if they would care for it properly. Together he and the Nigerian farmers worked out simple, homemade incubators and brooderhouses. Davis brought in 1,300 baby chicks from the United States, and the farmers started to take care of them. Together, Davis and they solved one by one the problems of keeping the chickens alive and healthy. The farmers started marketing eggs and chicks. More farmers became interested. Today there are some 200 commercial chicken farmers in eastern Nigeria where only one existed before 1960. The eggs now sold there are much larger and many times more plentiful than before, and their cost has been cut almost in half.

The most important part of that story is not simply the increase in production and the larger distribution of poultry and eggs at lower prices. Those are valuable, it is true. But the most important part of the story is that the ideas and know-how that made these gains possible are now planted firmly in Nigeria, and the multiplication of better poultry-producing techniques and better nutrition for the people of that country can now go farward on a self-sustaining basis. Charlie Davis—known all over Nigeria as "Chicken" Davis—has, like Johnny Appleseed, sown a crop which will be harvested for generations to come.

That is an example of foreign aid at work—an American technical adviser helping people in an underveloped country to learn to meet their own needs in steadily better ways.

Let me cite you another example.

Throughout Latin America, surplus agricultural commodities from the United States are being used to feed schoolchildren. Some 10 million—about one-third of the schoolchildren in Latin America—are being fed under the "Alianza para Los Niños"—for many of them the only hot meal they receive. The effects of the school lunch program are frequently startling. A group of schoolchildren in northeast Brazil gained an average of 10 pounds each during the first 3 months. In country after country, the reports show the dropout rate has fallen sharply when school feeding is available.

This is a case where everyone gains. The children gain in nutrition and in education. The United States makes good use of commodities which would otherwise be idle in surplus. And millions of mothers and fathers in Latin America know that the Alliance for Progress means something direct and immediate for their own children.

That is another example of foreign aid at work—American surplus agricultural commodities being used to help meet human needs in our less-developed neighboring countries.

We could examine hundreds of illustrations of foreign aid projects.

U.S. foreign aid provides radio sets—made in Texas—which are used to call for help from the Vietnam villages when they are attacked by Communist guerrillas.

U.S. foregin aid provides technical advisers from the U.S. savings and loan industry to help establish savings and loan systems in Chile, Peru, Ecuador, and other Latin American countries—allowing tens of thousands of Latin Americans for the first time to buy homes on decent interest rates under long-term mortgages.

U.S. foreign aid provides a group of professors from the University of Illinois to help establish a land-grant college in the Province of Uttar Pradesh in India, where agricultural yields are one-quarter or one-fifth of what they are in our Middle Western States.

U.S. foreign aid provides a few dozen diesel engines for the fishing boats based in Karachi harbor, in Pakistan, enabling the fishermen to stay out at sea twice as long and to bring their catch in for the first time on a reliable timetable.

These examples I trust will make my point clear. When we think of the U.S. foreign aid program we should think not of U.S. dollars going abroad, but instead of U.S. goods and U.S. technicians being sent to specific places for concrete purposes. You should think of practical, down-to-earth activities like building schools, roads, and powerplants, showing farmers how to grow more food, training doctors and engineers, tax collectors and policemen—in short, help to create the skills and facilities with which the people of the less developed countries can solve their own problems.

Our foreign aid program is clearly in the interest of the United States and the entire free world and merits the support of every thinking American.

Mr. MORGAN. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. O'HARA].

Mr. O'HARA of Illinois. Mr. Chairman, I want to believe that nations as well as individuals find the chart of their destiny and the cup of their contentment in erecting roofs over homeless families and putting food into hungry mouths. Mr. Chairman, I am moved to make this observation both by the nature of the issue we are discussing and by the fact that today presiding over the Committee of the Whole and perhaps, but I hope not, for the last time, is a beloved Member of this body who has put more roofs over more American homes and families than any other man in our history. It was my privilege a number of years ago to serve with the distinguished gentleman from Alabama [Mr. RAINS], on his great Housing Subcommittee when it was first created.

I know of the condition of housing in America at that time and I know what it is today.

Mr. Chairman, when you leave this Chamber voluntarily on the sine die adjournment of the 88th Congress the eyes of all your colleagues will be moist with tears. You will leave here, sir, esteemed by your colleagues as one of the ablest Members who ever served in the House of Representatives. And you will be missed, Mr. Chairman.

Mr. Chairman, I suppose that foreign aid is a part of the seed of our hemispheric discovery and our national development. I presume it is.

The greatest investment in foreign aid was made by Isabella. Yes, there were those in Spain who said, "That is a reckless investment. You do not know where you are going. You are going to squander the money of the taxpayers of Spain." But Columbus was a dreamer, and I believe, Mr. Chairman, that Isabella was a dreamer. When she said "Yes" to Columbus she embarked on the world's greatest adventure in foreign aid. I believe she dreamed of what was to come. Yes, perhaps she dreamed even of us as we are today. For, Mr. Chairman, all the people who have turned the tides of history have started as dreamers.

Yes, there were the doubters sailing with Columbus. They were perplexed. They could not dream unless they had a soft and comfortable pillow for their heads, but they could complain and demand to go back.

May I address myself to you, Chairman MORGAN. I believe some of the sailors sailing with Columbus who wanted to throw him overboard and go back to Spain were the same kind of doubters as some on our committee—great, fine people, but they wanted to turn back, to turn back, to turn back when we have all but won the day.

Let me read from Monday's newspaper. This is an Associated Press dispatch from Monday's newspaper. It says that repayments are reducing U.S. outgo for foreign aid.

Is there any failure in that, Mrs. KELLY? No. Any failure in that, Mr. GALLAGHER, and Mr. MURPHY, and Mr. FARBSTEIN? No, no, no.

I go on reading from the Associated Press dispatch of Monday of this week, as recent indeed as yesterday:

> Based on the postwar repayment record to date the United States seems likely to get back a very large proportion of the welfare loans for foreign aid.

Now, listen to this. "Plus billions of interest." Listen to it again, the complete sentence:

> Based on the postwar repayment record to date the United States seems likely to get back a very large proportion of the welfare loans for foreign aid plus billions of interest.

This is the record as of Monday of this week, yet the gentleman from Wisconsin comes here and wants to turn back. He went over to the AID office and found there had been a little slip or two there and somebody had made a mistake. They had found those little items totaling a few thousand dollars out of billions handled. He wants to turn back, just like those fainthearted crewmen of Columbus.

My good friend from South Dakota charged everything under the sun, including rotten beef, to the AID program. Everything. There was not a thing he left out.

Here the dear old Associated Press sort of makes monkeys out of them. I do not mean that any colleague of mine is a monkey, none is certainly that; it is only that this Associated Press dispatch makes it sort of look that way, and that would be as far from the truth as one could get.

Mr. Chairman, I am a simple kind of fellow. I guess I am what they call an old-fashioned American. I have always believed in the President of the United States. I have always believed in him; I do not care who he is. When he is President, there is only one thing ahead of him, and that is his place in history. He is dedicated to making that a fine and honorable place. When I lose faith in the President of the United States I will have lost the very soul of my patriotic love of country. I will never live to see that day.

So, on this committee I have always voted, when the President of the United States took a stand on foreign policy, to support the President. Every vote of mine on the Foreign Affairs Committee—whether Eisenhower was President, Truman was President, Kennedy was President, or Johnson—has been a vote standing with and behind the President of the United States. I do not know any other way to act. If politics does not end at the waterline, there will be trouble aplenty ahead.

Now we have a new President. He has come to us with a reduced program involving not much money—not as much as I would like to see in it, and not as much as they had to work with last year after my good friend, the gentleman from Louisiana [Mr. PASSMAN], had finished with it. The President Said:

> Give me this, and I will do the best I can with it. I'll make every penny count and try to get two pennies worth of work and results out of every penny spent.

Why, Mr. Chairman, we ought to show confidence in our President.

We ought to go along with that kind of economy and that kind of efficiency.

I am going to show the same confidence in our President now that I showed in the President when he was a Republican. That is the kind of Americanism I believe in, old fashioned though it may be.

I am going to vote and I hope that this House will vote for this bill exactly as it is. Do not reduce it a cent. I would not accept an amendment, no matter how good the amendment might be. I would not do that because I want to say to the President of the United States, "You have made our foreign policy; this is a troubled world and we have confidence you will lead us out of the dangers. Lead, Mr. President, and in faith and national unity we will follow. Here is your bill. We have not changed a single line of it."

Then, Mr. Chairman, and I say this with reverence, I think the good Lord above us will say we have done a good day's work for our country and for all mankind.

Mr. Chairman, I yield back the remainder of my time.

Mr. DUNCAN. Mr. Chairman, I intended to speak in support of this bill today. I have, however, just heard the very moving speech of the gentleman from New York [Mr. O'BRIEN]. I shall content myself, therefore, with saying "Amen" to the reasons why this bill should pass which he has so eloquently expressed.

Mr. EDWARDS. Mr. Chairman, one of the hardest realities of our time is the rapid rate of population growth, particularly in many countries struggling for modernization and independence.

The magnitude of these problems of population growth is easily seen, for example, in Latin America as it is and as it may be by 1975. This, I would remind you, is not a remote future. The year 1960 was 4 years ago; the year 1975 is 11 years ahead. The population in 1975 is likely to be half again as large as it was in 1960, making an increase of 50 percent in only 15 years. Numbers of children in elementary school ages will be 60 percent more numerous in 1975 than they were in 1960. Schools and teachers must be provided for children not now in school—and expansion must be rapid enough to provide for ever-increasing numbers. Numbers of men in the working ages are increasing 15 percent each 5 years. There are three entrants to the labor force age for each one that leaves.

Given the facts of population growth in the developing countries not only in Latin America, but in Asia, Africa, U.S. policy has faced upon to the situation.

We now base what we do and say in the foreign aid program on a concern for human well-being, and on facts uncovered by studies of relations of population growth to economic and social development as well as on results on biomedical research program now under way.

We recognize that there are many problems related to rapid population growth—the effect on many facets of the economy, unemployment, urban problems, needs for additional food, housing, education, health and social services, on political aspirations of various groups, and so forth. There is no one solution to these problems which are obviously related to many factors beside the size of the population. A balanced program to raise the plans of economic, social, and family relationships is needed both at home and abroad, and this is where our economic assistance is so vital.

Finally, we recognize that the decisions as to population policies and their implementation in other countries are to be made by individual countries and families in accord with their own needs and values. This is true in our own country, too. There is an ever wider recognition of both artificial and natural methods of regulating pregnancy and they are increasingly being made freely available to all segments of the population. The U.S. Government feels it desirable that all health facilities supported by public funds shall provide such freedom of choice so that persons of all faiths are given equal opportunities to exercise their choice without offense to their consciences.

Our Government realizes that there are major needs for further knowledge in all fields related to population. Particularly needed are the specific relations of population growth to many phases of economic and social development, the means of extending awareness of population problems, changing motivations, judging the effectiveness of various administrative organizations designed to cope with population problems as well as much more action research in the field of natural and artificial methods of regulating pregnancy. There is obvious need to expand as rapidly as scientifically feasible research laboratories devoted to the biomedical and biosocial aspects of human reproduction.

And finally in accord with our Government's support of the United Nations, its regional commissions, and specialized agencies, as well as the tradition of governmental cooperation with private groups and friendly governments we stand ready to work cooperatively with such groups.

Each of us sees population problems largely from his own vantage point and each believes in his solutions. The specialized health worker in the family planning field pushes ahead on developing and applying acceptable methods of limiting family size. The agriculturalist despairs of reducing the rate of population growth rapidly enough and so enjoins everyone, quite properly, to increase agricultural productivity forgetting that it takes time as well to change age-old farming habits in tradition bound societies. Industrial development, postponement of the age of marriage, self-help, and education are held out by others as solutions but they, too, take time. Another argues for migration as a solution. Let us accept the fact that there is no one answer, no one program for action.

We cannot ignore the problem of population growth. It is serious and it must have the serious, practical and sensitive attention now being given our official policies. But neither can we rely on population control measures as a cure-all. If the developing countries are to continue their advance from poverty and desperation they need our help on every front: our technical assistance to improve their education, their health, their agricultural productivity; our loan programs to provide the powerplants, irrigation systems, roads and other basic capital for further growth; and our attention and our tactful help to helping others solve the problem of population growth. If we believe we can relax on any of these fronts, we deceive ourselves.

Mr. LIBONATI. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. LIBONATI. Mr. Chairman, H.R. 11380, the Foreign Assistance Act of 1964, as amended further relative to the fiscal year 1965: Chairman THOMAS E. MORGAN and his committee, after numerous hearings—26—and receiving expert witnesses, executives, and Members of the Congress, are to be complimented in remaining consistent in the support of our foreign policy in giving economic and military aid to our allies who are combating the inroads of communism at the local and national levels.

H.R. 11380 appropriates $2,041,600,000 new funds to carry out the foreign aid program for 1965. This with sums previously enacted totals $3,516,700,000 for foreign aid for ficsal 1965.

The U.S. strategy in granting this aid has resulted in a standoff blocking of the conquest of nations and territories adjacent or at proximate distances from Communist dominated countries. The confidence inculcated in the peoples of these nations through the foreign aid program has become a bulwark of opposition to Communist conquest. These contributions and loans to needy nations have served to strengthen their economy, build their military resistance, raise their standard of living, improve their natural resources, cultivate their agricultural production, advance their cultural and material status.

Many of these nations could not financially support the large military forces needed to repel enemy forces. The loans to the Alliance for Progress have contributed much to the advancement in housing programs, and technical assistance, to say nothing of public projects, so necessary to the development of the nation's economy, both in industrial and agricultural production. Also the advancement of guarantees and credits have resulted in the attraction of many millions of dollars of private capital for purposes of investment.

The narrower limitations of last years bill resulted in the delay of many projects both in being and on the drawing boards. The committee sought to remedy this stalemate in order to further our cold war strategy.

The military aid provides military support that if not given would necessitate vast armies of American personnel to take the place of native sons who at the present time face the enemies of freedom.

Chairman THOMAS MORGAN and his distinguished committee have accomplished in this great task our steadfast adherence to a fixed foreign policy that has proven to be successful in our cold war strategy. Although the fortunes of war in jungle encounters are unpredictable from day to day—yet even the most bitter opponent of this legislation must admit that our military advisers and technical experts training native troops have developed a most formidable force of military strength to combat communism—in Korea, Formosa, Vietnam, and Thailand.

Mr. MORGAN. Mr. Chairman, I have no further requests for time.

Mrs. FRANCES P. BOLTON. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1964".

Mr. MORGAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. RAINS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes, had come to no resolution thereon.

A QUESTION OF THE PRIVILEGE OF THE HOUSE

Mr. MOSS. Mr. Speaker, I rise to a question of the privilege of the House.

The SPEAKER. The gentleman will state it.

Mr. MOSS. Mr. Speaker, I have been summoned to appear before the juvenile and domestic relations court of the city of Alexandria, Va., to testify in the case of the Commonwealth of Virginia in re Patricia Ann Finch, to be heard on the 19th day of June 1964.

Under the precedents of the House, I am unable to comply with this subpena without the consent of the House, the privileges of the House being involved. I therefore submit the matter for the consideration of this body.

I send to the desk the summons.

The SPEAKER. The Clerk will read the summons.

The Clerk read as follows:

COMMONWEALTH OF VIRGINIA,
CITY OF ALEXANDRIA.

To the Sergeant and to Any and All Police Officers of Said City—Greeting:

You are hereby commanded to summon JOHN E. MOSS, 715 South Royal Street, Alexandria, Va., to appear before the judge of the juvenile and domestic relations court of the said city of Alexandria at the courtroom of said justice in said city on the 19th day of June 1964, at 2 o'clock p.m., to testify and the truth to speak, on behalf of the Commonwealth of Virginia in the case of said Commonwealth of Virginia in re Patricia Ann Finch, and this he shall in nowise omit, under the penalty of $100, and have then and there this writ.

Witness Rita E. Thompson, deputy clerk of the juvenile and domestic relations court of said city, this 27th day of May 1964.

RITA E. THOMPSON,
Deputy Clerk.

Mr. ALBERT. Mr. Speaker, I offer a resolution (H. Res. 743), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Whereas Representative JOHN E. MOSS, a Member of this House, has received a summons to appear before the judge of the juvenile and domestic relations court of the city of Alexandria, on June 19, 1964, to testify in the case of the Commonwealth of Virginia in re Patricia Ann Finch; and

> Whereas by the privileges of this House no Member is authorized to appear and testify, but by order of the House: Therefore be it
>
> *Resolved,* That Representative JOHN E. MOSS is authorized to appear in response to the summons of the juvenile and domestic relations court of the city of Alexandria, Va., at such time as when the House is not sitting in session; and be it further
>
> *Resolved,* That as a respectful answer to the summons a copy of these resolutions be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SECRETARY OF THE TREASURY DOUGLAS DILLON'S WARNING AGAINST RESTRICTIVE MONETARY POLICY SHOULD BE HEEDED BY FED, SAYS CONGRESSMAN WRIGHT PATMAN, CHAIRMAN OF THE HOUSE BANKING AND CURRENCY COMMITTEE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Mr. Speaker, the Honorable Douglas Dillon, Secretary of the Treasury, delivered a speech on May 21 in Vienna, Austria. I have received a copy of his remarks which were presented to the International Monetary Conference of the American Bankers Association. The significance of Secretary Dillon's address is the more apparent the closer one studies what he told the assembled bankers.

With no reservations, I wish to commend Secretary Dillon for spelling out the end of an old wives' tale or two regarding interest rates and balance of payments.

As my colleagues may realize, I have not always agreed with Secretary Dillon's statements on monetary policy. I admit that more than once I have been either skeptical or critical and even alarmed at some of his remarks. Perhaps my skepticism arises from the fact that there is in my mind the knowledge that although the Secretary is serving under his second Democratic President, he began as a Republican diplomat and served later as a Republican sub-Cabinet officer, under a Republican President. Moreover, his background is that of a Wall Street investment banker.

But now, regarding his remarks of May 21, I throw my skepticism to the winds and commend him highly for what he had to say. It is most encouraging to note that Mr. Dillon does not feel that we have to stifle our domestic economy in attempting to correct the balance-of-payments problem by maintaining artificially high interest rates here at home.

Mr. Dillon said:

> We have found that the old rules of the game—whatever their values in the past—are no longer adequate. For instance, the classical presumption that balance-of-payments deficits call for restriction of domestic economic activity has had little relevance to the situation facing the United States in recent years.

In bankers' parlance, when Mr. Dillon talks of "restriction of domestic economic activity" he can only mean tight money and high interest rates. He finds, as he says, "little relevance to the situation facing the United States in recent years." He goes on to say that, "easy monetary policies designed to stimulate demand" are no more appropriate as an "antidote for recent payment surpluses."

So, as I have stated, he puts an end to the old wives' tale about interest rates and balance of payments.

He notes further in his speech that:

> The promotion of full employment has come to be accepted as a high priority responsibility of governments throughout the free world. Price stability, the promotion of international trade, and the stimulation of overall economic growth, all now occupy prominent places in national policy objectives.

Clearly, Mr. Dillon, with his Wall Street investment banking background, has come a long way in his thinking. It would appear that he is becoming a conservative liberal—or perhaps a liberal conservative. I hope he swayed the American bankers who were listening to him. Their position has too frequently been one of sheer opposition and reaction.

Then further along in his speech, Secretary Dillon noted that:

> The heavy accumulations of savings in the United States make it doubtful that even an extreme monetary policy would cause our long-term interest rates to approach the European level—and any such extreme monetary policy would clearly run counter to our current domestic need for fuller employment and higher utilization of our industrial capacity.

In this last statement, the Secretary clearly points out that it would be folly for us to up our interest rates to those of European banks. He is absolutely correct. Such an extreme policy would run counter to our current need for reducing unemployment.

Mr. Speaker, I commend the Secretary's remarks to our Federal Reserve authorities. For the last several years they have cautioned us on the alleged necessity to raise interest rates in order to help correct the balance-of-payments problem. England learned in the 1920's that this does not work. John Maynard Keynes, in his book entitled "The Economic Consequences of Mr. Churchill," points out that England stunted the growth of its economy through maintaining high interest rates in order to protect its balance of payments.

This is the kind of tragedy we have already begun to repeat and, indeed, we are in danger still of continuing it. Mr. Dillon's advice is good advice. The fact of the matter is that the European bankers have been urging us to raise interest rates still higher and increase our budgetary deficits by greater amounts. In this way, fiscal policy, through deficit spending, is supopsed to correct the stagnating effects of high interest rates. It is a little like trying to drive a car faster while the brake is on.

It would be a healthier thing, as Mr. Dillon suggests, if the European countries would do the reverse of what they caution us to do—lower their interest rates and tighten their fiscal policy. If a country with an unfavorable balance and serious unemployment, like the United States, ought to raise interest rates, then those countries in Europe with favorable balances and full employment, ought, by their own logic, to lower them.

Mr. Speaker, I hope that this speech of Secretary Dillon's will help to get rid of the false notion that high interest will cure any of our problems at the present time. To me it is clearly evident that the best resolution of our balance-of-payments problem lies in promoting domestic full employment and, if necessary, resorting to direct measures like the equalization tax. The very fact that the balance-of-payments problem has lessened as our domestic economy has expanded in the last year and a half, is strong testimony that Mr. Dillon is correct in what he had to say in Old Vienna.

As a matter of fact, I wish that Secretary Dillon would give the speech all over again—this time in New York, where its full impact still needs to register.

IT CAN HAPPEN HERE

Mr. HALL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HALL. Mr. Speaker, as one of the physicians and surgeons in the Congress I feel the typhoid epidemic in Aberdeen, Scotland, must serve as a warning that "it can happen here," at any time and at any place unless we exercise continued vigilance against typhoid and the other ancient scourges of mankind.

In this day of "miracle drugs" and widespread inoculations we are in danger of becoming complacent, of feeling that the battle has been won against these diseases. But plague, smallpox, typhoid, and yellow fever have not been conquered. They are rampant in less developed nations, and only dormant in the civilized world. Only constant battle can keep them from erupting again in the Western World.

In recent years, we have seen outbreaks of typhoid in Zermatt, Switzerland, and in Aberdeen, epidemics of infectious hepatitis in this country, smallpox scares set off by infected travelers returning from abroad. The killing of millions of fish in our waterways from water contamination apparently by pesticides or industrial wastes has been in the headlines.

As a physician who has lived through some epidemics in this country and who has treated many victims, I can assure you they are very real dangers and that I have never felt in the least complacent about them. Indeed, my first experience on entering practice in Springfield, Mo., in 1936 was with scores of typhoid patients who had contacted the disease from contaminated lake, mains, and well water which had sunk to a very low level due to the great drought of the time. Two years before as an intern I helped treat victims of the amoebic dysentery epidemic in Chicago. And in New York City in 1947 I saw at first hand the mobilization of health resources in a smallpox scare.

Now all of England is endangered by a typhoid epidemic, and we can take no comfort in the ocean that separates us. The disease can travel as far and as fast as a jet aircraft. This episode in Scotland must awaken us to the potential hazards of the health scourges such as typhoid, and every step must be taken now and in the future to minimize the peril. There is at this time no known feasible way in which these highly contagious diseases—most stemming from filth and contamination—can be wiped out once and for all in all countries.

Typhoid germs are transmitted in impure water supplies, sewage and unpasturized milk. In the past, most typhoid epidemics were caused in the United States by sewage contamination of water and milk supplies. More recently, the disease usually has been traced to a single carrier, often a food handler. Contaminated sewage leaking into the water supply caused the Swiss epidemic. Apparently a contaminated food handler touched off the Scotch epidemic, or from outside contamination of tins of imported beef—washed in river water draining a military camp with known typhoid cases.

Inoculation with killed typhoid vaccines is of value, especially for travelers abroad and for military groups, but it is not foolproof. As the Public Health Service states, immunization is no substitute for personal hygiene and sanitation.

But the broad attack must be on keeping our water supplies unpolluted, and our sewage systems effective. The Senate this year has passed legislation that would step up the national effort against polluted waterways. This bill is now before the Public Works Committee, and I recommend its eventual adoption by the House with one reservation. A provision taking control activities away from the U.S. Public Health Service should be dropped. The agency most concerned with environmental health hazards on human health should continue to be the responsible Federal authority in this field. The human health aspect of water pollution cannot be deemphasized.

I have no intention of being an alarmist in this matter. Plague, smallpox, typhoid, and yellow fever have declined almost to the point of extinction in this Nation. As a result, there has been an understandable tendency by health workers to turn their attention to what seemed to be more pressing matters. The Scottish typhoid episode should serve as a red flag to us. Now, is the time to look again at what we are doing to hold back these ancient diseases that still cause countless deaths in other parts of the world.

One highly commendatory activity now being carried on by the Public Health Service is its program to eradicate the yellow fever mosquito in the South. Ironically, at the urging of the United States and international health agencies, most South and Central American nations have eliminated the mosquito aedes aegypti in areas where it could transmit the disease. They have the human carriers but not the mosquito transmitter. We have the mosquito, but not the carriers.

Safety controls over public water supplies, rat control to guard against a recurrence of the plague, vaccination against smallpox, including regular booster shots for adults, and eradication of the yellow fever mosquito are the weapons we have and must continually use to keep these old dangers to mankind at bay.

We must remember, "it can happen here."

PRAYER AND BIBLE READING IN THE PUBLIC SCHOOLS

Mr. BECKER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The **SPEAKER.** Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BECKER. Mr. Speaker, we read in the papers, at least once in a while, that the prayer amendment is denounced. Now we find some 223 professors and so-called constitutional lawyers who agree with the Supreme Court decision. However, I am agreeing with the great bulk of the people of America, who oppose the Supreme Court decisions.

I have a telegram here today from Benton Harbor, Mich, addressed to me. It reads as follows:

> Representatives of 50 churches from western Michigan at a mass radio rally Sunday, June 7, at Benton Harbor, voted unanimously to send you this. We greatly appreciate your gallant fight and are with you 100 percent to restore to us our freedom of 175 years of Bible reading and prayer in our schools.
>
> Rev. M. E. Andrews,
> *Chairman.*

That is dated June 8, 1964.

A letter in opposition to the Supreme Court's recent ruling has been received from the Full Gospel Tabernacle of Massapequa, N.Y., and it is signed by many members of the church. I have a raft of petitions that have come in from Pennsylvania and Texas and New York. These are coming in every day from the people of America.

I hope the Members of Congress will respond very soon, within the next few days, to bring before the House an amendment to let the various State legislatures work their will on behalf of the people of America to return God to our schools and keep Him there and in our national life, just as our Speaker did as an answer to the Supreme Court decision, in my opinion, when he put the words "In God We Trust" above the rostrum within a couple of days after the Supreme Court decision on April 2, 1963.

Mr. Speaker, I include the articles which I have referred to at this point.

Full Gospel Tabernacle,
Massapequa, June 2, 1964.

Hon. Frank J. Becker,
Lynbrook, Long Island, N.Y.

Dear Mr. Becker: On behalf of the Massapequa Full Gospel Tabernacle, we wish to express our concern regarding the constitutional issue of prayer and Bible reading in our public schools. The Supreme Court rulings have had the effect of outlawing religious exercises in public schools in many parts of the country. This, we feel, is in direct contradiction to our country's sacred traditions and, therefore, feel it is of paramount importance that the U.S. Constitution be amended to protect the first amendment from misinterpretation. We are registering our opposition to the Supreme Court's recent ruling. We trust that this matter will be given your prayerful consideration. Thank you.

Sincerely yours,

Rev. J. Philip Jackson, Th. D., D.D., F.R.G.S., pastor; William S. Sloan, president of the board of trustees; John Zahac, church secretary; Joseph Rizzo, Elizabeth Sica, Mr. and Mrs. Harry Place, William Saas, Ann Rizzo, Nick Rizzo, Mary Rizzo, Leonard Jensen, Agnes Jensen, Veronica Brauchle, Gloria Tomlinson, Digmy Peterson, Doris Tomlinson, Ruth Saas, Stanley Saas, Thelma Knelland, Mary Ann Rizzo, Reneé Lapum, Bebe Jensen, Tonithe Knelland, Torvald Knelland, Katherine Tomlinson, Mr. and Mrs. H. P. Brauchle, Rosetta Taylor, Austin Peterson, John Banach, Edward O. Dzirba, Krank F. Dzirba, Mary Dzirba, Ruth Dzirba, John W. Beckford, Carol Saas, Ruth C. Baruch, Natalie A. Jackson, Laurene Sloan, Thomas Kutch, Doug Sloan, Clara Kutch.

The Faith Baptist
Church of Plainview,
Long Island, N.Y., May 20, 1964.

To Whom It May Concern, Be It Known:

On June 7, 1963, the general board of the National Council of Churches voted 65 to 1, with 1 abstention, in support of the Supreme Court ban on prayer and Bible reading in public schools. This pronouncement represents only the opinion of 65 individual members of the general board. It cannot represent the 40 million Protestants it claims as members, since those members have never been polled to find out what they think.

We, the members of Faith Baptist Church of Plainview, legally convened in a business meeting held on the above date, wish to make the following statement for the House Judiciary Committee and for the hearing record:

The National Council of Churches of Christ in the United States of America may not, and cannot speak for or represent 40 million Protestants on any political or legislative matter. As individual American voters, the National Council of Churches' officials may, with perfect propriety, come before the committee mentioned above, or any other, and give their personal, individual opinions on such matters, provided that they make it clear that they are doing so as individuals, and not as National Council of Churches officials representing the National Council of Churches membership. The National Council of Churches has never been authorized by the millions of members it purports to speak for to appear before any congressional, state, or local committees, speaking on—or to—legislation or other matters political.

Having polled our membership, and receiving complete support for this statement, we serve notice herewith that the National Council of Churches has not, does not, and may not represent us at these meetings and hearings. We categorically repudiate all National Council of Churches political and legislative pronouncements and testimony for this particular legislation or any other.

Please note: Article VII—Authority, section 2, constitution of the National Council of Churches of Christ in the United States of America, states: "The council shall have no authority or administrative control over the churches which constitute its membership. It shall have no authority to prescribe a common creed, or form of church government, or form of worship, or to limit the autonomy of the churches cooperating with it."

Please be advised also that this statement appears in its charter of incorporation. Nowhere in its constitution or charter is it given authority to speak for or represent the millions of individual members, who make up its membership, politically or in regard to legislation.

Furthermore, please be advised that we are not in accord with the pronouncement the National Council of Churches general board made on June 7, 1963, as mentioned above, whether or not the National Council of Churches constitution or charter empowers the board to make such pronouncements.

We are in favor of the Becker amendment as a church and as individuals.

Voted, carried, and signed this 20th day of May 1964.

J. Raymond Ottman,
Pastor.
Abijah Blackwell,
Church Clerk.
John M. Olsen,
Chairman, Trustees.
Roy Blackwell,
Chairman, Deacons.

SCHOOL PRAYER—A TURNING TIDE

Mr. SISK. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record at this point and include an editorial.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SISK. Mr. Speaker, on April 24 I appeared before the Committee on the Judiciary of the House of Representatives in opposition to pending proposals to nullify the first amendment to the Constitution and thus erode the Bill of Rights by authorizing Government dictated prayers in the public schools. As my appearance as a Congressman on this side of this controversy was unique at that time, it occasioned considerable news comment throughout the country.

I told the committee that my mail was running overwhelmingly in favor of the so-called Becker amendment, because I believed the public generally had been misinformed about the effect of the school prayer decisions of the Supreme Court; that people believed these decisions barred prayer from the schools, whereas in actuality the decisions only prohibit State or Government prescribed prayer, that is, official prayer of an established religion. I also expressed the thought that once the people were aware of the threat to their rights implicit in putting politics in religion and religion into politics, their views would change.

The Members may be interested in learning how my mail has been running since my appearance before the committee on April 24. A tally, pro and con, since that date shows an almost equal division, 50 percent for the Becker amendment and 50 percent against, but in recent weeks the proportion of letters against the proposal has shown a marked increase. For example, during the past week the letters condemning the proposal have run 8 to 1. Almost all the communications supporting the proposal have been form cards or petition slips widely distributed by politically oriented, so-called religious organizations, while those against it have been personally written letters. Most of those who have written condemning my views are convinced I am an atheist, a Communist, a traitor, or some thoroughly un-American combination of these, in contrast with their own religious, thoroughly patriotic attitude.

This expression of views is in marked contrast to the almost unanimous support these proposals appeared to be getting before the Judiciary Committee started its hearings. It shows the tide is turning against tampering with the Bill of Rights, and in my view, soon will be in full flood against these unwise proposals.

This view is shared by the editor of the Fresno Bee, who discusses the situation in an editorial appearing on June 3. It is worthy of reproduction and I include the editorial at this point in the Record:

WILL REASON PREVAIL?

There is mounting evidence that the first rush of emotional reaction against the so-called prayer decision of the U.S. Supreme Court is ebbing and logic is beginning to replace misunderstanding.

One of the most difficult challenges has been to make it clear the Court's ruling is not anti-God, antianything, but pro-Constitution.

It does not discourage discussion of religion or faith as part of man's civilization, philosophy, theology, and practice; it only forbids a public school, a vital instrument in the public sector, from prescribing prayers to be said.

The first amendment to the Constitution had one express intent—to protect all from decreed forms of worship and thereby protect all forms of worship from any decree which would prohibit or confine their rights.

Religious leaders for the most part have come to see that far from tampering with the rights of religions the decision defends freedom of religion. What strife we would have even to produce a common prayer which faithfully would represent the thinking of all of the 250 or so religions being practiced.

If the mail of Congressmen is indicative, sentiment is growing against any tinkering with the fundamental church-state separation precept and this is good.

COMMITTEE ON RULES

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight June 9 to file certain reports.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

FEDERAL EMPLOYEES SALARY INCREASES ACT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ALBERT. Mr. Speaker, I take this time for the purpose of advising the House that after having consulted with the distinguished gentleman from Tennessee [Mr. Murray] following the disposition of the bill which is now pending before us, the foreign assistance bill, H.R. 11049, the Federal Employees Salary Increases Act, will be considered.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. ALBERT. I yield to the gentleman.

Mr. GROSS. Does this mean that this bill may be called up tomorrow for general debate—or what would be the procedure? Would it come in on Thursday?

Mr. ALBERT. My judgment is it will come up on Thursday, I will advise the gentleman.

Mr. GROSS. Probably not tomorrow?

Mr. ALBERT. There is no intention to rush it through tomorrow.

Mr. GROSS. I thank the gentleman.

SMALL BUSINESSMAN OF THE YEAR

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Iowa [Mr. Hoeven] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. HOEVEN. Mr. Speaker, several days ago it was my pleasure to attend a ceremony at the White House when the President presented the Small Businessman of the Year Award to one of my outstanding constituents, Berkley W. Bedell, president of Berkley & Co., Inc., Spirit Lake, Iowa.

Mr. Bedell, 43, was selected for this award by the National Advisory Council of the Small Business Administration. The council cited Mr. Bedell as "best exemplifying the imagination, initiative, independence, and integrity characteristic of America's millions of small businessmen." The award was made by the Small Business Administration, and its presentation was a feature of National Small Business Week which has just been observed throughout the country.

Berkley & Co., Inc., produces fishing lines and leaders, marine cables and cordage, and special industrial wire and cable. Its fishing tackle has national distribution, and other of its products are sold worldwide. The company now has a million dollar annual payroll and provides employment for 1 out of every 10 persons in his town of 2,500. The outstanding example set by Mr. Bedell should be an inspiration to small businessmen throughout the United States, and under leave to extend my remarks in the Record, I wish to include the following résumé prepared by the National Advisory Council regarding Berkley W. Bedell and Berkley & Co., Inc.:

The 1964 Small Businessman of the Year Award to Berkley W. Bedell, President, Berkley & Co., Inc., Spirit Lake, Iowa

From a boy with a desire, a business was born. The business, Berkley & Co., Inc., of Spirit Lake, Iowa, through sound business practices, has had phenomenal growth.

Berkley W. Bedell, president, was born and raised in Spirit Lake, Iowa, and in 1936, while a high school student, carried papers and with the money made from this venture, purchase some fly tying equipment. He ran an ad in a nationally known sports magazine, and this became the start of a flourishing business.

After graduation from high school, the business outgrew the Bedell household and was forced to move to larger quarters in a downtown location. He had, at this time, seven employees in addition to himself, but what appeared to be a fast growing business was interrupted by World War II.

Mr. Bedell, prior to his enlistment in the Air Corps, attended Iowa State College at Ames, Iowa, for 2 years. The business was discontinued during his Air Force career, but was resumed in 1945, in a building of less than 3,000 square feet.

He added related products, and by 1960, Berkley & Co. occupied space in nine different locations in Spirit Lake. That year, Spirit Lake Industries, a local development corporation, raised $100,000, and this, together with a $250,000 loan from SBA, in participation with the First National Bank of Spirit Lake provided funds for the construction of an 81,000-square-foot building to house the entire operation. Growth continued, and in 1962, the local development corporation applied for and received from SBA another loan of $100,000, again with bank participation, for the purpose of constructing an addition to the present building. In 1963, sales rose to $3 million and there were 247 employees.

A high school boy, with a few dollars saved from a paper route, started a business which today has assets of approximately $2 million and a business producing, in addition to the original fly tie equipment, fishing lines and leaders, marine cables and cordage, and special industrial wire and cables which are distributed throughout the world, and most important, numbers among its customers 90 percent of the fishing tackle distributors of America.

Berkley Bedell at 43 years of age, in addition to ably directing the business, still finds time to serve his community as president of the Iowa Great Lakes Student Loan Association, president of the Dickinson Hospital Association, past director of the chamber of commerce, served 5 years on the State board of education, past president of the Kiwanis Club, active member of the Spirit Lake Isaac Walton League, the Society of Plastic Engineers, President's Professional Association, Young Presidents Club, American Management Association, past board member of the Fishing Tackle Association, member of the board of directors of the Iowa Manufacturers Association, assistant Scoutmaster, and member of the finance committee of the Methodist Church.

All of this, in addition to an active family life with his wife, Elinor, sons Kenneth and Thomas, aged 15 and 12, and daughter Joan, age 10, qualify this man as an outstanding candidate for the Small Businessman of the Year.

DEDUCTION BY TEACHERS OF EXPENSES OF NECESSARY EDUCATION

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. Nelsen] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. NELSEN. Mr. Speaker, today I have introduced a bill to amend the Internal Revenue Code to authorize and facilitate the deduction from gross income by teachers of their expenses of necessary education and to provide a uniform method of proving entitlement to such a deduction.

In 1957 several Congressmen and Senators cosponsored a bill, similar in purpose to the bill I am introducing today. As the bill was about to be reported favorably, the Internal Revenue Service issued new interpretations which seemed to correct the inequities that existed. However, the variety of interpretations on hundreds of individual cases has led to compounded confusion. Thus, the only practical route to achieve order out of the chaos is legislative action.

Most other professions have had the right to deduct expenses incurred for improvement of skill, but many teachers have not because of interpretation by some revenue agents. Businessmen can deduct the cost of entertainment for business purposes, but teachers often cannot deduct the cost of education which improves their competency. This bill is designed to correct the inequities with which teachers in public and private schools and colleges have been faced.

It is a tax equity, not a tax privilege proposal.

Briefly, my proposal does the following:

First. Provides that a statement from an authorized school official will be acceptable as proof—in the absence of clear proof to the contrary—that such education was appropriate for maintaining or improving skills as a teacher or to meet the express requirements of his employer.

Second. Uniformly defines a teacher as an individual who is employed by a school as a classroom teacher, as a supervisor, administrator, or adviser, or in any other professional capacity related to the instructional program, including guidance counselors and librarians.

Third. Provides for all educational expenses to be deductible in the same manner that travel, meals, and lodging are now; that is, from gross income.

LET'S STICK TO THE FACTS, MR. PRESIDENT

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Alger] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. ALGER. Mr. Speaker, in his address at Swarthmore College, President Johnson sought to justify big Federal Government and denied that it is a threat to individual liberty. In attempting to direct the thinking of the young graduates the President ignored completely the facts of history, facts which are a matter of record, facts which prove the extent to which President Johnson's big-government idea is robbing the people of their freedoms, their sustenance, and even their lives.

In his campaign address to the graduates at Swarthmore, President Johnson declared:

> Let us not call forth phantom fears about what the future holds. One of those fears is that the Federal Government has become a major menace to individual liberty. This is not so. The truth is, far from crushing the individual, government at its best liberates him from the enslaving forces of his environment.

The President said much more in general glowing terms as he tried to convince the students and the people of the country of his ability to provide the good things of life for them better than they can do for themselves. Now, let us take a look at what has happened to the individual under the New Deal-Fair Deal-New Frontier policies of which President Johnson has always been a major advocate.

President Johnson asks: "Does government subvert our freedom through the social security system, which guards our people against destitution when they are too old to work?"

The answer is, "Yes, when the program is compulsory and its enforcement can result in seizing personal property and in jail sentences for the citizens of this country."

The President's audience at Swarthmore may not remember that in 1961 the Government seized three workhorses at planting time from Valentine Y. Byler, an Amish farmer in Pennsylvania who opposed the social security program because of his religious beliefs.

Does President Johnson deny that Mr. Byler and his family lost their freedoms because of big government? The Constitution guarantees the individual freedom of religion and religious belief is very dear to the hearts of the Amish. They live by a strict code of Biblical teaching and adhere to the admonition in I Timothy 5: 8:

> But if any provide not for his own and especially for those of his own house he hath denied the faith and is worse than an infidel.

The Amish believe that it is a sin to look to the government to provide for them and their families and they have appealed to be exempt from the Social Security Act. President Johnson's benevolent bureaucracy demanded they be included in the program, thus robbing them of their religious liberty and seizing their property, robbing them of the opportunity to make a living when Mr.

Byler refused to pay what he considered an unjust tax.

Another facet of President Johnson's big government philosophy is illustrated in the handling of the Amish farmers and the advice of high Government officials to Negro demonstrators that it is right for them to break laws which they consider to be unjust. Perhaps it is easier to understand the double standard of the big government advocates in terms of votes. There are more Negroes than Amish so it is not so necessary to worry about the individual freedom when it is applied to the plain people of Pennsylvania.

What is President Johnson's answer to the curtailment of the freedom of private enterprise when the full power of the Federal Government is used—as it was against the steel industry—to fix prices at levels set by bureaucrats regardless of the cost factors to the industry?

For President Johnson's enlightenment we cite a few more instances of how the individual fares under big government and the benevolent planning of a few self-anointed elite officeholders.

The President did not tell the graduates that each and every one of them would have to work at least for the first 3 months of every year of their lives just to pay their Federal taxes to keep up with the heavy spending demanded by all the various "deals" of the administration motivated by social planning. He failed to tell them how the freedom of our children and of generations yet unborn will be seriously jeopardized because of the huge debt he is helping to run up and pass on to the future through current deficit financing. He ignored completely the heavy cost to business, every little corner store or individual business, of being forced by this big paternal government to collect taxes and to keep records for the Federal Government.

Many farmers, reading President Johnson's remarks at Swarthmore, may be more than a little puzzled. This would be true especially of those who have been penalized and fined for exercising their individual right to plant and grow what they pleased on their own property for their own use. Many workers whose freedoms have been drastically curtailed by NLRB decisions which force them to pay dues to unions even though belonging to such organizations may be against their beliefs in religion or their rights under the Constitution.

No mention was made in the President's speech at Swarthmore of the power of big government against the individual Federal worker, many of whom only in the past month were forced to buy $100-a-plate dinners for a Johnson tribute and Democrat fundraising.

The President did not tell his young listeners, especially the young men, that the whole course of their individual lives would be directed by the fact they have a 6-year military obligation under the Selective Service Act. This is not an argument for or against the draft, but I merely want to point out that big government demands service from the people and it does curtail the freedom of the individual.

Certainly no discussion of individual freedom would be complete without remembering the undeclared war now going on in Vietnam. Young American citizens are dying there in a war to which their Government sent them. They are dying in antiquated and inadequate planes and other inadequate weapons because of some bureaucratic decision not to provide them with the tools or the program for victory.

We could go on and on pointing out hundreds of thousands of individual instances where big government is taking freedom away from the people. In his series of commencement addresses to prepare the country for the November election and sell his planned society, President Johnson has extolled the virtues of central control. He has attributed to himself and his cohorts an all-inclusive wisdom with which they can solve all the problems of mankind and all they ask in return is that the people contribute their money, their freedom, and their lives.

Thomas Jefferson has given us the best answer to President Johnson's urging for bigger government and more Federal power: In a letter to Gideon Granger on August 13, 1800, Jefferson said:

> Our country is too large to have all its affairs directed by a single government. Public servants at such a distance, and from under the eye of their constituents, must, from the circumstance of distance, be unable to administer and overlook all the details necessary for the good government of the citizens, and the same circumstance, by rendering detection impossible to their constituents, will invite the public agents to corruption, plunder, and waste.

THE GOLDWATER VICTORY

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentlewoman from New York [Mrs. ST. GEORGE] may extend her remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mrs. ST. GEORGE. Mr. Speaker, the following editorial from the Wall Street Journal is a welcome relief from the daily hysteria of the Washington Post, the only morning newspaper that our benighted Capital is blessed with. I imagine that the Kingdom of Burundi is better off in this respect, and certainly no other capital of a first-class power is served so poorly and so monopolistically.

As the Washington Post would oppose any Republican, even if he had wings and a halo, their opinion must be taken for what it is worth, no more, no less:

THE GOLDWATER VICTORY

Senator GOLDWATER's California victory may not prove anything conclusive about the Nation's political climate, but it certainly suggests an atmosphere neither politicians nor voters ought to ignore.

In the past month or so Governor Rockefeller had generally been given the edge; to that extent the Senator's win is an upset. More significant, it was achieved by Mr. GOLDWATER's appeal throughout a large and diverse State—in city and suburbia as well as rural regions, not only in southern California but to an unexpected degree in the north.

Moreover, the Senator did well in such previous popularity contest primaries as he had entered and campaigned in, even though attention was focused on the large number of delegates he was accumulating in State conventions. Take it all in all, it would seem that GOLDWATER's alleged unpopularity with voters has been exaggerated.

His actual popularity with large numbers of voters, now emphasized in California, is the more noteworthy in that he is not the most articulate campaigner in the world; despite that drawback, Republicans around the country have been choosing this man of professedly conservative views. For no matter how unclear the Senator may have been so far on specific courses of action, no one could have any question about his basic philosophy of government.

The inescapable conclusion is that a sizable body of conservative, or at any rate anti-New-Deal-Fair-Deal sentiment exists in this country. There is evidently more conservative than liberal opinion among California and other Republicans. And when you consider all the conservative Democrats, it must be reckoned that the extent of conservative feelings is far greater than most political commentators have been willing to acknowledge.

In view of that, it is a little strange to find people both in and out of the Republican Party wringing their hands over GOLDWATER's strength. If he wins the nomination next month, they aver, it will be calamitous not only for his party but for the Nation. It would, they insist, put the party in the control of its most backward elements and thus injure it and the Nation's two-party system for years to come.

Now in the first place, this interpretation is a sweeping indictment of all those people of conservative persuasion we have just been talking about. Presumably they do not consider themselves backward at all. Nor is there any reason why they should, for the great majority of them are not the overpublicized "extremists" but ordinary sensible citizens who can see the way things have been going for 30 years and do not like it.

What, pray, is so antediluvian about saying that the pendulum, ever delicately poised, between individual freedom and state authority has swung too far to the latter? Plainly it has, and it will continue in that direction unless some counterpull arrests its course. Equally plainly, it can be arrested without slicing away all those developments of the past 30 years which have proved useful.

If advocacy of a reasonable balance between individual and state be political troglodytism, then history's best political thinkers belong in that category. By and large it is the friends of liberty, not the champions of authority, that have won and deserved the thanks of peoples everywhere.

Yet for all the evidence of conservative thinking, no one of course is assuming at this stage that GOLDWATER, if nominated, could win in November. A number of Republicans might well withhold their support. He would presumably face a candidate who is a popular President—not least because he has seemed to some relatively conservative. Indeed, it will be interesting to observe how much more the Democratic administration, taking note of California and other phenomena, may endeavor in the months ahead to project a semiconservative image.

And that is a large part of the point. Those in either party who persist in pretending that conservative strength is a hallucination will be repudiating a whole lot of very much alive voters.

POLLSTERS' DILEMMA: FOGGY CRYSTAL BALL

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentlewoman from New York [Mrs. ST. GEORGE] may extend her remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mrs. ST. GEORGE. Mr. Speaker, the following article appeared in the New York Journal-American of June 4. It is true and humorous, a wonderful combination in any political discussion.

Members of the House and Senate had better be on their guard from here on in if any pollster shows them winning:

POLLSTERS' DILEMMA: FOGGY CRYSTAL BALL

Presidental aspirants today are fervently hopeful of being declared the loser by the political pollsters, since these days it is practically a guarantee of victory.

With unswerving inaccuracy, the professional guessers all saw victory for Governor Rockefeller in the California presidential preference primary.

Today they must be trying to clear the fog from their crystal balls.

Most pollsters had set the heartening trend earlier by confidently predicting victory for the losers in New Hampshire and Oregon, thus upholding the tradition of 1948, when predictions of a landslide for Gov. Thomas E. Dewey meant inevitable triumph for Harry Truman.

The fact that a measurable conclusion can now be drawn from the polls has the Democrats fidgety, since the mass-think experts insist President Johnson can't lose in November.

This, declared Senator WILLIAM PROXMIRE, Democrat, of Wisconsin, suggests that "the Republicans will win the greatest victory in the history of this country."

Presidential hopefuls who hire their own pollsters will expect them to return with a flat prognosis of thundering defeat. A forecast of victory is the political kiss of death.

Pollster Lou Harris, who got in the predicting business in a big way as an opinion sampler for President Kennedy in the 1960 campaign, has thus far chalked up a perfect score. He has called it wrong in New Hampshire, Oregon, and California.

He insisted his polls in California were correct "as of when they were taken." Unfortunately, the elections were not staged at the right time.

What happened? Mr. Harris said Governor Rockefeller's defeat was due, in part, to "the birth of the Rockefeller baby," an event happily seen by some as a plus factor for the Governor.

Sampler Samuel Lubell gazed over bustling California and saw Governor Rockefeller as having "the edge of victory through the whole State."

But he second-guessed himself, saying that Senator BARRY GOLDWATER had "a fair chance of winning." Thus, he picked both contestants in a two-man race, an unbeatable gambit in taking the public's pulse.

Pollsters Mervin D. Field and Don Muchmore, who operate in California, also nailed the Rockefeller pennant of victory to the mast, making it unanimous. And all wrong.

The pollsters like to point out that their forecasts require a margin of 2 percent. And since 2 percent can mean the difference between 51 percent and 49 percent—or victory and defeat—the pollstering business has obvious built-in advantages.

At any rate, Mr. Presidential Aspirant can now be expected to shudder in the late September and mutter, "This is bad, Jenkins. The polls say I'm going to win."

FOREIGN EFFORTS TO INFLUENCE OUR PARTY ELECTIONS

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Missouri [Mr. HALL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. HALL. Mr. Speaker, I have ultimate faith in the judgment of our electorate, if thoroughly and properly informed. Our system in a constitutional republic is one of majority rule—and properly so. It has been a great and successful system of government which truly supports freedom, individual liberty, and much of the world. This does not give the world press, even in friendly nations, mother countries, or the free world in general, the privilege of delving into or exerting influence upon our party system or election statutes. This is especially reprehensible when another political party or nation, which has survived by the grace of our valor, impinges its thinking and influence against a great man and the Grand Old Party, as though it were the less able to handle its own affairs and procedures. The Republican Party is able, or it has and will so demonstrate, and this editorial supports this thesis. I commend it to the considered and prayerful thought and judgment of all:

[From the National Observer, June 8, 1964]

FOREIGN EFFORTS TO INFLUENCE PARTY ELECTIONS

Senator GOLDWATER upset lots of other folks besides Governor Rockefeller in his California primary victory the other day.

He upset the pollsters who had been predicting his defeat. He upset some Republican leaders who were counting on a gang-up to "stop" GOLDWATER. And, curiously enough, he upset those legions of "liberal" political commentators who now are prating about the need to "save" the Republican Party.

AFTER THE HOKUM AND POKUM

The postelection bleats were almost amusing, considering the source. One esteemed columnist, though candidly admitting he preferred President Johnson to any Republican, argued nonetheless that Republican voters were doing something terribly wrong in picking Mr. GOLDWATER to be their party's standard bearer. You get the impression that he, and others of his persuasion, think the Republican Party is essential—so long as it offers no real challenge to, or different philosophy from, the Democrats in power.

Not amusing was the way many broadcasters and newsmen reported results of the primary. Implied, if not always stated, was that the citizens who had voted for GOLDWATER were all political extremists or "kooks," that a thoughtful and intelligent voter could not possibly have chosen Mr. GOLDWATER over Mr. Rockefeller. Well, the fact is a majority of voting Republicans in California did, for reasons they considered good and sufficient.

Much has been made about the closeness of the vote. Citing the fact that GOLDWATER won by only 58,231 votes (1,089,892 to 1,031,661 for Rockefeller), the pundits talk darkly about the deep and unbridgeable chasm that this supposedly reflects within Republican ranks. Differences of opinion there certainly are; that's what makes a horse race and a political race. But one has only to go back to the Presidential election of 1960 (Kennedy 34,227,096 votes to 34,108,546 for Nixon) to note that a close vote in this country is neither unusual nor catastrophic. The marvel of the system, after all, is that when all the shouting, the clawing, the hokum, and the pokum are done, the final decision is made by each citizen in the solitude of the voting booth. And that decision is then respected by all.

So we are not much perturbed by the breast beating of outsiders over California's decision last week. Senator GOLDWATER still has a way to go to win the Republican nomination. Governor Rockefeller has a perfect right, if he chooses, to continue to compete for the prize as do any other Republicans. And next month, when the democratically chosen delegates convene in San Francisco for the Republican convention, we're certain they can pick their best man—without the hypocritical advice and consent of those who wish the party no good.

PYRAMIDING TAX BENEFITS ENCOURAGED BY ARA

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. TALCOTT] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. TALCOTT. Mr. Speaker, manipulations of the Area Redevelopment Administration program, which originally had a noble purpose of attacking "pockets of poverty," are becoming more and more common and taking many forms and directions.

Some going concerns are utilizing ARA for startling tax breaks. ARA Administrators, who should be trying to close "tax loopholes," are encouraging their use and even enlarging the loopholes.

One example of this growing manipulation is the case of the Cooper Tire & Rubber Co., of Findlay, Ohio, which parlayed the ARA and a local industrial aid bond program into an $11 million factory and tax bonanza at Texarkana, Ark., without risking any of its own cash. It did so by trading "free competitive enterprise" for a socialistic-type expedient of getting the city and Miller County to build the plant for it.

First, city voters approved, 1,750 to 150, a $7,035,000 bond issue paying 4 percent which the ARA bought, obligating the city, not Cooper, to pay back the money out of rentals on the factory.

Second, the city voters approved, 1,806 to 156, a $2.2 million bond issue paying 4¼ percent interest which was sold to a Chicago bank. The ARA agreed to let this satisfy Congress requirement that 20 percent of any ARA venture be financed by a bank—even though the Chicago bank actually invested none of its money directly in the Cooper operation, but only in a city revenue bond.

Third, Miller County voters approved, 2,430 to 248, a $1,100,100 bond issue which the ARA said would satisfy its requirement that 10 percent of any venture to be put up a local development organization, public or private. The county turned the money over to the city to help build the plant.

Fourth, Texarkana city voters approved, 1,774 to 150, a $550,000 bond issue paying 5 percent interest to be sold in toto to Cooper Tire & Rubber Co. For thus investing in its own plant, Cooper gets its 5 percent interest every year entirely tax free of the usual 52 percent Federal income tax on corporate profits. Not only that, but because it actually pays the interest indirectly to itself in the form of rent, Cooper gets to deduct the amount as a business expense from its Federal taxes, a double windfall.

Cooper has a lease to rent the Government-owned plant for 25 years at a price that will pay off both the bonds and interest. This provides another tax break because Cooper can deduct all the rent as a business expense, thus paying for its own plant in 25 years, whereas under the Internal Revenue Service depreciation allowance depreciation allowance would have to be stretched out over 45 years. Then, as the cherry atop this happy pudding, Cooper gets to buy the $11 million plant at the end of its lease period for a nominal $100,000. And of course they get to deduct that $100,000 from their Federal taxes as a business expense, too.

If cases like this are encouraged and promoted by ARA administrators, both the ARA and the philosophy of tax-free municipal bonds will be jeopardized.

CUBAN MENACE TO INDEPENDENCE OF THE PEOPLE AND GOVERNMENTS OF THE WESTERN HEMISPHERE

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. SCHENCK] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. SCHENCK. Mr. Speaker, all of us are deeply concerned about our Government's policy toward Cuba. Publisher Dwight Young, of the Dayton (Ohio) Journal Herald, raises some pertinent questions in his "Talking It Over" column of May 25, 1964. I am glad to call this column to the attention of the Congress and the Nation.

Mr. Young's column follows:

TALKING IT OVER

(By Dwight Young)

Does the average U.S. citizen have any realization of the serious menace to the independence of the people and the governments of the Western Hemisphere that Fidel Castro has become?

Do the countries of the free world, notably Britain, France, and Canada, that persist in selling badly needed goods to the Castro regime on extraordinarily liberal terms, fully understand the dangerous game they are playing?

And does our own Government that for several months has been busily engaged, over the protests of American taxpayers, in shipping huge quantities of grain products to Russia at ridiculously low subsidized prices, realize how wobbly and illogical its own position is in continuing to upbraid its old free world allies for their persistence in carrying on business as usual with Cuba?

If it doesn't it's dumber than this corner ever thought it could become. How can we object in good conscience to Britain, France, and Canada trading on a normal, commercial basis with Cuba while we continue to trade with Russia? Do we have any commitment from Moscow that nothing we sell to the Soviets will, in turn, be reshipped to Cuba? Indeed, we don't, and even if we did, it wouldn't be worth the paper it was written on.

Castro is a Russian puppet. He deliberately chose that course. When he first came to power in Cuba he was wined and dined in Washington. Whatever his sins of the immediate past may have been—and some of them were pretty black—they were forgiven. The American Society of Newspaper Editors displayed him as their convention headliner. The State Department joined in entertaining him lavishly. Momentarily he was Latin America's fair-haired boy.

But Fidel Castro had different ideas—far different. He was power hungry and he envisioned himself as a second Lenin or Stalin or Khrushchev in the Western Hemisphere. He wasn't long in publicly alining himself with the Khrushchev power machine. As Moscow's eager protege he has performed invaluable service to the Communist world in fomenting trouble in the Western Hemisphere and has been well recompensed.

In its all-Ohio edition last Friday morning the Cleveland Plain Dealer carried on its front page a revealing story of the extent of Castro's current machinations in Latin America.

It was written by John P. Leacacos of the PD's Washington bureau, on information supplied by an unnamed "high administration source."

The article reveals Castro is spending as much as $20 million annually in Latin American governmental deviltry. More than a million dollars a month is being expended, Mr. Leacacos was assured, for travel and training 500 carefully selected residents of other Latin American countries who have been transported to Havana where they are trained in Communist indoctrination tactics.

That has been the Castro revolutionary program the last 2 years and it is continuing full blast in 1964. These trainees, when sufficiently indoctrinated and familiarized with the most modern Communist technics, are sent home to begin undermining their own governments.

Among the countries across the Caribbean that have felt the force of such subversive techniques in the last 2 years are Chile, Bolivia, Venezuela, and Brazil. These are among the better known ones. There are several others where the sinister Castro's interference is strongly suspected of having substantially established itself.

How much longer is the Government of the United States going to continue its present palpably ineffectual tactics in dealing with the increasingly desperate situation in Castroland?

How much longer are we going to keep on cringing before Khrushchev's publicly proclaimed threat to defend Castro from any type of military attack originating in the United States?

How much longer will every red-blooded American in Congress, or outside, who has the guts to declare our present Cuban policy intolerable and a national disgrace, and who demands the adoption of stern measures to rid the Western Hemisphere of Castroism forever, have to endure the ignominy of being spotlighted by Washington's peace-at-any-price boys as a warmonger?

OKIE AT OXFORD: DAVID BOREN

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Wisconsin [Mr. LAIRD] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. LAIRD. Mr. Speaker, within the last 2 weeks David Boren, one of our neighbors here in the Washington area, has written us some very interesting and worthwhile letters.

He is a young man who graduated from Yale University last year with outstanding honors. Presently he is a Rhodes scholar at Balliol College in Oxford, England. David Boren introduced me as president of the Yale Political Union when I spoke at the Yale Campus last year. I have watched this young man for several years and believe that he has a tremendous future. His letter of May 1 addressed to my wife and me and the enclosed articles should be read by every Member of Congress. It might be well to point out that David Boren's father was formerly a distinguished Member of this body. I refer of course to former Representative Lyle Boren, of Oklahoma.

The letter from David Boren and the enclosures follow:

BALLIOL COLLEGE,
Oxford, England, May 1, 1964.

DEAR FRIENDS: I am now back in Oxford and settled down for the spring term which will last until the 20th of June. Oxford is a far different place in the spring. The famous college gardens are beginning to come into bloom and the walk along the river looks a great deal better in the sun than in the fog and ice.

This term I will be studying economic organization under Mr. Balogh, the chief adviser to Harold Wilson, Labor Party prime minister candidate. It remains to be seen how well we will get along but at any rate it should be quite an interesting term. Mr. Balogh is definitely an eccentric who often slumps on to the floor, lies down, fiddles with a rubber band, or simply pretends to snore and be asleep while his students are attempting to read their essays to him. He has given tutorials on train platforms, in the bathtub, and in Blackwell's bookshop with the students following him down the street, reading as they walked along. These habits are to say the least disconcerting but yet Balogh never fails to catch a mistake on even the smallest of details. I'm also reading moral philosophy under Mr. Montefiore, a well-known Oxford philosopher who has the ability to make a complete shambles out of what one thinks has been a well-written essay.

Rowing will also continue to take up some of my time. We work 5 days a week and in no time I should be a mere shadow of my former self. We rowed at Henley for a week before term began. The small picturesque town is really the capital of English rowing and several well-known regattas are held there.

This is also the season for the famous Oxford balls that colleges hold to celebrate their anniversaries. Balliol had theirs last year on the 700th anniversary of the college. At the end of last term I attended the Conservative Association Ball at Blenheim Palace, home of the Duke of Marlborough and birthplace of Winston Churchill. It was really an impressive event. May morning was also recently celebrated. The night before the first of May, many students stay up all night and float down the river in punts (small boats) ending at sunrise beneath Magdalen College Bridge. The Magdalen choir sings from the top of the college tower and there is folk dancing in the streets.

All in all this term should be a stimulating and pleasant one. Another highlight will be the annual Princeton-Harvard-Yale dinner in London with Arnold Toynbee, the famous historian, as guest speaker. There will also be special performances at the Stratford theater in Shakespeare's hometown in honor of the 400th anniversary of his birth.

The British elections will be held in October. I am serving this term as a university conservative association representative for Balliol. The election prospects for the Conservatives are very bad and have declined a great deal in the last 2 months. Prime Minister Home lacks the ability to inspire enthusiasm. The only thing that might prevent a Labour victory is the growing opposition to the program for nationalization of industry. Recently the Labourites also hinted that the state might seize all privately owned schools and some land. So far they have soft-pedaled this proposal but if it is made a major issue, it could hurt labor because much of their support comes from nonsocialists who are simply tired of the Conservatives after 13 years.

This summer I will be traveling with my family in July and August in Western Europe and am really looking forward to it. The fall term will not begin until the first week in October when a horde of new Rhodes scholars will be arriving. One is coming from Oklahoma and two from Yale. Of the 32 new American scholars, no less than 9 will be in Balliol. Some of the English students are calling Balliol "Little America" and are threatening to meet the new scholars with placards reading "Yankee Go Home."

My main purpose in writing this letter is to tell you about my recent trip to Eastern Europe during the Easter vacation for 5 weeks. I traveled with Dan Rowland from Yale and a Balliol friend, Russell Bryant, who is from Jacksonville Beach, Fla. Once again I am going to rely mainly upon articles which I have written for the paper. I apologize for doing so, and I know that many of you are disappointed that because of a lack of space and in order to assure clarity in a newspaper article, it is necessary to leave out many of the conditionals and exceptions, and to rely upon less sophisticated and more direct argumentation. I also regret that this is true, but due to a hectic schedule I am forced to brief methods of communication, and in writing to you it is a question of conveying a partial picture or none at all. Needless to say, I do not consider myself to be an expert on Eastern Europe in 5 weeks nor are my conclusions dogmatic or definite in my own mind. I hope they will at least make you think about other policy alternatives to the ones we are presently following. Finally, I have left out some names and detail to protect people from government reprisal if their identity were known.

While I went to Eastern Europe hoping to find resistance to communism strong, I did in fact find it much stronger than I had expected. I have tried to present you with an objective picture. It is difficult not to become emotionally involved with the people that you meet. Their stories, countless numbers of them, will always remain in my memory. I cannot convey to you in words the intensity of emotion that overcame all of us at various points on this trip.

Just a word or two about the actual route that we followed: we sailed to Holland and took the train to Berlin. On the way to Berlin we stopped for a very good visit with Lt. Neil Stanfield and his wife, Barbara, and young daughter, Alison Blair, who is well on her way to becoming a future Oklahoma belle. It is always good to see friends from home, and we were also interested to hear from Neil about Army life overseas. In Berlin we rented a car and drove through East Germany to Frankfurt on Oder, through Wroclaw and on to Cracow. While western Poland has many attractive villages, the industrial region in the southeast is the most depressing area I have ever seen. The buildings are either all the same or are old and crumbling. There is little color of any kind, and the people are not healthy looking. Most farmers still drive horse carts, which accounted for half the traffic on the road.

From Cracow we crossed into Czechoslovakia at Teschen and spent some time around Olomouc seeing a wonderful castle at Bouzov among other sights. Then we drove to Prague. From Prague we went to Vienna, Austria, which is a very impressive city and well worth a couple of pages on its own. Leaving Vienna we drove to Budapest and spent a good deal of time in that area, also going to Eger, site of the church headquarters for Hungary and an old fortress used against the Turks. We left Hungary at Szeged and drove on to Belgrade, Yugoslavia. From Belgrade we drove over roads such as you have never seen before (once we had to be rescued by a bulldozer), to Sarajevo. Sarajevo, a Moslem center, is in the mountains and is a beautiful city. It was here that Archduke Francis Ferdinand was shot before World War I. We stood on the spot where the assassin stood, as of course no tourist would fail to do. From Sarajevo we drove again over impossible roads to Dubrovnik on the Dalmation coast. The drive was spectacular with huge mountains, sometimes green, sometimes desertlike, with snowcapped peaks and high lakes and rapids. Dubrovnik itself is a place of unique charm. It was once an independent state and has been preserved as a medieval city completely surrounded by wall and with no cars inside. The ocean is a beautiful blue color and palms and roses overhang the cliffs and walls.

From Dubrovnik we went up the coast to Split, site of the ancient fortress of Diocletian the Roman Emperor, and then to Lublijana in the Yugoslav Alps before entering Austria and driving to Innsbruck again through beautiful alpine scenery. We spent one night near the Brenner Pass and another in German Bavaria near Oberammergau, site of the well-known passion play held once every 10 years in which all the people in the town participate. In Bavaria we also saw the castles of the mad King Ludwig II which are like something out of a storybook. From Bavaria we returned to Hanover, West Germany, where we left the car and returned to England by train and boat.

I think you are now pretty well caught up with all my news. It has been good to hear from so many of you. I always appreciate your letters. My description through the newspaper articles of our trip to Eastern Europe is attached. Have a good summer.

Sincerely.

DAVID.

[From the Seminole Producer]

EAST GERMANY AND POLAND ARE CAPTIVE NATIONS

(By David Boren)

After spending over a month behind the Iron Curtain in Communist controlled Eastern Europe, it is hard to know where to begin in describing it. More than anything else, life in Communist countries has a distinct tone. On the surface all appears to be in order. There are smiles from Communist tour guides. People are going about their business as usual. But beneath the surface there is resentment, frustration, desperation, and a real desire for political freedom and for help from the United States.

Much could be written about sight-seeing in Berlin, the castles in Czechoslovakia and Poland, the lakes of Hungary or the mountains and the Dalmatian coast of Yugoslavia. But it is the people who are most interesting. It is the people who deserve to be listened to.

We spent 4 days in Berlin. The contrast between the prosperous Western part of the city and the East is striking. Much of the Communist sector remains in ruins. One street has been rebuilt as a glittering showplace for foreign visitors. But down this great street, 10 lanes wide, there were only a half-dozen cars in sight in a city of 1 million. There are few people on the streets. A closer look at the buildings shows plaster falling off corners and loose bricks.

The people live on the side streets which are darkly lit, like the street on which the ruins of Hitler's bunker still stand out against the horizon. The people live in half bombed-out buildings on these side streets within sight of prosperous free Berlin. They do not go out at night but stay at home and live and talk among themselves. What they think about they are slow to reveal. We met two young students from East Germany in Prague, Czechoslovakia. They think about escaping and about overthrowing the Communists. They vowed to us with a quiet determination that East Germany would one day again be free.

One night we went to the wall near Check Point Charlie. The wall is strangely silent at night. On the Communist side of the wall, you can see the spotlights moving up and down picking out every figure that moves. In the light, you can see the shadows of the Communist soldiers with their machine guns across the barbed wire. We passed the spot where the young East Berliner in his teens had been shot by Communist guards as he tried to escape and was left near the wall to bleed to death for 11 hours without medical assistance. No number of smiles or friendly statements by Khrushchev can blot out the reality of the wall.

It is difficult to leave Berlin without making a promise to yourself that the sign attached to the free side of the wall will be carried out: "Freedom will not end here." You cannot talk to East German students who want to have a future to look forward to and leave ready to accept a Communist dictatorship in East Germany as a permanent situation.

After leaving Berlin we traveled across East Germany to the Polish border. The trip took only 2 hours down a four-lane highway with no traffic, which was fenced in by barbed wire and patrolled by the military. We were not allowed to stop.

Our first night in Poland in a small town restaurant we met three miners who spoke French. We spent the night in the guest room of the miner's dormitory supposedly as French cousins of one of the miners.

They kept us up most of the night talking in quiet tones so that a neighbor they did not trust could not hear. The three agreed that 90 percent of the Poles would escape or revolt if they thought they could succeed. The economic situation is desperate as Russia exploits Poland's natural resources. The country is still under the military occupation of Soviet troops and arms are kept out of the hands of the Polish Army.

The miners were all married but could see their families only once every 2 weeks. The state had ordered them to work in a new mine and there was no housing for their families. One man told us that his wife had to stand in line for 4 hours at Christmas time to buy two oranges, the first oranges that his 9-year-old son had ever seen.

All of the men were self-proclaimed devout Christians and told us that the state had not been successful in destroying religion. We saw many signs of strength of the church. Along the highways, in defiance of the wishes of the state, wooden crosses were erected and covered with flowers for Holy Week. One weekday at noon, I went into the cathedral at Cracow. There was no service but the church was packed with people of all ages who had come to pray. One mother was kneeling with her young son at the altar, explaining the stories in the stained glass windows to him. We gave some money for the church to a lady at the door who smiled and looked at us with an expression that is hard to describe. Again and again when people heard that we were Americans, their faces lighted up, they had a far-off look in their eyes and they shook our hands longer and harder than usual.

The Poles are openly anti-Russian. They will say "things are not good in Poland" as they quickly pass an American on the street. Young people are forced to study the Russian language in school for 8 years but they refuse to speak it. A tour guide in Cracow kept telling us of the lack of cultural knowledge of Russians and how the Russians had stolen Polish art treasures.

Though, of course, there are some Poles who are Communists, some students who have been indoctrinated, the tide of resistance is still strong and revolution is far from an impossibility. While our sampling of opinion was far from complete, most of the Poles that we met were Christian, anti-Communist, and fiercely anti-Russian. There are external signs which also support this analysis such as church attendance. The Poles still look to America for help. They still talk of Nixon's visit to Poland. Nixon is by far the most popular American in Eastern Europe. Often we were reminded in the course of political discussions, "Nixon alone wanted to help us in 1956."

Above all the Poles impressed us as a strongly independent and outspoken people, biding their time, who will not be happy until they are free of Soviet control.

PART II: CZECHOSLOVAKIA AND HUNGARY—NOTHING TO LIVE FOR

(By David Boren)

Leaving Poland we entered Czechoslovakia, a beautiful country of mountains and castles. Much more prosperous than Poland, Czechoslovakia shows fewer signs at least on the surface of dissatisfaction with communism. Many of the people could be described as Socialists. The people are well fed and as long as there are Soviet troops in the country, they are less likely to risk a revolt than are the Poles. The Czechs are by nature less volatile and open about their feelings.

This does not mean that the people are not basically sympathetic to freedom from Russian domination and the Communist system. In a small town near the border, we met a waiter at the hotel who offered to take us sightseeing the next day. He was an intelligent man, an operator type, who never committed himself one way or another about politics. Finally I asked him if he was a Communist. He replied that he was a party member in order to get more money and a good education for his son. In the evening we visited his home. His wife's first remark was to say that she was not a real Communist but a Christian. She insisted that we go with her to the church to meet the village priest. A service was in progress but the priest came over to greet us. The church was full, with some people standing. Once again we were the recipients of those indescribable looks of friendship and sadness as the congregation began to realize that we were Americans. As we left the church, I made a sign of the cross with my fingers to the waiter's wife who could not speak English. She grabbed my hand and held it tightly for two blocks as we walked along, and was on the verge of crying.

Earlier in the day we met a hotel manager, a soft-spoken man who had formerly owned a large business known for its high standards of craftsmanship. It was seized by the Communists and no longer exists. We went into the kitchen so as not to be overheard and among the pots and pans he told me that he hoped to come to America. "There is no future here," he said. "You cannot know what it is like to live where no one can trust anyone else."

In Prague, the beautiful old capital for which our Czech settlement in Oklahoma is named, we were forced due to a tourist boom to stay in a hotel used mainly by Russians. It was a relatively new building with a red star on top and pictures of Lenin in every available spot, even over our beds. We draped the picture in our room with a pillow case. News of our action quickly spread throughout the hotel due to the anger of the Russian chambermaid who discovered the deed as she cleaned our room. The Czechs on the hotel staff however treated us as heroes. One woman on the staff shook my hand and gave me a big smile the next morning after she had heard the news. A Czech youth who I met in Prague told me that the Czechs would like to be free of the Russians but they feel they can do nothing.

On Easter morning we went to church in Prague at the downtown Protestant church. The huge church was nearly full and the service was most impressive. The congregation stood around a huge wooden cross to take communion. The minister spoke with us afterward and told us that the Communists force churches to accept financial support from the state, who use finance as a means to control and watch the church. Church attendance has not declined and he assessed the faith of his congregation as much deeper than ever before. As we were leaving, a young couple came in at the back door with their child to have it christened.

In Prague we also met an Algerian student who has been studying there. He was bright and far from being a convinced Communist. He remarked for instance that there were more cars in Algeria than in Czechoslovakia. He said that foreign students were not particularly well treated, a fact that we also noted in Hungary, especially in regard to Africans.

Czechoslovakia impressed us finally as a country of cautious people, fairly prosperous at least in Communist terms, who are far from being happy with Russian rule. They are not the people to lead a revolt but a successful example would not be lost upon them.

After a brief and welcome rest from communism in beautiful old Vienna, Austria, on the Danube River, we entered Hungary across the heavily guarded border. Returning Hungarian travelers are thoroughly searched and are forced to go into dressing rooms and take off their clothes at the border as a guard against smuggling. The seats of our car were taken out as in East Germany. At the border station a Hungarian man came up to us and said "things are not good in Hungary," and quickly walked away.

In Budapest we met a number of people, including a young student who had fled to Italy in 1956 but his family had remained behind and he had reluctantly at the age of 15 returned to be with them. He would very much like to go back to Italy.

I have a good friend who escaped from Hungary in 1956 and in Budapest I visited his mother and brother. Their hospitality was without bound. His mother held my hand and said that I was her son for the day. When we left, she hugged each of us and tears were rolling down her cheeks. My friend's brother is a strong anti-Communist and a Christian, as were his friends from the university that I met. Again Nixon's name was brought up as a symbol of America's desire to help free Hungary. Another symbol is the Catholic cardinal of the country who has lived in the U.S. legation in Budapest since 1956 when he sought safety there when the Soviet troops crushed the rebellion. As we passed the Embassy one day, a Hungarian said to me, "The bravest man in Hungary is inside."

My Hungarian friend told me that under communism there is no future for the able person. There is nothing to hope for. A man cannot own his own home or run his own business. If he writes or teaches he is told what to say. There is no room for creativity, individual expression or responsibility of any kind. Each day, like each new building built in the Communist factory-like style, is monotonously the same.

In Hungary we found some lingering resentment of the fact that we did not come to the rescue of the 1956 revolution. I asked if another revolution were possible if they could be sure of U.S. help. The answer was a determined and definite "Yes." One student made a special point of drawing the revolutionary flag for me.

Khrushchev was in Budapest when we were there but he was heavily guarded. To attend a parade in his honor, it was necessary to have a ticket and of course to get a ticket one had to be a loyal Communist. The rest of the people were kept back at least a block away from the parade route by soldiers. We saw Khrushchev's train on one occasion. I was in a large crowd at a rail crossing. There was no sign of affection or greeting of the crowd. Only one man waved. To paraphrase what one Hungarian had to say about Khrushchev as being preferable to Stalin, "a man who is mainly no good is better than a man who is completely no good."

Our Hungarian friend drove 200 miles with us to the border. A mile from the border he got out of the car. "Riding with you in this car has been like being with you in America. This car is a little America," he said. I will never forget the look on his face when we drove away and he stayed to face the next monotonous day.

We were detained at the Hungarian border for an hour and a half for no valid reason but were finally allowed to leave the country after a call to the U.S. Legation was threatened.

If you ever go to Hungary, a country which seems normal enough on the surface but which has a desperate soul, you will vow that you will live to see the day when Hungary will be free and young men will have a future.

PART III: YUGOSLAVIA—A PUZZLE

(By David Boren)

Yugoslavia is quite a different story than Hungary. In Yugoslavia the Communist leaders are not Russians, they are Yugoslavs. The leader of the Communist Party is Marshal Tito, a shrewd man who is looked upon as a great national war hero, as a George Washington, by his people. There is no doubt that in this country so long ruled by foreign powers, Tito is popular.

Tito has also been smart enough to remain neutral in the cold war and has been the recipient of U.S. aid. The Government publicizes U.S. aid and on the surface the Yugoslavs are pro-American. The United States is allowed to operate an information office which is well attended in Belgrade. Communization is not complete in Yugoslavia. Some small businesses are in private hands. Foreign capitalists own some factories. A Yugoslav may own his own home.

While all of this sounds promising, things are not as good as they seem. First of all, while most people do seem to have free speech, it is only because they support the Government. The minority who oppose the

Government are watched and their mail is censored. They are slow to advance in their work. Only the Communist Party is allowed. Second, while some private property remains, Tito is slowly forcing private businesses to sell to the state by underselling them in state-owned shops. Third, Tito uses anti-German sentiment to keep patriotism linked to the Communist Party. Seventy percent of Yugoslav films are about Nazi crimes and Tito's war heroism. The Yugoslavs love their country and Tito has succeeded in convincing the young people that to be true patriots they must be Communist.

While the young people like the group we met at Sarajevo (site of the assassination of Archduke Ferdinand before World War I) claimed to like America, they soon demonstrated that they believed much of the Communist propaganda that many Americans are gangsters and that they exploit the workers. Finally in a country where religion has been a divisive rather than a cohesive force with a large Moslem minority and many Christian sects, Tito has in many areas stamped out the church. Though in Dalmatia, a cohesive Christian area, the church appeared to be stronger, elsewhere we did not meet one believer among the students we met from Moslem and Christian homes. One girl explained to me, "We love Yugoslavia so we are Communists. Since we are Communists we do not believe in God. It is progress."

Therefore from the point of view of anti-communism, Yugoslavia was the most discouraging country that we visited. Still it is true that Tito is a strong nationalist and wants to remain independent of Moscow. The Government at least says it is pro-American and it does allow the United States to run a small information office. Yugoslavs are relatively more free to talk to foreigners.

It is difficult to say what the U.S. policy should be toward Yugoslavia. Our only hope would seem to rest in our free access to the Yugoslavs. We must keep our information offices open and we should try to bring more Yugoslav students to the United States as exchange students. It would be foolish for the United States to continue economic aid to Yugoslavia. There is no reason to give Tito money to indoctrinate students against our own values. At the same time we should not be openly hostile to Yugoslavia. The Yugoslavs are proud of their independence from Moscow and we should promote this feeling. A small amount of trade, not enough to help the Yugoslav economy or bring more prestige to the Communist bosses but enough to allow us to be able to keep telling the Yugoslavs about America is perhaps the best policy. Tito is getting old. No one knows what will happen when he passes. With their hero gone, the Communists may enjoy less support.

In the meantime we must wait, keep Yugoslavia independent of Moscow and try to inform the people. If possible we should pressure Tito to let us expand our information program and urge that he allow American missionaries to enter Yugoslavia.

TIME TO RETHINK OUR POLICY FOR EASTERN EUROPE

(By David Boren)

In light of the recent basic reevaluation of American values, it is time that we begin to rethink parts of our foreign policy, particularly in regard to Eastern Europe. I have just returned from an extensive trip through some of the satellite countries and while I do not claim to be an expert on the Communist bloc or to have made a scientific sampling of opinion, the traveler through this area is faced with conditions that neither he nor any American can afford to ignore.

Senator FULBRIGHT recently urged the American people to think about foreign policy. One could easily say that the Senator could well commend his preachments to himself and that he needs to be do some thinking about Eastern Europe. Senator FULBRIGHT in essence accepts that the countries of Eastern Europe will remain Communist and that the best that the West can hope for is a milder brand of communism, more nationalistic in orientation and independent of Moscow. To make the Communists more mellow, Senator FULBRIGHT suggests that we trade with them, which would at least make the governments more docile.

This evolutionist view of communism has snatches of truth in it, but on the whole it is shortsighted. First of all, it is appealing to say that the more personal freedom allowed by the Communist governments the more people will demand and the more difficult it will become for the governments to satisfy their demands. This is the old familiar theory of give them an inch and they will want a mile. The key, however, is not the degree of loosening up itself but rather it is in the failure to be able to liberalize fast enough and the necessity of falling back upon restraint and police state tactics. It is at this point that rising expectations are checked by the government's inability to liberalize fast enough and revolutionary sentiments are set in motion. There is a good deal more that must be said however. As long as liberalization can continue, support for the regime will continue to grow. As long as evolution continues, indoctrination continues as in Yugoslavia where as evolution proceeds more and more people are converted to atheism and Marxism. Even if the point of clash with rising expectations is finally at long last encountered, it will take generations for the effects of this indoctrination to disappear. American trade and aid only prolong the ability of the governments concerned to meet the demands of rising expectations and in some cases it may have prolonged it indefinitely. The U.S. policy should now be shifted to adopt every means of political and economic dissention to make it more difficult for certain of the Eastern European Communist governments to meet the rising demands for liberalization. Failure on the part of the governments will make them even more hated.

Second, aid and trade programs have always been used to strengthen friendly governments on the valid grounds that increased prosperity makes a people less likely to take the risks necessary to overthrow a government. To some extent, conditions in Czechoslovakia demonstrate this. Why should the United States indirectly strengthen Communist governments by increasing their prosperity?

Third, there are many people behind the Iron Curtain who have not ceased to hope for the eventual overthrow of the Communists. These people resent any form of aid or recognition by the United States to the Communist governments. Such aid undermines their will to resist what they view as illegal military occupation governments. It is important to remember that in Poland, Hungary, and East Germany, and to a lesser extent Czechoslovakia, for historical and political reasons true national patriots are anti-Russian. They are for the church which is a symbol of their own national identity and against communism which is a symbol of foreign domination by their historic enemy, Russia. If there is one factor of importance above all others, it is this. While nationalism in some parts of Eastern Europe has been married successfully to communism, it remains divorced and opposed to it in other countries. It is this factor that dictates that all Eastern European countries should not be treated alike, and the policy recommendations in this article do not apply to Yugoslavia or fully to Czechoslovakia. U.S. policy must harness these basic nationalistic sentiments instead of working against them. Governments in exile which could serve as national rallying points should have been recognized especially after the 1956 Hungarian revolution. If Senator FULBRIGHT thinks that there is no longer any sentiment for eventual revolution, he should visit Poland, East Germany, and Hungary, and go out on the streets alone without a Communist tour guide and talk to the people.

Fourth, the evolutionists seem to believe that once a country becomes more independent of Moscow, it will become an easier target for U.S. information. Yugoslavia is often given as the example of a country where communism has evolved most. Yet, Yugoslavia has been the most successful of any of the countries in Eastern Europe in the complete indoctrination of the young people with communism and atheism.

Finally, any solution which writes off the people of Eastern Europe as permanently lost is unacceptable even if it does succeed in making the governments less hostile to the United States. We often say that slavery and discrimination cannot be tolerated in the United States. Neither can it be tolerated in Eastern Europe. We do not have the right to write off human beings as permanently lost. Perhaps Senator FULBRIGHT would like to tell the little woman in Czechoslovakia who grasped my hand and wept as we left her village church that she should stop hoping. Perhaps he should tell the East German students that I met in Prague, that as far as he is concerned, freedom will stop at the wall. Perhaps he will tell the Polish miners that they must continue to whisper for fear that their neighbors will hear a human being speak his mind.

Finally, perhaps Senator FULBRIGHT would like to talk to the young man in Budapest who said that our car was like a little bit of America in a land without hope, in a land where no man can creatively express himself in writing, teaching, managing a business, or even in owning his own home. Can he tell him that we have written off his generation? The United States has always been more than just a country, a land mass and a people with a common language. It is a revolutionary ideal about the dignity of man and its work is never finished. It is also at least a self-professed religious nation under God which cannot view the indoctrination of millions into atheism without concern. It cannot dedicate itself merely to the status quo. Senator FULBRIGHT is mistaken in his belief that evolution and revolution will necessarily have the same results in countries where material standards have been raised compared with wartime suffering and where education is and will remain an agency for political and spiritual indoctrination. The helpfulness of evolution, Senator, depends upon the direction in which things are evolving. Time is not necessarily anti-Communist. Freedom has a cost.

THE JOHNSON MONEY

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. ASHBROOK] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. ASHBROOK. Mr. Speaker, the Washington Star carried a thorough study of the Johnson fortune in today's paper. Reporter John Barron has completed a competent analysis of the details surrounding the fortune which has been amassed. Certainly, gaining a fortune is in the American Horatio Alger tradition. Horatio did not have political influence, however.

I include this excellent article with these remarks:

THE JOHNSON MONEY—PRESIDENTIAL FAMILY'S HOLDINGS ESTIMATED AT $9 MILLION

(By John Barron)

Sixteen years ago, according to a biographer, Lyndon B. Johnson considered leaving public life, partly because he "wanted to make money, which he knew he never would be able to do in politics."

Mr. Johnson did not give up his political career. Yet today, his family is one of the wealthiest ever to occupy the White House.

The Johnson holdings in television and radio stations, land, banks, and stocks—now are worth more than $9 million. And a ruling issued by the Federal Communications Commission last April could greatly increase their value.

The story of this fortune would be interesting even if the central figure were a run-of-the-mill Texas tycoon. It is, in effect the story of the American dream.

But the financial history of this particular Texan has a special public interest because it involves the President of the United States and because the present fortune was amassed almost entirely while Mr. Johnson was in public office; mainly since he entered the Senate and began his rise to national power in 1948.

It is commonly said that the Johnson family's financial success has resulted almost entirely from Mrs. Johnson's acumen and energy in parlaying a modest inheritance into a lucrative broadcasting empire.

A JOINT EFFORT

Mrs. Johnson doubtless has made impressive contributions. But there is strong evidence that Mr. Johnson himself has participated vigorously in the family business ventures. Several Texans who dealt with the Johnsons prior to past November say that they always dealt with Mr. Johnson, never with his wife.

Mr. Johnson, it should be noted, owns no stock in the company which has title to most of the Johnson property and has provided the family with such amenities as limousines, an airplane, a cabin cruiser, and the L.B.J. Ranch itself. A majority of the family company stock, 84.45 percent, is owned by Mrs. Johnson and her daughters.

Last November 29, a week after Mr. Johnson entered the White House, the family relinquished control of the company by putting the stock into a trust.

The trust agreement stipulates that neither the President nor his wife shall receive any information on how the family property is administered.

Since then, according to Washington Attorney Abe Fortas, an old friend and personal legal adviser to the President, Mr. Johnson has not engaged in or discussed any family business. But in gathering material for this article, the Star has received allegations to the contrary.

Mr. Fortas, who often sees the President, was the only source close to the White House from whom the Star was able to elicit comment on the information presented here. A Presidential assistant was shown a draft of this story, but declined to discuss it.

TV-RADIO INTERESTS

The bulk of the Johnson fortune has been derived from investments in Texas television and radio stations.

During his first term in the Senate, Mr. Johnson was a member of the Commerce Committee which has jurisdiction over the FCC. The FCC, in turn, completely regulates all television and radio stations.

The public records of the FCC show no evidence that Mr. Johnson ever sought preferential consideration from the regulatory agency. They contain one letter from him forwarding an appeal from a constituent together with a request that the issue raised be decided "on its merits." Every efficient Congressman almost daily writes such letters.

There is evidence, though, that Mr. Johnson often was personally involved in gaining interests in radio and television stations.

The standard story of how the Johnsons embarked in broadcasting back in 1943 is that Mrs. Johnson noticed that a little Austin station was for sale, bought it with part of her inheritance and by diligent supervision made it profitable.

The full story is more complex.

Station KTBC in 1939 was owned by A. W. Walker, R. A. Stuart, and Robert B. Anderson, who was to become Secretary of the Treasury under President Eisenhower.

Personal reasons prevented each of the owners from moving to Austin to oversee the station. When the station ran into financial difficulties, the three men decided to sell it rather than attempt to manage it in absentia.

They found a willing buyer in J. M. West, who was a wealthy Austin businessman and newspaper publisher. He also was a bitter enemy of the Roosevelt administration.

Not long after Mr. West contracted to buy KTBC for $50,000, the FCC revoked the station's license. Although the reasons are not entirely clear from current records, it seems that the Commission objected to an individual who had been associated with the station.

An appeal kept KTBC on the air until the spring of 1940 when it regained its license by dissolving whatever relationship existed with the man to whom the FCC objected.

Mr. West then negotiated another agreement giving him an option to purchase the station by paying $20,000 and assuming up to $12,000 of its debts. The option was to remain in effect until 30 days after the FCC ruled on Mr. West's application as a buyer.

But the Commission refused to approve or disapprove the sale, saying it was putting applications from newspaper interests in a "pending" file. During the next 2 years, it rebuffed pleas from a decision one way or the other.

NEGOTIATIONS DESCRIBED

In the fall of 1942, a prominent Austin businessman, E. G. Kingsbery, talked with Mr. West about buying his option.

Mr. Kingsbery has provided this account of what happened next:

Two days before Christmas, 1942, Austin Postmaster Ray Lee called to inform him that Mr. Johnson wished to see him in his local office that afternoon.

The meeting was cordial and Mr. Johnson mixed some eggnog from cream someone had given him.

Explaining that he had heard of Mr. Kingsbery's interest in KTBC, Mr. Johnson said that he wished to buy it for his wife and asked for assistance in making the purchase.

Mr. Kingsbery agreed to defer to the Congressman who the year before unexpectedly had given his son an appointment to the Naval Academy.

In Mr. Johnson's presence, he called Houston attorney Philip Stevenson, the executor of the estate of Mr. West who had just died. By phone, he arranged for Mr. Johnson to drive to the West ranch near Llanno to confer with Mr. Stevenson and the West heirs. Mr. Kingsbery believes Mr. Johnson spent Christmas at the West ranch negotiating for the station.

Mr. Fortas states that his information is that the Johnson purchase of the station was handled entirely by a lawyer and family friend, the late Alvin J. Witz.

At any rate, FCC records show that shortly after Christmas, Mr. Stevenson wrote a letter certifying that the West estate would waive its right to buy KTBC if the owners would sell it to Mrs. Johnson.

They quickly consented to sell to her for $17,500, about $9,000 less than they had spent equipping it. However, Mrs. Johnson also had to assume the stations indebtedness, reportedly between $40,000 and $50,000.

COMMISSION ACTS QUICKLY

Mrs. Johnson on January 2 drafted a $17,500 check for deposit in escrow pending FCC sanction, which she formally requested on January 23. The Commission, which had kept the West applications shelved since 1939, approved Mrs. Johnson's application 23 days after receiving it.

In stating her qualifications to become an owner, Mrs. Johnson had listed her net financial worth as $64,332.50 and predicted that within a month she could eliminate the KTBC deficit by "close supervision * * * coupled with full-time and energetic efforts to engage new accounts."

Her prediction came true. Advertising accounts flowed to the station and by the end of the decade it was earning a profit of more than $50,000 a year after taxes.

However, in 1948, Mr. Johnson apparently was concerned about money.

His friend and biographer, Booth Mooney, recalls that he almost quit politics completely rather than seek reelection or run for the Senate against the popular conservative Governor, Coke Stevenson.

The biographer reports that Mr. Johnson even went so far as to prepare a statement announcing his retirement. Mr. Mooney explains that the Congressman wanted to share more time with his family and that "Also, he wanted to make money, which he knew he would never be able to do in politics."

Mr. Mooney writes in "The Lyndon Johnson Story":

"A few years before, Lady Bird had bought a radio station in Austin and turned it into a paying proposition. Johnson felt that, with the inhibitions of his official position removed to give him a free hand in promoting the station, he could help in its continued development. He was thinking about a television station, too. He wanted to get in on the material possibilities of the new world he had predicted was going to open up once the war was finished."

Mr. Fortas now insists that Mr. Mooney's report on Mr. Johnson's thoughts on quitting politics are untrue.

(Before writing the first edition of "The Lyndon Johnson Story," Mr. Mooney was a member of Mr. Johnson's staff, a job to which he returned after finishing the biography. Mr. Johnson wrote the foreword in which he said of the biography, "I have read it and I like it.")

Ultimately, Mr. Johnson put aside his doubts about the political life and decided to run for the Senate. He won by 87 votes.

From 1948 to 1952 the yearning to own a television station reported by Mr. Mooney was frustrated by an FCC freeze on issuance of new licenses.

The Commission during those 4 years tried to devise an equitable plan for distribution of channels throughout the country. The plan finally evolved allocated Austin two ultra high frequency channels, but just one very high frequency channel—the only kind most sets are equipped to receive.

MANY APPLICATIONS PILE UP IN CAPITAL

A mass of license applications, including two from Austin had piled up in Washington by the spring of 1952. One Austin applicant asked for a UHF channel, the other did not specify whether he wanted UHF or VHF.

Mrs. Johnson on March 14, 1952, expressly applied for the one VHF channel available to Austin. On April 14, 1952, the FCC lifted the freeze.

Mrs. Johnson on June 16 amended her application with more data the FCC required. The Austin applicant for a UHF channel also filed the necessary amendment. The third applicant neglected to do so and his application was dismissed.

The FCC now rushed to hand out licenses with all possible speed.

"During the period 1948 to 1952, it became perfectly obvious that anyone who had a TV station probably was going to make a lot of money and a lot of money in a hurry. A tremendous amount of pressure, both political and business to grant licenses in a hurry built up," a senior FCC staff member says.

The pressure was most intense of channels for which only one application had been submitted, since each day of delay increased the possibility that someone might present a competing application.

Without written recommendations or any prior hearings, the FCC Commissioners convened July 11, 1952, to issue the first licenses granted in 4 years. At the end of the day, the Commission announced approval of 14 new stations. The UHF station in Austin was among them; the Johnson station was not.

On July 14, however, the FCC released a statement which disclosed that Mrs. Johnson's application, along with three other additional ones, actually had been among those approved 3 days before.

An explanation of the delayed announcement offered by a knowledgeable communications lawyer in Washington is that the Johnson application was not fully processed until the night of July 11, well after the normal workday ended.

Asked if this is what happened, a longtime FCC staff member said:

"I do not know. It is possible. I do know that at that time the staff was working day and night to rush things through."

Regardless of how it was born, KTBC–TV rapidly matured into a robust television station enjoying affiliations with all three national networks.

Neither the UHF station authorized in 1952 nor a second one later licensed ever has been built. Thus, all national and local advertisers seeking to reach the Austin market of 45,000 to 50,000 homes through television have had to come to KTBC.

VALUE OF STATION PUT AT $5 MILLION

The current value of the station, together with that of the Johnson AM and FM radio stations, is calculated at $5 million by an experienced television broker who has analyzed the properties. Other industry sources think they would command an even higher price.

The $5-million figure applies only to what the broker calls the stripped down value of the stations. This includes their physical assets, network affiliations, licenses, relationship to the market and any options or contracts they may have. It ignores their "net quick" value which in trade parlance refers to operating capital, surpluses, reserves and other liquid assets beyond liabilities.

The last L.B.J. Co. financial statement appearing in public FCC records shows that on February 28, 1962, the company had surplus and reserves of $2,666,533 in excess of liabilities. Presumably, the KTBC stations accounted for most of this sum.

After so successfully introducing television to Austin, the Johnson interests searched elsewhere in Texas for other opportunities. They found one in Waco, 92 miles north of Austin.

Waco had a UHF station which in 1954 was losing money at a disastrous rate. The station, KANG, had been unable to secure network affiliation from either CBS or ABC, which scorned UHF stations. And it suffered further because a new VHF station in Temple 30 miles away, was beaming NBC programs into Waco.

Even more ruinous competition was imminent from a VHF station which soon was to receive FCC clearance to begin telecasting in Waco. The embryonic station, KWTX–TV had been negotiating with CBS and fully expected an affiliation from it, an expectation reflected in program schedules submitted to the FCC.

The KANG owner for months in 1954 urgently tried to sell his debt-ridden station. But, according to correspondence in FCC records, no one wanted it.

On December 1, 1954, the FCC gave KWTX–TV a license. The same day, it authorized the Johnson company to buy KANG for $25,000 and the assumption of $109,000 in debts.

The KWTX promoters were surprised that the Johnson company would want KANG which had been unable to compete with one VHF station, much less two.

SURPRISE TURNS TO CONSTERNATION

A few days later, though, their purpose turned to consternation when they discovered that CBS no longer was interested in doing business with them. It suddenly preferred instead to affiliate with KANG.

This CBS decision to associate itself with a dying UHF station rather than with a potentially profitable VHF station was unique in television history. But it did not long remain unique.

Dismayed, the KWTX owners turned to ABC, the only other network available.

The weakest of the three national networks at the time, ABC had eagerly welcomed VHF outlets wherever it could find them, and KWTX presented it with an opportunity to send all of its programs into Waco.

But when KWTX asked for an affiliation, ABC said no. It chose to affiliate with the Johnson station, whose program time it would have to share with CBS.

Deprived of network programs, KWTX faced a foreboding future. It's prospects darkened further when the Johnson station in Austin increased its power to project its programs into the southern sections of the Waco market.

The KWTX owners retaliated by reporting all that had happened to the Justice Department and demanding that the Antitrust Division intervene. They also filed a complaint with the FCC accusing the Johnson company of "monopolistic activities" and ordered their lawyers to prepare a civil suit.

These actions were followed quickly by private negotiations between KWTX and the Johnson interests. It is unclear who initiated the bargaining, but KWTX owners say that Mr. Johnson personally was involved in it.

A KWTX stockholder and attorney, Wilfred Naman, remembers that Mr. Johnson participated in the business discussions at least three times.

"I visited with him both in his office at the Capitol and then out at his home in Washington. I also recall once during these negotiations, I had a conference with him down on his ranch. I believe that his lawyer first suggested that I talk with Mr. Johnson," Mr. Naman says.

For what he had to offer—network affiliations—Mr. Johnson wanted more than half of the new television station and also part of an already established and flourishing radio station owned by the KWTX promoters. The Johnson interests also were eager to get rid of the complaints pending before the Federal agencies.

But the KWTX owners were unwilling to surrender as much as was being asked of them.

"One of us was offering less, the other asking more. Each of us was sparring for position," Mr. Naman says of his conversations with Mr. Johnson, who then was Senate majority leader.

SPARRING PRODUCES FIRST AGREEMENT

The first agreement produced by this sparring became apparent May 15, 1955, when KWTX withdrew its complaints, explaining to the FCC that "certain facts" had come to its attention. The same day, ABC revealed that in September it would shift its Waco affiliation from the Johnson station to KWTX.

This initial agreement removed the Waco conflict from the public arena, but did not entirely settle it. Although KWTX now had a promise of a network affiliation in the fall, it had gone on the air without one and was losing money. And it was not certain that ABC programs alone would enable it to compete with the NBC fare being offered by the station in nearby Temple. So negotiations between KWTX and the Johnson company continued through the summer, when Mr. Johnson suffered a heart attack, and into the fall.

The deal that finally emerged required KWTX stockholders to give up 29.05 percent of their stations to the Johnson company. One KWTX stockholder says that he opposed the arrangement, but a majority ratified it.

As a consequence, KANG on December 31, 1955, ceased operations, announcing that it no longer could bear the heavy losses it had been sustaining. The Johnson company then "merged" KANG with KWTX in return for 29 percent of the VHF station and the radio station.

For this 29 percent, the Johnson company paid no money. It did turn over the CBS affiliation and the physical assets of KANG, which had cost it $134,000.

Today, the "stripped down" value of KWTX–TV and of its subsequently acquired interest in other Texas stations is estimated to be $3 million. The Johnson company share of this basic value would be $870,000.

The present KWTX board of directors is composed of seven Waco owners and three Johnson representatives: A. W. Moursand; J. C. Kellam, manager of the Johnson station in Austin; and Donald S. Thomas, one of Mr. Johnson's Austin lawyers.

Relations between the two factions have been strained. Nevertheless, KWTX, which remains the only television station in Waco and which programs the best from CBS and ABC, has prospered and expanded.

It has acquired 75 percent of a television station in Sherman, 78.9 percent of a radio station in Victoria, and half of a Bryan television station which it established.

The channel allocated Bryan, the home of Texas A. & M., originally was reserved for educational purposes. It is one of the few such channels which the FCC has allowed to be converted for commercial use.

"I know this looks bad in the circumstances," says one of the KWTX owners.

"But I'm sure that Mr. Johnson had nothing to do with it, at least I'm sure as I can be. We were just lucky. Actually the Johnson yeaple were against the Bryan station. They thought it might threaten their station in Austin."

The Johnson interests in 1956 decided to go after another faltering station, this one in the Rio Grande Valley town of Weslaco.

A temporary obstacle arose when a Texas businessman, H. L. Cockburn, claimed that he had an option to buy 25 percent of the station, KRVG–TV, for $100,000.

The FCC rejected his claim and let the L.B.J. Co. buy half of the station for $5,000 plus a promise to lend it $140,000 at 7 percent interest. The L.B.J. Co. also pledged to lend a separate radio company maintained by the KRVG owner, O. L. Taylor, $103,000.

Under Mr. Taylor's management, KRVG advertising accounts were sparse, and it repeatedly owed between $300,000 and $400,000. But after the Johnson company became his partner, advertisers became increasingly interested in the scattered Weslaco market. With FCC sanction, the station also strengthened itself by trebling its transmission power.

After Mr. Taylor merged his local radio station with the television in 1957, the

Johnson company acquired complete control of both by buying him out for $100,000.

The television station flourished so that by 1961 the L.B.J. Co. was able to sell it, together with the radio station, for $1.4 million.

The purchasing company, Kenco Enterprises, successfully had run television stations elsewhere in the country. But in Weslaco, it did not have the same good fortune as the Johnson company had.

Last year, it got rid of the station for $25,000 less than it had paid.

Shrewdness, enterprise, and expert management all have been ingredients of the Johnson company success in television. The benign attitude of the FCC toward the Johnson interests also has helped.

When the Commission was assigning channels in the early 1950's, it gave every major Texas city except Austin access to two or more VHF stations. Corpus Christi, a coastal city with a population 30 percent less than that of Austin, received two and later was awarded a third.

However, it should be noted that some other market areas as attractive as Austin also got only one VHF station. And in 1952, the FCC probably could not foresee that UHF stations, of which Austin was allocated two, would fail as completely as they did.

The Commission now can advance persuasive reasons why broadcast patterns of surrounding Texas stations make establishment of a second station in Austin technically impractical.

OPPORTUNITY REJECTED BY FCC IN 1959

But in 1959 when a technically feasible opportunity to let Austin see programs from another station did arise, the FCC rejected it.

The Commission that year decided to grant southern Texas a new VHF channel which it proposed to put in Corpus Christi.

The two stations already in Corpus Christi contended that the city simply could not support a third. They also stressed that the proposed third channel would interfere with a station Mexico was planning to build 135 miles away in Nuevo Laredo.

The FCC might have given the new channel to Austin which still had only one.

It also could have allowed the television station in Bryan to move its transmitter closer to Austin so its programs would reach both Austin and Bryan.

The Corpus Christi station urged that one of these alternatives be adopted.

But the FCC rejected them both. It talked the Mexicans into moving their station. Then, it assigned the third channel to Corpus Christi. The station which received it did not begin telecasting until last month.

Three years later, when the Johnson radio station asked permission to relocate its transmitter in Austin, the FCC was more obliging.

At the time, the Commission was prohibiting any changes in radio transmissions pending a study of the chaos caused by a proliferation of stations about the country.

The Johnson station requested a waiver which would enable it to pick up 63,000 potential listeners by moving and increasing the power of its transmitter. It justified the request for an exception by saying that it was in danger of losing the site on which its transmitter then stood.

The FCC staff discovered that the KTBC lease on its existing site would not expire for several more years. The Commissioners, however, granted the waiver.

COMPETING FIRM IS HIT BY RULING

The latest FCC ruling affecting the Johnson interests came last month when the Commission voted to continue probably fatal restrictions upon an Austin television cable firm which is competing against one allied with the Johnson company.

The rival firms, Capital Cable and TV Cable of Austin, last year began relaying out-of-town television programs to paying subscribers through community antenna systems.

Capital Cable in which the Johnson company has an option to acquire half interest, escaped FCC jurisdiction by relying exclusively on land lines to transmit programs from its antenna to individual homes.

TV Cable subjected itself to FCC restrictions by choosing to use cheaper and more efficient microwaves in its system. The restrictions force it to black out for up to 15 days any network program which the Johnson station wishes to delay for later telecast.

Unfettered by Federal regulation, Capital Cable enjoys the decisive advantage of being able to present programs the moment they emanate from stations in San Antonio or Waco.

Contending that Austin is unique in that it is the only city with competing community antenna systems and just one television station, TV Cable argued that the blackout rule should be waived to allow it to compete on equal terms.

The FCC disagreed. It emphasized that TV Cable voluntarily had accepted the restrictions in return for permission to use microwaves and that the limitations had not been waived for anyone else.

As a consequence, Capital Cable probably will drive its competitor out of Austin.

If it does, its eventual worth could be between $5 and $10 million, according to broadcasting industry sources.

The option agreement entitles the Johnson company to buy half of Capital Cable at a price which will be well under $1 million.

If the Johnson company exercises the option, it then will appoint three directors of Capital Cable. The parent company of Capital Cable, Midwest Video of Little Rock, also will appoint three. The seventh director will be designated by the mayor of Austin.

As any mayor of Austin would be expected to be more sympathetic to the Johnson interests than to those of an out-of-State corporation, this provision probably will enable the Johnson company to control Austin's only community antenna system as well as its only television station.

The Johnson company obtained its option from Midwest Video, which maintains Capital Cable as a wholly owned subsidiary.

JOHNSON PLACES PHONE CALL

According to a Midwest Video officer, a Presidential aid telephoned shortly after the assassination last November to stress that although Mr. Johnson had become President, he still was interested in the option.

Presumably, this call was made before the November 29 trust agreement decreeing that Mr. and Mrs. Johnson shall have nothing to do with the family business.

However, shortly after the agreement was signed, special telephone lines were installed to link the White House and L.B.J. Ranch with the ranch of the trustee, Mr. Moursand. The Secret Service ordered the direct lines for its own use because Mr. Johnson so frequently visits the Moursand ranch.

The issue of whether Mr. Johnson conferred with Midwest Video representatives after November 29 is clouded by controversy and contradictions.

Both C. Hamilton Moses and George Morrell, the two Midwest Video executives identified by some sources as participants in a conference with the President, deny that it ever occurred.

Mr. Fortas likewise asserts that the second-hand reports of such a conference are utterly false.

Yet, three different Midwest Video officials insist that Mr. Johnson since becoming President has talked business with members of the cable company.

Two of the company directors say that the private business meeting was held late last December at the L.B.J. Ranch while West German Chancellor Ludwig Erhard was an official visitor there.

They state that Mr. Johnson spoke with extreme candor about the option, but said that his family company would wait virtually until the eve of its expiration some 2 years hence before deciding whether to exercise it.

According to one of the sources, Mrs. Johnson once interrupted the President to ask: "Lyndon, don't you think you're being rather rough with these gentlemen?"

The President reportedly commented that he was speaking so frankly because he wanted all matters clearly understood.

One of the Midwest Video officers reports that he received his account of the alleged meeting from Mr. Morrell who, he says, was proud of having been a guest at the President's ranch during the Christmas holidays.

REPORT OF VISIT IS CALLED UNTRUE

In a telegram secured by Mr. Fortas after he had been shown a draft of this article, Mr. Morrell stated: "The report that I was present at the Johnson Ranch during the Erhard visit is absolutely untrue. I have had no contact with the President this year. I hope these false statements will be corrected."

Mr. Moursand, for years a personal and business friend of the Johnsons and now the trustee, thinks that their relationship with the FCC often has been unfairly distorted.

"It has been an ordinary chain of events that are strictly proper and legal and ethical. Everybody knows that your TV and radio licenses are renewed automatically, but they write it like you got some favor. Most of them (FCC rulings) are general decisions, nationwide. They forget to say that the rules are nationwide," Mr. Moursand comments.

A highly placed FCC official reports that he knows of no instance in which Mr. Johnson ever attempted to influence the Commission in his own self-interest.

"I've never once had anybody pressure me on Lyndon Johnson. The pressure there is an obvious one, though. It simply stems from the position occupied, particularly when you have a company named the L.B.J. Co.," he says.

Although Johnson company investments in radio and television can be traced from public records, identification of its other holdings is much more difficult.

The White House declines to discuss them. The White House attitude is that since Mrs. Johnson has put all of her holdings in trust, all inquiries about the Johnson fortune should be addressed to the two trustees, Mr. Moursand and Dallas lawyer, J. W. Bullion.

Repeated attempts to arrange an interview with Mr. Moursand in Texas proved unsuccessful. Efforts to talk with Mr. Bullion likewise failed. Mr. Moursand did talk politely and helpfully, though, after being reached on the 26th telephone call from Washington.

He stressed that terms of the trust he oversees stipulate that neither the President nor Mrs. Johnson shall receive any information about administration of the family holdings so long as the holdings are in his custody. He said he could not discuss many details because their publication might violate this provision of the trust.

Reliable businessmen, knowledgeable about the Johnson wealth and how it was acquired, generally are most reluctant to talk about it. Those who will talk usually extract an oath that their names never will be mentioned.

After some 30 minutes of conversation with a reporter, an Austin oilman abruptly halted the interview. He refused to continue it until he had verified the reporter's identity by calling Washington and receiving a physical description of him from an editor.

Two other Austin businessmen from whom information was solicited both furnished it in unsigned letters written on plain paper.

Senator JOHN J. WILLIAMS, of Delaware, who still is poking around the debris of the Bobby Baker case, has had similar experiences.

In response to a request for information, he recently received an insulting reply from a Texas businessman who wrote on his official company stationery that he would tell the Senator nothing.

ENVELOPE INCLUDES SURPRISE PACKAGE

Attached to this letter was a plain, unsigned sheet of paper on which appeared all the information Senator WILLIAMS requested.

Despite the difficulty of completely cataloging the Johnson company holdings, it is evident that some of its radio and television profits have been reinvested in land.

Mr. and Mrs. Johnson jointly own the 1,800-acre Granite Knob ranch in Blanco County and an 800-acre ranch nearby called the "Lewis place."

They also jointly own half of the Haywood ranch, which spreads over 4,500 acres not far from Llanno. Mr. Moursand owns the other half.

The L.B.J. Co., whose name in December was changed to the Texas Broadcasting Corp., last year bought 1,700 acres of ranchland on the Peernales River, 40 miles west of Austin.

Asked about reports that the company has purchased several other ranches, Mr. Moursand declined to comment.

He also declined to estimate the value of the ranchlands in which the Johnsons and the family company are known to have an interest, but said that anyone who paid more than $50 an acre for it would be taking a risk

If this were a correct valuation, the Johnson lands enumerated would be worth $327,500. But Austin bankers familiar with current land prices say that a more accurate valuation, excluding any improvements and equipment, would be between $500,000 and $600,000.

The L.B.J. Ranch itself, although it consists of only about 400 acres, contains the Johnson home a heated swimming pool, barns and employee's quarters which could not be duplicated for less than $150,000.

The ranch also has a 6,300 foot landing strip capable of supporting commercial aircraft as large as the Martin 404 or twin-engine Convairs. Engineers estimate that a strip of such capacity, together with its landing aids, probably would cost between $75,000 and $100,000.

JOHNSON OWNED TRACT ON LAKE

Before he switched the title to the L.B.J. Co., Mr. Johnson personally owned 24.82 acres of choice residential land in an exclusive Austin suburb adjoining a lake.

The present city tax assessment of the property is $31,400 which supposedly represents 75 percent of its true market value. Tax assessments often fail to reflect the real value of property, and an Austin banker says that comparable land near the Johnson tract has been selling for as much as $25,000 an acre. At such a price, the Johnson property would be worth more than $600,000.

Mrs. Johnson still has under her own name some 3,700 acres of Alabama farmland, a few sections of which are rented to tenant farmers.

The Johnson City Foundation, formerly the Lyndon B. Johnson Foundation, owned 1,942 shares in four Austin banks as of last December 31. According to the lowest prices for which such stock was sold last March, it would be worth $136,704. Mr. Moursand describes the foundation as a "charitable" one, and it is so recognized by the Internal Revenue Service.

There is a widespread impression in Austin that the Brazos-Tenth Street Corp., which owns some $300,000 worth of stock in local banks, is a Johnson enterprise.

The Johnson television station is located at the intersection of Brazos and 10th Streets. The aircraft which Mr. Johnson used for personal purposes before it crashed on his ranch in 1962 was owned by the Brazos-Tenth Street Corp. And Austin businessmen say that its emissaries have represented it as a Johnson company.

Mr. Moursand vigorously insists that the Johnsons have no interest whatsoever in the Brazos-Tenth Street Corp. One of its directors, Mr. Thomas who also is a Johnson member of the KWTX-TV board of directors, says the same thing.

PRIVATE PLANE AMONG ASSETS

Beyond investments in television and land, the Johnson family possesses, either through its company or in its own name other assets such as cattle, corporate stocks, and a $200,000 private airplane.

The trust which has been established for the L.B.J. Co. or Texas Broadcasting Corp. stock is irrevocable so long as Mr. Johnson remains President or occupies any other Federal office.

However, once he leaves office, control of the stock reverts to Mrs. Johnson and her daughters. In the meantime, they continue to derive income from it.

WHEAT SIGNUP SKIMPY IN ILLINOIS

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. FINDLEY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. FINDLEY. Mr. Speaker, the recently completed wheat signup was skimpy. It shows even stronger opposition to the certificate scheme than was evident a year ago when the farmers defeated a similar program in a referendum.

Only 35 percent of the Nation's wheat farmers are participating. With two out of three farmers not participating, the signup can hardly be called a success—that is, if your main concern is for farmers.

Of course if your main concern is for acres instead of people, a different conclusion can be reached. Practically all the big wheat farmers—the high-income farmers who need help the least—signed up. For them, the certificate scheme is a gravy train. An estimated 1,300 of them, for example, qualify for payments this year averaging nearly $15,000 each. With big acreages to manipulate they can easily adjust their plans to fit the program. The small farmer cannot.

In judging the signup to be a success, the administration apparently thinks the attitude of the big farmer is more important than the little farmer. I do not. In evaluating a program, the small farmer's attitude should count just as much as the high-income fellow.

In the referendum on May 21, 1963, only 48 percent of the wheat farmers approved—far short of the required two-thirds. Despite this vote the Johnson administration insisted on ramming the certificate program down the throats of the farmers. This year there was no referendum, but wheat farmers showed their opposition even more dramatically.

Only 35 percent signed up—down from 48 percent the year before.

Of the Nation's 1,729,864 wheat farms, only 611,728 are participating. In only 7 of the 47 States where wheat is produced did a majority of the farmers sign up.

In Illinois, participation was still less. Of 132,937 farms, only 24,217 signed up—only 18 percent.

Claims that the signup will reduce grain production are pure guesswork. Our experience with the feed grains program—which like the certificate scheme is based on land diversion—is not encouraging. Last year the taxpayers spent an alltime record trying to hold back corn production, and instead got the biggest corn crop in history.

My own prediction is the certificate scheme will result in a new disturbance to the already hard-pressed livestock industry. Part of the scheme is for the Government to drive down the market price of wheat. Wheat dropped below $1.40 last week. This makes wheat more competitive with corn. More cheap feed means more cheap livestock.

The wheat farmer who did not sign up gets clouted four ways. As a taxpayer he has to help finance the big payments to the high-income wheat farmers. As a consumer he faces higher bread prices. As a farmer he has to take an unnecessarily low price for his wheat—kept low by Government action. And as a cattle raiser—and many wheat farmers are—he sees low-priced wheat entering feed channels to create a new disturbance to the already depressed livestock industry.

ADDRESS OF WALTER LIPPMANN AT BOSTON UNIVERSITY COMMENCEMENT EXERCISE

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. MORSE] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. MORSE. Mr. Speaker, the distinguished columnist and author, Walter Lippmann, delivered the commencement address at Boston University on Sunday, June 7. Mr. Lippmann addressed himself to the theme, "Our World in 1964" and held out a promise of hope for a world without war, at least on the battlefield, or in the air. Reduction in international tension in his view will free our energies for the pursuit of solutions to domestic problems too long left behind in our struggle to preserve our security.

I would like the House to have the benefit of Mr. Lippmann's incisive remarks and I ask unanimous consent to include his address following my remarks in the body of the CONGRESSIONAL RECORD:

I am very sensible of the privilege of speaking to you and of the honor you are doing me this afternoon. I can most truly express my gratitude by saying that for myself, as for the class of 1964, commencement exercises and diplomas are only punctuation marks—in a process of learning which is never completed. For there is no such thing as knowing it all, and only fools think they have nothing more to learn. There is no such thing as knowing enough, and wise men are always aware of it.

In fact, the most important thing that can be gained from an education is to have begun to learn how to go about learning. So I need hardly tell you—since you know something about what is going on in the outer world—that this country is now engaged—especially in this election year—in the vast and complicated process of reexamining, reappraising, rethinking, and relearning its beliefs about the problems of the United States in the world and about the problem of its own internal peace and progress. I realize, of course, that all of the teachers in the educational process of an election are not so disinterested and perhaps not so well-informed as are the professors under whom you have been studying. But you can do something to check on them by listening to their opponents.

There is nothing unusual about having to relearn and rethink. It has been going on furiously throughout this century, this century of great changes, during which the United States has been transformed from a provincial and rural society into the leading industrial and military power in the world.

Indeed, though sometimes the evolution of ideas is rapid, and sometimes it is slower, we may say that the need and the ability to rethink and to relearn is the hallmark of a free society.

It is most surely the inner principle of our own American society. The question to which the Founding Fathers of the Republic sought an answer was, as Alexander Hamilton put it, whether "societies of men are really capable of establishing good government from reflection and choice." The commitment to establish such a government is the essence of the revolutionary turn in human affairs which created the United States. But for that, we could go on thinking what we always thought, with never a worry that we might be wrong.

From time immemorial, men have been governed by custom and heredity, by accident and force. The newly liberated Americans attempted to do what on the scale of a nation had never been done before. They had to invent, contrive, and learn how to operate a new kind of government—a government established and operated by reflection and choice.

This was a daring and revolutionary enterprise, and so it was held to be throughout the world.

To attempt it, the Founding Fathers had to make certain assumptions about the nature of man and about the world he lives in. They had to assume that at least a sufficient number of Americans would be capable of reflecting correctly and then of choosing wisely. For the Founding Fathers had no illusions about the capacities of unregenerate and uneducated men. They did not assume that the capacity to reflect soundly would instinctively appear in every man when he became eligible to vote. On the contrary, they realized that the incentives and restraints of well-designed political institutions were necessary to produce sound reflection.

They had to assume something more. They had to assume that those who emerged and became the legislators and executives of the Republic would be capable of something more than reflection—that they would be inspired also with the grace to choose rightly—and that they would have the gift of preferring the good when they saw it.

These are the fundamental assumptions of the American ideology, and insofar as they are lost in our schools and in our public life, popular government, as we intend to have it, becomes extremely difficult to make work. At the root of all these assumptions is a commitment to a continuing process of self-education and self-discipline. It is a vast and complicated process of reexamining, reappraising, rethinking, and relearning what goes into the making of public policy.

I was graduated from the college across the river more than 50 years ago. I was entirely unprepared, I think I may say, for the fact that I would be living in a time of great wars and revolutions. It never occurred to me to doubt that the tranquil world I had been born into was built on solid rock and that after man's long struggle to go onward and upward, he had found the right way of permanent progress toward a better life.

When I was in school and in college, there had not been a really serious war for many generations. The class of 1964 has had a very different experience. You, on the contrary, were born into a time when war, and the threat of war, and the preparation for war, have overhung and dominated your lives and the lives of your fathers.

What I wish to say today is that now we have come to a different time. You will—quite rightly—take what I am saying with a grain of salt and keep your fingers crossed. But it is true, I believe, that the threat of war—the threat of great nuclear war which could devastate the whole Northern Hemisphere—has become decidedly less than it was a few years ago, while you were still in school and college. It is hard to believe that this is true. Indeed, all of us have a kind of superstitious fear that we may be tempting fate if we dare to say that the danger, the greatest danger in the history of mankind, has receded. But I think you may believe that it has receded enough so that we can begin again to plan our lives and our public affairs on the assumption that our civilization is going to survive. This is an assumption which no one has dared to make for decades. You can make it. You can look once more beyond mere survival to the improvement of our own affairs.

I am, I must warn you, venturing onto dangerous and slippery ground. Many men who have played an honorable and leading part in the wars of this century will say that if the people are allowed to think of peace, they will lose the will to prepare for war. They will cease to make the effort, they will refuse to accept the sacrifices, which are required if we are to play our part in the world.

The older generation are haunted by the memory of how, after the First and again after the Second World War, the country demobilized its military power as soon as an armistice was reached and long before peace was secured. I know I shall be warned that even if the cold war has in fact been, as I believe it has been, defused of its malignant nuclear sanction, it is a mistake to talk about preparing for peace.

And indeed, it could be a catastrophic mistake. If the generation who are now taking over are incapable of continuing to prepare for war while they prepare for peace, then there is grave trouble ahead. I do not doubt that for some the mere talk of peace is a sedative and a sleeping pill.

But I refuse to believe that we are doomed inevitably to make again every mistake we have made before. I am that much of an optimist. I do not believe that men are incapable of learning anything from experience. They can learn something. To be sure they do not learn enough. But they do learn something.

And so, while I admit that the talk of preparing for peace may provide the selfish and the lazy with a reason for closing their eyes and folding their hands, I believe that we must speak of preparing for peace and that you especially must think of it.

We must think of it because during the past 25 years—during long bitter years of World War II and of the cold war—we have necessarily and unavoidably had to make heavy sacrifices. Our material sacrifices were small as compared with those of our allies and of our enemies. In spite of war, the country has grown richer. But it has been too distracted by the business of waging war and of preparing against the threat of war to pay attention to its own internal problems. That is the heaviest price that the American people have paid for war and the threat of war. Partly for want of public money, but chiefly for want of time, attention, and energy, we have been neglecting our own affairs.

Yet, in the quarter-century since the beginning of the Second World War, the American way of life has been changing dramatically and at enormous speed. But we have been too distracted by the war to deal effectively with these changes.

Our population has been growing explosively. We are now predominantly an industrial nation living in cities and suburban areas. But we have not kept up with the needs of this growing urbanized population. We have hardly begun to replan and redevelop our cities and the great metropolitan areas. We have not come anywhere near solving the problem of getting in and out of these metropolitan areas or of moving about within them. We have not created the medical facilities these urbanized people need. Our school system has lagged so far behind our needs that about one-third of the men examined for the draft cannot pass the tests. We are far behind the civilized countries of the world in providing our people with the civilizing amenities of social life. And, last but not least, we have been too distracted to put our minds resolutely on the redress of the grievances which are the just cause of the Negro protest. We have drifted into a dangerous internal conflict within the Union.

I shall not try to spell it all out. I am sure I do not need to do that here in this place and on this occasion. It will be your business as citizens to read rightly the meaning of that reduction in danger and whether it is temporary or lasting—the danger which has hung over us for at least half a century.

If you read the meaning rightly, you will understand that, for you, in the foreseeable future the way is open, as it was not open to your fathers and your grandfathers, to take up again the American quest of the good life in a good society.

INVESTMENT CREDIT BILL

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the gentleman from Louisiana [Mr. BOGGS] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BOGGS. Mr. Speaker, it is with great pleasure that I have introduced today a bill to provide American business and industry with a new 30-percent tax credit for certain types of investment in the less developed nations of Asia, Africa, and Latin America. I hope that the Congress will be able to consider this legislation in the near future, and that the House will act favorably upon it.

I am happy to present to the Members of the House a detailed description of this bill as I have introduced it. The text of the description follows:

DESCRIPTION OF PROPOSED INVESTMENT CREDIT BILL

GENERAL DESCRIPTION OF THE BILL

To effectuate the President's proposal for additional incentives for greater U.S. private investment in the economic and social development of the developing countries, the administration's bill would grant a tax credit of 30 percent of (1) new contributions of money or property to the capital of an eligible enterprise conducted in such a country plus (2) the investor's pro rata share of certain accumulated earnings of the enterprise which are reinvested in the business.

Application of the credit to new investment is designed to encourage increased commitments of capital (as well as the skills and know-how that accompany investment) to the less developed areas to help countries in their own development efforts—much as the United States was assisted during its developing period. The credit is also extended to the reinvestment of accumulated earnings in order to induce investors to increase long-range investment in such areas as well as to reduce the drain of capital and foreign exchange upon countries which have only a limited amount of such exchange available. However, to prevent a windfall with respect to profits normally retained, reinvested earnings would be taken into account only to the extent that they exceed one-half of the increase in accumulated earnings. The 50-percent limitation is adopted since most companies operating abroad ordinarily retain at least that percentage of their income, and retention of such amounts would not constitute an increased commitment of funds. Examples of the computation of the credit are presented below.

This incentive would take the form of a credit against U.S. tax, that is, an allowance which would be directly subtracted from the tax as otherwise computed. It would therefore not affect existing procedures in computing taxable income. The U.S. tax is that computed on all taxable income of the investor and not just income from less developed countries.

The credit would be subject to the limitation that it not exceed, in any one year, the amount of creditable investment (including creditable reinvestment of earnings) made in that year in the form of property produced in the United States. This property, which is referred to in the statute as "section 981 property," is tangible property produced in the United States, and includes both new property which is purchased for original use by the eligible enterprise and used property. However, before used property can qualify as section 981 property, both its original use and all subsequent uses must have been by U.S. persons in the United States. These limitations are intended to mitigate the effect which this legislation will have on the balance-of-payments situation in the United States and to encourage production in the United States. Where the amount of section 981 property acquired with respect to an eligible investor during the year exceeds the credit otherwise allowable for that year, the excess could be applied against the credits determined for subsequent years. Therefore, investors may in effect carry over to subsequent years the benefit of investments made in section 981 property after the effective date. Provision is also made for the carryover of credits that cannot fully be used in any year, either by virtue of the limitation with respect to section 981 property, or because they exceed the tax otherwise due for that period.

Investments eligible for the credit would include those made in enterprises principally engaged in a less developed country or countries in manufacturing or retailing, the processing or marketing of agricultural products, the catching of fish, the performance of certain services, and, under certain conditions, the construction of buildings.

The credit does not apply to investments in an enterprise engaged in mere trading operations, the growth or cultivation of agricultural products, or the extraction, refining, or similar processing of any mineral, ore or gas. The President is given the authority to designate by Executive order those countries which would be considered less developed countries for the purposes of the credit and to terminate a designation in the same manner after notice to Congress.

The credit is available to citizens and residents of the United States, domestic corporations and domestic partnerships owning directly or indirectly at least 25 percent of the total combined voting power of a corporation carrying on an eligible enterprise in a less developed country. The 25 percent required is imposed to distinguish between investments which are merely passive in nature and those which normally entail some participation in the management of the business. Also, because of expended recordkeeping requirement, it was felt that at least this degree of ownership must be required.

Safeguards are provided against abuse, both through provision for recapture of credits allowed with respect to qualifying investments disposed of or withdrawn within short periods and the requirement that an investor, as a condition of claiming the credit, supply such information as may be necessary to establish that a qualifying investment has been made and that there has been no withdrawal of such investment. The maintenance of pertinent books and records is also required. To assure that any amount allowed to an investor as a credit for new investment would not be allowed to him again as a tax-free return of capital upon the disposition of his interest in the eligible enterprise, adjustments are required to the basis of that interest. Such adjustment would not be imposed, however, where the credits granted or recaptured relate to reinvested earnings since the double benefit effect is minimized by taking into account only that increase in accumulated earnings reinvested in excess of the 50-percent minimum. Provision is also made for recapturing credits, where transactions are entered into principally as a device for avoiding recapture upon the withdrawal of investment.

Since an investment in underdeveloped countries takes considerable time before its full effect in assisting local economies produce more goods and services for its people is felt, the legislation is needed now. After a period of increased investment, increased familiarity with the countries involved, greater development in the underdeveloped areas, and increased participation by local entrepreneurs should allow normal business incentives to continue the capital flow. Therefore, in order to assure that this plan would not remain in effect any longer than necessary, the credit is allowed only as to creditable new capital contributions made on or after March 19, 1964, and on or before January 1, 1969, and as to reinvested earnings accumulated during taxable years of the enterprise beginning on or after January 1, 1964, and ending before (but not on) December 31, 1970. Provision is made for the extension of this period with respect to individual countries for an additional period not longer than 5 years through execution and ratification by the Senate of an appropriate tax treaty on or before December 31, 1968, or, if a treaty could not be made effective in time, the period within which such a treaty obligation may be ratified may be extended 1 year by an interim executive agreement executed on or before December 31, 1968, after notice to the Congress. Expiration of the period during which a creditable investment could be made would not preclude the carryforward of unused credits to subsequent years or curtail the period during which an event of recapture may occur.

TECHNICAL EXPLANATION OF THE BILL

Section 1—Short title, etc.

(a) Short title: Section 1(a) of the bill provides that the bill may be cited as the "Less Developed Country Investment Credit Act."

(b) Amendment of 1954 Code: Section 1 (b) of the bill provides that, except as otherwise expressly provided, whenever in the bill an amendment or repeal is expressed in terms of an amendment to (or repeal of) a section or other provision, the reference is to be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Section 2—Credit for investment in less developed countries

(a) Allowance of credit: Section 2(a) of the bill redesignates section 39 of the code as section 40 and inserts a new section 39 in part IV of subchapter A of chapter 1 (relating to credits against tax).

Subsection (a) of the new section 39 provides that there is to be allowed as a credit against the tax imposed by chapter 1 of the code, the amount determined under the new subpart H, added by section 2(c) of the bill. Subsection (b) of the new section 39 requires the Secretary of the Treasury or his delegate to prescribe such regulations as may be necessary to carry out the purpose of the new section 39 and the new subpart H.

(b) Certain corporate acquisitions: Subsection (b) of section 2 of the bill provides an amendment to section 381(c) of the 1954 code (relating to the carryover of tax attributes in the case of certain corporation acquisitions) by adding paragraph (24) thereto. Section 381(c)(24) provides that the acquiring corporation is to take into account (to the extent proper to carry out the purposes of sec. 381 and sec. 39 and under such regulations as may be prescribed by the Secretary of the Treasury or his delegate) the items required to be taken into account for purposes of section 39 in respect of the distributor or transferor corporation. Thus, for example, the regulations under section 381(c)(24) will provide rules for the carryover of any unused credit carryovers of the distributor or transferor corporation, for the application of new section 981 and for the application of the recapture provisions of new sections 985 and 986 relating to withdrawals of property after a credit under section 39 has been obtained.

(c) Rules for computing credit: Section 2 (c) of the bill adds a new subpart H to part III of subchapter N of chapter 1 of the code. The new subpart consists of nine sections (sec. 981–989) which are explained below.

Section 981—Amount of credit

(a) Determination of amount: Section 981(a) provides, in general, that the credit allowed for the taxable year is to be an amount equal to 30 percent of the creditable investment as defined in section 984. This credit is a direct reduction of tax liability and may be applied to reduce the taxes of an eligible investor, as defined in section 982, on any income, regardless of the source from which derived. Subsections (b) and (c) provide limitations on the amount of credit which may be allowed in any one taxable year.

(b) Limitation based on U.S. property: In order to mitigate the effect which this legislation will have on the balance-of-payments situation in the United States, and in order to encourage production in the United States, the credit allowable to an investor for any one taxable year is limited by subsection (b) to the sum of the amount of tangible property manufactured, grown, produced, or extracted in the United States, which is acquired by each eligible enterprise from or with respect to such investor and which is attributable to such taxable year, and the amount of such property acquired from or with respect to such investor during prior years covered by subpart H, less the credits allowed during such prior years. Under paragraph (2), such property can either be new (if the original use of such property commences with the eligible enterprise) or used, but in the latter case, all previous uses of such property must have been in the United States by U.S. persons. Such new and used property, as previously indicated, is referred to as section 981 property. For purposes of this provision, the United States includes the Commonwealth of Puerto Rico and possessions of the United States.

Pursuant to paragraph (3) of section 981(b), the amount of section 981 property which is acquired from or with respect to an eligible investor and which is attributable to a particular taxable year is the sum of (1) the aggregate of the fair market value or the adjusted basis, whichever is the lesser, of each item of such property which has been transferred by such investor (without receiving any consideration therefor other than stock or an indebtedness, as defined in section 984, of the eligible enterprise) to the eligible enterprise and which has been placed in service by such enterprise during such year, reduced by the total liabilities to which all such property is subject and (2) such investor's pro rata share of the amount by which the aggregate cost of section 981 property which has been purchased by the eligible enterprise and which is placed in service by such enterprise during its taxable year ending with or within the taxable year of the investor exceeds the aggregate liabilities to which such property is subject. Thus, section 981 property is not considered to have been acquired from or with respect to an eligible investor until the taxable year of such enterprise when such enterprise actually places such property in service in a qualified trade or business. In the case of property acquired by an eligible enterprise which, as to such enterprise is property of the type described in section 1221(1), or consists of raw material or components used by such enterprise in its trade or business, such property will be considered to have been placed in service when physically located in a designated country where used. As the eligible enterprise pays off an encumbrance on section 981 property which has either been purchased by it or transferred to it by an eligible investor, it will be deemed to have purchased additional section 981 property in the amount of the encumbrance paid off.

In the case of an eligible enterprise which attempts to meet the section 981 requirements by purchasing property from its stockholders or related parties of such stockholders at prices which are unrealistically high, any amounts paid by such enterprise which are in excess of the fair market value of the property will be ignored in determining the cost of section 981 property. Moreover, the cost of section 981 property will not include so much of the basis of such property as is determined by reference to the adjusted basis of other property which was section 981 property with respect to the eligible investor. This limitation was added because, to the extent of any such reference, the eligible enterprise has not really increased its total investment in U.S. property.

Paragraph (4) of section 981(b) provides the manner in which an investor's pro rata share of the excess of the aggregate cost of the section 981 property purchased by the eligible enterprise during a taxable year of such enterprise ending with or within a taxable year of such investor over the aggregate liabilities to which such property is subject is computed.

In the case of an eligible investor who has made a creditable new capital contribution, as defined in section 984(b), which consists of money, to an eligible enterprise during a taxable year of such enterprise there shall be allocated to such investor so much of such excess cost as does not exceed the lesser of (i) an amount determined by multiplying the amount of such excess cost attributable to each item of section 981 property which is placed in service by such enterprise during the taxable year and after the date on which such creditable contribution has been made by a fraction, the numerator of which is the amount of such money contributed by such investor, and the denominator of which is the total amount of money contributed by all eligible investors in the eligible enterprise prior to the date on which such item of section 981 property is so placed in service, and (ii) an amount equal to 30 percent of the amount of such money contributed by such investor.

To the extent that the excess cost exceeds the amount allocated to eligible investors who had made cash contributions, the amount by which such excess cost exceeds the amount allocated to investors who had made cash contributions shall be allocated among those persons who are eligible investors in the eligible enterprise on the last day of the taxable year of such enterprise. The amount to be allocated to each eligible investor shall be an amount determined by multiplying the part of such amount which would have been distributed with respect to stock in the eligible enterprise owned directly by each such investor if on the last day of the taxable year of the eligible enterprise it had distributed such amount pro rata to its shareholder by a fraction, the numerator of which is the number of days in the taxable year on which such investor held such stock, and the denominator of which is the total number of days during such taxable year.

The provisions of section 981(b) may be illustrated by the following examples:

Example 1: A, a U.S. citizen, owns 25 percent of the stock of X, a foreign corporation, which is an eligible enterprise, and 50 percent of the stock of Y, a domestic corporation which is an eligible enterprise. A is the only eligible investor in both X and Y. The taxable year of both X and Y, as well as A, is the calendar year, and A has owned the stock in X for the entire taxable year of 1965. He purchases the stock in Y, however, on October 20, 1965. During 1965, A makes $10,000 of creditable capital contributions to X, all of which is in property and $2,000 of which constitutes the fair market value (and the adjusted basis) of section 981 property which is transferred by A to X and which is placed in service by X during 1965. X also purchased for cash $4,000 of section 981 property in December of 1964, which property was placed in service by X in 1965. A also makes $8,000 of creditable capital contributions to Y, all in section 981 property (this amount constitutes both the adjusted basis and the fair market value of such property) and Y places all of this property in service in 1965. Y also purchases $12,500 of section 981 property which it places in service in 1965. All the property purchased by X and Y and all property transferred by A was free and clear of all encumbrances. The amount of section 981 property acquired by X from or with respect to A in 1965 is $3,000 ($2,000 in such property transferred by A plus one-fourth of the $4,000 purchased by X). The amount of section 981 property acquired by Y from or with respect to A is $9,250 ($8,000 in such property transferred by A plus $1,250 (one-half of the $12,500 in such property purchased by Y multiplied by 73/365, the number of days in 1965 which A owned such stock over the total number of days in such year.))

Example 2: B, a U.S. citizen, owns all of the issued and outstanding stock of M, a foreign corporation which is an eligible enterprise. The taxable year of both B and M is the calendar year, and B has owned the stock in M for the entire taxable year of 1965. During 1965, B contributed two items of section 981 property to M. The first such item has a fair market value of $20,000, an adjusted basis of $10,000 and is subject to a mortgage of $12,500. The second such item has a fair market value of $10,000 and an adjusted basis of $12,000 and is subject to a mortgage of $3,000. Both of such items of property were placed in service by M during 1965. The amount of section 981 property acquired by M by or with respect to B is $4,500 (the aggregate of the fair market value or the adjusted basis, whichever is lower, of each item of section 981 property, or $20,000, less the total liabilities, or $15,000). During succeeding years as M pays off the encumbrances to which such property is subject, it will be considered to have acquired additional section 981 property in the amount of the encumbrances as paid.

Example 3: On January 1, 1964, the first day of the taxable year of X, a foreign corporation which is an eligible enterprise, A and B, both of whom are U.S. citizens, each owns 100 shares of the issued and outstanding stock of X, which stock represents all the issued and outstanding shares of X on that date. On July 2, 1964, C, a domestic corporation becomes a stockholder in X by contributing $100,000 in cash to X in exchange for 100 shares of the stock of X. On November 1, 1964, D, a resident of the United States, contributes property other than section 981 property, which has a fair market value (and an adjusted basis) of $50,000 and cash in the amount of $50,000 for 100 shares of the stock in X. A, B, C, and D all use the calendar year as their taxable year. During 1964, X purchases items of section 981 property, all of which are free of any encumbrances, which it places in service as follows: (i) on April 30, 1964, an item of property which cost $60,000; (ii) on July 30, 1964, an item of property which cost $10,000; and, (iii) on November 30, 1964, an item of property which cost $30,000. The amount of section 981 property which was considered purchased by X with respect to each A, B, C, and D is determined as follows: first, the amount of section 981 property purchased after C made his capital contribution and before D made his capital contribution is allocated solely to C, to the extent that such amount does not exceed $30,000 (30 percent of the amount of cash contributed by C). Thus, the entire $10,000 purchased on July 30, 1964, is allocated to C. The amount of section 981 property which was purchased after both C and D made their contributions is allocated between C and D by multiplying such amount by fractions, the numerator of which is the amount of cash which each contributed and the denominator of which is the total amount of cash contributed. Since C contributed $100,000 in cash and D contributed only $50,000 in cash, two-thirds of the section 981 property purchased on November 30, 1964, or $20,000 is allocated to C and the remaining section 981 property purchased on that date, or $10,000, is allocated to D. The amount by which the total section 981 property purchased during the year ($100,000) exceeds the amount already allocated to C and D ($40,000) or $60,000 is then allocated between A, B, C, and D by multiplying the amount thereof which would have been distributed with respect to the stock owned by A, B, C, and D on the last day of 1964, if X had distributed such amount pro rata to its shareholders (or $15,000 each) by fractions, the numerator of which is the number of days during 1964 on which each stockholder owned the X stock and the denominator of which is the total number of days in 1964 (366). Since A and B owned the stock on each day of the year, all of such amount or $15,000 will be allocated to both of them. Since C owned the stock 183 days, 183/366 of $15,000, or $7,500 is allocated to his account. Since D owned the stock 61 days, 61/366 of $15,000, or $2,500, is allocated to D. Thus, of the section 981 property purchased by X during 1964, A's pro rata share of such property is $15,000, B's pro rata share is $15,000, C's pro rata share of such property is $37,500 ($10,000 plus $20,000 plus $7,500) and D's pro rata share of such property is $12,500 ($10,000 plus $2,500).

If because of the limitation on credit based on the tax liability of the eligible investor, the entire amount of section 981 property acquired by an eligible enterprise from or with respect to the eligible investor cannot be used in any taxable year, it can be carried forward indefinitely until it is completely used up. Thus, if in example (2) above, B was not entitled to any credit in 1965 because of the limitations on his tax liability, the entire $4,500 could be carried forward by B and could be used in 1966 and all subsequent years until it had all been applied.

(c) Limitation based on tax liability: In addition to the limitation relating to section 981 property, subsection (c) provides another limitation on the aggregate credits allowable to an investor during any one taxable year. Such credits may not exceed the tax liability of such investor for that year. Thus, a credit cannot result in a tax refund but only reduces the amount of taxes otherwise imposed on the investor. This is accomplished by paragraph (1) of section 981 (c) which provides that the credit allowed by section 39 for the taxable year with respect to the creditable investment of the eligible investor in an eligible enterprise shall not exceed the same proportion of the tax liability of the eligible investor which the credit determined under subsections (a) (b) and (d) of section 981 for the taxable year with respect to such investment bears to the aggregate amount of all credits determined under such subsections with respect to such investor for that year. In other words, where the aggregate credits available to an eligible investor exceed the tax liability of such investor, a part of the credit attributable to each creditable investment, the amount of which is determined in the manner indicated in the preceding sentence, will not be allowed during such year.

Under paragraph (2) of section 981(c), the liability for tax for the taxable year is defined as the tax imposed by chapter 1 reduced by the sum of the credits against the income tax allowed by sections 33, 34, 35, 37, and 38. For purposes of determining the liability for tax, the taxes imposed by sections 531 and 541 (relating, respectively, to the accumulated earnings tax and the personal holding company tax) are not considered taxes imposed by chapter 1. Thus, the liability for tax as defined in section 981(c) (2) and the credit allowable for the taxable year under section 39 are determined before computing any tax imposed by section 531 or 541. Apart from the restriction on the amount allowable as a credit based on tax liability and purchases of section 981 property, no limit is imposed on the aggregate credits allowable to the investor for the year.

To the extent that credits are unused because of the limitation with respect to section 981 property or because they exceed the tax liability of the investor for the year, or because of the application of both of these limitations, they can be carried forward and applied against taxes incurred by the investor in any of the 5 next succeeding years.

The application of section 981(c) may be illustrated by the following example:

Example: A, a U.S. citizen, owns all of the issued and outstanding stock of foreign corporation X and domestic corporation Y, both of which are eligible enterprises. In addition, he owns 50 percent of the issued and outstanding stock of Z, a foreign corporation conducting an eligible enterprise. In 1966, A makes creditable investments in these enterprises which, under section 981(a), would entitle him to a credit of $3,000 with respect to investments in X and $10,000 with respect to Y. In addition, A had made a creditable investment in Z which would have entitled him to a credit of $11,000 in 1965, which, because of the limitation contained in section 981(c), was not allowed in that year. During 1966, the amount of section 981 property acquired by these enterprises from or with respect to A which has not been used in prior years is $20,000, $3,000 of which is allocated by A to the investment in X, $6,000 to the investment in Y, and $11,000 to the investment in Z. During 1966, A's liability for tax, as defined in section 981(c)(2), is $10,000. The amount allowed with respect to each creditable investment made by A for which a credit is allowable is determined as follows: with respect to the investment made in X, $1,500 ($10,000 × $3,000/$20,000); with respect to the investment made in Y, $3,000 ($10,000 × $6,000/$20,000); and, with respect to the investment made in Z in 1965, which is carried over to 1966, $5,500 ($10,000 × $11,000/$20,000). The amount of unused credits with respect to each investment, or $1,500 with respect to X, $7,000 with respect to Y, and $5,500 with respect to Z can be carried forward to 1967. In addition, the amount of section 981 property, or $10,000, which was not used because of the application of the section 981(c) limitation can in turn be carried forward to 1967 and reallocated among creditable investments made in that year in any way chosen by the eligible investor.

Section 982—Eligible U.S. investors

(a) Definition: Under subsection (a) of section 982, a U.S. citizen or resident, a domestic partnership or a domestic corporation is eligible for the credit allowed by section 39 if any such person owns at least 25 percent of the total combined voting power of a corporation conducting an eligible enterprise. Estates and trusts, whether foreign or domestic, cannot be eligible investors.

(b) Ownership through foreign entities: In determining the voting power ownership of a foreign corporation engaged in an eligible enterprise, subsection (b) provides that a U.S. person is deemed to own his pro rata share of any voting power of such enterprise held by an intermediate foreign corporation in which he holds at least 50 percent of the voting power. However, these rules pertaining to voting power held through an intervening foreign entity merely determine the eligibility of the investor; investments made by such intermediate foreign corporation in the eligible enterprise will not result in a credit for the eligible investor. Thus, if a U.S. person owned all of the voting power of a foreign corporation which owned 50 percent of the voting power of an eligible enterprise, such U.S. persons would, under section 982(b), be considered to own 50 percent of the voting power of the eligible enterprise and would be an eligible investor in such enterprise. He would not, however, get a credit with respect to any capital contributions made by the intermediate foreign corporation to the eligible enterprise although he would get such a credit for any contributions made by him directly to the enterprise.

(c) Ownership through certain partnerships, etc.: Under subsections (c) and (d), an electing small business corporation or a partnership which meets the ownership tests of section 983(a) with respect to an eligible enterprise is treated as being an eligible investor in such enterprise. However, the credit under section 39 for creditable investments made in such an enterprise is passed through the entity and made available to the shareholders or the partners, whichever the case may be; but, under subsection (e), such shareholders or partners are only entitled to the credit allowed by section 39 if they are, in turn, U.S. citizens or residents or domestic corporations. When there is a withdrawal of property from an eligible enterprise with respect to an eligible investor which is an electing small business corporation or a partnership, the event of recapture affects the shareholders, beneficiaries or partners directly and they are affected in the manner indicated in section 985.

(d) Community property laws, etc.: Under subsection (f), stock which is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or which is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common, shall be treated as owned directly by one shareholder. The purpose of this provision is to allow a U.S. citizen or resident and his wife to be treated as a single shareholder in determining if they meet the stock ownership requirement of subsection (a) where the stock is held as marital property.

The application of section 982 may be illustrated by the following examples:

Example 1: Of the voting stock of X, a foreign corporation which is an eligible enterprise, A, a domestic partnership, with four partners (all but one of whom are U.S. persons) who share equally in all the profit and loss of A, owns 40 percent, B, a nonresident alien owns 55 percent and C, a domestic corporation, owns the remaining 5 percent. A is an eligible investor and the three partners who are U.S. persons are eligible for the credit under section 39. However, under section 982(f), the partner who is not a U.S. person is not entitled to such credit. Moreover, the other partners are not entitled to his share of the credit. B is not a U.S. citizen or resident and is not entitled to any credit under section 39 and C fails to meet the minimum ownership requirement to be an eligible investor.

Example 2: Of the voting stock of Y, a foreign corporation which is an eligible enterprise, M, a foreign corporation, 50 percent of whose stock is owned by A, a U.S. person, owns 50 percent, B and C, husband and wife, both of whom are U.S. persons, own 25 percent of such stock as tenants in common, and D, a domestic estate, owns the remaining 25 percent. A, by virtue of his stock ownership of M is considered to own his pro rata share of the stock in Y owned by M, or 25 percent, and he is an eligible investor in Y. Under section 982(f), B and C are treated as a single shareholder and therefore qualify as an eligible investor. C is an estate and therefore does not qualify, under section 982(a), as an eligible investor.

Section 983—Eligible enterprises

(a) In general: Section 983 provides rules for determining whether or not a corporation qualifies as an eligible enterprise. Under paragraph (1) of section 983(a), at least 90 percent of the gross income, if any, for the taxable year of the enterprise, must be derived from the active conduct of certain qualified trades or businesses, as defined in section 983(b). Under paragraph (2) of section 983(a), at least 90 percent in value of the assets of the corporation must consist of qualified business assets, as that term is defined by section 983(c). In addition, under the last sentence of section 983(a) a domestic corporation which is a Western Hemisphere trade corporation cannot qualify as an eligible enterprise with respect to a taxable year in which it claims the benefit of section 922, which provides a special deduction in computing the tax liability of Western Hemisphere trade corporations. Since the reduction in tax granted to these corporations is an existing incentive, there is no need to grant the tax credit to their shareholders unless the corporation does not avail itself of the section 922 deduction.

(b) Qualified trade or business: Section 983(b) sets forth the requirements for determining whether or not a corporation is engaged in carrying on a qualified trade or business. Paragraph (1) of section 983(b) provides that the types of qualified business activities consist of the manufacture or production of personal property, the processing or marketing of agricultural or horticultural products (including but not limited to livestock, poultry, fur-bearing animals or fish), the catching or taking of fish, the ownership and operation of hotels, the sale of tangible personal property to the general public through one or more retail establishments, and, under limited conditions the following: the sale of tangible personal property at wholesale; the construction of buildings and other improvements to real property; and, the performance of services.

In the case of a corporation which derives more than 10 percent of its gross income from the sale, at wholesale, of tangible personal property (other than agricultural products) which it has not manufactured, produced, or processed, such corporation can qualify only if at least 50 percent of its gross income is derived from selling property which it has manufactured, produced or processed, from selling tangible personal property at retail, or from selling agricultural products or catching fish. If such corporation derives at least 50 percent of its gross income from activities described in the preceding sentence, and if the income derived from such activities when added to the income derived from the sale, at wholesale, of tangible personal property, other than property described in the preceding sentence, constitutes at least 90 percent of the gross income of such corporation, it will qualify as an eligible enterprise.

In the case of a corporation which derives more than 10 percent of its gross income from the construction of buildings and other improvements to real property, such corporation can qualify as an eligible enterprise only if at least 50 percent of its gross income is derived from the active conduct of one or more other qualified trades or businesses (but not including a business in which personal property is sold at wholesale). If such a corporation derives at least 50 percent of its income from such other qualified trades or businesses, and if the income derived from such businesses when added to the income derived from the construction of buildings and other improvements to real property constitutes at least 90 percent of the gross income of such corporation, it will qualify as an eligible enterprise. In addition to the foregoing, under subparagraph (G) of section 983(b)(1), service activities involving the performance of industrial, financial, managerial, technical, scientific, engineering, or architectural services, or services performed in connection with the conduct of a manufacturing, processing, fishing, or marketing (of agricultural products) business will qualify, but only if payment for such services is reasonable in amount and is not determined by reference to the profits or productivity of the person for whom performed. This limitation is designed to prevent investors from securing a credit with respect to ineligible activities through investment in companies performing services for a share of the profits from such activities. Without this provision, a corporation which is performing an ineligible activity could form a new corporation to perform such activity and then furnish services to such new corporation for a percentage of its profits and qualify as an eligible enterprise. The extraction and refining or similar processing of minerals, ores, oil, or gas would be ineligible as existing incentives for inducement of investment in such activities in underdeveloped countries appear adequate. An enterprise will be deemed to have manufactured or produced personal property where it either substantially transforms purchased personal property or, where purchased property is used as a component part of personal property which is sold, if the operations conducted by such corporation in connection with the property purchased and sold are substantial in nature and are generally considered to constitute the manufacture or production of property.

To insure that the "qualified" business has a situs within one or more less developed countries, paragraph (1) of section 983(b) requires that all of its business activities must be conducted within such countries. Paragraph (2) of section 983(b) makes several exceptions to this rule. First of all, an overall exception exists allowing the purchase of section 981 property. A company engaged in the manufacture or production of property or in processing agriculture products may purchase outside of less developed countries raw materials and property which it uses in the business and may sell its end product outside such countries. In the case of a qualified retailer, goods manufactured or grown outside the country may be purchased for use and sale in connection with such business. In both of these exceptions, because of the nature of the business involved, there will be a substantial involvement in the local economy, even if some purchases and sales occur outside the country of incorporation. Finally, no business which otherwise qualified under section 983(b) will be disqualified because it makes incidental sales or purchases outside less developed countries. For the meaning of the phrase "incidental purchases," see section 921 of the code.

(c) Qualified business assets: Section 983(c) defines the meaning of the term "qualified business assets" for purposes of section 983(a)(2). Paragraph (1) of section 983(c) includes in this category property used or held for use in the ordinary course of carrying on one or more qualified trades or business, as defined in section 983(b), if such property is located in countries designated under section 983(d). Section 983(c)(1) includes property, whether it is tangible or intangible, so long as it is held for use or used in carrying on a qualified business. The determination of the situs of intangible property will be based on existing law. To the extent that the regulations adopted under section 955 of the code provide rules for determining the situs of intangible property, these regulations will govern this determination. An exception to the rule of section 983(c)(1) is set forth in the second sentence of section 983(c). To the extent that property described in section 983(c)(1) consists of either the currency of any country other than a designated country, as defined in section 983(d), in which the eligible enterprise carries on a qualified trade or business, or of a claim payable in such currency, such property will be considered qualified only if it is clearly shown that the acquisition and holding of such property is ordinary and necessary to the conduct of the business.

Under paragraph (2) of section 983(c), certain types of tangible property will be considered to be qualified assets without regard to the requirement of paragraph (1) that such property be located in designated countries. These types of property are products manufactured or processed in the conduct of a qualified trade or business, as defined in section 983(b), facilities for the storage, handling, transportation, packaging or servicing of such products, raw materials, components, or other property of a kind described in section 1221(1), which are purchased for use in the conduct of such a business, facilities for the storage, handling, transportation, packaging or servicing of such raw materials, components or other property, and property purchased for use in the ordinary course of carrying on such a business, but only if it is shipped to and received in a designated country in which the trade or business is carried on promptly after its purchase. Paragraph (3) provides that property which is required to be purchased because of restrictions imposed by a designated country, as defined in section 983(d), in which a qualified trade or business is carried on will be considered to be qualified assets. This provision recognizes that on occasion countries will require, as a condition to doing business therein, that the enterprise purchase certain specific assets, often obligations of the country. Paragraph (4) provides that certain equity and debt securities of an eligible enterprise will also be considered qualified assets in the hands of another eligible enterprise, but only if all U.S. persons who are eligible investors with respect to such other eligible enterprise agree to supply with respect to such corporation the information required under section 989.

These limitations on the nature of the assets which can be held by an eligible enterprise are intended to prevent the enterprise from being used merely as a repository for property which bears no relationship to the business which is being conducted. Without such a limitation, an enterprise could qualify even if it were not actively engaged in business since both of the income tests require that there be some income before they become effective.

(d) Designated countries: Under section 983(d), the President is given the authority to designate by Executive order the countries to be regarded as less developed countries for the purposes of this plan. Any designation will be made on the basis of the less-developed status of the country and any other factors deemed appropriate in the national interest. An oversea territory, department, province, or possession could be designated as a separate country. No designation could be made with respect to any country in the Sino-Soviet bloc or with respect to any of the following countries:

Free world areas considered ineligible for tax credit—Australia, Austria, Belgium, Canada, Denmark, France, Germany (Federal Republic), Hong Kong, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Republic of South Africa, San Marino, Spain, Sweden, Switzerland, United Kingdom.

For the interim period prior to the issuance of an Executive order under section 983, all countries, other than possessions of the United States or the Commonwealth of Puerto Rico designated as less-developed countries (under section 955(c)(3) of the code) by Executive Order No. 11071, dated December 27, 1962 (designating certain areas as economically less developed for purposes of subparts A and F of part III of subchapter N, and section 1248 of chapter 1 of the code), will be considered to be less-developed countries for purposes of the investment credit bill. This includes all countries, and oversea territories, departments, provinces, and possessions of foreign countries (other than areas within the Sino-Soviet bloc) except those specified in section 955(c)(3). The countries designated as less developed for purposes of subpart H (section 981–989) need not (except for the interim period described above) be the same as those designated as less developed in any Executive order under section 955(c)(3) (nor in any Executive order under chapter 41, the "Interest Equalization Tax"). The designation of a country as a less-developed country under section 983 can be terminated (after such interim period) only by a further Executive order after 30 days' notice to the Congress. Any such termination will not affect the treatment of investments made prior to the issuance of the terminating Executive order.

The application of section 983 may be illustrated by the following examples, in each of which it is assumed that the corporation in question has met the requirements of section 983(a)(2) in that 95 percent of its assets consist of "qualified business assets":

Example: During 1965, A, a foreign corporation, derives $100,000 of gross income from the purchase and sale of household appliances to the general public through a retail store in X, a country designated as a less-developed country under an Executive order issued pursuant to section 983(d), $90,000 from the purchase and sale of such appliances to retailers located in X, and $10,000 from dividends and interest. Insofar as A's wholesale operations are concerned, all the property sold is manufactured in X although some of the products sold at retail are manufactured in Y, a developed country. Since A derives 50 percent of its gross income from retailing, under section 983(b)(1)(E), the profits realized from the wholesaling operation are taken into account in applying the 90-percent test of section 983(a)(1). Although some of the goods sold at retail are purchased outside of country X, under section 983(b)(2)(C), A will still be considered to conduct its business wholly within country X. Since A has derived at least 90 percent of its income from the conduct of a qualified business, A will qualify as an eligible enterprise for 1965.

Example 2: During 1965, M, a foreign corporation, derives all of its income from the processing in Z, a country designated as a less developed country under an Executive order issued pursuant to section 983(d), of agricultural products grown in Z by N, the domestic parent of M. M is an eligible enterprise during 1965.

Example 3: The facts are the same as in example (2) except that M derives an equal portion of its gross income from growing agricultural products in Z and from processing those products within that country. M would not constitute an eligible enterprise since more than 10 percent of its income is from the growing of agricultural products, and the growth of such products does not constitute a qualified trade or business under section 982(b).

Section 984—Creditable investment

(a) In general: Under section 984(a), the creditable investment of an eligible investor in an eligible enterprise during any one taxable year is the sum of the creditable new capital contributions, as defined by section 984(b) made by such investor during each taxable year to such enterprise and such investor's pro rata share, determined under section 984(f), of the increase in creditable earnings and profits, as defined in section 984(e), of such enterprise for its taxable year ending with or within such taxable year.

(b) Creditable new capital contributions: Under section 983(b), any money or property (other than stock, or a right to subscribe for or receive stock or any obligation to pay money or deliver property) which is owned directly by an eligible investor and is transferred by such investor to an eligible enterprise will qualify as a creditable capital contribution if four conditions are met: (1) the property is transferred other than in satisfaction of a preexisting indebtedness; (2) it constitutes a qualified business asset in the hands of the eligible enterprise within the meaning of section 983(c); (3) it does not represent, either directly or indirectly, funds borrowed within a designated country, as defined in section 983(d); and (4) during the year of the transfer the investor receives nothing for making the contribution other than stock or a right to subscribe for or receive stock or an indebtedness, as defined in section 984(c), of the eligible enterprise. For the treatment of any amount received during the year prior to the transfer or during the 5 years following the year of the transfer, see sections 985 and 986 infra. Under this provision the credit would be granted for new investment, whether in the form of cash, machinery, inventory, patent or patent rights or other industrial property rights, and whether the contribution of these assets is framed as a transfer on open account, a loan, or a purchase of stock or an indebtedness.

Some of the limitations as to the type of transaction which will qualify as a creditable new capital contribution are intended to assure that the credit is extended only to the commitment of additional capital to the less developed areas. This explains the purpose of the requirement that only money and property transferred other than in satisfaction of a preexisting indebtedness will qualify and that the transfer of assets not represent funds borrowed within a designated country. It also explains the limitation on the nature of the consideration which the transferor can receive in exchange for his contribution. Any such consideration other than stock or an indebtedness, as defined in section 984(c), of an eligible investor will result in disqualifying the transaction. Thus, the receipt of cash or property, or the agreement of the enterprise to pay the same, such as in a lease or license agreement, will prevent the transaction from qualifying as a creditable new capital contribution. Moreover, the credit will not be given for the acquisition by an investor of already outstanding stock or securities from a shareholder or creditor of an eligible enterprise. The limitation on allowing the credit to transfers of "qualified business assets," as defined by section 983(d), is to prevent investors from securing a credit for the transfer of assets unrelated to the qualified activities of the enterprise. Finally, as previously indicated, an investment made through an intervening entity, rather than directly by the investor to the eligible enterprise, would also not qualify.

(c) Indebtedness: Section 984(c) defines the term indebtedness as including any obligation owing by an eligible enterprise which is represented by a bond, a debenture, a promissory note, a certificate or other evidence of indebtedness, or an open account, trade account, or book account. The term is not intended to include an agreement pursuant to which the eligible investor transfers property to an eligible enterprise in exchange for the payment, or agreement to pay, by such enterprise of money or property for the use of such property, such as a lease or license agreement.

(d) Amount of contribution: Under section 984(d), where property is contributed, the amount which is creditable is the aggregate of the fair market value or the adjusted basis, whichever is lower, of each item of such property which is contributed by the eligible investor to the eligible enterprise, reduced by the aggregate of any liabilities to which such property is subject. This is the same manner in which the amount of section 981 property which is contributed is determined under section 981(b)(3)(A). Thus, when property is transferred by an eligible investor to an eligible enterprise, and such property is subject to a liability in excess of its adjusted basis (assuming that the fair market value of such property is equal to or more than its adjusted basis), the amount of such excess must be used to reduce the amount of other property so contributed in determining the total contribution. However, this determination is made on an enterprise-by-enterprise basis and the amount of any excess liability with respect to property contributed by an investor to one enterprise will not reduce the amount of his contribution to another enterprise.

The application of subsections (a) through (d) of section 984 may be illustrated by the following examples:

Example 1: A, a U.S. citizen owns 60 percent of the total combined voting power of X, a foreign corporation, which in turn owns 50 percent of the voting stock of Y, a foreign corporation which is an eligible enterprise. During 1965, A lends to Y, an open account, for use in its business, cash in the amount of $20,000 and transfers to Y, without receiving any consideration therefor, inventory worth $30,000 with an adjusted basis of $15,000. A receives no payments during 1965 on the open accounts. A also conveys to X for shares of its preferred stock, machinery worth $60,000 with an adjusted basis of $30,000, the machinery immediately being retransferred by X to Y. In addition, A purchases $50,000 worth of Y bonds from a bondholder. None of these assets are subject to any liabilities. A's creditable capital contributions for the period total $35,000, the amount of cash transferred to Y plus the adjusted basis (since it is lower than the fair market value) of the inventory transferred. A is entitled to no credit for the transfer of machinery to X because X is not an eligible enterprise, nor is he entitled to any credit for the purchase of the Y bonds from an existing bondholder.

Example 2: The facts are the same as in example (1) except the inventory is made subject to an inventory lien in the amount of $20,000. A's creditable capital contribution is $15,000.

(e) Reinvested earnings: Under section 984(e), the increase in creditable earnings and profits of an eligible enterprise for a taxable year of such enterprise is the amount determined by subtracting any amounts distributed as a dividend during such taxable year from one-half of the amount, if any, by which the accumulated earnings and profits (or deficit in earnings and profits) of the enterprise at the close of such taxable year and the earnings and profits of such taxable year (computed as of the close of such year without diminution by reason of any amounts distributed as a dividend during such year), exceed the highest amount of accumulated earnings and profits of the enterprise immediately following the end of any previous taxable year of such enterprise ending on or after December 31, 1963. The determination of earnings and profits of an eligible enterprise shall be made in accordance with the principles of section 964(a) and the regulations thereunder.

(f) Investor's share of increase: Once the increase in creditable earnings and profits of an eligible enterprise has been computed, under the rules set forth in section 984(e), a determination must be made as to what part of such increase is to be allocated to each eligible investor in the enterprise. This allocation is made under section 984(a), which, as previously indicated, allocates to each such investor his pro rata share of any such increase. Section 983(f) defines an investor's pro rata share of any such increase as an amount determined by multiplying (i) that portion of the increase which would have been distributed with respect to the stock in the eligible enterprise which such investor owns directly (including stock owned through a foreign entity in accordance with the provisions of section 982(b)), if on the last day of the taxable year of the eligible enterprise, it distributed its earnings and profits for the taxable year (computed as of the last day of such year without diminution by reason of any amounts distributed as a dividend during such year) pro rata to its shareholders, by (ii) a fraction, the numerator of which is the number of days in such taxable year on which the eligible investor held such stock in the eligible enterprise and the denominator of which is the total number of days during such taxable year. In determining the amount which would have been distributed with respect to stock in an eligible enterprise, all stock, both voting and nonvoting, owned by shareholders of the eligible enterprise will be considered.

The manner in which the pro rata share of each eligible investor in the increase in creditable earnings of an eligible enterprise will be determined may be illustrated by the following examples:

Example 1: A, a U.S. citizen, owns 25 percent of the voting common stock of X, a foreign corporation which is an eligible enterprise, this being the only class of stock issued and outstanding. The taxable year of both A and X is the calendar year and as of the year ending December 31, 1963, X has no accumulated earnings and profits. A owns the stock for the entire taxable year 1964. During 1964, X has earnings and profits of $2,500,000 and distributes $750,000 as a dividend. One-half of the amount by which the sum of the accumulated earnings and profits and the earnings of such year (computed without reduction for the $750,000 dividend) or $1,250,000, exceeds the dividend of $750,000, or $500,000 constitutes X's increase in creditable earnings. A's pro rata share of such increase would therefore be 25 percent of $500,000 or $125,000.

Example 2: The facts are the same as in example (1) execpt that A has also owned 80 percent of the voting stock of Y, a foreign corporation holding 40 percent of X's stock for the same period of time. A's share of the $500,000 increase is creditable earnings and profits would be the $125,000 determined under example (1) plus $160,000 (80 percent of 40 percent of $500,000), or a total of $285,000.

Example 3: X, an eligible enterprise, has issued and outstanding 100,000 shares of voting common stock and 150,000 shares of nonvoting common stock, the two classes having the same per share dividend rights. X also has issued and outstanding 50,000 shares of 6 percent noncumulative preferred stock with a par value of $100 per share. A, a U.S. citizen, whose taxable year is the calendar year, owns 25,000 shares of X's voting common stock, 60,000 shares of its nonvoting common stock and 20,000 shares of its preferred stock. He owns such stock during 1964.

On December 31, 1963, the last day of its taxable year, X has no accumulated earnings and profits. During 1964, X has earnings and profits of $3 million and distributes no dividends. A's pro rata share of X's creditable reinvested earnings would be $519,000 computed as follows:

Increase in earnings of X	$3,000,000
Less 50 percent of such increase	1,500,000
Creditable reinvested increase	1,500,000
Creditable reinvested increase attributable to preferred stock	150,000
A's pro rata share of creditable reinvested increase attributable to preferred stock	60,000
Creditable reinvested increase attributable to common stock stock ($1,500,000—$150,000)	1,350,000
Creditable reinvested increase attributable to nonvoting common stock (150,000 shares divided by 250,000 shares times $1,350,000)	810,000
A's pro rata share of creditable reinvested increase attributable to nonvoting common stock	324,000
Creditable reinvested increase attributable to voting common stock (100,000 shares divided by 250,000 shares times $1,350,000)	540,000
A's pro rata share of creditable reinvested increase attributable to voting common stock	$135,000
A's pro rata share of creditable reinvested increase of X:	
Preferred stock	60,000
Nonvoting common stock	364,000
Voting common stock	135,000
Total	519,000

Example 4: X, a foreign corporation carrying on an eligible enterprise, has outstanding 100,000 shares of common stock, this being the only class of stock issued and outstanding, all of which has been owned by A, a domestic corporation since December 31, 1963. Both A and X use the calendar year as the taxable year. X has accumulated earnings and profits of $100,000 on December 31, 1963, but loses $75,000 during 1964. During 1965 X has earnings and profits of $375,000, none of which is distributed to A. X's increase in creditable earnings and profits is one-half of the amount by which the sum of the accumulated earnings and profits at the end of 1965 and the current earnings for that year, or $400,000, exceeds the highest amount of accumulated earnings for a previous taxable year ending on or after December 31, 1963, or $100,000. One-half of such excess (which is $300,000) or $150,000 constitutes the increase in creditable earnings and profits. Since A owns all of the stock of X, it is entitled to a credit with respect to the entire amount of such increase.

Example 5: The facts are the same as example (4) except that A purchased 50,000 of the shares in X on October 20, 1965. A's share of the increase is $90,000, determined as follows: One-half of the increase is $150,000. That portion thereof attributable to the 50,000 shares owned by A during the entire taxable year of 1965 is creditable in full ($75,000). Of the remaining $75,000, only a part thereof is creditable. This creditable amount which is $15,000 is determined by multiplying $75,000 by a fraction, the numerator of which the number of days in the taxable year on which A held such stock (73) and the denominator of which is the total number of days in that year (365), or $75,000 multiplied by one-fifth.

(g) Time of investments: Section 984(g) provides the rules for determining the date as of which a creditable investment will be deemed to have been made. In the case of creditable new capital contributions, such investment will be considered to be made as of the date that the money or property which is transferred by the eligible investor to the eligible enterprise is placed in service by such enterprise. In the case of an investor's pro rata share of the increase in creditable earnings and profits of an eligible enterprise, such share will be deemed to be a creditable investment as of the last day of the taxable year of the enterprise.

(h) Election by an eligible investor: Section 984(h) provides for an exception from the definition of creditable new capital contributions set forth in section 984(b) in the case of property which, as to the eligible enterprise, is inventory or stock in trade, transferred by an eligible investor to the enterprise if three conditions are met: (i) the only consideration for the transfer is an obligation of the enterprise to pay money or deliver property to the investor; (ii) such indebtedness is not represented by a bond, note, debenture, certificate, or other evidence of indebtedness; and, (iii) the eligible investor elects to treat all such transfers made during his taxable year as other than creditable new capital contributions. This provision is to allow a U.S. person who transfers property which is inventory or stock-in-trade in the hands of a corporation in which he owns at least 25 percent of the total combined voting power to elect not to receive the credit. If such a taxpayer is making such transfers and receiving payment at various times, he may end up with no credit, due to the application of the recapture provisions, and this election enables him to avoid keeping the records required hereunder. This election may be made only in the manner prescribed by the Secretary or his delegate in regulations. Once made, the election may be revoked only with the consent of the Secretary or his delegate.

Section 985.—Effect of withdrawal of property from an eligible enterprise

(a) In general: The investment credit bill is designed to stimulate new investment which permanently contributes to the economic development of a designated country or countries. For this reason, provision has been made for a recapture rule to recover an amount equal to the credit on a withdrawal of investment from an eligible enterprise in various ways within a period of 5 years after the year in which such investments were made. In addition, to prevent investors from withdrawing assets in anticipation of securing a credit, certain transactions occurring in the year prior to the year in which the creditable investment is made will be considered to result in the withdrawal of investment. The 5-year period is considered to be an appropriate period for requiring the retention of investment because it balances the normal need of investors to obtain a return of their capital invested within a reasonable period of time with the purpose of requiring that the investment add permanently to the economic growth of less developed countries. Section 985 provides the mechanical rules for determining the tax effect when there has been a premature withdrawal of investment.

(b) Withdrawal: Under section 985(a), if during any taxable year of an eligible investor, there is a withdrawal of property, as defined in section 986, from an eligible enterprise by or with respect to such investor, the amount of investment deemed withdrawn from such enterprise under such section is applied, in order: (i) first, to reduce or eliminate any unused credits, as defined in section 981(d)(1), which exist with respect to creditable investments of the eligible investor for prior taxable years; (ii) next, to the extent that the amount of investment deemed withdrawn under section 986 exceeds any unused credits described in (i), the excess is applied to reduce or eliminate the amount of creditable investments of such investor for the 5 taxable years immediately prior to the taxable year in which the withdrawal occurs, starting with the earliest year; and, (iii) to the extent the amount deemed withdrawn under section 986 eliminates the amounts indicated in (i) and (ii), it shall be applied to reduce or eliminate the amount of creditable investments of the investor for the taxable year in which the withdrawal occurs and the following such year.

(c) Increase in tax liability: In the event of a reduction in the amount of creditable investment made in any of the 5 taxable years of the eligible investor immediately prior to the taxable year in which the withdrawal of property occurs, the taxes imposed upon such investor for such taxable year will be increased by the amount of credit allowed under section 39 with respect to the creditable investments so reduced, plus an amount of interest on such amount computed under section 6601 as if it had been payable on the last day of the taxable year in which the creditable investment so reduced was made.

(d) Special rule: Subsection (c) of section 985 provides a special rule for treating the increase in tax resulting from the adjustment of the credit. In general, such increase in tax will be treated as a tax imposed by chapter 1. However, it will not be so treated for purposes of determining the amount of the credits under section 33 (relating to tax of foreign countries and possessions of the United States) section 34 (relating to dividends received by individuals), section 35 (relating to partially tax-exempt interest received by individuals), section 37 (relating to retirement income) and section 38 (relating to investment in certain depreciable property). It will be treated as an increase in tax, however, for purposes of determining the limitation of section 981(c).

The application of section 985 may be illustrated by the following examples:

Example 1: During 1965, A, a calendar year taxpayer and an eligible investor in eligible enterprise X, makes a creditable capital contribution to X in the amount of $10,000 and is allowed a credit of $3,000 with respect to such investment under section 39. In 1966, A makes a withdrawal of property from X in the amount of $6,000. A's creditable investment of $10,000 is reduced by the amount so withdrawn to $4,000 with the result that A's liability for tax for taxable year 1966 will be increased by $1,800, the amount of credit allowed with respect to the portion of the investment so reduced, plus interest thereon computed under section 6601 as if such increase became due on December 31, 1965.

Example 2: During 1965, 1966, and 1967, B, a calendar year taxpayer and an eligible investor in eligible enterprise Y, makes creditable capital contributions to Y, respectively, of $6,000, $9,000, and $15,000, and is allowed credits, under section 39, of $1,800, $2,700, and $4,500. In 1968, B makes a creditable capital contribution of $10,000 to Y and makes a withdrawal of property from Y in the amount of $52,000. In 1969, B makes a creditable capital contribution of $13,000 to Y. A's liability for tax for taxable year 1968 will be increased by the sum of $1,800, plus interest thereon computed under section 6601 from December 31, 1965, $2,700, plus interest thereon computed under section 6601 from December 31, 1966, and $4,500, plus interest thereon computed under section 6601 from December 31, 1967, the $52,000 withdrawn being applied first to reduce the creditable investments made in 1965, 1966, and 1967. In addition, the extent to which the amount withdrawn ($52,000) exceeds these contributions ($30,000), or $22,000 is applied to eliminate B's creditable capital contribution of $10,000, made during 1968, which but for this reduction would be eligible for credit under section 39, and $12,000 of the $13,000 creditable capital contribution made in 1969 will be eliminated allowing a credit of only $300 with respect to the remaining contribution of $1,000 in 1968.

Section 986—Acts of withdrawal of property from an eligible enterprise

(a) In general: Section 986 provides the rules for determining if there has been a withdrawal of property from an eligible enterprise by or with respect to an eligible investor and for determining the amount of property which is considered to be so withdrawn. Once such a withdrawal occurs, then its effect is governed by the rules of section 985, previously discussed. Thus, section 986 does not independently have any tax effect and in many situations a withdrawal of property under this section may not result in recapturing previous credits allowed to the eligible investor with respect to whom the withdrawal occurs.

(b) Occurrence of a withdrawal: Subsection (a) of section 986 provides the general rules for determining when a withdrawal occurs. Under paragraph (1) of section 986(a), a withdrawal of property from an eligible enterprise shall occur if such enterprise ceases to be eligible for any taxable year. Thus, a change in the nature of the business so that the enterprise can no longer meet the income tests of section 983(a)(1) or the acquisition of assets which are not "qualified business assets" within the meaning of section 983(a)(2) in excess of the percentage requirements of that section will not only result in such enterprise becoming ineligible but will constitute a withdrawal of property. A domestic corporation which is an eligible enterprise will cease to be eligible with respect to any taxable year in which it claims the benefits of the special deduction provided by section 922 for Western Hemisphere trade corporations. If an enterprise ceases to be eligible during any taxable year, it will be treated under a special rule set forth in section 986(b)(1) as ceasing to be eligible as of the first day of such taxable year.

Under paragraph (2) of section 986(a), a withdrawal will be deemed to have occurred with respect to an eligible investor in an eligible enterprise if such investor ceases to be an eligible investor. This could happen in the case of an individual if such investor ceases to be a U.S. citizen or resident or in the case of any eligible investor if he disposes of a sufficient amount of his stock in the eligible enterprise so that he no longer can meet the required stock ownership of section 982(a)(2).

A withdrawal of property will result, pursuant to paragraph (3) of section 986(a), if an eligible investor disposes of his stock or of an indebtedness in the eligible enterprise or in a corporation which is a related person, as defined in section 988, with respect to such investor, and which owns stock or an indebtedness in the eligible enterprise. In general, property will be considered disposed of whenever it is sold, exchanged, transferred, or disposed of by gift. Thus, except to the extent of the exceptions set forth in section 986(c), an eligible investor will be considered to have disposed of stock or indebtedness whenever such stock or indebtedness is transferred, with or without consideration, to another party, and without regard to any other provision of the code indicating that the transaction would generally have no tax effect. Examples of dispositions would be contributions of such stock or indebtedness to the capital of a new corporation, distributions by a corporation which is an eligible investor of such stock or indebtedness as dividends, in reorganization exchanges (except to the extent the contrary is provided for in sec. 986(c)), etc. For the application of the recapture provisions to certain transactions in which an eligible investor pledges, hypothecates, or otherwise encumbers stock or an indebtedness in an eligible enterprise (or a corporation which is a related person with respect to such investor and which owns stock or an indebtedness in the eligible enterprise), see section 989(a)(1). A transaction which constitutes a redemption described in section 317(b), whether or not essentially equivalent to a dividend, a liquidation or a partial liquidation will constitute a disposition and paragraph (3) of section 986(a) will apply to such transaction.

Paragraph (4) of section 986(a) treats as a withdrawal of property from an eligible enterprise a distribution, by such an enterprise or by a like enterprise (as defined in section 986(f)) of property (as defined in section 317(a)) to an eligible investor or to a related person (as defined in section 988) with respect to such investor, but only if such distribution is not out of earnings and profits of the distributing corporation and is not in cancellation or redemption of the stock of the person receiving the distribution. The reason for the exception based on cancellation or redemption is that such transaction is a disposition and is covered by section 986(a)(3). The limitation based on earnings and profits is provided because a special rule applies to dividend distributions. See section 986(a)(5). However, a distribution of property (other than stock or rights to acquire stock of the distributing corporation), even though the corporation has no earnings and profits, reduces the investment of the distributee in the eligible enterprise and, if made within the recapture period, will be treated as a withdrawal of property. For example, an eligible investor could transfer property worth $10,000 to an eligible enterprise and, assuming none of the limitations is operative, obtain a credit of $3,000 under section 39. The eligible enterprise could then borrow $10,000 against the contributed property, distributing that amount to the investor as a return of capital. Without the rule of paragraph (4) of section 986(a), such a transaction would not result in a recapture of credit. Moreover, without this rule there could be a partial doubling of the credit if the enterprise earned back the $10,000 the following year, and used that money to pay off the loan; since the $10,000 would increase the earnings and profits of the eligible enterprise, the investor could get an additional $5,000 of creditable investment under section 984(a)(2).

If an eligible enterprise enters into a transaction with an eligible investor, or with a person who is a related person with respect to such an investor, and if pursuant to that transaction the eligible enterprise pays money to such investor or such related person in consideration for services rendered, property furnished, or money loaned, such payments will not, to the extent they are reasonable in amount, be considered to be distributions of property within the meaning of section 986(a)(4).

Under paragraph (5) of section 986(a), the distribution by an eligible enterprise, or a like enterprise, of a dividend to an eligible investor or to a related person of such investor, shall be treated as a withdrawal of property, but only to the extent that the amount distributed as a dividend exceeds the eligible investor's pro rata share of an amount equal to one-half of the amount, if any, by which the sum of the accumulated earnings and profits (or deficit in earnings and profits) at the close of the taxable year and the earnings and profits of such year (computed as of the close of the year without diminution by reason of dividends distributed during the year), exceed the highest amount of accumulated earnings and profits immediately following the end of any previous taxable year of such enterprise ending on or after December 31, 1963. The pro rata share of such an investor is determined by multiplying that portion of the amount described in the preceding sentence which would have been distributed with respect to stock in the eligible enterprise or the like enterprise owned directly by such investor or by such related person if, on the last day of the taxable year of such enterprise, it had distributed such amount pro rata to its shareholders, by a fraction, the numerator of which is the number of days in such taxable year on which such eligible investor or such related person held such stock and the denominator of which is the total number of days during such taxable year. The 50-percent dividing line on the increase in earnings is also used in determining an investor's pro rata share of the increase in creditable earnings for purposes of section 984(a)(2). Thus, to the extent the distribution does not exceed the 50-percent dividing line the investors in the enterprise are losing credit with respect to each dollar distributed they would otherwise obtain but for the distribution. This is felt to be enough of a penalty on these distributions without also requiring that any distribution out of such earnings and profits be treated as a withdrawal of property.

The payment of any indebtedness by an eligible enterprise, or a like enterprise, to an eligible investor or a related person of such investor will be treated, under paragraph (6) of section 986, as a withdrawal of property from an eligible enterprise. This is true whether such indebtedness was in existence prior to the enactment of the investment credit bill and without regard to whether or not the indebtedness is from a transaction which is wholly unrelated to a transaction in which the credit was granted. However, the payment of interest, if reasonable in amount, on such indebtedness will not constitute a withdrawal of property from an eligible enterprise.

Taxpayers who received a credit under section 39 as the result of being a partner in a partnership or a shareholder in an electing small business corporation which is an eligible investor will be considered to have made a withdrawal of property if they engage in certain transactions involving their partnership interest in such partnerships or their stock in such corporations. Under paragraph (7) of section 986(a), if any such taxpayer disposes of his partnership interest or stock interest, such a taxpayer will be considered to have withdrawn property from the eligible enterprise. Such disposition will not, however, have any effect on the eligibility of the enterprise or on the taxability of any other U.S. taxpayers who also received a credit under section 39 as a result of their ownership of a partnership interest or stock interest in the eligible investor. Only the selling partners or shareholders are affected.

In order to prevent the avoidance of the recapture rules by the shareholders of an electing small business corporation, a special rule is provided in section 986(b)(3). Such a shareholder will be deemed to have disposed of his stock in such a corporation if it ceases to qualify as an electing small business corporation. Without this provision, the shareholders of such a corporation could receive a credit for investments made by the corporation when it qualified as an electing small business corporation, disqualify the corporation and then sell their stock in the electing small business corporation, and the disposition by the stockholders of their stock would not bring into play the recapture rules. This provision prevents this type of tax avoidance.

Paragraph (8) of section 986(a) provides that a withdrawal of property from an eligible enterprise by or with respect to an eligible investor shall occur whenever a corporation which is a related person, as defined in section 988, with respect to such investor and which owns stock or indebtedness in the eligible enterprise disposes of all or part of such stock or indebtedness. Whether or not a transaction constitutes a disposition will be determined by applying the principles to be applied in interpreting section 986(a)(3).

(c) Exceptions: Subsection (c) of section 986 provides exceptions from the broad definition of disposition which appears in section 986(a). Under paragraph (1) of section 986, a disposition will not be considered to have occurred if the eligibility of an eligible enterprise ceases solely by reason of the termination of the designation of a country as a less developed country under section 983(d), or the expropriation, as defined in section 986(e), or loss by fire, storm, shipwreck, or other casualty or theft, of all or part of the assets of a qualified trade or business or businesses of such enterprise. On the other hand, if an eligible enterprise commits any act of withdrawal after the termination of the designation of a country as a less developed country, that act will bring into play the recapture provisions. For example, an eligible enterprise carrying on a qualified trade or business in country X, which ceases to be a designated country owing to an Executive order issued in 1965, will not at that time be considered to have ceased to be an eligible enterprise for purposes of the recapture provisions. If, however, after such Executive order, the enterprise discontinues its qualified trades or businesses, such discontinuance will be considered to be a withdrawal of property.

Under paragraphs (2) and (3) of section 986(c), if an eligible investor ceases to be eligible, or is considered to have made a disposition, solely by reason of (i) his death, (ii) a transaction to which section 381(a) applies (but only if the corporation acquiring the stock is an eligible investor with respect to the eligible enterprise immediately following the transaction), or (iii) the expropriation of stock or indebtedness in the eligible enterprise, the transaction will not be considered to result in a withdrawal of property from the eligible enterprise. Thus, under these rules, on the death of an eligible investor, the transfer of the decedent's property interests to his personal representative or heirs and the fact that he no longer owns the stock and is hence no longer an eligible investor will be disregarded. Nor will section 986 apply to the transfer of a deceased taxpayer's interest held in joint tenancy (either as a joint tenant, or a tenant by the entirety) or as community property to the surviving owner of the property. The effect of this provision is that all investments in eligible enterprises held by a decedent at the time of his death for which a credit has been granted will be deemed held by the decendent past the date on which there could be any recapture with respect to the credit granted.

The exception for the transfer in a section 381(a) transaction must be read in conjunction with the rules under section 381(a)(24) with respect to the treatment to be accorded to the acquiring corporation with respect to dispositions by it of property transferred by the acquired corporation. Finally, the exception for expropriation is consistent with other exceptions designed not to penalize an investor whose stock or indebtedness is acquired under such conditions.

Paragraph (4) of section 986(c) provides an exception from the rule that payment of an indebtedness is a withdrawal of property from an eligible enterprise. Under this exception no withdrawal will be considered to have taken place to the extent that such payment is made solely in the form of stock or an indebtedness of the eligible enterprise, since the taxpayer has merely exchanged one type of qualified investment for another.

Paragraph (5) of section 986(c) provides that any disposition or payment of an indebtedness relating to transfers of property which the eligible investor has elected not to treat as creditable new capital contributions, under section 984(h), will not be considered a withdrawal of property.

The final exception is in paragraph (6) of section 986(c) and relates to the death of a person who is a stockholder or partner of, respectively, an electing small business corporation or a partnership which is an eligible investor in an eligible enterprise. Any disposition of such a stock interest or partnership interest occurring solely by reason of such death will not be considered a withdrawal of property from an eligible enterprise.

(d) Amount of investment deemed withdrawn: Once there has been a withdrawal of property from an eligible enterprise by or with respect to an eligible investor, and such event occurs within the recapture period set forth in section 985, it becomes important to determine the amount of the investment which will be deemed withdrawn. Subsection (d) of section 986 sets forth the rules for making this determination. Under subparagraph (A) of section 986(d)(2), the amount withdrawn when either an eligible investor or an eligible enterprise ceases to be eligible is the sum of (i) the greater of the fair market value of all stock or indebtedness owned by such investor in such enterprise or the amount of money and the fair market value of other property, if any, which is received as a result of the transaction or event which causes such investor or such enterprise to cease to be eligible, and (ii) the same proportion of the greater of the fair market value of all stock or indebtedness in such enterprise owned by any corporation which is a related person, as defined in section 988, with respect to such investor or the amount of money and the fair market value of other property, if any, which is received by such related person as a result of the transaction or event which causes such investor or such enterprise to cease to be eligible, which the fair market value of all stock owned by the eligible investor in the related person bears to the fair market value of all the issued and outstanding stock of such related person. Even though the transaction might also be covered by one of the other rules, that is, it might also involve a disposition of stock or an indebtedness by an eligible investor, if ineligibility results, paragraph (1) governs and controls the result.

Subparagraph (B) of section 986(d)(2) provides the rules for computing the amount of investment deemed withdrawn in various types of dispositions. In the case of a disposition by the eligible investor of stock or indebtedness in an eligible enterprise, the amount deemed to be withdrawn will be the greater of the fair market value of the stock or indebtedness disposed of or the amount of money and the fair market value of the other property received as a result of the disposition.

In the case of a disposition by the eligible investor of stock or indebtedness in a corporation which is a related person of the eligible investor and which owns stock or indebtedness in the eligible enterprise, the amount deemed withdrawn will be the greater of the same proportion of the fair market value of all stock and indebtedness disposed of or the amount of money and the fair market value of other property received as a result of the disposition, which the fair market value of all stock and indebtedness owned by the related person in the eligible enterprise immediately prior to such disposition bears to the fair market value of the total assets of the related person at that time.

In the case of a disposition of a partnership interest in a partnership or stock in an electing small business corporation which is an eligible investor in an eligible enterprise, the amount of investment deemed to be withdrawn is the same proportion of the greater of the fair market value of the interest disposed of or the amount of money and the fair market value of other property received as a result of the disposition, which the fair market value of the stock or indebtedness owned by the partnership or electing small business corporation in the eligible enterprise immediately prior to such disposition bears to the fair market value of the total assets of such corporation or partnership.

In the case of a disposition of stock or indebtedness of an eligible enterprise by a corporation which is a related person, as defined in section 988, with respect to an eligible investor, the amount of investment in the eligible enterprise deemed withdrawn by such investor is the same proportion of the greater of the fair market value of the stock or indebtedness disposed of or the amount of money and the fair market value of other property received as a result of the disposition, which the fair market value of all stock owned by the eligible investor in the related person bears to the fair market value of all the issued and outstanding stock of such related person.

Under subparagraph (C) of section 986(d)(2), the amount of investment deemed withdrawn in the case of the distribution of a dividend, the payment of any indebtedness, or the distribution of property, other than stock in the distributor or rights thereto, by the eligible enterprise or a like enterprise is the amount of money and fair market value of other property received as a result of such distribution or payment.

The application of section 986(d) may be illustrated by the following examples:

Example 1: A, a U.S. citizen owns 25 percent of the one class of stock of M, an electing small business corporation, which is an eligible investor owning 50 percent of the total combined voting power of eligible enterprise X. As of December 31, 1964, the value of M's stockownership in X is $250,000, and its total assets are valued at $1 million. On that date, A sells one-half of his stock to his son B for $12,500. The fair market value of all of A's stock in M, immediately prior to the sale to B, is $200,000, and the interest disposed of (one-half) is worth $100,000. Since the value of M's stock interest in X as one-fourth of the value of its total assets, the amount of property deemed withdrawn is one-fourth of $100,000 (since this amount, representing the fair market value of the stock disposed of, is greater than the cash received ($12,500)) or $25,000.

Example 2: C, a domestic corporation, owns all of the issued and outstanding stock of N, an eligible enterprise. As of December 31, 1963, N has no earnings and profits. Both C and N use the calendar year as the taxable year. During the taxable year ending December 31, 1964, N has earnings and profits of $150,000 and on such date N distributed a dividend to C of $100,000. The amount by which the dividend distributed ($100,000) exceeds one-half of the sum of the accumulated earnings and profits and the current earnings (computed without diminution for dividends distributed during the year), or $25,000, constitutes the amount of property deemed withdrawn.

(e) Meaning of expropriation: Under subsection (e) of section 986, the term "expropriation" is defined to mean any taking or seizure by a foreign government or agency thereof, whether or not compensation is received therefor, except a taking or seizure relating to the enforcement of a bona fide regulatory or revenue-producing measure, or the enforcement of any law, decree, regulation or administrative determination violated by the eligible enterprise or the eligible investor which was not primarily designed or employed to effect such taking or seizure. The purpose of the two exceptions is to recognize that penalties assessed by a designated country in the normal internal enforcement of its laws against an eligible enterprise or an eligible investor do not constitute an expropriation. Any property seized in such situations will not be considered expropriated for purposes of applying subpart H. Thus, if property of an eligible enterprise is seized as the result of the breach of such an internal law, decree, regulation, or administrative determination, or as part of the enforcement of the revenue laws of a designated country, and if as a result the eligible enterprise can no longer qualify under section 983, a withdrawal of property will be considered to have resulted and the recapture provisions will be applicable. On the other hand, if neither of the exceptions is applicable and the property of an enterprise is seized by the government of a designated country, or by an agency thereof, even though the result of such seizure is that the eligible enterprise can no longer conduct a qualified trade or business, no recapture will result. This is true whether or not any compensation is received for the seized property.

(f) Similar business: As has been previously indicated, a withdrawal of property from an eligible enterprise is deemed to occur in certain instances when property is distributed from an enterprise other than the eligible enterprise to eligible investors in the eligible enterprise. Thus, distributions of property (as defined in section 317(a)), distributions of earnings and profits in excess of the increase in creditable earnings, and payments of indebtedness from a "like enterprise" to such investors will be treated as withdrawals of property from the eligible enterprise. See sections 986(a)(4)-(a)(6). Under paragraph (1) of section 986(f), a like enterprise is defined as a corporation engaged in a trade or business similar to a qualified trade or business carried on by an eligible enterprise if two conditions are met. The first condition is set forth in subparagraph (A) of section 986(f)(1) and is that such corporation must derive at least 20 percent of its gross income, if any, for the taxable year, from carrying on the similar business in a country or development area, as defined in section 986(f)(2)(A), in which the eligible enterprise is conducting a qualified trade or business. Under subparagraphs (B) of section 986(f)(1), the second condition is that persons who are eligible investors in the eligible enterprise own at least 25 percent of the total combined voting power of all classes of stock of such corporation. In determining whether this stock ownership requirement is met, an eligible investor who is an individual is deemed to own stock owned by his grandparents, spouse, children or grandchildren, or by any corporation in which he and/or they own directly or indirectly more than 50 percent of the total combined voting power of all classes of stock entitled to vote. In addition, a corporate eligible investor shall be deemed to own any stock owned by any corporation which directly or indirectly owns more than 50 percent of the total combined voting power of all classes of its stock entitled to vote or by any corporation in which it owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote.

Under section 986(f)(2)(A), each designated country constitutes a separate development area except that all or part of contiguous designated countries may be denoted as a development area by regulations prescribed by the Secretary.

The application of section 986(f) may be illustrated by the following example:

During 1965, A, an eligible investor owns all of the issued and outstanding stock of X, an eligible enterprise which is manufacturing automobiles in city F of country M. A also owns 50 percent of the issued and outstanding stock of Y, a corporation which is not an elegible enterprise but is also manufacturing automobiles in city G of country N. Cities F and G, are and countries M and N, are contiguous, and on January 1, 1965, regulations are in effect denoting these two cities as a development region for purposes of subpart H. During 1965, A makes a creditable investment of $10,000 in X and receives a credit under section 39 in the amount of $3,000. On January 1, 1966, A receives a distribution of property within the meaning of section 986(a)(4) in the amount of $5,000 from Y. A is considered to have withdrawn property from X and, assuming no other events effect the credit during 1966, there will be a recapture of $1,500 of credit and A's tax liability for 1966 will be increased in that amount.

(g) Cross references: Subsection (g) of section 986 provides three cross references. The term "dividend" is to be defined in accordance with section 316, the term "indebtedness" in accordance with section 984(c), and the term "earnings and profits" in accordance with section 984(e).

Section 987—Adjustment to basis

(a) In general: Section 987 provides the rules for adjusting the basis of stock or indebtedness held by an eligible investor in an eligible enterprise. Because of the substantial nature of the credit allowed under section 39 for creditable new capital contributions, it was felt that amount should not be allowed again as a tax-free return of capital upon the disposition of the stock or indebtedness. For this reason, a basis adjustment is required. On the other hand, to the extent that the credit relates to reinvested earnings, the double benefit effect is already minimized by the requirement that only one-half of the increase in accumulated earnings can qualify for the credit. Therefore, no basis adjustment is required with regard to credits based on reinvested earnings. To the extent that any basis adjustment is made and subsequently all or a part of the credit allowed is recaptured, the basis is then adjusted upward. However, in no event will the basis be adjusted upward more than the amount of any previous reductions under this section.

(b) Order of adjustments: Under paragraph (2) of section 987(a), a priority exists for the manner of making both increases and decreases in basis. The adjustment for a reduction is first in the basis of any stock (including rights to subscribe for or to receive stock) owned directly by the eligible investor in the eligible enterprise, until all of such basis is eliminated, next, to any indebtedness (other than open accounts) owned in the eligible enterprise, and finally to reduce the basis of any open accounts. Upon an increase, the order is reversed starting with open accounts, next to other forms of indebtedness, and finally to stock and rights to acquire stock which the eligible investor owns in the eligible enterprise.

(c) Tax-free transactions: Paragraph (1) of section 987(b) provides that irrespective of sections 332 and 361, if a corporation acquires stock or securities from another corporation in a transaction to which section 381(a) applies, gain or loss is recognized to the transferor to the extent of any adjustment or adjustments theretofore made in the basis of such stock or indebtedness. Under paragraph (2) of section 987(b), however, an exception is made to the foregoing rule if the transferor receives in exchange stock or indebtedness whose basis in its hands is determined in whole or in part by reference to the basis of the transferred stock or indebtedness. In the case of an electing small business corporation or a partnership which is an eligible investor in an eligible enterprise, the basis adjustments required by section 987 are allocated between the basis of stock or indebtedness owned by such investors in the enterprise and the basis of the interests in the partnership or electing small business corporation owned by the shareholders or partners pursuant to rules which will be set forth in regulations prescribed by the Secretary or his delegate.

Section 988—Related person defined

(a) Definition: For purposes of subpart H, a related person with respect to an eligible investor is any corporation, other than the eligible enterprise, in which such investor owns or is deemed to own, under the ownership rules of subparagraphs (B) and (C) of section 986(f)(2), stock representing at least 25 percent of the total combined voting power of all classes of stock in such corporation, and any grandparent, parent, spouse, child, or grandchild of an individual who is an eligible investor. Any person other than the foregoing shall be an unrelated person.

Section 989—Miscellaneous provisions

(a) Principal purpose: Under paragraph (1) of section 989(a), if an eligible investor engages in any transaction a principal purpose of which is to avoid an increase in taxes which would otherwise be imposed by reason of a withdrawal of property from an eligible enterprise by or with respect to such investor, such investor shall not, by virtue of such transaction, avoid such an increase in tax. This rule is intended to prevent tax avoidance through transactions which are artificial in nature and which are entered principally to escape the recapture provisions of section 985 and 986. For example, the recapture provisions of section 985 apply to dispositions by an eligible investor of stock or indebtedness which such investor owns in an eligible enterprise. However, an increase in tax liability as a result of such disposition occurs only where the investor has obtained a credit under section 39 in one of the 5 years immediately preceding the taxable year in which the disposition occurs. Thus, an eligible investor might attempt to avoid the application of the recapture rules and still, in effect, dispose of stock or an indebtedness in an eligible enterprise within 5 years following a transaction which resulted in a credit under section 39 by making the disposition appear to be a security transaction. For example, an investor who wants to sell his stock but who does not want to be subject to the recapture provisions, might, instead of making such a sale, enter an arrangement whereby he borrows money on the security of such stock, which money is not repayable under the terms of the loan agreement until more than 5 years later, with a clear understanding between the lender and the borrower that upon the date when repayment is due, such lender will not be so repaid but will foreclose the pledge and accept the stock in satisfaction of repayment of the loan. Although there was not technically a disposition within the recapture period, the transaction will, under this paragraph, be treated as what it really was—a sale of the stock to the lender on the date the money was borrowed.

As has been previously indicated, the credit is intended to be limited to the commitment of additional capital to less developed countries. Thus, cash used to purchase stock from a stockholder in an existing enterprise does not result in a credit since such purchase does not constitute a creditable new capital contribution under section 984(b). Under paragraph (2) of section 989(a), if an eligible investor attempts to circumvent the intendment of the statute either by entering a transaction in which, instead of purchasing the stock of an enterprise from an existing stockholder, such investor contributes money to the enterprise and such money is used to redeem or retire stock or indebtedness owned by such shareholder in the enterprise, or if money is contributed to a new enterprise to allow such enterprise to purchase the assets of or stock in an enterprise then engaged in the active conduct of a trade or business in a designated country, which existing enterprise then redeems the stock of its shareholders, the investor making these money contributions will not obtain a credit as a result of such transactions.

(b) Recordkeeping requirements: Paragraph (1) of section 989(b) gives the Secretary of the Treasury, or his delegate, the authority to require, by regulations, each person who is, or has been, an eligible investor to maintain the records and furnish the information required, at the time and in the manner, prescribed in regulations.

Under paragraph (2) of section 989(b), if two or more persons are required to maintain the same records or to furnish the same information under the aforementioned regulations, the furnishing of such information by one of such eligible investors will satisfy the requirements under paragraph (1) for all such other persons who would otherwise have to file the information.

Under paragraph (3) of section 989(b), no information may be required with respect to an eligible enterprise for any taxable year of an eligible investor unless such information was required to be furnished under regulations in effect on the first day of such taxable year.

If an eligible investor fails to furnish the information required within the time prescribed in paragraph (1), and if such failure continues more than 90 days after notice by the Secretary or his delegate to such eligible investor, under paragraph (4) of section 989(b) such investor shall cease to be eligible as of the first day of his taxable year for which such information is required. In determining the beginning of the 90-day period after notice by the Secretary, it shall be treated as being no earlier than the last day on which (as shown to the satisfaction of the Secretary or his delegate) reasonable cause existed for failure to furnish such information.

(c) Technical amendment: Subsection (d) of section 2 of the bill, amends section 1016(a) of the 1954 Code, relating to adjustments to basis, by adding a new paragraph 20 thereto. Under the new section 1016(a)(2), an adjustment must be made to the basis of stocks or indebtedness to the extent required by section 987(a).

(d) Effective date: The effective date of subpart H and new section 39 is set forth in section (e) of the investment credit bill. The act applies to creditable new capital contributions made by an eligible investor on or after March 19, 1964, and on or before January 1, 1969. In addition, the act applies to the increase in creditable earnings and profits of an eligible enterprise for its taxable years beginning on or after January 1, 1964, and ending before (but not on) December 31, 1970. These effective dates may be extended with respect to any designated country for an additional period of up to 5 years by a treaty obligation of the United States ratified on or before December 31, 1968, or, in the event that such a treaty obligation cannot be ratified by that date, the date within which such a treaty may be ratified may be extended 1 year, by an Executive agreement executed by the President after 30 days notice to the Senate and to the House of Representatives of his intention to authorize such an extension.

It should be recognized that the purpose of these effective date provisions is to determine the period in which a creditable investment may be made. It is possible for there to be both a credit obtained under section 39 and for there to be a recapture of credit under sections 985 and 986, even though such credit or recapture occurs after the effective date. In other words, if an eligible investor makes a creditable investment in an eligible enterprise before the end of the effective date periods set forth in section (e), but obtains no credit because of the operation of the limitation set forth in section 981(b), and subsequent to end of the effective period acquires section 981 property sufficient to allow the entire credit to be used, such investor will receive a credit under section 39. Moreover, if an eligible investor who has been allowed a credit under section 39 withdraws property from an eligible enterprise after the end of effective period has passed but within 5 years from the time credits were obtained under section 39, section 985 will operate to recapture so much of the credit as relates to the investment withdrawn.

DEDUCTION OF EDUCATIONAL EXPENSES BY TEACHERS

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the gentleman from Louisiana [Mr. LONG] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LONG of Louisiana. Mr. Speaker, I am pleased today to join several of my colleagues in the House of Representatives in introducing a measure to correct a tax inequity which has faced many of our public and private schoolteachers.

This bill, which is similar to one drawn by the legal counsel of the National Education Association, the Department of the Treasury, and my esteemed colleague, the gentlewoman from Michigan [Mrs. GRIFFITHS], does several things:

First. It sets up certain criteria by which teachers may deduct from their gross income such expenses as are necessary for maintaining and improving their skills as teachers or meeting the express requirements of their employers;

Second. It sets up a uniform definition of a teacher as a classroom teacher, supervisor, administrator or adviser, or any other person who is employed in a profession closely related to the instructional program, including guidance counselors and librarians; and

Third. It sets out clear guidelines on exactly what expenses are deductible, and provides that a statement from an authorized school official will be acceptable as proof that the added education was necessary.

This bill is needed to clear up the confusion which has cropped up as the result of a variety of interpretations on hundreds of individual tax cases.

In 1957, several Members of the House of Representatives and some Senators cosponsored bills similar to this. As the legislation was about to be reported favorably, the Internal Revenue Service issued some new interpretations which seemed to serve the purposes of the legislation. However, because of the confusion I mentioned a moment ago, there seems ample justification for putting this matter into law, in an effort to bring some order out of the chaos.

I could cite numerous instances where professions on an equal footing with the teacher have been able to deduct expenses for improving their skills. It does not seem fair that a businessman can return to the Harvard School of Business for a refresher course and deduct the cost while his neighbor who returns there for advanced degree work to become a better teacher does not have the same privilege.

Businessmen are allowed to entertain their clients and deduct the expense; but the teacher who is charged with the education of your children and mine is penalized by not being able to deduct the cost of improving his competency.

In a period of our history when education should be a matter of national concern we must do all we can to provide incentives for a teacher to become better qualified.

I should like to read to you a portion of a letter I have received from Mr. William J. Dodd, superintendent of education for the State of Louisiana, in regard to this bill:

> I would like to see such a bill enacted into law in order that our teachers might enjoy the same privileges of deducting expenses for professional advancement that are accorded men and women of other professions. Teachers' salaries are ridiculously low, and for that reason if no other any savings that could be effected for teachers would help them a great deal. Also I believe this proposed act would encourage more teachers to advance professionally.

This Congress has provided generous tax relief for most of the people of our Nation in this session. I hope that my colleagues will join me in this effort to extend fair and just tax equality to our teachers who play such an important role in the life of our country.

CIVIL RIGHTS LEADERS THINK THEY'RE ABOVE LAW

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. Matthews] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MATTHEWS. Mr. Speaker, the following article from the Fort Lauderdale News and Sun-Sentinel expresses my views concerning the beautiful city of St. Augustine, Fla., in my congressional district.

I invite my colleagues to read this very thoughtful editorial, which follows:

St. Augustine Events Show How Civil Rights Leaders Think They're Above Law

Once again the venerable city of St. Augustine became the focal point of heated racial agitation last week, and once again the blame for this sorry situation can be put right on the backs of professional troublemakers who have come into Florida for the express purpose of stirring up strife and discord.

The self-styled leader of this most recent invasion is Dr. Martin Luther King, who seems to think that he and his followers don't have to observe laws which apply to others, and who, because of his propensity for stirring up trouble, always seems to attract a veritable horde of television cameramen and newspaper photographers to record his determination to have his way regardless of who gets hurt in the process.

This past Thursday night people did get hurt as one of Dr. King's supposedly peaceful demonstrations got out of hand and wound up in what was termed a fist-slinging, club-wielding, knife-slashing, dog-biting melee.

That this happened is not the least bit surprising or unexpected in view of the fact that Dr. King and his cohorts announced upon their arrival in St. Augustine that it was their intention to make it a "long, hot summer" for this city and its people unless his demands were met.

This is nothing more nor less than an open admission that Dr. King intends to stir up as much trouble as he can, and under these circumstances it is perfectly understandable why a great many citizens of St. Augustine look upon Dr. King and his followers as unwelcome invaders who should be run out of town before they turn the whole city into a bitter battleground.

As a result of Thursday night's uproar city officials of St. Augustine banned any further demonstrations and put the city under virtual martial law. Since Dr. King left the city before the ban was put into effect, things will probably quiet down until his return this week when it can be expected he will organize and direct further troublemaking activities.

Should this happen we are of the firm opinion that both State and local authorities will be left with only one way to deal with Reverend King and his outside agitators. That will be to tell him in no uncertain terms that he cannot rewrite the laws of this State on his own book, and that he must either halt his troublemaking activities or face the prospect of being escorted out of the State and being refused permission to reenter.

It must be kept in mind that many of Dr. King's demands involve denying other people rights which they clearly have under Florida law and which, as yet, haven't been taken away from them under any act of Congress of any Federal court rulings.

This State has no laws on its books requiring operators of private business establishments to serve anybody who walks in their doors, and until Congress adopts such a law on a nationwide basis, the proprietors of any private business are acting within their legal rights in choosing their own customers and in calling upon the police for assistance in ejecting from their property persons they don't wish to serve regardless of the color of their skin, their hair, their religious beliefs or anything else.

Dr. King is within his own rights in denouncing this type of discrimination. But he is going far beyond his rights in organizing and conducting demonstrations against this practice which are clearly and deliberately designed to arouse deep-seated resentment in other people and which can only incite strife and bloodshed if they are permitted to continue.

There are a great many people in this nation who don't like some particular national, State or local law which might serve to restrict their activities. But because somebody doesn't like a particular law gives them no right to deliberately disregard or break it as condoning that type of personal behavior would soon lead to a system of anarchy in which people would select for themselves which laws to observe and which to ignore.

Obviously, we cannot have that kind of selectivity in adherence to our laws, and just as obviously we cannot and should not continue to permit people from one area of the nation to go freely into another area for the basic purpose of creating unrest and turmoil over enforcement of laws these agitators don't like.

From the manner in which Reverend King and his followers are behaving one would think they had some kind of a divine immunity from observing laws all the rest of us are required to observe and respect. And from the sympathetic reaction they are receiving from our Federal courts, from Washington and from many newspaper and television interests, it begins to appear that we are in an era where belonging to a certain minority group conveys lawbreaking privileges not enjoyed by any other group of our people.

As we said above, we do not challenge Reverend King's right to express his distaste and his disagreement with certain Florida laws. We do, however, challenge his right to bring a bunch of outside agitators into this State and by their abusive tactics and demands threaten the security and the welfare of all of our citizens. That is anarchy pure and simple, and we think the time has come to label it for just what it is and to meet it with whatever tactics are necessary to compel proper respect for laws which, until they are modified or repealed through legitimate channels, must be observed by one and all.

A SALUTARY REBUKE OF PRESSURE GROUPS

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. Matthews] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MATTHEWS. Mr. Speaker, I am pleased to submit for the Record a very interesting article entitled "A Salutary Rebuke of Pressure Groups," by Arthur Krock, which appeared in the June 5, 1964, issue of the New York Times.

This article contains some important information about our colleague, the gentleman from Maryland, Clarence D. Long, and I commend it to you and our colleagues for attention:

A Salutary Rebuke of Pressure Groups

(By Arthur Krock)

Washington, June 4.—There was a sharp lesson in the recent Maryland Democratic primary for pressure groups which demand that Members of Congress unreservedly pledge support of their legislative objectives in any form these may be submitted. Representative Clarence D. Long, of the Second Maryland District, refused to do just that for the Baltimore Council of the AFL–CIO, and he was emphatically renominated by constituents among whom are residents of areas where organized labor is strong.

But, like Jeshurun, the pressure groups have waxed fat with the political yield of their demands laid before them by timorous politicians, so that the lesson against excess administered to them by Representative Long will have to be multiplied before it is heeded. Meanwhile the Senate will continue to be bombarded by threats of political reprisal, and by inspired prophecies of violent social anarchy, if it makes any basic amendments in the draft of an equal rights bill which was pushed through the House with only cursory inspection. And other pressure groups will continue to give orders to Congress as if it were their special representative, not that of the American people as a whole.

Nevertheless, the incident of the Maryland primary which Representative Long described to the House today has a special potential of warning for such legislative lobbies.

As detailed by Representative Long, "Shortly before the AFL–CIO Committee on Political Education (COPE) was to endorse congressional candidates in the recent primary election, the Baltimore council asked me to sign a pledge to vote for a proposal to outlaw right-to-work laws. When I did not comply, President (Dominick) Fornaro (of the council) called me and said that—although my labor record was good—COPE needed this pledge in time to make its endorsements. After my refusal COPE did not endorse me. I do not favor right-to-work laws; it is quite possible when this bill comes to the floor I will vote to outlaw them. But I can never sign away my future vote. And this attempt to make a Congressman trade his vote for a political endorsement demonstrates a lack of respect for Congress."

A PLEDGE IN BLANK

A copy of the pledge was sent by COPE to Representative Long, with the request that he sign and return it by April 9. When he failed to do so, and subsequent to a telephone inquiry from COPE during which he explained he believed his good labor voting record was sufficient grounds for its endorsement, he got a call from Fornaro. Had he changed his mind? No. Thereupon, COPE endorsed every other Democratic and one Republican candidate in Maryland for nomination to Congress, and circulated a sample ballot in Baltimore County from which Long's name was omitted.

"I hadn't even seen the bill," he said today, "and if such a bill has been drawn I haven't seen it yet. I am unwilling to support the position of labor, business, or any other group until I know what it is. Circumstances change in the consideration of bills. Members have voted against their own measures because of amendments to which they fundamentally objected. But generally, I regard it as an outrage to be asked to sign a blank promissory note as a condition of political support."

The 700,000 population of the Second Maryland District is one of the largest in the United States. It is a mixed suburban and industrial area in Baltimore and Harford Counties, from which Long was elected to Congress on the Democratic ticket in 1962. He is an unusual Representative in more particulars than in his concept of the respect due the office. He graduated from Washington and Jefferson College in 1932 with an A.B. degree, and has postgraduate degrees of M.A. from his alma mater and from Princeton, plus a Princeton Ph. D. in 1938.

Representative Long is an "on leave" professor of economics at Johns Hopkins; was a Navy lieutenant in the Second World War; an associate task force director of the first Hoover Commission, and is the author of seven books on unemployment, wages, labor force, and economic fluctuations.

The wrong kind of man for a pressure group of any kind to "projec' with," as country people say. Which should have been obvious beforehand to the group which attempted it.

PRESIDENT'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island [Mr. Fogarty] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FOGARTY. Mr. Speaker, under leave to extend my remarks I would like to include in the Record the remarks of Vice Chairman Gordon M. Freeman on the occasion of the annual meeting of the President's Committee on Employment of the Handicapped:

Remarks by Gordon M. Freeman, Vice Chairman, the President's Committee, May 1, 1964, President's Committee Annual Meeting

A CHRONICLE OF EVENTS: 1963–64

The world lost two champions of the handicapped this past year: President John F. Kennedy and Maj. Gen. Melvin J. Maas. Their contributions live on as everlasting memorials.

The affairs of the handicapped, however, remain in strong, willing hands, under President Lyndon B. Johnson and President's Committee Chairman Harold Russell.

The handicapped made appreciable gains in employment over the last 12 months.

Placements of the handicapped by the Nation's local public employment offices totaled 278,000—close to the previous year's 280,000 and still far ahead of the 256,000 placements the year before.

Placements of disabled veterans numbered 102,000—not far behind the 105,000 total of the year before but well ahead of the figure of 2 years ago.

A record 110,000 handicapped persons were rehabilitated this past year under the State-Federal program of vocational rehabilitation—well ahead of the 102,000 total of the year before.

The Veterans' Administration treated a record 713,000 disabled veterans in its hospitals during the year past. About 1,000 disabled veterans of World War II and the Korean conflict still were in training under VA's vocational rehabilitation programs.

Civil Service Commission reported that nearly 9,000 handicapped people found jobs in the Federal Government last year—well above the year's previous record of 8,000.

One reason for this heartening showing seems to be a basic strengthening of America's attitudes toward equality for all its citizens, the handicapped included. Another reason, of course, lies in the many-sided activities of the President's Committee and Governors' committees across the Nation in cooperation with public and private agencies and organizations.

Some highlights: In the field of the mentally restored and mentally retarded, a number of landmark events have taken place.

"A Guide to Job Placement of the Mentally Retarded," prepared in cooperation with the Bureau of Employment Security and the National Association for Retarded Children, found immediate acclaim. An initial printing of 50,000 was exhausted and a second printing is going fast.

A companion "Guide to Job Placement of the Mentally Restored," made possible by the Ida S. Latz Foundation, has just been written by former New York Times Columnist Dorothy Barclay Thompson. Publication will be in late 1964.

"So You're Going To Hire the Mentally Restored" and "So You're Going To Hire the Mentally Retarded," flyers aimed at employers, were printed 2 months ago; the stock of 100,000 of each is almost depleted.

The National Association for Retarded Children, in cooperation with the President's Committee, has launched an awards program honoring the employer in each State and in the Nation doing most to further job opportunities for the retarded.

The Civil Service Commission, National Association for Mental Health and President's Committee cosponsored an experimental orientation program on the mentally restored for top officials of six Government agencies. The program will be extended to other agencies as well.

The Federal Government's new program of employing the mentally retarded has been called to the attention of all State Governors by the President's Committee; so far, 35 Governors have expressed interest in considering similar programs for State jobs.

There has been heartening progress in the project of eliminating architectural barriers against the handicapped—a joint venture of the President's Committee and the National Society for Crippled Children and Adults. Here are evidences of a growing ground swell:

So far, 12 States have enacted legislation specifying that all buildings erected with State funds be fully accessible to the handicapped. Eleven more States are planning similar action.

Sixty-six major cities have conducted inventories of public buildings to learn which could be used by the handicapped. Most of the cities are planning directories for the handicapped, based on the inventories.

Among the many national organizations passing resolutions supporting the elimination of architectural barriers are the veterans' organizations, International Association of Governmental Labor Officials, the Church of Latter-day Saints, and many more.

There is much action in every State in the Union, ranging from a full day's workshop in the State Senate in Alaska to the passage of a strongly worded resolution of support by a union federation in Wyoming.

More than a year ago, the President's Committee and the National Inventors' Council announced a contest for the invention of a stair-climbing wheelchair, with $5,000 to be awarded to the winner (compliments of an anonymous donor).

Some 500 entries were received; they have been narrowed down to a dozen finalists by scientists at the National Bureau of Standards; a panel of three judges has been appointed; selection of the winner is expected by early summer.

The women's committee has been most active these past 12 months, with many worthy achievements such as these: An exhibit of arts and crafts by the handicapped in Washington's Department of Labor building was introduced April 29 by Mrs. Lyndon Johnson and Mrs. Willard Wirtz. Purpose of this exhibit, and others to be held elsewhere, is to promote the sale of quality works of art and craft products by the handicapped.

"Voice," an orientation program for women's groups, has been held in Washington, D.C., and in a number of States. As an outgrowth of Washington's "Voice" program, the city's business and professional women's clubs have organized a speakers' bureau and have arranged for an "Employers' Night" dinner-meeting devoted to the jobs for the handicapped.

American Women in Radio and Television adopted the "Hire the Handicapped" program as its one-and-only community service project for the year.

Other major women's organizations also have adopted the program, and have been distributing President's Committee material to all local chapters.

This year's "Ability Counts" writing contest for high school students drew a record-breaking 60,000 entries from across the country. As in years past, the DAV has donated prize money for the first five winners, and the AFL–CIO State federation have brought all State winners to Washington for the annual meeting plus sightseeing.

The employer committee has selected as Employer of the Year the Caterpillar Tractor Co. of Peoria, Ill., an industrial pioneer in hiring the handicapped. Nearly one-tenth of its total work force—3,000 out of 33,800 workers—are handicapped.

The labor committee announced the distribution of a new film, "They Have What It Takes," a dramatic demonstration of selective placement of the handicapped produced by the AFL–CIO for the President's Committee; and also the printing of wallet-sized, full-color "Hire the Handicapped" calendars by the International Brotherhood of Electrical Workers.

Juan B. Ferrer, a vocational counseler who has devoted his entire life to the service of the handicapped in Puerto Rico, is this year's recipient of the Public Personnel Award of the Public Service Committee. Among many other things, Ferrer organized and started Puerto Rico's rehabilitation program for disabled veterans; coauthored a law providing training to the handicapped and helped found the Governor's Committee for Employment of the Handicapped.

Dr. John S. Young, specialist in physical medicine and rehabilitation in Denver and former chairman of the Colorado Governor's committee, has been named Physician of the Year by the medical committee, for his dedicated efforts in furthering the welfare of the handicapped.

Distinguished Service Awards, the President's committee's top honor, were approved during the past year for Senator Lister Hill; Kenneth King of the Columbia Savings and Loan Association in Denver; Gallaudet College for the deaf; Mrs. Esther Van Wagoner Tufty, Washington correspondent; the International Brotherhood of Electrical Workers; Walter Mason of the AFL–CIO; the Joseph Bulova School of Watchmaking; "Plays for Living," and P. J. Trevethan, executive vice president of Goodwill Industries of America.

Promotional efforts of the President's Committee and of Governors' committees reached new high levels over the past year, as the mass media have devoted more and more time and space to the handicapped.

Radio and TV stations and networks donated more than $3 million in public service time to "Hire the Handicapped" messages during NEPH Week, 1963, alone. TV network dramas featuring problems of acceptance of the handicapped have been on the rise. "East Side, West Side," for example, recently highlighted a paraplegic's drive for acceptance.

Articles on the handicapped have appeared in nationally circulated magazines such as Factory magazine, the Executive Management Review, the Office, and a host of others aimed directly at employers; as well as mass-based magazines such as Look, Life, Reader's Digest, and Catholic Digest.

"Scenes To Remember," a new Warner Bros. movie which has just been premiered, will be distributed to Governors' committees. The film is a cooperative venture of the entire motion picture industry, and features a dozen of Hollywood's brightest stars.

This chronicle has listed but the barest highlights of a year marked by the inspiration and dedication of thousands of persons in all walks of life, in all sections of the country—having in common a certain singleness of purpose:

To do their share, to contribute their talents in order to help create a condition of equality for the handicapped; to help speed the day when men and women, the handicapped included, will be measured by the true yardstick of ability; when "equal" will mean "equal," with no exceptions; when man will fully realize that all human creatures are his brothers—the handicapped included.

This is the meaning of our Chronicle: 1963–64.

DO WE NEED A PRIVATE ARMY IN THE UNITED STATES?

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, the statements I have been making on the traffic of arms and ammunition have focused some attention on this traffic from the Federal Government to private persons. We have, it seems, a double-barreled program within the Department of Defense whereby a steady stream of heavy and light arms is being propelled toward certain segments of the general public. This program raises a number of questions that must be propounded to the proper authorities if we in Congress are to fulfill our responsibilities under the Constitution as representatives of the people. Two of the most important questions that need to be answered are first, how closely is this program being controlled and supervised so that weapons do not fall into the wrong hands, such as extremist organizations; and, second, should the American taxpayer be paying the bill so that private persons may receive free arms and ammunition?

As I have previously explained, there are really two programs being administered by the Department of Defense, one in connection with light arms, rifles, and pistols, and another in connection with the heavier arms. The National Board for the Promotion of Rifle Practice and its implementing agency, the Director of Civilian Marksmanship, distributes literally tens of millions of rounds of ammunition each year free of charge to gun clubs affiliated with the National Rifle Association.

These gun clubs also receive free of charge or at little cost rifles, pistols, targets, and other equipment, travel expenses of participants in national and international matches, and the rent for the use of facilities at Camp Perry, Ohio, where the national matches are held. There are now approximately 400,000 members of gun clubs participating in this program. Heavier arms and ammunition are handled through the surplus and scrap weapons program of the Department of Defense. Statistics on the flow of these weapons to private persons are not yet available, although I expect to have them in the near future. But it is known that at least one right-wing extremist, Richard Lauchli, who is supposed to have relinquished his post as second in command of the self-styled guerrilla organization calling itself the "Minutemen," purchased a stockpile of scrap weapons, which he reconditioned so that they could be used. These weapons included submachineguns, tripod-mounted machineguns, aerial bombs, mortars, and other instruments of war. Richard Lauchli confessed and was convicted for stealing weapons from the Fort Madison, Ind. proving grounds on an earlier occasion. Obviously, if a person like Lauchli can get arms in this manner anyone can.

A few days ago it was announced that the National Board for the Promotion of Rifle Practice is changing some of its procedures so as to be able to keep a closer check on members of shooting clubs that get free ammunition from the Government. According to an article that appeared in the New York Times, Sunday, June 7, 1964, the new procedures were prompted by "President Kennedy's assassination and the publicity attached to the self-proclaimed guerrilla fighters known as the Minutemen." According to this news story the change consists of this: from now on instead of relying upon the records of the National Rifle Association the National Board for the Promotion of Rifle Practice will maintain its own detailed membership rolls of the clubs which it supports.

The news story from the New York Times follows:

CLOSER CHECK IS PLANNED ON MEMBERS OF RIFLE CLUBS OBTAINING U.S. ARMS

(By Jack Raymond)

WASHINGTON, June 6.—President Kennedy's assassination and the publicity attached to the self-proclaimed guerrilla fighters known as Minutemen have prompted a closer check on members of shooting clubs that get free ammunition from the Government.

Hereafter, instead of relying upon the records of the National Rifle Association, with which it works closely, the National Board for the Promotion of Rifle Practice will maintain its own detailed membership rolls of clubs it supports.

The Federal program of distributing limited quantities of military arms, on loan, and free ammunition to be used in target practice is an old one. It was begun more than 50 years ago as a preparedness measure.

The assassination of President Kennedy called special attention to it. Far from being defensive about the program, however, its officials emphasize its value in building good citizenship and as a training measure, either for self-defense or for military purposes.

MAKEUP OF BOARD

The federally financed National Board for the Promotion of Rifle Practice is headed by an Assistant Secretary of the Army and includes nongovernmental civilians as well as uniformed members of the Armed Forces.

The executive officer of the board is an Army colonel who also has the title of Director of Civilian Marksmanship. The present director, Col. Merle R. Preble, has a civilian deputy and a staff of 22 persons to keep records.

The Government program is carried out in close cooperation with the civilian-run National Rifle Association, which has more than 600,000 members. These include youth groups, hunters for sport, and competitors in target shooting.

The national board presides over the lending of weapons and distributing of ammunition to groups associated with the National Rifle Association. At present it supports 5,500 of the association's 12,000 member clubs.

A $500,000 APPROPRIATION

The congressional appropriation for this purpose for the current fiscal year was $500,000, most of it to cover the travel expenses of participants in national and international matches; the rent for the use of facilities at Camp Perry, Ohio, where the national matches are held; replacement of used equipment, and salaries of the board staff.

The allowable travel outlays cover only a modest part of the travel costs of the participants. They provide for reimbursement at 5 cents a mile and $1.50 a day for subsistence. There has been no change in this expense allowance since the 1920's and leaders of the program observe that this does much to limit competitors to real enthusiasts.

The Kennedy assassination and the stories about arsenals collected by Minuteman groups have focused attention on the precautions taken to assure that only authorized and responsible persons will get weapons and ammunition under the program.

ALSO SOLD BY STORES

Officials of the Army and the National Rifle Association emphasize that there is no evidence that any unauthorized groups ever obtained weapons or ammunition through the Government program.

The arsenals attributed to the Minutemen, they point out, did not come even in part from the free ammunition provided to authorized clubs. It is possible, they emphasize, to buy weapons and ammunition in various sporting goods stores.

In the case of an arsenal discovered by Treasury agents in Clinton, Ill., on May 20, the cache included more than 100 submachineguns, five .50-caliber machineguns, a 75-mm. recoilless cannon, several 25-pound aerial bombs, several mortars with shells, automatic pistols and rifles and a large quantity of ammunition.

The Treasury agents, posing as representatives of an unidentified foreign power interested in purchasing the weapons, took two men into custody. One was Richard Lauchli, who in 1961 was known as a regional director of the Minutemen.

Mr. Lauchli, a machinist, had previously been convicted of illegal possession of firearms and stealing arms from a Federal reservation.

The Minutemen became known in 1961 as a loosely knit group of men throughout the country who purportedly believed that the time would come when Americans would have to resort to personal arms to fend off an armed Communist or internal rebellion.

Officials of both the National Board for the Promotion of Rifle Practice and the National Rifle Association declare they know of no members of the Minutemen who are supported by their program.

Recently an affiliated NRA club in Harlem was involved in the seizure by the police of 12,000 rifle cartridges found in the home of a club officer. This was the Tripo Rifle Club and the two persons arrested were

> Thomas Barnes, president of the club and Cecil Chisholm, vice president.
>
> They were arrested for violating a New York City ordinance requiring a special permit for the storage of more than 200 rounds of ammunition in a residence.
>
> Officials of the rifle association, asked to comment, said that while they did not condone infractions of local laws, the Tripod Rifle Club was a responsible group. Moreover, they said, storage of ammunition in the home of a responsible club officer was often more satisfactory than storage in nonresidential club headquarters where occasional pilferage has been reported.
>
> The entire 12,000 rounds of the Tripod Club did not come from the Government's free ammunition program. Under prescribed regulations, 4,200 rounds of .30-caliber ammunition had been shipped to the club, which has been affiliated with the National Rifle Association since 1959. The rest of the ammunition had been purchased independently by the club.
>
> The quantity of free ammunition that is provided to clubs supported in the program is based on the number of members. For .30-caliber rifle ammunition and .45-caliber pistol ammunition, the quantity is 150 rounds a year for each member. For .22-caliber rifle ammunition, it is 300 rounds a year per member. Members are authorized ammunition for one type of weapon only.
>
> To obtain Federal support, clubs chartered by the National Rifle Association apply directly to the National Board for the Promotion of Rifle Practice.
>
> The board supports only those clubs that train in the use of military-type weapons, post surety bonds exceeding the value of the military equipment they draw, have access to shooting ranges, and have the services of a marksmanship instructor certified by the rifle association.
>
> Persons who are known to have committed felonies or other crimes of violence are not admitted to membership in the National Rifle Association. In checking applications for membership the association sends the name and record of the applicant to the adjutant general of his State.
>
> After receiving an initial allocation of ammunition, which is usually sent directly from an Army arsenal, a club approved by the national board is eligible for additional allocations each year after it files a report on its activities, including the qualification rounds fired by members.
>
> In these annual reports, the individual members have not been listed in the past. Now, the national board will require such lists rather than rely on the records of the rifle association.

Mr. Speaker, to understand the significance of this new policy one should know that previously a gun club affiliated with the National Rifle Association and certified to receive guns and ammunition through this program need only inform the Director of Civilian Marksmanship of the number of members in the club. Now, as I understand the new procedure, a gun club will also have to list the names of each of its members in its request for free guns and ammunition.

I am pleased that the National Board for the Promotion of Rifle Practice has seen fit to make this change, for clearly changes are needed to place this program under tighter controls. But the change in question is only a halting step in the right direction. If the "detailed membership rolls" are merely placed in the files of more than 5,000 clubs and the 400,000 members that participate in the program then no new controls have been added. Only a handful of people handle this enormous giveaway program. How closely will they be able to scrutinize the list of 400,000 names to see that persons who should not be receiving free ammunition are not on it? What criteria will this handful of people use in determining who is and who is not entitled to free ammunition?

What facilities will be available to check on the questionable names? Yet I suppose the list of names will be scrutinized and that the wrong people will not be allowed to receive free guns and ammunition. And although the handful of persons who run this program probably are already overworked processing the applications for free ammunition that come in from the more than 5,000 shooting clubs, I am confident that certain names will be recognized right off, and that they will not get free guns and ammunition.

For example, if the name Lee Harvey Oswald appeared on one of the "detailed membership rolls of clubs it supports" certainly the National Board for the Promotion of Rifle Practice and its implementing agency, the Director of Civilian Marksmanship, would scrutinize that name very closely. In fact, I feel confident that a person with that name would now find it very difficult to "borrow" a rifle or obtain free ammunition from the NBPRP and the DCM. Anyone with the name Lee Harvey Oswald need not apply for a free gun or ammunition under this program. Furthermore, I suppose that if the name Fidel Castro turned up on one of the detailed membership rolls that whoever was doing the scrutinizing would look twice, if not three times. But I do want to offer one word of caution: In my hometown of San Antonio, Tex., there are many persons with the name "Castro." There are even some "Guevaras," not to speak of the great numbers of "Gonzalez." So I would hope that decisions to give away free guns and ammunition or not to give them away will be made on more evidence than a man's name.

VETERANS' ADMINISTRATION REGIONAL OFFICE IN LOS ANGELES SELECTED AS OUTSTANDING REGIONAL OFFICE FOR 1963

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. Roosevelt] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROOSEVELT. Mr. Speaker, I am proud to announce that the Veterans' Administration regional office in Los Angeles has been selected as the outstanding regional office for 1963. This is the first time that such an award has been made to a VA regional office west of the Mississippi River and the first time a large station has earned the award. Some of the items upon which this award was based are outstanding service to veterans, a highly developed and successful equal employment program, and the sale of more than $92 million of VA-held deeds of trust to private investors during the past 18 months.

I know from my own personal experience, Mr. Speaker, that in dealing with the Veterans' Administration in Los Angeles on countless matters which affect my constituents, the most prompt and thorough service has always been given to me, whether the matter is of minor or major importance.

The award will be presented on June 25 in the Domiciliary Theater at the VA center, and over 700 guests and employees will be present to watch the presentation of the award by Mr. Cyril Brickfield, chief benefits director of the Veterans' Administration in Washington.

I would like to offer my highest compliments and congratulations to Mr. H. M. Webster, the manager of the Los Angeles regional office, and to all of the employees who have contributed so much to make this such an outstanding center of service to the veterans of the Los Angeles area.

EXTENSION OF INSURED LOAN PROGRAM FOR HOUSING FOR THE ELDERLY IN RURAL AREAS

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Patman] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Mr. Speaker, on Monday, June 15, the last suspension day this month, I expect to seek recognition from the Chair to call up House Joint Resolution 1041, introduced by the gentleman from Alabama [Mr. Rains], chairman of the Subcommittee on Housing. This resolution would provide a 90-day interim extension of the program of insured rental housing loans of the elderly in rural areas. This is necessary because that small but promising program has a termination date of June 30, 1964, and it is evident that we will not be able to act on general housing legislation by that time.

It is a well-known fact that senior citizens account for a relatively high proportion of our rural population. Altogether, there are some 7 million Americans age 60 and over who live in farm areas and the villages and hamlets of our country. These people are as much in need of housing as those who live in the larger cities. However, their choice of housing is more limited than in the case of people who live in larger towns and big cities. All too often an elderly couple, whose children have moved off to jobs in the city, are left with a home too large for their needs and too difficult to maintain. This is compounded by the chronic shortage of mortgage financing in rural areas, particularly for rental housing which often can best meet the needs of older people.

To help overcome this problem, the Congress in 1962 created a program of Government insurance for private financing of rental housing for the elderly in rural areas. These loans can be made only where private financing is available without this assistance and is limited to farm areas or communities of 2,500 population or less. It is further limited by a ceiling of $100,000 per loan reflecting the rural nature of the program. This program involves not one cent of cost to the taxpayer since the interest which is paid by the borrower provides for an insurance reserve and covers administrative expenses as well as the return to the private lender. It is administered by the Farmers Home Administration in the Department of Agriculture which, in my opinion, is one of the best agencies in the entire Federal Government.

Since the program was established less than 2 years ago, the figures on activity so far are perhaps not impressive in a day when we are accustomed to talking in millions and billions. However, activity is rising and the program is fulfilling an important need in this field. So far, 56 applications have been received and 7 loans have already been approved. Unless House Joint Resolution 1041 is approved there will be a damaging hiatus in the program until we have time to act on the Administration's comprehensive housing and community development bill which provides for the further extension of the program.

I believe this resolution is completely noncontroversial. The Senior Citizens Housing Act of 1962 which established this program and also provided funds for other housing for the elderly programs, passed the House by the overwhelming vote of 367 to 6. This resolution, which has already been approved unanimously by the Subcommittee on Housing, will be considered by the full Committee on Banking and Currency on Thursday of this week and I am confident that it will be reported out without objection. If that is the case, I will ask that it be brought up under suspension of the rules next Monday, which will be the last such opportunity to act on it this month, and I urge all Members of the House to support it.

HAPPY BIRTHDAY, JIM FARLEY

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. RODINO] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. RODINO. Mr. Speaker, a few days ago one of the wisest of all men who have ever participated in the organization and operation of our Government observed his 76th birthday.

I am sure that all of us in this Chamber who were privileged to work with him join me in extending our heartiest greeting to Jim Farley.

For those younger among us who were never so privileged, I would like to insert a profile of this great gentleman which appeared in many newspapers across the land, including the Newark Star-Ledger, on Jim's birthday, May 30:

HALE, HEARTY AT 76, JIM FARLEY SEES L.B.J. A SHOO-IN

NEW YORK.—A hale and hearty James A. Farley, 76 today, relaxed in his office this week among treasured mementos of 50 years of political life—and looked happily toward the future.

He was relaxed, for one reason, because he was as optimistic about Democratic prospects this fall as he was in 1932.

That was the year he piloted Franklin D. Roosevelt's presidential campaign to a landslide victory, carrying 42 States. He says President Johnson may do even better because he has substantial support from the business community.

Concerning the Republican race for the presidential nomination, Farley predicted a convention deadlock if New York Gov. Nelson A. Rockefeller beats Arizona Senator BARRY GOLDWATER in California's primary Tuesday. In that case, he said, the convention might turn to Gov. William W. Scranton, of Pennsylvania, over former Vice President Richard M. Nixon.

Farley was relaxed, too, because for the first time in recent election years he himself is not seeking any political office.

Farley, former Democratic national chairman and former Postmaster General, is board chairman of the Coca-Cola Export Corp., in charge of sales overseas.

He was guest at a prebirthday party yesterday at Coca-Cola's World's Fair Pavilion and was presented with a 76-pound birthday cake. Amid congratulations from hundreds of friends, he took time to answer newsmen's questions on politics.

Though a businessman now, politics are never far from the thoughts of the man who grew up in that field.

The walls of his business office are hung with scores of autographed photographs of the greats he has known here and abroad in politics and other callings.

Showing a reporter around this week, he showed particular delight in a picture of the late President John F. Kennedy, seated at a table with an impish grin and a bottle of Coke at his right hand.

Kennedy had inscribed it: "With warmest regards from a customer."

Farley said Kennedy had sent the photograph, unsolicited, and that he did not know where it was taken.

The autographed photographs are from Democrats and Republicans alike—President Johnson and former Presidents Herbert Hoover, Franklin D. Roosevelt, Harry S. Truman, and Dwight D. Eisenhower.

"I have been on speaking terms with six Presidents," said Farley. "What makes me happy about it is that I was on friendly terms with all."

There are photographs, too, from such foreign notables as Winston Churchill and the late Indian Prime Minister Nehru, from the late Gen. Douglas MacArthur, and from Francis Cardinal Spellman.

"Gratefully, devotedly, prayerfully," said the cardinal's inscription.

Farley, a robust 6 feet 2 keeps his weight at 205 pounds through a regimen of no exercise and what he calls relaxation.

A visitor might wonder at his definition of relaxation, considering that last year he traveled 71,000 miles, 59,000 by plane, and attended 132 banquets and 75 civic and business luncheons.

"But I eat sparingly," he explained.

He plays no golf. His exercise consists of walking four blocks to work from his apartment in the Waldorf-Astoria Hotel to his office at 515 Madison Avenue, and elsewhere about town—except on rainy or very hot days.

For relaxation he attends Yankee baseball games and visits a Turkish bath twice a week.

Farley has a busy schedule for his birthday. He will attend Mass in St. Patrick's Cathedral, drive to his boyhood neighborhood in Rockland County to visit the graves of his parents in St. Peter's Cemetery in Haverstraw, and Grassy Point's St. Joseph Church, where he once served as an altar boy.

Then he will return to New York for a luncheon at the World's Fair before driving to Westchester County to visit his wife's grave in Gate of Heaven Cemetery and then having dinner with his daughter, Mrs. Glenn D. Montgomery, and son, James Junior, a member of the New York Athletic Commission.

Mr. Speaker, to give an insight into the character of this truly outstanding American, I would like to bring your attention to a piece written by Jim, which appeared in "Guideposts" and was condensed in the Reader's Digest, in January this year.

His words should never be forgotten by any of us, no matter what his political creed may be:

THE TWO MAGIC WORDS

Not long ago I received a request from a college student in Pennsylvania who said he was writing a thesis on government. He asked me to fill out a questionnaire with at least 40 items, some of which called for complex answers. Believing that any interest in government should be encouraged, I dictated a long reply and sent it off with the little glow of satisfaction that comes from completing an arduous voluntary task.

I looked forward to receiving from this young man some acknowledgement. I never heard from him.

I told myself that it was a matter of no great consequence and to forget it. But I didn't forget it because I was disappointed.

The truth is, ingratitude hurts anyone who is the victim of it. It also hurts the person who fails to show appreciation, because he may make an enemy where he could have kept a friend. Nor is it enough simply to feel gratitude; it has to be demonstrated. Perhaps the boy in Pennsylvania was appreciative, but if so his appreciation was wasted because he never told me. Two words, "thank you," could have made all the difference.

When someone's performance hurts or displeases, it is a good idea to ask yourself whether traces of his unpleasant characteristics may not exist in you. So I asked myself, how much do most of us appreciate the countless little daily acts of kindness by others that make our lives more comfortable? How grateful are we, really, for the privilege of living in a country where most of us can take freedom, justice, and security for granted? How much thankfulness do most of us feel for the marvelous gift of life itself, and how adequately do we express this to the Giver?

The honest answer to each question was painfully clear. Not enough. Not nearly enough. And so I decided to make a resolution:

To thank the people who make my world run smoothly—waitresses, elevator operators, taxi drivers, anyone—not just with a casual word or an impersonal tip, but with some expression of genuine interest in them as fellow human beings.

To make myself more aware of the privileges involved in being an American, and to show my thankfulness by working without thought of reward to make my country better.

To remind myself every day of the infinitely precious value of every minute of existence, and to show my gratitude to God not only with prayers of thanksgiving but by living as close as possible to the way He wants me to live.

A basic rule in showing appreciation, I have found, is this: Do it now. Do it while your sense of gratitude is fresh and strong. If you feel a flash of thankfulness, act on it before the impulse dies away.

Gratitude is by no means a simple thing. I believe that there are several stages. The most familiar is the spontaneous feeling of thankfulness for benefits received. A second stage is thankfulness not just for the pleasures and benefits of life but for its hazards and hardships as well. It takes some insight and maturity to realize that troubles and difficulties have values, but they do. All of us have heard of handicapped people who struggled so fiercely to overcome their handicaps that ultimately they become champions.

The third stage of gratitude is what the poet Edwin Arlington Robinson had in mind when he wrote that there are two kinds of thankfulness: "The sudden kind we feel for what we take, the larger kind we feel for what we give." When you begin to feel gratitude for the opportunity to help others, then you are getting close to the self-forgetfulness that the Bible tells us is the secret of true happiness.

If you can increase your sense of gratitude and your willingness to express it, you will make the people around you happier, and you will become a happier person yourself. There is a great magic in those two words—"Thank you."

A SALUTE TO OUR GRADUATING PAGES

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. Rodino] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. RODINO. Mr. Speaker, last night in the Ways and Means Committee room of the House, the Capitol Page School held its commencement exercises.

Sixteen of the fine young men who have served so well in this body and the other and in the Supreme Court received their degrees and moved on to another phase of their lives.

All of them deserve our most heartfelt thanks for their work, and our sincere praise for their achievement. We all know the long hours, their daily schedule, the self-discipline their mode of living demanded.

All of these young men have proved themselves as few of their contemporaries in America have. We shall miss them all, and we can only hope that those who will take their place will prove as worthy as these lads.

It is with a special pride, and sorrow, that I note their passing, for the leader among them was Bob Bartkus, from the town of Kearny, N.J., in my district. Bob is a boy who would make any man proud to be his father. A gentleman at all times, alert, bright, loyal, hard working, neat in appearance, polite in manner, optimistic in outlook.

The respect of his classmates was shown by his election as president of the senior class. His dedication to his studies, by his being the valedictorian. And, more than just the best among many intelligent young men here, Bob was a member of the National Honor Society, and won two of the total of four scholarships won by the entire class, including a highly competitive national merit scholarship.

I think it fitting that I close with Bob's own words, his valedictory, wherein he sets forth a challenge we all must work to answer:

> Senator Bayh, Dr. Cranford, Colonel Hamilton, Mr. DeKeyser, families, and friends, 2 million American youths will graduate from high school this June in ceremonies somewhat similar to this one. This is a substantial achievement for our society, yet within our modern educational system there are significant deficiencies.
>
> The 2 million graduates are little more than 70 percent of those students who entered high school 4 years ago. The 30 percent who have dropped out present a serious problem that desperately requires attention. While the schools are not responsible for all dropouts, a great percentage of them was not stimulated to want an education. Offered immense opportunities for learning, they did not see fit to take advantage of them.
>
> Another alarming fact is that many of those who will graduate have not taken advantage of their opportunities either. These students have not grasped the significance of education and its relation to life; they have merely gone through the motions. Why has an educational system so highly rated as ours failed in these vital respects?
>
> Fundamental to our civilization is the acknowledgement that all share the same rights and privileges. The principle of "equality in the eyes of God and the law" has done much to make our society what it is, yet in this equalitarian idealism, we have overlooked an equally basic principle. All men are not created equal. Because no two people have the same genetic makeup, they have vastly different potentials. Some are endowed with academic talents, others with exceptional manual skills, still others with ambition, courage, leadership, or compassion. Some are endowed with several of these, others seemingly with none. Though we are all to be treated by the law as equals, there is no doubt—we are not equal in our abilities. To achieve—as much as humanly possible—equality of opportunity, the student must discover and develop his particular talents.
>
> This is precisely where our educational system fails to a great extent—it falls far short of developing the individual. Distinct talents are all too often wasted, and students lose the creative and curious spirit, because they are not encouraged to excel, either for themselves or for society. Insufficient attention is paid to the student as an individual with a unique set of talents. He does not discover his personal abilities until it is too late—maybe never. Tragically, much talent and incentive are lost because of the inadequacies of our present system.
>
> In seeking a better education, oriented to individual performance and development, we are confronted with two outstanding areas which demand attention: The culturally deprived family and the "unimaginative classroom."
>
> The underprivileged child has no educational opportunities outside the school. His parents—for any number of reasons—cannot or will not assist in developing him as an individual. Books, thoughtful conversation, beauty, and love are unknown in such a family, and the child suffers.
>
> The school must offer a solution to this problem, yet presently, because of overcrowding and insufficient attention to the student, it fails. Without the proper home atmosphere, attempts at education fall on barren, even hostile ground. In such repressive conditions only the exceptional student is able to find himself and lead a creative life.
>
> We cannot claim a healthy society until the underprivileged are offered exceptional opportunities to break the natural barriers that hinder their intellectual development. The school must earlier acquaint the culturally deprived student with the benefits of education; it must then make his education a meaningful part of his life. The child must be encouraged, by individual attention, to explore and develop his personal abilities. Only then may the underprivileged members of the younger generation rise above their surroundings and take their places as useful citizens.
>
> Directly affecting most of us is the problem of the "unimaginative classroom." In many instances it may be said that teachers "instruct" rather than students "learn," because the school has failed to realize the individual's distinct educational needs. Students possess varying potentials; and all do not respond or benefit from the same approach for exploring, recognizing, and developing these abilities. The school system must employ a wide range of teaching methods that cope with the different talents of many students.
>
> Creating within the child a desire to learn and excel must be a goal of our schools. Yet his goal will not be achieved until individual differences are recognized and explored. Education seeks to lessen the effect of hereditary and environmental differences by assisting the student to take advantage of his positive talents. The challenge to our schools—as well as to our society—is the exploration and development of the various abilities of each citizen, so that he may achieve his potential and thus enjoy a rich and creative life.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. Taylor (at the request of Mr. Fountain), for today, on account of official business.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Congressional Record, or to revise and extend remarks, was granted to:

Mr. Zablocki.

Mr. Don H. Clausen.

Mr. Zablocki his remarks in Committee of the Whole today and to include a chart.

(The following Members (at the request of Mr. Martin of Nebraska) and to include extraneous matter:)

Mr. Westland.

Mr. Tollefson in two instances.

Mr. Grover.

Mr. Morse.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Davis of Georgia.

Mr. St. Onge.

Mr. Friedel.

Mr. Thompson of New Jersey.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 44 minutes p.m.) the

House adjourned until tomorrow, Wednesday, June 10, 1964, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2153. A letter from the Secretary of Commerce, relative to the permanent Secretary of the Inter-American Travel Congress requesting the Department of Commerce to explore the possibility of the United States forming a parliamentary group on tourism as recommended by Resolution VI of the Eighth Inter-American Travel Congress held in Guadalajara, Mexico, in September 1962; to the Committee on Interstate and Foreign Commerce.

2154. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders entered in cases in which the authority was exercised in behalf of certain aliens, pursuant to the Immigration and Nationality Act; to the Committee on the Judiciary.

2155. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of the orders entered in the cases of certain aliens who have been found admissible to the United States, pursuant to the Immigration and Nationality Act; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MORRIS: Committee on Interior and Insular Affairs. H.R. 9740. A bill to establish the Roosevelt Campobello International Park, and for other purposes; with amendment (Rept. No. 1466). Referred to the Committee of the Whole House on the State of the Union.

Mr. HARRIS: Committee on Interstate and Foreign Commerce. H.R. 3873. A bill to amend section 322 of the Public Health Service Act to permit certain owners of fishing boats to receive medical care and hospitalization without charge at hospitals of the Public Health Service; without amendment (Rept. No. 1467). Referred to the Committee of the Whole House on the State of the Union.

Mr. ELLIOTT: Committee on Rules. House Resolution 744. A resolution providing for the consideration of H.R. 9876, a bill to amend the Juvenile Delinquency and Youth Offenses Control Act of 1961 by extending its provisions for 2 additional years and providing for a special project and study; without amendment (Rept. No. 1468). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. House Resolution 745. A resolution for the consideration of H.R. 11375, a bill to provide, for the period ending June 30, 1965, a temporary increase in the public debt limit set forth in section 21 of the Second Liberty Bond Act; without amendment (Rept. No. 1469). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 746. A resolution providing for the consideration of H.R. 11376, a bill to provide a 1-year extension of certain excise tax rates; without amendment (Rept. No. 1470). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. O'HARA of Michigan:

H.R. 11522. A bill to provide labor standards for certain persons employed by Federal contractors to furnish services to Federal agencies, and for other purposes; to the Committee on Education and Labor.

By Mr. PELLY:

H.R. 11523. A bill to provide labor standards for certain persons employed by Federal contractors to furnish services to Federal agencies, and for other purposes; to the Committee on Education and Labor.

By Mr. BOGGS:

H.R. 11524. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for certain investment in less developed countries, and for other purposes; to the Committee on Ways and Means.

By Mr. BYRNES of Wisconsin:

H.R. 11525. A bill to reduce the retailers excise taxes on jewelry, furs, toilet preparations, and luggage and handbags from 10 percent to 5 percent on July 1, 1964, and to repeal such taxes on July 1, 1965; to the Committee on Ways and Means.

By Mr. FUQUA:

H.R. 11526. A bill to amend title II of the Social Security Act to increase the amount of outside earnings permitted each year without deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. NELSEN:

H.R. 11527. A bill to amend the Internal Revenue Code of 1954 to authorize and facilitate the deduction from gross income by teachers of the expenses of education (including certain travel) undertaken by them, and to provide a uniform method of proving entitlement to such deduction; to the Committee on Ways and Means.

By Mr. ABELE:

H.R. 11528. A bill to provide for the issuance of a special postage stamp in honor of the memory of the late General of the Army Douglas MacArthur; to the Committee on Post Office and Civil Service.

By Mr. BENNETT of Florida:

H.R. 11529. A bill to modify the St. Johns River, Fla., project to provide for certain channel improvements, and for other purposes; to the Committee on Public Works.

By Mr. FULTON of Pennsylvania:

H.R. 11530. A bill to provide for the issuance of a special postage stamp in honor of the memory of William D. Boyce, a leader of the founding of the Boy Scouts of America; to the Committee on Post Office and Civil Service.

By Mr. LONG of Louisiana:

H.R. 11531. A bill to amend the Internal Revenue Code of 1954 to authorize and facilitate the deduction from gross income by teachers of the expenses of education (including certain travel) undertaken by them, and to provide a uniform method of proving entitlement to such deduction; to the Committee on Ways and Means.

By Mr. DAWSON:

H.R. 11532. A bill to authorize the expenditure of appropriated funds for insurance covering the operation of motor vehicles in foreign countries; to the Committee on Government Operations.

By Mr. GRAY:

H.R. 11533. A bill to authorize and direct the Secretary of Agriculture to make a preliminary survey of the proposed George Rogers Clark Recreation Way within and adjacent to the Shawnee National Forest in the State of Illinois; to the Committee on Agriculture.

By Mrs. GREEN of Oregon:

H.R. 11534. A bill to repeal section 165 of the Revised Statutes relating to the appointment of women to clerkships in the executive departments; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: A memorial of the Legislature of the State of California, memorializing the President and the Congress of the United States relative to posthumously awarding the Congressional Medal of Honor to John Fitzgerald Kennedy; to the Committee on Armed Services.

Also, a memorial of the Legislature of the State of California, memorializing the President and the Congress of the United States relative to requesting the President of the United States to call a White House Conference on Alcoholism; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON of California:

H.R. 11535. A bill for the relief of Jack Sun (also known as Sun Hun Chak); to the Committee on the Judiciary.

H.R. 11536. A bill for the relief of Mrs. Kay Sue Lee; to the Committee on the Judiciary.

H.R. 11537. A bill for the relief of Mrs. Maria Melchiori; to the Committee on the Judiciary.

H.R. 11538. A bill for the relief of Isola Arrighi; to the Committee on the Judiciary.

By Mr. FOGARTY:

H.R. 11539. A bill for the relief of Joao Carlos Senra Ferreira, Jose Jorge Senra Ferreira, and Maria Goretti Senra Ferreira; to the Committee on the Judiciary.

By Mr. KING of California:

H.R. 11540. A bill for the relief of Mrs. Norma M. Terrado; to the Committee on the Judiciary.

By Mr. MOORE:

H.R. 11541. A bill for the relief of Dr. Renato C. Castro; to the Committee on the Judiciary.

By Mr. POWELL:

H.R. 11542. A bill for the relief of Mola Jane Douglas; to the Committee on the Judiciary.

By Mr. STINSON:

H.R. 11543. A bill for the relief of Mrs. Sarah E. Thompson; to the Committee on the Judiciary.

H.R. 11544. A bill for the relief of Kimie Okamoto Addington; to the Committee on the Judiciary.

By Mr. EDWARDS:

H.R. 11545. A bill to authorize the Administrator of General Services to sell 60 acres of land acquired for Eufaula Reservoir, Eufaula, Okla., to Robert A. Harwell by negotiation, and for other purposes; to the Committee on Government Operations.

By Mr. ALBERT:

H. Res. 743. Resolution authorizing Representative JOHN E. MOSS to respond to a summons of the juvenile and domestic relations court of Alexandria, Va.; considered and agreed to.

PETITIONS, ETC.

Under clause 1 of rule XXII,

921. The SPEAKER presented a petition of Henry Stoner, Avon Park, Fla., relative to legislation to define the Constitution as it relates to entering into agreements with foreign powers, and States entering into agreements, without the consent of Congress; to the Committee on the Judiciary.

SENATE

TUESDAY, JUNE 9, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Merciful Father, whose faithfulness is constant, with all our fickleness, and whose forgiveness outlasts all our transgressions against Thy holy love: We bemoan the delusions which so often have led us to mistake shadows for substance. We confess that, as a nation, by the opiate of our own boastful achievements in the past, we have been lulled into a cushioned optimism.

May the costly agitations and testings of these embittered days be but as the refiner's fire for our democracy, consuming the dross and bringing out the pure gold of government by and for the people. Give us to realize that blind hatred wears itself out, that all violence spends itself in futile struggle, and that in the end only the gentle and the loving endure, and only that which selflessly serves is permanent, as at last the meekness which is not weakness will inherit a cleansed and redeemed earth.

We ask it in the name of the One in whom the might of meekness is forever revealed. Amen.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on June 6, 1964, the President had approved and signed the following acts:

S. 538. An act for the relief of Henry Bang Williams; and

S. 741. An act to amend title 18, United States Code, to prohibit schemes in interstate or foreign commerce to influence by bribery sporting contests, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore, laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. Under the unanimous-consent agreement, the clerk will call the roll, to ascertain the presence of a quorum.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 275 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Goldwater
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from California [Mr. ENGLE] is absent because of illness.

The ACTING PRESIDENT pro tempore. A quorum is present.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the unanimous-consent agreement, the question is now on agreeing to the Morton amendment No. 869, as modified, to the Talmadge amendment No. 513, relating to jury trial for criminal contempt.

The yeas and nays have been ordered, and the clerk will call the roll.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. HUMPHREY. Mr. President, the pending amendment would modify the Talmadge amendment, and if adopted, would deny a vote upon the Dirksen-Mansfield jury trial substitute. Is that correct?

The ACTING PRESIDENT pro tempore. It is a perfecting amendment modifying the Talmadge amendment.

Mr. HUMPHREY. Mr. President, what is its effect upon the Dirksen-Mansfield substitute jury trial amendment?

Mr. MORTON. Mr. President, it would have no effect on it. I ask to be heard on this point of order.

This amendment is to the Talmadge amendment, which is an amendment to the bill. It has nothing to do with the substitute.

The ACTING PRESIDENT pro tempore. It is an amendment to the Talmadge amendment No. 513. It is a perfecting amendment, and, if adopted, would perfect the Talmadge amendment.

Mr. HUMPHREY. Mr. President, my parliamentary point was as follows: If adopted, would an opportunity for the Dirksen-Mansfield jury trial amendment to be presented be denied?

The ACTING PRESIDENT pro tempore. That would be the next question that would be voted upon, if that were offered, unless another perfecting amendment to the Talmadge amendment No. 513 were offered.

Mrs. NEUBERGER. Mr. President, a point of order.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mrs. NEUBERGER. Before the vote is started, since it is so difficult to hear, may we ask that all those who are standing either leave the Chamber or be seated?

Mr. HUMPHREY. Or be quiet.

The ACTING PRESIDENT pro tempore. The point of order is well taken. Will all those in the rear of the Chamber either sit down or leave the Chamber?

Mr. HICKENLOOPER. Mr. President, I demand the regular order.

The ACTING PRESIDENT pro tempore. The rollcall will not proceed until the Senate is in order.

Mr. GORE. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee will state it.

Mr. GORE. Mr. President, will the Chair inform me who has the privilege of the floor of the U.S. Senate?

The ACTING PRESIDENT pro tempore. That is not a parliamentary inquiry. But every Senator has the privilege of the floor. The clerks have the privilege of the floor when they are here on official business in the performance of their regular duties.

The Senate is now voting. It is difficult for the Chair to understand how a clerk could be present in the performance of official duties while Senators are voting.

Mr. GORE. Mr. President, a point of order. Sometimes a Presiding Officer will ascertain who is present during a rollcall vote with or without proper consent.

The ACTING PRESIDENT pro tempore. The present Presiding Officer is now trying to obtain order, and has not removed the clerks from the Chamber. But if there is not order, the rule will be invoked so that Senators can be heard.

Mr. GORE. Mr. President, does not the Presiding Officer of the Senate have the power to direct the Sergeant at Arms to ascertain who is on the floor of the Senate without proper consent?

The **ACTING PRESIDENT** pro tempore. The present Presiding Officer believes that under the rule the Chair has the power to maintain order in the Senate.

Mr. **GORE**. Mr. President, it is respectfully suggested that either the present Presiding Officer—or such other Presiding Officer as may be presiding during the course of the many rollcalls that will apparently be necessary on this issue—should exercise such responsibility.

The **ACTING PRESIDENT** pro tempore. If order is not maintained in the Senate, the present Presiding Officer will attempt to maintain order. And there will be order.

Mr. **GORE**. Mr. President, a point of order. The Presiding Officer has just ruled that the clerks should not be present during the rollcall. I have not observed anyone depart.

Mr. **HICKENLOOPER**. The regular order.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **HUMPHREY**. I announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE] would vote "nay."

The result was announced—yeas 51, nays 48, as follows:

[No. 276 Leg.]

YEAS—51

Bennett
Bible
Boggs
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Cooper
Cotton
Curtis
Dominick
Eastland
Edmondson
Ellender
Ervin
Fulbright
Goldwater
Gore
Hayden
Hickenlooper
Hill
Holland
Hruska
Jackson
Johnston
Jordan, N.C.
Jordan, Idaho
Lausche
Long, Mo.
Long, La.
Magnuson
McClellan
Mechem
Miller
Morton
Mundt
Pearson
Robertson
Russell
Simpson
Smathers
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, Del.
Yarborough
Young, N. Dak.

NAYS—48

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Brewster
Burdick
Case
Church
Clark
Dirksen
Dodd
Douglas
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Javits
Keating
Kennedy
Kuchel
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Williams, N.J.
Young, Ohio

NOT VOTING—1

Engle

So Mr. MORTON's amendment as modified, to the amendment of Mr. TALMADGE was agreed to.

Mr. **MORTON**. Mr. President, I move that the vote by which the Morton amendment (869), as modified, to the Talmadge amendment (513), was agreed to, be reconsidered.

Mr. **MUNDT**. Mr. President, I move that the motion to reconsider be laid on the table.

Mr. **ELLENDER**. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Subsequently——

Mr. **LAUSCHE**. Mr. President——

Mr. **HICKENLOOPER**. Mr. President, the Senator from Ohio has a special request; he seeks recognition in order to submit a unanimous-consent request, because he must leave the floor temporarily. I ask unanimous consent that I may yield one-half a minute to him, without losing my right to the floor.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered; and the Senator from Ohio is recognized for half a minute.

Mr. LAUSCHE. Mr. President, when the Morton amendment was originally before the Senate, I made two statements in which I gave my reasons for approving the amendment. I ask unanimous consent that those two statements be printed in the RECORD immediately after the vote taken earlier today, so as to show why today I voted for the Morton amendment.

In substance, those statements indicate that I followed the principle of equal justice for all. Under three acts of Congress, jury trials are allowed to labor leaders in criminal contempt cases. The last such provision was made in 1959, under the Landrum-Griffin Act. I cannot understand how the principle of equal justice for all is recognized when the Senate votes to allow jury trials to be had by labor leaders in criminal contempt cases, but refuses to allow jury trials to be had by offenders under the civil rights bill. That is why I voted today in favor of adoption of the Morton amendment.

I wish this statement to appear in the RECORD immediately following the vote. I was in Cleveland, yesterday, attending the Governors' conference, and therefore could not be here.

The **ACTING PRESIDENT** pro tempore. Is there objection?

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

JURY TRIAL AMENDMENT

Mr. LAUSCHE. Mr. President, I desire to direct my remarks to the issue that is immediately before the Senate; namely, whether language should be included in the pending bill which would guarantee a trial by jury to an accused in criminal contempt cases.

I understand that the amendment offered by the Senator from Kentucky does not deal with civil contempt, but only criminal contempt, and that his language provides that whenever a criminal contempt proceeding is instituted, the aggrieved party shall have the right of a trial by jury if he so desires.

In approaching this issue, I wish to discuss a number of Federal statutes dealing with contempt trials under specific conditions. I shall also attempt to discuss what is supposed to be the difference between a criminal and a civil contempt proceeding.

I have obtained the language from four statutes dealing with trials in contempt cases. The first is the Clayton Act. The second is the Norris-La Guardia Act. The third is the Landrum-Griffin Act, which, of course, is an amendment of the Taft-Hartley Act. Fourth is the Civil Rights Act of 1957.

The Clayton Act was passed by Congress with the intention of prohibiting the formation of combinations purposed to fix prices and to engage in monopolies. In that act, injunctive relief is allowed. Manifestly, if injunctive relief is allowed, Congress must proceed to declare how the trial shall be had in the event proceedings are brought against an accused for insulting the court.

I now read from section 21 of the Clayton Act:

"Any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be proceeded against for his said contempt as hereinafter provided."

Section 22 of the Clayton Act provides, in paragraph 2:

"In all cases within the purview of this act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event a court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; * * *."

That is the end of the quotation, but not the end of the statute.

In that instance, Congress, in attempting to determine how a trial shall be held for a violation of the Clayton Act, specifically recognized the time-honored concept of the American people that trial by jury is one of the fundamental virtues of our Government. In that instance, Congress undoubtedly remembered how, at Runnymede, the English people demanded of King John that he cause to be set forth in writing certain inviolable rights of the citizenry of England. One of those rights was that when charged with crime, the citizen shall have a right to trial by jury, the jury to be made up of members constituting peers of the accused.

Thus, in a sincere approach to this problem, one might well ask, Why, with respect to the Clayton Act, in certain circumstances, did Congress grant the right of trial by jury, but now is it urged that the right of trial by jury shall not be granted to an accused under the civil rights bill? I cannot give a sound reason. In my judgment, the proponents of the bill cannot, on the basis of reason, demonstrate that under the Clayton Act a jury trial must be allowed, but that under the civil rights bill it shall be denied in criminal contempt proceedings.

Let us turn now to the next important act that was passed by Congress on this subject, namely, the Norris-La Guardia Act. This act was passed in 1932. It relates to injunctive proceedings against unions. The act itself is narrow in outlining the circumstances under which injunctive relief may be granted against a union. But within those narrow limits, a trial judge has the right to command unions not to perpetrate certain acts. Again, Congress had to decide, if an injunction was issued, and the union leaders disobeyed the injunction, how the accused should be tried. I shall now read section 11 of the Norris-La Guardia Act.

"In all cases arising under this act in which a person shall be charged with contempt in a court of the United States—"

Mark you, Mr. President, that the Norris-La Guardia Act does not speak of criminal contempt, but speaks of "contempt"—civil and criminal contempt. I shall reread.

"In all cases arising under this act in which a person shall be charged with contempt in a court of the United States (as herein defined), the accused shall enjoy the right to speedy and public trial by an impartial jury of the State and district wherein the contempt shall have been committed: *Provided*, That this right shall not apply to contempt committed in the presence of the court or so near thereto as to interfere directly with the administration of justice or to apply to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court * * *"

So we have another situation important to the people of the country—a statute which allows the issuance of an injunction against a union, a statute which envisions the possible violation of the injunction by a union leader. Congress again said that there shall be the right of trial by jury.

In the Norris-La Guardia Act, the right of trial by jury was given not only to the defendant who was charged with criminal contempt, but also to the defendant charged with civil contempt. I shall later discuss the difference between civil and criminal contempt.

Mr. President, I have used more time than I intended to use. To Senators who wish to read the most complete and accurate analysis of the difference between civil contempt and criminal contempt, I recommend a reading of the Gompers-Buck Stove and Range Co. case, which appears in 221 U.S. 418. In that case a judge of the district court sentenced Samuel Gompers to jail for violating an injunction. The sentence was rather severe. Gompers and other defendants were found guilty of contempt and sentenced to imprisonment for 12, 9, and 6 months, respectively. The proceeding from which I am now reading was one in which an effort was made to reverse the judgment. The Supreme Court of the United States finally reversed the judgment. I intended to read the entire case, but to do so would take too long. I shall try to summarize the difference between civil and criminal contempt. Civil contempt proceedings are instituted solely for the purpose of providing the remedy for the injured party. The remedy is relief to the injured person.

In criminal contempt, the proceedings are instituted normally by the Government. The relief sought is not a remedy for the benefit of the aggrieved party, but vindication of the honor and the dignity of the court. There are a number of tests by which a determination can be made as to whether a proceeding is criminal or civil. The opinion of the Court states:

"Contempts are neither wholly civil nor altogether criminal. And 'it may not always be easy to classify a particular act as belonging to either one of these two classes. It may partake of the characteristics of both.' "

That last quoted statement was made in the case of *Bessette* v. *W. B. Conkey Co.*, 194 U.S. 324, 329. Continuing to read from the opinion:

"But in either event, and whether the proceedings be civil or criminal, there must be an allegation that in contempt of court the defendant has disobeyed the order, and a prayer that he be attached and punished therefor. It is not the fact of punishment but rather its character and purpose that often serve to distinguish between the two classes of cases. If it is for civil contempt the punishment is remedial, and for the benefit of the complainant."

It is not for the benefit of the Government. It is in a controversy between the defendant and the aggrieved or injured party in the contempt proceedings.

"But if it is for criminal contempt the sentence is punitive, to vindicate the authority of the court. It is true that punishment by imprisonment can be remedial, as well as punitive, and many civil contempt proceedings have resulted not only in the imposition of a fine, payable by the complainant, but also in committing the defendant to prison. But imprisonment for civil contempt is ordered where the defendant has refused to do an affirmative act required by the provisions of an order which, either in form or substance, was mandatory in its character. Imprisonment in such cases is not inflicted as a punishment, but is intended to be remedial by coercing the defendant to do what he had refused to do."

I submit to the proponents of the bill that remedy by civil contempt instituted by the Government would bring to the complainant every relief that he needs in order to achieve a performance of the mandatory injunction. The court directs A to perform an act. A refuses to perform it. Civil contempt proceedings are instituted. The court declares to A, "You will either obey my order or go to jail until you do obey it." What greater relief do the proponents of nonjury trial want? They can get everything they need under the civil contempt proceedings, because the amendment of the Senator from Kentucky is applicable only to criminal contempts.

But that does not satisfy them. They want to go one step further and say that in criminal contempt, where there is no relief to be brought to the aggrieved party, but only a vindication of the honor of the judge, and the fine can be for a definite sentence and a definite mandatory amount, without the ability of the defendant to exculpate himself, there shall be no jury trial.

I cannot see it. What more could the injured party hope to attain? What more do the proponents of the nonjury provision think they will get in criminal contempt proceedings that they cannot get in civil contempt proceedings?

It has already been stated on the floor of the Senate that one of the tests of civil contempt is that the accused person has in his hands the key with which to open the jail door. The judge says to him, "You will remain in jail until you perform the act." The key is the performance of the act. If a hotel or inn or restaurant or place of entertainment discriminates on the basis of color and the operator is put in jail until he stops discriminating, have not the proponents achieved that which they want?

For example, in the matter of civil contempt, if a defendant should refuse to pay alimony or to surrender property ordered to be turned over to a receiver, or to make a conveyance required by a decree of specific performance, he could be committed until he complied with the order. When the order is once complied with, the remedy of civil contempt is achieved. It is final.

Another test: The fact that the purpose of the punishment could be examined with a view to determining whether civil or criminal contempt is involved is recognized in certain cases. While it is true that the fine imposed is not made payable to the opposite party, compliance with the order relieves the defendant from payment, and in that event there is no final judgment of either fine or imprisonment.

Based upon the study that I have made of cases and the best way to determine whether an action is in criminal or civil contempt, this question should be put: What is the purpose of the proceeding? Is it primarily to afford civil relief to the injured party? If it is, it is civil contempt. If the primary relief sought is to maintain the dignity and honor of the court, and the fine is fixed without the ability of the defendant to release himself by final compliance with the order, the proceeding is one for criminal contempt.

There is another difference. Proceedings for civil contempt are between original parties and are instituted and tried as a part of the main cause. On the other hand, proceedings at law for criminal contempt are between the public and the defendant, and are not a part of the original cause.

If it is a proceeding between the public and the defendant, the mighty United States on the one hand, and the little citizen on the other, it is proposed to have Congress say that in a criminal contempt proceeding there shall be no jury trial.

I have already stated that I will vote for the civil rights bill. I will vote to provide for every citizen full enjoyment of his constitutional rights—no more, no less. But I will not cast aside my reasoning power or stultify my conscience by saying that, while we granted the right of jury trial in the Clayton Act, in the Norris-La Guardia Act, and in the Landrum-Griffin Act, we will not grant it in the Civil Rights Act.

In the Gompers case, the court ruled that the defendants were to be relieved of that sentence. It did not specifically deal with whether a jury trial was allowable, but Samuel Gompers, a Mr. Morrison, and a third person were all freed by the Supreme Court of the United States.

Many Senators have served as judges on the bench. They have witnessed trial by jury. They have also sat as chancellors in equity. I sat on the bench. To me, there was no impact of greater sensitivity, wholesomeness, and cleanliness than the fact that the defendant, regardless of how rich or how poor, how strong or how weak he might be, in actions at law had the right to be judged by his peers.

I do not believe that the people of our country are prepared to throw that principle overboard. It is too deeply rooted in our system of government. It has been in existence for many years. It has been deeply embedded in the Anglo-Saxon method of trial. It will be used in our courts as long as we can boast that the goddess of justice is blind, knows not the richness nor the weakness nor the strength nor the poorness of the litigant before it, and will remain so as long as Members of Congress act consistently.

Why do we grant labor leaders the right to a trial by jury and refuse it to little John Galvioni on St. Clair Avenue, who might violate the civil rights law? We cannot answer it. It cannot be answered.

Mr. President, on the basis or what I have stated, I shall vote for the amendment offered by the Senator from Kentucky—that is, to provide jury trials in criminal contempt proceedings brought by the Government, just as jury trials are allowed under, A, the Clayton Act; B, the Norris-La Guardia Act; and, C, the Landrum-Griffin Act.

Mr. President, I do not wish to make it appear as though I drew these thoughts out of my mind through recent studies.

For 10 years I taught the subject of equity. The principles which I have discussed I have repeated year after year in the past. So, today, I am not saying anything new which I did not say 25 years ago on the subject.

I again put the question: Upon what character of reasoning can Congress, made up of honest and intelligent men and women, hold that the labor leader who insults and condemns shall have a jury trial, but that the U.S. citizen who violates the Civil Rights Act in an injunctive proceeding shall not have a jury trial? How can that question be answered reasonably? How can it be answered on the basis of conscience? Are we to admit that we are moved by political considerations? Are we to admit that because the power of the vote has greater effect upon us than the power of the conscience, therefore, in the one instance, the right of trial by jury shall be granted, but in the next instance it shall be denied?

Again I ask, on what basis can one rationalize it? How can it be said that a citizen of the United States who violates the proposed Civil Rights Act shall not have a trial by jury, but a labor leader who violates the Norris-La Guardia Act shall have a trial by jury, when the violation is either civil contempt or criminal contempt?

I have had some experience in trying to be guided by principles of law. From the first day when I entered law school, there was impressed upon my mind the fact that in the administration of the law there must be equality of treatment for all individuals; and I submit that these differences between the two modes of trial cannot be reconciled. Under the Norris-La Guardia Act, in a prosecution for criminal contempt, before a jury, the accused was presumed to be innocent, and the case against him had to be established beyond a reasonable doubt, and the 12 jurors had to reach a unanimous verdict. But under the proposed Civil Rights Act, one man could make the decision and could be the sole judge of the facts.

The mode of trial is a significant aspect of the administration of our criminal laws. Trial by jury is entirely different from trial by a commissariat in Red Russia. When our Constitution was written and when the plans for it were being made, the language used was that a jury shall be composed of members who will be the peers of the accused.

Now I wish to refer to the Landrum-Griffin Act, which deals with labor. I read section 608 of the Landrum-Griffin Act:

"No person shall be punished for any criminal contempt allegedly committed outside the immediate presence of the court in connection with any civil action prosecuted by the Secretary," meaning the Secretary of Labor, "or any other person in any court of the United States under the provisions of this Act unless the facts constituting such criminal contempt are established by the verdict of a jury in a proceeding in the district court of the United States, which jury shall be chosen and empaneled in the manner prescribed by the law governing jury trials in criminal prosecutions in the district courts of the United States."

That is the third instance in which the Congress of the United States, having in mind the sacred principles which guided the writing of our Constitution, provided that no man shall be punished—in this instance, for violating the Landrum-Griffin Act, in a contempt proceeding criminal in character—unless his conviction has been declared by a jury.

So how can those who are the proponents of no trial by jury explain the fact that in the Landrum-Griffin Act, Congress required that in contempt proceedings of a criminal character there shall be a trial by jury, whereas in the pending civil rights bill it is provided that in a civil rights action there shall not be a trial by jury? The difference cannot be explained. I have tried to explain it to myself; I have tried to reconcile that difference; but I was unable to do so. I could have done so by being dishonest with myself, but I could not do so by responding to my reasoning and by being honest with myself.

The provision in respect to 45 days was a compromise which was not rooted in reason. As the bill left the Senate, it provided for a jury trial in criminal contempt proceedings. The bill was changed in conference.

Mr. President, it would be interesting to check the RECORD name for name and ascertain how Senators who today argue that there shall be no jury trial provision added to the bill voted on the Landrum-Griffin bill and said in relation to that bill that there should be a provision for a jury trial. It would be rather fascinating to see how, with respect to the civil rights bill, the argument is made now that the honored principle of a right to a jury trial by one's peers is proposed to be cast to the winds in the civil rights bill but remain inviolate in the Landrum-Griffin labor bill.

I should like to ingratiate myself with persons who desire a civil rights bill. I shall vote for a civil rights bill. But there is something more important than ingratiating one's self with the voters. Over and above ingratiation is the need for one to be true to himself. There is the need to be consistent. There is the need to be equal in one's consideration and treatment of his fellow citizens. If the Congress of the United States wishes to say that political expediency, by changing principles to suit the occasion, is the course to follow, I wonder what will become of the words of George Washington in his Farewell Address, when he said that morality must be the basis of the continued life of our country.

I say to the Senate respectfully that we cannot reconcile treating the little barber with one yardstick of justice and the labor unions with another. If the barber is not entitled to a jury trial, how can we give the right of a jury trial to the labor leader? If we give the right to the labor leader, how can we deny it to the barber under the Civil Rights Act? Those who try to answer those questions will lie in bed interminably trying to figure out how the question can be answered, and they will not be able to answer the question, except on one ground—if they disregard reason.

CIVIL RIGHTS ACT OF 1963: JURY TRIAL AMENDMENT

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. ERVIN. I am glad to yield to the Senator from Ohio for a question. I would not put that restriction on the Senator, except for the compulsion placed on the Senate by the able manager of the bill.

Mr. LAUSCHE. I understand. Has the Senator from North Carolina given thought to the situation which now prevails under existing law, that under the Clayton Act, in criminal contempt proceedings, a trial by jury is mandatory?

Under the Norris-La Guardia Act, Congress has gone beyond what is provided in the Clayton Act and has declared that trial by jury shall be available both in civil and criminal contempt proceedings.

Third, in the Landrum-Griffin Act of 1959, the Senate, comprised of substantially the Members now serving, wrote into the law that trial by jury shall be allowed to labor leaders, did it not?

Mr. ERVIN. Yes; I discussed that point today. I placed in the RECORD what occurred in connection with the amendment granting the right of trial by jury in criminal contempt proceedings under the Landrum-Griffin Act, and stated that I had offered that amendment myself.

I heard the Senator from Ohio [Mr. LAUSCHE] speak on this subject last week. I have never heard a more eloquent exposition of the injustice of trying persons for criminal contempt without juries than the Senator from Ohio made on that occasion.

Mr. LAUSCHE. Does the Senator from North Carolina know that some Members of this body have taken the position that they will not provide for jury trials under the civil rights bill because it was alleged that in equity, anciently, trial by jury should not be granted in criminal contempt cases, but that those very Senators voted for trial by jury for labor leaders in the Landrum-Griffin bill?

Mr. ERVIN. Yes; that amendment to the Landrum-Griffin bill, which was written and proposed by me and cosponsored by the junior Senator from South Carolina [Mr. THURMOND], was adopted without opposition in the Senate. As I stated in my presentation, I could find no opposition to the amendment on either side of the aisle. That is why I find it strange that only 5 years later there is opposition to granting the right of trial by jury in criminal contempt cases arising under the so-called civil rights laws.

Mr. LAUSCHE. Is it not true that President Johnson was a Member of the Senate in 1959?

Mr. ERVIN. That is correct. He made a most eloquent appeal for the adoption of the O'Mahoney amendment to grant the right of trial by jury, a part of which is now in the Civil Rights Act of 1957.

Incidentally, I read that speech into the RECORD because I thought it was about as fine a speech as I have ever heard on the subject, with the exception of the speech made by the Senator from Wyoming, Mr. O'Mahoney, on that occasion, and the speech made by the distinguished senior Senator from Ohio [Mr. LAUSCHE] in the Senate Chamber a few days ago on the same subject.

Mr. LAUSCHE. Is it not also true that Senator O'Mahoney always took great pride in the fact that he was an exponent of what is known as liberalism?

Mr. ERVIN. That is true.

Mr. LAUSCHE. Is it not true that Senator O'Mahoney, as a liberal, stood on the floor of the Senate and argued that liberalism would be defeated if trial by jury were not allowed in criminal contempt cases?

Mr. ERVIN. That was the position which he took on that occasion and every other occasion throughout his life, so far as I am aware.

Mr. LAUSCHE. Is it not true also that in addition to the demand by former Senator Johnson for trial by jury in criminal contempt, the martyred President, John F. Kennedy, when he was a Senator from Massachusetts, joined the Senator from Texas in that argument?

Mr. ERVIN. He did. He spoke in behalf of the O'Mahoney amendment in 1957.

So far as I personally am concerned, I am willing to grant a verdict of not guilty to every person who claims to be a liberal and who is opposed to the right of trial by jury in criminal contempt proceedings. Such persons are entitled to an acquittal on the ground that they are more reactionary than was King John before Runnymede in this respect.

Mr. LAUSCHE. Yes. Will the Senator express his views about how reconciliation can be made of the inconsistent position that with respect to the Clayton Act, the Norris-La Guardia Act, and the Landrum-Griffin Act, jury trials are allowed in criminal contempt cases, with the attempt to deny jury trials in the pending civil rights bill?

Mr. ERVIN. I do not believe there can be any reconciliation of those different points of view. The only reconciliation that can be made with sound justice is to enact a provision to grant the right of trial by jury to all men in all criminal contempt cases. That is my personal view. I believe it is shared by the Senator from Ohio. I base that belief on the eloquent speech I heard him make on the floor of the Senate several days ago, and on speeches I have heard him make on previous occasions, as well.

Mr. LAUSCHE. Is the conclusion of the Senator from North Carolina based upon the proposition that one of the greatest boasts we have about our system of Government is that there shall be equality of treatment of all citizens, regardless of their position, before the courts and also before Congress?

Mr. ERVIN. I certainly share that view. It is one of the firmest convictions I have that any law that is consistent with sound justice must necessarily provide that all men shall be judged exactly alike under like circumstances.

Mr. LAUSCHE. Can it be said that in the Communist nations there is an equal yardstick of justice applying to those who believe in communism as compared with those who do not believe in communism?

Mr. ERVIN. No. From what I understand to be the distinction between the two groups in Communist nations, one group is judged by one standard, and the other by another standard. That is precisely what we do in respect to criminal contempt under the several statutes and the lack of rights in other cases, as the Senator has pointed out.

Mr. LAUSCHE. Does the Senator from North Carolina understand that the wire services of the Nation have published a story that there are three statutes under which juries are provided, but that in the pending bill juries are not provided? Has the Senator read the news reports on that subject?

Mr. ERVIN. I have not read any news reports today. I do not know when the story to which the Senator refers appeared.

But I have attempted to point out that in the Clayton Act there is a statute of that kind; the Norris-La Guardia Act of 1932 is a second such statute; and the Civil Rights Act of 1957 contains a very peculiar provision in that field. So there are three separate statutes. I say "three separate statutes" because of the approximateness of the provision of the Landrum-Griffin Act of 1959 to the Norris-La Guardia Act of 1932.

Mr. LAUSCHE. Does the Senator know that some important commentators, broadcasting out of Washington on television and radio, in discussing the issue of trial by jury, have not distinguished between criminal contempt and civil contempt?

Mr. ERVIN. I do not know that that is true, but I assume it is, because—unfortunately—as the Senator from Ohio knows, in order to grasp these distinctions, a person must have some knowledge of legal principles and equitable principles, and of the different objectives of criminal contempts and civil contempts. However, I do not understand how anyone could be mistaken about the different objectives of criminal contempts and civil contempts, if he heard the Senator speak the other day and heard him quote from the decision in the Gompers case.

Mr. LAUSCHE. Mr. President, will the Senator from North Carolina yield for another question?

The PRESIDING OFFICER (Mr. MCGOVERN in the chair). Does the Senator from North Carolina yield to the Senator from Ohio for a question?

Mr. ERVIN. I yield for a question.

Mr. LAUSCHE. Would the Senator from North Carolina be surprised to hear that I have read newspaper articles and columns in which there have been statements or headlines such as "Jury trial in contempt cases denied," without any effort by the writer of the article to state that the issue before the Senate is jury trial in criminal contempt cases?

Mr. ERVIN. I would readily accept the Senator's statement. That is a tragic situation, because if a newspaper reporter or wire service gives such information without distinguishing between the two, it is not enlightening the American people in the way a free press should do. As the Senator from Ohio pointed out in his speech of several days ago, the line of demarcation between civil contempt proceedings and criminal contempt proceedings is very wide, for civil contempt proceedings are designed to secure compliance with the orders of the court, rather than to provide punishment, whereas criminal contempt proceedings are not designed to secure compliance with the orders of the court, but, rather, are designed to punish persons because of their past disobedience. In short, civil contempt proceedings are for the purpose of securing compliance with the orders of courts; criminal contempt proceedings are designed to punish those who are guilty of misdeeds.

Mr. LAUSCHE. Yes.

Has the Senator from North Carolina read in the newspapers or heard on the television or on the radio statements to the effect that under civil contempt proceedings, as distinguished from criminal contempt proceedings, all of the remedies needed to bring into execution the provisions of the civil rights bill are already available?

Mr. ERVIN. I must say that I do not recall reading a statement which made clear the fundamental difference between civil contempts and criminal contempts, and also made clear that those of us who are fighting for the right of trial by jury in criminal contempt cases are not seeking in any way to impair the capacity of the courts, through civil contempt proceedings, to enforce their orders or judgments. So I believe that any commentator or writer who would make that proposition clear to the American people would be rendering a real service to our country.

Mr. LAUSCHE. So the Senator from North Carolina understands—and so do the individuals who are acquainted with the powers which are vested in a court under civil contempt proceedings—that the courts would be able to compel, by means of putting offenders into prison, all violators of the civil rights bill to do what the civil rights bill requires; is that correct?

Mr. ERVIN. The Senator is undoubtedly correct in the implication of his question. We could actually abolish totally the power of the court to punish for criminal contempt without affecting in the slightest degree the power of the court to enforce its judgments by civil contempt proceedings.

Mr. LAUSCHE. I hope the Senator from North Carolina will understand that I am repeating these questions solely for the purpose of making clear that under the civil contempt proceedings of courts, every privilege and right vested in a citizen under the civil rights bill could be achieved without resorting to criminal contempt proceedings.

Mr. ERVIN. The Senator from Ohio is absolutely correct in that; and he is pointing out the effect of the proposed law in as clear a fashion as it could possibly be explained.

Mr. LAUSCHE. I am sure the Senator understands—and I shall ask him whether he does so understand—that many citizens are of the belief, because of the failure of radio commentators, television commentators, and the writers of newspaper articles to elucidate on the subject, that in the Southern States, unless there is denial of the right of trial by jury, the purposes of the civil rights bill cannot be achieved. I ask the Senator from North Carolina whether that conclusion is correct or is incorrect?

Mr. ERVIN. That conclusion is as far wrong as any conclusion could possibly be. If the amendment which calls for jury trials in criminal contempt proceedings were adopted, as it should be, it merely would give such persons the same right of trial by jury that all Americans consider that all murderers and others charged with the most heinous crimes should have. So if the amendment were adopted, it would not interfere with the power of the courts in the North or in the South or in the East or in the West to enforce their orders and to require compliance with their orders without a jury trial.

Mr. LAUSCHE. Is it not a fact that when an offender was brought before a court, charged with violating a court's order issued in a civil rights case, the court, under the civil contempt proceedings, could put the offender in jail for such length of time as would compel him to comply?

Mr. ERVIN. That is true. If the defendant failed to comply, after he had been imprisoned as a result of a civil contempt proceeding, the judge could leave him in jail until the last lingering echo of Gabriel's horn trembled into ultimate silence.

Mr. LAUSCHE. If that is a fact, what help would it be to those who were seeking protection under the civil rights bill to be denied the right of jury trial in criminal contempt cases and proceedings—proceedings completely distinct and separate from the proceedings in civil contempt cases?

Mr. ERVIN. It would not afford them the slightest help of any kind, for the very simple reason that the court could secure every right awarded by a judgment of the court in a civil contempt proceeding tried by the judge himself, without a jury.

Mr. LAUSCHE. Yes; and that is what was embraced in the Morton amendment—not jury trial for civil contempt, but jury trial for criminal contempt; is that correct?

Mr. ERVIN. That is correct. Neither the Morton amendment—which was rejected by a margin of about one vote—or the pending amendment would interfere in any degree whatever with the power of a court to secure to the party aggrieved any right he had under the decision of the court, after a trial by the judge, without a jury.

Mr. LAUSCHE. I should like to repeat the question which I posed some five or six times when I made my argument here, about a week ago: On the basis of what logic or what morality could three statutes passed by Congress grant jury trials to labor leaders in contempt cases, but refuse to grant the right of jury trial in civil contempt cases?

Mr. ERVIN. We cannot do it and comply with logic and meet the requirements of logic, or even meet the requirements of equal justice under the law. There is no equal justice under the law when a man in a certain profession or in a certain vocation is granted the right of a trial by jury in criminal contempt proceedings and other men are denied the right of a trial by jury in criminal contempt proceedings. Such a system is incompatible with logic. It is incompatible with sound law. It is incompatible with the great goal of America to administer equal justice under the law.

Mr. LAUSCHE. In the opinion of the Senator from North Carolina, can an individual who voted for the granting of jury trials in criminal contempt cases in the Landrum-Griffin bill, where labor leaders are involved, reconcile that vote with opposition to the granting of jury trials in criminal contempt cases in the civil rights bill?

Mr. ERVIN. I am somewhat reluctant to pass on what other men can do. But if they have the kind of conscience which I have, and have the convictions that I hold, and that the Senator from Ohio holds, that there should be equal justice under the law, I do not think they can make any such reconciliation.

Mr. LAUSCHE. That is merely an encomium to the Senator from North Carolina. When the Landrum-Griffin bill was before the Senate in 1959, the Senator from North Carolina wrote the provisions which provided for a jury trial in criminal contempt cases for labor leaders. Is that not a fact?

Mr. ERVIN. That is correct. And I am proud of the fact that I did.

Mr. LAUSCHE. What the Senator from North Carolina and the Senator from Ohio are doing today in arguing for a jury trial in criminal contempt, as distinguished from civil contempt, is completely consistent with what was done by the Senate in 1959, with Lyndon B. Johnson, the present President, and John F. Kennedy, then Senator, approving and voting for what was done.

Mr. ERVIN. The Senator from Ohio and the Senator from North Carolina are fighting at this moment for the same right of trial by jury in criminal contempt cases for which they fought in 1957. I thank the Senator for making crystal clear the fact that we are not seeking to diminish to any extent the power of the court to enforce its judgment in civil contempt proceedings, in which case the judge tries the case without a jury. But on the contrary, we are merely seeking to have equal justice under law administered to all people in criminal contempt cases, when they are haled before the court for the purpose of punishment, and not for the purpose of being compelled to comply with a decree of the court.

Mr. LAUSCHE. The Senator will understand when I ask this question that in my judgment we have departed substantially from the sacred principles promulgated by our forefathers when they wrote the Declaration of Independence and the Constitution, and said there must be equality of treatment at the bar of justice and at the bar of the U.S. Congress.

Mr. ERVIN. I thoroughly agree with the Senator.

Mr. LAUSCHE. I thank the Senator.

The ACTING PRESIDENT pro tempore. The Senate will now proceed to the consideration of amendment No. 868, to strike sections 404, 405, and 406 to H.R. 7152.

Mr. HICKENLOOPER. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from Iowa [Mr. HICKENLOOPER] is recognized.

Mr. HICKENLOOPER. Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. The Chair will suspend——

Mr. MAGNUSON. Mr. President——

The ACTING PRESIDENT pro tempore. The Senate will be in order. The Senate is not in order.

Mr. MAGNUSON. Mr. President——

The ACTING PRESIDENT pro tempore. Conferences in the rear of the Senate and congratulatory groups will please retire to the cloakroom. The Senate is not in order. Time is not yet running on the Senator from Iowa.

Mr. HICKENLOOPER. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Iowa will state it.

Mr. HICKENLOOPER. So far as I am concerned, I am satisfied with the order that is in the Chamber at the moment, although the Senate may not be quite in order. So long as Senators are in the Chamber, this will give me an opportunity to inform them concerning my amendment. With an audience of this kind, which is rarely congregated at the outset of consideration of an amendment, I should like to take advantage of the situation to explain it.

In a nutshell, sections 404, 405, and 406 which are proposed to be stricken from the bill by this amendment provide that the Commissioner of Education would be authorized to subsidize with Government funds universities, colleges, and educational institutions to pay the transportation expenses of those who wish to inform themselves and perfect themselves in teaching these special subjects, to pay the transportation to these colleges and universities, including their families and dependents, to pay their subsistence while there, and also to pay their salaries while there.

Those provisions are presently unlimited in the bill, subject only to limitations set by the Appropriations Committee.

I believe this is a dangerous precedent for the Federal Government to be starting. It is just as dangerous as to say that we will subsidize those who wish to go to law school again and learn more about their specialty in law, such as corporation law, or real estate law; and to pay persons who wish to learn more by going back to college by a subsidy from the Government.

I am for educational institutions enlarging their own curriculums, to take in specialized studies of courses in these affairs, as much as anyone else. It is the broad duty of the universities to establish courses in English, and other subjects; and it is also the duty of the universities under their curriculums, to provide for the universal training of teachers to go into any field, but not at Government expense and not to subsidize teachers for their pay, their transportation, and the subsistence of their families.

That is what is involved in these three sections. Having said that, I believe that is my argument, in the main.

I am not yielding back the remainder of my time.

If Senators wish to vote that type of legislation, if Senators wish to retain those three sections in the bill and start this rather unusual procedure on a specialized section of education and training, Senators should understand what they are voting for. I propose to strike those sections from the bill.

Mr. CURTIS. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. I am glad to yield to the distinguished Senator from Nebraska.

Mr. CURTIS. Is there any limitation on the amount granted or contracted that may be given one institution?

Mr. HICKENLOOPER. There is not, as I read these sections of the bill; and I believe as Senators read them they will find that there is no limitation on what is given to an institution or what is given to all institutions.

Mr. CURTIS. Or to a State?

Mr. HICKENLOOPER. Or to a State.

Mr. CURTIS. How about the individual?

Mr. HICKENLOOPER. There is no limitation on an individual while attending school, and no limitation on transportation expenses. There is also no limitation on the amount of subsistence. The provision is as wide open as it could possibly be. It is in the complete discretion of the Commissioner of Education. It is limited only by the Appropriations Committees of the Senate and House, subject to whatever recommendations the Appropriations Committees would like Congress to make.

Mr. CURTIS. Mr. President, will the Senator from Iowa yield further?

Mr. HOLLAND. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. I yield to the Senator from Nebraska.

Mr. CURTIS. Is there any connection between enforcing the basic constitutional rights of citizens and these sections?

Mr. HICKENLOOPER. None whatever.

Mr. CURTIS. It is an educational proposal that has no place in the proposed legislation?

Mr. HICKENLOOPER. It is an educational proposal on the general theory of a college establishing and enlarging departments for the study of this particular field. That does not meet with my objection, any more than enlarging the curricula of a college to study foreign languages, or certain other subjects. That is the responsibility of the college or university or other institution. If a teacher desires, or it is desirable for teachers, to have this enlarged qualification, they should go under their own responsibility, the same as they go to college or normal school or other institution for their initial learning to teach English or French or social subjects which they have either already learned or wish to perfect. This is the whole burden of my argument.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. HICKENLOOPER. I yield.

Mr. HOLLAND I am looking at section 404, which reads:

> SEC. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training—

And so forth. Is there any limitation on the provision as to the grant of public funds to public higher institutions of learning, or may the grants be made to public, private, and religious institutions of higher learning?

Mr. HICKENLOOPER. Under my view, there is no limitation whatever. It is not limited to public institutions. It is left completely in the discretion of the Commissioner of Education. I tried to include that point in my answer to the question of the Senator from Nebraska. This is an open end situation, involving a wide discretionary innovation in the training of people, and we had better consider it carefully before we discharge our responsibility of acting on it.

I am not opposed to the training of these people. I believe that colleges and universities should enlarge their curriculums, perhaps, but that is their own responsibility. It is a part of the responsibility of the educational system. It should not depend on subsidization by the Federal Government for the cost of the training, the subsistence, the transportation, and the salaries for those who wish to educate themselves to be able to teach in these fields.

Mr. HOLLAND. Mr. President, will the Senator yield further?

Mr. HICKENLOOPER. I yield.

Mr. HOLLAND. Am I correct in my understanding that the grants to public institutions of higher learning and to private and religious institutions of higher learning could be designed and made not only for special sessions or institutes, but also for regular sessions of a full year or more?

Mr. HICKENLOOPER. There is no limitation. I see no reason why they could not be arranged for a 4-year period, for example, in the discretion of the Commissioner of Education.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. HICKENLOOPER. I yield.

Mr. SIMPSON. I wish the Senator to know that I sponsored an amendment to section 404. I compliment him on his amendment, and I wish to join him in it.

Mr. HOLLAND. Mr. President, I ask that the Chamber be cleared of persons not now engaged in the business of the Senate.

The ACTING PRESIDENT pro tempore. The Senate is not in order. The Senator from Iowa will suspend until the Senate is in order. Persons who are not present on official business will leave the Chamber. The Chamber will be cleared of all staff members who are not here on business. The Senator from Iowa will suspend until the Senate is in order.

The Senator from Iowa may proceed.

Mr. HICKENLOOPER. I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I support the amendment proposed by my friend and colleague the Senator from Iowa. Last week I proposed as an amendment to the substitute civil rights bill amendment No. 799 which would strike section 404. Section 404 of the civil rights bill would authorize the Commissioner of Education to arrange through grants or contracts with institutions of higher learning for the operation of short-term or regular-session institutes for special training designed to improve the ability of teachers and others to deal effectively with special educational problems occasioned by desegregation.

Assuming that there will be problems—and I do not know that there will be—I consider section 404 to be an insult to the great universities and colleges of America.

I believe that the universities of the Nation, if the University of Wyoming is indicative, will meet the problems that are presented by any change in the social structure without bribe or incentive held out by the Federal Government. It is degrading our institutions of higher learning to suggest that the Federal Government would have to finance or pay them for offering any courses that might be needed to train the teachers of elementary and secondary schools.

The Federal Government seems to take advantage of every opportunity to assert its power and authority. We are now discussing and considering an important piece of legislation dealing with the civil rights of American citizens. But the ever-present vigilance of the Washington bureaucrats once again has paid off for them. The empire builders have seen another opportunity where they can invade and make inroads on the rights, responsibilities, and jurisdictions of the State and private citizen.

I trust the University of Wyoming will meet the needs of Wyoming, and as usual the needs of other States, without surrendering its initiative, judgment, or responsibility to a Washington based bureaucrat.

If we continue to appropriate Federal money for every course or activity that we think a university or college should offer, we will be making the Federal Government and its responsibile agency the education czar of the Nation. I am sure that no responsible Senator would want that.

I ask the Senate to leave the question of school courses and programs to the respective educational institutions. My university is capable and competent to manage its affairs without the directives of the Federal Government.

The Hickenlooper amendment also would strike sections 405 and 406. This goes further than what I originally proposed to the Senate last week, but I believe it a wise and well-justified extension.

Section 405 would authorize the Commissioner, upon application of a school board, to make grants to that school board to help pay the cost of giving training to the teachers and to employ specialists to advise in problems incident to desegregation.

This section is certainly not needed. I would not anticipate any problems. But, we can be assured there will be problems if the Federal Government sends its so-called "specialists" out to enforce their will on the local school districts. The Federal Government's further intervention into a local community cannot do anything but cause problems. The local school districts in Wyoming can handle their problems without further Federal aid and control and I am confident they are no different from other school districts.

We should never pass legislation that would make the local school districts more dependent on the financial aid of the U.S. Government. This section would tend to do that.

I urge and hope that the Senate will strike these three sections from the bill.

I commend the Senator for offering his amendment.

Mr. MILLER. Mr. President, will the Senator from Iowa yield for a question and a comment?

Mr. HICKENLOOPER. I yield for a question first.

Mr. MILLER. I compliment the Senator from Iowa on this amendment. I note that the amendment proposes to strike sections 404, 405, and 406 from the bill, but contains no provision for striking section 403.

If it is proposed to strike section 403, I am opposed to the amendment. However, it leaves 403 completely unaffected. Section 403 provides:

> SEC. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

Is there anything in what I have read which does not include all the necessary mechanics for providing technical assistance to schools in order to implement the bill? Is there anything else which needs to be added by the sections that are proposed to be stricken in the Senator's amendment?

Mr. HICKENLOOPER. The sections to which the Senator refers enlarge and expand the power of the Commissioner of Education to an unconscionable degree and provide for his unlimited participation. They should be stricken.

Mr. MILLER. I agree. It seems to me that section 403 provides all the technical assistance and all the special information necessary to implement the program; and that if a local school board or State university needs some information in order to conduct its own institutes, it can obtain all this information under section 403. I cannot see what is added by section 404 and 405 except——

Mr. MUNDT. Money.

Mr. MILLER. Except the Federal Government's subsidies. Is that not correct?

Mr. HICKENLOOPER. My point in not including section 403 in my amendment is that I do not object to or want to stand in the way of the Commissioner of Education's rendering advice in various fields of education, and rendering cooperative assistance in various fields. Therefore, I did not move to strike section 403. It is under sections 404, 405, and 406 that the Federal Government would pay people to attend college or high school or normal school, and pay their subsistence and salaries. That is what I am objecting to. Section 403, to which the Senator refers, is not necessary, but I do not think it adds anything to the general advisory authority of the Commissioner of Education. I do not object to it.

Mr. RIBICOFF. Mr. President, will the Senator yield on that point?

Mr. HICKENLOOPER. If it is on this point, I yield, although I promised to yield to the Senator from Utah.

Mr. RIBICOFF. As I listened to the interchange between the Senators from Iowa, I thought it was ironical that the Senator who proposes this amendment should allow the U.S. Commissioner of Education to send his own specialists, yet propose language that strikes from the bill the provision which allows a local community to hire its own training specialists. If we are interested in States rights, if we are interested in removing the arm of the Federal Government from the program, it would seem much more consistent to strike section 403 and allow section 404 to remain.

What would be accomplished by this particular amendment would be to use Federal funds so that the Federal Commissioner could give advice, but prevent local governments and local school boards from getting funds for such advice.

Mr. HICKENLOOPER. In the first place, section 403 provides that the assistance must be at the request of the local authority. It involves only his cooperative suggestion to those people, from the Federal standpoint.

Mr. RIBICOFF. No; section 404 would be at the request of the local authority and, under section 405, the local school boards would employ their own people. The teachers would seek out their own universities in their own States for training institutes.

Mr. HICKENLOOPER. The Senator from Connecticut would probably prefer to alter his statement that section 404 is "at the request."

I do not find anything in section 404 which provides that local areas must request. It merely provides that the

Commissioner is authorized to arrange. It does not say that there must be a request by the local authority.

In any event, even if assistance were requested by the local people, I am against authorizing the Federal Government to move in with subsidies for salaries and transportation payments in a field where those who want to teach have always undertaken the responsibility of getting their own education, as is done in other fields.

Mr. RIBICOFF. With all due respect, the Senator from Iowa has confused the two bills. On this point, the Senator from Iowa is talking about the House bill, but the amendment submitted by the Senator from Illinois [Mr. DIRKSEN] and the Senator from Montana [Mr. MANSFIELD] specifically deletes this provision in the House bill.

Allowances for dependents have been removed from the bill. No subsistence for dependents is provided in the measure now before the Senate.

Mr. HICKENLOOPER. I suggest in reply that the Senator from Connecticut is the one who is confused. Probably he is confused because the amendment under consideration is an amendment to the House bill. The so-called package amendment submitted by the Senator from Illinois and the Senator from Montana is not yet before the Senate. It would apply only to the proposed substitute amendment, which will come up at a later date if cloture is voted. So we must deal with what is before the Senate, which is the House bill. That is what my amendment applies to.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. HICKENLOOPER. I yield.

Mr. HUMPHREY. I hope we are not going to have a double standard, because it was understood in the case of the Morton amendment that it was not only an amendment to the Talmadge amendment to the House bill, but also that it would come into the package. If the Senator wishes to cancel that understanding, I shall be delighted, because I see no great privilege in what I thought was going to be the privilege of calling up the Dirksen-Mansfield jury trial substitute.

Mr. HICKENLOOPER. I am not canceling anything out. I only say that this amendment applies to the business before the Senate, which is the House bill.

The Senator from Minnesota stated on the floor on Friday, I believe—possibly it was Saturday morning—what I thought was a sound principle. He said, "Of course, if these amendments, or any of them, which are to be directed to the House bill"—because that is what is now before the Senate—"are adopted, that should be considered as the will of the Senate, and we are normally bound to translate that will into the bill when it comes before the Senate."

I think that is sound philosophy. I am only trying to get the technical line straight and keep on the avenue of what we have to consider. I am trying to keep on that road, and not get off into a pasture.

Mr. HUMPHREY. The Senator is correct; but he also ought to keep in mind that when we vote on the Hickenlooper amendment, we are not voting merely on the Hickenlooper amendment to the House-passed bill, but also as it will affect the amendment in the nature of a substitute. Let it be crystal clear that the package substitute is much different in section 404 than it is in the House-passed bill. So we ought constantly to relate our remarks to what will be the real situation.

Mr. HICKENLOOPER. I admit that in some ways this question is technical; but the Senate operates under technical rules, and they are technically interpreted on many occasions.

The only approach I may have, the only thing I can do, is to offer an amendment to the business that is before the Senate, which is the House-passed bill.

We have no assurance—the Senator from Minnesota may be sure in his own mind, and other Senators may be sure in their minds—that the Senate will vote cloture tomorrow. It may not vote cloture tomorrow. It may adopt the package amendment; it may not adopt it. The package amendment is not before the Senate for consideration; and if it comes up for consideration, it may be amended repeatedly; I do not know. That question is not before us.

What is before the Senate today is the House-passed bill, and my amendment goes to sections 404, 405, and 406 of the House-passed bill. That is all I can discuss. That is what we must consider in this issue today.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. HICKENLOOPER. I yield.

Mr. BENNETT. I should like to ask the Senator from Iowa if there is anything in the proposed legislation that would prevent a teacher, if the bill became law, from accepting the money available to teachers under the bill, from getting his or her full salary for the full term of the special program, and then going into the gasoline station business.

Mr. HICKENLOOPER. I do not think there is anything in the bill that would prevent that from happening. I thought the Senator was going to ask if a person could draw a salary from the school in which he was teaching and then take special courses and get a stipend also. Probably two salaries would not be justified; but there is nothing in the bill to prevent it.

The Senator from Minnesota [Mr. HUMPHREY] and I—and the Senator from Minnesota is still in the Chamber—had a discussion on this subject. The only changes in the proposed package amendment that are made in this section are that section 404 as it reads in the House bill provides:

> Individuals who attend such an institute may be paid stipends for the period of their attendance.

The only difference between that language and the language in the package amendment is that the words "on a full-time basis" have been added in the package.

Mr. MUNDT. There is another difference.

Mr. HICKENLOOPER. Further, beginning in line 22, the present House bill reads: "at such institute in amounts specified by the Commission in regulations, including allowances for dependents and including allowances for travel to attend such institute."

The package amendment only eliminates the words: "including allowances for dependents."

That is the only phrase proposed to be eliminated by the package amendment. We might as well have that clear now.

Mr. BENNETT. I am merely raising the question that that was an open-ended authorization which would make it possible for people to go to school for the full term of the program, but with no obligation to make use of the training they received, for which they had been paid a salary.

Mr. HICKENLOOPER. Yes.

Mr. RIBICOFF. Is not that the situation that prevails in teaching institutes under the National Defense Education Act? I have some interesting statistics for the fiscal year 1964 concerning teacher training institutes under NDEA and the National Science Foundation Act.

There were 959 teaching institutes for science and mathematics, involving 42,000 teachers.

In modern foreign languages, there were 85 institutes involving 4,300 teachers.

In guidance and counseling there were 64 institutes, involving 1,900 teachers.

What we are following is a pattern that has been in existence under various acts of Congress since 1958. There is no State in the Union, North, South, East, or West, in which school teachers in institutes are not taking advantage of similar provisions.

In the State of Iowa, the University of Iowa, the State College of Iowa, and Coe College have various institutes for counseling and guidance, and also for modern languages. What is now proposed is a similar program, and the provisions of this bill are of the same type as those under which thousands and thousands of teachers throughout the United States are being trained. If schoolteachers are being trained for the purpose of improving their competence in various fields, certainly we must recognize that similar training should be available to those who will have to deal with the great problems facing the country after the civil rights bill is passed—and it will be passed.

One of the greatest tragedies which could occur would be to allow all these school districts that will be desegregated to be torn asunder by their problems and allowed to drift.

Mr. HICKENLOOPER. Mr. President, I believe the Senator from Connecticut [Mr. RIBICOFF] wishes to speak in opposition to this amendment.

Mr. RIBICOFF. I do.

Mr. HICKENLOOPER. So far as I am concerned, I am willing to suspend my remarks at this time.

Mr. RIBICOFF. I think I can make my statement in 10 minutes; I wish to give a complete analysis of the Hickenlooper amendment.

AMENDMENT NO. 943

Mr. HICKENLOOPER. Mr. President, the Senator from New Jersey [Mr. CASE] seeks recognition, in order to be able to submit an amendment. I am glad to accommodate him for that purpose, if there is no objection, and if I may do so without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. CASE. I thank the Senator from Iowa.

Mr. President, on behalf of the Senator from Pennsylvania [Mr. CLARK] and myself, I submit an amendment to the pending bill, and ask that it be considered read, for the purpose of complying with all requirements of the rules in this connection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and the amendment will lie on the table, and will be printed in the RECORD.

The amendment (No. 943) is as follows:

On page 60, line 10, strike out "Except as provided in subsection (d), every", and insert in lieu thereof "Every".

On page 61, beginning with line 17, strike out all through line 13 on page 62.

On page 62, line 14, strike out "(e)" and insert in lieu thereof "(d)".

AMENDMENT NO. 868

Mr. HICKENLOOPER. Mr. President, at this time I am willing to suspend my remarks to permit Senators on the other side of this question to proceed.

Mr. HUMPHREY. Mr. President, under the limitations of the unanimous-consent agreement, I yield now to the Senator from Connecticut [Mr. RIBICOFF].

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. RIBICOFF. Mr. President, I oppose the Hickenlooper amendment. In my judgment it is a most unfortunate amendment. Its adoption would be a tragedy. It would hinder the easing of many problems that will still remain after this bill becomes law.

Let us first be absolutely certain we understand what this amendment would do and what it would not do. Because it deals with the highly controversial issue of public school desegregation, this amendment can too easily get caught up in the strong attitudes and emotions that surround that subject. We must therefore be especially careful to see the precise significance of this amendment, and judge it solely on its own merit.

I recognize that many Senators oppose many portions of this bill, and some oppose some parts of title IV, dealing with school desegregation. All I ask is that those Senators not let their disapproval of some other sections of this title or this bill cause them to support an amendment to strike out the three sections of this bill which I believe should be supported by every Member of this body, regardless of his views on any other part of this bill.

Title IV deals with public school desegregation. In general, it authorizes two entirely different types of activity. One part of title IV authorizes the Attorney General of the United States in certain carefully defined circumstances to bring lawsuits to desegregate public schools and colleges. Five other sections of title IV authorize the U.S. Commissioner on Education to take certain steps to give some assistance, when it is requested, to those trying to resolve school desegregation problems. These five sections authorize the U.S. Commissioner to do the following:

First. Survey the lack of availability of equal educational opportunities—section 402.

Second. Render technical assistance, including the furnishing of information and personnel—section 403.

Third. Arrange with colleges for training institutes for teachers and other school personnel—section 404.

Fourth. Grant funds for inservice training of teachers and other school personnel and for the hiring of special advisers—section 405.

Fifth. Extend the authorized financial assistance in advance or by way of reimbursement—section 406.

The Hickenlooper amendment would strike from the bill only the last three items I have just described. Its sole effect would be to cut out the training institutes, the inservice training, and the hiring of special advisers.

The sections this amendment would strike out have nothing whatever to do with requiring a school to desegregate.

These sections have nothing whatever to do with lawsuits.

These sections have nothing whatever to do with requiring the admission or assignment of any pupil in any school. These sections impose no requirement on any person to do anything.

If these sections are taken out, the constitutional requirement that public schools be desegregated will not in any way have been altered, nor will the right of the Attorney General to bring lawsuits to enforce this requirement be affected in any way. But those who support this amendment are saying to the school districts of this country that face the tough problems of school desegregation: "We have no interest in answering your request for help. We are glad you recognize the need to train your teachers, but if you can't find the money in your already limited school budgets, you will just have to forget about the idea."

These sections, which the Hickenlooper amendment seeks to strike out, are entirely voluntary. They are constructive. They provide a very limited but very necessary form of help to those who request such help.

We know that this help is needed. We know that during the years to come, school districts throughout this country are going to be desegregated for the first time. We know these school districts are going to face difficult problems. We know that many of these school districts, learning from the lessons of the past, are going to plan ahead to make the transition as successful as possible. We know that one of the best steps they can take is to give their teachers special training to help them with the new problems they will encounter.

So the question before the Senate is very simple: Are we going to answer the request of farsighted school officials who see the need to give their teachers the necessary special training, or are we going to ignore them? Will we help them avoid trouble, or will we turn our backs on them?

Let us be frank with one another. Desegregation of many public school systems is not going to be easy. The teachers in these schools will have problems of curriculum, guidance and counseling, student testing, and discipline. Yet these problems have been solved in many communities, and other communities can gain much from the successful experience of the past.

St. Louis and Chattanooga are among the many communities that eased their desegregation problems by taking constructive action ahead of time with emphasis on special training for teachers. In St. Louis teachers were offered the opportunity to attend inservice training classes, institutes, and workshops. In Chattanooga the school superintendent, Benjamin Carmichael, arranged for a similar program for a professional staff of over 1,000 teachers and other school personnel. These programs were made possible by private help. The St. Louis program was financed by the National Conference of Christians and Jews, and consultants for the Chattanooga program were supplied without cost by private organizations and educational institutions.

This is the type of assistance needed by all communities facing the problems of desegregation, but not all can count on the voluntary, private help that was extended to these two cities.

Let us not deceive ourselves. Many of the communities involved will have very difficult financial problems. They will need all the help they can get. We should certainly help them in one of the most difficult periods in the existence of those communities.

These sections of the bill help those who want to help themselves. They make it possible for teachers who want to receive special training to find it, either at special institutes run by colleges or in their local inservice training programs. These sections that the Hickenlooper amendment seeks to strike also make it possible for local school boards to employ the specialists they want to employ to advise them on desegregation problems.

There is nothing extraordinary or unprecedented about these actions. They provide the kind of assistance we have been affording schools and teachers for years. Since 1958, the National Defense Education Act has authorized funds for teacher training institutes in modern foreign languages, guidance and counseling. The National Science Foundation has financed similar institutes in mathematics and science. Thousands of teachers in all parts of the country have attended these federally financed institutes. They have benefited from them and so have their students. These NDEA and NSF institutes have been run at colleges and universities in all parts of the country. They have been run in the North and in the South. They have been run in Iowa and in Connecticut. If the teachers of Iowa can receive Federal assistance to prepare them to teach French to the boys and girls of Sioux City, I fail to see why we should deny similar training to the teachers in some southern community who want to prepare themselves to deal with the problems of desegregation.

Federal assistance for inservice training of teachers has been provided in the field of vocational education under the Smith-Hughes Act of 1917. The program has been an unqualified success.

Keep in mind that none of the training these sections provide is required of anyone. The training institutes will be run only by those colleges and universities that want to run them. The teachers who attend these institutes will be only those teachers who want to attend. The school districts which receive grants for inservice training will be only those districts that want to receive such funds.

The need for assistance of this sort has long been recognized by many Members of this body, even by some who frankly do not support other parts of this bill. In 1959, President Eisenhower recommended similar provisions to Congress. In his message of February 5, 1959, he said:

> I recommend legislation to provide a temporary program of financial and technical aid to State and local agencies to assist them in making the necessary adjustments required by school desegregation decisions.

So the issue here is in no sense a partisan one. Nor is it a sectional issue.

The issue here has nothing whatever to do with whether we think schools should be segregated or desegregated.

All that is involved here is whether we shall have foresight—whether we shall recognize the inevitable problems that lie ahead—and make it possible for those who want to prepare themselves to do so. The sections under attack in this amendment deserve the support of every Member of this body.

If this amendment were to succeed, our consciences would bear a heavy burden. Were we to read of a school beset with the problems of desegregation in the days ahead, we would have to say to ourselves: "We could have helped, but we lost the chance to do so."

I do not believe that will be our answer. Whatever our views on any other part of this bill, I believe we can put aside our differences and recognize the worth of these sections of the bill. I believe we will reject this amendment.

How ironical it is that this amendment is aimed not at section 403 but at section 405. The Senator from Iowa [Mr. HICKENLOOPER] would not strike section 403, which would make it possible for the U.S. Commissioner of Education to send into the southern areas a Federal employee. But the amendment of the Senator would strike out those sections which would allow any local school board, on its own, to get financial help to set up its own training program and to hire its own people. Those sections would be stricken. Is that what we mean when we say that we desire the community to solve the problem itself? The whole purpose of the sections this amendment seeks to strike is to give authority and to give help to the local community and let the local community, and not the U.S. Commissioner of Education, be the boss. That is the harm and the damage which would be done if the Hickenlooper amendment were adopted, because under section 403 of the bill the U.S. Commissioner of Education would be the absolute boss. Under section 405, which the Senator seeks to strike, the authority would be given to the local school board itself.

Mr. HICKENLOOPER. Mr. President——

Mr. HOLLAND. Mr. President——

The ACTING PRESIDENT pro tempore. Does the Senator from Connecticut yield and, if so, to whom?

Mr. RIBICOFF. I yield first to the distinguished Senator from Iowa, because I have used his name.

Mr. HICKENLOOPER. I merely wish to ask the Senator where in section 404 he finds the statement——

Mr. RIBICOFF. I am sorry. I intended to refer to section 405. I did not intend to say section 404; I referred to section 405.

I now yield to the Senator from Florida.

Mr. HOLLAND. I believe the distinguished Senator from Connecticut was unconsciously, perhaps, leaving an inaccurate impression with the Senate. Section 403 would not give the Commissioner of Education a free hand to send emissaries at will among the districts that need help, but instead he would be authorized to send technical assistance only upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, which is a very different thing.

Mr. RIBICOFF. Yes.

Mr. HOLLAND. The Senator recognizes that fact.

Mr. RIBICOFF. Yes, but the difference is that the request would be for a Federal employee made available by the Office of Education. Under section 405 the employee would be an employee of a local school board, and not an employee of the U.S. Office of Education.

Mr. HOLLAND. If the Senator will allow me to go one step further, the Senator recognizes, does he not, that our Nation is rendering technical assistance to about 100 foreign nations at their request? Is there any good reason why we cannot render financial assistance to school districts upon the request of the officials of those districts who are trying to solve this difficult problem?

Mr. RIBICOFF. I certainly am for that. I am pleased that section 403 will remain in the bill. But what I am trying to argue is that the amendment would strike out the other provision that makes it impossible for the local school boards to hire their own technical assistants.

Mr. HOLLAND. Mr. President, will the Senator yield further?

Mr. RIBICOFF. I am pleased to yield.

Mr. HOLLAND. If the Senator wishes to recognize the Constitution, as he suggested in an earlier part of his statement, would not sections 404, 405, and 406 open the door to the expenditure of Federal funds as grants and subsidies to institutions of higher learning that are privately financed and operated or that are operated by religious groups?

Mr. RIBICOFF. There is no question of constitutionality. Since 1958 we have been doing just that in providing teaching institutes at private and public institutions to the extent of 959 institutes in science and mathematics, 85 in modern foreign languages, and 64 in guidance and counseling in just this last year. That program involves both private and public colleges and universities. No question has ever been raised. Many of those who now oppose the bill have been voting for such institutes. They are institutes that we have had and have continued to have since 1958; and they are a part of the education policy of our Nation.

Mr. HOLLAND. Mr. President, the Constitution was not changed in 1958. The Senator will recall that the liberals in the Senate have consistently refused to permit the adoption of amendments offered by the distinguished Senator from North Carolina and others which would give rights to citizens to present the problem to our courts, so that the Constitution could be interpreted. So the Senator's statement that we have been violating the Constitution since 1958, which I believe to be the case, does not meet the problem at all.

Mr. RIBICOFF. The Senator should not try to put words into my mouth. I do not think that there has ever been a violation of the Constitution. The distinguished Senator may believe so, but I do not believe so. I think it is absolutely constitutional to provide the funds for setting up these institutes, at both public and private colleges and universities.

Mr. HOLLAND. The Senator admits for the RECORD, does he not—because it is certainly clear from the unlimited nature of the words in sections 404, 405, and 406—that the purpose is to allow the making of grants in such amounts as Congress may approve from time to time under this unlimited authorization and in the discretion of the Commissioner of Education to institutions of higher learning which are religious or private as well as to those which are public.

Mr. RIBICOFF. It would involve contracts for institutions of higher education and grants to local boards of education. The contracts would follow the National Defense Education Act pattern. The Department of HEW enters into contracts under various terms with all of these institutions. The pattern that would be followed in these institutes would be exactly the same pattern as has prevailed since 1958. So we would not suddenly impose on our country a new system. We are trying to have a group of institutes patterned on institutes that have been in existence since the first National Defense Education Act was enacted in 1958.

Mr. HOLLAND. If the Senator will examine section 404, I feel certain that the Senator from Connecticut will understand that the words "grants or contracts" apply to institutions of higher education, without any limitation as to institutions of higher education which are publicly operated or which are public institutions. Is that the understanding of the Senator from Connecticut?

Mr. RIBICOFF. The private schools are eligible. There is no question that private colleges and universities are eligible for grants and contracts just as they are for the other institutes.

Mr. HOLLAND. I understood the Senator in an earlier statement to limit the grants to public education. Now, as I understand, he agrees that grants as well as contracts may be entered into and made to private institutions of higher learning.

Mr. RIBICOFF. Following the pattern in which grants are made——

Mr. HOLLAND. The religious institutions of higher learning and public institutions.

Mr. RIBICOFF. Funds are being made available each year to the extent of many millions of dollars to private nonsectarian and sectarian colleges and universities throughout this country, and they continue to be made available.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. McCLELLAN. The Senator points out that if the Hickenlooper amendment were adopted, that would not deny to the local school authorities the right to employ technical assistants of their own. Is that correct?

Mr. RIBICOFF. They could employ whatever assistance they wanted, but they would not get any Federal assistance. That is correct.

Mr. McCLELLAN. There is no Federal statute now that prohibits local school districts and school institutions from employing such technical assistants as they may desire?

Mr. RIBICOFF. They certainly can employ any assistants they desire to employ.

Mr. McCLELLAN. So if the Hickenlooper amendment were adopted, they would not be prevented from employing such technical assistants as they might desire.

Mr. RIBICOFF. But they would not get any of this assistance from the Federal Government. Under the Hickenlooper amendment they can ask for this assistance and have an employee of the U.S. Commissioner of Education give them the assistance. But under the Hickenlooper amendment, if they themselves wanted funds to employ or train these people at their own institution, they could not get such funds.

Mr. McCLELLAN. I want it to be clear that local school districts are not prohibited from employing such technical assistants as they may desire throughout the country.

Mr. RIBICOFF. They can do anything they wish.

Mr. McCLELLAN. With their own money.

Mr. RIBICOFF. That is correct.

Mr. McCLELLAN. The Hickenlooper amendment would leave the situation such that if they did not have the funds, or did not want to use the funds to employ technical assistants, they could call upon the Commissioner of Education to supply what assistance they thought they needed.

Mr. RIBICOFF. As Federal employees.

Mr. McCLELLAN. As Federal employees.

Mr. RIBICOFF. That is correct.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. JAVITS. I should like to spell out the scheme of this legislation. No effort is being made to strike section 403. Section 403 is the provision which allows the Commissioner, upon proper application, to give technical assistance to desegregating school districts.

Does the Senator agree that sections 404 and 405 are designed to supply personnel to be used under section 403?

Mr. RIBICOFF. Not necessarily. As I look at section 403, a local school district could request the U.S. Commissioner of Education to furnish assistance. However, under sections 404 and 405, as I interpret the sections, a local school board could develop its own pattern and have its own employees. It could establish its own system to jump this gap, or work out its problem during a period of desegregation. The local school authorities would do the hiring. The employees would be their employees, and not the direct employees of the Federal Government.

Mr. JAVITS. Let us see if that is so. In the first place, section 405, which deals with grants for inservice training, can be used only on the application of a school board.

Mr. RIBICOFF. That is correct.

Mr. JAVITS. So sections 405 and 403 go together. In both the Commissioner can do what is called for only on the application of a school board. And section 405 obviously supplies one of the services called for by section 403.

Similarly, under section 404 a local school board could attempt to jump the gap by sending people for training under section 404, but individuals could not be sent for training except under arrangements with the Commissioner.

Therefore, everything in sections 403, 404, and 405 flows directly through the Commissioner, but only if the local school board animates itself and acts, under section 403 by calling for technical help from the Commissioner, under section 405 by applying for in-service training grants, under section 404 by sending people to be trained where the Commissioner has arranged for it.

Mr. RIBICOFF. Technically, everything flows through the Commissioner. That is correct.

Mr. JAVITS. My point is that all that sections 404 and 405 would do would be to implement the program of, and prescribe the detail for, technical assistance provided for by section 403, which the amendment would not touch. If we are to render technical assistance, we must render it through those who have certain kinds of training. That is the first point: we should implement section 403. Second, nothing could be done except on the volition of a school board. In-service training could take place only on application. Sending people to the institute is also a volitional act if the Commissioner sets up the program. But if no one is sent to attend, there is no program.

Mr. RIBICOFF. That is correct. The problems will be so great and vast that the best way to solve most of them will be by in-service training. This was demonstrated in Chattanooga, where after-hours training in the school system was provided for several thousand teachers to help meet this problem as it came along.

Mr. JAVITS. I think it is crystal clear from the terms of this proposed legislation that nothing will happen unless the local school authority makes it happen.

Mr. RIBICOFF. That is correct. Nothing can be imposed upon the local school board.

Mr. JAVITS. That is the essence of this issue. We are not going to train a bureaucracy which will enforce something on people who may not want it. We are only attempting to establish means by which, if a local school board seeks help, it can get the help it seeks; namely, technical assistance from the Commissioner, or technical help, or the ability to send people to the institute that he establishes.

Mr. RIBICOFF. That is correct.

Mr. JAVITS. That is exactly what we are arguing about on this amendment. Nothing will happen unless the people want it. No one will get anything unless application is made. Nobody has anything wished on him. No one is forced into getting anything; only if he asks for help can be get it.

Mr. RIBICOFF. On February 5, 1959, President Eisenhower in his message to the Congress stated:

> I recommend legislation to provide a temporary program of financial and technical aid to State and local agencies to assist them in making the necessary adjustments required by school desegregation decisions.

President Eisenhower recognized this problem in 1959. It was his understanding and desire to work with local agencies.

What worries me is that by striking out the sections that are sought to be stricken out by the Hickenlooper amendment, it makes it much harder to solve these problems.

Mr. HICKENLOOPER. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. HICKENLOOPER. The Senator from Connecticut has seen fit to refer to my statement. The Eisenhower statement still obtains under section 403, which I do not propose to strike. It is technical cooperation and technical assistance and advice.

So far as concerns the ingenious argument used by the Senator from New York, there may be a technical basis for it in that the Commissioner cannot rush in and establish these facilities in schools unless the schools want them.

I invite the attention of Senators to the fact that in county after county and in city after city in the United States, the people did not know it was a depressed area until some Government agency came in with a check and stated, "We have decided that you are a depressed area." The local authorities asked, "Who? Us?" The Federal authorities stated, "Yes." Thereupon the local authorities asked, "Is there money involved?" And upon the Federal authorities replying in the affirmative, the local authorities then stated, "We will be a depresesd area; we will take the money."

If Government money is involved, an agency will be created to receive the Government checks. There is no problem on that score.

Mr. RIBICOFF. The Eisenhower statement went beyond technical aid. The Eisenhower statement was:

> I recommend legislation to provide a temporary program of financial and technical aid——

Mr. HICKENLOOPER. Aid where?

Mr. RIBICOFF. It provided—

> to State and local agencies to assist them in making the necessary adjustments required by school desegregation decisions.

Mr. HICKENLOOPER. But not to pay the salaries of individuals, or assistance for their families, or their transportation.

Mr. RIBICOFF. The amendment that will be found in the Mansfield-Dirksen proposal does not propose to pay salaries, either.

Mr. HICKENLOOPER. We are not talking about that. We are talking about the House bill. It does provide for salaries and for transportation.

The elimination of the package amendment means that individuals will be paid stipends to attend on a full-time basis. I suppose that under the package amendment, if one went in for only a week, he would not be paid a stipend, but on a full-time basis this provision would authorize such payment. Only the package amendment is eliminated from the House bill, containing the allowance for dependents. The provision does not eliminate transportation costs, and still takes care of subsistence.

Mr. HUMPHREY. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I yield.

Mr. HUMPHREY. I say most respectfully that the Government of the United States pays transportation costs, for example, to members of the military and the Military Establishment to attend particular, specialized training courses. It not only pays stipends, it not only pays travel allowances for Americans, but also for people from foreign countries who attend our schools or military establishments under the National Defense Education Act.

As the Senator from Connecticut has pointed out, these allowances are paid, and paid regularly. Congress votes these measures without even so much as a ripple. The language in the package substitute will be the item basically affected by this amendment, because while it technically is the House bill and the House language, it is well recognized that if cloture is invoked, the substitute will be called up. If we do not have the votes for the substitute, then surely we shall not have the votes for the House bill; and if we cannot obtain cloture, we shall not have any votes for anything.

Thus, we are dealing in the realm of reality and not in fiction. The language in the substitute is as follows:

> Individuals who attend such an institute on a full-time basis may—

Not shall—

> may be paid a stipend for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute.

That merely puts the responsibility for the funds that are available upon the appropriate committees of Congress. When the Appropriations Committees of the two Houses start to quiz the Commissioner as to the funds which are being asked for and to be appropriated, as to how they will be spent, and the amounts that will be spent, there will be plenty of detail available.

This will be the least of the Government alleged extravagance.

Take the cities which have already come through the process of desegregation, such as Baltimore and St. Louis, to mention only two. One of the reasons they were able to do this job with reasonable effectiveness was that they provided for the training of their teachers so that they would have this experience. They provided for specialized training.

The only purpose of section 404 in title IV is to ease the transition. The court has stated that the law of the land is that segregated schools must cease to exist. If, on the one hand, we are to use the power of law to enforce constitutional provisions and thereby do away with segregated schools, then why does not Congress show some sense and understanding, instead of being stubborn about it, and help to train people to make the program of desegregation workable.

For many groups, individuals, and communities this will be a traumatic experience. All that we seek to do in section 404 is to permit the Commissioner of Education, working in cooperation with State and local authorities, to arrange through grants or contracts with institutions of higher education for the operation of short term or regular session institutes, which provide training designed to improve the ability of teachers, supervisors, and counselors.

Every Senator knows that desegregation poses specialized educational problems. We know that if we can train teachers, supervisors, and counselors, and others to deal with this problem, and train them on the basis of other experiences on the part of other teachers in other parts of America, education will be better.

For the life of me, I cannot see why, on the one hand, we invest the power of the Federal Government to break down the barriers of segregated schools and then, on the other hand, do nothing to make the transition reasonable, to make it effective, or to recognize the problems inherent in such a social adjustment.

Everyone knows that there are serious problems involved in this situation.

Mr. RIBICOFF. In answer to the Senator from Minnesota, as to the question raised by the Senator from Iowa about the costs of transportation, what is being proposed is no different from what is now allowed in all teachers' institutes in the State of Iowa, the State of Connecticut, the State of Minnesota, or the State of New York. That is being done exactly on the same basis with transportation. There would be a monthly stipend of $75 available. This is something which has been in effect.

As the Senator pointed out cogently and clearly, some of the greatest problems facing the country today will come after the passage of the civil rights bill.

Time and again I have spoken on the floor of the Senate that I believe it is a mistake to try to gloss over these problems. What we are trying to do is to prepare for the transition period. This is so important for the future of our Nation. This is so important for the future of our people.

Let us be frank with one another. One of the greatest problems we shall face is how a teacher handles his classes, when he is suddenly faced with the education of children who have come from slum areas, with whom he has had no previous experience.

The type of school problems that children pose in the maple-lined streets of Iowa, or the maple-lined towns of Connecticut, or Minnesota, all coming from the same social background, the same economic background, the same racial background, and the same ties of heritage, are different problems from those we shall find with children who are so-called deprived children coming from the slum areas—children without fathers, children without discipline.

These are great problems, and we must recognize them for what they are. Today, America is a tinderbox, and if we do not solve problems of that character, we shall not be able to solve any other problems that will remain in this Nation after the civil rights bill has been enacted into law.

While it is important to enact the civil rights bill, let us help to ease the problem of transition which will come about upon its enactment. This is all that we are trying to do, and it is important for Senators to understand that.

I shall be frank. I did not fully understand these problems when I was Governor of the State of Connecticut. I do not believe that many of us can recognize them until we deal directly with the great problems of the slums, and the deep and grave problems that must be faced in their eradication. But I did come to recognize them more fully when I was Secretary of Health, Education, and Welfare. I suddenly found another type of America. I saw an America that so few of us understand, that so few of us have ever had any experience with. I have been in the slum areas, and I know the problems which exist there.

Let us not kid ourselves. The average teacher comes from a middle-class background. The average teacher has a middle-class philosophy. The average teacher has no experience in dealing with youngsters who come from slum areas, youngsters who do not even know the rudiments of ordinary behavior in a middle-class society.

What we are trying to say is that if we have a school board that wishes to ease the problems of its community as desegregation is taking place, if it wants to do it on a local basis, if it wants to have in-service training, in which it arranges on a Saturday or after 4 o'clock to help school personnel to take specialized courses in the community, then we should be willing to help. This will not be done primarily, as I see it, by sending teachers to institutes at a university; because not only is there a limited number of teachers that could be sent, but the job will have to be done in the cities where classes are arranged, and where classes are attended. Experts who have been through these experiences will come into the community and into the classroom to speak with parents, to speak with pupils, to speak with principals, and to speak with the administration.

What we are seeking is to have a program that will be helpful to communities that will have to live with the problem. I do not believe that in the villages of Iowa, Connecticut, or Minnesota we are going to solve all the problems that will arise in the desegregated communities of Mississippi, Alabama, and Georgia.

It is ironic that we stand here and plead with Senators from the very areas which are most affected. For heaven's sake, let us do it this way. I say to them, "We all know you will have great burdens, and we want to help ease those burdens."

Mr. President, this is not only a problem in Mississippi or Alabama or Louisiana. This is a national problem. The fact that we are dealing with civil rights today, the fact that we are about to pass a civil rights bill, indicates that this is a Federal problem, and a national problem.

If it is a Federal problem, and if it is a national problem, I am willing to have the tax dollars of the people of Connecticut used to ease the special, complicated, burdensome problems that will be faced by the people of Florida, Georgia, and Alabama. I do not think we can better spend tax dollars than to help people ease their problems, and to help them face the arduous tasks that they will have to face in trying to solve these problems.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield to the Senator from Rhode Island.

Mr. PASTORE. I congratulate the distinguished Senator from Connecticut for his eloquent presentation of what these sections attempt to do.

If I understand the Senator from Iowa correctly, he is under the impression that the language is drawn in such a broad fashion that this will be more or less a grab-bag provision, under which the Federal Government will pay subsistence allowances and vast amounts of money to bring about the institutes to which the Senator from Connecticut has referred.

Could he address himself to that point? Is this intended to be a giveaway program, a big program, a big grab-bag program? What are we trying to do?

Mr. RIBICOFF. We are trying to do exactly what now is being done in the State of Rhode Island, the State of Iowa, and the State of Connecticut. The distinguished Senator from Iowa knows of the institutes at Iowa State University. Teachers who teach in the schools of Iowa attend institutes in the summertime, and they receive the great big stipend of $75 a month.

While training at these institutes in Iowa, Connecticut, or Rhode Island, they receive their transportation from their home to the place where the school is located. They go there for a number of weeks. They are being trained in the fields of counseling, guidance, mathematics, science, and languages.

Mr. PASTORE. They live on the campus. Is that correct?

Mr. RIBICOFF. They live on the campus, and they receive $75 a month. It is estimated that the entire cost for fiscal year 1965, for the entire institute program, will be less than $10 million. The taxpayers of the State of Connecticut will contribute to that $10 million fund. As I have studied this problem, from my experience as Governor and from my experience as Secretary of Health, Education, and Welfare, I believe the big job will be done through in-service training. This is a vast job that cannot possibly be done solely in institutes on the campuses of colleges. The average teacher will not be able to give up his summer for $75 a month. He cannot do it. The average teacher today does not make enough money with which to support himself. The average teacher who must support a family must take another job as a ditchdigger, or as a grocery store clerk, or must take some other job. The average teacher, if he has a family, must use money to buy shoes and clothing for his children. He cannot afford to go to these institutes. As I envisioned the problem that our people will face I think of Chattanooga.

Mr. HICKENLOOPER. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. HICKENLOOPER. I believe the amount is $75 a week, plus $15 a week for subsistence, not $75 a month.

Mr. RIBICOFF. I have the testimony before me.

Mr. HICKENLOOPER. I have just received the information. It may or may not be accurate, but I assume it is accurate.

Mr. RIBICOFF. It will be double-checked. As I see the problem and the program that took place in Chattanooga——

Mr. HICKENLOOPER. I have the National Defense Education Act before me. The provision is $75 a week for each individual and $15 for one or more dependents.

Mr. RIBICOFF. The dependents' allowance has been eliminated from the Mansfield-Dirksen substitute.

Mr. HUMPHREY. This was a matter which disturbed the Senator from Minnesota considerably, that under the National Defense Education Act there was the matter of the stipend and allowance for families. In the pending bill, despite the tremendous problems to which the bill addresses itself, and under which an individual would attend an institute on a full-time basis, not a part-time basis, he would be paid a stipend for the period of his attendance, at rates to be established by the Commissioner.

No family allowance is provided. It is not possible to get a trip for the family across the Nation, to a college that a teacher would like to attend, perhaps in Hawaii, Florida, Rhode Island, or in Massachusetts, Minnesota, or Montana. The stipend is limited. The teacher gets travel expenses for himself.

Mr. RIBICOFF. Let me explain what took place in Chattanooga, and what we are trying to do. When Chattanooga was first faced with the problem of desegregation, it had a very forward-looking superintendent of education, Benjamin Carmichael, who called in various educators who had lived with the problem of desegregated schools, to establish training programs in Chattanooga.

They first took a key group of high school principals and teachers who had received intensive training in the problems that would be met in Chattanooga.

Classes were organized in their spare time, after school hours. Other personnel from the Chattanooga school system were asked to come in and discuss the problems that would be faced.

When a community has segregated schools, and then suddenly is confronted with desegregated schools, the problems connected with it are many and complicated. They are full of heartaches and headaches. We recognize that fact. It is unfair to pass a bill like this and allow all these problems to accumulate. I have said time and time again that it is one of the greatest illusions in America to tell the people of this country that the day after the President signs the bill all of the problems will have been solved. The day after the President signs the bill, there will still be many problems. I feel that it is our duty as responsible Senators to help ease some of the problems that we shall face. Some of the toughest problems will be in the field of desegregation, when a community, after 100 years of segregated schools is suddenly confronted with a change in its educational and social patterns. The problems are tough and complicated, and will be hard to solve.

We intend to let the local people, at their request, provide their own programs. They will not merely ask the Commissioner of Education to sent technical assistants. That can be done under section 403. However, under sections 404 and 405, if the local communities wish to set up training programs in their school systems, they can do so. Federal grants will be provided to help ease the cost of those programs.

Mr. PASTORE. Mr. President, will the Senator yield further?

Mr. RIBICOFF. I am pleased to yield.

Mr. PASTORE. The Senator is telling us that the action must be initiated by the local authorities. Is that correct?

Mr. RIBICOFF. Without question. Under no circumstances could the Federal Government impose its will or send its people in unless specifically requested by the local community itself. Without such a request, the Federal Government would be completely debarred from doing anything.

Mr. PASTORE. In other words, if a local community feels that its teachers should be informed, in order to better understand the problems of integration in their schools, and decides that it is without funds with which to carry out such a program, it can call on the National Government to provide certain grants to assist it in bettering the situation in its schools. Is that correct?

Mr. RIBICOFF. The Senator has stated it absolutely correctly.

Mr. PASTORE. I do not see how anyone could be opposed to it.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. MAGNUSON. As I understand, this is a laudable program, but it depends upon whatever money is appropriated for it. Is that correct?

Mr. RIBICOFF. The Senator is correct.

Mr. MAGNUSON. The Appropriations Committee will not allow a wasteful program in this respect, but only what is really necessary. Is that not correct?

Second, I know the Senator from Connecticut knows that when we discussed this amendment we made a very good history—if we did not make it then, we are making it now—showing that the teachers will attend colleges or institutes at the closest available place. They are not to travel all over the country, from one end to the other, merely because they want to go. They will have to attend the institute that is most closely available to them. The program will be a modest one. In my opinion, the Committee on Appropriations will not allow anything other than that.

Mr. RIBICOFF. What has been appropriated for such schools under the National Defense Education Act program? If a teacher can get training at the University of Iowa, she must take the training in Iowa. If a teacher in Washington can get training at the University of Washington, he must take it in Washington. If he or she can take classes at the University of Minnesota, he or she must take them in Minnesota. If in New York, the training can be obtained in New York at Syracuse University, Cornell, or Columbia.

Mr. MAGNUSON. As Secretary of Health, Education, and Welfare, the Senator from Connecticut carried out such a program.

Mr. RIBICOFF. Under no circumstances would I countenance a program that would have allowed a Connecticut teacher to go to California to get what he could have obtained in Connecticut. I do not believe any Secretary should.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. HUMPHREY. Is it not also true that the State commissioner or superintendent of education first attempts to design the most helpful and appropriate programs, seeking only the cooperation of the U.S. Office of Education? The Federal Government only lays down the guidelines, and the local authorities work with the Federal officers, to see to it that the local program meets the local needs.

Mr. RIBICOFF. If we find that the local authorities want no part of it, there is no program to work out. It is established only when there is a specific request from a local authority.

Mr. JAVITS. Mr. President, will the Senator yield, so that I may propound two questions to the Senator from Minnesota, who is in charge of the bill?

The Senator understands the bill to provide that no technical service or personnel trained under the bill, or otherwise, may move to a local school board unless it is "upon the application of any school board, State, municipality, school district, or other governmental unit"—I refer to page 20, lines 21 through 23—"legally responsible for operating a public school or schools."

Mr. HUMPHREY. Is the Senator referring to the House bill?

Mr. JAVITS. I am referring to the House bill.

Mr. HUMPHREY. What page?

Mr. JAVITS. Page 20, lines 21 to 23, inclusive.

I am referring to the bill that is designated "Printed for the use of the Senate."

My question to the Senator from Minnesota is whether or not it is a fact that under section 403 the only technical assistance that will move to local school boards will be upon the application of the school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, and that such assistance will be provided only upon such request and only with respect to the school or schools under the jurisdiction of such governmental unit.

Mr. HUMPHREY. The Senator is correct. Section 403 provides:

> The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating the public school or schools, to render technical assistance.

This applies to the program of technical assistance of training institutes.

Mr. JAVITS. So any personnel "piped" in to be trained would come because they asked for it.

Mr. HUMPHREY. It would be on the initiation of the local school authority, either on the local or State level.

Mr. JAVITS. Is there anything in section 404 that would prevent the local authority from utilizing whatever facilities are available to it under State law, alone or together with Federal aid, to fulfill the purposes of the section? In other words, this section, instead of placing the responsibility on the Commissioner alone, enables the Commissioner to coordinate his responsibility with whatever the local authority is able to do; does it not?

Mr. HUMPHREY. I express the hope of those who are deeply interested in this subject that there will be a cooperative relationship, because if the local authority is to request assistance, it follows that the local authority is prepared to do something about the program.

Mr. JAVITS. To use its best efforts.

Mr. HUMPHREY. To use its best efforts and its available facilities. I would go further and say, as the Senator from Connecticut pointed out a moment ago, that in the training institutes, where a State college or university or some technical institute is competent, and has courses of instruction within the State, the teacher would go to the State institution within that particular area or within that particular region.

In other words, we are not legislating trips for teachers to take a look at "America the beautiful." We are attempting to legislate training institutes and specialized training for teachers who are going to face difficult, specialized problems. We are hopeful that by means of these institutes and through the cooperation of the Office of Education at the Federal level, plus the cooperation of State and local school authorities, it will be possible to develop a better teacher-training program for desegregated schools.

Mr. JAVITS. This question was thoroughly debated in the other body. Those who favor the bill are trying to improve it so that it will become law. Therefore, what the other body did in this case is important. An effort to strike these provisions in the other body was defeated. One thing the House did was to insert the language requiring that an applicant be a governmental unit, legally responsible for the operation of a public school or schools.

We are attempting to carry out, and even improve, in the package, the result of the debate in the other body.

Mr. HUMPHREY. I may add that in the package substitue we have deleted language that could have opened up what has been characterized as a "grab bag" approach.

Mr. JAVITS. Exactly.

Mr. HUMPHREY. We have seen to it that the individual who is involved as a teacher or supervisor or counselor is the one who will receive the training. We have not left the provision wide open, as in the National Defense Education Act.

If the distinguished Senator from Iowa [Mr. HICKENLOOPER] will examine the National Defense Education Act, he will see—and I believe we all voted for it—that a person could transport his whole family.

Frankly, it might not have been a bad idea to have allowed such a provision to remain in the substitute package; but this was one of the concessions we had to make. Nevertheless, a teacher who desires to take summer training in highly specialized programs relating to teaching in desegregated schools might very well want to take his family along with him.

He must move his family, find a home in the area for the family, and at the same time maintain his home where he came from. As Senators ought to know, that is a somewhat difficult problem. I might mention to the American people that Congress provides for its Members what we might call a little allowance. Every Senator receives an allowance to make up for his being away from home. We can deduct $3,000 for that purpose. But we do not provide it for any teacher. Senators might very well want to do for teachers what they do for themselves. If we maintain a home in our home State and have a home here, we can deduct, for our attendance at this "training institute" called the Senate, which we do not provide under the program for desegregated education. When a teacher takes specialized training, it is a requirement that the teacher may not deduct for his living expenses. He pays out and pays out.

What we have attempted to do in the proposed legislation is to provide him assistance in the form of a minimum stipend. If it is $75 a week, that surely is not what I would call getting on the "gravy train." If it is, it is exceedingly thin gravy. If it is for travel expenses for the teacher, it does not represent any junket. We in Congress ought to be somewhat considerate of others who occasionally travel at Government expense.

Mr. JAVITS. Mr. President, will the Senator from Connecticut yield further, so that I may complete my statement?

Mr. RIBICOFF. I am pleased to yield to the Senator from New York.

The PRESIDING OFFICER (Mr. NELSON in the chair). The Senator from New York is recognized.

Mr. JAVITS. Mr. President, lest the public have any illusions about the $3,000 deduction, I point out that I am one Senator who pays out considerably more than that amount for that purpose, and the deduction is not at all adequate.

Mr. HUMPHREY. Indeed so; and I would just as soon debate that point and point out the inadequacy of the little penny ante involved. Certainly I should like to see something done for the teachers.

Mr. JAVITS. As has been pointed out, President Eisenhower asked the Congress for technical and financial assistance to desegregating school districts. He believed that it was a key to the civil rights program, and that it was the best way to facilitate the transition to desegregation.

In addition, the Republican national platform of 1960 stated, reaffirmed:

> Our continuing support of the President's proposal, to extend Federal aid and technical assistance to schools which in good faith attempted to desegregate.

The Democratic Party's 1960 platform called for the same thing, as follows:

> To facilitate compliance, technical and financial assistance should be given to school districts facing special problems of transition.

And in the 1963 report of the Civil Rights Commission, the Commission recommends exactly this, based on its studies and surveys. The part of the Commission's report dealing with education concludes with the following unanimous recommendation:

> That the Congress authorize the U.S. Commission on Civil Rights to provide technical and financial assistance to those school districts in all parts of the country which are attempting to meet problems resulting from school segregation or desegregation. Such technical assistance should include the results of long-range research on the development of methods and techniques to meet the educational needs of all underprivileged public school pupils.

In short, it seems to me that there has been widespread agreement that this is an effective and economical way to deal with the problem we face.

In a number of respects, technical assistance is definitely the best way to proceed. It answers the argument that many school districts need a little time and facilities for training, in order to make this transition.

Furthermore, if there is to be technical assistance under section 403, which is not touched by this amendment, we must include the training which is contemplated under section 404.

In addition, it is not sound to argue that a function should be performed, but that adequate means with which to perform it should not be provided because if sufficient funds were provided, their expenditure might be abused. After all, those who deal with the program will be adults; and if we believe that too much money is being spent or if we find that it is being used improvidently, the Appropriations Committee will recommend that the amount of the expenditure be reduced and the Congress will vote to reduce it. After all, that is what the Congress is for.

On the other hand, to take the position in advance that those in charge will not be wise enough to deal with the program in an intelligent and effective way, is an argument which I cannot support.

Therefore, I hope very much the pending amendment will be rejected.

Mr. RIBICOFF. Along that line, let me say I think it is also interesting, in connection with the question of in-service training, to note that under the Smith-Hughes Act on vocational training—and that act has been in effect for many years, and is for the purpose of upgrading the competence of teachers of vocational training—there are work shops and there is training to teach the teachers and to bring their education up to date. Two years ago, under the National Defense Education Act, more than 36,000 teachers attended in-service training sessions in their own States.

So instead of just providing technical assistance from the Office of Education or instead of just having some teachers go to universities, I hope we shall emphasize the in-service training, because I believe that is where the major amount of progress will be achieved.

Mr. JAVITS. I thank the Senator from Connecticut.

Mr. DOUGLAS. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I yield.

Mr. DOUGLAS. I thank the Senator from Connecticut for yielding.

As has previously been remarked, I wish to state that I hold in my hand the Legislative Calendar of the Senate for today. On page 3, I find set forth the composition of the Senate's standing committees. Will the Senator from Connecticut examine the roster of the Appropriations Committee, and state, based on his observation of the first 9 or 10 names on the list of the committee members, whether in his judgment there will be any real danger that the Appropriations Committee will vote to flood this work with excessive appropriations?

Mr. RIBICOFF. Of course, far be it for me to anticipate at this point what the Appropriations Committee would recommend or would not recommend; but in view of the composition of the committee, I imagine that each and every one of its members would give very, very close scrutiny to the requested appropriations with which to meet this need and to implement this provision. I do not imagine there will be any junkets or good times in connection with the efforts of the schools to jump the gap to desegregation.

Mr. DOUGLAS. Does the Senator from Connecticut imagine that the dominant members of the Appropriations Committee would vote to deluge this work with vast appropriations?

Mr. RIBICOFF. I am confident that once this measure is enacted, the Appropriations Committee will responsibly perform its duty and will recommend appropriations sufficient to enable this work to be done properly.

Mr. HICKENLOOPER. Mr. President, I yield 15 minutes, or such additional time, if it is needed, or more time if he desires to have it, to the Senator from South Dakota [Mr. MUNDT].

The PRESIDING OFFICER. The Senator from South Dakota [Mr. MUNDT] is recognized.

Mr. MUNDT. Mr. President, I have listened with great interest to the debate today on the pending Hickenlooper amendment.

It seems to me the purpose of this section of the bill is really quite clear. As has been pointed out—and I have not heard any successful or effective refutation of the statement—section 403, which is untouched by the Hickenlooper amendments, provides, and properly so, for the kind of necessary guidance and assistance that local school groups, school boards, school districts, and governmental units can logically desire or require, from the standpoint of dealing with the admittedly tricky problems of adjusting to the new integration programs set up under the bill, and established before now in accordance with the decisions of the Supreme Court.

I am glad the Hickenlooper amendment does not disturb section 403, for I believe it serves a useful purpose. I believe it important that when one of these local operating units makes a request of the Federal Government or of the Commissioner of Education, sufficient talent be provided, if it is available; and this provision should be left in the bill.

However, it is very curious to observe how sections 404, 405, and 406 would operate; and they are the ones which would be affected by this amendment, which I hope the Senate will adopt.

In the first place, they are totally unnecessary. They merely give another opportunity to local school entities or colleges or universities to dip into the funds supplied by the taxpayers at the Federal level. There is no other reason whatever for including these three sections in the bill. If these sections were proposed as separate legislation 2, 3, or 5 years from now, on the basis of a record showing that such a subsidy was necessary, I think it proponents then would have some logic to their argument. But at this time they merely anticipate some needs which may or may not develop.

Certainly they know that when subsidies are made available, those who would be able to get the subsidies will seek them. That is exactly the situation provided for by this part of the bill. The first subsidy is to go to colleges and universities, but it would not be made available in the way that the usual Federal aid to education should be made available—in other words, by means of a subsidy of colleges and universities, which would treat them all equally, and with the establishment of criteria by which to determine who will receive the subsidies and who will not.

There is involved here a distribution of taxes paid by all to institutions supported and favored by some. This is certainly a most unhappy formula to become a precedent in any program of Federal assistance to education. I speak as one who has voted for a great number of programs of Federal aid to education, but who does not propose to vote for a development which would provide that the Commissioner of Education could use tax money collected from the general public and, by his own intuition or political impulse, or through use of an ouija board, determine which of the great universities and colleges should get the subsidies and which should not.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MUNDT. I am happy to yield to the Senator from Connecticut, because he lives in an area of the country in which the universities have been very successful in getting these subsidies in the past.

Mr. RIBICOFF. Will the Senator name one Secretary of the Department of Health, Education, and Welfare, or one Commissioner of Education, who has played favoritism with any grant or program involving any of these institutes that have been established? Will the Senator name one college or university in the United States that has been prejudiced by such a decision?

Mr. MUNDT. I was not talking about prejudice resulting from such a decision. For example, I was talking about the amazing good fortune that the colleges and universities in the Ivy League have had in contrast with that of the colleges and universities of the Middle West. I do not know what the reason is. I know the results. I am not talking about prejudice. I say that I resent a program which takes taxes from all the people and distributes them to the colleges favored by some of the people. I do not believe that that is a firm basis for the distribution of any Federal assistance to education.

Mr. RIBICOFF. If the Senator will pause, I shall give him the statistics in respect to all the States in the Nation under various titles of the National Defense Education Act.

Mr. MUNDT. I shall be happy to let the Senator insert the statistics in the RECORD if he has them available.

Mr. RIBICOFF. I believe the Senator has been very unfair in casting a slur upon the Federal Government and the men who have occupied the position of Secretary of Health, Education, and Welfare or who have occupied the position of U.S. Commissioner of Education.

I stand behind the fairness of every one of my predecessors and the present occupant of that position. I do not recall any decision ever having been made during the time when I was Secretary, and I do not recall ever having been informed that any previous Secretary had ever made a decision, in which funds voted by the Congress of the United States were used as a grab bag in the field of education. The entire direction and the entire purpose has been an equal distribution throughout the country. In South Dakota, Wyoming, Iowa, New Hampshire, Georgia, and in every other State in the Union, colleges, both public and private, have been beneficiaries of the National Defense Education Act and its various programs. I believe it is very unfair of the Senator from South Dakota to stand on the floor of the Senate and slur the Department of Health, Education, and Welfare or the U.S. Office of Education.

Mr. MUNDT. The Senator from South Dakota is merely referring to the facts. He is not slurring anyone. He is unhappy about the way the money has been distributed. He does not know why it is distributed in the way it has been. He recognizes that it would not have been distributed in that manner had the legislative bodies of Congress done their duty by writing specific criteria into the law, so that there would be an automatic distribution in conformity with some formula other than impulse. That is not a slur on any Commissioner of Education. They all have their impulses, or perhaps a ouija board is available to them. All I know is that the results indicate that certain colleges are very successful and fortunate in what they get; others are not so successful and and fortunate.

Mr. RIBICOFF. I say to the distinguished Senator from South Dakota that the floor of the Senate should not be used for the purpose of making irresponsible statements. In the field of guidance and counseling last year the State University of South Dakota received a contract for $38,808 and the State University of Connecticut—and I think there is a much greater population in Connecticut than there is in South Dakota—received a contract for $31,348. What other State does the Senator want to know about? Name a State.

Mr. MUNDT. The Senator does not want to know any information about individual States and besides——

Mr. RIBICOFF. The Senator made a statement about favoritism. I wish to know where the favoritism is. Name the State. I have the figures here.

Mr. MUNDT. The Senator is talking about one particular program.

Mr. RIBICOFF. Name any program.

Mr. MUNDT. I am talking about the overall distribution of funds for colleges and universities on the basis of grants-in-aid where there are no specific criteria. I do not have the figures available, but I have seen them in committee meetings. I have been told on good authority, for example, that in Cambridge, Mass., alone, over $100 million annually goes from the Federal Government to the institutions of that fine community. They are great schools and they have had good fortune in getting the funds. I feel that we ought to write into the law criteria for the distribution of these funds. When we distribute taxpayers' money, we should not make it available to some and not to others. That in itself is discrimination.

Mr. RIBICOFF. The distinguished Senator is now talking about funds for defense research that go to institutions such as Harvard University. The Senator is not speaking about funds that go to institutes for teacher education. The Senator is speaking about research grants given for defense and NASA. Harvard, MIT, the University of California, and other schools, have the capacity to undertake a high volume of such research.

Mr. MUNDT. Of course, the schools which the Senator has named have the capacity and the great good fortune to obtain the funds, but they do not happen to have the exclusive capacity to undertake the work. There are many other fine institutions in other areas of the country that have not had the good fortune to obtain the money.

Mr. RIBICOFF. If that is how the Senator feels, I point out that I do not recall in my reading that the Senator from South Dakota has proposed an allocation formula on the floor of the Senate. I do not believe the floor of the Senate should be used for irresponsible statements.

Mr. MUNDT. The Senator from South Dakota will stand squarely on his statement.

Mr. RIBICOFF. On what statement does the Senator stand?

Mr. MUNDT. On whatever I have said.

Mr. RIBICOFF. Which has absolutely nothing to do with this field.

Mr. MUNDT. Then I stand on that. I stand on what I said. I repeat what I have stated.

I stand on the statement that I do not believe we should become more deeply involved in programs of Federal assistance to education whereby we would further permit the Government to take money which all taxpayers pay into the Federal Treasury and distribute it to certain schools and communities without governing criteria or without a formula but simply in accordance with the impulse of the administrator making the distribution. On that statement I stand.

Mr. President, continuing with my argument, I point out that we would have, first, a subsidy for certain segments of higher education, but not for all. There would be no criteria, rule, or standard for distribution of the funds. Under this program the Commissioner of Education would say that one school would receive the funds and another would not, although the money comes from all the people. I do not believe that such a program is sound.

Second, we would have subsidies to the individuals who would attend the schools. They would receive not only free tuition—and this is important—but, in addition, to a free education they would get a stipend. How much that would be

I do not know. Under the National Education Act, for example, in respect to a language school the amount might amount to as much as a couple of hundred dollars a month.

The terms of the stipend, incidentally, are not spelled out. There is another open end commitment. The stipend could be what the Commissioner of Education might say it should be. I happen to serve on the Committee on Appropriations, and I know that we do not write substantive legislation in that committee. We can determine the overall amount, but the manner in which the fund is administered, and the interpretation of the bill, is largely left up to the Commissioner.

This bill does not indicate whether the stipend would be large or small. But it would be more than a stipend, because expenses also would be paid. So a student could select the most distant college from where he lives and a college located in the most salubrious climate and there go to school and receive his expenses and his stipend.

Enthusiastic supporters of the measure tried to include a provision that the expenses of all dependents should also be paid.

In the Smith-Mundt bill, of which I happened to be one of the cosponsors, we had such a provision until it developed that a student appeared with several wives, I believe, 13 children and 4 wives—at least a family that could barely be carried in a Greyhound bus—and the student said, "I want expenses and allowances for myself and my family."

Finally, on the floor of Congress—and I disagree very definitely with my friend from Connecticut, for I maintain that Congress is the proper place to write such legislation—here on the floor we enacted a provision so that such a thing could not take place any more. We corrected that situation. Now we are moving in the same direction. True, the provision is in the House bill. Perhaps if the substitute bill is adopted it will not be there. But the impulse to include it is present, and at the first opportunity the proponents have to include it, there will be included tuition, stipend, traveling expenses, and compensation, if possible, for the families and all of their dependents.

Then there is involved a subsidy to school boards, because money would be made available to them to train teachers and employees, specialists, and the various terms for the grants would be left entirely in the hands of the Commissioner.

Mr. President, it does not seem to me that a responsible legislative body should delegate to a Federal Commissioner authority to spend the taxpayers' money according to his own impulse, with no guidelines, with no criteria at a time when no need has been established, and at a time when section 403 provides every conceivable kind of technical assistance and guidance, and personal consultation and examples so that local communities can get the benefit of the national experience in meeting their problems.

The Senator from Iowa is correct in his amendment that we should not make this open-end commitment, or open-end invitation to the school boards, colleges, and universities in this important area of public affairs.

It has been pointed out that something similar is done for language schools under the National Defense Education Act. That is true. But may I point out that one of the great reasons why it is so difficult to bring the Federal Government to the assistance of local communities in the field of public education is the very reasonable and understandable fear that the Federal Government then wants to muscle into the curriculum and to establish certain educational controls operating from the center. These Federal politicians want to have some modicum of control over what is taught the children. They want to impede the latitude of the school boards in determining what they want to have taught and by whom.

So, whenever we talk about Federal aid to education in any area, we try to provide every possible assurance that we are not going to destroy the concept of local control for local schools, which has built in America the greatest educational system in the world.

We write in every conceivable legislative safeguard in that connection. But here in this bill we do not write in any safeguards. We write in an open invitation instead to politicians and others to move into public areas, into public fields which do not involve public policies, such as the linguistic field or mathematics, but we are dealing here with social and political questions, with human beings as they are related in their conduct toward one another.

Nothing could lend itself more to political control, to thought control, to trying to determine from the Federal Government what we want the youngsters in the public schools to think, and what we want them to carry home to try to influence the concepts and thoughts of their elders and their parents.

Mr. HICKENLOOPER. Mr. President, will the Senator yield?

Mr. MUNDT. I yield.

Mr. HICKENLOOPER. I have heard a great deal of argument today that these grants or contracts will be done only upon the request of the school boards in a State, municipality, school district, or other government unit legally responsible for a regulated school district.

Mr. MUNDT. That is true in section 403 which the Senator leaves in the bill. But it is not true in other sections.

Mr. HICKENLOOPER. I understand that. That is in section 403, which is not touched by this amendment.

Mr. MUNDT. That is correct.

Mr. HICKENLOOPER. But the argument is used—and I have heard it used for almost 20 years on the floor of the Senate—that local school authorities will not take undue advantage of this program, that they will be circumspect and limited. But there is not a week that goes by that the Comptroller General of the United States—perhaps not every week, but almost every week, or every month—does not submit reports showing utter wastage of appropriated money, which may not be the fault of the Appropriations Committee. But when Federal money gets into the hands of the administrators, the evidence is legion of the waste and dissipation of that money.

Does the Senator know of a public institution in the United States, especially in his own State, where there is apparently the availability of some Federal funds to be acquired by an institution, where the institution does not send its representatives here to see when they can get the money, how much money they can get, and whether they can get more than they originally thought?

Mr. MUNDT. I say to the Senator from Iowa that under the concept provided for in the bill, any school board, university, or college which did not send its representatives to Washington would be derelict in its responsibility to its taxpayers. Its own taxpayers have to contribute to the fund. And unless they try to get their share of whatever the Appropriations Committee decides is the proper amount to be divided up, somebody else will get it. I believe that the wheel that does the squeaking will get the grease.

Mr. HICKENLOOPER. That is the point of the matter. I agree that this is the place to set the rules of the game, on the floor of the Senate. I have always understood that the House and the Senate constitute Congress and are the legislative branch of the Government.

Mr. MUNDT. It is an old-fashioned reactionary notion to some people, but I still think it is a good idea.

Mr. HICKENLOOPER. If money is available from the Federal Government, any municipality or public body can be criticized if it does not try to get every last dollar that is available through Federal appropriations and through the authorization acts. They all ask for every last cent they can get—the Commissioner of Education, as well as other bureaucrats. I think their institutions are just as subject to Parkinson's law as is any other institution. As bureaucrats get more and more authority, they expand their jurisdiction a little and get more employees. Then the supervisor will get a different rating and more salary because he has more employees under him. And so it goes. This is only another example of the Federal Government moving into an area that has heretofore been successfully operated in the United States as an area of private responsibility for teachers to equip themselves and for institutions to establish under their own power, as a rule, the courses which are necessary to give teachers adequate training. If this authorization is voted, the demand will arise. It is characteristic, and it always has been.

Mr. MUNDT. Especially in the area of defense contracts, which has been alluded to, they have been spread out and ramified to include a great many activities, so that now it has reached the point where colleges and universities which have had unusually good, four-leaf-clover success in obtaining large grants appear before our Appropriations Committee to make a complaint that can be heard around the world when we try to put some limitation on the funds to be used in administering the colleges and universities. They state, "We are so busy spending the Federal money, and it takes so much time of the deans, the college presidents, the comptroller, and the faculty members to utilize this Federal money that we have to pay a part of the administrative salaries, and so forth, in order to get the job done." When we suggest a reasonable percentage as a top limit, they scream and say, "We are building our university on the concept of having this money come in from Uncle Sam. And if you limit the percentage of that which we pay to the college president, the dean, and the rest of the administrative officers, it will cripple us."

These arguments may be legitimate, but I point out what happens when a legislative body is derelict and does not place some criteria in the bill in the beginning rather than to rely on one individual man speaking for America. That is not my concept of how the Government should be operated. I say that without trying to cast any aspersions against anyone. I do not think there is any Commissioner of Education, born, or yet to be born, who is wise enough to distribute subsidies and contracts from the general public funds without a formula or criteria and do justice to the schools and colleges coming from areas which do not participate in the benefits, but are privileged to participate in the funds to be distributed.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. MUNDT. I yield.

Mr. SIMPSON. I invite the attention of Senators to the fact that the substitute bill is replete with the delegation of unlimited authority. What we are trying to do is to curtail some of that authority so as to make it acceptable. I heard the eloquent arguments to the effect that there are other programs, and that this is only a continuation of them. That is like saying that because we have foisted off some bad things upon the Government in the educational institutions, the solution is to increase foisting them off on the Government. I wonder if this particular section and title are germane to the bill. I invite attention to the fact that it presupposes, because of difference in color, that there must be a change in the universities indulging in this type of thing because of the social changes being brought about.

I believe that the universities and colleges of America will be quicker to do this without any Federal compulsion and without any Federal interference whatsoever.

I believe that the colleges can accommodate themselves to change in the social structure better than we can do it by foisting off upon them some such a "plum" as this.

Let us face the situation—we know full well that the moment this fund is made available, the Commissioner may spread out over the line and try to get these institutions to accept some of this largess with the hope of putting more power in the Commissioner of Education.

I commend the Senator for the contribution he has made with respect to this problem. I cannot be influenced by the arguments with respect to adding one more bad thing to some other bad thing already in existence.

I invite attention to the fact that merely because there is a difference in color there will be no necessity to have large amounts of money available to universities, because they are quicker to accept their responsibilities and they can accommodate themselves better to it than we can by any type of Federal compulsion such as is inherent in sections 404, 405, and 406.

Mr. MUNDT. I appreciate what the Senator has added to this discussion.

Mr. President, I continue my point about the dubious desirability of enacting this proposed legislation designed upon the concept that we take from all and give to some, which is not in conformity with the legislative mandate or criteria, but instead is based upon the impulse of one individual man.

I read from page 20 of the Dirksen substitute as to just how the Commissioner would handle this vast new authority to extend bounty to certain universities and individuals while denying it to others:

> (b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions of which it will be made—

If I may make an interpolation, this vests new latitude which we did not provide for when we enacted the National Defense Education Act, where we spelled it out and wrote the formula and legislated as legislators, instead of legislating to delegate authority to someone else. But I continue:

> (b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and there are applications which are pending before him; the financial condition of the applicant—

That is a curious one—

> the financial condition of the applicant and the other resources available to it;

I wonder, are we dealing with civil rights?

Or, is this a part of the poverty program?

Is this some way to help some schools and deny help to others, to promote some and demote others, to build up some and to tear down others? I do not know why it should be in the section at all, but there it is.

> The financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

Why in the world do we waste printer's ink with the suggested criteria? We have one at the end which is big enough to cover everyone and anything. This gives the Commissioner an "open sesame" to find any reference he wishes, and such other factors as he deems relevant, and then he makes the determination of what the relevant factor is and writes his own criteria. We can throw in the ashcan all the other considerations which are to be eliminated because we add, "such other factors as he finds relevant."

This, it seems to me, provides a bonus, or a bribe, or call it what one will, a bounty, which gives the Federal Government the right to use public funds to force its programs and its will and its philosophy on a school board or on a college or university, which to me is repugnant. The basic concepts of local control of education in America are violated by this proposed operation because while they do not bribe, they do not force it upon anyone. They merely advise that we have money which is available, provided you do what you are told. Provided you have your students taught what we ask them to be taught, and provided you follow certain patterns and programs you receive the grant or the attractive contract.

By this type of pressure and the Federal power to grant or withhold the largess of the public purse, the local administration of educational affairs and courses of instruction is challenged and curtailed.

While I do not contemplate that in this particular legislation we would automatically set up Federal control for education in its entirety, it is a step in the wrong direction. It is the kind of Federal assistance to education that we should repudiate, because it is not equitably controlled by legislative criteria. It violates the basic American concept of local control over the educational systems of America. It gives too much power to one political appointee in the Federal Government.

There are ways in which the Federal Government can be of assistance to education. I have supported many of them, including the National Defense Education Act. But to violate the concept that the legislature should write the criteria and the directives, and turn the authority over to an appointed official, for whom no one can vote, and against whom no one can vote, who happens to hold ephemerally the title of Commissioner of Education, to redistribute the wealth among the colleges, universities, and school boards of America, according to his impulse, is a great violation of my concepts of what the responsibilities of a legislative body really should be.

We should adopt the Hickenlooper amendment and strike out the unnecessary and unwise provisions, leaving in section 403, which is spelled out with definite regulations, which I believe are necessary, and which provides for the kind of assistance which the communities desire and which does not impose upon them or subject them to the compulsion to comply.

The compulsion to comply occurs when people are taxed for certain benefits which they are denied unless they succumb to the orders of a bureaucrat in Washington.

That can be just as serious a compulsion to comply as if the Commissioner himself were given dictatorial authority by the legislature to write and prescribe what is to be taught, what is to be established, what is to be studied, and what are to be the desiderata in order to obtain free tuition, a stipend, and traveling expenditures, or a contract by which the college, university, or school board is helped in the financing of its activities.

After we shall have some experience with the bill, if it then appears necessary to do something in addition to section 403, we can take the time to legislate in detail, and wisely, the manner and the method by which the Federal Government can be of assistance in eliminating the problems which experience may have made apparent.

So, Mr. President, I urge that we avoid this dangerous precedent, that we accept the Hickenlooper amendments, and that we get on with the business of legislating civil rights matters, and not go out on all these miscellaneous trails and byways, involving such things as new concepts in Federal aid to education, and the establishment of new and unneeded authorities in the Office of the Commissioner of Education.

I reserve the remainder of our time.

Mr. RIBICOFF. Mr. President, I yield 5 minutes to the Senator from Georgia.

AMENDMENTS NOS. 944 AND 945

Mr. RUSSELL. I appreciate the graciousness of the distinguished Senator from Connecticut in yielding to me a few minutes to present an amendment which deals with a subject not related to the pending amendment. I send to the desk two amendments, one to the substitute and one to the original bill, and ask that they may be printed and lie on the table and be considered as having been read for all purposes under the rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 944) is as follows:

> On page 14, after line 23, insert the following new section:
>
> "SEC. 208. This title shall take effect on November 15, 1965."

The amendment (No. 945) is as follows:

> On page 11, between lines 17 and 18, insert the following new section:
>
> "SEC. 206. This title shall take effect on November 15, 1965."

Mr. RUSSELL. Under the changes which have been made in title II of the so-called Dirksen substitute, a manifest unfairness is proposed against States which are not among the 32 or 33 which now have some kind of public accommodation laws.

The purpose of the amendment is to defer the effective date of title II until November 15, 1965, so that in the event the bill is passed, States which do not have public accommodation laws will have ample opportunity to have their legislative bodies consider this subject and decide whether or not they desire to have the protection that is afforded to the States by the amended version of title II.

I believe this will appeal to the sense of justice and fairplay of all Senators who wish to deal fairly in this matter. I know it will not appeal to those extremists who seek and hold office by their powers of vituperation in denouncing the South, and who have the scent of blood in their nostrils and think they see an opportunity to inflict punitive provisions on the Southern States, which do not have public accommodation laws.

I point out that the fair employment provisions, under title VII, are to be deferred for 1 year after the date of enactment of the bill, although there are a number of States which have so-called fair employment practice laws now and would have the protection that this language would give them. Certainly the same fairness and the same opportunity should be afforded to States which do not have public accommodation laws, to enable them to enact them, so that they may get the benefits that are extended to States which already have these laws.

A number of our colleagues in the Senate have written to their constituents, telling them that the bill does not affect their States, because they already have State laws. To make assurance doubly sure they have written their constituents that they have written into the bill additional provisions which would keep the heavy hand of the Federal Government off their States and off their constituents until the States had an opportunity to act.

The amendment would merely give all the States an opportunity to pass public accommodations laws in the event they should see fit to do so.

Mr. President, I am under no illusions that any States rights are involved in the bill. State coercion is involved, because the very purpose of the bill is to coerce States into passing laws on employment and on opening accommodations to the public which are privately owned and operated, against the wishes of the person who operates the establishment.

No States rights are involved. It is a matter of holding a pistol to a man's head and saying, "You sign, or we shoot." This is a matter of States rights in reverse.

I am amazed that Senators should be speaking about States rights, when what really is involved is the baldest form of coercion of States which do not have these laws. It is nothing but coercion to tell States, "You either enact a law or we will send an Army of Federal agents and investigators and, if necessary, the Armed Forces of the United States, the Army and Marine Corps, to enforce this Federal law."

Mr. GORE. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. GORE. And also deny or threaten to deny all Federal funds to any person no matter how needy, or to any program or community no matter how meritorious the need may be, unless there is compliance with whatever requirements may be provided by the Federal administrative authority.

Mr. RUSSELL. The Senator is correct. I have been amazed to see some Senators, who have taken the floor on other occasions to inveigh against genocide, favor a provision which is in effect a genocide law, because it punishes the innocent along with all who might be guilty, not on the basis of any race or ethnic group, but on the ground of residence, because they happen to reside in a certain area of the country.

I shall support the Senator's amendment to strike title VI from the bill. It is very unfortunate that the leaders saw fit to extend a special benefit to those on the other side of the aisle—and some of my best friends are there—by allowing them an opportunity to debate their proposals before a vote is had on the gag rule, without extending the same opportunity to the Senator from Tennessee.

He is being treated unfairly, and I would be less than frank if I did not say so. In my judgment, his amendment is far more important than any one of the amendments that we are considering now under a unanimous-consent agreement.

Mr. GORE. Mr. President, will the Senator yield further?

Mr. RUSSELL. I am glad to yield to the Senator, if the Senator from Connecticut will yield to me. I may have already exceeded the time he allowed me.

Mr. RIBICOFF. I am pleased to yield 5 additional minutes to the Senator from Georgia [Mr. RUSSELL].

Mr. RUSSELL. I thank the Senator.

Mr. GORE. An amendment was adopted in the House of Representatives which apparently laid to rest a widespread apprehension that deposits insured by the Federal Deposit Insurance Corporation, and homes on which loans were insured by the FHA, were exempted from the bill. I propose to show beyond peradventure of doubt, when I am privileged to obtain the floor, that FHA insured loans on homes, and federally insured deposits are covered by title VI.

I suggest that Senators read section 601 of title VI. It is a broad and all-inclusive section.

Section 602, which provides the means of implementation of a portion of section 601, specifically exempts contracts of insurance or guarantee.

Therefore, Senators who believe that the bill has been thoroughly clarified by the Dirksen amendment need to examine the Dirksen amendment more carefully.

Mr. RUSSELL. I do not believe any Member of the Senate, however astute he may be and however much he may have been able to study the bill, could answer all the questions that arise with respect to its many obscure and poorly defined provisions.

Never has there been a bill before the Senate during my time here that has been so sweeping in its application or result. The bill leaves the definition of offenses against the law in the hands of the same officers who would prosecute for alleged violations. I shall await with interest the Senator's statement. I think he is undoubtedly correct. I agree with him that under title VI, regulations could still be imposed that would relate to housing and the withdrawal of benefits from any State or any portion of a State that did not conform to the regulations.

Mr. GORE. Mr. President, will the Senator from Georgia further yield?

Mr. RUSSELL. I yield.

The PRESIDING OFFICER. The time of the Senator from Georgia has expired.

Mr. RIBICOFF. Mr. President, I yield an additional 5 minutes to the Senator from Georgia.

Mr. RUSSELL. I yield to the Senator from Tennessee.

Mr. GORE. I have in my hand a recitation of amendments offered in the last 10 years by the distinguished senior Senator from New York [Mr. Javits] and by one of the Members of the House of Representatives, Representative Powell and others, seeking to do to various programs precisely what title VI would do to all programs that provide financial assistance to persons, programs, or communities. The compilation contains 18 pages. Congress has rejected every single one of those amendments when offered to individual programs. Yet we have title VI which, as I say, amends every single act of Congress since this country began that provides financial assistance to programs, to States, to local communities, to persons, to institutions.

Mr. RUSSELL. I completely agree with the Senator.

I may say that the amendment to this title of the bill is offered with an appeal to the sense of fairness of the Senate. It would give to States which do not have public accommodation laws an opportunity to consider this question and to decide whether they wish to pass such laws and have the first chance to enforce them, as is provided to States that already have such laws, and whose Senators have proclaimed to their constituents that their States would not be covered by the proposed law.

That has been done in the case of the so-called equal employment section. The application of this title to let the Federal Government take over employment policies would be postponed until 1 year after the bill is enacted. After the year is over, the State laws would have priority. I am only asking that the application of title II, the public accommodations section, be postponed until November 15, 1965, in order to afford States that have general assemblies meeting in the interim an opportunity to decide whether they wish to pass their own public accommodation laws and exempt themselves from the Federal procedure by deferring the application of the Federal power, as would be the case in the 32 or 33 States that already have public accommodation laws.

I hope the Senate will rise above this tremedous pressure and will at least agree to this limited mode of fairplay to those States which have not had such laws.

I thank the Senator for yielding to me.

Mr. RIBICOFF. Mr. President, I yield 5 minutes to the distinguished Senator from Michigan.

Mr. HART. Mr. President, I shall oppose the amendment of the Senator from Iowa. I have listened to the debate and have enjoyed it; but at the risk of oversimplifying it a little, it seems to me that the Senate ought to reject the amendment.

The nub of the argument appears to be that no real problem has yet been established which would require the education of people for their role in assisting in the transition from segregated to integrated education.

For 2 months we have been told about many problems as to which we ought not do anything at all. For 2 months we have listened to arguments in which we were told that this bill, which would include desegregation of schools, would cause the American scene to have so many fractions that we cannot afford to do anything about it.

I have been sympathetic throughout, realizing that there will be transitional problems in many regions, perhaps in all, but that these problems are lesser in degree and have far less equity than action which is required to be taken to eliminate the basic problem.

Yet, after 2 months of lecturing, that the problems the bill would create would be too many, we are now being asked to eliminate a prudent preparation for a transition period—the use of educational institutions to give to men and women who will be placed on the firing lines the tools and the background of information that will assist them in the transition from a segregated to an integrated school system.

This is not a title to help schools. It is not a title to help teachers. It is not a title to help colleges. It is a title to help the people of America bridge the transition. The problems connected with it, to which we have listened for 2 months, have been described as so great that we ought not to try to make the bridge at all.

If someone had just landed from Mars this morning and had been in the gallery, listening, he would have said the Federal Government was light years away from doing anything about basic assistance to education, because the recitals to which we have listened really are cast in a setting or mold that would encourage those who feel that the Federal Government already has done too much to raise educational excellence in this country to think that, given a little more time, we would begin to go back on Federal aid to education, instead of extending it. This is the most sobering thing of all as one sits and listens to the debate.

I am sure that a majority of the Members of the Senate realize that in the change from a segregated to an integrated school system there will be problems. Failure to make the change will keep alive greater and more basic problems. To assist in making the change, it is prudent and right that we should encourage educational opportunity for those persons who, from day to day, in the classroom, will be in the key role to make easier the transition. That is the purpose of this title.

While we have listened to many statements, I hope we shall recognize what is basic in the debate. It is simply that this is a way in which the Federal Government, and Congress, can assist in the transition to be responsive in solving the problems that will be created. To fail to do this would be regrettable. I hope the amendment will be defeated.

Mr. RIBICOFF. Mr. President, I yield 5 minutes to the distinguished Senator from West Virginia [Mr. Randolph].

Mr. RANDOLPH. Mr. President, as we approach, in the decision on cloture tomorrow and on the amendments pending today, the votes in reference to the proposed civil rights legislation, I feel it is not improper for me to observe that there are those persons who will not accept the fact of change. That is a truth that we should accept in connection with the proposal now before the Senate.

There was a time when men and women in policymaking positions, including Members of Congress, could polarize their opinions and convictions. We were told that there were two sides to a problem. In these complex times such restricted thinking is not sufficient. There are more than two sides. Today a proposition is not black or white; it is not liberal or conservative. As I view it, there are many sides to a question these days—as many sides as there are parties involved and issues that confront us.

So I think there is an oversimplification in which we are inclined to indulge, but which cannot be totally embraced, as we reach the more critical stages of debate on the pending legislation.

In connection with the amendment that is now before the Senate, I should like to state what has been happening in West Virginia.

I shall read from the lead editorial in the June 2 issue of the Charleston Daily Mail:

> Without Fear, Incident or Compulsion, State College Writes a Bright Chapter
>
> Ten years after its historic decision on desegregation, the Supreme Court is still handing down decisions, trying to make its purpose clear and binding.
>
> Throughout the Nation, both North and South, there are communities and even whole States which are strangely and stubbornly resistant to the "law of the land."
>
> And the search for new laws to give the old ones more meaning and effect is enough to stall the U.S. Senate on dead center, where it may linger all summer, leaving some reason to doubt whether Congress and the courts can ever achieve that civil equality which is increasingly their concern.

I continue to read the meaningful message conveyed in the editorial:

> One reason for thinking so is West Virginia State College at Institute. State desegregated almost overnight a decade ago. It has been quietly and fruitfully integrating ever since in an evolutionary process remarkable for its serenity and good sense.
>
> It would be too much to say that there have been no tensions and anxieties. State College had its traditions, too, and the white man played only a small part in them. Through it all, Dr. Wallace and his faculty displayed an exemplary patience and understanding and a confident faith in the possibilities of orderly change.
>
> Result: In increasing numbers, white and colored students have found at Institute just the education they wanted at a price they could afford. And they have enrolled, not because they were compelled to, but because they wanted to.
>
> So far as we know, there have been no incidents of consequence, no demonstrations, none of the feverish posturing and embittering propaganda which is often inseparable from adjustment. It has never been necessary to call in the National Guard or fall back on the courts. In 10 years the State College story has generated scarcely half a dozen headlines.

I conclude by reading the final paragraph of the editorial:

> For all that, we do not supose that it "just happened." It happened because Dr. Wallace, his faculty, the student body, and the people of Institute wanted it to happen and generously allowed for the chance that

it could. They fully deserve the congratulations pouring in on them at the 10th anniversary of their experiment in "integration in reverse."

Mr. President, I call attention to this editorial for a specific reason: to emphasize the premise stated in the opening several sentences of my remarks—namely, that this change is being wrought, but some are reluctant to accept it, or even to admit that we are in a period of transition.

The PRESIDING OFFICER. The time yielded to the Senator from West Virginia has expired.

Mr. RIBICOFF. Mr. President, I am pleased to yield 3 more minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 3 more minutes.

Mr. RANDOLPH. Mr. President, I do not criticize Senators whose opinions and convictions differ from mine. They have a right to form their own opinions and to assert their own convictions, and to express them here, not only by their remarks, but also by their votes.

But in the matter of the educational process, it seems to me the position which has been so well delineated by the Senator from Connecticut [Mr. Ribicoff] is the one to which the Senate should adhere. With all deference to the Senator from Iowa [Mr. Hickenlooper], I say that I believe it is important that the Senate reject this amendment. It should be rejected because we believe the educational system in our country needs to be strengthened.

Certainly this program does not involve Federal compulsion or imperialism. Instead, it is a recognition by the Members of Congress which reflects the opinion of what I believe is a majority of the citizens of the United States. These men and women share the view that in our country there should be developed the strongest possible educational fabric, which will not be torn apart, but at all levels will stand as an institution where the truth and the facts will be sought, and where the future will be determined. It must be a road on which people who are working together and living together and profiting together can move forward, as I have indicated is possible as demonstrated by an institution in West Virginia.

Mr. RIBICOFF. Mr. President, I reserve the remainder of the time available to me.

Mr. HICKENLOOPER. Mr. President, I reserve the remainder of the time available to me; and at this time I suggest the absence of a quorum, and ask unanimous consent that the time required for the quorum call be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HICKENLOOPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HICKENLOOPER. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HICKENLOOPER. Mr. President, I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa [Mr. Hickenlooper] (No. 868). All time having been yielded back, the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have voted "nay." I have a pair with the Senator from Florida [Mr. Smathers], who is absent on official business. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore I withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Ohio [Mr. Young] and the Senator from Florida [Mr. Smathers] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from California [Mr. Engle] and the Senator from Ohio [Mr. Young] would each vote "nay."

The result was announced—40 yeas, 56 nays, as follows:

[No. 277 Leg.]

YEAS—40

Bennett
Byrd, Va.
Byrd, W. Va.
Carlson
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Fulbright
Goldwater
Gore
Hayden
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Jordan, Idaho
Lausche
Long, La.
McClellan
Mechem
Miller
Morton
Mundt
Pearson
Robertson
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters
Williams, Del.
Young, N. Dak.

NAYS—56

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Brewster
Burdick
Cannon
Case
Church
Clark
Cooper
Dirksen
Dodd
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Yarborough

NOT VOTING—4

Engle
Mansfield
Smathers
Young, Ohio

So Mr. Hickenlooper's amendment was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay on the table the motion to reconsider.

The motion to reconsider was laid on the table.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senate will now proceed to consider amendment No. 606 offered by the Senator from New Hampshire [Mr. Cotton] with 2 hours to the side.

Mr. COTTON. Mr. President, I yield 1 minute to the distinguished Senator from Texas [Mr. Tower].

AMENDMENTS NOS. 946 THROUGH 963

Mr. TOWER. Mr. President, will the Senator from New Hampshire yield?

Mr. COTTON. Mr. President, I yield 1 minute to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 1 minute.

Mr. TOWER. Mr. President, I send to the desk various amendments directed to the so-called civil rights compromise package offered in conformity with the previous parliamentary rule.

I ask unanimous consent that my amendments may be considered as offered for the purposes of substantive consideration during the course of debate, so that they may be considered during the course of continuance of the debate, or in case of cloture.

I ask unanimous consent that the amendments to H.R. 7152 as previously offered receive like consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 946

On page 70, line 21, immediately after "(a)" insert "(1)".

On page 71, between lines 9 and 10, insert the following new paragraph:

"(2) The Director shall appoint a local representative for each county, parish, or similar political subdivision from among a list of at least three individuals recommended by the Governor of the State involved. Each local representative shall serve for a term of two years, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the local representative whom he shall succeed. The term of the first local representative appointed for each county, parish, or similar political subdivision shall begin on the date of the enactment of this title. Whenever the Service provides its assistance in any community, the local representative for the county, parish, or similar political subdivision in which such community is located shall serve as an officer of the Service, and shall exercise all the powers of an officer of the Service, with respect to the activities of the Service while it is providing such assistance in such community. Each local representative, while engaged in duties as authorized under this pragraph, shall receive compensation at the rate of $75 per diem and shall be paid travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently, but in no event shall any local representative receive compensation in the aggregate during any fiscal year which exceeds an annual rate of $20,000."

AMENDMENT No. 947

On page 74, after line 23, insert the following new titles:

"TITLE XII—EFFECTIVE DATE

"Sec. 1201. The first eleven titles of this Act shall take effect only if the qualified voters of the several States signify their approval of this Act in the national referendum provided by title XIII. If the qualified voters of the several States signify their approval in such referendum, the first eleven titles of this Act shall become effective on the day on which the results of such referendum are declared under section 1311 of this Act.

"TITLE XIII—NATIONAL REFERENDUM

"Sec. 1301. (a) Each State is requested to conduct a referendum for the purpose of ascertaining whether the qualified voters of such State approve the provisions of the first eleven titles of this Act. Such referendum shall be conducted by each State consenting to do so at the general election to be held in such State in 1964 for the purpose of electing its Representative or Representatives in the House of Representatives of the United States.

"(b) (1) As used in the remaining sections of this title, the term 'referendum,' when used in reference to any State, means the national referendum referred to in section 1201 insofar as it is conducted within the jurisdiction of such State.

"(2) As used in sections 1302, 1303, and 1304, the term 'State' means only a State which consents to conduct the referendum within its jurisdiction.

"Sec. 1302. Each State shall be entitled to reimbursement for the expenses incurred by it in conducting the referendum. Reimbursement shall be made in the manner provided by section 1311.

"Sec. 1303. Except as otherwise specifically provided in this title, the referendum shall be conducted in each State according to the election laws and regulations of such State. Any State the constitution or laws of which authorize the submission of State laws to the voters of such State for their approval or disapproval may conduct such referendum in the same manner as referendums conducted with respect to its State laws. Each State, through its legislature or the proper State officers, shall be the sole judge of the manner of conduct of the referendum within its jurisdiction.

"Sec. 1304. The qualified voters in the referendum in each State shall be the persons who are qualified to vote for Representative in the House of Representatives of the United States in the election at which the referendum is conducted.

"Sec. 1305. (a) The Governor of each State which consents to conduct the referendum shall so notify the President before September 1, 1964. The President shall provide for the conduct of the referendum, in the manner provided in this section, in any State which does not consent, or is unable, to conduct the referendum. The referendum shall be held in any such State on the same day on which it would be held under section 1301 if it were conducted by such State.

"(b) The President may provide for the conduct of the referendum in any State or States under this section—

"(1) by any department or agency of the Federal Government, or

"(2) by a commission established for such purpose under the authority of subsection (c).

Subject to the provisions of subsection (e), the referendum conducted in any State under this section shall be conducted pursuant to such rules and regulations as the President may prescribe.

"(c) The President is authorized to establish a commission to conduct the referendum in any State or States which do not consent, or are unable, to conduct it. Any commission established pursuant to this subsection shall be composed of an even number of members and not more than one-half of the members shall be of the same political party. The President shall designate one of the members as chairman of the commission.

"(d) The President shall have such powers as may be necessary to enable him to carry out the duties and functions imposed on him by this section, including the power—

"(1) to appoint such experts, consultants, and other employees as may be necessary, and

"(2) to make such expenditures as may be necessary.

The President is authorized to delegate any of the powers conferred upon him by this subsection to any department or agency designated by him to conduct the referendum in any State, or to any commission established under subsection (c).

"(e) Except as otherwise specifically provided in this title, the referendum conducted in any State under this section shall be conducted, insofar as possible, in conformity with the election laws and regulations, and the referendum laws and regulations, if any, of such State. The qualified voters in the referendum in any such State shall be the persons who would be qualified voters if the referendum were conducted by such State. Such State is requested to furnish lists of such qualified voters to the President, and shall be entitled to reimbursement, out of funds appropriated to the President under section 1312, for expenses incurred in furnishing such lists. If such State refuses, or is unable, to furnish lists of such qualified voters, the determination as to the qualifications of any person to vote in the referendum in such State shall be made pursuant to rules and regulations prescribed by the President.

"Sec. 1306. (a) The Joint Committee on Printing shall have printed by the Government Printing Office copies of this Act, and copies of provisions of any laws amended by the first eleven titles of this Act in which the amendments thereto shall be indicated in boldface type. Such copies shall be in such form and style as to be suitable for exhibition at the polling places in the States for the information of the persons voting in the referendum.

"(b) The Joint Committee on Printing shall furnish to each State which conducts the referendum such number of the copies of of this Act and of provisions of any laws amended by the first eleven titles of this Act printed pursuant to subsection (a) as each State may request. The Joint Committee shall furnish to the President, for use in any State or States in which the referendum is conducted under section 1305, such number of such copies as the President may request.

"(c) Each State which conducts the referendum is requested to exhibit, in conformity with the laws of such State, at the polling places at which voting in the referendum is conducted such number of the copies of this Act and of provisions of any laws amended by the first eleven titles of this Act printed pursuant to subsection (a) as may be necessary for the information of the persons voting in the referendum.

"Sec. 1307. The form of the question to be presented at the referendum shall be substantially as follows:

" 'The Congress of the United States has enacted a law known as "The Civil Rights Act of 1964", which is divided into thirteen titles, the last two of which relate to this referendum. This law provides that the first eleven titles shall take effect only if approved by the qualified voters of the several States in this referendum. Indicate by making a cross (X) in the proper square (or by pulling the proper lever) whether you approve or disapprove of these titles.

" 'Approve.. ( )

" 'Disapprove.................................... ( )'

"Sec. 1308. (a) At the request of the Governor of any State, the Attorney General shall assign agents or employees of the Federal Bureau of Investigation to such of the polling places in such State as the Governor thereof may designate.

"(b) In any case in which the President deems it necessary or advisable, the Attorney General shall assign agents or employees of the Federal Bureau of Investigation to such of the polling places in any State as the President may designate.

"(c) It shall be the duty of any agent or employee of the Federal Bureau of Investigation assigned to any polling place under subsection (a) or (b)—

"(1) to observe the conduct of the referendum at such polling place,

"(2) to observe the counting and tabulation of the votes cast in the referendum at such polling place, and

"(3) to submit a report to the Attorney General with respect to the duties imposed on him by paragraphs (1) and (2).

"(d) Each agent or employee of the Federal Bureau of Investigation assigned to any polling place under subsection (a) or (b) shall be given access to such polling place and the place where votes cast in the referendum at such polling place are counted and tabulated in order that he may carry out the duties imposed on him by paragraphs (1) and (2) of subsection (c); but no such agent or employee shall interfere in the conduct of the referendum, or of the election in conjunction with which such referendum is held, by the State officials, or in the counting and tabulating by such officials of the votes cast in the referendum.

"(e) The Attorney General shall furnish to the Governor of any State in which agents or employees of the Federal Bureau of Investigation are assigned under subsection (a) or (b) a copy of the reports submitted to him under subsection (c) (3) by the agents or employees assigned in such State.

"(f) The Attorney General is authorized, for the purpose of carrying out the duties imposed on him by subsections (a) and (b), to appoint, without regard to the civil service laws and regulations, such temporary employees as may be necessary, and to fix their compensation in accordance with the Classification Act of 1949, except that the rate of compensation of such number of such temporary employees as he determines necessary may be fixed at rates not in excess of $75 per day.

"(g) The Attorney General shall, before January 10, 1965, submit a report to the Congress with respect to the duties imposed on him by this section, which shall contain a summary of the reports submitted to him pursuant to subsection (c) (3).

"Sec. 1309. (a) The Governor of each State which conducts the referendum shall certify the results of the referendum conducted in his State to the President of the Senate before January 10, 1965.

"(b) The President shall certify the results of the referendum conducted in any State or States under section 1305 to the President of the Senate before January 10, 1965.

"Sec. 1310. (a) The Senate and the House of Representatives shall assemble in a joint meeting in the Hall of the House of Representatives on January 15, 1965 (or as soon thereafter as possible), at which the certificates from the Governors of the States, and from the President, shall be opened, read, and the results thereof tabulated. The President of the Senate and the Speaker of the House of Representatives, acting jointly, shall declare the results of the referendum.

"(b) If a majority of the votes cast in the referendum approve of the first eleven titles of this Act, such titles shall become effective, except with respect to title VII which shall be subject to section 716, on the date on which the declaration of the President of the Senate and the Speaker of the House of Representatives is made.

"(c) If a majority of the votes cast in the referendum disapprove of the first eleven titles of this Act, such titles shall not become effective.

"Sec. 1311. Each State which conducts the referendum may, through its proper State officer, request reimbursement of the expenses incurred by it in conducting the referendum by submitting a statement of such expenses to the Chairman of the Committees on Appropriations of the Senate and the House of Representatives. Such requests shall be reviewed and allowed by the Committees on Appropriations of the Senate and the House of Representatives, acting jointly, and shall be certified by the chairmen of the two committees, acting jointly, to the Secretary of the Treasury for payment out of moneys appropriated therefor pursuant to section 1312.

"Sec. 1312. There are authorized to be appropriated to the President such sums as may be necessary to enable him to carry out the duties and functions imposed on him by section 1305. There are authorized to be appropriated to the Joint Committee on Printing such sums as may be necessary to enable it to carry out the provisions of section 1306, including such sums as may be necessary to reimburse the Government Printing Office for expenses incurred by it under such sections. There are authorized to be appropriated to the Attorney General such sums as may be necessary to enable him to carry out the provisions of section 1308. There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to reimburse the States pursuant to section 1311 for expenses incurred in conducting the referendum."

On page 67, line 23, strike out "of its enactment", and insert in lieu thereof "this Act becomes effective as provided in section 1201".

On page 68, immediately after "immediately", insert "upon the effective date of this Act as provided in section 1201".

On page 68, line 4, strike out "enactment of this title", and insert in lieu thereof "effective date of this title as provided in subsection (a)".

Amendment No. 948

On page 46, line 15, immediately after "(a)" insert "(1)".

On page 47, after line 14, insert the following new pararagraph:

"(2) The President shall appoint, by and with the advice and consent of the Senate, a State Representative for each State from among a list of at least three individuals recommended by the Governor of the State involved. Each State Representative shall serve for a term of two years, except that any indivdual chosen to fill a vacancy shall be appointed only for the unexpired term of the State Representative whom he shall succeed. The term of the first State Represeneative appointed for each State shall begin on the date of the enactment of this title. Whenever a charge is filed with the Commission pursuant to section 706, the State Representative for the State in which the unlawful employment practice charged is alleged to have been committed shall serve as an additional member of the Commission, and shall exercise all the powers of a member of the Commission, with respect to such charge. Each State Representative, while engaged in duties as authorized under this paragraph, shall receive compensation at the rate of $75 per diem and shall be paid travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently, but in no event shall any State Representative receive compensation in the aggregate during any fiscal year which exceeds an annual rate of $20,000."

Amendment No. 949

On page 70, strike out lines 1, 2, 3, 4, 5, 6, 7, 8, and 9, and insert in lieu thereof the following:

"TITLE IX—INTERVENTION IN CIVIL RIGHTS CASES"

On page 70, line 10, strike out "Sec. 902." and insert in lieu thereof "Sec. 901.".

Amendment No. 950

On page 9, line 14, immediately after the period, insert the following: "This section shall not apply to private clubs of any kind, or to fraternities, civic clubs, or organizations of any kind in which membership is selective."

Amendment No. 951

On page 14, after line 23, insert the following new section:

"Sec. 208. Whenever, as a result of compliance with the provisions of this title by the owner or operator of any business covered by this title, such business suffers financial loss, it shall be held and considered that such business, to the extent of such financial loss, has been condemned and taken for public use by the United States; and the owner of such business shall be entitled to just compensation for such taking as provided by the laws and Constitution of the United States."

Amendment No. 952

On page 47, line 21, immediately after "shall" insert "at the middle and".

Amendment No. 953

On page 30, strike out lines 14, 15, 16, 17, 18, and 19, and in lieu thereof insert the following:

"(b) The Commission shall, not later than July 31 of each year, submit a report to the President and the Congress setting forth its activities and findings during the first six months of such calendar year and its recommendations with respect thereto, and not later than January 31 of each year, submit a report to the President and the Congress setting forth its activities and findings during the last six months of the preceding calendar year and its recommendations with respect thereto. The Commission shall submit such other reports to the President and to the Congress at such times as the Commission, the Congress, or the President may deem advisable."

Amendment No. 954

On page 74, after line 23, insert the following new section:

"Sec. 1106. Nothing in this Act shall be construed to authorize the imposition of any condition of involuntary servitude whereby any individual is required to render labor or service without his consent; nor shall anything in this Act be construed to authorize any court to issue any process under this Act imposing any condition of involuntary servitude whereby any individual is required to render labor or service without his consent."

Amendment No. 955

On page 35, beginning with line 10, strike out all through line 19, on page 68 (title VII).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

Amendment No. 956

On page 6, beginning with line 12, strike out all through line 23, on page 13 (title II).

Renumber the succeeding titles and sections of the bill, and cross references thereto, accordingly.

On page 72, line 21, strike out "sections 205 and" and insert in lieu thereof "section".

Amendment No. 957

On page 24, line 7, immediately after "Acting Chairman", insert a comma and the following: "with the concurrence of one other member present,".

Amendment No. 958

On page 50, between lines 2 and 3, insert the following new subsection:

"(j) No person may serve as a member, officer, agent, attorney, employee, or consultant of the Commission, unless a full field investigation of such person has been conducted by the Federal Bureau of Investigation, and it has been determined by the Attorney General upon the basis of the reports of such investigation that (1) such person is not, and within the preceding ten years has not been, a member of any Communist organization (as that term is defined by the Subversive Activities Control Act of 1950, as amended (50 U.S.C. 782)) or a member of any organization which the Attorney General has determined to be a subversive organization, and (2) such service by such person is clearly consistent with the interest of the national security."

On page 71, between lines 13 and 14, insert the following new subsection:

"(c) No person may serve as an officer, employee, or consultant of the Service, unless a full field investigation of such person has been conducted by the Federal Bureau of Investigation, and it has been determined by the Attorney General upon the basis of the reports of such investigation that (1) such person is not, and within the preceding ten years has not been, a member of any Communist organization (as that term is defined by that Subversive Activities Control Act of 1950, as amended (50 U.S.C. 782)) or a member of any organization which the Attorney General has determined to be a subversive organization, and (2) such service by such person is clearly consistent with the interest of the national security."

Amendment No. 959

On page 54, line 3, immediately after the period, insert the following new sentence: "No such civil action may be instituted against any employer by any person claiming to be aggrieved if within one year preceding the date of institution of such action such person has engaged or participated in, or has incited or assisted participants in, any riot or other disturbance of the peace upon the premises of such employer resulting in interference with the conduct of business by such employer.".

Amendment No. 960

On page 45, between lines 13 and 14, insert the following new subsection:

"(k) Nothing contained in this title shall be construed to require any employer to hire, promote, or retrain any individual if such individual does not possess the qualifications determined by such employer to be required for employment in, promotion to, or retraining for the particular position involved in the business or enterprise of such employer."

Amendment No. 961

On page 9, line 7, immediately after the period, insert the following new sentence: "Notwithstanding the exception contained in the preceding sentence, the provisions of this title shall not apply to a bona fide private club located in the premises of any inn, hotel, motel, or other establishment which provides lodging to transient guests, if a substantial portion of the business of such club is derived from serving members of such club."

Amendment No. 962

On page 68, between lines 19 and 20, insert the following new section:

"EXCLUSIVE REMEDY

"Sec. 717. Beginning on the effective date of sections 703, 704, 706, and 707 of this title, as provided in section 716, the provisions of this title shall constitute the exclusive means whereby any department, agency, or instrumentality in the executive branch of the Government, or any independent agency of the United States, may grant or seek relief from, or pursue any remedy with respect to, any employment practice of any employer, employment agency, labor organization, or joint labor-management committee covered by this title, if such employment practice may be the subject of a charge or complaint filed under this title."

AMENDMENT NO. 963

On page 68, between lines 19 and 20, insert the following new section:

"IDENTIFICATION IN PERFORMANCE OF DUTIES OF COMMISSION

"SEC. 717. (a) Each member, officer, agent, attorney, or employee of the Commission shall, in the performance of his official duties, identify himself as such a member, officer, agent, attorney, or employee in any relations with any employer, labor organization, employment agency, joint labor-management committee, or any person other than a member, officer, agent, attorney, or employee of the Commission.

"(b) If any member, officer, agent, attorney, or employee of the Commission fails to comply with the provisions of subsection (a), no determination shall be made by the Commission, and no civil action may be filed under section 706 or 707, with respect to the unlawful employment practice alleged in the charge concerning which such failure to comply occurred."

Mr. COTTON. Mr. President, I yield myself 2 minutes.

I invite the attention of the majority leader to the fact that it is my understanding that the distinguished Senator from North Carolina [Mr. ERVIN] intends to offer a substitute amendment in place of my amendment, which would eliminate title VII of the pending bill. I am wondering whether the majority leader would consider a unanimous-consent agreement, under which one-half the time or the remainder of 1 hour could be surrendered for the discussion of that substitute, and the remaining time to go back on my amendment.

Mr. HUMPHREY. Mr. President, the majority leader has left the Chamber momentarily, but I am sure that he would permit me to speak for this side of the aisle.

An hour on the amendment by the proponents and those of us who oppose it, taken from the 2 hours of the majority leader's time would be satisfactory; in other words, the Ervin amendment would be limited to 1 hour for the proponents and 1 hour to the opposition, which would leave but 1 hour for the Senator from New Hampshire for his amendment and 1 hour for those of us who oppose his amendment.

Mr. COTTON. Would the majority leader believe it would be wise to vote at the end of the first hour on the substitute and then proceed with the next?

Mr. HUMPHREY. Yes; that seems to be appropriate, and I would fully concur. I understand that it is possible that a point of order could be made against the substitute, but I do not care to do so, because I believe this is an issue we have to face. The Senator from North Carolina is, in a sense, doing us a favor by bringing it up under this particular time limitation.

Mr. MANSFIELD. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. MANSFIELD. I am in wholehearted accord with the statement just made by the distinguished acting majority leader.

I ask unanimous consent that it be considered within the scope of the agreement already entered into, notwithstanding the fact that it touches parts of the bill not within the scope of the Cotton amendment.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Mr. President, will the Senator from New Hampshire yield?

Mr. COTTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Hampshire will state it.

Mr. COTTON. If time is taken out after the first debate for a quorum call, and a rollcall on the substitute, that time does not come out of the remaining time of debate; am I correct?

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the time for the rollcall and the recapitulation of the vote, and all the proceedings related to the vote on the Ervin amendment in the nature of a substitute, be excluded from the time limitation under the unanimous-consent agreement.

Mr. MANSFIELD. No; the time to be within the 4-hour limitation.

Mr. HUMPHREY. No. Separate and distinct from the 4 hours.

Mr. MANSFIELD. Within the 4 hours.

Mr. HUMPHREY. No.

Mr. President, as I understand, what has been agreed to is that there will be 1 hour on the Ervin amendment for the proponents, and 1 hour for the opponents, within the 4 hours which were agreed to under the original unanimous-consent agreement offered by the Senator from Iowa [Mr. HICKENLOOPER].

At the end of the 2 hours, on the Ervin amendment, if 2 hours of time is used, there would then be a rollcall on the amendment in the nature of a substitute by the Senator from North Carolina [Mr. ERVIN]; and it was my request that the time taken for that vote not be taken out of the remainder of the time that the Senator from New Hampshire has for his side, and that the Senator in charge of the bill has for his side.

Mr. BEALL. Mr. President, I object.

Mr. MANSFIELD. No, no, no——

Mr. BEALL. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. Mr. President, is the amendment of the Senator from New Hampshire [Mr. COTTON] No. 606? Can it be related to the revised printed bill before the Senate? It is difficult to——

Mr. HUMPHREY. Yes; it can be.

Mr. McCLELLAN. Is it related to the bill?

Mr. COTTON. It applies to the original bill; but my understanding is that the leadership agreed that if it should be adopted, it would be considered as having been adopted to the substitute.

Mr. McCLELLAN. It is difficult to relate it to the substitute bill, to find out what it does.

Mr. HUMPHREY. Mr. President, I should like to take a minute of the time on this side of the aisle to discuss that point. It is related to and is a part of the House-passed bill and the package bill in the nature of a substitute. The Cotton amendment seeks to increase the number before application of Federal employment practice standards; in other words, the employer of 100 or more employees would come under title VII, but what the Senator from North Carolina [Mr. ERVIN] seeks to do is to strike out title VII.

Title VII is in both the bills.

Mr. McCLELLAN. The amendment refers to page 28, line 22. I do not find that reference in the revised bill. At what page does the amendment apply?

Mr. HUMPHREY. It applies in the Dirksen-Mansfield package substitute at page 36, line 3, where reference is made to:

> *Provided*, That during the first year after the effective date prescribed in subsection (a) of section 716, persons having fewer than 100 employees—

And so forth.

Mr. McCLELLAN. I thank the Senator.

Mr. COTTON. How much time has been used?

The PRESIDING OFFICER. The Senator from New Hampshire has used 6 minutes. The Senator from Minnesota has used 5 minutes.

Mr. COTTON. I yield an hour to the distinguished Senator from North Carolina, or such portion of it as he may desire to use.

Mr. ERVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. There are not enough Senators present to second the request.

Mr. ERVIN. Mr. President, I ask unanimous consent that the yeas and nays be ordered on my substitute amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the yeas and nays are ordered.

Mr. ERVIN. Mr. President, I call up my amendment, No. 898, which, it has been unanimously agreed, is deemed to be an amendment in the nature of a substitute for the amendment offered by the able and distinguished senior Senator from New Hampshire [Mr. COTTON], No. 606.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. Beginning with the word and figure "TITLE VII" on line 10, page 35, strike out everything through the word "title" on line 19, page 68.

Renumber title VIII as title VII and section 801 as section 701.

Renumber title IX as title VIII and sections 901 and 902, respectively, as sections 801 and 802.

Renumber title X as title IX and sections 1001, 1002, 1003, and 1004, respectively, as sections 901, 902, 903, and 904.

Renumber title XI as title X and sections 1101, 1102, 1103, 1104, and 1105, as sections 1001, 1002, 1003, 1004, and 1005.

Mr. ERVIN. Mr. President, shortly after the end of what my geology professor used to call the "uncivil war," the 13th, the 14th, and 15th amendments to the Constitution of the United States were adopted.

I invite attention to some observations made by the Supreme Court of the United States in the case of Hodges against the United States, which observations appear in 203 U.S. at pages 19 and 20. In the opinion written by Mr. Justice Brewer the Court stated:

> At the close of the Civil War, when the problem of the emancipated slaves was before the Nation, it might have left them in a condition of alienage, or established them as wards of the Government like the Indian tribes, and thus retained for the Nation jurisdiction over them, or it might, as it did, give them citizenship. It chose the latter. By the 14th amendment it made citizens of all born within the limits of the United States and subject to its jurisdiction. By the 15th it prohibited any State from denying the right of suffrage on account of race, color, or previous condition of servitude, and by the 13th it forbade slavery or involuntary servitude anywhere within the limits of the land. Whether this was or was not the wiser way to deal with the great problem is not a matter for the courts to consider. It is for us to accept the decision, which declined to constitute them wards of the Nation or leave them in a condition of alienage where they would be subject to the jurisdiction of Congress, but gave them citizenship, doubtless believing that thereby in the long run their best interests would be subserved, they taking their chances with other citizens in the States where they should make their homes.

Mr. President, I ask unanimous consent that the 13th amendment, the first section of the 14th amendment, and the 15th amendment be printed at this point in the body of the Record as a part of my remarks.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

Amendment XIII

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

Amendment XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Amendment XV

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Mr. ERVIN. Mr. President, after the adoption of these amendments, Congress enacted certain statutes to implement them. The first of these statutes now appears in 42 U.S.C. 1971, and bears the title: "Voting Rights, Race, Color, or Previous Condition Not To Affect Right To Vote."

The second of these statutes appears in 42 U.S.C. 1981, and bears the title: "Equal Rights Under the Law."

The third of these statutes now is codified as 42 U.S.C. 1982, and bears the caption: "Property Rights of Citizens."

The first of these statutes, 42 U.S.C. 1971, reads as follows:

> All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, of any State or Territory, or by or under its authority, to the contrary notwithstanding.

The second of these statutes, 42 U.S.C. 1981, reads as follows:

> All persons within the jurisdiction of the United States shall have the same right in every State or territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishments, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

The third of these statutes, 42 U.S.C. 1982, reads as follows:

> All citizens of the United States shall have the same right, in every State and territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

The assertion has been frequently made during the course of the debate that the objective of the pending bill, H.R. 7152 is to confer upon the Negro race the same civil and political rights which are enjoyed by the white race. If that is the purpose of the bill—and its proponents assure us it is—there is no necessity whatever for passing the bill, because the Supreme Court of the United States and the inferior Federal courts and the State courts have held many times that under the 14th and 15th amendments to the Constitution and under these three statutes which I have just read the Negro race enjoys every civil and every political right which is enjoyed by the white race.

Mr. President, I ask unanimous consent to have printed at this point in the Record an enumeration of certain decisions of the Supreme Court and of the lower Federal courts, laying down the proposition that under the 14th and 15th amendments and under these three acts of Congress the Negro race enjoys perfect equality of civil rights and political rights with the white race.

There being no objection, the tabulation was ordered to be printed in the Record, as follows:

Cases holding that the 14th amendment and the acts of Congress enacted under it confer upon the Negro race perfect equality of civil rights with the white race:

Slaughter House Cases (16 Wall. 36, 21 L. Ed. 394).

Strauder v. *West Virginia* (100 U.S. 303, 25 L. Ed. 664).

Virginia v. *Rives* (100 U.S. 313, 25 L. Ed. 667).

In re Virginia (100 U.S. 339, 25 L. Ed. 676).

United States v. *Harris* (106 U.S. 629, 27 L. Ed. 290).

Gibson v. *Mississippi* (162 U.S. 565, 40 L. Ed. 1075).

Kentucky v. *Powers* (201 U.S. 1, 50 L. Ed. 633).

O'Sullivan v. *Felix* (233 U.S. 318, 58 L. Ed. 980).

Buchanan v. *Warley* (245 U.S. 60, 62 L. Ed. 149).

Hague v. *CIO* (307 U.S. 500).

Railway Mail Association v. *Corsi* (326 U.S. 88, 89 L. Ed. 2072).

Shelley v. *Kraemer* (334 U.S. 1, 92 L. Ed. 1161).

Torao Takahashi v. *Fish and Game Commission* (334 U.S. 410, 92 L. Ed. 1478).

Bolling v. *Sharpe* (347 U.S. 497, 98 L. Ed. 884).

Ex parte Riggins (134 F. 404).

Agnew v. *City of Compton* (239 F. (2d) 226).

Mr. ERVIN. Mr. President, I wish to call attention to a few statements in a few of those decisions. I shall read a short extract from the case of *Virginia* v. *Rives*, 100 U.S. 313. The portion I read appears on page 318. Before I quote from the decision, I should like to state that it is interpretative of two of the statutes which I read into the Record a moment ago. The excerpt reads:

> The plain object of these statutes, as of the Constitution which authorized them, was to place the colored race, in respect of civil rights, upon a level with whites. They made the rights and responsibilities, civil and criminal, of the two races exactly the same.

I wish to quote a sentence from the decision of the Supreme Court of the United States in the case of *Gibson* v. *Mississippi*, 162 U.S. 580:

> The cases cited were held to have decided that the statutory enactments referred to were constitutional exertions of the power of Congress to enact appropriate legislation for the enforcement of the provisions of the 14th amendment, which was designed, primarily, to secure to the colored race, thereby invested with the rights, privileges, and responsibilities of citizenship, the enjoyment of all the civil rights that, under the law, are enjoyed by white persons.

In speaking of the same statutes, the Supreme Court of the United States, in the case of *O'Sullivan* v. *Felix*, 233 U.S. 318, at page 323, said:

> These provisions secure to all citizens the same rights that white people enjoy.

Another decision which has to do with the construction of these statutes is in the case of *Hague* v. *CIO*, 307 U.S. 509. I ask unanimous consent that an extract from this decision be printed at this point in the Record.

There being no objection, the extract was ordered to be printed in the Record, as follows:

> After the adoption of the 13th amendment, a bill, which became the first Civil Rights Act, was introduced in the 39th Congress, the major purpose of which was to secure to the recently freed Negroes all the civil rights secured to white men. This act declared that all persons born in the United States, and not subject to any foreign power,

> excluding Indians not taxed, were citizens of the United States and should have the same rights in every State to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to enjoy the full and equal benefit of all laws and proceedings for the security of persons and property to the same extent as white citizens. None other than citizens of the United States were within the provisions of the act. It provided that "any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State * * * to the deprivation of any right secured or protected by this act" should be guilty of a misdemeanor. It also conferred on district courts jurisdiction of civil actions by persons deprived of rights secured to them by its terms.
>
> By reason of doubts as to the power to enact the legislation, and because the policy thereby evidenced might be reversed by a subsequent Congress, there was introduced at the same session an additional amendment to the Constitution which became the 14th.
>
> The first sentence of the amendment settled the old controversy as to citizenship by providing that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." Thenceforward citizenship of the United States became primary and citizenship of a State secondary.
>
> The first section of the amendment further provides: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."
>
> The second Civil Rights Act was passed by the 41st Congress. Its purpose was to enforce the provisions of the 14th amendment, pursuant to the authority granted Congress by the 5th section of the amendment. By section 18 it reenacted the Civil Rights Act of 1866.
>
> A third Civil Rights Act, adopted April 20, 1871, provided "That any person who, under color of any law, statute, ordinance, regulation, custom, or usage of any State, shall subject, or cause to be subjected, any person within the jurisdiction of the United States to the deprivation of any rights, privileges, or immunities secured by the Constitution of the United States, shall, any such law, statute, ordinance, regulation, custom, or usage of the State to the contrary notwithstanding, be liable to the party injured in any action at law, suit in equity, or other proper proceeding for redress." This, with changes of the arrangement of clauses which were not intended to alter the scope of the provision, became R.S. 1979, now title 8, section 43, of the United States Code.

Mr. ERVIN. Mr. President, I wish to note, in connection with the insertion, that the Court declared in this case that "the major purpose of the civil rights acts, which are now upon the statute books, was to secure to the recently freed Negroes all the civil rights secured to white men."

In the case of *Bolling* v. *Sharpe*, 347 U.S. 499, the Supreme Court said on this subject:

> As long ago as 1896, this Court declared the principle "that the Constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the General Government, or by the States, against any citizen because of his race."

Another opinion which dealt with the effect of the 14th amendment and the statutes that were enacted under it is in the case of *Buchanan* v. *Warley*, 245 U.S. 66. I desire to read the following extract as it appears on page 77 of the opinion:

> It (the 14th amendment) was designed to assure to the colored race the enjoyment of all the civil rights that under the law are enjoyed by white persons, and to give to that race the protection of the General Government, in that enjoyment, whenever it should be denied by the States.

I shall content myself with calling attention to only two of the decisions of the lower courts on this point. There are multitudes of such decisions dealing with the effects of the statutes enacted in reliance upon the 14th amendment and upon the 15th amendment. One of them is in the case of *Ex parte Riggins*, 134 Fed. 404. The substance of the holding is given in the first headnote, which states that the civil rights acts, which are the statutes I read into the RECORD, gave the emancipated race perfect equality of civil rights with the white race.

The last of the decisions to which I wish to invite the attention of Senators is in the case of *Agnew* v. *City of Compton*, 239 Fed. 2d 226. I wish to read a short extract from the portion of the opinion in this case that appears on page 230:

> The statutes next referred to are 42 U.S.C.A. 1981 and 1982. These are the first two sections of the Civil Rights Act, as now codified. The plain purpose of the statutes is to provide for equality of rights as between persons of different races. The complaint under review does not allege that appellant was deprived of any right which, under similar circumstances, would have been accorded a person of a different race. It follows that no cause of action is stated under these sections.

The statutes I have read to the Senate, the opinions I have cited, and the extracts from the opinions which I have enumerated make it clear beyond the shadow of a doubt that at the present moment members of the Negro race enjoy every civil right and every political right that belongs to members of the white race.

So the object of the bill is not to secure to Negroes any constitutional right or any right which they have under any act of Congress. They already have equality of rights with members of the white race both under the Constitution and under all the acts of Congress that implement the Constitution. Not only has Congress enacted these statutes, but it has made it clear that the Negro race has exactly the same civil rights and exactly the same political rights as does the white race. Moreover, Congress has enacted a number of statutes for the enforcement of those rights. I wish to call attention to those statutes.

Three of the statutes are criminal statutes, and are enforcible in criminal prosecutions instituted by the U.S. district attorney, at the direction of the Department of Justice.

The first is 18 U.S.C. 242, which bears the title "Deprivation of Rights Under Color of Law."

I shall not read this title at length; but I summarize it by saying that it makes it a misdemeanor, punishable by a fine not exceeding $1,000, or by imprisonment for not exceeding 1 year, or by both such fine and such imprisonment, for any State or local official to deprive any person of any right guaranteed him under the Constitution of the United States or under the acts of Congress implementing the Constitution.

The second of these statutes is 18 U.S.C. 241, which makes it a conspiracy, punishable by a fine of as much as $5,000 or by imprisonment for as long as 10 years, or by both such fine and such imprisonment, for any State or local official to conspire with a third person to deprive any person within the jurisdiction of the United States of any right secured to such person by the Constitution or laws of the United States.

The third of these statutes is title 18, United States Code, section 371, a general conspiracy statute. The courts have held that under this statute, any State or local official who conspires with another to deprive any person within the jurisdiction of the United States of any right secured to such person by the Constitution or laws of the United States, can be punished as provided by section 242 of title 18.

In addition to these three criminal statutes, under which the prosecution is by the Department of Justice, through the U.S. district attorneys of the districts concerned, and at the expense of the taxpayers, there are two civil statutes which give to any person who suffers a deprivation, or is threatened with a deprivation, of any right secured to him by the Constitution or laws of the United States, the right to institute civil actions. On the one hand, he can bring a civil action for damages, if he is actually deprived of his rights. On the other hand, he can bring a proceeding in equity—and such a proceeding is tried by a judge, without a jury—to prevent any threatened deprivation of any right secured to him by the Constitution or the laws of the United States.

These five statutes are designed to make certain that any citizen of the United States, of any race, shall have ample remedy, either by criminal prosecution or by a common-law action for damages or by a proceeding in equity, to vindicate his civil and political rights under the Constitution of the United States and the acts of Congress implementing the Constitution, and to obtain damages from any State or local official who may deprive him of any such rights.

So, Mr. President, there is no necessity to enact the pending bill in order to give members of the Negro race civil or political rights equal to those given the members of the white race. This is true because members of the Negro race already have such rights under existing law. Besides, they already have ample remedies for any violation or threatened violation of such rights.

The truth of the matter is that the purpose of this bill is to rob all Americans of some of their basic economic, legal, personal, and property rights, for the sole benefit of one segment of the population of our country.

Mr. SPARKMAN. Mr. President, will the Senator from North Carolina yield briefly to me?

Mr. ERVIN. I yield for a question.

Mr. SPARKMAN. With reference to the Senator's statement that the bill would take away certain economic rights, does not the Senator from North Carolina agree with me that is true with respect to certain rights secured under the National Labor Relations Act, the Railway Labor Act, and other acts, and that by means of the pending bill, those rights would be taken away from labor?

Mr. ERVIN. Yes. The pending bill would take away from all Americans many of their basic rights in connection with any dealings they might have with members of the Negro race.

Mr. SPARKMAN. Does not the bill also threaten the entire seniority system within the ranks of labor?

Mr. ERVIN. I so construe the bill.

Mr. SPARKMAN. So do I; and I had hoped to make a few remarks on this very point.

If the Senator from North Carolina will yield further to me——

Mr. ERVIN. I yield.

Mr. SPARKMAN. I wish to speak in favor of deleting title VII, the FEPC provisions of the civil rights bill, in its entirety. No better service could be rendered the laboring men, as well as employers, throughout the Nation than to defeat the entire title.

For some time now, and especially in the last few days, my office has received numerous messages and personal visits from representatives of organized labor in the State of Alabama, in opposition to title VII. Of course, I have been opposed to this whole bill from the start, and have been doing everything within my power to defeat it. On several occasions, I have stated openly my opposition to title VII, which would put the Federal Government and all disgruntled civil rights advocates in the position of dictating the terms of private employment throughout the whole Nation. I am equally opposed to the Mansfield-Dirksen substitute bill—amendment No. 656—as it relates to title VII. In many ways this substitute is worse than the House version of the bill, if that be found possible in comparing two proposals, when the whole purpose of both is wrong. The Attorney General would move into the picture under the substitute far more strongly than he would under the bill, and he could only intervene in law suits, but under section 707 he could file law suits on the ground that a pattern of resistance to title VII was building up in any area, region, or locality. Moreover, he could get a three-judge court. I not only hope the bill will be defeated, but I also hope the substitute will be defeated. I will vote for any amendment that will nullify title VII.

For many years it has been my purpose and pleasure to help the laboring man and organized labor. Several of the international and national leaders of organized labor are on record in favor of this bill; but the grassroots of labor know what Federal control of employment practices and the injection of the explosive racial discrimination issue under compulsory mandates can mean to the orderly conduct of the causes and procedures of organized labor. Those who have contacted me are strenuously opposed to it, as they should be.

For one thing it would hurt the seniority system and the merit system, and would infringe deeply on the freedom of choice of union leaders, union members, and employers. Title VII, together with title VI and other parts of the bill, would be detrimental to union rights and benefits due under the National Labor Relations Act, the Railway Labor Act, the Davis-Bacon Act, the Walsh-Healey Act, and under other beneficial legislation.

The substitute amendment—No. 656—attempts to offset the damage of the House version of the bill to the seniority and merit systems, by recognizing them in section 703(h) at page 44; but this is offset by the added power of the Attorney General to institute employment pattern suits with practically no limitations thereon. Moreover, the racial imbalance question and the quota system rise wherever we turn in title VII, regardless of the so-called mitigating language found on pages 44 and 45 of the substitute, because even there, and especially in the House version of the bill, there is nothing to say that the matter of racial imbalance—which is something that we can hardly regulate by law—and the percentage of persons of any given race employed in any area or in a given plant or on the rolls of a labor union, cannot be presented in evidence to the Equal Employment Opportunity Commission. In the hands of a Commission such as this, it would no doubt have a damaging effect on both employers and labor unions, in the ultimate result. This would also be detrimental to well qualified and perhaps unemployed people of the majority race, because this bill would carry with it the power of enforcement. In the South, it would carry with it the power of immediate enforcement. In fact, the sum total of the omissions as well as the specific and technical language of title VII is that it is aimed at the South, as one of its purposes.

Mr. President, an FEPC bill has never passed the Senate. I hope one never will pass this great body. Title VII proposes entry into an area which the Federal Government has absolutely no right to enter; namely, private employment. It is begging the question to debate whether an employer should have 100 or should have 25 employees before the Federal Government would take jurisdiction over his employment practices, and over labor unions, according to the same figures. The fundamental point is that the Federal Government should not in this instance enter the field of private employment at all.

If we let the Government get its foot in the door, whether it be on a basis of 100 or of 25, it will not be long, if history runs true to form, before the door will be wide open.

The innumerable hardships of keeping records and of being inspected and being subject to the mandates of a Commission, and ultimately of the courts, should not be foisted upon private employers. There is simply no justification for doing so; and the same reasoning applies for labor unions and employment agencies. Our traditional American concept of freedom of choice and the freedom to run one's own private affairs as he sees fit should compel us to reject this proposed invasion of our traditional rights.

Private employment often is involved indirectly, as in the case of contractors undertaking a Government contract with departments and agencies of the Federal Government. In many cases, only a part of a contractor's employees are concerned with supplying materials or with actually working on the Government contract. In a case such as this, titles VI and VII could combine to make a devastating situation for a private employer. He could be caught from all angles in the vice of Federal dictates, inspections, the withholding of funds, and court action in enforcement of vague language. Title VI states that:

> No person shall be subjected to discrimination under any program or receiving Federal financial assistance.

The title then directs all Government agencies to enforce this language. It authorizes the withholding of funds and all other means under existing law, including court action, for enforcement. If a contractor should have a need for plumbers, and if the union supplied him qualified plumbers, whom he hired instead of a less qualified member of a minority race, then a dual title VI and title VII case could arise. The power proposed by title VI would be tremendous. When coupled with title VII, so as to bring in all employees of the contractor not related to the Government contract, this power could make practically meaningless what labor organizations have fought for in a period of 100 years of sometimes frustrating, and always strenuous struggle. The employer would soon realize that he was faced with a question of sheer Federal power—a power that would be hard to fight.

This whole bill is an invasion of personal and property rights that are more sacred to me under the Constitution than the so-called duty to bring about compulsory racial integration and compulsory dictates from the Government as to how a private employer should conduct his own business. We should not sacrifice important constitutional personal and property rights of the many for something of doubtful benefit to the few. Therefore, we should delete title VII.

Mr. ERVIN. Mr. President, I thank the Senator from Alabama for his contributions.

I point out that the demand for passage of the pending bill, which would rob all Americans of many of their most precious rights for the supposed benefit of only one segment of the American people, is understandable when one reads, for example, an editorial which was published in the Wall Street Journal. I quote from it:

> In recent times, among other things, America's traditional tolerance toward minorities has shown a tendency to get twisted; if a person is a member of a minority, his rights are sometimes alleged to be superior

> to the majority's, by virtue of his minority status.

This country had a public accommodations law at one time similar to title II of the pending bill which was passed by Congress in 1875. The U.S. Supreme Court struck down that law as unconstitutional, in the Civil Rights cases, which are reported in 109 U.S. at page 3.

I am surprised by the inclusion of the public accommodations title in the pending bill, because under every decision of every court handed down from 1883 to this moment, this provision is unconstitutional. I cannot guarantee what the Supreme Court, as now constituted, will decide; but I do not believe that the Supreme Court, as now constituted, is so lacking in intellectual integrity and judicial stability that it would go so far as to hold the public accommodations title of the bill constitutional under the 14th amendment or the commerce clause.

In the Civil Rights cases of 1883, Mr. Justice Bradley, one of the greatest lawyers ever to adorn the Supreme Court of the United States, wrote the majority opinion, which was concurred in by all of the Justices of the Supreme Court except one Justice of the Court, who dissented. On page 25 of his opinion, he placed his finger squarely upon the fatal defect in the pending civil rights bill and in every other civil rights bill of modern vintage. Here is what he said in that respect:

> When a man has emerged from slavery, and by the aid of beneficient legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights as a citizen, or a man, are to be protected in the ordinary modes by which other men's rights are protected.

That statement from the opinion of Mr. Justice Bradley in the Civil Rights cases of 1883 is directly applicable to the pending bill and virtually every provision of the pending bill. The bill evidences a purpose on the part of the proponents that members of the Negro race should not take their rank as mere citizens as white people do but, on the contrary, should be made special favorites of the laws. The bill proposes to let the Department of Justice bring lawsuits for the supposed beneficiaries of the bill, an authority which will never be executed in behalf of members of the Caucasian race in this Nation. The bill would thereby make the Negro race a special favorite of the laws by excusing them from having their rights adjudicated by the same laws by which all other men's rights are adjudicated.

What would title VII of the bill do? I wish to read from the substitute offered by the Senator from Illinois [Mr. DIRKSEN] for himself, the majority leader, the Senator from Montana [Mr. MANSFIELD], the majority whip, the Senator from Minnesota [Mr. HUMPHREY], and the minority whip, the Senator from California [Mr. KUCHEL], on May 26. I call attention specifically to section 703, subsection (a):

> It shall be an unlawful employment practice for an employer—
>
> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
>
> (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.
>
> (b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

One of the things which has made America great has been the free enterprise system. The men and women who founded America came here in order that they might enjoy certain liberties which were denied to them in the lands of their origin. One of those liberties was economic liberty. Those men and women had been denied the benefit of the fruits of their own labor, in many cases, in the lands of their origin by confiscatory taxation. Also they were denied the right to own property in fee simple in many of the countries from which they had come. So they came to this country in order that they might have an opportunity to better their lot economically, and they desired to have that opportunity in the land of freedom where the free enterprise system would be permitted to work. So men invested their resources and talents in business or industry in the United States. They gambled upon the success of that business or industry. One of the great rights which they exercised in carrying on their business or industry was the right to select for themselves those whose services they desired to have in the carrying on of their business or industry.

They wanted to have the right, and they were allowed the right, free from Government control and free from Government dictation, to determine which of their employees by reason of their loyalty and by reason of their superior services should be entitled to promotion. They wanted to have the right, and they were allowed the right, to determine what skills were necessary in their employees to make their business or industry a success. They wanted to have the right, and they were accorded the right, under our law, to discharge from their employment those who were not loyal to them or those whose services were of such an inferior quality that they did not contribute to the success of the enterprise. They wanted to have the right, and they were accorded the right, to determine in what parts of their business or industry their employees should work. They wanted to have the right, and they were accorded the right, to determine what the workload of their employees should be within reasonable bounds. Also, they wanted to have the right, and they were given the right, to arrange the compensation of their employees so as to reward their employees for their loyalty and skill in proportion to their loyalty and their skill. Those were the rights which made the free enterprise system work.

Those were precious rights. They were precious rights because a man who goes into business or industry gambles his resources, his time, and his energies upon the success of the venture in which he engages. No one else has any such stake in it.

Title VII of the bill would rob every American having as many as 25 employees in any business or industrial enterprise affecting interstate commerce of those precious rights which the founders of our country came here to enjoy. The bill would give the Federal Government the power to go into any business or industry in the United States having as many as 25 employees and affecting interstate commerce and tell the operator of that business whom he had to hire. It would give the Federal Government the power to go into any such business or any such industry and determine whom the employer had to promote. It would give the Federal Government the power to go into any such business or industry and tell the operator of that business whom he should lay off and whom he should retain in times of financial adversity.

Mr. President, the bill would go further than that. It would give the Federal Government the power to go into such business and industry, and even direct the operator of such business or industry as to how he should fix the rates of compensation as between employees.

The bill is broad enough in its provisions in respect to terms, conditions, and privileges of employment to authorize the Federal Government to undertake to tell the operator of a business or industry what the workload of his employees should be. Section 703(a)(2) states that it shall be an unlawful employment practice for an employer to limit his employees.

Under this provision of the bill the Federal Government would have the power to say to a business or an industry how many employees it should have.

All those powers would be given to the Federal Government, to the end that the Federal Government might prevent the owner of a business or industry from discriminating in his own mind between a man of one race and a man of another in any aspect of employment.

It is absurd to contend that the Constitution gives one man a civil right to compel another to hire him.

The provisions of section 703 make it an unlawful employment practice for an employer "to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin." Under this provision the Federal Government would have the power to go into a business, or an industry, and direct the operators of that business or that industry as to what rooms, or what departments of that business or industry they would have to assign particular employees to in order to prevent segregation of the races within various rooms and various departments.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. COOPER. I know that the Senator has studied the bill very thoroughly. I realize that title VII has aroused concern and fears among some employers. The argument the Senator is making if it were accurate would justify those fears. But, with all deference, I believe his statement is extreme. The Senator has declared that this title would give to the Federal Government extensive and indeed unprecedented powers. But my interpretation of title VII, derived from study and the extensive discussions we had with the author of the substitute bill, Senator DIRKSEN, is that the Federal Government would not be given the powers which the Senator has detailed namely, the power to tell an employer whom he should employ, or whom he should dismiss, or whom he should promote, or what priorities employees should be given in jobs.

As I understand title VII, an employer could employ the usual standards which any employer uses in employing—in dismissing, in promoting, or in assigning those who work for him. There would be only one limitation; he could not discriminate, he could not deny a person a job, or dismiss a person from a job, or promote on the sole ground of his color, or his religion, other factors being equal.

I think this should be made clear, because the Senator's remarks may frighten people all over the country who do not have the time to study this bill with the thoroughness it deserves.

Mr. ERVIN. I suggest to the Senator from Kentucky that he request the Senator from Illinois to read the decision in the Motorola case, which decision was handed down by a trial examiner in the State of Illinois, under the Illinois FEPC law. In that decision, the employer was told flatly that he had to hire a colored man in preference to a white man, even though the white man had passed, and the colored man had failed to pass, the examination which experts employed by the employer had set up to determine the skills needed for the work. The trial examiner flatly told the employer that he had to hire the Negro, even though he had failed the examination. Not only that, but the trial examiner told him that he could not use the examination in the future because the record showed that more white men than colored men had passed the examination.

Mr. COOPER. I know about the Motorola case. I know that it was brought under the Illinois law. But today we are talking about a particular title of the bill. It will be determined upon the language in the bill, upon the interpretation and the legislative history. The interpretation which the Senator is giving to title VII is very extreme and, I do not think, it is correct.

Mr. ERVIN. There is even a provision in the bill that if the employer does not hire a man whom the Government later finds is qualified, the employer can be compelled to pay back wages to the man from the date he had applied for the job.

I am on limited time. Unless the Senator can borrow time from the opposition, I shall proceed.

Mr. CLARK. Mr. President, I am in charge of time for the opposition. I yield 5 minutes for the purpose of engaging in a brief colloquy with the Senator from North Carolina.

I must say to the Senator from North Carolina, whose judicial experience and wise judgment we all honor, that I have been rather startled to hear some of the arguments he has been making in support of his very radical amendment this afternoon.

Does not the Senator know that the Motorola case has absolutely no bearing on the legislation we are now considering? The Senator is a good lawyer. He was a good judge. He knows that the Motorola case has nothing to do with title VII of the bill.

Mr. ERVIN. The decision in the Motorola case was handed down pursuant to a State act on which this title is based.

Mr. CLARK. I do not like to see the Senator go out on a limb that way. This law is far different from the Illinois law under which the trial examiner made a preliminary decision which has not yet been reviewed by the court, and which, in my opinion, is certain to be overruled. That Illinois law is so different from the proposed law that it is difficult for me to understand how as good a lawyer and as good a judge as the Senator from North Carolina can intimate that there is the slightest similarity between the two.

Mr. ERVIN. I say that the Illinois law and the proposed bill are as alike as two peas in a pod.

Mr. CLARK. Someone has a bad case of indigestion or is colorblind. It must be either the Senator from North Carolina or I. We shall have to leave it to the judgment of the Senate.

Mr. ERVIN. The Senator has said that all other things being equal, the provision would apply. Who will determine whether other things are equal? The person concerned would not have the right or the authority to determine it. That power will be turned over to the Commission, and then to the courts. There will be a bureau with as many employees as the locusts which go abroad and eat up the substance of the people. The decision as to whether things were equal and what the state of the mind of the employer was will be made, in the first instance, by Federal bureaucrats, and, in the second instance, by Federal courts. The investigators can say that the employer made the wrong decision because of bias and that the two applicants were equal. He can be penalized.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. ERVIN. I will yield for a question, but I do not believe I will yield for a speech. The Senator can make a speech on his own time.

Mr. CLARK. I will withhold my questions. I was about to ask the Senator some Socratic questions. They might even be known as leading questions in the law.

Mr. ERVIN. I have very limited time. I yielded to the Senator and the Senator made speeches every time instead of asking questions. I think I had better use my own time and let the Senator use his.

Mr. CLARK. I appreciate the Senator's unfailing courtesy.

Mr. ERVIN. Mr. President, the purpose of the bill is to let the Federal Government take charge of the hiring practices in every business and every industry in the United States having as many as 25 employees, and affecting interstate commerce in the slightest degree. The employer could act in good faith. He could say "I want this man of this race to work in my plant, because he fits in better than a man of another race." But under the bill the Federal Government can make him fire the man that he hired, and give the other man a job and pay him for lost time from the time he applied for the job to the time the decision is rendered.

It will be stated that this cannot be done and that only the courts can compel one to act. But the average American citizen does not like to become embroiled in a lawsuit, especially with Uncle Sam. The Commission, or the Department of Justice, or the applicants will threaten employers with lawsuits, and they will surrender to the dictates of the Commission, or the Attorney General, or the applicants rather than to be harassed by lawsuits.

This bill undertakes to control the thoughts of the American people in respect to racial matters, and to compel the American people to conform their thoughts in this field to the dictation of the Government.

It is a thought control bill. No man will be adjudged guilty of an illegal act under title VII of the bill on account of the nature or quality of his act. He will be judged guilty or innocent on the basis of the contents of his mind at the time he commits the act, because discrimination is a mental process. He is to be charged and condemned on the basis of the content of his mind, not upon the nature or the quality of his external act.

The idea that Congress can legislate equality among men is an idea which history explodes. It cannot be done. There is only one field in which a free society can legislate equality, and that is equality before the law.

Under the statutes which I have read, under the decisions which I have cited, and under the decisions which I have quoted, it is obvious that the United States has already established equality before the law for all American citizens, regardless of their race.

This is an effort to go far beyond that, and to legislate equality in other fields. The bill ignores the fact that when a free society undertakes to legislate equality in any area except equality before the law, it destroys its own freedom.

That is what this bill would do. It would rob employers of the right to hire, to discharge, to promote, and to fix the compensation of their own employees in any case where a Federal bureaucrat or a Federal court rules that they were actuated by any racial motive in their action.

There was a very wise Negro in North Carolina, C. C. Spaulding, one of the founders of the largest insurance company on the face of the earth, owned, operated, and controlled by members of the Negro race, who said:

> Equality is a thing which should not be demanded because it cannot be granted. It has to be earned. No utopian dreamer can achieve it for another man. You cannot drink from the spring high on the mountain unless you climb to it. If the Negro wants equality, except for opportunity, he must pay for it. And the unalterable price is character and achievement.

This is a bad bill. Many of those who advocate its enactment have deceived multitudes of members of the Negro race into believing that passage of the bill will solve their economic and social problems. Indeed, some of the proponents of the bill have assured its supposed beneficiaries that the bill alone will transport them to economic, social, and political skies on flowery beds of ease. The tragic truth is that little can be done to better employment opportunities for people of any race as long as 895,000 nonwhites and 3,629,000 whites are without employment.

The supposed beneficiaries of the bill will be bitterly disappointed because the bill will not do much to better their status.

So far as title VII is concerned, the bill will be used to harass businessmen and industrialists throughout the United States. One of the worst features in the bill is its centralization of the Government in Washington. It would take and transfer from the States, from the localities, and from the people themselves the power to regulate commercial, business, and industrial enterprises. It would vest that power in the Federal Government and centralize it on the banks of the Potomac River. It would thrust the long arm of Federal regulation into every commercial enterprise, every business enterprise, and every industrial enterprise of any consequence throughout the land.

It would rob investors and employers of some of their basic economic rights. It would destroy some of the most precious and most valuable parts of the private enterprise system.

This bill is not a bill to give equality of opportunity. It is a bill to vest in the Federal Government powers which rightly belong to business and industry.

The bill would make the members of a particular race special favorites of the laws. It would excuse them from having their rights adjudicated by the same laws by which other men's rights are adjudged if the Attorney General exercises his discretionary powers to sue at public expense for their special benefit.

I believe the greatest expert in government ever to occupy the White House was Woodrow Wilson. He studied law and practiced it for a time, and thereafter devoted his entire mature life, until he became Governor of the State of New Jersey, to the study and teaching of government. After that, he spent the remainder of his life in the practice of government.

Woodrow Wilson made a profound observation, which is directly applicable to this bill.

> Liberty has never come from the government. Liberty has always come from the subjects of it. The history of liberty is the history of limitation of governmental power, not the increase of it. When we resist, therefore, the concentration of power, we are resisting the processes of death, because concentration of power is what always precedes the destruction of human liberties.

The bill would concentrate in the Federal Government in Washington the power to control the hiring practices of virtually all the commercial, business, and industrial enterprises of any significance throughout the United States. It would thereby destroy many liberties.

I repeat, this is a thought-control bill. Under the bill, no man would be judged on the basis of the nature or quality of his external act. He would be judged solely upon the basis of the supposed contents of his mind at the time he commits the act.

Why anyone should be so foolish as to believe that the Government can control the thoughts of people in this area any more than in any other area of life is something which I am incapable of comprehending.

At one time the law undertook to interfere with the personal habits of people. It undertook to prohibit the use of intoxicating liquors. In short, Congress, through the Volstead Act, tried to regulate the contents of the stomachs of men. It sent its agents into every nook and corner of the country, to enforce the law under which the Government undertook to control the contents of the stomachs of men, and it failed miserably.

A government which is incapable of controlling the contents of a man's stomach cannot possibly regulate the contents of a man's mind.

It is a fine thing that the Government cannot regulate the contents of people's minds, because if that power did reside in government, the tyrants of the past would have long since placed humanity in a mental straitjacket and made it incapable of exercising freedom of thought.

I respectfully submit that if we wish to keep America "the land of the free and the home of the brave," instead of making it "the land of the coerced and the home of the governmentally regimented," we should strike out title VII of the pending civil rights bill, as my amendment proposes.

Mr. CLARK. Mr. President——

The PRESIDING OFFICER (Mr. McNAMARA in the chair). The Senator from Pennsylvania is recognized. How much time does the Senator from Pennsylvania require?

Mr. CLARK. I yield myself as much time as I may require, unless the Senator from New York would like to take some time at this point.

Mr. KEATING. I thank the Senator from Pennsylvania, but I do not need time now. I am sure that the Senator is opposed to the proposal, as I am, and I shall listen to his arguments with great interest and undoubtedly will not need to add anything to them.

Mr. CLARK. Mr. President, would the Senator from New Jersey [Mr. CASE] like to have some time at this point?

Mr. CASE. I should be happy, indeed, if the Senator from Pennsylvania made his remarks first, and then possibly we might have some colloquy during the course thereof.

Mr. CLARK. Mr. President, I yield to myself such time as I may require. I ask whether I am correct in assuming that I have approximately 55 minutes left?

The PRESIDING OFFICER. That is correct.

Mr. CLARK. Mr. President, since this filibuster began on March 9, some rather extraordinary speeches have been made on the floor of the Senate about the bill in general and about title VII in particular.

As one of the floor managers of title VII, I undertook to speak at some length in support of the title on April 8. I shall do no more than summarize very briefly the arguments I then made in support of the title. At the same time the able senior Senator from New Jersey [Mr. CASE], who is the floor manager of the bill on the Republican side, made a very distinguished speech in support of the title.

There has been so much oratory, and so many really extravagant statements have been made about what title VII does, that it is perhaps difficult to speak objectively and carefully about what the title is intended to do, without being diverted into an effort to rebut some of what can only be called fantastic misstatements about what the title does, which have been made from time to time, not only on the floor of the Senate but also by a large number of individuals serving in the press corps, without their having taken the trouble to read the title or being quite careless in what they had to say about it.

Let me deal first with the suggestion, made over and over again, that title VII might conceivably be unconstitutional. No lawyer worthy of the name thinks that. The constitutionality of title VII under the commerce clause of the Federal Constitution has been amply demonstrated time after time.

On the 8th of April I put in the RECORD an opinion from 32 of the ablest constitutional lawyers in the United States, stating their clear view that there was not a shadow of doubt about the constitutionality of title VII. That opinion was buttressed by an excellent opinion of the Attorney General of the United States, signed by the Deputy Attorney General, Mr. Katzenbach, and by another excellent opinion provided by the Solicitor of the Department of Labor.

I say again—and I challenge the opponents of title VII to show that I am wrong—that there is not a scintilla of doubt about its constitutionality. A lawyer cannot make a tenable argument that title VII is unconstitutional.

I was rather startled to hear my good friend from North Carolina make the statement, which I believe I took down accurately, that this was a title to rob all Americans of important rights for the benefit of one segment of the population.

Mr. President, this title would not deprive anyone of any rights. All it does is to say that no American, individual, labor union, or corporation, has the right to deny any other American the very basic civil right of equal job opportunity.

The bill does not make anyone higher than anyone else. It establishes no quotas. It leaves an employer free to select whomever he wishes to employ. It enables a labor union to admit anyone it wishes to take in. It tells an employment agency that it can get a job for anyone for whom it wishes to get a job.

All this is subject to one qualification, and that qualification is to state: "In your activity as an employer, as a labor union, as an employment agency, you must not discriminate because of the color of a man's skin. You may not discriminate on the basis of race, color, religion, national origin, or sex."

That is all this provision does. It would establish a legislative civil right for what has always been a sacred American constitutional right, the right to equal protection of the laws. That phrase does not come from the commerce clause, but the philosophy behind it is the philosophy behind the fair employment practice title.

It merely says, "When you deal in interstate commerce, you must not discriminate on the basis of race, religion, color, national origin, or sex."

Title VII as it presently exists, and as modified—as many of us agreed, reluctantly, including myself, that it should be modified by the Dirksen amendment—is one of the mildest Fair Employment Practices acts ever to be brought before the Congress.

I had the privilege of serving as the chairman of the Subcommittee on Manpower and Employment of the Committee on Labor and Public Welfare. We took a great deal of testimony for a great many days. The details are set forth in my speech of April 8.

We reported a fair employment practice bill to the Senate by a vote of 12 to 3, a bipartisan vote, because among the honored Republicans who voted in support of the bill was the junior Senator from Idaho [Mr. Jordan], who is now in the Chamber, the Senator from New York [Mr. Javits], and the Senator from Vermont [Mr. Prouty]. Only three Senators voted against reporting the fair employment practice bill to the Senate. It came from the Committee on Labor and Public Welfare by a vote of 12 to 3. That bill was a much stronger bill than the one now before the Senate.

I preferred that bill. It gave teeth to the enforcement of fair employment practices by a Fair Employment Practices Commission, established by law, with an administrator, who had important executive duties, and with the right of appeal, not to the district court, but to the circuit court of appeals.

The relatively mild fair employment practices bill which passed the House was far weaker than the Senate bill. To my way of thinking, the Dirksen amendments have weakened the House bill in several unfortunate respects. I commented on this point on the floor of the Senate several days ago.

Now, we have a pretty mild fair employment practices proposal. It is intolerable to me that the Senate should fail to retain this title in the bill when it comes to be finally passed. To my way of thinking, the most important civil right for disadvantaged citizens is the right of equal job opportunity.

Of course, that ties in very closely, as the present occupant of the chair, the former distinguished Secretary of Health, Education, and Welfare [Mr. Ribicoff] knows, with the right to equal educational opportunities, for unless American citizens, regardless of race and color can have equal educational opportunities, there is little likelihood that they can receive equal job opportunity in a free enterprise system.

With respect to the present labor force, to a man or woman whose education has for all practical purposes been completed, the right to equal job opportunity is the most important civil right of all. What good does it do to allow a man to go into a restaurant, to obtain a room in a hotel or a motel, regardless of his race, creed, or color, if he does not have the money with which to pay for such services? How can he have the money if he cannot get a job without discrimination, which will enable him to earn money, which can make the access to public accommodations a real and living thing, as opposed to an empty constitutional right incapable of being enforced?

So when we strike, or speak of striking title VII from the bill in my judgment we strike at the very heart of the bill itself. In my judgment, the adoption of the Ervin amendment would be the gravest catastrophe that could overcome the cause of civil rights since this long and tedious filibuster began so many months ago, back on the 9th of March.

The moral question raised by the bill is particularly applicable to the fair employment practices title. The moral issue is clear, indeed. It is merely a question of right and wrong. We cannot duck it. There is no way we can avoid searching out our own consciences. The bill clearly raises this important moral question.

We had before us, in hearings held by the committee, eloquent and articulate representatives of the churches of the United States. In our record, at page 180, the representatives of the National Catholic Welfare Conference, the Synagogue Council of America, and the National Council of Churches of Christ in America said:

> The religious conscience of America condemns racism as blasphemy against God. It recognizes that the racial segregation and discrimination that flow from it are a denial of the worth which God has given to all persons. We hold that God is the Father of all men. Consequently in every person there is an innate dignity which is the basis of human rights. These rights constitute a moral claim which must be honored both by all persons and by the state. Denial of such rights is immoral.

The second reason why this mild provision of title VII, dealing with fair employment practices, should be adopted by the Senate, and the pending amendment defeated, is that of the great economic need. Economics is at the heart of the racial situation. The Negro has been condemned to poverty because of a lack of equal job opportunities. This poverty has kept the Negro out of the main stream of American life. This is the issue that confronts us on the economic side.

In my speech of April 8, I documented, over and over again, with statistic after statistic and table after table, drawn from sources the accuracy of which it is not possible to contest, the shocking inequality of the Negro in America, resulting in large part, although not in whole, from racial discrimination in terms of employment. I say again, "Not in whole," because obviously racial discrimination in education plays a very important part in the inferior economic status of those who are as entitled to equality of opportunity in employment as any other American citizens, regardless of their color.

The third reason why I say the bill is so important is that legislation is needed at the Federal level to enforce these rights. This contention was documented at great length in my speech of April 8. I pointed out then that it is true that in 28 States and some 48 cities there are fair employment practices laws or ordinances. Every single State east of the Mississippi and north of the Ohio, except Maine and New Hampshire, has fair employment practice legislation. One may point out that the number of Negroes in the two States which do not have such legislation is really minimal.

West Virginia, Kansas, Oklahoma, Colorado, and New Mexico also have such legislation. The three Pacific Coast States and Idaho and Nevada have fair employment practice legislation. But mark this well: Not a single State of the Old Confederacy has such a law. [Manifestations of applause in the galleries.] This is the most cogent argument of all in support of the need for title VII.

The PRESIDING OFFICER (Mr. Ribicoff in the chair). The occupants of the galleries will refrain from any demonstrations; otherwise the galleries will be cleared.

Mr. CLARK. Sixty percent of the nonwhite population of America lives in 22 States where there are no fair employment practices laws. Moreover, the State and local acts vary widely in their effectiveness. In many areas, effective enforcement is hampered by inadequate legislation, inadequate procedures, or an inadequate budget. Big interstate industry cannot effectively be handled by the States. Interstate commerce is the primary responsibility of the Federal Government.

The States which have the best FEPC laws—and I count my own State of Pennsylvania as one; I am proud of our law—are those which most articulately demand and request a Federal law to assist them. Five very able men testified before the Senate Committee on Manpower and Employment. They are the men who administer the fair employment practice laws in New York, New Jersey, Missouri, Minnesota, and California. Those five men were unanimous in their support of fair employment practices legislation at the Federal level.

The Governors or the representatives of Governors of 15 States are also on record as supporting a Federal FEPC law.

I documented that statement at some length in my speech of April 8.

Mr. President, these are the major reasons why we should de`eat this amendment and retain in the bill the very mild fair employment practices title which is now incorporated in the Dirksen-Mansfield amendment.

Before I close, let me nail one inaccuracy which is repeated time after time after time. We are told about the great Federal bureaucracy that the bill would create. Yet time after time it has been made clear that if title VII were adopted, the total number of additional Federal employees would be 190. If we had not written sex into the bill, the number would be only 145.

How much would it cost? We hear about the billions of dollars for enforcement by the Federal bureaucracy to secure the property rights of the American people. Yet we know that human rights are more important that property rights. Still, the bill would not do a single thing to a property right.

How much would it cost? Four million seven hundred and fifty thousand dollars a year over a 5-year period.

I rarely become amazed or surprised any more at anything that happens in the Senate. My capacity for indignation is growing less as I grow older. I am sure that is a good thing. It does no good to argue the merits and demerits of the bill any longer. The time has gone by for that. I think it important that delicate personal relationships inside the Chamber should be maintained in that friendly manner which has characterized them ever since I came to the Senate more than 7 years ago. I would not want to say anything in this speech or later in the debate which might in any way prejudice the cordiality of those relationships.

I can only say that I hope the pending amendment will be overwhelmingly defeated and that we can move on to cloture and the passage of the bill, so that almost 100 years after the Civil War amendments to the Constitution were approved, the Negro in America can, for once, have effective legislation to secure those just rights for which governments were instituted among men.

I am happy to yield to the Senator from New Jersey.

Mr. CASE. Mr. President, first, let me say how much, as a Member of this body, I appreciate the clear exposition and stirring statement just made by the Senator from Pennsylvania. It has been my pleasure personally to be associated with him in the development of and the defense of title VII. I share with him the wish that we had been able to strengthen the House bill in this respect rather than perhaps in some respects weakening it. That seemed not advisable.

Nevertheless, we have title VII in the form of the leadership amendments, which on the whole I believe, will do a very effective job as they stand now. But I must say that they cannot be in any respect weakened without almost destroying any value whatever that they may have.

The Senator from Pennsylvania has referred to remarks which he made and remarks which I made when this matter, in the form of the House version of the bill, was before us. Inasmuch as the Senator from Pennsylvania has not repeated the remarks he made at that time, I shall not repeat the remarks I made then, either.

Clearly, under the mechanics of the bill in the form with which the leadership is concerned, more concern or more deference could not be given to the rights of the States. For example, the Federal agency which would be able to mediate in this connection could not consider taking any action for 2 months, if there were any State machinery at all. The States will be given that much time in which to deal with complaints. Only when the States have no colorable claim to give consideration to such matters, can they be considered by the Federal Government in the time specified; and, of course, that amount of time is to be doubled in the first year.

So it is very difficult, in my opinion, for anyone to claim that anyone will be harassed under the provisions of the bill—even if we assume that some one of the enforcement officials might be overly zealous. No employer of less than 100 employees would be affected the first year; the next year, the limit would be 75; the next year, the limit would be 50; and the next year, the limit would be 25; and even then there would be the requirement in regard to affecting commerce, and also the other requirements of the bill. All of them would have to be met. So it is clear that the bill could not be used to harass anyone.

The provision which struck out the right of litigation by the Federal Commission is important in this regard. Such a suit can be brought only by the Attorney General, an official subject to political pressures—although I do not use that term in an unfavorable sense. But if a section of the country felt it was being persecuted, it would have this remedy, because, so far as the courts are concerned, the enforcement will rest in a political official, the Attorney General. So there could be no claim of harassment, inasmuch as the enforcement provision has been whittled down to the minimum, including the requirements in regard to the production of books and documents. Every consideration is to be given to the rights of the individual, and no attempt at harassment is to be made.

Mr. CLARK. Mr. President, will the Senator from New Jersey yield?

Mr. CASE. I yield.

Mr. CLARK. I was amazed at the reference, a moment ago, to the alleged applicability of the so-called Motorola case to title VII. Will the Senator from New Jersey state why he believes the Motorola case has no possible analogy to the pending measure?

Mr. CASE. Yes. That case came up under an Illinois law, under a State statute which gives the State commission the right, after hearing such matters, to issue orders. It provides that a hearing is to be held by ad hoc examiners, who are not really officers or employees of the commission, except for those particular cases; and therefore they are not subject to regulation by the agency.

In the Motorola case, an examiner was appointed, and held hearings, and then recommended a finding and an order. In my opinion, they went too far. I believe that is evident when they are viewed from any point of view.

Mr. CLARK. I agree.

Mr. CASE. However, that was only the action of the examiner, and it has no effect whatever until the Illinois commission, acting under the Illinois law, approves it. I see no possibility that the Illinois commission would approve it, under the Illinois law.

Mr. CLARK. As I understand, an appeal is being taken both to the commission and to the courts. Is that correct?

Mr. CASE. That is correct.

Mr. CLARK. Will the Senator from New Jersey point out how different this title is from the Illinois law?

Mr. CASE. Yes. Under title VII, as both the Senator from Pennsylvania and I have indicated, the Federal Commission would have no power whatever to make any order; all it could do would be to hold hearings and investigate complaints, subject to the restrictions the Senator from Pennsylvania and I have mentioned. If the Commission then found the existence of some discrimination on grounds prohibited by the act, the Commission could then endeavor by persuasion and conciliation to remove it. If the Commission failed to do so, it could only recommend that the Attorney General, on behalf of the United States of America, institute legal action.

Mr. CLARK. And in the meantime, if there had been discrimination, it would continue, would it not, and the Commission would have no power whatever to enforce its views?

Mr. CASE. Yes, it could only make a recommendation that the Attorney General bring suit in the courts; and the Attorney General need not abide by that recommendation or request, unless he found there was a pattern or practice of discrimination, not a single act of discrimination.

Mr. CLARK. And even then the Attorney General could not act until he obtained a court order, could he?

Mr. CASE. That is true; and he would have to prove, de novo, a violation of the statute; and he would not have the benefit of any of the findings he had made or of any of those made by the investigators, but he would have to make that showing before the court would act. So there is no parallel whatever between the situation in the Motorola case and the situation under this measure.

Furthermore, I believe that everyone now understands that the Motorola case involves only the tentative action of one man, and has no effect unless and until the Illinois commission adopts—but I am sure it never will adopt them—the examiner's views and makes his findings its own.

Mr. HUMPHREY. Mr. President, will the Senator from New Jersey yield?

Mr. CASE. I yield.

Mr. HUMPHREY. The Motorola case has been selected by some of the opponents of the bill as "a horrible example"; but the fact that is not mentioned is that the so-called decision in the Motorola case is nothing but a preliminary finding, and has no binding effect. Is not that correct?

Mr. CASE. That is absolutely true.

Mr. HUMPHREY. No court would reach such a finding, would it?

Mr. CASE. Of course not. In other words, the Motorola case is a so-called "red herring," so some might call it, which has been dragged across the trail, in an attempt to obscure the situation. But we have been very careful in dealing with this measure.

Mr. HUMPHREY. Indeed, we have.

Mr. CASE. And the Attorney General and his office and the leadership concerned with civil rights organizations have all worked diligently to avoid any possibility of such abuse. I believe that by means of these provisions they have succeeded in their endeavor.

So, Mr. President, as the Senator from Pennsylvania has well said, we have here a mild title dealing with unemployment practices. We wish it were stronger; the Senator from Pennsylvania wishes it were, and so do I, and so do many others. But we still feel it is very worth while having; and we feel that if this title were to be eliminated, the heart would be cut out of an important part of the bill which the Senate has been considering for so long.

I wish to come now to a further point: When I hear it argued that a part of the bill would destroy the rights of Americans, and now it is specifically said that this title would do it, I cannot believe that those who make that statement really mean it. Is it claimed that any American has a right to discriminate on the ground of color in his employment practices? Does any opponent of this title claim the right on the part of any American to engage in such discrimination on the ground of color?

Is that what is meant when they talk about American liberty? Does American liberty consist of a bundle of rights which includes the right to discriminate on the ground of color against fellow citizens and fellow human beings? If anyone seriously makes such a claim, he does not understand what liberty is, because it seems utterly clear to me that liberty has no meaning and no value except that it is liberty shared by each of us with all the rest of us. Unless that is what liberty means to us, I suggest that liberty is not likely to survive in this world.

Several years ago, John W. Gardner, in his little book "Excellence," made the point very clear. He said:

> We talk about freedom as perhaps the greatest value. We think it is an acme. We assume that everyone believes as we do; namely, that it is the greatest thing in the world. But—

He pointed out—and, of course, it is true—

> that statement is not correct.

The greater number of the people in the world do not believe in individual liberty as a very important thing in life, if they believe in it at all. It is very low in their scale of values.

It is up to us to prove that liberty is a great good. We shall surely never do it if it means only liberty for the individual to indulge his appetites, to indulge a propensity for acquiring this world's goods, the liberty to grow fat, the liberty to acquire power for the sake of the gratification which the exercise of power gives its possessor, and liberty to exclude others from opportunities which he claims for himself.

Such liberty is not worth having, I suggest, and such liberty will not survive the attack of those—Communists or otherwise—who say that selfish liberty is not as great a good as the care which people get from a State which denies their liberty but takes care of their material well being.

Mr. President, unless we come to a realization that liberty has value only as it is shared with all human beings, regardless of any factor of difference, I doubt that liberty will survive on this earth.

Mr. CLARK. Mr. President, I ask the Chair how much time remains on our side?

The PRESIDING OFFICER. The Senator has 21 minutes remaining.

Mr. CLARK. How much time have the proponents of the amendment?

The PRESIDING OFFICER. Ten minutes.

Mr. CLARK. Mr. President, I yield to the Senator from Minnesota as much time as he may desire.

Mr. HUMPHREY. Mr. President, may I ask the Senator from North Carolina [Mr. ERVIN] whether he cares to yield back the remainder of his time, if there is an agreement between the proponents and the opponents of the amendment?

Mr. ERVIN. I would rather reserve the remainder of my time.

Mr. HUMPHREY. I would like 5 minutes.

Mr. CLARK. I yield the Senator 5 minutes.

Mr. HUMPHREY. Mr. President, title VII of the bill has received more study, discussion and debate than any other title in the bill. Title VII of the bill was neither conceived in haste nor written on the basis of speculation. Title VII, which relates to racial discrimination in employment, is based upon the accumulated experience of 25 States which have fair employment practices laws.

Many Senators have carefully examined the bill that was sent to us by the House of Representatives. After a great deal of discussion the fair employment provisions of the House-passed bill have been substantially altered in the substitute package submitted by the leadership.

To be frank about it, title VII was substantially altered and modified as a result of the conferences and the decisions arrived at by a number of Senators who analyzed this bill thoroughly in the course of developing the substitute package.

To strike this title VII from the bill would be to strike one of the basic provisions of the proposed civil rights legislation. It should be remembered that the Senate Committee on Labor and Public Welfare, after exhaustive hearings, reported a bill which would go far beyond anything that is proposed in either the House-passed bill or the substitute amendment that has been offered on the part of the leadership.

The Senator from Pennsylvania [Mr. CLARK] was the chairman of the subcommittee that took testimony on the subject of fair employment practices. As I recall, that bill was reported by a huge majority, and a majority that was arrived at after very careful study. Therefore, whenever Senators have studied the problem of fair employment practices, they have decided in favor of legislation in this area.

The Senator from New Jersey has told us what the substitute bill would do and what it would not do. One point that needs to be emphasized is that the substitute package bill calls upon the States and localities to take on the job of eliminating racial discrimination in employment.

We know that there is such discrimination. Elaborate studies of this subject have been made by universities, private foundations, and Government agencies.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUMPHREY. Mr. President, I ask for 5 additional minutes.

Mr. CLARK. I yield the Senator 5 additional minutes.

Mr. HUMPHREY. The leadership group of Senators that worked on the substitute attempted to find a way and a means on the one hand of enabling an individual to secure his own rights through the courts of law; and, second, these Senators wanted to encourage State and local government action in this area. The goal was to see to it that people were employed on the basis of merit rather than on false standards such as color or race.

Finally, because citizens of our country are citizens of the United States, the National Commission on Fair Employment Practices may recommend to the Attorney General, as an officer of the Government and of the people to the United States, that action be taken to put an end to certain discriminatory practices in the field of employment.

To strike from the bill the title that would do this would be in essence to say that racial discrimination in housing is perfectly acceptable.

It would be saying that if there is discrimination on the basis of race, the Congress of the United States shall ignore it, even though a citizen of the United States is entitled to equal opportunity to succeed.

I am for title VII, because I believe it would help America. I believe that our country needs the best that everyone has. I believe that our weaknesses are generally the result of our fears and our lack of understanding. There was a long period of time when it was believed that women were incapable of working in industrial employment, particularly in certain lines of it. We found that that was not the case at all. To the contrary, at times because of the necessities of war, women have manned our factories and have done as good a job as men, if not better.

There was a time, for example, when it was thought that it was economical and sound business to employ children and exploit child labor. Apparently business thought it was right, because this practice continued for generations. Then Congress decided that such practice was wrong—not only morally but economically. Congress was right.

Now, we have come to a point where we can no longer tolerate discrimination in employment. The Government of the United States in its contracts with employers who are providing goods and services to the Government has seen fit to insist upon equal employment opportunities. At the Federal level, under the Executive orders of the President of the United States, action against employment discrimination has been taken. President Franklin Roosevelt during World War II, and then President Eisenhower, and then President Kennedy, and now President Johnson—all have acted to secure equal employment opportunities, fair employment practices on the part of the Federal Government within the Federal service, and by the Federal Government in its contractual relationships with industries that produce goods and services for the United States.

Executive orders to secure equal employment opportunities have been a success. The large companies of America find that action against discrimination works. It tends to eliminate labor-management trouble. It promotes domestic tranquillity and increases production. It helps profits. It stabilizes and strengthens the private enterprise system. I know of no large employer in America today who has come under the rules of the Executive order on equal employment opportunities who has said that it has worked to the detriment of the country, the company, management, or labor. I think the burden of proof in this matter rests upon those who would try now to eliminate the principle of fair employment from this proposed law.

The most successful companies in America today are the ones which are eliminating employment discrimination voluntarily, or under Government order such as the Executive orders that I have mentioned, or under State fair employment practices laws.

We have had our administrative difficulties with these programs, but through experience we have been able to overcome these difficulties. Today we know how these standards work. We know how the commissions operate. We have case law on fair employment practices. It appears to me that it has been to the benefit of the Nation. Whenever people are denied work opportunities because of race, religion, or ethnic origin, it is not only the individual that is injured, but it is the Nation.

America has enjoyed many great scientific advances because we opened our doors to immigrants from other countries, immigrants who could not find freedom to live and work until they came to this country.

I am of the opinion that some of the great discoveries yet to come will be because America kept its door open, because America kept its mind open, because America kept its heart open. I am of the opinion also that when industries deny jobs to people because of race, they really deny opportunity to themselves. We cannot afford this artificial restriction on the productive capacity of free men.

I want it known throughout the world that in a country which believes in free enterprise and private property, that free enterprise is for everyone, that the only aristocracy that America knows is that of merit and ability, and that we do not go around imposing false standards either by tacit consent or by overt action.

Mr. President, the record is clear. There has been discrimination in employment. It has been on account of race. It has been on account of color. It has been because of national origin. Fortunately, as time went on, some of these areas of discrimination have been eroded away. But there are still such patterns. All we seek to do, in a very restrained, limited, and modified manner in the package substitute which will be before us, is to see to it that the evil of discrimination in employment is abolished.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. Mr. President, I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I rise for two reasons. New York has the longest standing fair employment practices act. It goes back to 1945. Every one of the forecasts—that the employer would be told what to do, that the workers would not work, and that individuals would be bedeviled with lawsuits—was made in New York in 1945. In the past 19 years, those forecasts have been found to be invalid. We have approximately 10 percent of the working force of the country, about 6 million employees. We have had 7,500 complaints, and have only had the necessity for 18 hearings and only 5 court actions. In all of the States with fair employment practices laws, there have been, in round figures, 19,000 complaints up to the end of 1962, and only a total of 62 hearings and 18 court actions.

The fears, the hobgoblins which have been raised, are valueless. They do not stand up to the light of day of the States experience, including that of my own State, the most active industrial State in the Nation.

My second point is that we have been warned time and again not to emasculate this bill, that if we should do so, it would create an element of instability in the country.

Mr. President, I state advisedly that if we strike title VII, or materially restrict the impact of title VII, I believe we shall emasculate the bill in the eyes of all the people who are deeply interested in civil rights legislation. This bill will at least cover the bases that have to be covered. Employment is a critical one. Whenever we ask people what causes their sense of injustice, they will mention the denial of equal opportunity in jobs, housing, and educational opportunities. This is one of the trilogy, in short, one of the absolutely essential matters which must be covered in this legislation. So I say to Senators who do not wish to emasculate the bill that I hope they vote "No" on this amendment.

Mr. ERVIN. Mr. President, I yield the remainder of my time to the Senator from Florida [Mr. HOLLAND].

Mr. HOLLAND. Mr. President, I have heard many Senators who come from FEPC States state so often during debate that FEPC is the remedy, that the record is good, and that the record in 25 States proves it.

I am beginning to wonder whether they are not trying to persuade themselves into believing it by repeating it so often. Everyone who has paid any attention to FEPC knows that it has not served to bring an end to the problem but that, instead, the FEPC States today have a much poorer record of employment of nonwhite citizens than have the Southern States.

No one dares to deny that, because I am speaking the truth.

Senators who say that the record in 25 FEPC States shows that FEPC presents the answer to this problem either have their tongues in cheek, or have their fingers crossed, or are merely trying to whistle as they go by the graveyard, because the record shows a far different result.

Let me quote from the record as presented by the Bureau of the Census and the Department of Labor. These figures were true in 1960. Today, the disparity is even greater.

It has been admitted on the floor of the Senate in earlier debate by the Senator from Pennsylvania, and by the Senator from New York, that unemployment among the nonwhites is greater now than it was in 1960. But let us see what the official records show for 1960.

They show, for example, that in Pennsylvania, in 1960, 5.8 percent of white laborers were unemployed, and 11.3 percent, or nearly twice as many, of Negro laborers were unemployed. Today, the record is worse, the disparity is greater.

Let us see what it shows in Minnesota. I heard the distinguished majority whip state that the record of the 25 FEPC States shows FEPC to be the answer. In Minnesota, in 1960, 5 percent of the white labor force was unemployed, and 12.8 percent of the Negro labor force unemployed—or a good deal more than twice as many.

Let us see what happened in New Jersey in 1960. I heard the distinguished Senator from New Jersey state that FEPC gave the answer. In 1960, in New Jersey, 4.1 percent of the white labor force was unemployed, and 9.5 percent of the Negro labor force was unemployed.

In the State of Illinois—and I have heard the same kind of statements made about Illinois—in 1960, 3.8 percent of the white labor force was unemployed, and 11.5 percent, or three times as many of the Negro labor force was unemployed. This, in the State of Illinois, in 1960.

What is the record in the State of Michigan? I have heard the same kind of statement made on the floor of the Senate by both Senators from the State of Michigan during the course of this debate. In 1960, according to the official U.S. compilation, Michigan showed 6 percent of the white labor force unemployed, and 16.3 percent of the Negro labor force unemployed—or more than two and a half times as many unemployed, proportionately, among the Negroes.

It is fair to look at my own State of Florida. Today the record is better than is shown by these figures, but the disparity between what occurred in Florida in 1960, and what was occurring in every FEPC State in that year, is already great, as of 1960.

In 1960, in Florida, 4.6 percent of the white labor force was unemployed, and only 6.7 percent of the Negro labor force was unemployed.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. HOLLAND. In 1 minute.

In the State of Georgia, our next door neighbor, 3.8 percent of the white force was unemployed, and 6.3 percent of the Negro labor force was unemployed.

Mr. HUMPHREY. Mr. President, I wish to ask a question of the Senator for information.

Mr. HOLLAND. I am glad to yield to the Senator from Minnesota for a question.

Mr. HUMPHREY. As I recall, those statistics on unemployment show, for example, that if a citizen has a little plot of ground and is a tenant farmer or sharecropper, eking out a pitiful existence, earning perhaps only two or three hundred dollars a year, or a thousand dollars a year, he is considered employed. Is that not so in the State of Florida?

Mr. HOLLAND. I do not understand that there is any different rule applying in one State than in another. I understand that the figures are compiled on the basis of persons who are employed of the two races as against persons who are unemployed, those who are making a living of the two races against people who are living on a dole. I believe the statistics are clear. Today they are worse. Every Senator knows that——

Mr. HUMPHREY. That is not the case, of course.

Mr. HOLLAND. Every Senator has seen the pictures in New York in public places of employment; for example, in the construction of schools, where Negroes have chained themselves in front and in back of tractors and trucks so that they could not get in, so that work had to be stopped.

Everyone has heard of the pitiful story from Pennsylvania of the same kind of situation. Everyone knows that the unemployment situation is worse now in nearly every FEPC State than it was then. But the point that I am making is that it is completely wrong, and out of accord with every fact and figure which we have for anyone to state that the record in the FEPC States shows that the FEPC laws are the answer to the problem, because that does not happen to be the case.

Mr. HUMPHREY. Mr. President, will the Senator from Florida yield further?

Mr. HOLLAND. There are Census Bureau figures, and also figures from the Labor Department.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. HUMPHREY. Is the Senator unaware of the fact that in the State of Michigan the colored population is almost entirely urban, and that in the State of Florida, for example, a substantial part of the colored population is rural; and that to be a sharecropper with a small plot of ground is considered to be self-employed, even if he starves?

Mr. HOLLAND. The Senator may know something about his own State. He does not know much about the State of Florida. The State of Florida is largely urbanized. Most Negroes in our State—and we have over 900,000 of them—live in the large cities of our State—namely, Jacksonville, Miami, Tampa, St. Petersburg, Orlando, Pensacola—and the record has to be compiled in my State as against a Negro population that has been largely urbanized.

The Senator has heard of the voting statistics for my State, which were eloquently presented by the Senator from Illinois [Mr. Douglas] several times during the course of this debate. Those voting statistics clearly show that the great majority of the Negro people are located in the cities of our State.

The point I am getting at is that it is wrong for Senators to represent that FEPC is the answer to the question of employment of the minority race, when such is not the case.

It has been stated, only today, that 60 percent of the Negro race live in the South—the South and border States; and in the rest of the Nation about 40 percent. Perhaps that is true. In that part of the country where the percentage of the Negro people to white is greatest—and that is the South and the border States—the percentage of employment of Negroes is best, and the degree of discrimination is least, so far as employment is concerned.

The PRESIDING OFFICER (Mr. Ribicoff in the chair). All time of the Senator has now expired.

Mr. HUMPHREY. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 1 minute.

Mr. HUMPHREY. Mr. President, the issue here is not how many people are employed. The issue is whether a man shall be denied the opportunity to be employed on the basis of his merit, and whether we shall provide a legal instrument to have justice done in employment.

If Senators wish to argue about per capita income, let me say that the per capita income in the State of Minnesota will stand a good comparison with the per capita income of the State of Florida, or of Alabama, or Mississippi. The eminent record of the State of Michigan in 1964 will also stand a good record test with any other State in the Union.

What we are debating is not whether someone has a job, but whether a man who has a college education shall be entitled to a job on the basis of his education, without regard to race, or whether he shall be permitted to have a job that is beneath his training, or that he shall be denied an opportunity under fair employment practices because of his race. That is the whole issue.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired.

Mr. HUMPHREY. Mr. President, I yield the remainder of the time to the distinguished minority leader.

The PRESIDING OFFICER. Three minutes remain.

Mr. DIRKSEN. Mr. President, it is now a year since the late President Kennedy called a conference at the White House for the purpose of discussing the civil rights package. That conference took place on the 3d of June 1963. There was an additional conference on June 5. Then there was a meeting of the joint leadership with the President on the 11th of June. That was also a year ago.

At long last, on the 17th of June, the President indicated that he would send his package. He said he was not going to include the FEPC title; nor was an FEPC title in the bill when it finally came to the Senate and was then referred by section to the Judiciary Committee and to the Commerce Committee.

The House of Representatives has written this title into the bill. To repeal it now or to strike it would leave a gaping hole with respect to equal employment opportunity.

The distinguished Senator from Minnesota is absolutely correct, that the title does not deal with the volume of employment or the number of people assigned to jobs. It deals with equal employment opportunity; nothing more.

The Committee on Labor and Public Welfare, in February of this year, reported a bill which is now on the Calendar of the Senate. It is Calendar No. 844, S. 1937. It deals with all employers who employ eight or more persons. The proposal has been bouncing around in the House of Representatives and the Senate for quite a long time.

We have come to grips with the issue; and it would seem to me to be an imprudent thing, to say the least, to strike the title from the bill.

At least 28 States have State fair employment practice laws at the present time, and commissions to enforce them.

The time is now, in States where this situation does not apply, to give them an opportunity to lay their case before the proper State commission.

I earnestly hope that the Senate will not strike the title from the bill or the modified title as it now appears in the substitute.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the amendment of the Senator from North Carolina [Mr. Ervin], in the nature of a substitute for the amendment offered by the Senator from New Hampshire [Mr. Cotton].

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YOUNG of North Dakota (when his name was called). On this vote I have a pair with the senior Senator from Ohio [Mr. Lausche]. If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Ohio [Mr. LAUSCHE] is absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting the Senator from California [Mr. ENGLE] would vote "nay."

The result was announced—yeas 33, nays 64, as follows:

[No. 278 Leg.]

YEAS—33

Bennett
Byrd, Va.
Byrd, W. Va.
Cotton
Curtis
Eastland
Ellender
Ervin
Fulbright
Goldwater
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Morton
Mundt
Robertson
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters
Williams, Del.

NAYS—64

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hayden
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Yarborough
Young, Ohio

NOT VOTING—3

Engle
Lausche
Young, N. Dak.

So Mr. ERVIN's amendment (No. 898) was rejected.

Mr. DIRKSEN. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from New Hampshire [Mr. COTTON], No. 606.

Mr. COTTON. Mr. President, I yield myself 10 minutes.

On my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. COTTON. Mr. President, for the benefit of Senators who are in the Chamber, I see no reason, so far as I am concerned, for using the hour on each side for this amendment. It is my intention to hold what I have to say to a period of 15 or 20 minutes, at the outside. I have not had other requests for time. I shall be glad to cooperate and move toward a vote as soon as possible, for the benefit of the Senate.

Mr. HUMPHREY. We shall try to maintain some balance of time. I agree that there is no need to use the entire allotted time. It should be possible to have a vote in the next 30 or 40 minutes.

Mr. COTTON. The debate on the previous amendment was long enough and the discussion when the unanimous-consent agreement was entered into was sufficient so that probably every Senator knows exactly what my amendment provides.

It merely relates to the part of the bill which states that the FEPC provision, title VII, will apply immediately only to establishments with 100 or more employees, and that by gradations, over a period of 4 or 5 or 6 years, the application will be reduced to 75 employees, then to 50 employes, and eventually to 25 employees. My amendment would strike out that portion, so that the provision would apply permanently, under this bill, only to establishments with 100 or more employees.

The principal reason for proposing the adoption of this amendment is, first, the problem of enforcement. If it became necessary for the Federal Government to investigate every complaint and to take steps in every situation brought to its attention, in connection with the small businesses of the country employing only 25 or 35 or 40 or 50 or 60 persons, enforcement would become well nigh impossible; and the enforcement which did occur would be found to be spotty.

I am not suggesting that those to be entrusted with enforcement of this law, if it is enacted, would purposely or necessarily harass the business community; but I am suggesting that when we enact a law, we do so, not in light of what reasonable men would do in enforcing it, but in light of what unreasonable men might do.

Mr. STENNIS. Mr. President, I ask that the Chair obtain order in the Chamber.

The PRESIDING OFFICER (Mr. MCINTYRE in the chair). The Senator from New Hampshire will suspend his remarks.

Senators will take their seats, and will cease conversation; and the Senate will be in order.

The Senator from New Hampshire may now proceed.

Mr. COTTON. Mr. President, I was saying that the problem of obtaining fair, impartial, and uniform enforcement in all parts of the country and in the thousands upon thousands of small businesses throughout the country, whenever and wherever difficulties would arise or complaints would be lodged, would be so great that, it seems to me—forgetting for the moment the question of liberty or freedom or right or wrong or free enterprise or the solidarity of business—this will be an impracticable and unenforcible provision if eventually the requirement is dropped to 25 employees.

But the principal reason why title VII is so repugnant, at least to me, lies in the fact that in a small business which employes 30 or 40 persons, the personal relationship is predominant. I can understand how the Federal Government could operate in connection with large factories and industries and in dealing with their employment practices, and in seeking, whenever it finds it necessary to do so, to enforce these provisions—although I think there are even objections to that. But when a small businessman who employs 30 or 25 or 26 persons selects an employee, he comes very close to selecting a partner; and when a businessman selects a partner, he comes dangerously close to the situation he faces when he selects a wife. A small business—for example, an insurance agency or a real estate business or a small manufacturing business with only a few employees—stands or falls, in this age of competition, on the congeniality and skill and ability of the man or the partners who own it and the persons who work for them and work with them. In many parts of the country, if a person of another race has the ability to sell real estate or insurance or if he is a good accountant and is a useful and efficient worker, I doubt very much that the doors will be closed to him very long, even if they are closed to him now.

So it seems to me we would be taking a step far greater than any ever before taken in this country if we were to provide that the Federal Government and its bureaucrats would have the power and authority and duty, whenever complaints were made, to investigate and inspect, and perhaps to harass the small business people of this country.

As I said the other day, during the years I have served in Congress, I have seen more tender tears flow and more pathetic arguments made in behalf of the small businesses in this country than I have seen in behalf of almost any other operation or business activity. We have heard, and we know, that the small businesses along the main streets or in the villages and towns and cities are the backbone of our country and of our free enterprise system. We know the Federal Government has made it very hard for them to operate. We know that the Federal Government burdens them with taxes, and we know that the Federal Government has them investigated on all sorts and kinds of scores. We know that the Attorney General and his agents watch them; and we know that all small manufacturing establishments are required to abide by the minimum wage law and the wages and hours law; and we know that whenever a problem of national origin or religion arises, either this law will not be enforced or else it will become a monstrosity.

Now I shall refer briefly to the objections made to my amendment.

The first objection is that it would not cover a great many persons now covered by title VII.

However, but when there is a reference to 80 percent, that reference is not to employees, but is to employers and to the number of businesses. I do not know where accurate figures can be obtained; but I did the best I could, and I obtained from the Department of Labor statistics based on social security returns.

The total numbers run to mammoth proportions because everyone who has a maid in his house is under social security as an employer. But, according to the statistics from the Department of Labor, employers in this country having 25 or more employees number 259,343. Employers with 100 or more employees number only 56,366. In other words, if the amendment were adopted, 78 percent of the employers would not come under the statute.

But let us look at the situation from the standpoint of employees. After all, they are the people with whom we are concerned in dealing with title VII of the proposed legislation. The employees in establishments having 25 or more employees in our country number 29,390,000. In establishments having 100 or more employees the number of employees is 21,191,000. So as far as employees are concerned, adoption of the amendment would take only 27½ percent of the employees out from under the statute.

Whenever I have had occasion to discuss the subject with a friend or fellow Senator who disagreed with me, the answer has always been the same. I can hear the words coming in a moment. The answer is that the FEPC statutes of Illinois, New York, or some other State, cover employers who employ as few as five employees, four employees, or two employees. Therefore, it is ridiculous to cavil here at the prospect of a Federal statute that would include or cover employers who employ 25 employees.

Mr. President, if there is any Senator who has served in the Congress of the United States more than 6 months—and I believe that there are none who have not—and has not learned that the enforcement of law by Federal bureaucracy and the enforcement of law by a State in this Union are horses of different colors entirely, I do not know who it is.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COTTON. Mr. President, I yield myself an additional 5 minutes.

It is a far cry from a situation in which a State FEPC is in effect, where investigations are made by examiners or investigators living in the county where the business is conducted, where the parties involved reside, where the people know the local conditions, the local situation, and deal with it from the standpoint of their knowledge of their community and their interest in the community. That is a far, far cry from having someone from Washington come in and send out investigators from the Federal Government.

So it is of little interest to me. I do not object to any State that desires an FEPC, and I am not here to criticize the administration and enforcement of such statutes. But every time that we open a door in the Federal Government to reach a little further down into the rank and file of the people of our country who are trying to live and earn a living, first, we must employ a small army of people to enforce the law; second, we get the kind of enforcement that causes my desk and the desks of other Senators to have piles of letters fall upon them because some government department has dealt with the cases of the writers of the letters.

How many letters do Senators receive day by day and week by week regarding problems involving various Government Departments and concerning which a Senator must take up the cudgel for someone and obtain a rehearing, another investigation, or another opportunity?

When we get down into all of the establishments involved—every little business on Main Street in this land—we shall find that there is a vast difference between State enforcement and Federal enforcement and between local enforcement and Federal enforcement.

Furthermore, how about bigotry and prejudice in connection with a small business?

Mr. President, I would willingly vote—and I have said so in other years and would do so again today—for a Federal FEPC with full enforcement powers which would apply to every business in our country, big or small, that has received 1 cent from the Federal Government, be it by way of grant, loan or contract, because taxes are collected from all people, including those who are black and white. When a business enjoys special benefits from the Federal Government, I believe that that business should be subjected to the policy of the Federal Government, and I believe the policy of the Federal Government should be sternly turned against any kind of discrimination.

But when a man owns a business which he himself has built up, having borrowed the money, worked long hours, saved and scrimped, and when it is owned by himself, perhaps his wife and his son—a little family business or business of his own, in which Uncle Sam has not contributed 1 single cent—is there any real reason why that man, if he is employing fewer than 100 employees, should not be allowed to pick and choose employees congenial to himself?

Arguments can be made relating to large industries where employment is impersonal and employees are selected according to an employment policy.

I would assume that anyone who will administer the laws in future years will not discriminate between the races. If I were a Negro, and by dint of education, training, and hard work I had amassed enough property as a Negro so that I had a business of my own—and there are many of them in this country—and I felt that, having made a success of it myself, I wanted to help people of my own race to step up as I had stepped up, I think I should have the right to do so. I think I should have the right to employ Negroes in my own establishment and put out a helping hand to them if I so desired. I do not believe that anyone in Washington should be permitted to come in and say, "You cannot employ all Negroes. You must have some Poles. You must have some Yankees." The latter would not be available down South to any extent, but there are other places that would be affected.

One from Washington should not be permitted to say, "You have to have some Yankees; you have to have some white people; you have to have some Puerto Ricans. You cannot employ merely your own people. You have earned your own money. You have built up your own business. You cannot help whomever you want to help."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COTTON. Mr. President, I yield myself 5 additional minutes, and I shall conclude. I should like to state an actual case. I have a friend who is an ardent, dedicated, and devoted Baptist—so much so that all his life he has tithed and turned over 10 percent of everything he has earned either to a Baptist church, a Baptist school, or a Baptist hospital. He employs almost 100 workers. He has a little business that he has built up which he and his son own. It is in a college town. So far as he is able to do so, he employs only Baptists, because he desires to help the young people of his church. Then he encourages them to tithe and to support the church. In the summertime, when he puts on extra help, he gives preference to the students in the college in the town who are studying for the Baptist ministry. So far as I know, he would employ a colored Baptist if he came along. He does this not because he is prejudiced against Methodists, against Catholics, or against anyone else. He does it because he has earned his own money, he has his own business, and he would like to help his own people.

Mr. President, if we have reached the state in this great so-called land of the free when a man with a small business cannot do that, there is no more freedom in this land and we might as well resign ourselves to the kind of country where all our personal affairs are determined in Washington under the heavy finger of Federal interference.

There are people who are leaving countries across the sea because they become so socialistic that they have no more opportunity.

It is our duty to elevate every race in this country, to give them the opportunity to elevate themselves, to give them education, to give them job freedom, to give them an opportunity to advance.

I believe that is the honest feeling of every Senator, no matter how he may feel regarding the far-reaching provisions of the bill.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. CURTIS. Mr. President, very briefly, I commend the distinguished Senator from New Hampshire for his clear, concise, and convincing argument.

The Senator made reference to the fact that a member of a minority race might become an employer and should have a right to employ members of his race in order to give them opportunity. Would not the same thing follow, that a member of a majority race might wish to employ almost entirely, or entirely, members of a minority race in order to enhance their opportunity? And is it not true that under title VII as written, that would constitute discrimination?

Mr. COTTON. It certainly would, if someone complained about it and felt that he had been deprived of a job, and that it had been given to a member of a minority race because of his race and not because of some other reason.

Mr. CURTIS. Is it not the opinion of the Senator that any individuals who provide jobs for a class of people who have perhaps not had sufficient opportunity for jobs should be commended rather than outlawed?

Mr. COTTON. Indeed it is.

Let us deal with this issue as reasonable men. I am not suggesting that if this measure becomes law, Federal officers will invade every small business in the country and harass it, and tell it whom it must employ.

So-called minority races would have much more latitude than so-called majority races. I am beginning to wonder which is which. But I am not suggesting that these things will necessarily be done in many cases.

I listened to the statement of the able Senator from New York [Mr. JAVITS] who told how little difficulty New York has had with enforcement through the years. There must be some difficulty in New York somewhere along the line. I would not say that all was sweetness and sunshine up there. There may not be trouble in the matter of employment.

Mr. President, if the proposed legislation would not necessitate going into small business establishments and putting the heavy hand of the Federal Government on the employers, why is such power desired? Why do the proponents fight every time someone wants to amend the bill in the slightest degree? You know right well it is the intent of those who are pushing this bill and will be clothed with its powers, with the cooperation of certain organizations, to put their finger on every small business in this country they can reach. And if you want to really provoke bitterness and hatred, yes, and violence, this is the way to get it.

I suggest that if the FEPC title had been brought into either the Senate or our companion body as a bill, and not covered under the sheltering tent of the many worthwhile and necessary titles in the overall bill, it would not pass.

The PRESIDING OFFICER. The time the Senator indicated is up. Eleven minutes remain.

Mr. COTTON. The Senator from New Hampshire is not seeking to eliminate the entire title. He is not seeking to cripple the bill. I assume that Congress will retain the provision, and, if it is necessary, extend it. It can be extended, but at least for the time being, let us not reach the small underdog. I have heard much pleading for the small fellow. Everyone who raises any question on the bill is supposed to be some kind of aristocrat who is trying to accomplish something evil. In this case, small business is the underdog. In this case, it is proposed to give the Government blanket authority in the very beginning, when we have never had a Fair Employment Practices Commission under the Federal Government, when it is a new departure, a new venture, and men must be trained. The operatives and the administrators must be chosen and hired. We cannot wait. We must go into every little establishment in the country.

Mr. President, in the interest of reason, in the interest of safety, in the interest of adhering to what we have always believed were the fundamental tenets of this country, I ask consideration of this small proposal which would merely eliminate establishments with fewer than 100 employees.

The bill itself does that gradually. Even the framers of the bill were not going to do it right off, full blast. I suggest that we give the provision a chance to see how it works. But let us not take this step, because if we do, I cannot imagine any proposition that can be made in the Senate for Government control that we would not have to accede to. None of them could be more drastic than this one.

Mr. President, I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, I yield 10 minutes to the minority leader.

Mr. DIRKSEN. Mr. President, I trust that the amendment offered by the distinguished Senator from New Hampshire [Mr. COTTON] will be rejected, even as the Senate rejected an effort to strike title VII from the bill.

Frankly, at the very outset, in an examination of the entire civil rights package, I started with title VII. I did so because of its far-reaching character, for one thing. Second, a number of States have FEPC laws and have State-enforcing commissions. I thought if there were anything vulnerable in the bill, it would be title VII.

We have spent several months now in an exhaustive effort, including the services of an excellent staff, for the purpose of making this as practical and workable as a title of this kind could be.

Accordingly, the House bill was modified in some particulars. In the first place, we undertook to provide for seasonal workers, by taking the language out of the Unemployment Compensation Act, to the effect that the definition of the term "employer" would apply to 25 or more who were employees for each working day, in each of 20 or more calendar weeks, in the current or preceding calendar year. We went through that matter with the Department of Labor and others, in order to make sure that we were on good ground.

Second, with respect to the enforcement of the title, we undertook to keep primary, exclusive jurisdiction in the hands of the State commissions for a sufficient period of time to let them work out their own problems at the local level.

It was a knotty problem, to say the least, because of the differences in approach of the Federal provision and the acts which are on the statute books today. All that, however, was worked out.

Now if we undertake to make the cutoff 100 employees or more, I am afraid we shall really be subject to the charge that we are undertaking to emasculate the bill.

Of the entire number of people in the working force today, about 69 percent are covered by State acts. As I recall from the figures, there must be in the neighborhood of approximately 21 million people, or 31 percent, who are not covered. That presents something of a void in our employment pattern.

On February 4, a committee of the Senate reported a bill on this subject. I have the report before me, dealing with employment opportunities. It is now on the Senate calendar, and its calendar number is 844. When that bill was reported, it contained a definition of "employer," which will be found on page 17 of the committee report. It is as follows:

> "Employer" is defined in subsection 3(f) to mean any person with eight or more employees engaged in any industry affecting commerce.

The committee took exhaustive testimony on the subject and finally agreed to put the cutoff at eight employees. Many of the statutes begin with one. In others it is four. In some cases it is five and six, and in some cases it is eight. However, I believe there are 8 or 10 States today which begin with as few as 1 employee.

Are we going to make fish of one and fowl of another? Are we going to set 31 percent of our working people over in one category and say that the law does not apply to them; whereas in the case of the remaining 69 percent, the law would apply?

That seems to me to be a patent inequity; and well might we be subject to the charge of emasculation if we undertook to modify the bill in that particular.

When it comes to administration, I believe that we have done a reasonably good job on the substitute, hoping in every case that administration might be kept at the local level, because many cases are disposed of in a matter of days, and certainly not more than a few weeks. In the case of California, FEPC cases are disposed of in an average of about 5 days. In my own State it is approximately 14 days.

That will be the first point of contact when it comes to enforcement. It will be in the hands of the States. There are now 28 States which have FEPC acts containing enforcement provisions, and there are 3 additional States where enforcement is on a rather voluntary and conciliatory basis.

However, I earnestly hope that the number of employees set forth in the definition of "employer" will not be modified, so as to produce a gaping hole in the bill and make it appear that we are trying to show partiality on one side and impartiality on another.

That is the weakness of the amendment offered by my distinguished friend the Senator from New Hampshire [Mr. COTTON].

There is another element that enters into the case and that is the question of competition in every case. Business, of course, is highly competitive today; and if we apply a Federal statute in one case and not in another then what happens competitively? If an employer has 100 employees in one case, it applies. If 99, it does not apply. That would be a singular way to apply and administer a Federal act.

Frankly, in the interest of fairness, and in the interest of equity, I do not believe that it should be done. We have had no difficulty in obtaining figures to show the number of employees, the number of reporting units, and the total amount of employment in every case. For manufacturing, standing by itself, we start with firms which have from 1 to 3 employees; there were more than 77,000 reporting units, with a total of 140,000 employees.

Then we jump to the bracket from 4 to 7 employees, in which there were more than 49,000 reporting units, with 261,000 people.

Then we go on up the scale, and when we reach the point of over 500 employees, we have 5,000 reporting units and a little more than 7 million employees.

What an amazing thing. If we are going to make that kind of distinction in this kind of bill, and make it only half effective or two-thirds effective, when it should be effective in every section, and with respect to every employer with a given number of employees, how can we justify it after all, in the light of what is being done in the States today?

My own State, oddly enough, has probably the highest exemption of any State in the Union.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection, the Senator from Illinois is recognized for 1 additional minute.

Mr. DIRKSEN. Another applies in the case of 50 or more. I believe we have taken what is perhaps a sensible figure on the bill, and then nailed it down to make a proper exception for seasonal employees. Under those circumstances, I earnestly hope that this measure will not be modified, and that the Cotton amendment will be repudiated.

Mr. HUMPHREY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. HUMPHREY. The able and distinguished minority leader, who had such an important role in designing the revised title VII of the leadership's package substitute, has stated the case against the Cotton amendment as precisely and as persuasively as possible.

I would emphasize only the point that nothing in title VII or, in fact, in the amendment of the Senator from New Hampshire, tells any employer whom he may hire. What the bill does, as was pointed out so ably earlier today by the distinguished senior Senator from New Jersey [Mr. CASE] and the distinguished senior Senator from Pennsylvania [Mr. CLARK], is simply to make it an illegal practice to use race as a factor in denying employment. It provides that men and women shall be employed on the basis of their qualifications, not as Catholic citizens, not as Protestant citizens, not as Jewish citizens, not as colored citizens, but as citizens of the United States.

There is considerable evidence to demonstrate that permitting people to be hired on the basis of their qualifications not only helps business, but also improves the total national economy.

Nothing in the bill or in the amendments requires racial quotas. The bill does not provide that people shall be hired on the basis of being Polish or Scandinavian or German, or Negro, or members of a particular religious faith. It provides that employers shall seek and recruit employees on the basis of their talents, their merit, and their qualifications for the job.

The employer will outline the qualifications to be met for the job. The employer, not the Government will establish the standards. This is an equal employment opportunity provision.

On March 6, 1961, the late President of the United States, John F. Kennedy, issued an Executive order which combined the President's Committee on Government Contracts with the President's Committee on Employment Policy. There was formed a single President's Committee on Equal Employment Opportunity. That Executive order established an office, which was presided over by the then Vice President and now President, Lyndon B. Johnson. That Executive order applied to any firm, regardless of size or location, which did any business with the Government of the United States in the form of providing goods or services to the Government of the United States.

These business firms have not complained because of this requirement; to the contrary, it is to the everlasting credit of American free enterprise that they have cooperated. It is to the great credit and honor of President Johnson that when he served as chairman of the Equal Employment Opportunity Committee, during the period that he occupied the vice-presidency, much outstanding work was accomplished in providing equal employment opportunity to thousands and thousands of qualified workers.

What we provide in the leadership substitute or, in fact, in the House bill, is much less stringent language, and much less in coverage than what was provided by the executive order that applies to business establishments doing business with the Federal Government. There are many. The Federal Government is the largest purchaser of goods and services of any establishment in the world.

I repeat that the order applies to a firm that hires 5 persons, 1 person, 100 persons, 1,000 persons, or 50,000, or 100,000.

What do we provide in the bill? First of all, as the distinguished Senator from Illinois [Mr. DIRKSEN] has indicated, we provide for local and State enforcement wherever there are local and State instrumentalities. We have simplified the recordkeeping to the point where State records suffice, with whatever notations may be necessary to indicate employment.

We have provided that in the first year after enactment of the civil rights statute there will be no enforcement at all. We have provided, for States which do not now have fair employment practice laws, that there will be an additional 180 days before there is any impact of the law.

We have provided that in the second year employers of 100 or more shall come under the act. In the third year, employers of 75 or more shall come under the act; in the fourth year, employers of 50 or more; in the fifth year, employers of 25 or more.

A large number of small businesses in America, the kind of small businesses that we know in Minnesota, South Dakota, New Hampshire, Wyoming, or any other State, are small businesses that employ fewer than 25 persons. When they get above 25, they get into some reasonable degree of gross product in terms of income or output or salaries or goods or services. They also lose most of whatever intimate, personal character they might have had.

What does the bill do without the Cotton amendment? There are 3 million employers in America registered under the social security system. Of this number, 259,343, or only about 8 percent of the total employers, employ 25 or more persons.

In other words, under the bill as now drafted, 92 percent of the employers of America would not be covered. They would not be touched by the Federal statute. A State might extend the coverage to them, but, insofar as the Federal requirements are concerned, 92 percent would be exempted. That cannot be regarded as a drastic imposition on the business community.

There are only 56,366 employers in the entire Nation who employ 100 or more employees.

Thus the Cotton amendment would cover somewhat less than 2 percent of the total employers in America.

The House bill or the substitute would apply to only 8 percent of the employers in the United States. Insofar as employees are concerned, if the bill's coverage extended to 25 employees or more, 29,736,000 employees would be covered. If the Cotton amendment were adopted, about 21 million employees would be covered.

The difference in coverage, as the Senator from New Hampshire has indicated, is about 8 million.

However, what is more important than the coverage of the people is the manner in which those of us who worked upon the substitute package have sought to simplify the administration of the bill, the recordkeeping, the rights of employers, the rights of employees, the inclusion of State and local authority, and the time factor involved, in terms of seeking a solution by mediation of disputes, rather than forcing every case before the Commission or into a court of law.

I hope the Senate will reject the amendment of the Senator from New Hampshire.

I remind the Senate that Senators voted for a fair labor standards bill, which covers employers who employ two or more persons. We voted for the Landrum-Griffin Act, which applies to every union and every employer without reference to coverage, whether it be one or more.

I did not hear anyone say it was an imposition upon free enterprise, or that it would hamper small business, when we applied the provisions of the Landrum-Griffin Act to every employer and every union without regard to the degree of coverage.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. MORSE. I do not believe that the Landrum-Griffin Act or any other act that could be cited by the distinguished Senator from Minnesota really has any bearing upon the issue which is before the Senate in the Cotton amendment.

To me, the issue is very simple. It is whether or not we will permit, in this democracy, discrimination against people because of the color of their skin. That is a moral issue as well as a great legal issue. I am at a loss to understand how it can be immoral to have an employer of 100 or more employees denied the exercise of discrimination and have it granted to an employer of fewer than 100 employees.

I do not intend to take my eyes off the basic issue, and that is the immorality of discrimination based upon race or the color of one's skin.

It is just as wrong for an employer who employs two people to have that right to discriminate as the basis of his employment as it is for an employer of 2,000 employees to have it.

Mr. HUMPHREY. The Senator's argument is irrefutable. It is a solid moral argument. It is also solid economically, because in this instance, as in all other instances, to do what is right is generally to be helpful to oneself and to others.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. CLARK. I have no doubt that the Senator from Minnesota has covered, in his usual eloquent manner, the principal reasons why I hope the amendment will be defeated. But I should like to pose a question to him. I suppose it is a leading question, perhaps a Socratic one.

It seems to me the Cotton amendment would make second-class citizens out of employees of every small businessman, of every middle-sized businessman, of every businessman who has fewer than 100 employees. Also, the Cotton amendment would make second-class citizens out of the members of every small labor union. That, as I understand, includes the majority of the labor unions in the country. It would do so by denying equal employment opportunity to every individual who happened, by luck of the draw, to be a member of a smaller labor union or an employee of a small businessman. I can see absolutely no equity in that.

I went along with the "Mrs. Murphy" suggestion with respect to the public accommodations title. I might be willing to go along now with a proposal that an employer of 5 or fewer employees could discriminate, if he wanted to, whereas an employer of 10 or 15 employees could not.

Actually, the Dirksen-Mansfield substitute, as everyone knows, provides a limit of 100 the first year, and the limit is reduced annually until the number of 25 is reached.

The Senate bill, which I had the honor to bring to the floor, eliminated only employers of eight employees or fewer. I thought that was sound.

We must admit that in terms of appropriation and enforcement there are limits in terms of number of employees. But I think that to limit the proposal to 100 employees, and say that anyone who has 99 employees may discriminate all he wishes to, and that any labor union having 99 members may discriminate, makes second-class citizens of a great number of Americans. We can give no legitimate excuse for lifting them out from under equal job opportunity protection of this title. I hope the amendment will be rejected.

The PRESIDING OFFICER. Does the Senator from Minnesota yield himself more time?

Mr. HUMPHREY. I yield myself an additional 10 minutes.

I wish to note, in this sense, that I do not consider that the amendment of the Senator from New Hampshire would encourage discrimination. I know the Senator from New Hampshire too well for that. He is a man of great honor, compassion, and personal and public integrity. What he has offered is an amendment which he believes, as some people might put it, cuts the bill down to a certain size. To me, it cuts into the heart of the bill.

I oppose his amendment primarily because it makes title VII truly a less-than-effective title for vast numbers of employees in the country. It would permit discrimination with respect to large numbers of employees. But I believe we debate the merits of the bill, and I believe what we had better do is point out that if we establish the cutoff at 100 employees, for all practical purposes we shall have established a system in which substantial numbers of States will have a different coverage, and in which the Federal Government will have very limited coverage under the bill, because the Federal Government, in terms of other employers with whom it does business all the time in the same community, will have coverage under the employment order that cuts down to one or more employees. So there would be confusion worse confounded.

Mr. CLARK. Mr. President, in view of what the Senator from Minnesota has just said, I shall ask him to yield further, because I believe he vastly misunderstood the purport of my argument.

Mr. HUMPHREY. I hope the Senator will give me an opportunity to yield, first, to the Senator from Massachusetts.

Mr. CLARK. The Senator from Minnesota made a statement which I believe misrepresents the intent of my statement.

Mr. HUMPHREY. I yield to the Senator from Pennsylvania.

Mr. CLARK. The Senator from New Hampshire knows me well enough to know that I cast no aspersions on his motivations. I had no critical comment whatever to make concerning what he was trying to do. I was speaking only of the inevitable consequences of what he proposes.

There is no Member of the Senate whom I respect more than I do the Senator from New Hampshire. Under no circumstances would I question his motivation. I believe his amendment is unsound and unwise. I am sure he honors me for that view and would be the first to agree that I intended no affront.

Mr. COTTON. I understand that.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Massachusetts.

Mr. SALTONSTALL. Of course, we are talking objectively, without imputing improper motives to anyone.

With reference to the discussion on the pending amendment, three things appeal to me in title VII as it is written in the Dirksen-Mansfield substitute amendment. The first is that we want to give every citizen a fair break in employment. We want to afford him the opportunity to obtain a job for which he is trained and has the qualifications to hold.

The second thing that appeals to me—and the Senator from Minnesota will recall that he and I are members of the Select Committee on Small Business—is that the figures will show that more than 90 percent of the business of this country is so-called small business. Some of these businesses employ 25 people or less. Others employ over 25 people. In general, the number of employees is small. Title VII provides that over a period of 5 years the coverage of this act will be gradually extended to industries and unions with 25 or more people. This covers an important segment of our work force.

The other point I wish to make is that the Dirksen-Mansfield substitute provides greater opportunity for fair employment problems to be settled locally. This is very important in the 30 States which already have fair employment laws and which settle their problems locally, in one way or another.

In Massachusetts, where the State act applies to employers with six or more employees, about 3,500 complaints have been filed against employers, employment agencies and unions over the past 17 years. In total the Massachusetts Commission Against Discrimination has handled about 4,700 civil rights complaints in that time, only two of which have been adjudicated in the courts. Neither of these cases related to an unfair employment practice. All the rest of the cases have been settled by the Commission dealing personally with the problems and settling the disputes without resort to court action.

So I believe that title VII as contained in the Dirksen-Mansfield substitute is helpful. I hope the amendment of the Senator from New Hampshire will be rejected, because I believe it will eliminate many employees who should be covered under the terms of the bill.

Mr. HUMPHREY. Mr. President, I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I wish also to make one or two points. The first is that we are speaking of established standards to which people can repair. We will not be establishing an adequate standard if we limit the bill to only 56,000 employers in the United States as contrasted with 260,000 employers throughout the country who would be covered by a standard of 25 or fewer employees.

We know that compliance in a particular situation may be better achieved by conciliation and accommodation, and that is the very purpose of the substitute package. It makes the standard, which will be applied in this way, more widespread in its application to employers.

I bear out what the Senator from Massachusetts has just said. In the 13 industrial States of the Nation, since the first law of this kind was passed, in New York, there have been only 19,439 cases. Of that number, only 18 have actually gone to court. Indeed, even hearings have been held in only 62. So fears about this proposal are unwarranted.

Finally, I should like to say a personal word. I heard the Senator from New Hampshire speak on his proposal. I join with my colleagues in my respect for him and his feelings in this matter. I heard the Senator from New Hampshire say, "All that my amendment does," and then go on to point out that all it does is to set a standard of 100.

I respectfully submit that all it does is to mark the difference, to tip the balance, as against the razor-thin agreement the Senator from Illinois [Mr. Dirksen] worked out with respect to title VII, which many of us accepted as the very least thing we could possibly accept in terms of the effectiveness of this title. What the Senator's amendment would do would be to push the balance over.

It makes it less acceptable. It is that razor-thin margin which, in my judgment, justifies the belief that this amendment, unlike the Dirksen substitute, will really emasculate a critically important part of the bill. It seems to me that rather than to defeat our own purposes, if we are going into this subject at all, we ought to reject the amendment.

Mr. HUMPHREY. Mr. President, I yield to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CASE. I thank the Senator from Minnesota.

Mr. President, as the Senator from Minnesota has already pointed out, the leadership amendment would cover, under title VII, only 8 percent of the employers of the country, and the Cotton amendment would reduce the percentage to 2. Similarly, the Dirksen leadership amendment would withhold guarantees from more than 60 percent of the labor force; and the Cotton amendment would increase that to 70 percent—thus still further reducing the effective coverage of this measure.

I believe all of us agree, and I think the Senator from New Hampshire takes the same view, that such discrimination is wrong. So there is no division of opinion among us on that point.

The concern of the Senator from New Hampshire is in regard to the possible harassment of small businessmen. I believe we have already made proper provision in regard to possible areas of harassment by Federal bureaucracy. We have done that by means of the carefully drafted provisions of the bill which require that if there is possible reason to believe that a State agency will deal with the matter, it will have 60 days in which to deal with it, before the Federal agency can be called in; and, even then, the Federal agency can only investigate and attempt to persuade, but will not have any power of enforcement.

We have also narrowly restricted the requirements in regard to recordkeeping by employers and their vulnerability in connection with Federal inspection and examination.

In short, we believe we have done the most careful job that conscientious legislators concerned with States rights and the maintenance of State control wherever possible could possibly do.

Therefore, I believe this is a complete answer to the concerns and worries of the Senator from New Hampshire.

Mr. HUMPHREY. I thank the Senator from New Jersey. His explanation should be very reassuring to Senators.

Mr. MAGNUSON. Mr. President, will the Senator from Minnesota yield briefly to me?

Mr. HUMPHREY. I yield.

Mr. MAGNUSON. I wish to refer to one aspect of the bill which I believe has not been very well brought out. It is a very practical aspect. Under conditions existing in the country—some of them unfortunate—in the opinion of some businessmen in my State, the effect of the proposed Federal law plus the State law, would be to provide them with some protection if they were incorrectly charged with engaging in discrimination, whereas they had not actually been engaging in it. They believe this measure will give them a forum in which the facts can be developed and disclosed, with the result that if they had not actually been discriminating or if there had been a misunderstanding, the real facts could be brought out, whereas in the absence of such a law, rumors of discrimination could continue, and could be very harmful to a business.

The proof of the pudding is that in most States, 95 to 98 percent of such cases are settled amicably, because often there are misunderstandings. But in the absence of such a forum, such conditions could continue for a long time without being corrected.

Mr. HUMPHREY. I thank the distinguished and eloquent Senator from Washington. I would like to sum up the case against the amendment proposed by the Senator from New Hampshire [Mr. Cotton]. This amendment would limit the coverage of title VII to businesses that employed 100 or more persons. I believe that this amendment would drastically reduce the effectiveness and impact of title VII. At the outset, let me again summarize the coverage of title VII as now written.

First, it is well to emphasize that the enforcement provisions of title VII do not become effective until 1 year after the date of the enactment of the Civil Rights Act of 1964. Thus, the pending bill provides for an entire year of transition for all employers. After this 1-year grace period, the bill will become effective but its coverage during this first year will be limited. During the first year, only employers with 100 or more employees will be covered. In subsequent years, the bill will take hold of employers with lesser numbers of employees. Thus, 3 years from when the bill is enacted, it will be extended to employers with 75 or more employees; 4 years from enactment coverage will reach employers with 50 or more employees and, finally, 5 years from the date the bill is passed, it will cover employers of 25 or more employees.

Certainly, this gradual progression of coverage is moderate, indeed. New duties are not suddenly imposed. Rather, the business community is given ample time to adjust. And what are they being asked to adjust to? They are being asked to adjust to a principle of fairness that is so morally and ethically correct that its validity should long ago have been universally recognized.

Now, let us see what the amendment proposed by Senator Cotton would do. First, let us consider employer coverage. There are 3,300,000 employers that report to the social security system. Of this number, only 259,343—about 8 percent of the total—employ 25 or more employees. In other words, under the bill as presently drafted, about 92 percent of all employers would be exempt from the provisions. Surely this cannot be regarded as a drastic imposition on the business community. Senator Cotton's amendment would further reduce substantially even this minimual coverage. The fact is that there only are 56,366 employers in this country that employ 100 or more employees. Thus, what Senator Cotton is suggesting is that title VII should cover somewhat less than 1¾ percent of the employers of this country—an infinitesimal number. On the other hand, the pending bill would cover less than 300,000 of the 3,300,000 employers, about 8 percent of the employers who report to the social security system. Plainly, the coverage is modest enough and to reduce it to the extent proposed by Senator Cotton is a step of drastic proportions that has no justification whatsoever.

Viewing Senator Cotton's amendment from the viewpoint of employee coverage, the effect is equally disturbing. There are currently in this country 73 million persons classified as employees. If the bill's coverage extends to employers of 25 or more persons, 29 million of these 73 million persons would be covered. Thus, even when the pending bill becomes fully effective, 44 million workers will be exempted from its coverage. Now if the bill is limited to employers of 100 or more workers, only 21 million workers would be covered. Senator Cotton's amendment, therefore, would cut out 8 million persons from coverage under title VII. This would leave a total of 53 million of our 73 million employees uncovered by the act—clearly a shockingly large exclusion.

In addition, Senator Cotton's proposal is a dramatic departure from the body of legislation that already exists in this field. It should be remembered that 25 States have fair employment laws. The laws of 23 of these States have more liberal coverage than the pending bill. Thus in States such as Connecticut, Delaware, and Wisconsin, there is no minimum number of employees that are required for an employer to be covered. In California, there is a minimum of five employees, in Michigan eight, and in Oregon six. Only Missouri and Illinois limit coverage to employers of 50 or more workers but even these two States are twice as liberal as what Senator COTTON proposes.

There is a special significance to the coverage of the State laws which I have just discussed—beyond the fact that the coverage of 23 of these laws is more pervasive than the pending bill and, obviously, more so than that proposed by Senator COTTON. The amendments that have been introduced to the pending Civil Rights Act by Senator DIRKSEN, Senator KUCHEL, Senator MANSFIELD, and myself have been directed largely at one goal—to give the States first opportunity to deal with the problems covered by such titles as title II and title VII. Great emphasis has been placed on State law and its enforcement. It is important, therefore, that there be some consistency between State and Federal law to make this cooperative venture operate smoothly. Certainly, many problems can be foreseen if there is a wide discrepancy between the coverage of State law and Federal law. Federal and State law should be nearly as coextensive as possible. For this reason, it appears sound to include within the Federal statute as many of the employees covered by State law as possible. This goal is most nearly achieved by the pending civil rights bill the coverage of which is in line with the vast majority of State laws. Senator COTTON's proposal, on the other hand, would tremendously increase the gap between Federal and State law coverage.

Other Federal statutes also provide precedent for our consideration of the coverage of title VII. In the past, when Congress has enacted legislation to deal with significant community problems, the goal always has been to make coverage as broad as possible. When Congress has recognized an existing problem, it has tried to deal with that problem to the full extent permitted by the Constitution. Why should employment discrimination be treated any differently? When we were faced with the necessity of dealing with labor unrest we enacted the National Labor Relations Act and made its coverage as broad as possible. Thus, that act has no minimum requirement for coverage. Similarly, to deal with wage inequities, we passed the Fair Labor Standards Act. This statute, too, is broad in its coverage; it reaches enterprises with two or more employees. Certainly the problem resulting from employment discrimination is of great magnitude and deserves treatment on a broad basis.

Senator COTTON's proposal minimizes the impact of employment discrimination and attempts to exempt the vast majority of employers from the remedies provided by title VII. But let me emphasize again that the problem with which title VII is intended to deal is a pervasive and overriding one and should be dealt with on that basis.

As I emphasized in my initial remarks on title VII, racial prejudice in employment is one of the most wasteful practices for the economy. Senators and Members of the House of Representatives who are worried about waste would do well to see to it that this waste is eliminated. The Council of Economic Advisers has recently estimated that full utilization of the present educational attainment of nonwhites in the country would add about $13 billion to our gross national product. Every bit of evidence we have in connection with fair employment practice laws indicates that such statutes not only are good law, good morals, and good labor-management practice, but also good economics. Now that we are about to pass such a statute, we should do so without extensive limitations.

Anyone who believes that title VII should be limited is overlooking the great problem with which it is intended to deal. According to Labor Department statistics, the unemployment rate among nonwhites is over twice as much as among whites. More significantly, among white family breadwinners, those with dependents to support, the unemployment rate is three times as high among nonwhites as among whites and although nonwhites contribute only 11 percent of the total work force, they account for 25 percent of all workers unemployed for 6 months or more.

Discrimination also affects the kind of jobs nonwhites can get. Generally, it is the lower paid and less desirable jobs which are filled by nonwhites. For example, 17 percent of nonwhite workers have white-collar jobs; among white workers, the figure is 47 percent. On the other hand, only 4 percent of the whites who are employed work at unskilled jobs in nonagricultural industries; among nonwhites, the figure is 14 percent.

This situation is not due solely to differences in educational attainment. The shameful fact is that educated Negroes often are denied the chance to get jobs for which they are trained and qualified. A recent study of the Department of Labor revealed that only 43 percent of all nonwhites with technical training held jobs on which they used the training compared to 60 percent of all workers. Eighty percent of white college graduates have professional, technical, or managerial jobs, but only 70 percent of Negro college graduates have such positions commensurate with their education. At lower educational levels the situation is worse. Only 2 percent of white women who have graduated from high school are domestic workers, but fully 20 percent of Negro women with this much education can find only domestic work.

Even within their professions, nonwhites earn much less than white people. It is a depressing fact that a Negro with 4 years of college can expect to earn less in his lifetime than a white man who quit school after the eighth grade. In fact, Negro college graduates have only half the lifetime earnings of white college graduates.

It is wishful thinking to believe that this situation is improving and will gradually correct itself. While progress can be shown in some areas, for example employment in Federal, State, and local government, in other respects the relative position of the Negro worker is steadily worsening. In 1947, the nonwhite unemployment rate was only 64 percent higher than the white rate; in 1962 it was 124 percent higher.

This is a momentous problem, and it requires imaginative and far-reaching solutions. The need is for drastic action—not feeble, limited steps. The approach exemplified by the Cotton amendment just will not do the job.

But why is there a desire to exempt as many employers as possible from the coverage of title VII? I suppose there is some feeling that employers already are subjected to sufficient regulation and should not be further burdened. But is this a legitimate reason? Certainly it is a burden to require employers to negotiate with unions rather than unilaterally establishing working conditions, but the National Labor Relations Act imposes this burden even on small employers. Likewise, it is a burden to require an employer to pay a minimum wage, but this is no excuse to escape from the coverage of the Fair Labor Standards Act. Obviously, many employers would have been relieved of burdens if the coverage of the Food and Drug Acts had been limited, but Congress was not receptive to the argument that an employer's life would be easier if he could adulterate and label his products as he chose. There were evils to remedy and Congress sought to remedy them on the widest basis possible.

And—let me emphasize again—under the leadership substitute itself only about 8 percent of the employers of this country will be affected.

The need for fair employment legislation is imperative. Its scope should be broad and encompassing. Congress now has the opportunity to take a significant step in dealing with a great social problem in this country. The step should not be a timid, hesitating one. It should be a forward-looking movement in the direction of bringing this country closer to the principles of equality that have made us great and are the source of admiration and emulation throughout the world.

Mr. President, I yield the floor.

Mr. COTTON. Mr. President, I shall speak only a little longer. In view of the fact that the acting majority leader and the minority leader and other distinguished Senators have, with virtually one accord, opposed the suggestions made by means of this amendment, I wish to make several points crystal clear.

In the first place, no Member of this body, and certainly not the Senator from New Hampshire, would claim for a moment that discrimination because of race or color or national origin is not immoral. It makes not the slightest difference whether that discrimination is practiced in a plant which has 10,000 employees or is practiced by a businessman who runs a real estate office with 30 employees. Morally, the result is the same, if discrimination exists because of the color of a man's skin or because of his race or his creed.

However, here we are dealing with rules which the Federal Government should be able properly, efficiently, and effectively to enforce.

The only difference between a large business and a very small one lies in the situation which faces the small businessman because of the necessities of his business.

First of all, I say to the Senator from Minnesota that when he said such an order would be binding on anyone who does business with the Federal Government, even including an employer who had only one employee, I point out that I have already said I believe that, too, would be sound law—namely that anyone who does business with the Federal Government or who benefits from the Federal Government should be subject to Federal control in regard to his hiring practices.

However, I recall very well that in the early days of the Wagner Act, when I was practicing law in a small town, a small businessman had occasion to discharge an employee. An investigation was made. In the early days of the Wagner Act, those who did the investigating had, largely, a labor union background. It was discovered that the discharged employee was the secretary of a small union in that plant. The investigator recommended that the discharged employee be reemployed and also be paid his back wages.

The businessman came to me; and we went to Boston, and appeared there before the examiner. The testimony showed that the discharged employee was a drunk and was disorderly, and on two occasions had endangered the safety of his fellow employees. However, because the discharged employee was the secretary of the labor organization that was organizing the union in that plant, the examiner ruled that the employee had been discharged because of his union activities; and the order was that he be reemployed and be paid his back wages. I said to the businessman, "Of course, you have recourse to appeal to the Federal court."

He replied, "I cannot afford to do that. I will pay this fellow's back wages, and will reemploy him; that will be the cheapest way for me out of the situation."

In short, it is all very well to talk about enforcing morality; and large industries encounter no hardship in handling such matters, for they have teams of lawyers organized to deal with them.

But Senators should think twice before they vote in favor of the passage of a bill which would make it possible for an investigator or a Federal administrative officer to reach a conclusion, and thus make it incumbent on the small businessman to carry the case to the courts if he is to get justice. In addition, let us remember that when we deal with such overt acts, although one can "slice" title VII any way he wishes or as thin as he may wish to slice it, or can spell it any way he wishes to spell it, in any case it is clear that this title deals with a state of mind; namely, that if it is charged that Mr. A or Mr. B was not promoted because of his race, his church, or his nationality, the question will be: What was the employer's intent?

I am not interested in the razor-thin margin by which the majority leader, the minority leader, the Attorney General, or anyone else found themselves in accord. No Senator is under any obligation to vote for a measure in which he does not believe because some others have made an agreement and he might upset it.

For at least 13 weeks I have heard Senator after Senator shake his finger and talk about violence and demonstrations. We have heard that we must act by the deadline of a certain date or we shall be responsible for bloodshed and violence. I have heard Senators in complete sincerity deplore race prejudice, race hatred, and race war. I do not believe there is any one of us who does not deplore that sort of thing. But in the light of the very lulling arguments made by the proponents of the title about how good, sweet, gentle, fair, and noble will be everyone—even straight through all the ranks of the army of people that we shall have to have to check, enforce and examine the complaints—I wish to make a prediction. I point out, first, that I do not think it would make any great difference in the State that I represent whether the amendment were adopted or not.

We can enforce voting rights. In my opinion, the weapon of the Negro is the ballot box and a fight for the privilege of its use. We can enforce equal rights in the fields of integration, in education, and the use of public facilities in every State of the Union; that would be fair and just, because such action would turn the face of our Nation against discrimination, and that is what we want to do.

But should we write into the bill a provision which would take the Federal Government into every little business establishment where men are making a living, we shall see a reaction. When a man who is making his living by operating a business hires a man, he hires one who can do the best job for him. In most instances, employers do not hire a man because he is a relative or because he is of one color or another color. If I should be operating an insurance agency and I should find a man who could sell insurance, I would try to hire him, because I am a New Hampshire Yankee, and the almighty dollar looms very large to me.

But if we should write into the bill the title as it now stands, one of two things would happen: Either the provision would not be enforced, and the enforcement officers would be wise enough not to go into small businesses, or, if it were enforced, we should have in that provision the seeds of more bitterness, more hatred, more race prejudice, and more strife than we had when we started to integrate the public schools.

If we desire violence, bitterness, and hatred among the races in this country, I suggest that we put the Federal Government with a club into the livelihood of every small businessman, and that we deal with the businessman's motives and tell him what he must do.

I am not impressed by the argument about all the peaceful settlements that have been suggested. I have practiced law too many years, and I know that many peaceful settlements do not result because such settlements are fair. Rather they are made because a man must yield or he must go through the courts. It is the threat—the pistol at one's head.

I do not say that all these dire things will happen, but I do say that we have a bill which is all encompassing. Title VII is the most dangerous part of it, because it would lead the Federal Government with all of its power, majesty and bureaucracy into the way of dealing with a small businessman who can ill afford to protect himself, and in many cases his actions will be judged by the facts of the race or color involved and not by the facts of the case.

Mr. MORSE. Mr. President, will the Senator yield to me?

Mr. HUMPHREY. I yield 5 minutes to the Senator from Oregon.

Mr. MORSE. Mr. President, I rise to express my disagreement with the observation and conclusions of the Senator from New Hampshire. It seems to me that two issues are involved in the discussion. One is to seek to enact legislation that will be helpful in bringing to an end unfair economic discrimination against Negroes, because we know that there exists in our economy the practice of discrimination against Negroes when it comes to employment.

Second, as I said before, and repeat, we have an obligation, it seems to me, to do what we can to bring to an end acts of immorality in our democracy based upon discrimination against Negroes because of the color of their skin. If we are going to promote discrimination practiced against the largest percentage of our working force in this country because they are employed by businesses that would come under the exemption clause of the Cotton amendment and seek to try to bring to an end economic discrimination based upon race and so-called big business, we shall automatically discriminate against employers of 100 or more employees. That itself is a form of discrimination with regard to a matter that ought to be universal and uniform in its application.

I am not persuaded by the argument that we shall have a problem of enforcement in small business or we shall put the small businessman into a position in which he may have to resort to legal defenses, because that adds up in my book really to putting economic values above human values. Basically we are dealing with a problem which is charged with discrimination in respect to human values. Once we pass the bill without the Cotton amendment, I think we shall be surprised how it will be self-executing in most instances. There is a price one has to pay to be free, even though he is a businessmen. There is a price one has to pay to live in a democracy, even though one is a small businessman. I know of no reason why we should set small businessmen aside and say, "You can continue discrimination with immunity." We shall have to have evidence. When the evidence can be presented under the legal requirement of the act that a small businessman in fact is denying equality of economic opportunity to the Negroes of the country, why should he not come under the act?

It was for the same reason that I voted against the Landrum-Griffin Act—because of the no man's land provision in it. I saw no reason why Walter Reuther, for example, should have the protection that goes along with protecting employees in large plants within his union, but employees in small plants would have no protection under the no man's land provision in that act.

I thought we made a mistake then. But it would be no greater mistake than would be made this afternoon when we are dealing here with human rights, and with the rights of Negroes to be protected from discrimination by the small businessman as opposed to the large businessman. We would have to discriminate against a big businessman.

I think if we proceed in the matter of guaranteeing first-class citizenship to the Negroes of the country, or to put it another way, as I have said before in the Senate Chamber, deliver to the Negroes of the country for the first time in our history the Constitution of the United States, we cannot start this afternoon by creating the kind of exception which permits discrimination on the part of the small businessman but not on the part of the large businessman.

Mr. JAVITS. Mr. President, will the Senator yield for this one observation?

Mr. MORSE. I yield.

Mr. JAVITS. Mr. President, I heard with great interest the argument of the Senator. The same thing is true with regard to the pure food and drug laws and the securities acts and many other laws under which the small businessman may be involved in litigation.

When I said what I did about the Mansfield-Dirksen compromise being on the very thin edge of agreement, I had in mind some things which put them on that edge. One of them is counsel fees. If an individual sues in one of these cases and loses, the court will have the authority under a provision in the Dirksen-Mansfield substitute to impose the defendant's counsel fees upon him. That is a most unusual sanction. The sanction is in there only because of the fact that the title would affect a good many small businessmen. If the title does not affect a good many small businessmen, then this sanction becomes a threat to the individual who asserts his rights. Certainly we do not want to make such a provision in the case of General Motors or General Electric. We have already taken into consideration the fact that the small businessman should be covered as well as the large businessman—as he is in a whole string of other laws across the board. Do we think that if we leave him out of this provision, we will save him from litigation with the Department of Justice, the SEC, or the other departments? Of course not.

Mr. COTTON. Mr. President, I yield back the remainder of my time.

Mr. HUMPHREY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on the amendment of the senior Senator from New Hampshire [Mr. COTTON].

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALTERS (when his name was called). On this vote I have a pair with the distinguished Senator from Ohio [Mr. LAUSCHE]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Ohio [Mr. LAUSCHE] is absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE] would vote "nay."

The result was announced—yeas 34, nays 63, as follows:

[No. 279 Leg.]

YEAS—34

Bennett
Byrd, Va.
Byrd, W. Va.
Cotton
Curtis
Eastland
Edmondson
Ellender
Ervin
Fulbright
Goldwater
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
McIntyre
Mechem
Monroney
Morton
Mundt
Robertson
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Yarborough

NAYS—63

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Dirksen
Dodd
Dominick
Douglas
Fong
Gore
Gruening
Hart
Hartke
Hayden
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McNamara
Metcalf
Miller
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—3

Engle
Lausche
Walters

So Mr. COTTON's amendment was rejected.

Mr. DIRKSEN. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HUMPHREY. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

The question now recurs on amendments No. 577, offered by the Senator from Louisiana [Mr. LONG] to the amendments No. 513, offered by the Senator from Georgia [Mr. TALMADGE] and other Senators, relating to jury trials in criminal contempt cases.

AMENDMENTS NOS. 964–1007

Mr. LONG of Louisiana. Mr. President, I do not plan to insist on my amendments in view of the fact that the Morton amendment was agreed to earlier in the day.

I ask unanimous consent that I may submit some conforming amendments which apply to the bill at the desk so that they may be offered to the Dirksen substitute.

I ask unanimous consent that the amendments may be considered as having been read for all purposes under the rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 964

On page 14, after line 23, insert the following new section:

"SEC. 208. (a) Section 7 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

"'(e) (1) If the Administration finds (A) that any person is deprived, at any establishment described in section 201(b) of title II of the Civil Rights Act of 1964, of any right or privilege secured by section 201 or 202 of such Act, and that such deprivation is pursuant to a pattern or practice within the area of the State in which such establishment is situated, or (B) that, with respect to a substantial percentage of such establishments in any area of a State offering comparable goods, services, facilities, privileges, advantages, or accommodations, compliance with the requirements of such title is being made only because of resignation to the fact that there are provisions of such title which may be used to compel compliance in the event of a violation of such title, the Administration is empowered to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to provide establishments within such area which will offer goods, services, facilities, privileges, advantages, or accommodations comparable to those offered by such establishment or establishments, respectively, in compliance with the concept and spirit of such title, and which will encourage integration at such establishments among persons of different races, colors, religions, and national origins.

"'(2) Financial assistance under this subsection shall be subject to the following limitations:

"'(A) No financial assistance shall be extended pursuant to this subsection unless the borrower agrees to provide to all persons the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any establishment to be provided by such financial assistance without discrimination or segregation on the ground of race, color, religion, or national origin, and to encourage the integration at such establishment of persons of all races, colors, religions, and national origins.

"'(B) No financial assistance shall be extended unless such assistance is not otherwise available on reasonable terms.

"'(C) In agreements to participate in loans on a deferred basis, such participation shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

"'(D) No loan, including renewals and extensions thereof, shall be made for a period or periods exceeding twenty years.

"'(E) The rate of interest for the Administration's share of any loan shall not exceed 5 per centum per annum.'

"(b) Section 4(c) of such Act is amended by—

"(1) striking out '$1,666,000,000' and inserting in lieu thereof '$2,166,000,000'; and

"(2) inserting after the fourth sentence the following: 'Not to exceed an aggregate of $500,000,000 shall be outstanding from the fund at any one time for the purposes described in section 7(e) of this Act.' "

AMENDMENT No. 965

On page 9, strike out all on lines 3, 4, 5, 6, and 7, and insert in lieu thereof the following:

"(e) The provisions of this title shall not apply to a private club or other establishment not open to the public."

AMENDMENT No. 966

On page 6, beginning with line 12, strike out all through line 23 on page 14 (title II), and in lieu thereof insert the following:

"TITLE II—LOANS TO PROVIDE PLACES OF PUBLIC ACCOMMODATION WHICH SERVE THE PUBLIC WITHOUT DISCRIMINATION

"SEC. 201. (a) Section 7 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

" '(e) (1) If the Administration finds that any person is deprived of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation, on account of his race, color, religion, or national origin, and that such deprivation is pursuant to a pattern or practice within the area of the State in which such place of public accommodation is situated, the Administration is empowered to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to provide places of public accommodation within such area offering comparable goods, services, facilities, privileges, advantages, or accommodations without discrimination or segregation on the ground of race, color, religion, or national origin. For purposes of this subsection each of the following establishments which serves the public is a place of public accommodation:

" '(A) any inn, hotel, motel, or other place of business which provides lodging to transient guests;

" '(B) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including but not limited to, any such facility located on the premises of any retail establishment; and any gasoline station;

" '(C) any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment; and

" '(D) any establishment (i) which is physically located within the premises of any establishment otherwise described in this subsection, or within the premises of which is physically located any such described establishment, and (ii) which holds itself out as serving patrons of such described establishment.

" '(2) Financial assistance under this subsection shall be subject to the following limitations:

" '(A) No financial assistance shall be extended pursuant to this subsection unless the borrower agrees to provide to all persons the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation to be provided by such financial assistance without discrimination or segregation on the ground of race, color, religion, or national origin.

" '(B) No financial assistance shall be extended unless such assistance is not otherwise available on reasonable terms.

" '(C) In agreements to participate in loans on a deferred basis, such participation shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

" '(D) No loan, including renewals and extensions thereof, shall be made for a period or periods exceeding twenty years.

" '(E) The rate of interest for the administration's share of any loan shall not exceed 5 per centum per annum.'

"(b) Section 4(e) of such Act is amended by—

"(1) striking out '$1,666,000,000' and inserting in lieu thereof '$2,166,000,000'; and

"(2) inserting after the fourth sentence the following: 'Not to exceed an aggregate of $500,000,000 shall be outstanding from the fund at any one time for the purposes described in section 7(e) of this Act.' "

On page 74, after line 23, insert the following matter:

"Amend the title so as to read: 'A bill to enforce the constitutional right to vote, to authorize loans to provide places of public accommodation which serve the public without discrimination, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.' "

AMENDMENT No. 967

On page 9, beginning with the comma on line 5, strike out all through "(b)" on line 7.

AMENDMENT No. 968

On page 9, lines 3 and 4, strike out "bona fide".

AMENDMENT No. 969

Beginning with line 12, page 6, strike out all to and including line 23, page 14.

AMENDMENT No. 970

On page 6, line 20, immediately after the period, insert the following new sentence: "As used in this title, the phrase 'discrimination or segregation on the ground of race, color, religion, or national origin' means any arbitrary and unreasonable differentiation in the treatment regularly and habitually accorded to members of differing races, colors, religions, or national origins which is based solely upon race, color, religion, or national origin."

AMENDMENT No. 971

On page 6, line 20, immediately after the period, insert the following new sentence: "No right, privilege, or remedy conferred by this title to or upon any person may be exercised or enforced in derogation of any right, privilege, or remedy of any other person conferred or secured by the Constitution or any statute of the United States or by valid law of any State or political subdivision thereof."

AMENDMENT No. 972

On page 6, lines 21 and 22, strike out the words "serves the public", and insert in lieu thereof the words "is engaged in business for profit and holds itself out as serving patrons without restriction or limitation".

AMENDMENT No. 973

On page 6, line 21, strike out the word "serves", and insert in lieu thereof the words "is regularly engaged for profit in the business of serving".

AMENDMENT No. 974

Beginning with the comma in line 23, page 6, strike out all to and including the word "action" in line 25, page 6.

Beginning with line 20, page 8, strike out all to and including line 2, page 9.

Beginning with line 8, page 9, strike out all to and including line 14, page 9.

On page 9, line 18, strike out the words "or 202".

On page 9, line 21, strike out the words "or 202".

On page 9, line 23, strike out the words "or 202".

AMENDMENT No. 975

On page 6, line 24, immediately after the words "by it", insert the words "on the ground of race, color, religion, or national origin".

AMENDMENT No. 976

Beginning with line 1, page 7, strike out all to and including line 6, page 7, and insert in lieu thereof the following:

"(1) any inn, hotel, motel, or other establishment regularly engaged in the business of providing to the general public lodging facilities for transient guests, if such establishment contains more than five rooms for rent or hire;".

AMENDMENT No. 977

Beginning with line 10, page 7, strike out all to and including line 12, page 7, and insert in lieu thereof the following: "if such facility is situated (A) within the structure occupied by any establishment described in paragraph (1), or (B) in close proximity to any facility regularly used for or in connection with the transportation of persons or property in commerce;".

AMENDMENT No. 978

On page 7, line 15, immediately after the word "entertainment", insert a comma and the following: "if such place is situated (A) within the structure occupied by any establishment described in paragraph (1), or (B) in close proximity to any such establishment or to any facility regularly used for or in connection with the transportation of persons or property in commerce".

AMENDMENT No. 979

On page 7, line 15, immediately after the word "entertainment", insert the words "not situated within the residence of the operator or proprietor thereof".

AMENDMENT No. 980

Beginning with line 16, page 7, strike out all to and including line 21, page 7, and insert in lieu thereof the following:

"(4) any other establishment, if free access to the facilities, goods, or services thereof is necessary for the use of, or free access to, the facilities, goods, or services of an establishment of a kind described in paragraph (1), (2), or (3) of this subsection."

AMENDMENT No. 981

On page 7, line 17, immediately after the words "premises of", insert the words "and in close proximity to".

On page 7, line 19, immediately after the words "physically located", insert the words "and in close proximity to".

AMENDMENT No. 982

On page 7, line 20, immediately after the word "serving", insert the words "in the regular course of the conduct of a business for profit".

AMENDMENT No. 983

Beginning with line 22, page 7, strike out all to and including the period in line 12, page 8, and insert in lieu thereof the following:

"(c) The operations of an establishment affect commerce within the meaning of this title if such operations substantially affect commerce directly or indirectly."

AMENDMENT No. 984

On page 7, line 24, immediately after the words "subsection (b)", insert the words "which serves or offers to serve interstate travelers".

AMENDMENT No. 985

On page 7, line 24, immediately after the words "of subsection (b)", insert the words "and a substantial portion of its patronage is provided by individuals who are interstate travelers".

AMENDMENT No. 986

On page 7, line 24, immediately after the words "of subsection (b)", insert the words "and its operations substantially affect commerce".

AMENDMENT No. 987

On page 8, line 7, immediately after the word "entertainment", insert the words "a substantial proportion of".

AMENDMENT No. 988

On page 8, line 11, immediately after the words "of which", insert the word "substantially".

AMENDMENT No. 989

On page 9, line 6, immediately after the word "available", insert the words "in the regular course of a business conducted for profit".

AMENDMENT No. 990

On page 9, line 7, immediately after the period, insert the following new sentence: "Nothing contained in this title shall require any establishment engaged in the preparation or sale of food to prepare, sell, or offer for sale or consumption, any food of a kind, or prepared in a manner, required for (1) the observance of any dietary rule or observance of any religious faith, or (2) conformity to the dietary customs or preferences of persons of any race, color, or national origin."

AMENDMENT No. 991

Beginning with the word "That" in line 8, page 73, strike out all to and including line 16, page 73, and insert in lieu thereof the following: "That notwithstanding any provision contained in section 402, title 18, United States Code, all such proceedings for criminal contempt shall be subject to the provisions of section 3691 of title 18, United States Code, except that in any such case the accused, at the discretion of the judge, may be tried with a jury.".

AMENDMENT No. 992

On page 14, line 23, immediately after the period, insert the following new sentence: "Nothing contained in this title shall be construed to amend, modify, supersede, or repeal, or to impair the administration and enforcement of, or to deprive any person of any right or remedy under or with respect to, any provision contained in any statute of the United States heretofore enacted (1) for the regulation or protection of the trade or commerce of the United States or (2) to prevent unlawful restraints upon, or unfair methods of competition or acts or practices in, such trade or commerce."

AMENDMENT No. 993

On page 14, line 21, immediately after the word "accommodations", insert the words "and any statute or ordinance for the preservation of the peace or for the protection of the life, safety, or property of individuals or organizations".

AMENDMENT No. 994

On page 14, lines 12 and 13, strike out the words "without regard to whether", and insert in lieu thereof the word "after".

AMENDMENT No. 995

On page 14, line 10, immediately after the words "United States", insert the words "and the courts of the several States".

On page 14, line 11, immediately after the words "shall have", insert the word "concurrent".

AMENDMENT No. 996

On page 14, after line 23, insert the following new section:

"SEC. 208. It shall be unlawful for any person other than a duly authorized law enforcement officer (1) to engage in the practice of soliciting other persons to make complaints concerning alleged acts or practices prohibited by this title, or (2) to induce or attempt to induce other persons to institute, attempt to institute, or threaten to institute legal actions under this title for on account of such alleged acts or practices. Whenever any person is injured in his business, profession, or occupation by reason of the violation of this section by any other person, the person so injured shall be entitled to recover from such other person threefold the amount of the damages so sustained and a reasonable attorney's fee. The district courts of the United States shall have jurisdiction to hear and determine actions instituted under this section without regard to the amount in controversy. Process of the district court for any judicial district in any action under this section may be served in any other judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any such action is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States. As used in this section, the term 'person' means any individual and any partnership, corporation, association, or other legal entity."

AMENDMENT No. 997

On page 14, after line 23, insert the following new section:

"SEC. 208. It shall be unlawful for any person other than a duly authorized law enforcement officer (1) to engage in the practice of soliciting other persons to make complaints concerning alleged acts or practices prohibited by this title, or (2) to induce or to attempt to induce other persons to institute, attempt to institute, or threaten to institute, legal actions under this title for or on account of such alleged acts or practices. Whoever violates, attempts to violate, or combines or conspires with any other person to violate any prohibition contained in this section shall be fined not more than $5,000, or imprisoned not more than one year, or both. The district courts of the United States shall have jurisdiction to prevent and restrain violations and threatened violations of this section, and to enter such restraining orders and such temporary and permanent injunctions as may be required to prevent and restrain violations and threatened violations of this section. It shall be the duty of the several United States district attorneys, in their respective districts, to institute proceedings to prevent and restrain violations and threatened violations of this section. Whenever any such violation occurs or is threatened within any State, the Attorney General thereof or his designee may institute in any State or United States court of competent jurisdiction proceedings under this section to prevent and restrain such violation or threatened violation. As used in this subsection, the term 'person' means any individual and any partnership, corporation, association, or other legal entity."

AMENDMENT No. 998

On page 11, between lines 19 and 20, insert the following new subsection:

"(e) Before the Attorney General intervenes in any case instituted under this section, he shall cause to be conducted a full and complete investigation to determine whether probable cause exists for belief that the alleged act or practice prohibited by this title has occurred or is threatened. Upon a determination by the Attorney General, upon the basis of such investigation, that such probable cause does exist, he shall transmit a true and correct copy of the report of such investigation to the appropriate State or local officer with request that an attempt be made by such officer to secure compliance with the provisions of this title by voluntary procedures. If such officer declines to make such attempt, or if such attempt has not been made successfully within a reasonable period of time, the Attorney General may apply to intervene in such case pursuant to the provisions of this section."

AMENDMENT No. 999

On page 11, line 5, immediately after the period, insert the following new sentence: "The Attorney General shall not intervene in any such case until he has conducted an appropriate investigation to determine whether probable cause exists for belief that the alleged act or practice prohibited by this title has occurred or is threatened. Upon a determination by the Attorney General, upon the basis of such investigation, that such probable cause does exist, he shall transmit a true and correct copy of the report of such investigation to the appropriate State or local authority.".

AMENDMENT No. 1000

On page 10, line 13, strike out the words "this title,", and insert in lieu thereof the words "subsection (a),".

On page 11, between lines 19 and 20, insert the following new subsection:

"(e) It shall be unlawful for any person to institute or cause to be instituted, to attempt to institute or cause to be instituted, to make any threat to institute or cause to be instituted, or to combine or conspire with any other person to institute or cause to be instituted, any action under subsection (a) without just cause for the purpose of injuring any person in his business, profession, or occupation. The district courts of the United States shall have jurisdiction to prevent and restrain violations and threatened violations of this subsection, and to enter such restraining orders and such temporary and permanent injunctions as may be required to prevent and restrain such violations. It shall be the duty of the several United States district attorneys, in their respective districts, to institute proceedings to prevent and restrain violations and threatened violations of this subsection."

AMENDMENT No. 1001

On page 10, line 12, immediately after the period, insert the following new sentence: "No such injunction or order may be granted in any such action by any person unless such person shows that such action was instituted by the plaintiff in good faith to secure for himself a right conferred upon him by section 201 or section 202 of this Act."

AMENDMENT No. 1002

On page 10, line 15, immediately after the word "instituted", insert a comma and the following: "upon a showing of good cause therefor,".

fund at any one time for the purposes described in section 7(e) of this Act.' "

AMENDMENT No. 965

On page 9, strike out all on lines 3, 4, 5, 6, and 7, and insert in lieu thereof the following:

"(e) The provisions of this title shall not apply to a private club or other establishment not open to the public."

AMENDMENT No. 966

On page 6, beginning with line 12, strike out all through line 23 on page 14 (title II), and in lieu thereof insert the following:

"TITLE II—LOANS TO PROVIDE PLACES OF PUBLIC ACCOMMODATION WHICH SERVE THE PUBLIC WITHOUT DISCRIMINATION

"SEC. 201. (a) Section 7 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

" '(e) (1) If the Administration finds that any person is deprived of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation, on account of his race, color, religion, or national origin, and that such deprivation is pursuant to a pattern or practice within the area of the State in which such place of public accommodation is situated, the Administration is empowered to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to provide places of public accommodation within such area offering comparable goods, services, facilities, privileges, advantages, or accommodations without discrimination or segregation on the ground of race, color, religion, or national origin. For purposes of this subsection each of the following establishments which serves the public is a place of public accommodation:

" '(A) any inn, hotel, motel, or other place of business which provides lodging to transient guests;

" '(B) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including but not limited to, any such facility located on the premises of any retail establishment; and any gasoline station;

" '(C) any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment; and

" '(D) any establishment (i) which is physically located within the premises of any establishment otherwise described in this subsection, or within the premises of which is physically located any such described establishment, and (ii) which holds itself out as serving patrons of such described establishment.

" '(2) Financial assistance under this subsection shall be subject to the following limitations:

" '(A) No financial assistance shall be extended pursuant to this subsection unless the borrower agrees to provide to all persons the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation to be provided by such financial assistance without discrimination or segregation on the ground of race, color, religion, or national origin.

" '(B) No financial assistance shall be extended unless such assistance is not otherwise available on reasonable terms.

" '(C) In agreements to participate in loans on a deferred basis, such participation shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

" '(D) No loan, including renewals and extensions thereof, shall be made for a period or periods exceeding twenty years.

" '(E) The rate of interest for the administration's share of any loan shall not exceed 5 per centum per annum.'

"(b) Section 4(e) of such Act is amended by—

"(1) striking out '$1,666,000,000' and inserting in lieu thereof '$2,166,000,000'; and

"(2) inserting after the fourth sentence the following: 'Not to exceed an aggregate of $500,000,000 shall be outstanding from the fund at any one time for the purposes described in section 7(e) of this Act.' "

On page 74, after line 23, insert the following matter:

"Amend the title so as to read: 'A bill to enforce the constitutional right to vote, to authorize loans to provide places of public accommodation which serve the public without discrimination, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.' "

AMENDMENT No. 967

On page 9, beginning with the comma on line 5, strike out all through "(b)" on line 7.

AMENDMENT No. 968

On page 9, lines 3 and 4, strike out "bona fide".

AMENDMENT No. 969

Beginning with line 12, page 6, strike out all to and including line 23, page 14.

AMENDMENT No. 970

On page 6, line 20, immediately after the period, insert the following new sentence: "As used in this title, the phrase 'discrimination or segregation on the ground of race, color, religion, or national origin' means any arbitrary and unreasonable differentiation in the treatment regularly and habitually accorded to members of differing races, colors, religions, or national origins which is based solely upon race, color, religion, or national origin."

AMENDMENT No. 971

On page 6, line 20, immediately after the period, insert the following new sentence: "No right, privilege, or remedy conferred by this title to or upon any person may be exercised or enforced in derogation of any right, privilege, or remedy of any other person conferred or secured by the Constitution or any statute of the United States or by valid law of any State or political subdivision thereof."

AMENDMENT No. 972

On page 6, lines 21 and 22, strike out the words "serves the public", and insert in lieu thereof the words "is engaged in business for profit and holds itself out as serving patrons without restriction or limitation".

AMENDMENT No. 973

On page 6, line 21, strike out the word "serves", and insert in lieu thereof the words "is regularly engaged for profit in the business of serving".

AMENDMENT No. 974

Beginning with the comma in line 23, page 6, strike out all to and including the word "action" in line 25, page 6.

Beginning with line 20, page 8, strike out all to and including line 2, page 9.

Beginning with line 8, page 9, strike out all to and including line 14, page 9.

On page 9, line 18, strike out the words "or 202".

On page 9, line 21, strike out the words "or 202".

On page 9, line 23, strike out the words "or 202".

AMENDMENT No. 975

On page 6, line 24, immediately after the words "by it", insert the words "on the ground of race, color, religion, or national origin".

AMENDMENT No. 976

Beginning with line 1, page 7, strike out all to and including line 6, page 7, and insert in lieu thereof the following:

"(1) any inn, hotel, motel, or other establishment regularly engaged in the business of providing to the general public lodging facilities for transient guests, if such establishment contains more than five rooms for rent or hire;".

AMENDMENT No. 977

Beginning with line 10, page 7, strike out all to and including line 12, page 7, and insert in lieu thereof the following: "if such facility is situated (A) within the structure occupied by any establishment described in paragraph (1), or (B) in close proximity to any facility regularly used for or in connection with the transportation of persons or property in commerce;".

AMENDMENT No. 978

On page 7, line 15, immediately after the word "entertainment", insert a comma and the following: "if such place is situated (A) within the structure occupied by any establishment described in paragraph (1), or (B) in close proximity to any such establishment or to any facility regularly used for or in connection with the transportation of persons or property in commerce".

AMENDMENT No. 979

On page 7, line 15, immediately after the word "entertainment", insert the words "not situated within the residence of the operator or proprietor thereof".

AMENDMENT No. 980

Beginning with line 16, page 7, strike out all to and including line 21, page 7, and insert in lieu thereof the following:

"(4) any other establishment, if free access to the facilities, goods, or services thereof is necessary for the use of, or free access to, the facilities, goods, or services of an establishment of a kind described in paragraph (1), (2), or (3) of this subsection."

AMENDMENT No. 981

On page 7, line 17, immediately after the words "premises of", insert the words "and in close proximity to".

On page 7, line 19, immediately after the words "physically located", insert the words "and in close proximity to".

AMENDMENT No. 982

On page 7, line 20, immediately after the word "serving", insert the words "in the regular course of the conduct of a business for profit".

AMENDMENT No. 983

Beginning with line 22, page 7, strike out all to and including the period in line 12, page 8, and insert in lieu thereof the following:

"(c) The operations of an establishment affect commerce within the meaning of this title if such operations substantially affect commerce directly or indirectly."

AMENDMENT No. 984

On page 7, line 24, immediately after the words "subsection (b)", insert the words "which serves or offers to serve interstate travelers".

AMENDMENT No. 985

On page 7, line 24, immediately after the words "of subsection (b)", insert the words "and a substantial portion of its patronage is provided by individuals who are interstate travelers".

AMENDMENT No. 986

On page 7, line 24, immediately after the words "of subsection (b)", insert the words "and its operations substantially affect commerce".

AMENDMENT No. 987

On page 8, line 7, immediately after the word "entertainment", insert the words "a substantial proportion of".

AMENDMENT No. 988

On page 8, line 11, immediately after the words "of which", insert the word "substantially".

AMENDMENT No. 989

On page 9, line 6, immediately after the word "available", insert the words "in the regular course of a business conducted for profit".

AMENDMENT No. 990

On page 9, line 7, immediately after the period, insert the following new sentence: "Nothing contained in this title shall require any establishment engaged in the preparation or sale of food to prepare, sell, or offer for sale or consumption, any food of a kind, or prepared in a manner, required for (1) the observance of any dietary rule or observance of any religious faith, or (2) conformity to the dietary customs or preferences of persons of any race, color, or national origin."

AMENDMENT No. 991

Beginning with the word "That" in line 8, page 73, strike out all to and including line 16, page 73, and insert in lieu thereof the following: "That notwithstanding any provision contained in section 402, title 18, United States Code, all such proceedings for criminal contempt shall be subject to the provisions of section 3691 of title 18, United States Code, except that in any such case the accused, at the discretion of the judge, may be tried with a jury.".

AMENDMENT No. 992

On page 14, line 23, immediately after the period, insert the following new sentence: "Nothing contained in this title shall be construed to amend, modify, supersede, or repeal, or to impair the administration and enforcement of, or to deprive any person of any right or remedy under or with respect to, any provision contained in any statute of the United States heretofore enacted (1) for the regulation or protection of the trade or commerce of the United States or (2) to prevent unlawful restraints upon, or unfair methods of competition or acts or practices in, such trade or commerce."

AMENDMENT No. 993

On page 14, line 21, immediately after the word "accommodations", insert the words "and any statute or ordinance for the preservation of the peace or for the protection of the life, safety, or property of individuals or organizations".

AMENDMENT No. 994

On page 14, lines 12 and 13, strike out the words "without regard to whether", and insert in lieu thereof the word "after".

AMENDMENT No. 995

On page 14, line 10, immediately after the words "United States", insert the words "and the courts of the several States".

On page 14, line 11, immediately after the words "shall have", insert the word "concurrent".

AMENDMENT No. 996

On page 14, after line 23, insert the following new section:

"SEC. 208. It shall be unlawful for any person other than a duly authorized law enforcement officer (1) to engage in the practice of soliciting other persons to make complaints concerning alleged acts or practices prohibited by this title, or (2) to induce or attempt to induce other persons to institute, attempt to institute, or threaten to institute legal actions under this title for on account of such alleged acts or practices. Whenever any person is injured in his business, profession, or occupation by reason of the violation of this section by any other person, the person so injured shall be entitled to recover from such other person threefold the amount of the damages so sustained and a reasonable attorney's fee. The district courts of the United States shall have jurisdiction to hear and determine actions instituted under this section without regard to the amount in controversy. Process of the district court for any judicial district in any action under this section may be served in any other judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any such action is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States. As used in this section, the term 'person' means any individual and any partnership, corporation, association, or other legal entity."

AMENDMENT No. 997

On page 14, after line 23, insert the following new section:

"SEC. 208. It shall be unlawful for any person other than a duly authorized law enforcement officer (1) to engage in the practice of soliciting other persons to make complaints concerning alleged acts or practices prohibited by this title, or (2) to induce or to attempt to induce other persons to institute, attempt to institute, or threaten to institute, legal actions under this title for or on account of such alleged acts or practices. Whoever violates, attempts to violate, or combines or conspires with any other person to violate any prohibition contained in this section shall be fined not more than $5,000, or imprisoned not more than one year, or both. The district courts of the United States shall have jurisdiction to prevent and restrain violations and threatened violations of this section, and to enter such restraining orders and such temporary and permanent injunctions as may be required to prevent and restrain violations and threatened violations of this section. It shall be the duty of the several United States district attorneys, in their respective districts, to institute proceedings to prevent and restrain violations and threatened violations of this section. Whenever any such violation occurs or is threatened within any State, the Attorney General thereof or his designee may institute in any State or United States court of competent jurisdiction proceedings under this section to prevent and restrain such violation or threatened violation. As used in this subsection, the term 'person' means any individual and any partnership, corporation, association, or other legal entity."

AMENDMENT No. 998

On page 11, between lines 19 and 20, insert the following new subsection:

"(e) Before the Attorney General intervenes in any case instituted under this section, he shall cause to be conducted a full and complete investigation to determine whether probable cause exists for belief that the alleged act or practice prohibited by this title has occurred or is threatened. Upon a determination by the Attorney General, upon the basis of such investigation, that such probable cause does exist, he shall transmit a true and correct copy of the report of such investigation to the appropriate State or local officer with request that an attempt be made by such officer to secure compliance with the provisions of this title by voluntary procedures. If such officer declines to make such attempt, or if such attempt has not been made successfully within a reasonable period of time, the Attorney General may apply to intervene in such case pursuant to the provisions of this section."

AMENDMENT No. 999

On page 11, line 5, immediately after the period, insert the following new sentence: "The Attorney General shall not intervene in any such case until he has conducted an appropriate investigation to determine whether probable cause exists for belief that the alleged act or practice prohibited by this title has occurred or is threatened. Upon a determination by the Attorney General, upon the basis of such investigation, that such probable cause does exist, he shall transmit a true and correct copy of the report of such investigation to the appropriate State or local authority.".

AMENDMENT No. 1000

On page 10, line 13, strike out the words "this title,", and insert in lieu thereof the words "subsection (a),".

On page 11, between lines 19 and 20, insert the following new subsection:

"(e) It shall be unlawful for any person to institute or cause to be instituted, to attempt to institute or cause to be instituted, to make any threat to institute or cause to be instituted, or to combine or conspire with any other person to institute or cause to be instituted, any action under subsection (a) without just cause for the purpose of injuring any person in his business, profession, or occupation. The district courts of the United States shall have jurisdiction to prevent and restrain violations and threatened violations of this subsection, and to enter such restraining orders and such temporary and permanent injunctions as may be required to prevent and restrain such violations. It shall be the duty of the several United States district attorneys, in their respective districts, to institute proceedings to prevent and restrain violations and threatened violations of this subsection."

AMENDMENT No. 1001

On page 10, line 12, immediately after the period, insert the following new sentence: "No such injunction or order may be granted in any such action by any person unless such person shows that such action was instituted by the plaintiff in good faith to secure for himself a right conferred upon him by section 201 or section 202 of this Act."

AMENDMENT No. 1002

On page 10, line 15, immediately after the word "instituted", insert a comma and the following: "upon a showing of good cause therefor,".

On page 10, line 8, immediately after the word "action" insert the words "if the Attorney General certifies to the court the basis for his belief that the purposes of this title will be materially furthered by such intervention".

Amendment No. 1003

On page 9, line 15, immediately after the word "shall", insert the word "willfully".

Amendment No. 1004

On page 9, line 14, immediately after the period, insert the following new sentence: "Nothing contained in this title shall affect or impair the right of any individual or any group of individuals to exercise freely the right to discriminate or segregate on the basis of race, color, religion, or national origin in any social relationship or in any transaction or association which is not related to the operation of a place of public accommodation."

Amendment No. 1005

On page 9, line 14, immediately after the word "thereof", insert a comma and the following: "and such discrimination accomplishes or would accomplish substantial deprivation of any right secured by this title."

Amendment No. 1006

On page 9, line 9, strike out the words "establishment or place", and insert in lieu thereof "place of public accommodation".

Amendment No. 1007

On page 14, after line 23, insert the following new section:

"Sec. 208. Nothing contained in this title shall be construed to require any place of public accommodation to accord to any person of any race, color, religion, or national origin any preference, priority, or advantage over any person of any other race, color, religion, or national origin with respect to access to or use of any facility or service of such place of public accommodation or any article or commodity available for sale or use therein."

AMENDMENTS NOS. 1008 THROUGH 1013

Mr. **LONG** of Louisiana. Mr. President, I have several additional amendments, which would apply to the bill and also apply to the Dirksen substitute. I ask unanimous consent that they be considered as having been read for all purposes under the rule, and that they may lie at the desk, and that a statement explaining each amendment may be printed in connection with each one.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendments are as follows:

Amendment No. 1008

On page 55, after line 4, insert the following new section:

"Sec. 1105. No Federal department or agency shall take any action to require, directly or indirectly, any person, in the sale, leasing, rental, or other disposition of private residential housing and related facilities (including land to be developed for residential use), to negotiate, or enter into any contract, with any other person not of his choosing."

The statement accompanying amendment No. 1008 is as follows:

Statement of Senator Long of Louisiana on "Freedom To Choose Housing" Amendment

This amendment prevents the Federal Government from requiring in any way a person to sell, lease, rent, or otherwise dispose of private housing to someone not of his choosing.

This amendment would supersede the major aspects of Executive Order No. 11063 issued by President Kennedy in November 1962 which prohibited discrimination in housing built, purchased, or financed with Federal assistance. The Executive order would no longer apply to any person selling, leasing, renting, or otherwise disposing of private residential housing and related facilities. By this amendment, I am not saying that the Federal Government cannot insist on nondiscrimination in public housing, college housing, and the like where a government instrumentality is the landlord, but I am saying that the Federal Government cannot tell the owner of a private residence to whom he must sell or rent, even if a Federal agency such as FHA or the Veterans' Administration has a part in helping him acquire the property. If the house is essentially a private residence, its owner should be able to dispose of it to persons of his choosing.

It is said that there is nothing in H.R. 7152 concerned with discrimination in housing. That may be true, but I believe the Senate should be on record on the subject of "open housing" or "nondiscrimination in housing."

Voters all over the country have gone on record on so-called open housing ordinances, and, wherever they have, the result has been a resounding "No." People in all sections of the country want to retain their historic right to sell or rent their houses to whomever they wish. They do not wish to be forced by the Government into disposing of their private property to someone not of their choosing.

Since the people have been heard on this issue, I believe it only fair for us as their elected representatives to be heard on the issue also. A vote for the amendment places a Senator on record in behalf of a person's right to choose to whom he wishes to sell or rent his house. A vote against the amendment places a Senator on record in favor of the Federal Government telling a homeowner to whom he must sell or rent his property.

It is a clear and simple issue on which I am ready to be counted. I hope my colleagues are, too.

Amendment No. 1009

On page 6, beginning with line 1, strike out all through line 17 on page 11 (title II), and in lieu thereof insert the following:

"TITLE II—LOANS TO PROVIDE PLACES OF PUBLIC ACCOMMODATION WHICH SERVE THE PUBLIC WITHOUT DISCRIMINATION

"Sec. 201. (a) Section 7 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

" '(e) (1) If the Administration finds that any person is deprived of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation, on account of his race, color, religion, or national origin, and that such deprivation is pursuant to a pattern or practice within the area of the State in which such place of public accommodation is situated, the Administration is empowered to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to provide places of public accommodation within such area offering comparable goods, services, facilities, privileges, advantages, or accommodations without discrimination or segregation on the ground of race, color, religious, or national origin. For purposes of this subsection each of the following establishments which serves the public is a place of public accommodation:

" '(A) any inn, hotel, motel, or other place of business which provides lodging to transient guests;

" '(B) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; and any gasoline station;

" '(C) any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment; and

" '(D) any establishment (i) which is physically located within the premises of any establishment otherwise described in this subsection, or within the premises of which is physically located any such described establishment, and (ii) which holds itself out as serving patrons of such described establishment.

" '(2) Financial assistance under this subsection shall be subject to the following limitations:

" '(A) No financial assistance shall be extended pursuant to this subsection unless the borrower agrees to provide to all persons the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation to be provided by such financial assistance without discrimination or segregation on the ground of race, color, religion, or national origin.

" '(B) No financial assistance shall be extended unless such assistance is not otherwise available on reasonable terms.

" '(C) In agreements to participate in loans on a deferred basis, such participation shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

" '(D) No loan, including renewals and extensions thereof, shall be made for a period or periods exceeding twenty years.

" '(E) The rate of interest for the Administration's share of any loan shall not exceed 5 per centum per annum.'

"(b) Section 4(c) of such Act is amended by—

"(1) striking out '$1,666,000,000' and inserting in lieu thereof '$2,166,000,000'; and

"(2) inserting after the fourth sentence the following: 'Not to exceed an aggregate of $500,000,000 shall be outstanding from the fund at any one time for the purposes described in section 7(e) of this Act.' "

Amend the title so as to read: "A bill to enforce the constitutional right to vote, to authorize loans to provide places of public accommodation which serve the public without discrimination, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes."

The statement accompanying Senate amendment No. 1009 is as follows:

Statement of Senator Long of Louisiana on Amendment To Provide Small Business Loans to Public Accommodations

This amendment creates a new category of Small Business Administration loans to provide places of public accommodation, as defined in title II of H.R. 7152, which would offer goods and services without discrimination or segregation on the ground of race, color, religion, or national origin.

Such loans on usual Small Business Administration terms could be made whenever the Administrator of SBA finds that, in the area where the loan applicant is located, either there is a pattern or practice of depriving persons on account of race, color, religion, or national origin of the use of so-called public accommodations or that so-called public accommodations are made available to all persons only in compliance with the law and not willingly or voluntarily. SBA's lending authority would be increased by $500 million to take care of such loans. The loans would be made to places which, rather than discriminate against one class of persons, would encourage integration among all types of people.

If the Federal Government wants to foster integration as it most certainly does by the terms of the bill before us, then I believe the proper way is by helping those who are willing to integrate. But, in the process of encouraging integration, the Federal Government should not force those who wish to remain among their own kind and who wish to do business among their own kind to do something they don't want to do. That is the very antithesis of the freedom and liberty which forms the cornerstone of our great democracy.

If hotels, restaurants, and the like wish to serve only whites, these private establishments should be allowed to conduct business in such a manner; and, if some white people wish to patronize only these places, they should be permitted to do so. That is the free, American way. The Federal Government need not contribute to the financial success of such businesses, but neither should the Federal Government prohibit these businesses from continuing to follow such customs.

Instead, the Federal Government would be better disposed to aid establishments which do want to serve all persons. Under my amendment, the Government would be launching all across the country thousands of new and remodeled, up-to-date, attractive businesses which would seek and encourage an integrated clientele. And persons who wished to associate and mingle with those of other races, colors, religions, or national origins would find readily available just as good, perhaps better, establishments than those which continued to cater only to a segregated clientele.

AMENDMENT No. 1010

On page 8, line 19, strike out "bona fide".

AMENDMENT No. 1011

On page 8, strike out all on lines 18, 19, 20, 21, 22, and 23, and insert in lieu thereof the following:

"(e) The provisions of this title shall not apply to a private club or other establishment not open to the public."

AMENDMENT No. 1012

On page 8, beginning with the comma on line 20, strike out all through "(b)" on line 23.

AMENDMENT No. 1013

On page 11, after line 17, insert the following new section:

"SEC. 206. (a) Section 7 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

"'(e)(1) If the Administration finds (A) that any person is deprived, at any establishment described in section 201(b) of title II of the Civil Rights Act of 1963, of any right or privilege secured by section 201 or 202 of such Act, and that such deprivation is pursuant to a pattern or practice within the area of the State in which such establishment is situated, or (B) that, with respect to a substantial percentage of such establishments in any area of a State offering comparable goods, services, facilities, privileges, advantages, or accommodations, compliance with the requirements of such title is being made only because of resignation to the fact that there are provisions of such title which may be used to compel compliance in the event of a violation of such title, the Administration is empowered to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to provide establishments within such area which will offer goods, services, facilities, privileges, advantages, or accommodations comparable to those offered by such establishment or establishments, respectively, in compliance with the concept and spirit of such title, and which will encourage integration at such establishments among persons of different races, colors, religions, and national origins.

"'(2) Financial assistance under this subsection shall be subject to the following limitations:

"'(A) No financial assistance shall be extended pursuant to this subsection unless the borrower agrees to provide to all persons the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any establishment to be provided by such financial assistance without discrimination or segregation on the ground of race, color, religion, or national origin, and to encourage the integration at such establishment of persons of all races, colors, religions, and national origins.

"'(B) No financial assistance shall be extended unless such assistance is not otherwise available on reasonable terms.

"'(C) In agreements to participate in loans on a deferred basis, such participation shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

"'(D) No loan, including renewals and extensions thereof, shall be made for a period or periods exceeding twenty years.

"'(E) The rate of interest for the Administration's share of any loan shall not exceed 5 per centum per annum.'

"(b) Section 4(c) of such Act is amended by—

"(1) striking out '$1,666,000,000' and inserting in lieu thereof '$2,166,000,000'; and

"(2) inserting after the fourth sentence the following: 'Not to exceed an aggregate of $500,000,000 shall be outstanding from the fund at any one time for the purposes described in section 7(e) of this Act.'"

AMENDMENTS NOS. 1014–1037

Mr. THURMOND. Mr. President, I ask unanimous consent that I may submit at this time some amendments to the amendment in the nature of a substitute, amendment No. 656, to H.R. 7152, and the bill, H.R. 7152.

I also ask unanimous consent that these amendments may be printed at this point in the body of the RECORD.

I also ask unanimous consent that they may be printed otherwise and lie upon the table until called up.

I also ask unanimous consent that the reading of these amendments be waived and be considered as having been read for all purposes under the rules of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 1014

On page 74, after line 23, insert the following new section:

"SEC. 1106. (a) No treaty or agreement of the United States with any tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States shall hereafter be abrogated, modified, or otherwise altered except in conformity with legislation hereafter enacted by the Congress. Whenever any governmental officer or agency has taken any action, or there is reasonable ground for belief that any such officer or agency is about to take any action, which is prohibited by this section, a civil action for preventive relief may be instituted against such officer or agency by any such tribe, band, group, or member thereof who is or would be aggrieved by such action.

"(b) Any action instituted under this section may be instituted in the district court of the United States for any judicial district in which the plaintiff resides or is found. Such court shall have jurisdiction to hear and determine such action, and to enter such restraining orders and such temporary or permanent injunctions as it may deem proper. Process of the district court for any judicial district in any action instituted under this section may be served in any other judicial district of the United States by the United States marshal thereof.

AMENDMENT No. 1015

On page 27, line 22, delete "$75" and insert in lieu thereof "$50".

AMENDMENT No. 1016

On page 25, line 13, change the period to a comma, and add the following: "*Provided, however,* That nothing in this section shall be construed as making it unlawful for any employee to give any such information to any authorized committee or subcommittee of the Congress.

AMENDMENT No. 1017

On page 30, beginning on line 20, delete through line 23.

AMENDMENT No. 1018

On page 32, line 20, change the period to a comma and add the following: "*Provided, however,* That such rules shall become effective only after affirmatively approved by an Act of Congress."

AMENDMENT No. 1019

On page 33, line 13, delete the words "the President" and insert in lieu thereof the words "the Congress."

AMENDMENT No. 1020

On page 35, line 19, delete the word "affecting" and insert in lieu thereof the words "engaged in interstate."

On page 39, beginning on line 11, delete down through line 16.

AMENDMENT No. 1021

On page 49, beginning on line 14, delete down through line 19.

AMENDMENT No. 1022

On page 53, beginning on line 17, delete down through the period on line 21.

AMENDMENT No. 1023

On page 53, beginning with the word "Upon" on line 21, delete all through the word "action" on line 23.

AMENDMENT No. 1024

On page 55, line 21, delete the word "not."

AMENDMENT No. 1025

On page 65, line 19, change the period to a comma, and insert the following: "*Provided, however,* That failure to comply with requirements of this section shall not constitute more than one offense until after notice in writing has been given to the employer, employment agency, or labor organization, as the case may be, by the Commission, of the past or existing noncompliance."

AMENDMENT No. 1026

On page 66, line 14, delete the word "written."

On page 66, line 15, between the comma and the word "or," insert the words "or its employees or agents."

AMENDMENT No. 1027

On page 67, beginning on line 10, delete all down through line 20.

AMENDMENT No. 1028

On page 67, line 23, change the period to a comma, and add the following: "or January 1, 1966, whichever is later."

AMENDMENT No. 1029

On page 69, line 1, beginning with the word "in," delete down through the word "Rights" on line 2.

On page 69, on line 3, beginning with the comma, delete down through the comma on line 4.

AMENDMENT No. 1030

On page 70, lines 15 and 16, delete "Attorney General" and insert in lieu thereof "Court wherein the suit was originally filed determines and".

AMENDMENT No. 1031

On page 70, between lines 18 and 19, insert the following new subsection: "*Provided, however*, That no such action shall be classed as a class action, but the order therein shall be limited to the individuals named in the complaint."

AMENDMENT No. 1032

On page 71, line 5 between the words "personnel" and "as" insert a comma and the following: "not to exceed 6,".

AMENDMENT No. 1033

On page 71, line 5 between the words "personnel" and "as" insert a comma and the following: "not to exceed 10,".

AMENDMENT No. 1034

On page 71, line 20, delete "or may affect".

AMENDMENT No. 1035

On page 71, line 22, delete "in its judgment", and insert in lieu thereof "in the judgment of the community involved".

AMENDMENT No. 1036

On page 15, line 7, after the comma following the word "religion," add "sex,".

AMENDMENT No. 1037

On page 11, line 24, after the comma following the word "religion," add "sex,".

On page 13, line 7, after the comma following the word "religion" add "sex,".

ORDER OF BUSINESS

Mr. MANSFIELD. Is it the understanding of the Chair that at the conclusion of business today, or if the business goes beyond the hour of midnight, the Senate will meet, under the motion for cloture laid down, at 10 o'clock on Wednesday morning?

The PRESIDING OFFICER. The Senator from Montana is correct.

Mr. MANSFIELD. Is it the understanding of the Chair that at that time there will be 1 hour of debate, beginning at the conclusion of the prayer and ending at 11 o'clock, approximately?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that 1 hour after the Senate convenes there will be a quorum call. Upon the ascertainment of a quorum a vote will be had, by yeas and nays, on the cloture motion.

Mr. MANSFIELD. A quorum call is mandatory?

The PRESIDING OFFICER. It is mandatory.

Mr. MANSFIELD. At the end of an hour?

The PRESIDING OFFICER. Yes.

Mr. MANSFIELD. The yeas and nays are mandatory?

The PRESIDING OFFICER. Under the rule, the yeas and nays are mandatory.

Mr. MANSFIELD. I raise these questions now because I understand that some Members of the Senate may desire to speak, now that the voting for today has been concluded under the unanimous-consent agreement entered into last Saturday.

I merely wished to make it absolutely certain that the Senate can and will convene at 10 o'clock tomorrow morning, that there will be an hour's debate on the motion to invoke cloture, that then there will be a quorum call, and that under the rule, at the conclusion of that quorum call, the yeas and nays will be ordered on the motion to attempt to invoke cloture.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. I thank the Chair.

Mr. RUSSELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RUSSELL. I had understood that some days ago a unanimous-consent agreement had been reached that all amendments which were offered to the original House bill would likewise be applicable to the troika or Dirksen-Humphrey package. I should like to ask if I am correct in that understanding.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that all amendments which have been read and all amendments at the desk that are applicable to the House bill will be applicable to the so-called package Dirksen-Mansfield bill in the nature of a substitute, with appropriate changes made.

Mr. RUSSELL. It is not necessary to have them read as amendments to the troika substitute; is that correct?

The PRESIDING OFFICER. They do not all have to be read again.

Mr. MANSFIELD. Mr. President, it is my understanding that there may be speeches beyond the hour of 12 o'clock midnight tonight. Under the rules of the Senate, when a motion for cloture is submitted, 1 calendar day must intervene, and then on the next day, 1 hour after the Senate convenes, there is a quorum call and then the vote on the cloture motion.

In order to preclude any possibility that the procedure agreed to under the Senate rules may be forestalled, and with the full accord of the distinguished Senator from West Virginia [Mr. BYRD], I ask unanimous consent that the cloture vote be taken tomorrow, Wednesday, after determining that a quorum is present, beginning at the hour of 11 a.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none——

Mr. GORE. Mr. President, reserving the right to object, I request that I be permitted to address the Senate briefly this evening on an amendment to eliminate title VI, and that after an equal amount of time to be under the control of the majority leader on tomorrow the vote on cloture be held following a vote upon my amendment.

Mr. MANSFIELD. Mr. President, has the Senator from Tennessee made a unanimous-consent request?

Mr. GORE. I was suggesting that the majority leader, with his usual compassion for his fellow Senators, add that provision to his consent request.

Mr. MANSFIELD. Compassion can only run a certain course and for a certain period of time. I would hope that the Senator from Tennessee would take a little compassion on the majority leader and understand the predicament in which he is, and that, as he almost always does, the Senator would support the leader in this request, which will clear up the situation and leave no question that the will of the Senate, under its rules, will be carried out as everyone thought it would, and still thinks it will.

Mr. GORE. Mr. President, further reserving the right to object, I am not inclined to obstinacy. I have sought diligently to bring to the attention of the Senate the extremely far-reaching provisions in title VI. This, in my opinion, is the sledgehammer provision of the bill. I think I can demonstrate tonight that title VI in the Dirksen-Mansfield substitute would, under one interpretation of its provisions, provide statutory authority for an open housing order affecting the entire United States. The Senate may be ready to vote that. I am not. I have tried to bring this to the attention of the Senate, and I have sought to obtain a vote on an amendment with respect to title VI before the cloture motion is acted on. I have been unsuccessful.

If the distinguished Senator from Montana, the majority leader, has some suggestion as to how I might secure the same privilege which three other Senators have had today, I shall certainly be willing to withhold my further right to object.

Mr. MANSFIELD. The Senator from Tennessee knows that I have no further objections to make. He says he is not an obstinate man.

Mr. GORE. Usually.

Mr. MANSFIELD. At least, he is a determined man. He has been talking about title VI, not only yesterday and today, but for weeks, to my personal knowledge. So I know he has a great interest in this subject and believes completely in the arguments which he has been advancing.

However, in view of the fact that if cloture is invoked, an opportunity will be available for the Senator to offer his motion to strike title VI, I would hope that, with his compassion and understanding, he would allow the Senate to clear up this minor point at this time.

If cloture is not invoked—and frankly, I do not know whether it will be or not—then, of course, we shall start another runaround, and the Lord only knows where we shall end.

Mr. GORE. Mr. President, further reserving the right to object—and I do not think I shall object—title VI, if enacted, could be the most oppressive provision in the bill. It would authorize the denial of Federal aid to needy people, to worthy programs, to communities of great need, even though those people and those particular communities were guilty of no wrongdoing.

But I realize that the majority leader is under great restraint, so once again I shall not object. But I expect to make some remarks tonight which I hope some of my colleagues will read before they vote on the cloture motion.

The Dirksen-Mansfield substitute is an ill-defined, far-reaching measure which, in my opinion, should not pass without further refinement and definition.

I withdraw the right to object.

Mr. MANSFIELD. I thank the Senator from Tennessee.

Mr. President, I believe the Senator from Georgia wishes to propound a parliamentary question.

Mr. RUSSELL. Mr. President, I was curious, from a parliamentary standpoint, as to what would transpire, since the majority leader has raised this question. If some Senator were to obtain the floor and hold it until, say, 12 o'clock noon tomorrow, when would the cloture vote be had?

The PRESIDING OFFICER (Mr. McIntyre in the chair). The Parliamentarian states that under rule XXII, "1 hour after the Senate meets on the following calendar day but one," is when the vote would come. If the Senate remained in session even until 1 o'clock, the vote would have to come at that time following the ascertainment of a quorum.

Mr. MANSFIELD. Mr. President, could the Senate, in understandable language, get an answer from the Chair, through the Parliamentarian, to the question raised by the distinguished Senator from Georgia?

Mr. RUSSELL. I am perfectly familiar with rule XXII. I think I can recite it word for word, line by line. The question I asked was, How would rule XXII ever become operative if a Senator were to speak from now until 12 o'clock noon tomorrow, when there is a unanimous-consent agreement to have the Senate reconvene tomorrow at 10 o'clock?

The PRESIDING OFFICER. If a Senator were to take the floor at this time and were to speak past midnight tonight and through the night, he could not hold the floor after 1 a.m. tomorrow morning, which would be 1 hour after the session on tomorrow began; and, therefore, at 1 a.m. tomorrow there would be a quorum call, and immediately following the quorum call the Senate would vote on the cloture motion.

Mr. RUSSELL. Is the Chair's ruling based on the fact that ordinarily the Senate convenes at noon on each day, unless the Senate has ordered otherwise?

The PRESIDING OFFICER. The Parliamentarian informs the Chair it is based on rule XXII. Ordinarily the Senate convenes at noon, each day. In such case, there would be a quorum call at 1 p.m., and the quorum call would be followed immediately by the vote on the cloture motion. But if the Senate were to be in continuous session from this time until tomorrow, a new problem would arise; and in such case, a Senator who was speaking at 1 a.m. tomorrow morning would at that time lose the floor; and commencing at 1 a.m. there would be a quorum call; and immediately after the presence of a quorum was ascertained, the Senate would vote on the cloture motion.

Mr. RUSSELL. Mr. President, I know that under the precedents a Senator who is speaking can be interrupted at any time, to permit another Senator to file a cloture motion. That right has been established by numerous rulings; and that is one of the few occasions when a Senator who has the floor and is speaking can be interrupted.

So I had assumed that if a Senator undertook to speak from tonight until noon tomorrow, when noon—the normal hour of the convening of the Senate—arrived, the Senator then speaking would lose the floor. I should like to have the ruling of the Chair on that point.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that a Senator then speaking would lose his right to the floor—at 1 a.m. tomorrow.

Mr. RUSSELL. In other words, such a Senator would not lose the floor until 1 a.m. tomorrow?

The PRESIDING OFFICER. That is correct.

Mr. RUSSELL. At that time, such Senator would be compelled to take his seat; and then the Chair would have a quorum call commenced, to ascertain the presence of a quorum; and immediately after the ascertainment of the presence of a quorum, the Chair would lay before the Senate the cloture motion, and would put the motion to a vote, to determine whether it was the sense of the Senate that the debate be closed; is that correct?

The PRESIDING OFFICER. That is correct.

Is there objection to the unanimous-consent request of the Senator from Montana?

Mr. KUCHEL. Mr. President, I should like to have the request read, so I can understand it, or try to understand it.

Mr. MANSFIELD. Mr. President, the request is as follows: I ask unanimous consent that the vote on the cloture motion be taken tomorrow, Wednesday, after the ascertainment of the presence of a quorum, beginning at the hour of 11 a.m.

The PRESIDING OFFICER. Is there objection?

Mr. KUCHEL. Mr. President, I shall not object; but, reserving the right to object, I wish to ask whether I correctly understand that if this request is agreed to, and if a Senator tries to speak all night, and also all tomorrow morning, the Chair will require him to lose the floor and take his seat, so that the Senate can then proceed to vote?

The PRESIDING OFFICER. Yes; at 11 o'clock, such Senator would lose the floor.

Mr. MANSFIELD. The point is that 1 hour is allocated for debate tomorrow. If a Senator were to speak all night long and all tomorrow morning—although I am not sure that would happen—there would be no time for the 1 hour of debate to be allocated and divided equally between the Senator from Georgia [Mr. Russell] and the majority leader.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. HUMPHREY. Mr. President, I rise to a point of information: 11 a.m. tomorrow is the hour at which the presence of a quorum is to be ascertained, is it?

The PRESIDING OFFICER. That is correct.

Mr. HUMPHREY. That will mean that, under the previous unanimous-consent agreement, the Senate will convene at 10 a.m tomorrow; is that correct?

The PRESIDING OFFICER. That is correct if it recesses in the meantime.

Mr. HUMPHREY. So the Senate will then have 1 hour for debate, will it?

The PRESIDING OFFICER. That is correct.

Is there objection to the unanimous-consent request?

Mr. LONG of Louisiana. Mr. President, reserving the right to object, I wish to state that I think every Senator who has an amendment at the desk would like to have his amendment eligible for consideration and vote following the invoking of cloture, if it is invoked. Therefore, I ask that if by any chance an amendment which is at the desk has not been considered as having been read, in order to comply with the rule, it now be considered as having been read, under the rule.

The PRESIDING OFFICER. Is there objection to both of these requests?

Mr. MANSFIELD. Mr. President, I ask the Chair whether the request of the Senator from Louisiana has already been agreed to?

The PRESIDING OFFICER. Yes, in effect.

Mr. LONG of Louisiana. Then I ask this question: If a Senator has, through inadvertence, failed to have his amendment read or ordered considered as having been read, I do not understand that provision has been made to care for that situation? So I wish to have an order entered that any such amendments are to be considered as having been read.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

The Chair hears none; and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask that my request be acted on.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Report on Number of Officers on Duty With Headquarters, Department of the Army, and Army General Staff

A letter from the Secretary of the Army, transmitting, pursuant to law, a report on the number of officers on duty with Headquarters, Department of the Army, and the Army General Staff, as of March 31, 1964 (with an accompanying report); to the Committee on Armed Services.

Temporary Admission Into the United States of Certain Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

Admission Into the United States of Certain Defector Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting admission into the United States of certain defector aliens (with accompanying papers); to the Committee on the Judiciary.

PETITION AND MEMORIAL

Petitions, etc., were laid before the Senate, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

The memorial of H. B. Sullivan, of Farmville, Va., remonstrating against the enactment of House bill 7152, the so-called civil rights bill; ordered to lie on the table.

The petition of Mr. and Mrs. Jay Graham, of Los Angeles, Calif., praying for the enactment of House bill 7152, the so-called civil rights bill; ordered to lie on the table.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. ROBERTSON, from the Committee on Banking and Currency:

Elizabeth S. May, of Massachusetts, to be a member of the Board of Directors of the Export-Import Bank of Washington.

By Mr. MAGNUSON, from the Committee on Commerce:

Robert A. Ganse, and sundry other persons, for appointment in the Coast and Geodetic Survey.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. TALMADGE:

S. 2897. A bill for the relief of Richard K. Jones; to the Committee on the Judiciary.

By Mr. BOGGS:

S. 2898. A bill for the relief of Ioannis (John) Van Vures; to the Committee on the Judiciary.

By Mr. LONG of Louisiana (for himself and Mr. Ellender):

S. 2899. A bill authorizing construction of hurricane-flood protection works at Lake Pontchartrain and vicinity, Louisiana;

S. 2900. A bill authorizing construction of hurricane-flood protection works at Morgan City and vicinity, Louisiana; and

S. 2901. A bill authorizing construction of hurricane-flood protection works at Grand Isle and vicinity, Louisiana; to the Committee on Public Works.

(See the remarks of Mr. Long of Louisiana when he introduced the above bills, which appear under a separate heading.)

PROVISION OF HURRICANE PROTECTION FOR VITAL AREAS ALONG THE GULF COAST

Mr. LONG of Louisiana. Mr. President, I introduce, on behalf of myself and my colleague, the senior Senator from Louisiana [Mr. Ellender], three bills designed to provide hurricane protection for vital areas along the gulf coast.

Recent hurricanes in the gulf coast area have demonstrated the tremendous damage that can be inflicted upon life and property if definite steps are not taken to provide needed protection. The horrible destruction of life by Hurricane Audrey at Cameron, La., a few years ago, is an outstanding example of this.

The areas covered by these three bills are the vicinity of Lake Pontchartrain near New Orleans, La.; the vicinity of Morgan City, La.; and the vicinity of Grand Isle, La., which is located below the city of New Orleans, La.

It is my understanding that all three of these projects are thoroughly justified by savings that can be effected and I would urge the earliest possible passage of these measures.

The PRESIDING OFFICER. The bills will be received and appropriately referred.

The bills, introduced by Mr. Long of Louisiana (for himself and Mr. Ellender), were received, read twice by their titles, and referred to the Committee on Public Works, as follows:

S. 2899. A bill authorizing construction of hurricane-flood protection works at Lake Pontchartrain and vicinity, Louisiana;

S. 2900. A bill authorizing construction of hurricane-flood protection works at Morgan City and vicinity, Louisiana; and

S. 2901. A bill authorizing construction of hurricane-flood protection works at Grand Isle and vicinity, Louisiana.

CIVIL RIGHTS—AMENDMENTS

AMENDMENT NO. 943

Mr. CASE (for himself and Mr. Clark) submitted amendments, intended to be proposed by them, jointly, to the amendment in the nature of a substitute (No. 656) intended to be proposed by Mr. Dirksen (for himself and other Senators) to the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENTS NOS. 944 AND 945

Mr. RUSSELL submitted an amendment (No. 944), intended to be proposed by him, to the amendment in the nature of a substitute (No. 656) intended to be proposed by Mr. Dirksen (for himself and other Senators) to H.R. 7152, which was ordered to lie on the table and to be printed.

Mr. RUSSELL also submitted an amendment (No. 945), intended to be proposed by him, to H.R. 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

AMENDMENTS NOS. 946 THROUGH 963

Mr. TOWER submitted amendments (Nos. 946 through 963), intended to be proposed by him to the amendment in the nature of a substitute (No. 656), intended to be proposed by Mr. Dirksen (for himself and other Senators) to H.R. 7152, the so-called civil rights bill, which were ordered to lie on the table and to be printed.

AMENDMENTS NOS. 964 THROUGH 1007

Mr. LONG of Louisiana submitted 44 amendments (Nos. 964 through 1007), intended to be proposed by him to the amendment in the nature of a substitute (No. 656) intended to be proposed by Mr. Dirksen (for himself and other Senators) to H.R. 7152, the so-called civil rights bill, which were ordered to lie on the table and to be printed.

AMENDMENTS NOS. 1008 THROUGH 1013

Mr. LONG of Louisiana also submitted six amendments (Nos. 1008 through 1013), intended to be proposed by him, to H.R. 7152, the so-called civil rights bill, which were ordered to lie on the table and to be printed.

AMENDMENTS NOS. 1014 THROUGH 1036

Mr. THURMOND submitted 23 amendments (Nos. 1014 through 1036), intended to be proposed by him, to the amendment in the nature of a substitute (No. 656) intended to be proposed by Mr. Dirksen (for himself and other Senators) to H.R. 7152, the so-called civil rights bill, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 1037

Mr. THURMOND also submitted an amendment (No. 1037), intended to be proposed by him, to H.R. 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

AMENDMENTS NOS. 1038 AND 1039

Mr. STENNIS submitted two amendments (Nos. 1038 and 1039), intended to be proposed by him to H.R. 7152, the so-called civil rights bill, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 1040

Mr. STENNIS also submitted an amendment (No. 1040), intended to be proposed by him, to the amendment in the nature of a substitute (No. 656) intended to be proposed by Mr. DIRKSEN (for himself and other Senators) to H.R. 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

AMENDMENTS NOS. 1041 THROUGH 1044

Mr. COOPER submitted four amendments (Nos. 1041 through 1044), intended to be proposed by him, to the amendment in the nature of a substitute (No. 656) intended to be proposed by Mr. DIRKSEN (for himself and other Senators) to H.R. 7152, the so-called civil rights bill, which were ordered to lie on the table and to be printed.

AMENDMENT OF ALASKA OMNIBUS ACT—AMENDMENT

AMENDMENT NO. 1045

Mr. GRUENING submitted an amendment, intended to be proposed by him, to the bill (S. 2881) to amend the Alaska Omnibus Act to provide assistance to the State of Alaska for the reconstruction of areas damaged by the earthquake of March 1964, and subsequent seismic waves, and for other purposes, which was received, ordered to be printed, and referred to the Committee on Interior and Insular Affairs.

ADDRESS BY FORMER PRESIDENT EISENHOWER AT GOVERNORS' CONFERENCE, CLEVELAND, OHIO, JUNE 8, 1964

Mr. GOLDWATER. Mr. President, last night, in Cleveland, Ohio, speaking before the Governors' Conference, former President Dwight D. Eisenhower gave a very thought-provoking speech on States' rights and the general problems facing America today as he sees them.

I ask unanimous consent to have his address printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

SPEECH OF GEN. DWIGHT D. EISENHOWER, GOVERNORS' CONFERENCE, CLEVELAND, OHIO, JUNE 8, 1964

As in periods of contemplation, I reflect over my own lifetime of experiences and those of others, I have grown ever more convinced that the human family rises or falls according to fidelity to a few religious, political and ethical principles which have persisted, and been reaffirmed, in almost every epoch of history.

Stated very simply, they include faith in the Almighty; respect for your neighbor; men are created equal; the individual is the most important element in a free society; freedom and justice are inseparable; responsibility accompanies privilege; liberty is man's most valuable possession; and character is the measure of his worth.

Sure progress toward an evermore satisfying life depends, I believe, upon how well men—and Nations, too—can discipline themselves to adhere to such unchanging truths.

Since time unending, it has been such fundamentals of faith and conduct that have kept alive the hopes of the world's multitudes that some day there might be achieved a worldwide reign of peace, of justice, of individual liberty, of satisfaction of human need.

Merely to state this timeless yearning of mankind is to summon to our minds visions of work and effort and partial defeat—and then still more work and still more effort.

To reach the summit of our hopes it is the human lot, regardless of disappointments and fatigue, to disdain the plateaus of ease and the downward slopes of complacency, for we have learned from ages past that these, in spite of their enticing foreground, dead end, inevitably, in despair and anguish.

Yet, to many among us in these times, the plateaus and slopes seem to have an irresistible appeal.

Viewed in this perspective, the developing posture of our country cannot comfort any thoughtful person, in or out of government.

In pondering the reasons for this modern trend, my mind goes back to almost two centuries ago, when a youthful colonist, destined for immortality, took up his pen to define his concept of the inalienable rights of free men.

In the golden words of Thomas Jefferson, these rights included "life, liberty and the pursuit of happiness."

It is clear, I believe, that he was one who did not equate happiness with affluence, self-indulgence, or idleness, but we wonder, whether in some modern misinterpretation of this revered phrase—known to every generation of Americans from childhood—is to be found the origin of some of our anxieties today.

Had Jefferson foreseen any possibility that "pursuit of happiness" might one day be read as justifying selfish and empty purposes, I suspect he would have, at the very least, added a footnote of explanation, if not of caution, for our current benefit.

A famous Frenchman once said, "Liberty is the opportunity for self-discipline."

How right he was—for certain it is that self-discipline, national and personal, is indispensable to the long-term survival of freedom.

But discipline is not necessarily compatible with the short-range pursuit of happiness.

Indeed, in some circumstances, self-discipline requires self-denial and fortitude and a willingness to forgo the heart's immediate desire.

But if, in the long view, Jefferson's "pursuit of happiness" is to be construed—as he intended—to mean self-control today that there may be stability and progress tomorrow, then the phrase stands as a noble expression of a national aim.

If we let it mean self-indulgence today, at the expense of tomorrow, then the term could well lead us astray.

Now, to me, self-indulgence includes failure to fulfill the recognized responsibilities of citizenship.

It is the worst form of laziness and leads, inevitably, to centralization of power.

That power corrupts, and absolute power corrupts absolutely, is wisdom distilled from ages of tragic human experience.

It was in that wisdom that the forefathers built a system to perpetuate the capability of the citizen to govern himself—a system in which the exercise of power would be so dispersed and so counterbalanced that no one person and no one group could dominate others.

The system requires that each citizen, to the utmost of his ability, be an individual of responsibility, and of sturdy self-reliance.

The delicately balanced structure which our forebears so painstakingly contrived was intended to insure us against ourselves—that, in this land, liberty would survive.

And survive it has, for two centuries, an achievement that is today the core of our heritage.

But I repeat my opinion that in the current century we have begun noticeably to breach the barricades, erected with such care nine score years ago in Philadelphia, against the propensity within us to destroy liberty.

The divergence, deliberate or not, from the guidelines laid down by the Founding Fathers has grown apace, and the end is not in sight.

Twelve years ago I put aside the Nation's uniform, worn for 40 years, in a pledge to help restore political balance to a system that, in my personal view was becoming definitely tilted toward one philosophy and one grouping in our society, both leading toward an all-pervasive Federal intrusion into our lives.

For 8 years thereafter in the Presidency, a constant purpose and a constant striving were to fulfill that pledge.

I would like here to recite a few of the directions into which our efforts were channeled during those years, not as self-justification (and, of course, there were defeats as well as successes) but to provide a backdrop for a specific proposal I made 7 years ago to a body similar to this, and for other proposals I shall suggest today.

Beginning in 1953 the then new administration sought, for example, to reinstill a national respect for the Congress of the United States as an equal partner in the tripartite Federal structure. In this there was measurable success.

But balance is essential not only among the executive, legislative, and judicial branches of government, it is equally necessary for satisfactory relations between the several echelons of government.

Our 8-year program to shore up the structure of liberty included many things—discouragement of direct appeals to Washington by lesser officials than Governors; efforts to restore farming to farmers; better protection of the rights of individual workers; establishment of workable partnerships in power development; and reaching into such things as elimination of various forms of governmental competition with private enterprise, development of cooperative programs to improve health and education, and a myriad of others.

As part of the entire effort we worked to harness Federal spending to demonstrated need, and so help protect the value of the citizen's savings. This effort, though far from the results I had envisioned, resulted promptly in a budgetary surplus, permitting a then unmatched tax reduction with larger revenue sources for the States.

All these measures comprised a package of apparently unrelated items; but all were threaded on one theme—the commonsense redirection of citizen interest to his own responsibilities; to his own locality's affairs, his own State's affairs, and limitation of the Federal Government to its intended role. The specific proposal of 7 years ago to which I adverted earlier and which relates directly to this meeting was initiated in an address before a conference of your predecessors in the capital of colonial Virginia at Williamsburg.

Time and time again over the earlier years of my administration I had met with State Governors singly and in groups.

Invariably we agreed on the theory of returning more power, more responsibility, more tax revenues to the States.

In practice, however, difficulties—sometimes apparently insuperable—always presented themselves.

Finally at Williamsburg I suggested that the Governors' conference and the Federal administration together create a joint committee, charged with three responsibilities:

First, to identify specific functions for the States to assume and finance that were then performed or financed wholly or in part by the Federal Government;

Second, to recommend Federal and State revenue adjustments so that the States could assume such functions; and,

Third, to pinpoint functions and responsibilities likely to require future State or Federal attention and to recommend the level of State effort, or Federal effort, or both, needed for effective action.

These proposals constituted a concrete and earnest attempt to revert tax revenues to the States to enable them to take back responsibilities previously siphoned off to Washington.

The joint Federal-State Action Committee developed recommendations for reform in numerous fields, but the critical test of the whole undertaking came in a plan to transfer to the States, in return for a portion of the Federal telephone tax, the Federal vocational education, and waste treatment facilities programs.

This, I was convinced, was exactly the sort of program that States rights proponents had long called for.

For the moment I was fired with hope.

To my regret, however, there was little meaningful State support.

One reason was illustrated by this incident: A group of Governors visited me to say, "Mr. President, don't eliminate from the Federal tax money you want us to receive.

"Should you do so, we doubt that our legislatures would give us the authority to collect an equal amount.

"Let the Federal Government collect the money and then give it to us as a grant."

As a result of this attitude, the Congress, feeling no pressure, failed to act.

That failure I deplore still. Perhaps—just perhaps—a step forward here would have inclined the Nation away from its continuing drift toward aggregating ever more power and ever more influence in Washington, D.C.

Parenthetically, I remind you that some 20 of the U.S. Senators today—one-fifth of the Senate membership—were previously State Governors.

By contrast I know of no Governor today who reached his office by way of the U.S. Senate.

Perhaps, then, I should have opened these remarks with the salutation: "Greetings, future Senators."

But, gentlemen, if one of these offices has to be a stepping stone to the other, I would personally prefer to see the order reversed.

But let us not dwell too long on opportunities lost to enhance the dignity and power of the States, or in decrying the pyramiding of Federal authority.

With your indulgence, I suggest that new attempts be made, and I offer some possibilities.

First, our best protection against bigger Government in Washington is better government in the States.

I would hope that in each State, where improvements have fallen behind, a major effort could be launched to maximize efficiency and to streamline the governmental structure.

For, as all America knows, and as you know best of all, State governments have expanded enormously, many in Topsy fashion, since the turn of the century.

One State now has 360 State boards, commissions, and agencies.

Doubtless others represented here are equally encumbered.

A nationwide, State-by-State, energetically advocated program to prune and update State administrative activities would save considerable State revenue, win widespread citizen approbation, and do much to slow the march on Washington.

Intimately related, of course—perhaps, in some instances, a prerequisite—is constitutional revision.

I am told of one State with 217,000 words in its constitution, with 407 amendments.

The index alone for another constitution takes 60 pages.

It was only 3 years ago that one State repealed a constitutional clause voiding land grants given by the King of England after October 14, 1775.

Clearly, past solutions for past problems, imbedded in State constitutions, should be allowed no longer to impair the ability of State governments to meet their present needs.

Other possible improvements—often pondered, I am sure by each Governor present—include reevaluation of the functions of our 7,000 State legislators.

In most instances State responsibilities in these times require more of legislators than 30- to 90-day sessions; staff assistance of greater competence and numbers is surely desirable; and the compensation of legislators needs to be increased above today's median salary of approximately $4,000 a year.

At least two States, I understand, still pay their representatives $5 a day; another, the equivalent of $3 a day, which works out, younger friends remind me, to something less than babysitters get for an evening's work.

Far too short terms for Governors and prohibitions against more than one term should likewise be studied.

But there is far more to be done than mere improvement of the mechanisms of State government.

Think of some of the glaring problems that clearly fall within the purview of State responsibility.

Strong moral and political leadership is called for if we are to do better in diminishing the erosive influence of juvenile delinquency, of crime, of lack of educational recreational opportunities, and the annual slaughter by motor vehicles on our highways.

To find better solutions than so far we have, the Federal Government can assist in many ways.

But in all these things responsibility resides definitely in the States, and leadership in their Governors.

The better the States do their jobs, the better the chance that the Federal Government will cooperate properly and effectively with them and stop seeking to dominate such programs.

The so-called war on poverty is a case in point.

Just as political power resides in the people and is generated from bottom upward—so should political correction of local problems be initiated normally at the grassroots.

Moving to a different but related field, I remind this body that, collectively, the States posses a national power of monumental significance.

I refer to the constitutional provision, till now unused, that amendments to our basic charter may be proposed by a convention that must be convened by Congress on application of two-thirds of the State legislatures.

The resulting amendments, when ratified by State conventions or legislatures in three-fourths of the States, become an integral part of the Constitution of the United States.

The point I wish to highlight is this: Contrary to the popular impression, the collective will of the people of this country can, in important areas, make itself effective through the States themselves, acting in concert.

There is no need for endless waiting on congressional action; there is no need for grovelling before any part of the Federal Government.

Consider the so-called item veto, which Presidents, one after another, have urged upon Congress for years on end.

Almost four-fifths of the State Governors hold this power today respecting appropriations bills.

And to my southern friends present I offer this reminder—the item veto was first developed in the Confederate Constitution of 1861, and it first flowered in the Southern States.

On the national level, the refusal of Congress to grant this power to the President has resulted in blatant abuses.

Yet those States already granting their Governors this authority could by themselves, using constitutional procedures, endow the President of the United States with the same authority, and all America would be better.

There would be an end to the costly "pork barrels," so beloved by self-serving politicians—an end also, to one of the many devices which centralize power in Washington.

Another constitutional amendment might, with some wisdom, provide, on the one hand, that (except in an emergency declared by Congress) the President must submit to Congress Federal budgets which balance at least biennially.

On the other hand, it should provide that Congress can increase items in the President's budgetary recommendations only by a two-thirds vote.

Obviously an amendment of this kind would have to come through State initiative, for the power to spend irresponsibly and to charge the bills to the unborn through deficit financing is a mighty political weapon.

Such an amendment would work miracles for responsibility on the Federal level, and would bring to a sudden halt much of the Federal trespassing on State preserves.

You are aware, of course, that several of our States have limits upon their legislatures to prevent increases in appropriations recommendations, so the concept I have mentioned is not new to the American system.

Such proposals I mention, however, not so much in a spirit of advocacy but rather as examples whereby the States, acting together, can enforce their will on the national stage.

Amendment to our Constitution is, of course, not to be lightly undertaken. But I am sure that out of your collective knowledge and experience you may well conceive of other proposals worthy of earnest study, particularly if their purpose is to keep Government responsible, and keep it closer to the people.

I repeat—this constitutional amending process has never been used.

But once used, those in Washington power centers would never again feel at ease in their restless work to extend the Federal reach, or to use tax money to attract votes.

Gentlemen, many among you are personal friends of mine of many years standing.

Some of you have already moved courageously, and coincidentally with burgeoning need, to remedy flaws in State government.

I know that every one of you is dedicated to advancing the well-being of the people of your respective areas, and have a zeal no less burning than mine to do everything in your power to strengthen freedom.

Even more, perhaps, than you yourselves can appreciate, upon you and the forcefulness of your leadership and the efficiency of your State administrations—upon the initiatives which you may take—rests in major degree the arresting of power concentration in this Nation.

Thus, in your hands may rest the restoration of the self-discipline and the restraint so essential, now and in the future, to the preservation of individual liberty and the freedom of America.

No cause could be more important; most earnestly do I hope you will adopt it as your own, and most sincerely do I wish you success in its accomplishment.

THE 300TH ANNIVERSARY OF THE TOWN OF DARTMOUTH, MASS.

Mr. SALTONSTALL. Mr. President, this week marks the beginning of a summer-long celebration marking the 300th anniversary of the town of Dartmouth, Mass. The town was named for Dartmouth, England, where the *Mayflower* stopped for repairs after sailing from Southampton. Surviving a devastating Indian attack during King Philip's

War, the community became engaged in the whaling industry, and then began there one of the most colorful periods in American history. This industry attracted so many new inhabitants to the area that one small village in Dartmouth became, in the last century, the fourth largest seaport in the United States. Dartmouth's activity placed her not only in the mainstream of American history, but world history as well. I am very pleased to bring this important anniversary to the attention of my colleagues in the Senate and hope that if any of them are planning to come to Massachusetts this year, they will make Dartmouth part of their itinerary.

BACCALAUREATE ADDRESS DELIVERED BY MRS. LYNDON B. JOHNSON AT RADCLIFFE COLLEGE, CAMBRIDGE, MASS.

Mr. SALTONSTALL. Mr. President, today Radcliffe College, the sister institution to my alma mater, Harvard University, is honored by the presence of our First Lady. The Radcliffe baccalaureate address was delivered today by Mrs. Lyndon B. Johnson, in which she urged their graduates to take an active part in the building of our country both through their families and outside interests. On a nonpartisan basis, because we all believe this encouragement is so necessary, and because of my long interest in Harvard, I ask that Mrs. Johnson's speech be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Baccalaureate Address by Mrs. Lyndon B. Johnson at Radcliffe College, Cambridge, Mass., June 9, 1964

It is 4 years since that anxiously awaited enveloped postmarked "Cambridge, Mass.," arrived in your home. This day marks the culmination of those years. You have struggled, groaned, and grown within the demanding and rigorous intellectual life of this remarkable institution, and here you are today—ready to turn your knowledge and skills to new fields.

But with all your perception, with all your brainpower, I wonder if you know how great is the pride in you of those who are in this hall today?

What can I say to make you know, too, how much the world reaches out for you? For if you are to be the anointed generation—the one to do the most to build a society of the highest order—then I hope you will consider your diploma not the accolade of a job past, but a passport to the world and a license to be a practicing member of it.

The last 4 years have probably taught you how to be a knowledgeable critic; now you must learn how to be a knowledgeable citizen. You must contribute peace, not disorder. And to give peace you must have peace within yourself.

This is no easy task in a world of experts on women with every bookstore offering up the joys of emancipation and every newsstand proffering the delights of femininity. But actually, amid all the worries and uncertainties—and the provocative doctrines about the role of the educated woman today, a quite remarkable young woman has been emerging in the United States. She is your sister, your roommate, and if you look closely enough, probably, yourself. She might be the natural woman, the complete woman. She has taken from the past what is vital and discarded the irrelevant or misleading. She has taken over the right to participate fully--whether in jobs, professions, or the political life of the community. She has rejected a number of overtones of the emancipation movement as clearly unworkable. She does not want to be the long-striding feminist in low heels, engaged in a conscious war with men. But she wants to be—while being equally involved—preeminently a woman, a wife, a mother, a thinking citizen.

Time has brought the emergence of the woman with the dual role, but necessity first created her in the expanding West. As we moved west, the American type, as contrasted with the woman influence by European customs and attitudes, emerged. Dauntless in spirit, she moved with her man to hew out the forests and found the schools and the churches.

It was in the Western States that women first took the leadership in political and social movements. It was no happenstance that the first part of our country to give suffrage to women was Wyoming, even when it was a territory; the Western States sent the first woman to the House and the Senate.

She was a doer in things outside the home—whether fighting the Indians or plowing the fields; she was always the wife and mother because that's what she wanted to be. And—alas—the pony express brought no magazines to ask her complicated questions about whether she liked the dual responsibilities.

The confusion of roles for women today is still very real. The strains are real. But many women have been able to master the confusion.

Your own Mary Bunting, who has been a pioneer in keeping women in training for the labor market, is a remarkable example. How grateful we are that she practices what she preaches. For, it means that despite a great many other demands, she has found the way to give her country time to serve on the Atomic Energy Commission.

You should be as pleased as I that on the day her appointment was announced, a young mother said to me, "I just feel better knowing that an intelligent woman—a mother of four—is going to have a voice in what fallout means for my children."

There are many other women who are both working mothers and thinking citizens. I have been meeting them in the Cumberland Mountains in Kentucky and in the Government machinery in Washington.

You have been trained here at Radcliffe to contribute as much of yourselves to the future of your country as to your own present. The country needs your trained intelligence—whether in the humanities or the sciences, in Government, in the public services of health and welfare, in the enormously and grievously understaffed field of education.

The easy way, the easy life, is no longer the good life and the good people of this world know they cannot afford to live it.

The woman pioneer—you—will learn to master a number of fears. One—the closest to the female heart of 20—is the fear that your intelligence is a threat to your femininity—that whatever you may achieve in your chosen work outside the home competes dangerously with your desirability as wife and mother. It can, but it needn't.

I know you Radcliffe girls pride yourselves on your casual dress; nevertheless, I do not see among you any of those ungainly Thurber females with stones poised to crush the nearest male skull—and I trust your male acquaintances include none of those equally ungainly Thurber men, hissing, "Where did you get those great brown eyes and that tiny mind?"

It is an awesome task, but you can organize life as you have learned to organize study. It is important to retain those qualities of warmth and tact and sensitivity which a real woman possesses. The man you marry will want you to be what you are—not only his wife and the mother of his children, but a person in your own right, with drives and desires, talents and skills of your own.

Ultimately, it comes back to the spirit in which you can direct your own life—how happily you can marry both man and job; or how happily you can marry one of them.

You graduate into a world of "outlets unlimited." A great deal has been written about how to help the 40-year-old woman reenter the labor market—a very real problem—but I am sure what is most on your minds right now is how to spend the next 20 years as you raise a family. I would like to see young women from the outset consider their lives in the longer perspective—looking to the time after your children are grown when you will still have time for an ongoing part in the human drama.

The difficulty immediately ahead for you lies in working it out in our servantless world. Unremitting domestic labor on your part tends to dissipate academic capital. It dulls the intellectual edge and can even end, by reducing self-confidence and initiative. I don't say this is a universal picture, but I say it is general enough to merit closer attention and, where possible, appropriate countermeasures—such as Radcliffe itself has undertaken, with its institute of independent study.

Not all of you, of course, will contribute to our society as young married women. There will be many whose contribution will grow from their job or their profession—very often after years of meeting the intense demands of graduate training. I salute you because the world needs your talents.

Specifically, the role of the natural, young woman today is:

First, to remember in the most local, realistic terms that education is a loan to be repaid by gift of self. Your energy and intellect turned to your school or your children's schools can help to alleviate the most crippling weakness in our democratic society.

The drifters, the dropouts, the soon-to-be delinquents are all too often the fallout from our inadequate school systems and overtaxed teachers.

Second, to improve the esthetics of our cities where 70 percent of the people now live. More than 90 percent of our population growth will occur in our metropolitan areas. If our cities are cement and asphalt jungles, the children may be wolf-cubs.

Third, to make your frontline of freedom your front door. Happy women, with a sense of what they can do and where they are going, must create the homes in which children can learn young that habit of happiness which, more than anything else, lessens the darker strain in human nature and gives us hope for a stable future. It is an awesome task, creating the atmosphere of joy, giving young natures the taste of love, sending them out single-minded and confident. Do not shortchange this task.

Of course, as a fourth point, I would like, as the wife of a lifelong laborer in the political vineyard, to put in a plea for those great voluntary societies—our political parties.

When you consider that the majority of potential voters are female and the majority of actual voters male, you can see there is a vast job to be done simply in stirring up the civic interest of women voters. We haven't yet, as lay citizens, searched out all the constructive pathways for peace. We haven't the lobby we need for the war on poverty and prejudice at home or abroad.

Anyone with imagination, zeal, and brains has many opportunities in unfinished America. A number of you already participate in this through the Phillips-Brooks House.

I can tell you firsthand that Appalachia cries out for young women with the pioneer spirit who are willing to teach in one-room schools. There is good raw material there. I saw it in the eyes of 20 youngsters in Lick Branch School. Perhaps someone here will organize a rural teachers corps. You don't have to build Rome, you can build Lick Branch.

The housing needs of the aged are far from satisfied. You have only to step inside such a model housing program as the Golden Age Center in Cleveland to know that while giant steps are being taken, this is only the beginning of an ideal way to meet man's new lifespan.

I urge you to enter these outlets, not as superwoman—but as a total woman, a natural woman, a happy woman. If you can achieve the precious balance between women's domestic and civic life, you can do more for zest and sanity in our society than by any other achievement.

I profoundly believe what will best sustain the young woman today is not, on the one hand, glamorous images of herself as ambassadress or dreams of glory as she takes over the presidency of General Motors. What you can do may never see the light of print. It is the integrity that comes from attempting without fuss or self-preoccupation to see a good job well done. Its value is the work itself, what you have given others, whether your product is a better school in Harlem, or an inspired husband and children, or both. I assure you, you will have no greater satisfaction than to pour back vitality into the mainstream of this country which has so richly endowed you with brains and ability. No city is so perfect—or so remote—that it does not need your talented hand. Start wherever you go.

Two weeks ago, I sat on the stage of the high school in Johnson City, Tex., where my husband graduated 40 years before with 6 pupils in his class.

Lyndon recalled how, right after high school graduation, his restlessness had driven him to the west coast to seek his fortune. After 2 months he returned because he discovered "right here in Johnson City is where it all begins."

If I would give you any ringing message today it would be to say, that while indeed the world beckons and the problems of Zanzibar are your inheritance and your challenge, it still all begins right with you, in your job or studies, in your home, in your husband's work, and in your community and the way you want it to look. The way it looks to you it looks to the world.

I have no fear that you will not use all you have learned. Women have done this for more than 2,000 years and you will do it today with fewer handicaps than ever.

Perhaps you remember the most beautiful description in literature of the ideal woman. In the words of Solomon:

"She looketh well to the ways of her household and eateth not the bread of idleness. Her husband is known in the gates where he sitteth among the olders of the land; she stretcheth out her hand to the poor; yea, she reacheth forth her hands to the needy; her children arise up and call her blessed; her husband, also, and he praiseth her. Strength and beauty are her clothing and she shall laugh in the latter day."

AMERICAN YOUTH

Mr. THURMOND. Mr. President, the American Security Council is noted for its outstanding and eloquent reports which are issued each week on important subjects involving the security of our Nation. I have been particularly impressed this week with the report of the message contained in the ASC's Washington Report of June 8, 1964, entitled "American Youth, Still a Target." This report was written by Mr. Herbert Romerstein, a recognized expert on communism, having spent 4 years in the Communist movement while he was a youth. Since breaking with communism in 1950, Mr. Romerstein has devoted himself to the study of the problem of subversion, particularly in relation to youth. He serves as a consultant to a number of State and Federal agencies and has written extensively on Communist youth activities. Mr. Romerstein has also worked for the Senate Internal Security Subcommittee as a consultant and observer of Communist efforts to subvert the youth of the world.

Mr. President, FBI Director J. Edgar Hoover has repeatedly warned of the efforts being put forth by the Communists in this country to influence our young people in the direction of communism. He recently reemphasized this important goal of the Communist Party U.S.A. in testimony before the House Appropriations Committee on January 29, 1964.

In view of the importance of this subject, Mr. President, I ask unanimous consent that the ASC Washington Report of June 8, 1964, be printed in the Record at the conclusion of these remarks.

There being no objection, the report was ordered to be printed in the Record, as follows:

American Youth, Still a Target

Despite recent setbacks, the Communist Party, U.S.A. has again decided to form a nationwide youth group. This organization has been in the planning stages since 1959, but internal dissent and the activities of the Federal Bureau of Investigation have delayed its start. An abortive effort, undertaken in late December 1960, got such immediate public exposure that it never had a chance.

The May 9 issue of the Communist-oriented National Guardian has now announced another try by about 400 young people from across the country when they convene in Chicago June 20–22. A somewhat aging youngster, Terrence (Kayo) Hallinan, spokesman for the group, described it in a flurry of double negativism, as an action-oriented non-anti-Communist Socialist youth group. Since the 1957 collapse of the Labor Youth League, the Communist Party has not had a national young Communist organization, and the need for new blood is becoming acute.

The first step in the party's rebuilding plans was to set up local Marxist youth groups under the control of the party. In December 1959, Mortimer Daniel Rubin was appointed national youth director to supervise these activities, and New York was chosen to be the site of the pilot project.

In February of 1960, the founding convention of Advance, a Marxist youth organization was held in New York City. Among the Communist Party members who were assigned to leadership of Advance, were Marvin Markman, Mike Stein, Jake Rosen, and Fred Jerome. Advance was to serve as an example for the building of similar groups throughout the country. Dan Rubin was transferred from Philadelphia to New York to supervise the operation personally. With him came a number of other active young Philadelphia Communists to strengthen the New York organization.

The first blow to Advance came when Jake Rosen and Fred Jerome bolted and led a group of their followers into the pro-Peiping Progressive Labor movement. Its most serious setback came in September 1963 when the Justice Department initiated hearings before the Subversive Activities Control Board in an effort to force Advance to register as a Communist front. The hearings not only exposed Advance to public view but also revealed to the Communist Party the extent to which the FBI had penetrated their apparatus. Among the witnesses who testified at the hearings were several FBI informants who had risen in the Communist Party's youth circles.

Allen Prince had been acting as an informant for the FBI since 1953. A member of the Communist Party's New York State Youth Commission, Prince had been present at many of the meetings at which the party had passed along its orders to Advance. His report, submitted the day after a youth commission meeting on April 3, 1961, and produced during the hearing, showed that this Communist Party commission drew up the list of persons who were subsequently "elected" to office at the Advance convention 5 days later.

One of the most important purposes of Advance was to develop likely young recruits for the Communist Party. Two of the most promising such recruits were Daniel Esposito and Dean Roberts. Both Roberts and Esposito were sent to Communist Party training classes and Roberts was being groomed for an important assignment in the international Communist youth movement. These plans came to an end when both Roberts and Esposito appeared on the witness stand and revealed that they too were informants. Roberts testified that he is a member of Young Americans for Freedom, a conservative youth organization, and that he had agreed to operate as an undercover agent for the FBI as a patriotic activity.

While Advance was conducting its losing fight before the Subversive Activities Control Board, its membership rapidly dwindled. At the same time, however, the Progressive Labor Movement, took over many of the activities that would otherwise have been run by the Communist Party.

The most spectacular Progressive Labor youth activity was the organization of an illegal trip to Cuba by 58 students in the summer of 1963. The expenses which included plane fare from the United States to Europe, from there to Cuba, and back by the same route, were paid by the Castro government. The students paid a token registration fee of $100. While most of the students were not Progressive Labor members, it was the PL people who controlled the group and made the public statements. Broadcasts were made over Radio Havana in which the students defended Fidel Castro and attacked the United States. While the students were in Cuba, Mao Tse-tung issued a statement calling for world support for the "Negro people's struggle" in the United States. Progressive Labor member, 22-year-od Larry Phelps, a student at the University of North Carolina, said, "As an American citizen, I should like to thank the Chinese people for their support for the black people's struggle as exemplified by Chairman Mao Tze-tung's statement and the August 12 rally held in Peiping." According to Phelps, "wherever the American flag flies, American imperialist racism follows in its wake." Wendy Nakashima, 23-year-old wife of Jake Rosen, stated, "U.S. imperialism has spread its repressive, greedy hands all over the world, exploiting men, pocketing wealth, and under the banner of liberty it brutally suppresses the sovereign rights of many nations to independence." A similar statement was made jointly by 20-year-old Catherine Jo Prensky of City College of New York and 23-year-old Patricia Sopiak of the University of Michigan.

Meanwhile the Communist Party U.S.A., continues its program aimed at capturing American youth. When the plans to reestablish a nationwide Communist youth organization were projected it was decided by the party that a monthly periodical should be published. At a meeting in Chicago in March 1960, Dan Rubin suggested such a publication and in October 1960, the first issue of "New Horizons for Youth" was published as a four-page newspaper with Rubin as editor. The managing editor was listed as Joseph Bauer who was, in fact, a Communist Party member named Seymore Joseph who writes for the party newspaper, The Worker, under the name Fred Gilman. Rubin was later replaced as editor by Lionel Lipson who moved it to Philadelphia. Lipson, like Rubin has been identified as a member of the Communist Party National Youth Commission and hearings have been held before the Subversive Activities Control Board to compel him to register as a Communist under the Internal Security Act of 1950. Lionel Lipson and his brother, Aaron, have both been among the organizers of the "Socialist Youth Union" in Philadelphia, a group which is scheduled to be the Philadelphia branch of the new national Communist youth organization.

The west coast has become the new concentration area for the Communist youth apparatus. A conference held March 21 to 22, 1964, in San Francisco brought together 244 young people to plan west coast participation for the Chicago conference in June. The San Francisco meeting was organized by the Youth Action Union of Los Angeles, the W. E. B. Du Bois Clubs of San Francisco and Berkeley, and the Focus Club of Reed College, Portland, Oreg. Kayo Hallinan is a leader of the W. E. B. Du Bois Club which runs a Marxist training school called the San Francisco School of Social Science. The Youth Action Union of Los Angeles which was formerly called Youth for Peace and Socialism is under the direct control of the Communist Party of southern California. Leonard Potash, a member of the Youth Commission of the Southern California District of the Communist Party, directed formation of Youth for Peace and Socialism in 1962.

The party has begun organizing groups at various colleges to participate in the Chicago conference. Under the direction of Illinois Communist youth leader Daniel Queen, Illinois and Wisconsin Communists are arranging tours of the Midwest. Other organizers are operating in Ohio, Indiana, Maryland, Virginia, and North Carolina.

A conference was held on May 3, 1964, at Columbia University to organize participation by students from colleges in and around New York. However, as a result of FBI penetration of the Communist youth apparatus in New York City, activities there have been deemphasized by the party. The east coast coordinator for the new organization will be a Philadelphia Communist and it is planned that he will have his headquarters in that city. Daniel Rubin, now in his thirties, has been removed from youth work and has been appointed national organizational secretary of the party. In this new post he will have a mechanical job and the creative work of organizing among youth will be left to others.

The Communist Party and the splinter groups of the revolutionary left are attempting to capitalize on the natural idealism and exuberance of young people. They have had remarkable success in Latin America and the less sophisticated nations of Asia and Africa but, thus far, have apparently made relatively little direct headway with the great mass of American youth. They have, however, met with some success through the traditional front group approach. The Socialist discussion club, the ad hoc committee for such and such and the protest picket line have all drawn some activists. Through them, the party is able to screen likely prospects and concentrate its recruiting efforts on the most promising. The party has also gained some measure of "respectability" by having its functionaries invited to speak at colleges and universities.

American youngsters are still considerably wiser than their contemporaries in most others nations. Given communism in its raw form, they have, for the most part, rejected it and the current crop of young Communists is largely the second generation—the sons and daughters of veteran party people or sympathizers. The public exposure of Communist and Communist-front groups has been, for the most part, particularly effective in minimizing their influence. These groups are persistent however and some older Americans must be reminded that the Communist Party, U.S.A. functions, not as a political organism, but as an arm of the Soviet Union, bent on the forceful overthrow of our form of government. We must also continually remind ourselves that the pliable minds of young people are still prime Communist targets.

HERBERT ROMERSTEIN,
Guest Editor.

A SCIENTIFIC POSTMORTEM ON ALASKA'S EARTHQUAKE

Mr. GRUENING. Mr. President, an article by Mr. John Walsh on the Alaska earthquake appeared in the May 1, 1964, issue of Science. Because the author points up the need for an emphasis on development planning and reconstruction, I am pleased to bring it to the attention of readers of the RECORD.

Alaska, writes Mr. Walsh, is an important defense outpost today, but, supposes the author, what will happen if the Alaska garrison is slimmed down when the current reevaluation of grand strategy, tactics, weapons, and dispositions made by Secretary of Defense McNamara is completed? His answer is:

> Should this happen, there would be even greater pressure on the Federal Government to foster the economic development of its former territorial ward.

Mr. Walsh notes that the Alaska commission significantly has the words "development planning" in its title, "and its work is expected to extend beyond the emergency period."

I ask unanimous consent that the article entitled "Alaska: A Thorough Postmortem on Earthquake Urged on Behalf of Both Science, Reconstruction," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALASKA: A THOROUGH POSTMORTEM ON EARTHQUAKE URGED ON BEHALF OF BOTH SCIENCE, RECONSTRUCTION

(By John Walsh)

In the weeks since the big Alaskan earthquake, the Coast and Geodetic Survey and the Geological Survey, two old-line, relatively small, low-budget Federal science agencies with unglamorous missions, have been receiving unaccustomed attention and deference in Washington.[1]

Both agencies have been analyzing data and surveying damage in the field since the main quake on March 27, and they are regarded as the Government's expert counsels on earthquakes.

For example, the two Federal agencies charged with funneling Federal loan funds into reconstruction of private dwellings and commercial buildings—the Federal Housing Administration and the Small Business Administration—have indicated that they will govern the flow of funds according to information gained from the surveys on the effects of the earthquake and prognoses for the future as applied to specific construction sites.

This solicitous attitude toward science advice seems to be fully shared by the Federal Reconstruction and Development Planning Commission for Alaska, established by the President after the quake to assure coordination in Federal and State efforts and the most effective use of public funds for relief and reconstruction. The Commission is made up of officials of the major departments and agencies involved in Alaskan operations and is chaired by Senator CLINTON P. ANDERSON, Democrat, of New Mexico.

ANDERSON is looking for more than immediate, utilitarian returns. He has asked for a coordinated major investigation of scientific and technical aspects of the Alaskan earthquakes, to help penetrate the enigma of earthquakes which makes their cause a subject of continued debate and their prediction impossible.

Such an effort would require detailed analysis of a mass of seismographic data on the Alaskan main shock and aftershocks, and of information on the seismic sea waves which followed the quake, plus an extensive survey of geological and geomorphic changes and of damage to manmade structures. An investigation on the scale ANDERSON and others contemplate has not been made on earthquakes before and would heavily involve not only Government and university scientists but other Government elements, such as the Air Force, with its aerial photography capability.

The two survey agencies last week made their early findings available at the annual meeting of the American Geophysical Union in Washington—the Coast and Geodetic Survey in a preliminary report and the Geological Survey in an informal briefing which was to be followed this week by a first report.

The interested reception given the reports at the meeting seems to indicate enthusiasm for a study in depth of the Alaska earthquake swarm. And there appears to be technical grounds for such a study in the fact that the Good Friday earthquake was the best-documented major earthquake in history.

It happens that a new worldwide standard seismographic system, supervised by the Coast and Geodetic Survey, is nearing completion and has some 98 stations operating in more than 50 countries and territories. The instruments in these stations are standardized, and officials involved in operating the network feel that these instruments provide much more accurate measurements of amplitude and time of shocks than were available in the past.

The new siesmograph network grew, indirectly at least, out of the so-called conference of experts in Geneva in 1958, which was convened to assess the technical capability for the detection of nuclear detonations. The conference called attention to the sketchy state of knowledge about seismic activity in general, and the worldwide network was, in part, a result of a sharpened interest in theoretical seismology here and abroad. The system itself could not be employed as a monitoring network, but it does provide basic data which would be of use if a test-detection net were required.

The network will have 125 stations in more than 60 countries and territories when it is completed in 1965. The Coast and Geodetic Survey provides instruments, supplies, and services to stations in other countries.

On the basis of the data recorded, the Coast and Geodetic Survey calls the Alaska quake "one of the largest to occur in the United States, at least since the beginning of instrumental recording late in the last century."

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[1] The Coast and Geodetic Survey is a bureau of the Department of Commerce and the Geological Survey is lodged in the Department of the Interior.

Both the Coast and Geodetic Survey (known familiarly as CGS) and the Geological Survey (called by its friends simply "the Survey") report that, so far, no evidence of faulting has been discovered in connection with the Good Friday quake or its aftershocks. The epicenter of the main shock, located on the eastern shore of the northern part of Prince William Sound, and the epicenters of the aftershocks were clustered along a belt of previous earthquake epicenters extending southwest beyond Kodiak Island.

While no faulting was evident, there were definite signs of "bending," along a fairly definite line, which, according to provisional reports, left Kodiak town some 1.8 meters lower than it had been and Seward and Seldovia a meter or so lower, while Cordova was raised some 1½ meters and Valdez, 3 to 4 meters.

The earthquake generated seismic sea waves (tsunami), which caused damage throughout the Gulf of Alaska, along the west coast of North America, and in the Hawaiian Islands. Hardest hit by the waves were the Alaskan port cities of Seward, Whittier, Valdez, and Kodiak. The big wave at Seward, Kodiak, and Cordova was 9 meters high. At Seward most of the business district was destroyed, and flaming oil from ruptured storage tanks swept into the city. At Kodiak, 40 percent of the downtown area was destroyed, and the Kodiak fishing fleet and waterfront fishing industry were heavily damaged. Some 27 blocks in Crescent City, Calif., were inundated when the fourth and fifth waves of the tsunami reached a height of 3½ meters.

The combined effects of the earthquake and the tsunami on the Alaska fishing industry is still being assessed. It appears that the salmon and halibut fishing industries—salmon is the major catch in Alaska, and halibut the second most important—escaped with relatively minor damage to fleet, gear, major canneries, and freeze plants. The salmon fishing season does not begin until June, and thus there will be time for repairs. Changes in underwater topography, however, may adversely affect some of the important salmon beds. In the Port William Sound area the raising of land in the mouths of streams and in intertidal waters may disturb salmon breeding.

Razor clam beds in a 110-kilometer area of the Copper River delta were shoved upward, and the effect on the animals cannot yet be determined.

The king crab industry sustained extensive damage. Fishing had begun, and this reportedly contributed to the loss of most of the vessels as well as to destruction or severe damage of plants and docks.

The Department of Commerce's Bureau of Commercial Fisheries has been surveying the condition of the fisheries and acting as an intermediary for aid. Rough estimates put the damage to the industry at $15 million, not including damage to wharves used by the fishermen but not belonging to them or to the processing plants. On Kodiak Island, the next high tides may prove some more plants unusable and thus raise damage figures.

Heaviest losses from the earthquake itself were sustained at Anchorage, some 130 kilometers from the epicenter, where extensive damage was dealt by ground movement and "slumping." The Office of Emergency Planning, in a report on the impact of the earthquake on the economy of Alaska, estimated that 75 percent of the city's "total developed worth has suffered some degree of measurable damage." Early estimates put damage to municipal facilities at about $40 million, to the airport at $1 million, and to private property at $165 million. The last figure is not far short of half the prequake value of the private property.

In a section on "engineering seismology aspects" in its report, the CGS concentrated on Anchorage, where there was a concentration of buildings and effects of seismic sea waves could be ignored. The pattern of destruction in Anchorage followed that observed in other cities which were fairly far removed from the epicenters of earthquakes elsewhere but sustained severe damage.

Small, low buildings generally came through the quake with minor damage or escaped harm entirely, unless they were affected by the slumps or slides which occurred in several sections of Anchorage.

"Conversely," as the report puts it, "large one- and two-story structures as well as tall buildings took the brunt of the vibratory damage." After the quake, 95 percent of Anchorage's high-rise apartments were condemned.

The report also suggests that damage was a function of the duration of shaking. It appears that a longer period of ground motion occurred at Anchorage, for instance, than at the epicenter. Quality of workmanship and the presence or absence of earthquake bracing in buildings were also cited as significantly affecting buildings' resistance to damage.

Events at Anchorage confirmed what has been established in earlier earthquakes about a direct relation of the firmness of substratum to damage. Survey officials at their briefing pointed out that bedrock, when subjected to seismic waves, does not move as much as less solid substances do—that the softer and wetter the ground, the greater the amplitude of earthquake waves. One official noted that the occurrence of the quake before the frost was out of the ground probably helped to limit damage.

Anchorage is built largely on unconsolidated deposits, and landslides, slumps, and fissures abounded. Seward is built on a similar base, and a portion of the town slid into Resurrection Bay.

The violence of the Alaskan quake is perhaps somewhat underestimated by the public because of the fortunate circumstance that loss of life—about 100 dead, or missing and presumed dead—is lower than in other recent, severe earthquakes. The Chilean earthquakes of May and June 1960, for example, claimed 1,500 lives. About 1,000 persons died as a result of shocks and the resulting collapse of buildings, and another 500 were killed by the seismic sea waves (maremoto is the Spanish equivalent of the Japanese tsunami in the international earthquake glossary).

The main shock in Alaska was of considerably greater magnitude than the main shock in Chile—8.4 on the Richter scale compared with 7.5 in Chile. Earthquake casualties, however, are determined not only by the violence of a quake but by the pattern and timing of the shocks, the "depth" of the quake, the concentration of population, the building construction, and the behavior of people in the quake zone.

What the earthquake areas in China and Alaska had very much in common was topography and geology. Both areas have long faults, and in both places glaciers gouged out ground rock and left a high and low pattern of escarpments and alluvial deposits.

South-central Alaska, where the quake struck, lies in a particularly lively sector of the "circum-Pacific" earthquake belt. The terrain and the development of commerce and transportation in a frontier State has led many Alaskans to build at the water's edge on shaky underpinnings and made them vulnerable to earthquakes and the sea waves that follow.

Under these circumstances, it seems eminently reasonable for Alaskans to seek the best scientific and engineering advice obtainable on reconstruction.

Relocation of some buildings and, indeed, portions of some cities, would appear to be in order. The State's present lack of a building code prescribing for earthquake-resistant structures should be remedied. There was little earthquake insurance written in Alaska before the quake, but the market is sure to improve, and insurance companies are demanding detailed information which will enable them to link coverage and premiums to criteria of vulnerability in specific areas.

THE FEDERAL ROLE

Some Alaskan officials and businessmen are impatient with the pace of the Federal Government in providing assistance for reconstruction. The construction season is short and the winter long and hard, and the Alaskans want action. Heavy pressure is being exerted on the Federal agencies and on Congress.

The Federal Government's role in the Alaskan emergency, however, is different from what it might be in, for example, an Ohio River Valley flood or a Plains State drought, where the Government provides disaster relief and makes available loans for recovery.

In Alaska, a major portion of the population and economy were affected by the quakes, and the State does not have a strong private enterprise sector to finance recovery, for the main industry in Alaska is still the Federal Government.

Personal income in Alaska in 1963 was $700 million, half of it derived from Government salaries. Two-fifths of the total $700 million came from the Federal Government, twice the national average.

The military makes up about 33 percent of the labor force in Alaska, and another 27.3 percent is made up of civilian employees of local, State, and Federal Governments.

Nearly half of Alaska's 265,000 population lives in the south-central area, which was struck by the earthquakes. About 100,000 people live in the area of Anchorage, which is the State's biggest city and main transportation communications center.

Although Alaska has attained statehood, it is clearly still tied economically to the Federal Government's apron strings.

Alaska's location has made it an important outpost, and the military investment in the State has been regarded generally as a necessary and reasonable one. The Defense Department, after the earthquake, committed itself to an extensive repair and rebuilding program, but some have suggested that the current reevaluation of grand strategy, tactics, weapons, and dispositions going on under Secretary McNamara could result in a slimming down of the Alaskan garrison.

Should this happen, there would be even greater pressure on the Federal Government to foster the economic development of its former territorial ward.

The new Federal Alaska Commission, headed by ANDERSON, is itself a version of a resources development commission proposed by John F. Kennedy when he was campaigning for the Presidency, which materialized only in the aftermath of the earthquake.

ANDERSON, as long ago as 1950, chaired a round of statehood hearings on Alaska and is well acquainted with economic facts of life in the 49th State. The Commission, significantly, has "development planning" in its title, and its work is expected to extend beyond the emergency period.

A broad-based study of earthquake effects, which is now being given earnest attention within the executive branch, would be a practical indication of the Federal Government's interest in seeing Alaska build on firm foundations.

NATIONAL CONGRESS OF PARENTS AND TEACHERS, AFL–CIO, AND ILWU SUPPORT LOWER INTEREST RATES FOR LOANS TO ALASKA'S DISASTER VICTIMS

Mr. GRUENING. Mr. President, I am pleased to report that the board of managers of the National Congress of Parents and Teachers, representing more than 12 million members, has unanimously approved a resolution urging that the Federal Government and private lending institutions make long-term, low-interest-rate disaster loans to businessmen and homeowners in Alaska who have experienced problems caused by the March 27 earthquake and subsequent seismic waves.

This heartwarming action by the parent-teachers' association means a great deal to Alaska.

It brings encouragement at a time when encouragement is needed.

It endorses similar support given by such organizations as the AFL–CIO and the ILWU and by thousands of individuals.

It dramatically proves that people do not forget their neighbors.

The members of the PTA board of managers come from each of the 50 States, plus the District of Columbia, and from the European Congress of Parents.

The resolution was approved during the PTA's 1964 annual convention, held in Chicago, Ill., May 25–28. The test of that resolution was brought to my attention yesterday by the PTA's new national president, Mrs. Jennelle Moorehead, of Eugene, Oreg.

The text of the resolution is direct and meaningful. It reads:

> Whereas Alaska has experienced the single greatest disaster ever experienced by any State, and
>
> Whereas an emergency exists because it has been estimated that 50 percent of the economic base of the State has been lost because of the earthquake: Therefore be it
>
> *Resolved*, That the National Congress of Parents and Teachers board of managers go on record urging that assistance be made available at a low interest (three-fourths of 1 percent) on long-term disaster loans made by the Federal Government and agencies and private lending institutions to businessmen and homeowners in Alaska.

I concur in the resolution approved by the National Congress of Parents and Teachers; and, on behalf of the citizens of Alaska, I welcome this support, which endorses the opinion held by citizens across this land.

We are 50 United States. We are as strong as one single link in that Union. Alaska seeks to rebuild, and to move ahead in this remarkable century. To do so, Alaska must for today have the necessary tools with which to rebuild, without fear of bankruptcy or overwhelming indebtedness.

As the resolution of the PTA notes, the March 27 disaster on Good Friday destroyed 50 percent of the economic base of the State's private sector. Long-term, low-interest-rate loans will help correct this appalling situation. The board of managers of the National Congress of Parents and Teachers suggests that such loans be made at three-fourths of 1 percent interest by the Federal Government and agencies and by private lending institutions. I hope the resolution will prompt the taking of this desirable and necessary action.

CIVIL RIGHTS ACT OF 1963—CLOTURE MOTION—ADDITIONAL SIGNATURE

Mr. GRUENING. Mr. President, I ask unanimous consent that my name be added to the signatures on the cloture motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEYNER KEY TO CODE

Mrs. NEUBERGER. Mr. President, today the New York Times carries an article announcing the appointment of Gov. Robert Meyner, of New Jersey, as administrator of the cigarette advertising code. It has been my pleasure to have known Governor Meyner for many years. He certainly has the potential to be the strong, vigorous, no-nonsense-type of administrator that is necessary if the cigarette advertising code is to be more than a simple statement of good intentions.

The administration of the code will not be an easy task. As a working instrument it has, of course, not been tested. Its language is broad and general, capable of extreme variations in interpretation. A recent edition of Broadcasting magazine, cited expert opinion as estimating that anywhere from 0 to 90 percent of the cigarette commercials currently being displayed could run afoul of the code provisions, depending upon the firmness of the administrator.

For example, the code provides that cigarette advertising shall not appear on programs "directed primarily to persons under 21 years of age." The evident purpose of such restriction is to restrict cigarette advertising to those programs which have a minimal teenage appeal. It would be hard put to say whether the "Beverly Hillbillies" program is "directed primarily to persons under 21 years of age" but the Federal Trade Commission has reported that 12.6 million children and 6.5 million teenagers view the "Beverly Hillbillies" sponsored by R. J. Reynolds, each Wednesday evening. No semantic quibble should bar the elimination of advertising on programs with such an audience. It may well be that it is this vagueness of the code language which has caused the Justice Department to place the code under close scrutiny before granting it absolution from the antitrust laws. I am confident that as a result of the interest of the Justice Department the code as administered by Governor Meyner will convey upon him sufficient authority and power to do that which is necessary to effect the fundamental reforms in cigarette advertising.

A clear and meaningful test of industry intentions and self-discipline is readily at hand. The April 20 issue of Advertising Age has prepared, based on Federal Trade Commission figures, a list of the top 10 TV shows sponsored by cigarette companies, ranked by size of children audiences. I can think of no greater test of the good faith of the industry than the prompt abandonment of cigarette sponsorship for each of these programs.

Mr. President, I ask unanimous consent that the table listing the network TV shows ranked by size of teenage and child audiences and also the article from the New York Times announcing the appointment of Governor Meyner be printed in the RECORD.

There being no objection, the table and the article were ordered to be printed in the RECORD, as follows:

[From Advertising Age, Apr. 20, 1964]

Network TV shows ranked by size of child audiences

Program	Sponsor	Network	Time	Total	Teens	Children
1. Beverly Hillbillies	R. J. Reynolds	CBS	Wednesdays, 9 to 9:30	50.0	6.5	12.6
2. Jackie Gleason	Philip Morris	CBS	Saturdays, 7:30 to 8:30	33.1	3.0	9.5
3. Combat	American Tobacco	ABC	Tuesdays, 7:30 to 8:30	27.1	3.3	8.9
4. Red Skelton	Philip Morris	CBS	Tuesdays, 8 to 9	32.6	3.2	8.8
5. Joey Bishop	P. Lorillard	NBC	Saturdays, 8:30 to 9	23.7	2.8	7.7
6. Dick Van Dyke	do	CBS	Wednesdays, 9:30 to 10	36.5	5.0	6.9
6. McHale's Navy	R. J. Reynolds	ABC	Tuesdays, 8:30 to 9	27.7	4.1	6.9
7. Outer Limits	Liggett & Myers	ABC	Mondays, 7:30 to 8:30	20.6	3.3	6.2
8. Ed Sullivan	P. Lorillard	CBS	Sundays, 8 to 9	31.2	2.4	5.3
9. Virginian	Liggett & Myers	NBC	Wednesdays, 7:30 to 9	28.6	2.5	5.1
9. The Lieutenant	R. J. Reynolds	NBC	Saturdays, 7:30 to 8:30	20.1	2.4	5.1
10. Saturday Night at Movies	American, R. J. Reynolds.	NBC	Saturdays, 9 to 11	30.2	4.1	5.0

Source: ARB, "The U.S. Television Audience, November 1963," reported in app. B; FTC staff study, "A Report on Cigarette Advertising and Output."

[From the New York Times, May 8, 1964]

MEYNER TO DIRECT TOBACCO AD CODE—FORMER JERSEY GOVERNOR WILL JUDGE ADVERTISING OF CIGARETTE INDUSTRY—NINE CONCERNS NAME HIM—HE WILL HAVE POWER TO FINE COMPANIES THAT VIOLATE RULES ADOPTED IN APRIL

(By Emanuel Perlmutter)

The Nation's cigarette industry announced yesterday the appointment of Robert B. Meyner, former Governor of New Jersey, as administrator of its advertising code.

The code, which was adopted by the nine major companies in April, is designed to minimize advertising aimed at young persons, particularly advertising that represents cigarette smoking as "essential to social prominence, distinction, success or sexual attraction."

Mr. Meyner will take office after the industry's code is cleared by the Antitrust Division of the Department of Justice. He will have power to impose fines up to $100,000 on violators.

Mr. Meyner, who was Governor of New Jersey from 1954 to 1962, has long been a national figure in the Democratic Party. He is close to President Johnson and was one of a group of Democrats who organized a movement in 1960 aimed at stopping the presidential nomination of John F. Kennedy.

APPOINTED FOR 5 YEARS

Mr. Meyner's salary was not disclosed. His appointment is for 5 years. He will have the power to appoint scientific panels to advise him, and no cigarette company will be able to place advertising until it has been submitted to his office and cleared by it. His office will be in New York.

The industry adopted its code when it was faced with proposed restrictions by the Federal Trade Commission, regulatory bills pending in Congress and a proposed code under consideration by the National Association of Broadcasters.

The code proposes banning cigarette ads from college media and from television shows directed mainly at those younger than 21 years of age.

It bars claims involving health, filters, tars, resins, and similar assertions unless the administrator is satisfied that the claims can be verified.

Also restricted are ads that contain virility appeal because they show smokers indulging in athletic contests.

Mr. Meyner, who was born in 1908, is a member of the Newark law firm of Meyner & Wiley. He resides in Princeton.

The companies that announced Mr. Meyner's appointment were the American Tobacco Co., the Brown & Williamson Tobacco Corp., the Larus & Bro. Co., the Liggett & Myers Tobacco Co., the P. Lorillard Co., Philip Morris, Inc., the R. J. Reynolds Tobacco Co., Stephano Bros., Inc., and the United States Tobacco Co.

UPPER COLUMBIA RIVER DEVELOPMENT GOAL IS NEAR FOR UNITED STATES AND CANADA

Mrs. NEUBERGER. Mr. President, the end of the trail is in sight for successful completion of the agreement between the United States and Canada for joint development of the water resources of the upper Columbia River. Last Friday, June 5, the House of Commons in Ottawa voted 108 to 16 in support of a resolution approving the treaty originally signed by both countries in 1961.

Endorsement by the Canadian Senate and approval by the Prime Minister's Cabinet is anticipated in the near future. The United States has already completed legislative and executive action on the treaty.

Thus, the year 1964 will mark the start of a new era in development of the international river system which possesses some 40 percent of the hydroelectric potential of the North American Continent. The agreements which have been executed will bring widespread benefits to the citizens of both countries. Most of all, the development program will move us closer to the goal of complete harnessing of the mighty Columbia. The action of the majority of the Canadian House of Commons can be hailed as another example of the good relationship between our two nations, for sharing and use of natural resources in a manner which is advantageous to both.

I ask consent to include in the RECORD, with my remarks, an article from the New York Times of Saturday, June 6, 1964, entitled "Canada Advances Columbia Treaty."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CANADA ADVANCES COLUMBIA TREATY—COMMONS APPROVES PACT TO DEVELOP RIVER WITH UNITED STATES

(By Raymond Daniell)

OTTAWA, June 5.—The House of Commons approved today the treaty with the United States for joint development of flood control and power resources of the Columbia River.

The vote, in a sparsely attended session, was 108 to 16. Only 15 members of the New Democratic Party and one Conservative voted against the Liberal Government's resolution.

A similar resolution now goes before the Senate, where it is certain to be endorsed. After approval there, Prime Minister Lester B. Pearson's Cabinet will, by order in council, formally ratify the treaty.

A treaty providing for joint development of the river was signed by both countries in 1961. It was ratified by the United States but not by Canada because of objections from W. A. C. Bennett, Premier of British Columbia.

PROTOCOL ERASES OBJECTIONS

Mr. Pearson and President Kennedy agreed at Hyannis Port last spring that the objections could be overcome by a protocol to the existing agreement rather than renegotiation. The protocol was signed at Washington last January 22 by President Johnson and Mr. Pearson.

The protocol provides that the United States would pay for dams built in Canada and a flat rate payment for flood control benefits.

The initial project consists of three dams to be built by British Columbia in the next 9 years. They would cost under $400 million and be situated at Arrow Lake, Duncan Lake, and Mica Creek.

The dams, by controlling the upper reaches of the 1,200-mile Columbia River, will make available more than 1 million kilowatts of extra power at existing U.S. dams.

Under the treaty, the United States would pay British Columbia $344.4 million in Canadian funds, including $274.8 million in advance next October 1.

CONTRACT TO LAST 30 YEARS

The power sale is for 30 years. The new agreement means possibly $100 million more in benefits than the old treaty provided for. Full benefits could total at least $501 million by 1973.

The money invested over the 9-year construction period will be sufficient to cover costs. Generators at Mica Creek are expected to produce about 1 million horsepower of electricity for British Columbia consumption.

Ultimately, five more dams will be built and additions will be made to existing dams at Lower Bonnington and Brilliant.

The total cost will be about $1 billion. The power capacity will be almost 4.5 million kilowatts, twice the amount now used by the whole Province.

At the same time, the Peace River in British Columbia is being developed at an ultimate cost of about $800 million to produce 3.5 million more kilowatts.

STATEMENT IN SUPPORT OF CIVIL RIGHTS BILL

Mr. SCOTT. Mr. President, I ask unanimous consent that a statement in support of the civil rights bill by an interreligious delegation representing the Religious Advisory Consultation on Equality—RACE—of Greater Philadelphia be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

We have come here today to present to you a very tangible demonstration of the support of citizens in the Philadelphia area for passage of civil rights legislation now. Affixed to these petitions which we give to you are the names of a mere fraction of our citizens who believe firmly that civil rights legislation will do much to fulfill the destiny of our Nation in terms of its democratic heritage.

These signatures were collected on Sunday, May 24, when hundreds of advocates of racial justice gathered in an interreligious witness to show that the moral forces of our community are behind you and those of a like mind who are determined to provide this Nation with effective machinery that will help remove the stains of racial and religious prejudice and discrimination.

We sought to demonstrate our growing impatience with the drawnout debate that serves only to make a mockery of our Nation, steeped as it is in democratic principles of equality and justice. The witness was held to show you our concern over any efforts to severely weaken the proposed civil rights bill through crippling amendments.

While we differ, one from the other, by race and religion, we are one in our fervent desire and hope your positive influence and that of your constituents will prevail. We trust our Nation will enact this vital legislation as a primary and very important step toward helping all Americans face up to the eternal truth of the oneness and equality of man under God.

Finally, we implore you to stand firm against the forces of bigotry and intolerance and continue in your determination to uphold the dignity and worth of all mankind, of all races, colors, and creeds.

REPORT ON DEVELOPMENTS IN THE FEDERAL PROBATION SYSTEM, 1964

Mr. JOHNSTON. Mr. President, I would like to present a report on developments in the Federal Probation System, 1964, by Luther W. Youngdahl, judge, U.S. District Court for the District of Columbia and Chairman of the Committee of the Judicial Conference of the United States on the administration of the probation system.

A short time ago information was inserted into the RECORD in which unfounded criticism was made of our Federal Probation Service. This report presents the latest and true picture of this fine service.

I ask unanimous consent that the full report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT ON DEVELOPMENTS IN THE FEDERAL PROBATION SYSTEM, 1964

(Address by Luther W. Youngdahl, judge, U.S. District Court for the District of Columbia and chairman of the Committee of the Judicial Conference of the United States on the Administration of the Probation System—Prepared for delivery before the Advisory Council of Judges, National Council on Crime and Delinquency 12th annual meeting, Minneapolis, Minn., Friday, June 5, 1964, 12:15 p.m.)

The National Council on Crime and Delinquency has always had a deep interest in the Federal Probation Service. This is only natural since that organization, which established our Advisory Council of Judges, was in large part responsible for the creation of the service by procuring the enactment of the Federal Probation Act of 1925. In the years that have elapsed since that beginning there has been no lessening of interest on the part of the National Council on Crime and Delinquency in probation and parole in the courts of the United States; and yet, at the annual meetings of our Advisory Council of Judges over the years, we have had little discussion of the Federal system. Federal probation has not received separate attention, because I believe it has been assumed that the Federal Probation Service was included in our discussion of general principles and practices. This has been due, I think, to the fact, especially during the last 10 or 15 years, that there has not been much change in the use of probation and parole in the Federal courts, and such changes as have occurred have been so gradual as not to attract much attention.

Last year I had the privilege of addressing the annual meeting of the Advisory Council of Judges at the joint meeting with the New York Citizens Council on the subject of "Preventing Delinquency and Crime," and on that occasion all that I was able to report, with respect to Federal probation and parole, was the fact that at its meeting during the preceding March, the judicial conference of the United States had approved the appointment of a permanent standing committee on probation; that under this authority Chief Justice Earl Warren had appointed a committee of nine U.S. district court judges, naming me to serve as chairman, and that our committee had held one meeting.

Today, 1 year later, it is with much satisfaction and some pride that I am prepared to report to you on what has happened in the meantime. There has been such a ferment of activity that I find that in the time available I can do no more than list the more important of our activities and describe only a few in detail.

One project on which very real progress has been made is a proposed revision of the official monograph on the preparation of presentence reports, including the presentence report format. The judges working on this are Chief Judge Thomas Madden, of the U.S. District Court for the District of New Jersey, and Judge James B. Parsons, of the U.S. District Court for the Northern District of Illinois, assisted by a staff committee consisting of seven probation officers, two representatives of the Bureau of Prisons, a psychiatrist, a forensic psychologist, and Mr. Paul W. Keve, one of the country's best-known authorities on presentence investigations and reports.

They have already completed and submitted to the full committee their recommendations for revision of the monograph, running to some 50 pages, together with a recommended standard outline and format for presentence reports. The purpose of this is to establish a format and a standard of content that will not only meet the needs of the district judge in pronouncing judgment but will also supply information essential to the Bureau of Prisons and to the Board of Parole. This should eliminate the need for a great deal of reinvestigation which is now required by the Bureau of Prisons and the Board of Parole and which is costing a great deal of money. It should serve also to raise substantially the quality of presentence reports in general.

Another study where progress is being made relates to psychiatric and medical services. This work is being carried on by a subcommittee of which Judge John W. Oliver, of the U.S. District Court for the Western District of Missouri, is chairman, and Judge Francis L. Van Dusen, of the U.S. District Court for the Eastern District of Pennsylvania, is a member.

There seems to be some misunderstanding as to the nature and extent of the use made of medical and psychiatric examinations and facilities in the Federal correctional process. Perhaps the mistaken inference that the Federal Probation Service makes little, if any, use of psychiatric examinations arises from the fact that the allotment for psychiatric examinations for the Federal Probation Service in the annual budget of the Administrative Office of the U.S. Courts is only $4,000 a year. But this is no index at all of the use actually being made of psychiatry and medicine.

The allotment in the budget is merely to meet the exceptional necessity for paying a private psychiatrist on a case-by-case basis for examinations that are occasionally necessary when public psychiatric facilities are not available. There has never been a year when the requests for such special examinations have been too great for the funds available.

No attempt has been or is being made to staff Federal probation offices with psychiatrists, even in metropolitan districts, for the reason that adequate service is available without cost in State and local clinics and hospitals, particularly in the metropolitan areas. For example, the Philadelphia Probation Office obtains, without charge, psychiatric examinations prior to sentence from the Neuropsychiatric Division of the Court of Quarter Sessions; and examinations, without cost, are conducted for the office by the Mills Clinic of the Philadelphia General Hospital. This is service of high quality. It would be impossible to duplicate it by the assignment of a psychiatrist to the probation office staff. This is generally true in the metropolitan areas around the country.

In addition to these services, many district courts use the observation and study facilities of the Bureau of Prisons' institutions under the provisions of sections 4208(b), 5010(e), and 5034 of title 18. During the fiscal year 1963 a total of 459 examinations were made under 4208(b), 140 under 5010(e), and 55 under 5034. Other public psychiatric and medical facilities are also frequently used, such as those of the Veterans' Administration, U.S. Public Health Service, and the departments of medicine, psychology, and psychiatry of many universities.

All of this is under review by Judge Oliver's subcommittee to determine whether the best use is being made of facilities and services presently available and what more may be needed along this line.

In the District of Columbia, which has such a heavy volume of criminal cases that in other areas would be tried in State courts, we make heavy use of the facilities of St. Elizabeths Hospital for mental examinations before trial; also, the chief psychologist attached to the staff of the Legal Psychiatric Services spends 3 hours biweekly with the staff of the probation office in helping develop the probation program. He has also been acting as psychological consultant for the group counseling program with which our probation office has been experimenting for more than 5 years. There are, in addition, instances of which no formal record is kept, but which number, in the estimate of our chief probation officer, as more than a hundred a year, when probation officers request and receive special psychiatric consultations.

The District of Columbia Probation Office, as I have mentioned, has been experimenting with considerable success for more than 5 years with the use of group counseling as a technique in rehabilitation. I have, myself, observed these groups in operation and am much impressed with what seems to me to be substantial achievements. At its meeting in March of this year the Judicial Conference authorized our Committee to seek funds to underwrite a scientific evaluation by outside experts of our group counseling program with the idea that if it proves to be as valuable as some of us think it is, we will be justified in encouraging its use elsewhere.

Through a subcommittee, of which Judge William B. Herlands, of the U.S. District Court for the Southern District of New York, is chairman, and Judges Walter E. Hoffman, of the U.S. District Court for the Eastern District of Virginia, and Albert C. Wollenberg, of the U.S. District Court for the Northern District of California, are members, our Committee has made progress in formulating a statement of the principles and essentials of probation and parole. The subcommittee has completed a tentative draft consisting of three working papers covering the purpose, scope, and functions of probation and developing the philosophy and principles upon which our administration of probation and parole are based. These papers, however, are not ready for publication because they are regarded as a draft rather than a final formulation, which should receive much more extensive consideration by judges, probation and parole administrators, and other competent authorities. They should, however, prove to be very useful, even in draft form, as a basis of discussion at future sentencing institutes and joint councils.

All of this diverse activity must sound as though our Probation Committee met with very great frequency. Yet this has not been necessary. During the last year we held one meeting in Washington and a second in Denver last February coincident with a sentencing institute for newly appointed judges, which we sponsored at the same time and place.

You will recall that in 1958 the Congress passed a law authorizing institutes and joint councils on sentencing to be held under the auspices of the Judicial Conference of the United States, having the very broad purpose of studying, discussing and formulating the objectives, policies, standards, and criteria for sentencing those convicted of crimes and offenses in the courts of the United States. Prior to the creation of the Probation Committee last year, only two meetings that would justify the title of "Sentencing Institutes" had been authorized by the Judicial Conference. The first, which was attended by judges invited from all parts of the United States, was held in July of 1959 at Boulder, Colo.; the second, attended by the judges of the sixth, seventh, and eighth circuits, was held at Highland Park, Ill., in October of 1961. There had been held, in addition, one or more sentencing programs in each of the 11 circuits, these programs being incidental to the annual meetings of the judicial conferences of the circuits and the attendance usually being limited to the judges of the circuits.

When our Probation Committee was created the Judicial Conference charged us with the responsibility for planning future programs and developing future institutes and joint councils on sentencing, and this responsibility is being carried out by a subcommittee chairmaned by Judge Francis L. Van Dusen, of the U.S. District Court for the Eastern District of Pennsylvania, and Judges John W. Oliver of the western district of Missouri, William B. Herlands, of the southern district of New York, and James B. Parsons, of the northern district of Illinois, as members. We also have as a member of this subcommittee, Mr. James V. Bennett, the distinguished and always helpful Director of the Bureau of Prisons, whose personal contribution to the programs of every institute so far held has been a major reason for their success.

During the past year our Committee has sponsored a sentencing institute, held, under the statute, at Denver, Colo., February 1964. The sentencing program, which covered 2½ days, was conducted for reasons of economy as a part of a seminar for newly appointed judges. The seminar lasted a week. It was attended by 42 newly appointed judges from all parts of the country.

The sentencing program was broad in its scope. Discussion was organized on such matters as the problem of disparity; aids in sentencing, such as the presentence report; a briefing on the Federal correctional system; a tour of the Federal correctional institution at Englewood, Colo., including a most fascinating demonstration of the observation and study procedures and techniques used in the institution; parole board procedures; the application of psychiatry to study, observation and treatment of the Federal offender; competency determination; the use of probation; the use of commitment; the proper conduct of the hearing on sentence; and probation supervision and revocation.

I detail the broad sweep of the program because there seems to be a mistaken idea that these institutes are directed toward the narrow objective of eliminating the disparity in sentences. Demonstrably, this is not the case. It has also been asserted that we are spending hundreds of thousands of dollars conducting these sentencing institutes. The fact is that the total cost of all the institutes, joint councils, and other programs on sentencing held since the enactment of the authorizing statute in 1958, is less than $45,000.

Our Committee is presently planning another regional sentencing institute to be held somewhere on the west coast this coming October.

I should mention here the outstanding work of the Advisory Council of Judges in preparing "Guides for Sentencing" and the "Model Penal Code," which I believe will have a tremendous impact in eliminating disparity in sentencing.

I now come to a far-reaching proposal developed by our committee during the past year which has been approved by the Judicial Conference of the United States. This proposal is in the form of a bill which we transmitted to the Congress only last week. I am glad to say that the bill has already been introduced in the House by our good friend Congressman EMANUEL CELLER, chairman of the Judiciary Committee, and is numbered H.R. 11414. Congressman CELLER hopes for action at this session of the Congress.

The bill would authorize the establishment of a Research and Development Center in the correctional field, the Center to be administered under the general direction of a corrections council, the establishment of which would also be authorized by the bill. While the proposed legislation originates with our committee and the Judicial Conference, it has received extensive consideration and approval by the other interested departments and agencies of Government that would be affected by its enactment.

The Judicial Conference has become increasingly concerned over a period of some years about the responsibility placed upon the judiciary for the administration of the Federal probation system and has felt an increasing need for the development of better standards in all aspects of probation administration, and especially with respect to the supervision of probationers and parolees released into the community.

This interest has led to the realization of the need for continuous systematic analysis, investigation, testing and experiment to develop a sound body of knowledge upon which intelligent training materials and proven practical techniques of probation administration might be based. However, because probation and parole can only be evaluated by comparison with other correctional alternatives, it is also realized that it is impracticable to attempt research in probation and parole independent of other correctional techniques, such as imprisonment, the administration of which is in the Bureau of Prisons and the Department of Justice and not in the Judiciary.

The common objective of probation and parole, as administered by the Judiciary, and imprisonment in all its varieties, as administered by the Bureau of Prisons and the Department of Justice, is to bring about change in the deportment of persons convicted of criminal offenses. The National Institute of Mental Health with its unmatched experience, competence, and resources has a special interest in this kind of mental, moral, and psychological change. Accordingly, the proposed legislation, though originally sponsored by the Judicial Conference because of its interest in probation and parole, would create a center for research and development covering the entire correctional field and would provide that its activities be conducted under the general direction of a corrections council with appropriate representation in its membership of the agencies, departments and branches of government concerned, i.e.: the Judiciary, the Bureau of Prisons, the Department of Justice, and the National Institute of Mental Health.

The Corrections Council proposed in the bill would be created by amending the present section 5002 of title 28, United States Code, which creates an Advisory Corrections Council. The proposed amendment would not only drop "Advisory" from the name of the Council but would give it more specific authority to instigate and direct studies relating to the problems of treatment and correction of all offenders. Also the proposal would require the Council to make its recommendations to the Attorney General and the Judicial Conference of the United States instead of to the President and Congress as provided in the existing statute. Further, the proposed amendment would drop the present provision for a public member of the Council and in his place would name the Director of the National Institute of Mental Health to serve as Chairman.

The proposed Research and Development Center in the Correctional Field would be located on the grounds of the National Institute of Mental Health at Bethesda, Md. In terms of the number of people involved, the proposed Center would be quite small. Although small in size, the Center could meet the great need for a focal point in the Federal Government where the results of the numerous research projects, both public and private, presently being conducted in the correctional field on a more or less hit-and-miss basis, could be collected, coordinated, and made more useful and from which continuing systematic analysis, including testing and experimentation of all aspects of supervision in the community, as well as institutional treatment, could be conducted. The Center should prove to be a fertile source for improved and much-needed training materials for all the people engaged in the many different aspects of correctional work and rehabilitation.

A recently issued report from the Bureau of Prisons states that the Federal prison population decreased about 7 percent in the last 24 months, notwithstanding the fact that during the same period the number of persons convicted increased substantially. On the other hand, the number of persons placed on probation last year is greater than the number the year before by more than a thousand, an increase of about 9 percent. Changes like this indicate the increasing need for the development of better standards and techniques in all aspects of probation administration. The Judicial Conference believes the proposed Research and Development Center is essential to meet this need.

So far in my report I have been talking mostly about the activities of the Judicial Conference Probation Committee. Now I must mention a tremendously important contribution to our work on probation and parole by another and separate committee of the Judicial Conference. I refer to the Conference Committee on Judicial Statistics of which Chief Judge Harvey M. Johnsen, of the Court of Appeals of the Eighth Circuit, is Chairman.

As you know, in past years we have not had a comprehensive statistical procedure and the resultant lack of information has made any real evaluation of the practices of probation and parole extremely difficult, if not impossible. But, since 1959, under the leadership and with the support of Judge Johnsen's Committee, the Administrative Office of the U.S. Courts has been actively engaged in devising new methods of reporting more complete information by Federal court clerks and probation offices. This has now culminated in the development of a system of reporting and statistics which, for the first time, accounts for all persons who were or are during the year the responsibility of the Federal Probation System. This includes all persons who, in the administration of the Federal courts, have been placed on probation, released under parole supervision, who are under supervision while on conditional release, who are placed on probation by U.S. commissioners, or whose prosecution is deferred under the so-called Brooklyn plan. This statistical system also includes full information as to the sentencing statutes that have been utilized and the sentences imposed under each, and, finally, the system includes full information about probationers and parolees removed from supervision, distinguishing between those who have successfully met the condition imposed by a court and those whose supervision is terminated either by major or minor violations.

This vitally important new statistical information was released by the Administrative Office of the U.S. Courts on February 4, 1964, in a report entitled "Federal Offenders in the U.S. District Courts 1963," and in a second report released May 18, 1964, under the title "Persons Under the Supervision of the Federal Probation System fiscal year 1963." A third report covering the District of Columbia exclusively has also been released.

In referring to this development, Chief Justice Earl Warren, in a recent address to the American Law Institute, observed:

"Scientific progress is largely dependent on the ability to make better measurements. This is as true of the social as it is of the physical sciences. Therefore, much of the research in the correctional field in recent years has been directed toward the development of new kinds of techniques for measuring the results of the correctional process."

Referring specifically to the recently issued reports on Federal offenders and persons under the supervision of the Federal Probation System, the Chief Justice commented:

"* * * in my opinion they amount to a major breakthrough in the barrier of official ignorance as to what kind of people are processed through the Federal criminal courts and what actually happens to those released on probation under varying terms, to those who are incarcerated in institutions for varying periods and to those who are placed on parole or conditional release under varying conditions."

I am sure I do not need to emphasize the usefulness of this body of statistical information in the programs and activities of the proposed Research and Development Center.

From the total statistical information now available about the Federal correctional process, the facts can be developed which will effectively answer many of the questions that have plagued us for a long time. There has been much criticism of looseness in the administration of probation; some of it justified and some of it not justified.

In my opinion two basic requisites for an effective system are (1) careful selection of those offenders who are to be placed on parole or probation and (2) assurance of proper supervision.

But, now, with complete statistics and comprehensive reporting on what happens, we have an accurate measure of our successes and blunders in granting probation and parole and of the weaknesses in the extent and methods of supervision.

I must mention a few of the interesting things we have learned from these first reports. We have learned that in 1963—taking into account those offenses subject to the possible use of probation—that probation was granted to about 50 percent of all defendants sentenced. This represents approximately a 3-percent decrease in sentences of imprisonment and a 9-percent increase in the use of probation over the previous year. We have learned that in 1963 approximately 12 percent of the probationers who were removed from supervision during the year were removed because of a violation of a major nature. While it might be expected that those districts which used probation extensively would presumably have a much higher violation rate than those districts that made much less use of probation, this report shows very little difference in violation rates. This would suggest that a much greater use could be made of probation in those districts that use it more sparingly without any substantial increase in the number of major violations, provided, of course, that the probation offices in those districts are adequately staffed.

Some of this new information concerning persons received for supervision by the Federal Probation System will come, I believe, as a distinct surprise to many district judges. It now appears as a fact that the imprisonment actually served by persons sentenced under the Youth Corrections Act is substantially longer than it is for adults or juveniles sentenced under the Federal Juvenile Delinquency Act for like offenses and that, with respect to the time to be served under supervision under parole, the term for Youth Corrections Act offenders is four times as long as for adults and two times that of juvenile delinquents. Furthermore, when the rate of parole violation is compared, it appears that the major violation rate in adult cases of auto theft was 24.9 percent, in juvenile cases 30.3 percent, and Youth Corrections Act cases 47 percent. There seems to be no question but that the Youth Corrections Act cases not only serve greater time in custody before release on parole than other classes but that after release they have a much higher violation rate. Why? Is it because of the fact that recidivism in auto theft cases tends to be greater among youth offenders than among juvenile or adult offenders, or is it because of lack of staffing and adequate facilities in our youth institutions?

Because I am such a strong supporter of the youth corrections philosophy I believe that facts such as these, now available for the first time, clearly demonstrate that this information must be very carefully studied by the judiciary, the Federal Probation Service, the Board of Parole, and the Bureau of Prisons, and it is most convincing proof of the pressing need for constant research in the correctional field.

The development by the Administrative Office of accurate statistical information concerning Federal violations of probation and parole suggests, we believe, that the Administrative Office is in a position to be of real assistance to at least some of the States by supplying similar information concerning State probation and parole.

During the past few years an increasing number of States have recognized how essential accurate statistical information is to the successful administration of the probation and parole process and have developed quite adequate systems for reporting the basic information to their own State statistical centers concerning all persons put on probation or parole in their own courts. But, useful as this information is, all the States have been handicapped by their inability to obtain and include accurate information as to what happens to the very considerable number of such persons who move outside the State. Clearly there is no way of obtaining this information excepting through some Federal agency.

The National Council on Crime and Delinquency has long been aware of this. More than 5 years ago Mr. Will Turnbladh, who was then Director, and Mr. Milton Rector, who is Director now, conferred at some length with the Director of the Administrative Office and other Federal officials as to whether there was any Federal agency that could possibly fill this need. But at that time the Administrative Office did not have the basic statistical information about probation and parole violators even in Federal cases, let alone State cases, and consequently could be of no assistance. Now, however, the Administrative Office is receiving full information on Federal probation and parole violators from the Federal Bureau of Investigation, and it would seem possible to expand the system to include information as to violators from selected States. I say "selected" States because the basic statistical information concerning persons under supervision in the State courts is only obtainable in those States that have already developed a proper system of reporting to some State statistical center. It is for this reason that the cooperation of the Federal statistical agencies with the States must of necessity be limited to those States having well-developed statistical systems of their own.

As I have mentioned, the statistics kept by the Administrative Office, even those relating to probation and parole, are not the concern primarily of the Judicial Conference Committee on Probation. Nevertheless, Mr. Warren Olney, the Director of the Administrative Office, and Mr. Ronald H. Beattie, the talented Chief of the Division of Procedural Studies and Statistics, have suggested that I let it be known at this meeting, where so many States are represented, that they believe the time has come when it is feasible to reopen these discussions about the possibility of making the statistical information about State probation and parole violators available to States having their own statistical centers. There are, of course, many obstacles to this, but the main difficulties with respect to Federal statistics seem to have been cleared away and now perhaps a way can be found for supplying State statistical centers with this vital information concerning violators which they cannot get for themselves.

I cannot close without paying tribute to the devoted efforts of my fellow members on the Probation Committee, expressing my admiration for the farsighted accomplishments of Judge Johnsen's Committee on Statistics, and speaking of my pride and satisfaction in the vision, energy and wisdom of the Judicial Conference of the United States. Moreover, I would be remiss, indeed, if I did not add a word of commendation to Milton Rector and his able staff of the National Council on Crime and Delinquency and to our dedicated group of judges in the Advisory Council under the able leadership of the former chairman, Hon. Bolitha Laws, and our present distinguished chairman, Hon. Alfred Murrah, for their dedicated work in behalf of probation, parole, delinquency and crime and the general improvement of the administration of justice.

HIGH SCHOOL DEBATES, 1964–65

Mr. HAYDEN. Mr. President, for the information of all Members of the Senate, the high school debate material for 1964–65, printed, pursuant to Public Law 88–246, as Senate Document 72 and entitled "Should Weapons Be Placed Under International Control?" is now available in the Senate warehouse. Two hundred copies are allotted to each Member for 30 days. Thereafter, all copies remaining in the warehouse will be pooled by the Joint Committee on Printing and, upon request, will be furnished to Members to the extent available.

ORDER OF BUSINESS

Mr. BYRD of West Virginia obtained the floor.

Mr. METCALF. Mr. President——

Mr. BYRD of West Virginia. Mr. President, I yield to the Senator from Montana, with the understanding that I shall not lose my rights to the floor, and also that his remarks will be printed in the RECORD before my own remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF HAMER H. BUDGE TO SECURITIES AND EXCHANGE COMMISSION

Mr. METCALF. Mr. President, I ask unanimous consent to have printed in the RECORD, as part of my remarks, an editorial published today in the New York Times, relating to the nomination of Hamer H. Budge to be a member of the Securities and Exchange System.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 9, 1964]

AN UNPROFESSIONAL APPOINTMENT

When President Johnson made his first group of appointments to posts in Federal agencies, his nominations were encouragingly from professional rather than from political ranks.

His most recent appointment, the naming of Hamer H. Budge, a Republican ex-Congressman from Idaho, to the Securities and Exchange Commission reverses this sensible policy. The term of J. M. Whitney, a Republican, had expired, and a Republican or independent had to be appointed because the law states that no more than three members of one party can serve on the SEC. But Mr. Budge, who calls himself a conservative and favors cooperation rather than control of industry, has had no experience in the field of security regulation. His lack of professional background and his unsympathetic attitude toward reform is in striking contrast to the attributes of his predecessor and to the prevailing policy of the SEC itself.

The naming of Mr. Budge assumes special importance due to the fact that William L. Cary, the SEC's exceptionally able chairman, will soon be leaving his post. Under Mr. Cary, the SEC, watchdog of the marketplace, has been completely revitalized. It is no longer enfeebled or insensitive to the many changes taking place in the sale and distribution of stock. On the contrary, it has played an active, reformist role, taking the lead in raising standards in the securities industry. Its position will be strengthened by congressional passage of the proposed securities reforms bill; but it will still require a conscientious and professional chairman like Mr. Cary, one who has the devotion and support of its staff, to insure that regulation is both intelligent and effective.

We hope that the naming of Mr. Budge will not set a precedent. Professionals should be chosen for the regulatory agencies. There is always a grave risk that political regulators will either succumb to industry pressure or simply go to seed. It is a risk that we cannot afford to run.

PROTECTION AND PRESERVATION OF AIR RESOURCES

Mr. METCALF. Mr. President, I ask unanimous consent that an address by Senator MUSKIE relating to the protection and preservation of our air resources be printed in the RECORD.

Senator MUSKIE has done an outstanding job as chairman of the Special Subcommittee on Air and Water Pollution of the Senate Public Works Committee. He conducted extensive hearings last year and this year on the problems of air pollution and provided the leadership which led to the passage by the Senate of legislation which was subsequently enacted into law and is known as the Clean Air Act. During this year Senator MUSKIE has conducted a series of field hearings to learn more about the problems of air pollution and the techniques used to control air pollution. His address reveals his great knowledge of the subject and I recommend that it be read by each of you.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR MUSKIE AT METROPOLITAN WASHINGTON AREA CLEANER AIR WEEK LUNCHEON AWARD CEREMONY, MAY 14, 1964

It may seem strange to some of you that in the middle of a Senate filibuster a Senator is being called upon to represent the forces of cleaner air. I offer two justifications for my presence: (1) As a native of the State of Maine I know what clean air really is; and (2) as a Member of the Senate hemmed in by the filibuster I appreciate the need for fresh air.

We are celebrating a happy occasion, today, on the achievement of our National Capital Area in the fight for cleaner air. At the same time, the fact that such an occasion is necessary highlights a growing problem which is adversely affecting the health, economic capacity, and quality of living in these United States.

For years men have been aware of the sooty deposits which accompany industrialization and we have been aware of the nuisance of unpleasant odors from manufacturing processes in certain industries. But so long as these side effects of industry and modern technology seemed to be nuisances and no more, we accepted them as one of the necessary drawbacks in our modern civilization.

With the outbreak of sickness and death associated with air pollution, our scientists became concerned that air contaminants could cause harm to man. Now, the Nation is aroused, and there is today a national recognition of the air pollution problem.

In the recent hearing of the Special Subcommittee on Air and Water Pollution of the Senate Committee on Public Works, civic leaders, industrialists, medical doctors, and technicians all agreed that air pollution is a growing menace and that it must be controlled.

Air is life. We all know that we need fresh air every few seconds if we are to live. What we are not always aware of is that air is needed to sustain the kind of world in which we live, but the use of air in heating our homes, running our factories, driving our cars, and burning our wastes discharges pollutants into the air, and resumes in physical and economic damage to the Nation.

Air pollution is injurious to health. We know, for example, that air pollution cost 4,000 lives in London in December 1952, 340 deaths in the same city 10 years later, 17 lives in Donora, Pa., in October 1948, and 200 lives in New York in November 1953. Untold thousands of Americans have suffered and died as a result of the long-term injurious effects of air pollution.

As the staff report on air pollution, prepared for the Special Subcommittee on Air and Water Pollution, has pointed out: "Of much greater overall significance than acute episodes (of air pollution) is a growing body of evidence that long-term, low-level air pollution can contribute to and aggravate certain diseases." We do not know all we want to know about the relationship between certain harmful agents in the air and disease, but we do know enough to establish a connection between various substances in the air and numerous respiratory ailments. These include: (1) the common cold and other upper respiratory tract infections; (2) chronic bronchitis; (3) chronic constrictive ventilatory diseases; (4) pulminary emphysema; (5) bronchial asthma; and (6) lung cancer. Close correlations have been shown between all of these diseases and the level of air pollution. In addition, there is a close correlation between the size of cities, the amount of air pollution, and the incidents of respiratory disease as a result of air pollution.

There are those who say that not enough is known to justify cleaning up air pollution now. They say we must wait until we have more specific evidence on the connection between air pollution and disease before we insist on cleanup in the air. I say there is no time to wait. We are not experimenting with the mortality of fungus, or of plants, or of mice. We are faced with problems of injury and death to human beings—to ourselves, to our neighbors, and to our children. This is a national problem, requiring the closest cooperation between the Federal Government, State, interstate, and local agencies. If we place any value on human life, we will act now.

Air pollution is not only a menace to health, it is a source of economic loss in agriculture, in the conservation of fish and wildlife, and in the upkeep of homes and the maintenance of personal property.

Air pollution injures plants and causes hundreds of millions of dollars of losses to our agricultural economy every year. Recent research in plant pathology has demonstrated that the kinds of plants affected and the nature of injury produced vary with the agent. This has made it possible to identify some of the specific pollutants which injure plants and to prove, in some cases, that they have caused damage as far away as 100 miles or more from the point where they originate. Eastern white pine, grapevines, tobacco, spinach, grains, fresh vegetables, and flowers have suffered from air pollution. Livestock have suffered serious adverse effects from airborne fluorides. Corn and peaches are susceptible to hydrogen fluorides.

The annual cost of air pollution damage to property has been estimated at $11 billion for the Nation. Air pollution accelerates deterioration of metals, fabrics, leather, rubber, paint, concrete and building stone, glass, and paper.

For the homeowner air pollution adds to the cost of painting, cleaning of clothing and furniture, and the replacement of many items. For industry, the cost of air pollution is measured in the replacement and protection of precision instruments and other complex control systems which are so important to modern technology.

Travel is affected by air pollution. In at least two recent instances—one in Pennsylvania and another in Louisiana—major turnpike crashes were attributed to poor visibility caused by air pollution. Air pollution, aggravated by atmospheric conditions, has increased transportation costs for air carriers. It has been estimated that 15 to 20 air crashes in the United States in 1962 could be attributed to air pollution.

To these health and economic hazards we may add the nuisances of irritated eyes, unsightly haze, soiled clothing and buildings, and unpleasant smells. Air pollution makes life difficult, costly, and unpleasant.

Air pollution is no respecter of persons, property lines, community boundaries or State lines. Subject only to the laws of nature, it moves across the face of the earth in the envelope of air which surrounds and sustains us. Air pollution is local in origin, but its effects are widespread. Only a forceful and coordinated attack on the problem will bring us to a meaningful solution.

Our supply of air is limited. It cannot be increased. The supply of air is fixed as are our supplies of other natural resources such as coal, petroleum, iron ore, uranium, and water. We realize that these are not limitless and must be conserved. We must take the same view of our air resources.

Our population is increasing, and our standard of living is going up. Our industries, homes, and office buildings and motor vehicles take the air, combine it with fuels and return the air polluting compounds to the air. The more we prosper, the more we foul the air we breathe.

Approximately a ton of air is required for every tank full of gasoline used by a motor vehicle. The billion gallons of fuel consumed annually by motor vehicles in the United States use 94 trillion cubic feet—640 cubic miles of air.

Other fuels need comparable quantities of air. Burning a ton of coal consumes about 27,000 pounds of air, and a gallon of fuel oil about 90 pounds of air while approximately 18 pounds of air are used in burning a pound of natural gas. About 3,000 cubic miles of air must be provided annually to satisfy the oxygen requirements of the fossil fuels presently used in the United States alone.

If we do not halt the present rate of pollution from all major sources we will be heading down a one-way road to physical and economic disaster.

We are doing something about air pollution. But our efforts have been late in coming and they have been very limited.

One-third of the States have established programs to deal with air pollution. Most of these, however, are quite limited in scope. Local government programs, where they exist, are generally understaffed and without sufficient financial and trained manpower resources to meet their needs. Only 34 local programs have annual budgets exceeding $25,000. Seven of these are in California. Of the other 51 local air pollution control agencies, 21 tried to function on less than $10,000 per year. In the past decade, despite a 30-percent increase in urban population, there has been, outside of California, no overall increase in manpower to combat air pollution at the local level.

Our Federal air pollution program really got underway, in a very limited fashion, in 1955. Last fall, however, after extensive hearings by our subcommittee, Congress enacted a new and improved Clean Air Act which I hope will be a major weapon in our struggle to keep our air free from dangerous pollution. Its passage by overwhelming majorities in both Houses of the Congress with the strong support of the administration is concrete proof that the Federal Government is convinced that air pollution presents a genuine threat to the health and economy of our entire Nation.

The Clean Air Act, which was signed into law by President Johnson on December 17, 1963, is based upon the realization that air pollution is not confined to a single jurisdiction. It is a national problem requiring a national program of research, technical assistance, and support. At the same time, we continue to recognize the primary role of local and State programs to control air pollution.

The Clean Air Act marks the beginning of a renewed Federal recognition of air pollution as a national problem, demanding attention by and support from all American citizens.

The act will not of itself lift the veil of smog which too often conceals the faces of our great cities, but it will in several important ways assist those cities in their struggle for cleaner air.

The act authorizes the U.S. Department of Health, Education, and Welfare, for the first time to grant Federal funds to help local, State, and regional air pollution agencies initiate, expand, or improve their programs. It outlines procedures for Federal action to cope with interstate as well as certain intrastate problems; and it expands the research, training, and technical assistance programs the Department has conducted and supported for the last 8 years.

The act singles out for special attention two of the major unsolved air pollution problems, motor vehicle exhaust and high sulfur content fuels. One entire section of the act is devoted to the problem of preventing the discharge of pollutants from automotive vehicles. The Secretary of the Department of Health, Education, and Welfare is directed to appoint a technical committee of representatives from the Department and from the automotive vehicle, exhaust control device, and fuels industries. That committee is charged with evaluating progress in the development of devices and fuels, and with recommending research which would lead to the development of appropriate devices and fuels. The Secretary is further required to report to Congress, at specified periods, on the progress of measures taken toward the resolution of the automotive vehicle and fuels pollution problem.

In its totality, the Clean Air Act reaffirms and gives impetus to the point of view that the solution of the problem can best be reached through the constructive cooperative efforts of all levels of Government, industry, and the public, all of whom contribute to and suffer the consequences of polluted air.

Air pollution is a major domestic problem. But it can be met and solved; if we plan together and work together, with the help and suggestions of interested and alert organizations such as yours, America can win this battle.

ORDER OF BUSINESS

Mr. McGOVERN. Mr. President——

Mr. BYRD of West Virginia. Mr. President, I yield to the Senator from South Dakota [Mr. McGovern], with the understanding that I shall not lose my right to the floor, and that his remarks will be printed in the Record prior to the printing of my remarks in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. I thank the Senator from West Virginia.

ADMINISTRATION STEPS TO RELIEVE THE BEEF SUPPLY SITUATION

Mr. McGOVERN. Mr. President, I have just been supplied a copy of remarks of Secretary of Agriculture Orville Freeman earlier today, in a press conference, on the beef supply problem.

The Secretary summarizes the steps which have been taken by the administration to relieve the situation, including a rollback of imports to the 1959–63 average, stepped up purchases of beef, sales promotion at home and abroad, and the proposed establishment of a Commission on Food Marketing, now in conference between the House and Senate.

The Secretary's statement reveals that there are now buyers representing both Italy and France in the United States seeking to purchase U.S. beef.

Because of the interest in this subject, I ask unanimous consent to have the Secretary's news conference statement on beef printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

News Conference Statement on Beef by Secretary Freeman

Secretary of Agriculture Orville L. Freeman said today that actions by the administration to reduce beef imports have achieved for this year the objectives sought by those who would restrict imports by law.

The Secretary noted that beef and veal imports in 1964 will be at about the 1959–63 average, the level advocated by many groups in the cattle industry and specified in legislation now pending in the Congress.

"We will not face an import problem for at least 18 months," the Secretary said. "This being the case, it would be a serious mistake to legislate quotas which, while serving no immediate purpose, would weaken the position of our Government in attempting to expand markets for all of American agriculture in the current GATT negotiations."

Secretary Freeman said exports have been rolled back to about the 1959–63 average. At the same time the Department has also cut into the domestic oversupply of beef by stepping up its purchase program and by cooperating with the beef industry in a sustained promotion program and export sales drive. He indicated that the Department purchase program has been increased to the point where purchases in one recent week equaled 5 percent of the total production.

"The administration from President Johnson on down has given a great deal of attention to the very difficult price situation facing cattle producers and feeders during the past 18 months. Briefly, prices of choice fed steers in Chicago dropped from an average of $27.67 per hundredweight in 1962 to just under $24 in 1963 and to under $21 this year.

"With cattle and calves accounting for almost a fourth of total farm marketings, this has a serious effect on the whole farm economy as well as being a highly personal and difficult problem for individual farmers and ranchers. We are deeply concerned. The President has given a great deal of his own time to the matter and has instructed me to give it the highest priority.

"I would like to recount some of the things that are being done—and then to comment on the export-import situation as it affects beef.

"No. 1, the Government has stepped up its purchases of beef. The Department of Agriculture—buying for schools and needy persons—has jumped its purchases sharply. In 3 months of the special purchase program, we have spent $52 million for 90 million pounds of frozen and canned beef. Meanwhile, the Department of Defense has also increased its buying of beef.

"Second, the Department of Agriculture is working with industry in vigorous promotional efforts. This is helping to boost retail sales, which most of the larger retailers report are between 8 and 25 percent above a year ago.

"Third, we have created a National Advisory Committee which met here in May and made some very constructive recommendations on behalf of the cattle industry.

"Fourth, the administration has moved to reduce beef imports. The Government has worked closely with other countries which export to us with the result that imports this year will be cut back to the 5-year 1959–63 average called for in legislation pending in the Congress.

"Fifth, the administration has moved to expand our own export markets for beef. A Presidential mission representing the industry and the Department flew to Europe last month and found an export market potential there—especially for our medium grades of beef. The Department signed a market development agreement with the American Meat Institute 2 weeks ago today—and the program to seek new markets in Europe is already underway. Exploratory sales have already been made in Western Europe.

"Sixth, buyers representing both Italy and France are now in this country seeking to purchase U.S. beef.

"Finally, the administration has asked the Congress to establish a Commission on Food Marketing to study marketing costs and margins in the wholesale and retail marketing structure. This legislation has now passed both the House and the Senate, and is now awaiting a conference to iron out differences.

"With the cooperation of our major beef suppliers, we now expect shipments of beef and veal to the United States this year will be one-fourth below last year—or about equal to the 1959–63 average. Certainly this achieves the objectives of the legislative proposals to restrict imports for at least a period of 18 months. At the end of that time, we can reassess our situation.

"But for now, legislation to establish quotas would weaken our position in the so-called Kennedy round negotiations at Geneva. In those negotiations, we will be working toward more liberal trade arrangements throughout the world, and particularly to insure access to the Common Market nations for American agriculture. To carry forward these negotiations in the shadow of a major protectionist act by our own Congress—repudiating voluntary agreements—would certainly create new resistance, especially if the commodity affected were one that would not be immediately helped by such protection.

"This is not to overlook that the United States is the only important cattle-producing country that does not now have major restrictions on beef imports. Our trade policy is oriented to increase trade. But if that policy is not accepted among other nations—if it fails to get results—then we will reexamine our position and act accordingly for beef and other agricultural commodities. Meanwhile, we have at least 18 months of grace, during which we can expect little or no import problem in beef and veal.

"The Geneva negotiations could affect the future course of expanding trade throughout the world. Every American, as well as every farmer, has a stake in what happens to agricultural trade prospects. We export today what we produce on about 1 out of every 4 acres we harvest. Agriculture has consistently been a dollar earner in export trade. Farm exports this year alone will amount to a record $6 billion, and some $4.2 billion of that will be commercial sales for dollars. Some States such as Illinois and Texas, export farm products of greater value than the value of imports of beef into this country. Most States export farm products of substantially greater value than the value of beef imports into those States.

"In order to develop programs to correct the problem of low beef prices, we must face realistically the fact that the major cause is domestic overproduction.

"I might point out that since feed cattle prices have not increased under the Department's action of the past 3 months, it seems fair to assume that prices would have been still lower without these actions. Beef cattle numbers have increased from 43 million to 79 million since 1950, and the number of cattle on feed in major States has doubled since that time. The resulting increase in fed beef production within the United States has simply overwhelmed the market—even in a prosperous nation where people are eating more beef than ever."

ORDER OF BUSINESS

Mr. HART. Mr. President——

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may yield to the Senator from Michigan [Mr. HART], without losing my right to the floor, and with the understanding that his remarks will be printed in the RECORD prior to the printing of my remarks in the RECORD

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CIVIL RIGHTS BILL—EXPRESSIONS OF OPINION

Mr. HART. Mr. President, as the Senate aproaches a very significant vote, I ask unanimous consent to have printed in the RECORD three expressions of opinion on the civil rights bill.

The first is a stimulating address which was delivered by the senior rabbi of Temple Beth'el of Detroit, Dr. Richard C. Hertz. He delivered the address at a convocation on civil rights at Wayne State University. The convocation was sponsored by the Metropolitan Conference on Religion and Race, and was an interfaith event.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF RABBI RICHARD C. HERTZ, INTERRELIGIOUS CONVOCATION ON CIVIL RIGHTS, WAYNE STATE UNIVERSITY, APRIL 28, 1964

There is assembling this very day in the Nation's Capital an Interreligious Convocation on Civil Rights, representing Roman Catholic, Protestant, and Jewish leadership, both clergy and lay leadership, in order to demonstrate in the Nation's Capital and in the offices of the Senators of the United States, our common concern on behalf of the resolution now before the Senate. The House has already passed the civil rights bill, H.R. 7152, by an overwhelming majority. It now remains for the Senate of the United States to speak and to vote.

We are here today in order to parallel in Detroit what is going on in Washington and all over the country this very day. In cities throughout the Nation, there will be exhibited a concern on the part of the religious leadership of the country with the demonstration today in Washington.

We are here to voice our concern over what is happening to civil rights in America, and especially to the civil rights bill that is now in the U.S. Senate.

We are here to demonstrate our responsible actions in an orderly manner guaranteed by the Constitution—the right of peaceful assembly. We are convinced that civil wrongs do not bring civil rights; that civil disobedience does not bring equal protection under the law.

We are not here today to implant disregard of the law in the young generation who sit as part of this audience. As a matter of fact, Friday of this week, May 1, will be observed as Law Day. We believe in law. We believe that law is a powerful instrument for education and equal opportunity. We are here today because we want a law passed by the U.S. Congress, a very certain, definite law about civil rights.

We are here because we want no white backlash movements that will oppose Negro grievances due to any reckless demonstrations. We are here today because the responsible leadership of our community, the Archdiocese of Detroit, the Council of Eastern Orthodox Churches, the Jewish Community Council of Metropolitan Detroit, and the Metropolitan Detroit Council of Churches—the responsible leadership of the community—feels it has the right and the duty to protest and demonstrate our legitimate concern over what is happening to the civil rights bill in the Senate.

We, therefore, are here to tell our city and our community that thoughtful people have come together at this hour, on this great campus of Wayne State University, to say to our city and our Nation:

We have had enough of filibusters.

We have had enough of delay and doubletalk.

We want this bill pasesd and we want it passed—not sooner or later, not next summer, not next fall—but now.

We are here to say to America—as it is being said all over the Nation—from the steps of the Capitol in Washington, down into every hamlet and city of our country: this is not the Negroes' battle. This is the battle for the conscience and for the soul of America.

The central issue involved, as we see it, is justice, and there can be no justice for any of us while one-tenth of our people are kept in the state of second-class citizenship. If the indivisability of justice remains our touchstone through the long dreary weeks of Congressional discussion, then the outcome must be a strong new shield to defend and to make real the constitutional guarantee of equal treatment for every citizen.

We have heard from the President that a national assault on poverty and on illiteracy coupled with the reassessment of individual attitudes and practices, is now in the making. But we believe that the start for making this country into the land of the free for all of its citizens lies in the passing of the kind of legislation that both President Kennedy and President Johnson have tried to seek—legislation that would bar discrimination in employment, in voting, in access to stores, restaurants and other places of public assembly, and public accommodations.

Congress has been laggard, all too laggard, in the great civil rights revolution that has been shaking the Nation. There should be debate, but there is neither need nor excuse for hippodrome tactics on or off Capitol Hill.

This audience and those who are listening to me on the radio do not need to have spelled out the specifics of the bill before the Senate. Indeed, the bill changes from day to day with new crippling amendments added every day.

America's legislative system demands that this bill be discussed in valid debate—but debate, not filibuster; debate, not battles in the street; debate, not blood, or riot, nor police dogs. Filibuster which prevent the expression of the national will must be denounced for what it is—a calculated conspiracy to obstruct justice and to squander the rights of citizens. This is not just a national crisis—it becomes a national disgrace.

The whole purpose of this bill is not to make bad people good, but rather to make good people safe—safe enough to vote, safe enough to go to places of public accommodations, safe enough for people to be in places of public facilities, safe enough for children to be in public schools, safe enough for their fathers and mothers to get a job.

The aim of the civil rights bill is to correct injustices for the Negro in various areas of American life, injustices that have created uncontainable resentments and justifiable bitterness among Negro citizens. These are injustices that have become an affront to the sense of responsibility of all Americans. This, therefore, becomes a transcendent national challenge, above and beyond politics or sectionalism or economic positions.

But there is another reason why we are here today. We are here because of our deep religious concern for justice. This is a concern which is part of the tradition and heritage of all the great religions represented on this program today. We find that in Christian and Jewish alike a common commitment to justice as a moral imperative.

This is not just a crisis of civil rights. This is a crisis of conscience. Justice for the Negro has been a long time coming. I am not here to catalog the outrages done in the name of democracy nor in the name of freedom. The Kremlin has been doing this all too often to repeat it now. Our vulnerability over what we have done or failed to do for the Negro has been too well rehearsed on the Communist propaganda machines to bear repetition here. Most uncommitted nations have heard it often enough. The United Nations has heard it often enough.

Nor am I here to recite the law's delay, the insolence of office, the denial of dignity, the disenfranchisement and discrimination in this "the land of the free." The Negro has been a second-class citizen and suffered for 300 years and more.

What I am here to say is that civil rights is not a racial problem but a national problem. It is America's problem of conscience. The civil rights crisis in education, housing, employment, and public accommodations is essentially a moral crisis. The churches and the synagogues have at long last recognized the moral nature of this crisis and have joined forces today to blot it out.

A new spirit has come over the religious leadership of America. When Martin Luther King, Jr. shamed the Protestant churches, saying that unless the churches recapture the prophetic field, they will become little more than an irrelevant social club with a thin veneer of religiosity, he was speaking right to the heart of the truth.

Catholics were jolted by Pope John XXIII who opened the windows of the church and told the people to go out and mingle with the non-Catholics fighting for justice and peace.

Jews have been reminded by history that the Negro fight against discrimination is the very fight that Jews have been fighting for generations: The fight against prejudice, and bigotry, and hatred.

The result is that in joining forces together as Catholic, Protestant, and Jew, a new power has come to religion—linked together in a new alliance for brotherhood. What we talk about is not just about brotherhood; we talk for specific redress of grievances. This was the signfiance of the Detroit Conference on Open Occupancy held a year ago in January 1963—the first in the Nation. Some of those present today, including myself, took part.

We believe that our Negro fellow citizens have waited too long for religion to recognize the moral nature of his cause. The Negro has learned that the white man's heaven is the black man's hell. He is tired of waiting for freedom from discrimination in employment, from segregation in education, from ghettoization in housing. He wants his freedom and he wants his freedom now. He is not asking to receive jobs because of race, color, or creed—only that he not be denied them because of race, color, or creed.

You remember the freedom march to Washington last summer? We have heard much about it as a great demonstration, but one point that was not particularly well remembered was the speech that Rabbi Joachim Prinz of Newark, N.J., made in an address that ought not to be forgotten. He said, "When I was a rabbi of the Jewish community in Berlin, under the Hitler regime, I learned many things. The most important thing I learned under those tragic circumstances, is that bigotry and hatred are not the most urgent problem. The most urgent, the most disgraceful, the most shameful, the most tragic problem is silence. A great people which created a great civilization had become a nation of silent onlookers. America must not remain silent. It must speak up and act and not for the sake of the Negro, but for the sake of the image, the ideal, the aspiration of America itself."

What he was saying that day is what Edmund Burke reminded us in words that have always been a motto for me: "For the triumph of evil, it is only necessary for good people to do nothing."

This is our concern. I speak not just as a rabbi. I speak not just as a Jew fighting for Negro rights. I speak as a Jew fighting for what is morally right and decent. I speak for freedom and democracy. For when there is equality of opportunity for all citizens, when they can live and not be ghettoized to restricted areas as in a pressure cooker, or corralled in some dilapidated central city scheduled for the bulldozer of urban renewal, only then can we dare to call this city of Detroit a worthy city of America.

This, then, is why we are here today: To protest, to demonstrate, to say to our city and to our neighbors, that what is right with the civil rights bill is that it must be passed. This bill, H.R. 7152, is meant to assure all citizens regardless of race, color, religion, and national origin their equal rights in voting, in access to hotels, theaters, and other places of public accommodations, in other public places such as libraries, parks, education, and federally assisted programs and employment.

We say that this bill must be passed now. This is our concern and we want to know what the U.S. Senate is going to do about civil rights.

We want to know whether America is going to have a long, hot summer over civil rights with blood in the streets, or whether the U.S. Senate is going to hear the will of the people.

America is at a crossroad. There is no turning back. We must go forward boldly and courageously to put our religious preachments about justice into practice, into action.

We must be strong in our own moral convictions about civil wrongs; strong in our determination to right those wrongs. We must be fearless in our decision to stand up where we are and be counted; to stand up for civil rights, to stand up for justice, to stand up for brotherhood, and in this crisis, to stand up for America.

Mr. HART. Mr. President, I also ask unanimous consent to have printed in the Record two of the many letters—literally thousands of letters—that have been received by me in recent weeks. These statements express perhaps more movingly than many of the magnificent speeches that we have heard in recent weeks a point of view which I hope will prevail tomorrow. The first is from a Negro college graduate by the name of Mrs. J. L. Parker, of Detroit. The second is from a young citizen of Dearborn, Mich., by the name of Mark Veach. Those voices are eloquent even though their styles and composition differ dramatically.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Detroit, Mich.,
June 1, 1964.

Senator Philip Hart,
U.S. Senate,
Washington, D.C.

Dear Senator Hart: I am writing in regards to the civil rights bill.

I know that you are voting for this piece of legislation, and I want you to know that you have my full support. I realize that the passing of the bill will not completely destroy or erase the prejudices that have built up and flourished so flagrantly in our country, but I feel that this bill is for what is right, and basically what the Founding Fathers stood for.

I am a Negro. I am very proud to be a Negro. But I am first an American citizen, born and raised in this country. I am not asking for anyone to give me anything on a silver platter, but I would like to have the opportunity to be able to advance as far as I can, to be able to walk in and apply for a job, and be accepted because I am right for the job.

At times I feel so degraded and depressed knowing that I possess a college education and knowing that I am denied the right to advance on my own merits and qualifications, that I am underemployed, that I am denied the right to live in certain areas. Why? Simply because my skin is black.

I am not too concerned about the social aspects. All I want is to lose this feeling of inferiority, to be able to hold my head high, to lose this feeling of degradation.

So, sir, if it is in your power, do what you can to enable all people in my position to really be proud of our country.

I can't help but admire you on your stand, and I sincerely believe that what we all want will come to pass, simply because this is what is right.

God go with you.

Sincerely,

Mrs. Johnnie L. Parker.

Dearborn, Mich.,
May 21, 1964.

Dear Senator: Please pass the civil rights bill because when the three kings went to Bethlehem on the first Christmas one of the kings was colored. So if the one who was colored was good enough for Christ he is good enough for me.

Sincerely yours,

Mark Veach.

Mr. HART. Mr. President, I ask unanimous consent that some of the material that has been collected in a mimeograph publication of the sixth grade of the Central School of East Lansing, Mich., be printed in the Record so that all of those may be available to Senators as we approach the rollcall tomorrow.

Interestingly, the sixth grade of the Central School of East Lansing has been studying the Federal Government over much of the present year under the direction of their teacher, Josephine Bartlett. Many of the students, as the foreword of the publication shows, have been following the civil rights debate.

Their teacher in the foreword says:

> Many had said, "I wish we could vote on this bill."

The publication expresses their thoughts and speaks clearly and strongly their feeling with respect to the decision that the Senate ought to make tomorrow. These are the makers of American opinion tomorrow—the tomorrows of the years that confront these youthful citizens. I think these excerpts from their publication "Freedom" should be available to each Senator as we approach the vote tomorrow.

There being no objection, the publication was ordered to be printed in the Record, as follows:

FREEDOM

(Central School, sixth grade, East Lansing, Mich.)

FOREWORD

(By Josephine Bartlett, teacher)

Throughout the year the sixth grade studied the Federal Government. They had learned much about the Presidency, the responsibilities of the Cabinet and those of Congress. They became interested in legislation before Congress, particularly the civil rights bill.

In their realistic study of America, they, as an all-white class, learned about the contributions of Negroes to American life and history. And, they learned about the Negro revolution.

They discussed such affairs, and they wrote about them. Many, in following the civil rights debate, had said "I wish we could vote on this bill." They compiled such materials which they had written pertinent to this issue into this booklet.

In expressing their thoughts and passing them on in this form, they feel that they are actively participating in their Government.

They speak clearly and strongly, these makers of tomorrow. Their prose, their simple verse is the real voice of America. They lobby for freedom.

OUR FREE COUNTRY

(By Heather Cripps)

If our ancestors had not brought the Negroes over to this country, the free country, we wouldn't have this trouble. But, we do so we must do something about it.

I do believe in the civil rights bill and I think all Negroes are entitled to their rights and when they get their rights, if they ever do, they should not misuse them.

Why should we have dominion over someone else? After all, the intention of the Lord was to have created everyone equal, and although it's put down in words in the Constitution, it doesn't seem to be put into action.

The backbone of our country has been the little people. I shouldn't call them little people because all of them have been important in many different ways, including the Negroes. Our Nation couldn't have survived in industrial ways without the Negroes.

When Negroes hear "America the land of the free," sometimes they rebel against the whites because it's not really true. I hope that in the future the phrase "all men are created equal," will be more meaningful and people will use the Golden Rule.

EQUAL RIGHTS

(By Caryn Thornton)

I think everybody should have equal rights. If they're white or black they're still people and they should have the same rights. You shouldn't look at the color of a person. You should look at his character.

CIVIL RIGHTS

(By Charlotte Stewart)

Now Negroes are fighting for their rights. I don't see why white people should turn down Negroes from buying a house or staying in a hotel or motel or even from eating in a restaurant.

The Negroes are just like white men only they are a different color. White people should stop and think about what they would feel like if they were unable to eat in a restaurant, or buy a house to live in. I think the Negroes should have just as many rights to stay in a motel or hotel as white people do. So I want the Negroes to get their rights.

PLEASE SON! DO SOMETHING!

(By Joy Rimpau)

Those were the days, my son, my son.
  Those were the days, my son.
When they thought their rights were won, my son.
  When they thought their rights were won.
They were the Negroes, my son, my son.
  They were the Negroes, my son.
When the Civil War was done, my son.
  It was hardly a thing they'd won.
Things haven't improved, my son, my son.
  Things haven't improved, my son.
I hope that you're moved, my son, my son.
  I hope that you're moved, my son.

LIBERTY

(By Bill Bisard)

We want our Liberty—
We want to be free.
I believe in liberty
Like any other living being,
White or black.
As they pass
They are our brothers,
Not our enemies.

FREEDOM

(By Roger Weaver)

What is freedom? Ask yourself what freedom really is. Do you think that Americans love and are willing to fight for freedom? Yes? Then why are the Negroes in the South discriminated against and prohibited from eating with the whites, from voting, from entering white schools? Why are they given a hard time in finding a home? Just because he is black he can't do those things.

Many Negroes do not have an education. Why? Because they were not allowed to enter good schools. When they do try to enter schools or vote, they are fined or jailed for violation of a law that was made against the U.S. Constitution.

The Negroes aren't breaking any laws. It is the whites who are breaking the laws.

ARE YOU FOR THE CIVIL RIGHTS BILL?

(By Barbara Walsh)

They say the Negroes have their rights
  Then how come all the mobs and fights
Some of the whites are filled with hate
  And the Negroes can only guess their fate
The Negroes hope the bill will go
  Now their standard of living's too low
For then they'd live much more humane
  And their children wouldn't feel the pain.

FREEDOM

(By Pamela Van Zanten)

Freedom is like a cloud in the sky,
  Nobody owns it, not you nor I.
Freedom is like a bird in a tree;
  He's setting an example for you and me.
Freedom is like the wind in a storm
  Where many humans are left all forlorn.
Freedom is like a tree in a forest,
  Like angels busy singing a chorus.
Freedom is like a babbling brook;
  Freedom is something we mustn't overlook.

FREEDOM FOR NEGROES

(By Pam Van Zanten)

I believe that Negroes should have more rights, the right to go places and to stay where they like, to go to schools without white people blocking the way to education.

Someday I believe that the Negroes will become the leaders of the United States and repay the white people for all the misery and injustice done them when they first came to our country.

Someday their rights will be given them, and I hope it will be soon.

THE WORLD I DO NOT KNOW

(By Becky Vore)

Why did you bring me here—
You came to me
And put out your hand
And in my misery I took it.

You said I'd be happy
You said I'd be free
And then, you put chains on me.

You showed me desolation
You showed me slavery and hate
And then you left me here
In a place I should not be,
In a world I did not know.

OUR WORLD TODAY

(By Connie Mercer)

Our world today has more trouble than ever before. Whenever a Negro moves into a white neighborhood white people move out, jut because a Negro moved in. That I don't understand.

Personally, I would not mind living next to one if he was a very nice person and if he kept his house and yard up.

I think Negroes should have more rights. I think they're being mistreated.

They can't go into a restaurant and get a decent meal or a hotel or motel for a decent rest. What's wrong with them? Their money still has the same value even though their skin is a different color. How would we like it if it was the other way around? I still say Negroes should have just as many rights as we.

PREJUDICE

(By Carolyne Cantlen)

Why can't he get an education?
  Why does he have to get up and pack?
Why can't he have fun?
  Is it because he's black?

Why can't he find work?
  When he does, why does he have to break his back?
Why is he treated like dirt?
  Is it because he's black?

ANOTHER REVOLUTION

(By Meg Beegle)

In 1865 Negroes were declared free. But were they really free? What does freedom mean? It means a home of your own, a right to vote like all other American citizens, a right to learn, to go to school, a right to sleep in a hotel for the night, a right, a right. Negroes are alive. They breathe, talk, and sing. They have veins and blood, and some were even kings. Why do we, humans too, think we're better than they. We're no more intelligent nor kind.

BOTH BLACK AND WHITE

(By Sally Janson)

Both black and white
  Can laugh and play
Both black and white
  Should have their say.

Both black and white
  Should do as they please
Working and talking
  With complete ease.

Both black and white
  Can love and give
Both black and white
  Have a right to live.

For liberty
  Is a sacred thing
Not to be taken
  From a human being.

WE WILL FIGHT

(By Fritz Beeson)

I am writing my composition as though I were a Negro. I am trying to put myself in the place of a Negro because I sympathize with him. Although I am a white person, I still think and hope they will win in their civil rights battle. Here is my composition:

January 1, 1863, freedom or was it? Not quite.

Now, 1964, we still fight for freedom hoping that we will win someday. Someday soon. We have fought in Birmingham, in Chicago, in Detroit, in Mississippi, in Alabama, in Georgia, in Florida, in every prejudiced part of America.

Today as tomorrow we'll fight on until we win, and win we must. It won't be easy but we have the spirit to win.

Some white people have helped us. Some have definitely opposed us. Still we will fight. We will not use guns or bombs but we will fight. We will fight through demonstrations. Some may fail and we may be jailed but we'll fight on. And we will win.

CIVIL RIGHTS

(By Janice Wilson)

Civil rights is a familiar phrase;
  It is talked about often these days.
The Negroes' fight is far from won
  Because much is said, but nothing done.

NEGROES AND THEIR RIGHTS

(By Allan Rood)

Why are people prejudiced against Negroes? In fact some Negroes are nicer, better, and more intelligent than some whites. Negroes need rights. Why can't Negroes get houses, stay in motels, hotels, or eat in restaurants? Why? Because of their color? What have they done to us? Negroes and their history are hardly known. And their history is just as important as ours.

THE NEGROES' RIGHTS

(By Tia Maxwell)

I think that Negroes should be entitled to have their rights to vote and to buy houses where they can. They should be entitled to go to school with white children without fear of fighting and being kicked around, and left out by the others. They should be able to go to motels and restaurants along with other people. I hope that in the future the Negroes will have as much independence and equality as most Americans do.

NEGRO CRISIS

(By Lynn Budde)

Through the past and to present years,
  Negroes haven't rebelled their troubles and fears.
Their yearning at first a spark, not bold,
  Has become a roaring fire we can no longer hold.
Some Negroes are now deciding their fate
  Slavery is more than one can tolerate.
Negroes I feel shouldn't be the ones
  To ask for freedom they've already won.

PUBLIC ACCOMMODATIONS

(By Tim Allen)

A Negro moves in
  The whites move away;
Let's talk to these whites;
  What will they say?
"I don't dislike Negroes
  I'm sure I do not;
I just moved away
  To a nicer spot."
Another says,
  "I enjoy my cash;
It'll hurt my business—
  Civil rights is too rash."
Freedom and rights
  Are easy to root for
Except when a Negro
  Moves in next door.

FREEDOM FOR ALL

(By Tim Allen)

What race, what color
  We don't care.
We all eat food;
  We all breathe air.

We must pass "civil rights"
No "why" and no "how"
Not after tomorrow
We must pass it now.

CIVIL RIGHTS

(By Carolyn Sarafyan)

How would you like to be a Negro? I wouldn't because of how some of us treat the Negroes.

Suppose you were a Negro and you had traveled all day long and you and your family were very tired. Then you went to a motel and the manager said the last room had just been rented for the night. Then when you went outside you saw 5 cars for 20 rooms. Wouldn't you be angry? Who wouldn't? Don't you now realize what a hard life a Negro has?

Don't you wish people like the manager would wake up and realize what difficulties a Negro has and it's partly their hatred and their fault?

What's wrong with Negroes having the same rights as we do? Why are people so against it?

These are just some of the reasons why I want the civil rights bill to go through.

A FREE LAND

(By Nancy Hocking)

I think that Negroes and whites
Should have equal rights.
What are the feelings of a Negro?
Does any white man know?
There are so many fights
About the bill on civil rights.
There's only one conclusion
And it's not an illusion.
This is a free land
Where all people can stand.

INTERVIEW WITH A HUMAN BEING

(By Mark Merton)

They say there is Communist influence in the Negro riotings of today, but I can't understand how this can be. Since we can't decide whether or not to give fellow humans their rights they seem to be taking things into their own hands. I wish everyone would stop their joy and festivities right now and look at the situation. It is a grim one.

Right now I am going to talk with a human being. You must know the fact that he is a human being. He has brown skin. Because of this he is classified as a Negro. I have a white skin. I am classified as a Caucasian. This fellow goes to the school that I go to. He goes to the fourth grade. His name is Matt Evans. I am going to ask him a few questions. Matt is going to answer them.

I. Matt, do you like this town?

MATT. Sure, I guess it's OK.

I. Do you feel that anyone doesn't like you here?

MATT. No.

I. When you were in Florida, did you like it?

MATT. Yeah.

I. Did anyone not like you? Did you get along well?

MATT. Yes. I got along fine.

Here there is no prejudice. From Matt's answers I gather there is no prejudice in Florida. Then, why is there prejudice in Alabama and Georgia?

I suppose there is no reason except that southerners once were masters and want to be the masters now. I hope civil rights passes. I don't want any watered-down versions either. I hope I proved my point.

ALL MEN CREATED EQUAL

(By Nancy Diggins)

Are all men created equal? Sometimes I think this is untrue. I wonder if a Negro child ever hopes to be President. What would happen if a Negro did become President? What would happen to our rights? Those last two questions come to my mind immediately when anyone mentions the civil rights bill. I do believe though, that the bill should definitely go through.

It makes me mad to think that Oswald would surely have been sentenced to death for the assassination of President Kennedy, but the killer of Medger Evers will more than likely get a light sentence, if any.

The civil rights bill is a good thing, and after a hundred years of waiting, they, Americans, are ready for the final step of civil rights, complete rights like ours.

AS I WALK ALONG

(By Liz Telford)

Hatred, hatred,
As I walk along.
Prejudice, prejudice,
I think some whites are wrong.
Freedom, freedom,
It is only fair.
Hatred, hatred,
Brother Negro, don't despair.

THIS WORLD

(By Becky Vore)

Darkness
This day of blackness,
This world of hate.

Prejudice
People fighting,
People killed.

Freedom
A beautiful thing,
There is no such thing
For Negroes.

Hatred
A fight,
A never ending fight.

Darkness
So much darkness —
When will it end?

Death
Freedom,
The very first moment of freedom
For me.

FAIRNESS

(By Margaret Schoonmaker)

The whites don't treat
The Negroes fair
It's just not right
That they don't care.

All the Negroes want to do
Is just to be treated
Like me and you.

COMPLETE FREEDOM AT LAST

(By Ralph Evans)

I hope complete freedom will come at last in the civil rights bill. It doesn't have to come for the whites. The Negroes are the ones who really need their rights. The Negroes have made many contributions to our country in industry, business, music, art, sports, and countless other ways. I hope the Negroes can finally win their freedom. From early days through time today, our country could not be as great as it is without the Negroes.

THE GOLDEN RULE

(By Ted Press)

A person that disobeys the church should not be a Senator. The Bible said that all men were created equal. What do some people think they are. Don't they know that they are disobeying the Bible? They say that the civil rights bill is sugar coated too. Well, jellybeans are sugar coated, and don't jellybeans have good stuff inside?

FEDERAL POWER COMMISSION—APPOINTMENT OF CHARLES ROSS

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. Mr. President. I yield to the Senator from Wisconsin with the understanding that I shall not lose my right to the floor.

Mr. PROXMIRE. I thank the Senator from West Virginia.

Mr. President, for the past few days I have been making a series of statements on the floor in support of the reappointment of Charles Ross to the Federal Power Commission. There are many eloquent arguments for the reappointment. Certainly the most telling in my view is the record of the Federal Power Commission since Mr. Ross was appointed. I should like to give a brief list of some of the things that the Federal Power Commission has accomplished since Mr. Ross became a member.

First. It has prescribed guideline prices which are ceilings above which price increases are suspended and new producer sales applications are rejected;

Second. It has taken steps to fix the initial inline rate in all areas where either the producers or the consumers have contended that the guideline ceiling is inappropriate;

Third. It has established procedures which have drastically shortened the time required to process both contested and uncontested certificate applications; a routine certificate application is now completed in 6 weeks to 2 months;

Fourth. It has encouraged reasonable settlements of outstanding producer rate and certificate proceeding so that all parties could enjoy firm prices at a reasonable level, subject only to the outcome of the area rate proceedings as applied to prices in effect after the conclusion of those proceedings;

Fifth. It has set for immediate disposition those few rate increase proceedings which, if allowed to go into effect, might trigger many new price increases under outstanding certificates.

The results of these various efforts are impressive. Field prices of natural gas have practically leveled off in the past 2 years after a steady period of rapid climb. In the period between July 1, 1961, and January 31, 1964, Commission orders have resulted in refunds by producers of $55 million and prospective reductions of rates amounting to $33 million annually. Moreover, these figures do not reflect the limits of the savings to consumers resulting from other Commission regulatory efforts. Since the development of the area pricing concept hundreds of permanent and temporary certificates have been granted which authorized producers to initiate service at prices below those provided under contracts and applied for in their applications.

The halt in the upward spiral of producer prices has benefited consumers. The purchased gas costs of the pipelines have been stabilized and in the past 2½ years the Commission has ordered the pipelines to refund approximately $550 million in cash and to reduce rates for the future. Recent evidence of the success of the Commission's program was the announcement of the Bureau of Labor Statistics on March 31 that the major factor in the reduction in the cost of living index in February of 1964 was the gas service refunds ordered by the Federal Power Commission.

Mr. President, the appointment is crucial because it is recognized by all those who have followed the Federal Power Commission that those votes have been on a 3-to-2 margin with Mr. Ross in the paper-thin majority. If he is replaced by a Commissioner who is less sympathetic to that kind of progress and regulation, there is no question in my mind that the consumers of America will suffer.

I thank the Senator for yielding.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

AMENDMENTS NOS. 1041 THROUGH 1044

Mr. COOPER. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield to the senior Senator from Kentucky.

Mr. COOPER. I thank the Senator for his courtesy.

Mr. President, I send to the desk four amendments to the bill H.R. 7152. I ask unanimous consent that they be considered read and be considered as meeting all the requirements for the offering of amendments before the vote on cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. I shall take a minute or two to explain the purpose of these amendments. I know that once cloture is voted, it is very doubtful that any amendments will be accepted other than those which receive the approval of the majority leader and the minority leader. I submit these amendments because they reflect views that I have stated in the past, and which I have presented as proposed legislation, in the past 4 or 5 years. These amendments also relate to several titles of the present civil rights bill.

My first amendment would provide a new section to the public accommodations section title II. The section which I offer would place title II squarely on the basis of the 14th amendment. Last year the Senator from Connecticut [Mr. DODD] and I, before the administration bill was offered, introduced a bill which would prohibit discrimination in public accommodations. It was based solely upon the 14th amendment. It is still my belief that if the court had had the opportunity to pass upon the applicability of the 14th amendment to discrimination in public accommodations, it would have declared the right to use public accommodations to be a constitutional right. I make that statement, first, because I believe, the civil rights cases of 1883, have been misconstrued in the course of this debate. The Supreme Court stated in that decision that it was not passing upon the question of whether the right to use public accommodations was a constitutional right. It merely denied relief in that case because the Federal statute, in those cases, was not drafted in a manner which referred to State action under the 14th amendment, as its constitutional basis. I cannot believe that after all these years it has suddenly been found that discrimination in public accommodations is an obstruction of interstate commerce. I think interstate commerce is a valid ground upon which to base the right to use such accommodations, but I think the 14th amendment is a much stronger ground; it specifically provides for equality, and I think it is a better basis for a bill, which deals with the rights of individuals. I also believe it is more appropriate on moral grounds.

I offer it as another section—section 202(b). It would follow the present section 202; it would not supplant nor be a substitute for any of the present language of the bill. I offer a second amendment to title II, in the event that Congress maintains the commerce clause as the basis for that title. If the commerce clause is retained as the basis of title II there will be no constitutional right defined or involved. It would then be a question for the judgment of Congress as to how large the exception under 201(b)(1)—the so-called Mrs. Murphy exception—should be. My amendment would enlarge the exclusion in the case of rooming houses. I believe it would provide a more practical basis for the exception, by excluding establishments which provides lodging to transient guests, which contain 10 rooms—rather than 5 rooms—for rent or hire.

My third amendment relates to title I. Title I, with the exception of the literacy test presumption in section 101 (b), is, in its language, almost the same bill which Senator DODD and I introduced last year. I have two amendments to title I.

First, I have always believed that a sixth grade presumption of literacy, as established by Federal law, would not be constitutional; it would establish a qualification for voters, a right reserved to the States under the Constitution. I may be wrong; but this is my understanding of the Constitution, and the cases on this subject. My amendment would strike section 101(b) of title I because I believe it is not constitutional.

My fourth and final amendment would reach the proviso in title I—section 101(a)(2)(C)—which I believe would give to the Attorney General authority to enter into agreements with some certain States indicating that their literacy test requirements are valid, while attacking literacy tests as used in other States as being invalid. It seems to me a very curious thing that the Attorney General could single out some States and say that they should be required to meet the requirements of the literacy test provisions of the bill while telling other States they need not do so. I do not believe such wide discretion should be vested in any one official, to sit in judgment on the validity of such provisions. The constitutionality of such State literacy laws, if called into question, should be a question for the courts to decide. I doubt if the courts would hold that the Attorney General could single States out in this manner, and enter into agreement with some and not others.

I would strike the proviso in section 101 (a)(2)(C) and make the literacy test requirement under section 101(a) applicable in an equal manner to all States.

As I stated in the beginning, I doubt that any of these amendments, mine or any others, will be voted upon very seriously. I offer them because they represent viewpoints that I have expressed in speeches on the floor of the Senate, and in bills which I have introduced over a period of 3 or 4 years.

I offer there amendments and say that I expect to support strongly the substitute which has been offered by Senator DIRKSEN and Senator MANSFIELD, and that I expect eventually to vote for the civil rights bill.

I thank the Senator from West Virginia.

The amendments (Nos. 1041, 1042, 1043, and 1044) are as follows:

AMENDMENT NO. 1041

On page 9, line 8, immediately after "Sec. 202.", insert "(a)".

On page 9, between lines 14 and 15, insert the following new subsection:

"(b) (1) All persons shall be entitled, without discrimination or segregation on account of race, color, religion, or national origin, to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any public accommodation which is operated under State authority.

"(2) For purposes of paragraph (1), the term 'public accommodation' means any place of business which holds itself out as offering to the public goods, services, facilities, or accommodations for sale, use, rent, or hire, including but not limited to the following:

"(A) any hotel, motel or other place of business engaged in furnishing lodging;

"(B) any motion picture house, theater, sports arena, stadium, exhibition hall, amusement park, or other place of business engaged in offering amusement or entertainment; and

"(C) any retail shop, department store, market, drugstore, gasoline station, or other place of business which keeps goods for sale; any restaurant, lunchroom, lunch counter, soda fountain, or other place of business engaged in selling food for consumption on the premises; and any other place of business where goods, services, facilities, or accommodations are held out to the public for sale, use, rent, or hire.

"(3) For purposes of paragraph (1), a public accommodation is operated under State authority if the State in any of its manifestations becomes involved to some significant extent in its operation or regulation, as where such accommodation is operated, or the business of such accommodation is conducted—

"(A) under a State license, or

"(B) subject to conditions, regulations, or requirements imposed for the protection of the public by or under a State law which imposes civil or criminal penalties for failure to comply with such conditions, regulations, or requirements.

For purposes of this paragraph, the term "State license" includes, with respect to any public accommodation, any license (by whatever name designated) which is required, under the laws of the State in which such public accommodation is located or under rules or regulations of any agency or instrumentality of such State, as a condition for operating such accommodation or conducting the business of such accommodation.

"(4) For purposes of this subsection, the term "State" includes the District of Columbia and the political subdivisions of a State.

"(5) Notwithstanding the exception contained in section 201(e), the provisions of paragraph (A) shall not apply to a bona fide private club or other establishment not open to the public."

AMENDMENT No. 1042

On page 3, line 14, strike out "including such special provisions as ", and insert in lieu thereof "which".

AMENDMENT No. 1043

On page 3, beginning with line 25, strike out all through line 10, on page 4.

On page 4, line 11, strike out "(c)" and insert in lieu thereof "(b)".

On page 4, line 13, strike out "or (c)".

On page 4, line 19, strike out "(d)" and insert in lieu thereof "(c)".

AMENDMENT No. 1044

On page 7, line 4, strike out "five" and insert in lieu thereof "ten".

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may yield to the Senator from New Jersey with the understanding that I do not lose my rights to the floor and that any subsequent remarks will not constitute an additional speech.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

INVESTIGATION OF ROBERT G. BAKER, BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. CASE. Mr. President, I was interviewed this past weekend on a television program shown in New Jersey as well as in the New York City and Philadelphia areas. My interviewer was James McCartney, Washington correspondent for the Chicago Daily News. We talked mainly about the Bobby Baker case.

Some of the points brought out by Mr. McCartney deserve a wider audience. It was Mr. McCartney who first reported in his paper that Bobby Baker had told a visiting group that he had 10 Senators in the palm of his hand. During our interview, Mr. McCarthy brought out some additional details which make the Bobby Baker case seem all the more shocking. According to Mr. McCartney, when he confronted Baker with his reported statement, Baker only smiled broadly. He did not deny it. Still worse, upon further checking, the reporter discovered that Baker had made this same boast of his influence over individual Senators on at least three different occasions over the course of 3 years.

The Senate Rules Committee has shown no inclination to get to the bottom of reports like this. These reports reflect badly not on Bobby Baker alone but on the reputation of this entire body as well. Unfortunately, the job of awakening is being done not by the Senate but by the press and by the public. The mail and newspaper comments that come to my desk daily from all over the country is proof that the country is not content by any means to let the Baker case die. I now ask unanimous consent that more of this editorial support be printed in the Record at this point together with excerpts from my interview on television.

There being no objection, the editorials and excerpts of television interview were ordered to be printed in the Record, as follows:

PARTIAL TRANSCRIPT OF INTERVIEW OF SENATOR CLIFFORD P. CASE OF NEW JERSEY

(Senator Clifford P. Case was interviewed by James McCartney, Washington correspondent for the Chicago Daily News, in a program recorded for showing by WOR–TV, New York City, on Sunday, June 7, 1964, at 10 a.m., and by WFIL–TV, Philadelphia. The program was also carried by radio stations WAWZ (Zarephath, N.J.); WCAM (Camden); WFIL (Philadelphia); WHN (New York); WJRZ (Newark); WMVB (Millville); WSNJ (Bridgeton), and WVNJ (Newark).)

Senator Case. I'm glad to be back on another of my regular reports and happy especially to have with me this time as my guest and interviewer, James McCartney, of the Chicago Daily News, one of Washington's first-rate newspapermen. Actually, Jim's had the added distinction recently of being a Nieman fellow at Harvard.

James McCartney. Senator, I know you've had a particular interest during my absence in the affair involving Robert G. Baker. I've been particularly interested in this for a long time, and I've been interested in your own activities involved in the broad cause of congressional reform. I've been interested in some proposals that you've made recently that have grown out of the Bobby Baker case. I wonder if we could start by your bringing me up to date on whether you think there's any possibility now of any legislation in this session involving congressional reform.

Senator Case. Well, my quick answer—and then we can develop it as much as you want—is that I think there is a chance. I think the chance is better than it has been. I still don't think the chance is as good as 50–50, and that's our job—to try to improve it. I think the interest in the Baker case has heightened interest in congressional reform in recent weeks.

Actually, Jim, if I can digress just for a moment, I want to say something about your interest in this matter, which I have known about myself. As a matter of fact, you got me interested in it. It was you who wrote the story, for example, that Bobby Baker had told a group, I think it was congressional interns, that he had 10 Senators in the palm of his hand. This came up the other day when I was testifying before the Rules Committee in support of my bill, the bill which several colleagues have joined me in for some years, for full disclosure as one of the preventive measures to be recommended by the committee, we hope.

This matter came up, and one of the Senators asked, in substance, whether I didn't agree with him that we were hurting the reputation of the Senate in talking about these unfounded rumors, when I mentioned strongly this particular matter which you had first reported. In the first place, it's my understanding, because we don't say these things or pick them up casually either, that you had made your usual careful check of the story before you wrote it; that this was a group of highly adult people—American Political Science Association interns who were here for advance work, these were people trained in the business—and it was to this group that Baker made his statement; that you checked it up and three or four people you talked to said, "Yes, this was so," and you figured that was not bad, but you gave Bobby Baker himself a chance to comment on the statement. Now, what did he say?

Jim McCartney. Well, this is one of the more interesting aspects of it. When I asked Bobby Baker if he had ever said, "I have 10 Senators in the palm of my hand," he and I were sitting not too far from here up in the Senate restaurant, and a broad smile spread over his cherubic face, and he said (silently spreading hands). It pleased him, I think, a great deal to mention this.

I think probably, if the whole story were known, you would find that Bobby Baker had made this statement not once, or twice, but many times over a period of years in his appearances before groups of this particular kind. I haven't looked this up lately, but I believe my checking on it suggested that he had said it at least three times in three different years, and many people who participated in this particular program thought it was part of the regular routine for him to bring this up. There's a great deal of humanity in this kind of situation because Bobby Baker really did have, I think, a great deal of influence in the Senate and he also was virtually unknown, even here in Washington, by many people who knew a great many things about the Government in other respects.

Senator Case. In other words—not that there was ever any doubt about this in my mind once I saw it in your paper under your byline—this was an understatement of the facts, rather than an overstatement, and, in any event, thoroughly documented and completely clear as far as the event goes. The curious thing is that, as far as I know—and I would like you to tell me, now maybe since I talked with you last things have changed. Has the committee ever asked you to come before it since last week when they doubted that this had happened to tell them what the story was? Has the committee said anything to you about it at all?

Jim McCartney. No. I haven't had any contact with the committee.

Senator Case. This seems most extraordinary. I cannot see, Jim, how the committee feels it has done its job when it lets this kind of thing go, which is really the thing they ought to be interested in—not the number of dollars Bobby Baker may have made or anything else, but the question of whether the Senate of the United States was under the heel, or under the thumb, of some relatively unimportant individual, scarcely more than a youth, who came out of nowhere to manipulate this great instrumentality of government. If the committee does not feel that this is its real job, then I have some despair about the future of the Senate—since I don't really have that despair, I believe instead that the committee will be waked up to its duty by an outraged press, by an outraged public, and by the Senate itself, once it really looks at the thing in its true light.

Jim McCartney. You believe then, Senator, as I understand it, that the Senate Rules Committee has been less than enthusiastic in its investigation of the case?

Senator Case. You are so delicate in the way you understate things, Jim, always. Of course, I do, exactly that, and I would put much more emphasis on it. Of course the way you say it, it carries greater weight because of the understatement. The committee has taken the position—not once, but again and again, no matter how heavily taunted, and the same is now true, I am sorry to say, of the administration leadership in the Senate—that its job is not to go out and get the facts, not to get to the bottom of this mess, but to sit and wait to see if somebody comes to it with information voluntarily. Now, that is just about a fair statement, I think, of its position with regard to this matter, and I think it is a shocking thing.

Jim McCartney. Do you believe, Senator, that Bobby Baker had any particular role, or that the hearings have shown that Bobby Baker had any particular role, in financing the campaigns of any Senators through the State Democratic finance committee?

Senator Case. Well, the only thing I know in this area, as well as in the area with regard to what he said about 10 Senators in the palm of his hand, is what I read in the columns of the newspapers under the bylines of very reputable reporters. On several occasions in other newspapers, as well as in some stories of your own, stories of this sort, and dealing with this matter, have been written and published and, so far as I know, never denied. Senator X and Senator Y have said that they were offered and refused campaign contributions. In one case, I am quite sure Bobby Baker's name was mentioned directly as the offerer, and in another the person in the background of the offer, on condition that they vote against the filibuster rule change, for instance—rule XXII—or to maintain oil depletion rates the same as they are now, this kind of thing, and that they turned this down.

There have been other stories, as, of course, you know better than I, about Bobby Baker's exercising great influence in the selection of members of committees on the Democratic side, withholding his favor to those who refused to go along with policies that he and his sponsors approved and granting it to those who did go along with him and his sponsors—this kind of thing. Again, the operation of the Senate of the United States, decisions by Senators, taken away from the people elected by sovereign States and used for whatever purpose—I'm sure I don't know, but not for the purposes for which they were sent down here—by Bobby Baker. This, I think, is shocking, and I will not be silenced about it. I think unless we can get somewhere this time, I cannot regard the Senate of the United States as august and as sacred and as fine an institution as I always did in the past.

Jim McCartney. So the Senate can save itself very simply in this institution by a thorough and deeper attempt to investigate where the money is coming from that Bobby Baker allegedly has helped to distribute and how it may have been used to control votes on key issues in the Senate?

Senator Case. I'm sure of this, Jim. Now the committee has made a draft report. It's under discussion. I haven't seen it; we've heard a bit about what's in it. We've heard that it has concluded * * * at least the counsel has prepared a report stating that Bobby Baker was bad, that the things he did were not good, and it recites some of them. I'm sure there are leads there to the kind of information that you're talking about. I myself made a suggestion, perhaps before you got back, that the committee ask every Member of the Senate whether he'd had any dealings with Bobby Baker, and, if so, what they were. They turned a deaf ear to this, though I have recently discovered and have given to them a precedent where this was done back in 1894, 70 years ago. So I think we can do the job and I think we will, but only if people like you keep up the pressure and the kind of fine reporting that you've done before.

Thank you so much, Jim, for coming up on the program.

[From the Trentonian, Trenton, N.J.]

Case Integrity Drive Gathers Support

(By J. Willard Hoffman)

New Jersey's senior Senator Clifford P. Case, has given ample assurance that he means to pursue his campaign in behalf of the integrity of Congress, and events of the past week indicate that he is making progress.

Senator Case is conducting a two-pronged attack, (1) a campaign to get his disclosure bill enacted into law, and (2) a continuing effort to force the Senate Rules Committee to extend its investigation of the Bobby Baker case.

The two aims are, of course, tied closely together. The main issue in the Baker affair is that Members of the Senate were involved in Baker's meteoric rise to affluence; the former majority secretary boasted that he had 10 Senators "in the palm of his hand." If Case's disclosure proposal had been in existence, it would not have been possible for Senators to conceal any dealings they had with Baker from which they benefited.

Even now, concealment would not be possible if the Rules Committee's investigation were extended to include questioning of Members of the Senate. But the Democratic majority on the committee has carefully refrained from pressing the inquiry that far, and as a result the Nation has been given a totally unsatisfactory summary of Baker's activities, with more unrevealed than was revealed.

Baker was, of course, summarily chopped down; but those who made it possible for him to operate remain sheltered behind Washington's political curtain.

But Senator Case is unrelenting in his pursuit of the facts, and indeed has incurred the wrath of the Senate's majority party in pressing his demands.

He did not let another chance slip by last week when he testified at a hearing before the Rules Committee on his disclosure bill, which would require each Member of Congress, and each employee in the legislative and executive branches who is paid $15,000 or more a year, to submit annually a financial report to the comptroller general, and would make it mandatory that anyone contacting a Federal regulatory agency regarding a matter before it be so recorded.

Case said that public disclosure is the most effective way to protect the integrity of the Congress and the legislative process and that the need for such a requirement rests on the simple fact that Congress is not going to police itself, adding that one need look no further than to the current inquiry.

He seems to be gathering support. In the first place, the Rules Committee's special counsel, Maj. L. P. McLendon, has recommended that the financial holdings of Senators be revealed to discourage conflicts of interest. Some Republican Senators are, naturally, firmly behind Case, along with the Republican National Committee. And among the cosponsors of his bill are three Democratic solons, Maurine B. Neuberger, of Oregon, Philip A. Hart, of Michigan, and Pennsylvania's Joseph Clark. Another Democrat, Oregon's Wayne Morse, said that the "effort of some to offer Mr. Bobby Baker as the sacrifice to public opinion in the hopes of avoiding an inquiry into the activities of Senators themselves is a hopeless effort."

And from his home State Case received some concrete support when New Jersey's junior Senator, Harrison A. Williams, Jr., filed a statement of his financial interests as of May 20 and also those of his three top staff members who make in excess of $7,500 annually.

There is no doubt that Senator Case has got the ball rolling, and there doesn't seem to be any doubt that he is going to do everything in his power to keep it rolling. He has driven it to this point: Unless the Rules Committee widens its Baker investigation to include the questioning of Senators, the public is going to take the view that the Senate as a whole has been indicted on charges of the utmost gravity.

[From the Scranton (Pa.) Tribune]

Reopen the Baker Probe?

Although a Senate committee has, to all intents and purposes, ended its investigation of Robert G. Baker, resigned secretary to the Senate's Democratic majority, Republicans have not given up hope of reopening the probe.

This was manifest with the appearance before the committee Tuesday of Senator Clifford Case, New Jersey Republican. Senator Case demanded that the committee call in and interrogate Senators who may have had dealings with Baker, who is reported to have pyramided his $19,500 salary to $2 million on paper.

The appearance of Senator Case fomented a row between him and the Democratic majority on the committee which has been severely criticized as having performed a "whitewash" of the Bobby Baker inquiry.

Case emphasized that the committee "has a sacred duty to go out and get the facts, not just to sit here and listen to what people come and tell it." He pointed out that Baker refused to tell the committee anything of his business affairs and hence, it was the committee's responsibility to seek the information from other sources. These other sources, he made quite clear, included Senators who had had dealings with Baker.

The New Jersey Senator proposed that the committee ask each Senator if he ever had dealings with Baker and the nature of these dealings. Further, he suggested that the Senators be asked if Baker ever gave them, offered them, or offered to get for them any campaign contributions or any help to make up campaign deficits. The Senators should be asked to, he argued, if Baker ever offered or obtained for them any employment or retainer, any preferment in committee assignments or anything of value.

Senator B. Everett Jordan, North Carolina Democrat, the committee chairman, expressed the view that the committee does not have the authority to question Senators.

Senator John J. Williams, Delaware Republican, who initiated the Baker inquiry, is prepared to meet this objection with a proposed resolution specifically authorizing the committee to summon Senators for questioning.

What will come of this effort to reopen the inquiry is, of course, speculative but there are indications that it will get some Democratic support. How much is questionable, for the overall atmosphere of the situation leans heavily to the suspicion that many Democrats, on and off the committee, don't want a full exposure of the Baker affair.

[From the Daily Home News, New Brunswick, N.J.]

Case Fights Good Fight

We have unbounded admiration for the man who fights the good fight when the odds seem to be against him and when the fighting appears to be making little dent upon his opponents.

That's why we are hopeful that some people who are in a position to help the good fight will have the courage to take their places beside the valiant Senator Clifford Case, of New Jersey, as he almost single handedly in the Senate—but with tremendous support from the press of the Nation—attempts to force the Senate to place the whole story of the Bobby Baker case upon the record.

Senator Case urgently pleaded with the Senate Rules Committee to send a questionnaire to each Member of the Senate asking about individual Senator relations with Bobby Baker, the latter having taken the fifth amendment and refused to answer these questions himself. The committee turned Case down flatly, even though the members realize that the Senators themselves now represent the only persons who can give the full picture of the Baker case.

Senator Case has showed a precedent for the questionnaire which he wants used, a precedent set when a similar procedure was followed in the Senate in 1894.

The Rules Committee cannot be forced to act against its will. But the Senate itself has the constitutional power to punish or expel its own Members. This may not be a direct constitutional duty, but it is a moral duty.

There is so much disturbing fact and unsavory rumor about Bobby Baker and his relations with Senators—including the remark attributed to Baker, that he had 10 Senators in the palm of his hand—that the Senate, as the highest legislative body in the land, owes it to itself and to the people of the Nation to investigate whether there are Senators who should be punished, or expelled, for conduct about which Bobby Baker refuses to talk, under protection from the fifth amendment.

We are disturbed by the failure of other Senators to see the issue as clearly as Senator Case sees it and to fight at his side the good fight. We are particularly disturbed that the Johnson administration, which today appears to enjoy rather broadly the confidence and the trust of the American people, is not taking firm steps to justify that confidence and trust with respect to the Bobby Baker case. If there is a scandal here, the administration would fare better politically by helping expose it now, rather than wait for the scandal to come to light—as scandals almost inevitably do—later on. Perhaps on the eve of the presidential election.

[From the Aberdeen (S. Dak.) American-News]

Baker Case Likely Campaign Issue

The explosive debate in the Senate Thursday in connection with efforts to expand the probe of the questionable financial and social activities of Bobby Baker, the Senate employee who went from rags to riches in a few years, was described as the most bitter in many a day.

The result was the Democratic majority, for whom Baker had been secretary, rejected the attempt to learn more about Baker and about the activity of any Senator involved in "giving or receiving campaign funds under questionable circumstances."

This round of the Bobby Baker bout was lost by Senator Clifford Case, Republican, of New Jersey, who had submitted the proposal to look into alleged illegal and immoral activities of the Senators themselves. Winner of the round was Senator Mike Mansfield, Democrat, of Montana, the majority leader.

But there are many persons well versed in politics who suspect an effort to end investigation by the Senate Rules Committee will not cause the Bobby Baker case to be forgotten.

Enough information was revealed during the investigations and hearings to make Baker and others the objects of suspicion. It would appear that the only way the suspicion can be removed and the guilt or innocence assessed would be by a complete investigation.

If the facts are not established there may be no limit to the allegations that will be discussed during the political campaign this fall.

Senator John Williams, Republican, of Delaware, is a studious and determined public servant. He has devoted many months of his time trying to bring the facts into the open. He and Republicans who believe the Senate should not be used as a means of private gain can be expected to talk about the Bobby Baker affair during the presidential campaign.

The so-called mess in Washington during the Truman administration is believed by political analysts to have been a major factor in the election of General Eisenhower in 1952.

[From the Harrisburg (Pa.) Patriot]

Senate Hurts Itself

The Bobby Baker investigation is dead. Some Republican Senators tried last week to flog it back to life. They failed. Senator John Williams, of Delaware, joined by Senator Clifford Case, of New Jersey, introduced a resolution to broaden the probe to include improper activities by Senators. The Senate turned it down, and in a partisan squabble marked by uncommon bitterness Majority Leader Mike Mansfield, of Montana, denounced the resolution as "impugning the integrity of the whole Senate with sly innuendo."

Senator Mansfield is mistaken. What impugns the Senate's integrity is its refusal to restore public confidence in itself.

This would not be so hard to do if Senators of both parties were willing to put away the partisan sideshow and concentrate on the main event.

Bobby Baker is a symbol. The reality is the existence of two separate codes of ethics, one for members of the world's most exclusive club, the other for the nonmembers appointed to high office by the executive branch.

When Eisenhower appointees George Humphrey and Charles E. Wilson appeared before Senate committees for confirmation as, respectively, Secretary of the Treasury and Secretary of Defense, the Senators went over their finances with the finest of finetooth combs. Humphrey and Wilson, and their colleagues and successors, had to make all kinds of sacrifices for the privilege of serving their country. As for the Senators themselves, however, their finances are a closed book—except for those, like Pennsylvania's Joseph Clark and Hugh Scott, who voluntarily have revealed their sources of income. And so far the Senate seems determined to keep it that way.

The Baker affair has created public doubts about the Senate's double standard that will not die. But some good may come of it if it persuades the Senate to reform. For it makes no sense for the Senate to insist that Presidential appointees divulge all and divest themselves of much lest there be some remote possibility of conflict of interest, while at the same time the Senators blithely carry on their private affairs with no requirement for public accountability—and no or few qualms about intervening with Federal agencies on contracts for the benefit of their constituents or themselves.

The Baker business may remain forever in limbo or, hopefully, it may not. But the Senate's responsibility to compel its Members to disclose their sources of income must not be dodged.

[From the Bismarck (N. Dak.) Tribune]

The Senate Under a Cloud

Majority leader Mike Mansfield and the Senate Democrats who voted against investigating Senators in connection with the Bobby Baker affair have done the august body in which they serve no good.

They have given the country the impression that the Senate, and some of its Members can't stand investigation. The Baker probe takes on more than ever the look of a coverup job.

Senator Clifford Case, Republican, of New Jersey, gave the argument a few days ago for a thoroughgoing inquiry to bring out the full truth in the scandal. Said Case:

"When I hear of an employee of the Senate boasting that he has 10 Members of this body in the palm of his hand, I do a slow burn. It is difficult for me to contain my anger when I hear the talk, which everyone has heard, of Bobby Baker's dealings in committee assignments—granting or withholding his favor to persons elected by sovereign States to the greatest deliberative body in the world * * *.

If no Senators are guilty of wrongdoing, none need be fearful of what open hearings in which they are questioned might disclose. But if some Senators have indeed, profited by Bobby Baker's suspect doings, in ways which might be considered reprehensible, they should be forced to reveal it. Either the stain on the Senate should be removed or we should start to clean out what rottenness corrupts it.

Senators, for all their prestige and power, are nevertheless mere mortals, and still put on their pants one leg at a time, like taxi drivers, lawyers, teachers and other men. They are subject to the same drives, concerns, and temptations as all of us are. We cannot ever assume that because a man is a Senator he is beyond suggestion of reproachful error.

The probability is that Bobby Baker's brag that he deals with Senators as though they were his pawns is only a brag and nothing more. As a demonstrated liar, his word on any subject is suspect. But until the Senate itself decides that its reputation is worth defending the stain of Bobby Baker will continue to mar its honor.

[From the Greensburg (Pa.) Tribune-Review]

To the Bitter End

Partisan politics may be lurking in the wings as Senator Case, of New Jersey, occupies the stage with his demands that all Senators be questioned about any dealings they may have had with Bobby Baker. Case is a Republican. Because Baker was close to high Democratic figures and was secretary to the Senate majority before resigning under fire, the scandal is an embarrassment to Democrats.

Partisan or not, Senator Case is right in his insistence that the Senate has an obligation to pursue this matter to its quite possibly bitter end. Reasons given in his testimony before the Senate Rules Committee—at his request, and at a public hearing even though a majority of the committee at first sought to keep the hearing secret—are most persuasive.

Case wants the Rules Committee to ask all Members of the Senate whether they had any business or financial dealings with Baker, and whether they received anything of value from him. He correctly believes that this is the only way the Senate can get to the bottom of a sordid matter, and that until this is done the public will not be satisfied and the Senate's image will be badly stained.

There have been persistent rumors about Baker's hold on certain Senators. Case referred to them thus: "When I hear of an employee of the Senate boasting that he has 10 Members of this body in the palm of his hands, I do a slow burn. It is difficult for me to contain my anger when I hear the talk, which everyone has heard, of Bobby Baker's dealings in committee assignments—granting or withholding his favor to persons elected by sovereign States to the greatest deliberative body in the world." He went into even greater detail, but this is enough to suggest that such rumors cannot be ignored. The Senate would be wise to follow Case's advice.

[From the Easton (Pa.) Express]

Senate Scene: 10 Weeks Later

The current calm of the U.S. Senate is the calm after the storm, but it has an uneasy cast. It may turn out to be a calm between storms, so maybe it would be better to call it a lull.

Whatever it is, it set in shortly after Senator Edward M. Kennedy had that conference with the Senate Parliamentarian. Before it arrived, concord was in what might be called short supply.

You see, Senator Clifford P. Case had suggested that it would be nice if the Senate went on investigating Bobby Baker, and that it would be particularly helpful if the Senate should decide to investigate itself, to ask all Senators to describe their dealings with Bobby Baker, if any, on the premise, apparently that if any Senators should remember dealings with Bobby Baker, and discuss them, the Senate would be learning something about the elusive Bobby Baker.

Senator Mike Mansfield was maintaining that the Senate certainly should not ask Senators to tell whether they had ever had dealings with Bobby Baker when Senator Case tried to announce that Senator Mansfield had imputed to him conduct unworthy of a Senator. Senator Mansfield said he had imputed no such thing, and he went on contending that Senators should not be asked whether they had ever had dealings with Bobby Baker, and when Senator Case tried to bring up the imputation matter again, Senator Kennedy, who was presiding at the time, told him to sit down.

Senator Case appealed the ruling that he was not entitled to talk about imputation, and that was the point at which Senator Kennedy conferred with the Senate parliamentarian, and when the conference ended, he said the time for debating the proposed resolution had been used.

Whether Senator Case had a right to maintain that Senator Mansfield had suggested that his conduct was unsenatorial, Senator Kennedy didn't say. He simply said it was time to vote on the proposed resolution, so the Senators voted.

The Case resolution was defeated by a vote of 42 to 33; but right away, the cease-fire began to look a little tentative. The next day, Senator Case and Senator Hugh Scott suggested that there were Senators who were interested in preserving the right of a Senator to be heard, even if he happened to be a minority Senator, and maybe especially if he happened to be a minority Senator. Some of those Senators, they said, might be reluctant to support any effort to halt debate on the civil rights bill. The next day, the Senate ended 10 weeks of civil rights debate, without, apparently, turning up any trail that might lead to the end of the debate.

President Johnson, of course, needs a civil rights law now. If cloture continues to look impractical, Congress may still be in session when Democratic legislators ought to be bird dogging over the country, blasting Republicans, and especially Republicans who are curious about the legend of Bobby Baker.

The proposed investigation, incidentally, would have been concerned with finding out whether Bobby Baker had any influence in a past and flamboyant period of Washington history. There is, too, the question of whether the Bobby Baker issue is having an impact on current history, and perhaps it could be suggested that this one is being answered.

[From the York (Pa.) Dispatch]

BAKER CASE WON'T DOWN

The Bobby Baker investigation may, for practical purposes, be officially buried, but its ghost is haunting Washington.

Not everyone, least of all Republicans, is satisfied that the influence-peddling probe was pursued with the greatest of New Frontier vigor by the Democratic-controlled Senate Rules Committee. After all, Baker was secretary to the Democratic Senate majority.

At any rate, U.S. Senator Clifford P. Case, Republican, of New Jersey, has called upon his Senate colleagues to state any business dealings they may have had with Baker, and to report any campaign assistance given or offered by the ex-Senate aid who became a wealthy man in a short period of time.

The chairman of the Rules Committee, Senator Everett Jordan, Democrat, of North Carolina, called Case's request the "height of demagoguery."

Moreover, in Jordan's mind, Case's proposal "would be an insult to a Senator."

Insult or not, Case's request is hardly unreasonable.

The American public has a right to know all in the Baker case.

Mere name calling, such as Jordan's jab at Case, does not put the U.S. Senate in a position like Caesar's wife, above suspicion.

[From the St. Louis (Mo.) Globe-Democrat]

LETTING SENATORS TELL THE SENATE

In the languishing Bobby Baker affair, Senator Clifford P. Case has come up with an ingenious plan by which a congressional committee can get the better of recalcitrant witnesses who take the fifth amendment on the grounds that their testimony would incriminate them.

Since Bobby refuses to talk about his activities while he was secretary of the Democratic Senate majority, why not simply reverse the processes by having the Senators tell their Rules Committee about their dealings with Bobby?

Next week, Senator Case is scheduled to meet with the committee to submit his proposal formally, and we can't see anything in it that could embarrass a Senator who has nothing to hide.

All he wants the committee to do is to ask every Senator these questions:

Did you ever have any business or financial dealings with Bobby Baker, directly or indirectly? If so, what were they?

Did Bobby Baker ever give you, get for you, offer you or offer to get for you any campaign contributions, any help in making up campaign deficits by gifts, purchase of tickets or otherwise, any retainer or employment, any preferment in committee assignments, or otherwise anything of value?

As matters stand today with Bobby not talking, Senator Case rightly says the Senate must "cleanse itself of the stain which this affair has placed on our institution." And the Senate has long been known as "the most exclusive club in the world."

Why can't all the Members now come forward for the good of the "club" and lay their statements on the line?

[From the Champaign (Ill.) Courier]

PERSISTENT BAKER CASE

Every time the Bobby Baker case begins to go away, some maverick Member of the Senate hustles out and retrieves it. The latest to fetch it back before the uncomfortable upper house is Senator Clifford Case, Republican, of New Jersey.

Senator Case is demanding that the Senate Rules Committee reopen its investigation of Bobby Baker, former secretary to the Democratic majority in the Senate. Moreover, the Senator wants the committee to question Senators who may have had dealings with the young South Carolinian as he was amassing a considerable fortune, allegedly by peddling his Capitol Hill influence to persons who could profit from favors he could grant.

Republican Senator John J. Williams, of Delaware, who last fall initiated the investigation of the Baker case, at once said he would introduce a Senate resolution specifically authorizing the Rules Committee to summon Members of the Senate for testimony.

This would put many Senators in a difficult position. Voting against such a resolution could be construed as favoring immunity for Senators in matters of questionable conduct—matters such as those involved in the Baker case. Voting in favor of such a resolution goes against a venerable Senate tradition; namely, that a Senator must answer only to himself and his constituency for his actions.

Certainly, however, the implications of the Baker case override such a tradition.

The Senate must show itself willing to investigate possible shady dealings in its own affairs, or it will dwell under a cloud of suspicion which will do lasting harm to that legislative chamber.

[From the New York (N.Y.) Post]

PUBLIC HAS NO WAY OF KNOWING WHETHER CONGRESSMAN SELLS OUT

(By James McCartney)

Washington, May 28.—Your Congressman or Senator could openly be on the take and you'd have no way of knowing it.

He could sell his votes.

He could jack up his speaking fees so that wealthy lobbyists could pay him off by giving him $1,000 fees for two-bit speeches.

He could, in fact—to the astonishment of special counsel Lennox McLendon, who is handling the Bobby Baker probe—let private corporations pick up the tab for part of his office expenses.

FINAL PHASE

He could use these devices, or any one of a number of others, to fatten his purse, and John Q. Public—the voter—would be none the wiser. That's what the final phase of the Bobby Baker probe is all about. And it's probably the most important phase of all, for it's close to the central core of the problems of modern, big-time politics.

The point is that as matters now stand the voter has almost no way of knowing who is buying whom, and for how much, in American politics.

Congress has long held the whip hand over the executive branch and over the judiciary in demanding that appointments be clean and aboveboard—that conflicts of interest be forbidden.

Cabinet members have been forced to divest themselves of stock and appointments have been rejected because of private business interests.

But a Federal legislator can have any kind of conflict of interest he wants and must report to no one.

As Senator Neuberger, Democrat, of Oregon, put it in testimony before Bobby Baker probers Monday: "How is a voter to know that the member of, say the Agriculture Committee, is making a killing in cotton futures * * *?"

This has all been true for years, but the Bobby Baker case, in which the former secretary to the Senate's Democratic majority amassed a fortune on the side, has thrown a new spotlight on the problem.

And the Senate's traditional core of reformers are now arguing for what they call "disclosure" legislation.

By that they mean legislation that would require Members of Congress to tell how much money they have and where they got it.

The question, as Senator Scott, Republican, of Pennsylvania, put it is whether a gift or favor is designed to "move the mind of a recipient."

Some Senators are arguing for a code of ethics for Congress, but this is considered the weaker of the approaches. Senator Case, Republican, of New Jersey, reminded the committee that all Government workers have operated under a "code of ethics" since 1958, when one was adopted by Congress.

"The code," he said "did not deter Bobby Baker."

[From the Syracuse (N.Y.) Post-Standard]

LET SENATORS TALK

Senator Clifford P. Case, of New Jersey, is right in demanding that the Senate Rules Committee dig further in the Bobby Baker case.

Case feels that Baker has blackened the name of every Senator, and that it can only be cleared if Members of the upper House tell the committee what dealings they had with Baker.

He would do this by means of a questionnaire. He wants the committee to ask every Senator these questions:

Did you ever have any business or financial dealings with Bobby Baker, directly or indirectly? If so, what were they?

Did Bobby Baker ever give you, get for you, offer you or offer to get for you any campaign contributions, any help in making up campaign deficits by gifts, purchase of tickets or otherwise, any retainer or employment, any preferment in committee assignments or otherwise anything of value?

These are simple questions that should embarrass no Senator if he has nothing to hide. CASE takes the view that since Baker refuses to talk, the Senators should cleanse that body of the stain the Baker affair has placed upon it.

What is wrong with asking that the investigation be extended to include Senators? The Democratic majority on the Rules Committee is closing the door on the investigation without completing it.

[From the Newport News (Va.) Press]

THE ISSUE THAT JUST WON'T DIE

The administration's effort to tiptoe around the Bobby Baker issue, in hopes that it will be forgotten when electiontime rolls around, suffered a severe setback this past week. An attempt to expand the Senate Rules Committee's investigation and to extend it beyond the May 31 deadline was defeated on the floor of the Senate, but at the cost of big black headlines; obviously Bobby Baker's name will play a considerable role in the upcoming campaign.

Two outspoken Republicans—Senators CLIFFORD P. CASE, of New Jersey, and JOHN J. WILLIAMS, of Delaware—spearheaded the move to include Senators in the probe; it's been essentially a GOP effort from the beginning. However, nine Democrats joined the Republicans when the showdown vote came. The tally went against the broadening of the inquiry, but only by a margin of 9 ballots—42 to 33.

The administration persists in looking upon this as nothing more than a partisan gambit, an attempt to embarrass the party in power in an election year. But the Republicans are merely taking advantage of a situation—they didn't create it.

The Rules Committee, dominated and led by Democrats, has pursued the investigation in a fumbling, halfhearted fashion, as though afraid of what it might find. It may well be that nothing untoward went on between any Senators and the former Senate majority secretary; but this reluctance to have the Senators put on the record is inevitably arousing public suspicion that something has been amiss.

The Senate has conducted rousing investigations in many fields in the past, but when it comes to the point of investigating itself—that's another matter. By failing to include Senators in the scope of this inquiry, this most powerful and respected of legislative bodies is letting the public down, and endangering its own reputation.

[From the Chicago (Ill.) American]

AN INSULT TO THE SENATE

We don't see how anyone can argue against the demand of Senator CLIFFORD P. CASE, Republican, of New Jersey, that the Senate Rules Committee question every Member of the Senate about his business or financial dealings with Bobby Baker. Baker was employed by the Senate Democratic majority. He resigned last fall, announcing that he had made $2 million.

Senator EVERETT JORDAN, Democrat, of North Carolina, chairman of the Rules Committee, has said that Senators would not be investigated. We agree with Senator CASE that they should be because Baker's boast that he had 10 Senators "in the palm of his hand" was an insult to the entire Senate. It is true, as CASE told the Rules Committee at its meeting Monday, that "every Member of the Senate has had his reputation, his good name, diminished by the Bobby Baker case." We join Senator CASE in his resentment of Baker's "ability to tarnish the Senate's name."

The Senate Rules Committee has been accused by Republicans of trying to shut off the investigation of Baker's profitable deals so that the candidacy of President Johnson and that of other Democrats will not be damaged in the election next November. The committee started hearing CASE in closed session, but the Senator demanded that the hearing be made public.

"I will not be stopped," said CASE. The committee called in reporters and CASE urged it not to drop the investigation of Baker's dealings until all the facts had been gathered.

The committee should do that, regardless of any political considerations, because, as CASE said, the standing of the entire Senate in the estimation of the public is involved. Those Senators who let Baker manipulate them for his own profit should be required to take individual responsibility for their actions, so that those who didn't let themselves be handled should be freed completely of public suspicion.

[From the Staunton (Va.) Leader]

Senator JOHN J. WILLIAMS, Delaware Republican, has stirred up a new fuss with his resolution proposing that the Rules Committee investigate Senators who were alleged to have had financial dealings with Robert G. Baker.

The Democratic majority takes the view that Senator WILLIAMS' demand is a political gambit designed to embarrass them in an election year. They have the votes to defeat the resolution and to prevent a broadening of the Baker investigation. But they cannot remove the cloud of suspicion that now hovers over the Nation's most exclusive club.

From the beginning of the Baker affair, the Rules Committee has acted in a manner bearing little or no resemblance to the zeal normally displayed in senatorial investigations, except only in one phase in which it bore down excessively on witnesses' use of the fifth amendment. For the rest, the committee severely limited the scope of the inquiry; it displayed an unusual timidity in failing to follow up obvious leads; indeed, it roused itself from somnolence mainly in trying to bury the case. It obviously has no stomach for extending the investigation to Members of the Senate itself.

The majority of the Rules Committee have only themselves to blame for the long and continuing life of the Baker affair. They are responsible for weakening the prestige and dignity of the Senate; by rendering immunity to its Members, they have left the implication that there may be something to hide.

Public suspicion will not be dispelled until the Senate is prepared to investigate itself. There may be nothing unethical about the conduct of any Senator in the Baker affair; but the public cannot help being skeptical as long as the Senate refuses publicly to face the facts, whatever the facts may be.

[From the Worcester (Mass.) Gazette]

CASE AND THE BAKER CASE

Senator CLIFFORD P. CASE, the New Jersey Republican has tried valiantly to put the Bobby Baker case, stalled for weeks by obvious senatorial disinterest, back on the track. He says that the Senate Rules Committee has a "sacred duty to go out and get the facts, not just to sit here, and listen to what people come to tell it." He is right.

If Bobby Baker simply refused to explain how he ran $11,000 in 1954 to $2.3 million in 1963 while working for the U.S. Senate majority at a moderate salary, why not ask individual Senators what, if any, financial dealings they had with him? This is the new Case approach: Question any Senator who may have been involved with Baker. Quiz all of them, if necessary.

Yet Senator B. EVERETT JORDAN, Democrat, of North Carolina, chairman of the Rules Committee, continues to throw up roadblocks. The supposition is that further revelations could be extremely embarrassing to his party this election year. Baker, who grew up in the Senate as page, aid, and finally secretary to the Senate Democratic majority, was known as "Lyndon's boy." He was at one time a protege of Lyndon B. Johnson, now President.

"We aren't investigating Senators," JORDAN said months ago. But he and his committee members should be investigating the integrity of the Senate as related to the Bobby Baker case. How did Baker make his millions on a top salary of $19,500? Did he enjoy special influence or favors? It is already known that one Senator cut him in on a land deal. Government contractors used his vending machines. What else went on from 1954 to 1963?

If the Senators have nothing to hide, they should support Senator CASE's proposal to clear up this situation.

[From the Riverside (Calif.) Enterprise]

THE SENATE'S INTEGRITY

New Jersey's excellent senior Senator, CLIFFORD CASE, is not ready to let the Senate Rules Subcommittee off the hook on the Bobby Baker case. More important, Senator CASE is not prepared to let the Senate off the hook.

In contrast to the subcommittee chairman's affrontive excuse that "we're not investigating Senators," Senator CASE has bluntly told Chairman EVERETT JORDAN and his colleagues that their investigation of the Baker case is woefully incomplete until they do just that. Senator CASE shares this sentiment with his fellow Republican, JOHN WILLIAMS, of Delaware, who prompted the Baker investigation in the first place.

Senator CASE proposes a questionnaire directly asking each Senator about possible business dealings with Bobby Baker and any campaign assistance given or offered by the former secretary of the Senate Democratic majority.

It is an unusual sort of thing, of course. But so is the whole Baker affair. And it has put the Senate in what Senator CASE properly describes as a sorry state, one which should in that body's own interest be cleaned up.

For surely it is obvious that no Baker investigation can have any real meaning without an investigation of the relations of members of the Senate with Bobby Baker.

And we hope Senators like CLIFFORD CASE and JOHN WILLIAMS will continue to prod their colleagues, whatever the expectations of their success.

[From the (Boise) Idaho Statesman]

DOES THE COMMITTEE MISRULE?

The Democratic-controlled Senate must live with its conscience. Its daydreams of purity must not mix very well with the nightmarish aspect of the untold Bobby Baker scandal.

One of the constitutional privileges given the Senate is that it may determine the rules of its proceedings and punish its Members for disorderly behavior. But does this privilege give the distinguished body the right to close a scandal in an attempt to hide from the public activity which may floodlight any misbehavior on the part of Baker, the former Senate Majority Secretary, and Members of the Senate?

This august body set itself back, following a partisan verbal fight on the floor. The Senate voted down a Republican resolution which would have widened the Baker probe to include investigation of any improper activities of Senators themselves. In so doing, the Senate went against the intent of the Constitution which was cognizant of the belief that to err is human, but that the integrity of the Nation rests with its leaders, its lawmakers, its Chief Executive and his Cabinet.

The Senate's refusal to broaden the investigation meant the august body itself was taking the fifth amendment—the Senators refused to testify just as Bobby Baker took the fifth. In the same proceedings there was no effort made to summon Walter Jenkins, Special Assistant to President Johnson, to inquire further into Baker's gift of an expensive stereophonic set to Mr. Johnson. Also played down was the plush settings in which a number of Senators were allegedly entertained. Was the host, Mr. Baker, supplying these delightful repasts solely to prove his statement: "I hold 10 Senators in the palm of my hand." Wasn't it Mr. Baker who stated that some people were only too happy to pick up a campagin debt of $10,000 for Senators in need?

The public may never know—at least until after the November election—unless the Senate finds itself unable to live with its smarting conscience.

Wednesday, Senator B. Everett Jordan, Democrat, of North Carolina, chairman of the Rules Committee, confessed he thinks it will take "a long time" before agreement is reached in the committee on how to report the Baker case to the Senate and give it a good public airing.

This leadership of the North Carolina solon is not to be questioned as being politically astute, but such negative action of the Rules Committee only adds to the suspicion and controversy which involves the Senators as well as Baker.

It is interesting to go back to that day when by a vote of 42 to 33 the Senate voted down the resolution to widen the investigation. Senator Edward M. (Ted) Kennedy, Democrat, of Massachusetts, was presiding during the rough and tumble debate. Mr. Kennedy, no professional parliamentarian, gaveled down the request of Senator Clifford Case, Republican, of New Jersey, to be heard on a "point of personal privilege." Senator Case is championing the cause of a wide-open investigation, but his Democratic colleagues fail to listen. Senator Kennedy's promptness in halting the debate discredits him somewhat, although he ruled with keen knowledge acquired from the Democratic majority.

Why don't the Democrats want to fulfill an honest obligation to deal truthfully and honestly with the Baker scandal?

One can only presume that a number of the solons would be embarrassed, that President Johnson's rise to power and his onetime affection for Bobby Baker might be subject to closer scrutiny.

[From the North Adams (Mass.) Transcript]

A Double Standard

Sauce for the goose is not necessarily sauce for the gander in legislative circles as developments on both the Federal and State level illustrated this week.

In the U.S. Senate a long-seething controversy over the Bobby Baker investigation came to a head Thursday when a 42-to-33 vote downed a proposal to reopen and widen the scope of the investigation.

The earlier investigation into the Senate majority secretary's activities by the Senate Rules Committee was widely considered a whitewash as the committee repeatedly failed to follow up leads or resolve conflicting testimony. In fact, as one commentator observed, it expended most of its effort in a successful attempt to bring the investigation to a premature close.

The case touches a very basic detriment to good government—excessive influence peddling and unregulated gifts to legislators. Obviously the incomplete investigation made many Senators uncomfortable. Thus it was almost a foregone conclusion that the resolution offered by Senators John J. Williams, Republican, of Delaware, and Clifford P. Case, Republican, of New Jersey, would be downed. The vote largely followed party lines with 42 Democrats opposing and 24 Republicans and 9 Democrats supporting.

The vote illustrated the double standard that has long been evident: the Senate is much more willing to investigate the conduct of Government agencies than its own behavior.

The future of Bobby Baker is unimportant. What is important is that an investigation might dramatically reveal abuses that could be remedied by legislation that would regulate both gifts and influence peddling. Such legislation has been sought annually by Senator Case. It would go a long way toward restoring the public's confidence in the integrity of its officials.

Closer to home the double standard was revealed in the statehouse this week when two attempts to oust House Speaker John F. Thompson failed. The speaker was indicted last week on 26 charges of bribery and conspiracy.

But unwilling as it was to remove Thompson, the house a couple of years ago passed the so-called Perry law which requires officials under indictment to step down from their posts. Only recently, the law was applied in the case of Frank S. Giles, indicted commissioner of public safety. But when one of their own kind is involved, the legislators balk, even though the votes in Thompson were close.

Both the Federal and State cases involved the double standard. And both reflected little glory on those who cast the majority votes.

[From the Pensacola (Fla.) Journal]

Senators Immune in Baker Probe

Vehement demand by Senator Clifford P. Case, New Jersey Republican, that all U.S. Senators be called by the Rules Committee to testify as to whether or not they have had business dealings with Bobby Baker, former secretary to Senate Democrats, can be viewed from two angles.

The first assumption, which may have some grounding, is that the Republicans are trying to get all the mileage they can out of the Baker investigation in an effort to embarrass President Johnson, a former Senate Democrat, and the party as a whole prior to the presidential primaries in election this year.

That angle has been played up by the Democrats, of course, and there is little doubt that other Republicans, if not Senator Case, have been interested in keeping the Baker hearing going, while the Democrats have appeared inclined to get through as soon as possible. Senator B. Everett Jordan, Democrat, of North Carolina and Senator Joseph S. Clark, Democrat, of Pennsylvania, especially have been on the spot.

However, Senator Case seems to have another, or at least a second motive, if we ascribe the first to him also. That is to pin the blame on those Senators who have been guilty of playing footsie with Baker in return for favors they have received from the ubiquitous operator.

For instance, the question as to why Senator Smathers cut Baker in on a very profitable Florida real estate deal has not been answered except in a statement by the Florida Senator that he felt Baker needed and deserved the financial lift. But the Rules Committee decided not to call Smathers or any other Senators to explain their dealings with Baker and Baker has refused to testify, using the fifth amendment to protect himself.

This seemingly has infuriated Case, who claims that Baker has blackened the good name of all Senators and he wants his name cleared and those of other Senators who have not dealt with Baker. This would be a wholesome step, whether it hits at Democrats or Republicans. Most likely it would strike at Democrats as Baker was their man. He would not likely be dealing with the opposite party.

But Senator Clark doubts the committee has the right to question Senators about offers of campaign assistance from Baker or any other transactions and Chairman Jordan has denied Republicans' implications of a whitewash.

However, the investigation has been notably limited and the offer to allow Senators to appear and testify if they desired is certainly sidestepping the issue brought up by Case.

The situation reminds us once more of the Senate Club atmosphere. We may be certain if a mere civilian were involved there would be no hesitancy as to his being subjected to a grilling.

[From Philadelphia (Pa.) News]

Bobby Baker's Smog Killer

Robert G. "Bobby" Baker, former Senate majority secretary, has announced that he is working with an inventor on a project that will "rid the world of smog."

We think the very first place this remarkable machine should be employed is in the U.S. Senate, where political smog moved in to becloud the probe into Baker's wheelings and dealings.

Meanwhile Senator Clifford Case, Republican, of New Jersey, will attempt to clear the Senate air next week by going before the Senate Rules Committee to ask that every Member of the upper House be asked to disclose any financial dealings he may have had with Baker.

It is quite likely that Case may have to borrow Baker's remarkable invention to make any progress in that area.

[From the Rockford (Ill.) Register-Republic]

Exhume Skeletons in Baker Case

Senator Clifford Case, Republican, of New Jersey, had good reason to be angry when he demanded this week that the Senate Rules Committee question every Member of the upper House on the Bobby Baker case.

"When I hear of an employee of the Senate (Baker) boasting that he has 10 Members of this body in the palm of his hand, I do a slow burn," Case said.

The New Jersey Senator has been clamoring for some time to extend the investigation to all Members of the Senate. Yet the Democratic-dominated committee in March showed an obvious intent to slam the door shut on further investigation of the former Senate majority secretary who in a few years parlayed a $19,600 annual salary into some $2 million worth of assets.

Case resents Baker's ability to tarnish the Senate's name. The Senator pointed out that "every Member of the Senate has had his reputation, his good name, diminished by the Bobby Baker case." And his anger has been intensified because the committee has held many closed-door sessions, so only the committee members know all that has been disclosed.

Any Senator, regardless of party, should not object to a thorough, public airing of Baker's business and financial dealings. The ex-majority secretary obviously used his position and friendship with influential Senators to gain favors and monetary benefits. Yet Baker as a Senate employee was a public servant, answerable to the people and to the branch of Government which hired him.

When the committee called Baker to testify, the affluent young man took refuge under the first, fourth, fifth, and sixth amendments to the Constitution and refused to answer more than 100 questions.

Answers to a long list of pertinent questions are still to be given. Among these are:

Who told the truth about the purchase of advertising over the Lyndon Johnson family-owned TV station in Austin, Tex., and the sale of a $100,000 life insurance policy to the former Senate majority leader? Insurance agent Don Reynolds said he sold the policy to Mr. Johnson, after which Walter Jenkins, a Johnson aid, brought pressure upon Reynolds to purchase the TV advertising.

How did Baker persuade banks in several States to lend him $1,700,000?

Where did Baker get the money to launch a variety of businesses, including a motel and distribution of vending machines?

What about the German girl who was whisked back to Germany after she was described as having been "friendly" with Baker and high-ranking Government officials?

What role was played by Nancy Carole Tyler, Baker's so-called secretary, who also refused to answer the Senate investigators' questions?

There are many other unanswered questions in the case, which should not be swept under the rug in a presidential election year. Let the chips fall where they may.

[From the Sunbury (Pa.) Item]

BOBBY BAKER

A constant critic of the U.S. Senate is Senator JOSEPH S. CLARK, of Pennsylvania. Repeatedly and at great length he has spelled out the shortcomings of the Nation's highest legislative body, not only with regard to archaic procedures but the personal attitudes of many of its Members, one notable example having been in the matter of self-serving action on legislation. In this latter connection the Senator, making public a list of his own personal assets, challenged all his colleagues to disclose their holdings.

Senator CLARK took exception, however, when Senator CLIFFORD CASE, Republican liberal from New Jersey, took the Senate to task Tuesday for refusing to allow Bobby Baker, former secretary of the Senate Democratic majority, to testify before the Rules Committee investigating wheeling and dealing which netted Baker upward of $2 million in personal profit. CASE was accused of repeating a false charge against the Democratic majority.

The fact of the matter is that the Baker story has not been fully told. The involvement of Senators and other high public officials remains a matter of conjecture.

Neither Senators nor any other group in Government have a right to consider themselves a privileged class, as charged by Senator CASE. Senator CLARK, whose name has not at any time been linked with that of Baker, should in view of his previous stand for righteousness, concur in the demand for a thorough airing of the Baker scandal.

[From the Plainfield (N.J.) Courier-News]

PUBLIC DISCLOSURE

It is hardly time to call the Bobby Baker case a closed deal. We are sure to hear more about it during the election campaign this summer. We think it should be discussed further and that the Members of the Senate should not be beyond censure where it is deserved.

One of the most outspoken advocates for a stronger code of ethics in the Senate has been Senator CLIFFORD P. CASE, Republican, of New Jersey. Senator HARRISON A. WILLIAMS, JR., Democrat, of New Jersey, recently joined with him in a public disclosure of financial interests and transactions.

Senator CASE said last week before the Senate Rules Committee: "Public disclosure is, I have long been convinced, the most effective way to protect the integrity of the Congress and the legislative process. The need for such a requirement rests on a simple fact, which is, I think, universally recognized—outside of Congress. That is the fact that Congress is not going to police itself. One need look no further than to the current inquiry."

We agree. And we note with interest the insertion in Senator CASE's remarks—"outside of Congress." The Congress should not hesitate to police its own Members and to heighten the concern that Members of that legislative body should not only be right but also seem right in the public view.

[From the Fort Lauderdale (Fla.) News]

SENATORS STIR MUCH DOUBT WHEN THEY DUCK ANY PROBE OF THEIR TIES WITH BAKER

Despite outraged howls from certain Members of the U.S. Senate, there is an overriding element of simple justice and fairness in a resolution offered this past Wednesday by Senator JOHN J. WILLIAMS authorizing the Senate Rules Committee to broaden the Bobby Baker investigation to cover the conduct of Senators and the handling of campaign contributions.

When Senator WILLIAMS introduced his resolution one might have thought from the uproar that followed that he had committed some kind of heinous crime instead of merely asking the Members of the Nation's most venerable legislative body to apply the same rules to themselves they invoke against others.

Senator after Senator got to his feet and cried out in anguish over the proposal they submit themselves to the scrutiny they have given so many others in the Baker case.

Typical were the comments of Senators WARREN MAGNUSON, of Washington, PAT MCNAMARA, of Michigan, and of EVERETT JORDAN, of North Carolina, who is the chairman of the committee conducting the Baker inquiry.

Senator MAGNUSON accused Senator WILLIAMS of making a "blanket indictment" of the entire Senate and angrily declared that if Senator WILLIAMS had any reason to believe any Senator had done anything wrong he ought to name those involved.

Senator MCNAMARA was equally vitriolic when he declared:

"I've had enough of this. If there is anything wrong with my conduct, start telling us about it. Let's not have this blanket indictment."

Senator JORDAN spoke in a similar vein. He termed any suggestion that Senators investigate themselves as "the height of demagoguery" and stated that it added up to nothing more than "an insult to a Senator."

The imperturbable Senator WILLIAMS, who has sent more people to jail and uncovered more scandals in Government, than all three of these "holier than thou" deriders put together, had a most proper answer to these protest screamers.

"There have been questions," he stated, "in the minds of many people as to whether or not the Senate has the nerve or the integrity to carry through this investigation which involves our own house."

He said his proposal was designed to end any question as to whether the conduct of Senators was a legitimate avenue of investigation for the Rules Committee.

What Senator WILLIAMS proposed was in direct line with what Senator CLIFFORD CASE had sought the previous day before the committee. Senator CASE suggested that each Senator be asked about his business dealings with Bobby Baker and whether or not he had received any campaign contributions or other forms of assistance from Baker. Democratic Senators refused, and they defeated the resolution 42 to 33 yesterday.

Personally, we see nothing horrible or out of line either with the Williams proposal or the suggestion put forward by Senator CASE. Whether they think so or not, members of the Senate have no special immunity from answering questions about their official conduct. In fact, as elected public servants there is even more reason for them to come clean on any dealings they have had with Baker than there is for private citizens.

This goes for Republicans and Democrats alike, and if a Senator has nothing to hide or nothing to fear from having to answer a few simple questions under oath about his conduct, there is no legitimate reason to raise such a loud ruckus as these protesting Senators have done.

As Senator WILLIAMS has pointed out, the people of this country have good grounds to wonder just how thoroughly this Baker investigation has been carried out to date, and the hot-tempered outbursts by various Senators condemning any action to include Members of the Senate in the investigation certainly tend to increase public suspicion that this whole matter is being deliberately given a thick coat of whitewash.

More than that, the unwillingness of many Senators, particularly on the Democratic side of the fence, to expose themselves and their activities to questioning from one of their own investigative committees raises a very serious doubt in this election year as to whether or not a majority of the Senate Members really want the full story of Bobby Baker's influence-peddling activities brought to light.

No investigative body in this Nation can retain public confidence in its thoroughness and impartiality if it considers its own Members as untouchables not subject to procedures applied to everybody else.

This is exactly what the Democratic majority is doing as regards this Bobby Baker case today, and the more that certain Senators oppose any broadening of the probe the more convinced the man on the street becomes that there's a lot more dirt in this case that remains to be brought out into the open.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on civil rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be permitted to yield to the Senator from Tennessee [Mr. GORE] for a statement and such colloquy as he may wish to engage in with the Senator from Connecticut [Mr. RIBICOFF] without losing my rights to the floor, and without my subsequent remarks constituting an additional speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. Mr. President, it is my purpose to discuss the provisions of the Dirksen-Mansfield substitute insofar as the provisions thereof relate to title VI. I am fully aware that a vote will be held on cloture on tomorrow, and that the hour is late. Perhaps it is too much to hope, but nevertheless, I do hope that Senators will, before the vote on cloture tomorrow, read what I have to say, and I hope they will decide against voting for cloture until title VI has been clarified.

On the 25th of April, I addressed the Senate at some length, at which time I outlined my serious reservations about the provisions of title VI in the bill before the Senate. Among other things, I was concerned about ambiguities in the language, the lack of precise limitations on the coverage of the bill, and the manner in which the prohibitions of title VI were to be implemented. On the basis of my review of the language in the Dirksen-Mansfield substitute, I am pleased to note that, though still far from satisfactory, this language is a substantial improvement over the language of the bill, insofar as clarity is concerned.

In the substitute, the language of section 602 has been revised to eliminate the confusion caused by the use of the word "may" in the original bill, rather than the word "shall" on line 6 of page 26.

As I have previously indicated to the Senate, it seemed clear to me that the use of the word "may" would have the effect of authorizing alternate methods of implementing the provisions of section 601. Under the language of the bill, action might be taken to terminate Federal aid either by using the procedure specified in section 602, or by using some other method which is not specified in the bill and not limited or restricted in any way.

The revised language makes it clear that if the departments and agencies of the Federal Government described in section 602 take any action to withhold or terminate Federal financial assistance, such action must be taken in conformity with the so-called safeguard provisions outlined in section 602 and section 603.

I hasten to add, however, that not all Federal aid programs are described or are included in section 602. As I shall indicate in greater detail later, the revised language of the substitute does not resolve certain questions about the relationship between sections 601 and 602. It does, however, clear up in a manner satisfactory to me the ambiguity as to the type of procedure which the bill would require the departments and agencies referred to in section 602 to follow.

In one other respect the language in title VI of the substitute constitutes an improvement over the language in the original bill. The additional language inserted in section 602 is apparently designed to express an intent, that if Federal aid is withheld or terminated such action will be taken only with respect to the particular geographic areas of the State in which discrimination is found.

Concern had been expressed by some, including myself, that the language of the bill would authorize termination of aid to an entire State, even though the discrimination might be alleged to exist in only one county of that State. The language of the substitute, even though intended to prevent this result, does not, in my opinion, do so in many programs. There are many types of Federal aid programs. The procedures by which these programs are administered vary substantially. Under those programs which are administered by the States, statutory requirements may preclude the termination or the withholding of aid on any basis other than a statewide basis. In such cases those who would administer the provisions of title VI, under either the language of the substitute or the language of the original bill, might well find that they must terminate aid to the entire State or not terminate it at all. In many aid programs, the State is the "recipient" of the "assistance." In such cases, there is no direct relationship, contractual or otherwise, between the Federal Government and a local political subdivision.

Mr. RIBICOFF. Mr. President, will the Senator from Tennessee yield at that point?

The PRESIDING OFFICER (Mr. KENNEDY in the chair). Does the Senator from Tennessee yield to the Senator from Connecticut?

Mr. GORE. I am glad to yield.

Mr. RIBICOFF. The Senator from Tennessee has been consistent throughout in his arguments. The additional language placed in the so-called Mansfield-Dirksen substitute has been the result of some of the fears and doubts continuously expressed by the Senator from Tennessee.

It should be pointed out that the new language mentioned by the Senator from Tennessee provides that any fund cutoff must be limited not only to the particular program in which discrimination occurs, but also must be limited to the part of the program in which discrimination occurs.

It is my understanding, with the language placed in the Dirksen-Mansfield substitute, that what now takes place, and let us use a simple example, is that in a State having 100 counties and receiving $100,000, each county receiving $1,000, should one county discriminate, under the language previously used, it could have been argued that the State would lose $100,000. Under the present language of the Dirksen-Mansfield substitute, it is my understanding that what would actually take place, under those circumstances, would be that the State would receive $99,000, and that they would distribute the $99,000, $1,000 to each of the 99 counties, but would not make any distribution to the one county that was in the process of discriminating.

In this respect, we would be most careful not to punish the innocent part of the State, the 99 counties which have not discriminated.

Mr. GORE. The difficulty there might arise within a State. Distribution of school funds, for instance, is accomplished by formula. In most States it is distributed in accordance with, among other things, the school population—enrollment, in other words. There may be other reasons and other criteria for the distribution of funds. The hypothetical situation which the Senator has described is one which is overly simplified. I doubt that such a situation would exist in any State.

What this boils down to is the inability of the Federal Government to reach a county or a township if the State itself is the recipient of the financial assistance.

The word "recipient," is the key to the interpretation of the provision. Of course, there are a number of Federal aid programs in which the contractual relationship is between the Federal Government and the local political subdivision; such, for instance, as aid to federally impacted school districts. Here there would be no major problem about limiting geographically application of an order terminating aid. In that case, termination of aid would not be affected by State law. But the situation is different in a great many other programs, such, for instance, as aid to vocational agriculture teaching, or aid in the agricultural extension program for home economics teachers. The Senator has been Governor of his State, and I have, before coming to the Senate, been associated with educational programs in my State, so that both of us are familiar with how these programs operate. The contractual relationship in those cases is between the Federal Government and the State.

Mr. RIBICOFF. The Senator is correct.

Mr. GORE. What the Senator has described is a situation in which the Federal Government would put the onus upon the States to discriminate as between counties and communities by withholding funds from some of them, and unless it did so, the Federal funds would be withheld from the entire State.

Mr. RIBICOFF. No. If the Senator will yield further——

Mr. GORE. I am glad to yield.

Mr. RIBICOFF. The Federal Government is not placing the onus upon the State. The Federal Government does say to the State, "There is a Federal law which prohibits discrimination. We do not believe that your State should have a part in this discrimination. It should not cooperate with one segment of your State which is discriminating."

Take an example in the field of public assistance. Public assistance is made available to a State on a statewide basis. Let us say that an audit by the Department of Health, Education, and Welfare indicates that one county is violating the law, or discriminating on some basis that has to do or does not have to do with the problem of race. Today, under those circumstances, the Federal Government, without all the safeguards and exceptions that we now find in the modified title VI, could cut out a proportionate part of the total payment that goes to any State, with the prohibition against giving any of that remaining sum of money to that particular county.

I can understand the problem which is bothering the distinguished Senator from Tennessee. Let us say that in his State there is a State law which requires, by State formula, an equal contribution per child or per district. When funds come in from the Federal Government and are commingled with State matching funds, there is an equality in the distribution formula, the State not wishing to lose Federal funds for its other 99 counties which are not in violation.

I do believe, under those circumstances, that the commissioner of education of a State, or the Governor, could well say—and this is the law—that where there is a conflict between State law and Federal law, there is Federal supremacy. As soon as Federal law makes definite provisions against discrimination, in the use of Federal funds under those circumstances, that part of the State formula in conflict with Federal law would not prevail, and no valid State provisions could require the distribution of Federal funds to a county that was discriminating in violation of Federal law. Under those circumstances, the State and its Governor would be in compliance with Federal law, and it would seem to me, on constitutional grounds, to say to county X, "You are in violation and, under those circumstances, we cannot make a payment of Federal funds to you."

I can understand the fear the distinguished Senator had. He has been consistent in expressing his fear. The modified language was placed in the bill as a result of the questions raised by the distinguished Senator from Tennessee. I believe he has accomplished much to eliminate a basic doubt which always hung over the bill. I think the Senator has accomplished much. If through this colloquy we can straighten out the problem, and indicate what the intention really is, I believe the able Senator from Tennessee has performed a great service.

Mr. GORE. I am very grateful for the very generous comments of my able and distinguished friend, with whom I served in the House of Representatives and in whose home I visited while he was chief executive of his State. I am genuinely grateful to him. I think that in some respects the substitute has made an improvement in title VI, and I am pleased to think that it may be in part the result of my efforts.

I wish, before going to the issue of the colloquy, to make it perfectly plain that I do not support discrimination in the use of public funds in any respect whatever. It seems to me, if there is any area in which discrimination is wholly unjustified, it is in the collection of governmental revenue, the levying of taxes, and the distribution and expenditure of public funds.

This is not a simple question, however. What I have sought to do has been to prevent, or if not prevent, at least to minimize the extent to which innocent people would be made to suffer for the actions of those over whom they have no control.

I wish to refer specifically to old-age assistance, to which the Senator has referred.

Mr. GORE. Mr. President, I ask unanimous consent that I may yield to the Senator from Mississippi.

AMENDMENTS NOS. 1038 THROUGH 1040

Mr. STENNIS. Mr. President, I thank the Senator. I ask unanimous consent that I may submit, out of order, three amendments, that they may be considered as read, in compliance with all the rules of the Senate, and that they may lie on the table.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 1038

On page 13, strike out lines 4, 5, 6, 7, 8, 9, and 10.

On page 13, line 11, strike out "SEC. 303." and insert in lieu thereof "SEC. 302.".

On page 13, line 14, strike out "SEC. 304." and insert in lieu thereof "SEC. 303.".

AMENDMENT No. 1039

On page 17, beginning with line 1, strike out all through line 23 on page 18.

AMENDMENT No. 1040

On page 70, line 1, strike out "INTERVENTION AND".

On page 70, strike out lines 10, 11, 12, 13, 14, 15, 16, 17, and 18.

Mr. GORE. Mr. President, as the distinguished Senator from Connecticut knows, the old-age assistance program is a matching fund program. The Federal Government provides funds, which are matched by State funds and, in turn, matched in smaller part by county funds.

Once the Federal aid is distributed to a State, it is commingled with State funds; indeed, it becomes a part of the State's funds. It is administered as a State fund. I believe this raises serious legal questions as to the supremacy theory, to which the Senator has referred. That is why I said earlier that I thought the keyword here is "recipient."

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. GORE. I should like to proceed one step further before yielding. Once the State is the recipient, the funds are commingled, and then the funds must be distributed and administered under the terms of State law. I would hope that there would be no discrimination in the old-age assistance program anywhere. I know of none in my State. I would denounce the existence of any if I knew of it.

Mr. RIBICOFF. From my experience as Secretary of Health, Education, and Welfare, and in reviewing these programs, I have never come across a situation in which the Federal Government had to step into Tennessee and say, "Tennessee, you are doing the wrong thing in not properly administering Federal funds." That should be made clear.

Going further, with the point the Senator was developing, it is true that these funds go into the State treasury and then are administered by the State. But if there were a Federal cutoff, there would not be an impact on State funds, because the Federal law would follow only the Federal portion that the State received. In other words, as I see it, if we take the sum of $100,000 and it were matched by $100,000 of State funds, and each county received $2,000, and there was discrimination, the State could take its own $1,000, if it wished to do so, and, so far as title VI is concerned, give it to county X, but it could not give the $1,000 of Federal funds to county X.

Therefore, so far as title VI is concerned, the State could administer its own funds and comply with its State requirements, but it could not utilize the Federal matching contribution to go into county X for the particular program in which there was discrimination.

Mr. GORE. Let us suppose that, because of constitutional limitations, conviction or even stubbornness on the part of the legislature, or the decision of the Governor, a State is unwilling or legally unable to withhold funds from a given county. The State might thus fail to comply with the stricture of the Federal agency. Would not the Federal Government, under the terms of this bill, of necessity withhold the funds from the entire State?

Mr. RIBICOFF. Yes; it could. But under those circumstances we would have a situation in which the Governor of a State had entered into complicity with the offending county, and he himself would be putting the State in violation. Under those circumstances the Senator from Tennessee is correct. If he refused to cut off the Federal flow of a particular program into the county, but, in violation of the requirement of Federal law, continued to pay those funds or a part of those Federal funds to a county that was discriminating in the use of those Federal funds, the State itself would then be in violation. It would be my hope, however, that the Governor of each State would be in compliance with Federal law, which would be the supreme law of the land in those circumstances.

Mr. GORE. Mr. President, this is an illustration of what to me is a sad and tragic fact. The theory of the pending bill, the thrust of the bill, the premise of the bill, is that there is no longer room for moderation; there may no longer be gradual progress in this vexatious field, but that this social revolution must be accomplished overnight.

I am sad because I have regarded myself as a moderate on this troublesome question. I have been sincere about it. I have never, one time, gainsaid the Supreme Court decision in the school cases being the law of the land. I did not sign the southern manifesto. I did not undertake to mislead the people of my State into believing that the Supreme Court Justices could be impeached or that Congress could quickly settle the question of race relations. Yet, as I say, it seems that there is no room any more for a moderate. There seems to be no patience with one who believes that better relationships between our races can only come with good will, education, and gradual progress.

Yes, there may be counties, there may be States, in which a majority of the legislature would not enact a law to permit termination or withholding of Federal aid to various counties that may not have accomplished full integration of their schools. Yet if such State failed to withhold funds with respect to Federal aid to education, or other programs, as the Senator has acknowledged, the Federal Government might cut off aid to the entire State. This would punish the people, including the children who may be receiving their only good meal every day from the hot lunch school program, in those counties which had complied fully and in those schools where there had been compliance, because of the action or the refusal to act on the part of others, over which the children had no control and for which they were not responsible.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. RIBICOFF. First, there is always room in the Senate for a man like the Senator from Tennessee. I believe that if he went back in his files, going back even to 1956—and my memory takes me back to an interesting correspondence I had with the Senator from Tennessee involving a man who subsequently became the President of the United States—the Senator may recall that—the Senator would know that I have long been an admirer of his. I was an admirer of his when we served together in the House. I have continued my admiration for him as I have sat with him in intimate discussions as a member of the Committee on Finance.

I believe that there have been few men in the history of the U.S. Senate who have been as constructive in their thinking and as sharp in their perceptions as is the Senator from Tennessee.

It is my feeling that even in the case he is talking about, the cutoff is not the first step but the last step. There are other means that could be used and should be used.

So long as we are in the process of making a record, and so long as this subject is an important one and means so much in this discussion and for the future of the administration of the proposed law, I should like to take a few extra moments, if the Senator would be kind enough to yield further to me, to set out the various steps involved as an alternative to cutoff, the way I think a bill like this should be administered, and the way a department or a bureau should administer it, and the way the President should administer it.

I should like to outline the various steps required by title VI so that there may be an understanding and a meeting of the minds, even though the amendment for which the Senator from Tennessee contends may not be adopted before the bill is finally passed.

Mr. COOPER. Mr. President, will the Senator yield to me for 1 moment?

Mr. BYRD of West Virginia. I yield.

Mr. COOPER. I understand from the Senator's remarks that he intends to outline his views and the alternatives that might be used in eliminating discrimination in programs of Federal financial assistance without cutting off Federal funds or terminating a particular program. I understand that he may become engaged in some lengthy colloquy over that point. Before he does so, would he permit me to make a remark about my colleague, my neighbor from Tennessee?

Mr. RIBICOFF. I should always be pleased to do so, but the Senator from Tennessee has the floor.

Mr. COOPER. Will the Senator from Tennessee yield?

Mr. BYRD of West Virginia. The Senator from West Virginia has the floor.

Mr. RIBICOFF. That is correct.

Mr. COOPER. Mr. President, will the Senator from West Virginia yield to permit me to intervene and make a remark about my neighbor, the distinguished senior Senator from Tennessee?

Mr. BYRD of West Virginia. Mr. President, I yield to the Senator from Kentucky so long as the Senator from Tennessee and the Senator from Connecticut may engage in whatever colloquy they may wish to engage in concerning the matter under discussion.

Mr. COOPER. Mr. President, I have listened today and in past days to the Senator's questions about title VI. Some of the doubts which he has, with regard to title VI have also raised questions in my mind. I have raised these questions on the floor of the Senate. They engaged my attention and interest to such that I submitted certain questions on title VI to the Attorney General in order to secure his views. I have placed in the CONGRESSIONAL RECORD the views which he gave me in his response. I found them to be very fair. But I did not rise to speak about title VI at this time.

A few moments ago I heard the Senator from Tennessee mention his attitude and practice throughout the years on this difficult and controversial question of civil rights. I think I understand how he feels. I live in the neighboring State of Kentucky. In many ways, our States have the same problems. The question of civil rights is a difficult question in his State, as it is in mine. It is also a controversial question.

Throughout the years, I have admired the just approach which the Senator from Tennessee has made toward this question. I have observed his reasonableness, his moderation, his fairness, and his leadership in working to see to it that this problem might be solved. I have admired his great courage.

I wanted to say this to my friend and neighbor, because I appreciate the difficulties a Senator may have who lives in a Southern State, and in a border State, as we both do.

Mr. GORE. I am deeply moved by the generous remarks of my neighbor, my personal friend, the senior Senator from Kentucky. He was a better basketball player than I and he chose to join a political party other than mine. But we both live in the valley of the Cumberland River. He comes from Kentucky; I from Tennessee. Nevertheless, we are neighbors, we are friends. Upon many questions our views are similar. This is but natural, because the sentiments, the aspirations, and the perspectives of the people whom we represent are similar.

I am most grateful to the Senator from Kentucky, and I thank him over and over.

What I was lamenting was that there no longer seems to be an area in which those who are moderates on the civil rights problem can be effective. In both 1957 and 1960, I assisted in writing the civil rights bills which were enacted. I am disappointed that a course has not developed so that we who take a moderate view have not had an opportunity to have a more effective part in the development of the pending bill which in some form will probably ultimately become law.

Some persons may be glad that a moderate has had little voice and little opportunity to influence the shape of this legislation. Many persons feel, quite sincerely, that the day for gradualism and for moderation has passed. But I wonder whether it is wise to conclude that this cataclysmic change can be accomplished and should be accomplished immediately. I doubt it; and I would not like to see innocent persons and worthy programs denied Federal funds and hurt or crippled because of the prevailing sentiment that we must be quickly on with this business and must be quickly through with it. I do not think we shall be quickly through with it, regardless of the laws we enact. It is only by education, tolerance, understanding, good will, and gradual improvement that relations worthy of the great races which inhabit this country can be achieved.

Mr. RIBICOFF. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. RIBICOFF. I wish to comment briefly on the remarks of the Senator from Tennessee. Like the Senator from Tennessee, who is a Senator of great understanding, vision, and compassion, I believe I do understand the situation which exists in the border States; and I believe one of the reasons why Tennessee sends men of such high caliber to Congress is to be found in its makeup, its complexion, and its understanding, for the various points of view do cross in that area. During the debate on the question of agreeing to the Hickenlooper amendment earlier today, I noticed that one of the cities that did the best job in preparing for school desegregation was Chattanooga, Tenn., which did that fine work voluntarily; and another city which did an excellent job was Louisville, Ky. So great credit goes to both of those States.

I opposed the Hickenlooper amendment. I was speaking of desegregation. I believe that Chattanooga, Tenn., will be one of the models to be studied in connection with the achievement of desegregation, and people should study the results achieved in Chattanooga in working toward school desegregation.

The Senator from Tennessee has raised serious questions, and they deserve serious consideration and discussion. I have been given part of the responsibility, by the floor manager of the bill, the Senator from Minnesota [Mr. HUMPHREY], to put forth the case for title VI and to help make the legislative history on this title, and for that reason I was asked to participate in the colloquy with the Senator from Tennessee so that an important record would be made. I agree with the Senator from Tennessee that the problems facing us will not be solved by the passage of the pending bill. It is my feeling that for the next two decades the Senate will be wrestling with various phases of civil rights.

In order to indicate the thinking of the Senate in regard to title VI, I believe it should be made clear that title VI is not intended to be punitive. I believe title VI should be used to end discrimination, not to punish, and the cutting off of funds should be the last resort, not the first one.

I wish to have the Record show at this point how I believe title VI should work and how I believe it will work.

Mr. GORE. I think it would be very helpful to have that statement made for the Record at this point; and I appreciate the diligence of the distinguished Senator from Connecticut, a former member of the Cabinet of the late President of the United States. I realize that certain steps will be taken and so-called safeguard procedures will be followed. Nevertheless, the power to cut off the funds would remain.

However, I shall not comment on the Senator's point before he submits it. Therefore, at this time I yield.

Mr. RIBICOFF. The procedure under title VI would be as follows:

First. The agency would adopt a nondiscrimination requirement by rule, regulation, or order of general applicability.

Second. Such rule, regulation, or order must be approved by the President. I, for one, cannot imagine that there would be a time when any President of the United States would act capriciously.

Third. If discrimination occurred, the agency must advise the appropriate persons of the failure to comply with the nondiscrimination requirement. So if a county—which might be one of 100 counties in a State—discriminated, it must be advised of what it had done or what it had failed to do.

Fourth. The agency must then determine that compliance cannot be secured by voluntary means.

The agency could not immediately cut off the funds. As I view this matter, I hope that in the case of every agency and every county involved, the officials of the agency would sit down with the officials of the county, and would try to settle the problems voluntarily, before any action would be taken, including action to cut off funds, which would be the last resort.

Fifth. If enforcement action was necessary, the agency must then afford the recipients a hearing appropriate to the type of enforcement action that may be necessary. For example, the hearing preliminary to any withholding of funds would have to be more extensive than the hearing that preceded court action in which factfinding would occur de novo under judicial supervision.

Sixth. If, on the basis of the hearing, enforcement action was warranted, the agency then would make its choice of appropriate remedies, bearing in mind the requirement of section 602 that all action to implement section 601 "shall be consistent with achievement of the objectives of the statute authorizing the financial assistance."

The remedies provided by section 602 are withholding of assistance and any other means authorized by law. In general, the consistent-with-the-objectives requirement would make withholding of funds a last resort, to be used only when other means authorized by law were unavailable or ineffective.

To make that clear: The withholding of funds would be the last step to be taken only after the administrator or the agency had used every other possible means to persuade or to influence the person or the agency offending to stop the discrimination.

I can give an example of that: The first day that I became Secretary of the Department of Health, Education, and Welfare, I was confronted with a problem which had arisen in Louisiana. Because of rules and regulations under a statute of the Louisiana Legislature, a situation of discrimination arose in connection with making payments under the program of aid for dependent children.

My predecessor indicated that such action was wrong, and therefore funds had to be cut off. I as Secretary had a right to do so, and my predecessor had a right to do so also.

If my memory serves me rightly, about 70,000 children, both colored and white, were involved. The innocent would have suffered with the guilty if funds had been cut off. That is the problem which is concerning the distinguished Senator from Tennessee.

The Senator from Louisiana [Mr. Long] and other members of the congressional delegation saw me because their Governor was concerned, they were concerned and the people involved in public welfare were concerned. Plain, common humanitarianism was involved. It was necessary that Louisiana comply.

The Louisiana Legislature was not in session. Even if it were the intention of the Governor and the Louisiana Legislature to change the law, they would not come into session until the following year.

I recall many conferences being held with the congressional delegation from Louisiana and attorney general of the State of Louisiana. I recall the many conferences and consultations in which I, personally, played the major part, not allowing it to be left to the staff of the Department. We granted a number of stays in the program to the following year in order to give the Louisiana Legislature time to come into its regular session and then to change the law and eliminate the offending clauses.

The following year the State of Louisiana Legislature met and corrected the law that had been enacted, which was an offending law and which gave me the power to cut off funds.

By a little patience and by waiting a year, although there was pressure from many throughout the country to cut off funds from Louisiana, which I refused to do until the matter was straightened out, the innocent did not suffer and Louisiana did not suffer. Louisiana came into compliance.

My view is that in a State containing 100 counties, something must be involved if 99 counties comply and 1 county does not comply. It seems to me that in such a State there is a general philosophy for compliance. I would feel that public opinion would be most persuasive against the offending county not to jeopardize the funds or to place the Governor in the embarrassing position in which he would be placed because of a conflict between Federal and State law, with the element of supremacy being involved. I believe that under those circumstances the Governor, the agency head, and public opinion would bring about compliance to try to eliminate the discrimination.

I am stating the practical way in which I believe the situation could be worked out, and I believe in many instances it would work out as I have described what took place with the State of Louisiana when I met a problem similar to the one which is worrying the distinguished Senator from Tennessee.

Mr. GORE. The Senator has cited a most interesting example. I was aware of his record with respect to the Louisiana episode. I admire it. I applaud him for his action. It is an example of good will and good administration on the part of a Federal official, and good will on the part of State officials and the State legislature. It worked out satisfactorily.

The illustration also provides, however, an instance in which an order was made by the predecessor of the distinguished Senator as Secretary of Health, Education, and Welfare in which all funds were cut off from the State of Louisiana. I am glad that it was corrected. I applaud the Senator for his record as Secretary of Health, Education, and Welfare.

But suppose that the Senator had followed the course which he was implored to follow by many, as he has related, and had cut off funds from that State. Many an old person would have suffered and many dependent children, the blind, and crippled, would have been denied aid during the year before which the legislature convened.

I do not see the necessity of giving such power to a Federal official. True, the situation worked out well, thanks to the goodness of heart, the tolerance, and the patience of the distinguished Senator when he was Secretary. But we may not always have men of such good will in the future. I do not question the good faith of the present administration or of any future administration, but I must vote as a prudent legislator, not so much on the basis of what probably would happen under a given statute, but on the basis of what could happen.

We must consider the extent of the power granted as well as the probability of whether it will be used. We must assume that sometime in the course of the future the power conferred upon the executive branch will be used.

Mr. RIBICOFF. One of the main thrusts of this colloquy is to indicate to administrators, present and future, how Congress looks upon the utilization of this power. But it should be added—and this ironical—that long before we had the civil rights bill—and we are talking about title VI—there was reposed in agency after agency of the Government, power to cut off funds to different States for various reasons, including discrimination, without the safeguards that are now in title VI. Title VI is more moderate. Title VI would give much greater scope consistent with the philosophy being expressed by the Senator from Tennessee than now prevails in many programs with which we are dealing and which the Congress year after year has enacted. So to that extent title VI would be even an improvement over the point of view taken by the Senator from Tennessee.

Mr. GORE. As the Senator knows, I have expressed appreciation for the improvement which has been made in the draft of the substitute. Unquestionably the statement which the able Senator has made is correct. Yet there are other instances that stand out boldly which appear to me to pose a danger of hurtful action. For example, I cite the payments by the TVA in lieu of taxes to the States and counties in the TVA area. As I understand, the TVA makes payments in lieu of taxes to counties and States in which its properties are located. This is in consequence of a Federal statute. Once the TVA funds are paid to the county, the funds are commingled with other county funds. From those commingled funds a school system is operated. The county may have integrated its central high school but not all of its schools. Under the bill the TVA would be authorized and directed to proceed to promulgate rules and regulations, subject to the approval of the President, under which it could cut off funds to any county in which so much as one local rural school was operated on a segregated basis. Moreover, under this authority, funds payable by TVA to a State might be withheld because of an allegation of discrimination in some State program in only one section of the State.

I do not say that this would be done immediately. Under the present administration, it certainly would not likely be done. But, again I must take my position on the bill on the basis of what could be done, rather than what would be done.

Mr. RIBICOFF. Seventh. Looking first to the "other means authorized by law," the agency could, for example, ask the Attorney General to initiate a lawsuit under title IV, if the recipient were a school district or public college; or the agency could use any of the remedies available to it by virtue of its own "rule, regulation, or order of general applicability." For example, the most effective way for an agency to proceed would often be to adopt a rule that made the nondiscrimination requirement part of a contractual obligation on the part of the recipient. Then violation of such a requirement would normally give the agency the right to bring a lawsuit to enforce its own contract; or, in the absence of a technical contract, the agency would have authority to sue to enforce compliance with its own regulations. All of these remedies have the obvious advantage of seeking to end the discrimination, rather than to end the assistance.

Eighth. If "other means authorized by law" were unavailable or ineffective, then withholding the assistance might be necessary. And, in such event, the consistent-with-the-objectives rule could not be used to undermine the overriding requirement of title VI that some action must be taken to implement the nondiscrimination principle. The withholding could take the form of a termination of existing assistance or a refusal to grant or continue additional assistance.

The procedure for carrying out the fund cutoff remedy would be as follows:

8a. The cutoff must be limited to the program or part of the program in which there was discrimination.

8b. Only the recipient who had failed to comply with the nondiscrimination requirement could be denied the assistance.

Mr. GORE. Now we come to the crucial term, it seems to me, and that is the word "recipient." In the case of a portion of the TVA payments, the State is a recipient. For the remainder the county is the recipient. Funds are paid to both, and yet a part of the county, or a part of the State, may have some segregated schools. I daresay that will be true in many States for a very long while. Moreover, discrimination sought to be eliminated by the bill is not confined to segregation in schools. Discrimination is nowhere defined.

I realize that we must hope that all administrators will be men of compassion and good will. And I indulge in that hope. Without such a hope, one would have fears for the future of self-government.

There is this quality of man that causes our system to survive. And yet, there are unfortunately certain exceptions. Funds might be cut off from an entire State. I know that many people rely upon the provision that the President must approve the regulations to be promulgated under title VI. With all the duties of his high office, the President is not likely to be able to devote his attention to the details of implementing the broad regulations which would be adopted.

Within the framework of such rules and regulations, lesser appointed officials would be determining what constitutes discrimination, and whether or not aid would be withheld because of whatever allegations may have been made.

It seems to me that this is a power which it would be unnecessary and unwise to vest. As the Senator has stated, there are other ways to eliminate discrimination and I would hope that the other ways would be used. What the able Senator is saying is very helpful. It demonstrates that insofar as he is concerned, the passage of this bill is a matter of good will. He does not, as he has expressed it, anticipate that the sledge hammer will fall upon local communities quickly and easily. For myself, I doubt if we should go so far as to grant such authority.

Mr. RIBICOFF. I point out, adding to what the Senator from Tennessee has stated, that not only is the cutting off of funds limited to the recipient who discriminates, but there is another requirement in the new amendment which is, as I said before, a result of the efforts of the Senator from Tennessee. This second requirement limits the effect of any fund cutoff to the particular program or part thereof in which such noncompliance has been so found. The new language spells out very carefully that we do not intend to adopt a sledge hammer approach, taking the entire State, or taking all of the programs, but confining whatever cutoff eventually comes into play to the offending recipient, and then only to the particular program or part thereof, and not to the rest of the program operating elsewhere in the State.

I cannot emphasize this too many times, because I think it is quite important. Although the Senator from Tennessee may not prevail, I think the Senator from Tennessee should have the satisfaction of knowing that his efforts and his persistence have definitely led to a spelling out—to make sure for every Federal agency, and the knowledge of every State—that we are not going to cut off the funds of every State for all programs, but only for that part of the State and that part of the program in which discrimination is involved. I give great credit for this achievement and action in the bill to the Senator from Tennessee.

(At this point Mr. WILLIAMS of New Jersey took the chair as Presiding Officer.)

Mr. GORE. I am very grateful. I hope that our mutual efforts will prevent hardships being worked upon the needy, and will prevent punishment being meted out to the innocent. I do not see the necessity of granting such power as would be conferred by title VI. Unfortunately, the history of government is such that we must assume that a power granted will eventually be used. This will become permanent law if enacted and, therefore, I believe it is the better part of wisdom to proceed cautiously.

I should like to see a more thorough examination of title VI. The colloquy we have engaged in constitutes the most thorough examination that this title has had on the floor of the Senate on this point. I would that there could be more colloquy, but we are faced with a cloture vote tomorrow. I fear that, once cloture is voted, scant consideration will be given to amendments which are offered.

Mr. RIBICOFF. Continuing with the procedure—

8c. There must be an express finding on the record, after opportunity for hearing, that such recipient had failed to comply with the nondiscrimination requirement.

8d. The head of the department or agency involved must file a full, written report to the appropriate committees of Congress, explaining the circumstances and the grounds for the proposed action.

8e. Thirty days must then elapse after the filing of such report before cutoff of funds could occur.

8f. The recipient could obtain judicial review of the agency's action under section 10 of the Administrative Procedure Act, which includes authority for a stay pending review.

Ninth. Section 603 makes clear, in addition to the specific judicial review of any fund cutoff action that all other agency action taken under section 602 would be subject to the same type of judicial review provided by law for similar action taken on other grounds.

That is the procedure of title VI. I believe that it is fair and reasonable. It authorizes no action beyond that needed to secure a right that all agree should be secured, the right of nondiscrimination in federally aided programs. At the same time, it is difficult to see how that right could be secured with anything less than what will be authorized in title VI.

Now, that I have had this colloquy with the Senator from Tennessee, I realize how deeply he feels about this subject, and how important it is for Congress and for the future to make the record clear.

I have tried in my small way to add to the explanation being made by the Senator from Tennessee.

I conclude with very high praise for the good will, the good intentions, and the great ability of the Senator from Tennessee.

Mr. **GORE**. I thank my distinguished friend the Senator from Connecticut very deeply. I am most grateful for his generous remarks, and for his willingness to engage in this colloquy at this late hour.

Perhaps the colloquy itself, should the bill become law in its present form, will prove to be helpful.

Through all of the colloquy looms the extent of the power which this bill would confer upon the Federal Government to withhold financial assistance to community programs, to projects, and to people, as a means of forcing conformity.

It is true that safeguard procedures would obtain. The 30-day waiting period would be worth something. I doubt whether appeal to the courts under the Administrative Procedure Act would be worth much. All these safeguard provisions, however, are worth while. They stand between the innocent people, the worthy programs, and the needy communities and the ultimate cutoff of funds. But these procedures constitute only a procedural matter, a timelag. The ultimate authority is vested in the bill to cut off the funds.

Federal aid has so permeated our system, our way of life, that there is hardly any segment of the economy or the social order that is not affected directly or indirectly by Federal aid.

Our merchant marine sails the high seas only because of Federal aid. Our airports are constructed, many of our homes are constructed, farm-to-market roads and Federal highway systems are constructed with Federal aid—in fact, there are so many Federal aid programs that the Library of Congress has been unable to enumerate them all.

Many amendments have been offered in the last 10 years to authorize or direct termination of Federal aid in various programs unless certain civil rights requirements were met. The list of these amendments is a long one. Suffice it to say that up to now Congress has rejected each amendment offered for this purpose. But title VI of the pending bill would affect every law that we have which provides for Federal financial assistance—every program, without describing exactly how it would affect any of them.

Mr. President, this points up the difficulty of finding language adequate to meet the problem sought to be reached by title VI. We do not even have an enumeration of the programs which would be affected by title VI, much less do we know the precise way in which some programs might be affected.

Some weeks ago, I asked the Legislative Reference Service of the Library of Congress to prepare for me a list of the Federal programs which would fall within the purview of title VI. In response to that request, I received a memorandum under date of April 30 with which was enclosed a compilation of programs involving Federal aid to State and local governments. The list of Federal programs is 11 pages long. Significantly, the Library of Congress experts were unable to certify either that the list is complete or that all the programs listed thereon would actually be affected. I quote one sentence from the memorandum which accompanied the list. It states:

> The most that can be said by way of a general statement is that the programs listed may fall within the scope of that title.

I ask unanimous consent that the memorandum from the Library of Congress together with the compiled list of Federal programs may be printed in the Record.

There being no objection, the memorandum and list were ordered to be printed in the Record, as follows:

THE LIBRARY OF CONGRESS,
LEGISLATIVE REFERENCE SERVICE,
Washington, D.C., April 30, 1964.

To: Hon. Albert Gore.
From: American law division.
Subject: Federal aid to State and local governments.

In response to your inquiry of April 30, 1964, we have prepared the annexed compilation detailing Federal aid to State and local governments and federally assisted education programs.

For a variety of reasons, it is difficult, if not impossible, to compile an all-inclusive list of programs and activities which potentially fall within the provisions of title VI. The following list should not, therefore, be taken as definitive or all inclusive. Nor, is it meant to suggest that every program reflected therein would be affected by title VI, if enacted. The most that can be said by way of a general statement is that the programs listed may fall within the scope of that title.

The information contained on the list has been taken from the Budget of the U.S. Government, fiscal year ending June 30, 1965 (Appendix, H. Doc. 266, 88th Cong., 2d sess.), and special analysis I, "Federal Aid to State and Local Governments." New programs which, although listed in the budget, are not yet authorized, have been omitted.

RAYMOND J. CELADA,
Legislative Attorney.

FEDERAL AID TO STATE AND LOCAL GOVERNMENTS

(As reflected in the budget of the United States Government for the fiscal year ending June 30, 1965. Statutory citations added.)

NOTE.—Types of Federal aid: Federal financial assistance to State and local governments takes the form of direct grants-in-aid, shared revenue, and net loans and repayable advances. Grants to States and localities are the most significant type of Federal aid. In 1965, it is estimated that $10.2 billion or 96 percent of total expenditures for all three types of aid will take the form of grants-in-aid. Shared revenue will account for $183 million, or 1.7 percent, and net loans and repayable advances, $203 million, or 1.9 percent of the grand total. Apart from these types of Federal aid, many other Federal expenditures * * * such as contractual payments or grants to public institutions for research and training in special fields, affect the finances of State and local governments. [Special analysis I, "Federal Aid to State and Local Governments," Bureau of the Budget, January 1964.]

(Follows table I-3, Federal aid to State and local governments, special analysis I, Id. at 431.)

I. Grants-in-aid (Budget accounts).

A. National defense:

1. (1) Office of Emergency Planning: Federal contributions to the States for civil defense purposes, 50 App. U.S.C. 2281.

2. (2) Department of Defense-Military: Civil defense shelters and financial assistance for civil defense purposes, 50 App. U.S.C. 2271 note.

3. (3) Construction of Army National Guard centers, 10 U.S.C. 2231–2238.

B. International affairs and finance:

4. Department of State: East-West Cultural and Technical Interchange Center, 22 U.S.C. 2452.

C. Agriculture and agricultural resources: Department of Agriculture:

5. (1) Commodity Credit Corporation and Agricultural Marketing Service: Removal of surplus agricultural commodities and value of commodities donated, 7 U.S.C. 612–626, 1431 et, seq.

6. (2) Watershed protection, flood prevention, and resource conservation and development, 16 U.S.C. 1001–1009.

7. (3) Cooperative agricultural extension work, 7 U.S.C. 341–346.

8. (4) Agricultural experiment stations, 7 U.S.C. 361a–389a; Public Law 88–74.

9. (5) Payments to States, territories, and possessions, Agricultural Marketing Service, 7 U.S.C. 1621–1630.

D. Natural resources:

10. (1) Department of Agriculture: Forest protection and utilization, 16 U.S.C. 502a–502a–507.

11. (2) Department of Defense-Civil: Corps of Engineers: Payment to California, flood control, 33 U.S.C. 511–523, 540, 701.

3. Department of the Interior:

12. (a) Bureau of Reclamation: Disposal of Boulder City and Coulee Dam communities, 71 Stat. 530.

13. (b) Bureau of Indian Affairs: Resources management, 25 U.S.C. 7, 13, etc. See page 481, House Document No. 266, 88th Congress, 2d session.

14. (c) Drainage of anthracite mines, 30 U.S.C. 572.

15. (d) Federal aid for fish and wildlife restoration, 16 U.S.C. 777–777k; 669–669j.

E. Commerce and transportation:

16. (1) Funds appropriated to the President: Public works acceleration, 40 U.S.C. 462; 42 U.S.C. 2641–2643.

2. Department of Commerce:

17. (a) State marine schools, 46 U.S.C. 1381–1388.

18. (b) Forest and public lands highways, 23 U.S.C. 201.

19. (c) Control of outdoor advertising, 23 U.S.C. 131.

20. (d) Area redevelopment assistance, 42 U.S.C. 2501–2525.

21. (3) Federal Aviation Agency: Federal-aid airport program, 49 U.S.C. 1101–1119.

22. (4) Small Business Administration: Research and management counseling, 15 U.S.C. 636.

F. Housing and community development:

1. Housing and Home Finance Agency:

23. (a) Low-income housing demonstration program, 42 U.S.C. 1436.

24. (b) Low-rent public housing program, 42 U.S.C. 1401–1435.

25. (c) Urban renewal and planning, 40 U.S.C. 461–462; 42 U.S.C. 1450–1462.

26. (d) Open space program, 42 U.S.C. 1500–1500e.

27. (2) National Capital Planning Commission: Acquisition of lands in Maryland, 40 U.S.C. 70–72.

28. (3) District of Columbia: Federal payment and contribution, annual authorization.

G. Health, labor, and welfare:

29. (1) Funds appropriated to the President: Disaster relief, 42 U.S.C. 1855.

30. (2) Department of Agriculture: School lunch, special milk, and food stamp programs, 42 U.S.C. 1751–1760; 7 U.S.C. 1446; 7 U.S.C. 612.

3. Department of Health, Education, and Welfare:

31. (a) Hospital construction activities, 42 U.S.C. 291–291n.

32. (b) Portion to private, nonprofit institutions, ibid.

33. (c) Construction of waste-treatment facilities, 33 U.S.C. 466e.

34. (d) Community health activities, 42 U.S.C. 247a.

35. (e) Environmental health grants, 42 U.S.C. 1857–57f.

36. (f) National Institutes of Health: (1) Operating grants, 42 U.S.C. 246; (2) Mental health facilities, 42 U.S.C. 242b.

37. (g) Maternal and child welfare, 42 U.S.C. 701–705.

38. (h) Mental health facilities, Alaska, 42 U.S.C. 273.

39. (i) Hospital and medical care, Hawaii, 42 U.S.C. 255.

40. (j) Indian health facilities, 42 U.S.C. 2001–2005a.

41. (k) Public assistance, 42 U.S.C. 303.

42. (l) Vocational rehabilitation, 29 U.S.C. 31–41.

H. Education: 1. Department of Health, Education, and Welfare:

43. (a) Assistance to schools in federally affected areas, 20 U.S.C. 631–645; 20 U.S.C. 236–244; b. Defense educational activities:

44. (1) Assistance for elementary and secondary education, 20 U.S.C. 441–445, 481–484.

45. (2) Other aid to education, 20 U.S.C. 461–465 (graduate studies); 421–429 (students in institutions of higher learning); 20 U.S.C. 441–445 (mathematics, science, foreign language training); 331–332 (cooperative research).

46. (3) Higher education construction, Public Law 88–204.

47. (4) Assistance to land-grant colleges, 7 U.S.C. 301–308, 321–331.

48. (5) Vocational education, 20 U.S.C. 11–34.

49. (6) Grants for library services, 20 U.S.C. 351–358.

50. (7) Teaching for the blind, 20 U.S.C. 101–105.

51. (8) Training teachers of the handicapped, 20 U.S.C. 611–617 (mentally retarded); 671–676 (deaf).

52. (9) Educational television facilities, 20 U.S.C. 541–542.

53. (c) Department of the Interior: Bureau of Indian Affairs: Education and welfare services, 25 U.S.C. 452–454.

I. Veterans benefits and services: 1. Veterans Administration:

54. (a) Aid to State homes, 38 U.S.C. 641–643.

55. (b) State supervision of schools and training establishments, 38 U.S.C. 1645, 1774.

J. General government:

56. (1) Funds appropriated to the President: Transitional grants to Alaska, 48 U.S.C. (prec.) 21 (Alaska Omnibus Act).

57. (2) Department of the Interior: Grants to territories and Alaska public works, 48 U.S.C. 486i.

58. (3) General Services Administration: Hospital facilities in the District of Columbia, see p. 703, H. Doc. No. 266, 88th Cong., 2d sess.

II. Shared revenue (Budget accounts):

A. Natural resources:

59. (1) Department of Agriculture: National forest and grassland funds, payments to States and counties, 7 U.S.C. 1012; 16 U.S.C. 500.

60. (2) Department of Defense-Civil: Corps of Engineers: Flood Control Act of 1964 payments, 16 U.S.C. 460d.

3. Department of the Interior:

61. (a) Payments to States and counties from graying receipts, sales of public lands and proceeds, and national grasslands, 43 U.S.C. 315i, 315j.

62. (b) Boulder Canyon project, payments to Arizona and Nevada, 43 U.S.C. 1607a.

63. (c) Oregon and California land-grant fund payments, 16 U.S.C. 583, 594; 4 U.S.C. 1, 2.

64. (d) Payments to Coos and Douglas Counties, Oregon, 53 Stat. 753–54.

65. (e) Mineral Leasing Act payments, 30 U.S.C. 191, 285.

66. (f) Payments to counties, Migratory Bird Conservation Act and national grasslands, and payments to Alaska, Alaska Game Law and Privilof fund, 7 U.S.C. 1012, 16 U.S.C. 631e, 715e, 48 U.S.C. 166k.

67. (4) Tennessee Valley Authority: Payment in lieu of taxes, 16 U.S.C. 8311.

68. (5) Miscellaneous shared revenue.

B. General government:

69. (1) Department of the Interior: Internal revenue collections, Virgin Islands, 48 U.S.C. 1642.

70. (2) Treasury Department: Tax collections for Puerto Rico, 48 U.S.C. 734.

III. Loans and repayable advances (Budget accounts):

A. Agriculture and agricultural resources:

1. Department of Agriculture:

71. (a) Rural renewal, 40 U.S.C. 440.

72. (b) Watershed protection, flood prevention and resource conservation and development, 16 U.S.C. 1006a.

B. Natural resources:

73. (1) Department of Interior: Irrigation projects, 43 U.S.C. 421c.

C. Commerce and transportation:

74. (1) Department of Commerce: Area redevelopment, 42 U.S.C. 2505, 2506.

D. Housing and community development:

1. Housing and Home Finance Agency:

75. (a) Liquidation programs: Community facilities loans, 42 U.S.C. 1492.

76. (b) Low rent public housing program, 42 U.S.C. 1410.

77. (c) Public facilities, 42 U.S.C. 1491–1496.

78. (d) Public works planning, 40 U.S.C. 462.

79. (e) Urban renewal fund, 42 U.S.C. 1452.

80. (2) District of Columbia: Capital outlays and operations, see p. 893, H. Doc. No. 266, 88th Cong., 2d sess.

E. Education:

81. (1) Housing and Home Finance Agency: College housing, 12 U.S.C. 1749–1749d.

82. (2) Department of Health, Education, and Welfare: Higher education construction, Public Law 88–204.

F. General government:

83. (1) Department of Defense—Civil: Corps of Engineers: Construction of power systems, Ryukyu Islands, 74 Stat. 461, as amended 76 Stat. 742.

84. (2) Department of the Interior: Alaska public works, 48 U.S.C. 486–486j.

IV. Grants-in-aid (trust funds).

A. Commerce and transportation:

85. (1) Department of Commerce: Highway trust fund: Federal-aid highway program, 23 U.S.C. 120 note.

B. Health, labor, and welfare:

86. (1) Department of Labor: Unemployment trust fund: Administration of employment security programs, 42 U.S.C. 1104, 1321.

V. Shared revenue (trust funds).

A. General government:

87. (1) Treasury Department: Bureau of Customs: refunds, transfers, and expenses of operations, Puerto Rico and Virgin Islands, 48 U.S.C. 740; 48 U.S.C. 1642.

FEDERAL ASSISTED EDUCATION PROGRAMS

1. Colleges of Agriculture and Mining, 7 U.S.C. 329.

2. Cooperative vocational education, 29 U.S.C. 31.

3. Assistance for school construction (impacted areas) 20 U.S.C. 631–645.

4. Maintenance and operation of schools (impacted areas), 20 U.S.C. 236–244.

5. Library services, 20 U.S.C. 351–358.

6. Defense education activities:

(a) Loans to students in institutions of higher education, 20 U.S.C. 421–429.

(b) Financial assistance for strengthening science, mathematics, and modern foreign language instruction, 20 U.S.C. 441–445.

(c) Aid to graduate fellowships, 20 U.S.C. 461–465.

(d) Aid to State educational agencies for guidance, counseling, and testing, 20 U.S.C. 481–484.

(e) Language development, 20 U.S.C. 511–521.

(f) Aid to research and experimentation in more effective utilization of television, radio, motion pictures, and related media for educational purposes, 20 U.S.C. 541–542.

7. Expansion of teaching in education of the mentally retarded (to States), 20 U.S.C. 612.

8. Expansion of teaching in education of the mentally retarded (to individuals), 20 U.S.C. 611.

9. Cooperative research in education, 20 U.S.C. 331–332.

10. Fellowships and assistance to schools (Atomic Energy Commission), 42 U.S.C. 2201.

11. Research grants awards (National Science Foundation), 42 U.S.C. 241.

12. Fellowship Awards (National Science Foundation), 42 U.S.C. 289c.

13. Higher education, construction, Public Law 88–204.

Mr. GORE. Mr. President, I recognize the difficulty of drafting language which would authorize termination of an aid program in only one county or in only several counties of a State when the funds are actually administered and used by the State itself. I have sought to draft such language, but without entirely satisfactory results. I have concluded on the basis of my own study that there are a number of Federal aid programs under which it would not be feasible to terminate aid on a county-by-county basis. Faced with a decision of whether to terminate aid on a statewide basis or not to terminate it at all, administrators might well decide to terminate aid in an entire State even though the allegation of discrimination pertained only to one county. The result would be penalizing citizens in one area of a State for actions or omissions by persons in another area of the State over whom the penalized citizens have no control whatever.

From the standpoint of clarity, the language of the substitute is, as I have said, an improvement over title VI of the pending bill. Aside from the question about whether the revised language concerning the pinpointing of aid termination is effective, however, there are other serious questions about title VI of the bill that are not resolved by the new language at all.

There still remains the question of whether the broad language of section 601 is fully limited by the language of section 602. If the provisions of 601 are not so limited, as I believe to be the case, then section 601 might well be interpreted as conferring statutory authority which might be implemented by means other than those prescribed by section 602.

Section 601 of the substitute provides:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

I emphasize the words "any program."

Section 602 states the procedures by which section 601 will be implemented by:

> Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guarantee.

The quoted language from section 602 includes most of the Federal programs or activities receiving Federal financial assistance. But it does not include them all. Clearly the insurance and guarantee programs of the Federal Housing Administration and the Veterans' Administration are excluded from the provisions of section 602. So are the programs for Federal deposit insurance, Federal savings and loan insurance, Federal crop insurance, and perhaps others.

The agencies excluded from the language of section 602, it would seem clear, are not authorized to take any action whatever under the provisions of section 602. It is just as clear, on the other hand, that these programs are included within the broad terms of section 601. If the insurance and guarantee program administrators are not to follow the procedures of section 602 in eliminating discrimination, what procedures are they to follow? On this question this bill is silent.

It has been suggested that this bill is not intended to affect the inherent authority of the President nor to diminish whatever statutory authority the President now has to eliminate discrimination in Federal aid programs. While that may be the intent of some of the proponents of the bill, that is not necessarily how the bill would be construed by the courts. The most fundamental of all rules of construction is that the Congress intended to do what it did do.

If section 601 should be construed as creating rights or as affecting existing statutes—and unless it does one or the other, it serves no purpose—we should be certain how the rights created are to be protected with respect to all Federal programs—not just some of them or most of them.

I am concerned that section 601 under the language of the substitute might be interpreted as creating a statutory basis for a wide range of Executive orders which could be implemented outside the scope of the safeguard provisions of section 602. From a careful reading of the substitute, the conclusion is inescapable that section 602 does not apply at all to some of the more important programs of Federal financial assistance.

The substitute, like the original bill, fails to include religious discrimination as an evil which should be eliminated from programs of Federal financial assistance. Religious discrimination is prohibited in the titles relating to voting, public education, public accommodations, public facilities, and employment. Only title VI and title X—the latter relating to the community relations service—fail to make provisions for elimination of religious discrimination. Indeed, these examples constitute the only legislative language I can recall being proposed in the Congress in the field of civil rights that would not seek to ban discrimination on the basis of religious beliefs.

I discussed this omission at some length when I addressed the Senate on April 25. No answer satisfactory to me was offered then as to why we should suddenly forget about religious discrimination when discussing Federal aid. I am not persuaded that religious discrimination has been eliminated from national life, nor has any reason been suggested as to why religious discrimination must be prohibited by Federal law in public facilities operated by the States and municipalities but not mentioned in programs financed with Federal tax dollars. Surely, to the extent that it exists, there is no more invidious discrimination than that which has as its basis the religious beliefs of a citizen.

We seek to eliminate religious discrimination from the ballot box—and we should. The pending bill would seek to prohibit religious discrimination by a private citizen in the operation of his privately owned business and in the employment of persons he hires with his own money. If the Congress is to seek to compel private citizens not to discriminate on the basis of religious belief, surely, we should include religion as a type of discrimination not to be tolerated in programs financed by the Government itself.

If title VI is to be enacted into law and if it is to achieve its announced objectives, it should rest solidly upon principle and conviction. There is enough politics in the bill already. The Congress should not compound the political implications by resorting to a type of expediency so blatant as to undermine faith in the overall congressional intent.

Finally, Mr. President, the substitute language of title VI suffers from the same basic defect in approach as does title VI of the bill. It fails to define the evil it is suposed to correct. Discrimination is no more defined in the substitute than in the original version of title VI.

Whatever coverage may be specified, whatever procedures may be prescribed, whatever safeguards may be written into the bill, Congress will still be delegating to the Executive the authority to specify the terms and conditions upon which Federal aid will be made available.

I have previously referred to a memorandum from the Library of Congress which indicates that the Legislative Reference Service has been unable even to compile a complete list of the Federal programs which might be affected by title VI. No standards are prescribed, no guidelines are set forth by which those who would administer the title would determine what constitutes discrimination. Those who administer the various programs presumably would determine in each case the circumstances by which a "recipient" would be determined to have subjected someone to discrimination. The Congress should reserve such authority to itself. Otherwise, it will have suffered a serious diminution of its capacity to influence the affairs of our society.

Mr. BYRD of West Virginia. Mr. President, I take the floor at this time to urge Senators not to vote to invoke cloture tomorrow.

There is a serious question in the judgment of many Senators, and many persons outside the Senate, regarding the constitutionality, the wisdom, and the enforceability of the proposed legislation.

It is several highly controversial bills rolled into one bill. It constitutes government by injunction. It would not create civil rights. It would destroy civil rights.

What are the civil rights of Americans? The right to serve on juries, the right to a jury trial, the right of the accused to be confronted with the witnesses against him, the right to be secure in one's person, his house, his papers, and his effects from unreasonable searches and seizures; the right to own property; the freedom, within certain bounds, to speak; the freedom to petition one's government concerning grievances.

These are among the civil rights of Americans, and they are not confined to white Americans; they are assured to all Americans, white and nonwhite, by the Federal Constitution, the Federal Bill of Rights, and the amendments thereto.

Mr. Justice Douglas, in *Lerner* v. *Casey*, 357 U.S. 468, said:

> Among the liberties of the citizens that are guaranteed by the 14th amendment are those contained in the first amendment * * *. These include the right to believe what one chooses, the right to differ from his neighbor, the right to pick and choose the political philosophy that he likes best, the right to associate with whomever he chooses, the right to join the groups whom he prefers, the privilege of selecting his own path to salvation.

I have enumerated but a few civil rights of the American people. These are civil rights which they already possess.

As I have indicated and as I repeat, the bill would not create any new civil rights.

In my judgment it would impair the civil rights of all Americans. It cannot be justified on any basis—legal, economic, moral, or religious.

The only weapon in the hands of those of us whose deep, conscientious convictions lead us to oppose certain provisions of this bill is the weapon of continued discussion and debate.

If closure is adopted, and if the gag rule is invoked, all will be lost. We do not have the votes to delete titles which are bad. It is sheer folly to vote for closure believing that we can subsequently amend the bill so as to eliminate its faulty provisions.

We are urged by some to vote on the bill, so it will be out of the way before the presidential nomination conventions. This is no excuse for passing a bad bill. We are told that we must pass this bill or remain here all summer. Even though we were forced to stay here through Christmas, it would be all right with me, because in my judgment this is no good reason for passing a bad bill.

Some say we should pass this measure so that we can move on to other legislative matters which await our attention. This is not justification for passing a bad bill.

The leadership can simply set the bill aside, and the Senate can get on with other business.

The people are becoming more and more aware that this is not a bill which is in the best interests of the Nation. They are becoming aware, or they should become aware, that it is only a political grab for votes.

If cloture fails, and the Members of the House and the Senate have an opportunity to go home and sound out the sentiments of the people at the grassroots, the bill in its present form will never again be before the Senate.

If the proponents are able to secure the necessary two-thirds to invoke closure and shut off debate, millions of our well-meaning but unknowing citizens who have exerted pressure in behalf of this bill will find out, when it is too late, that they have made a mistake.

Mr. President, I voted for the 1957 Civil Rights Act. I voted for the 1960 Civil Rights Act. I voted for the resolution proposing a constitutional amendment to abolish the poll tax as a prerequisite for voting in Federal elections.

There are some titles in the pending bill and some provisions in other titles that I could support. However, I am under no illusions, if cloture is invoked, that we shall be able to strike those titles which I consider to be dangerous, unconstitutional or unwise or unenforcible. I am aware that the leadership has the votes to beat down all amendments, or at least I presume that the leadership has the votes so to do. Once cloture is invoked, the Senate will adopt the amendments that are agreeable to the combined leadership on both sides of the aisle. In my judgment, there is probably an understanding that all amendments other than those included in the so-called substitute are to be tabled or voted down; and it would be an exercise in futility to attempt to delete any objectionable provision.

So whatever hope one may have to delete objectionable titles will certainly be in vain if and when cloture is invoked.

I know there is much criticism concerning the so-called filibuster. But I do not consider the debate that has taken place on the bill to have been a filibuster. The debate has been germane and to the point. Naturally, it has been redundant and repetitious at times. It could not be otherwise, having extended over as long a period as it has extended. I feel that history will not be unkind to those who have resorted to this final weapon in order to protect constitutional government in this Republic.

I am not a member of the southern bloc, and I am not a member of any other bloc, whether it be northern, eastern, or western. I do not consider myself to be joined to any group in the Senate in connection with this bill or any other bill. I view this bill as one which is not at all sectional in its impact. Its impact will be upon all sections of the country. Consequently, I feel that it is my duty to present my views in the matter and to stand in opposition to those provisions which I find objectionable.

First of all, I am opposed to the procedures under which the bill has reached its present status. One must place one's objections in the overall context of the life of the bill, beginning even in the other body. Knowledge of the manner in which the bill was railroaded out of committee in the House of Representatives should alarm anyone who views with concern arbitrary and authoritarian procedures which serve to circumvent and to thwart adequate deliberation and consideration of highly controversial legislation such as this.

A reading of the House minority report which accompanied H.R. 7152 in its hasty and premature birth will, figuratively, shake one's teeth and perhaps curl one's hair if one has any respect whatsoever for orderly legislative methods and procedures.

Beginning at page 62 of the House report which accompanied H.R. 7152, the so-called civil rights bill, we find this statement:

> This legislation is being reported to the House without the benefit of any consideration, debate, or study of the bill by any subcommittee or committee of the House and without any member of any committee or subcommittee being granted an opportunity to offer amendments to the bill. This legislation is the most radical proposal in the field of civil rights ever recommended by any committee of the House or Senate. It was drawn in secret meetings held between certain members of this committee, the Attorney General and members of his staff and certain select persons, to the exclusion of other committee members.
>
> Sometime prior to October 22, 1963, Subcommittee No. 5 of the Judiciary Committee of the House of Representatives had prepared a substitute bill for H.R. 7152. Title I of the substitute was read and discussed by the full Judiciary Committee prior to October 22, and at a meeting held on that date a motion was made by the gentleman from West Virginia—

Meaning Mr. Moore—

> to report the subcommittee substitute to the House of Representatives. Before final action could be had on this motion, a point of order was made that the House of Representatives was then in session. The chairman of the committee called a meeting for the following morning, the 23d, and then on the 23d, within an hour of the time of the meeting it was postponed to the 24th, and then on the 24th, a short while before the meeting was scheduled, it was postponed again, and later postponed to Tuesday, October 29. These various postponements were made by the chairman without any prior consultation with any of the signers of this report.
>
> On October 29, the full committee met at 10:30 a.m. The motion of the gentleman from West Virginia—

Again referring to Mr. Moore—

> was promptly voted down, after which Chairman Celler offered a 56-page mimeographed substitute which he described as an amendment and moved that the committee approve the bill. The chairman announced that he would recognize a member of the committee to move the previous question and in it were ordered that no amendments could be offered to his proposal; no debate had; and no questions asked or answered.
>
> The bill was, upon order of the chairman, read hastily by the clerk, without pause or opportunity for amendment. Several members of the committee repeatedly requested to be permitted to ask questions, have an explanation of the bill, discuss it, consider its provisions, and offer amendments. The Chair refused to grant such requests or to recognize these members of the committee for any purpose. After the reading of the bill in the fashion hereinabove described, the chairman announced that he would allow himself 1 minute to discuss the bill, after which he would recognize for 1 minute the ranking minority member, the gentleman from Ohio. This was an ostensible attempt to comply, technically, with the rules of the House but did not amount to debate, as debate is generally understood. Neither of these gentlemen discussed the bill for more than 1 minute; both of them refused to yield to any other member of the committee; and neither of them debated the bill nor discussed it in any fashion other than to say that they favored it. They made no effort in the 2 minutes consumed by both together to even so much as explain the provisions of the bill. In short, there was no actual debate or even any opportunity for debate.
>
> Immediately upon the conclusion of the remarks from the gentleman from Ohio, the ranking minority member, the chairman recognized a member of the committee friendly to the chairman's proposal who moved for the previous question. The clerk of the committee immediately called the roll upon the motion to approve the bill and before the tally could be completed or the vote announced, the House was in session. The committee met later in the afternoon and, the tally of vote upon the motion to approve the bill having been completed and announced at the morning meeting after the House session had commenced, a motion was made and adopted that H.R. 7152 be reported to the House. The chairman treated the vote taken upon the bill at the morning session as being valid.
>
> The signers of this minority report in reciting these facts relating to the procedures employed in the full committee do not do so in any captious spirit, but relate these facts to inform the Congress of the tactics employed to bring this bill before the House.

That is an excerpt from the minority report of the House Judiciary Committee on House bill 7152. It was signed by the following Members of the House of Representatives: E. E. Willis, E. L. Forrester, William M. Tuck, Robert T. Ashmore, John Dowdy, Basil L. Whitener.

An excerpt from the separate minority views submitted by Representative Richard H. Poff and Representative Richard Cramer is as follows:

> We regard it as our duty to protest the manner in which this legislation was handled in committee. Without duplicating what others have developed in detail, we must underscore what has been said. If such procedural departures and parliamentary irregularities are countenanced in the future, then the committee system as a functional part of traditional legislative mechanics has expired.

Mr. President, I have read into the Record views expressed by Members of the other body, on both sides of the aisle, constituting part of their minority report.

It is evident that the bill now before the Senate did not receive adequate consideration by the appropriate committee of the other body.

It is apparent that the bill was railroaded to the floor of the House of Representatives, with Members having been given only short notice, as I have already stated, and with Members, other than the chairman and the ranking minority Member, not having any opportunity to ask questions or offer amendments, and with only 1 minute allotted to the chairman and only 1 minute allotted to the ranking minority Member.

When the bill was before the other body, Mr. President, 146 amendments were offered. Of course, some of them were amendments to amendments; and some were substitute amendments.

Seventy-nine of those amendments were adopted or were rejected by voice votes. Therefore, there is no indication as to how many Members of the other body were present when the voice votes were taken on those 79 amendments.

Six amendments were ruled out of order.

Two amendments were withdrawn.

In the case of one amendment, consideration of it was objected to.

Fifty-eight amendments were decided either by division or by teller votes.

I have searched the Record, Mr. President, and I have found that on only 37 of those amendments, decided either by division or by teller votes, there was not present a majority of the Members elected to the other body. In other words, on only 21 amendments, regarding which a vote count was taken, did a majority of the Members elected to the other body participate in voting on the amendments.

Let me also say, Mr. President, that this means that on 63.7 percent of the amendments in the other body, on which the votes were counted, less than a majority of the Members elected were present. So one might say that less than a majority of the Members of the other body were present in the case of two out of every three of the votes taken there on amendments on which the votes were taken in any way by which a count could be had.

There were no rollcall votes on any of the amendments. Therefore, not only was the bill brought to the floor of the other body under strange and arbitrary procedures, but also one must judge by looking at the Record that at least in the case of those amendments which were voted on by count, less than a majority of the Members elected to that body were present to make their views known either in support of or in opposition to the amendments in two of every three instances.

The tactics employed to bring the bill before the other body were shocking, to say the least, and it would be difficult to envision a situation in which those tactics could be surpassed were it not for the fact that such a situation did indeed come to pass.

I have reference to the refusal of the Senate even to refer the bill to the appropriate standing committee or to a specially constituted committee. Some expressed the fear that if the bill were referred to the appropriate committee—the Judiciary Committee—the bill would there die. But the Senate, of course, could refer the bill with instructions that it be reported back to the Senate. Moreover, the Senate could have arranged for a reference of the bill to a specially constituted committee. Such rape of orderly legislative procedures—procedures which have evolved out of long experience—merely indicates the emotionally charged atmosphere in which H.R. 7152, a product of passion, has been conceived, nurtured, and given birth.

Regardless of the significance of the bill, it clearly did not warrant treatment different from that which is customarily accorded to other bills which come before the Senate. The reports of standing committees may be regarded by the courts as the best exposition of legislative intent in a case in which otherwise the meaning of the statute is ambiguous or obscure. It is important, as was pointed out during the debate preceding the vote by which the Senate refused to refer the bill to a committee, that the courts be furnished with committee reports to aid them in determining congressional intent with reference to legislation so controversial as is the civil rights bill, and which poses so many unsolved questions as to what word after word, phrase after phrase, clause after clause, and sentence after sentence really mean. There will be no such Senate reports available.

The courts will have, of course, the House Judiciary Committee report. But it deals only with the bill as it went to the House floor, and not as it came from the House floor. The House report is very cryptic; and virtually all of it is a section-by-section analysis, which is only descriptive of the proposed legislation. As the senior Senator from Oregon pointed out a few days ago, the section entitled "Purposes and Content of the Legislation" consists of only one paragraph.

Mr. President, there need be no illusion as to the difficulty of enforcing the proposed legislation if indeed all provisions of it are capable of enforcement, and the courts will have been deprived of scholarly majority and minority reports to aid them in the highly contested litigation that will surely take place in innumerable cases in the next decade if the bill is passed as it came from the House of Representatives.

So, in the first place, I object to the procedures that have been followed in both bodies of the Congress on the bill. The procedures have been manifestly unwise; and I feel that the bill should even yet receive committee consideration before it is finally voted upon by this body.

Mr. President, I also object to the passage of the bill in consideration of the events which have transpired over the past 18 months and which are largely responsible for the bill's present stage of development. The bill would not be before the Senate today were it not for the demonstrations that have taken place in the South, in the North, in the West, and in the East.

It would not be before the Senate had willful acts of civil disobedience not been countenanced and condoned, and, as a matter of fact, aided and abetted by high-ranking public officials throughout the land.

There are many news stories which could be cited to support my contention. I offer but a few.

Mr. President, I ask unanimous consent that there may be printed in the Record at this point a number of such news stories.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Tear Gas Routs Florida Negroes—225 Arrested in 2 Protest Marches Defying Order of Tallahassee Court

(By R. Hart Phillips)

Tallahassee, Fla., May 30.—Policemen used tear gas tonight to disperse about 150 Negro youths marching through the city and shouting against segregation.

About 25 were arrested.

Earlier today, about 200 Negroes were arrested in front of the all-white Florida Theater in midtown Tallahassee. The group marched from the Florida Agricultural and Mechanical College to the motion picture theater to protest for the 10th time their exclusion from the theater.

Police headquarters said the marchers dispersed by tear gas were students from Florida A. & M., a Negro institution, and from high schools here. It was necessary to use tear gas, the police said, when the angry young Negroes refused to disperse on orders and became more violent in their protests.

Before today's protests Judge Ben C. Willis of the circuit court here issued an order for the arrest of any Negro participating in demonstrations. The order came after the demonstrators refused to obey a temporary restraining order issued by the judge yesterday.

About 50 policemen, State highway patrolmen and deputies of the sheriff's office were waiting at the theater when the first group of Negroes began their protest. The group stopped in front of the theater, some carrying placards demanding desegregation, and the deputies moved in, arrested them and marched them off to the nearby county jail.

The sidewalks on the opposite side of Monroe Street were crowded with white spectators and traffic was thick with onlookers. There were a few derisive shouts from young white men as the Negroes were arrested, but most of the white people as well as Negroes stood watching silently.

Among the group arrested at the theater was Mrs. Patricia Stephens Due, 23-year-old student at Florida A. & M., who is president of the local chapter of the Congress of Racial Equality.

The mayor of Tallahassee, Samuel Teague, issued a statement tonight deploring the incidents, but he said that the ruling of the court must be upheld.

At the hearing this afternoon Judge Willis granted the petition of the owners of the theaters to amend the temporary restraining order that he issued yesterday so that violators might be arrested. The judge said the court was reluctant to use this power but had to uphold the rights of the owners and operators of the theaters.

Mrs. Due failed to appear at the hearing. Her husband, John Due, a young lawyer who has just been graduated from the college, said the restraining order was served on her erroneously yesterday in the name of Priscilla Stephens, her sister.

Mr. Due is also a member of the CORE chapter here, which is composed of students of Florida A. & M.

Mrs. Due, born in Quincy, Fla., organized the CORE chapter at the college in 1959 after learning the sit-in and stand-in techniques at the CORE workshop in Miami. She was arrested in February 1960, in Greensboro, N.C., for participating in a sit-in demonstration at a Woolworth store. She served 49 days in jail.

Later she made a lecture tour of 11 Northern cities and participated in many antisegregation demonstrations.

Fighting Erupts at Birmingham—Negroes Protesting Arrests, Hurl Rocks at Police—30 Seized—Many Clubbed

(By Foster Halley)

Birmingham, Ala., April 14.—Negroes protesting the arrest of leaders of an attempted march hurled rocks at policemen today.

Several Negroes were clubbed as the police tried to hold in check a crowd of about 2,000.

It was the most serious incident since the beginning of a direct-action campaign against segregation here 12 days ago.

The outbreak took place in the center of a large Negro district. It began when a line of marchers, led by the Reverend A. E. King of nearby Ensley, left a church at 11th Street and Seventh Avenue and started in the general direction of the South Side jail. His brother, the Reverend Dr. Martin Luther King, Jr., has been held there since Friday night.

Early Negro worshipers were admitted to the First Baptist Church and the First Christian Church for Easter services this morning, but were turned away at several other churches.

NO INCIDENT AT CHURCHES

They left quietly when stopped at the doors, making no effort to kneel and pray as Negroes had done previously when entry was denied them at white churches.

Negroes had attended white churches before in Birmingham, but this was the first time they had not been segregated during services.

As the Negro march developed, the police blocked off a street beyond Fifth Avenue, but instead of proceeding to that area, Mr. King and the marchers turned up a narrow alley, then went back through a vacant lot toward Sixth Avenue. They were intercepted there by police reserves. The Reverend John Porter, a local minister, and 25 others were arrested.

There was a delay in the arrival of patrol wagons, which permitted hundreds of Negroes who had been gathered near the church to reach the scene.

* * * * *

No policemen seemed to have been hit. But a large rock shattered the windshield of a police motorcycle.

As policemen moved toward the rock throwers, a young Negro started running across the street. He was caught, clubbed to the ground and held there by several officers.

The force of about 50 policemen, most on foot, had difficulty in restraining the crowds, which jammed the sidewalks and spilled into the street.

Two or three more protesting bystanders were arrested. As soon as the van had left with these prisoners, the crowds started to disperse.

The march began with hundreds of Negroes streaming alongside and behind the marchers, clapping hands and singing the integration song, "We shall overcome some day; deep in our hearts we know we will be free."

In the confusion at the scene of the outbreak, an out-of-town reporter was taken by the arm and escorted away by a policeman. When another newsmen protested, he was pushed aside.

After the police had withdrawn, many of the crowd came back toward the Thirgood C.M.E. Church, from which the march had started.

For half an hour before the march, John Palmer, a Negro insurance man who was arrested several days ago in a demonstration, had stood on the church steps seeking contributions from those outside.

While he shouted for those who "want their freedom" to come forward with dollars, several persons scattered through the crowd singing the integration song and leading the clapping of hands.

The crowd around the church, then only about 500, seemed in a gay mood. They laughed at Mr. Palmer's sallies and swayed rhythmically with the music and the clapping. When Mr. King and a large group emerged from the church to begin the march, fervor had mounted to that of an oldtime revival meeting.

A few elderly persons were in the crowd, but it was composed mostly of teenagers and young men and women.

When the marchers had proceeded a block all semblance of order disappeared. It was difficult to pick out the black-robed ministers who had started out as the leaders. They were almost lost in the cheering, shouting crowd.

The outbreak occurred after what had seemed to be the quietest day since the opening of the campaign. It was a beautiful spring morning, bright and cool. Church members, white and Negro, were out in great numbers in Easter finery.

The Negroes who attempted to enter white churches did not wear blue jeans and Mother Hubbards, as it had been hinted they might to dramatize a boycott against white stores. They wore their best clothes, the men in dark suits, the women in bright dresses and fancy Easter bonnets.

The three admitted to the First Baptist were the Reverend Andrew Young, a Congregationalist from Atlanta, and two women accompanying him. Mr. Young is a member of the Southern Christian Leadership Conference, which has led integration efforts in Albany, Ga., Jackson, Miss., and elsewhere.

The three were seated midway down the aisle. Mr. Young attempted to shake hands with the usher at the door and give him an envelope with contribution. Both gestures were ignored.

After the services, however, the pastor, the Reverend Earl Stallings, shook hands with the three Negroes.

Two young women who did not identify themselves were admitted to the First Christian. They said later "it was a lovely service."

Dr. King, head of the Leadership Conference, who was arrested wtih more than 50 others Friday, remained in jail. He was permitted visits by his attorney yesterday and today.

He and the others were being held only on the charge of parading without a permit. In their protest march Friday, however, they were in defiance of an injunction forbidding all such demonstrations. It was issued Wednesday night by Circuit Court Judge W. A. Jenkins, Jr.

In a few days Federal Judge Clarence W. Allgood is to rule whether the arrests of Dr. King and a few other demonstrators here during the last 2 weeks violated their constitutional rights and put them within Federal jurisdiction. A section of the Federal code dating to Reconstruction days has been invoked to bring the matter before Judge Allgood.

A further legal effort to breach Alabama segregation walls will be made tomorrow. Attorneys for three Negro students who have been denied admission to the University of Alabama are expected to file original complaints in Federal court in an attempt to force State authorities to admit the Negroes.

The three, who attend Negro colleges in Alabama and Georgia, are Vivian J. Malone, Sandy English and James Hood, all Alabama residents. They seek immediate transfers from their present schools to the university of Tuscaloosa.

Local leaders of the direct-action compaign made public tonight the text of telegrams sent to President Kennedy and Attorney General Robert F. Kennedy protesting what they called the poor treatment of Dr. King and Dr. Abernathy in jail.

The telegram to President Kennedy said partly:

"Both were arrested, along with 50 other citizens, in violation of the constitutional guarantees of the 1st and 14th amendments. Both are now in solitary confinement, allegedly 'for their own safety.'

"We submit that these two distinguished Americans are political prisoners, and not criminals. We ask that you use the influence of your high office to persuade the city officials of Birmingham to afford at least a modicum of humane treatment. Neither of these men have mattress or bed linen."

The telegram to the Attorney General emphasized:

"We remind you that these men are not criminals, they are political prisoners. Their present solitary confinement constitutes police brutality."

Both telegrams were signed by the Reverend Wyatt Tee Walker, executive assistant to Dr. King in the Leadership Conference.

Two Thousand Negroes March in Greensboro Protest

Greensboro, N.C., May 22.—A silent, solemn throng of about 2,000 Negroes protesting segregation marched through the downtown section of this textile city today shortly after 50 highway patrolmen were ordered into the area to guard against violence.

The march came at the height of the afternoon rush hour, with the demonstrators trooping through the streets, five abreast.

About 1,300 Negro demonstrators—most of them students—have been arrested here in recent days.

But in sharp contrast to the earlier demonstrations, today's marchers were mostly adults. Very few of the college students were on hand.

The demonstrators paraded but did not stop at any time except for traffic signals and then they left the scene as soon as they had marched by two theaters and one cafeteria which have been longtime targets of desegregation efforts here.

The decision to move State troopers into position came as Mayor David Schenck announced formation of a new committee to try to resolve the local situation.

The mayor said the committee would include representatives of the NAACP; Congress of Racial Equality, the Greensboro Merchants Association, Greensboro Ministerial Association, the Greensboro Ministerial Forum, and the mayor's Goodwill Human Relations Committee.

Schenck urged Negroes to abandon their demonstrations and allow normal relations to return to the community. He made the statement a few hours after about 600 Negro college students being held in temporary jails at a National Guard armory and a vacated hospital were ordered to leave by Guilford County Sheriff Clayton Jones.

Greensboro Seizes Nine in Mayor's Office

Greensboro, N.C., May 24.—Nine Negro college students were carried in chairs from the mayor's office and arrested today. They had staged a sit-in demonstration to protest Mayor David Schenck's refusal to call a special city council meeting to act in this city's segregation impasse.

Outside city hall, 30 more students prayed on their knees "for the city of Greensboro and particularly Mayor Schenck."

Tonight several hundred Negro students marched silently through the downtown area.

As they had last night, some 60 white youths carrying Confederate flags also marched through the streets chanting anti-integration verses.

Mayor Schenck said that equal treatment "should be encouraged," but that the city does not have authority to pass an ordinance requiring integration.

NEGRO TRAINS CORPS FOR JACKSON SIT-INS

(By Jack Langguth)

JACKSON, MISS., May 30.—The husky young Negro pushed a white girl out of her chair for the third time. She fell limply to the floor, brought here knees up toward her chin and clasped her hands behind her neck.

"That's better," said a second young Negro, David Dennis.

He turned to the girl, who was getting to her feet.

"But you're still looking up," he said. "We can see your face."

Mr. Dennis, Mississippi director for the Congress of Racial Equality, addressed the audience of 30 Negroes, another white girl and a few white newsmen.

"That's the trouble with women," he remarked. "They just can't help flirting a little, even when they are getting knocked off their feet at lunch counters."

Each morning in the last week, Mr. Dennis has conducted an hour-long class in nonviolent picketing and sit-in methods for the Negroes who go downtown later in the day to demonstrate against segregation. He holds classes in the rear of an auditorium in the building housing the National Association for the Advancement of Colored People.

Mr. Dennis, and another instructor, George Raymond, wear coveralls during the class and later on downtown streets.

"They're a symbol of protest, the CORE director said, "and a reminder that we're boycotting the downtown shopping area."

Beckoning to a Negro girl, Mr. Dennis placed her between two chairs.

"Now you stand here and don't let anybody carrying signs pass you," he told her. "You are a white agitator."

The girl glowered as a Negro youth advanced with a sign reading, "Don't Buy on Capitol Street."

On coaching from the instructor, she tore the sign from around the picket's neck.

The man turned without comment and began marching in the other direction.

"If the white agitator wants the sign, let him have it," Mr. Dennis called. "Get the point?"

The girl turned to her girlfriend seated nearby and said.

"You see, I'm a white agitator."

ADVISES RELAXATION

Mr. Dennis emphasized the need for a relaxed attitude during the demonstrations.

"Don't tense or you will get the full impact of the blows," he said, "Probably it's a good thing to chew some gum. Of course, the Jackson papers may have something to say about gum-smacking niggers on the picket lines, but I think the gum helps."

"What happens," a young Negro asked, "when some cat reaches around like this and pulls at you?"

He demonstrated with Mr. Raymond.

"I go," answered Mr. Dennis.

"What if you're approached with a dangerous weapon?" asked the white girl who had practiced being knocked from her chair. She said later she preferred not to give her name.

"Anybody here got a knife?" Mr. Dennis asked. No one responded.

A white television cameraman dug in his pocket and produced a small pocket knife.

BACKS AWAY FROM KNIFE

Mr. Dennis took the knife and brandished it at another Negro, who retreated slowly.

"You're not going to let me get that close with a knife," Mr. Dennis told him, "brotherly love or no brotherly love."

Joan Trumpauer, the second white girl, asked:

"What if someone comes at you from behind?"

Miss Trumpauer, a student at Tougaloo College, was one of the sit-in demonstrators who was covered with catsup and mustard on Tuesday by a white crowd during a 3-hour clash at the F. W. Woolworth Co.

"If he comes from behind," Mr. Dennis said, "you have to hope and pray that you reach that man's conscience before it's too late."

Some of the young Negroes stirred restlessly, and Mr. Dennis addressed himself to them.

"We're trying to change a system with love and understanding," he said. "It's very difficult.

"Maybe it sounds stupid, but if any of you know what violence will accomplish, let me know."

He paused and looked around the room.

"Now," Mr. Dennis said, continuing with the class, "let's get us another picket line up here. And some more white agitators—some more people who just don't understand the problem."

TENSION GROWING OVER RACE ISSUE

(Watch for the Birmingham pattern to show up in other cities around the country.

(It's something new in the Negro campaign to break down racial barriers. And Negro leaders are convinced it can get results elsewhere.

(The idea: Use waves of protest marchers to put pressure on segregation. In Birmingham, thousands were involved, including children.

(The odds are for more and more of the same thing as the campaign spreads out.)

BIRMINGHAM, ALA.—A new Negro strategy is taking shape as the battle over racial segregation spreads across the country.

The new strategy was tested here in Birmingham. It got some results. Now Negro leaders are talking of putting it to work in other cities.

What Negroes tried here was a new kind of mass demonstration.

Negroes marched by the thousands. They marched in waves. One human wave followed another. Children by the hundreds marched with their elders.

Police arrested more than 2,400 Negroes. Birmingham's jails were overflowing. Fairgrounds barracks were turned into jails for teenagers. But still more Negroes came—marching and singing.

"We shall overcome," they sang.

SUCCESS IN PART

Finally, just when it seemed that a bloody racial conflict was about to erupt, the Negroes began to "overcome."

On May 8, a truce was reached. White leaders agreed to negotiate on Negro demands and Negro leaders agreed to suspend demonstrations during talks.

On May 9—with the Kennedy administration keeping a close eye on the proceedings—white leaders consented to grant three Negro demands:

To throw open to Negroes some facilities in Birmingham's downtown stores, such as lunch counters.

To make better jobs available to Negroes in Birmingham.

To set up a biracial commission to study general integration of Birmingham's public facilities, including the public schools.

On May 10, city authorities began releasing on bail the hundreds of Negro demonstrators still in jail.

CRISIS AVERTED, BUT

In Birmingham, for the moment at least, a crisis appeared to have been averted.

In other parts of the country, however, the racial dispute appeared to be warming up and more troubles were seen developing.

What Negroes have been demanding here in Birmingham is what Negroes want everywhere in the United States: an end to racial discrimination.

In one place after another, this spring, Negroes have set out to enforce their demands by action.

In Atlanta, Ga., in early May, Negroes renewed a campaign of sit-ins to open downtown eating places to Negroes. A Negro leader warned that Atlanta may become another Birmingham.

In Nashville, Tenn., on May 8 and 9, hundreds of Negro students marched on segregated restaurants. Some got into fights with white youngsters.

New trouble broke out in Albany, Ga., scene of racial conflict last year. In 3 days early in May, 49 Negroes were arrested as they picketed a white-owned grocery store, and Negroes began a series of mass meetings.

On May 8, in Raleigh, N.C., nearly 100 Negro college students were arrested for attempts to integrate two downtown restaurants and two theaters.

Violence was reported in the Mississippi Delta, where a drive is underway to spur Negro voter registration.

Some Negroes are attempting to enter the University of Alabama for the summer term opening in June. Alabama's Gov. George Wallace has vowed to block their entry. On May 7 he told Alabama legislators he will engage in legal defiance to all efforts to break down racial segregation in his State.

NOT ONLY IN THE SOUTH

In the North, also, Negro activity is rising.

Negroes in Englewood, N.J., are boycotting schools that are almost all-Negro in enrollment. Some Negro youngsters staged a sitdown in school classrooms to gain admission to a predominantly white Englewood school.

In one big northern city after another, Negroes are challenging school systems, housing patterns, and employment practices that they call discriminatory.

Negro Author James Baldwin warned that what has happened in Birmingham is only "a foretaste of what's going to happen throughout the country." He said: "Any northern city with a big Negro population is on the edge of disaster."

President Kennedy noted the dangers in a news conference May 8. He called it an ugly situation in Birmingham which has so far only narrowly avoided widespread violence and fatalities.

The President expressed hope that it "will remind every State, every community, and every citizen how urgent it is that all bars to equal opportunity and treatment be removed as promptly as possible."

TROUBLE WAS FORESEEN

The situation in Birmingham had been building up for months.

Birmingham has the reputation of being the most segregated big city in the South. About 40 percent of this industrial city's 342,000 residents are Negroes. But about the only thing integrated here has been public transportation. The city's parks, swimming pools, and golf courses were closed after a Federal judge ordered their integration.

Negro leaders chose Birmingham as a place to push for a showdown. The Reverend Dr. Martin Luther King, Jr., leader of the demonstrations, explained why:

"If we can crack Birmingham, I am convinced we can crack the South. Birmingham is a symbol of segregation for the entire South."

The latest series of demonstrations began April 3 and grew steadily in size.

In early May, the Negroes began enlisting schoolchildren in the campaign. Children were told to skip school and march for freedom. About 1,000 of the marchers arrested were juveniles—some of them only 12 years of age.

BY THE NUMBERS

The demonstrations were run off with almost military precision. The Negroes would gather in a church to listen to exhortations and instructions, then set off in waves toward downtown Birmingham.

Police, using trained dogs and firehoses, turned back wave after wave of the marchers.

> Hundreds were arrested daily under an ordinance which forbids parading without a permit.
>
> Eventually, however, police were overwhelmed. On May 7, hordes of Negroes escaped police control and surged through downtown streets and stores, snarling traffic and shoving white people from their path.
>
> Then, on May 8, several hundred Alabama State troopers were ordered into Birmingham to reinforce the police. The troopers were armed with tear gas, shotguns, submachineguns, and carbines.
>
> Facing the steel-helmeted troopers were long lines of angry Negroes.
>
> One spark, during those tense hours, could have ignited a race conflict.
>
> It was at this point that some white leaders decided that things had gone far enough and agreed to negotiate.
>
> The white negotiators, cautious about provoking strong segregationists, tried to remain anonymous. But they included some of the city's most influential business and professional men.
>
> The Kennedy administration also played a deliberately quiet role.
>
> Attorney General Robert Kennedy sent an Assistant Attorney General, Burke Marshall, to Birmingham to work behind the scenes in bringing white and Negro leaders together. The Attorney General himself kept in close touch by telephone.
>
> President Kennedy, at his May 8 news conference, took the position that there had been no violation of Federal laws that required Federal intervention.
>
> ### VICTORY STATEMENT
>
> Negro leaders clearly regarded the concessions they had wrung from whites in Birmingham as a triumph for their new technique of mass demonstration.
>
> Dr. King said:
>
> "No demonstrations anywhere in the United States ever before have been so indicative of the enormous amount of injustice the Negro suffers. They have been of tremendous educational value for the white community."
>
> It was the mass demonstrations, he said, that convinced Birmingham's business leaders that concessions must be made—"and the economic power structure of the city determines what the political power structure will do."
>
> Asked if the new technique will be used in other cities, Dr. King said: "Yes, that's a real possibility."
>
> The use of children as demonstrators was also praised by Dr. King as a "new development" that can be used effectively in the future.
>
> "Now," he said, "the children know what it means to take part in the struggle for freedom."
>
> On May 6, at the height of the demonstrations, all but 887 of the 7,386 pupils enrolled in Birmingham's 7 Negro high schools were absent—most of them to join the demonstrations.
>
> Talk with the youngsters arrested and you get an idea of the militant attitude growing among Negro youth in the South. Here are sample comments:
>
> "I marched for freedom—freedom to eat and work and go to school with whites. It's no sin to be born black."
>
> "We have to demonstrate. It's the only way we can break the wall. If we have to get arrested to do it, then it's worth the price."
>
> "Our preacher told us it would be cowardly to go to school when other kids were marching for freedom. So we played hookey and got arrested."
>
> ### INJURIES: FEW AND MINOR
>
> Despite the size of the demonstrations, injuries were relatively few and minor—18 policemen and firemen and about the same number of Negroes reported hurt. Both sides avoided gunplay.
>
> "We have met this crisis in such a way that nobody has been seriously hurt," said Birmingham's public safety commissioner, Eugene "Bull" Conner. "The white population of Birmingham has cooperated 100 percent in avoiding really bad trouble. I've kept the Ku Klux Klan and the citizens councils out of this—and I'm going to try to make sure they stay out."
>
> However slight the casualty toll, race relations in Birmingham have deteriorated badly. Said one white merchant:
>
> "We have been forced to capitulate by a gun in our back. This has set race relations here back 40 years."
>
> A Negro businessman commented:
>
> "I am sick at heart. For the first time, as I walk the street, I find white men and white women looking at me with hatred in their eyes."
>
> ### WHO'S NEXT?
>
> As word of the Birmingham Negroes' new technique of mass demonstration spread, officials here began to get inquiries from worried leaders in other southern cities. They wanted to know: "Where are the Negroes going to strike next? Is our city a target?"
>
> In Birmingham, Negroes have shown they can mobilize masses of Negroes—children as well as adults—who will go to jail for their cause.
>
> They have shown also that they have the power to disrupt the life of a big city and make segregation a dangerous and expensive practice. The outlook: more demonstrations like Birmingham's.

Mr. BYRD of West Virginia. Mr. President, I shall refer to excerpts from some of them at this point. The first excerpt is from a story which appeared in the New York Times in the month of May 1963, which is captioned: "Negro Trains Corps for Jackson Sit-Ins." This article tells the story of a training school in which whites and Negroes were trained to participate in racial protests in Jackson, Miss.

Another article which appeared in the New York Times in May 1963, referred to nine Negro college students who were carried in chairs from the mayor's office in Greensboro, N.C., where they had staged a sit-in demonstration to protest the mayor's refusal to call a special city council meeting to act in a segregation impasse in that city. The article stated that just outside of the city hall, students prayed on their knees, and that several hundred students marched through the downtown area.

A New York Times story of April 15, 1963, told about the fighting which erupted in Birmingham, Ala. The headlines told about Negroes protesting arrests and said that they hurled rocks at police, that 30 were seized and many were clubbed. The story related:

> The outbreak took place in the center of a large Negro district. It began when a line of marchers, led by the Reverend A. E. King, of nearby Ensley, left a church at 11th Street and 7th Avenue, and started in the general direction of the Southside Jail. His brother, the Reverend Dr. Martin Luther King, Jr., has been held there since Friday night.

A story appeared in the New York Times, datelined May 30, 1963. The headline reads thusly: "Tear Gas Routs Florida Negroes—225 Arrests in Two Protest Marches Defying Order of Tallahassee Court."

Reading from the story, one finds that a judge of the circuit court in Tallahassee, Fla., had issued an order for the arrest of any Negroes participating in demonstrations. The order came after the demonstrators refused to obey a temporary restraining order issued by the judge.

In the U.S. News & World Report of May 20, 1963, one will find an article entitled: "Tension Growing Over Race Issue." It is datelined Birmingham, Ala. I read from it in part:

> A new Negro strategy is taking shape as the battle over racial segregation spreads over the country. The new strategy was tested here in Birmingham. It got some results. Now, Negro leaders are talking of putting it to work in other cities. What the Negroes tried here was a new kind of mass demonstration. Negroes marched by the thousands. They marched in waves, one human wave followed another. Children by the hundreds marched with their elders. Police arrested more than 2,400 Negroes. Birmingham's jails were overflowing. Fairgrounds barracks were turned into jails for teenagers. But still more Negroes came marching and singing. "We Shall Overcome," they sang.

Mr. President, here is an example of what has been taking place in this country, which has finally resulted in the passage of a so-called civil rights bill by the House of Representatives, and its consideration by this body.

Thousands of Negro citizens, joined by white citizens, have participated in demonstrations throughout the country. Many of those participating in the demonstrations have been teenagers.

Many have been children who have marched with their elders.

(At this point Mr. BAYH took the chair as Presiding Officer.)

Mr. BYRD of West Virginia. Mr. President, I have not been favorably impressed by these demonstrations. I recognize the fact that some of our colored citizens have not been properly treated, but I do not condone nor do I believe other leaders and public officials should condone acts of civil disobedience committed by citizens of any color. I do not believe that we should condone the lying down of citizens in streets to block traffic, or the forming of human walls in front of privately owned businesses. I appreciate the fact that our people have a constitutional right to petition the Government regarding their grievances; but I feel that there is a limitation to be placed on such a right, just as every American can claim the right to freedom of speech, but he should not be permitted to shout "fire" in a crowded theater.

Continuing with my reference to news articles concerning demonstrations and acts of civil disobedience, I refer to a May 15, 1963, article which was published in the Washington Post under the headline, "Kennedy Reported Concerned About Negro Extremism."

I quote a few paragraphs from the story:

> President Kennedy was said yesterday to feel concerned about an apparent trend toward extremism among Negro leaders.
>
> The President reportedly expressed the concern to a group of visiting Alabama newspaper executives in urging cooperation be-

> tween Negro and white local leaders to settle problems like the Birmingham crisis.
>
> The President was said to have cited the Black Muslim sect as an example of extreme leadership.
>
> Mr. Kennedy stressed the need to handle problems such as Birmingham's on the local level with local leadership.
>
> Mr. Kennedy was reported to be "cautiously optimistic" that local authorities would be able to resolve Birmingham's racial crisis without Federal troops being used.

Mr. President, on May 4, 1963, a newspaper article carried the headline, "One Thousand Defy Police In Birmingham; Ministers Help to Head Off Riot."

I read a few paragraphs therefrom.

> A taunting crowd of more than 1,000 Negroes defied policemen, dogs, and high-velocity water hoses today before their own leaders persuaded them to disperse. Yelling, waving their arms and dancing about, the Negro spectators challenged police officials to use water hoses and leashed dogs.

Note, Mr. President, that the demonstrators challenged the police officials to use the water hoses and to use the leashed dogs.

> Some of the Negroes threw rocks and other missiles. A fireman, Billie Boak, was treated for a head injury from a flying brick.

This was one of those so-called nonviolent demonstrations in which rocks and other missiles were thrown, and as a result of which people were injured.

> Police said nearly 200 Negroes were arrested—including 111 children under 16.

I have noted, as I viewed such demonstrations on television, that in practically every instance many or most of the demonstrators are children—they are teenagers—some of them are not yet in their teens.

That is a tragic situation, when parents permit their children to participate in such near riots as was this one in Birmingham, Ala., to which I have just referred.

I believe that the police and the public officials in the city of Birmingham and other cities are to be congratulated upon having avoided injury to children who participated in the demonstrations.

I can envision the headlines; I can envision the cry which would go up all over the country should a child be injured, or should a child lose its life as a result of the act of a police official attempting to do his duty to restore the peace of the community, when confronted with such demonstrations as we have become accustomed to witnessing and reading about day after day.

It requires a great deal of restraint, much planning, and a tremendous amount of courage to deal as our police officers have had to deal with such demonstrations and to avoid visiting injury upon high school students and elementary school students who have been urged by their parents and by professional, highly paid outside agitators to participate in the demonstrations which have become the order of the day.

I fear for this country, in view of the fact that we have reached the point where the children of some parents are not taught to observe the law, are not taught to reverence the law, even though that law be a city ordinance, but are taught to violate the law. Not only are they taught to violate the law, but their parents provide the example of violating the law before their eyes.

I wonder how these children can grow into manhood and womanhood with respect for law and order. One hears that they are protesting the present status of things. Protests can be heard, and protests can be made in a proper and orderly way. But in recent months they have not been made always in an orderly fashion. I continue to select newspaper articles which indicate the activities which have generated pressure upon Congress to enact a civil rights bill. These demonstrations have not all occurred in the South, by any means.

In the New York Times of March 7, there appeared an article headlined "Bridge Sitdown by CORE Blocks the Triborough. Six Held After Demonstration on 125th Street Approach During Evening Rush. Motorists Pelt Group. Seven at Police Headquarters Seized. Three Handcuff Themselves to Grille."

The article states that seven of the demonstrators had sat down on the Manhattan approach to the Triborough Bridge during the evening and that they had delayed thousands of rush-hour motorists for 20 minutes. The article stated that another demonstration took place at police headquarters, where several persons were arrested as they protested alleged police brutality.

We have seen such demonstrations, in which people violate the laws and then, when they are arrested, they protest and accuse the police of brutality. Of course, they do not want to be arrested.

We have read about great mobs gathering at the jailhouse entrance in protest against the arrest of demonstrators, demanding that they be released. I am confident that in many instances those arrested were released sooner than they would have been under ordinary circumstances.

Mr. James C. Tanner, in the Wall Street Journal in February of this year, wrote a lengthy article entitled "New Race Troubles. Negroes Ready Another Wave of Demonstration Against Bias in South. 'Resegregation' and Unkept Promises Charged; CORE To Expand Drive in North."

I read from certain paragraphs:

> Even as Congress debates the civil rights bill, a new round of race troubles is threatening the South.
>
> Southern Negro leaders are meeting this week to complete plans for a renewal of the demonstrations which kept Dixie in a turmoil last summer. Quick passage of the civil rights bill isn't likely to head off the disturbances, either, though it may bring about a shift in targets. If the controversial public accommodations proposal goes through as expected, for example, it would simply enable Negroes to turn their attention more to the equally thorny issues of discrimination in voting, jobs, and housing.
>
> Behind the new push is growing Negro resentment over what they see as unkept promises from whites on desegregation. Negro leaders charge that not only have many southern communities failed to carry out pledges to help wipe out discrimination, but in some instances segregation practices which had been dropped have been reinstated lately.
>
> * * * * *
>
> Any revival of racial disturbances this year isn't likely to be limited to such segregated spots as Birmingham, Baton Rouge and Jackson, Miss.
>
> * * * * *
>
> And there's evidence the protests won't be confined to the South. Civil rights leaders expect them to spread to the North just as they did last year. "We're stepping up our drive on all fronts," says Val Coleman, an official of the Congress of Racial Equality (CORE) in New York, "and that includes our whole northern push on housing, unemployment, education, and voter registration." He cites Monday's 1-day boycott of schools in New York City, as an example, can be expected.

So we can expect these demonstrations to continue, much to the chagrin and disappointment of many of the people who have urged the passage of the bill on the basis that it will bring an end to such lawlessness and to threats of violence. We are told by the leaders of the Negro organizations themselves that the passage of the bill will not bring an end to demonstrations, but that they will continue to go forward in various sections throughout the country.

U.S. News & World Report in February 1964, published an article entitled "Race Trouble in a 'Model City.'" I read excerpts therefrom:

> Just as Atlanta, Ga., began to think it had the integration problem licked, militant groups took over from peaceful negotiators to demonstrate in the streets.
>
> * * * * *
>
> Bands of young Negroes began sit-in demonstrations at hotels and restaurants that barred Negroes.
>
> * * * * *
>
> Police at first refrained from arrests. In the past, many business proprietors have failed to follow up with legal complaints against demonstrators arrested in their places of business, and police recently have followed a policy of refusing to make arrests under the State's antitrespass law unless proprietors obtained warrants.
>
> Arrests began, however, when demonstrators started to lie down in restaurant entrances, blocking sidewalks and scuffling with police. Several policemen and Negroes were injured.
>
> A group of Negroes remained in one restaurant for several hours after it closed.
>
> The restaurant owner charged that the demonstrators damaged the booths, coffee urns, glasses, and other equipment in his restaurant and that demonstrators urinated on the floors after he locked the restrooms.
>
> Arrests mounted, filling jails with nearly 200 Negroes, many of whom continued their demonstrations behind bars.
>
> Police reported that jail furniture was broken and that prisoners spat on turnkeys and hurled wet toilet paper.

Mr. President, any fairminded reader of such a story would rebel at this type of activity. This does not constitute the petitioning of one's government regarding grievances. It goes beyond that. This is lawlessness. It cannot be countenanced. Yet the bill that is before the Senate today is here precisely because of such ruthless, lawless acts as those to which I have just referred. The people of the country have reacted in fear, and legislators have been intimidated. They have responded to threats. They are afraid. People all over the country, not knowing the contents of the bill, but having heard only about its title, which is an innocuous one, have urged their Representatives and Senators to pass the bill.

The people of the country want peace. They want peace in their own communities. They want peace in other communities. They feel that the passage of the bill will achieve this objective. But it will not.

In September 1962, the Saturday Evening Post published an article entitled "Negro Youth's New March on Dixie." A picture was shown over the cutline, and under it is the following:

> Demonstrating for civil rights, youthful Negroes kneel and pray before the city hall in Albany, Ga. They were arrested by police when they refused to disperse.

The Negroes had a right to kneel and pray before the city hall. They had a right to voice their grievances in this manner. But they should have dispersed when they were ordered to disperse. They had no right to refuse to disperse. One paragraph of the article carries the caption "The New Status Symbol: Prison."

The paragraph reads:

> Last year Branda Travis, a 16-year-old high school student in McComb, Miss., asked for service at a "white" lunchcounter in a bus station. Later, when she was expelled from school for the sit-in, she joined a student protest march. She was sentenced to a year's detention. Recently, after serving 6 months, she was released on condition that she leave her home county.
>
> * * * * *
>
> These are members of a generation that talks constantly of "the movement" and "the struggle" and asks newcomers seriously, "Have you been to jail?"
>
> On office walls of Negroes in cities all over the county are hanging self-made "diplomas" proclaiming that the holder has served time in a southern prison.
>
> It is a generation that is willing to follow these grim rules:
>
> "You may choose to face physical assault without protecting yourself, hands at the sides, unclenched; or you may choose to protect yourself, making plain you do not intend to hit back. If you choose to protect yourself, you practice positions such as these:"

We are told that the demonstrations are nonviolent; but one should note that there is instruction for those who choose to protect themselves, as follows:

> "To protect the skull, fold the hands over the head.
>
> "To prevent disfigurement of the face, bring the elbows together in front of the eyes.
>
> "For girls, to prevent internal injury from kicks, lie on the side and bring the knees upward to the chin; for boys, kneel down and arch over, with skull and face protected."
>
> In the last 2 years more than 5,000 Negro college-age men and women have learned such techniques in special "workshops" held at almost every college campus and in churches, Masonic lodges, and private homes.

Certainly every citizen has a right to protect himself, Mr. President; but so many of the demonstrators have gone beyond that.

A Washington Post article, dated June 16, 1963, carries the following headline:

> Danville Negroes Defy New Ordinance, Jailed.

The first paragraph of an article entitled "Negroes Defy Ruling; 35 Jailed in Danville," reads as follows:

> DANVILLE, VA., June 15.—The leader of Danville's racial protest movement and 34 followers were arrested today as they marched in defiance of the city's new antidemonstration ordinance.

I also read the second paragraph, as follows:

> The Reverend L. W. Chase, president of the Danville Christian Progressive Association, was jailed after leading the first of several protest marches designed to fill the city's jails and force public officials and businessmen to meet the Negroes' segregation demands.

So, Mr. President, we see that the demonstrations have, in many instances, been designed to fill the city jails, and to force public officials and businessmen to meet the demands.

On the basis of the article, Mr. President, it appears that some of the demonstrators take pride in being arrested and in going to jail. But, Mr. President, little do they know that the record of those arrests will follow each of them to the grave; and such a record of arrest will impair—to a certain extent, at least—the individual's chances in later years to obtain employment.

Under the pending bill, if it is enacted, such individuals may, under title VII, charge discrimination on the part of employers who refuse to employ them; but the record of arrests as demonstrators will, when they apply for employment, constitute a "black eye" to the applicants, when the prospective employers become informed that the applicants participated in demonstrations, committed acts of civil disobedience, were arrested, and went to jail.

A New York Times article dated April 13, 1963, was captioned as follows:

> Dr. King Arrested at Birmingham.

I read from the first paragraph of the article:

> The Reverend Dr. Martin Luther King, Jr., was arrested this afternoon when he defied a court injunction and led a march of Negroes toward the downtown section.

I read the following from a later point in the article:

> Dr. King was among the first to be put behind bars.

Mr. President, he was arrested because he defied a court injunction. He is a member of the clergy, a man of the cloth, a man who is supposed to set proper examples, in terms of obeying the law. He may not like a law, and he has a constitutional right to express his views and to petition his government. However, he chose to disobey the law, and he chose to defy the court injunction.

In other words, that leader of his people chooses to select those laws which he will obey and to defy those laws which he does not wish to obey. That is the kind of example that we have become accustomed to seeing in this country—examples that all too often have been set by leaders of church congregations, ministers, Sunday school teachers, church fathers, and so on.

Mr. President, I shall include the various articles to which I have referred in the RECORD at this point. I have already asked unanimous consent that they may be included.

The PRESIDING OFFICER. Unanimous consent has been granted.

The articles are as follows:

[From the Saturday Evening Post, Sept. 8, 1962]

NEGRO YOUTH'S NEW MARCH ON DIXIE—A NEW GENERATION OF NEGRO LEADERS IS PRESSING HOME THE BITTER BATTLE AGAINST SEGREGATION IN THE DEEP SOUTH

(By Ben H. Bagdikian)

Robert Parris Moses is a 27-year-old Negro of soft voice and hesitant manner whose life up to February of 1960 was focused on his native New York City, scholarly work in the Ivy League and teaching in an expensive private school. He had never been in the South and had never wanted to go. But he did go at last.

On the morning of August 29, 1961, Moses was walking in khaki chinos and a T-shirt down the dusty main street of Liberty, Miss. (population, 642). There he was struck down by a cousin of the local sheriff and beaten on the head until his face and clothes were covered with blood.

Considering where he was and what he was up to, the violence is not surprising. Moses, A.B. Hamilton College, M.A. Harvard, Ph. D. candidate, was trying to upset the social structure of the Deep South and change party politics in the United States. His method: helping rural Negroes register to vote.

"One day at home in New York," Moses told me, "I saw a picture in the New York Times of Negro college students 'sitting in' at a lunch counter in North Carolina. That was in February 1960. The students in that picture had a certain look on their faces—sort of sullen, angry, determined. Before, the Negro in the South had always looked on the defensive, cringing. This time they were taking the initiative. They were kids my age, and I knew this had something to do with my own life. It made me realize that for a long time I had been troubled by the problem of being a Negro and at the same time being an American. This was the answer."

Robert Moses and his project are significant, but more significant still is the new generation of American Negro that he typifies. It is a body of young men and women who will make an impression on the history of their country. It is the first generation of American Negroes to grow up with the assumption, "Segregation is dead." It has transformed integration from a legal contest to a mass movement, fighting not for future change but for results here and now. Sensitive to the emergence of colored men all over the world, conscious that there is a time bomb ticking in the crowded Negro slums of the United States, the Negro college students of 1962 are welded into one of the most fiercely united, dynamic, and optimistic social movements of our time.

Characteristically, they seek out the toughest problems in the toughest places. Liberty, Miss., is the county seat of Amite County, where 54 percent of the population is Negro. Of the 5,000 voting-age Negroes, one is registered to vote. Moses and his friends were—and are—conducting semisecret schools to coach local Negroes how to pass registration tests. What happened to Moses is not unique; a week later a colleague was kicked to semiconsciousness, a month later another was shot dead. Much is at stake, for Amite is one of 137 counties in the South where Negroes are a majority but have few votes. Such counties are the backbone of a powerful conservative white force in American politics. When Negroes begin voting in these counties there will be profound changes in Southern and national politics.

Nonviolent themselves, the students appear unmoved by the violence of others. In 1960 their battleground was the lunch counters. In 1961 it was freedom rides on buses. From 1962 onward it will be the ballot box, and in this they march with a massive army. With them are all major Negro civil rights groups, strengthened by $325,000 in cash from the Field Foundation in Chicago and the Taconic Foundation in New York. Backing the vast drive to register Southern Negroes to vote is the U.S. Department of Justice, which gives the movement moral support and intervenes with lawsuits and court orders to strike down barriers.

Who are these young Negro revolutionaries? How did they get this way? Why are they so different from their parents? How do they work? What have they done so far?

In 2 years they have revolutionized the drive for integration. With sit-ins and freedom rides they have won equal treatment at lunch counters, buses, terminals, public parks, swimming pools, theaters, churches, libraries, museums, and beaches in many cities and towns of the Deep South which orthodox civil rights groups had privately written off for decades.

They have done it with the sophisticated technique of nonviolent protest, adopted from their patron saint, the Indian Mahatma Gandhi. They ask politely for equal service in a public place and wait until something happens. If they are insulted, they do not answer back. If they are attacked physically, they do not hit back. If they are arrested, they stay in jail as long as they can in order to dramatize their point and add the expense of imprisonment to the cost of maintaining segregation. If they are tried and convicted, they proceed to challenge the constitutionality of the whole procedure.

If some are jailed or hospitalized, others take their place, for the new Negro generation has reversed a historic trend. For 300 years the most ambitious and militant Negroes fled the rural South, leaving colored communities without aggressive leadership. Today the most vigorous young Negroes are pouring back to Dixie and what was once enough to suppress Negro protest only invites more into battle.

AFTER EACH BATTLE, MORE RECRUITS

In Orangeburg, S.C., for example, when a few Negro students were refused service at a lunch counter, 25 classmates demonstrated in protest. When their college threatened to expel the students, 500 others marched downtown. When the city said it would arrest all demonstrators, 1,400 paraded silently on city hall. Within 12 months of the first incident that called this generation to battle—a sit-in at Greensboro, N.C., on February 1, 1960—a total of 1,600 demonstrated in Mississippi, 4,000 in South Carolina, 4,200 in North Carolina, 5,500 in Alabama, 7,000 in Georgia, 10,000 in Louisiana, 16,000 in Tennessee. In 1 year this silent rebellion of 70,000 Negroes, with some white sympathizers, challenged public authority in the South; 3,600 were arrested.

They have shaken the old certainty of white segregationists. Twenty years ago I could live in a Deep South community and know that my fellow whites believed implicitly that segregation would never change. In the turbulent years of school integration, I could return as a reporter and still find most working-class whites proclaiming that in the Deep South integration would never come. But today doubt is replacing certainty. I have just finished talking with Negro leaders in New York, Washington, and Atlanta, and with Negro students and their leaders through the Deep South. I listened as well to whites. For the first time, in places like Birmingham and Jackson, one could hear the hard core cracking. There was the Mississippi farmer in town for the day saying, "I suppose integration's coming, what with the Federal Government pushing it"—and then with bitter puzzlement—"and those damn young niggers."

NEW HEROES, NEW EXPECTATIONS

"Those damn young niggers" not only puzzle older whites of the Deep South, but they sometimes astonish their own elders. They behave like no other generation of Negroes in American history, perhaps because no previous generation has seen so many colored men rise in other nations. Theirs are new heroes, new rules, and new expectations. Parents measure how far Negroes have advanced since World War II; the children measure how far they have yet to go. Most older Americans look upon the 1954 Supreme Court decision as the historic foundation of modern desegregation; not one Negro student in over a hundred interviewed had any vivid personal recollection of the day of that decision. They all regard it as a failure.

But almost every student could remember precisely where he was and what time of day it was when he first heard of the event that galvanized them all and launched the new Negro generation into contemporary history: the sit-in at Greensboro. Students, faculties, and college presidents testified that after the Greensboro incident a strange fever swept the campuses of the country's 120 Negro colleges. Within a week of Greensboro there was scarcely another topic of conversation on Negro campuses. Students began organizing sit-ins and protests in their own college towns. The subtle alterations of history, the tide of change throughout the world and the painstaking groundwork of older organizations and earlier generations had prepared the new Negro for that particular moment.

After his first demonstration in a picket line, Moses felt the same emotions that many students describe.

"I had a feeling of release. From the first time a Negro gets involved in white society, he goes through the business of repressing, repressing, repressing. My whole reaction through life to such humiliation was to avoid it, keep it down, hold it in, play it cool. This is the kind of self-repression every Negro builds into himself. But when you do something personally to fight prejudice there is a feeling of great release."

Something like this was happening to other college Negroes. Charles Frederick McDew had been a high-school athlete in Massillon, Ohio, so accepted by everyone in his town that he grew up without race consciousness. His father had gone to a Negro college in South Carolina, and to please him McDew went to the Deep South for the first time, to go to college. In his first 3 months he was arrested three times and struck by a policeman for doing or saying things that had been normal back in Massillon—trying to enter the main YMCA in town with his Ohio membership card or sitting in a "white" railroad car.

During Religious Emphasis Week several white Protestant ministers described their denominations to the Negro college students. When McDew asked them if he could attend their churches, they said he could not. McDew asked a rabbi who was present and was invited to the temple. Ultimately McDew left Christianity and adopted Judaism. Still, he felt no urge to take up the civil-rights fight. Like many northern Negroes he tended to look down on the South and on the southern Negro.

"I felt," he said, "that it was the southern Negro's problem, not mine. Then one night I was reading the Talmud when I came across this: 'If I am not for myself, then who is for me? If I am for myself alone, then what am I? If not now, when?' "

COMMITMENT TO THE STRUGGLE

McDew read the Talmudic passage just after the Greensboro incident. Within a week he had enlisted in the movement at his own college, had become a leader, had been arrested and jailed. Today he is chairman of the Student Nonviolent Coordinating Committee, a small band of former students working as full-time professionals in the Deep South. (Like Moses, McDew tried to register Negroes to vote in Liberty, but he first called Washington and told the Department of Justice. When McDew and two local Negroes appeared in the town, there were some well-dressed strangers, recognizable to all as FBI agents, keeping an eye on the courthouse. There was no violence that day; there was no registration either. Every door on the courthouse was padlocked.)

Or take the case of a girl I shall call Emma, a bright, lively freshman in a Negro college, whose commitment to the struggle began 7 years ago when she was still in junior high school. It was only this year, however, that she burst to the surface. In 1955 when she was 12 years old, Emma was a member of the secret student integration club in her school—in a Deep South town which still has no integration—preparing to demonstrate for integration sometime in the future. This year, her first in college, she led a campus group that asked for service in a white lunch counter in the college town. She spent a week in jail awaiting trial for trespassing, and she watched from her cell window as hundreds of her fellow students paraded in protest before a stunned white community. "Don't use my real name," she cautioned me. "If you do, my mother will lose her job back home."

THE NEW STATUS SYMBOL: PRISON

Last year Brenda Travis, a 16-year-old high school student in McComb, Miss., asked for service at a white lunch counter in a bus station. Later, when she was expelled from school for the sit-in, she joined a student protest march. She was sentenced to a year's detention. Recently, after serving 6 months, she was released on condition that she leave here home county—preferably the entire State of Mississippi. When I asked if she would ever protest again, she said, "Of course."

These are members of a generation that talks constantly of the movement and the struggle and asks newcomers seriously, "Have you been to jail?" On office walls of Negroes in cities all over the country are hanging self-made diplomas proclaiming that the holder has served time in a southern prison.

It is a generation that is willing to follow these grim rules:

"You may choose to face physical assault without protecting yourself, hands at the sides, unclenched; or you may choose to protect yourself, making plain you do not intend to hit back. If you choose to protect yourself, you practice positions such as these:

"To protect the skull, fold the hands over the head.

"To prevent disfigurement of the face, bring the elbows together in front of the eyes.

"For girls, to prevent internal injury from kicks, lie on the side and bring the knees upward to the chin; for boys, kneel down and arch over, with skull and face protected."

In the last 2 years more than 5,000 Negro college-age men and women have learned such techniques in special workshops held at almost every college campus and in churches, Masonic lodges, and private homes.

It is a generation that takes for granted that telephones are tapped, that the local police are their enemy, that the local courts are against them. The atmosphere of an underground is enhanced by the conviction that they are spied upon, that special State commissions hire Negroes to infiltrate civil rights groups. "Did you see that guy trying to volunteer back at the restaurant?" one leader asked me. "He informed on us 2 months ago and thinks we don't know. Now nobody will talk to him."

Typically, these young revolutionaries are the children of veterans who came back from World War II determined to change things but did not succeed.

"You have no idea how bitter my father is," a student said. "He came home after 'fighting for democracy,' and when he tried to vote they beat him up. He kept his bitterness bottled up inside him, but I never learned to keep it inside me and I never will."

The leaders are Negroes who grew up in the North and went South, like Moses and McDew, or Negroes who grew up in the South and went North, like Frank Dukes.

LOW MAN ON THE TOTEM POLE

Dukes is 31, a senior at Miles College, Alabama, a serious, cool, and aggressive man leading a citywide boycott against Birmingham stores. He was born and bred in Alabama, and after high school he left the State determined never to return. He knocked around northern cities doing odd jobs, spent 5 years in the Army, including 18 months in Korea, and then decided that as a Negro he ought to go to college—in Alabama.

"Wherever I went in the United States, the Negro was low man on the totem pole. But in no State in these United States did I find things as bad as they are here in Alabama. I'm president of the student body and I figured, 'This is the place for a man to start. Right here. Right now.'"

The new generation of Negroes is profoundly moved by the emergence of colored men in Asia and Africa. Their heroes tend to be Africans. In Jackson the field secretary for the National Association for the Advancement of Colored People named his son Kenyatta, after the leader of Mau Mau rebels in Kenya. Students listed as inspirations such men as Kwame Nkrumah, Tom Mboya, Julius Nyerere, and Patrice Lumumba. James Forman, executive secretary of the Student Nonviolent Coordinating Committee did postgraduate work in African studies and says he plans some of his strategy in the South on the pattern of African independence movements.

When students began describing "how I got into the movement" it became apparent that the explosive effect of the Greensboro sit-in in early 1960 was closely related to the news in late 1959 that 14 West African states would declare their independence from white rule. African leaders—some descended from the same tribes as American Negroes—were addressing the United Nations in clipped British accents acquired at the London School of Economics, or in the mellifluous French of the Sobonne. "I began to realize," said one student in Mississippi "what a disadvantage it was to be an American Negro. We are almost the last colored people in the world to get equal rights with white men."

These young people grew up in the era of television, in which they were deeply impressed by the sight and sound of Negroes in world news. The students in turn produced action recorded by television cameras which, for the first time, sent direct reproduction of racial incidents from the deepest South into homes of both Negroes and whites all over the country.

They have an earnest faith in the power of education to guarantee success in life and to bring salvation to the Negro. Dave Jones, 23, is a student at Tougaloo College, near Jackson, Miss., son of a sharecropper, who says he was changed during his first college vacation when a white boy he knew laughingly asked him why a Negro would go to college. "I realized that he thought it was impossible for a Negro to better himself. His laugh made me aggressive. I want to be a biochemist or a doctor, but in Mississippi a Negro has trouble rising. So I'm aggressive. I hate do-gooders, the kind of person who says, 'Oh, I am sorry for you. I will help you.' I hate that. I'm aware of what's expected of me as a man, and I do it. I work late in lab. I'm learning how to speak properly, how to write well. I'm getting rid of the undesirable traits of ghetto living, remaining clean, being concerned with the fine arts, learning to appreciate beauty in life. Moreover, as a southerner and a college student, I have an obligation to act, to protest, to demand equal rights."

INTEGRATION ON A YES, BUT BASIS

These young Negroes take for granted that the old pattern of race relations in the South will be gone in their lifetime and that in the end Negroes and whites will get along better in the South than in the North.

"In the North," said one student leader from the North, "they're all in favor of integration on a 'yes, but' basis. 'Yes, but not now. Yes, but not here. Yes, but not next door.' I'm not saying there's no difference between the North and South, because there's a world of difference.

"But in a way the South is healthier and less frustrating. Both sides know where they stand. The white South says 'No.' We say 'Yes.' It's right out there between us where we can all see it and kick at it in public. I get the feeling that when integration comes in the South it will be with eyes open on both sides, and life down here will be healthier than in the North."

As might be expected, there is a poignant relationship between Negro students and their parents. Students are defensive for their parents with outsiders, but they disapprove of their parents' failure to rebel in their time. Most parents seem to approve the actions of their children. Dr. Arthur D. Gray, president of Talladega College in Alabama, said, "The calls I get from parents are almost all concerned with the effect on grades. The mothers and fathers don't mind that their children are arrested. They worry if they stay in jail and get behind in their studies."

There is some tension between religious leaders and students, since the campus seems to have replaced the Negro church as the center for social action. Students tend to strike the first blow, while ministers join later. Yet religion continues to be a strong thread in the student movement.

ACTIVISTS STILL A MINORITY

There is even some tension with the NAACP, the basic organization for Negro civil rights. Many students expressed sentiments like one in Georgia: "When you ask the N-double-A, 'What can I do personally, right now?' they have no answer." Many students regard the NAACP as stodgy and slow, an ironic opinion considering the accusations of radicalism the NAACP is accustomed to hearing from the white community. On the other hand, the NAACP continues to have the loyalty of most students, who admit that after they dash ahead they often have to ask the NAACP for legal help.

Putting all the Negro civil-rights fighters together—maybe 400,000 in the NAACP another 40,000 in CORE, 250,000 college students—they are still only a small minority of the country's 19 million Negroes. To be sure, they are the leaders, the activists with hope and a belief that they can improve their lot. But they are still a minority.

Sixty percent of Negro youth are "the children of the ghetto," cramped into city slums, largely undereducated, unretrained, unemployed. Like the college students, they are rebelling against things as they are, but the slum kids have no constructive means of expressing their frustrations. They are without hope for their own careers. Whitney Young, Jr., executive director of the Urban League, national social-work agency says: "Either this year or next there is great danger of massive teenage violence by the children of the Negro slums against the outside world."

For such despairing Negroes there is another group that makes fewer headlines in "white" papers than the students, but which permeates the slums in large cities. These are the Black Muslims.

Muslims mean business. They pray to Mecca five times daily, they dress soberly, work hard, pay their bills, forbid drinking and smoking, manage their own apartment houses and department stores, and teach in their State-accredited schools that the white race is rotten and the colored races will inherit the earth, including the United States. They teach members not to strike first, but if struck to be prepared to die in retaliation.

For millions of Negroes unable to accept the Muslim theology or puritanical life, the Muslim message still has a powerful, emotional appeal. The influence is strong in every large Northern city and seems to be growing in Southern ones. The group had 100,000 practicing members in 1960; spokesmen said it would have 1 million by the end of this year.

Thus the Negro masses are moving, but in what direction no one can guarantee. The move can be bitter and destructive, like the program of the Muslims. Or it can be channeled into the traditional pattern of protest, reform, and ultimate cooperation, on which the students have placed their faith.

Even the agitation of the students, however, causes deep fear and resentment among many whites in the Deep South. A white cabdriver in Birmingham told me, "Everyone knows this whole integration business is Communist. The old niggers in town, they don't want no part of it. They like it the way it is. See that old nigger at the stand on the corner? I asked him about it and he said he wanted no part of it. But these younger ones."

PRIVATE PRAISE FROM THEIR ELDERS

Two hours later I talked to the old man at the corner stand. What did he think of the student campaign? He gave me a long, hard look and said, "I'm with them. The only way our people can move ahead is to stick together."

Thus, if the students seem to be rejected by older Negroes speaking to their white bosses, they are privately praised and supported. If the students rely on dangerous direct action, it is nevertheless significant that they reject personal violence and plan for ultimate peace with the white community.

"It's a race against time," one man put it. "At one end you've got groups like the Muslims saying, 'To hell with the white man.' At the other end you have the student movement saying, 'Stand up for your rights with nonviolence.' I think the students are gaining. If they aren't, then God help us all."

[From the Washington Post, June 16, 1963]

NEGROES DEFY RULING; 35 JAILED IN DANVILLE

(By William Chapman)

DANVILLE, VA., June 15.—The leader of Danville's racial protest movement and 34 followers were arrested today as they marched in defiance of the city's new antidemonstration ordinance.

The Reverend L. W. Chase, president of the Danville Christian Progressive Association, was jailed after leading the first of several protest marches designed to fill the city's jails and force public officials and businessmen to meet the Negroes' desegregation demands.

But the newest round of protests was slow and faltering. A call for 200 adults to risk arrest this morning brought only about 40 volunteers.

Although 250 Negroes gathered at night in the Bible Way Church in the Negro district, a potential night demonstration was called off. Some of the leaders appeared concerned about the apparent lack of enthusiasm for continuing mass protests. There was an air of uncertainty about how long the demonstrations would continue.

The Reverend Lawrence Campbell, who is steering the demonstration now, said he was not disappointed. Many potential marchers had to make family plans before beginning extended jail terms, he said.

"We will demonstrate every day and will have 200 in jail this weekend," he said. "They are trying to make us afraid. If we stop now, we may as well pick up and move out of town."

SITUATION OUTLINED

As the second week of protests ended in this southside Virginia city, this was the situation:

More than 125 demonstrators had been arrested for violating a court injunction on a city ordinance restricting protests, but for the first time Negroes today were refusing to put up bond for their release.

Mayor Julian C. Stinson's new committee of businessmen had done nothing officially to satisfy Negro demands for more municipal employment and desegregation of schools and public accommodations.

One Negro leader who has not participated in the demonstrations was attempting to assemble a group to meet with Stinson's committee next week.

Observers here believe the mayor's committee is willing to arrange some desegregation concessions and has enough community influence to make them stick. Whether the more militant Negro leaders would accept them as sufficient and call off the protests is another question.

Mr. Chase, who became more militant as demonstrations were suppressed by police this week, led the first march with 18 followers about 1:30 p.m.

The remaining 17 marched and sang downtown and, like the latter group of 16 young Negroes, were carried into cruisers and a prison farm truck when halted.

All were charged with violating a court restraining order issued last week and a city ordinance enacted Friday. They were held under $500 bond for a hearing Monday.

[From the Washington Evening Star, June 16, 1963]

DANVILLE NEGROES DEFY NEW ORDINANCE, JAILED

(By Alex R. Preston)

DANVILLE, VA., June 15.—Police were making large-scale arrests here today as Negroes resumed their antidiscrimination marches in the fact of tough new city laws which carry a year in jail and a $500 fine for demonstrators.

Thirty-five demonstrators, mostly women and teenagers, were jailed as the renewed demonstrations got underway in defiance of the city laws. Two of those arrested were white participants in the antidiscrimination marches.

Police, their tempers apparently growing shorter on this hot, sultry Saturday, had to lift the marchers bodily from streets and sidewalks where they slumped limply as soon as they were touched by the arm of the law.

Bond was set at $500 each, but none requested it, apparently because of the Negroes' plan to "pack the jail."

CITY COUNCIL MEETS

The city council, in an emergency session yesterday, lasting only 15 minutes, unanimously approved the "get-tough" ordinance.

Among its provisions is a provision against anyone under 18 years of age from picketing or marching in any type of protest demonstrations.

When the first group of 19 marchers, mostly women, boys and girls, piled out of the High Street Baptist Church, the youngest among them was a boy of 12.

The determined display by Negroes seemed to surprise members of the white community. Local newspapers had played up the new city ordinance in terms which readers might take to mean the struggle had ended.

MARCH OUT OF CHURCH

But the demonstrators, led by the Reverend L. W. Chase and John Robert Zellner, marched out of the church at 1:30 p.m.

A block and a half away Mr. Chase, pastor of the church, and Mr. Zellner, a white field secretary for the Student Nonviolent Coordinating Committee, collapsed and forced police to pick them up and put them in patrol cars.

The demonstrators resumed their march, crossing the main street of this southside Virginia city of 47,000.

Police closed in at Market and Main streets. As they approached, the marchers, who had been walking two abreast, sat on the sidewalk.

The police picked them up and loaded them into squad cars.

Some of the 22 Negroes against whom warrants had been issued for violating an earlier court injunction against demonstrations had spent the night in the church where the march began. Fourteen warrants were served yesterday and an undisclosed number were served today.

Among those who had found sanctuary in the church overnight, because police declined to enter it, were Mr. Chase and Mr. Zellner.

Police attempted to hand both their warrants as they took them into custody today on the street, but Mr. Zellner was so relaxed the paper fell from his hands and remained on the sidewalk.

Zellner and Mr. Chase were taken into custody.

The other marchers were allowed to continue for approximately six more blocks before they were halted.

A second group consisting almost entirely of teenagers left the church at 3:40 p.m. singing "We shall overcome. God is on our side." They, like those before them, marched two abreast and were allowed to proceed about five blocks before State and city police assembled and caught them about midway between Main Street and the Municipal Building.

All of those arrested today were charged with violating the new ordinance as well as demonstrating in spite of the corporation court injunction.

There was no violence in today's demonstrations similar to that of Monday night when police and firemen used hoses and night sticks to break up a demonstration at the city jail.

Earlier this week, police cars patrolling in Negro residential areas had been fired upon, though no one was hurt. Helmeted police had chased some 100 Negroes from the city hall steps Thursday night.

NAZIS MARCH

Meanwhile, the American Nazi Party sent four demonstrators here who obtained a permit to march for 1 hour in front of the post office building with placards asserting that white people, as well as Negroes, have picketing rights.

A joint statement was issued by three motel and hotel operators:

"We deplore the coming of the Nazis to our city, and will neither admit them to, nor serve them, in our restaurants."

None of the three restaurants serve Negroes, who staged sit-in demonstrations earlier this week, but one manager expressed a willingness to do so if a general agreement could be reached throughout the trade.

[From the New York Times, May 18, 1963]

FOUR HUNDRED MORE SEIZED IN GREENSBORO IN NEGRO SEGREGATION PROTESTS

GREENSBORO, N.C., May 17.—Negro college students patiently and quietly lined up in front of segregated downtown cafeterias and theaters tonight and invited arrest.

The police took about 400 of the 600 demonstrators to jail, where they were booked on charges of trespass or violation of fire laws by blocking public entrances. No violence was reported. The demonstration was the third protest by students from North Carolina Agricultural and Technical College.

Cash bond of $100 each was set after tonight's demonstration for those previously arrested. About 240 had been jailed Wednesday night on trespass charges.

The S&W Cafeteria, one of the main targets of the weeklong integration effort, closed its doors 10 minutes before the scheduled closing time when the demonstrators showed up. The Mayfair Cafeteria also closed.

"You will not move?" an officer asked a group of demonstrators at the S&W. "Then this group here at the door is under arrest."

About 20 were put into patrol wagons.

At the Center Theater, the demonstrators changed tactics and lined up along the outside walls, leaving the entranceways open. They remained there about 15 minutes while small groups of three or four bypassed the ticket booth and moved directly into the theater lobby. There they were arrested.

Bill Thomas, 20-year-old leader among the Negro youths, said the demonstrations would continue every night until their goals were reached.

"We're prepared to go to jail if necessary," said Mr. Thomas, a local leader of the Congress of Racial Equality. He said CORE commends—but is not satisfied with—a concerted move yesterday by business groups to integrate the downtown area.

Directors of the Chamber of Commerce and the Merchants Association adopted resolutions yesterday urging that all business establishments serve everyone, regardless of race.

But several establishments, including cafeterias and movie houses, said they would continue to turn away Negroes.

[From the Washington Evening Star, Feb. 19, 1964]

INTIMIDATING SENATOR DIRKSEN

(By William S. White)

The United States has, in the old phrase, now seized the issue of civil rights. A long and bitter struggle over that bill, as already passed by the House of Representatives, now opens.

Now opens, too, the most powerful and open pressure upon a single Senator—EVERETT McKINLEY DIRKSEN, of Illinois—ever applied in the memory of old Washington hands.

Senator DIRKSEN, the Republican leader of the Senate, has long been an advocate of civil rights in general. He has, however, been opposed to any unqualified grant of power to the Federal Government to compel privately owned businesses to serve Negro customers against their will. He does not like or support such discrimination. But he honestly questions whether Federal compulsion would not be an unconstitutional intrusion on the right of private property.

All the same, the proposed ban on this form of discrimination is the heart of this whole bill, as the Negro organizations now see it. To oppose it is to be treated as against civil rights.

The Negro organizations frankly intend to drive Senator DIRKSEN from his present position of resistance on principle by the most extraordinary demonstrations against a single public officeholder ever seen in the United

States since those directed a century ago against individual Senators not willing to vote a verdict of impeachment against President Andrew Johnson in the Reconstruction aftermath of the Civil War.

PERSONAL DEMONSTRATIONS

James Farmer, national director of the Congress of Racial Equality, has publicly declared that there will be "extensive demonstrations" in Illinois against the Senator personally. He has added that "people will march en masse to the post offices there to file handwritten letters" protesting Senator DIRKSEN's attitude.

The Senator himself, whose courage and high sense of responsibility have rightly become familiar to a Senate which once had reason not quite so highly to regard him, has retorted:

"All the picketing they may do in my home State and all the picketing they may do here is nothing more than a form of unjustified duress to secure a judgment against my convictions." If the day should come when such pressure could force him to change honestly held convictions, he has added, on that day he would leave the Senate.

Without going at the moment into the merits and demerits of the public accommodations section of the civil rights bill, some observations are now essential.

MOBISM

This sort of naked attempted intimidation of a U.S. Senator is not a part of anybody's civil rights. It is, instead, a profound civil wrong. This is not the way of fair men in a free society. This is moral and intellectual mobism. And those who condone it, either out of a confusion of motives or a lack of courage, will live to regret a shameful surrender to hysteria and demagoguery.

What happens to Senator DIRKSEN personally in itself is important. For he has behaved with civility and honor in a high post in a forum whose whole tradition is the assumption that great public issues are to be settled in the minds of men and not by crude menace, in whatever form it might take.

But what happens to Senator DIRKSEN as a symbol is even more important. If pressure groups, however earnestly motivated, can picket a Senator in the exercise of his duty and conscience, as though he were some industrial plant refusing a wage increase, where does the picketing stop?

Can a judge be terrorized to turn from an unpopular to a popular decision in a case at law? Can a jury be swayed in the very courtroom by the chants of pickets under the courthouse windows, or thrust from its convictions by the physical pressures of marching men shouldering and elbowing it as it goes out to lunch?

Can a somber and infinitely complicated national issue be decided by the simple process of selecting a single man of responsibility and pouring out upon him, day and night, the angry "demands" of one set of partisans in the dispute? Is this "legislation"? Or is this the thin and terrible end of a wedge that might one day be driven into the whole fabric of orderly responsibility in this Nation?

[From the Washington Post, Apr. 6, 1963]

MANY HOLD BIRMINGHAM SIT-INS ILL-TIMED TO ACHIEVE GOALS

(By Robert E. Baker)

BIRMINGHAM, ALA., April 5.—The Reverend Foley, S.J., was the main speaker at a dinner meeting of the Birmingham Frontiers International, a Negro civic group here.

He told the 200 Negro leaders the story of a rabbi, a Catholic priest and Protestant minister who went fishing.

The rabbi and the priest got out of the boat and walked across the water. The minister stepped out and sank to the bottom.

After he was rescued, the minister explained to his colleagues: "I can't understand it. My faith is as strong as yours."

"Yes," replied the priest. "But we know where the rocks are."

Father Foley's point was that Negroes have various ways of getting to their goal of equality. But the present desegregation demonstrations in Birmingham, he indicated, are likely to be ineffective, much like the minister's attempt to walk across the water.

Father Foley is a faculty member of Spring Hill College in Mobile, a veteran fighter for equality for Negroes and chairman of the Alabama State Advisory Committee to the U.S. Civil Rights Commission.

ACTION HELD ILL TIMED

Many Birmingham white moderates and some Negro leaders agree with Father Foley, who made his talk Wednesday night. They think the demonstrations that began that morning are ill timed.

Only the day before, the city's voters chose a new mayor and nine-member council to replace the commission form of government.

Ousted from control was Police Commissioner Eugene (Bull) Connor who was defeated in his effort to become the new mayor by Albert Boutwell.

The mayor-elect had campaigned on a platform providing a new progressive image for Birmingham. Negro voters played a vital role in the change, their 8,500 votes providing the margin of victory. The demonstrations were launched on the day after the election under the guidance of the Southern Christian Leadership Conference under the Reverend Martin Luther King, Jr.

The campaign had been bitter. Boutwell and the council had hoped to take office April 15 in an era of calm and get on with the job of establishing Birmingham's new image.

But the mayor-elect found himself in the midst of discord. The present commission announced its plan to serve out its full term until 1965 unless ousted by the courts.

The sit-ins and protests and arrests gave Connor a chance to air his tough segregationist views.

"If the demonstrations continue," said Connor, "we'll fill the jails full." He said he would seek legislation to increase the bond in trespass cases from $300 to $5,000.

MUST FACE OUTCRIES

Dr. King, Negro leader of nonviolent protests in Montgomery and Albany, Ga., was asked at a press conference yesterday whether the Birmingham demonstrations were illtimed.

"I feel that in any movement, we must face the outcries from people who say, it is illtimed," said Dr. King.

He told how the Negroes had postponed demonstrations three times to keep the racial issue at a minimum in political campaigns. He explained that the demonstrations were planned for the day after election this time, regardless of who won the mayor's race.

"Our cup of endurance runneth over," he said. "This may test the good faith of the new image in this city. We feel Mr. Boutwell will never desegregate Birmingham voluntarily."

At a rally at St. James Baptist Church last night, he called for a complete economic boycott of downtown stores.

Influential Birmingham citizens worked around the clock to find a solution that would quiet the community and remove the disruptive atmosphere that could play into the hands of Connor and Governor Wallace until the new city government can take office.

It appeared that a 30-day cooling-off period was a possibility, with the new government promising to sit down and talk over Negro grievances in return for Dr. King's withdrawal.

IMPETUS SEEN

In his talk to the Negro business leaders, Father Foley noted that the Negro political power as evidenced in Tuesday's election probably forecast an impetus to negotiations that already had been making progress. Direct action was useful in North and South Carolina, when the communities were ready, Father Foley said.

But direct action in Montgomery and Albany had been dismal failures, promoting ill will and inviting violence, he said.

At his news conference, Dr. King denied that Albany was a failure.

"You can't ride a man's back unless it is bent," he said. "The Negro in Albany is standing straight.

"We don't say victory will come overnight. Gandhi worked 40 years in India."

But to many people it seemed that a few weeks more without direct action in Birmingham was a short time to wait to see if political action were successful.

[From the New York Times, Apr. 12, 1964]

NEGROES DEFYING BIRMINGHAM WRIT—12 PICKETS ARE ARRESTED—DR. KING AND AIDS TO LEAD NEW PROTEST TODAY

(By Foster Hailey)

BIRMINGHAM, ALA., April 11.—Negroes defied a county court injunction and continued demonstrations today against segregation here.

The Reverend Dr. Martin Luther King, Jr., and local leaders of the direct action campaign announced their intentions to defy the injunction at noon. Three hours later seven pickets appeared before the Pizitz Department Store.

Five more were arrested before the day's demonstrations came to a halt.

All 12 were charged only with parading without a permit or with loitering, not with violation of the injunction.

Dr. King told a news conference that he and other leaders expected to lead a protest march of Negro ministers tomorrow.

"I am prepared to go to jail and stay as long as necessary," he said.

NO VIOLENCE IN ACTIONS

Two large rallies were held tonight in Negro sections of the city. At the second, in a sports park, Al Hibbler, the blind Negro singer, performed. Admission of $2 was charged.

There was no violence in any of today's demonstrations, although the white driver of a passing truck called to television cameramen:

"Why don't you put buckshot in those things and shoot those black bastards?"

The store pickets were arrested immediately and taken to southside jail to join more than 100 other demonstrators seized since the campaign began 9 days ago.

The injunction—against Dr. King; other leaders of the Southern Christian Leadership Conference of Atlanta, which he heads; the Rev. Fred L. Shuttlesworth, head of the local Alabama Christian Movement for Human Rights, and 134 other persons—was issued last night by Circuit Court Judge W. A. Jenkins. It was served on Dr. King at 1:30 o'clock this morning.

The injunction prohibits a wide variety of protest activities—boycotts, sit-ins, parades, picketing, and kneel-ins at churches.

Anyone arrested now will presumably be charged with contempt of court. That would carry a considerably higher penalty than the maximum that can be assessed in city recorder's court.

The maximum there is a jail term of 180 days and a fine of $100.

The injunction was issued on the complaint of Safety Commissioner T. Eugene (Bull) Connor and Police Chief Jamie Moore.

They said that they feared that continued acts of protest by the Negroes "will cause incidents of violence and bloodshed" and that the complainants had "no other adequate remedy to prevent irreparable injury to persons and property in the city of Birmingham."

Although Dr. King has been here for a week, he has not participated in public demonstrations. Instead, he has been attempting to rally the Negro community of 100,000 behind the direct-action campaign.

One of his aids, Dr. Frank Abernathy, an Atlanta minister, said that tomorrow was selected for the first public demonstration because it was Good Friday.

"Almost 2,000 years ago Christ died on the cross for us," he said. "Tomorrow we will take it up for our people, and die if necessary."

Dr. King said that the demonstrations would continue to Easter Sunday, with kneel-ins at white churches.

"I will be here," he said, in answer to a question, "until we get some good-faith demonstration of an intent to grant the things we are asking for."

Among the demands are desegregation of snackbars in downtown stores, fair hiring policies in the stores and city departments, reopening of parks and other public facilities on a nonsegregated basis, desegregation of schools, and formation of an interracial group to work out common problems.

[From the New York Times, Apr. 13, 1964]

Dr. King Arrested at Birmingham—He Defies a Court Injunction by Leading Negro March—60 Others Seized

(By Foster Hailey)

Birmingham, Ala., April 12.—The Reverend Dr. Martin Luther King, Jr., was arrested this afternoon when he defied a court injunction and led a march of Negroes toward the downtown section.

The marchers were halted after four and a half blocks—but not before more than a thousand shouting, singing Negroes had joined in the demonstration.

In addition to Dr. King, the Reverend Dr. Ralph D. Abernathy, secretary of the Southern Christian Leadership Conference, and more than 60 others were taken into custody. There was no violence.

(In Clarksdale, Miss., firebombs were thrown at a Negro leader's home where Representative Charles C. Diggs, Jr., of Michigan was staying, but no one was hurt. Two young men were arrested and admitted the bombing, but said they were "just having fun.")

WHITE CLERGYMAN HELD

For the second time a white man joined the Birmingham Negro demonstrators and was arrested.

Today it was Dr. Robert Fulton, a middle-aged Presbyterian clergyman who is teaching at Miles College, a coeducational Negro school in Birmingham. Several days ago Carl Keith, of Evanston, Ill., was arrested when he joined a group of pickets at a downtown store. He is still in jail.

Dr. King was among the first to be put behind bars.

Safety Commissioner T. Eugene Connor, who directed the arrests, said Dr. King would be charged with violation of a city ordinance in parading without a permit and also with defying a State court injunction against demonstrations.

The penalty on conviction of the city charge is 180 days in jail and a fine of $100. Punishment for the injunction violation could be much more severe. The injunction was issued by Circuit Court Judge W. A. Jenkins Wednesday night. Dr. King announced yesterday his intention to defy it.

OPPOSITION TO KING

The march was the most spectacular of many demonstrations held since a direct action assault on Birmingham racial barriers was begun 10 days ago under the leadership of the local affiliate of the Southern Christian Leadership Conference.

It was the first in which Dr. King has taken part. His major effort here the last 10 days has been to rally support behind the direct action campaign.

There has been much opposition in the Negro community here of more than 100,000 to pressing the campaign just as a new and moderate city administration is taking office and to the participation of Dr. King, even though he has said he was invited to come. There also has been some reported grumbling that Dr. King was letting local people get arrested and staying safely behind the lines himself.

Counting today's arrests, more than 150 persons have been taken into custody.

More than 40 of that number, several of them leaders of the campaign, have been released on cash bail of $300. Twenty-four have been tried, convicted, and given maximum sentences. Trials of the others were halted when defense attorneys invoked a 95-year-old section of the Federal Criminal Code concerning civil rights and the Federal court here agreed to rule on its validity. A hearing will be held next week.

Today's march was the most widely advertised demonstration yet held and was viewed by larger groups of Negroes than any of the others. It was originally scheduled to start at noon from the Sixth Avenue Zion Hill Baptist Church, a small church at 14th Street and Sixth Avenue North, three blocks inside the main Negro section of the city.

It was 2:40 p.m., however, before Dr. King and the others emerged from the church doors and started east up Sixth Avenue. Dr. King and Dr. Abernathy were at the head of a procession of 40 or 50 marchers. They were dressed in blue jeans and blue cotton shirts to dramatize the efforts they have been making to bring about a Negro boycott of Easter buying at downtown white stores.

The march continued up Sixth Avenue to 17th Street, where police had sealed off a whole block, obviously hoping to trap the marchers there and keep onlookers back. It was at that corner that the only violence of the last 10 days occurred last Sunday when police dogs were used to drive back onlookers.

Instead of proceeding up Sixth Avenue toward city hall, as the police had expected, the marchers turned south at the corner and marched on toward Fifth Avenue and the downtown business section.

STOP THEM THERE

At Fifth Avenue they turned east again. The police, meanwhile, had redeployed their forces and were waiting halfway down the block. As the head of the march passed behind some trucks at the entrance to a garage, Commissioner Connor told his forces, "Stop them there."

Two motorcycle patrolmen and two detectives grabbed Dr. King and Dr. Abernathy and hustled them into a police van a few steps away. The order of the marchers, which had started out two abreast, had been disrupted as eager onlookers joined in behind them and on either side. Thus police had difficulty trying to sort the marchers from spectators.

Most of the marchers, however, including Dr. Fulton, voluntarily stepped forward and lined up to enter other waiting police vans. One of those who did not was the Reverend Fred L. Shuttlesworth, head of the local Christian Movement for Human Rights, which initiated the campaign here. He was arrested last Saturday but was released on bail Monday night.

Mr. Shuttlesworth was arrested later at a motel.

There were shouts of anger from the several hundred Negroes who were in sight of the downtown arrests and who had been singing and clapping hands as they walked or ran alongside the marchers.

When police moved toward them and ordered them back west down Fifth Avenue most of them gave way freely. Three who stopped to argue with policemen were arrested.

The police quickly cleared the streets and sidewalks for two blocks and even moved onlookers out of a small park on 17th Street, but Mr. Connor ordered them to let the people in the park alone.

"Let them stay there and sing all they want to," he said.

When the demonstration started, Mr. Connor asked an onlooker what he thought of the parade, but without pausing for an answer, inquired:

"Was King in that bunch?"

Told that he was, Mr. Connor said:

"That's what he came down here for, to get arrested. Now he's got it."

What effect Dr. King's arrest will have on the campaign is problematical. His father and brother, the latter a clergyman at nearby Ensley, Ala., are still here and all the local leaders are now out of jail.

Mass kneel-ins had been planned at white churches Sunday and those presumably will be attempted. Dr. King and the others have rebuffed efforts to get them to halt their direct action campaign until Mayor-elect Arthur Boutwell and the new city council form of government takes office Monday.

Dr. King and the local leaders say that no matter who is arrested others will step forward to take their place. They say that the campaign will be continued until there is at least a beginning made in easing discrimination.

United States Sends Troops Into Alabama After Riots Sweep Birmingham; Kennedy Alerts State's Guard—Warning Issued—President Appeals for Peace and Vows To Keep Order

(By Anthony Lewis)

Washington, May 12.—President Kennedy tonight dispatched Federal troops to bases near Birmingham, Ala., for use if racial violence breaks out again.

His action followed 3 hours of rioting early this morning in which 50 persons were injured. The rioting erupted after two buildings were bombed.

The President also ordered all "necessary preliminary steps" be taken to call the Alabama National Guard into Federal service. The actual call can then be accomplished in minutes if the President decides it is needed.

These emergency moves were announced by the President at the White House tonight. He appeared before the press and television cameras at 8:48 p.m. to read a grave statement on the Birmingham crisis. The President declared:

"This Government will do whatever must be done to preserve order, to protect the lives of its citizens and to uphold the law of the land. I am certain that the vast majority of the citizens of Birmingham, both white and Negro—particularly those who labored so hard to achieve the peaceful, constructive settlement of last week—can feel nothing but dismay at the efforts of those who would replace conciliation and good will with violence and hate."

UNITS MOVE TO BASES

Even as he spoke, units of the Armed Forces specially trained in riot control were arriving at military bases near Birmingham. The Defense Department would not identify the units or indicate their size, except to say that all came from outside Alabama.

Later, the Pentagon said that the troops had moved into Maxwell Air Force Base near Montgomery and Fort McClellan near Anniston.

Mr. Kennedy acted after conferring for 3 hours with Secretary of Defense Robert S. McNamara, Attorney General Robert F.

Kennedy, Secretary of the Army Cyrus Vance and other officials.

The President's statement made clear the deep concern of the Administration over last night's bombings of Negro residences in Birmingham and the resulting riots and police action.

Government sources said the events of the night have an entirely new cast to the Birmingham racial crisis. From a protest demonstration, they said, it had become an ugly, violent struggle.

CONCERNED OVER POLICE

In addition to concern over the bombings and the rioting, officials were disturbed by the police reaction. It was reported that the Birmingham police, behaving efficiently and fairly, had the situation under control when state troopers came in and revived tensions.

The eruption of violence threatened the agreement reached last week, with the help of Federal mediation, to end the Negro protest demonstrations. White business leaders had agreed to gradual desegregation of their facilities.

President Kennedy emphasized tonight the need to preserve that agreement. He said:

"It recognized the fundamental right of all citizens to be accorded equal treatment and opportunity. It was a tribute to the process of peaceful negotiation and to the good faith of both parties.

"The Federal Government will not permit it to be sabotaged by a few extremists on either side who think they can defy both the law and the wishes of responsible citizens by inciting or inviting violence."

He called on all citizens of Birmingham, Negro and white, "to restore the atmosphere in which last week's agreement can be carried out." He added, bluntly and with an implied warning:

"There must be no repetition of last night's incidents by any groups."

VOICES HOPE OF PEACE

The President expressed the hope that Birmingham's citizens would "make outside intervention unnecessary."

Evidently the Administration was concerned about a fresh outbreak tonight or tomorrow morning. It hoped by a show of determination to avoid the ultimate step of using Federal force.

But the third severe test of Mr. Kennedy's racial policy was plainly at hand. Two years ago Federal marshals protected Freedom Riders and others from violence in Montgomery, Ala. Last fall troops intervened to rescue beleaguered marshals in Oxford, Miss., but two civilians were killed.

President Kennedy flew back from Camp David, Md., by helicopter late this afternoon for the emergency meeting on the Birmingham situation. He had been in touch with his brother, the Attorney General, by telephone during the day.

Also at the meeting were the Deputy Attorney General, Nicholas deB. Katzenbach; Burke Marshall, Assistant Attorney General for Civil Rights; Gen. Earle G. Wheeler, Army Chief of Staff, and Theodore C. Sorensen, the President's special counsel.

Mr. Marshall, who played a major role in negotiating last week's agreement in Birmingham, went back this evening at the President's direction.

FBI IN BIRMINGHAM

Other Justice Department officials were already there, led by Assistant Deputy Attorney General Joseph F. Dolan. Agents of the Federal Bureau of Investigation were at the scene of the rioting early this morning.

It was Mr. Marshall who got the first word of the rioting. He was with his family at their farm in Berkeley Springs, W. Va., when a telephone call from Birmingham awakened him at 2 o'clock this morning.

Robert Kennedy was called a little later, as was Pierre Salinger, the President's press secretary. The President was informed when he woke up in the Presidential cabin at Camp David.

The Attorney General, Mr. Marshall and others talked to various leading figures in Birmingham, white and Negro, to get the facts and to try to calm things down. Then, at 1 p.m., a Government helicopter was sent to Berkeley Springs to get Mr. Marshall.

CONFER IN M'LEAN

He met with the Attorney General at the latter's home in McLean, Va., at 3 p.m. They then went to the Justice Department for a conference with their aids.

At the meeting were Mr. Katzenbach; Assistant Attorneys General Norbert A. Schlei and John Douglas; Mr. Marshall's assistant, John Döar; Mr. Schlei's assistant, Harold F. Reiss, and the Justice Department's public information director, Edwin O. Guthman.

The Attorney General had also brought with him the family's large black Newfoundland dog, Brumus. He lunged around the office while the grim session went on.

Just before 6 p.m., Messrs. Kennedy, Katzenbach, and Marshall went to the White House to join the President's meeting, which was already underway.

Secretary McNamara and General Wheeler left the meeting for the Pentagon at 7:15 p.m., presumably to start the troops moving.

Mr. Salinger announced about that time that there would be a statement at 8 p.m. It actually came 48 minutes later, when the President strode into the "Fish Room," a large meeting room off the West Wing lobby in the White House.

[From Life magazine, May 17, 1964]

PROVOCATION, REPRISAL WIDEN THE BITTER GULF

The pictures on these pages are frightening. They are frightening because of the brutal methods being used by white policemen in Birmingham, Ala., against Negro demonstrators. They are frightening because the Negro strategy of "nonviolent direct action" invites that very brutality—and welcomes it as a way to promote the Negroes' cause, which, under the law, is right. And they are especially frightening because the gulf between black and white is here visibly deepened.

For a half century, Birmingham has been known as the "South's toughest city." A large Negro population combined with a dominant class of white industrial workers has made for a climate of simmering racial hatred that has frequently erupted into open conflict.

Personally led by the Reverend Martin Luther King, the Birmingham campaign is now the cause célèbre of the entire American Negro movement. Elsewhere in the South, by such "nonviolent" techniques as sit-ins and "kneel-ins" in white churches, King and his followers have forced white communities to start desegregating their city facilities—and to sit on biracial panels to discuss further desegregation. This is what the Negroes in Birmingham want, and they are prepared to go to jail—or to face hoses and police dogs—to get it.

Up to now, open conflict has erupted only between the "direct action" group and police; at midweek a truce had been agreed on. Still the Negroes—aware they are trying to crack "the toughest city in the South"—and the police, with their dogs and fire hoses, have set an ominous precedent of provocation and reprisal.

Attack dogs: With vicious guard dogs the police attacked the marchers—and thus rewarded them with an outrage that would win support all over the world for Birmingham's Negroes. If the Negroes themselves had written the script, they could hardly have asked for greater help for their cause than City Police Commissioner Eugene "Bull" Connor freely gave. Ordering his men to let white spectators come near, he said, "I want 'em to see the dogs work. Look at those niggers run." This extraordinary sequence—brutal as it is as a Negro gets his trousers ripped off by Connor's dogs—is the attention-getting jackpot of the Negroes' provocation.

[From the Wall Street Journal, Feb. 5, 1964]

NEW RACE TROUBLES—NEGROES READY ANOTHER WAVE OF DEMONSTRATIONS AGAINST BIAS IN SOUTH—"RESEGREGATION" AND UNKEPT PROMISES CHARGED; CORE TO EXPAND DRIVE IN NORTH—AN IMPACT ON CIVIL RIGHTS BILL?

(By James C. Tanner)

Even as Congress debates the civil rights bill, a new round of race troubles is threatening the South.

Southern Negro leaders are meeting this week to complete plans for a renewal of the demonstrations which kept Dixie in a turmoil last summer. Quick passage of the civil rights bill isn't likely to head off the disturbances, either, though it may bring about a shift in targets. If the controversial public accommodations proposal goes through as expected, for example, it would simply enable Negroes to turn their attention more to the equally thorny issues of discrimination in voting, jobs, and housing.

Behind the new push is growing Negro resentment over what they see as unkept promises from whites on desegregation. Negro leaders charge that not only have many southern communities failed to carry out pledges to help wipe out discrimination, but in some instances segregation practices which had been dropped have been reinstated lately. "We have concluded that we progress only by crisis," says the Reverend Kelly Miller Smith, a Nashville Negro leader.

Any revival of racial disturbances this year isn't likely to be limited to such segregated spots as Birmingham, Baton Rouge, and Jackson, Miss. As the current demonstrations in Atlanta indicate, model southern cities in race relations, including Dallas, Memphis, and Nashville—which has been called a hotbed of itegration by the (white) Citizens Councils of America—may be in for trouble, too.

MORE PROTESTS IN NORTH

And there's evidence the protests won't be confined to the South. Civil rights leaders expect them to spread to the North just as they did last year. "We're stepping up our drive on all fronts," says Val Coleman, an official of the Congress of Racial Equality (CORE) in New York, "and that includes our whole northern push on housing, unemployment, education, and voter registration." He cites Monday's 1-day boycott of schools in New York City as an example of what can be expected.

But current Negro efforts are concentrated primarily in the South and Negro leaders generally feel there's no time like now to get the demonstrations under way. "This is the month we start again," says the Reverend Arthur Jelks, president of the Baton Rouge chapter of the National Association for the Advancement of Colored People. He adds: "The intensity of the demonstrations will be so powerful that people are going to talk about 1964, not 1963, as the year the Negro fought for his rights."

Similar words are heard elsewhere. In Memphis, where Negroes last Saturday checked 50 restaurants and found only 14 that would serve them, Negro leaders will meet today to go "right into a program of direct action—probably sit-in demonstrations" by Saturday afternoon, says Maxine Smith, executive secretary for the NAACP branch there. In Birmingham, officials of the Alabama Christian Movement, headed by the Reverend Fred Shuttlesworth, also will meet today to plan new demonstrations in that city. He says it's only a matter of deciding when to start demonstrations. "Civil rights will get warm before the weather," he insisted.

MEETING IN VIRGINIA

Next Saturday, NAACP representatives from across Virginia will meet in Richmond to draft civil rights moves for that State. CORE has called its members to New Orleans a week from tomorrow to plan new drives over the South. At Tulsa, "stand-ins" are scheduled to begin in the mayor's office February 15 unless city fathers have acted favorably by then on complaints against segregated commercial facilities.

Demonstrations are already under way in Chapel Hill, N.C., a city noted for its efforts to ease tension, and are to be stepped up this week following the passing last Saturday of a "deadline" for all restaurants and hotels to open to Negroes. In Atlanta, conservative Negro leaders are joining demonstrations begun by the more impatient youngsters of the Student Nonviolent Coordinating Committee (SNICK). Says Harry Boyte, special assistant to the Reverend Martin Luther King of the Southern Christian Leadership Conference; "Atlanta faces a really massive direct action movement that will be developing over the next 2 or 3 weeks."

While Mr. Boyte and other spokesmen for civil rights groups insist that this year's demonstration will dwarf those of last year, one big difference can already be detected. Though the 1963 tactics of sending waves of marchers through downtown streets won't be entirely abandoned, the emphasis now is on selected targets such as a holdout restaurant—LEB's in Atlanta, for example—or a department store which has reneged on promises to hire Negro clerks. Negroes alalready are picketing four New Orleans stores for this reason.

A prime factor in the shift of strategy, confides Gloster B. Current, NAACP director of branches, New York, is that the marching tactics didn't always pay off. "In Jackson," he says, "our marches were smothered. We found that the opposition had developed some countermeasures of their own." Some of the measures—speedy arrests and high bails for demonstrators—not only have tied up much of the organization's legal talent but also $350,000 of its funds, adds Mr. Current.

NEARLY 20,000 ARRESTED LAST YEAR

Last year, according to tabulations of the Southern Regional Council, civil rights groups staged 930 protest demonstrations in 115 towns in the 11 Southern States. Although more than 20,000 demonstrators were arrested, they won sweeping concessions., Since the Washington march last August, however, there has been a notable lull in the Southern racial push except for scattered and surprising outbreaks in communities like Atlanta. This was due in part, say Negro leaders, to an anticipated letdown following the massive move on the Capital. In some cases, it was a breathing spell to regroup and to give whites time to come through on promises. By the time they were set to go again, Negroes note, President Kennedy was assassinated. Then came the holidays.

Even now, some of the more conservative Negroes fret that the timing on the new demonstrations is bad. They fear disturbances might ruffle tempers of Congressmen wrangling over the civil rights bill. They argue that the energy of the civil rights groups would be better devoted to lobbying for the legislation rather than dissipated in the streets of the South. And they note that approval of a civil rights bill probably would remove the need for some of the pending demonstrations. But they are in the minority, and Negro leaders generally agree that the new wave of demonstrations will begin to roll across Dixie ahead of the time that a civil rights act could become effective.

Why the urgency? Much of it can be traced to the impatience of Negroes of high school and college age who were the sparkplugs of last year's racial revolt. "The leaders of the nonviolent movement realize there has to be a new push, or they are out," observes a prominent southern Negro. "The youngsters are chafing at the bit and aren't willing to wait and see how the civil rights bill shapes up," he adds, "and we oldsters can't hold back any longer."

BACKSLIDING ANGERS OTHERS

Equally significant is the growing bitterness of even conservative Negro adults over the apparent apathy of whites in many southern communities, plus a great deal of "backsliding" on concessions and subtle "resegregation" in one form or another in facilities formerly opened to both races.

"We have tried to give city officials time," says Reverend Shuttlesworth of Birmingham, "but there has been only vacillation and procrastination. There's not a single bit of evidence that the city is going to hire any Negro employees, and they've got 40 or 50 boards they could put Negroes on. The department stores desegregated lunch counters, but they have not yet hired salespeople as agreed."

In New Orleans, CORE field secretary Isaac Reynolds talks of Negro unrest because, he says, the city's stores aren't living up to an agreement to hire and promote more Negroes. He cites a so-called promotion list by a department store in its automotive section where a Negro clean-up man was given the duties of mounting tires on cars. "We still have a few Negroes in other than menial jobs," he contends.

In Baton Rouge, better jobs will be a key goal of new demonstrations. Reverend Jelks recalls that stores appeared eager to hire Negroes as clerks to help end disturbances there last summer. "But when we ceased (demonstrations), they ceased (hiring)," he says.

STILL A SORE SPOT

The question of treatment in public facilities still rankles many Negroes and promises to be a sore spot at least until a strong civil rights bill can change things.

Chagrined civil rights leaders, for example, are finding that backsliding restaurants and hotels are common across the South. In Atlanta, Negroes claim they had been led to believe 35 eating establishments were going to desegregate last summer. Only 13 or 14 did, and one or two of those shortly resegregated, they say. Last May most Houston restaurants agreed to accept Negroes. By October, 15 of them had reneged, according to a check by one civil rights group which suspects that the number may be even larger now.

In Huntsville, Ala., eight motels and a restaurant agreed to desegregate in September to meet Negro demands. The restaurant resegregated within a month. "The owner said the pressure was too great," says Mrs. John L. Cashin, Jr., member of the Huntsville Biracial Committee. Rev. Heslip Lee, executive director of the Virginia Council on Human Relations, reports that some of the restaurants desegregating in Richmond last year have resegregated and claims one grill closed shop rather than serve Negroes.

PROBLEM OF SUBTLE SEGREGATION

Particularly galling to Negroes is subtle segregation practiced within an establishment that is assumed to be integrated. A Baton Rouge variety store desegregated its lunch counter a few months ago but hung curtains between the stools. On occasion, Negroes—including a visiting St. Louis alderman—have complained that while stopping for a cup of coffee at a lunch counter in the Dallas railroad station, they are often directed to a distant corner table.

In some instances, Negroes become confused by the subtleties of segregation. At Wewoka, Okla., Berry's Waffle House has on occasion served Negroes but this policy applied only when Bird Berry, one of the brothers operating the place, was the man on duty. When brother Fred was doing the serving, Negroes weren't welcome. Now, according to Fred, Negroes aren't being served at any time.

At least a part of the resegregation of southern commercial firms can be credited to the increasing efforts of segregationists who are now using the same tactics proved successful by the integrationists. In Columbia, S.C., the National Association for the Preservation of White People has pickets parading in front of city hall and the desegregated Downtowner Motel. Reports L. Maurice Bessinger, operator of Columbia's four Piggy Park restaurants and founder of the fledgling NAPWP: "Our strategy is counter reaction. As a result of our picketing, we are holding the line on integration. All the hotels were going to integrate in December, but we stopped that with our pickets. Two of the theaters which integrated now are negotiating with us to go back to segregated business if we'll pull off our pickets."

[From the New York Times, Mar. 7, 1964]

Bridge Sitdown by CORE Blocks the Triborough—Six Held After Demonstration on 125th Street Approach During Evening Rush: Motorists Pelt Group—Seven at Police Headquarters Seized—Three Handcuff Themselves to Grille

(By Leonard Buder)

Seven civil rights demonstrators sat down on the Manhattan approach to the Triborough Bridge last evening, delaying thousands of rush-hour motorists for 20 minutes.

By the time the police could take away the demonstrators, traffic had backed up on 125th Street and was snarled on Second Avenue.

Many motorists shouted invectives at the demonstrators. Some threw garbage that had been dumped on the bridge by the demonstrators to symbolize conditions in East Harlem.

Another demonstration took place at police headquarters, 240 Centre Street, where seven persons were arrested as they protested alleged police brutality. Three of the demonstrators had handcuffed themselves to an iron grille outside the office of Commissioner Michael J. Murphy.

SCHOOL CONDITIONS ASSAILED

The Triborough Bridge demonstration resulted in six arrests. The 6 who were seized and about 30 other persons who did not obstruct the roadway were protesting overcrowding and allegedly unsafe conditions in East Harlem schools. All are members of the East River Congress of Racial Equality, which has a total membership of 120.

Leaders of CORE announced last week that they intended to intensify efforts to achieve complete school integration here. The demonstration by the East Side chapter, the first move of the new campaign, indicated that new tactics would be used.

Although the sitdown on the bridge came as a surprise to the police and motorists, it was not unexpected by newsmen. A CORE spokesman had alerted news media to be prepared for something drastic and far out by the East Side chapter. The rallying point and the time were given, but details were not disclosed.

At 4:20 p.m.—10 minutes ahead of schedule—24 members of the chapter filed out of Chambers Memorial Church, at 219 East 123d Street, east of Third Avenue. They carried signs reading, "Are Crowded Roads Worse Than Crowded Schools?" and "In East Harlem, Children Are Integrated With Rats and Garbage."

As they marched they sang "We Shall Overcome" and other songs of the civil rights movement. When they reached the corner of Second Avenue, a tavern jukebox momentarily drowned them out.

The marchers went north to 124th Street and crossed the avenue to a triangular-shaped concrete island, where a few elderly persons dozed on benches. The island is directly in front of the approach to the bridge.

The demonstrators began marching around the island, singing, "Ain't Going to Let Nobody Turn Me Around" and "Woke Up This Morning With My Mind Set on Freedom."

Neighborhood youngsters soon flocked around the marchers. A 13-year-old boy had a conga drum and he added his beat to the demonstration.

The police, led by Inspector Thomas Pendergast of the Sixth Division, also arrived, but for awhile they had nothing to do.

The number of demonstrators grew to about 30, about half of them white. Most of them looked to be in the late teens or early twenties, and Blyden Jackson, the 27-year-old chapter president, was asked whether they were college students.

"The whites are," he said. "The Negroes are unemployed from the neighborhood."

At 4:50, as motorists headed home across the bridge, a marcher said, "Let's all take a walk to the Bronx."

Meanwhile, the demonstration, which had started with almost theatrical fanfare, began to resemble a military campaign. Seven members of the chapter quietly made their way to the rendezvous point on the bridge unnoticed by the police.

REFUSE DUMPED ON ROAD

At the point where large green-and-white overhead signs proclaim that the left lanes are for Long Island and the right lanes go to the Bronx, the seven dumped empty cans, glass bottles, and other refuse. Then they sat down and linked arms before startled motorists who honked and shouted.

One driver, who said he was a teacher, pleaded with the demonstrators to allow traffic to pass. He said he was taking a pregnant woman to the hospital.

The seven—three young women and four young men—ignored pleas by the police to move, and Inspector Pendergast told his men to move them as gently as possible. When the demonstrators resisted, the police had to drag them away.

The six who were arrested were Penn Kimble, 23 years old, of 520 East 12th Street; Paul Feldman, 30, of 99 St. Mark's Place; Donald Arthur, 19, of 61 Hamilton Place; Joe Louis, 20, of 129 Suffolk Street; Elizabeth Adler, 23, of 250 East 105th Street, and Zungara T. Lawrence, 23, of 1102 Longfellow Avenue, the Bronx.

All were booked at the harbor precinct station house on Randalls Island on charges of interfering with the police, disorderly conduct, obstructing automobiles, and violating traffic regulations.

The seventh demonstrator, a young woman, was not arrested.

The protest at police headquarters also started uneventfully. Five of the demonstrators arrived shortly before 2 p.m. They identified themselves as Herbert Callender, the chairman of the Bronx CORE; Isaiah Brunson, chairman of the Brooklyn CORE; Rev. Laurie Walker and Raphael Martinez, of the New York CORE, and Howard Quander, of the Bronx CORE.

The group met for about 30 minutes with Deputy Inspector Arthur H. Savitt, who is in charge of the department's civilian complaint review board. They told Inspector Savitt that Jesse Roberts, a man who is serving time for a narcotics violation, was beaten by the police after his arrest last November 2.

After the five left the inspector's office, they crossed the lobby toward Commissioner Murphy's office. Three of them, Mr. Callender, Mr. Brunson, and Mr. Quander, took out handcuffs and locked themselves to the grill. Two representatives of the Progressive Youth of Puerto Rico, Flora Santiago and Jose Sanchez, then arrived.

When the seven refused to leave, the police clipped the handcuffs with metal cutters and arrested the demonstrators on charges of unlawful assembly, intrusion on real property, interfering with the police, and disorderly conduct.

Commissioner Murphy later said allegations of police brutality were always carefully investigated. But, he declared, "no group can be permitted to disrupt police functions and thus endanger the well-being of the city."

[From the U.S. News & World Report, Feb. 10, 1964]

RACE TROUBLES IN A "MODEL CITY"

(NOTE.—Just as Atlanta, Ga., began to think it had the integration problem licked—

(Militant groups took over from peaceful negotiators to demonstrate in the streets.

(One of the results: a rising tide of white resentment.)

ATLANTA.—Suddenly, in mid-January, Atlanta's racial peace was shattered.

Up to that time this big city, the capital of Georgia, had been a model for integration in the Deep South. The change came overnight.

Bands of young Negroes began sit-in demonstrations at hotels and restaurants that barred Negroes. Ku Klux Klansmen picketed hotels and restaurants that had agreed to serve Negroes.

VISITORS FROM U.N.

A delegation from the United Nations came here on January 25, expecting to see an example of interracial harmony in the South. What the U.N. visiotrs saw, instead, was a pushing, shoving, fist-swinging brawl between Negroes and Klansmen.

Many people in Atlanta wondered whether the presence of the U.N. delegates had not served to touch off the demonstrations.

The day after the international group came to town, Negroes demonstrated for 12 hours in downtown Atlanta. They tried to force their way into a segregated restaurant. Day after day, the disturbances continued.

Police at first refrained from arrests. In the past, many business proprietors have failed to follow up with legal complaints against demonstrators arrested in their places of business, and police recently have followed a policy of refusing to make arrests under the State's antitrespass law unless proprietors obtained warrants.

Arrests began, however, when demonstrators started to lie down in restaurant entrances, blocking sidewalks, and scuffling with police. Several policemen and Negroes were injured.

A group of Negroes remained in one restaurant for several hours after it closed. The Atlanta Journal reported:

"The restaurant owner charged that the demonstrators damaged booths, coffee urns, glasses, and other equipment in his restaurant and that demonstrators urinated on the floors after he locked the restrooms."

AGITATION IN JAIL

Arrests mounted, filling jails with nearly 200 Negroes, many of whom continued their demonstrations behind bars.

Police reported that jail furniture was broken and that prisoners spat on turnkeys and hurled wet toilet paper.

An isolated incident on January 16 may have been a hint that racial tension was developing in Atlanta. On that day a group of white high school girls was stoned in a racially mixed neighborhood.

One of the group was thrown down and choked by a Negro girl. A white girl who intervened was struck on the head with a stick with such force that an eye was dislocated.

The new trouble comes mainly from a small band of young Negroes who have broken away from their elders and turned from peaceful negotiations to turbulent street demonstrations.

Their announced goal is "immediate and total" desegregation of all phases of life in Atlanta.

Many Negro leaders feel that the younger Negroes are trying to go too far too fast.

A NEGRO'S WARNING

Speaking at a biracial meeting here on January 29, Roy Wilkins, executive secretary of the National Association for the Advancement of Colored People, warned Negroes against exclusive reliance on the "direct-action approach."

The NAACP leader pointed out that Negroes are a minority of 18 million among 186 million Americans, and said:

"Thus, even elementary reasoning would seem to indicate that allies among the majority must be won and held if the minority's efforts are not to end in frustration and failure."

Mayor Ivan Allen has called for a 30-day cooling-off period, with Negroes suspending their demonstrations while an interracial committee tries to work out a peace pact. The request met defiance from the Negro leader of the demonstrations, James Forman, the executive secretary of the Student Nonviolent Coordinating Committee.

Atlanta already has integrated its public transport, parks, swimming pools, libraries, lunch counters in drug and variety stores, and many of its theaters.

It employs Negroes as firemen and policemen. A Negro serves on the school board. Negro membership on other boards and commissions has been increased. Negroes have been getting more and better city jobs. Negroes vote in large and increasing numbers.

"Events of the past few days have threatened the progress which already has been made," said "the Atlanta Constitution" in an editorial. "Atlanta has traveled too far on the road to ending discriminatory practices to have the drive sidetracked by a few hotheads."

ATTITUDE OF WHITES

Meanwhile, white resentment is growing. Resistance to Negro demands is stiffening. Negro leadership has been split.

There is widespread fear that January's troubles will bring a halt to years of quiet progress in interracial cooperation in Atlanta.

Mr. BYRD of West Virginia. I should like to refer to one other item which appeared in the U.S. News & World Report in March of this year which is captioned "Some New Tactics in Civil Rights Push." The article states:

> Negroes now are trying out some new tactics in their civil rights demonstrations. New tactics include:
>
> "Shop-ins": In practicing this technique, introduced in San Francisco in late February, Negroes enter a supermarket accused of hiring too few Negroes. There they fill shopping carts with groceries, take them to the checkout counters and allow the merchandise to be rung up by clerks on the cash register.
>
> Then the Negroes walk out, paying no money and leaving behind the bags of groceries—which then must be returned to the shelves. Store owners complain that this tactic causes spoilage of perishables, breakage of some items—and much wasted time.

The article refers to another technique known as "cross-filing." It is a variation of the shop-in. The article states:

> "Cross-filing": This is a variation of the "shop-in." Negroes posing as customers of a supermarket take items from one shelf and put them on another shelf—again forcing clerks to waste time restoring the merchandise to its right place.
>
> Some students of the University of California have countered with "reverse shop-ins," in which they help merchants return the mixed-up items to their proper shelves.

Then there are rent strikes, to which the article refers:

> "Rent strikes": This tactic is simply the refusal of tenants to pay their rent unless the owner meets their demands for repairs on their buildings. It is used mostly in New York City. Owners complain the tactic is sometimes used as an excuse for nonpayment even when buildings are in good repair.
>
> Negroes say the new methods will supplement—but not replace—the older tactics.

Mr. President, those are but a few of the thousands of newspaper stories which have appeared in newspapers throughout this country concerning acts of civil disobedience and violations of local laws. I say again that but for the so-called demonstrations, the bill would not be before the Senate today.

Since the bill first came to the Senate, and even prior thereto, we have heard nothing but the echo of liberty from those who habitually support any measure which is designated a civil rights measure. But while we follow the sound, let us take care that we do not lose the substance. I am as eager to further the preservation of the inestimable blessings of civil rights as is any other Member of this body, but I am persuaded that the sanguine patrons of the bill are mistaken in their views, and that enacting the bill into law would weaken rather than add strength to individual rights and private freedom.

The policy enunciated in the bill does not confine itself to the present moment but brings future generations into its sphere. It involves an issue which is national in scope, and does not confine itself to the region which comprised the old Confederacy. The bill would affect not only the lives of Negro citizens, but it would affect the lives of all citizens. It does not deal alone with one aspect of our national life.

If the bill were enacted into law as it was passed by the House of Representatives, it would embark this Nation upon a course which could ultimately alter certain basic principles of our freedom of government. Its reverberations would be political, economic, and social. Its passage would achieve the satisfaction of no group, nor would it assure or even promise to assure peace and tranquillity.

Mr. President, many of the people who have written to me urging that I support the bill are laboring under the illusion that its passage would bring peace and tranquillity to communities throughout this country. They fail to perceive that the leaders of these protest demonstrations are professional agitators who are paid salaries—undoubtedly good salaries—for this kind of activity. Once the bill is passed, those leaders will wish to perpetuate their grip upon the various groups. They will wish to continue to impress their followers with the necessity for a continued salary. They will, of course, conjure up new plans, new tactics, and new objectives; and we can expect to see new demonstrations throughout the country.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield to the senior Senator from Georgia.

Mr. RUSSELL. I am sure that the distinguished Senator from West Virginia has read the many articles that have appeared in the press in which many Negro leaders have said that they do not regard the present bill as anything, and that it would have no effect whatever on conditions in New York, Philadelphia, Pittsburgh, and other areas.

A Member of the other body—ADAM CLAYTON POWELL, from New York—has said that the bill meant nothing to the Negroes of New York, and that they will continue to demonstrate with increasing vigor—they did not say it, but the assumption was with increasing violence—because the bill did not offer them anything.

Several weeks ago there was a meeting in Washington in which various leaders gathered and stated that the supporters of the bill were, in effect, "Uncle Toms," because the bill goes so far as to practically strike down the rights of property in this country. The bill would limit and circumscribe them to the point at which they would not have the vitality that the Founding Fathers expected when they spelled out in the Constitution the three primary civil rights—life, liberty, and property. But the leaders said that the bill means nothing because it holds out no promise to the Negro populations of New York, Chicago, Philadelphia, and Pittsburgh. That is what has caused me a great deal of wonder.

The State of New York, so we are told by their representatives here in the Chamber, has passed every law that the Negro population has requested. It has passed public accommodation laws. It has FEPC laws in abundance. I think there is both a State law and a city law. They have not failed to act immediately whenever there has been any demand from the Negro population. And, yet, the Negro leaders are unhappy there and say that they are being imposed upon. That leads one to wonder just how far we can go, and whether it will be possible to ever satisfy these leaders unless we adopt the Communist doctrine of dividing up all of the property every Saturday evening at a certain hour and distributing it equitably among all the citizens without regard to their race, creed, color, religion, or national origin.

I wonder if the distinguished Senator from West Virginia, who has made a detailed study of this entire subject, has been able to determine just exactly what the objective of the Negro leaders is in New York City and other cities. They are unhappy about this bill and say that it gives them nothing, even though there are those who love the Constitution and our form of government who think that this is a curtailment of property rights that could lead us into statism.

Mr. BYRD of West Virginia. Of course, some of the Negro leaders are boldfaced enough to frankly state that their objective is preferential treatment for Negro citizens. They make no bones about their objective being such. There are others, of course, who are not quite so candid, but I do not think it can be gainsaid that this is the objective of many of the Negroes in the country.

I am sure it is not the objective of the great majority of them. But certainly, it is the objective of some of their leaders. I think it must be their objective because they cannot be content with equality of treatment. They will have to show their followers that they are constantly on the move, that they are alert, that they are working in their behalf, that they are successful in their efforts. They will have to continue to push and push for more and more.

Many of the supporters of the bill will find out when it is too late that these Negro leaders will have achieved the objective of preferential treatment by means of the passage of this bill. Certainly when it comes to title VII, many of our people will find this out. Title VII does not say in so many words that nonwhites must be given preferential treatment. But for practical purposes, that will be the result. An employer who has 25 employees, after the fourth year following the enactment of the bill, may attempt to employ an additional individual. Thereupon he may receive applications from two persons—one white and one nonwhite. The white person may perchance be a widow who has three children and lives in the community. He may know this widow and want to hire the white widow. But, let us say that each of the applicants has made a grade of 80 on an examination. Under this law, when it is enacted—and the Senator knows it will be enacted if cloture is invoked——

Mr. RUSSELL. I hope and pray that it will not be. I still have faith that the Senate of the United States will not strike such a mortal blow at our free enterprise system as this bill will level.

Mr. BYRD of West Virginia. I share the Senator's hope. But I know that if cloture is invoked, we do not have the votes to strike title VII. We saw that today. We do not have the votes to increase the figure of 25 in reference to the number of employees which will be affected after the passage of 4 years following the enactment of the bill. But the practical result will be that the employer in the hypothetical case which I have cited will, in many instances, tend to employ the nonwhite applicant in preference to the white widow. Why? Because otherwise the employer will be confronted with a possible legal suit. The nonwhite applicant can charge discrimination. The white widow cannot charge discrimination—unless the employer happens to be Negro, in which case perhaps she could charge discrimination.

In most of the cases, the employer will be white—at least, at the present time they are mostly white. The practical result will be that the employer, rather than be confronted with litigation, will take the easy way out and will employ the nonwhite applicant.

Mr. RUSSELL. Mr. President, I should like to ask the distinguished Senator if that is not all the more likely since the poor employer, who may be a man struggling to start a small business, will be confronted with the full power, majesty, and resources of the Federal Government and the Attorney General of the United States armed with tax-paid lawyers to the hilt to pursue the case by pleading amicus curiae in any proceedings that might be filed.

I further ask the Senator as to just what would be the situation of an employer, say, of 50 people, in a small plant, whose orders have been curtailed and who is compelled to lay off six employees. Would he proceed to lay off a colored employee, even though he be inefficient? Of course, he would not. He knows that he would be dragged before the Commission. He knows that he would be haled before the court. He knows that he would be compelled to employ lawyers and lose day after day attending the court while confronted with tax-paid lawyers from the U.S. Government on the other side.

The result of this bill would be, as the Senator states, to give priority definitely and almost completely, in most instances, to the members of the minority group. The average garden variety type of American has no chance at all when it comes to employment, when it comes to promotion, when it comes to being laid off in times of economic distress at the place of employment. The average garden variety type of American has no chance whatever. He will be the man who will not be employed. He will be the man who will not be promoted. He will be the man who will be laid off. The employer will not be willing to undergo all of the great expense and loss of time in confronting the might of the U.S. Government that will be arrayed against him. Poor John Smith, with a plant employing 40 people, trying to combat the Attorney General of the United States, hauling him before this Commission, the Commission having been appointed to perform a certain mission; and if he leaves the Commission and goes before a judge, the judge will have been appointed perhaps by the same Attorney General.

The Senator may be surprised to know that I have seen with my own eyes an order issued by a Cabinet member—he is not now in the Cabinet—telling the head of every division throughout his vast domain of tens of thousands of employees, that if he did not promote, or if he reprimanded or laid off a Negro employee, it was necessary for him to report that fact, and the circumstances surrounding it, to the Secretary himself.

What would the average little bureau chief do, if it came down to a case of determining which of three or four employees would be released? Would he release one that would require him to file a report with the mighty Secretary high above him? Why of course the Senator knows—and all those who are familiar with human nature knows—that he would lay off the one who had no rights. The average garden variety type of American citizens would be penalized, if this bill should be enacted.

Today, those who are supporting the bill are having their innings. They are basking in the plaudits and in the limelight of the leaders of these minority groups. They are receiving the acclaim of the poor, misled, and misguided cardinals, bishops, and men of the cloth. But within 2 or 3 years, when the bill has been in operation, and when these men feel the impact of the average garden variety type of American who has suffered injustices as a result of the bill, it will be another story. Many of those who voted for the bill will be clamoring for its repeal.

Mr. BYRD of West Virginia. I thank the Senator from Georgia for his contribution. Today, an employer who has 27 or 30 employees will be using good judgment, and will be following the course of wisdom if by the year 1969, he releases enough employees to bring the number down to 24.

I know that if I were an employer and had 26, 27, or 28 employees, and if cloture is invoked and the bill should be enacted, I would begin to take action to reduce the number of employees in my operation to 24 by the year 1969, rather than have this army of Federal agents and Federal attorneys breathing down my neck and telling me how I should employ and how I should not employ, running barefoot through the files of my business, copying whatever evidence the Commission might believe relevant and deem to be necessary. I would take a stitch in time, hoping it would save nine.

Mr. RUSSELL. Mr. President, will the Senator from West Virginia yield?

Mr. BYRD of West Virgnia. I yield.

Mr. RUSSELL. I should like to ask the Senator if it is not altogether likely, in the case of the so-called Civil Rights Commission, that its special advocates, those with particular interests, fanatics, and special pleaders, will finally wind up manning these jobs as investigators and agents, or emissaries, and will move out from the Commission to harass and annoy the businesses of this country, to examine their books and haul them up before the Commission?

Mr. BYRD of West Virginia. I fear that I cannot allay the apprehensions which have been expressed by the senior Senator from Georgia. We can assume that this will happen. Certainly, in some instances, under the language of the bill, the Commission may employ such agents, attorneys, employees and investigators as are deemed to be necessary to carry out the functions of the Commission.

There is no limitation on the number of employees who may find their way into the employment of the Commission. Scores of personnel will be needed to police this effort. Certainly, the language of the bill makes provision for that, because there is no limitation on the number of investigators and Federal agents which can be utilized by the Commission to carry out its functions.

Mr. RUSSELL. Mr. President, will the Senator from West Virginia yield further?

Mr. BYRD of West Virginia. I am glad to yield.

Mr. RUSSELL. I should like to ask the distinguished Senator if he is familiar with the history of the so-called Civil Rights Commission. When it was first appointed, the then President of the United States, Dwight D. Eisenhower, undertook to appoint members of that Commission of every philosophy of government and every segment of thought—those who believed in States rights, those who believed in centralizing the power of government in Washington, those who believed that minority groups were entitled to special consideration, and those who believed that all Americans should be dealt with on equal terms. He appointed that Commission originally, but it has now wound up—and as a member of the Democratic Party who has never scratched the Democratic ticket, I say with profound regret—that two Democratic Presidents have gone out of their way to appoint special pleaders, those of a definite school of thought, and those of a definite race on the Commission, where today those recommendations and those findings mean nothing from a factual standpoint.

I listen to Senators on the floor of the Senate quoting the Civil Rights Commission as having decided so and so. Well, of course, they decided a certain way. They can make any findings necessary to a particular position, or to carry their point, because there is not a single member of the Commission today who has the slightest appreciation of our dual form of government, of the States within a Federal system, with the States having their rights and the United States having their limited powers spelled out in the Constitution.

Today, all the members of that Commission believe that Federal power can be used in any possible way to achieve their ends, and to level all Americans to the same common denominator, whether it be from the standpoint of society, of social equality, of economic equality, or of any other issue which has been raised.

Having seen this illustration of what has happened with the Civil Rights Commission, I apprehend that the Commission, which is proposed to be created by the bill, will in a relatively short period of time wind up just as biased, just as unbalanced, and just as prejudiced as we find the Civil Rights Commission to be today.

Mr. BYRD of West Virginia. Mr. President, I voted for the legislation which established the Commission in the first instance. It was originally conceived to be only temporary. It was not conceived to be a permanent body. But that is precisely what it has become.

I agree that the Commission has not functioned in an objective manner, but that often it has proposed radical, impractical, and improvident solutions to human relations problems.

A prime example was the proposal made to the late President to cut off all agency funds to the State of Mississippi. Of course the late President did not look with favor upon such a proposal. But virtually the same proposal is incorporated in the pending bill. It does not repose this responsibility in the President, but places it on the shoulders of hundreds of anonymous agency heads. This may be even worse.

I have come to doubt that from the makeup of the Commission a balanced viewpoint is presented. It is for this reason that I should like to see title V of the bill amended to provide for only a 1-year extension, instead of a 4-year extension of the Commission's life. As a matter of fact, I believe the Commission has about run its course insofar as its rendering service is concerned.

I say further to the Senator from Georgia, in response to his reference to the laws which have been passed by New York and other States in the field of public accommodations and fair employment, that these laws have apparently not worked where they have been passed. If they have worked, why do the Senators from these same States join today in such an allout effort to see the Federal Government enact such an all-embracive law? I believe the very fact that the laws have not been as efficacious as had been originally anticipated is significant proof that a Federal law would not be efficacious and would be unwise, and should not be enacted.

Mr. RUSSELL. I should like to ask the Senator if it is not rather ironic that these States which claim they have every law to create a utopia, and have a perfect balance in relationship between the various races, creeds, and groups of various national origins, are having more difficulty today and having more troubles in some respects than the States which have no such laws; and further, that the statistics produced by the Department of Labor show that there is a higher percentage of unemployed among the minority groups in such States as New York, Michigan, and Illinois, which have perfect laws; and that those States have a higher percentage of disadvantaged among the minority groups with relation to unemployment than in the States of South Carolina, Georgia, Alabama, which are looked on with disdain and scorn as being in the Deep South; and that the statistics indicate that the percentage of unemployed among the Negro population of the States that have these wonderful, fair employment practice laws, is just about twice what it is in the Southern States, which do not have these so-called fair practice laws?

Many of these Senators, of course, are trying to cover up failures in their own States, and are appealing to the Federal Government to get into the picture, so that in running for reelection they can blame someone other than members of their own party for the failure in their own States of these so-called fair employment laws.

Mr. BYRD of West Virginia. The junior Senator from Mississippi [Mr. STENNIS] recently placed in the RECORD certain information which would substantiate the statement of the Senator from Georgia with regard to the percentage of unemployment that exists among Negroes in the Northern States having so-called fair employment practice acts.

I should like to say further, in response to something the Senator from Georgia has said, that the leaders of the civil rights movement have indeed stated that the passage of the bill will be but the beginning, and that they will now have demonstrations in various communities throughout the country, once the bill is passed, to test the law. Of course, they will not be satisfied with the bill as it is passed, even if it is passed without a comma or other punctuation mark deleted. They will certainly turn on the pressure for new and more encompassing legislation. We can expect to see a continuation of these demonstrations.

It should be stated, to the credit of the Negro, that in many of the demonstrations most of the people who participated were out-of-town white agitators, and that most of the people who were arrested were out-of-town beatniks, comedians, and publicity seekers.

Believing that its overall, far-reaching and profound effect will be harmful, rather than helpful, I cannot support the bill as it is now written. I feel it incumbent upon me to state in more precise detail why I cannot support the bill as it is written.

Title I, which concerns voting rights, will provide that no person acting under color of law shall in determining whether any individual is qualified under State law to vote in any Federal election apply any standard, practice, or procedure different from standards, practices, or procedures applied to other individuals within the same county or similar political subdivision in determining whether those individuals have been found by State officials to be qualified to vote.

I ask unanimous consent to have printed in the RECORD at this point title I of H.R. 7152.

There being no objection, title I was ordered to be printed in the RECORD, as follows:

TITLE I—VOTING RIGHTS

SEC. 101. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall—

"(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"(B) deny the right of any individual to vote in any Federal election because of an error or omission of such individual on any record or paper relating to any application, registration, payment of poll tax, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"(C) employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual wholly in writing except where an individual requests and State law authorizes a test other than in writing, and (ii) a certified copy of the test whether written or oral and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 (42 U.S.C. 1974–74e; 74 Stat. 88).

"(3) For purposes of this subsection—

"(A) the term 'vote' shall have the same meaning as in subsection (e) of this section;

"(B) the phrase 'literacy test' includes any test of the ability to read, write, understand, or interpret any matter."

(b) Insert immediately following the period at the end of the first sentence of subsection (c) the following new sentence: "If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia or the Commonwealth of Puerto Rico where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any Federal election."

(c) Add the following subsection "(f)" and designate the present subsection "(f)" as subsection "(g)":

"(f) When used in subsections (a) or (c) of this section, the words 'Federal election' shall mean any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives."

(d) Add the following subsection "(h)":

"(h) In any proceeding instituted in any district court of the United States under this section the Attorney General or any defendant in the proceeding may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. A copy of the request shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge) of the circuit in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

"In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

Mr. BYRD of West Virginia. Mr. President, I believe that fairness and justice require that the same standards, practices, and procedures that are applied to white persons in determining their qualifications to vote should be applied to persons of other colors in determining their qualifications to vote. Any discrimination on the basis of race or color in determining the qualifications of voters is indefensible.

This title will also provide that no person acting under color of law shall deny the right of any individual to vote in any Federal election because of any error or omission of such individual on any record or paper relating to any act requisite to voting, if such error or omission is "not material" in determining whether the individual is qualified under State law to vote in such election. At this point, I think I should state that I do not believe there is any such thing as a "Federal election," and this objection goes to paragraph (2)(A), to which I have just alluded. There are, of course, Federal officials to be elected, but they are chosen in State elections conducted by States. I think we are making a mistake when we allow ourselves to fall into the habit of making careless reference to the elections of Federal officials as being "Federal elections." Such careless imprecision can lead to misunderstandings which, after the passage of time will, like the bent twig, become so secure in error as to be incapable of rectification and will become the instruments of further incursions upon States rights in the conduct of State elections of any officials, Federal or otherwise.

In the second place, I thoroughly concur in the apparent objective which is being sought here; to wit, that there shall be no discrimination in applying the standards, practices and procedures governing qualifications of voters. Evidence can probably be had of the fact that the slightest and most immaterial error or omission has been seized upon to disqualify a voter at some time and at some place in determining voters' qualifications. Whether such an approach has been a common pattern may or may not be the case. Nonetheless, one would have no difficulty in envisioning situations in which the disqualification of a qualified voter on the mere pretext of his having inadvertently made some omission or trivial error may have occurred, and this would be patently unjust and unfair. Such arbitrary action on the part of an election official is unconscionable, and the verbiage of this paragraph seeks to eliminate the possibility of unjustified intrusions on voting rights of individuals of any color in the future. I support the objective sought, but I must point out that in the effort to eliminate inequities and injustices which may evolve from the arbitrary determination on the part of some State officials as to what may constitute a "material" error or omission, the language creates opportunities for arbitrary determination of what may constitute an error or omission which is "not material" in determining the qualifications of a voter. The language of the title obviously could not be specific as to errors and omissions "not material," but it certainly is not to be commended for any light which it sheds upon the subject. There are absolutely no guidelines whatsoever provided as to what errors or omissions may be considered "not material."

The title also provides that literacy tests employed as qualifications for voting in Federal elections can only be employed if such tests are administered to each individual wholly in writing except where an individual may request and State law may authorize a test other than in writing. It is also provided that a certified copy of the test, whether written or oral, and the answers given by the individuals, must be furnished to an individual within 25 days of the submission of his request therefor and his request must be made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960.

Mr. President, the language in title I does not, on its face, indicate the length of time during which such records and papers are required to be retained, so one must go to the Civil Rights Act of 1960 to determine this fact. Section 301 of title III of the Civil Rights Act of 1960 reads as follows:

TITLE III

FEDERAL ELECTION RECORDS

SEC. 301. Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records, and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Mr. President, I have now placed in the RECORD section 301 of title III of the Civil Rights Act of 1960, in order that Senators may know just what they are doing when they approve the language in title I, which provides for an individual who is applying to be registered to require a transcript of the test and the questions and answers given in such test in the course of registration.

Here again I support the object which is sought, to wit, the guarantee that literacy tests will be applied uniformly as between white and colored persons. I recognize the difficulty of adducing evidence or proof of discrimination in the registration of voters if oral tests are given. If a white registrar is so included, he may, by the use of oral tests, disqualify colored voters and qualify white voters simply by administering more difficult tests to the former and/or by requiring less in connection with the answers submitted by the latter. In the same way, a Negro registrar, if he were so inclined, could discriminate against white persons. So, the objective is a worthy one. By requiring that literacy tests be administered in writing, problems of securing a judicial determination as to whether or not discrimination has been practiced, are greatly diminished. However, I do believe that if it is the desire of an individual to request a certified copy of an oral test and of the answers given, he should be required to make such request at the time the test is administered. Otherwise, a procedure which is going to be costly and burdensome at best, will be compounded to be so inordinately and excessively costly and so burdensome as to render it unreasonable. By the present language, if an individual requests an oral test—and he must trigger an oral test by requesting it—even in that instance there will be a necessity for the taking of a transcript of questions and answers in every case to meet the possibility that at a future date an individual may ask for a production of that transcript. The present language permits him to make the request at any time within the period, as I have already stated, during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960. He is not required to submit his request at the time the test is administered.

It seems patently unreasonable for the registrar to have to transcribe every question and every answer on every oral test. The cost of this procedure is obviously going to be tremendous. If it is going to be the purpose of a person to ask for an oral test, and if it is to be his further purpose later to challenge the administration of the test, he should put the registrar on notice at the time when the test is given, thus requiring the questions and the answers to be transcribed. Otherwise, the registrar should not be required to transcribe the questions and the answers in every instance when a person asks for an oral test. We should keep in mind that, under the provisions of the bill, oral literacy tests cannot be given unless the person seeking to register so requests and the State law so authorizes. Otherwise, the test must be administered in writing. Even when tests are administered in writing, there will have to be transcripts of any questions and answers which might be resorted to in the attempt to clarify the previously written questions and answers. It seems to me to be wholly unreasonable to require in every instance that the registrar transcribe the tests; but this the registrar will have to do, in order to be prepared for subsequent requests for the written record. And I wish to point out that there are States other than Southern States which give oral literacy tests; and wherever that is done, the burdensome and costly provisions of this title would apply. There would be not only the cost of transcribing every word of each question and answer in every oral test—even though in many or most instances the certified copy of the test would perhaps not subsequently be requested by the potential voter—but there would also be the additional costs of supplies and storage of records.

This title would also provide that in any proceeding in which literacy is a relevant fact "there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in an accredited public school or private school" possesses sufficient literary comprehension, and intelligence to vote in any Federal election. This provision is inclusive of the Commonwealth of Puerto Rico.

The title also provides that the words "Federal election" shall mean any general, special, or primary election held solely "or in part" for the purpose of selecting or electing any candidate for President, Vice President, presidential elector, the U.S. Senate, or the U.S. House of Representatives. In other words, any State elections conducted for the purpose of selecting or electing candidates for local, county, municipal, or State officials would ipso facto become "Federal elections" if, on the same ballot, there were to be elected or selected a candidate for any one of the foregoing enumerated Federal offices. Virtually all State elections would come within the meaning of a Federal election, by virtue of the words "in part." Elections of Federal and State officials are conducted at one and the same time in 46 States of the United States; so, in 46 States, State elections become what are incorrectly referred to as "Federal elections."

By the same token, the force of the sixth-grade presumption would be applied in the selection and election of State officials, as well as in the selection and election of Federal officials.

Remembering that it is the Constitution that we are "expounding," let us refer to the Constitution, to determine whether this provision in title I carries us beyond where that venerable document would permit us to go.

Section 2 of article I provides:

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Obviously, what section 2 of article I is saying, with reference to voters' qualifications, is that those persons who are qualified under State law to select or elect members of the lower house of bicameral State legislatures, or members of a unicameral legislature, shall ipso facto be qualified to vote for Members of the U.S. House of Representatives. The State is to determine the qualifications for electors of the former legislative body, and the same qualifications shall govern in the case of electors of the latter. This section does not give Congress any authority to determine the qualifications of electors, in any State, of the Members of the House of Representatives; and any attempt upon the part of Congress to do so would be a patent violation of the constitutional mandate that the electors of Members of the House of Representatives "shall have" the qualifications determined by each State for electors of the most numerous branch of the State legislature.

Paragraph 2 of section 1 of article II of the U.S. Constitution provides, that in the election of a President of the United States, each State shall appoint, in such manner as the legislature thereof may direct, a number of electors. I presume that the Constitution intends to have each State determine the qualifications of such electors. In any event, there is no indication that Congress has any power to determine the qualifications of the electors to be appointed by a State in the process of electing a President of the United States.

U.S. Senators were formerly chosen by State legislatures, as provided by section 3 of article I of the U.S. Constitution. Such provision ipso facto permitted the States to determine the qualifications for electors of U.S. Senators, even though the election of U.S. Senators by the people was not a direct election, but was an indirect one, Senators being chosen by members of the State legislatures, the qualifications of electors of which were determined by the respective States, not by Congress.

Inasmuch as this provision of clause 1, section 3, of article I of the U.S. Constitution was changed by clause 1 of amendment 17, let us look at clause 1 of amendment 17. The portion thereof pertinent to our present discussion states:

> The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

Here again, the U.S. Constitution, as amended, provides that the qualifications for electors of the most numerous branch of the State legislatures, those qualifications being determined by the respective States themselves, are automatically to be the qualifications of electors of U.S. Senators. The Congress is given no power whatsoever to determine or provide guidelines governing voter qualifications.

Thus, Mr. Justice Miller, in *Ex parte Yarborough*, 110 U.S. 651, said:

> The States in prescribing the qualifications of voters for the most numerous branch of their legislatures, do not do this with reference to the election for Members of Congress. Nor can they prescribe the qualification for voters for those eo nomine. They define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for Members of Congress in that State. It adopts the qualification thus furnished as the qualification of its own electors for Members of Congress.

Nowhere does the Constitution state that, in determining the qualifications of electors of members of the most numerous branch of a State legislature, and the concomitant qualifications of electors of U.S. Senators and U.S. Representatives, a State may not require literacy as a qualification for voting. The Constitution does not prohibit the use of literacy tests by States to determine literacy as a prerequisite for voting. The Constitution does not prohibit States from denying suffrage to illiterates. As far as the U.S. Constitution is concerned, a State is perfectly within its constitutional prerogatives in requiring that an individual have an 8th-grade education or a 10th-grade education or a 12th-grade education to be qualified to vote. Title I of this bill, however, would make it a rebuttable presumption of literacy if any person, not incompetent, has completed the sixth grade. It does not require that a person have a sixth-grade education, and there is a vast difference in one's having completed the sixth grade and in one's having a sixth-grade education. This language in the bill would be discriminatory in itself in that there is no absolute standard sixth-grade education throughout this country. Additionally, one who has completed a sixth-grade education in the Commonwealth of Puerto Rico may be far more literate or less literate than one who has completed a sixth-grade education in the United States, and one who has completed a sixth-grade education in a given private school may be more literate, or less literate, than a person who has completed the sixth grade in a public school. Moreover, there are many illiterates who have been passed from grade to grade until they finally completed the sixth grade, but they failed to acquire a sixth-grade education.

I think that point is substantiated by Edgar May in his recent book entitled "The Wasted Americans." I quote from that book:

> Personnel managers in major industries are learning that the school grade a man said he completed does not mean that he can do work at that level.

Keep in mind that the verbiage of the provision to which I refer reads thusly: "Completed the sixth grade."

So the provision in title I speaks of an individual who has completed the sixth grade, not one who has a sixth-grade education.

I quote further from the book, "The Wasted Americans," by Edgar May:

> More and more companies are giving prospective employees basic reading and writing tests, many of which do not go beyond the elementary or early high school level. The scores often startle personnel experts. In Massachusetts the personnel director of a large corporation told me:
>
> "We have been testing for about 10 years. We give simple spelling and arithmetic tests to all high school graduates who come in here, and frankly we are surprised at the number who can't pass. I'd like to give you the exact figure, but some time ago one of our men mentioned the high rate of failures and it raised such hob in the community that we decided it would be better if we kept them confidential."

Reading further from "The Wasted Americans" by Edgar May:

> A key case is the experience of Armour & Co. and the packing house and meat cutters unions.
>
> In the 1959 labor contract between the company and the unions was a section which set up a joint automation committee whose task included organizing a program of training qualified employees in the knowledge and skill required to perform new and changed jobs. In July 1960, when the company shut down its Oklahoma City plant, invitations were sent to 431 production

workers to take aptitude tests and counseling interviews for future training. The program, conducted with the help of the Oklahoma State Employment Service, got a response from 170 workers. Tests showed that only 60 might be helped by some vocational training. "The balance," the automation committee's report said, "65 percent of the total, were simply told that the best chance of employment would be in casual manual labor." The most significant report of how this problem affects public welfare was produced by Chicago's Cook County Department of Public Aid. The findings permit more than idle speculation that many of the unemployed youths of today will be members of the relief population of tomorrow. The study, prepared under Dr. Deton J. Brooks, Jr., the department's director of research and statistics, included 680 able-bodied persons from families containing almost 2,000 children. All of them lived in a south Chicago area known as the Woodlawn community. It is an almost all-Negro neighborhood of 60,000 persons, of whom almost 25 percent are on relief. The area has poor housing, a high crime rate, and low average income.

The welfare department conducted detailed interviews with the recipients in the study and gave each the new Stanford reading test for grades 2 to 9. From the interviews the researchers learned what grade each had completed in school; from the tests they found out what level work they actually could do. The difference between the two was acute.

While the interviews showed that 6.6 percent were functionally illiterate because they had completed less than 5 years of school, the tests showed that more than half (50.7 percent) were functionally illiterate because they could not read well enough to do fifth grade work. Women did better than men as this breakdown indicates:

There is a table designated table 8. It is captioned "Cook County, Ill., Department of Public Aid Study To Determine Literacy Level of Able-Bodied Public Assistance Recipients, by Sex: 1962."

The table showed that among those tested, while the average school level grade of males was 8.1—in other words, the average grade was the eighth grade among the males—the test level among the males was that of a fifth grade education. For the entire group of females the average was the eighth grade plus 0.8 of the next grade, or, one might say, completion of the ninth grade.

The test level of these individuals showed that they had only a sixth-grade education. I ask unanimous consent to have printed at this point the table to which I have referred.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 8.—*Cook County, Ill., Department of Public Aid study to determine literacy level of able-bodied public assistance recipients, by sex, 1962*

	Average grade		Percent functionally illiterate on basis of—	
	School level	Test level	School level	Test level
Male	8.1	5.1	13.3	59.8
Female	8.8	6.0	5.4	49.0

Mr. BYRD of West Virginia. The gap between education and ability to perform is underscored further by the fact that four out of five—in other words, 80 percent—who completed the fifth, sixth, and seventh grades were functional illiterates, and three out of eight who finished grammar school or higher—"a point above which," the report said, "it would be expected that at least basic literacy education had been completed"—also tested out as reading failures.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the table from Edgar May's book "The Wasted Americans" designated "Table 9."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 9.—*Cook County, Ill., Department of Public Aid study to determine literacy level of able-bodied public assistance recipients, in urban (Illinois) and rural (Mississippi) areas, 1962*

	Average grade		Percent functionally illiterate on basis of—	
	School level	Test level	School level	Test level
Illinois	9.4	6.8	1.2	33.4
Mississippi	7.6	4.4	14.2	76.9

Mr. BYRD of West Virginia. The table shows that in Cook County, Ill., tests were given to persons who were Illinois citizens and to other persons who were from Mississippi.

The test shows that for those persons having completed the ninth grade, their actual education levels were shown to be just under the seventh grade. Those were citizens of Illinois. Citizens who came to Illinois from Mississippi, and who had an average school level of seventh grade, showed a test level of a fourth grade education. The figures show that three out of four Negroes who came from Mississippi schools lacked the reading skills required by the employment market. At the same time, the statistics indicate the failure of the Illinois and particularly the Chicago schools to do the job. While almost 99 percent of the Illinois-educated recipients completed the fifth grade or better, fully one-third could not do the work.

What are the implications of these findings? They show clearly that half of the relief population surveyed is unfit for almost any kind of available work because of serious educational infirmities.

Mr. President, I have made reference to this material to show that the provision in title I which would establish the completion of the sixth grade by an applicant as a rebuttable presumption is unwise. I have attempted to show that the mere completion of the sixth grade is no definite and dependable standard, and that while many persons complete the sixth grade, they are illiterate. They have something less than a sixth-grade education.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. MILLER. Mr. President, I was wondering where the Senator would draw the line under the sixth grade.

Mr. BYRD of West Virginia. The Senator from West Virginia would not draw the line. The Senator from West Virginia does not believe that Congress has any power to establish a rebuttable presumption of literacy. The Senator from West Virginia believes that the establishment of a rebuttable presumption of literacy by Congress is in reality the establishment of a voter qualification.

I am sure that the distinguished Senator from Iowa would agree with me that any congressional power to enact a law must be traceable to a grant of such power in the Constitution of the United States. And I have just cited for the attention of the Senator article I, section 2, clause 1, of the Federal Constitution which says that electors of Members of the House of Representatives "shall have the qualifications requisite for electors of the most numerous branch of the State legislatures."

I have cited the 17th amendment, which provides that the electors of U.S. Senators "shall have the qualifications requisite for electors of the most numerous branch of the State legislatures."

I have also cited article II, section 1, clause 2, of the Constitution which deals with the appointment of presidential electors. That article says that they shall be appointed in such manner as each State legislature may direct.

In these three places in the Federal Constitution there is clearly stated the prerogative of the States to establish the qualifications of electors of the most numerous branch of the State legislatures and, ipso facto, electors of Members of the U.S. House of Representatives and the U.S. Senate.

The Senator from West Virginia would not draw a line anywhere. I say that this is the prerogative of the State, and that when Congress attempts to establish a rebuttable presumption of literacy, it attempts to establish a voter qualification. In so doing, it contravenes article I, section 2, clause 1, of the Constitution, the 17th amendment to the Constitution, and article II, section 1, clause 2 of the U.S. Constitution.

Mr. MILLER. The Senator from West Virginia well knows that the Constitution is interpreted differently by different individuals. The Senator is making the classic argument which is made by those who are opposed to the Federal standards for voter qualifications. He knows that there are arguments on the other side. I did not intend by my question to raise a constitutional argument. Frankly, I think that no one need worry too much about that. We have a saving clause in the bill that provides that if any provision of the bill is declared to be unconstitutional, everything else will stand but that clause.

What I was getting at was that I recognize that there is much merit in what my friend from West Virginia is saying about the drawing of a line on the sixth grade education and the statistics that he points out relating to the failure of many individuals who have completed the sixth grade or a higher grade to measure up to a literacy standard. Assuming now that we do not have the argument on constitutional grounds, and we are just talking now about the practical application of a standard, I was wondering if the Senator would draw the line at the seventh grade or at the eighth grade, or if he feels that the line being drawn at the sixth grade as merely a rebuttable presumption, is not a practical way to handle this?

Mr. BYRD of West Virginia. I cannot assume that we do not have the argument on constitutional grounds. I do not think that the Senators can eschew their responsibility to consider the constitutionality of laws which they help to enact. I think this is a responsibility of each Senator, just as it is the responsibility of members of the Supreme Court. So I cannot assume aside from the Constitution, as the Senator has suggested. I am talking about the constitutionality of this title.

Mr. MILLER. Perhaps I can word the question a little differently if I were to suggest that the overwhelming majority of the Members of the House of Representatives who voted for the bill were correct in their interpretation of the constitutionality of their acts. What about the line being drawn at the sixth grade with a rebuttable presumption?

Mr. BYRD of West Virginia. I am sorry the Senator was not present when I took the time to point out that in almost two out of every three instances in which a vote count was taken in the other body, a majority of the Members of that body were not present.

Mr. MILLER. I recognize that. But I am not talking about that.

Mr. BYRD of West Virginia. But the Senator referred to the majority of the Members of the other body having passed upon the constitutionality of this bill.

Mr. MILLER. On final passage of the bill.

Mr. BYRD of West Virginia. I invite the attention of the Senator to the statement made by a distinguished former attorney general of the State of Vermont, a very distinguished Member of the other body, who happens to be a member of the Senator's own great party.

The Senator will find this statement on page 2756 of the CONGRESSIONAL RECORD:

> It is common knowledge that if a secret ballot could be taken on this bill in its present form, it would not get 50 votes.

Mr. MILLER. Of course, the Senator from West Virginia knows that that is a purely gratuitous statement. One can find gratuitous statements by members of both parties which are contradictory. I would still like to ask the Senator from West Virginia to discuss the practical application of this provision, assuming that his interpretation of the Constitution is wrong, and mine is right. I am perfectly willing for the sake of discussing the practical application of something to assume that I am wrong and somebody else is right.

Neither of us on the floor of the Senate knows which one is right, and we will not know until the Supreme Court of the United States eventually rules on some of the applications in the bill. As long as we have a rebuttable presumption, that if the State of West Virginia feels aggrieved by such a line as the sixth-grade education, it certainly should be in a position to rebut the presumption that a person is literate by having a written examination which will leave it up to the provisions of title I. I venture to say that that is one answer to the question.

Another answer is that if the State feels aggrieved by the fact that Congress has provided for a rebuttable presumption of literacy because someone has completed the sixth grade, the State has not been doing a good job of teaching literacy in the first six grades. Perhaps the State officials will "get on the ball" and start doing a job on education during the first six grades. That might be a rather salutary influence in that direction. But I believe the rebuttable presumption is a good "out." A good way of getting around the provision is that if a State is genuinely aggrieved——

Mr. BYRD of West Virginia. The State of West Virginia has no problem along this line.

Mr. MILLER. I use the State of West Virginia only as an example. I have also used the States of California and New York just as examples.

Mr. BYRD of West Virginia. The State of West Virginia has no problem along this line. However, it is not for that reason that I raise objection to the provision. I am attacking it because I believe it is unconstitutional. I have taken an oath to support and defend the Constitution. In my view, this provision being unconstitutional, I cannot support it. The Senator has referred to a practical application——

Mr. MILLER. Will the Senator yield at that point?

Mr. BYRD of West Virginia. I am glad to yield.

Mr. MILLER. The Senator has stated that the reason he is opposed to the provision is that in his conscience he does not feel he could vote for something he believes to be unconstitutional. No one in the world—least of all myself—would criticize that position. The point is that if that is the position of the Senator, then I am not so sure that it is relevant to start talking about all the statistics relating to whether people are literate or not, because they have completed the seventh grade in Illinois, or the eighth grade in Mississippi. That has nothing particularly to do with the constitutional argument.

Mr. BYRD of West Virginia. The Senator asked me to make a practical application, and that is precisely what I was doing. I was showing that that standard was not really a standard, that when one sets up a rebuttable presumption of literacy, based upon completion of the sixth grade, he is dealing with a standard that really is not a definite one.

Mr. MILLER. I ask now, what is wrong with that standard which cannot be remedied by a rebutting of the presumption, or by the elevation of the educational standards of a particular State?

I have one more question I should like to go into in a moment, but I should like to develop this thought a little further. Anyone whose State feels aggrieved by that provision, assuming its constitutionality, has a good way of getting around it by setting up written tests in line with title I of the bill. If they do not wish to go to that trouble, perhaps the State would elevate its educational system a little. Perhaps that State should start firing certain teachers who let students go from one grade to another who are not qualified to do so. It is a tragedy that there are statistics which the Senator from West Virginia has cited. There are other statistics which might be cited along those lines in the area, including the District of Columbia, as the Senator well knows; but if that is so, there are two ways to find out how to rebut a presumption; one, by written tests, and two—and preferably in the long pull—to elevate the standards of education.

Mr. BYRD of West Virginia. I agree that the standards of education should be raised, but I believe that is a subject quite aside from the one we have before us at this point. I simply say that this provision of the bill is vulnerable. I believe it is violative of the Constitution. I support that provision in the bill to which I have already referred, which would require uniformity of application of literacy tests. I believe that any literacy test which is resorted to by any State should be applied uniformly as between white and Negro; and if this is done, certainly the Negro is receiving equal protection of the laws.

It seems to me that that is a provision which gets to the milk in the coconut; but the rebuttable presumption provision is neither wise from the standpoint of its practicality of application, nor is it valid from the standpoint of its constitutionality.

Mr. MILLER. One further question. Another possible solution to this problem by those Senators who might feel aggrieved by this provision, again assuming its constitutionality, would be that if they feel they are graduating students who have completed the sixth grade who are not literate, or that there are a great many of them not literate because their States have done such a poor job of maintaining educational standards, there is nothing that I can say to prevent them from establishing a requirement that all voters must have completed 12 grades. Does the Senator agree with that?

Mr. BYRD of West Virginia. I agree that it is the prerogative of a State under article I, section 2, clause 1, of the Constitution, and under the 1st clause of the 17th amendment, to establish as a requirement for voting that one must have a 12th grade education, or that one must have—if we want to say it in the words of the bill—completed the 12th grade. This is the prerogative of the State. I am not so sure that this might not be a good thing, if States would not only raise their standards of education but also raise their standards by which registrants would qualify for voting.

Mr. MILLER. I do not believe that the Senator from West Virginia——

Mr. BYRD of West Virginia. But I will not agree that the Congress can constitutionally do this.

Mr. MILLER. But the Senator from West Virginia, I am sure, would agree that if the Supreme Court should hold constitutional a provision for a rebuttable presumption of literacy on a 6th-grade education, it would also hold valid a requirement that a 12th grade education shall be deemed to be a qualification for literacy, subject to being rebutted.

Mr. BYRD of West Virginia. I believe the Senator is confused, or perhaps he does not understand the point I am trying to make, that a State can establish as a qualification for voting that an individual must have completed the 12th grade, or the 11th grade, or the 10th grade, or the 9th grade.

Mr. MILLER. I agree——

Mr. BYRD of West Virginia. But I am saying, on the other hand, that the Federal Government through the Congress has no constitutional power to do that.

Mr. MILLER. The Senator from West Virginia differs with a good many of us, but that is not the point I was getting down to. The point I was getting down to is that in the bill, we are talking about literacy tests. If any States wish to have literacy tests, that is perfectly all right with the Congress, subject to the proviso that if a person has completed six grades, it will be presumed that he is literate, which is a rebuttable presumption, subject to examination.

There is nothing in the bill to prevent a State from establishing some other qualification for voting besides literacy. If a State does not wish to deal with literacy, that is all right. If it wishes to say, "We are not worried about literacy, but we are worried about our voters having completed 12 grades of education," provided it applies to everyone, that is all right. The bill does not have any application to that situation. I take it that the Senator from West Virginia agrees. Is that correct?

Mr. BYRD of West Virginia. In my judgment a State would be prohibited or, if not prohibited would be circumvented, from establishing as a qualification for voting that an individual must have completed the 12th grade.

Mr. MILLER. By this bill?

Mr. BYRD of West Virginia. By this bill, if that were to be the criterion by which literacy were to be determined.

Mr. MILLER. That is just the point. I tried to preface my argument by saying that if a State is not interested at all in literacy, and is interested only in having its voters having completed 12 grades of education, or on the basis of anything except literacy, and wishes its people to have gone through 12 grades of schooling, feeling that in that way it will have better informed voters than if it had merely literate voters, I cannot see anything in the bill to prevent a State from doing that.

Mr. BYRD of West Virginia. I have no objection to a State doing that. I object to——

Mr. MILLER. Does the Senator think that if the bill is passed a State will not be permitted to establish a requirement, for example, that voters shall have completed 12 grades or 9 grades, so long as it is of uniform application?

Mr. BYRD of West Virginia. It would be difficult, practically speaking, for a State to deny the franchise to a voter who had "completed the 6th grade," under the law, if the bill were passed, even though a State might require a 12th-grade education.

Mr. MILLER. I must confess that I differ completely with the Senator from West Virginia in his interpretation. The entire thrust of title I of the bill—and that is the section we are talking about—is the literacy test.

However, there are many other tests besides literacy tests as qualifications for voting. One of these can be a written examination. There is nothing to prevent a State from giving written examinations, as long as they fulfill the standard set forth in title I, and so long as they are made uniformly applicable. If that can be done, why can it not provide that all voters shall have completed 12 grades or 11 grades?

Mr. BYRD of West Virginia. I believe the Senator seeks to lead me afield. I maintain that we are not members of a State legislature, voting on a bill setting up a State qualification for voters. We are members of the Federal Legislature, and we are about to violate the Constitution by setting up a rebuttable presumption of literacy which, in effect, is to establish a voter qualification.

Mr. MILLER. The Senator says "we" advisedly, I trust. I am not suggesting that we in Congress are trying to establish that the qualification of voters be the completion of 12 grades. I am merely saying that there are many other tests for voting that States can establish besides literacy tests.

If the State of West Virginia is not interested in the literacy of its voters, because they have been doing a good job in voting, but wishes to make sure that no one votes unless he has completed 12 grades, there is nothing in the bill to prevent it from doing that.

Mr. BYRD of West Virginia. Let us assume that the Senator is right. He may be. That still does not relieve the Senator and me from our obligation to determine, on the basis of our own knowledge and experience, the constitutionality of this provision, which establishes the completion of the sixth grade as a rebuttable presumption of literacy.

Mr. MILLER. I thoroughly agree with the Senator from West Virginia that this has nothing to do with the constitutional argument. As I said earlier, I do not wish to get into a constitutional argument with my friend from West Virginia, because he is just as sure of his interpretation of the Constitution as is the Senator from Wyoming. He knows as well as I do that there are two points of view on this question. We shall probably not know who is right and who is wrong until the Supreme Court interprets the point.

What prompted me to bring this out was the citing of statistics by the Senator from West Virginia which I believe related very much to the practical application of this title. It is the practical application of the title that I believe we also must be concerned about. Even assuming that something is constitutional, it does not mean that it is a good thing for us to enact. If it is constitutional, we ought to enact something that can be reasonably worked out by the States in compliance with it.

I suggest that the line of a sixth-grade education, with a rebuttable presumption of literacy, is a practical line. I am not saying that it is the best line that could be drawn. I venture to say that someone could prefer an eighth-grade education, with a rebuttable presumption of literacy. If a majority of the House Members had agreed to that, probably that is what we would have before us.

Mr. BYRD of West Virginia. That puts the burden on the State to prove that a person is not literate.

Mr. MILLER. What it does, in effect, is that it puts upon the State the burden of proving that its educational system has not done a good job. It is rather an embarrassing situation to be in.

Mr. BYRD of West Virginia. Not necessarily. Perhaps the citizen who is applying to vote did not receive his education in the State. It might be the case of a Mississippi Negro who was applying to vote in the State of Illinois, as was the case in the book, "The Wasted Americans."

Mr. MILLER. That being the case, perhaps the State might provide that an applicant shall have completed 12 grades, and that they are aggrieved by that provision. The real answer to this will be a written examination on literacy to rebut the presumption. In any event, I thought it well to bring out this feature because the Senator from Iowa and many other Senators have been troubled with the question of drawing a line for literacy tests. Others are troubled by the constitutional argument. I am not troubled by that argument. I am satisfied that what we are doing is constitutional.

In any event, if it is held to be unconstitutional, the remainder of the bill will stand.

I am concerned about the practical application of this provision. While I am not saying that it is the best one that could be drawn, I believe it is one that can be complied with.

Mr. BYRD of West Virginia. I thank the Senator from Iowa. As I have indicated, I am concerned not only with the practical application of the provision, but also with the constitutionality of the provision.

It is well settled law that each State has the exclusive authority to determine the qualifications of its voters so long as there is no denial or abridgement on account of race, color, sex, or previous condition of servitude. A State may have the most rigid qualifications for voting as long as its qualifying criteria do not deny or abridge suffrage on the basis of race or color, previous condition of servitude or sex.

Speaking in Minor against Happersett, the Supreme Court said:

> Certainly, if the courts can consider any questions settled, this is one. For nearly 90 years the people have acted upon the idea that the Constitution, when it confers citizenship, did not necessarily confer the right of suffrage. If uniform practices, long con-

> tingent, can settle the construction of so important an instrument as the Constitution of the United States, confessedly, most certainly it has done so here. Our province is to decide what the law is, not to declare what it should be.

The right of suffrage was not conferred upon anyone by the adoption of the 15th amendment. Moreover, that amendment did not limit a State's acknowledged absolute power except to the extent that it could not discriminate, for voting purposes, against any citizens solely because of race, color, or previous condition of servitude. As I say, the 15th amendment does not confer the right to vote on anyone. It confers no power upon Congress to regulate in elections save in the narrow field of discrimination based on race, color, or previous condition of servitude. Literacy is not limited to any of these. The 15th amendment provides as follows:

> SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
>
> SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The language of this amendment is negative in character, and I reiterate that it prohibits States from denying the right to vote to anyone because of race, color, or previous condition of servitude.

In *Reese* v. *U.S.*, 92 U.S. 214, the Supreme Court clearly indicates the limitations of the 15th amendment:

> The 15th amendment does not confer the right of suffrage upon anyone. It prevents the States, or the United States, however, from giving preference, in this particular, to one citizen of the United States over another on account of race, color, or previous condition of servitude. Before its adoption, this could be done. It was as much within the power of a State to exclude citizens of the United States from voting on account of race, etc., as it was on account of age, property, or education. Now it is not. If citizens of one race having certain qualifications are permitted by law to vote, those of another having the same qualifications must be. Previous to this amendment, there was no constitutional guarantee against this discrimination: now there is. It follows that the amendment has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress. That right is exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude.
>
> The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment. It has not been contended, nor can it be, that the amendment confers authority to impose penalties for every wrongful refusal to receive the vote of a qualified elector at State elections. It is only when the wrongful refusal at such an election is because of race, color, or previous condition of servitude, that Congress can interfere, and provide for its punishment.

I also cite the statement of the court in United States against Miller:

> The 15th amendment does not in direct terms confer the right of suffrage upon any one. It secures to the colored man the same right to vote as that possessed by the white man, by prohibiting any discrimination against him on account of race, color, or previous condition of servitude. Subject to that limitation, the States still possess uncontrollable authority to regulate the right of suffrage according to their own views of expediency. The amendment declares that the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State. While the amendment is primarily aimed at hostile legislation denying or abridging the right of colored men to vote, I am of the opinion that Congress possesses the power to secure the colored man against the deprivation of his right to vote by individuals, where such deprivation occurs on account of race, color, or previous condition of servitude.

The Supreme Court apparently adopted this same interpretation in *Pope* v. *Williams*, 193 U.S. 621. There the Court said:

> The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. (*Minor* v. *Happersett*, 21 Wall. 162.) It may not be refused on account of race, color, or previous condition of servitude, but it does not follow from mere citizenship of the United States.

The Court went on to state unequivocally that the matter of determining the qualifications of voters is a matter which is left entirely to the States:

> In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals in violation of the Federal Constitution. The State might provide that persons of foreign birth could vote without being naturalized, and, as stated by Mr. Chief Justice Waite in *Minor* v. *Happersett, supra*, such persons were allowed to vote in several of the States upon having declared their intentions to become citizens of the United States. Some States permit women to vote; others refuse them that privilege. A State, so far as the Federal Constitution is concerned, might provide by its own constitution and laws that none but native-born citizens should be permitted to vote, as the Federal Constitution does not confer the right of suffrage upon anyone, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constitution, already stated; although it may be observed that the right to vote for a Member of Congress is not derived exclusively from the State law. (See Federal Constitution, art. I, sec. 2; *Wiley* v. *Sinkler*, 179 U.S. 58.) But the elector must be one entitled to vote under the State statute. (Id.) (See also *Swafford* v. *Templeton*, 185 U.S. 487, 491.) In this case no question arises as to the right to vote for electors of President and Vice President, and no decision is made thereon. The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one.

Specifically, with reference to the question of literacy tests and their possible contravention of the 15th amendment, the Supreme Court carefully examined this question in *Guinn* v. *U.S.*, 238 U.S. 347:

> Beyond doubt the amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of State and National authority under the Constitution and the organization of both governments rest would be without support and both the authority of the Nation and the State would fall to the ground. In fact, the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals."
>
> But while this is true, it is true also that the amendment does not change, modify or deprive the States of their full power as to suffrage except of course as to the subject with which the amendment deals and to the extent that obedience to its command is necessary. Thus the authority over suffrage which the States possess and the limitation which the amendment imposes are coordinate and one may not destroy the other without bringing about the destruction of both.
>
> While in the true sense, therefore, the amendment gives no right to suffrage, it was long ago recognized that in operation its prohibition might measurably have that effect; that is to say, that as the command of the amendment was self-executing and reached without legislative action the conditions of discrimination against which it was aimed, the result might arise that as a consequence of the striking down of a discriminating clause a right of suffrage would be enjoyed by reason of the generic character of the provision which would remain after the discrimination was stricken out.
>
> No time need be spent on the question of the validity of the literacy test considered alone since we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and, indeed, its validity is admitted.

There is no question, therefore, that the States may not only determine the qualifications of voters, but the States may also establish literacy tests as a method of determining the qualifications of voters.

In 1959, the Supreme Court reaffirmed, in a unanimous opinion, the principle of the Guinn case—*Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 98:

> We come to the question whether a State may consistently with the 14th and 17th amendments apply a literacy test to all voters irrespective of race or color. The Court in *Guinn* v. *United States, supra*, at 366, disposed of the question in a few words, "No time need be spent on the question of the validity of the literacy test considered alone since as we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and indeed, its validity is admitted."
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> The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised (*Pope* v. *Williams*, 193 U.S. 621, 633; *Mason* v. *Missouri*, 179 U.S. 328, 355), absent of course the discrimination which the Constitution condemns. Article I, section 2, of the Constitution in its provision for the election of Members of the House of Representatives and the 17th amendment in its provision for the election of Senators provide that officials will be chosen "by the people." Each provision goes on to state that "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature." So while the right of suffrage is established and guaranteed by the Constitution (*Ex parte Yarbrough*, 110 U.S. 651, 663–665; *Smith* v. *Allwright*, 321 U.S. 649, 661–662) it is subject to the imposition of State standards which are not discriminatory and which do not contravene any restriction that Congress, acting pursuant to its constitutional powers, has imposed. (See *United States* v. *Classic*, 313 U.S. 299, 315.) While

> section 2 of the 14th amendment, which provides for apportionment of Representatives among the States according to their respective numbers counting the whole number of persons in each State (except Indians not taxed), speaks of "the right to vote," the right protected "refers to the right to vote as established by the laws and Constitution of the State." (*McPherson* v. *Blacker*, 146 U.S. 1, 39.)
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> Yet in our society where newspapers, periodicals, books, and other printed matter canvass and debate campaign issues, a State might conclude that only those who are literate should exercise the franchise. (Cf. *Franklin* v. *Harper*, 205 Ga. 779, 55 S. E. 2d 221, appeal dismissed 339 U.S. 946.)
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> The present requirement, applicable to members of all races, is that the prospective voter "be able to read and write any section of the Constitution of North Carolina in the English language." That seems to us to be one fair way of determining whether a person is literate, not a calculated scheme to lay traps for the citizen. Certainly we cannot condemn it on its face as a device unrelated to the desire of North Carolina to raise the standards for people of all races who cast the ballot.

Mr. President, any contention that the 15th amendment confers the right to vote upon anyone flies in the face of the decisions which I have referred to. That amendment presupposes that the prospective voter is able to pass voter qualification tests required by the State in which he seeks to register. Its sole purpose is to prevent a State from preferring one citizen over another on account of race, color, or previous condition of servitude. Since literacy is in no way limited to race or color or previous condition of servitude, the imposition of a Federal standard, such as would be provided by title I, is not appropriate legislation under the 15th amendment.

Supporters of the establishment of a rebuttable presumption, as contained in title I, can find no basis or comfort therefor in the 14th amendment. Chief Justice Waite treated the relationship of suffrage to the 14th amendment in *Minor* v. *Happersett*, 88 U.S. 162:

> The amendment did not add to the privileges and immunities of a citizen. It simply furnished an additional guarantee for the protection of such as he already had. No new voters were necessarily made by it. Indirectly it may have had that effect, because it may have increased the number of citizens entitled to suffrage under the Constitution and laws of the States, but it operates for this purpose, if at all, through the States and the State laws, and not directly upon the citizen.

The case of Williams against Mississippi dealt with a provision of the Mississippi constitution making the ability to read any section of the constitution or to understand such section when read, a necessary qualification of a legal voter. In that case the Supreme Court held that such a provision did not admit to a denial of the equal protection of the laws secured by the 14th amendment and that such a provision did not on its face discriminate between the white race and the Negro race.

Some of those who support Federal establishment of a presumption of literacy base their support on article I, section 4, clause 1, of the original Constitution. That clause provides as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The clause I have just read authorizes Congress to make or alter regulations dealing with the times, places, and manner of holding elections for Representatives and to make or alter regulations dealing with the times and manner of holding elections for Senators. It does not vest Congress with the power to determine voter qualifications.

The words "times, places, and manner," with reference to holding elections, could not, by any proper construction, be taken to include the determination of voter qualifications.

The constitutionality of Federal legislation prescribing voter qualifications in the election of Members of Congress has not been before the Supreme Court. However, we are not without judicial guidance as to congressional power under article 1, section 4, clause 1. Giving the words of this clause their ordinary and plain meaning, it is indubitably apparent that congressional authority to make or alter regulations concerning times, places, and manner of electing Senators and Representatives does not involve the power to determine the qualifications of voters.

Justice Field's dissent in *Ex parte Clarke*, 100 U.S. 399, 494 (1870) is pertinent on this point:

> The power vested in Congress is to alter the regulations prescribed by the legislatures of the States, or to make new ones, as to the times, places, and manner of holding the elections. Those which relate to the times and places will seldom require any affirmative action beyond their designation. And regulations as to the manner of holding them cannot extend beyond the designation of the mode in which the will of the voters shall be expressed and ascertained. The power does not authorize Congress to determine who shall participate in the election, or what shall be the qualification of voters. These are matters not pertaining to or involved in the manner of holding the election, and their regulation rests exclusively with the States. The only restriction upon them with respect to these matters is found in the provision that the electors of representatives in Congress shall have the qualifications required for electors of the most numerous branch of the State legislature, and the provision relating to the suffrage of the colored race.

Justice Field left no doubt that the qualification of voters can have no reasonable relationship to the "times, places, and manner of holding elections."

I realize that Justice Field's statement is dictum, Mr. President; but inasmuch as no case involving a congressional statute setting up qualifications for voters has yet been before the Supreme Court, this dictum is the only guidance we have.

It is equally clear that any attempt to establish a Federal standard for voter qualifications would constitute an abridgment of powers guaranteed to the States; and the fact that title I merely establishes a presumption does not change this result.

Present civil rights acts, as I have stated earlier, afford ample protection of the rights of persons who wish to vote for Federal officers. The authority of the Civil Rights Commission in this field has been upheld by the courts, *Hannah* v. *Larch*, 363 U.S. 420. The Attorney General has been given a great deal of power in this area, including the power to inspect election records and to bring suits in connection therewith. These powers are argued in such cases as *Kennedy* v. *Bruce*, 298 F. 2d 860, *Dinkens* v. *Attorney General*, 285 F. 2d 430, *Kennedy* v. *Lind*, 306 F. 2d 222, *In re Coleman*, 208 F. Supp. 199.

So, Mr. President, as I have stated, suffrage is not an absolute right. The standards, limitations, and conditions thereof may be prescribed by a State, not by the Federal Government. Yet, in this provision of title I, the Congress would be, in effect, deciding what the law governing qualifications of electors "should be." We know that there are supporters of this bill who contend that Congress would not be determining qualifications of electors by this provision, but that it would only be providing a rule of evidence of literacy. I maintain that it would be more than a rule of evidence. Its effect and practical result would be that any individual who has completed the sixth grade would be eligible to vote if literacy is a relevant qualifying factor. So, insofar as one possible qualifying factor is concerned, the Federal Government, through the Congress, would be determining that qualification, and I maintain that this is in violation of the Federal Constitution. I further submit that, if it is desirable and if it is the consensus in this country that persons who have completed the sixth grade should be qualified to vote, all other things being equal, the proper way to reach this objective is not by a Federal statute, such as we are considering here, but it should be done by constitutional amendment as provided in article V of the U.S. Constitution. I would support any proposal for such an amendment so as to allow the people of this country to make this determination, but I question the procedure that is being resorted to here, a procedure wherein by Federal statute the Congress would make inroads in the area of determination of voter qualifications—a sphere of activity clearly left, by the Constitution, to the States themselves.

I agree with the end to be achieved but not with the means proposed. We cannot, by statute, make constitutional that which is unconstitutional. Any inroads upon the Constitution, however minor, are subversive of that Constitution. Eloquent expression of this truism has been given by the Supreme Court:

> Every journey to a forbidden end begins with the first step, and the danger of such a step by the Federal Government in the direction of taking over the powers of the States certainly at the end of the journey may find the States so despoiled of their powers, or, what may amount to the same thing, so relieved of the responsibilities which possession of the powers necessarily enjoins, as to reduce them to little more

than geographical subdivisions of the national domain.

I repeat, therefore, that if it would prove to be beneficial to our people for the Federal Government to have the power to prescribe and determine voter qualifications, the Federal Constitution should be amended to attain that end, and it should be changed according to the procedure set forth by the Constitution. The Supreme Court has determined and acknowledged that the use of literacy tests is but the exercise by a State of a lawful power vested in the State, a power not subject to the supervision of the Supreme Court.

The 15th amendment, upon which some of those who support this provision of title I base their position, provides that the right of citizens to vote shall not be denied or abridged "on account of race, color, or previous condition of servitude." The provisions of title I regarding literacy tests are not related to the denial or abridgment of the right to vote "on account of race, color, or previous condition of servitude."

The provision relating to a standard literacy test has nothing to do with State deprivals based on race, deprivals based on color, or deprivals based on previous conditions of servitude. The provision applies to all citizens, not to the deprival or abridgment of the voting rights of any particular group. This provision of title I lays down rules for the use of literacy tests, not as such tests may affect persons of "race, color, or previous condition of servitude," but as such tests may affect every person. The provision, therefore, leaves the 15th amendment, and trespasses upon the constitutional provisions of article I, section 2; article II, section 1; and amendment XVII. In actuality, title I prohibits the use by any State of a literacy test unless such test meets Federal requirements—unless the test is "wholly in writing," and unless a certified copy of such test is furnished the individual registrant upon his request. In actuality, it provides that State literacy tests are virtually of no consequence in view of the fact that any person who has completed the sixth grade will arbitrarily be deemed to possess the degree of literacy required of a voter in any Federal election. These provisions plainly encroach upon the power of each State to fix voter qualifications and are simply beyond Congress' authority.

There is abundant law, constitutional and statutory, to prohibit and to punish willful acts by local registrars to discriminate against Negroes in their voting rights. All that is required is that the existing law be enforced. Nevertheless, as I have already indicated, I do not raise strong constitutional objections to other provisions of title I, but I do object on constitutional grounds, to the provision relating to a standard literacy test. If the principle—that Congress has some power to fix general qualifications for voters—is accepted as to literacy tests, it naturally follows that the Congress has the power to fix a uniform age for voters, and a uniform period of residency in precinct, city, and State. If the Congress can create a rebuttable presumption regarding literacy, it can do the same regarding competency, character, and other qualifying criteria.

Finally, title I provides that, in any proceeding instituted in any district court of the United States under "this section," the Attorney General or any defendant may file with the clerk of such district court a request that a court of three judges be convened to hear and determine the case. It is mandatory upon the clerk to immediately furnish to the chief judge of the circuit, or in his absence, the presiding circuit judge of the circuit in which the case is pending, whereupon it is mandatory that that judge immediately designate three judges in such circuit, at least one of whom shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted. It will then be mandatory for the three-judge court to assign the case for hearing at the earliest practicable date and to participate in the hearing and render a determination. An appeal from the final judgment of such court will go directly to the Supreme Court of the United States. Furthermore, if the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district—or in his absence the acting chief judge—in which the case is pending, immediately to designate a judge in such district to hear and determine the case. If no district judge is available, the chief district judge, or the acting chief judge, shall so certify to the chief judge of the circuit who shall then designate a district or circuit judge of the circuit to hear and determine the case, who shall assign the case for hearing at the earliest practicable date and cause it to be expedited.

In the other body it was explained that this provision in title I was for the purpose of avoiding the delays, extant under present procedures, in handling cases instituted. However, in the present language of the bill there is no reference whatsoever to delay. There is only a wide-open authorization that the Attorney General "may file with the clerk of such court" a request that a court of three judges be convened. No legislative standard is enunciated with regard to what shall be the factual grounds for such a request, and there is no requirement for a finding relating to those grounds. This amounts to a peremptory demand or challenge on the part of the Attorney General, to the district judge before whom the case would normally be tried. He would not make that request to the sitting district judge, which I believe is the standard procedure under the statutes providing for a three-judge panel court, but he would file a request with the clerk of the court without consulting the judge. The clerk would then be required to immediately send a request to the chief circuit judge who would have no alternative but to respect the request. There is to be no choice. The Attorney General is not only to be authorized to file suit on behalf of aggrieved voters, but he is also, at his unreviewed discretion, authorized immediately, and without giving the district judge an opportuntity to determine the voting suit, to demand a three-judge court in which the particular district judge would constitute a minority of the three-judge panel, if indeed he is appointed to the panel thereof.

The Attorney General—and I am not referring to any specific Attorney General—would be permitted to choose one judge over another if he felt that the decision which could be forthcoming from a different judge would be favorable to the Government's case. He could use any excuse, without even indicating what it was, to get the case before a three-judge court. This gives entirely too much power to any Attorney General—power to file for the litigant, power to determine the forum, and power to control the court docket. The Attorney General is allowed discretion, under the provision, as to whether or not he shall file such a request with the clerk, so it may be presumed that with regard to a case instituted in a court the presiding district judge of which is "friendly" or considered liberal, the Attorney General would let matters take their course, whereas in a similar situation in another district court, the judge of which may not be considered quite so liberal, the Attorney General can summarily remove the case from that court. He does not have to wait 30 minutes. He does not even have to wait 30 seconds if the proceeding has been instituted. He may request immediately that a three-judge court be convened. In other words, the judicial procedures will be subjected to the whims—and prejudices—of the Attorney General, who is not an elected public servant but an appointed one, appointed not for life but for a term. It is not necessary that he make any allegation of delay, crookedness, or anything. He merely has to ask for the three-judge court. The circuit judge is allowed to exercise no discretion and no judgment, and he can require no proof whatsoever. He must immediately submit to the request of the Attorney General. The Attorney General virtually can issue his own order, select his own court as well as select his own case, and thus stack the cards against the defendant.

As everyone knows, human beings being what they are, district judges differ in their attitudes and temperaments. Some judges are noted for granting substantial awards to lands taken for public use. Others may be inclined to be not quite so liberal and in bootlegging cases some Federal judges may be tough while others may be lenient. In cases involving crimes against the person, some Federal judges may be tougher than others. In income tax matters, there may be apparent disparity of disposition between judges. There is every possibility, therefore, that a similar disparity may be evidenced among judges in cases involving civil rights. The language in this title would permit the Attorney General to peremptorily circumvent a particular district judge to whom the case would normally be assigned.

That judge's power would thus be diluted, and in districts served by more than one district judge, the particular judge to whom the case would otherwise be assigned, might not be appointed at all by the presiding circuit court judge. In fine, we can fix it so that the Federal Government can never lose a case.

It must be remembered that this section of the bill would accelerate the processing of civil rights cases at the expense of the remainder of the docket. A three-judge court would require the services of a circuit judge and two district judges or vice versa. These men would be pulled away from their normal duties. At the present time, three-judge courts exercise a very limited jurisdiction. They are convened to try cases which present serious constitutional questions, for example. It is the exceptional case, so to speak, which necessitates the transfer of these men from attendance to their normal duties.

Under this bill, however, the Attorney General would be authorized to make the exception the rule in voting cases. If we look at existing conditions in most or all of the district courts throughout the country, we find that the dockets are such that a litigant may have to wait 2 or 3 or 4 years to have his claim adjudicated. The effect of this bill would be to accelerate the processing of voting suits at the expense of the other cases on the docket. Present congestion will only be increased to the point of chaos, as civil rights cases will be processed at the expense of other cases already on the docket.

It must also be emphasized that in the event the Attorney General fails to file a request in any such proceeding, this bill makes it the duty of the chief district judge to immediately designate a judge in such district to hear and determine the case. In the event no judge in the district is available, this fact is to be certified by the chief district judge to the chief circuit judge who shall then designate a district or circuit judge of the circuit who must, at the earliest practicable date hear and determine the case. Here again the district judge who would normally determine the case may be circumvented inasmuch as the language permits the chief circuit judge to designate a circuit judge of the circuit. Indeed, a district judge outside the district involved or even outside the particular State as long as he is within the circuit, may be designated to hear and determine the case. Again, the other cases on the docket will be delayed and made to suffer.

Title II of the bill reads as follows:

TITLE II—INJUNCTIVE RELIEF AGAINST DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

SEC. 201. (a) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

(b) Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

(1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) any restaurant, cafeteria, lunch room, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;

(3) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

(4) any establishment (A) which is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

(c) The operations of an establishment affect commerce within the meaning of this title if (1) it is one of the establishments described in paragraph (1) of subsection (b); (2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b), it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph (4) of subsection (b), it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

(d) Discrimination or segregation by an establishment is supported by State action within the meaning of this title if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of a State or political subdivision thereof.

(e) The provisions of this title shall not apply to a bona fide private club or other establishment not open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

SEC. 202. All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule or order, of a State or any agency or political subdivision thereof.

SEC. 203. No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 201 or 202, or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 201 or 202, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 201 or 202.

SEC. 204. (a) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted (1) by the person aggrieved, or (2) by the Attorney General for or in the name of the United States if he satisfies himself that the purposes of this title will be materially furthered by the filing of an action.

(b) In any action commenced pursuant to this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

(c) In case of any complaint received by the Attorney General alleging a violation or threatened violation of section 203 in a place where State or local laws or regulations forbid the act or practice involved, the Attorney General shall notify the appropriate State or local officials and, upon request, afford them a reasonable time to act under such State or local laws or regulations before he institutes an action.

(d) In the case of any complaint received by the Attorney General alleging a violation or threatened violation of section 203, the Attorney General, before instituting an action, may utilize the services of any Federal, State, or local agency or instrumentality which may be available to attempt to secure compliance with the provisions of this title by voluntary procedures.

(e) Compliance with the foregoing provisions of subsection (c) shall not be required if the Attorney General shall file with the court a certificate that the delay consequent upon compliance with such provisions in the particular case would adversely affect the interests of the United States, or that in the particular case compliance with such provisions would prove ineffective.

SEC. 205. (a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) The remedies provided in this title shall be the exclusive means of enforcing the rights hereby created, but nothing in this title shall preclude any individual or any State or local agency from asserting any right created by any other Federal or State law not inconsistent with this title, including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right.

(c) Proceedings for contempt arising under the provisions of this title shall be subject to the provisions of section 151 of the Civil Rights Act of 1957 (71 Stat. 638).

Mr. President, for the moment, I shall eschew any discussion of title II, and proceed to discuss title III.

Title III of the bill reads as follows:

TITLE III—DESEGREGATION OF PUBLIC FACILITIES

SEC. 301. (a) Whenever the Attorney General receives a complaint signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to the equal protection of the laws, on account of his race, color, religion, or national origin, by being denied access to or full and complete utilization of any public facility which is owned, operated, or managed by or on behalf of any State or sub-

> division thereof, other than a public school or public college as defined in section 401 of title IV hereof, and the Attorney General certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the public policy of the United States favoring the orderly progress of desegregation in public facilities, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.
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> (b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the employment or economic standing of, or might result in injury or economic damage to, such person or persons, their families, or their property.
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> SEC. 302. Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action. In such an action the United States shall be entitled to the same relief as if it had instituted the action.
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> SEC. 303. In any action or proceeding under this title the United Staes shall be liable for costs, including a reasonable attorney's fee, the same as a private person.
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> SEC. 304. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in any facility covered by this title.

Title III of the bill is divided into two parts. The first concerns suits involving public facilities instituted by the Attorney General, and the second—section 302—concerns suits instituted by private citizens involving any denial of equal protection, in which suits the Attorney General is authorized to intervene.

Section 301(a) provides that whenever the Attorney General receives a complaint signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to equal protection of the laws, on account of his race, color, religion, or national origin, by being denied access to or full and complete utilization of any public facility which is owned, operated, or managed by or on behalf of any State or subdivision thereof, other than a public school or public college, and the Attorney General certifies that the complainant is unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will "materially" further the public policy of the United States favoring the orderly progress of desegregation in public facilities, that officer is authorized to institute for or in the name of the United States a civil action in any appropriate U.S. district court for such relief as may be appropriate. The Attorney General may implead as defenders such additional parties as are necessary to the granting of effective relief. Section 301(b) provides that the Attorney General may deem a person unable to initiate and maintain legal proceedings when such person is unable, either directly or through other interested persons or organizations, to bear the expense or to obtain "effective" legal representation; or whenever the Attorney General is satisfied that the institution of such litigation would jeopardize the employment or economic standing of, or might result in injury or economic damage to, such person, his family, or property.

Since the Federal courts have held such facilities subject to the strictures of the 14th amendment, this provision alters existing law only in one significant respect, the real thrust of the section being that it authorizes the Attorney General to institute suits to desegregate public facilities and he may do so merely on the signed complaint of an aggrieved individual.

The words "full and complete utilization of any public facility" may place an onerous burden upon any State or subdivision thereof which owns, operates, or manages a public facility. It may be impossible, under certain circumstances and at certain times, or even at any time, for an individual or particular group of individuals to be allowed "full and complete utilization" of a public facility. Yet, under this subsection, the way for harassment of a State or political subdivision thereof might be opened. The inability of a political entity to make available to a particular racial group, for very practicable reasons the "full and complete" utilization of a public facility might lead to charges that the denial was discriminatory and on the basis of the racial characteristics of the group.

The complaint, moreover, is not required to be a sworn complaint. It merely has to be a signed complaint. Additionally, discretion as to whether or not the Attorney General should institute an action in the matter is left entirely to "his judgment"—his judgment as to whether or not the complainant is financially able to bear litigatory expenses; whether or not the complainant is able or unable through "other interested persons or organizations" to bear such expenses; whether or not the complainant is able to obtain "effective" legal representation, and whether or not such legal representation as to the complainant might be able to obtain would be considered "effective"; whether or not the institution of litigation would jeopardize or injure the complainant as to his employment, economic standing, or otherwise.

We all know that various well-financed organizations have recently been very active in encouraging and financing court cases involving racial discrimination. When, therefore, may a prospective complainant be considered "unable" to bear the expense of litigation through "other interested persons or organizations"? What guidelines are provided whereby the Attorney General may determine whether or not the legal representation available to a complainant is or is not "effective"? What is meant by "effective" legal representation as the term is used here? This section is merely another one of those sections in the bill which grant to the Attorney General omniscience and omnipotence. He will be all knowing so far as any challenge to his judgment is concerned, and he will be all powerful in that he may act indiscriminately and promiscuously in instituting suits. The Attorney General need not look for a pretext, if he so desires, upon which to "satify" himself that the institution of litigation by a complainant would jeopardize the economic standing of the complainant or the employment of the complainant or result in economic damage to the complainant, his family, or his property. The Attorney General merely needs to satisfy himself. Who is there to question him in the matter? Who is there to question his judgment as to the unavailability of "effective" legal representation? What is there to prevent a spate of complaints from deluging the Attorney General signed by outside agitators and troublemakers? Is it not probable that organizations which heretofore assisted in bearing the costs of suits involving discrimination will now have the opportunity to unload the expense upon the taxpayers through the offices of the Attorney General simply by stating, in cases arising under section 301, that they cannot bear legal expenses of complainants? The only requirement being that the Attorney General certify that he has received a complaint and he is satisfied that the individual would be unable, because of any one of the various reasons mentioned, to bring litigation, this requirement is meaningless and ineffective. There is no requirement that an action should be filed by any individual. There is no requirement that any proof in connection with the certification be made in any court. In an election year, there is nothing to prevent a rash of suits in areas where such action would appear to be to the political advantage of whatever administration may be in power at the time.

It should be pointed out that the Attorney General may not only initiate actions under section 301. He may also intervene in actions involving desegregation of public facilities, such authority being granted in section 302.

The second part of this title, section 302, empowers the Attorney General to intervene whenever "an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin." The United States shall be entitled to the same relief in such an action as if it had instituted the action. This part of the title is broader in its application than the so-called public facilities part, in that it encompasses a whole range of actions which are not limited to suits charging discrimination in the use of public facilities. What is meant by "an action" commenced in "any court" seeking relief from the denial of equal protection of the "laws" on account of race, color, religion, or national origin? This means any action commencing within the scope of the equal protection clause of the 14th amendment. This title should be opposed on policy grounds. In other words, should any politically appointed officer possess such enormous powers. The magnitude of the power vested in the person of one man would be virtually limitless when it is remembered that the Attorney General has similar powers in the areas of voting, and titles II and IV would vest additional power in this officer to desegregate privately owned public accommodations and educational facilities.

What is meant by the word "managed" in the phrase "public facility which is owned, operated or managed" by or on behalf of any State or subdivision thereof? The words "owned" and "operated" are fairly clear. If a facility is operated by a State, is it not managed by the State? Or does the word managed mean something more than the word operated? Does it mean regulated? Is it to mean that where cities receive private property in trust and a private individual is employed to control or operate the property, such property is being "managed" by the political entity and thus comes within the purview of the provision? Would not such property be operated "on behalf of" the State or subdivision thereof? Why would it be necessary to include the word "managed"? This could be open to various interpretations. If such a facility is licensed by the State, could the word "managed" be utilized to give it coverage? Is it not possible that some court in the future, when struggling with this provision, might interprete or construe the word "managed" to have the same connotation as the word "regulated"? It seems to me that there might be some danger that a privately owned but publicly used facility might be brought within the purview of this section by this word "managed," so that there can be further regulation and strangulation of private businesses by the Federal Government.

Incidentally, while the Mansfield-Dirksen-Humphrey substitute deletes section 302 from title III, it restores the section in title IX. When I first read title III of the substitute, I was pleased to see section 302 deleted but, when I read title IX, I discovered that the authors of the substitute had merely lifted section 302 out of title III and replaced it in title IX of the substitute.

We are told that the substitute is a much better bill than H.R. 7152. I think it will constitute a slight improvement in the overall, perhaps. But this is one example as to how a bad section was removed from one title in the bill only to be restored at another point in the substitute.

I support title III, except for section 302.

Title IV of the bill reads as follows:

TITLE IV—DESEGREGATION OF PUBLIC EDUCATION

Definitions

SEC. 401. As used in this title—

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary school level, operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

Survey and report of educational opportunities

SEC. 402. The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.

Technical assistance

SEC. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

Training institutes

SEC. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for dependents and including allowances for travel to attend such institute.

Grants

SEC. 405. (a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

(1) giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(2) employing specialists to advise in problems incident to desegregation.

(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

Payments

SEC. 406. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

Suits by the Attorney General

SEC. 407. (a) Whenever the Attorney General receives a complaint—

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived of the equal protection of the laws by reason of the failure of a school board to achieve desegregation, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin,

and the Attorney General certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the public policy of the United States favoring the orderly achievement of desegregation in public education, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the employment or economic standing of, or might result in injury or economic damage to, such person or persons, their families, or their property.

(c) The term "parent" as used in this section includes any person standing in loco parentis.

SEC. 408. In any action or proceeding under this title the United States shall be liable for costs the same as a private person.

SEC. 409. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education or in any facility covered by this title.

TITLE IV

Title IV of the bill is concerned with the desegregation of schools and has two provisions, in the main.

First. It would authorize the Commissioner of Education to provide technical and financial aid to assist in dealing with problems incident to desegregation.

Second. It would authorize the Attorney General to institute suits seeking desegregation of public schools where the students or parents involved are unable to bring suit and where he considers that a suit would materially assist public policy and favor the orderly achievement of desegregation in public education. Section 402 of title IV commands the Commissioner to conduct a survey and make a report to the President and the Congress within 2 years of the title's enactment concerning the lack of available or "equal additional opportunities" for individuals by reasons of race, color, religion, or national origin in public educational institutions at all levels in the United States. What is meant by the term "equal educational opportunities" is not explained. Whether or not such a term would include "racial imbalance" is to be left to one's own imagination. There are certain groups in this country which advance the argument that to have equal educational opportunities for individuals of the white and colored races there must be no racial imbalance. We have heard about the school boycotts in various northern cities which have had as their objective the elimination of so-called racial imbalance in public schools. It is not too far fetched to envision the inclusion of such a factor in the survey and report which the Commissioner of Education would be required to make. The section states that the word "desegregation" as used in titles subsequent to section 402, shall not mean the assignment of students to public schools in order to overcome racial imbalance. But as far as section 402 is concerned we have no assurance that this aspect will not be involved in the conduct of the survey and the compiling of the report dealing with "equal educational opportunities." It could depend upon the attitude of the Commissioner, one might suppose, and the weight given to such matters vary from individual to individual among those who are active in conducting the survey and formulating the report.

Section 403 authorizes the Commissioner, upon application of the appropriate governmental unit legally responsible for operating a public school, to render technical assistance to such applicants in the "preparation, adoption, and implementation" of plans for the desegregation of public schools. Such technical assistance may, "among other activities," include making available to such agencies information regarding effective methods of coping with special problems occasioned by desegregation, as well as making available to such agencies personnel of the Office of Education "or other persons specially equipped" to advise and assist in handling such problems.

Fortunately, the Commissioner is authorized to render such technical assistance only upon the application of the legally responsible governmental unit. Yet, one can be sure that here is an opportunity for school boards to secure technical assistance by way of information and personnel and, of course, it would be impossible to estimate the cost of administering the section. One can be sure that there will be a need for additional personnel in the Office of Education and, with no cutoff date included, one can be sure that such positions will be retained ad infinitum. No explanation is given as to what is meant by "persons specially equipped" to advise and assist in coping with problems of desegregation. One may wonder whether those individuals who have been trained in the conduct of the boycotts and other demonstrations may be considered to be specially equipped to advise in coping with such problems. Whether these persons are to be social workers, psychologists, or otherwise, there is no indication. It will be left up to the Commissioner to decide.

Section 404 authorizes the Commissioner to arrange through grants or contracts with institutions of higher education for the operation of short-term or regular session institutes for special training of teachers and other elementary school personnel to deal with special educational problems occasioned by desegregation. Provision is made for the payment of stipends to individuals who attend such institutes for the period of their attendance "in amounts specified" by the Commissioner, including "allowances" for dependents and for travel to attend such institutes. Here indeed is an opportunity for institutions of higher education to get Federal aid, not through loans, but through grants, for the operation of special institutes, with no cutoff date and with no limitation regarding the overall appropriation authorized for administration of this section and no limitation on the stipend amount, no limitation on the allowances for dependents, and no limitation on the allowances for travel. Teachers in the East may have the opportunity to take vacations in the West with allowances for dependents and travel expenses. School supervisors in Georgia may spend a cool summer vacation in Maine or upper New York. Elementary and secondary school counselors from the seashores of Louisiana may take their families and hie away to the Rocky Mountains for a summer vacation and attendance at such an institute with expenses paid.

Section 405 authorizes the Commissioner of Education to make grants to applicant school boards to pay, "in whole or in part," the cost of inservice training to school personnel in dealing with desegregation problems and the cost of employing specialists to act as advisers in such problems. In determining whether to make a grant, and in determining the amount thereof and the terms and conditions on which it would be made, the Commissioner shall "take into consideration the amount available for grants" under this section and the other applications pending. He shall also consider the applicant's financial condition and the other resources available to the applicant. He shall consider the nature, extent, and gravity of the desegregation problems confronting the applicant. He shall also consider "such other factors as he finds relevant." Here again is an open-end authorization of Federal aid. There is no cutoff date. There is no limitation as to the overall cost. There is no definition as to what is meant by "inservice training" and no limitation placed upon the cost per person who receives inservice training under the title. There is no limitation upon the number of specialists who may be employed by a school board to advise in desegregation problems, no limitation upon the amount of reimbursement grant to such board for each specialist employed, and no definition of such a specialist. What is meant by the "terms and conditions" on which such grants are to be made? No explanation is shown. Presumably the Commissioner could exact, in return for a grant to a school board in one instance, conditions which would be more rigid than in an exactly similar case elsewhere. One of the conditions might be that the school board strive to bring about racial balance in the schools under its jurisdiction.

I see nothing in the phraseology to prohibit the Commissioner from laying down such terms and conditions. As to the amount of such grants to boards, this is left to the discretion of the Commissioner, and he may favor some boards over other boards, depending upon the jurisdictions involved. He is to take into consideration, in fixing the amount of a grant "the amount available for grants under this section," but no specific amount is authorized in the bill. I assume that there are no moneys requested in the fiscal year 1965 budget for this purpose, and I have not seen any information which would indicate precisely how much money will be requested. In any event, we are to assume the higher the amount appropriated for grants under this section, the greater will be the size of the grants to each school board. One might further assume that the greater the size of the grants, the greater will be the assurance that the "terms and conditions" laid down by the Commissioner can be more exacting and will be more likely to be met. The Commissioner is given the broadest of discretion as to the amount of grants and the terms and conditions on which they will be made, because, aside from the specific factors which shall enter into his consideration, he will be permitted to consider "such other factors as he finds relevant." One of the "other factors" may very well be the "need" for bringing about racial balance in a certain school or schools, and the need may vary from one Commissioner to another, and from one administration to another. Some Commissioners may drive harder bargains than others, and the same Commissioners may drive harder bargains in some areas than in others. Fortunately, of course, a school board does not have to apply for such grants nor does it have to accept the terms and conditions which the Commissioner wishes to allow the grant.

AMENDMENT NO. 1046

Mr. MILLER. Mr. President, will the Senator from West Virginia yield?

Mr. BYRD of West Virginia. I yield.

Mr. MILLER. I thank the Senator from West Virginia. Does the Senator wish to ask unanimous consent that his yielding to the Senator from Iowa will not jeopardize his right to the floor?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that my yielding to the Senator from Iowa will not jeopardize my right to the floor and that my so yielding will not cause my remarks previously made to be counted as a first speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MILLER. Mr. President, I send to the desk an amendment. I ask unanimous consent that it be printed in the Record, and further that it be considered as having been read for the purpose of compliance with the cloture rule, and that it be printed and lie on the table.

The PRESIDING OFFICER. Without objection, the amendment will be received and printed and will lie on the table; and without objection, the amendment will be printed in the Record.

The amendment (No. 1046) is as follows:

Beginning on page 73, strike all of section 1101 and insert in lieu thereof the following:

"Sec. 1101. (a) In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided, however,* That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall imprisonment exceed the term of six months: *Provided further,* That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $500 nor shall imprisonment for any term be imposed. If the trial is by a jury, the procedure shall conform as near as may be to that in other criminal cases.

"This subsection shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience of any officers of the court in respect to the writs, orders, or process of the court.

"Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

"(b) Section 151 of the Civil Rights Act of 1957 (41 Stat. 638) is amended by striking out the third proviso to the first paragraph thereof, and inserting in lieu thereof the following: '*Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury the aggregate fine shall not exceed the sum of $500 nor shall imprisonment for any term be imposed. If the trial is by a jury, the procedure shall conform as near as may be to that in other criminal cases.' "

Mr. BYRD of West Virginia. Title IV, section 407(a) provides that whenever the Attorney General receives a complaint signed by a parent or group of parents to the effect that his or their minor children are being deprived of the equal protection of the laws by reason of a school board's failure to achieve desegregation, or a complaint signed by an individual, or his parent, to the effect that admission to or continued attendance at a public college has been denied, by reason of race, color, religion or national origin, the Attorney General is authorized to institute, for or in the name of the United States, a civil action in any appropriate U.S. district court for such relief as may be appropriate. The Attorney General is required only to certify that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the "public policy of the United States" favoring the orderly achievement of desegregation in public education. The Attorney General may implead as defenders such additional parties as are or become necessary to the granting of effective relief.

Section 407(b) contains precisely the same language as that which appeared in section 301(b), dealing with the desegregation of public facilities under title III, to wit, that the Attorney General may deem a person or persons "unable" to initiate and maintain appropriate legal proceedings when such person or persons are unable, "either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain 'effective' legal representation." Such person or persons may meet the criterion of inability whenever the Attorney General is "satisfied" that litigation carried on by the person or persons would jeopardize their employment or economic standing or might result in injury or economic damage to themselves, to their families, or to their property.

The United States is made liable for costs, the same as a private person, by section 408, in any legal action or proceeding under title IV.

Section 409 states that nothing in the title shall adversely affect the right of any person to seek relief in any court against discrimination "in public education or in any facility covered by this title." What is meant by the words "or in any facility covered by this title" is clearly unclear. Apparently this is just another ambiguity among the many ambiguities with which the bill is laden.

It is readily obvious that section 407 of title IV provides for the further augmentation of the Attorney General's powers. This is manifestly unwise.

Although section 401(b) of title IV attempts to define discrimination as meaning the assignment of students to and within public schools without regard to their race, color, religion, or national origin and states specifically that desegregation "shall not mean the assignment of students to public schools in order to overcome racial imbalance," I am not convinced that title IV, if enacted, will not be used as the vehicle whereby attempts will be made to overcome and eliminate racial imbalance wherever possible, even though impracticable. Precisely what is meant by "racial imbalance" is not indicated, so the interpretation may vary from section to section and State to State. In any event, the Attorney General can be expected to receive innumerable complaints signed by parents who feel that their children are being deprived of equal protection of the laws by reason of the failure of a school board to achieve some sort of a balance of the racial makeup of public school classes, whereas the school board is only required to achieve desegregation. Moreover, just what is meant by the reference to the "public policy of the United States favoring the orderly achievement of desegregation in public education" is not set forth. As a matter of fact, there are many who would challenge the contention that the achievement of desegregation in public education is a "public policy in the United States." The ruling in the Brown against Board of Education case overturns a previous Supreme Court decision in the case of Plessy against Ferguson. Some of the evidence upon which the Brown decision was founded might be considered highly questionable from the standpoint of its validity. No statute has been passed by the Congress to implement the decision, and I would be loath to support a bill putting the congressional stamp of approval upon the decision as reflecting the "public policy of the United States."

I ask unanimous consent to have printed at the conclusion of my remarks an article by R. Carter Pitman entitled "The Blessings of Liberty Versus the Blight of Equality," which appeared in the December 1963 issue of the North Carolina Law Review.

The PRESIDING OFFICER (Mr. Bayh in the chair). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD of West Virginia. The same broad discretionary powers are given to the Attorney General, under this title, as have been referred to in my discussion of previous titles of the bill. He need only satisfy himself as to certain circumstances involving the complaints, and he is permitted to run roughshod over school boards throughout the country and the taxpayers will foot the bill. He can deal more harshly, "if he wishes," with some sections of the country than with others, and the way is provided whereby an Attorney General, who lacks understanding of the practical problems attendant to desegregation in some sections of the country, will be at liberty to harass school boards in those areas and he will be able to secure complaints in abundance through the agitation of outsiders and well-financed organizations, the purpose of which is to promote race mixing and race leveling in every aspect, segment, and walk of American life.

All in all, the enactment of title IV would represent an intrusion into another area reserved to the States—that of public education.

Title V of the bill reads as follows:

TITLE V—COMMISSION ON CIVIL RIGHTS

Sec. 501. Section 102 of the Civil Rights Act of 1957 (42 U.S.C. 1975a; 71 Stat. 634) is amended to read as follows:

"RULES OF PROCEDURE OF THE COMMISSION HEARINGS

"Sec. 102. (a) The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an open statement the subject of the hearing.

"(b) A copy of the Commission's rules shall be made available to the witness before the Commission.

"(c) Witnesses at the hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

"(d) The Chairman or Acting Chairman may punish breaches of order and decorum and unprofessional ethics on the part of counsel, by censure and exclusion from the hearings.

"(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. In the event the Commission determines that such evidence or testimony shall be given at a public session, it shall afford such person an opportunity voluntarily to appear as a witness and receive and dispose of requests from such person to subpena additional witnesses.

"(f) Except as provided in sections 102 and 105(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

"(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

"(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission is the sole judge of the pertinency of testimony and evidence adduced at its hearings.

"(i) Upon payment of the cost thereof, a witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Commission.

"(j) A witness attending any session of the Commission shall receive $6 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 10 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of $10 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

"(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process."

SEC. 502. Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a); 71 Stat. 634) is amended to read as follows:

"SEC. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $75 per day for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b-2; 60 Stat. 808)."

SEC. 503. Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975(b); 71 Stat. 634) is amended to read as follows:

"(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended (5 U.S.C. 835-42; 63 Stat. 166)."

SEC. 504. (a) Section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c; 71 Stat. 635), as amended, is further amended to read as follows:

"Duties of the Commission

"SEC. 104. (a) The Commission shall—

"(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

"(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;

"(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution;

"(4) serve as a national clearinghouse for information in respect to equal protection of the laws, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, transportation, and the administration of justice;

"(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of presidential electors, Members of the United States Senate, or of the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election; and

"(6) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization."

"(b) The Commission shall submit interim reports to the President and to the Congress at such times as the Commission, the Congress or the President shall deem desirable, and shall submit to the President and to the Congress a final report of its activities, findings, and recommendations not later than January 31, 1968."

SEC. 505. Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(a); 71 Stat. 636) is amended by striking out in the last sentence thereof "$50 per diem" and inserting in lieu thereof of "$75 per diem."

SEC. 506. Section 105(g) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(g); 71 Stat. 636) is amended to read as follows:

"(g) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof."

SEC. 507. Section 105 of the Civil Rights Act of 1957 (42 U.S.C. 1975d; 71 Stat. 636), as amended by section 401 of the Civil Rights Act of 1960 (42 U.S.C. 1975d(h); 74 Stat. 89), is further amended by adding a new subsection at the end to read as follows:

"(i) The Commission shall have the power to make such rules and regulations as it deems necessary to carry out the purposes of this Act."

TITLE V

Title V of the bill would extend the life of the Commission on Civil Rights for an additional 4 years. I voted for legislation, as I stated earlier this evening, originally establishing the Commission on Civil Rights, but the agency was originally conceived to be of a temporary nature. I hesitate to give a temporary agency an additional 4 years of existence during which time every effort will be made to show the need for its continued existence at the end of that period. I am constrained to believe that the Commission has not functioned in an objective manner and that it has all too often proposed radical, impractical, and improvident solutions to problems of human relations. For example, the cutting off of Federal funds in connection with programs receiving Federal assistance. More recently, I have come to doubt that the overall makeup of the Commission is such that a balanced viewpoint is presented. The Commission's stance, like that of the U.S. Supreme Court in recent years, impresses one as being more and more oriented in the direction of radical departures from previously held concepts of what is constitutional and what is unconstitutional.

Title VI of the bill reads as follows:

TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

SEC. 601. Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

SEC. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, shall take action to effectuate the provisions of section 601 with respect to such program or activity. Such action may be taken by or pursuant to rule, regulation, or order of general applicability and shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation or order shall become effective unless and until approved by the President. After a hearing, compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding of a failure to comply with such requirement, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that

> compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the Committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.
>
> Sec. 603. Any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

TITLE VI

Title VI of the bill declares it to be the policy of the United States that discrimination on the ground of race, color, or national origin shall not occur in connection with programs and activities receiving Federal financial assistance, and authorizes and directs the appropriate Federal departments and agencies to take action to carry out this policy.

Under title VI of the bill, each Federal agency administering a program of Federal financial assistance would take action to see to it that no person is excluded from participating in such program because of his race, color, or national origin. Section 601 provides that, "notwithstanding any inconsistent provision of any other law" no person shall, because of race, color, or national origin be subjected to "discrimination" under any program or activity receiving Federal financial assistance. The section, therefore, serves to repeal inconsistent provisions of any Federal statutes. The word "discrimination" is not defined. Moreover, there is no prohibition against discrimination on the basis of religion.

Section 602 directs Federal departments and agencies empowered to extend Federal financial assistance to any program or activity by way of grants, loans, or contracts—other than contracts of insurance or guarantee—to take action to effectuate the provisions of section 601. In other words, the Federal agencies are not merely authorized but are directed to act to deny or to cut off any assistance under any program or activity receiving Federal assistance when it is found that the recipient of such assistance discriminates on account of race, color, or national origin in the administration of the assisted program.

Section 602 provides that such action "may" be taken by or pursuant to "rule, regulation, or order of general applicability." Just why the word "may" is preferable to the word "shall" is not understood. The section goes on to provide that "no such rule, regulation, or order shall become effective" unless and until approved by the President. The section provides further that after a hearing, compliance with "any requirement adopted pursuant to this section" may be effected by the terms of or refusal to continue assistance under such program or activity to any recipient as to whom there has been an expressed finding or a failure to comply with such requirement, or "by any other means authorized by law." If this is not a blackjack operation, I cannot envision one. The enactment of title VI will envelope every federally assisted program and activity with a perpetual cloud of uncertainty and will enable Federal department and agency heads to harass, cajole, threaten, and blackmail recipients into abject submission in overturning long established customs and procedures in dealing with racial problems. Thousands of bureaucratic autocrats will flower into existence, each of whom may be the final judge, except for the President, as to the rigidity, strictness, fairness, justifiability, and practicability of the rules, regulations and orders formulated.

Section 602 provides that before action may be taken to deny or terminate assistance, the department or agency must advise the appropriate person or persons of the failure to comply with the requirements to be met and must file with the Senate and House committees having legislative jurisdiction over such program a full written report of the action planned and the grounds therefor, such action to become effective no earlier than 30 days after the filing of such report. Such agency action shall be subject to judicial review.

The late President Kennedy, when asked about this power, said:

> I don't have the power to cut off aid in a general way as was proposed by the Civil Rights Commission, and I would think it would probably be unwise to give the President of the United States that kind of power because it could start in one State and for one reason or another might be moved to another State which has not measured up as the President would like to see it.

As the late President's statement suggests, the chances of exercising this enormous power for other reasons under the pretext of racial discrimination are so apparent and potentially dangerous that it should not be considered. No Federal bureaucrat should wield such authority in the very controversial, fluid, and explosive field of race relations. Title VI seeks to improve human relations via the penalty route, and I consider this to be a very inappropriate remedial course.

Moreover, it would hurt those people most in need of assistance, many of whom—and, under certain programs, most of whom—are members of the race sought to be benefited by civil rights legislation.

Additionally, the title delegates unlimited discretion to the executive branch in violation of the Constitution.

If ever there was Government by force, title VI fits into the mold.

It goes without saying that this title would subject all federally assisted programs to possible political manipulation. Applications of rules, regulations, and orders, defined by Federal department and agency heads, could vary in harshness from one State to another, at the discretion of Federal bureaucrats, and the Federal appropriations for such programs could prove to be effective weapons in the winning of elections. If the Federal bureaucracy has not been made supreme up to this point, its omnipotence will be an accomplished fact upon the enactment of this title. State and local rights in the field of race relations will be surrendered, and this will be true in the case of some individual rights as well.

Title VII of the bill reads as follows:

> TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY
>
> *Findings and declaration of policy*
>
> Sec. 701. (a) The Congress hereby declares that the opportunity for employment without discrimination of the types described in sections 704 and 705 is a right of all persons within the jurisdiction of the United States, and that it is the national policy to protect the right of the individual to be free from such discrimination.
>
> (b) The Congress further declares that the succeeding provisions of this title are necessary for the following purposes:
>
> (1) To remove obstructions to the free flow of commerce among the States and with foreign nations.
>
> (2) To insure the complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.
>
> *Definitions*
>
> Sec. 702. For the purposes of this title—
>
> (a) the term "person" includes one or more individuals, labor union, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated corporations, trustees, trustees in bankruptcy, or receivers.
>
> (b) The term "employer" means a person engaged in an industry affecting commerce who has twenty-five or more employees, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, or a State or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: *Provided,* That during the first year after the effective date prescribed in subsection (a) of section 718, persons having fewer than one hundred employees (and their agents) shall not be considered employers, and, during the second year after such date, persons having fewer than seventy-five employees (and their agents) shall not be considered employers, and, during the third year after such date, persons having fewer than fifty employees (and their agents) shall not be considered employers.
>
> (c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance.
>
> (d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers

concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) one hundred or more during the first year after the effective date prescribed in subsection (a) of section 718, (B) seventy-five or more during the second year after such date or fifty or more during the third year, or (C) twenty-five or more thereafter, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by an employer.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

Exemption

SEC. 703. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society.

Discrimination because of race, color, religion, or national origin

SEC. 704. (a) It shall be unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees of a particular religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(f) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to refuse to hire and employ any person because of said person's atheistic practices and beliefs.

(g) As used in this title, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

Other unlawful employment practices

SEC. 705. (a) It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

(b) It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

Equal Employment Opportunity Commission

SEC. 706. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of $20,000 a year, except that the Chairman shall receive a salary of $20,500.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place. The Commission may establish such regional offices as it deems necessary, and shall establish at least one such office in each of the major geographical areas of the United States, including its territories and possessions.

(g) The Commission shall have power—

(1) to cooperate with and utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

(4) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or other remedial action;

(5) to make such technical studies as are appropriate to effectuate the purpose and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies.

(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

(i) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 707. (a) Whenever it is charged in writing under oath by or on behalf of a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this Act has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge. If two or more members of the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such unlawful employment practice by informal methods of conference, conciliation, and persuasion and, if appropriate, to obtain from the respondent a written agreement describing particular practices which the respondent agrees to refrain from committing. Nothing said or done during and as a part of such endeavors may be used as evidence in a subsequent proceeding.

(b) If the Commission has failed to effect the elimination of an unlawful employment practice and to obtain voluntary compliance with this title, the Commission, if it determines there is reasonable cause to believe the respondent has engaged in, or is engaging in, an unlawful employment practice, shall, within ninety days, bring a civil action to prevent the respondent from engaging in such unlawful employment practice, except that the Commission shall be relieved of any obligation to bring a civil action in any case in which the Commission has, by affirmative vote, determined that the bringing of a civil action would not serve the public interest.

(c) If the Commission has failed or declined to bring a civil action within the time required under subsection (b), the person claiming to be aggrieved may, if one member of the Commission gives permission in writing, bring a civil action to obtain relief as provided in subsection (e).

(d) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such actions may be brought either in the judicial district in which the unlawful employment practice is alleged to have been committed or in the judicial district in which the respondent has his principal office. No such civil action shall be based on an unlawful employment practice occurring more than six months prior to the filing of the charge with the Commission and the giving of notice thereof to the respondent, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event a period of military service shall not be included in computing the six month period.

(e) If the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and shall order the respondent to take such affirmative action, including reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), as may be appropriate. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, or national origin.

(f) In any case in which the pleadings present issues of fact, the court may appoint a master and the order of reference may require the master to submit with his report a recommended order. The master shall be compensated by the United States at a rate to be fixed by the court, and shall be reimbused by the United States for necessary expenses incurred in performing his duties under this section. Any court before which a proceeding is brought under this section shall advance such proceeding on the docket and expedite its disposition.

(g) The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101–115), shall not apply with respect to civil actions brought under this section.

(h) In any action or proceeding under this title the Commission shall be liable for costs the same as a private person.

Effect on State laws

SEC. 708. (a) Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title.

(b) Where there is a State or local agency which has effective power to eliminate and prohibit discrimination in employment in cases covered by this title, and the Commission determines the agency is effectively exercising such power, the Commission shall seek written agreements with the State or local agency under which the Commission shall refrain from bringing a civil action in any cases or class of cases referred to in such agreement. No person may bring a civil action under section 707(c) in any cases or class of cases referred to in such agreement. The Commission shall rescind any such agreement when it determines such agency no longer has such power, or is no longer effectively exercising such power.

Investigations, inspections, records

SEC. 709. (a) In connection with any investigation of a charge filed under section 707, the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question.

(b) With the consent and cooperation of State and local agencies charged with the administration of State fair employment practices laws, the Commission may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered to assist the Commission in carrying out this title.

(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship it may (1) apply to the Commission for an exemption from the application of such regulation or order, or (2) bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment service, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

Investigatory powers

SEC. 710. (a) For the purposes of any investigation provided for in this title, the provisions of sections 9 and 10 of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Commission, except that the provisions of section 307 of the Federal Power Commission Act shall apply with respect to grants of immunity, and except that the attendance of a witness may not be required outside the State where he is found, resides, or transacts business, and the production of evidence may not be required outside the State where such evidence is kept.

(b) The several departments and agencies of the Government, when directed by the President, shall furnish the Commission, upon its request, all records, papers, and other information in their possession relating to any matter before the Commission whenever disclosure of such information is not prohibited by law.

Notices to be posted

SEC. 711. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts of this title and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title.

(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

Veterans' preference

SEC. 712. Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

Rules and regulations

SEC. 713. (a) The Commission shall have authority from time to time to issue, amend or rescind suitable procedural regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this title if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this title regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this title.

Forcibly resisting the Commission or its representatives

SEC. 714. The provisions of section 111, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

Appropriations authorized

SEC. 715. There is hereby authorized to be appropriated not to exceed $2,500,000 for the administration of this title by the Commission during the first year after its enactment, and not to exceed $10,000,000 for such purpose during the second year after such date.

Separability clause

SEC. 716. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of this title or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Special study by Secretary of Labor

SEC. 717. The Secretary of Labor shall make a full and complete study of the factors which might tend to result in discrimination in employment because of age and of the consequences of such discrimination on the economy and individuals affected. The Secretary of Labor shall make a report to the Congress not later than June 30, 1964, containing the results of such study and shall include in such report such recommendations for legislation to prevent arbitrary discrimination in employment because of age as he determines advisable.

Effective date

SEC. 718. (a) This title shall become effective one year after the date of its enactment.

(b) Notwithstanding subsection (a), sections of this title other than sections 704, 705, and 707 shall become effective immediately.

(c) The President shall, as soon as feasible after the enactment of this title, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this title to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this title when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this title.

TITLE VII

The avowed purpose of title VII of the bill is to eliminate, by formal and informal remedial procedures, discrimination in employment on account of race, color, religion, sex, or national origin. The title would provide for a congressionally declared national policy of nondiscrimination, based on race, color, religion, sex, or national origin in matters of promotion and employment. In order to effectuate its purposes, title VII establishes an Equal Employment Opportunity Commission which is charged with investigating complaints concerning the existence of discrimination in business establishments, labor unions, and employment agencies.

Discrimination by those who control employment and promotional opportunities is forbidden, and, therefore, the practices of employers, labor unions, and employment agencies would be regulated. The Commission would have jurisdiction over all employers in industries affecting commerce—whatever that means—which have, during the first year after the effective date, 100 or more employees, which have, during the second year after such date, 75 or more employees, which have, during the third year after such date, 50 or more employees, and which have, during and after the fourth year following such date, 25 or more employees. Excluded from this definition are (1) the United States, or a State or political subdivision thereof, and (2) a bona fide tax-exempt private membership club other than a labor organization. The exclusion of the Federal and State governments does not mean that they are free to discriminate with regard to public employment opportunities. The former is covered by the President's Committee on Equal Employment Opportunities; the latter is covered by the equal protection clause of the 14th amendment.

The Commission would have jurisdiction over all labor organizations in industries affecting commerce, if the aggregate number of employees of such organization is 100 or more during the first year after the effective date, 75 or more during the second year after such date, 50 or more during the third year after such date, and 25 or more thereafter.

An employment agency is defined to mean any person who regularly undertakes, with or without compensation, to procure employees for an employer or to procure, for employees, opportunities to work and includes an agent of such person. The U.S. Employment Service and the system of State and local employment services receiving Federal assistance are specifically included. Other governmental agencies are not included. Religious corporations, associations, and societies are exempted from any discrimination in promotions and employment. The act would forbid employers to discriminate because of race, color, religion, sex or national origin when hiring, discharging, firing, compensating or setting terms, conditions, or privileges of employment. It would also be an unlawful employment practice for an employer to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any person of employment, opportunities, or otherwise adversely affect his status as an employee, because of his race, color, religion, sex or national origin.

Employment agencies would be forbidden to fail or refuse to refer for employment any individual because of his race, color, religion, sex or national origin; or to classify any individual on the basis of his race, color, religion, sex or national origin; refer for employment any individual because of his race, color, religion, sex or national origin; or otherwise to discriminate against any individual because of his race, color, religion, sex, or national origin.

Labor unions would be forbidden to exclude or expel from membership, or otherwise to discriminate against any individual because of his race, color, religion, sex, or national origin; a labor organization would be forbidden to limit, segregate, or classify its membership in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities for any individual or otherwise adversely affect his status as an employee or as an applicant for employment because of his race, color, religion, sex, or national origin. Labor unions would be forbidden to cause or attempt to cause an employer to discriminate against an individual on the basis of his race, color, religion, sex, or national origin.

Additionally, the act would forbid discrimination by any employer, labor organization, or any joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs.

In contrast, it would not constitute an unlawful employment practice to hire a person of a particular religion, sex, or national origin in those limited circumstances where religion, sex, or national origin is a bona fide occupational qualification. For example, an Italian chef could be employed for an Italian restaurant. However, such an occupational qualification must be reasonably necessary to the normal operation of that particular business or enterprise. Furthermore, it would not be an unlawful employment practice for religious affiliated educational institutions to hire and employ employees of a particular religion.

The act would also exclude from coverage discrimination with respect to hiring and firing of persons who possess atheistic practices and beliefs. Members of the Communist Party, or of any other organization required to register as a Communist-front organization, could be discriminated against under the act.

It shall be an unlawful employment practice for an employer, an employment agency or for a labor organization to discriminate against any employee, individual, or member thereof, respectively, or any applicant for employment or membership, respectively, because such individual has opposed any practice made an unlawful employment practice by this title, or because the individual has made a charge or has participated in any manner in any investigation or proceeding or hearing under this title.

It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by such an employer or membership in such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin, when religion, sex, or national origin is a bona fide occupational qualification for employment. Note that employers, labor organizations, and employment agencies are not allowed to advertise or publish notices which indicate a preference, limitation, specification, or discrimination based on race or color even if race or color might constitute a bona fide occupational qualification for employment.

Section 705(b) clearly is unfair, unwise, and unjust, in that discrimination on the basis of religion, sex, or national origin does not constitute an unlawful employment practice, whereas discrimination on the basis of race or color, and, where such may constitute a bona fide occupational qualification for employment is not permitted. In other words, it is all right to discriminate against Italians where Mexican chefs are desired for Mexican restaurants and vice versa, but it will be unlawful to discriminate against white chefs where Negro chefs may be desired in restaurants specializing in southern dishes and vice versa.

The Equal Employment Opportunity Commission, created by section 706(a), is to be composed of five members, each of whom shall receive a salary of $20,000 a year, with the exception that the Chairman shall receive a salary of $20,500. Members shall be appointed by the President for staggered terms up to a maximum of an ultimate normal term of 5 years. The Chairman shall appoint such officers, agents, attorneys, and employees, on behalf of the Commission, as "it deems necessary" to assist in the performance of its duties. In other words, the Commission is to be given carte blanche authority as to the number of such officers, agents, attorneys, and employees appointed. It goes without saying that the Commission will need an army of such persons to police and administer the act, and the language authorizing the appointment of such personnel is broad enough to permit the securing of that army, be it small or large. There is absolutely no limitation on the number, so long as personnel are deemed "necessary" to assist the Commission in performing its functions. Here we shall see the sprouting and flowering, the mushrooming, ballooning of an entirely new bureaucratic activity which, like Tennyson's brook, will go on and on forever.

The act is not without vision in its provision for regional offices for such personnel, inasmuch as the Commission may establish such regional offices "as it deems necessary" and shall establish at least one such office in each of the major geographical areas of the United States, including its territories and possessions.

The Commission is authorized to furnish to all persons subject to the title such technical assistance as they may request to further their compliance with the title or with any order issued thereunder. No limitation on the amount of such technical assistance and no guidelines are provided by the language of the act.

The Commission is given power to make whatever technical studies as may be appropriate to effectuate the purposes and policies of the title, and to make the result of such studies available to interested governmental and nongovernmental agencies. It may carry on educational and promotional activities and may cooperate with other departments and agencies in the performance of such activities. Just what is meant by such "educational or promotional activities" is not indicated, but by this time one need not be surprised because these are only a few of the plethora of ambiguous, vague, broad, and undefined terms with which this carelessly drawn, but highly controversial bill has been loaded.

Attorneys of the Commission may, at the direction of the Commission, appear for and represent the Commission "in any case" in court.

Section 707(a) provides that whenever it is charged in writing under oath, by or on behalf of a person claiming to be aggrieved, or when a written charge has been filed by a member of the Equal Employment Opportunity Commission where he has "reasonable cause" to believe a violation of "this act" has occurred, such charge setting forth the facts upon which it is based, that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission is required to furnish such employer, employment agency, or labor organization with a copy of such charge and the Commission is required to make an investigation of the charge. If as many as two members of the Commission shall determine, after such investigation, that there is "reasonable cause" to believe that the charge is true, the Commission shall take steps to eliminate the unlawful employment practice. These steps shall take the form, first, of informal methods of conference, conciliation, and persuasion. The Commission will attempt to obtain from the employer, employment agency, or labor organization, an agreement in writing setting forth the particular practices which will be refrained from in the future.

Section 707(b) provides that, upon failure to effect the elimination of an unlawful employment practice and to obtain voluntary compliance with title VII, the Commission is required to bring a civil action, "within 90 days," to prevent further engagement in such practice. The Commission shall not be required to bring a civil action in any case in which the Commission by affirmative vote, determines that the bringing of such action "would not serve the public interest."

Section 707(c) authorizes the person claiming to be aggrieved to bring a civil action to obtain relief, if the Commission has failed or declined to bring a civil action within the 90-day period set forth in subsection (b) and if one member of the Commission gives permission in writing to the aggrieved.

Section 707(d) gives jurisdiction of action to the U.S. district courts and provides that such actions may be brought either in the judicial district in which the unlawful employment practice is alleged to have been committed, or in the judicial district in which the principal office of the employer, employment agency or labor organization is situated. Civil actions may be based on unlawful employment practices occurring at any time within 6 months prior to the filing of the charge with the Commission and the giving of notice thereof to the respondent, unless the aggrieved person was prevented from filing such charge by reason of service in the Armed Forces, in which event a period of military service shall not be included in computing the 6 months period.

Section 707(e) provides that the court may enjoin the employer-employment agency or labor organization from engaging in an unlawful employment practice under this act, and the court is required to order the respondent to take such affirmative action, including reinstatement or hiring of employees with or without back pay, as may be appropriate. The back pay is payable by the employer, employment agency or labor organization, as the case may be, but it shall be reduced by interim earnings or amounts earnable with reasonable diligence by the aggrieved person. In other words, it is mandatory upon the court to order an employer to hire or reinstate or to promote the aggrieved, as the case may be, and to order to payment to the aggrieved of any back pay, if such individual was fired or refused employment or refused promotion because or discrimination on account of race, color, religion, or national origin.

Section 707(f) provides that in any case in which issues of fact are presented, the court may appoint a master and require him to submit with his report a recommended order. The master shall be compensated by the United States for his services and shall be reimbursed for necessary expenses incurred in performing his duties under this section. The subsection makes it mandatory upon any court before which such a proceeding is brought to advance the proceeding on the docket and expedite its disposition.

Section 707(h) makes the Commission liable for costs the same as a private person in any action or proceeding under this title.

Section 708 provides that no person shall be relieved or exempted, by virtue of this act, for any liabilities or duties imposed by present or future State laws or laws of political subdivisions of States. The section also provides that, in cases where there are State or local agencies effectively empowered to eliminate and prohibit racial discrimination in employment, the Commission, if it determines that such agency is effectively exercising such power, is required to seek written agreements with that agency under which the Commission must refrain from bringing civil action in any cases referred to in such agreement. No person would be permitted to bring a civil action under section 707(c) in any class of cases referred to in such agreement. The Commission is required to rescind any such agreement when it determines that a State or local agency is no longer effectively exercising such power.

Section 709(a) provides that in connection with any investigation of a charge filed under this title the Commission or its designated representatives shall "at all reasonable times" have access to any evidence of any person being investigated or proceeded against relating to any matter in question or under investigation. The Commission is authorized to examine and copy any such evidence. Presumably the Commission's determination as to what constitutes "all reasonable times" is final.

Section 709(b) authorizes the Commission to utilize the services of State and local agencies and their employees, charged with the administration of State FEP laws, in carrying out the Commission's functions and duties under this title. The Commission is authorized to reimburse such State and local agencies and their employees, within the limitation of funds appropriated for such purpose.

Under section 709(c), it will be mandatory upon every employer, employment agency, and labor organization subject to title VII to make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of title VII. It will be mandatory upon every employer, employment agency, and labor organization subject to this title to preserve records for such periods as the Commission shall prescribe by regulation or order after public hearing as reasonable, necessary, or appropriate for the enforcement of title VII, and it will be mandatory upon every employer, employment agency, or labor organization subject to title VII to make such reports from such records as the Commission shall prescribe by regulation or order after public hearings, as reasonable, necessary, or appropriate for the enforcement of title VII.

It will be mandatory upon the Commission to formulate regulations requiring each employer, labor organization, and joint labor-management committee subject to title VII which controls an apprenticeship or other training program to maintain such records as are reasonable and necessary to carry out the purposes of the title, and such records must include, but will not be limited to, a list of applicants who wish to participate in such program, together with the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in such apprenticeship or other training programs.

Of course, any employer, employment agency, labor organization, or joint labor-management committee may apply to the Commission for an exemption from the application of such regulation or order issued under this section if it is believed that the application of the regulation or order to that particular employer, employment agency, labor organization, or joint labor-management committee would result in undue hardship. Also, any employer, employment agency, labor organization, or joint labor-management committee may bring a civil action in the U.S. district court for the district where such records are kept, for relief. If the Commission or the court finds that the application of the regulation or order would indeed impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

Under section 711, it would be mandatory upon every employer, employment agency, and labor organization to post and keep posted in conspicuous places upon its premises notices to be prepared or approved by the Commission setting forth the provisions of title VII and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title. Any employer, employment agency, or labor organization which willfully fails to post and keep posted in conspicuous places such a notice as is required by this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

Section 714 provides that whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any officers, agents or employees of the Commission in the performance of their official duties shall be fined not more than $5,000 or imprisoned not more than 3 years or both. Under section 714, whoever, in the commission of any such acts uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than 10 years or both.

Section 715 authorizes an appropriation not to exceed $2,500,000 for the administration of title VII during the first year after its enactment and not to exceed $10 million for the administration of title VII during the second year after the date of its enactment. It should be noted here that title VII, with the exception of sections 704, 705, and 707, shall not become effective until 1 year after the date of its enactment. Consequently, the act would authorize an appropriation of up to $2,500,000 for the administration of this title during the first year after its enactment, in which first year the thrust of the provisions against unlawful employment practices would not be effective. The Equal Employment Opportunity Commission would be created during the first year and it could proceed to appoint officers, agents, attorneys, and employees and establish regional offices. It could begin to conduct technical studies and provide technical assistance to persons subject to the title. It can proceed to seek written agreement with State or local FEP agencies. It may formulate the regulations or orders under which records will be required to be kept, and the making and keeping of such records will be required effective upon enactment of the act. The posting and keeping posted of notices, as required in section 711, by every employer, employment agency, and labor organization, under penalty of fines, for willful violation, shall become effective during the first year after enactment of the act.

Section 717 requires the Secretary of Labor to make a full and complete study of factors which might tend to result in discrimination in employment because of age. The Secretary of Labor shall also make a report to the Congress "not later than July 30, 1964," containing the results of such study and such recommendations for legislation to prevent arbitrary discrimination because of age as he deems advisable. In my judgment, this is the most laudable in this act. The date for submittal of the Secretary of Labor's report to Congress would have to be extended of course. I do think, however, that there is ample information available to the Secretary of Labor concerning discrimination in employment because of age to have permitted the submission of recommendations for legislation to prevent arbitrary discrimination in employment because of age now rather than merely to recommend the submission of a report concerning factors which tend to result in discrimination. As a matter of fact, I consider legislation along that line to be far more important, far less controversial, far less difficult to administer, once enacted, than the legislation which is being debated. However, I suppose it is understandable that such legislation must not take precedence over this bill in view of the fact that people, although subjected to discrimination because of age, have not yet taken to the streets in protest, have not yet resorted to acts of civil disobedience and violations of local laws, and have not enlisted the support of church groups and the press in behalf of their cause. Their cause is much less emotional, even though Negroes as well as whites are discriminated against because of age. This is just another indication that the legislation before us today is here because of the desire for the support of a politically potent voting bloc.

Title VIII of the bill reads as follows:

TITLE VIII

Registration and voting statistics

> SEC. 801. The Secretary of Commerce shall promptly conduct a survey to compile registration and voting statistics in such geographic areas as may be recommended by the Commission on Civil Rights. Such a survey and compilation shall, to the extent recommended by the Commission on Civil Rights, include a count of persons of voting age by race, color, and national origin, and a determination of the extent to which such persons are registered to vote, and have voted in any statewide primary or general election in which the Members of the United States House of Representatives are nominated or elected, since January 1, 1960. Such information shall also be collected and compiled in connection with the Nineteenth Decennial Census, and at such other times as the Congress may prescribe.

Title VIII would require the Secretary of Commerce to promptly conduct a survey to compile registration and voting statistics, such survey and compilation to include a census of persons of voting age by race, color, and national origin, and a determination of the extent to which persons eligible to vote have voted in any statewide primary or general election in which Members of the U.S. House of Representatives have been nominated or elected since January 1, 1960. The Secretary of Commerce's survey will be only in such geographical areas as may be recommended by the Commission on Civil Rights. The title should be amended to include all areas of the United States.

The apparent objective of this title is to effectuate section 2 of the 14th amendment requiring a reduction of Members in the House of Representatives of those States where there is a denial of the right to vote.

Title IX of the bill reads as follows:

TITLE IX—PROCEDURE AFTER REMOVAL IN CIVIL RIGHTS CASES

> SEC. 901. Title 28 of the United States Code, section 1447(d), is amended to read as follows:
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> "An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1443 of this title shall be reviewable by appeal or otherwise."

Title IX would amend 28 U.S.C. 1447 (d) to permit appeal from a Federal court of the remanding to the State court from which it was removed any civil rights case removed pursuant to 28 U.S.C. 1443.

Title IX which I have just read will give to the civil rights litigant, and that type of litigant alone, the right to appeal from an order of the U.S. district court remanding his case back to the State court.

The legal problems involved in this are quite simple and not complicated at all.

This is an attempt to bypass the U.S. district judges and to bypass the State courts.

This vicious package of legislation involves court procedure and thus has attracted less attention than any other part of the bill, but it is nevertheless as outrageous as many of these other parts of the bill.

The obvious purpose of this is simply to bypass and impede the processes of justice in our State courts.

There are now, as all lawyers know, three types of cases which may be removed from the State court to the Federal court:

First, is cases which involves the interpretation of laws and treaties of the United States and the Constitution of the United States.

The second type of cases are those which involve a diversity of citizenship.

The third type of case is under section 1442 of title 28 which permits certain Federal officers who are being prosecuted in State courts to remove their cases. It is this section which they seek to amend by discriminating against all other types of litigants in favor of this particular type of litigant.

The history of what is now 28 USCA 1447(d) was explained by Mr. Justice Van Devanter in *Employers Reinsurance Corp.* v. *Bryant,* 81 L. ed. 289, 292–293 (1937):

> For a long period an order of a Federal court remanding a cause to the State court whence it had been removed could not be reexamined on writ of error or appeal, because not a final judgment or decree in the sense of the controlling statute. But in occasional instances such an order was reexamined in effect on petition for mandamus, and this on the theory that the order, if erroneous, amounted to a wrongful refusal to proceed with the cause and that in the absence of other adequate remedy mandamus was appropriate to compel the inferior court to exercise its authority.
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> By the act of March 3, 1875, chapter 137, 18 Statutes at Large 472, dealing with the jurisdiction of the circuit (now district) courts, Congress provided, in section 5, that if a circuit court should be satisfied at any time during the pendency of a suit brought therein, or removed thereto from a State court, that "such suit does not really or substantially involve a dispute or controversy properly within" its "jurisdiction," the court should proceed no further therein, but should "dismiss the suit or remand it to the court from which it was removed, as justice may require." Thus far this section did little more than to make mandatory a practice theretofore largely followed, but sometimes neglected, in the circuit courts. But the section also contained a concluding paragraph, wholly new, providing that the order "dismissing or remanding the said cause to the State court" should be reviewable on writ of error or appeal. This provision for an appellate review continued in force until it was expressly repealed by the act of March 3, 1887, chapter 373, section 6, 24 Statutes at Large 552, which also provided that an order remanding a cause to a State court should be "immediately carried into execution" and "no appeal or writ of error" from the order should be allowed.
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> The question soon arose whether the provisions just noticed in the act of March 3, 1887, should be taken broadly as excluding remanding orders from all appellate review, regardless of how invoked, or only as forbidding their review on writ of error or appeal. The question was considered and answered by this Court in several cases, the uniform ruling being that the provisions should be construed and applied broadly as prohibiting appellate reexamination of such an order, where made by a circuit (now district) court, regardless of the mode in which the reexamination is sought. A leading case on the subject is *Re Pennsylvania Co.* 137 U.S. 451, 34 L. Ed. 738, 11 S. Ct. 141, which dealt with a petition for mandamus requiring the judges of a circuit court to reinstate, try, and adjudicate a suit which they, in the circuit court, had remanded to the State court whence it had been removed. After referring to the earlier statutes and practice and coming to the act of March 3, 1887, this Court said (p. 454):
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> "In terms, it only abolishes appeals and writs of error, it is true, and does not mention writs of mandamus; and it is unquestionably a general rule, that the abrogation of one remedy does not affect another. But in this case we think it was the intention of Congress to make the judgment of the circuit court remanding a cause to the State court final and conclusive. The general object of the act is to contract the jurisdiction of the Federal courts. The abrogation of the writ of error and appeal would have had little effect in putting an end to the question of removal, if the writ of mandamus could still have been sued out in this court. It is true that the general supervisory power of this court over inferior jurisdictions is of great moment in a public point of view, and should not, upon light grounds, be deemed to be taken away in any case. Still, although the writ of mandamus is not mentioned in the section, yet the use of the words 'such remand shall be immediately carried into execution,' in addition to the prohibition of appeal and writ of error, is strongly indicative of an intent to suppress further prolongation of the controversy by whatever process. We are, therefore, of opinion that the act has the effect of taking away the remedy by mandamus as well as that of appeal and writ of error."

U.S. v. *Rice,* 90 L. Ed. 982, 988 (1949), Mr. Justice Stone:

> Congress, by the adoption of these provisions, as thus construed, established the policy of not permitting interruption of the litigation of the merits of a removed cause by prolonged litigation of questions of jurisdiction of the district court to which the cause is removed. This was accomplished by denying any form of review or an order for remand, and before final judgment of an order denying remand. In the former case, Congress has directed that upon the remand the litigation should proceed in the State court from which the cause was removed. * * * But the congressional policy of avoiding interruption of the litigation of the merits of removed causes, properly begun in State courts, is as pertinent to those removed by the United States as by any other suitor.

It is readily apparent that title IX would allow civil chaos without giving State authorities any remedy. After the prosecution is prepared, a criminal defendant could wait until minutes before trial and have the case removed. Then, when several days or a week later the Federal court has decided it has no jurisdiction and an order of remand is entered, such defendant could appeal that order. Trial could be put off almost indefinitely, especially considering the congested dockets of the Federal courts of appeal.

Such delay may invite agitators to organize mass demonstrations which could provoke other violations of State laws, including perhaps the same laws involved in the case which has been removed, remanded, and appealed. Title VIII would change, with respect to civil rights cases only, a time-honored and time-proven policy of judicial procedure. It thus would place civil rights cases in a special and preferred category, thus opening the door for dilatory tactics which may frustrate the execution of State laws. This title would not be good adjective law and should be stricken from the bill.

TITLE X

Title X of the bill reads as follows:

TITLE X—ESTABLISHMENT OF COMMUNITY RELATIONS SERVICE

SEC. 1001. (a) There is hereby established in the Department of Commerce a Community Relations Service (hereinafter referred to as the "Service"), which shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate for a term of four years. The Director shall receive compensation at a rate of $20,000 per year. The Director is authorized to appoint, subject to the Civil Service laws and regulations, such other personnel, not to exceed six in number, as may be necessary to enable the Service to carry out its functions and duties, and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Director is further authorized to procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U.S.C. 55(a)), but at rates for individuals not in excess of $75 per diem.

(b) Section 106 of the Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2205), is further amended by adding the following clause thereto:

"(52) Director, Community Relations Service."

SEC. 1002. It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce. The Service may offer its services in cases of such disputes, disagreements or difficulties whenever, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby, and it may offer its services either upon its own motion or upon the request of an appropriate State or local official or other interested person.

SEC. 1003. (a) The Service shall, whenever possible, in performing its functions under this title, seek and utilize the cooperation of the appropriate State or local agencies.

(b) The Service shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No officer or employee of the Service shall engage in the performance of investigative or prosecuting functions of any Department or agency in any litigation arising out of a dispute in which he acted on behalf of the Service.

SEC. 1004. Subject to the provisions of section 1003(b), the Director shall, on or before January 31 of each year, submit to the Congress a report of the activities of the Service during the preceding fiscal year.

Title X provides for the establishment of a Community Relations Service which would seek, through conciliation and mediation, to assist communities and individuals in the resolution of problems growing out of discriminatory practices. It seems to me that the creation of such a service, the Director of which would be compensated with an annual salary of $20,000, and who would be authorized to appoint up to six additional personnel, is unnecessary inasmuch as it would duplicate many similar committees established at the local level, which local committees are much more knowledgeable of local conditions and more capable of rendering effective service. The Service created by title X is really devoid of any particular duty or function other than to meddle in local affairs. Nonetheless, I do not oppose this title.

TITLE XI

Title XI of the bill reads as follows:

TITLE XI—MISCELLANEOUS

SEC. 1101. Nothing in this Act shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or of the United States or any agency or officer thereof under existing law to institute or intervene in any action or proceeding.

SEC. 1102. Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this Act, or any provision thereof.

SEC. 1103. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 1104. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons or circumstances shall not be affected thereby.

Title XI provides: first, that nothing in the act shall be construed to affect in any way any present authority of the Attorney General or any Federal agency or officer thereof to institute or intervene in any action or procedure; second, that nothing contained in the act shall be construed as indicating an intent on the part of Congress to preempt fields affected by any title of the act in which State laws are operative; third, that any provision of the act held to be invalid will not thereby affect the remainder of the act; and fourth, appropriations of authorized funds in such sums as are necessary as to carry out the provisions of the act.

I firmly believe that the passage of title II would constitute an unconstitutional violation of the property rights of owners of business establishments affected. Some people argue that "human rights" are superior to "property rights," but the history of mankind would appear to support the belief that the individual's right to own, manage, and control the use of property is a "human right" in every sense of the term.

(At this point Mr. MCGOVERN took the chair as Presiding Officer.)

Mr. BYRD of West Virginia. Gottfried Dietze, professor of political science at the Johns Hopkins University, in his book "In Defense of Property," says that:

> The freedom of men consists of particular, specific rights or liberties. These rights can be classified into two major categories, namely, the liberal rights to be free from coercion and the democratic rights to participate in government. Property rights, constituting a prominent part of the first group, are superior to the rights of the latter group.
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> As demonstrated elsewhere, the freedom of the individual comprises a great variety of liberties. Freedom can be compared to a tree, and its parts, to the branches. And just as stem and branches are interdependent, so are freedom and its liberties. If too many branches are cut off a tree, it will wither and die. Similarly, if too many of the individual's rights are restricted, freedom will suffer. Where there is no freedom, there can be no liberties.
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> * * * * *
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> Freedom cannot exist if only some rights are acknowledged. A government which guarantees freedom of religion is not free if it permits arbitrary arrests or interference with learning and discussion. Even if all these liberties enjoyed protection, still society would not be free if property rights were restricted.

As to the relative importance of property rights in a working democracy, Professor Dietze states:

> The truth of the proposition that civil rights are more important for the functioning of democracy than are property rights is dubious from still another point of view. Those who prefer those rights because they are supposed to be conducive to the working of democracy, want, by their own admission, a working democracy. Their neglect of property rights is, however, apt to produce the very opposite. Overemphasis on such rights as freedom of speech, association, and assembly will make men intoxicated with power and create those hallucinations about their political ability that often have resulted in anarchy and despotism. A working democracy is an orderly democracy. And order in a democracy is achieved in no small extent by permitting those who own property to have an ample share in government. Having something at stake, and in general being the more intelligent, industrious and progressive part of the population, their actions will not be motivated by passion, and they will not be apt to make experiments which might endanger the foundations of government and order. Therefore, only if private property enjoys the same degree of protection as civil rights, does there exist the guarantee for a working democracy.
>
> The argument that such rights as freedom of speech, assembly, and association are more important for democracy than are property rights is thus not convincing and not valid as a basis for assigning priority to the former rights. Even if one could not prove that property rights are as much a prerequisite for democracy as are civil rights; even if civil rights might be a more essential prerequisite, then a discrimination against property still would not be justified. For no discrimination against any liberal right can be justified on the grounds that that right is not a prerequisite for democracy. The decisive factor is compatibility with freedom, not with democracy. Otherwise, a means

> would be elevated over the end, and liberty might be lost.

* * * * *

> The protection of private property does not imply merely something static. It also guarantees the free use of property to one's advantage as well as that of the public, and opens the way for the owner's participation in government. Since the protection of property frequently is believed to result mainly from egoistic motives, the blessings of property for the welfare of society are overlooked as often as the blessings of civil rights are overemphasized.

* * * * *

> Thus the position of property in the scale of human rights is clear. Like other liberal rights, those of property are superior to democratic rights. Property rights do not occupy an inferior position among liberal rights and definitely are equal to so-called civil rights. As a matter of fact, one is tempted to ask whether or not property rights, being very important for civilization and as civil as any rights can be, being as relevant for a working democracy as civil rights, are superior to those rights. For they do not seem to be as prone, as are civil rights, to degenerate into mere democratic rights. They are thus, unlike civil rights, immune from being reduced to mere prerequisites for a means for the achievement of freedom, and are likely to remain an essential part of freedom.

The essentiality of property rights to freedom is commented upon in an interesting way by Professor Dietze:

> Scholars have demonstrated that property is an institution of nature and prior to all human organization, and that its naturalness is evident in an examination of plant and animal life. Even the most primitive forms of life have been found to possess property. A plant has a particular piece of earth for its property, which is occupied by its roots. If deprived of its soil, the plant will die. A plant defends its property. Its roots protect the piece of ground which they occupy from invasions. Some plants protect themselves more vigorously. Possessing thorns and bristles, or the capacity to secrete fluids which kill approaching animals, they protect the very space above the ground in which they grow. Thus, on the most rudimentary level of life, property is essential to life itself, and protected accordingly.
>
> The situation is analogous in animal life. An animal has its cover, refuge, or cave as a prerequisite for its existence. It defends this property. Whether vegetarian or carnivorous, animals have their own territory, and they keep out those that attempt to encroach upon it. Food is not only collected for immediate consumption, but often is stored and defended as property. The apiarist who takes honey from hives shields his skin to avoid being stung for a deprivation of property. Most of us have learned a lesson when trying to take away a dog's bone.
>
> Finally, property is one of the first values of which men are aware. By instinct or reasoning, a child wants to have things. Primitive men have their dwelling and a territory on which they feed, be it through hunting or agricultural pursuits. They are prerequisites of their existence. A primitive man collects his livelihood in excess of what he can consume for the sake of "saving it for a rainy day" or for that of exchanging it for other goods. Aware of the value of his property and the necessity for its protection, he will put it in a safe place.
>
> Property is essential also for freedom. The plant which is uprooted has not only its life endangered, but also, its freedom to grow is threatened. An animal deprived of food not only starves to death, but also lacks freedom of action. If a man is deprived of his property, then the development of his personality is retarded. It does not matter whether only his immediate necessities, or what he has stored for later consumption or exchange are taken away. Although depriving him of his immediate necessities threatens his life, the removal of any property would be just as detrimental, because it threatens his free development and thus his freedom of existence.
>
> Property is intimately related to life and freedom. It is a prerequisite of the freedom to be and to act. It is as old as life and freedom, and also as important. Property rights are thus distinguishable from such rights as freedom of religion, of speech, of the press, of assembly and association, freedom from arbitrary arrest, and so forth. For these rights were not present at the beginning of life. Furthermore, originally they did not enjoy a status equal to that of life and of freedom. It is not necessary to prove this assertion in the cases of plant and animal life. And it scarcely seems required with respect to man. While men may have been aware of the value of these rights at a primitive stage of their development, they did not consider them as immediate necessities for their existence.

The authors of amendment V of the U.S. Constitution did not confine the due process clause, in its application, to the deprivation of life and liberty; they included property as coequal with life and liberty. Similarly, the due process clause of the 14th amendment is not limited to the protection of life and liberty, but its purview includes property as well.

Property rights are so very important, in my judgment, as to warrant the taking of some considerable time in reference to the historical debate regarding this important human right.

Jean Bodin, in the 16th century, referred to the opponents of private property as foolhardy dreamers:

> In taking away these words of Mine and Thine, they ruine the foundation of all Commonweales, the which were chiefly established to yield unto every man that which is his own.

Before and since Bodin wrote, many eminent men have believed that the protection of private property is, in reality, the primary task of governments and that any wholesale abolition of rights of ownership constitutes an essential characteristic of social revolution. The notion that a man owns what his labor has created is an ancient one. As a matter of fact, the philosophers of Greece are said to have built the framework on which all subsequent property theories have been based. In Plato's opinion, communism was the best scheme for managing property, while Aristotle was the defender of private property. Aristotle's statement, "That which is common to the greatest number has the least care bestowed upon it. Everyone thinks chiefly of his own, hardly at all of the common interest; and only when he is himself concerned as an individual. For besides other considerations, everybody is more inclined to neglect the duty which he expects another to fulfill" has been one of the principal justifications for private ownership through the ages.

> Property—

Aristotle said—

> should be in a certain sense common, but as a general rule private; for when everyone has a distinct interest, men will not complain of one another, and they will make more progress, because everyone will be attending to his own business.

Some of the advantges of private property were stated as follows by Aristotle:

> First, how immeasurably greater is the pleasure, when a man feels a thing to be his own; for surely the love of self is a feeling implanted by nature and not given in vain, although selfishness is rightly censured; this, however, is not the mere love of self, but the love of self in excess. Secondly, there is the greatest pleasure in doing a kindness or service to friends or guests or companions, which can only be rendered when a man has private property. Finally, no one, when men have all things in common, will any longer set an example of liberality or do any liberal action; for liberality consists in the use which is made of property.

The theory of natural law and property, which was developed by the Hellenistic philosophers, was later incorporated into the Roman law. Under Cicero's natural law all men were equal. Nevertheless, the actual inequality of men was more striking in Rome than it had been in Athens. Slavery and an unequal division of property were as essential to the society of Cicero as they had been to the society of Aristotle. In book I of "De Officiis," Cicero said that there is "no such thing as private ownership established by nature, but property becomes private either through long occupancy, or through conquest, or by law, bargain, purchase, or allotment," but in book II he bitterly condemned agrarian laws, property taxes, confiscations, and legislation intended to equalize property. Cicero therein stated that the state should not interfere with private property because it was for the purpose of protecting privately owned property that the state was primarily founded.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I am glad to yield with the understanding that I shall not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Is the Senator from West Virginia able to give us any idea as to the hour that he might conclude his address?

Mr. BYRD of West Virginia. I have enough material to carry me, if I proceed to read it carefully and painstakingly, as I am now doing, another 12 or 15 hours; but I shall hardly be able to carry on for that length of time. I assure the amiable and able Senator from Minnesota that I shall indeed complete my recitation no later than 9:59 o'clock a.m., in time to recess in accordance with the previous order.

Mr. HUMPHREY. Will the Senator from West Virginia yield further without losing his right to the floor?

Mr. BYRD of West Virginia. I am glad to yield, with that stipulation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I thank the Senator. I appreciate the guidance he has given us. The reason I asked the question was in reference to arranging for appropriate staff in the Senate, and for Senators to occupy the Chair as Presiding Officer.

I appreciate the courtesy of the Senator, and his frankness in giving us this information.

I wish the Senator well. He has, indeed, a considerable amount of material. The Senator from West Virginia is a man of genuine ability and of great ability. He is hard working and diligent, he is determined and persevering, but he is always courteous and considerate.

Mr. BYRD of West Virginia. The Senator moves me to quote a few lines which I should like to dedicate to him:

> The roses red upon my neighbor's vine
> Are owned by him, but they are also mine.
> His was the cost, and his the labor, too,
> But mine as well as his the joy, their loveliness to view.
>
> They bloom for me and are for me as fair
> As for the man who gives them all his care.
> Thus I am rich, because a good man grew
> A rose-clad vine for all his neighbor's view.
>
> I know from this that others plant for me,
> And what they own, my joy may also be.
> So why be selfish, when so much that's fine
> Is grown for me, upon my Minnesota neighbor's vine.

Mr. HUMPHREY. I thank the Senator from West Virginia. He has just reminded me that at my abode and domicile out in Northwest Chevy Chase, there is a fence banked with beautiful red roses. I shall go to them, and in the morning, at approximately 9:59 o'clock a.m., I shall bring my good friend, the Senator from West Virginia some of those beautiful red roses that were so patiently planted and nourished by Mrs. Humphrey, and which are viewed by the neighbors and loved by all. I am sure that the Senator will again find an inspiration for the beautiful poem from these beautiful red roses that can be equaled only in the great State of West Virginia.

Mr. BYRD of West Virginia. I thank my friend.

> Wouldn't this old world be better
> If the folks we meet would say—
> "I know something good about you."
> And treat us just that way?
>
> Wouldn't it be fine and dandy
> If each handclasp, fond and true,
> Carried with it this assurance—
> "I know something good about you."
>
> Wouldn't life be lots more happy
> If the good that's in us all
> Were the only thing about us
> That folks bothered to recall?
>
> Wouldn't life be lots more happy
> If we praised the good we see?
> For there's such a lot of goodness
> In the worst of you and me.
>
> Wouldn't it be nice to practice
> That fine way of thinking, too?
> You know something good about me.
> I know something good about you?

I say to the genial Senator that I shall be pleased to receive those roses in the morning. I shall also always be proud to say something good about you.

Mr. HUMPHREY. The Senator has always been very considerate and friendly. The emphasis he has placed upon the positive is the emphasis I trust that we shall manage to maintain in the Senate in all of these deliberations that are about to come upon us in the form of amendments, votes, cloture votes, votes on titles, and amendments pertaining thereto.

I believe now that I shall let the Senator, if he wishes, continue with his dissertation and leave the Chamber of the Senate for a few minutes in the trustworthy and faithful care of the able Senator from West Virginia, the distinguished and able Presiding Officer, the junior Senator from South Dakota [Mr. McGOVERN], and the able and distinguished senior Senator from New Jersey [Mr. CASE].

I can think of no triumvirate that can do a better job of protecting the public, and honoring and defending the institutions of the Senate—and of permitting me to enjoy some slumber. So, a pleasant good evening.

Mr. BYRD of West Virginia. For some "sleep that knits up the ravel'd sleave of care."

Mr. HUMPHREY. I believe that would help.

Mr. BYRD of West Virginia.

> It is not within the province of every man,
> To build for himself a great shaft of granite,
> Or engrave his name upon a plate of bronze.
> But it is within the reach of every man
> To plant an ever-blooming flower within the bosom of one he meets.

This I believe the Senator from Minnesota does daily. I should like, if the Senator will permit me, to dedicate one further poem to him before he departs to get some sleep—"the poor man's wealth."

Mr. HUMPHREY. Oh, yes.

Mr. BYRD of West Virginia. Because his life clearly exemplifies the spirit of these lines, which I did not write but which I only committed to memory.

> "How far away is the temple of fame?"
> Said a youth at the dawn of the day.
> He toiled and strove for a deathless name;
> The hours went by and the evening came,
> Leaving him old and feeble and lame,
> To plod on his cheerless way.
>
> "How far away is the temple of good?"
> Said another youth at the dawn of the day,
> He toiled in the spirit of brotherhood,
> To help and succor as best he could
> The poor and unfortunate multitude,
> In its hard and cheerless way.
>
> He was careless alike of praise or blame,
> But after his work was done,
> An angel of glory from heaven came
> To write on high his immortal name,
> And to proclaim the truth that the temple of fame
> And the temple of good are one.
>
> For this is the lesson that history
> Has taught since the world began;
> That those whose memories never die,
> But shine like stars in the human sky,
> And brighter glow as the years go by,
> Are the men who live for man.

I believe that the Senator from Minnesota—and I say this in all sincerity—is a man who, throughout his life, has sought to work and live for the betterment of his fellow man. I do not always agree with him, but I certainly respect his views. I recognize that he always attempts to do what is right. He certainly has the consideration of his fellow man always at heart.

Mr. HUMPHREY. I wish to express my thanks to the Senator from West Virginia. As we say in that fine land of the Scandinavians, "Buenos noches."

Mr. BYRD of West Virginia. Mr. President, Virgil, in the first book of "Georgics," described a time when "no fences parted fields, nor marks nor bounds distinguish'd acres of litigious grounds; but all was common."

Apparently Virgil was describing the Golden Age, in which a state of nature existed and wherein property was common and used for the satisfaction of the needs of all and equally by all. One theory held that private property was not natural, and that the conventions by which it was established were only justified because human nature was corrupted after the fall of man. Roman jurists, like the philosophers, believed in the existence of the law of nature, but many of them felt that private property was ordained by the law of nature—ius naturale. Others believed that ownership of property was acquired by the law of nations—ius gentium, or by the civil law—ius civile. It must be stated at this point that there was no unanimity of thinking as to the distinctions between ius naturale, the law of nature, and ius gentium, the law of nations. Some jurists did not differentiate the one from the other; and they thought that some kinds of property were natural and that some kinds were held by the ius civile. Under title I of book II of the Institutes, Justinian stated that some properties admit of private ownership, while others cannot belong to individuals: for some things are by natural law common to all, some are public, some belong to a society or corporation—universitas—and some belong to no one. But most things belong to individuals, being acquired by various titles. Thus the following things are by natural law common to all—the air, running water, the sea, and consequently the seashore.

> Things become the private property of individuals in many ways; for the titles by which we acquire ownership in them are some of them titles of natural law, which, as we said, is called the law of nations, while some of them are titles of civil law. It will thus be most convenient to take the older law first: and natural law is clearly the older, having been instituted by nature at the first origin of mankind, whereas civil laws first came into existence when states began to be founded, magistrates to be created, and laws to be written.

The ministers of the Roman Empire were often ambiguous in their theories concerning property, but it is an important fact that they linked property to the law of nature, a law which existed before the law of nations and before the civil law.

> The early fathers of the Christian Church—

Said Richard Schlatter, in his book "Private Property"—

> did not find in the New Testament a ready-made theory of property, but they did find there an attitude toward wealth and its use with which any Christian theory of property would have to square. Throughout the New Testament there is a distrust of riches and an emphasis on the advantages of poverty which are dramatically presented by the counsel of perfection which Jesus gave to the

rich young man: "If thou wilt be perfect, go and sell that thou hast, and give to the poor," and His observation that "it is easier for a camel to go through the eye of a needle, than for a rich man to enter into the kingdom of God." Moreover, the gospel of love, of the brotherhood of man, of the equal worth of all the children of God, like the Stoic theory of the equality of men, pointed toward some equalitarian or communistic theory of property. Consequently, when the fathers of the church began to work out a rational doctrine, they turned to the pagan philosophers and the lawyers. There they found a theory of property providentially adapted to their purpose: it could be reconciled with the views of the New Testament, and at the time it justified inequality and private ownership.

It has been conjectured that some of the earliest church groups, influenced by the example of the church at Jerusalem, may have regarded private property as unlawful for a Christian. But the great organized church of which the great fathers were members did not, any more than Cicero and the lawyers, or any major Christian group from that day to this, want to demolish the existing property arrangements. On the other hand, it was their function to preach the Biblical precepts and examples of perfection. The Roman theory of property not only solved this dilemma: it dovetailed neatly with other Christian myths and doctrines.

The golden age of the philosophers, where men were equal according to the precepts of natural law, corresponded to the Garden of Eden and the doctrine of the equality of believers. The conventional institutions which destroy that primitive equality and freedom were, according to the philosophers, introduced, and are now necessary and justifiable, because of the corruption of human nature. The church explained the origin of that corruption by the myth of the fall of man and the doctrine of human depravity.

St. Augustine had this to say about property:

> Whence does each possess what he does possess? Is it not human right? For by divine right "the earth is the Lord's and the fullness thereof": poor and rich are supported by one and the same earth. But it is by human right he saith, "This estate is mine, this house is mine, this slave is mine." By human right, that is, by right of emperors. How so? Because it is through the emperors and princes of this world that God hath distributed human rights to mankind * * *. Take away the right derived from the emperor, and then who dares say, that estate is mine, or that slave mine, or this house mine?

Apparently St. Augustine regarded property as one of the conventional creations of the state and as one of the fruits of man's fall from innocence.

This same view is expressed by A. J. Carlyle in "Property, Its Duties and Rights":

> The institution of property represents both the fall of man from his primitive innocence, the greed and avarice which refused to recognize the common ownership of things, and also the method by which the blind greed of human nature may be controlled and regulated * * *. This view is the opposite of that of Locke, that private property is an institution of natural law, and arises out of labour. To the fathers the only natural condition is that of common ownership and individual use. The world was made for the common benefit of mankind, that all should receive from it what they require. They admit, however, that human nature being what it is, greedy, avaricious, and vicious, it is impossible for men to live normally under the condition of common ownership. This represents the more perfect way of life, and this principle was represented in the organization of the monastic life, as it gradually took shape. For mankind in general, some organization of ownership became necessary, and this was provided by the state and its laws, which have decided the conditions and limitations of ownership. Private property is therefore practically the creation of the state, and is defined, limited, and changed by the state.

It is evident that the canon lawyers and scholastic philosophers who systematized the social ideas of the medieval era subscribed to the theory of the church fathers that private property was conventional and the result of sin. They did not take the trouble to explain how a man could acquire what food he needed, even in a state of innocence, as in the Garden of Eden, without making it his private property in so doing.

The recovery of the works of Aristotle in the 1200's assisted in completing the revolution in the theory of property. St. Thomas Aquinas, with the help of Aristotle's works, maintained that property and the political authority by which property is protected were not necessary evils, but that they were natural and good.

If I may quote again from Professor Schlatter's book:

> St. Thomas likewise followed Aristotle in giving the lawmaker the responsibility for distributing and regulating private property for the common good. Later theorists, agreeing with St. Thomas that private ownership was natural, and wanting to defend the property of the individual against the attacks of powerful princes, took over the theory of natural modes of acquisition and asserted that property so acquired was held by a natural right superior to the claims of the state. But St. Thomas does not refer to the legal theory of acquisition and in his concept of the state there was no place for a theory of individual rights. The ruler was bound by natural law to maintain the general system of private ownership and direct it for the common good, but he was not bound to respect as a natural right the property of any one man. In the "Treatise on Law" St. Thomas defends the elaborate property laws of the Old Testament by pointing out that they conformed to Aristotle's theory of property. They provided that some property should be public and some private.

Ptolemy of Lucca, pupil of St. Thomas Aquinas, completed one of the earliest and most important works on political theory, the "De Regimine Principum," which was begun by St. Thomas himself. In it, Ptolemy said that men require a private division of property in order to live in peace, and he cites the example of Abraham and Lot who divided their pastures when their herdsmen quarreled.

Another student of St. Thomas Aquinas, Aegidius Romanus, wrote one of the ablest and most interesting political treatises of the whole Middle Ages. To this work and to Aegidius, Professor Schlatter refers as follows:

> But on several important points Aegidius went beyond St. Thomas and even Aristotle. St. Thomas made no sharp distinction between the ius gentium—the body of reasonable additions to the natural law, including the laws of property—and the enacted law of the state. It was possible for him to say that private property was natural and at the same time to say that in any specific case it had been instituted by human lawgivers. Likewise, Aristotle thought that property was natural but that it was the business of the founder of the city to institute it. But Aegidius introduces the important idea that the ius gentium is unwritten and is universally recognized by men before they have established political societies. After the fall men lived, poor and dispersed, in a state of nature. To secure for themselves the necessities of life they came together and made agreements and pacts establishing property rights. These pacts were a part of the ius gentium which is a kind of natural law based on contracts between men—quasi ius naturale contractum. Only later did men agree to set up political authorities with power to enact positive laws. Thus, in the final form of Aegidius' theory, not only is private property in general natural, as Aristotle and St. Thomas had said, but the particular rights of individual owners are rooted in a natural law which is prior in time, and more binding in authority, than any of the laws of the state.
>
> To achieve this result Aegidius made use of the popular medieval theory of the social contract. Property was natural, as Aristotle had said, but historically it had been instituted by contracts. And in that historical process, through which men escaped from the savage state, contracts establishing property preceded those which instituted political authorities. The rulers, according to Aristotle and St. Thomas, are bound to institute some equitable system of private ownership; but the prince of Aegidius is limited to protecting the particular system of private rights already in existence. In this respect the theory of Aegidius was similar to those which in later centuries the middle class used to defend its property from the exactions of absolute monarchs. But for Aegidius himself the theory was useful primarily in defending the property of the church—a matter of the greatest practical concern during his lifetime. Much of the practical politics and most of the political theory of the later Middle Ages was concerned with the problem of the relation of the secular and the spiritual powers. At the end of the 13th century the struggle between the two had crystallized around the question of property.
>
> The point of the argument, of course, was to prove that Philip the Fair, King of France, had no right to take the property of the clergy without their consent. The rights of ownership are grounded in natural law and in contracts made before there were kings of France. What the King had not given he obviously had no right to take away. With a judicious mixture of Aristotle, St. Thomas, the theory of the social contract, and the legal theory of acquisition, Aegidius defended Boniface against Philip and, incidentally, he developed a modern theory of ownership which contradicted at every point the traditional Augustinian idea that property was the conventional creation of the state and "not according to nature."

Professor Schlatter says:

> With the development of feudal institutions the Germanic theory of property replaced the Roman in medieval legal and political theory. In feudal law all property, and the political privileges tied to it, was thought of as having belonged originally to the king. He had granted the use of it, on certain conditions, to his vassals * * *. The feudal theory of dominion coincided completely with St. Augustine's theological theory of the origin of human rights. God is the lord and owner of the world. He grants the right to use His property to the righteous on condition that they render homage and fealty to Him. And just as in the feudal theory property and political au-

> thority were both denoted by dominion—the land law was identical with the law of the land—so in Augustine's theory property and political authority were aspects of the same thing—that domination of man by man necessitated by Adam's sin.
>
> Aegidius combined the Augustinian and the feudal theory and claimed that God had granted dominion not to the king but to the Pope, who was the supreme feudal overlord in this world. So long as the feudal system lasted the argument between the Papacy and the secular authorities revolved around this question, whether kings derived their temporal authority directly from God or mediately by way of the Pope. But whichever side men took they were not attacking the fundamental principle of private property.

A prominent 15th century writer on law and politics was Sir John Fortescue. He defended the English middle class and the property on which its power was based.

I again quote Schlatter:

> Fortescue accepts without question the venerable Christian doctrine that property is the result of sin. He refers to the famous words of Gratian's Decretum and states that before the fall of man all was common by natural law. But his acceptance of that doctrine is entirely formal and he proceeds at once to prove that property is now rooted in natural law. The same law, he explains, which forbade private ownership before sin prescribes it after the fall. His analogical proof resembles that of Alexander of Hales. The same breath cools the porridge and kindles the flame; the same sun hardens mud into brick and dissolves ice into snow; and similarly the same law of nature prescribes communism in the state of innocence and private property in the state of corruption. The historical proof is that Cain and Abel had property before there was any jura gentium or lex humana. Wherefore it must be of necessity conceded that property in things, especially in things acquired by the sweat of the brow, first accrued to man by the law of nature alone, seeing there was then no human law; and consequently buyings, sellings, lettings, hirings, and the like took their origin from the law of nature which is perpetual law.

Fortescue, therefore, maintained that property existed prior to human law—a popular theory convenient for limiting the claims of government.

Fortescue defended the rights of inheritance by reference to the divine edict:

> In the sweat of thy face shalt thou eat bread, till thou return unto the ground.

He maintained that man was thus granted a property in the things he should acquire by his labor, for since the bread which a man gained by labor was his own, and no man could eat bread without the sweat of his own brow, every man who toiled not was prohibited from eating the bread which another man had acquired by his own sweat; property in the bread so gained accrued only to the man who labored for it, and in this way property capable of descent first originated.

Schlatter says:

> Men continued after Fortescue, as they had done before him, to argue about the precise limits of papal, and royal control over the property of individual Christians and subjects, but in doing so they were not questioning the basic institution of private ownership. The issue was primarily one of taxation, and even the theorists who attributed the most absolute powers to pope or king, never imagined that those powers would be used to abolish private property and the class structure connected with it. They all agreed that private property was fixed in the nature of things. The idea that it was the only possible system was so firmly rooted that Thomas Hobbes in the 17th century could categorically deny that his sovereign ruler was in any way limited by a law of nature, and yet take it for granted that he would protect the property of his subjects.
>
> Fortescue still used the concept of dominion, but he connected it with the idea of contract which in the course of time replaced it altogether. The idea that society was an organized hierarchy and that the ruler had the power to deprive men of their possessions and privileges when they failed to fulfill their duties died along with the feudal system. The feudal theory of ownership as a conditional right to use property was replaced with the Roman and modern concept of absolute ownership. "It was the Roman pagan conception of absolute property that triumphed at the close of the Middle Ages. This idea, which is the foundation of modern capitalism, led at the same time to further attempts to depress the peasants into slavery. It has been fraught with a thousand evils, from which even now the world is slowly and with many struggles trying to recover. The 'reception' as it is called, of the Roman Law in 1495 in Germany may be taken as the date when the Middle Ages came to an end and the Roman ideas of property had conquered the West." Authorities in church and state, as Professor Tawney has shown, tried for some time to claim that they had a moral right as heads of the body politic to see that men used their property for the general welfare. In England, Tudor officials attempted to arrest the enclosure movement and Puritan saints would have liked to supervise the whole of economic life. But the attempts failed and the idea that a man should be able to do what he would with his own triumphed: the state had no general moral right but only those limited powers granted in the original contract; churchmen might advise men to use their property as stewards of God, but they might not force them to do so. The feudal theory of dominion lingered on as a formal legal doctrine, but with the collapse of the society which it had sought to explain and justify, it ceased to influence the theory of private property.

In the "Augsburg Confession," the official statement of Lutheran principles, the right of Christians to own property is expressly confirmed; the 38th article of religion of the Elizabethan Church asserted:

> The goods of Christians are not common * * * as certain Anabaptists do falsely boast.

Nearly a hundred years later English Puritans explained in the "Westminster Confession of Faith," under the heading "The Communion of Saints," "nor doth their communion one with another, as Saints, take away, or infringe the title or propriety which each man hath in his goods and possessions."

As to Martin Luther, Schlatter has this to say:

> Luther's remarks about private ownership illustrate the dilemma of Protestant theory. He began by attacking the property of the church, particularly that of the monasteries, and ended by defending the rights of ownership against radical Anabaptists. Against the church he argued that it is the duty of a Christian man to acquire property with which to relieve the poor and that it is his duty to acquire that property by work. Both arguments were directed against the monastic ideals of community ownership and voluntary poverty, and against the title of the clergy to those large properties which had been acquired, not by labor, but by the sale of imaginary spiritual goods and by the donations of the superstitious. Both arguments were proved by quotations from St. Paul and in general, as we should expect, Luther's theory of property depended much more heavily upon the authority of Scriptures than had that of his medieval predecessors. The example of Abraham proves that a godly man may acquire great wealth and engage in trade. Ananias was condemned for lying, not for holding back his property. The pooling of property was possible during the first fervor of conversion, but many modern church members are not true Christians and would not work if communism were introduced; the later churches founded by the Apostles did not follow the example of Jerusalem; in normal times Christians have families and this is not possible without private property.
>
> Finally, Luther sums up the argument against poverty and community property by quoting the Bible: riches are good provided that a man does not put his trust in them; Christ had a purse—Judas managed it for him—and so was a property owner.
>
> Against the ancient theory that property was common by natural law, Luther gave the classic Reformation argument. Natural law, he wrote, is identical with the Ten Commandments. The other parts of the law of Moses are merely civil and do not bind us, but the Ten Commandments can never be abrogated. "Thou shalt not steal" is the foundation of private ownership.
>
> Luther had none of that faith in the rational nature of man which led medieval thinkers to assert that men could control and limit their governments and see to it that these did not abuse the power which had been given them for the good of everyone. In the 16th century many thinkers rejected the medieval theory of limited government. Nevertheless, very few of these theorists went so far as to say that the state might arbitrarily violate the rights of private owners.

Philip Melanchthon said that the Commandment "Thou shalt not steal" is the solid base on which reasonable theories of property must ultimately rest.

> The scholastic philosophers—

He wrote—

> distinguish between precepts and counsels of the law. They assert that, since the fall, men are permitted to own property, but that the more perfect way is to have all in common.

The distinction is wrong, Melanchthon said:

> God wants all men to work, to acquire property, and to respect the property rights of others. There is no more perfect way. Men had better strive to follow the new laws which God has decreed for the world corrupted. The saints will have all things in common in heaven, but on earth God wills men to have individual properties.

John Calvin condemned the Anabaptists' proposal to abolish property, government, and inequality, as presupposing a perfection which neither they nor any men could ever attain. Thus he apparently implied that natural law is either unknowable, except as it is revealed in the Bible, or was abrogated at the fall. Either theory is consistent with the Augustinian view of man's depravity. And either theory made it unnecessary and irrelevant to refer to natural law in defending an institution based on God's law. "Thou shalt not steal" gives men a divine right to the property God bestows upon them. According to Calvin, they need no other title. Calvin listed as one of the primary aims of political authority "that every person may enjoy his property without molestation."

John Ponat, English bishop during the reign of Queen Mary, attacked royal power by arguing that the consent of the people is the source of the authority of kings and princes and that it could, therefore, be presumed that the exercise of that authority was to be kept within reasonable limits, which the people had had in mind in their original grant of the authority. Ponat took the position that the law of nature forbids a sovereign from taking man's property from him.

Among the antimonarchial treatises was the "Vindiciae contra Tyrannos," which referred to the contract theory of government whereby men, having acquired property through labor, established governments through contract according to which property, privately held, was protected. Protection of private property was the basis upon which and the purpose for which the contract was established.

Private property was upheld by the French theorists of absolutism mainly because of their interest in establishing a strong national monarchy. Jean Bodin, while a supporter of the monarchy, did not subscribe to the theory that the king was the sole owner of property and that he had an unlimited right to tax. He was opposed to any suggestions concerning community of property, stating that that which belongs to no one in particular is neglected by everyone in general, that communism breeds anarchy, and that common ownership destroys not only private property but the family unit as well.

In the 17th century, Hugo Gratius, a citizen of the Netherlands, expounded a theory of property which contained elements of antecedent theories. According to Gratius, the world was given to men as a common inheritance by the creator. The only private property was that which was consumed by each individual for the sustenance of life. However, with the passage of time, cupidity and avarice, as well as ambition, drove men to acquire property beyond their own physical needs. As a result, it became necessary, in the interest of preserving peace, to institute private property. He asserted that the institution of private property preceded the establishment of government, and that the right to use and control one's possessions was antecedent to the establishment of governmental laws.

Thomas Hobbes subscribed to a thorough absolutism in which the arbitrary claims of government held absolute priority over the claims of the individual owner of property. The sovereign was not restricted by human law from invading their property rights, but his sovereignty would be forfeited if in failing to follow the law of nature, the safety and protection of his subjects goods were not appropriately secured.

Samuel Pufendorf, a German, took the position that there was community of property in the original state of nature, but that it was negative rather than positive—negative because no man had any right to anything. Consequently, man in the state of nature could possess what he wanted without violating the rights of other men. The right to own that which was seized emanated from the act of seizure, it being tacitly agreed thusly among men. Pufendorf maintained that such agreements establishing property preceded, therefore, the establishment of governments and that governments were created to secure the antecedent agreements.

Governments, therefore, having been established to protect property rights based upon prior agreements, it followed logically that governments were bound to respect the property of individuals.

It remained for John Locke to express the standard bourgeois theory of property. Rebellion against feudal privilege and royal absolutism had as its slogan "life, liberty, and property." Locke, who lived in the latter part of the 18th century, believed that property was one of the sacred trinity of natural rights. Locke maintained that private property is an institution of nature rather than an institution of men. He maintained that Adam and his posterity were born with property rights but that political rights evolved from agreements among men. Locke's conception of the origin of private property is capsuled in the following words:

> Though the earth and all inferior creatures be common to all men, yet every man has a "property" in his own "person." This nobody has any right to but himself. The "labor" of his body and "work" of his hands, we may say, are properly his. Whatsoever, then, he removes out of the state that nature hath provided and left it in, he hath mixed his labor with it, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature placed it in, it hath by this labor something annexed to it that excludes the common right of other men. For this "labor" being the unquestionable property of the laborer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good left in common for others.
>
> As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property. He by his labor does, as it were, enclose it from the common. Nor will it invalidate his right to say everybody else has an equal title to it, and therefore he cannot appropriate, he cannot enclose, without the consent of all his fellow-commoners, all mankind. God, when He gave the world in common to all mankind, commanded man also to labor, and the penury of his condition required it of him * * *. He that, in obedience to this command of God, subdued, tilled, and sowed any part of it thereby annexed to it something that was his property, which another had no title to, nor could without injury take from him.
>
> And thus * * * supposing the world, given as it was to children of men in common, we see how labor could make men distinct titles to several parcels of it for their private uses, wherein there could be no doubt of right, no room for quarrel.
>
> Nor is it so strange as, perhaps, before consideration, it may appear, that the property of labor should be able to overbalance the community of land, for it is labor indeed that puts the difference of value on everything; and let anyone consider what the difference is between an acre of land planted with tobacco or sugar, sown with wheat or barley, and an acre of the same land lying in common without any husbandry upon it, and he will find that the improvement of labor makes the far greater part of the value * * *. If we will rightly estimate things as they come to our use, and cast up the several expenses about them—what in them is purely owing to nature and what to labor—we shall find that in most of them ninety-nine hundredths are wholly to be put on the account of labor.
>
> From all which it is evident, that though the things of Nature are given in common, man (by being master of himself, and proprietor of his own person, and the actions or labor of it) had still in himself the great foundation of property; and that which made up the great part of what he applied to the support or comfort of his being, when invention and arts had improved the conveniences of life, was perfectly his own, and did not belong in common to others. Thus labor, in the beginning, gave a right to property.

Writing of Locke, Professor Schlatter makes this statement:

> In the chapter on property as a natural right he was careful to add that most modern property is conventional. But in the following chapters he certainly implied that, in comparison with the conventional rights which rulers derive from the contract of government, the rights of ownership are always natural. His purpose in writing was to protect the solid citizen from the depredations of arbitrary government. His method was to show that all just governments derive their power from the consent of the governed and that the governed are possessed of certain inalienable, natural rights which governments are in duty bound to protect and respect. The reader of Locke's essay gets the impression that property is one of these inalienable rights. The discussion of property comes before the sketch of the origin of governments. In book I, section 22, life and liberty are proved to be inalienable natural rights; in book II these are fused with the concept of property. Property is defined as "life, liberty and estate." Thus the conventional rights of ownership are joined with the natural rights of life and liberty; property rights and natural rights have been inextricably intertwined in the reader's mind.
>
> The logical obscurities of the Lockean theory and the futility of attempting to use it as a justification of modern property relations have been clearly exposed in the last hundred years. But in its heyday it seemed clear, distinct, and true. Wherever property was widely distributed among groups of independent artisans and farmers, the idea that labor was the basis of ownership was readily accepted. Wherever property was monopolized by the inheritors of feudal privilege, the idea that labor ought to be the basis of ownership served as an argument for abolishing monopoly and privilege. Wherever arbitrary governments were to be replaced with representative institutions responsive to the interests of property owners, "life, liberty, and property," and its corollary, "no taxation without consent" were the revolutionary battle cries. So long as middleclass thinkers were the undisputed expositors of truth, the natural right of property was a standard and accepted theory. Locke proclaimed it for the English; the Declaration of the Rights of Man made it the official theory of the French; Jefferson omitted property from the partial list of natural rights in the Declaration of Independence, but it was included in a number of State bills of rights, notably those of Virginia and Massachusetts. Finally, it was

> the accepted theory of classical, or middle-class, economic theory: "The property which every man has in his own labor," Adam Smith wrote, "as it is the original foundation of all other property, so it is the most sacred and inviolable."

Sir William Blackstone, in the 18th century, wrote thusly:

> There is nothing which so generally strikes the imagination, and engages the affections of mankind, as the right of property; or that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.
>
> * * * * *
>
> All property is derived from society, being one of those civil rights which are conferred upon individuals, in exchange for that degree of natural freedom which every man must sacrifice when he enters into social communities. If therefore a member of any national community violates the fundamental contract of his association, by transgressing the municipal law, * * * the state may very justly resume that portion of property, or any portion of it, which the laws have before assigned him.
>
> The right of inheritance, or descent to the children and relations of the deceased * * * is certainly a wise and effectual, but clearly a political, establishment; since the permanent right of property, vested in the ancestor himself, was no natural, but merely a civil, right.

The Encyclopaedia Britannica of 1778–83 specified that every Briton was endowed from birth with the "three great and primary rights of personal security, personal liberty, and private property."

It is interesting to note that the Stamp Act had been opposed in Parliament because it violated a natural right of property, and its corollary, no taxation without consent—Lecky, "History of England in the 18th Century," second edition, London, 1883, volume III, page 338.

Tom Paine maintained that personal property resulted from man's living in society. As he expressed it:

> Personal property is the effect of society; and it is as impossible for an individual to acquire personal property without the aid of society, as it is for him to make land originally. Separate an individual from society, and give him an island or a continent to possess, and he cannot acquire personal property. He cannot be rich. So inseparable are the means connected with the end, in all cases, that where the former do not exist the latter cannot be obtained. All accumulation, therefore, of personal property, beyond what a man's own hands produce, is derived to him by living in society; and he owes, on every principle of justice, of gratitude, and of civilization, a part of that accumulation back again to society from whence the whole came * * *. If we examine the case minutely, it will be found that the accumulation of personal property is, in many instances, the effect of paying too little for the labor that produced it.

The great adversary of Tom Paine was Edmund Burke, who substituted the traditional rights of Englishmen for the abstract rights of man. In a letter to a French acquaintance, Burke wrote as follows:

> When, therefore, I shall learn that, in France, the citizen, by what ever description he is qualified, is in a perfect state of legal security with regard to his life, to his property, * * * to the free use of his industry and his faculties; when I hear that he is protected in the beneficial enjoyment of the estates to which, by the course of settled law, he was born, or, provided with a fair compensation for them * * * when I know all this of France, I shall be as well pleased as everyone must be who has not forgot the general communion of mankind, nor lost his natural sympathy in local and accidental connections.

Burke, in his "Reflections on the Revolution in France," published in 1790, wrote:

> I should therefore suspend my congratulations on the new liberty of France until I was informed how it had been combined with government * * * with solidity and property, with peace and order * * *. All these (in their way) are good things, too; and without them liberty is not a benefit whilst it lasts, and is not likely to continue long.

Burke then extolled the virtues of inequity of possession of property:

> Nothing is a due and adequate representation of a state that does not represent its ability as well as its property. But as ability is a vigorous and active principle, and as property is sluggish, inert, and timid, it never can be safe from the invasions of ability, unless it be, out of all proportion, predominant in the representation. It must be represented, too, in great masses of accumulation or it is not rightly protected. The characteristic essence of property, formed out of the combined principles of its acquisition and conservation, is to be unequal. The great masses, therefore, which excite envy, and tempt rapacity, must be put out of the possibility of danger. Then they form a natural rampart about the lesser properties in all their gradations. The same quantity of property which is by the natural course of things divided among many has not the same operation. Its defensive power is weakened as it is diffused. In this diffusion each man's portion is less than what, in the eagerness of his desires, he may flatter himself to obtain by dissipating the accumulations of others.
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> * * * * *
>
> The power of perpetuating our property in our families is one of the most valuable and interesting circumstances belonging to it, and that which tends the most to the perpetuation of society itself. It makes our weakness subservient to our virtue; it grafts benevolence even upon avarice. The possessors of family wealth, and of the distinction which attends heredity (as most concerned in it), are the natural securities for this transmission.

Of the French Revolution's assault on property rights, Burke was critical:

> I am not afraid that I shall be disavowed when I assure you that there is not one public man in this kingdom whom you wish to quote—no, not one, of any party or description—who does not reprobate the dishonest, perfidious, and cruel confiscation which the National Assembly has been compelled to make of that property which it was their first duty to protect. * * * Who but a tyrant (a name expressive of everything which can vitiate and degrade human nature) could think of seizing on the property of men, unaccused, unheard, untried, by whole descriptions, by hundreds and thousands together? Who that had not lost every trace of humanity could think of casting down men of exalted rank and sacred function, some of them of an age to call at once for reverence and compassion—of casting them down from the highest situation in the commonwealth, wherein they were maintained by their own landed property, to a state of indigence, depression, and contempt?
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> * * * * *
>
> The enemies to property at first pretended a most tender, delicate, and scrupulous anxiety for keeping the king's engagements with the public creditor. These professors of the rights of men are so busy in teaching others that they have not leisure to learn anything themselves; otherwise, they would have known that it is to the property of the citizen, and not to the demands of the creditor of the state, that the first and original faith of civil society is pledged.

With reference to property rights in the English, American, and French Revolutions, Deitz states that these rights are at least equal to other liberal rights:

> Property is valued in the documents which resulted from the struggle against absolute monarchy in England; namely, the Petition of Right, the Instrument of Government, and the Bill of Rights.
>
> Significantly the Petition of Right, drafted in 1628 under the guidance of Sir Edward Coke, quotes only that clause of Magna Carta that, more than any other provision of the famous charter, demonstrates the parity of property with life and liberty: "No freeman may be taken or imprisoned or be deseised of his freehold or liberties, or his free customs, or be outlawed or exiled, or in any manner destroyed, but by the lawful judgment of his peers, or by the law of the land." Illegal taxation is denounced at the beginning, and at the end of the enumeration of complaints the fact that people have been unjustly condemned and subsequently executed is mentioned. Thus the impairment of property and deprivation of life form the framework for the denunciation of the king's abuses. In the middle portions of this document, arbitrary imprisonment and the billeting of soldiers are criticized. The same order of enumeration is employed in the actual petition to the king: "That no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by act of Parliament; and that none be called to make answer, or take such oath, or to give attendance, or be confined, or otherwise molested or disquieted concerning the same, or for refusal thereof; and that no freeman, in any such manner as is before mentioned, be imprisoned or detained; and that Your Majesty will be pleased to remove the said soldiers and mariners, and that your people may not be so burdened in time to come; and that the aforesaid commissions for proceeding by martial law, may be annulled; and that thereafter no commissions of like nature may issue forth to any person whatsoever, to be executed as aforesaid, lest by colour of them any of Your Majesty's subjects be destroyed or put to death, contrary to the laws and franchise of the land."
>
> Although in the 1640's the Puritan revolution resorted to bloodshed and abolished the monarchy, it did not oppose the institution of private property. Cromwell's Instrument of Government, issued in 1653, demonstrates that fact. The document assigns a superior position to property rights. Aside from property, only one right is mentioned; namely, freedom of religion. Although the latter is expanded for Protestants, it is considerably restricted for members of other confessions. On the other hand, even though article 18 of the Instrument of Government established property qualifications for the right to vote, yet it does not restrict property rights. Article 6 prescribes that no tax, charge, or imposition shall be laid upon the people without the consent of Parliament. Article 30 provides that money for the armed forces must be raised by Parliament. Article 39 appears as a bulwark for vested rights. Since the Instrument of Government mentions only the right of property and that of religion, and since the latter right is restricted whereas the former is not, property rights seem to rank the highest among liberal rights.

In the Bill of Rights of 1689, property rights are considered equal to other rights. First, James II is accused of having endeavored to subvert and to extirpate the liberties of the English. Among such accusations as raising and keeping a standing army in time of peace without the consent of Parliament, quartering soldiers, contrary to law, having prosecuted people in the Court of King's bench, for matters and causes cognizable only in Parliament, disarming Protestants, demanding excessive bail from persons committed in criminal cases and eluding the benefit of the laws for the liberty of the subjects, permitting excessive fines and illegal and cruel punishments, there can be found the accusation that the King arbitrarily infringed upon the property of his subjects "by levying money for and to the use of the Crown, by pretense of prerogative, for other time, and in other manner than the same was granted by Parliament." Property rights appear similarly in the latter part of the bill, where the "ancient rights and liberties" of Englishmen are reaffirmed. Among clauses providing for more religious freedom and for the right of Protestants to bear arms, and prohibiting the raising and keeping of standing armies in time of peace, and the requisition of excessive bail or the imposition of excessive fines or the infliction of cruel and unusual punishments, there can be found the provisions "that levying money for or to the use of the Crown, by pretense or prerogative, without grant of Parliament, for longer time or in other manner than the same is or shall be granted, is illegal." At the end, the Commons pledge themselves to maintain their Majesties "to the utmost of their powers, with their lives and estates."

The American Revolution, largely influenced by the Whig revolution, recognized the importance of property among liberal rights. This is evident in the Declaration of Independence. The "pursuit of happiness," meaning mainly the free acquisition, possession and use of property is proclaimed as one of the unalienable rights of man at the very beginning of the declaration, besides those of life and liberty. Even if one does not accept the idea that the pursuit of happiness means the protection of property, property rights still appear to be valued as equal to other rights. First, it could be claimed that they are included in that other unalienable right proclaimed at the outset—liberty. Obviously liberty, meaning the individual's general liberty, in the absence of specific exclusions, would embrace all the particular liberties of men, including the rights of property. Second, property rights are ranked on a par with other liberal rights in later passages. Thus the accusation that British officers harass the colonists is mentioned in the same breath as the complaint that these officers eat out the colonists' substance. The statement that British troops are not being punished for murdering Americans is followed by a note that the King extinguished the colonists' trade with other parts of the world. The complaint about the imposition of taxes without consent is followed by one about the deprivation of the benefits of trial by jury. The King "has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people" is written in another passage which indicates that property is considered as valuable as life itself. Finally, the very last sentence of the document states that the colonists pledge their lives, fortunes, and honor to support the declaration.

Occasionally, the Declaration of Independence is considered to favor the poor over the rich and a fair distribution of property rather than its protection. It is said that the statement, "all men are created equal," elevates equality over freedom. However, this is hardly the case. "Life, liberty, and the pursuit of happiness" are considered unalienable rights of man, while equality is not. The most significant principle of the declaration is not equality, but freedom. And nowhere in this document can there be found any indication that the value of property is not equal to any of the particular liberties which the declaration asserts.

The parity of property with other liberal rights is also evident in the bills of rights which were adopted by the new States. The classic example of Virginia is a case in point. In its first section, "the enjoyment of life and liberty, with the means of acquiring and possessing property," are proclaimed as inherent rights of men. Apart from this general statement, property rights are valued equally with other rights in the more specific clauses which follow. Section 6 provides that men "cannot be taxed or deprived of their property for public uses, without their own consent * * * nor bound by any law to which they have not, in like manner, assembled, for the public good." Laws which infringe upon property are considered as detrimental as laws which interfere with other rights. Under section 11, trial by jury is prescribed not only in criminal cases, but also "in controversies respecting property, and in suits between man and man."

Similar provisions can be found in the bills of rights which were adopted by other States. Also here, property ranks with liberty and life as an inherent right of man. Controversies over property enjoy the privilege of trial by jury. No less can a person be deprived of his property than can his life or liberty be taken away from him. Property is as secure from search and seizure as the person is. Every member of society is entitled to enjoy his property as much as his life and liberty.

* * * * *

Finally, property appears as an important right in the Constitution of the United States, a right that is definitely on a par with, if not superior to, other liberal rights. Although the word "property" is not expressly mentioned in the preamble, nevertheless the protection of property is included in the statement regarding the aims of the people. The assertion that the Constitution is ordained and established to secure the blessings of liberty implies that property should be protected, for "liberty" is a general concept and includes all particular liberties which are not specifically exempted. It includes property rights. The intent of the framers to protect property in the preamble can be concluded also from the declaration that a more perfect Union is formed in order to establish justice and insure domestic tranquility, since these values, at the time at which the Constitution was framed, were threatened mainly by actions which were endangering property rights.

The protection of property can be seen also in the articles of the Constitution. Section 9 of article 1, besides providing for the writ of habeas corpus and prohibiting bills of attainder and ex post facto laws, prohibits arbitrary tax laws. The following section is even more outspoken. Keeping the States from passing bills of attainder and ex post facto laws, it prohibits also, due to infringements upon property through State legislation, the passage of laws impairing the obligation of contracts.

* * * * *

While there can be no doubt that throughout the Constitution property rights are valued as highly as other liberal rights, it could be argued that they were even dearer to the framers than were such rights as freedom of religion, speech and assembly and other liberties mentioned in amendments, because their protection was already provided for in the original text of the Constitution.

The great document of freedom produced by the French Revolution is the Declaration of the Rights of Man and Citizen of 1789. It protects property as much as other liberal rights.

As Americans had drawn upon the ideas of the Whigs, the French were influenced by American political thought. The colonists' struggle with the mother country was followed with interest. Frenchmen not only rallied to the American cause by enlisting in the new Nation's Armed Forces, but, upon their return home, also helped to acquaint their compatriots with ideologies which had developed on the other side of the Atlantic. Books on the United States were printed. These influences came to bear upon the formulation of the Declaration of the Rights of Man and Citizen.

Earlier drafts show that property was considered equal to other liberal rights. Condorcet mentioned the safety and liberty of property along with personal safety and liberty. Mirabeau's declaration of rights of 1788, besides guaranteeing freedom of speech, the press, of public meeting, the right of speedy, free and impartial justice, provides for protection from attacks upon person, house, papers and property, from banishment or deprivation of life, liberty and property.

Property rights were not neglected in the deliberations of the Constituent Assembly. Lafayette, back from America, suggested a bill of rights which was modeled after that of Virginia. He included property among the unalienable rights of man, next to freedom of opinion, the care of honor and life, the entire disposition of his person, business and faculties, the free communication of thought, the pursuit of happiness, and the right to resist oppression. Mounier's proposal differed only slightly from that of Lafayette. It added provisions concerning the prohibition of ex post facto laws, arbitrary arrests and fines, and guaranteeing freedom of religion and of the press, but the proposal did not minimize the protection of property.

* * * * *

In the Declaration of Rights of Man and Citizen itself, property rights appear to be as natural, unalienable, and sacred as other liberal rights. After the first article has affirmed that men are born and continue free and equal in their rights, article II states that the end of all political associations is the preservation of the natural and imprescriptible rights—liberty, property, security, and resistance to oppression. In the following articles, various rights of the individual are specified. Arbitrary accusations, arrests, and confinements, cruel punishments, and punishments under ex post facto laws are prohibited. Freedom of religion, speech, writing, and publication are guaranteed. In the last article of the declaration, property is considered inviolable, sacred, and protected from arbitrary interference. Of all the rights mentioned in the document, only property is declared "inviolable and sacred." It is mentioned, with liberty, security, and resistance to oppression, among the "natural and imprescriptible" rights of men. Furthermore, unlike other rights, property is referred to twice, and is mentioned in the most conspicuous passages of the declaration, at the beginning and at the end. No further proof is needed to demonstrate the importance of property among the rights which are enumerated in the declaration.

* * * * *

The great documents of the democratic revolutions, be they written in the 17th or 18th century, in England, America, or France, consider property rights as being definitely equal to such other liberal rights as freedom of speech, the press, and assembly. This fact is not surprising. By assigning property rights a position which is not inferior to that held by other rights, the democratic revolutions merely recognized what was obvious and had been hallowed throughout the

> ages, namely, that property was a natural right, a prerequisite of life and freedom.
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>
> Accordingly, the very events which led to modern democracy support our assertion that property rights are as important a part of freedom as are other liberal rights, not to mention their superiority over democratic rights. Therefore, the distinction between property rights and so-called civil rights and the assertion that the latter are entitled to greater protection because they are more necessary for the working of democracy are unwarranted not only because they misconceive the nature of freedom, disregard the nature of man, and do not take into account the experience of ages, but also because they were rejected by the very people that are usually quoted in their support, namely, by the founders of modern democracy.

Adam Smith, in "Wealth of Nations," referred to "the property which every man has in his own labor." He went on to say that "it is the original foundation of all other property, so it is the most sacred and inviolable." Smith used the doctrine that a man's labor belonged to himself, but Smith did this to establish his thesis that a man should be free to sell it to any employer he chose.

Quoting Professor Dietze further:

> By the end of the 18th century, the appreciation of property reached a climax. The Reformation had freed the individual to pursue his own religious beliefs and, through its unfaltering protection of private property, its stress upon the ethics of work and its elevation of wealth to a God-willed institution, provided men with extra incentive toward working for greater and greater progress. Still, men had not yet become fully liberated. Authoritarianism in the temporal sphere continued to exist. Consequently, the following generations fought for a further emancipation of the individual. As far as property rights are concerned, people felt that their protection should be comprehensive and not imply merely the right to acquire and possess, but also the right to use property freely. However, there existed considerable restrictions on the latter right until the second part of the 18th century. The idea of an unrestricted use of property became generally accepted only after the publication of Adam Smith's "Wealth of Nations." The appearance of that work in the very year in which the American Revolution—the first major revolt against colonialism and probably the most property conscious of the modern democratic revolutions—began is no mere coincidence. It is symbolic of the fact that the free acquisition and use of property are as much essential ingredients of free property as is the safety of static property. At that time, property can be said to have come of age. It was defended as a natural right. It was considered necessary on utilitarian grounds. It was conceived to be an essential part of freedom. Last, but not least, its free use had received a classic defense.
>
> It would be wrong to believe that property was entirely protected during that period. As in previous centuries, it was often challenged. After all, there were many people who saw in the French Revolution with its emphasis upon the superiority of the general will, primarily a signal for a thorough egalitarianism. Nevertheless, the forces favoring a protection of property maintained the upper hand. From among these forces, some are of a mainly theoretical, others of a mainly practical kind. Among the former, new schools of thought played a major role. The more practical acknowledgment of property can be seen particularly in legislation, adjudication and jurisprudence.

Private property was not only defended by utilitarians, idealists, and by the adherents of laissez-faire, but was also defended by the historical school. Toward the end of the 18th century, Edmund Burke had defended private property with historicist arguments. He felt that an equality of mankind is a "monstrous fiction," that inequality of possessions is inherent in human society and could never be removed. Property is a prerequisite of civilization, and conducive to the common welfare. Consequently, Burke defended property on a broad scale, irrespective of how it is acquired or abused. Property, he argued, is sanctioned by prescription, "the most solid of all titles, not only to property, but, which is to secure that property, to government." Its confiscation "cannot be justified under any form it may assume," even if it occurs under the pretext of serving the public good.

Madison's reference in the 10th Federalist paper to "the diversity in the faculties of men, from which the rights of property originate," and to the "different and unequal faculties of acquiring property" from which "the possession of different degrees and kinds of property immediately results," are clearly Lockean. To remember that John Adams was the author of the Massachusetts Bill of Rights is to be convinced that he was using the word "right" in a Lockean sense when he spoke of property in his "Defence of the Constitutions—1787–8."

The different connotations which that right had for Federalist and anti-Federalist is revealed with clarity in the debate over a Federal Bill of Rights. The Convention had dispensed with a Federal Bill of Rights because they saw no need to bid a government of property owners respect property, the basis, as John Adams thought, of all liberty. A bill of rights was a proper, if ineffective element of constitutions when property did not control the Government; where property ruled, the legislators' "soundness of sense and honesty of heart" were better protections of its rights than a "bill of rights, or any character drawn upon paper or parchment, those frail remembrances." Alexander Hamilton put the Federalist case with characteristic vigor:

> It has been several times truly remarked that bills of rights are, in their origin, stipulations between kings and their subjects, abridgments of prerogative in favor of privilege, reservations of right not surrendered to the prince. Such was Magna Carta obtained by the barons, sword in hand, from King John. Such were the subsequent confirmations of that charter by succeeding princes. Such was the Petition of Right assented to by Charles I, in the beginning of his reign. Such, also, was the Declaration of Right presented by the Lords and Commons to the Prince of Orange in 1688, and afterwards thrown into the form of an act of Parliament. It is evident, therefore, that, according to their primitive signification, they have no application to constitutions, professedly founded upon the power of the people, and executed by their immediate representatives and servants.

But everyone knew that when Hamilton wrote "people" he meant "men of property." The moderate opponents made the inclusion of a bill of rights a condition of their support. In Massachusetts, Elbridge Gerry, who was no friend of excessive democratic and leveling principles, nevertheless thought that the natural rights of life, liberty, and property should be safeguarded by a special bill in the Constitution. George Mason, who had drafted the Virginia bill of rights, defended the rule as well as the right of property; he had argued in the Convention for property qualifications for Congressmen. On the other hand he opposed the Constitution because it forbade the States to violate the right of property; he himself was the owner of lands which the State of Virginia had confiscated from Lord Fairfax, and he candidly admitted that he feared the new Federal courts might invalidate the confiscation.

Other opponents of the Constitution insisted on having an explicit guarantee of the rights of nature and when Jefferson lent his authority to their complaints, the Federalists agreed to support amendments for that purpose. Such amendments, from the Federalist point of view, might be superfluous or illogical, but they could hardly be harmful. The result was the fifth amendment stating that no person should be "deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." The fifth amendment enacted into law the civil government of Mr. John Locke.

Before he wrote the Declaration, Jefferson had more than once referred to "life and property," "liberty and property," and the right of the individual to appropriate unoccupied land, in such fashion as to leave no doubt that he accepted the theory of Locke, whose "little book on government," he wrote, "is perfect as far as it goes." But he omitted "property" in the Declaration and, as someone has pointed out, he bracketed the word "propriete" in the copy of a Declaration of the Rights of Man drafted by Lafayette. In 1785 he wrote that the unequal distribution of landed property in France was the cause of the wretchedness of the French people, and his comments were agrarian in tone.

> I am conscious that an equal division of property is impracticable. But * * * legislators cannot invent too many devices for subdividing property, only taking care to let their subdivisions go hand in hand with the natural affections of the human mind. The descent of property of every kind therefore to all the children, or to all the brothers and sisters, or other relations in equal degree is a politic measure, and a practicable one. Another means of silently lessening the inequality of property is to exempt all from taxation below a certain point, and to tax the higher portions of property in geometrical progression as they rise. Whenever there is in any country uncultivated lands and unemployed poor, it is clear that the laws of property have been so far extended as to violate natural right. The earth is given as a common stock for man to labor and live on. If for the encouragement of industry we allow it to be appropriated, we must take care that other employment be provided to those excluded from the appropriation. If we do not the fundamental right to labor the earth returns to the unemployed. It is too soon yet in our country to say that every man who cannot find employment but who can find uncultivated

> land shall be at liberty to cultivate it, paying a moderate rent. But it is not too soon to provide by every possible means that as few as possible shall be without a little portion of land.
>
> To take from one because it is thought that his own industry and that of his fathers had acquired too much, in order to spare others, who, or whose fathers have not exercised equal industry and skill, is to violate arbitrarily the first principle of association "the guarantee to everyone of a free exercise of his industry, and the fruits acquired by it." If the overgrown wealth of an individual be deemed dangerous to the State, the best corrective is the law of equal inheritance to all in equal degree; and the better, as this enforces a law of nature, while extra-taxation violates it.

Here Jefferson had returned to the usual theory of natural property, and he affirmed his belief in it again the same year in a letter to Du Pont de Nemours:

> I believe with you that a right to property is founded in our natural wants, in the means with which we were endowed to satisfy those wants, and the right to what we acquire by those means without violating the similar rights of other sensible beings.

These are Jefferson's last words on the theory of property. But they do not settle the problem of what Jefferson thought about it.

Jefferson's political disciple, John Taylor of Caroline, was a more consistent upholder of a theory of natural right of property, but like his master he gave it an equalitarian hue:

> The rights of man—

He wrote—

> include life, liberty, and property. The last right is the chief hinge upon which social happiness depends. Our policy is founded upon the idea, that it is both wise and just, to leave the distribution of property to industry and talents; that what they acquire is all their own, except what they owe to society; that they owe nothing to society except a contribution equivalent to the necessities of government.

Quoting Dietze again:

> The 19th century assimilated the heritage of its predecessor and made the most of it. The fruits of experience, produced by past generations and sometimes involved sacrifices, were not consolidated. The ideas of prior defenders of property, having influenced the formation of 18th century thought, persisted in the 19th century. A century that was made aware of Greek values by Winckelmann was not likely to overlook the Aristotelian concept of property. Roman law with its protection of property was appreciated in centuries that were on the whole inimical to the freedom of the individual, and thus was not likely to be rejected after freedom had been established in the democratic revolutions. Christian thought on property, having survived the challenge of the enlightenment, was apt to be welcome in the century of the bourgeoisie. Needless to say, the ideas of the enlightenment and of the democratic revolutions had their own impact. Accordingly, the century is like a receptacle of ideas on the defense of property which were ripened throughout the preceding centuries. As the century of liberalism in which the freedom of the individual attained great dimensions, the 19th century abounds in statements of the value of private property.

No group in the United States has been more faithful to the philosophy of the Founding Fathers than the interpreters of their handiwork, the constitutional lawyers and the judges. In 1795 Justice Patterson set a precedent for Supreme Court decisions by declaring that "it is evident that the rights of acquiring and possessing property, and having it protected, is one of the natural, inherent, and inalienable rights of man." Three of the best known treaties on American law, the "Commentaries" of Chancellor Kent, 1826–30, those of Justice Story, 1833, and T. M. Cooley's "Constitutional Limitations," 1868, all expound the same doctrine. In the Massachusetts Constitutional Convention of 1820–21, the conservatives, wanting to retain a property qualification for the suffrage, argued that property was a natural right and voting was not; hence it was sensible to restrict the suffrage in order to protect property. The same argument was used in the Virginia Convention of 1829–30, but by this time some conservative thinkers had begun to doubt the usefulness of the natural rights philosophy and put their arguments on utilitarian grounds. After the Civil War and the passage of the 14th amendment, Justices of the Supreme Court tended to use the words "due process of law" in place of the now unfashionable "natural rights," but the substance was unchanged. Even so the older form lingered on; in 1891 Justice Brewer told the graduates of the Yale Law School that property was an institution of the law of nature, that it began when Eve appropriated the forbidden fruit, and that the duty of the courts was to protect property from democratic majority, just as they had formerly protected it from autocratic monarchs. Except for a short relapse under Chief Justice Taney, the Supreme Court has been, until our own day, a consistent upholder of the theory that property is a right of nature.

In the first half of the 19th century, property rights usually received protection under the contract clause. As early as 1787, John Marshall wrote to Joseph Story, his future colleague on the Bench, that he considered the clause that no State shall pass any law impairing the obligation of contracts to be of "high value." As Chief Justice, by employing a far broader conception of contract than had been prevalent in 1787, and by combining this conception with the principles of 18th century natural law, he was able to make of the contract clause a mighty instrument for the protection of the rights of private property. It has been suggested that he did so in order to promote national power. It is probably more correct that the great disciple of Hamilton believed that the protection of property was of primary concern. Like Hamilton, Marshall considered a more perfect Union as a means for securing the rights of the individual, among which those of property figured prominently. He never altered his opinion. Toward the end of his career, Marshall was a "supreme conservative" rather than a nationalist, a man who wanted protection of property more than anything else.

Several opinions reveal Marshall's desire to protect property. In Fletcher against Peck, he proclaimed the doctrine that a State may not rescind its grants. This case involved problems as to whether a law could be a contract; whether such a contract, in view of the fact that a State was a party to it, would fall under the contract clause; and whether that clause would apply to executed contracts as well as to executory ones. Desiring to protect property rights, Marshall answered all these questions in the affirmative. In particular, his answers to the last two questions show his broad interpretation. The framers of the Constitution had not suggested that the clause would cover contracts to which a State was a party. Marshall knew that their apprehensions that State legislation would be inimical to property were concerned only with legislative interference in private contracts. Moreover, the Federalist Papers did not state that the contract clause would cover public contracts. Nevertheless, Marshall, asserting that the words of the Constitution "are general and are applicable to contracts of every description," maintained that public contracts are ruled by the contract clause. He even supported his idea by asserting that the framers were concerned about legislative infringements upon private property prior to the meeting of the Federal Convention. Marshall's dictum that an executed contract is subsumed under the contract clause amounts to a similar coup de force. The usual interpretation of the obligation of contract had been that it implied an obligation to fulfill the terms of an executory contract only. As if he wanted to make sure that property would be protected, Marshall was not content with relying merely on the contract clause. He had recourse also to more general principles of justice, saying that "it may well be doubted whether the nature of society and of government does not prescribe some limits to the legislative power; and, if any be prescribed, where are they to be found, if the property of an individual, fairly and honestly acquired, may be seized without compensation?"

In New Jersey against Wilson, Marshall, once again motivated by the desire to protect property, extended the application of the contract clause further, going beyond the scope which Hamilton, whose opinion had served as a guide to the decision of Fletcher against Peck, had allowed it. The question raised in New Jersey against Wilson was as to whether a legislative act, providing for perpetual exemption from taxation of a tract of land granted to the Indians in colonial times, could be revoked after the Indians had sold the tract. In spite of the power of taxation is indispensible and vital for every State, Marshall was so desirous of placing limitations upon State legislatures to the end of protecting the vested rights of property that he held that the land was immune from taxation.

In Terrett against Taylor, decided in 1815, the Marshall court protected property rights by denying that the State of Virginia could appropriate lands of the Episcopal Church. Although the Court did not expressly base its decision on the contract clause, it did so by implication. Once again the protection of property was bolstered by the principles of natural justice. The Court stated:

> But that the legislature can repeal statutes creating private corporations, or confirming to them property already acquired under the faith of previous laws, and by such repeal can vest the property of such corporations exclusively in the State, or dispose of the same to such purposes as they may please, without the consent or default of the corporations, we are not prepared to admit; and we think ourselves standing upon the principles of natural justice, upon the fundamental laws of every free government, upon the spirit and letter of the Constitution of the United States, and upon the decisions of the most respectable tribunals, in resisting such a doctrine.

The contract clause was expanded further in the Dartmouth College case. In Fletcher against Peck there had been a contract, although an executed one. Also, in New Jersey against Wilson, a contract could be discerned to exist between the Indians and the colonial government. Although in these cases the application of the contract clause was not possible without an extensive interpretation of that clause, nevertheless it could be done without great difficulty. However, a different situation arose in the Dartmouth case, where the question was as to whether a charter granted by the crown was a contract. Certainly, the framers of the Constitution had not considered that possibility. However, in order to give property and vested rights protection, Marshall stated that the charter is a contract:

> It can require no argument to prove that the circumstances of this case constitute a contract. An application is made to the crown for a charter to incorporate a religious and literary institution. In the application it is stated that large contributions have been made for the object, which will be conferred on the corporation as soon as it shall be created. The charter is granted, and on its faith the property is conveyed. Surely, in this transaction, every ingredient of a complete and legitimate contract is made.

The work of Marshall was continued by his successor, Roger B. Taney. It has been argued that the transition from the Marshall to the Taney court can be compared to that from the Federalists to the Republicans a generation earlier. But just as it is dubious whether Jefferson was less interested in the protection of private property than was John Adams, it can be said that Taney was scarcely a weaker defender of property than his predecessor had been. One can criticize the statement that "Jacksonian judges from agrarian States broke the historic safeguards thrown around property rights by the letter of the Constitution and the jurisprudence of John Marshall." Due to Taney's continued application of the contract clause in favor of property, "the contract clause was a more secure and a broader base for the defense of property rights in 1864 than it had been in 1835." Taney usually followed Marshall's interpretation of the clause. Inasmuch as he was not the originator of its sweeping interpretations, he was not likely to become as appreciated as a defender of property as his predecessor had been. The Taney period is "one of consolidation and application" of the principles developed by Marshall.

However, as such, it is no less important for the protection of property than the Marshall period had been. The Charles River case is usually assumed to mark a radical departure from Marshall's property-friendly interpretation of the contract clause. But, besides the fact that this is the only decision that "represents anything approaching a major break with the Marshall tradition" it is doubtful whether a major break was really achieved here. One should not forget that the often cited dictum, "while the rights of private property are sacredly guarded, we must not forget that the community also have rights, and that the happiness and well-being of every citizen depends on their faithful preservation," is mere truism. In society, no right, including that of property, is absolutely protected. Still, Taney believed that property rights are "sacredly guarded." Infringements upon those rights were considered to be exceptional. This attitude remained unchanged throughout his tenure. Taney cherished property as much as Marshall had before him. Under the Taney court, the contract clause was applied more frequently and to a wider variety of subject matter than had been the case in the Marshall period. The number of cases in which the unconstitutionality of statutes was based upon the contract clause is almost exactly the same in the two periods.

Under the contract clause, private property received a greater protection than the Founding Fathers had conceived. However, the protection of property by the judges did not cease here. Extended as the application of the contract clause was, it was not unlimited. As is inevitable in the judicial process, Marshall and Taney had established definite rules regarding the applicability of the clause. State legislatures had passed reservation clauses reserving the right to repeal charters of incorporation, and to levy taxes. Although originally these restrictions to no small extent were due to a belief in the sacrosanctity of vested rights, they later were used to restrain the court's doctrines within desirable limits and thus became restrictions on property.

In the American Democrat, 1838, James Fenimore Cooper spoke of property as "the base of all civilization," and of the rights of ownership as created by labor, human or animal, "the food obtained by his toil cannot be taken from the mouth of man, or beast, without doing violence to one of the first of our natural rights."

Therefore, since the urge for the protection of property continued to exist, the judges felt a need to base that protection on a foundation that was broader than that provided by the contract clause. Consequently, the Supreme Court turned to the clause according to which no person could be deprived of his life, liberty, and property without due process of law. And just as Marshall, desiring to protect private property, had given the contract clause a more comprehensive interpretation than that conceived by its framers, now the Court, motivated by the same desire, interpreted the due process clause in a truly novel manner. It shifted from procedural to substantive due process. This shift went beyond the orthodox common law concept of due process. It went beyond the Founders' idea of due process of law. It marked a departure from the Court's own traditional conception of due process.

In 1856, the newly established New York Court of Appeals declared invalid a prohibition law because it entailed, in regard to liquors in existence at the time of its enactment, an act of destruction of property that was not within the power of the government to perform "even by the form of due process of law." A few months later, Taney rendered his famous Dred Scott decision in which he used the due process clause of the Constitution to protect property in slaves. Thus the man who had rendered the decision in the Charles River case, through his substantive interpretation of due process, built a bridge from the protection of property under the contract clause to that under the due process clause. And just as one may say that Marshall laid the foundation for Taney's protection of property under the contract clause, so Taney's Dred Scott decision now provided the basis for the future protection of property under the due process clause.

Abraham Lincoln once spoke of the Republicans as following Jefferson in their "superior devotion to the personal rights of men, holding the rights of property to be secondary only and greatly inferior." But he usually denied that slaves were rightful property. Slavery is based upon the principle of "you toil and work and earn bread, and I'll eat it." The Negro may not be our equal in all respects, Lincoln is reported to have said, but according to the principles of the Declaration of Independence, "in the right to put into his mouth the bread that his own hands have earned, he is the equal of every other man, white or black."

The Supreme Court continued to provide property with broad protection and used substantive due process to a great extent. Confronted with governmental regulations of private business, it stated that the power of the Government to regulate is not without limits and that it is not a power to destroy. It declared that:

> There are, of necessity, limits beyond which legislation cannot rightfully go. If, therefore, a statute purporting to have been enacted to protect the public health, the public morals, or the public safety, has no real or substantial relation to those objects, or is a palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution.

In 1894, the Court declared that rates fixed by a commission are invalid, and claimed the power "to inquire whether a body of rates prescribed by a legislature or a commission is unjust and unreasonable, and such as to work a practical destruction to rights of property, and if found so to be, to restrain its operation." In all these cases, and in many more which concerned the regulation of business, the Court based its control of the public power upon substantive due process.

However, the Supreme Court did not apply the due process clause only for the protection of existing property. Originally, the term "property" implied an ownership that was "exercised in its primary and fullest sense over physical objects only." In due time, however, it was applied to other elements of ownership. It tended to merge more and more with the indefinite rights of "liberty." Following the urging of influential members of the American bar and the lead given by some of the State courts, the Court adopted the view that the word "liberty" as used in the 5th and 14th amendments was intended to protect freedom of contract. Toward the end of the century, Justice Peckham stated that "liberty" in the due process clause "means not only the right of the citizen to be free from the mere physical restraint of his person, as by incarceration, but the term is deemed to embrace the right of the citizen to be free in the enjoyment of all his faculties; to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation, and for that purpose to enter into all contracts which may be proper, necessary, and essential to his carrying out to a successful conclusion the purposes above mentioned." By means of this extended concept of liberty, a greater defense of property was allowed under the doctrine of substantive due process. From the application of the contract clause in the first half of the century to the adoption, toward the end of the century, of the idea that freedom of contract is an essential part of liberty, the basis for the protection of property had been strengthened to an extraordinary degree.

Throughout the 19th century, the Court's devices were many. Its desire to protect property, on the other hand, was constant. By the turn of the century, American judges had rendered justice to the hopes of the Founding Fathers that private property, an unalienable right and an important part of freedom, would be protected.

In the United States the Supreme Court was not the only advocate of free property. Although it was probably the most decisive factor for promoting the protection of property, other forces also worked toward the same goal. Outstanding among them were the great writers in the field of jurisprudence.

James Kent is a case in point. The man who in 1799 had exhorted his younger brother to "be an enlightened and intrepid guardian of true old English and common law liberty and constitutional security," was rather partial to the Roman law because of its strong protection of private rights. Above all, he was interested in the protection of property. "To this intricate subject he devoted the greater part of his treatise," the "Commentaries on American Law," 1826–30.

Kent's defense of private property was matched by the other great commentator of his time, Joseph Story. In the Supreme Court, Story had been a stanch supporter of John Marshall, and made statements that were as good as any that were made in defense of property. In 1821, he wrote Marshall on the situation in his home State of Massachusetts:

> Considering the popular cant and popular prejudices, I have some fears that we shall not have wisdom enough to maintain ourselves upon the present decided basis that protects property.

He voiced concern about Taney's decision in the Charles River case, feeling that it did not protect property as much as it should have. His disposition in favor of property also found expression in his Commentaries. In his remarks on the contract clause, Story quotes with approval the 44th essay of the Federalist Papers with its strong denunciation of legislative activities that are inimical to property rights, and gives a broad interpretation of the clause. Having praised the provision that no person shall be deprived of his property without due process of law, he writes on the concluding clause of the fifth amendment which provides that private property shall not be taken for public use without due process of law:

> This is an affirmance of a great doctrine established by the common law for the protection of private property. It is founded in natural equity, and is laid down by jurists as a principle of universal law. Indeed, in a free government, almost all other rights would become utterly worthless, if the government possessed an uncontrollable power over the private fortune of every citizen. One of the fundamental objects of every good government must be the due administration of justice; and how vain it would be to speak of such an administration, when all property is subject to the will or caprice of the legislature, and the rulers.

Mr. President (Mr. JAVITS in the chair), for the sake of securing the protection of private property, German jurists, in spite of all the nationalism and patriotism that existed during and after unification, did not hesitate to give a Romanistic interpretation to those institutions of Germanic law that had survived the reception of the Roman law, institutions which favored a restriction of private property for the public good. One author, writing during the Third Reich, believed that this individualistic attitude was disliked by the people, and complained that life and social conditions were adjusted to theoretical concepts of law rather than vice versa. Be this as it may, it shows that the German jurists of the 19th century endeavored to protect the property of the individual.

A similar situation existed in France. In 1910, it was stated that "the Napoleonic Code was the code of property." Indeed, such was the case throughout the 19th century. No matter what commentator we consider, no matter what was his approach and school of thought, we will find that he was an advocate of private property. "Liberty is inextricably linked with property; the latter shares the fate of the former," said Troplong, one of the most influential jurists of the century. Demolombe, an admirer, complimented him by saying, "individual property means work; it means liberty itself."

As far as the evaluation of property is concerned, it can be said that French jurists were in general agreement with their German colleagues. This fact is not surprising. In the 19th century, there was a mutual give-and-take between the jurists of the two nations. French legislation and, in particular, its "code of property," exercised a strong influence in Germany. In turn, the German historical school and the pandectists, with their emphasis upon the absoluteness and exclusiveness of property, had an impact upon France. In the 19th century, one could easily speak of a European Rechtswissenschaft. And the assertion that its supra-national character was facilitated by the general atmosphere of liberalism, as well as by the desire for freedom and free property, is probably not an exaggeration.

Mr. President (Mr. BREWSTER in the chair), in the 19th century, freedom was the rule and infringements upon liberty, the exception. In the 20th, although lip service is still paid to the inviolability of freedom, regulations of the individual's rights are so numerous that they seem to have become the rule, and freedom, the exception.

This is especially true of private property. The protection it enjoyed has waned.

The curtailment of property did not occur suddenly. While private property was on its victorious march, there were forces at work that questioned its institution.

Private property was attacked by various schools of thought, ranging from communism to more lenient types of social thinking.

The 19th century, witnessing the climax in human striving for freedom and free property, also gave birth to what became the major challenge to these values—socialism. The year 1848, symbolic of the rising tide of liberalism, the year in which people all over Europe shed their blood in attempts to throw off the last vestiges of the ancient regime, also saw the distribution of the Communist Manifesto. In that work, Marx not only attacked the righteousness of existing possessions, but also denounced the bourgeois use of property and the freedom to acquire property. He exhorted the "have-nots" to rise against the "haves," to expropriate and eliminate them. It has been asserted that Marx stood Hegel on his head. It can also be maintained that his denunciation of property stood civilization on its head. Never had a greater challenge to private property been advanced. While there had been plans of communism, they were considered utopian and did not have much opportunity to be realized. Marx's seemingly scientific approach became the opium of the intellectuals. Mainly by virtue of their acceptance of the new doctrine, his dogma became the credo of idealists, have-nots, and the lazy. It became a ferment of societies.

Although the failure of the Paris Commune convinced Socialists that revolutionary uprisings were likely to be doomed and that it would be better to gain power through the ballot, such revisionist thought did not decrease the threat to free property. In Europe and America alike, socialism, no matter how it might be acclimatized in the different nations, continued to challenge the existing liberal order and free property. There appeared to be two alternatives for those who were interested in saving property. One was to fight socialism through an unequivocal reassertion of free property; the other, to take the wind out of the Socialists' sails by making concessions to social demands that were, so one believed, compatible with a free society. And while the former method prevailed for a while, the concessionist policy gradually became the leading doctrine. More and more the individualistic concept of property was deserted in favor of a social one. More and more the free use of property and free competition came under such attack. It is difficult to determine which was attacked first, the static or the more dynamic aspect of property. Since these variations of property rights are interdependent, this issue is not too important. Furthermore, it is hard to tell in what country, and from what side, free property was first challenged. It happened everywhere. Three groups of concessionists, however, seem to stand out: theologians and moralists, economists, and jurists.

The general atmosphere in the decades prior to World War I, characterized by popular demands for social legislation, did not fail to have its impact upon jurists. Although Dean Pound's influence in the creation of sociological jurisprudence was probably as great as any, the following discussion will be restricted to Oliver Wendell Holmes, Jr., and Louis D. Brandeis. As members of the Supreme Court, they had not only a theoretical, but also a practical impact upon the formulation of a new policy toward property rights.

In his famous dissent in Lochner against New York, a case in which a New York statute restricting the working hours of bakers was held unconstitutional, Holmes attacked the Court's position on freedom of contract, that is the freedom of acquiring property.

He stated:

> This case is decided upon an economic theory which a large part of the country does not entertain—

He remarked, attacking laissez-faire liberalism. Then he made a case for State regulation of freedom. Taking advantage of the fact that there existed some regulation of the acquisition of property, he used the time-honored method of saying that such regulation has been common practice. He stated:

> It is settled by various decisions of this Court that State laws may regulate life in many ways which we as legislators might think as injudicious or if you like as tyrannical as this, and which equally with this interfere with the liberty of contract. Sunday laws and usury laws are ancient examples.
>
> A more modern one is the prohibition of lotteries. The liberty of the citizen to do as he likes so long as he does not interfere with the liberty of others to do the same, which has been a shibboleth for some well-known writers, is interfered with by school laws, by the Post Office, by every State or municipal institution, which takes his money for purposes thought desirable, whether he likes it or not.
>
> The 14th amendment does not enact Mr. Herbert Spencer's social statics. Some of these laws embody convictions or prejudices which judges are likely to share. Some may not. But a constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the State or of laissez-faire. It is made for people of fundamentally differing views, and the accident of our finding certain opinions natural and familiar or novel and even shocking ought not to conclude our judgment upon the question whether statutes embodying them conflict with the Constitution of the United States.

Mr. President, here was, although in dissent, a fundamental shift in constitutional interpretation. When John Marshall had asserted, "we must never forget, that it is a constitution we are expounding, a constitution, intended to endure for ages to come, and, consequently, to be adopted to the various crises of human affairs," he merely implied some flexibility with respect to the machinery of government. He did not consider challenging the rigidity of the Constitution as an instrument for the protection of the rights of the individual, among which those of property figured prominently. By contrast, Holmes, doubting the individual's freedom to work under whatever conditions he desired, challenged that principle. He advocated a relativistic appreciation of property rights which was equivalent to a depreciation of these rights.

Brandeis aided him in this task. "I don't want money or property most. I want to be free," Brandeis stated prior to World War I, strangely discriminating between property and freedom, with property coming out at the shorter end of the scale. Later, he not only gave freedom preference over property, but even part of freedom:

> The fact that speech is likely to result in some violence or in destruction of property is not enough to justify its suppression. There must be the probability of serious injury to the state.

At first, attacks on private property were based on seemingly ethical grounds. More and more, the individual's property became restricted, although he was hardly aware of it in most cases.

In the United States, the common law tradition of permitting malicious use was more and more abandoned. A decision of 1889, dealing with spite fences, still maintained that "at common law, a man has a right to build a fence on his own land as high as he pleases, however much it may obstruct his neighbor's light and air."

Ten years later, when a proprietor built a 40-foot-high wall about 3 feet from his neighbor's building, "thereby cutting off the latter's light, air, and view," and without doubt doing this "wrongfully and maliciously and unnecessarily and for the purpose of injuring the plaintiff and the plaintiff's property," the Court held that the considerations of the defendant were irrelevant, as long as she built her own property. However, soon American statutes and court decisions took a less lenient attitude. They declared "structures put up in a spirit of malice for the sole purpose of injuring the adjoining neighbor" to be a "legal wrong." Justice Holmes stated in 1889:

> It is plain that the right to use one's property for the sole purpose of injuring others is not one of the immediate rights of ownership. It is not a right for the sake of which property is recognized by the law. * * * We are of the opinion that the statute, thus concerned, is within the limits of the police power, and is constitutional. * * * It simply restrains a noxious use of owner's premises, and although the use is not directly injurious to the public at large, there is a public interest to restrain this kind of aggressive annoyance of one neighbor by another, and to make a definite limit beyond which it is not lawful to go.

More and more American States passed laws against spite fences and spite walls. Where there were no such laws, the courts have tended to consider the construction of buildings "with no other purpose than the vindictive one of shutting off the plaintiff's view, or his life, and air," as a nuisance and as inadmissible.

Although the prohibition of malicious conduct amounted to a restriction of property, it was not likely to provoke much protest. The element of chicanery was too obvious. Also, in most cases prohibitions of malicious use of property were beneficial to another person's property. Individual property stood against individual property. All that happened was that some form of the active exercise of property rights, the right to use property harmfully, was restricted in favor of the passive side of property rights, or of the right to have one's property unmolested. Even the most ardent advocates of free property could scarcely object to this. For what today they might consider an infringement upon their right to use their property, tomorrow might be a protection for that very property.

In view of the restrictions of private property in normal times, it is not surprising that property became even more curbed in times of emergency. It is not necessary to go into detail here. All of us have seen the many controls that were exercised over property in such times. Even the land of plenty, the United States, adopted drastic measures in World War I, more drastic ones during the depression, and still more drastic ones during World War II. In the great majority of emergency measures, it was not only the right to abuse one's property that was curbed. Restrictions were more comprehensive. Quite normal—and not at all abusive—uses of property came under control.

But even though in all these cases property was restricted not for the sake of a specific individual, but for that of an anonymous society or an impersonal state; despite the fact that the restriction of one's property was not matched by the preservation of another person's property, restrictions of property for the sake of the community were not greatly resented. Also, restrictions of property in times of emergency were not overly resented. It was recognized that emergencies require abnormal emergency measures. People believed that once the emergency ceased to exist, the restrictions would be removed and free property would reemerge. Because of their temporary character, such restrictions did not seem to challenge the sanctity of property.

It cannot be seriously doubted that legislation attacking property constitutes a greater danger to property than interpretation. The social or socialist interpreter of a liberal law, while he might dangerously approach an elimination of the law's values, is still prevented from complete success in this undertaking. He is, after all, bound by the law. By contrast, the legislator is not. Under the principle that later law supercedes previous law—lex posterior derogat priori—he may undo the values of previous law. He may abolish law that grants a rather comprehensive protection of individualistic concepts of private property by passing laws that favor more social concepts.

The decline of property stands in contrast to the protection of other liberal rights.

The decline of property rights during the 20th century does not imply a general decline of the rights of man. It is sui generis. To whatever country one looks, and whatever right one may consider, one will, on the whole, notice an ever-increasing protection of rights that had been recognized since the 18th century.

As early as 1788, Madison had warned of the danger of too many laws. In the 62d essay of the Federalist Papers, he wrote:

> The internal effects of a mutable policy are * * * calamitous. It poisons the blessings of liberty itself. It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow.

Savigny, confronted with the problem of legislation in Germany, had similar misgivings. A generation later, Jacob Burckhardt saw one of the most disastrous consequences of the French Revolution in the fact that it granted an "authorization for perpetual revision." He felt that "the decisively new thing that was introduced by the French Revolution is the possibility of and the desire for changes." Maurice Hauriou complained in the beginning of this century that the French Revolution "resulted in a perpetual state of revolution, because the mobility of the written law was no longer neutralized by certain customary institutions, and because the forces of change were stronger than those of stability." All these men realized that of which Madison had been so aware during the critical period of American history; namely, the danger of the democratic legislators running amok and showering the world with laws and thus creating a state of legal insecurity.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. McGOVERN. It occurred to me, as I was listening to his remarks over the past 3 hours while presiding in the Chair, that while I do not agree with the conclusions which the Senator has reached, I do have to admire his tenacity.

The thought came to me that it was just a year ago today—I believe on the 10th of June 1963—that the Senator from West Virginia received his law degree at American University. The reason I remember that day is that that was also the date that marked President Kennedy's great speech at American University. I shall always think—or at least I think at this point—that that was the greatest speech which the late President Kennedy ever delivered. I think it is quite significant that in the opening line of that speech he addressed the Senator from West Virginia [Mr. BYRD] by name and made some humorous reference, as I remember, to the fact that it took the Senator a good many years of night classes to get his degree in law and that the President was getting his in about 30 minutes.

It is significant that this rather lengthy speech tonight comes on the anniversary of the Senator's being awarded the law degree at American University. I wish to draw attention to that. I thank the Senator for yielding to me.

Mr. BYRD of West Virginia. I thank the Senator for his reference to that very important occasion in my life. I have not forgotten the occasion. However, I did not happen to recall that it was precisely a year ago that I received my LL.B. degree, at which time I, along with other students graduating from American University, was honored to have the late President John F. Kennedy address our commencement exercise, and as the Senator has quite properly stated, deliver one of the really fine and perhaps most important addresses of his tenure of office and perhaps of any period in our history. I appreciate very much the reference to that occasion by the Senator.

Mr. McGOVERN. It also happens to be the 15th birthday of my daughter, and I am now going home to help her celebrate that occasion.

Mr. BYRD of West Virginia. I thank the Senator. I trust that the Senator will convey to his daughter my good wishes that she will have work for her hands, a straight path for her feet, a coin for her purse, sunshine on her windowpane at morning, a song in her treetop at evening, the hand of a friend on her latchstring, soft rains for her garden, love at her fireside as she grows older, happiness in her heart, and God's wonderful blessings always.

Mr. McGOVERN. I thank the Senator very much.

Mr. BYRD of West Virginia. Dietze says:

> Democratic lawmaking has had a disastrous impact upon property rights. The march of democracy was also a march toward egalitarianism. Equality before the law was complemented by the equal right of all to make the law. But this was not enough. The equal right of all to make the law resulted in the tendency to make all equal by the law. Since other privileges had been abolished in the democratic revolutions, the surviving privilege of wealth was likely to receive increased attention as an anomaly in a democracy. A thorn in the eyes of a few at the beginning of the democratic era, it became a beam in the eyes of many once egalitarian democracy had advanced. Having become absolute, democratic government, the mouthpiece for the underprivileged masses, endeavored to gain a more equal distribution of property. Of course, this could be done only by impairing the property rights of the individual. Justice degenerated into "social justice." The love of equality, which appeared to Montesquieu as the characteristic feature of democracy, had reached its final conclusion. The "holy dogma of equality," of which Volney had spoken, had become a hard fact.
>
> Of first concern is the extent of the disregard for property. Clearly, the development described here was not confined to the United States, France, and Germany. The very fact that property lost its protection in all of these nations indicates a universal trend, for these nations are not only representative of different legal systems, they are also representative of different forms of democracy. If we consider the development of other democracies, we can make the same observation: Everywhere, the protection of private property has declined. It could scarcely be otherwise, because the decline of property rights is not a national, but a democratic phenomenon. The Communists' denial of these rights is perhaps nothing but a derivation from that phenomenon.
>
> The disregard for property in modern international law is not surprising. For that law is no longer made chiefly by nations that have regard for property rights. It is also made by Communist nations and other states in which the appreciation of private property is rather negligible.
>
> On the whole, the process of restricting property rights has taken hold of international law as it has of national law. The process is likely to be as complete and comprehensive. Also, the growing disregard for property in international law was largely due to the march of democracy in the society of nations. Until recently, international law was made chiefly by nations of some wealth and power. There existed, in a sense, property qualifications for the participation in international lawmaking. These qualifications have now become largely abolished. Poor and insignificant nations have been increasingly accepted as equal partners in the making of international law. The result was an equalization of international law. Property rights became less protected. As it did within nations, the march of egalitarian democracy has contributed to their decline among nations.
>
> The consequences of the decline of property can be seen in national societies as well as in the society of nations. In both cases, they have been so serious that they might well have been responsible for the dilemma in which the West finds itself today.
>
> Whereas the rights of man steadily advanced throughout the 19th century, the situation changed thereafter. No longer were these rights protected. Freedom, previously constituting a unity which defied attack, has become so disintegrated that it invites assaults. Its component parts, formerly considered to be of about equal importance, have been reevaluated. And this new evaluation—undertaken by the uncontrolled numerical majority—decided that property rights did not deserve as much protection as other rights. The rights which reflect individualism to the greatest extent were relegated to a secondary order. Rights we are merely born with—important as they may be—were considered more essential than rights that have the further distinction of having labor mixed with them. Rights we happen to possess by mere chance were preferred over rights with which effort has been mingled.
>
> The new evaluation was not only harmful to property rights, and did not only entail many disadvantages resulting from the insecurity of those rights, but was also detri-

mental to freedom as a whole. Freedom was harmed not only because free property is essential to it, but because the discrimination against property was bound to destroy the notion of the unalienability of the rights of man: If property rights could be curtailed, there was no reason why other rights could not be restricted. This relativism showed that democratic government had lost its rationale. For it was no longer the protector, but the arbiter, of the rights of man. A democracy that permitted curtailments of property while, at the same time, assuring its love for freedom, was likely to appear hypocritical.

Also, infringements upon property are detrimental to the survival of democracy. They quell individual effort, the very prerequisite for progress. This deprives man of his dignity. In the welfare state, the individual is not only induced to be lazy, but he is also considered to be unable to take care of himself. The healthy are treated as if they were sick, the mature as if they were children. The physically fit are made psychologically ill, and the naturally independent are made artificially dependent. Individuals become spoiled and lose self-confidence. This must be suicidal if it occurs at a time when Western society is engaged in a struggle for survival.

The consequences of the decline of property rights are as disastrous in the international field. Again, we are faced by a dilemma. Today's struggle between East and West, no matter what the many other values involved may be, is fundamentally a struggle turning around the appreciation of private property. The West professes to believe in a protection of that institution, the East does not.

The Western nations maintain that their attitude is conducive to freedom and justice, and the Communists assert the same of their position. It is obvious that the Communists' sanction of the trend toward a lesser appreciation of property in international law is quite natural and not in contradiction with professed Communist aims. The same cannot be said of the sanction by Western nations of that trend. The Western attitude is inconsistent with the values the West professes to stand for. It is both paradoxical and suicidal.

The Western nations, when not insisting on a protection of property in international law, cut their own throats. While their professed aim in view of the Communist challenge requires them to maintain that the protection of private property is a prerequisite of internal justice, they have, through their participation in the making of recent international law, admitted that infringements upon property are justified. Specific infringements upon private property are bad enough. Although they might appear as being of an exceptional nature, they can, if not objected to, easily become general practice.

So often today we read that the West has no direction, no aim. But we cannot very well have direction and aim if the individual citizen is not encouraged to aim at something that he can be sure will be his permanently. And this cannot be realized as long as private property is not safe. As was stated, John Adams once said that "the moment the idea is admitted into society that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence." Today, many of us are experiencing the tyranny and anarchy he dreaded. It is the tyranny of the great regulator and distributor, of the New Leviathan of majoritarian democracy, over its gluttonous yet timid citizens. It is the anarchy of a society whose members are at a loss where to go because they feel there is no property to strive for, a society that has come to acknowledge the dogma of the impropriety of property, with all its bad consequences.

Many of us are even afraid of owning and of possessing. Even those who still have some appreciation of property have become panicky. Seeing the swelling tide of curtailments upon property, they live just for the day, spending, while they still have something to spend, as much as they can. The man who saves is considered a fool.

This lack of confidence is more than justified. If our present attitude of carelessness continues—and there is no reason to believe that it will not—the future will be dark indeed. There is not much hope if this be the case, for the survival of the West. Mr. Khrushchev's prophesy that the world will be red in another 20 years is probably a modest estimate. An estimate of half the time might be closer to the mark.

Improvement of our plight can come only from a reaction to the excesses of democracy. This reaction can take two major forms: A rather passive one that tries to stop the further decline of property rights, and an active one that attempts to restore those rights to their original eminence.

Therefore, we should be more wary of a gradualist socialism that is often disguised as "liberalism." We must be on our guard against wolves in sheeps' clothing. Unfortunately, human beings are not immune from the influence of others. The decline of property proves this sufficiently. Therefore, if guarding against gradualist doctrines is to prevent a further deterioration of property, it must stop the evil at its source. It must limit the advocacy of ideas endangering property.

Here lies a major problem of Western democracy. We lost the sense for the propriety of property. Ever since free property, having been achieved in a long struggle which was propelled by the conviction that property is something proper, has become restricted, our appreciation of property has declined. Since this curtailment of property has been effected by modern democratic government, the question arises as to whether that type of government has not lost its legitimacy. For it has destroyed one of the main factors in the growth and progress of our civilization, namely, the belief in the propriety of property.

The Magna Carta placed great emphasis on property rights. With reference to the land of heirs under age, the Great Charter stated the following requirements of guardians thereof:

> The guardian of the land of any such heir being under age, shall take therefrom only reasonable issues, customs, and services, and this without destruction or waste of men or goods; and if we commit the custody of any issues thereof, and he shall make destruction and waste of his wardship, we will take amends of him, and the land shall be committed to two lawful and discreet men of that fee, who shall be answerable for the issues to us or to whomsoever we shall assign them; and if we sell or give to anyone the wardship of any such lands, and he commit destruction or waste therein, he shall lose the wardship and it shall be committed to two lawful and discreet men of that fee who shall answer to us as aforesaid.

Security for keeping in repair the land and other property of underage heirs was provided in paragraph 5 of the Magna Carta:

> But the guardian, so long as he shall have the wardship of the land, shall keep up the houses, parks, fishponds, pools, mills, and other appurtenances, from the issues of the land; and he shall restore to the heir, when he comes of age, his whole estate stocked with ploughs and tillage, as the season may require and the issues of the land can reasonably bear.

The widow's share in the properties held by her deceased husband was secured by paragraph 7:

> A widow after the death of her husband shall immediately and without obstacle have her marriage portion and her inheritance, nor shall she give anything for her dower, marriage portion, or inheritance which she and her husband held on the day of his death; and she may remain in her husband's house for 40 days after his death, within which time her dower shall be assigned to her.

Protection against the seizure of land for debts was provided in paragraph 9:

> Neither we nor our bailiffs shall seize any land or rent for any debt so long as the chattels of the debtor are sufficient to repay the debt; nor shall the debtor's sureties be distrained so long as the chief debtor is able to pay the debt; and if the chief debtor shall fail to pay the debt, having nothing wherewith to pay it then the sureties shall answer for it; and, if they will, they shall have the lands and rents of the debtor, until they shall be satisfied for the debt which they paid for him, unless the chief debtor can show himself to be quit thereof against them.

The high regard for private property was evidenced in paragraph 20 which provided for fines and other pecuniary penalties to be visited upon a merchant, "likewise saving his trade and a villein saving his tillage."

The security of chattels of deceased owners against improper seizure was provided in paragraph 26:

> And if nothing is due to us from him, all his chattels shall remain to the deceased, saving to his wife and children their reasonable shares.

As to properties of "any freeman" dying intestate, the Magna Carta provided that "his chattels shall be distributed by the hands of his near kinsfolk and friends, by view of the church, saving to everyone the debts—personal property—which the deceased owed to him."

Improper seizure of chattels by public officials was prohibited by paragraph 28:

> No constable or our bailiff shall take the corn or other chattels of anyone, without immediate payment for it, unless the seller allows him a respite.

Further protection against seizure of chattels by sheriffs and bailiffs was provided by paragraphs 30 and 31:

> 30. No sheriff or bailiff of ours, or anyone else, shall take the horses or carts of any freeman for carrying service against the will of the said freeman.
>
> 31. Neither we nor our bailiffs shall take another man's timber, for our castles, or other business of ours, except with the consent of the owner thereof.

The protection of lands of persons guilty of a felony was provided for in paragraph 32:

> We will only keep the lands of persons found guilty of felony for a year and a day,

when they shall be restored to the lords of the fees.

The Magna Carta provided in paragraph 39, that no freeman should be taken, imprisoned, dispossessed, or in any way destroyed "except by the lawful judgment of his peers or by the law of the land."

Restoration of real and personal properties to the rightful private owner from whom they had been wrongfully taken, was provided by paragraph 52:

> If anyone has been dispossessed or removed by us without the lawful judgment of his peers, from his lands, chattels, liberties, or rights, we will immediately restore him to them; and if a dispute arises over this, then it shall be settled by the verdict of the 25 barons, of whom mention is made below in the clause for securing the peace; but with regard to all those things whereof anyone has been dispossessed or deprived without the lawful judgment of his peers, by King Henry our father or King Richard our brother, and which we have in our hand, or which others hold to whom we are bound to warrant them, we shall have respite until the usual term of crusaders; except those concerning which a plea has been begun or an inquisition taken by our command, before our assumption of the cross: and when we have returned from our pilgrimage, or if by chance we have remained behind from it, we will at once do full justice therein.

Restoration of lands illegally taken from Welshmen was provided in paragraph 56:

> If we have dispossessed or removed Welshmen from lands or liberties or other things, without the lawful judgment of their peers, in England or in Wales, they shall at once be restored to them; and if a dispute arises over this, then it shall be settled in the March by the judgment of their peers, according to the law of England with regard to English tenements, the law of Wales as to Welsh tenements, and the law of the March as to Marcher tenements. Welshmen shall do the same to us and ours.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the Great Charter.

Mr. KUCHEL. Mr. President, I am sorry but I did not hear the unanimous-consent request. Will the Senator from West Virginia please repeat it?

Mr. BYRD of West Virginia. I ask unanimous consent that I may include at this point in the RECORD a copy of the Magna Carta which was signed at the point of the sword by King John of England in the meadow at Runnymede on June 15, 1215, 749 years ago next Monday.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

GREAT CHARTER

By the grace of God, King of England, Lord of Ireland, duke of Normandy and Aquitaine, and count of Anjou, to his archbishops, bishops, abbots, earls, barons, justiciars, foresters, sheriffs, reeves, servants, and to all his bailiffs and faithful subjects, greeting. Know that we, having regard to God and the safety of our soul, and those of all our ancestors and heirs, to the honour of God, and the exaltation of holy church, and the betterment of our realm, by the advice of our reverend fathers, Stephen, archbishop of Canterbury, primate of all England, and cardinal of the holy Roman church, Henry, archbishop of Dublin, William of London, Peter of Winchester, Jocelin of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, and Benedict of Rochester, bishops; Master Pandulph, the Pope's subdeacon and household official; brother Aymeric, master of the Knights of the Temple in England; and of the noble persons, William Marshal, earl of Pembroke, William, earl of Salisbury, William, earl of Warenne, William, earl of Arundel; Alan de Galloway, constable of Scotland, Warin Fitz-Gerald, Peter Fitz-Herbert, Hubert de Burgh, seneschal of Poitou, Hugh de Neville, Matthew Fitz-Herbert, Thomas Basset, Alan Basset, Philip d'Aubigny, Robert de Roppelay, John Marshal, John Fitz-Hugh, and others of our faithful men,

1. Have, in the first place granted to God, and by this our present charter confirmed for us and our heirs for ever, that the English church shall be free, and enjoy her rights in their integrity and her liberties inviolate; and we will that it be so observed; and this is manifest from this, that we, of our mere and unconstrained will, before the contest between us and our barons had arisen, granted, and by our charter confirmed and procured to be confirmed by Pope Innocent III, the freedom of elections which is most important and essential to the English Church; and this we will observe and wish to be observed in good faith by our heirs for ever. We have also granted to all the freemen of our kingdom, for us and for our heirs for ever, all the underwritten liberties, to have and to hold to them and to their heirs, of us and of our heirs.

2. If any of our earls or barons, or others who hold of us in chief by knight's service, shall die, and at the time of his death his heir shall be of full age and owe a relief, he shall have his inheritance by the old relief, namely, the heir or heirs of an earl by paying one hundred pounds for the whole barony of an earl; the heir or heirs of a baron by paying one hundred pounds for a whole barony; the heir or heirs of a knight by paying one hundred shillings at most for a whole knight's fee; and he that oweth less shall give less according to the ancient custom of fees.

3. But if the heir of any such shall be under age and in ward, he shall have his inheritance without relief or fine when he comes of age.

4. The guardian of the land of any such heir being under age, shall take therefrom only reasonable issues, customs, and services, and this without destruction or waste of men or goods; and if we commit the custody of any such lands to the sheriff, or to any other who is answerable to us for the issues thereof, and he shall make destruction and waste of his wardship, we will take amends of him, and the land shall be committed to two lawful and discreet men of that fee, who shall be answerable for the issues to us or to whomsoever we shall assign them; and if we sell or give to any one the wardship of any such lands, and he commit destruction or waste therein, he shall lose the wardship and it shall be committed to two lawful and discreet men of that fee who shall answer to us as aforesaid.

5. But the guardian, so long as he shall have the wardship of the land, shall keep up the houses, parks, fish-ponds, pools, mills and other appurtenances, from the issues of the land; and he shall restore to the heir, when he comes of age, his whole estate stocked with ploughs and tillage, as the season may require and the issues of the land can reasonably bear.

6. Heirs shall be married without disparagement, yet so that before the marriage takes place, those who are near in blood to the heir shall have notice.

7. A widow after the death of her husband shall immediately and without obstacle have her marriage-portion and her inheritance, nor shall she give anything for her dower, marriage-portion, or inheritance which she and her husband held on the day of his death; and she may remain in her husband's house for forty days after his death, within which time her dower shall be assigned to her.

8. No widow shall be distrained to marry so long as she wishes to live without a husband; provided that she gives security that she will not marry without our consent, if she holds of us, or that of the lord of whom she holds, if she holds of another.

9. Neither we nor our bailiffs shall seize any land or rent for any debt so long as the chattels of the debtor are sufficient to repay the debt; nor shall the debtor's sureties be distrained so long as the chief debtor is able to pay the debt; and if the chief debtor shall fail to pay the debt, having nothing wherewith to pay it then the sureties shall answer for it; and, if they will, they shall have the lands and rents of the debtor, until they shall be satisfied for the debt which they paid for him, unless the chief debtor can show himself to be quit thereof against them.

10. If anyone has borrowed from the Jews any sum, great or small, and shall die before the debt is paid, the debt shall not bear interest while the heir is under age, of whomsoever he may hold; and if the debt falls into our hands, we will only take the principal sum mentioned in the deed.

11. And if anyone shall die indebted to the Jews, his wife shall have her dower, and pay nothing of that debt; and if the children of the deceased be left under age, necessaries shall be provided for them according to the estate of the deceased, and out of the residue the debt shall be paid, saving the service due to the lords; in like manner it shall be done concerning debts due to others than Jews.

12. No scutage or aid shall be imposed in our kingdom, except by the common counsel of our kingdom, except for ransoming our person, knighting our eldest son, and once for marrying our eldest daughter, and for these only a reasonable aid shall be paid: likewise shall it be done concerning aids from the city of London.

13. And the city of London shall have all its ancient liberties and free customs, as well by land as by water. Further, we will and grant that all other cities, and boroughs, and towns, and ports, shall have all their liberties and free customs.

14. And for obtaining the common counsel of the realm, concerning the assessment of aids other than in the three cases aforesaid, or for assessing a scutage, we will cause to be summoned the archbishops, bishops, abbots, earls, and greater barons, singly by our letters; and further we will cause to be summoned in general, by our sheriffs and bailiffs, all those who hold of us in chief; for a fixed day, namely, forty days after their summons at least, and at a fixed place; and in all letters of such summons we will explain the cause thereof; and the summons being thus made, the business shall proceed on the appointed day according to the advice of those who are present, even if all who are summoned do not come.

15. We will not in future give leave to any one to take an aid from his free men, except for redeeming his person, or knighting his eldest son, or once marrying his eldest daughter, for which only a reasonable aid shall be levied.

16. No man shall be distrained to perform more service for a knight's fee, or other free tenement, than is due therefrom.

17. Common pleas shall not follow our court, but shall be held in some appointed place.

18. Inquests of Novel Disseisin, Mort d'Ancestor, and of Darrein Presentment, shall only be taken in their proper counties, and in this fashion: we, or if we should be out of the realm, our chief justiciar, will send two justices through each shire four times a year, who, with four knights of each shire, elected

by the shire, shall hold the said assizes in the shire, on the day and in the place of meeting of the shire court.

19. And if the said assizes cannot be held on the days of the shire court, as many knights and free tenants shall remain of those who were present at that court, as may be required for the administration of justice, according as the business be more or less.

20. A free man shall be amerced for a small crime only according to its measure; and for a great crime he shall be amerced according to its greatness, saving his position; and a merchant likewise saving his trade, and a villein saving his tillage, if they have fallen into our mercy; and none of the said amercements shall be imposed except by the oath of honest men of the neighbourhood.

21. Earls and barons shall only be amerced by their peers, and according to the measure of their offence.

22. A clerk shall be amerced for his lay tenement only after the manner of the other persons aforesaid, and not according to the value of his ecclesiastical benefice.

23. Nor shall any vill or man be distrained to make bridges over rivers, except those that were of old legally bound to do so.

24. No sheriff, constable, coroners, or other our bailiffs shall hold the pleas of the crown.

25. All shires, hundreds, wapentakes, and tithings shall be at the old farms, without any increase, except our demesne manors.

26. If any one holding a lay fief of us shall die, and our sheriff or bailiff shall show our letters patent of summons for a debt which the deceased owed to us, our sheriff or bailiff may seize and register the chattels of the deceased found on his lay fee, to the value of that debt, by the view of lawful men, so that nothing be removed therefrom until the clear debt be paid; and the residue shall be left to the executors to carry out the will of the deceased; and if nothing is due to us from him, all his chattels shall remain to the deceased, saving to his wife and children their reasonable shares.

27. If any free man shall die intestate, his chattels shall be distributed by the hands of his near kinsfolk and friends, by view of the church, saving to everyone the debts which the deceased owed to him.

28. No constable or other our bailiff shall take the corn or other chattels of any one, without immediate payment for it, unless the seller allows him a respite.

29. No constable shall distrain any knight to give money for castle-guard, if he wishes to do the service in his own person, or by another suitable man, if for any reasonable cause he cannot do it himself; and if we lead or send him to war, he shall be free of castle-guard for the time during which he has been in the Army because of us.

30. No sheriff or bailiff of ours, or any one else, shall take the horses or carts of any free man for carrying-service against the will of the said free man.

31. Neither we nor our bailiffs shall take another man's timber, for our castles, or other business of ours, except with the consent of the owner thereof.

32. We will only keep the lands of persons found guilty of felony for a year and a day, when they shall be restored to the lords of the fees.

33. All fish-weirs shall henceforth be entirely removed from the Thames and the Medway, and throughout all England, except on the sea coast.

34. The writ called Praecipe shall not in future be issued to anyone concerning any tenement whereby a freeman may lose his court.

35. There shall be one measure of wine throughout our kingdom, and one of ale, and one of corn, namely the London quarter, and one breadth of dyed cloth, russetts, and haberjects, namely, two ells between the selvedges; and with weights it shall be as with measures.

36. Nothing shall in future be given or taken for a writ of inquisition of life or limbs, but it shall be freely granted and not denied.

37. If any one holds of us by fee-farm, or by socage, or by burgage, and holds lands of another by knight's service, we shall not have the wardship of his heir nor of the land which is of another's fee, by reason of that fee-farm, or socage, or burgage; nor shall we have the wardship of that fee-farm, socage, or burgage unless the fee-farm owes knight's service. Nor shall we have the wardship of anyone's heir or land which he holds of another by knight's service, by reason of any petty serjeanty which he holds of us by rendering us knives, arrows or the like.

38. No bailiff shall in future put any one to trial, upon his bare word, without credible witnesses to support it.

39. No free man shall be taken, or imprisoned, or disseised, or outlawed, or exiled, or in any way destroyed, nor will we go upon him, nor will we send against him, except by the lawful judgment of his peers or by the law of the land.

40. To none will we sell, to none will we deny or delay right or justice.

41. All merchants shall be safe and secure to leave, enter, dwell in, and travel through England, as well by land as by water, to buy and to sell, free of all evil tolls, by the ancient and right customs, except in time of war, if they are of the land which is warring against us; and if any such are found in our land at the onset of war, they shall be attached without harm to their bodies or goods, until it shall be known to us or to our chief justiciar, how the merchants of our land are treated, if they are found in the land warring against us; and if ours are safe there, the others shall be safe in our land.

42. It shall be lawful in future for anyone to leave our kingdom, and to return, safe and sound, by land and by water, saving the allegiance due to us, except for a short space in time of war, for the common good of the kingdom, except those imprisoned and outlawed according to the law of the land, and persons from a land hostile to us, and merchants who shall be dealt with as is aforesaid.

43. If anyone holding of some escheat, as of the honour of Wallingford, Nottingham, Boulogne, Lancaster, or of other escheats, which are in our hand and are baronies, shall die, his heir shall not give any relief, nor shall he do service to us other than that which he did to the baron, if that barony was in the hand of a baron; and we shall hold it in the same way as the baron held it.

44. Men dwelling without the forest shall in future not come before our justices of the forest by common summonses, unless they have been impleaded, or are sureties for any person or persons impleaded for forest offences.

45. We will not appoint justices, constables, sheriffs, or bailiffs, except of such as know the law of the kingdom and are of a mind to keep it well.

46. All barons who have founded abbeys, concerning which they have charters of the kings of England, or of which they have ancient tenure, shall have the wardship of them when vacant, as they ought to have.

47. All forests made in our time shall immediately be disafforested; and so shall it be done concerning river-banks which have in our time been made by us into preserves.

48. All evil customs concerning forests and warrens, and foresters, warreners, sheriffs and their servants, river-banks and their wardens, shall be immediately inquired into in each shire by twelve sworn knights of the same shire, who are to be elected by honest men thereof, and within forty days after the making of the inquisition such customs shall be utterly and irrevocably destroyed by them, provided that we, or our justiciar if we are not in England, previously have knowledge of it.

49. We will immediately restore all hostages and charters delivered to us by Englishmen as sureties of peace or loyal service.

50. We will entirely remove from their bailiwicks the relatives of Gerard of Athée, Engelard of Cigogné, Peter, Guy, and Andrew of Chanceaux, Guy of Cigogné, Geoffrey of Martigny and his brothers, Philip Mark and his brothers, and Geoffrey his nephew, and all their followers.

51. And immediately after the restoration of peace we will expel from the kingdom all foreign knights, cross-bowmen, serjeants, and mercenary soldiers, who have come with horses and arms to the damage of the kingdom.

52. If any one has been dispossessed or removed by us without the lawful judgment of his peers, from his lands, chattels, liberties, or rights, we will immediately restore him to them; and if a dispute arises over this, then it shall be settled by the verdict of the twenty-five barons, of whom mention is made below in the clause for securing the peace: but with regard to all those things whereof anyone has been dispossessed or deprived without the lawful judgment of his peers, by King Henry our father or King Richard our brother, and which we have in our hand, or which others hold to whom we are bound to warrant them, we shall have respite until the usual term of crusaders; except those concerning which a plea has been begun or an inquisition taken by our command, before our assumption of the cross: and when we have returned from our pilgrimage, or if by chance we have remained behind from it, we will at once do full justice therein.

53. We shall have, moreover, the same respite, and in the same way, in doing justice in disafforesting or remeasuring the forests, which Henry our father or Richard our brother afforested, and concerning the wardship of lands which are of another's fee, and which we have hitherto held by reason of a fee which someone held of us by knight's service, and concerning abbeys founded on a fee other than our own, in which the lord of the fee claims the right; and when we have returned, or if we remain behind from our pilgrimage, we will do full justice to all who complain of such things.

54. No one shall be taken or imprisoned upon the appeal of a woman for the death of any other than her husband.

55. All fines made with us unjustly and against the law of the land, and all amercements levied unjustly and against the law of the land, shall be entirely pardoned, or else a verdict shall be given by the twenty-five barons, of whom mention is made below in the clause for securing the peace, or by the verdict of the greater part of them, together with the said Stephen, archbishop of Canterbury, if he can be present, and others whom he may wish to summon for this purpose: and if he cannot be present, the business shall nevertheless proceed without him, provided that if any one or more of the said twenty-five barons be concerned in a plaint of this kind, he or they shall be removed for this occasion, and another or others, elected and sworn by the rest of the twenty-five for this time only, shall complete the number.

56. If we have dispossessed or removed Welshmen from lands or liberties or other things, without the lawful judgment of their peers, in England or in Wales, they shall at once be restored to them; and if a dispute arises over this, then it shall be settled in the March by the judgment of their peers, according to the law of England with regard to English tenements, the law of Wales as to Welsh tenements, and the law of the March as to Marcher tenements. Welshmen shall do the same to us and ours.

57. Further, with regard to all those things of which any Welshman has been dispossessed or deprived without the lawful judgment of his peers, by king Henry our father

or king Richard our brother, and which we hold in our hand, or which are held by others to whom we are bound to warrant them, we shall have a respite until the usual term of crusaders, those things excepted concerning which a plea has been begun or an inquisition made by our order before our assumption of the cross: but when we have returned, or if by chance we have remained behind from our pilgrimage, we shall at once do full justice to them therein, according to the laws of the Welsh and the said regions.

58. We will at once restore the son of Llewelyn, and all the hostages from Wales, and the charters which were delivered to us as security for the peace.

59. We will act towards Alexander king of the Scots, with regard to his sisters, and the return of hostages, and his liberties, and his right, in the manner as we shall act to our other barons of England, unless it ought to be otherwise according to the charters which we have from William his father, formerly king of the Scots; and this shall be done by the judgment of his peers in our court.

60. Moreover, all these said customs and liberties which we have granted to be observed in our realm in so far as pertains to us towards our men, as well clerk as lay, they shall themselves observe towards their own men.

61. And whereas we, for the honour of God and the betterment of our realm, and for the better allaying of the quarrel arisen between us and our barons, have granted all these things aforesaid, we, wishing that they be for ever enjoyed wholly and inviolate, establish and grant to them the following security; namely that the barons shall elect any twenty-five barons of the kingdom as they will, and these with all their power shall keep, hold, and cause to be kept, the peace and liberties which we have granted to them, and by this our present charter confirmed to them, provided that if we, or our justiciar, or our bailiffs, or any of our servants, in any way fall away from them, or transgress any of the articels of peace or security, and the offence be shown to four barons of the said twenty-five, those four barons shall come before us or our justiciar if we are out of the kingdom, laying the offence before us, and asking that we cause it to be amended without delay. And if we do not amend it, or, if we are out of the kingdom and our justiciar does not amend it within forty days from the time when it was brought before us or before our justiciar if we should be out of the kingdom, the said four barons shall refer the matter to the rest of the twenty-five barons, who with the commonalty of the whole land shall distrain and grieve us in whatsoever way they can, namely by the seizure of castles, lands, possessions, and in any other way they can, until the reform is made according to their judgment, saving our person and that of our queen and children; and when it is done they shall obey us as before. And whosoever in the land wishes may take oath that he is ready, for the execution of the aforesaid matters, to obey the orders of the said twenty-five barons, and that he and his men will grieve us as best he may, and we publicly and freely allow any one to take oath who so wishes, and to none shall it ever be denied. All those, moreover, in the land who of themselves and of their own accord are unwilling to swear to the twenty-five barons, with regard to distraining and grieving us with them, we shall cause to take oath by our command, as is aforesaid. And if any of the twenty-five barons shall die, or leave the country, or in any other way be prevented from executing the aforesaid, those who remain of the said twenty-five barons shall elect another in his room, at their discretion, and he shall be sworn in like manner as the others. Further, in all things which are referred to the said twenty-five barons to execute, if by chance all the twenty-five are present, and a dispute arises among them about anything, or some of those who are summoned are unwilling or unable to attend, the verdict of the majority of those present shall be regarded as firm and binding, as if all the twenty-five had agreed to it; and the said twenty-five shall swear that they will loyally keep the aforesaid, and cause it to be kept in so far as they can. And we will procure nothing from anyone, by ourselves or through another, by which any of these concessions and liberties might be revoked or diminished; and if any such thing has been procured let it be null and void, and we will never use it personally or by another.

62. And all ill will, wrath, and bitterness, that has arisen between us and our men, clerk and lay, from the time of the dispute, we have fully remitted and pardoned to all. Furthermore, all trespasses made by reason of the said dispute, from Easter in the sixteenth year of our reign until the reestablishment of peace, we have fully remitted to all, clerk and lay, and completely forgiven, as far as in us lies. And further we have caused to be made for them letters patent of witness of the Lord Stephen, archbishop of Canterbury, of the Lord Henry, archibishop of Dublin, and of the said bishops, and of Master Pandulf, concerning this security and the grants aforesaid.

63. Wherefore we wish and firmly enjoin that the English church be free and that the men in our kingdom have and hold all the aforesaid liberties, rights, and grants, well and in peace, freely and quietly, fully and wholly, to them and their heirs, of us and our heirs, in all things and places, forever as is aforesaid. This has been sworn to as well on our part as on the part of the barons, that all the aforesaid shall be kept in good faith and without malice.

Given under our hand, the above named and many others being witnesses, in the meadow which is called Runnymede, between Windsor and Staines, on the fifteenth day of June, in the seventeenth year of our reign.

Mr. BYRD of West Virginia. Mr. President, in 1354, Parliament, by the Statutes of Westminster of the Liberties of London, declared that no man should be put out of land or tenement, nor taken, nor imprisoned, nor disinherited, nor put to death except by due process of law.

These were the concepts of Englishmen regarding property rights—property rights and those of person were placed on a parity.

Mr. President, I ask unanimous consent to have printed in the Record the Petition of Right.

There being no objection, the document was ordered to be printed in the Record, as follows:

[Anno 3° Caroli, I. A.D. 1627]

PETITION OF RIGHT

Statutes made in the Session of Parliament begun to be holden at Westminster, on the seventeenth day of March, in the third year of the reign of K. Charles the First

Ex Rotulo Parliamenti de Anno Regni Regis Caroli, Tertio:

Rotulus parliamenti teni apud Westm Die Lune Decimo septimo Die Marcij Anno Regni Serenissimi Dni nri Caroli Dei Gia Angl Scocie Francie & Hibn Regis Fidei Defensoris &c. tcio

Memorandum qd Dni Spuales & Temporales et ipsi de Domo Coi in hoc [psenti[1]] Parliamento congregati sepius int se consuluerunt de quadam Peticoe de Rco Dno Regi exhibenda, Quequidem Peticio Die Mercurij Vicesimo octavo Die Maij p ipsos Dnos & Comunes dco Dno Regi exhibita fuit, Eedemq Peticoi Dns nr Rex regale suu Responsum in pleno Parliamento dedit Die Sabbi Septimo Die Junij px sequen, Cujus quidem Peticois & Respons Tenor sequit in hec vba: videlt.

CHAPTER I

The Peticion Exhibited to His Majestie by the Lords Spirituall and Temporall and Comons in this psent Parliament assembled concning divers Rights and Liberties of the Subjects: with the King's Majesties Royall Aunswere thereunto in full Parliament.

To the King's most Excellent Majestie:

Humbly shew unto our Soveraigne Lord the King the Lords Spirituall and Temporall and Comons in Parliament assembled, That whereas it is declared and enacted by a Statute made in the tyme of the Raigne of King Edward the first comonly called Statutum de Tallagio non concedendo, That no Tallage or Ayde should be layd or levyed by the King or his Heires in this Realme without the good will and assent of the Archbishopps Bishopps Earles Barons Knights Burgesses and other the Freemen of the Comonaltie of this Realme, And by Authoritie of Parliament holden in the five and twentith yeare of the raigne of King Edward the third, it is declared and enacted, That from thenceforth no pson should be compelled to make any Loanes to the King against his will because such Loanes were against reason and the franchise of the Land, And by other Lawes of this Realme it is pvided, that none should be charged by any charge or Imposicion called a Benevolence nor by such like Charge by which the Statutes before mencioned and other the good Lawes and Statutes of this Realme your Subjects have inherited this Freedome That they should [not[1]] be compelled to contribute to any Taxe Tallage Ayde or other like Charge not sett by comon consent in Parliament.

Yet neverthelesse of late divers Comissions directed to sundry Comissioners in severall Counties with Instruccions have issued, by meanes whereof your people have been in divers places assembled and required to lend certaine somes of mony unto your Majestie, and many of them uppon their refusall soe to doe have had an Oath administered unto them not warrantable by the Lawes or Statutes of this Realme and have been constrayned to become bound to make appearance and give attendance before your Privie Councell and in other places; and others of them have been therefore imprisoned confined and sondry other waies molested and disquieted And divers other charges have been laid and levied upon your people in severall Counties by Lord Lieutenants Deputie Lieutenant Comissioners for Musters Justices of Peace and others by Comaund or Direccion from your Majestie or your Privie Councell against the Lawes and free Customes of the Realme.

And where alsoe by the Statute called The great Charter of the Liberties of England, It is declared and enacted, That no Freeman may be taken or imprisoned or be disseised of his Freehold or Liberties or his free Customes or be outlawed or exiled or in any manner destroyed, but by the lawfull Judgment of his Peeres or by the Law of the Land.

And in the eight and twentith yeere of the raigne of King Edward the third it was declared and enacted by authoritie of Parliament, that no man of what estate or condicion that he be, should be put out of his Land or Tenements nor taken nor imprisoned nor disherited nor put to death without being brought to aunswere by due pcesse of Lawe.

Neverthelesse against the tenor of the said Statutes and other the good Lawes and Statutes of your Realme to that end pvided, divers of your Subjects have of late been imprisoned without any cause shewed: And

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[1] Interlined on the Roll.

> when for their deliverance they were brought before your Justices by your Majesties Writts of Habeas corpus there to undergoe and receive as the Court should order, and their Keepers comaunded to certifie the causes of their detayner, no cause was certified, but that they were deteined by your Majesties special comaund signified by the Lords of your Privie Councell, and yet were returned backe to severall prisons without being charged with any thing to which they might make aunswere according to the Lawe.
>
> And whereas of late great Companies of Souldiers and Marriners have been dispersed into divers Counties of the Realme, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourne against the Lawes and Customes of this Realme and to the great greivance and vexacion of the people.
>
> And whereas alsoe by authoritie of Parliament in the five and twentith yeare of the Raigne of King Edward the third it is declared and enacted that no man should be forejudged of life or limbe against the forme of the Great Charter and the Lawe of the Land, And by the said Great Charter, and other the Lawes and Statutes of this your Realme no man ought to be adjudged to death but by the Lawes established in this your Realme, either by the customes of the same Realme or by Acts of Parliament. And whereas no offendor of what kinde soever is exempted from the pceedings to be used and punishments to be inflicted by the Lawes and Statutes of this your Realme, Neverthelesse of late [tyme [1]] divers Comissions under your Majesties great Seale have issued forth, by which certaine psons have been assigned and appointed Commissioners with power and authoritie to pceed within the land according to the Justice of Martiall Lawe against such Souldiers or Marriners or other dissolute psons joyning with them as should comitt any murther robbery felony mutiny or other outrage or misdemeanor whatsoever, and by such sumary course and order as is agreeable to Martiall Lawe and as is used in Armies in tyme of warr to pceed to the tryall and condemnacion of such offenders, and them to cause to be executed and putt to death according to the Lawe Martiall.
>
> By ptext whereof some of your Majesties Subjects have been by some of the said Comissioners put to death, when and where, if by the Lawes and Statuts of the land they had deserved death, by the same Lawes and Statuts alsoe they might and by no other ought to have byn judged and executed.
>
> And alsoe sundrie greivous offendors by colour thereof clayming an exempcion have escaped the punishment due to them by the Lawes and Statutes of this your Realme, by reason that divers of your Officers and ministers of Justic have unjustlie refused or forborne to pceed against such Offenders according to the same Lawes and Statutes uppon ptence that the said offenders were punishable onelie by Martiall law and by authoritie of such Commissions as aforesaid. Which Commissions and all other of like nature are wholly and directlie contrary to the said Lawes and Statutes of this your Realme.
>
> They doe therefore humblie pray your most Excellent Majestie, that no man hereafter be compelled to make or yeild any Guift Loane Benevolence Taxe or such like Charge without comon consent by Acte of Parliament, And that none be called to make aunswere or take such Oath or to give attendance or be confined or otherwise molested or disquieted concerning the same or for refusall thereof. And that no freeman in any such manner as is before mencioned be imprisoned or deteined. And that your Majestie would be pleased to remove the said Souldiers and Mariners and that your people may not be soe burthened in tyme to come. And that the aforesaid Comissions for pceeding by Martiall Lawe may be revoked and annulled. And that hereafter no Comissions of like nature may issue forth to any pson or psons whatsoever to be executed as aforesaid, lest by colour of them any of your Majesties Subject be destroyed or put to death contrary to the Lawes and Franchise of the Land.
>
> All which they most humblie pray of your most Excellent Majestie as their Right and Liberties according to the Lawes and Statutes of this Realme, And that your Majestie would alsoe vouchsafe to declare that the Award doing and pceeding to the pjudice of your people in any of the pmisses shall not be drawen hereafter into consequence or example. And that your Majestie would be alsoe graciouslie pleased for the further comfort and safetie of your people to declare your Royall will and pleasure, That in the thing aforesaid all your Officers and Ministers shall serve you according to the Lawes and Statutes of this Realme as they tender the Honor of your Majestie and the prosperitie of this Kingdome.
>
> Qua quidem Peticoe lca & plenius intellca p dcm Dnm Regem talit est responsum in pleno Parliamento videlt.
>
> R. Soit droit fait come est desire.

Mr. BYRD of West Virginia. Mr. President, the early history of American constitutional development was greatly influenced by English precedent. The Magna Carta was looked upon by the colonists, the majority of whom came from England, as a generic term for constitutional documents.

The Virginia Charter of 1606 provided that the rights of Englishmen were to be those of the American colonists.

The Charter of Masachusetts Bay and that of Maryland provided likewise.

Protection of life, liberty, and estate was provided in the first section of the Massachusetts Body of Liberties. Expressed in the words of the year 1641:

> No mans goods or estate shall be taken away from him, nor any way indamaged under coulor of law or Countenance of Authoritie, unless it be by vertue or equitie of some expresse law of the Country waranting the same, established by a generall Court and sufficiently published.

Reliance upon the English history was apparent in the verbiage used by the First Continental Congress in article I, declarations and resolves:

> That the inhabitants of the English colonies in North America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts, have the following rights: Resolved, NC. D. 1. That they are entitled to life, liberty and poverty: and they have never ceded to any foreign power whatever, a right to dispose of either without their consent.

The first constitution of Pennsylvania, following in the wake of the Declaration of Independence, provided:

> That every member of society hath a right to be protected in the enjoyment of life, liberty and property * * *. But no part of a man's property can be justly taken from him, or applied to public uses, without his own consent.

Similar provisions are to be found in the early constitutions of Delaware, Maryland, Massachusetts, North Carolina, Vermont, and New Hampshire.

Thus, by the time the U.S. Constitution had been adopted in 1789, a fundamental principle of law, as recognized for over 5½ centuries by the English speaking people who colonized this country, freed it from the rule of the British king and established governments for their own security and protection, had been firmly established. Life, liberty and property had been equally entitled to the protection of the English sovereign since King John attached his signature to the great charter "in the meadow which is called Runnymede, between Windsor and Staines, on the 15th day of June, in the 17th year of our reign," and life, liberty, and property were, by the constitutions of the recently established governments equally entitled to the protection of those governments. Man's life and his liberty could only be taken, if the public good demanded it, after trial by jury. Likewise, a man could be shorn of his property or his property rights only after proper trial and just compensation. These three cardinal rights were coequal and not one was subordinate to another.

Our constitutional forebears had great respect for property and the rights of property owners, and the Constitution is replete with provisions securing the rights which attach to property. The same can be said with regard to the Bill of Rights, and in these first 10 amendments we find again that our forebears sought to protect not only personal rights, but property rights as well. The Constitution protected the personal property of authors and inventors, in section 8, article I, "by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." The right to acquire additional property in slaves was protected for a limited period by section 9:

> The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding $10 for each person.

And in article IV, it was provided that no amendment could be offered to the Constitution prior to the year 1808, which would in any manner affect the first and fourth clauses in article I, section 9, dealing with slave properties. The second amendment to the Constitution secures the right of the people "to keep and bear arms"—a type of private property.

Amendment III protected an owner's house against use by soldiers in time of peace without the owner's consent and in time of war unless prescribed by law:

> No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV secured the personal and real properties of people against unreasonable searches and seizures:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized

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[1] Interlined on the Roll.

The fifth amendment protected persons against deprivation of life, liberty, or property without "due process of law," and it went on to prohibit the taking of "private property" for public use without just compensation.

The seventh amendment protected the right of trial by jury in cases involving property of which "the value in controversy shall exceed $20," just as the sixth amendment protects the right of trial by jury in cases involving life or liberty.

In the 14th amendment, insofar as the supreme law of the land, as written, was concerned, property rights were on a parity with personal rights. Property rights as well as personal rights were protected by due process. Unlawful seizure of either property or person was prohibited. Litigants over property were entitled to trial by jury as when the life or liberty of the litigants was involved.

What is "property"?

> In its strictest legal sense, "property" signifies that dominion or indefinite right of user, control and disposition which one may lawfully exercise over particular things or objects. As so used, the word signifies the sum of all the rights and powers incident to ownership.
>
> So defined, property is composed of certain constituent elements, to wit, the unrestricted right of use, enjoyment, and disposal of the particular subject of property. Owners of real estate have the right under the Constitution to use, lease and dispose of it for lawful purposes. The right of free and untrammeled use for legitimate purposes is fundamental and within the protection of the Federal Constitution. Whatever physical interference annuls this right takes "property." The right or element of user necessarily includes the right and power of excluding others from using the subject of property. (See Bloch, *"Property Rights—Are There Any?"* 42 N.C. L. Rev. 137, 140 (1963).)

The Founding Fathers knew that if personal rights were long to be enjoyed it was necessary that property rights be protected by law. This principle is well established by the court in *Vanhorne* v. *Dorrance*, 2 Dall. 304, 310 (1795). American Juris., section 335, quotes from the holding in that case:

> The right of property is a fundamental, natural, inherent, and inalienable right. It is not ex gratia from the legislature, but ex debito from the Constitution. In fact, it does not owe its origin to the Constitutions which protect it, for it existed before them. It is sometimes characterized judicially as a sacred right, the protection of which is one of the most important objects of government. The right of property is very broad and embraces practically all incidents which property may manifest. Within this right are included the right to acquire, hold, enjoy, possess, use, manage, insure, and improve property.

The Supreme Court also in that case declared:

> From these passages it is evident; that the right of acquiring and possessing property, and having it protected, is one of the natural, inherent, and inalienable rights of man. Men have a sense of property: Property is necessary to their subsistence, and correspondent to their natural wants and desires; its security was one of the objects that induced them to unite in society. No man would become a member of a community, in which he could not enjoy the fruits of his honest labor and industry. The preservation of property then is a primary object of the social compact.

That the right of the individual to own and use private property is a cardinal tenet of the American Constitution and jurisprudential heritage, was evidenced again in the formative stage of our Nation when, 3 years after Vanhorne against Dorrance, Justice Chase declared, in the case of *Calder* v. *Bull*, 3 Dall., 386, 388 (1798):

> There are certain vital principles in our free Republican governments, which will determine and overrule an apparent and flagrant abuse of legislative power; as to authorize manifest injustice by positive law; or to take away that security for personal liberty, or private property, for the protection whereof the Government was established * * *. The Legislature * * * cannot violate * * * the right of private property.

These citations, which I have given, are of importance as we view title II, the so-called public accommodations title of the civil rights bill, and as we approach a decision on cloture and, if cloture should be invoked, as we approach a decision on that title.

I submit that title II violates the constitutional right of the owner to use, manage, and control his property as he sees fit. I feel that the decisions which I have enumerated support my contention. They certainly highlight the importance of private property and the revered place which it has held in the opinions of our great jurists throughout the years of this Republic.

Many authorities maintain that the framers of the Constitution were striving primarily in the formation and adoption of the Constitution to safeguard property interests. Such a thesis is well documented by Charles A. Beard in "An Economic Interpretation of the Constitution of the United States." See Philbrick, "Changing Conceptions of Property in Law," 86 University of Pennsylvania Law Review, 691, 723 (1938).

As I have already indicated, property rights are proclaimed, by some, to be among the natural rights of man. Blackstone wrote:

> The third absolute right, inherent in every Englishman, is that of property; which consists in the free use, enjoyment, and disposal of all his acquisitions, without any control or diminution, save only by the laws of the land.

The recognition of the right of private property is said to distinguish the civilized from the primitive man:

> To suppose a state of man prior to the existence of any notions of separate property, when all things were common, and when men, through the world, lived without law or government, in innocence and simplicity, is a mere dream of the imagination. The sense of property is inherent in the human breast, and the general enlargement and cultivation of that sense, from its feeble force in the savage state to its full vigor and maturity among civilized nations, forms a very instructive portion of the history of civil society and government, and the acquisition and enjoyment of property. It is, to speak correctly, the law of his nature; and by obedience to the law, he brings all his faculties into exercise, and is enabled to display the various and exalted powers of the human mind. (Kent, 2 Commentaries, Lect. XXXIV.)

Indeed, Blackstone, in book II, chapter 1, ascribes a Biblical sanction to the concept of individual property (2 Blackstone 6).

Of course, the law balances the right of the individual to the free and untrammeled use of his property against the interests of society. This is why the doctrine of nuisances evolved. A man is free to use his property as he desires only to the extent that he does not injure others in doing so.

The power of the Government to tax property or the profits thereof is itself a recognition of the right of the Government to limit the profits of property for public purposes.

The concept of eminent domain should also be mentioned here. This doctrine of the right of the sovereign to take the property of an individual was recognized by the courts subject to two stringent restrictions. The taking must be for a public use, and the owner must be paid just compensation.

Blackstone expresses well this inherent limitation on private property:

> So great moreover is the regard of the law for private property, that it will not authorize the least violation of it; no, not even for the general good of the whole community. If a new road, for instance, were to be made through the grounds of a private person, it might perhaps be extensively beneficial to the public; but the law permits no man, or set of men to do this without consent of the owner of the land. In vain may it be urged, that the good of the individual ought to yield to that of the community; for it would be dangerous to allow any private man, or even any public tribunal, to be the judge of this common good, and to decide whether it be expedient or not. Besides the public good is in nothing more essentially interested, than in the protection of every individual's private rights, as modeled by the municipal law. In this and similar cases the legislature alone can, and indeed frequently does interpose, and compel the individual to acquiesce. But how does it interpose and compel? Not by absolutely stripping the subject of his property in an arbitrary manner; but by giving him a full indemnification and equivalent for the injury thereby sustained. The public is now considered as an individual, treating with an individual for an exchange. All that the legislature does is to oblige the owner to alienate his possessions for a reasonable price; and even this is an exertion of power, which the legislature indulges with caution, and which nothing but the legislature can perform. (1 Blackstone 139.)

It can be seen, therefore, that the right of property is not an absolute right, just as the freedoms of speech and assembly are not absolute freedoms. The right of property is indeed one of the most sacred of our rights, but it is and always has been subject to certain restrictions.

The words of the court in *Loan Association* v. *Topeka* (20 Wall. 665, 662–663(1875)) are relevant here:

> It must be conceded that there are such rights in every free government beyond the control of the State. A government which recognized no such rights, which held the lives, the liberty, and the property of its citizens subject at all times to the absolute disposition and unlimited control of even the most democratic depository of power, is after all but a despotism. It is true it is a despotism of the many, of the majority, if

> you choose to call it so, but it is none the less a despotism.
>
> * * * * *
>
> There are limitations on such power which grow out of the essential nature of all free governments. Implied reservations of individual rights, without which the social compact could not exist.

A great part of our legal and political history is the story of the shifting of the balance between the broader demands and interests of the community on the one hand, and the individual rights and privileges of private property on the other. The development of American jurisprudence may be said to reflect and indeed to represent, the struggle between these two aspects of private property, "the individual side and the social side."

The early ascendency of the individual side has, in many respects, yielded to the claims of the social side. Two eminent authorities on property law, Profs. James Casner and W. Barton Leach, suggest that the Founding Fathers would be astounded at the restrictions that have been made upon the right of property and in the use and enjoyment by the owner as he sees fit. Their comments are worthy of note:

> We, in the United States, have always prided ourselves on our system of private property. Frequently we boast that in our country a man is free to do what he pleases with what he owns. Anyone who stops to think for a minute, however, realizes that our system of private property is not what it used to be and that a man's freedom to do what he wants with what he owns has changed from time to time.
>
> Inroads which have been made on the freedom of owners of private property and which are now accepted as commonplace would have been unthinkable to our grandfathers, and it is within the realm of possibility that inroads which are unthinkable to us now may be commonplace to our grandchildren. Time will tell. (Cassner & Leach, "Cases and Text on Property," 985 (1959).)

This expansion of the power of the government with respect to property has taken place under the police powers of the State government and, for the most part, the commerce power of the Federal Government.

It has been said that property is a bundle of rights. Under this definition, the owner of property is conceived of as drawing unto himself the whole bundle of interests, the aggregate of rights, privileges, powers, and immunities, in regard to the "thing" which he calls his property. But this property, this bundle of rights, is meaningless except insofar as the owner, the possessor thereof, is protected by the law in the exercise of these rights.

Further, the fundamental characteristic of property is the right to exclude others. Of this Blackstone wrote:

> There is nothing which so generally strikes the imagination, and engages the affections of mankind, as the right of property; or that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe. (Blackstone, 2 Commentaries, sec. 2.)

Mr. President, I believe that Blackstone's statement is pertinent with reference to title II, the public accommodations title, of the civil rights bill. In my judgment, it is the right of the individual property owner, whether he be white or nonwhite, to exclude other persons who may wish to come upon that property or who may wish to have him serve them. I believe he has this constitutional right. In my opinion, the passage of title II would violate that constitutional right of the owner of the property which is being used by the owner as an inn, motel, hotel, restaurant, or other so-called place of public accommodation.

A contemporary writer has denoted the right to exclude others as the essence of property. Morris R. Cohen, "Property and Sovereignty," 13 Corn. L. Rev. 8, 12 (1927).

In *Munn* v. *Illinois*, 94 U.S. 113, 141 (1877), Justice Field, dissenting, eloquently stated another basic attribute of property:

> All that is beneficial in property arises from its use, and the fruits of that use; and whatever deprives a person of them deprives him of all that is desirable or valuable in the title and possession.

Again, the actual value of these attributes of property, and therefore of property itself, is determinable only in proportion to their judicial recognition and their legal enforcibility. Property then is the bundle of rights which the law accords to the owner.

As Justice Holmes states in *White-Smith Music Publishing Company* v. *Apollo Company*, 209 U.S. 1, at 19:

> The motion of property starts, I suppose, from confirmed possession of a tangible object, and consists in the right to exclude others from interference with the more or less free doing with it as one wills.

As was stated by McLean in *West River Bridge* v. *Dix*, 6 Howard (47 U.S.) 507, at 538:

> All property not public is private.

As Cardoza said in *Henneford* v. *Silas Mason Company*, 300 U.S. 577, at 582:

> The privilege of use is only one attribute, among many, of the bundle of privileges that make up property or ownership.

As was stated by McKenna in *United States* v. *Ohio Oil Company*, 234 U.S. 548, at 571:

> The conception of property is exclusiveness, the rights of exclusive possession, enjoyment, and disposition. Take away these rights and you take all that there is of property. Take away any of them, force a participation in any of them, and you take property to that extent.

As was stated by Moody in *Mayor of Knoxville* v. *Knoxville Water Company*, 212 U.S. 1, at 18:

> Our social system rests largely upon the sanctity of private property; and that State or community which seeks to invade it will soon discover the error in the disaster which follows.

Whenever the law in the course of its development changes so that the owner of property is limited anew in respect to the dominion and control of his property, he has lost one of the rights from his bundle. He has lost some of his property. Thus when the Government rules that businesses affected with a public interest are subject to certain regulations, the property of the owners of such businesses has been correspondingly diminished (*Munn* v. *Illinois*, 94 U.S. 113, (1877)).

In *Nebbia* v. *New York*, 291 U.S. 502, 523 (1934), the case where this monumental step was taken, the Court declared:

> Under our form of government the use of property and the making of contracts are normally matters of private and not of public concern. The general rule is that both shall be free of governmental interference. But neither property rights nor contract rights are absolute; for government cannot exist if the citizen may at will use his property to the detriment of his fellows, or exercise his freedom of contract to work them harm. Equally fundamental with the private right is that of the public to regulate it in the common interest.

Similarly, when the law, though recognizing the power of the owner of property to make certain stipulations respecting the use of his property, refuses to give legal redress for the violation of contracts or covenants made in regard to the property, the owner's property is pro tanto decreased—see *Shelley* v. *Kraemer*, 334 U.S. 1 (1948).

The Constitution as originally framed recognized a virtually unlimited right of private property subject only to the traditional restrictions of the common law.

Even property in human beings was protected therein. The absolutists concept of property prevailing in the 19th century held private property inviolable against almost all restrictions by the legislature, even many which might have been justified on the ground of public interest and social welfare. This resulted in the turn of the century emphasis upon the substantive aspects of due process as a limitation upon the remedial social legislation enacted by the States to alleviate problems arising in the wake of industrial expansion.

Today zoning laws, licensing laws, and numerous trade and business regulations give evidence of the modern understanding of property as requiring a balancing in favor of the social side. (Ely, cited supra at 12.) Of this development, Morris R. Cohen, in his essay on "Property and Sovereignty," supra at 22, writes:

> Our students of property law need, therefore, to be reminded that not only has the whole law since the industrial revolution shown a steady growth in ever new restrictions upon the use of private property, but that the ideal of absolute laissez faire has never in fact been completely operative.

It is commonly accepted doctrine today that "There must be restrictions on the use of property not only in the interests of other property owners—referring to the law of nuisance—but also in the interests of the health, safety, religion, morals, and general welfare of the whole community," Cohen, cited supra.

The extension of, not the existence of, restrictions on private property is the crucial matter. As Professor Philbrick declared "ownership today is vastly different from the cominium of the Roman law—Philbrick, cited supra. In a manner of speaking, the test of the validity of legislation has become the greatest good for the group. The comments of

Professors Casner and Leach, who while endorsing this as a valid test to apply as "our society develops and changes," strike a warning note:

> One thing to keep uppermost in your mind when traveling down this road of curtailing a man's freedom of action is the basic belief that the greatest good for the greatest number comes from making men free and while some regulation is justified because it enables men to enjoy their freedom, too much regulation may destroy the freedom entirely. Keeping the proper balance in this regard should guide the development of law. (Casner and Leach, supra at 985.)

Today "the position of property in constitutional law is somewhat anomalous. The coming of industrialism has made of liberty and of property convenient names for changeable bundles of specific equities"—Hamilton, "Property—According to Locke," 41 Yale Law Journal 864 (1932). Yet with all these analyses as to the present fluidity of the rights of the individual in his private property, it is still true that the right to own, use, and enjoy private property is one of the most cherished tenets of American constitutional law. The recent decision of the Supreme Court in *Griggs* v. *Allegheny County,* 369 U.S. 84 (1962) attests the continued vitality of this. It is only on a showing first of overriding public interest and second of full compliance with due process that the Court will recognize the power of the legislature to make inroads upon one of the basic principles of Anglo-American jurisprudence, the right of the individual to own, use, and enjoy his property as he sees fit. The words of Justice Story in *Wilkinson* v. *Leland,* 2 Pet. 627, 657 (1829) are apropos:

> The fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred. At least, no court of justice in this country would be warranted in assuming, that the power to violate and disregard them—a power so repugnant to the common principles of justice and civil liberty—lurked under any general grant of legislative authority, * * * a different doctrine is utterly inconsistent with the great and fundamental principles of a republican government, and with the right of the citizens to free enjoyment of their property lawfully acquired.

The right of a property owner voluntarily to operate his legitimate business in accordance with his own good judgment, wishes, and desires and in accordance with the traditions and habits of the community, is a right of property. There is nothing in the 14th amendment which deprives the owner of that right. The Court has not yet struck down the long established rule that the 14th amendment reaches only State action. Mr. Justice Harlan alluded to this fact in his concurring and dissenting opinions in *Peterson* v. *City of Greenville,* 373 U.S. 244, 249 (1963). Said he:

> And it (the Court) does not suggest that such action, denying equal protection, may be found in the mere enforcement of trespass laws in relation to private business establishments from which the management, of its own free will, has chosen to exclude persons of Negro race. Judicial enforcement is of course State action, but this is not the end of the inquiry. The ultimate substantive question is whether there has been State action of a particular character * * * whether the character of the State's involvement in an arbitrary discrimination is such that it should be held responsible for the discrimination.
>
> This limitation on the scope of the prohibitions of the 14th amendment serves several vital functions in our system. Underlying the cases involving an alleged denial of equal protection by ostensibly private action is a clash of competing constitutional claims of a higher order: liberty and equality. Freedom of the individual to choose his associates or his neighbors, to use and dispose of his property as he sees fit, to be irrational, arbitrary, capricious, even unjust in his personal relations are things all entitled to a large measure of protection from governmental interference. This liberty would be overridden, in the name of equality, if the strictures of the amendment were applied to governmental and private action without distinction. Also inherent in the concept of State action are values of federalism, a recognition that there are areas of private rights upon which Federal power should not lay a heavy hand and which should properly be left to the more precise instruments of local authority.

In the area of sit-ins, wade-ins, pray-ins, chain-ins, and other like trespasses, there is hope for property rights if the caveat of Mr. Justice Harlan is heeded.

The events of the past 30 years in the area of property rights are worth noting with concern when one considers the legal definition of communism stated in *U.S.* v. *Hautau,* 43 F. Supp. 507, 509 (D.C.N.J. 1942):

> Communism (is defined as) * * * a system of social organization in which goods are held in common; the opposite of the system of private property * * * communalism * * *. Any theory or system of social organization involving common ownership of the agents of production, and some approach to equal distribution of the product of industry * * *. A theory of government and social order according to which property and the instruments of production are held as a common trust and the profits arising from all labor devoted to the general good: "The theory which teaches that the labor and the income of society should be distributed equally among all its members by some constituted authority." * * * A doctrine or practice calling for the complete abolition of all private property of every xx description, and the absolute control by the community in all matters pertaining to labor, religion, social relations, etc.

Those who look upon property rights with cynicism might bear in mind the words of Abraham Lincoln:

> Property is the fruit of labor; property is desirable; it is a positive good in the world. That some should be rich shows that others may become rich, and hence is just encouragement to industry and enterprise. Let not him who is houseless pull down the house of another, but let him work diligently, and build one for himself, thus by example assuring that his own shall be safe from violence when built.

TITLE II—PUBLIC ACCOMMODATIONS

Now let us study the provisions of title II, the so-called public accommodations title.

Section 201(a) of title II of the Federal proposal makes an affirmative statement that:

> All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the grounds of race, color, religion or national origin.

Section 201(b) then proceeds to identify those establishments which are included in the term "public accommodations." Subsection (b) of section 201 states that:

> Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action:
>
> (1) Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;
>
> (2) Any restaurant, cafeteria, lunch room, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;
>
> (3) Any motion picture house, theater, concert hall, sport arena, stadium or other place of exhibition or entertainment; and
>
> (4) Any establishment (A) which is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

Subsection (c) then attempts to define operations which affect commerce within the meaning of title II. Subsection (c) of section 201 is as follows:

> The operations of an establishment affect commerce within the meaning of this title if (1) it is one of the establishments described in paragraph (1) of subsection (b); (2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b), it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph (4) of subsection (b), it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

It is interesting to note that subsection (b) stated that "each of the following establishments which serve the public is a place of accommodation within the meaning of this title if its operations affect commerce" and then goes on to enumerate certain establishments in paragraph (1):

> (1) Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which

is actually occupied by the proprietor of such establishment as his residence;

Subsection (c) then arbitrarily defines the operations of an establishment as operations which "affect commerce" if the establishment "is one of the establishments described in paragraph (1) of subsection (b)." In other words, the bill in one paragraph states that certain establishments are places of public accommodation if they "affect commerce" and enumerates those establishments. The bill then proceeds in another paragraph to state that establishments "affect commerce" if they are named in the first paragraph.

Subsection (c) then proceeds to identify the establishments enumerated in paragraph (2) of subsection (b) as establishments which "affect commerce" if such establishment "serves or offers to serve interstate travelers" or "if a substantial portion of the food which it serves, or gasoline or other products which it sells has moved in commerce. In other words, a hydra-headed approach is utilized here. The restaurant, cafeteria, lunch room, soda fountain, or other facility principally engaged in selling food for consumption on the premises will "affect commerce" if it serves interstate travelers or if a substantial portion of the food which it serves has moved in commerce or if "other products" which it sells have moved in "commerce." What is the definition of "offers to serve" interstate travelers? What is the definition of the word "substantial"? What portion of the food "or other products" served or sold would constitute a "substantial" portion of the overall food or products served or sold? Who would determine what is a "substantial" portion of the food served? Who would determine what is a "substantial" portion of the "other products" sold? No standard is set forth in the bill's language. How would the proprietor of a restaurant, cafeteria, lunch room, soda fountain or other facility enumerated in paragraph (2) of subsection (b) of section 201, the public accommodations section, know whether or not he came within the purview of the bill when there is no standard, no guidelines, provided which would aid him in determining whether or not a "substantial" portion of the food served or other products sold have moved in commerce? How is he to determine whether or not the food and/or other products have moved in interstate or in intrastate commerce? Is a "substantial portion" to be 51 percent of the whole, is it to be 49 percent, is it to be 75 percent, or is it to be 25 percent? What is a "substantial portion"?

What is meant by "transient guests" in paragraph (1), subsection (b), section 201, of title II? When do transient guests "affect commerce"? Is the word "commerce" all inclusive of both interstate and intrastate commerce? A reference is made to "interstate travelers" in subsection (c), but the words "interstate travelers" are used there for application only to paragraph (2) of subsection (b). The omission of any reference to the word "interstate" in paragraph (1) of subsection (b) may be taken to imply that the transient guests need not be traveling to and from points in different States, but that they may very well be traveling to and from localities within the same State. When is the motelkeeper to know whether or not his guest, who is naturally a transient guest, is one who comes within the purview of the title? Is a guest who has traveled from point A to the motel at point B, a distance of 25 miles, both points being within the same State, a "transient guest"? Obviously, there is no interstate travel involved here. Obviously, paragraph (1) of subsection (b) when combined with the first clause of subsection (c), will have the effect of forcing inns, motels, and other establishments which provide lodging to open their doors to all guests, whether or not they travel in interstate commerce. There is indubitably a serious constitutional question involved here, as the basis for Federal action with respect to the aforementioned establishments rests on the power of Congress to regulate commerce among the several States.

Subsection (c) proceeds to state that any motion picture house, theater, concert hall, sports arena, stadium, or any other place of exhibition or entertainment will be understood to "affect commerce" if "it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce." What is meant by the word "customarily"? There is no definition of the word set forth in the language of the title. There is no standard or guideline.

Subsection (c) becomes even more ambiguous in its vague definition of what operations will "affect commerce" when those operations are conducted by establishments set forth in paragraph (4) of subsection (b).

Subsection (c) provides, with reference to establishments in paragraph (4) of subsection (b), that their operations "affect commerce" if (1) they are physically located within the premises of an establishment, the operations of which affect commerce "within the meaning of this subsection," or (2) there are physically located within their premises establishments the operations of which affect commerce "within the meaning of this subsection." This is a masterpiece of gobbledygook. To what subsection is reference being made? To subsection (b) or to subsection (c)? Subsection (c) of section 201(a) then proceeds to define commerce by stating that "for purposes of this section, 'commerce' means travel, trade, traffic, commerce, transportation or communication among the several States." What is meant by the word "section"? If it is meant to refer to section 201, why was it buried in subsection (c)? The preceding section in section (c) referred to establishments the operations of which affect "commerce within the meaning of this subsection." At the beginning of subsection (c) reference is made to the operations of establishments which "affect commerce within the meaning of this title." How is any owner of a business establishment to know whether the operations of his establishment come within the purview of the word "commerce" when its definition is applied to the "title" in one sentence, "this subsection" in another sentence, and "this section" in a third sentence, all three of which sentences are in the same subsection (c)? How is a court to construe the term as it is used here?

Madam President, these are but a few of the many questions which will occur in the attempted administration and enforcement of this bill if it every becomes law as now written.

Madam President (Mrs. NEUBERGER in the chair), it will become law, if cloture is invoked today. Those of us who oppose this title simply do not have the votes with which to strike it out, or to ameliorate its strictures, so our only hope is that cloture will not be invoked until the people at the grassroots can become more aware of the shortcomings of the bill.

No lawyer would have any difficulty in asking hundreds of questions as to the extent, portent, and meaning of words, terms, and phrases in this 55-page bill. Obviously, the bill needs to be amended in many ways, if only for the purpose of clarification and to prevent certain provisions from being determined void for vagueness. But the Senate floor is not a proper forum in which to do the kind of meticulous, painstaking, careful, and thorough work which is needed in order to remove from this measure the boobytraps and the pitfalls therein. It should have been sent to the Judiciary Committee—a committee composed wholly of lawyers—for their careful scrutiny. It could have been sent to a specially chosen committee for careful study, but the wrong fork was chosen at the crossroads several days ago when the Senate refused to follow normal procedures and send this bill to a committee.

Section 201(d) precludes racial discrimination or segregation among the same type of establishments as have already been mentioned if such discrimination or segregation is carried on "under color of any law, statute, ordinance or regulation" or if such discrimination or segregation is carried on "under color of any custom or usage required or enforced" by officials of the State or political subdivision thereof. Again, I feel that the language is vulnerable because of vagueness and ambiguousness. What is meant by discrimination? It is mentioned at least six times in this one title, and the word is used 31 times in the entire bill, and not once is there any attempt to define the word. Moreover, with reference to section 201(d), what is meant by the words "under color or any custom or usage?" Does this mean that if an individual proprietor, for reasons of business, prejudice, or anything else, should wish to discriminate between or segregate the races in his business establishment, and if the officials of the State or any political subdivision thereof should be called upon to enforce the proprietor's requirements of segregation or to make arrests of trespassers on the proprietor's property, this enforcement by officials would constitute "State action" within the meaning of this title?

Section 201(e) provides that the title shall not apply to a bona fide club or other establishment not open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

Every form of public accommodation, whether covered under section 201 or not, is prohibited under section 202 from discrimination or segregation if the denial of services is required by State or local law. The basis for Federal action with respect to the last mentioned establishments rests on the power of Congress to enforce the prohibitions of the 14th amendment—denials of equal protection of the laws—by appropriate legislation. The section states that all persons shall be entitled to be free "at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule or order, of a State or any agency or political subdivision thereof.

What is meant by "any establishment or place" is far from clear. Would cemeteries come within the purview of this language? Would funeral homes be included? Would churches be embraced therein? These questions remain unanswered in any reading of the bill.

Section 203 provides that:

> No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 201 or 202, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 201 or 202.

This section lays the foundation for civil actions for preventive relief.

Section 204(a) is as follows:

> Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted (1) by the person aggrieved, or (2) by the Attorney General for or in the name of the United States if he satisfies himself that the purposes of this title will be materially furthered by the filing of an action.

This section provides that a civil action may be instituted by the aggrieved person or by the Attorney General of the United States whenever any person has engaged in, or there are reasonable grounds that a person is about to engage in, any act or practice which would withhold, deny, attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 201 or 202, or who would intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce with the purpose of interfering with any person's rights or privileges secured by section 201 or 202, or who would punish or attempt to punish any individual for exercising or attempting to exercise any right or privilege secured by section 201 or 202. Note that the civil action may be instituted by the Attorney General if he satisfies himself that the purposes of the title will be materially furthered by the filing of an action. Note that the Attorney General only needs to "satisfy himself" that the purposes of the title will be "materially furthered" by the filing of an action. What are the "purposes" of this title? I find no statement of purposes as such. Shall the purposes be whatever the Attorney General may determine or interpret them to be? And would these purposes vary from one Attorney General to another Attorney General, depending upon the individual and the political faith to which he ascribes? Is there to be no standard by which an Attorney General shall be guided in instituting an action under this section other than that he "satisfies himself" that the "purposes" will be materially furthered? What would satisfy one Attorney General might not satisfy another Attorney General. Is the administration of this very controversial title to be left to the whims, caprices, and vagaries of a public official who is not elected to office by the people of the United States?

I make no personal reference to the present Attorney General when I ask these questions. But regardless of who the Attorney General may be, I feel that this is entirely too much discretionary power to be placed in the hands of an appointive official. I believe that the Congress would be recreant in its duty and lax in its responsibilities were it to provide the opportunity for such an arbitrary use of power to the chief law enforcement officer of this country.

Section 204(b) provides that the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the cost in any action commenced pursuant to title II. The United States shall be liable for costs the same as a private person. There is no estimate of the costs to the Federal Government of administering this title, but it can be readily assumed that the civil courts of the country will be deluged with suits instituted by persons claiming to be aggrieved and by the Attorney General for or in the name of the United States. Just what this will do to already heavily crowded court dockets throughout the Nation apparently remains to be fully understood. Moreover, the defendants in these cases will be fighting the might and power of the Attorney General backed up by the Federal Treasury. The tax dollars of the defendants will be used against them. A special category of persons, perhaps such as welfare recipients, would be unable to finance court suits upon being "aggrieved," the result being that the Attorney General would likely "satisfy himself" that the purposes of the title would be materially furthered by filing the action. Additionally, I can see the attorneys having a field day if, indeed, there are enough attorneys to handle the multitudinous suits which will mushroom like the prophet's gourd overnight. This is a lawyers' bill if there ever was such. As I have reportedly said, the only catch to it is that the bill has never been referred to a committee of lawyers in the Senate for careful scrutiny and exploration.

Section 204(c) provides that, in case of any complaint received by the Attorney General alleging a violation or threatened violation of any provision of this title, that officer shall notify the appropriate State or local officials "and, upon request," afford them a reasonable time to act under such State or local laws or regulations before he institutes an action. Note that State or local officials are to be afforded a reasonable time to act before the institution of an action by the Attorney General only "upon request." Again, there is no standard given as to what may constitute a "reasonable" time under which State or local officials may act to proceed under State or local laws or regulations governing public accommodations. Presumably, it would be left to the whims and caprices of the Attorney General, an officer not elected by the people, to determine what might be a "reasonable" period of time. A reasonable time would, therefore, vary from one instance to another, and, in some instances, could vary according to the temperament, whims, fancies, and prejudices of the Attorney General. This is just another instance, Madam President, whereby the Attorney General of the United States will have placed into his hands virtually unlimited power and discretion, with no standards or guidelines or limitations set forth in the congressional act.

Section 204(d) provides that in the case of any complaint received by the Attorney General alleging a violation or threatened violation of the provisions of title II, he may, before instituting an action, utilize the services of any Federal, State or local agency or instrumentality which may be available to attempt to secure compliance with the title's provisions by voluntary procedures. Note that the Attorney General "may" utilize the services of such State or local agencies. The language does not say that he "shall" utilize such services before proceeding to institute an action in the courts. Again, the matter is left to his own discretion. In some States or localities, a capricious Attorney General might utilize the services of local agencies whereas under the same circumstances, in another State, the Attorney General's prejudices, and as I have already indicated, all human beings have prejudices of one kind or another, may elect to institute an action without resorting to the use of the services of State or local agencies.

In other words, the rights of the States and local communities to act without Federal intervention may or may not be observed, depending not alone upon the circumstances, but also upon the prejudices and attitudes of an Attorney General and his staff, and also upon political considerations which may be involved from case to case, from locality to locality, from State to State, from town to town, and from time to time.

Section 204(e) provides that compliance with the provisions of subsection (c) shall not be required if the Attorney General files with the court a certificate that the delay consequent upon the compliance with such provisions in the particular case would adversely affect the interests of the United States or that in the particular case compliance with such provisions would prove ineffective. Here again, the Attorney General has the last word. It is not required that he give any reasons for his feeling that the delay would adversely affect the interest of the United States. He is not required to give any reasons as to why compliance with the provisions of subsection (c) would prove ineffective. It is simply provided that compliance with the provisions of subsection (c) shall not be required of the Attorney General if he files with the court a certificate stating that the delay would adversely affect the interests of the United States or that compliance would prove ineffective.

Section 205(a) provides that the United States district courts shall have jurisdiction of proceedings instituted pursuant to the public accommodations title and "shall" exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law. In other words, the usual procedure of exhausting any administrative or other remedies prior to the institution of court action is to be put aside. Proceedings in this type of case will be under the immediate jurisdiction of the United States district courts. This will further disadvantage other types of civil cases awaiting action by the district courts.

Section 205(b) preserves rights and remedies by other Federal or State laws, including statutes and ordinances, inconsistent with the public accommodations title.

Title II would constitute an invasion of the property rights of owners of privately owned business establishments. There are those who argue that "human rights" are superior to "property rights." However, I have taken several hours to trace the history of the various theories of private property. I have taken several hours to present for the RECORD a historical analysis of property rights. I have tried to show that great men throughout the centuries have viewed property rights as constituting a very basic human right. I have endeavored to show that this feeling has existed not only in our own country but also in the mother country, and in France and in other European nations. I have shown that life, liberty, and property have been entitled to the protection of the sovereign since King John, at the point of the sword, attached his signature to the Magna Carta, which was the foundation of the rights enjoyed by Englishmen and in a considerable measure, the foundation of our organic law, the Constitution. I have shown that the authors of the fifth amendment to the Constitution did not confine the due-process clause of that amendment to the deprivation of life and liberty. I have shown that they included property. I have paid passing reference to the various State constitutions which follow the example of the Federal Constitution in their reference to property rights and the protection of those property rights.

In my judgment, Madam President, title II, the so-called public accommodations section of the civil rights bill, constitutes a radical departure from these theories of private property which have been long in existence and a radical departure from constitutional principles.

Much has been said and written with reference to objections to this proposal, and these objections appear to me to be insurmountable. The mere fact that such feverish efforts have been put forth to give constitutional justification to this title is testimony to the extreme emotionalism that has been engendered by events over the past 12 months.

I say again that, but for this emotionalism, it would be difficult to conceive that anyone would seriously suggest the existence of congressional power to enact title II, to say nothing of title VII and various other titles of the bill.

If this title is enacted, and if it should be sustained by the Supreme Court—and one should not be surprised at anything the present Supreme Court would do, when it comes to deciding cases and overturning decisions which have been rendered by previous Supreme Courts—it is difficult to conceive of any human activity which may not be regimented to Federal authority.

The power of Congress to enact any piece of legislation must be traceable to a grant of such power in the Constitution. The supporters of this bill have been hard put to find a constitutional bottom on which they might anchor the unlimited power implicit in this title. They have not been in complete agreement by any means. Some have grasped at the 14th amendment; others have seized upon the commerce power; and some have, in desperation, attempted to hang those provisions upon the pegs of both.

Let us examine both of these constitutional foundations upon which the proponents would seek to establish constitutional legitimacy for this highly controversial title.

It seems to be unmistakably clear that the 14th amendment will not give comfort to the proponents, because that amendment does not authorize Congress to prohibit acts of private discrimination.

Section 1 of the 14th amendment states:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 5 of the amendment provides:

> The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The crucial words in the 14th amendment are these: "no State shall." These are the all important and magic words out of which any exercise of powers granted by section 5 must evolve. Action on the part of a State or a political subdivision thereof is the vital touchstone for the exercise of Federal power authorized by the 14th amendment. The prohibitions in section 1 of the 14th amendment are restrictions on State action and do not operate against individuals acting alone. The power of Congress to enforce the equal protection of the laws by "appropriate legislation" under the 14th amendment requires for its valid exercise the existence of some official State action resulting in invidious discrimination. Yet this title seeks to regulate and prohibit purely private individual acts of discrimination when such acts are performed by motel owners, innkeepers, restaurateurs, and other owners of private property who engage in accommodating the public. There is not even the shadow of State involvement in these activities. A further limitation in respect of the 14th amendment lies in the fact that section 5 thereof does not authorize Congress to adopt general legislation, but only corrective legislation is authorized. In other words, only such legislation as may be necessary and appropriate for counteracting such laws as States may adopt or enforce is authorized. Only those laws which, by the amendment, States are prohibited from making or enforcing or such action and proceedings as the States may commit or take and which they are by the amendment, prohibited from committing or taking, come within the scope of the amendment. Congress is powerless to prohibit any action not prohibited by the 14th amendment. Congress may properly correct, counteract, and nullify any State action prohibited by the amendment and shown to exist, but Congress cannot, on the basis of that amendment, operate against individuals by creating any new Federal right.

Court decisions give little comfort to the sponsors and supporters of this title. I call attention to the decision in the *Slaughterhouse* cases, 16 Wall. 36, 21 L. Ed. 394, wherein the Supreme Court, in its initial construction of the 14th amendment held that it operated against State laws. It is important to remember that this decision was handed down in 1873, fully 5 years after the adoption of the 14th amendment. It is important to understand that the members of the Supreme Court at that time were the contemporaries of the authors and framers of the 14th amendment. The members were in a position to fully understand the intent and purpose of the amendment. They declared that there was the existence of State laws which fell within the purview of that amendment's prohibitions and restrictions.

A decade later, in 1883, the Supreme Court, in its classic decision in the *Civil Rights* cases, 109 U.S. 3, held unconstitutional a public accommodations statute which had been enacted in 1875—18 Stat. 335. That public accommodation statute, if not the twin of the measure which we are importuned to enact now, was certainly its blood brother. The decision involved five separate cases, all of which are collectively cited as the Civil Rights cases, and that decision has never been overruled. Section 1 of the 1875 Civil Rights Act provided:

> That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water,

> theaters, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

So that section was quite similar to the language of title II in the bill we are considering.

Two of the cases, those against Stanley and Nichols, were indictments for denying to persons of color the accommodations and privileges of an inn or hotel; two of them, those against Ryan and Singleton, were on information, the other an indictment for denying to individuals the privileges and accommodations of a theater, the information against Ryan being for refusing a colored person a seat in the dress circle of Maguire's Theater in San Francisco; and the indictment against Singleton was for denying to another the full enjoyment of the accommodations of the theater known as the Grand Opera House in New York, "said denial not being made for any reasons by law applicable to citizens of every race and color and regardless of any previous condition of servitude." The case of Robinson and Wife against the Memphis and Charleston Railroad Co., was an action brought in the Circuit Court of the United States for the Western District of Tennessee, to recover the penalty of $500 given by the second section of the act; and the gravamen was the refusal by the conductor of the railroad company to allow the wife to ride in the ladies' car, for the reason as stated in one of the counts that she was a person of African descent.

Mr. Justice Bradley delivered the opinion of the court. He stated that the purpose of the law was "to declare that, in the enjoyment of the accommodations and privileges of inns, public conveyances, theaters, and other places of public amusement, no distinction shall be made between citizens of a different race or color," and that its effect "is to declare, that in all instances, public conveyances and places of amusement, colored citizens shall have the same accommodations and privileges as are enjoyed by white citizens, and vice versa."

Mr. Justice Bradley went immediately to the crux of the matter: "Has Congress constitutional power to make such a law? Of course no one will contend that the power to pass it was contained in the Constitution before the adoption of the last three amendments." He was referring to the 13th, 14th, and 15th amendments. He continued:

> The power is sought, first in the 14th amendment, and the views and arguments of distinguished Senators, advanced whilst the law was under consideration, claiming authority to pass it by virtue of that amendment, are the principal arguments adduced in favor of the power. We have carefully considered those arguments, as was due to the eminent ability of those who put them forward, and have felt, in all its force, the weight of authority which always invests a law that Congress deems itself competent to pass. But the responsibility of an independent judgment is now thrown upon this Court; and we are bound to exercise it according to the best lights we have.

We are often importuned by Senators who support this bill to vote for the titles on the chance that they will be later held constitutional. Some persons may say that we as Senators should not concern ourselves much about the constitutionality of this bill, or any other bill for that matter, and that the Supreme Court will fulfill that function at the appropriate time. But in this case, Mr. Justice Bradley sounded a note which I think is pertinent when he referred to "the weight of authority which always invests a law that Congress deems itself competent to pass."

So the courts presume that a law is constitutional when it is enacted by the Congress, and that presumption of constitutionality is based upon the fact that Senators have some responsibility of considering, ascertaining, and determining the constitutionality of a statute which is enacted by the Federal Legislature.

After stating that the first section of the 14th amendment "is prohibitory in its character, and prohibitory upon the States," Mr. Justice Bradley went on to say:

> It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty or property without due process of law, or which denies to any of them the equal protection of the laws. It not only does this, but, in order that the national will, thus declared, may not be a mere brutum fulmen, the last section of the amendment invests Congress with power to enforce it by appropriate legislation.

With reference to the corrective force to which the amendment is limited, the Court used these words, and I repeat:

> The last section of the amendment invests Congress with power to enforce it by appropriate legislation.

To enforce what? To enforce the prohibition. To adopt appropriate legislation for correcting the effects of such prohibited State laws and State acts, and thus to render them effectually null, void, and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it. It does not invest Congress with power to legislate upon subjects which are within the domain of State legislation; but to provide modes of relief against State legislation, or State action, of the kind referred to.

The Court went on to say:

> It does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress against the operation of State laws, and the action of State officers, executive or judicial, when these are subversive of the fundamental rights specified in the amendment. Positive rights and privileges are undoubtedly secured by the 14th amendment; but they are secured by way of prohibition against State laws and State proceedings affecting those rights and privileges, and by power given to Congress to legislate for the purpose of carrying such prohibition into effect: and such legislation must necessarily be predicated upon such supposed State laws or State proceedings, and be directed to the correction of their operation and effect.

Again and again the Court hammered on the point that State action is the object of the 14th amendment prohibition:

> Until some State law has been passed, or some State action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the 14th amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity: for the prohibitions of the amendment are against State laws and acts done under State authority.

The Court said that any legislation bottomed on the 14th amendment would have to be directed to the mischiefs and wrongs which the amendment was intended to provide against, "and that is, State laws, or State action of some kind, adverse to the rights of the citizen secured by the amendment."

It is interesting to note that the Court referred to property rights as being included among men's civil rights, a point that is overlooked by some of the ardent civil rights partisans of today, and the Court did this in emphasizing the fact that the 14th amendment was intended to provide corrective action, in general legislation:

> It is absurd to affirm that, because the rights of life, liberty, and property (which include all civil rights that men have), are by the amendment sought to be protected against invasion on the part of the State without due process of law, Congress may therefore provide due process of law for their vindication in every case; and that, because the denial by a State to any persons, of the equal protection of the laws, is prohibited by the amendment, therefore Congress may establish laws for their equal protection. In fine, the legislation which Congress is authorized to adopt in this behalf is not general legislation upon the rights of the citizen, but corrective legislation, that is, such as may be necessary and proper for counteracting such laws as the States may adopt or enforce, and which, by the amendment, they are prohibited from making or enforcing, or such acts and proceedings as the States may commit or take, and which, by the amendment, they are prohibited from committing or taking.

The Court discussed the rights secured by the equal protection and due process clauses:

> In this connection it is proper to state that civil rights, such as guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individual, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress. An individual cannot deprive a man of his right to vote, to hold property, to buy and sell, to sue in the courts, or to be a witness or a juror; he may commit an assault against the person, or commit murder, or use ruffian violence at the polls, or slander the good name of a fellow citizen; but, unless protected in these wrongful acts by some shield of State law or State authority, he cannot destroy or injure the right; he will only render himself amenable to satisfaction or

> punishment; and amendable therefor to the laws of the State where the wrongful acts are committed.

The Supreme Court decision in the Civil Rights cases established as solidly as the Rock of Gibraltar the following points: First, that the 14th amendment prohibitions are not applicable to individual invasions of individual rights but only to the denials of rights which result from State action; and second, that the enactment of general legislation cannot spring from the congressional power conferred by section 5 of the amendment; rather, authority only is granted to enact corrective legislation to counteract or regulate State action designed to deny the rights of individuals.

The decision in the civil rights cases runs precisely counter to the position taken by those persons who espouse the enactment of the public accommodations section in this bill. The supporters of title II—at least most of them—recognize that there is no comfort to be derived for their cause from the 1883 decision in the civil rights cases. They attempt to take refuge in the belief that the present Supreme Court would overrule the Supreme Court decisions in the Civil Rights cases of 1883.

While as I have already conceded that the present Supreme Court at times is apparently more greatly impressed by sociological arguments than by the precedents established by previous Supreme Courts, the overturning of the very great decision in this instance would be difficult, even for the most wild-eyed liberals, inasmuch as it has been even more firmly established in very recent years. In the case of *Shelley* v. *Kraemer*, 334 U.S. 1, the court, in 1948, held that a restrictive covenant entered into by private property owners could not be enforced in the court, but take note of what the court said:

> Since the decision of this Court in the Civil Rights cases, 109 U.S. 3 (1883), the principle has become firmly embedded in our constitutional law that the action inhibited by the first section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment creates no shield against merely private conduct, however discriminatory or wrongful.

Reaffirmation of this point occurred in the case of *Petersen* v. *City of Greenville*, 373 U.S. 244. This case was decided on May 20, 1963. In its decision the court said:

> It cannot be disputed that under our decision private conduct abridging individual rights does no violence to the equal protection clause unless to some significant extent the State in any of its manifestations has been found to have become involved in it.

There are those who advance the notion that where the action of an individual, such as the operation of a business, is regulated by the State by virtue of the simple act of licensing or, under the jurisdiction of the State with reference to sanitary and fire requirements, and so forth, the action of the individual becomes State action and is thus within the scope of the 14th amendment's prohibition. It is argued that the operation of private enterprise then becomes State action subject to the limitations and conditions embodied by the 14th amendment.

The act of licensing is unquestionably a State action, but, as Justice Harlan stated in Peterson against the City of Greenville, supra:

> This is not the end of the inquiry. The ultimate substantive question is whether there has been State action of a particular character—whether the character of the State's involvement in an arbitrary discrimination is such that it should be held responsible for the discrimination.

Anyone who is willing to view the matter objectively can see that there is no nexus between the fact of licensing and the act of private discrimination. Were it otherwise the case, a legal picture would be created that would open a Pandora's box. If the State is to be held responsible for the discrimination resulting from the conduct of a privately owned but licensed business, say a barbershop, may not it likewise be responsible for the loss of my hair if the barber mistakenly sprinkles my scalp with an acid rather than a tonic?

Even though the analogy would appear to be absurd, the reasoning in both cases is the same.

The Achilles heel of this argument rests in the confusion between a license and a franchise. In the New York case of *Madden* v. *Queens County Jockey Club*, 72 N.E. 2d 697, the court was asked to determine whether the operator of a racetrack could, without reason or sufficient excuse, exclude a person from admission to the races. In upholding the right of the operator to be arbitrary in the conduct of his business, the court discussed the plaintiff's contention that the license "constituted the licensee an administrative agency of the State and a permit to perform a public purpose." The court said:

> Plaintiff's argument results from confusion between a "license" imposed for the purpose of regulation of revenue, and a franchise. A franchise is a special privilege, conferred by the State on an individual, which does not belong to the individual as a matter of right. It creates a privilege where none existed before, its primary object being to promote the public welfare. A familiar illustration is the right to use the public streets for the purpose of maintaining and operating railroads, waterworks and electric light, gas and power lines.
>
> A license, on the other hand, is no more than a permission to exercise a preexisting right or privilege which has been subjected to regulation in the interest of the public welfare. The grant of a license to promote the public good, in and of itself, however, makes neither the purpose a public one nor the license a franchise, neither renders the place public nor places the licensee under obligation to the public.

This distinction has also been clearly noted by the Federal courts. In *Bowman* v. *Birmingham Transit Company*, 280 F. 2d 531 (1960), the Fifth Circuit Court of Appeals held that a city transit company could not segregate bus passengers on racial grounds.

> Because of the peculiar function performed by this transit company as a public utility, and its relation to the city and State of Alabama through its holding of a special franchise to operate on the public streets of Birmingham, we conclude that so long as such an ordinance was in force, the acts of the bus company in requiring racially segregated seating were State acts and thus violative of appellants' constitutional rights.

The ordinance involved provided that carriers could formulate such rules and regulations for the seating of passengers on public conveyances as were reasonably necessary to assure the speedy, safe, orderly, convenient, and peaceful handling of its passengers.

In distinguishing between a license and a franchise, the court said:

> It is, of course, fundamental that justification for the grant by a State to a private corporation of a right or franchise to perform such a public utility service as furnishing transportation, gas, electricity, or the like, on the public streets of the city, is that the grantee is about the public's business. It is doing something the State deems useful for the public necessity or convenience. This is what differentiates the public utility which holds what may be called a special franchise from an ordinary business corporation which, in common with all others is granted the privilege of operating in corporate form but does not have that special franchise of using State property for private gain to perform a public function.

We are not obliged to argue by analogy the inappropriateness of the licensing theory as a touchstone for the exercise of congressional power under the 14th amendment. This novel theory was repudiated by the Court of Appeals for the Fourth Circuit in *Williams* v. *Howard Johnson Restaurants*, 268 F. 2d 845. The plaintiff argued in that case, in the words of the court, "that the State licenses restaurants to serve the public and thereby is burdened with the positive duty to prohibit unjust discrimination in the use and enjoyment of the facilities."

The court's response to this argument was as follows:

> This argument fails to observe the important distinction between activities that are required by the State and those which are carried out by voluntary choice and without compulsion by the people of the State in accordance with their own desires and social practices. Unless these actions are performed in obedience to some positive provisions of State law they do not furnish a basis for the pending complaint. The license laws of Virginia do not fill the void.

So, Mr. President, these case holdings appear to reveal the state of the law in connection with the 14th amendment. The courts have consistently held that section 1 of the 14th amendment is a prohibition against "State action." This has been the status of the law over the years and it is the status of the law today. Obviously, the Congress has no authority conferred upon it by the 14th amendment to enact title II of the civil rights bill. Nothing could be more apparent than that the power of Congress to enforce the prohibitions of the 14th amendment is a corrective power only.

So, what have the supporters of this so-called civil rights bill done? Realizing the difficulty involved in predicating the constitutional basis for title II solely upon the 14th amendment, they have sought to find shelter in the commerce clause of the Constitution.

In the civil rights cases which, as we have noted, invalidated a congressional statute prohibiting discrimination in places of public accommodations, the Supreme Court declared:

> No one will contend that the power to pass this law was contained in the Constitution before the adoption of the last three amendments.

The power of Congress to regulate commerce among the several States remains today as it existed in the original Constitution. Consequently, if the commerce power, which "was contained in the Constitution before the adoption of the last three amendments," did not support this kind of legislation in 1883, it will not do so today.

I admit that the congressional power to regulate interstate commerce is very broad. But it does have reasonable limits. In the Landmark case of *Gibbons* v. *Ogden*, 9 Wheat. 1, Chief Justice Marshall said that "This power is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the Constitution." Consequently, the authority of Congress over interstate commerce cannot be made a means of exercising powers not entrusted to the Congress by the Constitution. See Pipelines Cases, 243 U.S. 548.

Additionally, the court, in *Santa Cruz Fruit Packing Co.* v. *N.L.R.B.* 203 U.S. 453, stated that the exercise of the commerce powers must rest upon "a close and substantial relation to interstate commerce in order to justify the Federal intervention for its protection." In *N.L.R.B.* v. *Jones & Laughlin Steel Corporation*, 301 U.S. 1, the court said that the commerce powers may not "be pushed to such an extreme as to destroy the distinction which the commerce clause itself establishes between commerce 'among the several States' and the internal concerns of a State. That distinction between what is national and what is local in the activities of commerce is vital to the maintenance of our Federal system."

It is a difficult matter to establish the line which separates congressional and State power over commerce, but the course of decisions leaves no doubt that the commerce clause was not intended to regulate the use of private property or to govern personal relations within the borders of a State. Yet, this bill would attempt precisely to do this. The bill attempts to make interstate commerce that which is essentially intrastate commerce. This cannot be done without violating the spirit and the letter of the commerce clause. The power of Congress to regulate commerce depends upon the existence of activities which obstruct or burden commerce "among the several States" or foreign commerce. The exercise of this power must have a real or substantial relation or bearing upon commerce among the several States. See *Atlantic Coastline R. Company* v. *Riverside Mills*, 219 U.S. 186. Once such a real or substantial relationship is found to exist, the acts which are productive of this result, are then subject to Federal control under the commerce clause. The test, in fine, is the "effect" upon commerce.

There has been no showing that private discriminatory practices in connection with so-called public accommodations have any demonstrable effects upon commerce. No one has demonstrated that the exercise of a proprietor's private property rights impedes the commerce in a particular commodity. It has yet to be shown that enactment of this measure will facilitate or stimulate a substantial increase in the sale of horseradish, for example, or tomato catsup or black-eyed peas or collard greens, hominy grits, or Chesapeake Bay oysters or Maine lobsters. One may think these examples are absurd, but these—not so-called civil rights—constitute the substance of interstate commerce. In the absence of such a showing, the Congress is powerless to legislate.

Once more we are not without guidance in respect of the constitutionality of the Congress power as a foundation upon which to bottom this legislation. The court met this argument squarely and head on in the case of *Williams* v. *Howard Johnson Restaurants*, 268 F. 2d 845.

The court there said in no uncertain terms:

> We think, however, that the cases cited are not applicable because we do not find that a restaurant is engaged in interstate commerce merely because in the course of its business of furnishing accommodations to the general public it serves persons who are traveling from State to State. As an instrument of local commerce, the restaurant is not subject to the constitutional and statutory provisions discussed above and, thus, is at liberty to deal with such persons as it may select.

Mr. President, if this proposed legislation should be enacted, and if it should be sustained, there is no activity of our citizens which may not be controlled by Federal legislation based upon the commerce clause. There is no individual who may not be directly affected and dealt with in relation to any and all of his private affairs. If such power, in reality, exists in the commerce clause, then much of the remainder of the Federal Constitution is nullified. Such a power would be the ultimate power, and the commerce clause could henceforth be relied upon to justify just about anything Congress might choose to do.

The court in *Carter* v. *Carter Coal Company*, 298 U.S. 238, said:

> It is safe to say that if, when the Constitution was under consideration, it had been thought that any such danger lurked behind its plain words, it would never have been ratified.

Madam President, I feel that ample history has been presented in these last hours in support of the property rights of our citizens. I believe that ample evidence in the form of previous case holdings has been presented to demonstrate that title II cannot be based upon either the 14th amendment or the commerce clause of the Federal Constitution, as the supporters of the title contend. Ample evidence has been presented to show that the right to use, manage, and control property constitutes one of the basic human rights of our society and has constituted one of the basic human rights of Americans and our English forebears for at least 749 years come next Monday.

I trust that the Senate will not enact this bill with title II a part thereof. I have no doubt, as I have already stated, that the title will be enacted if cloture is invoked when the Senate meets at the appointed hour today to consider a vote on cloture because, I repeat, those of us who conscientiously object to title II and title VII, to the rebuttable presumption provisions in title I, and to the other provisions and titles on the basis of their possible unconstitutionality and their unforceability, do not have the votes to strike these titles. Our only hope is to defeat the effort to invoke cloture.

If we can defeat the effort to invoke cloture, and if we can continue to debate the bill, or if the leadership wishes to put it aside for awhile and get on with other legislation, then perhaps sufficient time will elapse for the people at the grassroots to fully grasp the portent of the proposed legislation and make known their expressions of concern, apprehension, and fear to their elected representatives in Congress. If this should happen, I repeat, the bill would never again, in its present form, come before the Senate.

Our only hope is to defeat the effort, to effect cloture.

Madam President, with regard to——

Mr. KUCHEL. Madam President, I cannot hear the Senator.

Mr. THURMOND. Madam President, will the able and distinguished Senator yield?

Mr. KUCHEL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. Madam President, will the able and distinguished Senator yield for a question?

Mr. KUCHEL. I object.

The PRESIDING OFFICER. The Senator has a right to yield for a question.

Mr. THURMOND. Madam President, on what ground does the Senator from California object to the Senator from South Carolina propounding a question to the able Senator from West Virginia?

The PRESIDING OFFICER. The Senator from South Carolina may ask the Senator from West Virginia a question.

Mr. BYRD of West Virginia. I ask unanimous consent that I may yield to the distinguished Senator from South Carolina, without losing my right to the floor.

Mr. KUCHEL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD of West Virginia. Madam President, in connection with title II——

The PRESIDING OFFICER. The Senator from South Carolina may ask a question of the Senator from West Virginia. The Senator from West Virginia may answer the question of the Senator from South Carolina. He may not yield to the Senator from South Carolina for a statement.

Mr. BYRD of West Virginia. I yield to the distinguished Senator from South Carolina for a question only.

Mr. THURMOND. Madam President, I thank the able and distinguished Senator from West Virginia for yielding to the Senator from South Carolina for a question.

I ask the able and distinguished Senator from West Virginia if it is not true that in 1875, Congress enacted a civil rights law containing a provision which is very similar, if not identical, to the so-called accommodations provision contained in the pending so-called civil rights bill?

Mr. BYRD of West Virginia. The Senator is correct.

Mr. THURMOND. I ask the able and distinguished Senator from West Virginia if it is not true that in 1883 the Supreme Court of the United States held such a law unconstitutional, and that the law was never enforced?

Mr. BYRD of West Virginia. It is true that the Supreme Court in the civil rights cases in the year 1883 held unconstitutional the statute to which the Senator from South Carolina has referred, which had been enacted by Congress in 1875.

Mr. THURMOND. Is it not true that at that time the question of the constitutionality was raised in that case, and that the Supreme Court held that a man, on his own private property, would not be required to sell to or serve anyone unless he wished to do so?

Mr. BYRD of West Virginia. The Supreme Court held, in essence, that the thrust of the 14th amendment is against State action, and that that amendment does not prohibit individual invasion of individual rights. That is precisely what the statute was designed to reach. It is precisely what title II of the bill before us is designed to reach; namely, individual invasion of individual rights, or individual discrimination, based on race, color, and so forth, against another individual.

Mr. THURMOND. Is it not true that section 1 of the 14th amendment reads:

> SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Mr. BYRD of West Virginia. Yes.

Mr. THURMOND. Is it not true that the courts down through the years have uniformly held that this provision of the Constitution refers to State action, and State action only, and does not refer to individual action?

Mr. BYRD of West Virginia. The Senator is correct. The crucial words are "no State shall."

Mr. THURMOND. "No State shall." Under this interpretation, can the Senator imagine how such a bill could be passed and be held constitutional, especially when an almost identical bill was held to be unconstitutional in 1883, when the Supreme Court made its finding on this very point?

Mr. BYRD of West Virginia. The Senator from West Virginia cannot imagine such a situation. The 14th amendment is worded today precisely as it was in 1883 at the time the Supreme Court of the United States rendered its decision in the civil rights cases, holding that a similar congressional statute was invalid.

Mr. THURMOND. I believe that in 1875 the 43d Congress enacted a statute entitled "An act to protect"——

Mr. BYRD of West Virginia. The Senator from West Virginia does not yield for a statement.

Mr. THURMOND. Madam President, is it not true that the act passed by Congress in 1875 was entitled "An act to protect citizens in their civil and legal rights," and that that act had as its constitutional basis the 14th amendment?

Mr. BYRD of West Virginia. The Senator is correct.

Mr. THURMOND. Is it not true that in 1883, the Supreme Court, in the celebrated civil rights cases, in 109 U.S. 3, held that statute unconstitutional, and that the holding of the Court is a definitive statement of the lack of power in Congress to enact a measure of the nature of the so-called civil rights bill now before the Senate?

Mr. BYRD of West Virginia. The Senator is correct.

Mr. THURMOND. Is it not true that the 13th amendment to the Constitution of the United States gives no basis for the enactment of the pending bill, because that amendment prohibits slavery and involuntary servitude?

Mr. BYRD of West Virginia. The Senator is eminently correct.

Mr. THURMOND. Is it not true that if title II were enacted, it would amount, in effect, to involuntary servitude, to force one man to serve another man against his wishes?

Mr. BYRD of West Virginia. The Senator from West Virginia believes it would constitute involuntary servitude.

Mr. THURMOND. Does the Senator from West Virginia feel that having a man required to serve another man, whether of his own race or of some other race, against his wishes, is involuntary servitude?

Mr. BYRD of West Virginia. The Senator from West Virginia so feels.

Mr. THURMOND. Does the Senator from West Virginia feel that when a woman of one race is required to give a massage to a woman of another race against her wishes, it is involuntary servitude?

Mr. BYRD of West Virginia. The Senator from West Virginia feels that unless the action is entered into voluntarily, even though the individual is being compensated for the personal services in the form of labor, it still constitutes involuntary servitude.

Mr. THURMOND. Is it not true that the decision of the Supreme Court in 1883 held that there was no basis on which to sustain the Civil Rights Act either under the 13th or 14th amendment?

Mr. BYRD of West Virginia. The Senator from West Virginia feels that any statute which requires a person to render involuntary personal labor to another immediately raises the question of the constitutionality of that statute under the 13th amendment.

Mr. THURMOND. Is it not true that under the commerce clause a statute of this kind could not be sustained; and does the Senator know of any reason or basis in law on which title II in the so-called civil rights bill now before the Senate could be sustained?

Mr. BYRD of West Virginia. I know that any congressional power must be traceable to a grant of such power in the Constitution. I have not been able to find any such grant of power in the Constitution which would sustain the enactment of title II in the pending bill.

Mr. THURMOND. Is it not true that the commerce clause merely states that Congress shall have power to regulate commerce with foreign nations, among the several States, and with the Indian tribes, and that this is the only reference in the Constitution pertaining to the commerce clause?

Mr. BYRD of West Virginia. The Senator is correct. I believe it should be pointed out that, of course, a person would be free to cease from any form of servitude at any time he wished to do so. That was the case of the Ohio barber who closed his shop in a recent racial dispute.

Madam President, I ask unanimous consent to insert in the RECORD at this point a news story which appeared in the Washington Post of March 16; which appeared in the New York Times of March 16; and which appeared in a newspaper which I cannot identify, but which also pertains to this same subject.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 16, 1964]

BARBER TO CLOSE SHOP IN OHIO RACIAL DISPUTE

XENIA, OHIO, March 15.—About 500 sympathizers today massed outside the Greene County jail to show support for 109 whites and Negroes arrested yesterday in a civil rights demonstration at a barbershop.

Today's demonstrators, most of them students, were orderly. They gathered outside the jail at noon, stayed for about an hour, and then dispersed. The prisoners were arrested in a protest at the barbershop in nearby Yellow Springs of Lewis Gegner, who had refused haircuts to Negroes.

[Gegner, meanwhile, announced today that he was closing his shop indefinitely, the Associated Press reported.]

More than 800 persons participated in the Yellow Springs demonstration. Most of those arrested were jailed here, but some were taken to the Montgomery County jail in Dayton because of lack of space in the jail here.

Practically all the sympathizers today were reported from predominantly Negro Central State College and Wilberforce University. There were few students from Antioch College, which earlier reportedly had warned that disciplinary action would be taken against any students found to be participating in further demonstrations.

[From the New York Times, Mar. 16, 1964]

OHIO BARBERSHOP SHUT IN PROTESTS—STUDENTS OBJECT TO OWNER'S REFUSAL TO SERVE NEGROES

XENIA, OHIO, March 15.—Lewis Gegner, embattled in a civil rights controversy in nearby Yellow Springs for nearly 4 years, decided today to close his barbershop indefinitely.

The decision to close his shop, site of almost weekly demonstrations, came not long after 1,500 silent marchers demonstrated in this southwestern Ohio county seat, 8 miles south of Yellow Springs, where 109 students were jailed yesterday on charges of contempt of court.

Mr. Gegner has steadfastly refused to cut Negroes' hair, insisting he is incapable of doing so because it requires a special skill. His case, which is before the Ohio Supreme Court, seeks to test the constitutionality of the State's public accommodation law as it applies to barbershops.

The barber said he was closing in deference to his wife and family and for the safety of the village of Yellow Springs. He said he would reopen when officials at nearby Wilberforce University, Central State and Antioch Colleges can "control their respective students."

POLICE BRUALITY ALLEGED

Today's march contrasted with yesterday's by an absence of violence. The march ended within 30 minutes and the students, mostly from predominantly Negro Central State College, returned to their campus.

Archie Hunter, a leader of the march, said the demonstration was to protest alleged police brutality in the arrest of the 109; to protest the arrests on the ground that they were unconstitutional because they prevented freedom of assembly; and to help lift the morale of those imprisoned.

Mr. Gegner remains the only barber or beauty shop operator in Yellow Springs who has not integrated his shop. The village itself is generally recognized in Ohio as a liberal island in relatively conservative surroundings.

While the legal battles and demonstrations are commonplace in the community, yesterday's strife was the most serious to date and was the result of a court order issued on Friday.

In it, Judge Herman Weber of the Greene County Common Pleas Court in Xenia restricted picketing to three persons at any one time. The order further restricted the gathering of crowds on the street near the barbershop and stipulated that "other picketing, demonstrations or crowds of any kind whatsoever within an area of 500 feet east and west of the barbershop" would be prohibited.

Arraignment on the contempt of court charges before Judge Weber is scheduled tomorrow morning.

TWO-WEEK RESPITE ON COAST

SAN FRANCISCO, March 15.—Negro leaders have promised San Francisco a 2-week respite to solve the city's civil rights problems or face the prospect of more demonstrations like those of the last 10 days.

Mayor John F. Shelley and officers of 15 civil rights groups announced yesterday a 2-week civil disobedience moratorium soon after 110 pickets inside an auto agency were arrested.

The police estimated that 90 percent of the demonstrators were white. Most were college students.

[From the New York Times, Jan. 4, 1964]

OHIO BARBER LOSES RACE CASE APPEAL

XENIA, OHIO, January 3.—District court of appeals overturned a lower court decision today and ruled that the State law forbidding racial discrimination in barbershops was valid.

The court ruled in a case involving Lewis Gegner, a Yellow Springs barber who had refused to serve Negro customers. He argued he did not know how to cut Negro hair, which he contended required special skills in which he was not trained.

Mr. Gegner was upheld by the Greene County Common Pleas Court, but the decision was overturned today by the appellate court.

The appellate court said that although courts generally did not attempt to regulate people in their "strictly private business" there were "certain class of business in the management and conduct of which the general public also has an interest."

If barbers could turn away Negroes because of their race, the court said "then this group would be denied the safeguards to health provided by law and be denied on their part the equal protection of the laws."

The court sent the case back to common pleas court with instruction to order Mr. Gegner to end his "unlawful and discriminatory practices."

[From the New York Times, May 4, 1964]

BARBER IS EXEMPTED IN INTEGRATION CASE

XENIA, OHIO, May 3.—Common Pleas Judge Warren C. Young ruled today that the public accommodations law requiring a barber to serve anybody who enters his shop was unconstitutional.

The judge ruled in dismissing an order by the Ohio Civil Rights Commission that directed Lewis Gegner to accommodate Negroes in his shop in Yellow Springs.

Judge Young said that although he was in sympathy with the aims of the law, legislatures and courts in their enthusiasm to erase racial segregation should not abridge the freedom of others to operate their businesses.

The law, which became effective in October 1961, requires any business to serve all customers regardless of race, creed, or color.

In agreeing with Mr. Gegner's contention he did not know how to cut the hair of Negroes, the court held that a barber must have special training, pass a State examination, and be licensed.

The judge, after dismissing the commission's order, declined to issue an order to prevent further demonstrations led by Antioch College students at Mr. Gegner's shop.

STUDENTS PICKET IN OHIO, 100 HELD—GAS AND FIREHOSE USED IN RACIAL DEMONSTRATION

YELLOW SPRINGS, OHIO, March 14.—The police used a firehose and tear gas on college students here today and arrested more than 100. The students were demonstrating against a barber who has refused to cut Negroes' hair.

Authorities from seven counties helped round up the students in the largest mass arrest of demonstrators in Ohio since the current civil rights movement began.

The police took 15 carloads of demonstrators to jails in Xenia, 8 miles away.

Yellow Springs is the home of Antioch College, whose students have been in a running dispute with the barber, Lewis Gegner, since 1961 over his white-only policy.

The demonstration began peacefully when the students from Antioch and from Central State College at Wilberforce, 10 miles away, assembled at the barbershop in defiance of an injunction issued yesterday limiting pickets to three.

ORDERED TO DISPERSE

The police chief, James McKee, a Negro and Greene County Sheriff Russell A. Bradley told the students to disperse, saying they did not want to arrest them.

The sheriff read the injunction. When the students refused to disperse the police chief announced all were under arrest.

The students, about half of them white and the others Negroes, locked arms and sat down. They formed a line stretching about 200 feet from the barbershop.

Fifty to sixty students were arrested. They were put into police vehicles and taken to the city jail in Xenia.

The students continued their defiance of the injunction, sitting down five deep in the middle of the village of 4,200 population's Main Street.

The police chief again ordered the students to leave. When they refused, the fire department aimed hoses high into the air, the water falling down on the demonstrators who were already wet from an intermittent rain that fell throughout the day.

TEAR GAS USED

The students refused again to move and police began using tear gas. At this point about 40 more students were arrested.

About 600 to 700 persons stood in the rain, shouting at the police.

This was the first time that tear gas had been used in connection with demonstrators here. A firehose was used in May 1963, but the only person hit by the water was a newspaper photographer.

In 1963, Mr. Gegner was cited into a court for violation of the State's new public accommodations law, which requires all business places to serve any customers.

The local common pleas court ruled the part of the law pertaining to barbers unconstitutional, but this was overturned by the district court of appeals. Mr. Gegner filed an appeal in the State supreme court Wednesday.

Authorities did not immediately file charges against those jailed but they probably will be held in contempt of court for violating the injunction limiting picketing.

Mr. THURMOND. Madam President, will the Senator from West Virginia yield for a question?

Mr. BYRD of West Virginia. I yield for a question.

Mr. THURMOND. I should like to ask the Senator from West Virginia if it is not true that the power of Congress to enact this type of legislation under the commerce clause was considered in the 1883 decision, and that in that decision the brief of the United States before the Supreme Court made an argument which included a statement that—

> Inns are provided for the accommodation of travelers; for those passing from place to place. They are essential instrumentalities of commerce (especially as now carried on by "drummers"), which it was the province of the United States to regulate even prior to the recent amendments to the Constitution.

Even though this statement was included in the brief of the Government, did not the Supreme Court reject this argument summarily, and in answer to its own rhetorical question as to whether or not Congress possessed power to enact such a law the Court said—and I ask the Senator if he does not agree with this statement—

> Of course, no one will contend that the power to pass it was contained in the Constitution before the adoption of the last three amendments—

Of course, speaking of the 13th, 14th, and 15th amendments.

Mr. BYRD of West Virginia. The Senator from West Virginia, in his discussion on title II, has referred to this statement by the Court.

Mr. THURMOND. Is it not true that the commerce clause has been a part of the Constitution from the date of its ratification, and therefore the Court was saying the commerce clause did not empower Congress to enact a so-called public accommodations law in 1875, and, if the doctrine of stare decisis is followed, will not the same line of reasoning apply today?

Mr. BYRD of West Virginia. I think the Senator is correct.

Mr. THURMOND. I should like to propound another question to the Senator from West Virginia, if he will yield, on another title of the bill, or does the Senator wish to discuss any other title of the bill?

Mr. BYRD of West Virginia. I would prefer not to discuss any other title inasmuch as I have already discussed at some length every title in the bill.

Mr. THURMOND. Madam President, I wish to take this opportunity to compliment the able and distinguished Senator from West Virginia for the magnificent address he is making and for the fine contribution he is making on the floor of the Senate on this occasion. I would like to call it to the attention of the Senate and the people of the country.

Mr. KUCHEL. Madam President, a point of order. That is not a question I ask that the rule be enforced.

The PRESIDING OFFICER. The Senator will confine himself to asking a question of the Senator from West Virginia.

Mr. THURMOND. I have no more questions, and will just compliment the Senator from West Virginia.

Mr. BYRD of West Virginia. Madam President, I thank the Senator from South Carolina for asking the pertinent questions which he has propounded. I trust I have answered them in a proper and satisfactory manner.

In connection with my consideration of title II, I recently asked the Metropolitan Police Department of the District of Columbia for information concerning attacks on women which have occurred in and around elevators in apartment houses during the past 6 months.

I felt this information would be of interest particularly in view of the fact that, under the provisions of title II, an individual, who owns a tourist home with as many as 6 rooms, or more, for rent or hire, and who occupies that home as his or her residence, would not be permitted to discriminate against transient guests on the basis of race or color, and so forth.

One can envision situations in which a widow or an unmarried woman might be attempting to make a living, renting rooms in her home to transient guests.

Under this bill, as I have indicated, if that widow has 6 rooms or more for rent or hire to transient guests, she will be confronted with possible litigation if she refuses, on the basis of race or color, to rent or hire those rooms to any transient guest.

I was supplied information on May 27, 1964, which I shall read into the RECORD. It reads as follows:

> Subject: Request of Senator BYRD for report of offenses against women which were committed in or near elevators of apartment houses during the past 6 months.
>
> The following are cases which occurred in or near elevators in apartment houses, which resulted in either rape, robbery or assaults of women.

The first case is that of a white female, 67 years, housewife, who reported about 6:15 p.m., December 14, 1963, while in elevator, two Negro males stopped at the door and asked her if she was going up. The elevator started up and one of the subjects reached in and grabbed her pocketbook containing $14 in bills and personal papers.

Next is a Negro, female, 69 years, housewife, who reported about 10:25 p.m., January 31, 1964, while entering the elevator, on the first floor, she was followed by a Negro male and while in the elevator, he demanded her money. She replied she had none. He struck the complainant with his fist, while he held a long-barreled pistol in his other hand. Complainant's purse was then emptied on the floor of the elevator. Nothing was gained and both left the elevator on the 8th floor.

The next was the case of a white female, 56 years, who reported about 8:40 p.m., February 1, 1964, as she was about to get on the elevator, she was grabbed by two Negro males who pulled her to the lobby floor and took her purse containing $7 and personal papers.

The next is the case of a Negro female, 24, who reported about 11:15 p.m., February 8, 1964, she entered her apartment building and when she got on the elevator, an unknown Negro male got on behind her. She pushed the button for the third floor and as the car began to move, this male subject yoked her and asked for her money. He removed $2.18 from her wallet, stopped the elevator and then pressed the button for the basement. Once in the basement, he tried several doors before he found one unlocked and then he took her into the meter room where he forced her to remove her clothing and then had sexual intercourse with her. He then attempted to force her to commit oral sodomy upon him. About this time, the complainant heard her husband, knocking on the janitor's door. She called out to him and the subject jumped up and ran out the meter room where he was caught by the complainant's husband.

The next case is that of a white female, 22 years, employed at the State Department, 22d and Constitution Avenue, NW., who reported about 8:30 p.m., February 15, 1964, while waiting for the elevator in the lobby of her apartment building, a Negro male approached her and snatched from her right hand her red plastic wallet containing about $9 in bills and personal papers, State Department ID card.

The next is the case of a Negro, female, 24, who reported that about 8:45 p.m., February 17, 1964, she got on the elevator in the apartment building where she lives. An unknown Negro male had been waiting on the first floor for the elevator also and he also got on the elevator. She pushed the button for the fourth floor, but this unknown male reached over and pushed the button for another floor. Then this man struck her a staggering blow to the left eye, knocking her to the floor. Then he took off her underpants and attempted to have sexual relations with her. The complainant screamed and at this time, the subject removed $4 in cash from the complainant's purse. He left the scene and when the complainant got up, she discovered that the elevator had been stopped on the fifth floor.

The next is the case of a white female, who reported about 8:00 p.m., February 22, 1964, in Warrant 688–64, that while in her apartment building, she could not find the key to her apartment. She asked the part-time elevator operator to help her. This subject took the elevator to the basement of the building with complainant on it. There, he beat and choked the complainant and took $180 from her and her driver's license. He then knocked her unconscious and had sexual intercourse with her.

The next is the case of a Negro, female, 41 years, employed at the Naval Research Lab, reported about 9:15 p.m., February 28, 1964, while on the elevator of her apartment building and when reaching the second floor a Negro male snatched her purse containing $1 and personal papers.

The next is the case of a white female, 73 years, who reported about 4:15 p.m., March 6, 1964, while descending from the fourth floor in the elevator in the building and when in the lobby of same, she was grabbed from behind by two Negro males. No. 1 subject struck complainant in the face and held his hand over her mouth while No. 2 subject snatched her black leather pocketbook from her left arm, containing a red leather wallet with $5 or $6 in same, keys to her apartment and a Government check payable to complainant in amount of $76.

The next is the case of a white female, 31 years, secretary to a Senator, U.S. Capitol, who reported about 6:55 p.m., March 6, 1964, as she entered the elevator, she was followed by two Negro males who, after the elevator doors closed, struck complainant in the face six times with their fists and snatched from her hand her black leather pocketbook and removed a black leather change purse containing $15 in bills and personal papers.

The next is the case of a white female, 64 years, who reported that about 6:15 p.m., March 20, 1964, she entered the apartment building where she lives and observed two Negro males behind her. When inside the lobby, she went to the mailbox and then got on the elevator. The two subjects followed. She pushed the button for the third floor and asked the subjects which floor they wanted. They answered, "the fifth floor." The complainant then stated to them that there was no fifth floor in the building. About this time, the door to the elevator closed. The complainant was struck on the right side of her face and she fell to the floor. She was yanked up by her hair and one of the subjects took her leather purse containing $3 and a Central Charge-Plate. When the elevator reached the third floor, the complainant was pulled from the elevator and was told not to scream. She was pulled to the stairway and up to the fourth floor landing. She was threatened by one of the subjects with a knife. He tore off her girdle and then proceeded to have sexual intercourse with her.

Meanwhile, the complainant's husband, had seen his wife enter the building, and when she was so long coming up on the elevator, he went to the elevator looking for her. When she was not on the elevator, he looked up the stairwell. He heard a noise on the upper landing and when he started up, he encountered one of his wife's assailants. There was a brief encounter, during which Mr. Gianiny was struck in the face with the fists of this subject. Mr. Gianiny tried to follow the fleeing assailant, but the man escaped him.

The next is the case of a white female, 45 years who reported about 4 p.m., April 3, 1964, while in the elevator of her apartment building with two Negro males No. 1 subject punched her in the mouth and pulled her coat over her head, when the elevator reached the fifth floor, she was dragged to the stairwell and made to lie on the floor. At this time, No. 1 subject removed from her purse her red leather wallet containing $85 in bills and personal papers.

The next is the case of a Negro female, 11 years, a student at Amidon School who reported about 3:10 p.m., April 10, 1964, while at her apartment building, she was approached by two Negro males who forced her to go with them to 800 Fourth Street SW., and take the elevator at the north end of the building to the eighth floor. Complainant was then taken to the stairway where she was slapped by No. 1 subject who asked for all her money. No. 1 subject then removed 25 cents from her left coat pocket. Both subjects had pen knives and threatened the complainant. When complainant screamed a resident in apartment 822 came out and the two subjects ran down the stairway.

The case of a white female, 61 years old employed at CIA, 17th and H Streets, NW., who reported about 6:15 p.m., November 8, 1963, while on stairway in her apartment building she was beaten about the face and body with an unknown object and had stolen from her handbag $139 in bills by an unknown person. Complainant to the Washington Hospital Center in ambulance 82–A, where she was treated by Dr. Gantz of staff for possible fracture to nose and jaw. Condition satisfactory and admitted.

The next is the case of a white female, 47 years, employed at the Smithsonian Institution on 24th Street NW., who reported about 7:05 p.m., November 15, 1963, as she was entering her apartment building, she stopped to allow a Negro male to pass. As subject was abreast of her, he struck her under the eye, knocking her to the ground and then took her purse containing $20 and shopping plates. Complainant fainted and was taken to Washington Hospital Center in private auto and treated by Dr. Gandey of staff for fractured jaw; condition satisfactory and admitted.

The next is the case of a Negro female, 22 years, who reported about 7:30 p.m., November 21, 1963, in response to a knock on her apartment door, a Negro male pointed a gun at her and shortly after, a second Negro male entered. Complainant was ordered into the bathroom and about 10 minutes later when she heard the door slam, she discovered $50 missing from her purse and also a blue billfold with personal papers.

The next is the case of a white female, 38 years, employed as a saleslady at the Hecht Co., Seventh and F Streets NW., who reported about 9:50 p.m., December 13, 1963, while walking up the stairs and when at the second floor landing, she was approached by a Negro male who attempted to snatch her purse from her arm, knocking her to the floor. Complainant screamed and subject fled. Complainant treated at Providence Hospital by Dr. Solack of staff for laceration to face. Condition not serious and released.

The next is the case of a white female, 48 years, employed as a saleslady at Lerner's, 3110 14th Street NW., who reported about midnight December 22, 1963, as she was opening the door to her above apartment, she was grabbed by two Negro males who snatched her purse containing $3 in bills and personal papers.

The next is the case of a white female, 52 years, reported while in the hallway, she was approached from behind by a Negro male, who snatched from her arm her black leather pocketbook containing a red leather wallet and about $15 in bills and $4 in change, total $19.

The next case is of a white female, 54 years, reported while in the hallway, she was approached from behind by a Negro male, who snatched from her left arm her black leather pocketbook, containing $40 in bills and personal papers.

The next case is of a white female, 40 years, reported she was grabbed by three Negro males in the basement and thrown to the floor where one of the Negro males ripped her clothing and removed 75 cents in change from her sweater pocket. Complainant screamed and subjects ran from the basement. No hospital treatment needed.

The next case is of a white female, 48 years, reported while standing in hallway, about to open mailbox, she was approached from the rear by a Negro male, who snatched her brown cloth handbag, containing $7 in bills and personal papers and eyeglasses.

The next case is of a white female, 76 years, retired, reported while climbing steps inside and when on first floor landing a white male snatched from her hand a black handbag containing a light blue wallet with $16 in same, also keys and personal papers. Subject made escape running out front door.

The next case is of a white female, 64 years, reported while in the hallway, fourth floor of 1401 Fairmont Street NW., she was approached from the front by a Negro male who grabbed her from the front and threw her against the wall, causing her to drop her black patent leather purse containing $119 in bills, one $25 series E U.S. savings bond and personal papers. Subject then picked up her purse and ran down the rear stairway. No hospital treatment.

The next case is of a white female, 70 years. While sitting in front room of her apartment, she heard a knock at the door. She opened the door and a Negro male stated he was a salesman from the Stanley Products and started to show her the order book. At this time, the subject pulled the locked screen door and forced his way inside, grabbed her over the mouth and took her into the middle room and forced her to lie on the sofa. While holding her mouth, he removed her undergarments and placed a pillow over her head and threatened her. Subject then attempted to have sexual relations with her, at which time her dog bit subject on the hand. Subject asked complainant for her money and she stated she did not have any. Subject opened the top dresser drawer and removed $16 in bills and change and left running out front door.

The next case is of a white female, 64 years. Resident manager reported she heard a knock at the door and responded to find a Negro male pointing a long-barreled revolver at her. Subject ordered her into the apartment and told her he wanted all the money. Subject ransacked the apartment and removed $187 in bills and from her finger a yellow metal ring with a lion's head and a diamond set in the mount. Subject placed complainant in a chair and tied her with a sheet.

The next case is of a Negro female, 72 years, retired. Reported upon entering her apartment with a female companion were met by a Negro male holding a silver-colored gun. The companion was directed to go into the living room closet and shut the door, which she did. Subject then ordered complainant into bedroom closet and shoved her, causing her to fall and then snatched her black leather handbag containing five $20 bills and one $10 bill. Subject also stole $15 from the kitchen table drawer; total $125.

The next case is of a Negro female, 41 years, reported while in the lobby of her apartment building, she was struck in the face by a Negro male, who took her purse containing $2 in bills, and personal papers.

The next case is of a Negro female, 63 years, reported as she was about to enter her apartment building, she had her purse containing $2 in change and personal papers snatched by a Negro male, accompanied by another Negro male.

The next case is of a white female, 42 years, reported while at her apartment building, she had her purse containing $17 and other personal papers snatched by three Negro males.

The next case is of a white female, 74 years, reported while in the hallway of had apartment building, she had snatched from her arm her handbag, blue in color, containing $50 in bills and personal papers by a Negro male who was hiding in the stairway.

The next case is of a white female, 88 years, reported while in hallway of her apartment building, she was approached from the rear by two Negro males, one of whom snatched her black calfskin clutch purse containing a brown change purse with $4.67; a tan change purse with $2; a white change purse with $3.20 and personal papers, total $9.87.

The next case is of a Negro female, 72 years, reported while on the third floor of her apartment building, she was followed by two Negro males. No. 1 subject grabbed her black plastic handbag containing 25 cents and personal papers.

The next case is of a Negro female, 44 years, reported while on the stairway, second floor, she was grabbed from behind by one of two Negro males who held her arms while No. 2 subject beat her about the face with his fist and snatched her black leather handbag, removing a red leather wallet from same containing $23 in bills and change.

The next case is of a Negro female, 10 years, reported while entering lobby she was approached by a Negro male who asked where Eddie lived. Subject then grabbed her and shoved her against the wall and removed from her pocket a brown envelope containing $5 in bills.

The next case is of a white female, 84 years, reported in response to a knock on the door that she was greeted by two Negro males who stated they were with the Star paper. They forced entry and knocked subject down, held her there and asked for the money. No. 2 subject beat the complainant's husband about the face and body. They took one yellow metal wedding band with large stone and five rubies in same and one Lady Hamilton wrist watch with stretch band. Subjects to Casualty Hospital; not serious and released.

The next case is of a white female, 80 years, reported she was followed into her apartment by a Negro male who pushed her to the floor, cutting her head and grabbed her black leather purse containing $20 and personal papers. To Georgetown Hospital in ambulance 2; not serious and admitted for observation.

The next case is of a white female, 53 years, reported she was approached from behind by two Negro males who snatched from her left wrist her black leather handbag containing $11 in bills, District of Columbia permit, and several credit cards.

The next case is of a white female, 65 years, reported while in the basement, she was approached from the rear by a white male who snatched her black pocketbook containing about $1,000 in cash and personal papers.

The next case is of a white female, 44 years, reported a Negro male broke the glass in the rear door, came in the kitchen holding a short-barreled black pistol and robbed her of $75 or $80.

All in all, Madam President, there was a total of 40 victims, 28 of them being white, and 12 being Negro. As to the assailants in the 40 cases, 55 were Negro males, and 2 were white males. In one case, the color of the assailant was unknown.

I offer this for the RECORD at this point, to underscore the concern which some of us feel about title II. We cannot help viewing with apprehension the passage of this title which would force a person who occupies a home as his or her residence with as many as six rooms for rent or hire, to rent those rooms to any transient guest without the privilege of turning an individual of a different race away; in other words, a Negro woman living in such circumstances would be forced to rent rooms to a white transient guest, or be confronted with possible litigation in the courts. By the same token, a white woman would be forced to rent rooms to nonwhite persons, or be confronted with litigation in the courts.

She could remove one room from the rental market and rent out only five rooms and she would not be covered by the title. She could discriminate then without fear of litigation.

But these are practical reasons why some of us hesitate, entirely aside from the possible unconstitutional aspects, because we see this title as a dangerous title. This is not meant to be any indictment of persons of any race. I have merely presented the facts as they were represented to me, concerning attacks which have occurred in the District of Columbia in hallways or in elevators of apartment buildings. I place these in the RECORD because I believe that such situations are pertinent to the matter before us.

Madam President, we have been urged to support the bill by some who maintain that it involves a great moral issue. There are those who say that to oppose the bill is un-Christian. Churchmen have been exhorted to get into the act. Church laymen have been asked to urge their Representatives and Senators to vote for the bill on the basis that it is their Christian duty to do so.

A REFUTATION TO THE ARGUMENT THAT WE SHOULD PASS THE CIVIL RIGHTS BILL FOR INTERNATIONAL REASONS

Over the course of the last year especially, I have from time to time heard addresses and read so-called popular articles on the subject of civil rights which have never ceased to amaze me. Again and again, I hear and read comments to the effect that all sorts of things are going to happen to us as a nation if we do not pass the civil rights bill. Among some of the arguments devised as reasons in support of this legislation is one which leaves me completely baffled. It runs along the general line that "we are doomed to fail in the world community unless we pass the civil rights bill," or "our prestige in international affairs will sink to an all-time low if we don't pass legislation for the Negro," or "we will never be able to lead the free world again if we fail to enact civil rights legislation."

My first impression of these arguments was that they were simply drawn up for their sheer, shock propaganda appeal. But, as I saw more and more of this same approach in the writings of those who are highly thought of by the reading public, I came to the conclusion that these commentaries were sadly lacking in political sophistication. The fact is that those who have been writing in this vein appear, unfortunately, to believe what they say. But, their arguments are shallow, their logic is questionable, and their values are in dispute. In short, their claims are false.

I therefore feel compelled, out of civic duty, to register my sharp disagreement with those who proselytize such propaganda in the political marketplace. It is a sad—no, a shocking—commentary on our times when we are told that this Nation's fate as world leader will be determined by a piece of legislation such as the civil rights bill.

I should now like to spend just a few moments to set the record straight by pointing out the naivete of the charge that we should pass this legislation for international reasons.

I am particularly disturbed by those who claim that our prestige in the world is determined by the future of this civil rights bill. To those would-be Cassandras who cry out with such emotional fervor, I remind them that the Congress of the United States is not charged with the duty of reflecting world opinion. This is not to say that I discount the importance of our prestige throughout the world. Far from it. But, I do think it a dangerous tendency when some would have us formulate national policies primarily or even secondarily on the basis of what our international neighbors might choose to think of us. Certainly, such a course of action would not be political maturity, but rather a sign of national vanity. Let us not be so coy as to think that we stand to gain if we shape domestic legislation after the fashion of the young lady who chooses to primp before the judges of an international beauty contest.

Such is the answer I would give to those who are unreasonably concerned with our prestige and reputation in the world. But, other false claims have been made and should be answered. I should therefore like now to pass on to consider another warning that we hear from time to time—a warning to the effect that, unless we pass this civil rights bill, our position of leadership in the world will diminish. This charge is clearly triggered by the alarmist element in our population. And, I suspect that it is based at least in part on the previously considered argument that this Nation should adhere only to those policies which yield the greatest degree of prestige; I say this is a suspicion because, unfortunately, those who make this charge generally avoid offering arguments to support their position. For this reason, I find it hard to second-guess the reasons for their contentions. Certainly they cannot ally themselves with the force of logic if they claim that our economic leadership with a gross national product exceeding $600 billion a year will diminish. I know of no nation that will refuse American investment should this bill be defeated. I know of no underdeveloped country that will refuse our foreign assistance if we kill this bill. I certainly know of no nation that is about to impose economic sanctions on us if we do not pass this measure. I know of no country that will turn down the help rendered by our Peace Corps if this bill does not pass. Furthermore, those who level these charges cannot be men of sound reason and vision if, by a diminishing of our position of leadership in the world, they mean to imply that our allies will break diplomatic relations with us and tear up all our treaties of mutual defense. I know of no United Nations declarations that will be filed against us in the event that this bill does not pass. I know of no nation that is planning to cut off educational exchange programs if this bill is stopped.

In short, I think that we can dismiss the arguments of those who appear in false patriotic garments to tell us that we are doomed unless this civil rights bill is enacted. In the end, men of sound reason will hold us in high regard and respect our leadership position only if we as legislators determine to do what we are committed to do—fulfill our national purpose in our own way.

Many well-meaning church leaders have come to Washington to press upon Federal legislators the urgency of the bill's enactment. Some of them have come to see me. These are respectable men and women. They are religious men and women. They are sincere men and women. But I would venture to say that 99 out of 100 of them have not read the bill; I would venture to say that 999 out of 1,000 have not read the minority views in the House Judiciary Committee report and the record of the House debate on the bill at the time it was considered there. These people, like many others in public life, have been swept up in the vortex of emotion which prevails in much of this country and which manifests itself in legislative halls as well as in the streets. Appeals have been made to conscience, but not to reason; to the emotions but not to the intellect; to the heart but not to the mind. Law-abiding, conscientious people are being sold a "pig in a poke." They are being told that this bill is something which it is not.

Madam President, I have attempted to reach some understanding as to the Scriptural basis upon which we are implored to enact the proposed legislation. I am certainly not an authority on the Scriptures. I have read the Scriptures to some little extent. I am sorry that I have not read them as much as I should have read them. But I have spent several hours in attempting to find in the Scriptures words which require that a person vote for, support, or urge the support of the bill. I find none.

Yet our church people are constantly being importuned to get behind Senators and apply pressure to give their support to the bill and get it passed. It is being done in the name of religion, morality, and conscience.

Where has the Nation's conscience been in hiding? How has it managed to elude its keepers so successfully in times past? Has it slept like Rip Van Winkle, in the mountains of yesterday? Or has it been marooned like Robinson Crusoe on some distant isle of fantasy? Where was the Nation's conscience in the days of Dwight L. Moody, a man who was converted while working as a clerk in a Boston shoestore in 1855; who soon devoted all of his time to Christian service; a man who established a Sunday school on North Market Street in Chicago, which grew to be the largest Sunday school in the West; a man who went on to become an internationally known evangelist; a man who organized an interdenominational school for free Bible training, which, after his death, was named the Moody Bible Institute. Here was an expositor of the Bible who lived in no ivory tower "far from the maddening crowd"; here was a man who rubbed elbows with the most common of common people. In his lifetime Dwight L. Moody addressed more than 100 million people and that was before the age of television. He held meetings in all parts of the United States. Are we to understand that Dwight L. Moody and the great clergymen of his day were spiritual cowards? A contemporary of Dwight L. Moody, a man who lived to see the first Roosevelt administration, was William Ashley "Billy" Sunday. Billy Sunday was a baseball player. From 1883 until his conversion in 1890, he played in turn on the Chicago, Pittsburgh, and Philadelphia baseball teams of the National League. Three years later he became a Presbyterian minister and began his evangelistic work. He became a famous evangelist. His ability to reach the spiritual conscience of his listeners led to his winning about 300,000 converts. The tabernacles in which he preached usually had sawdust on the floor, and so, when his converts came up to the altar they were said to be "hitting the sawdust trail."

Billy Sunday was born 1 month before his father was killed in the War Between the States. Billy Sunday spent much of his childhood in an orphans' home and then supported himself by working at odd jobs. Here was a colorful American preacher. Are we to believe that this spiritual giant was afraid to tamper with the Nation's conscience? Privately owned business establishments were not required to serve all who would enter in his day. The Federal Government was not called upon, in his day, to constantly look over the shoulder and run barefoot through the records of employers for the purpose of snooping and hauling those employers before courts to answer charges of discrimination in their practices of hiring, promoting, and firing. Where was the Nation's conscience in his day? It really would be amusing, if it were not quite so serious, to see those, as we look about us, who exhort the fine, honest, hard-working, religious citizens of this country, in the name of conscience, in the name of Christianity, in the name of morality, to exert pressure upon the U.S. Senate to pass a bill which, in reality, would endanger some of the liberties and freedoms of those very same citizens. What is really being appealed to is not the Nation's conscience, but its emotions.

The King James version of the Holy Bible, which was first published in 1619, the year when Negroes were first brought to the colonies in America, was as much read, as well understood, and held as much sway, if not more, over the daily lives of men and women as is the case today. Shall responsible men and women be persuaded that throughout the religious history of this country, they have failed to preach the truth? Shall we be persuaded to believe that the scriptures cannot be fulfilled unless Congress passes a certain bill. If this is true, then I might say to Christians that Christ died in vain.

The admonition that we should do unto others as we would have them do unto us is a spiritual admonition. The manmade law will never force men to be Christian or to be spiritual, or even to be charitable in their dealings with others. In urging men to act toward others in a certain way, Christ meant for the Christian act to be supported by Christian motives flowing from a Christian heart. For "as a man thinketh in his heart, so is he." He may be forced to act, by law, in a certain way, but his actions may not spring from his heart. Men will never be made Christians by law. There are already thousands of laws the purpose of which, basically, is to guide men in doing unto others as they would have others do unto them. We have laws which state that we shall not kill—in other words we should not do unto others that which we would not want others to do unto ourselves—but there is a murder every 40 minutes; we have laws which tell us that we should not steal, that we should not bear false witness, that we should not embezzle, that we should not commit assault, that we should not covet our neighbor's wife—these are manmade laws, some or all of them having their basis in the God-given Ten Commandments, and one might truthfully say that their purpose is to make man do unto others as he would make others do unto him—yet men go on stealing, bearing false witness, embezzling, committing adultery, and assaulting their fellow men. Even with all of these laws, a major crime is committed every few seconds. So, the passage of H.R. 7152 is not going to bring us any nearer to the millennium. Men will only do unto others, as Christ admonished, when their hearts undergo a spiritual change, not when the signature of the Chief Executive is affixed to a law which was enacted to get votes in the coming elections.

The majority whip, when he opened the debate on the bill several weeks ago, referred to the Scriptural passage: "As ye would that men should do to you, do ye also to them likewise." So in view of the fact that the distinguished majority whip sought support in the Scriptures, I, too, have looked into the Scriptures to see if I could find such support. In verse 1 of the 28th chapter of Genesis, we are told that Isaac called Jacob and blessed him and charged him and said unto him, "Thou shalt not take a wife of the daughters of Canaan." And who was Canaan? He was fourth son of Ham. And who was Ham? Ham was one of the three sons of Noah, the other two sons having been Shem and Japheth, and of these three sons, we are told in Genesis 9: 19 "was the whole earth overspread." Continuing in chapter 9 of Genesis, we find that Noah, following the flood:

> Began to be an husbandman, and he planted a vineyard;
>
> And he drank of the wine, and was drunken; and he was uncovered within his tent.
>
> And Ham, the father of Canaan, saw the nakedness of his father, and told his two brethren without.
>
> And Shem and Japheth took a garment, and laid it upon both their shoulders, and went backward, and covered the nakedness of their father; and their faces were backward, and they saw not their father's nakedness.
>
> And Noah awoke from his wine, and knew what his younger son had done unto him.

> And he said, Cursed be Canaan; a servant of servants shall he be unto his brethren.
>
> And he said, Blessed be the Lord God of Shem; and Canaan shall be his servant.
>
> God shall enlarge Japheth, and he shall dwell in the tents of Shem; and Canaan shall be his servant.

So, Noah apparently saw fit to discriminate against Ham's descendents in that he placed a curse upon Canaan.

Isaac apparently did not want his son, Jacob, to take a wife of the daughters of Canaan, and I suppose that one might be able to charge Isaac with discrimination.

One of the greatest scientific laws ever promulgated its to be found in the first chapter of the Book of Genesis. In that immaculate account of creation, we find that "God created great whales and every living creature that moveth, which the waters brought forth abundantly, after their kind, and every winged fowl after his kind."

> And God said, Let the earth bring forth the living creature after his kind, cattle, and creeping thing, and beasts of the earth after his kind, and it was so.
>
> And God made the beasts of the earth after his kind, and cattle after their kind, and every thing that creepeth upon the earth after his kind: and God saw that it was good.

In Leviticus, chapter 19, verse 19, we find the words:

> Ye shall keep my statutes. Thou shalt not let thy cattle gender with a diverse kind: thou shalt not sow thy field with mingled seed.

God's statutes, therefore, recognize the natural order of the separateness of things.

Mr. **HUMPHREY**. Mr. President, will the Senator yield?

Mr. **BYRD** of West Virginia. I yield only for a question.

Mr. **HUMPHREY**. Would the Senator from West Virginia be interested in having the Senator from Minnesota fulfill a promise that he made last evening? The Senator will recall that on the fence around my home are growing some very beautiful, lovely, charming, attractive, colorful, thorn-ridden roses.

Mr. **BYRD** of West Virginia. The Senator from West Virginia knows that the Senator from Minnesota always keeps his promises, and the Senator from West Virginia is very grateful and very happy to be the recipient of the Senator's good will in this instance.

Mr. **HUMPHREY**. Mr. President, will the Senator yield for a further question?

Mr. **BYRD** of West Virginia. I yield.

Mr. **HUMPHREY**. The Senator will be pleased to know that the Senator from Minnesota has had delivered to the office of the Senator from West Virginia a beautiful bouquet of roses that come from the garden of Mrs. Humphrey.

Mr. **BYRD** of West Virginia. The Senator is glad to be apprised of that fact. The Senator from West Virginia will attempt in return to have roses placed on the desk of the distinguished majority whip very soon.

The **PRESIDING OFFICER**. The Chair reminds the Senator that Senate rules forbid flowers to be placed on the desks of Senators.

Mr. **HUMPHREY**. Madam President, I ask unanimous consent that that rule be set aside for a moment.

Mr. **MORSE**. Madam President, I object.

The **PRESIDING OFFICER**. Objection is heard.

Mr. **HUMPHREY**. Madam President, will the Senator yield?

Mr. **BYRD** of West Virginia. I yield for a question.

Mr. **HUMPHREY**. Does the Senator from West Virginia realize that the objection came from the No. 1 rose wearer of the Senate?

Mr. **BYRD** of West Virginia. The Senator from West Virginia realizes that.

Mr. **MORSE**. Madam President, will the Senator yield for a question?

Mr. **BYRD** of West Virginia. I yield for a question.

Mr. **MORSE**. Does the Senator know that if he leaves the flowers in the office of the Senator from West Virginia, there would be no violation of the rule?

Mr. **HUMPHREY**. Madam President, will the Senator yield?

Mr. **BYRD** of West Virginia. I yield for a question.

Mr. **HUMPHREY**. Does the Senator know that if we can procure a pin, I shall be able to pin a rose to the lapel of the Senator from West Virginia?

Mr. **BYRD** of West Virginia. The Senator from Minnesota has handed me a bundle of roses. I would be happy to place one on my own lapel. The desk to which the Senator from West Virginia referred was the desk in the office of the Senator from Minnesota.

Mr. **HUMPHREY**. The Senator is correct.

We shall select a good one.

(At this point, Mr. HUMPHREY pinned a rose on Mr. BYRD of West Virginia.)

Mr. **BYRD** of West Virginia. The Senator from West Virginia would express the hope that the distinguished majority whip will now place a similar rose upon the lapel of the distinguished Senator from Oregon.

Mr. **MORSE**. Madam President, will the Senator yield?

Mr. **BYRD** of West Virginia. I yield for a question.

Mr. **MORSE**. The Senator from Minnesota must realize that it would be impossible to put that rose on my lapel because I am in no mood to do any filibustering.

Mr. **HUMPHREY**. Madam President, will the Senator yield?

Mr. **BYRD** of West Virginia. I yield for a question.

Mr. **HUMPHREY**. Does the Senator realize that the Senator from Minnesota is fully cognizant of the obvious, well-known and established fact that the Senator from Oregon has just related?

Mr. **BYRD** of West Virginia. Will the Senator repeat his question?

Mr. **HUMPHREY**. Does the Senator from West Virginia recognize and realize that the Senator from Minnesota is fully cognizant of the obvious fact—at times the sad and sorrowful fact—which the Senator from Oregon has just stated?

Mr. **BYRD** of West Virginia. The Senator from West Virginia would not desire to agree that such a situation exists.

Mr. **MORSE**. Madam President, I rise to a point of order.

The **PRESIDING OFFICER**. The Senator will state it.

Mr. **MORSE**. The Senator from Minnesota is not in his seat.

The **PRESIDING OFFICER**. The Senator will take his seat. The Senator from West Virginia has the floor.

Mr. **BYRD** of West Virginia. Madam President, the Old Testament is replete with references to property.

Title II of the bill before us would jeopardize property rights. Deuteronomy, chapter 19, verse 14 says:

> Thou shalt not remove thy neighbor's landmark, which they of old time have set in thine inheritance, which thou shalt inherit in the land that the Lord thy God giveth thee to possess it.

Speaking of inequality among men, even in heaven one might expect to find inequalities among heavenly beings. In I Peter, chapter 3, verse 22, we find these words:

> Who is gone into heaven, and is on the right hand of God; angels and authorities and powers being made subject unto Him (meaning Christ).

So, there are angels, there are authorities, and there are powers, even in heaven.

Proponents of title VII say that it will outlaw discrimination in employment and they have exhorted their church brethren to urge that the bill be passed. What would they have to say about Christ's parable of the laborers in the vineyard?—Matthew 20: 1–15.

> For the kingdom of heaven is like unto a man that is an householder, which went out early in the morning to hire labourers into his vineyard.
>
> And when he had agreed with the labourers for a penny a day, he sent them into his vineyard.
>
> And he went out about the third hour, and saw others standing idle in the marketplace.
>
> And said unto them; Go ye also into the vineyard, and whatsoever is right I will give you. And they went their way.
>
> Again he went out about the sixth and ninth hour, and did likewise.
>
> And about the eleventh hour he went out, and found others standing idle, and saith unto them, Why stand ye here all the day idle?
>
> They say unto him, Because no man hath hired us. He saith unto them, Go ye also into the vineyard; and whatsoever is right, that shall ye receive.
>
> So when even was come, the lord of the vineyard saith unto his steward, Call the labourers, and give them their hire, beginning from the last unto the first.
>
> And when they came that were hired about the eleventh hour, they received every man a penny.
>
> But when the first came, they supposed that they should have received more; and they likewise received every man a penny.
>
> And when they had received it, they murmured against the goodman of the house.
>
> Saying, These last have wrought but one hour, and thou hast made them equal unto us, which have bourne the burden and heat of the day.
>
> But he answered one of them, and said, Friend, I do thee no wrong: didst not thou agree with me for a penny?
>
> Take that thine is, and go thy way: I will give unto this last, even as unto thee.

> Is it not lawful for me to do what I will with mine own? Is thine eye evil, because I am good?

So the householder practiced discrimination. He paid those who worked but a little while the same amount of money received by those who had borne the burden in the heat of the day. Did Christ condemn this discrimination? There is no account of it, if he did.

The proponents of H.R. 7152 would deprive many private property owners of the right to withhold the use of that property from some people, while making it available for use to others. I refer here to title II of the bill. They exhort our churchmen to urge the passage of the bill including this title on the basis that a moral issue is involved, but what did the householder in the parable, to which I have just referred, say to the laborers in the vineyard who complained because he did not treat them all alike?

Listen to his question: "Is it not lawful for me to do what I will with mine own?" Christ was referring to the private property of the householder, and the householder was saying what private property owners in this country, who oppose title II, are today saying: "Is it not lawful for me to do what I will with mine own?"

The place and importance of property rights in the scheme of Biblical history may be understood from a reading of I Kings, chapter 21.

Those who would have us pass this bill on the basis that it is our moral duty to do so, cite the following words from the Declaration of Independence: "We hold these truths to be self-evident that all men are created equal." This is obiter dictum. In the first place, the statutes of this Nation are not to be void or made to stand on the verbiage of the Declaration of Independence. The Constitution is the real touchstone, and not a word was said in the original Constitution or the Bill of Rights about equality among men. Yet, there are loud voices proclaiming today that we must pass this bill to insure equality among men and that it is un-Christian to suggest that men are not created equal.

Of course, everyone knows that men are not created equal, they never have been, and they never will be. Some are born lame, some are blind, some are geniuses when born and others are simple minded. Christ recognized this verity when he related the parable of the 10 virgins—Matthews 25: 1–13:

> Then shall the kingdom of heaven be likened unto 10 virgins, which took their lamps, and went forth to meet the bridegroom.
>
> And five of them were wise, and five were foolish.
>
> They that were foolish took their lamps, and took no oil with them:
>
> But the wise took oil in their vessels with their lamps.

If all men are created equal, how could five of the virgins have been wise and five foolish?

Christ also recognized the inequality among men as to their abilities in relating the parable of the talents—Matthew 25: 14–30.

There are many persons to whom hopes are held out by this legislation that they will be automatically given additional status and position by its enactment. Luke, the physician, is one to whom we may repair in seeking advice pertinent to this point:

> When thou are bidden of any man to a wedding, sit not down in the highest room; lest a more honourable man than thou be bidden of him;
>
> And he that bade thee and him come and say to thee, Give this man place; and thou begin with shame to take the lowest room.
>
> But when thou art bidden, go and sit down in the lowest room; that when he that bade thee cometh, he may say unto thee, Friend, go up higher: then shalt thou have worship in the presence of them that sit at meat with thee.
>
> For whosoever exalteth himself shall be abased; and he that humbleth himself shall be exalted.

Those who would exhort us to pass this bill on the basis that it would be un-Christian not to do so point to the demonstrations that have taken place in the streets. Men of the cloth say that this bill must be passed if we are to avoid violence and bloodshed. But Paul, the great Apostle, said, in his epistle to the Romans, chapter 13, verses 1 to 7:

> Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God.
>
> Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation.
>
> For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same:
>
> For he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil.
>
> Wherefore ye must needs be subject, not only for wrath, but also for conscience sake.
>
> For this cause pay ye tribute also: for they are God's ministers, attending continually upon this very thing.
>
> Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honour to whom honour.

So, Paul would say to those who commend acts of civil disobedience, that they should obey the law, whether those laws take the form of local ordinances, State statutes, or otherwise.

Supporters of this measure would proclaim that it would implement the Scriptural admonition "thou shalt love thy neighbor as thyself." But the Scriptural admonition does not say that we may not choose our neighbor. It does not say that we shall have no voice in determining the identity of our neighbor. It does not admonish that we shall not build a wall betwixt us and our neighbor.

Supporters of this bill may point to the Scriptures which say that God "hath made of one blood all nations of men," but the Scriptures also say that God "hath determined the times before appointed, and the bounds of their habitation." How can it be un-Christian, then, for men to lay out for themselves, through the sweat of their face, the bounds of certain property upon which certain others may not trespass?

It seems quite contrary to our American political tradition for the leaders of the executive branch to marshal the forces of Christian congregations in such a way that they have no convenient alternative to bringing their weight to bear on this significant issue. I think that most anybody will agree that we are generally a churchgoing and religiously oriented nation. And, it is probably because we are a religious nation that we are perhaps too prone to perceive issues and problems in a highly moralistic light. For example, I sometimes think that there are many who look upon such programs as foreign aid and the Peace Corps almost wholly in the context of great moral missions, when in fact they are primarily intended to strengthen our position abroad. Then, there are such programs as aid to depressed areas and urban renewal which are also viewed as just causes of a moral nature, when in fact they are meant to serve as a means of arresting urban blight and stimulating economic growth.

Let us be aware of the extent to which we as Americans tend to view great issues and problems such as these in a moral light. Most important, with an awareness of this tendency, let us not be inclined to accept the exhortations of those who are determined to make a moral issue out of the debate on civil rights.

We do not have a system of governance that combines matters of religion and morals with matters of government and legislation. We have long respected the importance of each, but also the place of each. We should not tolerate the incursions made by Government leaders into the sphere of religious affairs, just as we should not tolerate the incursions made by religious leaders into the sphere of political affairs. Those who are attempting to get this bill passed are making an appeal to the churches by deliberately and wrongfully calling it a moral issue when in fact it is patently a social and political one. Perhaps an editorial in a recent issue of the Alabama Baptist best articulates the feelings of a great number of clerics in the land:

> We have no instances of Jesus' resorting to law to advance His kingdom. He was obedient to the state, but there is no instance where he shared in political activities. The worst thing we could do is to turn over pulpits into political rostrums to advance the ideas of one man, or group of men.

Thus far I have tried to point out the extent to which religious, or moral, arguments have been employed by those in and out of government to push for the passage of this bill. I have also attempted to emphasize that arguments which run along this line are wholly and completely irrelevant and irresponsible when forced to be made applicable to the civil rights bill. Now I should like to question seriously whether the arguments that have been advanced are truly moral in scope, or whether "moral cause" is but a term of convenience for those eager to see this bill passed.

We are told that moral reasons demand passage of this bill. But, how does this square with the fact that there are many men of the cloth, and vast numbers in the congregations they represent, who are opposed to this bill? When I addressed myself to the subject of civil rights some days ago in this chamber, I referred to an item in the New York Times which probably went unnoticed by many who read newspapers in a cursory fashion. Tucked away quite unobstrusively on page 21 of the Times on April 30 were a few lines which read:

> The American Council of Christian Churches, representing 15 denominational groups with a total of more than 20 million members wired President Johnson today protesting the civil rights bill.

I think that I stand unchallenged when I assert that the American Council of Christian Churches is a highly reputable religious organization, one which is composed of good citizens genuinely interested in the welfare of humanity and deeply determined to live up to the terms of the Christian code.

I think that I can also stand unchallenged when I contend that the 4,000 clerical and lay representatives at the interfaith rally that was held recently in the Nation's Capital are just as firmly committed to the ideals of religion and its teachings as are those who have membership in the American Council of Christian Churches.

In short, I feel that we shall unanimously agree that each of these religious bodies is sincerely committed to high moral purposes. However, when we pursue a further line of thought, we lift the lid of Pandora's box and find each body apparently operating at cross-purposes. For, how is it that the interfaith rally can declare itself unequivocally in support of this measure and the American Council of Christian Churches declares itself unequivocally in opposition to the bill? Certainly, in the 24-hour period that intervened between each body's statement on this issue no changes were wrought in the bill to cause a complete turn-about in its so-called "moral" overtones. How do we reconcile these two widely divergent positions? Both declarations were formulated by churches. And, of course, the churches representing each side can justly claim to be the ultimate repositories of the public morals. But yet there is a definite fundamental difference that divides each representative body.

In my mind, this obvious dichotomy in moral outlook patently indicates that even if this bill were to be argued and judged solely by religious bodies and only on moral grounds, there would be unquestionable disagreement—just as there is deep-seated disagreement presently between two blocs having different political and social outlooks.

I suspect that religious and other groups have earnestly highlighted a set of "moral" reasons, which supposedly command passage of the bill, for the explicit purpose of attempting to bring great psychological strength to their positions; for, as I indicated earlier, to oppose a bill that is allegedly consonant with high moral principles is to be in league with the Devil himself.

In truth, whose who call for unqualified support of this bill are standing on shifting sands if they urge its passage on the basis of the strength of moral argumentation.

Just in closing on this point, I should like to draw to the attention of my esteemed colleagues the results of some research conducted by Mr. Gerhard Lenski. In his book, "The Religious Factor; A Sociological Study of Religion's Impact on Politics, Economics, and Family Life," the author reveals on pages 148–149, some very pertinent findings:

> A great deal of public controversy in the area of civil liberties springs from the divergent conceptions of morality prevailing in various groups within the population. Each group has a tendency to seek the sanction of law for its own distinctive standards.

I feel that this is quite instructive in the light of my present point of argument.

In conclusion, I reiterate my insistence that there is a proper sphere for religion and morals just as there is a proper sphere for government and legislation; and, each of these areas should not meddle irresponsibly in the other. Undoubtedly Christ himself gave the best counsel in this matter of proper jurisdictions when He taught "render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's."

I have completed my discussion of the 11 titles of the so-called civil rights bill. I trust the Members of this body, when they vote on today, Wednesday, at the appointed hour of 11 o'clock a.m., will not invoke cloture. I know when I see the handwriting on the wall. I am sure if cloture is invoked, the objectionable titles and the objectionable provisions to which I have alluded during the course of my long discussion on the bill will be enacted, except for whatever amendments the combined leadership chooses to have adopted.

The leadership has the votes to pass the bill if cloture is invoked. The leadership has the votes to have adopted whatever amendments it wishes to propose. And I believe the leadership has the votes to beat down any amendments which will be offered by those of us who feel that title II, title VII, and certain other provisions are unconstitutional, unwise, and unenforcible. I do not oppose all of the titles in this bill. There are some which I can support.

I have no doubt that, if cloture is not invoked, and if we can put this bill aside and get on with other business, and rub elbows with the home folks in the fall, the bill in its present form will never again be brought before the Senate because the people of the country will make their message fully heard, "loud and clear," if they have an opportunity to do so.

Let us act, then, in the spirit of the words that were spoken by Daniel Webster in his eulogy to George Washington in 1832. He said:

> Other misfortunes may be borne or their effects overcome. If disastrous war should sweep our commerce from the ocean, a new generation would replace it. If it exhaust our Treasury, future industry would replenish it. If it desolate and lay waste our fields, still, under new cultivation, they will grow green again and ripen into future harvests. Yea, it were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these may be rebuilt. But who will rebuild the fabric of demolished government? Who will rear again the well proportioned columns of constitutional liberty? Who will frame together the skillful architecture which unites national sovereignty with States rights, individual security, and public prosperity? No; if these columns ever fall, they will be raised not again. Like the Colosseum and the Parthenon, they will be destined to a mournful and melancholy immortality. Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman and Grecian art for they will be the monuments to a more glorious edifice than Rome or Greece ever saw—the edifice of constitutional American liberty.

EXHIBIT 1

THE "BLESSINGS OF LIBERTY" VERSUS THE "BLIGHT OF EQUALITY"

(By R. Carter Pittman, Member of the Georgia Bar)

Before considering digressive aspects of the subject "civil rights" it is proper that the subject itself be examined.

Recurring to fundamentals, what is meant by the phrase "civil rights"? Is it not a phrase more to be dreamed of than reasoned with? Russell Lowell said:

"Let us speak plain: there is more force in names
Than most men dream of; and a lie may keep
Its throne a whole age longer, if it skulk
Behind the shield of some fair-seeming name."[1]

An endeavor to enlarge one's "civil rights" in personal associations sounds better than an endeavor to restrict the right of another to select or cull his associates. An endeavor to increase human equality sounds better than an endeavor to diminish human liberties. The idea of "improving the environment" of the children of one ethnic group sounds better than the idea of impairing the environment of another by integration.

When submitting a proposed "civil rights bill" to Congress on June 19, 1963,[2] designed in part to force school integration, President Kennedy described racial agitation in America as a "growing moral crisis" and recommended that revolutionary measures be enacted in order to bring about "racial equality." He exclaimed that the Negroes' "cries for equality" had so increased "that no * * * legislative body can prudently choose to ignore them."[3] Then followed the recommendation of perhaps the most violent leveling measures even proposed to an assembly composed in part of Anglo-Saxons. The first sentence of the first proposed act in the bundle delivered to Congress by the President was:

"Discrimination by reason of race, color, religion, or national origin is incompatible with the concepts of liberty and equality to which the Government of the United States is dedicated."[4]

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[1] Lowell, "A Glance Behind the Curtain," I Poems 131, 138 (1848).

[2] H.R. Doc. No. 124, 88th Cong., 1st sess. (1963).

[3] Id. at 1.

[4] Id. at 14.

To "discriminate" is "to make a distinction, to note or observe a difference; distinguish accurately," to "differentiate."[5] A "discriminating person" is "one who makes fine distinctions."[6] The competence and right to distinguish between and to prefer the Catholic faith over the Methodist, blonds over brunettes, or caucasoids over australoids is "incompatible with the concepts of * * * equality" held by socialists and Marxists, but it is completely and absolutely compatible "with the concepts of liberty * * * to which the Government of the United States is dedicated."

What are "the concepts of liberty and equality to which the Government of the United States is dedicated"? All of the sponsors of civil rights legislation and the Civil Rights Commission itself have grounded their proposals, their actions and their deeds upon the specious doctrine that this Nation was founded upon the proposition that "all men are created equal." The idea that this country was founded upon that doctrine or that "all men are equal," that "all races are equal" or that "this Government is dedicated to the concept of equality" is perhaps the most misleading and effective propaganda since the devotees of liberty were branded as "Levelers" in 1648.[7]

The specious doctrine that all races are equal, that the children of all races are genetically equal and are equally endowed with capacity to absorb an education was the basis for the decision in *Brown* v. *Board of Education*.[8] The authorities cited by the Supreme Court in support of that decision describe the doctrine of human equality as "the highest law of the land"[9] and proclaim that "the philosophy that all men are created equal" is "the American creed."[10]

This country was founded upon the doctrine that all men are born equally free and independent. That doctrine—not the doctrine that "all men are born equal"—went into the constitutions and bills of rights of all American States, into the Federal Constitution and Bill of Rights and most of the constitutions and bills of rights of the free republics of the world.[11] The Declaration of Independence which declared the "separate and equal" doctrine in its first paragraph and equality at creation in the second never became living law in America. The "concept of equality" is wholly incompatible with the "concept of liberty" for which the Revolution was fought and the Constitution written.[12] But falsehood is more powerful than truth when sponsored by those in power.

On the floor of the Constitutional Convention on June 26, 1787, Alexander Hamilton said: "[I]nequality would exist as long as liberty existed and that it would unavoidably result from that very liberty itself."[13]

No one there disputed the obvious. The unshackled and the unfettered become unequal through unequal talents and efforts.

The Preamble of the Constitution was carefully written in order to affirm that the principal reason for adopting a constitution was "to * * * secure the Blessings of Liberty to ourselves and our posterity" and to guard against the blight of equality which shackles and fetters. The Constitution confers and defines powers, but both it and the Bill of Rights interpose law and the due process of law between the freedom of the citizen and that power. The essence of liberty is the liberty to excel, to succeed and to be unequal. Had the framers of the Constitution and the Bill of Rights wanted to replace the "blessings of liberty" with the "blight of equality" they would have said so somewhere and not left the decision to the usurpations, whims or caprices of future officials.

The equalitarian idea that all races are alike and equal in all material respects; that white and Negro school children are equal in educatability; that if differences do exist such differences are not genetic and inherent, but result merely from the accidents of environment and may be changed by simply changing environment, are the basic premises for the Brown decision and the acts proposed under the name of "civil rights."

It is therefore appropriate that we examine and reexamine those factual premises and the decisions of courts and proposed acts of Congress based upon them.

In *Plessy* v. *Ferguson*,[14] *Gong Lum* v. *Rice*,[15] and scores of other decisions prior to 1954[16] the U.S. Supreme Court, the supreme courts of most of the American States, as did the Congress and the general assemblies of the States, took judicial notice of the fact that all races and all men are not equal and that consequent upon the gross differences between whites and Negroes, a rational basis existed for judicial and legislative differentiation between them. No proof was necessary to establish such a fact of common knowledge, because it is never necessary to prove a fact judicially known.[17] But the matter may always be disputed by evidence.[18]

Plessy involved segregated transportation and Gong Lum involved segregated education. In the latter case the Supreme Court held that to justify the forced segregation of races in transportation is "a more difficult question"[19] than to justify segregation in schools. In other words, the Court took judicial notice of the fact that it is easier to justify the separation of races in schools for 12 years than it is to justify the separation of races on trains for 12 hours. The point is that in all cases prior to 1954 judicial notice of racial inequality and of the existence of a rational basis for segregation of races, within the meaning of the 14th amendment, existed and no evidence of such fact was necessary.[20]

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[5] Barnhart, The American College Dictionary 346 (1947).

[6] Ibid.

[7] History is studded with examples of the substitution of a beautiful name for ugly things and repulsive names for venerable things. A striking example is one of long ago which affected the quality, the measure and duration of liberty in England and in America. The story of the origin of the name "Levelers" is one of history's bitter fruits of hypocrisy.

Lilburne, Overton, Walwyn, and others were the Libertarian leaders of the Puritan Revolution. The name "Levelers" was given to them not because they believed in leveling, but because they opposed leveling.

In 1659 Thomas Brewster explained how those exponents of human liberty came to be known as "Levelers." He records that at the time when the 1648 petition was presented to the House of Commons the tyrant Stuart King, Charles I, was at Hampton Court and the members of his private cabinet council were gravely concerned for his safety. They wanted to disgrace and to suppress those who maintained those principles of freedom so many of which later went into the English Bill of Rights, the Virginia Declaration of Rights, the Federal Bill of Rights, and into substantially all of the libertarian documents of the American States and the free world.

"It was resolved that some ill name was fit to be given to the assertors of them, as persons of some dangerous design, and their reputations being blasted, they would come to nothing, especially if that general council were dissolved. Then was that council dissolved, and an occasion taken from that maxim, that every man ought to be equally subject to the laws, to invent the name of 'Levelers,' and the king, who was frightened into the Isle of Wight from Hampton Court with pretense that the men of these principles in the army would suddenly seize upon his person if he stayed there; he was acquainted with those men by the name of 'Levelers,' and was the first that ever so called them in print, * * * and thence it was suddenly blown abroad, with as much confidence, as if they had believed it that first reported it, that a party of levelers designed to level all men's estates." Dunham & Pargellis, "Complaint and Reform in England," 689–90 (1938).

Thus virtue was made to appear as vice, and vice was made to appear as virtue. A perverted name for the right became a justification for wrong and for subverted liberties in the 16th as well as in the 20th century. The odious name, which denoted the exact opposite of the principles which the "Levelers" proposed, was worth more in pulpits than the king's armies in the field. The settlement of the American colonies resulted in large part from the persecutions which owed much of their violence to the perversion, the abuse and misuse of a name.

[8] 347 U.S. 483 (1954).

[9] Myrdal, "An American Dilemma," 9 (1944).

[10] Id. at 14. See generally 347 U.S. at 494, note 11.

[11] See generally Pittman, "Equality Versus Liberty: The Eternal Conflict," 46 A.B.A.J. 873 (1960). It should be noted that the Virginia Declaration of Rights, as originally drafted by George Mason in 1776, affirmed the doctrine that "all men are born equally free and independent," and was printed in newspapers throughout America before Jefferson began to write the Declaration of Independence. It was "the basis and foundation" of government in Virginia and thereafter became "the basis and foundation" of the Declaration of Independence and the governments of the American States, the Federal Government, and all other free republics in the world after June 1776.

[12] See generally Pittman, supra note 11.

[13] Tansill, "Documents Illustrative of the Formation of the Union of the American States," H.R. Doc. No. 398, 69th Cong., 1st sess. 282 (1927).

[14] 163 U.S. 537 (1896).

[15] 275 U.S. 78 (1927).

[16] Id. at 86.

[17] *Ohio Bell Tel. Co.* v. *Public Util. Co.*, 301 U.S. 292, 301 (1937).

[18] Ibid.

[19] 275 U.S. at 86.

[20] In a well-reasoned case on this point, Judge Richard B. Russell, then judge of the Court of Appeals of Georgia, subsequently Chief Justice of the Supreme Court of Georgia and father of U.S. Senator RICHARD B. RUSSELL, JR., said: "We cannot shut our eyes to the facts of which courts are bound to take judicial notice. Certainly every court is presumed to know the habits of the people among which it is held, and their characteristics, as well as to know leading historical events and the law of the land. * * * It is a matter of common knowledge that, viewed from a social standpoint, the Negro race is in mind and morals inferior to the Caucasian. The record of each from the dawn of historic time denies equality. This fact was recognized by two of the leaders on opposite sides of the question of slavery, Abraham Lincoln and A. H. Stephens. The former on numerous occasions declared that it was no part of the proposition even of the Abolitionists to attempt to establish a condition of social equality between an inferior and superior race; and Alexander H. Stephens declared that the Southern Confederacy was based upon the acknowledged superiority of the Caucasian race over the Negro. The distinction and inequality are recognized in Holy Writ.

"We are not compelled to plant our decision on the ground of inequality or inferiority. We take judicial notice of an intrinsic difference between the two races. Certainly, if a court can take judicial notice of near a thousand things, some even of slight importance, which have been judicial-

In 1938 the Supreme Court restated the familiar rule that it is necessary to resort to proof only when the existence of a rational basis for State action, under constitutional attack, depends on facts beyond the sphere of judicial notice.[21] There the Court said:

> "Where the existence of a rational basis for legislation whose constitutionality is attacked depends upon facts beyond the sphere of judicial notice, such facts may properly be made the subject of judicial inquiry, * * * and the constitutionality of a statute predicated upon the existence of a particular state of facts may be challenged by showing to the court that those facts have ceased to exist." [22]

In Brown the NAACP attorneys attacked State legislation by attempting to show that significant differences of which judicial notice was taken either never existed or had ceased to exist.

The records of the four underlying cases [23] decided in Brown actually contained evidence possibly authorizing the Court to find as a matter of fact:

(1) That all people are equal and that there are not such differences between white school children and Negro school children as to constitute a reasonable or rational basis for segregating them in schools; (2) that since there was no rational basis for a statutory classification between the two ethnic groups, such a classification was arbitrary and in violation of the provisions of the equal protection clause and other fundamental laws; and (3) that segregation of white and Negro children in public schools causes psychological injury to and has a detrimental effect upon Negro children.

Thurgood Marshall explained that it was his contention that segregation statutes were unconstitutional for want of a rational basis. After stating that he believed that he had the basic right to show their unconstitutionality, he had the following to say concerning his basis of proof:

> "There are several ways of going about proving the unconstitutionality of statutes. They haven't shown any line of reasoning for the statutes. * * * [W]e have a right to put in evidence to show that segregation statutes * * * have no line of reasonableness. There is no understandable factual basis for classification by race, and under a long line of decisions by the Supreme Court, not on the question of Negroes, but on the 14th amendment, all courts agree that if there is no rational basis for the classification, it is flat in the teeth of the 14th amendment." [24]

As an example of the evidence which influenced the Supreme Court in deciding that there are not such differences between white and Negro school children as to constitute a reasonable and rational basis for segregating them in schools—attention should be focused on the testimony of Dr. Robert Redfield,[25] one of the NAACP's so-called experts whose evidence was used in *Briggs* v. *Elliott*,[26] the South Carolina case which became part of the *Brown* record. When asked whether there were "any recognizable differences as between Negro and white students" regarding their "intellectual capacity" [27] he replied:

> "The conclusion * * * to which I come, is differences in intellectual capacity or inability to learn have not been shown to exist as between Negroes and whites, and further, that the results make it very probable that if such differences are later shown to exist, they will not prove to be significant for any educational policy or practice." [28]

Without such testimony, or the adoption of an unwarranted judicial assumption contrary to an unbroken line of decisions based on judicial knowledge, the Supreme Court could not have brought itself to hold that segregation of white and Negro children in schools has no rational basis and is, therefore, a denial of equal protection of the laws. The records in the Brown cases reveal no testimony rebutting that of Redfield and others which went to show that Negro and white schoolchildren are equal in educability and that hence there was no "rational basis" for educating them separately in schools.

Both before and since Brown the Supreme Court has consistently adhered to the constitutional principles invoked by Thurgood Marshall. *Lindsley* v. *Natural Carbonic Gas Co.*[29] sets forth the basic rule:

> "(1) The equal protection clause of the 14th amendment does not take from the State the power to classify in the adoption of police laws, but admits of the exercise of a wide scope of discretion in that regard, and avoids what is done only when it is without any reasonable basis and therefore is purely arbitrary.
>
> (2) A classification having some reasonable basis does not offend against that clause merely because it is not made with mathematical nicety or because in practice it results in some inequality.
>
> (3) When the classification in such law is called in question, if any state of facts reasonably can be conceived that would sustain it, the existence of that state of facts at the time the law was enactd must be assumed.
>
> (4) One who assails the classification in such law must carry the burden of showing that it does not rest upon any reasonable basis, but is essentially arbitrary." [30]

In *Hernandez* v. *Texas*,[31] decided 2 weeks before the decision in Brown, Chief Justice Warren, for a unanimous bench, pointed out that race and color serve to define distinct groups. Continuing he said:

> "Whether such a group exists within a community is a question of fact. When the existence of a distinct class is demonstrated, and it is further shown that the laws, as written or as applied, single out that class for different treatment not based on some reasonable classification, the guarantees of the Constitution have been violated." [32]

Having determined as a matter of fact that there were no differences between colored schoolchildren and white schoolchildren, such as to constitute a reasonable basis for separate education, it was logical for the Supreme Court to hold that the laws in question from Kansas, South Carolina, Delaware, and Virginia, requiring segregation, were purely arbitrary and unconstitutional and should be set aside at the suit of anyone injured thereby.

Brown did not hold that it is a violation of the equal protection clause to separate Negro children from white children, per se. What it did hold was that under the facts in the records before the Court showing equal educability and injury to Negroes resulting from segregation it was a violation of the equal protection clause to separate whites and Negroes of the same "educational qualifications" [33] and "of similar age and qualifications." [34]

In order for one to invoke constitutional protection, injury threatened or existing must be shown as a consequence of a constitutional violation.[35] In order for an injunction to issue it is necessary that irreparable injury be threatened or shown.[36]

The NAACP counsel in the underlying cases recognized that it was necessary to show by evidence that in spite of the material equality of Negro and white schools, Negro children were deprived of equal educational opportunities by separation from white children. In order to show that, it was necessary for them to prove that the mere separation of students in schools "solely because of their race generates a feeling of inferiority" affecting the motivation of the Negro children to learn, thus retarding the educational and mental development of Negro children and depriving them of benefits they would receive in a racially integrated school system. That explains why the NAACP counsel produced so-called "experts" to testify that in their opinion segregation injures the personality of Negro schoolchildren and retards their educational and mental development.

The only witness used by the NAACP who testified from tests conducted by himself was Dr. K. B. Clark. He was used in all of the cases. He testified that he had conducted certain doll tests by which he determined objectively that segregation had a detrimental effect upon colored children. His testimony was not disputed in the records of any of the four cases. Apparently, counsel for the various school boards proceeded under the assumption that the "separate but equal" doctrine, which arose out of judicial notice of such racial differences between Negroes and whites to form a rational basis for separation, was unassailable and that it was not necessary for them to produce witnesses to rebut testimony such as was given by Dr. Redfield as to equality and Dr. Clark as to injury.

The testimony of Clark was not regarded of sufficient weight on which to rest the case and counsel for the NAACP decided it expedient to bolster his testimony with an "Appendix to Appellants' Briefs" entitled "The Effects of Segregation and the Consequences of Desegregation: A Social Science Statement," which purported to be the consensus of the opinion of certain social scientists on the issue as to which K. B. Clark testified. That "Appendix" seemed to have influenced the Court greatly because in the opinion the Court made a special point of including a footnote [37] that discusses what the Court declared to be "modern authority" on the issue that was called to its attention by that "Appendix."

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ly recognized without proof, this court may be presumed to observe that there is a marked difference between a Caucasian and an African. Notice of this difference does not imply legal discrimination against either, and for that reason cannot * * * impugn or oppose the 14th and 15th amendments." *Wolfe* v. *Georgia Ry. & Elec. Co.*, 2 Ga. App. 499, 504–505, 58 S.E. 899, 901 (1907).

[21] *United States* v. *Carolene Prod. Co.*, 304 U.S. 144 (1938).

[22] Id. at 153.

[23] *Briggs* v. *Elliott*, 98 F. Supp. 529, modified and aff'd, 103 F. Supp. 920 (E.D.S.C. 1952); *Davis* v. *County School Bd.*, 103 F. Supp. 337 (E.D. Va. 1952); *Brown* v. *Board of Educ.*, 98 F. Supp. 797 (D. Kan. 1951) *Gebhart* v. *Belton*, 32 Del. Ch. 343, 91 A. 2d 137 (1952).

[24] Record, p. 159, *Briggs* v. *Elliott*, reversed sub. nom. *Brown* v. *Board of Educ.*, 347 U.S. 483 (1954) [hereinafter cited as Briggs, Record].

[25] Chairman of Anthropology Department and Professor of Anthropology, University of Chicago.

[26] 98 F. Supp. 529, modified and aff'd, 103 F. Supp. 920 (E.D.S.C. 1952), reversed sub. nom. *Brown* v. *Board of Educ.*, 347 U.S. 483 (1954).

[27] Briggs, Record, p. 160.

[28] Id. at 161.

[29] 220 U.S. 61 (1911).

[30] Id. at 78–79, more recently quoted and followed in *Morey* v. *Doud*, 354 U.S. 457, 463–64 (1957).

[31] 347 U.S. 475 (1954).

[32] Id. at 478.

[33] 347 U.S. at 492.

[34] 347 U.S. at 494.

[35] *Alabama State Fed'n of Labor* v. *McAdony*, 325 U.S. 450, 453 (1945); *Anderson Nat'l Bank* v. *Luckett*, 321 U.S. 233, 242 (1944).

[36] *State Corp. Comm'n* v. *Wichita Gas Co.*, 290 U.S. 561, 568 (1934); *Terrace* v. *Thompson*, 263 U.S. 197, 214 (1923).

[37] U.S. at 404, note 11.

The two most cited authorities in the "Appendix" were K. B. Clark and Otto Klineberg. One of the Clark references was to a book which he contributed entitled "Readings in Social Psychology."[38] In that book he revealed that in the doll tests used by him on several hundred white and Negro children both in integrated schools of the North and in segregated schools of the South, he found that integration—not segregation—injures the personality of Negro children.[39] That was pointed out quite clearly by Dr. Ernest van den Haag, in an article which appeared in the Villanova Law Review.[40] There Professor van den Haag said: "I am forced to the conclusion that Professor Clark misled the courts."[41]

Discussing Dr. Clark's tests, reported in the book, he went on to state:

> "Whether it be granted that his tests show psychological damage to Negro children, the comparison between the responses of Negro children in segregated and in nonsegregated schools show that 'they do not differ' except that Negro children in segregated schools 'are less pronounced in their preference for the white doll' and more often think of the colored dolls as 'nice' or identify with them. In short, if Professor Clark's tests do demonstrate damage to Negro children, then they demonstrate that the damage is less with segregation and greater with congregation. Yet, Professor Clark told the court that he was proving that 'segregation inflicts injuries upon the Negro' by the very tests which, if they prove anything—which is doubtful—prove the opposite."[42]

In an earlier volume of the "Villanova Law Review"[43] Dr. Clark effectively impeached his own testimony in the underlying Brown cases, saying:

> "[I]t was pointed out to them [the NAACP lawyers] that the available studies had so far not isolated this single variable [meaning the effect of school segregation upon the personality of Negro children] from the total social complexity of racial prejudice, discrimination, and segregation. It was therefore not possible to testify on the psychologically damaging effects of segregated schools alone."[44]

However, Clark testified under oath in Briggs that he had tested only 16 Negro children in a segregated school in Clarendon County, S.C., with white and colored dolls under the "projection method." From his tests of those 16 children he swore that in his opinion "a fundamental effect of segregation is basic confusion in the individuals and their concepts about themselves conflicting in their self-image."[45]

He testified further, in the same connection, that his tests revealed the kind of injury to Negro children by segregation "which would be as enduring or lasting as the situation endured, changing only in its form and in the way it manifests itself."[46]

Nowhere in the four trial records was it revealed by Clark or anyone else that the only evidence of personality damage found to have been suffered by Negro children by Clark in his "objective tests" was where colored and white schoolchildren were integrated and were attending the same schools in the North.

Dr. Clark's article in "Readings in Social Psychology"[47] detailed the heart rending suffering of Negro children in the integrated schools of the North and contrasted their unhappiness there with their happiness in the segregated schools in the South. The obvious results from such a situation are substantiated by Clark in a recent issue of U.S. News & World Report where he stated:

> "The bulk of the Negro youngsters who are being turned out by these segregated [sic] northern schools are functional illiterates. They have not been taught to read or speak well. They are deficient in arithmetic. They are not equipped to compete, with any hope of success, for other than menial jobs."[48]

Further, Jack Greenberg, counsel for the NAACP in Brown, now general counsel, recently wrote that from 25 to 45 Negro high school graduates per 1,000 from southern segregated schools attained national college admissions standards in 1954 as against less than 2 per 1,000 from northern integrated schools.[49]

The facts reported by Mr. Greenberg are confirmed by a current news item revealing that the dismal results of New York State's basic examinations for State jobs given to Negro college graduates of integrated northern schools caused Governor Rockefeller to institute a program in 1962 of recruiting Negro graduates of southern segregated colleges. In abandoning that program on September 17, 1963, the State civil service department announced, "that of 385 applicants last year only 9 (3.2 percent) passed the State's professional career test. None placed high in the ranking."[50] Unfortunately the percentage of Negro failures for northern schools was not revealed.

In the underlying Brown cases and in all later cases filed in behalf of Negro schoolchildren by attorneys for the NAACP, it was, and is, invariably alleged that the plaintiffs and the members of the class which they represent are injured by the refusal of the school authorities to cease the operation of the compulsory biracial school system; that the operation of such a biracial school system violates the rights of the plaintiffs and members of the class secured to them by the due process and equal protection clause of the 14th amendment; that they are also injured by the policy of assigning teachers and administrative personnel on the basis of race; and that the injury complained of is irreparable and will remain so until enjoined by the court.

Such a petition was filed in the U.S. District Court for the Southern District of Georgia, Savannah Division, on January 18, 1962. This act culminated in the decision of *Stell* v. *Savannah-Chatham County Bd. of Educ.*[51] To realize the full impact of this decision it is necessary, to a small extent, to digress into the historical facts of the case.

A testing program was instituted in the Savannah-Chatham County schools in the early spring of 1954, before the Brown decision, at the request of the school superintendent. Dr. R. T. Osborne[52] was appointed to administer the California Achievement Battery and the California Mental Maturity Tests to all students of the 6th, 8th, 10th, and 12th grades. The battery was described as a set of nationally accepted standard achievement tests in reading comprehension and vocabulary, mathematical reasoning and fundamentals and the application of mathematical concepts. The mental maturity tests are a nationally accepted standard indicator of the ratio between mental and chronological age, sometimes referred to as intelligence quotient or IQ.[53]

Dr. Osborne assisted in training the white and Negro teachers to administer these tests on a uniform basis. The tests were intended to evaluate achievement levels and provide specific information to counselors, teachers, and school administrators in the city and county school system.

The test results were analyzed by Dr. Osborne's staff at the University of Georgia and summarized in a 1962 monograph published by him.[54] These results show that major differences exist in the learning ability patterns of white and Negro pupils. In reading, Negro students are 2 school years behind white children at the sixth-grade level. This increases to a reading difference between the 2 of more than 3 school years in the 12th grade.

The test results on arithmetic show a comparable difference in the 6th grade but show an even greater variation than in reading at the 12th-grade level. The average Negro pupil in the 12th grade of the Savannah-Chatham County schools is below the 8th grade national arithmetic norm. White children who have been given the same courses tested above the 11th grade national norm.

Growth patterns were considered separately from specific subject achievement. Learning rates were measured in terms of mental ability intelligence quotients. Learning rates were determined in Savannah-Chatham County by the California Mental Maturity Test. In the sixth grade the mental age of Negro students was 2 years behind their chronological age on the average. By the 10th grade this separation increased to a 3-year equivalent and remained at this point thereafter. Of the 10 percent of the Negro students who scored at or above the white median in the 6th grade, only 1 percent exceeded this median in the 10th grade where the white median IQ was 103, the Negro, 81.

As an experimental control, Dr. Osborne matched the cards of all white and Negro pupils of the same chronological age who has equal mental ability at the sixth-grade level in 1954. Noticeable differences appeared at the eighth-grade level and increased thereafter. In the 10th and 12th grades the differences in test performance between white and Negro members of the control group ranged from 1 to 2 grade placement years even though Dr. Osborne had found it necessary to select his subjects originally from the lowest quartile of the white pupils and the highest quartile of the Negro pupils in order to match a sufficient number of children to give a reliable result. Confirming the pattern of the unmatched Negro group, reading achievement differences were less for the Negro in this group than his much greater variation in arithmetic.

Dr. Osborne found that the differences in student capacity shown by these test results were of major importance in educational planning as they indicated the necessity for changing course content, subject selection, and rate of progress planning separately for each of the two groups if the schools were to endeavor to adapt to the different learning potentials of each.

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[38] Clark & Clark, "Racial Identification and Preference in Negro Children," in Readings in Social Psychology 169 (Newcomb & Hartley ed. 1947).

[39] Id., at 177.

[40] Van den Haag, "Social Science Testimony in the Desegregation Cases—A Reply to Professor Kenneth Clark," 6 Vill. L. Rev. 69 (1961).

[41] Id. at 77.

[42] Ibid.

[43] Clark, "The Desegregation Cases: Criticism of the Social Scientist's Role," 5 Vill. L. Rev. 224 (1960).

[44] Id. at 231.

[45] Briggs, Record, p. 89.

[46] Id. at 89–90.

[47] Clark & Clark, supra, note 38.

[48] U.S. News & World Report, June 10, 1963, p. 39.

[49] Greenberg, "Race Relations and American Law," 211 (1959).

[50] Atlanta Journal, Sept. 17, 1963, p. 5.

[51] 220 F. Supp. 667 (S.D. Ga.), injunction granted pending appeal, 318 F. 2d 425 (5th Cir. 1963).

[52] Professor of psychology and director of the Student Guidance Center, University of Georgia.

[53] The author wishes to express his apology to Judge Frank M. Scarlett if this and the next five paragraphs appear to be a paraphrase from his succinct opinion in the instant case. See 220 F. Supp. at 668–71. The writer is one of counsel for the intervenors.

[54] Osborne, "Racial Difference in School Achievement," (Mankind Monographs No III, 1962).

On the basis of the study a motion to intervene on behalf of themselves and their class was made by minor white schoolchildren in Chatham County alleging that the separation of Negro and white children in public schools was not determined solely by race or color but rather upon racial traits of educational significance as to which racial identity was only a convenient index.[55] The differences were alleged to be of such magnitude as to make it impossible for Negro and white children of the same chronological age to be effectively educated in the same classrooms. Further, it was alleged that to congregate children of such diverse traits in schools in the proportion and under the conditions existing in Savannah would seriously impair the educational opportunities of both white and Negro and cause them grave psychological harm.

The case went to trial and the first witness used by the intervening white children was Dr. Osborne who testified in detail to the facts stated above.[56] The next witness called in behalf of white schoolchildren was Dr. Henry E. Garrett.[57] While he was on the witness stand being questioned as to his qualifications as an expert, Mrs. Constance Baker Motley, leading counsel for the NAACP in the Savannah-Chatham case, admitted by way of stipulation that Negroes do not perform as well as whites on achievement tests.[58]

In spite of the stipulation by Mrs. Motley, intervenors showed by Dr. Garrett, Dr. van den Haag and others that such mental differences do exist and that white children and Negro children with such mental differences cannot be educated successfully in the same schools and that any attempt to so educate them, where the numbers are such as existed in Savannah (60 percent white and 40 percent Negro), would deprive both Negro and white schoolchildren of their educational opportunities and would cause irreparable injury to children of both races.

Evidence was adduced also to show physical and morphological differences between whites and Negroes justifying if not demanding segregation of races. It was shown by Dr. W. C. George,[59] that the size of the brain of the average Negro is approximately 8 to 10 percent smaller than the brain of the average white person of similar age and weight and that in general the larger the brain with relation to body weight the greater the intelligence—a relationship that holds true throughout the animal kingdom.[59a] That evidence, which accords with numerous scientific studies on that subject, forcefully established that the gross differences in the educability of Negroes and whites is inherent or genetic—not environmental—and cannot be materially affected by improved environment.[59b] That fact was established without dispute in a case vigorously defended.

Counsel for the NAACP knew by the pleadings and supporting papers filed by the intervenors in Stell that they would be faced with the scientific evidence offered in the case, but apparently they were unable to induce witnesses to appear in Savannah who would subject themselves to cross-examination. Due note should be made here of Prof. Isidor Chein's[60] statement concerning the failure of proof in Brown of significant race differences. He said: "In the segregation cases, apparently, no such opposing experts could be found with respect to our testimony."[61]

At this point it is interesting to note that two authors whose works were used extensively by the NAACP in their "Brandeis Brief" in Brown had previously written materials that are in accord with the views previously expressed. Otto Klineberg, in his book entitled "Race Differences,"[62] definitely concluded that the white race is intellectually superior to the colored race. Franz Boas reached the same conclusion in his book entitled "The Mind of Primitive Man."[63] Klineberg reached his conclusions on the basis of brain testing[64] while Boas came to his by brain weighing.[65] Their conclusions accord almost exactly with the undisputed evidence adduced in the trial of the Stell case.

It must be emphasized that these qualitative and quantitative brain differences are all genetic and not subject to change save through the gradual process of evolution over many thousands of years. The importance of the morphological evidence was emphasized by the psychological testimony of Dr. Garrett to the effect that the equating of socio-economic factors does not materially alter the white-Negro intelligence ratio.[66]

District Judge Scarlett rendered his final opinion and judgment in favor of the intervenors on June 28, 1963. He found that forced integration in schools impairs the educational opportunities of children of both races; that the causes of the gross differences justifying segregation are genetic—not environmental—and may not be changed by integration, and that forced integration injures the children of both races.[67]

It was pointed out by Judge Scarlett that a decision of a judge or a jury on a question of fact is not binding on any other judge or jury in any other case between other parties; and that in order for any decision, including the Brown decision by the Supreme Court, to be binding on anyone, it must be either under the principles of res judicata or stare decisis; that while res judicata applies only to decisions of both law and fact between the same parties, stare decisis is applicable only on questions of law and relates generally to all causes subsequently arising between any parties; that it applies to strangers as well as parties and privies. These principles are fully documented in the decision of Judge Frank M. Scarlett and will not be repeated here. Brown turned on questions of fact—not questions of law—and, of course, cannot be binding on strangers to that decision such as the intervenors in Stell.

The evidence offered in Stell was not disputed or rebutted and the decision by Judge Frank M. Scarlett was the only decision that could have been rendered on the record. The intervenors made the facts as to material racial differences "the subject of judicial inquiry" "beyond the sphere of judicial notice" as did the NAACP in the underlying Brown cases and the facts were all one way—a way that demanded a judgment on the facts different from that in Brown. No question as to "reversal of Brown" was involved or considered.

The decision by Judge Scarlett in Stell accords with all the sworn evidence in the record before him; it accords with the stipulations of counsel for the NAACP; it accords with statistics recorded by the general counsel for the NAACP; it accords with the early writings of the leading expert witness used and of the leading scientists called to the attention of the Supreme Court in Brown. It accords with objective factual revelations in current articles appearing in equalitarian publications, differing only with the unsupported suppositions and conclusions of the authors.[68] It stands as factual truth unassailed and, we believe, unassailable. It explodes the doctrine of racial equality and leaves equalitarians the naked and pathetic victims of their own cupidity. It gives America reason to hope that in race relations truth may yet be reaffirmed in lieu of rationalization and propaganda wearing academic cap and gown, clerical vestments and judicial robes, and that the subject of race may be submitted to acid tests and fairly examined by evidence in a scholarly and a judicial atmosphere.

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[55] Among the significant factors for consideration in devising a rational program best suited to the peculiar educational needs of Negro and white schoolchildren in separate schools were: (a) Differences in specific capabilities, learning progress rates, mental maturity, and capacity for education in general; and (b) differences in physical, psychical, and behavioral traits.

[56] 220 F. Supp. at 668–671.

[57] Visiting Professor of Psychology, University of Virginia; Professor Emeritus for Psychology, Columbia University, where he was department head for over 30 years.

[58] "Mrs. Motley: I would like to say this, in addition, your Honor: If this man is going to testify that Negroes, generally, on achievement tests, do not perform as well as whites, the same as the previous witness, we will stipulate that. He does not have to testify to it. We will agree to that."

"The Court: Agree to what?"

"Mrs. Motley: That these tests, which have been administered, show that Negroes, generally, do not perform on the achievement tests as well as whites. Now, if that is all that he is going to show, we will stipulate that, because the other * * * witness has already said that." Record, p. 134.

[59] Professor Emeritus of Histology and Embryology, School of Medicine, University of North Carolina; formerly head of the Department of Anatomy, University of North Carolina. In addition to the testimony related in the text the doctor testified that certain of the supra-granular layers of the cerebral cortex, where learning capacity and intelligence are concentrated, are about 14 percent thinner in Negroes than in whites and that the sulcification, or the formation of convolution of grooves and ridges, differs markedly between the two races, with the whites having distinctly more surface of cerebral cortex. Record, p. 201.

[59a] Ibid.

[59a] Ibid.

[60] Professor Chein is one of the "modern authorities" noted in Brown. See 347 U.S. at 494, note 11.

[61] Fischman, Symposium, "The Role of the Social Sciences in Desegregation" 9 (1958).

[62] Klineberg, "Race Differences" (1935).

[63] Boas, "The Mind of Primitive Man" (1911).

[64] "In the field of racial psychology no other problem has attracted so much attention as the question of the inherent intellectual superiority of certain races over others. * * * The number of studies in this field has multiplied rapidly, especially under the impetus of the testing undertaken during the World War, and the relevant bibliography is extensive. The largest proportion of these investigations has been in America, and the results have shown that racial and national groups differ markedly from one another. Negroes in general appear to do poorly. Pintner estimates that in the various studies of Negro children by means of the Binet, the I.Q. ranges from 83 to 99, with an average around 90. With group tests Negroes rank still lower, with a range in I.Q. from 58 to 92, and an average of only 76. Negro recruits during the war were definitely inferior; their average mental age was calculated to be 10.4 years, as compared with 13.1 years for the white draft." Klineberg, op. cit. supra note 62, at 152–153.

[65] "We will now turn to the important subject of the size of the brain, which seems to be the one anatomical feature which bears directly upon the question at issue. It seems plausible that the greater the central nervous system, the higher the faculty of the race, and the greater its aptitude to mental achievements. Let us review the known facts. * * * There are * * * sufficient data available to establish beyond a doubt the fact that the brain weight of the whites is larger than that of most other races, particularly larger than that of the Negroes. * * * In interpreting the facts, we must ask, Does the increase in the size of the brain prove an increase in faculty? This would seem highly probable, and facts may be adduced which speak in favor of this assumption. First among these is the relatively large size of the brain among the higher animals, and the still larger size in man. Furthermore, Manouvrier has measured the capacity of the skulls of 35 eminent men. He found that they averaged 1655 cc. as compared to 1560 cc. general average, which was derived from 110 individuals. * * * The same result has been obtained through weighings of brains of eminent men. The brains of 34 of these showed an average increase of 93 grams over the average brain weight of 1357 grams." Boas, op. cit supra note 63, at 103–104.

[66] 220 F. Supp. at 672–673.

[67] Id. at 526–528.

Those who investigate race as a basis to sustain preconceived social and political ideologies must be subjected to searching cross-examination under judicial safeguards and courtroom procedures. Those who seek civil rights and obliteration of racial integrity on the basis of equalitarian dogma must be made to prove their case.

The so-called revolution which is taking place in America today on racial matters is not new. Aristotle knew and wrote about such revolutions and their consequences 300 years before Christ. Writing on the causes of revolutions that destroy free government he said this about race differences:

"Another cause of revolution is difference of races which do not at once acquire a common spirit; for a state is not the growth of a day, any more than it grows out of a multitude brought together by accident. Hence the reception of strangers in colonies, either at the time of their foundation or afterwards, has generally produced revolution." [69]

Aristotle moved a little closer to the equalitarian philosophy behind Brown, the Civil Rights Acts of 1963 and other repressive measures of our day, and shows what demagogs must do to bring about the fall of republics:

"[B]rotherhoods should be established; the private rites of families should be restricted and converted into public ones; in short, every contrivance should be adopted which will mingle the citizens with one another and get rid of old connections. Again, the measures which are taken by tyrants appear all of them to be democratic; such a government * * * will have many supporters, for most persons would rather live in a disorderly than in a sober manner." [70]

Aristotle comments on the fact that despotism learns nothing new. He says:

"It is true indeed that these and many other things have been invented several times over in the course of ages, or rather times without number. * * * We should therefore make the best use of what has been already discovered, and try to supply defects." [71]

And so should we 23 centuries later. Experience in all ages teaches that the same causes produce the same effects. The practices of demagoguery, like the practices of sin, are ever old and ever new. The sweep of centuries affects but little the principles involved.

SENATOR GOLDWATER'S PROSPECTS FOR ELECTION AS PRESIDENT

During the delivery of the speech of Mr. Byrd of West Virginia,

Mr. MILLER. Mr. President, in the last few days all of us have noted some concern expressed by some columnists and writers over what, as of this moment, appears to be a very good chance that Senator Goldwater will be the Republican nominee for President of the United States at the San Francisco Convention. I have noted particularly that some writers have been highly critical of some moderate Republican leaders for what these writers term a lack of leadership in firm opposition to Senator Goldwater or in a successful stop-Goldwater movement.

Some of these writers would do well to look to themselves rather than to some of our Republican leaders. I well recall that about 4 years ago there was a strong stop-Kennedy movement. Some writers were saying that the then Senator Kennedy had no possibility of being elected President of the United States. There were all kinds of mutterings about the dire things that would happen if he should be nominated and elected President of the United States.

I cannot help being reminded of this by some of the writings I have seen in the newspapers of the last couple of days. These writings are in strong contrast to the objective writing by Mr. Richard Wilson, head of the Des Moines Register Tribune staff in Washington, such as his article which was published in the Washington Evening Star of Monday, June 8, entitled "Appraisal of Goldwater."

Mr. President, I ask unanimous consent that the article by Mr. Wilson, Washington correspondent of the Des Moines Register and head of its Washington bureau, be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Appraisal of Goldwater—Voters Urged To Reserve Judgment, Remember That Polls Can Be Wrong

(By Richard Wilson)

Winning the presidential nomination of the Republican Party, or any political party, and winning the election thereafter are two distinctly different operations.

In the one case it is necessary to coalesce widely differing factions within the framework of sharp partisanship. In the other case, so evenly is the country divided, it is necessary to make a much broader appeal which will attract voters who do not feel that they are irrevocably committed to either party.

There are ample signs that Senator Goldwater not only realizes this but has carefully planned his drive for the Presidency with this context.

His problem, therefore, assuming that he gets the nomination, is to convice those who have been uneasy about him that he is in fact rational and nonimpulsive while not disaffecting those of more extreme views.

Traveling with Senator Goldwater in the closing days of the primary in California was instructive in this regard. The Goldwater who rode on a bus between Los Angeles and Santa Barbara was not the same Goldwater who seemed a year or two before to advocate withdrawal from the United Nations, breaking off relations with Russia, and abolishing the income tax—if, indeed, such a Goldwater ever existed. Nor was it the same Goldwater who delivered a carefully prepared foreign policy address to the Channel City Club in Santa Barbara.

This speech was a masterful exposition of firm policies in foreign affairs and how these policies might be adopted and exploited without war. The phrase "without war" was repeated and emphasized by Senator Goldwater several times. Taking this speech entirely as the authoritative exposition of the Goldwater view, it would have been hard to fault him on the grounds of impulsiveness or superficiality. He insists that his convictions in foreign policy are identical with those of Dwight D. Eisenhower and the late John Foster Dulles.

This speech, as well as some of his other appearances late in the California primary campaign, may be an advance indication of what his campaign for the Presidency will be like if he is nonminated.

There will be those who will say that Senator Goldwater is trimming, or that he is trying to delude the voters, or that the fact he is so misunderstood is in itself sufficient reason for not sending him to the White House. But it is not at all certain that such arguments will be effective. The John F. Kennedy who ran for the Presidency was not quite the same John F. Kennedy who ran in the West Virginia primary, and the Goldwater who runs for the Presidency will not be the same Goldwater who ran in New Hampshire.

Nor was the John F. Kennedy who sat in his rocking chair in the White House in 1962 the same John F. Kennedy who campaigned for the Presidency upon the shaky premises that there was a missile gap and the country was lagging behind Russia in other respects. It is not unreasonable, therefore, to expect that Senator Goldwater will change just as Franklin D. Roosevelt changed a generation ago from a budget balancer and penny pincher to a big spender within the course of 6 months.

So it cannot logically be said that change in a presidential candidate, or a President, is anything unusual. In fact, it is to be expected.

What should be borne in mind by those of us who follow the political polls is that when the showdown comes, the country is evenly divided, except when a popular hero like General Eisenhower comes along. We were divided about evenly over Mr. Truman and over Mr. Kennedy.

Now the polls show that President Johnson is far in the lead. Well, Governor Rockefeller appeared at one stage to be far in the lead in California. The pollers were also wrong in New Hampshire and Oregon. Mr. Truman managed to trail in the polls all through a presidential campaign.

So it may be well to reserve judgment on Senator Goldwater as a presidential candidate until it is seen just how he carries on his campaign, and we find out how many can be reassured that he will not be hasty and impulsive in foreign affairs or wreck the social security system.

Mr. MILLER. Mr. President, I must say, in any event, that as of now and for a long time I have been an uncommitted delegate to the Republican National Convention in San Francisco. I trust that my remarks at this point will be interpreted in light of that fact. Nevertheless, sometimes it is well to say something when something should be said.

I believe that some of the dire predictions that were heard during the last 2 or 3 days should be placed in proper perspective. I can think of no better way to place them in perspective than to refer these prophets of doom and gloom to an article published in the This Week magazine section of the Des Moines Sunday Register, an article which appeared also in many other leading Sunday newspapers. The article is entitled "Six Campaigns To Remember," and was written by Richard Harrity.

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[68] Newsweek, Sept. 16, 1963, p. 55; Saturday Evening Post, Sept. 21, 1963, p. 12.

[69] II Encyclopaedia Britannica, "The Works of Aristotle," 504 (1952).

[70] Id. at 523.

[71] Id. at 534.

One of the campaigns Mr. Harrity described was the campaign between Truman and Dewey in 1948. I believe that the article about that particular campaign contains the best answer I know of to those people who predict that if Senator Goldwater or Ambassador Lodge or Governor Scranton or Governor Rockefeller, or practically anybody else, is nominated by the Republicans for the fall campaign, the campaign will merely be an exercise in futility. In short, I believe we might say that President Johnson's assurance of reelection in November as of now is in about the same position that Governor Dewey's election to the Presidency was assured as of this time in the 1948 campaign.

Mr. President, I ask unanimous consent that this particular portion of the article to which I have referred be inserted at this point in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Truman Versus Dewey

Few candidates have had so many cards stacked against them as did Harry S. Truman in 1948. He was President by act of God, not by election. His party had been in power for 16 years and many people thought it was time for a change. Worse, the party was badly split. Henry Wallace, who had lost the Vice Presidential nomination to Truman in 1944, announced that he was running for President at the head of his own newly created Progressive Party. This was a left-wing group; on the right there was trouble too. Truman's strong stand on civil rights provoked several Southern States to bolt the Democratic Party and form their own "Dixiecrat" Party, with Gov. Strom Thurmond of South Carolina as their candidate. Labor was cool to Truman because of his threat to draft the strikers to break a railroad strike.

At the Democratic convention, one delegate displayed a sign reading, "I'm just mild about Harry." Republican Chairman Reece gleefully greeted Truman's candidacy with the quip that it struck the Nation "with the terrific impact of a poached egg on a featherbed." And the Democratic New York Post announced, "The party might as well immediately concede the election to Dewey and save the wear and tear of campaigning."

The Republican candidate was Thomas E. Dewey, who had made a strong race against Roosevelt in 1944, and had every reason to feel confident of victory this time. Fortune magazine predicted: "The prospects of Republican victory are now so overwhelming that an era of what will amount to one party may well impend."

In contrast to the well-filled Republican campaign coffers, the only thing in the Democratic treasury was emptiness. Prominent party members ducked out in droves when asked to assume the post of financial chairman. Truman, as had been predicted by the Alsop brothers, would be "forced to wage the loneliest campaign in recent history." When he appeared in Omaha for a speaking engagement in early June, the huge auditorium was so sparsely filled that a photo was gleefully published all over the country by the Republicans.

Truman doggedly set out on his campaign on September 17. As he climbed aboard his campaign car at Union Station, Washington, his running mate, Alben W. Barkley, of Kentucky, encouraged him: "Mow 'em down."

"I'm going to give 'em hell," Truman snapped back, and steamed off on the most extensive whistlestop wingding in our political history. Wherever the Truman train stopped, by a lonely water tower on the plains, or a little depot in the Far West, the people listened, laughed, and applauded as the Democratic candidate ridiculed the Republicans and ripped into them as "gluttons of privilege," "Do-Nothings" and "bloodsuckers with offices in Wall Street."

Aboard the Dewey campaign train, "Victory Special," the Republican candidate repeatedly emphasized the party theme: A Republican President backed by a Republican Congress alone could bring the country unity.

Truman responded: "We don't believe in the unity of slaves, or the unity of sheep being led to the slaughter. We don't believe in unity under the rule of big business * * * and we shall fight it to the end."

In a poll of fifty political pundits everyone prophesied that Truman would lose. Railroads even threatened to sidetrack Truman's campaign train unless the Democratic Party paid its transportation bills, and he was sometimes cut off the air in midsentence due to insufficient funds to buy additional radio time. He was decidedly low man on the Gallup poll, and hardly anybody conceded him a chance—except Harry S. Truman.

Meanwhile, the supremely self-assured Republican candidate was saying, "On January 20 we will enter upon a new era. We propose to install in Washington an administration which has faith in the American people, a warm understanding of their needs, and the confidence to meet them."

Shortly afterwards at Beaucoup, Ill., Dewey's campaign train suddenly backed up, dangerously missing a crowd waiting to hear him speak. Discovering there was no one injured, Dewey sought to calm the crowd, which was close to panic. "That's the first lunatic I've had for an engineer," he said jokingly. "He probably should be shot at sunrise, but we'll let him off this time since no one was hurt."

Dewey's remarks, widely quoted, hurt him with the railroad workers and labor generally.

Truman covered over 31,700 miles, and delivered 356 speeches to 15 million people, but everybody agreed he was a loser. The New York Times prophesied the Republican candidate would receive 345 electoral votes; Elmo Roper announced that he stood by a poll taken months before when Dewey was leading Truman by 52 to 37 percent of the voters polled. Drew Pearson wrote about "the closely knit group around Tom Dewey who will take over the White House 86 days from now"; and Life featured a full-page picture of Dewey captioned, "The next President travels by ferryboat over the broad waters of San Francisco Bay."

On election day night the returns didn't seem to jibe with the forecasts. But radio commentator H. V. Kaltenborn explained at midnight: "Mr. Truman is still ahead but these are returns from a few cities. When the returns come in from the country the result will show Dewey winning overwhelmingly."

A Truman aid called the President with bad news: Dewey had carried New York State. Truman merely said, "Don't call me any more. I'm going to bed * * *." When he woke up he had won.

Dewey said later he felt like the man who awakened in a coffin with a lily in his hand and asked, "If I'm alive, what am I doing here? And if I'm dead, why do I have to go to the bathroom?"

When his train stopped at St. Louis en route back to Washington, the beaming Truman held up a copy of the Chicago Tribune which carried the premature headline, "Dewey Defeats Truman."

At the White House, his old buddy George Allen quipped, "I was supremely confident of your defeat." Truman grinned. "So was everybody else. But you're the first one who's admitted it."

THE JOHNSON MONEY

During the delivery of the speech of Mr. Byrd of West Virginia,

Mr. MILLER. Mr. President, yesterday's Washington Evening Star contains a special report entitled "The Johnson Money," written by Star Staff Writer John Barron. The article indicates that a considerable amount of research has been done by this newspaperman. I ask unanimous consent that the article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Johnson Money—Presidential Family's Holdings Estimated at $9 Million

(By John Barron)

Sixteen years ago, according to a biographer, Lyndon B. Johnson considered leaving public life, partly because he "wanted to make money, which he knew he never would be able to do in politics."

Mr. Johnson did not give up his political career. Yet today, his family is one of the wealthiest ever to occupy the White House.

The Johnson holdings in television and radio stations, land, banks and stocks—now are worth more than $9 million. And a ruling issued by the Federal Communications Commission last April could greatly increase their value.

The story of this fortune would be interesting even if the central figure were a run-of-the-mill Texas tycoon. It is, in effect the story of the American dream.

But the financial history of this particular Texan has a special public interest because it involves the President of the United States and because the present fortune was amassed almost entirely while Mr. Johnson was in public office; mainly since he entered the Senate and began his rise to national power in 1948.

It is commonly said that the Johnson family's financial success has resulted almost entirely from Mrs. Johnson's acumen and energy in parlaying a modest inheritance into a lucrative broadcasting empire.

A JOINT EFFORT

Mrs. Johnson doubtless has made impressive contributions. But there is strong evidence that Mr. Johnson himself has participated vigorously in the family business ventures. Several Texans who dealt with the Johnsons prior to past November say that they always dealt with Mr. Johnson, never with his wife.

Mr. Johnson, it should be noted, owns no stock in the company which has title to most of the Johnson property and has provided the family with such amenities as limousines, an airplane, a cabin cruiser and the LBJ ranch itself. A majority of the family company stock, 84.45 percent, is owned by Mrs. Johnson and her daughters.

Last November 29, a week after Mr. Johnson entered the White House, the family relinquished control of the company by putting the stock into a trust.

The trust agreement stipulates that neither the President nor his wife shall receive any information on how the family property is administered.

Since then, according to Washington attorney Abe Fortas, an old friend and personal legal adviser to the President, Mr. Johnson has not engaged in or discussed any family business. But in gathering material for this article, the Star has received allegations to the contrary.

Mr. Fortas, who often sees the President, was the only source close to the White House from whom the Star was able to elicit comment on the information presented here. A Presidential assistant was shown a draft of this story, but declined to discuss it.

TV-RADIO INTERESTS

The bulk of the Johnson fortune has been derived from investments in Texas television and radio stations.

During his first term in the Senate, Mr. Johnson was a member of the Commerce Committee which has jurisdiction over the FCC. The FCC, in turn, completely regulates all television and radio stations.

The public records of the FCC show no evidence that Mr. Johnson ever sought preferential consideration from the regulatory agency. They contain one letter from him forwarding an appeal from a constituent together with a request that the issue raised be decided "on its merits." Every efficient Congressman almost daily writes such letters.

There is evidence, though, that Mr. Johnson often was personally involved in gaining interests in radio and television stations.

The standard story of how the Johnsons embarked in broadcasting back in 1943 is that Mrs. Johnson noticed that a little Austin station was for sale, bought it with part of her inheritance and by diligent supervision made it profitable.

The full story is more complex.

Station KTBC in 1939 was owned by A. W. Walker, R. A. Stuart, and Robert B. Anderson, who was to become Secretary of the Treasury under President Eisenhower.

Personal reasons prevented each of the owners from moving to Austin to oversee the station. When the station ran into financial difficulties, the three men decided to sell it rather than attempt to manage it in absentia.

They found a willing buyer in J. M. West, who was a wealthy Austin businessman and newspaper publisher. He also was a bitter enemy of the Roosevelt administration.

Not long after Mr. West contracted to buy KTBC for $50,000, the FCC revoked the station's license. Although the reasons are not entirely clear from current records, it seems that the Commission objected to an individual who had been associated with the station.

An appeal kept KTBC on the air until the spring of 1940 when it regained its license by dissolving whatever relationship existed with the man to whom the FCC objected.

Mr. West then negotiated another agreement giving him an option to purchase the station by paying $20,000 and assuming up to $12,000 of its debts. The option was to remain in effect until 30 days after the FCC ruled on Mr. West's application as a buyer.

But the Commission refused to approve or disapprove the sale, saying it was putting application from newspaper interests in a "pending" file. During the next 2 years, it rebuffed pleas for a decision one way or the other.

NEGOTIATIONS DESCRIBED

In the fall of 1942, a prominent Austin businessman, E. G. Kingsbery, talked with Mr. West about buying his option.

Mr. Kingsbery has provided this account of what happened next:

Two days before Christmas, 1942, Austin Postmaster Ray Lee called to inform him that Mr. Johnson wished to see him in his local office that afternoon.

The meeting was cordial and Mr. Johnson mixed some eggnog from cream someone had given him.

Explaining that he had heard of Mr. Kingsbery's interest in KTBC, Mr. Johnson said that he wished to buy it for his wife and asked for assistance in making the purchase.

Mr. Kingsbery agreed to defer to the Congressman who the year before unexpectedly had given his son an appointment to the Naval Academy.

In Mr. Johnson's presence, he called Houston attorney Philip Stevenson, the executor of the estate of Mr. West who had just died. By phone, he arranged for Mr. Johnson to drive to the West ranch near Llamo to confer with Mr. Stevenson and the West heirs. Mr. Kingsbery believes Mr. Johnson spent Christmas at the West ranch negotiating for the station.

Mr. Fortas states that his information is that the Johnson purchase of the station was handled entirely by a lawyer and family friend, the late Alvin J. Witz.

At any rate, FCC records show that shortly after Christmas, Mr. Stevenson wrote a letter certifying that the West estate would waive its right to buy KTBC if the owners would sell it to Mrs. Johnson.

They quickly consented to sell to her for $17,500, about $9,000 less than they had spent equipping it. However, Mrs. Johnson also had to assume the stations indebtedness, reportedly between $40,000 and $50,000.

COMMISSION ACTS QUICKLY

Mrs. Johnson on January 2 drafted a $17,500 check for deposit in escrow pending FCC sanction, which she formally requested on January 23. The Commission, which had kept the West applications shelved since 1939, approved Mrs. Johnson's application 23 days after receiving it.

In stating her qualifications to become an owner, Mrs. Johnson had listed her net financial worth as $64,332.50 and predicted that within a month she could eliminate the KTBC deficit by "close supervision * * * coupled with full-time and energetic efforts to engage new accounts."

Her prediction came true. Advertising accounts flowed to the station and by the end of the decade it was earning a profit of more than $50,000 a year after taxes.

However, in 1948, Mr. Johnson apparently was concerned about money.

His friend and biographer, Booth Mooney, recalls that he almost quit politics completely rather than seek reelection or run for the Senate against the popular conservative Governor, Coke Stevenson.

The biographer reports that Mr. Johnson even went so far as to prepare a statement announcing his retirement. Mr. Mooney explains that the Congressman wanted to share more time with his family and that "Also, he wanted to make money, which he knew he would never be able to do in politics."

Mr. Mooney writes in "The Lyndon Johnson Story":

"A few years before, Lady Bird had bought a radio station in Austin and turned it into a paying proposition. Johnson felt that, with the inhibitions of his official position removed to give him a free hand in promoting the station, he could help in its continued development. He was thinking about a television station, too. He wanted to get in on the material possibilities of the new world he had predicted was going to open up once the war was finished."

Mr. Fortas now insists that Mr. Mooney's report on Mr. Johnson's thoughts on quitting politics are untrue.

(Before writing the first edition of "The Lyndon Johnson Story," Mr. Mooney was a member of Mr. Johnson's staff, a job to which he returned after finishing the biography. Mr. Johnson wrote the foreword in which he said of the biography, "I have read it and I like it.")

Ultimately, Mr. Johnson put aside his doubts about the political life and decided to run for the Senate. He won by 87 votes.

From 1948 to 1952 the yearning to own a television station reported by Mr. Mooney was frustrated by an FCC freeze on issuance of new licenses.

The Commission during those 4 years tried to devise an equitable plan for distribution of channels throughout the country. The plan finally evolved allocated Austin two ultrahigh frequency channels, but just one very high frequency channel—the only kind most sets are equipped to receive.

MANY APPLICATIONS PILE UP IN CAPITAL

A mass of license applications, including two from Austin had piled up in Washington by the spring of 1952. One Austin applicant asked for a UHF channel, the other did not specify whether he wanted UHF or VHF.

Mrs. Johnson on March 14, 1952, expressly applied for the one VHF channel available to Austin. On April 14, 1952, the FCC lifted the freeze.

Mrs. Johnson on June 16 amended her application with more data the FCC required. The Austin applicant for a UHF channel also filed the necessary amendment. The third applicant neglected to do so and his application was dismissed.

The FCC now rushed to hand out licenses with all possible speed.

"During the period 1948–52, it became perfectly obvious that anyone who had a TV station probably was going to make a lot of money and a lot of money in a hurry. A tremendous amount of pressure, both political and business, to grant licenses in a hurry built up," a senior FCC staff member says.

The pressure was most intense of channels for which only one application had been submitted, since each day of delay increased the possibility that someone might present a competing application.

Without written recommendations or any prior hearings, the FCC Commissioners convened July 11, 1952, to issue the first licenses granted in 4 years. At the end of the day, the Commission announced approval of 14 new stations. The UHF station in Austin was among them; the Johnson station was not.

On July 14, however, the FCC released a statement which disclosed that Mrs. Johnson's application, along with three other additional ones, actually had been among those approved 3 days before.

An explanation of the delayed announcement offered by a knowledgeable communications lawyer in Washington is that the Johnson application was not fully processed until the night of July 11, well after the normal workday ended.

Asked if this is what happened, a longtime FCC staff member said:

"I don't know. It's possible. I do know that at that time the staff was working day and night to rush things through."

Regardless of how it was born, KTBC–TV rapidly matured into a robust television station enjoying affiliations with all three national networks.

Neither the UHF station authorized in 1952 nor a second one later licensed ever has been built. Thus, all national and local advertisers seeking to reach the Austin market of 45,000 to 50,000 homes through television had to come to KTBC.

VALUE OF STATION PUT AT $5 MILLION

The current value of the station, together with that of the Johnson AM and FM radio stations, is calculated at $5 million by an experienced television broker who has analyzed the properties. Other industry sources think they would command an even higher price.

The $5 million figure applies only to what the broker calls the "stripped down" value of the stations. This includes their physical assets, network affiliations, licenses, relationship to the market, and any options or contracts they may have. It ignores their "net quick" value which in trade parlance refers to operating capital, surpluses, reserves, and other liquid assets beyond liabilities.

The last LBJ Co. financial statement appearing in public FCC records shows that on February 28, 1962, the company had "surplus and reserves" of $2,666,533 in excess of liabilities. Presumably, the KTBC stations accounted for most of this sum.

After so successfully introducing television to Austin, the Johnson interests searched elsewhere in Texas for other opportunities.

They found one in Waco, 92 miles north of Austin.

Waco had a UHF station which in 1954 was losing money at a disastrous rate. The station, KANG, had been unable to secure network affiliations from either CBS or ABC, which scorned UHF stations. And it suffered further because a new VHF station in Temple, 30 miles away, was beaming NBC programs into Waco.

Even more ruinous competition was imminent from a VHF station which soon was to receive FCC clearance to begin telecasting in Waco. The embryonic station, KWTX–TV, had been negotiating with CBS and fully expected an affiliation from it, an expectation reflected in program schedules submitted to the FCC.

The KANG owner for months in 1954 urgently tried to sell his debt-ridden station. But, according to correspondence in FCC records, no one wanted it.

On December 1, 1954, the FCC gave KWTX–TV a license. The same day, it authorized the Johnson company to buy KANG for $25,000 and the assumption of $109,000 in debts.

The KWTX promoters were surprised that the Johnson company would want KANG which had been unable to compete with one VHF station, much less two.

SURPRISE TURNS TO CONSTERNATION

A few days later, though, their purpose turned to consternation when they discovered that CBS no longer was interested in doing business with them. It suddenly preferred instead to affiliate with KANG.

This CBS decision to associate itself with a dying UHF station rather than with a potentially profitable VHF station was unique in television history. But it did not long remain unique.

Dismayed, the KWTX owners turned to ABC, the only other network available.

The weakest of the three national networks at the time, ABC had eagerly welcomed VHF outlets wherever it could find them, and KWTX presented it with an opportunity to send all of its programs into Waco.

But when KWTX asked for an affiliation, ABC said no. It chose to affiliate with the Johnson station, whose program time it would have to share with CBS.

Deprived of network programs, KWTX faced a foreboding future. It's prospects darkened further when the Johnson station in Austin increased its power to project its programs into the southern sections of the Waco market.

The KWTX owners retaliated by reporting all that had happened to the Justice Department and demanding that the Antitrust Division intervene. They also filed a complaint with the FCC accusing the Johnson company of "monopolistic activities" and ordered their lawyers to prepare a civil suit.

These actions were followed quickly by private negotiations between KWTX and the Johnson interests. It is unclear who initiated the bargaining, but KWTX owners say that Mr. Johnson personally was involved in it.

A KWTX stockholder and attorney, Wilfred Naman, remembers that Mr. Johnson participated in the business discussions at least three times.

"I visited with him both in his office at the Capitol and then out at his home in Washington. I also recall once during these negotiations, I had a conference with him down on his ranch. I believe that his lawyer first suggested that I talk with Mr. Johnson," Mr. Naman says.

For what he had to offer—network affiliations—Mr. Johnson wanted more than half of the new television station and also part of an already established and flourishing radio station owned by the KWTX promoters. The Johnson interests also were eager to get rid of the complaints pending before the Federal agencies.

But the KWTX owners were unwilling to surrender as much as was being asked of them.

"One of us was offering less, the other asking more. Each of us was sparring for position," Mr. Naman says of his conversations with Mr. Johnson, who then was Senate majority leader.

SPARRING PRODUCES FIRST AGREEMENT

The first agreement produced by this "sparring" became apparent May 15, 1955, when KWTX withdrew its complaints, explaining to the FCC that "certain facts" had come to its attention. The same day, ABC revealed that in September it would shift its Waco affiliation from the Johnson station to KWTX.

This initial agreement removed the Waco conflict from the public arena, but did not entirely settle it. Although KWTX now had a promise of a network affiliation in the fall, it had gone on the air without one and was losing money. And it was not certain that ABC programs alone would enable it to compete with the NBC fare being offered by the station in nearby Temple. So negotiations between KWTX and the Johnson company continued through the summer, when Mr. Johnson suffered a heart attack, and into the fall.

The deal that finally emerged required KWTX stockholders to give up 29.05 percent of their stations to the Johnson company. One KWTX stockholder says that he opposed the arrangement, but a majority ratified it.

As a consequence, KANG on December 31, 1955, ceased operations, announcing that it no longer could bear the heavy losses it had been sustaining. The Johnson company then "merged" KANG with KWTX in return for 29 percent of the VHF station and the radio station.

For this 29 percent, the Johnson company paid no money. It did turn over the CBS affiliation and the physical assets of KANG, which had cost it $134,000.

Today, the "stripped down" value of KWTX–TV and of its subsequently acquired interest in other Texas stations is estimated to be $3 million. The Johnson company share of this basic value would be $870,000.

The present KWTX board of directors is composed of seven Waco owners and three Johnson representatives: A. W. Moursand; J. C. Kellam, manager of the Johnson station in Austin; and Donald S. Thomas, one of Mr. Johnson's Austin lawyers.

Relations between the two factions have been strained. Nevertheless, KWTX, which remains the only television station in Waco and which programs the best from CBS and ABC, has prospered and expanded.

It has acquired 75 percent of a television station in Sherman, 78.9 percent of a radio station in Victoria and half of a Bryan television station which it established.

The channel allocated Bryan, the home of Texas A. & M., originally was reserved for educational purposes. It is one of the few such channels which the FCC has allowed to be converted for commercial use.

"I know this looks bad in the circumstances," says one of the KWTX owners.

"But I'm sure that Mr. Johnson had nothing to do with it, at least I'm sure as I can be. We were just lucky. Actually, the Johnson people were against the Bryan station. They thought it might threaten their station in Austin."

The Johnson interests in 1956 decided to go after another faltering station, this one in the Rio Grande Valley town of Weslaco.

A temporary obstacle arose when a Texas businessman, H. L. Cockburn, claimed that he had an option to buy 25 percent of the station, KRVG–TV, for $100,000.

The FCC rejected his claim and let the L.B.J. Co. buy half of the station for $5,000 plus a promise to lend it $140,000 at 7 percent interest. The L.B.J. Co. also pledged to lend a separate radio company maintained by the KRVG owner, O. L. Taylor, $103,000.

Under Mr. Tayor's management, KRVG advertising accounts were sparse, and it reportedly owed between $300,000 and $400,000. But after the Johnson company became his partner, advertisers became increasingly interested in the scattered Weslaco market. With FCC sanction, the station also strengthened itself by trebling its transmission power.

After Mr. Taylor merged his local radio station with the television station in 1957, the Johnson company acquired complete control of both by buying him out for $100,000.

The television station flourished so that by 1961 the L.B.J. Co. was able to sell it, together with the radio station, for $1.4 million.

The purchasing company, Kenco Enterprises, successfully had run television stations elsewhere in the country. But in Weslaco, it did not have the same good fortune as the Johnson company had.

Last year, it got rid of the station for $25,000 less than it had paid.

Shrewdness, enterprise and expert management all have been ingredients of the Johnson company success in television. The benign attitude of the FCC toward the Johnson interests also has helped.

When the Commission was assigning channels in the early 1950's, it gave every major Texas city except Austin access to two or more VHF stations. Corpus Christi, a coastal city with a population 30 percent less than that of Austin, received two and later was awarded a third.

However, it should be noted that some other market areas as attractive as Austin also got only one VHF station. And in 1952, the FCC probably could not foresee that UHF stations, of which Austin was allocated two, would fail as completely as they did.

The Commission now can advance persuasive reasons why broadcast patterns of surrounding Texas stations make establishment of a second station in Austin technically impractical.

A 1959 OPPORTUNITY REJECTED BY FCC

But in 1959 when a technically feasible opportunity to let Austin see programs from another station did arise, the FCC rejected it.

The Commission that year decided to grant southern Texas a new VHF channel which it proposed to put in Corpus Christi.

The two stations already in Corpus Christi contended that the city simply could not support a third. They also stressed that the proposed third channel would interfere with a station Mexico was planning to build 135 miles away in Nuevo Laredo.

The FCC might have given the new channel to Austin which still had only one.

It also could have allowed the television station in Bryan to move its transmitter closer to Austin so its programs would reach both Austin and Bryan.

The Corpus Christi station urged that one of these alternatives be adopted.

But the FCC rejected them both. It talked the Mexicans into moving their station. Then, it assigned the third channel to Corpus Christi. The station which received it did not begin telecasting until last month.

Three years later, when the Johnson radio station asked permission to relocate its transmitter in Austin, the FCC was more obliging.

At the time, the Commission was prohibiting any changes in radio transmissions pending a study of the chaos caused by a proliferation of stations about the country.

The Johnson station requested a waiver which would enable it to pick up 63,000 potential listeners by moving and increasing the power of its transmitter. It justified the request for an exception by saying that it was in danger of losing the site on which its transmitter then stood.

The FCC staff discovered that the KTBC lease on its existing site would not expire for several more years. The Commissioners, however, granted the waiver.

COMPETING FIRM IS HIT BY RULING

The latest FCC ruling affecting the Johnson interests came last month when the Commission voted to continue probably fatal restrictions upon an Austin television cable firm which is competing against one allied with the Johnson company.

The rival firms, Capital Cable and TV Cable of Austin, last year began relaying out-of-town television programs to paying subscribers through community antenna systems.

Capital Cable in which the Johnson company has an option to acquire half interest, escaped FCC jurisdiction by relying exclusively on land lines to transmit programs from its antenna to individual homes.

TV Cable subjected itself to FCC restrictions by choosing to use cheaper and more efficient microwaves in its system. The restrictions force it to black out for up to 15 days any network program which the Johnson station wishes to delay for later telecast.

Unfettered by Federal regulation, Capital Cable enjoys the decisive advantage of being able to present programs the moment they emanate from stations in San Antonio or Waco.

Contending that Austin is unique in that it is the only city with competing community antenna systems and just one television station, TV Cable argued that the blackout rule should be waived to allow it to compete on equal terms.

The FCC disagreed. It emphasized that TV Cable voluntarily had accepted the restrictions in return for permission to use microwaves and that the limitations had not been waived for anyone else.

As a consequence, Capital Cable probably will drive its competitor out of Austin.

If it does, its eventual worth could be between $5 and $10 million, according to broadcasting industry sources.

The option agreement entitles the Johnson company to buy half of Capital Cable at a price which will be well under $1 million.

If the Johnson company exercises the option, it then will appoint three directors of Capital Cable. The parent company of Capital Cable, Midwest Video of Little Rock, also will appoint three. The seventh director will be designated by the mayor of Austin.

As any mayor of Austin would be expected to be more sympathetic to the Johnson interests than to those of an out-of-State corporation, this provision probably will enable the Johnson company to control Austin's only community antenna system as well as its only television station.

The Johnson company obtained its option from Midwest Video, which maintains Capital Cable as a wholly owned subsidiary.

JOHNSON AID PLACES PHONE CALL

According to a Midwest Video officer, a presidential aid telephoned shortly after the assassination last November to stress that although Mr. Johnson had become President, he still was interested in the option.

Presumably, this call was made before the November 29 trust agreement decreeing that Mr. and Mrs. Johnson shall have nothing to do with the family business.

However, shortly after the agreement was signed, special telephone lines were installed to link the White House and LBJ Ranch with the ranch of the trustee, Mr. Moursand. The Secret Service ordered the direct lines for its own use because Mr. Johnson so frequently visits the Moursand Ranch.

The issue of whether Mr. Johnson conferred with Midwest Video representatives after November 29 is clouded by controversy and contradictions.

Both C. Hamilton Moses and George Morrell the two Midwest Video executives identified by some sources as participants in a conference with the President, deny that it ever occurred.

Mr. Fortas likewise asserts that the secondhand reports of such a conference are utterly false.

Yet, three different Midwest Video officials insist that Mr. Johnson since becoming President has talked business with members of the cable company.

Two of the company directors say that the private business meeting was held late last December at the LBJ Ranch while West German Chancellor Ludwig Erhard was an official visitor there.

They state that Mr. Johnson spoke with extreme candor about the option, but said that his family company would wait virtually until the eve of its expiration some 2 years hence before deciding whether to exercise it.

According to one of the sources, Mrs. Johnson once interrupted the President to ask: "Lyndon, don't you think you're being rather rough with these gentlemen?"

The President reportedly commented that he was speaking so frankly because he wanted all matters clearly understood.

One of the Midwest Video officers reports that he received his account of the alleged meeting from Mr. Morrell who, he says, was proud of having been a guest at the President's ranch during the Christmas holidays.

REPORT OF VISIT IS CALLED UNTRUE

In a telegram secured by Mr. Fortas after he had been shown a draft of this article, Mr. Morrell stated: "The report that I was present at the Johnson ranch during the Erhard visit is absolutely untrue. I have had no contact with the President this year. I hope these false statements will be corrected."

Mr. Moursand, for years a personal and business friend of the Johnsons and now the trustee, thinks that their relationship with the FCC often has been unfairly distorted.

"It has been an ordinary chain of events that are strictly proper and legal and ethical. Everybody knows that your TV and radio licenses are renewed automatically, but they write it like you got some favor. Most of them (FCC rulings) are general decisions, nationwide. They forget to say that the rules are nationwide," Mr. Moursand comments.

A highly placed FCC official reports that he knows of no instance in which Mr. Johnson ever attempted to influence the Commission in his own self interest.

"I've never once had anybody pressure me on Lyndon Johnson. The pressure there is an obvious one, though. It simply stems from the position occupied, particularly when you have a company named the 'L.B.J. Co.'" he says.

Although Johnson company investments in radio and television can be traced from public records, identification of its other holdings is much more difficult.

The White House declines to discuss them. The White House attitude is that since Mrs. Johnson has put all of her holdings in trust, all inquiries about the Johnson fortune should be addressed to the two trustees, Mr. Moursand and Dallas lawyer, J. W. Bullion.

Repeated attempts to arrange an interview with Mr. Moursand in Texas proved unsuccessful. Efforts to talk with Mr. Bullion likewise failed. Mr. Moursand did talk politely and helpfully, though, after being reached on the 26th telephone call from Washington.

He stressed that terms of the trust he oversees stipulate that neither the President nor Mrs. Johnson shall receive any information about administration of the family holdings so long as the holdings are in his custody. He said he could not discuss many details because their publication might violate this provision of the trust.

Reliable businessmen, knowledgeable about the Johnson wealth and how it was acquired, generally are most reluctant to talk about it. Those who will talk usually extract an oath that their names never will be mentioned.

After some 30 minutes of conversation with a reporter, an Austin oilman abruptly halted the interview. He refused to continue it until he had verified the reporter's identity by calling Washington and receiving a physical description of him from an editor.

Two other Austin businessmen from whom information was solicited both furnished it in unsigned letters written on plain paper.

Senator JOHN J. WILLIAMS, of Delaware, who still is poking around the debris of the Bobby Baker case, has had similar experiences.

In response to a request for information, he recently received an insulting reply from a Texas businessman who wrote on his official company stationery that he would tell the Senator nothing.

ENVELOPE INCLUDES SURPRISE PACKAGE

Attached to this letter was a plain, unsigned sheet of paper on which appeared all the information Senator WILLIAMS requested.

Despite the difficulty of completely cataloguing the Johnson company holdings, it is evident that some of its radio and television profits have been reinvested in land.

Mr. and Mrs. Johnson jointly own the 1,800-acre Granite Knob ranch in Blanco County and an 800-acre ranch nearby called the "Lewis place."

They also jointly own half of the Haywood ranch, which spreads over 4,500 acres not far from Llanno. Mr. Moursand owns the other half.

The L.B.J. Co., whose name in December was changed to the Texas Broadcasting Corp., last year bought 1,700 acres of ranchland on the Peernales River, 40 miles west of Austin.

Asked about reports that the company has purchased several other ranches, Mr. Moursand declined to comment.

He also declined to estimate the value of the ranchlands in which the Johnsons and the family company are known to have an interest, but said that anyone who paid more than $50 an acre for it would be taking a risk.

If this were a correct valuation, the Johnson lands enumerated would be worth $327,500. But Austin bankers familiar with current land prices say that a more accurate valuation, excluding any improvements and equipment, would be between $500,000 and $600,000.

The LBJ Ranch itself, although it consists of only about 400 acres, contains the Johnson home, a heated swimming pool, barns, and employees' quarters which could not be duplicated for less than $150,000.

The ranch also has a 6,300-foot landing strip capable of supporting commercial aircraft as large as the Martin 404 or twin-engine Convairs. Engineers estimate that a strip of such capacity, together with its landing aids, probably would cost between $75,000 and $100,000.

JOHNSON OWNED TRACT ON LAKE

Before he switched the title to the L.B.J. Co., Mr. Johnson personally owned 24.82 acres of choice residential land in an exclusive Austin suburb adjoining a lake.

The present city tax assessment of the property is $31,400 which supposedly represents 75 percent of its true market value. Tax assessments often fail to reflect the real value of property, and an Austin banker says that comparable land near the Johnson tract has been selling for as much as $25,000 an acre. At such a price, the Johnson property would be worth more than $600,000.

Mrs. Johnson still has under her own name some 3,700 acres of Alabama farmland, a few sections of which are rented to tenant farmers.

The Johnson City Foundation, formerly the Lyndon B. Johnson Foundation, owned 1,942 shares in four Austin banks as of last December 31. According to the lowest prices for which such stock was sold last March, it would be worth $136,704. Mr. Moursand describes the foundation as a "charitable" one, and it is so recognized by the Internal Revenue Service.

There is a widespread impression in Austin that the Brazos-Tenth Street Corp., which owns some $300,000 worth of stock in local banks, is a Johnson enterprise.

The Johnson television station is located at the intersection of Brazos and 10th Streets. The aircraft which Mr. Johnson used for personal purposes before it crashed on his ranch in 1962 was owned by the Brazos-Tenth Street Corp. And Austin businessmen say that its emissaries have represented it as a Johnson company.

Mr. Moursand vigorously insists that the Johnsons have no interest whatsoever in the Brazos-Tenth Street Corp. One of its directors, Mr. Thomas, who also is a Johnson member of the KWTX–TV board of directors, says the same thing.

PRIVATE PLANE AMONG ASSETS

Beyond investments in television and land, the Johnson family possesses, either through its company or in its own name, other assets such as cattle, corporate stocks and a $200,000 private airplane.

The trust which has been established for the L.B.J. Co. or Texas Broadcasting Corp. stock is irrevocable so long as Mr. Johnson remains President or occupies any other Federal office.

However, once he leaves office, control of the stock reverts to Mrs. Johnson and her daughters. In the meantime, they continue to derive income from it.

USDA DISASTER RELIEF PROGRAM

During the delivery of the speech of Mr. BYRD of West Virginia,

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from South Dakota [Mr. McGOVERN] without losing my rights to the floor. I ask unanimous consent that his statement which he will insert in the RECORD may appear after the speech which I am making, and, furthermore, that my statement, which will be interrupted at this point, will not be counted as a first speech.

Mr. JAVITS. Mr. President, reserving the right to object, may I ask the Senator if he can give us any indication of how long he expects to continue?

Mr. BYRD of West Virginia. I expect to continue until 9 o'clock or later.

Mr. JAVITS. Today?

Mr. BYRD of West Virginia. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from South Dakota is recognized.

Mr. McGOVERN. Mr. President, I thank the Senator from West Virginia for yielding to me.

Mr. President, there has been some question recently about the administration of the disaster relief program of the Department of Agriculture. Because of that I have asked the Department for a statement on the administration of the program, which has been supplied to me in a letter dated June 8, written by Mr. Ray Fitzgerald, the Deputy Administrator of State and County Operations of the U.S. Department of Agriculture. I ask unanimous consent that the letter may be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
AGRICULTURAL STABILIZATION AND
CONSERVATION SERVICE, OFFICE OF
THE ADMINISTRATOR,
Washington, D.C., June 8, 1964.

Hon. GEORGE McGOVERN,
U.S. Senate.

DEAR SENATOR McGOVERN: The article about which you inquired was inserted in the CONGRESSIONAL RECORD for June 5, 1964, by Senator JAVITS on behalf of Senator SCOTT, of Pennsylvania.

The insertion charged that extension of the disaster livestock feed program beyond June 15, 1964, was being denied Pennsylvania farmers because these farmers voted overwhelmingly against passage of the wheat referendum held May 21, 1963.

This line of reasoning, carried to its logical conclusion, would indicate that farmers in only six States in the Union would ever have received assistance under the disaster livestock feed program of the Department of Agriculture or, at least, that if programs were initiated in drought affected States, these six would have received preferential treatment in regard to the termination dates established for the program. (In only six States did farmers vote "Yes" in the wheat referendum by 66⅔ percent or more.)

The fact is that this program to relieve the effects of 1963 drought were operative in 23 States, and these included only two of the six States which voted "yes" in the wheat referendum. It should also be noted that all 39 Pennsylvania counties designated as 1963 disaster areas were approved after the referendum—the first ones on August 27; other counties were added on several occasions. Furthermore in May 1964 five counties of Pennsylvania were designated for an emergency agricultural conservation program, which provides cost-sharing with farmers for restoration of flood-damaged farms.

Following is a list of the States which were in whole or in part declared disaster areas by the Secretary of Agriculture as a result of the 1963 drought. This program makes feed available to eligible farmers in a drought-stricken area at cut rates from Commodity Credit Corporation stocks for maintenance of herds and flocks. The actual or proposed dates of program termination for each designated State:

Texas: April 30, 1964.
Louisiana: May 31, 1964.
Mississippi: May 31, 1964.
Arizona: September 13, 1963.
Virginia: June 15.
Nevada, May 31.
Arkansas, May 31.
Missouri: June 15.
North Carolina: May 31.
West Virginia: June 15.
Pennsylvania: June 15.
New Hampshire: June 30.
Maryland: June 15.
New Jersey: June 15.
Oklahoma: May 31.
Vermont: June 30.
Ohio: June 15.
Massachusetts: June 30.
Michigan: June 30.
Wisconsin: June 30.
South Carolina: April 30.
Utah: May 31.
New Mexico: May 31.

It will be evident from an examination of this listing that Pennsylvania farmers have been treated no better and no worse than any other State in which the program was administered as a result of 1963 disaster. A cursory examination of the listing will also indicate that the two States casting a "yes" vote in the wheat marketing quota referendum and in which a disaster livestock feed program was effective this past year, North Carolina and South Carolina, had program cutoff dates earlier than Pennsylvania.

So far as I can ascertain, this important program, which has in the past been the object of congressional inquiry and criticism has been administered fairly and equitably by the Department.

Sincerely yours,

RAY FITZGERALD,
Deputy Administrator,
State and County Operations.

RECESS TO 10 A.M. TODAY, WEDNESDAY, JUNE 10

Mr. BYRD of West Virginia. Madam President, in conformity with the order that was previously entered, I move that the Senate now recess until 10 o'clock Wednesday morning, June 10.

The motion was agreed to; and (at 9 o'clock and 51 minutes a.m.), Wednesday, June 10, 1964, under the order of Monday, June 8, 1964, the Senate recessed until 10 a.m. today, Wednesday, June 10, 1964.

NOMINATIONS

Executive nominations received by the Senate June 9, 1964 (legislative day of March 30), 1964:

IN THE AIR FORCE

The following named officers to be placed on the retired list in the grade indicated, under the provisions of section 8962, title 10, of the United States Code:

In the grade of general

Gen. Joe W. Kelly, 612A (major general, Regular Air Force) U.S. Air Force.

In the grade of lieutenant general

Lt. Gen. Francis H. Griswold, 94A (major general, Regular Air Force) U.S. Air Force.

Lt. Gen. Edward H. Underhill, 421A (major general, Regular Air Force) U.S. Air Force.

Lt. Gen. Robert H. Terrill, 628A (major general, Regular Air Force) U.S. Air Force.

The following named officers to be assigned to positions of importance and responsibility designated by the President in the grade indicated, under the provisions of section 8066, title 10, of the United States Code:

In the grade of general

Lt. Gen. Howell M. Estes, Jr., 1211A (major general, Regular Air Force) U.S. Air Force.

In the grade of lieutenant general

Maj. Gen. Waymond A. Davis, 1470A, Regular Air Force.

Maj. Gen. Keith K. Compton, 1849A, Regular Air Force.

Maj. Gen. Henry Viccellio, 1728A, Regular Air Force.

Lt. Gen. William H. Blanchard, 1445A (major general, Regular Air Force), U.S. Air Force, to be senior Air Force member, Military Staff Committee, United Nations, under the provisions of section 711, title 10, of the United States Code.

DIPLOMATIC AND FOREIGN SERVICE

Clinton E. Knox, of New York, a Foreign Service Officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Dahomey.

IN THE NAVY

The following named officers of the Navy for temporary promotion to the grade of rear admiral in the staff corps indicated subject to qualification therefor as provided by law:

MEDICAL CORPS

Herbert H. Eighmy
Joseph L. Yon
Robert O. Canada, Jr.
Horace D. Warden

SUPPLY CORPS

Harry J. P. Foley, Jr.
Jack J. Appleby
Winston H. Schleef

CIVIL ENGINEER CORPS

William M. Heaman

DENTAL CORPS

Maurice E. Simpson

EXTENSIONS OF REMARKS

Goldwater Outlook: Good Chance for Success

EXTENSION OF REMARKS
OF

HON. JACK WESTLAND

OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 9, 1964

Mr. WESTLAND. Mr. Speaker, this last weekend certain congressional Members from Pennsylvania issued statements declaring that in their opinions the nomination of Senator BARRY GOLDWATER as the Republican presidential candidate this year would cost a number of Republican Congressmen their seats in Congress.

I strongly disagree. Having led a group of Republican House Members in support of Senator GOLDWATER's candidacy, I continue to believe that the Senator is a people's candidate who will win the White House and majority control in the U.S. House of Representatives next November. I was happy to issue a public statement saying so and I would like to have this statement inserted in the RECORD:

NEWS RELEASE FROM THE OFFICE OF HON. JACK WESTLAND, CONGRESSMAN FROM THE STATE OF WASHINGTON

Congressman JACK WESTLAND, Republican, of Washington, took sharp issue today with the weekend opinion voiced by Senator HUGH SCOTT and Congressman ROBERT J. CORBETT, of Pennsylvania that Senator BARRY GOLDWATER as the GOP nominee for President would lose seats for the Republicans in Congress.

WESTLAND, who has led a group of Republican House Members in support of Senator GOLDWATER's candidacy, stated there is sound basis for confidence that the Arizonian would carry new Members into Congress with a Republican victory in November.

"I don't know where the gentlemen from Pennsylvania get their figures for gloom-and-doom predictions, or how they justify the implication that GOP unity would be threatened if GOLDWATER wins the nomination," WESTLAND said. He cited Congressional Quarterly ratings of Republican Members on votes with and against the party position in 1963. Senator GOLDWATER voted with the party 81 percent of the time, as opposed to a 56-percent score for Senator SCOTT. Congressman CORBETT had a 62-percent party unity rating during the same time period.

WESTLAND underscored the fact that better than 90 Republican House Members have attended 1 meeting or another promoting Senator GOLDWATER's candidacy and said many others had expressed a favorable interest.

"On the basis of the party unity record of BARRY GOLDWATER's detractors and from what I've seen and heard among fellow GOP House Members favorable to BARRY, there's tremendous weight in favor of the opinion that Senator GOLDWATER would enjoy an enthusiastic welcome on the ticket in Congressional districts all over the country," the Washington State Congressman said.

"Let's not forget that BARRY GOLDWATER beat a coalition of candidates for the nomination in California and won over the vigorous opposition of major newspapers there, as well as open hostility expressed by liberal TV commentators," WESTLAND declared.

The imminent death of the GOP being predicted by ultraliberal news personalities if GOLDWATER is the nominee is "grossly exaggerated," WESTLAND said in paraphrasing Mark Twain. He believes the 1 million plus votes in California, the continuing pledging of delegate votes in State conventions and primaries, and the evolving situation in the South are evidences that GOLDWATER is a people's candidate who will win the White House and majority control in the U.S. House next November.

The 1964 College Chemistry Teacher Awards

EXTENSION OF REMARKS
OF

HON. FRANK THOMPSON, JR.

OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 9, 1964

Mr. THOMPSON of New Jersey. Mr. Speaker, it gives me great pleasure to bring to the attention of the House three outstanding professors selected by the chemical industry to receive 1964 College Chemistry Teacher Awards. The awards, to be presented by the Manufacturing Chemists' Association, Inc., at its annual meeting in White Sulphur Spring, W. Va., on June 11, consist of a medal and a citation, accompanied by a check for $1,000.

The association has conducted the College Chemistry Teacher Awards program for the past 8 years. To date, 42 chemistry professors have been honored. Objective of the program is to focus public attention on the importance of good science teaching at the undergraduate level; to honor the men and women so engaged; and to inspire qualified students to choose careers in science. Those selected to receive the awards this year are:

Dr. Hubert N. Alyea, Chemistry Department, Princeton University.

Dr. John H. Wolfenden, Chemistry Department, Dartmouth College.

Dr. Sara Jane Rhoads, Chemistry Department, University of Wyoming.

Dr. Alyea, a professor of chemistry at Princeton University for 34 years, is widely known for his novel lecture table and overhead projection demonstrations. He has developed a new technique called tested overhead projection series—TOPS—a kit of 15 devices with which an entire year of chemistry can be taught. Dr. Alyea has also done extensive research in the fields of chain reactions and the mechanisms of inhibition.

Dr. Wolfenden has been professor of physical and general chemistry at Dartmouth College since 1947, having previously taught at Oxford University and Oberlin College. He is author of "Numerical Problems in Physical Chemistry," and while at Dartmouth, spearheaded the establishment of a course on case histories in science.

Dr. Rhoads taught at Hollings College in Virginia prior to joining the staff at the University of Wyoming as professor of chemistry in 1948. Her varied research work has brought $50,000 in research grants for the university, including a grant for the Petroleum Research Fund in support of undergraduate research.

These three science teachers honored by the chemical industry have dedicated their lives to the instruction of our youth. They deserve our recognition and profound gratitude.

William V. McKenney Medal Given to Congressman Thomas P. O'Neill

EXTENSION OF REMARKS
OF

HON. F. BRADFORD MORSE

OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 9, 1964

Mr. MORSE. Mr. Speaker, last week Boston College conferred its William V. McKenney Medal on one of its most distinguished alumni, Congressman THOMAS P. O'NEILL, of Cambridge, Mass., a Member of this body since 1952 and a respected member of the Rules Committee, who was honored "for exemplary and outstanding work in behalf of Boston College and for laudatory service in the interests of mankind which reflect on the honor of Boston College."

That citation says in a few words a great deal about "TIP" O'NEILL's service to his college, his constituents, the Commonwealth of Massachusetts and the United States.

I wish to extend my congratulations to Congressman O'NEILL upon the receipt of this award. It is richly deserved.

Operation Baby Bootstraps

EXTENSION OF REMARKS

OF

HON. SAMUEL N. FRIEDEL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1964

Mr. FRIEDEL. Mr. Speaker, I would like to tell the Members of the House about a wonderful, and I believe, important program, in which several of my constituents and good friends of Baltimore have participated.

I am referring to "Operation Baby Bootstraps," which is a program initiated by the National Institute of Diaper Services and Friends of the United States of Latin America. These two fine organizations, one an association of diaper services with members throughout the United States, and the other a philanthropic institution with its headquarters in Washington, D.C., have initiated a program whereby private citizens of this country have contributed money, goods, and services for the assistance of the people of Costa Rica in Central America.

In February of this year, a caravan consisting of four ambulances loaded with medical and hospital supplies left Baltimore, Md., and was driven to Miami, Fla.; then taken from Miami to Matias de Galves, Guatemala, and were driven from that city over nearly 1,700 miles of the Inter-American Highway through Guatemala, Salvador, Honduras, and Nicaragua to San Jose, the capital of Costa Rica, where they were donated directly to the people and hospitals of Costa Rica.

This group was led by Mr. Rubin Waranch, president of the Nu-Dy-Per Baby Service, and Mr. Nathan Mash, president of Mash's Hams, both of Baltimore City, and Mrs. Gloria Billings, of Washington, D.C. Included in the party were Dr. Vincent Lopez, Dr. Thomas Michael, Leon Zeller, Zelig Robinson, Mr. Waranch's wife, Evelyn, and their three sons, Mark, Isaac, and Jimmy, and Mrs. Billings' son, Jason, all of Baltimore City.

The entire project was inspired by Mr. Stanley Posner, a highly esteemed attorney, of Washington, who has spent the better part of the past 20 years working with the people and problems of the various Latin American Republics, particularly with the people of Costa Rica.

As you know, Costa Rica, for the past decade or more, has been one of the most stable and completely democratic nations in the Western Hemisphere. It has long since abolished its national army and has served as a haven for democrats from throughout the entire area.

All of the equipment and material carried by these Americans and donated to the people of Costa Rica was contributed by the participants in the caravan and various businesses, doctors, customers of Nu-Dy-Per Baby Service, and members of the National Institute of Diaper Services, from Lancaster, Pa., and Jacksonville, Fla., and other firms around the country. The transportation of the vehicles, their cargo, and their passengers from Miami to Guatemala was donated by Coordinated Caribbean Transport Co., of Miami and New York. Not a single dollar of U.S. Government assistance was involved in this courageous venture. The entire project was initiated, put together, and carried out by private citizens and businesses of the United States solely to help the people of a sister democracy in this hemisphere.

The members of the ambulance caravan have related to me the amazing and sincerely warm reception which they received when they arrived in the various towns and cities of Costa Rica to which this equipment was donated. In most instances, the entire population of the cities and villages turned out to greet and welcome the caravan and its members and to thank all of the people of the United States for recognizing the dire needs of the hospitals and clinics of those towns in Costa Rica and for caring enough to assist these people. I have been told that in some instances, the receptions for these Americans were the equivalent of national holidays; that marching bands greeted them and that all the elected representatives of the district turned out with the people to thank, not merely the small band who delivered the items, but all the people of the United States for their interest in helping.

In this day when we in the Congress provide Government financing and Government assistance of billions of dollars throughout the world, it is heart-warming to see private citizens, completely without governmental assistance and without Government funds, carry out so important a program with such stunning success. These people are now planning to continue their efforts to bring assistance of various sorts to the Costa Rican people through a carefully planned program limited to their abilities and capacities.

I commend these people to you for their good work and their patriotic acts and I have taken the liberty of thanking them on behalf of our Government and wishing them good luck in their future endeavors.

Prayer in Schoolrooms

EXTENSION OF REMARKS

OF

HON. JAMES R. GROVER, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1964

Mr. GROVER. Mr. Speaker, I submit with pride and concurrence a firm and succinct analysis of the school prayer problem as set forth in a statement submitted to the House Judiciary Committee by our colleague, Hon. JOHN R. WYDLER, of New York.

This statement is stamped with the same keen understanding and courage with which our said colleague has faced up to the most challenging and controversial problems.

I commend his remarks to the Members of the House:

PRAYER IN SCHOOLROOMS

Mr. Chairman, I thank the committee for this opportunity to appear here today and testify in favor of an amendment reestablishing the right of local school boards to allow voluntary, nondenominational prayers to be recited in schoolrooms.

Few important matters before Congress have more support—and this is certainly an issue which deserves to be brought to the House floor to be voted up or voted down.

I, therefore, urge this committee to act without further delay. I believe the climate is still right for the passage of a reasonably worded amendment. Delay, as shown in the civil rights situation, only tends to increase pent-up emotions and pressures which distort a sound legislative approach.

The prayer amendment—so-called—could also be called the people's amendment. It is not sponsored by any powerful lobby. No entrenched or special interests are financing its passage. The administration has been completely—utterly—silent on this subject. There are no telephone calls from the White House to Capitol Hill, no breakfast meetings of leadership, no promises offered for those who will support it. There has been no succession of department heads testifying in its support.

Making up for all this, however, is the most important support of all, that of the large part of the people. A recent survey in my congressional district—and every survey I have ever read about—shows overwhelming support on behalf of the people for allowing prayer in schools.

Therefore, I believe this committee has the responsibility to act—and act now.

In so doing it should draw an amendment allowing a voluntary, nondenominational prayer on a local option basis.

I, along with Justice Potter Stewart, "cannot see how an 'official religion' is established by letting those who want to say a prayer say it." I have never been able to determine what official religion was established in New York State when some school district decided to recite the voluntary, nondenominational prayer allowed there. Was it the regents' religion? I think not.

I am not rearguing the Supreme Court decision as that is by its nature final. What concerns me is the extent to which the Court seemed impelled to go to erect a wall between religion and the state. This was unfortunate. I believe the wall so erected is high enough to shut out many of the traditional benefits which our society has from its earliest days extended to religion.

For example, does not the granting of tax exemption of church property tend to establish a religion much more than the saying of a voluntary, nondenominational prayer? If the few seconds of prayer is to be considered state supported and improper, how can literally hundreds of millions of dollars worth of church property be accorded tax-free status when atheists are forced to pay?

In fact, the Supreme Court stated in its later, 1963, decision that "the command of the first amendment was that the Government maintain strict neutrality, neither aiding nor opposing religion." If this is so, on what possible basis can the Armed Forces justify its keeping a Corps of Chaplains?

These are serious questions and they will have to be answered in the near future. I believe we would be wise to get the whole matter back in perspective before the situation controls us.

I fully understand that there are many people sincerely opposed to this amendment and that they advance some sound arguments pointing out dangers and difficulties. There are dangers and difficulties. It is this committee's duty to present an amendment minimizing the dangers and protecting against abuse. A committee that recently designed a 10-titled comprehensive civil rights bill can do this. Where there is the will, there is the way.

I believe that most people expressing opposition do so out of fear of abuse. There could be some abuse but the courts will always be available to see that the prayer is voluntary and nondenominational. The purpose of an amendment is not to force anyone to pray but to protect the right of those who wish to pray to do so. The purpose of the amendment is not "force" but "freedom." The elaborate and exhausting process of amendment provided for in the Constitution assures that an overwhelming part of the people must approve for it to be made part of the law of the land.

I do not believe we should allow praying in school to be a prohibited act. It is the act of worship for which I seek to show respect even if this act is in the public school. It is our Nation's strong reliance on and belief in God which gives us strength to prevail over atheistic communism. The Communists fear religion, as their brutal attempts to crush it clearly show. We should encourage and not dilute our belief.

I believe that praying together will unite our children and not divide them. I believe that all Americans can—and should—pray together, as we historically have done. I believe that most men are men of good will and will respect their neighbors' rights and feelings.

I believe this issue should now be put to the people for a vote.

The Robert A. Carpenter Post, Jewish War Veterans

EXTENSION OF REMARKS

OF

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1964

Mr. BURKE. Mr. Speaker, on Sunday morning, May 24, 1964, members of the Robert A. Carpenter Post No. 485, Jewish War Veterans of the United States, State officials, religious leaders, and members of the Robert A. Carpenter family assembled in front of the post at 1258 Blue Hill Avenue, Mattapan, Mass., to march to Robert A. Carpenter Square at the corner of Woodrow Avenue and Blue Hill Avenue, Dorchester, Mass. It was my pleasure and privilege to march with this distinguished group, that included:

Harold Alman, commander of Robert A. Carpenter Post.

Bernard Becker, past commander of Carpenter Post and presently national executive committeeman from the first region.

Albert Schlossberg, past department commander of the Jewish War Veterans, and presently national editor of the Jewish Veteran.

Abraham J. Zimmerman, senior vice commander, department of Massachusetts, Jewish War Veterans.

Mrs. Thelma Hurwitz, senior vice president, department of Massachusetts, Jewish War Veterans Ladies' Auxiliary.

State Representatives Samuel Harmon, Julius Ansel, and Benjamin Klebanow.

Chanting the traditional memorial prayer and Kaddish was Cantor Joseph Moore, of Congregation Kehillath Jacob, Mattapan, Mass.

Mrs. Harry Goldberg, sister of Robert A. Carpenter, represented the family.

Placing the wreath at Carpenter Square was Dr. Allen Chiten, nephew of the late Robert A. Carpenter.

Mr. Harry Goldberg, a brother-in-law of the late Robert A. Carpenter was presented a cap as an honorary commander of the post.

Later we returned to the post headquarters, had breakfast and addresses were given by Representative Harmon and Al Schlossberg and it was my privilege to give the main address. My remarks were as follows:

> It is a great pleasure to be with you on this occasion that together we pay our repects to the spirit of Carpenter's Day.
>
> As one who lived in Mattapan and a former neighbor of the Carpenter family it is an additional honor for me to be present here today.
>
> Post No. 485 was named in honor of Bob Carpenter who was only 23 years of age when he paid the supreme sacrifice on October 27, 1944, but his life story typifies that of the average American.
>
> He enlisted in the U.S. Navy shortly after Pearl Harbor and after extensive training with PT squadrons, journeyed to the Pacific in 1944 to battle and to die at Leyte.
>
> Bob passed on to his country and to this world the ideals for which he offered his life and these ideals are being maintained by the post.
>
> And in keeping with the occasion, involving as it does the honor of a local patriot, it is altogether fitting that we also hail the record of your own association, the Jewish American War Veterans. For here again is something worthy of honor, praise, and high acclaim.
>
> As an organization, the Jewish American War Veterans have a history extending back as far as 1896, and a record embracing the gallantry of four wars: the Spanish-American, World Wars I and II, and the Korean conflict. Your organizational tradition, in turn, hinges on still another tradition, predating formation of the organization itself. That is to say, Jewish heroism is discernable in every war in which our Nation has engaged.
>
> Yet owing to the courage of recent generations of American Jews, we can devote our attention to one war alone—World War II—and still come up with enough heroes to satisfy the gods of battle in this or any other era, this or any other universe.
>
> Studies by the Bureau of War Records indicate that 550,000 men and women of Jewish faith served in the Armed Forces of the United States in the course of World War II. And this actually, in terms of military might, is the equivalent of 37 divisions. Population studies completed in 20 representative American cities demonstrated that the percentage of Jews in uniform was equal to, and in a number of cases was higher than, the ratio of Jews to the general population.
>
> In the period separating Pearl Harbor and V–J Day, 7,500 American Jews gave their lives in the national interest, 6,000 in combat. The total number of Jewish casualties exceeded 23,400.
>
> In the matter of national recognition, close to 17,500 Jewish men and women in uniform were decorated for valor and merit, many of them in posthumous ceremonies. Together, they hold an aggregate of 33,446 awards, including one Congressional Medal of Honor; 64 Distinguished Service Crosses; 27 Navy Crosses, and 34 Distinguished Service Medals.
>
> Contenders for the honor of being the outstanding American soldier of Jewish faith engaged in World War II included many illustrious figures, with rank extending from private to major general. So far as Massachusetts entries were concerned, an outstanding example was naval Lt. James J. Horovitz, of Brighton, whose courage in the face of enemy shore batteries while serving in command of an LCI, aided significantly in American recapture of Iwo Jima. For his part in the engagement, Lieutenant Horovitz received the Navy Cross "for extraordinary heroism." He also holds the Silver Star for "gallantry in action."
>
> Another Massachusetts hero of outstanding caliber was infantry Lt. Samuel Dinerman, of Beverly, whose bravery in France resulted in his receiving the Bronze Star.
>
> Three more Massachusetts heroes were the Cohen brothers of Brookline: Col. Robert L. Cohen, recipient of the Legion of Merit, Bronze Star, Order of British Empire, and Croix de Guerre; Maj. Lawrence R. Cohen, who received the Legion of Merit; Lt. Comdr. James Cohen of the U.S. Navy, who received the Medal of Merit.
>
> These and many more aided in bringing the enemy to its knees, in the great world conflagration of 1941–45. True to the traditions of the Jewish-American community, they held to their posts in the face of danger and fought for the flag with all they were worth. America is proud of her Jewish veterans, in the knowledge that no group exceeds them in loyalty, devotion, and determined support of her democratic institutions and her insistence upon "liberty and justice for all."

Address by Hon. Joseph E. Karth, of Minnesota, Before the National Space Club

EXTENSION OF REMARKS

OF

HON. JOHN W. DAVIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1964

Mr. DAVIS of Georgia. Mr. Speaker, on April 21, 1964, my colleague, the gentleman from Minnesota [Mr. KARTH], delivered a thoughtful and penetrating address to the National Space Club in Washington, D.C. With the thought that his address deserves a much wider distribution than it received, it is with pleasure that I insert his remarks in the RECORD:

PREPARATION

(Remarks of Congressman JOSEPH E. KARTH, before the National Space Club, Washington, D.C., April 21, 1964)

> Mr. Chairman, distinguished guests, I am pleased to be here at your invitation to help honor Norman Baker who is presiding at his last meeting and to let you have some of my thoughts. I understand the meeting will be open later for questions from the floor. I will try to make my answers as responsive as possible.
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> You here assembled represent a conglomeration of organizations second to none on earth for their contribution to the security of the free world and for advancing man's knowledge to the moon and beyond. It is truly an enterprise of fantastic achievements.
>
> It was responsible in the 1950's for maintaining a dynamism in our economy and advancing our technology at a time when

quite frankly there was a dearth of ideas and of progress in the United States.

Your industries did a tremendous job in creating a revolution in weaponry and a new space science. In return, these industries have been rewarded by the people of the United States through their Government. I know this well for in the past year I had occasion to visit many space facilities—facilities which are under the cognizance of the subcommittee of the House Committee on Science and Astronautics on which I serve.

The investment which the people of the United States have made in plants and equipment, in scientific knowledge through Government sponsored research and development is staggering. The $17 billion which will be spent for Federal research and development this year is more than that spent to run the whole Federal Government in any peacetime year before World War II.

The New York Times last week summarized a report made to the Department of Defense on "Defense Conversion Potentials." I was struck by the fact such giants of the aviation and space industry as Republic, McDowell, Grumman, Lockheed, Avco, North American, and Hughes have virtually one customer—the U.S. Government.

This, of course, is an unhealthy situation since it is clear that world peace is at last in the danger of breaking out and the peaks of both defense and civilian space spending could be behind us.

It has been authoritatively estimated that by 1970 there will be a cutback of between $5 and $9 billion in defense spending. And Congressman Vinson has been quoted as saying that eventually he expects an annual $10 billion defense budget.

I think the Pentagon reports of last weekend expressing disagreement with estimates of drastic defense cutbacks will not be much comfort to an industry which can read portents and forecasts better than most. It may simply be coincidence, but I note that the Pentagon's statement came out the day before the Congress takes up the Defense appropriation bill.

Well, is the future of the aviation, space, and other defense-related industries then one of decline and decay? Not necessarily unless they have a death wish which is so carefully concealed that it escapes my observation.

The most obvious future to diversification, of course, is in the "spin-offs"—new materials, new products, new techniques, and the new sciences which are being developed to meet the demands of the space and defense programs. Incidentally, one of the most comprehensive surveys of the practical results resulting from space program activities was presented during our subcommittee hearings by Dr. Homer Newell last February in response to my request. Quite frankly, I was amazed when both the commercial and technical press almost completely ignored the story.

While the new technology will be of great economic value, as I see it, the great promise for the future of the space and defense industry is to turn some of the tremendous imaginations, some of the talents and energies of your management, your scientists and engineers to the major social and economic problems of our country.

The United States has since World War II largely deferred achievement of its great potential in order to save the free world from chaos and revolution. In all history there is no finer example of self-sacrificing generosity and nobility of spirit demonstrated by one people for others. For many years we have diverted tremendous amounts of our resources and talents to foreign economic and military assistance—with an outstandingly successful record.

We are now being surpassed in certain fields of endeavor by our former proteges. The economic policy of both Presidents Kennedy and Johnson as it is taking shape, is directed toward a massive leap forward in our development. This Nation through the Higher Education Facilities Act, the Health Professions Educational Assistance Act, the Vocational Education Act has declared its commitment to opening an exciting new era in our history.

One of the immediate and most pressing tasks is, of course, the abolition of the poverty which has consistently doomed one in every five Americans to ignorance, destitution, disease, and despair. When we bring these millions of Americans into the mainstream of our civilization and expand our effective market economy by that dimension, we will indeed be in a position for a dramatic economic and technological takeoff to meet our needs in education, communications, weather control, control of pollution of our environment, our water, housing, in medical care, and who can predict what else?

Your industries, I submit, are eminently qualified to cooperate in this entirely different kind of takeoff because of your unique experience in solving interdisciplinary problems through the technique of systems analysis which involve scientific, engineering, political, economic, sociological, and psychological approaches.

Now, all that I have said up to this point I consider to be important. It is important that great industries such as here represented prepare for even greater futures. But let me not be misunderstood. While I want to be idealistic like most other people and in many respects I am, I am even more realistic.

I do not profess to be an expert on world history, but neither will I admit ignorance of it. While it appears that peace could become a reality, and we all hope and pray that it does, we cannot turn our backs to history and what it must have taught us. Peace has been sought since man's inception. It must be sought now and even more fervently. However, we should not bet all our chips on one poker hand, so long as we remain a party to the game. And that I insist we must do.

We must continue our strength as we aggressively pursue the ultimate goal—a very elusive peace. I would argue with those who insist otherwise.

So what I'm talking about today is not admonition—but preparation. I'm not trying to scare anyone, but I am trying to get your attention—and in particular your attention to the probabilities of peace.

In the field of space research, who knows. Perhaps as present-day state of art gives way to even greater breakthroughs this effort will increase. Again, I think, it depends upon what discoveries are made.

Can man live for extended periods in outer space?

The answer to this question may well be determined by whether or not he must live for extended periods in outer space.

On the other hand, I support research programs such as our efforts in space if for no other reason than our need for scientific and technological progress.

Let me reiterate a story I have told many times. I do not remember how it came to my attention, but when it did it was most illustrative and unforgettable. It takes place in the Pacific Ocean. It surrounds the *Triton* submarine and goes something like this. On *Triton's* submerged voyage around the world resulted in an "upping" of periscope near the Philippine Islands. As the captain looked in the periscope he saw a frightened (perhaps Filipino) fisherman scurrying away as if frightened beyond description. The fisherman had apparently seen this tremendous shadow beneath the surface. He saw the periscope projecting from the water—a strange fish indeed.

In all probability, the fisherman had never heard of a submarine, let alone having ever seen one.

Certainly he had not the faintest understanding of the science of cryogenics that was part of its makeup.

He couldn't possibly understand the nuclear fission process that propelled it.

Solid state physics meant absolutely nothing to him, for he was fishing with the same paraphernalia that his forefathers used when they went fishing.

The only difference was that he was catching less fish. He was catching less because there were less. The population has increased, the demands on his fishing grounds were greater, the United States, the Soviets, and others had new modern fleets. They caught them by the tons and only fished when they knew fishing was at its best.

And so it is with most of the developing nations. They have not progressed scientifically, technologically, and quite frankly, very little socially.

While their population has doubled like ours since 1900, their standard of living in some instances is not as good as it was. On the other hand, our standard of living during the same time has quadrupled.

Some people may suffer from the delusion that this has come about by accident. Nothing could be farther from the truth. It has happened because we made it happen. It has happened because we have advanced scientifically and technologically.

It has happened at great cost—indeed it has been costly. I wonder if anyone of sound mind, however, would argue whether it has been worth it?

Our research and development efforts in various and sundry fields will continue that economic progress, I am sure. I support this kind of effort. Whether that effort will ever be sufficient to make up a $50 billion defense-space budget when and if that budget is drastically reduced is extremely doubtful.

I think your best bet is preparation. I cannot conceive of a better use of the tremendous investment the people of the United States have made, than to phase you in on the most exciting, challenging, and ennobling work to which man can dedicate himself. This is the greatest future I can envision for you. I trust you will be prepared when you are called upon.

A Peace Offensive

EXTENSION OF REMARKS
OF
HON. DON H. CLAUSEN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 9, 1964

Mr. DON H. CLAUSEN. Mr. Speaker, today we are listening to the Foreign Affairs Committee present their views in support of the foreign aid authorization bill. As one listens to the debate, you can only conclude that these fine dedicated members of the committee are certainly in the spotlight of attention as they hear testimony and cross-examine witnesses before their committee as they search for a program of foreign aid that will adequately meet the challenges of our times.

Recently, I spoke to the combined Rotary Clubs of Marin County of my congressional district. Additionally, I presented testimony in support of my Freedom Academy bill, which is designed to conduct research to develop an integrated body of operational knowledge in the political, psychological, economic, technological, and organizational areas to increase the nonmilitary capabilities of the United States in the global struggle between freedom and communism, to educate and train Government personnel and private citizens to understand and implement this body of knowledge, and also to provide education and training for foreign students in these areas of knowledge under appropriate conditions. A peace offensive that recognizes and utilizes the unlimited material and human resources available in the private sector—an offensive designed to set the stage for winning the cold war—an offensive designed to provide stimulus for enthusiasm and hope among the people of the world who desire to remain free.

The statement follows:

STATEMENT BY CONGRESSMAN DON H. CLAUSEN, ON H.R. 10037, TO CREATE THE FREEDOM COMMISSION AND THE FREEDOM ACADEMY, BEFORE THE HOUSE COMMITTEE ON UN-AMERICAN ACTIVITIES, MAY 20, 1964

Mr. Chairman, I welcome the opportunity to appear before your committee in support of the Freedom Academy concept. Your committee is to be complimented for initiating these hearings in the interest of developing interest and testimony on behalf of a program urgently needed to combat the well organized economic, political and ideological offensive of the Soviet Union and other advocates of the Communist doctrine.

In my judgment, the salvation of our system of government, our American way of life, the hopes of and aspirations of people throughout the world who desire to be or remain free could rest on the decision this committee makes with respect to this legislative recommendation.

It is my personal opinion that the Freedom Academy should be sponsored, staffed and guided by the leadership of the private sector of our system. Cooperation with the executive branch, State Department and other agencies is absolutely essential to maintain the necessary security provisions. However, I do believe the Congress, the legislative branch, which is the most responsive to the electorate, must establish full control of the program—offering the necessary guarantee of liaison between Government and the private sector. The Freedom Academy must at all times have as its major objective the full development and utilization of people familiar with the workings of our private enterprise system. Further, I want to recommend vigorously recognition of the vital role cities, towns, counties, school districts and special service district organizations will play in offering a guideline to developing countries throughout the world interested in the adoption of our Federal system. Should the Freedom Academy and the Commission be established, I would recommend early consultation with organizations such as we have in California—the League of California Cities, the County Supervisors' Association of California—and other municipal organizations throughout the country. The National Association of County Officials has an outstanding action program through their recently formed "Home Rule Congress." The overwhelming demand for political stability requires our giving prompt attention to these important factors. Additionally, we in the United States must strive to retain the basic concept of our 3 levels (local, State, and Federal) of government, assuring that each level has clearly defined areas of responsibility and the available tax sources to meet demands for service responsively and responsibly.

In the April 17 issue of Life magazine, Ambassador Henry Cabot Lodge set forth, in a very forthright and provocative article, a detailed analysis of the problems facing the United States in Vietnam. It is timely and I would recommend the article to anyone desirous of factual information on the world's "hot spot." All Americans should be familiar with the Ambassador's comments because Vietnam is the only place in the world where Americans are under fire from Communist guns.

Mr. Lodge has offered some very significant points that I believe to be worthy of note, and I quote, "South Vietnam is a keystone for all of southeast Asia, the hub of an area which is bounded on the northeast and east by Formosa and the Philippines, on the south by Indonesia and on the west by Burma. Control of South Vietnam would put the Communists squarely into the middle of southeast Asia—whence they could radiate all over.

"The conquest of South Vietnam would immediately disturb Cambodia and Laos, and bring strong repercussions farther west in Thailand and Burma. It would shake Malaysia to the south. It would surely threaten Indonesia. Then, if Indonesia were unable or unwilling to resist, the Chinese Communists would be on the doorstep of Australia. Finally, eastward, the repercussions for the Phillipines and for Formosa would be severe.

"Therefore when we speak of southeast Asia, we are not talking of some small neck of the woods but of an area about 2,300 miles long from north to south and 3,000 miles from east to west—with about 240 million people."

Mr. Lodge continues, "There is vivid recognition that the Vietcong campaign is, above all, a political affair; that we must organize for the political conflict as carefully as we have organized for military success—there must be a true civil-political organization to go hand in hand with the military."

In this paragraph, I believe we have a briefly defined statement of foreign policy recommendations that will be required now and long into the future, as we continue the struggle between freedom and communism. It is to this end that I shall address my remarks.

The cold war is not merely a confrontation between the United States and the U.S.S.R., as Soviet propagandists would have the world believe. It is a war between communism and every nation outside the Red bloc. It is a war that must be fought by citizens of all nations of the free world who desire to remain free.

The so-called cold war should be properly recognized as political war. The battlefronts are many and varied and will continue to be so as the Soviets create chaos and controversy in the many corners of the world—most of which stem from the well-organized activities of the nearly 300,000 trained subversive agents operating in the free world. The arms race, the competition in space and trade are all part of the Marxist master plan. However, the political battlefronts are the most serious, because they are the ones on which the Communists pin their greatest hopes for world domination.

Unfortunately, it is on the political fronts that they are the strongest and we are the weakest.

On November 13 of last year (1963), during the debate on the Peace Corps, I submitted the following remarks. In view of Mr. Lodge's comments, you may find them interesting.

THE PEACE CORPS

The subject of the Peace Corps is receiving much attention here today as it has since its inception. The primary reasons for its acceptance, in my opinion, are twofold. First, the American people have recognized the failure of other types of foreign aid programs which have created a damaging image of America and are looking for a program that will have a longer range, more productive effect. Second, our people are beginning to realize the urgency of establishing a program that will initiate an ideological offensive of our own—an offensive designed to set the stage for winning the cold war against the U.S.S.R. and other advocates of the Communist doctrine.

There are, however, a few observations that I would like to make. Since 1955, I have participated in a program that provides various missionary services throughout the world—a program designed to promote self-sufficiency. This program is carried on with no tax support from the Federal Government. It has been our experience throughout the years, once a mission station is established and the native staffing is completed—the service continues to expand but the financial requirements of the sponsoring organization tend to decrease. In effect, the mission programs carried on by many denominations can be appropriately identified as a private peace corps.

Where I strongly believe in the principle of the Peace Corps, I feel it is pertinent to point out that the requests for additional funds here today suggest an increasing financial commitment to the sponsor—the U.S. Government—the American taxpayer. With this in mind, I believe we should give more incentive and recognition to the efforts of organizations willing to carry out and expand the private peace corps concept—it would appear to be more efficient and truly provide the motivation for people best equipped to carry on the presentation of the American image.

The great struggle between ideologies continues on and will be with us for years to come. The ideological offensive of the Soviet Union advocates a program where the public sector, I repeat the public sector, provides all services to their population—directs their destinies and controls their opportunities. The American way of life is just the opposite—at least, it has been in the past—bringing this country to its present plateau, where we enjoy the highest standard of living. The American way of life advocates a minimal intervention in the life of the individual by government. Our Federal system of government was designed to provide the guidelines, under constitutional law and to create the environment for the private sector to advance and flourish, with a minimum of restrictions.

Quite frankly, I do not believe the full potential of our Peace Corps effort will be realized until the Committee on Foreign Affairs reconsiders the underlying philosophy of the program. Our philosophy should be reflected in all of our foreign aid programs—more emphasis in the private sector and less emphasis in the public sector. Let me make myself perfectly clear. I am for the Peace Corps concept and will continue to support the cause. However, it will be my intent to do everything within my power to promote the philosophy that reflects the American system. In addition to current programs, I want to vigorously recommend that the leaders of our private enterprise system recognize a new responsibility of providing for our security. They must take the lead in projecting an ideological offensive truly representative of our private enterprise system—it is they who are the most qualified to lead. The Congress might consider broadening the incentives to expedite the formation of such a program. Further, the creation of a Freedom Academy, sponsored by our private sector, staffed by qualified graduates of our private enterprise system is, in my judgment, the type of program we should advocate as the answer to the Soviet ideological offensive. A defensive posture by itself is no longer adequate to provide for our security in these rapidly changing times. The American people can be proud of their accomplishments thus far in history. Let us show the developing nations throughout the world the American way, a program that positively reflects the American image—peace, security, and freedom with justice, under law.

During this past year, I have attended the regular State Department briefings available to Members of Congress. I studied all available material that I could get my hands on; I participated in study groups with some of my colleagues; I interviewed and exchanged ideas with people considered to be experts in their fields, including diplomats, ambassadors, military men, international lawyers, bankers, labor leaders and economists, missionary volunteers as they returned from such stations as Laos, India, the Congo, Borneo, Brazil, Peru, Mexico, Central America—to name a few.

With this background of information, I have joined some of my colleagues in promoting the Freedom Academy concept—a concept with a sole objective of winning the cold war—designed to take advantage of the unlimited material and human resources available in the private sector. A plan that places more emphasis in the private sector and less emphasis in the public sector as we advance this proven concept of foreign policy.

The U.S. Government, in its efforts to stem the Communist tide, has poured billions of dollars annually in military, economic, and technical aid to foreign nations. Anyone who has followed international problems closely will immediately conclude that the fundamental problem is a lack of political stability brought about primarily, in my judgment, by inadequate systems of government. Compare any of these to the system of government we have been able to enjoy under this great Constitution of ours. A Federal system that provides a maximum opportunity for political participation by its electorate—a system that only functions at the will of the people or by consent of the governed.

Without question, these nations' greatest need is political aid—we must export knowledge and know-how in this vital field. This type of political aid could be made available to the present and future leaders of those Nations who are currently living under the "umbrella" of our military and economic security.

A Freedom Academy could train such leaders in techniques for counteracting the propaganda of the Communists. These same leaders could be trained on how to transmit knowledge in behalf of legitimate constitutional government, freedom of thought, freedom of expression, freedom of economic opportunity, the right to assemble peaceably, full religious liberty and other basics of the free society—as opposed to the totalitarian state.

In California, much to our credit, the county supervisors association has initiated an intern fellowship training program, financed through private capital, for young men interested in local government. With local government being virtually nonexistent in many countries, thereby restricting participation in a unit of government close to the people, I would urgently recommend that this program be expanded in our own country and further be included in the curriculum of the Freedom Academy. Consultation with our city, county, and school district organizations throughout this great Nation would provide a large pool of information urgently needed in these developing nations.

As previously stated, in this rapidly changing world, a defense posture by itself is not enough. Many of you in this room, I am sure, are former athletes. Let me ask you, "How many ball games did you win by devoting all of your time and attention to defense strategy?" Let's face it, you didn't win unless you had a better offense.

The challenge to America and indeed the free world is really the development of an ideological offensive of our own. Some of this is already going on, but not enough.

In its endeavors to penetrate the West, the Soviet Union's hierarchy is constantly preoccupied with stratagems designed to exploit the contradictions in Western society. This requires the utilization of elements which, although non-Communist, are ideologically at odds with the open society. These include the more doctrinaire Socialists, statist-liberals, pacifists, extreme rightwing conservatives, and some of the nationalists in underdeveloped countries.

A primary justification for large Soviet embassies in many countries of the free world is the alleged possibility of Soviet trade. The possibilities could be immense if trade with the Soviets were not conducted by government monopoly and determined largely by political consideration.

The Kremlin does not buy what the people need or want, but rather what is essential from the point of view of building its power machine, mostly industrial capital goods and essential raw materials. As these needs are satisfied, trade declines. Thus, we have the phenomenon that as the Soviet empire grows, the area under its jurisdiction is increasingly withdrawn from existing world trade.

Soviet trade and their tactics in political warfare is one of the chief weapons in the arsenal. Their economic offensive is being felt in all quarters of the world. The newspapers are filled with their activities—the most recent of which was Algeria and Egypt.

We, in America, must step up our offensive. The question arises—How? Should the Government do this? In my judgment, the Government is the least equipped to carry out a successful program because of limitations placed on it.

Government-to-government programs have failed miserably in foreign aid. The major talents of this country lie in the private sector.

We must step up the people-to-people effort—an expansion designed to promote the joint venture concept between investors of our country and investors of interested developing nations.

We must rededicate ourselves to capitalist principles. Private enterprise is substantially better qualified than government to sell capitalism abroad. Acts, not words, will counter communism. Many of our economic ideas and ideals can be exported.

One of our major problems is of course the problem of education. Many of our schools of business and public administration can help. The Agricultural Extension Service, which has worked so successfully in this country, could be implemented as we work to raise their educational facilities and their literacy rate.

The correspondence school idea should certainly be recommended as a program to promote worldwide education.

The many great service clubs operating internationally—such as the Rotary, Kiwanis, and Lions—can and must expand their sphere of influence.

The Boy and Girl Scouts of America, the 4-H Clubs, and the various church missionary volunteer programs are but a few of our great voluntary organizations dedicated to the improvement of our fellow man.

I spoke recently in Fort Worth, Tex., before the junior chamber of commerce—I observed the great effort over the weekend of the Sonoma County Junior Chamber people in an outstanding community promotional effort. These young men can chance the world if we have the program to properly channel their efforts.

There are four forms of American activity—cooperatives, small business, trade unions, and voluntary agencies—that can hold the key to solving the problem of how and what to communicate to others, the things that brought America to its position of leadership and greatness.

The cooperative, the nonprofit corporate association, as it is used in North America, is something that fascinates oversea leaders. To name a few of the corporations who provide service without entity profit, but with profit to the members who use and own it—the Associated Press, Sunkist, Railway Express Agency, our large mutual insurance companies, credit union finance companies, and agricultural purchasing associations, etc.

Small business is a facet of American life that is devastating to the promoters of Soviet communism. The word "capitalism" is under worldwide attack. The words "small business" are the end of the rainbow for many millions of people. The fact that we, as a nation, have recognized small businesses as a vital part of our economic life and have shown governmental interest in them is revolutionary to the thinking of those who have condemned America as being materialistic and dominated by big business.

Nothing will appeal to people in distant lands more than to be brought face to face with the fact that small business is a vital part of America. We have an "atomic bomb" here in the world of ideas that for some reason has never really been tried. Nothing is more American than private small business.

Labor unions, through their free labor movement, have done a better job of interpreting America overseas than has business.

Highly organized American labor is part and parcel of our present-day capitalistic society. Our laborers are in many cases stockholders. Together with business and agriculture, labor has made possible the great revolution of the past 50 years whereby we have achieved universal participation in capitalism by all segments of our society.

The fact is that they, as free trade unionists, believe enough in our system to fight for it. If the trade associations of the companies for which labor works expand their interest in this international program, we can turn the tide of history—this we can and must do.

Voluntary agencies are as representative of American capitalism as any other contemporary institution. There are hundreds of trade associations here that might well apportion a part of their income to send true businessmen abroad, without Government subsidy, to do a better job of interpreting America.

There are many examples of voluntary agencies—from profit entity business, the supermarket organizations, nonprofit corporate associations, savings and loan associations, finance and managerial organizations are just a few examples of what can be done.

If just a few more organizations would light their own candles, study the situation and find where their members' particular talents and resources fit, world tensions would be considerably eased.

Again quoting Ambassador Lodge, "We should also be sure that we are making full use of the things in which we excel and and in which the Communists are deficient. We cannot, as a general rule, surpass a young oriental guerrilla fighter, who doesn't mind the heat, who can get along on a daily handful of rice, and who can lie under water for hours at a time breathing through a straw.

"But we can do better in other things such as: The use of airplanes; the art of medicine; improved farming and education; the development of an energetic political system, based on justice."

Under leave to extend my remarks, I submit the following editorial printed in the Independent-Journal newspaper in response to my presentation:

PRIVATE PEACE CORPS PLAN WORTHY OF SUPPORT, TRIAL

We pour billions of tax dollars into foreign aid and Peace Corps efforts to win friends and influence people overseas.

But in many cases, our efforts are rewarded with a slap in the face and a spit in the eye.

This was what Congressman DON H. CLAUSEN probably had in mind last week when he unfolded his Freedom Academy and private Peace Corps idea before a gathering of Rotarians in San Rafael.

Unlike some of the extreme conservative Republicans who would abandon all foreign aid and to heck with the rest of the world, CLAUSEN shows an awareness that something needs to be done other than retreating into a shell of isolation.

Thus, his bold new ideas deserve attention. CLAUSEN gave his listeners plenty of food for thought, with specific and constructive ideas that seem to make good sense.

First of all, CLAUSEN says he strongly believes in the principle of the Peace Corps. His main objection is that although the concept is fine, the methods are not working. The Peace Corps and other tax-supported foreign aid programs bog down in sheer bulk.

The billions poured into the programs at the source come out a mere dribble by the time it reaches the target area.

As we get it, CLAUSEN's idea is to have private American enterprise—voluntary service groups and business organizations—send private Peace Corps teams right into the heart of the problem in underdeveloped areas.

He mentioned such enterprises as Sunkist, Railway Express, and large finance and insurance companies that have branches all over the world. They have the know-how, they know the needs of the areas, and have established lines of communications.

He would include such organizations as church missionary groups, international service clubs, labor and trade organizations, Scout groups, and educational institutions.

CLAUSEN believes these private groups, dedicated to helping the needy and improving the American image, can do more good at far less expense than the present Government agencies, that are a big drain on the tax dollars.

CLAUSEN would supplement these with the creation of a Freedom Academy, also privately sponsored to take the offensive in the ideological war against communism.

His ideas sound good. We hope his program takes hold in Washington and that it will be given a chance to prove itself in the field.

President Johnson in Connecticut

EXTENSION OF REMARKS

OF

HON. WILLIAM L. ST. ONGE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1964

Mr. ST. ONGE. Mr. Speaker, on Wednesday, June 3, southeastern Connecticut welcomed President Johnson as its guest of honor. The President participated in the commencement exercises at the U.S. Coast Guard Academy in New London, where he delivered a major address. From there he went by motorcade to the neighboring city of Groton, where he participated in the keel-laying ceremony of the nuclear submarine U.S.S. *Pargo* at the Electric Boat Co. shipyard.

The local police authorities and the press estimated the number of people who viewed the Presidential motorcade at 50,000. There were some 3,500 people at the Coast Guard Academy's graduation, and about 11,000 workers heard him speak at Electric Boat. All in all, perhaps as much as two-thirds of the population of the New London-Groton area came to see President Johnson.

I was privileged to accompany the President on the plane to Connecticut, rode in his car during the motorcade, and was in the Presidential party both at the Academy and the keel laying at Electric Boat. There was no doubt as to the admiration and the genuine warmth of the people for President Johnson. They were proud that he took time out from his very busy schedule to visit southeastern Connecticut and to speak to them. Their respect for our Chief Executive and their friendliness toward the man were clearly evident everywhere.

Mr. Speaker, I am pleased to insert into the RECORD the President's address at the Coast Guard Academy, the remarks of Ensign Robert Leo Armacost in presenting a gift on behalf of the graduating class, and the President's address at the keel laying of the submarine *Pargo*.

They are as follows:

REMARKS OF THE PRESIDENT AT THE COAST GUARD ACADEMY, NEW LONDON, CONN.

Admiral Roland, Admiral Smith, Secretary and Mrs. Dillon, Governor Dempsey, Connecticut's great and able Senators, my good friends, Tom Dodd and Abe Ribicoff, Senator Magnuson, Senator Thurmond, Senator Pell, members of Connecticut's fine delegation to the Congress, and other Congressmen who work so hard in behalf of our Coast Guard, my fellow Americans:

In 1790, the Nation which had fought a Revolution against taxation without representation, discovered that some of its citizens weren't much happier about taxation with representation. And so, in what was probably the country's first economy drive, the Coast Guard was founded at a cost of $10,000 for 10 cutters.

In tribute to your traditions, and in anticipation of your achievements, as Commander in Chief I hereby grant a general amnesty, and do excuse all Coast Guard cadets from any penalties which you may now carry with you.

The official mission of the Coast Guard, which hangs in each room of this Academy, places you "in the service of [your] country and humanity."

That mission, your mission, is also the mission of your Nation. For today we Americans share responsibility not only for our own security but for the security of all free nations; not only for our own society but for an entire civilization; not only for our own liberty but for the hopes of all humanity.

In pursuit of such responsibilities, national security requires more than national strength. It requires, first of all, a nation dedicated to justice and to the improvement of life for its own people. It requires a nation determined to help others eliminate the despair and the human degradation on which the enemies of freedom feed. It requires a nation devoted, through speech and deed, to showing those who may grow weary of will, or fearful of the future, that the cause of human dignity is on the march, its shadow is lengthening, and victory is moving nearer. But our hope for success in the aims of peace rests also on the strength of our arms.

As Winston Churchill once said: "Civilization will not last, freedom will not survive, peace will not be kept, unless mankind unites together to defend them and show themselves possessed of a power before which barbaric forces will stand in awe."

We, as well as our adversaries, must stand in awe before the power our craft has created and our wisdom must labor to control. In every area of national strength America today is stronger than it has ever been before. It is stronger than any adversary or combination of adversaries. It is stronger than the combined might of all the nations in the history of the world.

And I confidently predict that strength will continue to grow more rapidly than the might of all others.

The first area of this increasing strength is our ability to deter atomic destruction. In the past 3 years we have increased our nuclear power on alert 2½ times, and our nuclear superiority will continue to grow until we reach agreement on arms control.

We have more than 1,000 fully armed ICBM's and Polaris missiles ready for retaliation. The Soviet Union has far fewer, and none ready to be launched beneath the seas. We have more than 1,100 strategic bombers, many of which are equipped with air-to-surface and decoy missiles to help them reach almost any target. The Soviet Union, we estimate, could with difficulty send less than one-third of this number over targets in the United States.

Against such force the combined destructive power of every battle ever fought by man is like a firecracker thrown against the sun.

The second area of increasing strength is our ability to fight less than all-out war. In the past 3 years we have raised the number of combat ready divisions 45 percent. They can be moved swiftly around the world by an airlift capacity which has increased 75 percent. Supporting tactical aircraft have been increased over 30 percent, and the number of tactical nuclear warheads in Europe has been raised 60 percent. We, and our NATO allies, now have 5 million men under arms. In addition we are now ready to mobilize large reserves in the event of conflict. Six divisions, with all supporting units, can be moved into action in a few weeks.

And we are continuing to build our forces. In a few years our airlift capacity will be five times what it was in 1961. Advanced weapons and equipment are flowing to our armies. Our fleet is being modernized through a decade-long shipbuilding program. And new tactical aircraft are being built.

A third area of increasing strength is the struggle against subversion. Our adversaries, convinced that direct attack would be aimless, today resort to terror, subversion, and guerrilla warfare. To meet this threat we began a large effort to train special forces to fight internal subversion. Since January 1961 we have increased these specialized forces eight times. We have trained more than 100,000 officers in these techniques. We have given special emphasis to this form of warfare in the training of all military units.

Our Army now has six Special Action Forces on call around the world to assist our friendly nations. They are skilled in the languages and problems of the area in which they are stationed. The Navy and Air Force have several thousand men whose abilities, training, equipment, and mission are designed to combat clandestine attack. And behind these groups are five brigade-size backup forces ready to move into instant action.

But just as subversion has many faces, our responses must take many forms. We have worked to increase and integrate all the resources, political and social as well as military and economic, needed to meet a threat which tears at the entire fabric of a society.

But success in fighting subversion ultimately rests on the skill of the soldiers of the threatened country. We now have 344 teams at work in 49 countries to train the local military in the most advanced techniques of internal defense.

Subversive warfare is often difficult, dirty, and deadly. Victory comes only to those with the desire to protect their own freedom. But such conflict requires weapons as well as will, ability as well as aspiration. And we will continue to increase this strength until our adversaries are convinced that this course too will not lead to conquest.

The fourth area of increasing strength is in the development of new weapons for deterrence and defense. In the past several years we have begun many important new weapons systems. Minuteman II will have twice the accuracy of the first Minuteman. The new Nike-X, when its development is completed, will give us the option to deploy, if national security requires it, the best antiballistics missile available to any nation. We are developing a new aircraft, the F-111, with much greater range, payload, and ability at air combat than present tactical bombers or fighters.

The Lance missile, the EX-10 torpedo, the A7A attack aircraft, a new main battle tank, new antitank missile systems, are the emerging products of development that we are carrying on. And that effort is without parallel in all the world. We will continue to carry forward new projects which offer hope of adding substantially to our strength. I can assure the American people that the United States is, and will remain, first in the use of science and technology for the protection of the people.

The fifth area and the most important of increasing strength is the ability of the American fighting man. However impressive or ingenious, our weapons can be no better than the men who man them. The complexities of modern weapons require men of high skill. The complexities of modern warfare require men of great knowledge. The complexities of the modern world require men of broad outlook.

Today 52 percent of our enlisted men are under 25 and are high school graduates, compared with 39 percent in the country as a whole who are high school graduates. Sixty-five percent of our commissioned officers are college graduates today, compared with 7 percent in the nation. Twenty-five thousand officers hold graduate degrees and thousands more are studying for such degrees.

In encampments across the world millions of men and women have chosen to serve with low pay and high hazard, with deep devotion and silent sacrifice, so that their fellow Americans might enjoy the rich legacy of liberty. They stand the hard vigil that we may pursue the high vision of flourishing freedom in a world at peace. These are the sources of the strength we build, knowing, in the words of the Bible, "When the strong man armed keepth his palace, his goods are in peace."

The necessities of our strength are as varied as the nature of our dangers. The response must suit the threat. Those who would answer every problem with nuclear weapons display not bravery but bravado, not wisdom but a wanton disregard for the survival of the world and the future of the race.

No one can live daily, as I must do, with the dark realities of nuclear ruin, without seeking the guidance of God to find the path of peace. We have built this staggering strength that I have told you about not to destroy but to save, not to put an end to civilization but, rather, to try to put an end to conflict.

Thus, in the past 3 years, as our strength rose—and, in large part, as a consequence of that rising strength—we have been able to take more tangible steps toward peace than at any time since the cold war began. We established an Arms Control and Disarmament Agency. We agreed with the Soviet Union on a statement of disarmament principles. We signed a test ban treaty. We established the hot line. We supported a U.N. resolution prohibiting the orbiting of nuclear weapons. We cut back on nuclear production while the Soviet Union did the same. And we have just completed the negotiation of a new consular agreement.

And, as the Geneva Conference reconvenes, we have before it a series of proposals that I submitted, designed to freeze strategic nuclear delivrey systems, to stop the spread of nuclear weapons, and to prohibit the use of force to solve disputes. And we will welcome any other proposal by any nation which promises realistic progress toward peace.

In far-flung corners of this strife-girdled globe ambitious adversaries continually test our tenacity and seek to erode our endurance. American strength is engaged and American blood is being shed.

It requires patience and understanding to continue the search for peace while our adversaries so beset us. But this is what we must do. It is what, God willing, I intend to do.

If we are successful in that search it will be because you, and men like you, gave their lives to duty that our children might live their lives in freedom.

So let us hope that this Nation can some day, not too distant, lay aside its awesome power, and direct all its genius to the betterment of man. Let us hope that we may soon be able to say "The night is far spent, the day is at hand; let us therefore cast off the works of darkness and let us put on the armor of light."

Remarks of the President and Ens. Robert Leo Armacost Upon Presentation to the President of a Gift From the 1964 Graduating Class, U.S. Coast Guard Academy, New London, Conn.

Ensign Armacost. First, Mr. President, I would like to thank you for the shoulder boards.

Now it is my distinct honor to present to you this token of our appreciation for your participation in our commencement exercises. The inscription reads: "Presented to the President of the United States, Lyndon B. Johnson, honorary member, class of 1964, U.S. Coast Guard Academy, June 3, 1964, from his classmates."

In presenting this desk piece and this certificate of class membership, we are proud to welcome you as a member of the class of 1964.

Traditionally, the lady of every man at the Coast Guard Academy has some remembrance of the Academy. I would like to present this gift to you to give to your lady, Mrs. Johnson.

The President. I know Mrs. Johnson will appreciate your thoughtfulness of her. She is attending another graduation exercise today or she would have been here with me.

I have enjoyed very much my work with the class of 1964. I hope that 1964 will be as good for me as it is for you.

Remarks of the President at the Keel Laying of the "Pargo" (SSN-650) the Electric Boat Co., Groton, Conn.

I declare the keel of the Submarine *Pargo* well and truly laid.

Men and women of General Dynamics; the distinguished Chief Executive of Connecticut, Governor Dempsey; my longtime able friends, Senator Tom Dodd and Senator Abe Ribicoff; Senator Claiborne Pell and Senator Strom Thurmond; Senator Magnuson; your own very able Congressman Bill St. Onge; other members of the congressional delegation; those Congressmen from other States who have worked to improve our defenses and to make America safe, my fellow Americans:

On the Fourth of July in Paris nearly 130 years ago, a great Frenchman, who knew America well, undertook to explain to his countrymen the importance of Connecticut. He told them that "little yellow spot on the map * * * makes the clock peddler, the schoolmaster, and the Senator."

"The first," he explained, "gives you time; the second tells you what do do with it; and the third makes your law and your civilization."

Your State of Connecticut has a long tradition, and a worldwide reputation, for fine craftsmanship, for fine workmanship, for outstanding scholarship and for intellectual leadership. Connecticut also has a reputation in Washington for some of the most outstanding statesmen to serve in the United States, and that reputation is being upheld by my two old and good friends, Tom Dodd and Abe Ribicoff, and your own fine Congressman Bill St. Onge. They are helping to make the laws of your land sound and make them wise, and in the same tradition your work here in this yard is helping to preserve and to defend American civilization.

I wanted to come here today to see firsthand some of the men and women who have labored to put new muscle into America's military might. All of you know that we are a nation of peaceful people. We have stated time and time again that all we seek for all the world is peace—peace built on freedom and mutual respect among men and nations. But commonsense dictates that peaceful purposes must be supported by purposeful power. There are those who oppose freedom and security in the world today, so they seek by fear and by subversion to thwart man's hope for peace. If they do not understand our motives for peace, we must be sure they do not misunderstand our means of power. The nuclear-powered submarines that you men and women are building here are indispensable to the free world strength. One of these subs armed with 16 Polaris misssiles has an explosive punch greater than all the destructive power unleashed by all the guns and cannon, planes and ships, on both sides during all of World War II.

Unthinkable, isn't it? They can stay at sea months without refueling. They can stay underwater as long as their crews can stand the strain. And they are ready for instant action.

The *George Washington*, built in this yard, has been deployed for 3½ years. Since then, 14 of her missiles were ready to fire at any time. And all 16 were ready to fire 95 percent of the time. Four years ago, this country had only 2 of these submarines deployed with 32 missiles. We now have 15 at sea with 240 missiles. And we have increased the total Polaris program from 24 submarines with 384 missiles to 41 submarines with 565 missiles.

You men and women have made that increase possible—made it possible by your skill, your energy, your labor. You have been the keepers of the peace along with the sentinels on the wall in Berlin, and our soldiers that are stationed in the outposts around the world. By your devotion to this cause, you have been defenders of a larger cause, the cause of freedom and peace around the world.

Since the first submarine was built here by an Irish immigrant in 1900, Americans of every race, every color, every religion, from every region, have labored together here in this yard to build a stronger and a more secure country. We cannot relax our efforts now. We must not confine them only to the production of new weapons for our military arsenal. For a nation with an unbeatable military power can still be toppled if it does not preserve its moral power. Only an America which practices equal rights and social justice at home will be heard as it proclaims those ideals abroad. Only an America which has fully educated its people can remain strong. Only an America that cares for its sick, offers a helping hand to its poor, and compassion to its old—only this kind of America can really win the respect of those whose destiny is bound up with ours. And only an America which is growing and which is prospering can sustain the worldwide defenses of freedom while proving to all onlookers the opportunities of our system.

So, men and women, ladies and gentlemen, my friends, by the work that you do in this yard you are defenders of America's freedom. But by the work you do as citizens beyond this yard—and I hope there will be much of that kind of work, too—you are designers of America's future. As President of your country, I am proud of you, and that pride is shared by men in every land who rely on our power to keep the peace in this troubled but hopeful world.

So let never any of us shrink from our responsibility. Let us sustain our pledge to work for the day when all people everywhere will know the vindication of that ancient vision: "Peace on earth, good will toward men." Thank you.

Remarks of Senator E. L. (Bob) Bartlett at Maritime Day Dinner, Propeller Club of Washington, D.C.

EXTENSION OF REMARKS

OF

HON. THOR C. TOLLEFSON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1964

Mr. TOLLEFSON. Mr. Speaker, one of the finest speeches I have heard on the subject of seapower and the American merchant marine was delivered by one of the most knowledgeable men on that subject, Senator E. L. (BOB) BARTLETT, of Alaska. It has been my privilege to know him for the 18 years I have had the honor to serve in Congress. While he was in the House as Delegate from Alaska, he served on the Committee on Merchant Marine and Fisheries. Always his keen understanding and sound judgment served the interests of American seapower well. His address was made at the Maritime Day Banquet of the Propeller Club of Washington, D.C. I am sure that Members of the House will want to read what he said and for that reason I am inserting his speech in the RECORD:

REMARKS OF SENATOR E. L. (BOB) BARTLETT AT MARITIME DAY DINNER, PROPELLER CLUB OF WASHINGTON, D.C.

I am, of course, delighted to be with so many friends of the merchant marine on the evening before Maritime Day of 1964.

This day commemorates the voyage of the SS *Savannah* in 1819, the first steamship to make a transatlantic crossing. It is true that our first great steamship with her 90-horsepower engine made the greater part of that voyage under sail. I said "greater" to avoid emphasizing the bare fact that there were 9 hours of sailing time for every 1 hour of steam time on that 30-day voyage between the ports of Savannah and Liverpool. But if the *Savannah*'s title is somewhat clouded by the rigging she carried, the meaning of that voyage is not. If a cloud of steam issued only intermittently from her small stack, it was enough to write large against the sky the obituary of almost 5,000 years of sail.

The gaffers wouldn't believe it. No man who ever stood a deck under canvas was willing to step aside for a gadget full of hot water. They were wrong. They ended up, like the broken hulks of the packets and the great clippers, on history's scrap heap.

Reference to "scrap heap" and the presence here tonight of Eskie Clark, vice president of Alaska Steamship Co., make me think of a Liberty liner which almost went to the bottom with all hands on the dreadful afternoon of March 27, when nature was in torment in Alaska. Then the Alaska Steamship Co. vessel *Chena* was in harbor at Valdez, one of the communities most savagely hit by earthquake and tidal wave. Let the thrilling account of what happened to the *Chena* be related by its skipper, Capt. M. D. Stewart:

"The *Chena* arrived at Valdez at 1612 hours (4:12 o'clock afternoon) March 27. About 1731 o'clock, while discharging cargo, we felt a severe earthquake—followed almost immediately by tidal waves.

"There were very heavy shocks for about half a minute. Mounds of water were hitting at us from all directions.

"I was in the dining room. I made it to the bridge (three decks up) by climbing a vertical ladder. God knows how I got there.

"The Valdez piers started to collapse right away. There was a tremendous noise. The ship was laying over to port. I had been in earthquakes before, but I knew right away that this was the worst one yet.

"The *Chena* raised about 30 feet on an oncoming wave. The whole ship lifted and heeled to port about 50°. Then it was slammed down heavily on the spot where the docks had disintegrated moments before.

"I saw people running—with no place to go. It was just ghastly. They were just engulfed by buildings, water, mud, and everything."

"The *Chena* dropped where the people had been. That is what has kept me awake for days. There was no sight of them. The ship stayed there momentarily. Then there was an ungodly backroll to starboard. Then she came upright. Then we took another heavy roll to port.

"I could see the land [at Valdez] jumping and leaping in a terrible turmoil. We were inside of where the dock had been. We had been washed into where the small boat harbor used to be. There was no water under the *Chena* for a brief interval. I realized we had to get out quickly if we were ever going to get out at all. There was water under us again. The stern was sitting in broken piling, rocks, and mud."

"I signaled to the engineroom for power and got it very rapidly. I called for 'slow ahead,' then 'half ahead,' and finally for 'full.' In about 4 minutes, I would guess, we were moving appreciably, scraping on and off the mud (bottom) as the waves went up and down. People ashore said they saw us slide sideways off a mat of willow trees (placed as part of the fill material in the harbor) and that helped put our bow out. We couldn't turn. We were moving along the shore, with the stern in the mud. Big mounds of water came up and flattened out. Water inshore was rushing out. A big gush of water came off the beach, hit the bow, and swung her out about 10°. If that hadn't happened, we would have stayed there with the bow jammed in a mud bank and provided a new dock for the town of Valdez. We broke free. The bow pushed through the wreckage of the cannery. We went out into the bay and had to stop. The condensers were plugged with mud and pieces of dock. The chief mate, Neal L. Larsen, checked to see if we were taking water. We were taking none. It was unbelievable after what the ship had been through."

All of Valdez knows that the *Chena* remained offshore to help Valdez all through that long night and next morning.

If we remember the *Savannah* for anything at all, it should be that she represented a difficult, distasteful—but inevitable—change. Men learned to live with the conditions that she represented, or they lost all chance of making those conditions different.

We can do no less and survive today. To prevail, we must move with the persistent winds of economic and technological change. We must be ready to consider new ideas, new techniques, different modes of operation, different patterns of trade and thought.

This is true for all segments of American seapower—our Navy, Coast Guard, the American merchant fleet and even for our fishing fleet. Together these segments represent the U.S. power on the high seas. We have one prevailing interest in common—to remain strong. But too often this central interest is fragmented in the stir caused by the small engagements between elements of our seapower. Let us look at each one.

The U.S. Navy is second to none in the world. It should be second to none. At a time when the White House is closer to an enemy power than at any time since 1814, when a missile can reach out 8,000 miles in a matter of minutes, the United States requires a naval power with nuclear armed submarines capable of withstanding the full thrust of the enemy's destructive power and retaliating with their own destructive might. Annually we appropriate over $2 billion for the construction and conversion of vessels in U.S. shipyards for our Navy. This is needed. I am proud to say that the American people, the President and Congress understand the importance of our Navy and are willing to pay the cost to keep it second to none.

The U.S. Coast Guard is no less important. But this may not always be as fully recognized. An incident that occurred earlier this year illustrates this most clearly. My good friend Admiral Roland appeared before the Senate Commerce Committee in January of this year seeking an authorization of $45 million to construct 24 new Coast Guard vessels. The admiral related to the committee that most of the money was to be used to replace older vessels. When I inquired as to how old the present vessels were that were scheduled for replacement I was astonished to hear that some were built in 1926 * * * these 40-year-old vessels were obsolete and originally scheduled for replacement 20 years ago. In support of the Coast Guard authorization, the Department of State appeared to inform the committee of the importance of modern Coast Guard vessels for international fishery patrols. There were no other witnesses or even letters in support from other segments of our seapower. However, to the surprise of everyone, and particularly to the Coast Guard and Treasury Department, Congress increased (not decreased) the authorization request by about 30 percent. This came about principally by reason of the leadership, the drive, and the understanding of the distinguished chairman of the House Merchant Marine and Fisheries Committee, Representative HERBERT C. BONNER, and the ranking minority member of that committee, Representative THOR C. TOLLEFSON, who is here with us tonight. The point of this brief story is that I fear many Americans, in fact many of us, do not give the assistance and political support needed here in Washington.

Again I stress our interests are basically one. We all, including the Navy, including our merchant marine, including our fishing interests, all should work together more closely in support of these programs. My hope is that all of us interested in the United States as a seapower will pull together in the future for the success of an expanded vessel replacement program of the Coast Guard. As I recall, Admiral, we have other 40-year-old vessels still in service.

The saddest story of all, the story that is most depressing to me, is the story of the American fishing fleet. We dazzle the eyes of the enemy with our modern, nuclear-powered and nuclear-armed submarines; at the same moment our economic competitors simply laugh as they view our fishing fleet.

At hearings on legislation designed to upgrade fishing vessels last year, the Senate Commerce Committee was informed that we had in service at last count as part of our fishing fleet a vessel constructed before the Civil War. The total fleet includes about

5,000 boats; some are sailing vessels; one-third is over 20 years old; most are too small to operate safely beyond our 3-mile limit. The few that are being built do not compare with those being constructed by the European fishing nations and particularly by Japan and Russia.

The Russian fleet was augmented during the past 15 years by the procurement of 3,500 new, large- or medium-sized trawlers and refrigerator ships. These range from stern-trawling factory ships of the Pushkin type of 2,470 gross tons, and comparable in size to our own World War II destroyers, to the floating canneries of 12,600 gross tons with a crew of 640, which are comparable to our World War II heavy cruisers. On the drawing board the Soviet Government has a 35,000-ton fishing vessel, the *Vostok*.

The American fishing fleet traditionally has been a part of our seapower. At the beginning of World War II, the Federal Government, for reasons of national defense, took possession of over 700 of our larger fishing vessels. This represented 25 percent of our fishing capacity. When Senate hearings were held on the fishing vessel construction program last year, no testimony or active support came from other segments representing our seapower. I submit it deserves the active support of our Navy, our Coast Guard, and our merchant marine. Legislation is still pending in Congress to upgrade our fishing fleet; we all should join in this effort.

The American merchant marine is the remaining segment of the picture of the U.S. seapower. This segment itself has been too often weakened by splintering and subdividing our overall interest into foreign and domestic operators, or liner and tramp operators, or maritime labor and management.

It has been said that those who forget the past are doomed to repeat it. Are we today forgetting the past?

Certainly we should remember this evening that every time this Nation needed its merchant marine we found, almost too late, that we had thrown it away. We should remember that every great political change that has come to the world in the past 20 years has underscored the need for an effective and modern merchant marine. We should remember that when we read the headlines from Vietnam and Laos—as we read from Korea and Lebanon—they are describing a contest in which the merchant marine has a greater, not lesser, part.

It is unfortunate that is a point that needs making—if not in this room, then in the Nation at large.

The American merchant marine is not so impressive as our modern Navy nor has it been ignored like our fishing fleet. But when we speak of the merchant marine fleet we must be more specific and selective.

When we consider the domestic fleet—and the Senate Commerce Committee held extensive hearings on this matter recently—I believe we are in a field that has been largely ignored by Congress, by every recent administration, and by the public ever since the close of World War II. Before the war there were over 400 dry cargo vessels in the domestic coastal trade. They represented the merchant vessels most readily available and were immediately taken for Government service during the first days of World War II. Today, there are only 50 dry cargo vessels operating in our domestic coastwise and intercoastal trade.

This fact prompted Congress and the Maritime Administration to commence a vessel exchange program to upgrade the fleet by making available vessels from our Government reserve fleet. This program should be encouraged and liberalized; it should also be expanded by permitting vessels other than World War II-built vessels to be traded in by the operators and by permitting operators to obtain a wider range and a larger number of reserve fleet vessels for use in the domestic trade. But we must not forget that this program involves only the exchange of old vessels. This can offer no long-term solution and even for the short run will not encourage the use of the most modern vessel design advantages. I believe more must be done—and here I am not now referring to any national defense argument—but rather an economic conviction I have that the U.S. economy and more particularly the American shipper, needs to have available the most efficient type of water service to offer effective competition with other modes of transportation, including the railroads.

The American merchant fleet in our foreign trade, and particularly our tramp fleet, has been also largely ignored. The tramp fleet is old and slow and has been declining at the rate of about 24 ships a year over the past 10 years. Without a special and fairly immediate effort to reverse this trend, the tramp fleet may not survive another decade. Today we are encouraging the continued use of primarily a World War II, constructed tramp fleet. This policy, or lack of policy, ignores the development of new trade patterns since 1945 and also ignores the presence of modern vessel design. This raises the question of the adequacy of our cargo preference laws and, what is even more significant, the administration of the program carried out by Government agencies and departments.

The one possible bright spot in the merchant marine industry picture is occupied by the operators in the liner service. "Were it not for the foresight and determination of the men in the Congress in 1936 we might today be celebrating Maritime Day in a museum among the models of ships that used to be. Instead, we have embarked on a new vessel construction program that is providing the U.S. merchant marine with a fleet of the fastest and most modern liner vessels engaged on the trade routes of the world. We now must make this fact known to American exporters and importers."

I am not suggesting that all is well with our operation of liner vessels in the foreign trade. The companies have been kept as busy here in Washington with congressional and departmental studies being undertaken of the construction and operating differential subsidies and their participation in shipping conferences as they have been active along their respective trade routes. My guess is that next year will bring no substantial change in this respect. My sincere hope is that the work in Congress, in the Maritime Administration, and in the Federal Maritime Commission will continue to be undertaken by men dedicated to building constructively, not ignoring, our merchant marine. This requires dedicated, intelligent, and qualified men, men who recognize the larger and even global issues at stake.

I do not want to labor the point, but it is interesting to note that the Soviet Union, with an intense internal demand for limited amounts of foreign exchange, is spending considerable amounts on building what promises to be one of the largest and certainly the most modern merchant fleets in the world.

The Soviets fully intend to increase their foreign trade and to carry the bulk of it in their own bottoms.

They realize, as well, that when the possibilities of choice in a nuclear world swing more and more on limited warfare, when nations are brought to grief not by the blast of a bomb but by the file of men through a quiet jungle, the availability of a merchant power becomes a prime military asset.

They are fully aware, as well, that the ultimate interest of communism may be served as well, if not better, by the penetration of economic markets as by the crossing of a guarded border. Premier Khrushchev, standing in the hot sun near Aswan last week, was no idle tourist. The Russian vessels that ply the Indian Ocean are regarded as messengers of destiny by the men who launched them.

I do not think we can safely assume that the developing Russian challenge to free world shipping can be measured only against the merchant capability of the free world. Our country has its own burdens to bear. We discovered that in 1950 in Korea. While we were frantically breaking ships out of mothballs to open a readily available supply line, the merchant fleets of friendly powers continued in the business of business because there was a better profit to be made.

The best guarantee that we can have that American interests will be served under any contingency is to keep the American flag at sea, and to keep it flying over a fleet that is second to none in performance. That guarantee rests upon two conditions. The first is that public policy subscribe to its necessity and underwrite the programs that are necessary.

But the second condition is equally important. It is that the merchant marine itself, in all of its elements, understand and act upon the mutuality of purpose that unites it. No part of the unified effort that is American seapower can advance at the expense of other parts. The merchant marine should speak loudly with a coherent voice, in the knowledge that a better fleet serves all its parts.

As we honor tonight the voyage of the SS *Savannah*, we should not forget that the ship was built in a U.S. shipyard and was manned by U.S. seamen. The change that came to the world after the voyage of the *Savannah* found some prepared and some unprepared. There is a similar wind of change blowing today. Since the war, 32 countries have founded national merchant marines. The Common Market and other trade and tariff blocs have risen from the ashes that the bombers left. We are competing in markets against goods produced with highly efficient machinery, sold with aggressiveness and purpose. The world no longer takes what we give it.

And there is something else at stake. We do not export only the products of our mills and factories. We export a way of life. It is the invisible cargo that travels with every American vessel. The ship that berths at a foreign harbor, the men who come down the gangplank, are America to much of the world. That is the final purpose of the merchant marine, and the one that unites the others. In the most crucial marketplace of all, the exchange of ideas and impressions in men's minds, the merchant marine can make its most rewarding voyage of all.

Attorney General Kennedy Addresses Marquette University Commencement

EXTENSION OF REMARKS

OF

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 9, 1964

Mr. ZABLOCKI. Mr. Speaker, last Sunday Attorney General Robert F. Kennedy was the principal speaker at commencement exercises of Marquette University, Milwaukee, an outstanding Jesuit institution of higher learning in my district.

The Attorney General was presented with an honorary doctor of laws degree as a "relentless exposer of corruption in public life" and because he had taken a "calm, dignified, and determined position" on civil rights.

The university intended to bestow particular honor on Mr. Kennedy by asking him to speak. It marked the first time in many years that a layman has given the commencement address at Marquette.

The Attorney General's remarks were indeed worthy of such an occasion. In them, he emphasized the concern which all youth—and all Americans—must feel when confronted with the social problems of our times.

He called upon the graduates to take advantage of their university training to participate wholeheartedly in politics, government, and community affairs, in order to build a better society in the United States.

Because of the pertinency of Attorney General Kennedy's remarks, I request permission to include them in the RECORD and earnestly commend the attention of my colleagues to them:

ADDRESS BY ATTORNEY GENERAL ROBERT F. KENNEDY, COMMENCEMENT EXERCISES, MARQUETTE UNIVERSITY, JUNE 7, 1964, MILWAUKEE, WIS.

Father Kelley, Father O'Donnell, Governor Reynolds, members of the faculty, and men and women of Marquette, it is a very great honor for me to come here today to accept this degree and with it, membership in the distinguished ranks of Marquette alumni.

I have looked forward to visiting Marquette with particular anticipation since I read up on your early history—I should now say our early history—and discovered what interesting exercises Marquette has had at the end of the school year.

After the first academic year, for example, on June 28, 1882, there was a program which I doubt could be matched today. Before assembled citizens of Milwaukee, one young man demonstrated how to calculate the number of gallons in a wine cask. Two students prompted hearty applause when they drew a "beautiful map of Wisconsin on the blackboard." There was singing and some acting and then came the oration of the evening, entitled, "Let My Actions Speak."

The aspect of the oration that particularly attracted me was the crowd's reaction to the speaker. The speech, a newspaper account said at the time, "was listened to with breathless attention." I am sure Marquette audiences have not changed in the intervening years.

The purpose of those 1882 exercises was to demonstrate to the citizens of Milwaukee that Marquette could indeed provide a respectable education. No such public display is needed now from what has grown into this great university. Its men and women have demonstrated the importance of their Marquette experience by the contributions they have made to Milwaukee, the Midwest, and the Nation.

The outstanding performance in the Peace Corps by Marquette graduates like Barbara Olsen, Mike Shea, and Rocky Santos provides vivid illustration.

There is a picture of Rocky in the Peace Corps files in Washington showing him at the site of an extraordinary project in Ecuador. He and five fellow volunteers succeeded in organizing several hundred natives to blast and carve a road to their village out of a steep and stony 1,000-foot hillside. The picture shows him with some dynamite, with a smile, and—loyal to the ends of the earth—with a Marquette sweatshirt.

The intelligence and energy of young people like these Marquette alumni demonstrate that America is modifying the axiom, "youth will be served" to "youth will serve." Idealistic and vigorous, it is a deeply necessary service in our difficult and paradoxical time. We are fast discovering that whatever our wealth or our technological skills, each new advance exposes an old problem.

Our scientists grapple with the difficulties of placing a man on the moon, but the immediately troubling concern of our society is whether men of different races can sit together at a lunch counter. Automation provides us with wonders of production and information, but no answer to the question of what to do with the men the machines displace.

In short, the power and the resources of modern technology, education, and civilization do not enrich the lives of all men. We do not all live in the same century.

The New York World's Fair exemplifies the scientific advances of the 20th century and it offers suggestions about the America of the 21st century. But less than an hour away in Harlem, people live in squalor and despair more closely resembling the 19th century. A few hundred miles away, in the remote hovels of Appalachia, the life of the people is, if anything, worse than it was a hundred years ago.

Such disparity cannot be tolerated in a society which believes in free opportunity, or even in one which only talks about it. And I believe that our generation is committed to seeking an end to such disparity and solutions for the problems of the Nation and the communities in which we live.

Labels for college generations are always risky. To call earlier college eras simply the silly or the silent generations was to exaggerate. But I think it is fair to describe yours as a generation of unusually genuine and intense concern with social justice and intellectual freedom.

Political and social involvement have meaning to you and your contemporaries across the country. Thousands of students work on behalf of civil rights, or remedial reading, or community problems. Peace marchers or college civil rights demonstrators may not always express their concerns in the wisest or most effective manner, but it is clear that those concerns are deeply felt.

Those concerns stem in part from the intensified concern of our whole society for the problems of social justice. And they also stem from your Marquette training as educated, humane men and women. You will continue to feel these concerns as part of the legacy of college.

So there is no need for me to come and exhort you, in the manner of so many of the commencement speeches made since commencements commenced, to develop such concern. What I come instead to ask is whether you—and those like you in the colleges of the Nation—will continue to act on behalf of those deeply felt concerns.

The very college experience which has helped to expand your awareness of these problems is also the experience which prepares you for a place in society far removed from the problems.

As lawyers or doctors or businessmen—or as their wives—you will be escalated beyond contact with the large number of people in this country whose principal worries are hunger and hope. You will be part of the mere 9 percent of Americans with college degrees and you will be equipped to work in the very latest day of the 20th century.

But will you also work to bring the benefits of your preparation to the citizens who still live in the past? Will the problems of race or poverty or underdeveloped nations exist for you only in the sympathetic but abstract world of the Sunday newspapers and the political magazines?

It is not enough simply to be aware, or concerned, or sympathetic. While we are a free society, we are not yet a perfect society. One can find a squalid America as easily as a scenic America; a bitter, hopeless America as easily as the confident America of polyethylene wrapping, new cars, and camping trips in the summer.

Michael Harrington has described the poor as the invisible Americans. Let me propose that the phrase can be reversible. It is, after all, only a matter of perspective. For the unemployed city laborer or the uneducated Appalachian teenager or the ailing, elderly widower, it is the comfortable American who is invisible.

Let me suggest that just as the university gives you the tools and talents to work at the highest levels of society, so does it call on you to give to all society the benefits of those talents.

"Our country," said Theodore Roosevelt in 1899, "calls not for the life of ease, but for the life of strenuous endeavor. The 20th century looms before us, big with the fate of many nations."

That prediction may be even more valid now than it was when uttered. There has, perhaps, never been a time in our history when the gap between college and community has been smaller, when the need for active involvement by young people has been stronger, and the opportunity for them to do things of significance has been greater.

I would say to all of you that the most meaningful and rewarding way of achieving that involvement is in politics, in Government service. Politics has not always been an honored profession and there still are those who would agree with the view expressed years ago by humorist Artemus Ward: "I am not a politician and my other habits are good also."

But that is not the only view. The word "idiot" comes from the Greek for a person who did not participate in public affairs. And in America, I believe we have come to develop respect for the public servants who make such an important contribution to our society.

There is opportunity to share in that contribution for young people and there are many in Government, whether in the Civil Rights Division of the Department of Justice, or as aids to President Johnson, or in State and local governments across the country.

The likelihood is that you will choose a private career, but the same point still applies. Whichever arena you choose, you can still carry a sword against the common concerns which afflict our communities.

"Our ordinary citizens," said Pericles in his funeral oration, "though occupied with the pursuits of industry, are still fair judges of public matters * * *. Unlike any other nation (we regard) him who takes no part in these duties not as unambitious but as useless."

You, the beneficiaries of the best training our society can provide, have a particular obligation to be useful, an added responsibility for the welfare of society.

Certainly you will be concerned with the quality of schools—but let that concern extend beyond the schools your own children attend. Certainly you will be concerned with juvenile delinquency, but let your concern extend beyond criticism to the treatment of the social conditions in your community which breed delinquency.

It is not enough in these times to lend your talents to your job, to raising a family, and to leading a self-sufficient, pleasant life. You, with the advantage of a college education and with the spirit of freedom and human dignity it releases, must participate wholeheartedly in politics, government, and community affairs.

Two years ago, in this city, President Kennedy stated the alternatives. "I see this country," he said, "as the most powerful, vital, vigorous country in the history of the world, carrying responsibility all around the world * * * or I see it standing still."

Let us make our choice for progress. Let us obliterate the past which is, for too many citizens, the somber present and the hopeless future. With the clarity and compassion of the university atmosphere, let us labor to build a future in which all Americans can share, with common prosperity and common pride.

Trapdoor of the Treasury—Speech of Hon. Thomas M. Pelly, of Washington

EXTENSION OF REMARKS
OF
HON. THOR C. TOLLEFSON
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 9, 1964

Mr. TOLLEFSON. Mr. Speaker, recently our colleague, the Honorable THOMAS M. PELLY, of the State of Washington, spoke before the Washington Automotive Wholesalers Association at Spokane on the topic "Trapdoor of the Treasury." Congressman PELLY has for many years been an articulate spokesman in behalf of constitutional government and our free enterprise system. I believe his Spokane address deserves the careful study of all of us concerned with the preservation of constitutional safeguards and our way of life. With unanimous consent, I insert Congressman PELLY's remarks in the CONGRESSIONAL RECORD:

TRAPDOOR OF THE TREASURY

(Text of speech by Congressman THOMAS M. PELLY before the Washington Automotive Wholesalers Association, Spokane, Wash., May 23, 1964)

It is a real pleasure to speak here today at this meeting of the Washington Automotive Wholesalers Association.

Having spent the greater part of my business life as an active trade association member, I can assure you I feel more at home talking to a group of businessmen such as yourselves than I do talking in the House of Representatives to my fellow legislators.

However, both as a former businessman and as a six-term Representative in Congress, I hold firmly with the great Daniel Webster, who once said the Constitution of the United States was adopted for no single reason so much as the protection of business.

In fact, every one of the early Presidential addresses to Congress recognized our Government's responsibility to promote the well-being of the Nation's business.

Thomas Jefferson once referred to agriculture, manufacturers, commerce, and navigation as the four pillars of prosperity.

When left most free to individual enterprise, these four pillars, he said, would be most thriving.

Unfortunately, especially during the past few decades, centralized government has grown and its bureaucratic regulatory functions have increased to the extent that business has not been most thriving. It has not been left most free to individual enterprise.

It has been taxed and regulated and redtaped almost beyond thriving.

Nevertheless, I assure you, there are many of us in the Nation's Capital who intend to keep fighting to preserve constitutionalism and the independent, profit incentive system that has produced the highest living standards in the world. And let me emphasize, an integral part of this fight is the strengthening of our free economy.

Government's proper role in our economy, I repeat, is to help bolster American business and industry in every way possible—without regimenting or stifling the freedom of the marketplace.

And it is precisely because I believe that Government has this special role of responsibility that I am one of the 24 Members of the House of Representatives and 11 Senators who have sponsored the quality stabilization bill.

Quality stabilization is a perfect example of legislation aimed at strengthening our economy without placing undue Government restraint on business. It is legislation which will preserve wholesome competition and yet eliminate many of the economic ills now threatening the existence of the independent retailer.

Your own organization has long been on the frontline in this effort to curb the predatory evils of unethical, cutthroat retail competition.

You have recognized that the destruction of the American independent retail merchant would have serious, adverse, and far-reacning effects on the national economy.

Indeed, one witness for a giant retail chain operation has gone so far as to boast to a congressional committee that if present trends continue, over 80 percent of our retail businesses will be controlled by only 50 giant companies within the next 10 years.

How will this effect the economy as a whole?

To begin with, there is always the human element involved—the loss of security for thousands of men and women whose livelihood depends on the small, independent merchant.

Then there is the affect of monopoly and the reduction of retail outlets, the affect on producers, manufacturers, and distributors—not to mention the loss of responsible service to American consumers.

The elimination of competitive neighborhood service will place every consumer and distributor at the mercy of the giant merchandisers.

Quality stabilization is directed at preventing such an eventual economic catastrophe by providing brand-name manufacturers with a means of protecting the good name and reputation of their products.

The misuse of national brand-name merchandise as "loss leader" and "bait" for unsuspecting customers is one of the chief devices of the unethical retailer.

As you know, the quality stabilization bill would give the independent brand-name manufacturer the same right over his product as is now employed by chainstores marketing their own private-label goods.

And by providing protection for brand-name merchandise, quality stabilization would also give the small independent retailer protection for his most precious stock in trade his reputation and the quality of his merchandise.

I should point out, too, that quality stabilization is purely voluntary legislation, and therefore is in keeping with the principles of our free enterprise system. No manufacturer would be compelled to come under the provisions of the law; nor would any distributor or retailer be required to handle any product.

And finally, let me stress that those of us who support this legislation—who believe it is vital to preserve our free retail economy—do not claim it is a cure-all. But we do maintain it will represent Government action to stem the present loss of American retail lifeblood and add vigor and new strength to the meaning of competition in the Nation's marketplace.

The bill is now awaiting action by the House Rules Committee and the full Senate Commerce Committee, chairmaned by Senator MAGNUSON.

Only recently, following exhaustive hearings, it was approved by a Special Senate Subcommittee on Quality Stabilization.

We are hopeful that the quality stabilization bill will be passed out of these committees and come before the Congress this year for final passage.

In this connection, much depends on whether those upon whom the real strength of our system rests—the people back home at the grassroots—understand their interest as consumers in this fight.

The people must be given the true facts. Confusion is the weapon of the opposition. The Saturday Evening Post, for example, recently carried an article. It implied my interest was selfish and that I owned a stationery store.

I have no conflict of interest.

I own no such retail business. However, as a former retailer, I know from experience the importance of this legislation.

The electorate must understand the vital life and death issues concerning our economic system—and public opinion must make itself felt.

That is why you here in this audience and others like you throughout the country must make your support for quality stabilization clear to your elected representatives in Washington.

And this registering of your opinions is equally true regarding other issues involving the preservation of constitutional government generally.

The center of this fight is in Washington, D.C.—in the U.S. Congress and in the other branches and bureaus of our Government.

But the frontline is back here at home, for public opinion is a powerful force.

It is up to you, the people, to enter into the battle against those who distrust power in the hands of the people and who would break down and destroy the institutions created and fostered by the Founding Fathers.

We in the Congress who believe in an unfettered thriving economy ask, and must have, your support and help back home if we are to succeed.

The topic I chose, by the way, for these remarks, "Trapdoor of the Treasury," has to do with the use of your money and the danger posed to our constitutional system by the surrender of legislative powers to the executive branch.

Originally, I labeled this type of uncontrollable and unconstitutional expenditure as "backdoor spending." However, I have decided that "trapdoor spending" comes closer to describing the evil and insidious nature of this type of financing. Now, I refer to it as "trapdoor spending."

How about those forefathers who created the remarkable document that is our Constitution? What would they say were they alive today to see their Government in operation? What of their safeguards?

The line of their thoughts disturbs me.

For I can hear Jefferson, Hamilton, Franklin, and Madison protesting the steady breakdown of separation of powers among the respective branches of our Government.

Did not Madison, in the Federalist, once warn us, saying: "The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny"?

Yet, what Madison feared and warned against—the accumulation of powers into the same hands—has been transpiring in Washington for more decades than many in this room have lived.

Much of this has transpired during the past three decades and were powers inherent in Government spending programs.

These powers accompanied the dollars which passed through the trapdoor of the Treasury. They accompanied borrowed trapdoor money which has bypassed constitutional safeguards.

As a Member of the U.S. House of Representatives, I have had to watch the steady erosion of powers of the legislative branch by the executive branch of Government. World war and the cold war—the menace of international communism—have provided the executive branch with ever-increasing powers to meet successive crises. The American people have grown used to government by crisis. We have therefore come to accept the exercise of Presidential powers which generations of Americans before us would have considered dictatorial.

The Executive invasion of the powers and rights of the legislative branch embraces all phases of our Government, foreign and domestic. In matters relating to foreign policy, recent years have seen an increasing use of Presidential decree, Executive order, and Executive agreement to bypass the legislative powers of advice and consent held by the Senate. But nowhere is the Executive's effort to circumvent the powers of Congress more evident than with "borrowing" Treasury funds.

As you know, trapdoor spending is the device whereby the executive branch borrows money from the Treasury and spends it on projects without a year-to-year scrutiny by congressional Appropriations Committees. The end result of this is the transfer of control of the Government purse strings from elected officials—from representatives directly responsible to the people—to executive department bureaucrats.

Needless to say, the power of the purse is a controlling factor in any government. Recognizing this, the Founding Fathers placed spending of the taxpayers' money in the hands of that body of public servants closest to the people—the House of Representatives, whose Members are directly answerable to the people for their actions every 2 years.

Through this provision, the Constitution provides a check against an all-powerful Executive.

Without this constitutional scrutiny, without funds which have been properly justified and approved by Congress, the executive branch has what amounts to a blank check.

Bypassing in this way the normal legislative appropriations procedure makes of the Legislative Branch a mere rubberstamp. It erodes congressional power and eliminates a safeguard written into the Constitution to protect you and all the taxpayers of America.

Our forefathers knew that dictators must have money and that tyranny is easy to establish but difficult to displace.

Furthermore, the purpose of the appropriations process was to provide for the weighing of the urgency and need for expenditures as against the amount of revenue available and the general condition of the Treasury.

Let me briefly trace the history of this method of authorizing Federal expenditures.

In 1789, the Ways and Means Committee of the U.S. House of Representatives was created with authority to report both revenue and appropriations bills. This jurisdiction of one committee over revenue and expenditures continued for 76 years. It was a logical basis of keeping Treasury outgo and income in balance.

However, with the growth of our Government through the years, the committee's workload became too heavy. Thus, in 1865, a new committee was created, to handle appropriations. Under the new arrangement, one House committee had jurisdiction over revenue matters and a second committee of the House was given jurisdiction over all appropriations.

The other legislative committees, meanwhile, were largely composed of individual Congressmen who, to a considerable degree, were under pressure to support their respective programs. Individual Members generally speaking have always sought to use their committee assignments to guard the special interests of their districts. To have a watchdog independent committee with virtual veto power overseeing projects and programs which these other committees had authorized was hardly conductive toward engineering popularity with Members of Congress not on the Appropriations Committee.

Consequently, in 1880, the House Committee on Agriculture succeeded in obtaining appropriations as well as authorization jurisdiction, and a few years later, several other committees likewise were given this privilege under the rules of the House.

This divided arrangement over spending bills resulted in weakened overall control over the financial affairs of the Government.

During the ensuing quarter of a century and more, without a single safeguard committee to relate all expenditures to the amount of its revenue, our Government's annual deficits averaged about a billion dollars a year. And a billion dollars was an almost unheard of sum in those days. I would suppose $1 billion then would amount in value to about $10 billion today.

The resulting lack of control and a national debt of close to $24 billion was cause for alarm.

So it was that in accordance with previously adopted planks of both political parties, in 1920, two reforms were proposed; one was to have the Chief Executive submit a budget each year, which should be an estimate of the necessary sums to carry on the Government. The second plan was to amend the House rules to provide a single Committee on Appropriations, such as had been the practice earlier.

In this connection, finally, on June 1, 1920, rule XXI(4) of the House rules was adopted to provide that no measure carrying appropriations should be reported by any committee except the one committee having jurisdiction over spending.

The Committee on Appropriations, it was believed, would stand as an impartial arbiter over all the legislative committees, so far as appropriations were concerned. This single committee, when retrenchment was necessary, could lay down the rule by which such retrenchment could be brought about. It could exercise overall control.

Now, again, one House committee had the heavy responsibility to weigh the needs of each Government department as against other departments and also to evaluate all expenditures against the condition of the Federal Treasury.

But, as indicated earlier, the members of the respective legislative committees have never been too happy about this rule, which deprived them of reporting bills carrying appropriations for programs under their committee jurisdiction.

Nevertheless, the new system did contribute an improved system of checks and balances. For the ensuing 10 years, a budget surplus averaging about $1 billion a year followed.

But unfortunately, in 1932, a new device to obtain funds for Government agencies without the traditional appropriations process was initiated. Instead of a regular appropriation, a bill containing language providing for borrowing from the Federal Treasury to finance programs was used, thus bypassing the normal appropriations procedure. As a result, a means of avoiding an annual reporting and regular scrutiny of the Committee on Appropriations was established, and over the next 30 years, Congress used this method to finance many Government programs. A total of in excess of $150 billion of "trapdoor" borrowing has since been authorized.

Under a House parliamentary ruling in 1949, this method of borrowing from the Treasury was declared a loan and not an appropriation. This decision held that "trapdoor" Treasury borrowing did not violate House rule XXI(4), because it was based on the intention that the Treasury would be repaid.

There are many Members of the House who regard this parliamentary ruling permitting this practice in bills from legislative committees as unsound and contrary to the clear intent of the rules change of 1920. We cite, also, the Constitution, which provides that the only way money can be drawn from the Treasury is by appropriation made by law. We contend, with complete logic, that bypassing the established appropriations process is nothing short of cutting the heart out of the objective of the 1920 rules change.

"Trapdoor" financing that started in 1932 has been used frequently in the intervening years. To authorize an agency to borrow from the Treasury for loaning purposes was one thing, but in time the device came to be used for soft loans and for payments of grants where the funds expended were not subject to repayment.

"Trapdoor" spending thereby offers a means of postponing losses and deficits. As such, more than $16 billion of these Treasury borrowings has been canceled, and in the future more losses will have to be forgiven.

In the 87th and 88th Congresses, however, I organized a bipartisan effort to eliminate this procedure. Unfortunately, my plan to rewrite the House rules to tighten up and bring "trapdoor" spending under the jurisdiction of the Committee on Appropriations has never succeeded. But on the other hand, great progress has been made in meeting this issue, when the House has been considering measures with "trapdoor" spending in them. So much so that in 1963 and 1964, so far, there have been no additional Treasury borrowing programs authorizations enacted, and some have been eliminated.

I very much hope that from now on all new spending bills will be channeled through one committee, such as was intended when the 1920 reform was adopted. However, many programs, and many very popular programs, I might say, have been financed by borrowing from the Treasury, and frankly, any action which might endanger or disrupt the operation of these programs will probably not meet with House approval.

Frankly, the present leadership of Congress does not favor closing the trapdoor completely, so until a Speaker and the legislative House leaders are willing to see all jurisdiction over appropriations contained in one House committee, the issue is apt to go unresolved, even though at the moment the majority of House Members oppose trapdoor spending in principle.

Let me cite another important example of how Congress' constitutional powers are being eroded. Many times we hear it said by spokesmen for the executive branch and by others that foreign policy is wholly an executive responsibility under the Constitution. We hear this line of argument whenever the President desires to push ahead with a particular international program by Executive decree, without congressional approval.

Now, what does the Constitution say concerning executive and legislative powers in the area of foreign policy? If some of the proponents of unchecked Executive power in international affairs would take the time to reread their Constitution, they might understand why Congress so stubbornly insists on exercising its rights in this vital area.

For the Constitution does not—despite what propagandists for an all-powerful executive say—give the President total authority in handling our country's foreign affairs. As a matter of fact, the reverse is almost true. It is Congress that is intended to exercise the real power in this area, with the executive merely carrying out the policies set out by the legislative branch.

Presidential powers in the foreign policy area are mentioned in only one place in the Constitution.

"He shall have power," says the Constitution, "by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public ministers and consuls, Judges of the Supreme Court, etc."

Incidentally, an example of the intergovernment power struggle in respect to foreign affairs arose immediately after President Johnson became President.

On November 22, 1963, President Johnson addressed the Congress immediately after he took over the reins of Government. He boasted that after more than 30 years in the legislative branch, its independence and integrity were in the marrow of his bones.

But in a matter of days, he was at odds with Congress over these historic constitutional powers. He complained in the case at my amendment to the space appropriation bill to require congressional approval to any joint lunar landing project with the Soviet Union. He said this violated his Executive powers. Of course, he overlooked the fact that this was an appropriation limitation and that under the Constitution, it is Congress that decides where and how the taxpayers' money shall be spent.

Congress also wrote a provision into a bill regarding the Panama Canal Company. It provided that no U.S. rights or property could be transferred to a foreign power without referring the matter back to Congress. In signing this bill, President Johnson said he would ignore this language, because it trespassed on Executive prerogative to handle foreign affairs.

In addition to the President's power to make treaties and appoint Ambassadors—subject to the advice and consent of the Senate—the Chief Executive is also commander in Chief of the Army and Navy.

And here is the point at which a recital of congressional powers in the foreign policy area is in order. For the greatest of all powers in our foreign relations—the power to declare war—rests with the Congress. To be sure, this is a power that the executive department has been circumventing by various methods in recent years. But the essential fact remains that Congress alone has the life-or-death power under our constitutional system.

Let us look at other areas in which Congress, and not the President, holds constitutional powers and duties in the foreign policy area.

One quarrel with President Johnson was over a House proposal to prevent the Federal Government-owned Export-Import Bank from guaranteeing Soviet credits in connection with wheat sales to Russia by private brokers.

The President took a firm position that Congress was proposing to legislate in the area of foreign policy. He insisted the Constitution gave him the authority to conduct foreign affairs.

Of course, this was a commercial transaction, and the President ignored the fact that sole authority under the Constitution is given to Congress to regulate foreign commerce.

As I say, Congress—not the President—is empowered to "regulate commerce with foreign nations."

Thus, those who argue that Congress has no right to check the executive branch's efforts to trade with Communist countries are therefore wholly incorrect. It is not only Congress' right to do so—it is Congress' duty under our Constitution, article I, section 8, paragraph 3.

Congress—not the President—is empowered to "define and punish piracies and felonies committed on the high seas, and offences against the law of nations. * * *"

Thus, those who argue that Congress has no right to distinguish in any foreign aid appropriation between countries that are friendly to us and countries that are not and which commit offenses against international law, are wholly incorrect. For this, too, is Congress' duty—under article I, section 8, paragraph 10 of the Constitution.

And let us not forget that although the President is Commander in Chief, Congress alone can—I quote—"raise and support Armies" and "provide and maintain a Navy * * *," under provisions of paragraphs 12 and 13 of the same article.

We see, then, that the notion that foreign policy powers are held by the President alone is not supported by the Constitution. Even the power held by the President in the field of foreign relations—that of treatymaking and appointment of Ambassadors—is subject to approval by the Senate.

Who, then, is responsible for circulating the erroneous idea that Congress is powerless, or should be powerless, to act in foreign affairs? A small but vocal group of congressional critics which maintains a constant propaganda barrage aimed at undercutting the powers and prestige of our legislative branch of Government. This group views the elected officials in Congress as a constant threat to their plans to replace Government of, by, and for the people with Government of, by, and for the bureaucrats.

But the American system is based on responsibility of our public servants to the people. You know your Congressman and you therefore can hold him responsible for his actions. On the other hand, the faceless bureaucrat, hidden away in the cubicle of some executive agency, is responsible to the people only indirectly. As a result, through various bureaucratic subterfuges, responsibility for policymaking in executive agencies becomes diffused and impossible to pinpoint.

Today, the Nation is always in an emergency. We are in a continuing season of national crisis. Out of military as well as economic mobilization, there has been a constant growth and centralization of Government.

The equilibrium of power as between the respective branches of our Government has shifted, on this account, from the legislative to the executive.

In our early history there was a congressional predominance, but since 1933 the Congress has been more a junior partner.

It seems almost incredible that of the first 16 Presidents, through and including Abraham Lincoln, 7 did not exercise the veto power even once. The others, in these first 76 years of our existence vetoed a total of only 48 bills—in most cases on constitutional objections and in one of these instances, George Washington exercised his power for a technical reason.

As I indicated, especially since 1933, executive encroachment on legislative functions has resulted in more "presidential government" rather than "congressional government." This has not been good for business. This has not been good for the people. This has not been good for the freedom of enterprise, or for the freedom of the individual.

Actually, historians tell us Congress has been dropping in relative power along a descending curve of 60 years duration, with this rate of fall markedly increased since New Deal days.

Indeed, shocking as it may sound, considering the record and the trends of history, the question can seriously be posed: Can the Congress survive?

By that, I mean can it survive not as a rubber stamp, but as an autonomous, active political entity.

Emperor Augustus did not abolish the Roman Senate or Hitler the German Reichstag. An assembly is convenient to a dictator—in fact, it has been called an indispensable instrument of managerial rule. The Soviets maintain an assembly; that is proof of its advantage in lending a false front of respectability to a dictatorship.

So, when I ask if Congress can survive—What I mean is, can constitutional government, a sovereignty of the people, survive in the United States?

Formal shifts in power from Congress to a President, such as by reorganization, by specific grants of authority, are relatively easy to identify. But the influence gained by slow accretion, through long-developing trends, or even by isolated aggressive seizures of the initiative through extralegislative channels, is much more difficult to assess.

In the executive branch, administrations and individual political appointees come and go; but, as I pointed out earlier, the basic power exists in the permanent bureau heads. Congress itself has no adequate machinery for uncovering how and when agency spending plans and programs originate. The details are well camouflaged and it is known that the bureaucrats can manipulate within their respective agencies.

Under our present system, the road to advancement with higher civil service rating and pay for a career employee or bureaucrat is expansion of Government activity—more personnel and more responsibilities, more funds to expand. That is the one and sure method of upgrading positions.

Therefore, a barometer of executive department influence and power can be related to Federal spending and employment figures. This year, President Johnson submitted a budget request which he called austere—$97.9 billion—which is the biggest spending budget in history. That represents more power in the hands of a President than in any period in our history.

Think of it—during the administration of Abraham Lincoln, when our country's economy was primarily agricultural, our Department of Agriculture operated on an $80,000 a year budget—and had only nine employees. In 1963, however, no less than 116,000 persons were employed by the Agriculture Department, operating on "trapdoor" spending and a $7 billion budget. Considering that a large part of that budget went toward paying people not to farm, I am not so sure that we can prove we've made progress in the past 100 years. If so, it is the kind of progress that a commonsense President like Abraham Lincoln might have difficulty understanding.

Our Agriculture Department bureaucracy, like a number of other Government agencies, is massive and powerful in the Washington scheme of things. We have the greatest agricultural plant in the world—one that Nikita Khrushchev, with his controlled farm economy, can only envy. Yet the master planners in Washington are intent on a total bureaucratic takeover of the American farmer—and a total usurpation of congressional powers in the area of farm policy.

So it is that the Kennedy administration in recent years proposed an omnibus farm program that would have clamped rigid and absolute controls on our American farmers—making them subject to jail sentence and fine if they did not conform to the bureaucratic master plan. The same legislation went so far as to try completely to eliminate congressional powers over farm policy. Under these Kennedy administrations proposals—fortunately defeated by a firm congressional stand—the Secretary of Agriculture would have written farm legislation and Congress would have had only the power to veto those laws. In other words, there would have been a complete reversal in the constitutional roles set out for the executive and legislative branches.

As I say, Congress stood firm against these farfetched plans—but regrettably, the bureaucrats have won more than their share of Washington battles in the area of domestic policy, as well as fiscal and foreign policy.

So much for my report on the danger to the checks and balances under the Constitution.

Let me in closing remind you that ours was to be a limited government, limited by the guarantees of freedom contained in the Bill of Rights—limited by its very structure as a system of checks and balances.

The Constitution, happily, endures. We still enjoy much of the freedoms guaranteed in the Bill of Rights—freedom of speech and of assembly; freedom of the press; freedom of religion; due process of law, the right to keep and bear arms, the right against unreasonable search and seizure, the right of trial by jury, etc.

I suggest that these rights will survive—and they will only if enough Americans understand, if enough Americans are taught to understand, the importance of the delicate balances and marvelous system written into our Constitution.

A free society, a free people, free enterprise—where there is protection against undue power and big government—freedom in the marketplace, such as under quality stabilization, must be maintained.

The greatness of this country depends on initiative, integrity, and decision of the individual, with an opportunity to compete and a chance to make a profit.

That kind of opportunity today has some champions.

I am proud to count myself as one of them. With public support we will succeed.

HOUSE OF REPRESENTATIVES

WEDNESDAY, JUNE 10, 1964

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

I John 1: 3: *Truly our fellowship is with the Father and with His Son Jesus Christ.*

Almighty God, we humbly acknowledge that this is a great spiritual truth which our minds and hearts cannot fathom or formulate in terms of thought and words.

Grant, however, that our daily life may be primarily a real and blessed fellowship with Thee, transforming our darkness into light, our weakness into power, our fear into courage.

Help us to cultivate a feeling of community that will constrain us to live together with our fellow men in honor and peace and may the day draw near when these bonds of fellowship shall be strong enough to overcome all hatred and enmity.

May we see clearly that tolerance is not enough but that we must expand and enlarge our faculties and capacities for insight and understanding, for appreciation and cooperation.

To Thy name we shall ascribe all the praise. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

COMMITTEE ON APPROPRIATIONS, PERMISSION TO FILE A REPORT

Mr. KIRWAN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight Thursday, June 11, to file a privileged report on the public works appropriation bill for 1965.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. JENSEN. Mr. Speaker, I reserve all points of order on the bill.

SENATOR BARRY GOLDWATER

Mr. DEVINE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. DEVINE. Mr. Speaker, I never cease to be amazed when publications such as the Washington Post suddenly begin to feel constrained to worry over the future of the Republican Party. I have never read anything in the Washington Post particularly favorable to the Republican Party, but now, suddenly after Senator GOLDWATER's victory in California, they become quite concerned.

On the other side of the coin, however, I would like to quote an editorial by the Taft Broadcasting Co. and WTVN Broadcasting Co. at Columbus, Ohio, of Wednesday, June 3, 1964, as follows:

GOLDWATER'S VICTORY, WEDNESDAY, JUNE 3, 1964

The victory of BARRY GOLDWATER in the California primary is one of the most politically significant events in a generation.

Arrayed against him was the combined power of the liberal establishment, which since the Roosevelt era, has controlled most of the means of communication in this country * * * the national press services, the political pollsters, most of the TV network commentators, and three of the four so-called national news magazines.

In California the establishment used all the smear tactics they have learned so well over the years. They slanted and distorted facts throughout the campaign to make their side look good and GOLDWATER's look bad. The immediate beneficiary of this massive and concerted propaganda drive was supposed to be Governor Rockefeller, but the real purpose of the liberal establishment was to maintain its control of the Republican Party. It's all the more remarkable that a majority of the Republican voters in California saw through the smoke and voted as they did.

We suspect yesterday's result means that BARRY GOLDWATER will be nominated at the Republican Convention in San Francisco next month. This is all to the good. The voting public in this country has not had a clean cut liberal-conservative choice for the Presidency since 1932. BARRY GOLDWATER will give them that choice—which in our opinion, is the best and perhaps only chance for victory in November. But, win or lose, the Republican Party will be better off in the long run for having stood for something.

SENATOR BARRY GOLDWATER

Mr. HAYS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS. Mr. Speaker, I would like to say to my friend from Ohio that not all of the people who are making statements and writing editorials against Senator GOLDWATER are some kind of liberals or Democrats or anti-Republican. I was somewhat surprised and not a little bit interested to read in the Pittsburgh Press of the past Sunday a statement from the Republican Congressman from Pittsburgh, Mr. JAMES FULTON, in which he said he was not going to stand idly by and let the "kooks from Kooksville" dictate the policy of the Republican Party. He also made it clear by this application he was referring to GOLDWATER supporters.

HOUR OF MEETING TOMORROW

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

POLLSTER LOU HARRIS

Mr. HALL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HALL. Mr. Speaker, in the questions I have recently raised regarding the objectivity of Pollster Lou Harris; I find some rather fascinating implications in the fact that none of the major news media, and particularly none of the Washington press, has made mention of my key premise—the fact that Harris has a long record of affinity and dedication to causes of the Democratic Party, and slants his findings to their benefit.

To further document this background, which includes employment by the late President Kennedy and the Democratic National Committee, I call attention to an article carried almost a year ago, page 17A of the September 22, 1963, issue of the Washington Post. The article, entitled "More and More Democrats" by

Rowland Evans and Robert Novak, states:

> Three days of top secret sessions by Democratic labor politicians in the South American Room of the Statler Hotel here last week generated more than normal apprehension at Republican national headquarters a few blocks away.
>
> This was the COPE big cities conference, sponsored by the AFL–CIO's famed Committee on Political Education. Some of the Nation's shrewdest tacticians were on hand, including White House Aid Lawrence F. O'Brien and Pollster Louis Harris. Their purpose was to instruct the union men on 1964 presidential campaign tactics.

Now, Mr. Speaker, can anyone reading these remarks recall Mr. Lou Harris' past connection with the Democratic Party and still hold to the illusion that the polls conducted by Mr. Harris and reported by much of the Nation's press including CBS News are intended to be objective reporting? Can anyone doubt that the polls by Mr. Harris, including the latest which alleges that 40 percent of the California Republicans would vote for Lyndon Johnson, are in fact part and parcel of the top secret presidential campaign tactics which evolved from the meeting attended by Mr. Lou Harris and White House Aid Lawrence O'Brien? Can anyone doubt that Mr. Harris' objective, is not to predict elections, but to influence them, to discourage Republican leaders and Republican voters? Can anyone doubt that news media which report Mr. Harris' findings without identifying, on every occasion, his own partisan background and participation, are in fact bamboozling the American public and degrading their own honorable profession?

REEXPORT OF WHEAT SHIPPED TO RUSSIA

Mr. LIPSCOMB. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LIPSCOMB. Mr. Speaker, on June 8, 1964, in a statement to the House of Representatives, appearing at page 12890 of the Congressional Record, I expressed concern over the fact that the Department of Commerce on May 22, 1964, had granted a license authorizing wheat purchased by the U.S.S.R. from the United States valued at $12,589,400 to be reexported from the U.S.S.R. to Rumania.

There are many questions about that deal that I feel must be looked into. When the license to reexport the wheat was granted I registered an inquiry about it with the Department of Commerce. The Department has furnished the following information in response to my inquiry.

The wheat in question was licensed for shipment to Moscow, Russia, in February and March of this year. The end use of the wheat in the U.S.S.R. was for milling into flour to be consumed in the U.S.S.R.

The U.S.S.R. requested reexportation authority, I am advised, stating that they wished to repay in kind some of the wheat that had been loaned to them by Rumania in the summer of 1963. The U.S. exporter, acting as the intermediary, received all the correspondence relating to the transaction from the U.S.S.R. and Rumania and made the formal request for reexportation to the Department of Commerce.

The export license granted by the Department of Commerce authorizes the wheat to be reshipped to Bucharest, Rumania, to be used in Rumania for the milling of flour and other wheat products to be consumed in Rumania.

The Department states that to the best of its knowledge the wheat has already been shipped from the U.S.S.R. to Rumania.

As I discussed with the House previously about this matter—how real was the alleged need for wheat in the U.S.S.R. if it can now afford to transship this wheat to Rumania? Also, since the wheat we sold to the U.S.S.R. was subsidized, is the U.S.S.R. making a profit on the transshipment of wheat to Rumania? These and other questions remain concerning this deal and I have requested the Department of Commerce to furnish additional information.

CALL OF THE HOUSE

Mr. BERRY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 151]

Ashmore
Baring
Bass
Bolling
Bolton, Oliver P.
Bray
Bruce
Buckley
Dorn
Edmondson
Elliott
Forrester
Giaimo
Griffin
Gubser
Hagan, Ga.
Harvey, Ind.
Healey
Hébert
Horan
Kee
King, Calif.
Lloyd
McIntire
Martin, Mass.
Norblad
Pilcher
Pillion
Powell
Roberts, Ala.
Roudebush
Sheppard
Shipley
Taylor
Thompson, La.
Toll
Van Pelt
Wilson, Ind.
Winstead

The SPEAKER. On this rollcall 392 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FOREIGN ASSISTANCE ACT OF 1964

Mr. MORGAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11380, with Mr. Rains in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, the Clerk had read through the first section of the bill, ending on line 4, page 1. If there are no amendments to this section, the Clerk will read.

Mr. BATTIN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. BATTIN. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. BATTIN. Mr. Chairman, yesterday, June 9, 1964, the gentleman from Minnesota [Mr. Fraser] made some illogical and, to my mind, fuzzy statements about those who signed the minority report accompanying the foreign aid bill of this year. I was even more surprised by the fact that the UPI carried a quote from the gentleman which, in fact, was not spoken by him on this floor—namely, that the six Republican members who voted against the foreign aid bill were "irresponsible and playing into the hands of Moscow." There were, however, more than six members of the committee who voted against the bill in committee and they were not all Republicans.

I realize the gentleman believes he has all the answers to all the problems and that his solutions should not be challenged or questioned.

Our colleague has a short memory. For only last August 23 the House voted to cut the foreign aid bill then under consideration. Under the logic of my friend these good people who voted the cut are also indicted by his remarks. Then on final passage the vote was close—a difference of only 34 votes. I am sure in the gentleman's opinion those who oppose his conclusions are part of some sort of uninformed fringe.

He has given some of us credit for playing into the hands of Mr. K. Yet we did not support credit to Russia on the purchase of wheat—we did not support the subsidization of exports to Russia. Our colleague must have missed the news report on the meeting this week between Mr. K. and President Tito of Yugoslavia. The account read something like this—Premier Khrushchev met President Tito with a bear hug and two kisses. We have indeed driven Tito away from Mr. Khrushchev. I have no doubts that if a hot war were to erupt Mr. Tito would be doing the bidding of Mr. K.

I do not recall seeing any remarks or hearing any speeches of the gentleman from Minnesota on Cuba or Vietnam. Perhaps he follows a Member of the other body who believes, in the case of Cuba, that the problem there is just a nuisance and will go away.

I do not recall hearing or seeing any remarks from our colleague when Russia shot down our unarmed planes. Was this an act of peace and cooperation?

In his speech he referred to a report of the Republican Issues Council. He left the impression that this group was an official organ of the Republican Party. It is not, in fact, a part of the official Republican Party, but a group of distinguished citizens well known to the people of this country. I am afraid, however, that if this group were to disagree with our distinguished colleague he would attempt to brand them as a bunch of uninformed, misguided people.

So the record is clear and we can be sure of the position taken by the gentleman from Minnesota, not only as to our minority report, but also as to general problems facing the world and our country. I wonder if he subscribes to all of the resolutions adopted by the Western States Conference of the Young Democratic Clubs of America adopted in San Francisco August 16–18, 1963? Such resolutions as:

> *Resolved,* That the Western States Conference YDCA urges President Kennedy to make renewed efforts to encourage Diem to make meaningful social, economic, and political reforms, posing as a possibility the withdrawal of American forces if these reforms are not begun;
>
> *Resolved,* That the Western States Conference YDCA urges the U.S. Government to resume diplomatic relations with the Cuban Government and reestablish trade relations with that country.
>
> *Resolved,* That the Western States Conference YDCA urges the signing of a nonaggression pact between the NATO countries and the nations of the Warsaw Pact as another step on the road to lasting world peace.
>
> *Resolved,* That the Western States Conference YDCA urges the abolition of the House Un-American Activities Committee.

I would invite my friend to answer these questions in detail for it would shed some light on his basic thinking. I would comment in advance that whatever his position he can be assured I will not criticize him for that position, but will give him the benefit of any doubt and defend his right to his opinion. It was a sad day, yesterday, when a Member of this body resorted to innuendo and false premises to arrive at his conclusions. I hope that in the future he will respect those who disagree with him and not make any more false assumptions.

The gentleman did perform a worthwhile function, however. He called to the attention of the House the minority report, and for this I thank him.

I commend it to your reading, for I think it is worthwhile and states not only the position of the minority of the committee but also the majority of the country.

Mr. MATSUNAGA. Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. Edwards] may extend his remarks at this point in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. EDWARDS. Mr. Chairman, I am proud to associate myself with the gentleman from Minnesota [Mr. Fraser] who has done such excellent work on the Foreign Affairs Committee and who works continuously for a strong America with a foreign policy aimed at furthering freedom and independence throughout the world.

The gentleman from Montana [Mr. Battin] apparently is not familiar with the views of our colleague from Minnesota [Mr. Fraser]. Just 2 weeks ago, our Minnesota colleague was the principal speaker at community Memorial Day services in Minneapolis. He presented an excellent statement on the struggle against communism in Laos and Vietnam. He pointed out that "The United States cannot stand by while southeast Asia is overrun by armed aggression."

Mr. Chairman, the speech of our Minnesota colleague [Mr. Fraser] sets forth a well reasoned statement on our involvement in southeastern Asia. I am, therefore, inserting appropriate excerpts from that speech at another point in today's Record.

The Clerk read as follows:

PART I

CHAPTER 2—DEVELOPMENT ASSISTANCE

Title II—Technical Cooperation and Development Grants

Sec. 101. Title II of chapter 2 of part I of the Foreign Assistance Act of 1961, as amended, which relates to development grants and technical cooperation, is hereby amended as follows:

(a) Amend the title heading to read as follows: "TITLE II—TECHNICAL COOPERATION AND DEVELOPMENT GRANTS".

(b) Amend section 212, which relates to authorization, by striking out "1964" and "$220,000,000" and substituting "1965" and "224,600,000", respectively.

(c) Amend section 214(c), which relates to American schools and hospitals abroad, by striking out "1964, $19,000,000" and substituting "1965, $18,000,000", and by striking out the second sentence.

(d) Amend section 216(a), which relates to voluntary agencies, by inserting after "ports" the first time it appears, the words "or, in the case of excess or surplus property supplied by the United States, from foreign ports".

AMENDMENT OFFERED BY MR. ADAIR

Mr. ADAIR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Adair: Page 1, immediately after line 6, insert the following:

"TITLE I—DEVELOPMENT LOAN FUND

"Sec. 101. Section 202(a), which relates to authorization, is amended by striking out 'and $1,500,000,000 for each of the next two succeeding fiscal years' and inserting in lieu thereof '$750,000,000 for fiscal year 1965, and $1,500,000,000 for fiscal year 1966'."

And renumber the following section ac- accordingly.

Mr. ADAIR. Mr. Chairman, this amendment to the Development Loan Fund section of the bill would in effect accomplish a reduction of $172,200,000. The wording needs to be understood. We have previously authorized for the Development Loan Fund provision of this bill $1,500 million for fiscal year 1965 and an identical amount for the following fiscal year, 1966. My amendment relates only to the 1965 fiscal year and would not touch 1966, on the theory that we ought to take a look at that next year and see what the situation is with respect to the development loan program.

Although the authorization previously made for fiscal year 1965 is in the amount of $1,500 million, and my amendment if adopted would set the figure for fiscal year 1965 at $750 million, it is in fact a reduction of $172,200,000 from the appropriation request, which is the figure that is most meaningful at this point.

Members will recall that last year we eventually authorized $925 million for the development loan program. The appropriation for last year was $687,300,000.

If this amendment is adopted, there would still be substantially more money authorized than was appropriated last year. There is the difference between $687,300,000 appropriated and the $750 million authorized.

It is somewhat difficult to discuss this amendment in meaningful detail because there is a classification as to the amount of loans programed for the various countries. Therefore, I or others who are discussing this amendment cannot say—take *x* dollars from Y country. This is classified. I repeat it makes our problem of trying to give a valid explanation of the reason for the reduction more difficult.

I would call the attention of the members to the fact that the information relating to loan programs for the several countries can be found in the books at the Committee table.

This reduction, if adopted, would amount in the loan program to approximately 18.6 percent. I would call the attention of members to the fact there is this year approximately the same amount unspent for development loans as there was last year. The amount unspent—a good bit of it has been programed—but it is unspent—is about $1,900 million, in the development loan program, almost exactly the amount that was unspent last year.

May I cite as an example some cases that are not covered by a security classification and which can be mentioned to the Committee:

On page 69 of the minority report, three such loans in India and Greece are mentioned—loans authorized a long time ago—$43 million not yet spent.

In addition, there are other instances and illustrations of cases where money for development loans have been earmarked and laid aside for a long period of time.

The Dominican Republic has received a $2.1 million loan on which disbursements have ceased.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. ADAIR. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

Mr. MORGAN. Mr. Chairman, reserving the right to object, and I am not going to object to the gentleman's request at this time, I just want to serve notice that I will be compelled to object to any further extension of time to speak on amendments during today's debate because if we are going to finish the bill today, I think we will have to hold the line and proceed in the regular order.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Indiana is recognized.

Mr. ADAIR. Mr. Chairman, in Pakistan two loans still have not been signed although money was set aside more than a year ago. The desirability of one loan of $3.1 million for a water supply is being reexamined by Pakistan.

Another loan of $4.3 million for an airport at Dacca has been suspended.

In Syria a $14 million loan has been approved since December 1962, but Syria has not yet met the conditions precedent to the conclusion of that loan.

In Egypt only about $850,000 has been disbursed against a $17 million loan. Egypt has not yet fulfilled conditions precedent although the loan was approved in April 1962. I might say that the $850,000 which has been disbursed has been disbursed for engineering purposes for the main body of the project which is a grain storage project. There has been nothing done on it since then except that these engineering studies have been made.

Let me summarize my points briefly. First, the carryover of development loan funds remains at the high level of last year of more than $1.9 billion, second, there are the instances I have cited and many more in which money has been earmarked or committed but not spent nor is there a likelihood of it being spent in the immediate future if at all. Third, if the $750 million limitation is agreed to we will be substantially above last year's appropriation. Therefore, I would urge the members of the Committee to adopt the amendment and to save for the taxpayers $172.2 million.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, at the outset I wish to point out that the gentleman is correct in stating that the present authorization under section 202 of existing law provides $1.5 billion for development loans.

The President, however, has shown great restraint by proposing to use much less than the full amount. In his appropriation request, the President asked for almost $600 million less than what is already authorized in the existing law. I wish to emphasize that he asked for only $922.2 million. The Committee on Foreign Affairs has given careful study to the amount and received testimony that the full amount requested is absolutely necessary. As the gentleman from Indiana reminded the committee, a substantial cut was made in the appropriation last year. The cut has prevented the making of loans for projects which are ready for financing. Therefore, the President's full request is necessary to fulfill those commitments.

The cut proposed by the gentleman from Indiana would limit the Development Loan Fund authorization for fiscal 1965 to $750 million. This represents a cut of $172.2 million.

I think we would err if the committee were to follow the suggestion of the gentleman from Indiana. Since 1953, the House and the Foreign Affairs Committee have repeatedly demonstrated the desire to see that the grant component of foreign aid be lowered, and that the policy initiated by the gentleman from Ohio, Mr. Vorys, proposing the shift from grants to loans, be continued and emphasized.

I would like to refer to the testimony presented on behalf of the development loan program by the chamber of commerce, which appears in the printed record of the hearings, beginning on page 1015. I am referring to the statement of Mr. John O. Teeter, vice president of Pfizer International, who spoke on behalf of the Chamber of Commerce of the United States, and gave testimony in support of the foreign aid bill.

Mr. Teeter stated:

> In presenting the national chamber's position on foreign aid, I want to emphasize that the chamber supports effectively administered foreign assistance for two principal reasons:
>
> First, foreign assistance programs can help establish the politically and economically free societies which are essential to the national interest of the United States.
>
> Second, foreign assistance programs can help provide the economic base necessary to establishment of a favorable climate for vital private investment and enterprise in developing countries.
>
> Funds for foreign development: Support for the principle of foreign aid does not necessarily imply approval of all the various programs known as foreign aid nor of every budget authorization request.

He pointed out, however, that the chamber favors the loan program. He said, and I quote:

> The programs for which we recommend full budgetary support are:

	Million
Development loans	$922.2

As we know, development loans go primarily to countries which have already made significant progress toward economic self-sufficiency. As pointed out by Mr. Teeter, any action to retard the advance of countries which are beginning to make economic progress, may have bad political consequences.

I submit, therefore, Mr. Chairman, that we ought to turn down the amendment proposed by the gentleman from Indiana.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

First I would like to give a little history of section 202(a). In 1961, when the foreign aid program was reorganized, and the basic legislation revised, the House remembers that the Executive asked for Treasury borrowing authority for development loans. This was denied by the House. Then consultation was had with the minority side of the House, and the gentleman from Michigan [Mr. FORD] and the minority leader, were consulted. This section 202(a) was put in the bill exactly as it is in the law now. We provided a long-range authority under the development loan section, which included an authorization of $1.2 billion for the first year and then 4 years projected up to 1966 with an authorization of $1.5 billion each year to carry on the Development Loan Fund.

This arrangement which was enacted in section 202(a) for the Development Loan Fund worked very well. However, there have been attempts in each of the last 2 years to amend this language and to reduce the authorization for the years 1964 and 1965. Last year when the gentleman offered the motion to recommit the foreign aid bill, he apparently believed that the Development Loan Fund last year needed at least $900 million. That was the amount in his motion to recommit. He served as a member of the conferees where we added $25 million more, making the total amount authorized last year $925 million. As he told you, the appropriation for 1964 was $687 million. The cutback from the authorization to the appropriation certainly weakened the ability of the Executive to carry on our foreign policy. You must know that the situations in various parts of the world are changing, especially in Latin America, where we now have the new and emerging government in Brazil. This will probably mean that more money for the Development Loan Fund program will be necessary. This amendment calls for a cut of $170 million in a program that is vitally needed.

Mr. Chairman, I ask for the defeat of the amendment.

Mrs. KELLY. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentlewoman.

Mrs. KELLY. Mr. Chairman, is it not true that following the urging of our committee, and your personal support, some 12 countries will not receive aid in any form or manner under the new program next fiscal year and that some of these countries still have assistance in the pipeline? This pipeline is rather high for they are waiting for deliveries which will be made to them at the proper time when they are ready for them. I think this is a very good example of how our aid is being cut back and concentrated. We must remember, however, that while this process goes on, the pipeline remains for an extra year or two. We cannot argue, therefore, that the need for new loan authority is negated by the existence of a pipeline. The pipeline exists in some cases even after aid has been terminated to a particular country. I think this is an important point to keep in mind as we vote on this amendment.

Mr. MORGAN. I think the gentlewoman is correct.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. GROSS. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania have 1 additional minute.

Mr. MORGAN. Mr. Chairman, I am compelled to object.

Mr. GROSS. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I take this time to ask the gentleman if it is not true that we were told in the committee hearings this year and told repeatedly that other foreign countries are embarking on the business of making loans and otherwise giving aid to foreign countries. I can only assume without speaking for my friend from Indiana [Mr. ADAIR], that he is offering this amendment to provide a slight cut in these funds on the basis that other foreign countries are presumably getting into this act.

Would the gentleman care to comment upon the testimony we have had to that effect before the committee?

Mr. MORGAN. It is our policy to encourage other countries to make loans and grants to the less developed country as long as these are free-world countries making grants and loans to free-world countries. This helps the United States. It lightens our load. I am sure that countries like West Germany, France, the United Kingdom, and Japan are now making substantial loans to other free-world countries.

Mr. GROSS. Then should not our funds for this purpose be diminished?

Mr. MORGAN. They have their own programs. They are making loans to various areas of the world. The gentleman I am sure realizes that the United Kingdom has trouble spots around the world. In the Near East, for instance, the United Kingdom has plenty of problems and is spending money for foreign aid. They are making loans and grants throughout this area, and I think they are to be commended for the amount of effort they are putting into the areas where they have an interest.

Mr. GROSS. I thought the purpose of this program—at least it has been so stated many, many times—the purpose of spending billions and billions, particularly upon Western European nations, was to build up their economies so they could take over this load or at least a part of this load. Now the gentleman says they are doing this. So why should not this fund be reduced? I suggested to the gentleman that somewhere in this bill I should think he would want to cut out some money to help take care of the pay increase for Members of Congress and others if it happens to be voted through the House. It is going to take more than half a billion dollars to take care of the pay increase bill. There ought to be some savings in this foreign give-away program, if this program is going to be voted through. I hope it is not, but if it is, I should think those who vote for it would want to provide the money without having borrowed it.

Mr. MORGAN. I am for a strong development loan program and I feel that if we have a strong development loan program we are going to be able to stop giving this money away. Here is a section where we can move away from what the gentleman likes to call a give-away program to a loan program.

Mr. GROSS. Do not be too sure that you are not giving it away in the guise of a loan.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. DERWINSKI. To clarify the record, the gentleman's support of the amendment indicates to the House that he is a serious and dedicated student of this program and as such he is convinced that the minimum amount of funds that may be reduced under the amendment of the gentleman from Indiana will not reduce the strength of our foreign aid program?

Mr. GROSS. That is right.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. GROSS. If the gentleman is going to quote the chamber of commerce again I would rather not yield to him for that purpose. I wondered when that was going to start. I suppose we will hear about the chamber of commerce all afternoon and from Members on the side of the aisle who do not ordinarily quote the chamber of commerce. I yield to the gentleman.

Mr. ZABLOCKI. The chamber of commerce is recognized as one of the most conservative organizations in the United States and I thought it might influence the gentleman.

Mr. GROSS. I am not too sure about the conservatism, from some of the things that I have heard recently.

Mr. ZABLOCKI. Does the gentleman mean to imply that if we reduce the amount of authorization for development loans, other countries, particularly European countries, would be in a better position to lend money to the underdeveloped countries and other assistance? Should that be the case, does the gentleman advocate that we should return to grant programs? Does the gentleman mean to imply that he prefers grants to loans?

Mr. GROSS. Not at all. Why even talk about a grant program? I predict many of these loans will never be repaid, or it will be on the basis of a few cents on the dollar.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. GROSS] has expired.

Mr. BARRY. Mr. Chairman, I rise in opposition to the amendment.

I just want to point out that in the hearings, when Dean Rusk testified before the committee, he stated that two-thirds of all the development loans in the coming year will be made to seven countries. I think that before we proceed to cut 18 percent of development lending that we should realize where the cut would come and ask ourselves whether we want to do this.

Mr. Chairman, the first country is Chile and the second is Colombia, two countries of South America; one which has had perhaps the greatest history of representative government of any of the American Republics but which is having dire trouble at the present time. I am, of course, referring to Chile. The other is Colombia which has been a model, a model country in restoring itself but which has internal problems today, as the Members of the Committee know, in the hill country with gangs murdering and so on. They have made remarkable progress with our help.

Mr. Chairman, in Africa there is Nigeria. Nigeria has the largest population of any country in Africa. The bulk of our aid to Africa will go there.

The next three countries are the soft underbelly of Asia which are today more threatened than any other by the Communist infiltration and possibility of aggression. They are Turkey, Pakistan, and India.

The last is Tunisia. Tunisia, as we all know, is strategic insofar as we are concerned with reference to some of our military bases located there.

Therefore, Mr. Chairman, I believe before we consider cutting the appropriation, we must realize exactly where those cuts would come and at the same time we should realize the danger to these countries which would ensue.

Lastly, Mr. Chairman, I would like to say that we have succeeded in persuading other governments to increase their foreign development assistance to a rather remarkable degree. Indeed, I could say to the members of the Committee that there is $9 billion in aid money being extended by free world governments, including our own. In my opinion for us at this time to cut materially our own modest program would be flying in the face of what we have been urging other governments to do and which they have been doing because of our urging. The great increase in development loans extended by the free world is a direct result of the experience and the success of our loan experience which we have undertaken over the years. This is no time to weaken our resolve by truncating our development loan program and I strongly urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The question was taken; and on a division (demanded by Mr. ADAIR) there were—ayes 35, noes 61.

Mr. ADAIR. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. MORGAN and Mr. ADAIR.

The Committee again divided, and the tellers reported that there were—ayes 61, noes 102.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DERWINSKI: On page 1, immediately after line 6, insert the following:

"TITLE I—DEVELOPMENT LOAN FUND

"SEC. 101. Section 201, which relates to general authority, is amended by adding at the end thereof the following new subsection:

" '(g) None of the funds made available for this title shall be used for balance-of-payments loans or programs loans.' "

And renumber the following sections accordingly.

Mr. DERWINSKI. Mr. Chairman, I direct the special attention of the Members to pages 50 through 52 of the minority report, where we discuss in substantial detail the imperfections of balance-of-payments and program loans. However, this amendment is inspired by comments in the majority report, and I direct your specific attention to page 6 of the majority report, under chapter 2, "Use of Development Loan Funds for Program Loans." I quote the majority:

> The committee has noted with concern the large proportion of such funds which are being used for program loans as distinguished from project loans.

Then the majority continues:

> The committee believes that countries which progress to the point where they qualify for large development loans should be encouraged to assume increasing responsibility for financing their imports, except imports related to projects for which loans are made.

Here is the key point of the majority position:

> There is a danger that dependence on the United States for such financing could result in levels of consumption higher than the recipient could normally sustain and could encourage—

And I emphasize this—

> could encourage unsound financial and monetary practices.

In laymen's language, these balance-of-payment loans or program loans are basically made to countries whose economy cannot sustain their degree of trade and their degree of governmental expenditure. In the last 3 fiscal years, 1962, 1963, and 1964, such loans have amounted to $1,617 million. In fiscal 1964 alone up to the first week of May this type of loan has come to $511 million.

As I pointed out yesterday in general debate, it seems completely contradictory for us to be processing this bill, approving these programs and balance-of-payment loans, and next week follow with an increase in our national debt ceiling. May I remind you that we have run up a deficit in our own budget of $25 billion in the last 4 years. It seems to be completely inconsistent in view of our rising budget deficit and in view of our rising national debt to be expending sums in excess of $500 million a year to help other nations balance their budgets. Even granting the feasibility for us of certain projects in some countries, and I quote the majority again, to "encourage unsound financial and monetary practices" in other countries is contrary to the principles of the very proponents of this bill.

I apologize to the House for taking this time. I assume the logic of my amendment will have it approved by the majority. I have not received that sign as yet but I assume the overpowering logic of this position will be sustained. Therefore, I am directing special attention to the majority views. I feel that the unsound practices which we encourage are in contradiction to the stated principles which the proponents of this program emphasize.

I feel that as representatives of the taxpayers the very least we should eliminate from this program is loans to help other countries balance their budgets, especially in view of the poor example we are setting ourselves.

The curious thing about the countries that are recipients—let me run down them quickly for you to give you the geographic picture—is that they are such countries as Argentina, Brazil, Chile, Colombia, the Dominican Republic, Ecuador, Honduras, free China, Indonesia—incidentally, $17 million to help Indonesia balance its budget in 1963—Greece—and $740 million in the last 3 fiscal years to help India balance its budget—and Israel, Pakistan, Turkey, Morocco, and Tunisia. This is a very interesting assortment of nations.

In this year, 1964, we have added Tanganyika to the list of nations that evidently requires this unsound financial support.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GALLAGHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, one of the purposes of program loans is to establish dollar credits where there are no dollar credits in countries that may be in a position and express a desire to purchase commodities in another country. The purchases of these commodities are limited to the United States. They are made to countries who have adopted fiscal reforms and are on the road to development. Therefore, whenever these loans are made, we have written into the act and imposed restrictions in the act, that the funds borrowed from the United States under a program loan can be expended in no country other than the United States. We have already eliminated or phased out 10 countries that formerly received program loans. I might add the gentleman from Indiana [Mr. ADAIR] offered this amendment in committee, and it was as a result of his interest, and this being something that should be encouraged, that we should get out of the program loan business as soon as we can but that time is not yet here.

We have shifted to program loans in order to get out of direct grants. These are loans that are repayable in dollars that are made to countries that have no dollar credits or foreign exchange to import from the United States those commodities that they need in order to sustain their own economy. So as a result of this I feel this would create an unfair burden in many of the areas in which we have a vital interest such as Chile, Colombia, Pakistan, Turkey, and in Nigeria.

Therefore, Mr. Chairman, I urge that the amendment be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. DERWINSKI].

The question was taken; and on a division (demanded by Mr. DERWINSKI), there were—ayes 28, noes 65.

So the amendment was rejected.

Mr. RYAN of New York. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I take this time to discuss one of the crucial problems facing the American people—South Vietnam. The debate on the Foreign Assistance Act of 1964 offers an opportunity for the House to consider policy in that area. Although the bill itself does not specify funds for particular countries, under H.R. 11380 economic and military assistance will be programed for South Vietnam—$207 million for economic aid and $198.1 million for military aid. This includes the additional request of President Johnson of $125 million—$55 million for military and $70 million for economic aid. This amounts to more than $1 million a day for South Vietnam and does not include Department of Defense funds used to maintain some 16,500 troops in the area or the funds expended by the Central Intelligence Agency.

In spite of the fact that we are spending huge sums and U.S. soldiers are fighting and dying in the steaming jungles of southeast Asia, very little real debate has been carried on in or out of Congress. I realize that the funds for South Vietnam, which include the special request of $125 million, are included in the omnibus foreign aid bill, and I support the bill. However, I think there should be debate in the House on this vital matter, and I hope that my remarks today will lead to further discussion.

The military situation in the area is steadily deteriorating, and the United States is becoming more and more involved in a mean, ugly war. A U.S. Navy ship was sunk in Saigon harbor. The Vietcong has launched full-scale attacks within 14 miles of Saigon. The Vietcong engages in military operations as well as campaigns of terrorism. The Communist slogans of peace, prosperity, and land have a great appeal, especially when the Government has been unwilling and unable to carry out real reforms in the heavily populated rural areas. As a result, the Vietcong controls much of the countryside.

In his column of April 21, 1964, Walter Lippmann stated:

> The truth, which is being obscured for the American people, is that the Saigon government has the allegiance of probably no more than 30 percent of the people and controls (even in daylight) not much more than a quarter of the territory.

I wish to include the Lippmann article at this point in the RECORD.

[From the Washington Post, Apr. 21, 1964]

FOREIGN POLICY DEBATE

(By Walter Lippmann)

After spending a few days in Saigon, Mr. Nixon has come home with a formula for winning the war in southeast Asia. The reason we are not winning it now is, he says, that we believe in "Yalu River concepts of private sanctuaries," and for that reason we are preventing the South Vietnamese, who presumably are raring to go, from taking the offensive, from carrying the war into Laos and to the north, and of winning the war there.

Mr. Nixon ought to know better, and perhaps he does know better, than to say that the reason why South Vietnam does not win the war in North Vietnam is that the United States won't let it. The indubitable fact is that South Vietnam is quite incapable of carrying the war successfully into North Vietnam. That is not because we will not give it arms. We do give it arms. It is because the South Vietnamese have very little fighting morale and are well aware from experiments that have already been made that raiding in North Vietnam means almost certain death. Let us hope that Mr. Nixon is not going to revive at this late date the old chestnut which we used to hear about "unleashing Chiang Kai-shek," and ask us to believe that victory can be had by unleashing General Khanh.

General Khanh is leashed by the unwillingness of the large majority of the South Vietnamese to fight on in the civil war.

> "Hot pursuit" indeed; where are the South Vietnamese soldiers who are hot about pursuing the Vietcong into the clutches of General Giap? The truth, which is being obscured for the American people, is that the Saigon government has the allegiance of probably no more than 30 percent of the people and controls (even in daylight) not much more than a quarter of the territory.
>
> The real and immediate problem in South Vietnam is to prevent a collapse of a weak government which is losing the civil war. That is the paramount objective of the Johnson-McNamara policy—to prevent a bad situation from becoming impossible. It is certainly not a glorious policy, or even a promising one, and it has led high officials of the administration into making commitments that had better been left unmade. But the policy is at least concerned with the reality of the situation, which is the need to prevent a collapse and surrender before there is an opportunity to work out a political solution in the area.
>
> Any other plan for "winning the war" in southeast Asia must be, if the speaker is being candid and not tricky, a plan for the intervention of the United States with large forces prepared to overwhelm the whole of Indochina and to confront Mainland China itself. All schemes for "interdicting" outside help to the Vietcong can be carried out only by the U.S. Air Force. The South Vietnamese Government does not have the bombers and could not fly them if they had them in any such enterprise. The enterprise should never be undertaken unless we are prepared to have a large war with China.
>
> In his review of foreign policy on Monday, the President was, in effect, saying that there has been no material change since the death of President Kennedy. Our relations with Russia, which took a decided turn for the better between the Cuban crisis and the test ban treaty, have continued to improve, slowly, to be sure, but to improve.
>
> On the other hand, in the areas where President Kennedy had not been succeeding, things are about as they were. This is true of Europe, of Asia, and of South America. There is a pause in Europe and perhaps also in Latin America. This may be in part because new developments have not gone far enough to show what is going to happen, in part because of the coming elections—here and in Britain and in Chile this year, in Germany and France and Brazil next year. This is a pause in the Far East because the war plans of Messrs. Nixon and GOLDWATER are unworkable and undesirable, and any other kind of plan is, as Senator FULBRIGHT would say, still unthinkable.
>
> This pause permits President Johnson to devote himself primarily to our too long postponed and too much neglected internal problems.

The Observer, the official U.S. Military Advisory Group—MAG—newspaper in Saigon, reported on January 25, 1964, that a ranking spokesman for the American mission in Vietnam:

> Conceded that some 4 to 5 million people support the NLF (National Liberation Front, the political arm of the Vietcong) in varying degrees, though not necessarily through choice or sympathy, but rather by fear and coercion.

The Saigon Post, subject to Government censorship like all newspapers in South Vietnam, provided some insight into the reasons for the distrust of the Government by the people of South Vietnam in an editorial on January 10, 1964:

> The main obstacle barring the Government from reaching the peasants' hearts stems from the peasants' innate mistrust of officials. This mistrust, accumulated through decades of colonialist rule, has been compounded even more by the misrule and mishandling of Diem's lieutenants.
>
> Peasants' grievances against local officials of the Ngo Dinh Diem government have become almost endemic. Most of these grievances were justified. Cases of extortion, bribery, intimidation, arbitrary arrest, summary execution and mass torture were commonplace.
>
> In many instances peasant grievances are the result of tactical errors committed by well-meaning commanders. Cases have been reported of wanton bombing or shelling of entire villages where, it was later learned only a handful of VC (Vietcong) had been detected. Sometimes these grievances are explained away as the consequences of war. The merciless destruction of unharvested ricefields under a column of armored personnel carriers, or the scorched earth of napalm bombing are examples of this type of grievance.

Let us remember that this is not a Vietcong newspaper talking but one which operates by Government permission. Let us also remember that the United States sanctioned, if not actually carried out, the policy of "merciless destruction of unharvested ricefields" and the "scorched earth of napalm bombing."

In addition to the Vietcong's appeal to the people, the South Vietnamese Army is demoralized. The New York Times reported, on April 20, 1964:

> Pursuit of the war against the Communist Vietcong faces the basic obstruction of inertia and low motivation of the South Vietnamese Army, in the judgment of American military advisers.

The same article quoted one American in the field:

> All this talk in Saigon about gaining the support of the population to win this war is fine. But it would also be a good idea to gain the support of the army. This may be a political war, but it is still a war.

The Saigon Post of January 11, 1964, echoed the same feeling:

> One handicap plaguing our troops is what observers would term as "lack of motivation"—lack of incentive.

Despite the factual situation in South Vietnam, it is often argued that the West has succeeded in other guerrilla wars. Greece, Malaya, and the Philippines are cited. But there are essential differences with the situation in South Vietnam.

In Greece the Communist guerrillas were not defeated until Yugoslavia closed its border, depriving them of their sanctuary. Moreover, the Greeks were motivated to win.

The situation in Malaya is not really analogous. The guerrillas in Malaya belonged to the Chinese minority which meant that any Malay or Indian inhabitant of Malaya—about 55 percent of the total—was likely to be loyal if not actively unsympathetic to the terrorist cause. In South Vietnam both the population and the guerrillas are Vietnamese. Indeed, often the infiltrators from North Vietnam are returning southerners who left in 1954. They know the topography of the area and speak the language. In Malaya food is scarce and especially difficult to obtain in the jungle. In South Vietnam food is abundant, and food denial or control programs have failed. In Malaya there was no "active sanctuary" next door. In the case of South Vietnam, North Vietnam openly supports the guerrillas; Laos is a complete sieve; and Cambodia makes no particular effort to halt guerrilla operations in hard-to-survey border areas. With all the advantages the British had in Malaya, which do not exist in South Vietnam, it took 13 years and cost $3 billion to defeat 8,000 guerrillas with 300,000 men.

The Huk uprising in the Philippines is also quite distinguishable. Because of the islands, the guerrillas were virtually cut off from outside help. In addition, a sound agricultural reform policy deprived the Communists of much of their appeal. It still took 7 years for approximately 60,000 Filipinos to defeat a 8,000 to 10,000-man guerrilla force.

The guerrilla war in Algeria should be considered in any analysis of South Vietnam. There the French did not repeat the military mistakes made in Indochina but repeated their political mistakes. The result was that 760,000 men were tied down for 8 years at a cost of $12 billion fighting a guerrilla force which shrank from 60,000 to 7,000 at the time of the ceasefire. The French also cut off the guerrillas' sanctuary with an ingenious electronic fence which cost $500 million. But by the time the French were "winning the war" militarily, they had alienated most of the civilized world from their cause. It was also apparent that, even if they were to achieve "total victory," they would still have to maintain an army of 200,000 to 300,000 troops in Algeria to prevent the reoccurrence of guerrilla activity. The war could be won militarily but not politically. The Algerian experience would suggest that the primary purpose of any effort should be to win the minds and hearts of the people.

The experience of other guerrilla wars suggests that there is small prospect of a military victory in South Vietnam under present circumstances with the present level of U.S. commitment. However, it might be possible to succeed militarily if the U.S. commitment were vastly increased. The Vietcong has about 25,000 regulars and another 60,000 to 80,000 irregulars. Experts maintain that, in order to win a revolutionary war, there should be a ratio of 10 soldiers to one guerrilla. This would require doubling the number of South Vietnamese under arms which is now estimated at 500,000.

Then the U.S. advisory forces would have to be increased. Such a level would require an expenditure of $1.2 to $1.5 billion a year for possibly 7 to 10 years. A military victory would still be doubtful without the fierce determination of the South Vietnamese Army, which has been less than enthusiastic in combat. To insure victory, a large scale military commitment by the United States would probably be necessary, involving combat troops—not "advisers." Even then we might be in a situation similar to the French in Algeria.

A second option, instead of a large-scale military commitment, is to extend the war to North Vietnam. The idea that the war can be won by extending it to North Vietnam ignores the fact that the Vietcong live in South Vietnam off the land and enjoy the support of friendly peasants. Although they receive training and material in North Vietnam, they also fight with captured weapons and might well continue the war if North Vietnam no longer existed. The Pulitzer Prize-winning reporter of the New York Times, David Halberstam, indicated the problem of extending the war to the North when he reported on March 6, 1964:

> The war is largely a conflict of southerners fought on southern land. No capture of North Vietnamese in the south has come to light, and it is generally believed that most Vietcong weapons have been siezed from the South Vietnamese forces.
>
> The impression in Vietnam, at least up to about 2 months ago, was that only a limited number of weapons were coming into the south. There was some question about the amount of ammunition being brought in. Since the long border, with its rough terrain, is almost impossible to control, the view was that the Vietcong could have brought in more weapons but it was deliberate policy to capture them from the Government.
>
> Some Vietcong cadres have been trained in the north or have served in the North Vietnamese army, but they are southerners. Special teams, such as medical or demolition units, have also been trained in the north. The regular guerrillas are southerners who have rarely left the south.

Carrying the war to the north presents the danger of escalation into a Korean-type war. Then there is the possibility of North Vietnam committing its army of 14 crack combat divisions, which defeated the French when the French had 10 times as many men in Indochina as we have in South Vietnam.

A third course of action—pulling out—would probably lead to Communist control of the area in a very short time. This would be inconsistent with our commitment to the freedom of the people in South Vietnam. However, that commitment is to the people of South Vietnam and their right to freely choose their Government—not to a small clique which rules at the point of a bayonet. With that goal firmly in mind, I believe that there are alternatives to the three I have mentioned.

First, the United States should make clear that it will not bargain away the freedom of the people in South Vietnam to choose their own government, a freedom which is now denied to them. Then the United States should be willing to discuss the possibilities for a peaceful settlement. Let us keep in mind President Kennedy's words:

> Let us never negotiate out of fear. But let us never fear to negotiate.

In South Vietnam the United States is in a good position to negotiate. Despite the deteriorating situation in the south, North Vietnam is in a difficult position. As the Vietcong comes closer and closer to success, the cries in the United States to extend the war will become louder and louder. The North Vietnamese have spent 10 arduous years building up their industrial capacity which they know could be wiped out by the U.S. Air Force in 1 day. In addition, North Vietnam, as seen from its cautious position in the Sino-Soviet split, would not welcome Chinese Communist troops marching across its territory. The Chinese occupied North Vietnam for centuries, and the North Vietnamese do not want to repeat that experience. The North is also in dire need of the rice of the South. Before the area became a battleground, the North imported one-quarter million tons of rice from South Vietnam annually. The South could use industrial goods from the North. These factors show that negotiation is at least feasible and should certainly not be rejected out of hand.

How could a settlement be brought about and under what terms?

When the United Nations was established, it was intended that the international organization would concern itself with all "threats to the peace." Unfortunately, both the major powers more frequently turned to bilateral or multilateral negotiations than to the United Nations. In recent years, however, more and more reliance has been put upon the United Nations in the area of peacekeeping. We have seen the effectiveness of the United Nations in the Gaza Strip, in the Congo and in other areas of the world. Within the past few weeks the United States has consented to a U.N. presence in southeast Asia. By unanimous resolution of the Security Council a U.N. team has been sent to investigate the border situation between South Vietnam and Cambodia. This action could lay the foundation for a broader role for the United Nations in southeast Asia.

Under the auspices of the United Nations, or even outside of the U.N. a special conference could be convened on Vietnam. The machinery set up in 1954 by the Geneva Conference might be used. Once it is recognized that our goals are not attainable through a military solution and there is a willingness to attempt to negotiate a political settlement, the question of a proper forum is less important than the question of the conditions for a negotiated settlement.

It is impossible, of course, to arrive at a sure-fire formula for negotiations. However, various possibilities may be suggested. All suggestions must be consistent with the maintenance of the freedom of the people in South Vietnam.

One possibility would be a minimal agreement guaranteeing that both North and South Vietnam would not join any military alliances or attempt to overthrow each other, either by subversion or direct warfare. Each would be allowed to develop its own form of government and to live in peace. Under this proposal the South would agree to normalize trade relations with the North, but that would not necessarily mean diplomatic recognition. The relationship between East and West Germany could be used as an example. A variation of this proposal might include joint economic development projects between North and South, which could look toward eventual reunification and free elections for the entire country.

On a broader level a proposal to include North and South Vietnam, Laos, Cambodia and possibly Thailand in a regional agreement should be explored. Such an agreement would prohibit the signatory countries from joining any military alliances or attempting to overthrow the governments of the other parties to the agreement by subversion or direct aggression. A provision for resumption of trade might accompany such an agreement. Variations of this idea have been discussed by Cambodia, France, and others. In the Washington Post of March 5, 1964, Walter Lippmann points out that such an arrangement might be possible since:

> Ho Chi Minh in North Vietnam has no desire to be ruled by the Chinese. Access to food grown in the South would be tempting to him. The reduction of the risk and threat of a great war between China and the United States would be a benefit to him. As for Red China itself, there is always the problem of the long, disputed and dangerous frontier with the Soviet Union in the north, and a bargain which tranquilized the borderlands on the south might therefore be attractive.

Another possible solution might be to have both North and South Vietnam enter the United Nations on the stipulation that all aggressive action including subversion cease between them and that trade be resumed. The United Nations might very well be called upon to send a peace force to the area to supervise such an arrangement.

Mr. Chairman, these proposals are not advanced as final answers to this very difficult problem. But it makes no sense to put our heads in the sand and refuse to consider any alternative to a military one. That courts disaster. There are no doubt risks in any solution. Therefore, it would be necessary to secure any political settlements by agreement between the major powers and perhaps a United Nations peacekeeping force. Also, any solution in South Vietnam must be accompanied by genuine economic reform which benefits the great majority of the people who are peasants. There must also be political reform to allow freedom of expression and freely chosen representatives, which are nonexistent in South Vietnam today. Without such reforms the chances of an indigenous civil war are great.

Mr. Chairman, we must clarify our goals in South Vietnam. It is not enough to be just anti-Communist. The vast majority of the people in South Vietnam could not define the word. We must be pro-people and frame our policy according to the democratic and humanitarian principles for which we have always stood. We can win the world with the power of our ideals.

Mr. BURTON of California. Mr. Chairman, I request that the distinguished gentleman from New York yield.

Mr. RYAN of New York. I yield to the gentleman from California.

Mr. BURTON of California. I should like to commend the gentleman for his able and thoughtful presentation of this major problem, and I wish to associate myself with his remarks.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Title III—Investment guaranties

SEC. 102. Title III of chapter 2 of part I of the Foreign Assistance Act of 1961, as amended, which relates to investment guaranties, is hereby amended as follows:

(a) Amend section 221(b)(2), which relates to general authority, as follows:

(1) Strike out "$180,000,000" in the third proviso and substitute "$300,000,000".

(2) Strike out "1965" in the last proviso and substitute "1966".

(b) Amend section 224(b), which relates to housing projects in Latin American countries, by striking out "$150,000,000" and substituting "$250,000,000".

Title IV—Survey of investment opportunities

SEC. 103. Section 232 of the Foreign Assistance Act of 1961, as amended, which relates to surveys of investment opportunities, is amended by striking out "1963" and "$2,000,000" and substituting "1965" and "$2,100,000", respectively.

Title VI—Alliance for Progress

SEC. 104. Section 252 of the Foreign Assistance Act of 1961, as amended, which relates to the Alliance for Progress, is amended by striking out in the first sentence the words beginning with "of the funds" the first time they appear through the words "fiscal year 1964" and substituting "in each of the fiscal years 1963 and 1964 and $85,000,000 in fiscal year 1965 of the funds appropriated pursuant to this section for use beginning in each such fiscal year".

CHAPTER 3—INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 105. Section 302 of the Foreign Assistance Act of 1961, as amended, which relates to international organizations and programs, is amended as follows:

(a) Strike out "1964" and "$136,000,000" and substitute "1965" and "$134,400,000", respectively.

(b) At the end thereof, add the following new sentence: "None of the funds available to carry out this chapter shall be contributed to any international organization or to any foreign government or agency thereof to pay the costs of developing or operating any volunteer program of such organization, government, or agency relating to the selection, training, and programing of volunteer manpower."

AMENDMENT OFFERED BY MR. MAILLIARD

Mr. MAILLIARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAILLIARD: On page 4, line 7, strike out $134,400,000 and insert in lieu thereof $134,272,400.

Mr. MAILLIARD. Mr. Chairman, this is a rather small amount of money, but when the committee took the action which it did, forbidding, as you will see in the language on page 4 of the bill, beginning at line 9, the use of these funds where it says:

> None of the funds available to carry out this chapter shall be contributed to any international organization or to any foreign government or agency thereof to pay the costs of developing or operating any volunteer program of such organization, government, or agency relating to the selection, training, and programing of volunteer manpower.

We forbade the expenditure of $150,000 requested for this purpose. However, in one of those rather strange things that occasionally happens in our committee we left the money for it in. What my amendment would do is remove the $150,000 minus $22,400 which is requested to help support a clearinghouse of information on the subject of the International Peace Corps or Peace Corps of other countries. We have now by this bill forbidden the United States to contribute to an International Peace Corps, and yet we left the money in. So this would remove $127,600 which was requested for a purpose which we have now said they may not contribute to. It only seems sensible to take the funds out since we said that they cannot spend them the way they intended to.

Mr. MORGAN. Mr. Chairman, I think the gentleman's amendment reflects the views of the committee. The committee placed a limitation on the use of these funds and the committee did not remove the funds which are not required for this purpose. I am sure the Members on the majority side have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MAILLIARD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BENNETT OF FLORIDA

Mr. BENNETT of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENNETT of Florida: Page 4, immediately after line 2, insert the following:

"SEC. 105. Section 301 of the Foreign Assistance Act of 1961, as amended, which relates to general authority to make contributions to international organizations, is amended by adding at the end thereof the following new subsection:

" '(d) Notwithstanding any other provision of law, for the purpose of preventing United States contributions or payments from being used contrary to the policies of the United States, the President shall not make any contribution or payment to the United Nations or to any agency or activity thereof until he has determined that no part of any such contribution or payment will be used to carry out any program or activity which is contrary to the policies of the United States. If the United Nations or any agency or activity thereof hereafter carries out any program or activity which is contrary to the policies of the United States, the President shall thereafter withhold contributions or payments by the United States to the United Nations or such agency or activity, as the case may be, until the United States share of the expenses of the United Nations or such agency or activity, as the case may be, is reduced by such amounts as are required to carry out the purposes of this subsection.' "

And renumber the following sections accordingly.

Mr. BENNETT of Florida. Mr. Chairman, I have long been a critic of how the foreign aid program has recently been carried out by our Government, and this criticism is felt by millions of Americans and by a large portion of Congress.

The tremendous financial outlay for foreign aid today is a great drain on the country's fiscal strength, especially in view of the recent tax reduction, which I supported. I believe we must hold down Government spending and this area is one where this can be done without harm to our country in any way.

It is obvious that administrative improvements must be made in this program and waste eliminated wherever possible.

Besides that, the program is far too flexible and lacks specific congressional attention and restriction to individual projects and countries.

A third point I would like to mention is that I am a strong advocate of the military program of the foreign aid legislation being placed in the Department of Defense, with review by Congress coming through the House and Senate Armed Services Committees. The military items should get the same scrutiny and careful attention that is given our own military expenditures. Nothing like this or even approaching this is presently the case.

These points are things that must be constantly improved upon, or changed to make our foreign aid program not only for the benefit of the people we assist, but also for the benefit of the people of America, the taxpayers, who pay the bills.

Something that we can accomplish in this bill before us today is to enact legislation to halt the transfer of U.S. funds to programs and activities in opposition to our national interests.

I have introduced a bill, H.R. 3847, to provide that U.S. payments to the United Nations shall not be used for programs contrary to the policies of the United States.

Today I am introducing an amendment to H.R. 11380, the Foreign Assistance Act for 1964 which would accomplish the principle of my bill, H.R. 3847.

In this present year the United States has contributed 40 percent of the cost in maintaining the United Nations Special Fund, a group consisting of 18 member states, elected by the Economic and Social Council, and providing "systematic and sustained assistance in fields essential to the integrated technical, economic and social development of the less developed countries."

On February 13, 1963, the Managing Director of the Special Fund announced plans to aid Fidel Castro's ailing economy by injecting it with $1,157,600 of United Nations funds. Since this money was to come from the U.N. Special Fund, of which the United States contributes 40 percent, the taxpayers of America in essence were to give the Castro government a handout of nearly a half million dollars. Even more ridiculous is the fact that this money strengthens a government dedicated to burying us.

I urge adoption of this amendment to stop this outflow and direct aid to Communist countries.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as the gentleman from Florida [Mr. BENNETT] stated, the bill he introduced is pending before the Committee on Foreign Affairs. The committee has sent the bill down to the Executive for comment and the Executive submitted a report to the committee which the committee has received.

Mr. Chairman, I am sure the gentleman from Florida realizes that he is offering a far-reaching amendment. The enactment of this amendment would put the United States in the same position as the Soviet Union and its satellites who in effect are doing exactly what the amendment proposes. The Soviet bloc persists, as everybody knows, in refusing to pay its U.N. assessments for peacekeeping and related activities because they disagree with these programs. This puts us exactly in that position.

The U.S. Government, including the Congress—this Congress—has denounced the Soviet position as illogical and disruptive.

Mr. Chairman, the adoption of this amendment would reverse the U.S. position on this issue and cause our country to adopt, in effect, the Soviet view. This would create financial chaos in the United Nations.

Now, Mr. Chairman, I am sure that the Members of this body remember the vote on the U.N. bond issue when article 17 of the U.N. Charter was discussed in full. The members of the committee will remember that article 17 of the U.N. Charter provides that all members bear the expense of the organization as appropriated by the General Assembly. On budget matters, this requires a decision by a two-thirds majority of the Members present and voting. If we followed this and did not pay our assessment, under article 17, we would lose our voting rights in the U.N.

Mr. Chairman, the amendment has some other far-reaching, destructive effects, but I am reluctant to take the time to discuss them.

Therefore, Mr. Chairman, I ask for the defeat of the gentleman's amendment.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Missouri.

Mr. JONES of Missouri. Does the gentleman say that the United States would lose its voting rights in the U.N.? How about the U.S.S.R.? Has it lost its voting right?

Mr. MORGAN. The gentleman knows that last December the United Nations approved the decision of the International Court of Justice on this matter. As soon as the Soviet Union falls behind in its payments for a 2-year period they will lose their vote in the General Assembly.

Mr. JONES of Missouri. If the gentleman will yield further, they are not paying into some of these funds now.

Mr. MORGAN. No; but they are not behind for a period of 2 years in their payments.

Mr. FARBSTEIN. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from New York.

Mr. FARBSTEIN. Would the enactment of this amendment mean that every time we disagreed with the United Nations that we shall be in the position of the dog in the manger for refusing to pay any assessment on the budget?

Mr. MORGAN. That is the way I interpret the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida.

The amendment was rejected.

AMENDMENT OFFERED BY MR. JONES OF MISSOURI

Mr. JONES of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jones of Missouri: On page 4, immediately after line 2, insert the following:

"Sec. 105. Section 301 of the Foreign Assistance Act of 1961, as amended, which relates to general authority to make contributions to international organizations, is amended by striking out subsection (b) and inserting in lieu thereof:

"'(b) Contributions, whether in cash or in goods and services, and other payments made by the United States for the calendar year 1964 or any subsequent calendar year to the United Nations or to any program or activity thereof (whether or not financed in whole or in part by assessments against member nations) may not exceed 33.33 per centum of the total amount contributed and paid by all nations for the calendar year involved to the United Nations, or the program or activity thereof, as the case may be. This subsection shall not apply to contributions or other payments by the United States to the United Nations Emergency Force.'"

And renumber the following sections accordingly.

Mr. JONES of Missouri. Mr. Chairman, this is a long amendment but what it says in effect is that on any such program the contribution of the United States would be restricted to 33⅓ percent, which is the same restriction that we have on our contribution to the United Nations.

Mr. Chairman, I feel that this is a matter of policy. While there are not too many of these programs into which we are paying more than 33⅓ percent, there are some, and in some instances the rate of payment goes up to 100 percent.

In the case of the matter to which the amendment of the gentleman from Florida [Mr. Bennett] was directed a minute ago, we are paying only 40 percent of that amount. However, I would call the attention of the members of the committee to the fact that since 1959 the amount of our contribution to that particular fund has gone from $10,313 up to $29,383. So, we are paying now almost three times as much, although the percentage remains at 40 percent.

Mr. Chairman, the members of the committee will recall that in previous years I have been in the well of this House calling attention to the Palestine refugee program where we were not only paying more than 70 percent of the cost of that program, but at the same time they were using American dollars to buy foods from other countries which we had in surplus, and their only excuse was that our prices were too high.

Mr. Chairman, this is very simple. Any time that the United States pays 40 percent or more of a program, we could very well take over the program and run it ourselves. In this particular program that the gentleman from Florida mentioned of the United Nations we are now putting up $29 million, we are paying 40 percent of it. You will notice the governing council that makes that up includes the U.S.S.R., and they are telling us how we shall spend the 40 percent which is our money. As a matter of principle there is no justification for any program taking more than we are paying to the United Nations.

I ask respectfully that we at least be consistent in this and restrict these special funds to a contribution of not more than 33⅓ percent.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. JONES of Missouri. I yield to the gentleman from Iowa.

Mr. GROSS. The Defense Department is providing certain services in connection with the transportation of United Nations troops. Not all these bills have been paid. I believe there was some language included in a bill, perhaps this bill, to provide that this service be provided on a nonreimbursable basis. Thus millions of dollars have been expended on the United Nations over and above the contributions and assessments that have been levied upon us.

Mr. JONES of Missouri. Yes. However, under this amendment I do not try to affect the United Nations Emergency Force because it seems that last year the committee hung its hat on this and said we have to have an emergency force. I do not want to do anything to disrupt the programs that are necessary, but these programs continue to grow each year, and we are contributing 40, 60 or 70 percent. There is no reason for that at all, and I think it is time we wake up and pay only our fair share. I believe 33⅓ percent is more than a fair share of this program.

Mr. HAYS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Missouri.

Mr. Chairman, I do not think too many people can quarrel with the basic objectives of this amendment. In fact, I would like to see all of our contributions work down to this figure, and we are working in that direction.

It is fair to point out when we started the Children's Fund, for example, commonly known as UNICEF, which meets with wide and popular approval in this country, we were paying 70 percent of the total cost of that particular program. We have worked over the years to get that down. The figure is now down to 40 percent, and I would hope we would continue to work to get our share reduced. But if you arbitrarily cut that off, as this amendment would, you would cripple the program. This is working well, and it is being moved in the direction that the gentleman from Missouri would like to see.

This would also hit the Palestine Refugee Relief program. This might be the means, if the amendment were adopted, of causing that tinder box to erupt if our share of that fund, which is more than half, were drastically cut by more than 50 percent.

I am not so sure about the gentleman's amendment where he admits the application of it to the United Nations Emergency Force would apply to future situations such as we might find in the Congo. We might send in a force which the United Nations would manage, supplied by other countries, for which we were furnishing the money.

A recent example is Cyprus. We did not supply all of the money in Cyprus, but we did go in there with transportation, and other countries went in with troops. It would seem to me it is necessary to give us flexibility when we run into an emergency situation of this kind, which the gentleman's amendment would preclude.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from California.

Mr. MAILLIARD. Mr. Chairman, I was not able to tell from the wording of the gentleman's amendment whether this would restrict us in Cyprus. The U.N. Emergency Force is in the Middle East only. There is uncertainty in my mind as to whether it would prevent us from going under international auspices, into a situation such as Cyprus, where two of our allies are involved in an explosive situation. I think the implication for our foreign policy might be quite disastrous.

Mr. HAYS. I would agree thoroughly with what the gentleman says. I am a little in doubt about the effectiveness of the language, whether it would apply to the Cyprus Force or even the Congo.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield.

Mr. JONES of Missouri. The amendment says that this section shall not apply to contributions or other payments by the United States to the United Nations Emergency Force.

Mr. MAILLIARD. That means only the Middle East Force.

Mr. JONES of Missouri. The United Nations Force—is not that what you go anywhere in the world with?

Mr. MALLIARD. No, it is not.

Mr. HAYS. The United Nations Emergency Force, as I understand it, applies only to the Force which is on the border between Israel and Egypt and the Palestine area keeping peace there. I do not think the United Nations Emergency Force applies even to the Force in the Congo.

Mr. MAILLIARD. I was at the United Nations last fall and was directly involved in arranging for funds for the United Nations Emergency Force. The term applies only to the Force in the Middle East and does not apply to the Congo, and I am quite certain it would not apply to Cyprus. This would be a tremendously dangerous thing, which I think the author does not intend.

Mr. HAYS. I am glad to have the gentleman clarify that, because he has expert knowledge whereof he speaks. I suspected that, but I could not be in a position to be sure of it.

Mr. JONES of Missouri. Would the gentleman have any objection if we could get unanimous consent to change the amendment to say that it shall not apply to the United Nations emergency operations? That would include anything of that sort.

Mr. HAYS. I am not in a position to say that I could accept that. I would think the gentleman's solution is wrong, that we ought to just defeat the amendment and continue to work as we have to bring these contributions down to that figure.

Mr. HALL. Mr. Chairman, I rise in support of the amendment offered by my colleague from Missouri.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman from Ohio [Mr. Hays] yield for a question?

Mr. HAYS. If the gentleman from Missouri [Mr. Hall] will yield.

Mr. HALL. I will be glad to yield.

Mr. JONES of Missouri. Always the committee hangs its hat on something of an emergency nature, but no one ever answers the question about the 70 percent which we are paying in the Palestine operation, where they are using our dollars to buy agricultural commodities from other countries which the United States has in surplus. The gentleman cannot condone that, can he?

Mr. HAYS. I say to the gentleman that I do not like the situation in Palestine at all. I do not like our paying 70 percent. I did not like it when we paid 90 percent.

Mr. JONES of Missouri. Let us cut it down.

Mr. HAYS. If the gentleman can figure out some other way in which we can keep these people eating, so there is not a potential force to prevent another war out there, at less cost than it is costing, I would appreciate knowing what it is.

Mr. JONES of Missouri. If you would send $23 million worth of wheat instead of $23 million, we can get the job done.

Mr. HAYS. Maybe the Committee on Agriculture, which goes into the foreign affairs field quite often, could just report out a bill doing that.

Mr. JONES of Missouri. But you would not stop sending the money?

Mr. HAYS. Yes; if we could do that. I would be in favor of cutting out the money.

Mr. HALL. Mr. Chairman, I rise in support of the amendment offered by my colleague from Missouri. The amendment is similar to one which I offered to the foreign aid bill last year and on which I testified before the House Foreign Affairs Committee, but with one very important exception: The amendment now before the House excludes from the 33⅓-percent limitation, the U.S. contribution to U.N. "Emergency Forces," which at the present time, I believe, is 50 percent.

Personally I do not believe we should pay half the total cost of any organization program which is supposed to be international in nature. But all of us realize that effective legislation often demands a spirit of compromise. In this instance it was the objection of the members of the Foreign Affairs Committee to the restrictions this amendment might place on U.N. emergency operations, which led to its narrow defeat last year.

That objection has now been removed. We are now back to the basic premise, should a country which has 17 million poverty stricken people pay more than its fair share of an international organization's programs which are supposed to cure poverty in other lands? Should we pay 40 percent of the cost of the U.N. Special Fund, 40 percent of the U.N. expanded technical assistance program, 70 percent of the U.N. Middle East refugee program, 50 percent of the United Nations International Atomic Energy Organization, and on and on ad infinitum?

Should we follow the recommendations of the Clay Committee which recommended that we apply the same budget ceiling to both our assessed and voluntary U.N. budgets, or should we continue to allow other nations to avoid their responsibilities in this whole field of world welfare.

We have been told that the reason we are paying more than our fair share is to get these programs underway because they are so terribly needed, and that as other nations see their need they will assume their fair share. I say that is pure hogwash. We have been paying the same 40 percent of the U.N. Special Fund budget since it was initiated. We are now paying a higher percentage of the U.N. Middle East refugee program than we have ever paid since it was first initiated as a blackmail measure to keep Nasser from causing trouble and waging aggression in the Middle East. For years our percentage hovered around 67 percent but it is now up to 70 percent as other nations see that we are willing to pick up all the debts that they refuse to honor. The only U.N. voluntary program to which our disproportionate contribution has shown any tendency to be reduced is the United Nations Children's Fund and even it has now leveled off at 40 percent, a far cry from the 33⅓-percent limitation which governs our regular U.N. assessment.

I say, Mr. Chairman, that we put back in the legislative branch of Government the responibility that is ours for determining the expenditure of American dollars. I know of no other Federal program where we give, or the State Department preempts such a free hand in determining how much the taxpayer will pay to support an activity of such dimensions.

Furthermore, if the Congress votes a specific limitation in the amount of 33⅓ percent it will give our Department of State a basis for realistic bargaining for other nations which do not now pay their fair share. So long as other countries know that, as in the case of many of these programs, the sky is the limit, they will be quite content to let the status quo remain, or, as in the case of the Middle East refugee program, even force us to increase our contribution.

I urge the adoption of this amendment.

Mr. MAILLIARD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not want to belabor this, but there are some things being tossed around here that are not quite correct. For one thing during the last couple of years the gentleman from Missouri has been talking about the Palestine refugee problem. We have been making our contribution, not only in cash but in kind and we have contributed our own surplus agricultural products directly to the program.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman.

Mr. JONES of Missouri. Is it not a fact that for many years they did not buy U.S. wheat? They did buy Australian wheat. They did buy Canadian wheat. They did buy Pakistan wheat. They did buy French wheat. And they did not buy our wheat because the prices were too high.

Mr. MAILLIARD. Yes, Mr. Chairman, what the gentleman says I think was correct but it is my understanding that for the last 3 or possibly 4 years this has not been the case and that agricultural products that have been going into the program have been going out of our surpluses and not from other countries.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from Ohio.

Mr. HAYS. What the gentleman has said is exactly right. As a matter of fact, last year our contribution was $24,700,000 of which $7,500,000 was wheat under Public Law 480 and $16 million was in cash. Obviously, they cannot eat nothing but wheat and presumably I would gather from these figures that we furnished all of the wheat that they could consume under Public Law 480 and that with some of the other money they buy other crops or commodities. The gentleman from Missouri can make all the hay he wants to out of the fact that they did not buy American wheat before, but they are buying it now.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. If the gentleman will permit me to continue, I would like to go on to some other things that are involved here without taking too much time.

There are other programs in which our interest is overwhelming in connection with the World Health Organization such as malaria eradication and other things that have been mentioned. Also, may I say we keep talking about our fair share. When I was at the U.N., I got into discussion of that question.

Members may or may not know that there is a special committee in the United Nations which determines from time to time the ability to pay of the various nations of the world.

I do not vouch for the accuracy of their findings. In fact, I have strongly recommended to our State Department that we obtain some economic experts in our own country to review the findings. But it is true that by any standards they have been able to bring forward so far the fair share of the United States, on the ability-to-pay theory, is something around 38 or 39 percent. Our assessed share is 32.02 percent, so we pay less than our fair share, if we can believe the figures which are accepted by the United Nations, on the things as to which we are assessed.

Certainly, in regard to things as to which we have a special interest, our ability to pay more than one-third gets other nations to contribute to those things. Otherwise we would be paying for it all, if we wanted to do it.

I believe this amendment would be particularly dangerous because of the uncertainty of the meaning of the language with respect to special peacekeeping emergency situations, such as we now face on Cyprus. I believe it would be most unwise for the House to accept the amendment.

Mrs. KELLY. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment. I take this opportunity to bring to the attention of Members of the House our good fortune in having had the Congressman from California serve last year at the United Nations as the U.S. delegate. He handled that important assignment with exceptional distinction and ability.

There is very little I can add to what our colleague from California had already said. I would, however, like to comment briefly on the effect of the proposed limitation. As a Representative from this side of the aisle, who had the honor of serving as U.S. delegate to United Nations, I can speak from firsthand experience.

I wish to say that so far as the U.N. expanded technical assistance program is concerned, we did agree to contribute 40 percent. Why did we do that? We did this because these program are in our national self-interest, because they are accomplishing a lot of good, and because each $1 we contribute is matched by $1.50 in contributions from other nations.

We should also remember, Mr. Chairman, that this is one of the most important years for the United Nations. We are determined to make certain, at the coming session of the General Assembly that all members of the United Nations pay their just share of the expenses of that organization, or be deprived of the right to vote if they do not. This is an important issue and we should not jeopardize its outcome by pulling out our financial support from vital U.N. programs.

I should like to add one more thing: We worked hard last year to bring down the percentage of U.S. contributions to various U.N. programs. The gentleman from California contributed ably to this effort through his work on the Fifth Committee of the U.N. General Assembly. We have made some progress. If we persevere in these efforts, and be patient, we will make more progress in the future.

So far as U.N. peacekeeping operations are concerned, there is very little for me to add except to say that we are fortunate to have the U.N. Emergency Force in the Middle East. It has prevented open war in that place. I believe that it should be continued, no matter what percentage we may have to pay.

So far as the United Nations relief work for the Palestine refugees is concerned, we did add one feature to that this year. I take this opportunity of complimenting our representative, Ralph Bunche, for all he has done so far as that is concerned. The feature we added this year is this: We requested that private and intergovernmental agencies volunteer to contribute to the United Nations for this particular project. In other words, any organization throughout the world can give a voluntary contribution. In that way we hope in the coming year the 70 percent of the United States will be reduced.

I hope that the amendment will be defeated.

Mr. MORSE. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment.

Mr. Chairman, I should like to address myself particularly to those of my colleagues present who would like to see our share of these expenses reduced, as I believe nearly all do.

I believe, by virtue of the language which the gentleman's amendment contains, there would be a result the gentleman did not intend. I speak specifically of the peacekeeping operations which previously were mentioned.

The exception in the gentleman's amendment refers exclusively to the United Nations Emergency Force. The amendment would not except other peacekeeping operations, which may be in operation now or which may come at any time in the future.

Conceivably—and I believe this point is important—if we were limited to making a voluntary contribution of 33⅓ percent, and if funds were not available from other sources, from other nations, the net result would be that if there were a peacekeeping operation, clearly in the national interest of these United States, we would be giving the Soviet Union a veto over our action.

I do not think there is a person in this body who wants to do that, but if you support this amendment, you are potentially giving the Soviets a veto over the foreign policy of the United States.

Mr. BARRY. Mr. Chairman, will the gentleman yield?

Mr. MORSE. I yield to the gentleman from New York.

Mr. BARRY. I want to associate myself with the gentleman's remarks. It would be a mistake to adopt this amendment, especially when you realize the United Nations Children's Fund is included in the amendment's limitation where we now contribute 40 percent. There is no known country standing ready to take up the differential between the percentage in the bill and the 40 percent we are now giving. Therefore, there would be a great risk that in passing this amendment that great damage could follow to one of the most important humanitarian programs that has ever been created, seriously affecting the world's most important hope for the future—the children of the next generation.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MORSE. I yield to the gentleman from Missouri.

Mr. JONES of Missouri. Would it improve it, in your estimation, if we would make that read the United Nations emergency operations rather than emergency forces? Would that satisfy you?

Mr. MORSE. I would have to read the amendment carefully before I can agree with that, but I think the gentleman understands the point I make, which is that the gentleman's amendment gives the Soviets a veto over the foreign policy of the United States.

Mr. JONES of Missouri. You are not trying to imply that I am trying to help the Soviet Union, are you?

Mr. MORSE. I know the gentleman does not intend that.

Mr. JONES of Missouri. Will the gentleman yield for a unanimous-consent request?

Mr. MORSE. I will yield to the gentleman.

Mr. JONES of Missouri. Mr. Chairman, I ask unanimous consent that in the amendment the word "forces" be changed to "operations."

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri as modified.

The amendment was rejected.

The Clerk read as follows:

CHAPTER 4—SUPPORTING ASSISTANCE

SEC. 106. Section 402 of the Foreign Assistance Act of 1961, as amended, which relates to supporting assistance, is amended by striking out "1964" and "$380,000,000" and substituting "1965" and "$405,000,000", respectively.

AMENDMENT OFFERED BY MR. FRELINGHUYSEN

Mr. FRELINGHUYSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRELINGHUYSEN: Page 4, line 19, immediately before the period insert the following: ", and by adding at the end thereof the following new sentence: 'Of the funds made available for the fiscal year 1965 to carry out the purposes of this chapter, not less than $200,000,000 shall be available solely for use in Vietnam, unless the President determines otherwise and promptly reports such determination to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives.' "

Mr. FRELINGHUYSEN. Mr. Chairman, reference was made during debate on this bill yesterday to the situation in Vietnam, and further reference was made again to Vietnam today. My amendment is very simple. I discussed it briefly yesterday. It is to earmark specifically an amount of not less than $200 million for use in the field of supporting assistance for Vietnam. I had originally considered ending my amendment at that point. However, after discussion with some of my colleagues on the Committee on Foreign Affairs, I decided that I would add the "unless" provision, giving the President authority to make a determination that the money might be spent elsewhere. If he should make that determination, he would promptly have to report his determination to the appropriate committees of the Congress.

It is my feeling that in view of the fact that President Johnson on the 18th of May specifically asked Congress for $70 million for supporting assistance in Vietnam and $55 million for military assistance, that we should indicate the nature of our response to his request by not only going along with his suggestion that $70 million additional be made available but that a total of no less than $200 million be made available to that country.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from Ohio.

Mr. HAYS. I might say to the gentleman with the proviso in the amendment which he has added, after consultation with the Chairman and other members of the majority, we will accept the gentleman's amendment.

Mr. FRELINGHUYSEN. I thank the gentleman for his comment. I myself am not sure how much meaning there is to the proviso. I would think an indication that we want $200 million to be earmarked for use only in Vietnam for supporting assistance would be sufficient, without giving the President this additional authority.

I certainly think we should not be reflecting on whether or not the President has any such intention to spend money on this scale for these purposes, because I think the administration has made it plain that this is their plan. However, I do think that it is important, under the specific circumstances of a request by the President of the United States for money to be used in this country, that we provide this level of assistance to Vietnam. I should hope that if there is no unforeseen circumstance, this money would only be used in Vietnam. I, myself, can think of no justification for the President's deciding that economic assistance, which is what this is, should be used in some other country. I cannot see what determination he could make that would change the priorities.

We may have emphasized too much the military nature of the operations in Vietnam. If we recognize that we do have a very substantial nonmilitary obligation there, and that this money will provide needed assistance, we will accomplish something significant by this earmarking.

Mrs. KELLY. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield.

Mrs. KELLY. Mr. Chairman, I am in complete support of the gentleman's amendment. However, I want to ask one question. Does his amendment in any way whatsoever restrict the amount of aid which can be given to Vietnam if the administration should see the need to go beyond the amount envisioned for that country under this bill?

Mr. FRELINGHUYSEN. In answer to the inquiry it would be my feeling that this is in no way a ceiling on what might be expended in Vietnam for support assistance. This amendment would indicate that we do think that a reasonable floor for spending in the next fiscal year would be $200 million, and only in exceptional circumstances do we believe the money should be made available for any other country or for any other purpose.

Mrs. KELLY. Mr. Chairman, with that clarification, I support the gentleman's amendment. If the gentleman would yield further, I wish to state that I will support his amendment. I will do so because I think it is important that we show the world our willingness to provide this much and more in assistance to Vietnam—that we are determined to do what we can to help them win their battle for freedom.

Mr. Chairman, if the gentleman from Michigan will bear with me for a moment longer, I would like to recall a thing that happened on the floor of this House 14 years ago which in some ways has a bearing on the issue before us.

On January 19, 1950, after a several months' delay, the House of Representatives was voting on a bill carrying $60 million in assistance for Korea. The legislation was defeated that day by the narrow margin of two votes. This was the first vote which I cast in the House of Representatives, and I cast that vote in support of aid for Korea. But 193 Members of the House voted against it. And even though aid for Korea was subsequently approved in a revised bill, I cannot help but believe that the failure on the part of the House to act promptly and that first defeat, did tremendous damage. Psychologically, they dealt a blow to the cause of freedom. They seemed to indicate that the Congress was not determined to stand by that country. And within 6 months, the Communist hordes invaded Korea.

I do not think that we should allow the same thing to happen with respect to Vietnam. We should not provide the Communists with any reason to believe that we are not going to stand by that country. And that is why I think the Broomfield amendment should be approved, and I will vote for it.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman.

Mr. GALLAGHER. Mr. Chairman, I feel that this is a good amendment. I think it is consistent with the purposes that President Johnson has already indicated of our great concern with Vietnam. As such I feel that this is parallel to his intention to carry on in this area.

Mr. FRELINGHUYSEN. I thank the gentleman.

AMENDMENT OFFERED BY MR. ADAIR

Mr. ADAIR. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ADAIR to the amendment offered by Mr. FRELINGHUYSEN, of New Jersey:

"Strike out 'unless the President determines otherwise and promptly reports such determination to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives.' "

Mr. ADAIR. Mr. Chairman, obviously my amendment would remove that part of the amendment offered by the gentleman from New Jersey which provides for Presidential determination. I offer it, Mr. Chairman, for two reasons. First, with that provision in it the amendment of the gentleman from New Jersey is meaningless. It has no real force or effect because by a Presidential determination, followed by a report to the Congress, the money can be used otherwise.

My second reason for opposing the proviso is that it is unnecessary. Members will recall that section 614 of the law gives the President very wide authority in the matter of waivers. If we have given him this wide authority as we have and then turn around and write similar provisions in every other amendment which we offer we are doing a futile thing.

If the President desires to use the authority contained in section 614 he may do so. In my opinion it would give him the flexibility which he needs. I believe it would be better legislation not to repeat this provision every time that we amend the bill.

Now, Mr. Chairman, as to the general purposes of the amendment which has been offered by the gentleman from New Jersey [Mr. FRELINGHUYSEN], I find myself in complete accord. I believe it is highly desirable that we earmark funds, both economic and military, for use in Vietnam.

Mr. Chairman, much has been made in the press and otherwise in recent days and weeks about the fact that we are trying to beef up our effort in Vietnam. If we are doing this, then let us do it and let us make it very clear.

As I pointed out to the Committee on yesterday, the additional $125 million which was requested by the President and which was subsequently placed in the authorization bill, was done so on the basis that it was required for use in Vietnam. The law does not so provide. In fact, it could be used any place in the world apart from the moral responsibility which the administration would have on the basis of its presentation.

So I would ask, Mr. Chairman, that my amendment be adopted removing the unnecessary and unwarranted Presidential discretion and then that the amendment offered by the gentleman from New Jersey, as amended, be adopted.

Mr. HAYS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment for the simple reason that it seems to me this is about the most anomalous situation into which one could get.

The gentleman, as I gather from his amendment, would like to say that we have to spend $200 million out there in so-called supporting assistance, whether they need it or whether they do not need it. It seems to me if there is any one thing we ought to get clear about this Vietnamese affair, it is something that I have been saying for a long time and that is that you cannot win a war if the people do not want to win it for themselves.

Mr. Chairman, I have never been to Saigon, but I have talked to members of the committee who have. Saigon is known as the "Paris of the East." They say one of the reasons they are not winning the war out there is because the people in Saigon are going on "in a business as usual" attitude and not caring about what happens out in the boondocks.

Mr. Chairman, I am further informed that there are more Mercedes automobiles in Saigon per 1,000 population than any city in the world.

Mr. Chairman, the effect of the gentleman's amendment, it seems to me, would be that if you cannot use this money for anything else, we are going to give it to you; go ahead and buy some more Mercedes. If the amendment which has been offered by the gentleman from Indiana [Mr. ADAIR] is applied to military assistance, that would be one thing. However, I believe the President as the Commander in Chief has got to have some flexibility. I believe this proviso to the amendment which has been offered by the gentleman from New Jersey [Mr. FRELINGHUYSEN] gives the President that flexibility. If they do not need $200 million worth of supporting assistance, we are not going to give it to them willy nilly anyway.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. In response to the gentleman's comment about the need for the amendment, with or without the presidential proviso, I would like to point out that this amendment does not require that $200 million be spent. It says "shall be available only for Vietnam." It cannot be used anywhere else. There is no intention on anybody's part to set this as a requirement to spend; it is a limitation only.

Mr. HAYS. Yes; but you are restricting the President. If there should be a flareup in Cyprus, for instance, he cannot use any of that money that he might need for support assistance somewhere else.

Mr. FRELINGHUYSEN. Supporting assistance in such an emergency would not be the kind of assistance needed.

Mr. HAYS. Is the gentleman for his amendment or is he not?

Mr. FRELINGHUYSEN. I am in favor of my amendment. However, I would think there is more reason to give the President flexibility with respect to military assistance than to give him flexibility with respect to economic assistance. However, I think that the amendment offered by the gentleman from Indiana should be defeated. He would not allow the President to make a determination that he wants to spend any of this money somewhere else. There might be an occasion for the President to act.

Mr. ADAIR. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Indiana.

Mr. ADAIR. Does not the gentleman agree with me that section 614, the waiver authority, would be broad enough to cover this situation if my amendment were adopted?

Mr. HAYS. If you take that position, and I were sure it were right, I would not have any objection to your amendment, because what you are in effect saying is it would not make any difference whether the amendment was adopted or not, he could.

If I were sure he could, then I would ask why are you making such a fuss about your amendment? Why not go ahead with the thing the way it is that he still has the authority. In all kindness I say to the gentleman why bother with his amendment?

Mr. ADAIR. That was one of the points I was trying to make. He does have the authority, and by including that here we are doing a useless and futile thing in the writing of the legislation.

Mr. HAYS. I do not agree with that. Let me say if somebody says they are going to give me a million dollars I would not care how many ways they said it. In fact, the more assurances the better I would like it. If we are giving the President this flexible authority and if the gentleman is correct, and I hope he is, that he already has it, I see no reason for getting upset by saying it all over again.

Mr. GALLAGHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would also use this time to clarify the parliamentary situation. As I understand it, the Frelinghuysen amendment would allow the President that flexibility to use these funds in other areas if an emergency should arise and the emergency in Vietnam should diminish.

If I understand Mr. ADAIR's amendment, this flexibility would be removed and these funds would be earmarked for expenditure of $200 million of supporting assistance in Vietnam. This would create the situation that if there were no need for the use of this $200 million in Vietnam for supporting assistance, the President would be precluded from using these funds in any other area where he might require the use of funds. In effect, what we would be doing is denying President Johnson the very flexibility that he inserted in the various bills that he caused to be passed when he was Senate majority leader during President Eisenhower's administration. I feel, therefore, Mr. FRELINGHUYSEN's amendment should be agreed to. Mr. ADAIR's amendment would create an inflexible situation and should be defeated.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. GALLAGHER. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. The gentleman from Indiana [Mr. ADAIR] mentioned section 614. I do not believe that 614 would give the President the authority he needs. I am sure the gentleman from Indiana knows in section 614 there is a $50 million limitation; $200 million is much greater than that. Section 614 is not adequate to deal with this situation.

Mr. GALLAGHER. I think the chairman of the Committee on Foreign Affairs has made a salient point. This money would have to go back to the Treasury if it were not used in Vietnam. If there was a situation that required its use in Laos or some other area, this money would not be available.

Mr. ADAIR. Certainly any Presidential waiver would have to be within the terms stated in section 614. There is no argument about that. But as to the remarks of the gentleman from New Jersey about tying the President's hands in the use of this money, I would say again that the $70 million of economic assistance that was most recently added to the bill was added expressly for use in Vietnam. That was the basis on which it was put to the committee. Therefore, I think we should see that it is available for that use. As the gentleman from New Jersey [Mr. FRELINGHUYSEN] pointed out, this does not mean it has to be spent, but it was presented to the committee, at least with respect to the $70 million, on the basis it was for use in Vietnam. I see no reason why we should not say so in the law.

Mr. GALLAGHER. I agree with the gentleman. I feel we can take the President's word that he is going to use this money for the purpose for which he requested the funds if the situation continues to exist in Vietnam. But if there is no need for these funds to be used, I see no reason why they should not be expended or should not be used in another area where a situation would require their use. This is what the gentleman's amendment does.

Mr. ADAIR. I am not able, for security reasons, to present the figures that would make this matter clearer, but I think the history of our program in Vietnam would give a good indication of our need for the future with regard to the military activity.

Mr. GALLAGHER. There is no question we are spending more money right now than this amendment calls for and will continue to require large expenditures. Mr. FRELINGHUYSEN's amendment recognizes the need in Vietnam, and we reaffirm our belief that President Johnson is carrying out a program that is in the best interests of the United States and the free world.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have had some discussion on this amendment and the possibility that this amendment would be offered was considered by the executive branch, and by our Commander in Chief. I know that he wants this waiver and does not want to be restricted in his activities in regard to Vietnam.

I want to read a paragraph from a message he sent up here on May 18 when he requested this additional money:

> By our words and deeds in a decade of determined effort, we are pledged before all the world to stand with the free people of Vietnam. Sixteen thousand Americans are serving our country and the people of Vietnam. Daily they face danger in the cause of freedom. Duty requires, and the American people demand, that we give them the fullest measure of support.

I think we should give the President the fullest measure of support and giving him this money to be used in Vietnam without restriction is the best expression of our support for him. I urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. ADAIR] to the amendment offered by the gentleman from New Jersey [Mr. FRELINGHUYSEN].

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. FRELINGHUYSEN].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CHAPTER 5—CONTINGENCY FUND

SEC. 107. Section 451(a) of the Foreign Assistance Act of 1961, as amended, which relates to the contingency fund, is amended by striking out "1964" and "$160,000,000" and substituting "1965" and "$150,000,000", respectively.

AMENDMENT OFFERED BY MR. ADAIR

Mr. ADAIR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ADAIR: On page 5, line 1, strike out "$150,000,000" and insert in lieu thereof "$100,000,000".

Mr. ADAIR. Mr. Chairman, the effect of this amendment, if adopted, would be to reduce the contingency fund by $50 million. The request is for $150 million. This amendment would cut it to $100 million.

Let me give the Committee a little history. For the last fiscal year, there was a request for $300 million for the contingency fund. The authorization was $160 million. But there was appropriated only $50 million because of the carryover of over $179 million.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. ADAIR. I yield to the gentleman.

Mr. MORGAN. The gentleman means there was a carryover of $127 million; is that not correct?

Mr. ADAIR. The gentleman is correct. There was a carryover in two different accounts of $129 million which together with the $50 million of new money made $179 million available.

It is anticipated as it appears in the committee report prepared by the majority that there would be $30 to $40 million left over this year which can be reappropriated. Up to the present time out of the contingency fund of this year, $93 million approximately has been used. This is expected to rise to somewhat more than that, perhaps $130 or $140 million may be used in all.

The point I am making is that if there is $100 million in new money and if there is available for reappropriation $40 million or so of old money, approximately the same amount will be available next year as is available this year. So by this reduction of $50 million the program will not be injured. The House, I think, will have acted responsibily in saving $50 million.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, every year the cuts offered on the floor always turn toward the contingency fund as an easy prey. These funds are not programed for any specific purpose and their uses cannot be planned in advance. It is difficult to argue against cutting them back because no one can say what has been sacrificed.

The figures given by the gentleman from Indiana are correct. Last year this House in its wisdom in its authorization bill did approve $150 million, and the bill agreed to in conference authorized $160 million, but there was approximately $12 million unobligated at the end of last year which reverted to the Treasury. The Committee on Appropriations instead, reappropriated the $127 million and added it to the contingency fund. Then, they only appropriated $50 million of new money to the contingency fund. But that cannot happen this year. The gentleman from Indiana, I am sure, is acquainted with the fact that 2 years ago when the Committee on Foreign Affairs felt there were abuses in the contingency fund, we clamped down on the executive and those abuses were stopped. That was as a result of the $127 million carryover. This year that is impossible.

There have been some unforeseen emergencies which occurred in the past year, which have used all of the $179 million. It is now estimated that there will be less than $30 million carryover in the contingency fund. So there will not be a great carryover, to make up for the cut as there was last year.

Without that contingency fund for the past year we would have been in serious trouble in southeast Asia. The transfer of funds from this fund was needed.

I do not believe, considering that the war in South Vietnam is getting hotter by the day, that we dare reduce the contingency fund of the President. I ask that the amendment be defeated.

Mr. BARRY. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from New York.

Mr. BARRY. I wish to associate myself with the remarks of the gentleman and also to say that under President Eisenhower, under President Kennedy, and under President Johnson the contingency fund has been used sparingly and only for the purposes for which intended. It does not appear that there have been any abuses of this fund. It is a good strategic situation for our Nation to have a fund of money for emergency purposes for foreign policy.

I highly commend the defeat of the amendment, and I support the position of the committee.

Mr. MORGAN. The gentleman is correct. The Executive has assured the Committee on Foreign Affairs that if there is any carryover the appropriation request will be reduced accordingly. No money is wasted out of this fund. There is no logic in tying the hands of the President by reducing the amount, because if he does not spend the money the money will go back to the Treasury.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I wish to associate myself with the remarks of the chairman of the Committee on Foreign Affairs. I would like to point out that if there is any question about the past use of the contingency fund, Members of Congress should turn to page 314 of the hearings held before our committee. On that page, there appears a report of contingency fund expenditures, for the period ending March 31, 1964.

As the gentleman from Pennsylvania, Chairman MORGAN stated, the countries in the Far East, in southeast Asia, received the bulk of the money.

Mr. MORGAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. ADAIR].

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PART II

CHAPTER 2—MILITARY ASSISTANCE

SEC. 201. Chapter 2 of part II of the Foreign Assistance Act of 1961, as amended, which relates to military assistance, is amended as follows:

Mr. BARRY. Mr. Chairman, I ask unanimous consent that the section be considered as read and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ADAIR. Mr. Chairman, with regret I must object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk read as follows:

(a) Amend section 503, which relates to general authority, as follows:

(1) In subsection (c) strike out "and" at the end thereof and in subsection (d) strike out the period at the end thereof and substitute "; and".

(2) Add the following new subsection (e):

"(e) guarantying, insuring, coinsuring, and reinsuring any individual, corporation, partnership, or other association doing business in the United States against political and credit risks of nonpayment arising in connection with credit sales financed by such individual, corporation, partnership or other association for defense articles and defense services procured in the United States by such friendly country or international organization."

(b) Amend section 504(a), which relates to authorization, by striking out "1964" and "$1,000,000,000" and substituting "1965" and "$1,055,000,000", respectively.

(c) Amend section 507(b), which relates to sales, by inserting after "are due" at the end of the first sentence the following: ": *Provided*, That the President may, when he determines it to be in the national interest, accept a dependable undertaking to make full payment within one hundred and twenty days after delivery of the defense articles, or the rendering of the defense services, and appropriations available to the Department of Defense may be used to meet the payments required by the contracts and shall be reimbursed by the amounts subsequently received from the country or international organization".

(d) Amend section 509, which relates to exchanges, as follows:

(1) The section heading is amended to read as follows:

"EXCHANGES AND GUARANTIES".

(2) After the section heading insert "(a)".

(3) Add the following new subsection (b):

"(b) In issuing guaranties, insurance, coinsurance, and reinsurance, the President may enter into contracts with exporters, insurance companies, financial institutions, or others, or groups thereof, and where appropriate may employ any of the same to act as agent in the issuance and servicing of such guaranties, insurance, coinsurance, and reinsurance, and the adjustment of claims arising thereunder. Fees and premiums shall be charged in connection with contracts of guaranty, insurance, coinsurance, and reinsurance. Obligations shall be recorded against the funds available for credit sales under this part in an amount not less than 25 per centum of the contractual liability related to any guaranty, insurance, coinsurance, and reinsurance issued pursuant to this part and the funds so obligated together with fees and premiums shall constitute a single reserve for the payment of claims under such contracts. Any guaranties, insurance, coinsurance, and reinsurance issued pursuant to this part shall be considered contingent obligations backed by the full faith and credit of the United States of America."

(e) Section 510(a), which relates to special authority, is amended by striking out "1964" in the first and second sentences thereof and substituting "1965".

(f) Section 512, which relates to restrictions on military aid to Africa, is amended by striking out "1964" and substituting "1965".

AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOMFIELD: On page 5, immediately after line 3, insert the following:

"CHAPTER 1—POLICY

"SEC. 201. Section 502 of the Foreign Assistance Act of 1961, as amended, containing a statement of policy, is amended by inserting immediately before the last paragraph thereof the following new paragraph:

" 'It is the sense of the Congress that—

" '(1) the President of the United States should use every means to secure the borders of South Vietnam from infiltration by hostile forces and to assist the South Vietnamese in every way in their efforts to win their war for freedom;

" '(2) our Nation is committed and must remain committed to the wholehearted support of freedom for South Vietnam and its people and to an end of Communist expansion in southeast Asia as well as everywhere else in the world; and

" '(3) there should not remain the slightest doubt that the United States Government is determined to pursue this course of action, and to fully inform the American people of what will be necessary to defend freedom in South Vietnam and in southeast Asia.'

"And redesignate the following section accordingly."

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment to section 201 of H.R. 11380, the Foreign Assistance Act of 1964.

There is nothing very complicated about this amendment. It is three short phrases expressing the sense of Congress that:

First, the President should use every means to secure the borders of South Vietnam from infiltration by hostile forces and to assist the South Vietnamese in every way in their efforts to win their war for freedom;

Second, our Nation is committed and must remain committed to the wholehearted support of freedom for South Vietnam and its people and to an end of Communist expansion in southeast Asia as well as everywhere else in the world; and

Third, there should not remain the slightest doubt that the U.S. Government is determined to pursue this course of action, and to fully inform the American people of what will be necessary to defend freedom in South Vietnam and southeast Asia.

This amendment authorizes no additional funds. It ties the hands of no one. It is not in any manner, shape, or form an infringement upon the duties and responsibilities of the President to formulate and execute foreign policy.

It is, in fact, just the opposite. It is a commitment to policies which have been outlined by the President on many occasions in the past.

It is an expression by the Congress of the United States of the determination of our Government and our people to keep our word in South Vietnam and southeast Asia.

I think this expression by Congress is important for a number of reasons.

A great many of us have been disturbed in recent weeks by an apparent wavering of purpose and a lack of sense of direction in our southeast Asia policies by some in high places in our Government.

On April 22, 1963, Secretary of State Rusk declared that no quick victory in Vietnam could be expected. On October 2, 1963, the White House announced that the United States would withdraw 1,000 American troops in the next 3 months, and that a major portion would return by the end of 1965.

Seventy-nine days later on December 20, the troop withdrawal policy was abandoned and Secretary of Defense McNamara assured Saigon that American military personnel would "stay as long as needed." However, just 40 days later on January 29, 1964, Secretary McNamara told us that he still hoped for a withdrawal of U.S. troops by the end of 1965.

Once again the administration has changed its tune. The latest statements I have heard from Mr. McNamara indicate that the Vietnam war will be "long, hard, and very difficult." Now Secretary of State Rusk is talking about an expansion of the war in South Vietnam which would possibly mean an increase in the number of U.S. troops.

Next, we received a request for $1 billion in military assistance for the coming fiscal year. In testimony before our committee, we are told by no less than the Secretary of Defense that this amount is too low, and that this is all that the administration figures it can get out of Congress.

Some of us took offense at this statement and this intimation that Congress was insisting upon a bargain basement war in South Vietnam.

I offered an amendment in committee to increase the amount of military assistance by $250 million so that there would be no shortage of adequate arms and ammunition by either the South Vietnamese forces or our own in this vital part of the world.

After another inspection trip to Vietnam by the Secretary of Defense, the President revised his figures for further assistance to Vietnam with a request for an additional $125 million, including $55 million for additional military equipment.

The House Foreign Affairs Committee unanimously adopted this request for additional funds.

But I think we must do more. All of us realize that dollars are not the answer to our problems in South Vietnam.

Although we know that we need some updating of equipment there, and that this updating is finally taking place after considerable congressional persuasion, more and better arms are not going to solve our problems, either. Past experience indicates that a fairly large percentage of this new equipment and arms will simply end up in the hands of the Vietcong anyway.

What is needed in South Vietnam, more than dollars, more than arms, more than all the mollifying statements of governmental propagandists and press agents, is a reason to fight.

There has been almost constant war going on in South Vietnam for the past 23 years. There are many adults in Vietnam who have known nothing but war: First, under the occupation of what was then Indochina by the Japanese in the early days of World War II, next the efforts to gain independence from French rule following the war and finally this resistance to the efforts of the Communists to wrest this rich land from its citizens and place it behind the Bamboo Curtain.

In an article which appeared in U.S. News & World Report Mr. Robert L. Moore, Jr., who went into combat with our special forces in Vietnam, described this battle as the "war of no thanks." There could not be a more apt description.

A great many Americans who are assisting the war effort in South Vietnam fail to realize why we are there. They are there because they were ordered there, and for no other reason.

Those Americans who do understand the necessity of winning in South Vietnam, of keeping southeast Asia out of the hands of the Communists, feel that we Americans back home do not know why men are dying so many miles from home.

They are probably right. Most Americans do not know why we are so deeply entrenched in southeast Asia. Most fail to comprehend the fact that this is the anchor of the southern end of our defense line in the Pacific. They fail to realize that the Communists want not only South Vietnam, but all of the rest of what was once Indochina, and the Malay Peninsula, across the Malay Straits into Indonesia. Next target on the list would be Australia.

Does this sound fantastic? A look at the map should convince anyone that this is the Red Chinese scheme for conquest.

If Laos and South Vietnam fall, then the next immediate targets would be Cambodia and Thailand. Both have tiny armies and could be infiltrated and overrun quickly.

Next down the line is Malaysia, and Malaysia is already feeling the pressure of the threat of war from its huge neighbor to the south, Indonesia, a neighbor whose leader, Sukarno, has declared he will stamp out Malaysia and who is well supplied with Soviet arms and military equipment.

The Chinese Communists want the rich resources of southeast Asia badly. Here is the world's rice bowl which could end Red China's perennial problem of growing enough to feed its people. Here is the tin, the rubber, the oil, the other minerals and food and fiber crops the Reds need to continue their attempts at conquest in other parts of the world.

There should be no doubt in anyone's mind just who the Red Chinese consider the No. 1 enemy in the world.

If there is any doubt in the mind of any American, I assure you there is no such doubt in the mind of Mao Tse-tung and the other leaders of Red China.

They have said, time and again, on occasion after occasion, that the United States is the prime target of the Communists in the world.

We are the symbol of capitalism. We are the major obstacle in the path of an eventual Communist takeover. As long as we, the United States, exist, as long as we have the highest living standards in the world and we still have our freedom, then we are a constant rallying point for freedom.

As long as there is freedom in the world, the people in the world will not be satisfied with communism.

The war in South Vietnam is a war by the people of Vietnam to maintain their freedom and to keep from being swallowed behind the Chinese wall of woe and despair. Undoubtedly, that is the reason why so many thousands of South Vietnamese are continuing their resistance, are fighting this battle.

But this war is also something else. It is an indirect, but nevertheless real, confrontation between the United States and Red China. The troops and the training forces we have in South Vietnam, the arms, the ammunition, the equipment we have there is to stop this fire of Communist imperialism and colonialism from spreading and growing until it is too large to contain.

The South Vietnamese know that once we have contained this fire, once we have cleared the countryside, we will eventually get out and go home. The South Vietnamese are equally certain that if the Communists ever get a foothold in southeast Asia, they will never leave. South Vietnam will be swallowed up by Communist imperialism as if it never existed.

The South Vietnamese are aware of these threats to their freedom. They have lived with them for years. If they are disillusioned and confused by our on-again, off-again policies in South Vietnam, I think these are understandable emotions.

What the South Vietnamese people need, what their soldiers need, what the 16,000 American troops and military advisers in South Vietnam need, for that matter, is a clear-cut, forthright statement of what we intend to do there and how we intend to win, not simply hold our own.

In this, the President and his administration and the Congress must speak with one voice and dedicate ourselves to one purpose. That is to provide the means, whether they be military, economic, political, or moral, to commit ourselves to victory in this important part of the world.

Our soldiers and our military advisers in South Vietnam are not afraid to die, and many have given their lives in this struggle. We at home at least have the responsibility to tell them why some must die in this bitter jungle war where the enemy is a shadow and death is a step away.

The least we owe these men is a unity and a pledge of our continued support to an effort which must be won.

Mr. Chairman, I urge adoption of this amendment.

Mr. Chairman, our distinguished colleague, the gentleman from New York [Mr. BARRY], has received a letter from our former Ambassador to Thailand, the Honorable Kenneth T. Young, Jr., in which he outlines the problems we face in southeast Asia and the steps we might take to solve these problems, particularly in South Vietnam.

What Mr. Young has to say makes a great deal of sense, and I am inserting the copy of his letter to Mr. BARRY in the RECORD.

NEW YORK, N.Y.

The Honorable ROBERT R. BARRY,
House Office Building,
Washington, D.C.

DEAR BOB: The news about Laos, Vietnam, and southeast Asia certainly looks grim. I read with interest but some concern the President's statement urging additional funds for Vietnam. I strongly support this, but I think we need to go into some fundamentals before we add on more economic and military assistance. I would hope that the Foreign Relations Committee would look into these and other possible questions so that we might get a winning strategy in southeast Asia.

May I take this opportunity to list three areas which I think are fundamental. I do this as a private citizen who has had some experience in southeast Asia over the past 15 years and who spent the last 3 years out there as Ambassador to Thailand and SEATO representative.

The three areas are:

(1) Lack of public understanding and commitment in America.

(2) Lack of political priority and political approach in Vietnam.

(3) Lack of a strategic defense in southeast Asia.

May I make just a few comments on each of these.

1. Lack of public understanding or commitment in America: As you know from our conversations in Bangkok and in Washington since I returned, I have been concerned that our position in southeast Asia was weakening partly because of a lack of understanding of the issues here at home. If there had been strong public opinion and legislative support 3 years ago, I think we could have negotiated a much more effective settlement in Laos as well as stronger program in Vietnam. The crux of the matter is the continuing ambivalence of whether or not to resort to allied military intervention to stop Communist aggression by creepage. Since I have returned, I have talked with some 20 groups of well-informed Americans in the Washington, New York, and Boston areas. I am discouraged by the dismay, criticism, and demoralization which these men and women demonstrate by their questions. They do not understand what is going on in southeast Asia even though they are well informed. They seem responsive to my urging for a broad commitment of U.S. power to hold the line there. So I would like to ask you whether or not it would be possible for the House Foreign Affairs Committee and the Senate Foreign Relations Committee to issue a joint statement of legislative intent regarding southeast Asia. If this were short and forthright, it would meet the first requirement for our southeast Asia position—the support of the country—which I don't feel we have today, at least among well-informed groups in the East.

2. Lack of political priority and political approach: We continue to make the mistake of militarizing the situation in Vietnam. We have done a great many things and I have the greatest respect for Bob McNamara. He has done wonders. But the problem is

basically psychological and political—not military, not hardware and not production schedules, although these are needed. As I tried to urge on the administration 3 years ago, the Vietnam problem is like a two-wheel bicycle—the front wheel is political and the back wheel is military. You need both for speed and momentum; you need the political one in front, and if you lose either the whole thing collapses. From talks I have had with Vietnamese, Americans and some non-French Europeans, we are not getting across politically through the Vietnamese Government. The villager knows what he wants and will work with his own organizations. The Vietnamese distrust soldiers, policemen and government officials. Yet it is through these and more of them that our policy in Vietnam is trying to turn the tide of a losing battle. That just will not work. Instead we need a new political approach in the villages through organizations of their own choosing such as cooperatives, the Confederation of Vietnamese Workers and farmers' volunteer organizations. The government also needs to revolutionize its village agents and administrators. Their attitudes have been neocolonial. In fact, the whole approach to villages should be civilianized before the political and military are brought in for the necessary security. The tactic of mobile development units, which in Thailand were essentially civilian in appearance, might have some application in certain parts of South Vietnam where constant guerrilla warfare is now taking place.

I would like to see the President's message stress these political approaches for us before listing the needed increase in military and economic assistance. And I would hope that your committee could explore this political question constructively to develop a positive approach to mobilize the majority of the Vietnamese rural population for their own cause. This will be difficult, yes; and it will take time, certainly; but until we go after and get a successful political formula in Vietnam—which we have not had for years, I know—no amount of equipment and aid will save South Vietnam.

3. Lack of strategic defense line in southeast Asia: Our position continues to deteriorate because we treat southeast Asia piecemeal in separate compartments while the Communists deal with Laos, Vietnam, Thailand, Cambodia and Malaysia as one political and military zone of operations. We should establish an allied line of ground and air deployments in Thailand, southern Laos and the northern part of South Vietnam. We should also use air strength in hot pursuit in Laos and North Vietnam to injure the sanctuary of the Communists and increase the cost to them by such actions. I do not believe this would escalate the fighting in southeast Asia. But I doubt whether sending Marines again just to Thailand or carriers of the 7th Fleet to the Gulf of Tonkin will scare Peiping and Hanoi if we are not clearly and presently prepared to use power in Laos and Vietnam. There is the keystone holding back the avalanche about to crumble on us in southeast Asia.

So, I am convinced that if we move vigorously along these three lines to reinforce our policies of support for Thailand and Vietnam, we will turn the tide in southeast Asia and prevent what may become the inevitable collapse of the whole free world position from Tokyo to Teheran in all of Asia. Those are the stakes at issue today.

The Communists are smart and tough. They are exploiting the immobility of an American election year just as they did in 1960-61. Why do we let them get away with this again? But this time with much more serious consequences for us and our friends in southeast Asia.

Despite our electoral differences, I think we should unite for a commitment to the preservation of an independent southeast Asia.

If I can be of help to you or the committee in this crisis, please let me know. I am sending personal letters along these lines to Senators HUMPHREY, JAVITS and MCGEE and to HENRY REUSS.

All the best.

Sincerely,

KENNETH T. YOUNG, Jr.

Mr. MORGAN. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I should like to ask the gentleman from Michigan [Mr. BROOMFIELD] one or two questions. This is the sense resolution that the gentleman introduced in the House on May 21; is that correct?

Mr. BROOMFIELD. That is correct.

Mr. MORGAN. This was during the markup on the foreign aid bill. I think by the time the gentleman introduced this resolution we had passed the place in the bill where he could make these additions to the bill. The gentleman introduced House Joint Resolution 1034, a joint resolution, a sense resolution pertaining to Vietnam. I know of the gentleman's great interest in South Vietnam. I know that he made a trip there with a subcommittee of the Committee on Foreign Affairs last fall. He has given a great deal of attention to this area of the world.

Mr. Chairman, I am just wondering if the gentleman would be willing to withdraw his sense resolution that he wants to make part of the Foreign Assistance Act this year if we would assure him that he would have a hearing before the Subcommittee on the Far East on the resolution which he introduced on May 21, 1964.

Mr. BROOMFIELD. In view of the gentleman's statement I shall be delighted to withdraw my amendment, on the basis that we will have a hearing on a sense resolution at a later date.

Mr. MORGAN. I thank the gentleman.

Mr. BROOMFIELD. Mr. Chairman, I ask unanimous consent to withdraw my pending amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOMFIELD: On page 6, line 2, immediately before the period insert the following: ", and by adding at the end thereof the following new sentence: 'Of the funds made available for the fiscal year 1965 to carry out the purposes of this part, not less than $200,000,000 shall be available solely for use in Vietnam, unless the President determines otherwise and promptly reports such determination to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives.' "

Mr. BROOMFIELD. Mr. Chairman and members of the Committee, the amendment I offer would be a further commitment to victory in South Vietnam.

It would earmark not less than $200 million in military assistance under this bill for use in Vietnam.

This money would be exclusively designated for this purpose unless the President should determine otherwise and promptly reports this determination to the Senate Foreign Relations and Appropriations Committees and to the Speaker of the House.

In effect, this amendment supplements the other amendment I offered earlier in the day and which stated the sense of Congress to remain committed to freedom in South Vietnam.

It is another way of stating that the United States intends to stick by its friends. It serves notice to the Communists that we have no intention of abandoning this fight nor of giving this war less than our full attention and support.

As with the previous amendment, I would like to make it perfectly clear that this amendment should not be interpreted in any manner or means as an attempt by the Congress to dictate foreign policy to the President. It is not.

It is further support by Congress of a foreign policy objective which has been outlined by the President and the executive branch on many occasions.

It is a declaration, in essence, that no matter which party prevails in the congressional elections next fall, or who is in the White House next January that our Nation will speak with one voice for freedom in South Vietnam and will act in concert to attain this objective.

Past experience should have taught us by now that the Communists like to create crises and make their pushes for power while the United States is preoccupied with political campaigns.

Few of us will forget the Cuban missile crisis during the last congressional campaign, or the manufactured efforts in Berlin to catch us off guard while our attentions were turned inward on our own political problems.

We should not be at all surprised if we see a full-blown crisis in South Vietnam or another part of southeast Asia later this year which would make our present troubles look like a tempest in a teapot.

We should make it abundantly clear right now to the people of South Vietnam that we intend to stand by them if the war there and in Laos is escalated further. We also should make it perfectly clear to Red China that we will not turn our backs on this crisis because of the domestic decisions our voters will be making in November.

May I urge my colleagues on both sides of the aisle to support this amendment as is proposed.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Florida.

Mr. FASCELL. Is it not true right now that without the amendment which has been offered by the gentleman from Michigan earmarking the use of funds in Vietnam that there is no provision in the Foreign Assistance Act which would limit the amount of military assistance funds which could be used by the President, including Vietnam?

Mr. BROOMFIELD. That is correct.

Mr. FASCELL. And if the gentleman will yield further, under the present law the President could use all of the funds he so desired in Vietnam or any other country in which there was an emergency?

Mr. BROOMFIELD. Actually, that is probably correct. I still contend that although we talk about a bare-bones request in military assistance—we should provide $200 million more in the military assistance program alone in order to do the right kind of job during the next fiscal year.

Mr. FASCELL. If the gentleman will yield further, it is because of the gentleman's belief along this line that he has offered this amendment earmarking not less than this amount of money?

Mr. BROOMFIELD. That is correct.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from New Jersey.

Mr. GALLAGHER. I feel that the amendment which has been offered by the gentleman from Michigan supports President Johnson's announced intention of carrying on the purposes of the United States in Vietnam. In view of the President's request for additional funds I believe this amendment is supportive of that goal and as such I am authorized by the committee to say that we will accept this amendment which is similar to the one which was offered earlier by the gentleman from New Jersey [Mr. FRELINGHUYSEN].

Mr. McDOWELL. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Delaware.

Mr. McDOWELL. I agree that the gentleman's broad statement of purpose is the sense of Congress and I believe it truly expresses the wishes of the Members of Congress to defend the people of South Vietnam and to put an end to Communist aggression there.

But I am a little bit confused about the gentleman's purposes as expressed a few moments ago when he stated the problem in South Vietnam was not a military problem. He stated it was something else. Now he thinks it is a military problem, and we are not spending enough money.

Mr. BROOMFIELD. I am sure the gentleman realizes there is more than a military problem involved there. There are other problems involved such as political.

Mr. McDOWELL. That is not a problem of money. It is a problem of government policy.

Mr. O'HARA of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it had not been my intention to speak on any amendments offered today. I had hoped that in loyalty to the President and in the spirit of national unity no amendment would be adopted. I am speaking now under a great handicap. I understand the committee has accepted an amendment which I think is a fatally bad amendment. It is not only silly, but it is insincere and it strikes at the very heart of what the President proposes. I am going to vote against this amendment.

I have no hope of defeating it inasmuch as the committee, I think taken off guard, has accepted it, but I hope there will be some members of the committee who may show their agreement with me and at least not permit the adoption of what I regard as a viciously bad amendment by default and without some show of opposition. There are times when a dozen or more Members voting in opposition to that which to them is unsound and unwise can render a service to their country beyond calculation.

Mr. DERWINSKI. Mr. Chairman, I rise in support of the present amendment.

Mr. Chairman, if I understand the situation the amendment offered by the gentleman from Michigan [Mr. BROOMFIELD] has been accepted by most Members on the majority side. However, in view of the comment just made by my illustrious neighbor from Illinois, I feel it necessary for me to clarify the RECORD on Mr. BROOMFIELD's behalf. It is a fact that Mr. BROOMFIELD's modesty prevents him from properly explaining to the House the key role he has played in recent developments. As a matter of fact, early in the deliberations by our committee on this foreign-aid bill the gentleman from Michigan [Mr. BROOMFIELD] in his questions directed to witnesses consistently emphasized his concern over the lack of sufficient funds for Vietnam. As a result of his persistent and courageous prodding, after one of the numerous trips which Secretary McNamara took to Vietnam he in effect accepted Mr. BROOMFIELD's suggestion. So it is a fact that it is Mr. BROOMFIELD's consistent interest in this subject that has brought about the direct request by the executive branch for additional funds for Vietnam.

Personally, I do not think the gentleman from Michigan [Mr. BROOMFIELD] should have been so diplomatic as to permit the Presidential waiver to be incorporated into his amendment, but that is his policy position, not mine. However, I do desire to emphasize to the House that it was Mr. BROOMFIELD's leadership that has produced this situation that we have this afternoon, where the committee has in effect accepted the earlier amendment by the gentleman from New Jersey [Mr. FRELINGHUYSEN] and this amendment by the gentleman from Michigan [Mr. BROOMFIELD], reassuring the American public that additional funds will be earmarked for Vietnam, that our troops will be properly equipped and properly supported, and there may be some chance of success in that country. I believe the gentleman from Michigan [Mr. BROOMFIELD] in this case is clearly a prophet without honor and deserves the recognition of the entire membership.

Mrs. KELLY. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentlewoman from New York.

Mrs. KELLY. Mr. Chairman, it is not a fact that the author of this amendment was alone in seeking adequate aid to enable Vietnam to pursue successfully its struggle for freedom. The increased authorization included in this bill came about as a result of united action on the part of the President and the Committee on Foreign Affairs. I deeply regret that the inference has been made that a single Member achieved this result. I sincerely believe all of us support the action of the President of the United States who requested these additional funds, and of the Committee on Foreign Affairs which recommended that his request be granted. Further, while we are on this subject, my natural humility will have to take the back seat for a moment: I want to point out something that is in the RECORD—namely, that I was first to propose, when Secretary McNamara was before our committee, to offer an amendment increasing our aid for Vietnam. At that time I asked him this question:

> Mr. Secretary, I, too, am perturbed about this statement that my colleague from Indiana mentioned. You are responsible for the military section of this bill, for the formulation of policy, administration, and operations; is that correct?
>
> Secretary McNAMARA. That is correct.
>
> Mrs. KELLY. If you have the time to come up with the added amount that you will need in fiscal 1965, I will be very glad to introduce the necessary amendment in the committee and we'll see where the chips will fall.

I hope the Members of the House feel that we are united in this action of backing up the President of the United States.

Mr. DERWINSKI. To again clarify my statement, I repeat that the man who courageously battled for this point until some degree of realization finally entered into the Defense Department was the gentleman from Michigan [Mr. BROOMFIELD]. The gentlewoman from New York is a most able independent and effective member of the Foreign Affairs Committee. As the result of this wonderful effort she no doubt added emphasis, we now note some success.

The question was taken; and on a division (demanded by Mr. ROONEY of New York) there were—ayes 76, noes 17.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PART III

Chapter 1—General provisions

SEC. 301. Chapter 1 of part III of the Foreign Assistance Act of 1961, as amended, which relates to general provisions, is amended as follows:

(a) In section 620(f), relating to prohibitions on furnishing assistance to Communist countries, immediately after "Union of Soviet Socialist Republics" insert the following: "(including its captive constituent republics)".

(b) Amend section 620(k) by striking out "1964" each place it appears and substituting "1965" in each such place.

(c) In section 620(m), relating to prohibitions on furnishing assistance to Cuba and certain other countries, after "during" insert "each" and also strike out "1964" and "$1,000,000" and substitute for the latter "$500,000".

AMENDMENT OFFERED BY MR. FRELINGHUYSEN

Mr. FRELINGHUYSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRELINGHUYSEN: On page 7, between lines 24 and 25, insert the following:

"(a) Amend section 601 (c), relating to the Advisory Committee on Private Enterprise, as follows:

"'(1) In paragraph (4), strike out "December 31, 1964" and substitute "June 30, 1965".

"'(2) In paragraph (5), strike out "$50,000" and substitute "$100,000 for all costs necessary to the committee's operations".'"

On page 7, line 25, strike out "(a)" and insert "(b)".

On page 8, line 4, strike out "(b)" and insert "(c)".

On page 8, line 7, strike out "(c)" and insert "(d)".

Mr. FRELINGHUYSEN. Mr. Chairman, yesterday during debate on the bill I indicated that I would offer an amendment with respect to the Advisory Committee on Private Enterprise. You will recall that an Advisory Committee was authorized when the foreign aid bill was passed last year. At the time when this bill was passed it was provided that the final report of this committee should be completed no later than December 3, 1964. However, it was not until the end of May, and I have here a release dated May 26, 1964, that the White House announced the actual formation of this Advisory Committee on Private Enterprise. It is to be under the chairmanship of Arthur K. Watson, president of the IBM World Trade Corp. In addition to Mr. Watson, there are distinguished members of this committee including—

Ernest C. Arbuckle, Menlo Park, Calif., dean of the Graduate School of Business of Stanford University.

Joseph A. Beirne, president of the Communications Workers of America, AFL-CIO, Washington, D.C.

William T. Golden, investment banker, trustee, and member of the executive committee of the System Development Corp., Santa Monica, Calif.

Henry T. Heald, New York City, president of the Ford Foundation.

Kenneth D. Naden, executive vice president of the National Council of Farmer Cooperatives, Washington, D.C.

Edith Sampson, Chicago, judge of the Circuit Court of Cook County, Ill.

Sydney Stein, Jr., Winnetka, Ill., member of the firm of investment counselors of Stein, Roe & Farnham, Chicago.

Murray A. Wilson, Salina, Kans., former president of the National Society of Professional Engineers.

My amendment is intended to give this new Committee an opportunity to come up with a meaningful report. It would postpone the deadline for the submission of such a report until June 30 of next year.

In addition, we now have a projected budget for this Committee which indicates that costs will run approximately $100,000 rather than $50,000.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I am glad to yield to the chairman of the committee.

Mr. MORGAN. As I indicated to the gentleman yesterday during general debate when he made some remarks on the bill and mentioned this situation, I look with favor on this amendment.

I remember the enactment of the legislation creating this Committee very well. It was adopted in conference. It was proposed in the other body by the distinguished Senator from New York, Mr. JAVITS.

The gentleman has said that on May 26 the President appointed the distinguished Advisory Committee which he named. It is too late for them to do their work and report by December 31, 1964.

Also, when the Committee was first appointed by the President, the $50,000 authorized in the original request of last year was deemed not sufficient.

I believe the amendment of the gentleman from New Jersey to increase the amount to $100,000 is necessary if we are to do the job. I look with favor on the amendment. I will not oppose it.

Mr. FRELINGHUYSEN. I thank the gentleman.

Mr. ADAIR. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I am glad to yield to the gentleman from Indiana.

Mr. ADAIR. I join with the gentleman from Pennsylvania in saying that this seems to be a worthwhile amendment. If the committee is to function effectively, it must have an opportunity to do so. It has not had and will not have, in the limited time available to it, that opportunity.

I believe the gentleman's amendment should be adopted.

Mr. FRELINGHUYSEN. I thank the gentleman.

We are all interested in encouraging private enterprise to find its way overseas constructively, and I hope this committee will come up with some constructive suggestions.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. FRELINGHUYSEN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TEAGUE OF TEXAS

Mr. TEAGUE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TEAGUE of Texas: on page 7, immediately after line 24, insert the following:

"(a) Section 601, which relates to the encouragement of free enterprise and private participation, is amended by adding at the end thereof the following new subsection:

"'(d) It is the sense of Congress that the Agency for International Development should continue to encourage, to the maximum extent consistent with the national interest, the utilization of engineering and professional services of United States firms (including, but not limited to, any corporation, company, partnership, or other association) or by an affiliate of such United States firms in connection with capital projects financed by funds authorized under this Act.'"

Mr. TEAGUE of Texas. Mr. Chairman, it is the present policy of AID that for engineering and construction associated with the projects financed by AID, the selection of engineers, the negotiation of contracts, and the award of construction contracts is the responsibility of the applicant or recipient country.

While it is true that because of a requirement by the Foreign Aid Act the agency must approve the selections of contractors, this is on an after-the-fact basis, puts the agency people on the defensive to prove any reason for nonapproval—and should they do so would be so unnecessarily embarrassing to the other countries or to influential contractors that it seldom happens. Furthermore, there is an agency tendency to delegate authority for such actions to the country missions, where there is a strong tendency to agree with country actions in such cases. In addition, by a procedure of financial participation, particularly in Latin America, in intermediate financing institutions, the legal requirement for U.S. approval is construed as no longer applicable.

I have been informed by many substantial representatives of the engineering profession that they know directly of instances when considerations other than ability—kickbacks, bribes, personal favors, reductions in fees—have been predominant in selection of the engineer or contractor made by the country, and I understand that the Agency has some evidence of this too.

I have also been informed by professional people that there are many instances where this U.S. financed engineering and construction work is awarded to other than U.S. firms. While the agency policy is alleged to favor U.S. firms, there is a proviso having to do with contracts under $5 million which permits, in preference equal to a U.S. firm, selection of local firms in which there is "substantial U.S. participation". In most of the developing countries in this world, it is not too difficult for a firm largely made up of other nationals who may or may not have been resident in that country for some time to qualify themselves with "substantial U.S. participation", and I have had brought to my attention sufficient evidence of this happening to convince me that it does.

Professional people have also called to my attention the fact that it seems to be very difficult for new firms to "break in" to work financed by AID throughout the world. They imply that firms currently in business in countries and areas within the AID organization seem to be perpetuated. This would tend to be substantiated by the fact that nearly half of the money in current AID-financed engineering contracts has been awarded to 10 to 15 firms—compared to nearly 1,000 registered with AID.

Many professional representatives have told me that in discussions related to their professional qualifications, the borrowing country representatives have bargained with them and other firms during the selection interviews. Several people have also commented that after they have completed negotiations with the countries concerned, their contracts when referred to the agency have been held up or changed or questioned in the approval process, frequently upsetting the terms upon which they have negotiated and agreed.

People in both the engineering profession and the construction business have told me that in the negotiations phases of contracting with these borrowing governments, they are often exposed to restrictions or requirements which, in their opinions and experience, are often not proper, not ethical, not in accordance with accepted U.S. practices, often not in the best interest of the United States—this is U.S. money.

It is my understanding that professional groups have brought these factors to the attention of the agency and have attained little if any responsive action.

Mr. Chairman, this amendment in a mild way tells the agency that there should be more and better utilization of American firms in our foreign aid program. It is my understanding that the chairman is willing to accept the amendment. If so, I shall be glad to yield back the remainder of my time.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of Texas. I am glad to yield to the gentleman from Pennsylvania.

Mr. MORGAN. On April 24, the gentleman from Texas introduced a bill, which was referred to the committee. The bill went much further than the gentleman's amendment.

Yesterday I was glad to work with the gentleman from Texas and to come up with this language. This language is acceptable to the committee, and the committee has no objection to the amendment.

Mr. TEAGUE of Texas. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. Teague].

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to ask the gentleman from Texas if the AID outfit needs any encouragement to enter into more and bigger contracts with respect to foreign aid—cost-plus-fixed-fee contracts and all other kinds of contracts? Is this what the gentleman's amendment would do? Would it encourage more contracting out instead of in-house administration of this program?

Mr. TEAGUE of Texas. I believe the amendment pretty well explains itself. It says that the Agency will encourage to the maximum extent the utilization of American firms and professional services.

Mr. GROSS. This seems to me to be encouraging the giveaway outfit to contract out its work. They have some 70,000 people on the payroll now. How much more are they going to get?

Mr. TEAGUE of Texas. If the gentleman wants to interpret it that way, that is his business. It is a dumb interpretation in my opinion.

Mr. GROSS. Mr. Chairman, I demand that the gentleman's words be taken down.

The CHAIRMAN. The Clerk will report the words objected to.

Mr. TEAGUE of Texas. Mr. Chairman, I ask unanimous consent that the words that were taken down be withdrawn from the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. Teague].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Stratton: Page 8, line 3, add a new subsection, subsection (b), to read as follows:

"(b) Amend Section 620(i) relating to prohibitions on furnishing assistance to countries which the President determines are engaging in or preparing for aggressive military efforts against certain other countries to read as follows:

"'(i) No funds authorized to be made available under this Act (except under Section 214) shall be used to furnish assistance, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, to the United Arab Republic (Egypt) unless the President determines that the United Arab Republic (Egypt) is not engaging in, preparing for, promoting, or stimulating aggressive military efforts against Israel or any other country in the eastern Mediterranean, and unless the President also determines that the furnishing of such assistance is essential to the national interest of the United States. The President shall keep the Congress fully and currently informed of any assistance furnished to the United Arab Republic (Egypt) under this Act.'"

Mr. HAYS. Mr. Chairman, I reserve a point of order against the amendment.

Mr. STRATTON. Mr. Chairman, the effect of this amendment is very simple. It is to cut off all aid, except aid to schools and hospitals, to Nasser's Egypt. The reason I offer this amendment and the reason I feel it ought to be included in the bill is that Mr. Nasser by his actions has now clearly demonstrated that the policy of his country is detrimental to the interests of the United States in the vital tinderbox of the Middle East. Just take a look at some of the things Mr. Nasser has done recently.

First of all he put pressure on the State of Libya to try to get them to take away the important Wheelus Air Force Base located there. If that base were to be taken away, the effectiveness of our Air Force in Western Europe would be seriously impaired because we have no target ranges available on the continent of Europe.

Second. Mr. Nasser has been doing everything he could to stir up war on Cyprus, a move that would have the effect of starting a war between Greece and Turkey, thereby destroying the effectiveness of the NATO alliance on the important southern flank of the Soviet Union.

Third. Mr. Nasser has been engaged in additional military adventures in Yemen, a move which is also designed to stir up the situation and impair the peace and stability of the Middle East.

Finally, the evidence is now clear that Mr. Nasser continues to spend millions of dollars every year to underwrite the activities of German scientists in Egypt whose only object is to try to develop high-powered military weapons, nuclear if possible, clearly directed against the freedom and independence of the State of Israel.

The Washington Post on May 4 indicated that as a result of these activities Egypt is emerging as an atomic power with light missiles that could kill by fallout and that could destroy Israel's small and highly concentrated centers of population.

It makes no sense for us to continue to subsidize these activities with American taxpayers' money. We have tried to express our thoughts on this matter before. Last year we included in the bill a section which my amendment would now amend which would withhold aid from any country that the President found was engaging in or preparing for aggression. But no such determination has yet been made. My amendment would simply rewrite this section to put the shoe on the other foot. The adoption of this amendment would automatically cut off all aid to Egypt, and it could not then be restored unless the President found that Egypt was not engaged in this aggressive action or in promoting war or subsidizing it or stimulating it, and if he also found that this assistance was vital to the security of the United States.

This is a mutual security bill. The elimination of aid to Mr. Nasser would help us insure the peace in the Middle East. It would contribute to the peace and security in this vital area and it would thus promote our own security.

Mr. Chairman, I urge the adoption of my amendment.

The CHAIRMAN. Does the gentleman from Ohio [Mr. Hays] desire to pursue his reservation of a point of order?

Mr. HAYS. Mr. Chairman, I withdraw my reservation of the point of order.

The CHAIRMAN. The point of order is withdrawn.

Mr. FARBSTEIN. Mr. Chairman, I rise in favor of the amendment.

Mr. Chairman, I feel that Egypt has forfeited its right to any assistance from the United States.

Despite the fact that we are feeding half of its people through Public Law 480, the United Arab Republic is diverting this benefit for the purpose of obtaining munitions to make trouble for this country and its friends and allies. By supplying the United Arab Republic with foodstuffs we are permitting them to exchange their cotton for Soviet arms; indirectly we are subsidizing the Soviet munitions industry in the flow of Russian arms through Cairo to some of the newly developing African nations.

I am informed that Nasser's regime has received many new Komar-class missile ships, SA-2 ground-to-air missiles, Mig 21 jets equipped with air-to-air missiles, as well as Tupolov 16 and

Ilyushin 28 bombers. No less than 1,000 first line operational tanks, so modern and up to date that they are being used today in the Russian Army itself in its vast military establishment have arrived in the United Arab Republic creating a dangerous imbalance, tempting Nasser to aggression against Israel. The Egyptian Navy now has 10 submarines, 9 of them of the W type. Even more dangerous is the feverish Egyptian activity to develop two types of ground-to-ground missiles in the shortest possible time.

Should we continue to subsidize Nasser's obtaining Russian arms and training Egyptian officers in Soviet military bases? Russian arms are flowing through Egypt and causing trouble in Aden and potential trouble in such African nations as Ghana, Guinea, Mali, and others. Egypt has become a transit point for Russian arms being transshipped to Cyprus to exploit the chaos there. It is my opinion that she is responsible for the difficulty we are having in Libya. As the result of her efforts we are being compelled to give up our rights to air bases in that country. How long are we going to support the United Arab Republic that is keeping 40,000 of its troops in Yemen, despite its agreement to have them withdrawn? Should we assist a known troublemaker to grow strong—a country that has violated the Convention of 1888 which would allow ships of any nation in war or peace to pass through the Suez Canal; a country that has threatened to drive Israel into the sea at a time and place of its own choosing—that is to say, when it feels strong enough to be able to do so; a country that has made evidence of its imperialistic designs throughout the Near East?

Let us not be deceived as we were with Hitler's "Mein Kampf." We must take this man at his word. I believe that he should be brought down to size; and there is no better way to do this than to deprive him of the assistance that he obtains in this country which on his own he is continually insulting.

Why should we assist him and enable him to pay for the importation of West German scientists to build weapons of terribly destructive powers; that has created an underground which has been spiriting Nazi war criminals into the United Arab Republic, Spain, and South America for two decades and, most recently brought Nazi war criminal Hans Walter Nentzwith to Cairo?

Let us once and for all remove the fangs of this serpent which will make for a peaceful Near East.

Khrushchev's recent Cairo performance offers scant hope that the Soviet Union will forego the opportunities to exploit Near East conflict in order to promote its own imperialistic interests. Our policymakers should carefully examine Nasser's intentions in the light of the Cairo communique. Is Nasser, who drops bombs in Yemen and hurls threats on Israel, a force for stability to be strengthened by the American people without concern or question? Or is he a menace whose threats must be taken at his angry word and whose expansionism must be countered by reinforcing those whom he threatens?

Critics have charged that U.S. policy in the Near East has been inhibited by fear that if we displease the Arabs they will react by adopting Moscow's line. The new Cairo communique demonstrates that Nasser has gone far to identify himself with Khrushchev's cardinal objectives. There is no doubt in my mind that Khrushchev's 16-day tour of Egypt represented a gain for international communism and a setback for the free world.

Let me remind you that U.S. economic aid to Egypt will exceed $1 billion by the end of 1964 and this is larger than Moscow's economic aid. We do not attempt to compete with Moscow's military aid. Despite our assistance the West has not won the plaudits that Khrushchev gained when he presided over the diversion of the Nile at Aswan.

Before Khrushchev left, Nasser's own statements had reassured him on his conception of Arab unity. For Nasser said:

> There is no room for feudalism or for capitalist exploitation in the national societies which the Arab masses have created. For these are the basic supports of the imperialists, and they are the enemies of the masses. Arab unity can be established only on the basis of unity and socialism.
>
> Dear friend, you are standing now among the vanguard of the Arab working people who are waging a holy war for their revolutionary aims. They know that they are fighting feudalism and capitalist exploitation.
>
> We feel that the Arab revolution does not stand on its own. We are part of the great alliance of the forces of the world revolution which are fighting imperialism and backwardness. In this revolution the movement for national liberation which is sweeping through Asia, Africa, and Latin America stands by the side of the forces of the Socialist camp which have already achieved so much.

And now Mr. Nasser, according to reports, is stagemanaging the war by Somalia against Ethiopia, the oldest Christian country in the world and one of our few friends in that area. He is assisted, of course, by his old friends, the Soviets and Communist Chinese. Here again we are to be driven out from our No. 1 tracking center at Asmara in northern Ethiopia and Haile Selassie and the government which controls the headwaters of the Nile are to be knocked out.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the pending amendment.

Mr. Chairman, I know this is an emotional issue. Everybody knows of the conduct of Mr. Nasser. But I want to say that there is something already in the Foreign Aid Act which was introduced by the gentleman from New York [Mr. FARBSTEIN] that does not name any particular country which is stronger than the amendment offered by the gentleman from New York [Mr. STRATTON].

I dislike any amendment that names the particular countries.

In my 20 years in Congress, since Israel became an independent nation in 1948, I have supported it strongly. I have many friends among American Jews in this country, and I feel they do not want an amendment of this kind. This amendment is not going to do Israel any good.

I want to read the language that is already in the law. This is section 620 that the gentleman from New York is trying to amend:

> (i) No assistance shall be provided under this or any other Act, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, to any country which the President determines is engaging in or preparing for aggressive military efforts directed against—
>
> (1) the United States,
>
> (2) any country receiving assistance under this or any other Act, or
>
> (3) any country to which sales are made under the Agricultural Trade Development and Assistance Act of 1954, until the President determines that such military efforts or preparations have ceased and he reports to the Congress that he has received assurances satisfactory to him that such military efforts or preparations will not be renewed. This restriction may not be waived pursuant to any authority contained in this Act.

So, what the gentleman from New York is trying to do is to restate what is already in the act in much stronger terms but he wants to name individual countries.

Mr. BARRY. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from New York.

Mr. BARRY. What the gentleman is saying is that because of Nasser's action in connection with Yemen, Egypt would not be eligible at the present time for aid, notwithstanding the gentleman's amendment.

Mr. MORGAN. That is correct.

Mrs. KELLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to compliment my colleague from New York [Mr. STRATTON], for introducing this amendment. I have felt for a long time we should help our friends, and not those who oppose us or work at counterpurposes with us, either in words or in deeds.

I therefore feel I must at this point thank the gentleman from Ohio [Mr. HAYS], for withdrawing his objection to this amendment.

While the chairman has stated that there is sufficient authority in the law to cope with situations to which the amendment addresses itself, I feel that we should support the amendment if for no other reason than because repetition is sometimes necessary. I am very happy to associate myself with the action of the gentleman from New York.

Mr. PUCINSKI. Mr. Chairman, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Chairman, I should like to associate myself with the remarks of the gentlewoman from New York, [Mrs. KELLY] in commending and congratulating the gentleman from New York [Mr. STRATTON], for offering this amendment.

With all due respect to the observations made by the chairman of the Committee on Foreign Affairs, the gentleman from Pennsylvania [Mr. MORGAN], I also think the time has come when we ought to precisely identify exactly what we stand for. A couple of weeks ago we participated in a program paying tribute to Israel, island of democracy in the Middle East, pointing out how important it is for Israel to survive and to continue to bring democratic principles to that part of the world. Yet today we see Mr. Nasser dedicating himself to the destruction of this country.

It would appear to me that we would serve the best interests of America better when we concretely and positively identify what we stand for. For that reason I support the pending amendment and congratulate the gentleman from New York for offering it.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to correct an observation made by the gentlewoman from New York [Mrs. KELLY] when she thanked me for withdrawing an objection. I had not made an objection to the amendment. I had reserved a point of order on the amendment on the ground I thought it was amending other legislation. On examining the act, I found that we had previously amended this legislation. Therefore, because of that previous amendment, it seemed to me that the amendment was in order and that no point of order would lie. I therefore withdrew my reservation of a point of order.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. I want to say that this is a very dangerous amendment. The situation in the Middle East is really delicate. We have no business aggravating the Israel-Arab dispute. We are attempting now to keep war from breaking out in that trouble spot. I think this is a really dangerous amendment. I think it ought to be defeated. I believe the President already has the power in the act under 620(i) to cut off aid now. I see no reason for naming specific countries in this amendment and causing trouble to be fomented in the Near East.

Mr. HAYS. I agree with the position of the chairman of the committee. I will say to you that over and over again I have publicly said that I thought the United States ought to make a declaration that we believed Israel was here to stay and if any country attacked Israel we would see that Israel had the means to protect itself. That is a far cry from writing in an amendment that completely ties the President's hands in regard to the way in which he might use Public Law 480 to ease the situation out there.

As a matter of fact, I think the gentleman from New York who offered this amendment is just about as confused in his thinking as the former Senator from Wisconsin, Senator Wiley, was, when he allegedly made the remark that he did not see why these Jews and "A-rabs"—which was the way he pronounced it—did not get together and settle this thing in a Christian manner. Obviously the situation goes a little bit deeper than that.

I think the President's hands should not be tied in his efforts to settle this. Again I say that both the chairman, Dr. MORGAN, and I yield to no one in our friendliness for Israel. I must say I do not say this because of any great number of votes that are to be gained or lost, because strangely enough I may have the only district in the United States that has more Arabs than Jews. But I still say the United States ought to take a firm position that we are not going to have anybody destroy the State of Israel, but I think the House ought to take a firm position that it is not going to tie the President's hands in seeing that that does not happen.

Mr. RYAN of New York. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, since my election to Congress I have been deeply concerned about this question. Congress has consistently approved foreign aid bills which program assistance to Egypt.

This aid continues despite the Arab boycott against American firms, despite the Arab discrimination against American citizens, and despite the fact our aid helps Egypt prepare for aggression against Israel, which is not only the only democracy in the Near East but our good friend.

Congress has recognized this problem, and throughout the years we have made progress in writing into foreign aid bills various restrictions on aid to Nasser. In 1961 several of us supported a section of the foreign aid bill which was aimed at the Arab policy of religious discrimination. Unfortunately, the Senate version, which was finally enacted, contained language on this subject which was much weaker than the House bill. However, in 1962 Congress adopted a provision very similar to the House version of 1961, which declared:

> Any attempt by foreign nations to make distinction between American citizens because of race, color, or religion—is repugnant to our principles; and in all negotiations with any foreign nation with respect to any funds appropriated under authority of this Act, these principles shall be applied.

The legislative history, which several of us contributed, shows this language was intended directly to Egypt. Nevertheless, it has not been implemented.

Last year Congress finally came to grips with the problem of Egypt's determination to destroy Israel. The Foreign Assistance Act of 1963—Public Law 88-205—specifically bars aid:

> To any country which the President determines is engaging in or preparing for aggressive military efforts directed against—any country receiving assistance under this or any other act.

This was referred to by the distinguished chairman of the committee. In the debate last year I said:

> Those who advocate a policy of aggression and take actions calculated to destroy their neighbors and disrupt the security of the world can no longer look forward to aid from the United States if the policy expressed in this bill is adopted and carried out.

The fact of the matter is that the policy was adopted but not carried out.

It is crystal clear from the debate that the aggressor nation clause was intended to apply to Egypt. It is also clear from the historical record that Egypt is preparing for aggressive military efforts. In the press and through the radio Egypt has declared repeatedly that it will wage war against Israel. In fact, it insists that it is in a state of war with Israel.

Let me offer a few examples of the continued belligerence of Nasser.

On February 22, 1964, Nasser declared:

> The possibilities of the future will be war with Israel. We are the ones who will impose the time. We are the ones who will impose the place.

On April 23, 1964, Nasser stated:

> By God, we will not rest until we redeem Palestine for the Arab nation.

In an interview with a newspaper reporter Nasser said:

> Egypt hopes to crush Israel within the present generation.

If the hostility of Egypt toward Israel were limited to words, there might be less cause to worry. But Egypt is engaged in a dangerous arms race. Supplied by the Soviet Union and aided by West German scientists, Egypt is a menace to the peace and security in the Middle East. I have spoken of this danger many times and have introduced House Concurrent Resolution 152 which calls for denuclearization of the Middle East and major power guarantees of security in that area. I will not repeat the details of the arms buildup in Egypt. However, I wish to draw the attention of the House to an article which appeared on May 21, 1964, in the Manchester Guardian Weekly entitled "Growing Threat From UAR Arms."

[From the Manchester Guardian Weekly, May 21, 1964]

GROWING THREAT FROM UNITED ARAB REPUBLIC ARMS

(By Richard Scott)

In the view of Israel officials, the United Arab Republic's conventional military power now poses a real and growing threat.

It is claimed that this power, based entirely on equipment and weapons purchased on favorable terms from Russia is far in excess of what it was 2 or 3 years ago and that in another year or 18 months it will be materially superior to that possessed by Israel. It is estimated that Egypt has been spending for defense at the rate of 15 percent of her gross national product, or about £179 million annually.

The United Arab Republic Naval Forces are impressive. They have seven Soviet Skory-class heavy destroyers and are expecting to obtain two or three more. They have 12 Soviet-built submarines.

Perhaps most dangerous are the 12 Soviet Komar motor torpedo boats equipped with missiles which can be launched some distance from the shore and which will home on to their designated target. Israel has now abandoned any attempt to match this naval force.

Equally impressive is the United Arab Republic air strength. The Egyptians are believed to have two squadrons of the Russian TU-16, with the formidable range of 3,600 miles; a number of modern Mig-21's which have not yet been sold even to some of Russia's European satellites; and several hundred

> of the older but still effective Mig-19's and IL-28's.
>
> The Egyptians, according to the Israel officials, have been using several of their TU-16's flying from bases in the Sinai Peninsula to bomb, napalm, and gas the royalist forces and civilian supporters in the Yemen. It is believed that the Egyptian pilots are normally accompanied by a Soviet copilot, much as the American pilots are assisting the South Vietnamese pilots.
>
> Two squadrons of the Mig-21's are equipped with the Russian air-to-air guided missile Atol (comparable to the U.S. Sidewinder) and a third squadron is now being formed.
>
> The only effective defense which Israel has against these low-flying TU-16's are the Hawk antiaircraft missiles which they have been able to buy in the United States. Israel also, of course, has a number of Mystere fighter interceptors.
>
> Although the Israel Army is probably still more than a match for the Egyptians, it is conceded that the Russian tanks acquired by President Nasser are superior to anything possessed by Israel and that those the Egyptians are expecting to receive will be overwhelmingly superior.
>
> Although Egyptian efforts to obtain or produce nuclear warheads have failed they have produced three different types of rocket with conventional warheads or possibly gas-filled warheads. The Israel and some American officials believe that these rockets are intended as terror weapons against the Israel civilian population.
>
> By the end of the year the Egyptians are expected to have about 1,000 ground-to-ground missiles produced in Egypt. Moscow refused to supply ground-to-ground missiles.

Mr. Chairman, I have written to the President and the Secretary of State urging that the aggressor nation clause be implemented. As with the nondiscrimination clause, the replies have been less than satisfactory and represent a timidity which, in the face of clear congressional intent, is inexcusable. Not only has the Executive and the Department of State refused to heed congressional action, but recently the United States supported a loan to the United Arab Republic, which I believe is in direct conflict with the Foreign Aid Act. According to the New York Times of May 28, 1964:

> The United States over the objections of its Western European allies has virtually forced through the International Monetary Fund a $40 million loan to the United Arab Republic that sets precedents in its liberal terms.

The Times pointed out that the usual strict standards of the Fund were relaxed, and that the loan was opposed by both our Western allies and the U.S. Treasury Department. This loan, which is to be used for imports, can be used for the purchase of military material.

Mr. Chairman, the intent of Congress must not be disregarded. Under present law the nonaggression and nondiscrimination clauses are clearly aimed at ending aid to Egypt if that country continues to threaten the peace.

The Department of State has refused to come to grips with this issue. I think this is the reason why Members of Congress are now concerned and why it is important that we make it perfectly clear that we expect the law, as it is presently written, to be invoked and enforced. Since the law has not been implemented, further steps must be taken to insure that aid is not continued as long as Egypt is preparing for aggression.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. RYAN of New York. I yield to the gentleman.

Mr. MORGAN. The amendment offered by the gentleman from New York has a definite waiver clause in it which gives the President permission to waive it. But in the law that is already written, there is no waiver clause. Therefore, I do not think this language is going to do what the gentleman says it will do.

Mr. RYAN of New York. I hope this debate, Mr. Chairman, will impress upon the Department of State the necessity for taking action and the necessity for enforcing the law as it presently exists. I agree with the chairman that the clause said, aid shall be terminated for any nation that is preparing for aggression, and I hope the chairman agrees that this provision of the law should be enforced as to Egypt.

Mr. CONTE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, it is my strong belief that this legislation has the primary purpose of keeping the free world free, strong, and able to resist the encroaching designs of communism around the world.

Our foreign assistance program, on balance, has been successful since World War II in thwarting the threat of communism on various parts of the globe and stands today as a bulwark in our efforts to secure the peace.

The foreign aid program of the United States can be compared to a two-edged sword.

On the one hand, we hold out a helping hand to the millions of people around the globe who suffer from the misery and poverty that engulfs them. This is the humanitarianism that has come to reflect the United States desire to insure a life of hope to less fortunate people wherever they exist.

On the other edge of the sword, we have the interests of the United States uppermost in mind—and these interests are directed at stopping communism and arresting the spread of its cancerous growth around the world. It is a most effective weapon in the battle to stop this growth especially in depressed countries which could easily be led into communistic control most importantly, the assistance provided by this program is necessary to maintain the security of our country and our American way of life.

From these two edges of the sword, the one humane, the other realistic, the United States can continue its leadership of the free world.

Our continued support of AID programs gives us the opportunity to strengthen the will and capacity of these newly developing countries and to advance the great alternative to communism.

As one who has consistently been in the fight to secure a better life for millions of people through a strong, resilient foreign assistance program, I feel that we have arrived at a watershed in our aid programs.

Of course, we need to have a continuing review to make certain that the inevitable bugs in the program are taken out and that we have a trim, efficient program.

But we have come to a point, Mr. Chairman, when the world looks to us as a leader in the march of the world's millions toward a new destiny.

This leadership is not due simply to our military strength or our wealth but is based rather on our ideas, our tradition of independence, and respect for individual dignity.

We have become the standard bearer of the free world's aspirations and we must continue to justify this leadership.

We can only do this by our deeds, and the present legislation before the House is in the great tradition of our country.

I urge the House of Representatives to pass this legislation, and in doing so, acknowledge our humanitarian traditions and to keep faith with our heritage.

Mr. Chairman, it is this faith and this heritage that has made this country the greatest country in the world and has given solace, strength, and sustenance to the free world in a never-ending battle against the forces that would take our freedoms away.

This said, Mr. Chairman, I would like to direct my remarks to the question of our balance of payments.

FOREIGN AID AND THE U.S. BALANCE OF PAYMENTS

Mr. Chairman, the continuing deficit in the U.S. balance of payments has been a matter of serious concern over the past few years. As recent figures have shown, the administration has successfully taken steps to improve our balance-of-payments position. Even so, it seems likely that the basic problem will be with us for some time.

Because this problem is so serious—and so complex, it is particularly disturbing when unfounded charges are made about the cause and possible solution to our balance-of-payments problems. One argument runs something like this: "Elimination of the economic aid program would wipe out our balance-of-payments deficit."

I find this argument doubly disturbing: First, because it draws attention away from more important issues involving our balance of payments, and second, because it exaggerates and distorts the impact of economic aid on the balance of payments, thus creating an unjustified argument against continuance of foreign aid.

The actual situation regarding economic aid and the balance of payments is roughly as follows: In the shortrun balance-of-payments situation, economic aid exerts a small and declining negative impact. Economic aid is not the critical element of our current balance-of-payments difficulties. In the long run, economic aid will be an important tool in finding and expanding markets in the developing countries for U.S. goods. Thus, our economic aid program may well be critical to the longrun solution of our balance-of-payments problem.

CURRENT IMPACT

Dollar outflows resulting from economic aid comprise the smallest of the major elements in our current balance-of-payments deficit. In 1963, for example, U.S. private investment abroad created a balance-of-payments debit of $4.1 billion; net military expenditures overseas created a debit of $1.9 billion. Oversea expenditures by U.S. tourists amounted to $2.1 billion. Economic aid—including Public Law 480, Eximbank, AID, and other aid activities—created a dollar outflow of $0.9 billion.

AID expenditures contributing to the balance of payments have declined in recent years. Estimates show that they will continue to drop. In 1961, AID offshore expenditures for commodities and services totaled $1,065 million. In fiscal year 1965, AID estimates that its offshore expenditures for commodities and services will be reduced to $500 million, a reduction of more than 50 percent.

The decline in AID offshore expenditure results from a number of changes made in AID procurement regulations during the last 2 years. These changes have progressively increased the share of AID procurement confined to the United States.

Insofar as economic assistance funds are expended for U.S. procurement, they exert a new impact of zero on our balance-of-payments position. In effect, they do not involve the balance-of-payments problem.

In 1965 about 83 percent of AID funds will be committed for the export of American goods and services. Of the remaining 17 percent which affect our balance of payments, most will be spent in the less-developed nations of the world, not in Europe.

Even dollars spent in the less-developed countries are not entirely lost. The Brookings Institution estimates that about 40 percent of the free foreign exchange available to less-developed countries is ultimately spent in the United States. In Latin America where AID has increased most rapidly in recent years, this ratio was 55 percent.

Tight procurement policies are increasing AID-financed U.S. exports of commodities and services. AID-financed exports are estimated at a level of $1.6 billion for fiscal year 1964, more than twice the fiscal 1961 level. Thus, AID is boosting the U.S. merchandise trade surplus in the balance of payments. In the export of certain commodities, AID plays a particularly important role. For example, more than 25 percent of American iron and steel exports are financed by AID. Almost one-quarter of exports of railroad equipment are AID-financed.

LONGRUN IMPACT

Economic aid will exert a positive influence in the longrun U.S. balance-of-payments position. This positive influence is built in two ways: First, by assisting developing countries to achieve economic growth, our aid will substantially expand the market for U.S. goods; second, by financing the export of American goods to largely untapped markets in developing countries, aid is building trade ties and increasing familiarity with U.S. products which can be important in generating future normal commercial trade.

Mr. Chairman, it is a demonstrable fact that developed, prosperous nations buy more U.S. goods than poor nations. The less-developed countries of the world are presently engaged in a struggle to achieve economic growth. It is the goal of our economic assistance program to help them achieve such growth on a self-sustaining basis and thus to help them remain independent and free. As the less-developed countries achieve substantial economic growth they will be in a position to buy more U.S. products than they can afford at present. At the very least, they will provide a much larger potential market for U.S. exports.

This can be seen by examining our trade with Europe and Japan, which has dramatically increased since the early 1950's. U.S. exports to the Marshall plan countries more than doubled from 1953 to 1962. Exports to Japan more than tripled from 1953 to 1962. During this period our sales to the less developed countries increased by only about 15 percent. It is significant that 15 developed countries received two-thirds of U.S. exports, and 90 less developed countries received the remaining one-third.

It is obvious that even with our economic aid the less developed countries will not achieve economic growth as quickly as did Europe and Japan, but it is highly probable that within the next 20 years a significant number of underdeveloped countries will achieve substantial growth and that they will provide substantial markets for U.S. exports.

Mr. Chairman, AID-financed U.S. exports are extending American trade ties with the developing countries and are increasing the familiarity and acceptability of American products in the markets of the underdeveloped world. Over a period of time, this should prove a useful tool in developing channels of normal commercial trade.

Many of the developing countries of the world were, for a long time, the private trade preserves of European metropoles. It is a difficult task to cut into these long-established trading patterns. In many cases, the provision of U.S. aid tied to export of American goods may be our most effective tool in breaking these barriers. Even a small entry now to the markets in developing countries may prove important in the future as these markets expand to include new kinds of products and commodities.

It is sometimes charged that foreign aid, even tied to U.S. procurement, merely makes goods and services available that developing countries might otherwise buy from us with their own funds; that our aid substitutes for trade. Evidence demonstrates, on the contrary, that commercial imports from the United States have flourished and that the U.S. share of the local market has improved in developing countries assisted by our economic aid programs, except in those countries which have suffered abnormal drops in their foreign exchange earnings because of decrease in world prices of commodities—such as certain one-crop countries of Latin America.

A recent study of 32 countries receiving about 80 percent of all AID and Public Law 480 assistance between 1957 and 1962 shows that total imports from the United States rose about 4 times as fast as total economic aid. In addition, the U.S. share of total imports in these countries increased a small but appreciable amount over the period.

Clearly the goal of economic aid is and should be sound economic growth of free and independent societies. But the future byproduct of increased U.S. trade is also an important result of our aid effort. By stimulating trade, U.S. economic aid will contribute toward the longrun improvement of our balance-of-payments position.

Mr. LONG of Maryland. Mr. Chairman, I rise in support of the amendment.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I am glad to yield to the gentleman.

Mr. STRATTON. Mr. Chairman, I thank the gentleman for his fine support. If he will yield further I would like to try to respond to the point made by the chairman of the committee who charges that this amendment would tie the hands of the President. This, of course, is incorrect. The chairman, himself, just a moment ago made it perfectly clear that this is not the case by pointing out there is a provision in my amendment that if the President finds Mr. Nasser is not trying to destroy our position at the Wheelus Air Force Base in Libya, and if he is not trying to stir up war in Yemen and Cyprus, and if he is not trying to build up aggression against Israel, and if moreover, this aid to Nasser would help our national defense, then the President has the right to restore such aid. This would not tie the hands of the President at all. But, as the gentleman from New York [Mr. RYAN] mentioned a moment ago, the existing provision of law has never been invoked. There has just not been any finding so far that what Mr. Nasser is doing is directed toward aggression. Yet, as the gentleman from New York [Mr. RYAN] indicated a moment ago, since this section was adopted a year ago Nasser has been putting the heat on Libya to destroy our position at the Wheelus Air Force Base, and without that base our airpower in NATO and in Western Europe will be seriously impaired. Since this amendment was added, Nasser has moved into Yemen and he has tried to foment war between Greece and Turkey. Fortunately, action by the United Nations prevented that little operation. And since that amendment was passed last year information has been made public about the extent of his nuclear activities with German scientists. And yet even then, in the face of all that evidence, the provisions of that amendment were not invoked, so obviously it does not fill the bill, it does not meet our need. My amendment, which is a substitute to the one adopted last year, would meet this need and, certainly, would not tie the President's hands in any sense. I thank the distinguished gentleman from Maryland [Mr. LONG] for his courtesy.

I appreciate the gentleman's yielding to me.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I am glad to yield to the gentleman from Ohio.

Mr. HAYS. I should merely like to make a comment about the speech of the gentleman from New York [Mr. Ryan].

If Members of the House were paying any attention the first time he spoke today, they know he advocated a surrender in Vietnam to the Communists. In principle, that is exactly what he advocated—that we cease the war out there and get the two sides together and have a situation like we now have in Laos.

Now the gentleman comes back—although I hate to think the Jewish vote in New York would have anything to do with this, and I would be the last to imply it—and gets quite belligerent about Mr. Nasser.

We are familiar with what has happened in Vietnam. I believe this is getting ridiculous. We ought to go ahead and pass this bill.

Mr. RYAN of New York. Mr. Chairman, the gentleman from Ohio [Mr. Hays] either did not listen to my remarks on South Vietnam earlier in the debate, or he is deliberately distorting my position. I made it perfectly clear that the freedom of the people of South Vietnam must be preserved. This may be achieved through a political settlement. It will not be accomplished by continuing a losing war. President Kennedy wisely observed, "Let us never negotiate out of fear. But let us never fear to negotiate."

I am surprised that the gentleman would resort to such an irresponsible statement.

Mr. LONG of Maryland. Mr. Chairman, I yield back the remainder of my time.

Mr. PUCINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am concerned that there should be any suggestion made here that those of us who support the Stratton amendment would be motivated, above all, by political consideration. It is an injustice to Israel to suggest any such motive. Recently, I asked a question in my annual questionnaire to my constituents whether or not the United States should discontinue further economic assistance to Nasser until he opens the Suez Canal to all nations, including Israel. Mr. Chairman, 87 percent of my constituents said, "Yes," we should discontinue any further assistance to Nasser until he opens the canal. My action here today in supporting this amendment is in effect carrying out the wishes of my constituents and I am proud to have this opportunity to express their views here today. It is cruel to suggest any other motive.

I was surprised by the statement of the distinguished chairman of the committee, when he tried to suggest that if we should adopt this amendment, we would precipitate some sort of situation in the Middle East which could lead to armed conflict. The fact of the matter is that we have just adopted another amendment allocating some $200 million in military assistance to help Vietnam because we are standing up for a principle in Vietnam. While we are not interested in escalating hostilities in Vietnam, we have made it quite clear, on both sides of the aisle, that we are ready to defend the principle of freedom in Vietnam—a principle of human dignity and survival. I suppose there will be those who would say that our aid to beleagured Vietnam could also lead to hostilities but we are willing to take that chance in support of freedom.

The time has also come for us to do this in the case of Israel. A lot of speeches have been made to the fact that Israel is a great cornerstone of democracy, and we must do everything we can to help that nation. Yet, only a few days ago Mr. Khrushchev told us how he had negotiated an agreement with Nasser which could seriously endanger Israel. The world has failed to react against the danger.

The time has come, as reasonable people, when we should assert the same principle toward Israel as we have asserted toward other countries dedicated to the principles of freedom and democracy.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the chairman of the committee.

Mr. MORGAN. Again, as the chairman said, this is an emotional issue. If the gentleman will take time to read what is already in the act, he will find that the existing provision is stronger than the Stratton amendment and better than the Stratton amendment, and will accomplish what the gentleman says he wants to do.

Mr. PUCINSKI. I should like to remind the distinguished chairman that I participated in the debate last year in regard to that language. That language has been on the books, and Mr. Nasser has ignored it.

He has ignored every single standard of civilized behavior in his treatment of Israel. He has not made one single act nor has he said anything in any manner or form to indicate that he has anything in mind other than the ultimate destruction of Israel, despite the fact that this language is in the bill. The language referred to by the gentleman from Pennsylvania has not deterred Nasser in his determination to destroy Israel.

Therefore, I believe the stronger language being proposed today certainly will serve notice upon Nasser and the Egyptians as well as the Soviet Union as to where this country stands in respect to Israel, that bastion of democracy.

Mr. MORGAN. I should like to read one line to the gentleman:

> Until the President determines such military efforts or preparations have ceased.

If the gentleman has no confidence in the amendment of last year, he has no confidence in his President.

Mr. PUCINSKI. I have the highest confidence in my President. The gentleman has a way of putting words in the mouths of other people.

There is nothing in this amendment offered by the gentleman from New York [Mr. Stratton] which does not place the highest confidence in the judgment of the President. It will give him additional strength to deal more effectively with this problem and I hope the amendment will be adopted.

Mr. FRIEDEL. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Maryland.

Mr. FRIEDEL. I concur in the views expressed in the statement by the gentleman from New York, Congressman Stratton, and I support his amendment.

Mr. ROSENTHAL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I take this time merely to ask the distinguished chairman of the committee, the gentleman from Pennsylvania, a question or two.

At the beginning of the debate I was somewhat confused, but the more some of the gentlemen here have spoken, I have become more confused. The committee acçepted this amendment last year which was proposed by the gentleman from New York [Mr. Farbstein]. Is that correct?

Mr. MORGAN. That is correct.

Mr. ROSENTHAL. And during the intervening time since the acceptance of the amendment and the enactment of the law with reference to this section, has the committee inquired from the State Department or any executive department as to whether they have taken any action at all under this amendment?

Mr. MORGAN. The committee keeps in touch with the situation in the Near East and we review the amount of aid going to Israel and the Arab countries. There has been a slowing up of aid to the United Arab Republic.

Mr. ROSENTHAL. I might suggest to the gentleman that I think the major thrust of the amendment last year was to prevent aid going to any country that is engaging in or preparing for any aggressive military efforts and it directs that aid should be withdrawn from such countries.

Mr. MORGAN. That is correct. And the reason why I oppose the Stratton amendment, is because it specifically names Israel and the United Arab Republic.

Mr. ROSENTHAL. I think that is the less important part of the amendment. If I might, let me ask, has the Committee on Foreign Affairs inquired since this became law as to whether any country receiving aid did "prepare for aggressive military effort"? Did you inquire as to the effect of this section on the operation of our aid program?

Mr. MORGAN. We have no cases reported that were in violation of this section.

Mr. ROSENTHAL. Have you had under inquiry the situation in the Middle East and the statements or the conduct of any of the leaders of any of the nations there?

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. Yes. I am glad to yield.

Mr. HAYS. We have under constant review the situation throughout the world. We have the Secretary of State periodically appearing before the committee and the Assistant Secretaries. The Middle East is frequently talked about and asked about in the committee. The language of the law as it now stands makes it automatic that they shall report to us.

Mr. ROSENTHAL. Have they ever reported to you that any nation in any part of the world has committed aggressive military actions that would preclude them from receiving aid under this amendment?

Mr. HAYS. Not within the past year, no. I would say to the gentleman, if you want to take the political speeches that these Arab leaders make as evidence that they are preparing for war, then I think we could say the late visitor to the White House came here saying that he was preparing for war. Because he makes these speeches, which I think have to be regarded with a grain of salt, it does not make it their intention. He could not very well say anything else. But I do not think any reasonable person either in the State Department or in the Committee on Foreign Affairs thinks that Jordan is about to go to war with Israel.

Mr. ROSENTHAL. Taking some of the other speeches, is it the position of the distinguished gentleman from Ohio if a leader of a state says he is preparing for war, that you do not think he is preparing for war?

Mr. HAYS. No, I do not take that position at all, but I do not think because he necessarily says that he is going to drive somebody into the sea that he is going to do it. They were saying that a lot more vehemently 10 years ago than they are now.

Mr. ROSENTHAL. In other words, you discredit those statements?

Mr. HAYS. No. I think they are made for popular home consumption the same way as a great deal of stuff put in the RECORD here is for home consumption.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman.

Mr. MORGAN. I want to say those opposed to the Stratton amendment feel it puts the burden of showing that the United Arab Republic is an aggressor directly on the President of the United States.

Mr. ROSENTHAL. But it would appear to me no one has pursued the objectives of the amendment that the distinguished gentleman voluntarily accepted last year. Apparently even the committee has not pursued what seems to me a thorough investigation of whether the amendment was followed through on or not.

Mr. FARBSTEIN. Mr. Chairman, will the gentleman yield to me?

Mr. ROSENTHAL. I yield to the gentleman.

Mr. FARBSTEIN. Unfortunately, in my opinion, the amendment of last year has in effect been disregarded.

Mr. ROSENTHAL. That is precisely what I was trying to find out from someone who might know.

Mr. FARBSTEIN. Let me add further it has been admitted that there are presently 40,000 of Egypt's troops in Yemen.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROOSEVELT. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I should like to associate myself with the remarks of the gentleman from New York [Mr. ROSENTHAL]; and also to say that the gentleman from New York [Mr. FARBSTEIN], has put his finger exactly on it. In other words, what we wrote into the act last year has been completely disregarded. I would say to the gentleman from Ohio [Mr. HAYS] if he says that this is for home consumption, that he is absolutely right. I happen to represent the people of my district who have a tremendous interest in this matter. I do not see anything wrong with that in any manner whatsoever.

Also I would simply add that it seems to me that this puts the head of the United Arab Republic, Mr. Nasser, on notice beyond any question, that we mean what we say, which is that we will not in any way participate with anybody who has any aggressive intentions in the Middle East.

I intend to support the amendment of the gentleman from New York.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. ROOSEVELT. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, the gentleman from Ohio said a moment ago that he did not believe speeches represented aggression. The four specific things that I referred to in offering my amendment were clearly not speeches. These were documented actions in Cyprus, in Yemen, in Libya, and in the employment of German scientists. These are not speeches; these are concrete actions.

As the gentleman from New York [Mr. FARBSTEIN] has already pointed out, the amendment adopted a year ago to try to stop this kind of thing apparently has not proved effective. That is why we need to turn it around the other way, put it on the other foot, as I have proposed, and then perhaps it will be effective.

Mr. LINDSAY. Mr. Chairman, will the gentleman yield?

Mr. ROOSEVELT. I yield to the gentleman from New York.

Mr. LINDSAY. Mr. Chairman, I thank the gentleman for yielding.

The distinguished chairman of the Committee on Foreign Affairs, the gentleman from Pennsylvania, stated that the amendment of last year, the Farbstein amendment, is a stronger amendment than the one now proposed. It seems to be generally agreed that it has been ignored by the executive branch of the Government. The question here is, if the pending amendment is adopted, what does the majority of the Committee on Foreign Affairs intend to do about it in order to insure that the State Department carries out the will of Congress?

Mr. ROOSEVELT. Mr. Chairman, I agree with the gentleman. I do not know what we can do except to keep after it with everything we have. I agree that the amendment of last year is stronger than this amendment. But that seems to be no reason why we should not adopt this amendment.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ROOSEVELT. I yield to the gentleman.

Mr. HAYS. Since my name has been mentioned both by the gentleman from California and the gentleman from New York [Mr. STRATTON], I would like in my own defense to point out that we have now reached the height of ridiculousness. We have heard from the Democratic candidate for the Senate from New York and the Republican candidate for Governor. But I would like to say that the gentleman from New York [Mr. STRATTON], is now pleading the United States guilty of aggression because he says that anybody who employs German scientists is automatically guilty of aggression. Of course, I assume that he knows that Dr. Wernher von Braun is the man who has made our missiles program possible and if we take his statements literally, he has put himself in the position of saying what the Communists have been saying about us all along, that we are aggressors because we build missiles and use German scientists to help do it.

Mr. ROOSEVELT. Mr. Chairman, I refuse to yield any further. The gentleman from Ohio is being ridiculous himself, and I think we can well point out. We have never made the kind of statements Mr. Nasser has made and everybody in this House knows it. There is no parallel whatsoever. On the other hand, everybody in this House realizes that arms have been delivered to Egypt by the Russians to stir up trouble. It seems to me this amendment would go a long way at least to put this House on record that we will not support such action.

Mr. MORGAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. BARRY] for 1 minute.

Mr. BARRY. Mr. Chairman, I want to point out that in the hearings, on page 249 thereof, at the time Mr. Talbot and Mr. Macomber appeared before our committee I asked them if we were still making loans to Egypt and the answer was as follows:

> Egypt has received development loans and it is receiving development grants.

Then I asked the following question:

> In each instance when we make these loans, are we using our leverage to attempt to bring about as peaceful a solution as possible to the Israel situation?
>
> Mr. TALBOT. I would answer that affirmatively. Mr. Chairman, we are discussing with the United Arab Republic on a continuing basis the whole range of our interests in the Near East and in wider areas of the world. This discussion has been fuller in the past couple of years than at any pre-

vious time of which I am aware in the past decade.

We think that the discussion has had a series of helpful effects.

Then, Mr. Chairman, I asked the following question:

The broadcasting has ceased, has it not?

This referred to the Egyptian anti-Israel broadcasts that were being pursued a year ago.

Mr. Talbot answered as follows:

The broadcasting of comment about other Arab countries has ceased; yes, sir.

The CHAIRMAN. The time of the gentleman from New York has expired.

The Chair recognizes the gentleman from New York [Mr. Lindsay] for 1 minute.

Mr. LINDSAY. Mr. Chairman, I am going to support this amendment even if it fails. It is useful to make some legislative history on this point. It is past time our Government shut down the doors on Mr. Nasser's aggressive, anti-Israel aggressions.

Mr. Chairman, it may be that the chairman of the Committee on Foreign Affairs is correct, that last year's resolution to cut off all forms of assistance to aggressors is stronger than the one now under discussion. But what good does that do us. Nasser has, if anything, increased his aggressions in the Middle East since last year's resolution was passed. It seems to me it is time that the Congress and particularly the Committee on Foreign Affairs insisted upon positive action on the part of the executive branch of the Government in this regard. The resolution should be implemented. What is the State Department afraid of?

Mr. Chairman, it does little good for the House of Representatives and the other body to pass amendments and resolutions of this kind in order to have them ignored by the executive branch of the Government.

Mr. Chairman, I would hope that in the months to come the Committee on Foreign Affairs will insist that the will of the Congress and its Members be respected and that this double game in the Middle East be ended. Israel is the most powerful friend and defense the United States has in this sensitive and explosive part of the world, and it is high time we gave that fact full recognition.

The CHAIRMAN. The time of the gentleman from New York has expired.

The Chair recognizes the gentleman from New York [Mr. Farbstein] for 1 minute.

Mr. FARBSTEIN. Mr. Chairman, I regret that this debate had to take the turn that it has, but it seems to me it is high time that my amendment of last year be implemented.

Mr. Chairman, I can state numerous other instances of violations of that law by the United Arab Republic. Ethiopia, the only Christian country in that area, is now being endangered as a result of the machinations of Mr. Nasser. The $40 million that was loaned by the International Monetary Fund last week was due to the fact that Nasser has used up all of his cash in buying weapons with which to destroy Israel, and wherever else he desires to move.

Mr. Chairman, the entire thrust of this amendment is to put the State Department on notice that it should be implemented. It will be only upon the implementation of that amendment in some degree that Mr. Nasser will know that we are serious about this business and that we refuse to bend our knee to him.

The CHAIRMAN. The time of the gentleman from New York has expired.

The Chair recognizes the gentleman from Illinois [Mr. O'Hara] for 1 minute.

Mr. O'HARA of Illinois. Mr. Chairman, I enlisted in Israel's war for the duration and I can assure my colleague, the gentleman from New York [Mr. Farbstein], that he and I have always stood shoulder to shoulder in our committee for Israel and, Mr. Chairman, I am not now deserting the war.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. Pucinski] for 1 minute.

Mr. PUCINSKI. Mr. Chairman, I would hope that the statement made here earlier today, that we need not treat Mr. Nasser's threats seriously because they are only made for home consumption, will not capture the imagination of this House.

Mr. Chairman, I do not believe that the State of Israel has ever been in greater danger than it is today, because Mr. Nasser means every word of what he says. He has backed up what he has said with action.

Finally, Mr. Chairman, today he has in his pocket an agreement from Mr. Khrushchev who is carrying on in the Soviet Union a most brutal pogrom against the Jewish people, right now in 1964, that the world has ever seen. So, let there be no mistake, Mr. Nasser is more arrogant now in his determination to destroy Israel than ever before.

Mr. Chairman, I believe the State of Israel is in greater danger today than ever before. It would be my hope that this House will have the courage to adopt this amendment so we can serve notice on Mr. Nasser and on Mr. Khrushchev where we in this House stand on this issue and that we are determined to see Israel survive as a free nation.

I urge adoption of the amendment.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Does the gentleman from Pennsylvania [Mr. Morgan] desire to be recognized?

Mr. MORGAN. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania for 1 minute.

Mr. MORGAN. Mr. Chairman, I want to say again that if we adopt the Stratton amendment we put the burden of proof that the United Arab Republic is the aggressor directly upon the President of the United States.

It is a bad situation to put your own President in. The U.N. has not been able to find that any nation in the Near East is an aggressor. But under the Stratton amendment you are going to require the President to make a determination on this matter. I do not think the great country of Israel would desire an amendment of this kind.

Mr. HAYS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hays moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. HAYS. Mr. Chairman, I realize that in opposing this amendment you might be in an unpopular situation if you have Jewish constituents. I realize if you have a great number of them you might be in a further unpopular situation.

I have gone along with my friend, the gentleman from New York [Mr. Farbstein], on numerous occasions in connection with amendments to protect and benefit Israel. It is time to point out that I am chairman of the subcommittee which has jurisdiction over the foreign policy and the personnel of the State Department, yet not one time up to this minute have any of these people who have been bleeding publicly, asked that subcommittee to hold hearings to investigate or to question anybody in order to determine whether or not the State Department has carried out the law, or to determine the adequacy with which it is being carried out.

All they would have to do would be to say that the law is not being effectively carried out, and ask us to hold a hearing. We will hold one this week. That is the way to get at that situation. You are not going about it in a proper way by making speeches on the floor of this House. As far as not believing what Mr. Nasser is doing, I have said, and I say again, if he makes an overt move on Israel we should make it emphatically clear that through the forces of the United States we are not going to stand for the destruction of Israel.

I am delighted to observe, too, that the gentleman from New York [Mr. Farbstein] and the gentleman from California [Mr. Roosevelt] have gotten together since last week when the gentleman's son-in-law was running against the gentleman from New York [Mr. Farbstein] and denied that he was an Arab; that he was an Episcopalian, and suddenly became a Jew. I am speaking of Mr. Haddad. You may say there are no politics involved in this situation if you want to, but it seems to me I read in the news media about the gentleman from California going to New York 2 years ago to be for the gentleman from New York [Mr. Farbstein] and this year to be against him. Now they are on the same side and, thank God, Israel has two strong defenders here. I will be interested in seeing how anxious they are in getting that investigation to see whether the State Department is doing its duty.

Mr. MORGAN. Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, again I want to say that this is a very emotional situation. I had hoped that the amendment could be disposed of without any display of temper.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I was hoping to be recognized in opposition to the preferential motion. If an additional 5 minutes is going to be taken on one side, we on the other side deserve to be heard. I wonder if the distinguished chairman of the committee wants to associate himself with the personal attacks that have been made by the gentleman from Ohio? It is perfectly clear when you do not have an argument you resort to personalities. We have heard a personal attack on the gentleman from New York [Mr. Ryan], we have heard a personal attack on the gentleman from New York [Mr. Farbstein], we have heard a personal attack on the gentleman from California [Mr. Roosevelt]. I think the Chairman of the Committee certainly should either allow these gentlemen to be heard in opposition to the remarks of the gentleman from Ohio or else we ought to have a repudiation of this kind of attack.

The issues are very clear. Do we want to do something about the policy the House adopted last year, or do we just want to go through the motions and do nothing?

Mr. MORGAN. This amendment has been under debate for over 50 minutes. The gentleman from New York has had his time. I do not believe there were any personal attacks on the gentleman from New York [Mr. Farbstein] by the gentleman from Ohio [Mr. Hays]. I am sure the gentleman from Ohio [Mr. Hays] has a personal affection for the gentleman from New York [Mr. Farbstein]. They work closely together on the Committee on Foreign Affairs. I am sure it was not a personal attack.

Mr. HAYS. If the gentleman will yield, of course I made no personal attack on the gentleman from New York. I consider him one of my closest friends. I merely stated a fact. There was nothing personal in it at all. Nor is there any thing personal when I say that Mr. Stratton has a right to use this amendment as a vehicle for his senatorial campaign.

Mr. MORGAN. The gentleman from Pennsylvania would like to get back to the Stratton amendment.

Mr. BARRY. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from New York.

Mr. BARRY. Despite the emotionalism that has been expressed, if one wants to examine the record by referring to the classified information, which is available to any Congressman at either of the leadership desks, he will find, and what I am now going to say is not classified, that the loans to Egypt have been materially cut this year and the program for next year provides a flexible but reduced scale which could be used as a restraining influence by the administration in future negotiations.

So if you want to know what the administration has been doing, I suggest we examine the facts first before we weaken the strong stand we took last year. Indeed by adopting the amendment at hand there is the possibility of doing more harm than good, although I join in the intention of the sponsors of the amendment.

Mr. MORGAN. The amendment put in by the gentleman from New York [Mr. Farbstein] last year is much stronger than the Stratton amendment. I oppose the proposed amendment because I have a sincere interest in Israel and a sincere interest in my own country. The Stratton amendment is very dangerous, in my opinion. It would upset a very delicate situation in the Near East. It would apply also to Public Law 480 commodities. It puts the burden of proof as to who is the aggressor, directly on the President of the United States. This is a very bad situation. I think we should take a second look at this. Many of us have great love and devotion for Israel and nobody here, including anybody of the Jewish religion, has any greater love and affection for Israel than I. I want to protect Israel and see that its position in the Near East is strong. But what we have in the law is stronger than the Stratton amendment. I say that the President of the United States already has the power and we should stay with the President and not embarrass him, we should not put him in a situation where we are going to be involved in the Israel-Arab dispute for any reason.

The CHAIRMAN. All time has expired.

The question is on the preferential motion offered by the gentleman from Ohio [Mr. Hays].

The question was taken; and on a division (demanded by Mr. Jones of Missouri) there were—ayes 32, noes 92.

So the motion was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. Stratton].

The question was taken; and on a division (demanded by Mr. Stratton), there were—ayes 32, noes 83.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. JONES OF MISSOURI

Mr. JONES of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jones of Missouri: Page 8, immediately after line 10, insert the following:

"(d) At the end of section 620, add the following new subsection:

"'(n) No assistance under this Act shall be furnished to any country which the President determines is discriminating against the importation of any United States agricultural product.'"

Mr. JONES of Missouri. Mr. Chairman, this is a very simple amendment. It says that no assistance shall be furnished to any country which the President determines is discriminating against the importation of any U.S. agricultural product. I think that is very simple. I had intended to offer an amendment which was much stronger than this because, frankly, I think the United States is not justified in giving any financial aid to any country which spends U.S. dollars to buy agricultural products from any other country which agricultural products the United States has in surplus. Now I do not go that strong. I am only saying here that no assistance shall be furnished to any country which the President determines is discriminating against the importation of any U.S. agricultural product.

I can cite you a specific instance to indicate the type of operation that I would hope to prevent. Specifically, in Chile. Chile was a customer for U.S. cotton. We were selling cotton there on an equal basis with all other countries. Lately, a tariff has been imposed against U.S. cotton whereas cotton from other countries is permitted to be sold there without any tariff being imposed against their cotton.

Therefore, the U.S. cotton cannot be sold. That is one instance. There are probably many others. I believe Members understand what I am driving at.

I wish to see if you are interested now in permitting discrimination against U.S. products. I ask for support of the amendment.

Mr. MORGAN. Mr. Chairman, I move to strike the last word.

I should like to ask the gentleman from Missouri some questions, before I make up my mind, as to how I should vote on the amendment. Could the gentleman indicate any specific agricultural product or any specific country as to which discrimination has already occurred.

Mr. JONES of Missouri. I just got through spelling out the Chile situation.

Mr. MORGAN. What particular product was that?

Mr. JONES of Missouri. Cotton.

Mr. MORGAN. How was it discriminated against?

Mr. JONES of Missouri. It was discriminated against because they placed a tariff on American cotton and permitted Peruvian and Mexican cotton to enter without a tariff.

Mr. MORGAN. Of course, I feel that the gentleman's amendment relates to Public Law 480 and to matters which concern the Committee on Agriculture more than the Foreign Affairs Committee. I know the gentleman is a member of the Committee on Agriculture, and I know that hearings will be held on Pubic Law 480, because that act will expire December 31 of this year. The gentleman's committee will be holding hearings. I feel that the restriction does not belong on the foreign aid bill.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield for a brief comment?

Mr. MORGAN. I yield to the gentleman from Missouri.

Mr. JONES of Missouri. The only way we are going to stop this is to cut off the money. That is the only language the Department of State understands—cutting off the money.

Mr. MORGAN. I fear that we should not get into every tariff situation of every industry or commodity in every country to which we are going to give assistance.

Mr. JONES of Missouri. All I am asking is that there not be discrimination against the United States. You are either for discrimination or you are against discrimination. The vote is that simple.

Mr. DENT. Mr. Chairman, will the gentleman yield to me?

Mr. MORGAN. I yield to the gentleman from Pennsylvania.

Mr. DENT. I note that the amendment reads:

> No assistance under this Act shall be furnished to any country which the President determines is discriminating against the importation of any United States agricultural product.

The gentleman from Missouri said that we either believe in discrimination or are against discrimination.

I would suggest, sir, that you not discriminate against the industrial products which are being discriminated against by many of the nations which receive aid. Therefore, the very premise of your argument loses weight, in that you yourself would discriminate against those of us who have industrial products which are being discriminated against by nearly all nations.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. DENT. I would be happy to yield, but it is not my time.

Mr. JONES of Missouri. I would be happy to support an amendment to that effect. This was called to my attention. I do not know about discrimination in regard to other products. However, I would be glad to support that amendment.

Mr. MORGAN. Mr. Chairman, if anybody who has a letter from a constituent who cannot sell cotton to a particular country, or cannot sell coal to Western Germany, or cannot sell hats to Poland or some place else, should come up with an amendment to the foreign aid bill, we would be here until doomsday.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Missouri.

Mr. JONES of Missouri. We would say, "If the President determines that there is discrimination."

I am not going to determine it. The President of the United States will determine it. Is the gentleman willing to trust the President of the United States?

Mr. MORGAN. Certainly I trust the President of the United States.

I have a letter from the State Department on the case in point, in Chile. I cannot understand how the situation in Chile could justify an amendment with such serious implications as the amendment offered by the gentleman from Missouri.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I am glad to yield to the gentleman from New Jersey.

Mr. GALLAGHER. The fact of the matter is that while this is aimed at one particular case, it would have a very complex reaction with respect to the entire broad scope of tariff reciprocity.

The gentleman may be willing to listen to a letter from the State Department, which says that except in 1959 the United States has not been a major exporter of cotton to Chile. In addition, the gentleman may be interested to know that there is presently under consideration a proposal for the sale of U.S. cotton under Public Law 480, which is really the only way we can sell cotton to Chile under present conditions, because of the competition factor and the cost ratio factors as it affects our cotton sales and shipping it there, when the Peruvian cotton is close by.

One of the elements in these discussions includes a clause that calls for Chile to purchase from the United States, in addition to Public Law 480 cotton, some cotton from its own resources with dollars. So I think this amendment should not be adopted in view of the negotiations that are presently taking place.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BOW. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this seems an appropriate time for an illustration of how this foreign aid program and related programs work against the interests of American industry and American workingmen.

The case history I will relate illustrates that there is little if any coordination between the foreign aid program, the Public Law 480 program, the defense stockpile program, the so-called Appalachia poverty program, and our own national security.

I relate it now because the Agriculture Department has awarded contracts to two American firms to process into ferrochrome some 15,000 tons of Turkish chrome ore acquired under the barter and stockpile program. This new supply of chromium ferroalloy is not needed in the stockpile, but it was purchased from Turkey because that nation's chrome industry has suffered severely from Russian competition, including large purchases of Russian ore by the same American producer who has now won the lion's share of the contract to process the surplus Turkish ore.

I am acquainted with this transaction because Ohio has the largest concentration of ferroalloy plants in the Nation, and they are distressed. In addition, I might add, several of these plants are in the part of Ohio that is now included within the new superstate, Appalachia. Had they received part of the recent contract, as many as 100 men would have been put to work for 1 year, which would have served to eliminate considerable poverty in Appalachia. I do not criticize the Agriculture Department which may have been required to give the award to the lowest bidder, but I suggest that if this administration is truly interested in overcoming poverty in depressed areas, and when it has on its hands some 15,000 tons of ore that we do not need but which we must process anyhow, it might permit some consideration other than the bid to enter into the award of the contract.

To return to the main problem, ferroalloys, as we know, are an essential part of the steelmaking process. The so-called developing nations have been given large amounts of American aid to develop their own steel plants so that they can become self-sufficient and, of course, they need ferroalloy plants, too. In typical foreign aid fashion, we helped them to build many times the capacity of ferroalloy plants that they can use, now or in the foreseeable future, so they began to look abroad for markets for this product.

Uncle Sam, having created this excess capacity, stepped forward to provide the market for this excess production. We traded wheat for it under the Public Law 480 barter program. We bought three or four times more than our stockpile required. We bought ore and had it produced in the foreign plants that our dollars built. And we turned the prosperous ferroalloy industry of Ohio and other States into a sick and ailing industry, its very survival threatened because foreign aid and foreign barter upset the normal economic pattern.

With American subsidies of every kind plus cheap labor and low taxes, foreign producers are able to flood our markets with ferroalloys.

Complicating the situation, a principal American producer of ferroalloys began in 1962 large imports of Russian chrome ore to be processed into ferrochrome. The Russians apparently are willing to sell this product at less than the cost of production in order to capture our markets. The great volume of Russian chrome coming into the United States at prices up to $12 per ton cheaper than other nations has given these importers a price advantage over American producers who are unwilling to do business with the Communists. And it has also struck a severe blow, as mentioned earlier, to the Turkish chrome industry and to other friendly nation producers such as Southern Rhodesia.

The Turkish Government, quite naturally, complained to our Government about the displacement of its ore in U.S. markets by the cheaper Russian product. The solution was to arrange another barter, the 15,000 tons previously referred to, to be added to the stockpile, which is already 400 percent over our requirements, and the people who created the problem by their Russian imports will, as I have said, realize the profit from beneficiating the ore.

It sounds like something Lewis Carroll might have written.

It illustrates how normal economic channels are thrown completely out of kilter, to the great detriment in this case of many hundreds of people in Ohio, by government manipulation of both domestic and international trade and development.

We will suffer for many years from the damage that has been done, perhaps unwittingly, as a result of our various foreign aid programs and our free trade policies and our refusal to place any real restrictions on trade with the Communists.

Appalachia will be greatly enlarged if this kind of program continues.

Worse than that, our very security is threatened by our increasing dependence on foreign sources not only of ferroalloys but of steel, fuel, torpedo tubes, and hundreds of other products that might be listed.

Mr. Chairman, there is now pending an application for relief under section 232 of the Trade Expansion Act, which is the section empowering the Director of the Office of Emergency Planning to investigate imports that are said to threaten national security. The application was filed May 20, 1963. The fact that 1 year has elapsed since the filing raises in my mind a question as to the effectiveness of this procedure in a situation which seriously affects national security. The situation has worsened steadily during the past year. I hope that the Office of Emergency Planning may be ready with its reports and recommendation in the very near future.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. JONES].

The question was taken; and on a division (demanded by Mr. JONES of Missouri) there were—ayes 56, noes 83.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. THOMSON OF WISCONSIN

Mr. THOMSON of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMSON of Wisconsin: Page 8, immediately after line 10, insert the following:

"(d) at the end of section 620, add the following new subsection:

"'(n) The President shall suspend assistance to the government of any country to which assistance is provided under this Act whenever such country is failing to reimburse the United States, within 3 years following a United States request for reimbursement, for the improper use of assistance made available to the government of such country under this Act.'"

Mr. THOMSON of Wisconsin. Mr. Chairman and members of the Committee, I think that the time has come to stop the financing of luxury items to foreign countries. The amendment I have offered simply says to foreign nations that if they use our aid money improperly and refuse to pay it back within a period of 3 years, the President shall shut off the aid going to that country. Now, trying to collect the money the AID agency says costs us no money, but they point out that they send a bill or a demand for repayment and if the foreign country does not repay the money, then they follow up this action every 3 months. That costs the taxpayers a lot of money. I think that practice should be stopped.

Mr. MORGAN. Mr. Chairman, will the gentleman yield so I can make an inquiry as to his amendment?

Mr. THOMSON of Wisconsin. Certainly. I yield to the chairman.

Mr. MORGAN. I know you deal with the countries that the products go into, but does your amendment have anything to do with the American companies that sell this that are in violation of this act?

Mr. THOMSON of Wisconsin. Mr. Chairman, I think we have jurisdiction of the American companies who reside here, because you will note in the memorandum from the AID agency itself that if the suppliers, the American suppliers, do not respond and repay within a reasonable time, the claim is referred to the Justice Department.

Mr. MORGAN. The gentleman feels that what is already in the statute books with reference to Americans would cover the situation?

Mr. THOMSON of Wisconsin. I think we are absolutely protected as far as the domestic individuals and corporations are concerned. But I think we should apply the same standard to foreign nations that are buying luxury items. I do not think we should continue to finance them. I do not think we should be encouraging habits that are away beyond the means of the people in that country to pay for. I think we should treat foreign countries the same as we treat American suppliers.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. THOMSON of Wisconsin. Certainly, I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I want to assure the gentleman from Wisconsin, and I am sure he is cognizant of the fact that all Members of Congress, including the gentleman from Wisconsin, are deeply concerned over the misuse of foreign aid money in various commodity transactions. As the gentleman knows, there were abuses discovered primarily with respect to pharmaceuticals sent to Vietnam. If the gentleman's amendment were adopted and Vietnam could not recoup the funds from the foreign suppliers or importers, that country would have difficulty in refunding the money. That is where the problem is, is it not? AID is recouping or obtaining repayment where American suppliers are involved.

I repeat, if in the case of Vietnam, if that country is unable to obtain a settlement with the supplier, and is thereby unable to repay the United States, we would have to discontinue aid to Vietnam, is that not true?

Mr. THOMSON of Wisconsin. Yes, I think that is true. I think we should establish a standard that those people would understand. We should not keep on supporting the crooked practices there by permitting, under the AID program, the misuse of these funds. Over $400,000 has been charged as excessive fees in Vietnam. We do not know whether they are kickbacks or bribes or what. But it is a scandalous situation and I think the taxpayers want it stopped.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield further?

Mr. THOMSON of Wisconsin. I yield.

Mr. ZABLOCKI. I agree with the gentleman that we want to stop abuses. I point out again however, that the problem does not exist between our country and the Government of Vietnam, or between Vietnam and the importer or the agent, but between the supplier and the importer or agent. That is where most abuses are perpetrated.

Mr. THOMSON of Wisconsin. Mr. Chairman, I cannot yield further. There are some instances of that kind. But what about the shipment of Metrecal to Cambodia, $16,000 worth of Metrecal to Cambodia? And they thumb their nose at us. Oh, they would like to have us build their highways, but that project is a scandalous abuse of the use of our aid money. They would like to have us conduct training programs in this country. But I think we should say to all of the tin dictators throughout the world, "You are not going to get any more money through the AID program, when you use it improperly."

Mr. GALLAGHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I might say at the outset that neither Israel nor Egypt is affected by the amendment which has been offered by the gentleman from Wisconsin.

Mr. Chairman, while the gentleman from Wisconsin certainly has a worthwhile purpose in mind, the problem is that his proposed amendment will create greater problems than presently exist under the regulations now in effect, which regulations have brought into being an apparatus through which we can recover these funds and are in fact presently recovering these funds.

Mr. Chairman, we discussed yesterday the question with reference to the collections that Mr. Bell has been making. I would like to point out to the Members of the Committee what this proposed amendment would do. For instance, it would cut off all aid to Panama because of a $297 claim which has been in contention for the last 3 years.

Further, it would because of a $878 arrearage in Pakistan cut off all aid to Pakistan.

We have obtained refunds for all the items that the gentleman mentioned yesterday. Therefore, we are presently trying to do everything that can be done to eliminate these abuses. But, to adopt this amendment and to place it into effect would overlook completely the fact that many of these purchases accrued through the private sector. They are financed through commodity credit that is established for the purchase of these commodities here in the United States.

Therefore, Mr. Chairman, we do have in existence means of collecting this money, and we are doing it.

Now, Mr. Chairman, if the gentleman's amendment is adopted, all aid to Korea would be cut off because there is in contention one claim in the amount of $192.

In addition to all this, there has been in contention with a private company in Vietnam a claim in the amount of $4,291. This amount has been in contention over the past 36 months. Immediately, right now, if this amendment were adopted all aid to Vietnam would have to terminate.

Therefore, I believe it would be a very unwise action if we should adopt this amendment.

While the amendment seems to seek to recover money for the United States, I wish to assure the members of the Committee that the AID agency is making every endeavor to do just that. But the far-reaching consequences of this amendment I feel are too great and would go far toward jeopardizing our security just to collect a few bills.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GALLAGHER. I yield to the gentleman from Florida.

Mr. FASCELL. Is it not true that the amount of collections has increased?

Mr. GALLAGHER. Oh, yes; it has increased considerably I might say, and the billings have greatly increased since Mr. Bell has been in office.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. GALLAGHER. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Is it not true that the percentage of refunds collected by AID is much higher than that of any other governmental agency, including IRS?

Mr. GALLAGHER. There is no question about it. I believe if you want to cut off aid to Vietnam, and we are all concerned about this, then support this amendment.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. GALLAGHER. I yield to the gentleman from Pennsylvania.

Mr. DENT. Perhaps I am confused. Let me see if I can reconstruct it. According to what I believe is going on, we make a loan to a foreign country to buy commodities and commodities are ordered by an importer in that country from an American supplier. The American supplier is paid. Upon arrival in the foreign country, we discover that some of the products, in a post-audit, are products that are not permitted to be sold under this loan provision because they are so-called luxury items and are outside the list of allowed items. However, the American supplier has been paid. We, therefore, say to the foreign government, "This product that you have purchased is not allowed under the terms of the loan."

Is it not true that as much of the blame is upon the shoulders of the American suppliers who are well qualified to be prepared to know the items that are allowed under the loan items?

Mr. GALLAGHER. Exactly. In fact, most of the blame should be shouldered by the American exporter because he has the regulations and the black-listing of these prohibitive items.

Mr. DENT. If the gentleman will yield further, is it not true in the whole business of making a sale, if you can, make it, even if they do not need the product?

Mr. GALLAGHER. Exactly.

Mr. Chairman, I urge the defeat of the amendment.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

I would like to ask the gentleman—I do not believe he stated—how much is still outstanding?

Mr. THOMSON of Wisconsin. There is more than $24 million that remains unpaid. The collections this year do not reflect the glowing estimates of those who have just spoken on this.

Mr. GROSS. I was afraid of that, and that is why I obtained this time to ask a question or two.

Mr. THOMSON of Wisconsin. They have sent out more than $24 million of bills this fiscal year, and they have collected for the first three quarters of fiscal year 1964 only $5 million, and they anticipate collecting only $1.8 million additional. So the billings are going up and the collections are going down.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Florida.

Mr. FASCELL. The gentleman wants to be fair. I would refer the gentleman to page 70 of the minority report, which the gentleman signed. There is a table there showing that for the fiscal year 1962 bills issued amounted to $19,022,860, for fiscal year 1962 the amount of claims were $8,739,699; for the fiscal year 1963 the amount of bills issued was $24,727,656, and the collections for fiscal year 1963 were $12,474,658, or 50 percent, whereas in previous years it was not that much. This certainly supports the statement that there has been an increase in collections.

Mr. GROSS. Let me ask the gentleman, does he not think we ought to collect if our money is being used to buy bubble gum, eyelid shade, or lipstick?

Mr. FASCELL. The gentleman is absolutely correct.

Mr. GROSS. Or contraceptives, sex stimulants, and that sort of thing? Does not the gentleman think we ought to collect for those?

Mr. FASCELL. Absolutely.

Mr. GROSS. How is it proposed to collect?

Mr. FASCELL. The gentleman's minority report shows we are collecting.

Mr. GROSS. It shows there is still $24 million outstanding.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I know the gentleman is a very informed Member of Congress. I am sure he knows that the refunds are being collected. The so-called bubble gum claim and claims for the other items the gentleman has mentioned were being collected.

Mr. GROSS. I cannot understand why these products are sold in the first place. How could these products get into their hands in the first place if there was proper administration of foreign aid funds?

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from New Jersey.

Mr. GALLAGHER. I will be very happy to answer the question. The products get into the exporter's hands because we establish a line of credit where there are not dollars available; therefore, unless you have a preaudit, you do not know what is going to be purchased. You must trust they are complying with the law unless you have a preaudit. After we have a postaudit these items turn up, and if they are in violation they are criminally prosecuted or claims are pursued civilly. Where there is a violation, we have already obtained refunds on the items the gentleman has mentioned.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I would like to make the observation that, in my opinion, the gentleman from New Jersey misses the point of the amendment, or the purpose of the amendment, which is to avoid price disclosures which are so embarrassing to proponents of the program. Here is an amendment which will help the bill.

Mr. GROSS. I want something more than hope that this money is going to be paid back. This amendment will serve to help get the $24 million that is outstanding.

Mr. GALLAGHER. I am in agreement with the gentleman. We are doing more than hoping; we are enforcing the regulations. The gentleman from Illinois is worried about these matters. He is very concerned about Vietnam. Are we now prepared to cut off the war in Vietnam because of a $4,000 unpaid bill?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin.

The amendment was rejected.

AMENDMENT OFFERED BY MR. ADAIR

Mr. ADAIR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ADAIR: Page 8, immediately after line 10, insert the following:

"(d) At the end of section 620, add the following new subsection:

"'(n) No funds authorized to be made available under this Act shall be used to furnish assistance (except to complete commitments entered into prior to July 1, 1964) on a loan or grant basis to any country which provides economic development assistance on a loan or grant basis directly to another country.'"

Mr. ADAIR. Mr. Chairman, yesterday there was discussion concerning those countries which receive assistance from us and in turn are themselves granting assistance to other nations. It was pointed out that by this process we are making it possible for such countries to get credit for giving assistance for which in fact we are paying.

My amendment if adopted would cut off loan and grant aid to any country which is conducting its own economic aid program directly with another country.

Some of the things that my amendment would not do:

It would not force us to renege on or to violate existing commitments or those entered into prior to July 1 of this calendar year. Members who have read the report, including the minority views, will recall that there are at least three nations extremely well developed economically which are still receiving military assistance. I refer to Norway, Denmark, and Japan, which are in this program for a total of approximately $53 million. In spite of our feeling about them, in spite of the question which may arise in our minds as to the validity of our giving assistance to three nations such as these, my amendment would not cut off assistance because the agreement has previously been made.

Some have wondered whether it would interfere with Peace Corps type operations. My answer to that is in the negative, it would not, because the amendment is limited to economic development assistance.

I think in the same category would be cultural activity. These are not economic developmental activities and therefore they would not be affected.

Neither does it cut off aid to countries because they contribute to multilateral assistance programs through international organizations.

Finally, it should be pointed out that it does not cut off aid to countries for contributing military assistance either directly or through international organizations.

With these limitations and these safeguards, it seems to me we are saying simply that if other countries are prosperous enough to engage in their own economic development programs, then they ought not to look to us for financing to do that. Therefore, I urge the adoption of the amendment.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I ask unanimous consent that the amendment be reread.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk again read the amendment.

Mr. ZABLOCKI. Mr. Chairman, frankly, I am completely puzzled and I cannot understand the reason for this amendment. After all, over the years, we have been encouraging the rest of the countries of the free world, particularly those countries that have received our assistance and have become economically viable, we have asked them and encouraged them to join in cooperative efforts to help each other and to help the less developed countries. Some of them, of course, are still receiving assistance. Some of them are joining in consortia with other countries to assist third countries. For example, certain countries that are receiving our economic and military assistance at the present time are members of the Colombo plan. If the gentleman's amendment were to prevail, these countries would have to stop providing assistance to other countries. This would cause, I submit, resentment on the part of those who have been friendly to us. They would charge us with infringing on their sovereign rights, on their freedom to conduct international relations, or their dealings with their neighbors and friends.

Mr. ADAIR. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am delighted to yield to the gentleman.

Mr. ADAIR. The gentleman raised the question as to the reason for the amendment. I tried to state it very simply, that certainly we want other developed nations to bear part of this burden. But we do not want them to do it with our money. This is an effort to get them to use their own money.

Secondly, I tried to point out in my remarks that where there is an international organization that is carrying on activities that would not be affected by my amendment. This is direct country-to-country economic development assistance which is involved here.

Mr. ZABLOCKI. The gentleman has further clarified his amendment, and I thank him for it, but I want to point out the difficulties that would be involved in trying to administer it. How would the amendment differentiate between countries, between the origins of their assistance to other countries? I want to make it very clear that we are giving 80 percent of our assistance in the form of commodities. We do not give dollars. So the recipients of our aid would not be using our money in providing assistance to third countries. Further there are cases where countries that are receiving our aid, are giving aid to other countries because of their proximity to such other countries, perhaps because of a common language. Under such circumstances, their assistance can do more good than comparable aid coming from us or from other countries.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Pennsylvania.

Mr. DENT. The gentleman by his explanation has made the amendment practically useless, because it is ridiculous to say that you are going to stop our aid to them only if they use our dollars to make loans to other countries, because that is exactly the explanation that the gentleman gave. If they are using their own currency or their own commodities for aid to other countries, how can we interfere with that?

Mr. ZABLOCKI. I mentioned earlier that it was our national policy, expressed in legislation adopted by the Congress, to encourage other countries to enter into foreign aid undertakings. I would like to read that section of the law, although I am sure the gentleman from Indiana is familiar with it.

The law reads as follows:

SEC. 102.

"The Congress urges that all other countries (including private enterprise within such countries) able to contribute join in a common undertaking to meet the goals stated in this part. In particular, the Congress urges that other industrialized free world countries increase their contributions and improve the forms and terms of their assistance so that the burden of the common undertaking, which is for the benefit of all, shall be equitably borne by all. It is the sense of Congress that, where feasible, the United States Government invite friendly nations to join in missions to consult with countries which are recipients of assistance under this part on the possibilities for joint action to assure the effective development of plans for the economic development of such recipient countries and the effective use of assistance provided them;".

Now I know the gentleman from Indiana is very much interested in promoting private enterprise and private participation in foreign aid. If I recall correctly, he has joined in formulating this provision of the law, and he has supported this particular section of it. Therefore, I say again, I am completely at a loss as to what the gentleman intends to accomplish by his amendment.

Mr. Chairman, I urge that the amendment not be adopted.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not propose to use 5 minutes, but it seems to me there is one important point which has not been made in opposition to the gentleman's amendment. Simply stated, it is this: We talk about giving money to other countries. Actually, what we do in this foreign aid program, and what we have done since the days of the Marshall plan, is make available dollar credits to countries which do not have dollar exchange.

At the risk of getting into another argument, we will use Israel as an example. I use it because it has been quite active in the technical assistance field. It is possible that we would want to finance a project in Israel which would require certain things from the United States that they did not have the exchange to pay for, while, on the other hand, they might have credits in Nigeria, in their money, for products they had sold to Nigeria, which they could use to help Nigeria in a technical assistance program.

Do we want to say that when there is a balance-of-payments situation in a little nation, when it is possible to help another underdeveloped nation, this shall not be done at the risk of losing possible U.S. aid? I really do not believe we wish to say that. I do not believe the gentleman from Indiana really wishes to do that, but that would be the effect of his amendment, as I read it and understand it.

For that reason alone I believe the amendment should be defeated.

SUBSTITUTE AMENDMENT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chariman, I offer a substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. DERWINSKI as a substitute for the amendment offered by Mr. ADAIR: Page 8, immediately after line 10, insert the following:

"(d) At the end of section 620, add the following new subsection:

" '(n) No assistance shall be furnished under this Act to any Communist country (as defined in section 620(f)) which provides assistance directly to another country. No other provision of this Act shall be construed to authorize the President to waive the provision of this subsection.' "

Mr. DERWINSKI. Mr. Chairman, I would hope that the amendment offered by the gentleman from Indiana [Mr. ADAIR], would prevail, but hours of observation of the mood and organization of the House this afternoon lead me to the conclusion that his amendment will not prevail.

Mine has a more specific target area, and therefore I offer it as a substitute.

To be specific, we have, over the years, in this foreign aid program, provided aid to Communist countries under the argument that it gives us a "foot in the door" in Eastern Europe, among people who are basically pro-Western and friendly to our concept of freedom. This aid has been used by the Red governments to maintain control over their unhappy citizens.

The purpose of my amendment is to prohibit aid to a Communist government when it, in turn, is carrying on its own aid program; so that if a Red government is interested in receiving American aid, we would then be saying, by this amendment, that our aid must go to improve the lot of the oppressed people, not permitting siphoning off our funds or releasing their funds to embark, in cooperation with the Soviet Union, on a carefully directed program of international subversion.

Poland and Yugoslavia, Communist governments which have received aid under this program both carry on aid to Cuba and other lands as part of the international Communist conspiracy.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New Jersey.

Mr. GALLAGHER. Then the gentleman's amendment would allow us to give aid to Communist countries so long as they were not giving aid to other countries?

Mr. DERWINSKI. No. No. The prohibitions in the law against giving aid to Communist countries would naturally still apply. I would not disturb that. All I say is that if a Communist country is receiving aid under this program and is carrying on its own aid program, the President may not waive, under the other provisions of law, the prohibition.

Mr. GALLAGHER. The fact of the matter is that there are no Communist countries getting aid under this law. The effect of the gentleman's amendment would be to repeal that and to allow this aid to Communist countries.

Mr. DERWINSKI. No. My amendment would prohibit either at a later point in this fiscal year or in any future fiscal years aid to a Communist country which carries on its own aid program. It does not disturb any other portion of the law. I am opposed to granting aid or subsidy to any Communist government.

Mr. GALLAGHER. We do not give any aid to Communist countries under this law.

Mr. DERWINSKI. Temporarily, in this fiscal year you are not giving any.

Mr. GALLAGHER. Your amendment would qualify Communist countries as long as they do not give aid to their neighbors?

Mr. DERWINSKI. No. To repeat, my amendment would merely prohibit the waiving of the prohibition against Communist countries which the President has discretion to grant as to any country if that Communist country were carrying on its own aid program.

Mr. GALLAGHER. Would this cut off assistance to Italy if they were going to provide for the Polish veterans in the cemetery in Italy?

Mr. DERWINSKI. No. Italy is not a Communist country.

Mr. GALLAGHER. No; but under the Adair part of it I mean.

Mr. DERWINSKI. I am substituting this for the Adair amendment, in hopes to bring it into a position where the gentleman from New Jersey and the gentleman from Pennsylvania might approve it.

Mr. GALLAGHER. I think this raises a number of complex issues if the gentleman's amendment is adopted. The fact of the matter is we give no aid to Communist countries nor is it anticipated under this act.

Mr. DERWINSKI. Temporarily we are not giving aid to Red governments.

Mr. GALLAGHER. We are only talking about the 1964 act.

Mr. DERWINSKI. I am trying to protect this program in the future. I suspect the administration will restore aid to Red governments sometime after the fall elections.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Florida.

Mr. FASCELL. I can appreciate the fact that you are trying to deal with this program by obfuscation. Under your amendment, we may give aid to a Communist country if it does not engage in an aid program of its own. There is a prohibition in the present law against aid to a Communist country, but your amendment would raise an inference that that has been nullified or repealed.

Mr. DERWINSKI. No. To repeat, my amendment specifically states no other provision of this act shall be construed to authorize the President to waive the provisions of this subsection. What I am saying is the President may not waive any portion of the law when we accept my amendment. I flatly oppose aid to any Communist government.

Mr. FASCELL. That is the only clear thing about your amendment, as a matter of fact. The rest of it does not change the inference which arises by the language in the gentleman's amendment. The gentleman says no aid shall go to any Communist country if they are engaged in an aid program of their own. Ergo you may give aid to a Communist country if it does not have an aid program.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the substitute amendment offered by the gentleman from Illinois [Mr. DERWINSKI].

The substitute amendment was rejected.

The CHAIRMAN. The question now occurs on the amendment of the gentleman from Indiana [Mr. ADAIR].

The amendment was rejected.

AMENDMENT OFFERERD BY MR. CASEY

Mr. CASEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CASEY: Page 8, immediately after line 10 insert the following:

"(d) At the end of section 620, add the following new subsection:

"'(n) No assistance shall be furnished under this Act for the construction or operation of any productive enterprise in any country unless the President determines that similar productive enterprises within the United States are operating at a substantial portion of their capacity and that such assistance will not result in depriving such United States enterprises of their reasonable share of world markets. The President shall keep the Foreign Relations Committee and the Appropriations Committee of the Senate and the Speaker of the House of Representatives fully and currently informed of assistance furnished under this Act for the construction or operation of productive enterprises in all countries, including specifically the numbers of such enterprises, the types of such enterprises, and the locations of such enterprises.'"

Mr. CASEY. Mr. Chairman, this is an amendment that I offered last year.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. CASEY. Yes. I will yield to the chairman of the committee.

Mr. MORGAN. Mr. CASEY, is this the same amendment as you offered to the bill during the debate last year?

Mr. CASEY. I will say to the distinguished gentleman that this amendment is word for word like the amendment that was offered last year and which you saw fit to accept.

Mr. MORGAN. That is true. The committee did accept this last year, and we took the bill to conference. I want to assure the gentleman from Texas that the conferees made an effort within the conference to retain some of the language of the gentleman's amendment, but due to the strong resistance from the conferees on the other side, we finally had to give in on the gentleman's amendment. The main objection, if I remember correctly—and I am quoting from the conference print—is that the Senate objected to the sweeping language that required the President to make some of these determinations. This seemed to be their main objection to the gentleman's amendment.

I just want to say that I think the gentleman's amendment has some merit and I would be glad again to take it back to conference this year.

Mr. CASEY. Mr. Chairman, I should like to say to the distinguished chairman of the Committee on Foreign Affairs that I appreciate his again accepting this amendment, and I thank him again for the efforts he made last year and I hope that someone in the other body will wake up to the merit of this proposal. I hope he will be a little more successful in persuading them to accept this language because in my opinion it will keep us from building up competition and taking away jobs from our own country.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. CASEY. I yield.

Mr. RANDALL. Mr. Chairman, I should like to commend the gentleman from Texas [Mr. CASEY]. I joined with him in the effort he made last year. I think I know the reason for his action. The district I represent has a steel mill that was plagued with some of the same trouble as the gentleman from Texas. We were confronted with losing jobs on account of a situation which we are both now trying to remedy by this amendment.

Mr. Chairman, I thank the gentleman for his efforts this year and wish to associate myself with his remarks.

Mr. CASEY. Mr. Chairman, I thank the gentleman.

Mr. Chairman, as I pointed out last year, foreign aid funds are being used to build competition for our own plants and industries, and no consideration seems to be given to the condition of our industries when a similar industry is considered for a grant under the aid program.

Last year, I pointed out that up to that time, in the neighborhood of 179 foreign steel plants had been built or expanded through the foreign aid program. Since last year, that is, in fiscal 1963, in excess of 18 additional aid projects have aided foreign steel competition. In fiscal 1963 alone, over $315 million of the taxpayers' money was used for steel mill expansion, locomotive plants, forging factories, rolling mills, and so forth.

The reason I use approximate figures and the words "in the neighborhood of" in describing the number of plants is that again, the Library of Congress advises me that the Agency for International Development does not itemize totals per industry or the country in which they are built and that many such activities are included under the overall designation of "productivity centers, mining developments, research centers, metals fabricating plants, engineering laboratories and services, technical support, and industry development and project assistance." Therefore, there is no question that the aid to the steel industries and other industries is higher than that which the Library of Congress Legislative Reference Service is able to furnish.

Last year, I pointed out that 31 pulp and paper plants had been built and expanded under the foreign aid program. And in fiscal year 1963, I have been able to determine that at least seven more projects in the pulp and paper field have been initiated under the foreign aid program. Twenty-two rubber plants had been built or expanded as of fiscal 1962, and during fiscal 1963, three additional projects in the rubber industry are known to have been initiated.

Mr. Chairman, this amendment will spotlight exactly the type of industries being built or expanded with foreign aid funds, and it will also give the Congress and the taxpayers an itemized list of such plants and where they are being built.

It is not restrictive. There is plenty of flexibility. But it will call to the attention of the President for determination the question of whether or not any plant built under foreign aid assistance will seriously jeopardize our own domestic competing companies.

I sincerely hope that those in the other body who have been alarmed at the flood of steel imports will take note of this amendment and will see fit to offer this or a similar amendment to the Senate's version of the Foreign Assistance Act. Because, until this agency is required to use some discretion and caution in building plants overseas, they will have nothing to look forward to but more imports and the further loss of production, as well as jobs, in their respective States and districts.

Mr. Chairman, in the next few days, I will insert in the Record a recompilation of U.S. aid to specific foreign industries to again bring to the attention of this Congress and the people the competition that we have built with our own money, which I think will tell more graphically than I can do here today the need for this amendment.

I again wish to sincerely thank the gentleman from Pennsylvania [Mr. Morgan], chairman of the committee, as well as other members of the committee, who have seen fit to recognize the merits of this amendment, and I wish them more success this time when they take the matter to conference.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. Casey].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. REID OF NEW YORK

Mr. REID of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Reid of New York: Page 7, immediately after line 24, insert the following:

"(a) Amend section 612, which relates to the use of foreign currencies, by adding the following new subsection (c):

"'(c) Any Act of the Congress making appropriations to carry out programs under this or any other Act for United States operations abroad is hereby authorized to provide for the utilization of United States-owned excess foreign currencies to carry out any such operations authorized by law.

"'The President shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned excess foreign currencies are utilized, in lieu of dollars. As used in this subsection, the term "excess foreign currencies" means foreign currencies or credits owned by or owed to the United States which are, under applicable agreements with the foreign country concerned, available for the use of the United States Government and are determined by the President to be excess to the normal requirements of departments and agencies of the United States for such currencies or credits and are not prohibited from use under this subsection by an agreement entered into with the foreign country concerned.'"

Page 7, line 25, strike out "(a)" and insert in lieu thereof "(b)".

Page 8, line 4, strike out "(b)" and insert in lieu thereof "(c)".

Page 8, line 7, strike out "(c)" and insert in lieu thereof "(d)".

Mr. ROONEY of New York. Mr. Chairman, will the distinguished gentleman yield?

Mr. REID of New York. I yield briefly, to the distinguished chairman from New York.

Mr. ROONEY of New York. Mr. Chairman, I do not understand this. The gentleman and I had a conversation earlier with regard to using foreign currencies in lieu of American dollars. Now the gentleman offers an amendment which contains certain language; for instance, the last three lines at the foot of the proposed amendment.

Under these circumstances I may have to oppose it.

Mr. REID of New York. First I would like to discuss the amendment.

Mr. Chairman, the Foreign Operations Subcommittee of the House Committee on Government Operations held hearings on November 18, 19, and 20 on uses of U.S.-owned foreign currencies.

Testimony was taken from representatives of the Department of State, Department of the Treasury, AID, and the Bureau of the Budget. It was clear from this testimony that the United States has in excess of $1.1 billion of excess foreign currencies for the exclusive use of the United States. It was equally clear that we have $920 million, roughly, as of now that is totally noncommitted.

Mr. Chairman, the purpose and the focus of this amendment is to make clear the concern and the interest of the Congress with regard to our excess foreign currencies for the exclusive use of the United States.

We also hope to point out the rate of accretion with respect to these foreign currencies, because they are growing at the rate of something in excess of $100 million per year. In the last 8 months, from June 1963 to February 1964, they increased at the rate of $94 million.

Mr. Chairman, the amendment is specific with regard to several direct points. One, it explicitly defines for the first time excess currencies.

Two, it states the President shall take all appropriate steps to assure to the maximum extent possible that U.S.-owned excess foreign currencies are utilized in lieu of dollars.

In addition, it is my conviction and I believe that of my colleague, the gentleman from Wisconsin [Mr. Reuss], who helped draft this amendment, and of the subcommittee chaired by the distinguished gentleman from California [Mr. Moss]—that the utilization of these currencies can result not only in a savings of some dollars but complement and extend the value of dollars in other programs. Also, their utilization is important and essential for certain U.S. programs.

Mr. Chairman, the utilization of excess foreign currencies under existing programs, and consistent with existing laws, can be helpful in terms of support for: Schools abroad for dependent children of U.S. officers and employees; language instruction for our Foreign Service officers and other U.S. nationals serving overseas; the teaching of English as a second language; official travel for officers within their regional area of service; and for other purposes such as lease, rental, and acquisition of adequate housing facilities. In addition, another key area of support includes international, educational, and cultural exchange activities.

In my judgment it is important for the Congress in this bill to take note of the accretion of these currencies, to encourage the Executive to come forward to the Appropriations Committee with properly thought out requests for their use under existing programs so that these funds can be appropriately utilized and where possible, save dollars.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. I yield to the distinguished gentleman from Wisconsin.

Mr. REUSS. Mr. Chairman, I feel that this is a good amendment. I hope it will be favorably received.

Mr. Chairman, we now have close to a billion dollars worth of such currencies as Indian rupees, Yugoslav dinars, Polish zlotys, and other foreign currencies. While they lie there gathering moss, they do not help us, but they are a constant source of friction to our friends.

Mr. Chairman, the gentleman's amendment would assure the orderly use of these currencies, and I hope the amendment will be adopted.

Mr. ADAIR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to propound a question of the author of the amendment. There might be some question as to whether or not this would increase the total amount of expenditures. It is my desire to get the intent of the author of this amendment.

Is it his intent that these local countries should be used in lieu of dollars or in addition to other already programed dollar amounts?

Mr. REID of New York. In response to the question of the distinguished gentleman from Indiana, I would like to say first of all these excess foreign currencies, now in some seven countries, are currencies or credits owned by or owed to the United States which are, under applicable agreements with the foreign countries concerned, available for the use of the U.S. Government.

These funds, therefore, as the amendment suggests, could be used in lieu of dollars. In other words, the thrust of this amendment is: First, to make clear the intent of Congress as to sound utilization of these funds rather than their continuing accretion; second, to save dollars where we can; and third, to facilitate support of programs to aid and strengthen our foreign policy.

Mr. ADAIR. Reference has been made by the gentleman from Wisconsin [Mr. Reuss], to this matter, and I would like to ask him if he subscribes to the sentiments expressed by the gentleman from New York with respect to saving dollars where possible in connection with this proposed amendment.

Mr. REUSS. Yes. I subscribe entirely to what the gentleman from New York [Mr. Reid], has just said. I think we can rely on the Appropriations Committee, chaired by the gentleman from New York [Mr. Rooney], to screen very carefully any requests for the use of foreign currency and to apply to them the same standards we would require of any other request for appropriations. That is the purpose of the amendment, and I believe it is a dollar-saving amendment.

Mr. ADAIR. With those answers, and in the hope that it will result in the utilization of local currency owned and the conservation of dollars, I think the amendment should be supported.

Mr. BRAY. Mr. Chairman, will the gentleman yield?

Mr. ADAIR. I yield to the gentleman from Indiana.

Mr. BRAY. Would these funds have to be authorized and appropriated the same as any other funds by the Congress?

Mr. REID of New York. Absolutely. That would be the concern of the Committee on Appropriations.

Mr. ROONEY of New York. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I should like to participate in this little bit of legislative history and to say that insofar as I am concerned the distinguished gentleman from New York [Mr. Reid] came to me earlier with a proposed amendment to this pending bill which was two pages long and under which he would have authorized expenditures for many more programs than we presently spend for in connection with what? The Department of State, the U.S. Information Agency, and the AID.

The distinguished gentleman and I had a discussion, as the result of which he agreed to present in place of his proposed amendment a mere statement of policy. This statement of policy is the same statement of policy that has been contained in reports on State Department appropriations bills for many years; to wit, that they shall use foreign currencies wherever possible instead of American dollars for programs approved in appropriations bills. Who could be against the use of this so-called wooden money, as somebody has called it? But let me refer to them properly, foreign currencies on deposit in the Treasury of the United States rather than our American tax dollars. These foreign currencies originally cost us good American tax dollars when they were given to whomever the program was generated by. That is the situation. So this business of any other or additional programs being concerned with here is not truly in the picture; is that correct, I ask the gentleman from New York?

Mr. REID of New York. I appreciate the opportunity to reply to the gentleman's question.

Mr. ROONEY of New York. Will the distinguished gentleman please answer me directly? Does he propose to spend any more money, counterpart or otherwise, under the terms of the pending amendment?

Mr. REID of New York. My understanding is, and I thought it was clear, we would save dollars. This does not provide any new programs.

Mr. ROONEY of New York. I thank the gentleman.

Mr. REID of New York. All it provides is authorizations.

Mr. ROONEY of New York. Since there are to be no new or expanded programs in the use of foreign currencies, I withdraw my opposition to the pending amendment. Thus this amendment is merely a statement of policy, and does not authorize the expenditure of any additional taxpayers' moneys, whether in foreign currencies or in American tax dollars.

I thank the distinguished gentleman from New York.

Mr. POAGE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I find myself in agreement with the objectives of this amendment but in disagreement with the legislative procedures which are being used to attain these objectives.

I assume that the greater part—if not all—of the excess foreign currencies which are referred to in this amendment have accrued under Public Law 480, 83d Congress. If so, this is a law which is separate and distinct from the Foreign Assistance Act, which deals solely with the surplus commodities and other assets of the Commodity Credit Corporation, and which is under the jurisdiction of the Committee on Agriculture.

The subcommittee of which I am chairman has had public hearings and several executive sessions on the extension and revision of Public Law 480, and the foreign currency uses authorized by this amendment include uses to which we have given extended and, I might add, generally favorable consideration.

I think that the amendment might well be subject to a point of order. But I do not intend to raise that point of order because I find myself in agreement with the objectives of the amendment—and I believe that most of the members of my subcommittee would also agree with these objectives.

The Committee on Agriculture is constantly at work trying to get greater beneficial use to the United States out of the foreign currencies which are received by the Commodity Credit Corporation in exchange for surplus agricultural commodities.

This amendment would apparently help to bring about such additional U.S. uses.

But it does it in a manner which is inconsistent with the legal theory of Public Law 480—by authorizing the reappropriation of assets which have already been appropriated and made available to the President for his use pursuant to the provisions of Public Law 480.

Authorizing the reappropriation of these foreign currencies is exactly the same as though Congress were to go through the procedure of authorizing every sale, transfer, or donation of wheat, corn, or cotton after it has already authorized the use of these commodities by the President.

The Committee on Agriculture has felt from the very start of Public Law 480 that the utmost possible use beneficial to the United States should be made of these foreign currencies. For that reason, we have resisted from the start this grotesque business of reappropriating these currencies before they could be used overseas in lieu of dollars, for our own benefit.

In spite of our opposition, the Congress now goes through the unlegal and restrictive procedure of not permitting a Government agency to use these currencies until there has been an appropriation in dollars to that agency for their use.

As the direct result of this restrictive and shortsighted procedure, U.S. use of these foreign currencies has dropped from about 26 percent of the total received during the early years of the program to 17 percent in 1963.

I can readily understand how the Appropriations Committee, seeking as it properly always is to trim budgets, can find something to trim now and then from the dollar requests for foreign currency uses overseas.

What the distinguished members of that committee do not seem to understand is that this money has already been appropriated and that the only thing they are restricting is the United States getting the most benefit possible out of dollars that have already been spent.

If I understand this amendment correctly, it will at least authorize the appropriation of the foreign currencies themselves, rather than dollars. To that extent, I think it is an improvement of our present procedure.

I hope that more of our excess foreign currencies will be used abroad for the benefit of the United States.

For that reason I am not going to oppose the amendment.

But I want to make it clear that this does deal with a law which is within the jurisdiction of the Committee on Agriculture, and that it is entirely possible that in our review and revision of Public Law 480, we may find need to reconsider the action taken today.

We expect to have a bill extending Public Law 480 before the House within the next few weeks. I anticipate that most of the amendments which will be proposed to the existing law will be for the purpose of trying to see that the United States gets more value for the CCC assets we are sending abroad; that more of the foreign currency received in exchange for these assets is devoted to U.S. uses. I hope that we will have the cooperation of all Members of the House, and of other committees, in this endeavor.

Mrs. KELLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am shocked by the remarks of the gentleman who has just spoken. I, too, regret that Public Law 480 is not within the jurisdiction of the Committee on Foreign Affairs because sometimes I wonder whether our foreign policy exists to serve the domestic agricultural programs and Public Law 480, or vice versa.

It seems to me, Mr. Chairman, that at times Public Law 480 can get our foreign policy into a great deal of trouble. At the present time, agricultural problems are one of the reasons why the Common Market which we are endeavoring to encourage in Europe is not advancing as rapidly as was anticipated. Therefore, I hope that a change of policy under Public Law 480 will not compound those problems or cause the dumping of our products on other countries.

Mr. BARRY. Mr. Chairman, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman.

Mr. BARRY. I rise in support of the amendment. I think it is good. Several years ago we considered this problem and its solution is long overdue.

Mrs. KELLY. I thank the gentleman.

Mr. MORGAN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I know that the Committee on Government Operations had long hearings on this amendment last November and December. The gentleman from New York who has offered the amendment brought the original draft to the attention of the committee, during our markup of this bill.

We considered it at that time. We thought it was a broad and inclusive amendment and suggested that maybe it should be in Public Law 480. Now that we have heard from a member of the Committee on Agriculture, the gentleman from Texas [Mr. Poage], who says that he sees no objection to it going in here, and that his committee is going to pursue this further in hearings on Public Law 480 later this year together with the fact that the gentleman from New York [Mr. Rooney], who chairs the great Subcommittee on Appropriations for the Department of State, has withdrawn his objection, I feel that the committee can take this to conference and we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. Reid].

The amendment was agreed to.

Mr. FASCELL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I just want to make a brief comment with respect to section 620(a)(3) which was added to the bill last year, an amendment which I cosponsored with my distinguished colleague, the gentleman from Florida [Mr. Rogers].

You will recall that the amendment required a determination as to whether any country has failed to take appropriate steps not later than 60 days later than the enactment of the Legislative Act preventing shipping and transporting by plane commodities to or from Cuba.

The United States immediately notified covered countries of the legislative restrictions under the act and that our Government would carefully scrutinize action being taken by such countries to which that amendment would apply.

As a result thereof, it was found that 19 countries had ships or aircraft in trade with Cuba since October 23, 1962.

Of those 19 countries, 3—Canada, Finland, and Sweden—did not receive assistance from funds provided under this act and, therefore, did not come within the purview of the amendment.

Of the remaining 16 countries, 3 who were receiving aid were found not to have taken appropriate action. Those were the United Kingdom, Yugoslavia, and France. We immediately terminated the residual, small programs we had with those countries.

Of the remaining 13 countries affected by that amendment, it was determined that appropriate action had been taken by those countries within the time prescribed by the amendment, and therefore that they had met the conditions and the requirements of the amendment. The countries are: Denmark, Greece, Italy, Japan, Lebanon, Mexico, Morocco, Netherlands, Norway, Panama, Spain, Turkey, and West Germany.

I should like to give Members an idea of what kind of action was taken. This is the kind of legislative requirement which does call for the exercise of the best diplomatic skill on our part. We here believe that skill has been applied to the interpretation of this amendment.

For example, Greece, by two royal decrees, prohibits all carriage to or from Cuba.

Japan, which had only one ship which called at Cuba in 1963, promptly removed that from the trade.

Panama promptly punished a shipowner of vessels violating the decree of that Government which prohibited calls at Cuba.

Turkey had no ships which called at Cuba in 1963 and 1964 and has also fully cooperated with the United States.

The AID Agency, and the President have followed the intent of the Congress pursuant to my amendment. This action has been effective and I am pleased to report the prompt and effective action taken by the President and the AID Agency to carry out the intent of Congress. We have taken another affirmative step in carrying out our national goal in freeing this hemisphere of Castro and communism.

Mr. ROGERS of Florida. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to my distinguished colleague from Florida.

Mr. ROGERS of Florida. I thank the gentleman.

I wish to say, Mr. Chairman, in backing up the remarks of my colleague and coauthor of the amendment, the gentleman from Florida, Congressman Fascell, that of the 19 countries which were shipping into Cuba there are now only 2 main offenders. The biggest offender is England.

The report for this past month, the latest, shows that in May England had 12 ships which went into Cuba, the Greeks had 2 and the Lebanese 5.

If we will continue the pressure against these countries we can soon cut off the shipping to Cuba, and this will place an intolerable burden upon Russian shipping. This will be a major step in getting rid of communism in this hemisphere.

Mr. Chairman, last year the House exercised its wisdom and adopted the Fascell-Rogers amendment to the foreign aid bill to prohibit U.S. aid going to any country which allows ships or aircraft of its registry to call in Cuba.

When the amendment became law on December 16, 1963, there were 19 nations involved in shipping to Cuba. Diplomatic representations have been made to these nations, with threats of U.S. aid cutoffs being the primary lever, in efforts to obtain cooperation.

Canada, Finland, and Sweden were receiving no aid from the U.S. foreign aid program, but, nonetheless, not one ship from any of these countries has entered Cuba since January of this year, according to the intelligence reports from the Maritime Administration.

However, because insufficient action resulted in continuing ship traffic to Cuba by vessels of British, French, and Yugoslav registry, United States aid to those countries has been suspended by order of President Johnson.

Of the remaining nations, efforts are nearly completed whereby those governments have either drafted legislation to prohibit shipping to Cuba, reached agreements with their shipping interests, or actually halted shipping to Communist Castro.

Thus the law is being applied with a firm hand.

The principal offenders of this continued shipping to Cuba are Britain, with 12 ships calling so far according to the reports for May; Lebanon, with 5 ships reported so far for May; and Greece, with 2 calls reported in May. The Greek Government, however, has issued a royal decree banning any further charter commitments.

Thus, Mr. Chairman, it is clear that the amendment adopted last year has been effective. No reason exists to alter the law in this area as it has been administered firmly.

However, stronger efforts must be made to get those few nations led by Great Britain to halt this continued assistance to Communist Castro by serving as his transporter. That task should be borne solely by the Communist world, and not by a nation claiming our friendship.

AMENDMENT OFFERED BY MR. JENSEN

Mr. JENSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. JENSEN: On page 8, after line 10, add a new section to read as follows:
>
> "No assistance is herein provided to any country which does not contribute financially to the struggle in Vietnam.

Mr. JENSEN. Mr. Chairman, the amendment speaks for itself, but I wish to say that about 3 weeks ago I was called to the White House, along with a number of other Members of the House and of the Senate, to meet with the President of the United States and with the Security Council. At that meeting Secretary McNamara, Secretary Rusk, and Mr. McCone briefed us quite extensively on conditions in Vietnam. They painted a dismal picture, to say the least.

After the briefing, which was quite thorough, we asked a number of questions. I asked this question of Secretary McNamara: "How much financial aid are these other so-called friendly nations of ours contributing to the Vietnam struggle?"

He said about $30 million. I did not ask him how many men they were contributing, because I already knew. That number is less than 100, while we have 15,000 men in Vietnam. Our men have suffered around 1,200 casualties and over 140 of our fine American youth have lost their lives there. So I asked Secretary McNamara if he had insisted that these other so-called friendly nations of ours get into this struggle with us. He said he had asked them to do it. "Well," I said, "do you not think it is about time to insist?", then I directed this statement to the President of the United States, who was sitting across the table from me, "Do you not think, Mr. President, it is about time that you demand they get in this struggle with us?" Now, of course, I am not going to quote the President of the United States, but I will say this: There was a tall, powerful man that met me at the door as I was leaving and he said, "BEN, from now on I am going to demand that they get into this struggle in Vietnam with us."

Now, we have a Federal debt today of almost twice as much as all the other nations in the world all put together. The record will show, that there is not a single nation listed in this bill today that is not just as well able and possibly more financially able to help in that struggle in Vietnam than are the taxpayers of the United States. Mr. Chairman, I am sincere and serious in offering this amendment.

Now, some may say, "You do not state how much these nations should contribute financially." I am not going to name any amount, but I am quite sure the President of these United States will insist on a substantial contribution from these nations if this amendment is adopted by both Houses of Congress, and become law.

I hope my amendment will be adopted.

Mr. MORGAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MORGAN. Mr. Chairman, I had the occasion and the honor to attend the same briefing as the gentleman from Iowa did, and I am sure the gentleman, when he asked the President that question, was sincere in his desire to get help for South Vietnam. We all would like other countries to pitch in to South Vietnam and help us, but it seems that we are committed to assume the primary responsibility for backing up the Vietnamese people and I cannot see why we should stop our fight against communism all over the world by adopting his amendment, or why we should stop the Alliance for Progress, stop our NATO contributions, and stop our payments for our SAC bases in Spain as well as other parts of the world by attempting to bring these people into South Vietnam. I do not think it will bring any help to us in Vietnam.

I know the gentleman is sincere in his efforts, and that he asked a question of the President in great sincerity. I am sure he has offered an amendment here in great sincerity, but I do not feel that the way to win the fight against international communism is to say that if you do not go into Vietnam we are not going to do anything for you. I do not think this amendment will get us any help or any money for Vietnam nor will it put any more soldiers there. It will only make the problem we face all over the world bigger and greater.

Mr. JENSEN. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Iowa.

Mr. JENSEN. Mr. Chairman, the gentleman could not have been listening to the reading of my amendment.

Mr. MORGAN. The gentleman referred to offering assistance in Vietnam.

Mr. BROOMFIELD. I think the gentleman from Iowa has a point. I think what should be stressed is that many of these countries in the Far East could be encouraged to participate to a greater extent than they are now in that area. I am not talking about dollars so much; I think there are countries in the Far East who should be willing to put men in there to join U.S. forces in the effort against communism in Vietnam.

Mr. MORGAN. I agree with the gentleman, but I do not think this is the way to stir them to action.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. JENSEN].

The amendment was rejected.

Mr. BRAY. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, once again we are offered the grab bag of foreign-aid gifts, and have the unhappy duty of accepting them all or rejecting them all.

There are so many different aspects of foreign aid that it is very unfortunate we do not have an opportunity to vote separately on them.

There is very strong sentiment favoring military assistance to friendly nations, and such aid would have strong support if it were presented by itself.

Even within that category, many of us would like an opportunity to consider separately aid to friendly nations, and aid to Communist or near-Communist nations where our assistance may serve a more doubtful purpose.

Some people would like the opportunity to support the Alliance for Progress, and are still hopeful for its success, despite its early failures.

No doubt most all of us, in varying ways, want to support aid which will educate other people to help themselves—to make self-sustaining nations of countries currently underdeveloped.

Instead we are greeted again with a patched together conglomeration of various programs and various purposes. It is obvious that in this way it is hoped to push through the good with the bad, the generally approved with the highly controversial.

This can be a very undesirable, and even dangerous legislative procedure. Many times in the past things have been approved in this fashion which might well have failed had they not been pushed through under the cover of other programs.

One such example refers to the African nation of Ghana. Since 1957, and in spite of President Kwame Nkrumah's total hostility toward the West and his close alliance with the Communists, the United States has given almost $170 million in loans and grants to Ghana.

This includes $7 million for beginning the construction of a great power-producing project on the Volta River. This amount was contained in the 1962 foreign aid bill.

During debate on this bill on July 11, 1962, I spoke against this particular item, pointing out that while the amount was small, it was merely a foot in the door and the project would cost many times that before construction was finished.

I also criticized the folly of aiding Nkrumah and giving him additional prestige, noting that this could only strengthen him in maintaining an iron hand over the lives and freedom of his own people, as well as encourage other countries of Africa to take a similar course of enmity toward the West.

In addition, I observed that construction of the Volta Dam, where power was to be used to produce aluminum in great quantities, could only injure the West. With this great U.S.-financed ability to produce cheap aluminum, Ghana would clearly become an important force to assist the Communists to destroy the free world aluminum industry. There is a world surplus of aluminum and American manufacturers who employ American workers have had to curtail their operations. Thousands of Americans will be put out of work by increasing the aluminum production abroad.

I want to point out again the prophetic remarks I made in July 1962:

> In trying to make friends of our enemies, we make enemies of our friends. Such a philosophy has never succeeded in helping

the country which followed it, but apparently we naively believe that such can be accomplished by helping the Communist leader Nkrumah.

Now we have reaped the fruits of this policy. The thanks we receive for the $170 million given to Ghana comes to us in the form of Government-inspired and Government-led insults, attacks upon our embassy, desecration of our flag, threats of massacre, and slanderous accusations of having murdered our own President.

Furthermore, the leaders of Ghana have announced their complete support of Fidel Castro in Cuba.

It is difficult to understand the type of people in our State Department who insist upon our supporting projects of this kind.

In another typical attempt to lump everything together the administration has thrown in a request for additional money for the defense of Vietnam. If more money is needed for our men in Vietnam and to resist the efforts of the Communists to take over there, I am sure that this Nation wants the money to be provided. It is unfortunate, however, that this cannot be handled separately and upon its own merits, instead of being lumped together with many less desirable programs.

There are many of us who fear that continued programs such as that which lead us to help the Ghanas of this world, and to support in office leaders such as Kwame Nkrumah, will only tend to encourage and strengthen Communist advances and to discredit and destroy free enterprise development.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CHAPTER 2—ADMINISTRATIVE PROVISIONS

SEC. 302. Chapter 2 of part III of the Foreign Assistance Act of 1961, as amended, which relates to administrative provisions, is amended as follows:

(a) Amend section 625, which relates to employment of personnel, as follows:

(1) In subsection (d)(2) in the third proviso strike out "more than thirty persons in the aggregate" and substitute "the assignment to such duty of more than twenty persons at any one time".

(2) Add the following new subsection (j):

"(j) The President may appoint or assign a United States citizen to be representative of the United States to the Inter-American Economic and Social Council and to be United States representative to the Inter-American Committee on the Alliance for Progress and, in his discretion, may terminate such appointment or assignment, notwithstanding any other provision of law. Such person may be compensated at a rate not to exceed that authorized for a chief of mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended."

(b) Amend section 626, which relates to experts, consultants and retired officers, as follows:

(1) Subsection (a) is amended by striking out "$75" and substituting "$100".

(2) Subsection (c) is amended by striking out the words "Career Compensation Act of 1949, as amended (37 U.S.C. 231 et seq.)" and substituting "section 101(3) of title 37 of the United States Code".

(c) Amend section 637(a), which relates to administrative expenses, by striking out "1964" and "$54,000,000" and substituting "1965" and "$52,500,000", respectively.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 303. Chapter 3 of part III of the Foreign Assistance Act of 1961, as amended, which relates to miscellaneous provisions, is amended by adding at the end thereof the following new section:

"SEC. 648. SPECIAL AUTHORIZATION FOR USE OF FOREIGN CURRENCIES.—Subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953, the President is authorized, as a demonstration of good will on the part of the people of the United States for the Polish and Italian people, to use foreign currencies accruing to the United States Government under this or any other Act, for assistance on such terms and conditions as he may specify, in the repair, rehabilitation improvement, and maintenance of cemeteries in Italy serving as the burial place of members of the armed forces of Poland who died in combat in Italy during World War II."

PART IV—AMENDMENTS TO OTHER LAWS

SEC. 401. The first section of the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union", approved June 28, 1935 (22 U.S.C. 276), is amended to read as follows:

"That an appropriation of $50,000 annually is authorized, $23,100 of which shall be for the annual contributions of the United States toward the maintenance of the Bureau of the Interparliamentary Union for the promotion of international arbitration; and $26,900, or so much thereof as may be necessary, to assist in meeting the expenses of the American group of the Interparliamentary Union for each fiscal year for which an appropriation is made, such appropriation to be disbursed on vouchers to be approved by the President and the executive secretary of the American group."

Mr. MORGAN (interrupting the reading of the bill). Mr. Chairman, I understand that there is only one more amendment to be offered.

Mr. Chairman, I ask unanimous consent that the bill be considered as read.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MORGAN. Mr. Chairman, I ask unanimous consent that all debate on the bill close in 15 minutes, the last 5 minutes to be divided between the minority and the majority.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. FOREMAN

Mr. FOREMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FOREMAN: On page 10, immediately after line 9, insert the following:

"SEC. 304 Chapter 3 of part III of the Foreign Assistance Act of 1961, as amended, which relates to miscellaneous provisions, is further amended by adding at the end thereof the following new section:

" 'SEC. 649. LIMITATION ON AUTHORIZATIONS FOR ECONOMIC ASSISTANCE.—Notwithstanding any provision of this or any other Act, no provision of this Act authorizing appropriations to carry out any program of assistance under this Act (other than a provision contained in part II of this Act) shall become effective until the tax receipts of the United States Government for the preceding fiscal year were equal to or greater than the expenditures of the Government (other than for the retirement of indebtedness) for such fiscal year.' "

Mr. FOREMAN. Mr. Chairman, this is a very simple amendment. It simply says that we will not continue to give our tax dollars away so irresponsibly as we have in so many parts of the world, until we have balanced our national budget.

Never before in the history of mankind has there been demonstrated such shortsighted generosity as our expensive, badly executed, unrealistic, uncontrolled, and uncontrollable foreign aid giveaway program. This is the only Federal aid program I know of that does not exert Federal control along with the granting of Federal funds.

American taxpayers have contributed more than $124 billion, including the interest we have paid on the money we borrowed to give away, in foreign aid—about 1 out of every 17 tax dollars—to over 100 nations during the last 16 years.

Mr. ALGER. Mr. Chairman, will the gentleman yield?

Mr. FOREMAN. I am pleased, indeed, to yield to my good friend the distinguished gentleman from Texas, [Mr. ALGER].

Mr. ALGER. Is the gentleman suggesting that we not borrow money in order to give it away?

Mr. FOREMAN. That is exactly what I am suggesting.

Mr. ALGER. If the gentleman will yield further, is he suggesting that we balance the budget before we appropriate money to give away?

Mr. FOREMAN. Exactly. I say that before we continue this kind of foreign aid giveaway program, we should get our own house in order. We should balance our own domestic budget, and pay our own debts first.

Mr. ALGER. I appreciate and certainly agree with the gentleman's view but he has not a slightest chance of getting such a reasonable amendment accepted.

I thank the gentleman for yielding and commend him on his very positive, constructive approach to this very grave and perplexing problem.

Mr. FOREMAN. I would like to point out one very important aspect. This amendment leaves in part 2 of the bill, the military assistance portion of this act. It only cuts out the economic grant portions of aid as contained in this bill.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. FOREMAN. I would be delighted to yield to the distinguished gentleman from Iowa.

Mr. GROSS. I want to commend the gentleman for offering his amendment. I wish it went further and provided for payment on the national debt as well as a balanced budget.

Mr. FOREMAN. I thank the gentleman for his remarks, and I certainly agree with him, however, I believe he will agree this is about all we could expect to get at this setting.

Mr. Chairman, as I pointed out, this amendment leaves in part 2, the necessary and strategically important military assistance portion of the bill. Further, as pointed out in the report in the minority views, we can get along without this aid if need be, until the budget is balanced. We will have from 2 to 3 years, or perhaps even longer to balance our national budget, by continuing this program with the money that we already have in the foreign aid pipeline, as shown by tables in the report, country by country and program by program the unexpended balances of economic and military assistance in the foreign aid program financed with funds made available under the authority of the Foreign Assistance Act of 1961, as amended. At June 30, 1964, this pipeline of economic aid added to the military pipeline of $2,087.7 million totals $6,363 million. Add this sum to the $3,517 million authorized by this bill and the total available for expenditure rises to $9,880 million.

One of the ironies of this program is that the United States gives economic or military assistance to a number of countries which themselves are giving aid. It was brought out during the hearings that $90 million in military assistance during fiscal year 1964 and $55 million during fiscal year 1965 was programed to European countries and Japan having assistance programs of their own.

Military assistance to nations conducting substantial assistance programs include, but are not limited to, Belgium, Canada, Denmark, France, Germany, Italy, Japan, the Netherlands, Norway, Portugal, United Kingdom.

In addition, economic loans and technical assistance grants went to such countries as China, Mexico, and Israel that also carry out direct technical assistance activities with other countries.

Further, it was brought out that assistance activities by other countries had expanded to a considerable degree during the last decade. However, the financial terms on which it is given are considerably harder than our own. In 1962, U.S. loans to less developed countries carried an average maturity of about 30 years as compared to the 12-year repayment period for Italy and 17 years for Germany. Interest rates on aid loans of countries other than the United States have been high, averaging 5.1 percent, while the United States makes loans with no interest and only a service charge of three-fourths of 1 percent. Not only are the financial terms considerably harder than our own, but the assistance is tied to the procurement of project commodities and other products from the country granting aid.

In addition to the inefficiencies and wastes in the program, I direct special attention to the basic foreign policy inconsistencies which are clearly seen in this program.

The legislative history of the Foreign Aid Act and all the titles under which it has been operated indicate that the main argument advanced for this massive spending program has been to stop the spread of communism.

The same day our Foreign Affairs Committee approved this latest spending authorization, State Department officials were negotiating to provide trade subsidies for the Rumanian Communist Government with the implication that direct aid would be forthcoming under this act in the near future.

The granting of aid and favorable trade conditions to Communist nations is a self-defeating, tragic policy, completely contrary to the arguments advanced for it on behalf of this program.

For years the Communist rulers of Poland have been granted aid under this program and what have been the results? Polish authorities have loyally supported the policies of Moscow in Laos, cooperated with other Communist governments in subsidizing Castro and have played a major role in international Communist conspiracies. In addition, within their own country, instead of liberalizing or mellowing as the State Department claims, they have increased persecution of religion, intensified class warfare, and moved deliberately to subjugate peasants of the country to Communist agricultural bondage.

The massive aid poured into Yugoslavia has not produced any major results or freed the people of that country of harsh Communist rule. On all major international issues, the Tito Government stands with the Soviet Union and their fellow Communist tyrants. Communist Yugoslavia is especially involved in programs to infiltrate Africa with Red-trained personnel.

In turn, the people of Yugoslavia are subject to religious persecution, constant governmental control of communications media, and standard Communist interference with their attempts for personal economic advancement as under any Red dictatorship.

We have been unable to obtain the cooperation of our European allies to reduce their trade with Cuba in strategic materials. Not even our hemispheric neighbors will go along with us on the sanctions against Cuba necessary to protect their freedoms.

The political settlement in Laos has predictably worked to the advantage of the Communists. The $330 million poured into that country has done nothing more than identify the United States with a losing battle.

After 10 years and $370 million in aid, Cambodia has asked us to pick up our marbles and go home.

Indonesia with $870 million of our money continues to threaten freedom-seeking Malaysia. On March 25, 1964, Sukarno announced: "To hell with U.S. aid." Yet, we continue to give him aid. In fiscal year 1965, $10 million is planned for technical cooperation.

Our friends in Turkey and Greece are at each other's throat over Cyprus.

Are these the accomplishments of our aid? If so, the program needs to be drastically revised.

Had our aid been dispensed in a hard-nosed fashion in earlier years I believe the United States would not be faced with many of the international problems it faces today. If we had demanded, as a condition to receiving assistance, the social and economic reforms that were necessary to give people hope and assure proper utilization of the aid furnished—

Indonesia's economy might be viable instead of on the verge of bankruptcy; she would be a member in good standing with the free world forces against communism instead of its apt pupil; and Sukarno, kept in power with our aid, would long ago have departed from the international scene;

The popular base needed to sustain President Diem's government in South Vietnam would not have been dissipated and thereby encouraging another source of support for Communist insurgents;

President Rhee of Korea would have remained as the inspired leader of his people and the unstable situation would not be the problem it presently is;

Laos might be wholly free; and

Brazil would be realizing its great economic and leadership potential.

These are only a few of the benefits we could have derived from "hard decisions" instead of soft grants and loans.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. FOREMAN. I yield to my good friend the distinguished gentleman from Illinois.

Mr. FINDLEY. I want to commend the gentleman for offering this amendment. I think it would go a long way toward restoring a sound dollar as the first line of defense of this country.

Mr. FOREMAN. I thank the gentleman for his remarks and endorsement of this amendment, one which I might point out, that has been offered by the gentleman from Illinois [Mr. FINDLEY] several times in the past. Now, what improvement proposals do I offer concerning our foreign aid program?

We must initiate drastic reductions in foreign aid in all instances, except where technological and military assistance is necessary to the defense of the free world and is economically advantageous to the United States. We must initiate some tough-fisted management over it. We must use commonsense in our administration of it and curb its waste and mismanagement.

We can do this by restricting grants to the careful distribution of surplus farm products to friendly underdeveloped countries to feed the hungry, by providing needed medicines to the sick, and by providing technological assistance and instruction to those who show a willingness and desire to help themselves. Our money and equipment sent to countries needing help should be only to non-Communist countries, and this should not be grants, rather it should be in the form of sound, hard, reasonable interest-bearing loans, backed up with collateral, and to be repaid according to a specified, sensible, businesslike schedule.

Mr. Chairman, it is an unforgivable disgrace, indeed, for a country with a national debt greater than all the countries of the world combined, to continue to tax our people to give away our goods to try to buy friends among people who readily turn against us when the till goes empty and the chips are down. Any supporter of this wasteful throwaway program, who has one hungry child or one depressed business in his district, should hang his head in shame if he continues to vote funds that are to be so irresponsibly spent. How absurd, how foolish, how ignorant can we get when we throw our money away to our enemies?

Mr. ALGER. Mr. Chairman, will the gentleman yield?

Mr. FOREMAN. I yield to the gentleman from Texas.

Mr. ALGER. Will the gentleman support the bill if his amendment is adopted?

Mr. FOREMAN. If this means we would balance our national budget, I would certainly be inclined to support this bill.

Mr. ALGER. May I suggest to the gentleman that he take it up with the chairman of the committee? The chairman might consider his amendment.

Mr. FOREMAN. I would not be so naive as to believe that he would. However, my reason for offering this amendment, was to try to get the Members of this House to accept a responsible, effective alternate to the very sad, deteriorating economic situation that we are facing in this Nation today.

I would like to quote from a letter of the New Mexico Taxpayers' Association, as reprinted by my good friend Mr. Bill Hooten, editor of the El Paso Times Newspaper, El Paso, Tex., which I think further points out the ridiculousness of borrowing money to give away in foreign aid:

> Last year Congress legislated into law a denial of foreign aid funds to any nation whose ships supplied oil to Cuba. In the first 6 months of this year, four nations shipping oil to Cuba have received $145 million in foreign aid.
>
> The State Department without asking anyone's permission gave the U.N. $217 million, part of which was used to pay the delinquent dues of Castro's Cuba.
>
> All of us would agree on humanitarian grounds, that we should help a needy neighbor. But Christian charity does not decree that we should go in debt to see that he has an egg in his beer.
>
> Dr. Howard Kershner reported a conversation in which the Prime Minister of Lebanon said that his little country had balanced its budget, had no debts, no deficit, no inflation, and had increased its gold holdings from $20 to $170 million. When he had finished, Dr. Kershner said, "Mr. Prime Minister, my country hasn't balanced its budget in 26 of the last 32 years. Our debt is greater than the combined debt of all the nations of the world. We're losing gold so fast that the very stability of our currency is in danger. We have chronic inflation. Do you think that under these circumstances we should continue to give your country millions of dollars each year?" And the Prime Minister said, "No, but if you're foolish enough to do it, we're going to keep on taking the money."
>
> Poland has to take it—how else can she give $13 million to Castro and $15 million to North Vietnam so more American soldiers can be killed? For $1 billion, Tito lets us have one American reading room in Belgrade. Less than half of Brazil's annual budget is covered by tax revenues—the difference is made up by the billions we have poured in and now we've handed them a half million more to make a survey to determine what uses they could find for additional funds.

Further, Mr. Chairman, I would like to include a very excellent editorial on this subject by my good friend, Mr. Olin Ashley, editor of the Odessa American, Odessa, Tex.:

FOREIGN AID

One of the most palpable instances of mass deceit perpetrated by politicians is found in the current claim that "foreign aid helps domestic industry."

Recently an article appeared which gained wide circulation in various news and feature media in which it was stated that "most foreign aid is now spent with U.S. firms." The theory is that money we send abroad is channeled back into America thereby stimulating business and encouraging boom conditions at home.

A precise analogy can be found if we imagine the following condition.

A man has a department store. To spur business, he stands outside the door and hands out money to people on the street encouraging them to enter his portals and buy generously. Even if we assume that a majority of the recipients of these unexpected dollars do as directed, in what way will the store owner benefit? Would he not be just as well off if he abandoned the money route, took his merchandise out onto the street and gave it away?

At the start of the transaction, he has both money and merchandise. At the end of his giveaway cycle, he has only some of the money and none of the merchandise. But it is said that he has prospered.

The bogus nature of the propaganda we are getting is even worse than this. For the fact is that only a relatively small percentage of the money we ship overseas comes home to roost. Rather, it is employed to increase our competitors' competitive position in the creation of new factories and improved production techniques. So, in the end, we only have subsidized the organization and implementation of foreign competition.

Following is a chart of American dollars and where they have gone. The sums listed are totals bestowed from 1945 through mid-1962:

France	$9,438,000,000
Britain	8,713,200,000
Italy	5,755,800,000
Korea	5,433,600,000
West Germany	4,999,400,000
Nationalist China	4,428,300,000
India	3,952,000,000
Turkey	3,869,300,000
Japan	3,693,800,000
Greece	3,387,600,000
Netherlands	2,481,400,000
Vietnam	2,441,700,000
Yugoslavia	2,396,900,000
Belgium-Luxembourg	1,995,900,000
Brazil	1,952,700,000
Pakistan	1,889,600,000
Philippines	1,753,200,000
Spain	1,711,300,000
Indo-China Reg	1,535,200,000
Iran	1,310,200,000
Austria	1,173,800,000
Norway	1,146,800,000
Denmark	905,600,000
Israel	877,700,000
Mexico	766,900,000
Thailand	753,900,000
Indonesia	670,900,000
Argentina	640,500,000
United Arab Republic (Egypt)	628,600,000
Poland	522,600,000
Portugal	488,700,000
Peru	470,700,000
Laos	461,000,000
Colombia	408,500,000
Morocco	352,000,000
Jordan	349,300,000
Tunisia	293,200,000
Venezuela	273,800,000
Bolivia	258,400,000
Afghanistan	219,600,000
Libya	191,700,000
Ethiopia	185,300,000
Guatemala	162,600,000
Ghana	156,500,000
Ireland	146,200,000
Ecuador	138,300,000
Liberia	131,500,000
West Berlin	131,000,000
Sweden	$108,900,000
Haiti	100,800,000
Panama	100,800,000
Burma	95,400,000
Congo	94,600,000
Costa Rica	89,900,000
Lebanon	89,000,000
Uruguay	88,200,000
Ceylon	79,700,000
Syria	75,800,000
Iceland	70,200,000
Nicaragua	68,900,000
Iraq	67,700,000
Sudan	65,000,000
Paraguay	59,300,000
Cuba	52,100,000
Nepal	48,400,000
Saudi Arabia	46,600,000
Dominican Republic	45,500,000
Honduras	45,300,000
Nigeria	43,600,000
El Salvador	40,700,000
Rhodesia-Nyasaland	36,100,000
Indus Basin	33,800,000
Hong Kong	30,400,000
Cento	27,400,000
Somali	27,400,000
Malaya	23,200,000
Yemen	22,900,000
West Indies	22,500,000
Kenya	18,500,000
Tanganyika	16,600,000
Cyprus	16,900,000
Cameroon	15,600,000
Algeria	15,000,000
Guinea	14,300,000
Jamaica	8,800,000
Mali	6,100,000
Rwanda-Burundi	6,100,000
Togoland	5,800,000
Dahomey	5,200,000
Senegal	4,600,000
Ivory Coast	4,600,000
British Guiana	3,500,000
Sierra Leone	3,500,000
Surinam	3,400,000
Niger	3,200,000
Upper Volta	3,200,000
British Honduras	2,400,000
Seato	1,800,000
Mauritania	1,600,000
Malagasy	1,300,000
Gabon	500,000
Chad	400,000
Central African Republic	2;;,00
Zanzibar	100,000

The excuse given for all this foolishness takes two avenues:

1. It is good for American business to give away this money because most of it is returned to us. (Fact: less than 12 percent annually is returned.)

2. This process serves to prevent the spread of communism.

In 1945 communism, as a going concern, was largely limited to the Soviet Union and to slightly more than 200 million people. Today, thanks in part to our foreign aid program, communism is now the accepted economic system for nearly all the people of the world.

Perhaps we had best wake up to the realization that wealth sharing by compulsive means is the core of communism. Foreign aid doesn't stop communism—it is communism.

Mr. HAYS. Mr. Chairman, I rise in opposition to the pending amendment.

First, I would like to point out the two gentlemen who seem to be talking most for this amendment, the two gentlemen from Texas, if I can read the news media right, also have a plan to abolish the income tax. I do not know exactly what that will do to the national debt, and I am sure they have not explained that, either, because it is very easy to be for a proposition without giving much of an explanation.

The second thing I would like to point out is this: In spite of what the gentleman says, this is not a simple amendment. I suppose what the amendment would do, if simply explained, is the amendment would kill the bill. I think it is made crystal clear if you want to kill the bill, vote for the amendment; but if you want to continue fighting communism you will defeat it.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Although the gentleman exempts military assistance to Vietnam, he does eliminate supporting assistance to Vietnam and to other countries. I want to agree with the gentleman from Ohio that this amendment would absolutely kill the foreign aid bill; there is no question about that.

Mr. HAYS. Not only that, may I say to the gentleman, but it would give him something else to criticize the administration for losing the war in Vietnam. This is pretty much having your cake and eating it, too.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from New Jersey.

Mr. GALLAGHER. Would it also cut off supporting assistance to Laos, Korea, Pakistan, and other countries on the periphery of the Communist threat?

Mr. HAYS. It would cut off all aid to all the countries. I cannot think of anything that the Communists would like to see more than this amendment becoming law.

Mr. FOREMAN. We do not have to use this bill to criticize the present administration for losing the war in Vietnam. Anybody who knows anything about the situation knows we are not on the winning side now.

Mr. HAYS. You would not have any more reason for criticizing the administration than you would for shoving the Vice President around in Dallas.

Mr. ALGER. Mr. Chairman, I demand the words be taken down.

The CHAIRMAN. The Clerk will report the words objected to.

Mr. HAYS. Mr. Chairman, to save time, I ask that my remarks be withdrawn.

Mr. ALGER. I object. I want them to be taken down. I want them to be read, and I expect to talk about them on a question of personal privilege.

Mr. HAYS. I hope you do that, and I will answer it.

The CHAIRMAN. The Clerk will report the words objected to.

The Clerk read as follows:

> Mr. Hays. You would not have any more reason for criticizing the administration than you would for shoving the Vice President around in Dallas.

The CHAIRMAN. The Committee will rise.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Rains, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes, certain words used in debate were objected to and on request were taken down and read at the Clerk's desk, and he herewith reported the same to the House.

The SPEAKER. The Clerk will report the words objected to in the Committee of the Whole House on the State of the Union.

The Clerk read as follows:

> Mr. Hays. You would not have any more reason for criticizing the administration than you would for shoving the Vice President around in Dallas.

The SPEAKER. The Chair is prepared to rule.

The Chair sees nothing objectionable or in violation of the rules of the House in the language used. It is a matter of opinion of the gentleman from Ohio. The Chair does not see that the remarks made by him constitute a violation of the rule.

The Committee will resume its sitting.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11380, with Mr. Rains in the chair.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. Foreman].

The amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana [Mr. Adair], a member of the committee.

Mr. ADAIR. Mr. Chairman, I should like to advise the Committee of the contents of the proposed motion to recommit. First, it will include a reduction in the development loan fund. It will be the same provision offered earlier this afternoon which would have the effect of reducing by $172,200,000 the authorization for this fund. This figure is computed from the appropriation request.

I would call the attention of Members to the fact that when this is read, some may have the impression that it is a reduction of $750 million. This is not the case when measured, as I said, in terms of the appropriation request. It is a reduction of $172.2 million from that. Added to that, Mr. Chairman, will be a proposed reduction in the contingency fund of $50 million to make a total proposed reduction in dollars, if the motion to recommit is adopted, of $222,200,000.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. Morgan].

Mr. ROGERS of Florida. Mr. Chairman, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman.

Mr. ROGERS of Florida. Mr. Chairman, progress has been made in the past 5 years in effecting reductions in the gift and grant features of the foreign aid program. I have received encouraging proof of this reduction in a letter from the Agency for International Development.

The letter states that requests by the executive branch for supporting assistance alone have gone from $1.047 billion in fiscal year 1959, to $405 million for fiscal year 1965. This represents a total reduction of $642 million in Executive requests.

In addition, the letter states that the reduction in the number of countries for which such aid is programed has also been reduced from 41 nations in fiscal year 1959, to 14 nations for fiscal year 1965. Thus there are 27 less countries in line for gift and grant aid now than there were 5 years ago.

The reason for this reduction may be found in an amendment to the foreign aid program which was adopted first in 1959, then again in 1961, when it was made a permanent part of the law as section 634(e). The amendment, which I sponsored, directed that a country-by-country study be made of those nations receiving bilateral grant economic assistance. The directive required that a report be made to the Congress each fiscal year on ways which such assistance can be progressively reduced and eventually terminated. It marked the first positive expression of congressional intent that such plans be made.

Not only has supporting assistance been reduced, but requests for technical cooperation aid have also been diminished. In the 3 years since this portion of the foreign aid program has been subject to section 634(e) of the Foreign Assistance Act of 1961, some $70 million have been reduced from requests, and there has been a reduction of eight countries receiving such aid.

The Agency for International Development is discharging its duties under section 634(e), and is wisely shifting its emphasis away from the giveaway aspects of the foreign aid program.

I include herewith the letter from the Deputy Administrator of the Agency for International Development:

> Department of State, Agency
> for International Development,
> *Washington, D.C., June 9, 1964.*
>
> Hon. Paul G. Rogers,
> *House of Representatives,*
> *Washington, D.C.*
>
> Dear Congressman Rogers: I am pleased to respond to your inquiry regarding compliance with the Rogers amendment first added to the Mutual Security Act in 1959 and now part of the Foreign Assistance Act (sec. 634(e)).
>
> This section, as you know, directs the executive branch, wherever practicable, progressively to reduce and eventually terminate bilateral grant economic assistance. This directive has been in effect with reference to supporting type assistance since fiscal year 1959, and with reference to technical cooperation type assistance since fiscal year 1962.
>
> Attached are two charts showing the progress that has been made in complying with the Rogers amendment in these two appropriation categories.
>
> With reference to supporting type assistance, the total request made by the executive branch has declined from $1,047 million in fiscal year 1959 to $405 million in fiscal year 1965—a reduction of $642 million. The reduction in the number of countries for which such assistance is programed has been from 41 in fiscal year 1959 to only 14 in fiscal year 1965—an overall reduction of 27 countries.
>
> With reference to technical cooperation type assistance, the total reduction in the appropriation request from fiscal year 1962 to 1965 is $70 million. The reduction in the number of countries has been 8—from 77 in fiscal year 1962 to 69 in fiscal year 1965.

However, technical cooperation assistance is expected to be a continuing part of the aid program for some time to come and this type of activity is not readily susceptible to loan financing.

These figures show that there has been substantial compliance with the congressional directive contained in the Rogers amendment regarding the reduction in bilateral grant economic assistance.

I hope this information will be helpful to you and if there is any way we can be of further assistance, please do not hestitate to call.

Sincerely yours,

WILLIAM S. GAUD,
Deputy Administrator.

Supporting type assistance appropriation requests since application of the Rogers amendment (sec. 634(e))

	Appropriation request (millions)	Number of countries for which assistance programed
Fiscal year 1959	$1,047	41
Fiscal year 1960	1,106	42
Fiscal year 1961	992	34
Fiscal year 1962	610	42
Fiscal year 1963	481	22
Fiscal year 1964	435	19
Fiscal year 1965	[1] 405	14

[1] Includes $70,000,000 special additional request for South Vietnam.

NOTE.—Total reduction in request fiscal year 1959–65, $642,000,000. Reduction in number of countries fiscal years 1959–65, 27.

Technical cooperation type assistance appropriation requests since application of the Rogers amendment (sec. 634(e))

	Appropriation request	(Of which Alliance for Progress)	Number of countries for which assistance programed
	Millions	*Millions*	
Fiscal year 1962	$380	----------	77
Fiscal year 1963	435	($100)	80
Fiscal year 1964	357	(100)	79
Fiscal year 1965	310	(85)	69

NOTE.—Total reduction in request fiscal years 1962–65, $70,000,000. Reduction in number of countries fiscal years 1962–65, 8.

Mr. MORGAN. Mr. Chairman, I want to use the 1½ minutes of time remaining to oppose the motion to recommit. As has been stated all along in the hearings and in the debate on the floor during these last 2 days, this is a barebones program. It is a bikini-size program. It is a preshrunk program. The President has already taken the fat out of this program. It is a program that is at the same level as was appropriated for last year plus the addition of $125 million for Vietnam. The President needs every dollar of the $3,517,000,000 and I hope the Members will consider this and vote against the motion to recommit.

Mr. FEIGHAN. Mr. Chairman, I ask unanimous consent to revise and extend my remarks at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. FEIGHAN. Mr. Chairman, over the years since 1947 I have voted in support of our foreign aid program. The record will confirm my support of this program. My action has always been voluntary, based upon my conviction that our national interest was served by helping our allies and friends to strengthen their national economies so that in due time they would be able to defend their national independence against the tyranny of communism. My vote in favor of this program has never been sought by interested parties nor has anyone ever attempted to influence my vote on this issue.

Now, in this 16th year of the program, I believe we can make a few reasonable conclusions. Among those conclusions, I include the following:

First. Our foreign aid program has served its intended purpose in Europe. There we are happy to see an unprecedented era of economic prosperity. There is no unemployment there. In some countries of Europe there is an actual manpower shortage—more jobs than they have people to fill. All of the European countries have a favorable balance of payments which we, the donor nation, do not have.

Second. In Asia we are happy to see that Japan, Thailand, and Taiwan are prospering and enjoy a favorable balance of payments. These countries can now stand on their own economic feet. All are proud of their freedom and independence. All can be counted upon to defend their interests against those who would seek to relieve them of their freedom and independence.

Third. There remains the so-called underdeveloped nations of the world who now look to the United States for economic assistance. The nations of Latin America, many underdeveloped, are in a special category because they are part of the Western Hemisphere where the United States must assume the burdens of leadership and where, in the final resolve, our security interests are primary, if not overriding.

This leaves the newly emerging nations of southeast Asia and Africa. In those areas, with rare exceptions, we find despotic and dictatorial regimes in power who specialize in the game of courting Moscow as well as the United States. Their behavior reminds one of a feather merchant or middleman who seeks without conscience to play both ends against the middle.

Take Sukarno as an example. He has done very well in extracting in excess of a billion dollars from the Public Treasury of the United States. And how does he indicate the importance of our help to his country? He tells us he will throw us out, economically, unless he gets approval for his imperial plans in southeast Asia. In fact, he has warned that if we do not agree with his plans he will refuse to accept our assistance.

Take Nkrumah as another example. We went all out to help Ghana, as a symbol of national independence in west Africa. And what is our reward? Nkrumah today is closer to Moscow than he ever was. And as a special salute of gratitude he ordered his stooges to tear down the American flag which flew over our Embassy in Accra, Ghana. If that is not contempt for the United States it is certainly a signal of his allegiance to Moscow.

It is time we woke up. It is time we made a realistic evaluation of our foreign aid program on a country-by-country basis. The present foreign aid package deal method, under which Members are forced to vote for an undue amount of stupidity to accomplish some good, must be abolished or it will abolish the foreign aid program.

I present these basic questions as calling urgently for forthright answers.

First. Does our aid to neutralist countries, or more specifically neutralist dictators, enhance our position in the power struggle which grips the world today?

Second. Does our present foreign aid policy, stipulating no qualifications—with no precise terms of reference—with regard to self-interest, encourage our prosperous allies in Europe to contribute to the overall concept of aid to underdeveloped countries?

Third. Does our present broad and overgeneralized aid concept discourage the otherwise ingenious and vigorous urge of private U.S. investments abroad?

In this connection, I suggest we must begin to look more at the needs of our own people here at home because there is a limit to the tax burden the American people can carry. Illustrative of my point, I include a recent letter which I wrote to the Postmaster General, following receipt of a resolution from the Cleveland AFL–CIO Federation of Labor. When we begin to curtail vital public services to our people as an economy move, while permitting the foreign aid program to carry on in a business-as-usual fashion, we are headed for serious trouble. My letter to the Postmaster General makes this issue crystal clear.

JUNE 5, 1964.

The Honorable JOHN A. GRONOUSKI,
Postmaster General, Post Office Department,
Washington, D.C.

DEAR MR. POSTMASTER GENERAL: The Cleveland AFL–CIO Federation of Labor, which represents 200,000 members, has unanimously adopted a resolution protesting the curtailment of postal service to the public, a copy of which is enclosed for your information.

I am sure you understand that the purpose of the resolution adopted by the Cleveland AFL–CIO Federation of Labor is to insure rapid, efficient, and continuous service to the public by the Post Office Department. They are equally concerned about the curtailment of Government employees involved and the obvious relationship this has to serving the public.

I join with the Cleveland AFL–CIO Federation of Labor in this protest and respectfully request that you take steps to rescind the orders which will bring about a curtailment of service by the Post Office Department in the Greater Cleveland area. In making this request, I take this opportunity to suggest that it is time our Government gave priority consideration to the needs of our own people here at home, only a part of which is the distressing and chronic unemployment problem, in preference to the large expenditures of taxpayers' dollars in a wide variety of nonproductive and questionable foreign aid programs. I am keenly aware of the fact that there is a limit to the burden which the American taxpayers can carry, and the need to cut back drastically on all nonessential Federal expenditures. I am therefore convinced that the desired cutbacks in Federal expenditures can be accomplished without impairing in the slightest those vital public services which our people expect and are entitled to have.

I will appreciate hearing from you on this matter at your earliest convenience.

With all good wishes, I am,

Sincerely,

MICHAEL A. FEIGHAN.

RESOLUTION OPPOSING DECREASE IN POSTAL SERVICES

Whereas the Post Office Department is rendering a great disservice to the public and to its own employees by closing window services on Saturday and eliminating one full day of parcel post service each week; and

Whereas the fact that parcel post rates were increased 13 percent in April 1964 and service decreased more than 16 percent 1 month later is a severe blow to the patron, the employee, and the prestige of the service; and

Whereas this policy is a direct reversal of Post Office policy to give better service to the public; and

Whereas the purpose of closing window service and curtailing parcels is to reduce employment at a time when the Government is trying to reduce unemployment; and

Whereas the curtailment order is discriminatory in that it permits 6-day delivery in some areas but only 5-day delivery in the major and volume business areas, and

Whereas this order eliminates Saturday service for purchase of money orders, COD's, and postal savings; prevents trust fund deposits, box rentals, meter settings, and information services: Therefore be it

Resolved, That the Cleveland AFL-CIO Federation of Labor go on record to use all its efforts in supporting the 6,500 members of the Council of Postal Employees representing letter carriers, clerks, special delivery messengers, motor vehicle, mailhandlers, and maintenance workers, to have this order rescinded, and to send written protest to the Post Office Department, our four Congressmen, both Senators and any other necessary media.

Adopted: May 13, 1964.

Mr. MATSUNAGA. Mr. Chairman, I ask unanimous consent that the gentleman from Michigan [Mr. RYAN] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. RYAN of Michigan. Mr. Chairman, I wish to rise in full support of the measure which authorizes the President to use foreign counterpart currencies in the repair, rehabilitation, improvement, and maintenance of cemeteries in Italy serving as the burial place of members of the armed forces of Poland who died in combat in Italy during World War II.

These Polish soldiers, who fought side by side with our own American boys and with other allied troops, are being denied a decent final resting place on the land where they so willingly gave their lives.

The Italian Government is unable to provide the necessary funds. The present Polish Government has refused to maintain the burial places of the anti-Communist Polish forces who fought with the Allied Forces in World War II.

As a demonstration of good will on the part of the people of the United States for the Polish and Italian people, and out of respect for those men who fought with us for freedom's sake, I urge Congress, as the true representative of the people, to pass this measure.

Mr. MOORHEAD. Mr. Chairman, foreign aid is vital for our national security. And since our national security is involved, we must mobilize all of the resources of this country. Government assistance alone cannot do the job. America's assets are its wealth of private companies, business and professional associations, universities, cooperatives, labor unions, State, and local governments, farmers' organizations, charitable institutions, and voluntary service groups. Their capital and competence are especially important to social and economic assistance to the less-developed countries.

In fact, the entire foreign assistance program is a product of private effort. It takes about 600,000 farmers and workers to produce the industrial and agricultural products and equipment which are furnished each year under the aid program. About one-quarter of the technical assistance now provided is carried out by nongovernmental groups—universities, business firms, service organizations—on direct contract from AID. The University of Pittsburgh in my district has three AID contracts totaling $1,471,000 for training programs in Ecuador, Chile, and Nigeria.

American private investment is of course particularly important for stimulating the growth of the less-developed countries. In 1962, total new American long-term investment in companies and plants overseas totaled $2.7 million—half again the total expenditures of economic aid under the Foreign Assistance Act. Most of this flow of investment went to the developed countries rather than to the less-developed countries, but it shows the possibilities for investment if adequate incentives and encouragement are given.

Investment by private companies not only supplies necessary capital but it also brings with it technical skills, managerial talents, and administrative organization. In many developing countries these are even more of a bottleneck than shortage of capital. Although much is now being done by AID in the private field, further studies should be made to determine how the present program can be strengthened and supplemented to make sure that private investment makes the maximum contribution. I was, therefore, pleased to see that in accordance with the Senate amendment of last year, an Advisory Committee on Private Enterprise in Foreign Aid has been appointed by the Administrator. This Committee will make recommendations this year for achieving the most effective utilization of the private enterprise provisions of the Foreign Assistance Act.

The main new legislative actions requested by the President for fiscal year 1965 are in accordance with the new emphasis upon the private community: The investment tax credit, increased funds for investment surveys, and increases in extended risk guaranty authority and Latin American housing guarantee authority. Further legislation may well be recommended next year as a result of the report of the Advisory Committee.

Potentially one of the most powerful devices for mobilizing private resources for development is the proposed tax credit legislation, called the Less-Developed Country Investment Credit Act, which was designed to encourage a greater flow of U.S. private capital to developing countries. It provides for a U.S. investor to receive a tax credit, against his total tax liability, equal to 30 percent of his investment in developing countries. It also authorizes a credit on reinvested earnings in excess of 50 percent of total earnings if they remain at work in the developing country. This tax credit leaves the investment decision freely to the private investor, but it should tip the balance in many cases in favor of a decision to invest in one of the less-developed countries.

One of the important problems in mobilizing private enterprise for development is how to make businessmen aware of the opportunities that do exist and of how to encourage them to give serious consideration to such opportunities.

A Businessmen's Information Center has been established within AID to help businessmen learn where and how they can participate in AID private enterprise programs. The Center will provide information and guidance to American businessmen on those functions of the agency which affect business and whom to contact on each of them. AID is also compiling a list of investment opportunities which have been studied by numerous public and private organizations such as international banks, foreign governments, U.S. and foreign corporations, universities, and foundations, for use by the investing public.

Authorization of $2.1 million for the investment survey program has been requested by the President because the program has expanded rapidly in the past year. Under this program AID can agree to pay up to half of the cost of investment surveys undertaken by prospective investors. If the survey results in an actual investment project, the investor pays the full cost of the survey. The modest AID costs under the program give promise of opening the way to millions of dollars of investment. In 1963, AID participated in the financing of 60 surveys by companies wishing to explore new investment opportunities in less-developed areas—a significant jump from the five surveys authorized in 1962.

The leverage of this program is so high that even a relatively small proportion of successes would produce an impressive increase in investment—much of which might not have taken place without this encouragement.

To overcome the higher risks which act as a major barrier to U.S. investment in developing areas, the President has asked for expanded guarantee authority.

A crying need in developing countries is for boldness in pursuing investment opportunities entailing considerable risk, beyond those that can be insured against through the specific risk guarantee programs. Authority to grant extended risk guarantee coverage on commercial risks to U.S. investors is granted in the authorizing statute. The act now authorizes up to $180 million for assuring against loss of any loan investment for housing projects, or against loss of not to exceed 75 percent of any other investment. I understand that the first contract granting such coverage was signed with a group of U.S. companies to cover an $8 million additional investment in a petrochemical complex in Argentina. Rapid expansion is now anticipated by AID, with amounts under this guarantee expected to rise to $50 million in fiscal year 1964 and to $140 million in fiscal year 1965. To allow this expected expansion, the President has asked that we increase the authorized guarantee issuing authority by $120 million, bringing the total to $300 million.

As is well known, the housing shortage in Latin America is incredible. Without even the barest minimum of a place to live, it is hardly surprising that unrest, strife, and despair cover the continent. The Latin American housing guarantee program is a start toward providing a measure of social justice in this hemisphere. In 1963, AID approved eight investment guarantees for self-liquidating demonstration housing projects in Latin America; in addition, two projects were guaranteed in 1962. These 10 projects in Peru, Chile, El Salvador, Honduras, Mexico, and Panama will produce approximately 13,000 housing units, representing a total investment guarantee commitment of almost $55 million. More than 5,500 homes are already under construction, and 100 of the first 400 houses to be built and financed under this Alliance for Progress housing guarantee were formally dedicated and delivered in Lima, Peru, on January 18, 1964.

The President has asked us to raise the authorized guarantee issuing authority by $100 million to a total of $250 million. This will accommodate the continued rise in demand for these guarantees. Close to $190 million is expected to be in force by the end of fiscal year 1965.

The introduction of low downpayment, long-term mortgage financing in Latin America—aided by the U.S. guarantee—is broadening the possibilities for private home ownership and serves as a demonstration to local builders and financial institutions.

The oldest AID program to assist the U.S. investor is the specific risk guarantee program, covering convertibility, expropriation, or war risk. From the inception of the program through December 1963, 778 guarantee contracts worth $1.4 billion had been written for specific political risks. Of this amount, $1.1 billion was still outstanding. Outstanding guarantees have doubled again over the last 2 years.

In 1963, Congress increased guarantee issuing authority by $1 billion to a total of $2.5 billion. This authority is sufficient to meet the needs for the coming fiscal year.

The President's proposal for an Executive Service Corps will help to mobilize the technical and managerial skills of American business for development. There are many Americans with high skills and long experience in business who would welcome the challenge and opportunity to put their know-how to work directly to help the growth of free enterprise in developing countries. At the same time, a major limiting factor in the growth of private enterprise in most of these developing countries is the great shortage of managerial and technical manpower.

The Executive Service Corps should bring together the needs of the developing countries and the available skills in the United States. But I also applaud the President's view that the Executive Service Corps should be operated entirely by a business organization, working with similar local groups in developing countries.

The proposed new Executive Service Corps should emphasize placing people directly in private enterprises and in actual operating jobs overseas rather than purely advisory functions. Those going abroad should go as individual volunteers and not as U.S. Government representatives in any formal sense, though we hope that through their deeds they may become effective ambassadors for development through private enterprise. This has been the key to success of the Peace Corps—and is a noble example for older citizens.

This program offers an opportunity to mobilize business know-how and skilled manpower—which is one of the greatest strengths of our system—to meet the challenge of world development. It also offers the opportunity for Americans to practice what they preach and to show by example why we as a nation believe so strongly that a free enterprise system is the most effective way to achieve both prosperity and true freedom.

I congratulate the administration for the progress being made toward greater participation in the aid program by private enterprise and private organizations.

Mr. PEPPER. Mr. Chairman, I have been pleased to hear the statement of my colleagues from Florida [Mr. FASCELL and Mr. ROGERS] as to the good results obtained by the amendment offered by them when the foreign aid authorization bill was up last year to deny foreign aid to nations which carry on trade with Cuba, an amendment with which I associated myself at the time of its adoption and which I still strongly favor.

All of us agree, I think, however, that we should go further toward restricting trade with Cuba by other nations of the world so as to expedite the restoration of that "jewel of the Caribbean" to the status of a free and independent nation.

I have a bill pending, H.R. 8464, which I think will go far toward the accomplishment of that purpose. My bill would prohibit any ship which goes into a Cuban port while Castro or communism dominates Cuba, from thereafter coming into an American port. It would prohibit any owner of any ship which has been directed into a Cuban port while Castro or communism dominates Cuba, from sending any other ship owned by such owner into an American port. It would also prohibit any ship captain who has taken any ship into a Cuban port while Castro or communism dominates Cuba, from bringing any ship into an American port.

This bill would so reduce the value of any ship which takes commerce into a Cuban port while Castro or communism dominates Cuba, that any such ship owner would not wish to stand such loss; and it would so penalize a ship captain who takes a ship into Cuba while so dominated as to make most, if not all captains in the free world unwilling to perform such service.

I am hoping to have hearings at an early date upon this bill and I commend it to the consideration of the able chairman and the members of the committee as well as to my colleagues.

Mr. ROUSH. Mr. Chairman, the votes we cast on the various bills which come before the House of Representatives are not always easy votes to cast. The reason for this is, of course, that there is some good in much of the legislation we consider and there is also some bad in much of the legislation. This is especially so with the foreign aid authorization bill of 1964.

I commend the administration for its insistence that the foreign aid program be "cut to bone." This bill now carries the lowest price tag it has had for many years. Yet, despite this, I have, as in the past, misgivings. It is still a program which operates beyond the restraints which Congress imposes on domestic programs. We impose every kind of restraint and control over every domestic program we have with the view of keeping them under congressional control.

In the foreign aid program, we cut the reins with the pretense it must be done to give more flexibility to meet fluid situations. To me this does not make sense.

I also believe there is much to the argument that much of the program is not providing the basic help which will lead a nation to that place where it becomes economically self-supporting but, rather, causes these developing nations to become dependent both in attitude and response. It is my considered opinion that no part of the funds should be used unless those funds are designed to cause the recipient nations to become self-sufficient. No aid should be given to any country which is not politically stable and which, both by promise and action, shows that it is capable of providing sound and stable government for its people. The combining of both military and economic aid in this one bill is not sound. I doubt very much if the bill would pass if it contained only economic aid.

Mr. Chairman, much more could be said. My vote shall be "no." My hope will be that we will eventually get this program in line with good judgment, sound planning, and purposeful goals.

Mr. BRADEMAS. Mr. Chairman, I should like to speak briefly about our foreign assistance efforts in the field that I know best, education. Too few Americans are aware of the good work that American educators are doing overseas in helping the developing countries improve their educational systems. We hear much too much of failures, and much too little of the success of our efforts. It is all too rare that we hear of the classrooms that have been built, the textbooks that have been provided, the improvements made in the university, or the help given in planning for better use of that most precious national resource—the young men and women of a nation. Our efforts in the field of education are beginning to pay off. In this field, foreign aid has made a difference.

The importance of the skills and discipline of a people to its own national development can hardly be overemphasized. Our country was built by pioneers whose first act was to build schools and churches; the factories, the dams, the industrial development came later. And so it must be in the developing societies.

It does little good to plan for industrial expansion in a country where too few people can read or write. Development plans put together by foreign experts collapse for lack of trained manpower. Without an educated people, the plans for tax reform, for economic expansion, for agricultural development have little chance of success. Our best economists have recognized this fact for they argue that the educational system of a country is as basic to its growth as are its roads, dams, and factories. In my own travels in Latin America, I have heard—as have many of you—that the biggest, most serious shortage is trained manpower.

What is AID doing to meet this challenge? A great deal. Today I want to confine my remarks to four major areas: Textbooks and materials, school construction, teacher training, and assistance to the universities. The projects that AID has underway in these critical areas symbolize to me what can be done when American educators put their shoulders to the wheel.

First, textbooks and materials: We take books for granted in our own country. But in countries such as Colombia, Nigeria, and Pakistan, millions of youngsters go to schools that are without books. The shortage is immense. But foreign aid can make a difference. And it is making a difference. Americans are a generous people, and we are all familiar with book drives for old, discarded U.S. books, including textbooks. Unhappily, many donated books are not usable. A first grade reader used in the Indian schools is not really relevant to the needs of a 6-year-old youngster in Costa Rica. He needs a reader in Spanish, with illustrations drawn from his country, his culture.

In Central America, AID has organized a regional textbook center. First and second grade readers are being written, printed, and distributed to youngsters in the five Central American countries. Thus, for the first time in history, every youngster in Central America will soon have a first grade reader. This is a magnificent achievement; if anything will pay off, surely this will.

In the Philippines, AID is helping relieve a critical textbook shortage in the nation's school system by financing paper imports and technical services to print 25 million textbooks by 1965.

Second, school construction: Not only books but classrooms are in extremely short supply in many parts of Africa, Asia, and Latin America. Obviously, we cannot build schools everywhere for everyone, nor is this being attempted. But in select countries help is being given for school construction. American advisers assist in the design of classrooms that can serve as prototypes in school construction programs. Here our most important contribution has been the self-help principle. The best schools are those which the local community itself helps build. In such self-help school projects the community provides the labor; AID and the host government provide technical help and construction materials.

To the extent that the self-help principle catches fire in Latin America, it promises a revolution in Latin American education within a generation. Money alone, whether our money or the host country's money, will not do the job. The people themselves, whether in the African bush, the Guatemalan highlands, or the plains of India, must want schools for their children, and want them badly enough to work with their own hands to help build them.

In Liberia, there is a rural school built by the women of a remote village. The mud and cement were carried in buckets on the heads of the women, for there are no beasts of burden in this country. It took 12,000 miles of walking and carrying by the women of the village. But the school was built and the village will never be the same. The AID educator who guided the project made a difference.

Third, teacher training: Classrooms mean little unless there are teachers—and good teachers. The shortage of teachers is the most crippling of all manpower shortages, for unless youngsters learn to read and write, to develop their curiosity, they will never have the opportunity to decide whether to become lawyers or engineers or architects or accountants. And as in the case of books and classrooms, the problem cannot be solved by importing foreign teachers. Nor can it be solved, in my judgment, by opening up the doors of our colleges and universities to all who would come here from Africa and Asia and Latin America. In the long run, each nation must educate its own. And this means that the developing countries must prepare their own teachers.

AID's distinctive contribution, it seems to me, is to help set up the teacher training programs so desperately needed. And this AID is doing. We cannot wait to expand formal training programs. In Nigeria, in Central America, and elsewhere, AID has helped the Ministry of Education develop short courses for intensive summer study. We have done whatever has to be done, whether in providing home-study programs, in improving curriculums, in adding to the libraries in the universities.

Much of AID's efforts are sharply focused, as indeed they should be, on teacher training. This is fundamental. All other assistance, whether for books or equipment or for advisory services, will go for nothing unless ways can be found to increase the supply and upgrade the quality of the teaching profession.

Fourth, assistance to universities: Universities are the capstone of any nation's education system. Not only do they produce the engineers and the administrators necessary to manage a modern economy but they also produce the leaders who guide the destinies of the nation. Few of the universities in the developing societies are equipped to perform their job adequately. They have neither the teachers, the libraries, the traditions, nor the managerial know-how to operate modern universities.

I have visited several universities in Latin America. They need help, and they are eager to accept help. As a result of the foreign assistance program, about 70 U.S. universities are extending help, chiefly to their counterparts overseas—to schools of medicine and veterinary medicine, in agriculture, in business and public administration, and in education.

In modernizing the universities, we help modernize the society itself. For no country can hope to feed and provide for its people, let alone compete in world markets, unless it equips itself with modern science and technology. And it is the universities which hold the key to science and technology.

I am convinced that in Latin America, for example, helping the universities is the most tangible way of impressing the restless and radical youth of these societies that we are genuinely interested in their future. The American professor who teaches chemistry in the University of Honduras, and the specialist on audiovisual materials in São Paulo, Brazil, are visible symbols of our competence and our concern.

These are but a few examples of the approaches that have most impressed me: Assistance in textbooks, school construction, teacher training, and the upgrading of universities.

There have been great successes; and there have been failures too. In education as in other fields not everything that we have attempted has succeeded. We have learned that assistance in education must be highly selective. Indiscriminate help is in some ways worse than no help at all, for it may generate unrealistic aspirations and lead to disappointment. Assistance to education must be tailored to a country's needs. Textbooks may be the top priority in one country, and a much lower priority in another country. The secondary school is the bottleneck in many countries. In these cases it makes more sense to expand the secondary school than to assist the universities.

Our aid will be effective if the very best minds in the U.S. academic community are brought to bear on this problem. We need to have more of our colleges and universities involved. Some may see this as a drain on our own academic resources at a time when our own rapidly expanding school population needs the guidance of our best minds. But knowledge is unique among the world's riches; it can be shared without loss to the donor. We are the richer, not the poorer, when we help the University of El Salvador improve its medical school, when teachers from San Francisco State College help the Liberians design a new educational system, when agricultural teachers from our great land-grant universities introduce Brazilians and Indians and Pakistanis to the disciplines and technologies that underlie modern agriculture.

The next generation of American students will be better served by teachers who have lived and worked overseas, and have added new dimensions to their understanding. It is not, in truth, a smaller world but rather a larger, more complicated, more confusing world that is emerging. And our own universities must shape their programs in the light of new knowledge about the peoples of the world. Indeed, this is the principal thrust of an excellent report that I commend to my colleagues—the report of AID-university relations prepared by Mr. John Gardner of the Carnegie Corp. of New York.

We can be proud of the AID programs in the field of education, for they have made a difference. At present over 7,000 men and women from the developing countries are studying in the United States, largely in our colleges and universities, under AID auspices. In studying economics and agriculture, medicine and nursing, and other subjects, they are preparing themselves to become leaders in their own societies. I can imagine no better investment in the future. Many hundreds of American teachers are at work for AID, in ministries of education, in textbook centers, in universities, in vocational schools. We are giving generously of our skills, our competence, our specialized knowledge. We are, in short, helping build the schools and colleges without which no nation can possibly enter into the economic life of this century. In last analysis it is not simply American know-how that we export. Rather it is the American faith in education—as a liberating agent for the individual, as the guardian of a nation's freedoms, and as the only lasting key to a strong economy and a secure society.

Mr. Chairman, I include at this point in the Record some facts and figures concerning the impact of the U.S. AID program in the field of education in several major areas of the world:

AFRICA

Total program, $82,900,000.

Educational component, $24,526,000.

Educational programs have a high AID priority in Africa because of the magnitude of the need for education. Education is regarded as a highly profitable short-term as well as long-term economic investment.

The dimensions of Africa's educational needs are demonstrated dramatically by these 1961 statistics:

African enrollment south of the Sahara—percent of school population

Current African enrollment:	
Primary	9.4
Secondary	5.9
Higher	.09
World average (current):	
Primary	76.0
Secondary	21.0
Higher	3.0
United States:	
Primary	93.8
Secondary	81.3
Higher	26.7

The AID program varies with the widely ranging needs and stages of development of African countries. The program may be characterized by the following four significant and successful educational projects in Africa:

1. Secondary education: A cooperative undertaking with the United Kingdom in the three east African countries that has made possible rapid and effective expansion of critically, needed secondary education opportunities.

2. Teacher education: The expansion and improvement of teacher education in the western region of Nigeria through the services of a contract team of 15 people from Ohio University. This team advises the Ministry of Education and the several teacher training institutions in the region.

3. Higher education: The impressive emergence of Africa's first land-grant college in the form of the University of Nigeria. In 4 years the university has grown from 220 students to 1,800, has produced its first 150 graduates, and has pioneered in developing a program suited to the Nigerian needs in modern times. Nearly half its faculty is now Nigerian, a percentage of indigenous staff not matched by any other university south of the Sahara.

4. Vocational education: A project in Ethiopia which was conducted completely by direct-hire technicians, was carried through to completion as planned, and has continued to operate effectively under host country direction and financing in the years since the complete phaseout of U.S. assistance.

NESA

Total technical assistance program, $56,100,000.

Education component, $10,770,000.

(Supporting assistance, $150,000.)

The NESA education program varies from country to country, depending on needs and varying stages of development. The majority are in the secondary and higher level.

1. Vocational education, Turkey:

Adult Education: AID will continue to help the Turkish Government improve and expand its literacy and adult education program launched by the Armed Forces in 1959, which in 1963 saw 127,000 civilian adults attending basic literacy and vocational classes.

Vocational education: AID will continue to help the Ministry of Education improve various programs in vocational education. The final phase of AID support will be aimed at upgrading industrial and vocational education facilities of the new vocational demonstration organization at Narmac, a suburb of Tehran.

2. Teacher education, India: AID is supporting a series of summer inservice science and mathematics teacher training institutes aimed at introducing new methods of teaching to Indian professors and secondary school advisors and teachers. AID is financing the participation of 32 American science and mathematics secondary schoolteachers and 16 American University professors to help run this program.

3. Higher education, India: AID is helping finance an Institute of Technology at Kanpur under a contract with a consortium of nine universities known as Educational Services, Inc. Fiscal year 1965 funds will provide an additional year of funds for the consortium for 25 professors, 10 laboratory research assistants and others and the purchase of about $6 million of equipment and books by the summer of 1966.

FAR EAST

Total technical assistance program, $48,700,000.

Educational component, $5,548,000.

This progam is balanced among elementary, secondary and higher education needs depending on national stages of development which range from Laos at the beginning, to Taiwan, which has attained a high degree of development and where the AID program is being phased out.

Elementary, Vietnam: AID is assisting in building of elementary schools or classrooms in 16,000 villages; the training of teachers for these schools and the writing and publishing of textbooks for the schools.

Secondary education (vocational), Korea: AID is continuing to support what is becoming a $4 million project for improving and expanding vocational training to help provide an adequate supply of well-trained workers for Korea's industrial and agricultural development.

Higher education: In a multilateral project under SEATO, USAID is working with the British, French, and Australians to support a graduate school of engineering at Bangkok under contract with Colorado State University. The program will produce high-level graduates geared to the industrial needs of southeast Asia.

LATIN AMERICA

Total technical assistance program, $79,400,000.

Educational component, $16,959,000.

The Latin American program continues to move away from the concept of vocational training alone to meet the broader educational needs of the area as defined by Latin Americans.

Examples:

1. Educational planning: support of the Economic Development Institute at Santiago. University contract support of planning in Peru, Ecuador, and Colombia.

2. Improvement in the quality and form in higher education: Peru, three university consortium; Brazil, land-grant college.

3. The development of middle level manpower to meet the region's growing agricultural and industrial needs.

LOANS

Loan activities tied to quality improvement of higher education: CSUCA, improvement of faculty, etc.

WORDS TAKEN DOWN

Mr. MARTIN of Nebraska. Mr. Chairman, I ask unanimous consent that the gentleman from Texas [Mr. Alger] may extend his remarks at this point in the Record and include extraneous matter.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. ALGER. Mr. Chairman, today, during debate on H.R. 11380 in a colloquy between the gentleman from Ohio [Mr. Hays] and the gentleman from Texas [Mr. Foreman], I demanded that the gentleman from Ohio's words be taken down. I did this because the gentleman from Ohio said to the gentleman from Texas [Mr. Foreman]:

> You have no more right to criticize the administration than your colleague had to shove the Vice President around in Dallas.

As the reporter took the words down the words "your colleague" were omitted. Obviously, the meaning is quite different, since the reference to "colleague" referred to me.

In either case, the gentleman from Ohio is entirely out of order by such a statement whether it refers to either gentleman from Texas, and has no place in debate on the floor of the House. The gentleman from Ohio should inform himself of the facts before he accuses others of shoving people around.

The CHAIRMAN. All time has expired.

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Rains, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes, pursuant to House Resolution 742, he reported the bill back to the House with sundry amendments adopted in Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

If not, the Chair will put them en gros.

The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. ADAIR. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ADAIR. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Adair moves to recommit the bill (H.R. 11380) to the Committee on Foreign Affairs with instructions to report the same to the House forthwith with the following amendments:
>
> On page 1, immediately after line 6, insert the following:
>
> "TITLE I—DEVELOPMENT LOAN FUND
>
> "Sec. 101. Section 202(a), which relates to authorization, is amended by striking out 'and $1,500,000,000 for each of the next two succeeding fiscal years' and inserting in lieu thereof '$750,000,000 for fiscal year 1965, and $1,500,000,000 for fiscal year 1966'."
>
> On page 5, line 1, strike out "$150,000,000" and insert in lieu thereof "$100,000,000".

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

Mr. ADAIR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 193, nays 211, not voting 27, as follows:

[Roll No. 152]

YEAS—193

Abbitt
Abele
Abernethy
Adair
Alger
Anderson
Andrews, Ala.
Andrews,
  N. Dak.
Arends
Ashbrook
Auchincloss
Avery
Baker
Baring
Bates
Battin
Becker
Beermann
Belcher
Bell
Bennett, Fla.
Bennett, Mich.
Berry
Betts
Bonner
Bow
Bray
Brock
Bromwell
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burleson
Burton, Utah
Byrnes, Wis.
Casey
Cederberg
Chamberlain
Chenoweth
Clancy
Clausen,
  Don H.
Clawson, Del
Cleveland
Collier
Colmer
Corbett
Cramer
Cunningham
Curtin
Curtis
Dague
Derounian
Derwinski
Devine
Dole
Ellsworth
Feighan
Findley
Fino
Fisher
Ford
Foreman
Fulton, Pa.
Fuqua
Gathings
Glenn
Goodell
Goodling
Grant
Griffin
Gross
Grover
Gubser
Gurney
Hagan, Ga.
Haley
Hall
Halleck
Harrison
Harsha
Harvey, Ind.
Harvey, Mich.
Henderson
Herlong
Hoeven
Hosmer
Huddleston
Hull
Hutchinson
Ichord
Jarman
Jennings
Jensen
Johansen
Johnson, Pa.
Jonas
Jones, Mo.
Keith
Kilburn
King, N.Y.
Knox
Kornegay
Kunkel
Kyl
Laird
Langen
Latta
Lennon
Lipscomb
McClory
McCulloch
McDade
McLoskey
McMillan
MacGregor
Marsh
Martin, Calif.
Martin, Nebr.
May
Meader
Michel
Miller, N.Y.
Milliken
Minshall
Moore
Morton
Mosher
Nelsen
Norblad
O'Konski
Ostertag
Passman
Pelly
Pirnie
Poff
Pool
Quie
Quillen
Reid, Ill.
Reifel
Rhodes, Ariz.
Rich
Riehlman
Rivers, S.C.
Rogers, Fla.
Roudebush
Roush
Rumsfeld
St. George
Saylor
Schadeberg
Schenck
Schneebeli
Schweiker
Scott
Selden
Short
Shriver
Sibal
Sikes
Siler
Skubitz
Smith, Calif.
Smith, Va.
Snyder
Springer
Stafford
Stinson
Taft
Talcott
Teague, Calif.
Thomson, Wis.
Tollefson
Tuck
Utt
Van Pelt
Waggonner
Watson
Weaver
Weltner
Westland
Whalley
Wharton
Whitener
Whitten
Williams
Willis
Wilson, Bob
Wilson, Ind.
Wydler
Wyman
Younger

NAYS—211

Addabbo
Albert
Ashley
Aspinall
Ayres
Baldwin
Barrett
Barry
Beckworth
Blatnik
Boggs
Boland
Bolton,
  Frances P.
Brademas
Brooks
Broomfield
Brown, Calif.
Burke
Burkhalter
Burton, Calif.
Byrne, Pa.
Cahill
Cameron
Carey
Celler
Chelf
Clark
Cohelan
Conte
Cooley
Corman
Daddario
Daniels
Davis, Ga.
Davis, Tenn.
Dawson
Delaney
Dent
Denton
Diggs
Dingell
Donohue
Downing
Dulski
Duncan
Dwyer
Edmondson
Edwards
Elliott
Everett
Evins
Fallon
Farbstein
Fascell
Finnegan
Flood
Flynt
Fogarty
Fountain
Fraser
Frelinghuysen
Friedel
Fulton, Tenn.
Gallagher
Garmatz
Gary
Gibbons
Gilbert
Gill
Gonzalez
Grabowski
Gray
Green, Oreg.
Green, Pa.
Griffiths
Hagen, Calif.
Halpern
Hanna
Hansen
Harding
Hardy
Harris
Hawkins
Hays
Healey
Hébert
Hechler
Holifield
Holland
Horton
Joelson
Johnson, Calif.
Johnson, Wis.
Karsten
Karth
Kastenmeier
Kelly
Keogh
Kilgore
King, Calif.
Kirwan
Kluczynski
Landrum
Lankford
Leggett
Lesinski
Libonati
Lindsay
Long, La.
Long, Md.
McDowell
McFall
Macdonald
Madden
Mahon
Mailliard
Mathias
Matsunaga
Matthews
Miller, Calif.
Mills
Minish
Monagan
Montoya
Moorhead
Morgan
Morris
Morrison
Morse
Moss
Multer
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
O'Brien, N.Y.
O'Hara, Ill.
O'Hara, Mich.
Olsen, Mont.
Olson, Minn.
O'Neill
Osmers
Patman
Patten
Pepper
Perkins
Philbin
Pickle
Pike
Pilcher
Poage
Price
Pucinski
Purcell
Rains
Randall
Reid, N.Y.
Reuss
Rhodes, Pa.
Rivers, Alaska
Roberts, Tex.
Robison
Rodino
Rogers, Colo.
Rogers, Tex.
Rooney, N.Y.
Rooney, Pa.
Roosevelt
Rosenthal
Rostenkowski
Roybal
Ryan, Mich.
Ryan, N.Y.
St Germain
St. Onge
Schwengel
Secrest
Senner
Sickles
Sisk
Slack
Smith, Iowa
Staebler
Staggers
Steed
Stephens
Stratton
Stubblefield
Sullivan
Teague, Tex.
Thomas
Thompson, N.J.
Thompson, Tex.
Trimble
Tupper
Tuten
Udall
Ullman
Van Deerlin
Vanik
Vinson
Wallhauser
Watts
White
Wickersham
Widnall
Wilson,
  Charles H.
Wright
Young
Zablocki

NOT VOTING—27

Ashmore
Bass
Bolling
Bolton,
  Oliver P.
Bruce
Buckley
Dorn
Dowdy
Forrester
Giaimo
Hoffman
Horan
Jones, Ala.
Kee
Lloyd
McIntire
Martin, Mass.
Murray
Pillion
Powell
Roberts, Ala.
Sheppard
Shipley
Taylor
Thompson, La.
Toll
Winstead

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Taylor for, with Mr. Sheppard against.
Mr. Thompson of Louisiana for, with Mr. Toll against.
Mr. Shipley for, with Mr. Jones of Alabama against.
Mr. Dowdy for, with Mr. Buckley against.
Mr. Dorn for, with Mr. Giaimo against.
Mr. Lloyd for, with Mr. Powell against.
Mr. Horan for, with Mrs. Kee against.

Until further notice:

Mr. Ashmore with Mr. Hoffman.
Mr. Winstead with Mr. Bruce.
Mr. Roberts of Alabama with Mr. Pillion.
Mr. Bass with Mr. Martin of Massachusetts.
Mr. Forrester with Mr. McIntire.

Mrs. GRIFFITHS and Mr. BARRETT changed their vote from "yea" to "nay."

Mr. WILLIS changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. ADAIR. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 230, nays 175, not voting 26, as follows:

[Roll No. 153]

YEAS—230

Addabbo
Albert
Arends
Ashley
Aspinall
Auchincloss
Ayres
Baldwin
Barrett
Barry
Bates
Beckworth
Bell
Blatnik
Boggs
Boland
Bolton,
  Frances P.
Brademas
Brooks
Broomfield
Brown, Calif.
Burke
Burkhalter
Burton, Calif.
Byrne, Pa.
Byrnes, Wis.
Cahill
Cameron
Carey
Celler
Clark
Cleveland
Cohelan
Conte
Cooley
Corbett
Corman
Daddario
Daniels
Davis, Tenn.
Dawson
Delaney
Dent
Denton
Diggs
Dingell
Donohue
Downing
Dulski
Duncan
Dwyer
Edmondson
Edwards
Elliott
Everett
Evins
Fallon
Farbstein
Fascell
Feighan
Finnegan
Fino
Flood
Fogarty
Ford
Fraser
Frelinghuysen
Friedel
Fulton, Pa.
Fulton, Tenn.
Gallagher
Garmatz
Gary
Gibbons
Gilbert
Gill
Gonzalez
Grabowski
Gray
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Grover
Gubser
Hagen, Calif.
Halleck
Halpern
Hanna
Hansen
Harding
Hardy

Hawkins
Hays
Healey
Hébert
Hechler
Holifield
Holland
Horton
Hosmer
Joelson
Johnson, Calif.
Johnson, Wis.
Karsten
Karth
Kastenmeier
Keith
Kelly
Keogh
King, Calif.
Kirwan
Kluczynski
Kunkel
Lankford
Leggett
Lesinski
Libonati
Lindsay
Long, Md.
McDade
McDowell
McFall
Macdonald
MacGregor
Madden
Mahon
Mailliard
Mathias
Matsunaga
Matthews
Meader
Miller, Calif.
Minish
Monagan
Montoya
Moorhead
Morgan
Morrison
Morse
Moss
Multer
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nix
O'Brien, N.Y.
O'Hara, Ill.
O'Hara, Mich.
Olsen, Mont.
Olson, Minn.
O'Neill
Osmers
Ostertag
Patman
Patten
Pepper
Perkins
Philbin
Pickle
Pike
Pilcher
Pirnie
Price
Pucinski
Purcell
Quie
Rains
Reid, N.Y.
Reuss
Rhodes, Pa.
Riehlman
Rivers, Alaska
Roberts, Tex.
Robison
Rodino
Rogers, Colo.
Rooney, N.Y.
Rooney, Pa.
Roosevelt
Rosenthal
Rostenkowski
Roybal
Ryan, Mich.
Ryan, N.Y.
St Germain
St. Onge
Schneebeli
Schweiker
Schwengel
Selden
Senner
Sibal
Sickles
Sisk
Slack
Smith, Iowa
Springer
Staebler
Stafford
Staggers
Stratton
Stubblefield
Sullivan
Teague, Calif.
Thomas
Thompson, N.J.
Thompson, Tex.
Trimble
Tupper
Udall
Ullman
Van Deerlin
Vanik
Vinson
Wallhauser
Watts
Weaver
Weltner
Whalley
White
Wickersham
Widnall
Wilson, Charles H.
Wright
Wydler
Young
Zablocki

NAYS—175

Abbitt
Abele
Abernethy
Adair
Alger
Anderson
Andrews, Ala.
Andrews, N. Dak.
Ashbrook
Avery
Baker
Baring
Battin
Becker
Beermann
Belcher
Bennett, Fla.
Bennett, Mich.
Berry
Betts
Bonner
Bow
Bray
Brock
Bromwell
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burleson
Burton, Utah
Casey
Cederberg
Chamberlain
Chelf
Chenoweth
Clancy
Clausen, Don H.
Clawson, Del
Collier
Colmer
Cramer
Cunningham
Curtin
Curtis
Dague
Davis, Ga.
Derounian
Derwinski
Devine
Dole
Ellsworth
Findley
Fisher
Flynt
Foreman
Fountain
Fuqua
Gathings
Glenn
Goodell
Goodling
Grant
Gross
Gurney
Hagan, Ga.
Haley
Hall
Harris
Harrison
Harsha
Harvey, Ind.
Harvey, Mich.
Henderson
Herlong
Hoeven
Hoffman
Huddleston
Hull
Hutchinson
Ichord
Jarman
Jennings
Jensen
Johansen
Johnson, Pa.
Jonas
Jones, Mo.
Kilburn
Kilgore
King, N.Y.
Knox
Kornegay
Kyl
Laird
Landrum
Langen
Latta
Lennon
Lipscomb
Long, La.
McClory
McCulloch
McLoskey
McMillan
Marsh
Martin, Calif.
Martin, Nebr.
May
Michel
Miller, N.Y.
Milliken
Mills
Minshall
Moore
Morris
Morton
Mosher
Norblad
O'Konski
Passman
Pelly
Poage
Poff
Pool
Quillen
Randall
Reid, Ill.
Reifel
Rhodes, Ariz.
Rich
Rivers, S.C.
Rogers, Fla.
Rogers, Tex.
Roudebush
Roush
Rumsfeld
St. George
Saylor
Schadeberg
Schenck
Scott
Secrest
Short
Shriver
Sikes
Siler
Skubitz
Smith, Calif.
Smith, Va.
Snyder
Steed
Stephens
Stinson
Taft
Talcott
Teague, Tex.
Thomson, Wis.
Tollefson
Tuck
Tuten
Utt
Van Pelt
Waggonner
Watson
Westland
Wharton
Whitener
Whitten
Williams
Willis
Wilson, Bob
Wilson, Ind.
Wyman
Younger

NOT VOTING—26

Ashmore
Bass
Bolling
Bolton, Oliver P.
Bruce
Buckley
Dorn
Dowdy
Forrester
Giaimo
Horan
Jones, Ala.
Kee
Lloyd
McIntire
Martin, Mass.
Murray
Pillion
Powell
Roberts, Ala.
Sheppard
Shipley
Taylor
Thompson, La.
Toll
Winstead

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Sheppard for, with Mr. Taylor against.

Mr. Toll for, with Mr. Thompson of Louisiana against.

Mr. Jones of Alabama for, with Mr. Shipley against.

Mr. Buckley for, with Mr. Dowdy against.

Mr. Giaimo for, with Mr. Dorn against.

Mr. Lloyd for, with Mr. Ashmore against.

Mr. Powell for, with Mr Horan against.

Until further notice:

Mrs. Kee with Mr. McIntire.

Mr. Bass with Mr. Pillion.

Mr. Roberts of Alabama with Mr. Martin of Massachusetts.

Mr. Winstead with Mr. Bruce.

Mr. Forrester with Mr. Murray.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

APPLICATIONS FOR WRITS OF HABEAS CORPUS

Mr. YOUNG, from the Committee on Rules (on behalf of Mr. DELANEY), reported the following privileged resolution (H. Res. 747, Rept. No. 1471), which was referred to the House Calendar and ordered to be printed:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1335) to amend section 2254 of title 28 of the United States Code in reference to applications for writs of habeas corpus by persons in custody pursuant to the judgment of a State court. After general debate, which shall be confined to the bill, and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on the Judiciary now in the bill and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

IRRESPONSIBLE CADRES OF OUTSIDERS SEEM DETERMINED TO CAUSE BLOODSHED IN ST. AUGUSTINE, FLA.

Mr. MATTHEWS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MATTHEWS. Mr. Speaker, irresponsible cadres of outsiders seemed determined to cause bloodshed in St. Augustine, Fla., the oldest, and one of the proudest cities in America. Proud of their religious heritage, conscious of their historical tradition, Americans of all races, creeds, and of many national origins in St. Augustine have lived in harmony for years until the recent forces of discord, have fomented strife and now openly clamor for bloodshed.

In the other body today, cloture has been voted by a vote of 71 to 29 and the so-called civil rights bill, which I have opposed to the utmost of my ability, will become the law of the land. There will be thousands of pious utterances that people all over America should obey these laws despite their personal differences.

What about the laws today? There are State laws until repealed that local officials are charged to enforce. The roving bands in St. Augustine are demanding that local and State laws be abrogated, not through orderly processes but by intimidation.

The inciting of riots is not nonviolent. The undisciplined cadres of juvenile, thrill seekers, and agitators who claim a divine right to interpret what law should be obeyed and what laws should be disobeyed are not holy messengers in the spirit of the living Nazarene but are actually prophets of anarchy.

Americans of sober thought should demand that the citizens of St. Augustine have the right to continue their orderly program without threats and irresponsible acts of a small minority who are not willing to subscribe to the rule of law and order.

Americans should realize that the imposition of the so-called civil rights bill on the people of this country will create fantastic problems. Now as never before those who for personal notoriety, take the law in their hands, and demand laws by intimidation, should be told to abate their efforts to cause the loss of life.

In St. Augustine, the overwhelming majority of the citizens, white and colored, are proud of the progress they have been making. Their public facilities have been integrated, schools are integrated, some restaurants have been integrated—without Federal laws. But this progress is treated contemptuously by the present agitators who in Hitlerian fashion insist on their demands—or else.

Congratulations to the good people of St. Augustine, the people of all races and creeds who are still working together for a greater community. Since their city is the oldest in the United States, and in the public eye, they have been marked by the self-styled critics as a logical place to foment trouble.

I pray there will be no bloodshed. But if there is—the fault will lie with those who have organized this "March on St. Augustine." Our local law enforcement officers are doing a heroic job, but flames of wrath are smoldering. They can extinguish these flames if people who go to St. Augustine to cause violence will return to their homes, and contribute to the building of America rather than devote their energies to the destruction of this great and beloved land of opportunity.

GRACIOUS THANKS

Mr. MONAGAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. MONAGAN. Mr. Speaker, as a member of the House Committee on Foreign Affairs, I have been actively interested in our international educational and cultural exchange program, which is administered by the Department of State. It was my privilege to have supported the Fulbright-Hays Act, which authorizes this program, both in committee and on the floor of the House. I have on several occasions enjoyed the privilege of telling constituents that they had been selected to participate through a Federal grant under the Mutual Educational and Cultural Exchange Act of 1961 in studies and seminars approved by the Board of Foreign Scholarships.

I have received many gratifying acknowledgments from recipients of grants under this program, but none more touching than the one which came to me recently from Mrs. Isabelle Ann Pioppi, of Oakwood Drive, Harwinton, Conn., a teacher at the Torrington, Conn., High School, who has been elected to participate in a seminar for American teachers of Italian at the University of Rome.

I offer for the gratification of my colleagues the following letter which I have received from Mrs. Pioppi:

HARWINTON, CONN.,
May 27, 1964.

Congressman JOHN MONAGAN,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: I cannot tell you how happy and proud I was to receive your congratulatory message in reference to my receiving a Fulbright award to study in Italy this summer.

Your letter was not a mere formality. It asked me to call upon you if I need help.

What a marvelous country this is. First, I, an unknown citizen living in a small town, am given the honor, made possible through a Government program, to represent, in a sense, our great country and its ideals. Then, my Congressman wants to know if he can be of help to me. What high and excellent proof of our democratic ideals.

I would be happy, honorable sir, if you could in some way, thank our Congress for me for such a program, and thank all of those people who were responsible for selecting me.

I carry this award within me with a deep sense of honor and shall do all I can to bring it dignity and credit, in turn. Perhaps this is the best way I can show my appreciation.

Perhaps I may in some way, some day, be of service to you.

Most respectfully yours,
ISABELLE PIOPPI.

PRAYER AND BIBLE READING IN THE PUBLIC SCHOOLS

Mr. BECKER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BECKER. Mr. Speaker, in last night's Washington Star there was an article by David Lawrence. I commend it to all Members to read, because reference was made to a statement by 223 professors and so-called constitutional lawyers about my amendment to permit prayer and Bible reading in the public schools. I want to read just one paragraph from their statement:

> American liberties have been secure in large measure because they have been guaranteed by a Bill of Rights which the American people have until now deemed practically unamendable.

The article continues:

> This will come as a shock to many people who have always thought that the Constitution could be amended whenever public opinion desired it, and that there is nothing so sacred about anything in the Constitution that the public could not change it at will.

These 223 people would deny the right of the American people to amend the Constitution. I shall do everything in my power to induce the Congress to take action at this session to give the people the right to amend the Constitution to return God to the schools and keep Almighty God here in the House of Representatives.

Mr. Speaker, I include at this point in the RECORD as a part of my remarks the entire article which I have referred to.

[From the Washington (D.C.) Star, June 9, 1964]

THE RIGHT TO AMEND CONSTITUTION—SUPREME COURT'S PRAYER DECISIONS STIR CONTROVERSY ON BILL OF RIGHTS

(By David Lawrence)

A surprising statement has just been filed with the House Judiciary Committee by 223 lawyers, including 55 deans of law schools, and several college professors, many of them of the so-called liberal school of thought. They have taken a stand which will be construed as meaning that, so far as possible, further amendments to the Constitution must be blocked and that the Supreme Court of the United States must be left to rewrite the Constitution at will.

The current controversy arises as a consequence of the Supreme Court's decisions which have produced widespread apprehension that the word "God" cannot be mentioned in public school exercises and that voluntary prayers may be prohibited in educational institutions or in connection with official activities of the Government.

The statement warns those who have been agitating for a constitutional amendment that they are, in effect, engaging in something bordering on impropriety. Dozens of amendments, for instance, have been proposed to overrule the decisions of the Supreme Court on the subject of prayer in exercises or ceremonies in schools, but the statement of the 223 citizens asks for a kind of cloture on further consideration of all such amendments by Congress. The statement says:

"American liberties have been secure in large measure because they have been guaranteed by a Bill of Rights which the American people have until now deemed practically unamendable."

This will come as a shock to many people who have always thought the Constitution could be amended whenever public opinion desired it and that there is nothing so sacred about anything in the Constitution that the people couldn't change it at will. Objection rather has been voiced against the Supreme Court's assumption of a right virtually to introduce any meaning it pleases, thus giving to an oligarchy of nine judges appointed for life the power to amend the Constitution through judicial decisions.

The recent movement to submit to the people an amendment safeguarding the right to pray grew out of a deep-seated belief that the Supreme Court had taken away a fundamental right and had indeed violated that part of the Constitution which states that there should be no interference with "the free exercise" of religion. The statement of the protesting group, however, says:

"Whatever disagreements some may have with the Bible-prayer decisions, we believe strongly that they do not justify this experiment. Accordingly, we urge that Congress approve no measures to amend the first amendment in order to overrule these decisions."

The lawyers who filed the statement have a right to their opinion and to argue against any proposed amendment to the Constitution, but it comes as a surprise to find such a learned group stating that the mere attempt to use the amending process prescribed in the Constitution is dangerous. The sponsors of this viewpoint add:

"If the first clause of the Bill of Rights, forbidding laws respecting an establishment of religion, should prove so easily susceptible to impairment by amendment, none of the succeeding clauses will be secure."

Such a sweeping declaration is hardly justified because, for one thing, there are more than 100 proposals for a constitutional amendment, along with the resolution submitted by Representative FRANK J. BECKER, Republican, of New York, in behalf of many Members of Congress, all of which are merely designed to safeguard the right to pray in official surroundings.

There are many ways by which this right can be assured without imposing any established church. Just as one group respects the right of another group to hold differing opinions, there is every justification for at least tolerating voluntary prayer by another body of citizens, whether outside or inside a Government building, in a public ceremony.

But entirely apart from the merits of the issue itself as it relates to the right to pray, the controversy over methods of amending the Constitution may be intensified. In 1962 the National Council of State Governments adopted a resolution proposing an additional formula. Thus, if two-thirds of the State legislatures submitted identical texts for a proposed amendment, three-fourths of the States could then ratify it without any further action by Congress.

Whether the foregoing proposal is a desirable one or not, the fact remains that many constitutional lawyers in the United States believe that, if Congress is going to block the amending process, some way must be found to enable the people themselves to initiate amendments to the Constitution through their own State legislatures.

DISTRIBUTION OF SILVER DOLLARS

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. RIEHLMAN] may extend his remarks at this point and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. RIEHLMAN. Mr. Speaker, and Members of the House, there has been a recent run on the Treasury for silver dollars by collectors and hobbyists.

After 25 million silver dollars had been released, the Treasury halted the outflow.

The Treasury undoubtedly did so because the remaining silver dollars all have special numismatic value. We have been made aware of this by its press releases.

For some time there has been a great deal of controversy about the disposition of these 3 million silver dollars.

There is no way of equitably distributing them at their face value. At the same time, the suggestion that they be melted down for other coinage is appalling because of their value to collectors and as historic items of currency of the United States.

The question naturally arises as to why the Treasury should continue to hoard these silver dollars.

What good are they to the Treasury? Why should they not be made available to the public just as the Post Office makes available special stamp issues in various ways to stamp collectors?

I believe the Treasury should be allowed to dispose of these coins at their numismatic value. Thus, the United States would make some profit on these coins which otherwise will continue to be retained by the Treasury. In addition, some of these historic coins would circulate among hobbyists just as stamps do.

Estimates of the worth of these dollars have ranged up to a quarter of a billion dollars.

In my opinion the Treasury could sell these coins somewhat like the Superintendent of the Philadelphia Mint does now with mint proof and uncirculated coin sets—with the purchaser paying the costs of handling and mailing as well as a premium.

It may interest Members to know that the Treasury realized a profit of $1,662,000 in fiscal year 1963 on the sale of mint proof sets. These are specially polished and stamped coins.

However, disposition of the silver dollars should differ in one respect from the sale of mint proof sets. The coin sets in the past have been available in quantities up to 100 per individual. This has been very inequitable to many individual collectors who have been unable to buy one set because of the great demand.

I would suggest that silver dollars be made available at their numismatic value on the basis of one per customer on a first-come, first-served basis after a certain date to be determined by the Treasury.

To accomplish disposition of these coins, I am today introducing legislation which would grant authority to the Secretary of the Treasury to publish price lists and sell the silver dollars at their numismatic value.

ARA LOANS TO THE AFFLUENT

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. TALCOTT] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. TALCOTT. Mr. Speaker, we hear reports from almost every section of our country—whether poverty stricken or affluent—that ARA moneys are disbursed profligately, without economic justification, and without compliance with the original intent of the ARA program.

These deviations from principle and from plan degrade the purpose and jeopardize the usefulness of ARA.

Moneys loaned for political purposes deprive the needy elsewhere. Money hurriedly loaned "to make an impressive lending record" usually does not accomplish the intended purpose.

I insert one of many letters I have received which tells a story and appears to be all too typical of the deteriorating ARA operation:

Re ARA loan commitment, Teton County, Wyo.

MY DEAR MR. TALCOTT: This letter pertains to a certain ARA redevelopment loan commitment made to Alex Morley, Paul McCollister, et al., d.b.a. Jackson Hole Ski Corp. in the sum of $975,000 for the development of a ski complex in Teton County, Wyo. How did a county with less than 3,300 population qualify for an ARA loan when the people of said county own as many, or more, new automobiles, guns, boats, fishing rods, skis, et cetera, per capita than any area in the Nation and where probably more time is devoted to play and recreation per capita than any area and where the local bank has approximately $7 million in assets and where rural area deeded land is valued for sale purposes at $1,000 to $8,000 per acre?

When I asked the above question of some of the local influential citizens I was informed that to get this loan it was necessary to work a gimmick. Many of us do not believe we qualify for distress ARA loans and do not want them.

This county has undeveloped natural resources, water no doubt being the most valuable, which exceeds billions of dollars in value. Last year there were 2,000,040 tourists in the area including the Grand Teton National Park and the Yellowstone National Park.

Money obtained by the above mentioned loan will be used to the detriment of, and in direct competition with, privately invested capital.

The development of the above mentioned ski complex is highly speculative and, in my opinion, has not been proved feasible.

I sincerely request that no further money, or any money, be disbursed on this commitment until an investigation is completed to determine if all available facts were presented before this commitment was made.

This concerns all American citizens.

Very respectfully yours,

———— ————.

A BILL TO AMEND TITLE II OF THE SOCIAL SECURITY ACT

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. QUIE] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. QUIE. Mr. Speaker, today I have introduced a bill to amend title II of the Social Security Act. My bill will increase from 75 percent in the case of children, surviving mothers, and parents and 82.5 percent in the case of widows or widowers to 100 percent all survivors' benefits; permit the payment of child's insurance benefits beyond the age of 18 years for children attending school on a full-time basis; and increase the amount of outside earnings from $100 to $250 a month without deductions from benefits.

My action today is prompted by evidence of poverty in our country presented to the House Education and Labor Committee during consideration of the administration's antipoverty proposals. A large percentage of the families earning less than $3,000—these are the people the administration have termed "poverty stricken"—are headed by elderly persons and surviving mothers and widows. In fact, 16.2 percent of the families under $3,000 have a female head under 65 years, and 30.5 percent under $3,000 are headed by persons 65 years and older.

Thus, almost 47 percent of the people to be aided by the President's antipoverty organization could be helped directly through the Social Security Administration provided they have met the eligibility requirements. Here is a specific case where we already have administrative machinery set up for the express purpose of aiding these types of individuals; yet surprisingly enough, there is no mention of an increase in benefits and pensions under Social Security in the administration's poverty legislation. Rather, we are asked to support the establishment of a new and monstrous Federal bureaucracy which in almost every respect will duplicate the efforts of others.

Furthermore, let me point out that it has been 3 years since the Congress last provided an increase in benefits under social security, and this only pertained to widows. The last across-the-board increase in pensions was enacted in 1958. Yet, since 1958 the cost of living has increased 7.1 percent and at the same time the purchasing power of the dollar has decreased by approximately 6 percent. This continuing trend of rising prices and declining purchasing power has its most profound and detrimental effect on those living on fixed incomes and those with limited opportunities.

The second provision of my bill, relating to the extension of child dependents' benefits to cover education expenses, is so important to our country's basic needs of an intelligent and articulate electorate, trained manpower, and professional people that I think every possible effort must be made to enable our youth to complete their education. I am happy to note that many of my colleagues realize the importance of this matter and have introduced similar legislation. I might add that one of the main ideas brought out of our hearings on antipoverty legislation was the need for education to break the generation-to-generation poverty conditions where young people lack the general background and training in skills necessary to find a place in modern-day employment and thus are unable to remove themselves from their present condition.

The third part of my bill, which would increase the monthly earnings limitation from $100 to $250, is an effort to correct what I consider an improper motive behind the Social Security Act. When it was first enacted, we were faced with a situation of severe unemployment especially among our young and middle-aged citizens, and it was felt that if we could retire our older citizens at 65 with a pension, we would then be able to absorb a good proportion of this unemployment. During the depression this philosophy seemed justified, but it no longer holds water in 1964. Our unemployment rate has remained relatively constant and even decreased within the last couple of months, the wonders of medicine have extended the life span of man, and the ability of an elderly couple to live on a monthly social security check alone is proving more and more difficult. I think that our economy is strong enough and diverse enough to allow for the normal increase in the labor market without a governmental policy urging retirement at 65 or under. Not many people who reach the age of 65 have laid away enough money for incomes which, together wtih social security, will enable them to live respectably. Furthermore, the present earnings limitation keeps many older persons from working with a resultant loss to the country of valuable skills and productivity. The present provision causes real hardship for those individuals who must work to supplement their benefits.

Mr. Speaker, I urge my colleagues on the Ways and Means Committee to give favorable consideration to this measure as a practical, effective, and most important way of helping our elderly citizens.

FOREIGN AID

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. HARSHA] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. HARSHA. Mr. Speaker, Congress should drastically cut and revise our foreign aid program.

The sum requested in the bill of $3.5 billion is not a true portrayal of our foreign aid costs. A more accurate figure would be in excess of $7 billion. The following is a recapitulation of the various authorization proposals and appropriation requests during 1964 that can be identified:

Foreign Assistance Act:	
Economic assistance	$2,461,700,000
Military assistance	1,055,000,000
Peace Corps	115,000,000
Food for peace (Public Law 480)	2,215,000,000
Inter-American Development Bank:	
Social Progress Trust Fund	750,000,000
Callable capital stock	412,000,000
International Development Association	373,656,000
Tax credit proposal	60,000,000
Total	7,442,356,000

Furthermore, there are additional sums requested for foreign aid projects in some of the individual Federal agencies' budgets. This is far too much foreign aid; we have too many problems here in America that need solving first before we undertake to solve the problems of the world.

What has our generous well-intentioned but misguided assistance activities accomplished? Nothing—and events of the last few months support this:

NATO appears on the verge of complete disintegration. It offers hope only in a "crisis confronting" situation since the diversity of political, economic, military, and other interests would probably preclude any unanimity on limited actions. France, a major recipient of U.S. aid, has apparently withdrawn its support while retaining its voice.

We have been unable to obtain the cooperation of our European allies to reduce their trade with Cuba in strategic materials. Not even our hemispheric neighbors will go along with us on the sanctions against Cuba necessary to protect their freedoms.

The political settlement in Laos has predictably worked to the advantage of the Communists. The $330 million poured into that country has done nothing more than identify the United States with a losing battle.

After 10 years and $370 million in aid, Cambodia has asked us to pick up our marbles and go home.

Indonesia with $870 million of our money continues to threaten freedom-seeking Malaysia. On March 25, 1964, Sukarno announced: "To hell with U.S. aid." Yet, we continue to give him aid. In fiscal year 1965, $10 million is planned for technical cooperation for Indonesia.

Our friends in Turkey and Greece are at each other's throat over Cyprus.

Are these the accomplishments of our aid? If so, the program needs to be drastically revised and reduced.

The main argument advanced for this massive spending program has been to stop the spread of communism. However, our State Department has negotiated trade agreements with the implication that direct aid would be forthcoming under this act in the near future. It is in the process of negotiating liberalized trade agreements with other Communist nations.

The granting of aid and trade agreements with Communist nations is a self-defeating tragic policy completely contrary to the arguments advanced on behalf of foreign aid and should be curtailed.

I urge my colleagues to accept the amendment offered to reduce this authorization bill and in the alternative, if these amendments are not accepted to vote for recommital to the Foreign Affairs Committee. The American taxpayer has had enough of this dole.

DISARMAMENT: RESPONSIBLE AND IRRESPONSIBLE

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from South Dakota [Mr. BERRY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BERRY. Mr. Speaker, under leave to extend my remarks, I wish to insert in the RECORD another in the series of articles by Holmes Alexander.

The article is as follows:

DISARMAMENT: RESPONSIBLE AND IRRESPONSIBLE

(By Holmes Alexander)

WASHINGTON, D.C.—In the unfinished business which President Johnson took over from President Kennedy is action to prevent the national atomic energy enterprises from highballing down the same track that nearly wrecked the American railroad system.

One of the Atomic Energy Commissioners who served under J.F.K. tells me that he discussed this matter with the late President in terms of the following analogy:

Like the railroads, the Atomic Energy Commission has been on the point of getting itself committed to an open-ended supply of services: that is, doing research and providing materials at large costs to the Defense Department, NASA, and private industries.

Like the railroads, the AEC is committed, through its contractors, to scores of labor contracts that reach far into the future, as well as to contracts with many universities and research corporations.

Like the railroads, the AEC is a multibillion-dollar institution and has accumulated manifold and complex fiscal obligations which are threatening to become an impediment to free and wise choice of action.

Against this background of thinking, President Johnson, last January, announced a reduction in the production rate of plutonium and uranium. In part, this was a disarmament decision, for the military uses of nuclear power take a large hunk of the AEC's $2.6 billion budget.

The point I am creeping up on is that here is a careful, phased, responsible form of disarmament, the very opposite of the ignorant, meat-ax, irresponsible disarmament which is being attempted by ban-the-bomb scientists, do-gooders, and dubious characters, two of whom I shall name in this piece.

The President, the Defense Department, the AEC, and the Joint Congressional Committee on Atomic Energy all had a part in determining that the cutback in production of uranium-plutonium could be safely made. The Joint Committee, consisting of Senate and House members of long experience in these fields, decreased last year's nuclear weapons program by $11.1 million, and knocked another $22.1 million off last year's figure for plant and capital equipment in the weapons program.

In contrast to these reductions in nuclear arms production by men who know what they're doing, we get political scheming by an outfit that ought to be politically blacklisted—the Council for a Livable World. This pacifist group, with a secret membership, has invested sometimes over $80,000 in the reelection funds of Senators who are nonmembers of the Atomic Energy and Armed Services Committees, but who vote for meat-ax disarmament. At least two members of the Scientists' Committee of the Livable World can be called suspect of not having the Nation's best interests at heart. They are:

Dr. Halsted Reid Holman, born 1925, a California physician, a president and vice president of groups cited by the Un-American Activities Committee as Communist fronts, a campaign fund contributor as recently as 1962 to the Livable World. In testimony before the Senate Internal Security Subcommittee, 1951–52, Dr. Holman pleaded the fifth amendment and declined to answer several questions, including:

"Are you a member of the Communist Party? In November 1946, you were a member of the Communist Party in Connecticut, were you not?"

Dr. Herman J. Muller, born 1890, a Nobel Prize winner in medicine and physiology, author of an avowedly Marxist book, "Out of the Night." Dr. Muller testified in closed hearings of the Un-American Activities Committee, 1953. The committee records show him as a member of the Advisory Committee of the Book Union (1944) and member of the national committee of the Student Congress Against War (1944), both cited by the committee as being subversive organizations. In justice to Dr. Muller, he resigned his post (1933–39) as senior geneticist at the Soviet Academy of Sciences' Institute of Genetics, and also his membership to the U.S.S.R.'s Academy of Sciences (1948) because of disagreements arising from the Stalinist dictatorship. He says he is not an "orthodox Marxist," but believes Marx rates with Darwin as a man who gave the world "revolutionary truths."

The Livable World, into whose affairs I am prying, is financially backing the reelections of Democratic Senators BURDICK, of North Dakota; MCGEE, of Wyoming; and MUSKIE, of Maine. In 1962, it backed Democratic Senators CLARK, of Pennsylvania; FULBRIGHT, of Arkansas, and MCGOVERN, of South Dakota. Four Republicans who have been either offered or given campaign backing—KUCHEL, JAVITS, PROUTY, and FONG—have backed off.

Thus we have an organization, difficult to research because of its secrecy but showing at least two dubious official advisors, trying for a foothold of influence in the U.S. Senate.

SELECTION OF SITE FOR NEW PLANT BY THE NESTLE CO. OF WHITE PLAINS, N.Y.

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Wisconsin [Mr. SCHADEBERG] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. SCHADEBERG. Mr. Speaker, one of the best known firms in the United States, the Nestle Co. of White Plains, N.Y., has announced selection of a site in Burlington, Wis., for a new 200,000-square foot $30 million plant to serve as the Midwest center for the manufacture and distribution of the famed Nestle chocolate and chocolate products.

As Burlington is and has been home to me and my family for many years, Nestle's choice of Burlington naturally stirs in me a feeling of pride in our town. But the reasons for that choice are of even greater significance. They are found in the ingredients that make up Burlington and the First Wisconsin District—the city's location 65 miles north of Chicago and 40 miles south of Milwaukee; its proximity to the other larger communities of the Midwest; its terrain; the healthy business and industry already thriving on the nutrition of a sound local economy; and not the least important—the industrious and self-reliant people of Burlington and the surrounding areas of Delevan, Lake Geneva, Elkhorn, East Troy, Racine, Kenosha, Waterford, Union Grove, Kansasville, and Westosha, from whom will be selected the majority of employees who will staff the new plant. A relatively few workers, including technicians, will be brought in from New York and California where the firm has established plants.

There is significance to the Members of Congress in this decision by Nestle, which is the purpose of these remarks. It is the fact that Burlington's attributes and the fair and effective presentation of them by community leaders—business, government, and civic leaders at the local level—were responsible for Nestle's approval of the Burlington location. It is to the credit of the Nestle Co. that it sought no special inducements to locate in Burlington, and to the credit of the local leaders that they offered none. Once again it proves that industry will go where the economic climate, geography, and natural resources are favorable to the growth and expansion of that industry. In this instance, in addition to the plus factors already enumerated, a most important contribution to the operations of the new plant is that provided by our dairy industry in the heart of America's dairyland.

The people of the first district express their appreciation to those who have been instrumental in bringing the plant to Burlington, numbered among them are Robert Bayer, Les Hoganson, Anthony B. Rewald, William E. Branen, Patrick Lloyd, Assemblyman Merrill Stalbaum, State Senator Lynn Stalbaum, and Governor Cunningham. The cooperation of the people of the city of Burlington and the surrounding area was outstanding and noteworthy.

It is a pleasure for me to welcome the Nestle Co. to Burlington and to the First Wisconsin District.

SUGAR LEGISLATION

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. LANGEN] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. LANGEN. Mr. Speaker, it is a rare occasion when this House has the opportunity to assist American agriculture by encouraging the production of a needed crop that not only is not in surplus but by virtue of its expansion would reduce the production of other crops already in surplus. But this is exactly what we have in a number of bills concerning sugar legislation, including my own H.R. 11113, which have been introduced during this session. These bills, generally, call for an increased domestic quota for sugarbeets to meet the rising demand for sugar and to insure an adequate supply in the future.

In 1962, when the present Sugar Act became law, the domestic beet sugar quota was set at a little less than 2,700,000 tons. We were told that supplies of sugar on the world market would more than take care of the future needs of this Nation. But political unrest abroad and a number of other factors combined to create a sugar shortage and unconscionable rises in the price of sugar. It was obvious that something had to be done and the administration took the most logical action possible by appealing to the domestic sugarbeet industry to take up the slack.

Our domestic sugarbeet producers rose to the occasion, increased production as requested, and in compliance with existing restrictions and still produced 20 percent more sugar than the year before. And the amazing thing is that the sugarbeet industry sold this sugar, during the height of the sugar crisis, at $1 to $3 per hundred pounds less than cane sugar. But because our domestic industry believed that the Government would stand behind them, our growers face a serious cutback after investing time and money. The crop now in the ground is expected to yield a possible 3,400,000 tons of sugar, but under the present law the beet sugar quota for 1964 will be only 2,700,000 tons. Legislation is obviously needed.

Mr. Speaker, conditions have changed considerably since the quotas were set in 1962.

And it appears, as I have cautioned before, that a number of the foreign suppliers are of doubtful reliability because of present or potential political instability. We simply cannot afford to gamble on an unreliable source of sugar when the farmers of the United States are fully capable of supplying our needs. It is ridiculous to rely on foreign sources for two-thirds of our sugar needs.

Actually, the basic foreign quotas for sugar would be untouched under provisions of my bill and other similar measures. My bill merely sets the basic domestic quotas at levels where the industry is now producing to protect our established growers, and includes modest provisions for the expansion of both the established industry and for new acreage in areas such as the Red River Valley of Minnesota and North Dakota, where it has been proven that beets can be grown profitably.

The main area affected by this new and needed legislation is on the world market scene, where supplies are uncertain and prices fluctuate to the disadvantage of the American consumer. This legislation would not affect our Latin American neighbors or other countries with fixed quotas, even though opposition to such legislation, mainly from some cane processors, has insinuated that these quotas would be cut and that the Alliance for Progress would be jeopardized.

Thinking and reasoning by our own State Department has not helped the situation, either. I met yesterday with representatives of the State Department and was appalled by their lack of concern for the American sugar industry. It is unconscionable that these people, paid by the taxpayers of this Nation, can blatantly defend foreign interests at the expense of private enterprise. I seriously hope the State Department, along with other Government departments and agencies, will adapt their thinking and policies to the common good of the United States.

Apparently the State Department fails to grasp the importance of an adequate supply of sugar to our national defense. Certainly we are not trying to exclude all foreign importations, but we do have to face up to this problem and give the top priority to our own people and our own self-interest as a Nation.

It was my privilege this past week to have met with representatives of both potential new growers of sugarbeets and representatives of established growers. Both need a responsive ear from the Congress and the administration.

The old growers, of course, are concerned with the impending cutbacks if new legislation is not enacted. These old growers note with natural concern that in the event of a cutback in acreage, the burden would fall on their shoulders since the newest plants in operation are protected from cuts in acreage allotments.

These old growers have gone to considerable expense in order to respond to their Government's plea for extra sugar. They should not be denied now.

Other farmers, from established and proven beet areas, also would like to raise sugarbeets. And they should not be denied either. I have noted with interest the formation in Washington this week of a new organization called the National New Sugarbeet Growers Committee. Homer Garrison of Plainview, Tex., was elected chairman; Carl Hansen, of Breckenridge, Minn., vice chairman; and Robert J. Waite, also of Breckenridge, Minn., as secretary-treasurer. This organization is composed of prospective growers from 17 States, and was formed for the purpose of securing allotments in new sugarbeet growing areas of the United States to replace crops now being grown in surplus. They recommend extension of the present sugar act for 1967, 1968, 1969 and 1970, increasing the annual allotment for new domestic sugarbeet production from 65,000 to 150,000 tons annually.

We have a great opportunity to perform a needed service for the farmers of America, for the taxpayers of this country and for the consumers of our Nation. We need sugar legislation this year that will maintain our present domestic production, allow a reasonable and needed expansion of the industry both among established growers and new growers, and a reasonable expectation that the United States will continue to have a reliable source of sugar at a reasonable price. This can be accomplished through my pending bill, H.R. 11113.

RESTORATION OF LOSSES RESULTING FROM PRICE SUPPORT PROGRAMS

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. MICHEL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. MICHEL. Mr. Speaker, in February when Secretary Freeman and his budget officer were before the House Subcommittee on Appropriations for the Department of Agriculture, the statement was made that only partial restoration of the losses resulting from price support programs was being requested by the Department. In fact, in response to a direct question, the Department admitted that it would require $1,057 million to restore losses for 1961; $100 million for 1962; and $930 million for 1963 losses. In response to the request from the Department, the committee restored only partially the losses suffered by the Commodity Credit Corporation operation.

On the floor of the House when the appropriation bill was debated, I called attention to the fact that, if we were to be honest with ourselves and balance the books of the Commodity Credit Corporation, we would have to include an additional $975 million. In both the committee hearings and on the floor, I raised questions with reference to financing of CCC to insure that it could continue operation under the several support programs required of it by current laws. I was very fearful that the Department and Congress was failing to provide sufficient funds for CCC to carry out its operations.

Also on the floor during the debate, I called attention to the fact that probably before the end of the fiscal year Congress might have to provide additional funds. I regret to inform the House that it now seems that my fears were well founded. The statutory borrowing authority available to the CCC is at such a low level now that the Department is resorting to rather questionable methods of financing export sales. The balance as of June 5, 1964, was $132.4 million out of a total of $14.5 billion.

It has just come to my attention that on April 27, the Foreign Agriculture Service, under title I of Public Law 480, authorized a contract in the amount of $16,200,000 to Yugoslavia with the following provision:

> CCC letters of commitment will provide that drafts presented by suppliers on or before June 30, 1964, shall be time drafts maturing in not less than 45 days. The importing country may at its option, and by arrangement with banks, use the "on board" date of the ocean bill of lading in lieu of the date of presentation to establish whether time drafts are required. On or after July 1, 1964, CCC financing is available for payments at sight or for time drafts, at the election of the importing country.

On May 15 the USDA announced issuance of a food-for-peace authorization to Pakistan to finance purchase of $8,700,000 worth of dairy products:

> The Commodity Credit Corporation will not make cash disbursements under this purchase authorization before July 1, 1964. For shipments before that date, the importing country may make arrangements for temporary financing until July 1 or later. The importing country must make these arrangements (through its designated bank or other agency) with the U.S. bank holding the CCC letter of commitment. The U.S. bank may draw on CCC on and after July 1.

On May 20 in a similar arrangement with Pakistan and Vietnam for some $5 million worth of dairy products, a similar type of arrangement was made to finance the operation with the understanding that the CCC will not make cash disbursements under these purchase authorizations before July 1, 1964.

I, of course, do not know all the details of how such transactions are financed, and I merely point these out in order to call the attention of the House to the serious financial situation that CCC finds itself in, and it is largely due to the failure of the President and the Congress to face up to our fiscal responsibility in financing the current agricultural programs.

SECRETARY DILLON EXPLAINS MAJOR STEPS TAKEN IN KENNEDY-JOHNSON ADMINISTRATION ECONOMIC PROGRAM TO PREVENT STAGNATION AND TO ENCOURAGE ECONOMIC GROWTH

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from Wisconsin [Mr. REUSS] may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. REUSS. Mr. Speaker, Secretary of the Treasury Dillon, in an address on June 6, 1964, before the National Business Conference of the Howard Business School, lifted political discourse on the Nation's problems of maintaining accelerated economic growth to a new plane. In a statement which follows in the tradition of President Kennedy's request at Yale University on June 11, 1962, for a national dialog on economic policy questions, the Secretary describes the application by the Kennedy-Johnson administration of major economic policy instruments in order to strengthen our free enterprise economy and to encourage its growth. He explains how tax, monetary, debt management, and Federal expenditure policies have been coordinated to this end.

Secretary Dillon outlines the achievements today in economic expansion, revived capital investment, reduced unemployment, price stability, and an improved balance of payments. However, he points out our present inability to use tax policy more flexibly and, thus, more effectively.

It will be a challenge to the Congress to work out procedures whereby the Federal tax system can be used not only to promote longrun economic growth, but to protect the economy from short-term inflationary or recessionary changes.

The text of Secretary Dillon's address follows:

When the Kennedy administration took office, one of the most urgent tasks confronting it was the need to rethink the role of fiscal policy in relation to all other elements of overall economic policy.

That need was imperative both because of the persistently sluggish performance of our domestic economy, and because of the mounting deficits in our balance of payments, which had seriously eroded confidence in the dollar and had caused a rapidly accelerating outflow of gold. We were then in the midst of our fourth postwar recession—and each of the three previous recessions had been marked by successively shorter and weaker recoveries. Unemployment was far too high. Business investment was wholly inadequate to stimulate needed growth or to maintain the competitive posture of American industry in a rapidly changing world.

The great challenge was to find a new way to promote more rapid and steadier economic growth at home, and at the same time restore confidence in the dollar by whittling down and eventually eliminating our balance-of-payments deficit. There were many gloomy prophets who insisted this couldn't be done and conjured up an irreconcilable conflict between encouraging domestic growth and eliminating balance-of-payments deficits. More rapid growth, they argued, means more demand for everything—including imports. Also, they claimed, the pressures it puts on the labor markets and on plant capacity lead inevitably to higher prices, which both hinder exports and further inflate imports.

The fact, however, is that a strong, healthy and vigorously expanding domestic economy is essential to sustained confidence in the dollar and to balance-of-payments equilibrium. For in any overall longrun appraisal of our balance of payments, the imperatives are that our industry remain in the forefront of technology, that our productivity rise fast enough to satisfy the pressures for higher real wages and income while maintaining stable prices, and that our economy crackle with investment opportunities fully comparable, or superior, to those abroad. All of these are the fruits of domestic growth—fruits now well on their way toward ripening under the policies of the past 3½ years.

The situation that confronted us in 1961—and still continues—ruled out the use of extremely low interest rates. We simply could not permit short-term interest rates to drop to the levels of earlier postwar recessions without courting a massive outflow of short-term capital. On the contrary, with interest rates already substantially higher in nearly all other countries, even maintaining the January 1961 level of short-term rates entailed grave risks. Ways had to be devised, and promptly, to shore up our short-term interest rates, while assuring a ready availability of longer term credit at reasonable rates to bolster lagging domestic investment. In short, the very real dangers in our balance-of-payments situation necessarily limited the freedom of monetary policy and gave it a new challenge—to facilitate investment at home without provoking an outflow of capital abroad.

This meant that fiscal policy had to assume a larger share of the task of encouraging and sustaining domestic growth. That is why, from the day President Kennedy took office, we looked to fiscal policy to move us once again—as we are now moving—toward full employment, and assigned it a more active role than perhaps ever before in our history.

But that basic determination promptly raised questions involving tax and expenditure policy. The big question was whether to increase Government expenditures or to reduce taxes—or, to come to the heart of the matter: whether to rely upon the latent energies of the private sector or to expand Government activity.

Our fundamental problem in early 1961 was sluggish growth and inadequate incentives for investment. Postwar expansionary forces had been dissipated. Tax rates were siphoning off too much income to allow the private economy to reach full employment. The result was inadequate demand—with increased unemployment and ever more frequent recessions.

Larger Government expenditures, if well timed, could, of course, have boosted demand and thereby cut unemployment. But, unless such expenditures could be clearly justified on their own merits, their longrun contribution to productivity and investment would be uncertain at best. Thus, they seemed to offer less benefit to the balance of payments than the path we chose: tax reduction.

We were convinced that tax reduction could achieve the necessary expansion of purchasing power by freeing the private economy from high and restrictive wartime tax rates, originally designed to restrain strong and inflationary pressures that no longer existed. Lower tax rates, we felt, would also offer the much-needed longrun stimulus to growth that comes from added incentives to invest and to produce. These, in turn, would lead to cost-cutting improvements in technology, thus strengthening our international competitive position and enhancing our trade balance. And greater profitability in the domestic economy would also encourage the employment of funds here, instead of abroad. Both of these results would directly help our balance of payments.

In the early days of the administration, therefore, and without hesitation, we decided to employ fiscal policy—and, more specifically, tax policy—to expand the role of the private sector of our economy as the primary force in achieving our national economic goals. We also felt that, having made this decision, we should not lose the opportunity it presented of making long-needed reforms in our tax system. Thus, an already large task became even greater. And, while the basic blueprint—tax reduction to expand the private sector of our economy, accompanied by long overdue tax reform—was set forth by President Kennedy at the very beginning of his administration, concrete results were necessarily piecemeal, and took years, rather than months.

Our choice of tax reduction called for expenditure restraint, since there would necessarily be a temporary lag in Federal revenues. Yet, in 1961, there were overriding national priorities, all of which cost money: the need to bring our military defenses to a higher plateau of readiness, the special requirements of the Berlin crisis, the rapidly expanding space program. And, of course, the interest on the national debt. We could not cut down in those areas, but we could—and did—hold down sharply the rate of spending in other areas.

That record of expenditure restraint comes through clearly when you compare expenditures, incurred and planned, in the 4 fiscal years from 1961 through 1965 with those of the preceding 4 years, a period in which considerable stress was placed on prudent budgeting. It is true that we find overall budget expenditures in the 1961–65 period increasing at an average of about $4 billion a year compared to just over $3 billion a year during the earlier period. But the breakdown of the increases during the two periods is very revealing. For the fiscal 1957–61 period we find budget expenditures for defense, space, and interest on the debt increasing by $6.5 billion, with expenditures in all other areas going up by a nearly equivalent $6 billion. In the fiscal 1961–65 period, on the other hand, expenditure increases for defense, space, and interest will almost double, amounting to about $12 billion, but the policy of expenditure restraint is evident in the sharp decline in the increases for all other expenditures, which will total only about $4 billion, one-third less than the comparable increase during the earlier 4-year period.

As we had planned and expected, the need for increasing outlays in defense and space has now leveled off. That fact, joined with the thoroughgoing economy drive which President Johnson is so forcefully spearheading, means that funds are now being freed both to meet vital domestic needs such as the poverty program and to speed the achievement of a balanced budget.

It was necessary to get the major increases in defense and space spending behind us before we could safely implement our full program of tax reduction. But rather than wait, we promptly undertook two major moves to improve the climate for business investment—moves that could be instituted without any excessive loss of revenue. They were the Revenue Act of 1962, with its central provision of a 7-percent investment tax credit, and the administrative liberalization of depreciation—both landmarks of progress in our drive to spur the modernization of our capital equipment. Together, they increased the profitability of investment in new equipment by more than 20 percent. This was equivalent in terms of incentives to invest to a reduction in the corporate profits tax from 52 percent to about 40 percent.

These measures brought the tax treatment of investment in the United States more closely in line with that provided by other industrial countries—thus removing an unwarranted inducement to invest overseas—while at the same time working toward a more efficient, competitive, and profitable home economy. They were also accompanied by significant improvements in the equity of our tax structure, as well as by limitations on the use of tax havens abroad.

Although these were major achievements, they were merely first steps in our integrated, long-range program to stimulate the private sector of the economy. The biggest impediment to a more robust private sector still remained—the high individual and corporate income tax rates, born out of wartime inflation, that continually prevented the economy from reaching and maintaining its full potential. In so doing, they reduced taxable income, held revenues at inadequate levels—and thus were self-defeating in any effort to restore budgetary balance.

The Revenue Act of 1964 substantially embodies the tax program we proposed to break the grip of these high tax rates upon our economy. Since we desired, at the same time, to improve tax equity, that act also substantially reduces the tax burden on those citizens whose incomes are inadequate by any standard. I think it can truly be said that the Revenue Act of 1964 is not only a giant stride forward in our drive to secure self-generating, longrun economic growth, but is also a milestone in improving the equity of our tax system. The fact is that revenue-raising reforms in the 1964 and 1962 acts, taken together, totalled $1.7 billion, almost three times the $600 million in new revenues produced by all other revenue acts since 1940.

While the prime purpose of our overall tax program is—and always has been—the long-range stimulation of our economy to permanently higher levels, the timing of the program has been important in sustaining the present expansion, and deliberately so. We must not, however, let this question of timing obscure the underlying objectives of the tax program. The fact that the Revenue Act of 1964 is having some beneficial countercyclical effects should not be taken to mean that we have succeeded in developing a new and effective countercyclical tool.

There remain, in my opinion, great obstacles to the use of tax policy for purely countercyclical purposes. The chief of these obstacles is the fact that, within our constitutional system, a long lag typically intervenes between a request for a change in tax rates and legislative approval. Unless and until some method is worked out—acceptable to the Congress and consistent with its prerogatives—whereby tax rates can be varied without undue delay, the purely countercyclical function of tax policy will remain outside our arsenal of economic tools.

This does not mean that cyclical changes in tax policy would not be useful. Nor, fortunately, does it mean that tax policy is entirely impotent in moderating cyclical fluctuations today. By promoting sustained growth and a stronger economy, tax policy can be and, as it has been developed over the past 3½ years, now is an important counterforce both to recessions and to inadequate growth. But we clearly have a major piece of unfinished business to resolve before we can claim that tax policy is fully equipped to do for us the job that any modern economy requires of it.

It is, of course, far too early to reach any final judgment on the results of this year's $11.5 billion reduction in personal and corporate taxes. Some observers have expressed surprise that its effects upon consumer spending so far appear to be moderate; others are relieved that the tax cut has not overheated the economy. I have always expected, and have so stated repeatedly, that the tax cut would not create a sudden spurt of consumer spending, but would gather momentum gradually, with the full stimulus not being felt until next year.

We can, however, take a reading of the cumulative effects of our earlier actions, including the 1962 investment credit and depreciation reform. So far as our domestic economy is concerned, the current expansion is now in its fortieth month—the longest peacetime expansion in this century except for the half-hearted recovery from the depths of the great depression of the thirties. Gross national product in real terms has already increased by 17 percent since the beginning of recovery in March of 1961. This far exceeds the record of the two previous recoveries. And prospects are favorable for continued expansion for many more recordbreaking months to come.

While still too high, the unemployment rate has begun to diminish perceptibly, moving down to 5.1 percent in May, compared with the 5.7 percent average of 1963. More striking has been the decline in the jobless rate for married men, which at 2.6 percent in May is now lower than at any time since July of 1957—7 years ago. The comparatively large number of teenagers entering the labor force in recent years presents a special and very difficult problem, but even here, the jobless rate of 15.0 percent thus far in 1964 is nearly a full percentage point below the 1963 rate.

Recent gains in total employment have been impressive: In the year ending last month, jobs rose by about 2 million to 70.8 million—more than twice as much as the 800 million gain during the preceding 12-month period. Increased employment and better use of our productive facilities have been accompanied by better-than-average productivity gains, reflected both in higher personal incomes and higher profits. Indeed, the performance of profits has provided the best possible answer to talk of a long-term profits squeeze and lack of investment incentives. Corporate earnings before tax have risen sharply, reaching an annual rate of $56 billion in the first quarter of this year, $1.7 billion higher than the last quarter of 1963 and $7.7 billion, or 16 percent, higher than during the first quarter of 1963. With tax liabilities in the first quarter already reflecting the new reduced corporate tax rates, corporate profits after taxes ran at the rate of $31.1 billion—more than 20 percent higher than in the same quarter of last year and more than 60 percent higher than in the first quarter of 1961.

At the same time, the recovery has witnessed a large and steady rise in real take-home pay for labor—as evidenced by the fact that, after taxes and adjustment for price increases, the average weekly take-home pay for a wage earner with three dependents is today 10 percent larger than it was in early 1961.

It is highly significant that all of these economic gains have been accomplished in an environment of price stability. Average wholesale prices are no higher today than they were 6 years ago. This price stability has been of critical importance to our balance of payments, and is now beginning to pay off in terms of increased competitiveness in our export industries. Our trade balance has recently improved, instead of deteriorating, as many had feared, in response to the sustained gains in domestic production. For the past 9 months, our trade surplus has been running at an annual rate of $6 billion, compared to a rate of less than $4½ billion in the previous 18 months. While some of this improvement results from special and temporary factors, it also undoubtedly reflects real gains in American competitiveness.

Overall, our balance-of-payments deficit has declined sharply since the middle of last year. Since then, the annual rate of deficit on regular transactions, which averaged more than $3½ billion for the past 6 years, and last year amounted to $3.3 billion, has been cut in half. This has enabled us to stanch the heavy drains on our gold stock. The latest figures of our overall gold stock show that as of May 31 our holdings of gold were slightly above those at the end of last July—10 months with no net loss at all, compared with a loss of $1.7 billion in the single year 1960.

Much of this improvement in our balance of payments stems from specific measures—the proposed interest equalization tax on purchases of foreign securities, the tying of larger proportions of our aid, and economies in our military spending abroad. Part of it is due to temporary factors. It is clear that we have no cause for complacency, for, while we expect our payments deficit to be significantly reduced this year, we cannot relax until it is ended entirely. But happily, evidence is accumulating that we have "turned the corner" in our balance of payments, which, like the domestic economy, is beginning to show the favorable effects of the more active fiscal and tax policies, complemented by appropriate monetary policies, that have characterized the past 3 years.

These effects are quite apparent in investment spending—the key area in terms of both our domestic growth and our balance of payments. Plant and equipment outlays, you will recall, leveled off and even declined after mid-1962, following the break in stock prices and reflecting widespread business uncertainty. But, by the second quarter of last year, less than a year after the new depreciation rules and the tax credit became effective, they were rising strongly and are now running almost one-sixth higher than in the first quarter of 1963. Further sizable increases are in sight through the rest of this year. It seems clear that these successive increases in planned expenditures largely reflect the widening recognition of the new incentives implicit in the recent tax measures—including not only the 1962 measures, but this year's two-stage reduction in corporate tax rates to 48 percent.

For example, steel companies are planning a 1964 increase of 25 percent in their capital spending programs, as are the railroads; motor vehicle makers outlays will be 20 percent higher, and so on across the whole range of American industry.

For manufacturing as a whole, according to the latest Commerce-SEC survey, 1964 planned plant and equipment expenditures are expected to rise 13 percent above 1963 outlays, and the average rise for all industries will be a tenth higher than last year.

I should point out here that the 1964 act also restores the investment credit to the form originally recommended by the administration. The earlier requirement that the depreciation basis of new investment benefiting from the credit be reduced by the amount of that credit has now been eliminated. This change has almost doubled the value of the credit, while at the same time greatly simplifying the accounting problems raised by the 1962 provision.

A recent study by George Terborgh of the Machinery & Allied Products Institute emphasizes the importance of the investment credit and goes on to illustrate the extent to which the 1962 and 1964 acts, taken together, raise prospective after-tax returns and accelerate the recovery of capital investment. His study estimates that, in order to have achieved effects upon after-tax returns of capital comparable to those of the 1962 and 1964 measures, it would have been necessary to either: Cut corporate tax rates from 52 to 34 or 29 percent, depending upon the assumed proportion of equity to total capital, or to have allowed an initial depreciation of from 53 to 57 percent of asset cost, or to have reduced the cost of new capital equipment by 16 percent.

It is hardly surprising that investment activity is responding to incentives of this magnitude—even though it will be some time before the cumulative impact is fully realized—and that investment spending is now spearheading the recovery. The proportion of capital spending to real GNP—GNP in terms of constant 1954 prices—after dropping for so long, has at last been turned around and is once again rising, reaching 8.8 percent during the past 6 months—up from 8.4 percent in 1961 and 8.6 percent in 1962. We expect to continue at this higher level, thus helping our longrun growth and productivity and improving our payments balance by absorbing more of our savings here at home.

The ready availability of credit has also had a favorable influence on the growing strength of domestic investment, but we have found ways of making this credit available without driving short-term interest rates sharply lower. Instead, with the economy expanding vigorously at home, monetary policy has been able to discharge its full share of the task of defending the dollar. Our short-term rate structure has been brought into better alinement with those prevailing overseas, and our monetary authorities are now in a flexible position, prepared to meet whatever further contingencies may arise in the balance of payments.

In the relatively short span, therefore, of less than 3½ years, both American economic policy and practice have taken new and dramatic turns for the better. Our economy is no longer on the wane—but surely and strongly on the rise. And we can now look forward, in all sober confidence, to the continuation of a peacetime economic recovery of greater durability and strength than in any comparable period in this century.

Equally important, the past 3½ years constitute a significant watershed in the development of American economic policy. For they have borne witness to the emergence, first of all, of a new national determination to use fiscal policy as a dynamic and affirmative agent in fostering economic growth. Those years have also demonstrated, not in theory, but in actual practice, how our different instruments of economic policy—expenditure, tax, debt management, and monetary policies—can be tuned in concert toward achieving different, even disparate, economic goals. In short, those years have encompassed perhaps our most significant advance in decades in the task of forging flexible economic policy techniques capable of meeting the needs of our rapidly changing economic scene.

Even so, much remains to be done. We dare not relax our efforts. Of all the challenges looming ahead, the major one, I believe, is to insure the continuation of cost-price stability. Our price record to date is a good one; but we must now sustain it, as more rapid growth absorbs the slack in our unused human and physical resources.

In a competitive world economy, linked by fixed rates of exchange, domestic costs and prices must be kept in reasonable alinement with those abroad. This is not a problem unique to the United States, for it is being faced, in one form or another, by virtually every free industrialized country. But, in our own case, with our payments in deficit, the range of tolerance is even narrower.

New ways of meeting this challenge are being developed, here and abroad, through so-called incomes policies. In practice, the methods vary widely. In basic concept, however, they all entail some expression of the public interest in the results of the wage-bargaining and price-making process, when large unions and large firms have a considerable degree of market power. In our own case, this approach is a purely voluntary one. It is embodied in the wage-price guideposts developed by the President's Council of Economic Advisers for appraising the consistency of pattern-setting wage and price decisions with overall price stability.

We have placed much emphasis on this approach because it seems to us to represent a natural and needed complement to the mixture of fiscal, tax, and monetary policies that we have fashioned. Certainly, appropriate use of the traditional policy instruments remains essential if we are to be successful in maintaining price stability. But unless prices remain stable and wages are kept within the bounds of productivity increases, conflicts in goals will inevitably arise. If that happens, monetary and fiscal policies, at times, will, in the quest for price stability, need to be more restrictive than is consistent with rapid and sustained growth.

The same general point can be put another way: Government has at its disposal a range of policy instruments that, used wisely and flexibly, can help immensely in steering our economy toward more rapid growth, toward balance-of-payments equilibrium, and toward price stability. But without the cooperative efforts of business and labor in maintaining price stability our policies will be rendered incomplete and inadequate. With that cooperation I am confident that this Nation can fully capitalize on its enormous economic potential, and continue to lead the free world to greater prosperity for all.

ADDRESS BY THE U.S. COMMISSIONER OF EDUCATION

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island [Mr. Fogarty] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. FOGARTY. Mr. Speaker, I wish to place in the Record an outstanding address recently given by the U.S. Commissioner of Education, Mr. Francis Keppel. Speaking to a group of 315 educators from the New England States, Mr. Keppel outlined a course of action in the field of education that challenges not only our imagination, but our ability to create reality from ideals. It was my honor to introduce the Commissioner at this meeting held at Rhode Island College in Providence, and I stated on that occasion that he has been our most successful Commissioner of Education. I wish to repeat that comment here and to commend the Commissioner's remarks to all Members of Congress. Not only do his comments analyze the significance of recent legislative actions that have come about during his administration, but he has pointed to the major deficits in our national performance in the field of education for which the Federal Government now has a special responsibility. His words represent a call to action for all thoughtful Americans.

Education: Our Problems and Promise

(An address by Francis Keppel, U.S. Commissioner of Education, Department of Health, Education, and Welfare, before a regional meeting luncheon on new educational legislation, Rhode Island College, Providence, May 22, 1964)

Thank you, Mr. Fogarty, for your kind words of introduction. One of the factors which makes my life in Washington both possible and interesting is the consistent and generous support which comes to me from the chairman of the House Appropriations Subcommittee. Mr. Fogarty is not only a tower of strength in the Congress in behalf of the cause of education, he has been a true friend of the Office of Education and a leader in the true sense of the word in bringing about national progress in education. I could cite many examples of his leadership, but I need only mention his work, along with that of the late President Kennedy, on behalf of mentally retarded and other handicapped children to convey to you how important he is to the cause of education. Fellow educators, I cannot bear to think of the possibility of having to serve in my position without his presence in the Congress, and I trust that this possibility doesn't cross your mind either.

In our meetings this morning and again this afternoon, we are observing a new season for U.S. education and, hopefully, the start of a new era.

Looking back to 1963, we may reflect that never have the possibilities been brighter for the house of education. In its 1st session, the 88th Congress passed more significant educational measures than perhaps any Congress in a century. Looking ahead in 1964, we have the opportunity to act without delay in using these new ways and means made available to us—and the opportunity to focus intensive public attention on the still unfinished business of education.

Let us turn to five major legislative acts which were passed last year by the Congress—in higher education, in vocational education, in the education of the Nation's handicapped and retarded children, in library services, and in cooperative research. These acts, as President Johnson has declared, are "new landmarks in educational progress." They are also a financial landmark in national educational support. Our measure of success, however, is not the Federal authorization of $3 billion, as massive as it is. The real measure is how wisely and well we employ the funds that are appropriated.

First, let us consider the act directed to higher education. It provides for substantial and substantially needed funds. Under the Higher Education Facilities Act, $1.2 billion is authorized over 3 years to help our colleges and universities build certain types of laboratories, classrooms, and libraries—to prepare these institutions for the surging enrollments in the years just ahead.

The forces of a generation ago which raised educational opportunity to include the high school now demand an opportunity for higher education for those who want it and can benefit by it. In every occupation, the level of educational competence is being constantly raised. The last decade brought a 54-percent increase in the number of jobs requiring 4 or more years of college, and young Americans are responding to this demand with a nice mixture of realism and enthusiasm.

Today 4.4 million students fill our colleges and universities. In 1965, just two Septembers hence, 5.2 million students will probably be enrolled. By 1970, we must prepare for 7 million college and university students—almost twice the number at the start of this decade.

The new legislation for higher education comes at a time when our colleges and universities face the requirement of doubling their physical capacity within a single decade. It comes none too soon. For administrators of these institutions, it can turn an outlook of profound concern into one of reasonable hope. And for hundreds of thousands of young Americans, it can open doors to the highest skills and training which will enrich our society for generations.

Second, we turn to another educational flank, to a major act to strengthen and expand vocational education. In funds for this purpose, the Federal contribution can be more than quadrupled—from some $57 million annually to an additional $731 million authorized over the next 4 years. The act also incorporates other programs, among them aid to school districts affected by Federal employment, and its total cost will be approximately $1.87 billion during a 5-year period.

Through vocational education, we have a notable chance to focus our attention on economic reality, on the besetting fact that millions of young Americans today are unemployed because they lack the necessary skills for employment. Moreover, their ranks will surely increase tomorrow as our technology grows in complexity—unless we take these steps now.

Vocational education, in itself, is no novelty in the United States, although we would be wise to view it in fresh and novel ways. In the big cities of our country, the vocational school often stands as a monument to another time, a red-brick memorial which prepares students for jobs that are becoming extinct and fails to prepare them for the new jobs our economy requires.

The present legislation will help if we employ it to establish new directions for vocational education, to bring job training for American youth into harmony with the economic and social realities of our time. Moreover, we need to recognize vocational training as a vital and related segment of our educational system, not as a poor relation.

This undertaking can succeed only with the able planning, the support, and the enterprise of the States and communities, recognizing the economic needs of their own regions. It cannot be manufactured in Washington alone. It will depend in greatest measure upon the leadership which you and your fellow citizens bring to it.

The third of these legislative supports is for the education of the mentally retarded and handicapped. Under the Mental Retardation Facilities Act, $51.5 million in grants is authorized during the next 3 years for research and the training of teachers of some 5 to 6 million handicapped children, including those who are impaired in hearing, sight, speech, and the emotionally disturbed.

Today, only one-fourth of these handicapped children are given special educational opportunities. Three-fourths are struggling to keep up in regular school grades, or are not in school at all.

Needing special attention, these children require specially trained teachers. And here, as in so many other areas of education, there is a serious teacher shortage. The legislation we are now discussing can help us to remedy this shortage. It will enable us to train educators in specialized skills and research, helping them to transmit their learning through our universities and colleges to qualify teachers to serve the needs of the handicapped.

Here, again, our new legislation moves toward the principle of educational opportunity for all—to bring to the physically and mentally handicapped a maximum potential for useful, productive lives. To the extent that we succeed in fulfilling this principle, we will meet both the demands of our conscience and of our social wellbeing as a nation.

The fourth "landmark" is the Library Services and Construction Act of 1964 which authorizes Federal funds to help raise the level of library services throughout the Nation.

It extends the Library Services Act of 1956 to include urban areas of the United States. As of July 1, 1964, Federal funds can be used to develop public library services in urban as well as rural areas as soon as funds are made available.

This broadened bill will assist in providing libraries and library services for approximately 18.5 million Americans who had previously been deprived of such services and to bring about seriously needed improvements for 100 million others.

Our national investment in good public library service is a direct and highly productive contribution to the intellectual life of our Nation. Today's library is not only a place of study and research. It is also a busy marketplace of ideas, a reservoir of practical, factual information, and a source of continuing cultural and social enlightenment.

The American public library is now at the very center of the revolutionary changes in educational, information, and research requirements. This new legislation encourages the States to plan systematically on a statewide basis; provides funds for implementation of these plans; stimulates greater State and local effort; injects new life in public library construction. All these things will do much to preserve and promote the American public library as a vital instrument of freedom and democracy.

Now for the fifth and last of these educational landmarks—funds for research. Most of the legislation passed by the 88th Congress provides for research. The Office of Education's cooperative research program was allotted $11.5 million during fiscal year 1964 and $15 million for next year.

This support from Congress may be promising of better things to come. It could lead to substantial emphasis on good educational research. If we hope to see this promise fulfilled, however, we had better look not to Congress but to ourselves.

Today education is America's largest industry—with 125,000 schools, 47 million elementary and secondary pupils, 1,800,000 teachers, 100,000 administrators and supervisors, 144,000 local public school board members—and an annual expenditure for all levels of education of $32 billion. In an enterprise of this magnitude, an enterprise which at heart is designed for the exploration of knowledge and the development of human talents, we now spend less than one-tenth of 1 percent of our educational funds for research.

If we hope to succeed through research, we will need school systems which dare to experiment, to try new ideas, to find out if there are better means of teaching. And, above all, we will need new research and development centers to test our ideas in detail before they are widely adopted.

At the outset of these remarks, I observed that the climate has never been better for the improvement of American education. We may enthusiastically greet this legislation which deals significantly with five major areas of need.

But we would woefully deceive ourselves if we regard these measures, however well we administer them, as more than steps along a difficult road. They are by no means curealls for the ailments of American education, nor will they—or any legislation—help education to cure all the ills in our society. As hopeful solutions to parts of the problem, however, they should encourage us to move on to the rest of the unfinished business of our Nation's schools.

I, for one, see no limitation to the potential of education. I see it as the principal lever which can move our society forward. If this makes me a salesman of education, I have no apologies to offer, I am delighted to promote this product whenever and wherever I can before any group—and especially before this assembly of knowledgeable educators.

Now, in 1964, I suggest that it is high time for us to make a fresh start, a time to deal with the total needs of American education without further delay. It will not be enough for us to plan for the expansion of our universities and colleges—we will fail if our efforts stop here. Nor will it be enough to modernize and expand our facilities for vocational education—again, we will miss our ultimate chance if we do this alone.

If we mean to succeed, we must go to the heart of American education and here we will find two great tasks awaiting us. One is an old problem, which we have recognized for more than a generation. The second is rather new, even for us, and it might seem somewhat revolutionary for the public generally. But revolutions should not be too alarming in this country, which began with one.

Our first task, the first essential of our unfinished business, has to do with the state of our American elementary and secondary schools. Here are the neglected but basic foundations upon which every educational program depends. If our Nation is to achieve the intellectual, moral, and economic greatness we seek, we must improve the quality and quantity of these fundamental educational resources. To do so may not, by itself, insure the happy destiny we seek as a nation. But to fail in this effort will assuredly destine our national failure to meet our ideals.

From the Halls of Congress to the gatherings of educators, these woes of basic education are already an old story. Here the fine edge of debate has long since been dulled by almost endless repetition. The needle has nearly worn out the grooves of the record. And yet the faint and gloomy melody lingers, a scratched mockery of our democratic ideals.

Through neglect of our elementary and secondary schools, we have inherited a chronic shortage of qualified teachers and of suitable classrooms. Indeed, there is only one essential to education that is not in short supply—and that is the students who enroll each year in growing numbers and with such large and often frustrated expectations. But these shortages of teachers and classrooms need not exist. If what we say in 1964 is clearly and firmly said, perhaps it may not need to be said again in 1965, or again and again through the remaining years of the decade.

Clearly, we must improve the quality of teaching, for our schools cannot be better than the teachers we employ. And we can hardly expect excellent teaching until we bring teacher salaries within shouting distance of salaries paid to other professional groups.

Across the Nation during 1962–63, the average annual salary of public schoolteachers was about $6,000—and in many depressed areas, the averages were under $3,000. Such salaries are from 50 to 100 percent lower than those paid to other professionals such as accountants and chemists, to auditors and lawyers. They are even a poor match for the wages we pay to plumbers and television repairmen and washing machine mechanics. And yet to these undervalued and underpaid teachers we entrust our most valued possession, our children.

Obviously we must make teacher salaries competitive with other professions if we hope to raise the level of education. We must increase beginning salaries if we mean to encourage able young people to become teachers, and we must raise maximum salaries if we want experienced adults to continue in teaching as a career. This is no mere statistical problem for the Federal Government and its Office of Education, or for the harried bookkeepers in your local boards of education. It is a problem for every responsible American family.

Our next shortage is in classrooms and here, too, we have neglected to balance our educational budget. An inventory of the Nation's school facilities made last year tells us that about one-sixth of all American classrooms were constructed before 1920, that more than 50,000 are built of combustible materials, and that 37,000 of the classrooms now in use are in such makeshift quarters as quonset huts and abandoned military barracks.

For more than 10 million American schoolchildren today, classrooms are seriously overcrowded, with 30 or more pupils in every room. To reduce this average to 30 or less will require more than 66,000 new classrooms—aside from the construction of schoolrooms needed to meet present hazards of health and safety. These additions to our national school plant, moreover, would merely remedy the deficiencies of the present. They would not prepare us for the future.

Our unmet need for better paid teachers and more classrooms can afford no further semesters of neglect. It has already become a national scandal. It needs to be dealt with and dealt with now.

No less important than meeting these chronic and evident flaws in American education is coming to grips with acute areas of trouble which recent understanding and awareness are bringing to our attention. Today we are accustomed to seeing a world

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division between the developed and privileged nations and the underdeveloped and underprivileged. We have learned that this gap between the poor and the well off is intolerable if our world is to achieve stability and peace. But we have not yet accepted the fact that this division also characterizes our own country. Here at home we are also dangerously divided between the haves and the have nots.

The United States, on one hand, is an affluent society, shaped by a complex and expanding economy. More scientists are alive and working today than in the whole history of mankind. The mind of man is now unlocking the secrets of nature not merely on this third planet from the sun, but throughout our universe. We have come to an era in history in which almost every boundary of knowledge is yielding to the trained and exploring mind.

But in this day of unlimited possibility, we are also outdistancing millions of our fellow Americans, consigning them in growing numbers to a shadowland of ignorance and deprivation. We are failing dismally to bring to them an equality of educational opportunity, or even a hope for equality. I place this failure squarely before the house of education because it is here that the revolution in thinking and attitude is long overdue.

The revolutionary concept I would offer is simply this—that we resolve that no child within our society is either unteachable or unreachable—that whenever a child appears at the doors of our schools he presents a direct challenge to us and to all our abilities. These are not new words or ideas, of course—to carry them to reality, however, would be revolutionary.

I say this fully aware that children in our city slums and in our depressed rural areas are hard to teach; that their family and neighborhood environments are generally inhospitable to learning; that they bring to our schools, already beset with problems, a whole new range of serious problems. Their parents are frequently unemployed. Their homes are usually shabby and often dangerous, without space for a schoolchild's desk for the labors of homework. Their language abilities are often limited and monosyllabic.

When sociologists view these children—and they number about 30 percent of our school age population—sociological labels are customarily applied. They are, we are told, "culturally deprived and handicapped," "socially disadvantaged and limited." Among them are Puerto Ricans, Negroes and "poor whites" who have migrated to the big cities or the foreign-born who have emigrated hopefully to the big country.

I have no quarrel with the sociologists and their labels. As well as language and ability permit, they accurately describe the conditions of people within our society. My quarrel, instead, is with those who easily adopt these descriptions as excuses for neglect. For educators, the question is not the environment that children bring to the school from the outside, but the environment the school provides from the inside.

If our schools are generally weak from a poverty of teachers and classrooms, they are specifically weak for the children requiring the best of education and getting the worst of our efforts. If we fail these children who need education most, where shall we take pride for success?

COMMENCEMENT EXERCISES, NOTRE DAME UNIVERSITY

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island [Mr. FOGARTY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. FOGARTY. Mr. Speaker, last Sunday, June 7, 1964, I was awarded one of the highest honors it has ever been my privilege to receive, an honorary degree of doctor of laws from that great institution, Notre Dame University.

One of the highlights of the commencement exercises was the principal address delivered by the Honorable Thomas C. Mann, Assistant Secretary of State for Inter-American Affairs. Under leave to extend my remarks, Mr. Speaker, I would like to include Mr. Mann's speech at this point in the RECORD.

THE DEMOCRATIC IDEAL IN OUR POLICY TOWARD LATIN AMERICA

Thirty years ago this month I received a law degree and started out as a young lawyer. Then we were in the throes of the great depression and preoccupied with our domestic economic problems. Students on campus were not greatly concerned about foreign affairs in those days.

Today the members of the graduating class of this great Christian university will start their careers at a time when our Nation marches forward to new horizons of economic opportunity, individual dignity, and social justice. Technological advances have, however, presented us with new challenges and new opportunities in our relations with other countries. We are caught up, as it were, in a shrinking, interdependent world in which we have great responsibilities and which has suddenly become complex. We can no longer afford to live apart from the rest of the world as if it did not vitally affect our national and individual well-being.

The problems which faced my graduating class 30 years ago, formidable as they seemed to us at the time, were certainly much more elementary, much more simple, and, by comparison, much less important than those which face what Latin Americans would call your generation of 1964.

Within this framework, I would like briefly to discuss with you today one of the problems of our Latin American foreign policy—the problem of what it is we can do to bring about a more effective exercise of representative democracy in the Western Hemisphere. There is no subject concerning our Latin American foreign policy which has, over the years, generated more debate or a debate which has generated so much heat and, it seems at times, so little light.

I

The first point I wish to make is that U.S. foreign policy is firmly and irrevocably committed to the principle that every individual, no matter in what part of the world he lives, has an inalienable right to his individual freedom and to his individual dignity.

For his day, as well as for ours, Benjamin Franklin spoke for the Nation when he expressed the hope that: "A thorough knowledge of the rights of man may pervade all nations of the earth, so that a philosopher may set his foot anywhere on its surface and say 'This is my country'."

More recently, President Johnson, in speaking of the Charter of the Alliance for Progress, expressed somewhat the same thought in different words: "Our charter charges each American country to seek and to strengthen representative democracy. Without that democracy and without the freedom that it nourishes, material progress is an aimless enterprise, destroying the dignity of the spirit that it is really meant to liberate. So we will continue to join with you and encourage democracy until we build a hemisphere of free nations from the Tierra del Fuego to the Arctic Circle."

II

The example of a vigorous representative democracy in the United States that assures equality and dignity to all of our citizens will provide strong support for our policy. A policy of consistent persuasion in discussions with our Latin American friends is another way to help promote democratic progress in the hemisphere.

It has long been, and continues to be, our firm policy to discourage any who conspire to overthrow constitutionally elected governments. But if governments are overthrown, it has long been our practice, in ways compatible with the sovereignty and the national dignity of others, to encourage the holding of free and fair elections—to encourage a return to constitutional procedures. Other American Republics make equally valuable contributions to building a Western Hemisphere tradition of democracy by their example, by the strength of their moral positions, and by expressions of their principles.

It is understandable that all of us sometimes become impatient with the rate of progress toward making this ideal a reality everywhere. We have not yet reached perfection in our own country. Many American Republics have made great progress in establishing a democratic tradition within the last few decades. In others, democracy seems at times to take two steps forward only to be temporarily pushed back a step. In Cuba, the light of democracy has temporarily been extinguished.

But we should not, I think, judge either the rate or degree of hemisphere progress toward democracy solely by the number of coups d'etat which take place. The degree of individual freedom which exists in the hemisphere, the average lifespan of de facto governments, the extent of political repression, the degree of freedom of the press and of peaceful assembly, and the growing number of people in the hemisphere who consistently support the principle of free and periodic elections, are also relevant yardsticks.

If one looks at the forest instead of the trees, he can see that these quiet, unpublicized efforts on the part of the United States and other American Republics have, along with many other factors, contributed to a wider and deeper observance of the forms of representative democracy in this hemisphere and, perhaps even more important, to a growing respect by governments, in deeds as well as words, for the dignity of man and for his basic human rights. I am confident that the general movement will continue to be forward; I hope it can be accelerated.

III

One way to bring about more rapid progress is by collective action of the community of American States.

As early as 1837, Pedro Vicuna, of Chile, urged the establishment of a general congress of American States to oppose tyranny.

In 1945 the Uruguayan Government proposed the doctrine that there is a parallelism between peace and democracy. The United States supported this thesis. Only eight American Republics including the United States, voted affirmatively for the Uruguayan proposal.

In 1960, at a meeting of Foreign Ministers in San José, the United States again supported collective action and introduced a new concept: Support of the ideal of representative democracy should not merely be negative in the sense of opposition to a particular dictatorial regime; it should positively insure, by collective action, that peoples have an opportunity, in free and fair elections, to express their will—so that a Batista will not again be followed by a Castro.

There was little support for this thesis at the time although the majority, including the United States, did vote for sanctions against the Trujillo regime.

More recently, Venezuela has taken the lead in proposing informally that the American States agree to consult together when unconstitutional changes of government occur in the hemisphere. We have long since assured the Venezuelan Government of our support.

I would hope that the Venezuelan initiative will be but a step in a future process of developing a new international procedure which, while safeguarding the essential sovereign rights of every nation, defines with care and precision the kinds of violations of basic human rights which are, to use the phrases of a former Secretary of State, of such a "flagrant and notorious character" that they have a "relationship to the maintenance of international peace and security" and hence justify such collective action as may be agreed upon. If this were done, tyranny of the kind we saw under Trujillo and which we still see under Castro today, could be effectively and legally dealt with.

IV

It is sometimes said that since the American community of nations has failed to take effective collective action to eliminate dictatorships in the hemisphere, the United States—unilaterally and alone—should undertake to force all Latin American governments to stay on the path of constitutionality. The United States has had a rather full experience in attempting, with the best of motives, to impose democracy on other countries. It is worthwhile to recall them.

Monroe's Declaration of 1823, in its original intent, was a shield for Latin America against European powers seeking to recover lost colonies and to expand their territories. In the three instances in which it was applied in the manner originally intended—in 1864, 1895, and 1902—it was of considerable help to the Latin American States directly involved.

But in 1904 Theodore Roosevelt presented his now famous corollary:

"Chronic wrongdoing—may in America—ultimately require intervention by some civilized nation—in the exercise of an international police power."

The philosophy underlying the Roosevelt corollary was not new; the Platt amendment which impaired Cuban sovereignty was already an accomplished fact. But it did open the way for a number of new adventures. In 1906 and 1909 the Marines were sent to Cuba, in 1909 and 1912 to Nicaragua, in 1912 to the Dominican Republic, in 1915 to Haiti.

In 1913, a new moral dimension was added to the Roosevelt corollary in an attempt to justify additional U.S. interventions. It was stated in these words: "Cooperation is possible only when supported at every turn by the orderly processes of just government based upon law, not upon arbitrary or irregular force."

Under this doctrine we engaged in a new series of interventions in Mexico. These led to the occupation of Veracruz and to Pershing's expedition. They brought us to the verge of war with our southern neighbor at the very time we were being drawn into the First World War.

Arthur Whitaker, in his book "The Western Hemisphere Idea," comes to this conclusion: "Protective imperialism (under the 1904 corollary) would intervene to correct situations of chronic wrongdoing and chaos only to the extent necessary to prevent European intervention and then withdraw. The civilizing mission (the 1913 policy), on the other hand, had no such ad hoc character or limited objective. The missionary's work is not done when the devils have been cast out; it has hardly begun. He must stay on until he has taught his charges how to lead the good life, and that may take quite a long time." (Parenthetical matter added.)

And Howard Cline, in speaking of the 1913 doctrine, reminds us in his book, "The United States and Mexico": "Thus there were 'good' revolutions and 'bad' revolutions. The latter brought only venal, unidealistic people to power, while the former put the particular nation back on the constitutional track. As events in Mexico and elsewhere ultimately showed, the test of 'constitutional legitimacy' was unworkable, especially in Latin America. The United States—renounced it as a national policy in 1921."

The words of these two distinguished scholars may, from our point of view, seem rather harsh. Certainly our intentions were good. But few knowledgeable people will deny that they accurately reflect Latin America's bitter reaction to our interventionist activities under doctrines of 1904 and 1913.

Our interventions were, in the Latin American point of view, patronizing in the extreme. By making the United States the sole judge of Latin America's political morality, they were degrading to proud peoples who believed that, in their own wars of independence, they had earned the right to manage their own affairs—to be masters in their own houses. They produced schismatic tendencies in the inter-American family and brought our relations with Latin America to an alltime low.

These historical experiences suggest two things: Unilateral U.S. interventions in the hemisphere have never succeeded, in themselves, in restoring constitutional government for any appreciable period of time. And they have, in every case, left for our country a legacy of suspicion and resentment which has endured long after our interventions were abandoned as impracticable.

As Cline has observed: "The lengthy record of discord during the years 1913 and 1914 carries its own lessons. One is that international problems are more complex than sloganmakers sometimes assume. A worthy set of attitudes is no substitute for coherent policy."

Franklin Roosevelt surely had these lessons of history in mind when he not only pledged the United States to the policy of nonintervention but defined his policy of the "good neighbor" as: "the neighbor who resolutely respects himself, and, because he does so, respects the rights of others—the neighbor who respects his obligations and respects the sanctity of his agreements in and with a world of neighbors."

Two wrongs do not make a right. We cannot achieve a peaceful world ruled by law if we do not live up to our own obligations.

As an answer to the U.S. interventionist doctrines, Latin Americans developed doctrines of their own. Let there be no mistake: these Latin American counterdoctrines were "tailor made" for the United States; their purpose was to bring an end to U.S. interventions. I shall mention only one.

By 1928, when the Sixth International Conference of American States met at Habana, a proposal was introduced which stated the simple proposition that "no state had the right to interfere in the internal affairs of another."

After a long and somewhat acrimonious debate the United States managed to prevent adoption of the resolution, but the handwriting was on the wall. In 1933, at the Seventh Conference in Montevideo, the United States accepted the doctrine of nonintervention with qualifications. In 1936, at Buenos Aires, we accepted it unconditionally.

This Latin American doctrine of nonintervention is now written into the Charter of the Organization of American States. It is a treaty obligation. Allow me to read to you articles 15 and 16 of the charter:

"Article 15. No state or group of states has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other state. The foregoing prohibits not only armed force but also any other form of interference or attempted threat against the personality of the state or against its political, economic or cultural elements."

"Article 16. No state may use or encourage the use of coercive measures of an economic or political character in order to force the sovereign will of another state and obtain from it advantages of any kind."

As the Scholars Thomas point out in their study of nonintervention:

"The essence of intervention is the attempt to compel."

All of this does not mean that we will in the future recognize all governments which come into power in an unconstitutional manner. Each case must be looked at in the light of its own facts. Where the facts warrant it—where the circumstances are such, to use someone else's phrase, as to "outrage the conscience of America."—we reserve our freedom to register our indignation by refusing to recognize or to continue our economic cooperation.

It does mean that, consistent with our treaty obligations, we cannot put ourselves in a doctrinaire straitjacket of automatic application of sanctions to every unconstitutional regime in the hemisphere with the obvious intention of dictating internal political developments in other countries. As the facts amply demonstrate, this is no departure from the practice which has prevailed in the most recent years.

The third point to which I invite your attention is this: Unilateral intervention for the purpose of forcing constitutional changes in another country does not always serve either the cause of democracy or the national security interests of the United States.

To illustrate, not long ago a majority of the Guatemalan people voted in free elections for Arbenz, a candidate for President. Later the Guatemalan people discovered that Arbenz was a Marxist-Leninist. Colonel Castillo led a successful revolt and was widely acclaimed by his people when he marched into Guatemala City. Had we been unconditionally committed to the support of all constitutional governments under all circumstances, we would have been obliged to do everything within our power to bring about the overthrow of Castillo and to restore a Marxist-Leninist to power against the will of the Guatemalan people.

The question of our relationships with Communist regimes in this hemisphere is, of course, a separate subject and is beyond the scope of these remarks. It raises separate questions, such as our inherent right of self-defense and measures, under existing treaties, to deal with situations which threaten the peace and security of the hemisphere.

V

Against this background, what conclusions are to be drawn? What can we do to help make the democratic ideal a reality in this hemisphere? I offer the following suggestions:

First, we should continue, in our bilateral discussions with other governments, to encourage democracy in the quiet, unpublicized way and on the day-to-day basis that I have already referred to; and we should support parallel efforts of other American states. If there is no intent to force the will of a sovereign government this tactic is entirely compatible with our commitments and with the dignity and self-respect of others.

Second, we should support appropriate measures for broadening the scope of collective action with the aim of addressing ourselves first to those cases where repression, tyranny and brutality outrage the conscience of mankind. I can think of no way in which

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the American community of states can better serve the cause of human dignity, individual and national freedom and representative democracy than to develop a set of procedures for dealing with this type of problem. The United States has never believed that collective action for such purposes is proscribed by the Charter of the Organization of American States; but if the majority of the member states are of a contrary opinion, then let us amend the charter.

Third, in each case where a government is overthrown by force there should be a careful, dispassionate assessment of each situation in the light of all the surrounding facts and circumstances so that decisions concerning recognition, trade, aid and other related matters can be made which are consistent with our ideals, with international law, and with our overall national interests.

In making this assessment, regard should also be paid to the fact that not only is each American Republic different from all the others but that each de facto government is likewise different in its aims, its motives, its policies, and in the kinds of problems it faces.

Fourth, if as a result of this appraisal, a decision is made not to recognize a regime—and this may well be the case in the future as it has been in the past—then it should be made clear that nonrecognition is based squarely on a failure on the part of another government to abide by the established rules of international conduct.

Fifth, when the decision is made to recognize a regime, it should be clear that there is no basis under international law for equating recognition with the U.S. approval of the internal political policies and practices of another government. Resolution 35 of the Ninth Inter-American Conference of American States makes this point very clear. It declares: "That the establishment or maintenance of diplomatic relations with a government does not imply any judgment upon the domestic policy of that government."

Sixth, we should continue our established practice of consulting with other American Republics whenever a question of recognition arises.

Finally, let there be no mistake about our consistent and complete devotion to the principles of human dignity and freedom of the individual. We believe that these principles can only be realized in a democratic political system in which governments are the servants of the people and responsive to their will. They are a central element in our foreign policy toward Latin America. We shall in every way, consistent with our obligations, continue our efforts to help make democracy a reality throughout the entire hemisphere.

As is often the case, there is more to be said than time allows for. I have already presumed on your courtesy by speaking so long. But if I am permitted one word of counsel, it would be this:

I hope you will feel a pride in your university, your church and your country and in the efforts they are all making to create a peaceful world, ruled by law and Christian charity which is devoted to both the material and spiritual progress of all mankind in freedom. And I hope that you will look to the future with confidence that freedom and not tyranny is the "wave of the future" in this hemisphere. I think you will see even greater progress toward freedom in your generation than the impressive gains I have seen in my time.

PANAMA VIOLENCE: U.N. AMBASSADOR AQUILINO BOYD ACCUSED OF ATTEMPTED MURDER

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. FLOOD] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. FLOOD. Mr. Speaker, among the Panamanian characters to attract wide attention following the 1956 Suez Canal crisis was Aquilino Boyd, who, as Minister of Foreign Affairs, was the first official of Panama to advocate publicly the formal raising of that country's flag in the Canal Zone territory—Star and Herald, Panama, Republic of Panama, May 7, 1958. Later, he became a principal agitator for extreme, radical, and unrealistic demands for greater benefits from the Panama Canal for Panama and a leader of revolutionary forays into the Canal Zone to plant Panamanian flags.

On a number of occasions in addresses to the House, I severely criticized such activities by Boyd and others as evidence of emotional and political instability on the isthmus and full justification for our historic policy of full sovereign powers, rights, and authority in the Canal Zone as granted in perpetuity under treaty.

Was I too harsh in such castigations and in singling out the man who is now the permanent Ambassador of Panama to the United Nations and a Deputy in the Panamanian National Assembly? Far from it.

Following the Red led mob assaults on the Canal Zone, January 9 to 11, 1964, Ambassador Boyd made false accusations in the United Nations against the United States for aggressions against Panama, well calculated to inflame a world opinion hostile to our country.

The latest news about Ambassador Boyd is that, on May 21, 1964, in Panama City, with a .32-caliber pistol, he shot and injured Escolastico Calvo, editor of the Panamanian tabloid La Hora. Boyd shot three times—the first, while Calvo was in his car; a second, as he was getting out; and last, after Calvo fell to the ground.

Featured on the front page of the Panama American of Panama, Republic of Panama, in the afternoon of the same day, the news story was illustrated with pictures of both the attacker and his victim. Explanatory matter under the picture of Boyd describes him as an "armed aggressor" in a "murder attempt"; that under Calvo shows the editor as "bathed in blood."

Mr. Speaker, such murderous violence by Ambassador Boyd illustrates the mercurial and irresponsible type of leadership with which our citizens, charged with responsibility for the maintenance, operation, sanitation, and protection of the Panama Canal, have had to live. No wonder U.S. residents in the Canal Zone are appalled by the sheer naivete, timidity, and incompetence on the part of elements in our Government who will not stand up for the interests of the United States.

In order that the people of our country and the Congress, especially the members and staffs of its investigational committees, may have the facts about Ambassador Boyd's attempted murder on May 21, 1964, I quote the previously mentioned news story, together with the descriptive matter under the pictures of Boyd and Calvo; also brief mention of the same incident in the May 29, 1964, issue of Time:

[From the Panama American, May 21, 1964]

BOYD ATTEMPTS TO MURDER EDITOR OF REPUBLIC OF PANAMA NEWSPAPER

Escolastico Calvo, president of the Panama Newsmen's Union and editor of the tabloid La Hora, was shot and injured this morning by Aquilino Boyd with a .32 pistol.

Calvo, who was shot at while sitting in his automobile at the 29th Street intersection of Peru Avenue, was hit in the left arm and side, but both bullets caused only superficial injuries.

Boyd, an Assemblyman, former Foreign Minister and Panama's Ambassador to the United Nations, attempted to kill Calvo when the latter fell to the floor but the gun failed to go off.

When a bystander took the gun away from Boyd, he used a blackjack to slug Calvo on the head.

The attempt against Calvo's life by Boyd apparently was the outcome of a report published in yesterday's edition of La Hora.

The report said that Boyd, who was up for reelection in the May 10 elections, would not be reelected because his party did not poll the required number of votes.

The report apparently displeased Boyd, who angrily replied through a letter published today in a morning paper.

Boyd is reported to have previously shot at other newsmen in the past. Several years ago he shot at Bonifacio (Johnny Bonny) Hernandez at the Finance Ministry. However, Boyd's gun failed to go off and he was beaten by Hernandez.

On another occasion he also shot at Columnist Jorge Prosperi. Another report is that while serving as Foreign Minister, Boyd was involved in an incident with former Minister of Government and Justice Max Heurtematte.

He is said to have challenged Heurtematte to fight in the Presidencia and when the latter refused he waited for him to come outside.

After failing to kill Calvo this morning, Boyd got into his automobile and drove away fast, eyewitnesses said.

Armed aggressor—Panama Permanent U.N. Delegate Aquilino Boyd today twice shot Panama Newspapermen's Union President Escolastico Calvo in a murder attempt which took place at the 28th Street and Peru Avenue intersection. Eyewitnesses said Boyd first shot Calvo while the newsman was driving his automobile and later fired another bullet into the left arm and side of Calvo as the newspaperman got out of his car. Boyd attempted to shoot the editor of La Hora a third time after he fell to the ground, but was spared further injury when the .32-caliber revolver failed to discharge. Boyd, who is a Deputy to the National Assembly and a former Foreign Minister, several years ago fired a shot at radio announcer Bonifacio (Johnny Bonny) Hernandez and once threatened newsman Jorge Prosperi and former Minister of Government and Justice Max Heurtematte.

Shooting victim—La Hora Editor Escolastico Calvo, bathed in blood as a result of a pistol whipping on the head, arrives at San Fernando Clinic after suffering two gunshot wounds from a .32-caliber pistol wielded by Aquilino Boyd, Permanent Panama Delegate to the United Nations and a Deputy to the National Assembly. The shooting took place today shortly before noon on Peru Avenue. Calvo, who is also president of the Panama Newspapermen's Union, was shot in the left side and left arm.

[From Time, May 29, 1964]

Panama: U.N. Diplomat in Action

As an up-and-coming Panamanian politician, Aquilino Boyd liked to make his position witheringly clear. He led a band of hooligans in the 1959 Canal Zone riots—they tore down an American flag and urinated on it. At the U.N. during last January's Panama crisis, he was all indignation, accusing the United States of "bloody aggression." Last week he was back home, being more aggressive still.

In the recent elections for President and the National Assembly, Boyd was among the losers, failing to retain the Deputy's seat that he had held in addition to his diplomat's job. Panama's daily La Hora ran an editorial taunting him on his poor showing, adding that even his effort to cheat his way in had flopped. When Boyd saw Escolastico Calvo, editor of La Hora, while driving along a Panama City street, he jammed on his brakes, cutting off Calvo's car, hopped out, and pumped two bullets into his surprised victim before his gun jammed. Then he pistol-whipped away at Calvo's head until he was finally subdued by bystanders.

The wounded editor, with .38-caliber holes in his left side and arm, drove himself to a hospital. U.N. diplomat Boyd went home to lunch. Even as a "lameduck" Deputy he had all sorts of immunity, and in Panama, where the macho approach clicks with voters, he might even have improved his flagging political popularity.

THE 18TH ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF ITALY

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. Rooney] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. ROONEY of New York. Mr. Speaker, today, June 10, marks the 18th year since the Italian Republic came into being. Not only to the people of Italy is this date one of great significance, but to freedom-loving people all over the world it is of equal importance. To the Italian-born American citizens and those of Italian descent in America, this historic date is second in importance only to the Fourth of July.

I take this occasion to congratulate the Italian people for the great accomplishments which they, as a nation, have made since the founding of their Republic. The economic growth has been almost miraculous. Their social and political developments have been unprecedented. Today, a country so recently weakened by severe ravages of war holds its head high among the nations of the world.

It is true that much of Italy's rapid return to economic stability is the direct result of American assistance, but it is equally true that the American food, supplies, equipment, and dollars given to Italy are but a token payment on the debt this country owes Italy for the contributions which the Italian-born American citizens and their descendants have made to America's own development. These sons, daughters, grandsons, and great-grandsons of Italian immigrants have made, and are still making, a lasting impact upon the lives of every American. Their gifts to us of greatness in science, business, music, art, drama, and literature are priceless; consequently, we are ever conscious of their importance and value.

In congratulating the people of Italy upon their great achievements as they celebrate this, their Independence Day, I suggest that they and we alike rededicate ourselves to the cause of freedom in all its forms. May we and Italians everywhere be ever mindful of the kindred aims our Founding Fathers set for our Republics at their birth—and, being mindful of those democratic ideals, do all in our power to promote understanding, respect, and affection between the peoples of our two nations.

A COURAGEOUS LADY IN DEFIANCE OF THE LAW

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. Libonati] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. LIBONATI. Mr. Speaker, the Krebiozen controversy continues on and on. It threatens to engulf the entire medical profession in unending repercussions. The common people are making demands for action upon the Congress.

Once public support makes itself assertive for a scientific test—those doubters who have resisted tests to determine its medicinal value will be driven to cover. The hundreds of victims of cancer who have received the remedial benefits of the drug are clamoring for a continuance of its distribution interstate. The thousands of terminal cases treated by hundreds of physicians have shown that pain was reduced in approximately 70 percent—even after the victim subject to narcotics without effect as to alleviating pain. Also the reduction and in some cases the disappearance of tumors and cancerous tissue. Krebiozen cannot be laughed off by the politico-physician leadership.

It is sad that Mrs. Brou must take this means of bringing to public attention her desperate plight in the procural of the drug under the 1962 Drug Act—limiting its distribution to Illinois. I suppose many more victims who are Krebiozen users will seek the same means to emphasize the desperation that besets them. HEW should make an exception of this drug in that it is nontoxic—and subject to scientific test. To deny them the drug when medical authorities have classified their condition as terminal without hope for the continuance of life borders upon the issuance of a certified death warrant. A more humane approach to these problems is dictated by the public conscience of fairplay—no one should be deprived of any nontoxic drug that even as a last chance may be remedial in effect, especially for one condemned to death by the very members of a noble profession whose powerful membership opposes the distribution or testing of the only drug biologically active in cancer cases as a last hope.

Mrs. Gertrude Brou in her determination to stir up public opinion took a most difficult path to follow—to violate the law. But in her sincerity and conscientious interest in behalf of the problems of those of similar fate, she had made a terrific sacrifice, and as a good woman, became a law violator for a laudable purpose. The court was unable to do otherwise. But the Congress has made a grave error in cutting off the distribution of nontoxic drugs existent under the previous drug act. And the medical profession should be alerted to the growing dissatisfaction of the public in the transition of some members of this great and blessed profession, looking only for monetary gain and conducting a business enterprise.

The Evening Star carried the story of the arrest as follows:

Picket for Krebiozen Chooses Jail Over Fine

A woman who has been picketing the White House for 35 days in protest of the ban on interstate shipment of the cancer drug krebiozen was sentenced today to a fine of $10 or 10 days in jail in the Court of General Sessions.

Gertrude Brou, 51, of Miami, Fla., elected to spend 10 days in jail rather than pay the fine after pleading guilty to a disorderly conduct charge.

The short, thin woman appeared in court with a large sign draped over her shoulders and a poster in her hand. These explained her protest of the ban on interstate shipment of the drug and claimed that the drug had helped her in her battle against cancer.

Judge George D. Neilson tried to persuade the woman to pay her fine rather than go to jail, but she refused.

Police said the woman was arrested at the White House when she stationed herself in the driveway and would not continue walking as pickets are required to do.

The woman said, "I've been walking for 35 days in front of the White House and I get tired."

She said that marching in front of the White House was her right and the judge replied that no one in the courtroom would deny her freedom to such a demonstration as long as she obeyed the law.

The Government has banned interstate shipment of the drug claiming that it is of no positive value in combating cancer.

A MESSAGE FROM THE MEDICALLY CONDEMNED WHO PLEAD FOR A CHANCE TO LIVE

Mr. Speaker, a lone cancer survivor on Krebiozen invited arrest today after a 35-day picket of the White House in an attempt to get President Johnson to resolve the issue over the drug which she believes is helping to prolong her life.

Mrs. Gertrude Brou, of West Hollywood, Fla., moved 2 months ago from her home to Washington, D.C., "to spend the rest of my life, if necessary, to get the ban lifted on Krebiozen."

For 35 consecutive days, she has carried a sign in front of the White House which says on one side: "Mr. President, the FDA—Food and Drug Administration—Is Fighting Cancer Patients, Not Cancer." On the other side, it reads "Mr. President, Mercy for Cancer Patients on Krebiozen. Please Resolve the Issue.—Thank You."

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A sandwich-type board strapped over her shoulders says on the front: "I am a Cancer Patient on Krebiozen," and on the back it says: "I Have Been Here 35 Days. During This Time 27,825 Cancer Patients Have Died."

One year ago Mrs. Brou refused amputation of her left breast after a positive biopsy report of cancer. Her mother had died in 1947, and her sister had died in 1960 of breast cancer. Both had undergone radical mastectomy—complete surgical removal of the breast—X-ray, and radium therapy.

Through friends, Mrs. Brou had learned of a woman in Chicago who 3 years before had been given 6 months to live and had regained her health after taking Krebiozen.

Mrs. Brou went to Chicago to get started on Krebiozen and had just returned to her home in Florida, after finding a doctor in Miami who would continue to give her Krebiozen, when the Food and Drug Administration banned the drug from interstate commerce last July.

She immediately went to the Miami Herald for help. The Herald printed her story on the front page. Armed with this, she came to Washington, D.C. and enlisted the support of Senators SMATHERS and HOLLAND, and Representatives DANTE B. FASCELL, PAUL ROGERS, and CLAUDE PEPPER, all of Florida. They, with 50 other Congressmen, cosponsored the Krebiozen resolution which would lift the ban and require the National Institutes of Health to test Krebiozen.

Mrs. Brou said that she has returned to Washington because she fears Congress may not have time to hold hearings unless they act at once and pass the Krebiozen resolution this election year.

She says that there are about 10 cancer victims in Florida whose lives are dependent on Krebiozen who cannot afford to travel back and forth to Illinois to get the drug in the only State where it isn't banned.

Mrs. Brou feels that the Kefauver-Harris law has been badly administered and perverted to harm cancer victims on Krebiozen. She says:

> Senator Kefauver himself recognized this, for he joined as a cosponsor with Senators DOUGLAS, SMATHERS, HOLLAND and 13 other Senators on the Krebiozen resolution, as one of the last official acts of his life.

She states:

> I don't believe that Congress ever intended the 1962 Kefauver-Harris drug law to be administered in such a way that a person could be deprived of a nontoxic drug given to her by the doctor of her choice which she has proved to her own satisfaction is effective and safe.

THE SUCCESSES OF THE ALLIANCE FOR PROGRESS DEMONSTRATE THE EFFECTIVENESS OF FOREIGN AID

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. GONZALEZ] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, last weekend, June 6 and 7, the Honorable Thomas C. Mann, Assistant Secretary of State for Inter-American Affairs, and the Honorable William D. Rogers, Deputy U.S. Coordinator, Alliance for Progress, delivered commencement addresses. These two speeches are particularly appropriate at this time while the Members of this House are debating and considering the Foreign Assistance Act of 1964. The speeches focus attention on some of the positive aspects of our assistance programs as they relate to the Alliance for Progress. Too often excesses and abuses are seized upon and magnified by those who would wreck a program, a dialectical device which has been in vogue for some time in connection with foreign aid.

The addresses of Mr. Mann and Mr. Rogers are appropriate for another reason: Because of their intrinsic merit. Anyone sincerely interested in understanding our policies in Latin America will gain instruction and enlightenment by reading them. And for those who seek to wreck our foreign aid program, who would cut off the hand of this vital arm of our foreign policy, let me further paraphrase Abraham Lincoln:

> This world—and each country in the world—cannot continue half rich and half poor.

I ask the unanimous consent of the Members of this House that the speeches of Thomas Mann and William D. Rogers be inserted in the RECORD.

THE DEMOCRATIC IDEAL IN OUR POLICY TOWARD LATIN AMERICA

(Address by the Honorable Thomas C. Mann, Assistant Secretary of State for Inter-American Affairs)

Thirty years ago this month I received a law degree and started out as a young lawyer. Then we were in the throes of the great depression and preoccupied with our domestic economic problems. Students on campus were not greatly concerned about foreign affairs in those days.

Today the members of the graduating class of this great Christian university will start their careers at a time when our Nation marches forward to new horizons of economic opportunity, individual dignity and social justice. Technological advances have, however, presented us with new challenges and new opportunities in our relations with other countries. We are caught up, as it were, in a shrinking, interdependent world in which we have great responsibilities and which has suddenly become complex. We can no longer afford to live apart from the rest of the world as if it did not vitally affect our national and individual well-being.

The problems which faced my graduating class 30 years ago, formidable as they seemed to us at the time, were certainly much more elementary, much more simple, and by comparison much less important, than those which face what Latin Americans would call your "Generation of 1964."

Within this framework, I would like briefly to discuss with you today one of the problems of our Latin American foreign policy—the problem of what it is we can do to bring about a more effective exercise of representative democracy in the Western Hemisphere. There is no subject concerning our Latin American foreign policy which has over the years generated more debate or a debate which has generated so much heat and, it seems at times, so little light.

I

The first point I wish to make is that U.S. foreign policy is firmly and irrevocably committed to the principle that every individual, no matter in what part of the world he lives, has an inalienable right to his individual freedom and to his individual dignity.

For his day, as well as for ours, Benjamin Franklin spoke for the Nation when he expressed the hope that "a thorough knowledge of the rights of man may pervade all nations of the earth, so that a philosopher may set his foot anywhere on its surface and say 'This is my country'."

More recently, President Johnson, in speaking of the Charter of the Alliance for Progress, expressed somewhat the same thought in different words: "Our charter charges each American country to seek and to strengthen representative democracy. Without that democracy and without the freedom that it nourishes, material progress is an aimless enterprise, destroying the dignity of the spirit that it is really meant to liberate. So we will continue to join with you and encourage democracy until we build a hemisphere of free nations from the Tierra del Fuego to the Arctic Circle."

II

The example of a vigorous representative democracy in the United States that assures equality and dignity to all of our citizens will provide strong support for our policy. A policy of consistent persuasion in discussions with our Latin American friends is another way to help promote democratic progress in the hemisphere.

It has long been, and continues to be, our firm policy to discourage any who conspire to overthrow constitutionally elected governments. But if governments are overthrown, it has long been our practice, in ways compatible with the sovereignty and the national dignity of others, to encourage the holding of free and fair elections—to encourage a return to constitutional procedures. Other American republics make equally valuable contributions to building a Western Hemisphere tradition of democracy by their example, by the strength of their moral positions, and by expressions of their principles.

It is understandable that all of us sometimes become impatient with the rate of progress toward making this ideal a reality everywhere. We have not yet reached perfection in our own country. Many American Republics have made great progress in establishing a democratic tradition within the last few decades. In others, democracy seems at times to take two steps forward only to be temporarily pushed back a step. In Cuba, the light of democracy has temporarily been extinguished.

But we should not, I think, judge either the rate or degree of hemisphere progress toward democracy solely by the number of coups d'etat which take place. The degree of individual freedom which exists in the hemisphere, the average lifespan of de facto governments, the extent of political repression, the degree of freedom of the press and of peaceful assembly, and the growing number of people in the hemisphere who consistently support the principle of free and periodic elections, are also relevant yardsticks.

If one looks at the forest instead of the trees, he can see that these quiet, unpublicized efforts on the part of the United States and other American republics have, along with many other factors, contributed to a wider and deeper observance of the forms of representative democracy in this hemisphere and, perhaps even more important, to a growing respect by governments, in deeds as well as words, for the dignity of man and for his basic human rights. I am confident that the general movement will continue to be forward; I hope it can be accelerated.

III

One way to bring about more rapid progress is by collective action of the Community of American States.

As early as 1837, Pedro Vicuna of Chile urged the establishment of a General Congress of American States to oppose tyranny.

In 1945 the Uruguayan Government proposed the doctrine that there is a "parallelism" between peace and democracy. The United States supported this thesis. Only eight American republics including the United States voted affirmatively for the Uruguayan proposal.

In 1960, at a meeting for Foreign Ministers in San José, the United States again supported collective action and introduced a new concept: Support of the ideal of representative democracy should not merely be negative in the sense of opposition to a particular dictatorial regime; it should positively insure, by collective action, that peoples have an opportunity, in free and fair elections, to express their will—so that a Batista will not again be followed by a Castro. There was little support for this thesis at the time although the majority, including the United States, did vote for sanctions against the Trujillo regime.

More recently, Venezuela has taken the lead in proposing informally that the American States agree to consult together when unconstitutional changes of government occur in the hemisphere. We have long since assured the Venezuelan Government of our support.

I would hope that the Venezuelan initiative will be but a step in a future process of developing a new international procedure which, while safeguarding the essential sovereign rights of every nation, defines with care and precision the kinds of violations of basic human rights which are, to use the phrases of a former Secretary of State, of such a "flagrant and notorious character" that they have a "relationship to the maintenance of international peace and security" and hence justify such collective action as may be agreed upon. If this were done, tyranny of the kind we saw under Trujillo and which we still see under Castro today, could be effectively and legally dealt with.

IV

It is sometimes said that since the American community of nations has failed to take effective collective action to eliminate dictatorships in the hemisphere, the United States—unilaterally and alone—should undertake to force all Latin American governments to stay on the path of constitutionality. The United States has had a rather full experience in attempting, with the best of motives, to impose democracy on other countries. It is worth while to recall them.

Monroe's Declaration of 1823, in its original intent, was a shield for Latin America against European powers seeking to recover lost colonies and to expand their territories. In the three instances in which it was applied in the manner originally intended—in 1864, 1895, and 1902—it was of considerable help to the Latin American states directly involved.

But in 1904 Theodore Roosevelt presented his now famous corollary: "Chronic wrongdoing—may in America—ultimately require intervention by some civilized nation—in the exercise of an international police power."

The philosophy underlying the Roosevelt corollary was not new; the Platt amendment which impaired Cuban sovereignty was already an accomplished fact. But it did open the way for a number of new adventures. In 1906 and 1909 the Marines were sent to Cuba, in 1909 and 1912, to Nicaragua, in 1912 to the Dominican Republic, in 1915 to Haiti.

In 1913, a new moral dimension was added to the Roosevelt corollary in an attempt to justify additional U.S. interventions. It was stated in these words: "Cooperation is possible only when supported at every turn by the orderly processes of just government based upon law, not upon arbitrary or irregular force."

Under this doctrine we engaged in a new series of interventions in Mexico. These led to the occupation of Veracruz and to Pershing's expendition. They brought us to the verge of war with our southern neighbor at the very time we were being drawn into the First World War.

Arthur Whitaker in his book "The Western Hemisphere Idea," comes to this conclusion: "Protective imperialism (under the 1904 corollary) would intervene to correct situations of chronic wrongdoing and chaos only to the extent necessary to prevent European intervention and then withdraw. The civilizing mission (the 1913 policy), on the other hand, had no such ad hoc character or limited objective. The missionary's work is not done when the devils have been cast out; it has hardly begun. He must stay on until he has taught his charges how to lead the good life, and that may take quite a long time."

And Howard Cline, in speaking of the 1913 doctrine, reminds us in his book, "The United States and Mexico": "Thus there were 'good' revolutions and 'bad' revolutions. The latter brought only venal, unidealistic people to power, while the former put the particular nation back on the constitutional track. As events in Mexico and elsewhere ultimately showed, the test of 'constitutional legitimacy' was unworkable, especially in Latin America. The United States—renounced it as a national policy in 1921."

The words of these two distinguished scholars may, from our point of view, seem rather harsh. Certainly our intentions were good. But few knowledgeable people will deny that they accurately reflect Latin America's bitter reaction to our interventionist activities under doctrines of 1904 and 1913.

Our interventions were, in the Latin American point of view, patronizing in the extreme. By making the United States the sole judge of Latin America's political morality, they were degrading to proud peoples who believed that, in their own wars of independence, they had earned the right to manage their own affairs—to be masters in their own houses. They produced schismatic tendencies in the inter-American family and brought our relations with Latin America to an alltime low.

These historical experiences suggest two things: Unilateral U.S. interventions in the hemisphere have never succeeded, in themselves, in restoring constitutional government for any appreciable period of time. And they have, in every case, left for our country a legacy of suspicion and resentment which has endured long after our interventions were abandoned as impracticable.

As Cline has observed: "The lengthy record of discord during the years 1913 and 1914 carries its own lessons. One is that international problems are more complex than sloganmakers sometimes assume. A worthy set of attitudes is no substitute for coherent policy."

Franklin Roosevelt surely had these lessons of history in mind when he not only pledged the United States to the policy of nonintervention but defined his policy of the "good neighbor" as: "the neighbor who resolutely respects himself and, because he does so, respects the rights of others—the neighbor who respects his obligations and respects the sanctity of his agreements in and with a world of neighbors."

Two wrongs do not make a right. We cannot achieve a peaceful world ruled by law if we do not live up to our own obligations.

As an answer to the U.S. interventionist doctrines, Latin Americans developed doctrines of their own. Let there be no mistake: these Latin American counter-doctrines were tailormade for the United States; their purpose was to bring an end to U.S. interventions. I shall mention only one:

By 1928, when the Sixth International Conference of American States met at Havana, a proposal was introduced which stated the simple proposition that "No state has the right to interfere in the internal affairs of another."

After a long and somewhat acrimonious debate the United States managed to prevent adoption of the resolution, but the handwriting was on the wall. In 1933, at the Seventh Conference in Montevideo, the United States accepted the doctrine of nonintervention with qualifications. In 1936, at Buenos Aires, we accepted it unconditionally.

This Latin American doctrine of nonintervention is now written into the Charter of the Organization of American States. It is a treaty obligation. Allow me to read to you articles 15 and 16 of the Charter:

"Article 15. No state or group of states has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other state. The foregoing prohibits not only armed force but also any other form of interference or attempted threat against the personality of the state or against its political, economic or cultural elements."

"Article 16. No State may use or encourage the use of coercive measures of an economic or political character in order to force the sovereign will of another state and obtain from it advantages of any kind."

As the scholars Thomas point out in their study of nonintervention: "The essence of intervention is the attempt to compel."

All of this does not mean that we will in the future recognize all governments which come into power in an unconstitutional manner. Each case must be looked at in the light of its own facts. Where the facts warrant it—where the circumstances are such, to use someone else's phrase, as to "outrage the conscience of America"—we reserve our freedom to register our indignation by refusing to recognize or to continue our economic cooperation.

It does not mean that, consistent with our treaty obligations, we cannot put ourselves in a doctrinaire straightjacket of automatic application of sanctions to every unconstitutional regime in the hemisphere with the obvious intention of dictating internal political developments in other countries. As the facts amply demonstrate, this is no departure from the practice which has prevailed in the most recent years.

The third point to which I invite your attention is this: Unilateral intervention for the purpose of forcing constitutional changes in another country does not always serve either the cause of democracy or the national security interests of the United States.

To illustrate, not long ago a majority of the Guatemalan people voted in free elections for Arbenz, a candidate for President. Later the Guatemalan people discovered that Arbenz was a Marxist-Leninist. Colonel Castillo led a successful revolt and was widely acclaimed by his people when he marched into Guatemala City. Had we been unconditionally committed to the support of all constitutional governments under all circumstances, we would have been obliged to do everything within our power to bring about the overthrow of Castillo and to restore a Marxist-Leninist to power against the will of the Guatemalan people.

The question of our relationships with Communist regimes in this hemisphere is, of course, a separate subject and is beyond the scope of these remarks. It raises separate questions, such as our inherent right of self-defense and measures, under existing treaties, to deal with situations which threaten the peace and security of the hemisphere.

V

Against this background, what conclusions are to be drawn? What can we do to help make the democratic ideal a reality in this hemisphere? I offer the following suggestions:

First, we should continue, in our bilateral discussions with other governments, to encourage democracy in the quiet, unpublicized way and on the day-to-day basis that I have already referred to; and we should support parallel efforts of other American states. If there is no intent to force the will of a sovereign government this tactic is entirely compatible with our commitments and with the dignity and self-respect of others.

Second, we should support appropriate measures for broadening the scope of collective action with the aim of addressing ourselves first to those cases where repression, tyranny, and brutality outrage the conscience of mankind. I can think of no way in which the American community of States can better serve the cause of human dignity, individual and national freedom, and representative democracy than to develop a set of procedures for dealing with this type of problem. The United States has never believed that collective action for such purposes is proscribed by the Charter of the Organization of American States; but if the majority of the member States are of a contrary opinion, then let us amend the Charter.

Third, in each case where a government is overthrown by force there should be a careful, dispassionate assessment of each situation in the light of all the surrounding facts and circumstances so that decisions concerning recognition, trade, aid, and other related matters can be made which are consistent with our ideals, with international law, and with our overall national interests.

In making this assessment, regard should also be paid to the fact that not only is each American Republic different from all the others but that each de facto government is likewise different in its aims, its motives, its policies, and in the kinds of problems it faces.

Fourth, if as a result of this appraisal, a decision is made not to recognize a regime—and this may well be the case in the future as it has been in the past—then it should be made clear that nonrecognition is based squarely on a failure on the part of another government to abide by the established rules of international conduct.

Fifth, when the decision is made to recognize a regime, it should be clear that there is no basis under international law for equating recognition with U.S. approval of the internal political policies and practices of another government. Resolution 35 of the Ninth Inter-American Conference of American States makes this point very clear. It declares: "That the establishment or maintenance of diplomatic relations with a government does not imply any judgment upon the domestic policy of that government."

Sixth, we should continue our established practice of consulting with other American Republics whenever a question of recognition arises.

Finally, let there be no mistake about our consistent and complete devotion to the principles of human dignity and freedom of the individual. We believe that these principles can only be realized in a democratic political system in which governments are the servants of the people and responsive to their will. They are a central element in our foreign policy toward Latin America. We shall in every way consistent with our obligations continue our efforts to help make democracy a reality throughout the entire hemisphere.

As is often the case, there is more to be said than time allows for. I have already presumed on your courtesy by speaking so long. But if I am permitted one word of counsel, it would be this:

I hope you will feel a pride in your university, your church, and your country and in the efforts they are all making to create a peaceful world, ruled by law and Christian charity which is devoted to both the material and spiritual progress of all mankind in freedom. And I hope that you will look to the future with confidence that freedom and not tyranny is the "wave of the future" in this hemisphere. I think you will see even greater progress toward freedom in your generation than the impressive gains I have seen in my time.

THE TWILIGHT STRUGGLE

(Address of the Honorable William D. Rogers, Deputy U.S. Coordinator, Alliance for Progress, at the commencement exercise, Illinois State University, June 6, 1964)

We meet at a time of commencement, of beginning. For you in this graduating class—and for all graduating classes today—it is the beginning of a new time. For all of us who greet you, it is a vantage point on which we can pause to reflect on the changing world you are about to enter.

A century ago there were 2 or 3 dozen nations that mattered for much; today, there are over a hundred. A century ago, the world's people numbered something like a billion and a half. Today, we add that many every 15 years.

Most of these countries, and the vast majority of those people, have been and are being born to poverty.

While we in the developed countries in the brief span of a century have learned to accumulate wealth—and leisure—in ways which would have astounded our ancestors, the bulk of the world's people still live at income levels which have not changed much in 10 centuries.

We have reached a high plateau. We can think for the first time in our history of wiping out the remaining vestiges of poverty and civil injustice from our entire society, our whole Nation.

But at this moment we are discovering a new challenge—the challenge of the underdeveloped world. Suddenly and without much to guide us in our own tangled experience we are called upon to bear the burdens of what President John F. Kennedy called the long twilight struggle, a year in and year out * * * struggle against the common enemies of man: tyranny, poverty, disease, and war itself.

Affairs in Asia, Africa, and Latin America have become as consequential for the advance of our Western civilization as what happens in Berlin. Our fate is intimately connected not only with the people of Japan, Germany, and France—the developed world—but as well with those of the Congo, of Vietnam, and of Venezuela and Brazil—the developing world.

We must help. In our own hemisphere we have come to learn that the aspirations of the campesino in the highlands of the Andes and of the slum dweller in Caracas, can be as fateful for our national future as what happens in our own land. Our hopes for ourselves and for our children are intimately woven in with theirs. Their just aspirations for a decent life we cannot ignore.

Picture this hemisphere, if you will, as a small town, a single community. Half the people live decently. Each family has a house or an apartment with running water. The father has a job. The children can go to a free school and, frequently, to college. They can call a doctor on the phone. Their average incomes are around $2,800. They can expect to live a rich and fruitful 70 years or more.

The other half of the population of the town lives, for the most part, in poverty. They get by on a few hundred dollars. For many, medical service is unheard of, and starvation is an always threatening possibility. They not only have little hope of higher education for their children, but, frequently, little hope for a pair of shoes.

Enlarge this picture manifold, add the fact that in Latin America, though most people live in poverty, there is a thin veneer of privilege and wealth, and you have a fairly concise idea of the Western Hemisphere community in which we live.

A community of old, established, free nations, most of them independent for 150 years—but who somehow missed out on the great processes of economic democracy and social justice during the 19th century, who failed somehow to arrive at the point where they could provide for their own citizens the decent life which we have come to accept as commonplace.

We now know that this hemisphere—and each country in the hemisphere—cannot continue half rich and half poor. We now know that our destiny in the years and centuries to come is related to that of our neighbors. We now know that we cannot expect full security and happiness for our own people if it continues to be denied to those south of our own border. It is for this reason that we have committed ourselves to the Alliance for Progress. We have pledged our helping hand to the coordinated, comprehensive development efforts of the people of Latin America, to analyze the realities of development and to guide the riches and vitalities of the hemisphere in ways which build up the chances for a decent life for all its people. This is our response to the new challenge of the hemisphere.

We are, let us admit, new to the business—but then all mankind is new to the development business. The notion that we, the richest nation in all history, should ally itself with its hemispheric neighbors in a coordinated attack on poverty, ignorance, and disease, has no precedent. But ours is a challenge, an opportunity and a crisis which also is new; and our response by the same token must be new.

To change the harsh facts and centuries-old rigors of life in our hemisphere—and indeed throughout the underdeveloped world—is hardly easy. Development—social and economic change—is a far more complicated process than the mounting of a military campaign, of the assembling of soldiers, of the construction of weapons. The dynamics of development—of this twilight struggle—are far more subtle, far less amenable to quick solutions or easy answers.

Dollars are important. We can supply, and indeed are supplying, material resource—generators, roadbuilding equipment, port facilities, credit to small farmers—which can provide a vital supplement to the savings and investment of Latin America itself. Our share in this process is on the approximate level of $1 billion a year—a staggering sum to be sure, but less by a third than the $1.5 billion the United States spends on its lawns and its crabgrass. We can scarcely excuse our failure to meet the challenge of the Hemisphere with the theory that we are straining ourselves. Our aid represents less than one-third of one-hundredth of our income each year. Just the yearly increase in our wealth is 15 times what we invest in Latin American development.

But dollars are not all. Essential to the development of Latin America is fundamental change—change in centuries-old institutions, ways of doing things, in taxes and tax collections, changes in public education, changes in farming and land tenure, changes in private business. And dollars, no matter how generously provided, cannot of themselves engineer that change.

Latin America is hungry for change. As President Lyndon B. Johnson said a few weeks ago, "if a peaceful revolution is impossible, a violent revolution is inevitable." And we can help that peaceful revolution. We can export into the process of development under the Alliance for Progress not just our material wealth but something far more valuable, and at the same time far more difficult to define—something of the learning, the know-how, and the experience which we have accumulated in building the institutions of democracy, of economic strength and of social justice in our own land. The transference is not a simple process. Latin America's culture and ways of doing things are vastly different from ours. What works here will not always work there. Careful adaptation and selection are essential. Nonetheless, it is in this process of institutional change that we have most to give. It is in this field where the challenge is greatest, the problems most subtle, the opportunities most promising.

Essential to the transference of ideas are people. And it is in this effort that we are beginning to learn the great excitement, the great adventure of participating directly in the development efforts of the people of Latin America. In this area of challenge, we are finding our great response.

It is here that we can do some of the really exciting work of renovation within our hemisphere, by playing a part—a restrained part—in the fundamental reforms; the great institutional changes which must be carried out in Latin America is to enter fully into the richness of 20th century life—the changes in land tenure, the transformation of the private sector of industry and commerce, the upgrading of the processes and integrity of government and public administration, the improvement of tax justice and tax collection methods, the building of local centers of democratic action such as savings and loan associations, cooperatives, free labor unions. Here, I submit to you is a great challenge for our age.

But this is no easy task; a rich partner's role is never easy. We must maintain a constant balance. On the one hand, we cannot impose our own views with a heavy hand. The fundamental responsibility for development rests with Latin America. We cannot develop people. They must develop themselves. But on the other hand, we cannot help by adopting the role of a passive lender who has no creative part to play in the development game. We are active partners.

We must constantly make clear our devotion to democracy and freedom, and our belief that political and economic progress go hand in hand. And we must always remind ourselves that this program is a human program. Its success will be measured not in dollars, not in statistics, but by the extent to which the Alliance for Progress can enhance the dignity and richness of individual life.

The frustrations of this new role of development partner are manifold. As we misunderstand our Latin American allies—and we sometimes do—so we are misunderstood. We are criticized for tying too many strings to our aid, and thus slowing down the improvement of the life of the people; at the same time we are criticized for failing to tie that aid strongly enough, for failing to insist before we provide assistance on the reforms and changes which are in the long run essential to real growth. We are often misunderstood when we discuss the threat of Communist subversion. There are those who say that we are mounting this great effort only because of our fear of Castro. And we are, according to others, interested in the Alliance only as a hoax, solely to further our own strict national economic interests.

But these frustrations are, I think, inherent in the challenge we face. If there were no problems, if the task were easy, we would not be here. Our response will be the response of understanding, patience, and efforts.

Patience and effort now, by all means, because after 2 years of the Alliance we are beginning to see results. Half the nations of Latin America have completed their development plans; half are beginning to meet the target of 2½ percent per capita increase. With U.S. aid, over 2,000 pure water systems have been built, 36,400 classrooms constructed, 11 million textbooks printed, nearly 300,000 agricultural credit loans made, 735 hospitals and health centers opened, and 326,600 homes erected. This is achievement. And we can take an even greater satisfaction in the growing sense of pride and responsibility in Latin America itself, a growing courage, a growing commitment to development and a growing willingness, as reflected in the recent establishment of the Inter-American Alliance for Progress Committee, to make this a truly multilateral program—a true partnership.

We have also joined as partners in this Alliance for Progress for reasons which are palpable and just.

Our economic interest in Latin America is immense. The United States has large investments there. We would be severely hurt if we were suddenly cut off from the oil and minerals and coffee which we import from Latin America. But it is more than this.

We are a generous people. Helping the poor, in our own land and in other lands, is a part of our blood. But it is more than this, too.

We now recognize both the dangers and the opportunities of continued sharp divisions between the rich and poor of the hemisphere. Our sense of history and of the future is being tested now in a way which it has never been tested before.

The possibility of total disruption of the social, economic, and political fabric of the hemisphere is real, for the first time in history. And the consequences in this shrinking world of a disintegration of the hemispheric society are more serious today than they have ever been. We could not tolerate, nor long survive, in such an environment. Our fundamental national interest compels us to assist in the creation in this hemisphere—and indeed throughout the whole world—of free nations, self-reliant, self-respecting, capable of engineering through the process of orderly but rapid change a new opportunity for their own peoples and for themselves a new place in the world community. No civilization has a free ride to posterity. Here, in this struggle, is I think the challenge for our age.

We gain no national advantages from oppression, from war, from the poverty of our neighbors. Our society and our way of life can thrive best—and perhaps at all—only in such a world order united by the common bonds of economic self-interest in which each is enriched by its trade and business with the others, in which each has the opportunity to work out its own national greatness and through which the citizens of all have a decent chance for the decent life. If we fail now, in the Alliance for Progress, in this decade of development, we will have failed in what could be our last chance to create such a community.

Thus, at the same time that we are transforming our own society to insure full and equal rights, political and economic, to all our own citizens, we must work to insure a greater freedom, a greater justice to all the people of the world, so that by using our resources in ways which are sensible and wise, but which recognize the limitations of our own wisdom, we can 100 years from now say we played our part.

ETHICS IN AN UNETHICAL WORLD

The SPEAKER. Under previous order of the House, the gentleman from New York [Mr. LINDSAY] is recognized for 30 minutes.

Mr. LINDSAY. Mr. Speaker, on May 24 of this year, Mr. Sidney Scheuer, president of Scheuer & Co., delivered a thoughtful and pertinent address before the Society of Ethical Culture in New York City on the subject, "Ethics in an Unethical World." Mr. Scheuer is treasurer of the International Humanist and Ethical Union and is former president of the Ethical Society of New York. He is internationally known in the fields of economics and business and has had a long record of public service. During the war years he served as Director of the Foreign Economic Administration. Mr. Scheuer's private philosophy and personal conduct in his long and illustrious career clearly reflect the high ethics of which he speaks.

In these changing times when standards are inched lower and lower to make way for practicality and material success, Mr. Scheuer's strong case in favor of the highest possible code of ethics deserves the closest attention. Although I do not agree with all of his conclusions—I believe stricter codes of ethics can and should be written in order to provide proper guidelines—I think everyone in public life can benefit from this fine discussion. I commend Mr. Scheuer's address to my colleagues and I am pleased to include it in the RECORD:

ETHICS IN AN UNETHICAL WORLD

(By Sidney H. Scheuer)

In the short span that each of us is privileged to be on this earth, we should want to count and to count we should use our faculties and gifts to the full. These may lie in personal relationships, in technical skills, in the sciences and professions, in teaching or business, in government or in social service, but in whatever activities we are engaged and wherever we use ourselves, there is a right way and a wrong way. I submit that the right way, or the way which ennobles and enriches, is to base accomplishment on the constructive radiations we are able to generate in our environments, and on the impact we bring into our contacts and to our responsibilities.

New problems, changing conditions, new insights, research, invention, and the ongoing evolution of society require that ethical people advance and grow ethically. Therefore, one should make a practice of testing one's relationships and actions for their ethical validity. This should become a conscious consideration of each of us. It is a good habit and one which yields great satisfactions.

How would each of you within hearing of my voice answer such questions as: Have I by example influenced others? Have I been an educator? Have I enriched the lives of those whose lives touched mine? Such constructive self-examination is invaluable. Too many people are unwilling or unable to undertake the continuing task of facing themselves; to the degree one can accomplish this and evaluate his own actions, to that degree he becomes effective. The growth of an individual can be measured by his ability to translate such self-examination into constructive purposes.

Does this sound idealistic, impractical, unreal? I am afraid it might to many who feel that ethical conduct prevents tangible accomplishment in a world of hard realities. I can testify to the contrary. I have found that such conduct develops one's resources and strengths in ways which are not otherwise accomplishable. Those of you who have also found this to be the best way to conduct your lives will have had the same experience. I suggest that those who have not yet adopted this more self-respecting pattern of conduct should give thought to the fulfillment they are missing.

Man pays an enormous price for ethical indifference. Many such become mere money machines as distinguished from being successful businessmen, using their energies almost exclusively in predatory pursuits; others are power hungry; still others are insatiable in their ego hungers. All such extremists do violence to ethical concerns.

Such men in large measure live for themselves alone and this is a lonesome and corrupting way of life. Frequently people of the type described are talented and could be much more useful and happy if they were able to discipline their appetites and face the insecurity within themselves which these drives evidence. Such people are often so absorbed in the willful accomplishment of their goals that they fail to recognize the damage which their activities sometimes generate. They lose themselves in business, in causes or in "doing good" and in the process never stop to examine their methods, their values and their purposes. Each of us in his various activities is making a life, a fact which we recognize but frequently overlook. Success in all endeavors can be accomplished ethically.

Throughout history, human frailty as expressed in unethical conduct stemming from undisciplined drives has been an impediment to the advancement of society. The world has both suffered and profited from people's drives; yet we have learned very little about channeling and disciplining them. Could we gain competence in directing these powerful human forces, there would be no limit to man's accomplishments in this 20th century of new and expanding technology. Hitler and Mussolini are outstanding examples of misapplied and undisciplined drives; Gandhi and Schweitzer, examples of effective application of powerful concern with worthy accomplishment. Each of us knows admirable people who lack balance in using their gifts and who thereby impede their potentialities and sometimes do great harm.

Self-interest to the exclusion of mutuality of interest is no longer accepted as a principle of conduct or as an adequate approach to life. Man has begun to understand that these instinctive attitudes are not as productive and enduring as they were thought to be or may have been in the past. He has come to understand that the world is a society, and that the country, the State, the community, or the environment in which he lives and works cannot be preyed upon with immunity. He has learned that the price paid for such conduct is frequently the loss of self-respect and the sacrifice of esteem. Mutuality has come to be a necessary element to worthy accomplishment. The catastrophic events which my generation has experienced (two World Wars and the upheavals which have followed them) have resulted in profound questioning of many of man's past assumptions.

Bribery is accepted as a necessity in some areas of the world. This has been known and is countenanced. The economic injustices which persist in many countries put a premium on such practices. We cannot ignore such realities; we must recognize them for what they are and deal with them accordingly. Unless the necessity for such dishonesty ultimately is eradicated, the spiritual and economic well-being of nations cannot be solidly established. Our Alliance for Progress, now operating with South American countries, is attempting to change some of these attitudes and is addressing itself to such fundamentals. While this represents but a meager beginning, we should take heart that this subject is being recognized as a matter of international moral concern.

The advances of science, communication, travel, and education, too, have served to challenge man in all his capacities and tend to increasingly influence him toward more seemly conduct. In the United Nations and in the chancelleries of the world, statesmen are forced to conduct themselves with a higher degree of consistency and a greater consciousness of world opinion. This reflects some ethical progress. While force still controls in many parts of the world, it cannot be used with the shamelessness and cruelty which might have been risked even 5 or 10 years ago. Respect for a nation's rights is now of greater international concern than heretofore. I doubt, for instance, that the Russians today would handle a Hungarian uprising with the indifference and cruelty they exhibited a few years ago. New restraints upon statesmen of all nations are evidenced in the conduct of both their domestic and international policies. Isolation is passé. None of this may be motivated by purely ethical concerns but all of it produces more ethical results; the trend, therefore, is in the right direction even if perhaps for the wrong reasons.

I do not believe that ethically sensitive people require prescribed codes to motivate their actions, nor do I think codes of conduct make people ethical any more than laws in themselves make people honest; indeed, they frequently put a premium on evasion. Ethical living is a process which the limits of a predetermined or final code cannot accomplish.

My views on this subject are reflected in a statement I prepared in July 1951 for the Labor and Public Welfare Committee of Congress which at that time was examining the subject of ethics in government. I then suggested that we did not need more laws or codes but that perhaps more simple and direct measures might accomplish the objectives. I recommended the installation in the office of every Government official of a framed poster on which would be printed a series of questions, such as:

Have I arrived at my decisions today solely in the public interest?

Would I be willing to reveal the actions I have taken today publicly?

Would I be willing to describe the motivations and purposes of each policy determination I have made to my wife, children, friends, and associates?

Did I weakly succumb to influence, flattery, or personal preference in arriving at this decision?

Have I been accommodating at the public expense?

Did I judge the issue before me today with a view to my personal advantage or future?

Am I postponing or avoiding a decision for reasons of convenience or to avoid unpleasantness?

If such a poster were installed in all Government offices, officials and their visitors would face this tangible reminder of what proper Government standards should be; therefore, anyone violating such standards would be conscious of the likelihood that his official actions could be subjected to these tests.

I believe such a daily reminder would be more effective than written codes which are usually composed in moments of crisis and then filed away. I believe such questions should be the conscious concern of all good men because they bespeak self-respect, answerability and self-examination.

Regulatory agencies have been established by our Congress for the purpose of advancing the standards of conduct in many types of activities. Amendments of the laws creating these agencies have been devised from time to time which are calculated to limit unethical and inequitable practices and to improve the functioning of our country's affairs and the activities of its citizens. This process may seem slow and cumbersome and it is, but it is an essential part of our way of life. Those who have a will to evade and avoid regulations will continue to do so; but the very existence and improvement of such laws clearly put the unethical practitioners at an increasing disadvantage. The areas in which they can pursue their arts are thereby increasingly being narrowed.

To establish greater confidence in our country's foreign policies, self-questioning similar to that which I suggested to Congress in 1951 is desirable. A comparable group of questions can be devised against which our international statements and policies might be tested. If we work at our international relations with such a spirit, we will contribute a higher degree of consistency and increasing moral emphasis and, most important, accomplish the greatness we talk about. Our example then would more likely become the beacon of influence throughout the world, which it should be; unhappily, most politicians and many statesmen underestimate the moral potentials of mankind. One day, moral leadership and all it implies will be recognized by government leaders as the most powerful weapon available to them.

The troubled societies in the Middle and Far East and in South America which are demanding the world's attention reflect the cumulative fruits of injustice and neglect. The great nations must assume chief responsibility for their improvement. Unless the more fortunate nations ultimately move with some degree of cooperation in these areas, unrest will persist and the potentialities of full and rewarding living everywhere will be impaired. While competition for influence appears to be a dominant motivation in foreign aid programs, this should not in itself discourage the ultimate possibility of more enlightened and cooperative policies and programs. We should strive to attain this goal. If by the 1970's some such cooperation is accomplished, we will have contributed a monumental service to all mankind. The cynic will be unable to tolerate such a possibility but the cynic usually underestimates the potentialities of statesmanship.

We have learned from two World Wars that the sickness of mankind anywhere is the sickness of man everywhere. I think we should be patiently impatient but I do not think we should despair regarding any of these besetting concerns. The increasing number of international conferences evidence interdependence, concern and progress. They are not held because of indifference; quite the contrary. Ground will be lost at times but one can be assured that the world is moving in the right direction. Time is forcing the pace of betterment upon all nations. There will be no overall turning back.

It is a sad fact that critics and reformers are often people who are not builders; they never could have developed the advanced societies in which we live. Such people are useful and their intentions usually are of the best but they lack the functional and operational abilities which are indispensable to the advancement of society. The "doers" of the world are few and far between; they are overwhelmingly outnumbered by those who are preoccupied with the imperfections in the world around us. Were we able to combine the gifts of constitutional dissenters and/or critics with the gifts of "doers," we might more closely approach a just society and perhaps a sane world order. Such activities as the operation of government, industry or educational institutions are not theoretical; they call for great organizational and leadership talents. The "doer" is usually able to overcome whatever besetting difficulties may arise in such undertakings. Unfortunately, the habitual critics and theoretical analysts seldom are equal to such responsibilities.

Felix Adler, the founder of the ethical movement, was one of those rare men who combined the talents of the "doer" with those of the reformer. He was gifted with the insights of a prophet and the wisdom of the organizer. Tangibility of accomplishment was the test he applied to all his activities. As a result, his powerful influence was felt by people of all types and in all walks of life; indeed, it is still being felt throughout the world of ideas and ideals.

The critical approach is usually negative and is rarely creative. Many of our fellow members indulge themselves in this. An instance was evidenced at the American Ethical Union assembly, held in Washington, D.C. last month, when all the resolutions presented were critical and called for changes. I agreed with some of these but I was disturbed when I found none which praised accomplishment or initiated new concepts. Surely our Government has recorded some such; to mention but a few, the test ban treaty, the cutback in production of fissionable materials and the recent railroad settlement. Many other gains have been made which might have warranted commendation.

I suspect that many of our children will see the world in clearer perspective and with greater vision. They will come to appreciate increasingly the needlessness of limitless aggrandizement—personal, national, or international. They will, I hope, measure success for what it is and what it does to people and for people. They will realize with new clarity that the resources available to man are sufficient to meet his needs and they will do more about making this availability universal. They will contribute inventiveness to the business of living which the dominant forces in society have not done to the extent necessary. They will see the importance of preserving opportunities, incentives, and rewards for the gifted, for men who can manage and lead. The world will never have enough such individuals and the world cannot function effectively unless such men are encouraged and permitted to make their contribution. They will likewise see the necessity for creating conditions which encourage useful and worthy living for men of lesser capacities.

The doubtful credo that man should obtain more and more material rewards for doing less and less must be reexamined. This applies to capitalists, workers, governments, and nations. It is a central moral issue. If this credo continues to go unchallenged, our way of life will be impaired. The sense of service and responsibility which has been the cornerstone of the development of democratic societies has been and is being tarnished by this thesis. Indifference, routinized relationships, rigid and limiting rules are not the values of a great people. We can do much better than this and must find the way to do so. The labor movement, too, would be well advised to address itself to this subject as a matter of basic concern.

But as to the here and now, we must make work and career prideful. We must broaden the meaning of citizenship. We must involve greater responsibility for all. We must practice less indifference to the world outside of self. We must be ever conscious of the injustices which are present in the world and we must come to appreciate that they are ignored at our peril.

How do we relate these vast considerations to our personal lives? What changes should we make in our attitudes and relationships? Are we satisfied with everything we have done personally in our ethical determinations and in our human relationships? To what extent should we adopt more consciously ethical motivations and evaluations? Are you proud of your life and, if not, what can you do about it now?

I think you can do much and your presence here suggests that you want to do much. I say to you: "It is a happier and more productive way of life to set your standards high regardless of what the standards of others may be." We are in a high, not a low, common denominator society. This is or should be the distinctive characteristic of a free democratic society. The joys of an ethical life are unknown to those who have failed to consider its satisfactions. The day-to-day situations you deal with, the manner of your speech, your reactions, the quality of your personal relationships and the respect and admiration you earn are not to be underestimated. You must care; you must want to make the world a better place in which to live; not by criticism and objection alone, not by financial gifts alone, desirable as they may be; but by constructive concern, affirmative and generous participation and some sacrifice. This is living worthily. Wealth is not the keystone of happiness; it can and does afford some opportunities not available to those who lack financial resources but it does not insure successful living. Each of us has experienced nobility and ethical sensitivity in the most unexpected places; indeed, amidst poverty and suffering.

In any discussion of ethics, one should include the Communist world which knows so little about us and about which we, too, really know so little. I have had considerable experience in working with and observing Communist governments and people, Communist industry and institutes, and Communist planning agencies and their functioning. As a result, I am convinced that no theory of government in itself creates or maintains ideal conditions.

I regard the totally planned society as a theoretician's dream. I believe that its seeming successes have been accomplished at enormous cost in economic and personal terms. While the Communist hierarchy, largely for ideological reasons, condemn policies which deviate from Marxist-Leninism, in practice they are constantly changing their methods and policies. I am confident radical changes in the functioning of Communist countries will continue to be necessary.

The Western World can help speed this process—a consideration which I fear has been overlooked by our Government and our people. Domestic political biases have been allowed to exert dominant influence upon policy. Anticommunism has been permitted to become the "sure fire" tool of the demagog in all walks of life. It has been a foolproof political weapon which is equally effective in attracting the ill equipped and ill informed. The net result has been to unfit many of our citizens to make the objective judgments which the times demand.

Our Government needs the support and encouragement of an informed citizenry if its leadership is to initiate the services it is obligated to contribute. We begin to see increasing evidence of a better balanced and more mature view of our role in East-West relations. This must become an affirmative and creative one. It is a moral necessity.

The Communists have greater problems than we have, both within individual countries and within their bloc but this does not reduce our responsibility. As people, we must learn to relate to the billion or more humans who presently live under that form of government. You and I must and can do this. Only by so doing, will it be possible for us to influence them and the world in which both we and they live. We must reach them on all levels of life and in functioning relationships and the sooner this can be brought about, the better for mankind. This is an ethical necessity.

Returning to my main theme, it seems to me that the central task of mankind is the development of man in the free world, man in the Communist world and man in the emerging world. The ethical emphasis is applicable in all environments. There are ethical answers to man's difficulties and each of us in his small way is, or should be, engaged in the vineyards of ethical clarification.

THE UNITED STEELWORKERS OF AMERICA COMMENDED FOR EXCELLENT PAMPHLET ON CITIZEN ACTION FOR HOUSING AND URBAN RENEWAL

The SPEAKER. Under previous order of the House, the gentleman from Delaware [Mr. McDowell] is recognized for 30 minutes.

Mr. McDOWELL. Mr. Speaker, the national housing policy, set forth in the Housing Act of 1949, calls for providing as soon as feasible, decent, safe, and sanitary housing for every American family.

One of the important concerns of the United Steelworkers of America is the provision of such housing for the members of this great union and their families. In his cogent foreword to an excellent pamphlet issued by the United Steelworkers of America on the subject of "Citizen Action for Housing and Urban Renewal," David J. McDonald, president, writing about "What Urban Renewal Needs," declares:

> Citizen participation is a vital element that must be present if our communities are to succeed with urban renewal programs. To be meaningful, citizen participation should begin with the earliest planning stages and continue until the programs are finally accomplished.
>
> To be genuine and effective, citizen participation must represent the whole community—especially the population groups that will be most affected by the inevitable hardships of eviction and relocation.
>
> The local redevelopment agency has the responsibility of seeing that citizen involvement is truly representative. If this responsibility is not fulfilled, individual citizens and citizen groups—particularly labor unions—must take the initiative.

I include excerpts from this excellent pamphlet on how to obtain better housing, and the shortcomings of the present housing programs, for the information of my colleagues with the hope that they will demand better housing, and at prices that low-income, and middle-income, families can afford to pay. Most families in these income categories now pay high rental for very poor housing. The Federal urban renewal program at present has been concerned with urban areas, but has not provided housing for the families which need it most. In fact, a recent conference at Harvard University found that the Federal urban renewal program has been a complete failure in providing low-income housing.

Mr. Speaker, President Johnson has called on Congress to wage war on poverty, and has called attention to the central cause and effect of poverty: the ill-housed conditions of literally millions of our fellow citizens. The President is right in saying that the war on poverty must rehouse our fellow citizens who are living in homes of such poor condition that their health and safety is endangered.

I have recently introduced a bill to amend the National Housing Act to provide special assistance for low- and middle-income families. My bill, H.R. 10251, amends section 305 of the National Housing Act to provide that the Federal National Mortgage Association shall exercise its special assistance functions by purchasing mortgages on single-family dwellings for low-income families insured under section 221(d)(2) of such act in order to provide housing for slum dwellers who are not being provided decent, safe, and sanitary housing under the present Federal urban renewal program. That program has provided luxury apartments, and prime office space, but has done little to provide housing for low- and middle-income families, either in our major cities or our small towns and rural areas.

I said on March 11, in the Congressional Record, pages 4953 and 4954 in explanation of my bill, and I repeat here, that I am convinced that my bill, H.R. 10251, will, if adopted, make a major contribution to providing decent, safe, and sanitary housing for our low- and moderate-income families under private enterprise, and that it is long overdue.

I hope the House Special Housing Subcommittee will approve it since it meets a critical need recognized by the Congress in the Housing Act Amendments of 1961, but which the Congress did not adequately provide for.

We would all agree with President Johnson that the perpetuation of poverty in our rich Nation is disgraceful and subversive of our great ideals.

In his testimony before the House Special Housing Subcommittee, FHA Commissioner Philip N. Brownstein justified the provision of vacation houses in the Housing and Community Development Act of 1964 on the grounds that there is a heavy demand for such housing, that we are already a two-automobile-per-family economy, and we are rapidly becoming a two-home-family economy, and, further, that the provision of vacation homes "will stimulate the economy as well as provide a mechanism for the more affluent of our society to get some of the better things that are available."

A housing act which provides vacation homes for the more affluent of our society and does not provide clean, safe, and sanitary housing for low- and modest-income families cannot be justified.

The effect of my amendment would be to authorize the Federal National Mortgage Association to purchase mortgages insured under the FHA section 221(d)(2) program to the extent of $220 million after the date of the enactment of the Housing and Community Development Act of 1964. The total amount of purchases and commitments authorized would not exceed $220 million outstanding at any one time.

The 1961 amendment to the National Housing Act provided that the liberal provisions of FHA Mortgage Insurance would apply to low- and moderate-income purchasers as well as families faced with forced relocation due to urban renewal or other governmental action. Previous to the adoption of these amendments, FHA section 221(d)(2) provisions applied only to displaced families, as I have already noted.

At the present time families other than displacees can, indeed, qualify for single family homes under the FHA section 221(d)(2) program, while two-, three-, and four-family properties under this section are limited to displaced family purchasers.

Single family low-and-moderate income home purchasers can, indeed, qualify for liberal FHA mortgage insurance provisions but with a significant handicap. For example, on a $10,000 single home property a 3-percent or $300 downpayment and a 97-percent mortgage is required of qualified purchasers who are not displacees.

On the other hand, a displaced family may receive a 100-percent mortgage with minimum equity of $200 which may be deferred under agreement with the mortgagee.

The significant difference and handicap facing the nondisplacee purchaser is that he must, in addition, obtain the required permanent mortgage through the builder or seller within the 1-percent financing charge allowed by FHA as part of the closing cost.

In many areas such FHA mortgages require that the builder or seller pay a finance charge of additional points or percentiles of the mortgage varying from 3 to as high as 8 points.

Obviously, the builder or seller must absorb this charge, and one way or another add it to the cost of the property—the smaller the mortgage, the higher the finance charge by many lending institutions.

Therefore, thousands of low- and moderate-income families not qualifying for the "displaced family" eligibility find that they cannot afford to take advantage of the National Housing Act provisions of the FHA section 221(d)(2) program.

This finance charge problem is not faced by the eligible displaced family purchasers. Their home property permanent mortgages under the present National Housing Act provisions will be purchased from the private mortgagee for a nominal fee by the Federal National Mortgage Association. This Federal National Mortgage Association support, therefore, provides readily available financing in any locality where the property is under commitment by the Federal Housing Administration.

I include at this point in my remarks the text of my bill, and excerpts from the commendable housing pamphlet published by the United Steelworkers of America:

H.R. 10251

A bill to amend section 305 of the National Housing Act to provide that the Federal National Mortgage Association shall exercise its special assistance functions by purchasing mortgages on single-family dwellings for low-income families insured under section 221(d)(2) of such Act in order to provide housing for slum dwellers who are not being provided decent, safe, and sanitary housing under the present Federal urban renewal program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds and declares that the national housing policy, set forth in the Housing Act of 1949, calling for (1) the elimination of substandard and other inadequate housing, and (2) the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family is not being achieved by the present Federal urban renewal program.

Sec. 2. Section 305 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of this Act, the Association is authorized to make commitments to purchase, and to purchase, service, or sell, any mortgage covering a single-family dwelling for occupancy by a low-income family which is insured under the provisions of section 221(d)(2) of this Act on or after the date of enactment of the Housing and Community Development Act of 1964. The total amount of purchases and commitments authorized by this subsection shall not exceed $220,000,000 outstanding at any one time."

CITIZEN ACTION FOR HOUSING AND RENEWAL

This is the third pamphlet in a series about housing problems for the United Steelworkers of America. Comments and questions may be sent to Roland M. Sawyer, housing consultant, United Steelworkers of America, 1500 Commonwealth Building, Pittsburgh 22, Pa.

DON'T JUST STAND THERE

As you read this, decisions that will affect your way of living and the future of your town are being made. Any decisions in a democracy take a lot of time. But decisions in housing and urban renewal are apt to be slower than others, for they involve vast sums of money, large numbers of people and—generally—three levels of government: local, State, and Federal.

Still, the decisionmaking machinery keeps moving, day after day. Surveys are being made. Reports are being written. Various plans are being discussed by housing and urban renewal administrators. City officials, bankers, manufacturers, merchants, lawyers, and other influential citizens are being consulted. All too often, labor leaders are ignored. Approvals are being sought from the local government. Financial aid is being requested from the Federal Government and from the municipality.

Finally, 1 year or 2 years or 3 years after the first survey, the newspapers announce that a certain blighted area will be cleared and rebuilt. Let's say it is a 20-acre tract with 500 dwellings. Most of the houses are in pretty bad shape. The newspapers publish pictures of the worst examples, and the average citizen concludes it will be wonderful to get rid of these eyesores. The land will be sold to builders of high-rise apartment houses and a shopping center. This is progress.

Or is it?

The other side of the coin

Most of the 500 families facing eviction won't rejoice. Those who qualify for public housing will be offered low-rent apartments—if the town has enough public housing. But some people don't want to live in a project, especially if it's 10 or 15 stories high. Their only course is to look for private housing they can afford, and the only place they can find it will be another slum.

Many families in blighted areas are homeowners. Some of these owner-occupied houses are well maintained. In most urban renewal operations, however, the minority of good houses are torn down with the rest. The owner can expect fair compensation. Yet $6,000 or $8,000 or even $10,000 will rarely cover the price of a good standard house elsewhere.

The members of minority groups have the toughest problems. Some live in slums even though they could pay the price of dwellings in good neighborhoods. Racial prejudice denies them the chance to buy or rent outside of the slums.

Slum clearance inevitably means worse overcrowding in the remaining slums, unless there is an ample supply of new low-rent and moderate-rent housing. Hardly a city has enough low-rent housing to shelter all of the people displaced by urban renewal. Many of these families simply disappear as completely as if they had been bulldozed into kingdom come.

This doesn't mean that urban renewal is an invention of the Devil. Properly used, urban renewal can be a blessing for cities suffering from senility, shabbiness, and straitened circumstances. The important thing is to make sure that urban renewal serves people, instead of merely kicking them out of their houses.

The way to minimize the hardships of demolition is through citizen participation in the process of making decisions. It isn't enough for a housing authority or urban renewal agency to consult city officials and businessmen. There must be consultation with the people who live in the affected neighborhood—the people whose houses are to be razed. If these citizens don't have strong organizations to represent them, organizations should be formed. Labor union members have a rare opportunity to help in organizing. Experienced unionists know how to form an organization, how to apply pressure where it is needed.

Citizen participation is required

Now it happens that the Housing and Home Finance Agency, the top Federal outfit in housing and urban renewal, has told the cities: There must be citizen participation, or the Federal Government won't put any money into your programs. HHFA requires every community seeking Federal aid to have what it calls a "workable program." The workable program has seven elements:

1. Effective codes for building, plumbing, electrical work and housing.
2. A comprehensive plan for land use, thoroughfares and community facilities, put into effect with a zoning ordinance, subdivision regulations, and a capital improvements program.
3. Neighborhood analyses, covering commercial and industrial areas as well as residential areas, with schedules of improvements needed.
4. Tightening of the municipal government setup so that the goals of the workable program can be carried out.
5. Prudent financing, with a long-range budget for public improvements.
6. Rehousing of displaced families in "decent housing in a suitable living environment."
7. Citizen participation.

Let us take a closer look at what the Federal Government means by "citizen participation." This is the explanation given in the HHFA fact sheet, "The Workable Program for Community Improvement," published in June 1963:

Citizen participation is the keystone of a community's workable program. It is the means by which citizens, through an officially designated Citizens Advisory Committee, can contribute by—

Informing themselves of goals and progress.

Assisting in formulating programs and goals.

Serving as the medium for bringing private resources into the program.

The Citizens Advisory Committee must be communitywide and representative in scope. It can use subcommittees as its work force to deal with special problems such as public information, community planning, neighborhood improvement, codes adoption and enforcement, home financing, relocation housing, and housing for minority groups.

A subcommittee or special committee on minority group housing is required in any community in which all housing resources, public and private, are not available on a basis of full equality to minority group families. The purpose of this committee is to study and formulate a program of community action in this field. Minority groups should be represented on the Citizens Advisory Committee as well as on the subcommittee or special committee.

In order to do its job effectively, the advisory committee and its subcommittee or special committees should—

Have a definite work program.

Meet on a regular schedule.

Have staff assistance.

A citizens advisory committee operating under those rules could do a beautiful job. It might also accomplish nothing at all.

Note that the committee is "officially designated." It would be perfectly natural for the committee members to be trusted friends and associates of the urban renewal commissioners or the top city officials. Such a committee would usually go along with any program recommended by the officials. It would not be inclined to say: "Hold on there. We don't see any decent housing available for the 500 families you plan to evict. Let's build low-rent housing before clearing any more slums."

The only reliable watchdog is a committee created by the citizens themselves, not one appointed by public officials.

ORGANIZING

One good way to start a citizens housing association is to invite half a dozen people to your house on a Friday evening. This puts you to the expense of serving coffee and cake or other refreshments, but it is cheaper than hiring a hall.

Be sure to have a good, clear reason for organizing. There are plenty of reasons for setting up a housing association in every city of the Nation. It is essential for the organizers to understand the problems in their own town so they can answer the person who asks, "What do we need another committee for, anyway?"

Checklist of housing problems

Here is a basic list of the housing problems found in most communities:

Shortage of reasonably priced good housing, excess of bad housing.

Too much slum clearance, too little construction of low-rent public housing.

Public housing that is too institutional, too tall.

Discrimination against minority groups.

Scarcity of open spaces for parks and playgrounds.

Shortage of housing for the elderly.

Spread of blight.

Ugly, poorly planned subdivisions that will soon become slums if they aren't already.

Out-of-date building code.

Inadequate enforcement of housing code.

Decide which one or two of those problems are the most urgent in your town. Don't try to tackle half a dozen at the beginning. You can always add to your agenda when the association gets bigger and stronger. Besides, a single crucial issue makes a better rallying point than a list of objectives. The revolutionaries of yesteryear made more progress by shouting "Down with the king," than they would have by demanding "Down with the king, the queen, the crown prince, the princess, the ministers of the council and all other agents of the crown."

You will need some basic facts on the urgent problem you select. Sources of information include:

The local housing authority and urban renewal agency.

The municipal government.

The Housing and Home Finance Agency, Washington, D.C., 20410.

Newspaper stories and advertisements.

The public library (don't overlook the Housing Census of 1960, with figures for your city).

Real estate men and other experts.

Minority organizations.

People who live in bad housing.[1]

Gather your facts thoroughly. The success or failure of the new association may be decided by the kind of digging done before the first meeting. (The digging may be done by just one person, but it would be better to recruit two or three other investigators.)

Many of the facts and figures you want will be found in annual reports, census data and other documents. But some will be elusive. The executive director of the Housing Authority may say, "We have no exact figure on the number of substandard houses in the city today." Or the executive director of the urban renewal agency may explain, "It is simply impossible to tell what became of all the 500 families displaced by our urban renewal project." If precise figures are not available, get estimates. Don't let anybody give you the brushoff. You are a sovereign citizen. Your employees in government are obligated to heed your requests for information.

Remember the story of the grocery clerk who boarded a battleship on visitors' day and asked to see the admiral? A junior officer said politely, "Whom shall I say is calling?" The clerk replied, "Just tell him one of the owners is on board."

When you have assembled your facts, prepare a one-page fact sheet. This will be a dozen or so short, fact-filled sentences. Such as:

The city's first urban renewal project embraced 20 acres and evicted 500 families (380 nonwhite, 120 white).

Sixty-three percent of the displaced families were tenants, 37 percent owners. The median rent was $40 a month, excluding utilities.

Rents in Ivory Towers, the 600-unit private apartment project built on the site, begin at $90 and go to $195. None of the 500 original families has become a tenant.

Real estate men and newspaper advertisements indicate that the minimum rent for a standard house in this city is $75. Vacancies at this figure are rare.

Sixty-one percent of the evicted families were eligible for low-rent public housing. Nineteen percent moved into low-rent apartments. Forty percent moved to private housing elsewhere in the city, 8 percent moved out of town and 33 percent are unaccounted for.

Facts of this kind are more persuasive than arguments. An up-to-date fact sheet will be one of the new association's most useful tools during its entire life.

Your first fact sheet should be mimeographed for the initial meeting. Make enough copies for later use.

Choosing the founding fathers

Pick your fellow organizers thoughtfully. Try to get representatives from most of these fields: Labor, business, education, social welfare, health, religion, minority organizations, women's organizations, civic organizations, veterans' organizations and the slums themselves. These men and women should not come as official delegates from their organizations but as individuals. A delegate often lacks power to act on crucial issues until he has consulted his own board. But an individual can act immediately, and then solicit the support of his organization.

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[1] Most residents of slums are cooperative, articulate and well informed. In Newport News, Va., I talked to a number of families in 1962 so I could estimate some typical profits of slum ownership. One prize example was a two-story duplex with four apartments and two single rooms, all rented by the week for a total of $73—$3,796 a year. The full value of the property, from tax records, was $5,300, and the annual tax was $63.50 (the same rentals in public housing would return $379 to the local government in lieu of taxes). There was no evidence that the owner was spending anything on repairs and maintenance—indeed, he did not even provide hot water. So, after paying taxes, he enjoyed an annual return of 70 percent on his investment. Every 17 months the property paid for itself and then started to pay for itself all over again. Case histories of this kind, complete with full names and addresses, are tremendously effective.

Your first meeting will be informal. The six or eight organizers should:

1. Discuss and tentatively agree on the first objective of the new association.
2. Choose a provisional president.
3. Choose a place and time for the first public meeting, and plan the agenda.
4. Make lists of people to be invited (each organizer should be responsible for telephoning or seeing about 10 persons).
5. Make a long list of organizations to be invited to send unofficial representatives.
6. Choose an information director who will notify the newspapers and radio stations of the first public meeting and provide them with fact sheets.

The public meeting will be enlivened by a speaker. One good bet would be the executive of a citizens housing association in another city. The hitch is that very few cities have active housing associations. Another possibility would be the executive director of the local housing authority or urban renewal agency. He should describe accomplishments and objectives of the local program and answer questions from the floor.

Start the meeting with the speaker and finish with the business session. Four committees should be authorized, and appointed in the next few days by the provisional president: (1) organizing, to draft bylaws; (2) nominating, to present a slate for officers and board members, subject to additional nominations from the floor; (3) ways and means, to recommend a dues scale, other sources of money and a plan for office space; (4) program, to propose initial activities.

Two important things to keep in mind for the first public meeting: First, start exactly on time. Don't set the miserable precedent of penalizing the early birds by making them wait for late arrivals. If members see that meetings begin on the dot, they won't come half an hour late.

Second, get names, addresses and identifications of all those present by handing them cards as they enter and collecting the cards when the business session begins.

At the second public meeting, perhaps a month later, permanent officers will be elected, bylaws will be adopted and the initial program will be decided. The association will be in business.

A final reminder: The task of collecting information and filing it for use as needed should never end. Mrs. Dorothy S. Montgomery, managing director of the Philadelphia Housing Association, was asked what she considered the key to her organization's outstanding performance.

"Getting the facts," she answered. "Our programs have always been based on a comprehensive analysis of conditions. It's the hard way, of course—but we avoid mistakes and we win popular support."

A few years ago hundreds of Philadelphia families were getting a raw deal. They were being evicted to make way for highways and other municipal improvements, but the city was not contributing a nickel toward their moving expenses. The Philadelphia Housing Association gathered and publicized the facts. The association pointed out that families displaced by Federal-local urban renewal projects did get compensation—why shouldn't the others? The result was that the city is now spending some $300,000 a year to help these families relocate.

LABOR'S ROLE

The most valuable element that organized labor can contribute to a housing association is militancy. The second most valuable element is money.

Nobody knows better than a union man that the best things in life aren't free. They have to be fought for, and even when they are won you have to keep on fighting to make the victory permanent.

Paradoxically enough, good housing is a controversial issue. Some of the country's fattest and most influential cats are bitterly opposed to it—unless they can get their share of cream. But, except for construction, there isn't any cream in low-rent housing or in true middle-income housing. Any profit added to the rent requires a higher income family—or a Government subsidy—to cover it.

If a Government subsidy is paid to a local housing authority so the housing authority can shelter low-income families, that's socialism—or so the real estate lobby says.

If a Government subsidy is paid to real estate men so they can shelter middle-income families, that's supporting the private enterprise system—or so the real estate lobby says.

Low-rent housing is also opposed by bigots. Although projects in the South are still segregated, mixed occupancy is the rule in most northern cities. A chief reason why there hasn't been more construction on vacant land—as commonsense demanded—is that vacant land is found in the fringe areas of cities. The fringe areas are mainly white. Any proposal for integrated housing in all-white sections has made the racial bigots yowl with anguish. Local housing authorities usually prefer to avoid conflicts with this noisy white minority. Union members, schooled in democratic practices, are not afraid to speak out when prejudice shows its dirty face.

Housing is a grievance

Labor's militancy is effective because it is firmly based on experience, not mere theory. Most union men know what housing is—from the inside. They have learned all the techniques of publicizing a grievance and fighting for a just settlement. They take pride in their collective strength and in their concern for the welfare of the entire community. No housing association will ever amount to much without the participation of labor.

Labor unions are the best source of money, too. Indeed, the financial support of labor can determine whether the housing association will limp along with volunteer help and no office, or become a community force with a paid staff of two or more persons. Individual membership dues, even when scaled up to $100 for the more affluent, will cover only a small part of a minimum budget. Large contributions from corporations are more often dreamed of than deposited. But every sizable city has enough labor unions to provide a yearly total of $15,000 to $50,000 for a housing association.

No such sums will materialize unless representatives of the various unions sit down and decide what they want to do. Best plan is to set up a rough scale (say, from $250 to $2,500) of contributions, based on the number of union members.

Some unionists might suggest that board memberships in the housing association should reflect the sources of financial support.

If labor unions contribute 75 percent of the budget, shouldn't 75 percent of the directors be unionists? Arithmetic is a poor guide in this delicate situation. In order to be effective, a housing association must have two things—money and community support. If the association becomes primarily a labor organization, with only token representation for other sections of the community, there will be little point in its separate existence. The same work might as well be done, less expensively but less effectively, by the labor unions themselves. It is important for the association to be known as the spokesman not only for labor but also for housewives, teachers, social workers, clergymen, businessmen, and civic leaders.

A balanced board

The National Housing Conference, the oldest nationwide housing association, has thoughtfully balanced labor representation on its large board of directors against labor's financial support. Although labor unions provide roughly 40 percent of the NHC budget (the proportion varies from year to year), only 15 percent of the directors are unionists. NHC is recognized as a spokesman for citizens generally rather than labor in particular.

Labor has amply demonstrated its ability to achieve housing goals even when acting alone. Consider what happened in Springfield, Ill. In April 1960, the Springfield Trade & Labor Council heard a recommendation from Ross Loughmiller, the AFL-CIO man on the Springfield Housing Authority, that housing for the aged be built on the city's first urban renewal tract. The council's executive board liked the proposal and took it to the city council—but the councilmen were not enthusiastic. Further, the planning commission was strongly opposed. Chairman Richard Putting said public funds should not be used to house the elderly. That would have ended the matter if the union men hadn't acted like union men. They came right back with a demand for 100 dwellings on an alternate site if the urban renewal area could not be used. The planning commission thought some more and decided a month later that the project could be in the renewal tract after all. By the spring of 1963, just 3 years after the trades and labor council had begun its campaign, construction of the 100 units was well underway.

Why the Youngstown realtors lost

The Springfield story is a typical illustration of union labor's concern for the general welfare. Ever since public housing was launched by the Housing Act of 1937, the program has been under attack in Congress, in the States, and in the municipalities. Again and again it has survived because labor gave timely support. One of the classic battles was fought in Youngstown in 1954. Using a dummy taxpayers association as a front, local realtors undertook a costly campaign for an ordinance that would have stopped the housing authority from building a sorely needed project on vacant land. Union members and other citizens set up a special committee to fight the realtors. The ordinance was defeated, 27,241 to 19,079.

Eight years later P. L. Strait, who was executive director of the housing authority at the time of the referendum, wrote a long letter to Director James P. Griffin of the Steelworkers' District 26. The union men had made victory possible in "one of the bitterest conflicts in the history of the city," he said. "Had it not been for their organizing skill, contribution of funds, and wide experience in such conflicts, the public housing program would have come to an end," he concluded.

Not every city reports the Youngstown brand of labor activity. The executive director of one citizens' housing association commented: "We have five or six labor officials on our board but they never show up at meetings. It would be much better if we could get some younger and more interested union people. We look to our board members for some real work, not just the privilege of using their names on our letterhead."

GOVERNMENT'S ROLE

The Federal Government is the chief source of funds for local public housing (since 1937) and for urban renewal (since 1949). It also provides assistance in planning, mass transportation, and construction of private housing for the aged and for members of cooperatives. Detailed information about these programs may be had from the Housing and Home Finance Agency, Washington, D.C.

Low-rent public housing is financed by bond issues, like major highways and schools. The bonds are paid off out of rentals. The deficit between income and expense is covered by a Federal cash subsidy and by local tax exemption (every local housing authority, however, pays the municipality 10 percent of its net rentals in lieu of taxes).

How urban renewal works

Urban renewal is a method for clearing blighted areas and putting them to better use—private or public. The local urban renewal agency, which is often the local housing authority, acquires a tract by purchase or condemnation. It prepares a plan for redevelopment: private apartments, commercial or industrial buildings, highways, parks, public buildings or public housing. The cleared land is then sold for market value, which is considerably less than purchase price plus cost of demolition. The loss is covered two-thirds by the Federal Government, one-third by the municipality. Another phase of urban renewal provides for rehabilitation of areas that are going downhill.

Urban renewal has been generally popular with private builders and investors. The dissenting opinions of evicted low-income families are seldom publicized. Low-rent public housing has stirred up so much hostility (mostly from prosperous citizens and racial bigots) that even the Housing and Home Finance Agency is chary about using the term "low-rent public housing" in print. Discussing the relocation of evicted families in its fact sheet, "The Workable Program for Community Improvement," HHFA says that builders, lenders, and real estate firms should be encouraged to participate "in programs for the construction of relocation housing." This won't work, of course, since private enterprise cannot afford to build for most middle-income families, let alone the low-income group. So HHFA then mentions "the initiation of appropriate steps to obtain the use of Federal aids intended to facilitate construction, rehabilitation and financing of housing needed by displaced families." That apparently means low-rent public housing.

We know what's best

Note that although the public housing and urban renewal laws—and funds—originate in Washington, both programs are locally administered by local agencies. In theory, these agencies exist to create better lives for citizens and for communities. For the most part they have succeeded. Yet public housing and urban renewal have been too often characterized by the bureaucratic attitude of "We know what's best for the public." The fact is that sometimes the public is wiser than the administrators.

Certainly the legislators and the administrators have made little more than token efforts to find out what low-income tenants or evictees want. People from the slums don't travel to Washington to testify at public hearings along with representatives of the Mortgage Bankers Association and the U.S. Conference of Mayors. They hardly ever appear at meetings of local housing authority boards.

Upper income thinking

Although the boards of housing authorities and urban renewal agencies commonly have a union member or two, most commissioners represent the upper income brackets. They have established a remarkable record for integrity and for civic spirit (no commissioner gets paid).

But when they make decisions affecting thousands of lives, these men and women tend to think in terms of what's good for the town, and many of them are persuaded that what's good for private business is very good for the town.

For example, the largest corporation in one city needed more space. The plant was wedged between a river and a slightly blighted residential section. It happened that an officer of the corporation was chairman of the local redevelopment authority. Result: A five-block area was turned into a $1,400,000 urban renewal project, and the corporation got the section is needed for about one-fifth of the actual cost. It was a perfectly clean transaction. Both the corporation and the community stood to gain. The only losers were the families who got evicted.

One forthright official of a redevelopment agency made this private comment:

"You get into public service, and after a few years you start acting like it's your own private business. You tend to lean on the advice of advisory committees which think the same way you do. You don't feel obligated to explain a specific project to the people living in the area. Some of these people have been living there for 20 or 30 years or longer. Yet nobody considers it important to tell them exactly why their houses are going to be torn down, and precisely when they should move.

Not unless they organize

"Imagine, if you can, an urban renewal agency run by people from blighted areas. So one day a big shot banker reads in the morning paper that his estate has been included in an urban renewal park project. You know what would happen—he would call the mayor and raise hell, and the mayor would say it must have been a mistake and he would personnaly see to it that the plans were changed. And they would be. Now the janitor's 25-foot lot may be just as important to him as the 10 acres are to the banker, but is the mayor going to listen to Mike Murphy or Jesus Gonzales or any other poor devil from the slums? Not unless they organize and march on city hall."

The building of low-rent housing and the clearance of blighted acres have become new roles of government in the United States. But the old responsibility of government remains: To heed the petitions of citizens. The responsibility of citizens is to speak out so clearly that every government official can hear them.

The citizens have not always done so. The problem of middle-income housing is a pertinent example. Millions of families have too much income to qualify for low-rent public housing—but not enough to afford good private dwellings. Congress knows this. The Housing and Home Finance Agency knows it. Everybody knows it, especially the real estate industry, which doesn't want the Government to enter the middle-income field. So, for a quarter of a century, Congress has shut its eyes to the need for middle-income housing. A few concessions have been made, but there is still nothing that could be called a real program. And there won't be—until the citizens resolutely demand it.

CITIZENS IN ACTION

Nothing redevelops a governmental bureaucracy more effectively than a rebellion of the citizens.

In New York City, the dictator of urban renewal for many years was Robert Moses. A local saying was "Man proposes, Moses dispossesses." Block after block of housing was leveled as the bulldozers kept rolling along. Protests were muffled and protestants were muted by the collapsing walls.

One of the choicest sections of Greenwich Village caught Moses' eye. This was an area just south of Washington Square, where old tenements and a few modern apartment houses backed up on a green strip extending for the full length of a long city block. It was like a hidden park. Nearby on Macdougal Street were the coffee houses, shops, and restaurants that have attracted hundreds of thousands of tourists. Moses decided that all of these old-fashioned buildings should be demolished and something more sanitary erected.

Farewell to Moses

The old structures are still standing, but Moses is no longer redeveloping. What happened was that the people revolted. They didn't know that you can't fight city hall, so they went ahead and fought and won. The urban renewal scheme was junked.

Something entirely different happened in Philadelphia. The redevelopment authority and the planning commission wanted to save a neighborhood that was going downhill fast. There were 1,050 dwellings in the 67-acre Morton project on Germantown Avenue. For decades the neighborhood had been racially integrated, with Italians and Negroes predominating. The Italians had no wish to abandon the fig trees, the grape vines, and the flowers they had tended for years. The Negroes knew there were few good neighborhoods where they would be welcome.

So, instead of leveling the whole area, the redevelopment authority carefully selected the worst structures—about one-fifth of the total. After they were demolished, the housing authority built small clusters of two-story, low-rent dwellings, designed to harmonize with the neighborhood. The existing industries were allowed to remain, since they employed many of the residents.

Louis Sauer, an architect who could see values in old things as well as new ones, was hired by the redevelopment authority to help the residents improve their shabby properties.

"I met with 10 owners at first and asked them what they wanted," he recalls. "We discussed the front of the houses and the backyards. The rear was a mess of junk and trash on a steep upward slope. I had hoped to get rid of the fences dividing the narrow lots and have a clear sweep, but the owners didn't want that. The fences remained. If you ask people to give you a mandate, you have to accept it."

The people are still there

The Morton project isn't finished yet. Blight hasn't been eradicated. But people haven't been eradicated, either. The families who have felt comfortable in the neighborhood for many years are feeling a bit more comfortable today. If there is any better test of the value of urban renewal, the people in Philadelphia haven't heard of it.

All over the Nation today thousands upon thousands of houses are being demolished because an urban renewal agency thinks it would be better to have high-rise and high-rent apartments, or because a highway engineer wants to let more people drive downtown to hunt for parking space. Almost any proposed new use is considered more important than the ancient function of sheltering a family. And so people are evicted to make way for supermarkets and speedways. When citizens organize to assert their equality with automobiles and apartment houses, urban life will become sweeter.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Aspinall, from 5 p.m. June 11 to June 13, 1964, on account of official business.

Mr. Taylor (at the request of Mr. Fountain), on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to the following Members (at the request of Mr. MARTIN of Nebraska):

Mr. LINDSAY, for 30 minutes, June 10, 1964, to revise and extend his remarks and include extraneous matter.

Mr. BROMWELL, for 15 minutes, June 11, 1964, to revise and extend his remarks and include extraneous matter.

Mr. MCDOWELL (at the request of Mr. MATSUNAGA), for 30 minutes, today; to revise and extend his remarks and to include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL RECORD, or to revise and extend remarks, was granted to:

Mr. WILLIAMS and to include a speech.

Mr. ROGERS of Florida in his remarks during the Committee of the Whole on H.R. 11380 and to include a letter from the Agency for International Development.

Mr. RYAN of New York and to include certain extraneous material in his remarks during general debate on H.R. 11380.

(The following Members (at the request of Mr. MARTIN of Nebraska) and to include extraneous matter:)

Mr. BEERMANN.

Mr. FULTON of Pennsylvania.

Mr. WYMAN

(The following Members (at the request of Mr. MATSUNAGA) and to include extraneous matter:)

Mr. CELLER.

Mr. MURPHY of Illinois.

Mr. EDWARDS.

Mr. PUCINSKI.

ADJOURNMENT

Mr. MATSUNAGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, June 11, 1964, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2156. A letter from the Comptroller General of the United States, transmitting a report on the review of the contract target price negotiated in September 1960 for Department of the Air Force fixed-price incentive contract AF-04(647)-684 with American Bosch Arma Corp., Arma Division, Garden City, N.Y., disclosed that the negotiated target cost was overstated by $216,153. Unless adjusted, this overstatement will result in increased costs to the Government in the form of unwarranted profits to the contractor of $52,958; to the Committee on Government Operations.

2157. A letter from the Comptroller General of the United States, transmitting a report relating to the audit of the U.S. Study Commission, Southeast River Basins, for the period August 28, 1958, and was terminated December 23, 1963; to the Committee on Government Operations.

2158. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report to the Committee on Science and Astronautics of the House of Representatives on the use of $1,350,000 of funds of the National Aeronautics and Space Administration for the construction of research facilities at Cornell University, Ithaca, N.Y., pursuant to 77 Stat. 141, 142 and 77 Stat. 425, 439; to the Committee on Science and Astronautics.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DELANEY: Committee on Rules. House Resolution 747. A resolution providing for the consideration of H.R. 1835. A bill to amend section 2254 of title 28 of the United States Code in reference to applications for writs of habeas corpus by persons in custody pursuant to the judgment of a State court; without amendment (Rept. No. 171). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHMORE:

H.R. 11546. A bill to validate certain payments made to employees of the Forest Service, U.S. Department of Agriculture; to the Committee on the Judiciary.

By Mr. LIPSCOMB:

H.R. 11547. A bill to amend title II of the Social Security Act to increase the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. NELSEN:

H.R. 11548. A bill to amend section 7701 of the Internal Revenue Code of 1954 to clarify the tax status of certain professional associations and corporations formed under State law; to the Committee on Ways and Means.

By Mr. PUCINSKI:

H.R. 11549. A bill to amend chapter 57 of title 39, United States Code, so as to authorize the free use of the mails in making reports required by law of certain payments to others; to the Committee on Post Office and Civil Service.

By Mr. QUIE:

H.R. 11550. A bill to amend title II of the Social Security Act to increase all survivors' benefits, to permit the payment of child's insurance benefits beyond age 18 for children attending school, and to increase the amount of outside earnings permitted without deductions from benefits; to the Committee on Ways and Means.

By Mr. RIEHLMAN:

H.R. 11551. A bill to authorize the sale of certain coins at their numismatic value, and for other purposes; to the Committee on Banking and Currency.

By Mr. SNYDER (by request):

H.R. 11552. A bill to amend the Federal Aviation Act of 1958 to require the Civil Aeronautics Board to enforce the duty imposed on each carrier to provide adequate service in connection with the transportation authorized by its certificate of public convenience and necessity; to the Committee on Interstate and Foreign Commerce.

By Mr. TALCOTT:

H.R. 11553. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer an additional income tax exemption for a dependent who has attained age 65 or is blind; to the Committee on Ways and Means.

By Mr. LIBONATI:

H.R. 11554. A bill to establish the "I Will" National Monument Commission, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MORSE:

H.R. 11555. A bill to amend title II of the Social Security Act to provide a 10-percent across-the-board increase in benefits thereunder, and for other purposes; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 11556. A bill to authorize the coordinated development of the water resources of the Pacific Southwest, and for other purposes; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARRY:

H.R. 11557. A bill for the relief of Jan Onnik Bahadir; to the Committee on the Judiciary.

By Mr. BOLAND:

H.R. 11558. A bill for the relief of Louis Discenza; to the Committee on the Judiciary.

By Mr. DOWNING:

H.R. 11559. A bill to incorporate the Holland Society of America; to the Committee on the District of Columbia.

By Mr. GUBSER:

H.R. 11560. A bill for the relief of Mrs. Antonia Farina Avenger; to the Committee on the Judiciary.

By Mr. GURNEY:

H.R. 11561. A bill for the relief of Mrs. Maria Mercedes Porter; to the Committee on the Judiciary.

By Mr. JOHNSON of California:

H.R. 11562. A bill to authorize the Secretary of the Interior to sell Enterprise Rancheria No. 2 to the State of California, and to distribute the proceeds of the sale to Henry B. Martin, Stanley Martin, Ralph G. Martin, and Vera Martin Kiras; to the Committee on Interior and Insular Affairs.

By Mrs. KELLY:

H.R. 11563. A bill for the relief of Dan and Sarah Gwily; to the Committee on the Judiciary.

By Mr. KILBURN:

H.R. 11564. A bill for the relief of Charles and Claude Pomerat and children, Jean Marie and Silvain Mirsamadzadeh, and Charles Hadrien Pomerat; to the Committee on the Judiciary.

By Mr. LESINSKI:

H.R. 11565. A bill for the relief of Weronika Plawecki; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H.R. 11566. A bill for the relief of Anastasios Alexander Holdas; to the Committee on the Judiciary.

By Mr. SENNER:

H.R. 11567. A bill for the relief of Fay Lun Mar; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

922. The SPEAKER presented a petition of Henry Stoner, Avon Park, Fla., relative to requiring the Committee on the Judiciary to put some serious thought to the getting of writs of habeas corpus by epileptics after said epileptics have "come to"; to the Committee on the Judiciary.

SENATE

WEDNESDAY, JUNE 10, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father, God, once again by Thy mercy at the day's beginning, as we toil in the valley of decisions, we would lift our gaze from the tyranny of drab details to the beckoning splendor and the heavenly vision, to which we dare not be disobedient. Grant us this day to live on the altitudes of our highest aspirations. Give to us such a revealing sense of the aching need of our distraught world as will make us glad and eager sharers with Thee in its redemption from all that brings havoc and horror on the earth which could be so fair.

As servants of Thine, and of the peoples of this divided earth—stricken, groping, starving, and reaching out for more abundant life, save us from false choices, and guide our hands and minds to heal and feed and build and bless.

We ask it in the dear Redeemer's name. Amen.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the unanimous-consent agreement, the time between 10 and 11 o'clock today will be equally divided, and controlled by the majority leader [Mr. MANSFIELD] and the Senator from Georgia [Mr. RUSSELL].

AMENDMENTS NOS. 1047 AND 1048

Mr. ERVIN. Mr. President, I send forward two amendments which are nothing in the world but changes and a modification of an existing amendment; and I ask unanimous consent that I be permitted to submit them at this time, that they be considered as read for all purposes under the rule, and that they may lie on the desk, to be called up.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from North Carolina? The Chair hears none, and it is so ordered.

The amendments are as follows:

AMENDMENT No. 1047

On page 74, between lines 2 and 3, add a new section reading as follows:

"SEC. 1102. No person should be put twice in jeopardy for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquital or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime based upon the same act or omission."

Renumber sections 1102, 1103, 1104, and 1105, respectively, as sections 1103, 1104, 1105, and 1106.

AMENDMENT No. 1048

On page 54, between lines 7 and 8, add a new section reading as follows:

"SEC. 1004. No person should be put twice in jeopardy for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime based upon the same act or omission."

Mr. MANSFIELD. Mr. President, I yield myself 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized for 10 minutes.

Mr. MANSFIELD. Mr. President, the calendar of business reads "Legislative day, Monday, March 30, 1964." If my mathematics are correct, that means that the last legislative day the Senate has had was 71 days ago. If my memory is correct, we are now in our third month and first legislative day of debate, in one form or another, of House bill 7152.

The Senate now stands at the crossroads of history, and the time for decision is at hand. I should like, if I may, to read to the Senate a letter:

DEAR SENATOR MANSFIELD: I am a lifelong resident of Montana, I am 29 years old, and the mother of four children. I am white. In general, I have considered myself a good citizen of my country, I have voted in every election since my 21st year, I have tried to learn the issues and policies of each candidate, of each party, and I voted to the best of my personal judgment. I have formed opinion on various matters, and adopted ideas on specific policies. But through it all, I realize I have been a listener, a receiver, an appreciator, a bystander. A bystander can remain an innocent bystander up to a point, after which he must take part.

How can we, as responsible Americans, continue talking, arguing, bickering over civil rights as though the privileges, responsibilities, and birthrights of a great percentage of our people were favors or rewards to be handed out by a benevolent few?

I am white. By a simple accident of birth, I was allowed to grow up believing in the laws of God and our country. As a child, I learned to recite the Preamble to the Constitution, I learned the Bill of Rights, and memorized the Lincoln Gettysburg Address. I accepted these things as truth. I grew up with the right to feel that I, as an individual, was as good as anyone else, that I had the opportunity to climb as high as my ability, my intelligence, and my ambition would take me. While I did not learn to consider myself as a superior being, I could look upon myself with a lack of inferiority. I did not learn to regard my color with a great sense of pride, but never with guilt or shame.

I was conceived by a pair of good, respectable, hard-working white parents. I was allowed to grow and mature, to have faith in myself and my future, and when I married and gave birth to my lovely children, to have faith in them and their future.

I know that my children may go to the school nearest our home. I know that when I give my children a coin to buy an ice cream cone, that coin is good in any store in town. When we are traveling, we can stop at any hotel or motel of our choice. When we go out to eat, we may do so in any cafe or club we wish and can afford. I can sit in any vacant seat in a bus, I can use a public restroom, and if I am thirsty, I may quench my thirst at any public drinking fountain. These things I consider my rights. I take them for granted and know that no one may deny me these rights.

This morning, the thought occurred to me, that by that same accident of birth, I could have been conceived by a pair of equally good respectable hard-working Negro parents. The process is the same, but what immense differences there would have been in my life and upbringing.

How heartbreaking it must be for a child to have to learn that his future is sharply limited even if his intelligence and his ability is not. How confusing it must be for a child to learn that he may not buy an ice cream cone or a coke in the same shop as a lighter skinned child, even though his dime has the same value as the other. How could my parents have logically explained to me that a dime from a white hand is worth 10 cents, but that same coin in a brown or black hand is "unacceptable"?

Civil rights, Negro rights, is an inflammatory issue everywhere. I hear hate and prejudice and ignorance spouted off in any gathering of people. Everyone has a different reason for feeling that liberties should be denied to colored people. I have heard many, most of them are personal, involving a single bad experience he or she or one of his or her friends or acquaintances once had.

When a person refuses a hamburger on a Friday evening with the statement "I am a Catholic," I accept it. This is a religious belief, and after all, who is harmed by the refusal of a hamburger. When a drink or a dessert is refused with the statement "I am on a diet," I accept that. It is a personal problem, a self-improvement problem. But I cannot accept it when someone refuses to recognize the rights for dignity, pride, education, and decent living to millions of our American people. This is not a religious belief, I don't believe God favors a man's soul simply because of the color of the body it was temporarily housed in. Is it then a matter of self-improvement? Are we white people so insecure and deficient of self-respect that we must hold firm to the inferiority of others so that we may continue to enjoy our superiority?

My opinions were recently brushed aside by an acquaintance when he gently reminded me that I do not know Negro people and so have no personal knowledge of the problem. He was right. I can count the number of Negro people I have known on the fingers of both hands. But does that remove me from this problem?

I did not know a single one of the millions of Jews enslaved and murdered by the Nazis during World War II, but I have the right to deplore and renounce those atrocities. I did not know personally any of the hundreds of men killed during the Japanese attack on Pearl Harbor, but I was entitled to feel the anger and shock of the attack. I had no friends or relatives living in Alaska during the recent disastrous earthquake, but I could have sympathy and a desire to help the stricken people.

I did not personally know President Kennedy, but I experienced a genuine grief and a deep personal sense of loss when he was killed. I have met none of the American astronauts, but I found myself brushing away tears of pride and relief when each of them returned safely to earth. So, while it is true that I know little of Negro people, almost nothing of living among them, I cannot believe that I or anyone must remain immune and removed from the civil rights struggle.

We, as white Americans, may certainly point with pride to our society which produces such personalities as Roosevelt, Eisenhower, MacArthur, Kennedy, Johnson, Henry Ford, Helen Hayes, Jacqueline Kennedy, the Barrymores, Bing Crosby, Will Rogers, Mark Twain, Ernest Hemingway, Babe Ruth, Mickey Mantle and on and on down an endless list of contributors to our country, our arts, our dignity, our basic culture. But this list of fine Americans would not be complete without including George Washington Carver, Dr. Ralph Bunche, Jesse Owens, Jackie Robinson, Frank Yerby, Bill Robinson, Willie Mays, Nat "King" Cole, Louis Armstrong, Sidney Poitier, Marian Anderson, Harry Belafonte.

I am proud of all these people, I am proud to share a heritage with them. I am proud of being an American.

But at night, when I kiss my children good night, I offer a small prayer of thanks to God for making them so perfect, so healthy, so lovely, and I find myself tempted to thank Him for letting them be born white. Then I am not so proud, neither of myself nor of our society which forces such a temptation upon us.

And that is why I don't feel that this is a southern problem, it is a northern problem, a western problem, an eastern problem. It is an American problem, for all Americans. It is my problem.

I am only one person, one woman. I wish there was something I could do in this issue. I want to help. The only way I know how to start is to educate my children that justice and freedom and ambition are not merely privileges, but their birthrights. I must try to impress upon them that these rights must be given, not held tightly unto themselves, for what cannot be given, we do not really have for ourselves.

These are the thoughts of but one of your citizens. I realize that no earth-shaking changes will develop from having written this letter, but it is a beginning. If more can be done by people like me, please tell me what I can do. Thank you for your time.

Sincerely yours,

——— ———.

The **ACTING PRESIDENT** pro tempore. The Senator from Montana has consumed 12½ minutes.

Mr. **RUSSELL**. Mr. President——

The **ACTING PRESIDENT** pro tempore. The Chair recognizes the Senator from Georgia.

FORUM OF FREE DEBATE

Mr. **RUSSELL**. Mr. President, within the hour, the Senate will decide whether it will abandon its proud position as a forum of free debate by imposing cloture or gag rule upon its Members.

I know the debate has been long and extremely tedious for some Senators. The historic significance of the debate lies, not in the length of time the issue has been before the Senate, not in the number of words spoken on the floor of the Senate, but in the results. Historians will forget the number of hours the Senate has spent in debating the bill. Instead, their concern will be with making their evaluation of the results.

For the true significance of the debate, we must look to the fundamental issues raised by the bill. We must weigh the magnitude of its impact upon our system of government.

Mr. President, at this hour we must decide whether we will proceed, in summary fashion, to gag the Senate; or whether we will proceed, in orderly fashion, to debate comprehensive amendments and to vote upon them, in a conscientious, studied effort to enable the Senate to develop a definitive measure which will not be an unbridled grant of power to appointive officers of the Government.

There is little doubt that the questions involved go to the very heart of our constitutional system. There can be little doubt that if gag rule is imposed and if the bill in its present form is enacted, without giving proper deliberation to amendments, not only will there be a most harmful impact upon our social order, as was stated by the minority leader [Mr. DIRKSEN] in the early days of the debate, but—in addition—the effect upon our economic system and upon what we are proud to call the American way of life will be both far reaching and devastating.

The hours have been long; the discussion has totaled many words. But there are many words in the bill, and many of them are not clear in their meaning, their application, and their significance. The scope of the bill is as wide as our system of government. Within the past few days, the President of the United States stated that this is the most far-reaching, comprehensive bill on this subject ever to be considered by Congress.

Mr. President, a mere totaling of the number of days, the number of hours, the number of speeches, or the number of amendments that may be pending at the desk may seem important today; but they will be completely lost from sight when those who write the history of this period consider and evaluate the impact of the bill upon our governmental system and our economic order.

AMERICAN SYSTEM FINEST

Ours is not a perfect system; the American system of law and order and economy has many defects. But, Mr. President, with all its errors and all its weaknesses, it is the finest system yet devised by man. It has brought more of the good things of life, more happiness, and a greater degree of freedom to more people than have ever before been enjoyed by any other people, under any other governmental system. The American system gives opportunity to those to whom the Senator from Montana referred in such touching terms. The fact that he could call the roll of a long list of Negro citizens who have achieved prominence in so many fields is, of itself, proof that there is no insuperable barrier to those who happen to be members of the Negro race. He referred to religion; but the very fact that the Members of the Senate include Jews, Protestants, Catholics, and Mormons is further proof that our system of government offers unprecedented opportunities to all our people; for if they have the will to achieve, they have the opportunity to do so.

The fact that two Members of the Senate are women, the fact that some of the Members of the House of Representatives are Negroes, and the fact that other Negroes hold high positions in the executive branch of the Government of the United States offers additional clear proof that the American system of government has not failed, but—instead—has extended unparalleled opportunities to all who are willing to strive ceaselessly to make use of them.

O Mr. President, the argument the Senator from Montana made for this bill could also be made for a piece of legislation that would take away from those who have, and give to those who have not.

He spoke of the heartbreak a poor child might experience because he could not go to a certain place. But in this country there are thousands of poor children, of every race, who cannot go to every place to which they may desire to go; and there are poor children who may look on in anguish when they see other children of their own age riding in limousines or other fine cars, whereas the parents of those poor children cannot afford to own such automobiles, or perhaps cannot afford to own automobiles of any sort.

AN EMOTIONAL APPEAL

Mr. President, the argument the Senator from Montana made in behalf of this bill has emotional appeal—but no more emotional appeal than that which could be made for a purely socialistic or communistic system that would divide and distribute among all our people every bit of the property and wealth of the people of these United States.

So, Mr. President, it is evident that the new system that some propose as a remedy, the new laws that some urge upon us, would only pull down those of our people who have been able to climb and to advance—both those who are white and those who are black, both those who are Protestants, those who are Catholics, and those who are Jews. We cannot help any group in our country by taking away or impinging upon the constitutional rights of all; we would only arrive at the lowest common denominator for all our people.

Mr. President, what does equality mean?

It does not mean that a child can stand on the street corner and cry for a car in which he sees another child of his own age riding. That is not equality. Equality does not mean that one person shall be admitted to a club merely because he desires to be, and because to be refused admission would cause him embarrassment or anguish. Our system never contemplated any such "equality" as that. If it had, we would not have achieved our present greatness; instead, we would be wandering in the chaos, the poverty, and the distress that accompany tyrannical government, whether it be Fascist or whether it be Communist.

No, Mr. President, equal rights in this land of ours means that each citizen has an equal opportunity to acquire property through honest means, that once that property has been acquired he has a right to exercise dominion over it. Under our system, many Negroes have accumulated great amounts of property; and the names recounted by the Senator from Montana could have included those of many Negroes of great wealth and who are worth millions of dollars.

There are Negroes in this country who preside over banks with tens of millions of dollars of deposits, who operate insurance companies that have assets running into hundreds of millions of dollars, and who occupy high position in every avenue of life in this land. This, I think, is truly remarkable when we consider that the people this bill is designed to aid are only 100 years removed from slavery, and that most of them, until the last few years, lived in the poorest section of the country—an area that little more than 25 years ago was described by a President of the United States as the Nation's economic problem No. 1, where both whites and blacks were denied opportunities.

Mr. President, the fact that so many Negroes have achieved eminence, and even preeminence, in our society, in our educational, in medical, in cultural, and in literary lines, demonstrates that true equality is the equality to own and control property honestly gained.

UNDERMINING THE FOUNDATION

But we are nibbling away at that cornerstone of our whole system. There will never be a time, Mr. President, when every person in this country will own and control exactly the same amount of property. Should there be such a time it will mean that we are a dead land. It will mean that we have fallen from the eminence that we now enjoy into the very pits of perdition and despair. It will mean that we have destroyed that which the Founding Fathers gave us. It would mean that we have had no appreciation whatever for our heritage, which means the equal right to own and exercise dominion over property. It is not equality to pass laws that give any group, whoever they may be, the right to violate the property rights of another that are guaranteed by the Constitution.

Life, liberty, and property—in that order—are spelled out in the Constitution of the United States as our greatest civil rights. I care not how much politics may be involved, and it matters not how great may be the emotional appeal. We cannot strike down one of those rights without gnawing into the very vitals of constitutional government in this land.

Mr. President, of course this bill would strike down and destroy many rights and powers which, since the foundation of our Government, have properly belonged to the several States. The bill would increase the power of the great national bureaucracy, and thereby would take from our people essential rights.

We often hear the argument that much existing Federal legislation is of a beneficial nature, and that therefore additional Federal laws to provide other programs that will benefit the people should be enacted. Two examples of programs of that type are the social security program and the school-lunch program.

But, Mr. President, have we now seen the dawn of the day when—in the name of passing a law to help one group of our people—we shall insist upon the destruction of some of the most important rights of all Americans? Would that be equality for all the American people?

PRESSURES FOR BILL

I know that great pressures have been brought to bear on Senators by both political parties and by the President of the United States to vote for this bill. State chairmen and other officials of both parties have been calling and telegraphing Senators since the day when this proposed legislation came before the Senate. The leaders of the great labor organizations also have brought pressure and have threatened disapproval of Senators who vote against the bill.

I have observed with profound sorrow the role that many religious leaders have played in urging passage of the bill, because I cannot make their activities jibe with my concept of the proper place of religious leaders in our national life. During the course of the debate, we have seen cardinals, bishops, elders, stated clerks, common preachers, priests, and rabbis come to Washington to press for the passage of this bill. They have sought to make its passage a great moral issue. But I am at a loss to understand why they are 200 years late in discovering that the right of dominion over private property is a great moral issue. If it is a great moral issue today, it was a great moral issue on the day of the ratification of the Constitution of the United States. Of course, this is not, and cannot be, a moral question; however it may be considered, it is a political question.

Day after day, men of the cloth have been standing on the Mall and urging a favorable vote on the bill. They have encouraged and prompted thousands of good citizens to sign petitions supporting the bill—but all without the knowledge of the effect of what they were demanding of the representatives in the Congress of the United States.

This is the second time in my lifetime an effort has been made by the clergy to make a moral question of a political issue. The other was prohibition. We know something of the results of that.

Mr. President, I realize full well that the authors of the bill have sought, by means of such vast grants of power to the Attorney General, to insure enforcement of the drastic and coercive provisions of the bill, in total disregard of the customs and mores of the people who will be most vitally affected by this bill.

I know, and all other Members of the Senate know, that the bill has been drafted in such a way that its greatest impact will be on the States of the old Confederacy. Some Senators from other sections have sent out newsletters assuring their constituents that the bill does not affect them because their States have statutes dealing with equal accommodations and fair employment, and thus are exempted from the most punitive provisions. But make no mistake about it: If this bill is enacted into law, next year we will be confronted with new demands for enactment of further legislation in this field, such as laws requiring open housing and the "busing" of children.

The country is becoming enmeshed in a philosophy that can only lead to the destruction of our dual system of sovereign States in an indestructible Union. This is the system that has produced the American way of life and has afforded opportunity to all.

Mr. President, our system may have its defects; but, after all, it has brought more benefits to more people than any other system known to mankind. The truth of the matter is that many so-called "impoverished Americans" enjoy a standard of living and opportunities for advancement under our system that make them the envy of most of the other peoples of the world.

CONTRARY TO CONSTITUTION

Mr. President, those of us who have opposed this bill have done so from a profound conviction that the bill not only is contrary to the spirit of the Constitution of the United States, but also violates the letter of the Constitution.

We have opposed it because the broad abdication of power and authority by the legislative branch to the executive branch that it provides would destroy forever the doctrine of separation of powers. This great doctrine was devised by our forefathers as a bulwark against tyranny; and over the years it has protected our liberties and way of life.

But the bill goes even further. It confers upon the Attorney General the power to control many facets in the daily lives and in the private lives of the people of the United States. It greatly broadens Federal supervision and regulation—going into new areas—over the activities of business, commerce, and industry, which are already heavily burdened and hampered by existing law.

One of the saddest aspects of the bill is the general enlargement of the Federal Government over affairs that have heretofore been considered the concern of the States and local governments. I appeal to the Senate to consider the broad aspects of this legislation, and not to be influenced by the frustrations of the hours that have been spent in debate. I appeal to the Senate to vote down this gag rule with assurances that we can proceed to vote upon vital amendments without any lengthy debate. I appeal to Senators to rise above the pressures to which they have been subjected and to reject this legislation that will result in vast changes, not only in our social order, but in our very form of government.

Mr. MANSFIELD. Mr. President, I yield 2 minutes to the distinguished majority whip, the Senator from Minnesota [Mr. HUMPHREY]; and I yield the rest of my time to the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN].

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized for 2 minutes.

Mr. HUMPHREY. Mr. President, this issue has been burning for many weeks. The moment of great decision is now fast approaching.

In the Senate, the Constitution of the United States is on trial. The question is whether we will have two types of citizenship in this Nation, or first-class citizenship for all. The question is whether there will be two kinds of justice, or equal justice under the law for every American. The question is whether this Nation will be divided, or as we are taught in our youth in the pledge of allegiance, one Nation, under God, indivisible, with liberty and justice for all.

Mr. President, William Shakespeare in his great drama, "The Life of Henry V," reminds us how the immortal Henry addressed his soldiers before the Battle of Agincourt:

> He that shall live this day, and see old age,
> Will yearly on the vigil feast his neighbours,
> And say, "To-morrow is Saint Crispian:"
>
> * * * * *
>
> This story shall the good man teach his son:
> And Crispin Crispian shall ne'er go by,
> From this day to the ending of the world,
> But we in it shall be remembered: * * *

I say to my colleagues of the Senate that perhaps in your lives you will be able to tell your children's children that you were here for America to make the year 1964 our freedom year. I urge my colleagues to make that dream of full freedom, full justice, and full citizenship for every American a reality by their votes on this day, and it will be remembered until the ending of the world.

The **ACTING PRESIDENT** pro tempore. The Senator's time has expired.

Mr. RUSSELL. Mr. President, I yield 1 minute to the Senator from Louisiana.

AMENDMENTS NOS. 1049 AND 1050

Mr. LONG of Louisiana. Mr. President, I send to the desk two amendments, and ask that they be printed, considered as having been read, and lie on the table.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 1049

On page 25, line 25, immediately after "assistance", insert a comma and the following "other than a program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty".

AMENDMENT No. 1050

On page 33, line 2, immediately after "assistance", insert a comma and the following "other than a program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty".

AMENDMENT NO. 1051

Mr. DIRKSEN. Mr. President, I yield 1 minute to the Senator from Utah.

Mr. BENNETT. Mr. President, I send an amendment to the desk, and ask that it be received, be considered as read, and lie on the desk.

The **ACTING PRESIDENT** pro tempore. Without objection, the request of the Senator is agreed to; and the amendment will be received, considered as having been read, printed, and lie on the desk.

The amendment (No. 1051) is as follows:

On page 44, line 15, immediately after the period, insert the following new sentence: "It shall not be an unlawful employment practice under this title for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 6(d) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(d))."

AMENDMENT NO. 1052

Mr. DIRKSEN. Mr. President, I submit an amendment, in the nature of a substitute, which includes the Morton amendment on jury trials, for amendment No. 656, which is now at the desk; and I ask that it be considered as having been read.

The **ACTING PRESIDENT** pro tempore. Without objection, the request of the Senator is agreed to; and the amendment will be received, printed, and will lie on the table.

The amendment (No. 1052), in the nature of a substitute for amendment No. 656, is to strike out all after the enacting clause and in lieu thereof insert the following:

That this Act may be cited as the "Civil Rights Act of 1964".

TITLE I—VOTING RIGHTS

SEC. 101. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall—

"(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"(B) deny the right of any individual to vote in any Federal election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"(C) employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 (42 U.S.C. 1974–74e; 74 Stat. 88): *Provided, however,* That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

"(3) For purposes of this subsection—

"(A) the term 'vote' shall have the same meaning as in subsection (e) of this section;

"(B) the phrase 'literacy test' includes any test of the ability to read, write, understand, or interpret any matter."

(b) Insert immediately following the period at the end of the first sentence of subsection (c) the following new sentence: "If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any Federal election."

(c) Add the following subsection "(f)" and designate the present subsection "(f)" as subsection "(g)":

"(f) When used in subsection (a) or (c) of this section, the words 'Federal election' shall mean any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives."

(d) Add the following subsection "(h)":

"(h) In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

"In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or, in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

TITLE II—INJUNCTIVE RELIEF AGAINST DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

SEC. 201. (a) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

(b) Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

(1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;

(3) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

(4) any establishment (A)(i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

(c) The operations of an establishment affect commerce within the meaning of this title if (1) it is one of the establishments described in paragraph (1) of subsection (b); (2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b), it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph (4) of subsection (b), it is physically located within the premises of, or there is physically located within its premises, an establishment the operation of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

(d) Discrimination or segregation by an establishment is supported by State action within the meaning of this title if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance, or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of the State or political subdivision thereof.

(e) The provisions of this title shall not apply to a bona fide private club or other establishment not open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

SEC. 202. All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule, or order of a State or any agency or political subdivision thereof.

SEC. 203. No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 201 or 202, or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 201 or 202, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 201 or 202.

SEC. 204. (a) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved and, upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security.

(b) In any action commenced pursuant to this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

(c) In the case of an alleged act or practice prohibited by this title which occurs in a State, or political subdivision of a State, which has a State or local law prohibiting such act or practice and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no civil action may be brought under subsection (a) before the expiration of thirty days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings.

(d) In the case of an alleged act or practice prohibited by this title which occurs in a State, or political subdivision of a State, which has no State or local law prohibiting such act or practice, a civil action may be brought under subsection (a): *Provided*, That the court may refer the matter to the Community Relations Service established by title X of this Act for as long as the court believes there is a reasonable possibility of obtaining voluntary compliance, but for not more than sixty days: *Provided further*, That upon expiration of such sixty-day period, the court may extend such period for an additional period, not to exceed a cumulative total of one hundred and twenty days, if it believes there then exists a reasonable possibility of securing voluntary compliance.

SEC. 205. The Service is authorized to make a full investigation of any complaint referred to it by the court under section 204(d) and may hold such hearings with respect thereto as may be necessary. The Service shall conduct any hearings with respect to any such complaint in executive session, and shall not release any testimony given therein except by agreement of all parties involved in the complaint with the permission of the court, and the Service shall endeavor to bring about a voluntary settlement between the parties.

SEC. 206. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) In any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

SEC. 207. (a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) The remedies provided in this title shall be the exclusive means of enforcing the rights hereby created, but nothing in this title shall preclude any individual or any State or local agency from asserting any right created by any other Federal or State law not inconsistent with this title, including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right.

TITLE III—DESEGREGATION OF PUBLIC FACILITIES

SEC. 301. (a) Whenever the Attorney General receives a complaint in writing signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to the equal protection of the laws, on account of his race, color, religion, or national origin, by being denied equal utilization of any public facility which is owned, operated, or managed by or on behalf of any State or subdivision thereof, other than a public school or public college as defined in section 401 of title IV hereof, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly progress of desegregation in public facilities, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

SEC. 302. In any action or proceeding under this title the United States shall be liable for costs, including a reasonable attorney's fee, the same as a private person.

SEC. 303. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in any facility covered by this title.

SEC. 304. A complaint as used in this title is a writing or document within the meaning of section 1001, title 18, United States Code.

TITLE IV—DESEGREGATION OF PUBLIC EDUCATION

Definitions

SEC. 401. As used in this title—

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

Survey and report of educational opportunities

SEC. 402. The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.

Technical assistance

SEC. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

Training institutes

SEC. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute.

Grants

SEC. 405. (a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

(1) giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(2) employing specialists to advise in problems incident to desegregation.

(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

Payments

SEC. 406. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

Suits by the Attorney General

SEC. 407. (a) Whenever the Attorney General receives a complaint in writing—

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin,

and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(c) The term "parent" as used in this section includes any person standing in loco parentis. A "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.

SEC. 408. In any action or proceeding under this title the United States shall be liable for costs the same as a private person.

SEC. 409. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

SEC. 410. Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin.

TITLE V—COMMISSION ON CIVIL RIGHTS

SEC. 501. Section 102 of the Civil Rights Act of 1957 (42 U.S.C. 1975a; 71 Stat. 634) is amended to read as follows:

"Rules of procedure of the Commission hearings

"SEC. 102. (a) At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

"(b) A copy of the Commission's rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpena.

"(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

"(d) The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

"(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses.

"(f) Except as provided in sections 102 and 105(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

"(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

"(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

"(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

"(j) A witness attending any session of the Commission shall receive $6 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 10 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day, shall be entitled to an additional allowance of $10 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

"(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

"(l) The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published."

Sec. 502. Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a); 71 Stat. 634) is amended to read as follows:

"Sec. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $75 per day for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b–2; 60 Stat. 808)."

Sec. 503. Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(b); 71 Stat. 634) is amended to read as follows:

"(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended (5 U.S.C. 835–42; 63 Stat. 166)."

Sec. 504. (a) Section 104(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a); 71 Stat. 635), as amended, is further amended to read as follows:

"Duties of the Commission

"Sec. 104. (a) The Commission shall—

"(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

"(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, or national origin or in the administration of justice;

"(3) appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, or national origin or in the administration of justice;

"(4) serve as a national clearinghouse for information in respect to denials of equal protection of the laws because of race, color, religion, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice;

"(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of presidential electors, Members of the United States Senate, or of the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election; and

"(6) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization."

(b) Section 104(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(b); 71 Stat. 635), as amended, is further amended by striking out the present subsection "(b)" and by substituting therefor:

"(b) The Commission shall submit interim reports to the President and to the Congress at such times as the Commission, the Congress or the President shall deem desirable, and shall submit to the President and to the Congress a final report of its activities, findings, and recommendations not later than January 31, 1968."

Sec. 505. Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(a); 71 Stat. 636) is amended by striking out in the last sentence thereof "$50 per diem" and inserting in lieu thereof "$75 per diem."

Sec. 506. Section 105(f) and section 105 (g) of the Civil Rights Act of 1957 (42 U.S.C. 1975d (f) and (g); 71 Stat. 636) are amended to read as follows:

"(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commissioner or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 102 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of four members is present.

"(g) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof."

Sec. 507. Section 105 of the Civil Rights Act of 1957 (42 U.S.C. 1975d; 71 Stat. 636), as amended by section 401 of the Civil Rights Act of 1960 (42 U.S.C. 1975d(h); 74 Stat. 89), is further amended by adding a new subsection at the end to read as follows:

"(1) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this Act."

TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Sec. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Sec. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

Sec. 603. Any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

Sec. 604. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY

Definitions

Sec. 701. For the purposes of this title—

(a) The term "person" includes one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(b) The term "employer" means a person engaged in an industry affecting commerce who has twenty-five or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, or a State or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: *Provided*, That during the first year after the effective date prescribed in subsection (a) of section 716, persons having fewer than one hundred employees (and their agents) shall not be considered employers, and, during the second year after such date, persons having fewer than seventy-five employees (and their agents) shall not be considered employers, and, during the third year after such date, persons having fewer than fifty employees (and their agents) shall not be considered employers: *Provided further*, That it shall be the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex or national origin and the President shall utilize his existing authority to effectuate this policy.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) one hundred or more during the first year after the effective date prescribed in subsection (a) of section 716, (B) seventy-five or more during the second year after such date or fifty or more during the third year, or (C) twenty-five or more thereafter, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by an employer.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

Exemption

Sec. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, or society of its religious activities or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution.

Discrimination because of race, color, religion, sex, or national origin

Sec. 703. (a) It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Nothwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(f) As used in this title, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

(g) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if—

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin.

(i) Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indain living on or near a reservation.

(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

Other unlawful employment practices

Sec. 704. (a) It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

(b) It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

Equal Employment Opportunity Commission

Sec. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) The Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2201–2209), is further amended—

(1) by adding to section 105 thereof (5 U.S.C. 2204) the following clause:

"(32) Chairman, Equal Employment Opportunity Commission"; and

(2) by adding to clause (45) of section 106 (a) thereof (5 U.S.C. 2205(a)) the following: "Equal Employment Opportunity Commission (4)."

(f) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place. The Commission may establish such regional or State offices as it deems necessary to accomplish the purpose of this title.

(g) The Commission shall have power—

(1) to cooperate with and, with their consent, utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse

to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or such other remedial action as is provided by this title;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to the public;

(6) to refer matters to the Attorney General with recommendations for intervention in a civil action brought by an aggrieved party under section 706, or for the institution of a civil action by the Attorney General under section 707, and to advise, consult, and assist the Attorney General on such matters.

(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

(i) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

Prevention of unlawful employment practices

SEC. 706. (a) Whenever it is charged in writing under oath by a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this title has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge, provided that such charge shall not be made public by the Commission. If the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be made public by the Commission without the written consent of the parties, or used as evidence in a subsequent proceeding. Any officer or employee of the Commission, who shall make public in any manner whatever any information in violation of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

(b) In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

(c) In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State, which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

(d) A charge under subsection (a) shall be filed within ninety days after the alleged unlawful employment practice occurred, except that in the case of an unlawful employment practice with respect to which the person aggrieved has followed the procedure set out in subsection (b), such charge shall be filed by the person aggrieved within two hundred and ten days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

(e) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) (except that in either case such period may be extended to not more than sixty days upon a determination by the Commission that further efforts to secure voluntary compliance are warranted), the Commission has been unable to obtain voluntary compliance with this title, the Commission shall so notify the person aggrieved and a civil action may, within thirty days thereafter, be brought against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (b) or the efforts of the Commission to obtain voluntary compliance.

(f) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the plaintiff would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For the purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

(g) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice). Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 704(a).

(h) The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101–115), shall not apply with respect to civil actions brought under this section.

(i) In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under subsection (e), the Commission may commence proceedings to compel compliance with such order.

(j) Any civil action brought under subsection (e) and any proceedings brought under subsection (i) shall be subject to appeal as provided in sections 1291 and 1292, title 28, United States Code.

(k) In any action or proceeding under this title the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person.

SEC. 707. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

Effect on State laws

SEC. 708. Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title.

Investigations, inspections, records, State agencies

SEC. 709 (a) In connection with any investigation of a charge filed under section 706, the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to unlawful employment practices covered by this title and is relevant to the charge under investigation.

(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements and under which no person may bring a civil action under section 706 in any cases or class of cases so specified, or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

(c) Except as provided in subsection (d), every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may (1) apply to the Commission for an exemption from the application of such regulation or order, or (2) bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

(d) The provisions of subsection (c) shall not apply to any employer, employment agency, labor organization, or joint labor-management committee with respect to matters occurring in any State or political subdivision thereof which has a fair employment practice law during any period in which such employer, employment agency, labor organization, or joint labor-management committee is subject to such law, except that the Commission may require such notations on records which such employer, employment agency, labor organization, or joint labor-management committee keeps or is required to keep as are necessary because of differences in coverage or methods of enforcement between the State or local law and the provisions of this title. Where an employer is required by Executive Order 10925, issued March 6, 1961, or by any other Executive order prescribing fair employment practices for Government contractors and subcontractors, or by rules or regulations issued thereunder, to file reports relating to his employment practices with any Federal agency or committee, and he is substantially in compliance with such requirements, the Commission shall not require him to file additional reports pursuant to subsection (c) of this section.

(e) It shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this title involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than one year.

Investigatory powers

SEC. 710. (a) For the purposes of any investigation of a charge filed under the authority contained in section 706, the Commission shall have authority to examine witnesses under oath and to require the production of documentary evidence relevant or material to the charge under investigation.

(b) If the respondent named in a charge filed under section 706 fails or refuses to comply with a demand of the Commission for permission to examine or to copy evidence in conformity with the provisions of section 709(a), or if any person required to comply with the provisions of section 709 (c) or (d) fails or refuses to do so, or if any person fails or refuses to comply with a demand by the Commission to give testimony under oath, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, have jurisdiction to issue to such person an order requiring him to comply with the provisions of section 709 (c) or (d) or to comply with the demand of the Commission, but the attendance of a witness may not be required outside the State where he is found, resides, or transacts business and the production of evidence may not be required outside the State where such evidence is kept.

(c) Within twenty days after the service upon any person charged under section 706 of a demand by the Commission for the production of documentary evidence or for permission to examine or to copy evidence in conformity with the provisions of section 709(a), such person may file in the district court of the United States for the judicial district in which he resides, is found, or transacts business, and serve upon the Commission a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this title or with the limitations generally applicable to compulsory process or upon any constitutional or other legal right or privilege of such person. No objection which is not raised by such a petition may be urged in the defense to a proceeding initiated by the Commission under subsection (b) for enforcement of such a demand unless such proceeding is commenced by the Commission prior to the expiration of the twenty-day period, or unless the court determines that the defendant could not reasonably have been aware of the availability of such ground of objection.

(d) In any proceeding brought by the Commission under subsection (b), except as provided in subsection (c) of this section, the defendant may petition the court for an order modifying or setting aside the demand of the Commission.

Notices to be posted

SEC. 711. (a) Every employer, employment agency and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts from or, summaries of, the pertinent provisions of this title and information pertinent to the filing of a complaint.

(b) A willful violation of this section shall be punishable by a fine of not more than $100 for each separate offense.

Veterans' preference

SEC. 712. Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

Rules and regulations

Sec. 713. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the Commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this title if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this title regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this title.

Forcibly resisting the Commission or its representatives

Sec. 714. The provisions of section 111, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

Special study by Secretary of Labor

Sec. 715. The Secretary of Labor shall make a full and complete study of the factors which might tend to result in discrimination in employment because of age and of the consequences of such discrimination on the economy and individuals affected. The Secretary of Labor shall make a report to the Congress not later than June 30, 1965, containing the results of such study and shall include in such report such recommendations for legislation to prevent arbitrary discrimination in employment because of age as he determines advisable.

Effective date

Sec. 716. (a) This title shall become effective one year after the date of its enactment.

(b) Notwithstanding subsection (a), sections of this title other than sections 703, 704, 706, and 707 shall become effective immediately.

(c) The President shall, as soon as feasible after the enactment of this title, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this title to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this title when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this title.

TITLE VIII—REGISTRATION AND VOTING STATISTICS

Sec. 801. The Secretary of Commerce shall promptly conduct a survey to compile registration and voting statistics in such geographic areas as may be recommended by the Commission on Civil Rights. Such a survey and compilation shall, to the extent recommended by the Commission on Civil Rights, include a count of persons of voting age by race, color, and national origin, and determination of the extent to which such persons are registered to vote, and have voted in any statewide primary or general election in which the Members of the United States House of Representatives are nominated or elected, since January 1, 1960. Such information shall also be collected and compiled in connection with the Nineteenth Decennial Census, and at such other times as the Congress may prescribe. The provisions of section 9 and chapter 7 of title 13, United States Code, shall apply to any survey, collection, or compilation of registration and voting statistics carried out under this title: *Provided, however,* That no person shall be compelled to disclose his race, color, national origin, political party affiliation, how he voted, or the reasons therefor, nor shall any penalty be imposed for his failure or refusal to make such disclosure. Every person interrogated orally, by written survey or questionnaire or by any other means with respect to such information shall be fully advised with respect to his right to fail or refuse to furnish such information.

TITLE IX—INTERVENTION AND PROCEDURE AFTER REMOVAL IN CIVIL RIGHTS CASES

Sec. 901. Title 28 of the United States Code, section 1447(d), is amended to read as follows:

"An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1443 of this title shall be reviewable by appeal or otherwise."

Sec. 902. Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws under the fourteenth amendment to the Constitution on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action, if the Attorney General certifies that the case is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

TITLE X—ESTABLISHMENT OF COMMUNITY RELATIONS SERVICE

Sec. 1001. (a) There is hereby established in the Department of Commerce a Community Relations Service (hereinafter referred to as the "Service"), which shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate for a term of four years. The Director is authorized to appoint, subject to the civil service laws and regulations, such other personnel as may be necessary to enable the Service to carry out its functions and duties, and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Director is further authorized to procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U.S.C. 55(a)), but at rates for individuals not in excess of $75 per diem.

(b) Section 106(a) of the Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2205(a)), is further amended by adding the following clause thereto:

"(52) Director, Community Relations Service."

Sec. 1002. It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce. The Service may offer its services in cases of such disputes, disagreements, or difficulties whenever, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby, and it may offer its services either upon its own motion or upon the request of an appropriate State or local official or other interested person.

Sec. 1003. (a) The Service shall, whenever possible, in performing its functions, seek and utilize the cooperation of appropriate State or local, public, or private agencies.

(b) The activities of all officers and employees of the Service in providing conciliation assistance shall be conducted in confidence and without publicity, and the Service shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No officer or employee of the Service shall engage in the performance of investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which he acted on behalf of the Service. Any officer or other employee of the Service, who shall make public in any manner whatever any information in violation of this subsection, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than one year.

Sec. 1004. Subject to the provisions of sections 205 and 1003(b), the Director shall, on or before January 31 of each year, submit to the Congress a report of the activities of the Service during the preceding fiscal year.

TITLE XI—MISCELLANEOUS

Sec. 1101. In any proceeding for criminal contempt arising under title II, III, IV, V, VI, or VII of this Act, the accused, upon demand therefor, shall be entitled to a trial by jury, which shall conform as near as may be to the practice in criminal cases. Upon conviction, the accused shall not be fined more than $1,000 or imprisoned for more than six months.

This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court.

Nor shall anything herein be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

Sec. 1102. Nothing in this Act shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or of the United States or any agency or officer thereof under existing law to institute or intervene in any action or proceeding.

Sec. 1103. Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this Act, or any provision thereof.

SEC. 1104. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 1105. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

AMENDMENT NO. 1053

Mr. COOPER. Mr. President, I submit an amendment to the amendment in the nature of a substitute (No. 656) submitted by the Senator from Illinois [Mr. DIRKSEN], for himself and other Senators, to H.R. 7152, and ask that it be printed, considered as having been read, and lie on the table.

The ACTING PRESIDENT pro tempore. Without objection, the request of the Senator is agreed to; and the amendment will be received, considered as having been read, printed, and lie on the desk.

The amendment (No. 1053) is as follows:

> On page 3, beginning with line 10, strike out all through line 18, and insert in lieu thereof the following: "That the Attorney General may enter into agreements with appropriate State or local authorities as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped."

Mr. DIRKSEN. Mr. President, it is a year ago this month that the late President Kennedy sent his civil rights bill and message to the Congress. For 2 years, we had been chiding him about failure to act in this field. At long last, and after many conferences, it became a reality.

After 9 days of hearings before the Senate Judiciary Committee, it was referred to a subcommittee. There it languished and the administration leadership finally decided to await the House bill.

In the House it traveled an equally tortuous road. But at long last, it reached the House floor for action. It was debated for 64 hours; 155 amendments were offered; 34 were approved. On February 10, 1964, it passed the House by a vote of 290 to 130. That was a 65-percent vote.

It was messaged to the Senate on February 17 and reached the Senate Calendar on February 26. The motion to take up and consider was made on March 9. That motion was debated for 16 days and on March 26 by a vote of 67 to 17 it was adopted.

It is now 4 months since it passed the House. It is 3½ months since it came to the Senate Calendar. Three months have gone by since the motion to consider was made. We have acted on one intervening motion to send the bill back to the Judiciary Committee and a vote on the jury trial amendment. That has been the extent of our action.

Sharp opinions have developed. Incredible allegations have been made. Extreme views have been asserted. The mail volume has been heavy. The bill has provoked many long-distance telephone calls, many of them late at night or in the small hours of the morning. There has been unrestrained criticism about motives. Thousands of people have come to the Capitol to urge immediate action on an unchanged House bill.

For myself, I have had but one purpose and that was the enactment of a good, workable, equitable, practical bill having due regard for the progress made in the civil rights field at the State and local level.

I am no Johnnie-come-lately in this field. Thirty years ago, in the House of Representatives, I voted on antipoll tax and antilynching measures. Since then, I have sponsored or cosponsored scores of bills dealing with civil rights.

At the outset, I contended that the House bill was imperfect and deficient. That fact is now quite generally conceded. But the debate continued. The number of amendments submitted increased. They now number nearly 400. The stalemate continued. A backlog of work piled up. Committees could not function normally. It was an unhappy situation and it was becoming a bit intolerable.

It became increasingly evident that to secure passage of a bill in the Senate would require cloture and a limitation on debate. Senate aversion to cloture is traditional. Only once in 35 years has cloture been voted. But the procedure for cloture is a standing rule of the Senate. It grew out of a filibuster against the armed ship bill in 1917 and has been part of the Standing Rules of the Senate for 47 years. To argue that cloture is unwarranted or unjustified is to assert that in 1917, the Senate adopted a rule which it did not intend to use when circumstances required or that it was placed in the rulebook only as to be repudiated. It was adopted as an instrument for action when all other efforts failed.

Today the Senate is stalemated in its efforts to enact a civil rights bill, one version of which has already been approved by the House by a vote of more than 2 to 1. That the Senate wishes to act on a civil rights bill can be divined from the fact that the motion to take up was adopted by a vote of 67 to 17.

There are many reasons why cloture should be invoked and a good civil rights measure enacted.

First. It is said that on the night he died, Victor Hugo wrote in his diary, substantially this sentiment:

> Stronger than all the armies is an idea whose time has come.

The time has come for equality of opportunity in sharing in government, in education, and in employment. It will not be stayed or denied. It is here.

The problem began when the Constitution makers permitted the importation of persons to continue for another 20 years. That problem was to generate the fury of civil strife 75 years later. Out of it was to come the 13th amendment ending servitude, the 14th amendment to provide equal protection of the laws and dual citizenship, the 15th amendment to prohibit government from abridging the right to vote.

Other factors had an impact. Two and three-quarter million young Negroes served in World Wars I, II, and Korea. Some won the Congressional Medal of Honor and the Distinguished Service Cross. Today they are fathers and grandfathers. They brought back impressions from countries where no discrimination existed. These impressions have been transmitted to children and grandchildren. Meanwhile, hundreds of thousands of colored have become teachers and professors, doctors and dentists, engineers and architects, artists and actors, musicians and technicians. They have become status minded. They have sensed inequality. They are prepared to make the issue. They feel that the time has come for the idea of equal opportunity. To enact the pending measure by invoking cloture is imperative.

Second. Years ago, a professor who thought he had developed an uncontrovertible scientific premise submitted it to his faculty associates. Quickly they picked it apart. In agony he cried out, "Is nothing eternal?" To this one of his associates replied, "Nothing is eternal except change."

Since the act of 1875 on public accommodations and the Supreme Court decision of 1883 which struck it down, America has changed. The population then was 45 million. Today it is 190 million. In the Pledge of Allegiance to the Flag we intone, "One Nation, under God." And so it is. It is an integrated Nation. Air, rail, and highway transportation make it so. A common language makes it so. A tax pattern which applies equally to white and nonwhite makes it so. Literacy makes it so. The mobility provided by 80 million autos makes it so. The accommodations laws in 34 States and the District of Columbia makes it so. The fair employment practice laws in 30 States make it so. Yes, our land has changed since the Supreme Court decision of 1883.

As Lincoln once observed:

> The occasion is piled high with difficulty and we must rise with the occasion. As our case is new, so we must think anew and act anew. We must first disenthrall ourselves and then we shall save the Union.

To my friends from the South, I would refresh you on the words of a great Georgian named Henry W. Grady. On December 22, 1886, he was asked to respond to a toast to the new South at the New England society dinner. His words were dramatic and explosive. He began his toast by saying:

> There was a South of slavery and secession—that South is dead. There is a South of union and freedom—that South thank God is living, breathing, growing every hour.

America grows. America changes. And on the civil rights issue we must rise with the occasion. That calls for cloture and for the enactment of a civil rights bill.

Third. There is another reason—our covenant with the people. For many years, each political party has given major consideration to a civil rights plank in its platform. Go back and reexamine our pledges to the country as we sought the suffrage of the people and for a grant of authority to manage and direct their affairs. Were these pledges so much campaign stuff or did we mean it? Were these promises on civil rights but idle words for vote-getting purposes or were they a covenant meant to be kept? If all this was mere pretense, let us confess the sin of hypocrisy now and vow not to delude the people again.

To you, my Republican colleagues, let me refresh you on the words of a great American. His name is Herbert Hoover. In his day he was reviled and maligned. He was castigated and calumniated. But today his views and his judgment stand vindicated at the bar of history. In 1952 he received a volcanic welcome as he appeared before our national convention in Chicago. On that occasion he commented on the Whig Party, predecessor of the Republican Party, and said:

> The Whig Party temporized, compromised upon the issue of freedom for the Negro. That party disappeared. It deserved to disappear. Shall the Republican Party receive or deserve any better fate if it compromises upon the issue of freedom for all men?

To those who have charged me with doing a disservice to my party because of my interest in the enactment of a good civil rights bill—and there have been a good many who have made that charge—I can only say that our party found its faith in the Declaration of Independence in which a great Democrat, Jefferson by name, wrote the flaming words:

> We hold these truths to be self-evident that all men are created equal.

That has been the living faith of our party. Do we forsake this article of faith, now that equality's time has come or do we stand up for it and insure the survival of our party and its ultimate victory. There is no substitute for a basic and righteous idea. We have a duty—a firm duty—to use the instruments at hand—namely, the cloture rule—to bring about the enactment of a good civil rights bill.

Fourth. There is another reason why we dare not temporize with the issue which is before us. It is essentially moral in character. It must be resolved It will not go away. Its time has come. Nor is it the first time in our history that an issue with moral connotations and implications has swept away the resistance, the fulminations, the legalistic speeches, the ardent but dubious arguments, the lamentations and the thought patterns of an earlier generation and pushed forward to fruition.

More than 60 years ago came the first efforts to secure Federal pure food and drug legislation. The speeches made on this floor against this intrusion of Federal power sound fantastically incredible today. But it would not be stayed. Its time had come and since its enactment, it has been expanded and strengthened in nearly every Congress.

When the first efforts were made to ban the shipment of goods in interstate commerce made with child labor, it was regarded as quite absurd. But all the trenchant editorials, the bitter speeches, the noisy onslaughts were swept aside as this limitation on the shipment of goods made with sweated child labor moved on to fulfillment. Its time had come.

More than 80 years ago came the first efforts to establish a civil service and merit system to cover Federal employees. The proposal was ridiculed and drenched with sarcasm. Some of the sharpest attacks on the proposal were made on this very Senate floor. But the bullet fired by a disappointed office seeker in 1880 which took President Garfield's life was the instrument of destiny which placed the Pendleton Act on the Federal statute books in 1883. It was an idea whose time had come.

When the New York Legislature placed a limit of 10 hours per day and 6 days per week upon the bakery workers in that State, this act was struck down by the U.S. Supreme Court. But in due time came the 8-hour day and the 40-hour week and how broadly accepted this concept is today. Its time had come.

More than 60 years ago, the elder La Follette thundered against the election of U.S. Senators by the State legislatures. The cry was to get back to the people and to first principles. On this Senate floor, Senators sneered at his efforts and even left the Chamber to show their contempt. But 50 years ago, the Constitution was amended to provide for the direct election of Senators. Its time had come.

Ninety-five years ago came the first endeavor to remove the limitation on sex in the exercise of the franchise. The comments made in those early days sound unbelievably ludicrous. But on and on went the effort and became the 19th amendment to the Constitution. Its time had come.

When the eminent Joseph Choate appeared before the Supreme Court to assert that a Federal income tax statute was unconstitutional and communistic, the Court struck down the work of Congress. Just 20 years later in 1913 the power of Congress to lay and collect taxes on incomes became the 16th amendment to the Constitution itself.

These are but some of the things touching closely the affairs of the people which were met with stout resistance, with shrill and strident cries of radicalism, with strained legalisms, with anguished entreaties that the foundations of the Republic were being rocked. But an inexorable moral force which operates in the domain of human affairs swept these efforts aside and today they are accepted as parts of the social, economic and political fabric of America.

Pending before us is another moral issue. Basically it deals with equality of opportunity in exercising the franchise, in securing an education, in making a livelihood, in enjoying the mantle of protection of the law. It has been a long, hard furrow and each generation must plow its share. Progress was made in 1957 and 1960. But the furrow does not end there. It requires the implementation provided by the substitute measure which is before us. And to secure that implementation requires cloture.

Let me add one thought to these observations. Today is an anniversary. It is in fact the 100th anniversary of the nomination of Abraham Lincoln for a second term for the Presidency on the Republican ticket. Two documents became the blueprints for his life and his conduct. The first was the Declaration of Independence which proclaimed the doctrine that all men are created equal. The second was the Constitution, the preamble to which began with the words:

> We, the people * * * do ordain and establish this Constitution for the United States of America.

These were the articles of his superb and unquenchable faith. Nowhere and at no time did he more nobly reaffirm that faith than at Gettysburg 101 years ago when he spoke of "a new nation, conceived in liberty and dedicated to the proposition that all men are created equal."

It is to take us further down that road that a bill is pending before us. We have a duty to get that job done. To do it will require cloture and a limitation on debate as provided by a standing rule of the Senate which has been in being for nearly 50 years. I trust we shall not fail in that duty.

That, from a great Republican, thinking in the frame of equality of opportunity—and that is all that is involved in this bill.

To those who have charged me with doing a disservice to my party—and there have been many—I can only say that our party found its faith in the Declaration of Independence, which was penned by a great Democrat, Thomas Jefferson by name. There he wrote the great words:

> We hold these truths to be self-evident, that all men are created equal.

That has been the living faith of our party. Do we forsake this article of faith, now that the time for our decision has come?

There is no substitute for a basic ideal. We have a firm duty to use the instrument at hand; namely, the cloture rule, to bring about the enactment of a good civil rights bill.

I appeal to all Senators. We are confronted with a moral issue. Today let us not be found wanting in whatever it takes by way of moral and spiritual substance to face up to the issue and to vote cloture.

Mr. TOWER subsequently said: Mr. President, I ask unanimous consent that remarks I have prepared on cloture, which include two speeches made by former Senator Lyndon Johnson, be printed in the RECORD prior to the vote earlier today on cloture.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR TOWER

Proponents of the civil rights bill have advised opponents for some months now that the pending legislation has as its objective the protection of certain minorities. Proponents have expounded upon the principle that the rights of the minority should be protected. Yet they, by petitioning for cloture, seek the destruction of the minority rights of others.

I think it is well to point out that a Senate majority cannot be said to always represent a consensus of the people of this country, or a consensus of opinion of the majority of the

States. In many cases, popular opinion upon a certain question or issue may not be formulated until a considerable amount of time has elapsed. The continued debate here may well prevent action not in conformity with the true consensus of opinion in this country.

The Senate of the United States has a special duty to give detailed study to proposed legislation. We have just seen what can happen when legislation is railroaded through the House of Representatives with minimal consideration.

I think that most proponents of the civil rights bill will agree that the House version of the civil rights bill was not given proper or sufficient analysis. It may be that other issues, improperly drafted, will be railroaded through the House in a like manner.

The last place to correct such legislation is this body, the Senate of the United States. I feel it is essential, Mr. President, that the right of unlimited debate should always prevail in at least one of our governmental bodies.

It has often been said that the right of unlimited debate has never prevented needed legislation from being subsequently enacted into law, that no really meritorious measure has been permanently defeated. I think history has proven this true.

I think it can be fairly said that the Senate has the unique function, the responsibility, of acting as a check upon the executive branch of our Government. This responsibility can only be fully performed with the continuation of the right of unlimited debate.

It is essential to the continuation of our governmental system of separation of powers.

The right of unlimited debate is justifiable whenever great, vital, fundamental, constitutional questions are being considered, questions like we have in the pending legislation.

In my perusal of Senate consideration of cloture in years past, I came across a number of excellent speeches on the right of unlimited debate. I wish to call to the particular attention of my colleagues one such speech made in March 1949, and it will be inserted in its entirety in the RECORD. In addition, I will quote some of its highlights and comment briefly upon them.

The principles embodied in this 1949 speech are as valid today as then, perhaps more so. These principles, in my opinion, will be valid as long as America remains a free nation.

I quote from the 1949 speech:

"It matters not, Mr. President, whether cloture permits Senators to speak 1 hour, 1 week, or 1 month. If this resolution is adopted, the bridle will be upon the tongues of all minorities, and no mount is free, once the bit is in its mouth."

Proponents have advised us for some days now that the basic purpose of the civil rights legislation is the protection of the minority. On the contrary, I am of the opinion, as well as the quoted speaker, that the right of unlimited debate in the U.S. Senate is one of the very best protections that the minority can have.

Quoting further from the speech:

"Mr. President, I realize that we of the South who speak here are accused of prejudice, that we are labeled in the folklore of American tradition as a prejudiced minority. I would point out, though, that prejudice is not a minority affliction: prejudice is most wicked and most harmful as a majority ailment, directed against minority groups. Prejudice inflames, excites, exaggerates; prejudice, I think, has inflamed a majority outside the Senate against those of us who speak now, exaggerating the evil and intent of the filibuster. Until we are free of prejudice, then there will be a place in our system for the filibuster—for the filibuster is the last defense of reason, the sole defense of minorities who might be victimized by prejudice.

"When we speak of minorities, though, we are answered with the argument that the will of the majority should prevail, and that it is in the American tradition that the majority should prevail. This is a commonplace fallacy. It is akin to the doctrine that 'a king can do no wrong.'

"In this country, a majority may govern, but it does not rule. The genius of our constitutional and representative government is the multitude of safeguards provided to protect minority interests. On the legislative level, where the laws are written, the House of Representatives was so designed by the architects of our Constitution that virtually every valid sectional or local interest would, at least, have a guardian here to scrutinize each law which might be enacted. But those guardians, in most instances, have little time and few opportunities to give voice to their thoughts on the floor for the benefit of their own constituents, their colleagues, or the people of this country.

"The citadel of this carefully planned protection of minority rights is the Senate. Here, Members must be somewhat older in years than in the House, their terms of office are longer, and the change in membership is deliberately less abrupt. As the House is designed to provide a reflection of the mood of the moment, the Senate is meant to reflect the continuity of the past—to preserve the delicate balance of justice between the majority's whims and the minority's rights."

Another quote from the 1949 speech proved profound indeed only a short time ago, in 1962, during Senate consideration of the communications satellite legislation:

"When I say minority, I do not limit the term to mean only the South. A peculiar and passing interlude in history has vested the defense of the filibuster in the South, but only temporarily. The filibuster is not a southern creation; it belongs to all the Nation, and to all the minorities—racial, religious, political, economic, or otherwise—which make up this Nation. I can foresee unlimited situations in which some of the minority groups, which have for 10 years agitated so earnestly for the filibuster's abolition, would want, and would use if they could, the filibuster to defend their rights."

Let us not curtail the carefully planned protection of minority rights. The right of unlimited debate is a right for all.

The 1949 speech by one of our former colleagues considered also the importance to the smaller state of the right of unlimited debate, point out that the Senate was established as a body of equals, with each State receiving equal representation, emphasizing the fallacy of the majority rule concept in its application to Senate procedure.

Quoting again from the 1949 speech:

"Here was a forum in which minorities—minorities of population or minorities of ideas—could stand on equal footing with the most overpowering majority."

The March 9, 1949, speech, referring to majorities as accidents of timing, warned of mass produced majorities and the trend toward the demanding by such majorities of changes on less evidence and less thought.

Quoting from the speech:

"In the face of this obvious trend, it seems almost criminal to me for us to spend our time whittling away at the few remaining safeguards against unchecked and uncontrolled majority rule. These majorities, before which we are asked to bend our knee in submission, may not always be what they seem. Mass-produced majorities are quite likely to encourage mass-produced laws.

"Somewhere in our legislative system, Mr. President, there must be preserved a forum where representatives of a minority, equipped with little more than their convictions and their voices, can stand in dignity and plead their case, unhurried and unhampered."

I turn now to a particularly pertinent quotation from the 1949 speech wherein the importance of the right of unlimited debate in the Senate and its relationship to the separation of Presidential and congressional powers is given serious consideration:

"The distinguished junior Senator from Arkansas [Mr. FULBRIGHT] pointed out very effectively that it is characteristic of strong Executives to become impatient with any obstruction which thwarts their exercise of power. Political parties suffer some of the same characteristics. If, though, we change the rules here to oblige the Executive and oblige victorious parties, we may make those Executives and those parties stronger, but we most certainly shall not be making our Government stronger. We shall, instead, be taking away from the strength of the Government. We shall be opening the way to rule by political leaders and closing the door on government by responsible and duly elected officials.

"That brings us to another consideration I should like to review, without thought of personalities, present or past.

"I sincerely believe that the right of unlimited debate in the Senate is an essential safeguard against potential total supremacy of the executive branch.

"A man elevated to the office of the Presidency has virtually unlimited powers of influence over his countrymen. His own personality is a force of great impact upon all the people of the Nation and, in fact, upon the people of the world. Add to those powers directly his all those less-conspicuous powers of his aides, his administrative agencies, and the multitude of channels which feel his influence, and you have a force no other representative government has ever entrusted for long to one man.

"If on occasion you grant to this titular head of government the further intoxicant of an overwhelming majority of loyal supporters in the legislative branch, then, Mr. President, you have a force well-nigh irresistible. The distinctions between executive and legislative are difficult to preserve under such circumstances; mere memorandums become laws, and laws become mere memorandums.

"In such a situation, which, happily, is more hypothetical than historical, the entire theory of our governmental system of checks and balances dissolves and evaporates. There is no one to check and no one to balance, unless and except the remaining minority has the prospect of holding each decision up to lengthy and thorough inspection here on the Senate floor."

This statement is a strong one—it is made even stronger because he who spoke those words of wisdom is now the President of the United States.

Senator Johnson expressed his alarm at the emphasis on standardization and regimentation of public thought, which he apparently felt was largely responsible for the attack on the right of unlimited debate. He said:

"Lasting answers evolve from conflict and compromise. A gag rule is the trademark of temporary solutions arrived at by lazy minds. Yet the whole trend of our modern-day thinking, as exemplified in this cloture resolution, is toward a gag rule and glorification of an unchallenged majority.

"We—and I am speaking of all the Nation—read the same news, hear the same opinions on the radio, see the same personalities on the screen, and arrive, at approximately the same time, at the same conclusions. We think we have been thinking and congratulate ourselves on having thought alike, when actually we have not thought at all.

"To me, all this is disturbing.

"I am distressed by the regimentation, conscious or not, of our opinions, so that if we once make the wrong assumption and proceed on that judgment, we will plunge headlong to disaster with no one to warn us. But, Mr. President, I am more than distressed, I am genuinely alarmed, when this emphasis on standardization, and regimentation, if you please, paralyzes the judgment of a legislative body which was created to give sanctuary to disagreements.

"If we fall prey to this trend here in the Senate, then the legislative branch of Government will surrender its most effective guarantee of a check on itself and a balance against the executive branch. For unlimited debate is a check on rash action within the legislative channels and a balance against abuses in the executive branch. Furthermore, we will be surrendering this guarantee at a time in our history when all evidence indicates a greater need to preserve and encourage the right to criticize and challenge mass opinion."

Next, speaking of the Senate as a national forum, Senator Johnson said:

"So, Mr. President, it is my conviction that the right of unlimited debate here in the Senate is an essential safeguard in our American system of representative government; first, as a safeguard for the public's right to full information on all legislative decisions; second, as a safeguard against the deliberate or accidental destruction of the distinctions between the legislative and other branches of Government; third, as a safeguard for Members here—both majority and minority—against rash, impetuous action, or action predicated on incomplete or inaccurate information."

Turning to civil rights as a fundamental issue, Senator Johnson said:

"This civil rights question brings into play all those strong and evil forces of racial prejudice. Perhaps no prejudice is so contagious or so dangerous as the unreasoning prejudice against men because of their birth, the color of their skin, or their ancestral background. Racial prejudice is dangerous because it is a disease of the majority, endangering minority groups. [I say frankly that the Negro—as the minority group involved in this discussion of civil rights—has more to lose by the adoption of any resolution outlawing free debate in the Senate than he stands to gain by the enactment of the civil rights bills as they are now written.] Certainly these laws might give the Negro some opportunity to see those punished who interfered with his rights, but I do not believe any of these bills would actually guarantee the Negro—or any other group—that his rights would not be molested. If, perchance, the prejudice against the Negro of which we in the South are accused should spread across the Nation, fanned by inflammatory incident of only passing consequence, the Negro would have no recourse to halt enactment of vicious legislation here or elsewhere if this right of unlimited debate did not exist in the Senate."

I know well of what Senator Johnson spoke. I am of the opinion that too many have felt the civil rights bill should be passed because it has laudable objectives, without realizing its enactment might in fact be destructive of the attainment of such objectives, and thus make it even more difficult to permanently resolve racial problems.

In closing, Senator Johnson referred to the historical development of our Nation. Of the Senate's role in this development, he said:

"Read the history of our Nation, the history of American democracy, and I think it seems clearly evident that few things have contributed more to our solidarity, to our emerging maturity, or to our stature as citizens of the world than the debates conducted here in the Senate Chamber. Debate here has been, perhaps, the sturdiest fiber of our design for more representative government."

Although Senator Johnson brought forth a number of excellent reasons why cloture should not be invoked, he saved the best for the last. Undoubtedly, the most important of all was embodied in his closing paragraphs, as follows:

"Mr. President, if I were given a choice, if I should have the opportunity to send into the countries behind the Iron Curtain one freedom and only one, I know what my choice would be. I would send to those lands the very freedom we are attempting to disown here in the Senate. I would send to those nations the right of unlimited debate in their legislative chambers. It would go as merely a seed, but the harvest would be bountiful; for by planting in their system this bit of freedom we would see all freedoms grow, as they have never grown before on the soils of Eastern Europe.

"This freedom we debate, Mr. President, is fundamental and indispensable. It stands as the fountainhead of all our freedoms. If we now, in haste and irritation, shut off this freedom, we shall be cutting off the most vital safeguard which minorities possess against the tyranny of momentary majorities. I do not want my name listed as one of those who took this freedom away from the world when the world most needed it."

Since 1949, we have seen much of the free world fall under Communist influence. The freedom of unlimited debate, as President Johnson said, is "fundamental and indispensable." Let us now be even more careful in safeguarding one of our most cherished freedoms.

Speech of Hon. Lyndon B. Johnson When a Member of the Senate

Mr. President, I rise with some reluctance to speak against the motion now before the Senate.

I have been a Member of the Senate only 2 months. On both sides of the aisle sit men with experience here far exceeding my own who believe sincerely that this resolution is worthy and essential and should be adopted.

I respect their sincerity, and I do not weigh their judgment lightly.

In this debate, however, we are asked to choose between the freedom to enact laws hastily and the freedom to speak. For me, this is no choice. I cannot embrace any freedom which demands, as the terms for its existence, the imprisonment of another and more precious freedom.

CLOTURE NO HANDICAP TO ME

I am aware that the proponents of this resolution deny that their form of cloture would impede free speech. They only intend to prevent filibusters by limiting each Senator—if two-thirds of the Members desire to do so—to 1 hour on the floor to speak for or against a piece of legislation. Personally, that would rarely be a handicap or an affront to me. I can imagine few occasions—even now—when I would desire more than an hour of the Senate's time to present my views on most issues arising here.

But I would not knowingly imperil a moment of my freedom to speak. So, I refuse now to seek an authority over others which I would not yield myself.

It matters not, Mr. President, whether cloture permits Senators to speak 1 hour, 1 week, or 1 month. If this resolution is adopted, the bridle will be upon the tongues of all minorities, and no mount is free, once the bit is in its mouth.

There is no such thing as a "reasonable limit" on free speech. Good intentions, gentle reforms, and reasonable limits have destroyed more freedoms than evil forces could ever do, and I fear that danger now. As a distinguished Senator from Missouri, Senator Reed, once said: "Cloture means the granting of a power. Whenever you grant a power, you must assume that the power will be exercised. So when we discuss this proposed rule, we must do so in the light not of how it may be exercised so as to do no harm, but we must consider how it may be exercised to do harm."

Cloture is to the majority what filibuster is to the minority. Each is a device by which a group may try to achieve its goal in legislative deliberations. But the devices are not equals.

CLOTURE—THE DEADLIEST WEAPON

A filibuster, at best, has no assurance of success; it is more prayer than promise, a last hope for a conscientious minority. Not so, cloture. It is perhaps, the deadliest weapon in the arsenal of parliamentary procedures. Once a majority is armed with that weapon, the majority can be—if it so chooses—beyond the laws and moral compulsion of such flimsy restraints as parliamentary courtesy and precedents.

Against this, a minority has no defense.

When I say minority, I do not limit the term to mean only the South. A peculiar and passing interlude in history has vested the defense of the filibuster in the South, but only temporarily. The filibuster is not a Southern creation; it belongs to all the Nation, and to all the minorities—racial, religious, political, economic, or otherwise—which make up this Nation. I can foresee unlimited situations in which some of the minority groups, which have for 10 years agitated so earnestly for the filibuster's abolition, would want, and would use if they could, the filibuster to defend their rights.

Mr. President, I realize that we of the South who speak here are accused of prejudice, that we are labeled in the folklore of American tradition as a prejudiced minority. I would point out, though, that prejudice is not a minority affliction; prejudice is most wicked and most harmful as a majority ailment, directed against minority groups. Prejudice inflames, excites, exaggerates; prejudice, I think, has inflamed a majority outside the Senate against those of us who speak now, exaggerating the evil and intent of the filibuster. Until we are free of prejudice, then there will be a place in our system for the filibuster—for the filibuster is the last defense of reason, the sole defense of minorities who might be victimized by prejudice.

A KING CAN DO NO WRONG

When we speak of minorities, though, we are answered with the argument that the will of the majority should prevail, and that it is in the American tradition that the majority should prevail. This is a commonplace fallacy. It is akin to the doctrine that "a king can do no wrong."

In this country, a majority may govern, but it does not rule. The genius of our constitutional and representative government is the multitude of safeguards provided to protect minority interests. On the legislative level, where the laws are written, the House of Representatives was so designed by the architects of our Constitution that virtually every valid sectional or local interest would, at least, have a guardian here to scrutinize each law which might be enacted. But those guardians, in most instances, have little time and few opportunities to give voice to their thoughts on the floor for the benefit of their own constituents, their colleagues, or the people of this country.

The citadel of this carefully planned protection of minority rights is the Senate. Here, Members must be somewhat older in years than in the House, their terms of office are longer, and the change in membership is deliberately less abrupt. As the House is designed to provide a reflection of the mood of the moment, the Senate is meant to reflect the continuity of the past—to preserve the delicate balance of justice between the majority's whims and the minority's rights.

SENATE IS A BODY OF EQUALS

When we speak of majorities in the Senate—based solely on the numerical division of the Members—we speak in hollow terms. The Senate was conceived as a body of equals, with each of the States in the Union equally represented. Majority rule obviously did not underlie this concept. Here was a forum in which minorities—minorities of population or minorities of ideas—could stand on equal footing with the most overpowering majority.

Under this system, the 15 million people of New York have no more votes in the Senate than the 110,000 people in Nevada. Does that imply any intent for the majority to reign supreme here? Certainly not; the implication is clearly contrary to the principle of the resolution sought to be brought before us. It would be folly to yield to New York the power to shut off the voice of Nevada; it would be a greater travesty upon justice to permit Nevada to invoke cloture against New York.

Let us look further at this theory of majority rule and the futility of its application to the Senate's procedures:

As has already been made plain by my colleagues on the Senate floor and in committee hearings, the 14 New England, Middle Atlantic, and East North Central States, with a population equivalent to 47.7 percent of the population of the United States, has less than 30 percent of the votes in the Senate of the United States. Under the present rules of the Senate requiring a two-thirds vote to effect cloture, all of the Senators from this group of States could not prevent cloture.

If Texas and California were added to this list, we would have a majority of all of the population of the United States represented in this Senate by only one-third of the Members of this body.

Let me name those States: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Wisconsin, Texas, and California. Now, Mr. President, if, under the rules of the Senate, cloture should be invoked against the Senators from those States, it is clear that the will of the majority of the people of this country would most certainly be thwarted.

That would mean that the will of the majority of the Senators had prevailed, but it would not by any device of logic or argument mean that the will of the majority of the American public had prevailed.

IN TERMS OF INCOME

Mr. President, I dislike to talk of freedom in terms of income, in terms of money, but in passing I cannot refrain from pointing out that measured by the latest percentages of collections of internal revenue, the 14 States, mentioned above, exclusive of Texas and California, contributed 60.9 percent of the total income received by the Federal Government during the fiscal year ending June 30, 1948.

If the shoe were on the other foot, and if a revenue or appropriation measure were involved, I feel that the Senators from New York, Ohio, Illinois, Indiana, and the other States mentioned, would not and should not hesitate to say that since their constituents contributed a majority of the revenue and a majority of the population they should have the right to exercise their freedom of speech to prevent the passage of legislation ruinous to their people.

When we speak of majorities, Mr. President, let us not be blinded by our own estimate of our status. Let us not overemphasize our personal convenience or our personal convictions; and, particularly, let us not be guided by personal estimates of our colleagues. We may each in our private conscience find faults and shortcomings in the ability, as well as the reasoning, of some of our colleagues here. Mr. President, it is a great temptation to yearn for the power to shut off an irritating voice, particularly when that voice is being used against you.

MAJORITY IS SOMETIMES WRONG

But the fact that a voice of the minority is irritating or repetitious or even sometimes presumptuous does not indict that voice as being wrong and in error. The majority is ofttimes irritating, repetitious, and presumptuous, and the majority is sometimes wrong.

If either the majority or minority assumes that all arguments have been heard, all evidence presented, all original thoughts revealed, then that group is making an assumption which our human fallibility does not permit. Mr. President, it takes great wisdom for a man to know when he himself has said enough, and I pray for that good sense myself. But, I say to you, Mr. President, only wisdom akin to divine judgment can tell us when our fellow man has said all he should say.

The late Senator Joseph Robinson, of Arkansas, once said in this Chamber: "I am willing to vindicate this forum of open debate where fools may be arrogant, but where men who have studied problems still have a chance to speak."

Some may, most certainly, be arrogant here. Others may shame the name of the Senate. Willful men may be abusive. But when, in irritation, you withdraw freedom from the few who abuse it, you withdraw it from the wise and learned men, too.

If you subtract from the freedom of one region and of those who represent that region, you subtract from the freedom of all regions and all representatives. Freedom, gentlemen, does not oblige the formulas of mathematics. You cannot subtract a quantity here and add it elsewhere. True, it may be divided, but only in equals, not in fractions. There can be no two-thirds freedom or three-fourths freedom or 99.9 percent freedom; and no majority is so powerful, so righteous, so benevolent that it can change this simple reality.

MAJORITIES ARE NOT PERMANENT

Majority is, after all, Mr. President, a treacherous word. Majorities are not fixed, they are not permanent. The majority which today seems secure may vanish tomorrow.

I think it is quite pertinent to this discussion to examine the creation of majorities, how they are built and who builds them in American life today. Majorities, after all, do not simply materialize of their own accord without leadership and encouragement.

Majorities are the creation of communications. People form their judgments and mold their thinking by what they read, by what they see, by what they hear—and, perhaps, sometimes, or ofttimes, by what they smell. In this country, as in no other country in world history, our people have the opportunity to read more, see more, and hear more about public issues.

As our system of communications is improved and advanced by the discoveries of science, information is imparted with greater speeds. The report of what is going on—or, to be more exact, what seems to be going on—rushes direct from the point of origin to all Americans simultaneously. By radio, telegraph, telephone, and television, the information—or what one or two men in a particular agency may consider information—speeds out over the Nation and is received by individuals without a great deal of editing or much intentional commentary.

CITIZENS ARE BELIEVING SAME THING

The result of this is sobering, because, more and more, all our citizens are hearing the same thing, seeing the same thing, reading the same thing, and believing the same thing.

Furthermore, the trend of all agencies controlling the channels of rapid communication—a trend apparently demanded by the public—is for brevity. Our wire-service correspondents, our radio newsmen, all others collecting and presenting accounts of what happens here in the Senate Chamber or elsewere, are told, "Make it brief, make it simple, but make it fast."

In such an atmosphere of speed and brevity, the word "filibuster" becomes a much more useful and meaningful expression than something such as unlimited debate or complete freedom of speech. A majority which would vigorously and devoutly defend a Senator's complete freedom of speech will, on the other hand, angrily condemn a Senator's filibuster because the word has been presented to them as an evil term, scornfully used.

That is only an illustration of a minor point, but I think it helps to emphasize the impact of rapid communications in building majority opinion.

MAJORITIES ARE ACCIDENTS OF TIMING

As the information reaching the public becomes more and more standardized, the first group to advocate and sponsor an idea here in Washington wins a tremendous advantage over their opposition. By presenting their case forcefully and persuasively and by presenting it rapidly, they have a good chance to captivate the majority of the people before any opposing group has time to marshal its forces and its evidence.

In other words, Mr. President, a majority can be and frequently is an accident of timing rather than the product of persuasion. As our communications become more rapid, almost instantaneous, we are going to see more majorities built up in a matter of days and even hours than in a period of months or years. We are going to see majorities demanding changes on less evidence and with less thought.

In the face of this obvious trend, it seems almost criminal to me for us to spend our time whittling away at the few remaining safeguards against unchecked and uncontrolled majority rule. These majorities, before which we are asked to bend our knee in submission, may not always be what they seem. Mass-produced majorities are quite likely to encourage mass-produced laws.

Somewhere in our legislative system, Mr. President, there must be preserved a forum where representatives of a minority, equipped with little more than their convictions and their voices, can stand in dignity and plead their case, unhurried and unhampered. If the pending resolution is adopted, no such forum will exist.

Oh, I know that proponents of this cloture resolution say every Senator would have ample time to present his case. I know others will point out that what a minority says here will be given equal treatment by the agencies of communication, and the public will have ample opportunity to weigh the merits of the minority's case.

That may be true, as a theory. But while we have made tremendous progress in devising methods and mechanics for getting more and more opinions and information into the minds of the public, we have not made much progress in finding devices to get opinions out of the minds of the public. Mr. President, you may convince a man that something is true with merely a word or a sentence, but if you seek to convince him that he should change his mind, then a lifetime may not be long enough to achieve that goal.

We must not, we cannot, submit to the theory that a majority is a divine and sacred thing. We must not, we cannot, ignore the forces which construct majorities. Truth must retain the privilege of open competition with information, for truth and information are not always one and the same thing.

THE 1948 CAMPAIGN PROVES FALLACY

I would call to mind the happenings of last fall, which impressed me profoundly with the weight and power of unlimited debate. I say this to my colleagues on this side of the aisle, and I say it with sincere respect. The information was abroad in the land that the Democratic Party was doomed to defeat; for most of the year, perhaps even as late as October, I am sure a majority in this country, accepted that information as correct. But there was no cloture rule on the man in the White House. There was no rule limiting him to an hour's debate because two-thirds of the Nation thought they had heard from him all they could hear, or all they wanted to hear.

Mr. Truman went out to the people. He talked to them, telling them his views again and again, repeating his arguments as often as men and women would come to listen. I rode with him on that train for a while. I saw him up before daybreak, waiting to speak to the people who gathered around the rear platform as early as 6 o'clock in the morning. I saw him still speaking far into that night. Over and over again, I heard some of his close associates say, "If only we had a few more weeks, there would be no doubt about the outcome." They knew then that because Mr. Truman had dared to keep speaking, because Mr. Truman had not bowed before the opinion of the majority 5 months before, the people were listening and were changing their minds.

If anything in our history exposes the fallacy of assumptions ventured here regarding the infallibility of temporary majorities, the Presidential campaign and election of 1948 does just that. It will not be remembered to the credit of our name if a Democratic leadership deprives the Senate and the Nation of that right now.

Mr. President, during the course of our consideration of this measure, I have been greatly impressed by an observation which the senior Senator from Alabama [Mr. HILL], made during the committee hearings. Speaking of his service in the House prior to his election to the Senate, the able Senator recalled that he often heard the appeal as a Representative: "We must go along with the party, because party government is the way of the House of Representatives."

And the Senator from Alabama added: "I am pleading here today that we not retreat to this position of party government, but let the Senate of the United States stand where it has always stood as the great forum of the American people, of the American Nation, and of the constitutional American Republic."

That is a point upon which I urge the Senators to think seriously. It will be, I believe, a sad day when the rules of the Senate can be written in the national conventions of any political party. I realize, of course, that the Democratic convention of last summer did not suggest that the rules of the Senate be changed. But, Mr. President, both parties adopted plans and presented promises which some leaders thought would necessitate limitations on debate here—if those planks and those promises were to be fulfilled. If we submit now to this effort to change the rules, we will be submitting to the dangerously unsound proposition that a political party shall be entitled not merely to representation by its Members here, but to the greater and overwhelming power of dictating how the business of the Senate shall be conducted.

On Saturday, the distinguished junior Senator from Arkansas [Mr. FULBRIGHT] pointed out very effectively that it is characteristic of strong executives to become impatient with any obstruction which thwarts their exercise of power. Political parties suffer some of the same characteristics. If, though, we change the rules here to oblige the executive and oblige victorious parties, we may make those executives and those parties stronger, but we most certainly shall not be making our Government stronger. We shall, instead, be taking away from the strength of the Government. We shall be opening the way to rule by political leaders and closing the door on government by responsible and duly elected officials.

That brings us to another consideration I should like to review, without thought of personalities, present or past.

I sincerely believe that the right of unlimited debate in the Senate is an essential safeguard against potential total supremacy of the executive branch.

A man elevated to the office of the Presidency has virtually unlimited powers of influence over his countrymen. His own personality is a force of great impact upon all the people of the Nation and, in fact, upon the people of the world. Add to those powers directly all those less-conspicuous powers of his aides, his administrative agencies, and the multitude of channels which feel his influence, and you have a force no other representative government has ever entrusted for long to one man.

If on occasion you grant to this titular head of government the further intoxicant of an overwhelming majority of loyal supporters in the legislative branch, then, Mr. President, you have a force well-nigh irresistible. The distinctions between executive and legislative are difficult to preserve under such circumstances; mere memorandums become laws, and laws become mere memorandums.

In such a situation, which, happily, is more hypothetical than historical, the entire theory of our governmental system of checks and balances dissolves and evaporates. There is no one to check and no one to balance, unless and except the remaining minority has the prospect of holding each decision up to lengthy and thorough inspection here on the Senate floor.

FEW GOOD BILLS WRITTEN HASTILY

Delay may be bad in the legislative process, although I do not think delay is bad per se. It has been my observation that few good bills have been written hastily, and few bad measures have been written slowly.

Checks and balances, as I interpret the theory, imply that the authors of our form of government were not so worried about good legislation being delayed as they were about bad legislation being delayed not at all. I believe it was their thought that the minority, no matter how small numerically, might always have something to say that the momentary majority should hear. The right to check and balance was not granted to the majority, because a majority rarely seeks control over itself. Those rights were conceived and installed in the Constitution solely as safeguards for minorities.

Examine the branches of our Government, examine the struggles and conflicts of philosophy, and this is evident: The distinction between our form of government and totalitarian government is the distinction between the executive and legislative branches.

To whatever extent that distinction disappears, falls into disrepute or disuse, or is destroyed, to that extent this Government loses its representative character and becomes totalitarian in practice.

If that distinction be removed, the authority of the courts, of course, becomes fictional.

Fortunately, through most of our history, the voters of the various sections of the Nation have held sufficiently different opinions as to send here legislative representatives of divergent views, men and women with principles and purposes that were not all culled from the same political primer. This has preserved for us the character and purpose of Congress as a forum where representatives of many shadings of thought and ambition could assemble, where they could blend laws suited to the wants and needs of more than 150 million people. There has always been ample representation for minorities, whatever their identity or distinction.

But, as I stated earlier, the last two decades have brought us the advent of instantaneous communications, and with that a standardization of reported information, information which is frequently all too brief and consequently misleading. Yet its influence on the opinion and viewpoint of the American people is profound.

Political beliefs are not immune; rather, they are particularly vulnerable, much more likely to succumb to the constant hammering of standardization than our religious, ethical, or moral beliefs. Many commentators already insist that the distinction in professed beliefs of our major political parties is disintegrating and remains only as a matter of emphasis.

This may be good. I do not propose to pass final judgment here, but this I believe: There is rarely one and only one proper answer to any problem, particularly the sort of delicate, complex problems presented to the legislative branch of this Government.

CONFLICT AND COMPROMISE

Lasting answers evolve from conflict and compromise. A gag rule is the trademark of temporary solutions arrived at by lazy minds. Yet the whole trend of our modern day thinking, as exemplified in this cloture resolution, is toward a gag rule and glorification of an unchallenged majority.

We—and I am speaking of all the Nation—read the same news, hear the same opinions on the radio, see the same personalities on the screen, and arrive, at approximately the same time, at the same conclusions. We think we have been thinking and congratulate ourselves on having thought alike, when actually we have not thought at all.

To me, all this is disturbing.

I am distressed by the regimentation, conscious or not, of our opinions, so that if we once make the wrong assumption and proceed on that judgment, we will plunge heading to disaster with no one to warn us. But, Mr. President, I am more than distressed, I am genuinely alarmed, when this emphasis on standardization, and regimentation, if you please, paralyzes the judgment of a legislative body which was created to give sanctuary to disagreements.

If we fall prey to this trend here in the Senate, then the legislative branch of Government will surrender its most effective guarantee of a check on itself and a balance against the executive branch. For unlimited debate is a check on rash action within the legislative channels and a balance against abuses in the executive branch. Furthermore, we will be surrendering this guarantee at a time in our history when all evidence indicates a greater need to preserve and encourage the right to criticize and challenge mass opinion.

ROLE OF THE HOUSE

Like many of the Members of the Senate, I served for a number of years in the House of Representatives, at the other end of the Capitol, before coming to the Senate. I think I understand what that body can do and what it cannot do as a part of the legislative branch. It can and does feed a great quantity of new ideas into the bloodstream of legislative thinking, because of its large and diverse membership. The House, also, is a great legislative laboratory for perfecting legislation, correcting oversights, and preventing impositions harmful to specific areas or groups.

But—and this I say with no intention to minimize the House's role—the House does not and cannot exert the force upon the Nation's political thinking that the Senate has and still does. Nor, in fact, does the House exert the equivalent influence upon the executive branch; its Members are not so secure in tenure, the frequent elections subject the Members to whims of public opinion, which, as we all know, can sometimes be aroused and inflamed by the leaders of the executive branch.

Why is the House in this role? Because there is no unlimited debate there. A Member must ofttimes beg for a chance to address his fellow Members, and then he is limited generally to 5 minutes or less. In that short time, he is fortunate if he can impress any of his colleagues, much less impress the Nation. As a consequence, the floor of the House and the cloakrooms constitute a national legislative workshop.

SENATE IS A NATIONAL FORUM

That leaves to the Senate the role of a national forum, where the underlying philosophy of legislation, as well as the surface details, can be laid bare for the public to contemplate. That in itself is a persuasive argument to me for lengthy and thorough debates on fundamental issues.

When a Senator speaks at length, it seems to me he is speaking, not alone to his colleagues, but to the Nation. Certainly history shows that the Nation frequently listens. To cut off any Senator from further debate is to cut off the Nation from further opportunity to become acquainted with the proposals affecting our people. Personally, I believe it is better for the Nation to hear too much about a bill before it becomes law than to know too little about it after that bill becomes a law.

So, Mr. President, it is my conviction that the right of unlimited debate here in the Senate is an essential safeguard in our American system of representative government; first, as a safeguard for the public's right to full information on all legislative decisions; second, as a safeguard against the deliberate or accidental destruction of the distinctions between the legislative and other branches of government; third, as a safeguard for Members here—both majority and minority—against rash, impetuous action, or action predicated on incomplete or inaccurate information.

It is well, perhaps, to add to this discussion an examination of the filibuster in actual practice. I do not wish to burden the ears of the Senators here or the pages of the RECORD with a repetition of history already presented so ably by various of my colleagues. But I do not honestly believe we can come to the heart of the debate unless and until some of the mythology of filibusters is exposed as more fiction than fact.

What, for example, does the average American citizen interested in affairs of his Government believe about the filibuster?

FILIBUSTER NOT SOUTH'S PROPERTY

First, I believe it is a widespread conviction that the filibuster is now and has always been exclusively the property of southern Senators. For the past few years this has been so as to certain pieces of legislation which, by their nature, concerned the South primarily. This is not necessarily a traditional alinement.

When the cloture resolution under which we now operate here in the Senate was adopted back in 1917, the southern Members of the Senate at that time voted for it, as did virtually all Senators on both sides of the aisle. One year later, the Underwood resolution, to limit debate during wartime to 1½ hours for each Senator, was brought before the Senate. That was even more drastic than the cloture proposed now. I was impressed, though, when I looked over a tabulation of the voting on that resolution. Voting for the resolution, and thus voting against filibusters, or even very extensive debate, were a majority of the Senators from Southern States. The bulk of the opposition to the measure came from 29 Republican Party members.

Through the years there have been similar votes in which some southern Senators have been as vigorously opposed to the filibuster as Senators from other regions are today. I do not believe it can be shown that the South created the filibuster, or that only the South has defied the rest of the Nation in preserving it.

FILIBUSTERS NOT COMMONPLACE

Another concept prevailing in the public mind is the idea that the Senate does nothing but waste valuable time while a minority of its Members engage in filibusters. Cartoonists, literary artists, and sponsors of a lot of ill-considered ideas have labored long and with some success to implant this concept in the public mind.

Mr. CONNALLY. Mr. President, will the Senator yield for a question?

Mr. JOHNSON of Texas. I yield for a question only.

Mr. CONNALLY. The Senator adverted a little while ago to the fact that some of these so-called filibusters—I repeat, so-called—were carried on by Senators from the South. Is it not true that the reason that has happened is that the legislation the southern Senators were opposing was aimed at the Senators from the South, and was presented from a geographical and a political standpoint?

Mr. JOHNSON of Texas. The Senator speaks quite correctly, and I shall discuss some of that legislation in detail a little later in my remarks. I thank the senior Senator from Texas.

Frankly, until the resolution came under consideration here, I did not know what the truth was. I rather thought that filibusters were more or less commonplace affairs here in the Senate. But since this matter came before us, I have studied the history of filibusters and I have been surprised at what the true history of the filibuster is. From 1841 through 1948, only about 35 important filibusters have been conducted on the Senate floor. When we consider the tremendous volume of legislation passing through here without filibuster, that number seems surprisingly small.

ONLY FIVE BILLS DEFEATED

What have these filibusters accomplished? As Senators have heard, and as many of them know, some 26 different bills have been temporarily defeated. I say temporarily because all except five of the measures filibustered have since become law—some within a few days, some within a few weeks and a few such measures were delayed for a number of years. But just to reemphasize the record, I want to list the bills which, so far, have failed to become law because of filibusters:

First. The Force bill of 1890.

Second. The armed ship bill of 1917, which was actually not necessary since our merchant ships were armed under another existing statute.

Third. The antilynching bills.

Fourth. The anti-poll-tax bills.

Fifth. The FEPC bill.

That, Mr. President, is the list, the casualty list of filibusters.

Some of the proponents of the resolution contend that the fatality list should include some bills which were never brought to the floor for fear of a filibuster. That is easily said. But it might be more accurate to say only that a number of bills were never brought to the floor because their sponsors knew they would fail if brought to a vote. If you are going to indict the filibuster as a killer, indict it, please, only for the deaths of bills actually killed by filibusters, not for the deaths of weak-spined legislation which died of fright at the prospect of unlimited debate.

The fact remains, nevertheless, that filibusters have not occupied the majority nor even a significant portion of the Senate's time during the past 108 years. Filibusters have not killed off a great amount of legislation; instead, the overwhelming majority of bills filibustered have eventually become law. Only five bills can truthfully be listed as victims of the filibuster.

The Force bill of 1890 is a dead issue; history seems to agree that it was an unfortunate measure which should not have been passed anyway.

This armed ship bill became a dead issue almost immediately after its defeat, because it was not necessary.

I think I am safe in saying that no proponents of our present cloture resolution are in the least concerned over what happened to those two particular pieces of legislation. The defeat of those bills did not instigate this resolution. The defeat of those bills did not inflame the public hue and cry against unlimited debate in the Senate.

CIVIL RIGHTS FUNDAMENTAL ISSUE

No, Mr. President; when we strip away the trappings of rhetoric and theory and legend which surround the arguments here against the filibuster, we have left the simple fact that we are debating the so-called civil rights legislation.

Some men, and some groups, have grown tired of exposing their measures for abolition of the poll tax, for punishment of lynch mobs, and for establishment of a Fair Employment Practices Commission to full debate in the Senate of the United States. In their estimate of freedom, the freedom to speak here in the Senate is expendable and they are willing to demand its sacrifice for the theoretical gain of having these civil rights measures enacted into law promptly. So, in great haste, and with a certain amount of strange illogic the strategy calls for depriving one minority of its rights in order to extend rights to other minorities.

As I said earlier here, Mr. President, freedom is not something which can be subtracted in one place and added somewhere else.

This civil rights question brings into play all those strong and evil forces of racial prejudice. Perhaps no prejudice is so contagious or so dangerous as the unreasoning prejudice against men because of their birth, the color of their skin, or their ancestral background. Racial prejudice is dangerous because it is a disease of the majority, endangering minority groups. I say frankly that the Negro—as the minority group involved in this discussion of civil rights—has more to lose by the adoption of any resolution outlawing free debate in the Senate than he stands to gain by the enactment of the civil rights bills as they are now written. Certainly these laws might give the Negro some opportunity to see those punished who interfered with his rights, but I do not believe any of these bills would actually guarantee the Negro—or any other group—that his rights would not be molested. If, perchance, the prejudice against the Negro of which we in the South are accused should spread across the Nation, fanned by inflammatory incident of only passing consequence, the Negro would have no recourse to halt enactment of vicious legislation here or elsewhere if this right of unlimited debate did not exist in the Senate.

I am not being fanciful in that illustration. The Ku Klux Klan, the Black Legion, and other such bigoted and vicious organizations have never been confined solely to the South; nor has prejudice itself thrived only in the South.

When we of the South rise here to speak against this resolution or to speak against the civil-rights proposals, we are not speaking against the Negro race. We are not attempting to keep alive the old flames of hate and bigotry. We are, instead, trying to prevent those flames from being rekindled. We are trying to tell the rest of the Nation that this is not the way to accomplish what so many want to do for the Negro. We are trying to tell the Senate that with all the sincerity we can command, but it seems that ears and minds were long ago closed.

I say this because I want my position on the civil rights legislation understood clearly.

DO NOT BELIEVE IN POLL TAX

For example, I do not believe in the poll tax as a prerequisite for voting. In all of my campaigns for public office—six times for the House and twice for the Senate—I have made my position perfectly clear, and those who voted for me understood that. I told them, as I tell Senators now, that I see no reason for the poll-tax provision in the statutes of my State. I have advocated and do advocate the repeal of the constitutional provision of Texas which makes the payment of a poll tax necessary before a citizen can vote. I point out, too, that the present Governor of Texas has recommended to the legislature the repeal of the poll-tax provision in the statutes. A resolution has been introduced in the Texas Legislature and reported favorably by a committee of the Texas Senate, traditionally the most conservative branch of the Texas Legislature, which would submit to the voters of Texas an amendment to the Constitution eliminating the payment of a poll tax as a qualification for voting.

That is as it should be. The framers of the Constitution of the United States were plain, specific, and unambiguous in providing that each State should have the right to prescribe the qualifications of its electorate and that the qualifications of electors voting for Members of Congress should be the same as the qualifications of electors voting for members of the most numerous branch of the State legislatures. For that reason, and that reason alone, I believe that the proposed anti-poll-tax measures introduced in previous sessions of this body and advocated in the President's civil rights program is wholly unconstitutional and violates the rights of the States guaranteed by section 2 of article I of the Constitution.

Believing that, I think I have the right to use my freedom to speak and stand on the floor of the Senate as long as I have the will, the determination, and the breath to oppose such a measure. I believe that I, and any other 32 Members of the Senate have as much right and the equal duty to prevent the passage of an unconstitutional law as do 9 members or 5 members of the Supreme Court to strike it down after it has been passed. I am not willing to surrender that right or that duty because the President of the United States thinks otherwise, or because of the hue and cry set up by those who claim to protect the rights of a minority while at the same time saying the majority should always rule supreme.

THE SOUTHERN POSITION

Mr. President, some Senators will find fault with that position; they may say that it answers nothing. But let me point this out to them: I, and a number of my colleagues from the southern poll-tax States, would like to have the poll tax repealed. We think that it may be done, eventually, if not this month or next month. But we know—because we know the South and because we know the people we represent—that if one of the anti-poll-tax bills is enacted, we may never see the States accept repeal of such a law. If we had a bill here and the power here to remove the laws properly and constitutionally, I, for one, would vote for repeal of the poll tax. But I do not believe that we have either the bill or the power. We would merely enact a law which, in due time, would be stricken down by the Supreme Court. Then we would have nothing. The States would be hamstrung by a hasty, ill-considered, and entirely futile act. The poll tax would remain; the right of unlimited debate would be dead, and the prospect of eliminating the poll tax would be dead. Remember that many of us agree with other Senators in opposing the poll tax. Our counsel is not insincere, nor is it founded on prejudice. We, like they, are representatives of proud people; we know what our people will accept and what they will not accept, and we urge them earnestly to heed our advice.

TEXANS DETEST LYNCHING

I, like all other citizens, detest the shameful crime of lynching just as I detest the crime of murder in every form.

In Texas, lynchings are virtually nonexistent and not thought of as a recourse of individuals seeking justice, or what they consider justice. Most Texans would be incensed at the suggestion that a lynching would be proper, no matter how vicious the crime of which a man might be suspected. I cannot speak for all the Southern States because I am not as familiar with the residents of those States. But, Mr. President, within the past 20 years new generations of Texans have reached maturity free of the ingrained hatreds and prejudices which beset their forebears who had seen more violent eras. What these Texans—young Texans, primarily—know about lynching they have learned from the same source as Americans in regions outside the South have learned. They have learned about lynching through the modern-day literature, in which so many barren authors have sought to enrich their plots with dramatic accounts of lynch law. Every lynching is a tragedy; but lynching is not, modern fiction notwithstanding, the great and fundamental tragedy of American democracy.

I say this not in an effort to summon a self-righteous argument to the defense of the South, but because I want to remind Senators of the changing character of the South. We have our faults, historical and otherwise. But if Congress is to legislate—or try to legislate—a new character for us, I think it should be mindful of conditions as they are, not as they have been pictured.

Again, I say, with respect to lynching as with respect to the poll tax, most of us agree with the motives of our colleagues, but we are trying to tell them that the method proposed in the civil rights legislation will not accomplish what they intend.

The proposed antilynching bill—or those proposed in the past—would not merely punish the crime of murder, which should be punished, but would hold responsible those who are entirely innocent. It would indict as killers men and women who never held a gun in their hands; it would punish as accomplices men and women who would never associate with the irresponsible elements which perpetrate most lynchings.

I hold that if an officer fails or refuses to protect me against a mob bent upon invading my property, depriving me of my liberty to go where I please or do me physical violence, I am entitled to as much protection as a prisoner accused of crime who is likewise treated to mob violence. But these antilynching bills only propose punishment in the case of a prisoner under lawful arrest. Mr. President, an enlightened public already has rendered such a law virtually unnecessary even if it were not unwise in its scope.

One of the other civil-rights measures deserves some passing attention. That is the bill for creation of a Fair Employment Practices Commission.

This, to me, is the least meritorious proposal in the whole civil-rights program. To my way of thinking, it is this simple: If the Federal Government can by law tell me whom I shall employ, it can likewise tell my prospective employees for whom they must work. If the law can compel me to employ a Negro, it can compel that Negro to work for me. It might even tell him how long and how hard he would have to work. As I see it, such a law would do nothing more than enslave a minority.

Such a law would necessitate a system of Federal police officers such as we have never before seen. It would require the policing of every business institution, every transaction made between an employer and employee, and, virtually, every hour of an employer's and employee's association while at work.

I do not think the proposed law is workable, Mr. President. I am convinced it would do everything but what its sponsors intend. I feel certain it would reverse our entire historical trend of progress. It would do nothing more than resurrect ghosts of another day to haunt us again. It would incite and inflame the passions and prejudices of a people to the extent that the chasm of our differences would be irreparably widened and deepened.

I can only hope sincerely that the Senate will never be called upon to entertain seriously any such proposal again.

Those are my feelings, Mr. President. I pray that they will not seem either unreasonable or narrowly prejudiced.

For those who would keep any group in our Nation in bondage, I have no sympathy or tolerance. Some may feel moved to deny this group or that the homes, the education, the employment which every American has a right to expect, but I am not one of those. My faith in my fellow man is too great to permit me to waste away my lifetime burning with hatred against any group. I believe, and I believe sincerely, that we have a system of representative government which is strong enough, flexible enough, and fair enough to permit all groups to work together toward a better life.

I believe, Mr. President, that we can find the fair and permanent answers to our problems of housing, education, medical care, income—and all the other domestic issues—without reducing government to an absurdity by attempting to police the most intimate thoughts of our populace. I do not concede to Federal law an obligation which I think rightfully belongs to education, and which education alone can discharge. These advances must come and will only come as an outgrowth of conviction, not by compulsion.

Mr. President, we in the Senate should learn the facts of life. We cannot legislate love. We can, and as a nation we do, work together. We have done that in the past. We are doing it today. It is my conviction, though, that the opportunity for unlimited debate—somewhere within the framework of our Government—will be a greater aid to unity and cooperation and justice than any of the laws presented to us in the civil rights program.

I realize, Mr. President, that it is easy for a young man to say, "We're going to roll up our sleeves and remake the world." I know the temptation is great for young men to assume that speed and progress are one and the same thing; that if you move rapidly, you move forward.

No nation, though, can long survive if its lawmakers legislate only from day to day. Somewhere within the fabric of our actions we must weave the sturdy fibers of our past, lest what we do in haste today unravel tomorrow. Read the history of our Nation, the history of American democracy, and I think it seems clearly evident that few things have contributed more to our solidarity, to our emerging maturity, or to our stature as citizens of the world than the debates conducted here in the Senate Chamber. Debate here has been, perhaps, the sturdiest fiber of our design for more representative government.

That is as it should be, Mr. President, and as it must be. As nations go we are young.

both in terms of physical existence and in concepts of what we want to do. From the start we have had to proceed without signposts to guide us. Our concept of government has been an experiment, and it remains so today. We have nothing but our own reason to guide us; there are no precedents, no past examples to steer us easily through the shoals of international leadership where we find ourselves today.

Our predecessors here—the great names of American political history—were keenly aware of the responsibilities resting upon their decisions. They made no effort to dismiss their duties in great haste. They weighed a man's convictions, not by the clock, but, rather, by what he had to say.

Read through the transcripts of the Senate's proceedings when giants like Webster, Calhoun, and Clay stood here. No official record was kept of the length of time they spoke, as measured in hours and minutes; but we find, if we look, that a speech by Webster, back in 1830, filled 30 pages of the Journal; John C. Calhoun's last speech on slavery in 1850 was 22 pages long; Henry Clay, speaking on the compromise of 1850, expressed his firm convictions for 26 pages. Perhaps styles of oratory have changed since those men were here. Perhaps none of us have that much to say. But, Mr. President, styles do not change in freedoms; and the inability or unwillingness of men to utilize their freedom does not justify taking of it from them.

The freedoms we enjoy today are not freedoms of our own making. Through all the long history of civilizations preceding ours, mankind's highest aspiration has been for greater freedom. It was not until this Union of States was formed a little more than a century and a half ago that freedom found a sanctuary. I do not propose to tear down that sanctuary now, in the name of haste, because I believe the freedom to speak—the freedom of unlimited debate somewhere in our lawmaking process—is the keystone of all other freedoms.

Look back at the governments of history. The senior Senator from Texas, Mr. Connally, a few days ago very appropriately referred to debates in the Roman Forum. Rome enjoyed its greatest progress, its greatest era of achievement during the days when great orators could stand in the forum and speak with freedom. When, in irritation, the Caesars and their partisans removed that freedom, Rome began fading as an influence in the world; and the way was paved for a long succession of arbitrary monarchs and dictators. The right of unlimited debate in the Senate of France was lost in 1814, a victim of cloture—and there followed a century, and longer, of internal confusion and strife. In England, the House of Commons gave up its right to unlimited debate in 1888. That nation has produced some great Prime Ministers since—men who had the privilege, as well as the talent, to speak thoroughly and forcefully, but it would be difficult for any Member of the Senate to name any lengthy list of members of Parliament who have inspired their countrymen with arguments advanced on the floor of the House of Commons since 1888.

I am no historian, but as I have studied the history of governments gone before us, I have been impressed by the fact that the freedom of unlimited debate in legislative chambers has been given up many times by members themselves who were irritated or frustrated by a minority. But so far as I have found, once that freedom was yielded, it has never been returned. If we now give up this freedom in the Senate, I, for one, do not expect to live to see its return. For that reason, I cannot and I will not join hands with those who seek to throw this freedom out the window now.

As the distinguished senior Senator from Georgia [Mr. George] said the other day, this effort to cut off unlimited debate is a whittling process, whittling at the essential freedoms of our mind. I should like to point out here to the writers with their wrathful pens, to the commentators with their caustic voices, to the cartoonists with their derisive skills, and all who join the throng to keep alive the cries against unlimited debate that we here in the Senate of the United States cherish our freedom of expression as they cherish theirs. But for the grace of God and the U.S. Senate we might today be debating the limitation of their freedom to speak or that of the press, rather than our own.

If, Mr. President, I were given a choice, if I should have the opportunity to send into the countries behind the Iron Curtain one freedom and only one, I know what my choice would be. I would send to those lands the very freedom we are attempting to disown here in the Senate. I would send to those nations the right of unlimited debate in their legislative chambers. It would go as merely a seed, but the harvest would be bountiful; for by planting in their system this bit of freedom we would see all freedoms grow, as they have never grown before on the soils of eastern Europe.

This freedom we debate, Mr. President, is fundamental and indispensable. It stands as the fountainhead of all our freedoms. If we now, in haste and irritation, shut off this freedom, we shall be cutting off the most vital safeguard which minorities possess against the tyranny of momentary majorities. I do not want my name listed as one of those who took this freedom away from the world when the world most needed it.

The ACTING PRESIDENT pro tempore. The time of the Senator from Illinois has expired. All time has expired.

One hour having elapsed since the convening of the Senate today, the Chair, under the rule, lays before the Senate the pending cloture motion, and directs the Secretary to call the roll, to ascertain the presence of a quorum.

The Sergeant at Arms is directed to enforce the provisions of rule XXXIII, which provides for those who have the privilege of the floor. The Sergeant at Arms is admonished that clerks to the Senate and clerks to Senators and to committees are allowed the privilege of the floor only when they are in the actual discharge of their duties. All those who have not the privilege of the floor under rule XXXIII will immediately leave the Chamber. The Sergeant at Arms is directed to carry out the order of the Chair.

The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 280 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Engle
Ervin
Fong
Fulbright
Goldwater
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The ACTING PRESIDENT pro tempore. A quorum is present.

The Sergeant at Arms is admonished that the only persons who may remain in the Chamber are those who have the privilege of the floor. Again, the Chair calls attention to the rule that clerks and members of the staffs of committees and Senators are allowed on the floor only to assist Senators in the actual discharge of their official duties.

The Senate is now approaching a vote. The present occupant of the Chair does not see how clerks and members of the staff can come under the rule of the privilege of the floor.

A quorum being present, the Chair submits to the Senate, without debate, the question: Is it the sense of the Senate that the debate shall be brought to a close?

The yeas and nays are required by the rule; and the Secretary will call the roll.

The Chief Clerk called the roll.

The yeas and nays resulted—yeas 71, nays 29, as follows:

[No. 281 Leg.]

YEAS—71

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Engle
Fong
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, Ohio

NAYS—29

Bennett
Bible
Byrd, Va.
Byrd, W. Va.
Eastland
Ellender
Ervin
Fulbright
Goldwater
Gore
Hayden
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Robertson
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters
Young, N. Dak.

The ACTING PRESIDENT pro tempore. Two-thirds of the Senators present having voted in the affirmative, the motion is agreed to.

The question now is on agreeing to amendments No. 577, proposed by the Senator from Louisiana [Mr. LONG], to amendments No. 513, proposed by the Senator from Georgia [Mr. TALMADGE], relating to jury trials in criminal contempt cases.

Mr. RUSSELL. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Georgia will state it.

Mr. RUSSELL. Did the Senator from Illinois offer the leadership "package" proposal?

The ACTING PRESIDENT pro tempore. The Senator from Illinois sent forward the amendment, to lie on the table and be printed.

Mr. RUSSELL. That amendment cannot be proposed so long as the Long amendment is pending to the original bill, can it?

The ACTING PRESIDENT pro tempore. Not so long as any perfecting amendment to the Talmadge amendment is pending.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that I may withdraw my amendment to the Talmadge amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question now is on agreeing to the Mansfield-Dirksen substitute for the jury-trial amendment.

AMENDMENT NO. 798

Mr. ERVIN. Mr. President, I call up my amendment No. 798, which is a perfecting amendment to the Talmadge amendment.

The ACTING PRESIDENT pro tempore. The amendment to the amendment will be stated.

The CHIEF CLERK. In amendment No. 513, on page 4, it is proposed to insert a new section between line 7 and 8, reading as follows:

> SEC. 1104. No person should be put twice in jeopardy for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime based upon the same act or omission.

Mr. HUMPHREY. Mr. President, will the Senator from North Carolina yield, to permit me to propound a parliamentary inquiry?

Mr. ERVIN. Yes, with the understanding that the time required for the inquiry will not be taken out of the 60 minutes available to me.

Mr. HUMPHREY. Yes, indeed.

Mr. President, I rise to a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota will state it.

Mr. HUMPHREY. Is it not a fact that the yeas and nays have been ordered on the question of agreeing to the so-called Dirksen-Mansfield jury trial amendment?

The ACTING PRESIDENT pro tempore. The Chair is so informed.

Mr. HUMPHREY. In view of the action taken yesterday on the Morton amendment and in view of the fact that the Morton amendment has now been incorporated into the leadership "package" substitute, would not it be proper that we ask unanimous consent to vacate the order for the yeas and nays and also to withdraw the Dirksen-Mansfield amendment?

The ACTING PRESIDENT pro tempore. That may be done.

Mr. HUMPHREY. Mr. President, will the Senator from North Carolina yield, for that purpose?

Mr. ERVIN. Yes, with the understanding that any time required for that purpose will not come out of my 60 minutes.

Mr. HUMPHREY. Then, Mr. President, in order to clarify the parliamentary situation, I now ask unanimous consent that the Dirksen-Mansfield jury trial amendment, on which the yeas and nays have been ordered, be withdrawn, and that the order for the yeas and nays on the question of agreeing to that amendment be vacated.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object——

Mr. MANSFIELD. Mr. President, we are now proceeding under the time limitation, of course.

The ACTING PRESIDENT pro tempore. Yes. Every Senator will be speaking in his limited time.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. Mr. President, I think it is most unfortunate that we are denied reasonable opportunity to have debate on the bill and on the substitute. However, the Senator from Minnesota has made a commitment, and he is floor manager of the bill. I am not happy about the commitment, but I shall abide by it.

I think the distinguished Senator feels, as I do, that the other body will not accept this amendment. It did not accept it before. This is not a shibboleth for us or something whereby we shall be absolutely shipwrecked, of course. What action may be taken by the other body is something we cannot tell at this time. In short, it will be a provisional bill. We cannot get away from that. The Senator is committed; but at the same time, we shall be handicapped. In order to get a bill under consideration, we must make some compromise on this provision. So we must be openminded about it.

Mr. HUMPHREY. I can only speak for the Senator from Minnesota. We are honorbound by the commitment. What happens in the future must be determined by the two Houses of Congress, but I have made a commitment and I intend to stand by it.

Mr. JAVITS. And I will support the Senator in it.

Mr. MILLER. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. MILLER. Mr. President, I yield myself 30 seconds.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized for 30 seconds.

Mr. MILLER. Mr. President, I want to ask the Senator from Minnesota when this amendment was incorporated in the substitute?

Mr. HUMPHREY. This morning, at the desk.

Mr. MILLER. Was that done as a perfecting modification?

Mr. HUMPHREY. It was a new substitute proposal which displaces the one that had previously been entered. The only change is the modification.

Mr. MILLER. Mr. President, a parliamentary inquiry.

Mr. HUMPHREY. On the Senator's own time, please.

Mr. MILLER. Yes.

Is the modification with respect to the jury trial provision of the bill subject to amendment now?

The ACTING PRESIDENT pro tempore. The substitute may be offered at the proper time, and then any part of the substitute will be open to amendment.

Mr. MILLER. Including the jury trial provision?

The ACTING PRESIDENT pro tempore. Yes, including the jury trial provisions. Is there objection? The Chair hears none; and the amendment is withdrawn.

The question is on agreeing to the amendment offered by the Senator from North Carolina [Mr. ERVIN].

Mr. ERVIN. Mr. President, I yield myself 3 minutes of my 60 minutes.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized for 3 minutes.

Mr. ERVIN. Mr. President, yesterday, when the Senate adopted the Morton amendment, it wiped out one of the disgraces and inequities of the Federal law with respect to criminal contempt.

I ask that another of these inequities and injustices now be wiped out. This amendment does not affect the power of a court to punish a man for civil contempt to enforce a judgment. This amendment applies only to criminal contempts and crimes.

Under existing Federal law, a person can be put three times in jeopardy for an act or omission constituting a criminal contempt if such act or omission also constitutes a crime.

First, he can be punished for civil contempt.

Second, he can be punished in the way a criminal is punished for the criminal contempt.

Third, he can be punished for the crime.

I am proposing to wipe out a part of this three-branched jeopardy.

I reiterate that this amendment does not affect the power of the court in civil contempt proceedings to enforce its judgments. It merely provides that an acquittal or conviction in a proceeding for criminal contempt arising under the provisions of the bill shall bar a subsequent prosecution for a crime based on the same act or omission; and that an acquittal or conviction in a prosecution for a specific crime shall bar a subsequent proceeding for a criminal contempt arising under the provisions of the bill out of the same act or omission. This is a just provision and it brings the law as to criminal contempts and as to crimes into harmony with the constitutional provision that no man shall be twice put in jeopardy for the same offense.

Mr. MANSFIELD. Mr. President, I yield myself 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized for 1 minute.

Mr. DIRKSEN. Will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. DIRKSEN. Mr. President, I wish to ask the distinguished majority leader about the procedure, now that we are operating under cloture.

Mr. MANSFIELD. In response to the question raised by the Senator from Illinois, let me say I think it would be advisable for Senators to remain in the Chamber from now on. We are operating under the 1-hour allowance per Senator, or the 100-hour rule, following cloture. There may be votes at any time.

It is anticipated that the Senate will continue to convene at 10 o'clock in the morning, including Saturdays, and will stay in session until a reasonable hour at night, say 8 o'clock or 9 or, if need be, a little later.

So I think it would be advisable for Senators to remain on the floor as much as they possibly can, from now on.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from North Carolina [Mr. ERVIN].

Mr. ERVIN. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. On the question of agreeing to the amendment of the Senator from North Carolina [Mr. ERVIN] the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Wyoming [Mr. McGEE], and the Senator from Wisconsin [Mr. NELSON] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE] would vote "nay."

The yeas and nays resulted—yeas 49, nays 48, as follows:

[No. 282 Leg.]

YEAS—49

Bennett
Bible
Byrd, Va.
Byrd, W. Va.
Cannon
Cooper
Cotton
Curtis
Eastland
Edmondson
Ellender
Ervin
Fulbright
Goldwater
Gore
Hayden
Hickenlooper
Hill
Holland
Hruska
Jackson
Johnston
Jordan, N.C.
Jordan, Idaho
Lausche
Long, Mo.
Long, La.
McClellan
Mechem
Monroney
Morton
Mundt
Pastore
Pell
Proxmire
Robertson
Russell
Simpson
Smathers
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, Del.
Yarborough
Young, N. Dak.

NAYS—48

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Boggs
Brewster
Burdick
Carlson
Case
Church
Clark
Dirksen
Dodd
Dominick
Douglas
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Javits
Keating
Kennedy
Kuchel
Magnuson
Mansfield
McCarthy
McGovern
McIntyre
McNamara
Metcalf
Miller
Morse
Moss
Muskie
Neuberger
Pearson
Prouty
Randolph
Ribicoff
Saltonstall
Scott
Smith
Williams, N.J.
Young, Ohio

NOT VOTING—3

Engle
McGee
Nelson

The ACTING PRESIDENT pro tempore. The Chair is informed by the clerk that the yeas are 47, the nays are 48; and the amendment is rejected.

Mr. MANSFIELD subsequently said: Mr. President, things are becoming somewhat hectic this morning. I would hope that we would all work together to try to clarify the atmosphere, at least to a degree.

It is my understanding that the yea-and-nay vote on the Ervin amendment was incorrectly announced. Will the Chair either confirm or deny that statement?

The ACTING PRESIDENT pro tempore. The Chair was informed that the vote on the Ervin amendment was 47 yeas and 48 nays, and that the amendment was not agreed to. The Chair is now informed by the clerk that, on recalculation, the vote is 49 yeas and 48 nays. So the amendment is agreed to. It is so ordered.

Mr. RUSSELL. I am glad that the clerk at least admitted his error.

Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. RUSSELL. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The question is now on agreeing to the Talmadge amendment.

The Senator will suspend until there is order. The Senate is not in order. The Senator from Georgia seeks recognition.

Mr. RUSSELL. Mr. President, I desire to propose an amendment to the substitute, but I understand that is not in order at this time.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. RUSSELL. Mr. President, I suppose, then, that under the circumstances the only way out of this predicament is to proceed to vote on the Talmadge amendment. On this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll, to ascertain the presence of a quorum.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the roll, for a quorum, be rescinded.

Mr. RUSSELL. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard. The call of the roll will continue.

The rollcall was resumed and concluded; and the following Senators answered to their names:

[No. 283 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Goldwater
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The ACTING PRESIDENT pro tempore. A quorum is present.

Mr. MANSFIELD. Mr. President, I call up the Dirksen substitute.

The ACTING PRESIDENT pro tempore. That is amendment No. 656, as modified by the amendment offered by the minority leader.

Mr. RUSSELL. A point of order, Mr. President. That amendment is not in order.

The ACTING PRESIDENT pro tempore. The Chair is informed by the clerk that it is amendment No. 1052, which is a substitute offered this morning by the minority leader.

Mr. RUSSELL. Mr. President, I call up amendment No. 944.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 14, after line 23, it is proposed to insert the following new section:

SEC. 208. This title shall take effect on November 15, 1965.

Mr. RUSSELL. Mr. President, the result of the vote on the last amendment shows the futility of appealing to any sense of fairness on the part of the Senate. The spirit of the mob has indeed taken over the Senate, when this body will vote down a simple amendment to preserve the rule of protecting a citizen of the United States, even if he be a despised southerner, from being put in jeopardy twice for the same offense.

Mr. President, we are confronted with the spirit of not only the mob but of a lynch mob in the Senate of the United States. Senators are paying no attention to what they are doing. They are voting to destroy one of the oldest assets of our Anglo-Saxon system of jurisprudence, in voting to put a man in jeopardy twice for the identical same state of facts.

So I say there is no need for us to expect any fairness. But we shall propose these amendments, and we have enough votes to order the yeas and nays. The Senate can proceed to vote them down.

The amendment that I have proposed applies to title II of the bill the same theory that is applied to title VII, the fair employment practice provision, which would not take effect until 1 year after the bill is enacted. This amendment undertakes to extend to November 15, 1965, the effect of title II of this bill. The bill now is so drawn as to protect States that have some form of public accommodation laws; this amendment seeks to give the States that do not have such laws an opportunity to study this question and decide whether they want to enact public accommodation laws and thereby avail themselves of the benefit of the breastworks that have been thrown up around the 32 States that already have laws on this subject.

It is an amendment that in normal circumstances would appeal to the innate sense of fairness of any man, because it merely extends to these States an opportunity that is extended to all States in title VII. It would extend to the States that do not now have public accommodation laws the opportunity to consider whether or not it is desirable for them to pass such laws and thereby achieve the beneficial results of the so-called Dirksen amendment.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. COOPER. Mr. President, I wish to join the Senator from Georgia in his statement about attention to amendments. It is going to be terribly difficult to hear the explanation of the amendments which will come quickly. I hope that the Presiding Officer will keep order and ask all Senators to remain in the Chamber and in their seats. Even though we have voted cloture we have the right and duty to consider each amendment on its merits.

The Senator was correct when he said, a few minutes ago, that we should have adopted the amendment which was offered by the Senator from North Carolina. The Senator from North Carolina's amendment would have sustained the principle of protecting a person from being placed in double jeopardy. The constitutional protection against double jeopardy might not apply otherwise, for criminal contempt has not been considered a crime. It was difficult to hear the Senator's explanation and the amendment was acted upon in haste. We need to hear and consider the amendments which will be offered to the bill in rapid succession.

Mr. HUMPHREY. Mr. President, had the amendment been adopted, it would have been to the Talmadge amendment, and the Talmadge amendment would have been to the bill; but the Talmadge amendment would have been withdrawn.

Mr. President, the Constitution does not permit double jeopardy, and I think we knew what we were doing.

Mr. ERVIN. Will the Senator yield for a question?

Mr. HUMPHREY. I yield.

Mr. ERVIN. Does not the Senator from Minnesota know that the Supreme Court of the United States has held in several cases that the double jeopardy clause of the Constitution does not apply to proceedings for criminal contempt, and that in consequence of those decisions the accused can be tried and punished twice, once for criminal contempt and a second time for crime in those cases in which the same act or omission constitutes both a criminal contempt and a crime?

Mr. HUMPHREY. I understand that, but criminal contempt is a proposition entirely different from what are called ordinary crimes. Punishment for criminal contempt is a court order enforcement. While I am not a lawyer, I know that.

Mr. President, the Constitution of the United States gives ample protection. The amendment of the Senator from Georgia would merely delay the effective date of the title until November 1965. It seems to me that if equal access to public accommodations is within the Constitution, the title should be operative when the bill is passed. I hope the Senate will reject the amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 o'clock this afternoon.

Mr. RUSSELL. Mr. President, may not we have a vote on this amendment?

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Georgia. The yeas and nays have been ordered.

Mr. DIRKSEN. Mr. President, I seek recognition, to speak for 1 minute.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Illinois.

Mr. DIRKSEN. Mr. President, I hope Senators are aware of the amendment on which we shall vote. It postpones the effective date of title II until November, 1965. That will be, roughly, 16 or 17 months away.

Mr. RUSSELL. The Senate extended the effective date of the FEPC title until 1 year after the enactment of the bill.

Mr. MANSFIELD. Mr. President, I understand that the Senate is ready to vote on the proposal offered by the distinguished Senator from Georgia.

The ACTING PRESIDENT pro tempore. Unless some Senator is seeking recognition.

Mr. MANSFIELD. Mr. President, I ask that the vote be taken, and that at the conclusion of the vote, the Senate stand in recess until 1 o'clock.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Georgia [Mr. Russell]. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from California [Mr. Engle], is absent because of illness.

I further announce that, if present and voting the Senator from California [Mr. Engle], would vote "nay."

The result was announced—yeas 40, nays 59, as follows:

[No. 284 Leg.]

YEAS—40

Bennett
Bible
Byrd, Va.
Byrd, W. Va.
Cannon
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Fulbright
Goldwater
Gore
Hayden
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Jordan, Idaho
Long, La.
McClellan
McIntyre
Mechem
Morton
Robertson
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters
Williams, Del.
Yarborough
Young, N. Dak.

NAYS—59

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Boggs
Brewster
Burdick
Carlson
Case
Church
Clark
Cooper
Dirksen
Dodd
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, Ohio

NOT VOTING—1

Engle

So Mr. Russell's amendment was rejected.

Mr. DIRKSEN. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HUMPHREY. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

RECESS TO 3 P.M.

Mr. MANSFIELD. Mr. President, I modify my previous unanimous-consent request, and ask that a recess be taken until 3 o'clock this afternoon so as to give us a chance to regroup, rethink, and recollect.

Mr. HUMPHREY. And also to refresh.

Mr. MANSFIELD. Yes.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, at 12 o'clock and 14 minutes p.m., the Senate took a recess to 3 o'clock p.m.

At 3 o'clock p.m., the Senate reassembled, and was called to order by the Presiding Officer (Mr. Nelson in the chair).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 285 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Goldwater
Gore

Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The **PRESIDING OFFICER.** A quorum is present.

Mr. MANSFIELD. Mr. President, I yield myself 1 minute.

I talked some things over with the minority leader, but I have forgotten one or two. I will, however, recite what I remember.

First, we would like the reading clerks to be the timekeepers, because we feel that the Parliamentarian has to be ready to answer parliamentary questions and inquiries. It is too much of a burden on him to keep time, also.

Second, the 20-minute allowance for quorum calls will no longer be in effect.

The **PRESIDING OFFICER.** The Dirksen amendment is open to amendment.

Mr. GORE obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. GORE. I yield, but not on my time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that despite rule XXII, two reading clerks be allowed to keep the time.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. GORE. Mr. President, I yield to the Senator from Nebraska.

The **PRESIDING OFFICER.** The Senator may not yield time.

Mr. HRUSKA. I will use my own time. My parliamentary inquiry is this, Mr. President: When quorums are called for, is any time charged, and to whom is the time for the quorum calls charged?

The **PRESIDING OFFICER.** The Parliamentarian informs the Chair that unless some Senator makes a point of order, the time will not be charged against the Senator holding the floor.

Mr. HRUSKA. Mr. President, what is this point of order? After all, cloture as I understand it, is a limitation on debate; and after cloture is adopted, all time used is charged against the Senator having the floor. When a quorum is being called, no Senator is speaking.

I do not know what point of order the Chair refers to when he says the charging of the time used for that purpose is dependent on the making of a point of order.

The **PRESIDING OFFICER.** The time does not run against the speaker unless some Senator makes a point of order.

Mr. RUSSELL. Mr. President, I wish to serve notice that an appeal will be made the first time that ruling is invoked. The order for a quorum is one constitutional rule that is not bound up in rule XXII. The right of the Senator to ascertain a quorum is not in anywise involved in rule XXII.

Mr. HRUSKA. May I ask the Chair what is the basis of the point of order that will be made under those circumstances and under what rule?

The **PRESIDING OFFICER.** Whatever the basis of the point of order might be, the point of order would be made by the Senator who makes it at the time he makes it.

Mr. GORE. Will the Chair speak louder?

Mr. HRUSKA. Mr. President, I submit that the question has not been answered. The point of order is named by the Parliamentarian and is used as the basis by the Presiding Officer for saying that something can be done. So what is the conceivable basis for the point of order which might be raised, and under what rule would it be raised?

The **PRESIDING OFFICER.** It is the Senator who makes the point of order.

Mr. HRUSKA. He does, indeed; and the Chair has just said that a point of order would lie against this proceeding. On what basis would a point of order be raised? It is the Presiding Officer who has raised this point of order. I would like to have some idea what it is.

The **PRESIDING OFFICER.** The Parliamentarian advises the Chair that if a Senator makes a point of order, he assigns reasons for the point of order; and the decision will be made at the time when he raises the point of order.

Mr. HRUSKA. I join the Senator from Georgia in saying that if there is an appeal from the ruling of the Chair, it will be resisted.

The **PRESIDING OFFICER.** The Chair will rule when the issue arises.

Mr. GORE. Mr. President, I call up my amendment to strike title VI from the bill.

Mr. HUMPHREY. Mr. President, may we have order in the Chamber?

Mr. GORE. I call up my amendment No. 832.

Mr. HUMPHREY. Mr. President, may we have order in the Chamber?

Mr. GORE. Mr. President, a parliamentary inquiry.

The **PRESIDING OFFICER.** The Senator will state it.

Mr. GORE. Should the amendment be offered to the original bill, or to the Mansfield-Dirksen substitute?

The **PRESIDING OFFICER.** The Senator may offer it to either. The substitute is before the Senate.

Mr. GORE. I send to the desk amendment No. 832, and ask that it be stated.

The **PRESIDING OFFICER.** The amendment will be read.

The LEGISLATIVE CLERK. In the Dirksen substitute, on page 32, beginning with line 21, it is proposed to strike out all through line 9, on page 35 (title VI), and to renumber the succeeding titles and sections of the bill.

Mr. GORE. Mr. President, I request order.

The **PRESIDING OFFICER.** The clerks are instructed not to charge time to the speaker until there is order in the Senate.

The Senate will be in order.

Mr. GORE. Mr. President, under the strictures of cloture, all of us must try to preserve our time on this historic occasion. I yield myself 10 minutes, and ask that I be notified when I have used 10 minutes.

The **PRESIDING OFFICER.** The Senator from Tennessee may proceed.

Mr. GORE. Mr. President, a basic question is involved in the provisions of title VI. This is not the first time the Senate has faced this basic question. In fact, upon many occasions during the last 10 years, in both Houses of Congress, amendments have been offered for the purpose of cutting off Federal aid to various programs, in the event certain civil rights requirements were not met. Upon each and every occasion, the Congress has refused to approve the amendments, when offered to specific programs and activities.

Title VI provides both authority and direction. Federal agencies are "authorized and directed" to proceed with the preparation of rules and regulations for the termination of Federal aid which provides Federal financial assistance. All such Federal programs are involved. I asked the Library of Congress for a list of programs which provide Federal financial assistance. A partial list provided by the Library will be found in the CONGRESSIONAL RECORD of yesterday. The experts of the Legislative Reference Service were unable to provide what the Library felt qualified to describe as a complete list. Such programs are numerous. Federal aid has so permeated our national life that there is hardly a segment of our economy or society that is not affected by Federal aid. Ships sail the high seas with the help of a Federal aid program. Homes are built, mortgages insured, farm-to-market roads are constructed, as are airports—I will not undertake to name them all—but all of these programs would, in practical effect, be amended by title VI.

I wish to acknowledge that the substitute bill provides some improvement over the language of the original bill, insofar as clarity is concerned. I addressed the Senate earlier and pointed out that the original bill authorized discretionary procedures because the word "may" was used in section 602. Insofar as clarification is concerned, the Dirksen substitute is an improvement, because it uses the words "authorized and directed." So the bill is improved as to clarity of procedure, but, at the same time its application is made more mandatory.

I wish to acknowledge further, in all fairness, that there are certain safeguards as to procedure and time which would apply to many of the programs. It will be found, however, that these so-called safeguards relate only to procedure.

It is correct that, before funds can be cut off to a State or to a county, the proposal must lie before a congressional committee 30 days. What can Congress effectively do in 30 days under such circumstances? No power of veto is given, even by way of concurrent resolution. Congress would be required to act affirmatively by enacting a law, perhaps over Presidential veto, on a question involving civil rights in 30 days in order to stop the proposed action. The so-called safeguards, however effective the proponents of the bill may intend them to be—and I think they would be of some benefit—nevertheless relate only to procedure and time. The ultimate authority would be vested by this bill in the Federal Government to cut off funds arbitrarily and coldly, or in any other manner.

Mr. President, I think it is the responsibility of the legislative branch of Government to prescribe the conditions under which Federal aid is extended. If we surrender this responsibility to the Executive, then we will be surrendering power that may be more important than if Congress granted the Executive the power of an item veto over appropriations. We will have delegated to the Executive an important part of the legislative function and we will have seriously limited a source of legislative power, control over the purse strings. In my opinion, Mr. President, this would be an unwise act by the Congress.

In a colloquy between the distinguished senior Senator from Connecticut and me last night, he acknowledged what I believe to be correct—there is no disagreement between us as to the facts—that in those programs such as aid to vocational agriculture which provides Federal aid to help pay salaries of teachers in every high school in Arkansas, Virginia, Vermont, and all over the country, the contract is between the Federal Government and the State government. There is no way that the Federal Government can reach Smith County, Tenn., with respect to this type of Federal aid except through the State.

In section 602, the key word is "recipient." Who is the recipient of Federal aid funds? In many of our Federal aid programs, the State is the recipient. This is true of our farm-to-market road program. This is true of many other programs.

It is not true as to all programs. For instance, in the program authorizing Federal aid to impacted school districts, the contractual relationship is directly between the Federal Government and the impacted school district involved. Here there would be no question of cutting off aid to a whole State because one county "recipient" was alleged to have practiced discrimination.

I wish to refer, by way of illustration to one Federal agency, the TVA, which makes payments to communities in seven States in lieu of taxes. This bill would authorize and direct this Federal agency to proceed to promulgate rules and regulations for the withholding of aid to any State or any county in which what someone defines as discrimination is practiced. What is discrimination? This would be left for the Federal official to determine. When will an agency cut off aid? This would be left to the executive branch to determine pursuant to rules and regulations. We do not make these determinations in this bill. If so much as one rural school in a county is still on a segregated basis, then there is segregation in that county.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GORE. I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 5 more minutes.

Mr. GORE. In my view, the power conferred in this bill could be used oppressively. If an administration is inclined so to use it, title VI could be a sledge hammer provision. Federal aid permeates our whole system. We have already had an example in the State of Louisiana when aid was ordered cut off to the entire State.

Fortunately, the Senator from Connecticut [Mr. Ribicoff] became Secretary of Health, Education, and Welfare and stayed the order. Had he not done so, the legislature not reconvening for a year, old people and dependent children would have suffered—children who had no control over the alleged failure of State officials to comply with Federal requirements.

This is a hardhearted, cold policy. It punishes innocent people for the commission of alleged wrongs over which they have no control. This is a power that the legislative branch should not vest in the executive branch without knowing just how and under what conditions it would be applied. If we wish to do this, let us take the programs up one by one. If we want to provide the conditions under which Federal aid will be cut off to the vocational agricultural teachers, and the home economics teachers, let us take the programs up and prescribe those conditions by law.

My interpretation of section 601 in title VI is that it is sufficiently broad to give statutory authority for the issuance of an open housing order affecting the entire United States. If one does not think the language is that broad, please turn to the section and read it. I shall read it.

On page 32, line 25, it reads: "or be subjected to discrimination under any program or activity receiving Federal financial assistance."

In section 602, we find the means of implementing section 601 for those programs which are described in section 602. But if we read carefully beginning line 5 of page 33 of the Dirksen substitute, we find that there is exempted from section 602 programs involving contracts of insurance or guarantee.

Mr. President, that language means that the provisions of section 602 do not apply to contracts of insurance or guarantee. It would logically follow, then, that section 601 is not modified by section 602 with respect to programs involving contracts of insurance or guarantee. If that be true, as I believe to be the case, then section 601 confers statutory authority for the issuance of an order which would affect the right of a veteran to sell his home if he has a GI home loan. It would affect the right of a man and his wife either to rent or to sell a house on which the FHA has insured a mortgage. And such an order would not be subject to the so-called safeguard provisions of section 602.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GORE. Mr. President, I yield myself 2 additional minutes; and I yield to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Tennessee may not yield from his time to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I yield myself 10 minutes. Whatever time is needed in the colloquy with the distinguished Senator from Tennessee should be charged to me.

Mr. MORSE. Mr. President, a point of order.

Mr. GORE. Mr. President, I did not understand.

Mr. RIBICOFF. Mr. President, a parliamentary inquiry.

Mr. GORE. Mr. President, if I cannot yield, I cannot. I will proceed for 1 additional minute, and then will yield the floor.

Mr. RIBICOFF. Mr. President, a parliamentary inquiry.

Mr. GORE. Mr. President, I do not yield the floor for a parliamentary inquiry. The time would come out of my time. I am sorry.

The Senator has been very helpful, and I am grateful to him. But we are under a stricture, in that I have only 1 hour on this whole historic bill.

Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 1 more minute.

Mr. GORE. I ask the Senators to read title VI. Read section 601 and determine whether or not it is sufficiently broad to cover anything and everything—any program providing Federal financial assistance. What is financial assistance? It is a guarantee of a mortgage, as well as a loan itself, or a grant of assistance. Financial assistance can take many forms—contributions, loans, guarantees, warranties, insurance.

Then, read section 601 and one will see that the section——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RIBICOFF. Mr. President——

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. RIBICOFF. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 10 minutes.

Mr. RIBICOFF. First, let me say that last night—as shown beginning at page 13125 of the Congressional Record—the Senator from Tennessee and I entered into a colloquy on title VI. I recognize, and so does the Senator from Tennessee, that there has been much confusion concerning title VI.

It is my feeling that the colloquy which was had between the Senator from Tennessee and myself, as shown in the Record, should have effect on the executive branch as to how to interpret title VI.

The Senator from Tennessee mentioned the incident in Louisiana which took place in the beginning of 1961. The fact that it was within the power of the Federal Government to cut off aid to Louisiana in the ADC program indicates the basic power to cut off funds where discrimination is involved, whether title VI is enacted or is not enacted.

The junior Senator from Louisiana [Mr. LONG], who is in the Chamber at the present time, may recall his intervening with me while I was Secretary, in an effort to have me take care of some 80,000 children involved in this cutoff.

Last night, I pointed out to the Senator from Tennessee that it is not our intention in title 6 to be punitive. It is not our intention with title 6 to come in with a sledge hammer blow and to rush to cut off funds because there is discrimination.

The entire approach of title 6 in the civil rights bill that we are about to pass is directed to ending the discrimination, rather than to cutting off funds. The fund cutoff is the last step, not the first step.

Basically, there is a constitutional restriction against discrimination in the use of Federal funds; and title VI simply spells out the procedure to be used in enforcing that restriction.

Because of the position of the Senator from Tennessee and the points he has consistently raised since this bill first was brought to the Senate, I believe he was most influential and persuasive in causing the Senator from Illinois [Mr. DIRKSEN] and the Senator from Montana [Mr. MANSFIELD] to incorporate some of his suggestions in the revised Dirksen-Mansfield proposal.

On page 33, in section 602, beginning on line 19, Senators will notice this language:

> But such termination or refusal shall be limited to the particular political entity or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

Let me give an example of how this will work, and why the fear of the Senator from Tennessee is unfounded.

Let us assume that in a State of 100 counties, 99 of them are in compliance, and 1 county is discriminating in connection with a program which receives Federal assistance. Let us say, for the sake of simplicity, that each of those counties receives $1,000 from the Federal Government, and receives $1,000 in matching funds from the State government.

Under those circumstances, if one county discriminates, even though the entire $100,000 goes from the Federal Government into the State treasury, to be distributed, the Federal Government then gives $99,000 to the State government, but the State government cannot pass on any of that $99,000 to the county that is discriminating. Therefore, the great fear that has been in the mind of the Senator from Tennessee—namely, that innocent counties or innocent segments of the State would be hurt—will not apply, because only the one county that discriminates would be cut off from the Federal funds.

The Senator from Tennessee pointed out, and rightfully so, that State laws would be involved. When a State has passed a law which requires equal distribution on a county basis or on a per pupil basis, and if one county discriminates, the State law authorizing distribution of the Federal funds to that county will be in conflict with the Federal requirement of title VI that Federal funds may not be used to support discrimination. Therefore, the State would not have a right to give $1,000 of the Federal funds to that county.

The Senator from Tennessee pointed out that there may be an inconsistency between State law and Federal law. If that were the case, the Federal law would have to prevail, because where there is a conflict, the Federal law is supreme.

So it is not sufficient for a Governor to say that there is a State law, and that he must act under it, and that he cannot act under the Federal law, because if there is such a conflict, he is protected by the supremacy doctrine; and, under those circumstances, he would not have to pay out Federal funds to the offending county.

The language that has been written into the Dirksen-Mansfield substitute is safeguarding language, to make sure that innocent people do not suffer and to make certain that innocent segments of government do not suffer because of some action or some failure to act by one segment of government. To this extent, the Senator from Tennessee, by his persistence, and by calling his concerns to the attention of the Senate, has achieved much; and I believe that today title VI is better than it was when first proposed. For this the Senator from Tennessee is due great credit.

I believe there are ample safeguards here in the procedures of title VI. If we are to eliminate discrimination, if we are to agree that discrimination is unlawful, and discrimination is also unconstitutional, then there is no justification for the Federal Government continuing to pay Federal funds to any organ of government, any part of government, or any segment of government, that continues to discriminate.

Title VI implements these basic principles. It provides a fair and reasonable procedure for making sure that the Constitution is observed and for making sure that discrimination in the use of Federal funds is ended.

Mr. MORSE. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. MORSE. I yield myself 3 minutes, Mr. President.

Some weeks before this measure was recommended by the White House last year, I introduced as a separate bill—what amounts to title VI of this bill. In my judgment it is an essential and vital part of this bill. It goes to the very heart of the constitutional problem that confronts the Senate in passing the civil rights bill—in short, the expenditure of Federal funds.

The expenditure of Federal funds upon a project that is based upon or involves racial discrimination is, in my judgment, unconstitutional; and we seek to bring to an end such unconstitutional administrative functioning by the agencies of the Government.

Mr. President, if title VI were deleted from this bill, all that would be left would be a 9-year-old, toothless ewe. And if we can imagine anything with little effectiveness, it would be a 9-year-old toothless ewe.

Mr. President, the teeth in this bill for the effective checking of the discriminations within the purview of the jurisdiction set forth in title VI, are so essential that I plead with the Senate not to vote to have the teeth taken out of the bill.

There has been much crying on the floor of the Senate that some innocent people may suffer as the result of ending the Federal contribution to a project that is segregated, but under which Federal benefits are received.

Mr. President, that cannot be helped. That happens to be one of the prices of freedom they must pay, too. These people have the same responsibility we all have of seeing that their local officials cease their discriminatory practices.

We cannot bring an end to racial discrimination if we are going to continue to pour millions of dollars of Federal tax money into project after project in which racial discrimination is practiced.

This puts it up to us to decide whether we intend to emasculate this bill, or pass a bill that really faces up to the constitutional question that confronts us today. There can no longer be any doubt that Federal funds spent for segregated programs are being spent illegally and contrary to the Constitution. It is the simple duty of Congress to put a stop to the expenditure of Federal funds for what amounts to unconstitutional programs, programs based upon segregation.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. I do not think any Senator has made more efforts, in terms of amendments to cut off Federal funds from State segregated programs, than I have or has any Senator had such amendments tabled more often. They have been tabled always on the claim that there will come a day when we shall have a general statute.

Here we have a general statute, and an eminently reasonable one.

If we vote to deny this measure of relief, we shall be voting contrary to the view of a man who never was a violent advocate of extreme civil rights measures, Mr. President. I refer to Dwight D. Eisenhower. The one thing he believed in was this program. I heard him stand on a platform in Harlem, the first time he ran, and say, "If there is one thing I am sure of about civil rights, it is that I won't have the taxpayers' money go to promoting segregation."

If we strike out this provision, we shall be acting in opposition to one of his most deeply held beliefs.

I do not agree with the Senator from Tennessee that there is any likelihood that the amendment would be applied with respect to contracts or guarantees of insurance. It is tied to section 601 for its enforcement; and we know that a statute without provision for its enforcement is meaningless.

In the second place, it applies only to this particular activity.

In the third place, it cannot be put into effect unless a department shows that there is segregation, and even then only if the necessary order is filed with the Congressional committees; and then there must be a waiting period of 30 days; and then there must be opportunity for judicial review.

All this is eminently reasonable; and this amendment should be rejected.

The **PRESIDING OFFICER**. The time of the Senator from New York has expired.

Mr. **PASTORE**. Mr. President, I yield myself 3 minutes.

The **PRESIDING OFFICER**. The Senator from Rhode Island is recognized for 3 minutes.

Mr. **PASTORE**. I say respectfully to the Members of the Senate that if we delete title VI, we commit a travesty upon the taxpayers of this country. The money being spent to support these programs belongs to all the people of the United States, without regard to whether they are white, black, brown, or any other color. So it would be absolutely unconstitutional to use Federal funds belonging to all the people of this country for a program in a State which was permitting discrimination based on race, color, or national origin. That would be a travesty upon the taxpayers of the Nation.

We must do what title VI provides; and we could do it in no milder form than that now provided by title VI.

The Senator from Tennessee says, "Let us read this title." I say so, too. When we read these two pages, we understand that the whole philosophy of title VI is to promote voluntary compliance. It is written right in the law. There shall be the voluntary compliance as the first step, and then the second step they must inaugurate and promulgate, rules that have a national effect, not a local effect. They shall apply to Tennessee, to Louisiana, to Rhode Island, in equal fashion.

Is that the end of it? Of course not. The rules must be approved by the President of the United States before they take effect.

And then is that the end? Of course not. There has to be a hearing. There has to be a bill of particulars. There has to be a finding made of discrimination.

Is that the end of it? Of course not. Even then there must be a report to the two pertinent committees of the Congress.

How far can you go to be fair in spending the people's money?

We had a situation, and I stated it for the RECORD, when we explained this title. A boy, a nonwhite, was brought to a hospital which was built with 50 percent of the taxpayers' money. The boy was denied admission to that hospital—in Greensboro. Why? Because he was not white. Do we want to spend the taxpayers' money to commit that kind of a travesty?

This is the reason why we have title VI in this bill, to protect the taxpayers' money, to make sure that here in America, where we collect taxes from all our people, we spend this money for the benefit of all of our people. That is all we are trying to do.

I repeat——

The **PRESIDING OFFICER**. The Senator's time has expired.

Mr. **ROBERTSON**. Mr. President, I yield myself 10 minutes.

The **PRESIDING OFFICER**. The Senator from Virginia is recognized for 10 minutes.

Mr. **ROBERTSON**. Mr. President, if I thought I could change just one vote, I would undertake to speak louder than any who have proceeded me. [Laughter.]

This morning we took a vote, and found that there were fewer Members of this Senate for cloture than there were before we started 2 months of explaining the inequities of this bill.

Mr. President, while the vote this morning to impose cloture was not unexpected since 2 hours before it was taken, I wrote a friend in Richmond that we could not count on more than 29 votes against cloture, it nevertheless was to me a disappointing action because it means the passage by the Senate of the Dirksen substitute which, in my opinion, leaves in the bill many unconstitutional, as well as undesirable and unworkable features.

Title II of the bill, which is virtually unchanged, is clearly unconstitutional, whether you seek to justify it under the provisions of the due process clause of the 14th amendment or under the provisions of the commerce clause of the Constitution—stretch that clause as much as you will. Mr. President, I shall ask unanimous consent to have printed at the end of my remarks the detailed analysis of title II of the bill.

The big majority by which the Senate refused to take title VII out of the bill indicates a willingness, after the election next November, of course, for the businessmen of our Nation to be harassed in a very unfair and unjustified manner. I can find no consolation in the fact that this iniquitous program will at first apply to only those employing more than 100 workers because once the Senate has yielded to political pressure to write this principle into law, the same pressure groups will insist that the limit be reduced until it applies just to one employee. The same thing, of course, will apply to the limited jury trial amendment and to the mild changes incorporated in other provisions of the Dirksen substitute. Next year, we will have a demand to enact into law everything that was included in the original bill and that, of course, will include coverage of the Government insurance of mortgages and all home building loans made by any financial institution, the accounts of which are covered by Government insurance.

Students of the Philadelphia Constitutional Convention will recall that Thomas Jefferson, believing that no people could be capable of being both free and ignorant, asked his friend, James Madison, to include in the new Constitution a provision for a national university. The fight against that proposal was led by delegates from New England and it was overwhelmingly defeated. There has never since been any constitutional authority for the Federal Government to establish a national university or to support any university. Yet, section IV of the pending bill, provides unrestricted authority to help finance all universities, including church schools, and for the first time in our history to provide not just a scholarship but all college expenses, a subsistence allowance for the wife and all children of the student to be enrolled, and the payment to that student, if he has a job when he enrolls of an amount equal to his previous salary and if he had no previous salary he can be paid under provisions of another bill up to $75 per week. And, for what purpose? To train colored teachers to teach in white schools.

The distinguished Senator from Georgia, recalling, no doubt, the fate of democracies in Athens and in Rome, said that the history of democracies was that they ultimately committed suicide. Our representative democracy was established just 175 years ago. To those who may think that is a long period of time, let me remind them that the democracy of the city state of Athens lasted for 700 years. I repeat, Mr. President, the warning I gave the Senate last Monday from the dissenting opinion of Mr. Justice Brandeis in the Olmstead case:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings, and of his intellect. They knew that only a part of the pain, pleasure, and satisfactions of life are to be found in the material things. They sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.
>
> Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repeal invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning, but without understanding.

With all due deference, Mr. President, to the good intentions of those who have urged the Senate to pass the pending bill and without amendments, I predict that the time will come when they will deeply regret their unwitting attack upon the American system of private enterprise within the framework of constitutional liberty.

Mr. President, I ask unanimous consent to have printed at the end of my remarks a detailed analysis of title II of the bill.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **ROBERTSON**. For those who may be interested in title II, I point out that the analysis is a 186-page document. I intended to read it to the Senate, but did not have the opportunity. So all I can do now is put it in the RECORD, where posterity may read it, and then wonder why we did such a foolish thing when all this information was available.

With all due deference to the good intentions of those who urge the Senate to pass the pending bill, and without amendment, I predict that the time will come when they will deeply regret this attack upon the American system of private enterprise within the framework of constitutional liberty.

How much time do I have left?

The **PRESIDING OFFICER**. The Senator has 4 more minutes.

Mr. **ROBERTSON**. I reserve those 4 minutes.

EXHIBIT 1

A CRITICAL ANALYSIS OF TITLE II OF H.R. 7152—THE PUBLIC ACCOMMODATIONS SECTION OF THE CIVIL RIGHTS ACT

INTRODUCTION

Title II of the pending bill is clearly unconstitutional. It would prohibit discrimination on account of race, color, religion or national origin in designated places of public accommodations. Three sources of Federal legislative powers in the Constitution have been proposed as authority for the enactment of such a force bill: the commerce clause (art. I, sec. 8(3)), the 13th amendment, and the 14th amendment. But only two of these sources, the commerce clause and the 14th amendment, have been actually cited as enacting authority for the bill now under consideration.

This proposal is fraught with grave danger not only because of the damage it would do to private property rights but likewise because of the precedent it would set for the reckless and uninhibited exercise of Federal power for purposes of political expediency. Never during my service in the Senate have I seen a bill so full of mischief as the proposed Federal public accommodations law now under consideration.

In its present form this title is devised to regulate the relations between a private businessman and the consumer public. But future bills could be aimed, with equal authority, at other areas of relations between individuals of an even more personal nature. And as a scheme of Federal preemption of business management prerogatives approaching virtual appropriation of private property without compensation, they are equally repugnant to the principles of a democratic form of government.

The underlying principle of title II is the principle of consolidation of Federal power. Its enactment would be a move toward the centralization of power that was so much dreaded by our forefathers.

ANALYSIS OF TITLE II OF H.R. 7152—RIGHTS DECLARED

Subsection 201(a) of H.R. 7152 provides that "All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin."

In addition, section 202 declares that "All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule or order, of a State or any agency or political subdivision thereof."

CATEGORIES OF SUBJECT ESTABLISHMENTS

Four categories of establishments are made subject to the mandate of subsection 201(a). They are set out in subsection 201(b) as follows:

(1) Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) Any restaurant, cafeteria, lunch room, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including but not limited to, any such facility located on the premises, of any retail establishment; or any gasoline station;

(3) Any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

(4) Any establishment (A) which is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

And according to subsection 201(b), a yoke of servitude would be imposed upon the operator of any of the specified establishments if either one of the following conditions apply:

(1) Its operations affect commerce or (2) discrimination or segregation by it is supported by State action.

AFFECT COMMERCE DEFINED

Subsection 201(c) declares that the operations of an establishment affect commerce within the meaning of this title if:

(a) It is a hotel, motel, or similar establishment defined in category (1);

(b) It is a restaurant, lunch counter, or similar establishment or a gasoline station designated in category (2) and (A) serves or offers to serve interstate travelers or (B) a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; or

(c) It is a motion picture house, theater, or other place of entertainment within category (3) which customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; or

(d) It is an establishment described in category (4) and it is physically located within the premises of, or there is physically located within its premises, an the meaning of (a), (b), or (c).

STATE ACTION DEFINED

Subsection 201(d) declares that "Discrimination or segregation by an establishment is supported by State action within the meaning of this title if such discrimination or segregation—

(1) Is carried on under color of any law, statute, ordinance or regulation; or

(2) Is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or

(3) Is required by action of a State or political subdivision thereof.

PRIVATE CLUB EXCLUSION

Subsection 201(e) provides that "The provisions of this title shall not apply to a bona fide private club or other establishment not open to the public, except to the extent that the facilities of such establishment are made available to customers or patrons of an establishment within the scope of subsection (201 (b))."

DEPRIVATION OF RIGHT PROHIBITED

Section 203 provides that no one shall deprive or attempt to deprive any person of any right or privilege secured by sections 201 to 202, or interfere or attempt to interfere with any such right or privilege.

INJUNCTIVE RELIEF AUTHORIZED

Subsection 204(a) authorizes any person aggrieved, or the Attorney General, if the latter is satisfied that the purposes of this title will be materially furthered, to institute an action for injunctive relief for violations of section 203.

SIMILARITY TO CIVIL RIGHTS ACT OF 1875

Title II is intended "to provide injunctive relief against discrimination in public accommodations." The Civil Rights Act of 1875 was an "act to protect all citizens in their civil and legal rights."

Subsection 201(a) of title II of H.R. 7152 is almost identical to the first section of the 1875 act. Subsection 201(a) provides that "All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin."

"Place of public accommodation" is defined to include inns (category (1)), theaters and other places of entertainment (category (3)) in subsection 201(b).

Section 1 of the Civil Rights Act of 1875 provided that "All persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude."

The second section of the act provided for both civil liability and criminal penalties against persons violating section 1.

CIVIL RIGHTS CASES

Five cases predicated upon violations of section 1 of the Civil Rights Act of 1875 were considered by the Supreme Court of the United States in a consolidated opinion under the title of the *Civil Rights Cases*, 109 U.S. 3 (1883).

Two of the cases involved indictments for denying to persons of color the accommodations and privileges of an inn or hotel; two were brought for the denial to such individuals of the privileges and accommodations of a theater; and the fifth, a civil action, for the denial of the enjoyment of the accommodations and privileges of a railroad car.

Sections 1 and 2 of the Civil Rights Act of 1875 were held to be unconstitutional and void. One Justice dissented from this holding.

MAJORITY OPINION—THE 14TH AMENDMENT

The majority of the Court first directed its attention to the question of whether the power conferred upon the Congress by the 14th amendment included the authority to take such "immediate and absolute possession of the subject of the right of admission to inns, public conveyances, and places of amusement." (Id. at 19.)

The limits of the conduct prohibited under the 14th amendment were set forth as follows: "It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject-matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty or property without due process of law, or which denies to any of them the equal protection of the laws. It not only does this, but, in order that the national will, thus declared, may not be a mere brutum fulmen, the last section of the amendment invests Congress with power to enforce it by appropriate legislation. To enforce what? To enforce the prohibition. To adopt appropriate legislation for correcting the effects of such prohibited State laws and State acts, and thus to render them effectually null, void, and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it." (Id. at 11.)

The majority also stated that legislation enacted under the authority of the 14th amendment "should be adapted to the mischief and wrong which the amendment was intended to provide against: and that is, State laws, or State action of some kind, adverse to the rights of the citizen secured by the amendment. Such legislation cannot properly cover the whole domain of rights appertaining to life, liberty, and property, defining them and providing for their vindication. That would be to establish a code of municipal law regulative of all private rights between man and man in society. It would be to make Congress take the place of the State legislatures and to supersede them." (Id. at 13.)

The majority went on to say that the Civil Rights Act of 1875 "steps into the domain of local jurisprudence, and lays down rules for the conduct of individuals in society toward each other, and imposes sanctions for the enforcement of those rules, without referring in any manner to any supposed action of the State or its authorities.

"If this legislation is appropriate for enforcing the prohibitions of the amendment, it is difficult to see where it is to stop. Why may not Congress with equal show of authority enact a code of laws for the enforcement and vindication of all rights of life, liberty, and property?" (Id. at 14.)

It was subsequently declared that "it is proper to state that civil rights, such as are guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individuals, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress." (Id. at 17.)

THE 13TH AMENDMENT

The majority then proceeded to discuss the authority of Congress under the 13th amendment. It stated that "The only question under the (13th amendment), therefore, is whether the refusal to any persons of the accommodations of an inn, or a public conveyance, or a place of public amusement, by an individual, and without any sanction or support from any State law or regulation, does inflict upon such persons any manner of servitude, or form of slavery, as those terms are understood in this country?" (Id. at 23.)

They answered this question in the negative. They declared that they were "forced to the conclusion that such an act of refusal has nothing to do with slavery or involuntary servitude, and that if it is violative of any right of the party, his redress is to be sought under the laws of the State; or if those laws are adverse to his rights and do not protect him, his remedy will be found in the corrective legislation which Congress has adopted, or may adopt, for counteracting the effect of State laws, State action, prohibited by the 14th amendment. It would be running the slavery argument into the ground to make it apply to every act of discrimination which a person may see fit to make as to the guests he will entertain, or as to the people he will take into his coach or cab or car, or admit to his concert or theater, or deal with in other matters of intercourse or business." (Id. at 24–25.)

The majority stated further: "When a man has emerged from slavery, and by the aid of beneficial legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights as a citizen, or a man, are to be protected in the ordinary modes by which other men's rights are protected. There were thousands of free colored people in this country before the abolition of slavery, enjoying all the essential rights of life, liberty, and property the same as white citizens; yet no one, at that time, thought that it was any invasion of his personal status as a freeman because he was not admitted to all the privileges enjoyed by white citizens, or because he was subjected to discriminations in the enjoyment of accommodations in inns, public conveyances, and places of amusement. Mere discriminations on account of race or color were not regarded as badges of slavery." (Id. at 25.)

CONCLUSION

The majority concluded its opinion with the statement that "On the whole we are of opinion, that no countenance of authority for the passage of the law in question can be found in either the 13th or 14th amendment of the Constitution; and no other ground of authority for its passage being suggested, it must necessarily be declared void, at least so far as its operation in the several States is concerned." (Id. at 25.)

MR. JUSTICE HARLAN'S DISSENT

Mr. Justice Harlan asserted that his associates had adjudged erroneously that "Congress is without power, under either the 13th or 14th amendment, to establish such regulations, and that the first and second sections of the statute are, in all their parts, unconstitutional and void." (Id. at 27.)

He was very explicit in his contention that the majority had not given due deference to the adoptive intent of these two amendments in arriving at their decision. (Id. at 26.)

"The opinion in these cases proceeds, it seems to me, upon grounds entirely too narrow and artificial. I cannot resist the conclusion that the substance and spirit of the recent amendments of the Constitution have been sacrificed by a subtle and ingenious verbal criticism. * * * By this I do not mean that the determination of these cases should have been materially controlled by considerations of mere expediency or policy. I mean only, in this form, to express an earnest conviction that the court has departed from the familiar rule requiring, in the interpretation of constitutional provisions, that full effect be given to the intent with which they were adopted." (Id. at 26.)

Prior to his discussion of the language and scope of these amendments, he sought to "recall the relations subsisting, prior to their adoption, between the National Government and the institution of slavery, as indicated by the provisions of the Constitution, the legislation of Congress, and decisions of this court." (Id. at 28.)

THIRTEENTH AMENDMENT

He then sought to ascertain the reach of congressional power under the authority of the 13th amendment. According to his understanding of the meaning and purpose of this amendment, the freedom acquired by those previously held in bondage "necessarily involved immunity from, and protection against, all discrimination against them, because of their race, of any civil rights as belong to freemen of other races. Congress, therefore, under its express power to enforce that amendment, by appropriate legislation, may enact laws to protect that people against the deprivation, because of their race, of any civil rights granted to other freemen in the same State; and such legislation may be of direct and primary character, operating upon States, their officers and agents, and also, upon, at least, such individuals and corporations as exercise public functions and wield power and authority under the State." (Id. at 36.) It was his opinion that the power of the Congress under the 13th amendment was not necessarily restricted to legislation by positive law, as an institution upheld by positive law, "but may be exerted to the extent, at least, of protecting the liberated race against discrimination, in respect of legal rights belonging to freemen, where such discrimination exists." (Id. at 37.)

He next surveyed what he deemed to be the rights of colored persons regarding the "accommodations, privileges and facilities of public conveyances, inns and places of public amusement." (Id. at 37–43.) He found each of these places to be clothed with a public interest and/or to be exercising public or quasi-functions. He felt, therefore, that all persons should have equal access to the use of these facilities without regard to race or color. Such discrimination by any of these enterprises would constitute the imposition of a badge of servitude on colored people. In his opinion it would be an act whose prevention was within the purview of the power of Congress to enforce the 13th amendment without reference to an enlarged congressional power under the later 14th amendment. (Id. at 43.)

FOURTEENTH AMENDMENT

Mr. Justice Harlan then proceeded to consider the cases with reference to the power Congress acquired upon the adoption of the 14th amendment. Id. at 43–60. He claimed that the majority's assumption that the amendment consisted wholly of prohibitions upon State laws and State proceedings was unauthorized by the amendment's language. (Id. at 46.)

The Justice's next inquiry was into the rights, privileges and immunities that were acquired by colored race when they were granted State citizenship. He found them to be "those which are fundamental in citizenship in a free republican government, such as are 'common to the citizens in the latter States under their constitutions and laws by virtue of their being citizens.'" (Id. at 17.)

He identified one of these "rights, privileges, or immunities" to be the "exemption from race discrimination in respect of any civil right belonging to citizens of the white race in the same State." *Civil Rights Cases, supra,* 48. And as he stated earlier, this exemption should apply with respect to the accommodations, privileges and facilities of public conveyances, inns and places of public amusement. (Id. at 37–43.)

He raised the question that "if, then, exemption from discrimination, in respect of civil rights, is a new constitutional right, secured by the grant of State citizenship to colored citizens of the United States—and I do not see how this can now be questioned—why may not the Nation, by means of its own legislation of a primary direct character, guard, protect, and enforce that right?" (Id. at 50.)

The fact that the States were expressly forbidden from making or enforcing laws abridging the privileges and immunities of citizens of the United States should not furnish sufficient reason for holding that the amendment was intended to preclude the Congress from prohibiting all discrimination, in respect of their rights as citizens, based on race, color, or previous condition of servitude. (Id. at 54.)

Mr. Justice Harlan contended further that even if the reach of congressional power extended only to State law and State action, the decision of the majority was still erroneous. In his opinion, there had been State action within the 14th amendment as previously interpreted by the Court. (Id. at 57.) He predicated this contention on his earlier interpretation of the public nature of railroads, inns, and places of public amusement. (Id. at 37–43.)

Mr. Justice Harlan then passed on to take issue with the majority for not considering the question "whether Congress, in the exercise of its power to regulate commerce amongst the several States, might or might not pass a law regulating rights in public conveyances passing from one State to another?" (Id. at 60.)

Mr. Justice Harlan asserted this question might become a pertinent inquiry for the Court even if it were true that such legislation would be an interference with the social right of the people. (Id. at 61.)

It is clear, however, that the majority gave the question of power under the commerce clause sufficient consideration to dismiss it as a serious argument in the following language:

"Has Congress constitutional power to make such a law? Of course, no one will contend that the power to pass it was contained in the Constitution before the adoption of the last three amendments." (Id. at 10.)

The commerce clause was, of course, an integral part of the Constitution at that time, and questions concerning its proper construction had been argued many times at the bar of the Supreme Court. While this language of the majority is dictum, it is powerful language indeed, when the Court states that "of course, no one will contend" that the commerce clause would vest Congress with authority for enactment of civil rights legislation affecting private property.

SUMMARY OF MAJORITY AND DISSENTING OPINIONS IN CIVIL RIGHTS CASES

The acts complained of in the Civil Rights Cases, supra, were the denials to colored people of access to the accommodations of inns or hotels, a railroad passengar car, and theaters. The adoptive intent of the 13th amendment and the 14th amendment regarding such discrimination was the focal point of both the majority opinion and Mr. Justice Harlan's lone dissenting opinion. These opinions were written 13 years after the adoption of the 13th amendment and 15 years after the adoption of the 14th amendment.

The majority concluded that the acts of refusal did not inflict any manner of involuntary servitude or form of slavery "as those terms are understood in this country" whose prevention would therefore be within the powers of Congress under the 13th amendment. (Id. at 23–25.)

Mr. Justice Harlan contended that the acts of refusal were a badge of servitude whose imposition the Congress could prevent under its power to enforce the 13th amendment. (Id. at 43.)

The majority held that the 14th amendment prohibited discriminatory State laws and State acts; but that individual invasion of individual rights was not the subject matter of the amendment.

Mr. Justice Harlan contended that this interpretation was unauthorized by the amendment's language. He asserted that it was to be presumed that the amendment was intended to clothe the Congress with the power to reach discrimination by corporations and individuals in the States as well. (Id. at 46, 54.)

The majority did not find that the acts of discrimination complained of were either sanctioned in any way by the State or supported by State authority in the shape of laws, customs, or judicial or executive proceedings. (Id. at 13.)

Mr. Justice Harlan contended that the acts of discrimination did involve adverse State action within the meaning of the 14th amendment. He charged that railroad corporations, keepers of inns, and managers of places of public amusement were agents or instrumentalities of the State because they were charged with duties to the public and therefore were subject to regulation under the 14th amendment. (Id. at 57–59.)

The majority did not pass on the question whether a right to enjoy equal accommodations and privileges in all inns, public conveyances, and places of public amusement was one of the privileges and immunities of a citizen of the United States. Such an examination was not necessary since the majority rendered its decision regarding the reach of the 14th amendment on the assumption that such a privilege was an essential right of a citizen within the meaning of the amendment. (Id. at 19.)

Mr. Justice Harlan argued that such a right did exist. (Id. at 37–43.)

The majority summarily passed by the question of whether the Congress, in the exercise of its power to regulate commerce amongst the several States, might or might not pass a law prohibiting discrimination in public conveyances passing from one State to another. (Id. at 19.)

Mr. Justice Harlan suggested that this precise question was substantially presented in the case involving the railroad company (*Robinson & Wife* v. *Memphis and Charleston Railroad Co.*) and that the Court could have dealt extensively with the question. (Id. at 60–61.)

ISSUE REGARDING AUTHORITY UNDER THE COMMERCE CLAUSE

The issue of whether or not the Congress could under the commerce clause prohibit discrimination on account of race or color in the operations of common carriers has been resolved in the dissenting Justice's favor. For it is now accepted that Congress can properly enact such legislation under that clause. There has been no such affirmative resolution of this issue regarding similar laws intending to affect the operations of inns and theaters—and the other establishments designated in subsection 201(b) of H.R. 7152.

POSSIBILITY OF CIVIL RIGHTS CASES BEING OVERRIDDEN

The Supreme Court of the United States, with one Justice dissenting, flatly declared in 1883 that "no countenance of authority for the passage of the law [sections 1 and 2 of the Civil Rights Act of 1875] can be found in either the 13th or 14th amendment of the Constitution; and no other ground of authority for its passage being suggested, [it] must be declared void, at least so far as [its] operation in the several States is concerned." Civil Rights cases, supra, 25.

Yet title II of H.R. 7152—with its basic provision (subsection 201(a)) practically identical to that of the unconstitutional section of the Civil Rights Act of 1875—is now held out not only as a proper exercise of the power of the Congress under the commerce clause but also as a legitimate exercise of congressional power under the 14th amendment deriving additional support from the 13th amendment. (CONGRESSIONAL RECORD, page 1522, Jan. 31, 1964.)

In testifying in support of title II of H.R. 7152, the Attorney General of the United States acknowledged that "in the *Civil Rights Cases*, 109 U.S. 3 (1883), the Supreme Court held that the powers of the Congress under the 14th amendment did not extend to the elimination of discrimination per se in privately owned places of public accommodation." (Hearings on civil rights before Subcommittee No. 5 of the House Committee on the Judiciary, 88th Cong., 1st sess., serial No. 4, 1376 (1963).)

He then noted that "since the decision in that case, a vast change has occurred both in the character of business organization and in the concept of what constitutes State action. Today, business enterprises are regulated and licensed to a much greater degree than in 1883." (Ibid.)

The Attorney General felt that "the present vitality of the decision in the Civil Rights cases is open to serious question." (Ibid.) But because that decision has not been overruled, it would be "the proper course for title II to rely primarily upon the commerce clause." (Ibid.)

The Attorney General also stated that perhaps Mr. Justice Harlan's dissent in the Civil Rights cases "would be accepted as the majority opinion at the present time." Hearings, supra, 1338. He reiterated this position when he appeared before a Senate committee by stating that "if the Supreme Court were now asked to pass upon the constitutionality of a public accommodations law based on the 14th amendment, it might well uphold the law." (Hearings on S. 1732 before the Senate Committee on Commerce, 88th Cong., 1st sess., 23 (1963).)

He stated further that he was "not sure that it wouldn't be better, if you are going to put it under something other than the commerce clause, to put it under the 13th amendment rather than the 14th amendment.

"The 13th amendment might very well be stronger than the 14th amendment." (Id. at 74.)

INVALIDITY OF MR. JUSTICE HARLAN'S DISSENT

Mr. Justice Harlan's position in the civil rights cases as to congressional power under the 13th and 14th amendments has been rightfully depicted as resting "upon a misreading of language and of legislative history which, if adopted as the proper technique, would confuse and stultify the interpretative process." (Westin, John Marshall Harlan, 66 Yale L.J. 637, 705 (1957).)

LEGISLATIVE HISTORY OF THE 13TH AMENDMENT

The debate on the joint resolution proposing the 13th amendment (S.J. Res. 16, 38th Cong., 1st sess. (1864))—in both the Senate and the House of Representatives—centered on the history and the nature of slavery, the property rights of slave owners, the legality of abolishing slavery by an amendment to the Constitution, the expediency of abolishing slavery by this method, and the appropriate time to abolish slavery. The proponents of the measure confined themselves almost entirely to a forceful exposition of their general objective to eliminate forever the institution of slavery from the American scene. Very little discussion was devoted to defining precisely just what rights and privileges would be inherent in the 13th amendment. The debates in both Houses of the Congress reflected a very clear understanding that the amendment was intended to be only a very limited source of rights for ex-slaves and their descendants.

THE 13TH AMENDMENT BEFORE THE SENATE

The 13th amendment as adopted was an article contained in a substitute joint resolution reported out by the Senate Committee on the Judiciary in place of the original resolution (S.J. Res. 16, 38th Cong., 1st sess. (1864)) introduced by Senator John B. Henderson of Missouri. Senator Henderson's proposed amendment contained two articles as follows:

"Article 1. Slavery or involuntary servitude, except as a punishment for crime, shall not exist in the United States.

"Article 2. The Congress, whenever a majority of the members elected to each House shall deem it necessary, may propose amendments to the Constitution, or, on the application of the Legislatures of a majority of the several States, shall call a convention for proposing amendments, which in either case shall be valid, to all intents and purposes, as part of the Constitution, when ratified by the Legislatures of two-thirds of the several States, or by conventions in two-thirds thereof, as the one or the other mode of ratification may be proposed by Congress." (Congressional Globe, 38th Cong., 1st sess., 1313 (Mar. 28, 1864).)

The amendment in the form of a substitute resolution proposed by the Senate Committee on the Judiciary contained the following single article:

Article XIII

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation." (Congressional Globe, 38th Cong., 1st sess., 1313 (Mar. 28, 1864).)

Senator Henry Wilson, a Senator from Massachusetts, was an earnest advocate of the proposed amendment. He set forth his understanding of the intended effects of the amendment as follows: "it will obliterate the last lingering vestiges of the slave system; its chattelizing, degrading and bloody codes; its dark, malignant, barbarizing spirit; all it was and is, everything connected with it or pertaining to it, from the face of the Nation it has scarred with moral desolation, from the bosom of the country it has reddened with the blood and strewn with the graves of patriotism. The incorporation of this amendment into the organic law of the Nation will make impossible forevermore the reappearing of the discarded slave system, and the returning of the despotism of the slavemasters' domination." (Congressional Globe, 38th Cong., 1st sess., 1324 (Mar. 28, 1864).)

Senator James Harlan of Iowa spoke in support of the proposal to make slavery unlawful. During the course of his remarks, he listed the following "necessary incidents of slavery": "the abolition of 'the conjugal relation' * * * the abolition practically of the parental relation, robbing the offspring of the care and attention of his parents * * * the abolition of 'the relation of person to property. It declares the slave incapable of acquiring and holding property' * * * the deprivation of a status in court to all those held to be slaves * * * the suppression of the freedom of speech and of press, not only among those downtrodden people themselves but among the white race * * * preclusion of 'the practical possibility of maintaining schools for the education of those of the white race who have not the means to provide for their own mental culture'." (Congressional Globe, 38th Cong., 1st sess., 1439 (Apr. 6, 1864).)

But he did not give any indication that he considered the denial of equal access to the accommodations and facilities of inns, public conveyances, and places of amusement to ex-slaves and their descendants to be a burden or disability constituting a badge of slavery and servitude.

Senator John B. Henderson of Missouri, the introducer of the original proposed amendment, maintained that the existence of slavery "condemn(ed) 4 million blacks to eternal servitude, in which the alphabet, the Bible, and the wages of labor are denied them." (Id. at 1462.) He subsequently declared that "in passing this amendment we do not confer upon the Negro the right to vote. We give him no right except his freedom and leave the rest to the States." (Id. at 1465.)

The statements of this supporter of the amendment did not in any fashion reflect any understanding that the amendment was intended to confer a right of equal access to the accommodations and facilities of inns, public conveyances, and places of amusement upon ex-slaves and their descendants.

Senator Charles Sumner, of Massachusetts, moved to amend the reported resolution by striking out the words of the proposed article and inserting the following:

"All persons are equal before the law, so that no person can hold another as a slave; and the Congress may make all laws necessary and proper to carry this article into effect everywhere within the United States and the jurisdiction thereof." (Id. at 1483.)

Senator Sumner stated that "the distinctive words in this clause assert the equality of all persons before the law." (Id. at 1482.) He described the language as "already well known in history" and he cited certain basic documents of the Government of France as his authority. These documents included the Declaration of Rights prefacing the Constitution of September 1791; the Constitution of June 1793; and the constitutional charter of August 1830. He also noted that similar articles had been adopted in the charters of Belgium, Italy, and Greece. (Id. at 1482–1483.)

The chairman of the Committee on the Judiciary, Senator Lyman Trumbull, of Illinois, declared that he was not at all sure that the language suggested by Senator Sumner were the best words to be adopted. He said:

"I think there is nothing historical about them, nothing in the source from whence they came to commend them particularly to us. I would not go to the French Revolution to find the proper words for a constitution. We all know that their constitutions were failures, while ours, we trust, will be permanent. I therefore am not inclined to accept the gentleman's suggestions, and I hope that he will withdraw them and let the Senate come to a vote upon this subject." (Id. at 1488.)

Having stated his objections to the language proposed by Senator Sumner, Senator Trumbull declared that the object he had in view was "to abolish slavery and prevent its existence hereafter." (Ibid.)

Upon the conclusion of Senator Trumbull's remarks, Senator Jacob M. Howard of Michigan arose to discuss the language suggested by Senator Sumner. Senator Sumner stated that he was withdrawing his amendment but Senator Howard objected on the ground that he had the floor and that he wanted to speak "to the subject of the amendment offered by the Senator from Massachusetts." (Ibid.)

There was some confusion caused by the amendment being reported by the Secretary to read that "All persons are free before the law." Senator Sumner stated it was supposed to be "equal" and not "free." Senator Howard answered that it was very immaterial as to which word was used because "in a legal and technical sense that language is utterly insignificant and meaningless as a clause of the Constitution." (Ibid.) Senator Howard insisted that Senator Sumner had made a very radical mistake in the latter's interpretation of that language in the French Constitution and that that language was not intended to be construed as an eliminator of slavery. Senator Howard declared that "The purpose for which this language was used in the original Constitution of the French Republic of 1791, was to abolish nobility and privileged classes. It was a mere political reformation relating to the political rights of Frenchmen and nothing else. It was to enable all Frenchmen to reach positions of eminence and honor in the French Government, and was intended for no other purpose whatever. It was never intended there as a means of abolishing slavery at all. The convention of 1794 abolished slavery by another and separate decree expressly putting an end to slavery within the dominions of the French Republic and all its colonies." (Id. at 1489.)

Senator Howard here expressly disapproved language which he held to have been used to "abolish nobility and privileged classes"—i.e., to establish equality of opportunity in the exercise of political rights. He drew a precise distinction between this purpose of the French documents and his understanding of the purpose of the proposed amendment. The abolition of slavery was not to be equated with equal opportunity in political rights.

Senator Howard stated that he was as desirous as the Senator from Massachusetts to use significant language that could not be mistaken or misunderstood as to its intended effect. But he preferred to "dismiss all reference to French constitutions or French codes, and go back to the good old Anglo-Saxon language employed by our fathers in the ordinance of 1787, an expression which has been adjudicated upon repeatedly, which is perfectly well understood both by the public and by judicial tribunals, a phrase, I may say further, which is peculiarly near and dear to the people of the Northwestern Territory, from whose soil slavery was excluded by it. I think it is well understood, well comprehended by the people of the United States, and that no court of justice, no magistrate, no person, old or young, can misapprehend the meaning and effect of that clear, brief and comprehensive clause. I hope that we shall stand by the report of the committee." (Id. at 1489.)

That "old Anglo-Saxon language" in the Northwest Ordinance provided that "There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided always*, That any person escaping into the same, from labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid." (Ordinance for the Government of the Territory of the United States Northwest of the River Ohio, art. VI, H. Doc. No. 398 69th Cong., 1st sess. 54 (1927).)

"It was universally understood that article VI [of the Northwest Ordinance] did not confer any political or civil rights on Negroes. The free Negro's status in the Northwest was only slightly better than that of a slave. He was obliged to exist on the fringe of settlements, denied access to schools, the courts, and the polls, and regulated by the Black Codes taken from the statute books of slaveholding States. (Hamilton, The Legislative and Judicial History of the 13th Amendment, 9 Nat'l B.J. 26, 52 (1951)" Westin, supra, 703.)

At the conclusion of Senator Howard's remarks, Senator Sumner arose to declare that "My proposition is withdrawn, the Chair understands." (Congressional Globe, 38th Cong., 1st sess. 1489 (1864).)

Upon the rejection of a proposed substitute for the whole committee resolution, the Senate proceeded to pass that resolution by a 38–6 vote. (Id. at 1490.)

THE 13TH AMENDMENT BEFORE THE HOUSE OF REPRESENTATIVES

The proposed amendment was considered twice by the House of Representatives. It failed of passage in the 1st session of the 38th Congress. (Congressional Globe, 38th Cong., 1st sess. 2995 (June 15, 1864).) But is received the necessary two-thirds approval during the second session of that Congress. (Id. 38th Cong., 2d sess. 531 (Jan. 31, 1865).) The debates in the House of Representatives followed the course set by the Senate in its deliberations.

One proponent of the proposed amendment, Representative Ebon C. Ingersoll, from Illinois, was very explicit in his interpretation of what would be inherent in the freedom that the amendment would bestow upon ex-slaves and their descendants. He declared that "Sir, I am in favor of the fullest sense of personal liberty. I am in favor of the freedom of speech * * * and if this proposed amendment to the Constitution is adopted and ratified, the day is not far distant when this glorious privilege will be accorded to every citizen of the Republic. I am in favor of the adoption of this amendment because it will secure to the oppressed slave his natural and God-given rights. I believe that the black man has certain inalienable rights, which are as sacred in the sight of Heaven as those of any other race. I believe he has a right to live, and live in a state of freedom. He has a right to breathe the free air and enjoy God's free sunshine. He has a right to till the soil, to earn his bread by the sweat of his brow, and enjoy the rewards of his own labor. He has a right to the endearments and enjoyment of family ties; and no white man has any right to rob him of or infringe upon any of these blessings." (Congressional Globe, 38th Cong., 2d sess. 1990 (June 16, 1864).)

The right to equal access to the accommodations and facilities of inns, public conveyances and places of public amusement is not akin to any of the rights enumerated by this proponent of the proposed amendment.

Elijah Ward, a Representative from New York, and an opponent of the proposed amendment, construed the amendment to mean that "all persons shall be equal before the law, without regard to color, and so that no person shall hereafter be held in bondage." (Congressional Globe, 38th Cong., 2d sess. 177 (Jan. 9, 1865).)

Robert Mallory, a Representative from Kentucky and an opponent of the proposed amendment, posed a series of questions which give some insight to his interpretation of the possible effects of the ratification of the amendment. These questions were: "What does the gentleman propose to do with the Negroes if they be liberated by this constitutional amendment? Does my colleague hold that they should remain in the States in which they may be when freed? Sir, I know hundreds of the Republican Party—or I did know hundreds of them in former times; I do not know what their opinions may be now—who were bitterly opposed to this policy; who would have fought to the bitter end against setting free the Negroes to remain in the States where they were freed, and to control the destinies of this Government by the exercise of the elective franchise, maintaining an equality with the white man, socially, civilly, politically. Do they entertain that opinion now? Does my colleague entertain it? Is he, are they, now in favor of the Negro remaining when freed in the States where freed, enjoying the right of suffrage, politically equal to the white man?" (Congressional Globe, 38th Cong., 2d sess. 179 (Jan. 9, 1865).)

There was no immediate response either from his colleague, George M. Yeaman, of Kentucky, to whom the queries had been put or from any other Representative.

A proponent, John F. Farnsworth, of Illinois, subsequently commented on the proposal as follows:

"What is that we now propose to do? We propose to say in the organic law of the land that there shall be no more involuntary servitude except as a punishment for crime." (Congressional Globe, 38th Cong., 2d sess. 200 (Jan. 10, 1865).)

"When this usage of slavery is abolished and we have ceased to be familiarized with the clank of chains, then we shall look upon the thing with the horror it deserves." Id. at 201.

He addressed himself to the objection to the proposed amendment it would enfranchise the Negro. He declared: "I defy the conclusion; but I should not be deterred from the move, even if it were correct. A recognition of natural rights is one thing, a grant of political franchise is quite another. We extend to all white men the protection of the law when they land upon our shores. We grant them political rights when they comply with the conditions which those laws prescribe. If political rights must necessarily follow the possession of personal liberty, then all but male citizens in our country are slaves. This illustration alone reduces the conclusion to an absurdity. * * * Conscious as I am that the best interests of the country and posterity require a mitigation of the evils with which slavery has afflicted this war-desolated and strife-torn land, I will not suffer myself to be prevented from giving my aid to this beneficient proposition by any imaginary evils that it may not provide for." (Congressional Globe, 38th Cong., 2d sess. 202 (Jan. 11, 1865).)

Representative Farnsworth recognized as an "imaginary evil" the possibility of the enfranchisement of ex-slaves and their descendants as a result of the ratification of the amendment. Both the tenor and the substance of his remarks suggest that he would have considered equally imaginary the possibility that the amendment would authorize the imposition of a duty to serve ex-slaves and their descendants upon the owners and operators of inns, public conveyances, and places of public amusement.

In the course of ratification the legislatures of three States conditioned their approval of the amendment on the express understanding that it would be a very limited source of power to the Congress on the one hand and an equally restricted source of rights to ex-slaves and their descendants. These States were Alabama, Florida, and South Carolina.

The General Assembly of the State of Alabama stipulated in its resolution of ratification that "this amendment to the Constitution of the United States, is adopted by the Legislature of the State of Alabama with the understanding that it does not confer upon the Congress, the power to legislate upon the political status of the Freedmen in this State." (H. Doc. No. 529, 56th Cong., 2d sess. (1894), "Documentary History of the Constitution of the United States," vol. II, 609–610.)

The General Assembly of the State of Florida provided in its resolution of ratification that "be it further resolved that this amendment to the Constitution of the United States, is adopted by the Legislature of the State of Florida with the understanding that it does not confer upon the Congress the power to legislate upon the political status of the Freedmen in this State." (Id. at 624–626.)

The General Assembly of the State of South Carolina declared in its resolution of ratification that "any attempt by Congress toward legislating upon the political status of former slaves, or their civil relations, would be contrary to the Constitution of the United States, as it now is, or as it would be altered by the proposed amendment—in conflict with the policy of the President declared in his amnesty declaration and with the restoration of that harmony upon which depends the vital interests of the American Union." (Id. at 605–606.)

SUMMARY

The intent of the framers of the 13th amendment was a subject of frequent discussion during the first session of the 39th Congress. These discussions took place during the debates on various proposals to specify and to secure to ex-slaves the "fundamental rights of citizenship." (See, generally, debates on S. 60, S. 61, and H.R. 613, 39th Cong., 1st sess., in the Congressional Globe.) Such rights were asserted to include " 'The right to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and to be subject to like punishment, pains, and penalties, and to none other.' " (Congressional Globe, 39th Cong., 1st sess., 1151 and see Civil Rights Act of April 9, 1866, 14 Stat. 27, sec. 1 (42 U.S.C. secs. 1981, 1982 (1958).)

The debates swirled around the issue of whether the 13th amendment was proper authority for securing the cited rights to ex-slaves and their descendants. The records of these debates are barren of any grounds for concluding that the right of Negroes to require their being served in private business establishments was one of the rights to be so secured by the adoption of the 13th amendment.

The legislative history of the 13th amendment lends no support to the contention that the authority of that amendment could be invoked by the Congress to prohibit segregation on account of race or color in private business establishments.

LEGISLATIVE HISTORY OF THE 14TH AMENDMENT

The infirmity in Mr. Justice Harlan's position on the scope of congressional power under the 14th amendment has been described as follows:

"Harlan argued that the citizenship sentence of the 14th amendment gave Congress, under the grant of enforcement power in section 5, the authority to forbid private acts of discrimination. The difficulty with his position is that it runs counter to the legislative history and the language of section 1, not in the sense that Harlan supported a broad but true reading as against an 'artificial' and 'overnarrow' one, but in the sense that Harlan's view misconstrued what the real content of the 14th amendment was. In the early stages of congressional debate over the proposed amendment, the Joint Committee on Reconstruction reported to the House a draft written by Representative John Bingham which would have given Congress power to make all laws necessary and proper 'to secure to the citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.' Representative Bingham and several other Republicans defended this proposal as doing nothing more than restating various guarantees already in the Constitution, citing article IV, section 2 and the fifth amendment; the amendment would add, they said, 'the express grant of power upon the Congress' to enforce the guarantees. This immediately drew attacks from moderate and radical Republicans, as well as a Democratic spokesman, all objecting to the draft as giving too much power to Congress.

"In the most carefully reasoned speech of the debates, Republican Robert Hale of New York warned his colleagues: 'It is not a mere provision that when the States undertake to give protection which is unequal Congress may equalize it; it is a grant of power in general terms—a grant of the right to legislate for the protection of life, liberty, and property, simply qualified with the condition that it shall be equal legislation.'

"This, Hale felt, would be 'an utter departure from every principle ever dreamed of by the men who framed our Constitution.' When questioned directly by Hale as to whether this was the effect of his draft, Bingham hedged back and forth but admitted, 'I believe it does in regard to life and liberty and property.' On that ground, Roscoe Conkling rose to table the Bingham draft, saying that he had opposed the idea in committee and opposed it now. Bingham's proposal was tabled and it was never presented to the House or the Senate again. When the successor draft of the 14th amendment, framed in terms of 'no state,' was debated, none of the critics of the Bingham proposal attacked the provision as being the same concept in disguise, a position men like Hale and certainly Rogers would have been quick to assert if the adopted draft had been so understood in Congress.

"As to citizenship, a sentence was added to the adopted draft, from the floor, stating simply that 'all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United

States and of the State in which they reside,' a sentence included to reverse the Dred Scott holding that Negroes were not citizens. If this sentence had been written as a section by itself and had been left unmodified, there might be a defensible argument on the basis of ambiguous language that Congress had meant to do more than specify who were citizens. But the citizenship definition was added by the Republican leadership as the first sentence in a section which went on to declare, immediately following, that no State should abridge the privileges and immunities of national citizens. Read in terms of plain language or of legislative history, then, the 'no State' sentence refutes the idea that the citizenship sentence had been intended by the framers to give Congress authority to punish private action, unless one is to accept the remarkable theory of Professors Flack and ten Broeck that the sharp alterations of language in the several drafts of the 14th amendment made no constitutional difference, the framers being all pro-civil-rights men. This argument, of course, ignores the Republican opposition to Bingham's proposal and mistakes the recorded understanding of Congress and the ratifying States that in the course of the debate over the 14th amendment congressional jurisdiction over private discrimination had been abandoned.

"In defense of his reading of the citizenship sentence, Harlan cited the prewar cases of Prigg and Ableman, where the Court had upheld the operation of national fugitive slave legislation on private persons despite language in the supporting constitutional provision, article IV, section 2, referring to 'any law or regulation' which interfered with recapture. Since the Court had not limited congressional power in protecting the master's rights, Harlan felt, the Court should not adopt a narrower rule for the amendment bestowing citizenship rights on the former slaves. The obvious answer to this is that the Constitution had not dealt with the rights of masters and of new citizens in identical terms. In order to put through Congress and the States a protection against State infringement of citizenship rights, the civil rights supporters had been forced to drop the clause which might have upheld congressional control over private discrimination; article IV, section 2 was unmarred by such legislative history or by clear language against a private action interpretation. Thus, while the Prigg and Ableman decisions were themselves extreme, Harlan's reasoning if adopted would have done even more violence to constitutional interpretation." (Westin, John Marshall Harlan, 66 Yale L.J. 637, 700–702 (1957).)

FINDINGS FROM REVIEW OF LEGISLATIVE HISTORIES

Should the Supreme Court be called upon to determine the constitutionality of a new Federal public accommodations law and to reverse or to distinguish the 1883 decision in the Civil Rights Cases, supra, the intended effects of the 13th and 14th amendments regarding segregation in places of public accommodation will be brought squarely into issue anew. The disposition of this issue would require a review of the legislative history of these amendments similar to that presented to and made by the Supreme Court in arriving at its decision in the Brown cases to overrule Plessy versus Ferguson.

In order to ascertain to the fullest extent the intentions of the framers and the ratifiers of the 14th amendment regarding segregation in public schools, the Supreme Court in that case propounded two questions to the litigants. These two questions were:

"(1) What evidence is there that the Congress which submitted and the State legislatures which ratified the 14th amendment contemplated or did not contemplate, understood or did not understand, that it would abolish segregation in public schools?

"(2) If neither the Congress in submitting nor the States in ratifying the 14th amendment understood that compliance with it would require the immediate abolition of segregation in public schools, was it nevertheless the understanding of the framers of the amendment (a) that future Congresses might, in the exercise of their power under section 5 of the amendment, abolish such segregation, or (b) that it would be within the juridical power, in the light of future conditions, to construe the amendment as abolishing such segregation of its own force?" (*Brown* v. *Board of Education, supra*, brief for Prince Edward County, Va., appellees on reargument, 5–26–27 (1953).)

Counsel for the appellees in the Prince Edward County, Va., case answered the first question as follows:

"There is substantial evidence that the Congress which submitted the 14th amendment both contemplated and understood that it would not abolish segregation in the public schools.

"There were 37 States in the Union at the time of the ratification of the amendment. There is affirmative evidence from 23 of these States that it was understood that the amendment would not abolish school segregation. In 14 States, no evidence, either affirmative or negative, is available. In not one State have we found substantial affirmative evidence that it was either contemplated or understood that ratification of the amendment would mean that segregation in the public schools was abolished." (*Brown* v. *Board of Education of Topeka, supra*, Brief for Prince Edward County Appellees on Reargument, 5–6 (1953).)

They then answered the second question as follows:

"(a) There is no indication that the Congress that proposed the amendment understood that future Congresses might act to abolish school segregation. In succeeding Congresses, there were many who thought that Congress had this power, but they were never enough to enable Congress to enact a statute outlawing school segregation. This question should, therefore, be properly answered in the negative.

"(b) No. * * * The Congress that proposed the 14th amendment did not understand that it would be within the judicial power, in light of future conditions, to construe the amendment as abolishing school segregation of its own force." (Id. at 27, 31.)

The evidence offered by the counsel for the Virginia appellees should have resolved in their favor beyond all reasonable doubt the issues posed in the Court's questions. But, by some amazing act of juridical legerdemain, the Supreme Court found instead that the available sources of the history of the 14th amendment did not dispose of the issues. The Supreme Court found that these sources were at best inconclusive as to what others—outside of the proponents and the opponents of the amendment—in Congress and the State legislatures had in mind regarding the intended effects of the amendment.

"The most avid proponents of the postwar amendments undoubtedly intended them to remove all legal distinctions among 'all persons born or naturalized in the United States.' Their opponents, just as certainly, were antagonistic to both the letter and the spirit of the amendments and wished them to have the most limited effect. What others in Congress and the State legislatures had in mind cannot be determined with any degree of certainty." (Id. at 489.)

The Court cited as "an additional reason for the inconclusive nature of the amendment's history, with respect to segregated schools, * * * the status of public education at that time." Ibid. The institution of public education, as compared to its stage of development in 1868, had become so transformed as now to be wholly beyond the limits of the contemplations of the framers and ratifiers of the 14th amendment. In the opinion of the Court, "it is not surprising that there should be so little in the history of the 14th amendment relating to its intended effect on public education." (Id. at 490.)

ABERRATON OF SUPREME COURT

The Supreme Court erred gravely in finding not only that the sources of history of the 14th amendment did not specifically dispose of the issues in favor of the Virginia appellees, but also that this history was generally inconclusive. I do not believe that this finding would stand up under the sunlight of traditional standards of appellate review. I invite your attention to appendixes A and B of the Virginia appellees' brief as more than adequate proof of the Supreme Court's aberration in the Brown cases.

APPENDIX A

THE FOURTEENTH AMENDMENT BEFORE CONGRESS

1.—INTRODUCTION

The first 10 amendments of the Constitution of the United States, effective in 1791, were limitations on the powers of the Central Government. So, too, was the 11th, ratified in 1798, while the 12th, which became a part of the Constitution in 1804, changed the mechanics for the election of the Executive. None of these in any way extended the power of the Government of the United States.

Sixty years then elapsed without further change of the Constitution. Toward the end of this period came the extreme convulsion of civil war. At least one of the purposes of those who were successful in that conflict was to increase the power of the Central Government in relation to the State governments. So the Congress of Representatives of the Northern States proposed in rapid succession soon after the end of the war three constitutional amendments that, for the first time, extended the powers of the Government in Washington.

These amendments had their bases in war. They were not framed overnight; they developed and progressed from stage to stage as a part of the pattern of reconstruction. With the 13th and 15th amendments, we shall not deal in detail, for they are of no significance in the field of school segregation, but we point out, as an aside, that the necessity for the 15th amendment makes clear the error of those who claim that the 14th amendment is all-encompassing.

The 14th amendment grew out of the Civil Rights Act of 1866; that, in turn, must be considered along with its forerunner, the Freedmen's Bureau bill. So we must begin our review before the 14th amendment was proposed for ratification. Furthermore, Congress is in many respects a continuing institution; many of the same persons sit for years in the succeeding sessions. Congressional action after the ratification of the 14th amendment is therefore of significance also. The fever pitch of reform lasted with diminishing force at least until the Civil Rights Act of 1875 became law.

So if we are to scour the records for the sentiment of Congress as to the meaning of the 14th amendment, we must cover the entire decade from 1866 to 1875. That we propose to do. It is not an easy task, nor one subject to the refinements of mathematical exactitude. We look primarily for references to the schools. But we cannot tell exactly what weight to accord to each passing remark. Certainly every reference by one Member of Congress to the school system is not to be taken as the sentiment of Congress as a whole. We must, therefore, weigh as well as recount the statements as to schools.

We seek here, therefore, two things: the first is the general purpose of the amendment with relation to the school system, and the second is the weight to be accorded specific mention of the schools. With these aims in mind, we pass to a review of the congressional history of the decade in as much detail as space permits.

2.—THE EARLY DISTRICT OF COLUMBIA SCHOOLS

The powers given by the Constitution to Congress in respect of the District of Columbia are plenary; Congress establishes and controls the school system of the District. The will of Congress as to segregated schools is thus directly reflected by its action as to the District.

There was no publicly supported educational system for Negro children in the District prior to the abolition of slavery there in April 1862. Schools were then established but only on a segregated basis to be supported by taxes levied on property owned by Negroes. The method of raising money for these schools was changed in 1864; school taxes levied on all property were then to be divided in proportion to the number of children of each race. Segregation remained unchanged.

Thus, from the very beginning, schools have been segregated by Congress in the District of Columbia. They remain segregated today.

3.—THE FIRST SUPPLEMENTAL FREEDMEN'S BUREAU BILL

This bill was the first effort at congressional reconstruction and a forerunner of the 14th amendment. It was designed to supplement the original Freedmen's Bureau bill enacted in March 1865 to protect freedmen in territory under Federal control.

The first six sections of the bill as it came from the Judiciary Committee of the Senate related directly to reconstruction. They authorized division of the Southern States into districts, the appointment of commissioners, the reservation of land and its award to loyal refugees and freedmen. They authorized the construction of school buildings for freedmen, but there is nothing to indicate that mixed schools were intended by this provision, although some opponents thought that it might be used to force mixed schools at a later date.

The seventh section consisted of the statement of principles that were the seed of the 14th amendment. It provided that if, because of any State or local law, custom or prejudice:

"* * * any of the civil rights or immunities belonging to white persons, including the right to make and enforce contracts, to sue, be parties, and give evidence; to inherit, purchase, lease, sell, hold and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, are refused or denied to Negroes * * * on account of race * * * it shall be the duty of the President of the United States, through the Commissioner, to extend military protection * * * over all cases affecting such persons so discriminated against."

Section 8 contained the proposed sanction, making it a misdemeanor for any person to subject any other person on account of color:

"* * * to the deprivation of any civil right secured to white persons, or to any different punishment. * * *"

These provisions of the bill were to apply only to those States or districts where the ordinary course of judicial proceedings had been interrupted by war. All offenses were to be heard before and determined by officers and agents of the Bureau.

In debate in the Senate, questions were raised as to the power of Congress to provide education for the freedmen and as to the effect of the bill on antimiscegenation statutes. But Senator Trumbull of Illinois, one of the leaders of the radicals and the Senator who had introduced the bill, made it clear that there was no intention to prohibit antimiscegenation statutes. The bill passed the Senate on January 25, 1866, by a partisan vote.

The bill then went to the House. There, Mr. Dawson of Pennsylvania stated that the radicals desired mixed schools though he did not indicate that the bill required it. Mr. Moulton of Illinois thought the civil rights protected by the bill to include only fundamental rights, such as the rights to liberty, to hold property, and to contract. On the other hand, Mr. Thornton took a broader view, apparently believing that the statute was intended to permit miscegenation. The bill passed the House on February 6, 1866, by a vote of 136 to 33, and the Senate promptly agreed to minor House amendments.

The President vetoed the bill on February 19. The veto was sustained by a narrow margin in the Senate, after a short debate in which Senator Davis of Kentucky noted that segregation of some sort was prevalent in almost every State. The bill in a slightly modified form was reenacted later in the session over the veto of the President. There was substantially no debate at that time.

We cannot draw from this history any conclusion that the civil rights referred to in the bill included a right for the Negro to attend the same school as the white.

4.—THE CIVIL RIGHTS ACT OF 1866

This act is particularly important in any history of the 14th amendment since it was designed to cover the same field in much the same language. It was a companion measure to the Freedman's Bureau bill, both having been introduced at the same time by Senator Trumbull of Illinois. But there was one major difference: the Freedmen's Bureau bill was applicable only to the States that seceded while the Civil Rights Act applied throughout the United States. Because of this distinction one prominent Representative thought the former within constitutional bounds but the latter invalid as encroaching on the rights of the States.

The bill that became the Civil Rights Act provided as introduced:

"That there shall be no discrimination in the civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery; but the inhabitants of every race and color * * * shall have the same rights to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and shall be subject to like punishment, pains, and penalties, and to none others, any law, statutes, ordinance, regulation, or custom to the contrary notwithstanding."

The bill was bitterly contested in both Houses because of vagueness and on constitutional grounds. Its patron, Senator Trumbull of Illinois, pointed out that it included only the civil rights specifically enumerated:

"The first section of the bill defines what I understand to be civil rights: the right to make and enforce contracts, to sue and be sued, and to give evidence, to inherit, purchase, sell, lease, hold, and convey real and personal property.

* * * * *

"This bill has nothing to do with the political rights or status of parties. It is confined exclusively to their civil rights, such rights as should appertain to every freeman."

But others were not so sure. Senator Saulsbury, a Democrat from Delaware, was much troubled by the general language. Senator Cowan, Pennsylvania Republican, thought that it might mean the end of segregated schools in his State; he characterized the bill as "monstrous." Two Senators thought that antimiscegenation statutes might be outlawed, not by the general language of the bill but by the freedom of contract provision. But Senator Trumbull reiterated that the bill was concerned only with civil rights and that it would not prohibit antimiscegenation laws. The bill passed the Senate on February 2, 1866, by a vote of 33 to 12.

When the bill came before the House on March 1, 1866, the floor leader was Mr. Wilson of Iowa, chairman of the Judiciary Committee to which the bill had been committed. In opening debate on the bill, he spoke as follows on its general provisions:

"This part of the bill will probably excite more opposition than any other. * * * What do these terms mean? Do they mean that in all things civil, social, political, all citizens, without distinction of race or color, shall be equal? By no means can they be so construed. * * * Nor do they mean that * * * their children shall attend the same schools. These are not civil rights or immunities."

There could hardly be a clearer statement that the language of the Civil Rights Act is not intended to abolish segregated schools. Nor could the statement come from a more important source: the chairman of the committee and floor leader as to the bill.

But Mr. Rogers, a States rights Democrat from New Jersey, seems to have taken the opposite view. He was bitterly opposed to the bill and thought it far beyond the power of Congress. He referred to the statutes prohibiting miscegenation and the Pennsylvania act requiring school segregation. He continued:

"Now, if this Congress has a right, by such a bill as this, to enter the sovereign domain of a State and interfere with these statutes * * *"

then it could confer suffrage on the Negro. But he alone seems to have thought that the bill might abolish school segregation where equal schools were provided and his view was based on principles at complete variance with those held by the vast majority of the House. In any event, his view as to the meaning of the bill cannot be accepted as authoritative for, as Mr. Justice Douglas said in *Schwegmann Brothers* v. *Calvert Distillers Corp.*, 341 U.S. 384, 394–5 (1951):

"The fears and doubts of the opposition are no authoritative guide to the construction of legislation. It is the sponsors that we look to when the meaning of the statutory words is in doubt."

Mr. Bingham of Ohio, a radical leader who had supported the Freedmen's Bureau bill, opposed this measure for he thought it beyond constitutional limitations. He thought that the opening language prohibiting "discrimination in the civil rights and immunities" should be omitted and moved to send the bill back to the committee. He was answered by Mr. Wilson as follows:

"He knows, as every man knows, that this bill refers to those rights which belong to men as citizens of the United States and none other; and when he talks of setting aside the school laws and jury laws and franchise laws of the States by the bill now under consideration, he steps beyond what he must know to be the rule of construction which must apply here, and as the result of which this bill can only relate to matters within the control of Congress."

Although Mr. Bingham's motion was defeated, the bill was sent back to the committee. On March 13, it came back to the House floor for further consideration. In committee, the bill had been amended to eliminate the initial broad generalities. As amended, it provided as follows:

"That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crimes whereof the party shall have been duly convicted, shall have the same right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding."

Mr. Wilson, still in charge of the bill, stated that the change was made to appease those who thought the bill too broad, although he did not think that the amendment materially changed the bill. He went on to say that one purpose of the amendment was to eliminate fears that the bill might confer suffrage on the Negro:

"To obviate that difficulty and the difficulty growing out of any other construction beyond the specific rights named in the section, our amendment strikes out all of those general terms and leaves the bill with the rights specified in the section."

The bill was then passed by the House by a vote of 111 to 38. The House amendments were adopted in the Senate without debate.

On March 27, 1866, the President returned the bill to the Senate without his approval. His veto message contains his objections to the bill section by section. He stated that by the first section:

"* * * a perfect equality of the white and colored races is attempted to be fixed by Federal law in every State of the Union, over the vast field of State jurisdiction covered by the enumerated rights. In no one of these can any State ever exercise any power of discrimination between the different races."

He added that he did not believe that the bill would annul State laws in regard to marriage; but if Congress could prohibit discrimination in the matters specifically limited in the bill, it could repeal State marriage laws.

The radical element of Congress was determined to enact the bill and delayed its reconsideration in the Senate until the composition of that body had been arranged more to its liking. The bill was brought up on April 4 and a vigorous debate ensued. Little in this debate is of interest here, except to note a substitute bill proposed by Senator Doolittle of Wisconsin. His bill would have provided simply that the States should not inflict any incident of slavery upon a Negro, leaving to the judiciary the task of determining those incidents. This is one of very few instances where it was proposed that Congress look to the judiciary; his bill was not considered seriously and did not survive.

The bill as to civil rights was passed in the Senate over the President's veto on April 6, 1866, by a vote of 33 to 15. Little debate was permitted in the House and the bill was passed there 3 days later by a vote of 122 to 41. It thus became law.

The Civil Rights Act is, we believe, important because of its reference to the "full and equal benefit of all laws." This can have no meaning except equal protection. But the leader of those who sought enactment of the bill in the House made it unmistakably clear that the act had no relation to or effect on segregated schools. Those who spoke in generalities or in fearful opposition are not to be taken as authoritative interpreters of legislation. On the other hand, the views of the floor leader and committee chairman, shared by other proponents, are of telling significance.

One word more should be added. The proponents of the act thought that it applied only to the rights specifically listed in the first section; the President in his veto message makes it clear that he shared that view and even opponents of the measure eventually agreed to that interpretation. Nothing in that first section has any specific relation to the educational system. Appellants make many sweeping statements as to the bill, but their "generalizations" (brief, pp. 90–92) are not based on the record. In our opinion, the record proves that mixed schools were not within the contemplation of Congress when the Civil Rights Act was enacted.

5.—THE RESOLUTION PROPOSING THE AMENDMENT

We have, for convenience, discussed the Freedmen's Bureau bill and the Civil Rights Act as if they were taken up and concluded before the resolution proposing the 14th amendment was put before Congress. But they were all contemporaneous. The first proposals to amend the Constitution preceded the introduction of those bills. The major debates on the proposed amendment came only after consideration of the bills had been concluded and were, therefore, to some extent shaped by what had been said in their regard; but the initial steps came before final action on the bills. During this period many minds collaborated to shape the amendment in its final form, and particularly the first section with which we are chiefly concerned.

When the 39th Congress convened for its first session in December 1865, Thaddeus Stevens, the Pennsylvania radical, proposed the creation of a Joint Committee on Reconstruction to consist of 6 Senators and 9 Representatives. This proposal was soon adopted, and it was this committee that evolved the resolution that proposed the 14th amendment.

We must point out at once that the meaning of the 14th amendment cannot, as appellants seek (brief, pp. 93–103), be derived from extraneous statements of wishes and desires by members of this committee. Its majority were the fire-eaters; they may well have wished to destroy all race distinctions. But what they wished to do and what the majority in Congress were willing to do were quite different things; they did not speak for the majority. As a result, what they wished to do and what they in fact did were quite different things. Even their leader, Stevens, recognized this when he spoke about the amendment in almost its final form:

"This proposition is not all that the committee desired. It falls far short of my wishes, but it fulfills my hopes. I believe it is all that can be obtained in the present state of public opinion. * * * Upon a careful survey of the whole ground, we did not believe that 19 of the loyal States could be induced to ratify any proposition more stringent than this."

So we must be careful to distinguish between general statements and specific statements of interpretation of the amendment. If we rely only on the latter, we can find its true historical meaning.

Mr. Stevens introduced a proposed amendment at the beginning of the session, and Mr. Bingham of Ohio, "the Madison of the first section of the 14th amendment," as Mr. Justice Black aptly calls him, introduced another phrased in different terms. These proposals went to the Committee on Reconstruction which considered them together with various substitutes. At length, on February 3, 1866, the committee adopted and 10 days later reported to the Senate and House a proposed amendment as follows:

"The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States; and to all persons in the several States equal protection in the rights of life, liberty, and property."

Mr. Bingham brought this proposal before the House for debate on February 26, and a lively debate followed. He argued that the proposed amendment simply gave Congress a right of enforcement, that all of the rights included in it had been conferred by other provisions of the Constitution but that Congress had had no enforcing power. He turned to the privileges and immunities clause of article IV, section 2, and the due process provision of the fifth amendment; apparently he thought that Congress was now to be given the power to enforce these provisions on the States. No very clear conception of detailed purpose comes from his speech.

Opposition arose at once. Mr. Rogers of New Jersey quickly pointed out that the proposed amendment was designed to give constitutional sanction to radical legislation such as the Civil Rights Act (then on the way to enactment). He feared also that it would authorize congressional repeal of antimiscegenation statutes and action in all fields to give the Negroes all the rights of the whites. This might include congressional power to compel amalgamated schools. A number of Representatives then spoke to the same effect as Mr. Bingham; no new powers were to be conferred but the enforcement power was to be strengthened.

Mr. Hale, of New York, spoke in opposition, objecting to the "extremely vague, loose, and indefinite provisions" of the proposed amendment. It was, he thought, a grant of extreme legislative power; Congress might undo the statutes placing married women under disabilities. Mr. Bingham answered him by denying any such intention, though his rationalization is again difficult. He also delivered an elaborate speech toward the end of the debate but no great meaning can be derived from it. His conclusion was that the proposed amendment—

"* * * certainly does this: It confers upon Congress power to see to it that the protection given by the laws of the States shall be equal in respect to life and liberty and property to all persons."

This may glitter but it is fool's gold. If that is what the amendment was to do, its exalted level seems far above that of the public schools.

After Mr. Bingham had concluded, two representatives from New York suggested that the matter be postponed. Apparently, a majority were unwilling to confer affirmative power on Congress in the way proposed by the amendment, desiring instead a prohibition on the States. So postponement was agreed to. This particular proposal was never heard of again.

More than 2 months now elapsed before anything further was done on the proposed amendment, either in committee or on the floor. During that period the Civil Rights Act was passed, vetoed, and passed over the veto. It was not until April 21, 1866, that a new plan came before the committee, this time presented by Stevens but in fact prepared by Robert Dale Owen. This was in five sections (as is the amendment as ratified) but the first section provided simply that there should be no discrimination as to civil rights by the States of the United States on account of color.

Mr. Bingham at once sought to insert an equal protection clause, but this was rejected. He then tried to add to the enforcement clause in section 5 the following provision:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

We now approach the final form. On April 25, a motion to strike out Bingham's addition to section 5 was carried. At the next meeting Bingham sought to substitute for section 1 in the draft his proposed addition to section 5. This was finally agreed to by a vote of 10 to 3. The amendment in this form was ordered reported to Congress by a partisan vote. Nothing in the proceedings of the committee indicates that it at any time intended to require amalgamated schools.

The proposed amendment left the committee accompanied both by majority and by minority reports. Schools are mentioned in neither. The majority were concerned primarily in securing civil rights for the Negroes, apparently the civil rights supposedly protected in the Civil Rights Act. Its report concluded in this way:

"The conclusion of your committee, therefore, is that the so-called Confederate States are not, at present, entitled to representation in the Congress of the United States; that, before allowing such representation, adequate security for future peace and safety should be required; that this can only be found in such changes of the organic law as shall determine the civil rights and privileges of all citizens in all parts of the republic, shall place representation on an equitable basis, shall fix a stigma upon treason, and protect the loyal people against future claims for the expenses incurred in support of rebellion and for manumitted slaves, together with an express grant of power in Congress to enforce those provisions. To this end they offer a joint resolution for amending the Constitution of the United States, and the two several bills designed to carry the same into effect, before referred to."

The minority, Democrats all, argued that the Southern States had never left the Union. They were, therefore, entitled to immediate representation in Congress and the country need not fear readmission of their representatives. Furthermore, they pointed out that a provision for mandatory Negro suffrage was not included in the proposed amendment because to have gone so far "would be obnoxious to most of the Northern and Western States. * * *"

The resolution so approved by the committee was introduced in both the Senate and the House on April 30, 1866. It was debated first in the House, the debate opening on May 8, 1866.

Thaddeus Stevens spoke first. His concept of the purpose of section 1 was clear. All of its provisions, he declared:

"* * * are all asserted, in some form or other, in our Declaration or organic law. But the Constitution limits only the action of Congress, and is not a limitation on the States. This amendment supplies that defect, and allows Congress to correct the unjust legislation of the States, so far that the law which operates upon one man shall operate equally upon all. * * *"

He continued:

"Some answer, 'Your civil rights bill secures the same things.' That is partly true, but a law is repealable by a majority. And I need hardly say that the first time that the South with their copperhead allies obtain the command of Congress it will be repealed. * * *"

But the first section was not to his practical mind of greatest significance:

"The second section I consider the most important in the article."

To Thaddeus Stevens, then, the first section was equal protection, the purpose was to write the Civil Rights Act into the Constitution, and these were generalities not of significance in comparison with the greater practical purpose of the second section to limit southern representation.

It will not do to assert, as appellants do (brief, p. 118), that Stevens made it clear that the amendment was to go further than the Civil Rights Act. He made no such statement nor can any such intention be implied. He discussed in specific terms punishment for crime, means of redress, protective laws and testimony in court, all of which were listed in the Civil Rights Act; he never mentioned in any terms an attempt at broader application.

Mr. Finck, a Democrat from Ohio, followed; if the first section was necessary, the Civil Rights Act was unconstitutional. Mr. Garfield, also from Ohio but, of course, a Republican, disagreed; he stated that the purpose was to prevent the repeal of the Civil Rights Act. Mr. Thayer of Pennsylvania, a Republican, adopted the same view. Mr. Boyer, a Pennsylvania Democrat, opposed the proposed amendment:

"The first section embodies the principles of the civil rights bill. * * *"

Mr. Broomall, a radical, did not disagree on this point:

The fact that all who will vote for the pending measure, or whose votes are asked for it, voted for this proposition in another shape, in the civil rights bill, shows that it will meet the favor of the House."

Mr. Shanklin of Kentucky spoke next. A Democrat, he opposed the proposed amendment as investing "all power in the General Government." He was followed by Mr. Raymond, the Republican publisher of the New York Times. Mr. Raymond said that this was the third time that this matter had come before the House; the first was Bingham's proposed amendment, the second the Civil Rights Act. Mr. Raymond opposed the Civil Rights Act for he thought the power of Congress to enact it "very doubtful, to say the least." He concluded:

"And now, although that bill became a law and is now upon our statute book, it is again proposed so to amend the Constitution as to confer upon Congress the power to pass it."

Many other speakers followed; it is only necessary to touch on major speeches. Mr. Eliot, a Massachusetts radical, was in favor of putting the Civil Rights Act in the Constitution. Mr. Randall of Pennsylvania opposed; he spoke in general terms of the broad applicability of the amendment, pointing out that suffrage was not included. Mr. Rogers of New Jersey, ever a States rights Democrat, held strong views. The first section, he thought—

"* * * is no more nor less than an attempt to embody in the Constitution of the United States that outrageous and miserable civil rights bill. * * *"

He was excited about privileges and immunities. He thought that this phrase covered many rights, but he did not mention schools. He predicted revolution.

He was followed by Mr. Farnsworth who picked up the phrase "equal protection of the laws" as new to the Constitution. He thought that none could object to this concept but he did not attempt its definition.

Mr. Bingham followed with a major speech. As in so many of his utterances, he sparkles with generalities but his exact meaning is obscure. He said:

"* * * this amendment takes from no State any right that ever pertained to it."

But apparently all he meant there was that States had exercised powers erroneously and that Congress might now supervise their exercise. He went back to nullification; he thought that Congress would be able to overcome the disabilities which any such theory might impose on citizens of the United States. But he comes nowhere near the subject of our investigation.

Mr. Stevens closed briefly. The vote was taken. The resolution proposing the amendment was adopted by a vote of 128 to 37.

Any review of the House debate must lead to the conclusion that most of the members thought that the chief purpose of section 1 of the proposed amendment was to place the provisions of the Civil Rights Act in the Constitution and thus to prevent the amendment or repeal of that act at any later date. We may then, it seems, interpret the amendment to mean the same thing that its supporters and the supporters of the Civil Rights Act considered that the act meant. That is all of a specific nature that we find in this debate.

The scene then passed to the Senate. Debate began on May 23, 1866. Senator Howard of Michigan took the lead in presenting the resolution since Senator Fessenden of Maine, the chairman of the Committee on Reconstruction, had not been well. He spoke at length on "privileges and immunities" for this clause, he apparently thought, contained the gist of section 1. He considered this phrase incapable of accurate definition, but he listed a great many that he thought included. These were the first eight amendments of the Constitution together with some even less well defined privileges and immunities included in article IV, section 2. Despite the long list that he gave, schools were never mentioned. He went on:

"The great object of the first section of this amendment is, therefore, to restrain the power of the States and compel them at all times to respect those great fundamental guarantees. How will it be done under the present amendment? As I have remarked, they are not powers granted to Congress, and, therefore, it is necessary, if they are to be effectuated and enforced, as they assuredly ought to be, that additional power should be given to Congress to that end. This is done by the fifth section of this amendment. * * * Here is a direct affirmative delegation of power to Congress to carry out all the principles of all these guarantees, a power not found in the Constitution."

But again, these guarantees include no reference to the public schools.

Senator Howard made clear his views on the last portion of the first section. He said that this portion:

"* * * does away with the injustice of subjecting one caste of persons to a code not applicable to another. It prohibits the hanging of a black man for a crime for which the white man is not to be hanged. It protects the black man in his fundamental rights as a citizen with the same shield which it throws over the white man."

That is the general field for the operation of the due process and equal protection clauses. They were not designed, as appellants assert, to wipe out all distinctions based on race or color. Senator Howard made this clear by his reference to the right to vote:

"But sir, the first section of the proposed amendment does not give to either of these classes the right of voting. The right of suffrage is not, in law, one of the privileges or immunities thus secured by the Constitution. It is merely the creature of law. It has always been regarded in this country as the result of positive local law, not regarded as one of those fundamental rights lying at the basis of all society and without which a people cannot exist except as slaves, subject to a despotism."

Is the right to go to an amalgamated school one of those "fundamental rights"? Is it more than the right to vote itself? Howard could not have thought so.

Howard spoke also of the last section of the proposed amendment. He added that section 5 gave Congress power to pass laws—

"* * * appropriate to the attainment of the great object of the amendment."

Howard, like Stevens, made it clear later on that the amendment did not go as far as he would like. He said:

"* * * it is not entirely the question what measure we can pass the two Houses; but the question really is, what will the legislatures * * * do * * *?"

* * * * *

"The committee were of opinion that the States are not yet prepared to sanction so fundamental a change as would be the concession of the right of suffrage to the colored race."

Appellants assert (Brief, p. 118) that, like Stevens, Howard thought that the amendment went beyond the Civil Rights Act. That is inaccurate. The contrary is true. When asked as to the purpose of the proposed amendment, Howard said:

"We desired to put this question of citizenship and the rights of citizens and freedmen under the civil rights bill beyond the legislative power. * * *"

Senator Wade on the same day moved a substitute which contained the germ of the definition of citizenship. Further consideration was then postponed. The Senate Republicans went into caucas where no doubt most of the basic differences were threshed out. Of the debates there we have no record. On May 29, the Senate returned to a consideration of the proposed amendment. Senator Howard at once offered a series of amendments, the product of the caucus. The only amendment proposed for section 1 was the addition of the clause defining citizenship.

Some debate followed on the citizenship provision. Then Senator Doolittle of Wisconsin asserted that the amendment was designed to validate the Civil Rights Act. Senator Fessenden denied that he had heard such a purpose mentioned in the committee, but he had missed many sessions and Senator Howard interposed to remark that the purpose of the amendment was to prevent the repeal of the Civil Rights Act.

Senator Poland of Vermont made a speech in which he stated that the purpose of section 1 was to permit Congress to prohibit State interference with the privileges and immunities referred to in article IV, section 2. He admitted that the proposed amendment would not confer suffrage on the Negro. Senator Stewart of Nevada renewed the general theme that the proposed amendment was designed to put the Civil Rights Act in the Constitution.

At last we come to a reference to schools. Senator Howe, Wisconsin Republican, interpreted the equal protection clause to require a State to provide "protection of equal laws," a concept now familiar. As an example of what would be outlawed, he cited a Florida statute taxing whites and Negroes to support white schools and then taxing Negroes again to support Negro schools. His suggestion very properly was not denied.

Senator Davis of Kentucky, an opponent of the proposed amendment, spoke at length. He expressed the view that the amendment was designed to provide constitutional support for the Civil Rights Act. He was followed by Senator Henderson, a Republican from Missouri. He listed the rights given by the Civil Rights Act; schools were not mentioned. He implied that the proposed amendment would accomplish only the same result as the Civil Rights Act. Senators Hendricks and Johnson concluded the debate by stating that portions of section 1 could not be understood. The vote was then taken—June 8, 1866—and the resolution was adopted by a vote of 33 to 11.

The resolution went back to the House for concurrence in the Senate amendments. Debate was limited to 1 day. Mr. Rogers stated that the resolution "embodied the gist of the civil rights bill." The House concurred with the Senate amendments on June 13 by a vote of 120 to 32.

From this review, what conclusions are to be drawn? If we turn to Flack, we find these:

"In conclusion, we may say that Congress * * * had the following objects and motives in view for submitting the first section of the 14th amendment to the States for ratification:

"1. To make the Bill of Rights (the first eight amendments) binding upon or applicable to the States.

"2. To give validity to the civil rights bill.

"3. To declare who were citizens of the United States."

Fairman disagrees at length with the first conclusion and we are rather of the view that his position is the proper one.

But that is all beside the point before us now. Without regard to that dispute, there are in all these thousands of words few passages that are directed in terms to the question of segregated schools. Furthermore, most of those who spoke considered that the amendment was designed to cover the same field as the Civil Rights Act. We know from the authoritative Mr. Wilson that the Civil Rights Act was not intended to disestablish segregated education.

The 14th amendment then went to the States. In another place we review the evidence of record there. We continue here to follow the congressional path.

6.—CONTEMPORARY SCHOOL LEGISLATION FOR THE DISTRICT

The debate on the resolution proposing the 14th amendment began in earnest on May 8, 1866, when Mr. Stevens opened the fight in the House after the reports of the Committee on Reconstruction had been filed. The resolution achieved final passage on June 13, 1866. Right in the middle of this short period the Senate took action to confirm the existence of segregated schools in the District of Columbia.

On May 21, 1866, the Senate passed "An act donating certain lots in the city of Washington for schools for colored children in the District of Columbia." This act, which became law on July 28, required the Commissioner of Public Buildings:

"* * * to grant * * * to the trustees of colored schools for the cities of Washington and Georgetown * * * for the sole use of schools for colored children * * * [named lots], said lots having been designated and set apart by the Secretary of the Interior to be used for colored schools. * * *"

If the 14th amendment was designed to do away with separate schools for the Negroes, the Members of Congress who proposed the amendment certainly did not so understand it, or their action is so inconsistent as to be incomprehensible. Not only was the statute just quoted enacted at this time but another statute was adopted almost simultaneously to provide for an equitable apportionment of school funds to the Negro schools. We take these statutes as uncontrovertible approval of the continuance of segregated schools in the District by the Congress that proposed the 14th amendment to the States.

7.—THE READMISSION ACTS

In the Reconstruction Act of 1867, one of the conditions to be satisfied before representatives of the seceding States were to be readmitted to Congress was that each State should submit a revised constitution for congressional approval. Congress began the consideration of these revised constitutions when a bill for the readmission of Arkansas came before the first session of the 40th Congress in 1868.

During the consideration of this bill in the Senate, Senator Drake, a Republican from Missouri, moved to add as a condition that the right to vote or "any other right" should not be denied or abridged because of race or color. His colleague, Senator Henderson, also a Republican, apparently thought that this proposal might affect segregated schools. He therefore moved an amendment to make specific the permission for such schools. Henderson's amendment was not accepted for it was apparently thought unnecessary, Senator Frelinghuysen of New Jersey stating his view that neither the 14th amendment nor Drake's proposal "touched" the mixed school question. The House refused to agree to the Drake amendment.

Shortly thereafter, the Senate considered a House bill for the readmission of North Carolina, South Carolina, Georgia, Alabama, and Louisiana. In the Judiciary Committee, the Drake amendment was added except that it was limited to the right to vote alone and the provision as to "any other right" was omitted. Senator Trumbull, chairman of the Judiciary Committee and author of the Civil Rights Act of 1866, explained the action of the committee:

"And the committee have recommended the striking out of this fundamental condition and inserting the words contained in the [Drake] amendment which was adopted by the Senate to the Arkansas bill with the exception of the words 'or any other rights.' Those words which were in that amendment offered by the Senator from Missouri are omitted by the Judiciary Committee in reporting this bill, it being thought that there was no necessity for their insertion, and that it might lead to a misunderstanding as to what their true purport was. * * * It might be construed by some persons as applying possibly to social rights, or rights in schools, which the Senator from Missouri did not intend. * * *"

Senator Trumbull thus adopts a consistent course. His statement would be incomprehensible if he had thought that the 14th amendment abolished segregation in the schools. He makes clear, contemporaneously with ratification of the amendment, his view that whether or not schools shall be segregated is a matter for the discretion of the States.

8.—CHARLES SUMNER

The 14th amendment became a part of the Constitution on July 28, 1868. Of course, the Members of Congress were not thereafter, in an authoritative sense, entitled to interpret the amendment, but they discussed it at great length. And the question of amalgamated schools was one that, along with other forms of racial segregation, occupied the attention of Congress for much of its sessions until the crusading spirit faded away after 1875.

In reviewing these debates, we shall find many who opposed school segregation and many who favored it. The discussions both by proponents and opponents covered two fields: expediency and constitutionality. We will not review discussions of expediency for they can have no relavance to the scope of the 14th amendment since it was already a part of the Constitution. We will touch on the constitutional debate, but we must recall that it is often hard to separate the two. This general rule should be borne in mind as the story unfolds.

The opposition to racial segregation had one leader, a man of such remarkable talent that we interrupt here for a moment the chronological story to make particular mention of his character. That was Charles Sumner, Senator from Massachusetts from 1851 until his death on March 11, 1874. He was born in Boston in 1811 and was graduated from both the College and Law School of Harvard University. Thereafter, he traveled widely in Europe, forming friendships with important leaders abroad that lasted for the rest of his life.

On his return to Boston, Sumner began the practice of law. He took his place in the circle of New England culture that flourished so brightly in that era. He was the close friend of Longfellow and Whittier. But Sumner's genius was of a political turn. He became a leader in the group of intellectual abolitionists centered in Boston that played such a dramatic role in bringing on the crisis of civil war.

Sumner entered the Senate in 1851. He at once made clear his abolitionist sentiments and continued his activities in the field of race relations throughout his subsequent career. He took a leading role in the successful effort made by Congress to assume control of the reconstruction program and he was the bitter enemy of Andrew Johnson. Strangely enough, he seems to have had little part in framing the 14th amendment. But his interest in the Negro never flagged.

As we shall outline more in detail below, Sumner made strenuous efforts to outlaw school segregation in the District of Columbia in 1871–72. But most important to him was his bill to make segregation illegal in hotels, railway cars, schools, churches, and graveyards throughout the Nation. This bill became an obsession. As Carl Schurz, his contemporary in the Senate and a warm personal friend, said:

"This measure, indeed, was nearest to his heart, and he pressed it in season and out of season, urging it especially by way of amendment to amnesty bills as a joint measure of reconciliation."

He was never successful during his lifetime in forcing his bill to enactment though, amended to eliminate reference to schools, it was passed as the Civil Rights Act of 1875.

Not only was the advisability of his bill, the supplemental civil rights bill as he termed it, called in question but its constitutionality was under constant attack in the Senate. Sumner supported it by authority that seems remarkable today. During the first great debate on the measure in 1872, the record of a previous statement was quoted by an opponent:

"Mr. MORRILL of Maine. The Senator said that the Declaration [of Independence] was as much an authority as the Constitution of the United States.

"Mr. SUMNER. Very well; that I do say certainly and a little more."

Sumner immediately replied:

"Mr. SUMNER. Very well; I say a little more in what it is; that is, as a rule of interpretation. If you give preference to either, it is to the Declaration. Indeed, I cannot escape from that conclusion. It is earlier in time; it is loftier, more majestic, more sublime in character and principle."

This was not the only occasion on which he expressed this remarkable view. Later in the debate, he said:

"The great principles and promises of the Declaration of Independence must become a living reality, and that can be done only through an act of Congress."

In fact, his philosophy seems more than liberal even by today's standards. In reply to a Senator who wished to look more closely to the words of the Constitution, Sumner said:

"I have also sworn to support the Constitution, and it binds me to vote for anything for human rights."

This philosophy was almost too much even for Schurz, a wartime general in the Union Army. He commented that Sumner thought—

"The Declaration of Independence higher than the Constitution. * * *"

And Schurz points to Sumner's—

"* * * way of surmounting points of law by appeals to the rights of man."

Even Sumner's official biographer considered this approach to a constitutional problem unusual. He observed:

"[Morrill] complained, and had reason to complain, of Sumner's mode of handling a constitutional question—his drawing on sublime doctrines of human right rather than looking sharply at the written text."

It was Sumner's view, then, that a basis for outlawing school segregation might be found in the Declaration of Independence and that, as a result, Congress might properly act. Furthermore, where what he termed human rights were at issue, he did not consider it necessary to take into account the words of the Constitution. These novel theses discredit his judgment in constitutional matters.

His activities in Congress also make it clear that he did not conceive that the Constitution of itself forbade school segregation even after ratification of the 14th amendment. We find no reference to a suggestion of judicial action or judicial power and his insistence on congressional action negates any belief that the courts had the power to act unaided. But there is other confirmation on this point. On October 24, 1871, a convention of Negroes met in Columbia, S.C. To this convention, Sumner addressed a letter, dated October 21, 1871. In this letter, he said:

"Can a respectable colored citizen travel on steamboats, or railways, or public conveyances generally, without insult on account of color? * * * I might ask the same question in regard to hotels, or even common schools. A hotel is a legal institution, and so is a common school. As such, each must be for the equal benefit of all. Now, can there be any exclusion from either on account of color? It is not enough to provide separate accommodations for colored citizens, even if in all respects as good as those of other persons. Equality is not found in an equivalent, but only in equality. In other words there must be no discrimination on account of color. The discrimination is an insult and a hindrance, and a bar, which not only destroys comfort and prevents equality, but weakens all other rights.

"The right to vote will have new security when your equal right in public conveyances, hotels, and common schools, is at last established; but here you must insist for yourselves, by speech, by petition, and by vote. Help yourselves, and others will help you also. The civil rights law needs a supplement to cover such cases. This defect has been apparent from the beginning, and, for a long time, I have striven to remove it. I have a bill for this purpose now pending in the Senate. Will not my colored fellow-citizens see that those in power shall no longer postpone this essential safeguard? Surely, here is an object worthy of effort."

So Sumner, using terms which sound familiar for they are the same as those used by more modern agitators, clearly expressed the view that additional authorization was required before the segregated school would have to disappear.

It will, we believe, make the history of the early 1870's fall into clearer focus to keep these opinions in mind. Sumner was the protagonist in the segregation drama. He considered that school segregation had not already been outlawed; his view that Congress could pass the legislation necessary to do so was based on a concept utterly at variance with any normal canon of constitutional law.

9.—THE ENFORCEMENT ACTS (1870–71)

Brief mention must be made of these acts, though they add but little to our story. The first, which became law on May 31, 1870, was designed initially as a measure to enforce the 15th amendment. It dealt with the protection of the Negro's right to vote. It was thereafter enlarged to include enforcement of the 14th amendment and was amended to reenact the Civil Rights Act of 1866. Even though the 14th amendment was still a recent addition to the Constitution, no effort was apparently made to broaden the rights protected by act of Congress.

The opposition was not particularly stiff; Senators Vickers and Thurman spoke at length in opposition, presaging the views that they were to express in the great debate of 1872. The bill was passed by the Senate by a vote of 43 to 8, and was adopted in the House without substantial debate.

The Second Enforcement Act was approved on February 28, 1871. It dealt wholly with voting rights. It was adopted in both House and Senate by large majorities.

10.—THE SUPPLEMENTAL CIVIL RIGHTS BILL AND THE GENERAL AMNESTY ACT

As the 1860's gave way to the beginning of a new decade, Charles Sumner developed his supplemental civil rights bill. To it, as we have seen, he devoted much of his time and energy. It was the forerunner of the Civil Rights Act of 1875, adopted with restrictive amendments after Sumner's death in 1874.

The bill took several forms but, in general, all provided—

"That all citizens of the United States, without distinction of race, color, or previous condition of servitude, are entitled to the equal and impartial enjoyment of accommodations, advantages, facilities, or privileges furnished by common carriers * * * innkeepers * * * theaters * * * common schools * * * church organizations * * * cemetery associations. * * *"

A further provision purported to safeguard the right of all to serve as jurors and another would repeal all statutes, State or Federal, containing the word "white" for the purpose of discrimination as to color. Criminal and civil sanctions were included.

The bill had been introduced by Sumner in 1870 and in 1871 and had been unfavorably reported. When Congress met in December 1871, Sumner saw his opportunity. It will be recalled that section 3 of the 14th amendment had excluded from office many southern citizens, although the disability was subject to removal by a two-thirds vote of Congress. Sentiment in 1871 was strongly in favor of a general amnesty, excluding only a very limited number from its terms. Bills to that effect were introduced in both the Senate and the House; the House promptly passed its bill and sent it to the Senate.

The Senate first considered its own bill. Sumner moved in Committee of the Whole to tack on his supplemental civil rights bill as an amendment, saying that justice to the Negro must go hand in hand with generosity to the Southern States. A debate ensued but at last the amendment was defeated by a vote of 29 to 30. Sumner tried again in committee, but Thurman of Ohio opposed, as he always did, and nothing further was accomplished at this time.

When Congress met again in January 1872, the amnesty bill came before the Senate (after having been reported by the Committee of the Whole). Sumner again proposed his amendment. A tremendous debate followed. Sumner spoke again and again. The opposition was strangely divided. Some favored the amendment but not as a part of the amnesty bill for they thought the latter would be endangered in the House. Others, however, felt that the amendment, either in whole or in part, violated the Constitution. Its proponents refused to state the specific constitutional provisions supporting the amendment; Sumner, as we have seen, relied on the Declaration of Independence and on those unspecified provisions that supported the Civil Rights Act of 1866. But he was strongly, though vaguely, supported.

Senator Morrill of Maine made a strong speech attacking the constitutionality of Sumner's amendment. He assumed that its constitutional basis lay, at least in part, in the 14th amendment. But that was no proper basis. He said:

"I submit that in no proper sense can the 14th amendment be regarded as a substantive grant of power. It is in terms, in essence, and effect, a prohibition to the States."

He thought that the privileges and immunities clause was limited to those rights specifically listed in the Civil Rights Act of 1866 and that the Government of the United States had no right to take from the people the direction of education. Many other Senators expressed similar constitutional doubts. Ferry of Connecticut, for example, held the view that the Federal Government should not interfere with schools and churches. Tipton thought that the judiciary should enforce the amendment and that Congress was empowered to act only when there was no other remedy.

When Sumner's amendment came to a vote, the result was a 28 to 28 tie. Vice President Colfax cast the deciding vote in favor of the amendment. Sumner was elated; he said:

"The bill is now elevated and consecrated."

But his fight was in vain, for the amnesty bill as so amended failed to receive the necessary two-thirds vote and was defeated.

After 3 months of quiet, the House bill to provide a general amnesty came before the Senate on May 8, 1872. Sumner immediately moved his supplemental civil rights bill as a substitute bill. Trumbull of Illinois replied that—

"The right to go to school is not a civil right and never was."

Ferry of Connecticut brought up the analogy of segregation by sex; could Congress outlaw such segregation? But Edmunds and Sherman supported Sumner. Sumner grew excited; he said:

"Now, question on my motion."

But the debate was to continue. Boreman, Casserly and Bean opposed the substitute. Ferry of Connecticut moved to strike out the provision as to mixed schools. He thought that dictation to local communities on school management would be "fatal to the school system of the country." He went on:

"* * * in the community where I reside there is no objection to mixed schools * * * and if I were called upon to vote there, I should vote for them. It would be a useless expense to establish separate schools for the few colored people in that community. But I cannot judge other communities by that community. * * * I believe the Senator's bill relating to the District of Columbia, for instance, would utterly destroy the school system in this District. * * *

"Take, for instance, the State of Ohio where I understand the law permits the district to have mixed or separated schools. * * * I observe a decision of the Supreme Court of Ohio reported in yesterday's newspapers, bearing upon the very point suggested in this bill; for it had been the assertion * * * that compelling the separation of the races into different buildings was a violation of the 14th amendment, notwithstanding that both races * * * enjoyed the same or equal accommodations, facilities, and advantages. That court * * * as I understand, the majority of it, of judges whose political opinions are like those of the majority of this body * * * 'sustained the constitutionality [of separate schools]. * * *'

"I believe that that decision of the Supreme Court of Ohio is good law."

But Ferry's amendment to eliminate schools was rejected, 25 to 26. And an amendment proposed by Blair to provide for local option was also defeated. Senators Bayard, Casserly, and Stockton attacked the constitutionality of Sumner's substitute, Casserly citing the Massachusetts case of *Roberts* v. *City of Boston* which upheld segregated schools.

Ferry then moved to add the amnesty bill to Sumner's substitute. That was agreed to, 38 to 14. Trumbull then moved to strike out Sumner's substitute and leave only the amnesty bill, but that was lost when the Vice President voted again to break a tie. Sumner's substitute was next defeated, 27 to 28, but when he moved to add his supplemental civil rights bill to the original House amnesty bill, his motion was adopted, again after a tie vote. But these maneuvers were in the end unsuccessful for the bill as so amended did not receive the required two-thirds vote and died.

Matters now passed to a crisis as far as amnesty was concerned. Shortly after 5 o'clock in the morning on May 22, 1872, the Senate took up Sumner's bill. Sumner was not present. The bill was amended to eliminate schools, churches, cemeteries, and juries and passed 28 to 14. The Senate then went on to consider amnesty. Sumner, outraged, appeared on the floor and moved to amend the amnesty bill by adding his supplemental civil rights bill in its original form. The Senate, now in no mood to tarry, rejected his proposal 13 to 27, and passed the amnesty bill in the form approved by the House. The vote was 38 to 2; of the 2 dissenting votes, 1 was Sumner's. It was after 10 o'clock in the morning when the Senate adjourned.

The House took no action on Sumner's bill. It had, on March 11, 1872, defeated a motion to suspend the rules and then to consider a desultory resolution declaring, among other things, that it would be unconstitutional for Congress to force mixed schools. But there was no debate at that time and it seems questionable whether this action represents a proper test of House sentiment.

Two facts stand out from these debates. The more obvious is that the Senate was sharply divided on the constitutionality of any bill to outlaw school segregation. But equally important is the general acceptance of the fact that school segregation was not unconstitutional of itself and that no court could so declare. Nowhere is it suggested that the judiciary in construing the 14th amendment might without more put school segregation outside the constitutional pale.

11.—FURTHER DISTRICT OF COLUMBIA SCHOOL LEGISLATION

During all of this period, when Congress debated so violently civil rights legislation applicable to the country as a whole, it was from time to time active in connection with the schools of the District of Columbia. We review here this evidence of the temper of Congress for the whole period from the ratification of the 14th amendment until the end of the tempestuous decade in 1875.

In 1868, the Senate passed without substantial debate a bill to transfer the duties of the trustees of the Negro schools in Washington and Georgetown to the trustees of the public schools. This bill was not designed to amalgamate the schools but simply to amalgamate the controlling trustees; the schools were to remain segregated. The House passed the bill in 1869 and sent it to the President. The President vetoed the bill, stating that its provisions were "contrary to the wishes of the colored residents of Washington and Georgetown." No further action was taken.

The great debate on segregated schools in the District began in February 1871. A bill was reported to reorganize the District schools, creating one board to assume the duties of the various school authorities. Section 6 of this bill in effect forbade any segregation in the revised school system.

Senator Patterson of New Hampshire moved to strike out the segregation ban. He thought that amalgamation "will tend to destroy the schools of the city. * * *" Sumner jumped into the fray; the antisegregation provision was, to his mind, "the vital part of the bill." He made a long speech but, of course, no constitutional discussion was here appropriate. His supporters were to a large extent the radical southerners. Thus Senator Harris of Louisiana favored amalgamation although he commented that—

"We have not been able so far to operate [amalgamated] schools in our State very well. * * *"

Senator Sawyer of South Carolina thought Patterson's proposal "a retrograde step." Senator Revels of Mississippi considered that this amendment would encourage prejudice. Senator Wilson of Massachusetts also supported his colleague.

Patterson asserted, however, that his proposal was to leave the matter up to the local board for determination, expressing the view that it was—

"* * * doubtful * * * whether a majority of the colored people in this District desire this clause in the bill."

He was supported by Senators Tipton of Nebraska and Thurman of Ohio, the latter terming the proposal for forced mixture "tyrannical." Finally, Senator Hill of Georgia moved to amend Patterson's amendment to the effect that no distinction on account of race should be made in the method of education, thus leaving actual segregation permissible. Patterson accepted this proposal. But there the matter died; it was not, apparently, considered again during that session.

Sumner returned to the attack in 1872. He caused to be reported without amendment a bill to abolish the trustees of the colored schools established in 1862 and to require mixed schools in the District Discussion began on April 18, 1872. Sumner led off by asserting that the bill had been proposed at the request of the trustees of the colored schools. Senator Stockton of New Jersey began for the opposition. He said:

"I think in the condition the two races are before the law as you have placed them in this country we are bound to legislate on all subjects of legislation with equality toward them. * * * Whenever you come to interfere with any individual rights, with my right to say where my children shall go to school * * * you are then treading on the bounds of that civil liberty which our ancestors came to this country to establish."

Senator Bayard of Delaware opposed the bill and Senator Ferry of Connecticut proposed an amendment that would require an affirmative popular vote in the District before amalgamation would become mandatory. Sumner attempted time and again to get favorable action, and he was supported by Senator Edmunds of Vermont, an ardent radical, who said:

"It is a matter of great importance that we determine fairly and squarely whether in the District of Columbia, where we have the power, that we will exercise it in the protection of equal rights, or that we will not. * * *"

But Ferry of Connecticut reiterated his opposition to forced mixture, asserting that Sumner—

"* * * proposes a tyrannical rule from without, without consulting the sentiments of those within. * * *"

There again the matter died. Apparently, it never thereafter became a major issue. In 1874, Congress codified the laws relating to the District of Columbia. It specifically preserved the mandatory segregation requirements enacted in 1866; they are the statutes now under attack before this Court.

If the Congresses that first succeeded the ratification of the 14th amendment had considered that it expressed a firm policy against school segregation, it is inexplicable that they specifically refused to eliminate such segregation in the District of Columbia. Here was no question of constitutional power but solely one of policy; yet even then the considerations of policy were against the amalgamation of schools.

12.—THE FEDERAL AID TO EDUCATION BILL

Here is a small straw in the wind.

Early in 1872, the House considered a bill to give financial assistance to education in the States from the proceeds from the sale of public lands. The bill was silent on the question of school segregation. Some thought, however, that aid might be withheld from certain States because their schools were segregated. So an amendment was proposed to make it clear that aid should not be withheld for this reason. This amendment was adopted by the House by a vote of 115 to 81 on February 7, 1872. The bill as so amended was passed by the House but did not receive Senate consideration.

13.—THE CIVIL RIGHTS ACT OF 1875

We now approach the climax of congressional action in the field of school segregation. Sumner's supplemental civil rights bill then came back before Congress to be dissected and disputed and finally to be passed after all reference to schools was excised.

This is a long and turbulent story. We cannot refer to all the speeches. We must pick and choose as we can for those most relevant to our question.

We turn first to the House. There in December 1873, a civil rights bill was favorably reported and taken under his wing by General Butler of Massachusetts. It provided:

"That whoever, being a corporation or natural person, and owner, or in charge of any public inn; or of any place of public amusement or entertainment for which a license from any legal authority is required; or of any line of stagecoaches, railroad, or other means of public carriage of passengers or freight; or of any cemetery, or other benevolent institution, or any public school supported, in whole or in part, at public expense or by endowment for public use, shall make any distinction as to admission or accommodation therein, of any citizen of the United States, because of race, color, or previous condition of servitude, shall, on conviction thereof, be fined * * *."

Debate began on December 19, 1873. Butler stated that the purpose of the bill was simply to override hostile State legislation. Mr. Beck of Kentucky led for the opposition. He thought the bill clearly unconstitutional and referred to the recently decided Slaughter-House cases. His view was that the—

"* * * rights pertaining * * * inferentially to common schools, are not embraced in the powers confided to Congress by the constitutional amendments."

Mr. Rainey, a South Carolina Negro, spoke for the bill, and debate went over until after the holidays.

It began again on January 5, 1874. Mr. Frye of Maine spoke in favor and was followed by Mr. Harris of Virginia in opposition. Mr. Stephens of Georgia, Vice President of the Confederate States of America, made a long opposing speech. There was, he said a—

"* * * want of necessary power, under the Constitution."

He spoke of the wartime amendments:

"Neither of these amendments confer, bestow, or even declare, any rights at all to citizens of the United States. * * *"

Of section 5, he said, in effect, that it simply authorized Congress to establish methods by which violations of the amendment might be determined by the courts.

He, as did many others, pointed to the distinction made in the Slaughter-House cases between the rights of a citizen of the United States and the rights of a citizen of a State; the right to education at the expense of a State was not, they considered, a right of a citizen of the United States.

Mr. Mills of Texas made a strong constitutional argument. He said:

"* * * the 14th amendment was adopted, not to enlarge the privileges and immunities already conferred, but simply to prohibit the States from abridging them as they existed. * * *

"From the authority of adjudged cases it is clear that the privileges and immunities mentioned in the 14th amendment are only such as are conferred by the Constitution itself. * * *"

His speech has been summarized as follows:

"Those rights and privileges which were conferred by the State, and without which they would not exist, were not fundamental, he declared, and were not, therefore, included among the rights guaranteed by the 14th amendment. The right to go to school was not fundamental, for schools could be closed entirely without abriding the rights of any citizen of the United States, which could not be done if it were a right conferred by the Constitution."

Mr. Elliott of South Carolina, a Negro, thought that there was—

"* * * not a line or word * * * in the decision of the Supreme Court in the great Slaughter-House cases which casts a shadow of doubt on the right of Congress to pass the pending bill. * * *"

Mr. Lawrence of Ohio made a strong argument in favor of the constitutionality of the bill. He based his argument to a major extent on the equal protection clause. He reviewed the Civil Rights Act of 1866 and the intent of Congress to make its constitutionality and effectiveness assured by proposing the 14th amendment. He concluded with an argument that Congress could act even though a State had not acted at all if Congress thought action necessary to protect equal rights.

The constitutional arguments were made by many. Of course, those opposed pointed to the fact that the enactment of the bill would destroy the newly formed southern educational systems because tax support would be eliminated. But that was an argument of expediency and not of constitutionality.

Finally, General Butler made another long and fiery speech and, on his motion, the bill was sent back to committee. It did not return during that session.

While all of this was occurring in the House, a similar battle was proceeding in the Senate. Sumner was on hand when the session began and his supplemental civil rights bill was the first bill introduced. On January 27, 1874, he tried to have the bill brought up for consideration without reference to committee. He detailed the history of the bill and asserted that committee consideration was unnecessary. Senators Ferry of Connecticut and Morrill of Maine urged reference to a committee, both stating their views that the bill was unconstitutional. Even Edmunds of Vermont, a stanch radical, argued against Sumner, and at last the bill was referred to the Committee on the Judiciary. It was reported favorably on April 13, 1874, but by that time Sumner had passed from the scene. As reported, the bill provided as follows:

"* * * all persons * * * shall be entitled to full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances * * * theaters, and other places of public amusement; and also of common schools * * *; and of cemeteries * * * subject only to conditions and limitations established by law, and applicable alike to citizens of every race and color. * * *"

In the absence of Sumner, Senator Frelinghuysen of New Jersey made the major speech in support of the bill. He referred to the Slaughter-House cases and in some way derived support. He mentioned the Iowa case holding segregated schools unconstitutional under the Iowa constitution and the Ohio case holding segregated schools constitutional under the Federal Constitution, and said that neither provided any satisfactory precedent. He said that the purpose of the bill was "to destroy, not to recognize the distinctions of race." He found constitutional support in the wartime amendments "considered together and in connection with the contemporaneous history," but particularly in the privileges and immunities and equal protection clauses. He added this unusual note:

"When in a school district there are two schools, and the white children choose to go to one and the colored to the other, there is nothing in this bill that prevents their doing so."

On April 30, 1874, Senator Norwood of Georgia made a speech of 2 hours. He presented a substantial constitutional argument; he could not find support in the Constitution for congressional regulation of schools. Senator Gordon of Georgia on May 5, 1874, moved to strike out school regulation. Senator Flanagan of Texas favored the bill, as did Senator Pratt of Indiana. Senator Thurman of Ohio made a strong constitutional attack on the bill. Senator Morton of Indiana asked him how Congress might enforce the 14th amendment in accordance with section 5. Thurman answered:

"Just precisely as it enforces the prohibition against a State that it shall not pass any law impairing the obligation of contracts. * * * It enforces it by providing for the making of a case for the judicial tribunals of the United States. * * *"

Thurman thought that section 5—

"* * * does not add one iota to the power of Congress."

But he was not misled by the meaning of the first section of the bill:

"* * * the meaning of the section is that there shall be mixed schools."

On May 21, 1874, Senator Johnston of Virginia spoke in opposition, stating that the bill was opposed by Virginia Republicans and Negroes. Senator Morton followed. He thought section 5 applicable and that Congress was the sole judge of the appropriateness of enforcing legislation. Senator Boutwell of Massachusetts supported the bill as authorized by sections 1 and 5 of the amendment.

Senator Stockton of New Jersey made a long speech extending into the session of May 22. He focused on the equal protection clause and supported the separate but equal doctrine; equal did not, in his view, mean the same. He thought the bill beyond constitutional bounds. He was followed by Senator Howe of Wisconsin who took the opposite position; he believed that the 14th amendment gave proper support. Next came Senator Alcorn of Mississippi who favored the bill because it was favored by the Negroes in his State and they controlled the government there. In regard to schools he said—

"I am not in favor of mixing them and I consider that this bill does not mix them."

He pointed out that schools were not mixed in Mississippi even though the Negroes were in control.

The debate went on; the Senate sat all night long. Senator Sargent of California proposed an amendment to permit segregation by sex or color. Senator Bogy of Missouri concurred with Thurman; the effect of the bill on education would be "demoralization and destruction." Senator Pease of Mississippi opposed the separate but equal doctrine and favored the bill. Senator Cooper of Tennessee thought that it would require amalgamated schools and was both inexpedient and unconstitutional. Senator Saulsbury of Delaware made a strong legal argument; he thought the bill an interference with the State police power and that the amendment—

"* * * was not adopted for any such purpose."

Senators Kelly of Oregon, Merrimon of North Carolina and Hamilton of Maryland all opposed the bill on constitutional grounds.

Senator Stewart of Nevada stated that he believed that Congress had the constitutional power to pass the bill but that it would not result in better education for the Negro. He said:

"I do not think at all events we should take the step to compel mixed schools."

He added that the bill was designed to get Negro votes for the Republican Party.

As the debate ended, Senator Frelinghuysen noted that separate schools might be retained on a voluntary basis, and Senator Sargent of California expressed the view that the 14th amendment of itself certainly did not require mixed schools.

All substantial amendments were voted down. The bill was put upon its passage and passed by a vote of 29 to 16. The Senate adjourned at 7:10 a.m. The bill was never presented for action in the House.

In the election of November 1874, the Democratic Party made sweeping gains, unseating almost 100 Republican House Members. As a result, when the lame duck Congress met in December 1874, the Republicans were particularly anxious for some form of civil rights legislation to be enacted while they retained control. On December 16, 1874, General Butler, himself a lame duck, reported the civil rights bill in amended form. As amended, the bill provided that segregated schools might be maintained so long as they provided "equal educational advantages in all respects." The Republicans then succeeded in modifying the rules of the House in an attempt to restrain filibusters so that passage of the bill might be assisted. Two days after this was done, the House voted to reconsider the vote by which the bill had been recommitted. The debate then began. Mr. Cessna of Pennsylvania moved to substitute the language of the Senate bill. Mr. White of Alabama sought to add a proviso making even more certain the validity of mixed schools. Mr. Kellogg of Connecticut proposed the elimination of all reference to schools. Butler spoke at length; his bitterly antisouthern remarks aroused protest. Mr. Lynch joined in support of the bill, stating that the 14th amendment authorized the elimination of all color distinctions.

Mr. Finck of Ohio spoke in reply. He thought that the bill was unconstitutional, citing the Ohio decision and the Slaughter-House cases. He did not believe that comfort could be obtained from section 5 of the 14th amendment:

"I deny that the fifth section of the 14th amendment confers any express power upon Congress whatever."

Mr. Hale of New York disagreed with Mr. Finck; he considered that section 5 authorized affirmative congressional action of the type embodied in the bill.

We cannot recount within any reasonable limit of space all of the speeches on the bill. Many opposed, and most of them combined arguments of constitutional law with those of expediency. Many were in favor of the bill and answered the arguments of its opponents on the same grounds. But their arguments could only cover territory that we have already traversed; there was nothing new to tell.

In the end, Cessna's and White's amendments were rejected. Kellogg's amendment—to eliminate all reference to schools—was accepted by a very large majority, 128 to 48. As the one who proposed the amendment, his words are of interest. He thought that to require mixed schools would —

"* * * destroy the schools in many of the Southern States.

But he went further than this:

"And besides, this matter of schools is one of the subjects that must be recognized and controlled by State legislation. The States establish schools, raise taxes for that purpose, and they are also aided by private benefactions; and they have a right to expend the money, so raised, in their own way."

After the adoption of Kellogg's amendment, the bill passed the House early in the morning of February 5, 1875, by a vote of 162 to 99. It then went to the Senate. There, the absence of school regulation was not mentioned. The discussion related almost entirely to a provision regarding jurors. Thurman, Bayard, Carpenter, Dennis, and Hamilton opposed the bill; Boutwell and Morton supported it. It was passed by the Senate on February 27, 1875, by a vote of 38 to 26, and signed by President Grant on March 1, 1875.

Charles Sumner, had he lived, would have been bitter at the thought that Congress had refused to pass any law at all relating to segregation of the races in the public schools. But the crowning blow came even later; that occurred when this Court declared that his Civil Rights Act, bobtailed as it emerged from the congressional maelstrom, offended the Constitution of the United States.

With Democratic control of Congress, civil rights legislation ceased to be of active concern. But one further footnote must be added. President Grant apparently did not believe that segregated schools were outlawed. When he sent to Congress his message when it convened in 1875, he was concerned about education. He recommended a constitutional amendment making it the "duty" of each State "to establish and forever maintain free public schools * * * irrespective of sex, color, birthplace, religions. * * *" It seems clear that no reference to color would have been required if the 14th amendment had already made the result clear.

14.—CONCLUSION

Of the questions that we have here investigated, one is subject to a definite answer. The Congress that proposed the 14th amendment did not consider that, of itself, it made segregated schools unconstitutional.

This conclusion is easily derived. Almost all agreed that the amendment was designed to write the Civil Rights Act of 1866 into the Constitution of the United States; some said that the purpose was to make that act constitutional and others to prevent its repeal, but all agreed on the object. The leader of those who succeeded in enacting the civil rights bill stated specifically on two occasions that it was not designed to require mixed schools and the statements of its other proponents are consistent with his position. In the succeeding years, many efforts were made to enact a statute outlawing segregated schools but none was successful. These attempts, nourished by those who led the struggle for the 14th amendment, are absolutely inconsistent with any view that school segregation was already unconstitutional.

Could this Court act in the future of its own initiative? That thought never crossed a mind. If anything, the radical leaders were hostile to a Court that, compared to them, was conservative. The answer to this question can be derived from inference only but there is no evidence to support an affirmative position.

Finally, did those Congressmen believe that Congress could properly act to make school segregation illegal? There the evidence is sharply divided. The Congress that proposed the 14th amendment itself gives no answer to the question. In succeeding Congresses, at one time or another, a majority in the Senate and perhaps in the House would have said yes. But many would have replied with an emphatic negative and they were always equally vocal. The best answer to this question is that no Congress was ever able to muster a majority willing to take the step of outlawing school segregation. And the chief proponent of congressional action based his constitutional position on a ground that seemed then and seems now completely unsound to all.

In conclusion, one comment must be made. In reviewing the congressional history, one is always struck by the feeling that it has all been read before. Then the reason becomes apparent. All of the arguments—both for and against segregated schools—which are now being presented, whether they be legal, psychological, or sociological, were made in the 1870's, and often in the same words. There is nothing new; the field has been fully explored. This, we consider, makes it all the more clear that what we face is a local legislative and not a judicial problem.

APPENDIX B

THE FOURTEENTH AMENDMENT BEFORE THE STATES

A.—INTRODUCTION

The 14th amendment was proposed by Congress on June 13, 1866, and was submitted to the States for ratification on June 16, 1866. A final proclamation that the amendment had been ratified was issued by the Secretary of State on July 28, 1868. In this period of slightly more than 2 years and in the 2 years next succeeding, the amendment came before the legislatures of each of the 37 States then in the Union.

In seeking for evidence as to the relationship between the amendment and school segregation, we must look to two chief sources. The first is what was said directly about the amendment at the time that its ratification was under consideration, either by the Governor or some other executive official or by members of the legislatures. As to the latter, we are hampered by the fact that only in Indiana and Pennsylvania are there reports of legislative debates, and even then we must be wary of statements by those who opposed the amendment for their opinions as to its effect often went enthusiastically beyond the aims of those who favored it.

The second source of information comes from the school systems themselves. If segregated school systems existed both before and after the ratification of the amendment, it seems to us clear that the legislature did not contemplate that the amendment of its own force outlawed segregation in the schools. The same is true if the same legislature or one immediately subsequent enacted legislation providing for segregated schools. On the other hand, legislation not providing for segregated schools does not have the same force; the legislature may have thought that the amendment required amalgamated schools, but equally it may itself have desired amalgamated schools without regard to the amendment.

In this connection, we do not understand the apparent distinction made by appellants between States where segregation was mandatory and States where the legislature permitted local option. If segregation could be made mandatory by local authorities, it is, so far as that locality is concerned, just as if the legislature itself had made segregation mandatory. A legislature that considered that, as a result of the 14th amendment, school segregation offended the Constitution, could no more authorize segregation by local option than it could make segregation universally mandatory. We consider it impossible to distinguish mandatory and permissive segregation.

Furthermore, we note that in certain States there is no relevant evidence in the school reports. One main reason for this is that no substantial Negro problem existed in those States. That is apparent from the census figures for 1870, the nearest available census. A table taken from this census is reprinted on the next page. In Minnesota, for example, there were only 759 Negroes in 1870; it is idle to think that segregated education would even have been considered there. No evidence can be derived from the facts of the school system in such States.

Finally, we must disregard generalized statements. He who stated that the purpose of the amendment was to preserve liberty and equality for all the people cannot, we conceive, be taken to have meant that segregated schools were to be forever abolished. The statement must hit closer to the mark before it can be considered relevant.

In the discussion that follows, we make no attempt at argument. We seek merely to recount the facts as to each State, taken in alphabetical order only for convenience of reference. Before turning to the individual States, however, we must refer briefly to the peculiar circumstances general to all of the States in the South.

B.—THE SECEDING STATES

The States that seceded from the Union present a particularly difficult problem, and we outline here that problem in a manner applicable to all of them.

In 1866, when the 14th amendment was submitted to the States for ratification, there existed in these 11 Southern States governments which had been established pursuant to the reconstruction program of the President. They were comparatively representative of all the people. Although Congress had refused the readmission of the Senators and Representatives from these States, and the Freedmen's Bureau was active in them, no substantial action had been take to eliminate local self-government.

During the period between proposal and ratification of the 14th amendment, Congress took a very drastic step. On March 2, 1867, the House and Senate enacted over the veto of President Johnson "An act to provide for the more efficient government of the Rebel States." This act recited that legal State governments did not exist in the former Confederate States and that provision for "peace and good order" in those States was necessary until "loyal and republican" governments could be established. It therefore divided the South into five military districts to be commanded by officers of the Army who were empowered to use such means as they thought necessary to protect persons and property.

Section 5 of the statute provided the mechanics for the readmission to Congress of Senators and Representatives from the seceding States. There were two basic conditions. The first was that a new constitution should be framed for each State by a convention elected by all male citizens 21 years of age or more regardless of race, except felons and those who had participated in the "rebellion," that this constitution should provide for suffrage for all qualified to elect delegates to the convention and that Congress should approve the constitution. The second condition was that the first legislature elected under the new constitution should ratify the 14th amendment and that the 14th amendment should have become a part of the Constitution of the United States. This section continued by excluding from the franchise all those excluded from holding office by the third section of the 14th amendment. Section 6 of this statute proclaimed that, until each State had been readmitted to representation in Congress, its civil government should be deemed provisional only.

Pursuant to this act the existing governments in the Southern States were overthrown and new governments were established. A very large percentage of the whites were excluded from participation in these governments and, in several instances, dominion was placed completely in the hands of those who, but a short time ago, had been in servitude.

Naturally, each of the legislatures so elected promptly ratified the 14th amendment. There was no real alternative; either the amendment was ratified or the State continued in a position of military subjugation without local self-government. Any evidence on the question here under consideration derived from these 11 States is thus of diminished significance. In most of them the 14th amendment was ratified to procure readmission to the Union and little consideration was given by the ratifying legislatures to the particular effect that ratification would have on local rights.

U.S. population (1870)

	Aggregate	White	Colored
STATE			
Alabama	996,992	521,384	475,510
Arkansas	484,471	362,115	122,169
California	560,247	499,424	4,272
Connecticut	537,454	527,549	9,668
Delaware	125,015	102,221	22.794
Florida	187,748	96,057	91,689
Georgia	1,184,109	638,926	545,142
Illinois	2,539,891	2,511,096	28,762
Indiana	1,680,637	1,655,837	24,560
Iowa	1.194,020	1,188,207	5,762
Kansas	364,399	346,377	17,108
Kentucky	1,321,011	1,098,692	222,210
Louisiana	726,915	362,065	364,210
Maine	626,915	624,809	1,606
Maryland	780,894	605,497	175,391
Massachusetts	1,457,351	1,443,156	13,947
Michigan	1,184,059	1,167,282	11,849
Minnesota	439,706	438,257	759
Mississippi	827,922	382,896	444,201
Missouri	1,721,295	1,603,146	118,071
Nebraska	122,993	122,117	789
Nevada	42.491	38,959	357
New Hampshire	318,300	317,697	580
New Jersey	906,096	875,407	30,658
New York	4,382,759	4,330,210	52,081
North Carolina	1.071,361	678,470	391,650
Ohio	2,665,260	2.601,946	66,213
Oregon	90.923	86,929	346
Pennsylvania	3,521,951	3,456,609	65,294
Rhode Island	217,353	212,219	4.980
South Carolina	705,606	289,667	415,814
Tennessee	1,258,520	936,119	322,331
Texas	818,579	564,700	253,475
Vermont	330,551	329,613	924
Virginia	1,225,163	712,089	512,841
West Virginia	442,014	424.033	17,980
Wisconsin	1,054,670	1,051,351	2,113
TERRITORY			
Arizona	9,658	9,581	26
Colorado	39,864	39,221	456
Dakota	14,181	12,887	94
District of Columbia	131,700	88,278	43,404
Idaho	14,999	10,618	60
Montana	20,595	18,306	183
New Mexico	91,874	90,393	172
Utah	86,786	86,044	118
Washington	23,955	22,195	207
Wyoming	9,118	8,726	183
Total States	38,115,641	33,203,128	4,835,106
Total Territories	442,730	386,249	44,903
Total United States	38,558,371	33,589,377	4,880,009

Source: 9th Census of the United States—Statistics of Population (Government Printing Office, 1872) Table 1. 63,254 Chinese and 25,731 Indians are not included in Columns III and IV.

But appellants have gone on to charge that, in effect, many of the seceding States perpetrated a gigantic fraud on the United States. They adopted constitutions, it is said, designed to establish general school systems which stated nothing about segregation. By doing this, it is alleged, they recognized that the 14th amendment was designed to outlaw school segregation. Their purpose was to secure readmission of their Representatives in Congress. Then, the Representatives having been so readmitted and the States having escaped congressional control, their legislatures, despite their knowledge that school segregation was unconstitutional, immediately established segregated schools.

This assertion is without support in fact. It is based on the assumption that the legislators of many States, all sworn to uphold the Constitution of the United States, willingly and knowingly violated their oaths at once and enacted legislation in bad faith which they knew to be unconstitutional. A mere statement of such a theory is enough to show how far from the truth it must be.

Even more, the assumption has no force in logic. The legislatures that ratified the amendment in the Southern States were not composed of diehard Confederates still devoted to rebellious causes; in almost every case, they were made up of a majority of loyalists, northern adventurers and Negroes. The Governors who recommended school segregation came from as far away as Maine. Legislatures so composed would have no reason to engage in the chicanery which appellants assume.

One further fact is important. In certain instances, these legislatures were permitted to ratify the amendment and then to take no further action until Congress had acted to readmit their Representatives. Thus in Florida, the legislature followed the advice of the Governor and, after ratifying the amendment (and the 13th amendment) and electing Senators, adjourned until readmission had received congressional approval. That was because, until Congress had acted, the action of the legislature, under the Reconstruction Act, could be only provisional. So the legislature that ratified the amendment could not in this instance have acted in regard to schools before readmission.

Finally, what Congress had done was not kept from the States, south or north. Congress had fostered school segregation in the District of Columbia. Congressional leaders had made it clear that the amendment was not designed to abolish school segregation. Southern leaders knew these facts; they relied on them in good faith as they were entitled to do.

We reject the obnoxious proposition advanced by appellants and are confident that the Court will reject it. Where a legislature ratified the amendment and thereafter established segregated schools, either on a mandatory or a permissive basis, we conclude that, without regard to intervening readmission of Representatives to Congress, the legislature did not consider that the amendment abolished school segregation.

We turn now to the individual States.

C.—THE INDIVIDUAL STATES

1.—ALABAMA

The Governor of Alabama submitted the amendment to the legislature on November 12, 1866, recommending its rejection, and the legislature promptly followed his recommendation, the vote in the senate being 21 to 9 and in the house 52 to 33. One month later the Governor changed his mind; he thought that only by ratification could Alabama obtain readmission of its Senators and Representatives in Congress. But the legislature refused this recommendation and rejected the amendment by larger majorities than before. In none of the records of these proceedings is the school system mentioned.

The Alabama government was then reorganized under Federal military rule. A new constitution of 1868 was adopted; this did not require segregated schools, but instead directed the authorities to establish in each school district "one or more schools." The amendment was promptly ratified by overwhelming majorities, 67 to 4 in the house and unanimously in the senate. In neither house was the matter debated at all.

The amendment was ratified on July 13, 1868. Less than a month later, the same legislature on August 11, 1868, adopted a general school law. This statute required segregated schools unless all parents consented to amalgamation. Schools were then established, but only on a segregated basis, though the first steps for the Negro schools were slow. Segregation was made mandatory in the next constitution adopted in 1875. Segregated education continues to this day.

The 14th amendment and segregated education were adopted contemporaneously by the same legislature in Alabama; it must have thought that segregation did not offend the amendment.

2.—ARKANSAS

Arkansas, like all the other States that seceded, promptly rejected the 14th amendment when it was first presented. Committee reports are available in both houses and objections to the amendment were stated in detail, but no indication is given that the amendment would make school segregation unconstitutional. The same legislature adopted a statute "to declare the rights of persons of African descent," by which segregation in the public schools was specifically required.

The military constitutional convention met in Little Rock on January 7, 1868, and adopted a constitution that was ratified by the people on March 13, 1868. It provided for the establishment of a system of free schools for the instruction of all and contained a provision quite similar to section 1 of the 14th amendment. The military legislature, elected pursuant to this constitution, ratified the 14th amendment, the vote being unanimous both in the senate and in the house.

The 14th amendment was ratified on April 6, 1868. On July 23, 1868, the same military legislature passed a statute to establish the public school system. Section 107 of this statute directed the State board of education to "make the necessary provisions for establishing separate schools for white and colored children." Segregation was continued by the next school law enacted in 1873.

Let us now comment on appellants' discussion of Arkansas. They report that the 1868 constitution which did not require segregation "was adopted to nullify" the segregation law of 1867 (brief, p. 143); they quote an authority that does not support this statement. They say that the 1867 law was repealed prior to readmission of Arkansas Representatives to Congress; there is nothing in the record to support this statement. They imply that an unsegregated law was then proposed; nothing supports this statement. No school law or amendment was passed before July 1868, a time after readmission, and it was done on the recommendation of the Republican Governor who came from Pennsylvania and Kansas.

Since the same legislature that ratified the 14th amendment adopted segregated schools, we consider that there is affirmative evidence that in Arkansas the 14th amendment was not considered to require the abandonment of school segregation.

3.—CALIFORNIA

California never ratified the 14th amendment. The house elected in 1867 was strongly Democratic and the new Democratic Governor was firmly opposed to the reconstruction policy of Congress. The house received a report recommending rejection of the 14th amendment. The senate, which remained under Republican control, received a report from its committee recommending ratification. The houses were thus at a deadlock and nothing further was ever done.

All during this period California's school system, first established pursuant to its constitution of 1849, permitted segregated schools. Thus the superintendent of public instruction in 1867 spoke of the establishment of separate schools for other than white children as one of the more important improvements recently effected in the school laws. In the same report he stated:

"The people of this State are decidedly in favor of separate schools for colored children."

Provisions for separate schools for Negroes and others of color were enacted by the California Legislatures in 1863, 1864, 1866, and 1870. All of these statutes provided that Negro children should not be admitted to white public schools but that separate schools should be established for them under conditions specified in the acts.

California thus had provisions for segregated education all during the Reconstruction period. Even though California refused to ratify the 14th amendment, it is clear that its legislature did not consider that the fact that the amendment had become a part of the Constitution required disregard of the laws providing for segregated schools.

4.—CONNECTICUT

Connecticut was the first State to ratify the 14th amendment. The legislature was in session in 1866 when the proposed amendment was communicated by the Secretary of State. The Governor recommended its ratification and this was done without extended discussion in the senate on July 25, 1866, by a vote of 11 to 6 and in the house on the next day by a vote of 131 to 92.

The public school system in Connecticut dates back to 1644. As early as 1818 legislation to protect the school fund was enacted. A statute of 1835 prohibited the establishment of schools for Negroes who were not inhabitants of Connecticut. As appellants show (brief, p. 159), segregated schools were authorized by law in parts of Connecticut as late as 1867 after its ratification of the amendment. But in 1868 the legislature outlawed segregation in schools on account of race or color.

In 1865, the Connecticut voters turned down an amendment to its constitution giving Negroes the right to vote. A similar statutory prohibition against Negro voting was not repealed until 1871. The constitutional provision had not been removed when the adoption of the 15th amendment made it inoperative.

Connecticut had few Negroes during this period. There is nothing to indicate that the adoption of the 14th amendment had any relation to school segregation in Connecticut.

5.—DELAWARE

Delaware is another State that refused at first to ratify the 14th amendment. The Governor in his inaugural address on January 15, 1867, pointed to the danger of encroachment on the rights of the State governments which he thought inherent in the amendment. Subsequently, the amendment was rejected by the Delaware House by a vote of 15 to 6 and by the Senate by a vote of 6 to 3. Delaware ratified the amendment more than 30 years later in 1901.

The Delaware constitution of 1831 directed the legislature to establish schools and prior to the war the legislature provided free schools for all white children. Schools for Negro children after the Civil War were supported by contributions voluntarily made by the Negroes and donations by the Delaware Association of Colored Schools. It was not until 1881 that the first direct appropriation from the State treasury was made for the benefit of Negro schools. Segregation in the schools was permitted by a statute enacted in 1874. The constitution of 1897, in effect when Delaware ratified the amendment in 1901, required the maintenance of separate schools.

It is clear that Negro children were not admitted to the white public schools in Delaware during the Reconstruction period. Ratification of the 14th amendment was not considered to abolish school segregation.

6.—FLORIDA

The Governor of Florida on November 4, 1866, recommended rejection of the 14th amendment in a message of some length that does not refer to school segregation. In both houses long committee reports were returned, but there is no mention of schools except that in the house report it is stated that a separate school system had been established for the Negroes although there was no public school system for the whites. Both houses unanimously rejected the 14th amendment in the first few days of December 1866.

In 1868, under the pressure of the Reconstruction Act, Florida adopted a new constitution which neither required nor prohibited segregation. The 14th amendment was ratified on June 9, 1868. Again nothing was said about schools.

The report of the superintendent of public schools for freedmen for 1866 noted that there were in existence 35 day schools and 30 night schools for Negroes with 2,700 pupils. These were the schools for Negro children supported by Florida at a time when there were no schools for white children. A uniform system of public schools was the subject of a bill introduced in the legislature of 1868, the same legislature that ratified the 14th amendment. The bill passed the house without mention of segregated schools. In the senate, an amendment to require segregation was adopted but the bill was never passed. A general school law was enacted in 1869. Nothing is contained in this act or in the constitution of 1868 requiring school segregation. Segregation was prohibited by statute in 1873. But, according to the attorney general of Florida, this statute was not enforced in practice, and segregated schools were the general custom. School segregation was not required by law until a new Florida constitution became effective in 1887.

There is no affirmative evidence that ratification of the 14th amendment was considered in Florida to outlaw segregation in the schools.

7.—GEORGIA

The 14th amendment was presented to the Georgia Legislature by the Governor on November 1, 1866, in a speech in which he opposed ratification. It was accordingly rejected by a vote of 147 to 2 in the house and 38 to 0 in the senate.

The government of Georgia was then reorganized under military rule. A new constitution was adopted in 1868. As the article on education was proposed, it would have permitted segregation in the schools. As adopted, the article on education was simplified and no mention of segregation was made. Provisional Governor Bullock recommended ratification of the 14th amendment to the first legislature assembled under this constitution on July 24, 1868. Ratification was accomplished by a vote of 89 to 69 in the house and 27 to 14 in the senate. Congress did not, however, recognize this ratification since Negroes had been excluded from their seats in the 1868 legislature. At the 1870 session the Governor called on the legislature to ratify the 14th amendment again and to ratify the 15th amendment at the same time. The legislature ratified the 14th amendment again by a vote of 71 to 0 in the house and 24 to 10 in the senate.

Bullock was a Republican and a majority in both the senate and house at the 1870 session were Republicans. Furthermore, it was at this same session that the first law establishing a system of public schools in Georgia was enacted. This school act provided that—

"* * * the children of the white and colored races shall not be taught together in any subdistrict of the State."

An amendment to eliminate this provision was proposed in the house and rejected.

The legislature that ratified the 14th amendment also enacted a school law providing for segregated schools. Certainly this legislature could not have thought that the 14th amendment forbade it to establish separate schools for the races.

8.—ILLINOIS

Governor Oglesby recommended ratification of the 14th amendment when the Illinois Legislature met in 1867, stating that the amendment had received "emphatic approval and endorsement by the people of the State." The amendment was ratified by the senate on January 10, 1867, by a vote of 17 to 8 and by the house on January 15, 1867, by a vote of 62 to 25. There is nothing in the official publications or in the current newspaper reports to indicate any intention by the legislature to affect the public schools.

In the report of the superintendent of public instruction for 1865–66, he notes that there were in Illinois 6,000 Negro children of school age for whom no schools were provided because the law did not contemplate their amalgamation with white children. In his report for the subsequent biennium, the superintendent said:

"The question of coattendance, or of separate schools, is an entirely separate and distinct one, and may safely be left to be determined by the respective districts and communities, to suit themselves. In many places there will be but one school for all; in many others there will be separate schools. This is a matter of but little importance, and one which need not and cannot be regulated by legislation."

This view apparently was generally shared among Illinois officials. The Illinois constitution of 1870 required education for all children but made no provision for segregated or mixed schools. The Governor in his message to the legislature in 1871 urged it to implement this provision and to provide public schools for all children. In the course of this message he stated:

"The question whether children of different complexions shall be admitted to and instructed in the same school is one of mere local and temporary interest, and may be safely left to those who vote and pay the taxes."

Illinois did not end separate school systems until 1874. It seems clear that the Legislature of Illinois did not consider that the ratification of the 14th amendment required it to abolish school segregation.

9.—INDIANA

Governor Morton of Indiana delivered his message to the legislature on June 11, 1867. He spoke both of schools and of the 14th amendment. On the subject of schools he said:

"The laws of Indiana exclude colored children from the common schools, and make no provision whatever for their education. I would, therefore, recommend that the laws be so amended as to require an enumeration to be made of the colored children of the State, and such a portion of the school fund as may be in proportion to their number, be set apart and applied to their education by the establishment of separate schools, under such suitable provisions and regulations as may be proper. I would not recommend that white and colored children be placed together in the same schools, believing, as I do, in the present state of public opinion, that to do so would create dissatisfaction and conflict, and impair the usefulness of the schools * * *."

He spoke in generalities as to the amendment and recommended its ratification.

The amendment was debated at some length The Republicans asserted that the people had already voted in favor of its ratification and that a vote should be taken at once. The Democrats spoke in opposition to the amendment both in the house and in the senate. There was much talk that the amendment would confer the right of suffrage upon the Negro (although it took the 15th amendment to make this clear) and one opponent stated that the Negroes "would sit with us in the jury box and with our children in the common schools." But to the objection that the first section of the amendment merely repeated the principles of the Civil Rights Act of 1866, one of the amendment's supporters replied that those principles should be made permanent by writing them into the fundamental law. None of those who spoke in favor of the amendment indicated that it would have any effect upon the school system. It was adopted in the senate by a vote of 29 to 16 and in the house by a vote of 55 to 36.

The school law of 1865 excused Negroes and mulattoes from payment of the school tax for no schools were provided for their children. That school law had been limited to include only white children by an amendment, the purpose of which was to "gain friends and get the best school laws we can."

No amendment to the school law of 1865 was successful at the 1867 session, although a bill to provide, separate schools for Negroes when any taxpayer objected to their admission to the white schools was passed by the senate.

The 1865 law was, however, changed in 1869 when taxation for common school purposes was made uniform and the education of Negro children was provided for in separate schools. Extended debates are found on this statute. This debate does not indicate that the 14th amendment at any time entered into the consideration of the legislators. Some opposed educating the Negro at all; some were for separate schools because they believed that the Indiana constitution required education for the Negro; and some wanted to have amalgamated schools because they considered segregated schools a violation of the Indiana constitution. But none indicated that he believed that segregated schools violated the 14th amendment.

Segregated schools were made permissive by a further statute of 1877.

In Indiana we have for the first time an assertion that the 14th amendment did outlaw school segregation. It was made by a member of the minority who obviously intended to paint as black a picture of the amendment as could possibly be described. On the other hand, Indiana had excluded Negroes from the public schools before the 14th amendment and immediately thereafter established separate Negro schools. We think it clear that the Indiana Legislature considered that it created no constitutional prohibition of separate schools when it ratified the 14th amendment.

10.—IOWA

Iowa did not consider the amendment until 1868. At the opening of the legislature in that year, the Governor referred to the amendment in general terms and recommended its ratification. The new Governor, in his inaugural address a few days later, noted the fact that the Iowa constitution had abolished all distinction on the basis of race and color and asked for the vote for the Negro. The amendment was ratified in Iowa with ease by a vote of 68 to 12 in the house and 34 to 9 in the senate.

The Iowa constitution of 1857 required the board of education to provide schools for all of the children of the State. In 1858 the legislature required the district school board of directors to provide separate schools for Negro children unless all parents in the district agreed to amalgamation. The superintendent of public instruction considered this statute offensive to the State constitution as impinging on the duties of the board of education. In fact, a similar law had earlier been held by the Supreme Court of Iowa to offend the State constitution. Segregated education, when attempted after the 14th amendment came on the scene, was held to violate Iowa's statutes, but no mention at any time was made of the 14th amendment.

There is no evidence from Iowa on the point here in question.

11.—KANSAS

Governor Crawford recommended ratification of the 14th amendment to the Legislature of Kansas that met on January 8, 1867. He stated that the amendment had been approved by the people at the preceding election, and he asked for a unanimous vote. The Governor did not mention schools. The senate did ratify the amendment unanimously, and the house approved by a vote of 76 to 7.

Ratification of the amendment was accomplished by the legislature of 1867; the same legislature authorized segregated schools in cities of the second class and the legislature of 1868 authorized segregated schools in cities of the first class. The second statute gave to boards of education in cities of the first class the right "to organize and maintain separate schools for the education of white and colored children." This act was passed by the house by a vote of 72 to 1, more nearly unanimous than the vote on the 14th amendment, and was unanimously adopted by the Senate. Such permissive segregation has continued at all times since it was originally adopted except for the 3-year period between 1876 and 1879.

The Legislature of Kansas certainly did not consider that ratification of the 14th amendment abolished the power of the State to segregate schools by race or color.

12.—KENTUCKY

The Governor of Kentucky recommended rejection of the 14th amendment when he sent it to the legislature on January 3, 1867. He did not discuss its merits. The amendment was rejected by the house by a vote of 67 to 27 and by the senate by a vote of 24 to 9. Nothing in these proceedings gives any indication that school segregation was an issue. Kentucky never considered the amendment again.

The same legislature enacted a statute permitting the establishment of schools for Negroes to be supported by taxes collected from Negroes. Additional legislation on this subject was recommended by the Governor to the legislature in 1871.

The constitution of 1891 required segregated schools. In fact, no real system of Negro education existed prior to 1882, and schools in Kentucky have been segregated ever since education of the Negro was begun.

It is clear that Kentucky did not consider the effectiveness of the 14th amendment to outlaw school segregation.

13.—LOUISIANA

The situation in Louisiana in the years immediately following the war can only be described as chaos. The Governor in 1867 recommended adoption of the amendment, but he was a Union man and stated that the legislature would probably disagree with him. Even he sought separate schools for Negro children in this same address. The Governor was correct in his forecast; the 14th amendment was rejected unanimously by both houses of the 1867 legislature.

Then came reconstruction. A provisional Governor was appointed "in obedience to instruction from the general commanding the army." The new legislature of 1868, composed mainly of Negroes, enthusiastically adopted the amendment. The vote was 57 to 3 in the house and 22 to 11 in the senate.

In the same year Louisiana adopted a new constitution. This provided that there should be no segregation in the public schools. The journal of this convention is interesting. The provision in regard to education was adopted by a vote of 61 to 12, and a number of the members went to some lengths to express the reason for their vote. Not one of them mentions the 14th amendment.

The result of this constitutional provision was confusion and riot. No effective schools were established while this constitution was in effect. The requirement for mixed schools was eliminated 9 years later by the Louisiana constitution of 1879, and since that time segregated schools have generally existed in Louisiana.

It is difficult to derive any intention from the Louisiana record. It may best be summed up by saying that no affirmative evidence exists that the 14th amendment was considered to have placed school segregation beyond the constitutional pale.

14.—MAINE

There is little to be gleaned from Maine. The Governor recommended ratification of the 14th amendment in generalities, and a resolution to that end was adopted by overwhelming votes, 126 to 12 in the house and unanimously in the senate.

Negroes constituted approximately one-quarter of one percent of the Maine population at this time and Maine never required segregation in its public schools.

15.—MARYLAND

Maryland never ratified the 14th amendment. The Governor submitted it to the legislature in 1867 without mention of education, and no reference to the school system is found in the lengthy report of the Joint Committee on Federal Relations to which the amendment was referred. The senate rejected the 14th amendment by a vote of 13 to 4 and the house took similar action by a vote of 47 to 10. No further action on the amendment was ever taken in Maryland.

In Maryland, as in a number of other States, the educational issue of the times was not whether the Negroes should have separate schools, but whether they should be educated at all. In the Maryland constitutional convention of 1864, it was made clear that the delegates thought that education for the Negro was not yet appropriate although a separate system for his education might be appropriate in the future. The superintendent of public instruction recommended separate schools for Negroes in his report of 1865.

Maryland held another constitutional convention in 1867. No requirement for segregation is contained in the constitution then drafted, but the debates make it clear that amalgamated schools were so far from the minds of the Maryland people that the delegates did not think them even necessary for discussion, much less prohibition.

The first comprehensive school system was set up by a law effective April 1, 1868. This statute provided that free schools should be available to all white children between 6 and 18 and continued as follows:

"The total amount of taxes paid for school purposes by the colored people of any county, or in the city of Baltimore, together with any donations that may be made for the purpose, shall be set aside for maintaining the schools for colored children; and such schools shall be subject to such rules and regulations as the local school boards may prescribe."

The establishment of segregated schools was substantially contemporaneous with consideration of the 14th amendment in Maryland. We think it clear that Maryland did not consider that the fact that the amendment became a part of the Constitution prohibited school segregation by race. Such segregated schools still exist in Maryland.

16.—MASSACHUSETTS

The Governor of Massachusetts, in an address on January 4, 1867, recommended ratification of the 14th amendment. The Governor reviewed the amendment in some detail but mentioned no relationship to the school system. With reference to the first section of the amendment, he observed that it was advisable thus to incorporate the Civil Rights Act in the Constitution. The Committee on Federal Relations of the house returned two reports; the majority recommended that the amendment be rejected on the ground that it did not go far enough, stating that—

"* * * this first section is, at best, mere surplusage * * *."

while the minority thought that the amendment was an—

"* * * advance in the direction of establishing unrestricted popular rights * * *."

The amendment was nevertheless ratified by the house on March 15, 1867, and by the senate on March 20, 1867.

The city of Boston had separate schools for Negroes in 1827, pursuant to a regulation of its school committee, and this segregation was held inoffensive to the Massachusetts constitution in *Roberts* v. *City of Boston*, 5 Cush. 198 (1849). Segregated education was prohibited by statute in Massachusetts in 1855.

We conclude that no evidence on the question here under consideration can be derived from the Massachusetts history.

17.—MICHIGAN

The 14th amendment was discussed by the Governor in his message to the Michigan Legislature of January 2, 1867, in which he describes the purposes of the amendment but makes no mention of schools. Ratification was accomplished swiftly. In the senate the vote was 25 to 1 in favor of ratification on January 15, 1867, and in the house the vote was 77 to 15 on the next day. The newspapers of the time reported little of the proceedings.

Separate schools for Negroes were established in Detroit as early as 1839 and continued until the late sixties. In 1867 Michigan passed a statute relating to schools containing the following provision:

"SEC. 28. All residents of any district shall have an equal right to attend any school therein * * *."

The parents of a Negro child in Detroit sought a writ of mandamus to require his admission to a white school. This action came before the Supreme Court of Michigan in 1869. Chief Justice Cooley determined that the writ should issue on the basis of the 1867 statute. His opinion is a substantial one, but the 14th amendment is not mentioned. Provisions explicitly forbidding segregation were adopted in 1871.

We conclude that there is no evidence that Michigan considered that the 14th amendment outlawed segregation.

18.—MINNESOTA

Minnesota is one of the six States that had a Negro population of less than 1,000. Segregation was never a problem there, and the evidence at hand is nonexistent.

The Governor recommended ratification of the 14th amendment on January 10, 1867, in the same message in which he urged that the color distinction as to voting be removed from the State constitution. His remarks as to the 14th amendment were in general terms. The senate and house approved ratification within a week by overwhelming majorities.

Minnesota had outlawed school segregation in 1864, before the 14th amendment was proposed.

The Minnesota record gives us no clue as to the intention of its legislature.

19.—MISSISSIPPI

The Mississippi record is very clear.

The Governor in 1867 advised the legislature that the amendment was—

"* * * an insulting outrage * * * a mere reading of it will cause its rejection by you."

The two houses considered a long adverse report by a joint committee, and both unanimously voted for rejection.

Then came reconstruction by the military. On January 15, 1870, the provisional Governor, who signed his message as Major General, U.S. Army, recommended ratification of both the 14th and 15th amendments. Within 2 days ratification had been accomplished by an overwhelming vote.

The Mississippi constitution of 1868 contains no mention of segregated schools. Legislation to establish a free school system was enacted in 1870 by the same legislature that ratified the 14th amendment. Segregation was not mentioned in this statute. In fact, amendments specifically requiring segregation were defeated twice in the house. This act, however, contained the following section:

"SEC. 49. *Be it further enacted,* That all the children of this State between the ages of 5 and 21 years, shall have, in all respects, equal advantages in the public schools. And it shall be the duty of the school directors of any district to establish an additional school in any subdistrict thereof, whenever the parents or guardians of 25 children of legal school age, and who reside within the limits of such subdistrict, shall make a written application to said board for the establishment of the same.

This section might not seem to provide for segregation, but in fact it did. That is apparent from the speech of Lieutenant Governor Towers, a Republican, given in the senate while the act was under consideration. He said:

"The provisions of this bill are wise in this respect, for while it recognizes no class distinctions (which of itself ought to render any law odious in a Republican government), it nevertheless consults the convenience and meets all reasonable demands of the people, by providing for the establishment of an additional school or schools, in any subdistrict where the parents or guardians of 25 or more children desire it.

"This leaves the details of the law where they rightfully belong—and where they can be readily arranged, and all conflicting interest harmonized—with the people. If the people desire to provide separate schools for white and black, or for good and bad children, or large and small, or male and female children, there is nothing in this law that prohibits it. The widest latitude is granted, and certainly no class of children in the State can be said to be excluded from school advantages by any provision of the bill."

Evidence abounds that the schools established under this statute were almost always segregated schools. School segregation was required by statute in 1878.

There can be no question but that the Mississippi Legislature which ratified the 14th amendment, dominated though it was by Republicans and former slaves, considered that its ratification did not make school segregation illegal.

20.—MISSOURI

Missouri ratified the 14th amendment in 1867. Its ratification was recommended in general terms by the Governor in his message to the legislature of that year. Resolutions for ratification were adopted by substantial majorities in both houses. No reference to the schools is found in these proceedings.

Missouri's consistent policy has been for school segregation. In 1856 it was a violation of law to instruct Negroes in reading or writing. The constitution of 1865 specifically permitted establishment of separate schools for Negroes. Statutes implementing this permission or requiring separate schools for Negroes were enacted in 1865, 1868, 1869, and 1874.

The next constitution adopted by Missouri was that of 1875, and it required segregated education. The debates of this constitutional convention have been preserved; and although the draft for the article on education was debated for 3 days, the only reference in the debates to the section requiring segregated schools is—

"Section 3 was read and adopted."

Statutes requiring segregated education pursuant to this constitutional provision were enacted in 1879, 1887, and 1889.

There can be no doubt that Missouri believed segregated schools constitutional during this period.

21.—NEBRASKA

Nebraska was admitted to the Union in the early part of 1867, pursuant to an act of Congress which provided that no right should be denied "to any person by reason of race or color * * *." While the enabling act was pending, a bill to eliminate racial segregation in the public schools was passed by the legislature but the Governor refused to sign (appellants' brief, p. 178). Nevertheless, Nebraska was admitted to the Union. Promptly after admission Nebraska ratified the 14th amendment by substantial majorities. The first school laws enacted after admission in 1867 did not mention segregation, and when the University of Nebraska was established in 1869, the legislature specifically declared that color should not be a bar to admission.

In none of these proceedings is there any record of mention of the 14th amendment. Nebraska gives us no clue on the question at hand.

22.—NEVADA

In his message to the legislature on January 10, 1867, Governor Blasdel urged ratification of the 14th amendment, and in the same message he called attention to the report of the superintendent of public instruction in which the latter stated that the failure to educate Negroes and to establish colored schools violated the Nevada constitution. Neither mentioned the 14th amendment. Both the house and senate voted to ratify the amendment by substantial majorities.

Nevada had previously excluded Negroes and others of color from its public schools, though providing that separate schools might be established for them. In 1867 the same legislature that ratified the 14th amendment amended this statute to read as follows:

"Negroes, Mongolians, and Indians shall not be admitted into the public schools, but the board of trustees may establish a separate school for their education, and use the public school funds for the support of the same."

This amendment had been recommended by the standing committee on education with a minority report recommending the elimination of color distinction. But there is nothing to indicate that the 14th amendment played any part in this division of opinion.

In 1872, the Nevada Supreme Court held that a particular statute providing separate schools for Negroes was invalid under the constitution of Nevada though not under the 14th amendment. In a dissenting opinion the following is found:

"The case of relator was sought to be maintained on the ground that the statute was in violation of the 14th amendment to the Constitution of the United States. I fully agree with my associates that this proposal of counsel is utterly untenable."

Nevada did not consider segregation abolished by the 14th amendment.

23.—NEW HAMPSHIRE

The Negro population of New Hampshire in 1870 was 580, or less than 0.2 percent of the total. New Hampshire never had segregated schools.

The 14th amendment was transmitted to the Legislature of New Hampshire by the Governor on June 21, 1866, with a short message recommending ratification. In both houses it was referred to select committees. These committees returned identical reports. The majority report in each instance was quite brief and recommended ratification. The minority report of 13 paragraphs opposed the amendment on many grounds but contained no reference to school segregation. Discussions ensued of which reports are not available, but resolutions in favor of ratification were adopted in both houses by substantial majorities.

There is no evidence on our question in New Hampshire.

24.—NEW JERSEY

The 14th amendment was ratified in New Jersey at an extra session of the legislature which met in September 1866. By the end of the second day of the session, ratification had been accomplished by a vote of 34 to 29 in the assembly and by 11 affirmative votes in the senate, 10 Democrats not voting.

The control of the New Jersey Legislature passed to the Democrats in 1868, and the legislature then adopted a resolution rescinding the ratification of the 14th amendment. This resolution, which was adopted over the veto of the Governor, states a number of objections to the 14th amendment but makes no reference to its effect upon the school system.

New Jersey never had mandatory school segregation by law. Segregation in the public schools was permitted both before and after the ratification of the amendment. In 1868, the State superintendent of schools interpreted the existing law to permit segregated schools. No change was made until 1881 when the legislature enacted a statute prohibiting exclusion from the schools on the ground of color. But in 1894 New Jersey established a manual training school for Negro children which existed at least as late as 1910.

It seems apparent that New Jersey did not consider that ratification outlawed its existing segregated schools.

25.—NEW YORK

The Governor presented the 14th amendment to the legislature in his annual message for 1867. He stated that he would not "discuss the features of this amendment" and he did not mention schools in its connection. By January 10, 1867, the amendment had been ratified by both houses. The vote in the senate was 23 to 3, while the vote in the house was 71 to 36.

Separate schools had long been permitted in New York. In 1864 a statute authorizing local school authorities to establish separate schools for Negroes was enacted as a part of a general revision of the school law. This act permitting segregation is found in subsequent codifications of the New York education law. The New York constitutional convention in 1867 adopted a ringing resolution as to civil rights but did not abolish school segregation.

Not only were separate schools permitted in New York, but separation was in many instances the practice. In 1867 local appropriations for Negro schools exceeded $30,000. New York City had separate Negro schools with almost 2,000 pupils in them. In 1868 expenditures for Negro schools exceeded $55,000, and there were nine separate Negro schools or departments in Brooklyn. Total expenditures for Negro schools in 1869 amounted to almost $65,000, and separate Negro schools were still maintained in Brooklyn and New York. In 1870 expenditures remained about the same and Brooklyn still reported separate Negro schools, there being no report from New York City.

The problem of school segregation and civil rights under the Federal Constitution and statutes was early considered by the New York courts. In four cases they upheld the validity of separate schools for Negroes.

New York considered that segregation was constitutional after the adoption of the 14th amendment.

26.—NORTH CAROLINA

North Carolina first rejected the 14th amendment. It was submitted to the legislature by the Governor on November 19, 1866, considered by a joint committee of both houses with an adverse report, and defeated by overwhelming votes.

Then came reconstruction, as in the other Southern States. The provisional Governor recommended ratification in a message to the legislature on July 2, 1868, and ratification was accomplished on July 4. Nothing in these proceedings had any relation to school segregation.

It is very clear, however, that North Carolina expected to maintain segregated schools without regard to the amendment. A new constitution was drafted in 1868, and the constitutional convention on March 16, 1868, adopted a resolution asserting that the interest and happiness of the races would be best promoted by the establishment of separate schools. The constitution of 1868 contained no specific provision as to segregation in education. Two days after the 14th amendment was ratified, the Governor of North Carolina, in his inaugural address, stated:

"It is believed to be better for both [races] and more satisfactory to both, that the schools should be distinct and separate."

Less than 6 weeks after the amendment was ratified the house and senate adopted a joint resolution stating that it was the duty of the general assembly to adopt a system of free schools but that the races should be segregated. In a message to the legislature dated November 17, 1868, less than 5 months after the ratification of the amendment, the Governor concerned himself with the question of education and said:

"The schools for the white and colored children should be separate * * *."

Finally, North Carolina very promptly adopted legislation with regard to schools in which it was provided as follows:

"SEC. 50. The school authorities of each and every township shall establish a separate school or separate schools for the instruction of children and youth of each race * * *."

We are required again to criticize factual statements by appellants. They assert (brief, p. 145) that proponents of the 1868 constitution thought that segregated schools should not develop through legislation. They cite a treatise; the pages cited relate to something entirely different that does not even concern the public school system. It is equally erroneous to assert that the 1868 constitution may have "required" mixed schools (brief, p. 146); a committee of proponents appointed to win support for the constitution stated at the time that such assertions were "false." The radical Republicans dominated this convention and the succeeding legislatures; they omitted reference to mixed schools in the constitution on the ground that this was a proper subject for legislative or local regulation. The validity of the 1868 statute was not questioned. We reiterate that the brief of appellants is unfair when, as here, it distorts the facts.

Schools have always been segregated in North Carolina, and it is idle to think that the 1868 legislature thought that the 14th amendment would have any effect on that condition.

27.—OHIO

Ohio ratified the 14th amendment in 1867. The Governor recommended ratification on January 2 of that year in a substantial message to the legislature. Ratification was accomplished in the senate on January 3, 1867, by a vote of 21 to 12 and in the house on the next day by a vote of 54 to 25. No mention of schools is made in these proceedings.

Ohio reversed its position the following year despite the opposition of the Republican Governor, Hayes, later President. He told the legislature that nothing had occurred in the intervening year to indicate that ratification did not represent the wishes of the people. A resolution rescinding ratification, nevertheless, was passed by both houses of the legislature. Again no mention was made of schools.

Ohio had a long tradition of separate schools for Negro children which extended almost 20 years after ratification of the 14th amendment. A statute establishing common schools for Negroes was enacted as early as 1831. Additional statutes were enacted in 1847 and 1848. By 1860 separate schools for Negro children were required when there were more than 30 children in the school district. A statute of 1874 authorized separate schools in the discretion of the local authorities, and this provision was codified in 1880. Segregation was not outlawed by statute until 1887. Segregation was practiced in fact as well as in law. In 1867 there were approximately 10,000 pupils in separate Negro schools in 52 of Ohio's 88 countries. Statistics for the separate schools are available all though the next few years. Segregated schools were attacked as contrary to the 14th amendment in the immediate postwar period but the Ohio court found no constitutional defect in their existence.

Ohio believed that segregated schools and the 14th amendment were compatible.

28.—OREGON

There were 346 Negroes in Oregon in 1870. Oregon on various occasions attempted to prohibit the immigration of Negroes and did prohibit intermarriage, but there is no evidence that school segregation was required or prohibited by statute in Oregon.

Ratification of the 14th amendment was recommended by the Governor in his inaugural address in 1866. It was quickly ratified by both houses. In 1868 Oregon rescinded its ratification of the 14th amendment. In none of the legislative records in Oregon as to the 14th amendment is there any mention of school segregation. Oregon provides little evidence as to the question at hand.

29.—PENNSYLVANIA

Pennsylvania ratified the 14th amendment in 1867. The Governor recommended its ratification in general terms, stating that the 14th amendment would secure "just and equal political privileges." In the same speech the Governor suggested that special schools be provided for the orphans of colored soldiers.

The Pennsylvania Senate adopted a resolution ratifying the amendment on January 11, 1867, by a vote of 21 to 11. Similar action was taken by the house on February 6, 1867, by a vote of 62 to 34.

The debates in Pennsylvania were preserved in full. There was a great deal of discussion on both sides, largely in general terms. One legislator opposing the amendment stated that—

"* * * all the legal barriers theretofore existing between the white and the black races would be removed * * *."

Any references to schools are entirely in general terms; for example, one senator who approved of the amendment stated:

"If [the Negro] fills our pulpits, our schoolhouses, our academies, our colleges, and our senate chambers, I bid him Godspeed."

Another proponent thought it advisable to give the Civil Rights Act of 1866 further force by "putting it in the Constitution of the United States." A review of these debates in no way makes it clear that the legislature believed that ratification of the amendment would be the end of school segregation.

In fact, the school authorities in Pennsylvania had since 1854 been required to establish separate schools for Negroes when 20 or more pupils were available. The superintendent of common schools noted that this statute established a mandatory requirement and that Negro pupils could not be admitted to the white schools unless the requisite number of pupils were not nearby. The legislature in 1869, 2 years after ratification of the amendment, required separate schools for Negroes when it reorganized educational matters in Pittsburgh. School segregation was upheld when attacked on constitutional grounds in 1873. School segregation was not abolished in Pennsylvania until 1881.

We conclude that, since segregated education was required in Pennsylvania before and for a substantial period after ratification of the 14th amendment, it seems fair to state that the Pennsylvania Legislature did not think that such ratification would prohibit segregation.

30.—RHODE ISLAND

The Governor of Rhode Island recommended ratification of the 14th amendment on January 15, 1867, and the senate passed a resolution for ratification on February 5, 1867, by a vote of 26 to 2, the house following two days later by a vote of 60 to 9. The resolution for ratification is simple, stating merely that the two houses ratified, confirmed and assented to the amendment.

In 1800 Rhode Island enacted a statute requiring free schools for white inhabitants in every town, but this act was repealed in 1803. Further school legislation was enacted in 1828 and thereafter. Separate schools for Negroes were established in Providence in 1828 and continued in operation until 1865. Similar schools existed in Bristol and Newport. Segregation was permitted under "general regulation" by a law enacted in 1845. Segregation of Indians was upheld as late as 1864, but all school segregation was abolished by statute in January 1866, a year before the 14th amendment was proposed.

There is no evidence that school segregation was ever considered in connection with the 14th amendment in Rhode Island.

31.—SOUTH CAROLINA

South Carolina, as is generally known, was perhaps the most turbulent of all the States during the Reconstruction period. Space here does not permit a thorough review of the efforts made during this period to establish a system of public schools. But all of the evidence seems to make it clear that, in spite of the efforts made to establish mixed schools, the 14th amendment and its meaning did not play a part.

Governor Orr on November 27, 1866, recommended rejection of the amendment when he transmitted it to the legislature. His message did not mention schools. The senate rejected it unanimously, and in the house the vote was 95 to 1 against its ratification.

Reconstruction then came to South Carolina. A new constitution was adopted in 1868. It required the legislature immediately after its organization to ratify the 14th amendment. The debates in the constitutional convention indicate that its members realized that ratification of the amendment (which the legislature only had the power to do) was a prerequisite to readmission to the Union and feared that opponents of the amendment might control the legislature. For that reason they made ratification mandatory.

This constitution directed the general assembly to establish a system of free schools, and further required that:

"All the public schools * * * shall be free and open to all the children and youths in the State, without regard to race or color."

The 14th amendment was not mentioned in the long debates regarding the adoption of the public school provisions.

Even though it might appear that this constitutional provision was designed to require amalgamated schools, the evidence is that such can hardly be the case. The first session of the legislature met on July 6, 1868, less than 3 months after the adjournment of the constitutional convention. The 14th amendment was promptly ratified. On the day that the legislature met, it received a message from Governor Orr in which he spoke at length about a proposed public school system. In his remarks he stated:

"If it shall be attempted to establish schools where both races are to be taught, no provision being made for their separation, the whole system will result in a disastrous failure. The prejudices of race, whether just or unjust, exist in full force not more in South Carolina than in New England and the West. In the last named localities separate schools are provided for white and colored children, and in a community where these prejudices prevail in so strong a degree, how unreasonable it is to attempt the organization of mixed schools. * * * I therefore earnestly recommend that in adopting an educational system, care be taken to provide for the white and colored youths separate places of instruction. At the same time, in the name of peace and of the happiness of the people I protest against this amalgamation."

Two days later a new Governor, Robert K. Scott, of Maine, Brevet Brigadier General, United States Army, was inaugurated. Two paragraphs from his inaugural address contain his views on school segregation:

"I respectfully recommend that the general assembly will provide by law for the establishment of at least two schools in each school district when necessary, and that one of said schools shall be set apart and designated as a school for colored children, and the other for the white children, the schools fund to be distributed equally to each class, in proportion to the number of children in each between the ages of 6 and 16 years. I deem this separation of the two races in the public schools as a matter of the greatest importance to all classes of our people.

"While the moralist and the philanthropist cheerfully recognizes the fact that 'God hath made of one blood all nations of men' yet the statesman in legislating for a political society that embraces two distinct and, in some measure, antagonistic races, in the great body of its electors, must, as far as the law of equal rights will permit, take cognizance of existing prejudices among both. In school districts, where the white children may preponderate in numbers, the colored children may be oppressed, or partially excluded from the schools, while the same result may accrue to the whites, in those districts where colored children are in the majority, unless they shall be separated by law as herein recommended. Moreover, it is the declared design of the Constitution that all classes of our people shall be educated, but not to provide for this separation of the two races will be to repel the masses of the whites from the educational training that they so much need, and virtually to give to our colored population the exclusive benefit of our public schools. Let us, therefore, recognize facts as they are, and rely upon time and the elevating influence of popular education, to dispel any unjust prejudices that may exist among the two races of our fellow citizens."

A temporary school law was passed on September 15, 1868, and a statute establishing a general system of public schools was passed on February 16, 1870. A Massachusetts Negro was appointed the first superintendent of public education. He submitted a report to the legislature in 1870. This report contained recommendations from local authorities as to the establishment of a public school system. Of the 13 of these local reports referring to the race problem, 12 recommended separate schools.

Despite the fact that the superintendent of education was a Negro, no real effort was made to require amalgamated schools in South Carolina in the Reconstruction period except in isolated instances. The superintendent ordered the School for the Deaf, Dumb and Blind amalgamated, and, as a result, the school was closed for 3 years and then reopened on a segregated basis. Efforts to amalgamate the university failed similarly.

There is no indication that, in South Carolina, the 14th amendment played any part in the question of whether or not the schools should be segregated. In fact, persons in high office during the Reconstruction period never once considered that the 14th amendment required the abolition of segregated schools. We think, therefore, that we are justified in stating that the South Carolina evidence requires the conclusion that the legislature that ratified the 14th amendment did not consider that its ratification made segregated schools unlawful.

32.—TENNESSEE

The Tennessee record gives an interesting picture of the unrest and violence of the times, but it also makes clear the answer to the question considered here.

The Republican Governor called the legislature in special session on July 4, 1866, for the express purpose of considering the 14th amendment. His address, though strongly in favor of ratification, does not mention the school system. In the senate a senator who opposed the amendment proposed that there should be added to the ratifying resolution a proviso that the amendment should not be construed to confer suffrage upon the Negro, or the right to hold office or to sit upon juries, or several other stated rights, but again no reference is found to the schools. His proviso was defeated and the amendment was ratified by a vote of 14 to 6. The minority then filed a formal protest of some length, but again no mention was made of schools.

The Tennessee House could not obtain a quorum until two members had been arrested and brought to the House floor. They refused to vote, but they were nonetheless counted as present in order to make a quorum. The amendment was ratified by a vote of 39 to 15. Again the minority filed a formal protest, but schools were not referred to in it.

The same legislature that ratified the 14th amendment amended the school law on March 5, 1867, to require segregated education in Tennessee. This act was described by the Republican Governor in his second inaugural address as "the wise and desirable school law."

The first report of the superintendent of public instruction, dated October 7, 1869, contains the following comment on this statute:

"The old law allowed none but whites to be educated. The new law educates all of them and in addition, the blacks are lifted out of ignorance and saved from being a dangerous class" (p. 17).

The requirement for segregation was written into the Tennessee constitution of 1870, and reenacted in a further amendment to the school law in 1873. Schools remain segregated in Tennessee to this day.

Since the same legislature that ratified the 14th amendment established a segregated school system in Tennessee, we think it clear that this legislature did not consider that the 14th amendment made segregated education unconstitutional.

33.—TEXAS

The Governor of Texas merely expressed his unqualified disapproval of the 14th amendment when he addressed the legislature in 1866. The house and senate committees on Federal relations both returned long reports opposing ratification. These reports pointed out that the proposed amendment might give the Negro the right to vote, the right to serve on juries, the right to bear arms, and other rights not enumerated; but schools are not mentioned. It should be also noted that those who signed each report viewed with consternation the provisions of section 5, pointing out that the right given to Congress under this section was likely to destroy the very existence of the State governments. The house rejected the amendment by a vote of 70 to 5, and the senate followed by a vote of 27 to 1.

The reconstructed Texas Legislature ratified the amendment on February 18, 1870. There is no record of anything relating to the schools in these proceedings.

The constitution of 1866 provided that school taxes levied on Negroes should be appropriated for the use of Negro schools, but this constitution was not acceptable to Congress. Therefore, another constitution was drafted in 1869. The 1869 constitution required the legislature to establish a free school system but did not mention segregation.

Texas was readmitted to representation in Congress by an act approved March 30, 1870. This statute provided that the Texas constitution should not be amended--

"To deprive any citizen or class of citizens of the United States of the school rights and privileges secured by the constitution of said State."

The same legislature that ratified the 14th amendment enacted the following statute as to schools:

"All difficulties arising in any of the public free schools of this State shall be reported by the trustees to the proper board of directors, and said board shall have power to settle same. In order to do this, they may remove teachers or expel students for insubordination; and when, in their opinion, the harmony and success of the school require it, they may make any separation of the students or schools necessary to insure success, so as not to deprive any student or students of scholastic benefits, except for such misconduct as demand expulsion."

This law is equivocal on its face, but the report of the committee that recommended its adoption makes its purpose clear. An excerpt from that report is as follows:

"2. They [the committee] were perfectly aware of the conflicting views in relation to free schools and the difficulty of harmonizing those views on a constitutional basis.

"3. They felt constrained to avoid extreme views—mixed schools on the one hand, and separate schools on the other—by legislative enactment.

"4. They concluded that, as all philanthropists and patriots desire the education of all the citizens of the State, without distinction of sex or race, color or previous condition, that our whole citizenship may be elevated, so essential to a republican government, that we might adopt a system based on a compromise of views, in order to [reach] an agreement on some system, as, that without some concession and compromise, we will adjourn and return to our constituents without redeeming our pledges on this subject, to their great disappointment. We have, therefore, agreed on the following basis, comprehensive and equal, yet plain, simple, and economical, essential as we think to a successful inauguration of our system * * *.

* * * * *

"We provide that teachers may be removed for sufficient cause, and students expelled or separated when necessary for the promotion of peace, success, and harmony of the institution, so as none shall be deprived of scholastic benefits, except when expelled * * *."

This seems clear: The committee was unwilling to require segregated schools, but it wished to give the local authorities the right to segregate schools as local conditions made it desirable. We consider, therefore, that this legislature, the same one that ratified the 14th amendment, did not consider that its ratification made segregated schools unconstitutional.

Segregated schools were required by the constitution of 1876 and schools have remained segregated in Texas ever since.

34.—VERMONT

Governor Dillingham on October 12, 1866, strongly recommended ratification of the 14th amendment which, he said, was designed to secure "equal rights and impartial liberty." The Vermont Senate unanimously voted to ratify on October 23, 1866. The vote in the house, taken a week later, was 96 to 11 in favor of ratification.

In all these proceedings no mention is made of school segregation. Vermont apparently never had segregated schools. Its Negro population in 1870 was less than 1,000.

The legislative history in Vermont provides no evidence on the question here at issue.

35.—VIRGINIA

When the Virginia Legislature met in 1867, Governor Pierpont discussed the 14th amendment at some length, pointing out that the State was not likely to get better terms for the readmission of its Senators and Representatives to Congress and stating the view that acceptance of the amendment was not dishonorable. The legislature, however, refused to ratify the amendment, the vote being unanimous in the senate and 74 to 1 in the house. No mention of schools is made in these proceedings.

The government of Virginia was then reorganized under the Reconstruction Acts and a new constitution of 1869 adopted. When the first legislature met on October 5, 1869, Governor Walker urged ratification, saying that there was no satisfactory alternative. Ratification was accomplished swiftly by a vote of 132 to 0 in the house and 36 to 4 in the senate. The resolution is a simple one and nothing in the proceedings refers to the school system.

In their discussion of the Virginia situation, as in many sections of their brief, appellants obscure the facts. We, therefore, state them in some detail here so that there may be no confusion. The Virginia constitution of 1869 directed the legislature at its first session to establish a system of free schools. No provision as to segregation was included. The convention that prepared this constitution was composed of 35 white conservative Virginians, 24 Negroes, 14 white loyalists and 26 who came from outside Virginia. It is reported that there was an agreement between the Negroes and the carpetbaggers; the carpetbaggers would vote for civil rights and the Negroes would put the carpetbaggers in office. This agreement worked long enough to defeat proposals for segregated schools. But it was a different story when the Negroes proposed to require amalgamated schools. Then the carpetbaggers "crawfished," as it was said, and voted with the conservatives, much to the disgust of the Negroes who accused them of breach of faith. So mixed schools were defeated. The reason for the action of the carpetbaggers, it was said, was their fear that a provision requiring mixed schools would result in defeat of the constitution in the popular election on the question of its ratification. Nothing at all in this discussion as to education made mention of the 14th amendment.

The first legislature under the 1869 constitution took no action except to ratify the 14th and 15th amendments; it then adjourned to await readmission of Virginia's Representatives to Congress. The legislature then reconvened. It was the same legislature that ratified the 14th amendment. It promptly proceeded to establish a system of free schools and, in the new school law, it was required that:

"* * * white and colored persons shall not be taught in the same schools, but in separate schools * * *."

In the course of the debates on the bill which became this statute, a motion was made in the senate on June 7, 1870, to strike out the provision requiring segregation. This motion was defeated by a vote of 23 to 6. On the next day an amendment was proposed to substitute permissive segregation for the mandatory segregation provision contained in the bill. This was also defeated by a vote of 27 to 3. Similarly, on June 29, 1870, a motion to strike out the segregation provision was defeated in the house by a vote of 80 to 19. The bill was passed by the senate by a vote of 23 to 3 and by the house by a vote of 72 to 33.

Since the legislature that ratified the 14th amendment established segregated schools in Virginia and specifically refused to permit amalgamation, it becomes impossible to believe that this legislature thought that its action would contravene the 14th amendment.

36.—WEST VIRGINIA

The Governor recommended ratification of the 14th amendment in his address to the West Virginia Legislature on January 15, 1867. He spoke generally about the "moderation" of the amendment, and did not refer to any effect that it might have on schools. The senate without discussion voted to ratify the amendment on the day of the Governor's address, while the house took similar action the next day.

Ratification of the 14th amendment was accomplished in West Virginia on January 16, 1867. On February 27, 1867, 6 weeks later, the same legislature adopted a statute providing that:

"White and colored persons shall not be taught in the same schools * * *."

This act was merely a continuance of principles established earlier. Although the constitution of 1863 required the establishment of a school system, segregation was not required, but the legislature in 1863, in establishing the school system, required segregation of the races. After the 1867 act came the new constitution of 1872 which placed the requirement of segregation in the constitution where it remains to this day.

Segregated schools and the 14th amendment were approved by the same legislature. That legislature could not have thought them incompatible.

37.—WISCONSIN

The Governor of Wisconsin recommended ratification of the 14th amendment in a message to the legislature when it met in 1867. He described the amendment and its purposes in terms which today seem somewhat florid, but his detailed description contained no mention of public schools. A resolution for ratification was referred to a senate committee which returned both majority and minority reports. Neither report, though both are quite detailed, mentions schools. The senate adopted a resolution ratifying the amendment on January 23, 1867. The house, after a 3-day debate, followed by taking affirmative action on February 7, 1867.

Wisconsin never had segregated education. The Negro population was comparatively quite small. Wisconsin gives no affirmative evidence as to the expected effect of the 14th amendment on school segregation.

D.—CONCLUSION

That is the end of our review of the records of the individual States. Though we have discarded a wealth of material in an effort to present only that most directly relevant, the path has nevertheless seemed long. But the conclusion is clear, startling though it may be.

In not 1 of the 37 States that considered the 14th amendment is there any substantial evidence that its ratification was considered to outlaw segregation by race in the public schools.

The States may be classified as follows between those where there is substantial affirmative evidence that ratification was not considered to require the end of segregation and those presenting no substantial affirmative evidence at all:

SEGREGATION NOT CONSIDERED ABOLISHED

Alabama
Arkansas
California
Delaware
Georgia
Illinois
Indiana
Kansas
Kentucky
Maryland
Mississippi
Missouri
New Jersey
New York
North Carolina
Nevada
Ohio
Pennsylvania
South Carolina
Tennessee
Texas
Virginia
West Virginia

NO SUBSTANTIAL EVIDENCE

Connecticut
Florida
Iowa
Louisiana
Maine
Massachusetts
Michigan
Minnesota
Nebraska
New Hampshire
Oregon
Rhode Island
Vermont
Wisconsin

These results may be tabulated in another form:

Number of States where substantial evidence exists that ratification of the 14th amendment was not thought to outlaw segregated schools	23
Number of States where no substantial evidence on the question exists	14
Number of States where substantial evidence exists that ratification was thought to outlaw school segregation	0
Total	37

The answer here is irrefutable.

APPENDIXES A AND B

The information contained in these appendixes clearly reveals that in the Brown cases a unanimous Supreme Court rested its position "upon a misreading of language and legislative history which [has] confuse[d] and stultif[ied] the interpretive process."

The very same questions which the Supreme Court propounded in the Brown cases would be pertinent to the determination of the constitutionality of a new Federal public accommodations law passed under the authority of the 13th and 14th amendments.

The subject of the new inquiry would be the intended effect of the 13th and 14th amendments on segregation in the "services, facilities, privileges, advantages and accommodations" of the establishments designated in the proposed public accommodations law.

Any new review of the history of the 14th amendment would cover much of the same materials that were examined in the Brown cases. It would result in an open inspection of the Supreme Court's previous finding of inconclusiveness of the history of that amendment, an investigation that is long overdue. If the Court's finding of inconclusiveness is accepted as a binding precedent, "the 14th amendment [or any other section of the Constitution] could mean anything or it could mean nothing, depending on the mood of the [Supreme] Court and the pressure brought to bear on its members. The Constitution [will have] become as unstable as the pendulum of a clock which swings from one extreme to another." (Hearings on S. 1732 before the Senate Committee on Commerce, 88th Cong., 1st sess. 1253 (1963).)

In the present instance, a review of the legislative history of the 13th and 14th amendments has clearly revealed that neither of these two amendments was intended to empower the Congress to enact a public accommodations law regulating the operations of the private business establishments designated in subsection 201(b) of H.R. 7152.

JUDICIAL HISTORIES

The judicial histories of the 13th and 14th amendments are equally barren of any legitimate justification for the enactment of title II.

THIRTEENTH AMENDMENT

A series of memorandums dealing with the constitutionality of the various titles of H.R. 7152 were inserted into the record of the debates in the House by the chairman of the House Committee on the Judiciary. (CONGRESSIONAL RECORD, pp. 1521–1528, Jan. 31, 1964.) In that portion of the memorandums pertaining to title II it was asserted that "the arguments advanced by Justice Harlan [in the Civil Rights cases] lend support to the constitutionality of Federal public accommodations legislation under the 13th amendment."

But in the very next sentence it was admitted that "It must be recognized, however, that there is no decisional law to support such an approach and that the scope of the power of Congress under the 13th amendment is unclear." (Id. at 1526; and see 1 Race Rel. L. Rep. 614.)

The scope of the 13th amendment has been drawn much too narrow to accommodate the enactment of a Federal public accommodations law.

FOURTEENTH AMENDMENT

In arriving at its decision in the civil rights cases the Supreme Court deliberated on the assumption that "a right to enjoy equal accommodation and privileges in all inns, public conveyances, and places of public amusement, is one of the essential rights of the citizen which no State can abridge or interfere with." (*Civil Rights Cases, supra,* 19.)

The Court did not undertake to decide whether or not such a Federal right did actually exist.

The origin and the nature of the suggested right to service has been described as follows: "If there is a right to the equal use of accommodations held out to the public, it is a right of citizenship and a constitutional right under the 14th amendment. It has nothing to do with whether a business is in interstate commerce or whether discrimination against individuals places a burden on commerce. It does not depend upon the commerce clause and cannot be limited by that clause." (Hearings on S. 1732 before the Senate Committee on Commerce, 88th Cong., 1st sess. 190 (1963).)

It has not yet been adjudicated that inherent in the 14th amendment—or any other provision of the national constitution—is the proposed right to service in private business establishments. (See hearings on S. 1732 before the Senate Committee on Commerce, 88th Cong., 1st sess. 133, 145, 147 (1963).) But yet it is still insisted that the 14th amendment stands as legitimate authority for the enforcement of this nonexistent right by the extraordinary involvement of the Federal Government in the operations of such establishments called for in title II.

Section 1 of the 14th amendment provides in part as follows:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." (H. Doc. No. 112, 88th Cong., 1st sess. 14 (1963).)

Section 5 of the amendment provides that "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article." (Ibid.)

The Supreme Court stated in its opinion in the civil rights cases of 1883 that "It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment." (109 U.S. 11.)

In 1948 in its opinion in the case of *Shelley* v. *Kraemer*, 334 U.S. 1, on page, 13, the Supreme Court declared that "Since the decision of this Court in the *Civil Rights Cases*, 109 U.S. 3 (1883), * * * the principle has become firmly embedded in our constitutional law that the action inhibited by the 1st section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment erects no shield against merely private conduct, however discriminatory or wrongful."

And last year in one of the sit-in cases, the Supreme Court declared that "It cannot be disputed that under our decisions 'Private conduct abridging individual rights does no violence to the equal protection clause unless to some significant extent the State in any of its manifestations has been found to have become involved in it.'" (*Peterson* v. *City of Greenville*, 373 U.S. 244, 247 (1963).)

It is clear that "the language of [the 14th amendment] sets forth express limitations upon the power of a State to regulate individual behavior and thereby creates constitutional rights in individuals as against a State. * * * [P]ersons who claim an infringement of their constitutional rights as secured to them by these quoted provisions of the 14th * * * amendment * * * must attribute the alleged unconstitutional action to a State. Such a showing of 'State action' is essential, even in those powers of enforcement under section 5 * * * of [the] amendment." (1 Race Rel. Law Rep. 613 (1956).)

STATE ACTION

Various concepts of State action applied by the Supreme Court of the United States are set forth in an article appearing in volume 1 of the Race Relations Law Reporter on pages 613–637. The definitions in the various opinions cited included the following:

1. Acts of State executive officers.
2. Acts of members of the State judiciary.
3. Legislative enactments.
4. Municipal ordinances.
5. Improper enforcement of valid laws.
6. Acts of State officers contrary to State law.
7. Private action under the constraint of mandatory State statutes.
8. Acts of lessees from the State.

A review of the cases thus far decided by the Supreme Court has revealed that "[the Court] has not * * * held that, where a State or one of its political subdivisions exercises no element of coercion upon a business to discriminate, the business is free to discriminate without violating the prohibitions of the 14th amendment." (CONGRESSIONAL RECORD, vol. 109, pt. 9, p. 12362.)

The State must be found to be involved to some significant extent. The ultimate substantive question is whether the character of the State's involvement dictates its being held responsible for the discrimination by a private businessman.

It is readily apparent that "the trend in recent years has been toward expansion of the State action concept through a lessening of factors required to establish this nexus, but nonetheless the mere act of licensing or issuing a permit by the State should not be sufficient." (46 Va. L. Rev. 126, 127 (1960).)

"The fact that [a] business is carried on under a license is generally regarded as not changing the character of the business from a private one to a public one" within the province of the 14th amendment. (10 Am. Jur. 915 (1937).)

This principle was upheld by the U.S. Circuit Court of Appeals for the Fourth Circuit in 1959 in a case involving a restaurant in Alexandria, Va. A Negro had brought a suit in a Federal district court against the restaurant complaining of a wrongful refusal of service. The suit was dismissed by the district court and that judgment was affirmed on appeal to the circuit court.

The plaintiff contended that the acquiescence of the Commonwealth of Virginia in the segregation of restaurants amounted to discriminatory State action falling within condemnation of the 14th amendment. (*Williams* v. *Howard Johnson's Restaurant*, 268 F. 2d 845 (4th Cir. 1959).)

The court observed that "The essence of the argument is that the State licenses restaurants to serve the public and thereby is burdened with the positive duty to prohibit unjust discrimination in the use and enjoyment of the facilities." (Id. at 847.)

It was then noted that "This argument fails to observe the important distinction between activities that are required by the State and those which are carried out by voluntary choice and without compulsion by the people of the State in accordance with their own desires and social practices. Unless these actions are performed in obedience to some positive provisions of State law they do not furnish a basis for the pending complaint. The license laws of Virginia do not fill the void." (Ibid.)

The court then cited section 36–26 of the Virginia Code which makes it unlawful for any person to operate a restaurant in the State without an unrevoked permit from the chief executive officer of the State board of health. It observed that "the statute is obviously designed to protect the health of the community but it does not authorize State officials to control the management of the business or to dictate what persons shall be served. The customs of a people of a State do not constitute State action within the prohibition of the 14th amendment." (Id. at 848.)

The court cited as authority for its conclusion the following portion of the opinion of the Supreme Court of the United States in the case of *Shelley* v. *Kraemer*, 334, U.S. 1, 13 (1948):

"Since the decision of this Court in the Civil Rights, 1883, 109 U.S. 3, * * * the principle has become firmly imbedded in our constitutional law that the action inhibited by the first section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment erects no shield against merely private conduct, however discriminatory or wrongful."

This principle was again upheld in 1960 in a case involving a restaurant in Baltimore, Md. A suit was brought by a Negress for wrongful refusal of service on account of her race. She sought in the Federal District Court (1) a declaratory judgment that the denial of such service violated her rights under the Constitution and laws of the United States and (2) an injunction restraining such discrimination at all restaurants operated by the defendant.

The plaintiff had sought to invoke the prohibition of section 1 of the 14th amendment on the grounds that "The admission by the State of a foreign corporation and the issuance to it of a license to operate a restaurant 'invests the corporation with a public interest' sufficient to make its action in excluding patrons on a racial basis the equivalent of State action." (*Slack* v. *White Tower System, Inc.*, 181 F. Supp. 124, 129 (D.C. Md. 1960).)

The Court rules that "the fact that defendant [was] a Delaware corporation [was] immaterial. Once admitted to do business in the State of Maryland, it has the same rights and duties as domestic corporations engaged in the same business. This factor does not distinguish the case from the *Williams* v. *Howard Johnson's Restaurant*, *supra*, where the State action question was discussed at p. 847." (Ibid.)

The Court observed that Maryland license laws pertaining to restaurants were not regulatory and that the applicable Baltimore ordinance was "obviously designed to protect the health of the community." (Ibid.)

"Neither the statute nor the ordinance authorize[d] State or city officials to control the management of the business of a restaurant or to dictate what persons shall be served." (Ibid.)

The Court then declared that "Even in the case of licensees, such as racetracks and taverns, where the business is regulated by the State, the license does not become a State agency, subject to the provisions of the 14th amendment. [Citations omitted.]" (Ibid.)

The Court also rejected the proposition that the defendant had "'move[d] beyond matters of purely private concern'" and had "'act[ed] in matters of high public interest'" so as to "become 'representatives of the State' subject to the restraints of the 14th amendment." It declared that the "defendant ha[d] not exercised powers similar to those of a State or city." (Ibid.)

The decision of the district court was affirmed on appeal to the Fourth Circuit Court of Appeals, 284 F. 2d 746 (4th Cir. 1960).

Mr. Justice Douglas has been seeking to induce the Supreme Court of the United States into renouncing the principle that a State license does not transform a private business into a State instrumentality. The first instance was in the case of *Garner* v. *Louisiana*, 368 U.S. 157 (1961). In this case the Court reversed the conviction of Negro sit-in demonstrators for disturbing the peace in a restaurant in Baton Rouge, La., on the technical ground that the record failed to disclose any evidence of such a disturbance. Mr. Justice Douglas thought the Court should have reversed the conviction on the ground that the restaurant was public facility in which the State of Louisiana could not act to enforce a policy of racial segregation. The restaurant was licensed to operate by the municipality of Baton Rouge.

And according to Mr. Justice Douglas, "A license to establish a restaurant is a license to establish a public facility and necessarily imports in law, equality of use for all members of the public. I see no way whereby licenses issued by a State to serve the public can be distinguished from leases of public facilities * * * for that end." (Id. at 184.)

"Those who license enterprises for public use should not have under our Constitution the power to license it for the use of only one race." (Id. at 185.)

Mr. Justice Douglas raised the issue again in a concurring opinion in the case of *Lombard* v. *Louisiana*, 373 U.S. 267 (1963). This case presented for review trespass convictions resulting from an attempt by Negroes to be served in a privately owned restaurant in New Orleans, La. The Court held that the convictions must be reversed because they were commanded "by the voice of the State directing segregated service at the restaurant." (Id. at 274.) The Court had found that while there was no segregation ordinance in effect in the city of New Orleans segregation was being enforced by city officials just as if such an ordinance was in existence. In addition the State's criminal processes had been employed to enforce the policy of segregation thus mandated.

According to Mr. Justice Douglas, "There [was] even greater reason to bar a State through its judiciary from throwing its weight on the side of racial discrimination in the present case, because we deal here with a place of public accommodation under license from the State." (Id. at 281.)

He declared that this view was not novel and that it stemmed from the dissent of Mr. Justice Harlan in the *Civil Rights Cases*, *supra*, 58–59. Mr. Justice Douglas then proceeded to affirm that dissent with the following language:

"State licensing and surveillance of a business serving the public also brings its service into the public domain. This restaurant needs a permit from Louisiana to operate; and during the existence of the license the State has broad powers of visitation and control. This restaurant is thus an instrumentality of the State since State charges it with duties to the public and supervises its performance. The State's interest in and activity with regard to its restaurants extends far beyond any mere income-producing licensing requirement." (Id. at 282–283.)

The Supreme Court has thus far refused to alter that part of the "law of the land" under which the operation of a private business under a State license does not transform that private business into an agency of the State. Heed should be taken of the fact that in a companion case to the Lombard case, the Supreme Court declared, without any disclaimer from Mr. Justice Douglas, that "It cannot be disputed that under our decisions 'Private conduct abridging individual rights does no violence to the equal protection clause unless to some significant extent the State in any of its manifestations has been found to have become involved in it.' (*Burton* v. *Wilmington Parking Authority*, 365 U.S. 715, 722 (1961); *Turner* v. *City of Memphis*, 369 U.S. 350 (1962)." *Peterson* v. *City of Greenville*, 373 U.S. 244 (1963).)

DISTINGUISHING FEATURES OF PROPOSED 1964 LAW

Proponents of title II have admitted that the 1875 act was "defective in that it did not profess to be corrective of any constitutional wrong committed by the States; it did not make its operation depend upon any such wrong committed." (Congressional Record, p. 1549, Jan. 31, 1964.)

But notwithstanding the near duplication of the void act of 1875 in the proposed act of 1964, it is still claimed that there are substantial differences between the public accommodations provisions of the Civil Rights Act of 1875 and those of title II. (Congressional Record, p. 1549, Jan. 31, 1964.) It is claimed that "the language of the public accommodations law under the 14th amendment we are now debating ties its operative provisions to the authorizing acts of a State or a political subdivision thereof. Thus it divests itself of any unconstitutional character." (Ibid.)

It is asserted that "the language of sections 201 (b) and (d) clearly would not extend to any case where, as a matter of constitutional law, State action is not present; hence there can be no doubt of its constitutionality as an implementation of the 14th amendment." (Congressional Record, p. 1526, Jan. 31, 1964.)

STATE ACTION CONCEPT EXPANDED

Having acknowledged that the unconstitutional act of 1875 was so drafted as to apply to purely private business activities, advocates of the proposed 1964 statute claim that the latter's provisions have no such "unconstitutional character." They assert that the new act would extend only to those instances in which "State action" was present. They cite the express requirement of "support by State action" in subsection 210 (b) and its definition in subsection 201(d).

Subsection 201(d) now declares that "Discrimination or segregation by an establishment is supported by State action within the meaning of this title if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance, or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of a State or political subdivision thereof."

But overshadowing all of the protestations of its constitutionality are the oft-expressed opinions that title II should or would apply to private business activities beyond those presently considered to be within the purview of prevailing concepts of "State action."

For instance, it is well known that the clearly defined "law of the land" is that compliance with licensing requirements does not transform the activities of a businessman into "State action" subject to the strictures of the 14th amendment. The activities of a privately owned business pursuant to such regulations does not fall within any prevailing concepts of actionable "State action." This "law of the land" has been blatantly ignored by supporters of title II.

Today, there exists no business that is not touched by at least a slight degree of "State action." The operations of practically every business in the United States are subject to some State and/or local licensing requirements and health, fire, or safety regulations. Under the proposed expansionist license theory of "State action," every individual business within the four categories specified in subsection 201(b) operating under a State or local license would be subject to the proscriptions of title II.

TITLE II IN THE HOUSE

The current definition of "supported by State action" is an amended form of subsection 201(d) of H.R. 7152 as it was reported to the House by its Committee on the Judiciary. The section originally provided that discrimination would be supported by State action within the meaning of title II if such discrimination was "(1) carried on under color of any law, statute, ordinance, regulation, customs, or usage; or (2) required, fostered, or encouraged by action of a State or political subdivision thereof." (Report to accompany H.R. 7152, H. Rept. No. 914, 88th Cong., 1st sess. 3 (1963).)

An amendment to subsection 201(d) was proposed to expand its two definitive clauses into three provisions to read as follows:

"(1) is carried on under color of any law, statute, ordinance, or regulation; or (2) is carried on under color of any custom or usage fostered, required or enforced by officials of the State or political subdivision thereof; (3) is fostered or required by action of a State or political subdivision thereof." (Congressional Record, p. 1962, Feb. 5, 1964.)

The author of the amendment stated that the terms "custom or usage" in the original version of 201(d) could have been extended "far beyond the reach * * * intend[ed]." "Nearly every individual act, conceivably, could come under that kind of definition." Ibid. He then explained that under the new "custom or usage" clause, "before a custom or usage would become State supported action there would have to be some kind of action, some kind of activity, by an official of a State or of a political subdivision of the State." (Ibid.)

He then noted that the new third subsection eliminated the word "encouraged" as it related to the " 'action of a State or political subdivision thereof.' " He was "fearful of the word 'encouraged' because it "could have too broad a scope." (Ibid.)

The sponsor of the amendment was then asked whether the changed subsection would include within its terms "mere licensing" and "nonaction by the State, with only licensing." He replied as follows: "The mere licensing by or the mere nonaction by a State would not in itself be enough to meet the requirement." (Ibid.)

He pointed out that the word "fostered" was used. Consequently, the resolution of the issue would "depend upon the circumstances surrounding the licensing, and whether the State actually fostered the action. Conceivably licensing could be a part of other activities which fostered the action." (Ibid.)

In answer to the specific question, he reiterated his own opinion that "the mere licensing of an activity would not be sufficient to bring the activity under [his] amendment as State supported." (Ibid.)

An amendment to the initial amendment was subsequently passed which struck out the word "fostered" in clauses (2) and (3). Id. at 1884. The amended amendment was then passed as the present form of subsection 201(d). (Ibid.)

The author of the revision of the definition of "State action" stated clearly that he did not intend that "licensing" alone would fall within the purview of subsection 201(d). But the record does not contain positive expressions of widespread acceptance of this interpretation in the House of Representatives. And unfortunately the still indefinite terms of subsection 201(d) are barren of any concrete indication that any such exclusion was actually intended to be allowed.

Two days after the revision of subsection 201(d), another Representative spoke in opposition to H.R. 7152. His opinion of title II was that "If enacted and sustained I cannot conceive any human activity which may not be regimented to [sic] Federal authorities." (Congressional Record, p. 2474, Feb. 7, 1964.)

He later took notice of the current notion that actionable "State action exists in individual action * * * regulated by the State in the form of sanitary, fire, or occupancy requirements, or by virtue of the simple act of licensing." (Id. at 2475.)

He contended that "to create such a legal fiction would raise a whole host of problems." (Ibid.) He then concluded that the 14th amendment had not conferred any authority upon the Congress to adopt H.R. 7152. (Id. at 2476.) The obvious import of his remarks was that title II still provided for Federal regulation of all private businesses within the categories of businesses designated in subsection 201(b) which were licensed or regulated by the State in the form of sanitary, fire or occupancy requirements. The Record does not reveal that anyone arose to declare that this opponent has misconstrued the purpose and scope of title II as amended.

TITLE II IN THE SENATE

The senior Senator from Minnesota has stated that there were four areas of possible application in the spectrum of State action under the 14th amendment. He also declared that he did not happen to agree with some of them. He listed them as follows:

"First, a State law or an ordinance of any of its political subdivisions which specifically prescribes segregation.

"Second, State officials publicly admitting that they are enforcing a custom of segregation.

"Third, so-called colorblind trespass laws being used to call in police officers to eject persons from the premises of a proprietor whose sole reason to eject is to keep the facilities segregated.

"Fourth, the license theory whereby the issuance of a State license or articles of incorporation, or the issuance of a public health certificate, and so forth, would be sufficient State action to satisfy the requirements of the 14th amendment." Congressional Record, p. 4857, Mar. 10, 1964.)

The senior Senator from Minnesota then declared he did "not contend that" and that "This last category is in his opinion sufficient State action to bring the 14th amendment to bear but it does not represent the present limit of the spectrum." (Ibid.)

He went on to declare that he was "merely saying that this is the spectrum of what are State actions under the 14th amendment. The first two have been declared by the Supreme Court to be clearly sufficient State action within the bounds of the 14th amendment." (Ibid.)

He then noted that the third category was currently pending before the Supreme Court for decision and that the license theory, which he acknowledged to be a rather far-reaching doctrine, "was the theory of Mr. Justice Douglas in one of his concurring opinions." (Ibid.)

It is of interest here that Mr. Justice Harlan in his spearate opinion in the companion Greenville sit-in cases asserted that the Court had not suggested that the third category satisfied the requirements of the 14th amendment. (*Peterson* v. *City of Greenville*, 373, U.S. 244, 249 (1963).)

The senior Senator from Minnesota subsequently asserted that H.R. 7152 "does not rely upon the resolution of the constitutional questions presented in the third and fourth categories." (Ibid.)

He averred that H.R. 7152 "relates only to the first two categories, which have already been clearly interpreted as constitutional." (Ibid.)

The senior Senator from Minnesota concluded with the expressed hope that "we can concentrate our attention upon the first and second (categories) during the debate." (Ibid.)

The clear implication of his remarks is that title II will enact into positive Federal law only the first two cited categories of judicially defined concepts of "State action." But this lone senatorial expression of legislative intent is not in the least consistent with that expressed by other proponents of title II. Furthermore the language of subsection 201(d) as presently drafted is not precise language. Its current provisions are broad enough to include all four of the concepts of "State action" enumerated by the senior Senator from Minnesota. And the notorious proclivity of the majority of our nine judicial neighbors to the east to give effect to the widest possible application to so-called civil rights laws should dash any hopes that the current version of subsection 201(d) would not be applied to all four of these concepts.

So long as subsection 201(d) is comprised of such vague phraseology, experience, and logic dictate that we now must concentrate our attention on not just these four concepts, but every possible type of "State action" that is not specifically excluded in subsection 201(d).

THE SCOPE OF THE COMMERCE CLAUSE

The proponents of title II quite frankly admit that they are relying primarily on the commerce clause as their authority for imposing this yoke of servitude on the American businessman. Several opinions of the Supreme Court of the United States have been cited to portray the great and wondrous vistas of the commerce clause. It is true that the judicial artists have applied their pens in these opinions in broad sweeping strokes. But it does not necessarily follow that title II can be dubbed into this panorama of decisions without destroying the integrity of the constitutional canvas.

The cases most frequently cited include ***Currin* v. *Wallace***, 306 U.S. 1 (1939), interpreting the Tobacco Inspection Act of 1935, 49 Stat. 731 (7 U.S.C. 511–511q (1958)); ***United States* v. *Wrightwood Dairy***, 315 U.S. 110 (1942), interpreting sections 1 and 2 (d), (e), (f), (k), (l), (m) of the Agricultural Marketing Agreement Act of 1937, 50 Stat. 246, 247 (7 U.S.C. 608c (1958)); ***Mulford* v. *Smith***, 307 U.S. 38 (1939), ***Wickard* v. *Filburn***, 317 U.S. 102 (1942), interpreting title III, part I of the Agricultural Adjustments Act of 1938, 52 Stat. 31, 45–48, as amended, March 26, 1938, 52 Stat. 120, April 7, 1938, 52 Stat. 775 (7 U.S.C. 1311–1315 (1958)); ***United States* v. *Sullivan***, 332 U.S. 689 (1948), interpreting section 301(k) of the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040, 1042 (1938) (21 U.S.C. 331(k) (1958)); ***United States* v. *Darby***, 312 U.S. 100 (1941) and ***Mabee* v. *White Plains Publishing Co.***, 327 U.S. 178 (1946), interpreting the Fair Labor Standards Act of 1938, 52 Stat. 1060 (29 U.S.C. 201–219 (1958)).

The statutes which were the subject of these opinions have all been cited as "excellent precedents for sustaining measures concerning patronage of retail establishments, restaurants, places of amusement and the like." (Hearings, supra, 274–275.)

Another statute cited as precedent for this proposed public accommodations provision, but upon which there has been no ruling as to its constitutionality, is the act of March 16, 1950, regulating the intrastate sales of colored oleomargarine, 64 Stat. 20 (21 U.S.C. 347–347b (1958)).

Each of the cited statutes was intended to remove stated burdens on interstate commerce. Each act provided for the regulation of specified business practices as the means of effecting the removal of the cited burdens. Each measure was enacted to benefit directly certain classes of persons. The relief accorded the advantaged parties varied with the nature of the burden on interstate commerce sought to be removed.

RÉSUMÉ OF CITED STATUTORY PRECEDENTS

Tobacco Inspection Act of 1935

In the case of the Tobacco Inspection Act of 1935, the stated burden on interstate commerce was "unreasonable fluctuations in prices and quality determinations" of tobacco.

The means provided for the removal of the burden was the inspection and certification by an authorized representative of the Secretary of Agriculture prior to its being offered for sale at auction at a designated market.

The class of persons brought under regulation were tobacco producers generally and other persons engaged in the business of selling tobacco in interstate commerce at designated markets.

But before the regulations could become effective, the Secretary of Agriculture was required to determine by referendum whether the requisite number of tobacco growers who sold tobacco at auction on such market during the preceding marketing season desired the designation of their market for regulation. The act specified that no market or group of markets could be designated by the Secretary unless two-thirds of the growers voting favored designation (7 U.S.C. 511d (1958)).

The class of persons to be benefited by the imposition of the regulations were primarily tobacco producers and other persons engaged in selling tobacco in commerce.

The relief provided for in the act was the placing of tobacco growers (sellers) in position intelligently to deal with buyers of their crops.

Agricultural Marketing Agreement Act of 1937

In the case of sections 1 and 2 of the Agricultural Marketing Agreement Act of 1937, the declared burden on interstate commerce was the impairment of the purchasing powers of farmers and the destruction of the value of agricultural assets resulting from the disruption of the orderly exchange of commodities in interstate commerce.

The means provided for the removal of this burden was the fixing of classification standards and of the minimum prices to be paid to the producers of certain agricultural commodities in specified marketing areas.

The class of persons within the scope of the regulation were processors, associations of producers, and others engaged in the handling of any of the specified agricultural commodities or product thereof, in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate commerce in such commodity or product thereof.

But the producers in any specified market area could not be made subject to regulation unless and until it had been determined by the Secretary of Agriculture that price and quality controls were favored by the producers of at least two-thirds of the market volume in one circumstance, and by at least two-thirds of the producers in the area in all other situations. The Secretary was authorized to hold a referendum to make this determination (7 U.S.C. 608c (8) (9) (19) (1958)).

The class of persons to be directly benefited by such regulation was also the producers of the products specified.

The object of the act was the establishment and maintenance of such orderly marketing conditions of each of the specified agricultural commodities so as to provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices.

Agricultural Adjustment Act of 1938

In the case of title III, part I of the Agricultural Adjustment Act of 1938, the stated burden on commerce was the disorderly marketing of abnormally excessive supplies of tobacco.

The means provided for the removal of this burden was the establishment of national marketing quotas.

The class of persons brought under regulation was tobacco growers.

However, the marketing quota was not to become effective until the Secretary had conducted a nationwide referendum of farmers engaged in the growing of tobacco to determine whether they were in favor or opposed to such quotas. If more than one-third of the farmers voting opposed the establishment of national marketing quotas, no quotas would become effective (7 U.S.C. sec. 1312(c) (1958)).

The class of persons to be directly advantaged by the regulation was also the growers of tobacco.

The relief to be accorded to growers was the prevention of the production of abnormally excessive supplies and the indiscriminate dumping of such surpluses on the nationwide market.

Federal Food, Drug, and Cosmetic Act

The Federal Food, Drug, and Cosmetic Act did not include any formal exposition of the burdens on interstate commerce which it was intended to remove. However, a reading of the provisions of the act and a review of the House and Senate reports on the parent bill indicates that the subject burdens were "the adulteration, misbranding, and false advertisement of food, drugs, devices, and cosmetics in interstate, foreign, and other commerce subject to the jurisdiction of the United States." (S. Rept. No. 152, 75th Cong., 1st sess. 1; H. Rept. No. 2716, 75th Cong., 3d sess. 1; H. Rept. No. 2139, 75th Cong., 3d sess. 1.)

The means provided for the removal of these burdens was the prohibition of carrying on trade in adulterated or misbranded food, drugs, devices, and cosmetics in interstate commerce.

The class of persons brought under regulation were persons engaged in the production, distribution, and selling of food, drugs, devices, and cosmetics.

The class of persons to be benefited by the imposition of the regulations was the general consumer public.

The relief to be accorded was the safeguarding of the public health and the prevention of deceit upon the purchasing public.

Fair Labor Standards Act of 1938

In the case of the Fair Labor Standards Act of 1938, the stated burden on commerce was the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

The means provided for removing this burden was the prohibition of (1) the employment of employees in interstate commerce at other than prescribed wages and hours, and (3) the employment of oppressive child labor.

The class of persons brought under regulation were employers "engaged in commerce or in the production of goods for commerce."

As originally enacted, the act provided that the minimum wage and maximum hour provisions shall not apply with respect to "(1) any employee employed in a bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Administrator [of the Wage and Hour Division]); or (2) any employee engaged in any retail or service establishment the greater part of whose selling or servicing is in intrastate commerce." (Fair Labor Standards Act of 1938, sec. 13(a), 52 Stat. 1067 (29 U.S.C. 213(a) (1958)).)

The class of persons to be benefited by the imposition of the labor standards were employees of employers "engaged in commerce or in the production of goods."

The relief provided was the establishment of minimum wage, overtime pay and child labor standards. However, as noted above, certain categories of employees were initially—and others subsequently—explicitly excluded from the wage and hour provisions of the act.

Oleomargarine sales act

In the case of the act of March 16, 1950, regulating the sale of colored oleomargarine, the declared burden on commerce was the sale, or the serving in public eating places of colored oleomargarine or colored margarine without clear identification as such or which is otherwise adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (7 U.S.C. 301 et seq. (1958)).

The means provided for the removal of this burden was to require all public eating places serving colored oleomargarine (1) to display prominently on the premises or to have printed on its menus a notice that colored oleomargarine is served; and (2) to identify each individual serving of colored oleomargarine by labeling it as such or by serving it in a triangular shape.

The class of persons brought under regulations was the owners and/or operators of public eating places.

The class of persons to be advantaged was the patrons of public eating places.

The relief to be accorded to patrons of public eating places was their being put on notice that they would be served colored oleomargarine.

DISTINGUISHING FEATURES OF CITED STATUTORY PRECEDENTS

In enacting these previous statutes, the Congress has enabled the Federal Government to take over "local radiations in the vast network of our national economic enterprise and thereby [to] radically readjust * * * the balance of State and national authority." "See *Kirschbaum* v. *Wallong,* 316 U.S. 517, 522 (1942).)

But in each of these acts the Congress did include provisos and exemptive sections which actually restricted their apparent scope and in some instances even made their application elective for those persons to be made subject to their provisions. The proposed public accommodations law does not contain any such meaningful hallmarks of temperance and wisdom.

The restraints of title II would be peremptorily applied to the operations of the designated categories of business establishments. It does not provide for any minimum cutoff limit of annual sales or gross income. It is intended to envelop within its reach, without exception, purely local and small business establishments. It would impose on the operators of affected business establishments a federally enforcible unilateral duty to serve certain classes of persons without these businessmen being granted any compensating rights for this loss of discretion to select their patrons and customers.

Categories of persons within the purview of the Tobacco Inspection Act of 1935, supra, the Agricultural Marketing Agreement Act of 1937, supra, and title III, part 1 of the Agricultural Act of 1938, supra, would not become subject to the regulation provided for unless and until it had been determined from a referendum among the respective classes of producers that a requisite majority of those voting favored the imposition of such regulation on their activities.

Under the provisions of the Tobacco Inspection Act of 1935, supra, the producer (vendor), upon becoming subject to inspection and certification regulations, was to be put "in position intelligently" to bargain with a vendee. But in so doing, the Congress did not purport to impose any additional duties on this other party or to deprive him of any of his usual rights as would be the case upon the enactment of the public accommodations bills. The benefited party was not to be elevated to a position from which he could compel the other party to deal with or to serve him.

The Fair Labor Standards Act of 1938, supra, as originally enacted provided for the exemption from its minimum wage and overtime provisions employees of retail or service establishments engaged primarily in trading in instrastate commerce. These exemptions were put into the act in full view of its stated design "to extend the frontiers of social progress by 'insuring to all our able-bodied working men and women a fair day's pay for a fair day's work.' "

Notwithstanding the recited urgent need for remedying a grave national problem affecting wage earners, the Congress saw fit to exclude certain categories of employees from the scope of the act. The exemption section was "the offspring of a manifest desire to exclude from the scope of the act 'business in the several States that is of a purely local nature.' * * * Congress was interested in exempting those regularly engaged in local retailing activities and those employed by small local retail establishments, epitomized by the corner grocery, the drugstore, and the department store. * * * It felt that retail concerns of this nature do not sufficiently influence the stream of interstate commerce to warrant imposing the wage and hour requirements on them. * * * Section 13(a) (2) is a part of the act only because of the fear that section 13(a)(1), in exempting employees regularly engaged in a 'local retailing capacity, did not clearly exclude those employed by local retailers who are situated near State lines and who make occasional interstate sales.' " (*Phillips Co.* v. *Walling,* 234 U.S. 490, 497 (1945).)

The exemption section of the act is currently interpreted by the Wage and Hour and Contracts Divisions of the Department of Labor to apply to the following categories of employees:

"Employees of retail or service establishments which are primarily engaged in selling automobiles, trucks, or farm implements; and employees of any of the following which are retail or service establishments that make most of their sales within the State; hotels, motels, restaurants, motion picture theaters, seasonal amusement recreational establishments, hospitals and nursing homes, schools for handicapped or gifted children; other retail or service establishments which have less than $250,000 in annual sales exclusive of specified taxes; or if the enterprise of which they are a part has less than $1 million in gross annual sales exclusive of specified taxes or procure less than $250,000 annually in goods for resale that move or have moved across State lines. Employees of retail or service establishments who are employed primarily in connection with certain food or beverage service." (Department of Labor, Wage and Hour and Public Contracts Division, Handy Reference Guide to the Fair Labor Standards Act 6–7 (Reprint April 1963).)

The purpose of the oleomargarine sales act, supra, was to protect "consumers from the danger that oleomargarine, because of its similarity to butter, might be misrepresented as butter to unwary customers." *United States* v. *Rutstein,* 163 F. Supp. 71, 74 (S.D.N.Y. 1958). It provides for "ample and thorough protection to the general public in retail establishments." (Id. at 77, quoting 96 CONGRESSIONAL RECORD 3017 (1950).) The protection provided was the requirement that colored oleomargarine must be clearly identified as such when it is sold to or served to the public.

The act did not take away the right of the operator of a public eating place to discriminate in his choice of table spreads. It did not require him to serve his patrons a particular product, butter. It did not take away his right to serve colored oleomargarine. The act charged him only with the duty to put potential customers on notice that colored oleomargarine was being sold or served on the premises.

The purpose of the Federal Food, Drug, and Cosmetic Act, supra, was to prevent abuses of the consumer welfare. The main protection provided by the act was the requirement of accurate and truthful labeling of the designated commodities. As in the case of the Oleomargarine Sales Act, supra, the vendor was charged only with the duty to give the potential customers adequate notice of the nature of the product being sold.

SUMMARY OF DISTINGUISHING FEATURES

Not one of these acts provided for any restriction of the right of the operator of a business to select his customers or patrons. The Tobacco Inspection Act of 1935, the Federal Food, Drug, and Cosmetic Act, and the Oleomargarine Sales Regulation Act did affect some practices in the merchandising of certain commodities. Only the latter two acts actually imposed obligations on the vendor for the benefit of the consumer. These obligations constituted a duty to extend to customers a warranty of the quality, quantity, and condition of merchandise held out for sale by the seller. But the affected businessmen were not placed under any servitude to sell their merchandise on a nondiscriminatory basis. There was no compulsion to sell nor any requirement to serve inherent in the enforcement of any of these acts which have been relied upon so heavily to rationalize the enactment of a public accommodations law under the commerce clause.

CITED STATUTES NOT LEGITIMATE PRECEDENT

In light of the legislative and administrative history of these laws previously passed by the Congress under the authority of the commerce clause, the invocation of that clause in this instance would be an unprecedented exercise of that authority. Since there was no compulsion to deal inherent in the enforcement of these acts upon either one of the two parties to a transaction, they cannot stand as a legitimate precedent for the giant step that would be taken in the enactment and enforcement of the provisions of the proposed public accommodations law.

PROHIBITION OF DISCRIMINATION UNDER AUTHORITY OF COMMERCE CLAUSE

Legislation enacted under the authority of the commerce clause has been applied to prohibit discrimination on account of race or color in the operation of a business. But this particular use of the commerce power has been limited so as to apply only to the operations of a unique category of businesses, namely, common carriers. Rail carriers, by 49 U.S.C. 3(1) (1958), motor carriers by 49 U.S.C. 316(d) (1958), and air carriers by 49 U.S.C. 1374(b) (1958), are all forbidden "to subject any particular person * * * to * * * any undue or unreasonable prejudice or disadvantage in any respect whatsoever." Each of these provisions has been construed to forbid discrimination on account of race or color by common carriers in services provided to passengers: rail carriers, in *Mitchell* v. *United States*, 313 U.S. 80 (1941), and *N.A.A.C.P.* v. *St. Louis-San Francisco Ry. Co.*, 297 I.C.C. 335; motor carriers, in *Boynton* v. *Virginia*, 364 U.S. 454 (1960), and *Keys* v. *Carolina Coach Co.*, 64 M.C.C. 769; and air carriers, in *Fitzgerald* v. *Pan American World Airways*, 229 F. 2d 499 (2d Cir. 1956).

The greatest extension of this application of the commerce power occurred in the case of *Boynton* v. *Virginia, supra*. There the Supreme Court held that a restaurant located in a bus terminal, although not owned or actively operated or directly controlled by a bus company, must make its facilities and services available to an interstate patron of the bus company without regard to race or color. The Court declared that "here, without regard to contracts, if the bus carrier has volunteered to make terminal and restaurant facilities and services available to its interstate passengers as a regular part of their transportation, and the terminal and restaurant have acquiesced and cooperated in this undertaking, the terminal and restaurant must perform these services without discriminations prohibited by the [Interstate Commerce] Act. In the performance of these services under such conditions the terminal and the restaurant stand in the place of the bus company in the performance of its transportation obligations." (Id. at 460–461.)

The Court was prompted to stake off the boundary of its ruling and stated that "We are not holding that every time that a bus stops at a wholly independent roadside restaurant the Interstate Commerce Act requires that restaurant service be supplied in harmony with the provisions of this act. We decide only this case, on its facts, where circumstances show that the terminal and restaurant operate as an integral part of the bus carriers' transportation service for interstate passengers." (Id. at 463–464.)

The Supreme Court so circumscribed its interpretation of the antidiscrimination provision of the Interstate Commerce Act in full knowledge that the "services" and "transportation" to which the section applied included "all facilities and property operated or controlled by any such carrier or carriers, and used in the transportation of passengers or property in interstate or foreign commerce or in the performance of any service in connection therewith." (Id. at 460.)

The antidiscrimination section of the act was held to apply only to the operation of a terminal and restaurant as an "integral part of [a common] carrier's transportation service for interstate passengers." (Ibid.) It was not construed to apply to terminal and restaurant services utilized by a common carrier "merely on a sporadic and occasional basis." (Id. at 462.) This use of the commerce power did not affect the operation of a "wholly independent roadside restaurant." (Id. at 463.)

The authority of the commerce clause was sought to be invoked in a lawsuit to prohibit racial discrimination in a Howard Johnson's restaurant in Alexandria, Va. The plaintiff had alleged that the defendant restaurant was engaged in interstate commerce because it was located beside an interstate highway and served interstate passengers. *Williams* v. *Howard Johnson's Restaurant*, 268 F. 2d 845 (4th Cir. 1959). He argued that "the commerce clause of the Constitution (art. I, sec. 8, cl. 3), which empowers Congress to regulate commerce among the States, is self-executing so that even without a prohibitory statute no person engaged in interstate commerce may place undue restrictions upon it." (Ibid.)

The plaintiff cited in support of his argument judicial opinions in which racial discrimination by common carriers had been held to be unlawful. These cases represented two lines of authority for such a holding: first, that the discrimination was in violation of the antidiscrimination section of the Interstate Commerce Act (49 U.S.C. 3(1) (1958)) and second, that such discrimination constituted an undue burden upon interstate commerce in violation of the commerce clause of the Constitution.

The Court took judicial notice of the cases cited by plaintiff in supporting his contentions, but observed that "In every instance the conduct condemned was that of an organization directly engaged in interstate commerce and the line of authority would be persuasive in the determination of the present controversy if it could be said that the defendant restaurant was so engaged." (Id. at 848.)

The Court then rules that the cases cited were not applicable to the operation of the defendant restaurant because it had not been shown to be engaged in interstate commerce.

The Court held that the Howard Johnson Restaurant was "an instrument of local commerce not subject to the commerce clause" and "at liberty to deal with such persons as it may select." (Ibid.)

The Court predicated its ruling on the explicit premise that a restaurant should not be considered to be engaged in interstate commerce "merely because in the course of its furnishing accommodations to the general public it serves persons who are traveling from State to State." (Ibid.)

And in the Slack case, supra, the Negro plaintiff had also sought relief on the ground that the "defendant [was] engaged in interstate commerce, that its restaurant [was] an instrumentality of interstate commerce and thus subject to the constitutional limitations imposed by the Commerce clause * * * and that defendant's refusal to serve plaintiff, a traveler in interstate commerce, constituted an undue burden on that commerce." (*Slack* v. *Atlantic White Tower System*, 181 F. Supp. 124, 128–29 (D. Md. 1960).)

The district court cited the Williams case, supra, and rejected this contention. The complaint was dismissed and the plaintiff appealed.

On appeal the only question considered was "what effect, if any, does the Supreme Court's recent decision in *Boynton* v. *Virginia*, have upon the holding of the *Williams* case." (*Slack* v. *Atlantic White Tower System*, 284 F. 2d 746 (4th Cir. 1960).)

The circuit court found that the Boynton decision had not affected the holding of the Williams case and affirmed the dismissal of the complaint. It took judicial notice of the Supreme Court's express declaration in the Boynton opinion that "We are not holding that every time a bus stops at a wholly independent roadside restaurant the Interstate Commerce Act requires service be supplied in harmony with the provisions of this act." (Ibid.)

Those who maintain that the public accommodations section of the Civil Rights Act falls within the legislative power of Congress ignore the historical purpose of the commerce clause, and they ignore the limitations placed upon this power. The father of our Constitution, in explaining the meaning of the commerce power, wrote that "It is very certain that [the commerce clause] grew out of the abuse of the [commerce] power by the importing States in taxing the nonimporting, and was intended as a negative and preventive provision against injustice among the States themselves, rather than as a power to be used for the positive purposes of the General Government." (IV Madison, Letters and Other Writings, pp. 14–15 (Phila. 1865).)

Thus Madison unequivocally stated that the commerce clause was intended as a prohibition upon unreasonable regulation of commerce by the individual States. James Madison was the only delegate to the Philadelphia Convention who kept complete notes on all proceedings, and he is rightly referred to as more nearly the author of our Constitution than any other single individual. His words are entitled to great respect.

In the early case of *Gibbons* v. *Ogden*, 9 Wheat. 1 (1824), the Supreme Court handed down a celebrated decision announcing that the State of New York did not have power to grant a monopoly to one or more individuals operating vessels on the coastal waters of that State. The decision was based directly upon the commerce clause, and contains some broad language as to the power of Congress under the commerce clause. In 1942, 118 years after *Gibbons* v. *Ogden* was decided, the Supreme Court said, "At the beginning Chief Justice Marshall described the Federal commerce power with a breadth never yet exceeded [citing *Gibbons* v. *Ogden*]." (*Wickard* v. *Filburn*, 317 U.S. 111, at 120 (1942).)

In this simple manner error is created. In *Gibbons* v. *Ogden* the question was whether a State had gone beyond the restrictions imposed upon it by the commerce clause. The Court could easily have cited the words of Madison, that the commerce clause is "a negative and preventive provision against injustice among the States themselves." While Marshall's dictum reached beyond the facts before him, the decision itself was strictly within the intent of the authors of the Constitution: Commerce among the States should be free, unrestricted by discriminatory State regulation.

This negative aspect of the commerce clause was the dominant issue in a vast majority of the commerce cases heard by the Supreme Court prior to 1900. Not until passage by Congress of the Interstate Commerce Act of 1887 did the balance begin to shift in the other direction toward controversies relating to the affirmative power of the Federal Government under the commerce clause. Although a number of cases had upheld this affirmative power, as late as 1918 there was still validity to the doctrine that the commerce clause conferred only limited power on the Federal Government. In *Hammer* v. *Dagenhart*, 247 U.S. 251 (1918), the question before the Court was whether Congress, under the commerce clause, could prohibit interstate shipment of goods manufactured by use of child labor working under conditions contrary to those prescribed by congressional legislation. A father had brought suit on behalf of his sons claiming the legislation was void because it was directed to a matter—manufacturing—over which Congress had no constitutional authority.

The father's brief before the Supreme Court relied upon the words of Madison, that the commerce power is a negative power, 247 U.S. at 260, and pointed out that Congress was seeking to manage the internal affairs of the States and their citizens. Although the decision in which the Court sustained this argument has since been overruled, the following language of the Court has vitality:

"The far-reaching result of upholding the act cannot be more plainly indicated than by pointing out that if Congress can thus regulate matters entrusted to local authority by prohibition of the movement of commodities in interstate commerce, all freedom of commerce will be at an end, and the power of the States over local matters may be eliminated, and thus our system of government be practically destroyed" (247 U.S. at 276).

To review briefly, the intent of the framers of our Constitution was to eliminate diverse State regulation of commerce among the States and in this manner to secure the utmost in free commercial intercourse on a broad scale in the new nation. Congress, by its legislation in the first century following ratification of the Constitution, adhered generally to this interpretation of the commerce clause. And as recently as 1918, the Supreme Court rendered its decision striking down the extremely broad power claimed by Congress over commerce on the ground that such an extensive power in the hands of Congress would bring to an end all freedom of commerce.

The interpretation of the commerce clause thus exemplified is more than the historical interpretation—it is the realistic and intelligent interpretation. And only the most vivid of imaginations could conclude that the civil rights bill would find any support in this interpretation of our charter of government.

CURRENT CONSTITUTIONAL INTERPRETATIONS

"It Is the Essence of this [Commerce] Power That, Where It Exists, It Dominates" (*Shreveport Rate Case,* 234 U.S. 342).

"The Federal Commerce Power Is As Broad as the Economic Needs of the Nation" (*American Power & Light Co.* v. *Securities & Exchange Commission,* 329 U.S. 90, 104).

The most cursory analysis reveals that, if the Federal commerce power exists whenever there is an economic need, and further, if that power dominates wherever it exists, we are dealing here with an awesome power indeed. The fact is, of course, that the Federal commerce power has become extremely broad during the last half century, but at the present writing this power is not without limits.

There are several different facets of the commerce power, and perhaps it would be well to distinguish and define the facet of that power which will be dealt with in this portion of our analysis.

First, we are not dealing with the effect of the commerce clause upon State action that affects commerce among the States. This is the negative aspect of the commerce power, the aspect that strikes down burdensome State-imposed restrictions on interstate commerce, and clearly does not apply in this instance.

Second, we are not here dealing with the power of the Federal Government to support by financial means programs that are intended to promote commerce among the States.

Thus, the power here under discussion, defined as narrowly as possible, is the affirmative power of Congress to regulate private activities in the field of commerce. Therefore, the only cases in point are those that define this regulatory power of Congress.

In 1851, the Supreme Court sustained the power of Congress to regulate the building of bridges over natural streams, *Pennsylvania* v. *Wheeling Bridge Co.* (13 How. 518 (1851)), and the regulatory power of Congress has been sustained on a great number of cases since that date. In 1903, an act prohibiting interstate commerce in lottery tickets was upheld. (*Champion* v. *Ames,* 188 U.S. 321 (1907).) There followed a succession of cases holding that Congress could regulate commerce among the States with respect to adulterated foods (*Hipolite Egg Co.* v. *United States,* 220 U.S. 45 (1911)), women transported for immoral purposes (*Hoke* v. *United States,* 227 U.S. 308 (1913)), intoxicating liquors (*Clark Distilling Co.* v. *United States,* 242 U.S. 311 (1917)), and stolen vehicles (*Brooks* v. *United States,* 267 U.S. 432 (1925)).

In 1905, the Court upheld the Sherman Antitrust Act, on the ground that monopolies operating in the current of commerce have a significant and stifling effect on commerce among the States. *Swift & Co.* v. *United States,* 196 U.S. 375 (1905). It is quite accurate to say that the affirmative power of Congress to regulate the current of commerce among the several States has not been seriously questioned in recent years.

In *National Labor Relations Board* v. *Jones and Laughlin Steel Corp.,* 301 U.S. 1 (1937), the Court substantially expanded the commerce clause by upholding the National Labor Relations Act. The act in question is based upon the power of Congress to regulate generally all labor-management relations in industries of any substantial size. In upholding the act, the Court noted that the act does not operate directly upon the current of commerce, but held that labor-management relations do, as a matter of fact, have an enormous effect upon the flow of commerce among the States. Accordingly, said the Court, Congress acts within its proper sphere of power when it undertakes to regulate labor-management relations.

The Court further expanded this concept of the power of Congress to regulate the flow of commerce in *Wickard* v. *Filburn,* 317 U.S. 111 (1942), when it was held that Congress can constitutionally regulate the use of private farmland for private purposes. In that case the farmer had planted wheat for his own use in feeding his farm animals, and he argued that such a use of his property could not constitutionally be subjected to regulation by Congress. The Court, however, noted that millions of acres of wheat are planted for private use each year, and if Congress cannot regulate this activity, the unrestrained activity of farmers would have a significant effect upon commerce in grain. The Court held that, because the current of commerce would be substantially affected, the power of Congress to regulate commerce among the States could constitutionally be brought into play.

The decisions mentioned and discussed above are by no means all the decisions, or even all the important decisions, rendered by the Supreme Court in the last few decades respecting the commerce power of Congress. These decisions are mentioned simply as a brief review of the Court's reasoning in dealing with the commerce clause. The review is brief because a full discussion of the commerce power would of necessity involve the discussion of every case decided on this point—and when this task was done, it would still be necessary to make an educated guess as to whether the proposed Civil Rights Act would be upheld by the Supreme Court.

The fact is that the Court must, in order to sustain the power of Congress to regulate a given field of activity, find that the activity has a substantial effect upon the current of commerce among the States. If there is involved no current of commerce among the States, or if the activity sought to be regulated has no substantial effect upon a current of commerce among the States, Congress has no power to act.

In the first group of cases mentioned in this section, the fact is abundantly clear that Congress sought to regulate a current of commerce among the States. For example, when Congress puts a stop to interstate commerce in adulterated foods, the mind's eye can see that the current of commerce among the States is materially altered by the congressional regulation. The same is true of congressional regulations respecting interstate commerce in intoxicating liquors—the mind can comprehend that this regulation affects the current of commerce as it moves from State to State. And the same reasoning applies in the case of interstate movement of lottery tickets, stolen vehicles, and transportation of women across State lines for immoral purposes.

The picture is not quite so clear in the cases upholding the National Labor Relations Act. There the principal force of the act is directed toward requiring adherence to certain labor practices in the industries affected—the act in effect establishes labor standards to be followed in the manufacturing plants themselves. In this respect alone it is difficult to see any direct impact on the current of commerce among the States. The act passed its great test when the court, in *NLRB* v. *Jones & Laughlin Steel Co.,* 301 U.S. 1, held that an activity is subject to congressional regulation if, when viewed realistically, that activity has a substantial indirect effect on commerce among the States. The court has never accurately defined what is such a substantial effect, but has left that matter to be determined on the facts of each case. It is interesting to note, however, that in the Jones & Laughlin case, the Court emphasized that the purpose of the act was to eliminate obstruction to the "free flow of commerce." (Id. at 23.) The Court made it a point to bring out that the company drew raw materials for its products from other States; that approximately 75 percent of its products were shipped to States other than that in which its plants were located; and that these products were shipped out "to all parts of the Nation" in interstate commerce. (Id. at 27.) The Court concluded that the activity sought to be regulated truly had an important effect upon commerce among the States. But the Court had this to say about overreaching the commerce power vested in Congress: "Undoubtedly the scope of this power must be considered in the light of our dual system of government and may not be extended so as to embrace effects upon interstate commerce so indirect and remote that to embrace them, in view of our complex society, would effectually obliterate the distinction between what is national and what is local and create a completely centralized government." (301 U.S. at 37.)

It will be well to bear these words in mind as we consider the indirect and remote effects on interstate commerce dealt with in the proposed Civil Rights Act.

The Court very possibly reached the outer limits in describing which basically local activities have a substantial effect upon commerce among the States when it decided that a farmer is subject to congressional regulation when he plants an acre of wheat for consumption by his own livestock on his own farm. *Wickard* v. *Filburn,* 317 U.S. 111 (1942). At first glance, the case appears to hold that even the sale of a dollar's worth of any given merchandise would qualify as having a substantial effect on interstate commerce, but closer analysis leads to quite a different conclusion.

The legislation examined in that case was the Agricultural Adjustment Act of 1938, which sought, among other objectives, to maintain a stable market in wheat. Quite clearly, if there were several factors which determined the supply of wheat and the demand for wheat, and if all except one of these factors were constant, that single factor would be the factor that substantially affected commerce. If that factor moved in one direction, commerce among the States in wheat would be stifled by a surplus; if that factor moved in the other direction, the interstate currents of commerce in wheat would be broken by shortages.

After noting that in some States only 29 percent of the wheat crop was planted for market purposes, the Court pointed out that "The effect of homegrown wheat on interstate commerce is due to the fact that it constitutes the most variable factor in the disappearances of the wheat crop. Consumption on the farm where grown appears to vary in an amount greater than 20 percent of average production. The total amount of wheat consumed as food varies but little, and use as seed is relatively constant." (Id. at 127.)

Thus the Court found not only that the wheat crop regulated in this manner constituted 20 percent of the total crop, but that this 20 percent was the single most important factor in determining whether, during any given year, there would be a surplus or a shortage in the wheat supply. On this reasoning, the substantial effect on the current of commerce among the States is plain for all to see.

I must make it clear at this point that I am by no means in full agreement with the Court's interpretation of the commerce clause. I have discussed the Court's decisions and followed its reasoning for the sole purpose of promoting some understanding of what activities may properly be regulated by Congress in its exercise of the commerce power, in the light of current decisions of the Supreme Court.

I conclude that title II of the proposed Civil Rights Act does not fall within the proper power of Congress as now defined by the Supreme Court.

Clearly the proposed act is not intended to operate directly upon the current of commerce among the States. No one is prohibited by the act from moving in the current of commerce; nor are any goods prohibited from interstate movement; nor is there any regulation of such movement of goods or people. The only regulation takes place outside the current of commerce.

Therefore, the case for the proposed act stands or falls upon the question whether the activities regulated have a substantial and burdensome indirect effect upon commerce among the States, and the testimony in support of the legislation on this point falls far short of the mark. It may well be established that there is discrimination, not only based upon race, but discrimination of all kinds, in places defined in this bill as places of public accommodation. But there is no evidence that there is a substantial burden, or any burden, placed upon commerce among the States, which would be removed by enactment of the Civil Rights Act. I defend, with all the power at my command, the citizen's right to discriminate. However shocking the proposition may sound at first impression, I submit that under one name or another, this is what the Constitution is all about. The right is vital to the American system. If this be destroyed, the whole basis of individual liberty is destroyed. The American system does not rest upon some "right to be right," as some legislative majority may define what is "right." It rests solidly upon the individual's right to be wrong—upon his right in his personal life to be capricious, arbitrary, prejudiced, biased, opinionated, unreasonable—upon his right to act as a freeman in a free society.

Whether this right is called the right of free choice, or the right of free association, or the right to be let alone, or the right of a free marketplace, this right is essential. Its spirit permeates the Constitution. Its exercise colors our entire life. When a man buys union-made products, for that reason alone, as opposed to nonunion products, he discriminates. When a Virginian buys cigarettes made in Kentucky or North Carolina, he discriminates. When a housewife buys a nationally advertised lipstick, for that reason alone, as opposed to an unknown brand, she discriminates. When her husband buys an American automobile, for that reason alone, as opposed to a European automobile, he discriminates. Every one of these acts of "discrimination" imposes some burden upon interstate commerce.

The examples could be endlessly multiplied. Every Member of this body will think up his own examples from the oranges of Florida to the potatoes of Idaho. And the right to discriminate obviously does not end with questions of commerce. The man who blindly votes a straight Democratic ticket, or a straight Republican ticket, is engaged in discrimination. He is not concerned with the color of an opponent's skin; he is concerned with the color of his party. Merit may have nothing to do with it. The man who habitually buys the Times instead of the Herald Tribune, or Life instead of Look, or Leonard Bernstein instead of Elvis Presley, is engaged in discrimination. Without pausing to chop logic, he is bringing to bear the accumulated experience—the prejudice, if you please—of a lifetime. Some nonunion goods may be better than some union goods; some Democrats may be better than some Republicans; some issues of Look may be better than some issues of Life. None of this matters. In a free society, these acts of prejudice, or discrimination, or arbitrary judgment, universally have been regarded as a man's right to make on his own.

The vice of title II is that it tends to destroy this concept by creating a pattern for Federal intervention. For the first time, outside the fully accepted area of public utilities, this bill undertakes to lay down a compulsion to sell.

And here an important question should be raised: if there can constitutionally be a compulsion to sell, why cannot there be, with equal justification, a compulsion to buy? In theory, the bill is concerned with "burdens on and obstructions to" commerce. This bill proceeds upon the theory that the owner of the neighborhood restaurant imposes an intolerable burden upon interstate commerce if he refuses to serve a white or Negro customer, as the case may be. But let us suppose that by obeying some injunction to serve a Negro patron, the proprietor of Clancy's Grill thereby loses the trade of 10 white patrons. In the South, such a consequence is entirely likely; it has been demonstrated in the case of southern movie houses. Can it be said that the refusal of the 10 white persons imposes no burden on interstate commerce? Plainly, these 10 intransigent customers, under the theory of this bill, have imposed 10 times as great a burden on commerce among the several States. Shall they, then, be compelled to return to Clancy's for their meals? Where does this line of reasoning lead us?

This line of reasoning leads me to an absolute conviction that the proposed legislation is, at the very least, the most harmful piece of legislation to be considered by the Senate during this session.

THE ROLE OF CONGRESS

It is reported that President Jackson once said of a Supreme Court opinion, "John Marshall has made his decision—let him enforce it." This emphasizes a point that is much in need of emphasis.

The idea has gained much support that the U.S. Supreme Court bears the full responsibility of interpreting the Constitution. Nothing could be further from the truth. Both the Congress and the President have a similar responsibility, with perhaps more emphasis on the responsibility of Congress, because it is the deliberative representative body.

When President Jackson denied Executive support to the Court's decision, he effectively shouldered the Executive's responsibility of interpreting the Constitution. This is an entirely proper, and indeed, essential function of the Executive provided that such serious action is taken only when the Court has clearly misinterpreted its role.

The function of Congress in interpreting the Constitution is at least as important as the function of the Court, because Congress considers the question long before it is heard by the Court. The first duty of every Member of Congress in considering proposed legislation is to ask himself, "Is it within my power, under the Constitution, to support and enact this legislation?" If a majority of Members of either House answer this question in the negative, the Supreme Court never has the opportunity to pass on the constitutional question. Only if Congress enacts the legislation can the Supreme Court consider its constitutionality, and, as a practical matter, much congressional legislation is never challenged on constitutional grounds.

Applying these principles and thoughts to the proposed Civil Rights Act, there is much for the Senate to consider on constitutional grounds, as well as from the practical aspect. I can hardly conceive of any Senator lightly casting his vote in favor of legislation which, by its very terms, will govern with an iron hand the private preferences of the druggist on the corner. A vote in favor of this legislation would put the local hotdog stand, the local millinery shop, perhaps even the local shoeshine boy, in the same class with the great public utilities, who because of their monopoly status must serve all customers desiring service.

If Congress constitutionally can pass this act, Congress can require virtually all businesses to serve all customers all day every day. The decision of the local grocer to close his store on New Year's Day then becomes the responsibility of Congress. As a matter of fact, the widespread closing of businesses on New Year's Day clearly constitutes a greater burden on commerce among the States than the practices to be prohibited by title II of the proposed Civil Rights Act.

One of the most objectionable aspects of this legislation is the method of its enforcement, by injunction, at the instance of the Attorney General, with no right to trial by jury.

This means that, after meeting certain conditions, the Attorney General may, if he thinks some owner or proprietor plans to violate the act, bring an injunction suit in the name of the United States. If the injunction is granted and violated, the owner or proprietor may find himself in jail for an indefinite period of time, without ever having had a jury trial.

The Civil Rights Act, though it purports to offer a remedy in civil law, is by any objective analysis a penal statute. In effect, it defines a crime, and provides a method by which punishment may be given. Yet there is no jury trial.

The sixth amendment to our Constitution provides that "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury."

The proposed act circumvents this portion of our Bill of Rights by relying on the technicality that this legislation provides a civil remedy. Reliance upon a technicality in order to deprive citizens of liberty without a trial by jury is hardly a commendable approach to any problem, and especially to a problem concerning civil rights. It is a factor to be considered by Senators. In my opinion this factor alone should be enough to defeat the legislation.

The fifth amendment to our Constitution provides that "No person shall * * * be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

It is clear that the proposed Civil Rights Act will, if it passes Congress, deprive our citizens of liberty without due process of law. A trial before a Federal court, sitting without a jury, does not constitute due process of law in this situation for the reasons set forth, respecting trial by jury.

But if this be doubted by anyone, surely no one can doubt that the proposed law would take private property for public use without just compensation. Restaurants, hotels, hotdog stands, millinery shops, and the thousands of other businesses to be affected by the act are private property. The act would subject this private property to use by all the public without regard for the wishes of the owners of the private property. Aside from constituting a direct and irreconcilable violation of our Bill of Rights, this aspect of the proposed act violates the cardinal principle of liberty that has restrained despotic governments since the days of Magna Carta. This alone should be sufficient to dismiss this portion of the proposed legislation from further consideration.

These are some of the objections to the act that we simply cannot overlook or treat lightly. We cannot ignore the words of Madison; we cannot ignore the great principles of our Bill of Rights; and we cannot ignore the words of the Supreme Court that the commerce power may not be extended to obliterate the distinction between what is national and what is local.

ALLEGED NEED FOR PUBLIC ACCOMMODATIONS LAW

Promotion of commerce

An alleged need for title II is set forth within a "commercial and economic" context in part 2 of the report of the House Committee on the Judiciary on H.R. 7152. Part of this discussion was a résumé of some of the testimony in support of a Federal public accommodations law by the Under Secretary of Commerce and the Secretary of Labor before the Senate Committee on Commerce.

Testimony of Under Secretary of Commerce

The Under Secretary of Commerce made broad allegations as to the effects of segregation in public accommodations on commerce. He also made extravagant claims as to the efficacy of such a statute.

In seeking to establish the effect of segregation in public accommodations on interstate travel, the Under Secretary of Commerce devoted the bulk of his testimony to the availability of accommodations for Negro travelers along certain selected routes in the South. His source of information on those facilities that did cater to Negro patrons was a travel guide entitled the "GO-Guide to Pleasant Motoring." Hearings, supra, 693. This guide contained "listings of hotels, motels, and other traveling facilities whose owners have stated in writing that their facilities are open to all desirable guests regardless of race, creed, or color." (Hearings, supra, 693-694.)

From this guide tables were made of the distances along the illustrative routes between listed "hotel-motel accommodations of 'reasonable' quality readily available to Negroes." (Id. at 694, 736–737.)

When questioned as to the source and accuracy of his statistics, the Under Secretary of Commerce stated that "This survey was taken from this book, this pamphlet called "GO". Frankly, this is not a complete survey. It does not indicate all of the places. It is a preliminary survey of places of reasonable quality. Quite frankly, it does not cover every place because some places are substandard." (Id. at 745.)

He subsequently acknowledged that "it [was] not an official survey." (Id. at 745.)

The Under Secretary of Commerce maintained that the tables demonstrated a lack of reasonable accommodations available to Negroes on the same basis as to white travelers. He asserted that this lack of equal access to presently segregated facilities limited interstate travel by Negroes (Id. at 695) and that if this legislation had been in effect there would have been a great increase in tourism by the Negro community. (Id. at 744.)

The Under Secretary of Commerce had claimed that, "In the amusement, restaurant, hotel, and motel industries, one can see a pattern of Negro spending that appears to be related more to the availability or nonavailability of desegregated facilities than to any special kinds of taste or conspicuous consumption." (Id. at 695.)

He produced some data intended to support this claim. This data consisted of a comparison of average family expenditures for admissions (to theaters and other recreational facilities), food eaten away from home, automobile operations, for three income classes in large northern and southern cities, by race for the year 1950. The figures were compiled from a "Study of Consumer Expenditure Income and Saving" tabulated by the Bureau of Labor Statistics of the Department of Labor during 1956–57 for the Wharton School of Finance and Commerce of the University of Pennsylvania. (Id. at 696.)

I invite your attention to the fact that the study upon which the Under Secretary rested his claim was published 6 years ago on the basis of statistics that are now 13 years old. And to the extent that this study is accepted as credible evidence of the effect of the availability of desegregated facilities on the expenditure patterns of Negro families, so must the study be accepted as credible evidence of the effect of desegregated facilities on the spending patterns of white families. (See table.)

CIVIL RIGHTS—PUBLIC ACCOMMODATIONS

Average family expenditure for admissions, food eaten away from home, and automobile operations, for 3 income classes, large northern and southern cities, by race, 1950

Income class and region	Admissions			Food eaten away from home			Automobile operation		
	Negro	White	Negroes percent of whites	Negro	White	Negroes percent of whites	Negro	White	Negroes percent of whites
$2,000 to $3,000:									
Large northern cities	$31	$29	107	$148	$184	80	$52	$86	60
Large southern cities	$23	$36	64	$113	$194	58	$52	$95	55
Northern expenditures as percent of southern	135	81	--------	131	95	--------	100	91	--------
$3,000 to $4,000:									
Large northern cities	$45	$37	122	$138	$170	81	$67	$158	42
Large southern cities	$37	$39	95	$117	$180	65	$86	$170	51
Northern expenditures as percent of southern	122	95	--------	118	94	--------	78	93	--------
$4,000 to $5,000:									
Large northern cities	$57	$48	119	$182	$234	78	$148	$220	67
Large southern cities	$39	$45	87	$166	$257	65	$136	$225	60
Northern expenditures as percent of southern	146	107	--------	110	91	--------	109	98	--------

Source: "Study of Consumer Expenditure Income and Saving," tabulated by Bureau of Labor Statistics, U.S. Department of Labor, for Wharton School of Finance & Commerce, University of Pennsylvania, Philadelphia, Pa., 1956–57.

The Under Secretary of Commerce declared that "These data * * * show that Negroes in large northern cities spend more than southern Negroes of the same income class in all of these expenditure categories listed above, even though white families in northern cities spend less than similar families in southern cities." (Id. at 695.)

He sought to create the impression that the lack of equal access to public accommodations in the South accounted for the lesser expenditures by southern Negro families and that this lack was therefore a burden on interstate commerce. But in the North where equal access to public accommodations did exist, white families in two of the three income classes actually spent less than their southern counterparts. Conversely, then, it must be presumed—and not unreasonably and not illogically—that the integration of the northern public accommodations was the discouraging factor for northern white families.

A member of the committee asked the Under Secretary to provide information pertaining to the present purchasing power of Negro citizens and their economic potential as it would be affected by this bill. The Under Secretary referred the question to one of his consultants for an answer. In responding to the question, the consultant referred to a study made by the President's Council of Economic Advisers.

The study referred to was an estimate of the economic loss to the United States resulting from racial discrimination in employment. It was prepared for the Joint Economic Committee of the Congress in response to questioning during hearings in 1962 by that committee on the Economic Report of the President. The Council's estimate was that the gross national product might rise by 2.5 percent (about $13 billion at today's levels of GNP) if the present educational attainment of nonwhites was fully utilized. Council of Economic Advisers, Economic Costs of Racial Discrimination in Employment 5 (Sept. 25, 1963). And "If nonwhites had the same educational levels as whites and if the economy fully utilized their education, GNP today might be perhaps 3.2 percent higher (inclusive of the 2.5 percent estimate reported above). This amounts to about $17 billion at today's levels of GNP." (Id. at 6.)

The consultant noted that the Council of Economic Advisers had "advanced these figures with some reservation because this is an extremely difficult thing to measure; the figures are rough estimates based on the Council's best judgment." (Hearings, supra, 757.)

He stated that since gross national product is not personal income, another estimate had to be made of what proportion of the increase in GNP would actually be attributed to an increase in personal income. He estimated the proportionate rise in personal income to be $9 to $13 billion. (Id. at 757–758.)

The consultant acknowledged that the proposed public accommodations bill alone would not account for the increment, but that the estimate was based on the hoped-for effects of all of the civil rights legislation, including the factors of greater opportunity of employment, education, and training. (Id. at 758.) The committee member then commented that "I am glad that the chairman has brought that out, because the framework of my question was limited to this bill. But I see now that that would be almost impossible to estimate. So it actually refers to the whole package of civil rights legislation." (Hearings, supra, 758.)

The Under Secretary of Commerce replied, "Yes, sir." (Id. at 758.)

A careful review of the testimony of the Under Secretary of Commerce will reveal that his documentation of his allegations as to the effects of segregation in public accommodations on interstate commerce was puny, stale, and even nebulous. And he offered only conjectural evidence as to the efficacy of a public accommodations law to eliminate racial unrest and to foster economic growth.

Testimony of the Secretary of Labor

The Secretary of Labor testified before the Senate Committee on Commerce that "a public accommodations law, which will erase stigmas and remove barriers, will contribute immeasurably to the economy." (Hearings, supra, 623.)

This broad claim was made on the presumption that the enactment and the enforcement of a Federal public accommodations law would result in an expansion of the consumer market and the removal of the restraint of racial unrest on the expansion of old—and the influx of new—business.

The testimony of the Secretary of Labor in support of his contention that the integration of public accommodations would result in a great upsurge in the sales of goods and services fell far short of its mark. The bulk of the information submitted tended only to prove that integration would not result in any grave economic dislocations. The emerging pattern from places already integrated showed a loss of business when merchants first began to accept Negroes. "But experience shows that such adverse effects are rarely lasting." (Id. at 632.) "Even where business losses occur, they usually are only temporary." (Ibid.) Definite increases in business were positively reported to have occurred in the "convention market." (Id. at 633.) There was no concrete evidence of net increases in any other businesses.

Ironically, the Secretary of Labor discredited his own prediction of a great upsurge in Negro patronage when he declared that "One frequently expressed fear of southern white businessmen, that their establishments would be overrun by Negroes if they integrated, apparently is not materializing." (Ibid.)

He then quoted a Nashville banker in support of this development "The Negroes want the right to enter your place of business, but they're not anxious to use the right." (Ibid.)

And it was recently reported that in Chattanooga few Negroes have taken the trouble to test their new acceptance in that city's restaurants.

"Most of the important Negroes wanted the right to go to these places without the necessity of going to them." (Evening Star, Sept. 24, 1963, p. A-15, cols. 6 and 8.)

At the same time the Secretary of Labor was predicting a great upsurge in business as a result of Negroes patronizing previously segregated establishments, he was also contending that there would be no great rush of Negroes to patronize these very same places after they were integrated.

If this condition does prevail, it will be even further proof that segregation of public accommodations does not substantially burden interstate commerce and that the integration of such facilities will not result in any great increase of Negro patronage.

The Secretary of Labor did cite some instances in which firms had been discouraged from locating in southern areas by racial unrest. (Hearings, supra, 625–26.) But it was also developed during the course of his testimony that businesses had deserted areas already subject to public accommodations laws and other civil rights laws to locate in States not subject to such laws.

The Secretary of Labor's attention was called to a study made by a conference of economists of the Midwest. The area surveyed covered Ohio, Indiana, Illinois, Iowa, Michigan, Wisconsin and Minnesota. Public accommodations and fair employment laws are in effect in each of these States. The senior Senator from Ohio reviewed the findings of the study which showed that—

(1) Each of the States had lost in gross national product since 1953;

(2) The Southwest and the South were enjoying the greatest gain in economy;

(3) The migration of industry from the Midwest area has been the result of the changing procurement patterns of the Department of Defense; and

(4) The factors contributing to the other areas' growth were water supply, labor supply, climate, healthy governmental environment, and reasonable tax rates.

The senior Senator from Ohio then posed the following question to the Secretary of Labor: "why is Ohio losing—not growing—in population and losing industry, and why are Florida and Georgia and Alabama gaining?" (Id. at 646–647.)

The Secretary of Labor replied: "I share coming from Chicago, the concern about the problem which you express, and it is true that the movement has been from the Great Lakes area to these other parts of the country. I think the listing which you gave there from that study is a quite comprehensive listing and would parallel the factors which I would have in mind. I would not mean to commit any particular part of the list, and would be glad to respond to a question about any particular aspect of it. But that is a fair checklist you have there." (Id. at 647.)

The senior Senator from Ohio then made the following observation: "In Ohio we have had for years a law which compels certain public places to indiscriminately serve and sell. I learned that within the past 2 years an additional law has been passed that intends to eliminate the prejudicial discrimination. Yet we are losing. Why?" (Id. at 647.)

The Secretary of Labor replied: "Because of the other factors in the list to which you referred." (Id. at 647.)

And so here we are confronted with the anomaly that nonsouthern areas have lost business in spite of the enforcement of civil rights statutes and that Southern States have gained business in spite of the absence of such laws.

The Secretary of Labor had stated earlier in his testimony that he believed that "there has been an expansion of economic activity in the South which is unparalleled in most other places of the country unless it is California or one or two others—Texas." (Id. at 636.)

The Secretary subsequently declared that he could not conclude that segregation had not hurt the industrialization of the South because "It leaves the possibility that if it had not been for this, that rate of growth would have been infinitely larger." (Id. at 636.)

The Secretary of Labor did not substantiate his claim that the South's economic growth rate "would have been infinitely larger" in the absence of segregation. Neither did his testimony contain any information which would counterbalance the clear weight of the evidence that civil rights laws are not an effective vehicle for the elimination of racial unrest and for the stimulation of economic growth.

DATA INDICATING ECONOMIC GROWTH OF UNITED STATES SINCE 1940 ON A REGIONAL BASIS

Nonagricultural employment, by regions, 1940, 1957, and 1962

Region	Employment (annual averages in thousands)			Percent increase	
	1940	1957	1962	1940–62	1957–62
United States [1]	32,376.0	52,904.0	55,325.0	71	5
New England	2,726.1	3,648.1	3,790.8	39	4
Mideast	9,506.6	13,542.6	13,710.7	44	1
Great Lakes	7,378.7	11,722.8	11,646.3	58	−1
Plains	2,548.6	4,058.1	4,261.2	67	5
Southeast	5,105.8	9,082.1	9,903.0	94	9
Southwest	1,637.4	3,519.8	3,837.7	134	9
Rocky Mountain	610.9	1,114.0	1,265.1	107	14
Far West	2,707.7	5,896.3	6,708.2	148	14

[1] National totals differ slightly from sum of State totals.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

Personal income, by regions, 1940, 1957, and 1962

Region	Amount (millions of dollars)			Percent increase	
	1940	1957	1962	1940–62	1957–62
United States	78,522	348,724	437,924	458	26
New England	6,398	22,793	28,523	346	25
Mideast	23,949	88,586	108,449	353	22
Great Lakes	17,818	78,469	92,404	419	18
Plains	6,515	28,099	35,216	441	25
Southeast	10,387	53,790	69,230	567	29
Southwest	4,090	23,697	30,170	638	27
Rocky Mountain	1,598	7,830	10,169	536	30
Far West	7,767	45,460	61,524	692	35

Source: U.S. Department of Commerce, Office of Business Economics.

PRESERVATION OF LAW AND ORDER

It has been stated that the existence of public accommodations laws in some 30 States and numerous cities indicated that this type of legislation was not extraordinary, but that "the failure of more States to take effective action makes it clear that Federal legislation is necessary." (H.R. Doc. No. 124, 88th Cong., 1st sess. 4–5 (1963).) The clear implication of these remarks was that public accommodations laws were being effectively enforced in the cited States and cities and that the proposed Federal law was intended to provide a similar remedy in those areas not already covered by such provisions.

According to the chairman of the Senate Committee on Commerce, "We are trying in effect to correct a need that exists in the States that don't have laws, for their own reasons, good or bad." (Hearings, supra, 251.)

The Governors of the several States were requested to comment on the administration's bill, S. 1732. Several Governors endorsed the proposed Federal legislation.

With one exception (Hawaii), they represented States in which antidiscrimination laws were already in effect. They, too, upheld the enactment of the proposed Federal law as a means of making similar provisions applicable to those States not already subject to such regulations. (E.g., Minnesota, hearings, supra, 1122, 1174; California, id. at 1157; Rhode Island, id. at 1164; New Jersey, id. at 1172; New York, id. at 1177; Washington, id. at 1178.)

It is also been claimed that a Federal public accommodations law would "help move this potentially dangerous problem from the streets to the courts." (H. Doc. No. 124, supra, 5.) The Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice claimed that:

"In fact, if it had been on the books * * * the demonstrations would not have taken place in Birmingham. The problem in Birmingham, the problem in all of the cities where demonstrations are concerned with this kind of discrimination, is that there is no legal remedy at the moment. There was not any then.

"There was no action that the Government could take, there was really no action that individuals could take to bring about a desegregation of facilities in Birmingham.

"But there was no legal remedy. That is why the matter was in the streets, that is why this legislation is so urgently needed if this country is going to escape that kind of method of trying to resolve this matter and get rid of this injustice." (Hearings before the Senate Committee on Commerce on S. 1732, 88th Cong., 1st sess. 215 (1963).)

The Secretary of Labor declared that:

"If there is no law, the demonstrators and demonstrations will not disappear, go away, drop out of sight. They are likely instead to be more numerous and evident with the aid of a growing educated and forceful Negro leadership." (Hearings, supra, 625.)

The Under Secretary of Commerce testified before the Senate Committee on Commerce that:

"We live in a time of racial unrest, gentlemen, and this unrest is not going to dissipate without assistance. Voluntary efforts have been helpful, but they are not doing the job. I am satisfied that broadly applicable legislation such as this will solve the problem more neatly, more cleanly, and more quickly than half measures, unevenly undertaken. For that reason, I think that by and large, our businessmen, North and South, will welcome it." (Id. at 691.)

"Some 30 States, the District of Columbia, and numerous cities—covering some two-thirds of this country and well over two-thirds of its people—have already enacted laws of varying effectiveness against discrimination in places of public accommodation." (H. Doc. No. 124, 88th Cong., 1st sess. 4–5 (1963).)

These States and cities are:

States: Alaska, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, Washington, Wisconsin, Wyoming.

Cities: Washington, D.C.; Wilmington, Del.; Louisville, Ky.; El Paso, Tex.; Kansas City, Mo.; St. Louis, Mo. (Id. at 4.)

Some of the State laws are considered to be more stringent than the provisions that we are now considering. (Hearings, supra, 251.)

Large scale racial demonstrations have recently occurred in the following cities:

Sacramento, Calif.; Stamford, Conn.; Chicago, Ill.; Marion, Ind.; Des Moines, Iowa; Kansas City, Kans.; St. Louis, Mo.; Beloit, Wis.; Englewood, N.J.; Philadelphia, Pa.; Buffalo, N.Y.; Detroit and Grosse Point, Mich.; Denver, Colo.; Oklahoma City, Okla.; New York, N.Y. (Hearings, supra, 206, 233.)

Some public accommodations provision was in effect in every one of these places except Oklahoma City, Okla.

The Assistant Attorney General made a distinction between the demonstrations occurring where no public accommodations law was in effect and those demonstrations occurring in cities already subject to such laws.

According to the Assistant Attorney General, "Some of the protests involved grievances other than the denial by a place of public accommodation, but in many others, discrimination in such places was a major target and for obvious reasons." (Hearings before the Senate Committee on Commerce on S. 1732, 88th Cong., 1st sess. 206 (1963).)

He classified the demonstrations into three categories: "Some of them have been directed mainly against the practice of discrimination in places of public accommodation, some of them have been in sympathy with those demonstrations and some of them have been directed against other kinds of discrimination, particularly in employment or union membership." (Id. at 233.)

But in some of those cities in which public accommodations statutes and ordinances were in effect and in which demonstrations against other forms of discrimination took place, legal remedies against these latter forms of discrimination were also available. For example: Fair employment laws were in effect in California, Colorado, Connecticut, Illinois, Kansas, Michigan, Missouri, New Jersey, New York, Pennsylvania, and Wisconsin. Laws broadly prohibiting discrimination in education were in effect in New Jersey, New York, and Pennsylvania. Fair housing laws were in effect in Colorado, Connecticut, New Jersey, New York, and Pennsylvania.

So we find ourselves confronted with the fact that demonstrations occur not only where no legal remedies against the conditions complained of have been provided but also where such legal remedies are readily available. Areas already covered by comprehensive civil rights legislation have witnessed with surprise and dismay the growing tendency of Negroes to turn away from the courts and to take to the streets in an effort to resolve political issues by force and compulsion. These areas have experienced dreadful disturbances of their domestic peace and tranquillity in the guise of nonviolent exercises of the right to assemble and to petition.

This development was commented on in the U.S. News & World Report of June 10, 1963:

"A threatened revolt in the North against continued segregation of the races suddenly is being forced into the open by Negro leaders.

"A growing number of racial incidents in northern cities gives weight to the threat. Trouble has flared in Philadelphia, Baltimore, New York, Detroit, St. Louis, Chicago, and Boston, among other places.

"Negro organizations are moving away from dependence on courts and toward direct pressures to bring about change.

"Politicians regard the whole racial situation as loaded dynamite. It is causing President Kennedy to appeal for more voluntary integration and to lay plans for seeking new civil rights laws from Congress.

"Negro leaders insist that cities in the North move in three fields.

"1. Schools: Negroes demand elimination of the school segregation that grows out of housing patterns and the flight by white families from mixed neighborhoods to all-white areas. To gain this end, Negroes are attacking the neighborhood pattern of school districting, asking assignment of pupils on a basis to promote biracial classes.

"2. Housing: Negroes demand an end to customs and practices that prevent them from moving into white neighborhoods. They describe as 'racial ghettoes' the areas in which Negroes often are crowded in Northern cities.

"3. Employment: Negroes demand that employers begin actively recruiting Negroes for jobs in order to overcome inequalities in employment opportunities." (U.S. News & World Report, June 10, 1963, p. 35.)

The phenomenon of persons "turning from courts to the streets, from argument to riot" was the subject of an editorial entitled, "The Madness of the Mob," appearing in the Wall Street Journal on June 24, 1963.

"Inflamed by their leaders, the Negro people are deserting the orderly ways society has provided for the redress of their grievances, the very ways which have brought them so much progress in the space of a decade. They are turning from courts to the streets, from arguments to riots.

"Look not merely at Birmingham. Look at New York or Pennsylvania, Illinois or California. Look at the Nation's Capital. Not only have there been riotous clashes as mobs poured into the streets, but Negro leaders have announced that if the local authorities don't do thus-and-so, and at once, they will choke the streets with bigger mobs.

"The excuse for all this, we are told, is that the Negro's very gains make further patience intolerable. Perhaps so. Yet those who persuade the Negroes that violence is the instant remedy for all ills, or encourage them to practice government by rioting, give ammunition to those who say the Negro is socially and politically immature. In this Nation both of these ideas strike at the very heart of society itself.

"So, too, do some of the remedies put forward by many political leaders, whether done from a desire of political gain or from a fear of violence.

"In New York State, where race bars no one from a public school, the State board of education says equal rights are not enough. The slightest separation of the races, from whatever cause, must be obliterated. Schoolchildren must be hauled back and forth like pawns on a chess board to achieve an arbitrary 'balance' decreed by the political authorities.

"Now this is, first of all, as brutal a charge of Negro inferiority as any from the wildest southern extremists, for it accepts the idea that the numerical presence of white children automatically raises the educational level of a school, or conversely that too many Negro pupils lowers it. Beyond that, this policy ceases to be an extension to all of the equal protection of the laws. It is the denial to all of freedom under law. A Negro family that does not want its child carried to a distant school is equal in helplessness under the power of the State.

"On the national level too, politicians talk more and more of applying the brute force of government to compel people to conduct their private lives as the state directs, hardly pausing to think how this remedy would alter a free society. If some had their way, no man would be free to choose his neighbors, his children's associates, to whom he will give lodging or to whom he will sell a hotdog.

"Few political leaders any longer dare to try to distinguish between a just and worthy cause—the assurance of equal political rights for all citizens in our society—and a headlong assault against society itself, its ways of living, and its ways of ordering the laws by which it lives.

"Not the least of the dangers in this is that, if unchecked, it will breed a reaction, as a crowd's excesses always do, and the injury will be not the least to the Negro's own cause. But make no mistake about it, it will be an injury to all if hysteria makes it impossible for a reasonable voice to be heard, if we let the reason of men be engulfed in the madness of a mob."

New York City

New York City is a prime example of a community which, although covered by comprehensive civil rights laws, is repeatedly subjected to alarming demonstrations. The city is covered by State laws against discrimination in employment, places of public accommodation, housing, and education. "Equality of opportunity and treatment for all of its people regardless of race, creed, color, or national origin has been specifically guaranteed by [the] State government since 1945." (New York State Commission for Human Rights, "Equal Rights in New York" 2.) It should be noted that:

"For nearly 80 years New York State has been working to eliminate discrimination. The first law was passed in 1881, providing criminal penalties for excluding anyone from inns, common carriers, public schools and amusement places because of 'race, color or previous condition of servitude.'

"In 1938 the State Constitution set a nationwide precedent by declaring: 'No person shall, because of his race, color, creed or religion, be subjected to any discrimination in his civil rights by any other person, or by any firm, corporation or institution, or by the State or any agency or subdivision of the State.'

"In 1945 New York became the first State to pass a law prohibiting discrimination in employment. In 1952 the law was amended to cover discrimination in public places, in 1955-56 to cover publicly-assisted housing, in 1958 to cover discrimination in employment on account of age, and in 1959 to cover discrimination in tax-exempt nonsectarian schools. Today the State's laws on discrimination are unsurpassed in the United States." (Id. at 3-4.)

New York City officials have been stunned at the pressures that have been brought to bear upon them. According to an article in the New York Times of July 15, 1963:

"No city government in the country has exceeded New York in efforts to be sympathetic and helpful on the problems of Negroes, Puerto Ricans and other minorities.

"In spite of this record, the Wagner administration is beset on all sides with rising demands to do even more to assure equality. These pressures, capped by many demonstrations, focus on furthering integration in the schools, opening jobs—particularly in the construction field—sharpening civil rights machinery and winning more policy-making posts in government.

"Demonstrations have been sponsored by organizations ranging from long-established groups such as the National Association for the Advancement of Colored People and the Urban League, which had become almost sedate in their march forward, to newer, brasher groups like the Congress of Racial Equality.

"The emergence of CORE, with its aggressive leadership, meant from the outset to the informed that the NAACP and the Urban League would 'either be pushed into the background or be pushed to the forefront.' Developments took the second course.

"The Wagner administration was caught by surprise. It had felt secure because its record was good and because year after year it had the overwhelming support of Negroes and Puerto Ricans at the polls.

"The feeling was that it couldn't happen here. In Birmingham, yes, but not here.

"But it did happen here, and the administration, stunned at first, is still floundering."

SIT-INS

A. Office of the State Commission on Human Rights

Demonstrators were permitted to stage a sit-in at an office of the State Commission on Human Rights in great comfort. It was reported in the New York Post of June 28, 1963, that "They're allowed to sleep in the offices of Commission Chairman George A. Fowler, they have a portable television set and a transistor radio to keep them entertained, they play chess and cards and skim through the papers to find the stories about their protest.

"All things considered, it's probably the cushiest sit-in assignment on record." (New York Post, June 28, 1963, p. 16, col. 1.)

B. Governor's Office

Other demonstrators have been permitted to stage sit-ins within both the city hall and the Governor's New York office building. The hospitality which the demonstrators enjoyed at the Governor's office was reported as follows:

"Those within the Governor's headquarters have been sitting or sleeping on leather couches in an air-conditioned room usually reserved for news conferences. They have small overnight bags with cigarettes, face cloths and toothpaste. Hanging from behind the door are dresses and other clothing.

"Mostly they talk or read, getting very little sleep. Periodically a guard peeks into the room and counts the pickets, making certain there are not more than nine, the maximum permitted.

" 'The worst part of this is the waiting," one said, 'waiting and waiting for the Governor to do what he should have done a long time ago.' " (New York Times, July 19, 1963.)

The Governor was reported to have made the following comment concerning the demonstrators who were staging the sit-in in his headquarters: "I have no objection at all. This is a free country." (New York Times, July 26, 1963.)

Subsequently, the Governor authorized the removal of seven of the demonstrators for blocking the entrance of the building. These demonstrators were subsequently convicted of trespassing in the Governor's offices. He had testified that "he had entered into an agreement with the demonstrators under which a certain number (nine) of them could occupy the press room at his office but were not to use the stairs or passageways except for entering and leaving. When he was informed that the demonstrators had broken the agreement and blocked stairs and passageways he authorized their removal from the building, which he owns and uses chiefly for the transaction of State business." (New York Times, Aug. 29, 1963, p. 1.)

The incident which had led to the arrest and removal of the seven demonstrators was described in the New York Times of August 2, 1963, as follows:

"Seven civil rights demonstrators were arrested last night for blocking the entrance to Governor Rockefeller's Manhattan office at 22 West 55th Street.

"The demonstrators, adopting a more militant tactic against the Governor, had squatted in the doorway and on the steps of the office for more than an hour until Deputy Chief Inspector Sanford Garelik ordered their arrest.

"At 7:51 p.m. a large police van backed up directly to the door. Inspector Garelik gave them a final warning. The pickets refused to go and chanted 'hallelujah.'

"Two of the squatters walked voluntarily to the police wagon. But the others, including two women, had to be carried.

"The Governor's assistant press secretary, Dan Barr, said that Governor Rockefeller, who was in Tarrytown, had been given an eyewitness account of the incident by Sol Korbin, counsel to the Governor.

"He said the Governor asked Mr. Korbin to see if the pickets would 'listen to reason' and abide by a previous agreement. Under this agreement a maximum of nine demonstrators were allowed to sit in a large rear office where the Governor often holds press conferences.

"Should the pickets remain adamant, the Governor was willing to 'leave it up to the police' whether they should be arrested, Mr. Barr said.

"The demonstrators were protesting alleged job discrimination against Negroes and Puerto Ricans in State construction projects.

"They were showing their new militancy on the day that Governor Rockefeller announced that the State had achieved the first breakthrough by Negroes into the previously all-white local 1 of the Plumbers Union in Brooklyn.

"The Governor said that, as a result of 'positive efforts' by the State, the local had agreed to accept two Negro plumbers as helpers at the Downstate Medical Center, the scene of violence in civil rights demonstrations over the last 3 weeks.

"For the first time they adopted a tactic used by other demonstrators at city hall. At 6:20 p.m., seven pickets began obstructing the entrance to the Governor's office. One sat in the doorway while others squatted on steps just inside the door.

"They were obviously inviting arrest. A police sergeant warned them to leave. They refused. The police took pictures of the squatters and stood by, awaiting orders on whether to carry out the first arrests of pickets in the Governor's office.

"The orders came within a few minutes.

"Raymond E. Gardner, 22, one of the demonstrators arrested, said the incident had been staged to protest the arrangement under which no more than nine were allowed to sit in the backroom. 'We want to be able to go in and out when we want, as many as we want,' he said.

"He had squatted right in the doorway, extending his legs across the full width of the door. From the back room where four pickets were sitting on a red leather couch, came the sound of singing.

"The seven demonstrators arrested included three Negroes and four whites; the two women were white.

"After the squatters were removed, the doors of the Governor's office were locked with the four pickets still in the back room. The police said they could let themselves out, but that no other pickets could get in." (New York Times, Aug. 2, 1963, p. 1.)

The Governor of New York ultimately banned sit-demonstrations in his office. According to an article appearing in the New York Times of October 8, 1963,

"Governor Rockefeller has banned civil rights demonstrators from his office here.

"The Governor waited until pickets of the Joint Committee on Equal Job Opportunity had voluntarily vacated the pressroom at 22 West 55th Street before announcing that sit-ins would no longer be tolerated at the building, which he owns.

"Pickets withdrew from the pressroom without fanfare September 16 after occupying it continuously since July 10. A civil rights official explained yesterday that the 68-day siege had been called off 'for strategic reasons.'

"The withdrawal of the pickets and an announcement that a threatened march on city hall had been called off by the Congress of Racial Equality gave rise to reports that local civil rights agitators were losing steam.

"So Brooklyn Negro ministers, angered by the slow acceptance of Negroes by the building trades unions, warned of new demonstrations after October 15, the end of a truce period that had been arranged by State officials.

"And Gladys Harrington, of the Congress of Racial Equality, who had been in charge of the sit-in at the Governor's office, announced that picketing of the new Federal

Building site on Foley Square would start at 7 a.m. Monday. She said the picketing would dramatize CORE's allegation that job discrimination existed on Federal construction projects as well as on those sponsored by the State and city.

"Miss Harrington said the sit-ins had been withdrawn from the Governor's office because 'we want to reevaluate our whole attack. We want to make our protests more meaningful.' She promised that Governor Rockefeller 'will be hearing from us again.'

"The Governor's decision to keep his building free of sit-ins was revealed when a visitor remarked on the absence of pickets. A secretary then released the following announcement by the Governor's press secretary, Robert L. McManus:

" 'The only demonstrators at 22 West 55th Street departed on September 16.

" 'The demonstrators have made their point, and Governor Rockefeller has been sympathetic with their objective, despite some interference with the use by the press of his New York City office.

" 'Now, however, the privilege to use the premises which was extended to the original demonstrators has been voluntarily abandoned.

" 'Demonstrators no longer will be permitted access to the building.' "

The sit-in demonstrators at city hall did not have as many comforts as those at the Governor's office building.

"There [were] no chairs, only the floor to sleep on, and where, once each night, the janitors come by with buckets and mops and the pickets just move to the other side of the hall.

"During the day they just sit on the hard floor and talk among themselves, or play a portable radio softly." (Ibid.)

But according to one of the mayor's aids, they had twice refused offers of the mayor "to get them chairs or even a special room." (New York Times, July 30, 1963.)

Subsequently some other demonstrators at the city hall tried a new tactic. They attempted to dump a truckload of rubbish into City Hall Plaza. This incident was described in the New York Times of August 22, 1963, as follows:

"The rubbish was trucked into city hall after being gathered from behind a row of rundown, rat-infested tenements in the 200 block of Eldridge Street. The sponsors of the protest, CORE's New York University chapter, said they hoped it would draw the city's attention to the conditions on Eldridge Street.

"The truck of rubbish was accompanied by about 80 chanting handclapping pickets who marched on Park Row for an hour. The pickets, some pushing babies in carriages, carried signs in English and Spanish demanding that 'Slumlords Must Go.'

"A group of CORE members who have been staging a sit-in outside Mayor Wagner's office for several weeks also joined the picket line and led the chants.

"The truck arrived at the east end of city hall plaza at 2:34 p.m., and six persons who had been riding in the rear immediately began to dump broken furniture, torn mattresses, rusted metal cabinets and other rubbish into the street.

"A sizable pile of rubbish had been thrown to the plaza before the police pushed their way into the bed of the truck and forced its six occupants to the street. A scuffle broke out when Jon K. Schaefer, later identified as a national field representative of CORE, left the picket line and tried to aid in unloading the truck.

"He was pushed to the ground by the policemen, who then tried to persuade the men to disperse.

" 'If you want to break it up and move on, fine,' Capt. Philip S. Licht of the Elizabeth Street station house told them.

" 'I can't afford an arrest,' one young man said, and disappeared into the crowd. The others, however, locked arms and began to sing.

" 'One, two, three,' Captain Licht counted, and then ordered eight men arrested. They were held in an empty transit authority bus nearby until police cars arrived to take them to the station house.

"As the eight were led away from the rented, open-top red truck, the picket line changed its chant to 'who do they protect? Slumlords, slumlords.'

"At 3:40 p.m., a department of sanitation dump truck arrived at the scene to cart away the rubbish. Picketing continued behind police barriers until 3:30 p.m. while those pickets who had come from within city hall returned to their posts on the floor there and started the 'slumlord' chant in the building.

"A large rat, said to have been caught in No. 205, was hung in a wire cage on the side of the truck.

"At first, the demonstrators said they would dump the trash in front of the municipal building in hopes of getting action from Commissioner Harold Birns of the department of buildings.

"Later in the day, Mr. Birns issued a statement, saying that cellar-to-roof inspections of the buildings on Eldridge Street had been in progress since Monday. He also said that $790 in fines had been levied against the owners of the buildings since 1960.

"Mr. Birns handed out a typewritten sheet headed 'Court Record Histories,' listing the defendants in the court cases variously as Hyman Kaplowitz, agent of the Sumak Holding Corp.; Jack Cross, Morris Weiss, Jack Silverstein, and someone identified only as 'Solomon.'

"The name of Mr. Kaplowitz, who has offices at 188 Avenue B, appeared on many of the signs carried by the demonstrators. He was not reached for comment.

"Seven of those arrested were charged with disorderly conduct. They were Joel L. Freedman, 20 years old, of 145 Waverly Place, chairman of the CORE chapter; Jeffery S. Kalb, 20, of 195-10 67th Avenue, New Gardens, Queens; Stephen W. Gordon, 22, of 60 Knolls Crescent, the Bronx; Alexander Boyer, 19, of 32 Avenue B; Mr. Schaefer, 26, of 322 Linden Boulevard, Brooklyn; Eleuterio R. Gonzalez, 28, of 209 Eldridge Street, and Antonio Vasquez, 32, of 215 Eldridge Street.

"Mr. Freedman, Mr. Kalb, and Mr. Gonzalez were also charged with littering.

"The driver of the truck, George Cannon, 47, of 40 Macdougal Street, was charged with littering and acting in concert. He was also charged with letting rubbish fall from the truck and for transporting garbage without a license. The summonses are returnable in lower Manhattan Court August 27.

"In Night Court, Judge Benjamin Gassman released all except Mr. Vasquez and Mr. Gonzales, for whom he set bail at $25 each. He set September 26 for a hearing."

The mayor's patience with the civil rights demonstrators in the city hall came to an abrupt end on the next day. He ordered the pickets removed from the city hall and issued the following statement:

"At 5 p.m. today, after receiving an official report from Police Commissioner Murphy as well as eye-witness accounts from members of my staff with regard to the incidents that took place within city hall and on the steps of city hall today, I directed Police Commissioner Murphy to bring about the immediate removal of the sit-ins from city hall itself, and the enforcement for them as well as for all others, the usual limitations restricting pickets to the walkways on the outside perimeter of city hall square.

"Since July 9 I have permitted the zealous youths who comprised picketing forces of the joint committee to conduct their sit-in without hindrance, not because they had the legal right to do so—because they did not—but because of my deep sympathy for their objectives.

"I assumed that they were sitting in because they wanted to focus public attention on the basic problem of civil rights. They have certainly made their point. The cause of the rectification of injustice must always be allowed some license.

"In the past, from time to time, there has been intermittent interference by the pickets with the conduct of public business, but for the most part, up until very recent days, the inconvenience for the city was minimal.

"Within the last several days, however, overzealous conduct has turned into outright provocation on a consistent basis. Regular and prolonged outbursts of shouting, chanting and littering were aimed at getting regular press attention. The interference with the function of the mayor's office, the board of estimate and even the city council had, in any event, reached intolerable limits. Today's incident marked a climax. It was also an outbreak of violence, in which three policemen were injured. A repetition must be prevented for the sake of all concerned.

"The entire course of recent actions represents an unjustifiable interference with the orderly operations of government at its very seat and center and places in jeopardy the safety of the public.

"This interference has, of course, extended also to those very efforts and activities of the city government designed to make progress toward the solution of the very problems with which these pickets are supposed to be concerned.

"Under the circumstances, with the city's government under an increasing state of siege and with the pickets abandoning all sense of restraint and propriety or respect for the rights of others, I took the action referred to above.

"This represents no change whatever in the policy of my administration on civil rights or with regard to any other picketing or similar activity in behalf of civil rights other than picketing within City Hall." (New York Times, Aug. 23, 1963, p. 11, cols. 2 and 3.)

The events which led to the ouster of these pickets from City Hall were recounted by the New York Times of August 23, 1963, as follows:

"Mayor Wagner's patience with civil rights pickets sitting outside his office came to an abrupt end yesterday. He ordered them removed from City Hall after a noisy racial melee in which three patrolmen were injured.

"The action ended 44 days of the mayor's acceptance of sit-in pickets who had squatted outside his office day and night, chanting, singing, littering, and hurling abuse.

"Mr. Wagner said he had been forced to act after 2 days of 'outright provocation.' The incident that broke his patience began soon after he and other city officials left the building at 1:20 o'clock yesterday afternoon.

"A dozen pickets ran up City Hall steps and tried to chain themselves to a pillar at the entrance, but policemen intervened before they could complete the tactic. While both sides wrestled among clanking chains, other demonstrators left a picket line on Park Row and tried to storm the building. They fell on police with fists and knees.

" 'Wagner, stay home,' some of the pickets screamed in reference to the mayor's announcement 2 days ago that he would participate in the march on Washington next Wednesday. The pickets declared he should stay in New York and find jobs for Negroes and Puerto Ricans in the building trades instead of taking part in the march.

"Plainclothesmen and uniformed patrolmen gradually forced the pickets down City Hall steps and back into Park Row. There some of them sat in the street, blocking traffic. They were dispersed by mounted police.

"None of the demonstrators were arrested. One, a bearded Negro, was carried by six policemen through City Hall and out the back door to a police wagon. He kept squirming and shouting: 'Police brutality must go.'

"Val Coleman, a staff member of the national office of the Congress of Racial Equality, which sponsored the demonstration, accused the police of 'very brutal action.' He said policemen 'punched and kicked several people' and threw one demonstrator down the steps. None of those acts was witnessed by others at City Hall.

"Mr. Coleman was arrested later when he returned to City Hall and refused to leave after the sit-in pickets had peacefully departed on orders of the police. He carried a blanket under his arm and told the police he wanted to sit-in despite the mayor's order.

"During the fighting on the steps, Patrolman Lowell Levine was kicked in the legs by pickets. He also suffered cuts when the pickets' chain bit into his left arm. Two other policemen, De Mar Trochelman and Edward G. Wilson, suffered strained backs in carrying squirming pickets to a police wagon.

"When the mayor returned to the building and heard what had happened he was fed up. He summoned Police Commissioner Michael J. Murphy and directed him to remove the pickets from City Hall.

"Mr. Wagner said he had let them stay so long (the picketing began July 9) because of his 'deep sympathy' for their objectives.

"The pickets had been protesting alleged employment discrimination against Negroes and Puerto Ricans in the building trades unions. Some unions do not have any Negroes among their several thousand members.

"The mayor said he thought the pickets were sitting in 'because they wanted to focus public attention on the basic problem of civil rights.'

" 'They have made their point,' he declared.

"The pickets had cluttered the Colonial hallway and had caused distractions for the mayor's staff by chanting denunciations of their leader. A few weeks ago several pickets were arrested for trying to block access to the mayor's office.

"Yet the mayor said yesterday that 'up until very recent days the inconvenience for the city was minimal.'

"On Wednesday the mayor began to lose patience. That day, eight members of the Congress of Racial Equality tried to dump a truckload of rubbish into City Hall Plaza. They brought a truckload of trash, including one large dead rat, from vermin-infested tenements and were unloading it on the plaza when police arrested them.

"The truck was accompanied by 80 chanting, handclapping pickets who bore signs in English and Spanish demanding that 'Slumlords Must Go.'

"Yesterday the mayor saw another 'outright provocation.' When he entered his office a dozen sit-in demonstrators greeted him with cries of 'Stay Home.' One demonstrator shouted: 'Will he dare leave the city in 6 days without cleaning up the mess here?'

"At noon more than 100 pickets were outside, chanting denunciations of 'mealy-mouthed politicians' and 'lilywhite unions.'

"The mayor had attempted to appease the civil rights demonstrators by opening 20 registration offices for Negroes and Puerto Ricans who felt they were qualified for construction jobs but could not get into the unions because of 'discrimination.' " (New York Times, Aug. 23, 1963, p. 1.)

The incident was also the subject of an editorial in the New York Times the next day. The editorial offered this comment on the sit-in at City Hall:

"Yesterday, for the first time in 45 days, citizens and officials of the city of New York could enter their seat of government without having to run a gantlet of jeering, lounging, generally unkempt young civil rights pickets. As Mayor Wagner said in ordering the police to remove them, they had long since 'made their point.'

"Citizens of this city have had—and, we hope, always will have—the right to assemble peaceably and petition for a redress of grievances. The mayor's own belief in the sanctity of this principle, especially when applied to the demolition of racial barriers, has been made manifest by his decision to take part in next week's civil rights march on Washington. But the sit-in at City Hall went beyond the limits of either peaceable assembly or good sense. It was as reprehensible as the effort made by the same group Wednesday to dump rubbish in City Hall Plaza.

"The mayor was correct—even if somewhat late—in deciding that the sit-in outside his office had become an 'unjustifiable interference with the orderly operations of government' and thus could no longer be tolerated. There are other ways, and certainly better ways, for members of civil rights groups to call attention to the inequalities that still haunt the Negro in his work and in his living in this city." (New York Times, Aug. 24, 1963.)

Demonstrations at construction sites

Demonstrations at construction sites in New York City have resulted in serious breaches of the peace. The following events were reported in the New York Times of July 23, 1963:

"More than 200 civil rights demonstrators were arrested in Brooklyn yesterday and 26 others were taken into custody in Manhattan as a result of efforts to block public construction until Negroes and Puerto Ricans get more jobs.

"Police officials said they believed the mass arrests here were the highest since 500 persons were jailed in the Harlem riot of August 1, 1943, when 5 persons were killed.

"At least 10 ministers and church officials were detained in the Brooklyn demonstrations outside the Downstate Medical Center. In wave after wave for nearly 8 hours, Negro and white sympathizers darted in front of incoming construction vehicles to sit down or lie down in the roadway. They were picked up and taken away in patrol wagons—a dozen at a time.

"In Manhattan, six ministers were arrested for locking their arms to obstruct construction vehicles trying to enter the Rutgers Houses projects on the Lower East Side. There the demonstrations led to scuffling between other pickets and policemen trying to move them. The demonstrations were over within a quarter hour.

"Edward S. Lewis, executive director of the Urban League of Greater New York, whose organization has been among the sponsors of the demonstrations, said last night that 'there is going to be no let-up in the kinds of pressure now going on until something is done.'

"He said civil rights leaders had told both Mayor Wagner and Governor Rockefeller that 'the one way to solve this is some brown faces—Negroes and Puerto Ricans—on construction jobs.'

"The Reverend Dr. Gardner C. Taylor, spokesman for the Brooklyn demonstrators, said last night that his group had received an indication that Mayor Wagner would be willing to meet with it last week to give priority to complaints of discrimination in the construction industry.

"A commission spokesman said yesterday that the agency for some months had been sending out questionnaires to contractors to appraise compliance with antidiscrimination clauses in their contracts.

"The State commission for human rights announced yesterday that it would hold a public hearing on an Albany union, local 12 of the International Association of Bridge, Structural & Ornamental Iron Workers, but no date was set. An investigation into a complaint that Negroes were denied membership in the union was said to have shown there were none among 500 members.

"The Rochdale Village housing project in Jamaica, Queens, which is described as the world's largest cooperative, was announced as the target for demonstrations beginning today, in a move to get 25 percent of the construction jobs for Negroes and Puerto Ricans.

"The construction demonstrations also spread yesterday to a public school project in West Brighton, Staten Island.

"The police department reported that 211 adults had been arrested in the Brooklyn demonstrations, including 130 men and 81 women. The names of 12 children—6 boys and 6 girls—were recorded by the police but this did not constitute arrests.

"All the Brooklyn defendants were charged with disorderly conduct. A total of 192 were arraigned, and all were released on their own recognizance, pending varying hearings. Of the arraignment, 126 were in adolescent court before Judge Abraham Roth, and 66 before Judge John M. Murtagh in criminal court.

"Another clergyman, the Reverend G. D. Younger, issued a statement on behalf of the Lower East Side ministers. It said in part:

" 'The sidewalk in front of a construction site is not our usual pulpit, and sitting in front of trucks is not our customary form of preaching. We have been led to this action as a result of the failure of responsible authorities in our city to act on a vital phase of the moral crisis in which we are all currently involved.'

"The statement went on to criticize Mayor Wagner and Governor Rockefeller for refusing to halt public construction or bringing charges against craft unions involved in discrimination.

" 'After serious consideration,' the statement added, 'we choose to violate the law to reveal the lengths to which the city will go to avoid having to enforce the fair employment provisions of existing laws.'

"The ministers, a seminary student and social worker, were charged only with disorderly conduct, but 17 other defendants in the Rutgers Houses picketing were charged further with interfering with police officers.

"Yesterday's Brooklyn demonstrations were organized by the Committee on Job Opportunities for Brooklyn, formed by 75 Negro ministers last week with the Reverend Dr. Sandy F. Ray as chairman. Other officers include the Reverend Walter G. Jacobs, cochairman; the Reverend H. Carl McCall, secretary; the Reverend Richard Saunders, financial director, and the Reverend W. A. Jones, coordinator.

"The Brooklyn group held a meeting last night at the Corner Stone Baptist Church, 574 Madison Street, Brooklyn, to determine further policy. Dr. Taylor said its aim was to obtain 'at least 25 percent of jobs in all categories' for Negroes and Puerto Ricans in projects built by public funds.

"New picketing, led by five clergymen, started yesterday at the construction site of Public School 25, West Brighton, with 15 marchers. Richard Prideaux, chairman of the Staten Island chapter of the Congress of Racial Equality, said that the plan had been to picket Curtis High School, New Brighton, where an addition is under construction, but that not enough pickets appeared."

These events were also the subject of an editorial in that issue of the Times. The editorial was entitled "Right Goal; Wrong Method."

"Demonstrators, of course, have the right to call attention to the obviously discriminatory apprenticeship and job requirements of certain unions, such as those in the building trades in New York.

"But there are right and wrong ways to achieve the goal of equal employment opportunity. When demonstrators picket peacefully, they exercise the fundamental right of petition. But they are transgressing that right when they block access and physically interfere with the passage of others. This is particularly true when public buildings are involved, and where governmental business is transacted.

"The pickets who lay down yesterday in front of the construction sites of the Downstate Medical Center in Brooklyn and the Rutgers housing project in Lower Manhattan went beyond acceptable bounds of nonviolent protest and incidentally blocked progress on two important public works. They were asking to be arrested; they should have been arrested; they were arrested.

"The demonstrators are also following a truly vicious principle in playing the 'numbers game.' A demand that 25 percent (or any other percentage) of jobs be given to Negroes (or any other group) is wrong for one basic reason: it calls for a 'quota system,' which is in itself discriminatory. A 'quota system' disregards qualifications, at best leads only to token jobs and is obviously discrimination in reverse. This newspaper has long fought a religious quota in respect to judgeships; we equally oppose a racial quota in respect to jobs from the most elevated to the most menial."

Another editorial critical of the conduct of the demonstrators was published in the New York Times of July 31, 1963. This one was entitled, "Breakthrough or Breakdown?"

"In the name of good sense and better race relations, what in the world do the leaders of the integration movement in this city hope to gain by the tactics they now are using to attract public attention?

"Item: Eighteen Negro children aged 2 to 13 years being placed by their elders at the entrance to the site of the Downstate Medical Center in Brooklyn;

"Item: Seven older demonstrators jumping on a construction truck at the same location and entwining themselves around a portable crane so tenaciously that 20 policemen were required to pry them loose;

"Item: A white couple and a Negro man blocking access to Mayor Wagner's office in City Hall;

"Item: Others maintaining an around-the-clock sit-in at Governor Rockefeller's New York City office on West 55th Street.

"It can be doubted that these and similar unlawful sit-ins, lie-ins, stand-ins that have been carried out in recent weeks in New York City have advanced the cause of equality under the law by an iota, or speeded up action to bring about a redress of just grievances. They may very well have had the adverse effect of alienating some old friends. They can hardly have won many new ones.

"There comes a time in any campaign when the law of diminishing returns begins to operate. That time seems to have come, and to have been passed.

"A recent statement by the public affairs committee of Freedom House is commended to the campaign leaders for careful reading. The members of that committee hardly can be accused of being hesitant whites or Negro Uncle Toms. The statement points out that it is at the conference table where settlements must be reached in a democratic society, not in the streets. That is where they must be reached if breakthrough is not to become breakdown."

And on the same day that that editorial appeared, a riot was narrowly averted at the site of the Downstate Medical Center in Brooklyn. This incident was reported in the New York Times of August 1, 1963, as follows:

"A riot was narrowly averted in Brooklyn yesterday as civil rights demonstrators continued to press for more jobs for Negroes and Puerto Ricans in the construction industry.

"Police reinforcements subdued a shouting, surging crowd of about 100 pickets at the construction site of the Downstate Medical Center in Brooklyn.

"For a few moments the crowd struck and kicked at policemen who were carrying away pickets from the path of construction trucks. The brief flareup threatened to ignite the ugliest incident of the city's racial crisis.

"Mounted policemen helped press back the Negro and white demonstrators. Using their nightsticks as rams, the police pushed the mob from the roadway at Clarkson Avenue.

"A patrolman and a policewoman were injured by kicks. Two Negro women suffered injuries in the milling, taunting throng.

"Just as the outbreak threatened to explode into open rioting, a Negro clergyman, the Reverend William A. Jones, Jr., leaped on a stack of lumber and shouted to the crowd to disperse. He accused the police of misconduct and cried:

" 'This proves there's no difference between New York and Alabama, no difference between the United States and South Africa. This Nation is going straight to hell.'

"He ordered a halt in picketing and said that further measures would be discussed later in the day at a rally in the Berean Baptist Church, 1641 Bergen Street, Brooklyn.

"Twenty-two persons were arrested at the hospital project, including seven clerygmen.

"The day's most disturbing development was the growing restlessness of the Brooklyn demonstrators. The Reverend Edward Ducree, one of the Negro leaders at the Downstate Medical Center site, told reporters: 'Our people are getting restless; we are not getting results.'

"Later he led a prayer in the middle of the street, and traffic was halted for 10 minutes as the pickets knelt on the pavement.

"Trouble started soon after 8 a.m. when 12 persons, including 6 clergymen, tried to block the movement of trucks by sitting in the roadway. The police carried the clergymen into a patrol wagon when they refused to move.

'They were the Reverend Letty M. Russell, a Presbyterian; the Reverend Dr. Fred Dennard, a Baptist; and the Reverend Esdras Rodriguez, a Methodist; all of the Church of the Ascension, 340 East 106th Street in Manhattan; the Reverend Lynn Hageman, the Reverend Charles Farrell, and the Reverend George Webber. Dr. Dennard is a Negro and Mr. Rodriguez a Puerto Rican.

"Pickets taunted the police, calling them 'stormtroopers,' and the outcry grew when a woman, Mrs. Barbara Coston, was seized after she had sat down in the street with her 3-year-old son and 7-year-old daughter. Mrs. Coston said she was demonstrating because the day before at Coney Island someone had called her son a 'nigger.' She was taken away with her children in an unmarked police car.

"Then some teenagers started a new technique of harassing the trucks. A group would lock hands and stand in the path of a truck. No sooner would they be dispersed, when another line would form 10 feet behind. Dispersal of this and succeeding lines would force the trucks to halt several times.

"The worst flareup came at 1:15 p.m. when the police formed a double line to open a path for the trucks. This maneuver enraged the crowd. Demonstrators swarmed into the street and resisted efforts of the police to drive them back onto the sidewalks.

"Motorcycle Patrolman Kenneth C. Truschke was kicked in the groin. He was treated at Kings County Hospital and later returned to duty. Earlier Patrolwoman Priscilla Wolf had been kicked in the chest while removing a woman who had squatted under a truck.

"Two Negro girls were sent to Kings County Hospital. They were Betty Gill, 17, of 522 Vanderbilt Avenue, Brooklyn, who returned to the picket line after treatment for a twisted knee and the reopening of a previous leg cut, and Gwendlyne McIver, 16, of 64 South Elliott Place, Brooklyn, who was held at the hospital for observation because she has a history of heart ailments. She had collapsed in the melee.

"At the height of the scuffling, Mr. Jones, from the top of the lumber pile, was shouting:

" 'Let's stop the pushing and shoving. We are victims of a vicious system. The police force is more concerned about protecting the right of these trucks to enter this site than they are in protecting our right to protest.

" 'They have the guns. They have the bullets. They have the helmets. They have all the instruments of warfare. But our protests will be heard around the world tonight.'

"He told the pickets to go home and promised that sound trucks would be sent through the Negro communities urging massive attendance at a night rally to discuss future strategy.

" 'Police brutality must go,' shouted the pickets. But observers said they saw no swinging of nightsticks by the police.

"Dr. Taylor, chief spokesman for the Brooklyn demonstrators, and a former board of education member, told newsmen from the sidelines:

" 'There seems to have been a tightening of police procedures. Police are the tools of segregation in this city.'

"Later he sent a message to Governor Rockefeller and Mayor Wagner:

" 'Violence has occurred at Downstate Medical Center. People can no longer be restrained. Police apparently cannot be controlled. Public safety is threatened. Several people have been assaulted.

" 'If this continues, Federal public aid will have to be sought, as in other parts of the country. Strongly suggest closing Downstate Medical Building until elimination of violence. Picketing has been called off today in fear of further violence.'

"But the civil rights leaders seemed to be losing control over the demonstrators. Shortly after the pickets had dispersed at the urging of Mr. Jones, another group appeared at the scene and resumed picketing.

"At the rally of 900 persons last night at the Berean Baptist Church, 1641 Bergen Street, Brooklyn, the Reverend W. J. Hall, pastor of the Bethel Baptist Church, said:

" 'We are not going to apologize for breaking the law any longer. We will sit down, lay down, and stay down until the walls fall.'

"At city hall the three arrested included Nicasio Martinez whose leather-lunged cheerleading of a small group of demonstrators outside the mayor's office would have made work impossible.

"A slim, bearded Negro, 25 years old, of 63 East 177th Street, the Bronx, Mr. Martinez led the chant:

" 'Is this the U.S.A.?'

"Pickets. 'Yes.'

" 'Is this the land of freedom?'

"Pickets. 'No.'

" 'Is this the land of justice?'

'Pickets. 'No.'

" 'Is this the land of equality?'

"Pickets. 'No.'

"Mr. Martinez and the two others were arraigned before Court Judge William E. Ringel and paroled for trial Friday on charges of disorderly conduct and resisting arrest.

"In Queens, the 11 arrested included a Baptist minister, the Reverend Timothy P. Mitchell, of Ebenezer Church, 36–06 Prince Street, Flushing, who was seized while leading a prayer.

"Meanwhile, 23 Negro plasterers who had walked off the job Tuesday at Rochdale Village in sympathy for the demonstrators returned to work today."

The demonstrations were also the subject of an editorial in the New York Herald-Tribune of August 9, 1963. It was entitled, "Here We Go Again."

"As this newspaper said 2 days ago, demonstrations are foolish and cannot substitute for sensible good will at the bargaining table.

"Everything about the city's racial demonstrations has been wrong. Now things are even worse.

"It was bad enough when construction union leaders showed bad faith by not showing up at a meeting to discuss civil rights.

"Then Governor Rockefeller worked out a five-point program and an end to the picketing was promised.

"Now, it turns out, Rockefeller wasn't talking to the right people. And the demonstrators have gone back to making expensive nuisances of themselves.

"Apparently Rockefeller shouldn't have talked to ministers, he should have talked to the people who know how to organize.

"Just how ridiculous can things get? At a time when there has been a lull in racial protests, in the quiet before the march on Washington, the confusion and chaos that swirl around the Downstate Medical Center and other places stand out as nothing more than irresponsible larks.

"The demonstration leaders said they were fed up with 'public relations devices being put forth as a substitute for meaningful action.'

"And the public is fed up with meaningless action put forth as public pressure devices.

"There can be no solace in the streets, only greater grief."

FAILURE OF CIVIL RIGHTS LAWS TO PRESERVE DOMESTIC PEACE

The previously reported incidents are a clear reflection of the situation in places where comprehensive civil rights laws are already in effect and are being enforced. The availability of legal remedies pursuant to actively enforced civil rights laws has not solved the problem of racial unrest anywhere in the United States. There has been nothing "neat" or "clean" about the ugly incidents that have flared up in total disregard of these laws. The plain truth is that the enactment and the enforcement of a Federal public accommodations law will not result in any reversal of the current trend of Negroes "turning from courts to the streets, from arguments to riots."

PROPERTY RIGHTS VERSUS HUMAN RIGHTS

Proponents of the proposed public accommodations law claim that the right to nondiscriminatory access to business establishments is a human right superior to the property rights of the owners of these establishments. (Hearings, supra 690, 751, 755.) This is a shabby argument which distorts both the nature of property rights and the relation of those rights to other so-called civil rights. An examination of this argument will readily reveal its fallacy and the dread consequences of its application. The delusive nature of this proposition is revealed in the following commentary:

"An illuminating example of how demogogic word twisters try to deceive the people into surrendering their rights is found in their beguiling declaration: 'Human rights are above property rights.' Now, the fact is that property rights are human rights. A property right is the human right to acquire, possess, and use property. Property is one of the realities of freedom and is so classified by the Founding Fathers. Ownership of property has been historically identified with freedom. Property ownership was the distinction between the freeman and the serf. Man not only gained his political freedom but also his economic freedom by the use of property. Although this conception originally applied to real property only, it is now understood to embrace the more diversified types of property which have become of equal or greater utility as a result of changed economic conditions.

"All economic enterprise is now just as much property as land. It equally produces the means to self-sustenance, to independence. Deprive man of the fruits of property and he becomes dependent. If the State alone possesses all property, or completely controls its use, then man becomes a ward of the State. Control over the use of property may be so far reaching as to render title to property a mere fiction: An empty right. Legal ownership may not always be effective ownership. Therefore, the measure of control which the State exercises over the use of property is the determining factor as to whether or not alleged control is not in effect confiscation." (Desvernine, "Democratic Despotism," 21–22 (1936).)

Nature of property rights

The nature of property rights was discussed by Senator James Harlan of Iowa during the debate on the Senate joint resolution proposing the 13th amendment during the 1st session of the 38th Congress. Senator Harlan spoke strongly in favor of the proposal to abolish slavery. At the beginning of his remarks he had commented as follows:

"It is suggested from some quarters, and has been suggested in discussion here on the floor of the Senate, that any provision of a constitution which would interfere with the rights of individual members of the community to private property should be rejected; that the right to property does not originate in the Constitution or laws, that it existed preceding the organization of society, and that the great object of the organization of society must have been to protect, among other things, the right of the individual to his private possessions. And I accede to the truth of this allegation. I have attempted to enforce it on the floor of the Senate when other questions were being discussed. I do not believe that it would be good policy for the people of any State or any nation to incorporate a provision in their fundamental law that would abrogate the private rights of individuals. Concede their power to do so, I think the policy would be wrong. Hence I proceed to inquire into the nature of the title to the kind of property which would be affected by the adoption of the amendment proposed in the joint resolution—the foundation on which the claim to property in the service of others as slaves is based; and in doing so it will not be amiss, I trust, to state that it is conceded, I think, by the writers on elementary law that property was originally the gift of God; that the title of the individual to property originates in the labor and skill and toil which he used in reducing it to possession and enhancing its value after it may have been rightfully acquired; that each member of society has the right to go to the common storehouse of ocean and field or forest, and draw from the common supplies; that all may enjoy this right alike, but when any individual of society shall, by the application of labor and skill, acquire the possession of any of the products of the sea, fields, forest, or of the air, so much as has thus been rightfully reduced to possession becomes his personal private property. It is also conceded, I think, by all that the increased value of those possessions growing out of labor and skill on the part of the possessor belongs to the person who has applied the labor. To assert the reverse would be equivalent to denying the title of the Almighty to the workmanship of his hands; for what better right can there be to property than the right of the creator to the thing which he has made? If the individual, then, has by his labor or skill created an additional value to the thing rightfully possessed, his title ought to be considered absolute." (Congressional Globe, 38th Cong., 1st sess. 1437 (Apr. 6, 1864).)

Near the end of his remarks, Senator Harlan reviewed his reasons for abolishing the institution of slavery and set forth his conclusions that "slavery as it exists in this country cannot be justified by human reason, has no foundation at common law, and is not supported by the positive municipal laws of the States, nor by the divine law, and that none of its incidents are desirable, and that its abolition would injure no one, and will do no wrong." (Id. at 1440.)

But nowhere in the course of his remarks was there any implication that the adoption of the 13th amendment was intended to create any "human" or "civil" right superior to private rights in nonhuman property.

Relationship of property rights to civil rights

The relation of "property rights" to so-called "civil rights" was more thoroughly examined in a recent treatise entitled, "In Defense of Property," by Prof. Cottfried Dietze of the Political Science Department of Johns Hopkins University in Baltimore, Md.

The author's major thesis was that "the institution of private property is basic to our culture and constitutes an important part of freedom; that recent infringements upon property rights, irrespective of how minor they may have been in the beginning, increased by leaps and bounds with the growth of egalitarian democracy; that just as previously social and socialist regulations of property, undertaken in democratic societies, contributed to the rise of national socialism, so in the present world in which fascism has become discredited, they are likely to end up—evolutionary as the process may be—in communism. It is also asserted that the protection of private property is a prerequisite for what Jefferson called 'natural aristocracy' and the restrictions of free property are paramount to the elimination of the cream of the human race on both the national and international levels. A lot has been said, during the past years, against persecution on grounds of race. Regrettable as such persecution is, it is felt that the persecution of those who own property, which is the essence of social legislation, is just as bad." (Dietze, "In Defense of Property," 7 (Henry Regnery Co. 1963).)

Status of property rights as enunciated in historic documents

The author's examination of the relationship between property rights and "civil rights" include a review of the status accorded property rights in the great documents of the English, French and the American Revolutions. (Id. at 57–64.)

He found that, "The great documents of the democratic revolutions be they written in the 17th or 18th century, in England, America or France, consider property rights as being definitely equal to such other liberal rights as freedom of speech, the press and assembly. This fact is not surprising. By assigning property rights a position which is not inferior to that held by other rights, the democratic revolutions merely recognized what was obvious and had been hallowed throughout the ages; namely, that property was a natural right, a prerequisite of life and freedom. This attitude reflects approval not only of natural law, but also of custom. For although the overthrow of the ancient regime meant rejection of many traditional institutions, nevertheless the institution of private property survived. It proved to be too natural and too essential to life and freedom to be rejected. It was considered as being too intrinsic to civilization—and thus too civil—to be discarded. Furthermore, since the democratic revolutions instituted democracy merely as a means for the protection of freedom, their ideologists did not maintain that the fact that some rights are more relevant to democracy than others implies that the former are more valuable than the latter.

"Accordingly, the very events which led to modern democracy support our assertion that property rights are as important a part of freedom as are other liberal rights, not to mention their superiority over democratic rights. Therefore, the distinction between property rights and so-called 'civil' rights and the assertion that the latter are entitled to greater protection because they are more necessary for the working of democracy, are unwarranted not only because they misconceive the nature of freedom, disregard the nature of man, and do not take into account the experience of ages, but also because they were rejected by the very people that are usually quoted in their support; namely, by the founders of modern democracy." (Id. at 63–64.)

Rise of the institution of property

The author then discussed the rise of the institution of property during the 19th century. (Id. at 65–92.)

He observed that: "In the 19th century, private property enjoyed greater protection than ever before. The natural rights philosophy, having brought the appreciation of property to a climax in the previous century, was complemented by the historical school even though the latter was conceived as a reaction against Naturrecht. That school, founded by the civilist Savigny, largely believed in a law that was known for its individualism and for its protection of private property, namely, the Roman law. Considering that the schools of idealism and laissez faire, as well as clerical thought, also favored private property as an inherent part of freedom, one probably is justified in maintaining that the century of liberalism was a century of free property." (Id. at 92.)

Decline of the institution of property

After reviewing the rise of property in the 19th century, the author traced the decline of the institution during the course of this century. (Id. at 93–128.)

In the introduction to his section he stated that: "The 20th century, undergoing unforeseen scientific and technical advancements, witnessed, in spite of a broadening of suffrage, a decline of freedom. The 19th century brought a qualitative and quantitative improvement of constitutional government. The 20th century, with the arrival of communism, fascism, socialism and the welfare state, experienced a decline of constitutionalism. In spite of the collectivism which some saw in the doctrines of Rousseau, the idealists, and the romantics, the 19th century was a century of individualism. By contrast, the 20th became one of the masses. In the 19th century, freedom was the rule and infringements upon liberty, the exception. In the 20th, although lipservice is still paid to the inviolability of freedom, regulations of the individual's rights are so numerous that they seem to have become the rule, and freedom, the exception.

"This is especially true of private property. The protection it enjoyed has waned. The increase of its protection during the 19th century, an increase that, no matter what forms it may have taken in the various countries and how far it may have gone, was so great that one could speak of the century of free property, was followed by a sharp decline. The former intensity of appreciation now was matched by one of disparagement. The exceptional qualifications of free property that had been permitted in the 19th century, increased until there were so many of them that restriction of property became the rule, and free property, the exception. Of all the liberties of the individual, that of property fared the worst. Its individualistic conception was replaced by a social one to a greater and greater extent. Not only was static property attached, but, also the free use of property was restricted. To make things complete, even the freedom to acquire property was curtailed. Property gained in the past, property existing at present, property to be acquired in the future—every kind of property was questioned.

"This development became increasingly absurd. Originally, restrictions upon private property were justified on grounds of 'social justice.' Debatable as such a justification is in view of the vagueness of that term and the fact that people possessed equal rights to acquire and use property, restrictions were defended if they facilitated the acquisition of property by those who were underprivileged or handicapped. However, soon afterwards restrictions were made not for the sake of creating greater opportunities but for that of giving property to those who did not take advantage of opportunities. Property, one of man's great incentives throughout history, became restricted for the sake of laziness. Restrictions for the sake of 'social justice' degenerated, inevitably, it seems, into restrictions for the sake of the welfare state and socialism.

"The curtailment of property did not occur suddenly. While private property was on its victorious march, there were forces at work that questioned its institution. In time, these forces gained the upper hand. Once concessions had been made to them, they could not be halted. They are present in various schools of thought and are reflected in that mirror of thought—the law." (Id. at 93–95.)

In concluding his review of the decline of property in the 20th century, the author declared that—

"The advocacy of free property in the 19th century was honest and straightforward. Nothing was hidden in the fight for the emancipation of property from the last fetters of the ancient régime. Nothing had to be hidden, since that emancipation was an essential part of freedom, and freedom then occupied first rank. By contrast, attacks on property were, for the most part, less straightforward. Probably the most honest attack came from Karl Marx. He was clear and uncompromising. But all those 'defenders' of private property who deviated from an uncomprising defense of the liberal concept of property in order to check socialism were, looking at it from an objective point of view, dishonest. It should not be understood that the sincerity of the social gospel movement, the social-minded economists and jurists is doubted. Holmes and Brandeis, Jhering and Gierke, Duguit—they all were perhaps as much friends of property as they were of liberty. There is no reason not to give them the benefit of the doubt. On the other hand, in consideration of the increasing depreciation of private property that took place in the wake of their ideas, it cannot be denied that they sowed a seed for the decline of property.

"It is significant that the reevaluation of property began by a mere interpretation of existing law, a law that deals with the relations among individuals. Mere reinterpretation of the concept of property, especially if confined to the sphere of private law, was not likely to arouse suspicion. In private law, where individual is pitted against individual, the restriction of one individual's property is likely to benefit the rights of another individual. That was accepted. The prohibition of malicious use of property, of a use that was detrimental to the neighbor, are a few examples of a seemingly harmless social interpretation of property rights. But once the liberal or individualistic concept of property has been questioned, then it was only a small step to restrict individual property for the sake of the community. The social interpretation of private property, originally kept within the realm of private law, intruded into the field of public law. The individual was no longer confronted with the rights of fellow individuals, who were his equals, but with the demands of society. His property was subjected not only to social interpretation, but also to social legislation." (Id. at 125–126.)

ROLE OF THE SUPREME COURT IN CURTAILMENT OF PROPERTY RIGHTS

The role of the Supreme Court in this curtailment of property rights was described as follows:

"Today, it may be said that the Constitution is no longer a constitution of property. The Supreme Court, having become a tool of the social and socialist passions of the day, has deprived the Constitution of that character. Due to political pressures resulting from the great depression, the Court has interpreted the Constitution in a social manner and transformed it into an instrument for the fulfillment of a social need rather than for the protection of the freedom of the individual and of private property." (Id. at 125.)

Rights inherent in freedom

The author observed that—

"Trends have recently appeared to distinguish between the components of freedom, i.e., between property rights and so-called civil rights, and to emphasize that the latter are more of a prerequisite for democracy than the former. Since democracy is often identified with freedom, it is also asserted that civil rights are more important to freedom than property rights. In view of this development, it is imperative to examine whether these trends are sound." (Id. at 40.)

He defined freedom to be comprised of two major categories of rights; namely, the liberal rights to be free from coercion and the democratic rights to participate in government. (Id. at 41.) Liberal rights were construed to include civil rights and property rights were then examined in this context:

"The relation between democratic and liberal rights is sufficiently clear to preclude doubts about the superiority of the latter. However, a problem arises because of recent tendencies to discriminate among liberal rights themselves. A distinction has been made during the past decades between property and noneconomic rights, including such rights as freedom of speech, of assembly, and association, which are referred to as civil rights.

"This term already reveals the arbitrariness of the distinction. If noneconomical rights are civil and are distinguished from property rights, then the latter, by definition, can't be civil. They might even be anticivil or acivil. They must be incompatible with civilization. But this is simply not the case. As was shown, each liberal right is essential to freedom. Liberal rights are so essential that all of them have to maintain a minimum standard. Consequently, none of them can be uncivil or acivil, since in those cases they would be incompatible with freedom, the very landmark of civilization. Therefore, property rights are as civil as other rights. The civil nature of property is also demonstrated by historical evidences. As was shown, throughout the ages, irrespective of such factors as the inequality or equality of men, religion, language, belief in natural, customary, or conventional law, property has been considered conductive and basic to civilization.

"It is argued that the favoring of civil rights is justified on the grounds that these rights are most important for the functioning of democracy. This argument is easily refuted. Although it is admitted that civil rights are necessary for democracy, the reason why they should be more necessary for democracy than other liberal rights cannot be understood. Indeed, civil rights are no more required for popular government than are such rights as, for example, freedom from arbitrary arrest or execution. A person who has been executed has been deprived not only of his life, but also of his ability to participate in the democratic process. A man who is imprisoned is deprived not only of his freedom of movement, but also of his democratic rights. The situation is not different in the case of infringements upon property.

"A person who has lost his property usually does not have the same voice in public affairs as before. The loss has a damaging effect upon his prestige. The fact that he has become poor will adversely effect the exercise of his democratic rights. The person who is deprived of his property through legislation and not by his own fault nor by accident, is in a worse situation. A stigma becomes attached to his property. Doubts about its honest acquisition will be raised. He is not only punished through expropriation, but also through an impairment of his honor. Both lessen his effective participation in the democratic process. The clearest example of this situation occurs in Communist countries where those who are expropriated are virtually reduced to second-class citizenship and are often excluded from participating in government. Although the deprivation of property in free nations does not assume such drastic forms and, as social legislation, appears to be more palatable, it signifies a difference in degree only from Communist practice. Deprivations of property through social legislation are indeed as subtle as they are outrageous negations of that cherished principle, no punishment without law.

"The truth of the proposition that civil rights are more important for the functioning of democracy than are property rights is dubious from still another point of view. Those who prefer those rights because they are supposed to be conducive to the working of democracy want, by their own admission, a working democracy. Their neglect of property rights is, however, apt to produce the very opposite. Overemphasis on such rights as freedom of speech, association, and assembly will make men intoxicated with power and create those hallucinations about their political ability that often have resulted in anarchy and despotism. A working democracy is an orderly democracy. And order in a democracy is achieved to no small extent by permitting those who own property to have an ample share in government. Having something at stake, and in general being the more intelligent, industrious, and progressive part of the population, their actions will not be motivated by passion, and they will not be apt to make experiments which might endanger the foundations of government and order. Therefore, only if private property enjoys the same degree of protection as civil rights, does there exist the guarantee for a working democracy.

"The argument that such rights as freedom of speech, assembly, and association are more important for democracy than are property rights is thus not convincing and not valid as a basis for assigning priority to the former rights. Even if one could not prove that property rights are as much a prerequisite for democracy as are 'civil' rights; even if 'civil' rights might be a more essential prerequisite, then a discrimination against property still would not be justified. For no discrimination against any liberal right can be justified on the grounds that that right is not a prerequisite for democracy. The decisive factor is compatibility with freedom, not with democracy. Otherwise, a means would be elevated over the end, and liberty might be lost.

"The proponents of the idea that 'civil' rights are more important than other liberal rights because they are more essential for the functioning of democracy defeat their own purposes. Instead of advancing the prestige of 'civil' rights, they lessen it. Democratic rights are inferior to liberal rights. Therefore, an emphasis upon the fact that 'civil' rights are more conductive to democracy cannot enhance their importance. On the contrary, if one stresses that such rights are more relevant for democracy, then he asserts that they are more democratic. This amounts to transforming liberal rights into democratic rights, degrading them from superior to inferior status, from an essential part of freedom to a mere prerequisite for that which is considered a mere means for the realization of freedom—democracy.

"This does not imply that property rights are necessarily undemocratic. None of the liberal rights are incompatible with democracy. They cannot oppose without difficulty a form of government which is likely to guarantee freedom. Since they permit positive action, they also allow for participation in government. Freedom of speech, for example, does not imply only the freedom to express one's thought merely for the sake of talking, but also the right to advance certain ideas for one's own benefit, or for that of society, and to participate in the shaping of public policy. The situation is similar in the case of other liberal rights, including those of property. The protection of private property does not imply merely something static. It also guarantees the free use of property to one's advantage as well as that of the public, and opens the way for the owner's participation in government. Since the protection of property frequently is believed to result mainly from egoistic motives, the blessings of property for the welfare of society are overlooked as often as the blessings of 'civil' rights are overemphasized. The latter is due to the belief that these rights do not stem from egoistic considerations to any great extent. However, there is no compelling reason to believe that a man who uses his freedom of speech and association is less interested in his own advancement than a man who uses his property. Furthermore, it is not evident why freedom of expression or of rabble rousing should be more valuable for the functioning of democracy than the ability to acquire and use property. Property rights as well as other liberal rights are not opposed to democracy. It is true that they are less likely to degenerate into democratic rights than are 'civil' rights. However, that relative immunity from democratic vogues does not make them necessarily undemocratic.

"Thus the position of property in the scale of human rights is clear. Like other liberal rights, those of property are superior to democratic rights. Property rights do not occupy an inferior position among liberal rights and definitely are equal to so-called 'civil' rights." (Id. at 45–48.)

REFUTATION OF HUMAN RIGHTS DOGMA

The invalidity of the "human rights" dogma was clearly established by witnesses appearing before the Senate Committee on Commerce in opposition to the proposed public accommodations law. The incisive remarks of the Governor of the great State of Florida constituted a complete refutation of that dogma. And in so doing he reduced this whole controversy to the one real issue presented. The Governor of Florida declared that—

"The real issue you must resolve is between conflicting demands for freedom.

"What is here attempted is to give primacy to the freedom of some to go where they wish and to buy what they wish over the freedom of others to own private property.

"What this bill S. 1732 proposes to do is to take part of that right away from (the owner) and give it to someone else who has never earned it. We are dealing today with property rights. The only question is: Who shall have those property rights? Shall it be the man who has earned or the man who has coveted that which he has not earned?

"The only 'human rights' involved are the rights of some humans against the claims of other humans." (Hearing, supra, 919.)

There is no legitimate constitutional authority for holding that the rights of the owners of property are inferior to the 'human rights' claims of would-be intruders.

"The right of a person to operate his privately owned business as he sees fit is just as sacred as any other civil right." (*McCain* v. *Davis*, 217 F. Supp. 661, 670–671 (E.D. La. 1963) (concurring opinion).)

DUTIES OF BUSINESSMEN AT COMMON LAW

At common law an innkeeper was held to be under a duty to the general public to serve, without discrimination, all who sought to be served. On the other hand, proprietors of taverns, restaurants, theaters, racetracks, swimming pools, and other places of amusement were under no such obligations; they enjoyed an absolute power to serve whom they pleased. This right of the operators of such private enterprises to select the clientele they will serve and to make such selection based on color, if they so desired, has been repeatedly recognized by the appellate courts of this Nation. (*State* v. *Clyburn*, 247 N.C. 455, 101 S.E. 2d 295 (1958).) This common law power of exclusion continues to prevail unless changed by State or local enactments. (*Madden* v. *Queens Jockey Club*, 296 N.Y. 249, 72 N.E. 2d 697, 698 (1947).)

"[Under the common law] the innkeeper must furnish proper accommodations in the way of lodging, food, etc. so far as they are available. * * * He becomes 'practically an insurer of the safety of the property entrusted to his care' by the guest * * * and he incurs other responsibilities which need not be detailed here. In return, he has a lien on the property of his guest for the reasonable charges of such keep and entertainment, both at common law * * * and under our statute.

"A restaurant on the other hand, is an establishment where meals and refreshments are served.

"The proprietor of a restaurant is not subject to the same duties and responsibilities as those of an innkeeper, nor is he entitled to the privileges of the latter. * * * His rights and responsibilities are more like those of a shopkeeper. * * * He is under no common-law duty to serve everyone who applies to him. In the absence of statute, he may accept some customers and reject others on purely personal grounds." (*Alpaugh* v. *Wolverton*, 184 Va. 943, 948, 36 S.E. 2d 906, 908 (1946).)

A clear distinction also exists in common law between the functions and obligations of an inn or hotel and those of a tavern or alehouse.

"The one was instituted for the weary traveler, the other for the native; the one furnished food that the traveler might continue his journey, the other furnished drink for the mere pleasure of neighbors; the one was open to the traveler for protection at night, the other turned its guest out at the very moment when he most needed protection, and left him to find it, if his remaining senses permitted him to do so, in his own home. It is unnecessary, therefore, to point out the fact that a tavern is not an inn, and the innkeeper's duties do not extend to the tavernkeeper." (*Nance* v. *Mayflower Tavern*, 150 P. 2d 773, 775–76 (1944), quoting Beale, the Law of Innkeepers and Hotels, p. 5 (1906).)

With regard to theaters—

"The proprietor of a theater, unlike a carrier of passengers, is engaged in a strictly private business. He is under no implied obligation to serve the public and, in the absence of statute, is under no duty to admit everyone who may apply and be willing to pay for a ticket. The fact that the business is carried on under a license is generally regarded as not changing the character of the business from a private one to a public one." (10 Am. Jur. 915 (1937).)

The common law principles applicable to places of amusement were more recently enunciated by the Court of Civil Appeals of Texas in a case involving the denial of the use of the facilities of a swimming pool.

"The right of a purchaser of a ticket to enter and remain at a theater, circus, racetrack, or private park, is a mere revocable license. The proprietor of an amusement enterprise may deny admission to anyone and a person having entered may be forced to depart on request, and if he refuses to depart, he may be removed with such force as is necessary to overcome his resistance. No action will lie, in the absence of some statute regulating admission to places of amusement, for refusal to admit any person. If the license to enter be revoked by the proprietor and a ticketholder ejected without unnecessary force, the only remedy of the holder of the ticket is an action for breach of the contract, and his damages are limited to the price of the ticket and any expenses incident to the purchase of the ticket and attending the place of amusement." (*Terrell Wells Swimming Pool* v. *Rodriguez,* 182 S.W. 2d 824, 825–26 (1944).)

It is quite clear, therefore, that the common law has never imposed upon private proprietors the restrictions now sought to be imposed by the Civil Rights Act. Of course, some States and cities have, by statute or ordinance, imposed restrictions upon proprietors. A brief examination of some of these laws in operation will give some insight into the defects of the public accommodations section of the proposed Civil Rights Act.

RADICAL NATURE OF PUBLIC ACCOMMODATIONS LAWS

The enforcement of these local and State public accommodations laws requires an extensive meddling by government in private business affairs. The nature and the extent of this intrusion can be readily ascertained from administrative reports and judicial opinions concerning the enforcement of these laws. A good measure of this interference is found in the résumé of a New York case arising out of the refusal of a barber to give a Negro a haircut. The Negro had filed a complaint charging discrimination in a place of public accommodation. The respondent claimed that he did not know how to cut a Negro's hair.

The pertinent section of the New York law prohibiting discrimination in places of public accommodation provides in part as follows:

"It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the race, creed, color, or national origin of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities, or privileges." (N.Y. Exec. Law, Art. 15, sec. 296.2.)

The investigating commissioner assigned to the case found that probable cause existed for crediting the allegations of the complaint and adjusted the matter by conference, conciliation and persuasion. But in his determination, he had construed the provisions of the act to mean that—

"The owners and operators of a barber shop are obligated by law to service all who apply without regard to race, creed, color or national origin; also to employ barbers who are qualified to service customers of every creed, color, or national origin. If you believe that different tools are required to cut the hair of Negroes then you are duty bound to procure the same and also to qualify yourself and your assistants to service Negroes. (*Brown* v. *Leo Federico d/b/a Fourth Avenue Barber Shop*)". Report of Progress, New York State Commission Against Discrimination 40 (1956).

The radically constrictive nature of a public accommodations law was clearly enunciated by a dissenting judge in the Washington case of *Browning* v. *Slenderella System of Seattle,* 54 Washington 2d 440, 341 P. 2d 859 (1959). The plaintiff in the case brought an action for damages for the "embarrassment, humiliation, mental anguish and emotional shock" allegedly suffered in consequence of discrimination against her by the manager of a reducing salon in Seattle, Wash. The lower court found that the defendant had discriminated against the plaintiff in violation of the Washington public accommodations act. The pertinent part of that statute provided:

"Every person who denies to any other person because of race, creed, or color, the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage, or amusement, shall be guilty of a misdemeanor." (RCW 9.91.010(2).)

The trial court drew the conclusion of law that the plaintiff was entitled to a judgment of $750, together with costs. Judgment was entered for that amount and the defendant appealed.

A majority (6) of the justices of the Supreme Court of Washington with three members dissenting, sustained the judgment for the plaintiff, but remanded the cause back to the trial court for the reduction of damages to the nominal sum of $100.

The following dissent to the decision of the majority was filed:

"MALLERY, Judge (dissenting).

"Because respondent is a Negress, the Slenderella Systems of Seattle, a private enterprise, courteously refused to give here a free reducing treatment, as advertised. She thereupon became abusive and brought this civil action for the injury to her feelings caused by the racial discrimination.

"This is the first such action in this State. In allowing respondent to maintain her action, the majority opinion has stricken down the constitutional right of all private individuals of every race to choose with whom they will deal and associate in their private affairs.

"No sanction for this result can be found in the recent segregation cases in the U.S. Supreme Court involving Negro rights in public schools and public buses. These decisions were predicated upon section 1 of the 14th amendment to the U.S. Constitution, which reads: 'All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.'

"In the pre-Warren era, the courts had held that the privileges of Negroes under the 14th amendment, supra, were not abridged if they had available to them public services and facilities of equal quality to those enjoyed by white people. The Warren antisegregation rule abandoned that standard and facilities as the sole test of Negro equality before the law in such public institutions.

"The rights and privileges of the 14th amendment, supra, as treated in the segregation decisions and as understood by everybody, related to public institutions and public utilities for the obvious reason that no person, whether white, black, red, or yellow, has any right whatever to compel another to do business with him in his private affairs.

No public institution involved

"No public institution or public utility is involved in the instant case. The Slenderella enterprise was not established by law to serve a public purpose. It is not a public utility with monopoly prerogatives granted to it by franchise in exchange for an unqualified obligation to serve everyone alike. Its employees are not public servants or officers. It deals in private personal services. Its business, like most service trades, is conducted pursuant to informal contracts. The fee is the consideration of the service. It is true that contracts are neither signed, sealed, nor reduced to writing. They are contracts, nevertheless, and, as such, must be voluntarily made and are then, and only then, mutually enforceable. Since either party can refuse to contract, the respodent had no more right to compel service than Slenderella had to compel her to patronize its business.

"There is a clear distinction between the nondiscrimination enjoined upon a public employee in the discharge of his official duties, which are prescribed by laws applicable to all, and his unlimited freedom of action in his private affairs. There is no analogy between a public housing project operated in the Government's proprietary capacity, wherein Negroes have equal rights, and a private home where there are no public rights whatever and into which even the King cannot enter.

"Private business' discrimination legal

"No one is obliged to rent a room in one's home; but, if one chooses to operate a boardinghouse therein, it can be done with a clientele selected according to the taste or even the whim of the landlord. This right of discrimination in private businesses is a constitutional one.

"The ninth amendment to the U.S. Constitution specifically provides: 'The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.'

"All persons familiar with the rights of English-speaking people know that their liberty inheres in the scope of the individual's right to make uncoerced choices as to what he will think and say; to what religion he will adhere; what occupation he will choose; where, when, how, and for whom he will work, and generally to be free to make his own decisions and choose his course of action in his private civil affairs. These constitutional rights of law-abiding citizens are the very essence of American liberties. For instance, they far outweigh in importance the fifth amendment to the U.S. Constitution which excuses criminals from giving evidence against themselves. It was, in fact, an afterthought. Our constitutional forefathers were chiefly concerned with the rights of honest men. They would have specified their rights with the same particularly that they did in regard to criminals if they had foreseen that courts would become unfamiliar with them.

"In Saturday Evening Post's article of April 4, 1959, page 32, entitled 'When a Negro Moves Next Door,' a Negro, who had bought a house in the white district of Ashburton in Baltimore, told the assembled neighbors: 'If you want to protect your home and your way of life * * * continue living in your own home. * * * Don't think you can escape the problem simply by putting your house up for sale and running away. * * * Even if you move far out in the suburbs. * * * There will be Negroes living near you. As a matter of fact, * * * if this area turns all Negro, I plan to move out to the suburbs with you.'

"If he does make such a move, he will be discriminating against Negroes. This he has a right to do for discrimination is but another word for free choice. Indeed, he would not be free himself if he had no right so to do. In dealing between men, both cannot be free unless each acts voluntarily, otherwise one is subjected to the other's will.

Right to exclusiveness essential

"Cash registers ring for Negroes as well as for a white man's money. Practically all American businesses, excepting a few having social overtones or involving personal services, actively seek Negro patronage for that reason. The few that do not serve Negroes adopt that policy either because their clientele insist upon exclusiveness, or because of the reluctance of employees to render intimate personal service to Negroes. Both the clientele and the business operator have a constitutional right to discriminate in their private affairs upon any conceivable basis. The right to exclusiveness, like the right to privacy, is essential to freedom. No one is legally aggrieved by its exercise.

"No sanction for destroying our most precious heritage can be found in the criminal statute cited by the majority opinion. It does not purport to create a civil cause of action. The statute refers to 'place[s] of public resort.' This phrase is without constitutional or legal significance. It has no magic to convert a private business into a governmental institution. If one man a week comes to a tailor shop, it is a place of public resort, but that does not make it a public utility or public institution, and the tailor still has the right to select his private clientele if he chooses to do so. As a matter of fact, the statute in question is not even valid as a criminal statute. Obviously, this is not the occasion, however, to demonstrate its unconstitutionality.

"The majority can find no sanction for violating the constitutional rights of the appellant by citing the conflicting decisions of foreign states for two conclusive reasons. (1) Only this court can declare the law or set a precedent in Washington. (2) Foreign courts are in substantial conflict on so many questions of law that they can neither be harmonized nor followed. Practical uniformity of laws has been attained between the States only by the uniform acts passed by the several legislatures.

"*Whites subjected to involuntary servitude*

"The majority opinion violates the 13th amendment to the U.S. Constitution. It provides, inter alia: 'Neither slavery nor involuntary servitude * * * shall exist within the United States.'

"Negroes should be familiar with this amendment. Since its passage, they have not been compelled to serve any man against their will. When a white woman is compelled against her will to give a Negress a Swedish massage, that too is involuntary servitude. (*Henderson* v. *Coleman*, 150 Fla. 185, 7 So. 2d 117 (1942).)

"Through what an arc the pendulum of Negro rights has swung since the extreme position of the Dred Scott decision: Those rights reached dead center when the 13th amendment to the U.S. Constitution abolished the ancient wrong of Negro slavery. This court has now swung to the opposite extreme in its opinion subjecting white people to involuntary servitude to Negroes." (341 P. 2d 867–869.)

AFFECTED BUSINESSES TRANSFORMED INTO PUBLIC UTILITIES

The Assistant Attorney General of the United States was asked whether it was the purpose of the proposed Interstate Public Accommodations Act of 1963 to place a businessman in the same category as a public utility that has to serve everybody. (Hearings, supra, 246.) He replied that the bill would not turn the designated places of business into public utilities. Ibid.

Judicial definitions of the term "public utility" controvert the position of the Assistant Attorney General. "Public utility" has been defined as follows:

"Generally speaking, the term 'public utility' comprehends any facility employed in rendering quasi-public services such as waterworks, gasworks, railroads, telephone, telegraph, etc.; the use and enjoyment of which facilities the public has a legal right to demand." (*Pulitzer Pub. Co.* v. *F.C.C.*, 94 F. 2d 249, 251 (D.C. Cir. 1937).)

"The true criterion by which to judge of the character of the use of any plant or system alleged to be a public utility is whether or not the public may enjoy it by right or by permission." (*Junction Water Co.* v. *Riddle*, 155 Atl. 887, 889 (1931).)

"A 'public utility' is a person, corporation, or other association carrying on an enterprise for the accommodation of the public, the members of which as such are entitled as of right to use its facilities, and it carries with it the duty of one attempting to furnish service to serve the public and to treat all persons alike without discrimination.

"In other words, a public utility is a person, corporation, or association engaged in a business affected with a public interest and therefore must serve everyone in the area where it operates who applies for service. It cannot refuse such service." (*Trico Elec. Corp., Inc.* v. *Corp. Comm's.*, 86 Ariz. 27, 339 P 2d 1046, 1054 (1959).)

There is no apparent difference between the duties to the consumer public that would be imposed upon the operators of the designated business establishments by the proposed public accommodations law and the obligations held to be inherent in the operation of a public utility.

CONCLUSION

The main thesis of the testimony of both the Secretary of Labor and the Under Secretary of Commerce was that the enactment of a Federal public accommodations law would have a broad, beneficial effect on the economy of those areas not presently subject to a public accommodations statute. The massive demonstrations in many nonsouthern areas are proof that the predicted degree of effect in southern areas of the proposed Federal Public Accommodation Act has not even been achieved in those areas already subject not only to a public accommodations statute but also to other so-called model laws covering housing, employment, and education as well.

Proponents of civil rights laws have cast serious doubts on the effectiveness of such laws to solve social, economic, and educational problems.

The Under Secretary of Commerce declared that—

"[He] did not mean to imply by [his] testimony that the North is complying 100 percent or has solved this problem completely.

"There is no question that this discrimination in the North still exists to a large degree, a large measure." (Hearings, supra, 735.)

"This is a national problem. This discrimination exists in every State in one form or another, in one shade or another." (Id. at 737.)

"This is a problem which confronts Negroes in every part of this country." (Id. at 746.)

The Governor of Minnesota acknowledged—

"The difficulties that Negroes and other members of minority groups have in securing housing, suitable employment, and equal educational opportunities in Minnesota." (Hearings, supra, 1114.)

This condition existed notwithstanding his opinion that—

"Generally speaking, Minnesota today has the best body of law and the best record of executive action against discrimination of any State in the Nation." (Ibid.)

The Governor of Wisconsin wrote that—

"It is unquestionable that the State of Wisconsin has made very substantial progress in the fight against discrimination.

"I wish it were possible to say that we have solved this problem altogether, but this would not be in accord with the facts. Discrimination is still especially acute, in my State, in the areas of housing and employment. Nevertheless, we have made some progress under our civil rights law in the direction of our ultimate goal of equal rights for all." (Hearings, supra, 1175.)

During the course of the hearings held by the Senate Committee on Commerce on this bill, the junior Senator from California called the attention of the Attorney General of the United States to current California laws, against discrimination in public facilities, employment, and housing. He then asked the Attorney General to advise him what, if anything, the public accommodations bill would add to those laws already in effect in California. The Attorney General replied:

"I don't believe it would, Senator. You have covered it in California. If any of these matters arose we would defer to the laws of California and those responsible for enforcing the law." (Hearings, supra, 81.)

The junior Senator from California then noted that he had a statement from the Governor of California that—

"Los Angeles is the third worst segregated city on housing in the United States and we do have our problems with reference to segregation in housing, in education, and in employment." (Ibid.)

The Attorney General replied that the Senator was correct.

The junior Senator from California then posed the following questions:

"After we pass all these laws, where do we go from there, when, as I say, in California we have the law and somehow the law has not gotten the job done?

"Would you indicate to this committee where you lay down the guidelines as to where we go after we pass this bill?" (Ibid.)

The Attorney General replied:

"Senator, as I have said frequently, I don't think the passage of this law and the other laws by themselves are going to get this job done. I think we are going to still have problems and this is not going to disappear. Assuming we have the passage of this law in September or October, this problem is not going to disappear in December or the following January or the January after that.

"We are going to have problems in this field in my judgment for some time to come. I think a lot of it goes back to education, vocational training and employment, basically to employment. As I said this morning, I think that the fact you can go to a restaurant or to a hotel or to a variety store doesn't mean much, if you don't have the money to shop there, you don't have the money to spend there, you don't have enough money to feed your children and you have been unemployed for 3 or 4 years. I think there has been a great deal of hypocrisy among us from the North as to what is happening in South Carolina, or Birmingham, or Louisiana, or Mississippi.

"We have many problems in our own communities which haven't been faced up to. We are spending so much time looking at what Bull Connor is doing in Birmingham that we haven't bothered to take the steps, for one reason or another, to solve the problems in our own community.

"I think the problems, to a great extent, rests with education and making jobs available for our people. But in New York, I think there is an FEPC law, there are housing laws, and you still have two to three times as high unemployment among Negroes as you do white people in some of those metropolitan areas in the State of New York." (Id. at 81–82.)

The Attorney General then declared that "the passage of legislation is not going to get this job completed." (Ibid.)

He concluded his response to the Senator's question with the statement that "I think the problem is going to be with us for a long period of time and the mere passage of this bill or any of the bills being considered under the category of civil rights bills at the present time is not going to give the complete answer. We have to do it, but there is a great deal more that needs to be done as well." (Ibid.)

The Attorney General had earlier declared that "The problem is not just in FEPC. There is an FEPC law which covers two-thirds of the United States at the present time. Most of our States, a majority of our States, by far, have FEPC laws. That is not putting the Negro to work in Harlem, N.Y., or New Jersey, or Chicago, or Los Angeles. They are unemployed. So this is not just a question of FEPC; it is a question of education. It is a question of vocational training. It is a question of school dropouts." (Hearings, supra, 64.)

As one reporter observed, "One stark fact stands out. If all the measures proposed thus far by the Kennedy administration were carried out, the racial conflict in Cambridge—and in innumerable other communities like this in the border States—would still be unresolved. The reason is sizable unemployment plus the unemployables, the functional illiterates, who are unfitted for jobs if they were available." (New York Post, Oct. 1, 1963, p. 29, col. 2-3.)

The managing editor of the New York Times commented on the civil rights laws in effect in New York City as follows:

"In my own city of New York, I think there's more phony progress been claimed than most any place I know. When the shakedown comes, you find the laws you've passed are not adequate" (U.S. News & World Report, Nov. 11, 1963, p. 87, col. 2).

According to a Washington Post editorial writer—

"Even if the compromise bill approved last month by the House Judiciary Committee were enacted without being watered down, 'it wouldn't work any miracles.'

"None of its provisions will improve the lot of Negroes in such places as Washington, New York City or Michigan." (Washington Post, Nov. 13, 1963, p. D2, col. 3-4.)

An analysis of the Constitution of the United States makes it crystal clear that title II of the proposed Civil Rights Act cannot be sustained under any rational interpretation of the 13th amendment, the 14th amendment, or the commerce clause. No legislation of this sort has ever been sustained under any of these provisions of our Constitution, and it would be an exercise in futility for the Senate to give its approval to such legislation now.

Proponents of this legislation have failed to prove that it would benefit the people of the United States; indeed, such evidence as they have adduced in an effort to support title II of the civil rights bill has in fact militated against its passage.

The portion of this bill to which I address myself today is bad legislation. It would do nothing to improve the lot of those for whose benefit it is allegedly intended. But it would do a great deal, more than any other legislation in my memory, to reduce the freedom of all our people. I will not be a party to an instrument of oppression, no matter what name it may be given. And I suggest that the American people, awakened to the tyrannical features of this legislation, will demand its defeat.

Mr. GORE. I should like briefly to respond to the statements made by the distinguished senior Senator from New York and the distinguished senior Senator from Rhode Island.

If Senators will recall carefully the statements of the very able senior Senator from New York, he did not say that section 601 did not provide the statutory authority not only for the order that is already issued, but one which has been urged upon the President that goes much further. He limited himself to saying that no enforcement procedure was provided for programs involving insurance or guarantee. In that he is correct. The enforcement procedure provided in section 602 does not apply to contracts of insurance or guarantee. So, the Senator is correct, but think about the implications of the exact statement he made. The bill is silent as to the procedures that would be used in implementing section 601 in this type of program.

The distinguished senior Senator from Rhode Island [Mr. PASTORE] made an emotional appeal about the travesty that it would be if Congress should fail to enact this provision. If so, Congress has committed many travesties. It has committed a travesty every time this issue has been presented for the last 10 years.

Since the debate began, I have refreshed my memory as to how the vocational educational program operates. I thought I remembered it, because I was superintendent of education in my State. But I have verified that, in Tennessee, the money is paid by the Federal Government to the State division of vocational education. The county pays a vocational education teacher. Twice a year from State funds a payment is made to the county, and the county is thus reimbursed in the amount of the Federal contribution.

The Senator speaks about a travesty. The county adjoining my own had the misfortune last year of its Negro high school burning to the ground. After public hearings and mass meetings, a decision was made not to rebuild a segregated school. Instead, Putnam County, Cookeville, Tenn., invited both Negro students and the Negro faculty to join in one central high school. That school has so operated for a year. I challenge the Senator from New York [Mr. JAVITS] or the Senator from Rhode Island to cite an example of good race relations in their States equal to that.

Yet in that county are two other high schools. In that county are many small rural elementary schools. Some of those rural schools operate on a segregated basis. Under title VI, if in that county one school is operated on a segregated basis—as I daresay will be the case for a few years—the Federal agency would be directed to institute proceedings to cut off the aid—to what? To the entire State.

How can the Federal Government reach that county, how can the Federal Government reach that city, except through the State? The contractual relationship is between the State and the Federal Government.

This would be a real travesty. Such action would work great hardship and deny to little children Federal aid and vocational education because of something over which they have no control.

The whole thrust of this title is that we must correct all our imperfections overnight. Unless we do so, the State will be coerced by a denial of Federal funds. Unless we do so overnight, the county may be denied participation in one program after another.

True, there are safeguard procedures; but they would not delay action very long. What is an appeal under the Administrative Procedure Act worth? Practically nothing. Who would determine what constitutes discrimination? Who would establish the rules and regulations by which aid would be cut off? Not Congress. Under this bill we would delegate that authority to the executive branch. It can become very oppressive. This title would, indeed, become a travesty by denying aid to needy people, to hungry children. How could a Federal contribution be made to the school lunch program in a county if any part of that county system was operated on a segregated basis?

I live with this problem in my State every day, and every hour of every day. Some Senators may think it can be solved overnight. But I say that better relations between the races will not come from street riots; they will not come from coercion. They will come—they are coming—through education, tolerance, good will, and understanding. This requires time.

Title VI is based on the theory that discrimination must be eliminated immediately, or else, after a few procedural steps, aid will be cut off to any county or to any State in which discrimination—whatever that is—is practiced, the definition of the discrimination to be made by a Federal official not elected by the people.

I say this is a fundamental issue. Does Congress wish to confer upon the Executive power that is, in many respects, greater than would be an item veto? If we wish to surrender the power to prescribe conditions under which Federal assistance will be provided, title VI is tailor made for that purpose.

Mr. ALLOTT. Mr. President, I yield myself 5 minutes.

I have listened with great interest to the remarks of the distinguished Senator from Tennessee, for whom I have great respect.

Like others who have spoken before me this afternoon, I think the bill represents nothing if we continue to use tax moneys which are collected from every person in the country in behalf of one group. This is not a punitive section. It is not meant to be punitive. It is only meant to be fair. Anyone who reads sections 601, 602, and 603 can come to no other conclusion. Section 601 provides:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

How could that language be more clear? Is there any Member of this body who will disagree with the stated purpose of that section? The distinguished Senator from Connecticut [Mr. RIBICOFF] stated this unequivocally on the floor of the Senate a few weeks ago. He said that if anyone disagreed with the purpose of that provision, he should so state at the time. No one has attempted to answer the Senator in the interim.

I pointed out in a speech on the floor of the Senate a few days ago how the United States in various parts of its legislative program, by way of railroad land grants, by way of the Hatch Act, by way of the Hill-Burton Act, by way of the

Federal Highway Act—in every program we have enacted to provide assistance to the States—has imposed limitations, requirements, and ground rules.

For example, in the Hill-Burton Act, or at least in the regulations pursuant to it, Congress provided which way doors in hospitals must open; it directed how big the hospital must be; how many rooms it must have; the number of beds in a room, and so on, almost ad infinitum.

So if the Federal Government is to help the States or other local governments or schools by way of Federal programs, taking money from every person in the country, it seems to me, that we have some obligation to make certain that no person is discriminated against.

The distinguished Senator from Tennessee has stated that we are trying to correct everything overnight.

Line 7, page 36, of the substitute reads:

> No such rule, regulation, or order shall become effective unless and until approved by the President.

Surely he does not think the President is going to get out a meat cleaver and chop off all these programs immediately until the conciliation, reasoning, and discussion which is provided for by section 602 have taken place. I do not believe the President would do it. I do not believe President Eisenhower would have done it, and I do not believe any other President who must take action under this title of the bill would do it until every effort had been made to effect conciliation.

Mr. President, the second provision of section 602 provides that no action shall be taken until the department or agency concerned has advised the appropriate person or persons of failure to comply with the requirements and have determined that compliance cannot be secured by voluntary means. It states specifically that it does not apply to the whole State, as the Senator would say, but applies only to that particular political entity or part thereof or other recipient as to whom such a finding has been made.

So, Mr. President, if we are going to undertake Federal programs we have to expect to limit these programs. I have many times endeavored to keep these provisions from being oppressive. I do not think this is oppressive.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ALLOTT. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 1 more minute.

Mr. ALLOTT. I do not think this is oppressive. Each one of us must decide whether under the first few lines of this title we are able to say that any person in this country because of his race, color, or national origin would be excluded from any Federal program, grant, or loan—grant, or loan to which he contributes equally with each and every one of the other people of the country.

Mr. TOWER. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Texas is recognized for 1 minute.

Mr. TOWER. Mr. President, if State and local governments are going to allow themselves to be reduced to a state of abject dependency on the Federal Government and to operate with Federal funds, they must be made to understand what the consequences will be.

I have labored long and hard against this bill, because of the bad provisions in it.

However, I regard this provision as satisfactory; and, consistent with my previous actions on the provisions of the bill, I support this provision, and I will vote against the amendment of the Senator from Tennessee.

Mr. RIBICOFF. Mr. President, I yield myself 2 minutes.

Mr. President, I think we should clearly understand the answer to the question raised by the Senator from Tennessee.

First of all, the cutting off of Federal funds will be the last step, not the first one. Second, even when a fund cutoff is involved, the cutoff will be limited to the place where the discrimination is occurring. Thus, in terms of two schools in a town—one segregated and one not segregated, it is clear that the effect of title VI would be specifically limited to the particular program or part thereof in which segregation was involved. Therefore, under the rules and regulations and the statutory language itself, it is clear that the allocation of the Federal funds could be ended only to the one school in which segregation was being practiced, and in no way would any harm or disadvantage be visited upon the other school—or, in the case of whole towns, the town—which had desegregated. Only where the discrimination occurs are the Federal funds in jeopardy.

Mr. LONG of Louisiana. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 3 minutes.

Mr. LONG of Louisiana. Mr. President, I regard this section as an unwise one, although I have little hope as to what the Senate will do about it.

In Louisiana the Louisiana Legislature passed a "suitable home" provision, similar to laws which a number of other States including at least one Northern State had on their statute books. Some persons objected to that law; some of them claimed the Louisiana law was discriminatory. The Louisiana law was aimed at preventing the use of Government funds for the benefit of persons engaged in immoral practices. The Louisiana law stated, in effect, that if a woman was living in sin, if she was living in a home in which there was not a proper moral climate, if she also had children in the home, support would not be given by the State of Louisiana to that sort of thing. Of course, at least one Northern State thought of that first; and then the Louisiana Legislature passed that law.

The Secretary of Health, Education, and Welfare, now the junior Senator from Connecticut [Mr. RIBICOFF], was asked to cut off Federal aid to Louisiana.

What happened? Two acts of Congress were passed—and most of the Senators now present voted for them—to give Louisiana 16 months in which to work out that problem; and Louisiana did so. About 80,000 individual cases were involved. But the problem was worked out, with the result that 78,000 of them remained on the rolls and continued to receive that financial aid, while Louisiana worked out the problem with regard to the other 2,000.

It was necessary for the Louisiana Legislature to pass another act, to satisfy the Federal requirements; and most of the Senators now serving in this body voted again—a second time—to give Louisiana time to work out that problem; and Louisiana did work it out, to the complete satisfaction of the Federal authorities, as well as the State authorities.

But under the pending proposal, Louisiana would have only 30 days in which to handle this problem; and if at the end of the 30 days it had not been handled to the satisfaction of the Federal authorities, the Federal funds heretofore going to Louisiana would be cut off. In short, that aid to both the white people who were being helped and the colored people who were being helped would be cut off, and thereafter none of them would receive any of the aid, even though the only claim was that there had been intent to discriminate against about 2 percent of the 80,000 persons.

Thus, Mr. President, even though only perhaps 2,000 were involved in such a claim, all 80,000 would, from that time on, no longer receive such aid, and thereafter would be faced with the prospect of starvation; starvation would be their lot while Louisiana was attempting to make a satisfactory adjustment.

The Governor of Louisiana said:

> We have no choice. We will take care of the most needy cases with the funds we have left, and the rest of them will just have to starve.

Given 16 months to work out the problem, tempers cooled and reason prevailed. This calm reconciliation of divergent views could not occur under title VI.

What concerns me now particularly is section 601:

> No person in the United States shall be subjected to discrimination under a program or activity receiving Federal financial assistance.

Mr. President, if a court is to be allowed to come to the conclusion—a conclusion which some courts may wish to reach—that a building and loan association is receiving Federal financial assistance because of Federal Government insurance of its funds——

The PRESIDING OFFICER. The time the Senator from Louisiana has yielded to himself has expired.

Mr. LONG of Louisiana. Mr. President, I yield myself 2 more minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 2 more minutes.

Mr. LONG of Louisiana. Or, Mr. President, if it were decided that Federal financial assistance was being received by a bank because its deposits were insured by the Federal Deposit Insurance Corporation, then this section could be construed to mean that whenever a citizen wished to obtain a bank loan, the Federal Government would have authority to dictate the terms and conditions of the loan. The Federal Government could decree open housing throughout the country; and the same could be done in connection with the FHA, the VA, the banks under FDIC, and the building and loans whose deposits are insured to require open housing throughout the Nation, as a condition precedent to a loan, although in most States open housing has been voted down by a margin of more than 2 to 1, and only a few cities have open housing.

On the other hand, we know very well how the Supreme Court would be likely to decide such cases, for the Court seems to be bent on achieving the extreme—almost as much as the Department of Justice is.

The result could be, as the Senator from Tennessee has pointed out, an open-housing law for the entire Nation, contrary to everything that Senators have said is intended.

Mr. KEATING. Mr. President, I yield myself 2 minutes.

If there is anything in the whole field of civil rights that is unconstitutional, illegal, and immoral, it is to have the tax collectors take money out of the pockets of each taxpayer in the Nation without asking what the color of his skin is, or what his religion is, or his nationality background and then have the Federal Government use that money to help build or operate a facility which is segregated. That is clearly unjust, illegal, and immoral.

Title VI is intended to put an end to this injustice. While it is not strong enough unequivocally to eliminate the practice, it is a step forward. To strike title VI from the bill would be to emasculate the legislation at its most important point.

We have been told here time and again when amendments have been offered to other bills which would put an end to this illegal and immoral practice, that we should not support such amendments. We have been told that such language properly belongs in a civil rights bill which would some day come before us.

Now, it so happens that I have voted for all of those amendments because I thought it was right in each and every instance. This is the time, however, when we can put this principle into the general law, and the time for this idea, as our minority leader said, has come. If there is one single idea embodied in this bill which is sensible, it is embodied in this title VI. To eliminate it would be a tragedy and a travesty on justice and I hope this amendment will be defeated.

Mr. HUMPHREY. I yield myself 1 minute. I want to merely clarify one point that has been raised which needs to be set at rest. First of all, section 601 states general policy. Section 602 states the means of effectuating that general policy, the implementation and the exclusion. The exclusion relates to, as the language says, other than a contract of insurance or guarantee. So FDIC—Federal Deposit Insurance Corporation—and all activities pertaining thereto are eliminated. The Federal Housing Administration is eliminated. So let us not have any more talk about that.

Finally, may I say that the very point that was raised by the Senator from Louisiana of how the Congress and how the administration gave time for a State to work out these difficulties is exactly what is involved in this measure. It is exactly that. The procedures are set up for guaranteeing that.

It is only after the order has been issued, which may take months, Mr. President, after weeks and weeks and weeks of consultation, and voluntary compliance, it may then, and only then, 30 days after that, that a committee of Congress will be notified before the order can be effective. It must rest with the committee of Congress some 30 days.

So, Mr. President, many of these ghosts should be laid at rest or should evaporate into ether.

Mr. McCLELLAN. I yield myself 2 minutes. I wish to commend the distinguished Senator from Tennessee for offering this amendment. I had understood in the course of time when the bill came up for consideration that he would offer an amendment. Anticipating that it would be offered before any gag rule was invoked, I had prepared some remarks on the issue. I had prepared a speech that I hoped to deliver that goes into the history of Federal assistance to the States and to subordinate agencies of government. I had hoped that I might have had the opportunity, Mr. President, to have delivered this address at a time when there was time and opportunity to do it. Since I do not have that opportunity now, and since you have the gag rule, and since we can't speak on these issues at any length and with a purpose of trying to actually present the issues, I am going to ask unanimous consent. Although I am silent, I have been silenced by this cloture rule, I am going to ask unanimous consent, Mr. President, that I may at this point insert in the RECORD the speech that I had prepared, together with the attachments, the tables, and illustrations, and matters attached to it which I had intended to ask unanimous consent that I might insert in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLELLAN. I will ask that that be done at the conclusion of my remarks. I want to say for my viewpoint that this title of this bill is clearly unconstitutional. It is one of the greatest evils that the bill contains. It constitutes a complete abdication of congressional responsibility when we delegate to the heads of the different agencies of Government, Mr. President, the authority to legislate.

The PRESIDING OFFICER. The time of the gentleman has expired.

Mr. McCLELLAN. I yield myself 1 more minute. This is the authority to legislate in this field for the rescission or cancellation or withholding of aid to the States and to the counties and the municipalities throughout this country.

Mr. President, this section, this title of the bill, makes all States, counties, and municipal institutions receiving or administering Federal aid and assistance subservient to and compels their obedience to Federal intimidation, coercion, and bureaucratic dictatorship. We are moving toward a Federal dictatorship. This is another cog in that wheel. We are going to finally move beyond the point of return, Mr. President. It is a sad hour. It is a sad hour in American history when this legislation is passed—the entire bill and particularly this title.

I understand I have used 3 minutes of my hour's time; am I correct?

The PRESIDING OFFICER. The Senator is correct.

EXHIBIT 1

INTRODUCTORY SECTION

I desire to address my remarks to title VI of H.R. 7152, the provisions of which are clearly unconstitutional. And of equal importance is the fact that, in its present form, title VI, if enacted into law will undermine, impair and maybe destroy the vast system and network of programs and activities by which the Federal Government is providing essential financial aid and assistance to State and local government for more than 100 years. I might add further that these programs and activities now involve Federal expenditures to more than 90,000 State and local governmental jurisdictions, throughout the United States and its territories. They now average in excess of $10 billion annually, and are expected to reach $10.6 billion in fiscal year 1965.

In essence, title VI would authorize and require each Federal department and agency responsible for the administration of a Federal assistance or grant-in-aid program, to terminate or refuse to grant that assistance as to any recipient whenever there has been a finding of discrimination or a denial of benefits because of race, color, or national origin. "Discrimination" is not defined. To accomplish this objective, each such department and agency would be required to establish rules, regulations or orders of general applicability, consistent with the achievement of the objectives of the statute authorizing the financial assistance, and subject to presidential approval. Although an attempt is made to provide for some type of hearing and findings of a failure to comply with requirements established by the Federal agency or department concerned, the language used is so vague that it is not possible to determine just what is required or intended.

The provisions of this title would delegate to numerous unnamed individuals in the executive branch the power to legislate with respect to hundreds of programs and activities authorized by specific statute, without meeting the constitutional requirements for such a delegation of power. You know and I know that it has long been well established that Congress cannot delegate its power to legislate to the President or other executive branch officials, without meeting certain requirements. These requirements may be summarized as follows: Congress must define the subject of the delegation, and provide a recognizable standard or criterion to guide the agent to whom legislative powers are delegated. The delegation of an unconfined discretion is equivalent to conferring legislative power on the executive and is therefore invalid.

Now who established these requirements? They are not mine, Mr. President; nor are they those of the senior Senator from Georgia. These requirements were established by the Supreme Court of the United States in a series of landmark cases.

The general principles here involved were well stated in *Hampton & Co.* v. *United States* (276 U.S. 394 (1928)), in which the

Supreme Court sustained a flexible tariff act that authorized the President to raise or lower tariff rates by 50 percent in order to equalize the costs of production in the United States and competing foreign countries.

Mr. Chief Justice Taft stated the constitutional requirements for delegation by Congress, as follows:

"The well-known maxim 'delegata potestas non potest delegari' (a delegate cannot delegate or transfer his powers), applicable to the law of agency in the general and common law, is well understood and has had wider application in the construction of our Federal and State Constitutions than it has had in private law. The Federal Constitution and State constitutions of this country divide the governmental power into three branches. The first is the legislative, the second is the executive, and the third is the judicial, and the rule is that in the actual administration of the Government, Congress or the legislature should exercise the legislative power; the President or the State executive, the Governor, the executive power; and the courts or the judiciary the judicial power, and in carrying out that constitutional division into three branches, it is a breach of the national fundamental law if Congress gives up its legislative power and transfers it to the President.

* * * * *

"The field of Congress involves all and many varieties of legislative action, and Congress has found it frequently necessary to use officers of the executive branch within defined limits, to secure the exact effect intended by its acts of legislation, by vesting discretion in such officers to make public regulations interpreting a statute and directing the details of its execution, even to the extent of penalizing a breach of such regulations.

* * * * *

"The true distinction * * * is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring an authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter, no valid objection can be made.

The Congress may not delegate its purely legislative power to a commission but having laid down the general rules of action under which a commission shall proceed, it may require of that commission the application of such rules to particular situations and the investigation of facts, with a view to making orders in a particular matter within the rules laid down by the Congress."

In *Panama Refining Co.* v. *Ryan*, 293 U.S. 388 (1935), a leading case on the subject of delegation, the Supreme Court held unconstitutional a provision of the National Industrial Recovery Act that authorized the President to prohibit the interstate shipment of oil produced or withdrawn in violation of State regulation. The Court declared that an absolute and uncontrolled discretion had been vested in the executive, since the statute stated no policy and provided no standard by which the validity of the President's action could be judged. Neither does title 6 of this bill provide proper standards.

In the course of that opinion, Mr. Chief Justice Hughes discussed section 9(c) of the act in question, which conferred the basic authority on the President, observing:

"We examine the context to ascertain if it furnishes a declaration of policy or a standard of action, which can be deemed to relate to the subject of section 9(c) and thus to imply what is not there expressed.

* * * * *

"This general outline of policy contains nothing as to the circumstances or conditions in which transportation of petroleum or petroleum products should be prohibited—nothing as to the policy of prohibiting or not prohibiting the transportation of production exceeding what the States allow. * * * It is manifest that this broad outline is simply an introduction of the act, leaving the legislative policy as to particular subjects to be declared and defined, if at all, by the subsequent sections."

After pointing out that the Congress had made no findings and had failed to provide standards, the Court continued:

"The Congress left the matter to the President without standard or rule, to be dealt with as he pleased. The effort by ingenious and diligent construction to supply a criterion still permits such a breadth of authorized action as essentially to commit to the President the functions of a legislature rather than those of an executive or administrative officer executing a declared legislative policy. We find nothing in section 1 which limits or controls the authority conferred by section 9(c).

* * * * *

"The question whether such a delegation of legislative power is permitted by the Constitution is not answered by the argument that it should be assumed that the President has acted, and will act, for what he believes to be the public good. The point is not one of motives, but of constitutional authority, for which the best of motives is not a substitute.

* * * * *

"The Constitution provides that 'All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.' * * * And the Congress is empowered 'To make all laws which shall be necessary and proper for carrying into execution' its general powers. * * * The Congress manifestly is not permitted to abdicate or to transfer to others, the essential legislative functions with which it is thus vested. Undoubtedly legislation must often be adapted to complex conditions involving a host of details with which the National Legislature cannot deal directly. The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicality, which will enable it to perform its functions in laying down policies and establishing standards, while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the Legislature is to apply. Without capacity to give authorizations of that sort we should have the anomaly of a legislative power which in many circumstances calling for its exertion would be but a futility. But the constant recognition of the necessity and validity of such provisions and the wide range of administrative authority which has been developed by means of them cannot be allowed to obscure the limitations of the authority to delegate, if our constitutional system is to be maintained."

In discussing the basis for the Court's holding, Mr. Chief Justice Hughes pointed out that if the statute in question authorizing the delegation were to be upheld, "Instead of performing its lawmaking function, the Congress could at will and as to such subjects as it chooses transfer that function to the President or other officer or to an administrative body. The question is not of the intrinsic importance of the particular statute before us, but of the constitutional processes of legislation which are an essential part of our system of government."

In *Schechter Poultry Corp.* v. *United States*, 205 U.S. 495 (1935), the Supreme Court held unconstitutional section 3 of the National Industrial Recovery Act on the ground that the codemaking authority vested in the President was an unconstitutional delegation of legislative power.

In the course of the opinion, Mr. Chief Justice Hughes said:

"Second. The question of the delegation of legislative power. * * * The Congress is not permitted to abdicate or to transfer to others the essential legislative functions with which it is thus vested. We have repeatedly recognized the necessity of adapting legislation to complex conditions involving a host of details with which the national legislature cannot deal directly. We pointed out in the Panama Company case that the Constitution has never been regarded as denying to Congress the necessary resources of flexibility and practicality, which will enable it to perform its function in laying down policies and establishing standards, while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the legislature is to apply. But we said that the constant recognition of the necessity and validity of such provisions, and the wide range of administrative authority which has been developed by means of them, cannot be allowed to obscure the limitations of the authority to delegate, if our constitutional system is to be maintained.

* * * * *

"Section 3 of the Recovery Act is without precedent. It supplies no standards for any trade, industry, or activity. It does not undertake to prescribe rules of conduct to be applied to particular states of fact determined by appropriate administrative procedure. Instead of prescribing rules of conduct, it authorizes the making of codes to prescribe them. For that legislative undertaking, section 3 sets up no standards, aside from the statement of the general aims of rehabilitation, correction, and expansion described in section 1. In view of the scope of that broad declaration, and of the nature of the few restrictions that are imposed, the discretion of the President in approving or prescribing codes, and thus enacting laws for the government of trade and industry throughout the country, is virtually unfettered. We think that the codemaking authority thus conferred is an unconstitutional delegation of legislative power."

Mr. Justice Cardozo, in a concurring opinion, in which he was joined by Mr. Justice Stone, said:

"The delegated power of legislation which has found expression in this code is not canalized within banks that keep it from overflowing. It is unconfined and vagrant."

The same is true in this bill.

"Here in the case before us, is an attempted delegation not confined to any single act nor to any class or group of acts identified or described by reference or a standard. Here in effect is a roving commission to inquire into evils and upon discovery of them correct them. * * * This is delegation running riot. No such plenitude of power is susceptible of transfer."

With these authoritative statements of law in mind, let us now examine the specific provisions of title VI to determine whether the required standards and criterion have been met.

Section 601, which purports to set forth the policy, provides: "Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

What standards or criterion do we find here? The principal words appear to be "benefits," "discrimination," and "Federal financial assistance." Are they defined anywhere in this title? The answer is "No." What do we mean by "discrimination"? What do we mean by the term "on the ground of race, color, or national origin"? Suppose a very pale, anemic-looking man applies for a position working on an interstate highway which is being constructed under the national highway program. What happens if the foreman or employing official looks at him and says, "You are too pale. I don't believe you have the strength to perform this type of labor." Can our anemic friend file a complaint with the Department of Commerce? Is this discrimination within the meaning of section 601?

Coming to the term "Federal financial assistance," just what does this mean? According to testimony of the Attorney General before the Committee on the Judiciary of the House of Representatives on a similar title, there are several hundred programs and activities involved. (Hearings on Civil Rights, October 15–16, 1963, serial No. 4, part IV, p. 2731.) Does anyone really know just what programs are intended to be covered here?

Replying to a request by Chairman CELLER, of the House Judiciary Committee, for a list of such programs, the Deputy Attorney General submitted a list which I shall insert in the RECORD at this point:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL
Washington, D.C., December 2, 1963.

Congressman EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D.C.

DEAR MR. CELLER: This is in response to your request for a list of programs and activities which involve Federal financial assistance within the scope of title VI of the proposed civil rights bill, H.R. 7152.

For the reasons outlined below, it has been found to be impossible to compile any list which is accurately responsive to your request or satisfactorily representative of the amounts of Federal financial assistance which potentially could be affected by the provisions of title VI. The list attached should not, therefore, be taken at face value or used without an understanding of its limitations. Title VI, as set forth in Committee Print No. 2, dated October 30, 1963, provides in part:

"SEC. 601. Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

"SEC. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity by way of grant, contract, or loan, shall take action to effectuate the provisions of section 601 with respect to such program or activity."

Title VI would apply to programs and activities which receive Federal financial assistance, by way of grant, contract, or loan. I attach a list of appropriations, revolving funds, and trust funds, part or all of which may involve such Federal financial assistance. The list is keyed to line items in the 1964 budget, and is based on financial data furnished by the Bureau of the Budget. The following, however, were omitted: (1) New programs which, although listed in the budget, are not yet authorized and are the subject of proposed legislation and (2) programs which were in liquidation after fiscal year 1962. A program description for each item can be found in the appendix to the 1964 budget on the page indicated after the program title on the attached list.

The dollar figures in the table are the preliminary actual expenditures for the fiscal year 1963 as reported by the Treasury Department. In the case of revolving and trust funds, the expenditures shown are on a net basis except in the case of two trust funds indicated by footnotes in the attached table, which are shown on a gross expenditure basis in the Budget and Treasury reports. Minus figures indicate net revenues.

The following comments and observations are applicable to the attached table.

1. Activities wholly carried out by the United States with Federal funds, such as river and harbor improvements and other public works, defense installations, veterans' hospitals, mail service, etc., are not included in the list. Such activities, being wholly owned by, and operated by or for, the United States, cannot fairly be described as receiving Federal "assistance." While they may result in general economic benefit to neighboring communities, such benefit is not considered to be financial assistance to a program or activity within the meaning of title VI.[1]

For similar reasons, ordinary Government procurement is not considered to be subject to title VI. All such direct activities of the Federal Government are, of course, subject to the constitutional requirement of nondiscrimination embodied in the fifth amendment; in addition, contracting related to them is subject to the nondiscrimination requirements of Executive Order No. 10925 and would be subject to the authority conferred by section 711(b) of H.R. 7152.

2. A number of programs administered by Federal agencies involve direct payments to individuals possessing a certain status. Some such programs may involve compensation for services rendered, or for injuries sustained, such as military retirement pay and veterans' compensation for service-connected disability, and perhaps should not be described as assistance programs; others, such as veterans' pensions and old-age survivors, and disability benefits under title II of the Social Security Act, might be considered to involve financial assistance by way of grant. But to the extent that there is financial assistance in either type of program, the assistance is to an individual and not to a "program or activity" as required by title VI. In any event, title VI would not substantially affect such benefits, since these payments are presently made on a nondiscriminatory basis, and since discrimination in connection with them is precluded by the fifth amendment to the Constitution, even in the relatively few instances in which they are not wholly federally administered. Accordingly, such programs are omitted from the list. For similar reasons, programs involving direct Federal furnishing of services; such as medical care at federally owned hospitals, are omitted.

3. Programs of assistance to foreign countries, to persons abroad, and to unincorporated territories and possessions of the United States, are omitted, since the application of title VI is limited to persons in the United States. Programs of assistance to Indians are also omitted. Indians have a special status under the Constitution and treaties. Nothing in title VI is intended to change that status or to preclude special assistance to Indians. Programs which involve Federal payments to regular school districts which provide education to Indians as well as non-Indians have, however, been included since such programs can be regarded as a form of assistance to the school district.

4. The dollar amounts shown do not in each case afford a reliable indication of the magnitude of the assisted program or activity. In the number of cases, the total Federal expenditures for a given line item in the budget have been shown even though only a small portion or aspect of the program covered by that line item might involve financial assistance within the scope of title VI.[2] On the other hand, certain very large items which may involve relatively very small amounts of Federal financial assistance have been omitted to avoid undue distortion. Examples include: AEC, a small part of whose expenditures may have been spent on assistance payments to States, localities, and private entities; research and development activities related to national defense and other direct governmental functions, a small part of which involve grants, fellowships, and other assistance payments; and procurement, some part of which may possibly be considered to involve special assistance to contractors. Similarly, while programs involving donation of commodities, in kind, would appear to be within the scope of title VI, and such programs have been included in the attached list where clearly identifiable, no attempt has been made to identify, or place a dollar figure on, all programs involving donation of property, or disposition at less than fair value.

5. It should not be assumed that each program shown on the attached list will be significally affected by the enactment of title VI. Title VI expresses a general, across-the-board Government policy, which has potential impact on a great number and variety of programs. The attached list attempts to identify those programs which might potentially be affected, although some may have been overlooked. In fact, however, title VI is expected to have little practical impact on many of the programs listed, for the reason that they are now being administered in a manner which conforms with the policy declared by title VI. Indeed, explicit nondiscrimination policies have been adopted by executive action in recent years in many areas, including housing, airports, and employment on federally assisted construction, while other programs either do not present practical possibilities for discrimination, or have long been administered in ways which preclude discrimination.

The impact of title VI is further limited by the fact that it relates only to participation in, receipt of benefits of, or discrimination under, a federally assisted program. As to each assisted program or activity, therefore, title VI will require an identification of those persons whom Congress regarded as participants and beneficiaries, and in respect of whom the policy declared by title VI would apply. For example, the purpose of benefit payments to producers of agricultural commodities, under 7 U.S.C. 608, is to "establish and maintain * * * orderly marketing conditions for agricultural commodities in interstate commerce" (7 U.S.C. 602). The act is not concerned with farm employment. As applied to this Federal assistance program, title VI would preclude discrimination in connection with the eligibility of farmers to obtain benefit payments, but it would not affect the employment policies of a farmer receiving such payments.

The effect of title VI, on most of the programs shown on the attached list, will be to provide statutory support for action already being taken to preclude discrimination, to make certain that such action is continued in future years as a permanent part of our national policy, and to require each department and agency administering a program which may involve Federal financial assistance to review its administration to make sure that adequate action has been taken to preclude discrimination and to take any action which may be shown to be necessary by such review.

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[1] Reclamation projects have, however, been included because they may include construction under contract of some facilities which will be operated and ultimately owned by non-Federal entities, and may to that extent be considered to involve a form of financial assistance to such entities.

[2] For example, the item listed as "forest protection and utilization" under the Department of Agriculture is shown at its total 1963 expenditure of $197,242,562 although only a small amount of that total is to be spent for State and local grants which come within the scope of title VI. Costs of administration have also been included except where they appear as a separate line item in the budget.

In addition, title VI will override those provisions of existing Federal law which contemplate financial assistance to "separate but equal" facilities. Assistance to such facilities appears to be contemplated under the Hill-Burton Act (42 U.S.C. 291e(f)—hospital construction), the second Morrill Act (7 U.S.C. 323—land-grant colleges) and Public Law 815 (20 U.S.C. 636(b) (F)—school construction). The U.S. Court of Appeals of the Fourth Circuit has recently held the "separate but equal" provision of the Hill-Burton Act unconstitutional. *Simkins* v. *Moses Cone Memorial Hospital*, decided November 1, 1963. Title VI would override all such "separate but equal" provisions without the need for further litigation, and would give, to the Federal agencies administering laws which contain such provisions, a clear directive to take action to effectuate the provisions of title VI.

I regret that it is impossible to supply more meaningful dollar figures with respect to programs of assistance potentially affected by title VI. As indicated, the amounts set out in the accompanying chart are almost all total expenditure figures, rather than the considerably smaller portions thereof which could be affected by title VI. Of course, most of the programs of Federal assistance included on the list are already administered on a nondiscriminatory basis, and, thus, though within the literal scope of title VI and included on the list, would not be affected by enactment of the title. I particularly stress the regrettable, though unavoidable, difficulties inherent in the attached list in order to forestall any misunderstanding or distortion of its significance or meaning by either proponents or opponents of the legislation.

Sincerely yours,

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

Programs which may involve Federal financial assistance

	1963 expenditures
Executive Office of the President:	
Office of Emergency Planning: State and local preparedness (p. 52)	0
Funds appropriated to the President:	
Disaster relief: Disaster relief (p. 59)	$30,802,900
Expansion of defense production: Revolving fund, Defense Production Act (p. 60)	−56,513,274
Public works acceleration: Public works acceleration (p. 86)	61,843,808
Transitional grants to Alaska: Transitional grants to Alaska (p. 87)	3,110,295
Department of Agriculture:	
Cooperative State Experiment Station Service: Payments and expenses (p. 95)	37,992,460
Extension Service: Cooperative extension work, payments and expenses (p. 96)	74,687,584
Soil Conservation Service:	
Watershed protection (p. 100)	53,092,516
Flood prevention (p. 103)	26,488,410
Great Plains conservation program (p. 104)	9,747,075
Resource conservation and development (p. 105)	0
Agricultural Marketing Service:	
Payments to States and possessions (p. 113)	1,432,763
Special milk program (p. 113)	95,369,634
School lunch program (p. 114)	169,597,189
Removal of surplus agricultural commodities (p. 116)	131,805,115
Agricultural Stabilization and Conservation Service:	
Expenses, Agricultural Stabilization and Conservation Service (p. 122)	87,415,517
Sugar Act program (p. 125)	76,929,888
Agricultural conservation program (p. 125)	211,194,214
Land-use adjustment program (p. 127)	2,000,000
Emergency conservation measures (p. 127)	2,701,427
Conservation reserve program (p. 127)	304,342,305
Commodity Credit Corporation:	
Price support and related programs and special milk (p. 132)	3,486,356,042
National Wool Act (p. 137)	69,164,861
Rural Electrification Administration: Loan authorizations (p. 148)	331,656,082
Farmers Home Administration:	
Rural housing grants and loans (p. 151)	184,203,524
Rural renewal (p. 153)	0
Direct loan account (p. 153)	58,948,965
Emergency credit revolving fund (p. 156)	7,888,613
Rural housing for the elderly revolving fund (p. 155)	0
Forest Service:	
Forest protection and utilization (p. 170)	197,242,562
Assistance to States for tree planting (p. 176)	1,203,697
Payments to Minnesota (Cook, Lake, and St. Louis Counties) from the national forests fund (p. 177)	125,366
Payments to counties, national grasslands (p. 177)	393,674
Payments to school funds, Arizona and New Mexico, act of June 10, 1910 (p. 177)	80,462
Payments to States, national forests fund (p. 177)	27,235,140
Department of Commerce:	
Area Redevelopment Administration:	
Grants for public facilities (p. 188)	476,848
Area redevelopment fund (p. 188)	−499,532
Office of Trade Adjustment: Trade adjustment assistance (p. 202)	2,820
Maritime Administration:	
Ship construction (p. 223)	107,483,152
Operating-differential subsidies (p. 224)	220,676,686
Maritime training (p. 227)	3,297,777
State marine schools (p. 227)	1,420,724
Bureau of Public Roads:	
Forest highways (p. 237)	38,525,999
Public lands highways (p. 239)	2,128,990
Control of outdoor advertising (p. 239)	0
Highway trust fund (p. 241)	[1]3,017,268,879
Department of Defense:	
Military personnel:	
National Guard personnel, Army (p. 253)	212,109,751
National Guard personnel, Air Force (p. 254)	45,366,036
Operation and maintenance:	
Operation and maintenance, Army National Guard (p. 267)	174,059,283
Operation and maintenance, Air National Guard (p. 268)	193,258,395
National Board for Promotion of Rifle Practice, Army (p. 269)	650,368
Military construction:	
Military construction, Army National Guard (p. 306)	18,383,216
Military construction, Air National Guard (p. 306)	21,912,946
Civil defense:	
Operation and maintenance, civil defense (p. 313)	34,457,221
Research and development, shelter, and construction, civil defense (p. 314)	11,810,129
Civil functions: Payments to States, Flood Control Act of 1954 (p. 378)	1,613,757
Department of Health, Education, and Welfare:	
Office of Education:	
Promotion and further development of vocational education (p. 402)	34,330,192
Further endowment of colleges of agriculture and mechanic arts (p. 402)	11,950,000
Department of Health, Education, and Welfare—Continued	
Office of Education—Continued	
Grants for library services (p. 402)	$7,256,890
Payments to school districts (p. 402)	276,910,035
Assistance for school construction (p. 403)	66,241,942
Defense educational activities (p. 404)	198,335,518
Expansion of teaching in education of the mentally retarded (p. 406)	959,631
Expansion of teaching in the education of the deaf (p. 406)	1,382,635
Cooperative research (p. 406)	5,015,385
Foreign language training and area studies (p. 407)	0
College of agriculture and mechanic arts (p. 408)	2,550,000
Promotion of vocational education, act of Feb. 23, 1917 (p. 409)	7,144,113
Office of Vocational Rehabilitation:	
Grants to States (p. 409)	70,651,560
Research and training (p. 410)	24,145,307
Public Health Service:	
Accident prevention (p. 415)	3,679,074
Chronic diseases and health of the aged (p. 416)	16,303,114
Communicable disease activities (p. 417)	10,749,235
Community health practice and research (p. 419)	23,946,767
Control of tuberculosis (p. 420)	6,813,635
Control of venereal diseases (p. 420)	7,843,535
Dental services and resources (p. 421)	2,603,482
Nursing services and resources (p. 422)	8,373,620
Hospital construction activities (p. 423)	187,432,190
George Washington University Hospital construction (p. 424)	0
Aid to medical education (p. 424)	0
Environmental health sciences (p. 425)	0
Air pollution (p. 425)	10,100,876
Milk, food, interstate and community sanitation (p. 426)	8,723,615
Occupational health (p. 427)	4,059,384
Radiological health (p. 428)	13,466,288
Water supply and water pollution control (p. 429)	22,554,121
Grants for waste treatment works construction (p. 430)	51,738,090
National Institutes of Health (pp. 435–444)	723,597,285
Social Security Administration:	
Grants to States for public assistance (p. 460)	2,723,677,540
Training of public welfare personnel (p. 463)	0
Assistance for repatriated U.S. nationals (p. 464)	412,044
Grants for maternal and child welfare (p. 465)	76,057,662
Cooperative research or demonstration projects in social security (p. 468)	952,654
Assistance to refugees in the United States (p. 469)	52,902,237
American Printing House for the Blind: Education of the blind (p. 472)	718,707
Gallaudet College: Salaries and expenses (p. 474)	1,458,615
Howard University:	
Salaries and expenses (p. 475)	8,362,261
Construction (p. 476)	2,687,024
Office of the Secretary:	
Juvenile delinquency and youth offenses (p. 480)	4,473,623
Educational television facilities	1,818
Department of the Interior:	
Bureau of Land Management:	
Payments to Oklahoma (royalties) (p. 491)	6,214
Payments to Coos and Douglas Counties, Oreg., from receipts, Coos Bay Wagon Road grant lands (p. 491)	697,449
Payments to counties, Oregon and California grant lands (p. 491)	15,400,136
Payments to States (grazing fees) (p. 492)	917
Payments to States (proceeds of sales) (p. 492)	249,328
Payments to States from grazing receipts, etc., public lands outside grazing districts (p. 492)	183,632
Payments to States from grazing receipts, etc., public lands within grazing districts (p. 492)	200,446
Payments to States from grazing receipts, etc., public lands within grazing districts, miscellaneous (p. 492)	3,902
Payments to States from receipts under Mineral Leasing Act (p. 492)	47,147,555
Payments to counties, national grasslands (p. 492)	92,255
Bureau of Indian Affairs:	
Education and welfare services (p. 493)	77,723,737
Menominee educational grants (p. 499)	396,000
National Park Service: Payment for tax losses on land acquired for Grand Teton National Park (p. 511)	27,287
Bureau of Mines: Drainage of anthracite mines (p. 524)	39,801
Office of Minerals Exploration:	
Salaries and expenses (p. 528)	569,202
Lead and zinc stabilization programs (p. 528)	1,457,023
Bureau of Commercial Fisheries:	
Construction of fishing vessels (p. 533)	543,459
Payment to Alaska from Pribilof Islands fund (p. 536)	702,852
Fisheries loan fund (p. 536)	−1,387,010
Bureau of Sport Fisheries and Wildlife:	
Federal aid in fish restoration and management (p. 542)	5,768,736
Federal aid in wildlife restoration (p. 542)	15,530,052
Payments to counties, national grasslands (p. 543)	−1,970
Payments to counties from receipts under Migratory Bird Conservation Act (p. 543)	582,467

See footnotes at end of table.

Programs which may involve Federal financial assistance—Continued

	1963 expenditures
Department ot the Interior—Continued	
Bureau of Reclamation:	
Construction and rehabilitation (p. 546)	$168,185,561
Loan program (p. 551)	14,486,977
Payments to States of Arizona and Nevada (p. 556)	600,000
Upper Colorado River storage project (p. 557)	106,298,150
Department of Labor:	
Office of Manpower, Automation, and Training:	
Manpower development and training activities (p. 600)	51,783,662
Area redevelopment activities: Salaries and expenses (p. 601)	6,676,622
Bureau of Employment Security:	
Unemployment compensation for Federal employees and ex-servicemen (p. 606)	152,858,563
Salaries and expenses, Mexican farm labor program (p. 607)	1,814,958
Farm labor supply revolving fund (p. 608)	1,179,036
Unemployment trust fund (p. 946)	[2] 3,815,629,499
Office of the Secretary: Trade adjustment activities (p. 619)	640
Department of State:	
Educational exchange:	
Mutual educational and cultural exchange activities (p. 649)	26,207,202
Center for Cultural and Technical Interchange Between East and West (p. 651)	7,344,731
Federal Aviation Agency: Grants-in-aid for airports (p. 700)	51,493,441
General Services Administration:	
Real property activities: Hospital facilities in the District of Columbia (p. 714)	74,877
Housing and Home Finance Agency:	
Office of the Administrator:	
Urban planning grants (p. 742)	12,388,967
Open-space land grants (p. 743)	265,014
Low-income housing demonstration programs (p. 744)	145,976
College housing loans (p. 745)	283,573,515
Public facility loans (p. 747)	30,047,779
Public works planning (p. 749)	5,864,028
Urban renewal fund (p. 752)	173,208,174
Housing for the elderly funds (p. 757)	18,856,257
Federal National Mortgage Association:	
Special assistance functions fund (p. 761)	−262,295,979
Federal National Mortgage Association secondary market operations (p. 956)	−720,621,211
Housing and Home Finance Agency—Continued	
Public Housing Administration: Low-rent public housing program fund (p. 773)	$178,867,436
Veterans' Administration: Direct loans to veterans and reserves (p. 803)	−86,178,301
Civil Aeronautics Board: Payments to air carriers (p. 818)	81,856,762
Farm Credit Administration:	
Short-term credit investment fund (p. 835)	13,310,000
Banks for cooperatives investment fund (p. 836)	−11,979,500
Federal Home Loan Bank Board: Federal Home Loan Bank Board revolving fund (p. 840)	−119,413
Federal Power Commission: Payments to States under Federal Power Act (p. 850)	58,453
National Capital Housing Authority: National Capital Housing Authority trust fund (p. 968)	−2,354,674
National Capital Planning Commission: Land acquisition, National Capital park, parkway, and playground system (p. 860)	1,295,588
National Science Foundation: Salaries and expenses (p. 864)	206,859,160
Small Business Administration:	
Trade adjustment loan assistance (p. 875)	0
Revolving fund (p. 876)	134,320,156
District of Columbia:	
Federal payment to District of Columbia (p. 913)	32,899,000
Loans to District of Columbia for capital outlay, general fund (p. 913)	0
Loans to District of Columbia for capital outlay, highway fund (p. 914)	7,500,000
Loans to District of Columbia for capital outlay, water fund (p. 914)	850,000
Loans to District of Columbia for capital outlay, sanitary sewage works fund (p. 914)	2,400,000
Federal contributions and loans to the metropolitan area sanitary sewage works fund (p. 915)	14,200,000
Repayable advances to District of Columbia general fund (p. 915)	7,000,000
Advances to stadium sinking fund, Armory Board (p. 915)	415,800

[1] This amount is on a checks-issued (gross) basis. Receipts (collections deposited) totaled $3,292,965,983 in fiscal year 1963.

[2] This amount is on a check-issued (gross) basis. Receipts (collections deposited) totaled $4,256,052,867 in fiscal year 1963.

In his letter of transmittal, Mr. Katzenbach noted that "for the reasons outlined below, it has been found to be impossible to compile any list which is accurately responsive to your request * * *. The list attached should not, therefore, be taken at face value or used without an understanding of its limitations."

Continuing, Mr. Katzenbach wrote, "Title VI would apply to programs and activities which receive Federal financial assistance, by way of grant, contract, or loan. I attach a list of appropriations, revolving funds, and trust funds, part or all of which may involve such Federal financial assistance." Note the word "may." He doesn't appear to know exactly what programs are involved any more than you or I or anyone else. Concerning one group of programs and activities, Mr. Katzenbach observes that "they cannot fairly be considered to be financial assistance to a program or activity within the meaning of title VI." What does he mean by that phrase? How do we know what interpretation will be placed upon this group of activities by an administrative officer?

Discussing another group of activities, Mr. Katzenbach writes: "A number of programs administered by Federal agencies involve direct payments to individuals possessing a certain status. Some such programs may involve compensation for services rendered, or for injuries sustained, such as military retirement pay and veterans' compensation for service-connected disability, and perhaps should not be described as assistance programs; others, such as veterans' pensions and old-age, survivors, and disability benefits under title II of the Social Security Act might be considered to involve financial assistance by way of grant. But to the extent that there is financial assistance in either type of program, the assistance is to an individual and not to a 'program or activity' as required by title VI. In any event, title VI would not substantially affect such benefits, since these payments are presently made on a nondiscriminatory basis, and since discrimination in connection with them is precluded by the fifth amendment to the Constitution, even in the relatively few instances in which they are not wholly federally administered. Accordingly, such programs are omitted from the list."

What does this mean? We are told that they may be involved, that they perhaps should not be described as assistance programs. Then we are told that they are omitted from the list.

Further along in his letter, the Deputy Attorney General states that "it should not be assumed that each program shown on the attached list will be significantly affected by the enactment of title VI. Title VI expresses a general, across-the-board Government policy, which has potential impact on a great number and variety of programs. The attached list attempts to identify those programs which might potentially be affected, although some may have been overlooked."

All that these statements tell us is that neither the Attorney General nor his deputy nor anyone else really knows what is meant by the term "Federal financial assistance" or what programs and activities are involved. That means untold litigation over a period of many years will be necessary to clarify and define what this title really means.

Section 602 vests in each Federal agency responsible for the administration of a Federal assistance or grant-in-aid program, the power to terminate or refuse to grant such assistance as to any recipient whenever there has been a finding of discrimination or a denial of benefits because of race, color, or national origin. This is a tremendous delegation of power, involving as it does some $10.6 billion worth of Federal programs. Yet, these departments and agencies are required to establish rules, regulations, and order of general applicability subject to Presidential approval, without really knowing what programs and activities are involved.

I submit that the chief characteristics of title VI is its uncertainty and the confusion and litigation it will generate. Clearly, this title fails to define the subject of delegation and to provide a recognizable standard or criterion as is required by the decisions of the Supreme Court of the United States. If this title is enacted, it might certainly be said, in the language of Chief Justice Hughes, in *Panama Refining Co.* v. *Ryan*, "The Congress left the matter to the President without standard or rule, to be dealt with as he pleased."

How appropriate, indeed, are Mr. Chief Justice Hughes' remarks in the Schechter case when he said "Section 3 of the Recovery Act is without precedent. It supplies no standards for any trade, industry, or activity. It does not undertake to prescribe rules of conduct to be applied to particular states of fact determined by appropriate administrative procedure."

How very much to the point are his observations that "section 3 sets up no standards, aside from the statement of the general aims of rehabilitation, correction and expansion described in section 1."

In his opinion in that case Chief Justice Hughes might well have been referring to title VI of the pending bill, for that title sets up no standards, aside from the general aims described in section 601. In fact, that portion of his opinion which I quoted from earlier is directly applicable: "In view of the scope of that broad declaration, and of the nature of the few restrictions that are imposed, the discretion of the President in approving or prescribing codes, and thus enacting laws for the government of trade and industry throughout the country, is virtually unfettered."

The remarks of Mr. Justice Cardozo, in his concurring opinion in the Schechter case, are also very much in point here. It will be recalled that he said, "The delegated power of legislation which has found expression in this code is not canalized within banks that keep it from overflowing. It is unconfined and vagrant." We need only substitute the words "title VI" for the words "this code" to fit this title perfectly. As a matter of fact, so apt were his words that it would appear that he had title VI of H.R. 7152 in mind, when he said, in the same case, "Here in the case before us, is an attempted delegation not confined to any single act nor to any class or group of acts identified or described by reference or a standard. Here in effect is a roving commission to inquire into evils and upon discovery of them correct them. This is delegation running riot. No such plenitude of power is susceptible of transfer."

How true with respect to title VI.

I now desire to call attention to the fact that there is no requirement in title VI for any hearing to be held by any Federal department or agency, even if we were able to identify them, prior to the exercise of its rulemaking power, unless the organic statute of that department or agency now requires such a hearing. Furthermore, there is no indication that any hearings held on the question of alleged discrimination are required to conform to the provisions of the Administrative Procedure Act of 1946, as amended.

Thus, as to the promulgation of rules, regulations, or orders of general applicability, required by section 602, there is nothing to prevent any department or agency from issuing them without any kind of a hearing, if no provision now exists in its organic statute requiring such a hearing. The only limitation contained in title VI, with respect to the exercise of the rulemaking power, is Presidential approval prior to their becoming effective.

As to hearings on a complaint or allegation of discrimination, all that is required is that a hearing be held and findings be made. Again, I stress the provisions of the Administrative Procedure Act would not apply.

We come now to the provisions for judicial review. Section 603 provides that any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. The Department of Justice, on page 53 of its brief entitled "Proposed Civil Rights Act of 1964—H.R. 7152," dated February 1964, states that: "Some Federal assistance statutes contain express provision for judicial review of agency action disapproving applications for initial or continued assistance or terminating assistance. Under existing law, for example, review can be obtained in a U.S. court of appeals with respect to grants for hospital construction and construction of schools in federally impacted areas. To the extent such review procedures are available, they would be the exclusive means of judicial review."

Section 603 provides further that in the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved, including any State or political subdivision thereof and any agency of either, may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act.

Referring to this portion of section 603, the Justice Department's brief states (p. 53):

"In the case of assistance statutes which do not themselves contain review provisions, section 603 would operate to declare a right to judicial review of agency actions terminating or refusing to grant or continue assistance, upon a finding of failure to comply with a nondiscrimination requirement imposed pursuant to section 602."

It has long been well settled that, in reviewing the actions of departments and agencies, the courts apply what has come to be known as the doctrine of judicial deference. The late Chief Judge Vanderbilt, one of our leading authorities on constitutional and administrative law, a member of the Attorney General's Committee on Administrative Procedure and one of the principal authors of the Administrative Procedure Act, in his authoritative volume entitled, "The Doctrine of the Separation of Powers," (1953), stated (pp. 128–129): "The doctrine of judicial deference has been applied increasingly to the work of the administrative agencies. First the courts deferred to administrative findings of fact if there was 'substantial evidence' to support them, reviewing only questions of law. Then, although the construction of statutes is peculiarly a function of the courts, they deferred to the administrative construction of statutes—a concession not made, of course, to trial courts which, not having legislative, investigatory, and prosecuting functions, are obviously far more impartial and qualified than an administrative agency with such powers could humanly be to construe its own enabling acts or regulations."

The point is, that individuals and governmental bodies who seek judicial review of the determination of a department or agency, terminating or refusing to grant financial assistance, will not receive a de novo hearing under section 10 of the Administrative Procedure Act. All that the court will do is examine whatever record and findings have been compiled by the agency involved in order to determine whether the findings are supported by substantial evidence. This is quite different from a hearing before a trial court in which the measure of proof is the preponderance of the evidence.

An examination of the annotations in title 5 United States Code, section 1009 (section 10 of the Administrative Procedure Act), reveals large numbers of cases affirming this doctrine, decided by U.S. Circuit Courts of Appeal and U.S. District Courts, throughout the land. Typical of these holdings are *U.S. ex rel. Beck* v. *Neelly*, 202 F. 2d 221 (C.A., Ill., 1953), certiorari denied, 345 U.S. 997, in which the rule was stated that "Under this chapter, courts may not interfere with administrative determinations unless, upon the record, the proceedings were manifestly unfair, or substantial evidence to support the finding is lacking, or an error of law has been committed, or the evidence reflects manifest abuse of discretion."

Along the same lines are *Gooding* v. *Willard*, 209 F. 2d 913 (1954), where the U.S. Circuit Court of Appeals for the Second Circuit held, in 1954, that where, on the record considered as a whole, there is substantial evidence to support administrative findings of fact, such findings are to be accepted and given effect by the courts; and *Kraynak* v. *Fleming*, 188 F. Supp. 431 (D.C. Pa., 1960), where the court held that in an action for judicial review of a decision denying claims asserted under the Social Security Act, section 301 and the following of the title 42, the court was limited to ascertaining whether, on the record as a whole, there was substantial evidence to support the Secretary's findings, and, while the court was required to keep in mind that it was required to assume responsibility for the reasonableness and fairness of the decisions of Federal agencies, it could not substitute its inferences for those of the referee supported by substantial evidence.

Indicating that judicial deference to administrative agencies appears to be based on the theory that officials who hear and determine cases are experts, Chief Judge Vanderbilt continues with his discussion, stating, that "by such judicial deference the courts have narrowed the scope of judicial review of administrative action to issues of congressional power, of statutory authority, and the basic prerequisites of proof. It is difficult to find a logical justification for the distinction made by the courts between the full review accorded to the findings of fact and the conclusions of law of a chancellor experienced in the trial of equity cases and the limited review of the decision of an administrative expert. * * * The situation is, of course, far more dangerous if one is dealing with an ex officio expert or, worse yet, a political transient craving preference rather than a genuine expert," (op. cit., p. 131).

In proceedings under title VI, the department and agency officials who hold the hearings and make the findings and determinations will not even be experts in the technical questions of discrimination, in any sense of the term. These determinations would be made by bureaucrats in the first instance and political appointees in the last instance. Therefore, particularly to the point are Chief Judge Vanderbilt's observations that "anyone who has had any experience in the trial of cases, either at the bar or on the bench, realizes that generally there is more difficulty in ascertaining the facts of a case than the law. Perspective as to the facts is more difficult to obtain at the trial level even for the capable and conscientious judge or administrator than it is on review" (op. cit., p. 131).

In an address before the Federal Bar Association, quoted in the New York Times for February 13, 1931 (at p. 18), Chief Justice Hughes made the following statement which is particularly pertinent to the situation which confronts us should title VI become law: "The power of administrative bodies to make findings of fact which may be treated as conclusive, if there is evidence both ways, is a power of enormous consequence. An unscrupulous administrator might be tempted to say, 'Let me find the facts for the people of my country, and I care little who lays down the general principles'."

U.S. Circuit Judge Waller, in a specially concurring opinion in *National Labor Relations Board* v. *Robbins Tire and Rubber Co.*, 161 F. 2d 798, 804 (CCA 5th, 1947), made a strong attack upon the very basis of the substantial evidence rule, in which he asserted that the courts which cannot review both law and facts are denied "the judicial power" that has been conferred upon them under the Constitution: "Give a partisan examiner or board the right to fix the facts and the right to declare the law may well be but as 'sounding brass or a tinkling cymbal'. * * * If the judicial power is vested in the courts in all cases and controversies mentioned in section 2 of article III; if a review by a Federal court of the decision of a board is a case or a controversy; if the judicial power is the power to administer justice; and if in the administration of justice it is necessary first to know the truth, how can Congress constitutionally withhold from the courts on review the right to be satisfied as to facts?"

Once more, I desire to emphasize the fact that if title VI is enacted into law, the political figures who head every department and agency in our Government which administers any type of Federal assistance or grant program, will have virtually unlimited authority to promulgate rules, regulations, and orders of general applicability, with respect to these programs, without any congressional standards or criteria. Thereafter, they may freely make decisions and determinations based upon their own regulations and orders, terminating or refusing to grant assistance and aid which has been specifically authorized by Congress. In other words, they would be vested with the legislative authority which, under our Constitution, can only be exercised by Congress and by Congress alone. Thus the delegation of the legislative function as now provided in title 6 is clearly unconstitutional.

Furthermore, in most instances, the only judicial review available to persons who have been aggrieved by these procedures would be a limited type of review, involving primarily the question of whether the findings were substantiated by the evidence. Is this what the people of the Nation want? My answer to that is emphatically "No." And if they could really know what the consequences will be, I don't believe they would stand for it.

Now, I come to the basic subject matter upon which title VI would have an impact. I stated earlier that, if enacted in its present form title VI might well undermine and even destroy the vast system of programs by which the Federal Government has been providing financial aid and assistance to some 91,185 State and local governmental jurisdictions for more than 100 years.

I call attention further to the fact that estimates contained in the 1965 Federal budget reveal that during fiscal year 1965, these Federal assistance programs are expected to involve a total expenditure of $10.6 billion, as compared with $3.1 billion in 1955, only 10 years ago. Also, of the estimated amount of $10.6 billion for 1965, $10.2 billion or 96 percent of total expenditures will be devoted to grants-in-aid.

Although the total expenditure for fiscal year 1965 of an estimated $10.6 billion will amount to approximately 9 percent of estimated total Federal cash payments to the public, as a source of State and local revenue, Federal payments for fiscal year 1963 amounted to an average of 14 percent of all general revenues available to these jurisdictions. It must be recalled, however, that this figure of 14 percent is an average. There are great variations among the State and local units of government. Thus, in 1962, the range ran from 34 percent in Alaska to as little as 7.1 percent in New York.

The grants-in-aid programs of the Federal Government were characterized by the First Hoover Commission as "part of the warp and woof of present-day government." They have provided needed standards of public services throughout the country in many fields, involving, for the most part, services which the State and local government jurisdictions are unable to supply. It has also involved some redistribution of resources from States that have superior means to those that lack them. This system has had the added advantage of developing a division of responsibility in which the National Government provides financial aid and establishes broad standards, and the State governments share the fiscal burden, but maintain primary responsibility for administration. As a result, State governments have been able to add to their resources and to embark upon additional or more extensive public-service programs for their own people.

This great system of grants-in-aid, involving, as it does, hundreds of programs and activities, did not just happen. Every one of these programs involve an authorization and an appropriation from the Congress. Every one of the statutes which established these programs and authorized funds for their operation, and every one of the statutes which appropriated the necessary funds to enable them to function has been carefully and deliberately considered by the appropriate committees of the Congress and by Members of both Houses during floor debate on the measure. Thousands upon thousands of man-hours have been devoted to all of this legislative activity. Exercising its constitutional powers, the Congress, during the course of many years, has built up these programs carefully and painstakingly in order to meet the needs of the people of this Nation, which State and local governments in some instances lacked the financial resources to meet.

The areas covered by these activities range over virtually every aspect of life, from the womb to the tomb and from the cradle to the grave. They include education, health and hospitals, stabilization of farm prices and income, natural resources, area redevelopment, transportation, including highways and airports, and huge programs for public welfare, including public assistance, social security, etc.

Yet, we are seriously considering the enactment of a measure which would vest in departments and agencies of the Federal Government the authority to amend all of these programs by the addition of a so-called Powell amendment to every such program now in existence or hereafter to be established. Note also, if you will, that amendments of this type have been rejected by the Congress on numerous occasions in the course of consideration of various types of grants-in-aid and related legislation.

Now, we propose to transfer to Federal departments and agencies the authority to terminate these programs and activities, not based upon any standards or criterion established by the Congress, but based upon an attempted delegation of power which is patently unconstitutional on its face.

Because of the importance of these activities and programs to the economy and the well-being of the Nation, to the State and local governments and all of the American people, and because of the imminent proposed destruction of Federal assistance programs, it is my intention, at this time, to review the objectives, history and development of these programs, from their inception in 1789, to the present day.

HISTORY AND BACKGROUND OF FEDERAL ASSISTANCE PROGRAM

GENERAL

The strength of our Federal system is no greater than the strength and vitality of the many governments which compose it. Fiscal capacity is both an essential ingredient of this strength and one vital measure of it.

If State and local governments are to absorb additional functions or to take on an increasing share of emerging governmental responsibilities, the question arises whether they are financially able to carry the load. States, and more particularly local governments, are said to lack resources adequate for the discharge of the duties and responsibilities required of them. If it is impossible for them to satisfy the demands of their citizens for governmental services, traditional local self-reliance may be weakened and pressures may increase for Federal participation in services hitherto regarded as primarily State and local responsibilities. From the earliest days of the Republic, it was obvious that fiscal imbalances among levels of government would have to be reduced if the Federal form of government was to endure and if government as a whole was to be responsive to the people.

There are many obstacles in the way of expanding State and local revenue to enable these governmental levels to assume their proper responsibilities. There is not now and there never has been any single solution. From the beginning, it has been obvious that a combination of measures would be required to make possible a proper allocation of activities and to insure adequate financing of these activities.

Agitation for fiscal readjustment between the components of the Federal system is neither novel nor recent. It recurs with every significant expansion in governmental activity and, in one form or another, has been a continuing problem since the formation of the Republic. Of course, the problems that confronted earlier generations seem not too difficult in retrospect, but they loomed large to those who had to deal with them.

Governments existing by the will of the governed are destined to be confronted with fiscal problems, since free peoples seem to have both a large appetite for governmental services and an instinctive aversion to taxes. Finance was one of the central issues which delayed agreement by the Founding Fathers at Philadelphia. The problem in 1787 was how to insure the coexistence of two levels of fiscally autonomous governments—the National Government and the States. What was needed, in view of the financial defects of the Confederation, was greater fiscal strength in the National Government. Today, by way of contrast, the problem of revenue sources is less acute for the National Government than for the State and local governments. The National Government's chronic deficits are not due to inadequacy in tax resources. Those deficits are definitely attributable to waste, extravagance, imprudent spending, and a woeful lack of fiscal integrity of those of us who have governmental responsibilities in this field.

In a fundamental sense, there is one economy from which all governments in our Federal system derive their financial strength. The difficulty is how to divide the tax resources and expenditures among levels of government. The problem of preserving a fiscal balance among the governments comprising the Federal system arises because of the unequal distribution of tax resources. It is actually threefold: (1) some imbalance exists between the National Government, in tapping available resources; (2) there is an imbalance among States; the geographical distribution of resources is uneven and places some States in disadvantageous positions as compared with others; (3) further imbalances arise within individual States as a result of concentration of resources in certain areas.

One of the devices which has developed in attempting to meet the needs of the people which cannot be met by State and local governments is the Federal assistance and grant-in-aid program. It should be noted that the Federal Government has never set up a formalized system of grants-in-aid or subventions that has equalization as its controlling object. Grants have been established to accomplish specific purposes in which there are deemed to be important national interests. Ordinarily they are designed to provide only minimum levels of essential service. The States and localities are left free to provide higher levels of service through their own tax efforts. Proved State effort, generally evidenced by matching expenditures, is a sound condition of eligibility for Federal grants-in-aid. This approach does not preclude National Government aid without matching in costly emergencies which cannot be foreseen or planned for, such as unusually severe natural disasters or extreme economic distress.

In some grant-in-aid programs, especially in recent years, equalization has been made a limited secondary objective by the inclusion of equalizing factors in allotment formulas and matching requirements. Larger specific grants in relation to needs are given to the low-income than to the high-income States.

As a matter of fact, the $9.3 billion transferred by the National Government to States and localities in fiscal year 1963—and it is expected to total $10.4 billion in fiscal year 1964, and $10.6 billion in fiscal year 1965—tends to equalize the tax efforts of States and localities. For the Nation as a whole, State and local taxes would have had to be increased more than 14 percent to replace the revenues derived from Federal grants. For individual States, increases ranging from 6 to 34 percent would have been required.

PURPOSE AND OBJECTIVE OF GRANTS-IN-AID

The grant-in-aid device is used by central governments to assist smaller governmental units in practically all political systems, whether federal or unitary. Grants are found in a wide variety of forms. The common characteristics of all forms is that the central government provides aid without supplanting smaller units as the governments which bring the aided services to the public.

Grants made by the U.S. Government to the States are usually in the form of money, although the earliest grants, as I will show subsequently, were in land, and at the present time, grants of agricultural commodities are being made. Most grants-in-aid are continuing arrangements, although there have been a few one-time grants.

At first glance, existing Federal grant programs look like a hodgepodge. Purposes are not always clearly stated, the choice of activities seems haphazard, apportionment methods and control vary widely. Thus, in fact, the grants do not constitute a system, and never were intended to make up a system. Their varied characteristics are largely the natural outgrowth of their varied objectives and piecemeal development.

In summary, the National Government has used the grant-in-aid primarily to achieve some national objective, not merely to help States and local governments finance their activities. Specific objectives have been as varied as getting the farmer out of the mud, assisting the needy aged, providing lunches for schoolchildren, and preventing cancer. As a condition of financial assistance the National Government establishes and provides administrative supervision.

It appears that in recent years, the trend has been toward sharper definition of objectives, closer attention to conditions and requirements, more extensive administrative supervision, and, recently, greater attention to relative State fiscal capacity.

As I have pointed out earlier in my remarks, title VI of this so-called civil rights bill would actually amend every existing and future Federal aid program. I also noted that these programs have evolved virtually since the birth of this Nation, in order to assist State and local governing bodies to meet the economic and social needs of their people which, with their limited resources, they were unable to do without assistance. It will be seen that the Congress, practically throughout its entire history, has devoted uncounted but obviously enormous amounts of time, in committee and on the floor of both Houses, to authorization and appropriations measures designed to aid the States and local governments. In recent times, numerous attempts have been made to add to these measures Powell amendments, authorizing cutoff of these funds in the event of any alleged discrimination. Each time, with the exception of a few education bills, these amendments were rejected. In the past few years alone, such amendments were rejected on six occasions, in connection with pending housing bills.

In order to present a full understanding of what these Federal aid programs mean to the people of this Nation and to State and local governments under which they live, it is my purpose, at this time, to review their history and development from the earliest times.

HISTORICAL DEVELOPMENT: EARLY FISCAL SITUATION

In the early 19th century, it became apparent that the National Government had financial resources in excess of its spending programs. The States had been spending freely on extensive internal improvements and were heavily in debt. From $13 million in 1820, State indebtedness had increased to over $174 million in 1837. Meanwhile, the National Government had paid off its own debts, and current revenues exceeded total expenditures each year.

Sectional opposition, bolstered by constitutional doubts, prevented the use of national income for internal improvements. Jackson vetoed Clay's bill of 1832 to distribute to the States for education or internal improvements the revenues from the public domain. In 1836, Congress agreed on an unconditional distribution among the States according to their national representation. Since Jackson opposed an outright gift of the money, the sums were declared to be deposits which the United States might recall if needed. In 1837, three quarterly distributions were made, totaling $28.1 million. A depression intervened and no further payments were made. Both National and State revenues dropped sharply, but by 1850, the National Government was running surpluses again. After the interruption of the Civil War, the Treasury had surpluses from 1866 to 1893, with the exception of 1874. What a contrast with the present. Very few national expenditures followed: pensions, public buildings, and river and harbor improvements were principal items.

THE GRANTS-IN-AID SYSTEM—1789–1913

The National Government's grant-in-aid system appeared first in the land grants of 1785 and the Northwest Ordinance of 1787, by which the Congress of the Confederation dedicated a section of every township in the Federal domain for the maintenance of public schools. In succeeding periods, grants-in-aid began to cover various aspects and segments of American life, starting with the public domain and continuing on with education, agriculture, internal improvements, forestry, welfare, militia, highways, vocational education and rehabilitation, public health, social security, etc. Following 1789, the earliest grants were justified either by specific clauses in the Constitution or by the power of the Congress to dispose of the national domain for the common benefit.

PUBLIC DOMAIN

An examination of the grants to the States in those early days reveals that the prevailing policy of the National Government was to make the States the principal direct beneficiaries of the sale or exploitation of public lands. As time went on, the proceeds of the national domain were used for a variety of purposes. The earliest land grant, under the Northwest Ordinance, was earmarked for a broad purpose of welfare—free public education. Later, grants to subsidize the construction of roads, canals, and railroads shot ahead of all other types in their influence on national development. Still later, the withdrawal of millions of acres from the disposable public domain, on conservation principles, put a brake on the entire land-grant procedure.

An examination of the grants to the States, in terms of the fiscal pattern which they established, reveals one development which is especially important: the land grant tended to become a cash grant based on the land's disposable value, and the cash grant tended to become an annual grant based on national tax powers.

EDUCATION

As previously indicated, the 1785 land grant for schools, reaffirmed in the Northwest Ordinance of 1787, was the first use of national funds to encourage the States to follow a national policy. In the years that followed, the pattern was applied again and again. Although grants to Ohio (1802) and four other States, put the lands directly into the hands of the townships, later grants were made to the governments of the States. In 1848, the grant was increased to two sections per township, and 14 States entered the Union with this more generous endowment. According to the latest available statistics, the total count of lands distributed by the National Government for common school purposes is in excess of 130 million acres.

The same pattern was applied to public education at progressively higher levels. Beginning in 1787, Congress provided two townships in each State as an endowment for institutions of higher learning. Such grants ranged from 160,000 to 800,000 acres. More than 2.6 million acres went for universities, and 1.36 million acres for State normal schools. Then, in 1818, Congress added to its endowment of State schools by providing that 5 percent of the proceeds of the sale of remaining national lands within the State should flow into the State treasury. Much, though not all, of this revenue was expended for educational purposes.

The precedent of coupling public domain with educational policy was substantially extended in 1862. Representative Morrill, of Vermont, in 1857, introduced a bill donating land to each State for the "endowment, support, and maintenance of at least one college where the leading subject shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to the agriculture and the mechanic arts." Both Houses passed the bill, though barely, but President Buchanan, after declaring it an unconstitutional disposition of public lands, vetoed it. Morrill finally pushed the bill through in 1862. It granted each existing State and future State a basic endowment of 60,000 acres and 30,000 acres additional for each of its congressional representatives. If short of national land within their own borders, States were given Federal land scrip with which to claim public domain in other parts of the country. These funds could not be used for construction, which had to be provided by each State itself; the principal had to be invested in approved securities and left untouched; and the expenditures had to be reported annually to Congress.

Agriculture

Congress extended and deepened the Morrill Act design in following years. The second Morrill Act of 1890 provided an annual cash grant raising to $25,000 per State wherever national requirements were met, and the Nelson amendment of 1907 not only doubled the grant but extended the purposes for which it might be used. Congress kept in mind its experience with the first Morrill Act when it made the National Government a patron of agricultural research. The Hatch Act of 1887 authorized $15,000 a year in land-sale proceeds for the establishment of State agricultural experiment stations at agricultural colleges. The Central Government specified annual fiscal reports and, beginning in 1895, imposed a national audit on expenditures. The Adams Act of 1906 doubled these allotments. Congress followed more or less the same lines in 1911 when the Marine School Act offered to States that would match it a grant of $25,000 for schools of seamanship.

Internal improvements

The history of the national subsidy of State, local, and private enterprise in internal improvements is complex. In the first place, the term "internal improvements" has not always constituted a clear classification. Widely different enterprises were included under this category at different times in the 19th century. In the second place, a good many of the land grants used for canals and other expenditures were originally given to the States for the quite different purpose of flood control and drainage. The effects of internal-improvement subsidies on State governments were debated vociferously and from a variety of viewpoints throughout the whole of the 19th century.

These debates, however, did not prevent action. The National Government, in the days of wagons, gave away 3.25 million acres for the support of wagon roads. When canal building boomed, it gave 4.5 million acres for this purpose in Illinois, Indiana, Michigan, Ohio, and Wisconsin; and 2.25 million acres to Alabama, Iowa, and Wisconsin to improve river navigation. It gave about 64 million acres to the States for flood control and to drain marshy lands. With the advent of the railroads, it gave grants for railroad construction. For many reasons, the National Government finally decided to subsidize the railroads directly.

The roster of statesmen of 1800 and 1850 who viewed these grants with alarm is studded with eminent names. Madison, in the early 1800's, avowed that the National Government was debarred from the field of internal improvements by nothing less than "a defect of constitutional authority." He promptly vetoed the bonus bill of 1817, which made provisions for internal improvements. Both Monroe and Jackson vetoed bills providing national funds for local roads. Jackson, in 1832, vetoed Henry Clay's bill to distribute land-sale proceeds to the States as endowments for both internal improvements and education. Other opponents of specfic-purpose grants were Polk, Pierce, and Buchanan. This tradition of alarms and vetoes was renewed in the debate over the creation of the Department of the Interior in 1849. Until that year, the Secretary of State administered those few domestic affairs the National Government had in hand. Argument for the Department of the Interior bill, based on the claim that it would promote efficiency in administration, was countered by the prediction that it would increase national patronage and power at the expense of the States. President Polk remarked as he signed the bill: "I fear its consolidating tendency."

Forestry

National forestry legislation, aimed at enforcement of forest protection, gave the National Government considerable powers over

State administration. The President, in 1891, acted under his power to create forest preserves and set aside millions of acres of the public domain. Western discontent with the act led to the practice of rebating a portion of the revenues from 10 percent, in 1906 to 25 percent of total receipts, in 1908, were earmarked for education and roads.

In 1911, Congress enacted the Weeks Act, which authorized the Secretary of Agriculture "to cooperate with any State or group of States, when requested to do so, in the protection from fire of the forested watersheds of navigable streams." This enactment was legislative news. It not only made Federal aid conditional upon advance approval of State plans for forest guardianship, but also provided Federal inspection of State procedure. Whereas previous grants-in-aid were embodied in directives of a general nature, the States were now subjected to national scrutiny intended to be both continuing and particularized.

The Weeks Act, besides requiring State matching, also described in some detail how the State as well as the national contribution should be overseen by national officers. The full machinery of the Weeks Act was not promptly and fully applied; and its operations did not run into big figures. Total national payments did not exceed $100,000 a year until after 1920, and the national grants were often paid in salaries to national patrolmen who held State commissions.

Welfare

Throughout the 19th century, there was little fear of a "consolidating tendency" in the field of welfare, since there was hardly any national tendency to deal with welfare problems at all. Indiana, in 1830, called upon Congress to open its purse to "minister consolation to all whom casualty or misadventure may render dependent upon benevolent protection." Four years later, Indiana asked for the construction of national hospitals within the State, with Ohio River boatmen as likely patients. Other States brought similar projects to the attention of Congress, and, by 1861, 24 marine hospitals were built, many of them on navigable lakes and rivers.

However, almost until the end of the 19th century, America appears to have held the opinion that a citizen's ill health or incapacity was not the concern of Congress. When Congress, in 1854, proposed to grant public lands to the States for the benefit of the insane, President Pierce vetoed the measure. He feared that "the dignity of the States shall bow to the dictation of Congress by conforming their legislation thereto," and that this, in terms of State powers, would be "the beginning of the end." Not until 1879, was the next cautious step taken by Congress. The Education for the Blind Act provided funds to the American Printing House for the Blind. This was apparently the first act to establish the principle of allotment according to need: the $10,000 worth of books and equipment produced under the grant each year was distributed to the States according to the number of blind pupils enrolled in the public institutions of each State.

In 1888, Congress voted an annual appropriation of $25,000 for the care of disabled soldiers and sailors in the State soldiers' homes, at the rate of $100 per inmate per annum. An amendment the following year took the memorable step of requiring the States to match Federal funds as a condition for receiving them.

Only after the commencement of the new century did the national interest in local health take a new turn. A statute in 1902 is indicative. It authorized the Surgeon General of the United States to call meetings of National and State officials and to furnish assistance to State officials.

Militia

National assistance to the National Guard began in 1808, when Congress granted an annual sum of $200,000 to the States to arm and equip their militia. Congress imposed no conditions of supervision. Many citizens criticized the manner in which the States spent the money, but it was not until 1886 that Congress attached to its increased grant of funds ($400,000) the condition that each State must provide 100 militiamen for each Senator and Representative. Congress increased the funds in 1901, 1906, and 1908, until the appropriation reached $4 million. The Dick Act of 1903 provided for the standardization of arms and equipment from Federal stocks and paid the National Guard from national funds during military exercises. It also authorized inspection of State performance. However, while the National Government could advise, make regulations, and threaten to withhold pay, the State governments retained administration and command.

SUMMARY OF GRANTS-IN-AID SYSTEM, 1789–1913

In summary, the beginnings of Federal aid can be traced back to preconstitutional days to the ordinance of 1785 and the Northwest Ordinance of 1787. A form of money grant appeared in 1836 when the cash surplus in the United Treasury was apportioned as loans to the States but without expectation or repayment. With the passage of the Merrill Act of 1862, to assist the States in establishing and maintaining land-grant colleges, the grant took on new characteristics. The objectives of the grant were carefully spelled out, conditions were placed on the use of the revenue dervied from the sale of granted lands, and annual reports were required. An annual grant was introduced in 1879 to provide educational materials for the blind, and in 1887, the first annual money grant was authorized to help the States establish agricultural experimental stations. The Weeks Act of 1911 authorized cooperation between the National Government and the States with respect to forest fire protection.

For the most part, these early statutes contained apportionment formulas, various provisions for matching national funds with State funds, and gradually, a requirement for advance approval of State plans by the National Government. It is interesting to note that an examination of the historical development of the grant reveals changes in attitudes toward the administration of the grants as well as changes in the source, size, and functions of the grant funds. Thus, in the early years, the grants were largesse—primarily in the form of land, cash based on land sales, and Treasury surpluses—from the National Government to the States. The National Government, at first, attached general, simple, and generous conditions to those early grants, sometimes designating the broad purposes for which they were to be used, but left the States almost complete freedom in disposing of their proceeds. Beginning with the first Morrill Act, however, Congress took care to write into the grant enactments an increasing number of administrative prescriptions. These prescriptions assumed and encouraged cooperation between the National Government and the State Governments. The total effect of the growth pattern of the grants was to provide a new and important field of collaboration.

THE GRANT-IN-AID SYSTEM, 1914–46

General

The passage of the Smith-Lever Act in 1914 is usually regarded at the beginning of the modern grant period. This program, providing for cooperative agricultural extension work, introduced such new features as an apportionment formula, equal to State matching of the Federal grant, and advance Federal approval of State plans. Similar conditions were attached to the much larger highway program established 2 years later. It should be noted that the Smith-Lever Act, establishing the Agricultural Extension System in 1914, represented an initial cash grant of unprecedented size from the National Government to establish a continuing State-aid program. The act itself climaxed a widely supported movement to strengthen farming. The county agent program, previously dependent upon private and local funds and on small sums of money from the Department of Agriculture, now received an initial amount of $480,000. These funds, to be matched by the States dollar for dollar, ballooned to $4.2 million in 7 years. By 1916, the total program of cooperative agricultural extension work was using $1.1 million of Smith-Lever money, matched by an additional $597,924 from the States. To these funds were added $1.1 million from the Department of Agriculture, $873,000 from State and college funds, $973,000 from county funds, and $277,000 from philanthropic and other funds.

These large expenditures, the importance of the program, and the many groups involved in it all focused national attention on the system of conditional grants. Once accepted as a useful combination of national money with local needs, in a program of national, social and economic interests, the grant device was ready for further evolution. Public opinion and official thinking seized upon it as a basis for new social and economic programs.

Following the Smith-Lever Act, a number of influential programs developed. The Federal-Aid Road Act of 1916, the Smith-Hughes Act of 1917, the Chamberlain-Kahn Act of 1918, the Sheppard-Towner Act of 1921, and the Wagner-Peyser Act of 1933 were capped by a series of programs contained in the Social Security Act of 1935—old-age assistance, aid to dependent children, aid to the blind, unemployment compensation, and several of lesser importance. The last two programs were among a dozen or more new grant programs, all of which, with the exception of fish and wildlife restoration and management grants, initiated in 1937, were directed toward social welfare, health, unemployment or agricultural relief. The principal new grant programs which were established between 1914 and 1946 are summarized below:

New agricultural programs

The concentration of public attention on the grant-in-aid device following the enactment of the Smith-Lever Act of 1914 soon brought new programs into being. The Smith-Lever Act was extended in 1928 by the Capper-Ketcham Act, which authorized another $1.5 million annually for agricultural extension work, and by the Bankhead-Jones Act of 1935, which appropriated $12 million annually on a nonmatching, farm-population basis.

In the allied field of agricultural experiment stations, the Purnell Act of 1925 increased the grants for each State to $90,000, without a matching requirement, and 10 years later, the Bankhead-Jones Act added $3 million on a rural-population, equal-matching basis. In 1946, the scope of research was broadened and a gradual increase in grants was authorized.

Highways

Stimulated by the examples of grants in the fields of education, agriculture, and forestry, and pressed by the need for better roads to handle increased automobile traffic, many private groups and States turned to the National Government for highway aid. In the Federal-Aid Road Act of 1916, Congress authorized an annual appropriation of $5 million for construction of new postal route roads and improvement of old ones. The funds were to increase gradually to $25 million per year, and equal contributions from the States were required.

In this enactment, a three-way formula was adopted for allocating the money: the factors were population, area and rural delivery, including star route mileage. The conditions were exacting: advance approval of projects by Federal engineers, maintenance of State highway departments, and continuing national supervision of the work. A thorough revision of the act occurred in 1921, and national controls were tightened. By 1925, the annual authorization for highway grants had reached $75 million.

The depression years saw great outpouring of national money into State highway programs, much of it unmatched. Construction of intercity highways and elimination of grade crossings were temporarily approved under emergency programs and were provided for in the Federal Highway Act of 1944. National funds for highways amounted to $50 million in 1947.

Vocational education and rehabilitation

The Smith-Hughes Act of 1917 extended grants into the area of vocational education in agriculture, industry, and home economics. A sum of $1.6 million was initially provided, but the amount increased by stages to more than $7 million annually. Apportionment among the three divisions of the program was calculated on rural, urban, and total population. Small increases were granted and minor changes made in 1929 and 1934. In 1936, the George-Deen Act raised the annual sum to about $22 million and incorporated a new field of aid to education in so-called distributive occupations. Ten years later the 79th Congress raised the total annual authorization to $30 million.

Meanwhile, beginning in 1920, $1 million a year was allocated to the vocational rehabilitation and training of victims of industrial accidents. The Social Security Act of 1935 doubled this amount, and an amendment to the same act in 1939 increased it to $3.5 million. After 1943, under an indefinite nonlimited authorization, expenditures increased again, reaching about $11 million in 1946.

Public health

The Chamberlain-Kahn Act of 1918 for the control of venereal disease introduced national grants to the field of public health. Within a few years the program dwindled and died. In 1921 grants to the States for maternal and child health programs were begun under the Sheppard-Towner Act and continued until 1929. Both programs were resumed in the Social Security Act of 1935, with the addition of grants for general public health work and, later, for tuberculosis control. At the conclusion of World War II, Congress passed the Hospital Survey and Construction Act, authorizing $378 million for a 5-year program of grants to aid in the building of public and private, nonprofit health centers.

Social security

The peak of the grant movement came with the adoption of the Social Security Act of 1935. Besides providing for the renewal of maternity welfare and public health grants, it established major programs of old-age assistance, aid for dependent children, aid to the blind, unemployment compensation, employment offices, child welfare, and services to crippled children. Except for the contributory old-age annuity plan, administered directly by the National Government, all the programs were organized in contributory grant form under joint National-State administration.

These programs almost immediately doubled the sum of all grants-in-aid.

Titles III and IX of the Social Security Act, taking a leaf from national experience with the estate tax offset plan of 1926, set up a system similar to it for unemployment compensation. A national tax of 3 percent was levied on the payrolls of employers. The States, by enacting their own unemployment compensation laws with a comparable tax, might offset and recapture the national tax to a limit of 90 percent of the tax dollars involved and use these sums for their State systems. Revenues from the portion of the tax retained by the National Treasury were not earmarked, but Congress was to appropriate amounts deemed necessary by it for the administration of unemployment compensation programs.

Additional grant programs authorized $3.9 million (increased in 1947 to $7.5 million) per year for medical and other services for crippled children, and $1.5 million (increased in 1947 to $3.5 million) per year for services on behalf of homeless, dependent, and neglected children.

Employment offices

National grants for publicly operated employment offices were authorized in 1933 with an initial appropriation of $1.5 million, which rose to $4 million for each of the succeeding 4 years. The distribution to the States was based on population, with a matching requirement. During the war years the employment offices were operated solely by the National Government, but in 1946 Congress directed their reversion to the former National-State system. In contrast to most grant programs, matching was no longer required in the 1946 act, and the amount of the grant was to be determined by the so-called size of problem in each State.

School lunch program

Thirteen years after the first emergency grant to the States for the encouragement of school lunch programs, Congress in 1946 gave the program a formal and continuing status. The grant varies with the need of the States and is apportioned among the States according to school-age populations and State per capita incomes. National matching was scheduled to decrease from 1 to 1 to 1 to 3 in 1955.

Airports

Many airports were constructed during the depression with national relief funds, and during World War II others were built by the States with national funds as defense landing areas. In 1946 a regular airport construction program was voted, $500 million was authorized over a 7-year period, and the spending procedures were set up in grant form. Apportionment was to be 25 percent at the discretion of the Administrator and 75 percent by population and area. Dollar-for-dollar matching was required.

A departure from the policy established in most of the previous large-scale grant programs was legislated into the Federal Airport Act: the location of airports and the selection of individual projects eligible to receive national aid were left to the determination of the national Administrator. Municipalities and other political subdivisions were allowed to deal directly with the Civil Aeronautics Administration without channeling through their State governments and the States were prevented from obtaining a general grant to carry out a total program. The CAA, however, was forbidden to negotiate solely with localities whenever prohibited from doing so by State law. A majority of States enacted statutes requiring that their localities undertake airport projects only in conjunction with State authorities.

The National Guard

The National Defense Act of 1916 reflected the crisis in Europe and the strong sentiment in the United States for nationalizing the National Guard completely. The act tightened central controls and made refusal to comply with its stringent requirements for withdrawal of national benefits. An act of 1920 established the Militia Bureau in the War Department and authorized a policy committee composed of War Department and National Guard officers. In 1933 the National Guard became a component of the Army of the United States, and all guardsmen, by that fact, became members of the National as well as State forces. By 1939 the national contribution to the upkeep of the National Guard was four times the amount spent by the States. After World War II the Army began to build up the guard to three times its prewar strength and to keep it in constant readiness for national duty.

THE GRANT-IN-AID SYSTEM, 1946–64

Between 1946 and 1964, some 54 new grant-in-aid programs have been established by the Congress. Among these have been programs dealing with major disaster relief, cancer control, heart disease control, slum clearance and urban renewal, civil defense, aid to permanently and totally disabled, school construction in federally affected areas, school operations and maintenance in federally affected areas, flood prevention and watershed protection, special milk program, urban planning waste treatment facilities, environmental health activities, library services, defense educational activities, education of the mentally retarded, and medical assistance for the aged. A few of these were enlargements of existing programs.

In the 87th Congress, Congress established 8 new programs; and in the 1st session of the 88th Congress, 10 additional grant programs were established, dealing with college aid, vocational education, medical schools, mental health retardation, air pollution, manpower retraining, agricultural experiment stations, outdoor recreation and library services and construction.

In order to present some idea of the scope and magnitude of the Federal grant-in-aid programs now in effect, a summary of 34 major grant programs, together with tabulations of all grants-in-aid during the period between 1902–62, is set forth at this point. It should be noted, that in some instances, the material may duplicate earlier summaries. However, an attempt has been made here to indicate legislative action through 1960.

APPENDIX A—EXISTING PROGRAMS OF FEDERAL GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS[1]

AID TO STATE SOLDIERS' HOMES

An act of 1888, as amended, authorizes payment to the States of $700 a year, or one-half of the per capita cost of maintenance if this amount is less than $700, for each veteran cared for in a State soldiers' home who is eligible for hospital treatment or domiciliary care by the Veterans' Administration.

AGRICULTURAL EXTENSION WORK

The Smith-Lever Act of 1914 authorized the establishment of cooperative agricultural extension work, and supplementary acts have provided additional appropriations and broadened the original benefits. Cooperative extension work is intended to provide instruction and practical demonstration in agriculture, home economics, and related subjects to persons not attending or resident in the land-grant colleges. The program is administered by the U.S. Department of Agriculture's Federal Extension Service and conducted by the State extension services (affiliated with the land-grant colleges). Funds are used largely for the employment of county extension agents who work with rural families, marketing concerns, and others. Grants are allotted annually to the States, principally on the basis of farm and rural population and to a limited extent on the basis of special problems and needs. Federal payments must be matched by funds from within the State.

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[1] For the most part these descriptions have been taken from the Report of the House Committee on Government Operations entitled "Federal-State-Local Relations," August 1958.

AGRICULTURAL MARKETING SERVICE

Under the Agricultural Marketing Act of 1946, grants are made to the States for facilitating projects to improve the marketing and distribution of agricultural products. These grants, which must be matched by equal amounts of State money, are allotted on an individual project basis rather than by formula. Complete discretion rests with the Secretary of Agriculture in determining which projects proposed by the States are to receive Federal assistance.

AGRICULTURAL RESEARCH

A number of Federal statutes, beginning with the Hatch Act of 1887, authorize Federal grants for the purpose of aiding scientific investigation and experiment with respect to the principles and applications of agricultural science, and for disseminating the results of such researches. Agricultural science has been broadly defined to include economic and sociological research for the improvement of rural life. Federal grants are made to the State agricultural experiment stations, all but two of which are under the governing boards of the land-grant colleges and universities. Federal funds are allotted partly in equal amounts to each State, partly in relation to rural and farm population, and partly for participation in cooperative regional research. Certain portions of the grant must be matched by State funds. Currently the States are contributing on the average about $3 for each $1 of Federal grants received. The program is administered by the Department of Agriculture.

AIRPORT CONSTRUCTION

The program of Federal aid to airports was initiated by the Federal Airport Act of 1946 to establish, in conformity with the national airport plan, a nationwide system of public airports adequate to meet the present and future needs of civil aviation. The national airport plan is an annually revised statement of required airport development and construction projects. Only projects sponsored by public agencies and included in the plan are eligible for Federal grants. The Federal appropriation is apportioned among the States 75 percent on the basis of population and land area and the remaining 25 percent at the discretion of the Civil Aeronautics Administrator. The program is administered by the Federal Aviation Agency.

ASSISTANCE TO STATE MARINE SCHOOLS

Annual grants are made to New York, Massachusetts, Maine, and California to assist these States in maintaining academies for training officers to serve in the American merchant marine. In addition to administering financial aid, the Maritime Administration in the Department of Commerce is authorized to furnish and repair suitable training vessels and to pay certain maintenance allowances and fees for students.

CHILD WELFARE SERVICES

This program, established by the Social Security Act of 1935, is intended to assist the State public welfare agencies in establishing, extending, and strengthening, especially in predominantly rural areas, public welfare service for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent. The program also provides services for the return of runaway children. Each State receives a uniform grant plus a share of the remaining appropriation determined on the basis of the State's rural population under 18 years. Although Federal grants under this program are not required to be matched, the Federal funds are intended to cover only a part of the total cost of child welfare services in the States. The program is administered by the Children's Bureau in the Department of Health, Education, and Welfare.

CIVIL DEFENSE CONTRIBUTIONS

The Federal Civil Defense Act of 1950, as amended, authorizes financial contributions to the States for civil defense purposes on the basis of programs and projects approved by the Federal Civil Defense Administrator. Objectives of the Federal contributions program are to assist the States and their political subdivisions in acquiring essential civil defense materials and equipment and to assist them in the training of civil defense workers. Contributions have been made for equipment and training in the fields of warning, communications, engineering, evacuation, fire control, health, police services, public information and education, and rescue and welfare service. Federal contributions are made to the States on the basis of individual project applications and must be matched on a 50–50 basis.

CRIPPLED CHILDREN'S SERVICES

This program, established by the Social Security Act of 1935, is intended to assist the States to extend and improve (especially in rural areas and areas suffering from severe economic distress) services for locating crippled children and for providing medical, surgical, corrective, and other services and care, as well as facilities for diagnosis, hospitalization, and aftercare, for children who are crippled or who are suffering from conditions which lead to crippling. The definition of a crippling condition is determined by each State; within that definition the State agency indicates the types of conditions it accepts for care. The Federal appropriation is equally divided into two funds. Fund A is apportioned by equal grants to each State, and the remainder prorated according to the number of children under 21 years of age. Twenty-five percent of fund B is reserved for special projects, while the remainder is apportioned according to the financial need of each State for assistance in carrying out its approved plan. Fund A grants must be matched dollar for dollar. The program is administered by the Children's Bureau in the Department of Health, Education, and Welfare.

DEFENSE EDUCATIONAL ACTIVITIES

The National Defense Education Act of 1958 authorized a number of programs of Federal financial assistance to education—both at the elementary and secondary level and for higher education—designed to meet critical national needs, especially in the areas of science, technology, and foreign languages. The act also added certain technician classifications to the coverage of the vocational education grant program, elsewhere described.

The act authorizes grants to States for (a) the purchase of equipment and improvement of State supervision to strengthen elementary and secondary school instruction in science, mathematics, and foreign languages; (b) the initiation and conduct of programs to strengthen guidance, counseling, and testing in secondary schools; and (c) the improvement of statistical services of State educational agencies. In addition to grants in aid to States, direct loans to college students and private schools, fellowships for graduate students and grants and contracts with private institutions of higher education are also authorized. For certain of the programs under the act, allotments to the States take into account factors of school age, population and per capita income, and currently, States must match on a 50–50 basis.

DISTRIBUTION OF EDUCATIONAL MATERIALS FOR THE BLIND

Federal support for the manufacture and distribution of books and teaching materials for the education of the blind was instituted in 1879. Until 1956 these materials were available only to students enrolled in special public school classes for the blind; under the recent amendment all blind children attending public schools are eligible to receive these aids. The American Printing House for the Blind, a private nonprofit corporation, operates the program under the supervision of the Department of Health, Education, and Welfare. Funds are credited to public schools for the blind and to State departments of education in proportion to the number of blind students registered in the public schools; books and materials are shipped by the printing house in the amount of the funds credited. Matching of Federal funds is not required.

DONATION OF SURPLUS AGRICULTURAL COMMODITIES

Beginning with the various agricultural assistance and emergency relief acts in 1933, the program for donation of Government-owned surplus foods to eligible outlets has been primarily a byproduct of programs to stabilize agricultural prices by price-support and surplus-removal operations. Under this program the Department of Agriculture provides State agencies with surplus foods for distribution to the nonprofit school-lunch program and to needy persons in charitable institutions and family units. Distribution of Government-acquired surplus foods to schools, charitable institutions, and needy families is carried out under agreements with State agencies which act as distributing agents for the Department of Agriculture. The Federal Government assumes the cost of any necessary processing and of transporting commodities to central receiving points within the States. State agencies then arrange for all phases of intrastate distribution.

EMPLOYMENT SERVICE AND UNEMPLOYMENT COMPENSATION ADMINISTRATION

The employment security system is comprised of the separate but related activities of unemployment compensation and employment services. Federal grants to the States for the support of public employment offices were introduced by the Wagner-Peyser Act of 1933. Under the Social Security Act of 1935, the States were encouraged by the enactment of a tax credit plan to establish unemployment compensation programs conforming to certain broad Federal standards. A Federal unemployment tax of 3 percent was levied, with certain exceptions, on the payrolls of employers of eight or more persons (now four or more), and a credit of up to 90 percent of this tax was allowed employers covered by State laws meeting the requirements of the Federal act. Each State pays benefits to eligible unemployed workers from a special State trust fund in which payroll taxes contributed by employers (and also by employees in two States) are deposited. The cost of operating each State's employment security agency, which administers both the unemployment compensation and employment service functions, is paid entirely by the grant financed from the Federal Government's three-tenths of 1 percent share of the payroll tax. The program is administered by the Bureau of Employment Security in the Department of Labor.

FISH AND WILDLIFE RESTORATION AND MANAGEMENT

The Federal Aid in Wildlife Restoration (Pittman-Robertson) Act of 1937 and the Federal Aid in Fish Restoration (Dingell-Johnson) Act of 1950 form the basis for grant programs administered jointly by the Fish and Wildlife Service of the Department of the Interior. States frequently submit single projects in which the costs are prorated between these companion programs. In the fish restoration program, Federal grants are provided to the State fish and game departments for carrying out sportfish restoration and management. The types of approvable activities are research into problems of fish management and culture, restoration and improvement of habitat, acquisition of lands and waters, and the maintenance of completed projects. Funds for the program are derived from a 10-percent excise tax on sport-fishing equipment and are allotted to the States on the basis of both area and the number of licensed fishermen. The wildlife restoration program includes, among approved activities, the restoration and improvement of lands and waters for wildlife habitat, acquisition of lands to be used for Federal resting or breeding grounds, research into the problems of wildlife management, and the maintenance of completed projects. Funds for carrying out the program, derived from an 11-percent excise tax on firearms and ammunition, are allotted in relation to the land area and the number of paid hunting license holders in each State. The Federal share of project costs is limited to 75 percent in both of these programs.

FLOOD PREVENTION AND WATERSHED PROTECTION

Under the Watershed Protection and Flood Prevention Act of 1954, the Federal Government cooperates with local organizations (States and their political subdivisions such as soil-conservation districts, flood-control districts, counties, and municipalities) for the purpose of making full use of water resources, preventing erosion, and reducing damages from floodwater and sediment in small watersheds. The program is intended to be an integral part of the total soil and water conservation program of the Nation and to round out the flood-control program by applying water-control measures on upstream watershed lands where the water first falls. The Federal Government shares the cost of installing works of improvement in accordance with a work plan developed for each watershed project. The amount of the Federal share of improvement costs varies with the purposes of each project and the nature of the benefits. The Soil Conservation Service of the Department of Agriculture administers the program.

HIGHWAY CONSTRUCTION

Commencing with the Federal-Aid Road Act of 1916, the Federal Government has assisted the States in the construction of highways. Funds are provided for projects on designated Federal-aid highway systems: The primary system, the secondary system, extensions of the primary and secondary systems within urban areas, and the National System of Interstate and Defense Highways. Funds authorized by the Congress are apportioned to the States, on a matching basis, in accordance with formulas involving the factors of area, population, and road mileage. However, commencing with the fiscal year 1960 funds for the National System of Interstate and Defense Highways will be apportioned among the States in the ratio which the estimated cost of completing such System in each State bears to the sum of the estimated cost of completing the System in all of the States. For primary, secondary and urban funds, the regular matching ratio is 50 percent Federal funds to 50 percent State funds, with increased Federal participation in States having large areas in public lands and nontaxable Indian lands; for the additional funds authorized for the fiscal year 1959 the Federal share is increased to two-thirds of project costs. The matching ratio for the Interstate System is 90 percent Federal funds to 10 percent State funds, with a larger share applicable to the public-lands States and to States which agree to control outdoor advertising in areas adjacent to the Interstate System. The program is administered by the Bureau of Public Roads in the Department of Commerce.

HOSPITAL AND MEDICAL FACILITIES SURVEY AND CONSTRUCTION

Grants for hospital survey and construction purposes were first authorized by the Hospital Survey and Construction Act of 1946. The Hill-Burton Act provided Federal funds for the construction of public-health centers and four types of public and other nonprofit hospitals: General, tubercular, mental, and chronic disease. The Medical Facilities Survey and Construction Act of 1954 expanded the scope of the program to include four additional categories of medical facilities: Diagnostic or treatment centers, hospitals for the chronically ill and impaired, rehabilitation facilities, and nursing homes. Survey and planning grants are allotted to the States on a population basis, while funds for construction are allotted by a formula which takes into account both population and State per capita income. The amount of matching funds required is also related to a State's per capita income. The program is administered by the Public Health Service, Department of Health, Education, and Welfare.

LIBRARY SERVICES FOR RURAL AREAS

This program, authorized by the Library Services Act of 1956, is intended to stimulate the States to extend public library services to rural areas without such services or with inadequate services. Federal grants must be matched by State or local government funds in amounts varying with a State's fiscal ability. Each State is required to submit a plan of operation for approval by the Commissioner of Education, Department of Health, Education, and Welfare.

MAJOR DISASTER RELIEF

Under the first Federal major disaster relief law enacted in 1947, surplus property was granted or loaned to stricken areas. With the depletion of available surplus property, it became increasingly necessary for the President to allocate money for disaster relief from emergency funds. The enactment of Public Law 875 in 1950 authorized a specific fund for making contributions to State and local governments to alleviate suffering from major disasters and to effect temporary repair or replacement of essential public facilities. In addition to monetary assistance, surplus commodities, property, and services may also be donated. Public Law 875 does not define a major disaster or establish criteria for the distribution of assistance. The law requires only that State and local governments shall spend a reasonable amount of their own funds for disaster relief purposes. Before assistance can be provided, however, the Governor must certify the need for Federal aid, and the President must declare the disaster to be of sufficient magnitude to warrant Federal help. The administration of disaster relief was transferred to the Federal Civil Defense Administration by Executive Order 10427 in 1953.

MATERNAL AND CHILD HEALTH SERVICES

The purpose of this program, established by the Social Security Act of 1935, is to enable each State to extend and improve services for promoting the health of mothers and children, especially in rural areas and areas suffering from severe economic distress. While the program is primarily one of preventive health services, medical care is also a feature in some of the States. The Federal appropriation is equally divided into two funds. Fund A is apportioned partly by an equal grant to each State and partly in proportion to the number of live births. After reserving an amount for special projects, fund B is apportioned according to the need of each State for financial assistance in carrying out its approved plan. Fund A grants must be matched dollar for dollar. The program is administered by the Children's Bureau in the Department of Health, Education, and Welfare.

PUBLIC ASSISTANCE

Under the Social Security Act of 1935, as amended, the Federal Government shares with the States the cost of furnishing financial assistance to needy persons who are aged, blind, or permanently and totally disabled, or in need of medical care, and to dependent children who are deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent. Public assistance is intended to supplement the needy person's resources to enable him to secure the necessities of life. The programs are administered by the States under State laws. Each State establishes its own eligibility requirements and its own standards of need and amount of payment subject to certain Federal conditions. The Federal grant is open end, with the amount of the Federal share depending upon each State's expenditures under an approved operating plan. The program is administered by the Bureau of Public Assistance in the Department of Health, Education, and Welfare.

PUBLIC HEALTH SERVICES

Continuing Federal grants for public health activities were inaugurated under the Social Security Act of 1935. Grants for the control of venereal disease were initiated earlier by the Chamberlain-Kahn Act of 1918 but were discontinued after a few years. The Public Health Service Act of 1944, consolidating and expanding previous public health legislation, is now the basic public health statute. Grants are made to assist the States and their political subdivisions to maintain adequate programs for general health and in five specific categories: cancer control, heart disease control, mental health, tuberculosis control, and venereal disease control. Funds are allotted to the States for each category except venereal disease on the basis of formulas which take into account population, the extent of the particular health problem, and State per capita income. Funds for venereal disease control are granted on a project basis at the discretion of the Surgeon General and do not require matching. Grants for all categories must be matched by expenditure of one dollar from State or local sources for every Federal dollar. The program is administered by the Public Health Service, Department of Health, Education, and Welfare.

PUBLIC HOUSING, LOW RENT

The U.S. Housing Act of 1937, as amended, is the statutory basis for the low-rent public housing program. Under the program, local housing authorities initiate, plan, build, own, and operate low-rent public housing projects under authorizing State statutes and with Federal financial aid in the form of loans and annual contributions. The annual contribution, legally limited (under contracts entered into pursuant to 1949 amendments) to a period of 40 years, constitutes the Federal subsidy which, up to a fixed maximum, makes up the difference between the cost of operating a project and the rents which the low-income tenants can afford to pay. The purpose of the program is to provide a minimum of decent, safe, and sanitary housing for families who cannot afford to rent such housing provided by private enterprise. The Public Housing Administration in the Housing and Home Finance Agency approves projects on the basis of the local need for low-rent housing.

RESIDENT INSTRUCTION IN LAND-GRANT COLLEGES

The first Morrill Act in 1862 made grants of public lands to the States, the proceeds of which were used to endow colleges of agriculture and the mechanic arts. Under the terms of the second Morrill Act of 1890, and supplemental acts, the Federal Government appropriates funds annually to be used for purposes of resident instruction and facilities for instruction in the 68 land-grant colleges and universities. The Federal grant is allotted partly in equal amounts to each State and partly on the basis of population; State matching is not required. The program is administered by the Office of Education, Department of Health, Education, and Welfare.

SCHOOL CONSTRUCTION IN FEDERALLY AFFECTED AREAS

In 1950 Congress enacted Public Law 815 to provide financial assistance for emergency school construction in areas where Federal activities had overburdened local school facilities and where local taxable resources were reduced because of Federal ownership of real property. At the same time, Congress enacted Public Law 874 to provide assistance for the operation and maintenance of schools in such areas. Originally enacted as a temporary measure, the construction program has been extended several times and modified somewhat in formula and content. Funds are distributed to eligible school districts, upon application, by a formula under which the Federal share of State average per pupil construction costs is determined by the number of federally connected pupils whose parents either live or are employed on Federal property, or both, or have come into the community to accept employment in Federal activities carried on directly or through a contractor. Federal funds may be used only for the construction of "minimum" school facilities; local funds make up any difference between the total cost of a project and the allowable Federal share. The program is administered by the Office of Education, Department of Health, Education, and Welfare.

SCHOOL OPERATION AND MAINTENANCE IN FEDERALLY AFFECTED AREAS

Public Law 874 was enacted in 1950 to provide for payments to school districts for current operating expenses in areas where Federal activities have imposed a financial burden due to substantial increases in enrollments resulting from Federal activities and a reduction in taxable resources because of Federal ownership of real property. At the same time, Congress enacted Public Law 815 to provide aid for school construction in such areas. Funds are distributed to eligible school districts, upon application, in relation to the number of school children whose attendance results from a Federal activity and the particular category (related to the degree of burden associated with the parent's residence and/or employment on a Federal property) in which pupils are counted. To be eligible for payments, a school district must have certain percentages of its total attendance identified with a Federal property or activity. Special payments are authorized for districts which have lost a substantial portion of their tax base because of Federal property acquisition since 1939, and for districts experiencing a sudden and substantial attendance increase and an unusual financial burden due to Federal defense contract activities. The program is administered by the Office of Education, Department of Health, Education, and Welfare.

SCHOOL LUNCH

Under the National School Lunch Act of 1946, cash grants and commodity donations are made for nonprofit lunches served in public and private schools of high school grade or under. The purposes outlined in the act are to safeguard the health of the Nation's children and to encourage the consumption of agricultural products. School lunch programs also provide an outlet for food commodities acquired by the Department of Agriculture under market stabilization purchase programs. Federal funds, subject to matching, are allotted to the States by a statutory formula which takes into account the number of a State's school-age children and its fiscal capacity as measured by per capita income. The program is operated according to the terms of an agreement between the State educational agency, which administers the program within the State, and the Department of Agriculture. The Deparment of Agriculture makes cash payments directly to nonprofit private schools in the 28 States and 2 territories in which legal barriers prevent a State from doing so.

SPECIAL MILK

Established by the Agricultural Act of 1954, the program is intended both to expand the market for fluid milk and to increase its consumption by children in nonprofit schools of high school grade and under and in nonprofit institutions devoted to the care and training of children. The amount of funds reserved for each State is based upon previous participation plus an allowance for program expansion. The program is administered by agencies of the various States operating under an agreement with the Department of Agriculture, except where legal or other barriers make it necessary for the Department to directly administer the program.

SLUM CLEARANCE AND URBAN RENEWAL

The Housing Act of 1949 (title I), as amended, is the basis for the slum clearance and urban redevelopment activities of the Federal Government. The 1949 act was broadened by the Housing Act of 1954 which authorized Federal assistance to local communities not only in the clearance and redevelopment of slum areas as originally provided, but also to help them in preventing the spread of slums and urban blight through the rehabilitation and conservation of blighted and deteriorating areas. Federal financial assistance is provided in the form of survey and planning advances, loans, and capital grants. The capital grants may finance up to two-thirds of the net project cost, or deficit, of each project. Localities are required to match these funds with at least one-third of the net costs, either in cash or in the form of land donations, public facilities such as school buildings or other public improvements which are of direct benefit to the project. The Housing Act of 1957 established an alternative method of computing the capital grant on the basis of three-fourths of the net project cost when survey and planning and administrative expenses are not included in project cost. In addition, special demonstration grants are authorized to aid localities in developing, testing, and reporting on improved techniques for preventing and eliminating slums and urban blight. Federal financial assistance may be made available only to an authorized local public agency. Such agencies generally derive their authority from specific State enabling acts or from amendments to State housing legislation. The program is administered by the Urban Renewal Administration in the Housing and Home Finance Agency.

STATE AND PRIVATE FORESTRY COOPERATION

Federal cooperation in the suppression of forest fires began under the Weeks Act of 1911 and was strengthened and broadened to include assistance in tree planting and forestry education under the Clarke-McNary Act of 1924. Cooperation in forest management on farm woodlands began under the Norris-Doxey Farm Forestry Act of 1937, and this activity was broadened to include all private woodlands under the Cooperative Forest Management Act of 1950. The Department of Agriculture, through the Forest Service, provides assistance to the States for forest fire protection and for encouraging reforestation and good management of woodlands. Funds are allotted to the States principally by formula, but in part by a uniform grant and on a project basis. Federal grants must be matched dollar for dollar.

URBAN PLANNING

The Housing and Home Finance Administrator is authorized under the Housing Act of 1954, as amended, to make grants to State planning agencies for planning assistance to municipalities of less than 25,000 population. The Administrator may also make grants to authorized State, metropolitan, or regional agencies for planning work in metropolitan and regional areas, and to municipalities and counties of at least 25,000 population which have suffered substantial damage as a result of a major disaster. Official planning agencies may also receive grants to plan for areas facing rapid urbanization as a result of Federal installations. In addition, grants may be made to State planning agencies to plan for localities affected by major disasters or by Federal installations. A grant may not exceed 50 percent of the estimated planning costs.

VOCATIONAL EDUCATION

Grants for vocational education began under the Smith-Hughes Act of 1917 to help communities provide vocational training of less than college grade in certain occupational fields. The program now provides grants to States for training in agriculture, distributive occupations, home economics, trades and industry, practical nursing, fishery trades and in highly skilled technical occupations essential for the national defense. Federal grants, which must be matched dollar for dollar, are allotted to the States by population formulas which differ with respect to the various training categories. The program is administered by the Office of Education, Department of Health, Education, and Welfare.

VOCATIONAL REHABILITATION

Grants to assist the States to prepare disabled persons for gainful employment were initiated in 1920, but the program was substantially broadened by later legislative acts. Originally devoted to training, counseling, placement, and the provision of artificial appliances, the program was expanded in 1943 to include physical restoration services. The vocational rehabilitation amendments of 1954 authorized further increases in the amount of Federal aid and, in addition, provided grants for encouraging the extension and improvement of services and for special projects. The act requires the States gradually to assume a larger portion of the total cost so that the States' share, which was approximately 34 percent in 1954, will be 40 percent by 1962. Funds for the support of rehabilitation services are allotted by a formula which takes into account State population and per capita income. The amount of matching funds required of each State is determined by its per capita income level in relation to other States. The program is administered by the Office of Vocational Rehabilitation, Department of Health, Education, and Welfare.

WASTE TREATMENT FACILITIES

Under the Federal Water Pollution Control Act of 1956, the Surgeon General of the Public Health Service is authorized to make grants to any State, interstate, municipal or intermunicipal agency for the construction of necessary treatment works to prevent the discharge of untreated or inadequately treated sewage or other waste into any waters. Such grants must be approved by the State pollution control agency and the Surgeon General. No grant is to exceed 30 percent of the estimated reasonable cost thereof as determined by the Surgeon General, or in an amount exceeding $250,000, whichever is the smaller, and at least 50 percent of the funds are to be used for projects serving municipalities of 125,000 population or under. Funds are allotted to the States on the basis of population and per capita income.

WATER POLLUTION CONTROL

Grants to State and interstate agencies to assist them in meeting the costs of establishing and maintaining adequate measures for the prevention and control of water pollution were authorized by the Federal Water Pollution Control Act of 1956. Federal grants had previously been authorized from 1950 through 1952 for studies and investigation of water pollution caused by industrial wastes. Funds are allotted to the States on the basis of population, the extent of the

water pollution problem, and financial need. Matching requirements are related to each State's per capita income level. The program is administered by the Public Health Service, Department of Health, Education, and Welfare.

Appendix B.—Expenditures for Federal grants-in-aid to State and local governments

PART I.—SELECTED FISCAL YEARS 1902 THROUGH 1932

[In thousands of dollars [1]]

Function, agency, and program [2]	1902	1912	1920	1925	1929	1930	1931	1932
Veterans' services and benefits: Veterans' Administration: Federal aid to State homes [3]	1,005	1,152	1,095	706	560	575	453	786
Social welfare, health, and security:								
Federal Security Agency:								
Payments to States, Vocational Rehabilitation Act, as amended				[4] 600	681	736	903	906
Promotion of welfare and hygiene of maternity and infancy				[4] 884	801	10		
Control of venereal diseases [3]			1,759	25				
Federal Works Agency: Highway funds, advances to States emergency expenditures							20,296	58,912
Total, social welfare, health and security			1,759	1,509	1,482	746	21,199	59,908
Education and general research: Federal Security Agency:								
Promotion of vocational education			2,107	[4] 5,873	6,801	7,385	7,992	8,533
Colleges for agriculture and the mechanic arts	1,200	2,500	2,500	2,550	2,550	2,550	2,550	2,550
To promote education of the blind	10	10	30	50	75	75	75	75
Total, education and general research	1,210	2,510	4,637	8,473	9,426	10,010	10.617	11,158
Agriculture and agricultural resources: Department of Agriculture:								
Payments to States, Hawaii, Alaska, and Puerto Rico for cooperative agricultural extension work			4,472	5,860	7,163	7,540	8,650	8,633
Payments to States, Hawaii, Alaska, and Puerto Rico, agricultural experiment stations	786	1,593	1,440	1,440	3,840	4,335	4,340	4,357
Total, agriculture and agricultural resources	786	1,593	5,912	7,300	11,003	11,875	12,990	12,990
Natural resources not primarily agricultural: Department of Agriculture:								
Forest-fire cooperation [3]				346	1,067	1,237	1,532	1,573
Farm and other private forestry cooperation [3]					66	81	91	91
Total, natural resources not primarily agricultural				346	1,133	1,318	1,623	1,664
Transportation and communication:								
U.S. Maritime Commission: State marine schools			177	75	75	75	125	100
Federal Works Agency:								
Federal-aid highway system			20,306	95,337	84,007	77,891	135,593	129,805
Flood relief, restoration of roads and bridges					1,917	1,873	2,410	2,101
Total, transportation and communication			20,483	95,412	85,999	79,839	138,128	132,006
General government: District of Columbia-Federal contribution [5]	4,082	6,006	9,559	10,044	9,118	9,202	9,653	9,691
Total, grants-in-aid	7,083	11,261	43,445	123,790	118,721	113,565	195,163	228,803

PART II.—FISCAL YEARS 1933 THROUGH 1940

[In thousands of dollars [1]]

Function, agency, and program [2]	1933	1934	1935	1936	1937	1938	1939	1940
Veterans' services and benefits: Veterans' Administration, Federal aid to State homes [3]	758	522	499	568	610	674	720	1,368
Social welfare, health, and security:								
Federal Security Agency:								
Payments to States, Vocational Rehabilitation Act, as amended	1,006	867	1,042	1,436	1,592	1,669	1,799	2,125
Grants to States for public assistance—old-age assistance, aid to dependent children, and aid to the blind				28,424	143,934	216,073	246,898	279,181
Child welfare services				225	969	1,356	1,521	1,487
Civil Works Administration: Emergency expenditures		805,123	11,327	676	297	222		
Public Works Administration: Public bodies, emergency expenditures		78,596	137,707	247,697	277,690	177,132	327,808	285,676
Federal Emergency Relief Administration: Emergency expenditures		707,352	1,814,477	495,592	8,390	4,369	1,660	541
Federal Works Agency:								
Highways, advances to States, emergency expenditures	62,127	55,669	2,136	63				
Highways, emergency expenditures		169,187	275,667	203,113	267,685	88,042	33,856	13,565
Flood relief, for restoration of roads and bridges						(6)	210	338
Works Progress Administration:								
Emergency relief				[3] 1,263,661	[3] 1,821,904	[3] 1,422,229	1,929,276	[4] 1,400,000
Control of venereal diseases [3]							2,361	4,188
Assistance to States, general [3]				2,386	7,819	8,892	7,985	9,501
Maternal and child health services				1,239	3,002	3,729	3,739	4,767
Services for crippled children				698	1,991	2,748	3,029	3,291
Total, social welfare, health, and security	63,133	1,816,794	2,242,356	2,245,210	2,535,273	1,926,461	2,560,142	2,004,660
Education and general research: Federal Security Agency:								
Promotion of vocational education	7,724	6,998	9,997	9,450	9,695	19,568	19,533	19,299
Colleges for agriculture and the mechanic arts	2,550	2,550	2,550	3,530	4,030	4,530	5,030	5,030
To promote education of the blind	75	75	75	75	75	115	115	115
Total, education and general research	10,349	9,623	12,622	13,055	13,800	24,213	24,678	24,444
Agriculture and agricultural resources:								
Department of Agriculture:								
Payments to States, Hawaii, Alaska, and Puerto Rico for cooperative agricultural extension work	8,607	8,352	8,580	16,664	16,343	17,252	17,822	18,448
Payments to States, Hawaii, Alaska, and Puerto Rico, agricultural experiment stations	4,359	4,358	4,384	4,992	5,611	6,229	6,538	6,848
Exportation and domestic consumption of agricultural commodities:								
School lunches [3]						9,461	68,010	117,817
Purchase of commodities for distribution through authorized agencies [3]								
Total, agriculture and agricultural resources	12,966	12,710	12,964	21,656	21,954	32,942	92,370	143,113

See footnotes at end of tables.

Appendix B.—Expenditures for Federal grants-in-aid to State and local governments—Continued

PART II.—FISCAL YEARS 1933 THROUGH 1940—Continued

[In thousands of dollars [1]]

Function, agency, and program [2]	1933	1934	1935	1936	1937	1938	1939	1940
Natural resources not primarily agricultural:								
Department of Agriculture:								
Forest-fire cooperation [3]	1,450	1,465	1,457	1,419	1,472	1,461	1,790	2,083
Farm and other private forestry cooperation [3]	73	51	54	54	67	67	93	129
New England hurricane damage							469	3,603
Department of the Interior: Federal aid in wildlife restoration							122	577
Total, natural resources not primarily agricultural	1,523	1,516	1,511	1,473	1,539	1,528	2,474	6,392
Transportation and communication:								
U.S. Maritime Commission: State marine schools	189	102	182	150	210	149	247	140
Federal Works Agency:								
Federal-aid highway system	103,608			27,192	78,852	134,728	123,619	105,502
Federal-aid secondary or feeder roads						3,199	16,434	18,355
Elimination of grade crossings						4,865	20,977	29,522
Flood relief, for restoration of roads and bridges	440	342	144	223	106	162	([7])	
Total, transportation and communication	104,237	444	326	27,565	79,168	143,103	161,277	153,519
Labor:								
Department of Labor: Grants to States for public employment offices		[3] 633	1,315	[3] 2,049	[3] 2,325	3,703	3,526	3,367
Federal Security Agency: Unemployment compensation administration				938	9,159	42,202	58,812	58,335
Total, labor		633	1,315	2,987	11,484	45,905	62,338	61,702
General government: District of Columbia, Federal contribution [4]	7,967	837	5,827	5,852	5,000	5,000	5,000	6,000
Total, grants-in-aid	200,933	1,848,079	2,277,420	2,318,366	2,668,828	2,179,826	2,908,999	2,401,198

PART III.—FISCAL YEARS 1941 THROUGH 1948

[In thousands of dollars [1]]

Function, agency, and program [2]	1941	1942	1943	1944	1945	1946	1947	1948
National defense: Executive Office of the President—War Shipping Administration: State marine schools (war) [6]	165	122	257	175	186			
Veterans' services and benefits: Veterans' Administration:								
Federal aid to State homes [3]	1,432	1,375	1,176	1,181	1,194	1,354	1,572	1,765
Grants to States for supervision of establishments engaged in on-the-job training program [3]							2,895	5,854
Grants to States for administration of unemployment and self-employment benefits [3]						18,884	28,587	24,178
Federal Works Agency: Veterans' educational facilities							26,128	53,179
Total, veterans' services and benefits	1,432	1,375	1,176	1,181	1,194	20,238	59,182	84,977
Social welfare, health, and security:								
Federal Security Agency:								
Payments to States, Vocational Rehabilitation Act, as amended	2,217	2,675	2,803	4,629	7,155	10,764	12,387	21,842
Grants to States for public assistance, old-age assistance, aid to dependent children, and aid to the blind	329,845	376,415	395,449	429,457	401,400	421,196	644,045	731,989
Child welfare services	1,532	1,573	1,583	1,423	1,363	1,278	[9] 2,010	3,422
Control of venereal diseases [3]	5,514	7,645	9,325	9,703	9,482	12,268	12,866	15,192
Control of tuberculosis [3]					1,370	5,179	6,873	6,703
Assistance to States, general [3]	10,722	11,473	10,573	10,840	10,913	10,964	11,717	11,173
Payments to States for surveys and programs for hospital construction							358	656
Grants for hospital construction								392
Mental health activities [3]								1,653
Grants, National Cancer Institute								2,825
Emergency maternity and infant care (war)				29,946	45,012	36,071	[10] 12,933	2,068
Maternal and child health services	5,471	5,927	5,708	5,948	5,486	6,056	[11] 10,672	10,584
Services for crippled children	3,928	3,997	3,848	3,787	3,839	4,151	[12] 7,430	7,423
Department of Agriculture: National school lunch program						([13])	[13] 76,100	[14] 68,313
Public Works Administration: Public bodies, emergency expenditures	116,786	36,102	21,159	4,319				
Works Progress Administration: Emergency relief	1,161,540	874,043	264,800	5,457				
Federal Works Agency:								
Liquidation of PWA					4,619	4,220	2,484	7,599
Highways, emergency expenditures	7,010	3,490	1,677	1,710	401	([15])		
Flood relief, for restoration of roads and bridges	242	54	([6])					
Total, social welfare, health, and security	1,644,807	1,323,394	716,925	507,219	491,040	512,147	799,875	891,834
Housing and community facilities:								
Housing and Home Finance Agency:								
Annual contributions	4,747	9,926	9,883	10,130	9,534	7,136	5,667	3,336
Veterans' reuse housing						29,253	357,167	42,471
Federal Works Agency:								
Community facilities, defense public works		34,096	108,529	124,190	119,413	54,620	9,727	1,003
Public works advance planning—repayable advances						13,628	21,116	7,101
Total, housing and community facilities	4,747	44,022	118,412	134,320	128,947	104,637	393,677	53,911
Education and general research:								
Federal Security Agency:								
Promotion of vocational education	20,068	20,376	20,911	20,334	19,811	20,153	20,493	26,538
Food conservation							1,111	
Colleges for agriculture and the mechanic arts	5,030	5,030	5,030	5,030	5,030	5,030	5,030	5,030
To promote education of the blind	115	115	115	115	115	125	125	125
Federal Works Agency: Maintenance and operation of schools							5,411	5,461
Total, education and general research	25,213	25,521	26,056	25,479	24,956	25,308	32,170	37,154

See footnotes at end of tables.

Appendix B.—Expenditures for Federal grants-in-aid to State and local governments—Continued

PART III.—FISCAL YEARS 1941 THROUGH 1948—Continued

[In thousands of dollars [1]]

Function, agency, and program [2]	1941	1942	1943	1944	1945	1946	1947	1948
Agriculture and agricultural resources:								
Department of Agriculture:								
Payments to States, Hawaii, Alaska, and Puerto Rico for cooperative agricultural extension work	18,477	18,847	18,784	18,754	18,715	23,148	26,584	26,364
Research and Marketing Act of 1946 [3]								2,421
Payments to States, Hawaii, Alaska, and Puerto Rico, agricultural experiment stations	6,861	6,925	6,922	6,946	6,972	7,195	7,190	7,151
Exportation and domestic consumption of agricultural commodities:								
School lunches	84,791	51,747	15,340	34,400	47,844	55,938	(16)	
Purchase of commodities for distribution through authorized agencies [3]			6,644	6,219	8,331	6,146	31,342	[17] 35,004
Total, agriculture and agricultural resources	110,129	77,519	47,690	66,319	81,862	92,427	65,116	70,940
Natural resources not primarily agricultural:								
Department of Agriculture:								
Forest-fire cooperation [3]	1,972	2,176	3,666	5,911	5,946	6,974	7,873	8,791
Farm and other private forestry cooperation [3]	109	110	121	143	112	104	107	218
New England hurricane damage	850							
Forest-fire control (emergency)		520	3,345					
Department of Interior: Federal aid in wildlife restoration	1,189	1,712	1,873	1,305	1,415	1,196	1,774	2,464
Total, natural resources not primarily agricultural	4,120	4,518	9,005	7,359	7,473	8,274	9,754	11,473
Transportation and communication:								
U.S. Maritime Commission: State marine schools [18]						232	202	296
Federal Works Agency: Federal-aid highway system	118,616	107,116	66,014	36,129	25,242	29,302	37,725	23,339
Federal-aid secondary or feeder roads	17,359	16,049	6,613	4,421	3,547	5,204	8,184	5,559
Elimination of grade crossings	29,925	26,041	13,425	6,457	4,522	5,324	6,266	9,863
Federal-aid postwar highways						4,619	131,051	275,685
Public lands highways		812	[3] 70	168	62	30	19	239
Strategic highway network (war)				13,528	9,787	8,347	9,368	3,113
Access roads (war)		10,076	90,685	88,111	44,830	18,169	13,232	7,704
Surveys and plans (war)				173	605	1,074	968	756
Highways, emergency expenditures					(19)	3,180	1,069	831
Flood relief, for restoration of roads and bridges [7]			15					51
Flight strips (war)		11	4,613	3,363	659	387	120	112
Department of Commerce: Federal-aid airport program								6,000
Total, transportation and communication	165,900	160,105	181,435	152,350	89,254	75,868	208,204	333,550
Labor:								
Department of Labor: Grants to States for public employment offices	3,188	1,600					42,536	65,893
Federal Security Agency:								
Unemployment compensation administration	63,011	70,257	54,416	36,201	34,419	55,726	59,682	67,155
Education and training, defense workers (war)	60,301	111,263	131,241	72,731	44,717			
Total, Labor	126,500	183,120	185,657	108,932	79,136	55,726	102,218	133,048
General government: District of Columbia: Federal contribution	6,000	6,000	6,000	6,000	6,000	6,000	8,000	12,000
Total, grants-in-aid	2,089,013	1,825,696	1,292,613	1,009,334	910,048	900,625	1,678,196	1,628,887

PART IV.—FISCAL YEARS 1949 through 1954

[In thousands of dollars [1]]

Function, agency, and program [2]	1949	1950	1951	1952	1953	1954
Veterans' services and benefits:						
Veterans' Administration:						
Aid to State homes	3,145	3,355	3,529	3,646	3,726	[22] 3,745
State supervision of schools and training establishments	4,875	3,801	3,010	2,410	2,000	[22] 2,328
Administration of unemployment and self-employment benefits	21,019	7,468	2,432	600	600	
General Services Administration:						
Veterans' educational facilities	2,548	653	27	(20)		
State supervision of schools and training establishments						790
Total, veterans' services and benefits	31,587	15,277	8,998	6,656	6,326	6,863
Social security, health, labor, and welfare:						
Federal Security Agency,[20] [21] Department of Health, Education, and Welfare:						
Public assistance	920,814	1,123,418	1,185,764	1,177,688	1,329,933	1,437,516
Vocational rehabilitation	14,823	24,937	16,141	21,508	22,246	22,977
Child welfare services [23]	2,197	320				
Hospital construction	10,096	55,658	106,766	124,079	108,909	89,918
Portion to private nonprofit institutions						(40,463)
Surveys and programs for hospital construction	195	110	108	63	87	10
Assistance to States, general public health	11,213	14,081	13,540	13,500	13,000	[22] 10,129
Control of venereal disease	14,618	13,367	10,667	9,331	6,062	[22] 2,165
Control of tuberculosis	6,786	6,781	6,350	5,800	5,300	[22] 4,273
Mental health activities	2,925	3,294	3,074	2,913	3,060	[22] 2,307
National Heart Institute		1,770	1,359	1,258	1,446	[22] 1,054
National Cancer Institute	3,329	3,246	3,034	3,128	3,009	[22] 3,320
Maternal and child health services [23]	1,229	139				
Emergency maternity and infant care (national defense)	[3] 47					
Services for crippled children	220	102				
Maternal and child welfare	19,424	22,216	28,058	31,032	31,503	29,380
Disease and sanitation control, Alaska	782	757	694	630	510	[22] 564
Water pollution control		995	956	929	20	[3] 69
Defense community facilities					1,079	
Department of Agriculture: National school lunch program (and special milk program, 1959)	74,902	83,066	82,761	83,570	82,802	83,497
General Services Administration:						
Liquidation of public works	7,718	378	(22)			
Hospital facilities in District of Columbia (private nonprofit)						[22] 507
Interstate Commission on the Potomac River Basin						5

See footnotes at end of tables.

Appendix B.—Expenditures for Federal grants-in-aid to State and local governments—Continued

PART IV.—FISCAL YEARS 1949 through 1954—Continued

[In thousands of dollars [1]]

Function, agency, and program [2]	1949	1950	1951	1952	1953	1954
Social security, health, labor, and welfare—Continued						
General Services Administration—Continued						
Assistance for school construction and operation in federally affected areas:						
Maintenance and operation of schools, community facilities	5,644	7,099				
School construction			3,234	55,808	134,365	105,267
Maintenance and operation of schools			13,773	35,504	65,956	67,396
Vocational education	26,122	26,360	26,652	25,777	25,432	25,321
Colleges for agriculture and the mechanic arts	5,030	5,030	5,030	5,030	5,030	5,050
Education for the blind	125	125	125	115	175	175
Department of Labor: Unemployment compensation and employment service administration	140,314	207,617	177,913	186,528	202,170	202,836
Total, social security, health, labor, and welfare	1,268,459	1,600,866	1,685,999	1,784,191	2,042,094	2,093,599
Commerce and housing:						
Funds appropriated to the President: Disaster relief				16,257	11,887	2,528
Housing and Home Finance Agency:						
Low-rent housing program, annual contributions	3,383	7,121	6,720	12,544	25,881	[22] 44,473
Veterans' reuse housing	4,649	2,533	644	583	511	
Slum clearance and urban redevelopment, capital grants					7,818	[22] 11,583
Defense community facilities and services					2,434	8,578
General Services Administration: Defense public works, community facilities	552	265	117	7	9	3
Department of Health, Education, and Welfare: Defense community facilities and services						[24] 4,139
Department of Interior:						
Virgin Islands public works				1,625	1,412	1,544
Alaska public works				2,247	3,638	[22] 3,678
Federal Civil Defense Administration: Federal contributions				514	12,891	13,696
Department of Commerce:						
Federal aid airport program	30,406	33,433	30,388	32,808	26,853	[22] 17,481
State marine schools	493	158	162	155	163	[22] 150
Federal aid highways						519,659
Postwar Federal aid highways	367,506	406,190	383,400	405,604	497,382	
Federal aid highways (trust fund)						
Prior Federal aid highway laws	33,191	23,277	10,970	8,064	2,503	
War and emergency damage-roads, territory of Hawaii	2,045	2,029	1,569	1,291	1,002	810
Other Federal highway programs						1,977
Total, commerce and housing	442,225	475,006	433,970	481,699	594,384	630,299
Agriculture and agricultural resources, Department of Agriculture:						
Commodity Credit Corporation and removal of surplus agricultural commodities, contributions to school lunch program and to other public agencies						161,618
Removal of surplus agricultural commodities	45,850	50,000	12,915	33,172	52,000	
Commodity Credit Corporation: Donation of commodities		11,547	40,245	5,326		
Cooperative agricultural extension work	30,181	31,145	31,366	31,743	31,716	31,771
Agricultural experiment stations	7,354	12,244	12,382	12,424	12,371	13,426
Agricultural Marketing Act: Cooperative projects in marketing	3,246	1,340	1,436	1,200	1,250	
Watershed protection						972
Flood prevention						5,386
Total, agriculture and agricultural resources	86,631	106,276	98,344	83,865	97,337	213,173
Natural resources:						
Department of Agriculture: State and private foresty cooperation	9,177	9,466	9,745	10,037	10,230	9,799
Department of Interior:						
Wildlife restoration	4,820	7,491	7,995	9,518	11,463	[22] 12,847
Fish restoration and management				200	1,078	[22] 2,292
Total, natural resources	13,997	16,957	17,740	19,755	22,771	24,938
General government, Department of Interior:						
Grants to American Samoa, Guam, and the trust territories				5,391	7,161	6,300
District of Columbia: Federal contribution	12,000	12,000	10,800	11,400	11,000	12,000
Total, general government	12,000	12,000	10,800	16,791	18,161	18,300
Total, grants-in-aid	1,854,899	2,226,382	2,255,851	2,392,957	2,781,073	2,987,172

PART V.—FISCAL YEARS 1955 THROUGH 1962

[In thousands of dollars [1]]

Function, agency, and program [2]	1955	1956	1957	1958	1959	1960	1961 (estimated)	1962 (estimated)
Veterans' services and benefits, Veterans' Administration:								
Aid to State homes	[22] 5,229	5,532	[22] 5,680	[22] 5,971	[22] 6,244	[22] 6,128	[22] 7,536	[22] 7,574
State supervision of schools and training establishments	[22] 2,457	2,559	[22] 2,537	[22] 2,355	[22] 2,072	[22] 1,752	[22] 1,560	[22] 1,450
Total, veterans' services and benefits	7,686	8,091	8,217	8,326	8,316	7,880	9,096	9,024
Social security, health, labor, and welfare:								
Federal Security Agency,[20] [21] Department of Health, Education and Welfare:								
Public assistance	1,426,599	1,455,274	1,556,422	1,794,687	1,966,394	2,058,896	2,158,901	2,285,800
Vocational rehabilitation	25,983	[22] 34,996	[22] 34,228	[22] 40,789	45,373	48,607	55,176	59,270
Hospital construction	[22] 72,991	[22] 55,535	[22] 71,503	[22] 105,292	[22] 135,159	[22] 143,578	[22] 154,000	[22] 167,100
Portion to private nonprofit institutions	(40,145)	(29,895)	(39,327)	(57,905)	(74,337)	(80,411)	(86,000)	(93,700)
Research on utilization of hospital facilities			1,094					
Surveys and programs for hospital construction	146	284	394	124				
Assistance to States, general public health	[22] 9,724	[22] 13,332	[22] 12,509	[22] 14,931	[22] 14,924	[22] 14,985	[22] 17,000	[22] 17,820
Control of venereal disease	[20] 697	[22] 1,199	[22] 1,223	[22] 1,676	[22] 2,390	[22] 2,371	[22] 2,400	[22] 2,400
Control of tuberculosis	[22] 4,490	[22] 4,488	[22] 4,485	[22] 4,489	[22] 3,995	[22] 3,993	[22] 4,000	[22] 4,000
Mental health activities	[22] 2,317	[22] 2,980	[22] 3,949	[22] 3,944	[22] 3,986	[22] 4,905	[22] 6,000	[22] 6,000
National Heart Institute	[22] 1,067	[22] 1,088	[22] 1,987	[22] 2,044	[22] 2,075	[22] 2,905	[22] 3,500	[22] 3,500
National Cancer Institute	[22] 2,230	[22] 2,210	[22] 2,235	[22] 2,214	[22] 2,171	[22] 2,203	[22] 3,500	[22] 3,500

See footnotes at end of tables.

Appendix B.—Expenditures for Federal grants-in-aid to State and local governments—Continued

PART V.—FISCAL YEARS 1955 THROUGH 1962—Continued

[In thousands of dollars [1]]

Function, agency, and program [2]	1955	1956	1957	1958	1959	1960	1961 (estimated)	1962 (estimated)
Social security, health, labor, and welfare—Continued								
Federal Security Agency,[20] [21] Department of HEW—Con.								
Maternal and child welfare	29,256	33,622	38,251	40,723	43,498	47,433	51,261	53,506
Disease and sanitation control, Alaska	[22] 613	[22] 638	[22] 638					
Water pollution control	1		[22] 1,683	[22] 2,528	[22] 2,591	[22] 2,659	[22] 3,000	[22] 3,000
Grants and special studies, Alaska				[22] 1,638	[22] 1,638			
Hospital and medical care, Hawaii				[22] 1,241	[22] 1,046	[22] 1,065	[22] 1,100	[22] 1,100
Construction grants for waste treatment facilities			843	16,884	36,429	40,295	40,600	43,000
Grants for construction of health research facilities			[22] 75	[22] 28	[22] 896	[22] 504	[22] 520	[22] 500
Poliomyelitis vaccination program		22,645	30,056	309	−474	−1,287		
Department of Agriculture: National school lunch program (and special milk program—1959)	[22] 83,068	[22] 81,617	[22] 97,790	[22] 164,820	[22] 216,328	[22] 231,868	[22] 242,634	[22] 247,534
General Services Administration:								
Hospital facilities in District of Columbia (private nonprofit)	[22] 1,433	[22] 381	[22] 17	[22] 936	[22] 1,480	[22] 1,455	[22] 600	[22] 200
Interstate Commission on the Potomac River Basin	5	5						
Education and general research, Department of Health, Education, and Welfare:								
Assistance for school construction and operation in federally affected areas:								
School construction	[22] 121,058	[22] 89,271	[22] 67,068	[22] 4,397	[22] 66,097	[22] 70,553	[22] 63,350	[22] 57,382
Maintenance and operation of schools	[22] 81,859	[22] 80,927	[22] 93,194	[22] 104,143	[22] 132,073	[22] 166,661	[22] 181,000	[22] 93,500
Vocational education	30,522	33,199	37,582	39,192	38,353	39,140	40,257	40,442
Colleges for agriculture and the mechanic arts	5,051	5,051	5,051	5,052	5,052	5,052	7,277	10,744
Education of the mentally retarded						71	450	500
Defense education activities					43,958	68,507	78,314	88,083
Education for the blind	205	224	230	328	400	400	400	400
Grants for library facilities			1,440	4,892	5,362	7,037	7,986	8,416
White House Conference on Education	[22] 608							
White House Conference on the Aging						759	41	
Department of Labor: Unemployment compensation and employment service administration	193,552	231,169	248,315	[22] 290,680	[22] 297,261	[22] 317,156	[22] 361,208	[22] 345,366
Treasury Department: Credit to State accounts in unemployment trust fund		167,807	[22] 71,195	[22] 33,453				
National Science Foundation: Grants for research equipment			[22] 5	[22] 540				
Department of Interior, Bureau of Indian Affairs: Education and welfare services				7,337	[22] 5,452	[22] 5,378	[22] 5,450	[22] 6,950
Total, social security, health, labor and welfare	2,093,473	2,317,942	2,383,462	2,689,311	3,073,907	3,287,149	3,489,925	3,550,013
Commerce and housing:								
Funds appropriated to the President: Disaster relief	8,939	15,421	10,166	[22] 11,897	[22] 4,139	[22] 1,473	[22] 3,800	[22] 3,800
Small Business Administration: Grants for research						2,028	800	900
Housing and Home Finance Agency:								
Low-rent housing program, annual contributions	[22] 66,592	[22] 81,730	[22] 86,687	[22] 94,579	[22] 110,849	[22] 127,373	[22] 148,200	[22] 172,800
Slum clearance and urban renewal, capital grants	[22] 33,516	[22] 13,581	[22] 29,621	[22] 35,232	[22] 75,537	[22] 101,705	[22] 152,253	[22] 199,721
Defense community facilities and services	[22] 2,436	[22] 551	[22] 653	[22] 1,266	[22] 157	[22] 93		
Housing and Home Finance Agency: Urban planning grants		274	650	1,953	1,834	2,554	3,500	6,000
General Services Administration: Defense public works, community facilities	91	5						
Department of Health, Education, and Welfare: Defense community facilities and services	1,430		271	13	25			
Department of Interior:								
Virgin Islands public works	1,640	703	53	14	43	12		
Alaska public works	[22] 4,398	[22] 6,110	[22] 3,876	[22] 3,461	[22] 2,952	[22] 2,164	[22] 600	[22] 200
Federal Civil Defense Administration: Federal contributions	10,470	9,561	8,647					
Office of Civil and Defense Mobilization:								
Federal contributions				8,324	8,955	4,923	7,370	20,500
Research and development				[22] 5,443	[22] 2,483	[22] 26		
Federal Aviation Agency: Federal-aid airport program				[22] 42,870	[22] 56,578	[22] 57,113	[22] 83,305	[22] 82,153
Department of Commerce:								
Federal-aid airport program	[22] 8,227	[22] 16,688	[22] 20,629					
State marine schools	[22] 149	[22] 153	[22] 292	[22] 368	[22] 332	[22] 524	[22] 550	[22] 550
Federal-aid highways	583,678	728,099						
Federal-aid highways (trust fund)			952,556	1,493,218	2,588,796	2,912,999	2,839,963	2,959,000
Federal-aid highways, liquidation of contract authorization					4,784	−250		
Elimination of grade crossings				130				
Public lands highways				[22] 2,755	[22] 2,990	[22] 1,871	3,897	4,431
Forest highways				[22] 22,217	[22] 26,813	[22] 26,935	29,581	31,555
Highway surveys and plans					82	98	98	
Reimbursement to District of Columbia highway fund				200				
War and emergency damage, roads, Territory of Hawaii	615	460	82					
Other Federal highway programs	1,453	[22] 379	[22] 2,176					
Total, commerce and housing	723,634	873,715	1,016,359	1,723,940	2,877,781	3,241,641	3,273,917	3,481,610
Agriculture and agricultural resources: Department of Agriculture:								
Commodity Credit Corporation and removal of surplus agricultural commodities: contributions to school lunch program and to other public agencies	177,704	304,889	271,377	173,575	206,703	148,994	162,901	168,829
Emergency feed and seed assistance			17,426					
Cooperative agricultural extension work	39,387	[22] 43,966	[22] 49,787	[22] 56,520	[22] 60,624	[22] 61,303	[22] 65,000	[22] 67,390
Agricultural experiment stations	19,371	24,588	[22] 28,829	[22] 30,158	[22] 31,071	[22] 31,085	[22] 32,060	[22] 34,018
Agricultural Marketing Act: Cooperative projects in marketing	[22] 900	[22] 1,000	[22] 1,160					
Watershed protection	5,040	6,200	5,561	[22] 7,573	[22] 11,931	[22] 18,522	[22] 22,929	[22] 34,700
Flood prevention	5,328	[22] 8,634	[22] 7,646	[22] 9,209	[22] 10,981	[22] 14,169	[22] 13,852	[22] 16,500
Payments to States, territories, and possessions, agricultural marketing service				1,160	1,160	1,195	1,195	1,195
Total, agriculture and agricultural resources	247,730	389,277	381,786	278,195	322,470	275,268	297,937	322,632
National resources: Department of Agriculture:								
State and private forestry cooperation	9,508	10,694	10,831					
Forest protection and utilization				[22] 11,824				
Assistance to States for tree planting				51				
Forest protection and utilization, and assistance to States for tree planting					[22] 12,425	[22] 11,447	[22] 11,496	[22] 12,290

See footnotes at end of tables.

Appendix B.—Expenditures for Federal grants-in-aid to State and local governments—Continued

PART V.—FISCAL YEARS 1955 THROUGH 1962—Continued

[In thousands of dollars [1]]

Function, agency, and program [2]	1955	1956	1957	1958	1959	1960	1961 (estimated)	1962 (estimated)
National resources: Department of Agriculture—Continued								
Department of the Interior:								
Wildlife restoration	12,796							
Fish restoration and management	3,521							
Drainage of anthracite mines			7	415	1,532	1,232	1,365	500
Federal aid in fish restoration and management				[22] 5,224	[22] 4,644	[22] 4,318	[22] 4,500	[22] 5,000
Fish and wildlife restoration		[22] 15,803	[22] 15,739					
Federal aid in wildlife restoration				[22] 13,330	[22] 15,203	[22] 17,610	[22] 14,900	[22] 15,200
Bureau of Reclamation:								
Disposal of Coulee Dam community and other grants				[22] 10	[22] 163	[22] 101	[22] 17	[22] 2
Grants for small reclamation projects				1			130	
Bureau of Indian Affairs: Resources management				475	[22] 514	[22] 627	[22] 700	[22] 750
Department of Defense: Department of the Army: Corps of Engineers: U.S. section, St. Lawrence River Joint Board of Engineers	107	109						
Total, natural resources	25,932	26,606	26,577	31,330	34,481	35,335	33,108	33,742
General government:								
National Capital Planning Commission: Acquisitions of land				227	411	138	162	1,200
Department of Interior:								
Grants to American Samoa, Guam, and the trust territories	5,930	6,132	5,855	7,205	[22] 5,962	[22] 6,819	[22] 7,582	[22] 10,258
Care and custody of the Alaska Insane			228	71				
Funds appropriated to the President: Transitional grants to Alaska						10,386	6,098	6,000
District of Columbia: Federal contributions	21,890	19,892	[22] 20,000	20,000	[22] 25,000	[22] 25,000	[22] 33,700	[22] 36,000
Total, general government	27,820	26,024	26,083	27,503	31,373	42,343	47,542	53,458
Total, grants-in-aid	3,126,275	3,642,655	3,942,484	4,758,605	6,348,328	6,889,616	7,151,525	7,450,479

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[1] Detail may not add to totals because of rounding.

[2] Where a program was transferred between agencies during the period covered, only the latter agency is shown.

[3] Obligations.

[4] Estimated.

[5] Source: Fiscal Relations between the U.S. and the District of Columbia, Government Printing Office, 1937.

[6] Prior to 1939 and beginning in 1943, classified under "Transportation and Communication, Federal Works Agency."

[7] In 1939 through 1942 classified under "Social welfare, health, and security, Federal Works Agency."

[8] Prior to 1941 and beginning in 1946 classified under "Transportation and communication, U.S. Maritime Commission," and subsequently under "Commerce and housing, Department of Commerce."

[9] Includes $213,000 expended by Labor Department.

[10] Includes $1,980,000 expended by Labor Department.

[11] Includes $16,000 expended by Labor Department.

[12] Includes $17,000 expended by Labor Department.

[13] Prior to 1947, classified under "Agriculture and agricultural resources, Department of Agriculture."

[14] Omits $19,341,000 included under "Purchases of commodities for distribution through authorized agencies."

[15] Beginning in 1946, classified under "Transportation and communication, Federal Works Agency."

[16] Beginning in 1947, classified under "Social welfare, health, and security."

[17] Revised.

[18] In 1941 through 1945 classified under "National defense, War Shipping Administration."

[19] Prior to 1946 classified under Social Welfare, Health and Security.

[20] Less than $500.

[21] The Federal Security Agency became the Department of Health, Education, and Welfare on Apr. 11, 1953.

[22] Part of a larger appropriation account.

[23] Merged into general category of "Maternal and child welfare."

[24] Part of the estimated expenditures shown may be for loans to local governments and for direct Federal construction of local facilities.

NOTE.—For explanatory comment, see the budget for 1960, Special Analysis G (reprints of pp. 982–988 from the budget). Grant-in-aid data are not available on a consistent functional classification basis for all of the years 1902 to date. The data here presented are from U.S. Bureau of the Budget sources: The years 1902–48 from unpublished documents; the years 1949–62, from the "Special Analysis of Federal Grants-in-Aid to State and Local Governments," contained in the budget documents for the corresponding years. The data for 1958 and subsequent years accord with those published on a State-by-State basis in the annual report of the Secretary of the Treasury.

Source: (1) Supplement to "Expenditures for Federal Grants-in-Aid and Shares Revenues," Bureau of the Budget, for years 1902, 1912, 1920, 1925, and 1929–48 issued on May 2, 1949 (now out of print). (2) The Budget, Special Analysis G, for years 1949 to 1962, inclusive.

SUMMARY OF CURRENT TRENDS IN FEDERAL ASSISTANCE PROGRAMS

Up to this point in my remarks, I have examined in detail the history and development of Federal aid to States and local governments, with special attention to grants-in-aid programs which constitute some 96 percent of total Federal expenditures for aid and assistance.

At the outset of my remarks, I stated that title VI, in its present form, may well undermine, impair and even destroy the vast system of programs by which the Federal Government has been providing financial aid and assistance to State and local governments for more than 100 years. Now, I believe it will be useful to examine current trends in these programs during the past few years, in order to bring home to the American people phenomenal growth and scope of these aid programs.

According to estimates contained in the 1965 budget, Federal financial assistance to some 91,185 State and local governmental jurisdictions, during fiscal year 1965, is expected to total $10.6 billion, as compared with $3.1 billion in fiscal year 1955, only 10 years ago. In this connection, it may be of interest to note that, in 1902, total Federal expenditures for aid to State and local governments amounted to only $7 million, of which $3 million was paid to the States and $4 million to local governing bodies.

I will now address myself to current trends, covering the past 10 years. This will be followed by a tabulation from the official report of the Secretary of the Treasury for the fiscal year ending on June 30, 1963, showing expenditures by the Federal Government as direct payments to the States and within States which provide relief and other aid, through fiscal year 1963. It is arranged according to Federal Departments and agencies, and further broken down as to programs within each Department and agency, and also includes the amounts received by and within each State and territory. This will be followed by a compilation furnished to the chairman of the Committee on the Judiciary of the House of Representatives, at his request, by the Deputy Attorney General, on December 2, 1963, listing, by Department and agency, all of the programs and activities which involve Federal financial assistance and which may be within the scope of title VI, together with preliminary actual expenditures for fiscal year 1963.

FEDERAL AID TO STATE AND LOCAL GOVERNMENTS—CURRENT TRENDS, FISCAL YEAR 1964

Federal aid to State and local governments in recent decades has become a major factor in the cooperative financing of essential Government functions. The rudiments of the present system date back about 100 years to the Civil War with the enactment in 1862 of the Morrill Act, which established the land-grant colleges and instituted certain federally required minimum standards, characteristic of the present grant-in-aid system. Federal aid was later initiated for agriculture, highways, vocational education and rehabilitation, forestry, and public health. In the depression years, Federal aid was extended to meet economic security and other social welfare needs.

In 1964 Federal financial assistance to State and local governments under existing or proposed programs will total an estimated $10.4 billion, including net expenditures of $6.6 billion from regular budget accounts and $3.8 billion from the highway and unemployment trust funds. The total includes $278 million under proposed legislation, of which $215 million is for education. The remainder is for comprehensive maternal and child health services, increased contributions to the District of Columbia, urban transportation assistance, land and water conservation, and hospital construction.

The growth of Federal aid programs: In 10 years, total Federal aid to State and local governments, especially for highways, will have almost quadrupled, rising from $2.7 billion in 1954 to an estimated $10.4 billion in 1964. In the same period, expenditures by State and local governments from their own funds will have more than doubled. Although the number and variety of Federal aid programs have increased markedly in the last several decades, more than 60 percent of total expenditures in 1964 for assistance to State and local governments will be for highway construction and public assistance grants. Over the last decade, highway construction grants have increased more than sixfold, rising from $522 million in 1954 to an estimated $3.4 billion in 1964, the largest increase in Federal aid for any purpose during this period. Grants for public assistance have more than doubled since 1954, increasing from $1.4 billion to an estimated $3 billion in 1964.

Increasing population and rapid urbanization have led to greater responsibility, particularly at the State and local level, for providing essential public services in education, health, housing, urban renewal, highways and public transportation, and the safeguarding of economic security. While the major burden of such public services rests with the 91,185 State and local governmental jurisdictions, the Federal Government has assumed a vital role, both through direct operation of programs and by providing financial assistance to State and local governments.

The task of providing improved public services can be facilitated though improved intergovernmental cooperation and coordination concerning revenue sources and expenditure programs. The Advisory Commission on Intergovernmental Relations, established in 1959 for this and other purposes, is continuing to make suggestions and recommendations with respect to areas in which intergovernmental action could improve the efficiency of the several levels of government in our Federal system.

Major program increases for 1964: For 1964, the total of budget and trust fund expenditures under existing and proposed programs for financial assistance to other levels of government is expected to be $1 billion more than in 1963 and $2.2 billion larger than the actual total for 1962. The major increases over the 1963 estimate are expected to be in total Federal-aid highway construction, which is estimated to increase by $379 million to $3.4 billion; in public works acceleration for area redevelopment assistance, which is estimated to increase by $168 million to $317 million; in the educational assistance programs, which are estimated to rise by $113 million to a total of $560 million; in public assistance, which will increase by $112 million to a total of $3 billion; in the civil defense program, which will increase by $49 million to a total of $74 million; and in the housing and community development programs, which will rise by $81 million to a total of $693 million. The remaining increase is distributed among other programs including community and environmental health activities, maternal and child health, vocational rehabilitation, waste treatment construction, and school lunch and special milk programs.

New legislation proposed for 1964: Federal aid to State and local governments would be affected by several of the recommendations for legislative change which are provided for in the 1964 budget. A significant increase in 1964 will result from the President's proposed program to assist education at all levels and to continue portions of expiring legislation providing payments to school districts on behalf of children whose parents work on Federal property. A large part of this new education program will be for aid to State and local governments. Because expenditures lag behind authorizations, the amount shown in this analysis is only $215 million in 1964, including $148 million for continuation of the impacted school-aid program.

Among the other recommendations for legislative change for which specific amounts are included in this analysis are: (1) Land and water conservation grants, $8 million; (2) urban transportation assistance grants, $10 million; (3) increased Federal payments to the District of Columbia, $21 million; (4) hospital construction activities, $6 million; and (5) grants for comprehensive maternal and child health services, $17 million.

Federal aid programs by function and agency: In 1964, Federal aid for health, labor and welfare activities will amount to $4.2 billion, slightly more than 40 percent of the total. Programs administered by the Department of Health, Education, and Welfare will account for $3.5 billion of which $3 billion will be for public assistance grants. About 37 percent of total Federal aid, $3.8 billion, will be spent for commerce and transportation activities of which highway construction under the Department of Commerce will account for $3.4 billion. Of the remaining 23 percent, almost four-fifths will bc equally distributed among housing and community development, agriculture and agricultural resources and education.

In 1964, Federal-aid budget and trust fund expenditures will be incurred primarily under programs administered by the Department of Health, Education, and Welfare (39 percent) and the Department of Commerce (33 percent). Federal-aid expenditures in 1964 by other agencies will make up the remaining 28 percent of the total, with the largest amounts by the Department of Agriculture (10 percent); the Housing and Home Finance Agency (7 percent); and the Department of Labor (4 percent).

Federal aid in relation to total Federal and State-local outlays: Estimated Federal aid in 1964 to State and local governments from budget accounts alone of $6.6 billion will represent approximately 7 percent of total Federal budget expenditures. Total financial aid from budget and trust accounts of $10.4 billion will represent about 8 percent of estimated total Federal cash payments to the public. As a source of State and local revenue, Federal-aid payments from both trust fund and budget accounts in 1962 was about one-seventh of all general revenue available to these jurisdictions.

Types of Federal aid: Federal financial assistance to State and local governments takes the form of direct grants-in-aid, shared revenue, and net loans and repayable advances. Grants to States are the most significant type of Federal aid. In 1964, it is estimated that $10 billion or 96 percent of total expenditures for all three types of aid will take the form of grants-in-aid. Shared revenue will account for $146 million, or 1.4 percent and net loans and repayable advances, $284 million, or 2.6 percent of the grand total. Apart from these types of Federal aid, many other Federal expenditures affect the finances of State and local governments which are not included in this analysis, such as contractual payments or grants to public institutions for research and training in special fields.

FEDERAL AID TO STATE AND LOCAL GOVERNMENTS—CURRENT TRENDS, FISCAL YEAR 1965

SPECIAL ANALYSIS I: FEDERAL AID TO STATE AND LOCAL GOVERNMENTS

Federal aid to State and local governments in recent decades has become a major factor in the cooperative financing of essential government functions. The rudiments of the present system date back about 100 years to the enactment in 1862 of the Morrill Act, which established land-grant colleges and instituted certain federally required minimum standards characteristic of the present grant-in-aid system. Federal aid was later initiated for agriculture, highways, vocational education and rehabilitation, forestry, and public health. In the depression years, Federal aid was extended to meet economic security and other social welfare needs.

In 1965 Federal financial assistance to State and local governments under existing or proposed programs will total an estimated $10.6 billion, including net expenditures of $6.5 billion from regular budget accounts and $4 billion from the highway and unemployment trust funds. The total includes $188 million under proposed legislation, of which $70 million is for education, $55 million is for youth employment programs, and the remaining $63 million is for community worktraining, increased contributions to the District of Columbia, urban transportation assistance, recreation planning and land acquisition, and hospital construction.

The growth of Federal aid programs: In 10 years, total Federal aid to State and local governments will have more than tripled, rising from $3.1 billion in 1955 to an estimated $10.6 billion in 1965. In the same period, expenditures by State and local governments from their own funds will have more than doubled. Although the number and variety of Federal aid programs have increased markedly in the last several decades, more than 60 percent of total expenditures in 1965 for assistance to State and local governments will be for highway construction and public assistance grants. In the decade ending in 1965, highway construction grants will have increased more than sixfold, rising from $586 million in 1955 to an estimated $3.6 billion in 1965, the largest increase in Federal aid for any purpose during this period. Grants for public assistance will have doubled since 1955, increasing from $1.4 billion to an estimated $2.8 billion in 1965.

Increasing population and rapid urbanization have led to greater responsibility, particularly at the State and local level, for providing essential public services in education, health, housing, urban renewal, highways and public transportation. Continuing economic change has stimulated programs for safeguarding the economic security of individuals. While the major burden of such public services rests with the approximately 90,000 State and local governmental jurisdictions, the Federal Government plays a vital role, both through direct operation of programs and by providing financial assistance to State and local governments.

The provision of public services can be facilitated through improved intergovernmental cooperation and coordination concerning revenue sources and expenditure programs. The Advisory Commission on Intergovernmental Relations, established in 1959 for this and other purposes, is continuing to make valuable contributions in identifying areas in which interlevel action could improve the efficiency of the several levels of government in our Federal system.

Major program changes for 1965: For 1965, the total of budget and trust fund expenditures under existing and proposed programs for financial assistance to other levels of government is expected to be $391 million more than in 1964 and $1.8 billion more than the actual total for 1963. This change reflects both significant increases and decreases in several of the grant-in-aid programs. The major increases over the 1964 estimate are expected to be in the educational assistance programs which are estimated to rise by $213 million to a total of $798 million reflecting recently enacted higher and vocational education bills and proposed new legislation; in the housing and community development programs which will rise by $190 million to a total of $705 million; and in total Federal aid to highway construction which is estimated to increase by $94 million to $3.6 billion. Smaller increases will occur in other programs including employment service, school lunch, environmental health, and maternal and child welfare programs.

Significant decreases in 1965 are expected to occur (1) in the distribution of surplus food commodities which will decline by $75 million, (2) in accelerated public works which will decline by $17 million and (3) in public assistance, where a decline in expenditures of $132 million will be offset by a drawing down of cash balances held by the States, so that obligations in 1965 will continue to increase. Smaller decreases occur in national defense, disaster relief, and community health programs, and in special grants to Alaska.

New legislation proposed for 1965: Federal aid to State and local governments will be affected by several of the recommendations for legislative changes which are provided for in the 1965 budget. A large part of the $718 million in total new obligational authority requested for education legislation will be for aid to State and local governments. Because expenditures lag behind authorizations, however, it is expected that there will be only $70 million in expenditures for grants-in-aid in 1965. Grants under the Youth Employment Act, pending in Congress, are estimated to be $55 million in 1965.

Among the other recommendations for legislative change for which specific amounts are included in this analysis are: (1) Recreation planning and land acquisition, $9 million; (2) urban transportation assistance grants, $10 million; (3) increased Federal payments to the District of Columbia, $5 million; (4) hospital construction activities, $5 million; and (5) community work-training programs, $35 million.

Federal aid programs by function and agency: In 1965, Federal aid for health, labor, and welfare activities will amount to $4.2 billion, 40 percent of the total. Of this amount $3.4 billion, including $2.8 billion for public assistance grants, will be for programs administered by the Department of Health, Education, and Welfare. About 38 percent of total Federal aid, or $4 billion, will be spent for commerce and transportation activities of which highway construction under the Department of Commerce will account for $3.6 billion. Most of the remaining 22 percent will be distributed among education, 8 percent, housing and community development, 7 percent, and agriculture and agricultural resources, 5 percent. The detailed table at the end of this analysis lists the various programs of Federal aid to State and local governments by function, type of aid, agency, and major program groups.

TABLE I–1.—*Federal aid budget and trust fund expenditures by agency*

[In millions of dollars]

Agency	1963 actual	1964 estimate	1965 estimate
Executive Office of the President	--------	0.4	1.5
Funds appropriated to the President	48.7	298.3	266.0
Department of Agriculture	848.3	979.0	916.2
Department of Commerce	3,028.3	3,570.4	3,668.1
Department of Defense—Military	40.5	42.5	37.0
Department of Defense—Civil	18.6	18.0	16.5
Department of Health, Education, and Welfare	3,628.9	3,967.0	4,086.7
Department of the Interior	138.8	145.8	154.0
Department of Labor	330.4	408.5	487.0
Department of State	7.3	5.6	5.6
Treasury Department	58.1	58.7	61.0
Federal Aviation Agency	51.5	75.3	75.7
General Services Administration	.1	1.5	2.0
Housing and Home Finance Agency	502.6	525.7	688.5
Veterans' Administration	8.2	8.3	7.9
Other independent offices	7.7	8.6	8.9
District of Columbia [1]	62.7	63.2	85.2
Total, budget and trust fund expenditures for Federal aid	8,780.7	10,177.0	10,567.7

[1] Represents Federal payments, contributions, and loans to the District of Columbia for operations and capital improvements.

In 1965, Federal aid budget and trust fund expenditures will be incurred primarily under programs administered by the Department of Health, Education, and Welfare, 39 percent; and the Department of Commerce, 35 percent. Federal-aid expenditures by other agencies will make up the remaining 26 percent of the total, with the largest amounts by the Department of Agriculture, 9 percent; the Housing and Home Finance Agency, 7 percent; and the Department of Labor, 5 percent.

Federal aid in relation to total Federal and State-local outlays: Estimated Federal aid in 1965 to State and local governments from budget accounts alone of $6.5 billion will represent approximately 7 percent of total Federal budget expenditures. Total financial aid from budget and trust accounts of $10.6 billion will represent about 9 percent of estimated total Federal cash payments to the public. As a source of State and local revenue, Federal-aid payments from both trust fund and budget accounts in 1963 was about one-seventh of all general revenue available to these jurisdictions.

TABLE I–2.—*Federal-aid expenditures in relation to total Federal expenditures and to State-local revenue*

	Net budget expenditures for aid to State and local governments		Total expenditures for aid to State and local governments, budget and trust accounts.		
	Amount (millions)	As a percent of total Federal administrative budget expenditures	Amount (millions)	As a percent of total cash payments to the public	As a percent of State-local revenue [1]
1954	2,657	4	2,657	4	10
1955	3,124	5	3,124	4	11
1956	3,753	6	3,753	5	12
1957	3,159	5	4,111	5	11
1958	3,576	5	5,072	6	12
1959	4,012	5	6,813	7	15
1960	4,259	6	7,174	8	14
1961	4,326	5	7,283	7	13
1962	4,966	6	8,167	8	14
1963	5,453	6	8,781	8	14
1964 estimate	6,252	6	10,177	8	(2)
1965 estimate	6,520	7	10,568	9	(2)

[1] Based on compilations published by Governments Division, Bureau of the Census. Excludes State-local revenue from publicly operated utilities, liquor stores, and insurance trust systems.

[2] Not available.

Types of Federal aid: Federal financial assistance to State and local governments takes the form of direct grants-in-aid, shared revenue, and net loans and repayable advances. Grants to States and localities are the most significant type of Federal aid. In 1965, it is estimated that $10.2 billion or 96 percent of total expenditures for all three types of aid will take the form of grants-in-aid. Shared revenue will account for $183 million, or 1.7 percent, and net loans and repayable advances, $203 million, or 1.9 percent of the grand total. Apart from these types of Federal aid, many other Federal expenditures which are not included in this analysis, such as contractual payments or grants to public institutions for research and training in special fields, affect the finances of State and local governments.

TABLE I–3.—*Federal aid to State and local governments*

[In millions of dollars]

Agency and program	Functional code	1963 actual	1964 estimate	1965 estimate
BUDGET ACCOUNTS [1]				
GRANTS-IN-AID				
National defense:				
Executive Office of the President, Office of Emergency Planning: Federal contributions and State and local planning	059	--------	0.4	1.5
Department of Defense—Military: Civil defense shelters and financial assistance	051	21.3	27.5	27.0
Construction of Army National Guard centers	051	19.2	15.0	10.0
Total, national defense	-----	40.4	42.9	38.5
International affairs and finance:				
Department of State: East-West Cultural and Technical Interchange Center	153	7.3	5.6	5.6
Agriculture and agricultural resources:				
Department of Agriculture:				
Commodity Credit Corporation and Agricultural Marketing Service: Removal of surplus agricultural commodities and value of commodities donated	351	353.5	416.2	340.8
Watershed protection, flood prevention, and resource conservation and development	354	57.5	57.4	59.6
Cooperative agricultural extension work	355	72.0	77.4	75.1
BUDGET ACCOUNTS—Continued				
GRANTS-IN-AID—continued				
Agri. and agricultural resources—Con.				
Department of Agriculture—Con.				
Agricultural experiment stations	355	37.0	40.2	41.2
Payments to States, territories, and possessions, Agricultural Marketing Service	355	1.4	1.5	1.4
Total, agriculture and agricultural resources	-----	521.4	592.7	518.2
Natural resources:				
Department of Agriculture: Forest protection and utilization	402	16.0	28.5	17.6
Department of Defense—Civil: Corps of Engineers: Payment to California, flood control	401	17.0	8.4	12.4
Department of the Interior:				
Bureau of Reclamation: Disposal of Boulder City and Coulee Dam communities	401	.1	.2	--------
Bureau of Indian Affairs: Resources management	401	.7	.8	.8
Drainage of anthracite mines	403	*	.2	.4
Federal aid for fish and wildlife restoration	404	20.0	17.2	20.0

See footnotes at end of table.

TABLE I-3.—*Federal aid to State and local governments*—Continued

[In millions of dollars]

Agency and program	Functional code	1963 actual	1964 estimate	1965 estimate
BUDGET ACCOUNTS—Continued				
GRANTS-IN-AID—continued				
Natural resources—Continued				
Department of the Interior—Con.				
Proposed legislation: Land and water conservation fund: Recreation planning and land acquisition	405			8.8
Total, natural resources		53.9	55.2	60.0
Commerce and transportation:				
Funds appropriated to the President: Public works acceleration	507	15.1	260.8	243.5
Department of Commerce:				
State marine schools	502	.4	.4	.4
Forest and public lands highways	503	38.6	39.6	39.9
Control of outdoor advertising	503		2.0	
Area redevelopment assistance	507	2.9	10.0	11.0
Federal Aviation Agency: Federal-aid airport program	501	51.5	75.3	75.7
Small Business Administration: Research and management counseling	506	.2	.3	
Total, commerce and transportation		108.6	388.4	370.5
Housing and community development:				
Housing and Home Finance Agency:				
Low-income housing demonstration program	551	.1	2.0	3.0
Low-rent public housing program	552	170.3	191.0	208.2
Urban renewal and planning	553	199.3	252.0	331.6
Proposed legislation: Urban transportation assistance	553			9.6
Open space program	553	(*)	8.7	14.6
National Capital Planning Commission: Acquisition of lands in Maryland	555	.2		
District of Columbia:				
Federal payment and contribution	555	30.3	37.5	50.0
Proposed legislation: Increased payments	555			4.8
Total, housing and community development		400.2	491.3	621.9
Health, labor, and welfare:				
Funds appropriated to the President: Disaster relief	655	30.5	34.5	22.4
Department of Agriculture: School lunch, special milk, and food stamp programs	655	281.1	320.1	339.2
Department of Health, Education, and Welfare:				
Hospital construction activities	651	182.5	190.1	192.0
Proposed legislation: Hospital construction activities	651			5.0
Portion to private, nonprofit institutions [2]	651	(113.0)	(114.0)	(119.0)
Construction of waste treatment facilities	651	51.7	75.0	75.0
Community health activities	651	34.5	50.2	41.4
Environmental health grants	651	5.8	6.3	13.0
National Institutes of Health:				
Operating grants	651	18.7	10.0	10.0
Mental health facilities	651			3.0
Maternal and child welfare	651	73.4	94.0	116.0
Mental health facilities, Alaska	651	.3	.2	
Hospital and medical care, Hawaii	651	1.5	1.2	1.2
Indian health facilities	651	.3		
Public assistance	653	2,729.6	2,947.6	2,781.0
Proposed legislation for community work-training	653			35.0
Vocational rehabilitation	655	73.2	89.5	93.2
Department of Labor: Proposed legislation for youth employment opportunities	652		5.0	55.0
Total, health, labor, and welfare		3,483.0	3,823.5	3,782.5
Education:				
Department of Health, Education, and Welfare:				
Assistance to schools in federally affected areas	701	330.0	339.1	386.6
Defense educational activities:				
Assistance for elementary and secondary education	701	48.1	60.6	74.8
Other aid to education	704	14.9	16.9	17.0
Higher education construction			2.0	26.1
Assistance to land-grant colleges	702	14.5	14.5	14.5
Vocational education	704	41.5	57.1	108.4
Grants for library services	704	7.3	7.5	7.5
Teaching of the blind	704	.7	.7	.8
Training teachers of the handicapped	704	.5	.9	3.8
Educational television facilities	704		1.9	4.8
Proposed education legislation	700		1.5	69.9
Department of the Interior: Bureau of Indian Affairs: Education and welfare services	704	7.7	8.6	9.1
Total, education		465.2	511.3	723.3
BUDGET ACCOUNTS—Continued				
GRANTS-IN-AID—continued				
Veterans benefits and services:				
Veterans Administration:				
Aid to State homes	804	7.4	7.5	7.5
State supervision of schools and training establishments	805	.9	.8	.5
Total, veterans benefits and services		8.2	8.3	7.9
General government:				
Funds appropriated to the President: Transitional grants to Alaska	910	3.1	3.0	
Department of the Interior: Grants to territories and Alaska public works	910	22.3	29.3	18.4
General Services Administration: Hospital facilities in the District of Columbia	905	.1	1.5	2.0
Total, general government		25.5	33.8	20.5
Total, grants-in-aid		5,113.8	5,953.0	6,148.9
SHARED REVENUE				
Natural resources:				
Department of Agriculture: National forest and grassland funds, payments to States and counties	402	27.8	30.7	31.8
Department of Defense—Civil: Corps of Engineers: Flood Control Act of 1954 payments	401	1.6	1.7	1.8
Department of the Interior:				
Payments to States and counties from grazing receipts, sales of public lands and proceeds, and national grasslands	401	.7	1.0	1.1
Boulder Canyon project, payments to Arizona and Nevada	401	.6	.6	.6
Oregon and California land-grant fund payments	402	15.4	15.0	18.0
Payments to Coos and Douglas Counties, Oreg	402	.7	.3	(*)
Mineral Leasing Act payments	403	47.1	47.6	49.3
Payments to counties, Migratory Bird Conservation Act and national grasslands, and payments to Alaska, Alaska game law and Pribilof Islands fund	404	1.3	1.2	2.2
Tennessee Valley Authority: Payments in lieu of taxes	401	7.3	8.2	8.8
Miscellaneous shared revenue	400	.1	.1	.1
Total, natural resources		102.7	106.5	113.7
General government:				
Department of the Interior: Internal revenue collections: Virgin Islands	910	7.7	7.0	8.0
Treasury Department: Tax collections for Puerto Rico	910	44.8	45.1	47.0
Total, general government		52.5	52.1	55.0
Total, shared revenue		155.2	158.6	168.7
LOANS AND REPAYABLE ADVANCES (NET)				
Agriculture and agricultural resources:				
Department of Agriculture:				
Rural renewal	352		1.0	1.8
Watershed protection, flood prevention, and resource conservation and development	354	1.9	6.1	7.6
Total, agriculture and agricultural resources		1.9	7.0	9.4
Natural resources:				
Department of the Interior: Irrigation projects	401	14.3	14.7	14.5
Commerce and transportation:				
Department of Commerce: Area redevelopment	507	2.5	11.2	15.6
Housing and community development:				
Housing and Home Finance Agency:				
Liquidating programs: Community facilities loans	551	−1.3	−1.0	−1.4
Low-rent public housing program	552	−3.4	−56.3	.2
Public facilities	553	29.8	33.7	31.1
Public works planning	553	5.9	3.5	5.2
Urban renewal fund	553	−13.2	18.0	18.0
District of Columbia: Capital outlays and operations	555	32.4	25.7	30.4
Total, housing and community development		50.1	23.6	83.5

See footnotes at end of table.

TABLE I-3.—*Federal aid to State and local governments*—Continued

[In millions of dollars]

Agency and program	Functional code	1963 actual	1964 estimate	1965 estimate
BUDGET ACCOUNTS [1]—Continued				
LOANS AND REPAYABLE ADVANCES (NET)—continued				
Education:				
Housing and Home Finance Agency: College housing	702	115.0	74.0	68.3
Department of Health, Education, and Welfare: Higher education construction	700	------	.3	6.6
Total, education	------	115.0	74.3	74.9
General government:				
Department of Defense—Civil: Corps of Engineers: Construction of power systems, Ryukyu Islands	910	------	7.9	2.2
Department of the Interior: Alaska public works	910	------	2.0	2.9
Total, general government	------	------	9.9	5.1
Total, loans and repayable advances	------	184.0	140.8	202.9
Total, net budget expenditures	------	5,453.0	6,252.4	6,520.5

Agency and program	Functional code	1963 actual	1964 estimate	1965 estimate
TRUST FUNDS				
GRANTS-IN-AID				
Commerce and transportation:				
Department of Commerce: Highway trust fund: Federal-aid highway program	503	2,984.0	3,507.2	3,601.2
Health, labor and welfare:				
Department of Labor: Unemployment trust fund: Administration of employment security programs	652	330.4	403.5	432.0
Total, grants-in-aid	------	3,314.4	3,910.7	4,033.2
SHARED REVENUE				
General government:				
Treasury Department: Bureau of Customs: refunds, transfers, and expenses of operation, Puerto Rico and the Virgin Islands	904	13.3	13.6	14.0
Total, shared revenue	------	13.3	13.6	14.0
Total trust fund	------	3,327.7	3,924.3	4,047.2
Total, budget and trust fund expenditures for Federal aid [3]	------	8,780.6	10,176.7	10,567.7

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*Less than $50,000.

[1] Many expenditures listed under budget accounts and trust funds are part of larger appropriation accounts or trust accounts.

[2] In 1965, $3,000,000 of this amount is contained under proposed legislation above.

[3] The amount in 1963 for grants-in-aid and shared revenue from budget and trust accounts in this analysis is identical with the $8,596,700,000 distributed by States in the 1963 Annual Report of the Secretary of the Treasury, table 95, pt. A, "Federal Aid Payments to State and Local Units."

NOTE.—Detail will not necessarily add to totals because of rounding.

This is a corrected galley proof which will appear in the Annual Report of the Secretary of the Treasury on the State of the Finances for the Fiscal Year Ended June 30, 1963.

FEDERAL AID TO STATES

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*

[On basis of checks issued except where it is not practicable to report certain detail for all payments. The differing basis of such detail is footnoted and a checks-issued figure is used for the total. The differences in amounts between the two bases are included in "undistributed to States, etc."]

PART A. FEDERAL AID PAYMENTS TO STATES AND LOCAL UNITS

States, territories, etc.	Department of Agriculture						
	Agricultural experiment stations [1] (1)	Cooperative agricultural extension work [2] (2)	School lunch program [3] (3)	National forests fund [4]—shared revenues (4)	National grasslands—shared revenues [5] (5)	Cooperative projects in marketing [6] (6)	State and private forestry cooperation, etc. [7] (7) [8]
Alabama	$1,005,213	$2,184,631	$4,700,748	$214,193	------	$57,334	$449,055
Alaska	241,388	144,628	129,104	171,592	------	21,050	56,635
Arizona	450,448	393,361	1,376,761	409,682	------	11,417	------
Arkansas	811,935	1,761,880	2,674,057	712,392	$1,406	42,070	404,955
California	1,074,071	1,611,224	9,093,107	3,140,688	510	155,958	1,204,705
Colorado	559,164	655,792	1,586,364	194,999	22,788	49,319	73,082
Connecticut	408,230	345,662	1,541,466	------	------	14,959	116,207
Delaware	309,151	173,195	302,087	------	------	27,267	18,712
District of Columbia	------	------	258,194	------	------	------	------
Florida	539,600	767,578	5,384,651	236,983	6,603	99,112	772,209
Georgia	1,072,999	2,274,300	5,893,960	258,450	------	101,113	1,148,717
Hawaii	338,549	288,028	943,678	------	------	29,900	64,889
Idaho	440,748	509,407	819,599	1,063,435	2,754	9,030	313,030
Illinois	975,004	1,926,757	6,269,111	14,923	------	61,711	130,092
Indiana	903,119	1,609,201	4,181,444	6,167	------	110,836	60,929
Iowa	987,204	1,717,769	3,043,558	147	125	93,947	64,248
Kansas	690,621	1,186,890	2,063,931	------	21,098	125,478	28,334
Kentucky	1,010,054	2,177,742	4,339,648	70,615	625	108,753	329,388
Louisiana	711,195	1,424,469	5,977,667	207,874	263	110,165	506,852
Maine	419,341	426,907	945,316	5,787	------	97,623	462,019
Maryland	522,395	606,681	2,377,333	------	1,977	78,705	221,238
Massachusetts	504,606	479,024	3,622,685	------	------	66,768	182,666
Michigan	924,315	1,819,299	5,675,786	145,650	4,461	232,083	739,559
Minnesota	862,230	1,643,051	3,722,718	254,750	------	73,998	569,545
Mississippi	996,398	2,245,716	3,893,192	715,054	−1,878	104,016	548,166
Missouri	921,723	1,974,772	3,944,130	62,791	757	162,050	196,373
Montana	447,429	555,908	643,974	865,119	------	25,149	189,053
Nebraska	625,655	997,162	1,221,819	19,455	8,603	29,900	22,000
Nevada	299,508	207,065	159,252	40,713	------	------	62,896
New Hampshire	341,508	233,646	499,792	73,490	------	6,685	149,974
New Jersey	513,047	468,172	3,021,789	------	------	75,737	177,374
New Mexico	390,063	483,308	1,113,033	132,698	11,123	50,725	101,616
New York	1,117,343	1,687,499	10,537,654	------	682	144,052	567,220
North Carolina	1,389,470	3,003,246	6,947,668	143,163	------	144,663	542,768
North Dakota	448,445	724,405	862,903	48	207,280	65,172	38,781
Ohio	1,139,242	2,186,375	7,451,059	5,850	1,628	55,738	226,705
Oklahoma	730,313	1,474,407	2,445,003	97,012	6,570	88,544	179,160
Oregon	607,596	679,296	1,641,669	12,092,170	2,768	93,566	729,623

Footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

[On basis of checks issued except where it is not practicable to report certain detail for all payments The differing basis of such detail is footnoted and a checks-issued figure is used for the total. The differences in amounts between the two bases are included in "undistributed to States, etc."]

PART A. FEDERAL AID PAYMENTS TO STATES AND LOCAL UNITS—Continued

States, territories, etc.	Department of Agriculture						
	Agricultural experiment stations[1] (1)	Cooperative agricultural extension work[2] (2)	School lunch program[3] (3)	National forests fund[4]—shared revenues (4)	National grasslands—shared revenues[5] (5)	Cooperative projects in marketing[6] (6)	State and private forestry cooperation, etc.[7] (7)[8]
Pennsylvania	$1, 209, 577	$2, 200, 509	$8, 409, 262	$192, 483	----	$47, 967	$343, 645
Rhode Island	320, 493	126, 102	512, 003	----	----	4, 060	62, 042
South Carolina	795, 808	1, 601, 341	4, 097, 531	502, 469	$696	29, 250	530, 889
South Dakota	473, 448	701, 988	677, 350	39, 841	45, 932	19, 950	63, 158
Tennessee	1, 023, 541	2, 210, 131	4, 743, 241	91, 193	----	57, 000	419, 506
Texas	1, 388, 217	3, 561, 258	8, 854, 077	317, 921	22, 304	54, 915	493, 915
Utah	419, 184	399, 990	1, 187, 880	120, 280	----	24, 971	63, 245
Vermont	334, 190	289, 830	356, 894	69, 622	----	22, 072	128, 594
Virginia	900, 522	1, 809, 989	4, 317, 734	60, 983	55	88, 101	550, 309
Washington	710, 301	836, 791	2, 447, 830	4, 366, 747	----	70, 459	838, 904
West Virginia	684, 937	1, 117, 522	2, 249, 386	109, 504	----	48, 818	232, 033
Wisconsin	923, 883	1, 673, 452	3, 356, 125	91, 884	1	61, 640	660, 293
Wyoming	360, 425	329, 151	333, 992	118, 098	23, 744	5, 230	39, 653
Puerto Rico	936, 697	1, 490, 741	4, 656, 904	2, 174	[illegible] 214	----	----
Virgin Islands	----	----	95, 428	----	----	----	----
Other territories, etc.[8]	----	----	94, 861	----	----	----	----
Undistributed to States, etc.	[9] 250, 000	[10] 9, 166, 743	40, 623	1, 879	585	----	−26, 475
Total	36, 460, 543	70, 563, 991	167, 737, 031	27, 440, 968	393, 674	3, 359, 026	16, 048, 486

States, territories, etc.	Department of Agriculture					Department of Commerce	
			Removal of surplus agricultural commodities		Commodity Credit Corporation	Bureau of Public Roads—construction	
	Watershed protection and flood prevention[11] (8)	Special milk program[12] (9)	Food stamp program[5][13] (10)	Value of commodities distributed (11)	Value of commodities donated[5][14] (12)	Federal-aid highways (trust fund)[15] (13)	Other[5][16] (14)
Alabama	$653, 002	$1, 437, 505	$385, 204	$2, 934, 862	$7, 715, 272	$40, 484, 565	$93, 699
Alaska	----	34, 582	----	36, 327	226, 065	21, 683, 952	3, 348, 184
Arizona	1, 013, 357	637, 425	----	1, 067, 214	1, 856, 713	43, 904, 853	2, 366, 664
Arkansas	1, 522, 381	772, 294	15, 618	2, 669, 874	7, 296, 326	37, 721, 083	314, 055
California	5, 191, 706	8, 780, 203	22, 892	2, 257, 678	9, 007, 993	252, 036, 100	4, 253, 184
Colorado	651, 929	862, 145	----	974, 748	2, 547, 456	38, 159, 445	3, 112, 916
Connecticut	628, 094	1, 419, 635	----	332, 500	1, 387, 064	28, 665, 692	----
Delaware	193, 229	305, 883	----	263, 549	746, 924	13, 850, 637	----
District of Columbia	----	531, 180	----	572, 367	1, 209, 421	31, 161, 882	----
Florida	453, 964	1, 213, 879	----	1, 839, 455	4, 783, 864	53, 416, 628	258, 524
Georgia	1, 781, 686	1, 163, 125	----	1, 459, 633	5, 661, 401	63, 438, 228	378, 221
Hawaii	374, 117	184, 938	----	252, 630	531, 242	5, 951, 706	----
Idaho	44, 400	226, 725	----	232, 323	675, 315	24, 385, 297	3, 955, 257
Illinois	140, 638	6, 729, 327	290, 417	2, 725, 905	8, 597, 512	160, 846, 123	105, 775
Indiana	722, 224	2, 277, 390	70, 000	1, 946, 884	4, 664, 201	73, 147, 972	4, 843
Iowa	1, 695, 303	1, 823, 975	----	1, 835, 427	4, 077, 287	34, 056, 118	----
Kansas	1, 696, 768	1, 073, 009	608	908, 559	2, 373, 780	27, 421, 917	----
Kentucky	1, 170, 799	1, 751, 446	1, 336, 556	3, 809, 717	9, 481, 011	66, 080, 009	95, 860
Louisiana	302, 538	756, 718	649, 464	3, 263, 280	8, 703, 161	75, 093, 165	57, 280
Maine	21, 050	449, 762	----	618, 045	1, 608, 656	20, 156, 808	37, 710
Maryland	437, 869	2, 045, 074	----	991, 159	2, 613, 354	37, 656, 126	----
Massachusetts	406, 927	3, 324, 780	----	872, 748	3, 193, 792	53, 053, 645	----
Michigan	134, 143	5, 737, 380	6, 354, 426	4, 395, 621	10, 947, 127	121, 114, 691	622, 093
Minnesota	536, 379	2, 585, 648	630, 808	1, 346, 773	3, 685, 812	63, 755, 112	478, 847
Mississippi	3, 761, 946	1, 378, 887	----	3, 365, 233	9, 188, 836	39, 236, 016	185, 975
Missouri	704, 305	2, 904, 041	302, 660	1, 839, 691	5, 810, 410	78, 959, 926	305, 70
Montana	60, 757	192, 742	113, 938	265, 499	766, 437	39, 352, 839	3, 067, 203
Nebraska	491, 622	613, 700	----	290, 822	758, 467	38, 413, 658	----
Nevada	189, 995	99, 582	----	48, 265	182, 303	17, 231, 331	311, 632
New Hampshire	233, 834	372, 848	----	207, 188	746, 359	13, 488, 017	592, 560
New Jersey	187, 625	3, 065, 405	----	815, 807	2, 413, 191	67, 122, 500	----
New Mexico	855, 296	789, 396	329, 378	1, 164, 554	3, 482, 253	33, 591, 035	1, 677, 832
New York	713, 069	8, 990, 760	----	8, 643, 275	21, 716, 735	162, 658, 537	----
North Carolina	669, 432	2, 076, 197	210, 456	2, 832, 825	6, 855, 191	38, 085, 086	184, 393
North Dakota	333, 428	392, 904	----	236, 930	798, 562	17, 102, 316	337
Ohio	216, 500	5, 573, 564	1, 197, 105	3, 997, 725	9, 714, 776	171, 811, 261	98, 333
Oklahoma	9, 317, 665	1, 021, 016	----	3, 981, 542	9, 790, 916	34, 829, 210	11, 435
Oregon	585, 108	516, 858	300, 942	1, 061, 034	2, 498, 757	58, 901, 047	4, 924, 255
Pennsylvania	1, 094, 124	4, 580, 992	3, 974, 460	8, 733, 916	21, 594, 975	137, 152, 155	114, 600
Rhode Island	----	391, 341	----	194, 993	528, 339	15, 141, 608	----
South Carolina	309, 103	767, 206	----	637, 053	2, 465, 708	26, 960, 317	88, 241
South Dakota	175, 383	425, 110	----	461, 725	1, 215, 414	22, 426, 694	259, 972
Tennessee	1, 574, 475	2, 146, 750	51, 745	2, 624, 403	7, 595, 070	98, 302, 771	6, 851
Texas	10, 979, 285	3, 854, 418	----	3, 257, 665	9, 914, 692	164, 533, 100	146, 600
Utah	569, 345	341, 868	----	514, 142	1, 460, 904	33, 087, 784	1, 451, 280
Vermont	----	211, 403	----	285, 096	645, 101	18, 197, 795	−172, 603
Virginia	823, 606	1, 693, 932	314, 146	989, 720	4, 172, 756	91, 947, 026	312, 808
Washington	1, 948, 121	1, 548, 632	----	1, 953, 450	4, 731, 716	58, 620, 588	2, 959, 330
West Virginia	924, 830	537, 877	2, 011, 542	2, 834, 548	8, 648, 785	17, 761, 269	189, 077
Wisconsin	765, 799	3, 513, 366	77, 558	1, 607, 725	4, 093, 334	58, 073, 218	152, 097
Wyoming	192, 810	154, 901	----	194, 739	544, 285	36, 744, 122	2, 147, 301
Puerto Rico	46, 340	----	----	5, 020, 968	11, 999, 824	6, 245, 456	7, 150
Virgin Islands	----	----	----	30, 650	121, 086	----	----
Other territories, etc.[8]	----	----	----	110, 651	559, 102	----	----
Undistributed to States, etc.	----	402, 910	−52	5, 835, 518	−6, 767, 235	769, 720	56, 205
Total	57, 496, 306	94, 682, 634	18, 639, 871	101, 644, 630	251, 837, 798	2, 983, 988, 155	38, 561, 680

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART A. FEDERAL AID PAYMENTS TO STATES AND LOCAL UNITS—Continued

States, territories, etc.	Department of Commerce		Department of Defense [19]			Funds appropriated to the President [19]	
			Army				
	Area redevelopment assistance [17] (15)	State marine schools [18] (16)	Lease of flood control lands—shared revenues (17)	National Guard (18)	Civil defense (19)	Disaster relief [3] (20)	Accelerated public works program [2] [20] (21)
Alabama	$21,000		$2,548	$717,196	$301,890	$1,003	$855,173
Alaska				79,689	56,884		679,813
Arizona			19	71,756	163,776		
Arkansas	110,000		83,630	99,370	463,522	−21,458	115,686
California		$75,000	84,269	830,736	2,296,501	1,005,183	1,258,306
Colorado			11,044	144,446	447,026		235,573
Connecticut			149	46,731	280,147	−45,197	627,431
Delaware			5,303		59,766	2,824,438	
District of Columbia					86,843		
Florida			8,139	274,662	334,165	102,797	1,129,960
Georgia	130,000		49,362	1,420,968	413,249		350,387
Hawaii				207,286	341,111		
Idaho			78	191,704	92,555	238,678	32,425
Illinois	5,848		80,167		457,609	218,389	252,703
Indiana			1,077	303,999	282,123	132,738	6,938
Iowa			54,156	116,097	123,184	554,746	
Kansas			97,436	159,107	129,479		4,875
Kentucky	321,000		102,422	486,966	150,584	447,097	603,018
Louisiana			29,724	745,123	551,585	19,507	283,478
Maine		75,000		191,463	629,799		
Maryland	183,000		558	10,373	466,420	1,933,321	
Massachusetts	191,000	75,000	3,078	384,339	586,019		343,971
Michigan			1,788	1,095,217	714,201		915,106
Minnesota			1,446	584,728	398,217		185,779
Mississippi	50,000		105,932	1,590,555	153,546	912,500	513,192
Missouri			86,778	378,670	323,165	52,033	28,125
Montana			6,512	285,462	55,624		
Nebraska			44,167	149,219	154,521	74,535	
Nevada				111,923	79,668	288,063	
Hew Hampshire			2,023	39,376	64,489		133,590
New Jersey			1,371	396,920	554,516	8,031,366	411,000
New Mexico				323,217	68,404		238,654
New York	25,000	75,000	1,920	617,893	4,275,679	2,447,693	579,800
North Carolina			2,833	942,638	411,198	358,887	867,429
North Dakota			168,737	134,001	273,934		
Ohio			3,944	30,960	262,745	−8,366	372,304
Oklahoma	761,100		271,722	11,126	591,081		531,978
Oregon			11,362	147,013	169,853	898,399	385,909
Pennsylvania	357,700		9,378	580.715	1,075,622		423,255
Rhode Island				12,871	177,875		37,625
South Carolina	100,000		1,173	881,665	214,411		350,646
South Dakota			37,165	292,675	68,460	76,920	
Tennessee	244,315		37,023	617,120	202,834		1,271,997
Texas	179,000	75,000	180,107	679,888	588,105	3,685,738	132,625
Utah				219,313	86,993		43,625
Vermont			435	129,342	53,143		
Virginia	16,000		13,764	181,975	286,002	2,747,684	
Washington			5,235	148,213	402,725	855,809	364,468
West Virginia	99,250		898	841,268	91,715	658,961	266,647
Wisconsin	58,500		4,886	699,291	621,761		142,118
Wyoming				234,405	53,562		40,925
Puerto Rico				323,470	48,797		123,110
Virgin Islands					15,732		
Other territories, etc.[8]						2,000,000	
Undistributed to States, etc.							−1,662
Total	2,852,713	375,000	1,613,757	19,163,140	21,252,816	30,491,463	15,137.980

States, territories, etc.	Department of Health, Education, and Welfare [10]						
	Office of Education						
	Colleges of agriculture and mechanical arts [21] (22)	Cooperative vocational education [22] (23)	Assistance for school construction (24)	Maintenance and operation of schools (25)	Library services (26)	Defense education activities [3] (27)	Expansion of teaching in education of the mentally retarded (28)
Alabama	$277,647	$928,568	$669,030	$5,804,722	$184,761	$528,711	$11,800
Alaska	205,376	103,334	650,647	8,300,302	39,217	119,246	
Arizona	230,951	246,448	1,293,364	5,484,907	72,538	236,184	7,333
Arkansas	242,458	645,941	507,855	1,699,354	140,200	688,806	12,600
California	573,580	2,355,655	9,647,345	49,611,477	250,030	5,630,200	8,342
Colorado	241,689	380,069	1,507,471	7,593,341	85,259	430,038	12,200
Connecticut	260,260	410,918	1,471,462	2,507,741	71,325	1,166,114	9,339
Delaware	210,608	188,862		787,474	61,374	204,844	6,100
District of Columbia		120,339				177,002	
Florida	317,693	873,648	2,127,875	7,325,249	166,620	2,058,271	11,000
Georgia	293,723	1,069,771	1,071,530	6,715,418	177,556	1,481,900	12,600
Hawaii	215,040	193,015	1,334,600	5,442,358	54,606	206,701	12,200
Idaho	215,858	277,466	782,373	2,016,720	74,029	374,755	13,000
Illinois	439,618	1,874,208	220,995	5,081,456	224,456	3,065,914	11,000
Indiana	310,822	1,144,520	42,647	1,376,905	211,978	1,641,484	12,600
Iowa	265,544	1,019,981	14,023	1,055,233	167,096	1,428,807	14,200
Kansas	251,783	607,185	477,064	6,712,877	76,454	1,291,901	13,400
Kentucky	272,214	1,004,891	33,000	1,519,719	202,339	1,325,270	9,800
Louisiana	277,416	799,165	68,908	1,330,830	157,418	686,117	11,800
Maine	223,038	253,829	103,171	2,267,537	86,338	438,354	11,985
Maryland	273,700	505,819	1,775,671	11,029,662	122,837	1,215,198	11,800
Massachusetts	322,376	733,102	1,674,274	8,331,990	92,618	1,563,844	11,400

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART A. FEDERAL AID PAYMENTS TO STATES AND LOCAL UNITS—Continued

States, territories, etc.	Department of Health, Education, and Welfare [9]						
	Office of Education						
	Colleges of agriculture and mechanical arts [21] (22)	Cooperative vocational education [22] (23)	Assistance for school construction (24)	Maintenance and operation of schools (25)	Library services (26)	Defense education activities [3] (27)	Expansion of teaching in education of the mentally retarded (28)
Michigan	$385,949	$1,592,020	$2,371,679	$2,387,147	$244,534	$1,189,820	$12,600
Minnesota	281,144	1,069,346	142,454	610,160	160,904	1,760,803	12,600
Mississippi	251,772	890,013	132,998	1,508,537	173,211	719,773	12,200
Missouri	302,677	1,149,932	454,179	3,126,435	181,644	613,082	10,600
Montana	216,038	238,635	2,062,591	2,412,763	73,006	453,332	11,400
Nebraska	233,546	496,876	1,457,930	3,031,835	103,329	637,948	12,200
Nevada	206,781	189,916	317,872	1,745,748	48,300	163,501	8,600
New Hampshire	214,426	184,249	31,538	1,430,381	64,845	391,146	13,000
New Jersey	344,200	822,565	1,015,838	7,004,355	111,779	1,898,748	12,600
New Mexico	222,605	216,437	1,310,338	6,033,725	71,851	425,973	7,466
New York	598,897	2,509,857	741,403	6,998,580	280,484	4,575,413	11,700
North Carolina	308,295	1,624,872	783,831	3,202,401	310,305	2,491,741	11,329
North Dakota	215,032	349,694	1,093,374	1,320,101	75,728	502,474	11,400
Ohio	430,710	1,931,636	921,941	6,216,780	294,172	2,467,134	9,400
Oklahoma	255,341	607,939	1,782,204	8,355,248	124,745	1,427,665	13,000
Oregon	242,040	425,476	24,941	1,197,316	105,614	1,118,748	12,523
Pennsylvania	469,049	2,097,225	4,401	5,933,016	355,753	3,315,042	12,600
Rhode Island	220,429	170,238	559,270	2,308,256	150,544	276,239	11,379
South Carolina	256,632	755,702	946,997	4,238,025	177,517	1,413,951	11,400
South Dakota	216,175	351,629	2,053,218	2,839,137	80,565	295,693	10,600
Tennessee	284,786	1,159,938	196,356	2,853,424	207,063	1,212,167	9,800
Texas	427,698	2,019,200	2,234,361	15,046,305	207,082	2,023,165	11,400
Utah	221,169	199,828	860,118	2,725,390	61,932	430,201	11,822
Vermont	209,267	190,306	----	60,365	63,550	165,328	----
Virginia	294,290	1,064,585	4,875,857	16,697,163	212,929	1,765,255	10,965
Washington	267,818	618,742	836,537	9,870,270	128,774	1,675,885	14,200
West Virginia	244,220	499,536	7,500	166,329	152,796	861,814	11,800
Wisconsin	293,929	1,134,920	356,656	778,660	174,850	1,902,037	13,000
Wyoming	207,845	165,302	115,367	929,078	53,987	−20,764	9,800
Puerto Rico	255,846	904,261	----	----	168,589	761,837	----
Virgin Islands	----	46,754	----	108,841	6,382	50,519	----
Other Territories, etc.[5]	----	59,942	68,048	920,303	11,077	60,579	----
Undistributed to States, etc	----	----	----	12,685,544	----	----	----
Total	14,500,000	41,474,305	53,233,102	276,736,890	7,256,890	62,985,910	545,883

States, territories, etc.	Department of Health, Education, and Welfare [19]						
	Public Health Service						
	Control of venereal diseases [5] (29)	Control of tuberculosis (30)	Community health practice and research [23] (31)	Mental health activities (32)	National Cancer Institute (33)	National Heart Institute (34)	Water supply and water pollution control [24] (35)
Alabama	$63,864	$151,634	$381,569	$123,506	$75,767	$128,908	$97,300
Alaska	6,862	17,645	35,790	63,632	----	2,033	8,695
Arizona	44,705	142,040	138,957	66,195	28,667	5,026	39,170
Arkansas	93,910	93,237	243,945	70,331	44,221	67,258	64,872
California	460,133	348,140	984,343	529,487	243,608	398,141	288,045
Colorado	8,613	45,328	171,387	49,720	32,214	76,412	34,960
Connecticut	15,371	31,397	136,259	74,965	29,722	84,820	27,338
Delaware	11,217	14,345	27,239	66,736	22,832	39,878	47,191
District of Columbia	84,594	52,970	42,105	76,772	26,514	69,115	17,875
Florida	215,661	141,598	434,228	189,278	128,814	192,198	117,527
Georgia	332,940	129,533	422,974	164,144	83,889	117,881	113,759
Hawaii	3,216	17,739	1,576,933	66,796	26,489	58,543	39,274
Idaho	7,530	13,330	89,372	66,796	26,514	74,405	27,398
Illinois	351,838	199,071	624,704	301,539	172,227	249,227	139,601
Indiana	----	69,424	320,378	139,407	72,340	170,684	119,906
Iowa	11,187	30,240	229,925	91,563	35,487	63,898	56,341
Kansas	26,355	25,844	204,020	81,836	41,562	58,756	56,671
Kentucky	48,026	89,497	331,553	124,427	44,774	114,192	93,341
Louisiana	73,940	67,275	338,430	117,664	69,401	50,725	95,529
Maine	----	18,015	105,205	60,668	26,325	8,000	38,337
Maryland	40,889	86,825	220,040	98,961	52,603	95,000	91,258
Massachusetts	3,115	162,942	339,333	177,726	92,494	172,218	139,595
Michigan	122,100	127,774	542,744	247,352	127,461	239,226	184,390
Minnesota	6,345	39,005	281,438	97,132	44,793	80,264	86,465
Mississippi	46,535	84,215	325,249	92,453	63,349	161,900	83,790
Missouri	69,950	79,852	325,154	139,915	80,740	164,011	69,225
Montana	6,721	16,905	81,969	66,732	27,333	43,082	24,400
Nebraska	8,510	18,877	132,591	55,809	30,430	18,244	27,711
Nevada	17,598	11,663	40,535	57,158	6,400	10,386	11,574
New Hampshire	----	11,651	59,129	64,542	24,215	14,150	36,045
New Jersey	155,693	121,178	462,215	186,824	94,575	181,858	151,891
New Mexico	40,952	29,098	117,813	66,796	26,514	52,600	32,190
New York	740,554	406,935	998,228	581,540	284,019	406,741	320,756
North Carolina	180,780	78,462	509,562	169,098	96,429	190,226	137,095
North Dakota	16,822	13,945	90,688	65,000	26,415	66,300	26,877
Ohio	16,920	119,697	647,194	306,991	134,773	209,006	200,239
Oklahoma	35,693	40,448	229,977	78,051	51,339	126,884	53,696
Oregon	16,323	28,986	152,359	64,500	25,449	37,754	47,466
Pennsylvania	283,519	359,651	818,997	360,803	209,670	333,234	251,375
Rhode Island	−139	40,739	62,656	65,794	25,951	61,937	51,342
South Carolina	129,504	62,446	300,606	103,541	54,689	149,357	86,049

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART A. FEDERAL AID PAYMENTS TO STATES AND LOCAL UNITS—Continued

States, territories, etc.	Department of Health, Education, and Welfare [19]						
	Public Health Service						
	Control of venereal diseases [5] (29)	Control of tuberculosis (30)	Community health practice and research [23] (31)	Mental health activities (32)	National Cancer Institute (33)	National Heart Institute (34)	Water supply and water pollution control [24] (35)
South Dakota	$15,096	$12,665	$87,742	$66,776	$4,043	$12,027	$26,900
Tennessee	110,985	139,315	380,295	145,144	72,915	175,291	109,697
Texas	210,595	204,910	837,444	363,925	176,991	339,585	204,704
Utah	3,542	14,663	107,793	52,775	25,000	22,728	32,294
Vermont		20,637	52,371	66,796	26,490	22,769	27,398
Virginia	90,141	102,584	368,418	138,114	62,882	98,700	106,050
Washington	21,828	31,797	222,771	82,965	48,615	125,735	68,020
West Virginia	21,743	39,596	183,472	66,639	40,189	76,726	62,609
Wisconsin		50,105	314,899	128,453	76,011	160,346	106,884
Wyoming	374	10,386	53,069	64,712	14,758	24,751	18,439
Puerto Rico	34,783	111,791	328,232	95,809	58,529	159,486	25,261
Virgin Islands	6,923	8,273	7,490	36,503	8,774	15,151	21,499
Other Territories, etc.[3]		8,018	5,740	34,800	5,040	12,520	
Undistributed to States, etc.							
Total	4,314,356	4,394,336	16,527,529	7,015,591	3,431,245	6,090,293	4,446,326

States, territories, etc.	Department of Health, Education, and Welfare [19]						
	Public Health Service					Welfare Administration [25]	
			Construction			Children's Bureau	
	Chronic diseases and health of the aged (36)	Radiological health (37)	Hospital activities [23] (38)	Waste treatment works (39)	Health research facilities (40)	Maternal and child health services (41)	Services for crippled children (42)
Alabama	$226,947	$24,600	$3,136,730	$1,030,193		$733,564	$650,631
Alaska		12,000	849,877	133,740		119,922	130,380
Arizona	60,635	15,499	1,195,887	432,840		212,477	
Arkansas	67,015	16,532	3,307,387	920,739		365,966	372,654
California	911,388	112,108	6,889,858	3,727,339	$65,099	1,378,397	906,610
Colorado	84,763	15,000	2,921,552	704,850		427,395	286,276
Connecticut	61,678	16,532	1,332,582	697,577		376,730	301,310
Delaware	52,928	14,499	926,766	394,076		130,347	127,643
District of Columbia	65,899		607,163	571,800		284,818	222,231
Florida	457,506	38,540	6,597,076	1,181,929	1,443	826,869	569,170
Georgia	126,376	31,101	5,597,502	964,111		717,605	779,008
Hawaii	64,694	15,499	1,702,477	412,601		179,344	192,086
Idaho	52,620	11,000	1,779,503	475,677		199,255	201,548
Illinois	487,739	48,560	6,599,483	1,771,228		711,398	823,243
Indiana	154,192	28.000	2,229,520	1,629,166	45,779	444,812	594,468
Iowa	64,222	7,500	2.883.996	1,102,106		333,312	489,568
Kansas	159,263	15,499	2,918,698	651.353		261,847	281,974
Kentucky	226,001	24.075	3,481,150	875,502		536,390	602,437
Louisiana	65,173	18,040	5,058,230	1,966,812		504,386	585,662
Maine	92,448	15,499	1,178,015	427,080		176,727	132,442
Maryland	183,969	20,768	2,748,784	639,119		386,612	434,917
Massachusetts	394,536	23,400	2,301,240	1,459,097	142,500	416,413	454,105
Michigan	480,151	51,456	5,468,513	1,989,520		877,302	995,025
Minnesota	223,246	28,518	4,029,441	1,266,753		510,088	663,610
Mississippi	297,882	21,388	4,562,142	817,715	1,157,050	581,002	546,727
Missouri	365,000	32,444	4,388,569	819,627		516,652	475,938
Montana	46,846	3,000	509,699	616,801		147,192	189,475
Nebraska	17,913	9,000	2,280,275	970,501		162,301	194,670
Nevada	33,000	5,000	431,758	436,460		124,979	138,718
New Hampshire	38,826	15,449	1,347,760	74,912		89,300	125,602
New Jersey	360,704	36,577	2,875,180	1,061,326		376,986	357,968
New Mexico	65,626	15,499	2,099,210	1,090,127		266,765	235,258
New York	1,033,741	128,020	8,018,352	1,911,061	259,200	1,119,144	936,035
North Carolina	381,955	37,197	7,549,649	1,867,534		876,005	977,404
North Dakota	64,300	15,499	1,120,148	165,940		140,850	139,489
Ohio	543,805	51,900	6,982,423	2,297,975	407,198	915,101	968,474
Oklahoma	214,510	18,289	3,942,865	759,193		364,009	320,503
Oregon	11,251	15,499	2,211,086	1,002,612		195,261	236,246
Pennsylvania	834,615	81,100	10,558,224	1,791,587		1,122,637	[1] 1,233,355
Rhode Island	65,961	9,000	904,318	140,540		223,108	157,336
South Carolina	92,640	23,145	7,774,372	571,597		515,125	[1] 568,944
South Dakota	23,765	7,999	1,395,189	170,809		88,875	96,015
Tennessee	154,876	35,234	5,057,937	1,603,800		711,801	674,362
Texas	329,542	66,541	10,534,819	2,411,075		1,077,724	1,338,509
Utah	20,000	15,499	1,564,700	379,555		165,133	172,642
Vermont	26,016	9,000	339,968	548,382		128,721	125,262
Virginia	216,321	22,220	4,400,697	987,850	1,367	694,989	665,600
Washington	191,537	23,971	1,478,848	1,034,622	9,400	407,312	346,293
West Virginia	127,173	12,000	2,878,332	927,401		363,836	381,346
Wisconsin	255,662	26,900	4,004,743	1,123,342	69,920	492,103	501,125
Wyoming	37,241	13,000	196,452	73,575		123,108	116,975
Puerto Rico	125,651	18,000	7,850,080	656,963		601,120	677,508
Virgin Islands	50,900	1,000	16,034			108,736	108,000
Other Territories, etc.[3]	14,000		33,568			59,656	27,270
Undistributed to States, etc.							
Total	10,804,648	1,373,595	183,048,827	51,738,090	2,158,956	23,871,507	23,830,105

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART A. FEDERAL AID PAYMENTS TO STATES AND LOCAL UNITS—Continued

States, territories, etc.	Department of Health, Education, and Welfare [19]						
	Welfare Administration [26]						American Printing House for the Blind
	Children's Bureau—Continued	Bureau of Family Services					
	Child welfare services (43)	Old-age assistance (44)	Aid to dependent children (45)	Aid to the permanently and totally disabled (46)	Aid to the blind (47)	Medical assistance for the aged (48)	(49)
Alabama	$657, 665	$66, 718, 545	$10, 965, 735	$5, 876, 313	$764, 250	$451, 633	$13, 243
Alaska	166, 523	651, 729	832, 799	----------	46, 446	----------	----------
Arizona	248, 736	7, 419, 233	10, 396, 919	777, 199	566, 235	----------	5, 802
Arkansas	423, 097	32, 947, 595	4, 556, 318	4, 389, 698	1, 173, 942	1, 034, 658	7, 315
California	1, 569, 830	185, 200, 322	98, 159, 888	19, 967, 491	8, 138, 807	32, 764, 778	66, 760
Colorado	320, 804	30, 639, 939	10, 232, 724	3, 494, 279	153, 335	----------	7, 609
Connecticut	267, 884	5, 852, 573	12, 714, 609	2, 767, 355	172, 861	7, 064, 663	16, 143
Delaware	107, 921	597, 493	1, 876, 681	258, 590	169, 262	----------	2, 060
District of Columbia	123, 273	1, 995, 641	5, 190, 348	1, 803, 671	114, 203	100, 000	2, 270
Florida	654, 178	40, 900, 224	18, 091, 667	8, 621, 936	1, 462, 143	----------	20, 726
Georgia	707, 667	47, 246, 217	14, 221, 482	13, 548, 875	1, 616, 058	----------	18, 119
Hawaii	166, 485	694, 294	3, 848, 307	621, 084	58, 487	745, 338	2, 859
Idaho	94, 995	3, 444, 675	2, 749, 568	1, 334, 365	83, 735	1, 635, 447	1, 135
Illinois	937, 531	39, 112, 259	71, 172, 084	15, 138, 983	1, 569, 072	1, 966, 161	30, 395
Indiana	623, 977	14, 557, 280	12, 058, 439	158, 963	1, 145, 314	----------	15, 891
Iowa	539, 013	21, 321, 763	11, 126, 282	552, 951	816, 250	----------	8, 156
Kansas	366, 066	18, 103, 474	7, 483, 920	2, 721, 630	341, 566	----------	11. 225
Kentucky	633, 138	29, 268, 436	19, 392, 873	5, 724, 345	1, 484, 509	775, 433	8, 450
Louisiana	612, 619	94, 191, 008	22, 303, 928	10, 309, 114	1, 791, 875	----------	11, 645
Maine	202, 320	7, 619, 457	6, 031, 931	1, 523, 898	256, 908	562, 631	2, 102
Maryland	384, 310	5, 535, 745	15, 633, 974	3, 751, 839	238, 498	1, 611, 844	16, 180
Massachusetts	600, 622	38, 875, 549	20, 664, 048	6, 729, 562	1, 332, 407	24, 511, 281	27, 663
Michigan	974, 836	30, 197, 808	32, 583, 265	3, 712, 062	962, 690	11, 392, 308	30, 017
Minnesota	523, 657	30, 431, 933	12, 033, 307	1, 678, 296	662, 259	----------	13, 159
Mississippi	494, 063	30, 234, 439	8, 489, 570	5, 712, 248	1, 343, 247	----------	7, 189
Missouri	565, 960	54, 931, 498	21, 718, 183	7, 741, 124	2, 178, 420	----------	11, 982
Montana	157, 279	3, 475, 671	2, 011, 483	806, 050	183, 623	----------	2, 354
Nebraska	240, 588	8, 022, 403	3, 244, 251	1, 175, 709	396, 110	----------	4, 582
Nevada	93, 876	1, 707, 052	1, 244, 565	----------	107, 845	----------	925
New Hampshire	103, 644	3, 004, 451	1, 015, 548	322, 229	146, 105	22, 081	2, 270
New Jersey	568, 956	11, 766, 098	22, 683, 602	4, 724, 350	583, 759	----------	27, 452
New Mexico	237, 241	7, 989, 380	8, 691, 631	2, 090, 364	236, 224	----------	4, 919
New York	1, 342, 625	41, 753, 059	122, 977, 179	23, 194, 878	2, 345, 886	48, 863, 243	68, 484
North Carolina	895, 899	23, 415, 056	24, 820, 860	12, 896, 505	2, 909, 960	----------	23, 164
North Dakota	170, 543	4, 493, 428	1, 982, 487	854, 905	60, 107	1, 749, 660	1, 261
Ohio	1, 236, 363	53, 743, 358	38, 416, 784	10, 106, 886	2, 219, 129	----------	34, 767
Oklahoma	420, 508	62, 808, 189	20, 111, 519	7, 469, 142	1, 090, 055	1, 254, 840	5, 339
Oregon	258, 285	10, 292, 667	8, 566. 259	2, 989, 277	226, 627	----------	9, 207
Pennsylvania	1, 245, 035	29, 382, 787	82, 713, 769	10, 371, 304	3, 197, 040	6, 218, 794	50, 659
Rhode Island	172, 472	3, 816, 710	5, 206, 453	1, 515, 341	72, 980	----------	3, 910
South Carolina	544, 305	12, 866, 023	5, 430, 345	4, 064, 336	923, 978	1, 174, 858	8, 155
South Dakota	176, 334	5, 649, 358	2, 886, 629	682, 351	90, 750	----------	2, 564
Tennessee	640, 740	23, 162, 635	15, 730, 902	5, 616, 879	1, 140, 910	783, 599	13, 326
Texas	1, 156, 684	139, 010, 970	15, 039, 654	4, 353, 948	2, 992, 668	----------	27, 999
Utah	227, 350	3, 804, 748	5, 574, 425	2, 933, 492	119, 388	1, 576, 122	3, 363
Vermont	129, 554	4, 205, 402	1, 544, 659	622, 801	70, 201	195, 827	925
Virginia	634, 676	7, 926, 203	10, 364, 177	3, 951, 033	651, 042	----------	15, 765
Washington	392, 397	30, 692, 251	14, 537, 564	7, 108, 083	432, 503	2, 309, 315	13, 117
West Virginia	345, 156	7, 504, 134	33, 130, 209	3, 284, 911	411, 056	734, 118	9, 123
Wisconsin	557, 091	20, 852, 108	11, 517, 726	3, 246, 483	533, 615	----------	11, 645
Wyoming	110, 600	1, 792, 260	877, 329	347, 401	34, 143	----------	1, 219
Puerto Rico	589, 184	2, 067, 594	5, 607, 377	1, 398, 053	101, 929	358, 322	3, 363
Virgin Islands	76, 532	101, 853	99, 826	17, 512	3, 594	11, 104	----------
Other territories, etc.[6]	12, 676	29, 481	81, 668	16, 365	921	10, 389	42
Undistributed to States, etc	----------	----------	----------	----------	----------	----------	----------
Total	25, 703, 763	1, 364, 024, 458	920, 677, 729	245, 076, 449	49, 924, 927	149, 878, 447	708, 000

States, territories, etc.	Department of Health, Education, and Welfare [19]	Department of the Interior [19]				
	Vocational Rehabilitation Administration (50)	Federal aid in wildlife restoration and fish restoration and management [27] (51)	Migratory Bird Conservation Act and Alaska game law—shared revenues (52)	Payments from receipts under Mineral Leasing Act—shared revenues (53)	Payments under certain special funds—shared revenues [28] (54)	Bureau of Indian Affairs [29] (55)
Alabama	$3, 317, 669	$402, 882	$13	$2, 571	$113	----------
Alaska	83, 333	728, 627	5, 445	8, 572, 864	716, 115	$500, 441
Arizona	598, 103	407, 047	----------	198, 727	349, 715	2, 855, 525
Arkansas	2, 375, 524	401, 574	43, 651	91, 622	742	----------
California	3, 542, 251	870, 675	525	2, 598, 917	101, 500	----------
Colorado	1, 280, 488	571, 556	2, 651	3, 235, 380	32, 282	112, 128
Connecticut	379, 337	128, 194	----------	----------	----------	----------
Delaware	181, 072	115, 630	218	----------	----------	----------
District of Columbia	334, 919	----------	----------	----------	----------	----------
Florida	2, 516, 951	236, 727	14, 117	191	792	29, 700
Georgia	6, 977, 059	509, 113	25, 881	----------	----------	----------
Hawaii	374, 652	117, 839	----------	----------	----------	----------
Idaho	253, 253	358, 524	13, 989	196, 398	44, 019	147, 800
Illinois	2, 094, 180	472, 868	4, 261	----------	----------	----------
Indiana	631, 002	491, 265	----------	30	----------	----------
Iowa	1, 126, 864	370, 891	2, 049	----------	24	50, 408
Kansas	708, 323	146, 347	1, 655	155, 756	12	16, 200
Kentucky	1, 045, 465	364, 729	806	----------	----------	----------

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART A. FEDERAL AID PAYMENTS TO STATES AND LOCAL UNITS—Continued

States, territories, etc.	Department of Health, Education, and Welfare [19]	Department of the Interior [19]				
	Vocational Rehabilitation Administration (50)	Federal aid in wildlife restoration and fish restoration and management [27] (51)	Migratory Bird Conservation Act and Alaska game law—shared revenues (52)	Payments from receipts under Mineral Leasing Act—shared revenues (53)	Payments under certain special funds—shared revenues [28] (54)	Bureau of Indian Affairs [29] (55)
Louisiana	$1, 877, 210	$257, 486	$278, 682	$118, 383	$702	
Maine	407, 559	206, 551	1, 261			
Maryland	978, 199	184, 290	10, 176			
Massachusetts	1, 384, 513	122, 932	38			
Michigan	1, 741, 566	971, 167	5, 081	5, 013	2	
Minnesota	1, 440, 539	775, 991	2, 979		406	$395, 412
Mississippi	1, 347, 023	248, 906	3, 118	3, 548	206	
Missouri	1, 250, 926	433, 644	1, 072			
Montana	313, 654	456, 434	9, 818	2, 037, 772	129, 353	235, 631
Nebraska	474, 860	233, 898	31, 446	9, 030	185	170, 000
Nevada	111, 267	446, 893	4, 390	208, 620	376, 151	106, 885
New Hampshire	144, 638	102, 520				
New Jersey	1, 596, 882	205, 401				
New Mexico	298, 265	575, 335	725	9, 425, 931	55, 903	1, 731, 578
New York	5, 376, 326	745, 681	157			
North Carolina	3, 189, 023	425, 443	161		1, 820	18, 780
North Dakota	450, 657	298, 843	10, 141	384, 935		341, 878
Ohio	1, 945, 333	544, 058	25			
Oklahoma	1, 991, 716	282, 984	10, 728	72, 169	6, 535	569, 089
Oregon	687, 862	332, 403	47, 161	203	16, 189, 934	23, 960
Pennsylvania	6, 607, 300	774, 857	176			
Rhode Island	570, 602	115, 221				
South Carolina	1, 880, 594	210, 283	4, 038			
South Dakota	342, 888	335, 783	4, 002	91, 853	10, 476	718, 442
Tennessee	1, 834, 691	425, 711	509			
Texas	2, 600, 725	740, 127	11, 159			
Utah	334, 543	317, 283	213	6, 079, 179	33, 424	96, 167
Vermont	282, 210	100, 031	178			
Virginia	1, 663, 089	259, 782	48			
Washington	907, 627	416, 156	19, 998	1, 480	23, 188	91, 000
West Virginia	1, 859, 672	191, 880				
Wisconsin	1, 124, 772	1, 000, 821	9, 680		90	110, 000
Wyoming	92, 890	495, 945	45	13, 656, 982	105, 468	52, 850
Puerto Rico	1, 130, 397	17, 643				
Virgin Islands	45, 243	5, 586			7, 682, 529	
Other territories, etc.[8]	53, 809	14, 616				
Undistributed to States, etc						
Total	73, 160, 503	19, 967, 071	582, 467	47, 147, 555	25, 861, 686	8, 472, 874

States, territories, etc.	Department of Labor	Federal Power Commission	Federal Aviation Administration	Housing and Home Finance Agency [11]		
				Office of Administrator		Public Housing Administration
	Unemployment Compensation and Employment Service Administration (trust fund)[30] (56)	Payments under Federal Power Act—shared revenues (57)	Federal airport program [31] (58)	Urban renewal program [32] (59)	Urban planning assistance (60)	Low-rent public housing program (61)
Alabama	$3, 967, 310		$862, 358	$3, 219, 951	$48, 190	$6, 768, 114
Alaska	1, 302, 587	$672	865, 049	341, 507	33, 811	218, 661
Arizona	4, 090, 645	397	578, 876		2, 933	465, 371
Arkansas	3, 180, 599	4	287, 783	3, 308, 552	153, 057	925, 040
California	38, 776, 122	31, 914	6, 819, 772	10, 607, 332	1, 187, 917	7, 206, 082
Colorado	2, 993, 892	543	2, 907, 238	926, 712	112, 049	1, 058, 812
Connecticut	4, 466, 785		345, 879	14, 576, 768	310, 991	2, 868, 738
Delaware	780, 037		191, 400			587, 465
District of Columbia	2, 803, 060			815, 732		3, 309, 933
Florida	6, 186, 616	3	1, 875, 966		48, 731	3, 643, 754
Georgia	4, 309, 520	36	1, 135, 806	4, 485, 136	409, 019	8, 047, 826
Hawaii	1, 366, 156		1, 230, 551	3, 227, 762	135, 164	534, 928
Idaho	1, 965, 931	5, 245	211, 010			11, 613
Illinois	15, 370, 239		1, 137, 584	9, 037, 936	453, 237	13, 956, 533
Indiana	5, 194, 535		1, 178, 542	4, 717, 301	74, 962	1, 073, 799
Iowa	2, 955, 064		741, 254	2, 795, 661	126, 097	
Kansas	2, 460, 700		383, 295	2, 275, 072	160, 583	153, 686
Kentucky	3, 342, 291		729, 654	1, 066, 540	359, 182	3, 218, 027
Louisiana	4, 299, 711		1, 279, 002		115, 353	3, 5815, 71
Maine	1, 504, 718		99, 868	118, 109	160, 024	49, 158
Maryland	5, 227, 049		198, 304	10, 461, 660	246, 565	3, 96, 5501
Massachusetts	11, 427, 038		1, 210, 233	4, 094, 187	1, 191, 449	6, 976, 861
Michigan	13, 508, 480	105	1, 964, 560	13, 218, 498	1, 074, 577	3, 446, 731
Minnesota	4, 237, 978	11	1, 574, 358	2, 286, 412	146, 503	1, 610, 504
Mississippi	2, 971, 160	24	1, 732, 307	356, 786	34, 297	1, 785, 107
Missouri	5, 558, 791		1, 127, 568	3, 108, 782	208, 363	4, 895, 025
Montana	1, 760. 320	10, 881	583, 826		432	158, 228
Nebraska	1, 549, 427		742, 730		9, 100	323, 333
Nevada	1, 442, 874	898	996, 550		18. 697	201, 195
New Hampshire	1, 079, 138		172, 426	335, 535	190, 420	487, 789
New Jersey	12, 777, 976		283, 304	4, 777, 217	508, 715	12, 329, 894
New Mexico	1, 857, 243	3	229, 435		139, 898	47, 043
New York	49, 741, 177		1, 000, 474	24, 378, 697	260, 210	26, 638, 655
North Carolina	5, 472, 173	31	452, 434	2, 131, 799	293, 490	3, 466, 547
North Dakota	1, 292, 096		145, 137	106, 470	17, 600	32, 662
Ohio	12, 027, 001		2, 495, 432	14, 957, 969	427, 544	4, 530, 799
Oklahoma	4, 314, 167		1, 685. 665	145, 579	202, 248	
Oregon	3, 972, 303	4, 258	545, 676	4, 019	238, 684	233, 497

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART A. FEDERAL AID PAYMENTS TO STATES AND LOCAL UNITS—Continued

States, territories, etc.	Department of Labor	Federal Power Commission	Federal Aviation Administration	Housing and Home Finance Agency [11]		
	Unemployment Compensation and Employment Service Administration (trust fund)[10]	Payments under Federal Power Act—shared revenues	Federal airport program [31]	Office of Administrator		Public Housing Administration
				Urban renewal program [32]	Urban planning assistance	Low-rent public housing program
	(56)	(57)	(58)	(59)	(60)	(61)
Pennsylvania	$23,360,023	$3	$1,124,860	$23,010,867	$656,173	$12,079,207
Rhode Island	2,959,569			2,201,098	156,320	1,800,709
South Carolina	3,089,937	183	1,760,412	303,097		1,386,560
South Dakota	943,988		39,753			
Tennessee	3,842,328		2,936,584	7,128,600	339,452	5,622,191
Texas	12,712,011		1,097,152	3,824,322	223,827	7,787,701
Utah	2,996,702	1,142	338,323		29,000	
Vermont	828,283		28,583		57,227	
Virginia	3,376,196	16	1,137,915	2,760,467	131,379	4,211,436
Washington	5,796,528	1,899	926,507	256,661	448,090	955,113
West Virginia	2,604,616	3	663,280	1,144,902	173,378	485,307
Wisconsin	4,653,601	66	1,121,816	2,992,164	612,320	702,100
Wyoming	984,164	106	65,759		8,940	
Puerto Rico	2,527,298	13	251,188	1,383,714	442,715	6,027,192
Virgin Islands	96,112			24,000	10,000	475,623
Other Territories, etc.[2]	19,017					
Undistributed to States, etc	8,106,763					
Total	330,430,044	58,453	51,493,441	186,914,083	12,388,967	170,339,912

States, territories, etc.	Small Business Administration	Tennessee Valley Authority	Veterans' Administration		Miscellaneous grants [5]	Total grant payments (Part A)
	Grants for research and management counseling [5]	Shared revenues [33]	State homes for disabled soldiers and sailors [34]	Approval and supervision of training establishments [35]		
	(62)	(63)	(64)	(65)	(66)	(67)
Alabama		$1,602,730		$37,932		$185,121,762
Alaska					[36] $3,110,437	55,984,637
Arizona	$1,312			10,743		92,650,787
Arkansas				14,897		122,552,025
California	4,000		$1,656,601	128,990	[37] 17,009,749	825,109,563
Colorado	4,000		68,225		[38] 15,014	123,566,433
Connecticut	3,909		562,118	5,322	[39] 46,239	97,402,578
Delaware						27,282,929
District of Columbia	541				[40] 30,396,242	83,228,917
Florida				35,989		179,935,377
Georgia	5,000	67,009	196,963	28,462		207,954,348
Hawaii					[41] 7,344,732	41,790,923
Idaho	9,250		39,939		[42] −189	52,612,611
Illinois	3,200		469,530	58,048		386,209,623
Indiana	5,700		173,064	20,943	[39] 31,737	143,343,857
Iowa			212,470	20,087		102,372,804
Kansas			44,915	7,290		87,737,937
Kentucky	11,000	1,076,543		23,385		173,356,714
Louisiana	10,310			41,918		252,817,102
Maine	3,895					50,558,682
Maryland						118,622,204
Massachusetts	3,760		736,023	21,000		206,208,532
Michigan	10,000		582,141	13,846		297,604,462
Minnesota			241,684	32,201		150,798,029
Mississippi		282,684		12,157		136,531,268
Missouri			55,039	26,595		216,136,701
Montana			53,543	4,654		66,532,571
Nebraska	17,000		115,053	6,125		70,624,691
Nevada	3,213					30,390,039
New Hampshire	4,000		28,186	4,988		28,582,513
New Jersey			171,779			177,894,265
New Mexico				7,211		90,847,757
New York	2,241		5,796	508		606,355,657
North Carolina	3,000	112,414		32,344		168,012,616
North Dakota	3,500		63,608	5,278		39,773,455
Ohio			442,260	40,911		373,579,536
Oklahoma			362,545	20,020		187,764,436
Oregon	3,798			6,422		138,051,777
Pennsylvania	4,000		165.373	50,120	[43] 39,801	423,573,336
Rhode Island			221,392	9,324		41,736,351
South Carolina	907			14,480		92,228,246
South Dakota	20,000		123,285	4,658		47,439,217
Tennessee		4,156,040		24,294		211,914,543
Texas				45,543	[42] −122	444,588,773
Utah				1,961	[44] 94,500	71,638,913
Vermont			44,312	911		30,745,644
Virginia	10,000	25,998		8,266	[45] 150,000	181,381,577
Washington			339,402	384		165,984,528
West Virginia	−2,921			18,276		98,991,024
Wisconsin	8,000		193,114	9,356		137,798,044
Wyoming	4,000		9,901			62,364,800
Puerto Rico				3,826	[46] 56,789,041	122,434,438
Virgin Islands	4,170				[47] 1,203,296	10,781,715
Other territories, etc.[5]					[48] 22,338,400	26,662,559
Undistributed to States, etc						30,521,066
Total	160,784	7,323,419	7,378,261	859,665	138,628,874	8,596,681,878

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART B. FEDERAL AID PAYMENTS TO INDIVIDUALS, ETC., WITHIN THE STATES

States, territories, etc.	Department of Agriculture						Department of Commerce
	Agricultural conservation program [49] (68)	Sugar Act program (69)	Conservation reserve program (70)	Land-use adjustment program (71)	Great Plains conservation program (72)	Rural housing grants (73)	State marine schools (subsistence of cadets) (74)
Alabama	$6,726,199		$4,909,369			$59,835	
Alaska	1,632,142						
Arizona	1,665,198		37,488			20,332	
Arkansas	5,191,687		6,646,741	$28,656		334,895	
California	4,137,181	$9,213,812	2,354,020	20,337			$150,861
Colorado	3,418,924	6,835,438	9,044,571	1,236	$777,912	2,970	
Connecticut	518,005		81,330	3,193			
Delaware	327,165		291,135				
District of Columbia							
Florida	2,779,316	3,309,745	2,071,678	520		17,410	
Georgia	7,392,114		11,778,935	195,436		21,130	
Hawaii	138,215	10,184,393					
Idaho	2,231,413	5,876,424	3,164,670	288,826		3,500	
Illinois	9,698,205	43,142	7,124,574	227			
Indiana	6,198,048	64,578	8,453,682	620			
Iowa	10,822,132	8,382	10,557,378	220,399			
Kansas	6,452,741	507,777	16,246,533	279,663	581,142	7,125	
Kentucky	8,206,871	14,362	5,962,802	4,137		15,300	
Louisiana	4,452,501	7,581,750	2,846,468	6,614		1,000	
Maine	1,013,533		1,298,512	751,633		22,620	175,125
Maryland	1,278,811		1,204,645				
Massachusetts	577,049		48,285	7,817			109,078
Michigan	5,300,689	2,458,928	8,572,085	15,844		12,810	
Minnesota	6,376,099	2,781,310	18,729,170	315,267		7,930	
Mississippi	6,531,079		3,904,877	353,664		83,615	
Missouri	9,953,243	17,769	10,914,794	98,250		95,525	
Montana	3,782,104	2,110,295	5,341,448	1,000	495,724	1,000	
Nebraska	7,085,542	2,526,413	9,867,202	3,376	866,431	1,380	
Nevada	442,392	9,070					
New Hampshire	547,347		151,313	8,933		1,000	
New Jersey	772,209		783,154				
New Mexico	1,915,071	4,422	6,306,616		469,637	2,260	
New York	4,188,258		5,735,153	9,283		3,400	335,364
North Carolina	7,352,055		3,955,087	385,489		47,715	
North Dakota	4,558,770	1,413,762	24,580,607	513,172	492,963	3,000	
Ohio	6,211,153	837,909	8,212,475	5,208		1,000	
Oklahoma	7,480,457	122,228	14,355,043	26,325	534,684	12,935	
Oregon	3,021,563	1,177,038	2,933,488	101			
Pennsylvania	4,563,314		5,144,164	51,083		6,000	
Rhode Island	81,380		872				
South Carolina	3,704,337		7,904,565	443		950	
South Dakota	4,065,622	297,292	17,072,599	5,740	391,509	4,720	
Tennessee	5,774,179		7,012,638	13,372		1,000	
Texas	20,669,776	86,209	31,486,908	8,479	2,311,025	17,305	8,479
Utah	1,573,389	1,047,222	1,820,848	216,952			
Vermont	1,073,257		416,987	1,289			
Virginia	4,510,367		1,631,589	17,001			
Washington	2,397,641	3,110,792	3,971,728				
West Virginia	1,712,012		825,321			3,168	
Wisconsin	5,932,638		9,261,701	136,000		1,000	
Wyoming	2,209,088	1,606,632	945,663		148,546	2,500	
Puerto Rico	958,254	5,665,353				155,700	
Virgin Islands							
Other territories, etc.[3]							
Undistributed to States, etc.							
Total	219,600,735	68,912,447	305,958,001	3,995,585	7,069,573	972,030	778,908

States, territories, etc.	Department of Defense			Department of Health, Education, and Welfare			
	Army	Air Force		Office of Education			
	National Guard [50] (75)	National Guard [50] (76)	Civil defense [51] (77)	Defense educational activities [5] (78)	Cooperative research (79)	Expansion of teaching in education of the mentally retarded [5] (80)	Expansion of teaching in education for the deaf (81)
Alabama	$5,650,205	$2,591,341	$41,522	$446,061	$2,491		$22,360
Alaska	1,534,622	1,193,714	25,633	189	9,270		
Arizona	1,570,375	3,223,146	34,841	841,011	46,434		35,381
Arkansas	3,859,464	2,160,496	43,761	207,586	4,925		33,170
California	12,453,066	7,563,196	112,090	3,945,542	975,406	$32,087	109,903
Colorado	1,318,547	3,143,514	44,427	962,070	81,493	24,667	32,280
Connecticut	3,583,608	2,019,795	17,174	804,925	29,776	−1,229	
Delaware	1,720,660	1,359,134	12,331	132,378	33,486		
District of Columbia	961,377	1,847,589	23,539	1,022,056	24,222		70,125
Florida	3,675,747	2,060,891	165,722	993,754	114,798		
Georgia	5,323,994	3,948,465	88,224	1,049,491	52,197	24,400	22,620
Hawaii	4,749,703	3,607,252	31,201	169,740	6,000		
Idaho	1,821,719	1,466,697	33,041	245,458			
Illinois	7,318,072	3,486,306	79,315	2,318,404	451,171	22,800	103,080
Indiana	4,567,247	2,411,500	72,835	1,802,016	63,587		40,776
Iowa	3,536,291	3,308,038	62,748	634,067	94,235		
Kansas	2,944,488	2,615,783	61,006	630,407	32,463	4,175	35,005
Kentucky	2,383,414	1,541,777	61,131	298,937	19,824		

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART B. FEDERAL AID PAYMENTS TO INDIVIDUALS, ETC., WITHIN THE STATES—Continued

States, territories, etc.	Department of Agriculture						Department of Commerce
	Agricultural conservation program [10] (75)	Sugar Act program (76)	Conservation reserve program (77)	Land-use adjustment program (78)	Great Plains conservation program (79)	Rural housing grants (80)	State marine schools (subsistence of cadets) (81)
Louisiana	$3,711,622	$1,942,588	$110,525	$ 634,529	$18,659		
Maine	1,652,849	1,793,436	34,893	270,946			
Maryland	5,275,232	2,038,071	42,983	435,254			
Massachusetts	71,183,632	3,069,681	22,566	1,715,337	234,275	$10,500	$82,852
Michigan	7,179,491	3,603,965	2,928	2,031,242	689,993	34,200	32,777
Minnesota	5,063,076	3,038,407	93,385	866,582	130,730	24,000	28,589
Mississippi	4,745,752	2,248,019	70,864	262,783	22,469		
Missouri	3,919,934	3,615,414	65,713	1,061,518	100,308	10,500	84,708
Montana	1,786,894	1,639,732	11,981	206,286			
Nebraska	1,877,641	1,559,367	47,329	387,247	70,993		10,772
Nevada	668,549	1,087,814	551	175,221			
New Hampshire	1,076,881	1,093,696	400	346,765			22,750
New Jersey	8,576,276	3,057,882	65,362	884,617	59,277	9,000	23,510
New Mexico	2,144,934	1,755,625	57,676	365,437			21,088
New York	15,065,683	6,590,933	18,574	5,004,705	603,049	56,000	221,322
North Carolina	4,489,832	1,399,142	49,036	973,742	72,510		4,162
North Dakota	1,237,115	1,604,876	17,675	545,082	1,576		23,867
Ohio	6,939,259	5,822,576	82,749	1,448,204	107,417	23,200	55,485
Oklahoma	3,804,728	2,880,584	78,544	655,711	12,528		11,333
Oregon	2,849,490	2,060,779	43,386	1,034,328	45,718	10,500	56,245
Pennsylvania	11,468,738	5,591,912	108,584	2,075,449	336,227	46,020	54,632
Rhode Island	1,893,509	1,166,520	27,156	401,173	25,801		
South Carolina	4,279,650	1,341,932	50,491	180,971	31,044		
South Dakota	1,836,603	1,729,754	6,300	115,976			18,586
Tennessee	3,966,501	4,586,027	69,701	990,060	28,119	24,000	45,928
Texas	7,965,365	5,141,529	202,819	1,560,366	138,046	24,000	26,802
Utah	2,333,475	1,988,534	856	417,013	79,194		19,305
Vermont	1,474,508	1,645,838	33,681	56,422			
Virginia	5,775,638	895,238	14,142	467,397	86,835	10,929	
Washington	4,308,560	2,323,446	66,247	1,077,636			
West Virginia	1,368,405	2,198,706	35,340	258,772			
Wisconsin	3,495,721	3,716,092	57,215	1,035,688	219,064	24,000	27,351
Wyoming	1,019,247	1,048,058	34,456	381,764			
Puerto Rico	2,921,283	1,903,582	92,447	124,946			
Virgin Islands							
Other territories, etc.[3]							
Undistributed to States, etc.	[32] 122,421,525	[32] 105,090,701		−6,073			
Total	334,750,197	241,822,088	2,727,099	44,958,088	5,155,610	413,749	1,376,764

States, territories, etc.	Department of Health, Education, and Welfare						
	Public Health Service						
	Mental health activities (82)	Arthritis and metabolic disease activities [5] (83)	Allergy and infectious disease activities (84)	Neurology and blindness activities (85)	Chronic disease and health of the aged (86)	National Cancer Institute (87)	National Heart Institute (88)
Alabama	$241,873	$522,047	$160,740	$123,216	$60,759	$383,565	$594,499
Alaska	5,548	286				785	
Arizona	180,241	69,085	192,698	164,625		140,205	33,684
Arkansas	301,995	389,195	73,206	72,797		118,688	205,262
California	9,889,969	6,862,624	4,788,525	5,481,422	391,572	5,338,548	7,950,925
Colorado	1,210,219	574,471	942,228	250,507	50,172	647,680	583,699
Connecticut	2,426,654	899,315	594,703	667,176	88,860	1,121,013	791,905
Delaware	26,195	2,213	20,021			34,031	24,575
District of Columbia	2,279,116	1,195,933	854,775	397,956	113,835	683,963	1,538,641
Florida	1,047,713	822,236	1,191,223	990,289	84,385	1,066,040	1,100,221
Georgia	799,626	653,442	387,227	408,604	40,158	442,243	1,671,993
Hawaii	173,870	21,288	150,710	14,674	51,088	11,602	54,637
Idaho	55,558	16,865	31,457			1,309	5,924
Illinois	4,512,524	3,615,156	2,784,193	2,348,089		2,936,310	3,630,512
Indiana	1,275,481	620,238	693,063	574,501		391,519	968,010
Iowa	582,487	775,225	314,405	1,007,116		271,931	615,195
Kansas	1,243,666	457,738	423,838	258,549		439,099	247,657
Kentucky	473,991	583,492	214,288	207,503		249,002	718,033
Louisiana	780,756	522,006	1,186,148	1,470,305	5,665	875,862	1,878,413
Maine	204,639	57,835	21,745			684,655	105,149
Maryland	2,507,230	2,930,819	1,365,689	2,338,439	25,558	2,094,596	2,562,088
Massachusetts	8,221,724	7,860,081	2,391,223	5,314,582	158,531	5,707,843	7,263,310
Michigan	3,276,319	2,604,606	606,480	1,655,827	24,065	1,469,858	1,989,292
Minnesota	1,327,917	2,590,328	1,089,182	2,008,425	51,643	989,728	3,504,575
Mississippi	203,757	296,070	213,539	122,979		61,270	578,395
Missouri	2,151,837	1,831,088	807,426	1,613,038	66,018	972,420	1,588,390
Montana	186,389	−2,916	155,953	28,383		61,775	20,406
Nebraska	800,154	154,597	96,256	99,031		171,275	322,193
Nevada	76,889	16,100		12,554	47,240		
New Hampshire	63,849	209,510	69,400	109,464	2,500	269,477	283,060
New Jersey	1,390,148	707,343	752,293	535,688	29,147	835,450	758,125
New Mexico	121,342	30,405	12,927	19,160		63,029	156,401
New York	14,973,645	10,237,871	6,002,414	9,632,825	500,477	11,772,936	10,768,688
North Carolina	1,899,579	1,746,344	506,556	774,141	18,589	1,424,909	2,741,807
North Dakota	61,704	97,989	37,919		4,127	23,349	23,035
Ohio	2,518,608	2,443,810	1,097,315	956,748	53,152	1,113,147	3,488,046
Oklahoma	514,891	757,319	277,709	278,360	53,309	405,946	946,090
Oregon	655,980	866,479	295,189	1,073,967	36.493	783,034	1,745,970

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART B. FEDERAL AID PAYMENTS TO INDIVIDUALS, ETC., WITHIN THE STATES—Continued

States, territories, etc.	Department of Health, Education, and Welfare						
	Public Health Service						
	Mental health activities (82)	Arthritis and metabolic disease activities [5] (83)	Allergy and infectious disease activities (84)	Neurology and blindness activities (85)	Chronic disease and health of the aged (86)	National Cancer Institute (87)	National Heart Institute (88)
Pennsylvania	$4,500,438	$4,261,053	$2,375,219	$2,960,357	$102,564	$4,579,495	$5,544,467
Rhode Island	440,455	188,993	53,447	370,533	13,587	337,093	25,240
South Carolina	191,635	92,179	1,838	114,547		75,274	456,758
South Dakota	105,933	42,368	59,552			18,771	94,430
Tennessee	1,359,482	1,283,051	446,621	577,680		793,022	1,506,140
Texas	1,530,053	1,845,206	1,192,106	612,502	43,851	3,729,742	2,171,118
Utah	641,034	1,103,975	215,400	536,406		571,710	335,753
Vermont	180,027	305,084	151,464	152,613		78,161	359,491
Virginia	315,908	759,261	268,117	805,857	22,016	400,509	912,181
Washington	983,214	2,157,652	626,223	828,349	54,633	863,988	1,547,337
West Virginia	51,647	368,277	69,746	86,918	23,114	105,878	211,177
Wisconsin	1,333,401	1,321,101	1,049,060	690,248	16,634	3,576,299	2,023,753
Wyoming	71,201	−85	34,974			1,350	14,539
Puerto Rico	269,805	316,755	150,100	175,130	41,535	193,635	170,535
Virgin Islands				13,390			
Other territories, etc.[6]	1,042,096	2,076,369	2,305,192	2,259,602		2,047,308	2,429,996
Undistributed to States, etc.							
Total	81,680,421	70,159,772	39,801,782	51,195,072	2,275,277	61,431,539	79,261,726

States, territories, etc.	Department of Health, Education, and Welfare						
	Public Health Service						
	National Institute of Dental Research [5] (89)	Community health practice and research (90)	Cancer research facilities (91)	Hospital and medical facility research [5] (92)	General research and services (93)	General research support grants (94)	Nursing services and research [5] (95)
Alabama	$391,002	$9,559			$742,283	$165,996	$74,022
Alaska					335,922		
Arizona	22,791	10,250			200,130		48,127
Arkansas		8,480			270,395	98,877	65,016
California	865,029	971,581	$150,000	$242,956	10,450,452	2,348,067	610,901
Colorado	6,843	15,943		9,431	1,025,170	282,586	472,757
Connecticut	23,839	180,624		39,663	2,919,337	340,931	139,165
Delaware					61,339		
District of Columbia	346,138	21.671		12,923	923,475	409,859	269,534
Florida	84,286	29,139			1,616,078	356,136	87,846
Georgia	254,860	73,239		12,561	1,293,567	312,276	194.828
Hawaii		2,897			260,140		−6,682
Idaho							
Illinois	1,168.043	101,623		17,252	6,095,872	1,270,558	97,164
Indiana	429.436	56.635			1,762,283	297,488	157,640
Iowa	232,815	73,737	50,000		1,160,125	214,726	49,494
Kansas	14,688	29,262		75,516	1,028,902	170,665	31,549
Kentucky	45,525	34,442			684,955	226,554	59,941
Louisiana	63,237	197,397		18,036	1,828,795	402,669	32,932
Maine		6,660			113,586	69,224	
Maryland	279,042	391,683		36,410	5,433,213	644,017	157,371
Massachusetts	1,674,878	498,837		235,437	9,502.486	1,766,792	682,817
Michigan	589,863	667,407		146,032	3,734,933	694,768	309,439
Minnesota	251,060	469,844		103,678	2,162,106	548,345	126,070
Mississippi		3,115			335,265	95,516	4,157
Missouri	348,219	56,282		−7,169	3,021,718	645,336	332,838
Montana					37,789		170,502
Nebraska	131,869			7,072	230,179	194,530	
Nevada					9,921		5,260
New Hampshire					680,096	96,230	48,117
New Jersey	87,167	20,876		14,797	1,587,936	211,784	9,240
New Mexico	13,860	24,389			270,988	50,291	10,080
New York	1,668,525	550,339		113,739	12,509,934	3,980,230	1,429,438
North Carolina	254,544	624,312		24,000	3,577,728	516,666	97,941
North Dakota	2,472		309,592		82,057	40,622	27,196
Ohio	391,922	101,648		177,256	4,433,035	765,369	302,652
Oklahoma	47,976	83,543	115,921	5,000	907,228	160,191	14,163
Oregon	354.464	53,287		43,059	911,979	218,062	71,596
Pennsylvania	1,350,041	274,485	818,057	198,269	5,697,993	1,831,406	550,175
Rhode Island	4,701				791,505		−1,353
South Carolina	25,379	11,235			62,409	74,689	15,162
South Dakota	22,685	12,307			−802	37,940	4,736
Tennessee	193,496	9,173			1,837,165	465,515	11,843
Texas	370,022	52,745			2,180,522	787,922	126,951
Utah	−3,285	36,238			903,104	168,270	49,061
Vermont	10,213				387,723	80,924	
Virginia	128,842	20,893			685,341	279,725	3,139
Washington	458,017	96,965		14,582	2,245,297	334,926	208,950
West Virginia	71,759				107,221	87,089	439
Wisconsin	257,629	71,010		13,808	2,207,079	426,824	132,943
Wyoming					12,601		
Puerto Rico	58,216	249,919			257,651	144,702	47,344
Virgin Islands							
Other territories, etc.[6]	347,063				3,403,793		
Undistributed to States, etc.							
Total	13,339,171	6,203,671	1,443,570	1,554,308	102,980,059	22,312,283	7,302,521

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART B. FEDERAL AID PAYMENTS TO INDIVIDUALS, ETC., WITHIN THE STATES—Continued

States, territories, etc.	Department of Health, Education, and Welfare						
	Public Health Service						
	Water supply and water pollution control [5] (96)	Air pollution (97)	Milk, food, interstate and community sanitation [53] (98)	Occupational health [5] (99)	Radiological health [5] (100)	Accident prevention (101)	Hospital construction activities (102)
Alabama			$72,694			$20,595	$18,257
Alaska	$37,968						
Arizona	12,799		28,597				
Arkansas	12,367						
California	598,220	$884,226	502,387	$101,575	$99,050	354,733	137,825
Colorado	85,411	20,246	21,938	35,496	74,425		
Connecticut	5,633				10,372		
Delaware							
District of Columbia	52,472	18,537	121,762	−2,652	12,498	104,839	15,836
Florida	223,767	61,051	122,286	20,050	108,511	3,744	
Georgia	18,725	53,274	46,550	67,381	159,533		13,788
Hawaii			116,211				36,531
Idaho							
Illinois	200,189	60,422	186,446	16,780	69,445		24,325
Indiana	16,513		52,678	32,072	16,500	200,724	41,782
Iowa	70,742		148,436	12,690	11,747	12,540	
Kansas	25,675	13,212	44,445	18,366	3,433		2,351
Kentucky	13,544						
Louisiana	14,293	54,971	10,235		28,583	67,470	
Maine	20,147				27,100		9,508
Maryland	196,162	99,028	25,549	36,744	172,831		107,684
Massachusetts	260,691	204,805	268,155	155,120	152,240	45,945	10,946
Michigan	307,147	184,908	134,717	89,394	87,181	72,766	10,001
Minnesota	104,974	97,910	112,726	125,666	32,611		64,408
Mississippi	3,296		14,975		8,117	35,554	
Missouri	146,315	6,100	46,895	7,833	46,557	68,018	23,162
Montana	74,620		28,938				
Nebraska	−6,032	28,610	3,989				
Nevada							
New Hampshire	14,646	16,066	8,974		1,500		
New Jersey	81,421	74,530	27,862		49,967		23,140
New Mexico							
New York	302,159	305,621	191,196	263,849	429,606	631,866	104,342
North Carolina	109,670	78,316	105,247	52,356	44,901		28,568
North Dakota	48,801		5,500				
Ohio	62,301	177,430	158,805	163,915	76,017	79,580	10,604
Oklahoma	143,626			56,955	20,068		
Oregon	214,166		288,925		8,000		
Pennsylvania	80,743	284,085	108,913	288,567	53,497	171,732	23,100
Rhode Island	100,310						
South Carolina	15,320	17,610					
South Dakota			4,480		10,713		
Tennessee	86,263			18,596	50,000		
Texas	163,128	58,123	37,484	44,902	59,686		
Utah	70,715	38,468	46,665		113,020		
Vermont							
Virginia	75,351	11,400	26,516		−2,095		
Washington	133,050	4,080	139,503	12,880	28,822	6,012	46,177
West Virginia	8,740	11,000	28,852				30,363
Wisconsin	221,230	54,666	112,646	21,592	33,820		
Wyoming			3,152				
Puerto Rico							
Virgin Islands							
Other territories, etc [6]	32,739	19,100	332,378	11,500	66,033		
Undistributed to States, etc.							
Total	4,460,017	2,937,795	3,737,707	1,651,627	2,164,289	1,876,118	782,698

States, territories, etc.	Department of Health, Education, and Welfare						
	Public Health Service	Welfare Administration [26]					
		Children's Bureau			Bureau of Family Services	Office of the Commissioner	
	Construction of health research facilities (103)	Maternal and child health services (104)	Services for crippled children (105)	Child welfare research and demonstration grants (106)	Assistance to repatriated U.S. nationals [11] (107)	Cooperative research [3] (108)	Assistance to refugees in the United States (109)
Alabama	$154,112						$4,641
Alaska							
Arizona	6,045						
Arkansas							
California	2,396,832	$92,056	$267,042	$77,330	$12,257		411,306
Colorado	355,247		12,075	7,648	347		21,864
Connecticut	292,097			7,350			37,746
Delaware							
District of Columbia	63,611		86,367	98,267	201,621	$18,500	15,038
Florida	334,799			2,860	123,007	−486	37,948,408
Georgia	70,991	19,753		2,690	400	−143	5,337
Hawaii							
Idaho							
Illinois	3,727,798			85,462	2,672	220,139	306,118
Indiana	590,400					11,703	20,613

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART B. FEDERAL AID PAYMENTS TO INDIVIDUALS, ETC., WITHIN THE STATES—Continued

States, territories, etc.	Department of Health, Education, and Welfare						
	Public Health Service	Welfare Administration [26]					
		Children's Bureau			Bureau of Family Services	Office of the Commissioner	
	Construction of health research facilities (103)	Maternal and child health services (104)	Services for crippled children (105)	Child welfare research and demonstration grants (106)	Assistance to repatriated U.S. nationals [11] (107)	Cooperative research [3] (108)	Assistance to refugees in the United States (109)
Iowa	301,333			2,490			9,030
Kansas	227,779		48,839			35,912	2,444
Kentucky	177,249			7,578			1,638
Louisiana	1,307,446	15,376		5,640	855		77,215
Maine	6,248						1,194
Maryland	2,142,884	157,640	232,644				4,046
Massachusetts	698,520	227,635		32,670		34,944	7,159
Michigan	1,373,655	68,324		28,093	1,645	221,205	51,030
Minnesota	152,281	15,379		3,041			2,084
Mississippi							120
Missouri	184,893			5,676		5,000	11,075
Montana	77,331						
Nebraska	1,012,175						5,802
Nevada	53,783						2,132
New Hampshire	56,176						1,354
New Jersey	591,866			2,627	3,105		487,557
New Mexico	266,550						123
New York	8,717,683	166,054	58,865	287,081	28,516	234,791	9,618
North Carolina	959,904	59,322		4,149		54,981	2,341
North Dakota	10,472						
Ohio	835,044			8,124	2,760	52,395	5,601
Oklahoma	50,318						2,393
Oregon	211,314						32,078
Pennsylvania	1,405,380	120,488	127,220	22,085		9,630	33,185
Rhode Island	254,668						
South Carolina	144,393						302
South Dakota	7,023						
Tennessee	650,495	48,169	64,254		124		1,016
Texas	968,304			14,575	4,739	19,083	15,048
Utah	787,227						
Vermont	162,919						460
Virginia	1,092,875			2,760			4,606
Washington	245,447	25,844					7,517
West Virginia				2,526			
Wisconsin	959,086			28,219			7,534
Wyoming							
Puerto Rico						35,000	
Virgin Islands							
Other territories, etc.[8]							
Undistributed to States, etc.							
Total	34,084,653	1,016,040	897,306	738,941	382,048	952,654	39,256,779

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States, territories, etc.	Department of Health, Education, and Welfare		Department of Labor			National Science Foundation	
	Office of the Secretary						
	Juvenile delinquency and youth offenses (110	Vocational Rehabilitation Administration (111)	Unemployment compensation for Federal employees and exservicemen (112)	Area Redevelopment Act [5] [55] (113)	Manpower development training activities [56] (114)	Research grants awarded (115)	Fellowship awards [57] (116)
Alabama		$133,883	$3,262,388	$252,762	$748,901	$489,700	$96,427
Alaska		48,219	908,993	26,686	210,332	432.073	25,068
Arizona		220,267	1,179,179	−1,386	405,848	2,838,785	84,693
Arkansas		71,581	1,276,365	359,172	590,666	151,414	29,761
California	$238,099	2,040,133	26,971,834	21,233	3,868,338	21,091,252	1,432,638
Colorado	17,595	286,992	2,007,796	45,233	333,347	3,535,912	283,215
Connecticut		110,171	766,883	122,588	801,242	3,713,419	190,071
Delaware			198,085		38,380	272,467	8,301
District of Columbia	337,817	759,843	2,880.360		314,442	4,500,043	110,655
Florida		395,849	2,654,383	39,460	606,630	2.354,948	131,041
Georgia		108,112	2,164,436	−562	559,933	1,276,351	98,402
Hawaii		45,390	1,337,139	7,370	154,364	1,982,802	12,979
Idaho		42,731	882,882	35,190	148,001	333,278	67,459
Illinois	402,732	1,338,589	5,484,805	247,347	3,928,838	11,243,294	872,050
Indiana		160,355	2,003,887	152,208	863,901	3,750,804	352,216
Iowa		261,036	540,175	21,151	507,097	1,481,058	178,544
Kansas		218,923	1,004,760	37,875	515,950	1,754,167	187,337
Kentucky		89,110	3,704,112	282,797	1,576,882	555,133	100,901
Louisiana		229,002	2,166,621			1,236,404	149,923
Maine		56,632	613,784	47,754	386,485	437,995	35,349
Maryland		129,952	2,047,901	2,580	412,528	1,589,804	213,130
Massachusetts	153,712	1,218,319	4,685,460	135,345	1,592,343	22,325,883	589,062
Michigan	352,941	905,575	5,066,048	168,455	2,050,210	8,487,382	570,862
Minnesota	94,868	1,117,042	2,725,259	116,034	867,620	1,971,195	285,812
Mississippi		68,802	967,430		223,570	674,337	53,518

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART B. FEDERAL AID PAYMENTS TO INDIVIDUALS, ETC., WITHIN THE STATES—Continued

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States, territories, etc.	Department of Health, Education, and Welfare		Department of Labor			National Science Foundation	
	Office of the Secretary						
	Juvenile delinquency and youth offenses (110)	Vocational Rehabilitation Administration (111)	Unemployment compensation for Federal employees and exservicemen (112)	Area Redevelopment Act [5] [35] (113)	Manpower development training activities [36] (114)	Research grants awarded (115)	Fellowship awards [37] (116)
Missouri	$163,777	$595,034	$2,283,966	$53,734	$2,334,198	$2,101.743	$171,122
Montana		76,634	541,434	41,343	260,264	358,695	43,801
Nebraska		142,652	391,220		261,783	442,815	96,172
Nevada			319,099	14,365	278,863	117,380	32,893
New Hampshire		12,291	505,345		163,961	626,669	51,384
New Jersey		265,161	3,910,422	378,562	1,151,330	4,488,215	366,644
New Mexico		13,593	1,064,751	178,529	231,348	1,189,332	63,969
New York	1,216,323	4,783,336	9,490,417	47,590	2,676,014	13,917,376	1,591,769
North Carolina	51,248	255,169	1,934,127	200,235	714,134	2,270,043	192,558
North Dakota		43,116	499,267	90,622	342,654	691,783	29,602
Ohio	90,763	858,738	7,952,784	136,608	1,646,381	4,857,173	508,185
Oklahoma		167,206	1,755,565	322,089	808,533	1,615,822	186,229
Oregon	129,579	253,619	1,474,213	8,427	500,518	2,594,034	141,523
Pennsylvania	19,634	846,343	13,795,489	156,511	3,921,712	8,936,972	727,607
Rhode Island	34,256	86,394	894,694	60,634	438,934	1,614,860	67,761
South Carolina		24,470	1,198,359	11,400	337,404	511,267	72,177
South Dakota		38,578	378,347	34,213	88,694	502,068	46,087
Tennessee		342,259	2,857,333	127,220	943,400	1,491,677	142,176
Texas	111,736	946,116	7,273,581	212,749	1,233,635	3,894,162	413,582
Utah	65,326	226,813	1,227,820		185,385	1,225,001	121,749
Vermont		57,662	237,430		255,014	67,535	57,396
Virginia		360,194	1,379,976	−872	774,374	1,197,767	141,159
Washington	112,526	449.437	5,765,691	33,932	480,346	3,001,056	220.358
West Virginia	131,091	108,580	2,192,989	141,981	413,666	498,004	85,269
Wisconsin		432,858	2,845,501	431,802	787,876	2,888,857	318,763
Wyoming			571,441		176,543	155,499	32,054
Puerto Rico		137,730	2,606,102	120,668	710,397	993,765	23,275
Virgin Islands			10,240		18,112		
Other territories, etc.[8]							
Undistributed to States, etc					1,829		
Total	3,724,023	21,580,491	152,858,564	4,923,634	43,934,150	160,738,473	12,104,680

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States, territories, etc.	Atomic Energy Commission	Veterans' Administration		Total payments within States (part B)	Grand total (parts A and B)
	Fellowships and assistance to schools [38] (117)	Automobiles, etc., for disabled veterans (118)	Readjustment benefits and vocational rehabilitation (119)	(120)	(121)
Alabama	$74,707	$14,369	$2,845,849	$32,108,229	$217,229,991
Alaska	7,655	1,600	43,561	6,482,266	62,466,903
Arizona	49,699	12,800	1,187,808	14,561,146	107,211,933
Arkansas	47,152	19,200	1,176,761	23,849,731	146,401,756
California	480,518	71,129	11,933,365	171,220,450	996,330,013
Colorado	27,617	25,457	1,392,001	40,349,617	163,916,050
Connecticut	84,903	12,800	891,559	24,336,596	121,739,174
Delaware	450		100,800	4,663,806	31,946,735
District of Columbia	294,475	19,200	1,571,600	24,591,858	107,820,775
Florida	104,969	59,035	4,773,823	73,733,314	253,668,691
Georgia	83,415	28,800	3,676,837	44,895,633	252,849,981
Hawaii	24,377	3,200	209,374	23,550,465	65,341,388
Idaho	6,736		273.947	17,033,085	69,645,696
Illinois	1,576,006	22,400	3,259,694	92,498,143	478,707,766
Indiana	151,333	20,275	1,609,671	40,957,824	184,301,681
Iowa	90,581	11,200	1,012,622	39,263,398	141,636,202
Kansas	94,005	4,800	990,616	40,050,326	127,788,263
Kentucky	85,298	12,795	1,138,438	29,751,836	203,108,550
Louisiana	129,005	8,000	2,001,776	38,071,292	290,888,394
Maine	19,467	12,750	275,718	10,227,171	60,785,853
Maryland	140,990	12,800	1,417,283	40,180,334	158,802,538
Massachusetts	528,805	23,895	2,794,760	100,486,027	306,694,559
Michigan	260,562	59,194	2,865,101	71,120,243	368,724,705
Minnesota	136,567	23,995	1,660,607	62,387,525	213,185,554
Mississippi	46,055	12,800	1,126,061	23,371,826	159,903,094
Missouri	61,207	20,800	2,262,027	53,964,249	270,100,950
Montana	11,502	3,200	351,032	17,903,539	84,436,110
Nebraska	23,975	11,200	600,064	29,525,274	100,146,965
Nevada	13,132		86,609	3,469,817	33,859,856
New Hampshire	37,950	12,800	232,885	6,822,849	35,405,362
New Jersey	66,065	28,800	1,880,363	35,048,918	212,943,183
New Mexico	37,042	3,200	673,518	17,537,593	108,385,350
New York	1,148,346	124,864	6,081,163	174,872,230	781,227,887
North Carolina	138,337	28,800	1,696,420	41,916,712	209,929,328
North Dakota	16,944	3,200	271,106	37,755,574	77,529,049
Ohio	167,091	42.779	3,442.226	68,924,647	442,504,183
Oklahoma	52,195	15,990	1,559,228	41,308,963	229,073,399
Oregon	41,495	8,000	998,168	27,246,254	165,298,031
Pennsylvania	255,185	59,143	4,983,590	100,920,953	524,494,289
Rhode Island	37,926	6,400	297,363	9,714,812	51,451,163

See footnotes at end of table.

FEDERAL AID TO STATES—Continued

TABLE 95.—*Expenditures made by the Government as direct payments to States under cooperative arrangements and expenditures within States which provided relief and other aid, fiscal year 1963*—Continued

PART B. FEDERAL AID PAYMENTS TO INDIVIDUALS, ETC., WITHIN THE STATES—Continued

[Revised Mar. 9, 1964]

States, territories, etc.	Atomic Energy Commission	Veterans' Administration		Total payments within States (part B)	Grand total (parts A and B)
	Fellowships and assistance to schools [55] (117)	Automobiles, etc., for disabled veterans (118)	Readjustment benefits and vocational rehabilitation (119)	(120)	(121)
South Carolina	$24,302	$9,595	$1,120,474	$22,102,564	$114,330,810
South Dakota	18,166	3,200	252,047	27,326,237	74,765,454
Tennessee	386,045	33,500	1,822,827	40,060,667	251,975,210
Texas	166,029	36,800	5,586,924	105,553,234	550,142,007
Utah	32,901	3,200	1,009,751	19,209,415	90,848,328
Vermont	20,645	3,200	172,744	7,442,687	38,183,331
Virginia	113,284	9,600	1,137,672	24,335,492	205,717,069
Washington	148,057	22,092	1,964,233	40,523,243	206,507,771
West Virginia	44,080	11,062	712,979	12,006,171	110,777,195
Wisconsin	126,214	19,154	1,308,610	47,624,687	185,422,731
Wyoming	13,603		105,438	8,588,273	70,953,073
Puerto Rico	1,538,075	4,750	1,088,788	21,155,442	143,589,880
Virgin Islands				41,742	10,823,457
Other territories, etc.[8]			3,078,485	19,451,654	46,114,213
Undistributed to States, etc.				227,507,982	258,029,048
Total	9,285,110	1,017,823	95,006,366	2,379,604,032	10,976,285,910

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[1] Excludes $500,000, "State experiment stations, Agricultural Research Service," included in col. 6.

[2] Excludes $1,434,026, "Cooperative extension work, payments and expenses, Extension Service," included in col. 6.

[3] Includes $58,875,807, value of commodities distributed to participating schools, and payments of $4,984,753 made directly to private schools. In addition the school lunch program is a recipient of some of the commodities shown under the appropriation "Removal of surplus agricultural commodities," and under "Commodity Credit Corporation, value of commodities donated."

[4] Consists of $27,235,140 "Payments to States, National Forests Fund"; $80,462, "Payments to school funds, Arizona and New Mexico, act June 20, 1910 (receipt limitation)"; and $125,366, "Payment to Minnesota (Cook Lake and St. Louis Counties) from the National Forests Fund."

[5] Credit amounts are refunds of advances in prior years.

[6] Includes $500,000, "State experiment stations, Agricultural Research Service"; $1,434,026, "Cooperative extension work, payments, and expenses, Extension Service" and $1,425,000, "Payments to States and possessions, Agricultrual Marketing Service."

[7] Consists of $14,986,277, "Forest protection and utilization, Forest Service" and $1,062,209, "Assistance to States for tree planting, Forest Service."

[8] Includes: American Samoa, Canal Zone, Guam, Trust Territory of the Pacific, and certain foreign countries.

[9] Includes $250,000, penalty mail costs for which a breakdown by States is unavailable.

[10] Includes $2,645,625, penalty mail costs and $6,520,181, retirement costs of cooperative extension agents.

[11] Consists of $38,086,896, "Watershed protection, Soil Conservation" and $19,409,410, for "Flood prevention, Soil Conservation Service."

[12] Cash payments to States to increase consumption of fluid milk by children in nonprofit schools. Net of refunds.

[13] Federal share of the value of food stamps redeemed under the pilot food stamp plan.

[14] Cost of food commodities acquired through price support operations.

[15] Includes $117,185, "Improvement of Pentagon road network (trust fund)" ($130,290, Virginia and −$13,105, undistributed to States, etc.).

[16] Consists of $36,355,896, forest highways, $2,110,671, public lands highways, and $95,114, "Surveys and plans, National Defense" (Ohio).

[17] Includes $476,848, "Grants for public facilities."

[18] See also pt. B, col. 74.

[19] See also col. 66.

[20] Consists of "$11,815,667 paid by Housing and Home Finance Agency; $584,965 paid by Department of Agriculture; $1,515,803 paid by Bureau of Public Roads, Department of Commerce; $940,545 paid by Department of Health, Education, and Welfare; and $281,000 paid by Department of the Interior."

[21] Consists of $2,550,000, "Colleges for agriculture and the mechanic arts," $11,950,000, "Further endowment of colleges for agriculture and the mechanic arts."

[22] Consists of $34,330,192, "Promotion and further development of vocational education, Office of Education," and $7,144,113, "Promotion of vocational education, act of Feb. 23, 1917, Office of Education."

[23] Includes $1,519,443, "Hospital and medical care" (Hawaii) and −$22,184, "Grant for poliomyelitis vaccination" (−$22,179, Indiana and −$5, Texas).

[24] Total excludes $252,557 paid to interstate agencies to control water pollution.

[25] Includes $315,310, "Construction of mental health facilities, Alaska"; −$227, "Surveys and planning for hospital construction" (South Dakota); and $270,050, "Construction of Indian health facilities" ($170,766, Alaska; $26,234, Montana; and $73,050, North Dakota).

[26] Created by reorganization of Secretary, Department of Health, Education, and Welfare, Jan. 28, 1963, to administer specified components and programs of the Social Security Administration.

[27] Consists of $14,634,244, "Federal aid in wildlife restoration, Bureau of Sport Fisheries and Wildlife" and $5,332,827, "Federal aid in fish restoration and management, Bureau of Sport Fisheries and Wildlife (receipt limitation)."

[28] Consists of $200,446, "Payments to States from grazing receipts, etc., public lands within grazing districts, Bureau of Land Management"; $249,328, "Payments to States (proceeds of sales), Bureau of Land Management (receipt limitation)"; $6,214, "Payments to Oklahoma (royalties), Bureau of Land Management (receipt limitation)"; $15,400,136, "Payments to counties, Oregon and California grant lands, Bureau of Land Management"; $400, "Payments to State of Alaska, income and proceeds, Alaska school lands, Bureau of Land Management"; $697,449, "Payments to Coos and Douglas Counties, Oreg., in lieu of taxes on Coos Bay wagon road grant lands, Bureau of Land Management"; $14,233, "Operation and maintenance, Bureau of Reclamation"; $917, "Payments to States (grazing fees), Bureau of Land Management"; $3,902, "Payments to States from grazing receipts, etc., public lands within grazing districts, miscellaneous, Bureau of Land Management"; $183,632, "Payments to States from grazing receipts, etc., public lands outside grazing districts, Bureau of Land Management"; $300,000 each to Arizona and Nevada, "Colorado River dam fund, Boulder Canyon project"; $27,287, "Payment in lieu of taxes on lands in Grand Teton National Park, National Park Service" (Wyoming); $92,255, "Payments due counties, National Grasslands, Bureau of Land Management"; $7,682,529, "Internal revenue collections for Virgin Islands, Office of Territories"; $108, "Payments to Alaska, Alaska game law, Bureau of Sport Fisheries and Wildlife"; and $702,852, "Payments to Alaska from Pribilof Islands fund, Bureau of Commerical Fisheries."

[29] Consists of $7,723,502, education and welfare services, and $749,372, resources management.

[30] Consists of $8,016,208 for postage and $90,556 for other expenditures.

[31] Consists of $24,740,393, "Grants-in-aid for airports" and $26,753,048, "Grants-in-aid for airports, liquidation of contract authorizations."

[32] Includes $2,152,422, "Mass transportation."

[33] Payment in lieu of taxes.

[34] Paid from "Medical care, Veterans' Administration."

[35] Paid from "General operating expenses, Veterans' Administration."

[36] Consists of $3,110,296, "Transitional grants to Alaska," and $141, "Alaska public works, Interior."

[37] Consists of $17,000,000, "Flood control payment, Army Corps of Engineers, Department of Defense"; and $9,749, "Construction and rehabilitation, Bureau of Reclamation, Department of the Interior."

[38] Open space land, Housing and Home Finance Agency.

[39] Low income housing, Housing and Home Finance Agency.

[40] Consists of $30,000,000, "Federal payment to District of Columbia"; $68,242, "Hospital facilities in the District of Columbia, General Services Administration"; $28,000, "Low income housing, Housing and Home Finance Agency"; and $300,000, Federal contribution to the District of Columbia, metropolitan area sanitary sewage works fund.

[41] Center for Cultural and Technical Interchange between East and West, Department of State.

[42] White House Conference on Aging, Department of Health, Education, and Welfare.

[43] Drainage of anthracite mines, Bureau of Mines, Department of the Interior.

[44] Loan program, Bureau of Reclamation, Department of the Interior.

[45] Land acquisition, National Capital park, parkway, and playground system, National Capital Planning Commission.

[46] Consists of $44,779,918, "Internal Revenue collections for Puerto Rico (shared revenues)"; −$200, "White House Conference on Aging, Department of Health, Education, and Welfare'; $12,009,323, "Refunds, transfers, and expenses of operation, Bureau of Customs, Treasury Department (shared revenues)."

[47] Refunds, transfers, and expenses of operation, Bureau of Customs, Treasury Department (shared revenues).

[48] Consists of $12,807,400, grants to American Samoa from "Administration of territories, Office of Territories" and $9,531,000, "Trust Territory of the Pacific Islands, Office of Territories."

[49] Consists of $216,899,307, "Agricultural conservation program" and $2,701,428, "Emergency conservation measures."

[50] On obligation basis.

[51] Includes $2,596,617 paid by Office of Education, Department of Health, Education, and Welfare for civil defense, adult education.

[52] Accounted for by the National Guard Bureau; breakdown by States unavailable.

[53] Includes −$12,918, "Sanitary engineering activities, Public Health Service, Department of Health, Education, and Welfare."

[54] Includes $25,000 paid from President's emergency fund (Florida).

[55] Includes $2,727,867 paid by Office of Education, Department of Health, Education, and Welfare.

[56] Includes $29,189,464 paid by Office of Education, Department of Health, Education, and Welfare.

[57] Based on State of permanent residence of recipient.

[58] Consists of $1,619,686, equipment grants; $1,523,054, student fellowships; $1,656,103, faculty training, and $4,486,267, material, services, and other. The fellowship awards are included in the State in which the awards are to be used. The assistance to schools is shown by the State of the recipient institution.

NOTE.—Compiled from figures furnished by the departments and agencies concerned pursuant to Treasury Department Circular No. 1014, Aug. 8, 1958 (see 1958 annual report, exhibit 70, p. 381).

CONCLUSION

In conclusion, I desire to reemphasize the fact that title VI of H.R. 7152, if enacted in its present form, will greatly impair and may even destroy the vast system of Federal financial assistance programs and activities by which the Federal Government has been providing essential assistance to State and local governmental jurisdictions to enable them to meet the needs of their people, for more than 100 years. These are programs which have been pouring billions of Federal dollars into the treasuries of State and local governments and into the hands of millions of individuals—programs which, in 1955, involved the substantial sum of $3.1 billion, and which, in 1965, are expected to reach the astronomical sum of $10.6 billion.

We have a serious constitutional obligation in this body. The Constitution vested in the Congress and the Congress alone the power to legislate. Yet we propose, in this measure, to delegate to executive branch officials the authority to terminate or refuse assistance—in other words, to legislate with respect to these activities, without meeting the constitutional requirements of such delegation. For nowhere in this title is the subject of the delegation adequately defined; and nowhere is there a recognizable standard or criterion to guide the agents to whom legislative powers are to be delegated. We do not know exactly which programs are covered; we do not know which phases of covered programs are involved; nor do we have any definitions in this title of the principal terms used, such as "benefits," "discrimination," and "Federal financial assistance." Nor, as I have shown earlier in my remarks, do the principal spokesmen for the executive branch know which programs and activities are involved.

Earlier in my remarks, I reviewed the leading, landmark cases on the subject of delegation. The remarks of Mr. Justice Harlan, in a recent case, *Arizona* v. *California*, 373 U.S. 546 (1963) are particularly appropriate to the situation which confronts us in title VI. In a dissenting opinion, he urged that a statute giving the Secretary of the Interior the power to apportion certain waters contained no standards defining the limits of his power. After analyzing the statute, he asserted that, without standards or yardsticks, Congress had made a gift to the Secretary of 1,500,000 acre-feet of water a year, to allocate virtually as he pleased. After citing the Panama and Schechter cases, which I have discussed earlier, he stated (626):

> "The principle that authority granted by the legislature must be limited by adequate standards serves two primary functions vital to preserving the separation of powers required by the Constitution. First, it insures that the fundamental policy decisions in our society will be made not by an appointed official but by the body immediately responsible to the people. Second, it prevents judicial review from becoming merely an exercise at large by providing the courts with some measure against which to judge the official action that has been challenged."

The principles stated by Mr. Justice Harlan are precisely applicable to title VI. If this title is enacted into law, fundamental policy decisions would be vested in appointed officials rather than in the Congress which is immediately responsible to the people; and the courts would have no measure against which to judge the official action, in the event that it is challenged.

Concerning the question of review, authority would be given to unnamed individuals in the executive branch to promulgate rules, regulations, and orders of general applicability, with no standards, and with none of the safeguards provided for by the Administrative Procedure Act. With respect to judicial review of decisions to terminate or refuse Federal assistance, an aggrieved party, under section 10 of the Administrative Procedure Act, would be entitled, not to a de novo trial, but only to an examination of the findings and of such record as may exist, to determine whether the findings are substantiated by the evidence.

Finally, we have here a proposal which would amend retroactively, all of the vast number of statutes establishing Federal financial assistance programs and appropriating funds to enable them to function—a measure which would add a Powell amendment to every program now in existence or hereafter to be enacted, without regard to the fact that over the years, with minor exceptions, such amendments have been uniformly rejected in connection with consideration of the measures which authorized these programs.

As we continue our deliberations on this measure, let us not forget that every State and local governmental jurisdiction in the United States, and many millions of men, women, and children throughout the land, are dependent upon the funds provided by the Federal financial assistance programs. Let us not, under stress of emotion, ignore, either our constitutional responsibilities as the legislative branch of this Government, under the Constitution, or our responsibilities to the many millions of Americans who depend upon the funds involved to enable them to enjoy a better life.

Mr. SMATHERS. I yield myself 3 minutes.

First, Mr. President, I wish to commend the able Senator from Tennessee for offering this amendment. I cannot help but believe that this section, this particular bill, is as dangerous and sinister a piece of legislation as anybody in this body has ever heretofore considered. I think, as the able Senator from Arkansas has just concluded saying, it is an abdication of our legislative duties. We turn over to one man the authority which is actually given to us under the Constitution of the United States to appropriate money, and to pass out of our legislative committees the manner in which that money should be used. And yet we are giving up that authority.

The second instance of what we are doing is giving to a President of the United States a power that I do not think a President should want or should have. If my memory does not fail me, it was the late President of the United States, John Fitzgerald Kennedy, when asked about this section at a press conference, said:

> I do not have that authority, and I doubt if any President of the United States should have this kind of authority to cut off a program going into a total State.

This is a dangerous section. There is no definition of discrimination. As the able Senator from Tennessee has so ably and eloquently pointed out, if some person makes a claim of discrimination, just one person, under the authority of this bill, the whole State can be punished. Despite what the Senator from Rhode Island may think, all citizens of the South and all citizens in every State throughout the South, they, too, are taxpayers, and those who are innocent should not be punished along with those who are guilty. Yet this is the type and character of the program which we are going to have.

We say, and we hope, that a President would not take this authority or this power and use it unwisely, but he might.

And we have to continue to legislate having in mind that we are not always talking about what a reasonable person is going to do. We might some day get a President who might be vindictive, who might be unreasonable, and we give him the authority to exercise that vindictiveness and to act in an unreasonable manner, and we do so to our own shame and to our own loss.

I totally agree with the Senators from Tennessee and Arkansas. We are granting authority and power to a central government and I am afraid the day will come soon when we will regret we ever took this unnecessary and certainly this unwarranted step.

Mr. TALMADGE. I yield myself 3 minutes, Mr. President.

Of all of the unwise and vicious parts of this so-called civil rights bill, in my judgment title VI by far is the worst.

The Government of the United States at the present time is spending in excess of $100 billion a year. This money in various forms, finds itself into every State of the Union, into every county in the United States, and into every precinct throughout America. The one power that the Congress of the United States has, that it still controls, is the power of the purse. That is the power to levy taxes, and the power to appropriate money.

We are supposed to have in America three separate, distinct, and coordinate branches of Government.

It is the duty of the executive branch to execute laws. It is the duty of the legislative branch to make laws, to levy the taxes, and to appropriate the money. It is the duty of the judicial branch of our Government to determine what those laws are.

We have seen the executive branch and the judicial branch encroach on the legislative branch until our role in the Government today is virtually meaningless. We have seen the Federal courts interpret and misinterpret laws, including the Constitution itself. We have seen the executive branch issue various decrees and orders doing the same thing.

If Congress relinquishes its power to disburse more than $100 billion a year to every agency and department that the Government has, we might as well fold up shop and quit. Our function of Government at this date will have become meaningless.

How broad is this power, Mr. President? It amends every act that Congress has ever passed from the first Congress to the present time. It amends every legislative appropriation that Congress has on the statute books at the present time. It will take precedence over every act that Congress will pass in the future. It will amend every appropriation bill that Congress will enact as long as this statute remains on the books.

If Congress puts its stamp of approval on title VI, we will announce to the country and to the world that our function is no longer necessary, that we are a useless appendage of Government, that we have appropriated money here, saying: "It is yours. Take it. Use it as you see fit."

I have seen Congress do some extremely foolish things. I hope that it has not sunk to such depths that its Members are willing to abolish themselves and create a veritable dictatorship, in which the Federal officers and executive officers of the Government can write rules and regulations as they see fit, spend Federal funds as they see fit, and withhold Federal funds as they see fit. If that time has come to pass, it is a sad day for the Senate, for Congress, and for the country.

Mr. President, how much time have I used?

The PRESIDING OFFICER. The Senator has consumed 3 minutes.

Mr. TALMADGE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MORSE. Mr. President, I yield myself 1 minute. Title VI does not delegate legislative power. It exercises a function of legislative power. It is the passage of a stop order, the passage of a prohibition, the fixing of a legislative standard for the administration of all Federal programs.

We say to the other agencies of the Government: "You shall not spend money unconstitutionally for projects that are racially segregated." The Administrative Procedure Act is a barrier against any arbitrary or capricious act of power on the part of any administrator in carrying out these instructions from the Congress.

Congress has the duty as well as the power to pass a title that says: "You shall not spend Federal money for the continuation of racial discrimination.

That is the whole thing in a nutshell. We are exercising here that legislative function when we pass title VI.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, this title has concerned me more than any other title in the bill. I have changed my opinion on it several times during the long debate on the bill.

Several weeks ago the senior Senator from Vermont [Mr. AIKEN] raised questions about title VI of the House bill. I joined in the discussion, and said that I did not think that any criteria had been established, in such a way that the agencies could properly administer this title.

The Senator from Rhode Island [Mr. PASTORE] said at the time that if I thought there were any questions about the standards provided in title VI, I ought to suggest criteria. I told him how I thought proper criteria could be established, and I proceeded to work on amendments to title VI.

I wrote the Attorney General, directing several questions to him. I received a letter from him, dated April 29, which was printed in the CONGRESSIONAL RECORD on May 5.

The Attorney General gave a very frank answer to the questions I had asked him. The Attorney General answered the questions sincerely and fairly. I felt on reading his letter that he, too, had questions about this title.

I agree wholly with the principle that money which is paid by all taxpayers should not be used to further discrimination, and that in any tax-supported program as well as in other activities no citizen should be discriminated against.

One chief question, however, remains. It is whether this title is in accord with our system of government and of justice, and if not, whether we should act coercively, against the innocent as well as the guilty, to secure a worthy objective.

Every title in the bill, except this title, is directed against individuals or governmental bodies—such as a State board of education—which can be clearly identified.

Every other title in the bill provides a specific procedure, and provides ultimately to the courts a procedure, which can be used against a particular individual, or against a governmental body, if discrimination is charged.

Every other title in the bill provides a definite sanction against an individual or governmental body if discrimination is proven.

All of this is in accord with our system of government and of law. It is to punish or apply a sanction against the individual guilty of wrongdoing, and no other.

My difficulty with this section is that it would establish an unusual sanction, one alien to our system of law. It is coercive, and in many instances the innocent—those who had no part in discrimination—would be those who would suffer. It would strike at the innocent, as well as the guilty.

It is true that title VI, as presented to the Senate in the Dirksen-Mansfield substitute, has been amended. I must say, Mr. President that these amendments to the House bill are, in substance, the amendments which I discussed in the conferences we have held and which I introduced in the Senate. These amendments have helped. But they do not overcome this basic objection to title VI—that it is coercive, and an unusual sanction which would strike at the innocent as well as the guilty

In his letter, in answer to my question as to whether funds for school lunch programs could be cut off under title VI, the Attorney General said, in substance: "We would prefer to use title IV to reach the school board. But if title IV fails, title VI would permit the school lunch program to be stopped." He was honest. It was not his decision, but the inevitable result of power given to some agency under title VI. This is just an example: In schools and colleges and other programs, Negro and white alike could be deprived of the benefits of programs though not guilty of discrimination.

Year after year, beginning in 1960, I have introduced bills to give the Attorney General power to institute suits against school boards, in the name of children who are the subjects of discrimination, to desegregate schools, as directed in the Brown case of 1954. Title IV in the bill, dealing with school desegregation, is almost identical to the bill, S. 1590, which Senator DODD and I introduced last year. In the State from which I come, Kentucky, I have taken a stand against school segregation, and all discrimination, during my life.

But I feel strongly about the procedures and the methods by which justice is sought. I feel strongly about procedures which could be used against the innocent as well as the guilty.

It has been charged in the past by the opponents of civil rights bills that civil rights bills are "force bills" and coercive bills. I have not thought so and I have supported civil rights bills. But title VI does have a character of coerciveness and force which is not consonant with our system of law and our system of justice. In weighing this truth against the correct principle that discrimination must not occur in programs supported by taxes, I can only say that we should not use a bad method, an unjust method, to correct another wrong.

We are asked: "What is your solution?" I answer that the Congress can write into its legislation dealing with specific programs, or groups of programs, criteria for their use, and procedures under the control of the Congress that the innocent and needy, Negro and white alike, shall not be punishment by the termination of a program.

I cannot vote for this title for these reasons.

Mr. RUSSELL. Mr. President, I yield myself 1 minute.

Mr. COOPER. May I say one other thing?

The amendments that are in this title, which do restrict it—I must be honest—go to, I think, the definite program of locality, the amendments which I offered, and which were accepted in the conferences which were held. Nevertheless, I come back to this basic principle. I think it must direct my vote.

Mr. RUSSELL. Mr. President——

The PRESIDING OFFICER. The Senator from Georgia.

Mr. RUSSELL. It is indeed fortunate that there is no law against inconsistency by Senators. I take this minute to note that Senators who a few years ago inveighed the loudest and longest against the doctrine of guilt by association are now vigorously promoting a policy of guilt by geography of residence. I vigorously opposed imputing guilt to any individual on account of his associates, but I consider that to be a more manly position—where men are involved—than to undertake to deny the aged, the babies and the blind benefits available to every other American similarly situated merely because they happen to live in a particular community. They are to be condemned and punished by reason of place of residence even though they may not even know the individual whose act was responsible for the hardship inflicted upon them.

Mr. MORSE. I yield myself 1 minute.

It has been said there are no standards in title VI. The "standard" is a very clear fact. Administrators have to find as a matter of fact that discrimination exists. All the protection of the Administrative Procedure Act is available to those that challenge that finding.

But talk about protecting the innocent: What we are trying to do is to protect the innocent who are being discriminated against in Federal projects that practice racial discrimination. Those are the innocent that are entitled to protection. It is about time that we protect the innocent Negroes of this country from federally supported and racially segregated projects that are imposed upon them. That is who title VI seeks to protect. My friend from Kentucky can get all the standards he wants from the administration of the act, under the Administrative Procedure Act, if a mistaken finding of discrimination is made. That is the test.

Mr. MONRONEY. Mr. President, I too am very worried about this title VI. I have voted rather consistently for a strong civil rights bill. My State I think has done as good a job as any State in the Union, on desegregation. We have been segregated in our schools since we became a State. In the Supreme Court decision, we began a desegregation program. We are rather proud that nearly one-third of our schools are desegregated.

As I read title VI, 601, it says:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

We have done a good job. We had 66⅔ percent of my State, in spite of the best efforts that Governors, legislatures, and others are making, in States that are still not free of segregation.

This gives no time. This gives no mediation. This gives no other provisions that are written in the other titles of the bill to try and resolve this matter, by conciliation, by trying to see if there is not some other way out.

As I read this bill, this matter becomes effective immediately. The school aid that is sent down to our impacted school districts, to other school programs, of all kinds—and they have been mentioned here—could be terminated within 30 or 60 days. And I do not believe we could be 100 percent desegregated in 30 or 60 days.

For that matter, in 1 or 2 or 3 years.

But we are on with the job. We have been trying to do the job.

What is this going to do? It is going to wreck almost all of the plans that have been made to carry on with an educational system and participate in the government.

Because of the commingling of Federal funds with county and school districts, it is not a simple matter to unscramble the egg. And I for one do not agree with my distinguished colleagues from New York, who say that this is a Federal gratuity that is given to the States. I think the States that receive this share do so in helping to build a strong United States. That is why we have had these Government programs of participation.

Certainly we should take a longer look at this. This long list put in by the distinguished senior Senator from Tennessee, of aid programs—and I think this is probably only half of them—is full of matters that we cannot tell about.

I noticed one good program in here that is very fine, the Indian health facility. That is a segregated program. It is appropriated to become one. Yet it is one we recognize as necessary. We cannot open this up and say it is segregated. This is open to all races, all creeds, And if we were writing into the bill, as the Senator from Kentucky has said, a list of the programs that we now know enough about to chop off Federal aid if violation is made, then I think we would at least be having a blueprint of how far we are diving into a morass, the results of which we cannot tell.

We are apt to be doing far more harm in many, many areas that we recognize by taking this bill, which will not add one single civil right to any person who today is being discriminated against because of racial reasons.

We are going to destroy the cooperation that we have had by States—and they have cooperated and produced good programs—by putting this into gear without mediation or delay, or without giving those States that are trying to do a job in desegregating a chance to get on with their program.

Certainly we must consider well language that "no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program * * *" when we have not yet, in spite of our best efforts, been able to resolve this desegregation program in our schools.

Mr. STENNIS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, the Congress of the United States for more than 100 years has been creating one Federal program after another and inviting and urging the States and subdivisions to come into that program on a joint basis, on a pattern of operations that suited the State and the Federal Government. And here, all of a sudden, in the afternoon when we reassemble, this is the first time this matter has had any real consideration by large numbers, for between 3 and 5 o'clock we propose to cut off every single one of those Federal aid programs that we have urged the States and the people to adopt for 100 years, and change entirely the formula.

This is a congressional matter, a legislative responsibility. If these standards that we set up in the Highway Act, vocational education, extension service, and all the others, should be changed, it is a legislative responsibility to bring them in here and change every one of them on their merits; not just hit every one of these programs in the head with a meat-ax and say "instanter."

For the moment, Mr. President, I want to point out now that there has been no greater dictatorship than for Congress to abruptly assert its responsibility here in setting forth formulas for Federal money and turn it all over to the heads of the Federal Government, even to the President of the United States, regardless of who he may be. Congress is here surrendering its responsibility, surrendering its legislative power, in turning it over to some other agency of the Government.

Mr. HOLLAND. Mr. President, the Senator is familiar with the ROTC system and the fact that the Federal law permitting Federal grants recognizes the fact that there are segregated separate schools in many States.

Mr. STENNIS. There should be hundreds of these programs that do the same.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I yield myself 1 more minute.

The Senator has given an excellent illustration. But bringing it right down to the homes, to the little people, the poor people, this amendment, this title, will absolutely jerk the rug out from under and destroy the programs here that Congress itself has created.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GORE. On this question, Mr. President, I ask for yeas and nays.

The yeas and nays were ordered.

Mr. GORE. Mr. President, at the risk of being profligate with the 1 hour available to me for debate on the bill, and at the risk of trespassing upon the time of my colleagues, I shall speak again briefly. I feel so deeply about this amendment that if I could bring about a favorable result, I would gladly surrender all of my time. I feel deeply about this question, and I don't like to be put in the position—as the junior Senator from New York seems to be implying—of defending discrimination.

I agree with him that if there is any facet of our society in which there should be no discrimination it should be in the levying of taxes, and in the distribution and expenditure of public funds. I agree with that completely.

Mr. President, this is not a simple question, but the Senator provides what appears to be a simple answer. He says this provision of the bill is to put an end to it.

Now, let me take just a moment if I may to analyze how these aid programs operate. I have been associated with them. I have been a county official, and I have been a State official. I have had some experience in these programs. State funds, with which Federal funds are commingled, are distributed in accordance with State law. Rather generally, they are distributed pursuant to a formula. In the case of the distribution of school funds, the school population, the enrollment, is a basis for distribution. The funds for the school lunch program which the Federal Government provides go to the State and are distributed by the State.

Perhaps there is discrimination in some schools in a State. The senior Senator from Oklahoma expressed his pride that one-third of the schools in his State are now desegregated. I express some pride in the progress that my State has made. Nashville, Tenn., originated the grade-per-year plan. Nashville schools were desegregated up to the 7th grade last year. The 8th grade will be desegregated next year. And yet, because schools in Tennessee are not entirely desegregated in every county, if title VI is enacted into law, Federal funds for the school lunch program might be withheld from the entire State.

Let me call to the Senate's attention language on page 33 of the Dirksen substitute. I read:

> Compliance with any requirement adopted pursuant to this action may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient.

Who is the recipient of aid from the Federal Government? In the case of vocational extension work it is the State. In the case of the school lunch program the recipient is the State.

If one-third of Oklahoma, or as is the case now, if two-thirds of Oklahoma has not yet integrated all schools, how could this recipient, the State of Oklahoma, receive school aid funds if title VI is implemented?

I read from page 33, beginning on line 3:

> Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of Section 601 with respect to such program or activity by issuing rules, regulations—

And so forth. How is compliance achieved? By cutting off the aid to the recipient.

Mr. President, I denounce discrimination. I have denounced it in my State. I have announced publicly in Memphis, Tenn., that I would resolve doubts and vote for a reasonably strong public accommodations section, if unwise provisions were eliminated from the bill. I earnestly desire to amend this bill into such form that I could support it.

Title VI contains a provision that directs every Federal agency to proceed with rules and regulations to terminate aid to needy people, children, old people, crippled people, impoverished school districts, vocational training for those who need training and other beneficiaries. I say to you that this would be a travesty of justice. We must not do this. This is the guillotine approach. As the junior Senator from New York said, "We are going to put an end to it."

Mr. KEATING. Will the Senator yield on my time?

Mr. GORE. Not just now. I am using the Senator's own words.

Perhaps we should put an end to it. We are trying to in my State. We are moving with good will and, I think, making great progress.

Why should the Congress punish the innocent because we are not yet perfect? I have read in the press that other States apparently are not yet perfect either.

Mr. President, I do not defend discrimination. I plead for tolerance and justice and understanding. When Federal funds become commingled with State funds, and county funds, then State laws are involved, State requirements are involved, and you cannot, overnight, change the mores and customs of 100 years.

I plead with the Senate not to lower this guillotine upon the innocent, the needy, the worthy.

Mr. KEATING. I yield myself 1 minute to reply to the distinguished Senator.

If there was anything in my remarks that carried the impression that I believed that the Senator from Tennessee favored discrimination, I withdraw that. I know of his feelings in that regard.

I think he is badly mistaken, however, in making the effort to knock out this section. In his analysis he has failed to read the very important words written in italic which were added to the bill by the so-called substitute, which are that "such termination or refusal shall be limited to the particular political entity or part thereof as to whom such a finding"—namely, a finding after a chance to be heard, of the existence of discrimination—has been made.

In other words, the cut off of Federal funds will be limited to those specific school districts which deny some of the people in those districts the use of the Federal facilities, or the part of the State that so discriminates. That language was added in order to take care of the very matter to which the distinguished Senator from Tennessee refers. It is extremely necessary for the amendment of the Senator from Tennessee to be defeated, or else this bill will be seriously damaged.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

Mr. GORE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 286 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. Inouye in the chair). A quorum is present.

The question is on agreeing to the amendment offered by the Senator from Tennessee [Mr. Gore] to strike out title VI. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the junior Senator from Arkansas [Mr. Fulbright]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. HUMPHREY. I announce that the Senator from Arkansas [Mr. Fulbright] and the Senator from Arizona [Mr. Hayden] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from California [Mr. Engle] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Massachusetts [Mr. Saltonstall] is necessarily absent and, if present and voting, would vote "nay."

The Senator from Arizona [Mr. Goldwater] is detained on official business.

The result was announced—yeas 25, nays 69, as follows:

[No. 287 Leg.]

YEAS—25

Byrd, Va.
Byrd, W. Va.
Cooper
Eastland
Ellender
Ervin
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Monroney
Morton
Robertson
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—69

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Tower
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—6

Engle
Fulbright
Goldwater
Hayden
Mansfield
Saltonstall

So Mr. Gore's amendment was rejected.

Mr. PASTORE. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IN DEFENSE OF BUTTE

Mr. MANSFIELD. Mr. President, I yield myself 1 minute.

Butte, Mont., the home of the "richest hill on earth" and the home of Mrs. Mansfield and myself for some of the happiest years of our lives, is perhaps the State's best known city with a most colorful past. The city of Butte and the county of Silver Bow have had some serious economic difficulties in the past several years, and this has given rise to a number of comments and predictions that Butte is through, that Butte is a dying city. As one who loves Butte, who has lived there and attended the School of Mines and worked in the mines, I can say that these statements could not be further from the truth. Butte and the surrounding area are going through an economic adjustment, but the situation is much improved, and the future is very bright. Butte may not be as large as it has been in the past, but it will always be a busy, picturesque, and vital center of activity in the Treasure State. All it takes is a visit to western Montana to find out for yourself.

The most recent potshot that has been taken appeared in a recent issue of the National Observer which referred to Butte as something like "a dreary little city." The writer, who obviously gave the situation a rather limited view, talked of the city's drab appearance. These statements are deeply resented by the citizens of Butte and by me, and I wish to join with them in refuting these inaccurate and confused observations.

The June 7 issue of the Montana Standard contains an excellent rebuttal to this story. I ask unanimous consent that it be printed at the conclusion of my remarks in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Butte (Mont.) Standard-Post, June 7, 1964]

TAPROOM REPORTER "ANALYZES BUTTE"—POTSHOTS FROM "OASIS" RESENTED BY CITIZENS

"Pictures don't lie" is a common axiom.

Take a good look at the accompanying picture. Does it illustrate the following description of Butte?

"In this dreary little city * * *. But now there is an atmosphere of age and tiredness about the place, a feeling that the very earth you walk on is worn out from too much mining, that the air you breathe has gone stale from too much steam and ore dust and that even the people are running low on energy.

"Any long traveler who has seen the coal-dust poverty of Weirton, W. Va., or the silent railyards in Jersey Shore, Pa., will quickly put Butte in the same sorry league.

"The city's drab appearance."

These statements, taken from context but not altering their meaning, appear in The National Observer, a weekly newspaper published by Dow Jones & Co., Inc., who also put out the more factual Wall Street Journal. The article is illustrated with the picture shown here. It was ordered by the National Observer with the instruction that it be a deserted street scene, which the local photographer found impossible.

The inconsistency is immediately evident, but it apparently was overlooked by the editors of the reputable publication. As for the author of the article, Hunter S. Thompson, he must be blinded by inexperience. Or was it the dim lights of the Gun Room with its softly illuminated bar in the Finlen Hotel?

He writes with attachment of the place: "Every night the Gun Room is full of young couples and whole tables of excited secretaries," and again "the city's drab appearance will eventually drive a visitor back to the Gun Room. It is something of an oasis."

In the taproom he interviewed a traveling musician, not a miner, and quoted him as saying. "A month in Butte is like a month in a mine shaft." How would he know?

To get another appraisal of Butte, he quotes a lumberjack, not a miner, at the bus depot, as saying, "This town's a loser. I came looking for work, but no luck." The confused lumberjack got off at the wrong town.

We could go on, but you can easily draw the conclusion this article is unfair, hits below the belt.

The author does make it clear, however, that civic leaders are optimistic about Butte's future, and confesses lamely that he could be wrong about the city's prospects.

We are fed up with discrediting and distorted accounts of Butte emanating from taprooms and taverns, where the authors' vision is limited.

These stories, replete with the sin of error or manipulation, are outright attempts to picture, and enlarge upon, those unfavorable conditions which are a part of every old city, and deliberately to ignore any sign of progress and prosperity. In this respect they are deceptive and deplorable.

The people of Butte vehemently resent these Gun Room potshots at their community. There are much better, more rewarding, vantage points from which to view this lively and progressive metropolis.

GREAT FALLS, MONT., POLICEMAN HONORED

Mr. MANSFIELD. Mr. President, I am pleased to inform the Senate that Joseph R. McQuire, of Great Falls, Mont., has been selected as Police Officer of the Year. Special recognition was paid to this young man by the Exchange Club of this Montana city.

The circumstances surrounding the selection of Joseph McQuire are somewhat ironic. Early on September 26, 1963, Officer McQuire was one of the many assigned to aid in the protection of President John F. Kennedy on his visit to Great Falls. In fact, he was assigned to the home of my father where President Kennedy paid a brief visit. The visit of our late President to Great Falls was without incident. This was due in part to the excellent cooperation of the local law enforcement authorities. Soon after President Kennedy departed, Officer McQuire was dispatched to investigate a complaint of shoplifting. The suspect resisted arrest and made an attempt on the life of Officer McQuire by firing and wounding him seriously. During this difficult situation, the officer displayed the qualities which are so important to a police officer whose job it is to protect the citizens of his community.

After hospitalization and convalescence, Officer McQuire has now returned to work in a limited capacity.

I wish to congratulate Officer McQuire and to express the hope that he will soon be completely recovered from his injuries.

Mr. President, I ask unanimous consent to have printed at the conclusion of my remarks an article published in the June 4 issue of the Great Falls Tribune.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Great Falls (Mont.) Tribune, June 4, 1964]

POLICEMAN J. R. MCQUIRE HONORED BY EXCHANGE CLUB

Joseph R. McQuire, 25, 2121 Central Avenue, Great Falls police officer wounded September 26, 1963, in the line of duty, Wednesday was named Police Officer of the Year by the Great Falls Exchange Club. McQuire was wounded on the afternoon of the day President Kennedy visited Great Falls.

A policeman for 2 years and 3 months, McQuire is a native of Great Falls, is married, and has five children.

"On September 26, 1963," the Exchange Club citation reads, "Officer McQuire was dispatched to investigate a complaint relative to a report that an armed man had been caught shoplifting and had run from the scene of the incident.

"Officer McQuire traced the suspect to 214 Second Avenue North, an apartment building, and made contact with the suspect on the roof of the apartment building, as the suspect was attempting to evade apprehension. Officer McQuire faced the suspect, hoping that he would relinquish his weapon and submit to arrest without violence. The suspect reacted violently and with obvious intent to take the life of the officer by firing and wounding him. Although seriously wounded as a result of having been struck by several bullets, Officer McQuire returned the fire of the subject until losing consciousness.

"During this incident it is felt that Officer McQuire demonstrated his belief in the oath he had taken as a police officer. It is also felt that Officer McQuire displayed the qualities which are necessary and essential for a police officer to possess to insure the citizens of our community that they may conduct their daily lives and activities with a maximum of freedom from criminal transgressions from those who fail to recognize the laws of society.

"It is gratifying that this experience has not affected Joe's attitude toward society and toward his job; he has not exhibited bitterness in any manner, although the wounds he received have caused him considerable suffering and anguish.

"Officer McQuire has been returned to work at his own request in a limited physical capacity due to the fact that he has not completely recovered from his injuries."

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute submitted by the Senator from Illinois [Mr. DIRKSEN] and the Senator from Montana [Mr. MANSFIELD].

THE JOURNAL

Mr. MANSFIELD. Mr. President, I yield myself one half a minute. I ask unanimous consent that the Journal of Monday, June 8, and Tuesday, June 9, be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its day's work—very shortly—it stands in recess until 10 o'clock Thursday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON USE OF FUNDS FOR THE CONSTRUCTION OF RESEARCH FACILITIES AT CORNELL UNIVERSITY, ITHACA, N.Y.

A letter from the Administrator, National Aeronautics and Space Administration, Washington, D.C., reporting, pursuant to law, on the use of funds of that Administration for the construction of research facilities at Cornell University, Ithaca, N.Y.; to the Committee on Aeronautical and Space Sciences.

ACCEPTANCE BY MEMBERS OF THE ARMED FORCES OF CERTAIN AWARDS FROM FOREIGN GOVERNMENTS

A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 10, United States Code, to permit members of the Armed Forces to accept fellowships, scholarships, or grants offered by a foreign government (with an accompanying paper); to the Committee on Armed Services.

AUDIT REPORT ON U.S. STUDY COMMISSION, SOUTHEAST RIVER BASINS

A letter from the Comptroller General of the United States, transmitting, pursuant to law, an audit report on the U.S. Study Commission, Southeast River Basins, for the period August 28, 1958, through December 23, 1963 (with an accompanying report); to the Committee on Government Operations.

REPORT ON OVERSTATEMENT OF CONTRACT TARGET PRICE NEGOTIATED WITH AMERICAN BOSCH ARMA CORP.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the overstatement of contract target price negotiated with American Bosch Arma Corp., Arma Division, Garden City, N.Y., Department of the Air Force, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

The petition of Mrs. John Bradley Thomas, of Portsmouth, Va., relating to prayer in the public schools; to the Committee on the Judiciary.

A telegram in the nature of a petition signed by William E. Cook, of Van Nuys, Calif., relating to the failure of the U.S. Supreme Court to review a U.S. court of appeals decision which reversed a fine of $120,000 against the Communist Party for failure to register its membership; to the Committee on the Judiciary.

CIVIL RIGHTS—AMENDMENTS

AMENDMENT NO. 1047

Mr. ERVIN submitted an amendment, intended to be proposed by him, to amendment No. 656, submitted by Mr. DIRKSEN (for himself and other Senators) to H.R. 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1048

Mr. ERVIN also submitted an amendment, intended to be proposed by him, to H.R. 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1049

Mr. LONG of Louisiana submitted an amendment (No. 1049), intended to be proposed by him, to H.R. 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1050

Mr. LONG of Louisiana also submitted an amendment (No. 1050), intended to be proposed by him, to the amendment in the nature of a substitute (No. 656), intended to be proposed by Mr. DIRKSEN (for himself and other Senators) to H.R. 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1051

Mr. BENNETT submitted an amendment (No. 1051), intended to be proposed by him, to the amendment in the nature of a substitute (No. 656) intended to be proposed by Mr. DIRKSEN (for himself and other Senators) to H.R. 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1052

Mr. DIRKSEN (for himself, Mr. MANSFIELD, Mr. HUMPHREY, and Mr. KUCHEL) submitted an amendment (No. 1052), in the nature of a substitute, intended to be proposed by them, jointly, to amendment No. 656, submitted by him (for himself and other Senators) to H.R. 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1053

Mr. COOPER submitted an amendment (No. 1053), intended to be proposed by him, to the amendment in the nature of a substitute (No. 656) intended to be proposed by Mr. DIRKSEN (for himself and other Senators) to H.R. 7152, the so-called civil rights bill, which was ordered to lie on the table and to be printed.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. HUMPHREY. Mr. President, I yield myself half a minute. I ask the majority leader if I correctly understand that it is not intended to have additional votes tonight.

Mr. MANSFIELD. The Senator's understanding is correct. It is not intended to have additional votes tonight.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. McCLELLAN. Let us go home.

RECESS UNTIL 10 A.M. TOMORROW

Mr. HUMPHREY. Mr. President, in accordance with the previous order, I move that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 15 minutes p.m.) the Senate took a recess, in accordance with the previous order, until tomorrow, Thursday, June 11, 1964, at 10 o'clock a.m.

EXTENSIONS OF REMARKS

Conference of Mayors of Puerto Rico

EXTENSION OF REMARKS

OF

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1964

Mr. CELLER. Mr. Speaker, under leave to extend my remarks in the CONGRESSIONAL RECORD, I am pleased to have the opportunity to insert a statement in tribute to the people of Puerto Rico and its mayors, which I made at the Conference of Mayors of Puerto Rico, Monday, June 8, 1964, at the Hilton Hotel in New York City. My statement follows:

> In 1940 nobody believed that the good people of Puerto Rico could take hold of themselves and of their land to make the Commonwealth of Puerto Rico a showcase of development. Puerto Rico lacked capital, national resources, a managerial class, and dwelt withal with a feeling of helplessness. Today that is all changed and "Operation Bootstrap" proves what a free people can do when, having marked out their goal, they move toward it, despite the heaviest odds against them.
>
> Social and economic progress in Puerto Rico are the result of what people themselves did. As all the leaders of Puerto Rico have pointed out, for more than 40 years Puerto Rico had access to U.S. investments, there were no barriers to trade, but nothing happened until after 1940 when the people of Puerto Rico themselves decided to do something. True, the U.S. Government provided assistance, but the people of Puerto Rico had the imagination and the vigor and the willingness to do the work. All this they did as free people, proving in the best tradition of democracy that the state is the servant of the people.
>
> Underdeveloped countries throughout the world can learn this crucial lesson—that freedom and social and economic security are not incompatible.
>
> The beautiful land of Puerto Rico has moved into its own way of life. With their minds, hearts, and muscle they shape their

destiny, shrugging off the philosophy of the fatalist who neither dares nor hopes.

Fomental is a good word. We call it development and whether we use one word or another, we all freely recognize the remarkable achievements of the Commonwealth.

When I read statistics like personal income per capita has risen from $295.88 in 1950 to $689.21 in 1962, or that the income from tourism plus net flow of capital into Puerto Rico of $245 million in 1962 is making Puerto Rico's balance of trade favorable, it is to marvel that so much could have been done in so few years. In 1952 the total net income was $831 million. In 1963 it was $1,810 million. Is it any wonder then that Puerto Rico has become a showcase for progress?

Thus, in honoring the 65 mayors of Puerto Rico who have demonstrated their leadership, we honor the people they represent. To the good people of Puerto Rico I say: May freedom and prosperity flourish together, and may peace and progress be with them as we trust and pray that thus it be with the world.

Memorial Day Address by Hon. Donald M. Fraser

EXTENSION OF REMARKS
OF
HON. DON EDWARDS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 10, 1964

Mr. EDWARDS. Mr. Speaker, last Memorial Day our distinguished colleague the gentleman from Minnesota [Mr. FRASER] delivered an outstanding address on the occasion of Memorial Day. He was the principal speaker at community Memorial Day services in Minneapolis.

In addition to paying tribute to our late beloved President, John F. Kennedy, our colleague went on to outline some of the difficulties which the United States faces in southeastern Asia. Under unanimous consent I place the following extracts from that speech in the RECORD at this point:

Our late President stressed one important lesson we learned from World War II; for peace to prevail, aggression must never again go unchallenged as it did in Ethiopia, Austria, and Czechoslovakia before World War II. It is sometimes said that the simplest lessons of history are the hardest to learn. But we have learned. President Truman met aggression in Korea with prompt and determined action. We have met challenges in Berlin with prompt action. President Kennedy sought to deter aggression and preserve the peace throughout the world, working both within the United Nations and within alliances such as the North Atlantic Treaty Organization.

In short, we have pursued the concept of collective security to the greatest degree possible, because experience has taught us that many are stronger than one, and if the many will stand with determination against aggression, then the awesome possibility of nuclear war will be reduced.

However, in one area of the world, southeast Asia, the United States has been the principal power to stem the tide of aggression, in large part because the French had experienced a humiliating defeat not many years ago, and because the British are already severely extended in the commitment of their military power.

The challenge today in southeastern Asia is particularly sharp and ominous. The complexities of that area, and the shifting patterns of national involvement by many Western nations—have come together to present our Nation with difficult and troublesome decisions.

Events in that part of the world became alarming after the end of World War II. Nationalist China was forced to flee from the mainland to Formosa, and the Chinese Communists came into full control. In 1950 the Korean war began—with an enormous commitment of men from our Nation under the UN flag. French Indochina became a battleground for Communist insurgency efforts to oust the French from southeast Asia. We gave substantial aid to the French in their efforts to defeat the insurgency forces, but the fatal hour arrived when the French were defeated at Dien Bien Phu in 1954. The United States was asked by the French during those closing days of battle for active intervention by our Air Force, but President Eisenhower declined to provide this aid, and the French finally withdrew. The settlement of this dispute came at Geneva that same year when the three countries of Vietnam, Laos, and Cambodia were born from the area formerly known as French Indochina. Vietnam was divided in half.

The French have not forgotten their humiliating defeat and the failure of the United States to provide aid in their hour of need. The French attitudes today are based in part upon those unhappy memories.

During these same years the colonial control by Britain over Malaya was attacked by Communist insurgency forces, but the English, promising independence to that country, were able to beat back these efforts. Malaya has won her independence and has joined with other neighboring areas to form the new country of Malaysia.

The three new nations born from French Indochina contains the strife and conflict preventing peace and stability in that area. The country of Laos, which was to be neutralized under the 1954 Geneva agreement, developed three warring factions, the so-called rightwing, the neutralists, and the Communists. During the 1950's the government changed hands several times. When President Kennedy came into office, the neutralists had joined with the Communists and slowly but surely the rightwing forces were being defeated and pushed back despite a large amount of American aid. We were faced with the choice of either finding a political settlement or sending in troops in support of a faction which enjoyed little popular support. The President chose a political settlement, although the risks were still great and the outcome necessarily uncertain. Another Geneva Conference was called, in 1962, at which it was agreed that all three forces would join together, and Laos was to remain neutral. After the agreement the Communists failed to follow through, with the result that today the neutralists and the rightwing are together in opposition to the Communists.

At the same time that President Kennedy attempted to reach a political settlement in Laos, he was determined to aid the South Vietnamese who were resisting Communist insurgency efforts supported from North Vietnam. The United States had been giving some aid to South Vietnam, but President Kennedy resolved to send in American officers and men to provide training and advice to the South Vietnamese in their efforts to push back the Communist insurgents.

Within the last several years the trend of events in South Vietnam has been against us, and several changes in government within the last 6 months in South Vietnam have hampered efforts to deal more vigorously with the Communists.

Let us look briefly at the possible actions which lie ahead. In Laos, the first requirement is to end the fighting. At the same time the coalition government must be strengthened. Though the situation is not a desirable one, we are today allied with both the neutralists and the rightwing factions of Laos. Two years ago, only the rightwing supported us. The Communists today stand exposed as aggressors for all to see, and the United States is now identified with a much more broadly based segment of the Laotian people. If the Communists keep up their military efforts in Laos against the neutralists and the rightwing group, we may be forced to intervene with our troops or those of our allies. This possibility exists only because there may be no other option open to us—we are determined to prevent a Communist takeover and preserve the coalition government. Those who claim otherwise, or favor withdrawing our support from the coalition, must present realistic alternatives or stand as irresponsible critics. Intervention in Laos entails grave risks. Once in Laos we may find that our presence becomes the basis for a concerted propaganda attack accusing the United States of attempting to restore colonial control. Other consequences of a negative character may follow simply from the problems which often arise whenever large numbers of troops are stationed in another country. Consequently one of the risks we would run is that despite our best military combat efforts, we would find that the people whose interests we were supposed to be defending cared less and less for our presence. Yet every action carries risks.

My own strong preference in Laos would be a United Nations military force, committed to enforce the 1962 Geneva accords. This would provide, hopefully, time in which that nation's independence would be strengthened. If the U.N. cannot act, concerted action with our allies would be desirable. There are, to be realistic, serious obstacles in the way of either of these courses of collective action. Moreover, it must be recognized that the loyalties of the Laotian people to their government are somewhat limited by the fact that many of these Laotian people have never been aware of the existence of their Government, and some have little interest in the question of who is running it.

In South Vietnam, we remain committed to helping the South Vietnamese win their struggle against the insurgent Communists. We have about 15,000 American troops in that country today helping to train the South Vietnamese, and flying some air missions. In Congress we voted—and I actively supported—an additional $125 million to provide more economic and military aid to that Government. Here again, the principal problem faced by General Khan, the head of the Vietnamese Government, is to maintain and enlarge his support among the people of South Vietnam. We must provide him with every possible assistance to that end. Whether we should intervene more actively in the military war is a question which is under continuous study by our Government.

In the face of our military involvement, we must never lose sight of the basic fact recognized so ably by President Kennedy: Our principal objective in southeast Asia is not the military buildup of the area, but the strengthening of its political stability, economic development, and social welfare. While the immediate threat is military, the long-term difficulties are political.

In summary, our commitment to aid these countries is clear. The stubborn, knotty question remains as to how we can most effectively accomplish this aid. In Vietnam, as in Laos, help from other countries or help from the U.N. would be highly desirable, but aside from token forces from our allies, the likelihood of such collective help remains in doubt.

The complexities of that part of the world, the risks accompanying action on our part, and the apparent remoteness of the countries involved must not obscure our fundamental commitment in southeast Asia. As Ambassador Stevenson told the U.N., if the people of southeastern Asia are determined to preserve their own independence and ask our help, we should grant it. The United States cannot stand by while southeast Asia is overrun by armed aggression.

We must steadily seek to broaden the participation by other nations in the commitment to peace and stability in that area, but in the meantime we must not turn our back on threats to the indpendence of those people. Freedom is indivisible, and a loss of freedom anywhere is ultimately our loss.

Our dedication to these tasks, hard and painful as they may be, will be the finest way in which we can honor the dead, and keep the torch of freedom once carried by our beloved late President, John Kennedy, held high for all mankind to see.

Thank you.

The Continual Grab for Power

EXTENSION OF REMARKS

OF

HON. RALPH F. BEERMANN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1964

Mr. BEERMANN. Mr. Speaker, I have frequently confessed bewilderment at some of the things which happen in Washington but just now I am unusually baffled at some of the things which are happening at the great Department of Agriculture.

The Secretary of Agriculture, Mr. Orville Freeman, recently proposed legislation which would give his Department sweeping authority over the operation of the commodity exchanges. Among the powers sought was authority to fix margins for trading which, as the Congress knows, has been asked for time and time again without result.

In 1947, President Truman, himself, urged that the Government be allowed to fix the margins for trading, citing what he termed speculative abuses which sharply increased the cost of living.

He was turned down.

Within the past 15 years, half a dozen bills on this subject have been introduced at the request of the executive branch. Not one has been reported by either the House or Senate Agriculture Committee.

During the Korean war, a bill which would have allowed the Federal Government to fix margins was reported by the House Banking and Currency Committee, which had before it legislation for the control of wages and prices. On a rollcall vote, the House defeated the margin proposal.

Now Mr. Freeman comes before us urging legislation which a Democratic President tried to get in vain. What reason does he give?

He is very specific. In his letter to the Speaker asking for this grant of power—incidentally, Mr. Freeman always seems to be asking for more authority—he says:

> Recent events in the soybean oil and cottonseed oil markets have clearly shown the need for the provisions sought by this proposed legislation. We are confident that the widespread and serious effects within the economy resulting from the failure of a large vegetable oil refining concern would have been prevented or greatly lessened had there been adequate margins required on the positions it carried in the futures markets. No Federal agency presently has authority to prescribe such margins although such authority is present in connection with the securities exchanges. The Department believes it should have, and has previously sought, the authority to prescribe under certain conditions the minimum margins which commodity exchanges should require of traders in the commodity markets.

This statement, Mr. Speaker, amazes and puzzles me. All of us are familiar to some extent with the DeAngelis affair. Anthony DeAngelis, after World War II, became a heavy operator in vegetable oils and a significant factor in the vegetable oil export market. Late in 1963, he went broke, dragging down several outfits with him. Total losses are well over $100 million and may not be far from $150 million when all the damage is totaled.

DeAngelis used the commodity exchanges for hedging and, perhaps, speculation. After the crash, unnamed spokesmen for the Department of Agriculture were quoted in the press as stating that lack of power over the exchanges, including the long-sought authority to fix margins, caused the debacle. But, very quickly, it developed that Mr. DeAngelis dealt extensively in fraudulent warehouse receipts. He raised millions through receipts for nonexistent oil, or oil which has been removed from his storage tanks in New York. The furors over the Department's lack of power over the commodity exchanges died down, since obviously if DeAngelis, in effect, was counterfeiting warehouse receipts, an increase in margin requirements would not have bothered him. He simply would have turned out another batch of receipts and would have borrowed more money on them.

Then in March 1964, Alex C. Caldwell, head of the Commodity Exchange Authority, USDA agency which supervises the commodity exchanges, cleared up this affair insofar as the exchanges were concerned. Testifying before a Senate Appropriations Subcommittee, Senator ELLENDER, of Louisiana, chairman of the Senate Agriculture Committee, asked Mr. Caldwell the following question:

> Was there any way in which your Department could have prevented such a thing like this?

The "this" refers to the DeAngelis scandal.

> CALDWELL. No, sir. There was no way the Department could have prevented the cash oil transactions which allegedly involved some fraudulent warehouse receipts.

At another place, Mr. Caldwell:

> This operation [DeAngelis], Mr. Chairman, was, as I had mentioned earlier, completely outside the futures market, so I do not believe any strengthening of the regulations of the futures markets would have prevented this situation from occurring. This had to do with alleged fraud which should be covered under various fraud statutes and not under the Commodity Exchange Authority.

In the face of the statement of his own expert and the facts, how could Mr. Freeman use the DeAngelis affair as excuse for his request for power over almost every phase of the operations of the commodity exchanges?

Calmly and deliberately, Mr. Freeman seems to be insulting the intelligence of the House Agriculture Committee, of the Senate Agriculture Committee, and of the Congress, the elected voice of the people.

Where to in Vietnam?

EXTENSION OF REMARKS

OF

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1964

Mr. WYMAN. Mr. Speaker, Congressman CLIFFORD G. MCINTIRE, of Maine, recently prepared comments for delivery to an audience in York County, Maine. Because of a sore throat, the Congressman was unable to present his remarks, and they were very capably delivered by Mrs. McIntire.

In view of the timely character of these comments, I submit them to the CONGRESSIONAL RECORD for the attention of my colleagues:

COMMENTS OF CONGRESSMAN CLIFFORD G. MCINTIRE, MONDAY EVENING, JUNE 8, AT THE YORK COUNTY COMMITTEE DINNER FOR CANDIDATES AT SANFORD TOWN HALL, SANFORD, MAINE

I feel compelled, obliged, to use this opportunity tonight to speak out on a subject which alarms me. We, here in Maine, are a long way off from the strange battlefield in South Vietnam—in miles and in time—but in fact Maine men are involved in this war and each day is bringing this terrible conflict closer to home. The consequences of a defeat or expansion of the battle being fought in South Vietnam will bring the smell and anguish of war into every home in the United States.

This is why I am so concerned. If the policies of the present administration should lead this country deeper into the steaming morass of war then I want to know why. The thing that gets me is why should the greatest power on earth be having such trouble with a fourth- or fifth-class military power?

Basically, this is what I want to talk about. Our problems in South Vietnam are the consequences of gross inadequacy, they cannot be ignored any longer, for if we are to win the war, the respect, and confidence of the other nations with which we have formed alliances, then we must do more than fumble our way to tragic solutions. We cannot afford another Korea or Laos. Let us look at this war.

A curious situation has developed in South Vietnam. More money is being asked for to wage this seemingly endless war * * * yet, we've been spending in the neighborhood of $1 million a day to fight an enemy who lives off the land and is equipped with only the barest essentials. We are told that more planes are needed, yet, we find that the aircraft assigned to South Vietnam forces for combat are not being used to fight. I would like to know why.

We are told that more advisers may be needed. I find it hard to understand how we can win a war with more advice when there is so much evidence that the advice of our men in South Vietnam is being ignored.

While Laos is being lost, and Cambodia permits the Vietcong a sanctuary, enemy attacks are being stepped up and there is every indication that we can expect them to be intensified. While this is going on we are being told that it may be necessary to expand the war effort. Will someone tell me what is to be gained by expanding the combat zone when we can't successfully defend the present arena? There must be something dramatically wrong, in a situation such as this.

This war is so fraught with dangers of expansion and explosion that I am surprised at the way in which the Johnson administration treats this terrible affair. I am sure that the American soldiers serving on the battlefield and the families and friends of those who have died in South Vietnam take it very seriously.

May I suggest that instead of more of everything, that instead of continuing with a policy that has already proven futile, that it is time to demonstrate that that which we have already put into the battle should first be used effectively.

We are being deluged with statements from the Secretary of Defense and many others tied to the administration. Mostly we've heard a long line of excuses for failure or pacifying generalities but always it's more of the same. If more money and equipment are really needed, and I don't doubt this, let us first, at least, start by using that which is already committed. This should not be too much to ask of those in charge of this war. And there should be no need to delay. * * * South Vietnam could be lost while being talked about.

I am not a military man. I would not like to have it thought that I pretended to understand all about the art of warfare. But I can read, I can understand enough about what is going on to ask some questions. Beyond this, one can turn to the history books to see what problems have been faced in the past, how wars were lost, and won.

One of the things which I find difficult to evaluate is the numeric ratio between the Vietcong and our forces. I have read that we have the enemy outnumbered by 18 to 1. But then I find that the 18 to 1 preponderance of strength which we possess is arrived at by including noncombatant, advisers, and part-time fighters.

It appears, after reevaluation, that we have the enemy outnumbered by about 5 to 1. On the face of it, this would appear to be a significant superiority, but no, the experts tell us that in order to defeat guerrilla forces we need to possess 10 times the enemy strength. This is the magic formula—10 to 1.

If we accept the figures we've now arrived at, were in bad shape. But still further examination reveals that the 5-to-1 ratio is open to question. This particular combination of numbers is arrived at by comparing the South Vietnam combat forces less the supervisers, advisers, and part-time fighters with the total force of Communist guerrillas. Now, many of the enemy are only part-timers or busy in some other fashion and if we compare the hard-core forces the figure bounces back to 16 to 1, that is according to Mr. Bernard B. Fall, author of two books on Vietnam and a professor of international relations at Howard University. I'm going to admit that this particular numbers game leaves me confused. I am inclined to suspect that even the 10-to-1 figure, the magic ratio for defeating guerrilla forces, may be adjustable to suit almost any convenience.

In 8 years of fighting this same enemy, the French fought with a 1.5-to-1 ratio and they lost. In Algeria, they used great overwhelming strength but still lost.

I don't want to go on with this numbers game analysis of war in South Vietnam. The deeper I read into it the more confusing it becomes. There's even a "kill count" and an "incident count" which are used by Pentagon briefers to prove just about anything desired. The numbers arrived at are just as ludicrous as the figures we've just finished discussing.

Rising out of the miasmatic collection of facts, there must be something tangible, something we can grasp with confidence. Is more money and all that goes with it the answer?

I doubt it. There must be some awfully fuzzy thinking going on if anyone really thinks we can buy victory in South Vietnam. I cannot help but recall the millions of dollars and tons of equipment we poured into Laos.

Another suggested solution has been to cut off the supply lines of the Vietcong. The Ho Chi Minh trail running through Laos is seen as the source of all our trouble, yet, let me quote from Mr. Fall in the March 12 issue of the Reporter, "the huge amounts of U.S. weapons available to the Vietcong through capture, theft, or even sale, reduces the importance of the Ho Chi Minh trail, now that the insurgency has reached the point where to a large extent, it feeds on the enemy, in true Mao Tse-tung fashion." In other words, the Vietcong is now using our weapons to defeat us.

The South Vietnam army is considered the best equipped army of its size in the non-Communist world. Why cannot this great force be used more effectively against the Vietcong? If the Vietcong is living in the jungle and swampland, raiding when and where they desire, then it must be time for the South Vietnam army to get out of the helicopters and their barracks, and go into the great areas of land held by the Vietcong, ferret them out, and defeat them in the jungle.

There's another kind of war being fought in South Vietnam. It's the same war that is being battled all over the world, the war for men's mind. Presumably, we are showing the people of the area the advantages of a new freedom-loving way of life. We're certainly spending the money but most of the money seems to be floating around in Saigon and economic assistance being sent to educate and improve the lot of the South Vietnam peasant isn't showing many results.

We hear that close to one-third of the population may sympathize with the Vietcong. This doesn't sound like progress. It's time for us to stop throwing away millions—billions of dollars. It's time to demand control of the money we're shoveling into South Vietnam, and also, time to demand control of the military and economic programs in South Vietnam which we are paying for.

I believe that the strategic-hamlet concept was well founded. But the execution of the plan has left much to be desired. The disguised enemy lives in the strategic hamlet. The impregnable fortresses fell apart time after time under light attacks due to subversion from within. This does not mean that the program was necessarily wrong, but how was it carried out?

I could not, nor do I pretend to offer a plan which would guarantee total victory in South Vietnam. I would like to suggest, however, that certain steps should be taken immediately if we are to avert disaster in South Vietnam.

First, let us insist that if we are going to provide the funds and the equipment and American advisers that we have operational control of the war effort in South Vietnam.

Next, we need to get the South Vietnam soldier out into the countryside where the enemy is and not for a few hours but for weeks and months, seeking out the enemy and denying him refuge anywhere in South Vietnam he can be resupplied by air. Modern communications systems will permit him to close on the enemy with other small units, much as modern police cruisers act in unison to trap escaping criminals, but the most important thing is that he'll be able to capture or destroy the Vietcong and we can do away with the possibility of bombing or burning random villages.

The third step I would advocate would be the intensification of the strategic-hamlet concept. But what good is accomplished by a fortified village that can withstand an enemy attack until relief arrives, if a fifth column is working on the inside? Three things are needed. A village that can hold out until help arrives and this requires a trained and armed militia in every village. Secondly, provision for immediate reaction to a threat against such a hamlet, night or day, land forces must be able to converge on the threatened fortress, attacking the Vietcong and cutting off escape, that's where the soldier in the field, as we have just mentioned, also comes in. And with him, air-carried forces must also be rushed to the trouble spot.

The third thing which must be considered is the problem of sorting out the loyal and disloyal elements. The experts in psychological warfare should be able to accomplish this objective.

I don't say that my proposals will lead to quick victory, no one has ever suggested that this is possible, but I believe these suggestions have real merit. The neutralist policy in Laos based on a troika agreement with the Communists is a failure. To withdraw from southeast Asia will expose the rest of the area to Communist domination. Malaysia and Thailand may be next. Consider the problem then confronting Japan and the Philippines.

Our policy must be clear to friend and foe and the American people have the right to know what is going on and to be kept fully informed.

Thank you.

U.S. Exhibit at the New York World's Fair Lacks Imagination

EXTENSION OF REMARKS

OF

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1964

Mr. PUCINSKI. Mr. Speaker, I should like to call to the attention of the House and the executive branch of Government the fact that the most unimaginative exhibit at the New York World's Fair, tragically, is the U.S. Government exhibit known as the Federal Building.

It is, indeed, a sad reflection upon the people in our Government who designed and conceived this exhibit that the money we have spent has just not produced an exhibit which reflects America's great strength and bold daring.

This is most regrettable because the entire New York World's Fair is so breathtaking, so exciting, so well conceived, that I would urge every American, if at all possible, to visit this spectacular exhibit of America, its industry, and the world.

Those who conceived the Federal Building exhibit failed miserably to catch the inspiring tempo of the fair.

Every other country which has a pavilion at the fair, has created a living symbol of its attributes while the American exhibit is dull, drab, and completely unimaginative.

It fails completely to convey to visitors the true greatness of our Nation.

It fails completely to show that our true strength cannot be found in our weapons of war; instead that it lies deep in our conviction and dedication to the American ideal.

It fails completely to emphasize that freedom's greatest enemies are spiritual indifference, material reverence, and patriotic decay.

It fails completely to convince that our destiny is in our hands and that each generation must earn and preserve freedom for itself and posterity.

It fails completely to impress indelibly upon our citizens and visitors from abroad the blessings of our heritage and to rekindle and imbue pride, devotion, and responsibility on our part.

Mr. Speaker, it grieves me to voice this indictment against those who are responsible for arranging the U.S. Government's exhibit at the fair. Their complete lack of imagination is perhaps the most convincing argument in behalf of free enterprise.

I would suggest that President Johnson consult immediately with those responsible for this exhibit and order them to award a contract forthwith to private industry to rearrange completely the Federal Building with daring and imagination so that the millions of people who will visit the fair in these next 2 years will be able to leave as proud Americans, proud of their Federal Government.

I have in my district a private concern, Independence Hall of Chicago, whose president, Mr. S. L. de Love, has done a magnificent job in helping arrange an inspiring exhibit at the Illinois Pavilion, which is just across the street from the Federal Building at the World's Fair.

I am sure that the people at Independence Hall would gladly loan the many available documents which they have dealing with the glory of American history and America's strength to help improve the Federal exhibit.

I am sure that there are many other private companies capable of taking this Federal exhibit and reorganizing it completely so that it will inspire instead of deject.

I can assure my colleagues that the most disappointing exhibit at the World's Fair is the Federal Building.

I do not believe it is too late because the big crowds are yet to come, both this year and all of next year.

I urge this action because the rest of the New York World's Fair is so tremendously inspiring that the dismal contrast of our own exhibit leaves one somewhat bewildered.

We need only contrast the lackluster Federal Building to the truly inspiring exhibit arranged by the State of Illinois with the help of Walt Disney and Mr. De Love's Independence Hall of Chicago. The Illinois Pavilion has a life-size model of our immortal President, Abraham Lincoln, delivering a message so completely inspiring that every single American who leaves the Illinois exhibit leaves with a rebirth of faith, courage, understanding, dedication, and devotion to the United States.

Why could not the Federal bureaucracy have used similar imagination in arranging the U.S. Government's exhibit?

Mr. Speaker, I am sure that many of my colleagues who visited the Federal exhibit will agree that major surgery is necessary if this exhibit is to attain the high standards of inspiration so eloquently feasible throughout the New York World's Fair.

I sincerely hope President Johnson will order such surgery without delay.

Dr. Leonard Carmichael

EXTENSION OF REMARKS
OF
HON. JAMES G. FULTON
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 10, 1964

Mr. FULTON of Pennsylvania. Mr. Speaker, Dr. Leonard Carmichael and his good wife, Pearl Kidston Carmichael deserve the thanks of the U.S. Congress and the American people for the fine and successful service they rendered during Dr. Carmichael's service as secretary of the Smithsonian Institution.

As I believe the Proceedings of the Annual Meeting of the Board of Regents of the Smithsonian Institution presentation of its appreciation to Leonard Carmichael will receive wide acceptance in the United States, I am submitting it for the U.S. Congress and the American people:

PROCEEDINGS OF THE ANNUAL MEETING OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

There follows the text of the resolution adopted by the Board of Regents to signify the gratitude of the Board for Dr. Carmichael's distinguished service to the Smithsonian Institution.

"SMITHSONIAN INSTITUTION

"The Board of Regents presents this tribute of appreciation to Leonard Carmichael, greetings:

"*Be it resolved,* Whereas on January 31, 1964, Leonard Carmichael will retire as Secretary of the Smithsonian Institution, after 11 years of superb leadership and achievement in that office; and

"Whereas in his tenure as the seventh Secretary since 1846, remarkable advances in the usefulness and the vision of the Institution were made, redounding to his credit, to ours, and to the people of the United States. Among these advances were:

"Enlargement of the professional staff in numbers and distinction, expansion of the scholarly publication program and its continued worldwide acclaim, planning, supervision of construction, and opening of the great new Museum of History and Technology.

"Of notable importance also were the enlargement of the Museum of National History, transfer of the handsome and historic U.S. Patent Office Building to the Smithsonian as a long-sought National Portrait Gallery, and for the children of the Nation and the young-in-heart, a wonderfully improved National Zoological Park.

"With his knowledge and deft touch, almost all public displays were modernized and many new exhibit halls were opened, the famed Astrophysical Observatory, relocated in Cambridge, Mass., turned its farseeing eyes to space-age projects, including the establishment of satellite observing stations around the globe;

"As an Ex-Offico Trustee, Dr. Carmichael has been tireless in his efforts on behalf of the National Cultural Center, a bureau of the Smithsonian Institution, now renamed the John F. Kennedy Center for the Performing Arts by action of the Congress. Likewise, the National Gallery of Art, also a bureau of the Smithsonian Institution, has greatly benefited by the distinguished services rendered by Dr. Carmichael as an Ex-Officio Trustee of the National Gallery;

"Moreover, in Dr. Carmichael's tenure the endowment funds of the Institution were greatly increased, both through gain in investment value and through generous new gifts and bequests. In the conduct of the financial affairs of the Smithsonian he has evidenced exceptional financial prudence and sagacity;

"Finally, we commend to public attention that now upward of 15 million Americans annually visit the Smithsonian Institution to be inspired and instructed by its public displays and scientific research collections of more than 57 million objects; therefore,

"*By this resolution, which will be spread upon the record,* The Chancellor and Board of Regents reaffirm their admiration for and gratitude to Dr. Leonard Carmichael for all he has done to bring the Smithsonian Institution to its present state of prestige and usefulness. They rejoice that, in retirement, he will still be available for advice and counsel. They are proud of this able, dedicated, kindly man. They think that James Smithson would have been proud, too.

"Unanimously adopted by the Board of Regents of the Smithsonian Institution January 23, 1964.

"Robert V. Fleming, Chairman, Executive Committee; Earl Warren, Chancellor; Clinton P. Anderson, J. W. Fulbright, Leverett Saltonstall, Frank T. Bow, Clarence Cannon, Michael J. Kirwan, John Nicholas Brown, William A. M. Burden, Crawford H. Greenewalt, Caryl P. Haskins, and Jerome C. Hunsaker."

Remarks by Congressman John S. Monagan at Dedication of John F. Kennedy Memorial Fieldhouse at Nolan Field, Ansonia, Conn., May 30, 1964

EXTENSION OF REMARKS
OF
HON. WILLIAM T. MURPHY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 10, 1964

Mr. MURPHY of Illinois. Mr. Speaker, on Memorial Day, May 30, 1964, a fieldhouse was dedicated at Nolan Field, Ansonia, Conn., in honor of our late President John F. Kennedy. The principal speaker at the dedication ceremonies was our colleague, Congressman JOHN S. MONAGAN, of Connecticut's Fifth District, through whose efforts Federal funds were made available for the project under the accelerated public works program, which was initiated by the late President Kennedy.

A surprise portion of the program was the presentation to Congressman MONAGAN of a handsome plaque by Mayor Joseph A. Doyle on behalf of the people of Ansonia whom Congressman MONAGAN ably represents. Engraved on the plaque was the message "Presented to Congressman JOHN S. MONAGAN by the people of the city of Ansonia, Conn., in appreciation of his personal interest and devoted service to their welfare. May 30, 1964." Before the presentation of the plaque to Congressman MONAGAN, he inspired the large audience with an eloquent message in which he eulogized our late President John F. Kennedy.

With permission to extend my remarks, I include here the text of Congressman MONAGAN's remarks:

REMARKS BY CONGRESSMAN JOHN S. MONAGAN AT DEDICATION OF JOHN F. KENNEDY MEMORIAL FIELDHOUSE AT NOLAN FIELD, ANSONIA, CONN., MAY 30, 1964

I am honored to share with you in this ceremony dedicating this fine new fieldhouse in honor of our late President, John F. Kennedy.

I am happy also at this time to present to Mayor Doyle for use, in connection with the fieldhouse, a photograph of President Kennedy and a flag of the United States which has flown over the Capitol in Washington. I hope that the picture will help for many years to keep alive the memory of President Kennedy and I trust that the flag, with its unique background, will symbolize the union of interest and the mutual dependence between the leaders and representatives in our National Capital and the individual citizens in the towns of our country.

It is particularly appropriate that this fieldhouse should be named after John F. Kennedy because the Federal funds which helped in its construction came from the accelerated public works program which was a special project of President Kennedy and was conceived by him and carried through under his enthusiastic supervision.

This building, which we dedicate today, is important as a symbol of the partnership between the Federal Government and the individual municipality. In this instance, the hand of Government is not a heavy and demanding paternalistic one. It is a helpful one which demonstrates that our National Government recognizes no separation between the people of the towns and the people of the Nation. They are the same citizens and their problems are interrelated. Therefore, the National Government has extended a supporting hand to local government in solving a particular problem with the happy result which we see today.

This is not the only program in which the Federal Government has assisted with regional problems.

I point to the great Naugatuck Valley flood control program which is of vast importance to the people of the lower valley and which would never have come to reality without the intervention and massive financial assistance of the National Government. With the completion of the Thomaston Dam, the Hall Meadow and East Branch Dams in Torrington, with the current construction of the Northfield and Hancock Brook Dams, and with the planning for the two final dams substantially finished, this great protective program is marching toward completion. With the addition of the local flood protection project in this community, Ansonia and the lower valley will be guaranteed against a repetition of the tragedy of 1955.

It is clear, therefore, that when viewed realistically and not in terms of catch phrases or shibboleths, this partnership between the national and local governments has proved to be beneficial to all, and I am proud to have some share in bringing these works to fruition.

This fieldhouse and the other projects which I have described as well as numerous other marks of progress in Ansonia, would not have been possible without the leadership of your great mayor and I want here to pay tribute to Mayor Joseph A. Doyle as an outstanding municipal executive. He has watched over the welfare of Ansonia with almost maternal solicitude. He is alert; he is knowledgeable; he is farsighted, and he is energetic. Above all, he has the capacity to take the long view and not be diverted by small or irrelevant problems. He has set about the job of transforming an old New England village into a modern city. He is encouraging the people of Ansonia to build for the future and they are building well. The Greater Ansonia of tomorrow will owe an undying debt to Joe Doyle. You people of Ansonia are fortunate to have him as your leader and I hope that you will have the benefit of his services for many years to come.

Today our thoughts turn inevitably to our martyred President and dear friend, John Kennedy. How happy he would be to know that his legislative idea was transformed into a reality of brick and mortar in the shape of a fieldhouse for the participation of the youth he loved so well in the athletics to which he was so devoted.

His feeling on this occasion, however, would not be wholly abstract because John Kennedy loved the people of this valley and they loved him. On two occasions, I rode with him through this city and the surrounding area and I well remember the enthusiastic reception of our people and his warm response. One trip took place long after midnight in the cold drizzle of a November morning in 1960, and I am sure that none of us will forget the masses of people in all the valley towns who stayed up through the night to greet the presidential candidate. Even in the countryside one met little clumps and gatherings of people and one remembers the women in their dressing gowns with their children in their arms, and the older couples in doorways. Many times during the course of our journey, President Kennedy said, "These are our people" and we in turn felt "This is our President and friend."

The other occasion was in October of 1962, and unknown to us, on the very day of his visit, he was in the midst of the Cuban missile crisis, but none of us was aware of its critical nature at the time. I remember so well his saying as we drove along, how pleased he was to be away from Washington and among those who were his old friends.

It is no wonder that the people of this area supported him in overwhelming numbers.

It is not so much the statesman or the political leader, but the warm human being that we miss today. John Kennedy had a high ideal of presidential action. In the midst of partisan strife or internecine feuding he maintained serenely his concept of the ideal executive. Recognizing the need to give hard knocks and to press an adversary without flinching, he nevertheless retained a grace, a cleanliness and a style that we shall not soon see again.

He brought gusto and zest to the job of being President. With his lovely wife he swept out the corners and opened the windows and spread a new light around the Presidency. He lent to it a unique character and surrounded it with a romantic quality that was pervasive—yet, almost intangible.

"We people on the pavement looked at him
For he was a gentleman from sole to crown,
Clean favored, and imperially slim.
And he was always quietly arrayed
And he was always human when he talked;
But still he fluttered pulses when he said,
'Good morning,' and he glittered when he walked."

In the spell which he wove was something of the poetry, the imagination and the creativeness which came to him through his Celtic forebears.

His loss is a tragic one, indeed, both for us his friends and for our country. Yet may we not find solace in knowing that he will to us and to history always be young and bright and fair?

He gave to the Nation the incomparable gifts of freshness, of vigor, of idealism and of faith. How much better to remember always the youthful profusion of this endowment which he lavished upon us.

Never will he "swell the rout of lads that wore their honors out, runners whom renown outran and the name died before the man."

"He has outsoared the shadow of our night
Envy and calumny and hate and pain,
And that unrest which men miscall delight,
Can touch him not and torture not again;
From the contagion of the world's slow stain
He is secure, and now can never mourn
A heart grown cold, a head grown gray in vain."

It is, however, not enough for us today to mourn his passing and to speak our regrets. He would not have it so. He looked to the future and so must we. He had his experience with the confrontation of nuclear arms and the arrogance of the Communists and he faced the morrow with courage and confidence—and so must we.

He had the challenging and triumphant experience of the missile crisis and he showed firmness and determination. We have the complex and frustrating threat of communism in South Vietnam and elsewhere in the world, and we must show the same patience and fortitude.

On the morning of the very day in which he was taken from us, John Kennedy gave an address in which he spoke not of the difficulties and dangers and weaknesses of this country, but of the strength of the United States and the resilience and the promise of democracy and of our great power for good in this troubled world.

This was ever his message—one of hope and confidence and delivered always with a clear vision beyond the immediate difficulties of the present to the bright and shining future that is possible for us if we remain true as individuals and as a nation to our great and unique heritage.

John Kennedy issued a challenge to America—a clarion call to our better selves and to the divine inspiration that rests within each one of us and can raise us above the grubby commonplace activities of our daily lives.

As we pause today in memory of John Kennedy, therefore, let us strengthen our resolution to reach for those ideal goals of brotherhood and cooperation which he set for us. Let us keep his stirring challenge ever before us. Let us, as he did, bring idealism and sacrifice into our daily lives. Let each of us do his share to make of our country the great and generous and noble nation that John Kennedy always held close to his heart.

Why Commemorate?

EXTENSION OF REMARKS
OF
HON. JOHN BELL WILLIAMS
OF MISSISSIPPI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 10, 1964

Mr. WILLIAMS. Mr. Speaker, Sunday in Arlington National Cemetery, our citizens met to commemorate the 50th anniversary of the dedication of the Confederate Monument and to honor again the memory of the Confederate veterans and their descendants who have served their country.

Representative E. C. "TOOK" GATHINGS, of Arkansas, was the principal speaker at the memorial services, and his remarks will be of interest to all. It is a pleasure to place this statement honoring our gallant ancestors in the CONGRESSIONAL RECORD:

WHY COMMEMORATE?

Madam Chairman, the chairman and members of the Confederate Memorial Committee, United Daughters of the Confederacy, I congratulate you for fostering and promoting these annual memorial services dedicated to the memory of the Confederate veterans and their descendants. I am grateful to you, Mrs. Collier, for your kind and thoughtful introduction. It is fitting and proper that you perpetuate the remembrance of the courage and fortitude of the men in gray who laid down their lives 100 years ago.

Behind the inception of this day of tribute there is an interesting, and to me, a moving story. In April 1863, a group of Mississippi women, placing spring flowers on the graves of the Confederates who fell at Shiloh, found Union markers in the same cemetery. These dedicated women placed decorations on the final resting places of both. This site, now known as "Friendship Cemetery," could well be the cradle of our Memorial Day observances.

It is with the same feeling of love and prides shown on that spring morning so long ago, that we meet here today to pay homage to those whose unsurpassed valor, self-sacrifice, devotion to principle and love of homeland, have given us a priceless heritage.

It seems especially fitting that here in this place and on these grounds, once the home of Robert E. Lee, there should rest the remains of some of the gallant men who followed that great soldier unto death.

Today all of those men on both sides have passed away on over the river. The century that has followed has softened the bitterness of the 4 years of conflict. We assemble here on the 50th anniversary of the dedication of this great Confederate monument.

The dead, for whom this memorial stands sponsor, died for what they believed to be right. The South gave 200,000 lives, the most precious possession it had, as an assurance of honesty of conviction, unfaltering faith and integrity of purpose.

The odds against the Confederate Armies were tremendous. It was estimated authoritatively, that on January 1, 1863, the white male population of the States to the North was 13,690,364 against those embracing the Southern States totalled 5,449,463. The North with its vast resources including industrial plants rivaling the world's strongest nations and a navy which was ranked third best on the seas.

The number of men the North had under arms was more than a million compared to less than 400,000 Confederate troops as of that date.

As we pay loving and reverent tribute to the heroes of the Confederacy, we speak not only of these renowned leaders, whose names are forever engraved in the scroll of history, but also of the private in rank—the humblest soldier. Once they were as you and I, each with his work and dreams, his home, his loved ones and his faith. When the test came, they gave their highest gifts—ability, devotion, courage, loyalty, and even their lives.

Why was the South fighting? Was she fighting to maintain slavery? Oh no—she was fighting for an inherent right, a principle that was sacred and holy. She was fighting for self-determination, self-government at the local level of municipality, county and State. The South opposed oppression and encroachment—that's why she fought. Their leaders believed in the Constitution as "the law of the land"; that its provisions were not subject to change and variations based or geared to economic, social or political considerations. They believed firmly that the Federal Government possesses no powers except those specifically enumerated by the Founding Fathers in the Constitution of the United States.

These men marched away from home, proud to serve their cause, their eyes keen and bright. Their steps were quick and confident. They appreciated the odds against them, but with a firm conviction of the righteousness of their cause, they hoped by fortitude and endurance to win. Through the long bitter years of war, their zeal, devotion, courage and pride remained unshaken. Their exploits were brilliant. With determination they bore privation, toil, agony and death. These men in gray were as gallant in defeat as they were heroic on the battlefield.

But finally outnumbered greatly, and exhausted under unendurable pressure, the end came.

In Robert E. Lee's farewell message to his men he said in part: "Officers and men can return to their homes. You will take with you the satisfaction that proceeds from the consciousness of duty faithfully performed; and I earnestly pray that a merciful God will extend to you his blessing and protection."

"With an increasing admiration of your constancy and devotion to your country, and a grateful remembrance of your kind and generous consideration for myself, I bid you all an affectionate farewell." It bears the signature "R. E. Lee, General."

The words "affectionate farewell" are dear to the hearts of southerners. The devoted and ragged men pressed forward around "Traveller's" saddle to speak to their leader and to shake his hand as he headed eastward toward Richmond. There were tearful throngs along the roads who greeted him along the route that was rutted by remnants of wagons, debris and artillery weapons.

That which remained of a proud army bid goodby to their companions and started upon a long trek to their homes. They found that their gracious way of life had been swept away; their prosperous homes and farms were shattered or in ruins; their families separated and loved ones gone. But again courage and skill met the test. Their struggle in rebuilding the South forms many an epic chapter in our history. As Americans we can all take pride in that the bitter struggle ended with a reunited country. The descendants of those who fought one another so valiantly have since stood shoulder to shoulder in four foreign wars.

June 3 marked the anniversary of the birth of another great southerner and great American, Jefferson Davis. Historians have not dealt kindly or even fairly with him. Writers blinded by bitterness sought at first to hold him responsible for every act of the government he headed, if not for secession and slavery itself. His outstanding services to the Nation as Representative, as U.S. Senator, and as Secretary of War were forgotten. Scribes from the Southland have been slow to come to his defense, or gave him only small credit.

Jefferson Davis had two distinct qualities or characteristics. One was his moral integrity. He was not ambitious. His decisions were based on moral law and good conscience.

Another quality he possessed in abundance was his kindness, courtesy, and warmth. He showed genuine sympathy for the unfortunate and displayed a quiet courtesy for all.

In 1884 speaking to the Legislature of the State of Mississippi he had this to say:

"The people of the Confederate States did more in proportion to their numbers and means than was ever achieved by any people in the world's history. Fate decreed that they should be unsuccessful in their effort to maintain their claims. Our people have accepted the decree; it therefore behooves them to promote the welfare of the Union, to show the world that hereafter, as heretofore, the patriotism of our people is not measured by lines of latitude and longitude, but is as broad as the obligations they have assumed and embraces the whole of our ocean-bound domain. Let them leave to their children and children's children the grand example of never swerving from the path of duty, and preferring to return good for evil rather than to cherish the unmanly feeling of revenge."

The men for whom this monument pays tribute believed that each person owes something of himself to his country, to his State, to his community, and his local government. May we emulate this spirit of devotion and rededicate ourselves for the preservation of our Nation. May we keep it strong spiritually, morally, educationally, and militarily.

We are threatened as never before since the War of Independence. We have a united country but we face a ruthless, atheist, and determined enemy. This enemy has gained at every conference table and by infiltration, subversion, and conflict itself. He will not keep his word or agreement. He has made tremendous gains in every part of the world and now he nests at our very door to the south of our land.

We cannot rely on the dollar to buy our freedom and preserve it. We cannot depend upon summit conferences. The threat in Cuba is a grave problem that needs solving. We must assume the status of leadership in this hemisphere and throughout the world. That's the way to assure peace—by mobilizing for any eventuality.

The United States is a union of states, a union of local institutions of government, and a great group of individuals. Every individual and local governmental unit maintains independent characteristics while bearing loyalty and allegiance to the Nation. If we are to remain strong and survive as a nation the Federal Government should respect the rights of the States, as well as individual rights and long established local traditions and customs.

The South is not attempting to impose its customs and traditions on any other part of the country. The South respects the rights of every community to govern its own affairs. The grandsons and granddaughters of the men who wore the blue and the gray many years ago are not engaged in the agitation and tumult. Their love for this Nation, its individual pererogatives, and its Constitution were crystallized and cemented in years of battle in the 1860's. This is the time for unity in this era of grave crisis in world affairs. It is a time for love and understanding.

It may be said—why should we want to remember these glorious heroes? The principal reason is that memory places man in a separate and distinct sphere which elevates him above the beast. Man alone is blessed to remember such things as duty, which Lee looked upon as one of the noblest words in our language.

Our debt to the Confederate men of courage and valor is recognized and acknowledged. To honor these men we must face up to the obligations which our generation confronts. If sound government, freedom, and liberty are to be preserved, it will be through the efforts of those who are living now. Let us fulfill our responsibilities and duty in the acceptance of our heritage. If we are true to our traditions, the cause for which these heroes fought will not be lost.

SENATE

THURSDAY, JUNE 11, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father, God, from all the deceitful poses of the ways of men, we turn to Thee, to whom every thought of every heart is fully known, and from whom no secrets are hid.

In the revealing mirror of prayer the speeding, jostling world, with its show and sham which constantly impinge upon us, is shut out, as in the light of Thy presence, we see only ourselves as we really are. As we look steadily at our own image, we pour contempt on all our pride.

In our ignorance and weakness, we pray that out of the richness of Thy grace, Thou wilt pour into the earthen vessel of our imperfection, courage and wisdom and understanding compassion, as we face the somber specters of hatred, misery, and ill will that stalk our darkened earth.

In all our human relationships, wherever our lives touch the lives of Thy other children, O Thou who taketh away the sins of the world, forgive us that so little of Thy love hath reached others, through us; cleanse us, and make us Thy channels of healing; and lead us in the paths of righteousness, for Thy name's sake. Amen.

THE JOURNAL

On request by Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, June 10, 1964, was dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting the nomination of Frank R. Giordano, a cadet, graduating class of 1964, U.S. Military Academy, for appointment in the Regular Army of the United States, which was referred to the Committee on Armed Services.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 15-minute morning hour, with statements therein limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TO 10 A.M., FRIDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of today's business, the Senate take a recess to 10 a.m. on Friday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of executive business, to consider the nominations on the Executive Calendar.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. If there be no reports of committees, the nominations on the Executive Calendar will be stated.

EXPORT-IMPORT BANK OF WASHINGTON

The legislative clerk read the nomination of Elizabeth S. May, of Massachusetts, to be a member of the Board of Directors of the Export-Import Bank of Washington.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

COAST AND GEODETIC SURVEY

The legislative clerk proceeded to read sundry nominations in the Coast and Geodetic Survey.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of all these nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

On motion by Mr. MANSFIELD, the Senate resumed the consideration of legislative business.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961 as amended, and for other purposes, was read twice by its title and referred to the Committee on Foreign Relations.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

MRS. EDITH KIAER

A letter from the Clerk, U.S. Court of Claims, Washington, D.C., transmitting, pursuant to law, certain papers relating to the bill (S. 2594) for the relief of Mrs. Edith Kiaer (with accompanying papers); to the Committee on the Judiciary.

ANDREW J. METCALF

A letter from the Clerk, U.S. Court of Claims, Washington, D.C., transmitting, pursuant to law, certain papers relating to the bill (S. 1460) for the relief of Andrew J. Metcalf (with accompanying papers); to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A resolution of the Senate of the State of Pennsylvania; to the Committee on Finance:

"RESOLUTION OF THE SENATE OF PENNSYLVANIA

"Whereas the mushroom growing and canning industry is one of the foundation stones of Pennsylvania's agricultural economy, gainfully employing thousands of workers who produce a useful and unique product consumed throughout the Nation; and

"Whereas the continued existence of this great Pennsylvania industry as a viable force in our economy is now in dire jeopardy due to a torrential flood of low-priced imports from a single cheap labor country which have mounted to nearly 50 percent of domestic production in less than 3 years; resulting in wholesale bankruptcies and hardship to Pennsylvania farmers and canners; and

"Whereas every factor indicates even greater future onslaughts which will surely sound the death knell of a great American industry located primarily in the State of Pennsylvania: Therefore be it

"*Resolved*, That the Senate of the Commonwealth of Pennsylvania requests his excellency, William W. Scranton, Governor of the Commonwealth of Pennsylvania, to intercede on behalf of the people of this Commonwealth and the mushroom industry with the President of the United States and the U.S. Tariff Commission to impose tariffs on the import of mushrooms of a sufficient amount to make them competitive with the domestic mushroom industry; and be it further

"*Resolved*, That the Senate of the Commonwealth of Pennsylvania memorialize Congress to take whatever steps may be necessary to protect the weakening and declining domestic mushroom industry, and restore the same to a competitive market; and be it further

"*Resolved*, That a copy of this resolution be transmitted to Governor William W. Scranton; President Lyndon B. Johnson; U.S. Tariff Commission; the presiding officer of each House of Congress of the United States; and to each Senator and Member of the House of Representatives from Pennsylvania in the Congress of the United States.

"Attest:

"MARK GRUELL, Jr.,
"*Secretary, Senate of Pennsylvania*."

Three resolutions adopted by the Order Sons of Italy in America, Grand Lodge of Delaware, Wilmington, Del., relating to immigration, prayer, and Columbus Day; to the Committee on the Judiciary.

A resolution adopted by the Order Sons of Italy in America, Grand Lodge of Delaware, Wilmington, Del., remonstrating against any form of segregation based upon nationality, color, or creed; ordered to lie on the table.

The petition of Henry Stoner, of Avon Park, Fla., praying for a change in the Senate rules relating to the matter of cloture; to the Committee on Rules and Administration.

The petition of Henry Stoner, of Avon Park, Fla., relating to certain prohibitions for delegates and alternates to Presidential Conventions; to the Committee on Rules and Administration.

The memorial of Henry Stoner, of Avon Park, Fla., remonstrating against the enactment of House bill 7152, the so-called civil rights bill; ordered to lie on the table.

REPORT OF JOINT COMMITTEE ON REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES—FEDERAL EMPLOYMENT AND PAY

Mr. BYRD of Virginia. Mr. President, as chairman of the Joint Committee on Reduction of Nonessential Federal Expenditures, I submit a report on Federal employment and pay for the month of April 1964. In accordance with the practice of several years' standing, I ask unanimous consent to have the report printed in the RECORD, together with a statement by me.

There being no objection, the report and statement were ordered to be printed in the RECORD, as follows:

FEDERAL PERSONNEL IN EXECUTIVE BRANCH, APRIL 1964 AND MARCH 1964, AND PAY, MARCH 1964 AND FEBRUARY 1964

PERSONNEL AND PAY SUMMARY

(See table I)

Information in monthly personnel reports for April 1964 submitted to the Joint Committee on Reduction of Nonessential Federal Expenditures is summarized as follows:

Total and major categories	Civilian personnel in executive branch			Payroll (in thousands) in executive branch		
	In April numbered—	In March numbered—	Increase (+) or decrease (−)	In March was—	In February was—	Increase (+) or decrease (−)
Total[1,2]	2,480,346	2,470,045	+10,301	$1,362,050	$1,261,566	+$100,484
Agencies exclusive of Department of Defense	1,443,081	1,432,755	+10,326	781,472	731,183	+50,289
Department of Defense[2]	1,037,265	1,037,290	−25	580,578	530,383	+50,195
Inside the United States	2,313,856	2,302,942	+10,914			
Outside the United States	166,490	167,103	−613			
Industrial employment	550,675	550,029	+646			
Foreign nationals	148,820	152,279	−3,459	26,588	[3] 27,203	−615

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[1] Exclusive of foreign nationals shown in the last line of this summary.

[2] The Department of Defense has advised the committee that for security reasons personnel information for "classified activities" is omitted.

[3] Revised on basis of later information.

Table I breaks down the above figures on employment and pay by agencies.

Table II breaks down the above employment figures to show the number inside the United States by agencies.

Table III breaks down the above employment figures to show the number outside the United States by agencies.

Table IV breaks down the above employment figures to show the number in industrial-type activities by agencies.

Table V shows foreign nationals by agencies not included in tables I, II, III, and IV.

TABLE I.—*Consolidated table of Federal personnel inside and outside the United States employed by the executive agencies during April 1964, and comparison with March 1964, and pay for March 1964, and comparison with February 1964*

Department or agency	Personnel				Pay (in thousands)			
	April	March	Increase	Decrease	March	February	Increase	Decrease
Executive departments (except Department of Defense):								
Agriculture	99,542	96,536	3,006		$51,591	$48,237	$3,354	
Commerce	31,538	31,066	472		21,060	19,307	1,753	
Health, Education, and Welfare	82,576	82,562	14		46,005	42,126	3,879	
Interior	63,896	62,068	1,828		36,778	33,846	2,932	
Justice	32,004	31,881	123		22,272	20,277	1,995	
Labor	9,287	9,283	4		6,081	5,645	436	
Post Office	588,327	587,491	836		290,160	275,613	14,547	
State[1,2]	41,821	42,116		295	22,991	21,407	1,584	
Treasury	93,425	90,475	2,950		55,546	51,241	4,305	
Executive Office of the President:								
White House Office	341	353		12	253	249	4	
Bureau of the Budget	488	487	1		469	421	48	
Council of Economic Advisers	45	45			36	37		$1
Executive Mansion and Grounds	76	78		2	46	44	2	
National Aeronautics and Space Council	25	26		1	26	25	1	
National Security Council	42	41	1		36	35	1	
Office of Emergency Planning	351	351			317	327		10
Office of Science and Technology	77	85		8	45	36	9	
Office of the Special Representative for Trade Negotiations	25	27		2	25	24	1	
President's Commission on Registration and Voting Participation[3]					5	3	2	
President's Commission on the Assassination of President Kennedy	21	20	1		27	24	3	
President's Committee on Consumer Interests	9	6	3		2	(4)	2	
President's Committee on Equal Opportunity in Housing	6	6			6	4	2	

See footnotes at end of table.

TABLE I.—*Consolidated table of Federal personnel inside and outside the United States employed by the executive agencies during April 1964, and comparison with March 1964, and pay for March 1964, and comparison with February 1964*—Continued

Department or agency	Personnel				Pay (in thousands)			
	April	March	Increase	Decrease	March	February	Increase	Decrease
Independent agencies:								
Advisory Commission on Intergovernmental Relations	34	30	4		$26	$23	$3	
American Battle Monuments Commission	438	427	11		93	90	3	
Atomic Energy Commission	7,221	7,256		35	5,843	5,334	509	
Board of Governors of the Federal Reserve System	614	616		2	447	405	42	
Civil Aeronautics Board	834	839		5	698	636	62	
Civil Service Commission	3,913	3,943		30	2,507	2,211	296	
Civil War Centennial Commission	5	5			4	4		
Commission of Fine Arts	6	6			6	5	1	
Commission on Civil Rights	85	72	13		48	40	8	
Delaware River Basin Commission	2	2			2	2		
Export-Import Bank of Washington	293	294		1	218	199	19	
Farm Credit Administration	236	238		2	183	169	14	
Federal Aviation Agency	45,299	45,212	87		34,486	31,714	2,772	
Federal Coal Mine Safety Board of Review	7	7			5	4	1	
Federal Communications Commission	1,471	1,471			1,130	1,008	122	
Federal Deposit Insurance Corporation	1,259	1,287		28	885	806	79	
Federal Home Loan Bank Board	1,236	1,236			993	854	139	
Federal Maritime Commission	235	237		2	201	176	25	
Federal Mediation and Conciliation Service	409	407	2		384	351	33	
Federal Power Commission	1,062	1,063		1	823	755	68	
Federal Radiation Council	4	4			4	4		
Federal Reconstruction and Development Planning Commission for Alaska[5]	1		1					
Federal Trade Commission	1,138	1,148		10	895	812	83	
Foreign Claims Settlement Commission	197	197			104	94	10	
General Accounting Office	4,292	4,333		41	3,104	2,832	272	
General Services Administration	34,309	33,817	492		17,511	15,820	1,691	
Government Printing Office	7,339	7,327	12		4,614	3,962	652	
Housing and Home Finance Agency	13,771	13,801		30	9,254	8,452	802	
Indian Claims Commission	21	21			22	22		
Interstate Commerce Commission	2,373	2,383		10	1,779	1,625	154	
National Aeronautics and Space Administration	31,345	31,039	306		25,409	23,653	1,756	
National Capital Housing Authority	443	437	6		199	197	2	
National Capital Planning Commission	58	58			45	41	4	
National Capital Transportation Agency	47	53		6	46	48		$2
National Gallery of Art	314	315		1	145	132	13	
National Labor Relations Board	1,993	1,993			1,528	1,389	139	
National Mediation Board	132	143		11	130	123	7	
National Science Foundation	955	1,072		117	768	674	94	
Panama Canal	14,819	14,918		99	5,533	8,277		2,744
President's Committee on Equal Employment Opportunity	61	57	4		40	35	5	
Railroad Retirement Board	1,855	1,861		6	1,147	1,047	100	
Renegotiation Board	209	212		3	190	178	12	
St. Lawrence Seaway Development Corporation	163	157	6		103	92	11	
Securities and Exchange Commission	1,354	1,370		16	1,021	940	81	
Selective Service System	7,069	7,044	25		2,299	2,134	165	
Small Business Administration	3,311	3,299	12		2,338	2,133	205	
Smithsonian Institution	1,497	1,496	1		836	763	73	
Soldiers' Home	1,096	1,071	25		374	366	8	
Subversive Activities Control Board	27	27			25	23	2	
Tariff Commission	270	275		5	221	201	20	
Tax Court of the United States	156	156			139	128	11	
Tennessee Valley Authority	17,163	16,524	639		10,872	9,408	1,464	
U.S. Arms Control and Disarmament Agency	169	167	2		140	152		12
U.S. Information Agency	11,936	11,966		30	5,724	5,395	329	
Veterans' Administration	173,469	173,277	192		81,906	76,034	5,872	
Virgin Islands Corporation	1,144	1,086	58		248	283		35
Total, excluding Department of Defense	1,443,081	1,432,755	11,137	811	781,472	731,183	53,093	2,804
Net increase, excluding Department of Defense			10,326				50,289	
Department of Defense:								
Office of the Secretary of Defense	2,095	2,056	39		1,823	1,656	167	
Department of the Army	[6] 370,298	368,138	2,160		201,620	182,872	18,748	
Department of the Navy	332,948	334,067		1,119	193,708	180,171	13,537	
Department of the Air Force	298,748	298,942		194	163,363	147,847	15,516	
Defense Atomic Support Agency	1,969	1,976		7	1,037	946	91	
Defense Communications Agency	850	816	34		645	522	123	
Defense Supply Agency	29,826	29,721	105		17,129	15,239	1,890	
Office of Civil Defense	(6)	1,043		1,043	931	846	85	
U.S. Court of Military Appeals	40	40			36	33	3	
Interdepartmental activities	8	8			7	4	3	
International military activities	55	59		4	50	39	11	
Armed forces information and education activities	428	424	4		229	208	21	
Total, Department of Defense	1,037,265	1,037,290	2,342	2,367	580,578	530,383	50,195	
Net change, Department of Defense			25				50,195	
Grand total, including Department of Defense [7] [8] [9]	2,480,346	2,470,045	13,479	3,178	1,362,050	1,261,566	103,288	2,804
Net increase, including Department of Defense			10,301				100,484	

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[1] April figure includes 16,122 employees of the Agency for International Development as compared with 16,406 in March and their pay. These AID figures include employees who are paid from foreign currencies deposited by foreign governments in a trust fund for this purpose. The April figure includes 4,161 of these trust fund employees and the March figure includes 4,275.

[2] April figure includes 1,131 employees of the Peace Corps as compared with 1,100 in March and their pay.

[3] Agency abolished Mar. 30, 1964, pursuant to Executive Order 11134, dated Dec. 20, 1963.

[4] Less than $500.

[5] New agency, created pursuant to Executive Order 11150, dated Apr. 2, 1964.

[6] Effective Apr. 1, 1964, the Office of Civil Defense with 1,045 employees was transferred to the Department of the Army, pursuant to Department of Defense directive 5160.50, dated Mar. 31, 1964.

[7] The Department of Defense has advised the committee that for security reasons personnel information for "classified activities" is omitted.

[8] Exclusive of personnel and pay of the Central Intelligence Agency and the National Security Agency.

[9] April figure includes 499 employees of the Interior Department employed under the Public Works Acceleration Act (Public Law 87-658), as compared with 134 in March.

TABLE II.—*Federal personnel inside the United States employed by the executive agencies during April 1964, and comparison with March 1964*

Department or agency	April	March	Increase	Decrease
Executive departments (except Department of Defense):				
Agriculture	98,346	95,362	2,984	--------
Commerce	30,877	30,418	459	--------
Health, Education, and Welfare	81,912	81,900	12	--------
Interior	63,259	61,433	1,826	--------
Justice	31,650	31,530	120	--------
Labor	9,206	9,203	3	--------
Post Office	586,753	585,914	839	--------
State [1] [2]	10,820	10,770	50	--------
Treasury	92,768	89,823	2,945	--------
Executive Office of the President:				
White House Office	341	353	--------	12
Bureau of the Budget	488	487	1	--------
Council of Economic Advisers	45	45	--------	--------
Executive Mansion and Grounds	76	78	--------	2
National Aeronautics and Space Council	25	26	--------	1
National Security Council	42	41	1	--------
Office of Emergency Planning	351	351	--------	--------
Office of Science and Technology	77	85	--------	8
Office of the Special Representative for Trade Negotiations	25	27	--------	2
President's Commission on the Assassination of President Kennedy	21	20	1	--------
President's Committee on Consumer Interests	9	6	3	--------
President's Committee on Equal Opportunity in Housing	6	6	--------	--------
Independent agencies:				
Advisory Commission on Intergovernmental Relations	34	30	4	--------
American Battle Monuments Commission	7	7	--------	--------
Atomic Energy Commission	7,185	7,220	--------	35
Board of Governors of the Federal Reserve System	614	616	--------	2
Civil Aeronautics Board	834	839	--------	5
Civil Service Commission	3,909	3,939	--------	30
Civil War Centennial Commission	5	5	--------	--------
Commission of Fine Arts	6	6	--------	--------
Commission on Civil Rights	85	72	13	--------
Delaware River Basin Commission	2	2	--------	--------
Export-Import Bank of Washington	293	294	--------	1
Farm Credit Administration	236	238	--------	2
Federal Aviation Agency	44,201	44,118	83	--------
Federal Coal Mine Safety Board of Review	7	7	--------	--------
Federal Communications Commission	1,468	1,469	--------	1
Federal Deposit Insurance Corporation	1,257	1,285	--------	28
Federal Home Loan Bank Board	1,236	1,236	--------	--------
Federal Maritime Commission	235	237	--------	2
Federal Mediation and Conciliation Service	409	407	2	--------
Federal Power Commission	1,062	1,063	--------	1
Federal Radiation Council	4	4	--------	--------
Federal Reconstruction and Development Planning Commission for Alaska [3]	1	--------	1	--------
Federal Trade Commission	1,138	1,148	--------	10
Foreign Claims Settlement Commission	158	160	--------	2
General Accounting Office	4,213	4,252	--------	39
General Services Administration	34,283	33,791	492	--------
Independent agencies—Continued				
Government Printing Office	7,339	7,327	12	--------
Housing and Home Finance Agency	13,569	13,601	--------	32
Indian Claims Commission	21	21	--------	--------
Interstate Commerce Commission	2,373	2,383	--------	10
National Aeronautics and Space Administration	31,330	31,024	306	--------
National Capital Housing Authority	443	437	6	--------
National Capital Planning Commission	58	58	--------	--------
National Capital Transportation Agency	47	53	--------	6
National Gallery of Art	314	315	--------	1
National Labor Relations Board	1,960	1,960	--------	--------
National Mediation Board	132	143	--------	11
National Science Foundation	947	1,059	--------	112
Panama Canal	169	167	2	--------
President's Commission on Equal Employment Opportunity	61	57	4	--------
Railroad Retirement Board	1,855	1,861	--------	6
Renegotiation Board	209	212	--------	3
St. Lawrence Seaway Development Corporation	163	157	6	--------
Securities and Exchange Commission	1,354	1,370	--------	16
Selective Service System	6,917	6,894	23	--------
Small Business Administration	3,257	3,244	13	--------
Smithsonian Institution	1,480	1,479	1	--------
Soldiers' Home	1,096	1,071	25	--------
Subversive Activities Control Board	27	27	--------	--------
Tariff Commission	270	275	--------	5
Tax Court of the United States	156	156	--------	--------
Tennessee Valley Authority	17,162	16,523	639	--------
U.S. Arms Control and Disarmament Agency	169	167	2	--------
U.S. Information Agency	3,377	3,412	--------	35
Veterans' Administration	172,482	172,287	195	--------
Total, excluding Department of Defense	1,378,716	1,368,063	11,073	420
Net increase, excluding Department of Defense	--------	--------	10,653	
Department of Defense:				
Office of the Secretary of Defense	2,043	2,004	39	--------
Department of the Army	[4] 319,531	317,169	2,362	--------
Department of the Navy	309,236	310,273	--------	1,037
Department of the Air Force	271,225	271,417	--------	192
Defense Atomic Support Agency	1,969	1,976	--------	7
Defense Communications Agency	801	767	34	--------
Defense Supply Agency	29,826	29,721	105	--------
Office of Civil Defense	(4)	1,043	--------	1,043
U.S. Court of Military Appeals	40	40	--------	--------
Interdepartmental activities	8	8	--------	--------
International military activities	33	37	--------	4
Armed Forces information and education activities	428	424	4	--------
Total, Department of Defense [5]	935,140	934,879	2,544	2,283
Net increase, Department of Defense	--------	--------	261	
Grand total, including Department of Defense [5]	2,313,856	2,302,942	13,617	2,703
Net increase, including Department of Defense	--------	--------	10,914	

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[1] April figure includes 2,884 employees of the Agency for International Development as compared with 2,868 in March.

[2] April figure includes 747 employees of the Peace Corps as compared with 707 in March.

[3] New agency, created pursuant to Executive Order 11150, dated Apr. 2, 1964.

[4] Effective Apr. 1, 1964, the Office of Civil Defense with 1,045 employees was transferred to the Department of the Army, pursuant to Department of Defense directive 5160.50 dated Mar. 31, 1964.

[5] The Department of Defense has advised the committee that for security reasons personnel information for "classified activities" is omitted.

TABLE III.—*Federal personnel outside the United States employed by the executive agencies during April 1964, and comparison with March 1964*

Department or agency	April	March	Increase	Decrease
Executive departments (except Department of Defense):				
Agriculture	1,196	1,174	22	--------
Commerce	661	648	13	--------
Health, Education, and Welfare	664	662	2	--------
Interior	637	635	2	--------
Justice	354	351	3	--------
Labor	81	86	1	--------
Post Office	1,574	1,577	--------	3
State [1] [2]	31,001	31,346	--------	345
Treasury	657	652	5	--------
Independent agencies:				
American Battle Monuments Commission	431	420	11	--------
Atomic Energy Commission	36	36	--------	--------
Civil Service Commission	4	4	--------	--------
Federal Aviation Agency	1,098	1,094	4	--------
Federal Communications Commission	3	2	1	--------
Federal Deposit Insurance Corporation	2	2	--------	--------
Foreign Claims Settlement Commission	39	37	2	--------
General Accounting Office	79	81	--------	2
General Services Administration	26	26	--------	--------
Housing and Home Finance Agency	202	200	2	--------
National Aeronautics and Space Administration	15	15	--------	--------
National Labor Relations Board	33	33	--------	--------
National Science Foundation	8	13	--------	5
Panama Canal	14,650	14,751	--------	101
Selective Service System	152	150	2	--------
Independent agencies—Continued				
Small Business Administration	54	55	--------	1
Smithsonian Institution	17	17	--------	--------
Tennessee Valley Authority	1	1	--------	--------
U.S. Information Agency	8,559	8,554	5	--------
Veterans' Administration	987	990	--------	3
Virgin Islands Corporation	1,144	1,086	58	--------
Total, excluding Department of Defense	64,365	64,692	133	460
Net decrease, excluding Department of Defense	--------	--------	327	
Department of Defense:				
Office of the Secretary of Defense	52	52	--------	--------
Department of the Army	50,767	50,969	--------	202
Department of the Navy	23,712	23,794	--------	82
Department of the Air Force	27,523	27,525	--------	2
Defense Communications Agency	49	49	--------	--------
International military activities	22	22	--------	--------
Total, Department of Defense	102,125	102,411	--------	286
Net decrease, Department of Defense	--------	--------	286	
Grand total, including Department of Defense	166,490	167,103	133	746
Net decrease, including Department of Defense	--------	--------	613	

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[1] April figures includes 13,238 employees of the Agency for International Development as compared with 13,538 in March. These AID figures include employees who are paid from foreign currencies deposited by foreign governments in a trust fund for the purpose. The April figure includes 4,161 of these trust fund employees and the March figure includes 4,275.

[2] April figure includes 384 employees of the Peace Corps as compared with 393 in March.

TABLE IV.—*Industrial employees of the Federal Government inside and outside the United States employed by the executive agencies during April 1964, and comparison with March 1964*

Department or agency	April	March	Increase	Decrease
Executive departments (except Department of Defense):				
Agriculture	3,894	3,894		
Commerce	5,770	5,728	42	
Interior	8,987	8,874	113	
Post Office	263	266		3
Treasury	5,339	5,343		4
Independent agencies:				
Atomic Energy Commission	268	271		3
Federal Aviation Agency	2,704	2,736		32
General Services Administration	1,942	1,916	26	
Government Printing Office	7,339	7,327	12	
National Aeronautics and Space Administration	31,345	31,039	306	
Panama Canal	7,411	7,395	16	
St. Lawrence Seaway Development Corporation	158	156	2	
Tennessee Valley Authority	13,999	13,286	713	
Virgin Islands Corporation	1,144	1,086	58	
Total, excluding Department of Defense	90,563	89,317	1,288	42
Net increase, excluding Department of Defense			1,246	
Department of Defense:				
Department of the Army:				
Inside the United States	[1] 134,016	[2] 133,026	990	
Outside the United States	[1] 4,488	[2] 4,506		18
Department of the Navy:				
Inside the United States	188,023	189,666		1,643
Outside the United States	1,276	1,268	8	
Department of the Air Force:				
Inside the United States	129,618	129,542	76	
Outside the United States	1,017	1,019		2
Defense Supply Agency: Inside the United States	1,674	1,685		11
Total, Department of Defense	460,112	460,712	1,074	1,674
Net decrease, Department of Defense			600	
Grand total, including Department of Defense	550,675	550,029	2,362	1,716
Net increase, including Department of Defense			646	

[1] Subject to revision.

[2] Revised on basis of later information.

TABLE V.—*Foreign nationals working under U.S. agencies overseas, excluded from tables I through IV of this report, whose services are provided by contractual agreement between the United States and foreign governments, or because of the nature of their work or the source of funds from which they are paid, as of April 1964 and comparison with March 1964*

Country	Total		Army		Navy		Air Force	
	April	March	April	March	April	March	April	March
Canada	4	9					4	9
Crete	86	86					86	86
England	2,811	2,898			114	120	2,697	2,778
France	18,124	18,569	14,636	15,089	9	9	3,479	3,471
Germany	74,036	75,720	62,869	64,239	82	82	11,085	11,399
Greece	274	300			33	34	241	266
Japan	46,363	47,370	15,364	16,110	13,505	[1] 13,655	17,494	17,605
Korea	5,968	6,131	5,968	6,131				
Morocco	672	690			672	690		
Netherlands	56	54					56	54
Thailand		25						25
Trinidad	426	427			426	427		
Total	148,820	152,279	98,837	101,569	14,841	15,017	35,142	35,693

[1] Revised on basis of later information.

STATEMENT BY SENATOR HARRY F. BYRD, DEMOCRAT, OF VIRGINIA

Executives agencies of the Federal Government reported civilian employment in the month of April totaling 2,480,346, as compared with 2,470,045 in March. This was a net increase of 10,301, including a net increase of 365 in temporary employment under the public works acceleration program authorized by Public Law 87–658.

Civilian employment reported by the executive agencies of the Federal Government, by months in fiscal year 1964, which began July 1, 1963, follows:

Month	Employment	Increase	Decrease
1963			
July	2,518,857	9,149	
August	2,515,033		3,824
September	2,492,170		22,863
October	2,494,175	2,005	
November	2,493,379		796
December	2,487,856		5,523
1964			
January	2,473,546		14,310
February	2,468,430		5,116
March	2,470,045	1,615	
April	2,480,346	10,301	

Total Federal employment in civilian agencies for the month of April was 1,443,081, an increase of 10,326 as compared with the March total of 1,432,755. Total civilian employment in the military agencies in April was 1,037,265, a decrease of 25 as compared with 1,037,290 in March. (Totals exclude Defense Department figures for classified activities, beginning with February.)

Civilian agencies reporting larger increases were Agriculture Department with 3,006, Treasury Department wth 2,950, Interior Department with 1,828, Post Office Department with 836, and Tennessee Valley Authority with 639.

In the Department of Defense the largest decrease in civilian employment was reported by the Department of the Navy with 1,119. The Office of Civil Defense was consolidated into the Department of the Army which reported an increase of 2,160 in April.

Inside the United States civilian employment increased 10,914 and outside the United States civilian employment decreased 613. Industrial employment by Federal agencies in April totaled 550,675, an increase of 646.

These figures are from reports certified by the agencies as compiled by the Joint Committee on Reduction of Nonessential Federal Expenditures.

FOREIGN NATIONALS

The total of 2,480,346 civilian employees certified to the committee by Federal agencies in their regular monthly personnel reports includes some foreign nationals employed in U.S. Government activities abroad, but in addition to these there were 148,820 foreign nationals working for U.S. agencies overseas during April who were not counted in the usual personnel reports. The number in March was 152,279. A breakdown of this employment for April follows:

Country	Total	Army	Navy	Air Force
Canada	4			4
Crete	86			86
England	2,811		114	2,679
France	18,124	14,636	9	3,479
Germany	74,036	62,869	82	11,085
Greece	274		33	241
Japan	46,363	15,364	13,505	17,494
Korea	5,968	5,968		
Morocco	672		672	
Netherlands	56			56
Trinidad	426		426	
Total	148,820	98,837	14,841	35,142

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. FULBRIGHT (by request):

S. 2902. A bill to authorize the expenditure of appropriated funds for insurance covering the operation of motor vehicles in foreign countries; to the Committee on Foreign Relations.

(See the remarks of Mr. FULBRIGHT when he introduced the above bill, which appear under a separate heading.)

By Mr. **BARTLETT**:

S. 2903. A bill to provide for the conservation of certain fishery resources on the seabed or in the subsoil of the Outer Continental Shelf; to the Committee on Commerce.

(See the remarks of Mr. BARTLETT when he introduced the above bill, which appear under a separate heading.)

By Mrs. **NEUBERGER** (for herself, Mr. CHURCH, and Mr. MORSE):

S. 2904. A bill to amend section 8c(2) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, so as to permit marketing orders issued under such section to be applicable to canned and frozen onions; to the Committee on Agriculture and Forestry.

TO AUTHORIZE THE EXPENDITURE OF APPROPRIATED FUNDS FOR INSURANCE COVERING THE OPERATION OF MOTOR VEHICLES IN FOREIGN COUNTRIES

Mr. FULBRIGHT. Mr. President, by request, I introduce, for appropriate reference, a bill to authorize the expenditure of appropriated funds for insurance covering the operation of motor vehicles in foreign countries.

The proposed legislation has been requested by the Attorney General, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill may be printed in the RECORD at this point, together with the letter from the Attorney General dated June 3, 1964, to the President pro tempore of the Senate.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill and letter will be printed in the RECORD.

The bill (S. 2902) to authorize the expenditure of appropriated funds for insurance covering the operation of motor vehicles in foreign countries, introduced by Mr. FULBRIGHT, by request, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That appropriations for the departments, agencies and independent establishments, including wholly-owned Government corporations, shall be available, under such regulations as the President may prescribe, for payment of premiums or fees for contracts of indemnification or insurance of officers, employees and agents for their liability, or that of the United States, resulting from the operation of personal or official motor vehicles by them, while in the scope of their employment, in foreign countries.

SEC. 2. Thirty days following the date on which regulations are issued by the President, subsection (a) of section 3 of the Act of August 1, 1956 (70 Stat. 890) is repealed, and subsection (a)(9) of section 636 of the Act of September 4, 1961 (75 Stat. 458) is amended to read as follows: "(9) insurance of aircraft acquired for use in foreign countries;".

The letter presented by Mr. FULBRIGHT is as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., June 3, 1964.

Hon. CARL HAYDEN,
President pro tempore of the Senate,
Washington, D.C.

DEAR SENATOR: There is attached for your consideration and appropriate action a legislative proposal to authorize the expenditure of appropriated funds for insurance covering the operation of motor vehicles in foreign countries.

The proposal would authorize the use of agency appropriations, under regulations to be prescribed by the President, for the payment of premiums or fees for contracts of indemnification or insurance of officers, employees, and agents for their liability, or that of the United States, resulting from the operation of personal or official motor vehicles by them, while in the scope of their employment, in foreign countries. It would further provide that 30 days following the date on which regulations are issued by the President, existing law (5 U.S.C. 170h(a)) authorizing the Secretary of State to purchase insurance on official motor vehicles operated in foreign countries would be repealed and that similar authority provided under the Act for International Development of 1961 (75 Stat. 458) would be amended by deleting the reference therein to insurance of official motor vehicles used in foreign countries.

At the suggestion of the Bureau of the Budget this proposal has been drafted so that its application would not be limited to the Department of Justice but would include all departments, agencies, and individual establishments, including wholly owned Government corporations. The following agencies, in offering views on the proposal, have supported its objectives: the Departments of State, Defense, Health, Education, and Welfare, Agriculture, and Treasury.

The problem faced by the Department of Justice is that if an employee of the Department, while operating a motor vehicle in a foreign country on official business, becomes involved in a collision, which causes personal injury or property damage, there is no provision of law whereby the Department may pay damages to a third party. Employees of the Department, particularly those in the Immigration and Naturalization Service, are stationed in overseas countries and in connection therewith are required to operate motor vehicles. Also, such officers who are stationed in the United States at points along the borders use automobiles on a day-to-day basis, and it is necessary to use such vehicles in entering Canada and Mexico for the purpose of performing their official duties.

It is our view that there should be some provision for protecting employees operating motor vehicles in foreign countries on official business. Furthermore, some countries, where employees of the Department operate motor vehicles, have compulsory liability insurance laws. Failure by the United States to assume responsibility in third-party claims as a result of the operation of vehicles in a foreign country could cause embarrassment for this country and could conceivably result in international incidents. For the protection of the employee, to avoid embarrassment or unfavorable publicity for the United States, and in order for our employees to comply with the laws of countries where they operate vehicles while on official business, approval of this proposal is recommended.

Insofar as the Department of Justice is concerned the purchase of insurance affecting the operation of approximately 209 vehicles is presently contemplated, including all vehicles located permanently in foreign countries and only those vehicles located in the United States which are frequently operated in Canada and Mexico. It is estimated that the cost of insurance to cover operation of these vehicles would be $7,000 annually or an average of $33 per vehicle.

The Department of Justice urges the prompt and favorable consideration of this legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this recommendation from the standpoint of the administration's program.

Sincerely,

ROBERT KENNEDY,
Attorney General.

STATE REGULATION OF CONTINENTAL SHELF FISHERIES RESOURCES

Mr. BARTLETT. Mr. President, the International Convention on the Continental Shelf, having been ratified by the necessary number of nations, including the United States, went into effect yesterday. My remarks to the Senate on May 12, 1964, explained in some detail the significance of this convention as it relates to fishery resources. It provides, as I then pointed out, that coastal nations shall exercise "over the Continental Shelf sovereign rights for the purpose of exploring it and exploiting its natural resources. The natural resources referred to in these articles consist of the mineral and other nonliving resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or subsoil." The convention thus confirms the rights of the United States to certain crabs, oysters, clams, and other species which live on the "seabed of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superadjacent waters admits of the exploitation of the natural resources of the said areas."

It has been widely recognized that the ratification of the convention makes it imperative that the United States make clear and definite which fishery resources she regards as falling under the convention's strictures. We must meet with Russia and Japan and point out the bearing of the convention upon their fishery operations in our offshore areas, particularly in the North Pacific.

The situation is complicated somewhat by the fact that Russia but not Japan has ratified the convention and by the fact that Japan but not Russia has taken king crab in the western Bering Sea for a number of years. However, it is interesting to note a recent statement by the Japanese legal scholar, Prof. Hajime Terasawa, to the effect that under existent international legal precedents the convention will affect Japan though she is not a signatory.

At any rate, I am happy to note that President Johnson's statement of May 20, issued after the signing of S. 1988, both acknowledges the need for international consultations and confirms the fact that king crab are to be counted as Continental Shelf resources.

I now turn to another problem area which the ratification of the convention brings to light, and introduce, for appropriate reference, a bill to clarify the State's regulatory jurisdiction over Continental Shelf fishery resources. Our present domestic legislation does not provide a definite locus for such regulatory responsibility. Neither the Federal Government nor the State governments now have statutory authority to provide directly for the conservation of these resources. My bill would assign responsibilities for the fishery resources of the Continental Shelf to the several States.

It is clear that at the present time some States are in fact regulating their fishery resources through the adoption of so-called landing laws. These State laws prohibit the landing, sale, or transportation of fishery resources taken from the Continental Shelf if they have been taken in a manner not consistent with the regulations the States have adopted vis-a-vis their territorial seas.

Nevertheless, I believe that the matter should be clarified. States should be formally and effectively enabled to regulate their Continental Shelf fisheries just as they do their other fisheries. Federal legislation of this nature should be consistent with congressional policy, as expressed in the Submerged Lands Act and the Outer Continental Shelf Lands Act of 1954. These acts confirm State jurisdiction over fishery resources within territorial waters. My bill would simply extend this jurisdiction to cover fishery resources of the Continental Shelf outside territorial waters.

Now it is true that the same 1954 legislation placed the mineral resources of the Outer Continental Shelf under Federal jurisdiction. The Secretary of the Interior was granted authority to administer the leasing of the outer shelf lands and to provide for the prevention of waste and misuse, in cooperation with the conservation agencies of the adjacent States. The rationale operating here, however, involved a consideration of the substantial monetary value of the mineral leases and royalties, as well as the static and semipermanent quality of the lessees' operations. Living fishery resources are not comparable to these mineral resources. Leases and royalties are not involved; the operations are not as permanent, nor their number as limited.

Jurisdiction over fishery resources, of course, implies only the responsibility for managing the resources so that they will be conserved and developed for the benefit of present and future generations. Since the States are currently responsible for the resources within territorial waters and on the seabed beneath these waters, it seems logical and practical to extend this responsibility to the Outer Continental Shelf. Otherwise, split jurisdictions would result from Federal management of resources adjacent to those under State control. Division of regulatory responsibility would place a costly and difficult if not impossible task on both the States and the Federal Government.

As I introduce this Continental Shelf fisheries bill, I naturally am aware of the overriding importance of civil rights legislation and other business pending before the Senate. Nevertheless, I introduce the bill at this time to foster a heightened awareness among my colleagues and the general public as to the merits of and the need for such legislation.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 2903) to provide for the conservation of certain fishery resources on the seabed or in the subsoil of the Outer Continental Shelf, introduced by Mr. BARTLETT, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each State, Commonwealth, or possession having jurisdiction over the fisheries within territorial waters of the United States shall have exclusive jurisdiction over the management, regulation, and conservation of living organisms belonging to the sedentary species which appertain to the United States pursuant to the Convention on the Continental Shelf recommended by the United Nations International Convention on the Law of the Sea and ratified by the United States on April 12, 1961, from that portion of the Continental Shelf which is contiguous to the boundaries of the State, Commonwealth, or possession.

SEC. 2. The boundaries of each State, Commonwealth or possession extending seaward to the outer margin of the Continental Shelf shall be determined and defined by the President as provided in section 4(2) of the Outer Continental Lands Act.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. KEATING:

Statement by him relating to the National Day of Portugal.

SOUTHEAST ASIA AND LAOS

Mr. MORSE. Mr. President, it is sad when the United States violates international law, now in Laos, as well as in South Vietnam. The United States now stands in violation of the Geneva accords of both 1954 and 1962 in Laos as well as in South Vietnam. In this morning's newspapers we read that the United States is temporarily subsiding from sending armed planes over Laos, but assurance is given that our desisting may be only temporary.

It is a fact that the United States is in clear violation of the Geneva accords of 1954 and 1962. Those accords specifically prohibit sending into Laos any armed planes or any armed military personnel, by any foreign power. We have done both. We in fact have committed acts of war in both Laos and South Vietnam in clear violation of the Constitution of the United States, the Geneva accords, and the United Nations Charter. Our record of irresponsibility in the realm of foreign affairs is inexcusable and a national shame.

Mr. President, it is also sad that the officials of the United Nations are not calling the United States to an accounting. The United States and Red China are certainly violating the Geneva accords. I think North Vietnam and South Vietnam are doing so, too, and probably Cambodia. Certainly this matter should be brought without delay before the United Nations. The Secretary General, Mr. U Thant, cannot justify his failure to call the United States to an accounting for its outlawing.

I regret that the U.S. Ambassador to the United Nations, Mr. Adlai Stevenson, has so completely failed to fulfill his responsibilities of trusteeship to the United Nations, under its charter. In my opinion he has nullified his leadership and weakened his effectiveness. He has extinguished his lamp of international statesmanship.

Mr. President, if the United States and Red China are not stopped in the warmaking program they are conducting in southeast Asia, millions of Americans and millions of the peoples of other countries in the world will be jeopardized, because the United States and Red China cannot proceed, as they are now proceeding without ending up in war. They are fast getting themselves into a position in which some accident or deliberate act of military aggression will start a war between the United States and Red China. Such a war would jeopardize all mankind. I believe it is vital to world peace that my country place the whole southeast Asia crisis before the United Nations, with a formal request that it take over jurisdiction under the United Nations Charter.

In speaking in the Senate during the past several weeks I have quoted at some length from articles 33, 37, and 51 of of the United Nations Charter. At the moment I now speak, the United States stands guilty of violating those and other sections of the United Nations Charter as a result of its conduct in southeast Asia.

But, Mr. President, there is still time for our Government to change its course of outlawry in southeast Asia and to bring this whole issue under the canopy of the United Nations, for determination under the rules and procedures of international law set out in the United Nations Charter.

I shall continue to point out that the Government of the United States stands in violation of international law in southeast Asia as long as there is any hope of bringing my country back into the framework of international law. Unfortunately, we have in the Pentagon Building and the State Department too many men at a policy-recommending level who seem determined to lead our country into war.

Mr. President, I repeat and shall continue to warn our people that events in southeast Asia, and especially in Laos, indicate that the United States and Red China are headed into an open conflict with each other. Both countries are flagrantly violating the Geneva accords of 1954 governing Vietnam and of 1962 governing Laos. If it is in the nature of power giants that they cannot control events once they set out to execute a given policy, surely there are other nations in the world who are still capable of stepping in to separate the United States and China by some international intervention.

In Laos, the American military has become so involved and so committed to military activity of its own that it has sent armed planes flown by American pilots over Laos in direct violation of the 1962 Geneva agreement. That agreement provides that military arms may be sent into Laos at the request of the Laotian Government; but personnel may not. In fact, the accord forbids "the introduction of foreign regular and irregular troops, foreign paramilitary formations and foreign military personnel into Laos."

Yet our pilots are taking part in the Laotian war. So, like the Communist neighbors who are helping the Pathet Lao, the United States is becoming an international outlaw in pursuit of its own nationalist objectives. We are not enforcing any of these agreements. We are only helping to destroy them once and for all.

Communist imperialism against a close neighbor is being countered by American imperialism in a country 7,000 miles away. That is some position for the United States of America to be taking in 1964, 19 years after we signed the United Nations Charter, and with our signature pledged to settle our international disputes by peaceful means in such a manner that international peace, security, and justice are not endangered. Our flights in Laos are endangering peace, security, and justice in southeast Asia. They are in violation of the Geneva accord of 1962. They are not in defense of the United States; and apparently, they are not even in keeping with the wishes of the Laotian Government.

Yesterday's press reports that the neutralist Premier, Souvanna Phouma, is asking that all reconnaissance and armed escort flights be stopped. Like Prince Sihanouk of Cambodia, he is discovering that when China and the United States are allowed to dispute his territory, there is little chance that local populations and local leaders will have much to say about the outcome. Left to themselves, China and the United States will escalate the Indochina conflict into a full-scale war. Prince Souvanna Phouma and General Khanh of South Vietnam will not have anything left to govern if they allow this escalation to continue.

There must be a third-party intervention, preferably by the United Nations, very soon. And somehow, some way, there must be some sanity brought into American policy in Asia. The only policy we have followed to date is to meet one violation of international law with our own violation of international law, to meet war by making more war. To continue following that policy will bring disaster down on the heads of the American nation and the American people.

Why? According to the New York Times reporter, Hedrick Smith, who writes from Washington:

> Officials here remain convinced that U.S. prestige is at stake. They say that the unarmed reconnaissance flights—with their armed escort fighters—must be contained as much for prestige reasons as for the purpose of obtaining photographs of Communist troop movements and positions in Laos.

How many soldiers and even civilians have been killed throughout modern history for the sake of someone else's prestige? Tens of millions, at least. The Japanese warlords were reputed to have said after World War II that the dropping of the atomic bombs on Hiroshima and Nagasaki enabled them to surrender "with honor," whereas their honor would have compelled them to fight indefinitely if only conventional weapons had been used against them.

Most of the 37 million casualties of World War I can be attributed directly to the rival "prestige" of the ruling monarchies of Europe, plus France's dismay at the prestige lost by its army in the war of 1870. What came out of that war were not only millions of dead and wounded, but the disappearance of the same monarchies and ruling classes who thought their national prestige was worth a war.

What American prestige is at stake in Laos? I suspect it is not so much the prestige of the United States as it is the prestige of the military and diplomatic officials who for 10 years have been pursuing a hopeless and bankrupt policy in southeast Asia.

It is their faces that must be saved by sending American military forces into the fray, however illegal, however fruitless, and however disastrous their participation may be. How many southeast Asians are going to die for American prestige? How many Americans?

The American people must demand an end to their Government's present policy in Asia, and the United Nations must step in to save itself and tens of millions of people from destruction.

What an irony it is that even while we are preparing to fight a war in Asia, we are intervening to prevent a war in the Mediterranean.

We are telling Greece and Turkey that a war between them over Cyprus is unthinkable. Apparently the U.S. 6th Fleet is available to interpose itself between Cyprus and any Turkish invasion force.

Our diplomats are eagerly looking for "face saving" solutions that will permit Greece, Turkey, and Cyprus to pull back from the brink of war. According to the New York Times:

> The sources said Washington would like the Turkish and Greek leaders to meet in search of a solution. One solution that is getting increasing attention despite Greek objections involves transferring Turkish Cypriots who are willing to leave the island to some Turkish-inhabited Greek territory that could then be ceded to Turkey.
>
> The Johnson administration recognizes that there are all sorts of face-saving problems for both Greece and Turkey in such a solution. That is why, officials said, Mr. Ball spoke today of the realism and generosity needed from both sides.

Mr. President, why is war between Greece and Turkey unthinkable when war in southeast Asia seems entirely acceptable to the administration?

Why is a diplomatic solution suitable for Greece and Turkey, but beyond the realm of consideration for our own "face saving" problem in Asia?

Why do we urge Greece and Turkey "to meet in search of a solution" but reject all proposals for meetings to solve our Asian problem?

Why is the United States in the very bad position of acting as world policeman, enforcing our version of law and order upon others intent on violence, but feeling quite free to break the law ourselves when it suits our purpose to do so?

Let me point out to Greece, Turkey, and the rest of the world that their little war in the Mediterranean would be nothing compared to a Sino-American conflict in Asia.

Our American officials are adept at designing diplomatic solutions for others while we insist upon military solutions for American foreign policy problems. If the world is going to save itself from war in Asia, it is going to have to intervene through the United Nations to impose a "face saving" solution upon the United States and China.

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed. The time, under the morning hour limitation, has expired.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The ACTING PRESIDENT pro tempore. The committee substitute is open to amendment.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 288 Leg.]

Aiken
Allott
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Goldwater
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.

Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. ANDERSON] and the Senator from Maryland [Mr. BREWSTER] are absent on official business.

I further announce that the Senator from California [Mr. ENGLE] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Massachusetts [Mr. SALTONSTALL] is necessarily absent.

The PRESIDING OFFICER (Mr. MCINTYRE in the chair). A quorum is present.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute submitted by the Senator from Illinois [Mr. DIRKSEN] and the Senator from Montana [Mr. MANSFIELD].

Mr. LONG of Louisiana. Mr. President, I call up my amendment No. 1049. I ask not only that the amendment be stated, but that the pages put copies of the amendment on the desks of Senators. I find that Senators do not have that amendment on their desks.

I call up my amendment No. 1049.

The PRESIDING OFFICER. The clerk will read the amendment of the Senator from Louisiana [Mr. LONG].

The legislative clerk proceeded to read the amendment of Mr. LONG of Louisiana.

Mr. LONG of Louisiana. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

The legislative clerk read the amendment (No. 1049) as follows:

> On page 25, line 25, immediately after "assistance", insert a comma and the following: "other than a program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty".

Mr. LONG of Louisiana. Mr. President, I yield myself 5 minutes.

Mr. President, this amendment is intended to make sure that the bill does not do what its sponsors say it does not do, if it is adopted, with section 601 and section 602. In connection with title VI, the distinguished manager of the bill said that section 601, which provides that in federally assisted programs there shall be no discrimination, would not apply to a bank which might be a member of the national banking system and would not apply to a State bank insured by the Federal Deposit Insurance Corporation. As I understand, they are all required to be so insured.

This is the problem: The question is whether it could be construed to mean that a State bank, which must be insured by the Federal Deposit Insurance Corporation, would be considered as being under a federally assisted program. The sponsors of the bill say that is not intended. If it were construed to be under a federally assisted program, it could be said that a person would be discriminated against because someone would not want to sell him his home—his own private castle—because he did not feel like selling it to him, or because a group of neighbors wanted their homes to be sold to persons whom they thought would be suitable as neighbors.

In other words, section 601 could be construed to be an open housing ordinance in every city in America on the ground that no building and loan association or any lending agency that has guarantees from a Federal program could make a loan where there was discrimination involved in the choice of a neighbor.

I believe most Senators are willing to concede that an open housing policy should not be in the bill. I believe they will agree that the people of each community should decide for themselves. If that is so, I think it should be made clear. Without this amendment, it is entirely possible that any judge who wanted to obtain a decoration from the National Association for the Advancement of Colored People, or any other group that is advocating complete racial amalgamation, could hold that such loans are covered.

Yesterday in the debate the distinguished Senator from Minnesota said there was no such provision in this section, and that no such thing is intended. It is said that all one has to do is read the clause from section 602—"other than a contract of insurance or guarantee."

That language is in section 602. If my amendment is adopted to the language in section 601, there will not have to be a contest about it.

Suppose it is not done. We are very likely to have some more of these 5-to-4 decisions by the Supreme Court in which someone can bring out a decision and say, "Hurrah. No bank or lending agency can make a loan to any person who wants to sell his private home—his own castle—who discriminates in any way in the acquisition or disposition of his home." A building and loan association, bank, or other lending agency, could be required to follow that ruling. There is no intention to attach this provision with respect to placing of FHA and VA loans——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG of Louisiana. I yield myself 2 minutes.

Later I shall offer an amendment that will make legislative history, as to whether we want to advocate or completely overthrow Presidential Executive orders. The Senate will have an opportunity to vote it up or down.

This particular amendment does not touch that phase. It merely makes clear that this section is not to be construed as an open housing ordinance to be applied against every community in America. If it is desired to make such a policy, then vote down this amendment; but if Senators do not want it construed in a way that the distinguished whip said yesterday this bill did not mean, let them vote for this amendment, so there will be no doubt about what the section means.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. LONG of Louisiana. I reserve the remainder of my time.

Mr. MILLER. Mr. President, will the Senator yield for a question? The amendment refers to page 25, line 25, which is not the correct place in the Dirksen-Mansfield substitute.

Mr. LONG of Louisiana. The amendment was offered to section 601 of the bill. Under the unanimous consent, if the amendment is adopted to the bill, it can be offered to the substitute as well, as I understand.

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MILLER. Is the understanding of the distinguished Senator from Louisiana correct?

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that my amendment be applied to the Dirksen-Mansfield substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment of Mr. LONG of Louisiana to the substitute (amendment No. 1052) is as follows:

> On page 33, line 2, immediately after "assistance", insert a comma and the following: "other than a program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty".

Mr. PASTORE. Mr. President, I yield myself 2 minutes.

Mr. President, frankly, I think what we are beginning to do is kick a dead horse. The trouble with the sponsors of the present amendment is that they are not reading title VI as a whole. The idea that one section they like means one thing and another section that they do not like means something else is somewhat of an enigma.

Section 602 is just as much a part of title VI as is section 601. Section 601 is a statement of policy. Section 602 is the section that gives authority to the agencies. It says to the agencies, "You promulgate rules, but you cannot draw orders to cut off money with respect to contract of insurance or guarantee." That is precisely what section 602 provides.

If the Senator will read pages 32, 33, 34, and 35 of the substitute (amendment No. 656), the Senator will have title VI in its entirety.

I am saying to Members of the Senate that what the Senator from Louisiana has pointed out to us as a possibility under section 601, can never happen because of what is stated in section 602.

Section 602 is very ably written. It is very specific. I do not think there is any need to have any fear that it is going to effect a fair housing policy.

The reason why we have excluded contracts of insurance or guarantee is that we do not want this section to affect, let us say, guarantees of deposits in banks.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PASTORE. I yield myself another minute.

We do not want the section to affect FHA housing. That is precisely why the exception is put in the section. Section 602 reads:

> Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guarantee, is authorized and directed to effectuate the provisions of section 601.

The same section that provides the authority contains the limitation. If the authority is eliminated, how can it be argued that an agency can exceed that authority?

Mr. LONG of Louisiana. Mr. President, I yield myself 2 minutes.

I believe I can persuade any lawyer in this body how a court might interpret that section in just the opposite way. The Senator must bear in mind that section 601 refers to federally assisted programs. I think I can convince any lawyer that the court might interpret it in just the opposite way.

Why do I say that? Read section 601. Section 601 provides that no person shall be subject to any discrimination under any federally assisted program. Then we come to section 602 and find a procedure for cutting off Federal aid. In the procedure for cutting off Federal aid, there are references to federally assisted programs. It reads: "Other than a contract of insurance or guarantee."

So the very language of section 602 suggests that a contract of insurance or guarantee is a federally assisted program. If we do not want to merely exclude the insurance and guarantee program from the procedure set forth in section 601 so that we would not have any 30 days under section 601 to have open housing for all America, we could do it merely by Executive order.

That being the case, if we mean what the sponsors claim they mean namely, a contract for insurance or a guarantee, the home loan or bank loan, and if we want to be sure that we shall not require them to administer open housing all over America in every community, all we have to do is to do in section 601 what we did in section 602; that is, put the same language in that section, "other than a contract of insurance or guarantee."

All I seek to do by this language is to make sure that it will do what the sponsors say they want to do. But what happened yesterday? Some of those sponsors indicated a willingness to accept an amendment——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG of Louisiana. I yield myself 2 more minutes.

The sponsors thought about it overnight. They came back this morning and announced that they were not willing to accept it. I do not know why they are not willing to accept it. I suspect that they talked with Roy Wilkins and had it interpreted as I fear it will be interpreted. They want it that way; and they want to leave it that way.

A court can so construe it. It is capable of that construction. It ought to contain those few words so that we can be sure that we are doing what we say we want to do. It is susceptible of the interpretation mentioned. That was made clear in section 602, which reads: "Any federally assisted program other than a contract of insurance or guarantee." That in itself suggests that a guarantee or insurance is a federally assisted program.

I reserve the remainder of my time.

Mr. GORE. Mr. President, I yield myself whatever time I require.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. GORE. All of it. I hope I shall not use all of it.

Members of the Senate will recall that before the vote on my amendment yesterday, the distinguished manager of the bill, the senior Senator from Minnesota [Mr. HUMPHREY] rose as manager of the bill—I remember some words that he uttered—and stated "We shall lay this ghost right now." Or, "We shall lay the ghost as it arises." I have forgotten the exact language. I am unable to locate the remarks of the Senator from Minnesota in the RECORD.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. HUMPHREY. I found the remarks. They are on page 13378.

Mr. GORE. I thank the Senator. I was unable to find them. They are on what page?

Mr. HUMPHREY. They start on page 13378, at the bottom of the first column.

Mr. GORE. The vote on my amendment is on page 13418.

Mr. HUMPHREY. Mr. President, will the Senator yield again?

Mr. GORE. I yield.

Mr. HUMPHREY. Yesterday the Senator from Minnesota spoke on the Gore amendment on page 13378. That is all. The rest of the speaking on this subject was done by the Senators from Connecticut and Rhode Island.

Mr. GORE. I thank the Senator.

I read from the RECORD:

> I yield myself 1 minute. I want to merely clarify one point that has been raised which needs to be set at rest. First of all, section 601 states general policy. Section 602 states the means of effectuating that general policy, the implementation and the exclusion. The exclusion relates to, as the language says, other than a contract of insurance or guarantee.

I hope Senators will consider those remarks of the Senator from Minnesota. Contracts of insurance or guarantee are excluded from section 602, according to the Senator from Minnesota; and I agree. Yesterday I stated my interpretation that section 601 is not limited by section 602 insofar as contracts of insurance or guarantee are concerned. The Senator from Minnesota has said exactly the same thing.

The Senator from Rhode Island makes an unusual argument. To me, it is incomprehensible. He says that both sections are in one title. Of course they are. But they do not conform. Section 601 is statutory authority for an open housing order, as I understand. It is thus excluded from section 602. Not only do I say so; the Senator from Minnesota [Mr. HUMPHREY] says so. The bill so provides.

Mr. President, I have always thought that a man's home is his castle, and that it is his home and his castle. I have always thought that he should be free to sell it to anyone of his choosing, to rent it to anyone of his choosing, or to decline to sell or rent it to anyone of someone else's choosing.

Yet this provision purports to give statutory authority for an order to hale any householder who has a Government-insured loan on his home into court if he advertises his property at a given price and then declines to sell it to some proposed purchaser, even though the homeowner's mother may live next door.

This has been voted down in Seattle, in Tacoma, and in the Legislature of Rhode Island.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. GORE. I yield for a question.

Mr. HUMPHREY. Mr. President, will the Senator repeat what he said. Hale any householder into court for what?

Mr. GORE. For exercising discrimination in the selection of the person to whom he sells or rents his own home.

Mr. HUMPHREY. Even the wildest construction of that language could not possibly be interpreted to mean that.

Mr. LONG of Louisiana. Then, why not say it? Then, why not say it?

Mr. THURMOND. That is correct.

Mr. GORE. I discussed this question with the Senator yesterday. The Senator said the language did not mean that, and that he would accept an amendment.

Mr. HUMPHREY. No; I did not. I say most respectfully that the Senator came to me and I said that, as far as I could see, I had no immediate objection. I said that I would have to check this language with other Senators and with experts in the field. I was not in a position to make a binding promise that the Senator's amendment would be accepted.

Let me repeat that there is nothing in this language which could in any way affect housing.

Mr. GORE. The Senator and I had two conversations. It is possible that we recollect things differently.

The first conversation was to the effect that he would accept an amendment.

Later, when I sought to bring the amendment up just before we adjourned, the Senator asked me to withhold it until today. He said, "I must talk with some of my people before I accept it." That is how I remember it. I do not wish to make a particular point of it. I ask Senators to consider section 601 in the light of the exclusions of contracts of insurance and guaranty in section 602. The two sections should conform. We should either strike out those words in section 602 or include them in section 601. Unless the two sections conform, they must stand, contrary to the statement of the Senator from Rhode Island, in their separate terms. They are distinct and different. One section does not contain the exclusion; the other does.

If Senators wish to clarify this point and enact language which is precise and subject to no interpretation which many say they do not intend, let us insert these words proposed by the Long amendment.

Mr. LAUSCHE. Mr. President, I yield myself 2 minutes.

Mr. GORE. Mr. President, I reserve the remainder of my time.

Mr. LAUSCHE. Mr. President, the Landrum-Griffin bill was before the Senate in 1959. It went to conference. The report was made by the conferees on what was supposed to be the agreement. The late Senator Kennedy made the report. One of the vital issues was the interpretation in the conference report about the right to indulge in secondary boycotts. In my judgment, there was not one Senator who construed the report, made orally by the conferees, to the effect that secondary boycott in any manner were to be accepted as lawful.

That was in 1959. About 2 months ago the Supreme Court of the United States rendered a decision in which one of the litigants was the Safeway Stores. In that decision the Supreme Court said that secondary picketing was allowable against the sale of apples—an apple producing company was one of the litigants—but the secondary boycott was not allowable against all sales of Safeway.

To illustrate, Safeway sells, perhaps, a thousand products. It sells apples. A company from whom Safeway bought apples had been struck by a union. The union picketed Safeway. The pickets urged the public not to buy apples, since the union was striking against the apple firm.

Safeway contended that, under the Landrum-Griffin Act, secondary boycotts were not allowed.

The net result was that the decision was rendered to the effect, "You cannot picket generally against the sale of all goods, but you can picket directly against the sale of apples."

That was never the understanding when the conference report was adopted.

In the statement on the report the Senator from Minnesota [Mr. HUMPHREY] is quoted as having said at that time that secondary boycotting was not acceptable to the House. The late Senator Kennedy made the statement that the version that secondary picketing would be allowed could not get through the Senate.

I do not know how many Senators remember the colloquy. I read the decision. I read the report. The colloquy was extensive on the point that the House would not allow secondary boycotting. The Supreme Court, through a rather tenuous process of reasoning, said that Congress meant that secondary boycotting was not generally allowed, but that it was allowed on a specific subject.

The point I wish to make is that: with that experience, I shall not rely upon the court's judgment that it will follow what we will have said. It did not do so in the case of the Landrum-Griffin Act. It might in this case, and it might not. I concur in the statement made by the Senator from Louisiana. What is wrong with specifically stating what we intend the language should mean? We cannot disregard the Landrum-Griffin decision.

We must eliminate all doubt. It has been a bitter experience, but we ought to learn from it. We must do this if there is any possibility of two interpretations. Let us clear the meaning up.

Mr. PASTORE. Mr. President, I yield myself 2 minutes. I hope that Members of the Senate will read the bill. We are all talking in a vacuum. I ask Senators to pick up the bill and look at section 601 and section 602. Section 601 is a statement of philosophy and policy. This is what it states:

> SEC. 601. Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

What does the section provide? If we were to add the words that are suggested by the Senator from Louisiana, as a matter of policy, we would say, in effect, "But if it is a contract or guarantee, as a national policy, you can discriminate." Senators must realize what would happen. This section states a policy of nondiscrimination. But by the proposed exception, we would create a policy of discrimination. What is this section all about?

THE PRESIDING OFFICER. The time of the Senator has expired.

Mr. PASTORE. I yield myself 2 additional minutes.

Section 601 is a statement against discrimination. The policy is to end discrimination, not to create an exception in favor of it. I have nothing else to say.

Mr. CASE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. Mr. President, I yield myself 2 minutes. I have found that with respect to contracts most cases go to court because people cannot agree upon what the contract provides. Any good teacher trying to teach the law of contracts to students will say, "If you have any doubt, write it in the contract." I did not write this amendment. I asked legislative counsel to write my amendment. I said, "Make it clear that this does not apply to contracts of insurance and guarantee." These are the words that were given me. The same words appear in section 602.

Without this language, it is capable of that interpretation. I invite Senators to read section 601 in the bill:

> Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

If it is not intended to apply this provision to the Federal Deposit Insurance Corporation and make them the beneficiary of the policy as to banks, let us say that it does not apply to them.

On the same issue, someone has said that the President's Executive orders against the FHA and VA might be affected. That will be made crystal clear before the debate is over, because I intend to offer an amendment to repeal those orders. It will be made very clear that if Senators vote against it, they are against repealing those Executive orders. But if it is desired to apply this section to banks, building and loan associations, and any other institutions under the Federal insurance program, the stage will be set to do that, and we shall be inviting the courts so to construe the bill.

Read the section, and then read the next four lines. The court could very easily, under section 601, hold that no bank shall be discriminated against. A bank could lend to someone who declined ta deal with a member of a different race. In doing so, the bank would be participating in discrimination against a home purchaser or a prospective borrower. In doing so, every bank and building and loan association would become an agency for the carrying out of an open-housing policy throughout the United States.

I further told the Senator from Minnesota this, and there is no secret about it: If this language does not make that point clear, ask a lawyer in the Department of Justice to make it clear. Bring us some language that will make this point clear. But if it is not intended to make it clear, we are inviting the courts to say that this is an open-housing ordinance, directed against every homeowner in America.

Mr. KEATING. Mr. President, I yield myself 1 minute.

The distinguished Senator from Rhode Island [Mr. PASTORE] is dead right. All that is necessary is to read section 601. The proposed amendment is absolutely and unquestionably unconstitutional. We cannot say that it shall be national policy under the Constitution to discriminate.

Section 602 is entirely different. One can make a loan from the U.S. Government, and the Federal agency is limited in what it can do under section 602. But to write into the bill affirmative legislation that there is a national policy to discriminate is not only immoral and wrong; in my judgment, it is clearly unconstitutional.

Mr. ERVIN. Mr. President, I yield myself 40 seconds.

The Senator from New York [Mr. KEATING] is dead wrong; the Senator from Louisiana [Mr. LONG] and the Senator from Tennessee [Mr. GORE] are right, for an additional reason other than that urged by them. On page 33, beginning in line 24, the housing authorities are given the right, in addition to having a program, to use any other means authorized by law to prevent what they conceive to be discrimination in housing. Under this language, the housing authority could do exactly what it is doing now. Under a Presidential order, they could make a person surrender to the Federal Government—that is, to the housing authority—the ultimate right to select the person to whom he wished to sell or rent his house by a coercive contract as a condition precedent to participating in any Federal program affecting housing.

Mr. CASE. Mr. President, I yield myself 30 seconds.

Does the Senator from Louisiana believe that Congress can nullify a Presidential order?

Mr. LONG of Louisiana. No.

Mr. CASE. In other words, the Senator does not intend by his amendment to do anything that is unconstitutional?

Mr. LONG of Louisiana. I intend to offer an amendment later affecting Presidential orders. The Senate can vote it down if it wishes.

Mr. CASE. Then it would be an utter nullity on the part of Congress to do something by indirection that it cannot do by direction. I suggest that the amendment ought to be defeated.

Mr. MAGNUSON. Mr. President, I yield myself 1 minute.

I do not wish to address myself principally to FHA loans, but there has been some discussion or suggestion that this proposal as it affects "financial assistance" may apply to the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. Although I think that is somewhat farfetched, at least the RECORD ought to be clear.

Federal financial assistance is not given to any of those programs. They are separate corporations which are sustained by their own premium charges. All the Federal Government does every year is to pass upon what amounts they shall use for administrative expenses. Not one cent is appropriated by the Federal Government to any of the financial insurance programs. So under no circumstances could the words "financial assistance" be interpreted to apply to these quasi-corporate organizations.

Once a year those agencies come before the Subcommittee on Appropriations of which I am the chairman and list what they wish to spend as administrative expenses out of their own money, money which is contributed by the member banks or savings and loan associations, as the case may be. The committee passes upon the requests, but it does not appropriate one nickel to those institutions.

The PRESIDING OFFICER. The time of the Senator from Washington has expired.

Mr. MAGNUSON. I yield myself 30 seconds.

So I do not see how the receiving of Federal assistance could, under any circumstance, apply to such institutions under this section of the bill.

Mr. DIRKSEN. Mr. President, I do not believe there can be any question that the amendment before the Senate would blow the President's executive order out of the water. It would be an intrusion and an invasion of that domain. The Senator from New Jersey is eminently correct when he states that it is an invasion of a constitutional right.

This language was hammered out slowly and rather carefully in the course of many conferences. I earnestly hope that the amendment will not prevail, but will be voted down.

Mr. GORE. Mr. President, I realize that I may run the risk, under the limitation of time, of appearing contentious, but I happen to know about some conversations that have been held by many persons, but which I cannot relate on the floor of the Senate, to the effect that section 601 is intended by some to provide statutory authorization for an open-housing Executive order.

We are now on notice that section 602 exempts such insurance and guarantee programs from section 602. We are on notice that section 601 may be construed as I have interpreted it. I believe it is a valid interpretation.

I hope that the managers of the bill, if they do not like the amendment the Senator from Louisiana has offered, will come forward with an amendment that will make this point clear.

Mr. HUMPHREY. We shall do so if the Senator will give us a moment.

Mr. LONG of Louisiana. I withdraw the amendment.

Mr. GORE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. FONG. Mr. President, I yield myself 15 seconds. I ask unanimous consent that two statements, one relating to Kamehameha Day and the other to the Nisei combat linguists, be printed in the RECORD as if given.

Mr. RUSSELL. Mr. President, I regret that I shall have to object if there is a request that statements be made to appear as if delivered on the floor of the Senate although they were not delivered on the floor. I will object.

The PRESIDING OFFICER. Objection is heard.

Mr. FONG. I shall read them.

KAMEHAMEHA DAY IN HAWAII

Mr. FONG. Mr. President, today is Kamehameha Day in Hawaii, a day set aside in the 50th State to pay annual tribute to Kamehameha the Great. Kamehameha, who was born about 1758 and died in 1819, is generally recognized as the most outstanding of all the Hawaiian chiefs of all time.

Traditionally, Kamehameha Day is observed in Hawaii with parades, special church services, outrigger canoe races, and other festivities. This year is no exception.

However, to expand the observance of Kamehameha Day today, members of the Aloha Week Royal Court are making special appearances at the World's Fair in New York, where Hawaii is represented by an extensive exhibit. The Aloha Week king and queen, Arabram T. Kapana and Mrs. Imbert H. "Flora" Soren, and their royal court, attendants and assistants made the trip from Hawaii to perform at the World's Fair today, Friday, and Saturday.

They are bringing the colorful pageantry of old Hawaii to many visitors at the World's Fair who may not be acquainted with the Polynesian past of the Hawaiian Islands—a historical past that was dominated by the towering figure of Kamehameha the Great. It was he who brought each of the islands in the Hawaiian group under his consolidated rule at the turn of the 19th century. Where previously each island was ruled as a separate kindgom by a hereditary chief, Kamehameha's conquest of the archipelago paved the way for the organization of a united monarchy in the Hawaiian Islands, and eventually a republic, an incorporated territory of the United States and now the proud 50th State of the Union.

On a timely note, it was Kamehameha the Great who established the first civil rights in Hawaii when in 1797 he promulgated the "Law of the Splintered Paddle"—guaranteeing to all his people their physical security from robbers and brigands. His people would be secure to lie beside the highway and not be molested, on the pain of death to any who might violate the edict.

On this particular day, it would be appropriate to note that two historic places associated with Kamehameha the Great are now being restored. One is the City of Refuge at Honaunau on the Island of Hawaii, under development as a National Historical Park. It is an ancient place of refuge where vanquished warriors, noncombatants, and taboo breakers escaped death if they reached the sacred land at Honaunau ahead of their pursuers.

The other historic area is at Lahaina, on the Island of Maui, where the restoration is being conducted by the Maui Historic Commission and by the Lahaina Restoration Foundation. Lahaina was once the capital of the Hawaiian Islands and a bustling whaling port.

For an authoritative description of the great warrior who is being commemorated in Hawaii today, the historian Ralph S. Kuykendall has written the following profile in his ""The Hawaiian Kingdom."

> Kamehameha is universally recognized as the most outstanding of all the Hawaiian chiefs of his own and other epochs.
>
> We can, perhaps, go even farther and say that he was one of the great men of the world.
>
> He was a man of powerful physique, agile, supple, fearless and skilled in all the warlike and peaceful exercises suitable for an alii.
>
> He had likewise a strong mind, well filled with the accumulated learning of his race and capable of thinking clearly and effectively.
>
> He exhibited much curiosity in regard to new things and new ideas and showed good judgment in adopting those calculated to promote his interests.
>
> But he remained faithful to the essential features of his own racial culture.
>
> He was an excellent judge of men and had, to an unusual degree, the faculty of inspiring loyalty to his followers.
>
> Ruthless in war, he was kind and forgiving when the need for fighting was past.

Of the great chiefs he seems to have been the first to have an adequate appreciation of the advantages to be gained from friendly relations with foreigners, but he avoided the error of falling into their power.

He was, in short, great.

TRIBUTE TO NISEI COMBAT LINGUISTS

Mr. FONG. Mr. President, 20 years after World War II, the full story of Japanese-Americans who fought in the Pacific has yet to be told. But gradually, in various segments, more information about the unsung exploits of thousands of Nisei who served the United States in military intelligence service is coming to light, even though much of their work is still classified by the Department of Defense.

The latest chapter in this unfinished chronicle is an article titled "Best Kept Secret of World War II," which appears in the July 1964 issue of Saga magazine. Under the subhead, "Americans still don't know that 7,000 GI's of Japanese descent fought bravely in the Pacific—against Japan," the author, Bruce Lee, relates the unique and brilliant deeds of these "Americans with Japanese faces."

The article relates how the Nisei were trained in a special military intelligence language school, and how they became the eyes and ears of not only the American fighting forces but also those of other Allied Armies fighting the Japanese. They served as interrogators, interpreters, translators, radio announcers, propaganda writers, and cave flushers, among their more usual activities.

In enabling the Allies to learn the real strength of the enemy, they have been credited with shortening the war in the Pacific by 2 years and with saving numerous American lives.

The article also refers to information which I inserted into the CONGRESSIONAL RECORD on May 21, 1963. It was my privilege at that time to pay a tribute to Japanese-American military service in World War II, on the 20th anniversary of the reopening of military service to Japanese-Americans.

I incorporated into the RECORD a fact sheet which related some of the exploits of Nisei military intelligence service, in addition to the distinguished war record of Nisei Army troops who fought in Europe in the 442d Regimental Combat Team and the 100th Infantry Battalion, and others.

The **PRESIDING OFFICER.** The time of the Senator from Hawaii has expired.

Mr. FONG. Mr. President, I yield myself 1 more minute.

The **PRESIDING OFFICER.** The Senator from Hawaii is recognized for 1 more minute.

Mr. FONG. The combat record of the 442d Regiment and the 100th Battalion has been widely recognized and saluted—as it should be, for their record was a most illustrious one. I am informed that approximately one-half of all Nisei in military service in World War II served in Europe and the other half in intelligence work in the Pacific. The fact that men from Hawaii made up a large part of the Nisei in uniform, along with their counterparts on the mainland United States, is a matter of great pride to all the people of Hawaii. Today, from the ranks of these Nisei veterans, have come many of the community leaders in Hawaii.

I am indebted to the Japanese American Citizens League, which prepared the fact sheet, calling public attention to the unique contributions of the Nisei military intelligence service. The article in Saga magazine supplements the fact sheet of the Japanese American Citizens League and sheds additional light on the amazing story of these Nisei linguists.

I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BEST KEPT SECRET OF WORLD WAR II—AMERICANS STILL DON'T KNOW THAT 7,000 GI'S OF JAPANESE DESCENT FOUGHT BRAVELY IN THE PACIFIC—AGAINST JAPAN

(By Bruce Lee)

In the South Pacific and China-Burma-India theaters, their nicknames were "Guts" and "Horizontal Hank" and "The Baby Sergeant York." Other GI's supplied the nicknames in awe and respect. They were only three of the unsung Nisei—Japanese-Americans—who fought World War II against Japan, the nation of their ancestry, with the courage of a commando, the resourcefulness of the OSS, and the feathery touch of a diplomat. The very existence of Nisei troops was as closely guarded a military secret as the atom bomb, and today, 20 years later, their story is still untold. Yet, like the atom bomb, they were directly responsible for slicing 2 years off World War II.

One of the Nisei was T. Sgt. Roy Matsumoto. On a steamy August afternoon in 1943, Roy Matsumoto and his patrol of two men lay in the dank gloom of a Burmese jungle only a dozen yards from a cluster of enemy soldiers. A Japanese infantry captain was talking, and Matsumoto could hear him clearly. "We attack in 45 minutes," the captain said. "Our scouts say the Yankee point has bivouacked at the far edge of this field." He pointed to a map. "We will come through the draw here, and fan out in order to hit both flanks and their front simultaneously. Are there any questions?"

A lieutenant asked, "What is their strength?"

"We outnumber them 4 to 1," the captain replied. "It will be a glorious victory for the Emperor."

Matsumoto checked his wristwatch. It was 4:30 p.m. He nodded to his men. Tediously, with infinite care, the three inched away from the enemy post. Holding their breadth, they snaked past the enemy sentry and crawled on 25, 50, 75 yards. Then Matsumoto stopped. "We're clear now. Move out fast," he whispered.

"Didja understand them? Didja get anything?" one of his companions asked.

"I'll say I did, but I haven't time to tell you about it now. Move, man."

The three men loped silently through the jungle toward their own unit, the advance point of Merrill's Marauders. Near it, one of the men said to Matsumoto, "I'm going ahead to warn the sentries so they won't shoot you as a Jap sniper. Wait here."

"Make it fast," Matsumoto snapped. He looked at his watch. It was 4:52. Twenty-three minutes until attack.

It took 6 more minutes for Matsumoto to clear the sentries and reach his commanding officer. He gave his report swiftly. The CO went into immediate action. "Able and Charley platoons, move around the field and get up the hill on each side of the draw," the CO ordered. "Baker platoon, go up to the edge of the field. On the double. Go."

The officer turned to Matsumoto. "Great work, Roy. Now you stay back here and rest."

Sergeant Matsumoto shook his head. "Sir, let me go up the hill with Able platoon. Maybe I can get something more."

The CO studied Matsumoto a moment. "You guys never quit, do you?" he said. "OK, but don't stick your neck out. You're too valuable to waste on a bullet."

At precisely 5:15 p.m., Japanese troops began slipping through the draw, confident they'd surprise the Marauders. The jungle was silent as the Marauders waited for the enemy to get completely into the trap. But some nervous GI cut loose with his M-1 from the side of the hill. The Japanese dove for the dense cover.

Sgt. Roy Matsumoto, with Able platoon on the left side of the draw, stood up. He cupped his hands and shouted in Japanese, "Charge. Charge."

The Japanese hesitated. Matsumoto shouted again, "Charge."

The Japanese moved forward at a trot—and against a deadly scythe of rifle fire that mowed them down from the front and both flanks. The battle was brief. Thirty minutes later, the jungle was again silent. The Marauders counted 54 Japanese dead. One of the enemy wounded cried bitterly as he was picked up. "We were just getting into position," he wept. "I didn't even get to fire a shot. How did you know?"

A month later, T. Sgt. Roy Matsumoto was awarded the Legion of Merit. But across the citation was stamped, "Top Secret." Except for the officer to whom he reported, even the Marauders lined up in the honor guard didn't know why Matsumoto had been decorated.

Roy Matsumoto was only one of 7,000 anonymous heroes in the Pacific and CBI. Hundreds were decorated with Bronze and Silver Stars. Dozens received direct battlefield commissions. Yet in each case, across the citation and on the commissioning personnel jacket was stamped "Top Secret." Never in military history did so many soldiers perform so creditably—with so little public recognition.

Their Nisei counterparts in the European theater, fighting with the "Go for Broke" 442d Regimental Combat Team, have been rightly and rightfully glorified. The 442d, with a fighting strength of 4,000 Nisei, spearheaded 4 major allied offensives and spent 225 days in frontline combat. Its members received 4,500 Purple Hearts. The 442d became the most decorated unit in American military history for its size and length of service.

But the Nisei in the Pacific very likely contributed even more. Especially trained to use their knowledge of Japanese and to take advantage of their oriental features, the Nisei sifted behind enemy lines to overhear and steal enemy battle plans. They captured Japanese soldiers for interrogation. They intercepted radio signals and they translated captured documents by the millions. In the highest echelons of the Pentagon, the Pacific Nisei were called "our human secret weapon." Gen. Charles Willoughby, chief of staff of intelligence for General MacArthur, declared bluntly: "The Nisei shortened the war in the Pacific by 2 years."

The Nisei first saw action in the Aleutians, only a few months after Pearl Harbor. Thereafter, they were on every island and in virtually every campaign. They served chiefly with the Army, but there were hundreds on detached service with the Navy and Marines, and dozens on loan to frontline command posts in New Zealand, China, England, and Australia.

Yet by many of the very soldiers the Nisei saved, they were mistakenly considered Japanese turncoats, or at the best, cooperating Japanese POW's. It wasn't until 6 months after the end of the war that the United States admitted there were Nisei fighting against Japan in the Pacific and the CBI.

The secrecy was understandable during the war, for the Nisei were engaged in military intelligence work. However, in the 20 years that have followed, the Army never has revealed the importance or extent of the Nisei's work. On the contrary, it seems to have deliberately concealed it. In the documentary movie of Merrill's Marauders, technically supervised by a high-ranking Army officer who had served with the unit, the 14 Nisei who served with Merrill were written out of the script. Their places were taken by Filipinos.

Why the continuing shroud of secrecy?

Army officials answer that, "The work of the Nisei during the war was highly classified. True, most of their contributions have been declassified, but some are still secret. So in general, we adopt the policy of saying nothing—thereby avoiding any chance of inadvertently violating any secret information that remains."

There is another bit of irony complementing the Nisei's lack of recognition. They were organized a month before Pearl Harbor by two farsighted Army officers—John Weckerling, then a lieutenant colonel, and Kai E. Rasmussen, then a lieutenant. If World War II was indeed shortened by 2 years as a result of the Nisei's work, the thanks should go in large part to the shrewdness of Weckerling and Rasmussen. Yet in any listing of American military heroes, who ever read the names of John Weckerling and Kai E. Rasmussen?

The Japanese, on December 7, 1941, were smug in the knowledge that they possessed the most remarkable, built-in security of communications in military history. The Japanese language is extremely complex, with many delicate shadings of meanings for each word depending on its context. The Western mind, trained in a different culture, found Japanese almost impossible to grasp. In December 1941, there were only 100 Caucasians in the entire United States who were competent Japanese linguists, and only 5 of those could be termed experts.

The result: the Japanese military had what amounted to a natural secret code. Elaborate security measures were unnecessary. Military orders were written boldly in uncoded Japanese and sent by soldier-messenger from post to post. What if the messenger were captured? Nobody on the U.S. side could read the orders he carried. Furthermore, Japanese soldiers and officers had no training in security; they wrote copious descriptions of their positions and plans in personal diaries, letters home, and to buddies in other units.

Notes, letters and official battle orders were captured by the jeep load in the early part of the war—and burned as useless or handed to GI's as souvenirs.

In the summer of 1941, the Army officers, John Weckerling and Kai E. Rasmussen, had recognized the language security the Japanese would enjoy in a possible war. Weckerling and Rasmussen, then stationed in San Francisco, proposed a Japanese language school. The proposal was accepted, but only with the gravest of doubts and under the tightest security restrictions. The reason: "Such a school would be a dangerous gamble for the United States. The Nisei are not to be trusted in a battle against their own race."

The two officers began the 4th Army Language School on November 1, 1941, in an unused warehouse in a corner of the San Francisco Presidio. There were 5 instructors and 60 students.

Nisei are American-born offspring of Japanese parentage and therefore American citizens. Yet, as a result of the west coast war hysteria, all Japanese-Americans, citizens or immigrants, were branded as untrustworthy—considered to be potential spies, saboteurs, and traitors. All Nisei were rounded up, forced to liquidate a lifetime of work and savings in a few days, and locked behind barbed wire and guarded by machine guns and searchlights at what were euphemistically termed "relocation camps." America had never so misjudged a people. The Japanese-Americans were so loyal there was not one proven incident of treachery before, during, or after the war. And the Nisei were so completely Westernized that only 10 percent of the first 3,700 selected for the language school were proficient enough in Japanese customs and language to qualify.

The school was forced to relocate, too, as a result of the west coast hysteria. The Army decided, in the words of one general, "A Jap is a Jap," and the Nisei were simply not to be trusted in the critical Pacific coast area. So the school, with its name changed to Military Intelligence Language School, was shifted—first to Camp Savage, Minn., in May 1942, and finally to Fort Snelling, near Minneapolis-St. Paul.

But qualified Nisei students were hard to find: first, because the Japanese-Americans were indeed so Westernized, and, second, because the military had discontinued Nisei enlistments as "too potentially risky." The manpower shortage brought about the ultimate irony. Military Intelligence recruiting teams went into the relocation camp stockades to obtain Nisei volunteers to help with one of the most important, sensitive, and dangerous jobs in the war against Japan. The thousands of Nisei who eagerly volunteered for the tough duty were the same Nisei who were adjudged "too potentially risky" to live in their own homes on the west coast.

The Nisei overseas discovered another and especially dangerous disadvantage of their ancestry—being mistakenly shot by their own troops. Any time a GI saw a Japanese, he shot first and asked questions later. A Nisei? How do you tell the difference? American uniform? Japanese soldiers often wore U.S. uniforms because they were better than their own shabby equipment. Even in his own encampment, a Nisei was not necessarily safe. Enemy soldiers frequently prowled U.S. camps for food and guns. Finally, some of the GI's from the Midwest, South and East had never even seen a Japanese and were totally unaware that there was such a distinction as a Nisei. There was only one way to protect the Nisei—Caucasian escort guards were assigned to each one. But even that didn't always work. Many Nisei, especially those coming in from patrol, were mistakenly shot by GI's.

In the face of such hazards and harassments, the Nisei were asked to do their jobs. The Nisei became the eyes and ears of virtually every campaign in the Pacific. General MacArthur was to say proudly, "Never in military history did one army know so much about the enemy prior to actual engagement."

The information often came in seemingly trivial bits. Going through a captured enemy command post, a Nisei translator added a piece of thrice-used carbon paper to his stack of documents. Later that night, the Nisei struggled to make out the overlapping characters on the carbon. When he was finally finished, he had learned the course enemy warships took from Kokopo, on New Britain, to Salamaua, on New Guinea; the strength of the Japanese 6th Infantry, and the issue and dosages of malaria preventative for Japanese troops.

The Nisei hero known as "Horizontal Hank" fought in the CBI theater. His real name was Henry Gosho, and he was a slight, bespectacled soldier from Seattle, one of 14 Nisei attached to Merrill's Marauders. (Incidentally, of these 14, 1 received the Legion of Merit, all were awarded the Bronze Star, 4 received Silver Stars, and 7 were commissioned in the field.) Earlier, Army doctors had declared Gosho flatfooted and unfit for combat. But he overcame these handicaps and wore out four pair of shoes with 1,030 miles of walking.

In combat, Gosho usually took the point, 1 to 5 miles in advance of the Marauders. He delighted in snaking close enough to the enemy to overhear verbal orders. But he worked so close that he was often discovered. Once a snapping twig gave him away. Another time, the Japanese put up a roadblock against the Marauders behind Gosho's listening post. On such occasions Hank Gosho would dive behind a log or into a ditch and stay there, pinned down, until rescued.

"Gawd, Hank," drawled a Texan after one such rescue, "you spend most of your day horizontal."

But time after time, "Horizontal Hank" got precise information about enemy action. Once he heard the orders for a banzai raid. When the screaming Japanese attacked, they found only empty jungle. Another time, Hank learned that the Japanese planned to circle behind the Marauders, cutting off their supply lines to the supporting British. General Merrill sent a platoon back, the British brought some men forward, and the encircling Japanese were neatly caught in a pincer.

"Every time Hank Gosho risked his neck," a Marauder platoon leader said, "he saved dozens of ours."

The information Hank Gosho gathered was generally used immediately in isolated skirmishes. Other types of information obtained by Nisei influenced entire campaigns, even the total war effort. A priceless document was captured on Guadalcanal and translated by a Nisei. It was a list of all officers in the Japanese Imperial Army, from Premier Tojo to the most newly commissioned lieutenant. With each officer's name was a neat summary of his seniority, his civilian background, military training, the type of troops he was best qualified to command, and the unit to which he was presently attached. Throughout the remainder of the Pacific war, Allied commanders referred to the list repeatedly. Every time an enemy officer could be identified, they pretty well knew what troops were in the area.

Recapture of the Philippines may very well have hinged on the performance of the Nisei.

Admiral Koga of the Japanese Navy, flying to direct the defense of the Philippines, was forced down and captured. He carried a coded plan of all Japanese naval orders. Working without sleep for 36 hours, several Nisei, whose names still remain unknown, translated the intricate Japanese characters. Their translations were sent to cryptographers and the code was quickly broken.

Through the plan, the Allies knew as much about the Japanese defense as did the Japanese Navy itself. And in the predawn of October 15, 1944, during the battle of Surigao Straits, the Japanese Navy was annihilated by the U.S. 7th Fleet. The Japanese Navy was no longer a factor in the Pacific war.

Another Nisei who played an important part in the recapture of the Philippines was Sgt. Frank Hachiya of Hood River, Oreg. Hachiya's name had been stricken from the servicemen's honor roll in the Hood River American Legion hall because of his Japanese ancestry. The shamefulness of that act became apparent even in Hood River after Sergeant Hachiya was posthumously awarded the Distinguished Service Cross following the successful invasion of Leyte.

The story of Sergeant Hachiya's exploits is still concealed by the Army. Officers at the Language School in Monterey refuse to discuss it.

But thanks to testimony written into the CONGRESSIONAL RECORD by Senator HIRAM L. FONG of Hawaii, on May 21, 1963, we now know what happened to Frank Hachiya.

Almost a month before the invasion of Leyte, Sergeant Hachiya was paradropped alone onto the island. During that month, Hachiya carefully mapped key points of the Japanese defense system. How he survived in the midst of an enemy stronghold, is unknown. It was an amazing feat.

And when the U.S. 6th Ranger Infantry Battalion hit the beach on Leyte, Sgt. Frank Hachiya somehow crawled through enemy lines to where he could see the Americans. Then he got to his feet and sprinted toward our lines. It was a tragic mistake. A Ranger, seeing a Japanese running at him, shot to kill.

Mortally wounded by bullets in his chest and stomach, Hachiya still managed to crawl to an officer, identify himself and hand over the maps he had drawn and the notes he had taken of the Japanese defenses.

"By his heroic services," Senator FONG testified, "He (Sergeant Hachiya) saved the lives of hundreds of his fellow Americans and shortened the campaign in the Philippines considerably."

At the Army's Language School in Monterey, where one would suppose the brass would proudly trumpet the heroic achievements of its graduates, one high-ranking officer said: "I understand that Sgt. Frank Hachiya was shot while serving as a messenger running orders between advance command posts."

Would Hachiya be awarded the DSC for running messages?

Why this apparently deliberate disparagement? And why the secrecy? Col. E. O. Nakanishi, now the commanding intelligence officer at Monterey, offered this explanation: "You must understand that all intelligence work is classified. Much of it remains classified even after cessation of hostilities because there is always the possibility that certain techniques or stratagems might be employed again in the future. So when any intelligence man is discharged from the service—and this includes the Nisei who served in the Pacific during the war—he is told during his debriefing never to talk about his activities.

"So it is with Sgt. Frank Hachiya. There are many rumors and many stories about him, but only the highest echelons in Washington know the true story. It may have happened as Senator FONG describes * * * or it may not. The chances are, you will never find out."

And then Colonel Nakanishi, obviously proud of the service of the Nisei, unexpectedly softened, "However, I will tell you this, I was in the Philippines. And I know that Nisei were air-dropped behind enemy lines. I know on Luzon they led a frightening life. They hid by day in abandoned schoolhouses, and prowled the jungles by night looking for information."

The Nisei were everywhere in the Pacific, some say even in Japan itself. They were with the Navy, intercepting and translating radio messages that described positioning and steaming plans of Japanese ships. They were with the English and Australians in Borneo and the Guineas, and they were with the English and the Chinese in the CBI theater.

Lt. Henry H. Kuwadara, on loan to the 36th Division of the British 14th Army, was awarded the Order of the British Empire, second only to the Victoria Cross. "He obtained information that enabled British forces to capture Japanese strongpoints at Hopin and Pinbaw in Burma," the commendation reads.

Sgt. Akiji Yoshimura was detached from Merrill's Marauders to serve with Chinese fighting units. "At first," Yoshimura recalls, "the Chinese despised me because when I claimed in my halting Chinese that I was really an American—not a Japanese—the Chinese soldiers thought I was denying my race. When I got across the message that I really was an American, merely of Japanese ancestry, the Chinese acclaimed me as a hero—only because they thought I was a Japanese fighting against my own people on the side of China. But, the main thing I worried about with the Chinese was that they would mistake me for a Japanese spy masquerading in an American uniform and shoot me or bundle me off to a prison camp."

Every Nisei who entered combat in the Pacific was warned about what would happen to him if he was captured. Col. Sidney F. Mashbir, who commanded thousands of Nisei translators, says: "If any of them had been captured, their torture would have been indescribable. They would have been literally taken apart with tweezers. Not only that, but their relatives in Japan would have been subjected to the most harsh and brutal cruelties which could have been devised."

So far as is known, only one Nisei was ever captured, and that was by the Chinese. He was Cpl. Tokyo "Tony" Uemoto, of Honolulu. Only Uemoto's desperate persuasion saved him from being shot on the spot. Finally, his captors decided to take him to American lines—first removing his shoes so he could not escape. Corporal Uemoto walked barefoot for 4 hours, but "I loved every step I took * * * still alive."

Yori Wada served in land-based Navy headquarters at Guam and Saipan, intercepting and translating Japanese Navy signals. While on Guam, Wada was also loaned to the Air Force and rode B–29's on bombing raids over Japan, picking up the Japanese warning system, and listening to Japanese reaction to the actual bombings.

"My sister was married to a Buddhist priest in Japan," Wada says. "On the long runs over Japan, I'll admit it was unpleasant to think that she was down there somewhere under our bombs. But the thought of reprisal against her by the Japanese Government never entered my mind, I doubt that the Japanese military could have ever connected my sister with me.

"In general, I think the subject of possible reprisals was greatly exaggerated. Most of our families were in the relocation camps. So how could there have been reprisals?"

In fact, to our shame, the Nisei suffered more at the hands of their fellow Americans than they ever did from the Japanese. But neither Yori Wada nor any other Nisei complained. In Watsonville, Calif., a Japanese was seized for possession of "rockets and other contrabrand equipment." The man owned a toy store which did indeed sell rockets—toy rockets. The man spent months in jail before being shipped to a "relocation center." His son, Sgt. George I. Nakamura, was with the 63d Infantry Regiment in the Philippines. During the mopping up, Sergeant Nakamura would go on ahead. Advancing boldly to a pocket of enemy resistance, he would yell, "Surrender. Your cause is hopeless." Four different times, Japanese troops came out with their hands raised. The fifth time Sergeant Nakamura was shot throught the chest and killed.

The Nisei were tremendously effective in the dangerous mopping-up operations on Saipan, Guam, the Philippines, Okinawa and in the CBI. Japanese survivors hid out in caves, on cliff sides, in tombs and on river islands. They sniped and they raided. They held civilians as hostages to buy another day of fighting. They killed Americans by the hundreds even after their war was hopelessly lost.

T/3 Kenji Yasui was a comic-strip Nisei, small and scrawny at 5 feet, 2 inches and 120 pounds, and wearing thick, horn-rimmed glasses. He also was an inveterate souvenir collector. In Burma, he'd fearlessly volunteer for patrols, ostensibly for intelligence and reconnaissance duty, but really, as he admitted with a grin when he returned with a flag or a gun, "to collect these."

The day American troops reached the Irrawaddy River, they were greeted by withering fire from a forested island in the middle of the river. The Americans dove for cover. They'd reached an impasse. They couldn't ford the river because of the Japanese fire, and they couldn't pick off the enemy because of the thick forest.

Kenji Yasui sought out the commanding officer. "Let me try to get them to surrender," he said.

Yasui explained his plan. The officer thought for a moment. "Go ahead," he said. "It just might work."

Yasui, a Caucasian captain and a PFC stripped and waded into the Irrawaddy River. Waist deep, Yasui halted. He yelled in Japanese across the river. "You over there. I am Colonel Yamamoto of the Imperial Japanese Army. I am working now with the Americans, because Japan has lost the war. See, there is an American officer and an American soldier with me to prove what I say, I command you to cease fire while we come to talk with you."

Without waiting for a reply, Yasui brazenly began to swim the 125 yards to the island. The river was fast flowing and bitterly cold, and halfway across Yasui's legs cramped badly. "You'll have to tow me across," he whispered to his comrades. "For the sake of 'face,' let go of me the minute we can touch botton so I can walk up proudly like a Japanese colonel. At least I hope I can walk up proudly."

When they hit shore, Yasui strode haughtily up the beach, concealing the pain in his leg. "I am Colonel Yamamoto," he repeated in Japanese. "I command all of you to show yourselves."

One by one, the Japanese appeared from the forest. Then a Japanese captain suddenly ran toward Yasui, pulling the pin of a hand grenade. Yasui hit the dirt just as the grenade exploded a few yards away, blowing the Japanese captain to his death.

Slowly Yasui arose, miraculously unscathed. He looked at the dead captain and ceremoniously took his sword. Then he turned to glare at the Japanese soldiers. "You will be punished for the rash act of your captain," Yasui told them in Japanese. "Now fall in. Hurry. Move."

For an hour, the incredible Nisei tech sergeant marched the Japanese troops through close-order drill. Across the Irrawaddy River, the Americans gaped in amazement at his bold effrontery and then doubled over with laughter.

Yasui's next move was equally audacious. He ordered the Japanese soldiers to build a raft and push him across the river. Yasui rode the raft erect, striking a Napoleonic pose, his captured souvenir sword raised high.

For the virtually single-handed capture of 17 Japanese soldiers and elimination of an obstacle in the advance of American troops, T/3 Kenji Yasui was awarded the Silver Star for gallantry—and the nickname "The Baby Sergeant York."

On the Pacific islands, the Nisei volunteered for the nasty, dangerous duty of cave-flushing.

On Saipan, 25-year-old Sgt. Hoichi Kudo of Maui, Hawaii, climbed unarmed down a cliff to a cave where Japanese soldiers were holed up with civilian hostages as protection against American flamethrowers.

Sergeant Kudo walked into the cave. When his eyes became accustomed to the gloom, he saw it was filled with ragged, starving women, children, and old men. Sergeant Kudo shook his head sadly. "You're tired, hungry, and hurt," he said. You need help. I can give you that."

A movement behind him brought Kudo's head around. A Japanese soldier held a rifle aimed at his head. Sergeant Kudo spoke calmly to the soldier. "We Americans admire your fighting spirit. But your cause is hopeless. There is nothing further you can do for your country. You may continue fighting if you wish, but if you do, an American battalion will take this cave and you cannot stop us. If I were you, I would choose to live."

Sergeant Kudo turned back to the civilians. "I want you all to come with me now," he said gently. "The soldiers will let you go. I think they will come with us. Please follow me."

Kudo turned and walked out the cave, past the waiting soldier who still held his rifle leveled. When he reached the top of the cliff, Sergeant Kudo was leading 122 civilians and 9 Japanese soldiers.

In the Philippines, Lt. Col. Wallace Moore remembers: "We had an official report that the Japanese planned to massacre all the civilians at Santo Tomas prison camp if MacArthur succeeded in recapturing the Philippines. Our Nisei interpreter went straight to the captain of guards at Santo Tomas and somehow persuaded him to ignore his Japanese orders. Think how many hundreds of lives that one Nisei probably saved."

On Iwo Jima, T/5 Terry Takeshi Doi earned the succinct nickname, "Guts." Doi, born in the United States had been sent to Japan as a teenager to complete his education. There, he was conscripted into the Japanese Army as it prepared for war. When war came, Terry Doi was one of the last Americans out of Japan on a neutral exchange ship. But upon reaching the United States, Doi learned he had lost his citizenship because of his Japanese Army service. It took Doi most of 3 long years, in relocation camps and finally at MILS School at Camp Savage, to reestablish his loyalty and regain his citizenship. He was the first Nisei on Iwo Jima.

Armed with only a flashlight and a knife, Terry Doi crawled through cave after cave to talk enemy snipers into surrendering. He would spend hours in each cave, talking about life in Japan—and about the hopelessness of the Japanese war cause. And when he came out, he would be leading two, three, four, or a dozen enemy snipers. Joe Rosenthal, the photographer who snapped the historic flag-raising picture on Mount Suribachi, remembers Terry Doi. "It was the nastiest, toughest kind of duty and Doi volunteered for it. His heroism was incredible. He sure did have guts."

On Okinawa, Nisei Lt. Wallace S. Amioka crept to within 5 feet of a hut and heard a conversation that identified one of the Japanese inside as Lt. Col. Tokiharu Aoyagi, commander of the Japanese guerrilla forces on Okinawa. Lieutenant Amioka silently withdrew and returned as leader of a 60-man patrol that killed the fleeing Colonel Aoyagi. His discovery and death virtually eliminated all guerrilla activity on Okinawa.

Then the war was over—and on September 2, 1945, on the battleship *Missouri*, two Nisei translators, Lieutenants Kayano and Imada, were on the reception committee to greet the Japanese surrender envoys. The Japanese officials stared at the two Nisei lieutenants wordlessly. In China, Akiji Yoshimura, by then a lieutenant, served as interpreter between Chinese and Japanese during the surrender.

And T/Sgt. Kazuo Komoto, the first Nisei to receive a Purple Heart in Pacific action, was also with the first Allied troops to land in Japan.

In the United States, the Military Intelligence Language School converted to occupation services. The school, which had begun in an unused warehouse, now had 124 classrooms, a radio station and 162 instructors. It had graduated 7,500 Nisei, 7,000 of whom had served in the Pacific.

The time is long overdue for the United States to thank "Horizontal Hank" and "Guts" and "The Baby Sergeant York." As the late Gen. Joseph W. "Vinegar Joe" Stilwell said: "The Nisei bought an awfully big hunk of America with their blood."

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana [Mr. LONG].

Mr. LONG of Louisiana. Mr. President, the Senate heard my distinguished friend and colleague say, a few minutes ago——

The PRESIDING OFFICER. How much time does the Senator from Louisiana yield himself?

Mr. LONG of Louisiana. Whatever time I need.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG of Louisiana. Mr. President, as I began to say, a few minutes ago, the Senate heard the manager of the bill say that the proponents of the bill would draft language to make this point clear; and they proceeded to draft it. But now they cannot agree among themselves.

The language I had in mind would read about as follows:

> Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

Mr. President, I ask unanimous consent that my amendment be modified accordingly.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered; and the amendment will be modified accordingly.

Mr. LONG of Louisiana. Mr. President, that is what the opponents of the amendment discussed among themselves, but they could not agree.

There is nothing in this section except a statement that it does not apply to contracts of insurance or guaranty; and the opponents of my amendment cannot agree on this language.

However, it is clear that this amendment does not mean what the opponents of the amendment say it means. It does not mean that a bank must insist on including in a contract a provision to the effect that one who borrows money from the bank, in order to buy a home, must agree that when, later on, he sells it, he will sell it without any discrimination whatever; and it does not include the provisions we already had in regard to building and loan associations.

But this language is needed; and if it is rejected, as sure as I am speaking now, the rejection of this amendment will be used as legislative history, as a basis for a contention that this part of the bill means precisely what its sponsors say it does not mean.

Mr. GORE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. GORE. Unless the Senate is willing to say this section does not add authority, we must presume that it does add authority. This modified language was offered to the Senator from Louisiana and to me, and we immediately agreed to accept it.

We are not seeking to take authority from the President; but we want to be sure that we do not add to the President's authority, with respect to the issuance of an open housing executive order that would affect every homeowner in America who has a government insured loan.

Mr. HUMPHREY. Mr. President, will the Senator from Louisiana yield to me?

Mr. LONG of Louisiana. I yield.

Mr. HUMPHREY. The Senator from Louisiana has submitted this language as an addition to section 601.

Mr. LONG of Louisiana. Yes.

Mr. HUMPHREY. There was never any intention to amend section 601. Section 601 is a policy statement on constitutional law; and we cannot interfere with the constitutional prerogatives of the executive branch of the Government. It would be a major and tragic legal mistake to attempt to do so; and every Senator who is a lawyer—I am not among them—should know that it would be a mistake and would be unconstitutional to attempt to do that in this law.

Mr. LONG of Louisiana. Mr. President, I do not yield further.

I ask unanimous consent that this amendment, as modified, appear after the period in line 2, on page 33 of the substitute.

Mr. McNAMARA. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG of Louisiana. Mr. President, I obtained unanimous consent in connection with my previous request, at least.

Mr. President, all we are saying is that in this section we are not legislating with regard to contracts of insurance or guaranty; and there is nothing unconstitutional about saying that we are not legislating on that subject. That is all I am saying.

Mr. PASTORE. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 1 minute.

Mr. PASTORE. Mr. President, it is true that the Senator from Minnesota is the manager of the bill; but I was designated the manager of title VI. I have made the case for it. I have given the reasons in support of this title.

Section 601 is a statement of policy; and if we write any exception into it, we shall be acting to allow discrimination in some of our programs. I have made that point clear.

This suggestion was brought to me; and I was unequivocally opposed to it. The acting majority leader agreed with me; and we have decided not to accept the amendment. I am the one who made that decision. I made it because I think that it is the correct decision.

We have spent much time and have been very meticulous in drafting title VI. I think it is about the best that can be drawn up.

There is no need—and I emphasize this point—for any Senator to feel for even 1 minute that we are going to cut off any more funds than those authorized under section 602 to be cut off. That is the section which gives authority for this action, and gives the instruction as to how far the rules can go. All the imagined things Senators are conjuring up and are afraid could happen, could not possibly happen.

So I say to the Senate that this amendment should be rejected. I say that the amendment of the Senator should be voted down.

Mr. RIBICOFF. Mr. President, I yield myself 2 minutes. I have listened to the arguments on both sides. I had a hand in drawing the substitute for the Long amendment, which I do not conceive as an amendment to section 601 but as a new section 605. I simply think we should spell out in statutory language what we all agree is the intent of title VI. I believe that we have a duty to try to straighten out this language and be fair with the bill, be fair with the country, and be fair with the judiciary that will have to decide these questions. There are those who have raised questions with relation to housing orders and other Executive orders. I think there is no doubt the legislative history we have made answers those questions. This history makes evident our intent neither to add to nor detract from any existing authority concerning contracts of insurance or guaranty. This history shows we have no intention of affecting in any way any Executive housing orders. All I suggest is that we spell out our intention in the language of the bill itself.

I would offer the amendment not to section 601, but as a new section 605. Since it has not been offered, I ask unanimous consent to offer the amendment as a new section, to be designated as section 605.

The PRESIDING OFFICER. Is there objection?

Mr. COTTON. Mr. President, reserving the right to object, I yield myself 1 minute. I shall not object, although in my case, though it may apply also to other Senators, I had an amendment that I could not offer before cloture was voted. I voted for cloture. I made my bed, and I am ready to lie in it. I have wanted to offer the amendment on my own time. If we are going to start granting unanimous consent with relation to amendments that are not printed and at the desk, I merely wish to say that I shall offer mine, and if objection were made to my amendment, I suggest that there would be discrimination.

I have no objection to the present request.

Mr. MANSFIELD. Mr. President, I yield myself one-half second. The Senate has been put on notice. I object.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana [Mr. LONG].

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it on his own time.

Mr. MILLER. I understood that the Senator from Louisiana withdrew his amendment.

Mr. LONG of Louisiana. I was persuaded not to withdraw it.

Mr. MILLER. I understood that unanimous consent to withdraw the amendment had been requested and granted.

Mr. LONG of Louisiana. At one point I did make the request, but I was persuaded not to do so, and I withdrew it.

Mr. MILLER. In other words, the amendment is pending?

The PRESIDING OFFICER. The amendment of the Senator from Louisiana [Mr. LONG], as modified, is pending.

Mr. MILLER. Mr. President, I ask that the amendment be stated.

The PRESIDING OFFICER. The amendment of the Senator from Louisiana [Mr. LONG] will be stated.

The LEGISLATIVE CLERK. On page 33, line 2, immediately after the word "assistance," it is proposed to insert a comma and then add the following language:

> Nothing in this title shall add to or detract from any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

Mr. COTTON. Mr. President, yielding myself one-half minute, did I correctly understand that the distinguished majority leader put me on notice that he would object to my request if it were made?

Mr. MANSFIELD. Yes; I made the statement, because if we start agreeing to one such request—and I am in favor of what the distinguished Senator from Connecticut [Mr. RIBICOFF] was advocating—we would open a Pandora's box, and there would be bedlam.

Mr. COTTON. Then the objection of the Senator from Montana went to the request of the distinguished Senator from Connecticut [Mr. RIBICOFF] also.

Mr. MANSFIELD. Yes. I objected to his request.

Mr. GORE. Mr. President, will the majority leader yield?

Mr MANSFIELD. I do not have the floor, but, since the time of the Senator from Tennessee is running low, I yield him 1 minute of my time.

Mr. GORE. Mr. President, I make a suggestion in the deepest of good will of which I am capable. There is much confusion. We are dealing with a very dangerous subject. Would it be possible for the majority leader to request a delay of action on the amendment for an hour to give us time——

Mr. MANSFIELD. Of course.

Mr. TALMADGE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the next amendment, and that the pending amendment be laid aside temporarily, in view of the unusual circumstances.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill as modified is open to further amendment.

Mr. ERVIN. Mr. President——

Mr. STENNIS. Mr. President, will the Chair get order in the Chamber before the Senator proceeds?

The PRESIDING OFFICER. The Senate will please come to order. Senators will take their seats and cease talking.

The Chair recognizes the Senator from North Carolina.

Mr. ERVIN. Mr. President, I offer an amendment, which I send to the desk, which is similar to the one which I offered yesterday, but modified so as to conform to the revised substitute.

The PRESIDING OFFICER. The amendment of the Senator from North Carolina will be stated.

The LEGISLATIVE CLERK. On page 73, between lines 20 and 21, add a new section reading as follows:

> SEC. 1102. No person should be put twice in jeopardy under the laws of the United States for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime under the laws of the United States shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime under the laws of the United States based upon the same act or omission.

Renumber sections 1102, 1103, 1104, and 1105, respectively, as sections 1103, 1104, 1105, and 1106.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. ERVIN. Mr. President——

The PRESIDING OFFICER. How much time does the Senator yield to himself?

Mr. ERVIN. Five seconds.

Mr. President, a number of Senators have asked me to call for the yeas and nays on the amendment because they did not understand the proposal yesterday because of confusion in the Senate. So I ask for the yeas and nays on the amendment.

Mr. HUMPHREY. Mr. President, will the Senator yield for a moment?

Mr. ERVIN. I yield.

Mr. HUMPHREY. Will the Senator explain the differences between his amendment as offered yesterday and the amendment as modified?

Mr. ERVIN. The amendment is modified so as to make it clear that it is applicable only to cases of prosecution for crimes under the laws of the United States.

Mr. HUMPHREY. The Senator may recall that yesterday in a private conversation I showed concern lest the amendment would involve both State and Federal law, in which instance there might be, let us say, an acquittal under State law in relation to a certain type of activity, thereby barring prosecution under Federal law.

Mr. ERVIN. The change is made in order to overcome the misgivings of the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I hope that the Senate will agree to the amendment. I thank the Senator from North Carolina for his forbearance, understanding and cooperation.

Mr. MAGNUSON. Mr. President, I yield myself one-half minute.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington for one-half minute.

Mr. MAGNUSON. I am very pleased that the Senator from North Carolina and other Senators involved have changed the wording of the amendment. Yesterday I voted against the amendment of the Senator from North Carolina because I did not think it was legally clear enough. But the amendment as now modified is very clear, and I wish to be recorded as in favor of it.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The amendment has been discussed with me and with other Senators. If we are going to adopt any amendment such as the one proposed, the pending amendment is probably the best we can do. I am the first to make that statement. But I believe the Senate ought to know what it is doing. What the Senate is doing——

Mr. HOLLAND. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

The Senator may proceed.

Mr. JAVITS. Mr. President, if the Senate adopts the amendment, it will change not only uniform case law throughout the United States, but also existing Federal statutory law and will treat specially only this particular bill, the civil rights bill. The Clayton Act, title 18, United States Code, section 3285, now provides exactly to the contrary for all proceedings in Federal courts.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Mr. President, I think the Chair took most of my time getting the Senate to come to order. I do not think that should be charged to an individual Senator. I make that point to the Chair.

I think the Chair should be indulgent. I should like to proceed for an additional 30 seconds.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. JAVITS. What the Senator has done by modifying his amendment, is to eliminate the danger of State courts giving quick acquittals in order to defeat contempt proceedings under the act. But we still have the Clayton Act provision and the uniform precedents in the Federal courts, where the time-honored rule has been that the courts may punish for criminal contempt as well as try for the crime, since they are two totally different offenses in terms of law. If the Senate wishes to change that, it should do so only with the full understanding of the fact that it would thereby except this particular bill from the general law. If that is the decision of the Senate, that is it; but at least we ought to know what we are doing.

Mr. KUCHEL. Mr. President, I yield myself 1 minute.

I wish to ask a question or two of the Senator from North Carolina.

Let us assume that a defendant is guilty of continuing contempt. Let us assume that, in accordance with the provisions of the measure, he is punished for his contempt and the punishment is exacted, but the defendant continues to be contemptuous of the court; that is to say, there is a series of contemptuous acts based on what he has done and does. Would the Senator's amendment impinge on or restrict the power of the Federal court to continue to enforce its authority by succeeding contempt citations?

Mr. ERVIN. Absolutely not, because after he is judged to be in contempt, he could be guilty of another criminal contempt. In addition, it would not affect the power of the court, by civil contempt, to enforce its judgment. This amendment would not take from the judge the power to hold a defendant in jail for civil contempt until the last lingering echo of Gabriel's horn trembles into silence.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the amendments of the Senator from North Carolina [Mr. ERVIN].

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. ANDERSON] and the Senator from Maryland [Mr. BREWSTER] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Mr. BREWSTER] would vote "yea."

Mr. KUCHEL. I announce that the Senator from Massachusetts [Mr. SALTONSTALL] is necessarily absent and, if present and voting, would vote "yea."

The result was announced—yeas 80, nays 16, as follows:

[No. 289 Leg.]

YEAS—80

Aiken
Allott
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Goldwater
Gore
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Johnston
Jordan, N.C.
Jordan, Idaho
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
Mechem
Miller
Monroney
Morton
Moss
Mundt
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Robertson
Russell
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NAYS—16

Case
Douglas
Gruening
Hart
Javits
Keating
Kennedy
Kuchel
McNamara
Metcalf
Morse
Muskie
Nelson
Neuberger
Ribicoff
Williams, N.J.

NOT VOTING—4

Anderson
Brewster
Engle
Saltonstall

So Mr. ERVIN's amendments were agreed to.

Mr. DIRKSEN. Mr. President, I yield myself 1 minute.

Mr. President, yesterday when the Senate voted on the original Ervin amendment dealing with double jeopardy, I encouraged some Senators to vote against the amendment. There was a reason for it. In the first place, the explanation was limited to 3 minutes. In the second place, the Chamber at the moment was filled with tumult. It was difficult to understand whether there were any implications or connotations that did not readily meet the eye.

There was a conference with Judge Ervin and a good deal of work was done last night. Agreed language was perfected. I wish to make that explanation in the interest of those like myself who voted against the Ervin amendment in the first place. I think we were justified in doing so. I think we are justified now in supporting the amendment in its present form.

The PRESIDING OFFICER. The substitute amendment to the bill is open to amendment. The Senator from Louisiana.

Mr. ELLENDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Mr. President, is there any amendment before the Senate?

The PRESIDING OFFICER. No. The substitute amendment to the bill is open to amendment. The Senator from Louisiana has suggested the absence of a quorum.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Is it possible for the author of an amendment to add the amendment to a different portion of the bill than his printed amendment now occupies, under the cloture procedure?

The PRESIDING OFFICER. The usual procedure, according to the Parliamentarian, is that there must be unanimous consent in order to do so.

Mr. HUMPHREY. Mr. President, the Long amendment was designed, as I recall, for section 601. It has been suggested, during the colloquy, that the modifications that were arrived at after some discussion might be placed at the conclusion of section 604 in a new section 605, under title VI.

Can that be done?

The PRESIDING OFFICER. It can be done by unanimous consent.

Mr. HUMPHREY. Mr. President, this is not a new amendment. It contains the same substance as the previous amendment. The amendment is at the desk.

The PRESIDING OFFICER. Is it merely a matter of changing the location of it in the bill?

Mr. HUMPHREY. That is correct. Can that be done?

The PRESIDING OFFICER. That can be done by unanimous consent.

Mr. HUMPHREY. Mr. President, on behalf of the Senator from Louisiana, who is not present, the Senator from Tennessee, the Senator from Rhode Island, and the Senator from Connecticut, I ask unanimous consent that the Long amendment as modified may be considered after section 604 as a new section 605.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, to make the fact as clear as we can, is my understanding correct, that the proposal means the consideration of an amendment already at the desk, but the shifting of it from one section under title VI to another section under title VI?

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. GORE. Mr. President, reserving the right to object, it establishes a new section 605 in the same title.

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. MANSFIELD. It would be a new title. Is that correct?

Mr. GORE. No; a new section 605.

Mr. MANSFIELD. But it is tied into an amendment already adopted. What in effect is being sought to be done is to amend an amendment further. Is that correct?

The PRESIDING OFFICER. It may be done by unanimous consent.

Mr. COTTON. Mr. President, reserving the right to object—and I yield myself a half minute for this purpose—the Senator from New Hampshire does not want to obstruct a perfectly necessary and legitimate objective that ought to be accomplished. Accordingly, he will not take advantage of this technical unanimous-consent request. However, this is the only time such procedure will be acceptable, because the Senator from New Hampshire later will again ask unanimous consent for the amendment he wishes to call up.

Mr. MANSFIELD. I appreciate the Senator's consideration.

The PRESIDING OFFICER. Is there objection?

Mr. MORSE. Mr. President, reserving the right to object, we are somewhat concerned about the developments on the floor today. I am not sure whether we are about to start walking down the hill, after we have climbed it. We need some consultation and conferences with regard to procedure, from discussions I have heard with regard to proposals to modify the bill. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. COOPER. Mr. President, I call up my amendment No. 1044.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 7, line 4 of amendment No. 656, it is proposed to strike out "five" and insert in lieu thereof "ten".

The PRESIDING OFFICER. How much time does the Senator yield to himself?

Mr. COOPER. Five minutes.

The amendment is directed to the substitute. I inquire of the Chair whether it can be properly considered.

The PRESIDING OFFICER. It may be considered.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. COOPER. This is a very simple amendment.

Mr. FULBRIGHT. Mr. President, will the Senator permit me to take a minute of my own time?

Mr. COOPER. I yield.

(Mr. FULBRIGHT introduced a bill and asked for its appropriate reference.)

Mr. MORSE. Mr. President, I am not so sure that this yielding does not amount to farming out time.

Mr. FULBRIGHT. I asked the Senator to permit me to take my own time.

The PRESIDING OFFICER. The time will be charged to the Senator from Arkansas.

Mr. FULBRIGHT. I asked the Senator from Kentucky to yield to me on my own time.

THE NATION'S OUTSTANDING HIGH SCHOOL GRADUATES

Mr. FULBRIGHT. Mr. President, on June 3 President Johnson named 121 of the Nation's outstanding high school graduates "Presidential Scholars of 1964."

The scholars were chosen as representative of superior academic attainment and potential from among thousands of candidates. They were honored at the White House yesterday when the President personally congratulated them and presented each with a bronze medallion proclaiming them "Presidential Scholars"—the first in the country.

The scholars program was established by the President on April 16 "to recognize the most precious resource of the United States—the brainpower of its young people—to encourage the pursuit of intellectual attainment among all of our youth."

At least one boy and one girl were chosen from each State, the District of Columbia, and Puerto Rico. Two were also selected from Americans living abroad. There are 64 boys and 57 girls among the scholars. They will enter 73 colleges. Thirty-one of the scholars intend to major in mathematics, 13 in physics, 7 in chemistry, and 17 are undecided. The other 53 scholars are divided among 20 other fields of study.

Thousands of graduates of public and private high schools, selected from the graduating classes both of last January and this June, were screened through leading testing and scholarship agencies. The criteria used in selecting the scholars were intellectual achievement, academic potential, and character. Financial need was not taken into account, and scholars do not get a monetary award or a scholarship inasmuch as they have received scholarships from other sources.

I ask unanimous consent that the list by State of the Presidential Scholars of 1964 be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL SCHOLARS

Alabama: Crawford, Shirley, Route 2, Marion, Ala., Perry County High School, Huntingdon College, music; Jordan, John Hamilton, 1129 South McDonough Street, Montgomery, Ala., Sidney Lanier High School, Rice University, physics.

Alaska: Wallington, Joanne, 2527 Douglas Drive, Anchorage, Alaska, West Anchorage High School, Stanford University, mathematics/music; Wicks, Frederick Lewis, 2666 Northrup Place, Anchorage, Alaska, East Anchorage High School, St. John's College (Md.), liberal arts.

Arkansas: Cooke, Marcia Elaine, 1605 Keaton, Jacksonville, Ark., Jacksonville High School, Hendrix College, Mathematics; Evans, Jacquelyn Faye, 500 West 32d Street, Little Rock, Ark., Hall High School, Radcliffe College, literature; Lovell, Victor Manuel, 618 South 21st Street, Fort Smith, Ark., Northside Senior High School, University of Arkansas, mathematics/science.

Arizona: Cowdry, Rex William, 5319 East Valle Vista, Phoenix, Ariz., Camelback High School, Harvard College, premedicine; Hansma, Paul Kenneth, 8619 East Thornwood Drive, Scottsdale, Ariz., Scottsdale High School, New College, physics; Holyoke, Judith Gail, 1838 East Minnezona, Phoenix, Ariz., Camelback High School, Pomona College, undecided.

California: Bertsch, Katherine Ann, 1327 14th Avenue, San Francisco, Calif., Polytechnic High School, University of Santa Clara, chemistry; Hogan, Patrick Gerald, 2223 42d Avenue, San Francisco, Calif., Abraham Lincoln High School, University of California, political science; Patterson, Timothy Alan, 749 Linden, Riverside, Calif., Ramona High School, Reed College, undecided.

Colorado: Baumgartel, Deborah Mona, 2134 Pheasant Place, Colorado Springs, Colo., Roy J. Wasson High School, Stanford University, undecided; Davis, Phillip Howard, 1732 Vine Drive, Fort Collins, Colo., Foft Collins High School, Colorado State University, chemistry; Karman, Evert Wendell, 307 South Gilpin, Denver, Colo., South High School, Columbia College, music.

Connecticut: MacGillis, Donald Angus, 40 Sedgwick Road, West Hartford, Conn., William Hall High School, Yale University, undecided; Von Auw, Eleanor Flagg, Saw Mill Road, Stamford, Conn., Rippowam High School, Bryn Mawr College, English.

Delaware: Conner, Katherine, 109 Sunset Drive, Delaire, Wilmington, Del., Mount Pleasant Senior High School, Swarthmore College, undecided; Hammer, Thomas George, 2 Pinecrest Drive, Wilmington, Del., Brandywine High School, College of Wooster, chemistry and physics.

District of Columbia: Baron, Richard Catlin, 7532 Alaska Avenue NW., Washington, D.C., Calvin Coolidge High School, Washington University, history and political science; Fano, Virginia Carol, 3510 Rodman Street NW., Washington, D.C., Sidwell Friends School, Massachusetts Institute of Technology, mathematics; Snowden, Frank Martin, III, 4016 18th Street NW., Washington, D.C., St. Albans School for Boys, Harvard College, history.

Florida: Cooper, Janet Margaret, 13146 NW. 19th Avenue, Miami, Fla., Miami Central High School, Swarthmore College, mathematics; Cope, Gerald Barnette, Jr., 933 West Whitmire Drive, Eau Gallie, Fla., Melbourne High School (Melbourne), Yale University, political science.

Georgia: Ansley, Frances Lee, 1603 Elmwood Drive, Columbus, Ga., Putney School (Putney, Vt.), Radcliffe College, English; Hunter, Howard Owen III, 322 Reynolds Street, Brunswick, Ga., Glynn Academy, Yale University, political science; McClure, Linda Fay, 210 Victory Drive, Marietta, Ga., Marietta High School, Emory University, English.

Hawaii: Chun, Wilbur Stanley, 1952 Makiki Heights Drive, Honolulu, Hawaii, Punahou School, Yale University, architecture; Porter, Trudy Ann, 603 Signer Boulevard, Hickam AFB, Hawaii, Radford High School, Northwestern University, undecided.

Idaho: Mickelson, Barbara Lynn, 123 Gettysburg, Boise, Idaho, Boise Senior High School, Augustana College (S. Dak.), nursing; Porter, John Robertson, Route 1, Moscow, Idaho, Moscow Senior High School, Stanford University, political science.

Illinois: Liebman, Jeffrey Mark, 847 Judson Avenue, Evanston, Ill., Evanston Township High School, Oberlin College, physics; Rosen, George, 951 Valley Road, Glencoe, Ill., New Trier Township High School, Harvard College, history; Stegitz, Marsha Faye, 1605 South 20th Avenue, Maywood, Ill., Proviso East High School, Northwestern University, Russian.

Indiana: Neuwelt, Klari Joanne, 631 Hayes, Gary, Ind., Horace Mann High School, Pembroke College, Russian; Nurnberger, John Ignatius, 5215 Washington Boulevard, Indianapolis, Ind., Cathedral High School, Fordham University, mathematics.

Iowa: Cross, Sally Jeanette, 7 Rowland Court, Iowa City, Iowa, Iowa City High School, Wellesley College, undecided; Peterson, Mark A., 403 North Franklin, Ames, Iowa, Ames High School, Amherst College, philosophy.

Kansas: Cox, Alice Kathleen, 915 East Eighth Street, Wellington, Kans., Wellington Senior High School, University of Kansas, medical technology; Essmiller, Donald Mark, R.F.D. 1, Great Bend, Kans., Great Bend High School, Kansas State University, biochemistry.

Kentucky: Field, Phyllis Frances, 1554 Cardinal Drive, Louisville, Ky., Durrett High School, University of Louisville, library science; Trent, Robert Davis, 108 West Fourth Street, Hardinsburg, Ky., Breckinridge County High School, University of Kentucky, physics/mathematics.

Louisiana: Easley, Carolyn Myra, 3522 Darien, Shreveport, La., Fair Park High School, University of Southwestern Louisiana, mathematics; Glusman, Edward Francis, Jr., 1441 South 24th Street, East Baton Rouge, La., Baton Rouge High School (Baton Rouge), Davidson College, physical science; Saulny, Michael Edward, 1116 North Tonti Street, New Orleans, La., St. Augustine High School, California Institute of Technology, electrical engineering.

Maine: Mestetsky, Richard Paul, 108 Madeline Street, Portland, Maine, Deering High School, Dartmouth College, mathematics; Meyer, Susan Swingle, 18 Chapel Road, Orono, Maine, Orono High School, Mount Holyoke College, chemistry.

Maryland: Browne, Stephen Jeffrey, 815 Hilltop Road, Baltimore, Md., Catonsville Senior High School, Johns Hopkins University, business administration; Dryden, Leona Margaret, 6112 43d Street, Hyattsville, Md., Northwestern High School, Radcliffe College, physics; Ogus, Arthur Edward, 9419 Crosby Road, Silver Spring, Md., Montgomery Blair High School, Reed College, physics.

Massachusetts: Lovins, Amory Bloch, Mill Lane, Amherst, Mass., Amherst Regional High School, Harvard College, physics; Sauer, Victoria Reid, 44 South Street, Medfield, Mass., Medfield High School, Mount Holyoke College, mathematics.

Michigan: Larudee, Mehrene Emma, 1123 Michigan, Ann Arbor, Mich., Ann Arbor High School, Swarthmore College, mathematics/philosophy; Turk, John Stephen, 618 Walbridge Drive, East Lansing, Mich., East Lansing High School, University of Michigan, physics.

Minnesota: Bey, Sara, 2011 West 61st Street, Minneapolis, Minn., Washburn High School, Radcliffe College, English; Nelson, David Eugene, 1417 Seventh Avenue NW., Rochester, Minn., John Marshall High School, Stanford University, liberal arts.

Mississippi: Montgomery, Ladye Inman, 1211 Strong Avenue, Greenwood, Miss., Greenwood High School, Vassar College, chemistry; Smith, Darland Conrad, 110 Leavell Woods Drive, Jackson, Miss., Provine High School, Duke University, physics.

Missouri: Rowson, Everett Keith, 7110 Indiana, Kansas City, Mo., Southeast High School, University of Kansas, mathematics; Townsend, Peggy Lee, 2218 Gaebler, Overland, Mo., Ritenour Senior High School, University of Missouri, electrical engineering; Wheeler, David Russell, 507 South Glenwood, Columbia, Mo., Hickman High School, Princeton University, public affairs.

Montana: Denney, Peggy Jean, Route 1, Box 28, Conrad, Mont., Conrad High School, Brigham Young University, mathematics; Herbig, Lyle Wesley, 624 Cherry Street, Missoula, Mont., Missoula County High School, Stanford University, science.

Nebraska: Coy, Stephen Lawrence, 380 Bruce Drive, Lincoln, Nebr., Lincoln Southeast High School, Harvard College, mathematics/chemistry; Marsh, Cheryl Linda, 644 South 50th Street, Lincoln, Nebr., Lincoln High School, Juilliard School of Music, music.

Nevada: Degnan, Dian Estelle, 1665 Elmcrest Drive, Reno, Nev., Reno High School, Stanford University, undecided; Pease, Michael Roy, 1305 San Pedro, Las Vegas, Nev., Las Vegas High School, University of California at Santa Barbara, mathematics.

New Hampshire: Lapham, Mark Franklin, 189 Lincoln Avenue, Portsmouth, N.H., Portsmouth High School, Harvard College, undecided; Ross, Robin Macurda, High Street, Stratham, N.H., Exeter High School (Exeter, N.H.), University of Rochester, biology.

New Jersey: Cave, George Edward, 515 54th Street, West New York, N.J., Memorial High School, Harvard College, mathematics; Frankovic, Kathleen Ann, 48 Van Winkle Avenue, Garfield, N.J., Pope Pius XII High School (Passaic), Cornell University, zoology; Wachter, Kenneth Willcox, 550 Clark Street, Westfield, N.J., the Pingry School (Elizabeth), Harvard College, mathematics/philosophy.

New Mexico: Faucon, Ivan Victor, Fort Wingate Ordnance Depot, Gallup, N. Mex., Gallup High School, Princeton University, mathematics/classics; Leachman, Elaine Alice, 1297 47th Street, Los Alamos, N. Mex., Los Alamos High School, Stanford University, modern languages.

New York: Minkoff, Kenneth Mark, 138–06 229th Street, Laurelton, N.Y., Andrew Jackson High School (Cambria Heights), Harvard College, mathematics; Ramsey, Jill Elizabeth, 63 Scarborough Road, Briarcliff Manor, N.Y., Mary A. Burnham School (Northampton, Mass.), Stanford University, undecided; Rossoff, Margaret, 1561 East Ninth Street, Brooklyn, N.Y., Midwood High School, Radcliffe College, English; Stevenson, John O'Farrell, 550 Throop Avenue, Brooklyn, N.Y., Brooklyn Preparatory School, Fordham University, mathematics.

North Carolina: Lynch, Frances Hiller, 435 Wonderwood Drive, Charlotte, N.C., East Mecklenburg High School, Duke University, undecided; McCall, Alfred Clarence, Jr., 3905 Madison Avenue, Greensboro, N.C., Grimsley High School, University of North Carolina, mathematics/physics; Williams, Andrea Jeanne, 17 Adams Street, Asheville, N.C., Allen High School, Spelman College, mathematics.

North Dakota: Butz, David Earl, 410 Hamline Street, Grand Forks, N. Dak., Central High School, Harvard College, undecided; Myers, Dorothy Ione, 415 10th Street South, Fargo, N. Dak., Fargo Central High School, Moorhead State College, mathematics.

Ohio: Ford, Janis K., 2044 Marlowe Avenue, Lakewood, Ohio, Lakewood High School, College of Wooster, mathematics; Gieringer, Dale Hubbard, 3016 Lischer Avenue, Cincinnati, Ohio, Walnut Hills High School, Harvard College, astronomy/physics; Sinkford, William George, 3543 Alaska Avenue, Cincinnati, Ohio, Walnut Hills High School, Harvard College, political science.

Oklahoma: Erbar, Thomas Earl, 2412 South Choctaw, El Reno, Okla., El Reno High School, University of Oklahoma, prelaw; Grekel, Ann Karen, Route 1, Box 540, Claremore, Okla., Edison High School (Tulsa), Stanford University, undecided.

Oregon: Talbott, Stephen Louis, 6645 Southwest Raleighwood Lane, Portland, Oreg., Beaverton High School (Beaverton), Wheaton College, undecided; Trenholme, Alice Ruth, 1612 Lincoln Street, Eugene, Oreg., South Eugene High School, Stanford University, mathematics.

Pennsylvania: Kocher, Karl A., 2902 Knorr Street, Philadelphia, Pa., Northeast High School, Haverford College, humanities; Stauch, Ursula Erika, 400 Elm Road, Ambridge, Pa., Ambridge Area High School, University of Pittsburgh, chemistry.

Puerto Rico: Blanco, Lucas Juan, Km. 4.4., Guaynabo Road, Guaynabo, Puerto Rico, Colegio San Ignacio (Rio Piedras), Johns Hopkins University, mathematics; Ortiz, Elsa Margarita, Puerto Principe 968, Las Americas, Rio Piedras, Puerto Rico, Colegio La Merced (Roosevelt), University of Puerto Rico, mathematics.

Rhode Island: Beaudoin, Kathleen Mary, 690 County Road, Barrington, R.I., Barrington High School, Catholic University of America, psychology; Chopak, Gary Allen, 35 Philmont Avenue, Cranston, R.I., Cranston High School East, University of Chicago, mathematics.

South Carolina: McCrory, Clinton Graydon, 3924 Parkman Drive, Columbia, S.C., A. C. Flora High School, Massachusetts Institute of Technology, physics; Scherer, Johanna Margaret, 173 James Street, Beaufort, S.C., Beaufort High School, Agnes Scott College, mathematics.

South Dakota: Jensen, Katherine Ruth, Rural Route, Whitewood, S. Dak., Lead High School (Lead), Carleton College, education; Snyder, Lee R. Girton, 1075 Illinois Street, SW., Huron, S. Dak., Huron High School, Harvard College, biochemistry.

Tennessee: Diehl, Patrick Sidney, 2909 Brownwood Drive, Chattanooga, Tenn., McCallie School, Harvard College, languages; McCain, Carol Ann, 1101 Blanchard Road, Memphis, Tenn., Whitehaven High School, University of Tennessee, biology.

Texas: Hynes, Candace Ann, 610 Piedmont Drive, Sugar Land, Tex., John Foster Dulles High School (Stafford, Tex.), Southern Methodist University, foreign languages; Isgur, Nathan Gerald, 1309 Avenue J, South Houston, Tex., South Houston High School, California Institute of Technology, biochemistry.

Utah: Nelson, Barbara Ruth, 2041 Browning Avenue, Salt Lake City, Utah, Highland

High School, Whitman College, mathematics; Rose, Keith Alden, 3458 Westwood Drive, Salt Lake City, Utah, Skyline High School, University of Utah, mathematics.

Vermont: Freeman, Jay Reynolds, 100 DeForest Road, Burlington, Vt., Edmunds High School, California Institute of Technology, physics; Onion, Carlie Elisabeth, Castleton, Vt., Rutland High School (Rutland), Smith College, language.

Virginia: Gideon, Anna Huntington, 808 Rose Lane, Annandale, Va., Annandale High School, Colby College, modern languages; Wise, Michael Owen, 705 Andes Drive, Fairfax, Va., Fairfax High School, New England Conservatory, music.

Washington: Achen, Chris Henry, 4511 North Madison, Spokane, Wash., Gonzaga Preparatory School, Gonzaga University, physics; Toly, Lorraine, 4407 50th Street Southwest, Seattle, Wash., West Seattle High School, Occidental College, languages and world affairs.

West Virginia: Childs, Robert William, 476 Rebecca Street, Morgantown, W. Va., Morgantown High School, Princeton University, chemistry; Mace, Faith E., 504 Fairmont, Bluefield, W. Va., Bluefield High School, West Virginia University, biology.

Wisconsin: Maraniss, Jean Celia, 1619 Regent Street, Madison, Wis., West High School, Swarthmore College, undecided; McPherson, Michael Steven, 3122A North Julia Street, Milwaukee, Wis., Rufus King High School, University of Chicago, mathematics.

Wyoming: Clark, Sandra Rae, 520 South Brooks, Sheridan, Wyo., Sheridan High School, Radcliffe College, German; Kinney, Irvin Wayne, 514 South 12th Street, Laramie, Wyo., Laramie High School, University of Wyoming, mathematics/music.

Abroad: Gibb, Dorothy Blair, c/o Lt. Col. E. F. Gibb, Hdqtrs. SACom, APO 407, N.Y., Munich-American High School, Wellesley College, undecided; Fisher, Gordon McCracken, 120 Sundar Nagar, New Delhi, India, American-International School, Middlebury College, undecided.

The scholars were selected by an independent commission appointed by the President with Dr. Milton S. Eisenhower as Chairman and the following as members: Melvin W. Barnes, superintendent of schools, Portland, Oreg.; Leonard Bernstein, director, New York Philharmonic; Albert W. Dent, president, Dillard University, New Orleans; Senator J. W. Fulbright, of Arkansas; William H. Hagerty, president, Drexel Institute of Technology, Philadelphia; Dr. Jeanne Noble, associate professor of education, New York University; Katherine Anne Porter, author; Mrs. Lawana Trout, Sand Springs, Okla., winner of 1964 Teacher of the Year Award; Rev. Michael P. Walsh, president, Boston College.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. COOPER. Mr. President, my amendment which I submitted, and now offer, is amendment No. 1044. It is directed to the substitute amendment No. 1052 at page 7, line 4.

The Senate will remember that the House bill, and the bill, as amended by the substitute in its title II, contains an exclusion in section 201(b)(1). That exclusion goes to "any inn, hotel, motel, or other establishment which provides lodging to transient guests, which contain not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence."

My amendment would change the exclusion from 5 rooms to 10 rooms. I give, briefly, my reasons.

On May 23, of last year the Senator from Connecticut and I introduced S. 1591, a bill to prohibit discrimination on account of race or color in places of public accommodation. This bill was introduced before any other bill was introduced on this subject.

We based our bill on the 14th amendment. I believe now that title II should be based on the 14th amendment, and that a constitutional right is involved where access to places open to the general public is in issue. I believe this right would be made explicit by the Supreme Court.

Individuals should not be discriminated against in the use of enterprises which are open to the general public, and which are regulated in some way by the State, or a political subdivision of the State. As a matter of human dignity and decency, I would rather see the right to use public accommodations declared, by the Congress, to be a right provided under the 14th amendment, rather than regard discrimination as a burden on interstate commerce as this bill does.

I hope very much that the Supreme Court, when the issue arises, will rule clearly upon this constitutional issue.

If title II were based on the 14th amendment, we would not have difficulty deciding whether a business is "in interstate commerce." It would not be necessary to decide what proper exclusions from the general rule would be, as this bill does in title II.

Title II of this bill is based on the interstate commerce clause, as it legally can be. But being based on the interstate commerce clause, exclusions are simply based on judgment. The exclusion—subsection 201(b)(1)—is intended to cover what might be called a boardinghouse not containing more than five rooms.

I believe that anyone, from common experience and observation, would know that a boardinghouse of five rooms would be impractical. We know from common sense that there are few boardinghouses for elderly people, and others, which contain only five rooms. Ten is a more reasonable number. My amendment would not weaken the purpose of title II, which is to assure persons in transit that lodging shall be available for them. An inn or hotel or motel will certainly contain more than 10 rooms. It would only make the title a more reasonable one.

We are under no duty to exclude a boardinghouse. But as long as the bill does intend to exclude small boardinghouses, we should fix the rooms at a practicable number and that is what my amendment would do.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. Mr. President, I yield myself 2 minutes more. By enlarging the exclusion to 10 rooms, we would not make it more difficult for transients—whatever their race or color—to find a hotel, motel, inn, or other establishment in which they could find lodging, because such establishments would contain 10 rooms or more. But let us either strike the exclusion altogether, or make it a practicable and fair one as my amendment would do.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

Mr. COOPER. Mr. President, on my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Maryland [Mr. BREWSTER], the Senator from Indiana [Mr. HARTKE], the Senators from Virginia [Mr. ROBERTSON and Mr. BYRD], and the Senator from Oklahoma [Mr. EDMONDSON] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE] would vote "nay."

Mr. KUCHEL. I announce that the Senators from Kansas [Mr. CARLSON and Mr. PEARSON], the Senator from Illinois [Mr. DIRKSEN], the Senator from Nebraska [Mr. HRUSKA], the Senator from Idaho [Mr. JORDAN], the Senator from Kentucky [Mr. MORTON], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

On this vote, the Senator from Kentucky [Mr. MORTON] is paired with the Senator from Illinois [Mr. DIRKSEN]. If present and voting, the Senator from Kentucky would vote "yea" and the Senator from Illinois would vote "nay."

On this vote, the Senator from Nebraska [Mr. HRUSKA] is paired with the Senator from Massachusetts [Mr. SALTONSTALL]. If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Massachusetts would vote "nay."

The result was announced—yeas 35, nays 51, as follows:

[No. 290 Leg.]

YEAS—35

Bennett
Bible
Byrd, W. Va.
Cannon
Cooper
Cotton
Curtis
Eastland
Ellender
Ervin
Fulbright
Goldwater
Gore
Hayden
Hickenlooper
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Mundt
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters
Williams, Del.
Yarborough
Young, N. Dak.

NAYS—51

Aiken
Allott
Bartlett
Bayh
Beall
Boggs
Burdick
Case
Church

Clark
Dodd
Dominick
Douglas
Fong
Gruening
Hart
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Smith
Symington
Williams, N.J.
Young, Ohio

NOT VOTING—14

Anderson
Brewster
Byrd, Va.
Carlson
Dirksen
Edmondson
Engle
Hartke
Hruska
Jordan, Idaho
Morton
Pearson
Robertson
Saltonstall

So Mr. COOPER's amendment was rejected.

The PRESIDING OFFICER (Mr. WALTERS in the chair). The substitute is open to further amendment.

Mr. HUMPHREY. Mr. President, what is the pending question?

The PRESIDING OFFICER. The Long amendment was temporarily laid aside. The substitute is open to further amendment.

Mr. HUMPHREY. In other words, no other amendment is now pending?

Mr. LONG of Louisiana. Mr. President, I should like to postpone a little longer the further consideration of my amendment, because a number of Senators are now attending a luncheon honoring the distinguished minority leader.

Therefore, I ask that the delay in the further consideration of the Long amendment continue, while another amendment in considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 518

Mr. McCLELLAN. Mr. President, I call up my amendment No. 518.

The PRESIDING OFFICER. The amendment of the Senator from Arkansas will be read.

The LEGISLATIVE CLERK. At the end of the bill, it is proposed to add the following new title:

"TITLE XII—AMENDMENTS TO LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

"SEC. 1201. Section 102 of the Labor-Management Reporting and Disclosure Act of 1959 is amended to read as follows:

"'SEC. 102. (a) Whenever any rights secured by the provisions of this title have been infringed, or there are reasonable grounds to believe that any such rights are about to be infringed, by any violation of this title, a civil action may be brought in a district court of the United States for such relief as may be appropriate (including an application for a permanent or temporary injunction, restraining order, or other order). Any such action may be brought (1) by the person whose rights have been infringed or are about to be infringed, or (2) if requested by such person, by the Attorney General for or in the name of the United States. Any such action against a labor organization shall be brought in the district court of the United States for the district where the alleged violation occurred, or where the principal office of such labor organization is located. Any court before which a proceeding is brought under this section shall advance such proceeding on the docket and expedite its disposition.

"'(b) The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101-115), shall not apply with respect to civil actions brought under this section.

"'(c) In any action of proceeding under this section the United States shall be liable for costs to the same extent as a private person.'"

Mr. McCLELLAN. Mr. President, I ask that the amendment be so modified as to permit it to be made applicable to the pending substitute amendment.

The PRESIDING OFFICER. Unanimous consent is not required for that purpose; and that will be done.

Mr. McCLELLAN. Then, Mr. President, I ask for whatever may be required in order to have my amendment apply to the substitute amendment, if the substitute is now pending.

Mr. President, on the question of agreeing to my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. McCLELLAN. Mr. President, after a hard battle on the floor of the Senate on the Landrum-Griffin bill, the Senate adopted title I, which was known as the bill of rights of members of labor organizations.

That bill of rights provides—

> BILL OF RIGHTS
>
> SEC. 101. (a)(1) EQUAL RIGHTS.—Every member of a labor organization shall have equal rights and privileges within such organization.

The law applies to people of all races, creeds, and color who work. There is no discrimination about it.

It provided for freedom of speech and assembly. It further provided that there shall be no discrimination in the assessment of dues, fees, and initiation fees; that there shall be no discrimination in voting; and that there be secret ballots.

It provided further for the protection of the rights of members to sue.

It provided for many safeguards against improper disciplinary action and many other protections for the workingman himself.

No enforcement provision was included in the act except under section 102, which provides in part:

> SEC. 102. (a) Whenever any rights secured by the provisions of this title have been infringed, or there are reasonable grounds to believe that any such rights are about to be infringed, by any violation of this title, a civil action may be brought in a district court of the United States for such relief as may be appropriate.
>
> Any such action that may be brought against a labor organization shall be brought in a district court of the United States for the district in which the alleged violation occurred, and in which the principal office of such labor organization is located.

My amendment, which would add a new title to the pending bill, would give an additional right to working people. Since we are dealing with rights, and since we would place a burden on the Attorney General of the United States to bring suits to enforce those rights, I point out that the protection of the rights of working people is as important as the protection of the rights of any people on account of race, color, creed, or national origin. I merely propose, in order to secure better enforcement of the provisions of the Bill of Rights for the working people of this country, that we apply the same rule and the same enforcement procedures that we would apply to persons because of race, color, creed, or national origin. The amendment would give to the Attorney General the right, if a request were made by an individual who felt that he was being mistreated and his rights were being denied him, to bring a suit to give such people those protections if the Attorney General deemed there was merit in the request. That is all the amendment would do.

If we are to talk about human rights—the rights of individuals—and base those rights on creed and color, I say that we ought to go a little further.

The PRESIDING OFFICER (Mr. STENNIS in the chair). The time of the Senator has expired.

Mr. McCLELLAN. I yield myself 2 additional minutes.

I say that we ought to give the right to protection and the enforcement of that right to the laboring people of our country, and place that responsibility in the Attorney General's office and on the Federal Government, just as we propose to do in other cases that might arise under the bill.

Mr. President, if Senators argue that such a proposal is not necessary, I suggest that they read the statement that I shall ask to have incorporated in the RECORD. First, I point out that I prepared two speeches on this subject, having in mind that we could offer amendments at a time when the Senate would not be operating under a gag rule and we could discuss openly and completely proposed amendments in order to get the true picture before the Senate.

We now do not have time to do that. I merely ask that the remarks that I had prepared, together with excerpts from letters that I have received begging for some relief and explaining conditions under which some people who work in labor unions are denied those rights, be printed in the RECORD, together with the addresses that I had prepared and had intended to deliver under unrestricted conditions.

There being no objection, the remarks and excerpts from the letters were ordered to be printed in the RECORD.

The first speech regarding title XII amendments to civil rights bill is as follows:

> The so-called Civil Rights Act of 1963 is described in its opening preamble as an act "to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States, to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes."
>
> Distributed liberally throughout various titles of that bill are provisions empowering

the Attorney General to institute suits on behalf of individuals against other individuals and groups of individuals, allegedly for the purpose of protecting what are referred to in the bill as "constitutional rights."

It requires but brief reference to the provisions of the bill itself to disclose the fact that many of the so-called constitutional rights which the Attorney General would therein be empowered to enforce cannot, in any true sense, be described as constitutional rights. On the contrary, their enactment into law would represent a violent assault upon basic unalienable rights which have been recognized and guaranteed by the Federal Constitution since the date of its ratification. If the sponsors of the so-called Civil Rights Act of 1963 are really interested in the protection of rights which can be truly described as constitutional, I recommend that they turn their attention to that crucial situation in which millions of American workingmen and women, who are members of various labor unions, find themselves today. These men and women are American citizens, too, and they are entitled to the same concern and consideration from the Congress, in respect to their constitutional rights, as is any other group of our citizens.

It is my concern for the protection of their constitutional rights that has led me to propose an amendment which would add a new title XII to the so-called Civil Rights Act of 1963. The amendment which I have proposed provides that:

"Sec. 1201. Section 102 of the Labor-Management Reporting and Disclosure Act of 1959 is amended to read as follows:

" 'Sec. 102. (a) Whenever any rights secured by the provisions of this title have been infringed, or there are reasonable grounds to believe that any such rights are about to be infringed, by any violation of this title, a civil action may be brought in a district court of the United States for such relief as may be appropriate (including an application for a permanent or temporary injunction, restraining order, or other order). Any such action may be brought (1) by the person whose rights have been infringed or are about to be infringed, or (2) if requested by such person, by the Attorney General for or in the name of the United States. Any such action against a labor organization shall be brought in the district court of the United States for the district where the alleged violation occurred, or where the principal office of such labor organization is located. Any court before which a proceeding is brought under this section shall advance such proceeding on the docket and expedite its disposition.

" '(b) The provisions of the act entitled "An act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101–115), shall not apply with respect to civil actions brought under this section.

" '(c) In any action or proceeding under this section the United States shall be liable for costs to the same extent as a private person.' "

The purpose of the proposed amendment is to provide a more effective method of enforcement of the provisions of the bill of rights in the Landrum-Griffin Act, and thus to make its guarantees and protections more meaningful to the millions of union members it was designed and intended to benefit. Surely the constitutional rights of union members, which are set forth in the bill of rights in the Landrum-Griffin Act, are as urgently in need of an adequate means of enforcement as are many of the so-called rights which are prescribed in the so-called Civil Rights Act of 1963.

However, as we compare the respective enforcement provisions, we find that each union member must initiate and finance any litigation which would be necessary to obtain redress against a union for violation of his rights, under title I of the Landrum-Griffin Act. Section 102 of that title expressly provides that:

"Sec. 102. Any person whose rights secured by the provisions of this title have been infringed by any violation of this title may bring a civil action in a district court of the United States for such relief (including injunctions) as may be appropriate. Any such action against a labor organization shall be brought in the district court of the United States for the district where the alleged violation occurred, or where the principal office of such labor organization is located."

Where, in that enforcement provision, is there the solicitude for the victim of injustice at the hands of autocratic or dictatorial union leaders which could be equated with the solicitude expressed in the enforcement provisions of the so-called Civil Rights Act of 1963.

Let us look, for example, at section 301 of that bill which provides as follows:

"Sec. 301. (a) Whenever the Attorney General receives a complaint signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to the equal protection of the laws, on account of his race, color, religion, or national origin, by being denied access to or full and complete utilization of any public facility which is owned, operated, or managed by or on behalf of any State or subdivision thereof, other than a public school or public college as defined in section 401 of title IV hereof, and the Attorney General certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the public policy of the United States favoring the orderly progress of desegregation in public facilities, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

"(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the employment or economic standing of, or might result in injury or economic damage to, such person or persons, their families, or their property."

I request that you give particular attention to the language of section 301(b) and, for purposes of emphasis, I will repeat it:

"(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the employment or economic standing of, or might result in injury or economic damage to, such person or persons, their families, or their property."

Having that language in mind, it is bitter irony indeed to suggest to the individual American workingman or woman that if he wishes to secure redress against a union's violation of his fundamental right of freedom or speech or assembly, that he must initiate and finance his own action, regardless of the retaliatory power which such union and its leaders might unleash against him and even against the members of his family.

The irony of the situation in which such a union member finds himself is not made less bitter for him by the fact that his rights which are specified in the bill of rights of title I of the Landrum-Griffin Act are basic fundamental rights which are in large part substantially identical to the rights enumerated in the Federal Constitution. That they are substantially identical is not the result of mere coincidence.

In 1959, during the course of the congressional debates leading up to the enactment of the Landrum-Griffin Act, I proposed an amendment designed to provide a statutory bill of rights for members of labor unions, because I had become convinced that such legislation was desperately needed to bring to the conduct of union affairs and to union members the reality of some of the basic rights and freedoms from oppression which are set forth and described in the Federal Constitution and which have long been considered to be the birthright of every American citizen.

It was my firm conviction then, and it is my conviction now, that abuses of power, and other corrupt and improper practices on the part of some of our largest and most powerful labor unions and their leaders, would never be and could never be prevented or eliminated unless the Congress of the United States fulfilled its responsibility by enacting legislation which would prescribe minimum standards of democratic processes and conduct for the administration of the internal affairs of labor organizations. I believed that the Congress should prescribe and define by law what the rights of union members are; place in their hands the means, through democratic processes and procedures, to make those rights secure; and provide them with protection in their efforts to do so from reprisals of any kind from their would-be bosses, exploiters, and manipulators. Without such protection, other provisions of law would, I felt, be of little benefit and largely meaningless to the union members. The records of the Senate Select Committee on Improper Activities in the Labor or Management Field show over and over again that, without such protection in the exercise of his legitimate rights, the rank-and-file union member did not dare to risk any opposition to a corrupt and autocratic leadership. He knew that if he risked such opposition he might be beaten, his family threatened, his property destroyed or damaged, and he might be forced out of his job. Such things could happen and all too frequently had happened.

The hearings of the Senate Select Committee, of which I had the honor to be chairman, began in 1957 and continued for a period of more than 2½ years.

The disclosures resulting from those hearings shocked and alarmed the committee, Members of the Congress, and the American people. They were appalled as witness after witness testified concerning the evils and abuses which had been and were being perpetrated against millions of workingmen and women in this country by ruthless and unscrupulous persons who, having manipulated their way into positions of power and control in certain labor organizations, were masquerading as labor leaders and friends of the workingman.

The practices engaged in and the abuses perpetrated by these unscrupulous leaders against the members of those unions over which they exercised control took many forms, including the abrogation of all democratic processes and procedures within the union; the denial of freedom of speech and assembly; the denial of the right to have a voice in the nomination of or to vote for candidates for union office; the denial of the right to a voice in the formation and adoption of union policies and programs; and the denial of the right to fair and impartial disciplinary procedures.

On March 24, 1958, the committee issued an interim report in which it set forth certain overall conclusions and findings, among which were the following: that there was a significant lack of democratic procedures in the unions studied; that union constitutions had been perverted or ignored; that one-man dictatorships had thrived; and that by resort to violence and threats of violence, leaders had intimidated the rank-and-file members and thus had effectively shorn them of any voice in union affairs. Nor has it been just those unions which have been notorious because of their corrupt leadership that have been guilty of denying basic rights to their members. In 1959, the Fund for the Republic issued a report entitled "Union Constitutions" which was based on a detailed study of the constitutions of 70 international unions with a total membership of 16 million. The study included the giant unions of big industry as well as some of the smaller craft unions. Contained in that report, under the heading "The Union Press," is the following discussion of union constitutional limitations upon freedom of speech and freedom of assembly:

"Throughout its period of growth, the American labor movement has often been the victim of vehement attacks in the metropolitan press. Union leaders have often inveighed justly against one-sided reporting of labor conflicts. Ideally, this sobering experience should have developed a real sense of the need for a democratic information structure within the unions. Unfortunately, it has not.

"The provision of the Laundry Worker's constitution requiring that its journal or bulletin print such matter as the general president may direct is a brash description of the prevailing constitutional fact. The Steelworkers' constitution is completely silent on the subject, as are those of the Mine Workers and Hod Carriers. And these are typical cases.

"The exception is in the provisions of the constitutions like that of the ITU, which see to it that the official Journal is required to print opposing views within the union. The Printing Pressmen's constitution directs that newspaper space be granted for discussing propositions submitted by the subordinate unions for general referendum. The Mine, Mill & Smelter Workers calls for the pages of the journal to be open to all officers and members of the organization for the discussion of social affairs, industrial, economic, and political questions, or any other questions pertaining to the interest of the working class.

"If these provisions are exceptions, what avenue is open to minority opinion within American unions? Pamphlets, circulars, and leaflets are one obvious means of putting a point of view before the membership, but there are serious restrictions here. More than half of the union constitutions in the sample contain regulations with regard to libel and slander that may seriously hamper, if not destroy, this kind of discussion.

"The constitution of the Machinists' Union, for instance, classifies as misconduct circulating or causing in any manner to be circulated any false or malicious statement reflecting upon the private or public conduct, or falsely or maliciously attacking the character, impugning the motives, or questioning the integrity of any officer or member of the IAM. This approach is fairly typical of a significant number of unions in the sample.

"Even more extreme are the provisions prohibiting any kind of organized activity that may develop into dissenting or disruptive action. The International Brotherhood of Electrical Workers, for instance, punishes anyone attending a meeting outside those of the local that discusses local affairs. The Ladies Garment Workers prohibits the organization of any group without first filing an application with the general executive board.

"In all of these cases, the potential threat is sharpened by the offender's knowledge that he may be tried by the very group he is attacking. This, coupled with the inadequacies of the rules with regard to the union press, means that freedom of debate is normally circumscribed in the American labor movement."

Concerning the need for fair and just disciplinary procedures even in unions which have an honorable reputation, the same Report of the Fund for the Republic states, in part, that:

"There are a significant number of unions which do not set forth careful disciplinary procedures. For example, in 26 unions, representing more than 5,500,000 workers, the local executive board has jurisdiction over the trial of its members. Since the accused may well be an opponent of the local (or international) administration, it is always possible that this will lead to a biased method of judgment. Moreover, these lapses of process are not confined to those unions notorious for questionable practices. Two unions known for their responsible functioning * * * have serious defects in this regard."

Also set forth in the same report is the observation that: "the procedural rights of an accused union member are of paramount importance. Given this enormous power of the international president and the many limitations upon rank-and-file control of the union administration, clear and defined rights are essential to any union member who wishes to speak and criticize freely."

Also in 1959, following a study of union constitutions by its research staff, Commerce Clearing House, publisher of a labor law service, issued a report listing a variety of reasons for which, under various union constitutions, a member could lose his good standing in his union and be subjected to disciplinary action including heavy fines, suspension, and even expulsion. Many of the constitutional grounds for discipline were stated in such broad, vague, and uncertain terms as the following: "engaging in conduct unbecoming a member"; "failing to give full cooperation to a union committee"; "criticizing union officials"; "questioning the motives or the integrity of an officer or a member of a union committee"; "applying for the position of another union man in office"; and "engaging in personal arguments."

It is little wonder, with such broad powers to discipline union members, that corrupt and unscrupulous union officials have been able to entrench themselves in positions of control within unions and to successfully withstand any effort on the part of even the most courageous union members to expose their wrongdoing.

It was not the intention of Congress, when it promulgated our national labor policy, that labor organizations and their leaders should become the masters of the working men and women of this country. Rather, it was the intent and purpose of Congress, as expressed in that policy, to afford protection to workingmen and women in their exercise of the right to bargain collectively through representatives of their own choosing. Pursuant to that policy, the proper role of the collective bargaining representative is that of agent and servant to those employees for whom it speaks in the collective bargaining process.

It is only when the union acts in the role of agent and servant, rather than as dictator and master, of the employees for whom it bargains that it can rightly claim a moral justification for its existence. As the Court of Chancery of the State of New Jersey stated in *Collins* v. *International Alliance of Theatrical Stage Employees, et al.*:

"Labor unions organized and maintained for the equal benefit of their members, a purpose entirely lawful and laudable, are, without doubt, conducive to the well-being of society, and a necessary part of the social structure. But this is so only when they are properly governed and pursue their lawful objects in a lawful manner. Otherwise, they may become a cancer on the social structure and impede social progress as effectively as they might advance it if prudently managed in the true spirit of democracy. Union autocracy, whether applied internally or externally, is equally reprehensible. Labor unions had their origin in the ancient guilds of foreign countries. In this country they were born of necessity arising from the unconscionable conduct of capital—of employers making virtual slaves of their employees. But the cure which was sought for these ills via the union has in many instances, of which the instant cases present a fair example, proved much worse than the disease itself. The ills have been increased and intensified manifold by the unconscionable conduct of the union officials and racketeering business agents. It is such unconscionable and unscrupulous conduct—persisted in by so-called labor leaders, business agents, etc., in their lust for power and their own greed for the wealth which they vociferously condemn—that at times brings the labor union into disrepute.

* * * * *

"When labor learns to properly govern itself; when union leaders and business agents learn the essence of the golden rule: that enslavement of laborers to their autocratic and dictatorial whims is no less pernicious than the much decried and condemned enslavement of labor by capital, there will be less necessity for the intervention of the courts in labor disputes and controversies of this kind * * *. There can be no economic independence and security and contentment of labor so essential for the public order and welfare until the unscrupulous labor leader or business agent is shorn of his autocratic power."

Our Federal labor relations statutes, the Labor-Management Relations Act (Taft-Hartley Act), and the Railway Labor Act, provides that when a labor union has been selected by a majority of employees in a bargaining unit, such union then becomes the exclusive bargaining agent of the employees in such unit and the employer is compelled to recognize and bargain with that union and to refrain from bargaining with any individual employee or minority group in the bargaining unit even though the individual or minority group might wish to do their own bargaining or might prefer to be represented by an agent other than the one selected by the majority. Furthermore, the terms and conditions of employment negotiated by such union are binding upon the minority employees as well as upon the majority.

It is this exclusive bargaining role enjoyed by a collective bargaining representative under our Federal labor statutes which is the most unique feature of our national labor policy. In an opinion in the case of *National Maritime Union* v. *Herzog* (F. Supp. 146, 155–156) (1948), the District Court of the United States for the District of Columbia had occasion to discuss this novel feature of our national labor policy and in doing so the court declared that when Congress enacted the National Labor Relations Act:

"Not only was the right to organize unions and bargain through them affirmed; but also the privilege of becoming the exclusive bargaining agent of all employees in a bargaining unit was extended to a labor organization favored by a majority of such employees.

Moreover, employers were required to bargain collectively with the representative chosen by majority vote. This, to be sure, was an abridgement of the minority's fundamental rights, as well as those of employers. But the importance of the broad purpose sought to be served justified the means employed.

"Important * * * is the fact that, apart from the National Labor Relations Act, no union has the right to be exclusive bargaining agent. That extraordinary privilege is extended by the statute and except for the act, employers are not under compulsion to bargain collectively."

Later in the same opinion the court stated that: "We find the rights and duties of the sole bargaining agent to be highly fiduciary. An exclusive bargaining agent occupies a position of public interest, similar to that of a Government officer." The court then went on to say that: "It is too well known to require citation of authority that the sovereign may regulate activities charged with a public interest and may prescribe the qualifications of the persons engaged in those activities * * * the qualifications of a person exercising quasi-governmental functions may be prescribed by the sovereign."

The powers of the exclusive bargaining representative were described by the Supreme Court in *Steel* v. *Louisville and Nashville Railroad Company*, a case arising under the Railway Labor Act, as follows: "the representative is clothed with power not unlike that of a legislature which is subject to constitutional limitations on its power to deny, restrict, destroy, or discriminate against the rights of those for whom it legislates and which is also under an affirmative constitutional duty equally to protect those rights."

The grant of such tremendous power to a private entity by congressional enactment is without precedent in the entire history of this Nation. Never before nor since did Congress ever grant to any other private organization such all-encompassing and all-pervasive power to affect and influence the daily lives of millions of our citizens, as that which has been extended to labor organizations under our Federal labor statutes.

Nevertheless, there are those who, either because they have failed to recognize or have chosen to ignore the nature and effect of this extraordinary power and function, continue to categorize labor unions as purely "voluntary associations" whose internal affairs should, in accord with traditional principles relating to truly voluntary associations, be of little concern to the public and, therefore, should be free of any governmental regulation or restraint. Many of these proponents of the erroneous premise that labor organizations are purely voluntary associations, also contend, with a consistent disregard for basic distinctions, that it is unfairly discriminatory for the Congress to enact legislation which requires labor unions to conduct their internal affairs in accord with democratic principles, processes, and procedures unless the same requirements are also made applicable to corporations. This latter contention has come to be known as the "doctrine of mutuality." Those who propound these arguments have either failed to recognize or are refusing to acknowledge the distinctive nature of American labor unions and the unique status which they occupy in our present-day society. A graphic description of the status of modern day American labor organizations is set forth in Senate Report No. 187, 86th Congress, 1st session, pages 111–112 (1959), which reads in part as follows:

"A quarter of a century ago unions as contrasted with management were small and weak. Special immunities and privileges were deemed essential to establish some approach to an equality in strength. This, as has been indicated, has been achieved by an extensive regulation of business on the one hand from which unions are almost entirely free, and by the grants of privileges and immunities to unions which business does not enjoy.

"During the past quarter of a century unions have grown strong, large, and powerful and the inequality from which they suffered as they faced management during the past, in most instances, no longer exists. In a study published last year by the Fund for the Republic entitled 'Unions and Union Leaders of Their Own Choosing,' Clark Kerr, president of the University of California, former member of the War Labor Board, presently a member of the United Automobile Workers Review Board, and himself universally regarded as a top expert in the labor law field, had this to say:

"'A quarter of a century later—today—unions are well established and secure in most major industries of the Nation. Their members number 18 million. They can close down even the giants of American industry—General Motors and United States Steel. They negotiate 100,000 contracts covering the working rules that guide and govern important aspects of the life of industrial men in nearly every trade and every industry and nearly every town. Income, leisure, job security, retirement, pace of work, job opportunities, discipline—all are affected by union participation in the rulemaking process. And union influence extends outside the industrial government of the Nation into its political processes too. Unions affect the selection and the election of candidates. They are intimately woven into much of our economic and political life.'

"Having thus pointed out that labor unions are no longer the weak and ineffectual organizations of 25 years ago, President Kerr manifests his own skepticism with respect to the doctrine of mutuality. In the same pamphlet he points out fundamental differences between labor unions and corporations and, in so doing, clearly implies that the regulation of one need not be paralleled by an identical or similar regulation of the other.

"'The great current issue is the impact of the union on the freedom of the worker. This issue is not simple; it is most complex. It is one that runs through all or nearly all of the union movement and is central to its very existence. While not unknown as an issue in the spheres of Government and the corporation, it is less intensely manifested there at the present time. Our Nation has had a long, successful experience in creating a democratic framework for our Government and protecting the liberties of individual citizens. Our corporations are not expected to be run on a democratic basis. They are founded on the model of the individual entrepreneur making his own decisions; and corporations seldom have either a captive labor force or captive customers (when they do have captive customers they are usually subject to State control).

"'The unions are different. They have not had, like our Government, a long and successful experience in developing a system of checks and balances, in limiting their sphere of endeavor, in defining and protecting the internal rights of their members. Unlike the corporation, they are founded on the assumption of internal democracy. They are associations of individuals, not collections of capital funds. Moreover, increasingly they have a captive membership. It is usually not possible for a union member just to withdraw in protest, without penalty, if he does not like the organization, its leaders, or its policy. We have here, most frequently, a more or less compulsory organization with substantial impact on the lives of its members'."

Early in 1958, Mr. Clyde Summers, Yale University Law School professor and formerly chairman of a special committee appointed by Governor Harriman of New York, to investigate misconduct in labor unions, wrote an article on the subject of union democracy in which he said:

"The lack of union democracy is sometimes excused by pointing to the lack of democracy in corporations. Why should we criticize union officers for acting without consulting their members when corporation officers act without consulting stockholders? This tends to hide vital distinctions behind an appeal to verbal equality. The man who works in a shop, works under the jurisdiction of the union, which makes contracts legally binding on him despite his dissent. The core of his working life, the very source of his livelihood, is governed by the contract which the union makes. It tells him when he shall work, what he shall do, and how he shall work. It defines maternity benefits and retirement rights—from the cradle to the grave. Contrast this with a man who owns a share of stock. The corporation determines only whether he shall receive 4 or 6 percent on his investment. If a worker does not like his union, it is said he can quit and seek other work. But the teamster cannot escape Hoffa unless he stops driving, the operating engineer cannot escape Maloney unless he abandons his bulldozer; and the carpenter cannot escape Hutcheson unless he discards his saw. The corporate shareholder who disagrees with the directors can, for the most part, sell his stock and buy another on the open market. Few corporate monopolies exist in which any person is not free to join as a shareholder, and without inquiry as to race, sex, or political beliefs. Nor do corporations have power to expel those who cause trouble. The same is not true of unions. In short, the union has an all-encompassing compulsory power over vital elements of the existence of every person for whom they bargain."

In view of the fact that many labor unions are able to exert such all-encompassing and compulsory power over the daily lives of their members, it is little wonder that millions of our citizens who are members of those unions find themselves living, as it were, in a state within a state and, with respect to most aspects of their day-to-day activities, subject in a most intimate way to the rules, regulations, and laws of their unions' government—a government which may or may not provide the constitutional safeguards and protections for their fundamental rights and liberties to which all our citizens—union and nonunion alike—are entitled, a government from whose jurisdiction they often cannot escape without sacrificing normal means of livelihood.

The labor unions which exercise such all-pervasive influence and dominance over almost every facet of the day-to-day existence of their millions of members have, all too frequently, been able to erect an almost impenetrable wall between such members and those basic constitutional rights which are freely exercised and enjoyed by all other Americans. Certainly, union members are supposed to be freemen, too, and they are entitled to representative self-government and to protection, in the exercise of their rights, from acts of violence, from threats and intimidation, and from dictatorial or autocratic rule.

It is not only appropriate, it is highly obligatory, that Congress should, by law, seek to insure internal democracy in unions and to provide protection for union members in the exercise of their fundamental rights. This is so because the vast power which unions possess and which enables them to exercise such all-pervasive dominance over the daily lives of millions of American working men and women is largely derived from the Federal labor statutes which were enacted by the U.S. Congress.

Neither the Congress of the United States, nor the legislature of any State, can lawfully infringe upon the basic fundamental rights of American citizens, which are described in the Federal Constitution and the Bill of Rights. As the Supreme Court declared in *Fox* v. *Ohio* (5 How. 434), the amendments which make up the Bill of Rights were designed "exclusively as restrictions upon Federal power."

Restrictions upon State power are to be found in the 14th amendment which provides that: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Surely the Congress has a most serious obligation not only to respect the constitutional restraints upon its power, but also to see to it that the power which it has conferred upon labor unions, by way of our Federal labor statutes, is not exercised in such a way as to violate those very same rights. Congress cannot stand idly by when such power is used by dictatorial union leaders to compel union members to surrender those fundamental rights which are the heritage of every American citizen.

Although we have heard much during the past year from proponents of the so-called Civil Rights Act of 1963 concerning the alleged need for additional legislation to insure and guarantee what they describe as civil rights and equal rights for a certain minority group of our citizens, they have been strangely silent concerning the urgent need for more effective legislation to protect millions of American men and women against violations of their basic constitutional rights within some of our largest and most powerful labor unions.

While title I of the Landrum-Griffin Act is, in some respects, a modified version both as to substance and form of the bill of rights amendment which I offered on the floor of the Senate on April 22, 1959, it still retains many of the guarantees which, if effective enforcement provisions were provided, would afford much-needed protection to union members in the exercise of their fundamental rights as free American citizens.

Although sponsors of the measure now before us have alleged that a certain minority group of our citizens has been granted only a second-class citizenship, they have expressed no concern regarding the second-class citizenship to which many working men and women are restricted within the unions to which they belong.

It is no secret that some of our most prominent labor unions have long followed the practice of placing certain of their members in the category of second-class citizens. It was this very fact which made it necessary to provide in section 101(a)(1) of the Landrum-Griffin Act bill of rights that:

"Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings, and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws."

It is no less than unconscionable for any union acting as the exclusive bargaining representative pursuant to a grant of power from the Federal Government to infringe upon or violate the rights which section 101(a)(1) enumerates.

As we noted earlier, the Supreme Court pointed out, in its decision in *Steele* v. *Louisville and Nashville Railroad Company* (323 U.S. 192, 198) (1944), that a union acting as executive bargaining representative pursuant to power granted to it under our Federal labor statutes: "is clothed with a power not unlike that of a legislature which is subject to constitutional limitations on its power to deny, restrict, destroy, or discriminate against the rights of those for whom it legislates."

Surely the Congress which has conferred such power upon labor unions has a most serious obligation to see to it that the power is not abused. If that obligation is to be fulfilled, Congress must see to it that adequate means are provided to enforce this equal rights provision of the Landrum-Griffin bill of rights on behalf of union members. Union members will be able to participate effectively in the processes of collective bargaining as contemplated by our national labor policy only if they are able to exercise freely those rights which this equal rights provision enumerates. Unions which deny those rights to their members not only violate their obligations to those members, but in addition they defeat the very purpose of our national labor policy.

Section 101(a)(2) of the Landrum-Griffin bill of rights, which seeks to guarantee to every union member the right to freedom of speech and assembly, expressly provides that "Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: *Provided,* That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations."

These are the same basic fundamental rights which are referred to in the first amendment to the Federal Constitution which provides in part as follows: "Congress shall make no law * * * abridging the freedom of speech, or of the press; or the right of people peaceably to assemble, and to petition the Government for a redress of grievances."

The sanctity of these rights was emphasized by the Supreme Court in *Thomas* v. *Collins,* 323 U.S. 516, 543, when the Court stated that: "There is some modicum of freedom of thought, speech, and assembly which all citizens of the Republic may exercise throughout its length and breadth, which no State, nor all together, nor the Nation itself, can prohibit, restrain, or impede."

And, Justice Jackson, in a separate concurring opinion in the same case, while speaking on the right of free speech, declared that: "This liberty was not protected because the forefathers expected its use would always be agreeable to those in authority or that its exercise always would be wise, temperate, or useful to society. As I read their intention, this liberty was protected because they knew of no other way by which freemen could conduct representative democracy."

In the same case, Justice Roberts, in a dissenting opinion, declared that: "The right to express thoughts freely and to disseminate ideas fully is secured by the Constitution as basic to the conception of our Government."

Speaking on the constitutional right of assembly, the Supreme Court, in *United States* v. *Cruickshank et al.,* 92 U.S. 542, 552, stated that: "The very idea of a government, republican in form, implies a right on the part of its citizens to meet peaceably for consultation in respect to public affairs and to petition for a redress of grievances."

The power to deny freedom of speech and freedom of assembly has proved to be a most effective instrument by which dictatorial and unscrupulous leaders have been able to prevent the development, among rank-and-file union members, of any movement or plan which might have as its purpose the exposure and ousting of corrupt union officials and the recovery of control of the union by the membership.

Given a more effective means of enforcing the rights which this section of the Landrum-Griffin bill of rights prescribes, union members will be immeasurably aided in their efforts to free themselves and their unions from the domination and control of corrupt, arbitrary, or dictatorial leaders.

The next section, 101(a)(3), of the Landrum Griffin Act, was designed to guarantee the members a right to participate in the determination and establishment of rates of dues, fees, assessments, and initiation fees, payable by union members to the labor organizations to which they belong.

Surely the members of labor organizations are entitled to a voice in the fiscal affairs of those organizations. They have a right not only to participate in determining the rates and amounts of dues, and other fees and assessments to be paid by them, but also they are entitled to a voice in determining the use to which such moneys are to be put by the organization. Denial of such rights to union members within their organizations constitutes "taxation without representation" and is contrary to every concept of free and representative self-government.

It is an incontrovertible fact that "work permit" fees and other illegal assessments have too frequently been exacted from union members, and other workers as well, by unscrupulous union officials as the price for obtaining and retaining employment.

Effective enforcement of the union members' right to a greater measure of control over the fiscal affairs of their unions is most essential if the temptation and opportunity for self-enrichment which has attracted racketeers and others of unsavory character into the labor movement is to be lessened.

The next provision of the Landrum-Griffin bill of rights, section 101(a)(4), states that: "No labor organization shall limit the right of any member thereof to institute an action in any court or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceeding, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: *Provided,* That any such member may be required to exhaust reasonable hearing procedures (but not to exceed a four-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organization or any officer thereof: *And provided further,* That no interested employer or employer association shall directly or indirectly finance, encourage, or participate in, except as a party, any such action, proceeding, appearance, or petition."

That the rights referred to in this section have been interfered with, restricted, and even denied by too many labor organizations can be amply demonstrated not only by a review of provisions of their constitutions, but also by reference to the vast body of case law on the subject. Those cases clearly establish that countless numbers of union members have been subjected to the most harsh discipline, including heavy fines, suspension and even expulsion from membership, for attempting to exercise the various rights which this section seeks to protect and guarantee.

As the courts have pointed out, a labor organization which attempts to restrict its members in the exercise of such rights is thereby interfering with their duties and responsibilities as citizens of the State and of the Nation. For example, in *Spayde* v. *Ringing Rock Lodge 270, et al.* (113 Atlantic Reporter 70, 71 (1921)), the Pennsylvania Supreme Court held a constitutional provision of the union restricting the right of its members to engage in legislative activities to be against public policy and "void" when invoked by the union as grounds for expulsion of a union member who had signed a petition to the State legislature advocating a position contrary to that espoused by the union. The court pointed out that the union member as a "citizen" not only had a "right" to petition the legislature for repeal of a law to which he was opposed, but that it was his "solemn duty as a citizen to do so," and "he could not be penalized therefore by a beneficial association of which he was a member." Certainly where the duty of a citizen to his State and Nation conflicts with a duty imposed on him by his union, there should be no question as to where his paramount obligation lies.

The next provision of the Landrum-Griffin bill of rights, section 101(a)(5), provides that: "No member of a labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof unless such member has been (a) served with written specific charges; (b) given a reasonable time to prepare his defense; (c) afforded a full and fair hearing."

One of the basic purposes of this section is to require and guarantee by law that union disciplinary procedures shall at least provide those elementary essentials of due process of law which are indispensable, if justice is to be accorded to the individual union member. As our courts have consistently held, the necessity of due "notice of the charge and an adequate opportunity to be heard in defense of it" is basic to the very idea of free government and among the immutable principles of justice which no State of the Union may disregard. (See, e.g., *Powell* v. *Alabama*, 287 U.S. 45, 68 (1932).)

In fact, due notice and a reasonable opportunity to be heard to present one's claim or defense have been found to be two fundamental conditions almost universally prescribed in all systems of law established by civilized countries. (See, e.g., *Twining* v. *New Jersey*, 211 U.S. 78, 10 (1908); and *Jacob* v. *Roberts*, 233 U.S. 261, 265 (1912).)

Where the constitutional right to a hearing is involved, the courts have held that the hearing must be a fair one and must be held before a tribunal which at least meets prevailing standards of impartiality and an opportunity must be given not only to present evidence, but also to know the claims of the opposing party and to meet them. (See, e.g., *Wong Yang Sung* v. *McGrath*, 339 U.S. 33, 50 (1950).)

Unfortunately the safeguards specified in this section have too often been lacking and, as a result, members of certain unions have too often found themselves the victims of unjust and arbitrarily imposed discipline.

All of the rights specified in the Landrum-Griffin bill of rights are so basic and so fundamental that there should be no question as to the propriety of providing for their effective enforcement. As Mr. Robert M. Hutchins, former president of the University of Chicago, stated in an article entitled "Is Democracy Possible?": "The Constitution must protect the citizens against the Government. The Government must protect him against the pressure groups. The Government must protect him against society and the rapacity of organizations in it by seeing to it that these organizations pursue purposes and programs consonant with the public good."

The second speech and excerpts from letters are as follows:

I feel that the Congress should give thought soon to providing additional protection for the laboring man. More than 4 years ago, the Labor-Management Reporting and Disclosure Act of 1959 became law. At that time we tried to put within the reach of the individual laborers the means by which they could control their own organizations.

I believe that in some degree we were successful in achieving this objective. However, a considerable volume of the mail that reaches my office convinces me that the old evils have not died out merely by the passage of this act.

In many cases the labor union official still holds in his hands the destiny of the members he is supposed to serve. By one device or another, according to these letters, it is possible to reward those who perform his bidding and to visit reprisals upon those who dare to oppose him.

When you add to this the fact that in many sections of industry membership in a particular union is a condition of employment, then you can see how it would take a strong man indeed to jeopardize not only his livelihood but also the present and future well-being of his family by opposing any action of the local or international union officials.

If there is one central thread running through this correspondence, it is this, lack of democracy coupled with fear of reprisal. It is true that under the bill of rights section of the Labor-Management Reporting and Disclosure Act of 1959 a union member can sue to protect certain of his rights. This is of little help to a man whose total income is required to sustain his family and to provide them the necessities of life. Legal fees are outside his budget. What could be more reasonable under these circumstances than a provision for the enforcement of justice in these cases by duly constituted authority?

I do not intend to read from all of these letters or even from any substantial part of them. However, I have selected a few as representative of some of the major problems concerning which I have received correspondence. I shall attempt to provide in each case sufficient explanatory information so as to make the letter understandable and in each case I shall quote only a portion of the letter.

In one piece of correspondence, I was asked by a member of a well-known international union, the Operating Engineers, to help protect this member from officials of his own union. According to this man's statement, he was tried and convicted in absentia. Both this man and his family have suffered because of the injustice which was brought about in his case.

I quote the pertinent portion of his letter:

"I was assaulted by the president and business manager of Local No. 101, Kansas City, Mo., when I asked for a copy of the local union bylaws. I was told to drop the assault charge against the president of local No. 101, or else.

"Due to other violence such as union officer attempting to serve me with charges using force and violence, who was not, according to the International Constitution of the Operating Engineers, the subpenaing officer, I moved for my safety to California.

"At that time, I received a clipping from the Kansas City, Mo., newspaper that I was expelled and fined $1,000 at a meeting at which I was not present. I was never served by the subpenaing officer of local No. 101 in person, Cleo Dart, recording secretary for local No. 101, of the charges or the date of the trial.

"For this immoral act, I have suffered 2 years of unemployment. I am a qualified operating engineer, but due to the International Operating Engineers in Washington and their local unions throughout the United States, I am unable to obtain work in my profession.

* * * * *

"We cannot live much longer under these conditions where we face eternal poverty and inequity."

I received a letter from an attorney in New York City. The letter represents a few members of labor unions who have been victimized by their officers. This attorney cites the principal problem facing the rank and file in this union as the limitation of the existing labor-management law. The letter from which I am about to quote describes a union composed primarily of hard-working law-abiding citizens who have no control over their own organization.

I quote the pertinent portions of this letter:

"Although this union which I refer to is actually run by the gangster element, its members, by and large, are honest, hard working law-abiding citizens, who have been hoodwinked and victimized, in the basest ways, for years. As an example—just a few weeks ago, two provisions were ramrodded through by this union's officials whereby the annual tribute to the gangster element was increased 100 percent. This tribute was absolutely unnecessary and just added to the other graft which has piled up over the years. Some time ago the secretary-treasurer was indicted and found guilty of stealing more than $12,000. Actually, because the indictment was based on the Landrum-Griffin law it covered only a period of 2 years; if it had been possible to go back further, the boodle would have amounted to over $100,000. The union I refer to occupies a critical function on the waterfront and it is in the gangsters' interest that it remain corrupt.

"Together with Mr. Cronin I have thoroughly explored this matter with the U.S. Department of Labor, Bureau of Labor-Management, but we have been completely stymied as far as official governmental action is concerned because of the limitations of the Landrum-Griffin law. It would seem that it is high time that this particular union, with the millions of dollars it actually controls, should be thoroughly investigated by the Government and appropriate action taken.

"There are only a pitiful handful of men left in this union, who, like Mr. Cronin, have any stomach and fortitude left to fight this corruption—the rest have been browbeaten and subdued or corrupted themselves in order to survive and hold onto their jobs."

In one letter I received from a union member, this man described to me his efforts and the efforts of his associates to rid themselves of a local official who allegedly was not carrying out his duties as he should. This union member says that the official, in concert with a representative of management, has brought about reprisals on those who sought to displace this official from his position. Despite the fact, according to this man, that this group operated within the rules and regulations, still they were unable to make the rule of the majority prevail.

I quote the pertinent portions of this letter:

"It is generally understood that our Government is concerned about the fact that union leadership does not appear to be the result of selection by rank-and-file members. This concern, however, seems limited to either hoodlum or Communist elements which attempt, and sometimes succeed, in influencing the internal affairs of labor organizations. In the case at hand, there is abundant and irrefutable evidence that the El Paso Union Passenger Depot Co., through conspiracy, did, in the spring of 1961, unlawfully influence the outcome of a B. of R.C., recall election by open threat, intimidation, and various other pressures. Further, those members who were prominent in initiating this election were subjected to reprisals and these reprisals are still continuing. These reprisals have been directed by management, although the recall election was strictly an internal matter intended only to generally strengthen our local organization and promote greater interest in union affairs.

* * * * *

"This petition ultimately received 44 signatures, which was more than the two-thirds necessary to secure the election; however, when news of the circulation of this petition swept through the depot, the superintendent of this company, Walter H. Anderson, visibly upset and fearful that Bradford might be replaced by someone less pliable, glowered about the premises and held repeated and prolonged discussions with this unpopular union official. In one instance he was overheard to say, 'That's all right, Brad—I'll take care of those bastards for you.' "

Over the course of about 8 months, I received three letters from the same man. The first of these three attached is a letter this man wrote to the international president of his union. As a postscript to this letter he said, "This letter will probably cost me my job."

The second of the three letters informed me that this man had indeed been expelled from the union and fined $2,000.

The third of these three letters confirmed the $2,000 fine and the expulsion and added a note which should interest every citizen. This man said, "When I protested that anyone had a right to communicate with a Senator or a Congressman, I was laughed at."

I shall now quote the pertinent portions of the letters to me from this man dated January 4, 1963, April 19, 1963, and September 18, 1963:

"DEAR SENATOR: I am enclosing a copy of a letter I have written to Peter T. Schoemann, general president of U.A. Plumbers & Steamfitters Union.

"For nearly 2½ years the Steamfitters Union has held a club over my head, denied me my right as a union member, refused me work, and made threats to me and my family.

"We do need more and stricter labor laws to protect us little fellows.

"This letter will probably cost me my job."

"Some time ago I sent you a copy of a letter I wrote to Peter T. Schoemann, general president of Plumbers and Steamfitters Union.

"At that time I told you I would be expelled from the union for writing this letter.

"Today I received a certified letter in mail from local 337 saying that, I am fined $2,000, expelled from the union.

"Do you approve of such a thing as this, taking a man's living away from him?"

"DEAR SENATOR: The result of my sending you a copy of a letter written to Peter T. Schoemann, Plumbers and Steamfitters president of Washington, D.C., protesting discrimination of me by local 337 and U.A. is this.

"I was brought to trial by local 337 Plumbers and Steamfitters, Kalamazoo, Mich., for writing you this letter.

"Fined $2,000; expelled from union.

"When I protested that anyone had a right to communicate with a Senator or Congressman I was laughed at.

"I guess the union is bigger than the U.S. Government, and surely bigger than the Senate."

The author of the next piece of correspondence describes an unusual situation but one which is very real to him. According to what this man said, the employees at a new store were bound by a contract concerning which they had no voice and which was signed before the store opened. This is indeed a strange way to protect the rights of the workers.

I shall now quote the pertinent portion of this letter:

"DEAR SIR: Enclosed please find the agreement between E. J. Korvette, Inc., and the Department Store Employees Union Local 21 (AFL–CIO). Please, sir, I know you are busy, but please let me know if you find anything wrong with the agreement. I, myself, don't like it, and I am trying to do something about it. This agreement was made before the store opened and we, as employees, had no say-so in this matter. Is this the American way of doing things?"

When the Congress considered the Labor-Management Reporting and Disclosure Act of 1959, those of us who were present at the time felt that it was impossible to anticipate every device which might be resorted to in order to circumvent its intent. One union member communicated with me not quite 1 year ago concerning a situation existing in his local union. According to this man's statement, only those who are members of the executive board of this local union are eligible for elective office. Election to the executive board is apparently influenced by those who already hold an official position. The result is a system which perpetuates the same officials in office almost indefinitely. This man suggests that any member in good standing should be eligible to run for any office in the union. It does not seem that this is an unreasonable position.

I shall quote the pertinent portions of the letter from this union member.

"DEAR SENATOR MCCLELLAN: I want to congratulate you for the many achievements you made for the average union member.

"There is only one more thing I wish you would do. I wish you or someone else would add an amendment to the Landrum-Griffin law stating that any member in good standing in any local union can run for any office paid or unpaid.

"I belong to the Restaurant Workers Union in Philadelphia local 301. In all the local unions that come under the jurisdiction of the Hotel & Restaurant Workers Union they have certain restrictions in their bylaws which reads as follows:

" 'No member of this union may run for any paid office without first serving at least one term on the executive board.' Now to the average person this sounds very reasonable but the average union member knows better. First of all, that keeps the eligibility list very small; second of all, it freezes a paid union official on his job as long as he wants it.

"As an illustration a paid official will only pick the team that he wants to serve on the board. And if a member runs without his endorsement and wins; the business agent and the rest of his crowd on the board have at least 2 years to make it unpleasant for you and also to cause you so much harassment that you would have to quit. Its been done many a time."

About 1 year ago I received a copy of a letter directed to the president of an international union. It seems that the author of this letter, who is a member of this union, found himself at odds with the local union officials primarily, it seems, because of his desire to inform himself more adequately concerning the duties of his office which was a minor one in the union.

This man said that he tried to secure a copy of the constitution and bylaws, which to me does not seem an unreasonable request, but it was denied to him.

This man said, in effect, that he was denied permission to write to the international office of his own union to secure a copy of the constitution and bylaws. He said that his position degenerated until finally he was dismissed. This man says, incidentally, that other information concerning his local union has been denied the members.

I do not know this man's present position but I do feel certain that if the facts as he outlined them are accurate then some addition is necessary to existing legislation governing labor-management relations and the relationship of a laboring man with his own organization.

I shall read the pertinent portions of this letter and I believe there is fruit for thought contained in these paragraphs:

"First, I believe in unions, honest unions. I got along all right as long as I did not ask anything about the union or the company contract. When I did, things started to pop. I was appointed chief steward, but later found it was illegal. Then I asked for the original constitution and bylaws, but could not get them. Then I asked for permission to write to you for them as I had been told I needed the executive board OK to write you and did not know then the Federal law gave me this right. Mr. Ward, secretary-treasurer of the local as well as other board members told me I could get the constitution and bylaws from Mr. Lussier or Mr. Carter at the district IUE office here. Their office denied having 258 constitution and bylaws. In August 1963, Mr. Newman, Mr. Petriquin, Mr. Ward and Mr. Hughes then told me at a meeting that permission was denied for me to write you for the constitution and bylaws and contract for I had no right to do so.

"After this, more and more, the management and Newman crowd had pressure put on me. Mr. Newman had, at one time in the shop and once in a union meeting, threatened me. On November 21, 1963, I was fired. About 4 weeks later I confronted the IUE officials and the following day they had a hearing with company officials on my grievance regarding this.

"My case was a farce to Mr. Carter." His first remark was "My job is to try to keep the international IUE from being sued." He let the company bring in anything they wanted. No challenge. President of company swears at employees, but that's management. Everything was cut and dried.

"Why don't you ask the workers at the plant? They do not even get IUE News, though many have asked for same. After the people have started to pay dues the union forgets about them and uses part of their dues to go after another shop. Do you, Mr. Carey, think this is right? It sure is not the American way to treat the worker who makes your living. He puts in union dues, IUE members alone, in the amount of approximately $144 million per year. Of this, rank and file members get nothing. I asked many times for a financial report sheet. Officials said I had no right to one. During 1963 we had about four membership meetings. Now I know all members of 258 had right to a financial statement and information on Federal laws protecting members, prohibiting union officials dictatorial powers. This is America, isn't it, Mr. Carey? Or does IUE feel we are in Nazi Germany? If the latter, then it's time all Americans took notice. Without members of IUE, you and your constituents might have no job to retire from."

Last summer I received a letter which I found hard to believe and without conducting any actual investigation I confirmed statements made by this woman with her by telephone. This woman is a member of a local union which meets several times a year. Any member who is not present for a majority of these meetings is fined $5 a year. The meetings are held at 10:30 a.m., on Sunday morning. The author of this letter is a lady member of the local who also alleges some questionable election practices.

I shall read a portion of this letter to you:

"I believe Congressman SHORT, of North Dakota, called your attention to the trouble I am having with the local I belong to. Since 1964, members are fined $5 each year for missing meetings that are held at 10:30 a.m. on Sunday. Three years ago, I told them I would not pay it any longer.

"The same officers are still running this local who were in when I started here 10 years ago. We can't get them out. Each of the last 5 or 6 years at election time, there is just one name on the ballot for each of the top three offices. They put postings in our locker rooms at work, telling us 'There shall be no write-ins, any ballot with names written in will be thrown out.' When such a thing as that can go on year after year, we certainly need a change in our labor laws.

"If these little people, we have here in this local are not stopped, they are going to be our Jimmy Hoffa's of the future."

It seems that although we tried to put within reach of each union member the means of working out his problems, intimidation and fear of reprisals are powerful forces in the opposite direction. We should give serious thought to making it easier for rank and file members to control their officials rather than being controlled by them.

A letter from which I shall now quote describes the reaction of one union member to this situation:

"I've been a union man all my life, and firmly believe that unions are necessary. In fact, I was a business agent here in Santa Barbara up to November 1962, at which time I was kicked out because I refused to go along with what I thought was dishonest. There are many things going on in Santa Barbara County, and southern California, that should be corrected, for the benefit of the workingman.

"Many people would like to talk, but they are afraid. Their jobs would be in jeopardy, and they might even be in danger of bodily harm. My own life would not be worth a plugged nickel if it were known that I gave out this following information:

"On one occasion, members went to the department of labor management, in Los Angeles, and they now feel as though they have been betrayed. Be this as it may—before they got back to their hometown, the union here had been informed of their visit."

If Congress permits a condition to exist in which a worker must belong to a union or lose his job, then it follows that Congress should also provide that the union should be operated for the benefit of its members and not for their detriment.

I shall quote from a letter written to the subcommittee by a man who, according to his statement, was forced to join the union because of a union shop arrangement and after this took place the union refused to represent him. Permitting this condition to persist works a serious injustice against the workingman.

I shall quote the pertinent portions of this man's letter:

"Re compulsory unionism: My experience stresses that it should be prohibited because it forced me to pay for protection it refused to provide; contrariwise encouraging management and union to combine in a conspiracy to deprive me of property rights and civil rights—using my dues in the process.

"If I, and like-minded workmen, had been at liberty to withhold dues and/or quit the union upon refusal of union officials to process my grievance, those officials would not have chanced a growing loss of dues for cause. As it was, I was forced to find my remedy in the filing of NLRB charges on June 2, 1952, 'Refusal to process grievances.'

* * * * *

"The charge was dismissed for 'insufficient evidence' even though not a single witness of mine was interviewed nor a single appointment kept with me. The only explanation I could get was that there was not evidence to issue complaint."

In another letter along the same vein a union member describes the problems of the workers who are caught in a situation in which they are forced to belong to the union in order to work but who receive no benefits once the union officials are sure that the workers have no alternative but to pay their dues.

The author of this letter is about to retire and, as he said, any change in the law will not help him; he is pleading for his fellow workers.

I shall read the pertinent portion of this letter:

"An attorney, who is a State representative, wrote the first six 'Whereas' of this resolution. I gather from that wording that the U.S. Supreme Court has already ruled that it is unlawful for the minority to rule the majority. However, the local lodge cannot file suit for fear of having their charter revoked. It will be hard to find a member who has the fortitude and funds to start a suit.

"I have no personal grievance, as my railroading days are about over. I have always been a member in good standing, plus a good personal record with the railroad with whom I am employed.

"However, we now have forced membership, forced dues paying, which we feel gives the lodge officers above us a little more leeway to do more as they see fit. We feel that there to a large extent, taxation without representation, which we are without power to vote on or to correct."

During the past year and previous thereto, I have received a number of letters from workingmen who have been denied union membership. These men are not protected by the Bill of Rights and the Landrum-Griffin Act because that section only protects union members. I believe we should give some thought to men who have every right to be union members but who are refused membership. I have extracted two letters of those who speak in this vein. In each case, the author, assuming his statements are true, is well qualified as a technician in the field covered by this union. These men appear to be well qualified not only by virtue of their education but also by virtue of their training and experience. In the first of these two letters the author says that not only is he denied union membership but when he set up his own business to operate independently of the union, the union officials did everything within their power to harass him. These men are in an intolerable position; they are unable to provide for themselves and their families. This situation apparently is brought about by arbitrary and capricious action by the local union organization.

I shall quote from two letters:

"I am a small electrical contractor. Licensed wherever I work, have been in the electrical game for 20 years. An electricians mate, first class, in the Navy in World War II. Hold a journeyman's card in Florida and master electrician licenses in many towns in Westchester County. This is to let you know I am qualified.

* * * * *

"Mr. Senator, the problem. The Electrical Union 501 of this county have denied me admittance as a journeyman in the past. So I have had to go into business for myself. Now as a electrical contractor, the union goes to my customers and tells them that they have to have a union contractor to do their work. If the general contractor does not abide by this, then the union has the other trade delegates threaten to pull their men off the job. This harassment of the general contractor forces them to discontinue my services.

* * * * *

"Mr. Senator, I spent a little over 3 years as a veteran of World War II and most of it overseas. The men working with me are also veterans. Is this what we fought for? To come home and have a special (a father and son) group of men say that they are the only ones to work in the building trades? Have they done something special that makes them privileged people? Do they have more rights than other citizens of this country?

"I cannot hire lawyers to fight labor. The money and lawyers behind labor would smother me. So I appeal to you to do what is right. I ask for your help to fight for my rights. Will you send me help? Something must be done."

"I have a serious problem with local 211 IBEW. I am age 28, married and three children. I served in the Navy for 4 years and honorably discharged. For 7 years, I have been engaged in electrical work, completed required schooling, an apprentice electrician for 6 years, and paid $50 initiation fee in 1957.

"However, the local union refuses to admit me as a union member, without any reason whatsoever. This means that I cannot work as an electrician, and I am deprived of a livelihood in the electrical industry."

Mr. McCLELLAN. In the bill are provisions which would apply to the protection and enforcement of certain rights. I should like to extend that protection to the laboring people of our country, who do not have the means to go into court and fight a labor union which is supported by its treasury, when that union is mistreating the member.

The PRESIDING OFFICER. May we have the utmost cooperation of all Senators and those people who are lawfully in the Chamber but who are not Members of the Senate. To that end I shall ask members of the staff to find seats that have been provided for them in the Senate Chamber.

Has the Senator from Arkansas yielded the floor? His time has expired.

Mr. McCLELLAN. I ask unanimous consent that the names of the writers of the letters which I have asked to be printed in the RECORD be withheld so that the writers of the letters will not be subject to reprisal.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I rise for the purpose of making a point of order in reference to the amendment. Under rule XXII the following language appears:

> No dilatory motion, or dilatory amendment, or amendment not germane shall be in order.

The PRESIDING OFFICER. The Chair could not hear the Senator.

Mr. HUMPHREY. Under rule XXII, the Senator from Minnesota raises a point of order to the amendment offered by the Senator from Arkansas that the amendment is not germane. The amendment proposes a new title, which would amend the Labor Management Reporting and Disclosure Act, and does not relate to the substance of the pending civil rights bill.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. May I be heard on the point of order without the time necessary to do so being charged against me?

The PRESIDING OFFICER. That time will be charged to the Senate, and not to the Senator from Arkansas.

Mr. McCLELLAN. I merely point out that the pending bill deals with civil rights. So does the bill of rights of title I of the Landrum-Griffin Act. I would merely expand the coverage of the bill so as to include a violation of civil rights as defined in the Landrum-Griffin Act by providing for the same enforcement procedures that are provided in the pending measure on the basis of race, creed, and color.

Mr. HUMPHREY. Mr. President, I wish to be heard.

The PRESIDING OFFICER. The Chair understantds that the question of germaneness is not debatable until the Chair rules; but, without objection the Senator will be permitted to make his explanation.

Mr. HUMPHREY. I shall be very brief.

The PRESIDING OFFICER. The Chair would like to hear the Senator.

Mr. HUMPHREY. The amendment before the Senate would provide a new title, which would be title XII of H.R. 7152. It is labeled or identified as "Amendments to Labor-Management Reporting and Disclosure Act of 1959." The substance of the amendment relates to the Labor-Management Reporting Act and the problem of internal democracy in unions; it is not related to the substance of the title in H.R. 7152. The amendment is not germane. It is out of order, and I raise the point of order.

The PRESIDING OFFICER. Would not the bill amend many sections of the law? Would it not amend many titles of the United States Code? Is that not true with reference to the subject of elections and other subjects?

Mr. HUMPHREY. The Chair is correct. But the proposed title XII would be a wholly new title to amend the basic statute in a separate field of endeavor—labor-management relations and union democracy—which is a subject not relevant to the bill before the Senate. I raise the point of order on that basis.

Mr. McCLELLAN. Mr. President, I could call attention to a number of examples, but I shall limit myself to one subject in the bill which is foreign to the subject of civil rights. I refer to page 48 of the bill, where it is proposed to amend the Federal Executive Pay Act of 1956, as amended.

So the bill does not relate exclusively to civil rights. It relates to many other subjects. The bill speaks for itself.

Mr. HUMPHREY. That provision relates only to salaries to be paid under the terms of the act, but this is an entirely new section in a field quite removed from the subject of civil rights. I feel that it is not relevant and would violate the rule of germaneness which applies under cloture.

The PRESIDING OFFICER. The Chair is in doubt, so the Chair asks the cooperation of Senators so that the Chair may concentrate on this matter.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes first the Senator from New Hampshire [Mr. Cotton].

Mr. COTTON. Mr. President, does it not also have a bearing on the germaneness of the amendment in that the bill before us deals with employment, and that the title in which it deals with employment contains certain provisions affecting unions, hiring halls, and deals with employment, and affects employers in dealing with employment—which certainly is very close to the Landrum-Griffin Act, which deals with the rights of workers and of union members?

The PRESIDING OFFICER. The Chair must charge the Senator addressing the Chair with the time taken to address the Chair.

The Chair is glad to hear any Senator, but suggests that he make his statement brief.

The Chair recognizes next the Senator from New Jersey [Mr. Case].

Mr. CASE. Mr. President, do I correctly understand that the time will be charged to the Chair, and not to the Senator speaking?

The PRESIDING OFFICER. No; the rule is the other way.

Mr. CASE. I yield myself 25 seconds.

The whole thrust of the bill relates to discrimination on account of race, color, religion, or national origin. The pending amendment would deal with another matter entirely, and it seems clear to be not germane.

The PRESIDING OFFICER. The Chair recognizes next the Senator from New York [Mr. Javits].

Mr. JAVITS. Mr. President, I yield myself 30 seconds only to say that, whatever the amendment contains, it is subject to the rule of germaneness. In short, if it referred to some other law than civil rights, an amendment would be subject to the rule of germaneness. The fact that it deals with other subjects does not open the door wide. The rule of germaneness would apply to those subjects which are before the Senate and as to which the bill would be effective.

I believe the point of order against the amendment should be sustained.

The PRESIDING OFFICER. The Chair recognizes next the Senator from North Carolina [Mr. Ervin].

Mr. ERVIN. Mr. President, I yield myself 25 seconds.

Title VI of this proposed act amends about 167 different laws. A civil right is a right granted to a person by law. This is allegedly a bill to secure the civil rights of the people. The amendment of the Senator from Arkansas would give the Attorney General power to implement civil rights that people have under the law.

The PRESIDING OFFICER. The Chair recognizes next the Senator from Minnesota [Mr. Humphrey].

Mr. HUMPHREY. I yield myself 20 seconds.

The bill before the Senate deals with race discrimination. It deals with discrimination on the ground of race, religion, or national origin. The Landrum-Griffin bill steered entirely clear of the subject of discrimination on the basis of race, religion, or national origin. The Senate and the House knew exactly what they were doing. This was a deliberate decision by the Congress to exclude consideration of race. The bill dealt with national labor relations and democracy within unions, without reference to the other matters I have mentioned.

So I submit that an amendment which would amend the Landrum-Griffin Act has no place in a bill that is wholly based on discrimination on account of race. The Landrum-Griffin Act dealt with procedures within unions—what we call democracy within trade unions.

The PRESIDING OFFICER. The Chair recognizes next the Senator from Rhode Island [Mr. Pastore].

Mr. PASTORE. Mr. President, I yield myself 15 seconds.

Referring to what the Senator from North Carolina said, if title VI does amend 160 laws, not one of them is the Landrum-Griffin Act. The bill before the Senate does not touch that act.

I think the point of order is well taken.

The PRESIDING OFFICER. The Chair has been helped by the comments made. There is some question as to whether the time on procedural matters should be charged to Senators. The Chair asks unanimous consent on this question that Senators not be charged with the time.

As the Chair understands the rule, it is up to the Chair to rule on the question or submit it to the Senate. It has always been the view of the Senator from Mississippi that the Chair had some responsibility in connection with these matters.

It seems to the Chair that the bill is so broad in the field of injunctions, in criminal law, in criminal contempt, with regard to the Civil Rights Commission, the FEPC title, and in reference to jobs, that the amendment is germane. The Chair so rules.

Mr. HUMPHREY and Mr. KEATING addressed the Chair.

Mr. KEATING. Mr. President, I appeal from the ruling of the Chair.

Mr. HUMPHREY. Mr. President——

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota [Mr. Humphrey].

Mr. HUMPHREY. Mr. President, I rise to appeal from the ruling of the Chair. I hesitate to do so because of my great respect for the Senator from Mississippi, but I feel I must appeal from the ruling of the Chair, because it involves a basic question.

I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. This question is not ordinarily debatable.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Is the appeal debatable?

The PRESIDING OFFICER. Under the rules of the Senate, the Parliamentarian advises that the question is not debatable.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will please state his parliamentary inquiry.

Mr. CURTIS. How would a Senator vote to support the ruling of the Chair?

The PRESIDING OFFICER. The vote would be on the appeal, on the question whether the ruling of the Chair was correct. Senators who wished to vote that the ruling of the Chair was correct would vote "yea." Senators who felt it was not correct, would vote "nay."

The yeas and nays have been ordered——

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair asks that there be order in the Chamber, certainly so that the clerk may hear the responses and record them.

The legislative clerk resumed the call of the roll, and the following Senators answered to their names:

[No. 291 Leg.]

Aiken
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd,Va.
Byrd, W. Va.
Cannon
Case
Church
Clark
Cooper
Cotton
Curtis
Dodd
Douglas
Eastland
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hayden
Hickenlooper
Hill
Holland
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Keating
Kennedy
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Miller
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Scott
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it. We must have quiet so that the Chair and Senators can be heard. The Senator will state the parliamentary inquiry.

Mr. CANNON. Is a "yea" vote——

The PRESIDING OFFICER. The Chair will state the question. Please, may we have quiet? Those who are present as guests of the Senate under the privileges of the floor, please find seats. Sit down and be quiet. The Chair will state the question before the rollcall. The Sergeant at Arms will help those who do not have seats to find seats in which to sit down.

The question now is this: Shall the decision of the Chair stand as the judgment of the Senate? A "yea" vote would mean that it would stand. A "nay" vote would mean that it would not stand.

The yeas and nays have been ordered.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. Mr. President, would a "yea" vote have the effect of declaring the amendment germane?

The PRESIDING OFFICER. Yes. The question the Chair decided was that the amendment was germane to the bill. For further clarity, the Chair will state again the real question submitted now. Shall the decision of the Chair stand as the decision of the Senate?

Mr. JOHNSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. JOHNSTON. Mr. President, in other words, it would mean that Senators do not want to vote upon this matter. Is that correct?

The PRESIDING OFFICER. Each Senator will determine his own vote. Those who are present will remain seated until the vote is completed.

The Sergeant at Arms is present to enforce the orders of the Chair. The clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Maryland [Mr. BREWSTER], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from Indiana [Mr. HARTKE], the Senator from Montana [Mr. METCALF], and the Senator from Oklahoma [Mr. MONRONEY] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from New Mexico [Mr. ANDERSON], the Senator from Maryland [Mr. BREWSTER], the Senator from Indiana [Mr. HARTKE], and the Senator from Montana [Mr. METCALF] would each vote "nay."

Mr. BENNETT. I announce that the Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK], the Senators from Kansas [Mr. CARLSON and Mr. PEARSON], the Senator from Illinois [Mr. DIRKSEN], the Senator from Arizona [Mr. GOLDWATER], the Senator from Nebraska [Mr. HRUSKA], the Senator from Idaho [Mr. JORDAN], the Senator from California [Mr. KUCHEL], the Senator from Kentucky [Mr. MORTON], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

On this vote, the Senator from Wyoming [Mr. SIMPSON] is paired with the Senator from Kentucky [Mr. MORTON]. If present and voting, the Senator from Wyoming would vote "yea," and the Senator from Kentucky would vote "nay."

If present and voting, the Senator from Colorado [Mr. ALLOTT] and the Senator from Nebraska [Mr. HRUSKA] would each vote "yea."

The yeas and nays resulted—yeas 33, nays 48, as follows:

[No. 292 Leg.]

YEAS—33

Bennett
Byrd, Va.
Byrd, W. Va.
Cannon
Cotton
Curtis
Eastland
Ellender
Ervin
Fulbright
Gore
Hickenlooper
Hill
Holland
Johnston
Jordan, N.C.
Lausche
Long, La.
McClellan
Mechem
Miller
Mundt
Robertson
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters
Williams, Del.
Young, N. Dak.

NAYS—48

Aiken
Bartlett
Bayh
Beall
Bible
Boggs
Burdick
Case
Church
Clark
Cooper
Dodd
Douglas
Fong
Gruening
Hart
Hayden
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Smith
Symington
Williams, N.J.
Yarborough
Young, Ohio

NOT VOTING—19

Allott
Anderson
Brewster
Carlson
Dirksen
Dominick
Edmondson
Engle
Goldwater
Hartke
Hruska
Jordan, Idaho
Kuchel
Metcalf
Monroney
Morton
Pearson
Saltonstall
Simpson

The PRESIDING OFFICER. The result of the vote is 33 yeas and 48 nays; and the amendment of the Senator from Arkansas is declared to be nongermane by the Senate.

The question now is on agreeing to the amendment in the nature of a substitute, which is open to amendment.

Mr. ERVIN. Mr. President, I call up my amendment No. 780.

The PRESIDING OFFICER (Mr. STENNIS in the chair). The Chair stated when the yea-and-nay vote began that associates and assistants who were then in the Chamber could not leave until the rollcall had been completed and the vote announced. That time has come, so they may retire, if they wish.

The Chair directs that the next time a vote begins the Sergeant at Arms will close the doors when the rollcall starts, and no one will be permitted to enter the Chamber, except Senators and Members of the House, until the rollcall has been completed and the result announced. Also, no one will leave, unless the Senate rules otherwise.

Mr. ERVIN. Mr. President, I call up my amendment No. 780 and ask that it be modified so as to make it applicable to the revised substitute amendment No. 1052. I ask that the amendment be stated by the clerk.

The PRESIDING OFFICER. The amendment will be so modified and will be read.

The LEGISLATIVE CLERK. On page 3, beginning with the colon on line 9, it is proposed to strike out everything through the word "therewith" on line 18.

Mr. ERVIN. I yield myself 2 more minutes from my remaining 56 minutes.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Let there be order in the Chamber.

Mr. HUMPHREY. Mr. President, what is the number of the Senator's amendment?

Mr. ERVIN. It is amendment No 780.

Since it has recently become apparent that a bill of the nature of the pending bill will be passed, I wish to make——

The PRESIDING OFFICER. Let there be less noise at the desk. The noise is very disturbing to the Senator addressing the Chair and the Senate.

Mr. ERVIN. It has recently become apparent that a bill is to be passed. For that reason, I want the bill to be just as free from constitutional defects and unwise provisions as possible.

My amendment would strike from page 3 of the revised amendment in the nature of a substitute these words:

Provided, however, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such

> tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

When those words are put into plain English, what they mean is this: The Attorney General is to be given the power, by contract with State or local officials, to nullify paragraphs (a), (b), and (c) of subsection (A) of section 101. These are the provisions which would undertake to prescribe how literacy tests are to be administered in the States.

So the situation would be that Congress, which possesses all the legislative power given by the Constitution to the Federal Government, would empower the Attorney General, by contract, to nullify, suspend, or repeal an act of Congress in any area of the Nation in which he elected to do so. That would be a flagrant delegation of legislative power to the Attorney General.

The PRESIDING OFFICER. The Senator from North Carolina has used his 3 minutes.

Mr. ERVIN. I yield myself 1 more minute.

The Supreme Court of the United States has held uniformly that the power to suspend the law is a legislative power, a power that cannot be delegated to an executive officer.

I regret that the situation prevents me from elaborating further on this point; but one of the finest decisions ever written in the United States on this point is the decision of the Supreme Court of Missouri in the case of *Merchants' Exchange of St. Louis et al.* v. *Knott et al.*, 212 Missouri 616. I ask unanimous consent that it may be printed at this point in the body of the Record as a part of my remarks, so that citizens may know what an outrageous thing Congress is asked to do in the provision that I seek to have stricken from the revised substitute.

There being no objection, the decision was ordered to be printed in the Record, as follows:

Merchants' Exchange of St. Louis et al. *v.* Knott et al.

(Supreme Court of Missouri, June 6, 1908)

1. Pleading—Demurrer—Admissions.

A demurrer to a bill admits all the allegations of fact well pleaded, but does not admit the legal conclusions of the pleader.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 39, Pleading, §§ 526½, 527.]

2. Constitutional Law—Legislative Power—Official Fees.

The general power to fix official fees is legislative in its character.

3. Same—Delegation of Legislative Power.

Rev. St. 1899, §§ 7654, 7657–7660, 7662, 7665, 7670, 7673, 7674 (Ann. St. 1906, pp. 3663–3665, 3667), and Laws 1907, p. 285, authorizing the Board of Railroad and Warehouse Commissioners to establish state inspection of grain, with power to fix charges for such inspection, which charges shall be regulated in such manner as will produce sufficient revenue to meet the necessary expenses of inspection and no more, etc., are not unconstitutional as delegating legislative power to fix official fees.

4. Same—"Legislative Power"—"Law"—"Rule"—"Prescribed."

"Legislative power," within Const. art. 4, § 1 (Ann. St. 1906, p. 175), providing that the legislative power shall be vested in the General Assembly, is the power to make laws; a "law" is a rule of civil conduct prescribed by the supreme power of a state; a "rule" is distinguished from whim, caprice, compact, agreement, or discretion, and "prescribed" means that the rule shall be manifested and published, so as to be known as a rule of civil conduct.

[Ed. Note.—For other definitions, see Words and Phrases, vol. 5, pp. 4014–4023; vol. 8, p. 7701; vol. 5, pp. 4088, 4089; vol. 6, pp. 5519, 5520; vol. 7, pp. 6271, 6272.]

5. Same—Delegation of Legislative Power—Statutes—Validity.

Laws 1907, p. 285, authorizing the Board of Railroad and Warehouse Commissioners to establish state inspection of grain, "at such places or in such territory * * * as in their opinion may be necessary," declaring that all buildings, elevators, or warehouses, located in any territory wherever state grain inspection may be established, shall be public warehouses, and all grain arriving in any territory "where state grain inspection may be established" shall be inspected, etc., is invalid as a delegation to the commissioners of legislative power to determine where and when the law shall be in force.

6. Same—Police Power—Regulation of Quasi Public Business.

The Legislature has the right, by the exercise of its police power, to regulate business and property devoted to a quasi public use.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 10, Constitutional Law, § 148.]

7. Same—Delegation of Legislative Power.

The Legislature, though it cannot delegate its power to make a law, may delegate a power to determine some fact or state of things on which the law makes it own action depend.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 10, Constitutional Law, §§ 115–122.]

8. Equity—Grounds—Irreparable Injury—Multiplicity of Suits.

The danger of irreparable injury resulting from the fact that the wrongdoer has insufficient means to respond in damages and the danger of multiplicity of suits furnish grounds for jurisdiction by a court of equity.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 19, Equity, §§ 167–171.]

9. Injunction—Grounds—Multiplicity of Suits.

A bill in equity to restrain the Railroad and Warehouse Commissioners from enforcing the grain inspection laws (Rev. St. 1899, § 7654 et seq. [Ann. St. 1906, p. 3663] and Laws 1907, p. 285), which alleges that the commissioners and employees are about to bring vexatious and expensive suits to enforce such laws, does not authorize the granting of relief in equity, on the ground of the danger of multiplicity of suits, since the statutes provide for criminal prosecutions only; there being no provision making it the duty of the commissioners or employees to bring civil suits.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 27, Injunction, § 18.]

10. Same—Destruction of Business.

A bill to restrain the Railroad and Warehouse Commissioners and employees from enforcing the grain inspection laws, which alleges that plaintiffs are engaged in the business of grain weighing and certification; that the business has been built up by them during a period of years; that their grain markets would be ruined, in ways pointed out, by the enforcement of the statutes, which they allege are unconstitutional—authorizes, as against a demurrer, relief in equity to prevent irreparable injury.

11. Constitutional Law—Police Power.

The police power must be exercised through a valid law.

12. States—Actions Against—Officers.

A suit to restrain the Railroad and Warehouse Commissioners and employees from enforcing the grain inspection laws, on the ground that such statutes are unconstitutional, is not a suit against the state, for the commissioners and employees are ministerial officers only, and may be controlled by equity.

In Banc. Appeal from St. Louis Circuit Court; Daniel G. Taylor, Judge.

Action by the Merchants' Exchange of St. Louis and others against John A. Knott and others, members constituting the Board of Railroad and Warehouse Commissioners and others. From a judgment granting the relief prayed for on overruling a demurrer to the bill, defendants appeal. Affirmed.

The Attorney General and John Kennish, for appellants. Robert F. Walker, Judson & Green, Frank Hagerman, and Kimbrough Stone, for respondents.

Lamm, J. Defendants stood on their demurrer to plaintiffs' bill, having for its life injunctive relief. Standing mute, and refusing to plead further, they appeal from a judgment nisi, overruling such demurrer and making perpetual a temporary injunction theretofore granted.

The demurrer challenges the bill, in that it fails to state facts sufficient to constitute a cause of action, fails to state facts entitling plaintiffs to the relief prayed for, or to any relief, and shows on its face an adequate remedy at law. The bill is an elaborate pleading, developing in logical order, in more or less interdependent paragraphs, and delivering divers attacks upon the constitutionality of the grain-weighing and grain-inspecting laws in force in this State, to wit, sections 7654, 7657, 7659, 7660, 7662, 7665, 7670, 7673, 7674, art. 3, c. 117, Rev. St. 1899 (Ann. St. 1906, pp. 3663–3665, 3667), and an elaborate statute ordaining state inspection and weighing of grain, enacted by the General Assembly in 1907 (Laws 1907, pp. 285–298, et seq.), repealing all of article 3, supra, saving the sections above, and enacting 47 new sections, bearing, seriatim, the same numbers as those repealed. As the demurrer admits all allegations of fact well pleaded in the bill, but not those, in effect, legal conclusions of the pleader, we shall set down with particularity the allegations of fact and the grounds of alleged unconstitutionality.

The bill, in substance, alleged:

(1) That plaintiff, the Merchants' Exchange of St. Louis, is a domestic corporation doing business in the city of St. Louis and state of Missouri, and as such is entitled to sue and be sued, complain and defend in the courts. That it was created to promote the commercial and manufacturing interests of said city and vicinity, to inculcate just principles of trading, to establish and maintain fairness and uniformity in commercial usages, to acquire, preserve, and disseminate valuable information, to avoid and adjust controversies between traders, and facilitate the transaction of legitimate business between its members and between them and others, and is authorized to further the foregoing ends by adopting needful rules and bylaws. That as such corporation it is in active existence in the city of St. Louis.

(2) That plaintiff Cochran is a member of said Exchange, and is chairman of its department of weights, a department organized under the rules of the Exchange to secure correct weighing, and methods of weighing of property handled by the Exchange and by others requesting such service, and that said Cochran is actively engaged in that business. To that end he has a large number of assistants engaged in the correct weighing of

grain handled by members of the Exchange as receivers or shippers; that said members are 500 or more, practically all the persons engaged in the grain trade in St. Louis.

(3) That plaintiff the Board of Trade of Kansas City is a voluntary association organized and controlled by dealers in grain and grain commission merchants in Kansas City, Mo., of a membership of about 200, having the plaintiffs Broadnax and Bigelow as president and secretary, respectively, who, in turn, have authority to sue in the name of said association for its members. That its members constitute practically all such dealers and brokers in Kansas City, and it has also established a department of weights, under its rules, for the purpose of securing correct weighing and methods of weighing of grain handled by its members and others requesting such service.

(4) That defendants Knott, Wightman, and Oglesby constitute the Board of Railroad and Warehouse Commissioners of this State, having supervision of the inspection and weighing of grain into and out of public elevators in the state of Missouri, and having power to appoint a chief inspector of grain to act as such under said board. That defendant Nunn was by it appointed chief inspector, and is exercising duties as such in Kansas City. That Nunn has power to appoint deputy chief inspectors of grain, and under that authority appointed the defendant Miller as such, who has charge of the office of said board in St. Louis, and is engaged in the general supervision of the inspection and weighing of grain in said city.

(5) That said departments of weights of said Exchange and Board of Trade have, for a number of years, severally supervised the weighing of grain received in and shipped from said cities, which system of supervision has become vital to the commercial transactions therein, increasing the grain trade thereof, and increasing the reputation of the markets thereof for correct weighing and fair dealing, over a wide section of country, inclusive of all sources of grain shipments to said markets in Missouri and in the surrounding States. That by reason of said cities being on the boundaries of Missouri, a large part of the grain dealt in as aforesaid is stored in elevators in Illinois and Kansas, where, by reason of comity existing between the legal departments of Kansas and Illinois, the weighing departments aforesaid exercise supervision over grain weighing in said elevators, and that said grain so dealt in and stored in elevators in Illinois and Kansas is interstate in character, though commercially a part of the grain trade of said cities, and is not subject to control by the laws of Missouri.

(6) That it is the rule and uniform custom of said departments of weights to give out to parties entitled thereto certificate of weights, which certificates, by reason of their uniform accuracy, have established the reputation of said markets throughout a wide area, and have proved of immeasurable value to the business of said grain dealers and to other shipping to said trade centers. That to prohibit such weighing and the issue of such certificates by said departments of weights would injure the reputation of said grain markets, and would lower their reputations and standards for fair dealing.

(7) That by the grain-weighing and grain-inspecting act of 1907 certain sections of article 3, c. 117, Rev. St. 1899 (Ann. St. 1906, pp. 3653–3670) are repealed (enumerating them) and 47 new sections enacted, establishing state inspection and weighing of grain in public warehouses, providing for the conduct thereof, when, where, and how grain shall be inspected, for warehouse receipts, inspection, and weight certificates, and for the appointment of inspectors and weight masters, with specified duties in the grading of grain and penalties for violations of the act. That said act makes unlawful and strikes down all said functions and duties in weighing and inspecting grain by the departments of weights of said Board of Trade and Exchange, and prohibits said departments from securing accurate weighing of grain in said cities, or issuing certificates of weight, and hence is unconstitutional, as attempting the impairment of the exercise of a legitimate business, violating the right of private contract, and interfering with interstate commerce; and its enforcement will destroy the integrity of said markets, and work irreparable injury to grain dealers in said cities, destroy the reputation and character of said markets established as aforesaid, and lessen the number of shippers of grain to them.

(8) A history of the state grain inspection laws and their growth by amendment is set forth, and averments are made to the effect that, in connection with state weighing of grain at public grain elevators, the said voluntary system of weighing, established by said Exchange and Board of Trade, sprang up as a trial necessity in weighing and certifying weights, not only of grain in public elevators having state weighing, but of grain arriving on tracks and elsewhere not subject to state weighing; that such system was voluntary, and services on that behalf were rendered at the instance of interested parties, and paid for by fees in part, and in part from the treasuries of the Exchange and Board of Trade. Conditions of said grain trade, growing out of an attempted adjustment to state laws, are pleaded, resulting (it is alleged) in dissatisfaction and evils which the voluntary weighing of grain by the weight departments of the Board of Trade and Exchange remedied, to the betterment of the trade and the general approval of interested shippers. It is averred that the voluntary weighing and certificates of weight aforesaid are depended on by the trade instead of the certification of weights by the weighing bureau of the Board of Railroad and Warehouse Commissioners, and that the enlargement of the duties of said board, provided in sundry sections of the act of 1907, making the same preclusive, and striking down and penalizing the voluntary system of weighing aforesaid, if enforced, will injure the grain trade of said cities, and will result in a pecuniary loss to citizens of this state engaged in business in said cities and elsewhere, and that plaintiffs are without adequate remedy at law to prevent such loss and the impairment of their rights as grain dealers.

(9) Further setting forth reasons for the establishment of the voluntary system of weighing and certification aforesaid (alleging it to be an outgrowth of certain enumerated public needs), the bill alleges such system has been maintained for several years to the satisfaction of buyers, sellers, and shippers of grain in those cities and tributary regions. That out of 80,000,000 bushels of grain received in St. Louis in 1906 only 12,500,000 were unloaded in public elevators in that city; that only 10 per cent of the grain coming to Missouri is produced in Missouri; that nearly one-third of the elevator capacity of the St. Louis market is in the adjacent territory of Illinois; and that the vast internal commerce in grain among the states of Illinois, Missouri, and Kansas has become dependent upon said system.

(10) It is further shown to the court that under the act of 1907 defendants claim power and authority to establish preclusive state inspection and weighing of grain at such place and in such territory within this state as they deem proper, and that thereby it becomes unlawful for plaintiffs, or any of them, or any others, to maintain the voluntary system of weighing and certification of weights aforesaid. That defendants further claim that the business of grain weighing in public elevators or not is solely in the hands of said commissioners, and is subject to their discretion as to what places state inspection or weighing shall be established.

(11) That defendants' claims aforesaid have no legal foundation, and that provisions of said act (setting them forth), undertaking to vest in said commissioners power to determine in what places in the state, other than in public grain elevators, state inspection and state weighing of grain shall be established, and what fees shall be charged therefor, are (as said) unconstitutional and void as an unlawful delegation of legislative power.

(12) That other provisions of said act (setting them forth) make it unlawful for any person, corporation, or association, other than bonded weighers authorized by the act, to issue or sign any weight certificate, paper, or ticket purporting to be the weight of any car, wagon, sack, or other package of grain weighed at any warehouse or elevator in this state where state weighers are stationed, or to make any charge for such weight certificate or tickets, and imposing a penalty for the violation thereof, is invalid as an interference with the right of private contract and business, and finds no warrant in the police power of the state as justly limited, is a denial of the right of associated action by owners of grain in a private business concern, and is not necessary for the protection of grain growers; that grain owners have for many years past paid the state inspection and weighing charges on grain in public warehouses, and have also voluntarily paid for certificates of weight by the Exchange and Board of Trade, and are entitled to the additional assurance of additional certificates of weight (all at their own expense); that such prohibition of the right of associated action in private business affairs is violative of due process of law guaranteed by the state and federal Constitutions; that in interstate shipment of grain such certification of weights is essential to the protection of all parties dealing therein; that the denial of the right of free contract and liberty of association aforesaid, in certifying to weights in interstate commerce of grain, directly and not incidentally or remotely affects such interstate commerce, and for that reason the act is invalid as an attempted interference with commerce among the states.

Finally the bill avers that said commissioners, so claiming and exercising authority under the act of 1907, are threatening and are about to determine in what territory or in what places state weighing shall be established, and to determine that St. Louis and Kansas City shall be two such places, and to determine and fix the fees to be charged therefor, and adopt rules and regulations for the conduct of such state weighing, appoint officers to carry out and enforce the provisions of said act, to thereupon interfere with the voluntary weight systems aforesaid, and are threatening and are about to institute proceedings against said Exchange and its members and those in charge of its departments of weights, and also against plaintiffs Brodnax and Bigelow and others, members of said Board of Trade; that they threaten to bring a great number of suits, the effect of which will be to demoralize and destroy the efficiency of the voluntary weighing departments of said Exchange and Board of Trade, cause great damage to the grain markets of said cities, by deflecting grain to other markets, by destroying the confidence of shippers in the integrity of said certification of weights—all of which (as said) will cause irreparable injury, etc.; that none of the impleaded defendants have means sufficient to meet the damages so entailed upon the foregoing vested interests by the enforcement of the provisions of said act.

The prayer is as follows: "Wherefore, the premises being considered, plaintiffs pray that defendants, and each of them, be restrained and enjoined from determining in what places such state weighing shall be established under the provisions of said act, and from fixing the fees to be charged for such weighing, and from adopting rules and regulations for carrying out the provisions of said unconstitutional act, and from naming and appointing officers and employees to enforce the provisions thereof, and from enforcing or attempting to enforce in any wise any of the provisions of the said act, in so far as said provisions authorize the establishment of state inspection of grain, and state weighing at other places in the state at state weighing elevators, and that they be restrained and enjoined, their agents and servants, from interfering in any wise with the weighing departments heretofore established by the plaintiffs in the cities of St. Louis and Kansas City, and that such relief will be endangered and irreparable injury caused, unless defendants be immediately restrained from carrying or attempting to carry the provisions of said unconstitutional act into effect: that a temporary injunction be granted, restraining said defendants pending the final hearing of this cause, and plaintiffs also pray such further relief as to right appertains." It is apparent the unconstitutionality of the act is alleged to consist in: (a) An unlawful delegation of legislative power to the Board of Railroad and Warehouse Commissioners, to determine the places and territory where, and the circumstances under which, the law shall operate, and to fix fees for state inspecting, weighing, and certification of grain; (b) an unlawful interference with the right of private contract; (c) that it is violative of due process of law, as guaranteed by the state and federal Constitutions; (d) that it is a direct interference with the preclusive constitutional power of Congress to regulate commerce among the states.

The foregoing propositions are stoutly maintained on one side, and as stoutly controverted on the other, by briefs of learning and research, covering phases of all of them. Furthermore, the learned Attorney General insists that, in any event, plaintiffs are not entitled to injunctive relief. If we determine the statute is unconstitutional on any one of said grounds, we will stop at that point, treat other questions as reserved for the purposes of the case, and thereafter consider only the point raised—that plantiffs have mistaken their remedy. It will do to say that, in fetching such compass, we are somewhat constrained by the fact that some of the questions made trench on vexed grounds, with boundaries obscurely traced. The law thereon may be said to be in a condition of flux on some phases, and the last judicial word has not yet been spoken, possibly. So that, a court holding them in judgment in these latter days may with modest reverence heed the prudent lines of Cardinal Newman's noble hymn:

"Lead, kindly Light, amid th' encircling
gloom,
Lead Thou me on;
* * * * *
I do not ask to see
The distant scene; one step enough for me."

1. Is there an unlawful delegation of legislative power?

(1) Herein of that phase of the law granting the commissioners power to fix fees for inspecting and weighing grain. Is such provision an unwarranted delegation of legislative power, as discussed in the next paragraph? In our opinion, no. It may stand conceded that the general power to fix official fees is legislative in its character. That this is so may be deduced from the philosophy of the thing, as well as from the frequent legislative exercise of it, as a settled public policy in matters of public concern. Broadly speaking, official fees are intended primarily to pay official salaries, secondarily to swell the state or county treasury by any surplus accumulation. So, too, prescribing fees, within fixed limits, tends to eliminate extortion—the love of money being the root of all evil. In determining whether there has been an unlawful delegation of power to fix fees we must, however, look sharply to the act in question; reason being the life of the law. Doing so, it becomes plain that the fees contemplated by the act were limited to taking care of the business itself. They were to serve no other purpose, were to be neither too high nor too low, but furnish only so much money, on the one hand, as not to be oppressive to elevatormen, warehousemen, and grain dealers, and, on the other, that the business of state inspecting and weighing would not sponge on the public chest. One hand was to wash the other. This is made clear by the last clause of section 7658, Rev. St. 1899 (Ann. St. 1906, p. 3664), a section not repealed by the act of 1907. Referring to fixing charges for the inspection of grain, and the duty of the commissioners to regulate the same, it ordains that, "which charges shall be regulated in such manner as will, in the judgment of the commissioners, produce sufficient revenue to meet the necessary expenses of the service of inspection, and no more."

Now, while the act of 1907 provides for the appointment of bonded weighmasters to receive such compensation as the commissioners shall determine, and provides for fixing fees for weighing, which, in given instances, are to be paid by the warehousemen or elevatormen, and, in others by consignees (sections 7676, 7677, 7681, Laws 1907, pp. 296–298), and while the act does not in words provide that fees for state weighing shall be neither too high nor too low, but just enough to pay the running expenses of weighing, yet, taking the unrepealed sections of the old law in connection with the new, we think that is the obvious intent of the lawmaker. The express provision in regard to inspecting being to that effect, and no surplus accumulation of weighmasters' fees being contemplated, we catch and apply the legislative purpose relating to inspection fees as broadly including weighmasters' fees, and therefore hold that the leaven in the inspection provision leavens the whole lump of the law. Observe, the Legislature did not grant an unregulated power to the commissioners to fix fees. To the contrary, the grant was defined by firm, legislative lines drawn around it, and the commissioners might not fix fees above a maximum or below a minimum producing revenue—enough to cover the service. Their discretion was squeezed within those lines.

In this condition of things, the remarks of Mr. Justice Schofield in *People* v. *Harper*, 91 Ill., loc. cit. 367 et seq., are in point. In that case the Supreme Court of Illinois held in judgment a grain inspection law, attacked by eminent counsel on the ground that the law illegally delegated the power to fix inspection fees. The Illinois statute under review empowered the Board of Railroad and Warehouse Commissioners to fix the rate of charges for the inspection of grain, and the manner in which the same shall be collected, to fix the amount of compensation to be paid to inspectors and other persons employed in the inspection service, and ordained that the charges for inspection are required to "be regulated in such a manner as will, in the judgment of the commissioners, produce sufficient revenue to meet the necessary expenses of the service of inspection, and no more." It will be seen that such provision is identical with the clause quoted from section 7658, supra. Following an exhaustive discussion of the constitutionality of the Illinois statute on general grounds, Justice Schofield asserted the following propositions in language meeting our approval: "No taxation is imposed on any locality by this law; and the power to be exercised is solely for the benefit of commerce in grain which is necessitated to pass through a particular channel, exposing producer, shipper, and receiver, to the danger of loss through imposition, extortion, and fraud, and it can, in no proper sense, be deemed a burden upon the locality.

"There is no provision of the Constitution, which, either expressly or by necessary implication, inhibits the General Assembly from committing the inspection of grain to a board created for that purpose; and we are not authorized to say that the Board of Commissioners of Railroads and Warehouses is not quite as legitimate as any other board that could have been selected or created for that purpose. It evidently was not designed that the inspection should be made a source of revenue, either to the state or to municipalities; for it is not enjoined as a means of raising revenue, but solely for the 'protection of producers, shippers, and receivers of grain and produce'; and there is natural justice in requiring that the expenses occasioned by the inspection should be borne by those presumably benefited by it. Certainly no clause of the Constitution is violated by this requirement. The principle, repeatedly recognized by this and other courts of last resort, that the General Assembly may authorize others to do those things which it might properly, yet cannot understandingly or advantageously do itself, seems to apply with peculiar force to the fixing of the amount of inspection fees, so as to adjust them properly with reference to the expenses of inspection. The expenses of inspection must necessarily vary, to some extent, from time to time, with the changes in the price of labor, office rent, fuel, lights, stationery, etc., and the amount to be received at any given rate per cent for inspection fees must also necessarily vary in proportion as the quantity of grain to be inspected, from time to time, increases or diminishes. And hence an arbitrary, permanent rule, as one by statute would have to be, would be liable, either to produce less than the inspection expenses demanded, or an excess which would not be needed, and which would therefore, to that extent, be an unjust imposition on those paying the fees. It would seem obvious that anything like a fair approximation to an adjustment of the fees to the expenses could only be made upon thorough, local knowledge, and by changing the rate percent of fees to be paid, from time to time, and as often as experience should prove to be necessary to correspond with changes in expenses and the fluctuations in the quantity of grain to be inspected. The delegation of this legislative function may therefore well be regarded as a necessary incident to the exercise of this branch of the public power of government; and the reasoning which sustains a like delegation to a city council must be of equal potency here. We cannot say we are clearly satisfied the Constitution has been thereby violated."

The object of fixing inspection and weighing fees being only to produce revenue to run the business on a cash basis, it becomes at once self-evident, as Justice Schofield well says, that there must be a flexibility of power lodged somewhere to bring adjustments from time to time, and place to place, to subserve the statutory result and purpose. That essential flexibility could never spring from a statute permanently fixing such fees; for if the statute fixed them, and the commissioners were given power to unfix them by thereafter adopting a sliding scale, such delegated power would be as obnoxious to criticism as the power to fix them in the first instance. On the satisfactory reasoning of the Harper Case we hold the Legislature was within its power in delegating the ministerial right to the commissioners to fix fees within the general limits prescribed by the act. Accordingly the point is ruled against plaintiffs.

(2) We now come to consider a vast and unregulated power, novel and anxious in its

vastness and freedom from statutory or judicial control delegated to the commissioners by the act, to wit, the vital power to capriciously say (as their "opinion" serves) to what places, in what territory, and at what times the statute shall apply, or whether it shall be in force on a single square inch of Missouri soil.

Section 7623, Laws 1907, p. 286 reads: "The board of railroad and warehouse commissioners are hereby authorized to establish state inspection and weighing of grain at such places or in such territory within this state as in their opinion may be necessary, to fix fees for such inspection and weighing, and to make all necessary rules and regulations for the proper execution of the powers conferred by this article."

Section 7625, Laws 1907, p. 286, reads: "Public warehouses. All buildings, elevators or warehouses located in any territory wherever state grain inspection and weighing may be established by the state board of railroad and warehouse commissioners, in accordance with provisions of this article owned or operated, or which hereafter may be owned or operated by any person or persons, association, copartnership or corporation and used for the storing, transferring, handling or mixing the grain of different owners are hereby declared public warehouses, and the person or persons, association, copartnership or corporation owning or operating such building or buildings, elevator or elevators, warehouse or warehouses, which are now or may hereafter be located or doing business within this state, as above described, whether said owners or operators reside within this state or not, are public warehousemen within the meaning of this section."

Section 7630, after providing for inspecting and grading grain at public warehouses and elevators, ordains that: "And all grain arriving in any territory where State grain inspection may be established by this article in cars, barges, wagons or sacks, received for storage or sale, and not consigned to public warehouses or elevators, shall also be inspected and graded by a duly authorized State inspector, and the fee for inspection of same shall be a lien on the grain."

It is obvious the foregoing grant of power is given without statutory landmark, compass, map, guide post or cornerstone in one whit controlling its exercise, or prescribing its channel, or indicative of any certain intendment of the legislative mind, beyond the mere grant. In essence it is the power of pure and simple despotism. Verily, he that looketh on such power to lust after it hath already committed a sin in his own heart against the reign of law. Benevolent despotism? That depends. Mark the following significant things omitted: The act does not define, classify, or in any wise earmark the warehouses and elevators upon which or the territory or places in which it shall operate. If it had been certain in its intendment in these particulars, leaving to the commissioners to find the fact, as within the statutory description, then another question might be here. Again, the act does not confine itself to elevators and warehouses of a certain given capacity or devoted by their owners to a defined, quasi public, commercial use. If it had been certain in its intendment in that particular, and had left to the commissioners to ascertain and determine whether given elevators and warehouses came within a given, statutory designation, then a different question would have been here. Moreover, the act does not confine itself to cities of this, that, or the other size or class, nor to places, territories, or markets having elevators or warehouses defined in the statute by their use, character, or capacity, leaving to the commissioners to find the fact to be as defined by the statute. If the act bore internal evidence that the legislative mind, in the exercise of its high prerogative, had used its wisdom and judgment in outlining and classifying the places, markets, territories, elevators, and warehouses within purview, leaving to the commissioners the ministerial detail of determining in each instance whether a territory, place, market, warehouse, or elevator, etc., came within the legislative intent, then a different question would have been here. If more is needed to grimly accentuate the free rein given the commissioners by the statute, it further appears there is no stability about the law, as a law. It is left as grass, which today is, and tomorrow is cast into the oven.

For instance, when a city, place, territory, or elevator is selected for State inspection and State weighing, say, on Tuesday, the statute does not provide it shall continue as such on Wednesday or thereafter. To the contrary, since the unrestricted power to make (nothing more appearing) would seem to imply the power to unmake, therefore what is made on Tuesday may be unmade on Wednesday. The statute then is a blanket warrant of attorney to the commissioners, to say that State grain inspecting and weighing shall exist one day, and not the next, or shall exist anywhere or nowhere, or exist at Warrensburg, Nevada, and Trenton, and not at Sedalia, Hannibal, or Joplin, in North Springfield, and not in South, in one block in St. Joseph or Jefferson City, and not in another, in St. Louis, and not in Kansas City, and at one elevator and not at another, though the same conditions of fact exist in all. In other words, the board, under the roving commission of a boundless and unregulated discretion given by the statute, may say, in effect, that in their "opinion" there is, or is no, necessity for the law to operate anywhere, or that (dropping to detail) Jones' elevator is subject to the burdens of state weighing and inspection, and Brown's goes scot-free, though both Jones and Brown are doing precisely the same business, under the same conditions, on opposite sides of the same street, at the same time, in the same town, and say that said Jones may be struck by the lightning of its penal provisions while said Brown escapes.

As a preliminary remark it is not amiss to say (de bene esse) that if a statute by its classification of warehouses, elevators, grain markets, cities, places, or territories, itself producted the unjust and unreasonable results mentioned, whether such statute would successfully run the gauntlet of those constitutional provisions exacting equal protection of the law and due process of law, and prohibiting special legislation, is a question—a question not here for determination. The blunt question then is: Is such unlimited power legislative in character? and may the Legislature delegate its exercise to the commissioners?

(a) Section 1, art. 4 (Ann. St. 1906, p. 175) of the Constitution provides that: "The legislative power, subject to the limitations herein contained, shall be vested in a Senate and House of Representatives, to be styled 'the General Assembly of the State of Missouri.'" Legislative power in Missouri is therefore lodged with the General Assembly and not elsewhere except as to such of it as may be delegated under the provisions of that instrument; for instance, to cities in matters of local concern. Briefly, legislative power is the power to make laws. What is a law? "Municipal law," says Chancellor Kent, "is a rule of civil conduct prescribed by the supreme power of a State." 1 Kent Com. 447. That definition is part of Sir William Blackstone's, which adds, "commanding what is right, and prohibiting what is wrong." In his notes to Blackstone (1 Sharswood's Blk. Comm. p. 44) Judge Sharswood defines a law to be: "A rule of civil conduct prescribed by the supreme power in a State, commanding what is to be done, and prohibiting the contrary." Now, a rule is a rule, as distinguished from whim, caprice, compact, agreement, or mere discretion. "Prescribed" means that the rule must not remain in the breast of the Legislature, but shall be manifested and published in a public and conspicuous manner, so as to be known as a rule of civil conduct. 1 Blk. p. 45.

That author instances Caligula's laws as violative of the idea evidenced by the word, "prescribed." For it is said of that Emperor, according to Dio Cassius, that he wrote his laws in a very small character, and hung them upon high pillars, the more effectually to ensnare the people. Moreover, the rule must be "prescribed by the supreme power in a state"—not by Roe, Doe, Box, Cox, et al. Speaking to that part of his definition, Blackstone says (1 Blk. 46): "For legislature, as was before observed, is the greatest act of superiority that can be exercised by one being over another. Wherefore it is requisite to the very essence of a law that it be made by the supreme power. Sovereignty and legislature are indeed convertible terms; one cannot subsist without the other."

(b) Measured by the foregoing definition of law, can the statute stand? We think not. We are of opinion that the power to bind and loose, to inaugurate or suspend the operation of the law, to say when and where it is law, is, of necessity, an inherent and integral part of the lawmaking power, not to be delegated to and wielded by any commission. True the act was passed by the General Assembly, approved by the Chief Executive, and stands published as authenticated law, but to all intents and purposes it is only a barren ideality, having such life as is thereafter breathed into it from an unconstitutional source. No Missourian may know whether it applies to him or his concerns, as a rule of civil conduct, or will ever apply until in the "opinion" of the commissioners it "may be" considered "necessary."

The General Assembly may not clip itself of one iota of its lawmaking power by a voluntary delegation of any element of it, by putting its constitutional prerogatives, its conscience and wisdom, "into commission." On this point Judge Cooley says in an oft-quoted passage (Cooley's Const. Lim. [6th Ed.] 137): "One of the settled maxims in constitutional law is that the power conferred upon the Legislature to make laws cannot be delegated by that department to any other body or authority. Where the sovereign power of the state has located, the authority, there it must remain; and by the constitutional agency alone the laws must be made until the Constitution itself is changed. The power to whose judgment, wisdom, and patriotism this high prerogative has been intrusted cannot relieve itself of the responsibility by choosing other agencies upon which the power shall be devolved, nor can it substitute the judgment, wisdom, and patriotism of any other body for those to which alone the people have seen fit to confide this sovereign trust." And, as pointed out by counsel, the philosopher John Locke (Locke on Civil Gov. § 142) announces the sum of the matter to be: "These are the bounds which the trust that is put in them by society, and the law of God and nature, have set to the legislative power of every commonwealth, in all forms of government:

First. They are to govern by promulgated established laws, not to be varied in particular cases, but to have one rule for rich and poor, for the favorite at court and the countryman at plough. * * * Fourthly. The Legislature neither must nor can transfer the power of making laws to anybody else, or place it anywhere but where the people have. Concretely applying the general principles above announced, are the adjudged cases collated by counsel: *State* v. *Field*, 17 Mo. 529, 59 Am. Dec. 275; *Ruggles* v. *Collier*, 43 Mo. 353; *St. Louis* v. *Clemens*, 43 Mo. 395; *Matthews* v. *Alexandria*, 68 Mo. 115, 30 Am. Rep. 776; *St. Louis* v. *Heitzeberg Packing Co.*, 141 Mo. 375, 42 S. W. 954, 39 L. R. A. 551, 64 Am. St. Rep.

516; *Kansas City* v. *Bacon*, 147 Mo. 259, 48 S. W. 860; *Neill* v. *Gates*, 152 Mo. 585, 54 S. W. 460; *Owen* v. *Baer*, 154 Mo. 434, 55 S. W. 644; *State* v. *Young*, 29 Minn. 551, 9 N. W. 737; *Dowling* v. *Ins. Co.*, 92 Wis. 63, 65 N. W. 738, 31 L. R. A. 112; *Anderson* v. *Assurance Co.*, 59 Minn. 182, 60 N. W. 1095, 63 N. W. 241, 28 L. R. A. 609, 50 Am. St. Rep. 400; *O'Neill* v. *Ins. Co.*, 166 Pa. 72, 30 Atl. 945; *State* v. *R. R. Co.*, 100 Minn. 445, 111 N. W. 289, 10 L. R. A. (N. S.) 250. See, also, cases on delegated legislative power collated and quoted from in extenso by Gantt, C. J., in his dissenting opinion in *State ex rel.* v. *Fort*, (Mo.) 109 S. W., loc. cit. 749 et seq. (not yet officially reported).

(3) To sustain the constitutionality of the statute the learned Attorney General argues, in effect, that this court has held in a former case (*State ex inf. Goffee*, 192 Mo. loc. cit. 689, 91 S. W. 486), involving the old state inspecting and weighing act, that such a statute was within the constitutional authority of the General Assembly, exercising the state's police power. We affirm that general doctrine. We decline to be tossed to and fro by every wind of doctrine on that proposition; but the question here is one of delegation of the police power, not the exercise of it by the General Assembly. The power to regulate weights and measures has been exercised by lawmaking power from immemorial days, whereby (for example) the length of the arm of King Henry I is perpetuated in our modern yard, and the length of the inch was made that of three grains of barley put end to end. The pertinent maxim is: I must so use my own as not to injure another's property (sic utere tuo, etc.). In the great case of *Munn* v. *Illinois*, 94 U. S. 113, 24 L. Ed. 77, the solid common-law foundation of the right to regulate the business of those who take tolls at mills, warehouses, wharfs, ferries, etc., or who stand at "the gateway of commerce and take toll from all who pass," common carriers, etc., is shown. The opinion of Mr. Chief Justice Waite in that case, as noted by Judge Taylor, who heard the case at bar, nisi, has "become a classic in the law." It established, as on a rock, once for all, the police power to regulate businesses and property devoted to a quasi public use. The contention of the learned Attorney General, then, may be allowed as sound law, but it does not reach the heart of the matter here.

Again, to sustain the constitutionality of the act in the particulars under discussion, he relies upon *People* v. *Harper*, supra; but an examination of that case shows the Illinois statute classified warehouses into classes A, B, and C. Certain sections of that act are set forth in the case of *Munn* v. *Illinois*, supra (page 116 of 94 U.S. [24 L. Ed. 77]). For our purposes section 2 will sufficiently point the differences between the Illinois statute, the constitutionality of which was sustained, and the Missouri statute of 1907 (Laws 1907, p. 286). Section 2 reads: "Sec. 2. Public warehouses of Class A shall embrace all warehouses, elevators or granaries in which grain is stored in bulk, and in which the grain of different owners is mixed together, or in which grain is stored in such a manner that the identity of different lots or parcels cannot be accurately preserved, such warehouses, elevators or granaries, being located in cities having not less than one hundred thousand inhabitants. Public warehouses of class B shall embrace all other warehouses, elevators or granaries in which grain is stored in bulk, and in which the grain of different owners is mixed together. Public warehouses of class C shall embrace all other warehouses or places where property of any kind is stored for a consideration."

Even a glance will show that the Illinois statute did not delegate to any commission the power to classify warehouses or elevators, are to delineate and designate places and territories and times where and when the law might operate. The lawmakers did that. The Illinois statute by other sections did delegate to a commission the right to regulate fees, and such delegation in the act of 1907 we have sustained.

Again, it is argued by the Attorney General that a class of cases holding that, while a Legislature cannot delegate its power to make a law, yet it can make a law to delegate a power to determine some fact or state of things upon which the law makes, or intends to make, its own action depend, sustains the constitutionality of the present statute. Many cases attest the soundness of the proposition that the Legislature, in making a law, can delegate a power such as just indicated.

For instance, *Crowley* v. *Cristensen*, 137 U.S. 86, 11 Sup. Ct. 13, 34 L. Ed. 620; *Locke's Appeal*, 72 Pa. 491, 13 Am. Rep. 716; *Land & Stock Co.* v. *Miller*, 170 Mo. 253, 70 S. W. 721 60 L. R. A. 190, 94 Am. St. Rep 727. See, also, authorities cited supra in this paragraph. But the power delegated to the Commission by the act of 1907 is not the power to determine a fact. It is the wholesale, unregulated power to say, in effect, there shall be an operating law or no law, to say where the law shall operate, on whom and when. This phase of the case, having been heretofore fully developed, needs no further attention, beyond saying that no man in Missouri holds his property or rights subject to the unregulated discretion of any other man. The Attorney General further seeks to sustain the constitutionality of the act by reference to principles underlying local option laws, road laws, district school laws, dramshop laws, drainage laws, quarantine laws, etc. He argues that the delegation of power here is not essentially different from the delegation of power in those laws—all sustained by this court. We shall not discuss the underlying principles, which, applied with discrimination, have sustained the validity of the laws in question. Some of them, notably the quarantine law, stand on principles referable to the maxmim: "The safety of the people is the supreme law"—a maxim as old as the twelve tables of Rome—and all of them were held valid on legal principles not sustaining, when properly applied, the act under review. The premises considered, we hold the act unconstitutional in the particulars in hand.

2. Assuming the act unconstitutional in precedent particulars, then, does the bill state a cause of action for equitable relief? Plainly, relief is predicated of at least two favorite and ancient foundations of equity jurisdiction, viz: (1) Irreparable injury (the wrongdoers having insufficient means to respond in damages), and (2) a multiplicity of suits. The bill alleges, in effect, that defendants are about to bring down upon the devoted heads of the employees and members of the Board of Trade and Exchange a swarm of vexatious and expensive suits to enforce the act. The pleader does not define the character of the suits, whether civil or criminal. In this particular the bill is as vague and significant in its omissions as we have held the act itself to be in other aspects. The act bristles with impaling penal provisions, making certain violations of it misdemeanors, others, felonies. If the pleader meant that the officers members, and employees of the Merchants' Exchange and Board of Trade are about to be visited with arrest, arraignment, and trial, at the hands of the state authorities in criminal courts, for violations of criminal law, valid or invalid, it could hardly be contended they did not have an adequate legal remedy, and that the bare fact of pending or imminent criminal prosecutions entitled them to equitable relief. *State ex rel.* v. *Wood*, 155 Mo., loc. cit. 451, 56 S. W. 474, 48 L. R. A. 596 et seq; *State ex rel* v. *Canty*, 207 Mo., loc. cit. 460, 105 S.W. 1078 et seq. Our examination of the act does not make it clear what other suits could have been meant.

There is no provision, making it the duty of defendants to bring any civil suits, that we can see. If learned counsel had the latter character of litigation in mind, doubtless the facts were of such kind as could have been pleaded, and not left in nubilus. In our opinion the bill does not state a cause of action on the ground of a multiplicity of suits. But the charge of irreparable injury is sufficient to sustain the jurisdiction of a court of equity. The objection made to the charging part of the bill in regard to irreparable injury, is, in substance, that the pleading is a mere bundle of conclusions, and that no traversible allegations are made upon which issue can be joined and upon which irreparable injury can be predicated, but we do not agree to that. Plaintiffs allege that their business (describing it) of grain weighing and certification, a valuable asset and property right in grain dealing, built up (they say) and nurtured for many years by them, is about to be struck down and ruined, and their grain markets ruined in ways pointed out by the enforcement of an unconstitutional law. The thing threatened to be done directly pertains to property rights which the bill alleges plaintiffs have acquired. Certainly it could not be contended that the business of grain dealing, grain weighing, and grain certification by grain dealers, warehousemen, and elevators is, per se, an illegal business. Conceding it is under the state's police power, yet that police power must be exercised through a valid law. Now, unconstitutional law is the same as no law at all, and, on demurrer, we must assume the allegations of the petition relating to irreparable injury in the way specified are true. This being so, we conclude the bill states a cause of action, and nothing said in *State ex rel.* v. *Wood*, *supra*, when rightly understood, militates against that conclusion.

Finally, it is argued that defendants, as members and employes of the State Board of Railroad and Warehouse Commissioners, are in effect the State of Missouri; therefore, this suit, to all intents and purposes, is against the state, and, as a sovereign state cannot be sued by its citizens, the plaintiffs must be cast. We shall not enter upon the discussion of that theory. That the sovereign state may not be sued is a truism. It was the proud boast of Louis XIV that: "I am the state" (L'état, c' est moi). But defendants are scarcely entitled to the protection of that imperial dogma in this case. They are mere plain ministerial officers, charged to be about to do irreparable injury to the business interests of their fellow citizens by unlawful acts. As such ministerial officers, so charged, they are not beyond the strong arm of a court of equity. See authorities cited by counsel for plaintiffs. The highest court in the land has so lately held this matter in judgment and decided it against the contention of the learned Attorney General (*Ex Parte Young, Petitioner* [decided March 23, 1908, by the Supreme Court of the United States] 209 U.S. 123, 28 Sup. Ct. 441, 52 L. Ed.—), that it would be supererogation to prolong this opinion otherwise than by announcing our conclusion that the point is ruled against defendants.

This leads to the affirmance of the judgment. Let it be so ordered. All concur, except Valliant, J., who is absent.

Mr. ERVIN. Mr. President, on my amendment I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. ERVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from North Carolina wish to withhold his suggestion of the absence of a quorum until the Senator from Michigan [Mr. Hart] has spoken?

Mr. ERVIN. No.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, on the question of agreeing to the Ervin amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HART. Mr. President——

The PRESIDING OFFICER. The Chair asks the Senator from Michigan to wait just a moment; first, there must be order. Otherwise, the State of the Senator who is speaking will be denied its proper representation.

Mr. HART. Mr. President, to whose time are these remarks being charged?

The PRESIDING OFFICER. To the time of the Senate. Under the ruling by the present occupant of the chair, at least, there must be order in the Senate Chamber.

The Senator from Michigan has the floor, and he may proceed.

Mr. HART. I thank the Chair.

The PRESIDING OFFICER. How much time does the Senator from Michigan yield to himself?

Mr. HART. One minute.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 1 minute.

Mr. HART. Mr. President, the language proposed to be stricken was not in the bill as we received it from the House. That language was added by those whom I believe had thoughtful concern about making easier the application by the State officials of such civil rights bill as we do enact.

This provision sought to be struck will not vitiate the law. Rather it will enable the State officials to know that so far as the Department of Justice and the Attorney General are concerned, every Wednesday morning the Attorney General will not turn up, seeking to upset their voting system once that system had been studied and found not to discriminate. The right of every individual applicant to sue will remain. The agreement would limit only the Attorney General. The requirements of law would remain available for all others.

The amendment is comparable in many ways to action which Congress has taken. For example, there is State cession, as provided in labor law. It is comparable to closing agreements in tax cases and to the railroad agreements in antitrust cases.

So, Mr. President, I hope very much the amendment will be rejected.

Mr. ERVIN. Mr. President, what the Senator from Michigan has said shows that the Attorney General not only would take legislative power which belongs to Congress, but also he would take judicial power which belongs to the courts. The Attorney General would make the adjudication and would do everything except what the law allows him to do.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The attachés of Senators must take seats and must remain quiet and where they are now seated; and the Sergeant at Arms will prevent others from entering the Chamber.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Maryland [Mr. BREWSTER], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from Indiana [Mr. HARTKE], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Oklahoma [Mr. MONRONEY], and the Senator from Virginia [Mr. ROBERTSON] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE] would vote "nay."

On this vote, the Senator from Maryland [Mr. BREWSTER] is paired with the Senator from Virginia [Mr. ROBERTSON]. If present and voting, the Senator from Maryland would vote "nay," and the Senator from Virginia would vote "yea."

Mr. BENNETT. I announce that the Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK], the Senators from Kansas [Mr. CARLSON and Mr. PEARSON], the Senator from Illinois [Mr. DIRKSEN], the Senator from Nebraska [Mr. HRUSKA], the Senator from Idaho [Mr. JORDAN], the Senator from California [Mr. KUCHEL], the Senator from Kentucky [Mr. MORTON], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

If present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

On this vote, the Senator from Kentucky [Mr. MORTON] is paired with the Senator from Massachusetts [Mr. SALTONSTALL]. If present and voting, the Senator from Kentucky would vote "yea," and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Nebraska [Mr. HRUSKA] is paired with the Senator from Colorado [Mr. ALLOTT]. If present and voting, the Senator from Nebraska would vote "yea," and the Senator from Colorado would vote "nay."

The result was announced—yeas 25, nays 56, as follows:

[No. 293 Leg.]

YEAS—25

Bible
Byrd, Va.
Byrd, W. Va.
Cannon
Cooper
Eastland
Ellender
Ervin
Fulbright
Gore
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mundt
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters
Yarborough

NAYS—56

Aiken
Bartlett
Bayh
Beall
Bennett
Boggs
Burdick
Case
Church
Clark
Cotton
Curtis
Dodd
Douglas
Fong
Goldwater
Gruening
Hart
Hayden
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Lausche
Long, Mo.
Magnuson
Mansfield
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Smith
Symington
Tower
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—19

Allott
Anderson
Brewster
Carlson
Dirksen
Dominick
Edmondson
Engle
Hartke
Hruska
Jordan, Idaho
Kuchel
McCarthy
Monroney
Morton
Pearson
Robertson
Saltonstall
Simpson

So Mr. ERVIN's amendment was rejected.

The PRESIDING OFFICER. The Senator from Louisiana [Mr. LONG] is recognized.

Mr. LONG of Louisiana. Mr. President, I have an amendment to offer that I cannot find at this moment.

Mr. ERVIN. Mr. President——

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. I should like to make a parliamentary inquiry to ascertain how much time I have used.

The PRESIDING OFFICER. The Senate will please be in order. Will the Senator restate his inquiry?

Mr. ERVIN. I should like to inquire how much time I have left.

The PRESIDING OFFICER. The Senator from North Carolina inquires how much time he has remaining.

If the Senator will wait just a moment, it will be tabulated.

The Senator has used 8 minutes today. The Chair does not have the record of the Senator's time yesterday, but it will be obtained.

Mr. ERVIN. Mr. President, this is adding up mighty fast.

The PRESIDING OFFICER. There is another book which contains that record.

Mr. ERVIN. That is all right, Mr. President.

I yield myself 3 minutes on this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Will the Senator state the amendment he desires to call up?

Mr. ERVIN. Mr. President, I call up my amendment No. 776, modified so as to make it applicable to the revised substitute, amendment No. 1052.

The PRESIDING OFFICER. Will the Senator restate the number of his amendment?

Mr. ERVIN. No. 776.

I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair suggests that the amendment be stated first.

The legislative clerk read as follows:

On page 70, strike out lines 10 through 18 both inclusive (section 902).

The PRESIDING OFFICER. The yeas and nays have been requested on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senate will be in order. All Senators will please take their seats unless they are required to stand.

The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, in saying what I am about to say in the next sentence I want to make it plain that I am not referring in any derogatory manner to the present occupant of the office of Attorney General of the United States. I am speaking about the Attorney General, whoever he may be, and any future occupant of that office.

The pending bill gives to the Attorney General more power than any act of Congress has ever given to any executive officer in the history of this Nation.

A moment ago I offered an amendment to strike out the power sought to be given the Attorney General to use by contract to nullify an act of Congress.

What I am asking in the pending amendment is to strike out the provision which came to be known to the Senate in the 1957 debate as title III of the then pending civil rights bill.

The portion I am seeking to strike gives the Attorney General the power, at his caprice or whim, to intervene in any action brought in any court of the United States in which the plaintiff claims that he has been deprived of the equal protection of the laws on account of race or color or national origin or religion. It provides that the Attorney General may intervene in such cases even without the consent or against the will of the original plaintiff. The Attorney General may procure such relief as the U.S. Government could have procured if the Attorney General had brought the action originally.

It seems to me that if any human being has a civil right, it is the right to prosecute his own case without interference by or intervention of the Attorney General.

This is the old title III in disguise. Under this provision the Attorney General could intervene in any suit in any court of the United States involving an alleged violation or denial of the equal protection of the laws.

To show how much power it gives to the Attorney General, it requires from page 296 through page 536 in volume 16-A of Corpus Juris Secundum merely to state in different fashions the various kinds of lawsuits which could be brought by, and in which the Attorney General could intervene under the section I seek to strike.

A suit for alleged denial of the equal protection of the law can be brought in any case in which the plaintiff is willing to allege he has been treated unfairly by any State official, from the Governor down to the dog catcher or the keeper of the dog pound. That shows how many actions could be brought against these officials.

The Attorney General can claim a right to intervene in any case if a person is willing to allege he was denied fair dealing by State officials on account of race, color, national origin, or religion.

Every man has some race. Every man has some color. Every man has some national origin. And virtually every man professes some religion. So any one of the 185 million Americans could allege discrimination on any one of those grounds.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. I yield myself 1 more minute.

The Attorney General could then come into the case. He could interfere in every transaction that involved litigation arising out of any claim by any one of 185 million Americans that he had been denied the equal protection of the law in that he had been treated unfairly by anyone acting for the State, all the way from the Governor down to the dog catcher.

Is that the kind of power that we want to give to the Attorney General? That is a power that he can exercise or refuse to exercise according to his whim or caprice. I suggest that if we want to give this kind of power to the Attorney General, we ought to make the Attorney General the crowned head of America. That is what the bill would do.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PASTORE. Mr. President, I yield myself 2 minutes.

First, there are two very important protections. The Attorney General cannot initiate this action. It must be initiated by an individual. Second, an action must come within the 14th amendment of the Constitution, which is a protection to all of our citizens. Third, he has discretion on how to intervene. But he must make up his mind that it is in the public interest to do so.

I do not believe that the Attorney General is going to be a monster—whether it is this or any other Attorney General. I do not believe he is going to be a usurper of power. I do not think he is going to be a dictator. I do not think he is going to be a totalitarian. I believe the Attorney General will be guided by the purpose of the bill. There may be situations which are far reaching, in effect, when the Attorney General should intervene in order to see that the citizen is protected.

That is the only purpose of the provision in the law. It is a mild form. It is not like part 3. This action must be initiated by the individual himself. Then, if he decides that there is a far-reaching effect, the Attorney General may intervene in the name of the United States to do all that he can to see that a person's dignity as a citizen is preserved.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. PASTORE. I cannot yield. The Senate is operating on cloture time. The Senator will have to speak on his own time.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

Mr. President, the Senator from Rhode Island properly pointed out that an action to which section 902 applies must be initiated by an individual, not by the Attorney General. The Senator implied, but did not say, that the Attorney General already is entrusted with enforcing many laws by initiating suits in the Federal courts. It is not a question of whether we are going to give him a long list of new powers. It is only a question of whether this is the right way of permitting him to assist in the enforcement of already existing constitutional rights.

There is one other qualification which the Senator from Rhode Island did not point out—and this is important—that the rights the Attorney General may assist in enforcing are limited to the equal protection of the laws on account of "race, color, religion, or national origin." That is the tightest qualification. The authorization relates solely to the civil rights cases, and only those civil rights cases which involve equal protection of the laws under the 14th amendment. This is not the traditional "part III." Part III deleted from the 1957 act as passed by the other body would have authorized initiation of suits by the Attorney General to enforce all constitutional rights, a much wider ambit of power than is involved here.

This proposal is strictly limited to equal protection of the laws. It is limited to the civil rights field, with respect to race, color, religion, or national origin. And it is limited even further to intervention in already brought private suits. Its purpose is to give the Attorney General some power to look into cases which have caused the greatest difficulty. If anything, our southern friends should welcome this. There are cases of excessive police action, so-called police brutality cases, cases in which cattle prods and dogs are used. People complain about this. They say they are unjust. They say that an effort is being made to suppress their constitutional rights. It is proper and direct to let the Attorney General look into the case. If he thinks it involves unjust treatment, he will pursue it. If he does not think it involves injustice, he will not pursue it.

Therefore it seems to me that the provision would do no more than give equal protection to all citizens.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 30 additional seconds.

This is a salutary effort to stabilize the situation, not to let it run on and vent itself in the streets, but to transfer it to the proper authorities and the Federal courts.

I think it is a highly salutary provision.

The PRESIDING OFFICER. The Senator from Florida.

Mr. HOLLAND. Mr. President, I yield myself 2 minutes.

Mr. President, this provision of the bill would place the judgment of the Attorney General above that of the court which considers the case. It would deprive the court of the right to say whether or not it is a proper case for the Attorney General to intervene.

The present occupant of the chair has been a judge. The present speaker has been a judge, and has tried cases in many parts of the United States.

I have never heard of a proceeding so broad that the administering authority, or the Attorney General would be allowed to barge into court without the approval of the presiding judge, take over a case, and then be entitled to every right that he would have had if he had initiated the suit. It is not fair to the person who initiated the suit. It is not fair to the country. It is not fair to the court, or to the judge. People have talked a great deal about how much confidence they have in the courts. Mr. President, here is an instance in which, apparently there is little confidence in the court because they want to keep the Attorney General's judgment free from any review by any court superior to the court sitting in these important cases.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. LAUSCHE. Mr. President, I yield myself 3 minutes.

My remarks will not be directed at the merits of this amendment, but to a subject which is keen in the minds of all of us. That is the principle of equal justice for all. That principle is one of the pillars of our constitutional democracy. That principle underlies the sponsorship of the bill that is now before us—equal justice for all, Negro, white, Catholic, Protestant, individuals—regardless of origin and national background.

While this policy is predicated upon that principle, Mr. President, I point out the vicious abuse of the principle that the Senate is perpetuating. One-half hour ago, we had the issue before us of vesting the Attorney General with the right to bring actions against labor unions on the same basis that he can bring them against other individuals of the country.

One would think that that principle would dictate to the Senate "Deal equally with all citizens." But, what was the answer? "We will give the Attorney General the power to sue all people who violate the civil rights law—but not the labor unions."

I ask the Senate to pause and make an introspection and ask how we can reconcile those two situations. By what reasoning is the labor union held sacred and inviolate, and protected against the powers of the Attorney General, while other individuals who violate the civil rights law have brought upon them the full strength and power of 190 million people?

If that strength is applied against "A," how can one say that it should not be applied against a labor union which violates the spirit and the letter of the law?

One-half hour ago——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LAUSCHE. I yield myself 3 more minutes.

One-half hour ago, we decided to shear from the Attorney General the right to bring actions against labor unions. Now it is proposed that the power be removed from the Attorney General. But those who denied the plea that the Attorney General be given the power to sue labor unions now argue that these powers should reside in him.

Three weeks ago the Morton amendment was before the Senate. It would have provided for jury trials in criminal contempt cases. The argument was made that the Congress provided jury trials in criminal contempt cases in the Norris-La Guardia Act, the Clayton Act, and the Landrum-Griffin Act.

Again, in the civil rights bill, in complete violation of the principle of equal justice for all, it was said that there shall be no jury trial in criminal contempt, as distinguished from civil contempt.

How can we reconcile that proposal with the principle of equal justice for all, and with conscience of the highest degree? We cannot do it.

What we are demonstrating is that the powerful shall be immune and that all others shall be subject to the gigantic might of a great nation. Those propositions cannot be reconciled.

In conclusion, I wish to give this power to the Attorney General, but how can I honestly and conscientiously say that I shall give him the power in cases A, B, C, D, and E, but not in F? That cannot be done.

We shall pay the price some day for this misconduct. What I have said has nothing to do with the merits of the proposal except, as I said, as it deals with the principle of equal justice for all.

I shall try to stand by that principle. I spoke about it as a boy in school, as a teacher of law, as a lawyer speaking on the public platform, and as a Member of the Senate. I hold it to be a sacred principle. I wish to stand by it. How can I do so and vote against the proposal?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LAUSCHE. I yield myself 1 more minute. A half hour ago the very principle was repudiated. It cannot be done. I shall probably vote against it, but I say to the proponents of the bill, "You make it most difficult for me." Would it not have been simpler if I could say that I have treated all alike? I cannot say that under the present status of the matter, as it stands before the Senate.

I yield the floor.

Mr. PASTORE. Mr. President, I shall take 2 minutes. I believe a rejoinder should be made to what the distinguished Senator from Ohio has said. There is a great deal of substance to the argument of consistency. I believe we should be consistent. However, there is a difference between what was suggested by the Senator from Arkansas and what we are dealing with now.

The amendment the Senator from Arkansas proposed, first of all, had to do only with the Landrum-Griffin Act. Second, it was compulsory upon the Attorney General to intervene, on the request of any individual who thought his rights were being infringed under the Landrum-Griffin Act. That is not the case here.

In other words, the Attorney General, under the amendment which was ruled out of order, would become the attorney of an individual, whether his position was frivolous, or whether there was any substance to his suit. Under that amendment a person could make the request of the Attorney General and the Attorney General, perforce, would become his lawyer.

The situation now is entirely different.

First. The amendment pertains to civil rights.

Second. We must remember that a case under the amendment must be initiated by an individual. The Attorney General is not compelled to intervene. It provides discretion. He can exercise it as a public official, appointed by the President of the United States. He is an appointed member of the Cabinet, and his appointment is subject to confirmation. The cases are entirely different.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PASTORE. I yield myself 1 more minute.

Under the previous situation, an individual who thought he was aggrieved could call upon the Attorney General, and the Attorney General had to represent him. In other words, the Attorney General became the lawyer for every individual who thought he was being maligned or had his rights infringed upon under the Landrum-Griffin Act. The present situation is different. In this case, the individual must institute the suit. If the suit is of such a character that it involves public policy, if it is a suit that involves an infringement upon equal rights in a civil rights matter under the 14th amendment, the Attorney General, on his own initiative, in his own discretion, after the suit has been instituted, can come in, as he can come in even today, as amicus curiae. That is all. There is a difference. I hope the Senator from Ohio will recognize it. There is a great difference.

We could have done it in the previous case at the proper time. We could have stipulated at that time that if a person brought suit under the Landrum-Griffin Act—and I am referring to a worker—claiming that he was being discriminated against or his rights were being encroached upon, against his right to work, which is a noble thing to protect, and if the suit were of such a character that the Attorney General felt it to be in the interest of the country, we could have said that he should intervene. I think we ought to give serious consideration to it. We would be consistent in a case like that. However, the two cases are entirely different.

Mr. LAUSCHE. Mr. President, I yield myself 2 minutes. The Senator from Rhode Island has spun out a fine theory in giving justification for his conclusion. I put this question: How is it that in the original bill and in the substitute bill there was no provsion giving the Attorney General the right to bring suit against a labor union? Why did that omission occur? Was it by accident or chance, or was it by design?

Moreover, in the Landrum-Griffin bill, which was before the Senate in 1959, efforts were made to give the Attorney General the power to bring an action against labor unions. Those efforts did not succeed.

What we are doing is running away from the mighty and trying to reach those who do not have the same high level of strength.

With respect to its being nongermane or being foreign, I regret to say that that argument sounds ridiculous to me. I served on the bench for 10 years. I know something about relevancy and germaneness. When we have before us a bill replete with material dealing with labor, and then say that the Attorney General shall not have the right to bring an action against unions, as he can bring an action against others, on the ground that it is not germane, it is nothing but nonsense and balderdash.

Mr. McCLELLAN. Mr. President, I yield myself 1 minute. I am not at all surprised by the action the Senate took a while ago. I expected it. If my amendment had gone to a vote I would have expected that the rights of working people—union members would not have been recognized or protected. The amendment would have been defeated. I say that because in my judgment the bill now pending before the Senate, this so-called and misnamed civil rights bill is designed and intended to assassinate the true ideals and principles of personal liberty. Therefore, to achieve that final objective, the bill must of necessity be made discriminatory both in letter and in spirit. It must be maintained that way, if the bill is to achieve its final objective. Therefore, any amendment designed to eliminate or correct any of the evil and discriminatory provisions in the bill or to make the bill apply with equal justice across the board obviously will not be adopted by the U.S. Senate. That is most regrettable, but nevertheless, it is a fact.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COTTON. Mr. President, I yield myself 15 seconds.

Senators who believe that government should be a government of laws and not of men should vote for the amendment. Those who do not believe in that principle should vote against it.

Mr. PASTORE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

What is the pleasure of the Senate?

Mr. PASTORE. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. ERVIN. Mr. President——

The PRESIDING OFFICER. There will be further debate. The Chair requests all Senators, unless they are compelled to leave because of more urgent business, to resume their seats. Senators who must have conferences will retire to the cloakroom.

Mr. ERVIN. Mr. President, I yield myself 1 minute.

The section which my amendment seeks to strike is designed to empower the Attorney General to browbeat every State and local official he desires into submission to his will. It is the height of folly to say that somebody else will have to bring the suit first. That is the phraseology of the section, but the Attorney General can get one of his stooges to bring a suit anywhere in the United States and then intervene in it. State and local officials, rather than be involved in the litigation, will tend to surrender to the whim and desire of the Attorney General in every case in which the Attorney General seeks to impose his will upon them.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. PASTORE. Mr. President, I yield myself half a minute.

First. Any Attorney General who had stooges would not be worthy of his office.

Second. Under the language of the substitute amendment, the action must be brought by the individual himself.

Third. There must have been a violation of a person's civil rights under the equal protection clause of the 14th amendment.

Fourth. The Attorney General would have discretion to intervene if he believes that it would be in the public interest to do so.

This is a good provision in the bill. The amendment of the Senator from North Carolina should be rejected.

Mr. JAVITS. Mr. President, I yield myself half a minute.

Let us remember, because it has been completely obscured in the debate, that these cases will be in the courts. Whether the Attorney General intervenes or not, the courts will finally decide them.

No court that I know of is reluctant to decide against the Attorney General, even if he does intervene, if the court thinks he is wrong.

Second, who will be the defendants? The defendants will not be unhappy private individuals who operate little retail stores. They will be police departments and district attorneys from municipalities and States, well able to defend themselves, much more so than the individual plaintiffs in whose suits the Attorney General would intervene. I hope the Senate will reject the amendment.

Mr. HOLLAND. Mr. President, I yield myself 1 minute.

The distinguished Senator from New York just said that no court is reluctant to decide against the Attorney General. I say that if we leave the language as it is, the court will not have a right to decide against the Attorney General in one important matter, and that is whether or not he should intervene in such a case.

In every other sort of case, under the regular procedure for the operation of our courts, the trial judge has some discretion, when considering an application by a person who seeks to intervene, to decide whether such intervention would be appropriate, whether it would leave the issues undisturbed, and whether there is a right for the applicant to become an actual intervenor at law.

The distinguished Senator from New York very carefully withholds from the district court the right to say in this case whether or not the Attorney General should be entitled to intervene. I say that is doing exactly what the Senate declined to do in 1957, on a little more general basis, because it applied to more than the class of cases provided for in this bill. It is what the Senate declined to do in 1960, when a similar amendment was proposed. The bill gives the Attorney General complete authority, in his own discretion, without consulting the court, and without his action being subject to review by the courts.

The PRESIDING OFFICER. the time of the Senator from Florida has expired.

Mr. HOLLAND. I yield myself 1 more minute.

The right to decide whether, in his judgment, a case should become a U.S. case and should have all the force of the United States thrown in along with all the rights and remedies which he would have had if he had brought the case in the beginning is an improper grant of power to the Attorney General.

I hope that the Senate will sustain the amendment offered by the Senator from North Carolina.

The PRESIDING OFFICER. Apparently the debate on the amendment has been concluded. The Chair has heretofore ruled that all staff members who are entitled to the privilege of the floor must remain in the Chamber until the rollcall has been completed and the announcement of the result has been made.

In order that that ruling may be more easily understood and that there may be better order, the Chair directs the Sergeant at Arms to close the doors to the admission of other persons, unless they are Members of the Senate or Members of the House.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Maryland [Mr. BREWSTER], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. MONRONEY], and the Senator from Minnesota [Mr. McCARTHY] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Mr. BREWSTER] and the Senator from California [Mr. ENGLE] would each vote "nay."

Mr. BENNETT. I announce that the Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK], the Senators from Kansas [Mr. CARLSON and Mr. PEARSON], the Senator from Illinois [Mr. DIRKSEN], the Senator from Nebraska [Mr. HRUSKA], the Senator from Idaho [Mr. JORDAN], the Senator from California [Mr. KUCHEL], the Senator from Kentucky [Mr. MORTON], the Senator from Massachusetts [Mr. SALTONSTALL] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The Senator from Vermont [Mr. PROUTY] is absent on official business.

If present and voting, the Senator from Kentucky [Mr. MORTON] and the Senator from Massachusetts [Mr. SALTONSTALL] would each vote "nay."

On this vote, the Senator from Wyoming [Mr. SIMPSON] is paired with the

Senator from Vermont [Mr. Prouty]. If present and voting, the Senator from Wyoming would vote "yea" and the Senator from Vermont would vote "nay."

On this vote, the Senator from Nebraska [Mr. Hruska] is paired with the Senator from Colorado [Mr. Allott]. If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 34, nays 47, as follows:

[No. 294 Leg.]

YEAS—34

Bennett
Bible
Byrd, Va.
Byrd, W. Va.
Cotton
Curtis
Eastland
Ellender
Ervin
Fulbright
Goldwater
Gore
Hayden
Hickenlooper
Hill
Holland
Johnston
Jordan, N.C.
Lausche
Long, La.
McClellan
Mechem
Mundt
Robertson
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters
Williams, Del.
Young, N. Dak.

NAYS—47

Aiken
Bartlett
Bayh
Beall
Boggs
Burdick
Cannon
Case
Church
Clark
Cooper
Dodd
Douglas
Fong
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Long, Mo.
Magnuson
Mansfield
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott
Smith
Symington
Williams, N.J.
Yarborough
Young, Ohio

NOT VOTING—19

Allott
Anderson
Brewster
Carlson
Dirksen
Dominick
Edmondson
Engle
Gruening
Hruska
Jordan, Idaho
Kuchel
McCarthy
Monroney
Morton
Pearson
Prouty
Saltonstall
Simpson

So Mr. Ervin's amendment was rejected.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. PASTORE. Mr. President, I move that the vote by which the Ervin amendment was rejected be reconsidered.

Mr. JAVITS. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. MILLER. Mr. President, I call up my amendments No. 769 and ask that they be stated.

The PRESIDING OFFICER. The amendments of the Senator from Iowa will be stated.

The Legislative Clerk. On page 10, line 8, it is proposed to insert the following after the word "action": "if he certifies that the case is of general public importance".

On page 53, line 23, it is proposed to insert the following after the word "action": "if he certifies that the case is of general public importance".

On page 70, line 15, it is proposed to insert after the word "may" the following: ", upon timely application,".

On page 70, line 21, it is proposed to insert after the word "in" the following: "and as a part of".

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. MILLER. Mr. President, I yield myself 2 minutes. May we have order?

The PRESIDING OFFICER. We must have order in the Senate before we proceed. Those who have the privilege of the floor will please find places to sit down and remain quiet.

The Senator is recognized for 2 minutes.

Mr. MILLER. Mr. President, I hope that the amendment will be accepted so that a rollcall will not be required on it.

The purpose of the first three parts of the amendment is to make the intervention provisions of the bill consistent so that they will all require a timely filing by the Attorney General if he wishes to intervene, and also will require that he certify that the case is of general importance.

Those provisions are found in one way or another in various intervention titles, but they are not all there.

The first three parts of my amendments—namely, the amendment to title II, the amendment to title VII, and the amendment to the title which was just considered in connection with the Ervin amendment—would do just that.

The last part of my amendment would make clear on page 70, line 21, that the community relations service will be a part of the Department of Commerce, which might be open to question the way the bill is now worded. The bill now provides that the community relations service is established in the Department of Commerce, and while it might be there for housekeeping functions, the intention, I am sure, is that it be a part of the Department of Commerce. That is all my amendment provides.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. HUMPHREY. I discussed the amendments with the Senator. The Senator recalls that we have discussed them with staff members as well. I feel that they are in order. They make the sections referred to conform to other parts of the bill.

The Senator from New York would like to ask a question of the Senator from Iowa.

Mr. JAVITS. Mr. President, if the Senator will yield. I shall be very brief. The Senate has decided to sustain section 902.

The PRESIDING OFFICER (Mr. McGovern in the chair). The time of the Senator from Iowa has expired.

Mr. JAVITS. I yield myself 30 seconds. Therefore, since Senate has acted, I ask whether we have any right now to insert some other condition in that section. I suggest to the Senator that he ought to strike that provision from his amendment because the Senate, in a yea-and-nay vote, has sustained section 902. Therefore, the Attorney General having the right to intervene, he ought to have it and that should be the end of it—instead of now putting some other qualification in the provision upon which a court could pass. We have already decided that issue.

Mr. MILLER. I recognize that we have just acted upon an amendment which would have stricken out the entire intervention section.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MILLER. Mr. President, I yield myself such time as may be necessary.

I see no reason why, merely because we reject an amendment which would strike out the whole section, we cannot strengthen the provision, making it uniform with other intervention provisions by providing for the filing of a motion to intervene.

The PRESIDING OFFICER. Does the Senator yield himself additional time?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MILLER. I would be happy to yield, but I had better yield on the time of the Senator from New York.

Mr. JAVITS. Mr. President, I yield myself an additional 30 seconds.

I have pointed out that the section of the bill which we are discussing is a section under which the Attorney General would not have to ask leave to intervene. He intervenes. The amendment of the Senator from Iowa would give the court authority to pass on the timeliness of the intervention. I thought what we voted upon was the issue as to whether, when the Attorney General felt he should intervene and certified that intervention was in the public interest, he should have the right to do so and not wait on the judgment of the court as to whether he should or should not intervene.

The Senator would give the court power to pass upon the question. Therefore, I respectfully feel that I would have to move to amend the Senator's amendment, if he insists upon it, to strike out that part of it. Since we passed on the question within the past few minutes, I do not believe we should be marched up the hill and then marched down again by accepting the amendment in its present form.

Mr. MILLER. Mr. President, I yield myself 15 seconds. That is not what we just decided by the rejection of the Ervin amendment. If the Senator from New York is arguing, whether a filing is timely or not, that the Attorney General ought to have the absolute right to come in, I think he is going too far. I voted against the Ervin amendment because I believed that the Attorney General ought to be entitled to intervene. I think it is little enough that he be required to intervene upon the timely filing of an application.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. MILLER. Yes, indeed.

Mr. HUMPHREY. The Senator might very well wish to divide his amendment. The first part of the amendment would add the following language on page 10, line 8 and on page 53, line 23; "if he certifies that the case is of general public importance."

That language would seem desirable.

On page 70, line 15, after the word "may" the words "upon timely application" would be inserted.

The problem relates to the proposed amendment on page 70, line 15. It seems to me that the Senator might be very well advised at this time to divide his amendment and come back to that proposal at a later time.

Mr. JAVITS. I should be glad to discuss it with the Senator. Perhaps we can agree upon something in respect of it. In this way he would get most of what he wants, and he could always present his proposal relating to page 70 again.

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MILLER. May the amendments, for purposes of consideration by the Senate, be divided so that lines 4 and 5, page 2, of the amendment will be voted upon separately?

The PRESIDING OFFICER. The amendments can be divided.

Mr. MILLER. Mr. President, I ask unanimous consent that my amendments be so divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MILLER. Mr. President, I move that the first part of my amendments, which is all of my amendments except lines 4 and 5 on page 2, be adopted.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa.

The motion was agreed to.

The portion of the amendments of the Senator from Iowa agreed to is as follows:

On page 10, line 8, insert the following after the word "action": "if he certifies that the case is of general public importance."

On page 53, line 23, insert the following after the word "action": "if he certifies that the case is of general public importance."

On page 70, line 21, insert after the word "in" the following: "and as a part of."

Mr. MILLER. Mr. President, I ask unanimous consent that consideration of the second part of my amendments be temporarily deferred.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa? The Chair hears none, and it is so ordered.

Mr. ERVIN. Mr. President, I call up my amendments No. 775, and modify them to make them applicable as an amendment to the revised substitute 1052. I ask that the amendments be stated.

The PRESIDING OFFICER. The amendments of the Senator from North Carolina will be stated.

The legislative clerk read the amendments (No. 775) as follows:

On page 70, strike out lines 3 through 9 in their entirety (section 901).

Renumber section 902 as section 901.

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, the able and distinguished senior Senator from Arkansas [Mr. MCCLELLAN] was absolutely correct a moment ago when he said this bill was designed to rob all American citizens of some of their basic economic, legal, personal, and property rights. But the bill is even worse than that, because the bill would pervert and prostitute the judicial process for the purpose of enforcing a policy rather than for the purpose of doing justice.

The provision I seek to strike by this amendment is a fair illustration of that truth. It has been the law for a long time that a party in a district court of the United States could not appeal to higher courts from a ruling on a motion to remand a civil rights case which had been removed from the State court to the Federal court. The reasons for the law denying the right of appeal to both sides arose out of the fact that it delayed the trial and that the parties could have the matter corrected after a trial on the merits.

Under this provision the procedure is to be loaded for one side. The persons who remove the case from the State court to the Federal court could appeal from an order of the judge remanding the case to the State court. But the State authorities who make a motion to remand and have that motion to remand denied could not appeal.

In other words, there is a right to appeal on one side, and the right is denied to the other side. The legal dice are loaded for one side and against the other.

That is a prostitution of the judicial process. It would result, in this particular class of cases, in depriving the States for a long time, while the appeal is pending, of the right to enforce State laws for protecting the people in the State against criminal violations of such laws. That provision should be stricken. What is sauce for the legal goose ought to be sauce for the legal gander.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from North Carolina [Mr. ERVIN].

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Maryland [Mr. BREWSTER], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from Alaska [Mr. GRUENING], and the Senator from Tennessee [Mr. WALTERS] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Mr. BREWSTER] and the Senator from California [Mr. ENGLE] would each vote "nay."

Mr. BENNETT. I announce that the Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK], the Senators from Kansas [Mr. CARLSON and Mr. PEARSON], the Senator from Illinois [Mr. DIRKSEN], the Senator from Nebraska [Mr. HRUSKA], the Senator from Idaho [Mr. JORDAN], the Senator from California [Mr. KUCHEL], the Senator from Kentucky [Mr. MORTON], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The Senator from Vermont [Mr. PROUTY] is absent on official business.

If present and voting, the Senator from Kentucky [Mr. MORTON] and the Senator from Massachusetts [Mr. SALTONSTALL] would each vote "nay."

On this vote, the Senator from Wyoming [Mr. SIMPSON] is paired with the Senator from Vermont [Mr. PROUTY]. If present and voting, the Senator from Wyoming would vote "yea" and the Senator from Vermont would vote "nay."

On this vote, the Senator from Nebraska [Mr. HRUSKA] is paired with the Senator from Colorado [Mr. ALLOTT]. If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 31, nays 51, as follows:

[No. 295 Leg.]

YEAS—31

Bennett
Byrd, Va.
Byrd, W. Va.
Cannon
Cotton
Curtis
Eastland
Ellender
Ervin
Fulbright
Goldwater
Gore
Hickenlooper
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Mundt
Robertson
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Williams, Del.
Yarborough

NAYS—51

Aiken
Bartlett
Bayh
Beall
Bible
Boggs
Burdick
Case
Church
Clark
Cooper
Dodd
Douglas
Fong
Hart
Hartke
Hayden
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott
Smith
Symington
Williams, N.J.
Young, N. Dak.
Young, Ohio

NOT VOTING—18

Allott
Anderson
Brewster
Carlson
Dirksen
Dominick
Edmondson
Engle
Gruening
Hruska
Jordan, Idaho
Kuchel
Morton
Pearson
Prouty
Saltonstall
Simpson
Walters

So Mr. ERVIN's amendments No. 775 were rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG of Louisiana. Mr. President, I have discussed an amendment on which I debated earlier today, and on which the yeas and nays have been ordered. It is my understanding that those who are managing the bill have consulted with drafting experts in the Department of Justice and others who have advised them that there would be no objection to the amendment on the part of the membership if it were modified, so that instead of the amendment appearing at the end of the period in section 601, it would appear in the same title as a new section, section 605.

I previously made that request when urged to do so by the Senator from Connecticut. There was objection at that time. The situation was explained. I do not believe that there will be objection. I therefore ask that the amendment be so modified as to have it appear in the same title, but as section 605, instead of appearing in section 601.

The PRESIDING OFFICER. Is there objection?

Mr. CASE. Reserving the right to object, I understand that this is acceptable to the Senator from Oregon, who raised the objection before.

Mr. HUMPHREY. Mr. President, the Senator from Oregon so indicated to the Senator from Minnesota. Might I ask the Senator from Connecticut if the Senator from Oregon spoke to him about it?

Mr. RIBICOFF. The Senator indicated to me that he would reserve the right to object, but he did not tell me that he would not object. He said he wanted to discuss it further with the leadership.

Mr. CASE. Mr. President, I ask unanimous consent that this amendment be deferred until we have some definite word on it.

Mr. LONG of Louisiana. If the Senator from Oregon wishes to come in and object to it——

Mr. CASE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DODD. Mr. President——

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I yield myself 3 minutes.

WHY COLUMBUS DAY SHOULD BE A NATIONAL HOLIDAY

Mr. DODD. Mr. President, American history begins in the year 1492. Our children learn this date early in their education, in school they sing songs and recite poems about Christopher Columbus and the *Nina*, the *Pinta* and the *Santa Maria*.

October 12 this year will be the 472d anniversary of the sailing of Columbus in the waters of the Western Hemisphere. On this day which we have dedicated to Columbus, we will pay homage to this historic figure, to the men who accompanied him across the sea, and to the nation of Italy. In doing this, we will also be paying tribute to the many fine Americans of Italian origin or descent who have played such a great part in the growth of this Nation.

The story of Columbus, a man of humble origin, and his long difficult struggle to achieve his dream is a familiar one. It is difficult today, however, to fully realize the magnitude of this undertaking, in the shadow of our recent achievements in transportation and communication.

But the attention and time of 15th century Europeans were occupied by internecine warfare, royal power struggles, and the new awareness of themselves associated with the emergence of the Renaissance.

Very few people even seriously listened to his argument that the earth was actually round and that one could reach the riches of the east by sailing west, and it appeared that virtually no one was willing to finance a venture to explore this idea.

Columbus endured ridicule, disappointment, poverty, and anguish, before he finally received the backing of Queen Isabella of Spain, and set sail with 120 men in 3 frail ships.

This is where the story of America begins. We have come a long way since then, and can look back on the rise of a great nation built by people of many different nationalities, races, religions, and backgrounds.

We would do well also to remember the courage of this Italian adventurer, and his enduring dedication to a principle in which he believed so wholeheartedly that he would risk his life and the lives of others.

The world we face today is very different from the one which challenged Christopher Columbus, but we must have the same courage and determination to build a better life for all civilization.

We remember this day each year as the beginning of the story of America. I believe that we should pay tribute to this great Italian and to our Italian population in general by making Columbus Day a national holiday.

I am one of the cosponsors of the bill which would do this, S. 108, introduced by my good friend from Delaware, Senator BOGGS. The low number of the bill indicates at what an early date in this Congress the proposal was introduced but we have not even had a hearing on it yet.

I want to state here and now that I intend to do everything I can to have this measure considered and approved by the Judiciary Committee and the Senate before we adjourn this year.

All America owes a great deal to the Italian people who have immigrated to this country to work, live, raise their families, and become an integral and important part of our society.

A national holiday on October 12 would remind us of our debt to this courageous man and to the 12 million persons of Italian origin or descent who have consistently contributed so much to our country through the years.

I hope the Senate will approve S. 108 soon.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. LONG of Louisiana. Mr. President, my amendment is pending. I have no objection to voting on the amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask that the Senate lay aside the amendment of the Senator from Louisiana [Mr. LONG].

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG of Louisiana. Mr. President, I call up my amendment No. 1050 and modify that amendment to fit the present wording of the Dirksen substitute.

The PRESIDING OFFICER. The amendment as modified will be stated.

Mr. LONG of Louisiana. I modify my amendment, and I shall read it now. I have discussed it with the Parliamentarian, and it is in accordance with regular practice.

> Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

It is my understanding that in this form the amendment is agreeable to the leadership. I believe there is no objection from the Department of Justice to the amendment in this fashion. I do not understand why the Department feels it would be willing to take it as a separate section but not as an amendment to section 601. But I see no difference on that basis. So far as I am concerned, I am willing to call up the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 35, after line 9, it is proposed to insert the following new section:

> SEC. 605. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

Mr. GORE. Mr. President, I desire to be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oregon will state it.

Mr. MORSE. Is it necessary for the Senator from Louisiana to obtain unanimous consent for approval of the procedure he is seeking to effectuate?

The PRESIDING OFFICER. The language that the Senator from Louisiana has now submitted was submitted earlier today by the Senate. Under a general agreement previously reached, the Senator from Louisiana would be authorized to insert his amendment at a different place in the bill than he originally intended. Any Senator would have that right.

Mr. MORSE. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oregon will state it.

Mr. MORSE. Does not this request involve the same procedural point that was raised this morning, to which I objected after consultation with other Senators on the floor of the Senate, when I was advised that a unanimous-consent agreement would be required?

The PRESIDING OFFICER. That proposal related to a different amendment, on which the yeas and nays had been ordered.

Mr. MORSE. Is the Senator from Oregon to understand that the request of the Senator from Louisiana for the provision he is seeking does not require unanimous consent?

The PRESIDING OFFICER. That is the opinion of the Chair.

Mr. PASTORE. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified, of the Senator from Louisiana [Mr. Long].

The amendment, as modified, was agreed to.

Mr. ELLENDER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 296 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Ellender
Ervin
Fong
Fulbright
Goldwater
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Russell
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

The bill is open to further amendment.

Mr. LONG of Louisiana. Mr. President, I send to the desk my amendment No. 1008.

The PRESIDING OFFICER. The amendment of the Senator from Louisiana will be stated.

The LEGISLATIVE CLERK. On page 55, after line 4, it is proposed to insert the following new section:

SEC. 1105. No Federal department or agency shall take any action to require, directly or indirectly, any person, in the sale, leasing, rental, or other disposition of private residential housing and related facilities (including land to be developed for residential use), to negotiate, or enter into any contract, with any other person not of his choosing.

Mr. LONG of Louisiana. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 3 minutes.

Mr. LONG of Louisiana. Mr. President, this amendment seeks to place in issue the Kennedy Executive order aimed at the Federal Housing Administration and the Veterans' Administration; I refer to the Executive order which stated that those groups cannot insure loans unless the builder agrees that he will not discriminate in any fashion whatever in buying or selling homes.

I do not contend that the Federal Government cannot insist on nondiscrimination or any sort of desegregation it may wish to, in connection with college housing or FHA housing or Veterans' Administration housing or any other type of activity of that sort with which the Federal Government is assisting. But when the Federal Government is insuring a mortgage on a home, it seems to me improper for the Federal Government to require that the homeowner or the builder concerned sell the property to someone to whom he does not wish to sell it. It seems to me that should be his own private right.

If such a requirement were to be made, it should be made by means of legislation, not by means of an Executive order; and if Congress wishes to make such a requirement, it certainly should be done by means of legislation.

This amendment seeks to state that the power of the Federal Government to insure mortgages, such as under the FHA and the VA, will not be used to deny a person the right to sell his private property to anyone to whom he may choose to sell it. If the opposite were to be done, it should be done by means of legislation, not by means of an Executive order. In my opinion, the Executive order was a usurpation of legislative power.

If Senators wish to leave that Executive order in effect, they can vote against the amendment. If they do not agree with the Executive order, they can vote for the amendment, and the vote would have the effect of repudiating the order.

Mr. CASE of New Jersey. Mr. President, I yield myself 20 seconds. The Senator from Louisiana has fairly stated, the effect of the amendment and its purpose. It would be unconstitutional, if adopted. It should not be adopted on the merits.

Mr. HUMPHREY. Mr. President, I yield myself 15 seconds. The amendment presents a choice between the powers of the President under the Constitution, as exercised in the Executive order of the late President John F. Kennedy, and the proposal of the amendment. I urge that the amendment be rejected decisively.

Mr. LONG of Louisiana. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mrs. NEUBERGER. Mr. President, it is so delightful in the Chamber when it is quiet and the attachés are seated that I ask that, before the vote is taken, the Chair request them to be seated.

The PRESIDING OFFICER. The point is well taken. Attachés who wish to remain will please take seats; others will retire from the Chamber.

The question is on agreeing to the amendment of the Senator from Louisiana [Mr. Long], No. 1008. On that question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from Oklahoma [Mr. Edmondson], the Senator from Arizona [Mr. Hayden], the Senator from Minnesota [Mr. McCarthy], and the Senator from Virginia [Mr. Robertson] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that if present and voting, the Senator from California [Mr. Engle] and the Senator from Washington [Mr. Jackson] would each vote "nay."

I further announce that the Senator from Washington [Mr. Jackson] is absent by leave of the Senate to deliver a graduating address at the Foreign Service Institute, Department of State.

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from Maryland [Mr. Brewster].

If present and voting, the Senator from Virginia would vote "yea" and the Senator from Maryland would vote "nay."

Mr. KUCHEL. I announce that the Senator from Delaware [Mr. Boggs] and the Senator from Massachusetts [Mr. Saltonstall] are necessarily absent and, if present and voting, would each vote "nay."

The Senator from Vermont [Mr. Prouty] is absent on official business, and, if present and voting, would vote "nay."

The result was announced—yeas 24, nays 66, as follows:

[No. 297 Leg.]

YEAS—24

Bennett
Byrd, Va.
Byrd, W. Va.
Eastland
Ellender
Ervin
Fulbright
Goldwater
Hickenlooper
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters

NAYS—66

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Fong
Gore

Gruening
Hart
Hartke
Hruska
Humphrey
Inouye
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney

Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—10

Boggs
Brewster
Edmondson
Engle

Hayden
Jackson
McCarthy
Prouty

Robertson
Saltonstall

So Mr. Long's amendment was rejected.

Mr. KUCHEL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ERVIN. Mr. President, I call up my amendment No. 497, which I have modified so as to make it conform to the substitute amendment, and ask that the clerk state it in a clear, stentorian voice.

The PRESIDING OFFICER. The amendment offered by the Senator from North Carolina will be read.

The Chief Clerk read the amendment, as follows:

On page 35, between lines 9 and 10, insert the following new section:

"Sec. 605. (a) The Congress hereby declares that the individual American property owner, regardless of race, color, creed, or national origin, must be allowed, under law, to retain:

"(1) The right of privacy.

"(2) The right to choose his own friends.

"(3) The right to own and enjoy property according to his own dictates.

"(4) The right to occupy and dispose of property without governmental interference in accordance with the dictates of his conscience.

"(5) The right of all equally to enjoy property without interference by laws giving special privilege to any group or groups.

"(6) The right to maintain what, in his opinion, are congenial surroundings for tenants.

"(7) The right to contract with a real estate broker or other representative of his choice and to authorize him to act for him according to his instructions.

"(8) The right to determine the acceptability and desirability of any prospective buyer or tenant of his property.

"(9) The right of every American to choose who, in his opinion, are congenial tenants in any property he owns—to maintain the stability and security of his income.

"(10) The right to enjoy the freedom to accept, reject, negotiate, or not negotiate with others.

"(b) To the extent of any inconsistency with the foregoing declaration, all laws heretofore enacted by the Congress are hereby repealed, and all Executive orders and all administrative orders, regulations, and instructions heretofore promulgated by any officer, department, agency, or instrumentality of the United States are hereby declared to be void and shall have no legal effect. No such order, regulation, or instruction hereafter promulgated may contain any provision inconsistent with the declaration contained in subsection (a).

"(c) No provision contained in any contract entered into between any officer, department, agency, or instrumentality of the United States and any person, firm, partnership, corporation, State, or political subdivision of a State which is in violation of or inconsistent with any of the declarations contained in subsection (a) shall be deemed valid or enforceable. No officer or employee of the United States may take any administrative or legal action for the enforcement of compliance with any such provision."

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from West Virginia [Mr. Byrd], and the Senator from Arizona [Mr. Hayden] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Mr. Brewster], and the Senator from California [Mr. Engle] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Delaware [Mr. Boggs] and the Senator from Massachusetts [Mr. Saltonstall] are necessarily absent and, if present and voting, would vote "nay."

The Senator from Vermont [Mr. Prouty] is absent on official business, and if present and voting, would vote "nay."

The Senator from Arizona [Mr. Goldwater] is detained on official business.

The result was announced—yeas 20, nays 72, as follows:

[No. 298 Leg.]

YEAS—20

Bennett
Byrd, Va.
Eastland
Ellender
Ervin
Fulbright
Hill

Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Robertson
Russell

Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—72

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening

Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller

Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Tower
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—8

Boggs
Brewster
Byrd, W. Va.

Engle
Goldwater
Hayden

Prouty
Saltonstall

So Mr. Ervin's amendment was rejected.

Mr. HUMPHREY. I move to reconsider the vote by which the amendment was rejected.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATES RIGHTS AND STATES RESPONSIBILITIES

Mrs. NEUBERGER. Mr. President, I yield myself 3 minutes.

A respected Oregonian, Mr. Ralph Moore, frequently writes me, expressing disagreement with some of my views. As the editor of the Medford, Oreg., Mail-Tribune, Mr. Eric Allen, has written:

> Mr. Moore is a spokesman for the conservative philosophy, and is one of the most literate exponents of constructive conservatism in the State.

However an editorial from the Mail-Tribune, answers effectively the charge of Federal entrapment voiced by Mr. Moore.

The argument for States rights is answered by States responsibilities. I anticipate that from now until November there will be need to remind ourselves frequently of just what we mean by States rights.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

In the current issue of the Voter, Mr. Moore sets forth "some election reflections." He is disappointed that Goldwater did not do better in Oregon, for, he says, the Arizona Senator offered "about the only choice between Caesar and democracy."

And he added:

"Indeed, so many of our people have become so dependent on Federal handouts that any abrupt change in the present system would be devastating and therefore a political impossibility. A great deal of education will be needed before we can hope for escape from the Federal entrapment and it would be unrealistic to think otherwise. We shall have to put up with our semisocialistic system for a long time to come."

If we can ignore the scare word "semisocialistic," we can agree that the system will continue.

The "Federal entrapment" about which Mr. Moore writes is nothing of the kind. It is a response to human and national needs which has been made by the Congress simply because the needs have not, and will not, be taken care of at the local level.

County, city, and State governments have neither the financial resources, nor the motivation, to assume responsibility for many of the "semisocialistic" measures taken by the Federal Government in response to necessities that transcend local political subdivisions.

There has been a great hue and cry about "States rights." But until there is equal and equally sincere, talk about "States responsibilities," the trend of looking to the

Federal Government for solutions will continue.

The States cannot (and will not) regulate interstate commerce. So the Federal Government had to step in to protect its citizens from uncontrolled and often predatory commercial interests.

The States cannot (and will not) make any significant or uniform moves in the fields of social security, old-age assistance, and unemployment compensation. So the Federal Government had to step in to insure that the constitutional right to "equal protection of the laws" would not be violated.

The States cannot (and will not) serve as guardians of the public domain. (Witness the school land scandals in our own State before the turn of the century.) So the Federal Government had to step in to prevent the despoliation of our great natural resources of forest, field, and soil.

The State cannot (and will not) provide adequate channels of transportation. So the Federal Government had to step in to provide the new and growing system of interstate freeways.

The States cannot (and will not) provide adequate airway aids and controls. Or national defense. Or agricultural programs. Or public health programs. Or air and water pollution control. Or labor arbitration, mediation and conciliation on an industrywide basis. Or parks and forests and wildlife refuges and monuments.

So, in all these cases, the Federal Government has had to step in.

And this will continue just so long as the needs are not met at a local level. We will see more and more of it—in mass transportation, urban renewal, and many other fields, including civil rights.

Up to this point, the States and local governments have, by and large, done a nearly adequate job of education. But the combination of the rising tide of young people, and the greater demands of our complex and burgeoning society, have made it inevitable that the Federal Government will have to play a larger role there, too.

One can deplore and decry "Federal aid to education," as a sort of socialistic threat. But the fact is that Federal aid to education now stands at some $2 billion annually, and is going to increase.

One can deplore and decry our "semisocialistc" dependency on the Federal Government, the huge bureaucracy which has grown to perform all these tasks, and the inevitable constriction of unfettered freedom of action.

One can deplore and decry them. But one cannot maintain there has been no logic and consistency in the pattern.

This is no longer a vast, frontier land. It is a populous, noisy, complex, and rapidly growing industrial civilization. With it have come huge problems never before encountered. And, since the State and local governments cannot (and will not) solve them, the people have turned to the Federal Government for solutions.

Not all of the solutions have been real solutions. Not all of the answers have been good.

But it is the only way we have of seeking solutions, and causing government, in Lincoln's phrase, to do for the people what they cannot do, or do as well, for themselves.

As Mr. Moore says, it is unrealistic to think that we can "escape" any time soon.

E.A.

STAMPS AGAINST CANCER

Mrs. NEUBERGER. Mr. President, I have urged the Post Office Department to issue a U.S. crusade against cancer commemorative postage stamp, and have sponsored legislation in the Senate to accomplish this objective. My bill has received widespread support, and the endorsement of the Department of Health, Education, and Welfare.

Since 1928, 46 countries have issued 110 postage stamps in connection with the fight against cancer. I am hopeful the Post Office Department will favorably consider my proposal for the issuance of a crusade against cancer commemorative stamp in April 1965.

Mr. President, an excellent article detailing the historical background of stamps against cancer appeared in the May 1964 issue of Clinical Pediatrics, written by Marvin Taub, the able production manager of the American Cancer Society. I ask unanimous consent to include this article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STAMPS AGAINST CANCER

(By Marvin Taub)

(NOTE.—The American Cancer Society is the largest voluntary association of people united to conquer a disease—cancer. The society acts by: Educating the public; informing the medical and nursing professions; supporting facilities for detection, diagnosis, and treatment; improving medical and social service for the cancer patient; supporting and guiding medical research. The society is organized as 59 chartered divisions, covering the 50 States and Washington, D.C. The national office is in New York City. Through over 3,000 voluntary local units and the time and energy contributed by more than 2 million volunteers, the divisions translate the society's policies into action. The American Cancer Society is energetically sponsoring a U.S. anticancer postage stamp because of its effectiveness as a device for directing public attention to the disease.)

"Stamp out cancer with a stamp." Since 1928, 46 countries have issued 110 postage stamps to hasten the time when cancer will be stamped out.

Sweden, in 1928, was the first country to utilize postage stamps as an aid in the fight against cancer. Since then, 45 countries have printed regular, semipostal or postal tax issues for the same purpose. The Swedish stamp was issued in a series of five different semipostals to commemorate the 70th birthday of King Gustave V. More than 3 million sales provided over $42,000 for cancer control.

Denmark, in 1929, followed with three different semipostals featuring the Danish crown and the staff of Aesculapius. These cancer stamps were sold at a premium: 1,865,000 were issued and 90,000 Danish kroner ($25,000) was raised for the National Cancer Research Fund.

The Danish Postal Administration also supervises the telegraph and raises about 300,000 kroner annually for the Danish Cancer Committee through "Luxury Telegraph Forms." Twenty-four types are advertised each year. The total profit (33 percent of sales) is given to the cancer committee; 7.3 million kroner ($1 million) since 1934.

In 1938, 21 countries associated with France, plus Cuba, Afghanistan, and Monaco, issued commemorative stamps to honor the 40th anniversary of the Curies' discovery of radium. The surtax from these semipostal issues was given to the International Union Against Cancer.

In the same year, Ecuador put out an overprinted postal tax stamp obligatory on all mail for 1 week. The stamp, originally issued in 1929 to promote tobacco, was overprinted for the "campaign against cancer." At that time, the relationship between cigarette smoking and lung cancer was not known.

Panama leads in the number of cancer stamps—30 between 1939 to 1949. Most of these feature portraits of the Curies. Danzig issued a regular stamp in 1939 honoring Wilhelm Roentgen, developer of the X-ray. This was captioned, "Fight Cancer, Cancer Is Curable" and was the last postal issue of that internationalized city before the German occupation.

In July 1962, a Russian issue commemorated the Eighth International Cancer Congress (sponsored by the World Health Organization). There were 5,000 delegates from 70 countries, and more than 800 reports presented progress in cancer research.

A UNITED STATES ANTICANCER STAMP?

The United States may soon put out such a stamp. On May 13, 1963, Senator MAURINE B. NEUBERGER of Oregon introduced a bill authorizing and directing the Postmaster General to "issue a special postage stamp commemorating the crusade against cancer."

Senator NEUBERGER's bill does not honor the efforts of any specific organization. Among the national organizations on record as favoring such a stamp are many medical and commercial groups including the American Medical Association and the Junior Chamber of Commerce as well as numerous others in the fields of education, religion, and fraternity. The bill is cosponsored by 15 Senators including CLARK, HILL, JAVITS, MAGNUSON, RIBICOFF, and SYMINGTON. As of September 1963, 52 Senators had indicated their support, as had over 70 Congressmen and many other prominent figures in the Health, Education, and Welfare and other governmental departments. Three similar companion bills were also introducd in the House of Representatives.

There is precedent for the issuing of U.S. commemoratives in the fight against disease. In 1957 a special stamp honored the 20th anniversary of the Association for Infantile Paralysis and the March of Dimes. In 1962, a malaria eradication stamp was issued. Also, in the past, U.S. stamps have been issued commemorating the medical, dental, and nursing professions as well as aid to the handicapped.

ELEANOR ROOSEVELT COMMEMORATIVES

At the 1962 International Cancer Congress the executive committee unanimously adopted a resolution calling on every nation to honor the 80th birthday of Mrs. Eleanor Roosevelt in 1964 by issuing special "Stamp Out Cancer" postage stamps. Because of her death shortly after, this tribute to Mrs. Roosevelt's great contributions was temporarily postponed. However, on October 11, 1963, the United States put out an Eleanor Roosevelt Commemorative postage stamp. At that time it was announced that 20 other countries would soon issue such stamps to help raise funds for the Eleanor Roosevelt International Cancer Research Fellowships.

ANTICANCER SEALS

A few anticancer seals and labels have been printed recently. One of the most interesting, distributed by the Danish Cancer Society, is a seal displaying a death's head (skull) smoking a cigarette. The American Medical Center at Denver, Colo., issued a seal featuring a microscope, and England's Marie Curie Foundation brought out a colorful series of anticancer Christmas seals.

(PHILATELIC NOTE.—A collection of cancer stamps can be completed at modest cost. A checklist which includes Scott and Minkus catalog numbers is presented for your convenience.)

Checklist

Country	Year	Subject	Minkus	Scott
Afghanistan	1938	Curie	215-216	RA1-2
Algeria	1956	Cancer Victim	408	B84
Argentina	1958	Anti-Leukemia	918	B18
Cameroons	1938	Curie	162	B1
Cuba	1938		413-414	B1-2
Dahomey	1938		176	B2
Denmark	1929	Staff of Aesculapius	294-296	B3-5
Dominican Republic	1952	Caduceus and Crab	609	RA15
	1954		610	RA18
	1955		611	RA21
Ecuador	1938	Cancer Overprint	636	RA43
France	1938	Curie	514	B76
	1941	Science Fighting Disease.	622	B110
	1946	Becquerel	884	B202
	1957	Béclére	1290	822
French Equatorial Africa.	1938	Curie	93	B1
French Guiana	1938		208	B3
	1938		196	B2
French India	1938		133	B6
French Oceana	1938		146	B5
French Sudan	1938		195	B1
Guadeloupe	1938		194	B3
Indochina	1938		348	B14
Ivory Coast	1938		197	B2
Madagascar	1938		267	B2
Martinique	1938		208	B2
Mauritania	1938		103	B3
Monaco	1938		206-207	B24-25
Netherlands	1955	Microscope and Crab	796-800	B281-285
New Caledonia	1938	Curie	257	B4
Niger	1938		105	B1
Norway	1931	Radium Hospital	192	B4
	1953	Kneeling Woman	502	B53
Panama	1939	Curie	341-344	RA1-4
	1940	Cancer Overprint	385	RA5
	1941	Curie	345-348	RA6-9
	1942		349	RA10
	1943		350-353	RA11-14
	1945		354-357	RA15-18
	1946	Cancer Overprint	435, 437	RA19-20
	1947	Curie	358-361	RA24-27
	1947	Cancer Overprint	436, 438, 439	RA21-23
	1949		476-477	RA28-29
	1949	Curie	362	RA30
Reunion	1938	Curie	210	B4
St. Pierre and Miquelon.	1938		206	B3
Senegal	1938		206	B3
Somali Coast	1938		244	B2
Surinam	1950		348-351	B49-52
Sweden	1928	King Gustave	260-264	B32-36
Switzerland	1947	Varied Scenes	636-639	B162-165
	1959	Fight against Cancer	844	378
Togo	1938	Curie	153	B1
Turkey	1935		1167	B67
U.S.S.R	1962	8th International Cancer Congress.		2617

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. MILLER. Mr. President, I call up my amendment No. 768.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEE CLERK. On page 14, line 16 of the amendment numbered 656, it is proposed to strike "hereby created" and to insert in lieu thereof, "based on this title."

Mr. MILLER. Mr. President, I yield myself 2 minutes.

The purpose of the amendment is in the nature of a perfecting amendment.

One can get into a jurisprudential argument as to whether the title creates rights. Many believe that the title does not, but that the rights are created by the Constitution.

After discussing the language with a number of persons, including some in the Attorney General's office, and the leadership, it was decided that we should change "hereby created" to "based on this title."

This change seemed to satisfy everyone. It will make a better piece of legislation if the amendment is adopted.

Mr. HUMPHREY. Mr. President, I have discussed the amendment with the Senator and with the staff. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MILLER. Mr. President, I call up my amendment No. 770 to the amendment in the nature of a substitute No. 656.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 50, after line 2, it is proposed to insert the following:

> (j) All officers, agents, attorneys, and employees of the Commission, including the members of the Commission, shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act), notwithstanding any exemption contained in such section.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. MILLER. I yield myself 30 seconds. The purpose of the amendment is to place the members of the Commission under the Hatch Act. If there is an agency that should be completely free from partisan politics, this is it. I refer to the Equal Employment Opportunity Commission that would be set up by the bill. I understand that the language is satisfactory to practically everyone.

Mr. HUMPHREY. Will the Senator yield?

Mr. MILLER. I yield.

Mr. HUMPHREY. I suggested to the Senator, because the Commission would be established on a bipartisan basis, which fact is written into the law, and since other commissions are not presently covered by the terms of the Hatch Act, that he modify his amendment to strike out the words "including the members of the Commission."

Mr. MILLER. I modify my amendment by striking the two commas in the second line of the first page and the words "including the members of the Commission."

The PRESIDING OFFICER. The amendment is modified accordingly.

The question is on agreeing to the amendment, as modified.

The amendment was agreed to.

Mr. MILLER. Mr. President, I call up my amendment No. 771 to the amendment in the nature of a substitute No. 656.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 69, line 4, insert "only" before "include".

On page 69, line 17, before the word "political" insert "or questioned about his".

Mr. HUMPHREY. Mr. President, the amendment has been discussed with the leadership and the staff. In order to conserve time, I accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ERVIN. Mr. President, I call up my amendment No. 797 to the substitute amendment No. 656. To conform the amendment to the revised substitute, I change the heading of the amendment by striking out "656" in the second line and insert in lieu thereof "1052."

The PRESIDING OFFICER. The amendment is changed accordingly. The amendment will be stated.

The CHIEF CLERK. On pages 14 and 15 of amendment No. 1052, it is proposed to add a new section between line 23 on page 14, and line 1 on page 15, reading as follows:

> SEC. 208. The Congress recognizes that the thirteenth amendment to the Constitution provides that involuntary servitude shall not exist within the United States. For this reason, nothing contained in title II of this Act shall be construed to require any operator of a place of public accommodation, or any employee of such an operator, to render any personal service to another person against his will.

Mr. ERVIN. Mr. President, I yield myself 3 minutes.

The 13th amendment provides: "Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

The Supreme Court of the United States has held in many cases that a person is subjected to involuntary servitude, in violation of the 13th amendment, whenever he is required to render personal services to another against his will.

The cases so holding are *Hodges* v. *United States,* 203 U.S. 1 (1906); *Bailey* v. *Alabama,* 219 U.S. 219 (1911); and *Pollock* v. *Williams,* 322 U.S. 4 (1944).

Mr. President, inasmuch as I do not have the time to make a speech on the amendment, I ask unanimous consent to insert in the CONGRESSIONAL RECORD, as a part of my remarks and as a part of my argument in favor of the amendment, the following:

First. An article entitled "Freedom of Choice in Personal Service Occupations—13th Amendment Limitations of Antidiscrimination Legislation," which was written by a distinguished lawyer, Alfred Avins, and which was published in the winter, 1964, issue of the Cornell Law Quarterly.

Second. An article entitled "Maybe It's Time To Look at the Antislavery Amendment," which was also written by Alfred Avins and which appeared in the May 11, 1964, issue of the U.S. News & World Report.

Third. The decision of the Supreme Court of Washington in *Delorme* v. *International Bartenders Union,* which is reported in 139 P. 2d 619.

Fourth. The decision of the Supreme Court of Florida in *Henderson* v. *Coleman,* which is reported in 7 So. 2d 117.

Fifth. The dissenting opinion of Judge Mallery, of the Washington State Supreme Court, which is reported in 341 P. 2d 867.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FREEDOM OF CHOICE IN PERSONAL SERVICE OCCUPATIONS: 13TH AMENDMENT LIMITATIONS ON ANTIDISCRIMINATION LEGISLATION

(By Alfred Avins†)

ANTIDISCRIMINATION LEGISLATION IN PERSONAL SERVICES

A majority of the States now has laws forbidding discrimination based on race, creed, color, or national origin in "places of public accommodation." [1] While statutory definitions vary widely, most States include in the definition of "places of public accommodation" one or more forms of personal service occupations. Probably the personal service most often singled out is barbering,[2] although a number of statutes have been broadened to include almost every service imaginable.[3]

Cases in the courts involving antidiscrimination legislation as applied to personal service occupations have been few and far between. Several cases have exempted such occupations from the scope of the statute by strict construction,[4] but others have included them within the ambit of the law.[5] However, as already noted, the lengthening statutory lists of occupations or the sweeping statutory terminology no doubt includes such occupations in an increasing number of States.

State Commission Against Discrimination v. *Mustachio* [6] is a typical case involving a barbershop. There, the Commission found that respondent had attempted to discourage Negro patronage of his barbershop by posting a sign saying: "Kinky Haircut—$5," and by attempting to charge a Negro that price, which the Commission found was a "prohibitive price far in excess of respondent's usual charge for cutting a white person's hair." It ordered, inter alia, that the respondent barber write to the complainant "offering to cut her son's hair at the regular rate charged by respondent for cutting a white person's hair." It also ordered him to "furnish to Negro customers services of the same quality as those furnished to white customers and at the same rates."

The intent of this order is clear. It requires the respondent, a barber, to work for a person and a group of persons whom he clearly does not want to work for, upon pain of imprisonment if he refuses to do so.[7] He is thus required to serve, involuntarily, the complainant and other Negro applicants.

A statute which requires one person to render involuntary service to another immediately raises the question of its constitutionality under the 13th amendment. Surprisingly, with the exception of one brief discussion in a dissenting opinion,[8] no case has ever discussed this question. Although there are a number of cases which have held antidiscrimination legislation constitutional under the 14th amendment,[9] no decision has dealt with this matter under the far more specific provisions of the 13th amendment.

Yet the 13th amendment would seem to apply far more directly to antidiscrimination legislation in the rendition of personal services. Whatever the vague contours of the phrase "nor shall any State deprive any person of * * * liberty or property, without due process of law" as found in the 14th amendment may mean, the 13th amendment is quite specific: "Neither slavery nor involuntary servitude * * * shall exist within the United States." This article will explore the meaning of the term "involuntary servitude," and its application to personal service occupations.

PRE-CIVIL WAR PROVISIONS IN THE NORTHWEST

The words "involuntary servitude" first appear in the Northwest Ordinance of 1787. The relevant provision is as follows:

> "There shall be neither slavery nor involuntary servitude in the said Territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted." [10]

As each of the areas of the territory emerged into a State, it copied this provision into its State constitution in very similar language. Thus, the provision is found in the pre-Civil War constitutions of Ohio,[11] Indiana,[12] Illinois,[13] and Michigan.[14]

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[1] Alaska Stat. sec. 11.60.230 (Supp. 1962); Cal. Civ. Code sec. 51; Colo. Rev. Stat. Ann. sec. 25–1–1 (1953); Conn. Gen. Stat. Rev. sec. 53–35 (1958); Idaho Code Ann. sec. 18–7301 (Supp. 1963); Ill. Rev. Stat. ch. 38, sec. 125 (1961); Ind. Ann. Stat. sec. 10–901 (1956); Iowa Code sec. 735.1 (1962); Kans. Gen. Stat. Ann. 21–2424 (Supp. 1961); Maine Rev. Stat. Ann. ch. 137, sec. 50 (1954); Mass. Gen. Laws Ann. ch. 272, sec. 92A (1956); Mich. Comp. Laws sec. 28.343 (Supp. 1962); Minn. Stat. sec. 327.09 (1961); Mont. Rev. Codes Ann. sec. 64–211 (1947); Nebr. Rev. Stat. sec. 20–101 (1962); N.H. Rev. Stat. Ann. sec. 354:1 (1961); N.J. Rev. Stat. secs. 10:1–5, 18:25–5 (Supp. 1960); N. Mex. Stat. Ann. sec. 49–8–1 (1962); N.Y. Civ. Rights Law sec. 40; N.Y. Executive Law sec. 296; N. Dak. Cent. Code sec. 12–22–30 (Supp. 1963); Ohio Rev. Code Ann. sec. 2901.35 (p. 1961); Oreg. Rev. Stat. sec. 30.670 (1961); Pa. Stat. Ann. tit. 18, sec. 4654 (1961); Pa. Stat. Ann. tit. 43, sec. 951 (Supp. 1963); R.I. Gen. Laws Ann. sec. 11–24–1 (1956); Vt. Stat. Ann. tit. 13, sec. 1451 (1959); Wash. Rev. Code sec. 9.91.010 (1961); Wis. Stat. sec. 942.04 (1961); Wyo. Stat. Ann. sec. 6–83.1 (1961). In addition, Nev. Rev. Stat. sec. 233.010 (1961) and W. Va. Code Ann. sec. 265(156) (1961) have hortatory, but noncoercive, provisions.

[2] Alaska, California, Colorado, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, and Wisconsin mention barbershops specifically.

[3] California, Connecticut, Idaho, Massachusetts, New York, Oregon, Vermont, and Washington have very broad statutes which include almost every conceivable personal service occupation. See, for example, *Burks* v. *Poppy Constr. Co.,* 57 Cal. 2d 463, 320 P. 2d 313, 20 Cal. Rpt. 609 (1962). In addition, a New York State Board of Regents rule now requires the various medical and other professions licensed by it not to discriminate in serving patients on pain of loss of license to practice. N.Y. Times, Oct. 29, 1962, p. 29, col. 2; id., Oct. 27, 1962, p. 27, col. 1.

[4] *Coleman* v. *Middlestaff,* 147 Cal. App. 2d 833, 305 P. 2d 1020 (Super. Ct. 1957) (dentist); *Faulkner* v. *Solazzi,* 79 Conn. 541, 65 Atl. 947 (1907) (barber); *Burks* v. *Bosso,* 180 N.Y. 341, 73 N.E. 58 (1905) (bootblack); *Rice* v. *Rinaldo,* 119 N.E. 2d 657 (Ohio Ct. App. 1951).

[5] *Darius* v. *Apostolos,* 68 Colo. 323, 190 Pac. 510 (1919) (bootblack); *Messenger* v. *State,* 25 Neb. 674, 41 N.W. 638 (1889) (barber); *Browning* v. *Slenderella Systems,* 54 Wash. 2d 440, 341 P. 2d 859 (1958) (beauty salon); *Washington State Bd. Against Discrimination* v. *Interlake Realty, Inc.,* 7 Race Rel. L. Rep. 555 (Wash. Super Ct. 1962) (real estate broker).

[6] 6 Race Rel. L. Rep. 355 (1961), enforced, Index No. 4552–1961, Sup. Ct. Nassau County, May 16, 1961.

[7] Note, 74 Harv. L. Rev. 526, 555 (1961); see *People ex rel. N.Y. State Comm'n Against Discrimination* v. *Ackley-Maynes Co.,* 4 Race Rel. L. Rep. 358 (N.Y. Sup. Ct. Albany County 1959) where refusal to obey a court order enforcing the Commission's order was punished by fine and imprisonment.

[8] *Browning* v. *Slenderella Systems,* supra note 5; see *State* v. *Banwari* [1951] All India Rep. All. 615 (Div. Ct.).

[9] Annot., 49 A.L.R. 505 (1927).

[10] Northwest Ordinance of 1787, art. 6. It might be noted that the common-law roots against involuntary servitude in England long antedated the Northwest Ordinance, and even Sommersett's Case, 20 How. St. Tri. 1 (Eng. K.B. 1772) which held slavery to be illegal in England. As early as *Foster* v. *Jackson,* 1 Hob. 52, 80 Eng. Rep. 201 (K.B. 1615) it was said that a free person could not contract away his liberty. See *Shanley* v. *Harvey,* 2 Eden 126, 28 Eng. Rep. 844 (Ch. 1762); *Smith* v. *Brown,* 2 Salk 666, 91 Eng. Rep. 566 (K.B. 1705); *Chamberlain* v. *Harvey,* 1 Ld. Raym. 146, 91 Eng. Rep. 994 (K.B. 1694). But see *Pearne* v. *Lisle,* 1 Amb. 75, 27 Eng. Rep. 47 (Ch. 1749). See also *King* v. *Inhabitants of Stowmarket,* 9 East 211, 103 Eng. Rep. 553 (K.B. 1808).

[11] Ohio Const. art. VIII, sec. 2 (1802); Ohio Const. art. I, sec. 6 (1851).

[12] Ind. Const. art. 11, sec. 7 (1816); Ind. Const. art. 1, sec. 37 (1857).

[13] Ill. Const. art. VI, sec. 1 (1818); Ill. Const. art. XIII, sec. 16 (1848).

[14] Mich. Const. art. XI, sec. 1 (1835); Mich. Const. art XVIII, sec. 11 (1850); accord, Iowa Const. art. I, sec. 23 (1846, 1857); Minn. Const. art. I, sec. 2 (1857); Wis. Const. art. I, sec. 2 (1848) contain similar provisions.

The Ohio constitution of 1802 contained an additional provision immediately beneath the wording from the Northwest Ordinance. It stated:

"Nor shall any person, arrived at the age of 21 years, or female person arrived at the age of 18 years, be held to serve any person as a servant, under the pretence of indenture or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on a condition of a bona fide consideration received or to be received for their service, except as before excepted. Nor shall any indenture of any Negro or mulatto hereafter made and executed out of the State, or if made in the State where the term of service exceeds 1 year, be of the least validity, except those given in the case of apprenticeships." [15]

This provision, copied into the Illinois constitution in almost identical language,[16] is of considerable significance. Not only does this provision contain the typical requirement that contracts of service be by indenture to bind the servant,[17] but in addition it requires that contracts of service be voluntarily entered into and for a valuable consideration. As further protection for Negroes, except in the case of minors whose apprenticeship was automatically longer than 1 year, the maximum period permitted for contracts of personal service was a year. Thus, the provision sought to assure, by a variety of safeguards, that labor contracts were made in a perfectly voluntary fashion and without coercion or imposition of any kind.

Two decisions interpreting the foregoing provisions are of particular note. In *Phoebe* v. *Jay* [18] the Illinois Supreme Court has before it a statute which permitted the owner of a slave over 15 years old to bring the slave into Illinois, upon condition that he and the slave should come before the court clerk and agree upon the term of years which the Negro or mulatto would work for him. However, the statute also provided that if the Negro or mulatto refused to agree to work for his owner, the latter may take him back into slave territory. The court held that this statute violated the Northwest Ordinance. It said:

"Nothing can be conceived further from the truth, than the idea that there could be a voluntary contract between the Negro and his master. The law authorizes his master to bring his slave here, and take him before the clerk, and if the Negro will not agree to the terms proposed by the master, he is authorized to remove him to his original place of servitude. I conceive that it would be an insult to commonsense to contend that the Negro, under the circumstances in which he was placed, had any free agency. The only choice given him was a choice of evils. On either hand, servitude was to be his lot. The terms proposed were, slavery for a period of years, generally extending beyond the probable duration of his life, or a return to perpetual slavery in the place from whence he was brought. The indenturing was in effect an involuntary servitude for a period of years, and was void, being in violation of the ordinance." [19]

Matter of Clark [20] is even stronger. In that case, it was undisputed that the petitioner had freely and voluntarily entered into a contract to serve her master as a housemaid. Later, she changed her mind, and brought an action for habeas corpus to free herself from her master's service. Notwithstanding the clear fact that she had initially entered into the contract voluntarily, the Indiana Supreme Court held that "the appellant is in a state of involuntary servitude; and we are bound by the Constitution, the supreme law of the land, to discharge her therefrom." [21]

First, it might be noted that the court disregarded the fact that the petitioner was colored, and decided the case on general principles. It went on to point out that compulsion by law for the performance of personal service was degrading. It stated:

"Many covenants, the breaches of which are only remunerated in damages, might be specifically performed, either by a third person at a distance from the adversary, or in a short space of time. But a covenant for service, if performed at all, must be performed under the eye of the master; and might, as in the case before us, require a number of years. Such a performance, if enforced by law, would produce a state of servitude as degrading and demoralizing in its consequences, as a state of absolute slavery; and if enforced under a government like ours, which acknowledges a personal equality, would be productive of a state of feeling more discordant and irritating than slavery itself." [22]

Moreover, the court pointed out that whenever a court compelled a person to perform service, "the losing party feels mortified and degraded in being compelled to perform for the other what he had previously refused, and the more especially if that performance will place him frequently in the presence or under the direction of his adversary." [23] Thus, "if a man, contracting to labor for another day, a month, a year, or a series of years, were * * * compelled to perform the labor, it would * * * produce in their performance a state of domination in the one party, and abject humiliation in the other. A state of servitude thus produced, either by direct or permissive coercion, would not be considered voluntary either in fact or in law." [24]

From the above two cases, it can be seen that the words "involuntary servitude," as found in the Northwest Ordinance, and incorporated into the State constitutions of Illinois, Indiana, Michigan, and Ohio, have their ordinary and natural meaning. They mean service or labor which is not, at all times, performed voluntarily, and without any legal or other compulsion. The agreement to serve must be entered into without coercion, and must be completed without coercion. The provision, in short, banned any sanctions which compelled one person to work for another, for however short a period of time.

THE PASSAGE OF THE 13TH AMENDMENT

The earliest bill to abolish involuntary servitude, passed by Congress during the Civil War period, was an act relating to the District of Columbia,[25] which abolished slavery in the District.[26] This bill provided that "neither slavery nor involuntary servitude, except for crime, whereof the party shall have been duly convicted, shall hereafter exist in said District." [27] These words were substituted for "subjection to service or labor proceeding from such cause (i.e., by reason of African descent) shall not hereafter exist in said District." [28]

Senator Ira Harris, of New York, offered the criticism that the bill provided that " 'neither slavery nor involuntary servitude' shall exist here, as though they were two distinct things. I suppose, but I am not sure about it, that up to this time the term 'slavery' has not been introduced into the legislation of the country." Senator Lot M. Morrill, the Maine Republican who drafted the substitution for the Committee on the District of Columbia, replied that "this is the exact language of the ordinance of 1787." Senator Harris renewed his objection. He argued: "I have a further suggestion to make, and that is that the term 'involuntary servitude' will embrace the condition of apprentices, unless the phrase 'by reason of African descent' in the beginning of the section shall control, as perhaps it will." [29]

Senator Jacob Collomer, of Vermont, replied to this: "the phrase 'slavery or involuntary servitude' has received a construction under the ordinance of 1787." [30] Aside from another comment that this bill enacted the Northwest Ordinance [31] in the Senate, and a futile plea to extend the bill to cover "white persons who are enslaved" in the territories,[32] nothing more was said which was relevant.

Section 9 of the "confiscation bill," [33] as enacted into law, declared that slaves of rebels "shall be forever free of their servitude and not again held as slaves." [34] Here again, the Northwest Ordinance was considered a model. Congressman Samuel S. Blair, of Pennsylvania, stated: "the ordinance of 1787 was, indeed, great, for it preserved freedom; this is greater, for it restores freedom. That kept slavery out; this put it out." [35]

The 13th amendment was introduced as a join resolution (S.J. Res. 16, 38th Cong., 1st sess. (1864)) in the Senate on January 13, 1864, by Senator John B. Henderson, of

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[15] Ohio Const. art. VIII, sec. 2 (1802).

[16] Ill. Const. art. VI, sec. (1818).

[17] *Overseers of Poor of Hopewell Township* v. *Overseers of Poor of Amwell Township*, 6 N.J.L. 169, 175 (Sup. Ct. 1822); *Commonwealth ex rel. Ruggles* v. *Wilbank*, 10 S. & R. 416–17 (Pa. Sup. Ct. 1823). This provision was designed to add solemnity to the obligation of service and thereby to protect the servant against hasty agreements to serve.

[18] 1 Ill. 268 (1828).

[19] Id. at 270.

[20] 1 Blackf. 134 (Ind. Sup. Ct. 1821).

[21] Id. at 126.

[22] Id. at 124–125. In England also, specific performance cannot be obtained to compel an employee to work, although the older cases do not rely on freedom of choice concepts. See, e.g., *Whitwood Chemical Co.* v. *Hardman*, [1891] 2 Ch. 416. However, Kahn-Freund, Legal Framework 46–47 in "The System of Industrial Relations in Great Britain" (Flanders & Clegg ed. 1954) declares:

"It goes without saying that this freedom of choice is often set at nought by economic facts. Even so, it is one of the essential civil liberties of this country. One secondary but important rule resulting from the principle against compulsory labour is that a contract of employment cannot be enforced by what is known as a decree of specific performance. If the employee absents himself or purports to terminate the employment without the requisite notice, the employer may from the court obtain a judgment for damages, but he cannot, through an order of the court, compel the worker to work for him. Nor can the employee compel the employer to employ him. No one has the legal power to compel another man to work for him or to employ him."

[23] Kahn-Freund, supra note 22, at 124.

[24] Id. at 125.

[25] Congressional Globe, 37th Cong., 2d sess. 89 (1862).

[26] Act of April 16, 1862, ch. 54, sec. 1, 12 Stat. 376.

[27] Congressional Globe, 37th Cong., 2d sess. 1191 (1862).

[28] Ibid.

[29] Ibid.

[30] Ibid.

[31] Senator Samuel C. Pomeroy, of Kansas, said: "the first section of the bill extends over this District the ordinance of 1787; and I think there is no doubt as to the effect of that." He further noted: "I think passing the ordinance of 1787 as provided in the first section of this bill will set the matter at rest * * *." Id. at 1285.

[32] Id. at 1643.

[33] Id. at 3275.

[34] Act of July 16, 1862, ch. 195, sec. 9, 12 Stat. 589.

[35] Congressional Globe, 37th Cong., 2d sess. 2298 (1862).

Missouri,[36] and was reported back from the Committee on the Judiciary, changed in wording to its present form, by Senator Lyman Trumbull, of Illinois.[37] The amendment of the Judiciary Committee was agreed to by the Senate.[38]

Senator Charles Sumner, of Massachusetts, the equalitarian radical, criticized the committee for adhering to "the Jeffersonian ordinance." He proposed to amend their draft by striking out the words of the ordinance and substituting: "All persons are equal before the law, so that no person can hold another as a slave." [39] He declared:

"I do not know that I shall have the concurrence of other Senators in the criticism which I make upon it; but I understand that it starts with the idea of reproducing the Jeffersonian ordinance. I doubt the expediency of reproducing that ordinance. It performed an excellent work in its day; but there are words in it which are entirely inapplicable to our time." [40]

Sumner's main objection was to the words "nor involuntary servitude otherwise than in the punishment of crimes whereof the party shall have been duly convicted." He commented that at one time it was the custom to doom criminals as slaves for life as a punishment, but that "slavery in our day is something distinct, perfectly well known, requiring no words of distinction outside of itself." He contended that the discussion of involuntary servitude was surplusage and would "introduce a doubt."

Sumner also had some grammatical quibbles which he argued were not to be found in the Northwest ordinance. These did not appeal to the other Members.[41] Trumbull showed his irritation at Sumner's rejection of the committee language, saying:

"I do not know that I should have adopted these precise words, but a majority of the committee thought they were the best words; they accomplish the object; and I cannot see why the Senator from Massachusetts should be so pertinacious about particular words. The words that we have adopted will accomplish the object. If every Member of the Senate is to select the precise words in which a law should be clothed, and will be satisfied with none other, we shall have very little legislation." [42]

Trumbull sneered at Sumner's attempt to copy language from the French Revolution, and declined to alter the committee's version which it had agreed on. Senator Jacob M. Howard, of Michigan, joined the barrage against Sumner by declaring that the language was legally meaningless, and inapplicable as well. After noting that the French Constitution was meant only to equalize political rights, he declared:

"Now, sir, I wish as much as the Senator from Massachusetts in making this amendment to use significant language, language that cannot be mistaken or misunderstood; but I prefer to dismiss all reference to French constitutions or French codes, and go back to the good old Anglo-Saxon language employed by our fathers in the ordinance of 1787, an expression which has been adjudicated upon repeatedly, which is perfectly well understood both by the public and by judicial tribunals, a phrase, I may say further, which is peculiarly near and dear to the people of the Northwestern Territory, from whose soil slavery was excluded by it. I think it is well understood, well comprehended by the people of the United States, and that no court of justice, no magistrate, no person, old or young, can misapprehend the meaning and effect of that clear, brief, and comprehensive clause. I hope we shall stand by the report of the committee." [43]

Upon this, Sumner withdrew his amendment, and the joint resolution passed the Senate on April 8, 1864.[44]

The joint resolution had a more difficult time in the House. There it was introduced by Congressman James F. Wilson, of Iowa, chairman of the House Judiciary Committee, on December 14, 1863.[45] When it came to a final vote on June 15, 1864, it received only 93 yeas to 65 nays, and failed for want of a two-thirds majority.[46] However, after the November elections in which Lincoln was reelected and the Republicans were victorious, the second session of the 38th Congress met in the winter of that year. At that time, Congressman James M. Ashley, of Ohio, who had originally voted in the negative, moved to reconsider the vote.[47] On January 31, 1865, almost at the close of the war, the measure passed the House by 119 yea to 56 nay.[48]

Debates in the House were largely confined to generalities on the evils of slavery by those who proposed to abolish it, and States rights by those who opposed the amendment. There were only passing references to the word "servitude." [49] One opponent of the amendment declared that there could be property in the service of others, if State law so provided, a position rejected by a proponent.[50] Another declared that "in any form of civilization resembling our own, servitude will always exist." He stated that servitudes merely differed in degree, and that the poor English factory workers were in "bondage" and had "little to boast of [their] freedom." Stating that the "freedom of a British workingman consists in a limited liberty to change his employer," he went on to proclaim that such a condition was little better than slavery.[51] However, no one seems to have paid much attention to this line of argument on the other side.

It is clear from the foregoing materials that Congress intended to enact the provisions of the Northwest Ordinance, familiar to so many Senators as part of the constitutions of their own States, into the 13th amendment. It is equally clear that the judicial interpretations of that ordinance, discussed above, were intended to be carried along with the language of the ordinance itself into the U.S. Constitution. Senator Sumner proposed to declare all men equal, but Congress rejected this. Instead of enacting equality, it enacted liberty.

THE RIGHT TO REFRAIN FROM WORK

The "involuntary servitude" forbidden by the 13th amendment applies only to the rendition of personal labor.[52] The performance of impersonal acts, such as giving instructions to a subordinate agent to take certain action, does not fall within the ambit of the amendment.[53] While labor enforced as a punishment "is in the strongest sense of the words, 'involuntary servitude,'" [54] the term includes enforced labor which is not intended for punitive purposes,[55] and which may even be intended as a benefit.[56]

Nor does it matter whether a person is compensated for his labor. One case held:

"Whether appellant was to be paid much, or little or nothing, is not the question. It is not uncompensated service, but involuntary servitude which is prohibited by the 13th amendment. Compensation for service may cause consent, but unless it does it is no justification for forced labor." [57]

Thus, the term "involuntary servitude" has been defined as "the condition of one who is compelled by force, coercion or imprisonment and against his will to labor for another whether he is paid or not." [58] The constitutional provision accordingly gives every person the right to refrain from performing services for every other person.

To the right to refrain from work there is one well-recognized exception. Government may command the services of everyone in the performance of its essential tasks. In *Butler* v. *Perry* [59] the U.S. Supreme Court said the following about the 13th amendment:

"It introduced no novel doctrine with respect of services always treated as exceptional, and certainly was not intended to interdict enforcement of those duties which individuals owe to the State, such as service in the army, militia, on the jury, etc. The great purpose in view was liberty under the protection of effective government, not the destruction of the latter by depriving it of essential services." [60]

The most common example of involuntary service for the Government is military service[61] in all of its aspects.[62] In lieu of actual military service, Congress has required that conscientious objectors do work of national importance, and the courts have found this to be constitutionally unobjectionable.[63] Often, such work of national importance includes activities not directly beneficial to any particular individual, and under the direct jurisdiction of the Federal Government, such as soil conservation, forestry, tree planting, construction of fire towers and roads, and similar public activities.[64] Such work, however, may fall under the jurisdiction of a State or local government agency, on the theory that they also perform activities of national concern.[65]

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[36] Congressional Globe, 38th Cong., 1st sess. 145 (1864).

[37] Id. at 553.

[38] Id. at 1447.

[39] Id. at 1483, 1487.

[40] Id. at 1488.

[41] At one point Senator James R. Doolittle of Wisconsin, contradicted him and declared: "they are both in the Jeffersonian ordinance." **Ibid.**

[42] **Ibid.**

[43] Id. at 1489.

[44] Id. at 1490.

[45] Id. at 21.

[46] Id. at 2995.

[47] Congressional Globe, 38th Cong., 2d sess. 53 (1864).

[48] Id. at 531.

[49] For example, Congressman Thomas T. Davis, of New York, declared that "this war sprang from the aristocracy of the South in an effort to maintain a system of servitude on which alone that aristocracy could be perpetuated." Id. at 154. Congressman George H. Yeaman, of Kentucky, stated that "slavery is the idea of the right of one to claim, and the duty of another to render, involuntary service." Id. at 171; see id. at 190, 200.

[50] Id. at 214–215 (exchange between Congressman Chilton A. White, of Ohio, and Congressman John F. Farnsworth, of Illinois).

[51] Id. at 177–178 (Congressman Elijah Ward, of New York).

[52] *Slaughter House Cases*, 83 U.S. (16 Wall.) 36, 69 (1873).

[53] In *Marcus Brown Holding Co.* v. *Feldman*, 256 U.S. 170, 199 (1921) Mr. Justice Holmes said:

"It is objected finally that c. 951, above stated, in so far as it required active services to be rendered to the tenants, is void on the rather singular ground that it infringes the Thirteenth Amendment. It is true that the traditions of our law are opposed to compelling a man to perform strictly personal services against his will even when he has contracted to render them. But the services in question although involving some activities are so far from personal that they constitute the universal and necessary incidents of modern apartment houses. They are analogous to the services that in the old law might issue out of or be attached to land. We perceive no additional difficulties in this statute, if applicable as assumed."

[54] *Ex parte Wilson*, 114 U.S. 417, 429 (1885); accord, *Flannagan* v. *Jopson*, 177 Iowa 393, 158 N.W. 641 (1916); *Smolcyzk* v. *Gaston*, 147 Neb. 681, 24 N.W. 2d 862 (1946); see *Thompson* v. *Bunton*, 117 Mo. 83, 22 S.W. 863 (1893) where a person's services were sold to the highest bidder.

[55] *United States* v. *McClellan*, 127 Fed. 971 (S.D. Ga. 1904); Matter of Chung Fat, 96 Fed. 202 (D. Wash. 1899).

[56] Matter of Turner, 24 Fed. Cas. 337 (No. 14247) (C.C. Md. 1867).

[57] *Heflin* v. *Sanford*, 142 F. 2d 798, 799 (5th Cir. 1944); accord [1953] All India Rep. H.P. 18.

[58] *Crews* v. *Lundquist*, 361 Ill. 193, 200, 197 N.E. 768, 772 (1935).

[59] 240 U.S. 328 (1916).

[60] Id. at 333, India followed this view in drafting article 23(2) of the 1949 constitution. See *Budhia* v. *State of Bihar* [1952] All Indian Rep. Pat. 359, 31 Indian L.R. Pat. Ser. 493.

One activity, which may be questioned, is work in hospitals, which the courts have upheld for conscientious objectors in lieu of military service.[66] This has even been extended as far as work in private, nonsectarian university hospitals ministering to the public.[67] Here, some of the work might be said to confer some direct benefits on individuals, as distinguished from the community as a whole. If a person were required to work for the benefit of particular individuals, as distinguished from the community, then such work would constitute involuntary servitude.

The cases, however, carefully limit such work to service for community benefit only. As one case held:

"It is of no moment under whose direction the work is done. If it aids in our preparedness, civilian service is not open to challenge as involuntary servitude. We need only state the analogy sought to be drawn between the work to which these defendants were assigned and assignment to Macy's basement to demonstrate that the analogy in fact does not exist."[68]

Moreover, civilian service by conscientious objectors is designed to free others for military service, and to protect morale and preserve discipline in the Armed Forces.[69] If persons could escape any form of service by claiming conscientious objection, many would be found to do so who in fact had no such scruples. As a result, dissatisfaction among military personnel would become rife. However, even such service must be designed to benefit the community as a whole or it will constitute involuntary servitude.

Certain other civilian work for the Government has been upheld, even in time of peace. Labor on the public highways is not "involuntary servitude,"[70] nor is jury duty, nor the requirement that abutting owners remove snow and ice from sidewalks and gutters.[71] Government may impose the duty of making reports to public authorities,[72] including tax reporting.[73] It may require individuals to collect taxes for it,[74] and to perform other occasional duties.[75]

Nongovernmental duties may be imposed only in the most exceptional circumstances. One case held that involuntary servitude was not imposed by the requirement that a man work to support his family.[76] Noting that there were services always treated as exceptional, the court held that "the obligation of a husband and father to maintain his family, if in any way able to do so, is one of the primary responsibilities established by human nature and by civilized society."[77]

Of course, this case does not hold that the husband is required to perform any particular kind of work to support his family. He may choose any work and any employer, if able. But if nothing else presents itself, he must work at what he can get. This requirement is based on two special circumstances. First, he has voluntarily undertaken the obligation of raising a family. Second, no one else exists who can support his family. Thus, there is a special condition and obligation which imposes on him the duty of working.

In *Ule* v. *State*[78] the Indiana Supreme Court held that a State may require a motorist who has struck and injured another person on the highway with his automobile to stop and render assistance to the injured party. The court declared that this was not involuntary servitude because it is a duty owed to the State and because an automobile is a dangerous instrumentality, and since a State may prohibit it, it may annex reasonable conditions to its use.

The first reason is unsatisfactory, since every duty imposed by a State does not become a duty owed to the State. The duty is clearly owed to the injured motorist or pedestrian. The second reason is more persuasive since a State may undertake to lessen the hazards of driving by imposing upon the driver the duty to assist one injured by his actions.

In terms of the constitutional prohibition against involuntary servitude, the most persuasive rationale for this exception is the special connection between the injured party and the one who has injured him. In an isolated area, no other assistance may be available. The State may reasonably act to save the lives and protect the health of its citizens, and where it cannot otherwise do so, it may impose this duty on one who, by his voluntary act in driving, has been the cause of the injury. Involuntary servitude is not imposed by requiring one to repair a wrong he has inflicted. He is the most appropriate person for the duty, performance of which is vital to life or health. While his service may not be willing, he is simply required to preserve that which he has jeopardized.

Two other cases are worthy of note. A lower Delaware court has held that a State may, as a war measure, mobilize its entire population to raise food and produce supplies.[79] However, the authority of this case is somewhat doubtful in the light of a decision of the Supreme Court of West Virginia holding that a statute which provided that anyone who did not work for 36 hours a week at a recognized occupation during World War I and for 6 months thereafter was guilty of a misdemeanor, was violative of the 13th amendment and hence unconstitutional.[80]

Making and serving someone else a hamburger is not work for the Government, for one's family, or for a party one has injured. Nor is cutting another's hair, carrying his luggage, shining his shoes, or performing other personal services for him. The 13th amendment gives every person the right to refrain from working for any other person. It protects barbers, hotel clerks, shoeshine men, salesclerks, waiters, and waitresses, just as much as it protects cottonpickers, field hands, or farm laborers. A waitress can no more be required to wait on all persons who come into her shop without discrimination than can a cottonpicker be required to pick cotton for all who want to hire him, without discrimination. The 13th amendment guarantees the right to refrain from work, from all work, from some work, or from work for some people. To coerce personal service is to impose involuntary servitude.

THE RIGHT TO DISCONTINUE WORK

The compulsory fulfillment of a contract for personal service, once voluntarily made, would not necessarily seem, on principle, to constitute involuntary servitude. This was, in fact, the rule in the Kingdom of Hawaii, and later the Republic of Hawaii, before joining the Union.[81] The performance of labor contracts, especially on agricultural plantations, was enforced by fine and imprisonment, notwithstanding the prohibition in the Hawaiian Constitution against involuntary servitude. The rationale of this position was stated as follows:

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[61] Selective Draft Law Cases, 245 U.S. 366 (1918); *United States* v. *Sugar*, 243 Fed. 423 (E.D. Mich. 1917).

[62] *Bertelsen* v. *Cooney*, 213 F. 2d 275 (5th Cir. 1954).

[63] *Reese* v. *United States*, 225 F. 2d 766 (9th Cir. 1955); *Atherton* v. *United States*, 176 F. 2d 835 (9th Cir. 1949); *Hopper* v. *United States*, 142 F. 2d 181 (9th Cir. 1943); *United States* v. *Brooks*, 54 F. Supp. 995 (S.D.N.Y. 1944), aff'd, 147 F. 2d 134 (2d Cir.), cert. denied, 324 U.S. 878 (1945); United States ex rel. *Zucker* v. *Osborne*, 54 F. Supp. 984 (W.D.N.Y. 1944), aff'd, 147 F. 2d 135 (2d Cir.), cert. denied, 325 U.S. 881 (1945).

[64] *Wolfe* v. *United States*, 149 F. 2d 391 (6th Cir. 1945); *United States* v. *Smith*, 124 F. Supp. 406 (E.D. Ill. 1954).

[65] *Klubnikin* v. *United States*, 227 F. 2d 87 (9th Cir. 1955); see *United States* v. *Niles*, 122 F. Supp. 382, 384 (N.D. Calif. 1954), aff'd, 220 F. 2d 278 (9th Cir.), cert. denied, 349 U.S. 939 (1955) where the lower court said:

"A health program conducted by any political subdivision of this Nation contributes to the general welfare of the Nation as a whole. The mere fact that such activities are carried out in the name of a political subdivision of the State or county rather than in the name of the United States itself, does not diminish the importance of the work, or cause it to lose its contributory relationship to the national health.

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"Certainly national defense and preparedness is accomplished by more than the strength of arms alone."

[66] *Klubnikin* v. *United States*, supra note 65; see *United States* v. *Lebherz*, 129 F. Supp. 444 (D.N.J. 1955); *United States* v. *Sutter*, 127 F. Supp. 109 (S.D. Calif. 1954).

[67] *United States* v. *Hoepker*, 223 F. 2d 921, 922–23 (7th Cir.), cert. denied, 350 U.S. 841 (1955) where the court said:

"Congress has declared that maintenance of the mental and physical health of our population is a subject of vital Federal concern in times of emergency. * * * The protection of the public health is no less work of national importance whether it is done in an institution controlled by Federal or by State authorities or by a private charitable corporation.

"The evidence is conclusive that the University of Chicago is a nonsectarian, nonprofit corporation, and that its clinics, to which Thomas was ordered to report for work, minister, on a charitable basis, indiscriminately, to alleviate the physical ills of the general public. In addition to that activity, these clinics, aided by grants of Federal funds, carry on extensive research in cancer and other diseases. We hold that this is work of 'national' importance which the act authorized."

[68] *United States* v. *Hoepker*, supra note 67, at 923.

[69] *Howze* v. *United States*, 272 F. 2d 146 (9th Cir. 1959); *United States* v. *Smith*, supra note 64.

[70] *Butler* v. *Perry*, 240 U.S. 328 (1916); *Matter of Dassler*, 35 Kan. 684, 12 Pac. 130 (1886).

[71] *State ex rel. Curtis* v. *City of Topeka*, 36 Kan. 76. 12 Pac. 310 (1886).

[72] *Schick* v. *City of New Orleans*, 49 F. 2d 870 (5th Cir.), cert. denied. 284 U.S. 656 (1931).

[73] *Porth* v. *Broderick*, 214 F. 2d 925 (10th Cir. 1954).

[74] *State ex rel. Arn* v. *State Comm'n of Revenue & Taxation*, 163 Kan. 240, 181 P. 2d 532 (1947); see *Budhia* v. *State of Bihar* (1952), All India Rep. Pat. 359, 31 Indian L.R. Pat. Ser. 493.

[75] *Crews* v. *Lundquist*, 361 Ill. 193, 197 N.E. 768 (1935).

[76] *Commonwealth* v. *Pouliot*, 292 Mass. 229, 198 N.E. 256 (1935).

[77] Id. at 231–32, 198 N.E. at 257.

[78] 208 Ind. 255, 194 N.E. 140 (1935).

[79] *State* v. *McClure*, 30 Del. (7 Boyce), 265, 105 Atl. 712 (Gen. Sess. 1919).

[80] *Ex parte Hudgins*, 86 W. Va., 526, 103 S.E. 327 (1920).

"A fair and honest contract to work for another, willingly and freely made with a knowledge of the circumstances, cannot be said to have created a condition of involuntary servitude. The contract which creates the state or condition of service, if it is voluntary when made and the conditions and circumstances remain unchanged, except that the mind of the one who serves is now unwilling to fulfill it, is not by that fact changed into a contract of involuntary servitude forbidden by law. If the contract is lawful and constitutional in its inception, it does not become illegal or unconstitutional at the option of one of the parties to it."[82]

Even in Hawaii, however, it was held that an employer could not assign a labor contract without the consent of the worker,[83] on the theory that the new employer might have a less agreeable personality.[84] Considering the fact that the employer might change his ways during the term of the contract, this reasoning would also support the right of the employee to quit at any time. This is, in fact, the rule in the United States. Federal statutes have abolished involuntary servitude in liquidation of any debt or obligation, or for any other reason,[85] and have made keeping a person in peonage a crime.[86]

The hallmark of peonage was compulsory service in the payment of a debt.[87] Under this system, "the citizen could sell his own services, and could contract with another for the exercise of dominion thereafter over his person and liberty, so that he could be held or subjected, against his will, to the performance of his obligation."[88] This practice was most prevalent in the South during the turn of the 20th century, where several State cases held that farm laborers could not be forced to work out advances.[89]

Since the 13th amendment, unlike the 14th amendment, is not directed exclusively at State action, but applies as well to private action, compulsory labor is unconstitutional even when exacted without benefit of State law.[90] In *Clyatt* v. *United States*[91] the Supreme Court pointed out why compulsory service was unconstitutional. It stated:

"But peonage, however created, is compulsory service, involuntary servitude. The peon can release himself therefrom, it is true, by the payment of the debt, but otherwise the service is enforced. A clear distinction exists between peonage and the voluntary performance of labor or rendering of services in payment of a debt. In the latter case the debtor, though contracting to pay his indebtedness by labor or service, and subject like any other contractor to an action for damages for breach of that contract, can elect at any time to break it, and no law or force compels performance or a continuance of the service."[92]

The sweeping scope of the right to cease work is apparent even in labor dispute cases, where the courts frequently enjoin strikes when they are illegal. The theory here is that the cessation of work itself is not being enjoined, but that the illegal combination or conspiracy is the object of the injunction.[93] Thus, the courts enjoin the strike as the means by which the unlawful plan is carried into execution.[94]

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[81] *J. Nott & Co.* v. *Kanahele*, 4 Hawaii 14 (1877). This was also the rule in Scotland. a civil law country. The view there was that "the contract [to serve] must be willingly entered into; otherwise it is slavery." Fraser, Master, and Servant 3 (3d ed. 1882). Under Roman civil law, which prevails in Scotland, it was generally considered "inconsistent with civil liberty that they [personal service contracts] should be specifically enforced" when not actually begun. (Id at 102.) An exception was made, however, in the case of certain workers. In *Clerk* v. *Murchison*, Sess. Cas. 9186 (Scot. Sess. Ct. 3d Ser. 1799) it was held that "if a servant enlist after being hired, but before entering to his service, the contract remain in nudis finibus; and being a personal one, the rule prior tempore potior jure will not apply. The master's only remedy is an action of damages against the servant. But after the servant has entered into his employment, the master can enforce the completion of his engagement, remediis pretoriis." In the leading case of *Raeburn* v. *Reid*, 3 Sess. Cas. 69 (Scot. Sess. Ct., 1st Ser. 1824) a coal miner deserted, and his employer had him imprisoned. A divided court of session held this legal. Lord Gillies, however, dissented, saying that a contract to serve was like any other civil contract, which would only be enforced by damages, and that if a defaulting servant could be imprisoned; so could a defaulting tenant, landlord, or other party to a contract.

The authority of *Raeburn* v. *Reid* was reinforced by statute, 4 Geo. 4, c. 34 (1823) (repealed), which was passed while this case was pending and which was enacted as a consequence of discussions arising out of the case. Fraser, supra at 382. The rationale of this rule was that "this, though sometimes a harsh proceeding, is sanctioned [because] * * * a workman, by deserting, may do great injury to his master, and such as he has not the means of repairing." *Anderson* v. *Moon*, 15 Sess. Cas. 412, 414 (Scot. Sess. Ct., 1st Ser. 1837); see *Paterson* v. *Edington*, Fac. Coll. 757, 761 (Scot. Sess. Ct. 1830). This rule was followed for a number of years. See *Cameron* v. *Murray*, 4 Sess. Cas. 547 (Scot. Sess. Ct., 3d Ser. 1866); *Hamilton* v. *Outram*, 17 Sess. Cas. Ct. 798 (Scot. Sess. Ct., 2d Ser. 1855); *Lees* v. *Grangemouth Coal Co.*, 18 Jur. 273 (Scot. Sess. Ct. 1846); *Anderson* v. *Moon, supra; Bookless* v. *Normand*, 11 Sess. Cas. 50 (Scot. Sess. Ct., 1st Ser. 1832); *Stewart* v. *Stewart*, 10 Sess. Cas. 674 (Scot. Sess. Ct., 1st Ser. 1832); *Paterson* v. *Edington, supra; Campbell* v. *Anderson*, 4 Sess. Cas. 476 (Scot. Sess. Ct., 1st Ser. 1826); *Gentle* v. *M'Lellan*, 4 Sess. Cas. 165 (Scot. Sess. Ct., 1st Ser. 1825). Even so, the rule was questioned by Lord Fullerton in *Tulkley & Co.* v. *Anderson*, 5 Sess. Cas. 1096 (Scot. Sess. Ct., 2d Ser. 1843) and by Lord Jeffrey in *Lees* v. *Grangemouth Coal Co., supra.* Moreover, it was never applied by the Sheriff Courts to professional men or domestic servants. Fraser, supra at 107. The remedy of imprisonment was greatly modified by the Master & Servant Act of 1867, 30 & 31 Vict., c. 141. sec. 9 (repealed) and abolished by the Employers & Workmen Act of 1875, 38 & 39 Vict., c. 90, sec. 9.

[82] *Hilo Sugar Co.* v. *Mioshi*, 8 Hawaii 201, 205 (1891); see *Madan Mohan Biswas* v. *Queen-Empress*, 19 Indian L.R. Cal. Ser. 572 (1892).

[83] *Dreier* v. *Kuaa*, 4 Hawaii 534 (1882); *Owners of the Waihee Plantation* v. *Kalapu*, 3 Hawaii 760 (1877). See *King* v. *Inhabitants of Stowmarket*, 9 East 211, 103 Eng. Rep. 553 (Eng. K.B. 1808). And in *Nokes* v. *Doncaster Amalgamated Collieries, Ltd.* [1940] A.C. 1014, 1020 (Eng.) Viscount Simon, Lord High Chancellor, said: "It will be readily conceded that the result contended for by the respondents in this case would be at complete variance with a fundamental principle of our common law—the principle, namely, that a free citizen, in the exercise of his freedom, is entitled to choose the employer whom he promises to serve * * *."

[84] See Judd, J., dissenting in *J. Nott & Co.* v. *Kanahele*, supra note 81, at 21–22:

"It is no answer to say that one master is as good as another for the laborer, providing he fulfill all the written conditions of his contract, and observe whatever the law commands, doing nothing that is forbidden by it. Men are not cast in the same mold, and so long as differences of disposition and character exist, just so long some masters will be preferred to others, and the laborer, if he is a free man, ought to be allowed to exercise his right of choice."

[85] 14 Stat. 546 (1867), 42 U.S.C. sec. 1944 (1958).

[86] 18 U.S.C. sec. 1581 (1958).

[87] *Jaremillo* v. *Romero*, 1 N.M. 190, 194 (1857) stated as follows: "One fact existed universally; all were indebted to their masters. This was the cord by which they seemed bound to their masters' service. * * * He could not abandon the service; and if he did, his master pursued, reclaimed, and reduced him to obedience and labor again. * * *"

[88] *Peonage Cases*, 123 Fed. 671, 679 (M.D. Ala. 1903).

[89] *Holland* v. *State*, 29 Ala. App. 181, 194 So. 412 (1940); *Goode* v. *Nelson*, 73 Fla. 29, 74 So. 17 (1917) (statute making refusal to perform a labor contract a crime held to impose involuntary servitude); *Ex parte Hollman*, 79 S.C. 9, 60 S.E. 19 (1908) (same). See State *ex rcl. Hobbs* v. *Murrell*, 170 Tenn. 152, 93 S.W.2d 628 (1936) holding that a person cannot be confined to work out costs even if he had agreed to do so.

[90] *United States* v. *Gaskin*, 320 U.S. 527 (1944). See *Taylor* v. *Georgia*, 315 U.S. 25 (1942).

[91] 197 U.S. 207 (1905).

[92] Id. at 215–216. See *Bailey* v. *Alabama*, 219 U.S. 219, 242 (1911) where the court added:

"The fact that the debtor contracted to perform the labor which is sought to be compelled does not withdraw the attempted enforcement from the condemnation of the statute. * * * It is the compulsion of the service that the statute inhibits, for when that occurs the condition of servitude is created, which would not be less involuntary because of the original agreement to work out the indebtedness. The contract exposes the debtor to liability for the loss due to the breach, but not to enforced labor.

[93] In *State* v. *Local 8–6, Oil Workers Union*, 317 S.W. 2d 309, 325 (Mo. 1958) the court said: "the section under attack is directed against a strike or concerted refusal to work and has nothing to do with one or more quitting work of their own volition. The section does not have the purpose or effect of imposing involuntary servitude in violation of the 13th amendment." See *Local 134, International Bhd. of Elec. Workers* v. *Western Union Tel. Co.*, 46 F. 2d 736 (7th Cir. 1931).

[94] This was clearly pointed out in *Western Union Tel. Co.* v. *Local 134, International Bhd. of Elec. Workers*, 2 F. 2d 993, 994–995 (N.D. Ill. 1924) where the court said:

"As to clause 1 of the prayer for a temporary injunction it is said that it prevents employees from ceasing to work, and therefore imposes involuntary servitude upon them. The right to cease work is no more an absolute right than is any other right protected by the Constitution. Broadly speaking, of course, one has the right to work for whom he will, to cease work when he wishes, and to be answerable to no one unless he has been guilty of a breach of contract. But the cessation of work may be an affirmative step in an unlawful plan. One may not accept employment intending thereby to quit work when that act will enable him to perform one step in a criminal conspiracy. The real wrong is the acceptance of the employment, with intent to make use of it for a criminal purpose.

* * * * *

"That no excuse for misrepresenting the true scope of this injunction may remain, the following should be added: 'Nothing herein shall be construed to prohibit any em-

Even in labor dispute cases, however, the courts have been careful to refrain from preventing any employee from quitting work of his own volition for any reason. Indeed, the U.S. Supreme Court appears to have sanctioned the constitutional right of employees to leave work in concert. Thus, in one case in which the Wisconsin Supreme Court proceeded on the "conspiracy theory,"[95] the U.S. Supreme Court, in affirming its decree, narrowed the basis for the injunction still further. It said:

"The union contends that the statute as thus applied violates the 13th amendment in that it imposes a form of compulsory service or involuntary servitude. However, nothing in the statute or the order makes it a crime to abandon work individually * * * or collectively. Nor does either undertake to prohibit or restrict any employee from leaving the service of the employer, either for reason or without reason, either with or without notice. The facts afford no foundation for the contention that any action of the State has the purpose or effect of imposing any form of involuntary servitude.[96]

From this case, it can be seen that employees have a constitutional right to leave work in concert, as long as such concerted action is not in furtherance of an illegal plan, and, in any case, a right to leave work singly. As one court put it: "It would be an invasion of one's natural liberty to compel him to work for or to remain in the personal service of another. One who is placed under such constraint is in a condition of involuntary servitude."[97]

The right to leave the employ of another does not include the right to engage in action which is likely to result in injury to persons or property damage. When once an employee undertakes a job, he cannot leave at such a point that injury or damage is a natural consequence of his cessation of work. Where there is no such threat, he may leave at any time, but where such a possibility exists, he must either give such notice as will enable the employer to avert the danger, or delay his departure until the danger has passed. One case illustrated this point quite well, as follows:

"It is not contended that leaving the service cannot under any circumstances be made a criminal offense. Doubtless it is competent for legislation to make it a criminal offense for an employee, without giving reasonable notice, to suddenly quit duties the continued performance of which, for the time being, under the conditions of the particular calling, is necessary to prevent the endangering of life, health, or limb, or inflicting other grievous inconvenience and sacrifice upon the public. Surely a train dispatcher, indicted for suddenly leaving the service without giving orders necessary to prevent the clash of opposing trains upon a railroad, could not successfully plead, when destruction of life and property were brought about by his sudden leaving, that he could not be punished, because he did no more than breach a contract of service. In these and like cases, the criminal law would be exerted not to compel performance, or to prevent quitting the service in a reasonable way, but because, by abandoning it in an unreasonable way, the employee has created a condition of affairs, the natural, direct, and known result of which is to endanger life, health, or limb, or to inflict grievous public injury."[98]

Robertson v. *Baldwin*[99] can best be explained on this rationale. In that case, a majority of the U.S. Supreme Court held that a sailor was bound to fulfill his contract of service even though, during his term, he desired to quit. After pointing out the danger to be anticipated to the ship, its passengers, crew, and cargo, from indiscriminate quitting by seamen, the Court held that the service was exceptional, and hence that restrictions on cessation of work did not constitute "involuntary servitude."[1]

Mr. Justice Harlan dissented. He took an absolutist position on the other side. He said that "the condition of one who contracts to render personal services in connection with the private business of another becomes a condition of involuntary servitude from the moment he is compelled against his will to continue in such service."[2] Thus, the majority of the Court declared that a seaman could be forced to serve his full term; the dissent declared that he could not be required to serve any of it.[3]

Between these two extremes there is a middle ground. A sailor might be required to serve until he could be conveniently replaced. To compel him not to abandon ship in the middle of the ocean or even in a strange port seems like a logical method of assuring the safe return of the vessel. To require him to continue serving after the vessel has reached an American port and a replacement can be secured is to nullify the freedom of a sailor to change jobs by an exception to the general rule not warranted by the actual facts of the case. Insofar as *Robertson* v. *Baldwin* extends to such service, it stands on a very shaky foundation.

The implications of the right to cease work for antidiscrimination legislation are clear. Since personal service is compelled in the first place, it is obvious that to permit the cessation of work before completion would frustrate the purposes of the law. It would hardly do to permit the unwilling barber to cut one side of his customer's head of hair or shave one side of his face, and then announce that he was unwilling to go any further. Obviously, antidiscrimination legislation in personal services infringes on the right to cease work as well as the right not to start it.

VOLUNTARINESS OF SERVICE

That antidiscrimination legislation in personal services requires servitude has already been demonstrated beyond doubt. A question may be raised, however, as to whether such service to a Negro would be "involuntary." An argument may be made that the barber, for example, is free to cease barbering at any time. Hence, it may be contended, that as long as he voluntarily continues to be a barber, he is not subjected to involuntary servitude if he is forced to serve all who apply.

Preliminarily, such an argument overlooks the right to work. The "liberty" mentioned in the 14th amendment includes the right to "work * * * to earn his livelihood by any lawful calling; to pursue any livelihood or avocation. [And] the right to follow any of the common occupations of life is an inalienable right."[4] The Supreme Court has held that "the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the [14th amendment] * * * to secure."[5] Indeed, the Court pointed out that to deny persons the right to work to earn a living is tantamount to excluding them from the State, since "in ordinary cases they cannot live where they cannot work."[6]

To say that a person must either work for everyone involuntarily or not work at all is to require him to choose between his 13th amendment rights and his 14th amendment rights. Such a rule conditions the exercise of his 14th amendment rights to work at his chosen occupation with an unconstitutional condition, the surrender of his right to be free from involuntary servitude. Unconstitutional conditions may not even be annexed to the exercise of a privilege.[7] It is all the more certain that they cannot be used to limit the exercise of a constitutional right.

Even leaving aside the 14th amendment right to work, antidiscrimination laws which

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ployee from voluntarily ceasing work unless said act is in furtherance of the conspiracy charged in the bill herein to prevent plaintiff from performing its contracts with its customers and to compel plaintiff to discharge employees who are not members of labor unions which are affiliated with said defendants.' "

[95] *Local 232, UAW* v. *Wisconsin Employment Relations Bd.*, 250 Wis. 550, 562–563, 27 N.W. 2d 875, 881 (1947), aff'd, 336 U.S. 245 (1949) said:

"The quitting and remaining from work in the instant cases was done pursuant to a conspiracy to carry out an unlawful plan. There are many cases to the point that a conspiracy to commit a criminal act may be enjoined * * *.

"For two or more persons to conspire to do an act to the injury of another which one person acting alone might lawfully do constitutes in this State a legal wrong * * *. If a conspiracy to do a criminal act may be enjoined so may conspiracy to do an illegal act not criminal.

[96] *Local 232, UAW* v. *Wisconsin Employment Relations Bd.*, 336 U.S. 245, 251 (1949).

[97] *Arthur* v. *Oakes*, 63 Fed. 310, 317–318 (7th Cir. 1894).

[98] *Peonage Cases*, 123 Fed. 671, 685–86 (M.D. Ala. 1903). The rule is the same in England. See Electricity (Supply) Act, 1919, 9 and 10, Geo. 5, c. 100, sec. 31; Conspiracy and Protection of Property Act, 1875, 38 and 39, Vict., c. 86, sec. 4. Section 5 of the latter statute makes it a criminal offense willfully and maliciously to break a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequence will be "to endanger human life, or cause serious bodily injury, or to expose valuable property * * * to destruction or serious injury."

[99] 165 U.S. 275 (1897).

[1] Id. at 282 where the Court said:

"It is clear, however, that the amendment was not intended to introduce any novel doctrine with respect to certain descriptions of service which have always been treated as exceptional; such as military and naval enlistments, or to disturb the right of parents and guardians to the custody of their minor children or wards. The amendment, however, makes no distinction between a public and a private service. To say that persons engaged in a public service are not within the amendment is to admit that there are exceptions to its general language, and the further question is at once presented, where shall the line be drawn? We know of no better answer to make than to say that services which have from time immemorial been treated as exceptional shall not be regarded as within its purview. The rule is the same in England. See Merchant Shipping Act, 1894, 57 and 58 Vict., c. 60, secs. 221–24."

[2] *Robertson* v. *Baldwin*, supra note 99, at 301.

[3] See *Elman* v. *Moller*, 11 F. 2d 55 (4th Cir. 1926) holding that it would be involuntary servitude to require a sailor to fulfill his contract to serve on board ship but, curiously enough, not citing or discussing *Robertson* v. *Baldwin*, supra note 99.

[4] *Allgeyer* v. *Louisiana*, 165 U.S. 578, 589 (1897). See the statement of Representative John A. Bingham, of Ohio, who drafted the first section of the 14th amendment, that liberty "is the liberty * * * to work in an honest calling and contribute by your toil in some sort to the support of yourself * * *" Congressional Globe, 42d Cong., 1st sess., app. 86 (1871).

[5] *Truax* v. *Raich*, 239 U.S. 33, 41 (1915).

[6] Id. at 42.

[7] *Speiser* v. *Randall*, 357 U.S. 513 (1958); *Western Union Tel. Co.* v. *Kansas*, 216 U.S. 1 (1910).

provide in effect that a person must serve another on pain of leaving his chosen occupation is involuntary servitude since the alternative to the servitude is punishment. It is well settled that the 13th amendment encompasses more than physical compulsion to labor. Punishment for refusal to work is also within its scope.[8]

The Supreme Court has several times pointed out that exclusion from one's occupation is punishment. In *Cummings* v. *Missouri*[9] the Court held that deprivation of the right to engage in a lawful occupation is punishment,[10] and further stated: "Disqualification from the pursuits of a lawful avocation * * * may also, and often has been, imposed as punishment."[11] When this disqualification stems "not from any notion that the several acts designated unfitness for the callings, but because it was thought that the several acts deserved punishment,"[12] then the punitive nature of the disqualification is clear.

Ex parte Garland[13] is to the same effect. The court there held that "an exclusion from any of the professions or any of the ordinary avocations of life for past conduct can be regarded in no other light than as punishment for such conduct."[14] Likewise, the court said:

"The legislature may * * * prescribe qualifications for the pursuit of any of the ordinary avocations of life. The question, in this case, is not as to the power of Congress to prescribe qualifications, but whether that power has been exercised as a means for the infliction of punishment, against the prohibition of the Constitution * * * this result cannot be effected indirectly by a State under the form of creating qualifications."[15]

Finally, in the more recent case of *United States* v. *Lovett*[16] the Court was concerned with "'a legislative decree of perpetual exclusion' from a chosen vocation." Mr. Justice Black held that "this permanent proscription from any opportunity to serve the Government is punishment, and of a most severe type."[17]

Where a barber or waiter is permanently barred from earning a living in his occupation unless he serves all who apply, the reality of the situation is that he is being punished for refusing service. The exclusion from his calling is a particularly severe sort of punishment. To force him to serve on pain of such exclusion constitutes involuntary servitude.

Even, however, were the alternative to serving everyone without discrimination of going out of business or leaving one's occupation not deemed, strictly speaking, punishment, nevertheless, this alternative constitutes such a degree of coercion as to make the service involuntary. It is well settled that the method of coercion which compels the labor is immaterial,[18] and that coercion is equally forbidden although exercised under the forms of law.[19]

That the loss of the right to serve others, and thereby earn one's living, is coercion of the most potent sort for all but the wealthy few, can hardly be gainsaid. It has been held that a statute which tends to prevent a worker who has broken a contract of service from making a second contract of service with a new employer during the term of the first contract is unconstitutional under the 13th amendment as imposing involuntary servitude.[20] One court said:

"If no one else could have employed Carver during the term of his contract with plaintiff, after he had elected to break that contract, without incurring liability to plaintiff for damages, the result would have been to coerce him to perform the labor required by the contract; for he had to work or starve. The compulsion would have been scarcely less effectual than if it had been induced by the fear of punishment under a criminal statute for breach of his contract * * *. The prohibition is as effective against indirect as it is against direct actions and laws—statutes or decisions—which, in operation and effect, produce the condition prohibited. The validity of the law is determined by its operation and effect."[21]

However, the opinion most closely on point is that in the Peonage cases.[22] The court there first noted:

"What is this but declaring, if a man breaks his contract with his creditor without just excuse, he shall not work at his accustomed vocation for others without permission of the creditor? What is this but a coercive weapon placed by the law in the hands of the employer to compel the debtor to pay a debt, to perform the contract?"[23]

The Court then spoke of the right to work. It said:

"This statute practically attaints the debtor and makes him a legal pariah if he attempts to exercise his right to labor without another man's consent, and that man his creditor. One of the most valuable liberties of man is to work where he pleases, and to quit one employment and go to another, subject, of course, to civil liability for breach of contract obligations. These laws attempt to take this right away and destroy this liberty."[24]

The coercion inherent in limiting the right to work was then set forth. The opinion states:

"The leaving of the service, whether with or without just excuse, puts insuperable obstacles in the way of earning a livelihood, by the sweat of his brow, elsewhere than with the first employer or on the rented premises. He must stay there, or else, leaving, must starve, or go to work elsewhere, which in most instances he cannot do except by violating this statute and running the risk of conviction for crime, by not informing the new employer. Practically, the law places the laborer or renter at the mercy of his first employer, because of the broken civil contract. An employer with such power over the sustenance and liberty of another is master of his destiny and liberty, and the laborer or renter in such a condition is a serf in all but name."[25]

It concludes:

"The whole scheme and purpose and the inevitable effect of these statutes are to coerce the laborer or renter to pay a debt, return to a personal service, by stress of penal enactments leveled at his person in the one instance, and against his right to work in the other. The debtor cannot be compelled to put himself upon the blacklist that he may be prevented from getting work without an employer's consent, in order to coerce him to the performance of a contract of personal service."[26]

The coercion inherent in barring a person from any other employment is quite different in degree or kind from an action for breach of contract, which may lie if an employee breaches an agreement to render personal services. In such cases, the employee may become liable for actual damages sustained by his employer, if any. This is true of any contractor. He is not, however, disabled from earning money entirely. The extraordinary compulsion inherent in such a disability is far different from a requirement that the aggrieved employer be compensated for his actual loss.[27]

Even less is the compulsion, if it can be called that, inherent in the withdrawal of wages or other benefits from an individual who will not work. Such individual is free to substitute other work. He can work for whomever he pleases. The pay he receives is a benefit which he may take or not by working or not, but if he declines one job he may still earn his living at another. Hence, his decision to work at a particular job is voluntary even if he is motivated by the desire for the compensation it offers.[28]

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[8] *United States* v. *Clement*, 171 Fed. 974 (D.S.C. 1909). See *United States* v. *Reynolds*, 235 U.S. 133, 146 (1914) where the court said:

"This labor is performed under the constant coercion and threat of another possible arrest and prosecution in case he violates the labor contract which he has made with the surety, and this form of coercion is as potent as it would have been had the law provided for the seizure and compulsory service of the convict. Compulsion of such service by the constant fear of imprisonment under criminal laws renders the work compulsory, as much so as authority to arrest and hold this person would be if the law authorized that to be done."

[9] 71 U.S. (4 Wall.) 277 (1866).

[10] Id. at 321–22.

[11] Id. at 320.

[12] Ibid.

[13] 71 U.S. (4 Wall.) 333 (1866).

[14] Id. at 377.

[15] Id. at 379–80.

[16] 328 U.S. 303 (1946).

[17] Id. at 316.

[18] *Pierce* v. *United States*, 146 F. 2d 84 (5th Cir. 1944), cert. denied, 324 U.S. 873 (1945). See *Bernal* v. *United States*, 241 Fed. 339 (5th Cir. 1917).

[19] *Matter of Peonage Charge*, 138 Fed. 686 (N.D. Fla. 1905).

[20] *Hill* v. *Duckworth*, 155 Miss. 484, 124 So. 641 (1929); *State* v. *Armstead*, 103 Miss. 790, 60 So. 778 (1913). In *Whitwood Chemical Co.* v. *Hardman* [1891], 2 Ch. 416 (Eng.) it was held that an employee may not be enjoined from going to work for another after he breaches his contract of employment without express agreement.

[21] *Shaw* v. *Fisher*, 113 S.C. 287, 292, 102 S.E. 325, 327 (1920).

[22] 123 Fed. 671 (M.D. Ala. 1903).

[23] Id. at 685.

[24] Id. at 686.

[25] Id. at 687.

[26] Ibid. See id. at 691 where the court declared:

"When the statutes declare that no one shall give croppers or laborers employment, if they break, without sufficient excuse, contracts of personal service with former employers, without their consent, what is this but declaring, because a person in a certain calling or occupation has broken a contract, that he shall not avail himself, no matter what his necessities, of the usual means, open to all other men, to obtain food or raiment, except by consent of a former employer?"

[27] In *Shaw* v. *Fisher*, 113 S.C. 287, 292–93, 102 S.E. 325, 327 (1920) the court declared:

"Of course, the sanction of the obligation of the contract, and the liability to pay damages for breach thereof, inhere in every contract, and those alone do not amount to that compulsion which is prohibited so long as the employee has the liberty at any time to elect to break the contract, subject only to the legal consequences—an action for damages—just like any other contractor. But if the law should penalize all who give him employment, after he has breached his contract, the effect would be to deny to him the same freedom that every other contractor enjoys, to wit, that of electing at any time to break his contract, subject only to his liability for damages. To that extent, liberty, of action and freedom of contract is guaranteed by the 14th amendment."

[28] In *Tyler* v. *Heidorn*, 46 Barb. 439, 458–59 (N.Y. Sup. Ct. Albany County 1866) the court made this distinction, saying:

"The term involuntary servitude, in my opinion [embraces] * * * everything under the name of servitude, though not denominated slavery, which gives to one person the control and ownership of the involuntary and compulsory services of another against his will and consent.

This is a far cry from the case of an individual who loses all right to work for anyone by declining one job or type of service.

It must be remembered that, however compelling the need may seem that individuals serve others in particular situations, such a requirement flies in the face of the strong and clear policy of the 13th amendment. It has been truly observed that "to compel one person to labor for another against his will is legalized thraldom."[29] And the Supreme Court has declared that "the undoubted aim of the 13th amendment * * * was not merely to end slavery but to maintain a system of completely free and voluntary labor throughout the United States."[30] The clear words of this amendment cannot be frittered away by subtle subterfuge or refined legal language.

Nor does the fact that the worker's refusal to work for a particular patron or client may be based on arbitrary grounds alter the legal effect of the amendment. Indeed, even peons could leave their masters for adequate cause.[31] The worker's right to discriminate on arbitrary grounds against serving particular clients or customers is perhaps most strongly illustrated by *Delorme* v. *Local 624, International Bartenders' Union.*[32]

In this case, the plaintiff tavern owner found himself caught in a jurisdictional dispute between the Teamsters Union and the Brewery Workers Union. Because he bought beer brewed by the brewery workers, teamsters picketed his tavern and collectively refused to deliver supplies purchased by plaintiff from their employers. The plaintiff sued for an injunction, and the trial court found that the drivers were part of a conspiracy to drive the plaintiff out of business by withholding supplies and refusing to deliver them. The trial court then enjoined the teamsters from interfering with the plaintiff's business. Later, upon a proceeding for contempt, the trial court further found that with knowledge of the decree and with intent to violate it, the Teamsters Union and drivers conspired not to deliver supplies to the plaintiff. The court thereupon decreed that:

"The drivers be and they are hereby directed in the future while employed as drivers delivering products and commodities to refrain from making any discrimination against plaintiff, Leo Delorme, until further order of the court or until such time as this order may be modified.

"It is further ordered that respondents be and they are hereby directed to forthwith purge themselves of said contempt by refraining in the future from refusing to make deliveries of products and commodities to Leo Delorme on the same terms and conditions as to any other person and when directed by their employer to do so until such time as this order is modified or reversed.[33]

The drivers appealed to the Washington State Supreme Court, contending that the order requiring them to deliver products to plaintiff and not to discriminate against him constituted involuntary servitude. That court held that while a mandatory injunction in a proper case did not violate the 13th amendment, "the portion of the decree entered by the trial court containing a mandatory injunction requiring appellants to deliver products and commodities from their respective employers' establishments to the respondent, Leo Delorme, appears to be subject to valid objection."[34] The State supreme court thereupon modified the decree to make it permissive for the drivers to purge themselves of contempt by delivering products to plaintiff instead of mandatory, as the trial court had done, and further provided that if the drivers failed to so purge themselves of their prior contempt, the court might punish them in an appropriate fashion.

This case is, of course, highly significant, and a strong one indeed for a mandatory injunction. The drivers have conspired to ruin the plaintiff by not delivering the products he needs. As previously noted, such a conspiracy is illegal, even though the individual drivers could, on their own, refuse to deliver products to the plaintiff. The trial court has ordered the drivers to repair the damage from their unlawful conspiracy by ceasing the object of the conspiracy, and by engaging in the deliveries. Even in such a case, however, the State supreme court is unwilling to require the drivers to refrain from discrimination. Not even a contempt of a prior decree whose validity is unchallenged can result in an affirmative mandate not to discriminate to alleviate the effects of the conspiracy. So strong is the policy of the law against involuntary servitude that not even a conspiracy not to serve can result in a decree requiring service. Antidiscrimination legislation can hardly justify a different result.

CONCLUSION

It is one of the most compelling ironies of history to find that in 1964, Negroes are demanding laws to compel whites to serve them in the very same occupations which they themselves were freed from serving whites in 1863, and demanding this under the name of "freedom." For the fact is that a century ago, Negroes had a near monopoly of the service occupations now engaged in by employees of so-called places of public accommodation.[35]

For example, New York has one of the most stringent set of antidiscrimination laws. Yet these laws cover the occupations in which Negroes were compelled to serve a century ago. Thus, we are told:

"For generations the New York Negroes had had an almost uncontested field in many of the gainful occupations. They were * * * bootblacks * * * barbers, hotel waiters * * * ladies' hairdressers * * * caterers, coachmen. (At that time a black coachman was almost as sure a guarantee of aristocracy for a northern white family as a black mammy for a family of the South.) The U.S. census of 1850 lists New York Negroes in 14 trades. As caterers, a number of individuals actually grew wealthy.[36]

In a number of northern localities, it was not until the great wave of European immigration during the 1840's and 1850's that the Negro monopoly on these service occupations was terminated. In 1853, Frederick Douglass complained:

"Every hour sees the black man [in the North] elbowed out of employment by some newly arrived immigrant whose hunger and whose color are thought to give him a better title to the place; and so we believe it will continue to be until the last prop is leveled beneath us—white men are becoming house servants, cooks, and stewards on vessels; at hotels, they are becoming porters * * * and barbers—a few years ago a white barber would have been a curiosity. Now their poles stand on every street."[37]

In the South, Negroes predominated in the service occupations well into the 20th century. As late as 1930, 40 percent of the workers in southern hotels, restaurants, and similar establishments were Negro; in 1940, 32 percent were Negro. Myrdal observed that the "loss of the Negro male waiters was largely the gain of the white waitresses." He further noted that "travelers in the South often have occasion to observe that, nowadays, the most modern and busiest hotels and restaurants tend to have white bellboys and white waitresses whereas the old-fashioned places tend to have Negro servants."[38] Thus, a century ago, the Emancipation Proclamation decreed that Negro waiters and waitresses would no longer have to serve white college students; now, a hundred years later, Negro college students are demanding laws to compel white waiters and waitresses to serve them.

Negro barbers in the South likewise had a monopoly of this form of involuntary servitude before the Civil War. Myrdal notes:

"In the old South, after the passing of wigs and elaborate hair dressing for men, the barber business fell largely into the hands of blacks. An old southern gentleman once told me that on his first visit to the North he experienced a kind of shame for the white man who cut his hair and the white girls who waited on him at table."[39]

Thus, we now find, a century after Negroes were freed from the involuntary servitude of cutting the hair of whites, a demand from their descendants that whites be forced by law to cut their hair. Perhaps Negroes who say that the Emancipation Proclamation's

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"3. The amendment in question was never intended to, and in my opinion does not, embrace contract service of any description, or such as flows from contracts made by a party, or grows out of a contract made by another person in regard to property and connected with its enjoyment, which property such party derives from such other person and personally enjoys. Such service is never involuntary. The party may at any time renounce it. It is connected with the enjoyment of property, and by refusing to accept or to enjoy the property, the party may at all times escape the personal servitude. These contracts are always either voluntarily entered into by the party himself, or else they embrace a subject, or property, by relinquishing which the party always relieves himself from the obligation attached to it. * * * 'By taking the benefit of the grant he voluntarily assumed the liabilities of the original grantee, in respect to the subject of the grant. The servitude, therefore * * * was not involuntary."

See *Dubar Goala* v. *Union of India,* [1952] All India Rep. Cal. 496. See also *Sreenwasa Iyer* v. *Govinda Kandiyard,* [1945] All India Rep. Mad. 50, [1945] Indian L.R. Mad. Ser. 319, not following *Ram Sarup Bhagat* v. *Bansi Mandar,* 42 Indian L.R. Cal. Ser. 742 (1915).

[29] *Ex parte Drayton,* 153 Fed. 986, 991 (D.S.C. 1907). And in *Nokes* v. *Doncaster Amalgamated Collieries, Ltd.,* [1940] A.C. 1014, 1026 (Eng.) Lord Atkin said: "ingrained in the personal status of a citizen under our laws was the right to choose for himself whom he would serve; and that this right of choice constituted the main difference between a servant and a serf."

[30] *Pollock* v. *Williams,* 322 U.S. 4, 17 (1944).

[31] *Peonage Cases,* 123 Fed. 671, 674 (M.D. Ala. 1903) where the court stated that the peon could abandon his status "by some sufficient motive given by one party to another, such as having grievously injured him, or where the master kept the accounts in an ambiguous manner, so that the servant could not understand them."

[32] 18 Wash. 2d 444, 139 P. 2d 619 (1943).

[33] Id. at 448, 139 P. 2d at 621.

[34] Id. at 455–56, 139, P. 2d at 625.

[35] Myrdal, An American Dilemma 293 (1944) notes that up to 1910, Negroes in the North were concentrated in service occupations, especially as waiters and barbers.

[36] Id. at 1256.

[37] Id. at 291–92.

[38] Id. at 1088. He also notes, at 282, that "in * * * a few old cities on the Atlantic coast the observer meets an old Negro barber, catering to a passing generation of southern gentlemen. Negro waiters are still common, but not so common as even 10 years ago. White waitresses are gradually being substituted for them."

[39] Id. at 1255 quoting Wertenbaker, "The Old South," 229–232 (1942). See Myrdal's remarks at 1088–1089 where he declares: "The Negro barber has lost most of his white business in the South. His gains have been restricted to the segregated Negro neighborhoods. * * *"

first century is being celebrated a hundred years too soon are right. Perhaps the problem with that document is that it discriminated on racial grounds, and included only Negroes within its terms.

The 13th amendment, however, contained no such limitation. Instead, "the generality of its language makes its prohibition apply to slavery of white men as well as that of black men; and also to * * * every other form of compulsory labor to minister to the pleasure, caprice, vanity, or power of others."[40] The 13th amendment makes no distinction as to who enforces the labor;[41] nor does it distinguish from whom compulsory service is extracted. Rather the amendment "reaches every race and every individual. Slavery or involuntary servitude of the Chinese, of the Italian, of the Anglo-Saxon are as much within its compass as slavery or involuntary servitude of the African."[42] As the Supreme Court has so eloquently declared:

"The language of the 13th amendment was not new. It reproduced the historic words of the ordinance of 1787 for the government of the Northwest Territory and gave them unrestricted application within the United States and all places subject to their jurisdiction. While the immediate concern was with African slavery, the amendment was not limited to that. It was a charter of universal freedom for all persons, of whatever race, color or estate, under the flag.

"The plain intention was * * * to make labor free, by prohibiting that control by which the personal service of one man is disposed of or coerced for another's benefit which is the essence of involuntary servitude."[43]

The fact that Negroes, or those who sympathize with their aspirations, may believe that white persons who refuse to serve them are being arbitrary or capricious, does not alter in any way the legal effect of the 13th amendment. This provision bans absolutely, and in the most express terms, the claim of any person to force any other person to serve him, for any reason whatsoever. Correspondingly, it confers on every person the absolute and unfettered right to refuse, for any reason or none at all, to serve any other person. The constitutionally protected right cannot be abridged or fettered on any pretext or for any reason whatever, as it is the cornerstone of personal freedom and liberty in the United States. Those Negro college students and their white sympathizers who so loudly chant a demand for "freedom" and their "constitutional rights," and who so vociferously demand that whites serve them[44] would do well to first examine the Constitution themselves, and find out where their freedom and constitutional rights end, and those of others they would in fact violate, begin. As one case unequivocally stated:

"We are not advised of any rule of law under which any man in this country will be forced to serve with his labor any other man whom he does not wish to serve.

"If the injunctive order be construed to mean that the officers and members of the Longshoremen Association Local No. 1416 were thereby required to load or unload the trucks of "Collins" although there was no contractual relation between the local and Collins, then such construction would violate the constitutional provision above referred to. We think it will not be contended that any member of the local could be committed to jail for refusing to load or unload the "Collins" trucks. That service required the performance of manual labor and it is beyond the power of courts to punish one by imprisonment for failure to engage in involuntary servitude."[45]

That antidiscrimination laws which compel one person to serve another are unconstitutional seems to be open to little doubt. However, most judges before whom such cases have come have acted as if they never heard of the 13th amendment. But one perceptive jurist, Judge Joseph H. Mallery, of the Washington State Supreme Court, recently recognized the conflict between such legislation and the U.S. Constitution. To this author, his dissenting opinion in *Browning* v. *Slenderella Systems*[46] "hits the nail on the head" and should be required reading for all sit-ins claiming "constitutional rights." The opinion is well worth quoting. As Judge Mallery declared:

"All persons familiar with the rights of English-speaking peoples know that their liberty inheres in the scope of the individual's right to make uncoerced choices as to what he will think and say; to what religion he will adhere; what occupation he will choose; where, when, how, and for whom he will work, and generally to be free to make his own decisions and choose his courses of action in his private civil affairs. These constitutional rights of law-abiding citizens are the very essence of American liberties. * * *

* * * * *

"Discrimination is but another word for free choice. Indeed, he would not be free himself if he had no right so to do. In dealings between men, both cannot be free unless each acts voluntarily, otherwise one is subjected to the other's will.

"Cash registers ring for a Negro's as well as for a white man's money. Practically all American businesses, excepting a few having social overtones or involving personal services, actively seek Negro patronage for that reason. The few that do not serve Negroes adopt that policy either because their clientele insist upon exclusiveness, or because of the reluctance of employees to render intimate personal service to Negroes. Both the clientele and the business operator have a constitutional right to discriminate in their private affairs upon any conceivable basis. The right to exclusiveness, like the right to privacy, is essential to freedom. No one is legally aggrieved by its exercise.

* * * * *

"The majority opinion violates the 13th amendment to the U.S. Constitution. It provides, inter alia: "Neither slavery nor involuntary servitude * * * shall exist within the United States."

"Negroes should be familiar with this amendment. Since its passage, they have not been compelled to serve any man against their will. When a white woman is compelled against her will to give a Negress a Swedish massage, that too is involuntary servitude.

"Through what an arc the pendulum of Negro rights has swung since the extreme position of the Dred Scott decision. Those rights reached dead center when the 13th amendment to the U.S. Constitution abolished the ancient wrong of Negro slavery. This court has now swung to the opposite extreme in its opinion subjecting white people to 'involuntary servitude' to Negroes."[47]

[From U.S. News & World Report, May 11, 1964]

MAYBE IT IS TIME TO LOOK AT THE ANTISLAVERY AMENDMENT

(NOTE.—Is it unconstitutional to require a white employee to serve Negro customers in "places of public accommodation"? A lawyer, answering, points to the 13th amendment which bars "involuntary servitude." That amendment, he finds, has been interpreted by courts to mean this: No man can be compelled to serve anyone he does not wish to serve—that would be "involuntary servitude." Alfred Avins has taught constitutional law and served as a special deputy attorney general of New York State. In this article he challenges the constitutionality of many State laws—and of the civil rights bill pending in Congress.)

(By Alfred Avins, former special deputy attorney general of New York State)

A majority of the States now have laws forbidding discrimination based on race, creed, color, or national origin in "places of public accommodation." These laws are similar in principle to the proposed civil rights bill now before Congress. Generally, they include various forms of personal service occupations. Probably the one most often singled out is barbering.

State Commission Against Discrimination v. *Mustachio* is a typical case. There the New York commission found that a barber had attempted to discourage Negro patronage of his shop and ordered that the barber write to the Negro complainant "offering to cut her son's hair at the regular rate charged by respondent for cutting a white person's hair." In short, it required him upon pain of imprisonment in case of refusal to serve by personal labor the complainant and other Negro applicants.

Such a statute—and the public accommodations section of the bill before Congress is one—immediately raises the quetsion of its constitutionality under the 13th amendment. There has been surprisingly little discussion of this. Yet the amendment is quite specific: "Neither slavery nor involuntary servitude * * * shall exist within the United States."

HISTORICAL BACKGROUND

The words "involuntary servitude" first appear in the Northwest Ordinance of 1787, which provides: "There shall be neither slavery nor involuntary servitude in the said territory." This provision was copied into the pre-Civil War constitutions of Ohio, Indiana, Illinois, Michigan, Iowa, Minnesota, and Wisconsin.

In interpreting this provisions, the Illinois Supreme Court in *Phoebe* v. *Jay* held in 1828 that a contract of service must be made without compulsion of any kind to be constitutional.

Likewise, in Matter of Clark, the Indiana Supreme Court in 1821 declared that, under the Northwest Ordinance provision, a court could not constitutionally compel one person to work for another a moment longer than he wanted to because "the losing party feels mortified and degraded in being compelled to perform for the other what he had previously refused, and the more especially if that performance will place him frequently in the presence or under the direction of his adversary." It concluded: "A state of servitude thus produced, either by direct or permissive coercion, would not be considered voluntary either in fact or in law."

When the 13th amendment was introduced in the Senate in early 1864, the language of the Northwest Ordinance was copied without change. Senator Charles Sumner, of Massachusetts, the equalitarian radical Republican, objected to this language and moved to substitute: "All persons are equal before the law, so that no person can hold another as a slave."

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[40] *Railroad Tax Cases*, 13 Fed. 722, 740 (C.C.D. Cal., 1882).

[41] See, for example, *United States* v. *Choctaw Nation*, 38 Ct. Cl. 558 (1903), aff'd, 193 U.S. 115 (1904) holding that the slaves of Indian tribes within the United States were freed by the amendment.

[42] *Hodges* v. *United States*, 203 U.S. 1, 17 (1906).

[43] *Bailey v. Alabama*, 219 U.S. 219, 240–241 (1911).

[44] See New York Times, July 7, 1963, p. 1, col. 2.

[45] *Henderson v. Coleman*, 150 Fla. 185, 196–197, 7 So. 2d 117, 121 (1942).

[46] 54 Wash. 2d 440, 341 P. 2d 859 (1959).

[47] Id. at 454–457, 341 P. 2d at 868–869.

The other Republicans sneered at his attempt to copy language derived from the French Revolution. Senator Howard, of Michigan, stated: "I prefer to dismiss all reference to French constitutions or French codes, and go back to the good old Anglo-Saxon language employed by our fathers in the ordinance of 1787 * * * which is peculiarly near and dear to the people of the Northwestern Territory." Upon this, Sumner withdrew his amendment and the Senate passed the joint resolution setting forth the amendment.

While at first the resolution failed to obtain the necessary two-thirds majority in the House, after Lincoln's reelection, several Congressmen changed sides and the 13th amendment was then concurred in.

Thus, it is clear that, while Senator Sumner proposed to declare all men equal, Congress rejected this. Instead of enacting equality, it enacted liberty.

CASE INTERPRETATIONS

It is clear from the cases that the first right guaranteed by the amendment is the right to refrain from rendering any type of personal services. Whether a person is compensated is irrelevant. In *Heflin v. Sanford*, the U.S. Court of Appeals for the Fifth Circuit observed: "Whether appellant was to be paid much, or little or nothing, is not the question. It is not uncompensated service but involuntary servitude which is prohibited by the 13th amendment. Compensation for service may cause consent, but unless it does it is no justification for forced labor."

The only recognized exception to the absolute prohibition against the imposition of compulsory labor is work for the Government, of which service in the Armed Forces is the most conspicuous example.

The duty of a parent to support a child, or of one who has inflicted injury on another to assist the latter if in need of aid, are also recognized as based on special connections.

It is obvious that making and serving a hamburger to another person or shining his shoes do not fall within these special exceptions. A waitress can no more be required to wait on all persons who come into her shop without discrimination than can a cottonpicker be required to pick cotton for all who want his services without discrimination.

Thus, the civil rights bill violates the right to refrain from work.

HOW SUPREME COURT HAS RULED

A long line of cases, including several from the U.S. Supreme Court, have made clear that the amendment likewise guarantees the right to cease work at any time. As the U.S. Court of Appeals in Chicago observed in *Arthur* v. *Oakes*, "It would be an invasion of one's natural liberty to compel him to work for or to remain in the personal service of another. One who is placed under such constraint is in a condition of involuntary servitude."

The fact that antidiscrimination legislation in personal-service occupations requires "servitude" is thus obvious beyond doubt. However, a question may be raised as to whether such service to a Negro would be "involuntary." It may be argued that since a barber, for example, is free to cease barbering, as long as he voluntarily continues in his trade he is not subjected to involuntary servitude if he is forced to serve all who apply.

Preliminarily, such an argument overlooks the right to work. In *Truax* v. *Raich*, the U.S. Supreme Court held that "the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the [14th amendment] to secure." Indeed, the Supreme Court has pointed out that to deny persons the right to work to earn a living is tantamount to excluding them from the State, since "in ordinary cases they cannot live where they cannot work."

To say that a person must either work for everyone involuntarily or not work at all is to require him to choose between his 13th amendment rights and his 14th amendment rights.

Since it is settled law that a State may not demand the surrender of constitutional rights even to exercise a privilege or obtain a bounty, it is all the more certain that it may not demand the surrender of one constitutional right to obtain another.

Moreover, it is equally settled that where the alternative to labor is punishment, the labor is involuntary.

The Supreme Court held as early as 1866 that "disqualification from the pursuits of a lawful avocation * * * may also, and often has been, imposed as punishment," and that "an exclusion from any of the professions or any of the ordinary avocations of life for past conduct can be regarded in no other light than as punishment for such conduct."

Where a barber or waiter is permanently barred from earning a living in his occupation unless he serves all who apply, the reality of the situation is that he is being punished for refusing service. The threat of exclusion makes the labor involuntary.

Even, however, if the forced exclusion is not deemed, strictly speaking, punishment, nevertheless this alternative constitutes a powerful degree of coercion.

It is settled that labor may be involuntary even though the degree of coercion does not amount to punishment, and although the coercion is exercised under the forms of law. Thus, it has been held in several cases that a statute which hinders a worker who has broken an employment contract from obtaining a second job violates the 13th amendment, because it places the worker at the mercy of the first employer. Since the worker must either work or starve, the employer is given a powerful coercive weapon to keep him at work. The disappointed employer's only remedy permitted by the Constitution is withholding of wages and suit for damages for breach of contract. Any compulsion above this renders the labor involuntary.

CONCLUSION

It is one of the most compelling ironies of history to find that, in 1964, Negroes are demanding laws to compel whites to serve them in the very same occupations which they themselves were freed from serving whites in 1864, and demanding this under the name of "freedom." For the fact is that, a century ago, Negroes had a near-monopoly of the service occupations now engaged in by employees of so-called "places of public accommodation."

For example, New York has one of the most stringent sets of antidiscrimination laws. Yet these laws cover the occupations in which Negroes were compelled to serve a century ago. Thus, Myrdal [Gunnar Myrdal, in "An American Dilemma"] tells us: "For generations, the New York Negroes had had an almost uncontested field in many of the gainful occupations. They were * * * bootblacks, barbers, hotel waiters * * * ladies' hairdressers, caterers, coachmen."

In a number of northern localities, it was not until the great wave of European immigration during the 1840's and 1850's that the Negro monopoly on these service occupations was terminated. In 1853, Frederick Douglass complained: "Every hour sees the black man [in the North] elbowed out of employment by some newly arrived immigrant whose hunger and whose color are thought to give him a better title to the place; and so we believe it will continue to be until the last prop is leveled beneath us—white men are becoming house servants, cooks, and stewards on vessels; at hotels, they are becoming porters * * * and barbers—a few years ago a white barber would have been a curiosity. Now their poles stand on every street."

In the South, Negroes predominated in the service occupations well into the 20th century.

As late as 1930, 40 percent of the workers in southern hotels, restaurants, and similar establishments were Negro; in 1940, 32 percent were Negro.

Myrdal observed that the "loss of the Negro male waiters was largely the gain of the white waitresses." Writing during the Second World War, he noted that "travelers in the South often have occasion to observe that, nowadays, the most modern and busiest hotels and restaurants tend to have white bellboys and white waitresses, whereas the old-fashioned places tend to have Negro servants." Similarly, the southern Negro barber monopoly extended well past the Civil War. Thus, a century ago, the Emancipation Proclamation freed Negro waiters and waitresses from having to serve white college students; now, a hundred years later, Negro college students are demanding laws to compel white waiters and waitresses to serve them.

BAN ON SLAVERY "REACHES EVERY RACE"

Unlike the Emancipation Proclamation, the 13th amendment is not limited in language or intent to Negroes alone. The Supreme Court has observed that "the generality of its language makes its prohibition apply to slavery of white men as well as that of black men; and also to * * * every other form of compulsory labor to minister to the pleasure, caprice, vanity, or power of others." The amendment "reaches every race and every individual. * * * Slavery or involuntary servitude of the Chinese, of the Italian, of the Anglo-Saxon are as much within its compass as slavery or involuntary servitude of the African."

The fact that Negroes, or those who sympathize with their aspirations, may believe that white persons who refuse to serve them are being arbitrary or capricious does not alter in any way the legal effect of the 13th amendment. This provision bans absolutely, and in the most express terms, the claim of any person to force any other person to serve him, for any reason whatsoever. Correspondingly, it confers on every person the absolute and unfettered right to refuse, for any reason, or none at all, to serve any other person.

Those Negro college students and their white sympathizers who so loudly chant a demand for freedom and their constitutional rights in vociferously demanding that whites serve them would do well to first examine the Constitution themselves, and find out where their freedom and constitutional rights end, and those of others they would in fact violate begin. As one court declared: "We are not advised of any rule of law under which any man in this country will be forced to serve with his labor any other man whom he does not wish to serve."

RIGHT TO MAKE UNCOERCED CHOICES

That antidiscrimination laws which compel one person to serve another are unconstitutional seems to be open to little doubt. However, many members of the legal profession in discussion of such legislation have acted as if they never heard of the 13th amendment. But one perceptive jurist, Judge Joseph H. Mallery, of the Washington State Supreme Court, recently recognized the conflict between such laws and the U.S. Constitution. His opinion in *Browning* v. *Slenderella Systems* should be required reading for all sit-ins claiming constitutional rights. He said: "All persons familiar with the rights of English-speaking peoples know that their liberty inheres in the scope of the individual's right to make uncoerced choices as to what he will think and say; to what religion he will adhere; what occupation he will choose; where, when, how, and for whom he will work, and generally to be free to make his own decisions and choose his courses of action in his private civil affairs. These constitutnonal rights of law-abiding citizens are the very essence of American liberties.

* * * * *

"Discrimination is but another word for free choice. Indeed, he would not be free himself if he had no right to do so. In dealings between men, both cannot be free unless each acts voluntarily, otherwise one is subjected to the other's will.

"Cash registers ring for a Negro's as well as for a white man's money. Practically all American businesses, excepting a few having social overtones or involving personal services, actively seek Negro patronage for that reason. The few that do not serve Negroes adopt that policy either because their clientele insist upon exclusiveness, or because of the reluctance of employees to render intimate personal service to Negroes. Both the clientele and the business operator have a constitutional right to discriminate in their private affairs upon any conceivable basis. The right to exclusiveness, like the right to privacy, is essential to freedom. No one is legally aggrieved by its exercise.

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"Negroes should be familiar with [the 13th amendment]. Since its passage, they have not been compelled to serve any man against their will. When a white woman is compelled against her will to give a Negress a Swedish massage, that too is involuntary servitude.

"Through what an arc the pendulum of Negro rights has swung since the extreme position of the Dred Scott decision. Those rights reached dead center when the 13th amendment to the U.S. Constitution abolished the ancient wrong of Negro slavery. This court has now swung to the opposite extreme in its opinion subjecting white people to 'involuntary servitude' to Negroes."

[Supreme Court of Washington, July 8, 1943, No. 28293]

DELORME *v.* INTERNATIONAL BARTENDERS' UNION, LOCAL 624, ET AL.

1. Injunction 🔑215: Where Teamsters' Union was enjoined from interfering with operation of plaintiff's tavern, subsequent proceeding for a coercive order as against certain truckdrivers to compel compliance with decree were not required to be brought in name of the State where order sought was not punitive. Rem. Rev. Stat. § 1054.

2. Injunction 🔑215: Where Teamsters' Union was enjoined from interfering with operation of plaintiff's tavern, and the union was so concerned with the trial of the action that its officers and members became bound by the terms of the decree and certain truckdrivers demonstrated that they were motivated, in refusing to make deliveries to plaintiff, by a unity of purpose with officers to interfere with conduct of plaintiff's business, the truckdrivers could be brought into the case subsequent to entry of decree by an order to show cause.

3. Constitutional law 🔑83(2) Injunction 🔑5: A court of equity is not without authority to require a person subject to its jurisdiction to perform such affirmative acts as it is his duty to perform, and in proper cases a mandatory injunction may be issued without violating constitutional provision against "involuntary servitude." U.S.C.A. Const. Amend. 13.

(See Words and Phrases, Permanent Edition, for all other definitions of "involuntary servitude.")

4. Conspiracy 🔑8: Though any person has a right to deal or not to deal with any particular person or firm, a concerted agreement between a number of persons to harass another in the conduct of his business, whether for the sole purpose of injuring him or with intent to indirectly injure another, may amount to an illegal "conspiracy."

(See Words and Phrases, Permanent Edition, for all other definitions of "conspiracy.")

5. Injunction 🔑223(2): Where tavern operator was not involved in any bona fide labor dispute, mere fact that he bought and sold a brand of beer brewed by a manufacturer with whom a Teamsters Union was waging a jurisdictional dispute afforded no excuse for act of Teamsters Union and its members in boycotting and otherwise interfering with tavern operator's business in violation of injunction, justifying finding that union and certain truckdrivers were in "contempt."

(See Words and Phrases, Permanent Edition, for all other definitions of "contempt.")

6. Injunction 230(4): Where decree afforded truck drivers an opportunity to purge themselves of the contempt which the court adjudged against them for violating a decreee enjoining interference with conduct of plaintiff's business, provisions of decree containing mandatory injunction requiring drivers to deliver products to plaintiff were unnecessary and were stricken.

Blake and Mallery, JJ., dissenting.

En Banc.

Appeal from Superior Court, Yakima County; Robert J. Willis, Judge.

Action by Leo Delorme against International Bartenders' Union, Local 624, and others, for damages and for an order restraining defendants from picketing plaintiff's place of business. A decree was rendered enjoining defendants from picketing or interfering with plaintiff's business, and plaintiff obtained an order directed to Darrow Rorvik and others, who were not parties to the original suit, requiring them to appear and show cause why they should not be compelled by coercive process to abide by terms of the decree. From an order finding Darrow Rorvik and others guilty of contempt, they appeal.

Modified and affirmed.

J. P. Tonkoff, of Yakima, for appellants.

Henry Clay Agnew, of Seattle, and George C. Twohy, of Yakima, for respondent.

Beals, Justice.

This action was instituted by plaintiff, Leo Delorme, against International Bartenders' Union, Local 624, Dick Howard and Henry Traub, plaintiff alleging that under a license from the State of Washington he was operating a tavern in which he sold beer and wine at retail, his patrons being generally residents of the city of Yakima; that the defendants in the action had picketed his place of business, giving notice of their contention that plaintiff, in the conduct of his business, was unfair to organized labor and to the defendant union. Plaintiff further alleged that there was no dispute whatever between plaintiff and his employees, and that the picket line established by defendants was maintained solely for the purpose of conrtolling plaintiff's actions in choosing the brand of beer which he would sell at his tavern. Plaintiff asked for judgment for damages, and for an order restraining defendants from picketing his place of business.

The action was tried to the court and resulted in findings of fact and conclusions of law in plaintiff's favor, followed by the entry of a decree, March 13, 1939, as follows: "It is ordered, adjudged and decreed that the above-named defendants, International Bartenders' Union Local 624, together with all their members, officers and agents, and Dick Howard and Henry Traub, be, and they are hereby, restrained and enjoyed from picketing, boycotting, or in any manner interfering with the plaintiff's place of business, or with the carrying on of plaintiff's business."

Thereafter, April 13, 1940, plaintiff obtained an order, directed to Darrow Rorvik and four others, requiring them to appear before the court at a time fixed, to show cause "why they should not be compelled by coercive process of this court to abide by the terms of the decree herein and particularly that portion thereof providing as follows:

"That defendants 'be, and they are hereby, restrained and enjoined from picketing, boycotting, or in any manner interfering with plaintiff's place of business, or with the carrying on of plaintiff's business.'

"And to further show cause, if any they have, why they should not be required in open court to signify their willingness to abide by said decree and cease interfering with plaintiff's place of business or in event of their refusal to be summarily imprisoned until such time as said respondents comply."

Rorvik and the others appeared, and the matter was heard on affidavits and oral testimony, all of which was introduced by plaintiff. At the conclusion of the hearing, the court entered findings of fact, from which it appears that Rorvik and the other persons named in the order to show cause were members of the International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers, Yakima, Wash., Local No. 524 (hereinafter referred to as Teamsters Union, international or local), and were employed by wholesale distributors of merchandise in the city of Yakima as drivers of delivery trucks, and as such drivers had refused to deliver merchandise to the plaintiff, although their respective employers had accepted from plaintiff orders for the merchandise; that when asked, the named drivers had no explanation of their refusal to deliver the merchandise to plaintiff, and each driver persisted in his refusal after knowledge of the terms of the final decree which had been entered in this action, as above set forth.

The court further found that the teamsters union had participated actively in the defense upon the trial of the action; that the only defense to the action interposed on behalf of the defendants named in the complaint was that the defendants had interfered with plaintiff's business (by picketing the same), because of the quarrel which the teamsters union (International) had with the International Union of United Brewry, etc., Workers (hereinafter referred to as the brewery workers union); that the stipulation of facts which was considered by the court as part of the trial of the original action was prepared under the supervision of the business agent of the teamsters' union (local), who testified on the trial as a witness for the defendants; and that the judgment for costs rendered against the defendants in the action was paid by a check drawn by the teamsters' union.

The court concluded that the acts of Rorvik and the other teamsters constituted acts of interference with the business of plaintiff, Leo Delorme, and were done with the intent of violating both the letter and spirit of the decree which had been entered in the action; and that the decree was "* * * binding upon said Teamsters' Union and its members insofar as it adjudicated the dispute advanced by said union in said cause, and that also the acts of the defendants were done for the purpose of aiding and abetting the original defendants in carrying out the acts prohibited by said decree."

The court then entered a judgment and order in contempt proceedings, as follows:

"It is found, ordered and adjudged: That respondents, Darrow Rorvik, Jim Meikle, Archie Driscoll, Ed Griffin, and Jack Buell are guilty of contempt of this court.

"It is further found and adjudged that in the absence of a new and bona fide labor dispute between plaintiff and respondents that respondents be and they are hereby directed in the future, while employed as drivers delivering products and commodities, from making any discrimination against plaintiff, Leo Delorme, until further order of the court or until such time as this order may be modified.

"It is further ordered that respondents be and they are hereby directed to forthwith purge themselves of said contempt by refraining in the future from refusing to make deliveries of products and commodities to Leo Delorme on the same terms and conditions as to any other person and when directed by their employer to do so until such time as this order is modified or reversed."

From this order, Rorvik and the other four teamsters (who will hereinafter be referred to as appellants) have appealed, assigning error upon the denial by the trial court of their motion to quash the order to show cause; upon the court's denial of their motion for dismissal at the close of the evidence; and upon the entry of the order, above quoted, finding appellants guilty of contempt of court, and directing appellants' future conduct as set forth in the order.

The controversy which resulted in the filing of the original complaint in this action was based upon the well-known, long-continued "jurisdictional dispute" between the Teamsters Union and the brewery workers union, both affiliates of the American Federation of Labor, as to which union should have jurisdiction of the truckdrivers employed in the brewing industry. The brewery workers union having furnished these drivers, the Teamsters Union, desiring to obtain jurisdiction of that branch of the brewing industry, at the 1933 convention of the A.F. of L., asked that jurisdiction over the brewery drivers be vested with the Teamsters Union. The executive committee of the A.F. of L. recommended that the request be granted, and the convention adopted this recommendation by a majority vote. The brewery workers refused to abide by this ruling, claiming that it was beyond the authority of the A.F. of L. and contrary to its constitution. The brewery workers accordingly instituted an action in the courts of the District of Columbia, asking for a decree expunging the proceedings of the 1933 convention, which suit is still pending.

It seems that in most of the States, Oregon and Washington being exceptions, the brewery workers union still maintains jurisdiction over the drivers employed directly in the brewing industry.

The situation relating to this controversy is fully stated in the case of *Blanchard* v. *Golden Age Brewing Co.*, 188 Wash., 396, 63 P. 2d 397, and these conditions still existed at the date of the entry of the original decree in this action.

In the case at bar, there never has been any question concerning wages, hours of labor, working conditions, or the sale of any nonunion made product, the controversy resulting from the following situation:

United Union Brewing Co., a Washington corporation, is engaged in the manufacture of beer. A majority of the shares of its capital stock is owned or controlled by the brewery workers union, and in connection with its brewing business, the brewery company employs drivers, all of whom are members of the brewery workers union. The brewery company is engaged to some extent in interstate commerce. Its employees are union members, and have no complaints as to hours, wages, or working conditions, they having unanimously selected the brewery workers union as their bargaining agency. Its product, known as Old Empire Beer, has been declared unfair by the Bartenders' Union Local 624, the Teamsters Union Local 524, and by the Yakima Central Labor Council. This declaration was in line with the policy of the officers of the Teamsters Union in this State, and was based solely upon the ground that the drivers employed by the brewing company were members of the brewery workers union, instead of belonging to the teamsters union.

Respondent, Leo Delorme, commenced the purchase of Old Empire beer on or about December 1, 1938, whereupon the original defendants in the action, International Bartenders' Union, Local 624, and the individual defendants, picketed respondent's tavern as unfair, simply because respondent purchased and sold the beer manufactured by United Union Brewing Co. Respondent is simply caught between the upper and nether millstones composed of the rival unions, which are waging an internecine warfare within the A.F. of L., the prize of victory to be the control of the truckdrivers who deliver brewery products. *United Union Brewing Co.* v. *Beck* (200 Wash., 474, 93 P. 2d 772).

The trial court's finding that the Teamsters Union had participated actively on behalf of the defendants on the trial of this action, and the other findings of the court above referred to, are amply supported by the record. Since the entry of the original decree, respondent has experienced much difficulty in obtaining supplies of merchandise necessary for the conduct of his business. The wholesalers in the city of Yakima have agreed with the Teamsters Union that they will employ as truckdrivers only persons who are members of that union, and that they will deliver no merchandise for transportation save to drivers who are members of that union. Relying upon these contracts, members of the Teamsters Union have refused to deliver merchandise to respondent, who has for this reason been greatly handicapped in the conduct of his business.

Respondent, believing that these appellants had, as truckdrivers, unlawfully refused to deliver at his place of business merchandise which he had purchased and paid for, and which the dealers from whom he had purchased the merchandise had requested appellants to deliver to respondent, filed in this cause affidavits stating these facts, and asking for an order directed to appellants, requiring them to appear before the court at a date fixed in the order and show cause why they should not be compelled by coercive process to abide by the terms of the original decree entered in this cause, under penalty of punishment as for contempt of court. An order having been issued and served upon appellants, they, with their counsel, appeared before the court in compliance therewith.

Appellants appeared at the hearing, but filed no answer. Their counsel moved to quash the order to show cause, on the ground that his clients were not parties to the injunction suit. The court reserved its ruling on the motion, which was later denied. Respondent then introduced testimony in support of his application, and called each one of the appellants to the witness stand as a witness on his behalf. Each of the appellants testified that he was a member of the Teamsters Union, was employed by a wholesaler in Yakima, and that he had refused to deliver merchandise which had been ordered by respondent from his employer, although his employer had requested him to make such delivery. When asked to state the reason for his refusal to deliver the merchandise to respondent at his place of business, each appellant refused to testify, on the ground that his answer might incriminate him.

Respondent introduced testimony to the effect that shortly after the entry of the decree, the Teamsters Union picketed respondent's tavern, but the evidence fails to disclose how long such picketing continued. Testimony was also introduced showing that respondent was at times denied, at business houses at Yakima, delivery of merchandise needed in the conduct of his business, notwithstanding the fact that his own truck was ready to carry the product.

It also appears from the evidence that local 624 of the Bartenders' Union of Yakima and the local of the Teamsters Union are members of the Yakima Central Labor Council, and that Old Empire beer had been declared unfair by that council, as well as by the bartenders and the teamsters locals.

From the testimony it clearly appears that all of the activities of the two local unions complained or by respondent were carried on pursuant to a common plan to injure respondent in his business, because he sold Old Empire beer, which was objectionable to the local unions referred to, for the reason that it was a product manufactured by a brewery whose truckdrivers were members of the brewery workers union.

That the acts of the union injured respondent in the conduct of his business and resulted in great annoyance and financial loss, is beyond question.

No bona fide labor dispute exists between the Teamsters Union or any of its members and the respondent in this action.

Appellants argue that as they were not parties to the action as originally instituted but had merely been brought in by an order to show cause after the entry of the decree, it should be held that this proceeding is punitive or criminal in its nature, and should have been instituted in the name of the State of Washington, pursuant to Rem. Rev. Stat. § 1054. In support of this argument, appellants cite *In re Harrington's Estate*, 163 Wash. 516, 1 P. 2d 850. In the case cited, it appeared that the proceeding was designed to punish an attorney for his failure to comply with an order of the court in a probate proceeding, directing him to restore to the estate money which the court held he had illegally obtained from the administratrix. The court directed that the contumacious attorney pay a fine of $100 and costs, and be imprisoned until he paid the same. This court held that it appeared that the proceeding was purely punitive in its nature and should have been instituted in the name of the State.

Appellants also cite other cases, including *State ex rel. Dailey* v. *Dailey*, 164 Wash. 140, 2 P. 2d 79, in which we held that the proceeding was in its nature both civil and criminal, and that a judgment which was not coercive, but purely punitive, was properly entered.

[1] In the case at bar, respondent sought relief against appellants by way of a coercive, and not a punitive, order. The court properly held that it was not necessary that the proceeding be instituted in the name of the State, and that relief might be granted respondent by way of enforcement of the original decree against appellants. *Wright* v. *Suydam*, 79 Wash. 550, 140 P. 578; *State ex rel. Tefft* v. *Superior Court*, 143 Wash. 677, 255 P. 1026; *State ex rel. Dailey* v. *Dailey*, supra; *Feek* v. *Feek*, 187 Wash. 573, 60 P. 2d 686.

Appellants argue that because neither they, individually, nor the union to which they belonged were parties to the original suit, appellants may not be brought into the case subsequent to the entry of the decree by an order to show cause, and after hearing thereon, be required to observe the provisions of the decree.

[2] Beyond question, the local teamsters union so concerned itself with the trial of the action that its officers and members became bound by the terms of the decree. The record shows that appellants knew of the decree, and were fully advised concerning the same. By their acts, appellants have demonstrated that they are motivated by a unity of purpose with the officers of their own union and by the bartenders local union, one of the defendants in the action. The activities in which appellants have engaged are so tied in with the acts of the original defendants in the action as to demonstrate

that they have been carried on in connection with a plan to interfere with the conduct of respondent's buisness, to his detriment. From these facts, it must be held that appellants have been guilty of acts in violation of the decree by which they are bound, and that the trial court properly held that they had intentionally and knowingly violated the decree, and stood in contempt of court. *State v. Nicoll*, 40 Wash. 517, 82 P. 895; *State ex rel. Lindsley* v. *Grady*, 114 Wash. 692, 195 P. 1049, 15 A.L.R. 383; *Ex parte Lennon*, 166 U.S. 548, 17 S. Ct. 658, 41 L. Ed. 1110.

Appellants next argue that the order from which they have appealed is void, at least insofar as it contains mandatory provisions. They argue that it commands their future conduct in a manner which the court will not be able to supervise, and also that it violates the 13th amendment to the Federal Constitution, forbidding involuntary servitude.

(3) A court of equity is not without authority to require a person subject to its jurisdiction to perform such affirmative acts as it is his duty to perform, and in proper cases a mandatory injunction may be issued without violating the 13th amendment. Ex parte Lennon, supra.

(4) As we have stated, there is no bona fide labor dispute to which respondent is in any way a party. Respondent is engaged in a lawful business which he is conducting in a lawful way. While any individual has a right to deal or not to deal with any particular person or firm, a concerted agreement between a number of persons to harass another in the conduct of his business, whether for the sole purpose of injuring him or with intent to indirectly injure another, may amount to an illegal conspiracy in violation of law. *Grenada Lumber Co.* v. *Mississippi*, 217 U.S. 433, 30 S. Ct. 535, 54 L. Ed. 826; *Eastern States Retail Lumber Dealers' Ass'n* v. *United States*, 234 U.S. 600, 34 S. Ct. 951, 58 L. Ed. 1490, L.R.A. 1915A, 788; *Martell* v. *White*, 185 Mass. 255, 69 N.E. 1085, 64 L.R.A. 260, 102 Am. St. Rep. 341; *Ertz* v. *Produce Exchange Co.*, 79 Minn. 140, 81 N.W. 737, 48 L.R.A. 90, 79 Am. St. Rep. 433.

(5) The fact that respondent buys and sells a brand of beer brewed by a manufacturer with whom the Teamsters Union is waging a so-called jurisdictional dispute affords no sufficient excuse for the acts of the Teamsters Union and its members, either in boycotting respondent or in interfering with respondent's conduct of his business, to his loss.

Appellants were called as witnesses by respondent. Each admitted his refusal to deliver merchandise ordered and in some cases paid for by respondent, to him at his place of business, although their respective employers had directed such deliveries. Appellants offered no excuse or explanation of their conduct. When pressed for such an explanation, they declined to answer, upon the ground that their answers might incriminate them. The record shows an unlawful conspiracy to hamper respondent in the carrying on of his business, and supports the trial court's finding that each of appellants was guilty of violating the court's decree.

The trial court correctly found that appellants were in contempt, and that portion of the decree appealed from is affirmed.

[6] The portion of the decree entered by the trial court containing a mandatory injunction requiring appellants to deliver products and commodities from their respective employers' establishments to the respondent, Leo Delorme, appears to be subject to valid objection, and seems unncessary in view of the fact that the court afforded to appellants an opportunity to purge themselves of the contempt which the court adjudged against them. The following paragraph will, therefore, be substituted for the last two paragraphs above quoted from the decree appealed from:

It is further ordered and adjudged that respondents, or any of them, may purge themselves of the contempt which the court has adjudged against them, severally, by, from the effective date of this decree, in a lawful and proper manner, delivering to plaintiff, Leo Delorme, at his place of business, or elsewhere, as may be directed, such commodities or merchandise as their respective employers may turn over to them for carriage to plaintiff, and by continuing to deliver to plaintiff such merchandise under the same conditions and in the same manner as deliveries are made by them to any other person in the normal course of business, so long as this decree stands unmodified.

If appellants fail to purge themselves of the contempt in which they stand before the court, the court may, of course, proceed against them upon the adjudged contempt, and mete out such punishment as in the exercise of the court's sound discretion may seem appropriate.

Simpson, C.J., and Steinert, Robertson, Grady, Jeffers, and Millard, JJ., concur.

Justice BLAKE (dissenting). Appellants interposed a motion to quash the show-cause order, upon which they were hailed into court, on the ground that the charge constituted a criminal contempt in contemplation of Rem. Rev. Stat. § 1049; and, therefore, the proceeding could be initiated and maintained only by the prosecuting attorney on behalf of the State, in accordance with Rem. Rev. Stat. § 1054.

I think the motion was well taken and should have been granted. Obviously, the purpose of the proceeding was to punish appellants for violation of the court's decree of March 13, 1939. To punish was the full extent of the court's power in the matter. As I read it, that is the substance of the holding in the majority opinion. Clearly, the facts of record bring this proceeding within the category of criminal contempt as defined by this court; therefore, the proceeding must be instituted and maintained by the prosecuting attorney on behalf of the State in accordance with Rem. Rev. Stat. § 1054. *In re Coulter*, 25 Wash. 526, 65 P. 759; *In re Harrington's Estate*, 163 Wash. 516, 1 P. 2d 850. In the former case, the court said, 25 Wash. at page 529, 65 p. at page 760: "When, therefore, the lower court proceeded to punish the petitioner without following the prescribed procedure, it proceeded illegally, and without authority of law. It is no answer to say that the facts were brought before the court by the return of the officer. If the court may derive knowledge of the violation of its order from this source, it may, from any other source, even the oral statement of a stranger to the proceedings. More than this, the staute is imperative."

And, in the latter, 163 Wash. at page 519, 1 P. 2d at page 851: "This is a contempt proceeding. It was instituted to punish the appellant for disobedience of the court's order. It is criminal and punitive in its nature. For violation of the order to restore to the estate the money he had borrowed therefrom, the court found the appellant guilty of contempt, fined him $100 and costs, and committed him to prison to there remain until such fine and costs were paid.

* * * * *

"The proceeding being criminal in its nature—the object of the proceeding was punishment—the state is the real prosecutor, and under our statute the proceeding should have been brought in the name of the state."

In attempting to make the decree of March 13, 1939, coercive by broadening it into a mandatory order directed to respondent, the trial court could not transform that which was necessarily a criminal contempt into a civil contempt. The majority have, it seems to me, recognized this by striking the mandatory features from the order of contempt.

I dissent.

(Mallery, J., concurs with Blake, J.)

[Supreme Court of Florida, en Banc, March 27, 1942]

HENDERSON v. COLEMAN, SHERIFF

1. Injunction 🔑223(2): Where longshoremen's union had unanimously voted not to unload cargo to trucks operated by certain corporation, and it did not appear that officers of union counseled union members to take such course, or were in any way responsible for it, mere fact that officers informed another company with which union had contract for unloading of cargo of action taken by union members did not warrant contempt proceeding against union officers for violation of injunction against "hindering" truck operator in the due course of its business.

(See Words and Phrases, Permanent Edition, for all other definitions of "Hindering".)

2. Constitutional law 🔑83(2): One may not be forced to work for another against his will. Const. Declaration of Rights, § 19.

3. Constitutional law 🔑83(2): Where there was no contractual relation between longshoremen's union and a truck operator, an injunction requiring members of union to load or unload trucks of such operator would violate constitutional provision against "involuntary servitude". Const. Declaration of Rights, § 19.

(See Words and Phrases, Permanent Edition, for all other definitions of "Involuntary Servitude".)

4. Habeas corpus 🔑22(2): Where record clearly showed that act charged and found as a violation of an injunction did not violate such injunction, the contempt proceedings were reviewable on habeas corpus.

Adams, J., dissenting.

Original proceeding by Judge Henderson for a writ of habeas corpus addressed to D. C. Coleman as county sheriff of the County of Dade, State of Florida.

Petitioner discharged.

Gramling & Gramling, of Miami, for petitioner.

J. Tom Watson, attorney general, and Woodrow M. Melvin, special assistant attorney general, for respondent.

Justice BUFORD. This is an original proceeding in habeas corpus and we here review an order of the Honorable George E. Holt as Circuit Judge in and for Dade County, Fla., in the following language, to wit: "In the name of and by authority of the State of Florida: To All and Singular the Sheriffs of the State of Florida, Greetings:

"The above styled cause coming on to be heard before me, the undersigned, on January 16, 1942, upon the rule to show cause heretofore issued herein on December 13, A.D. 1941, directed to Judge Henderson and Charles Lockhart, the president and the secretary, respectively, of the Longshoremen Association, Local Union No. 1416, requiring the said Judge Henderson and the said Charles Lockhart, and each of them, to be and appear before this court on January 5, A.D. 1942, at 10 a.m. and then and there to show cause, if any they can, why they, and each of them, should not be adjudged in contempt of this court for the alleged violation by them of the temporary restraining and mandatory injunction order rendered in this cause on December 23, A.D. 1941, each of said respondents having had due notice of the issuance of said order by this court, and the contents thereof, and said hearing having been postponed by this court, at the request of the solicitors for the said respondents, until January 15, 1942, and at the request of the solicitors for said respondents, said hearing was again postponed until January 16, 1942, and on said date of January

16, 1942, all interested parties appearing before this court and being present in court with their respective solicitors of record; and the court having duly heard a great volume of testimony adduced before the court by the parties, and having heard argument of the solicitors of record for the respective parties; and it appearing unto this court, and this court finding that from the testimony adduced before this court, that the statements, acts, and deeds of said Judge Henderson and Charles Lockhart, and each of them, as testified to before this court, are in direct contravention and disobedience of the temporary restraining and mandatory injunction order rendered in this cause on December 23, A.D. 1941; and the court being fully advised in the premises, upon consideration thereof, it is thereupon:

"*Ordered, adjudged and decreed by the court*, That the said Judge Henderson and Charles Lockhart, and each of them, be and they hereby are adjudged to be in contempt of this court, for their failure, as president and secretary, respectively, of the Longshoremen Association, Local Union No. 1416, to obey and comply with the restraining order and mandatory injunction rendered in this cause on December 23, 1941, by this court, and to show any reasonable or legitimate cause why they, and each of them, failed to obey and comply with said order and decree of this court; and it is further,

"*Ordered, adjudged and decreed*, That the statements, acts and deeds and testimony of each of said respondents, Judge Henderson and Charles Lockhart, are in direct contravention and disobedience of the order and decree of this court rendered in this cause on December 23, A.D. 1941, and that said statements, acts and deeds unjustly and unfairly and arbitrarily discriminate against the plaintiff's legal rights as enunciated and set forth in the order of this court rendered herein on December 23, A.D. 1941, and intimidates plaintiff's customers, hinders, delays and interferes with the conduct of plaintiff's business, in the due course of trade; and it is further,

"*Ordered, adjudged and decreed*, That the Sheriff of Dade County, Fla., be, and he is hereby commanded, to take into his custody the said Judge Henderson and Charles Lockhart and that they, and each of them, be, and they hereby are ordered to be committed to the County Jail of Dade County, Fla., for a period of 30 days, and that at the end of said 30-day period of confinement, that said Judge Henderson and Charles Lockhart, and each of them, do pay a fine of $500, or that in default thereof, that said Judge Henderson and Charles Lockhart, and each of them, shall serve an additional 30 days in the County Jail of Dade County, Fla.

"Done and ordered in chambers at Miami, Dade County, on this 19th day of January, A.D. 1942."

The record shows that on the 23d day of December 1941, the said Honorable George E. Holt, as judge of the circuit court in and for Dade County, entered a certain restraining order, as follows:

"The above cause came on to be heard upon application of plaintiff for a temporary injunction, and restraining order, without notice; this application was denied and defendants and their counsel were apprised of said application and appeared before the court and argued the same; defendants requested time within which to file their answer which was granted. The cause was then set for final hearing, testimony was taken, argument of counsel for the respective parties had, and testimony adduced; defendants advised that at this time they are unable to produce two witnesses; from the proffer of their testimony the court concludes that if adduced such would not change the opinion of the court; and upon request of counsel for defendants leave is granted to complete the record at a later date; and there being no objection to the issuance of this order at this time; the court finds that this cause comes clearly within the holding of the Supreme Court of Florida, the case of *Retail Clerks Union Local 779* v. *Lerner Shops of Florida, Inc.*, decided December 5, 1939, found in [140 Fla. 865], 193 So. 529 [530], and particularly that paragraph found therein as follows: 'The law is settled in this country that a labor organization may picket one's place of business for certain specified purposes, but here there is no showing whatever that such purposes are in being. It is not shown that appellee has been unfair to appellant, there was no strike, no complaint about working conditions, or hours of work, in fact there was no controversy whatever between appellee and its employees.'

"This cause (*Retail Clerks Union Local 779* v. *Lerner Shops of Florida, Inc.*, *supra*) being the law in this State under the facts thereof, this court finds:

"Plaintiff is entitled to the relief prayed, and it is thereupon ordered, adjudged and decreed that the defendants, the Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 390 Union, affiliated with the American Federation of Labor, and J. S. Kelso, as business representative of the Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 390, and the Longshoremen Association, Local No. 1416, Union, and each of them, their officers, agents, servants, employees and successors in office, and members and representatives, and all persons combining and conspiring with them and all other persons whomsoever, and each and every of them, be and they hereby are temporarily enjoined and restrained from picketing plaintiff's place of business at No. 132 NE. 11th Street, Miami, Fla., and from combining and conspiring with all persons whomsoever against plaintiff, its officers, servants, agents and employees, and customers and prospective customers, and refrain from in any way or manner displaying signs, placards, or other writings, either by oral words or by signs, near the entrance to plaintiff's place of business at No. 132 NE. 11th Street, Miami, Fla., and on the sidewalks in front of the plaintiff's place of business, or at any other place in the vicinity of plaintiff's said place of business that would in any way advertise, suggest or intimate that plaintiff is in anywise unfair to organized labor, or to members of the Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 390, Union, affiliated with the American Federation of Labor, and the Longshoremen Association, Local No. 1416, and from interfering with the business of plaintiff by intimidation, coercion, or threats against the plaintiff, its officers, agents, or employees, or its place of business, or its customers or prospective customers, and from interfering with the free movement of the plaintiff's employees in their ingress and egress to and from the plaintiff's said place of business, and from their respective homes to the plaintiff's said place of business and return, or with the ingress of egress of customers or prospective customers to the plaintiff's said place of business, and from in any way or manner making or causing to be made false statements, malicious and covert implications against plaintiff's business, and from in any manner whatsoever molesting plaintiff, its officers, servants, agents and employees, by acts of coercion and intimidation with the operation of its business, and in any way or manner hindering plaintiff in the due course of its business.

"Done and ordered in chambers at Miami, Fla., this 23d day of December A.D. 1941."

On December 30, 1951, Collins Transport & Trading, Inc., a Florida corporation, filed its petition against the relators for rule to show cause why they should not be held in contempt of court for violating the foregoing restraining order and on the same date rule to show cause was issued directed to the relators, Judge Henderson and Charles Lockhart, in the following language: "Now, therefore, we being willing that full and speedy justice be done in the premises, do command you, Judge Henderson, individually, and as the president and representatives of the Longshoremen Association, Local No. 1416, Union, and Charles Lockhart, individually, and as the business agent and representative of said Longshoremen Association, Local No. 1416, Union, and each of you, to be and appear personally before the Honorable George E. Holt, one of the circuit judges of the 11th Judicial Circuit of Florida, Dade County, in chambers, at the courthouse, in the city of Miami, Dade County, Fla., at 12 o'clock M., noon, on the 5th day of January A.D. 1942, and then and there to show cause, if any you can, why you should not be adjudged guilty of contempt of this court for violation of the injunction as described and prayed for in said petition.

"Done and ordered in chambers, at Miami in Dade County, Fla., this 30th day of December A.D. 1941."

And, thereafter, the order complained of was entered.

The charge made against Henderson and Lockhart was that they violated the injunctive order in the following manner, to wit:

"The Longshoremen Association, Local No. 1416, Union, their officers, agents, servants, employees, and members and representatives have combined and conspired against plaintiff, its officers, agents, and employees, and its business, and its customers and have maliciously and wilfully interfered with the free movement of the business of the plaintiff, and has hindered plaintiff in the due course of its business in that, on December 28, 1941, the president of the Longshoremen Association, Local No. 1416, Union, to wit: Judge Henderson, called a customer of plaintiff on the telephone, Albury & Co., and informed Mr. Earl Albury of that company that if they used the trucks of 'Collins' (plaintiff herein) that the men wouldn't work, meaning the members of the Longshoremen Association, and that on said date the business agent of said Longshoremen Association, Local No. 1416, Union, to wit: Charles Lockhart, likewise called Albury & Co. and informed Mr. Earl Albury of that company that if they used 'Collins' trucks that the men wouldn't work, and that the members of the Longshoremen Association have failed and refused to load the trucks of plaintiff at the docks in the city of Miami, Fla., or to perform their usual and customary duties in connection with any business of the plaintiff, all directly in violation of the order of this court made and entered on December 23, 1941; and that such acts, conduct, and threats on the part of said Judge Henderson, the president of the Longshoremen Association, Local No. 1416, Union, and Charles Lockhart, the business agent of said Longshoremen Association, and the members of said Longshoremen Association are in direct contempt and violation of the order of this court made and entered herein on December 23, 1941.

"Wherefore, and by reason of the above, petitioner prays that this court enter an order herein directing the said Judge Henderson, individually, and as president and representative of the Longshoremen Association, Local No. 1416, Union, and Charles Lockhart, individually and as the business agent and representative of said Longshoremen Association, Local No. 1416, Union, to show cause before this court on a certain date to be fixed by this court, why they, and each of them, should not be adjudged guilty of contempt of this court for violation of said injunction order."

Now the only part of the injunctive order which the allegations of the petition for rule nisi could be assumed to refer to was the last phrase thereof, viz: "and in any way or manner hindering plaintiff in the due course of its business". There is no allegation in the petition for rule nisi that either Henderson or Lockhart had any control over the members of Longshoremen Association, Local No. 1416, Union, and neither is it alleged that either of them was responsible for the members of the Union refusing to work in loading freight to and from "Collins" trucks. Nor is it alleged that either Henderson or Lockhart had the power either to compel the members of the local to perform such work or to desist from performing such work. Nor is it alleged or proved that either Henderson or Lockhart either advised, persuaded or counseled the members of local No. 1416 after the injunctive order was served as to what action such members, either individually or collectively, should take in regard to handling freight to and from "Collins" trucks.

[1] It is shown that at the meeting at which the members voted unanimously to do nothing whatever in connection with the loading or unloading of such trucks, Lockhart was not even present and that Henderson did not vote on the question and that he was not a worker at the docks. But it is contended that because Henderson and Lockhart communicated with Albury & Co. and advised that Company that the men of the Longshoremens Local No. 1416 would not handle certain freight which was expected to arrive at the docks to "Collins" trucks, that such action on their part constituted a violation of the injunctive order. We cannot concur in this conclusion because the record shows that prior to that time this local had negotiated with Albury & Co. for a raise of 10 cents per hour per man in the pay for unloading that particular cargo and that Albury & Co. had agreed to pay the 10 cents per hour raise and was, therefore, depending on those longshoremen to unload the cargo. When the membership of the local by unanimous vote, had determined not to work in unloading a cargo which was to be handled by "Collins" trucks the officers, Henderson and Lockhart, were directed to notify Albury & Co. of this condition, which was done. It appears that this action was the course which fairness to Albury & Co. demanded, in the light of the agreement which had been reached between Albury & Co. and the local, as stated above.

The judgment of contempt does not state what, if any, acts were done by either of the relators which violated the injunctive order. Our conclusion is that the petition for rule nisi was too vague, indefinite, and uncertain to constitute a proper basis for the issuance of a rule nisi and also that the judgment of contempt fails to adjudicate the Commission of those acts by the relators which constituted a violation of the injunctive order.

In the case of *Palm Corporation* v. *Walters et al.*, Fla., 4 So. 2d 696, 699, we said:

"Appellant's final contention is that the decree is insufficient and unenforceable because it does not set forth with sufficient specification the acts or conduct of the respective defendants, as occupants of separate parts of the building, which are to be restrained.

"The order is too indefinite in expressing its application to the particular defendant who is the appellant here and the statements of the acts are not sufficiently clear to apprise the defendants below what they must refrain from doing.

"Acts or things enjoined as nuisances should be specified with reasonable definiteness, considering their nature and character, for if not sufficiently definite in statement the decree may not be sustained. (See 28 Am. Jur. 473, sec. 300; 32 C.J. 368, sec. 620, and cases cited. See, also, *Guaranty Co.* v. *Luning*, 95 Fla. 103, 116 So. 9.) It would be impossible to state a precise rule to follow in applying this requirement, for some things, in reason and justice, may not be capable of a statement as exact as others, however, the final decree here does not appear to be sufficiently definite in its description of the acts enjoined or in its specification of those acts which are chargeable to the respective occupants of the building. It is true the decree follows the allegations sustained by the evidence, and then enjoins defendants from making or permitting to be made on the hotel premises, '* * * noises that may be annoying or disturbing to those occupying the building known as the Walters Building, Miami Beach, Fla. * * *', but this provision of the decree is entirely too general. The decree should be so definite that a violation by either occupant could be adjudicated and determined with accuracy."

The most that is alleged in the petition is that each of the relators advised certain persons doing business as Albury & Co. that if that company used the trucks of "Collins" the members of the Longshoremen Association, Local No. 1416, Union would not work.

The record shows that this information was given after the members of the union had held a meeting and had determined by a majority vote not to serve in either loading or unloading "Collins" trucks.

[2, 3] We are not advised of any rule of law under which any man in this country will be forced to serve with his labor any other man whom he does not wish to serve.

Section 19 of the Declaration of Rights of our Constitution provides: "Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party has been duly convicted, shall ever be allowed in this State."

If the injunctive order be construed to mean that the officers and members of the Longshoremen Association, Local No. 1416 were thereby required to load or unload the trucks of "Collins" although there was no contractual relation between the local and Collins, then such construction would violate the constitutional provision above referred to. We think it will not be contended that any member of the local could be committed to jail for refusing to load or unload the "Collins" trucks. That service required the performance of manual labor and it is beyond the power of courts to punish one by imprisonment for failure to engage in involuntary servitude.

The record shows that the members of the union held a meeting after the injunctive order was served on Henderson and Lockhart and there the membership was advised of the injunctive order and the membership then and there discussed the matter and by unanimous vote determined not to report at the dock for work and directed Henderson and Lockhart to advise Albury & Co. that the members of the local would not load or unload the "Collins" trucks; that the members of the union would not interfere with the loading or unloading of the trucks, but would remain away from the docks.

There can be no doubt that if in the face of the injunctive order Henderson and Lockhart, or either of them, had been shown to have affirmatively counseled and advised the members of the local to obstruct plaintiff's business by refusing to handle freight in connection with plaintiff's trucks, this action on their part would have properly been construed as a violation of the injunctive order, but it is neither alleged nor proved that either of them took such action.

[4] Under the factual conditions shown to exist in this case the order challenged may be reviewed on habeas corpus. (See *Ex parte Bostwick*, 102 Fla. 995, 136 So. 669; *Ex parte Earman*, 85 Fla. 297, 95 So. 755, 31 A.L.R. 1226; *State* v. *Lehman*, 100 Fla. 481, 129 So. 818; *Ex parte Bowen*, 25 Fla. 214, 6 So. 65.)

For the reasons stated, the defendant is discharged.

So ordered.

(Brown, C. J., and Whitfield, Terrell, Chapman, and Thomas, JJ., concur. Adams, J., dissents.)

BROWNING *v.* SLENDERELLA SYSTEMS OF SEATTLE, WASH.

Judge MALLERY (dissenting). Because respondent is a Negress, the Slenderella Systems of Seattle, a private enterprise, courteously refused to give her a free reducing treatment, as advertised. She thereupon became abusive and brought this civil action for the injury to her feelings caused by the racial discrimination.

This is the first such action in this State. In allowing respondent to maintain her action, the majority opinion has stricken down the constitutional right of all private individuals of every race to choose with whom they will deal and associate in their private affairs.

No sanction for this result can be found in the recent segregation cases in the U.S. Supreme Court involving Negro rights in public schools and public buses. These decisions were predicated upon section 1 of the 14th amendment to the U.S. Constitution, which reads: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

In the pre-Warren era, the courts had held that the privileges of Negroes under the 14th amendment, supra, were not abridged if they had available to them public services and facilities of equal quality to those enjoyed by white people. The Warren antisegregation rule abandoned that standard and substituted the unsegregated enjoyment of public services and facilities as the sole test of Negro equality before the law in such public institutions.

The rights and privileges of the 14th amendment, supra, as treated in the segregation decisions and as understood by everybody, related to public institutions and public utilities for the obvious reason that no person, whether white, black, red, or yellow, has any right whatever to compel another to do business with him in his private affairs.

No public institution or public utility is involved in the instant case. The Slenderella enterprise was not established by law to serve a public purpose. It is not a public utility with monopoly prerogatives granted to it by franchise in exchange for an unqualified obligation to serve everyone alike. Its employees are not public servants or officers. It deals in private personal services. Its business, like most service trades, is conducted pursuant to informal contracts. The fee is the consideration for the service. It is true the contracts are neither signed, sealed, nor reduced to writing. They are contracts, nevertheless, and, as such, must be voluntarily made and are then, and only then, mutually enforcible. Since either party can refuse to contract, the respondent had no more right to compel service than Slenderella had to compel her to patronize its business.

There is a clear distinction between the nondiscrimination enjoined upon a public employee in the discharge of his official duties, which are prescribed by laws applicable to all, and his unlimited freedom of action in his private affairs. There is no analogy between a public housing project operated in the Government's proprietary capacity, wherein Negroes have equal rights, and a private home where there are no public rights whatever and into which even the king cannot enter.

No one is obliged to rent a room in one's home; but, if one chooses to operate a boarding house therein, it can be done with a clientele selected according to the taste or even the whim of the landlord. This right of discrimination in private businesses is a constitutional one.

The ninth amendment to the U.S. Constitution specifically provides: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

All persons familiar with the rights of English speaking peoples know that their liberty inheres in the scope of the individual's right to make uncoerced choices as to what he will think and say; to what religion he will adhere; what occupation he will choose; where, when, how, and for whom he will work, and generally to be free to make his own decisions and choose his courses of action in his private civil affairs. These constitutional rights of law-abiding citizens are the very essence of American liberties. For instance, they far outweigh in importance the fifth amendment to the U.S. Constitution which excuses criminals from giving evidence against themselves. It was, in fact, an afterthought. Our constitutional forefathers were chiefly concerned with the rights of honest men. They would have specified their rights with the same particularity that they did in regard to criminals if they had foreseen that courts would become unfamiliar with them.

In a Saturday Evening Post article of April 4, 1959, page 32, entitled "When a Negro Moves Next Door," a Negro, who had bought a house in the white district of Ashburton in Baltimore, told the assembled neighbors:

"If you want to protect your home and your way of life * * * continue living in your own home.

* * * * *

"Don't think you can escape the problem simply by putting your house up for sale and running away * * *. Even if you move far out in the suburbs * * * There will be Negroes living near you.

"As a matter of fact, * * * if this area turns all Negro, I plan to move out to the suburbs with you."

If he does make such a move, he will be discriminating against Negroes. This he has a right to do for discrimination is but another word for free choice. Indeed, he would not be free himself if he had no right so to do. In dealings between men, both cannot be free unless each acts voluntarily, otherwise one is subjected to the other's will.

Cash registers ring for a Negro's as well as for a white man's money. Practically all American businesses, excepting a few having social overtones or involving personal services, actively seek Negro patronage for that reason. The few that do not serve Negroes adopt that policy either because their clientele insist upon exclusiveness, or because of the reluctance of employees to render intimate personal service to Negroes. Both the clientele and the business operator have a constitutional right to discriminate in their private affairs upon any conceivable basis. The right to exclusiveness, like the right to privacy, is essential to freedom. No one is legally aggrieved by its exercise.

No sanction for destroying our most precious heritage can be found in the criminal statute cited by the majority opinion. It does not purport to create a civil cause of action. The statute refers to "place[s] of public resort." This phrase is without constitutional or legal significance. It has no magic to convert a private business into a governmental institution. If one man a week comes to a tailor shop, it is a place of public resort, but that does not make it a public utility or public institution, and the tailor still has the right to select his private clientele if he chooses to do so. As a matter of fact, the statute in question is not even valid as a criminal statute. Obviously, this is not the occasion, however, to demonstrate its unconstitutionality.

The majority can find no sanction for violating the constitutional rights of the appellant by citing the conflicting decisions of foreign states for two conclusive reasons. (1) Only this court can declare the law or set a precedent in Washington. (2) Foreign courts are in substantial conflict on so many questions of law that they can neither be harmonized nor followed. Practical uniformity of laws has been attained between the States only by the uniform acts passed by the several legislatures.

The majority opinion violates the 13th amendment to the U.S. Constitution. It provides, inter alia: "Neither slavery nor involuntary servitude * * * shall exist within the United States * * *."

Negroes should be familiar with this amendment. Since its passage, they have not been compelled to serve any man against their will. When a white woman is compelled against her will to give a Negress a Swedish massage, that too is involuntary servitude. (*Henderson* v. *Coleman*, 1950 Fla. 185, 7 So. 2d 177.)

Through what an arc the pendulum of Negro rights has swung since the extreme position of the Dred Scott decision: Those rights reached dead center when the 13th amendment to the U.S. Constitution abolished the ancient wrong of Negro slavery. This Court has now swung to the opposite extreme in its opinions subjecting white people to "involuntary servitude" to Negroes.

I dissent.

(Ott, J., concurs.)

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. ERVIN. I yield myself an additional 30 seconds.

By the 13th amendment, involuntary servitude was abolished in the United States. My amendment presents squarely to the Senate the question whether it will recognize that fact.

On my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KUCHEL. Mr. President, I yield myself 30 seconds.

The amendment now before the Senate would make a complete mockery of title II, the public accommodations section, a section which is reflected in the statutes of more than half the States of the American Union today. The amendment ought to be overwhelmingly rejected.

Mr. ERVIN. Mr. President, I yield myself 30 more seconds.

The bill, in title II, makes a mockery of the 13th amendment. That is what I am trying to correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from Arizona [Mr. HAYDEN], the Senator from Louisiana [Mr. LONG], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE] would vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Maryland [Mr. BREWSTER].

If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Maryland would vote "nay."

Mr. KUCHEL. I announce that the Senator from Delaware [Mr. BOGGS] and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent and, if present and voting, would each vote "nay."

The Senator from Vermont [Mr. PROUTY] is absent on official business, and, if present and voting, would vote "nay."

The Senator from Arizona [Mr. GOLDWATER] is detained on official business.

The result was announced—yeas 21, nays 68, as follows:

[No. 299 Leg.]

YEAS—21

Bennett
Byrd, Va.
Byrd, W. Va.
Eastland
Ellender
Ervin
Hill
Holland
Johnston
Jordan, N.C.
McClellan
Mechem
Robertson
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters

NAYS—68

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—11

Boggs
Brewster
Engle
Fulbright
Goldwater
Gore
Hayden
Long, La.
Prouty
Saltonstall
Yarborough

So Mr. ERVIN's amendment was rejected.

Mr. DIRKSEN. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HUMPHREY. Mr. President, I move to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. HILL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll; and the following Senators answered to their names:

[No. 300 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Burdick

Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Robertson
Russell
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

The bill is open to further amendment.

Mr. SMATHERS. Mr. President——

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. SMATHERS. Mr. President, I call up my amendments, No. 569 and ask that they be stated.

The PRESIDING OFFICER. The amendments of the Senator from Florida will be stated.

The legislative clerk proceeded to read the amendments.

Mr. SMATHERS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments offered by the Senator from Florida are as follows:

On page 40, line 7, insert "AGE," immediately after "RELIGION,".

On page 40, line 15, insert "age," immediately after "sex,".

On page 40, line 21, insert "age," immediately after "sex,".

On page 41, line 1, insert "age," immediately after "sex,".

On page 41, line 3, insert "age," immediately after "sex,".

On page 41, line 8, insert "age," immediately after "sex,".

On page 41, line 16, insert "age," immediately after "sex,".

On page 42, line 1, insert "age," immediately after "sex,".

On page 42, line 13, insert "age," immediately after "sex,".

On page 42, line 14, insert "age," immediately after "sex,".

On page 44, line 14, insert "age," immediately after "sex,".

On page 45, line 1, insert "age," immediately after "sex,".

On page 45, line 11, insert "age," immediately after "sex,".

On page 46, line 8, insert "age," immediately after "religion,".

On page 46, line 11, insert "age," immediately after "religion,".

On page 46, line 12, insert "age," immediately after "religion,".

On page 67, line 16, strike out "1964" and insert in lieu thereof "1965."

On page 67, line 18, insert "additional" immediately preceding "legislation".

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Florida.

Mr. SMATHERS. Mr. President, I yield myself 5 minutes. I should like to be notified at the expiration of 5 minutes.

Mr. President, title VII, as I understand, is calculated to eliminate job discrimination. It goes to great lengths to set up standards by which job discrimination, on account of race, color, religion, or sex, will be eliminated. But there is one great void in that particular section. There is one great area in which there is considerable discrimination that the section overlooks. In fact, I believe I can establish that there is more discrimination in this area, without basis and without justification, than in any other area. That is discrimination with respect to age.

For several years the Special Committee on Aging has been conducting studies as to how much discrimination there is throughout our economic system because of people's age. Very briefly I should like to read some of the statistics. I shall not take too long a time, but I am certain Senators will find them startling.

The study was prepared by the White House Conference on Aging. The Conference conducted a study in the city of St. Louis, Mo. The study showed that a job applicant 35 years old would automatically be excluded because of his age from 16.9 percent of the job openings reported. The report goes on to show that if a man is 40 years of age he would be excluded not only from that original 16.9 percent of job openings, but, in addition, 11.6 percent of all job openings. When a man or woman reaches the age of 45 years, or she is excluded from even being considered in relation to an additional 9.6 percent, or a total, roughly, of 40 percent of all job openings in the whole area.

The study points out that people who are 55 years old are excluded from 55 percent of job openings merely because they are 55 years old.

The U.S. Employment Service and the President's Council on Aging conducted another study. They considered 25,000 employer job orders received in May 1963 for public employment in Federal and State agencies in 8 major cities. Forty-five percent—almost half of the job orders—specified an upper age limit on referral. Eighteen percent, or nearly one-fifth of the orders, restricted referrals to applicants under 35 years of age. If he lost a job and happened to be 36, he could not even be considered.

Twenty-five percent of applicants under 45 and 42 percent of applicants under 55 were restricted. So if an applicant is 55 years of age or older, irrespective of color, choice of faith, or whether he is male or female, he has the door slammed in his face with respect to trying to get another job.

Mr. President, that is the worst kind of discrimination that exists in our country.

Another study which was made by the U.S. Employment Service and our committee showed that actually the type of discrimination to which I have referred is bad, because a study of the 500 largest firms in the United States showed that they rated the records of those over 40 years of age equal to or better than that of younger workers——

The PRESIDING OFFICER. Five minutes have expired.

Mr. SMATHERS. I yield myself another 3 minutes.

The records of those over 40 years of age are equal to or better than those of younger workers in 9 out of 10 of the following characteristics: Dependability, lack of absenteeism, quality of work, quantity of production, accident rates, physical capacity, versatility of skills, ability to get along with others, and speed in gaining proficiency on a new job.

Mr. President, we are talking about discrimination. We shall all grow old. We cannot help it. It will happen to us no matter what the pigmentation of our skin, no matter what church we belong to, no matter what sex we are, or anything else. It is not right that merely because one becomes old, doors should be slammed in his face.

If we really mean what we say—that we wish to get rid of job discrimination, and we really desire to get rid of it—we ought to eliminate discrimination against people because of age.

I point out also that the amendment would apply to the colored citizen as well. He, too, grows old. If we want to give people the opportunity for jobs which we say we want to give to them, this is an opportunity really to do it.

Let us put a provision with respect to age in the bill and stop discrimination with respect to white citizens, colored citizens, Puerto Ricans, and all the rest on the ground of age, because they are discriminated against on that basis, just as all the rest of us are.

The President of the United States has talked about a war on poverty. We all subscribe to that. But in what group do we find more poverty than any other group? The aging group. That is where the poverty is—those who are 55 years old, 60 years old, and 65 years old. They cannot get a job even if they want one and are qualified, because too many companies—even the Federal Government itself and many State governments—say, "We do not take on anyone who has reached the age of 35 or 45." So if we mean what we say, and if we want to eliminate discrimination in job opportunities, we have a real opportunity to do so. I hope the Senate will vote for the amendment.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. McNAMARA. Mr. President, I yield myself 1 minute. I have said to the Senator from Florida previously that I am in favor of the type of legislation proposed, but to place that type of provision in a civil rights bill will only confuse the issue rather than clarify it. Therefore I shall vote against the amendment, as strongly as I feel about eliminating discrimination on account of age.

Mr. CASE. Mr. President, I yield myself 30 seconds. I also oppose the amendment for the same reason. The purpose of the amendment is most desirable. As the Senator from Florida knows, a study is now under way by the Secretary of Labor. I agree with the suggestion incorporated in the amendment, but it can be voted upon in connection with another measure which he has also offered. The time for the completion of that study is June 1965. We can take care of that situation at another time. To add to the bill age as a prohibited ground of discrimination would make machinery designed carefully for the purpose of dealing with discrimination which the bill is intended to deal with totally overloaded and ineffective, because it would give the established procedure a job to do which it is not qualified to do. We ought to wait until the Department of Labor's report is received, and then draw proposed legislation carefully designed to meet the evils which the Senator from Florida, with understandable purpose, but I think very unwisely, would attempt to deal with by the amendment. So I hope that the amendment will be rejected at this time. I reserve the remainder of my time.

Mr. MORTON. Mr. President, I yield myself 3 minutes.

The distinguished Senator from Florida asked unanimous consent to have further reading of the amendment dispensed with. Since I am not going to take my 1 hour, I should like to read from page 2 of the amendment, which was not read, so that Senators may know what they are doing.

I read from page 2 of the amendment:

On page 33, line 8, insert "age," immediately after "sex,".

On page 33, line 13, insert "age," immediately after "sex,".

On page 33, line 15, insert "age," immediately after "sex,".

On page 33, line 20, insert "age," immediately after "sex,".

On page 34, line 2, insert "age," immediately after "sex,".

On page 34, line 11, insert "age," immediately after "sex,".

On page 34, line 17, insert "age," immediately after "sex,".

On page 34, line 18, insert "age," immediately after "sex,".

On page 36, line 15, insert "age," immediately after "sex,".

On page 36, line 17, insert "age," immediately after "sex,".

On page 36, line 18, insert "age," immediately after "sex,".

On page 42, line 16, insert "age," immediately after "religion,".

Mr. President, I shall be 57 years of age before the Democratic National Convention is over. I intend to vote for the amendment.

Mr. SMATHERS. Mr. President, I thank the able Senator for his support. I am not particularly impressed—I do not think we should be—with the argument that we should wait until later. The statistics I have presented are statistics that have been accumulated over the past 10 years. We talk about putting it over for 5 years, but it will never happen. When will there be a more opportune time than now to cure that particular evil? This is the very time we are talking about discrimination with respect to jobs. The bill is where the amendment actually belongs. If we wait until the Secretary of Labor makes a study, he will come up with the identical study that has already been arrived at, and with the same facts and figures.

If we wish to eliminate discrimination in jobs, this is the time to do it. With respect to discrimination today, there is no worse discrimination than discrimination because of a person's age.

Mr. CURTIS. Mr. President, I yield myself 2 minutes for the purpose of asking the author of the amendment a question.

Does this amendment affect both titles VI and VII?

Mr. SMATHERS. This amendment is directed only to title VII.

Mr. CURTIS. Only to title VII?

Mr. SMATHERS. Yes.

Mr. CURTIS. I yield back the remainder of my time.

Mr. LONG of Louisiana. Mr. President, in my judgment, the amendment is very meritorious and should be agreed to. In the big industrial plants in my State, much automation is being used. Those companies do not want to employ anyone if he is over 40, because they do not want to be stuck with the retirement bill. They will hire Negroes or anybody else. They are not worried about race. But if a person is over 40, he is out. He has no chance of getting a job there. He is too young and healthy to go on welfare, but too old to get a job. He cannot draw social security because he is able-bodied and capable of working. Those are the people who are being discriminated against more and more.

If we pass the bill—and I am told the Senate is going to pass it when it is through—the field will be covered, so there cannot be any discrimination on account of race, color, or creed, but there will continue to be terrible discrimination against people who are about 40 years of age when they find themselves out of jobs. If the Senate wants to do something about discrimination, this is one of the worst and rankest forms of discrimination.

Therefore, this amendment should be agreed to.

Mr. HUMPHREY. Mr. President, I yield myself 30 seconds.

All Senators know that age is often a factor in employment. I am sure neither the Senator from Louisiana nor any other Senator would want to have job factors established so that age would not be important, for example, in a person working on a superstructure on the 86th floor of a skyscraper. Everybody knows age is important in selective types of employment where there are dangerous pursuits and occupations.

It is interesting to me that we can become hot and bothered about discrimination based on age at this hour when the Senate has had years to do something about it. I recall no bill introduced on that subject. Yet there have been at least 50 bills introduced relating to fair employment practices acts aimed at elimination of discrimination based on race. I have seen no such amendment offered to those bills. No such proposal is offered until this bill is before us.

Mr. MORSE. Mr. President, I yield myself 30 seconds.

I have served with the Senator from Florida [Mr. SMATHERS] and the Senator from Michigan [Mr. MCNAMARA] on the Special Committee on Aging. We are busy at work conducting hearings on problems of the aged. In due course of time a recommendation will be submitted to the Senate, after adequate hearings. That is the time when the problem should be considered, because the pending amendment is irrelevant to the basic purpose of the bill before us, which is one that deals with discrimination based on color or race.

Mr. GORE. Mr. President, I yield myself 1 minute.

If this provision were offered alone and were standing alone, I would oppose it, because I feel that one who employs another, and pays him with his own money, should have the right to exercise a discriminating judgment with respect to age, character, education, personality, appearance, experience, or any other factors that he deems pertinent to fitness and suitability as an employee.

I claim this privilege for myself. I would not deny it to another. But since this bill seeks to prevent discrimination on account of race, sex, religion, or other factors, I join the Senator in saying that the largest numbers who are suffering the most crushing form of discrimination are suffering it because of age. Therefore, I support the amendment to prevent discrimination on account of age.

Mr. LONG of Louisiana. Mr. President, I yield myself 1 minute.

With reference to the comments made by the Senator from Minnesota, let me say that nothing in this amendment would prevent an employer from declining to hire an aged person even though he was not qualified and even though age might be the reason why he was not qualified. But when certain employers have a policy of not hiring anyone because he is 40 years of age, so that they will not have to pay the cost of retirement, they are discriminating against persons because of age.

Mr. SMATHERS. Mr. President, I yield myself 30 seconds.

This amendment excludes bona fide situations in which occupations require young people. There is an exemption, just as there is an exemption in the bill when certain religious groups want to hire persons of their own religion. That is the point I wish to make.

Mr. DIRKSEN. Mr. President, I yield myself 1 minute.

It is absolutely impossible to predict what impact this amendment would have upon group insurance policies carried by industry from one end of the country to the other. If such a provision is to be adopted, there should be sustained hearings. There is a Special Committee on Aging. It has authority to look into the question. We do not have the slightest idea of the impact of such a provision in terms of coverage. It seems to me, therefore, that it should be rejected.

We discussed this subject in various conferences. We left it very much alone because of the tremendous implications such a provision would have.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Florida [Mr. SMATHERS].

The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Michigan [Mr. Hart], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

On this vote, the Senator from Virginia [Mr. Byrd] is paired with the Senator from Maryland [Mr. Brewster].

If present and voting, the Senator from Virginia would vote "yea" and the Senator from Maryland would vote "nay."

On this vote, the Senator from Tennessee [Mr. Walters] is paired with the Senator from California [Mr. Engle].

If present and voting, the Senator from Tennessee would vote "yea" and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Delaware [Mr. Boggs] and the Senator from Massachusetts [Mr. Saltonstall] are necessarily absent and, if present and voting, would each vote "nay."

The Senator from Vermont [Mr. Prouty] is absent on official business, and, if present and voting, would vote "nay."

The result was announced—yeas 28, nays 63, as follows:

[No. 301 Leg.]

YEAS—28

Cotton
Eastland
Ellender
Ervin
Fong
Goldwater
Gore
Hickenlooper
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Morton
Mundt
Pell
Robertson
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Williams, Del.

NAYS—63

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Gruening
Hartke
Hayden
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Scott
Smith
Symington
Williams, N.J.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—9

Boggs
Brewster
Byrd, Va.
Engle
Fulbright
Hart
Prouty
Saltonstall
Walters

So Mr. Smathers' amendments were rejected.

Mr. CLARK. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I call up my amendment No. 605, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The Legislative Clerk. On page 35, after line 20, insert the following new subsection:

> (h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to give any professionally developed ability test to any individual seeking employment or being considered for promotion or transfer, or to act in reliance upon the results of any such test given to such individual, if—
>
> (1) in the case of any individual who is seeking employment with such employer, such test is designed to determine or predict whether such individual is suitable or trainable with respect to his employment in the particular business or enterprise involved, and such test is given to all individuals seeking similar employment with such employer without regard to the individual's race, color, religion, sex, or national origin, or
>
> (2) in the case of any individual who is an employee of such employer, such test is designed to determine or predict whether such individual is suitable or trainable with respect to his promotion or transfer within such business or enterprise, and such test is given to all such employees being considered for similar promotion or transfer by such employer without regard to the employee's race, color, religion, sex, or national origin.

Mr. TOWER. Mr. President, I yield myself 9 minutes. First, may we have order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. TOWER. Mr. President, I hope my colleagues in the Senate will give very careful attention to the amendment. I believe the proponents of the bill realize that this is not an effort to weaken the bill. It is an effort to protect the system whereby employers give general ability and intelligence tests to determine the trainability of prospective employees. The amendment arises from my concern about what happened in the Motorola FEPC case. I have discussed the case in great detail in the Senate, and I shall not repeat my argument.

Let me say, only, in view of the finding in the Motorola case, that the Equal Employment Opportunity Commission, which would be set up by the act, operating in pursuance of title VII, might attempt to regulate the use of tests by employers.

Senators will recall that in the Motorola case the FEPC examiner found that the test used to select employees was discriminatory to culturally deprived or disadvantaged groups, in the words of the FEPC examiner.

Since the determination in that case, it has been clearly stated by psychiatrists and testing experts that the test was not designed to make a selection from any cultural group, and that the tests are both fair and extremely useful. There is no professional evidence to the contrary.

My amendment is quite simple. It provides that an employer may give any professionally developed ability test to any individual seeking employment or being considered for promotion or transfer or to act in reliance upon the result of any such test.

Senators will note that I carefully provided in my amendment that the employer must give such tests to all concerned individuals; that is, to all applicants, without regard to the individual's color, religion, sex, or national origin. Thus every one would get the same fair test, and everyone would get the same fair chance.

The bill is supposed to be designed to assure that a fair chance is obtained by everyone. Therefore it is in this spirit that I offer the amendment.

In the Motorola case a test was given which had been in use since 1949, a test that was devised by trained, professional, reputable psychologists, a test which was available to other corporations. A Negro taking that test was denied employment as the result of that test.

Motorola hires many people of many different national origins. It also hires many Negroes. It has had a very good record of nondiscriminatory practices. It has had pretty good labor relations. The FEPC examiner stated that the test could not be used; that the test was a denial of a fair employment opportunity, because it discriminated against what he vaguely called culturally deprived or disadvantaged groups.

This is highly unreasonable, because if title VII were administered in this fashion, it would mean that an employer would be denied the means of determining the trainability and competence of a prospective employee, or the competence of one who is currently employed and who is being considered for promotion.

My amendment provides that everyone who applies must be allowed to take the test regardless of his race, color, national origin, sex, or creed. It provides that the test must be fairly administered so that there will not be any discriminatory practices because of color.

If we should fail to adopt language of this kind, there could be an Equal Employment Opportunity Commission ruling which would in effect invalidate tests of various kinds of employees by both private business and Government to determine the professional competence or ability or trainability or suitability of a person to do a job.

I point out that college entrance examinations discriminate against culturally deprived and disadvantaged persons. Civil service examinations discriminate. Various examintions given by the Federal Government for civil service positions requiring special abilities could be ruled to be discriminatory. Bar examinations could be ruled to be discriminatory to the culturally deprived and disadvantaged. A State medical examination could be held to be discriminatory.

The amendment is reasonable. It is one which the proponents of the bill should accept. It is one which merits careful consideration by the Senate.

Let me point out what the amendment provides:

> (h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to

give any professionally developed ability test to any individual seeking employment or being considered for promotion or transfer, or to act in reliance upon the results of any such test given to such individual, if—

(1) in the case of any individual who is seeking employment with such employer, such test is designed to determine or predict whether such individual is suitable or trainable with respect to his employment in the particular business or enterprise involved, and such test is given to all individuals seeking similar employment with such employer without regard to the individual's race, color, religion, sex, or national origin, or

In connection with the specific case of the Motorola incident, I ask unanimous consent to have printed in the Record the testimony of the psychologists who testified in the case, in which they stated that the tests do not discriminate against any cultural or racial group.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

In the Matter of Leon J. Myart, Complainant, and Motorola, Inc., Respondent, Before the Fair Employment Practice Commission, State of Illinois on Review—No. 63 C–127

Report of proceedings had in the above entitled matter on Monday morning, May 25, 1964, 10 o'clock a.m., 160 North LaSalle Street, 21st floor conference room, reconvened pursuant to adjournment.

Present: Mr. Charles Gray, Chairman; Mr. R. I. Myers, acting chairman; Mr. G. L. Seaton, Mr. J. Kemp, Mrs. H. C. Foreman, of the FEPC, State of Illinois; Mr. Walter Ducey, executive director, FEPC; Mr. Joseph Minsky, technical adviser, FEPC; Mr. Houston H. Hall, appeared on behalf of Complainant; Mr. R. V. Nystrom and Mr. R. Cronin, appeared on behalf of Motorola, Inc.

Acting Chairman Myers. We will proceed in the hearing of the matter of Leon Myart versus Motorola, Inc. Counsel for Motorola are present, and counsel for Mr. Myart is present.

We have a motion filed by counsel for Mr. Myart asking for an extension of time. The Commission will proceed to take any evidence which Motorola desires to offer today. We feel that it is important that we give the complainant every opportunity to put on relevant evidence, and for that reason we will grant a further and, what we believe to be a last, extension of time, granting the complainant until June 20 to file with the Commission a list of any witnesses whom you may desire to put on in this hearing, and we will then subsequently set the date for the hearing. But this will be in no event less than 10 days subsequent to that time in order to give respondent an opportunity to file any pleadings it may care to file in connection with this.

Mr. Hall. If the Commission please: I wonder if I may be heard on my motion to continue it as of today for certain reasons?

Acting Chairman Myers. We will allow you to do that.

Mr. Hall. Lady and gentlemen of this Commission, attorneys for respondent, as set forth in my petition for continuance, I wish to say at this time that there is a case pending where I am to be at this moment in room No. 910, city hall, and the title of the case is Walter Walton versus L. Lipschutt, No. 63–M235,925. I wish to state at this time I have another attorney who is not a member of the firm in the courtroom answering this call. If we are forced to try it, he does not have any facts, knows nothing about this particular case, and therefore it will be defaulted or dismissed, if he is unable to get a continuance.

We further contend, if the Commission please, that Attorney Quentin J. Goodwin, who is a commissioner of the city of Chicago, is also engaged at this time. That fact I did not know until last Thursday. He says that the matter he is involved in this morning on behalf of the citizens of Chicago is very important and it is impossible for him to be present before this Commission.

We further state that one of our reasons for not being ready, another reason, if the Commission please, is that we have made repeated efforts to procure technical advisers. The record here will show also that the complainant was seeking employment, has no funds, and the language of the Daily News a few days ago was, "he is waiting." By the way, he has got some type of employment but insufficient to supply him with enough funds to procure technical advisers.

I wish to state further that within the last 3 weeks I have interviewed at least six or seven technical advisers for the purpose of procuring their services to testify on behalf of the complainant in this case.

As a general rule, we start off by setting forth a hypothetical case with questions, and the distinguished gentlemen are very interested; but after finishing the hypothetical question and facts concerning the question, the question would come to me, "Who is the respondent?"

And I would tell them, "Motorola." One says, "Motorola, with millions of dollars," they say, "How is your client?" I said, "He is waiting."

Mr. Cronin. I object to the comments he has had with these people he is seeking to have as witnesses.

Acting Chairman Myers. I think we will have to sustain the objection.

Mr. Hall. And it turned out that I was unable to get six technical advisers.

My petition for continuance alleges that one, Professor Davis, we have contacted, but have not had a chance to act or sit down with him. We believe that he will serve us in this capacity. And we also state here that we believe under all the circumstances, that we are entitled to a continuance.

Under chapter I of the Fair Employment Act, the purpose is stated as an act to promote the health, welfare, and safety of the people of the State of Illinois by reducing denial of the quality of employment opportunities because of race, color, religion, national origin and ancestry; to create a Fair Employment Practice Commission; to define its functions, powers, and duties; to provide for an enforcement of authorities and to make an appropriation in connection therewith.

I wish to submit to the Commission that if this motion for continuance is denied, we feel that the complainant here will not enjoy equal protection under the 14th amendment.

We wish to further submit in support of our motion for continuance the case of *Abcock* v. *Abcock*, 339 Illinois Appellate, 543 at page 547, where the court said:

"In paragraph 259.14, the Illinois statute which specifically pertains to motions for continuances and the practice thereunder as provided, the court may on its own motion or with consent of the adverse party continue cause for trial to a later date. The following paragraph specifies that no motion for continuance of a cause made after the cause has been reached for trial shall be heard unless a sufficient excuse is shown for the delay.

"Thus it appears that the Civil Practice Act and the Supreme Court rules confer broad discretion upon the trial court in allowance or denial of continuances. This discretion, however, must be exercised judiciously and not arbitrarily or capriciously. A court should not refuse a continuance where the ends of justice clearly require it; and an abuse of discretion in so doing will justify a reversal."

And I submit to you, honorable Commissioners, that under the circumstances in this case, unless the complainant is granted a continuance, it will work a hardship and would be unjust and inequitable. I thank you.

Acting Chairman Myers. Mr. Hall, did you understand that we are granting you time for the purpose of putting on your witnesses, but that we said we would hear those witnesses Motorola had today?

Mr. Hall. That is true. Pardon me.

Acting Chairman Myers. Yes, sir.

Mr. Hall. I will not be in a position to properly cross-examine your technical advisers, I assume they will have them, unless I am advised by a person who is likewise instructed or trained. That is where there will be detriment suffered by my client.

Acting Chairman Myers. Does counsel for Motorola have anything to say?

Mr. Nystrom. Yes; the last time this was up, they made a similar motion for continuance, at which time you denied that, but gave them the right, even though there is nothing in the statute that says they have the right, you gave them until May 1, 1964. Mr. Gray said: "The Commission has ruled that complainant has until May 1," that is 24 days ago, "to file an amended answer, which they failed to do and to list—" I presume referring to list of witnesses—"and the next hearing before this Commission shall be Monday, May 25, 1964, at 10 a.m."

Now this was on April 18 the Commission so ruled. At that time Mr. Houston Hall knew, he knew that on May 25 this case is to be up in court. I am familiar enough with the procedure in the municipal court to know how these cases are set. This was set well in advance of April 18. Further this case of his is No. 21 of the court call over there, and I'm quite certain it will not be reached for trial today. It is a 1963 case, and all he has got to do is to go over there and tell the judge he is previously engaged here and it will be continued.

Now as far as the rules of the Civil Practice Act, of the Supreme Court, the Commission has held previously they do not apply in administrative review. The act specifically states they do not apply. So the very fine case that he cited has no application before us today.

For these reasons I suggest we proceed immediately.

However, I feel very strongly about this matter being put over to another date. This was put over to this date at the request of the complainant, for the same reasons that he cites today. He has had over a month and a half to proceed in this matter, and apparently, to the best of my knowledge, he has not done anything. And I think it is an imposition upon the court.

Mr. Hall. I am objecting to that and ask it be stricken, as to his knowledge. He does not know anything about what I have done.

Mr. Nystrom. It is an imposition upon the Commission and definitely an imposition upon Motorola, Inc., to have this matter continued any longer.

We have had Friday, for your knowledge—I'm sorry I did not bring them over, I will bring them over later if you want to see them—we have had people passing pamphlets out at Motorola——

Mr. Hall. I object to this, if the Commission please, that has nothing to do with this motion.

Acting Chairman Myers. Sustained.

Mr. Nystrom. This goes to the point of why it is vital to Motorola that this matter proceed with dispatch. We are now being attacked by a rightwing——

Mr. Hall. I object to that, if the court please.

Mr. Nystrom. A rightwing group.

Acting Chairman Myers. Sustained. We will have to restrict this to the hearing. Does the Commission wish to have a conference regarding Mr. Hall's motion?

Chairman Gray. I think so.

Acting Chairman Myers. We will have a short recess.

Mr. Cronin. You mean Mr. Hall's motion for continuance as of today now, as of this minute, you mean?

Acting Chairman Myers. The arguments just made.

(Whereupon a recess was had, after which these proceedings were resumed as follows:)

Acting Chairman Myers. The original ruling of the Commission as announced at the beginning of this session is the ruling of the Commission on this motion. We will now proceed to take evidence.

Mr. Nystrom. Would you care to swear my three witnesses, if you please?

Acting Chairman Myers. Yes. Will the notary public court reporter, Miss Berry, please do so?

(Whereupon the witnesses were sworn.)

Mr. Nystrom. The first witness we will call will be Dr. Marion Groves.

(Dr. Marion Groves, called as a witness on behalf of the respondent, having been first duly sworn, assumed the witness chair, was examined and testified as follows:)

DIRECT EXAMINATION BY MR. CRONIN

Question. Will you state your name, please, Doctor?

Answer. Dr. Marion Groves.

Question. Spell your last name, please?

Answer. G-r-o-v-e-s.

Question. And you say you are a doctor, what degree do you hold?

Answer. Doctor of philosophy in psychology.

Question. Where did you receive your doctor of philosophy in psychology, Doctor?

Answer. 1950.

Question. Where?

Answer. In the University of Chicago.

Question. Do you hold any other degrees, a master's degree or bachelor's degree?

Answer. I have a bachelor's degree.

Question. Bachelor of what?

Answer. Bachelor of arts.

Question. Where did you receive your bachelor of arts degree, Doctor?

Answer. Phillips University.

Question. When did you receive it?

Answer. 1933.

Question. Doctor, by the way, where are you employed now, Dr. Groves?

Answer. Illinois Institute of Technology.

Question. How long?

Answer. Fourteen years.

Question. Fourteen years with I.I.T., that is here in Chicago, is that right, sir?

Answer. Correct.

Question. Are you in the psychology department, I take it?

Answer. Correct.

Question. Do you hold a master's degree, Doctor?

Answer. No, I don't.

Question. Doctor, have you had occasion to have any works of yours published at any time, Doctor?

Answer. Yes.

Question. What works have you had published?

Answer. Oh, they are numerous.

Question. Will you name just a few, as best as you can recall offhand? I know we did not discuss that the last time we talked.

Answer. No.

Question. In the field of psychology, I assume?

Answer. In the field of psychology, correct.

Question. And the works are numerous, you say?

Answer. Yes.

Question. Now, Doctor, have you had any experience in the comparison of Negro and white performance on psychological tests or in psychological testing?

Answer. Yes.

Question. And would you relate to the ladies and gentlemen of the full Commission what experience that you have had in that field, sir?

Answer. One of my students, James Peters, wrote his thesis under me in which Mr. Peters—Mr. Peters is now the director of vocational rehabilitation in the State of Connecticut—he wrote his master's thesis under me in which he compared the scores on intelligence examination of Negroes and whites in World War II. These were Negroes and whites who had completed grade-school education.

Mr. Hall. I object to that, if the court please, unless the thesis is presented.

Mr. Cronin. Well, now, may I answer, Mr. Myers?

Acting Chairman Myers. I think he is just telling—you are not planning to tell what that individual found in that thesis, are you?

Mr. Cronin. Yes.

The Witness. Yes.

Acting Chairman Myers. Oh, yes, you are?

Mr. Cronin. Of course.

Acting Chairman Myers. Let's hear your answer.

Mr. Cronin. He will qualify, I think, to the satisfaction of the full Commission as an expert in that Dr. Peters is the man who wrote his thesis under Dr. Groves.

Mr. Hall. I object to that, if the court please, explaining it.

Mr. Cronin. He said it; that is what he has testified to, Mr. Hall.

Mr. Hall. We all heard it.

Mr. Cronin. Can I finish then, is it all right, or what?

Mr. Hall. I am objecting to what you are testifying.

Mr. Cronin. I am just relating it based on the discussion. All right, that in a study such as this or in writing or preparing for, as Mr. Gray surely knows full well, you write your thesis under the direction of a doctor and in this situation——

Mr. Hall. I object to that, if the court please, as not proper.

Acting Chairman Myers. May I have the question that was originally objected to?

(Pending question read.)

Acting Chairman Myers. All right, there was a later objection.

Mr. Cronin. To a portion of the answer.

Acting Chairman Myers. I guess that part of the answer objected to, the reporter should read.

(Said portion of record thereupon read.)

Acting Chairman Myers. I will overrule the objection.

Mr. Cronin. All right, will you carry on from there, Dr. Groves, if you can?

The Witness. These subjects were Negroes and whites who had completed their grade-school education, equated for age and education.

Mr. Hall. Now if the Commission please, I don't want to be ridiculous here, but the question in this case is not persons who graduated, not persons who had got their master's, this is a person who has finished high school only, so the testimony in this connection is not proper. This is a review for the purpose of offering new evidence, additional evidence on the point in question; and the point in question is whether or not the complainant is a deprived person.

Mr. Cronin. Oh, it is not; that is objected to and move it be stricken because that is not the issue at all.

Mr. Hall. That is a part of the decision.

Mr. Cronin. That is up to the Commission. We object to that.

Acting Chairman Myers. I think perhaps let's have questions that are not so broad so they can have specific objections made to them.

Mr. Cronin. The rest of them won't be so broad. This is a preliminary question, if the Commission please, to establish the background, and so forth, and so on, of this man, and Dr. Peters who worked under him for his master's degree. May that answer stand, if the Commission please?

Acting Chairman Myers. The answer to the present point may stand. Now proceed with the questions and answers.

Mr. Cronin. Incidentally, Dr. Groves, has this——

Mr. Hall. May I answer this call? I'm sorry, it is an important call.

Acting Chairman Myers. Yes. we will take a short recess for that purpose.

Mr. Hall. Thank you.

(Recess thereupon had after which these proceedings were resumed as follows:)

Acting Chairman Myers. You may proceed with the interrogation, Mr. Cronin.

Question. Dr. Groves, do you know, Doctor, whether this study done by Dr. Peters under your direction and tutelage at I.I.T. was ever published?

Answer. Yes.

Question. Do you know where?

Answer. It was published in the Journal of Negro Education.

Question. Now, Dr. Groves, would you tell the Commission, please, whether Dr. Peters, who is now a doctor, is that right, he is now taking his Ph. D., is that right?

Answer That is correct.

Question. Whether Dr. Peters is Negro or white, sir?

Answer. He is Negro.

Question. Now reflecting on this study of Dr. Peters that was done, as I say and you have testified to it, at I.I.T., what were the results of this study, Dr. Groves?

Answer. There was no significant difference in the scores attained by the colored subjects as compared to the white subjects.

Mr. Hall. Object to that, if the Commissioners please.

Mr. Cronin. Let him finish, if you please.

Acting Chairman Myers. Is the objection to the question or the answer?

Mr. Hall. The answer.

Mr. Cronin. There is no such thing as an objection to an answer.

Mr. Hall. I object to the question and answer.

Mr. Nystrom. You are a little too late.

Mr. Hall. Not too late for the answer.

Mr. Cronin. May we hear the answer to the question so you can rule?

Acting Chairman Myers. Gentlemen, I will conduct the colloquy in this direction.

Mr. Hall. I apologize, Judge.

Acting Chairman Myers. All right. Now we will allow the witness to answer. The objection is overruled.

Mr. Cronin. Will you read the question back, Miss Reporter, so he can start the question and answer over; please?

(Question read.)

Mr. Cronin. Will you answer that question, please?

Mr. Nystrom. Let him answer now without any interruption.

The Witness. There was no significant difference between the scores of the Negro and white subjects on the tests of similarities and comprehension. These tests, incidentally, measures verbal comprehension—

Mr. Hall. Just a moment, I'm going to object to the voluntary statement.

Acting Chairman Myers. Gentlemen, whenever an objection is made, the witness will pause for the purpose of allowing counsel to state his objection; and counsel will then allow the Commissioner to rule on the objection. May I hear the objection? Mr. Hall, I didn't hear the nature of your objection.

Mr. Hall. My objection was based upon the fact that there was only one Negro involved, and I think his answers cover Negroes and whites.

Chairman Myers. I'm going to overrule your objection and suggest to you that a cross-examination—on cross-examination you may bring out this type of information for the purpose of aiding the Commission in evaluating the answers.

Mr. Hall. All right.

Acting Chairman Myers. You may proceed with your answer.

Mr. Cronin. You said something there, I didn't get what you said at the end?

Answer. I was commenting that these tests measure verbal comprehension and simple reasoning ability.

Question. These tests are the studies of Dr. Peters, the man that wrote his thesis under you, is that what you mean?

Mr. Hall. Object to the leading question, if the Commissioners please.

Acting Chairman Myers. That objection is sustained.

Mr. Cronin. Well, what tests or what studies are you talking about that cover the areas of verbal comprehension and simple reasoning?

Mr. Hall. Object to that, that is leading, if the Commissioners please.

Acting Chairman Myers. Objection overruled.

The Witness. The tests of comprehension and similarities on which there was no difference between the Negro subjects and the white subjects.

Mr. Hall. I ask the latter part of that be stricken, if the Commissioners please. He only asked him what subjects.

Acting Chairman Myers. Objection overruled.

Mr. Cronin. Dr. Groves, in the study performed by Dr. Peters under your direction, what two areas were covered?

Mr. Hall. That is leading, if the court please, to which I am objecting.

Acting chairman Myers. Objection overruled.

The Witness. Verbal comprehension and simple reasoning.

Mr. Cronin. Now, Dr. Groves, are you familiar with the General Ability Test No. 10, so-called No. 10, which is a part of this record, created by Dr. Phil Shurrager?

Answer. Yes, I'm acquainted with the test.

Question. Now, Doctor, referring to Dr. Shurrager's General Ability Test No. 10, what kind of questions would you say are used most frequently in test No. 10?

Answer. The questions that measure verbal comprehension and simple reasoning.

Question. Now, Doctor, do you have an opinion based upon your own experience in this field and your background in this field, as to whether the General Ability Test No. 10 of Dr. Shurrager is discriminatory as to race or color, sir?

Mr. Hall. I object to that. There has not been a proper foundation laid for such an opinion. The subjects are in a different class than this complainant is. The doctor is in an institution of higher learning.

Acting Chairman Myers. I think I will overrule the objection and again suggest to counsel that all of this may be brought out on cross-examination. You may answer the question.

The Witness. My opinion is that the test in question does not discriminate on the basis of race and color—race or color, race or color.

Mr. Cronin. You may cross-examine, counsel.

Mr. Hall. At this point, if the Commissioners please, I wish an opportunity to talk with a technical adviser before conducting the cross-examination of this witness. Therefore, I request that this witness appear on June 20, 1964. As a matter of fact, as I before stated, I am not in any position to properly cross-examine this witness.

Acting Chairman Myers. Will this witness be available for the hearing to be held at some time?

Mr. Nystrom. We don't know, but once again, let's get back to this. Initially, we have complied with the rules and regulations of this Commission. We have submitted to the Commission, we have submitted to counsel, we have submitted a list of our witnesses, their backgrounds, and what they were going to testify to. He has known this for 2½ months. Now more dilatory tactics, more delay.

Mr. Hall. Let me say this——

Mr. Nystrom. There is no question that he is not prepared.

Mr. Hall. Will you let me say this: Your Honor stated you were going to touch on the race question, but I did not have the testimony of this man until just now.

Mr. Nystrom. Unfortunately the act does not provide for discovery. You have stumbled along just like we have stumbled all along here.

Mr. Hall. Now I don't expect to stumble along.

Mr. Cronin. May I say——

Acting Chairman Myers. Gentlemen, we will have, as I said at our last hearing, an orderly discussion. We will not have debate of this kind between counsel. I asked the question which I could have gotten a simple answer to. I hope in the future when I'm trying to get information, the answers are so limited. This witness is now available. I suggest you interrogate him to the best of your ability. If you are not satisfied, why, the subpena power is available to you at the next hearing. But the Commission is not in a position as a practical matter to promise to you that this witness will be available, considering the convenience of the witness and the Commission.

Mr. Hall. Well, at this time, if the Commissioners please, I feel that I am not in a position to cross-examine this witness, and I will have to do otherwise.

Mr. Nystrom. I will submit——

Mr. Hall. I think it is a reasonable request that the Commissioners order this witness to appear. I have been ordered to trial here without being ready and I think it is only fair to the complainant that this witness be directed to reappear on the 20th or any other day we appear here.

Acting Chairman Myers. May I ask the witness, Do you have any objection to appearing at our next hearing?

Mr. Cronin. Well, now.

Acting Chairman Myers. I beg your pardon?

Mr. Cronin. This man is here as a witness, we called him as our witness.

Mr. Nystrom. He is not the Commission's witness nor his witness.

Mr. Cronin. I think before we find out—I think we have the right to discuss this thing. I think we have the right to present our position to you.

Mr. Hall. Mr.——

Acting Chairman Myers. Wait, Mr. Hall. Do you have objection to his being present at a later hearing if he is available?

Mr. Cronin. The answer to that is "Yes."

Mr. Nystrom. Our witness is present today. He has testified and he is available for cross-examination. If the Commission wants to call him as their witness or if Mr. Houston Hall wants to call him as his witness, he may do so under his peril as his witness, not ours.

Acting Chairman Myers. Or as an adverse witness.

Mr. Nystrom. He is here today for cross-examination.

Acting Chairman Myers. I think today if Mr. Hall does not care to continue with the cross-examination, we will have to allow this witness to leave; and it has been pointed out, either the Commission or you, if you so desire, may issue a subpena to bring him in here at a later hearing.

Mr. Hall. May I say this, if the Commissioners please: I understand that you have the power to conduct this trial as Commissioners. I understand that you have power to direct this witness to return at a future date.

Now in justice to all parties here, I am requesting the Commissioner to have the witness returned on a certain date.

Acting Chairman Myers. Mr. Hall, the only way we can direct him to return is by issuing a subpena.

Mr. Hall. Will you do that? Will you issue a subpena for this witness to return?

Acting Chairman Myers. As your witness or as the Commission's witness?

Mr. Hall. As the Commissioners' witness.

Acting Chairman Myers. I am not sure we have this obligation. If you request us to issue a subpena as your witness, I'm sure the chairman of the Commission will so do. I cannot speak for him.

Mr. Hall. If he appears as my witness, there is some question about cross-examination.

Acting Chairman Myers. I think we would pretty much follow the general rule set forth under the Practice Act and the Evidence Act.

Mr. Hall. If the Commissioner has authority to do that, will that be done?

Acting Chairman Myers. Well, that is if it appears during the testimony that he is an adverse witness.

Mr. Hall. All right.

Acting Chairman Myers. Possibly over objection of counsel.

Mr. Cronin. May I just state I won't belabor it, I recognize the difficult position you are in, Mr. Myers. Of course this is a difficult matter. But I think—and you have taken into consideration, Mr. Nystrom has mentioned it and it has been mentioned several times here, the fact that they have had this man's name, this man's occupation, title and they know his address at I.I.T. for over 2 months. Now I don't know whether Dr. Groves will be in town or not. Of course if he is subpenaed, of course he will be here, like any other citizen should be responsible to subpena; but why they have not taken advantage of the fact they have had over 2½ months of this man's name in front of them, they have not done it, I think is worthy of comment to this Commission. It is just not fair to Motorola, Inc. It is not fair to the witnesses we call. That is all I'm saying.

Mr. Hall. May I answer that, if the Commissioners please?

Acting Chairman Myers. Yes.

Mr. Hall. I don't understand why counsel spoke a moment ago, for the respondent does not understand you cannot cross-examine something in the future that you do not have. He understands that this Commission desires to conduct this procedure in a fair and impartial manner, and it is only fair and impartial that we have a right to have a technical person, converse with a technician, not the testimony. We have the testimony now and we will get a technician and talk to a technician about it. We will be in a position to cross-examine the man. There is nothing unusual about that.

Mr. Cronin. There is plenty unusual. May I answer, Mr. Chairman?

Acting Chairman Myers. This will be the last discussion.

Mr. Cronin. All right, fine. We state in our document which was filed with the Commission pursuant to statute that Dr. Marion Groves will be called. (a), to introduce evidence, to review data and material in regard to the General Ability Test No. 10; (b), the purpose, again pursuant to statute and also a copy of this was forwarded on to counsel, the purpose of this evidence is to show that General Ability Test No. 10 is racefree and that the test is selective for the talents needed to perform the job; that the purpose of the General Test No. 10 is racefree. They know what he does, they know his background, they know where he is located in the city of Chicago. They have had 2½ months to go out there and see him just like I have, about any witnesses I ever get the notice on.

Acting Chairman MYERS. Gentlemen, right now the only thing involved is whether or not this witness will be excused because there is no cross-examination.

Mr. CRONIN. I appreciate that.

Acting Chairman MYERS. He is now being excused. I must warn Mr. Hall that I have no authority to rule beyond that point. If it is your desire to come in for a subpena, that will have to be considered and I cannot speak for the Commission as to their action on that; but unless you desire to cross-examine the witness at this point, we will excuse him. I think the Commissioner has a question to ask.

Commissioner KEMP. Mr. Chairman, I wonder if you would direct a question to Dr. Groves, is it Groves?

The WITNESS. Groves is right.

Commissioner KEMP. In reference to the meaning of the phrase "verbal comprehension" as it applies in this profession, verbal comprehension?

The WITNESS. Verbal comprehension technically refers to the capacity to perceive and communicate in the language of the culture, in this case the English language, capacity to understand and use the English language.

Commissioner KEMP. Mr. Chairman, I wonder if this takes—I ask these questions only for the purpose of being one of the people who must reach a decision on this—in reference to the term "verbal comprehension", does this take into consideration the difference in the backgrounds of the respective people that may have taken these examinations or these tests?

The WITNESS. If I understand your question correctly, it does not make any differentiation in terms of the backgrounds of the individuals that take the tests. There is no weighting of scores that are made by one group as compared to the scores made by another group.

Commissioner KEMP. Mr. Chairman, earlier there was a question of test No. 10 which was prepared by a gentleman named Phil Shurrager. Mr. Chairman, could we ascertain as to two things: Number 1, is Phil Shurrager in the same capacity as Dr. Groves, is he a Ph. D. in this field?

Mr. CRONIN. I didn't hear what you said?

Commissioner KEMP. Is he a Ph. D. in this field?

The WITNESS. Yes, Dr. Shurrager is also a Ph. D. in psychology.

Commissioner KEMP. Where is he employed, Mr. Chairman?

The WITNESS. Also at Illinois Institute of Technology.

Commissioner KEMP. Thank you, Mr. Chairman.

Acting Chairman MYERS. Do any other Commissioners have any question?

Commissioner FOREMAN. I would like to ask one question: Were the tests that were used in Dr. Peters' study tests prepared and used by the Army? Does he use the results from the Army or people from the Army?

The WITNESS. No, they were people from the Army. The test was the Wechsler-Bellevue Scale. It was adapted for Army use but it was prepared by Wechsler in the Bellevue Hospital.

Commissioner FOREMAN. But they had been administered by the Army. He used the results he got from the Army but not just people he got?

The WITNESS. No, these were individuals who had come in for selective service examinations and he had administered these—no, I beg your pardon. These were individuals who had come in for counseling in the U.S. Employment Bureau and these tests were administered in the U.S. Employment Bureau. They were individuals who had been——

Commissioner FOREMAN. Were they administered by the Employment Service or by Dr. Peters, this is what I'm trying to get at?

The WITNESS. They were administered by members of the Employment Service of which Dr. Peters is one.

Commissioner FOREMAN. I see, he is in both?

The WITNESS. Yes, yes, that is correct.

Commissioner KEMP. Mr. Chairman, may I ask the question here as to in reference to Dr. Peters' study on this subject as to whether or not was there direct supervision on the part of Dr. Groves in reference to these tests or was he examining the results of these tests that were given by Dr. Peters?

The WITNESS. The latter.

Commissioner KEMP. The latter?

The WITNESS. He did not administer the tests under my supervision but he analyzed the results, he designed the study and analyzed the results under my supervision.

Commissioner KEMP. Mr. Chairman, one more question: Has Dr. Groves had any other experience in reference to the results of testing race versus race with the exception of the Peters' matter?

The WITNESS. Yes. I have had extensive experience in testing both Negroes and whites for the purpose of determining their eligibility for certain treatment or diagnosing them in terms of what should be done relative to their disposition. I have not made analytical studies of this nature.

Commissioner KEMP. Mr. Chairman, I'm a little confused. I was attempting to find out in the field of industrial employment as to whether Dr. Groves would have conducted or been exposed to other experiences as it applies to industrial employment, and I get the impression from the question that he just answered that this might—that his experience might have something to do with psychological treatment of people who have certain psychological problems?

Acting Chairman MYERS. Is that a proper interpretation?

The WITNESS. That is true.

Commissioner KEMP. Thank you.

Commissioner SEATON. Mr. Chairman, I have one question.

Acting Chairman MYERS. Yes, Mr. Seaton.

Commissioner SEATON. Dr. Groves, of those persons tested as reported on in Dr. Peters' dissertation, was there a record of the location of the elementary education institution?

The WITNESS. This was not a part of the study. If there was a record in the original record, this did not become a part of the study.

Commissioner SEATON. That is all I have.

Chairman GRAY. Just one question, Mr. Chairman: Where did this experiment take place?

The WITNESS. Here in Chicago.

Chairman GRAY. In Chicago?

The WITNESS. Yes.

Chairman GRAY. How many people were involved?

The WITNESS. Fifty colored and 50 white.

Chairman GRAY. That is all.

Acting Chairman MYERS. We thank you, Dr. Groves.

Mr. CRONIN. May I at this time, if the Commissioners please, take him back on redirect then as long as this has taken place, if you please?

Acting Chairman MYERS. We have no objection.

Mr. CRONIN. All right, thank you.

Question. Dr. Groves, will you tell the full Commission, now you have given your opinion the No. 10 test of Shurrager's was not discriminatory as to race or color, is that right?

Answer. Correct.

Question. Now will you give the lady and gentlemen of the full Commission the basis for your opinion, Dr. Groves, what do you base your opinion upon?

Answer. There have, through the years, been numerous studies in which the scores on colored and white persons have been compared, beginning back shortly after the First World War when Yerkes compared the scores of Negroes and coloreds who were encamped at Camp Dix; and he found of those scores that were compared, that the tests on verbal comprehension and simple reasoning were those that most favored the Negroes; that of all of the tests given, their highest scores relative to scores made by white persons in camp there, the scores on tests of verbal comprehension and simple reasoning were performed on at the highest level by the Negroes.

Since that time, there have been numerous studies that have been made because of some doubt raised in the minds of psychologists that this would be the case, numerous other studies have been made, some nine altogether; and in every instance they have found that tests on verbal comprehension, simple reasoning, favored the Negro more effectively than the other tests administered. When colored people and white people are matched for IQ, the relatively higher score of Negroes on tests of simple reasoning and verbal comprehension are the highest.

Question. Now as to Dr. Shurrager's test No. 10, the questions there most frequently involved or the areas in question most frequently involved were verbal comprehension and simple reasoning, is that correct, Doctor?

Answer. Verbal comprehension and simple reasoning.

Acting Chairman MYERS. Does Mr. Hall desire to examine the witness? At this time?

Mr. HALL. Beg your pardon?

Acting Chairman MYERS. I just want to make sure you do not want to examine him at this time?

Mr. HALL. Now if the Commissioners will grant me leave to cross-examine him at a later date, I do not wish to cross-examine him at this time.

Acting Chairman MYERS. I think I made it clear that if the witness comes back, then it will have to be through the subpena power of the Commission; that I am not in a position to commit the Commission at this moment on that.

Mr. HALL. I see. Well, may I ask the Doctor one question: Now, Doctor, will you be in town, as far as you know, in Chicago on June 20?

The WITNESS. I had not planned to be.

Mr. CRONIN. I object to this, just a minute, Doctor, just a minute. I object to this, this is not cross-examination.

Mr. HALL. I want to find out whether he will be here. I asked permission, counsel.

Mr. CRONIN. I am objecting to the question, that is all, the Commission rules.

Acting Chairman MYERS. I think I will sustain the objection and point out that our hearing is almost certainly going to be on that date anyhow, that is the date by which you are to file your list.

Mr. HALL. Yes, I see. The only thing I wish the record to show is that I will have permission to cross-examine Dr. Groves.

Mr. CRONIN. This is the third time.

Acting Chairman MYERS. The record will show you have asked for permission; that I have indicated your only opportunity to examine or cross-examine Dr. Groves will happen if subpena is issued for him for a later hearing and if that subpena is served and if he appears.

Mr. HALL. Well, may I ask the Doctor some questions:

CROSS-EXAMINATION BY MR. HALL

Question. Doctor, the colored people observed by you, were they in the institution where you are, most of them?

Answer. No, no.

Question. Had you had an opportunity to observe people in grammar school, colored people in grammar school?

Answer. Yes.

Question. Have you had an occasion to examine or observe people in high school?

Answer. Yes.

Question. And where were these people located, what part of Chicago?

Answer. Well, not all of them were in Chicago, but of those that were in Chicago, most of them on the South Side in the vicinity of Illinois Institute of Technology.

Question. Are you acquainted with the Hauser Report that was submitted to the mayor recently?

Answer. Yes.

Question. And you have in mind the schools in certain sections of Chicago that are not quite up to standard, have you?

Answer. Yes; well not by name, but I'm familiar with areas in which schools are regarded as not up to standard.

Question. Now did you happen to examine certain pupils from the grade schools and the locations where the schools are not up to standard?

Mr. Nystrom. I will object to this line of questioning unless he wants to put the Hauser Report in evidence. It is beyond the scope of direct examination as well.

Mr. Hall. If the Commissioners please——

Acting Chairman Myers. The objection is overruled.

Mr. Hall. All right.

Acting Chairman Myers. He may answer the question.

The Witness. As indicated, most of the Negroes were, with whom I worked in Chicago, were in the area in the vicinity of Illinois Institute of Technology.

Mr. Hall. Now, Doctor, are you aware of the fact that children of tender age, ages ranging from 3 to 7 years old, who have not the advantage of the best homes, are usually without funds, whose parents are not well-trained, are mentally retarded?

Answer. No.

Question. As compared with other children who have different homes?

Answer. No.

Mr. Cronin. Just a minute, please, sir, just a minute.

Acting Chairman Myers. Are you objecting to the question?

Mr. Cronin. Objection to the form of the question. I don't think it is a fair question for anyone to be asked to answer in that form, if the Commission please.

Acting Chairman Myers. Well, I thought the witness answered it.

Mr. Cronin. I am objecting for the record, that is my position, I am objecting for the record.

Acting Chairman Myers. I will overrule the objection.

Mr. Cronin. All right, and the further objection that it is immaterial to this specific matter before the full Commission here today.

Acting Chairman Myers. I will overrule that because I think that it is designed to indicate the relevance of tests that were administered, the relevance of the general problem. You may answer.

The Witness. I would say "No."

Mr. Hall. Are you acquainted, Doctor, with the term "culturally deprived child" or "children"?

Answer. Yes.

Question. What is your interpretation of that statement?

Mr. Cronin. Object to that, please, Doctor, I object to that.

Acting Chairman Myers. I will sustain that objection.

Mr. Hall. If the Commissioners please, this is all at this time and I still want to reserve my right at a future date under the conditions given by the presiding officer of this Commission.

Acting Chairman Myers. I will again repeat that the witness will now be excused, and thank you. If the witness appears again, it can only be if a subpena is issued or if he appears voluntarily.

Mr. Cronin. Thank you, Doctor.

(Witness excused.)

Mr. Nystrom. The respondent will now call Dr. Maurice Aderman to the stand.

Acting Chairman Myers. You may proceed.

(Dr. Maurice Aderman, called as a witness on behalf of the respondent, having been first duly sworn, assumed the witness chair, was examined and testified.)

DIRECT EXAMINATION BY MR. NYSTROM

Question. State your name, please, Doctor.

Answer. Maurice Aderman.

Question. By whom are you presently employed?

Answer. Illinois Institute of Technology.

Question. Will you be kind enough to tell us and relate to the Commission your educational background, Doctor?

Answer. Yes. I obtained a bachelor's degree from Brooklyn College. I got my master's degree from the University of Oregon and I received my Ph. D. from the University of Texas.

Question. Have you written any articles that have been published, Doctor?

Answer. Yes, I have.

Question. To the best of your recollection, can you tell the Commission what those articles were and where they were published?

Answer. I have had a series of articles getting into all kinds of magazines. I have had a testing article recently published in the psychological reports on a testing program in which I was involved in constructing and analyzing tests and things of that sort.

Question. Are you a licensed psychologist of the State of Illinois?

Answer. Yes, I am.

Question. That is under the new regulation of licensing psychologists, is that correct, in the State?

Answer. Yes, sir.

Question. In what position are you employed at the Illinois Institute of Technology?

Answer. I am an associate professor of psychology.

Question. Are you in any particular field out there?

Answer. Yes, I teach courses in differential psychology which is a background course in testing in terms of its construction and utilization, things of this sort.

Question. Then you have experience related to testing?

Answer. Yes, I have.

Question. Do you have any other experience with testing other than that which you are doing presently?

Answer. Yes, sir.

Question. Will you tell us about that, please?

Answer. I also work part time presently for the U.S. Civil Service Commission for constructing and analyzing tests for screening purposes. I have also been employed by the Presbyterian-St. Luke's Hospital for constructing and analyzing tests with regard to evaluating a new nursing curriculum. I also was a consultant for the William Healy School in which I constructed scales to evaluate the effectiveness of child-care workers.

Question. You stated that you are presently consultant for the U.S. Civil Service Commission?

Answer. Yes, sir, the GS-11 rating.

Question. And as such you are constructing tests for their use?

Answer. Yes, I am.

Question. Will you tell us the purpose of these tests?

Answer. These tests are to be used nationwide for purposes of screening for particular low-level jobs.

Question. Now you are familiar then with questions found in psychological tests and the meaning of these kinds of questions?

Answer. Yes, sir.

Question. Are you familiar with Dr. Phil Shurrager's general ability test No. 10?

Answer. Yes, sir.

Question. Are any of the items and the questions included in Dr. Philip Shurrager's general ability test No. 10, are they of a kind similar to those which are to be used nationwide by the U.S. Civil Service Commission?

Answer. Yes, sir, very similar.

Question. You say the purpose of these tests which you are developing for the Civil Service Commission are for low-level screening?

Answer. Yes.

Question. What is low-level screening?

Answer. To determine if a person is trainable for a job.

Question. Dr. Shurrager's general ability test No. 10, is that a test for low-level screening?

Answer. Yes, sir.

Question. Is it a fair test for low-level screening?

Mr. Hall. I object to that, if the Commission please.

Acting Chairman Myers. I will sustain the objection. Rephrase the question, Counsel.

Mr. Nystrom. You stated you were very familiar with Dr. Shurrager's test No. 10?

Answer. Yes, sir.

Question. Would you say that this is a well-developed test for low-level screening?

Answer. Yes, sir.

Question. On what do you base this opinion?

Answer. On my background and experience in the testing field.

Question. If you were to construct a screening test for the purpose that general ability test No. 10 is used, would you use the same or similar type of questions?

Answer. Yes.

Mr. Hall. Object to that, if the Commission please.

Acting Chairman Myers. I will sustain that objection.

Mr. Nystrom. Are you presently developing tests for low-level screening?

Answer. Yes, I am.

Question. Are you including questions in this test similar to those in test No. 10?

Mr. Hall. Objection as leading.

Acting Chairman Myers. Objection overruled.

The Witness. Yes, I am.

Mr. Nystrom. And are you developing these tests, as you stated, for the U.S. Civil Service Commission?

Answer. Yes, sir, to be used nationwide.

Question. Doctor, in your opinion, Dr. Phil Shurrager's general ability test, is it discriminatory?

Answer. Yes, it is.

Question. Will you tell us how it is discriminatory?

Answer. In determining the trainability of the applicants.

Acting Chairman Myers. Excuse me, I want to be sure I heard the question correctly. Will you repeat that question?

Mr. Nystrom. In your opinion, is general ability test No. 10 discriminatory?

Answer. Yes, it is.

Question. Would you tell us how it is discriminatory?

Answer. It discriminates those that are trainable for a particular job against those that are not.

Mr. Nystrom. Thank you, I have no further questions.

Mr. Cronin. Excuse us just a minute, if you will, please.

Mr. Nystrom. I have no further questions; thank you.

Acting Chairman Myers. Mr. Hall?

CROSS-EXAMINATION BY MR. HALL

Question. Doctor, will you state the questions that you asked on your test mentioned for the civil service department?

Answer. Would I mention some of the items?

Question. All the questions?

Answer. They are of a similar type, but——

Question. No, pardon me, Doctor. When you set forth your questions, state your questions that you ask in your test?

Answer. You want items on the civil service test?

Question. In No. 10 test there were certain questions asked?

Answer. Yes, there was.

Question. Now in your test were those questions asked also?

Answer. Not the same questions, similar questions.

Question. All right, will you state those questions you asked in your test?

Answer. I could but I'm wondering about the ethics involved here because I had to pass security before getting this job and these are classified examinations.

Question. I know, Doctor, but is there anything wrong with those questions?

Answer. Nothing wrong at all.

Question. All right. I'm asking that you state your questions mentioned in and given in your test?

Mr. Cronin. I'm not going to object. May I make the comment to the full Commission, the doctor has answered and the doctor has advised the Commission of his position. I didn't even know this. He has advised the Commission of the position he holds with the U.S. Civil Service Commission, with the Government. This stuff is security.

Mr. Nystrom. I believe it is privileged.

The Witness. Before I do it, before I would do it, I would want——

Mr. Hall. Wait a minute, just a moment.

Acting Chairman Myers. Mr. Hall's question, was that directed then at a test that you are now putting——

Mr. Hall. No, no; that he has given already.

Acting Chairman Myers. On civil service?

Mr. Hall. That is right.

The Witness. I cannot answer that. I am not allowed to, not unless I were to clear from higherups. I passed a security clearance on this; this is a classified examination.

Mr. Hall. Just a moment. I am making my objection to the Commissioners.

Acting Chairman Myers. I think we will have to remove the answer to the earlier question; that is, if he is not to be allowed to cross-examine you on it, then we will have to strike the answer to the other question.

Mr. Hall. That is my motion.

The Witness. I can give you a very similar kind of question.

Acting Chairman Myers. If you want to answer the question, fine; if not, I believe we are going to have to strike the other question on the same theory.

Mr. Nystrom. Now just a minute, just a minute.

Acting Chairman Myers. There was a question asked——

Mr. Nystrom. We merely asked this, were there similar questions asked in a civil service examination?

Mr. Hall. That is right.

Acting Chairman Myers. He is exercising his right of cross-examination. I think he is entitled to it.

You may answer the question.

The Witness. Can I give you a very similar kind of question, to give you the idea?

Mr. Hall. No.

The Witness. Well, maybe it won't hurt so much if I gave one, but I won't go beyond that.

Mr. Hall. I object to that.

Acting Chairman Myers. Wait; he is answering your question. Let's hear the answer.

The Witness. I will say one question that is asked on civil service at a low-level screening.

Mr. Hall. If the Commissioners please, I would like to have the questions asked to be given in his testimony, as given in his test.

The Witness. All of the questions?

Mr. Hall. To use this to compare with general ability test No. 10 and we would like to know what they are?

Acting Chairman Myers. You may answer.

The Witness. They are questions of an extremely similar nature.

Mr. Cronin. May I interject at this time, Mr. Myers—just a minute, Doctor. Mr. Hall is asking for the specific questions asked on civil service examinations.

We are putting this testimony in, this testimony is offered for the edification of everyone present here, to know that the man's experience qualifies him to draw the conclusion that he has drawn before this Commission, that this test, in his opinion, is race free and color free, the test of Dr. Shurrager.

Now the fact that he wants to have specific questions asked, this just seems to be immaterial and beyond the scope, it is irrelevant.

Acting Chairman Myers. Mr. Hall apparently feels if he gets these questions, he may not agree with the conclusion the witness reached. I think he has a right to have that information for that purpose.

The Witness. Something that was worked many years ago——

Mr. Hall. Just a minute.

Mr. Cronin. Just a minute, please, Doctor. Mr. Myers, may I ask if this witness is not entitled or doesn't feel free because of his relationship with the Government to testify as to the specific questions on this civil service examination, he is prepared or in his experience has prepared or is preparing, and so forth, then do I understand you correctly you are going to then strike the question-and-answer as to Dr. Aderman relative to the similarity in the questions on civil service as to general ability test No. 10, is that correct?

Acting Chairman Myers. Yes, that was my feeling, that this would be only fair.

Mr. Cronin. Oh, all right, I just want to know.

The Witness. I might add it is a relatively simple judgment——

Mr. Hall. Just a moment.

Acting Chairman Myers. Now may I ask, are you prepared then to withdraw that particular question and answer?

Mr. Nystrom. No, no. We are not withdrawing anything, no, no.

Acting Chairman Myers. I am going to let him answer these questions.

Mr. Cronin. He can't answer because it is beyond the privilege.

Mr. Nystrom. That is up to him, that is up to him.

Acting Chairman Myers. Yes.

Mr. Nystrom. If you want to jeopardize his position with the U.S. Civil Service——

Mr. Hall. I object to that. You jeopardized that when you asked the question.

Mr. Nystrom. I didn't jeopardize it.

Acting Chairman Myers. I believe either we are entitled to information about the test that is being prepared or we are going to be compelled to strike all reference to it.

Mr. Cronin. I don't think we then want to put him in the position of testifying to something that may be privileged and may affect his future. Therefore, we will——

Mr. Nystrom. We will do nothing.

Mr. Cronin. No, no. Obviously—I don't know what is going to happen here.

Mr. Nystrom. Let the Commission rule.

Mr. Cronin. Well, then rule. I don't know.

Acting Chairman Myers. You may answer the question.

The Witness. I'm wondering here——

Mr. Cronin. Wait a minute. Do you feel that it is privileged?

The Witness. It certainly is privileged.

Mr. Cronin. Don't answer it, then we will withdraw the question; that is all.

Acting Chairman Myers. We will proceed with the hearing.

Mr. Cronin. Do we understand which question is withdrawn?

Acting Chairman Myers. The question was the comparison of the No. 10 test with the civil service test.

Mr. Hall. That is right.

Mr. Cronin. I don't think that was the question.

Mr. Nystrom. The question was, I will read it to you straightforward.

Mr. Hall. They have it on the record.

(Question read as follows: "Were there any questions in test No. 10 of a kind similar to those used in the nationwide test by the Civil Service Commission?")

Acting Chairman Myers. And that question and answer therefore will be deleted.

Mr. Hall. Yes.

Acting Chairman Myers. You need not answer then the question that was asked you by Mr. Hall.

Mr. Hall. No further questions.

Mr. Cronin. May I ask a question?

Mr. Nystrom. Let him finish his cross-examination.

Mr. Cronin. He has finished.

Mr. Hall. At this moment, I am.

Mr. Nystrom. At this moment, you either are or not.

Mr. Hall. I am addressing the Commission.

Acting Chairman Myers. If there is no further direct examination, he is through with his cross-examination.

Mr. Nystrom. I have one further question.

REDIRECT EXAMINATION BY MR. NYSTROM

Question. You are familiar with Dr. Phil Shurrager's test No. 10?

Answer. Yes, sir.

Question. You are familiar with the test which you developed for the Civil Service Commission?

Mr. Hall. Object to this; this has been asked and answered heretofore.

Mr. Nystrom. It has been stricken.

Mr. Hall. Don't argue with me. I am making my objection and addressing it to the Commission.

Acting Chairman Myers. May I hear the question, please; will you repeat the question, please?

(Question thereupon read.)

Acting Chairman Myers. You may answer that question.

Mr. Nystrom. Wait, I have not finished the question.

Question. The questions you used in both civil service examination and test No. 10, for what purpose are these questions asked, to determine what?

Mr. Hall. Just a moment, please. I object to this, if the court please, it is a different way of asking him the same question that he refused to answer for me.

Acting Chairman Myers. The Commission wants to know whether or not the witness is going to consider any evidence about the Civil Service Commission privileged. If it is, then we are not interested in the testimony having anything to do with it. If it isn't, we will be glad to hear it on anything you have to say.

The Witness. I could only go so far as to say the items are of a similar nature, they test the same kinds of things, they are used for the same purpose.

Acting Chairman MYERS. That is not my question.

Mr. HALL. Object to further statements.

Mr. NYSTROM. That was my question.

Acting Chairman MYERS. Just a moment, please. You stated that you felt that in your position you could not give any specific information about the civil service examination?

The WITNESS. I am under oath not to.

Acting Chairman MYERS. This Commission has no desire to embarrass you. However, if there is to be testimony about this examination, then we must allow the complainant to attempt to get information to determine the validity of any comparisons you may make. So I think that you must either refuse to answer any questions having to do with the Civil Service Commission or feel yourself compelled to answer relevant questions asked about it.

The WITNESS. Well, I thought maybe it would be permissible if I would just give one question to give an idea, but he said no, he wanted the series, that I can't do, that is out of the question.

Acting Chairman MYERS. Well, I think if Motorola wishes to make a record of the type of question they want to ask, we have no objection to that; but we are not going to allow the witness to answer unless he will answer questions about the tests.

Mr. NYSTROM. All right, I will make an offer of proof, that if I were allowed to ask Dr. Aderman the question of what the purpose of the civil service examination was and Dr. Shurrager's general ability test was—I am merely making an offer or proof now——

Acting Chairman MYERS. Those questions can be answered, what is the purpose of those?

Mr. NYSTROM. Yes.

Acting Chairman MYERS. You may ask that question.

The WITNESS. A. They are both for the same purpose, low-level screening.

Mr. HALL. Wait a minute.

Acting Chairman MYERS. That isn't the way the question was asked, that is all right.

Mr. NYSTROM. Low-level screening is what?

The WITNESS. A. To determine the trainability of the applicant.

Mr. HALL. If the court please, I'm going to ask that be stricken because it gets back to the point that we have to know the questions.

Acting Chairman MYERS. Those particular questions are merely what is the purpose of the two tests? We have not gotten into the comparison, that is the only thing that would justify your wanting information on that.

Mr. HALL. Because he said something about comparison before, before he made those statements and that was stricken.

Acting Chairman MYERS. That is right.

Mr. HALL. This is a second way, a backdoor way of getting this into evidence, and I am objecting to it, if the Commissioners please.

Acting Chairman MYERS. Your objection is overruled.

Mr. NYSTROM. Thank you, Doctor.

Mr. HALL. No further questions.

Commissioner KEMP. I would like to ask Dr. Aderman how long he has been employed as a consultant by the U.S. Civil Service Commission?

The WITNESS. It has been several months now because it took over 2½ to 3 months to get all the adequate security precautions before they could actually put me on the payroll.

Commissioner KEMP. Mr. Chairman, I would like to ask Dr. Aderman as to whether or not any of the tests that he prepared or assisted in preparation of have been given to applicants seeking U.S. civil service status?

The WITNESS. The ones I specifically prepared are prepared, now are in the printing office and waiting for the next notification date.

Commissioner KEMP. They have not been submitted?

The WITNESS. They have been submitted, OK'd, and approved, and just are given——

Commissioner KEMP. Mr. Chairman, I am not making myself clear to Dr. Aderman, I'm sorry. I want to know whether or not any of the examinations that he has prepared or helped to prepare with others have been taken by persons seeking U.S. civil service status up until this point?

The WITNESS. No, this is weeks away, this is a few weeks away.

Commissioner KEMP. The answer then is no?

The WITNESS. The answer at this second then has to be no.

Commissioner KEMP. This is all I wanted to know.

The WITNESS. OK, fine.

Chairman GRAY. You talked in your testimony, Doctor, in answer to a question of counsel with respect to discrimination, you said yes, the test is discriminatory?

The WITNESS. Sure.

Chairman GRAY. Trainable versus nontrainable, something to that effect?

The WITNESS. Yes.

Chairman GRAY. Now you are then designing tests to discriminate specifically on vocational aptitudes and mental abilities and education, and so forth, is that correct?

The WITNESS. Yes, sir.

Mr. GRAY. If you were to set up—this is purely a hypothesis—if you were to set about to design a test that were to discriminate racially, do you think you could do it?

The WITNESS. No, I do not.

Acting Chairman MYERS. Do you have a question, Mrs. Foreman?

Commissioner FOREMAN. Yes. I would like to ask about the departmental setup at I.I.T. We have heard, I think, four witnesses from your department. Would you identify your relationship? I don't know whether any one of them is head of the department or what they do?

The WITNESS. I am associate professor in the department of psychology and education.

Commissioner FOREMAN. What is your relationship in the chain of command, so to speak, with Dr. Groves and Dr. Shurrager?

The WITNESS. Dr. Groves is a dean, also dean of graduate school; and Dr. Shurrager is the chairman of the department.

Commissioner FOREMAN. He is chairman of the department?

The WITNESS. Yes, he is.

Commissioner FOREMAN. What about Dr. Salisbury; where is he at?

The WITNESS. Dr. Salisbury is also an associate professor at I.I.T., and he does all the statistical analysis. He worked with him on Motorola.

Commissioner FOREMAN. Yes, I was aware of that.

Chairman GRAY. I have another question, to go back to it: Is racial discrimination possible in tests, whether it is put in there by design or not?

The WITNESS. I would say it is impossible, absolutely, irrevocably impossible, that would be my judgment.

Commissioner SEATON. Dr. Aderman, if a person takes this No. 10 test or this civil service test that you are designing, if he should take this test several times, would his score improve?

The WITNESS. There should be a slight increment, yes, just by virtue of familiarity with the items.

Acting Chairman MYERS. I have one question: I am under the impression that you have designed certain tests similar to but not identical with the civil service tests?

The WITNESS. That is right, that is why you have comparable forms of the same test.

Acting Chairman MYERS. I'm not sure you heard my statement.

The WITNESS. I'm sorry.

Acting Chairman MYERS. That you have designed tests which are not the civil service test but may be similar to that which are low-level screening tests, is that right?

The WITNESS. If I designed tests?

Acting Chairman MYERS. Put together tests, low-level screening tests which are not those that are used for the civil service tests?

The WITNESS. On occasion.

Acting Chairman MYERS. What kind of questions are in such low-level tests?

The WITNESS. It would be very similar to those of test No. 10. Many times you would orient it toward the job, so suppose I were working for a low-level screening examination for janitors, I might load it toward this direction slightly, for this specific job, a question like this, a multiple-choice item of the sort: Why does an electrician wear rubber gloves? To keep his hands warm, things of this sort. The answer, of course, being that rubber is a good insulator.

Acting Chairman MYERS. Any further questions? Thank you very much, Doctor.

Mr. CRONIN. Might I ask one question on redirect, if I might, please, or re-redirect, whatever we are at?

RE-REDIRECT EXAMINATION BY MR. CRONIN

Question. In your familiarity with Shurrager's test No. 10, are the areas of verbal comprehension and simple reasoning covered in that general ability test No. 10?

Answer. Yes, it is virtually all of this.

Question. Virtually all of it?

Answer. Yes.

Mr. NYSTROM. I think as an aside or off the record, I think, Mr. Myers, was that what you were attempting to learn, the general fields covered in low-level screening tests?

Acting Chairman MYERS. I was just interested in what type of questions he had.

Mr. NYSTROM. Yes.

Mr. CRONIN. Let me pursue that then.

The WITNESS. Surely.

Mr. CRONIN. Are those the fields or areas covered in Dr. Shurrager's General Ability Test No. 10?

Answer. That is right, they are.

Question. Is Dr. Shurrager's test No. 10 a test of low-level screening?

Answer. Yes, it is.

Question. One final question that I have and I think it should be asked: Does Dr. Shurrager's test No. 10, in your opinion, discriminate as to race or color?

Mr. HALL. That has been asked and answered, I object.

Mr. CRONIN. No, it hasn't.

Acting Chairman MYERS. Since I'm not sure it has been asked, I will allow it to be answered.

Mr. WITNESS. No, it does not discriminate on that basis at all.

Mr. CRONIN. You testified too it discriminates on the basis of trainability, is that right, sir?

Answer. Trainability, yes, sir.

Commissioner KEMP. Mr. Chairman——

Acting Chairman MYERS. Let's give Mr. Hall his chance to cross examine on this.

Mr. HALL. Go ahead, that is all right for the time being, I will let it go.

Commissioner KEMP. I would like to ask Dr. Aderman as to whether or not he, as an associate professor and other members of the staff at IIT helped prepare this test No. 10?

The WITNESS. No, sir.

Commissioner KEMP. No other persons, to your knowledge, with the exception of Dr. Shurrager?

The WITNESS. That first one, I think, was prepared in 1949, long before I ever knew him. I think, I'm not sure on some of his tests, he has many, many tests——

Commissioner Kemp. I'm just speaking of test No. 10?

The Witness. But on some of them, I don't know whether test No. 10 would be included or not, he had an engineer working with him, Dr. Ross. I don't know if he was in on this or not. I don't even know the man.

Mr. Cronin. Your answer then is, No, as I understand that answer?

The Witness. I think so. If it would be, it would be an engineer. I never knew.

Commissioner Kemp. Thank you.

RE-RECROSS EXAMINATION BY MR. HALL

Question. How long have you been connected with the Institute?

Answer. About 7½ years now.

Question. Have you been in on conferences with Dr. Shurrager in making these tests?

Answer. No, sir.

Question. You have not discussed these tests with him?

Mr. Cronin. Just a minute, I object to that unless we know when.

Mr. Nystrom. Before or after they were developed?

Mr. Hall. Since this case has been on trial here, since March?

The Witness. We talked about it.

Mr. Hall. About this test here?

Answer. Yes.

Question. How often have you talked about it?

Mr. Cronin. I object to that, what is the materiality of how often he has talked about it? He is an expert professional witness, a Ph. D.

Acting Chairman Myers. Objection overruled. You may answer.

The Witness. Can I get that question a little more clearly?

(Pending question thereupon read.)

The Witness. A. Not very frequently, but off and on, it would come up sort of like over a cup of coffee or something of this sort. It was of a very casual nature.

Mr. Hall. Now, Doctor, do you feel or believe that an applicant for position of phaser or analyzer should have more than a verbal test as given by Motorola here, in example, the No. 10 test?

Answer. Yes, sir, I do. I can tell you why, if you want.

Question. Wait a moment, just a moment, I will ask you. Do you believe that he should have a performance test?

Answer. I believe that in terms of——

Question. No, no, answer my question, please.

Answer. Can I do it in a roundabout way?

Question. Will you say yes or no, please?

Mr. Cronin. Let him testify, let him testify, please.

The Witness. I have to answer it in a certain way.

Acting Chairman Myers. I will allow him to answer it in the manner he wishes to. Excuse me, try to get to the question he asked.

The Witness. Yes, I would like to get it. Performance tests are fine and these kinds of tests are used, but they are very costly and very timely. The purpose of low-level screening is to decide who can come up now for the performance test. You see, if we can get them before they get to the performance test, you see——

Mr. Hall. Wait a moment, just a moment. I ask that be stricken, if the Commission please.

The Witness. This is the purpose of the test, you see what I'm getting at, sir.

Mr. Hall. No, just a moment, I will withdraw that question.

Acting Chairman Myers. I think that the question and answer may stand.

Mr. Hall. That is all.

Acting Chairman Myers. Did any Commissioner have any further questions?

Commissioner Kemp. No, I think not.

Acting Chairman Myers. Thank you, Doctor.

Mr. Nystrom. Thank you very much, Doctor.

Acting Chairman Myers. Was there another witness?

Mr. Nystrom. We have one more; it won't take long.

(Dr. Robert M. Roth, called as a witness on behalf of the respondent herein, after having been first duly sworn, assumed the witness stand, was examined, and testified.)

DIRECT EXAMINATION BY MR. NYSTROM

Question. State your name, please.

Answer. Dr. Robert M. Roth.

Question. By whom are you employed?

Answer. I.I.T.

Question. What is your present position with I.I.T.?

Answer. I am assistant professor of psychology.

Question. Any particular field of psychology, Doctor?

Answer. In counseling psychology.

Question. Counseling?

Answer. Yes.

Question. Can you tell us a bit about your educational background, Doctor?

Answer. I received a bachelor of arts degree, Indiana University, in psychology, 1950; master of science in psychological services in City College of New York, 1951; Ph. D. in psychology, University of Texas, 1956.

Question. Have you had past experience, Doctor, in dealing with Negro students?

Answer. Yes, I have. I was director of psychological services and associate professor of psychology at Hampton Institute, which is in Hampton, Va. It is a Negro college.

Question. What were your duties there?

Answer. I counseled with Negro college students on educational, vocational, and personal problems.

Question. How long were you there, Doctor?

Answer. Seven years.

Question. Had you had any other experience in counseling or experience with Negro students?

Answer. Yes, I have. I directed two summer National Defense Educational Act counseling institutes.

Question. What is the National Defense Educational Act, Doctor?

Answer. That is National Defense Educational Act, out of the U.S. Office of Education. They supported our training, a summer training program for high school counselors.

Question. Have you had, during this period, have you had experience in evaluating Negro performance on intelligence tests?

Answer. Yes, I have.

Question. How do you evaluate Negro performance on intelligence tests, Doctor?

Answer. Well, it has been my experience that they seem to be—to have a general self-depreciation which—may I read this?

Question. Certainly, if you can't recall, if you have exhausted your memory, you may refresh your recollection.

Mr. Hall. I object to that, that is not proper procedure.

The Witness. OK.

Mr. Hall. Counsel knows it is not.

Mr. Nystrom. Are you objecting to it?

Mr. Hall. Yes.

Acting Chairman Myers. May I ask what is the nature of the instrument from which you wanted to read now?

The Witness. They are notes.

Acting Chairman Myers. These are notes which you made?

The Witness. Yes.

Acting Chairman Myers. I will overrule the objection.

The Witness. I may read that?

Mr. Nystrom. You may use that, yes.

The Witness. This is a general self-depreciation which sort of leads to a fear of testing one's self in competition; and as a result of this, there are excessive protective devices used to maintain self-depreciated self-images. As a result of this, they tend to do poorly on questions directly related to school learning and adequately on questions relative to basic, untaught processes, and that is like simple reasoning and verbal comprehension.

Mr. Nystrom. You are familiar with low-level screening testing?

Answer. Yes, I am.

Question. Do you know the purpose of low-level screening testing?

Answer. Yes.

Question. What is the purpose, Doctor?

Answer. To discriminate trainability.

Question. What do you determine in low-level screening, is that verbal comprehension and simple reasoning?

Answer. That is right.

Question. Now in your experience with Negroes in their performance on intelligence tests, did you state that they perform adequately in regard to verbal comprehension and simple reasoning, would you state?

Answer. I do, yes, I would.

Question. Have you ever published a psychological test, Doctor?

Answer. I have.

Question. In what field?

Answer. Maternal attitudes, a test called "The Mother-Child Relationship Evaluation."

Question. State your experience in testing, Doctor?

Answer. I consulted for 7 years at Hampton Institute with a testing bureau. They gave freshman, sophomore, advanced group testing to the student body. There were tests of ability and tests of achievements. I worked also at the University of Texas in the Testing and Counseling Center where we also gave tests on a freshman level.

Question. Are you familiar——

Answer. I have some more.

Question. Go ahead.

Answer. I have done diagnostic work with mentally retarded in Virginia and in Texas as well.

Question. Are you familiar with Dr. Phil Shurrager's general ability test No. 10?

Answer. Yes, I am.

Question. And can you state for us again what is low-level screening?

Mr. Hall. That has been answered. I object to it.

Acting Chairman Myers. Has this witness answered that question?

Mr. Cronin. I don't know myself if he answered that.

Acting Chairman Myers. All right, he may answer.

The Witness. Low-level screening is discriminating according to trainability.

Mr. Nystrom. And on the basis of your experience in testing and in your familiarity with Dr. Phil Shurrager's General Ability Test No. 10, did you consider test No. 10 a fair instrument for low-level screening?

Answer. Yes, I do.

Question. On what do you base this opinion, Doctor?

Answer. On my experience in testing.

Question. In your opinion, is test No. 10 discriminatory?

Answer. Yes, it is.

Question. How is it discriminatory, Doctor?

Answer. It discriminates trainability.

Question. Does test No. 10, in your opinion, discriminate in any manner between race and color?

Answer. No, it doesn't.

Mr. Nystrom. I have no further questions.

CROSS EXAMINATION BY MR. HALL

Question. Doctor, what is test No. 10?

Answer. Test of general ability.

Question. And will you state the questions asked in test No. 10?

Answer. All of the questions asked in test No. 10?

Question. Yes.

Answer. I'm not able.

Question. Do you know the test that is used by Dr. Shurrager?

Answer. Yes, I do.

Question. And you have seen it, of course?

Answer. Yes.

Question. You have discussed it with him, of course?

Answer. I haven't really discussed it with him, no.

Question. You have not discussed it with him?

Answer. No.

Question. You say you don't know the questions that would be asked in test No. 10?

Answer. I can't recall specifically the questions.

Question. Can you name any, can you state any of the questions?

Answer. Well, specifically?

Question. Yes.

Answer. Including the specific data in it?

Question. Beg your pardon?

Answer. Including the specific data in it?

Question. Yes.

Answer. No, I couldn't.

Question. The questions then, if you don't remember the questions, Doctor, how can you say that this tests what it is or what you say it is?

Mr. Cronin. Object to the form of the question.

Acting Chairman Myers. I think he can answer the question.

The Witness. Yes. My comments are in terms of the kinds of questions they are.

Mr. Hall. What kinds of questions are they?

Answer. They are questions of verbal comprehension and simple reasoning.

Question. And you can't state any questions asked in test No. 10?

Answer. No, I don't recall them.

Question. You don't recall any?

Answer. I know what kind of questions they are, but I couldn't give you specific numbers in the questions.

Question. Do you know any other general ability test that is used?

Answer. Yes.

Question. What other tests are used?

Answer. Wechsler-Bellevue is used.

Question. Do you know the questions asked in that test?

Answer. I couldn't recall specifically.

Question. How long were you at Hampton Institute?

Answer. Seven years.

Question. What position were you in?

Answer. Director of psychological services and associate professor of psychology.

Question. That was of college students?

Answer. That is right.

Question. And have you done any work in the grade school?

Answer. I have supervised in the summer internship, the summer training programs. We supervised high school counselors in training and we supervised their counseling with high school and junior high school children.

Question. I see. Now, Doctor, during your work, do you know what is meant by the term "culturally deprived child"?

Answer. I think it depends upon who is saying it.

Question. Do you have an occasion to diagnose the child as a deprived child in your work?

Mr. Cronin. I object to that.

Acting Chairman Myers. What is the nature of the objection?

Mr. Cronin. In that it is not material to the issue before the full Commission, a child being culturally deprived.

Mr. Hall. I'm asking him.

Mr. Cronin. I'm stating it to Mr. Myers.

Acting Chairman Myers. I agree it is not material. I think there was some testimony he treated children in connection with his qualifications. On that basis I will allow it.

Mr. Hall. I think he did.

Acting Chairman Myers. You may answer it.

Mr. Hall. Will you repeat the question, please?

The Witness. What is meant by the term "deprived child" or "deprived children"? I say it depends upon who is saying it. Generally it means a person coming from a low socioeconomic group.

Question. And you have had occasion to deal with such children?

Answer. Yes, sir.

Question. And have you had occasion to deal with children who came from better homes?

Answer. Yes, sir.

Question. What difference did you find in these children, if any?

Mr. Cronin. Objection.

Acting Chairman Myers. I will sustain that objection.

Mr. Hall. That is all.

Mr. Cronin. Excuse me, go ahead. I don't know whose turn it is.

Acting Chairman Myers. I would just as soon get the questions by counsel concluded.

REDIRECT EXAMINATION BY MR. CRONIN

Question. I would like to ask one question or two questions, in fact: Doctor, I think on direct examination you testified that in your evaluation of Negro performance on intelligence tests, you said that the Negroes tend to do poorly on questions directly related to school learning; is that right?

Answer. That is right.

Question. That they do adequately on questions relative to basic, untaught processes; is that correct?

Answer. That is right.

Question. Now you testified on cross-examination then to Mr. Hall's question that the forms of the questions asked in Dr. Shurrager's general ability test were verbal comprehension and simple reasoning; is that correct?

Answer. Yes.

Question. Now what are verbal comprehension and simple reasoning questions?

Mr. Hall. Object to that as improper redirect.

Mr. Cronin. Well, I submit—excuse me.

Acting Chairman Myers. Objection is overruled. If he testified as to those matters on cross-examination, then I believe this is proper.

Mr. Cronin. Yes, he did.

Acting Chairman Myers. You may answer.

The Witness. What was the question? I'm sorry.

Mr. Cronin. Read the question back, will you, please, Miss Reporter?

(Pending question read.)

The Witness. Generally, what are they? Well, simple reasoning has to do with abstraction and analogy and the like, whereas verbal comprehension has to do with understanding the language and what is meant by the words.

Mr. Cronin. I understand that now as to verbal comprehension and simple reasoning questions, are they basic, untaught processes?

Answer. I believe so.

Question. Well, do you categorize them as basic untaught processes, Doctor?

Answer. Yes, yes.

Mr. Hall. Object to that as leading, improper redirect.

Acting Chairman Myers. Objection is sustained.

Mr. Cronin. His answer is "Yes."

Mr. Hall. I ask the answer be stricken, if the Commission please.

Acting Chairman Myers. The answer is stricken. Do you wish to rephrase the question?

Mr. Cronin. What, if any, category do verbal comprehension and simple reasoning questions fall into, Doctor?

Mr. Hall. Object to that, that is improper redirect, if the Commission please.

Mr. Cronin. If you know?

Acting Chairman Myers. Objection is overruled.

The Witness. Untaught processes.

Mr. Cronin. All right, thank you.

Mr. Hall. No questions.

Acting Chairman Myers. Do some of the Commissioners have any questions?

Chairman Gray. I wanted to come back to this question of a self-depreciation concept. This is on the basis of your study and observation of, I assume, large numbers of Negro college students?

The Witness. Yes, it is.

Chairman Gray. This, as I understand your testimony, then interferes with the Negro students or Negro taking a test?

The Witness. Yes.

Chairman Gray. Where it comes to those items which are acquired by learning, is that correct?

The Witness. Yes. If I can add thereto, it interferes with their entire performance in school.

Chairman Gray. Are you suggesting there is a basic, intrinsic attitude among Negroes which does not permit them to do as well in a formal educational process?

The Witness. That is right.

Chairman Gray. This would be reflected in the grades that they get, in the numbers of those who drop out, the numbers of those who get diplomas and degrees?

The Witness. That is right; and also in the school-related questions on intelligence tests.

Chairman Gray. So any test that would have school-related questions in it, would by its nature be discriminatory against Negroes, is that correct?

The Witness. Yes, I would think so.

Chairman Gray. Thank you. That is all I had.

Commissioner Foreman. I would like to ask whether that classification, as an old English teacher, I would like to ask whether calling verbal comprehension something that is a basic, untaught process rather than something that can be stepped up a good deal by education is a general way of dividing things?

The Witness. Well, I think when you step up through education you are increasing things like vocabulary; but to understand what a simple word means is quite different.

Commissioner Foreman. Well, then, in a test, in an aptitude test, the choice of vocabulary used in the test might determine whether it was a basic untaught process you were checking on or whether you actually were checking on the extent of vocabulary, isn't that true?

The Witness. That is right.

Commissioner Foreman. It is really a kind of ambivalent situation?

The Witness. That is right. So that in tests where the level of difficulty of vocabulary is low, you assume that you are measuring this other thing, verbal comprehension.

Commissioner Seaton. Mr. Chairman, I have one question. Is it your opinion if a man taking this type of test you are talking about, this simple test, if he repeats that test, that he is likely to score the same or higher?

The Witness. I think just slightly higher. This is because of repetition, that is all.

Commissioner Seaton. Thank you.

Acting Chairman Myers. Thank you very much, sir. Now, as I understand it, Motorola has now presented its additional testimony.

Mr. Nystrom. I think that Mr. Cronin might have someone.

Mr. Cronin. One more witness. It should be very short, if the Commission please. Mr. Ducey, will you take the stand, please. He was on the list of witnesses. I think you testified last time, you were sworn before. I don't know if that applies now.

Acting Chairman Myers. Let's have him resworn, then there will be no doubt.

(Mr. Walter J. Ducey, having been previously called as a witness on behalf of the respondent, was sworn again, resumed the witness chair, was further examined, and testified as follows:)

DIRECT EXAMINATION BY MR. CRONIN

Question. Will you state your name, please?

Answer. Walter J. Ducey.

Question. What is your capacity with the Fair Employment Practices Commission of Illinois?

Question. Mr. Ducey, did you have occasion to be the investigator or one of the investigators on the Myart matter that is now before the full Commission here?

Answer. I did.

Question. Were you one of the investigators or the investigator?

Answer. I was the investigator in the matter.

Question. Mr. Ducey, when did you report your investigation to the full Commission?

Mr. Hall. Objection, that is immaterial when he reported it.

Acting Chairman Myers. I believe that is immaterial.

Mr. Cronin. I will withdraw that question.

Question. Mr. Ducey, in your preparation of your investigation, and so forth, prior to the date, whatever it was, and it is immaterial, when you did present the matter in the Myart case to the full Commission, had you received any information from a Mr. Frank Fager of the Federal Government relative to the Myart matter, sir?

Mr. Hall. Object to that, it is immaterial.

Acting Chairman Myers. I think this line of questioning—I can't see how this is going to bring new testimony before this Commission for the purpose of determining the facts in the Myart case.

Mr. Cronin. Well, as the full Commission knows, of course, they are to determine from the record as they have before it whether to affirm or disallow whatever the order issued by Mr. Bryant was. Now, Mr. Ducey was a witness in this case and his credibility, of course, was weighed by Mr. Bryant, but I think again that you people have to weigh the credibility and weight of the testimony before you as will the circuit and appellate and Supreme Courts if that is necessary on either side, of course, and I think it should be part of the record, that information has come to me and my associate counsel, Mr. Nystrom, that since April 18, the date that Mr. Ducey testified in this matter before you people, that Mr. Ducey has testified in a companion matter which has now been disposed of and stipulated to——

Mr. Hall. I think that is prejudicial.

Mr. Cronin. Just a minute, I'm not through; just a minute, I'm not through now.

Mr. Hall. I think——

Mr. Cronin. Just a minute, I'm not through. May the Commission allow me to finish my statement? The information came to me since April 18, 1964, in fact, it came to me when I was present at a meeting in the Thornton, et al., matter before the FEPC when Mr. Ducey was under oath, as he is here today, wherein he advised me and Mr. Leighton, the hearing examiner in that matter, that he had received information and made notes, specific handwritten notes of a conversation he had with Mr. Frank Fager, who is chief EEO officer, U.S. Government, for the Air Force, in which there was a question as to the weight and credibility and whatever as to this information he received from Mr. Fager.

Now I am interested to know myself, and I am interested in having the Commission know whether Mr. Frank Fager, a Federal Government officer conducting a separate and distinct investigation in the Myart matter, where no discrimination was found against Motorola, Inc., gentlemen and ladies, whether Mr. Frank Fager also turned information over to Mr. Ducey in this matter here.

Mr. Hall. If the Commission please, it is highly immaterial and improper, and particularly in this case, and I am asking that all remarks made by counsel be stricken and that the question be stricken.

Mr. Cronin. Maybe I forgot; I will add one other thing. I don't want to belabor the issue. I just want to present it to you people. Mr. Fager, in giving information to Mr. Ducey, has violated, of course, a serious confidence by Presidential order that the investigative matters will be secret, as are the investigative matters done by the FEPC, and I think you people should know this.

Mr. Hall. I object and ask that it all be stricken as very prejudicial.

Mr. Cronin. He has gone further and given information in violation of his confidence by the Federal Government by an order, to Mr. Ducey, so they can come against Motorola here.

Acting Chairman Myers. I'm not familiar with what Mr. Fager's obligations are under Federal laws. I won't pretend familiarity. But assuming he has violated them or has not violated them, as the case may be, I cannot see how that has anything to do with the facts in the Myart case, which is what we are trying now. And I believe, unless you have in mind bringing in added evidence as to what transpired in the Myart matter, we are not going to continue along this line of investigation.

Mr. Cronin. The only point I am making is that I would like to have the Commission know for its own benefit, excuse me, this could be additional evidence if we can get it right in in an answer to the question.

Mr. Nystrom. This may open a whole new door to us.

Mr. Cronin. Maybe Mr. Fager said nothing to him in the Myart case.

Acting Chairman Myers. If you want to bring Mr. Fager in, I think this you can do.

Mr. Cronin. We cannot get him in because he is a Federal employee.

Mr. Hall. It should not be mentioned then because it is improper.

Acting Chairman Myers. The question asked which led to this was, "Did you speak to Mr. Fager before the investigation?" Was that the question?

Mr. Cronin. No. At any time before his investigation of the Myart matter, did he talk to Fager before he reported to you people as the full Commission that found substantial evidence against Motorola and thereupon issued a complaint, did Mr. Ducey, as I might add, gentlemen, as he did in the Thornton case, talk to Mr. Fager, and he submitted, in my opinion, gentlemen, false information to this full Commission, that is what I want to go into. I want to know if he got information from Fager that he put in his report to you people.

Mr. Hall. I'm objecting to that, I'm objecting to that.

Acting Chairman Myers. I am sustaining the objection. I have the feeling there is an effort to conduct investigation that have nothing to do with the Myart case at this hearing, and we are hearing evidence on the Myart case.

Mr. Cronin. You are going to have to rule as a full Commission, you are going to have to look at Mr. Ducey's testimony to see if it is fair, unbiased, and not arbitrary.

Mr. Nystrom. May I make this suggestion——

Mr. Hall. If I may——

Mr. Nystrom. May I continue, please? May I make this suggestion: If we get the answer, whether it is yes or no, possibly if it is yes, it may possibly open a new door to us for additional evidence. If the answer is "No," then that is it.

Mr. Hall. If the Commission please, I am asking all of these statements made by Mr. Cronin and by Mr. Nystrom be stricken. They have no place in this record whatsoever.

Acting Chairman Myers. I am going to allow the objection.

Mr. Cronin. We never did discover this, it was discovered after April 18, or we would have presented it to you last time.

Mr. Nystrom. You see, Mr. Myers, as you know, you are familiar with the act, that as far as the respondent in these matters is concerned, we fumble in darkness because of the fact the Civil Practice Act does not apply. We have no means of true discovery deposition, no means of any discovery. We stumble on things, and we have something here which we would like to have an answer to. It might just—we do not know—it just possibly may give us a new lead and a new door. Only for that purpose we would like to have the question answered. If the answer is "Yes," the door has been opened. If the answer is "No," it has been closed.

Acting Chairman Myers. Since there is nothing in this record about any information exchanged between Mr. Fager and Mr. Ducey, I cannot see that this has any relevance to our present hearing.

Mr. Nystrom. That is what we are trying to determine today, Mr. Myers, and for that purpose, we are only asking for a yes or no answer.

Acting Chairman Myers. You have gotten a ruling. The ruling is the question is improper.

Mr. Cronin. Well, would you allow—well, I don't know what the situation is. It is difficult to make an offer of proof if I don't know what the answer would be.

Mr. Hall. You don't know what the proof is, you don't know what to offer then.

Mr. Cronin. It is exactly the same proof as in the Thornton case.

Mr. Nystrom. This is the Myart case and still is the Myart case.

Now the question was pertaining to whether Mr. Ducey obtained information in regards to the Myart case from Mr. Fager, and I think that is all it is, it is a very short and simple question. I think we are entitled to an answer in regard to the same.

Mr. Hall. It is improper.

Mr. Nystrom. It goes to the issues in this case. This is the Myart case.

Mr. Hall. You can't fish every place, counsel, you know that.

Mr. Cronin. The first chance we had is this, as he calls it, to fish, is after April 18, when Mr. Ducey is on the stand testifying under oath.

Acting Chairman Myers. You had a good fishing expedition on April 18.

Mr. Cronin. There was fishing all right, that is obvious.

Acting Chairman Myers. We will proceed with this.

Mr. Nystrom. All we want is the answer to the question, yes or no. If that is not asking too much.

Mr. Hall. He has ruled on it.

Acting Chairman Myers. I have given you a ruling on it.

Mr. Nystrom. You are still not going to let him answer the question whether he has spoken to Mr. Fager or not?

Acting Chairman Myers. I think it is irrelevant.

Mr. Nystrom. I think it goes to the issues.

Acting Chairman Myers. There has been a ruling, gentlemen, and it was told to you last April 18, that if these rulings are in error, you have your remedy.

Mr. Cronin. We recognize that, Mr. Myers.

Acting Chairman Myers. All right.

Mr. Cronin. Will this Commission entertain as a part of this record, if I prepare under my own signature a memorandum relative to the testimony?

Acting Chairman Myers. Do you wish to testify?

Mr. Cronin. Please, may I, Mr. Myers?

Acting Chairman Myers. Proceed.

Mr. Cronin. I don't intend to testify, you want me to testify?

Acting Chairman Myers. That is up to you. I say, if you wish to testify, you have the right.

Mr. Cronin. That may not be testimony. Maybe you should hear the whole story of Mr. Ducey's conduct in the Thornton case. Maybe you should hear it. I was suggesting a memorandum be filed over my signature of Mr. Ducey's conduct in the Thornton case which was a case that didn't come to the full Commission, was disposed of before the hearing was ended. I think you have to take that into consideration.

Acting Chairman Myers. This is—you see where we differ, that what is involved in this case are the facts in the matter of Leon Myart and that is what we want presented now; and at any further hearings.

Mr. Cronin. All right. I mean, are you going to take into consideration the credibility of the witnesses that appear, is that right?

Acting Chairman Myers. We have to take into consideration the credibility of every witness that appears.

Mr. Cronin. You have to take into consideration the credibility of Mr. Ducey as a witness.

Mr. Hall. Object to that.

Acting Chairman Myers. I think there is an implication there I don't approve of, but certainly we will take into consideration the credibility of every witness.

Mr. Cronin. That is why I want to enlighten the Commission as to the conduct of Mr. Ducey. Mr. Ducey is the investigator in the Myart case. This is a personal experience on the record that Ducey had in the Thornton case, just a different title, that is all it was, before the same Commission, and he was the investigator in both matters; and he submitted matters to you before the full Commission that he was not justified in doing.

Acting Chairman Myers. Do you wish to testify?

Mr. Cronin. I may have to testify, if necessary.

Acting Chairman Myers. Is there anything further to come before the Commission?

Mr. Nystrom. That is all, Mr. Myers.

Acting Chairman Myers. As was earlier announced, the complainant has until June 20 to submit the names of added witnesses; subsequent to June 20 we will set a date for final hearing which will be no less than 10 days from June 20, and it is our hope that we will then have final testimony and arguments of counsel.

Mr. Nystrom. Just one question, Mr. Myers, for the sake of the record, I will ask the same question asked by Mr. Gray:

When this was up April 18, would you be kind enough to state for the record the rule and regulation or the applicable section of the statute which permits this matter to be continued again?

Mr. Minsky. What?

Acting Chairman Myers. The rule and regulation. I think the section of the statute which provides we may do all things not inconsistent.

Mr. Minsky. I didn't get the end of his question.

Acting Chairman Myers. He wants to know under what authority we are continuing this matter. "To adopt, promulgate, and rescind rules and regulations not inconsistent with the provisions of this act." That is 6-D of the act.

Mr. Nystrom. 6-D of the act?

Mr. Myers. Yes.

Mr. Nystrom. Of course then you are referring to these rules and regulations already adopted?

Acting Chairman Myers. We didn't pass that, the legislature passed that.

Mr. Nystrom. You are referring to the rules and regulations, these are the rules you are referring to?

Acting Chairman Myers: I am referring to section 6-D of the Fair Employment Practices Act which was passed by the legislature of the State of Illinois.

Mr. Nystrom. I understand that.

Acting Chairman Myers. That says: "That the Commission may adopt rules and regulations not inconsistent."

Mr. Nystrom. Which are these rules and regulations here?

Acting Chairman Myers. We have adopted those rules and regulations but that does not preclude us from entering the sort of rule that was entered at this last meeting. Is there anything further?

Mr. Cronin. Mr. Myers, just a final statement, if I might make it, sir, to you and the Commission that you indicated you were not familiar with the Federal practice. Naturally, of course, this is a State body.

Acting Chairman Myers. I think I should go further. I think for the purposes of this record, for the purposes of this hearing we cannot concern ourselves with that, this is a collateral matter.

Mr. Cronin. It is collateral. The only thing is I want you to understand when you weigh the arguments that are going to be proffered before you, when you weigh the full record, I want you to take into consideration the matters that Mr. Ducey has testified to here, and I want you to take into consideration his credibility and what weight should be given his testimony.

Now if I may cite for the record—if it is immaterial, it is immaterial, but I just want to put it in the record, if I may, and I am reading from "Government Contract Employment Rules and Regulations of the President's Committee on Equal Employment"——

Acting Chairman Myers. If you want to give a citation, I have no objection; but frankly, we consider this completely irrelevant to the matter at hand. If you wish to get your citation into the record, do so; but do not read the statute.

Mr. Cronin. I will cite it, 60-1.61, entitled "Access to Records of Employment." Now it is a very short paragraph and you would not want that read into the record?

Acting Chairman Myers. No, sir. If there is nothing further——

Mr. Nystrom. I have only one question with regard to the adoption of rules and regulations. In other words, in your opinion, you can adopt a rule and regulation to apply to any subsequent hearing or any hearing?

Acting Chairman Myers. If it is not inconsistent with the purposes of the act. If there is nothing further, we will stand adjourned until we give the parties notice of the next hearing.

Mr. Cronin. Excuse me, I'm sorry. One question, if I might ask: The order of Mr. Bryant says "to cease and desist the use of the No. 10 test." Now we have abided by that. We have not used the No. 10 test. Can you please tell us when there will be a final order here? We have not used the No. 10 test for, well, ever since Bryant's order, the end of February.

Acting Chairman Myers. Let me ask our technical adviser if, until the Commission has taken action, if they are bound by that? Did you hear that question?

Mr. Minsky. Yes, I did. I don't have a ready answer for it.

Acting Chairman Myers. I obviously cannot answer your question, although I guess you, as counsel for the company, will just have to give them the best advice you are able to give on that.

Mr. Cronin. I won't take a chance on it. I don't want to be sued myself. I think the only advice we will give them is just desist from using it and cease as we have been ordered to from last February. All right.

(Whereupon these proceedings in the above entitled matter were adjourned until a date to be determined by the Commission.)

Mr. TOWER. Mr. President, I ask unanimous consent to have printed at this point in the Record an article entitled "Motorola Job Test Is Fair, Hearing Told; Can't Design a Biased Exam, Professors Say," published in the Chicago Tribune of Tuesday, May 26, 1964.

There being no objection, the article was ordered to be printed in the Record, as follows:

Motorola Job Test Is Fair, Hearing Told—Can't Design a Biased Exam, Professors Say

Three Illinois Institute of Technology experts told the Illinois Fair Employment Practices Commission yesterday that the job employment test at Motorola, Inc., is not racially discriminatory. They said it is impossible to design such a test that discriminates against Negroes.

The three testified at a hearing of the full commission to consider the appeal by Motorola of an FEPC examiner's ruling that the test is discriminatory.

The examiner, Robert E. Bryant, on March 5 upheld the charge of Leon Myart, 6333 Dorchester Avenue, a Negro, that Motorola denied him employment as a "phaser and analyzer" because of his race.

TOLD TO HALT TEST

Bryant ordered the company to hire Myart and directed Motorola to stop giving the general ability test to job applicants because the test, he said, is unfair to "culturally deprived and disadvantaged groups."

The examiner's finding was opposed yesterday by Dr. Marion Groves, acting dean of the graduate school and associate psychology professor; Dr. Morris Aderman, associate psychology professor; and Dr. Robert Roth, assistant psychology professor.

The Motorola test, Professor Groves testified, "does not discriminate regarding race or color, but only measures verbal comprehension and simple reasoning."

TESTS FAVOR NEGROES

Studies made since World War I, he said, show that such tests "favor the Negro more effectively than other tests which might be administered" because Negroes have showed "the highest performance level" on "tests of verbal comprehension and simple reasoning."

Dr. Aderman said it is impossible by "design or not" to discriminate racially in tests like the Motorola test.

Robert Myers, Springfield attorney who is presiding officer at the hearing, continued the sessions until after June 20, the deadline for Myart to present additional witnesses.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

Mr. CASE. Mr. President, I feel certain that no Member of the Senate disagrees with the views of the Senator from Texas concerning the Motorola case finding by the referee or examiner. However, it has no relation to the provisions that would be enacted by the bill. The Motorola case could not happen under the bill the Senate is now considering.

However, I object to the amendment suggested by the Senator from Texas because, first, it is unnecessary; second, the amendment would tend to complicate and make more difficult dealing with cases of actual discrimination and the elimination of them by persuasion as well as by enforcement procedures provided by the act.

If this amendment were enacted, it could be an absolute bar and would give an absolute right to an employer to state as a fact that he had given a test to all applicants, whether it was a good test or not, so long as it was professionally designed. Discrimination could actually exist under the guise of compliance with the statute. The amendment is unnecessary and would make much more difficult the elimination of discrimination, which is the purpose of the bill.

I hope the Senate will reject the amendment.

Mr. HUMPHREY. Mr. President, I yield myself 30 seconds to say that the substance of this amendment was given the most careful consideration at the time the leadership group met to perfect the so-called package substitute. Needless to say, the amendment was of grave concern to us because it refers to a case in the State of Illinois, and that matter was well represented by none other than the distinguished minority leader.

Every concern of which this amendment seeks to take cognizance has already been taken care of in title VII, as amended, and presented in the substitute. These tests are legal. They do not need to be legalized a second time. They are legal unless used for the purpose of discrimination. The amendment is unnecessary. It would only complicate the package amendment, which has been carefully drawn and represents the considered views on the part of those concerned about title VII.

Mr. TOWER. Mr. President, I yield myself 2 additional minutes.

My purpose was not to be capricious.

Mr. HUMPHREY. I understand.

Mr. TOWER. Or to burden the bill with provisions that are redundant or unnecessary. As I read the measure, I see nothing that would prohibit this type of finding by the Equal Employment Opportunities Commission. I know that the Senator from Illinois [Mr. DIRKSEN] has given much thought to this problem. But I was thinking not only in terms of the State of Illinois, but also as an example of what might happen.

I am not commenting on the merits of that case because, as I understand, the FEPC has yet to make a report based on the finding of the examiner.

My amendment is so drawn that the test could not be used in a manner such as literacy tests are used in some States. It would have to be administered honestly and fairly and applied to all racial groups alike.

Mr. HUMPHREY. There is no power in the FEPC, in the bill before us, to take any administrative action. The most the Commission can do is to investigate. The most it can do, if it finds a pattern or practice of discrimination, is to recommend to the Attorney General that there be enforcement. That is a far cry from the original bill, under which the Commission could have taken administrative remedial action.

I think the amendment is redundant. I regret to say that it is unnecessary. It would only complicate our situation. I hope it will be rejected.

Mr. LAUSCHE. The Senator from Minnesota said that title VII contains provisions which cover the proposal submitted by the Senator from Texas. Will the Senator from Minnesota read the language in title VII that would make these tests valid and not subject to the charge of being discriminatory against applicants for jobs and applicants for promotions?

Mr. HUMPHREY. The point the Senator from Minnesota was making was that the National FEPC has no enforcement power; the test upon which this amendment is based related to Commission action that has enforcibility.

All that the National Commission could do under the substitute amendment—I regret to say this; I do not like it—would be to investigate. Nothing would be done in terms of enforcement other than to recommend to the Attorney General, if there were a large pattern of discrimination. Then the Attorney General might want to take some action. So the language of this provision is a far cry from the Illinois case.

Mr. LAUSCHE. If title VII contains no provision declaring under what circumstances such tests shall be valid, where in the bill are there provisions to make these tests valid, if the Senator can answer that question?

Mr. HUMPHREY. The Senator from Minnesota will be more than happy to do so. It is based on the experience in the States and upon the fact that there has been no declaration that they are invalid. Such tests are considered to be legal; there has never been a denial of that. The only point is that the test that is used for purposes of discrimination would be declared illegal.

It is not possible to write into the bill every action that will govern the conduct of an agency. The Senator's amendment would be much more pertinent and relevant if it were directed to a commission that had enforcement powers. But this Commission does not.

If a bill reported by the Committee on Labor and Public Welfare were directed to title VII of the House bill, it would have some effect and some direct purpose to serve. But the most a national commission could do under the bill would be to take testimony and investigate. It could not enjoin; it could not in any way take remedial action.

Mr. TOWER. Mr. President, I yield myself 15 seconds.

My amendment would not legalize discriminatory tests. It would not make discriminatory tests permissive.

Mr. HUMPHREY. I understand that.

Mr. CASE. Mr. President, I yield myself 15 seconds.

I want it to be clearly understood, so far as I am concerned—and I believe I speak for all members of the committee, the captains, and the leadership—that our position against this amendment and the vote we shall cast against it do not mean approval of the Motorola case or that the bill embodies anything like the action taken by the examiner in that case. It is not necessary to have this amendment adopted in order to permit that result. Nothing in the bill authorizes such action as in the Motorola case. It would complicate the bill and possibly weaken the effectiveness of it.

Mr. MILLER. Mr. President, will the Senator yield for a question on my time?

Mr. CASE. I am happy to yield.

Mr. MILLER. Is it the position of the managers of the bill, particularly those in charge of this title, that the opportunity and the right to give the tests that are covered by the amendment of the Senator from Texas would be authorized under subparagraph (h), on page 44? The reason I ask the question is that I know something about the amendment and its reference. I believe that during the development of the amendment, the question of its not being an unfair labor practice for an employer to provide for the furnishing of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings was discussed. Would not a test such as is covered by the amendment have to be included in the concept of such a system as I have mentioned?

Mr. HUMPHREY. That is correct. That amendment was one that was added after the original substitute package had been tentatively agreed upon. We reviewed the entire Motorola case, and then added that particular section.

Mr. MILLER. Let me say that I feel very strongly, as all other Senators do, about the Motorola case. When the amendment to which I have referred was drawn up, I was satisfied that such a situation would be prevented by the new language.

Mr. HUMPHREY. I believe the Senator spoke to me about that, at the time when the new language was added to the bill.

Mr. LAUSCHE. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 30 seconds.

Mr. LAUSCHE. Let me ask whether the Senator from Iowa implied that his reading of the language he has just read was an answer to my question, which was as follows: Where in the bill are there provisions to insure that tests such as the one in the Motorola case are allowed?

Mr. MILLER. It is my interpretation—and that is why I wanted to clear this with the leadership, because I understood that during the drafting of this title, this was the intention—that the Motorola case was discussed——

Mr. HUMPHREY. The Motorola case was discussed, discussed, and cussed.

Mr. LAUSCHE. Mr. President, in whose time is the Senator from Minnesota speaking?

Mr. HUMPHREY. Mr. President, I ask the Senator to yield briefly to me.

Mr. MILLER. I yield.

Mr. HUMPHREY. It was the reason for some of the provisions of title VII. That is why I said I did not think the proposed new language was necessary.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas. [Putting the question.]

Mr. TOWER. Mr. President, have not the yeas and nays been ordered on the question of agreeing to this amendment?

The PRESIDING OFFICER. The yeas and nays have not yet been requested.

Mr. TOWER and other Senators requested the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered on the question of agreeing to the amendment of the Senator from Texas [Mr. Tower]. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote, I have a live pair with the Senator from Arkansas [Mr. Fulbright]. If the Senator from Arkansas [Mr. Fulbright] were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. SYMINGTON (when his name was called). On this vote, I have a pair with the senior Senator from Louisiana [Mr. Ellender]. If the senior Senator from Louisiana [Mr. Ellender] were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from Oklahoma [Mr. Edmondson], the Senator from Louisiana [Mr. Ellender], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Virginia [Mr. Robertson] and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Oklahoma [Mr. Edmondson] would vote "nay."

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from Maryland [Mr. Brewster]. If present and voting, the Senator from Virginia would vote "yea" and the Senator from Maryland would vote "nay."

Mr. KUCHEL. I announce that the Senator from Delaware [Mr. Boggs] and and the Senator from Massachusetts [Mr. Saltonstall] are necessarily absent and, if present and voting, would each vote "nay."

The Senator from Vermont [Mr. Prouty] is absent on official business, and, if present and voting, would vote "nay."

The result was announced—yeas 38, nays 49, as follows:

[No. 302 Leg.]

YEAS—38

Allott
Bennett
Byrd, Va.
Byrd, W. Va.
Carlson
Cooper
Cotton
Curtis
Dominick
Eastland
Ervin
Goldwater
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Jordan, Idaho
Lausche
Long, La.
McClellan
Mechem
Morton
Mundt
Pearson
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Williams, Del.
Yarborough
Young, N. Dak.

NAYS—49

Aiken
Anderson
Bartlett
Bayh
Beall
Bible
Burdick
Cannon
Case
Church
Clark
Dirksen
Dodd
Douglas
Fong
Hart
Hartke
Hayden
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott
Smith
Williams, N.J.
Young, Ohio

NOT VOTING—13

Boggs
Brewster
Edmondson
Ellender
Engle
Fulbright
Gruening
Mansfield
Prouty
Robertson
Saltonstall
Symington
Walters

So Mr. Tower's amendment was rejected.

Mr. HART. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 303 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Ervin
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Russell
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. McCLELLAN. Mr. President, I call up my amendment No. 539 and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Arkansas will be stated.

The Legislative Clerk. On page 19, line 2, it is proposed immediately after the section numbered "Sec. 501.", insert the following:

(a) Section 101(b) of the Civil Rights Act of 1957 (71 Stat. 634; 42 U.S.C. 1975) is amended as follows:

"(b) The Commission shall be composed of ten members appointed by the President by and with the advice and consent of the Senate. The Commission shall include among its members one member chosen from each judicial circuit of the United States. Each member chosen from any judicial circuit shall be an individual who has been domiciled and has resided within that judicial circuit continuously for not less than five years immediately preceding the date of his appointment as a member of the Commission. Not more than five of the members shall at any time be members of the same political party."

(b) Section 101(e) of that Act is amended to read as follows:

"(e) Eight members of the Commission shall constitute a quorum."

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McCLELLAN. I yield myself one-half a minute.

The purpose of the amendment is to enlarge the Civil Rights Commission to 10 members and require that one be appointed from each judicial circuit of the country. The amendment requires that each member shall have had 5 years' residence in that judicial circuit prior to his appointment.

Mr. President, if there is even any hidden justice or intent that no discrimination shall exist under this bill anywhere, the amendment ought to be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the Senator from Arkansas [Mr. Fulbright]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. SYMINGTON (when his nme was called). On this vote I have a pair with the senior Senator from Louisiana [Mr. Ellender]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from Oklahoma [Mr. Edmondson], the Senator from Louisiana [Mr. Ellender], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Indiana [Mr. Hartke], the Senator from Arizona [Mr. Hayden], the Senator from Louisiana [Mr. Long], the Senator from Virginia [Mr. Robertson], and the Senator from Mississippi [Mr. Stennis] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Tennessee [Mr. Walter] is absent on official business.

I further announce that, if present and voting, the Senator from California [Mr. Engle] would vote "nay."

On this vote, the Senator from Mississippi [Mr. Stennis] is paired with the

Senator from Oklahoma [Mr. Edmondson]. If present and voting, the Senator from Mississippi would vote "yea" and the Senator from Oklahoma would vote "nay."

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from Maryland [Mr. Brewster]. If present and voting, the Senator from Virginia would vote "yea" and the Senator from Maryland would vote "nay."

Mr. KUCHEL. I announce that the Senator from Delaware [Mr. Boggs] and the Senator from Massachusetts [Mr. Saltonstall] are necessarily absent and, if present and voting, would each vote "nay."

The Senator from Vermont [Mr. Prouty] is absent on official business, and, if present and voting, would vote "nay."

The Senator from Arizona [Mr. Goldwater] is detained on official business.

The result was announced—yeas 22, nays 60, as follows:

[No. 304 Leg.]

YEAS—22

Byrd, Va.
Byrd, W. Va.
Church
Eastland
Ervin
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
McClellan
Mechem
Morton
Mundt
Russell
Simpson
Smathers
Sparkman
Talmadge
Thurmond
Tower

NAYS—60

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Burdick
Cannon
Carlson
Case
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Fong
Hart
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Scott
Smith
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—18

Boggs
Brewster
Edmondson
Ellender
Engle
Fulbright
Goldwater
Gruening
Hartke
Hayden
Long, La.
Mansfield
Prouty
Robertson
Saltonstall
Stennis
Symington
Walters

So Mr. McClellan's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. Mr. President, I move to table that motion.

The motion to table was agreed to.

Mr. LAUSCHE. Mr. President, may I inquire how many votes there have been today on issues?

The PRESIDING OFFICER. Twelve rollcalls.

Mr. EASTLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the leadership would like to inquire as to what other amendments are being considered from any quarter for the remainder of this evening.

Mr. SMATHERS. Mr. President, insofar as the junior Senator from Florida is concerned, I have many amendments. But there are only three that I would offer. I would prefer not to offer them tonight. I am not actually prepared to make the kind of presentation that I would like to make. However, I would prefer to offer them tomorrow.

Mr. MANSFIELD. Does the distinguished minority leader know of any that may be in the offing on the Republican side?

Mr. DIRKSEN. We have made a survey. We are getting down to an almost irreducible minimum. I think altogether there are perhaps not to exceed a dozen. But I do not know which of those could be presented tonight.

Mr. MANSFIELD. Could the distinguished deputy majority leader furnish any information as to what might be forthcoming?

Mr. HUMPHREY. Mr. President, there have been some amendments that have been considered by the proponents of the bill that are strengthening amendments. But there is a desire on my part that such amendments not be offered. I believe this is the consensus of the group. I see that the Senators from Pennsylvania, New Jersey, and New York are present. There are others present who had submitted amendments. It is a question of whether we can get along and make progress. I should say that there is a real effort to cooperate.

Mr. MANSFIELD. Mr. President, I gather that at the moment there is no Senator who is anxious to offer amendments this evening. I had hoped we could get one or two additional amendments out of the way.

Mr. HUMPHREY. Is it possible to find out from the authors of the numerous amendments what plans they have in mind in terms of offering these amendments? Some of those are repetitive. Some are duplicates. Is it possible for Senators to indicate which ones they desire to call up?

Mr. McCLELLAN. Whose time is being used?

Mr. MANSFIELD. Mine.

Mr. McCLELLAN. Let us not use anybody's time. I ask unanimous consent that it not be charged to anybody. I am perfectly willing to offer another amendment tonight, if it will help, but I am not going beyond one.

Mr. MANSFIELD. I thank the Senator.

Mr. THURMOND. Mr. President, I have some amendments to offer. I can offer some this evening. But we are working to eliminate duplications. We had prepared amendments to the bill, and amendments to the Dirksen amendment. I think if the Senate were to recess to tomorrow, we could eliminate perhaps 25 or 30 amendments.

Mr. President, in view of the fact that——

Mr. SMATHERS. Mr. President, I should like to suggest to the able majority leader that if the Senate were to recess until tomorrow, I believe it would be saving time. There is no disposition on the part of any Senator that I know of on this side of the aisle to offer amendments merely for the purpose of delaying the Senate. We really have not had sufficient time to go through the large batch of amendments to find out which have already been covered by the amendments that have been adopted and which are repetitive and which are meaningful.

Mr. MANSFIELD. In view of the colloquy which, around the Chamber, and in view of the fact that I believe Senators are all a little tired—I know I am—I should like to announce to the Senate, with the consent of the distinguished minority leader and with the concurrence of the Senate as a whole, that the Senate will recess shortly. The Senate has already entered an order that when the Senate completes its business today it stand in recess until 10 o'clock tomorrow morning.

Mr. President, I ask unanimous consent—and I do this with great regret—that when the Senate completes its business tomorrow, it stand in recess until 10 o'clock on Saturday morning. I hope Senators will not moan, because I have been hearing a great deal about Saturdays.

Mr. SYMINGTON. Mr. President, reserving the right to object, I should like to state to the distinguished majority leader that some of us have been eager to get back to our States.

Mr. MANSFIELD. Including me.

Mr. SYMINGTON. We have engagements to fulfill. If we are to recess at 5 o'clock in the afternoon because we are not ready to present amendments, it will be difficult for us to justify a Saturday session.

Mr. MANSFIELD. I realize that. I know that Senators have important engagements. Some of these decisions are not easy to reach. Someone must make them, and someone must take the blame. I renew my unanimous-consent request, and I take the responsibility.

Mr. HOLLAND. I object.

Mr. MANSFIELD. The Senator from Florida can object, of course, but the motion will be made again tomorrow. He knows it will succeed. We are trying to get along, and understand the feelings of Senators here. There is a situation in Montana which is serious. I should be in my home State. We have lost 135 Montanans, who cannot be found. We are suffering tens of millions dollars' worth of damage. I am trying to get out there Sunday morning and get back here Sunday evening. I would hope that the consideration which the Senator has always shown will be given now, because I do not want to come in on Saturday either; but I have no choice in the matter in view of the situation here.

Mr. ERVIN. Mr. President, I believe it would expedite matters if the Senate were to recess until 11 o'clock tomorrow, instead of 10 o'clock. Yesterday I had to work 17 hours on amendments, trying to determine which ones had been taken care of by the substitute. I do not want to work on any amendments tonight, especially after the Senate voted against the aged.

I believe the Senate would make much better time if it recessed until 11 o'clock, to give us an opportunity to look over some of the amendments to see which ones have been acted on.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. We had planned to remain in session until 8 o'clock this evening. We intend to recess earlier today, in order to give Senators the time they need. I am willing to have the Senate recess until 11 and to be here at 11 o'clock, with the understanding that the Senate will remain in session an hour later, as well.

Mr. President, I therefore change my request, first, by asking unanimous consent that at the conclusion of its business today the Senate stand in recess until 11 a.m. tomorrow. I do this to give Senators a little more time to go over the various amendments and arrive at their decision with respect to them.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HOLLAND. In view of the fact that the Senator has stated his desire to go to Montana, and the undoubted need for it, I withdraw my objection if he will make it again, and set the hour of 10 o'clock for convening on Saturday.

I wish to recall to the Senator that he was good enough to help us clear up the situation concerning the galvano for the 50th anniversary celebration of the Naval Air Training Station at Pensacola, Fla. The celebration is to take place at 10 o'clock on Saturday. The senior Senator from Florida does not have a conspicuous place on the program, but he has been honored to be invited to attend as one of the guests.

He cannot miss the vote on the pending bill, and he feels that perhaps the Senator from Montana might continue the gracious indication of the understanding he showed the other day when he helped us with the galvano.

Since he will not, I withdraw any objection I have.

Mr. MANSFIELD. I appreciate what the distinguished senior Senator from Georgia has just said.

Mr. HOLLAND. Please do not move me up North. [Laughter.]

Mr. MANSFIELD. I mean the senior Senator from Florida. I appreciate what he has said. I know how much the 50th anniversary celebration of the Pensacola Air Station means to him personally.

However, Mr. President, we hit these impasses now and then. We must ford or bridge or cross them in some way. No matter what we do someone is bound to get hurt, because there is always a Senator who has a commitment no matter what day of the year it is. Legislation piles up. There is a convention coming up which our Republican brethren are looking forward to. We have one ourselves the following month. Mr. President, we have had a hard 3 months.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. MILLER. I should like to say that many of us were a little surprised at the early date on the cloture vote. There had been some talk, I know, that the cloture vote would not be taken much before the middle of June. Thanks to the leadership, we were able to get a proper explanation of the changes. As a result, most of us joined wholeheartedly in the cloture vote. I wonder if the majority leader might not be willing to wait to see what the developments are tomorrow, so far as the Saturday session is concerned. There are many Senators in the Chamber who, including the majority leader, probably ought to be away on Saturday to fulfill commitments. Perhaps we would make better progress if we did not come in on Saturday. Perhaps we would conduct the business of the Senate a little faster, too.

Mr. MANSFIELD. The Senator should keep in mind that at least six Senators approached me today, and I am sure as many have approached the minority leader, saying that they had engagements on Saturday, and asked me what they should do. Two Senators from a certain State have already canceled their engagements on the word of the leadership that there would be a session on Saturday.

It hurts me when they come to me and say that they have commitments, and are unable to keep them. If the Senate receives notice ahead of time that there will be a meeting on Saturday, they will be here; otherwise, Senators may be gone to the four winds.

Mr. MILLER. I suggest that perhaps many Senators would be pleased to work a little later this evening, and certainly tomorrow evening, if the Senate were not to have a meeting on Saturday.

Mr. MANSFIELD. I am tired. It has been a wearing 3 months. For some reason, I am tired today. Perhaps it is because of my having to run back and forth to answer quorum calls.

Mr. MILLER. That is why I hope the Senator would wait until tomorrow to make a decision about Saturday.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Montana that the Senate convene at 11 o'clock a.m. tomorrow? The Chair hears none, and it is so ordered.

ORDER FOR RECESS FROM TOMORROW UNTIL SATURDAY AT 10 A.M.

Mr. MANSFIELD. If the Senator from Iowa will not object, and in order to put the Senate on notice, I ask unanimous consent that at the conclusion of its business tomorrow the Senate stand in recess until 10 o'clock a.m. on Saturday.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, if there is no further business——

THE MARYLAND STATE REPUBLICAN CONVENTION AT BALTIMORE

Mr. BEALL. I yield myself 2 minutes. Mr. President, I appreciate the fact that the Senate is recessing at this time. Tomorrow the State Republican Convention is being held in Baltimore. I believe I should be there to tell them that I was nominated.

RENOMINATION OF SENATOR ROBERT C. BYRD, OF WEST VIRGINIA

Mr. BIBLE. Mr. President, I yield myself 1 minute.

The distinguished junior Senator from West Virginia, Robert C. Byrd, has undertaken one of the most important tasks involved in the civil rights measure before us. From time to time, he has analyzed the legislation with a keen legal eye in the light of the U.S. Constitution.

How has the Senator's stand on this measure been received at home?

Let me read from an editorial by A. S. Barksdale, Jr., editor of the Sunset News-Observer, of Bluefield, W. Va.:

> In the primary election, Byrd rolled up a resounding quarter of a million votes for renomination in West Virginia, and in Mercer County racked up far and away the highest total of any candidate with or without opposition. Against his opponent's 1,475 votes he garnered an astonished 14,759—more than the combined total of 14,614 cast for all 3 of the candidates in the race for the Democratic nomination for sheriff.
>
> We think if other public figures would follow the Senator's example of courage and honesty they would be indebted to him.

I ask unanimous consent that the entire editorial from the Sunset News-Observer be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Rights, Byrd, and Voters

It is our opinion that politicians who are supporting the civil rights bill in the belief that it will help them win elections would be well advised to disabuse themselves of that idea. The exact reverse could be true. The reaction that has set in against civil rights excesses, even among those who have always sympathized with the Negroes' struggle for equal opportunities—as this newspaper has—could defeat instead of reelect those who are wilting under the pressures to give Negroes what Senator Robert C. Byrd describes as "preferential" treatment.

The Senator's own political stock is an excellent case in point. We noted recently in this column that Cooper P. Benedict, the Republican who is opposing Byrd for reelection, made the stupid statement a week or so ago that Byrd lacks political courage, that he is in effect a "yes" man to the Johnson administration. We commented at some length on Mr. Benedict's absurdity.

The voters have now commented additionally. In Tuesday's primary election Byrd rolled up a resounding quarter of a million votes for renomination in West Virginia, and in Mercer County racked up far and away the highest total of any candidate with or without opposition. Against his opponent's 1,475 votes he garnered an astonishing 14,759—more than the combined total of 14,614 cast for all 3 of the candidates in the race for the Democratic nomination for sheriff. He did this while losing three of Bluefield's predominantly Negro precincts, tying the fourth and winning the fifth by only one vote.

BYRD is against the present misnamed civil rights bill—a fact most voters know by now. He took this position, unequivocally, in the middle of the primary election campaign. Many another Member of Congress would have straddled or kept his mouth shut, believing that to show down on so touchy an issue would surely mean the loss of votes. Our guess is that BYRD gained votes. Tuesday's results would seem to bear this out.

Most certainly Negroes should have opportunities equal to those available to any other Americans, especially in education which can help them to help themselves better their economic status. But superior opportunities and preferential treatment secured by the destruction of the rights of other citizens is another matter entirely.

BYRD makes this clear in the series of special articles on the civil rights issue, the first of which appeared in this paper yesterday. We hope our readers took note of his sound and reasoned analysis. It is the best thing we have seen on the subject.

As the Senator points out, many who have emotionally embraced the civil rights cause, especially among the clergy and church groups (BYRD is a Baptist churchman of note), have not read the bill, nor do they have the foggiest understanding of it, nor any idea of the Federal interference in personal and private matters it could bring.

This newspaper is indebted to Senator BYRD for the articles, the second of which will appear next Thursday. We think if other public figures would follow his example of courage and honesty they would be indebted to him, too. There has been much too much hypocrisy and demagoguery and sentimentality clouding this very important issue of rights.

ROGER WILLIAMS MEMORIAL BILL (S. 2843—DISCHARGE OF COMMITTEE ON RULES AND ADMINISTRATION AND REREFERRAL TO COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. PELL. Mr. President, I yield myself 1 minute.

I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of S. 2843, a bill to establish a Roger Williams National Memorial in the city of Providence, R.I., and that the bill be referred to the Committee on Interior and Insular Affairs. The bill, which I introduced May 14 on behalf of myself and my distinguished senior colleague from Rhode Island [Mr. PASTORE], would create a small national park; therefore, it falls more properly under the jurisdiction of the Committee on Interior and Insular Affairs. I have consulted with the chairmen of both committees, and have determined that they are agreeable to the change. I therefore ask unanimous consent for this discharge and referral action so that the bill may receive proper consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

KAMEHAMEHA DAY IN HAWAII

Mr. INOUYE. Mr. President, I yield myself 30 seconds.

Today the State of Hawaii pays homage to one of its great rulers of the past—Kamehameha the First—known in Hawaii as Kamehameha the Great. On this day the noble statue of Kamehameha in Honolulu will be laden with gaily colored floral leis as the people of Hawaii remember this great Monarch.

Kamehameha died in 1819, but he left a legacy of unity and strength to the Hawaiian people which has been preserved to this day. Invincible in battle, Kamehameha nevertheless often showed the quality of mercy and was always quick to protect the weak from the stong in his society.

Today all Hawaii remembers its great past and one of the most illustrious men of its past—Kamehameha the Great.

RECESS UNTIL 11 A.M. TOMORROW

Mr. HUMPHREY. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 51 minutes p.m.) the Senate took a recess, under the previous order, until tomorrow, Friday, June 12, 1964, at 11 o'clock a.m.

NOMINATION

Executive nomination received by the Senate June 11 (legislative day of March 30), 1964:

IN THE ARMY

The following-named cadet, graduating class of 1964, U.S. Military Academy, for appointment in the Regular Army of the United States in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 3284 and 4353.

Frank R. Giordano.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 11 (legislative day of March 30), 1964:

EXPORT-IMPORT BANK OF WASHINGTON

Elizabeth S. May, of Massachusetts, to be a member of the Board of Directors of the Export-Import Bank of Washington.

COAST AND GEODETIC SURVEY

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the Coast and Geodetic Survey:

To be lieutenants (junior grade)

Robert A. Ganse
Rolland L. Lech
David V. Sibila
James H. Allred

To be ensign

Scott R. Walker, Jr.

HOUSE OF REPRESENTATIVES

THURSDAY, JUNE 11, 1964

The House met at 11 o'clock a.m.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

I Corinthians 2: 5: *That your faith should not stand in the wisdom of men, but in the power of God.*

Infinite and eternal God, in this new day may our hearts go out to Thee in a longing to be blessed with a vital and vivid experience of Thy presence and power.

May our fellowship with Thee be more intimate, more personal and satisfying, delivering us from all feelings of fear and frustration, of doubt and despair.

Grant that the thoughts of our minds and the meditations of our hearts may move out toward the far horizons of faith and hope.

We pray that the world with its apparent moral and spiritual apathy and indifference may realize that there is no escape from all miseries and disappointments until Thy spirit is enthroned in the life of man.

Inspire us to think and plan in terms of humanity and with a vision of the love of God for all mankind.

Hear us in Christ's name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

CIVIL RIGHTS

Mr. SELDEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. SELDEN. Mr. Speaker, what extremist civil rights leaders have threatened would be a summer of racial violence and tension obviously has begun in Tuscaloosa, Ala.

The demonstrations of recent days furnish additional warning to the country, if any were needed, that civil rights extremists pose a growing threat to every American community.

Let me say again, as I have said in the past, that those who believe that passage of the so-called civil rights legislation will appease the mobs in the streets of Tuscaloosa or Chicago or New York are badly mistaken. In fact, passage of such legislation will inevitably lead to even greater demands and excesses on the part of irresponsible leaders of the civil rights movement, whose only aim is the extension of their own personal power.

Faced with this latest challenge to law and order, the law enforcement officials of Tuscaloosa again have handled an extremely difficult task in a way that does credit to their community and the entire State of Alabama.

FEDERAL EMPLOYEES PAY RAISE BILL

Mr. ROUSH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ROUSH. Mr. Speaker, I regret that the Federal employees pay raise bill has come to the floor on such short notice. Taking into account the previously announced schedule I have made commitments which cannot now be broken. This makes it impossible for me to be here for the final vote on this bill. I want to announce, however, that because of the changes which have been made in the bill since it was last considered it has been my intention to support it. If we are to expect the highest type service and performance from our Federal employees then we must be ready to pay salaries which are in line with those in the private sector of our economy. I have great respect for the postal workers and the other Federal employees. I have every confidence that these fine people will honor the faith we are reposing in them and will live up to the high standards of performance and conduct which has been a part of the history of Federal service. I am confident that this pay increase will result in a more efficient operation of our Government. I am not in full sympathy with that portion of the bill which deals with increasing congressional salaries; however, it involves less than 1 percent of the total increase. The lowering of the amount from that previously considered and making the effective date in January of 1965 makes it somewhat more acceptable.

CALL OF THE HOUSE

Mr. HALL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 154]

Abele
Ashmore
Auchincloss
Baring
Bass
Battin
Bolling
Bolton, Oliver P.
Bromwell
Bruce
Buckley
Burton, Utah
Celler
Clark
Clausen, Don H.
Diggs
Dorn
Dowdy
Evins
Forrester
Frelinghuysen
Fulton, Tenn.
Gray
Green, Oreg.
Gurney
Healey
Jones, Ala.
Karth
Kee
Kilgore
Lloyd
Long, La.
Long, Md.
McIntire
May
Miller, N.Y.
Osmers
Pepper
Powell
Rains
Roberts, Ala.
Sheppard
Shipley
Thompson, La.
Toll
Winstead
Wright

The SPEAKER. On this rollcall 382 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

INCREASE IN GOVERNMENT SALARIES

Mr. BERRY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. BERRY. Mr. Speaker, the House is about to take the most stupid step it has taken in many years. How, just how, can we take action in May to legislate the price of wheat down from $2 to $1.72 and then in June legislate our own salary up from $22,500 to $30,000?

JOURNALISTIC RESPONSIBILITY

Mr. GUBSER. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GUBSER. Mr. Speaker, yesterday an Associated Press story filed by Stanley Meisler crossed over into the area of journalistic irresponsibility.

In reporting an adverse Navy report on my bill, House Congressional Resolution 206, to express the thanks of the American people to Drs. Ross Gunn and Philip Abelson for their part in developing nuclear propulsion for submarines, Mr. Meisler quoted me as saying the following about Adm. H. G. Rickover: "I admire the old so-and-so."

Mr. Speaker, this is not the truth and I herewith demand a retraction from Associated Press.

The reporter did not talk with me prior to using this quotation. In fact, I have not talked with him in several months. When he did last talk with me, I referred to Admiral Rickover in a completely respectful manner. At no time did I refer to the admiral as an "old so-and-so."

But my greatest concern over the unfortunate Associated Press article is not that I have been misquoted. I am more concerned that a wrong impression of two fine scientists, Drs. Gunn and Abelson, may have been left in the minds of millions of readers.

For the record I want it known that when I introduced my resolution, I had never met, talked with, nor corresponded with Dr. Gunn or Dr. Abelson. I still have not had any contact with Dr. Abelson and have met Dr. Gunn only briefly. At no time has either of the two men asked me to do anything for him, nor encouraged passage of my resolution. They have not asked for thanks. Rather I have determined that they deserve thanks.

The Navy report begs the question and is not accurate. In due time and in my own manner, I shall prove this point.

In the meantime, it should be remembered that Admiral Rickover is not at issue. He has been justifiably commended for the important role he has played in developing the nuclear submarine and I have joined in that commendation. Certainly the statement of historical facts which occurred before Captain Rickover joined the nuclear propulsion program cannot and should not minimize what Captain Rickover did after 1946.

It is unfortunate that an unethical reporter in his desire to write sensationally at the expense of honesty has tried to ascribe an ulterior motivation to my resolution and has brought Admiral Rickover into the controversy. It is unfortunate that this reporter's questionable ethics may have caused embarrassment to two great scientists who have done so much for their country.

MODERNIZATION OF FEDERAL SALARY SYSTEMS

Mr. YOUNG. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 733 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11049) to adjust the rates of basic compensation of certain officers and employees in the Federal Government, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. YOUNG. Mr. Speaker, I yield 30 minutes to the gentlewoman from New York [Mrs. ST. GEORGE], and pending that I yield myself such time as I may require.

Mr. Speaker, House Resolution 733 provides for consideration of H.R. 11049, a bill to adjust the rates of basic compensation of certain officers and employees in the Federal Government, and for other purposes. The resolution provides an open rule with 4 hours of general debate and further provides that the bill shall be read for amendment under the 5-minute rule by titles instead of by sections.

The purpose of H.R. 11049 is that postal and other Federal career employees shall be paid salaries comparable to salaries paid workers in private enterprise for comparable levels of responsibility, skill, and performance, and to partially remedy the serious inadequacies in the Federal executive, congressional, and judicial salary structure.

Enactment of this legislation is imperative if the Congress is to abide by its obligation resulting from the enactment of Public Law 87-793. H.R. 11049 will fulfill that obligation and, in addition, establish reasonable, just, and meaningful relationships between postal and other career salary levels and the rates of compensation for positions of the highest executive, legislative, and judicial responsibility. The salaries attached to such legislative, executive, and judicial positions also are properly related in level as among all three branches of our Government.

Mr. Speaker, I urge the adoption of House Resolution 733.

Mrs. ST. GEORGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 733 makes in order the consideration of H.R. 11049, the Federal Salary Act of 1964.

Mr. Speaker, we had before us a short time ago in this present year a bill very similar to this which was defeated by a majority of 38 votes, which is quite a good majority.

Apparently there is a new technique in the Congress of the United States, and that is that if a bill that is desired by the administration or by certain powers that be does not pass the House it is brought back in a modified form, a little work is done on the outside, maybe some on the inside, and then the bill is passed.

We have been reliably informed that this bill will pass by a majority of 20 votes, which will necessitate quite a little changeover, which I have no doubt will be adequately taken care of.

There is great difference of opinion in some quarters.

There are those who do not think this bill is any better than the last one. In fact, there are some people, among others, some of the Federal employees and their representatives who do not even think this bill is as good as the last bill.

Mr. BROWN of Ohio. Mr. Speaker, will the gentlewoman yield?

Mrs. ST. GEORGE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I have asked the gentlewoman to yield because I know she is exceptionally well informed on this measure. She is a member of the legislative committee that handles this bill as well as a member of the Committee on Rules. I have asked the gentlewoman to yield for the purpose of reminding the House, as the gentlewoman knows, that just within the last few days the Committee on Rules has reported to the floor for action next week two other bills as well as this measure. Next Wednesday we will have before us a bill to extend for another year the Korean war emergency excise taxes as well as other excise taxes although the Korean war has been over for 11 years. We will also have on Thursday of next week, as I understand the legislative schedule, a bill to increase the national debt limit to an alltime high of $324 billion, so that we can borrow more money for deficit financing. Those two bills will come up after we are asked to vote on this particular measure which, of course, will carry a cost tag estimated at $535 million per year.

I appreciate the gentlewoman yielding because I believe the House should have in mind before it considers this bill what the Members must pass upon next week in the way of legislation.

Mrs. ST. GEORGE. I thank the gentleman from Ohio for his contribution.

Mr. Speaker, I would like to read from a letter which many of you have received on this subject from one of the organizations of the Federal employees in which it is stated:

> H.R. 11049 is a monstrous distortion of the comparability policy and an unjustified departure from the rule prescribed by the Congress for implementing that policy.

Then they proceed to say that in this particular this bill is not as good as the bill that was defeated on the floor of the House.

Mr. HALEY. Mr. Speaker, I make the point of order that the House is not in order. I would like to hear what the gentlewoman is saying.

The SPEAKER. The point of order is well taken. The House will be in order.

The gentlewoman from New York will proceed.

Mrs. ST. GEORGE. I do not blame the House for not listening, Mr. Speaker, because after all this is pretty well warmed over. They have all heard the arguments before and they are going to hear them again for 4 hours and they probably all know pretty well how they are going to vote now.

That is one of the unfortunate things about our system.

I would like to read you some words which appeared in the Congressional Record which some of you may have heard, which were delivered by a very distinguished Member of this House, the gentleman from Wisconsin [Mr. Byrnes], at the time we had our great tax bill in which we remitted $11½ billion in taxes.

The gentleman from Wisconsin [Mr. Byrnes] had this to say at the end of his remarks, and I think it is good to remember those words now before we go out and vote more money on this particular occasion.

But let me conclude with this caution. In the face of a tax cut of $11.5 billion, on top of a deficit of some $10 billion for fiscal 1964, our risk is great. A minimal dose of inflation will offset billions in tax reduction. Our action today will be a cruel hoax on our retired citizens living on fixed incomes, on those who are buying life insurance, or Government bonds—including those of our States and municipalities. We rob all of these through inflation.

Our action today can bring about devastating inflation if we fail to use commonsense in our monetary policy—if business and labor fail to exercise an inflexible control over prices and wages, and if the Congress and the President do not live up to their pledges of economy in Government.

If we pass this bill and then forget about the need to hold the line on spending, we will be inviting disaster. In voting for this bill, I hope each and every one of us binds himself to that provision that still remains in the bill as section 1—to a firm commitment against unnecessary spending.

So, after that and after hearing and applauding these remarks, we voted for the tax cut. We have come in ever since and we have added appropriations. We come in here today to do the same thing.

Much has been made of the congressional salaries. Of course, the congressional salaries are the most unimportant part of this bill. Their only import is that they are some sort of "political dynamite." In this bill it has been arranged that they will not take effect until 1965.

Mr. Speaker, it might have been far better if this bill had been laid over and taken up in the first weeks of 1965, to be passed then.

As for comparability, I have always felt that it was nonexistent to a great extent. On the other hand, the escalator clause, which I have always advocated, is now to a great extent in effect.

I understand that an amendment will be offered to this bill to put that into effect for the congressional and executive salaries as well.

Mr. Speaker, that is an excellent amendment, and I hope that when it is offered the House will subscribe fully to it. There is no reason why what is sauce for the goose should not be sauce for the gander. It is quite an obvious thing that it is an embarrassment to Members of this House and to Members of the other body to vote on their own salaries, whether up or down.

To return to the premise that when a bill has been defeated—and soundly defeated, if I may say so—it can be brought back with a few little changes—$2,500 taken off the congressional salary—I do not believe that will make too much of a difference. Certainly it will make no difference to the people who oppose the bill, and certainly it will make very little difference to the people who are to receive it.

I feel, considering what happened to the old bill, now scrapped, H.R. 8986, that what applied then applies today and there is really no reason why the House should give this new bill a rule; although I am sure you will do it, I still believe that the rule should be defeated and that the House should go on to other business, to new business of increasing importance.

Mr. CURTIS. Mr. Speaker, will the gentlewoman yield?

Mrs. ST. GEORGE. I yield to the gentleman from Missouri.

Mr. CURTIS. I certainly commend the gentlewoman for her expressions and advice to the House to not adopt this rule. I would like to ask a question of the chairman of the committee.

On page 127 of the committee report are the minority views on H.R. 11049, in which there is stated, under the title "Highhanded Committee Procedure—No Hearings Held," the subtopic "Legislation Too Important for No Hearings." I should like to know whether or not this is an accurate statement of the procedures; whether the Committee on Post Office and Civil Service held hearings in regard to this legislation.

Mr. MURRAY. Mr. Speaker, will the gentleman yield?

Mr. CURTIS. I yield to the gentleman from Tennessee.

Mr. MURRAY. That is erroneous. Hearings were held on the bill; extensive hearings.

Mr. CURTIS. The statement here is:

> The last public hearing at which any person testified before the Post Office and Civil Service Committee on the subject of salary legislation was on October 15, 1963.

Is that a true statement?

Mr. MURRAY. If the gentleman will yield, that is correct.

Mr. CURTIS. All right. Let me go to the previous statement:

> H.R. 11049 was introduced in the House on April 28, 1964. Copies of the bill were made available to the members of the committee

> the following afternoon, April 29. It was then made the order of business at an executive session of the Post Office and Civil Service Committee scheduled for 10 a.m. the next morning, April 30. When the committee finally convened at 10:35 a.m., a motion was immediately made to consider the bill and to dispose of it and all amendments thereto by 11:20 a.m. After brief and restricted debate the motion was voted up and there then remained approximately 30 minutes for the offering of amendments and for what should have been a full and complete discussion of a measure that in its 5 titles and 78 pages changes the salary rates for almost 2 million Federal employees. In ordering the bill reported, it took a rollcall vote, which prevailed by only a one-vote margin, to adopt an amendment giving those opposed to the bill sufficient time to express their views to the House in this minority report.

Is this a correct statement?

Mr. MURRAY. I do not think so.

Mr. CURTIS. What error was there? Was this bill considered by the Post Office and Civil Service Committee without any discussion, without any reading of it, and without any debate, which is the allegation here?

Mr. MURRAY. Why, certainly not. They had ample hearings on the bill.

Mr. CURTIS. You have already admitted your definition of "ample." If the gentlewoman will yield further, what I want to point out is I think this is a disgrace to the House of Representatives to consider a measure of this importance with this kind of preparation. We who are not on this committee have a right to be able to count on the committee to which this legislation has been referred to have conducted adequate hearings which will be available and to have adequate reports. This matter cannot be considered with any intelligence on the floor of the House in the light of the incomplete homework that has been done in this area. If the Congress and this House is simply to exist as a forum for pressures to be applied that have no relation to study and are simply pressures that are generated outside the Congress, we might just well be a house of delegates simply to conduct public opinion polls instead of a deliberative body. I suggest to my colleagues that this is the essence of representative government that is thwarted by these kinds of procedures. I would not care whether one was for or against this bill or other legislation, but if this House, under this kind of leadership, continues in this fashion, gentlemen, I can tell you that representative government has gone from this country. I see there is some laughter over there on the Democratic side, but think well of what is being done here and what has been done previously in this House this year. We are very, very close to exactly what I have described—a major decline of representative government. I would suggest that we do vote this rule down and that the committee conduct the proper kind of studies and hearings so that the House can view this matter with some intelligence.

Mr. GROSS. Mr. Speaker, will the gentlewoman yield?

Mrs. ST. GEORGE. I yield to the gentleman from Iowa, a member of the committee.

Mr. GROSS. In response to the question asked by the gentleman from Missouri [Mr. CURTIS] I wish to state categorically that not one single witness appeared before the committee either for or against H.R. 11049. The minority asked that at a minimum the chairman of the Civil Service Commission and a representative of the Bureau of the Budget be called before the committee. We were denied any witnesses at all on this pending bill.

Mr. UDALL. Mr. Speaker, will the gentlewoman yield?

Mrs. ST. GEORGE. I yield to the gentleman from Arizona.

Mr. UDALL. I think this colloquy may have left a misleading impression. The authors of the minority views have chosen their words rather carefully, and what they have said here is probably true technically, but the subject of this very bill occupied this committee's time for nearly a full year. The committee took volumes of testimony on this bill. We have heard it and debated it and the whole House held hearings, in effect, with 2 days of debate back in March.

There is nothing unprecedented about bringing out a clean bill in a situation where a clean bill is indicated. This is not technically and strictly a situation where a clean bill is indicated, but clean bills have been voted out with 5 minutes of debate. This bill came out by a vote of 14 to 3. And it had bipartisan support in the committee. If these outrageous, unprecedented procedures had been used, I am sure the vote would have been different. The gentleman from Iowa, the gentleman from Michigan, and others who have opposed all legislation of this kind—our committee could hear testimony until the day of resurrection, and there still would not be enough consideration to satisfy them.

This bill was fairly and adequately considered for over a year. It is almost identically the same bill that we debated for 2 days in March. I cannot see that there is much substance to charges of this kind.

Mrs. ST. GEORGE. Mr. Speaker, I thank the gentleman for his contribution. But I would like to remind him that the bill he is telling us about, and the year of hearings that it had, was a bill that was defeated on the floor of this House by a majority of 38 votes.

Mr. JOHANSEN. Mr. Speaker, will the gentlewoman yield?

Mrs. ST. GEORGE. I yield to the gentleman from Michigan.

Mr. JOHANSEN. Mr. Speaker, I should like to add the further observation that what we are voting on here today is not the broad subject. We are voting on specific substance as written into this bill. As the gentleman from Iowa [Mr. GROSS] has said, and as I believe the gentleman from Missouri [Mr. CURTIS] has said, there are those who find provisions in this bill that are eminently unsatisfactory, persons who represent the employee unions themselves, and they are convinced that this is not the same old subject matter. This is different substance.

Mrs. ST. GEORGE. I thank the gentleman.

Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. YOUNG. Mr. Speaker, I yield 5 minutes to the distinguished Speaker of the House, the gentleman from Massachusetts [Mr. MCCORMACK].

Mr. McCORMACK. Mr. Speaker, the bill before us covers all Federal employees; postal employees, and other classified employees. It also provides increases for judges and other persons in the executive branch. There is a provision that the congressional increase of $7,500 is to become effective in January of next year.

Mr. Speaker, when I first came to Congress, the salary of a Member was $10,000. Throughout the years I frequently took the floor urging that the Members recognize the problems that confront them and that they bring about a justifiable increase in salary for Members of the Congress of the United States.

Some years ago I offered an amendment to increase the salaries of Members to $22,500, long before the present level of salaries was reached. It was then subject to a point of order and a Member, exercising his rights under the rules, made the point of order. If the point of order had not been made it would have been before the House. In any event, I offered the amendment.

The last salary increases received by Members of Congress was in 1956. Since that time salary increases for postal employees have been approximately 41 percent and for other employees about 40 percent. Those increases were justified and we gave them to them.

Mr. Speaker, I doubt if there is any Member who feels, or very few Members who feel in their own mind, no matter how they are going to vote on this bill, but what Members of Congress are justified in an increase and to the increase specified in this bill.

Mr. Speaker, the problems now existent are more far reaching than ever before. We know what the cost of campaigning is. Every one of us realizes the tremendous expenses involved in connection with campaigning. This has a relationship to salaries, although it is not an argument which I am making in relation to that question, because we are justified in the increase provided for in this bill.

However, Mr. Speaker, the thing that worries me is whether or not someday—and it is not in the remote future—that holding public office, particularly major office, is going to be confined to those of wealth. I believe a body like this should be representative of the people. I do not believe that those of sufficient wealth to hold public office should be excluded, but I regret to see the day when a situation exists in connection with the Congress of the United States or in connection with the elections which are held for Governor and to the U.S. Senate and other major offices, where only those holding and possessed of unusual wealth can undertake the burdens of conducting a campaign. That would be a sad day for our country for any particular segment of our society, because of unusual circumstances, to be able to dominate the legislative processes of our Government.

So, Mr. Speaker, I take the floor, talking impersonally, but with strong conviction to my colleagues, that the American people in the main recognize that Members of Congress are entitled to an increase in salary. The great majority of the American people realize that the last increase was some time ago. When they realize that the last increase was in 1956, and it has been 8 years since there has been an increase, and at the same time being aware of the increase in the cost of living and the other problems confronting Members of the Congress of the United States and their families, they will realize that they are entitled to the increase provided for in this bill, which increase will take effect in January of next year.

Mr. Speaker, I have every confidence that the people of the congressional district which it is my honor to represent overwhelmingly recognize the justification for the provisions contained in this bill in connection with the Members of Congress and also the judges of our Federal courts.

Mr. Speaker, I am one of those who believes that judges' salaries should not be tied up with those salaries which are paid to the Members of Congress.

The SPEAKER pro tempore (Mr. Miller of California). The time of the gentleman from Massachusetts has expired.

Mr. YOUNG. Mr. Speaker, I yield 2 additional minutes to the gentleman from Massachusetts.

Mr. McCORMACK. However, we recognize that historically these salaries are tied to the salary structure of the Congress of the United States and they cannot be separated.

Mr. Speaker, I am one of those who feels, because we do not want to increase our own salaries, that we should not increase the salaries of others where a case is made out. But, again, I recognize the historical factors and that one cannot be separated from the other. Every one of us in our own mind admits that we are entitled to an increase in salary and that the judges are entitled to an increase in salary and that those occupying responsible positions in the executive branch of Government are entitled to a salary increase.

Mr. Speaker, also included in this bill is a salary increase for all Federal employees.

I take the floor at this time simply to place myself in the position of favoring the bill and urging that the rule be adopted and that the bill do pass.

Mr. YOUNG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MODERNIZATION OF FEDERAL SALARY SYSTEMS

Mr. MURRAY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11049) to adjust the rates of basic compensation of certain officers and employees in the Federal Government, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Tennessee.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 11049, with Mr. Holifield in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. MURRAY. Mr. Chairman, I yield myself such time as I might require.

Mr. Chairman, the committee bill, H.R. 11049, is almost unique in the history of your Post Office and Civil Service Committee in that it has the strong support of the President of the United States, all major organizations of postal and other Federal employees, great professional and business groups such as the American Bar Association and the American Bankers Association, and outstanding leaders in all fields of Government, industry, and research. The bill was reported from the Post Office and Civil Service Committee without amendment by a nearly five to one majority.

The purposes of this legislation are identical to those of our earlier salary bill, H.R. 8986, but this new bill is far less costly because it includes major economy provisions which were approved by the House during its consideration of H.R. 8986. The chief cost reductions are achieved in title I of H.R. 11049, which is substantially identical to the amendment I offered, and the House approved, to title I of the earlier bill.

H.R. 8986 as reported would have cost $668 million. This bill (H.R. 11049) will cost $533 million or a saving of $135 million.

Title I of H.R. 11049 makes only three substantive changes in the language approved by the House when title I of the earlier bill was considered. One authorizes the Postmaster General, in certain cases where a postal employee who is senior in total postal service to another postal employee who is receiving a higher salary, to advance the senior employee in salary. Another corrects the present excessive gap between the top salary steps of PFS levels 6 and 8 by adding a new salary step 11 in PFS level 7. The third eliminates all fractions of a cent in the results of payroll calculations. These changes are improvements which, taken together, yield a net saving of $12 million.

The most significant improvement in this bill, as compared with H.R. 8986, is a 25-percent reduction—from $10,000 down to $7,500—in the salary increases provided for Members of Congress, Federal judges, Cabinet officers, and immediate sub-Cabinet officers. These increases also will be postponed to January of 1965, whereas they would have been retroactive to January of 1964 under the earlier bill.

The total annual cost of the salary adjustments provided by H.R. 11049 will be $533 million, an amount which is $11 million less than the President's budget figure of $544 million. The President has sent me word that he considers this bill one of the three most urgently needed legislative measures that he has recommended to the 88th Congress, and has strongly emphasized his personal support of its prompt enactment. I earnestly hope that this important bill will receive the approval of the membership of the House.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. MURRAY. I yield to the gentleman from Oklahoma.

Mr. ALBERT. Mr. Chairman, I desire to commend the distinguished chairman of the great Committee on Post Office and Civil Service. I had the honor of serving on his committee when I first came to Congress. The distinguished gentleman from Tennessee has always been a very conscientious legislator giving consideration to the problems of Federal employees and of the taxpayers of the country. He is a great American, and I am happy that he is opening the debate on this bill. I commend the gentleman, and I commend the gentleman from Louisiana [Mr. Morrison], for his untiring efforts, and I commend all the members of the Committee on Post Office and Civil Service for bringing this bill to the House.

Mr. MURRAY. I thank the gentleman.

Mr. ALBERT. I want to join the distinguished gentleman from Tennessee and the Speaker of the House in urging again, as I urged when the salary bill was before the House previously, that the House unite in adopting this measure.

The gentleman's reference to the President of the United States brings to my mind the fact that the President has said repeatedly that getting and holding the type of men in responsible executive positions that he needs in this critical period and that any other President would need requires that this measure be adopted. The bill is budgeted and within the President's program.

I urge that the bill be passed without any crippling amendments.

Mr. MURRAY. I thank the gentleman for his very kind remarks.

Mr. WALLHAUSER. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. Becker].

Mr. BECKER. Mr. Chairman, the last time this bill came up I voted wholeheartedly in support of the legislation. I do want to agree with my colleague and good friend from Missouri [Mr. Curtis] when he said this is a deterioration of the process of representative government, when a bill is defeated and then later comes up in the same session to be voted on again. I think the timing of the bill last time might have been poorly arranged.

Nevertheless, I want to make this point. I have been in Congress for 12 years. The last time we had a pay increase, 1956, I supported not a $7,500 increase but a $10,000 or $12,000 increase. I think the American people, as I have explained to them in my own district, understand the expenses of Members of Congress. I cannot understand how our Members can exist and carry on their functions, maintain two homes, travel back and forth, and make all the multitudinous contributions expected of men in public office, unless they have a private business, as I happen to have had and maintained for the past 35 years.

I say to you, my colleagues, that irrespective of the material benefits to our public employees it is about time the Members of the House vote the courage of their convictions and say to their constituents, "This is a matter that is vitally necessary if you expect us to carry on the job with a clear conscience, knowing that we can pay our expenses as we go, knowing that every 2 years we will have to run for election, knowing that we must travel back and forth to the primaries and elections and travel back and forth to our districts to see our constituents, which is a vital part of our legislative duties."

I hope that today the Members of the House of Representatives will stand up and vote for this bill, that they will vote for their own pay increases. I am only sorry that they did not leave the $10,000 increase in the bill but reduced it to $7,500, because this is going to make little difference in the public mind.

I am sorry, too, we have not had the benefit of the news media through the years and today to let the American people know just what are the expenses of a Member of Congress. If the American people knew the expenses of a Member of Congress they would be amazed. There is not a Member of the House that I know of that can save a single dime out of his salary.

Let us remember this, that Members of Congress have to pay a large sum into their retirement funds. Many will not live, many will not be reelected, to benefit by that retirement payment. But our Judiciary do not pay a dollar into the retirement fund, they get their full salary while they live, and they do not have to be reelected and they do not have to maintain two homes.

So I say again to the Members of this House that I am going to be very happy to cast my vote for this bill, more particularly for the benefit of my colleagues in the House of Representatives, and I hope the bill will be passed. It will not benefit me as I am retiring as you know.

Mr. MURRAY. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana [Mr. MORRISON].

Mr. MORRISON. Mr. Chairman and members of the Committee, I would like at the very beginning to clear up one thing that may not be clear in the minds of Members as to the amount of time spent in hearings and consideration of this legislation. I have been in the Congress for 22 years. I have been on the Committee on Post Office and Civil Service from the day that that committee was created under the Reorganization Act. There has been no bill or no important legislation before our committee since its inception that was more thoroughly debated, more thoroughly gone into, with all witnesses for and against having an opportunity to testify. No witness who wanted to appear before our committee on this legislation was refused an opportunity to be heard and we heard witnesses week in and week out. We heard over 50 witnesses—some for and some against. No legislation that our committee has ever considered was more fully gone into than this particular legislation. I realize that the hearings did not suit those perhaps who were and are opposed to this legislation, but when you consider that our committee voted this bill out by a vote of 14-to-3, and when you consider that the matter was thoroughly taken up and discussed on every point and every subject for 2 days before the whole House and I think that any further discussion of it in our committee would certainly have been a waste of time and would have accomplished no useful purpose.

I want to commend the distinguished chairman of our committee for his dedication, tolerance, and patience in granting everybody time to be heard and in granting all witnesses ample opportunity to give their views on this legislation. I think the time has come when you will soon vote whether you are for the bill or against it.

This bill does not differ too much from the bill which was recently taken up here before the House in March. The amount of $10,000 for executives' congressional and judicial salaries has been reduced to $7,500. The date that it will go into effect is January 1, 1965. No Member of the Congress is necessarily voting himself a pay raise because before he gets his pay raise, he will have to get elected to the Congress come next November and that applies also for Members of the other body, as well.

In the previous bill the classified and postal pay increases went into effect retroactively last January. That has been changed so that the classified and postal pay increases go into effect on the first pay day after the enactment of this legislation.

With a few other minor changes, that is just about the difference between the bill which was thoroughly discussed on the floor and the bill which is before us today.

I certainly urge each and every member of this Committee to consider the facts. Whereas we as Members of Congress have not had a pay raise since 1956, postal employees and classified employees have had something like 4 or 5 salary increases, of about 40 percent. Members, I am sure, realize that it may be 10 years or even 15 years before another congressional pay raise will ever come before this House for consideration again.

Mr. Chairman, the President of the United States in his letter of March 17, 1964, to the Speaker of the House of Representatives, the Honorable JOHN W. McCORMACK, and in many public statements since that time, urged in the strongest possible language the favorable consideration of legislation to increase pay levels of Government employees and officers.

The President stated in his letter of March 17 that every cent of the $533 million annual cost of the pay increases is included in the budget for fiscal year 1964. The President's letter is quoted in full on page 2 of our committee report and I urge each Member here today to reread that letter. I am sure most of us will agree with the urgency attending the consideration of this legislation. I am in favor of all possible economy in Government and likewise.

I support this determined drive for economy in the Government. In order to reach this goal of economy, first-class managers are needed who can tighten organizations, simplify procedures, trim waste, and inspire maximum effort.

There is no question in my mind that it is false economy to offer salaries that will attract the mediocre and repel the talented. This false economy applies whether the low salaries are in the top executive levels or in the lower levels of our dedicated postal and other career employees.

Private industry, universities, and most local governments already have learned this lesson of false economy. It is now time for the Federal Government to recognize such policy of false economy and take corrective action as recommended in this legislation.

Salary adjustments for postal and other career employees under the comparability policy established by the Congress in the Federal Salary Reform Act of 1962, Public Law 87–793, depend entirely on a just and equitable alinement of salaries for the top executives and for Members of Congress as urged by the Randall report as well as provided for in the Committee bill. Unless the compression on the top-level rates is removed, we cannot expect to be able to follow the principle of comparability for career employees.

This legislation is designed in the light of action taken by the House of Representatives in its consideration of H.R. 8986 last March. It is based on the conviction of the overwhelming majority of our committee that the Members of the House will consider favorably and approve legislation providing fair and equitable increases for officers and employees of the Federal Government and for Members of Congress.

The purposes and the principles of this legislation are identical to those of our earlier committee bill, H.R. 8986. There are differences, however, in some important technical aspects.

The amount of the increases is $7,500 instead of $10,000 for Members of Congress, Federal judges, and Cabinet and immediate sub-Cabinet officers. These increases will become effective in January 1965.

No salary rate for any officer or employee will be increased to a rate above $22,000 until January 1965.

The salary rates for officers of the House of Representatives are increased by amounts similar to increases for Classified Act employees. There are no special rates for these officers.

The rates of compensation of the members of regulatory boards and commissions are specifically fixed and are not subject to Presidential salary-fixing authority.

The total annual cost of H.R. 11049 is approximately $533 million and is substantially below the cost of H.R. 8986 and below the amount of $544 million already included in the budget for fiscal year 1965.

Mr. Chairman, H.R. 11049 represents the first annual review of Government pay levels under the Federal Salary Reform Act of 1962. The 1962 act established a modern salary policy of comparability based on the principle that Federal career salaries should be comparable to the salaries paid workers in private enterprise for substantially equal levels of responsibility.

Title I of H.R. 11049 provides the first of the comparable salary increases for postal and other career employees as contemplated by the 1962 act.

I would like to emphasize that the comparability principle applies to career levels only. It does not apply and never was intended to apply to the executive or management levels above GS-15. Title I of this legislation represents a major step forward in providing salary rates for the four major statutory career salary systems reasonably comparable to the rate for substantially equal responsibilities in private enterprise. We recognize that current comparability is not obtained in the middle and higher career levels.

Full comparability at this time would skyrocket the annual cost of this bill to $900 million, far beyond the $544 million currently budgeted for the fiscal year 1965. The $533 cost of our bill was geared to stay well below the current budget figures.

Title I of the bill guarantees a minimum 3-percent salary increase for the postal and other career Federal employees in the lower grades. The maximum dollar increase will be $4,500 in the highest grade and levels. The average increase for the 375,000 letter carriers and postal clerks is $340 each or an increase of approximately 6.7 percent. Similar increases are provided for employees in other services who are in related grades or levels. Agricultural stabilization and conservation county committee employees will receive salary increases equal to those granted Classification Act employees in comparable grades and levels of responsibility.

Title I of the bill also includes the very important reformations recommended by the Postmaster General in the system of fixing salaries of postmasters. Postmasters at fourth-class offices will have their pay fixed in proportion to the annual salary rates of PFS level 5 in accordance with the relationship of their hours of duty to full-time service. The bill will discard the archaic system of measuring salaries of postmasters in terms of the dollars of revenue received in their post offices. That system is completely outmoded and will be replaced under this bill by a new, realistic, and effective system which balances and gives proper weight to all factors entering into the conduct of post offices and the levels of duties and responsibilities of the postmasters.

Titles II, III, and IV of the bill include increases in the statutory salary levels for Members of Congress, Cabinet, and sub-Cabinet officers, Federal judges, and other officials in the legislative and judicial branches of the Government.

Titles II and IV also include salary adjustments for other legislative and judicial employees which are comparable in amount to the increases provided by title I for Classification Act employees. This conforms to the historic policy of our committee and of the House in adjusting rates of compensation for judicial and legislative employees, followed in 1955, 1958, 1960, and 1962.

Less than 1,500 offices and positions are concerned in the congressional, executive, and judicial salary provisions at the aggregate cost of only $12 million, slightly over 2 percent of the total cost of the bill. As I have indicated, the proposed salary increases for these highly responsible officers are the key to a sound, rational, and effective salary system, as well as the key to a sound, economical and efficient operation of our Government. Without the long-overdue salary modernization provided in this bill, management in the Government will be at a severe disadvantage in responding to the critical requirements of our national defense and other major public programs.

The reliance of postal and other career Federal employees on the Congress for fair salary treatment depends heavily in the final analysis on the levels of executive, judicial, and congressional salaries.

The points I have noted are those which I believe to be of paramount importance and concern so that the membership of the House will be fully informed as to the principles of our committee bill and of the necessity for its early enactment. I earnestly hope that this worthy legislation will receive approval of the House of Representatives here today. I urge favorable consideration of this bill.

Mr. CORBETT. Mr. Chairman, I yield 10 minutes to the gentleman from Virginia [Mr. BROYHILL] a former member of the committee.

Mr. BROYHILL of Virginia. Mr. Chairman, nearly 2 million American citizens who have chosen to serve their Government look to us this afternoon to fulfill the promise and commitment we made to them in 1962 that, by so serving their Government, they should not be required to suffer economic discrimination. H.R. 11049 should be approved promptly. It has been delayed much too long.

The salary-fixing authority which is lodged here in the Congress is not always the most pleasant for us to discharge. For reasons that I have never been able to fully comprehend it seems that every time we legislate in the field of Federal salaries, or for that matter in the field of any beneficial employee legislation, we must continually travel down the thorny path of endless controversy.

Two years ago we thought we had found a solution to this recurring problem. We adopted here in this Chamber the very sound and enlightened policy that salaries paid to our Federal employees should be as comparable as possible to the salaries paid to employees in private industry for the same types of work. We discarded completely the old concept of adjusting Federal salaries pretty much in an amount corresponding to the degree of pressure exerted or on the basis of what the traffic would bear at the moment. Instead, we created the means and the machinery to adjust salaries in the future in an atmosphere of responsible deliberation and on a sound and orderly basis.

It is most regrettable, in my opinion, that on this first test of whether we will honor the promise and principle of comparability, we have not been able to do so without again getting bogged down in controversy. The principle of comparability is eminently fair and a most reasonable and rational approach to the salary-fixing problem. We should recognize that we now have a really workable system for assuring that our employees receive compensation commensurate with their duties and in accord with prevailing wage rates. The system does work and our principal responsibility now is to permit it to work.

I realize that this first test of the new system has been clouded by the politically sensitive problem of adjusting our own salaries. However, this too is a problem that we have to face head on. We must resolve it now, and when we do, I am hopeful and confident that future salary adjustments on the basis of comparability for our career employees will come about almost routinely.

I am sure that many of my colleagues would much prefer that they were not faced here today with a proposal that includes increases in their own salaries. Nevertheless, I must repeat that unless we change the law, our own salaries will not be raised unless we vote to do so. And it is vitally important that we do.

The provisions of this bill which call for upward adjustments in salaries for Members of Congress, Federal executives, and Federal judges are relatively insignificant, both as to the number and cost. Only 1,399 employees are involved in these provisions at a cost of $11.8 million, which is only 2.2 percent of the total cost of the measure. Nevertheless, in many respects these provisions are the most essential parts of this legislation.

We have got to adjust upward our own salaries and the salaries of Federal executives and judges for two compelling reasons.

First, and maybe least important, is the fact that they are needed and long overdue. The last pay increase for these officials was in 1955, during which period the salary rates for career employees have been increased an aggregate of 51 percent. The present salary rates for these officials are, by any set of standards, completely inadequate to their responsibilities and duties. I will not repeat the examples that you are probably now familiar with of the number of State and local officials, foundation officers, college presidents, corporation officials, and so on, throughout the country who are receiving appreciably much more in pay than are Cabinet officers and Members of Congress. Suffice it to say that any comparison of Federal executive salary schedules with private industry executive salary schedules borders on the absurd.

Second, and most probably most important, pay increases must be granted to Members of Congress and other Federal officials now, as part of this bill, if we are to maintain the proper and necessary distinctions and relationships between their rates of pay and those which career employees are receiving.

There now exists in the top grades of the statutory salary systems a compression that can only be relieved by lifting the ceiling which Federal executive pay and congressional pay impose on these salaries. For example, in the so-called supergrades, GS–16, GS–17, and GS–18, under the rates now in effect, a large number of these employees are receiving salaries less than subordinate employees in grades 14 and 15. Specifically, every employee in step 2 and above in grade 15 makes more money than an employee in step 1 of grade 16. An employee in step 8 of grade 15 makes more money than every employee in every step of grade 16 and more than every employee up through step 3 of grade 17. We now have the ridiculous situation existing where the managers of Veterans' Administration hospitals, for instance, are making less money than many of the doctors on their staffs.

It is simply not possible from a technical and mechanical point of view to do the proper job of adjusting Federal career salaries in the future, on the basis of comparability, while maintaining pay distinctions in keeping with degrees of responsibility and work levels, without at this time modernizing the existing inadequate salary structures for Members of Congress, Cabinet officers, and Federal judges.

Mr. Chairman, I am as sensitive as any Member to the fact that our economy is not as healthy as it should be and that we must put a halt to mounting governmental expenditures. I am proud of my own past record of voting to achieve economy and some semblance of fiscal responsibility in the operation of our Federal Government. However, I cannot subscribe to the theory that economy can be achieved in Government at the expense of paying substandard salaries to the officers and employees upon whom we must depend for economical management. I agree with President Johnson that in order to achieve economy in Government we need first-class managers—"who can tighten organizations, simplify procedures, trim waste, and inspire maximum effort." And I further agree that economy cannot be achieved by offering salaries that attract the mediocre and repel the talented.

If one argues that higher salaries automatically result in higher costs, one must logically conclude that all private enterprise costs are excessive because of the much higher salary levels to be found in private enterprise. But we all know that this is not true. Private businesses pay at high salary levels in order to obtain the highest possible level of competence. The higher salary averages in private industry today are the absolute proof that these are the salary levels at which American business leaders believe they can best fulfill their basic goals of profit and product. I can certainly assure you that few, if any, private companies would be so foolish as to advocate adopting our present Federal salary levels in the name of economy.

If a company engaged in business for profit can realize a profit while paying salaries appreciably higher than the Federal Government pays, it is completely illogical to assume that this richest and most powerful Government in the world cannot afford to begin paying its own employees salaries more comparable to those paid by profitmaking companies.

Let us be realistic and practical in our economizing. Let us stop, before they even get started, a few of these new spending proposals of questionable merit. In the spending of our public funds let us establish some type of priority so that no spending program shall have precedence over our need to secure and retain in the Government service the best qualified people that can be found in our country. We will be a richer and stronger Nation for doing so.

Mr. MURRAY. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. DANIELS].

Mr. DANIELS. Mr. Chairman, I wholeheartedly join my colleagues in urging prompt and favorable consideration of H.R. 11049.

I would like to emphasize that this bill is before you at this time for only one reason—it is the fulfillment of the commitment of Congress, made to Federal employees in the Federal Salary Reform Act of 1962, that their salaries should be as comparable as possible to the salaries paid to employees in private industry for the same levels of work and responsibility.

For 95 percent of the Federal employees covered in this bill—the so-called rank-and-file career employees covered by the Classification Act and in the Postal Field Service—average percentage salary increases of 4.3 percent and 5.6 percent, respectively, are provided. Up-to-date 1963 comparability is achieved in the bill for employees in the lower grades and it is not quite achieved for the employees in the middle and upper grades. Comparability in the higher grades has been deliberately delayed in order to keep the total cost of this measure under the President's budget recommendations.

Upward salary adjustments are also provided in this measure for Members of Congress, Federal executives, and Federal judges for two very simple reasons:

First, they are needed and long overdue. The last pay raise for these officials was in 1955, during which period the salary rates for career employees have been adjusted upward an aggregate of 51 percent.

Second. The salaries of Members and Federal officials must be adjusted upward in order to maintain the proper and necessary distinctions between their rates of pay and those which career employees are receiving.

Mr. Chairman, the argument heard most against this bill is its cost. It appears for some reason that the red flag of cost is consistently waved in the path of any measure that comes before the Congress that is designed to increase the pay or otherwise make the working conditions of our employees just a little more attractive. It seems that we can always find funds in the vast resources of the Federal Treasury to subsidize the wheat growers, the feed-grain farmers, the cotton industry, and just about anyone who wants to get in line. There is, indeed, something wrong about a situation whereby the Congress can consistently vote vast sums of money for all these subsidies and for all types of new spending programs, yet the loudest cries of cost seem to be raised over a bill which seeks only to pay a decent wage to the employees charged with administering of these subsidies and new programs.

The $533 million cost of H.R. 11049 is $135 million less than the cost of the earlier pay bill, H.R. 8986, as it was reported from our committee. It is $11 million less than the President has budgeted for fiscal year 1965. And, incidentally, Mr. Chairman, from my research into the subject, I am unable to find any record at all of a situation existing before as we now have of the money actually being budgeted and available prior to the enactment of a Federal employees' salary bill.

Nevertheless, I firmly believe that the cost of this bill, regardless of what it might be, must be considered in light of the fact that the Government has an obligation to pay its employees wages comparable to those being paid by private companies. The fact that the Government spends more than it takes in in revenue does not relieve it from this obligation, no more than a private company, that may be operating at a loss, is relieved from its obligation of paying its employees prevailing wage rates. There are not many bills that come before this Congress, the cost of which are as fully justified as are the costs of this measure. The costs involved in H.R. 11049 are an investment in human beings—an investment designed to enable the Federal Government to recruit and retain the highest quality in personnel and to enable it to operate more efficiently and economically.

Mr. Chairman, I sincerely urge your favorable consideration of H.R. 11049.

Mr. CORBETT. Mr. Chairman, I yield 15 minutes to the gentleman from Iowa [Mr. GROSS].

Mr. GROSS. Mr. Chairman, I should like to put in proper perspective the lack of proper committee consideration of this pending bill. Let me at the outset point out that on Thursday, April 9, 1964, the full Post Office and Civil Service Committee met in executive session and a motion was made and seconded to take up H.R. 10700 and other related salary bills and to meet every Thursday until the committee had disposed of the legislation.

After adopting that motion, the committee proceeded to consideration of other matters. There was no discussion of the revised provisions of that pay bill, H.R. 10700. Seven days later, on Thursday, April 16, an open hearing was held and there was discussion of H.R. 319 to protect postal patrons from obscene mail. There was no discussion of pay legislation. Seven days later, on Thursday, April 23, the committee considered three bills and again there was no discussion of pay legislation.

On Thursday, April 30, again 7 days later, the committee convened at 10:35 a.m. and a motion was made and adopted to consider H.R. 11049 with all debate to end at 11:20 a.m. That motion was adopted and H.R. 11049 favorably reported, without amendment, and then of course sent to the Rules Committee.

There has been not one word of hearings or testimony on the pending bill, H.R. 11049. The proponents of this measure can slice their explanations thick or thin and the end result will be the same.

Mr. Chairman, I oppose the enactment of H.R. 11049 just as vigorously and completely as I opposed the earlier pay increase bill, H.R. 8986, which was defeated by a rollcall vote of 222 to 184, and I trust a sufficient number of the Members of the House will again stand to be counted when the demand is made for the rollcall vote.

I would hope that the leadership on both sides of the aisle would, on this occasion, lend their full support to a rollcall on final passage.

This new bill is virtually identical to the earlier version. There is nothing to warrant a June reversal of the wise and responsible action of last March. As a matter of cold, hard fact the Nation has plunged still further in debt since that time.

Passage of this bill at this time in the face of overwhelming evidence that it is inimical to the national welfare, and opposed by most American citizens, would be an act of "midsummer madness."

We must again today pursue a reasonable course of action and we must, in good conscience, reject H.R. 11049 just as decisively as we rejected the previous salary grab.

I have heard of no taxpayer mass meetings—no demonstrations in the streets of any city, village or hamlet, North, East, West, or South—importuning Congress to schedule a repeat performance of this extravaganza.

Let me review briefly a few of the weird and improbable backdrops before which you are again being asked to vote yourself a pay raise, or, as one colleague appropriately expressed it, "again having our feet put to the fire."

It is proposed here today that we raise our own salaries shortly after we have reduced the revenues of the Federal Government by $11.5 billion in individual and corporate income taxes and while the stage is being readied for a vote next week to increase the ceiling on the national debt to $324 billion.

In the midst of an alleged economy drive, you are being asked to add an additional one-half billion dollars annually to governmental payroll costs that must be paid for from borrowed money.

During a period when President Johnson has been urging business and labor leaders to exercise "restraint and responsibility" so that prices and wages will remain stable, it is actually being proposed that we today start an upward spiral of wages and prices.

We are being asked to grant salary increases effective immediately to Federal employees who have already had their salaries increased automatically as recently as last January 1.

We are being asked here today, within 5 months after one salary increase, to grant what will be the third salary increase in 19 months for these same employees with a total price tag that adds over $1.5 billion annually—an increase of 11 percent—to total Federal payroll costs in the 19 months' period.

In the name of comparability, we are being asked to enact a measure that admittedly does not achieve comparability.

On the claim of urgent need we are being pressured to vote today to increase our own salaries and the salaries of Federal executives and judges by 33⅓ percent, yet these increases would not take effect until next year.

We are asked to make the vast resources of the Federal Treasury available for the payment of salaries to officials of the District of Columbia government much higher than our own cities and States can afford to pay to their officials.

As strange and as weird as anything else, we are being asked to vote today on a bill on which no hearings were ever held by the responsible committee of the House; upon a bill that was favorably reported by that committee only 2 days after being introduced, with only 30 minutes' time allowed for the offering of amendments and for what should have been a full and complete discussion of a measure that contains five titles, 78 pages, and which proposes to change the salary rates for almost 2 million Federal employees.

And, just as fantastic, even though a rule was granted on this bill 3 weeks ago, we have only now come to the moment of truth by a last-minute scheduling of this performance which we are told could not be scheduled earlier in the regular manner because time was needed to see if the same show would "go on the road" in the other Chamber.

Certainly, in view of these improbable and even preposterous settings, the spectacle we are projecting to the American people is a sad one, and I implore Members of the House to consider their decision most carefully.

Mr. Chairman, I am firmly convinced that this bill is again ill timed, unwarranted, expensive, and contrary to sound reasoning and responsibility. My own views in detail on the measure and those of some of my colleagues on the Post Office and Civil Service Committee are expressed on page 127 of the committee's report. These reports are available here and I earnestly hope that the Members will carefully read these minority views before they decide how they will cast their votes. There are other compelling reasons why this legislation should be defeated.

One of the greatest dangers we now face in this Nation—one that has the potential for destroying us—is the pressures that may be unleashed for a renewal of the price-wage spiral and a vicious inflationary cycle. The President claims to recognize this danger.

In his Economic Report to the Congress in January of 1964, the President called particular attention to the urgent necessity for avoiding inflationary wage increases. He said that he would keep close watch on price and wage developments and that he would not hesitate to, and I quote, "draw public attention to major actions by either business or labor that flout the public interest," unquote. In inflationary price-wage practices.

In Atlantic City on March 23 the President had this to say:

> We must not choke off our needed and speedy economic expansion by a revival of the price-wage spiraling. Avoiding that spiral is the responsibility of business, and it is also the responsibility of labor.

I submit to the Members of this House that this business is also the responsibility of the Congress, and in view of the apparent inconsistent attitude and the impotence of the administration this responsibility for maintaining stability on wages and prices will only be fully discharged if the Congress now assumes the badly needed leadership.

The Congress must now set an example for the private sector of our economy by holding the line on wage costs. Congress must reject the concept that precipitous and unwarranted pay increases can be granted without unleashing ruinous inflation. The economy simply cannot afford the luxury of this bill at this time. Even the loosest standard of fiscal decency is flaunted by the spectacle of a Member of Congress voting to reduce Government income by $11.5 billion, voting himself a sizable pay raise, and then voting to raise the national debt limit so that the money can be borrowed to meet his own increased payroll.

Congress is often described as a board of directors and the voters and taxpayers as stockholders of the corporation. It is not necessary to draw on the imagination to know what the stockholders of a private corporation would do, if, with the corporation deeply in debt, the directors voted themselves lavish salary increases. At the first annual meeting, preferably on a cold day in November, the directors would be given one-way tickets to that land where the woodbine twineth and the whangdoodle whangeth.

And let me say at this point I find it incredible that President Johnson, who has been gallivanting over the country exploring "pockets of poverty," would use the power and pressure of his office to demand that Congress vote itself a $7,500, perhaps a $10,000, a year salary increase.

This is the same President Johnson who, in taking over the office of Chief Executive, said he would always respect the independence and integrity of Congress. Yet in recent days his henchmen have been prowling the corridors on Capitol Hill and keeping the telephones hot in behalf of this bill. Is it possible that Capitol Hill has been secretly designated as a "pocket of poverty"?

There is also another serious and disturbing aspect to this legislation which has not received sufficient attention but of itself it is certainly sufficient cause for the rejection of this bill. It is the dangerous threat that enactment of this bill will have upon the civil service employees' retirement fund.

This fund, which is the hope and future of the people who work for the Federal Government, currently shows an actuarial deficit estimated at $34 billion and the fund is going further in the red at a rate of $1.5 billion each year solely on the basis of the Government's failure to pay interest on the deficit.

It is estimated that unless action is taken to correct the situation, the fund will be completely wiped out by the year 1989 and for each year thereafter we will have to directly appropriate between $2 and $3 billion to provide the retirement benefits to our people that we have committed ourselves to.

The two pay increases that were provided for in Public Law 793 of the 87th Congress in themselves increased the deficiency in the civil service retirement fund by $3 billion. And the Civil Service Commission now estimates that enactment of H.R. 11049 will add another $1.25 billion to this deficiency. This bill, by blithely providing for salary increases, ranging up to 33⅓ percent for Federal employees, ignores completely the fact that by so doing it jeopardizes the economic future of these employees. There eventually must be a day of reckoning—a day when we will have to face up to the fringe effects of these salary enactments—and when that day comes, it will not be a pleasant one for the Congress or for the American taxpayer.

I have here a letter which I received and which I understand was sent to every member of the Post Office and Civil Service Committee from Vaux Owen, president of the National Federation of Federal Employees. This is one of the largest of the national unions of Federal employees; it is most effective and was founded in 1917. Its membership is exclusively confined to those who work for the Federal Government and the members of this union are intended to be among the beneficiaries of this legislation. You would assume that they would have a selfish and a most active interest in its prompt enactment.

However, in this letter the president of the union deplores the fact that no hearings were held on H.R. 11049 and that he had no opportunity to testify before the committee. He has seen fit to send to me and, I presume, to the other members of the committee a copy of the statement which he would have made on the legislation if hearings had been held, and in his letter he characterizes H.R. 11049 as "a monstrous distortion of the comparability principle and an unjustified departure from the rule prescribed by the Congress for implementing that policy."

I have read Mr. Owens' statement, as he has asked me to, and I assure you that he raises a number of disturbing questions with respect to H.R. 11049 that probably will never be answered nor resolved. It is certainly no credit to this bill that it was permitted to come before the House under a gag procedure that deprived the Members of this body the committee consideration that is essential to legislating responsibility.

Mr. Chairman, since the majority of employees covered in this bill have already received a salary increase last January, since salary increases proposed for most of the other employees will not take effect until next year, and since too many vital questions have been raised and unanswered by legislation of this magnitude, I sincerely urge that this bill be rejected.

I am certain that if we reject this bill today; if we, by example, show business and labor that we mean it when we say "hold the line on wages and prices"; if we here take the leadership in giving our ailing economy a massive dose of "restraint and responsibility," our action will meet with the full approval of the people we here serve.

Mr. MURRAY. Mr. Chairman, I yield 5 minutes to the gentleman from Montana [Mr. OLSEN].

Mr. OLSEN of Montana. Mr. Chairman, I think it is well pointed out time and again in the discussions on this legislation that Congress has the sole responsibility in the area of salaries. This is where the buck stops; right here on the question of salaries. Therefore, it follows that we are largely responsible for the effectiveness and the ability of our Government itself to function well and to perform for the people of these United States.

In the words of our President Johnson, he says:

> Every cent for these increases is already included in my budget for fiscal year 1965. The smallest budget in proportion to our national output since 1951.

In that letter from which I quoted, the President of the United States says for him as leader of the country to get one dollar's worth of performance for every dollar spent, he needs this pay bill.

Now what is the problem? The problem is that we compete with private industry, with public institutions, with the whole economy of the country in getting the kind of talent that is necessary to operate this biggest industry, this biggest part of our whole system, our Federal Government.

To do that our Government must recruit 400,000 "new faces" every year.

Even though in the Government the employment has reduced some 9 percent in the years 1946 to 1963, despite the reduction in the number of employees there is a turnover in employment in the Federal Government of 400,000 people per year.

We must attract leadership in such fields as space flight and all the new sciences of space. We must attract the best kind of talent in agriculture, as well, and in every field of endeavor in this country. We must have the best kind of talent in the Federal Government because, whether a department of the Federal Government is functioning as a leader in any particular field or not, the Government is participating in every field with talent of the country, and certainly the talent of the Government must be equal to the leadership of any other part of our economy.

In regard to improving crops in agriculture and improving livestock in the field of agriculture, the Federal Government has furnished a substantial part of the leadership. Congress has appropriated the money to attract this leadership. In that field there is a great deal of activity in the private economy, and the private economy is competing with the Government and the Government competing with the private economy in the attracting of this talent.

The Federal Government as an employer must be competitive in—the word is now—the mainstream of our economy. Attracting needed talent is necessary.

One of the really tragic examples of our failure to do this is our friend Mr. Walter Williams, who was the leader in the National Aeronautics and Space Administration, in charge of the program for space flights. The top salary the Government could pay Mr. Williams was $20,000 a year, under law. He has resigned. We know that he went to employment in private industry at a salary at least twice the $20,000 offered by the Government. By a coincidence, he will be working for an industry which in turn is employed by the Federal Government in this great program.

There are numerous other examples of lawyers, economists, engineers, and scientists who leave Federal employment and go to private industry at salaries twice as great as those offered in Government.

Also, in the Post Office Department, we are finding that outstanding letter carriers and outstanding postal clerks, who should become the leadership in the Post Office Department—perhaps late this year, and certainly in the coming years—are leaving Federal employment. We will be looking for leadership in that Department and we will not have it, because we are not hanging on to the people in the Post Office Department who should become the leaders.

To solve this problem, in 1962 the Congress adopted the principle of comparability by passage of the pay bill that year. The principle of comparability is operated by requesting the Bureau of Labor Statistics to report the comparable pay in private industry for those same talents as are hired in the Federal Government. We are informed by report on the amount of money paid per hour for talents in industry comparable to those hired in the Government. We are also advised of the percentage of increase experienced by the employee in industry. We are advised that the percentage of increase has been about 3 percent a year. In the general classification of employees in the general services and in the Post Office Department, up to about the pay of $6,000 a year, we have experienced a timelag of 1 to 2 years in meeting competition or in maintaining comparable pay in the Federal Government with that of private industry. In the higher grades, we have had longer periods of timelag, and in the highest grades, that of $20,000 a year or more, there has been no increase since 1955.

The fact of the matter is that the salary paid Congressmen—$22,500 a year—is a ceiling on all the higher grades—indeed, it is a ceiling on the scientists, the lawyers, the economists, the engineers, and specialists of all kinds. Yes, the Congressman's salary is even a ceiling on all the Cabinet and all of the judiciary. In that regard, let me say that it is fair to generalize that the lobbyist representing industry at the Congress, the lawyer representing his client in the courts, and the businessman representing his business in the executive branch of the Government are all being paid several times more than the salary of the Congressman, the jurist, or the executive Federal employee.

We have labored hard to bring to you the report that was filed supporting this bill. We heard 45 witnesses in 10 full days of hearings. Not a single witness appeared against the bill. It is supported by the American Bar Association, by engineering societies, by the scientists, by businessmen; and leading newspapers all over the country are calling for Congress to pass this bill as an act supporting responsible government. Yes, the act is timely. It is even late. It is tardy. It is not inflationary. It is not inflationary because the employees, the leadership of the Federal Government are all productive. Their productivity is comparable to the best in our country. They are lagging behind the pay of private industry, and in that lag, the salaries of Federal employees and leadership are actually deflationary. By our figures from the printed hearings on this bill, the States, the counties, the universities, the public institutions, and private industry have a host of examples of salaries far higher than any in the Federal Government; particularly private industry discloses the board of directors of even small corporations—yes, small corporations of my own State of Montana, being paid far higher salaries than are paid our judges, our executive officers, and our Congress. We must lift this ceiling on salaries in the Federal Establishment to help our President attract the kind of talent necessary to continue the effectiveness necessary to the proper performance of our Government for our people.

Mr. CORBETT. Mr. Chairman, I shall yield to the gentleman from New Jersey [Mr. WALLHAUSER], a member of the committee, but first I yield myself 1 minute.

I point out, in advance of the gentleman's remarks, that he has been one of the finest, most dedicated, and distinguished members of our committee. He will be a hard man to replace next year. We can be certain that what he will have to tell us today will be spoken with sincerity and could not possibly be attributed to any advantage to himself.

Mr. JOHANSEN. Mr. Chairman, will the gentleman yield?

Mr. CORBETT. I yield to the gentleman from Michigan.

Mr. JOHANSEN. The gentleman from New Jersey and I have not seen eye to eye on every issue. We probably will not on this issue today. However, I join with my good friend the distinguished minority leader of the committee in expressing my regret that the gentleman is leaving the Congress and leaving the committee, and wish him well.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. CORBETT. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I want to seize this opportunity to join in a tribute to a great public servant. The gentleman from New Jersey is one of the finest men who ever served in Congress, as far as my own experience is concerned. I think I speak for all the Democratic members of the committee in paying tribute to the distinguished Member. He is a real gentleman. He is conscientious and works hard. I think it is a great loss to the Congress and the country that he is retiring from this body.

Mr. PIRNIE. Mr. Chairman, will the gentleman yield?

Mr. CORBETT. I yield to the gentleman from New York.

Mr. PIRNIE. I, too, would like to join in this tribute. My colleague from New Jersey came to the House at the same time as did I. I have found him to be a gentleman in every sense of the word and truly dedicated to his task here. His effort today merely reflects his deep interest in his country and his unselfish approach to his responsibilities. I, too, regret he is to retire at the end of the session so that the Nation will not have the benefit of his counsel and his help in this Chamber in the days ahead.

Mr. CORBETT. Mr. Chairman, I believe, in view of the facts that have just been brought out, we had better yield 10 minutes to the gentleman from New Jersey if he is able to speak.

Mr. WALLHAUSER. Mr. Chairman, first of all I would like to express my appreciation for the kind words that have been spoken, and I hope I am still able to say something about the bill after this wonderful experience.

I would like to start off by saying that, of course, I support H.R. 11049 completely. Then I would like to say it has been a rare privilege and a great honor for me to have served on this great committee. I especially want to thank the chairman and the ranking minority member for their fair and just treatment at all times. I guess I will have to admit publicly, much as I hate to, that every member of the committee has more intelligence than I have and more ability to understand legislation than I have. Yet I think I was able to understand H.R. 11049 after we had considered the previous legislation at great length in days and days and days of hearings and after full explanation. So I feel that every member of this committee, and I think every Member of this House, surely must understand what is before us today. A previous speaker has mentioned that this legislation is virtually identical with the previous legislation, and it is. There are, of course, some differences in arithmetic, but they are not too serious and not too hard for us to understand what they are.

If we look upon our duty today, I think it is a very simple one, but we have a very heavy responsibility. I believe that we are in the same position as directors of a corporation who have to approve, or disapprove, or alter, the recommendations of the Executive. That is what we are doing today. We are passing upon the judgment of the executive department and we are altering it. We are altering it in this legislation.

Now I would like to go back to the Salary Reform Act of 1962 and point out two major accomplishments which were made in that legislation. First of all, we raised, in two steps, up to the 1961 comparability the pay and salaries of classified and postal workers. It did not reach 1962 comparability. Also it gave us the mechanics and specified by law as to what we are to do in the future to implement this legislation. Now that Public Law 87–793 is on the books it is our obligation to live up to the obligation that we assumed and vote according to the mandate given to us by that law.

I would like to point this out also: Federal employees are not allowed to strike against the Federal Government. Therefore, they must meet us at the bargaining table. This House of Representatives is the bargaining table at which labor and management are meeting today. We have to be fair in this situation. We have to understand their problems, and I think we must, with good judgment, and recognizing the taxpayers' interest, meet their reasonable demands, as reasonable men and women should.

Title I takes care to some degree the salary problems of 1.7 million very loyal employees.

For example, there are 375,000 postal employees who will receive only a minimum of, I think it is, $375 per annum increase. And yet if we look back over the last 15 years we will find that the classified employees have received 4.1-percent average increase and the postal workers 4.9-percent increase. This bill only calls for a 3-percent increase for them.

Mr. Chairman, if you will now look at the other side of the coin you will find that perhaps in the future years we will be giving lesser increases than we have in past years. That is a future probability.

Titles II, III, and IV take care of the legislative, executive, and judicial salary increases. There are only about 1,500 positions with $12 million per annum involved. It is not a very large sum as compared with the total amount in the bill of $533 million.

Mr. Chairman, I would like to take just a moment to call your attention to the Randall report which has not been mentioned here today. The report of the Advisory Panel on Federal Salary Reforms was issued on June 12, 1963. There were 10 very distinguished members of this Commission: Clarence R. Randall; John J. Corson, professor at

Princeton; Marion B. Folsom, Eastman Kodak Co. and a former Cabinet officer; Theodore U. Houser, former top executive, Sears & Roebuck; Robert R. Lovett, Brown Bros., Harriman, former Secretary of the Army; George Meany, AFL-CIO; Don K. Price, Graduate School of Public Administration, Harvard; Robert Ramspeck, former Member of Congress from Georgia; Stanley F. Reed, Associate Justice, retired, Supreme Court; Sydney Stein, Jr., Stein, Roe & Farnham, lawyer.

Mr. Chairman, they came in with these recommendations: That the Speaker and the Vice President should receive $60,000 a year; that Members of Congress should receive $35,000; Cabinet officers, $50,000; the Chief Justice, $60,500; and Associate Justices, $60,000; judges of the U.S. Court of Appeals, $45,000; and district court judges, $35,000.

Our legislation does not reach these figures by a good, long shot.

Mr. Chairman, these people had very good research facilities. They did a magnificent job. Their report was based on a sound foundation of facts plus excellent judgment by men who have been through various aspects of our economy and know the answers.

Of course, anyone seeking Federal employment recognizes that the element of prestige is important and desirable and the desire for public service is commendable. But we have to recognize that those Federal employees in the executive department are not allowed to have other gainful employment. They are limited to their Government compensation.

I claim that in order to attract, and finally to hold, competent employees, we have to pay salaries commensurate with their responsibilities and salaries comparable to those paid in private enterprise.

The figures will show—and this is only a partial list—that more than 1,000 governmental employees throughout the country, outside of the Federal Government—mayors, Governors, superintendents of schools, and so forth—receive more than $25,000 a year.

You have heard a lot about the subject of inflation. This is not a problem in this case because inflation only occurs, or can occur, when a disproportionate and a relatively sharp and sudden increase in the quantity of money or credit, or both, relative to goods available for purchase, occurs. There is no sudden or disproportionate increase here because this amount is budgeted and the Government, of course, will receive back large amounts in taxes. So that it will not all be outgo.

We have also heard a lot about unfunded liability. Of course, this is a problem. But it is only a real problem if everyone were to retire at once, so far as the deficiency is concerned. And there is a bill now before our committee which would, if enacted, make the fund self-supporting. Funds can be appropriated or the Government could make interest payments to take care of this problem.

We also hear about the increase in the debt ceiling bill which will be called up next week.

Mr. Chairman, I would like to call the attention of the members of the committee to these facts. The total amount of this bill is in the budget. So, we are not raising the ceiling because of this bill. Also, that Federal employment has gone down sharply in the last year. If the levels that were forecast in the 1964 budget were held to we would now have 73,000 more employees than we now have.

Further, I would say this: If you want to keep from raising the debt ceiling, stop appropriating money for new programs. Do not take it away from people, because you cannot run a business without good people. This, I believe, is fundamental and elementary.

Mr. Chairman, as far as this legislation is concerned the president of a concern in the private sector of our economy knows that if his competitor is paying certain salaries higher than he is, he has to meet those salaries or go out of business, or obtain inferior help.

Mr. Chairman, I would like to close by saying this——

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. CORBETT. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. WALLHAUSER. Mr. Chairman, we are the directors of the largest and the most important corporation in the world. We have a heavy responsibility. Our duties are full time. Everyone of the Members of this House, except the Member in the well, is a capable individual. You can be replaced by the stockholders of your corporation, if they so desire, because you have to run for election every 2 years. The directors of a corporation have every right in the world to raise their fees and to raise the salaries of their employees, and that is what you are being asked to do. You are not being asked to do anything unusual or reprehensible. You are only being asked to be fair to those employees who cannot by any other means receive increases. I submit that you and I will not be living up to our full responsibility and in fact we will be actually shirking our duty if we do not pass H.R. 11049. I sincerely hope that we will.

Mr. MURRAY. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. POOL].

Mr. POOL. Mr. Chairman, there is absolutely no reason why we should not approve this legislation today. Every feature which some Members found objectionable in the first pay bill has been removed or altered to a point where objections are really no longer valid. The salary increases for Members of Congress, Federal judges, Cabinet officers, and sub-Cabinet officers have been dropped from $10,000 a year to $7,500 a year. They are also being deferred until January 1965. This means that no Member of this body can with any justification be accused of voting to give himself a pay increase. He will be voting to give the office an increase, and this is quite a different matter.

Mr. Chairman, a candidate for Congress may make political objections against pay raises on an individual basis, but he surely can have no valid objections against raising the prestige and the recompense for the job itself.

Mr. Chairman, I have just returned from Texas and I have talked to people in all of the counties practically throughout the State. In the district which it is my honor to represent, I represent the largest constituency of any Member here in the House of Representatives. Everyone to whom I talked said this about the pay raise: They wondered why the Federal Government could not pay the Federal judges, the Members of Congress, and the Cabinet officers decent wages and get better people to serve in these positions. They felt that this was just good commonsense, as all businesses in the United States follow this principle. You only get what you pay for. We will get better work and better people if we pay a decent salary.

Mr. Chairman, the testimony before the Committee on the Post Office and Civil Service of which I am a member showed that comparable wages were lower in the Federal service than they are in industry.

Therefore I voted for the bill before in the House, and I intend to support this bill here today. If we are going to get qualified personnel to work for the Government we must pay salaries comparable to those paid by industry.

Mr. CORBETT. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan, a member of the committee.

Mr. JOHANSEN. Mr. Chairman, I rise in opposition to the bill, H.R. 11049.

Mr. Chairman, the Johnson administration has three antipoverty packages it insists that Congress approve this session. We take up the first of these today.

Especially, since this is the second attempt this year to provide relief from poverty for Members of Congress and top salary executive and judicial personnel, it occurs to me that we should view this bill in relation to the other two pending antipoverty proposals.

It is my understanding that the second of these measures is slated for consideration in the House next week. It is commonly and technically referred to as the debt ceiling increase bill.

This debt limit legislation is directed to a bona fide hardship case. With a present national debt of $308.7 billion, with an $8.8 billion deficit for the fiscal year ending the 30th of this month, and with an estimated deficit of $5.8 billion for the next fiscal year, it is obvious that Uncle Sam himself has his own poverty problem. Presumably, the Congress will again come to his rescue by raising the national debt limit to $324 billion—the sixth such increase, if memory serves me right, in less than 4 years.

Incidentally, let me say that if the pending half-billion-dollar pay raise is voted into law, it will be a half-billion-dollar contribution to the fiscal 1965 deficit and an equal contribution to the argument we will hear next week as to the necessity for raising the debt ceiling. The claim that this half-billion-dollar item is covered in the President's budget is neither here nor there. The hard fact remains that we are voting to spend money we do not have if we pass this bill today, and it will be nonetheless true if we pass the bill without a record vote.

The administration's third antipoverty program, of course, is the one designed for the poorer poor people. That is the one counted on by the administration to garner the real harvest of votes next November. That is the one designed to help the voters forget what we may do here today. That is the one designed to help them forget that, under the administration and House leadership's order of priorities, we took care of the impoverished Congressmen and bureaucrats first.

To be sure, under this bill, if enacted into law, we will grant some justifiable and justified pay raises. I can't conceive of Federal pay increases aggregating over $1.5 billion in 20 months without some meritorious benefits accruing therefrom. I wish it were possible for me to vote for those warranted pay raises. But the sort of something-for-everybody package we have here today makes it impossible for me to do so in good conscience.

There are a number of observations which I should like to make in my limited time both about the bill and about the general situation in which we find ourselves.

Let me, first of all, offer a word of caution to my colleagues.

Any Member of this House who thinks that the curse of adverse editorial and public comment about raising our own pay has now been removed had better think again.

It is true that this bill cuts $2,500 off the proposed pay raise for Members of Congress, Cabinet officers, and other top executive and judicial personnel. But we are still providing these top level Federal employees—including ourselves—with a 33⅓-percent pay raise. We are doing it a week before we again raise the debt ceiling—in itself an interesting commentary on the quality of the fiscal stewardship of this administration and a majority of this Congress.

I see no evidence that there is any less reluctance on the part of a majority of my colleagues so far as a rollcall vote is concerned. This in itself is proof of a self-conscious embarrassment over what is proposed to be done.

But a new feature is added to our second consideration of this pay bill in less than 3 months. My good friend and colleague, the gentleman from Arizona [Mr. Udall] yesterday sent all of us a letter in which he apologized for the fact that the proposed increases for Members of Congress and other top level executive and judicial personnel "are inadequate," but he did not stop with that. He announced his intention to offer an amendment which would provide:

> That whenever classified or postal salaries are increased hereafter, such legislation will automatically increase executive, congressional and judicial salaries.

I will not discuss his formula for such automatic increases at this point.

In this same communication, the gentleman from Arizona stated that:

> Congress has already established machinery for regular annual adjustments in the classified and postal salary system.

These two statements considered together add up to one simple, bald, brazen proposal—the proposal to give Members of Congress a permanent personal vested interest in annual pay raises for Federal personnel. It is a proposal that Congress adopt a policy in perpetuity of annual automatic pay adjustments—a euphemism for pay increases—for Members of Congress and other top Federal officials. This is an antipoverty program with a vengeance.

I have read, with great interest, the compilation of editorial comments on our March 12 action which was placed in the Record by my good friend, the gentleman from Louisiana [Mr. Morrison] and which he thoughtfully circulated among Members of this House. I note that one of these editorials, from the Milwaukee Journal, bore the title, "Sneaky, then Cowardly." I suggest that this will stand as high praise of the Congress in comparison to what will be said editorially if we adopt the Udall proposal for automatic pay raises for Members of Congress and then pass that bill without a rollcall vote.

No wonder there are serious misgivings about having a record vote on this legislation. Just how much punishment do some of my colleagues think the American taxpayers are willing to take?

Turning to another aspect of this matter, I should like to comment briefly on one or two statements made by the President of the United States in his letter of March 17 to the Speaker of the House urging the House to reconsider and approve pay raise legislation. In some respects, this is the most amazing message ever addressed to this House by a President.

In times past, I have been severely critical of a statement made by Mr. Clarence B. Randall, then Chairman of the President's Federal Salary Policy Committee. In this statement, Mr. Randall said:

> I am firmly convinced that higher Federal salaries would attract a level of competence that would so improve government operations that there would be no out-of-pocket costs at all.

Heretofore, I had thought this was the ultimate in hyperbole. I was wrong.

In his March 17 message, the President said:

> The dollars paid to attract brains and ability to the Federal service will come back to the American people many times over in more economical and effective government.

I am intrigued also by another interesting display of logic in the President's message.

In listing the alleged adverse effects of nonenactment of the pay raise, the President cited the following as one deplorable consequence. Such failure, he said, would:

> Jeopardize increases in military pay, which I have recommended to keep Armed Forces pay generally in line with nonmilitary salaries.

Now, if I understand the argument advanced by the President, it is to the effect that we must raise nonmilitary salaries of civilian Federal employees in order to make it possible for the administration to secure increases in military pay which will keep that pay in line with the nonmilitary pay. I would not presume to guess who drafted that masterpiece of illogic for the President of the United States. But there it is.

In terms of the old familiar phrase, the way to "keep up with the Joneses" is to see to it that the Joneses step up their own standard of living and spending. Antipoverty—it is wonderful.

My final comment at this point in the debate regarding this revised Federal pay bill goes to the matter of the much-discussed "comparability principle."

Let me preface this comment by reminding the House, as some of my colleagues have already done, and as the minority views which I signed, emphasize, this revised bill was voted out of committee without so much as 5 minutes of hearings. Even the scheduled appearance of the Director of the Budget and the Chairman of the Civil Service Commission before an executive session of the committee was vetoed by the White House—an act of almost unprecedented executive ruthlessness. This amounts to telling this House that it must pass this bill, not on its merits, but on the President's insistence. I am reminded of the popular song, "What Lola Wants, Lola Gets." We shall see. And we shall also see how the American people react to these tactics.

The fact is that this bill reduces the price tag of this proposed pay raise from $668,500,000 to $533,200,000.

The committee report on H.R. 8986—the pay bill defeated last March—made a big point over the fact that it involved an annual cost of $381 million less than the first proposal taken up by the committee for action last fall. Presumably, this first proposal was based on the principle of comparability. During the debate last March, I observed that comparability must indeed be a most elastic principle if this much of a reduction could be made without impairing that all-important principle. Today's bill has a price tag of $135 million below the March bill.

Thus, we find that in a period of less than 9 months, the proposed cost of a pay bill supposedly based on the highly scientific concept of comparability has been reduced more than one-half billion dollars—and we are supposed to believe that the principle of comparability was adhered to in each of these three proposals and that it today stands unimpaired in this half-billion-dollar-cheaper pay raise proposal. Who, I might ask, is kidding whom?

I will say this. One of the gentlemen who is not being deceived is Mr. Vaux Owen, president of the National Federation of Federal Employees.

Mr. Owen wrote me under date of June 4, as I presume he did other members of the committee. He pointed out that the original committee hearings last year were held on H.R. 7552, a bill which the administration strongly supported. In Mr. Owen's judgment, "the principle of comparability was fairly and reasonably adhered to" in this bill.

Commenting on the bill H.R. 11049, which we are considering today, Mr. Owen said:

> This is a monstrous distortion of the comparability policy and an unjustified departure from the rule prescribed by the Congress for implementing that policy.

The simple truth, of course, is that it is farcical to talk about the comparability principle in connection with this bill or in connection with the legislative procedure which the committee has followed since last fall.

The governing principle in today's proposal is not comparability but acceptability. We are back operating under the rules of whatever the traffic will bear. Comparability which gives or takes to the tune of half a billion dollars isn't comparability. It is expediency.

Recently, I introduced a bill to repeal the provisions of the Federal Salary Reform Act of 1962, providing pay comparability between employees of the Federal Government and employees in private industry.

I did so after published reports of April 22 that there is talk of classified and postal employees "appealing to the courts to force Congress to follow through on the 1962 law that extended the comparability principle to their salaries."

I opposed adoption of this comparability provision when the legislation was originally before this House.

I then believed the principle was unsound. The provisions of this bill further confirm that belief.

I now also believe this provision is dangerous and that it invites judicial action designed to force the Congress to live up to its vague and ill-defined commitment.

As a matter of sound fiscal policy, I believe H.R. 11049—which superimposes a half billion dollar pay raise on the previous $1 billion pay raise—should be defeated.

As a matter of sound legislative policy involving perpetuation of the farce and hoax of comparability, I believe the bill should be defeated.

Mr. MURRAY. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. HENDERSON].

Mr. HENDERSON. Mr. Chairman, I rise in support of H.R. 11049. As chairman of the Post Office and Civil Service Committee's Subcommittee on Manpower Utilization, I have been increasingly impressed by the information developed by our subcommittee that the Government needs the best management that can be obtained to afford the world's largest and most complex business with the most able talent. This, in turn, insures the most efficient and economical use of our taxpayers' money.

I believe that unless principles of comparability of pay which were adopted by this House in October 1962, and now public law, are put into effect we are going to lose more and more of the top managers in the departments and agencies of our Government. I feel that an important key to the capability of our Government to meet the responsibility for our people lies in top management and we need adjustments now in salaries for these responsible jobs.

Within recent days the Manpower Utilization Subcommittee in public hearings has developed the fact that one of the critical management areas in the Government today is in the recruitment and retention of good top people. In fact, our subcommittee has found numerous instances where departments and agencies have had to resort to the use of employees furnished by private corporations at a much greater total cost to the Government, due to problems of recruiting Government personnel.

Mr. Chairman, I also strongly support an amendment which has been proposed by our able colleague, Hon. MORRIS UDALL of Arizona, who is also a member of the Manpower Utilization Subcommittee. The amendment of the gentleman from Arizona [Mr. UDALL], which will tie the salaries of the Congressmen to the pay of the top level in the Classification Act series, namely, GS–18, will relieve the pressure in adjusting pay between the career employees and the Congress.

Mr. Chairman, I would like to cite briefly to the Members the provisions of our report starting on page 8 entitled "Classification Act Grade Inflation."

It is rather lengthy, but I would like to read just a brief portion of it as follows:

> The implementation by this legislation of the principle of comparability established by the Federal Salary Reform Act of 1962, Public Law 87–793, is intended by the committee to bring to an end the unjustified inflationary trend in the grade structure of positions under the Classification Act of 1949.

In other words, we point out that the passage of this bill is intended by the committee to bring to an end the unjustified inflationary trend in the grade structure of positions under the Classified Act of 1949.

Then we conclude on page 10 as follows:

> The committee believes that the necessary tools of personnel management, in terms of adequate salaries, have now been provided by the Federal Salary Reform Act of 1962 and by this bill, the Government Employees Salary Reform Act of 1964. It is expected that the principles of position classification and reclassification set forth in the Classification Act of 1949 will be strictly adhered to. The committee considers this a reaffirmation of congressional policy and, therefore, insists that management respect the grade structures which have been approved for particular positions. The committee will also expect the U.S. Civil Service Commission to exercise great care in the review and development of grade standards under the Classification Act.

This, Mr. Chairman, highlights what has been going on in the absence of appropriate rates of compensation. Management has found it necessary to raise the grades and thus increase the compensations in order to retain employees and to give salary increases.

Also, Mr. Chairman, there is another item in H.R. 11049, which I feel is a definite improvement over H.R. 8986. I have in mind an amendment which I proposed in the Post Office and Civil Service Committee and which was adopted by the committee and is now incorporated in H.R. 11049. This eliminates all fractions over a cent in the results of payroll calculations. It is my understanding that this item alone will save in the neighborhood of $10 to $12 million as compared to the bill which was voted on by the House in March.

Mr. Chairman, in order that we can continue to improve employee productivity in our Government, I believe that H.R. 11049 would be voted on favorably today by the House.

Mr. DULSKI. Mr. Chairman, will the gentleman yield?

Mr. HENDERSON. I am delighted to yield to the gentleman from New York, a member of the committee.

Mr. DULSKI. I compliment the gentleman for the fine statement he has made, and I commend him for the work of the Manpower Utilization Subcommittee, on which I had the privilege to serve under Judge DAVIS.

Mr. Chairman, we can well understand the need for expeditious consideration now of the entire issue of Federal salary legislation if Congress is to keep faith with our dedicated postal and other career employees.

These employees have a right to expect our favorable consideration here today as a major step forward to reach some degree of comparability in our employee rates of compensation with the rates paid for comparable rates in private industry. This comparability is required by the Federal Salary Reform Act of 1962, and will be accomplished by H.R. 11049.

As my colleagues have pointed out here today, President Johnson on numerous occasions and in a letter to Speaker MCCORMACK on March 17, has called to our attention the urgent need for adjustment in rates of pay for all officers and employees including the top executive officials who are responsible for the operation of our Government.

Our employees in the lower levels now are far behind in rates of compensation as compared with an employee in private industry. They need the increases proposed in H.R. 11049 just to meet the ordinary everyday living expenses.

The most significant improvement in this bill, as compared with H.R. 8986, is a 25-percent reduction—from $10,000 down to $7,500—in the salary increases provided for Members of Congress, Federal judges, Cabinet officers, and immediate sub-Cabinet officers. These increases also will be postponed to January of 1965, whereas they would have been retroactive to January of 1964 under the earlier bill.

The total annual cost of the salary adjustments provided by H.R. 11049 will be $533 million, an amount which is $11 million less than the President's budget figure of $544 million. The President considers this bill one of the three most urgently needed legislative measures that he has recommended to the 88th Congress, and has strongly emphasized his personal support of its prompt enactment. I earnestly hope that this important bill will receive the approval of the membership of the House.

Mr. CORBETT. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. CUNNINGHAM. Mr. Chairman, I stated before when this bill was first presented to the House that I was opposed to placing Postal and Classification Act employees in a package which also included legislative, executive and judicial salary increases. I stated then and I repeat now that I have always supported pay increases for our postal and classified employees and I would support increases for them now if the other three groups were divorced from the legislation. We held extensive hearings in the committee on the pay proposals for postal workers and regular civil service employees but there were no hearings held on the legislative, executive and judicial salary proposals. Evidently these latter sections were written in some other place than the House of Representatives. Salary legislation coming from the Post Office and Civil Service Committee should be confined to postal employees and members of the civil service system. Pay proposals affecting Congressmen, agency heads, Cabinet officers and judges should be considered by other committees as they have been in the past but such hearings were never held. Therefore, Mr. Chairman, I do support title I of this bill but I do not support the other sections. If they are not separated from title I then I shall reluctantly be forced to vote against the entire bill.

Mr. CORBETT. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. QUILLEN].

Mr. QUILLEN. Mr. Chairman, I rise in opposition to the section of H.R. 11049 which increases the pay of the Members of Congress to $30,000.

As for myself, I knew what the pay was when I ran for election, and I cannot break faith with the people who elected me to this office.

I am very much in favor of the raises for postal employees and other employees in the Federal Government. They deserve this increase.

The congressional pay increase should be eliminated; and, if it is not, then I must vote against the bill.

Mr. CORBETT. Mr. Chairman, we shall have only one more speaker on this side.

Mr. MURRAY. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. THOMAS].

Mr. THOMAS. Mr. Chairman, I doubt if I can add anything to what has already been said, but my point in speaking is to associate myself with the able and distinguished committee, on both sides of the aisle. I compliment the committee. You have worked long, you have worked hard, and you have brought out a well-balanced, good bill.

I also compliment the Committee for the fine, orderly, high-grade debate you have had. It has been of the highest order.

I shall address my remarks to two points in regard to the bill. It is well rounded. It will cost some money. It will cost in the neighborhood of $532 million. It covers the executive branch, the judicial branch, and the Members of the Congress. About the smallest item of cost is for the Members of Congress. Did you know that? It is about $4 million. The cost for the judiciary is about another $4 million. The cost for the executive branch will be slightly more than $500 million.

Do my colleagues realize that this is the biggest business on earth? I refer now to the executive branch of this Government. It is the biggest business on earth.

Do you realize—I feel certain most of you do—that this Government is run by a small number of employees, elected individuals, and appointed individuals?

The executive branch of the Government is run by between 3,500 and 4,000 employees. No more. The President, the Cabinet officers, the sublevel officers, the agency officers, the commissioners, those in supergrades of 16, 17, and 18, and a few in excepted positions, are the people who run the executive branch of our Government.

Do you know what the bill will cost for those? About $15 million a year.

The biggest economy you can make is to pay salaries which are commensurate with responsibilities and with duties. Look at the independent agency heads and Cabinet officers who are working for $25,000, or even $21,000. Most of them came from industry, where they were making two or three or four times as much.

I believe we can save by cutting down procurement, and perhaps, in the military, by putting in trained civilians rather than military men who were not trained in economics to do the job.

You can save that and 10 or 15 or 20 or maybe 100 times what it will cost you in 1 year for this special group.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. I will be delighted to yield to my friend from Iowa.

Mr. GROSS. Only a short time ago the gentleman's Subcommittee on Appropriations carried on some discussion of the huge deficit in the Federal employees retirement fund.

Mr. THOMAS. Come on. Get down to what you have to say. I only have 5 minutes.

Mr. GROSS. Does the gentleman know what this bill will contribute to the deficit and unsoundness of our budget position and the retirement fund?

Mr. THOMAS. I do not think it will create any deficit, but it will create a surplus if it is managed right and if you get good people running your Government who spend $75 billion of your money. You will get better people that way, and I think it will save you money. It will pay for itself many, many, many times a year.

Mr. GROSS. Mr. Chairman, will the gentleman yield further?

Mr. THOMAS. I will be delighted to.

Mr. GROSS. It is the figures contained in the hearings by the gentleman's committee that I used to show that the Federal employees retirement fund is now $34 billion in the red.

Mr. THOMAS. What are you talking about? The civil service retirement fund? Of course it is.

Mr. GROSS. And this bill will make a very substantial contribution to the staggering deficit in the retirement fund.

Mr. THOMAS. To give you an exact answer, if you are trying to figure out what it will cost the retirement fund, over a period of 31 or 32 years, the lifetime of a Federal employee, it will cost you in the neighborhood of a billion dollars.

Mr. Chairman, let me say something about the membership. This bill is not going to help me or many of the Members I am now looking at who are my age. My children are just about out of college. They were born late. What about these young Members, with two or three or four children coming along? They must go to college. They cannot do it. Now, just be perfectly honest about it. They cannot do it on what they are getting now. I am speaking for you, not myself. I am not going to be here too long. It is not going to improve the Government service to pay me more than I am getting. Let us be frank about that. But when I leave I think you are going to get a better fellow than I am. Gentlemen, do the right thing by yourselves and your country. If you do, you will vote for this bill. There is nothing to be ashamed about in this bill. I have seen three or four pay raises in my day here, and I have not seen a single Member who voted for those pay raises penalized one iota.

I heartily recommend this bill to you in all of its aspects and forgive me for taking your time.

Mr. CORBETT. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. CURTIS].

Mr. CURTIS. Mr. Chairman, of course, what I am going to say here is obviously just a matter of making the RECORD, because with the preparation that this House has been given by the committee, we are not in the position of debating the crucial issues that this bill presents to our country. President Johnson in his economic message to the Congress and to the Nation this year pointed out that there were inflationary forces loose which would be furthered this year, but these forces could be contained. In his message and in subsequent speeches he has addressed himself to the labor leaders and the management of this country to hold what has been called the wage-price guidelines, saying that this is not the time for wage and price increases even though there are many areas in the private sector and certainly in the governmental sector where there need to be adjustments of our wage scales.

Because I have been critical of this committee in my remarks during the debate on the rule, let me offer some element of praise—and it is deserved—for some of the studies that the committee has been making in this field of Federal employment practices. I have been following them.

There is the matter of comparability, a very necessary and important principle, job reclassifications, and so forth. Certainly a great deal needs to be done in this area, in my judgment. We do need to do something at the proper time to uplift salaries, particularly at the higher levels.

Most of this debate, as Members can tell, is directed toward what is only 1 percent of the bill, the salary increase for Congressmen. That is not the real concern that I am expressing here. The concern that I am expressing here is that which the President of the United States has expressed to management and labor in this country. And the biggest employer in the United States, of course, is the Federal Government.

Are we going to have our deeds so far removed from our words, that the President of the United States can talk out of one side of his mouth to the private sector of the economy, and to this Congress, in regard to Federal employees, out of the other side? If this committee had done the job that I expected it to do in regard to this specific bill—not the general principles of employment practices on which the committee has done good work—it would have related this to productivity increases and to our fiscal situation in 1964 as far as deficit financing is concerned. The committee would have tried to see whether at this time the Federal Government can set this kind of example even though it is true, and I reiterate, that wage scales should move up in the Federal Government, and we have got to do a great deal of work there. We are not following the President's wage price guidelines.

We have a very serious situation in the matter of the balance of payments. All we have been doing is buying time, and the President has said this.

The Committee on Ways and Means has just finished going over the picture of what we might recommend in the matter of increasing social security benefits. Why? Because since 1958 the cost of living has gone up through creeping inflation around 8 percent. This would be $1 billion added to the cost of Government. We have these inflationary forces at play. When you increase the cost-of-living index one point, you take $4 billion out of the purchasing power of this country.

These are the things, if you want to appeal to patriotism, that we should be discussing. But there is no material in the committee report for this House to consider, because there were no hearings and there was no discussion on this point.

Finally, if I may, Mr. Chairman, I should like to refer to the congressional salaries. The issue, as I tried to point out in the debate on the previous bill is not whether full-time Congressmen should get more money if we are going to have the kind of men we want in Congress, because with that I agree. The issue, though, is over representative government itself. It is the kind of representative government we are to have. Are Congressmen to be full time? I suggest that you would not have good representative government on that theory, and I suggest under the theory of this Constitution Congressmen are supposed to be part time. They are supposed to live in their communities in order to properly represent their communities. What we need to do is to start to obey the law which says that the Congress shall adjourn by July 31 each year. And we can get our work done if we will eliminate this Tuesday-to-Thursday operation.

Mr. CORBETT. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. FULTON].

Mr. FULTON of Pennsylvania. Mr. Chairman, I am very glad to say that I strongly favor H.R. 11049, the so-called Morrison pay increase bill for Federal employees and postal workers. I believe it is a good bill and that it should be promptly passed by the House of Representatives.

Mr. Chairman, in 1962, the U.S. Congress through the enactment of the Federal Salary Reform Act made a promise to our Federal employees and our postal workers that we in Congress would keep the Federal pay scales at a relatively comparable level with private industry. This is necessary for basic justice and fairness.

Mr. Chairman, that policy of comparability has been adopted as an overall policy for the United States. This policy action was with the approval of the large majority of the Congress of the United States. The question, then, is at this particular point will the Congress live up to this promise? Will Congress continue the policy of comparability of Federal pay scales with private industry which after much debate and many hearings and research has been adopted as a basic policy? My answer is a definite "Yes."

My own recommendation is that the U.S. Congress do live up to its promise to these Federal employees and postal workers first, and that, second, the Congress specifically by this bill continue the policy of comparability. That means I favor passage of the bill H.R. 11049 because I believe that it has been prepared by the gentleman from Louisiana [Mr. MORRISON] and the House Post Office and Civil Service Committee on the basis of those principles. Pay raises for Congress should only be comparable to the pay raises provided for other Federal employees. We should not treat Congress any differently nor any better than any other Federal employee.

Mr. Chairman, I believe that Congress should keep the policy of an honest day's work for an honest day's pay, and a full day's work for a full day's pay. Congress sometimes forgets that not only the full day's work is required of our Federal employees, but also the full day's pay to compensate for the work performed.

This bill is not legislation that is inflationary. So, I disagree with my distinguished friend the gentleman from Missouri who feels that bill represents an inflationary step and that proper study has not been made of this factor.

Mr. Chairman, the reason I state that this bill is not inflationary is because the major part of the pay increase goes to people now whom everybody feels are underpaid and who are actually economically marginal when considered in light of the President's figures in the proposed poverty program.

How can these good people who are Government employees find themselves falling back in the economic system and falling back further than others so that their families are deprived of the basic necessities and educational opportunities for their children? My own feeling is that Congress should now see to it that these families do have the necessary cost-of-living increase. They are entitled to the increase not only on the basis of the promise of the Congress in the Federal Salary Reform Act of 1962, but they are also entitled to the increase on the basis that the cost of living has gone up with respect to every major factor of the cost-of-living index in the United States. These people and their families have been left behind in the Nation's economic progress to such an extent that there is a gap for Federal employees and postal workers, and they are substantially behind the cost-of-living increase, and will be comparable to private industry pay scales of 1962 even when this current pay increase is added.

Mr. Chairman, I believe that the difficulty with the argument of the gentleman from Missouri, whose research and study I value highly, is that his position reflects his idea that this will be moving the Federal and postal employees out into the forefront of salary increases so that they will be leading the van rather than following.

Mr. Chairman, coming from the industrial area of Pittsburgh and having knowledge of industrial and private enterprise pay scales with that knowledge and experience in mind, I would say to the members that as far as the industrial and production workers are concerned or agricultural processing workers or the retail workers are concerned, that the Federal employees for the work they do, for the intelligence required, for the dedication to their work, are really behind, not equal nor ahead of the general wage levels and pay scales in the U.S. economy at this time.

Congress should give special consideration to our U.S. Government employees and postal workers as they are the particular responsibility of the U.S. Congress. These employees do not have industrial collective-bargaining powers. They are under no collective-bargaining laws, they have no right to strike nor to engage in slow-downs, nor the right to picket. They have no rights to bargain for wage rates, hours, conditions of employment, nor fringe benefits that generally go along with industrial collective bargaining procedures in private industry.

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. FULTON of Pennsylvania. I yield to the gentleman from Missouri.

Mr. CURTIS. I think the gentleman is making a pertinent argument, but that is part of the material I suggest that the committee might look into as to whether or not in this time when the President has urged wage-price guidelines an exception should be made for Federal employees. I may say to the gentleman from Pittsburgh that we have the auto workers coming up for wage increases, we have the steelworkers and others coming up for new contracts. In fact, we have about 100 major labor-management contracts coming up this summer and fall. All of these groups are claiming they should have an exception made, but we do not even attempt to make the case in committee for an exception on behalf of the Federal employees. Honestly, I do not think a distinction can be made that would stand up, as between the Federal Government employees and all of the wage earners we have in the private sector who want a wage increase.

Mr. FULTON of Pennsylvania. The gentleman and I are not far apart in our reasoning, but we start with different premises. I start with the premise that the U.S. Government employees, including the postal workers, are behind the other comparable workers in private industry. I think it can be very adequately demonstrated that the Bureau of Labor Statistics on the cost of living have indicated a present increase for the Federal employees and postal workers just to bring their pay scales up to what the cost of living is indicated for 1962, 2 years ago.

I would disagree with the gentleman in certain other respects. I come from an industrial area. I do not want the salaries and wages leveled off and kept at a permanent level forever. I am a progressive Republican. I want the salaries and wages to increase as our U.S. economy grows. I want the people in Government and the private economy to know if they do hard work and get good production a good future is ahead, and it is bright and cheerful.

The other type of approach is, the present situation is good enough the way it is, just let it ride along, then we will correct minor injustices. But that does not lead to the future when we have a climbing gross national product that is going up substantially each year through increased production and efficiency by the working people of this country. Our U.S. gross national product is now above $600 billion.

I believe within the U.S. economy there is room that can be predicted for expansion so that we can raise in this bill above mere subsistence levels, the salaries and pay of these people who are contributing substantially to the U.S. economy. It is not a matter where we are giving people incentives and subsidies when they do not produce, as it is not an economic advantage to have the Government money distributed from the U.S. Treasury to these groups. These U.S. Government workers are producing groups, and this pay raise is justly due, and it is no handout.

I strongly recommend the passage of this bill, and hope that my colleagues this afternoon will vote its passage with a resounding majority.

Mr. CORBETT. Mr. Chairman, I have no further requests for time.

Mr. MURRAY. Mr. Chairman, I yield 10 minutes to the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Chairman, I understand there are no further requests for time on our side, so we can get on with the reading of the bill for amendment in just a moment, but before that I should like to make a few observations.

There has been talk here about inflation, deficit spending, and debt increase. I have a table here prepared by the Bureau of the Budget and the Civil Service Commission, and I would say that the rates paid in private industry are considerably above what the classified and other employees are making. The hard fact of the matter is that even with the rates provided in this bill in all but two of the smallest categories of the bill the Federal employees will be well under comparability with private industry.

I would say to the gentleman from Missouri [Mr. CURTIS] that if we were beginning to pay Federal employees 110 percent of what the same skill is paid in private industry there might be some ground for concern, but the truth of the matter is that this bill falls short in most grades, and in nearly all of the grades with the overwhelming number of employees, of comparability with private industry.

This is not just an ordinary salary bill. I know that the oldtime Members of this House have been frustrated and confused in dealing with salary legislation over the years. This is a different kind of bill. It is one of the most important bills for good management in the Federal Government I think we have ever had. The reason is that as far as I can determine this is the first time in 100 years the Congress has sat down with all the Federal employees and said, "We are going to construct a logical, orderly salary system from the janitor down in GS-1 to the President of the United States, and each position is going to be fixed and have its salary fixed with relationship to the responsibility of that position to other positions. We are going to have an orderly, interrelated, properly proportioned salary system." This is a very important goal.

Let me tell you how ridiculous this system is today. In the past, one committee would fix the pay for a certain group of employees and another committee would fix the pay of certain Federal executives. Judges and Congressmen were handled by one committee. Other Federal officials would be handled by still other committees. We have reached the absurd point today where we have a ceiling, the pay of Congress, of $22,500, and we have a floor, which is the career employees, that are now getting about $20,000. Congress will not stand still, and very properly, I think, for having agency heads or other Federal managers, the key people that make this Government run, being paid more than the Members of Congress. So today we have jammed in between $20,000 and $22,500 all the 13 levels of responsibility. In any comparable industrial concern those levels of responsibility would range in salary from $30,000 to $200,000 or $300,000, and we jam them in this one range.

Let me give you a specific example. The man who administers the $5 billion budget of the Veterans' Administration, which is one part of his job, is administering 151 veterans hospitals. We pay him $21,000. The man who administers one of those hospitals gets about $300 or $400 less, and the man who runs a wing in one of those hospitals gets a few dollars less than that. We do not have proportionate levels of responsibility. Pay is not comparable with responsibility. I think this is a ridiculous situation.

Mr. KUNKEL. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield briefly.

Mr. KUNKEL. That same situation occurs also in veterans' hospitals, where the head administrator and his assistant administrator get less than some of the doctors that work in the hospital under them, not only less but substantially less. That makes for a very bad situation in addition to the money. This is particularly true of the Veterans' Administration. I am thinking that they could very easily step out of the hospital and make far more in private practice.

Mr. UDALL. The gentleman is right. I thank him for his contribution. I hope he will support the bill, because the bill will correct that situation.

Let me close on one thing that I have found to be in effect today. I got on a jet plane the other night and on the plane came the chairman of one of the most important committees of this House. He is a man who has been here over two or three decades. He has a fund of knowledge and expertise that could not be duplicated for any amount of money. He is an important man, whose decisions affect the security and the lives of everybody in this country. We pay this man $22,500. And as the Senator from Illinois put in the CONGRESSIONAL RECORD a couple of weeks ago, he is an accountant and an economist; he kept track all year and when he got through he would net $7,000 after he paid for his transportation and taxes. This is the kind of salary we pay a man in this important position. So I got to thinking about the chairman of this committee—he is not here and I will not mention his name—I found out that the pilot of the airplane makes more than he does and has a much easier time, with only one home to maintain. There were two generals or two major generals on the airplane who have very minor responsibilities. This chairman has problems 500 times as important as they have and they are making more money than he does.

I had an assistant vice president of a little manufacturing company in the seat next to me and we got to discussing that. He makes more than the chairman makes.

The Chief of Naval Operations, just one of the admirals and generals who help to run our Military Establishment, is paid $32,000 plus.

We have gotten ourselves into a ridiculous situation. The pay of the Congress has been raised four times in the last 100 years since 1866. We got ourselves in a box through our own fault, through neglecting Executive pay, congressional pay, and judicial pay.

I am going to offer an amendment when we reach the amending stage which I think will prevent the Congress from ever again finding itself in the situation that we find ourselves in today.

This is a good bill. It is carefully drawn and carefully thought out and I hope it will be approved overwhelmingly by the House today.

Mr. Chairman, when we took up the Federal pay bill last March, the point was made that adjustments were desperately needed if we wanted to retain first-rate, capable people in the policymaking jobs at the top of our Federal Establishment. The argument was made that managerial talent does not come cheaply, and that we cannot expect to run our Federal agencies efficiently if we cannot get the best people possible to guide them.

Well, this warning has already borne fruit in the weeks that have passed since we rejected that pay bill. Once word was out that we were not going to do anything about the grossly inadequate pay for the top positions in our Federal Government the resignations started coming in. I do not know how many there have been, but there have been quite a few. Here are some examples:

Mortimer Caplin has done an outstanding job as our Commissioner of Internal Revenue. We may not like to have our taxes collected, but it is a job that has to be done, and Mr. Caplin has done extremely well in administering this vital agency. Last month he announced his resignation. He cited personal reasons, but I am certain that high on his list of reasons was the totally inadequate pay he was receiving, $21,000, while supervising the collection of approximately a hundred billion dollars a year to operate our Federal Government. A single error on his part could cost the American people many times his entire salary, but we said 3 months ago that he should not get a raise.

Walter Heller, Chairman of the Council of Economic Advisers, has announced his resignation since we rejected the last pay bill. There is no doubt that his financial needs were a major factor. And we ought to reflect on the fact that he will be making considerably more money as a college professor than he made as this Nation's top economic adviser. This is ridiculous and testimony to the shortsightedness of the Federal Government in dealing with its own key personnel.

Henry Fowler, our Under Secretary of the Treasury, waited only a short time after we rejected that pay bill to announce his resignation. Undoubtedly the low level of executive compensation in the Federal Government was a factor in this decision. Surely there are few more important jobs needing top brains and top know-how than that of Under Secretary of the Treasury. Now we have to try to find another highly qualified man to go to work for $21,000 a year. It is not going to be easy.

James K. Carr has served the Government well as Under Secretary of Interior. A few days ago he announced his resignation to accept a job as manager of a west coast utility. It is sad but true that the Federal Government cannot compete with most of the public and private utilities in the country when it comes to compensation.

And there have been other resignations. For example, let us look at our own Library of Congress. This is not just an adjunct to the House and Senate, a little repository of odds and ends. It is the world's largest library, the cornerstone of our library system in the United States. You cannot run an institution like this with the brains and talent you might pick up on the street. You need very special people with very special qualifications.

We have a man like this in Rutherford D. Rogers, our Deputy Librarian. But we will not have him long, because he announced his resignation less than 30 days after we rejected our last pay bill. I happen to know that he liked his job and would have liked to remain on. But when we turned down an increase for him he decided to take a job for the State of California, at a sizable increase in pay with considerably less responsibility.

If the State of California, the State of Minnesota and other smaller units of government can lure away our top men with higher pay, there is something wrong with our system of compensation in the Federal service. There simply is no reason why the Federal Government cannot at least match the pay of State and local governments for equal jobs. When the Federal jobs involve greater responsibility, as they often do, surely they should command salaries in excess of those paid by State and local governments. We are not doing that today.

Passage of this bill today will not eliminate all inequities, but it will make the Federal Government somewhat more competitive in seeking the most capable people for our most important policymaking jobs. Failure to do this would simply mean a continuing raid on the best brains we have in the Federal service today. I do not think we can afford to lose these people at the rate they are departing today.

Mr. Chairman, this is no time for our Nation to be losing its top managers. I say this advisedly because the record of the past 3 years shows a pattern of increasing efficiency and cost reduction.

The efforts of the late President Kennedy and of President Johnson are beginning to pay dividends in savings to the taxpayers. These savings are being realized through sharper and better management of civilian employment in the executive branch of our Government. Let me give some examples.

When the 1964 budget was submitted to the Congress in January 1963, it was estimated that employment at mid-year would amount to 2,538,400. As it turned out, employment on June 30 was 2,490,300. That was 48,100 workers less than had been anticipated, a clear result of the vigorous efforts of the President and his executive agency heads to hold employment down.

The picture this year is even more significant. When the 1965 budget was submitted, it was estimated that employment on June 30, 1964, would be 2,578,500. During the review of the new budget the Bureau of the Budget conducted a very searching examination of agency employment estimates. The result was that the estimate for midyear was reduced by 58,100 in the submission of the budget. This was a big and important saving.

Subsequent to the submission of the budget this year the President had two reviews made of employment plans of the agencies. The result was that 15,200 additional positions were eliminated from the anticipated midyear employment. Therefore, instead of employment reaching a total of 2,512,400, it is now expected that employment will not exceed 2,497,200. President Johnson has made this a ceiling and has told agency heads not to exceed this number. Now you cannot make reductions like this without good management, and we are making such reductions.

When the President finished his review of agency efforts to reduce employment totals earlier this year, he proposed to the Congress a series of amendments to the 1965 budget. Included in these amendments were reductions of more than $26 million directly attributable to employment cutbacks. And here is where the taxpayers benefit from the managerial skill and know-how of our agency heads.

When one considers that from the time of the 1964 budget message to the present there has been a total reduction of 73,300 employees from the level previously anticipated as needed, the significance of these results becomes impressive.

Employment for fiscal 1964 was estimated to be about 22,100 over 1963. As of the end of April the increase had amounted to only 1,800 in regular employment. Recognizing that 15,000 of the anticipated increase has been eliminated, the executive branch is still well below its planned employment level.

We can be pleased with these accomplishments, and they are testimony to the value of having first-rate people running our executive agencies. I do not think we want to turn these matters over to less capable people.

Mr. Chairman, there is one final matter I want to discuss today because it has been a cause of concern to many of our colleagues. I refer to the opposition frequently expressed by the Scripps-Howard newspapers to congressional pay increases. Many of the Nation's leading newspapers have supported this legislation as necessary and vital, but the newspapers of the Scripps-Howard chain have regularly downgraded and insulted the Congress of the United States as a second-class body undeserving of the compensation accorded thousands of officials in State and local government, and tens of thousands of executives in private industry.

I think this is unfortunate because I think that the Scripps-Howard newspapers are basically fair and honest. I think, for example, that they have served the public well in the stand they have taken in support of conservation. But I deplore the petty, ill-informed and carping criticism they have made of Federal salary legislation, and particularly of needed increases in the pay of Members of Congress.

Mr. Chairman, I am particularly offended by the position of the Scripps-Howard newspapers when I learn, as I did today, that they pay their own executives salaries far in excess of the top decisionmakers of our Federal Government.

They object to paying the chairman of the Armed Services Committee, a man with enormous responsibilities, anything over $22,500 a year, but they pay the president and publisher of the Cincinnati Enquirer, Mr. Roger H. Ferger, a salary of $75,000 a year plus retirement rights amounting to another $39,743. That is a total of $114,743 for the publisher of one newspaper in Cincinnati compared to $22,500 for the chairman of a committee overseeing a budget in excess of $50 billion a year.

But that is only the beginning. There are many more examples. For instance, Scripps-Howard pays the executive vice president and secretary of that same newspaper a total compensation of nearly $85,000. And yet the Cincinnati Enquirer, along with other Scripps-Howard newspapers, objects to paying more than $22,500 to the chairman of the Ways and Means Committee, a man whose tremendous knowledge and ability guide the tax policies of this Nation.

Mr. Chairman, I believe the Scripps-Howard newspapers have taken a wrong stand on Federal salary legislation. I suspect they have not made the kind of study of the facts that should precede such expressions of opinion, so widely disseminated. Actually, I think these newspapers are doing a good job, in many cases an excellent job in reporting the news and commenting on it. But I believe they are wholly wrong in the stand they have taken, and I believe they are guilty of sheer hypocrisy in opposing increases in salaries for Members of Congress on the grounds that they either do not deserve them or can easily be replaced.

I know some outstanding reporters who work for the Scripps-Howard organization. I get the impression they are not too highly paid. In fact, if the argument is valid that pay should not be increased when replacements are waiting at present salary levels, I would suggest that Scripps-Howard not raise any of its executives another dollar. Instead, I would suggest that they promote some of these exceptional reporters they have working in their newsrooms, and let them step into some of these management positions. I do not doubt that they might even be willing to take a job as executive vice president or secretary for a few dollars less than Scripps-Howard is paying today. If the management's logic is right for Members of Congress, then surely it would be right for their own organization.

Mr. Chairman, when we vote today, I hope we will ignore such inconsistent counsel as we have been given so gratuitously by the newspapers of the Scripps-Howard chain.

Mr. LINDSAY. Mr. Chairman, I am satisfied that the Federal salary bill has now been revised, lowered in cost, and improved sufficiently so that I can give it my full support. The earlier bill that was sent back to committee by a heavy vote weeks ago deserved to be sent back for revision.

The annual cost of this new bill is over $20 million less. The unjustified and exhorbitant increases for political staff people in the House that were in the earlier bill have been trimmed down to proper proportions. Salary increases for Congressmen and Federal judges have been reduced from $10,000 to $7,500, and made effective next year in the new Congress instead of immediately. Salary adjustments for career Federal employees are not made retroactive but will become effective after passage of this legislation into law. Otherwise, the new bill makes necessary but scaled down adjustments to the executive, judicial, and legislative branches. Increasingly I fear the day that only rich men can go into public service. In recent years several highly qualified lawyers in New York City have refused to serve on the Federal court because they could not live on the salary, which is the same as congressional salaries, $22,500.

I know of two men, very highly qualified for elective office, who refused to run for local office in New York City when many good citizens wanted them to run, because they could not afford it. It is common knowledge that increasingly, men of great wealth have turned to politics, in part, because of the vacuum left by others who could not afford it. Similarly, men in the sub-Cabinet echelons of the executive branch have dropped out because they have not been able to afford it. Most importantly, Federal employees in places like the city of New York cannot exist. Those with children are squeezed to death. They and their wives must take weekend and other supplemental jobs. The pay is a living wage in parts of the South and West, but not in Manhattan.

The bill has been vastly improved, and it should now be enacted.

Mr. SCHENCK. Mr. Chairman, under Public Law 220 of the 83d Congress, a 17-member Commission was appointed to consider the adequacy of salaries being paid to the Members of the Congress and the judiciary. This Commission was composed of six representatives of agriculture, six representatives of labor, and five representatives of business and the professions. They were assisted by three Members of the House, three Members of the Senate, and three from the judiciary.

This Commission, Mr. Chairman, conducted extensive hearings, and made a very comprehensive study of the subject assigned to it under Public Law 220 of the 83d Congress. Its report, recommending substantial increases, was presented to the Congress early in 1954. Many newspaper editors, writers, and columnists along with many labor, civic, and professional organizations and leaders urged adoption of this report. After full and careful consideration by the appropriate committee, H.R. 3828 was proposed to carry out the recommendations of the aforementioned Commission. This measure was debated fully on the floor of the House on February 16, 1955, and was approved on a rollcall vote 283 to 118.

Mr. Chairman, I voted against H.R. 3828 as shown on pages 1588 and 1589 of volume 101, part 2 of the CONGRESSIONAL RECORD, and stated:

> I regard the handling of public funds as a sacred trust. I did not seek the high office I now have the honor to occupy for the purpose of making a big salary, but rather for the opportunity of being of public service. Due to the continuing need for large Defense appropriations, our Federal budget is not yet balanced. Also there is great need for increased compensation of our postal employees, civil service employees, and members of our Armed Forces. I wish there had been two bills so that salaries of Members of the Congress and the judiciary could have been considered separately (from those of the postal, civil service employees, and members of the Armed Forces). Since, however, both were included, I felt compelled to vote against this bill at this time.

Mr. Chairman, earlier this year, and again after many months of careful consideration by the House Committee on Post Office and Civil Service, this committee recommended another measure, H.R. 8986, and it was fully debated on the floor of this House for 2 days. The basic purpose of this proposed measure was to comply with the action of the 87th Congress in approving the principle that postal employees and civil service employees shall be paid salaries comparable to those paid workers in private enterprise for comparable levels of responsibilities, skills, and performance.

Mr. Chairman, I am personally in full accord and sympathy with these basic principles. Such a policy encourages Federal employees to make a career of Government work and responsibilities and thus greatly reduces the cost of training new employees to replace Federal employees who seek employment in private enterprise where wages are higher.

Other sections of H.R. 8986, however, would have substantially increased the salaries paid to members of the Federal judiciary; executives and their assistants in departments, boards, agencies, and commissions of the executive branch; and Members of the Congress.

Mr. Chairman, many Members of the House, and I am one of them, believe there is no shortage of capable and willing personnel to fill positions of responsibility in the judicial and executive branches of the Federal Government. Members of the House, individually and collectively, know that there is never any shortage of candidates in both political parties who vigorously seek election to this great body and who seek to defeat present Members of the House. I am sure these candidates are not motivated solely by the present salaries paid to Members of the House and the Senate.

Mr. Chairman, in all fairness to postal employees and civil service employees, many of them have urged me to support this legislation not only because it would give them a much needed and proper increase in their own income but they also expressed their completely sincere opinions that they felt equally deeply as to the need and justification for substantially increased salaries for Members of the Congress.

Mr. Chairman, while I deeply appreciated this sincere expression of their interest in me personally, as a Member of the Congress, I found it necessary to point out and recall to their attention, that Federal expenditures for fiscal year 1956 when the previous congressional salaries were in effect, that Federal expenditures were then $69.5 billion—that the Federal budget was not only in balance but that there was an actual surplus of $6.8 billion, and that the total national debt was then $272.7 billion.

Mr. Chairman, the current 1964 fiscal year expenditures are now estimated to be $119.1 billion, nearly $50 billion higher than in fiscal year 1956. Also that the national debt is expected to reach $312 or more billion in this current month of June 1964. The Congress will be called upon within the next few days to vote on the extension of "wartime" excise taxes for another 2-year period and the Congress will also be called upon to approve still another and higher national debt limitation in spite of the fact that much has been said about the very high economy our Nation is now enjoying. The Congress is also being constantly urged to approve greatly expanded existing Federal programs and a number of entirely new ones the total cost of which cannot be estimated with any degree of accuracy. Thus the Congress is being constantly urged to increase Federal spending and at the same time urged to reduce taxes. Just how this sort of action can be reconciled as being fiscally responsible, prudent, and proper is not at all clear to many of us.

Mr. Chairman, we are now here today considering a new bill, H.R. 11049, which seeks to do the same things as proposed in H.R. 8986, which I voted against just recently on a rollcall vote and which was defeated—yeas, 184; and nays, 222. There have been some few changes made in this new proposal and yet it is substantially the same and is, of course, for the same purpose.

Frankly, Mr. Chairman, I would like very much to vote in favor of a measure to provide for much needed pay increases for our postal workers and our civil service employees. Since, however, it is insisted that all these other categories of judicial, executive, and congressional salaries are also still included, I find myself in the position of having to vote "no" again.

It is my hope, Mr. Chairman, that there will be a record rollcall vote on H.R. 11049 so that I will have an opportunity to be publicly recorded on this measure. If, however, due to any parliamentary procedure, a record rollcall vote is not obtained, I have made these remarks today for the RECORD so that my personal position will be clearly understood by everyone and anyone who desires to know.

Mr. Chairman, if this measure is defeated today, it is my earnest hope that the administration will bring out a bill promptly to provide for appropriate increases in the wages of postal employees and civil service employees.

Mr. CLANCY. Mr. Chairman, I am basically in agreement with the provisions of H.R. 11049 which pertain to postal and Federal classified employees. I am opposed, however, to the provision of the bill authorizing a $7,500 salary increase for Members of Congress.

This was my position when the pay bill was voted on earlier this year. I voted against the increase under the motion to recommit, which would have increased the salary of Members of Congress by $7,500, and I also voted against passage of the bill, which would have authorized the full $10,000 increase.

I am completely in accord with the principle of comparability which was pledged in the pay raise legislation enacted in October of 1962. Unquestionably, Federal salary rates should be comparable to private enterprise salary rates for the same level of work if the Government is to recruit and retain well-qualified personnel. This is an eminently fair policy and it should be implemented.

But I would also like to see implemented some of the spending restraints and budget cuts that have been promised. It would hardly seem we are exerting a stringent discipline over Government spending if we approve the sizable increase in our salaries proposed by this bill.

I hope the pay raise proposed for Members of Congress will be eliminated from the bill so that I can support the increases for postal and classified employees. If this provision is not removed, I will have to vote against passage of the bill.

Mr. SCHWENGEL. Mr. Chairman, in March when the pay raise bill was up before the House I voted against that measure. I did so because I felt then that the raises for Congressmen and other Federal executives were excessive and also because I felt Congress needed to earn a pay raise. My feelings in regard to Congress earning a pay raise have not changed. While the bill has been modified, raises reduced, delayed, I still firmly believe that Congress has not really earned a pay raise. I regret very much that congressional pay raises even though they are not effective until January 1965 are tied to this bill. I would rather that subject be dealt with separately. But this is not the case.

I have favored and continue to advocate pay raises for postal employees and other civil service workers; especially those in the lower grades. I also support raises for congressional employees, who we all know are deserving of such consideration. All of these raises, of course, are necessary because Congress has failed in its responsibility to control the inflationary forces.

I realize the problem of acquiring and retaining qualified people in many of the executive agencies. This is regrettable because we need top-caliber people in those jobs. I would support raises for those jobs. I do not believe one should have to sacrifice financially to serve his Government.

I am happy to see that some of the other pay raises to House employees have been modified. These it seems to me had also been excessive.

I have studied H.R. 11049, the committee report and the minority views very carefully. I have some reservations about the advisability of the bill in its present form. It will cost a great deal of money, and yet we are in an austerity campaign, and so on. But I have come to the conclusion that this bill should pass.

I do not believe postal employees should be penalized because congressional pay raises are in the bill. I had hoped that after H.R. 8986 was defeated we would get an opportunity to vote on a bill that would include pay raises for just postal and civil service employees. Such legislation, I believe, would pass overwhelmingly. The modification of other pay raises, the elimination of others, and the general improvement of the bill are the other factors which now allow me to support the bill.

Mr. LANGEN. Mr. Chairman, it was just 3 months ago when we last considered a similar bill with these sweeping Federal pay raises. I opposed the bill at that time and I oppose it again now. It is simply poor business to raise anybody's salary when you do not have the money to pay for it. And I cannot condone charging up bills for our children and grandchildren to pay.

Actually there is little difference between the current bill and the one the House defeated in March. Reducing the proposed salary increases for Members of Congress from $10,000 to $7,500 a year has not made this bill any more palatable. As I have maintained all along, there should be no consideration of Federal pay boosts until the Congress has shown some indication of living within this Nation's means.

And we have shown no such inclination. In fact, with 10 of the 12 major appropriations bills already passed, we are appropriating at a greater rate than a year ago, and we are about to raise the so-called temporary debt limit by another $9 billion, a clear admission that this Government plans to run in the red for at least another year.

Let this Congress go on record in favor of fiscal responsibility. Let us show the American taxpayer that we can live economy as well as talk about it. Let us balance that budget. Let us put a permanent ceiling on the national debt limit, then stick to it. Then perhaps we can discuss salary increases. But not before.

Mr. Chairman, I personally resent the way this bill has been presented. It is obvious that a great deal of daily nose counting has taken place, with proponents waiting until the moment when they are most assured of success. This is pure chicanery. Such a bill, calling for the expenditure of borrowed money, should be brought up for action with plenty of notice and proper committee hearings so that adequate debate can take place. It is another case of ramming legislation through, regardless of the effect it has on the American taxpayer.

Mr. SMITH of Iowa. Mr. Chairman, for the second time this year, we are considering a bill to adjust salaries. The bill proposes a Commission headed by Clarence Randall, former president of Inland Steel Co., who also was assigned similar responsibilities by President Eisenhower. That commission recommended certain salary schedules as being comparable for Federal employees to the salaries received by non-Government employees. This bill would bring most employees up to the income non-Government employees received 2 years ago and would make congressional, judicial, and top executive salaries to a level of about two-thirds what non-Government employers pay for comparable services. In addition to that, the average

Senator and Congressman who is doing his job has about $8,000 per year in nonreimbursed necessary expenses.

More than 20 employees of the State of Iowa and several school and city employees in Iowa receive more than U.S. Senators, Congressmen, Federal judges, and top U.S. executives. Salaries of more than 1,000 city employees receive more salary than top Federal officials. The Federal Government of the leading Nation of the world cannot be satisfied with mediocre, second-rate people who cannot get a better job elsewhere, nor can we afford a Congress where all Members have either great outside interests or are beholden to a special interest. We need a Congress which represents a cross-section of America.

Federal salaries are now 2.7 percent of our national income and this is a lesser percentage than they were 10 years ago. Most businesses are now paying a larger percentage of their income in salaries and this proves that efficiency, as compared to salaries for Federal employees, has been comparably good. While adjusting salaries, we do have a right to expect good enough productivity so that the cost of Government per unit of goods and services continues to reduce.

As I stated when similar legislation was under consideration last March, I thought the increase for some should have been less and that the increase for Congressmen and Senators should be delayed until next January. Both conditions are met in the bill now under consideration.

I also would still like to see an antinepotism bill passed and will continue to press for one. It is interesting to note that many opponents of this legislation finance part of their family expenses by putting members of their families on their payroll or do not maintain a home in their home State.

The Des Moines Register on May 6, 1964 carried an editorial which I believe stated the opinion of most Iowans. At least it is in accordance with some surveys that have been made. It is as follows:

FEDERAL SALARIES TOO LOW

The Federal pay raise bill, beaten last March in the House by a 222–184 margin, may have a new lease on life as a result of approval by the House Civil Service Committee last week of a modified version of the measure.

The original bill called for raises for 1.7 million Federal Government employees at an annual cost of $545 million. The biggest hikes—of $10,000 a year—were for Federal judges, Cabinet and sub-Cabinet posts, and Members of Congress. The revised version calls for trimming the top raises to $7,500, cutting the total cost of $533 million and delaying the biggest increases until next January.

The bill ran into trouble in the House primarily because of opposition to increasing congressional pay. Congressmen were understandably edgy about going on record in favor of giving themselves a raise in an election year. The new version would permit an election to intervene before a Representative could qualify for the increase.

We hope the congressional pay part of the new bill will not be allowed to obscure the need for action to upgrade Federal salaries, particularly at the higher levels. The top pay of department heads—$25,000—is ridiculously low for the caliber of people needed to man such Cabinet positions as Secretary of Defense, Secretary of State, Secretary of Labor, etc. This salary determines in turn the pay of assistant secretaries, deputy secretaries, and under secretaries, whose pay can be no more than $19,000 to $21,000.

President Johnson recently described the plight of Dr. Walter Heller, his chief economic adviser, who is leaving Government work after 3 years in Washington. Dr. Heller, who has an ailing wife and three children in college, is leaving chiefly because he can earn twice his present $20,500 salary outside Government.

The New York Times recently cited the case of an assistant director of the budget who describes his 3 years in Washington, dealing with such costly issues as the size of the foreign aid program and whether to construct a supersonic transport, as "the most exciting adventure imaginable." The official, who left a $30,000 post to accept his $20,000 Washington assignment, was forced to withdraw $8,000 from savings and borrow from life insurance and the Government's credit union to support his family of five children and pay nonreimbursable expenses connected with his job. His new position, with a private California firm, will pay $40,000 a year.

Private business long ago realized the necessity for paying top salaries to attract and keep able people. State and local governments are increasingly paying officials more than the Federal Government is able to pay even its Cabinet members. The Federal pay raise bill will help redress the balance and is long overdue for adoption.

Mr. DON H. CLAUSEN. Mr. Chairman, I welcome this opportunity to speak out on this proposed salary increase for Government employees. I would like to do it in person, but I regret that the disastrous flood in Montana, which has taken many lives and caused uncounted millions in property damage, has called members of the Public Works Subcommittee on Flood Control to that stricken State for an immediate survey.

Regarding the pay bill, I must say that I cannot, in good conscience, support it because it still included the increase in salary for Members of Congress while the budget remains unbalanced. The fact that we have to borrow money to grant such a pay raise just does not make fiscal sense to me.

I do believe, however, in the theory of comparability of pay between public and private employees. It is regrettable that we could not act upon this portion of the bill separately so that those public employees whose pay is not comparable to similar jobs in private industry could be brought into conformity.

Mr. DORN. Mr. Chairman, my principal reason for opposing this bill is that I sincerely believe that the time has come when those of us associated with the Federal Government must set the example.

Over the years I have watched excessive Federal spending become the principal cause for inflation which destroys the purchasing power of employees in the lower income brackets. Social security, old-age benefits, savings accounts, stocks and dividends for the elderly are being whittled away by wild Federal spending and inflation.

If we hold the line against Federal spending in Washington, we could give every American two raises. First his money would buy more, and second we could give him further tax reductions. Federal spending and Federal salary increases when contributing to inflation and cheap money will destroy the very objective we seek.

Our postal employees are doing a magnificent job and deserve with many others an increase, particularly in the lower brackets; but, Mr. Speaker, the bad features of this bill outweigh the good. Frankly, I think we should have the courage to vote up or down any proposal for our own salary increase and vote up or down the Supreme Court salaries and not tie them on to this bill.

Mr. Chairman, I would gladly vote for the modest increase provided for the postal employees and other Federal employees in the lower income brackets, but I think it is wrong to tie our own $7,500 increase and the $7,500 for each member of the Supreme Court to this bill. Mr. Chairman, I cannot vote for a bill which would provide a $7,500 increase for each Member of the Congress and the Supreme Court while giving a postal employee making $4,000 a $250-a-year raise.

Mr. SICKLES. Mr. Chairman, some months ago I felt a bit uncomfortable about voting myself a pay increase during my first term in Congress even though almost 90,000 hardworking Government constituents of mine in Maryland would have benefited directly by the bill and all Marylanders interested in economy and efficiency in Government would clearly benefit indirectly.

Today, when given the opportunity, I intend to vote again for the pay increase and hope to be back here next year to collect it. I have lost some of my political timidity on this issue because, in my view, the Congress cannot ignore its responsibility to raise congressional salaries along with Federal salaries.

I would like to suggest three basic reasons why this is true.

First, although I am a freshman, many of my colleagues are not, and it has been my experience in dealing with them that the overwhelming majority of the Members of the House have earned this increase not only on the basis of ability but in terms of time, sweat, and grief. Let me elaborate—time is something that a Congressman never has enough of for the demands on his time are unceasing. Sweat is something the Congressman has plenty of for he must work incessantly to maintain his position of political leadership and comprehend the nature of the complex decisions on national policies he must make every day. Grief is something that Congressmen seldom have shed for them, but symbolizes a part of the inherent nature of political life wherein a man's judgment is always open to criticism, a man's motives are always open to distortion, and his personal relationships are frequently shattered by the ambitious.

Second, some people have said that by raising congressional salaries, I will be jeopardizing my own job because everybody and his brother, so to speak, will want to run for Congress. Well, that is alright with me because I think that on election day the American people deserve a free choice among the best and I say "let the best man win" and the country will be the winner in the process. There is nothing wrong with paying a salary to Members of Congress that will attract more individuals to the political arena. This is not to imply that my present colleagues are not serving their constituents well, but it is rather to encourage more competition for the jobs that some people have neglected because of the financial remuneration involved.

Third, the pay raise for Congressmen is necessary because it is closely linked with the salary ceilings that are now set on many of the top jobs in our Federal Establishment. I am sure Members who have been here longer than I have seen literally thousands of top-flight civil servants come and go in Washington, primarily because of a serious deterioration in their personal financial position. Federal expenditures are equal to about one-sixth of our Nation's total product and it is important that the Federal Government seek and retain a proper share of the best men and the best minds in this country.

Recently Senator DOUGLAS gave us a striking example of what the "take home" pay of a Congressman really amounts to. I supported the disclosure amendment today, not because of a feeling that it will alter the basic integrity of those who come to Congress, but rather because the general public needs to know that we are not here in Washington getting rich at their expense.

Also regarding the "poverty war," while Congressmen are certainly not impoverished, I do not think that it is inconsistent for a Congressman to express his concern for the poor in America by enacting programs to benefit them while raising his own salary. The history of this country is replete with the stories of those who have continued to care for their fellow men regardless of the improvement in their own financial position—men like Carnegie, Ford, and Russell Sage who began as a grocery clerk.

In summary, I am ready to stand up and be counted for higher congressional salaries along with higher Federal salaries because, in the final analysis, it will mean better government.

Mr. DERWINSKI. Mr. Chairman, this pay bill before us deliberately defies the true needs of Federal employees for equitable adjustment of salaries.

Representing as I do a district in a metropolitan area with one of the highest cost-of-living indexes in the country, I must point out to the House that a Federal employee in my area who receives an across-the-board pay increase identical to that of his counterpart in other sections of the country is being discriminated against.

Why should a postal carrier or clerk or classified employee in any agency of the Federal Government working in the Chicago area be limited to an identical salary of a similar employee in sections of the country where the cost of living is one-third less?

The Chicago post office was recently investigated as a result of a monstrous snafu in the delivery of Christmas mail and one of the underlying causes in the breakdown in the operations of the Chicago post office was the fact that many of the new employees do not meet the tradition and the sound standards of postal employment. In contrast, in many areas of the country where lower pay scales and lower cost of living are in effect, a Federal Government position finds many applicants seeking the post.

Until we recognize the need to increase salaries of Federal employees in metropolitan areas to adjust to the cost of living, a pay bill of this nature will remain inadequate.

I hope the Members will ponder on these points which I have briefly emphasized. It is my further hope that, next year when the House Post Office and Civil Service Committee organizes, the first order of business will be to study a new pay plan to increase the salaries of employees in high cost-of-living areas such as the Chicago metropolitan region.

Mr. ALGER. Mr. Chairman, as in the case of the last pay bill, I cannot support this bill. My position is simple; we must not borrow to give salary increases. First, we must have the money on hand and then we can increase pay.

So the merits of a pay boost do not enter in as an argument for the bill at this time.

I want to commend the four members of the Committee on Post Office and Civil Service for their minority views, and I adopt them as my own.

Mr. MOORHEAD. Mr. Chairman, I rise in support of H.R. 11049.

The late, great President John F. Kennedy said a few years ago:

> Let every man and women who works in any area of our National Government, in any branch at any level, be able to say with pride and with honor in future years, "I served the U.S. Government in that hour of our Nation's need."

Because President Johnson has given a Federal pay raise the highest priority on his list of legislative musts, I know that that is the way President Johnson feels about Government service.

That is the way I feel about public service.

Yet, many of us are under attack because we are employees of the Federal Government.

I have read the stories of the wrongs done by the Members of Congress or the employees of Congress which have inferred that all of Congress is wrong; and yet I say to you that I am proud to be a Member of a legislative body which, although it has been criticized, has for the 175 years of its existence served this country well.

We are all familiar with the stories which complain of the bloated bureaucracy, the ever-increasing cost, size, and debt of Government.

As a member of the Government Operations Committee of the Congress, charged with overseeing economy and efficiency in all levels of Government, I did some checking and came up with some facts that do indeed appear to be shocking—expenditures by State and local governments have increased nearly 375 percent since World War II; Federal expedítures, 69 percent.

The failure to dispel many myths, the failure to get the true story across—these are among the reasons for the difficulty we have had with the Federal pay raise legislation.

As compared to the Federal Government, State and local governments are bigger and are growing faster, not only in total terms, but also in terms of individual salaries.

The chief of police of the city of Chicago receives $50,000 a year and yet J. Edgar Hoover, who has just completed his 40th year as head of the Federal Bureau of Investigation, receives $20,000.

At the present time, a member of the Cabinet who, as Secretary, heads one of the departments which are so important to our national welfare and safety, receives $25,000 a year. Contrast this with the fact that my own State of Pennsylvania has 165 Government positions which pay more than $25,000 a year and our neighbor the State of New York, has 432 such government positions.

A recent editorial in the New York Times said:

> Those who oppose waste and extravagance in Government spending argue that raising the level of Federal salaries would be unjustified and unequitable. Yet, the biggest single cause of waste in Government and private industry is inefficient management.

General Motors Corp. is often pointed out as one of the most efficient of big business corporations. We should all be happy that General Motors recently announced the largest net earnings in its history, $536,331,704 for the quarter ended March 31, 1964.

Some of the reason for this magnificent and praiseworthy success may result from the fact that just 56 executives of General Motors draw a total salary and bonuses greater than the salaries of all the following combined: all 435 Congressmen, all 100 Senators, all the Cabinet officers, the President of the United States, the Vice President, the Supreme Court, and the Governors of the 50 States.

President Johnson certainly understands this principle. In his letter of March 17, 1964, to the Speaker of the House of Representatives, the President said:

> Congress and the country surely support my determined drive for economy in Government. To make that policy work, I need first-class managers—who can tighten organizations, simplify procedures, trim waste, and inspire maximum effort. It is false economy to offer salaries that will attract the mediocre but repel the talented.

That is the secret of General Motors success. In this case what is good for GM will be good for the United States.

This is a national problem because the Nation needs the best possible men in the positions of top responsibility in the Government. As the New York Times said on April 30:

> The Nation has been fortunate that so many skilled people have been willing to accept the financial penalties involved in Government service. But with the pay scales and fringe benefits available to high-caliber personnel in private industry constantly rising, the Government will find it increasingly difficult to attract and keep executives with the talent and training required for formulating and carrying out policy.

This problem is acute with a number of key men in Government posts. Not only are they being pressed to accept private jobs at two or three times their Government pay, but they find themselves going into the hole each year with children to educate and the cost of Washington living constantly mounting.

Examples are: Walter Heller, Chairman of the Council of Economic Advisers; Under Secretary of the Treasury, Robert Roosa; Under Secretary of Health, Education, and Welfare, Wilbur Cohen; Llewellyn Thompson, principal adviser on Soviet affairs in the State Department; Hugh Dryden, Deputy Administrator of the space agency. Men in this category find themselves dropping behind at the rate of $4,000 or $5,000 a year. They can stay afloat only by borrowing.

Heller had determined to leave government at once so that he could resume his post as chairman of the economics department at the University of Minnesota. With three children reaching college age, he has maintained a home in St. Paul as well as in Washington. The President in a long and serious discussion prevailed on him to stay until November.

Thompson, whose background of 5 years in Moscow as Ambassador is invaluable, has felt compelled to think of accepting one of the private offers coming to him. Cohen has been offered three university deanships paying more than his present job with half the work.

We must rectify this situation.

Our employers are the American people who are taxed to pay our salaries and whom we have been elected or appointed to serve.

I believe that we have a story to tell to our employers—the American people.

Our employers—the American people—are entitled to have the plain, unvarnished facts, without myths of bloated bureaucracy and gravy trains. Surely we are doing neither ourselves or the people justice if we fail to do this.

Surely this is a platform on which Government employees—management, labor, and Congress could unite.

Mr. **CORBETT**. Mr. Chairman, we have no further requests for time.

Mr. **MURRAY**. Mr. Chairman, we have no further requests for time.

The **CHAIRMAN**. There being no further requests for time, pursuant to the rule, the Clerk will read the bill for amendment by titles instead of by sections.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Government Employees Salary Reform Act of 1964".

TITLE I—FEDERAL EMPLOYEES SALARY SYSTEMS

SHORT TITLE

SEC. 101. This title may be cited as the "Federal Employees Salary Act of 1964".

CLASSIFICATION ACT EMPLOYEES

SEC. 102. (a) Section 603(b) of the Classification Act of 1949, as amended (76 Stat. 843; 5 U.S.C. 1113(b)), is amended to read as follows:

"(b) The compensation schedule for the General Schedule shall be as follows:

"Grade	"Per annum rates and steps									
	1	2	3	4	5	6	7	8	9	10
GS-1	$3,385	$3,500	$3,615	$3,730	$3,845	$3,960	$4,075	$4,190	$4,305	$4,420
GS-2	3,680	3,805	3,930	4,055	4,180	4,305	4,430	4,555	4,680	4,805
GS-3	4,005	4,140	4,275	4,410	4,545	4,680	4,815	4,950	5,085	5,220
GS-4	4,480	4,630	4,780	4,930	5,080	5,230	5,380	5,530	5,680	5,830
GS-5	5,000	5,165	5,330	5,495	5,660	5,825	5,990	6,155	6,320	6,485
GS-6	5,505	5,690	5,875	6,060	6,245	6,430	6,615	6,800	6,985	7,170
GS-7	6,050	6,250	6,450	6,650	6,850	7,050	7,250	7,450	7,650	7,850
GS-8	6,630	6,850	7,070	7,290	7,510	7,730	7,950	8,170	8,390	8,610
GS-9	7,210	7,455	7,700	7,945	8,190	8,435	8,680	8,925	9,170	9,415
GS-10	7,840	8,110	8,380	8,650	8,920	9,190	9,460	9,730	10,000	10,270
GS-11	8,550	8,845	9,140	9,435	9,730	10,025	10,320	10,615	10,910	11,205
GS-12	10,200	10,555	10,910	11,265	11,620	11,975	12,330	12,685	13,040	13,395
GS-13	12,075	12,495	12,915	13,335	13,755	14,175	14,595	15,015	15,435	15,855
GS-14	14,170	14,660	15,150	15,640	16,130	16,620	17,110	17,600	18,090	18,580
GS-15	16,460	17,030	17,600	18,170	18,740	19,310	19,880	20,450	21,020	21,590
GS-16	18,935	19,590	20,245	20,900	21,555	22,210	22,865	23,520	24,175	--------
GS-17	21,445	22,195	22,945	23,695	24,445	--------	--------	--------	--------	--------
GS-18	24,500	--------	--------	--------	--------	--------	--------	--------	--------	--------".

(b) Except as provided in subsection (d) of section 504 of the Federal Salary Reform Act of 1962, the rates of basic compensation of officers and employees to whom the compensation schedule set forth in subsection (a) of this section applies shall be initially adjusted as of the effective date of this section, as follows:

(1) If the officer or employee is receiving basic compensation immediately prior to the effective date of this section at one of the rates of a grade in the General Schedule of the Classification Act of 1949, as amended, he shall receive a rate of basic compensation at the corresponding rate in effect on and after such date.

(2) If the officer or employee is receiving basic compensation immediately prior to the effective date of this section at a rate between two rates of a grade in the General Schedule of the Classification Act of 1949, as amended, he shall receive a rate of basic compensation at the higher of the two corresponding rates in effect on and after such date.

(3) If the officer or employee is receiving basic compensation immediately prior to the effective date of this section at a rate in excess of the maximum rate for his grade, he shall receive (A) the maximum rate for his grade in the new schedule, or (B) his existing rate of basic compensation if such existing rate is higher.

(4) If the officer or employee, immediately prior to the effective date of this section, is receiving, pursuant to paragraph (4) of section 2(b) of the Federal Employees Salary Increase Act of 1955, an existing aggregate rate of compensation determined under section 208(b) of the Act of September 1, 1954 (68 Stat. 1111; Public Law 763, Eighty-third Congress), plus the amount of the increase provided by section 2 of the Federal Employees Salary Increase Act of 1955, by section 2 of the Federal Employees Salary Increase Act of 1958, by section 112 of the Federal Employees Salary Increase Act of 1960, and by section 602 of the Federal Salary Reform Act of 1962, he shall receive an aggregate rate of compensation equal to the sum of (A) his existing aggregate rate of compensation determined under such section 208(b) of the Act of September 1, 1954, (B) the amount of the increase provided by section 2 of the Federal Employees Salary Increase Act of 1955, (C) the amount of the increase provided by section 2 of the Federal Employees Salary Increase Act of 1958, (D) the amount of the increase provided by section 112 of the Federal Employees Salary Increase Act of 1960, (E) the amount of the increases in schedule I and schedule II provided by section 602 of the Federal Salary Reform Act of 1962, and (F) the amount of the increase made by this section in the maximum rate of his grade, until (i) he leaves his position, or (ii) he is entitled to receive aggregate compensation at a higher rate by reason of the operation of this Act or any other provision of law; but, when such position becomes vacant, the aggregate rate of compensation of any subsequent appointee thereto shall be fixed in accordance with applicable provisions of law. Subject to clauses (i) and (ii) of the immediately preceding sentence of this paragraph, the amount of the increase provided by this section shall be held and considered for the purpose of section 208(b) of such Act of September 1, 1954, to constitute a part of the existing aggregate rate of compensation of such employee.

(5) If the officer or employee is in a position in grade 16 or 17 of the General Schedule of the Classification Act of 1949, as amended, to which he was promoted on or after the first day of his first pay period beginning on or after January 1, 1964, and if he holds such position, or another position in the same grade, on the effective date of this section, his rate of basic compensation shall be adjusted, as of such effective date, to that rate of basic compensation to which he would have been entitled if the compensation schedule in subsection (a) of this section had been in effect on the date of his promotion.

SEC. 103. (a) Section 801 of the Classification Act of 1949 (5 U.S.C. 1131), relating to new appointments, is amended to read as follows:

"SEC. 801. All new appointments shall be made at the minimum rate of the appropriate grade, except that in accordance with regulations prescribed by the Commission which provide for such considerations as the candidate's existing salary, unusually high or unique qualifications, or a special need of the Government for his services, the head of any department may appoint individuals to positions in grade 13 and above of the General Schedule at such rate or rates above the minimum rate of the appropriate grade as the Commission may authorize for this purpose.".

(b) Section 1105 of the Classification Act of 1949, as amended (5 U.S.C. 1071, note and 1082, note), is amended to read as follows:

"SEC. 1105. The provisions of section 507, title VII, and title VIII of this Act shall not apply to professional engineering positions primarily concerned with research and development and professional positions in the physical and natural sciences and medicine placed in grades 16, 17, and 18 of the General Schedule in accordance with subsection (b) or subsection (j) of section 505 of this Act. The President or an agency or agencies that he designates shall issue regulations governing the rate of basic compensation within the grade to be received by any officer or employee occupying, appointed to, or promoted to, such a position, and, in the case of reduction in grade, may issue regulations governing retention of the rate to which the officer or employee was entitled immediately before reduction."

(c) Section 505(b) of the Classification Act of 1949, as amended (5 U.S.C. 1105(b)), relating to the limitation on numbers of positions in grades 16, 17, and 18 of the General Schedule of such Act, is amended by striking out "which may be placed in such grades" and by inserting in lieu thereof ", examiner positions under section 11 of the Administrative Procedure Act (60 Stat. 244; 5 U.S.C. 1010), and positions placed under this Act pursuant to section 309 of the Federal Executive Salary Act of 1964, which may be placed in such grades".

(d) Section 604(d)(3) of the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 944(c)(3)), is amended to read as follows:

"(3) In the computation of rates, all remaining fractions of a cent shall be eliminated."

POSTAL FIELD SERVICE EMPLOYEES

Sec. 104. Section 1 of title 39, United States Code, is amended by striking out the period at the end of such section and inserting in lieu thereof a semicolon and the following:

"'revenue unit' means that amount of revenue of a post office from mail and special service transactions which is equal to the average sum of postal rates and fees received by the Department during the fiscal year for 1,000 pieces of originating mail and special service transactions determined in accordance with section 2331 of this title.".

Sec. 105. Section 702 of title 39, United States Code, is amended to read as follows:

"§ 702. Classes of post offices

"(a) Effective at the beginning of each fiscal year the Postmaster General shall divide post offices into four classes on the basis of the revenue units of each office for the second preceding fiscal year. He shall place in the first class those post offices having 950 or more revenue units. He shall place in the second class those post offices having 190 or more revenue units, but less than 950 revenue units. He shall place in the third class those post offices having 36 or more revenue units, but less than 190 revenue units. He shall place in the fourth class those post offices having less than 36 revenue units.

"(b) The Postmaster General shall exclude from the revenue credited to a post office for the purposes of this section money received at that office for—

"(1) setting meters for patrons beyond the area served by the office unless authorized by the Department;

"(2) stamps, stamped envelopes, and postal cards sold in large or unusual quantities to be used in mailing matter at other offices; and

"(3) stamps, stamped envelopes, and postal cards sold for mailing matter diverted from other offices and mailing of matter so diverted without stamps affixed.

"(c) Whenever unusual conditions prevail at a post office of the fourth class, the Postmaster General may advance such office to the appropriate class based on his estimate of the number of revenue units which the office will have during the succeeding twelve months. Any office so advanced need not be relegated to a lower class before the end of the second fiscal year after the advancement. At that time, the office shall be assigned to the appropriate class in accordance with subsections (a) and (b) of this section.".

Sec. 106. Section 704 of title 39, United States Code, is amended by deleting "of the first, second, or third class" appearing therein, and inserting in lieu thereof "(other than one for which the postmaster furnishes quarters, equipment, and fixtures on an allowance basis)".

Sec. 107. Subsection (b)(1) of section 2102 of title 39, United States Code, is amended to read as follows:

"(1) for post offices at which the postmaster does not furnish quarters on an allowance basis;".

Sec. 108. (a) Section 3501 of title 39, United States Code, is amended by—

(1) deleting from the first sentence of subsection (a) the following: "standard positions of postmaster in a fourth class office and rural carrier" and inserting in lieu thereof "standard position of rural carrier"; and

(2) inserting a new subsection (c) following subsection (b) as follows:

"(c) As of the effective date of this section, the Postmaster General shall determine and adjust the rankings of all positions for which the number of annual revenue units of a post office or its class is a relevant factor of the ranking, using the revenue units of the fiscal year ending June 30, 1963, and the class of the office as of July 1, 1964. Thereafter the Postmaster General shall determine and, effective at the beginning of the first pay period in each calendar year, shall adjust the rankings of all positions for which the number of annual revenue units of a post office or its class is a relevant factor of the ranking, using the revenue units of the preceding fiscal year and the class in which the office will be placed at the beginning of the next fiscal year. The Postmaster General also may adjust rankings of such positions at other times of the year based upon substantial changes in service conditions.".

(b) Chapter 45 of title 39, United States Code, is amended as follows:

(1) In subsection (c) of section 3513—

(A) Change the catchline to read "POST OFFICE CLERK. (KP–4)"; and

(B) Add the following new sentence to the end of paragraph (1): "This office has less than 190 revenue units annually.".

(2) In subsection (e) of section 3516—

(A) Change the catchline to read "POSTMASTER. (KP–18)";

(B) Delete "third class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of approximately $1,700" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 40 revenue units annually".

(3) In subsection (b) of section 3517—

(A) Change the catchline to read "POSTMASTER. (KP–20)";

(B) Delete "third class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of approximately $4,700" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 110 revenue units annually".

(4) In subsection (b) of section 3518—

(A) Change the catchline to read "POSTMASTER. (KP–22)";

(B) Delete "third class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of approximately $6,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 140 revenue units annually".

(5) In subsection (b) of section 3519—

(A) Change the catchline to read "ASSISTANT POSTMASTER. (KP–24)"; and

(B) Delete "annual receipts of approximately $63,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 1,490 revenue units annually".

(6) In subsection (c) of section 3519—

(A) Change the catchline to read "POSTMASTER. (KP–25)";

(B) Delete "second class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of approximately $16,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 380 revenue units annually".

(7) In subsection (b) of section 3520—

(A) Change the catchline to read "POSTMASTER. (KP–27)";

(B) Delete "first class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of approximately $63,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 1,490 revenue units annually".

(8) In subsection (b) of section 3521—

(A) Change the catchline to read "POSTMASTER. (KP–29)";

(B) Delete "first class" appearing in the first sentence of paragraph (1); and

(C) Delete "annual receipts of $129,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 3,060 revenue units annually".

(9) In subsection (b) of section 3522—

(A) Change the catchline to read "POSTMASTER. (KP–31)";

(B) Delete "first class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of $314,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 7,450 revenue units annually".

(10) In subsection (b) of section 3523—

(A) Change the catchline to read "POSTMASTER. (KP–33)";

(B) Delete "first class" appearing in the first sentence of paragraph (1); and

(C) Delete the second sentence of paragraph (1) and insert in lieu thereof: "This office has approximately 110 employees, approximately 14,350 revenue units annually, 13 Government-owned vehicle units, one classified station and 42 carrier routes within its jurisdiction."

(11) In subsection (b) of section 3524—

(A) Change the catchline to read "ASSISTANT POSTMASTER. (KP–35)"; and

(B) Delete "annual receipts of $2,700,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 64,000 revenue units annually".

(12) In subsection (c) of section 3524—

(A) Change the catchline to read "POSTMASTER. (KP–36)";

(B) Delete "first class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of $1,000,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 23,700 revenue units annually".

(13) In subsection (a) of section 3525—

(A) Change the catchline to read "ASSISTANT POSTMASTER. (KP–37)"; and

(B) Delete "annual receipts of $8,460,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 200,000 revenue units annually".

(14) In subsection (b) of section 3525—

(A) Change the catchline to read "POSTMASTER. (KP–33)";

(B) Delete "first class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of $2,700,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 64,000 revenue units annually".

(15) In subsection (a) of section 3526—

(A) Change the catchline to read "ASSISTANT POSTMASTER. (KP–39)"; and

(B) Delete "annual receipts of $16,900,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 400,000 revenue units annually".

(16) In subsection (b) of section 3526—

(A) Change the catchline to read "POSTMASTER. (KP–40)";

(B) Delete "first class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of $4,470,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 106,000 revenue units annually".

(17) In subsection (b) of section 3527—

(A) Change the catchline to read "ASSISTANT POSTMASTER. (KP–42)"; and

(B) Delete "annual receipts of $48,000,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 1,000,000 revenue units annually".

(18) In subsection (c) of section 3527—

(A) Change the catchline to read "POSTMASTER. (KP–43)";

(B) Delete "first class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of $8,460,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 200,000 revenue units annually".

(19) In subsection (b) of section 3528—

(A) Change the catchline to read "ASSISTANT POSTMASTER. (KP–45)"; and

(B) Delete "annual receipts of $140,000,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 2,500,000 revenue units annually".

(20) In subsection (c) of section 3528—

(A) Change the catchline to read "POSTMASTER. (KP–46)";

(B) Delete "first class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of $16,900,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 400,000 revenue units annually".

(21) In section 3529—

(A) Change the catchline immediately preceding paragraph (1) to read "POSTMASTER (KP–47)";

(B) Delete "first class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of $48,000,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 1,000,000 revenue units annually".

(22) In section 3530—

(A) Change the catchline immediately preceding paragraph (1) to read "POSTMASTER (KP–48)";

(B) Delete "first class" in the first sentence of paragraph (1); and

(C) Delete "annual receipts of $140,000,000" in the second sentence of paragraph (1) and insert in lieu thereof "approximately 2,500,000 revenue units annually".

SEC. 109. Section 3542(a) of title 39, United States Code, is amended to read as follows—

"(a) There is established a basic compensation schedule for positions in the postal field service which shall be known as the Postal Field Service Schedule and for which the symbol shall be 'PFS'. Except as provided in section 3543 of this title, basic compensation shall be paid to all employees in accordance with such schedule.

"Postal Field Service schedule

"PFS	"Per annum rates and steps											
	1	2	3	4	5	6	7	8	9	10	11	12
1	$3,945	$4,075	$4,205	$4,335	$4,465	$4,595	$4,725	$4,855	$4,985	$5,115	$5,245	$5,375
2	4,270	4,410	4,550	4,690	4,830	4,970	5,110	5,250	5.390	5,530	5,670	5,810
3	4,615	4,770	4,925	5,080	5,235	5,390	5,545	5,700	5.855	6,010	6,165	6.320
4	5,000	5,165	5,330	5,495	5,660	5,825	5,990	6,155	6,320	6,485	6,650	6,815
5	5,345	5,525	5,705	5,885	6,065	6,245	6,425	6,605	6.785	6,965	7,145	7,325
6	5,735	5,925	6,115	6,305	6,495	6,685	6,875	7,065	7,255	7,445	7,635	7,825
7	6,140	6,345	6,550	6,755	6,960	7,165	7,370	7,575	7.780	7,985	8,190	------
8	6,650	6,870	7,090	7,310	7,530	7,750	7,970	8,190	8,410	8,630	--------	------
9	7,190	7,430	7,670	7,910	8,150	8,390	8,630	8,870	9,110	9,350	--------	------
10	7,830	8,095	8,360	8,625	8,890	9,155	9,420	9,685	9,950	10,215	--------	------
11	8,650	8,945	9,240	9,535	9,830	10,125	10,420	10,715	11,010	11,305	--------	------
12	9,570	9,895	10,220	10,545	10,870	11,195	11,520	11,845	12,170	12,495	--------	------
13	10,575	10,940	11,305	11,670	12,035	12,400	12,765	13,130	13,495	13,860	--------	------
14	11,660	12,065	12,470	12,875	13,280	13,685	14,090	14,495	14,900	15,305	--------	------
15	12,885	13,330	13,775	14,220	14,665	15,110	15,555	16,000	16,445	16,890	--------	------
16	14,240	14,735	15,230	15,725	16.220	16,715	17,210	17,705	18,200	18,695	--------	------
17	15,755	16,305	16,855	17,405	17,955	18,505	19,055	19,605	20,155	20,705	--------	------
18	17,450	18,060	18,670	19,280	19,890	20,500	21,110	21,720	22,330	22,940	--------	------
19	19,345	20,020	20,695	21,370	22,045	22,720	23,395	24,070	--------	--------	--------	------
20	21,445	22,195	22,945	23,695	24,445	--------	--------	--------	--------	--------	--------	------".

SEC. 110. Section 3543(a) of title 39, United States Code, is amended to read as follows—

"(a) There is established a basic compensation schedule which shall be known as the Rural Carrier Schedule and for which the symbol shall be 'RCS'.

"Rural carrier schedule

	"Per annum rates and steps											
	1	2	3	4	5	6	7	8	9	10	11	12
Carriers in rural delivery service:												
Fixed compensation per annum	$2,240	$2,345	$2,450	$2,555	$2,660	$2,765	$2,870	$2,975	$3,080	$3,185	$3,290	$3,395
Compensation per mile per annum for each mile up to 30 miles of route	82	84	86	88	90	92	94	96	98	100	102	104
For each mile of route over 30 miles	25	25	25	25	25	25	25	25	25	25	25	25".

SEC. 111. (a) Section 3544 of title 39, United States Code, is amended to read as follows:

"§ 3544. Compensation of Postmasters at Fourth-Class Offices

"(a) The Postmaster General shall rank the position of postmaster of fourth-class offices in level 5 of the Postal Field Service Schedule and shall establish the annual rate of basic compensation for each such position in the proportion of the annual rate of basic compensation for positions in PFS–5 which he determines, in consideration of the postal needs of the patrons of the office, that the postmasters' hours of service bear to full-time service. Determinations made by the Postmaster General under this subsection shall be final and conclusive until changed by him.

"(b) Persons who perform the duties of postmaster at a post office of the fourth class where there is a vacancy or during the absence of the postmaster on sick or annual leave or leave without pay shall be compensated at the rate of basic compensation for PFS level 5, step 1, determined in accordance with subsection (a) of this section.

"(c) At seasonal post offices of the fourth class, the Postmaster General may authorize the payment of basic salary prorated over the pay periods the office is open for business during the fiscal year.

"(d) When required by the Postmaster General a postmaster at a fourth-class office shall, and any other postmaster in PFS level 5 when permitted by the Postmaster General may, furnish quarters, fixtures, and equipment for an office on an allowance basis. The allowance for this purpose shall be an amount equal to 15 per centum of the basic compensation for the postmaster at the office computed on the basis of the first step of PFS level 5.".

(b) In the operation of the amendment made by subsection (a) of this section, the following provisions shall govern:

(1) Each postmaster at a fourth-class office on the effective date of this section shall be assigned, as of such date—

(A) to that numerical step of level 5 of the Postal Field Service Schedule (PFS–5) which corresponds to the numerical step of the Fourth-Class Office Schedule (FOS) receipts category which he occupied immediately prior to such assignment, or

(B) to the lowest step of level 5 of the Postal Field Service Schedule (PFS–5) which will provide him, for the number of hours of service determined under section 3544 of title 39, United States Code, compensation which is not less than the compensation to which he would otherwise be entitled, on the effective date of this section, under Fourth Class Schedule II (as if such schedule were in effect on such date),

whichever step provides the higher rate of compensation.

(2) If no step in level 5 of the Postal Field Service Schedule (PFS–5) will provide a postmaster, so assigned under paragraph (1) of this subsection, with compensation which is equal to or greater than the compensation which he would have received under Fourth Class Schedule II (as if such schedule were in effect on the effective date of this section), such postmaster shall receive compensation at a rate equal to the applicable rate fixed under Fourth Class Schedule II (as if such schedule were in effect on the effective date of this section) and the provisions of section 3544 of title 39, United States Code (as such provisions existed immediately prior to the effective date of this section). Subject to the provisions of section 3560 of title 39, United States Code, the compensation of a postmaster paid in accordance with the immediately preceding sentence shall be adjusted in accordance with changes in the gross postal receipts of his post office as though this Act had not been enacted. The compensation of a postmaster paid in accordance with any of the foregoing provisions of this paragraph shall continue in effect until such postmaster is entitled to receive compensation at a higher rate by reason of the operation of this Act or any other provision of law.

(3) If changes in the gross postal receipts category or changes in salary step otherwise would occur on the effective date of this section (without regard to the enactment of this section), such changes shall be held and considered to have occurred prior to assignment under paragraph (1) of this subsection.

(c) The table of contents of chapter 45 of title 39, United States Code, is amended by deleting:

"3544. Fourth Class Office Schedule.";

and inserting in lieu thereof

"3544. Compensation of Postmasters at Fourth-Class Offices.".

SEC. 112. (a) Subsection (a) of section 6007 of title 39, United States Code, is amended to read as follows:

"(a) The Postmaster General shall pay to persons, other than special delivery messengers at post offices of the first class, for making delivery of special delivery mail such fees as may be established by him not in excess of the special delivery fee.".

(b) Section 2009 of title 39, United States Code, is amended by deleting "at any price less than eight cents per piece" and inserting in lieu thereof "at any price less than the fees established pursuant to section 6007(a) of this title.".

SEC. 113. Section 3560 of title 39, United States Code, is amended—

(1) by deleting from subsection (a) "(3) gross receipts category, with respect to the Fourth-Class Office Schedule" and inserting in lieu thereof "(3) minimum hours of service with respect to postmasters in fourth-class post offices"; and

(2) by deleting from subsection (f) "(1) reductions in class or gross receipts category of any post office, or" and inserting in lieu thereof "(1) reductions in class, revenue units of any post office, or the minimum hours of service for a fourth-class post office, or".

SEC. 114. Section 3552 of title 39, United States Code, is amended by adding the following new subsection at the end thereof:

"(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, the Postmaster General is authorized to advance any employee in PFS level 9 or below who—

"(1) was promoted to a higher level between July 9, 1960, and October 13, 1962; and

"(2) is senior with respect to total postal service to an employee in his own post office promoted to the same position since October 13, 1962, and is at a step in the level below the step of the junior employee.

Any increase under the provisions of this subsection shall not constitute an equivalent increase and credit earned prior to adjustment under this subsection for advancement to the next step shall be retained."

SEC. 115. (a) Section 711 of title 39, United States Code, is repealed.

(b) The table of contents of chapter 7 of title 39, United States Code, is amended by deleting

"711. Method of determining gross receipts.".

SEC. 116. (a) The basic compensation of each employee subject to the Postal Field Service Schedule or the Rural Carrier Schedule immediately prior to the effective date of this section shall be determined as follows:

(1) Each employee shall be assigned to the same numerical step for his position which he had attained immediately prior to such effective date. If changes in levels or steps would otherwise occur on such effective date without regard to enactment of this Act, such changes shall be deemed to have occurred prior to conversion.

(2) If the existing basic compensation is greater than the rate to which the employee is converted under paragraph (1) of this section, the employee shall be placed in the lowest step which exceeds his basic compensation. If the existing basic compensation exceeds the maximum step of his position, his existing basic compensation shall be established as his basic compensation.

(b) Section 3541(f) of title 39, United States Code, relating to computation of rates, is amended to read as follows:

"(f) In the computation of rates, all remaining fractions of a cent shall be eliminated.".

EMPLOYEES IN THE DEPARTMENT OF MEDICINE AND SURGERY OF THE VETERANS' ADMINISTRATION

SEC. 117. (a) Section 4103 of title 38, United States Code, relating to the appointment and annual salaries of certain staff positions in the Department of Medicine and Surgery of the Veterans' Administration, is amended to read as follows:

"§ 4103. Office of the Chief Medical Director

"(a) The Office of the Chief Medical Director shall consist of the following—

"(1) The Chief Medical Director, who shall be the Chief of the Department of Medicine and Surgery and shall be directly responsible to the Administrator for the operations of the Department. He shall be a qualified doctor of medicine, appointed by the Administrator.

"(2) The Deputy Chief Medical Director, who shall be the principal assistant of the Chief Medical Director. He shall be a qualified doctor of medicine, appointed by the Administrator.

"(3) Not to exceed five Assistant Chief Medical Directors, who shall be appointed by the Administrator upon the recommendation of the Chief Medical Director. One Assistant Chief Medical Director shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Chief Medical Director for the operation of the Dental Service.

"(4) Such Medical Directors as may be appointed by the Administrator, upon the recommendation of the Chief Medical Director, to suit the needs of the Department. A Medical Director shall be either a qualified doctor of medicine or a qualified doctor of dental surgery or dental medicine.

"(5) A Director of Nursing Service, who shall be a qualified registered nurse, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of the Nursing Service.

"(6) A Chief Pharmacist and a Chief Dietitian, appointed by the Administrator.

"(7) Such other personnel and employees as may be authorized by this chapter.

"(b) Except as provided in subsection (c), any appointment under this section shall be for a period of four years, with reappointment permissible for successive like periods, except that persons so appointed or reappointed shall be subject to removal by the Administrator for cause.

"(c) The Administrator may designate a member of the Chaplain Service of the Veterans' Administration as Director, Chaplain Service, for a period of two years, subject to removal by the Administrator for cause. Redesignation under this subsection may be made for successive like periods. An individual designated as Director, Chaplain Service, shall at the end of his period of service as Director revert to the position, grade, and status which he held immediately prior to being designated Director, Chaplain Service, and all service as Director, Chaplain Service, shall be creditable as service in the former position."

(b) The table of contents of chapter 73 of title 38, United States Code, is amended by striking out

"4103. Appointments and compensation."

and inserting in lieu thereof:

"4103. Office of the Chief Medical Director."

(c) Section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), shall not apply to any individual appointed, before January 1, 1964, as Chief Medical Director under section 4103 of title 38, United States Code; but section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a), shall apply, in accordance with its terms, to any such individual.

SEC. 118. Section 4107 of title 38, United States Code, relating to grades and pay scales for certain positions within the Department of Medicine and Surgery of the Veterans' Administration, is amended to read as follows:

"§ 4107. Grades and pay scales

"(a) The per annum full-pay scale or ranges for positions provided in section 4103 of this title, other than Chief Medical Director and Deputy Chief Medical Director, shall be as follows:

"SECTION 4103 SCHEDULE

"Assistant Chief Medical Director, $24,500.

"Medical Director, $21,445 minimum to $24,445 maximum.

"Director of Nursing Service, $16,460 minimum to $21,590 maximum.

"Director, Chaplain Service, $16,460 minimum to $21,590 maximum.

"Chief Pharmacist, $16,460 minimum to $21,590 maximum.

"Chief Dietitian, $16,460 minimum to $21,590 maximum.

"(b)(1) The grades and per annum full-pay ranges for positions provided in paragraph (1) of section 4104 of this title shall be as follows:

"PHYSICIAN AND DENTIST SCHEDULE

"Director grade, $18,935 minimum to $24,175 maximum.

"Executive grade, $17,655 minimum to $23,190 maximum.

"Chief grade, $16,460 minimum to $21,590 maximum.

"Senior grade, $14,170 minimum to $18,580 maximum.

"Intermediate grade, $12,075 minimum to $15,855 maximum.

"Full grade, $10,200 minimum to $13,395 maximum.

"Associate grade, $8,550 minimum to $11,205 maximum.

"NURSE SCHEDULE

"Assistant Director grade, $14,170 minimum to $18,580 maximum.

"Chief grade, $12,075 minimum to $15,855 maximum.

"Senior grade, $10,200 minimum to $13,395 maximum.

"Intermediate grade, $8,550 minimum to $11,205 maximum.

"Full grade, $7,210 minimum to $9,415 maximum.

"Associate grade, $6,315 minimum to $8,205 maximum.

"Junior grade, $5,505 minimum to $7,170 maximum.

"(2) No person may hold the director grade unless he is serving as a director of a hospital, domiciliary, center, or outpatient clinic (independent). No person may hold the executive grade unless he holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or the position of clinic director at an outpatient clinic, or comparable position.".

FOREIGN SERVICE OFFICERS; STAFF OFFICERS AND EMPLOYEES

SEC. 119. Section 412 of the Foreign Service Act of 1946, as amended (22 U.S.C. 867), is amended to read as follows:

"FOREIGN SERVICE OFFICERS

"SEC. 412. There shall be 10 classes of Foreign Service officers, including the classes of career ambassador and of career minister. The per annum salary of a career ambassador shall be at the rate provided by law for level IV of the Federal Executive Salary Schedule. The per annum salary of a career minister shall be at the rate provided by law for level V of such schedule. The per annum salaries of Foreign Service officers within each of the other classes shall be as follows:

"Class 1	$22,650	$23,440	$24,500				
Class 2	18,295	18,930	19,565	$20,200	$20,835	$21,470	$22,105
Class 3	14,860	15,375	15,890	16,405	16,920	17,435	17,950
Class 4	12,075	12,495	12,915	13,335	13,755	14,175	14,595
Class 5	9,900	10,245	10,590	10,935	11,280	11,625	11,970
Class 6	8,205	8,490	8,775	9,060	9,345	9,630	9,915
Class 7	7,000	7,235	7,470	7,705	7,940	8,175	8,410
Class 8	6,050	6,250	6,450	6,650	6,850	7,050	7,250".

Sec. 120. Subsection (a) of section 415 of such Act (22 U.S.C. 870(a)) is amended to read as follows:

"(a) There shall be ten classes of Foreign Service staff officers and employees, referred to hereafter as staff officers and employees. The per annum salaries of such staff officers and employees within each class shall be as follows:

"Class 1	$14,860	$15,375	$15,890	$16,405	$16,920	$17,435	$17,950	$18,465	$18,980	$19,495
Class 2	12,075	12,495	12,915	13,335	13,755	14,175	14,595	15,015	15,435	15,855
Class 3	9,900	10,245	10,590	10,935	11,280	11,625	11,970	12,315	12,660	13,005
Class 4	8,205	8,490	8,775	9,060	9,345	9,630	9,915	10,200	10,485	10,770
Class 5	7,405	7,660	7,915	8,170	8,425	8,680	8,935	9,190	9,445	9,700
Class 6	6,710	6,935	7,160	7,385	7,610	7,835	8,060	8,285	8,510	8,735
Class 7	6,205	6,410	6,615	6,820	7,025	7,230	7,435	7,640	7,845	8,050
Class 8	5,490	5,675	5,860	6,045	6,230	6,415	6,600	6,785	6,970	7,155
Class 9	5,010	5,175	5,340	5,505	5,670	5,835	6,000	6,165	6,330	6,495
Class 10	4,480	4,630	4,780	4,930	5,080	5,230	5,380	5,530	5,680	5,830".

Sec. 121. Foreign Service officers, Reserve officers, and Foreign Service staff officers and employees who are entitled to receive basic compensation immediately prior to the effective date of this section at one of the rates provided by section 412 or 415 of the Foreign Service Act of 1946, shall receive basic compensation, on and after such effective date, at the rate of their class determined to be appropriate by the Secretary of State.

AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY COMMITTEE EMPLOYEES

Sec. 122. The rates of compensation of persons employed by the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall be increased by amounts equal, as nearly as may be practicable, to the increases provided by section 102 of this Act for corresponding rates of compensation in the appropriate schedule or scale of pay.

MISCELLANEOUS PROVISIONS

Sec. 123. Section 504 of the Federal Salary Reform Act of 1962 (76 Stat. 842; 5 U.S.C. 1173) is amended by adding at the end thereof the following new subsection:

"(d) The rate of basic compensation, established under this section, and received by any officer or employee immediately prior to the effective date of a statutory increase in the compensation schedules of the salary systems specified in subsection (a) shall be initially adjusted on the effective date of such new compensation schedules in accordance with conversion rules and regulations prescribed by the President or by such agency or agencies as he may designate."

ABSORPTION OF COSTS

Sec. 124. (a) The cost of not less than 10 per centum of the aggregate amount of the increases in compensation provided by this title for the fiscal year 1965 shall be absorbed by the departments, agencies, establishments, and corporations in the executive branch; and no amount beyond the additional sum for such compensation increases proposed in the budget for the fiscal year 1965 is authorized to be appropriated by any provision of this Act. The total amount of such absorption shall be allocated by the Bureau of the Budget among such departments, agencies, establishments, and corporations in such manner and to such extent as the Director of the Bureau of the Budget deems appropriate in the light of their essential functions.

(b) Pursuant to the objective of this section, heads of the executive branch activities concerned are directed to review with meticulous care each vacancy resulting from voluntary resignation, retirement, or death and to determine whether the duties of the position can be reassigned to other employees or whether the position can be abolished without seriously affecting the execution of essential functions.

(c) Nothing contained in subsection (a) of this section shall be held or considered to require (1) the separation from the service of any individual by reduction in force or other personnel action or (2) the placing of any individual in a leave-without-pay status.

Mr. MURRAY (during the reading of title I). Mr. Chairman, I ask unanimous consent that the further reading of title I be dispensed with and that it be printed in the Record and be open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk concluded the reading of title I.

The CHAIRMAN. Are there any amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—FEDERAL LEGISLATIVE SALARIES

Sec. 201. This title may be cited as the "Federal Legislative Salary Act of 1964".

Sec. 202. (a) Each officer or employee in or under the legislative branch of the Government whose rate of compensation is increased by section 5 of the Federal Employees Pay Act of 1946 shall be paid additional compensation in an amount equal to the greater of the following amounts, as applicable:

(1) an amount equal to 3½ per centum of his gross rate of compensation (basic compensation plus additional compensation authorized by law) in effect immediately prior to the effective date of this section plus 1 per centum of such gross rate for each whole multiple, or part of a multiple, of $500 basic compensation; or

(2) an amount equal to 5 per centum of such gross rate.

(b) The total annual compensation in effect immediately prior to the effective date of this section of each officer or employee of the House of Representatives, whose compensation is disbursed by the Clerk of the House of Representatives and is not increased by reason of any other provision of this title, shall be increased by an amount which is equal to the amount of the increase provided by subsection (a) of this section in that gross rate which is nearest in amount to the total annual compensation of such officer or employee.

(c) Each of the limitations on gross rate per thousand and gross rate per hour per person provided by applicable law on the effective date of this section with respect to the folding of speeches and pamphlets for the House of Representatives shall be increased by 7 per centum. The amount of each increase under this subsection shall be computed to the nearest cent, counting one-half cent and over as a whole cent.

(d) The additional compensation provided by this section shall be considered a part of basic compensation for the purposes of the Civil Service Retirement Act (5 U.S.C. 2251 and the following).

(e) Section 202(e) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(e)), is amended—

(1) by striking out "$8,880" where it first appears in such subsection and inserting in lieu thereof "the highest amount which, together with additional compensation authorized by law, will not exceed the maximum rate authorized by the Classification Act of 1949, as amended,"; and

(2) by striking out "$8,880" at the second place where it appears in such subsection and inserting in lieu thereof "the highest amount which, together with additional compensation authorized by law, will not exceed the maximum rate authorized by the Classification Act of 1949, as amended".

(f) (1) This subsection is enacted as an exercise of the rulemaking power of the House of Representatives with full recognition of the constitutional right of the House of Representatives to change the rule amended by this subsection at any time, in the same manner, and to the same extent as in the case of any other rule of the House of Representatives.

(2) Clause 28(c) of Rule XI of the Rules of the House of Representatives is amended—

(A) by striking out "$8,880" where it first appears in such clause and inserting in lieu thereof "the highest amount which, together with additional compensation authorized by law, will not exceed the maximum rate authorized by the Classification Act of 1949, as amended,"; and

(B) by striking out "$8,880" at the second place where it appears in such clause and inserting in lieu thereof "the highest amount which, together with additional compensation authorized by law, will not exceed the maximum rate authorized by the Classification Act of 1949, as amended".

Sec. 203. (a) The compensation of the Comptroller General of the United States shall be at the rate of $30,000 per annum.

(b) The compensation of the Assistant Comptroller General of the United States shall be at the rate of $29,000 per annum.

(c) The compensation of the General Counsel of the United States General Accounting Office, the Librarian of Congress, the Public Printer, and the Architect of the Capitol shall be at the rate of $28,000 per annum.

(d) The compensation of the Deputy Librarian of Congress, the Deputy Public Printer, and the Assistant Architect of the Capitol shall be at the rate of $27,000 per annum.

(e) The compensation of the Second Assistant Architect of the Capitol shall be at the rate of $26,000 per annum.

(f) The compensation of the Chaplain of the House of Representatives shall be at the rate of $12,500 per annum.

Sec. 204. Section 601(a) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 31), is amended to read as follows:

"(a) The compensation of Senators, Representatives in Congress, and the Resident Commissioner from Puerto Rico shall be at the rate of $30,000 per annum each; and the compensation of the Speaker of the House of Representatives shall be at the rate of $43,000 per annum."

Sec. 205. No officer or employee subject to section 202(a) or 202(b) of this title shall receive, by reason of any provision of this title, an increase in gross rate of compensation (basic compensation plus additional compensation authorized by law), or in total annual compensation, which is in excess of the amount of the increase in basic compensation provided by the amendment made by section 102(a) of title I of this Act for positions in grade 18 of the General Schedule of the Classification Act of 1949, as amended.

Mr. MURRAY (during the reading of title II). Mr. Chairman, I ask unanimous consent that the further reading of title II be dispensed with and that it be printed in the Record and that it be open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk concluded the reading of title II.

The CHAIRMAN. Are there any amendments to title II?

AMENDMENT OFFERED BY MR. JONES OF MISSOURI

Mr. JONES of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Missouri: On page 38, immediately following line 12, insert the following:

"SEC. 205. (a) Nothwithstanding any other provision of law and in recognition of the fact that the duties and responsibilities of a Member of Congress are conducted on a full-time basis, there shall be deducted from the compensation in any year of each Senator, Representative in Congress, and the Resident Commissioner from Puerto Rico an amount equal to the amount of compensation which such official has received for personal services from other sources during such year up to the amount of any increase provided in this Act. Personal services shall be deemed to include any personal service performed by the individual for which he receives a salary, commission, fee, retainer, honorarium, per diem, or any other compensation received in return for rendering such personal service, but shall not include dividends, interest, rentals, pensions, disability benefits, insurance, retirement income or any other form of income which is not predicated upon the rendering of any personal service."

Mr. JONES of Missouri. Mr. Chairman, I offered this amendment when the bill was before the House on March 12. As was to be expected, the amendment was voted down. However, after the session that day several Members came to me and said, "I did not understand what you were trying to do."

I shall try to make this very clear. I believe a majority of the people recognize that service as a Member of Congress should represent a full-time job, at least while Congress is in session, and that any service or obligation a Member has which would take him away from his congressional duties and which would prevent him from attending committee meetings and prevent him from being on the floor of the House—or on the floor of the other body—contributes to extending the length of the session.

Let me explain what the amendment would do. Let us presume that the bill is passed and that the salary is increased $7,500 a year. The amendment provides that any personal-service compensation or remuneration which a Member receives during the year is to be deducted from—and up to—the amount of the increased salary. This is for personal service only, predicated upon the presumption the personal service requires a person to be away from his duties here in the House. That might include a salary. It might be a commission for a sale he is making as a salesman. It might be a fee. It might be a retainer. It might be an honorarium. It might be a per diem. It would include anything that was a personal service.

If that Member during the year received, for personal services, $5,000, that $5,000 would be deducted from the $7,500 he would receive in additional salary.

The people have told us many times that the Members of Congress are underpaid, and that is the basis, I presume, upon which the committee and others who are supporting this legislation are supporting it. They say that a Member needs to have more compensation. They say a Member who lives in the Far West, in the Deep South, in the Midwest, or in another part of the country, is prevented, because of his service in the Congress—though I believe he was elected for full-time service—from being here.

I believe Members should have no hesitancy about including income from personal services, since other Members, because of their residence or because of their employment—profession, or whatever it may be—do not have an opportunity to get the additional money. I believe that would be fair.

This would put Members of Congress upon a more equitable basis so far as their income is concerned.

I wish to make one point quite clear. This would not include income from dividends, from interest, from rentals, from pensions, from disability benefits, from insurance, or from retirement income. The only thing that this would affect would be that income from personal service which takes a Member away from the House of Representatives—or from the other body, as the case might be.

My contention is this, that if all Members felt they were going to have to give up a part of this income—let us say a lawyer in Philadelphia or some other professional man who wants to be away from here every Monday or every Friday and he is not making himself available—then I think he might be inclined to be here. If this House and this Congress could stay in session for 7 months a year, as the law says it should be, then I think we could get this job done and we could adjourn by July 31, as the law provides, and we could get out of here. I think and I hope I have made myself clear. If I have not, I would be glad to answer any questions you might have on that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JONES of Missouri. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. JONES of Missouri. I yield to the gentleman from California.

Mr. MOSS. I cannot deny that I have a great deal of sympathy with the situation you are attempting to correct by your amendment, but as I read your amendment, I am afraid you do great violence in attempting to end an abuse.

Mr. JONES of Missouri. In attempting to do what?

Mr. MOSS. In attempting to end an abuse. In the first place, you confine this exclusively to the Members of Congress. Many others are going to receive increased compensation under this legislation. They also perhaps take an honorarium and may take several in the course of a year. Yet you do not propose under this amendment to require that they return this to the Government in lieu of the increase in salary. Is that correct?

Mr. JONES of Missouri. I would say this to the gentleman, that the employees of the House of Representatives can be under the rules of the House and they could be taken care of in that manner. I think you will also find that the chairman of a committee or the officers of the House can see that the staff members or the people you are referring to in the legislative branch are taken care of.

Mr. MOSS. Would the gentleman yield further?

Mr. JONES of Missouri. Yes.

Mr. MOSS. You do not cover judges or employees of the executive departments of the Government or members of the independent boards or commissions established under the authority of the Government, do you?

Mr. JONES of Missouri. I do not cover them for this reason: I am trying to deal with a problem here. Frankly, as I have stated in the past, I do not think that the legislative branch has any business in this bill to start with, but if we are going to try to improve the legislative branch and the set-up that we have here, this should be the opportunity to do it. If you want to go and correct the others, that is all right. All I am trying to do is something that I know about here in this House and some of the practices going on with regard to some of the income, I think. You say you want to put these people on a comparable level. This would put them on a level, and they would get their $32,500 or whatever it is.

Mr. MOSS. Could we look at a hypothetical case where injustice occurs under your amendment? You have discussed the problem of those of us who are many miles removed from the Nation's Capital with our place of residence.

Mr. JONES of Missouri. Yes.

Mr. MOSS. I come from California.

Mr. JONES of Missouri That is right.

Mr. MOSS. Supposing in the course of a year I might have $1,000 or $1,500 in honorariums and somebody nearby the Capital would have $15,000 in honorariums. I would be forced to give up the entirety of my income from honorariums, but the other party would be required to give up only 50 percent.

Mr. JONES of Missouri. That is right.

Mr. MOSS. I think you might encourage greater activity in that area rather than less.

Mr. JONES of Missouri. They would also be subject to being here in the House of Representatives where their job is.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. JONES of Missouri. Yes. I yield to the majority leader.

Mr. ALBERT. I know the gentleman is endeavoring to do something which he feels is in the interest of the Congress and of the country. However, I am not sure it will do equity, and I am not sure it will not complicate the administration of the act. What about persons owning many properties who have managerial responsibilities which keep them away from Congress? It is difficult to say whether this would be personal service or not, but it would involve their personal time.

Mr. JONES of Missouri. There is nothing wrong about it, Mr. ALBERT, except that I think this: We have a responsibility to be here when the Congress is in session. I think an amendment of this kind would be conducive to keeping a quorum here so that we would not have the Tuesday-to-Thursday Club operating.

Mr. ALBERT. Mr. Chairman, I think the gentleman's amendment would be discriminatory as between someone who performs a personal service for someone else and someone who had important managerial responsibilities connected, say, with his own business.

Mr. JONES of Missouri. I think it is easy to find excuses why we could not do this. But I think this would at least make a start to keep people here on the job. I would be glad to hear from someone who would take the position that being a Member of Congress is not a full-time job while Congress is in session.

Mr. FULTON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. JONES of Missouri. I yield.

Mr. FULTON of Pennsylvania. Mr. Chairman, I believe one of the defects of the gentleman's amendment is that the language is not clear. For example, while I am from the city of Pittsburgh I also run a sheep ranch. Farming is within the scope of a personal service, although I am not out there doing the work. But I must say that if the farmers of this House are going to be eliminated from farming for most of the year while Congress is in session you are not going to get very many votes for this amendment.

Mr. JONES of Missouri. I do not think they would be eliminated. In other words, each Member here makes out an income tax return, or I presume he does. And then he shows personal service on that income tax return, if he had any. I do not say this will make everybody pure. I do not think it is going to compel everybody to make out a correct income tax return, but at least it will lead toward that end.

Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. JONES].

The question was taken; and on a division (demanded by Mr. JONES of Missouri) there were—ayes 13, noes 90.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. JONES OF MISSOURI

Mr. JONES of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Missouri: On page 37, lines 20 through 25, and on page 38, lines 1 through 3, strike out all of section 204 and add a new section to read as follows:

"SEC. 204. Section 601(a) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 31) is amended by adding the following:

"'(b) Notwithstanding any other provision of law and in recognition of the full-time responsibilities of Senators, Representatives, and the Resident Commissioner, each such official in addition to the compensation provided above, shall receive from the first day of January until the thirty-first day of July each year the sum of $50 for each day that he is actually in Washington, D.C., available for attendance at committee meetings or during sessions of the House or Senate as the case may be when such legislative body is in session. On and after July 31 of each year, the compensation of each such official shall be reduced in the amount of $50 for each day that he is not actually in attendance in the House or Senate as the case may be when such legislative body is in session and during the session of Congress; *Provided*, That such official shall be deemed to be present, for the purposes of this Act if he or she is confined to a hospital, or is confined to his or her bed under the daily care of a physician who will certify to such fact; and *Provided further*, That such official shall be deemed to be present on Sundays and legal holidays when the body of Congress of which he or she is a Member is not in session, as well as those days when that body is in official recess.'"

Mr. JONES of Missouri. Mr. Chairman, this amendment is based on a per diem. It is based on a per diem in addition to the present salary.

Mr. Chairman, Congress can complete its work by July 31, as the law sets out, and during those days, from January 1 until the 31st day of July of each year, the Member who is then in Washington and available for attendance here in the House of Representatives shall receive in addition to his regular compensation $50 a day as a per diem.

Mr. Chairman, some State legislatures use this form of payment and it has been found to increase attendance, and this will make members available on all days that the House is in session. After July 31 there would be a penalty for the days that a Member is absent from Congress.

Mr. Chairman, I believe this amendment offers an incentive and it also provides a penalty. The incentive would be comparable to the proposed increase under the present bill. If a Member comes to Washington and makes himself available during the time Congress is in session, from January 1 through July 31, he would receive the equivalent amount of money that he would receive under this bill. After July 31 he would be penalized.

Mr. Chairman, I am not very optimistic but at least I would like to see a vote on this amendment and see if anyone is interested in cutting out the "Tuesday-to-Thursday Club."

The CHAIRMAN. The question is on the amendment of the gentleman from Missouri.

The amendment was rejected.

AMENDMENT OFFERED BY MR. RHODES OF PENNSYLVANIA

Mr. RHODES of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RHODES of Pennsylvania: On page 38, immediately following line 12, insert the following new section:

"SEC. 206. Notwithstanding any other provision of law and in recognition of the fact that the duties and responsibilities of Members of Congress are conducted solely as representatives of the public, each Member of the Congress and the Resident Commissioner from Puerto Rico shall, on or before the 15th day of April of each year beginning with the year 1965, submit to the Clerk of the House or the Secretary of the Senate, as the case may be, a statement consisting of a full and complete disclosure of the amount or amounts of all compensation and incomes which such Member or Resident Commissioner shall have received, during the immediately preceding calendar year, from any source or sources, other than compensation or incomes received by him for or in connection with his service as such Member or Resident Commissioner in the Congress as provided by law. Such statements filed with the Clerk of the House or the Secretary of the Senate, as the case may be, and any related information filed therewith, shall be held by the Clerk of the House and the Secretary of the Senate as matters of public record and shall be available for public access thereto at any time during the regular business hours of the Office of the Clerk of the House or the Secretary of the Senate, as the case may be."

Mr. RHODES of Pennsylvania. Mr. Chairman, my amendment for compulsory public disclosure of assets and income of Members of Congress, if adopted, will make it less difficult for many Members to support the pay legislation now under consideration.

Public disclosure of assets and income may be objectionable to some but it would protect most Members against unfair criticism which has been leveled against the Congress, and which casts a cloud of suspicion on every Member of the House and Senate.

A detailed statement of this type would inform citizens of some of the financial problems faced by many Members, particularly those of us who must depend on their congressional pay to make ends meet.

It seems to me that this amendment would receive much popular support and, if adopted, would expose many of the efforts that are made to discredit the Congress. By distorting the congressional pay issue, political opponents can use the issue to confuse the voters and take the minds of the people off of important legislation that affects the national interest and the welfare of the average citizen.

Much of the opposition to congressional pay comes from citizens who feel that Congress has been negligent in not enacting legislation which is essential in increasing the opportunities and lifting the living standards of the millions of our fellow citizens who are not properly sharing in our Nation's abundance and increasing productivity.

They are looking to the Congress for legislation to boost social security benefits, and to broaden the program to include medical care for the aged. They are interested in the kind of legislation that would help bring about a better balance in our topheavy economy. Such legislation as proposed to increase income tax exemptions to $800 or $1,000, and a pension for World War I veterans, which would give needed purchasing power to those who need it most. It would give them a better share in the abundance with which this Nation is blessed. It would help ease the problems caused by automation and unemployment.

President Johnson's effort to strike at social injustice with his antipoverty program is an important step in this direction. Because of the President's concern about needless human distress and his efforts to help our senior citizens, the jobless, and other needy citizens, his proposal for improved Federal pay legislation is consistent and contains much merit.

The President's request for salary adjustments is in line with his efforts to recruit special talent, which is difficult to secure with salaries much lower than those outside the Federal service.

It is a privilege, Mr. Chairman, to serve as a Member of this House. This is more compensating than any monetary reward. I realize, however, that with heavy expenses of House Members and the cost of election campaigns, it becomes increasingly difficult for persons of moderate means to be elected to this important body. This is especially true of Members who support liberal and progressive legislation and who must often face a hostile press and heavy campaign contributions to their opponents from wealthy individuals and groups.

Personally, I would prefer if the pay raise for Members of Congress would be separated from this Federal pay increase bill, regardless of the case that can be made for the raise for Members of Congress.

There are many talented and devoted people in the Federal service who, at a financial sacrifice to themselves, are making an important contribution to our country. Many are scientists, researchers, physicians, and other professional people. I also feel that this legislation is important to conscientious and dedicated postal employees and other Federal workers, particularly those in the lower paid brackets. It is for that reason that I hope this amendment will be adopted, which I believe will assure the enactment of this Federal pay bill.

Mr. PILLION. Mr. Chairman, will the gentleman yield?

Mr. RHODES of Pennsylvania. I yield to the gentleman from New York.

Mr. PILLION. What the gentleman seeks to do is to open up the income tax forms of Members of Congress to the public. Could not that be done by legislation which would attain that purpose by separate legislation?

Mr. RHODES of Pennsylvania. I would have no objection to that.

Mr. PILLION. They would be separated from everyone else, and we alone would have to make public our income tax statements.

Mr. WALLHAUSER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. RHODES].

Mr. Chairman, worthy as the purpose of the gentleman who introduced this amendment may be, it seems to me it has no place in a salary bill. We are attempting to make salaries of governmental employees comparable to those in private industry. We are not inquiring into the financial resources of the Members of Congress. If the gentleman has this in mind, he should introduce separate legislation, it should be fully debated, hearings should be held, and then the question should be decided.

So I urge that this amendment be voted down. I question very much whether it is even germane, but no point of order was raised so it is too late for that. But in fact, the judgment of this House should not be taken on a matter so quickly. I hope the amendment will be defeated.

Mrs. GREEN of Oregon. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania, Representative RHODES, to require income disclosure by Members as a precondition of their receiving a pay increase.

At the outset, I wish to state that I believe a pay increase for Members is justified from whatever angle the matter is judged—responsibility, hours, volume of work, competence, and conscientiousness. I do believe, however, that if the salary is to be increased to $30,000 a year, then there is a responsibility by Members to rely exclusively upon their congressional salary and to consider it as a fulltime job. Many, many Members as of today, work 70 and 80 hours a week. But it does seem to me the public is entitled to know the amount and sources of earned outside income of their legislators.

By earned outside income I mean compensation for services, including fees and commissions, gross income derived from business, gains derived from dealings in property and distributive share of partnership gross income—income from work which a Member is doing while he also is serving in Congress.

Attention has been drawn in recent months to the investigation into activities of Robert Baker when he was Secretary to the majority in the Senate. Many Members of the Senate, Democrats and Republicans, are, as a result, supporting legislation to require, among other things, disclosure of outside income sources by legislative employees. Some Members would extend this requirement to Senators themselves. We certainly can do no less.

Mr. Chairman, mandatory disclosure would, in my view, work to the advantage of the Congress. It would dispel the innuendoes and inferences about the financial connections of Members. It would help discredit the all-inclusive accusations and the general condemnation. Some argue that disclosure would make second-class citizens of Members of the House and Senate. I do not believe it would. We require public disclosure by members of the executive branch who must be confirmed.

In recent times, many Members of both Senate and House have individually filed their annual statements of income, stocks, and real property holdings. In April 1963, for example, several Members of the House together filed their individual statements. Since then, other House Members have done the same. I would hope that an even larger number of Members would voluntarily file such statements.

It is time that Democrats and Republicans alike should take whatever steps are necessary to maintain the integrity of the National Legislature lest an erosion of public confidence become a real threat to the democratic process.

The job for each and every one of us is to so conduct the Nation's business that the confidence of the country in the National Legislature is maintained—yes, and strengthened. As I said, we demand this of high-ranking members of the executive branch of the Federal Government—the Secretary of Defense, for example. But we do not hold ourselves to the same strict standards of accountability.

A disclosure requirement would immeasurably assist in enhancing the reputation of the Congress.

Again, I say that the Members of Congress do deserve an increase, and, of course, especially do the postal employees and many of the judicial and executive branches. I think that a disclosure provision for Members of Congress is a just and acceptable obligation that the American people have a right to expect, indeed demand.

Therefore, I am happy to join the gentleman from Pennsylvania, Congressman RHODES, in support of this very important amendment.

Mr. KASTENMEIER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania [Mr. RHODES], fully realizing that the majority of the House are not ready to adopt a rule binding on all Members concerning disclosure of outside interests. But, while I have few illusions about the present degree of support for full and open disclosure, I share the gentleman from Pennsylvania's view that making outside sources of income a matter of public knowledge would go far toward checking the growing distrust and indifference with which the American people regard their Congress.

The distinguished minority leader in the other body has said on several occasions that he would resist a disclosure rule because it would make him a "second-class citizen." I disagree. I think his support for such a rule could only increase the high regard in which he is held, and I cannot believe that his own self-esteem is so fragile that filing a financial statement by April 15 of each year would bend or break it.

Certainly disclosure requirements have not been demoralizing in any noticeable way to the thousands of corporation and bank executives who must reveal their compensation and personal holdings, state changes in these holdings, or make public their membership on certain boards of directors. And certainly Congress itself thought it was striking a blow for better Government by better people when it imposed conflicts of interests rules on top administration officials.

If Congress continues to exempt itself from the sort of disclosure prescriptions it has freely issued to agencies like the SEC, the CAB, and the ICC, it can expect it to be distrusted, just like anyone is who has the power to make himself a special case and uses it for that purpose.

During the past few years a growing number of Members in each body have voluntarily disclosed their holdings and outside sources of income. As one such Member I must say that I wonder about the effect this has. I am inclined to think that one unintended result is to reinforce the view that those who do not make a public disclosure are necessarily hiding something, when in fact there is probably not that much to hide.

But the American people, like nature, abhor a vacuum. Where there is a sustained and inexplicable lack of knowledge about a matter of public trust such as the financial activities of elected Representatives, suspicions mount until they tower above reality and the least shred of evidence is taken as confirming them all. The only way to reduce this evidence to its proper significance is to confront these suspicions with the hard facts through complete annual disclosure of holdings and sources of income.

Failure to treat disclosure as a real issue which Congress must raise and solve for itself can only result in the silent erosion of respect for this institution and representative government everywhere. Should Congress fail to enjoy the genuine respect of those who look to it for leadership, it can hardly blame the people, the times, or the unseen enemy for the fact that leadership is sought and found elsewhere.

Mr. FRASER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I should like to take a moment to commend the gentleman from Pennsylvania for what I think is an excellent proposal. I know these kinds of proposals have been submitted to the Congress year after year. I also know the practical difficulty of bringing these proposals out onto the floor. I do believe the amendment as offered is germane and is relevant. We are asking through this bill for an increase in congressional salaries, one that I think is merited, but at the same time, I believe the public would gain more confidence in the discharge of the representational duties of a Congressman if he were prepared to make a full disclosure of his sources of income.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. RHODES].

The amendment was rejected.

AMENDMENT OFFERED BY MR. LATTA

Mr. LATTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LATTA: On page 34, line 5, strike out all of title II, and renumber the succeeding titles.

Mr. LATTA. Mr. Chairman, I expect to oppose this administration-supported salary increase bill for the same reasons that I opposed it when it was defeated on March 12, 1964. The bill presently before us contains increases for Members of Congress, members of the Cabinet, members of the Supreme Court, and other Government employees in the upper pay brackets just as did the bill previously defeated. Reducing these salary increases by approximately one-fourth still does not remove my objections to them. I am opposed to any increases for these offices and particularly to the proposed increase for Members of Congress. As I informed this House on March 12, I am satisfied with the salary I have been receiving. Second, the proposed increase is more than the annual income of most families in my district. Third, I feel that we should not be borrowing money to increase salaries. It seems perfectly ridiculous to me to pass a $533 million salary increase bill today and then vote to increase the debt limit next week to $324 billion. I do not subscribe to this new fiscal philosophy that the way to keep from going in debt is to spend more money.

Mr. Chairman, it is apparent here today that the administration has changed enough votes to pass this bill. I shall, therefore, attempt to delete as many titles from the bill as possible. For this reason, I have offered the pending amendment to delete all of title II—Federal legislative salaries—from the bill. If my amendment to delete these congressional salaries from the bill is successful, I shall offer further amendments to strike title III, Federal executive salaries; and title IV, Federal judicial salaries; from the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. LATTA].

The amendment was rejected.

AMENDMENT OFFERED BY MR. BARRY

Mr. BARRY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARRY: Page 37, line 20, strike out section 204.

Mr. BARRY. Mr. Chairman, the purpose of this amendment is to give those Members who oppose getting this salary increase next January an opportunity to strike this section from the bill. There has been a great deal said about the irresponsibility of Congress in passing a tax cut and having a $10 billion excess of appropriations over income and in the same session voting themselves a pay raise. This amendment knocks out the congressional salary increase provisions of this bill. I do not think it needs further debate as far as I am concerned.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BARRY].

The amendment was rejected.

The Clerk will read.

The Clerk read as follows:

TITLE III—FEDERAL EXECUTIVE SALARIES

SEC. 301. This title may be cited as the "Federal Executive Salary Act of 1964".

SEC. 302. There is hereby established for offices and position to which section 303 of this title applies a basic compensation schedule, to be known as the "Federal Executive Salary Schedule", which shall be divided into six salary levels.

SEC. 303. (a) Level I of the Federal Executive Salary Schedule shall apply to the following offices and positions, for which the annual rate of basic compensation shall be $32,500:

(1) Secretary of State.
(2) Secretary of the Treasury.
(3) Secretary of Defense.
(4) Attorney General.
(5) Postmaster General.
(6) Secretary of the Interior.
(7) Secretary of Agriculture.
(8) Secretary of Commerce.
(9) Secretary of Labor.
(10) Secretary of Health, Education, and Welfare.

(b) Level II of the Federal Executive Salary Schedule shall apply to the following offices and positions, for which the annual rate of basic compensation shall be $30,000:

(1) Deputy Secretary of Defense.
(2) Under Secretary of State.
(3) Administrator, Agency for International Development.
(4) Administrator of the National Aeronautics and Space Administration.
(5) Administrator of Veterans' Affairs.
(6) Administrator of the Housing and Home Finance Agency.
(7) Chairman, Atomic Energy Commission.
(8) Chairman, Council of Economic Advisers.
(9) Chairman, Board of Governors of the Federal Reserve System.
(10) Director of the Bureau of the Budget.
(11) Director of the Office of Science and Technology.
(12) Director of the United States Arms Control and Disarmament Agency.
(13) Director of the United States Information Agency.
(14) Director of the Federal Bureau of Investigation, Department of Justice, so long as the position is held by the present incumbent.
(15) Director of Central Intelligence.

(c) Level III of the Federal Executive Salary Schedule shall apply to the following offices and positions, for which the annual rate of basic compensation shall be $29,000:

(1) Deputy Attorney General.
(2) Deputy Postmaster General.
(3) Under Secretary of Agriculture.
(4) Under Secretary of Commerce.
(5) Under Secretary of Commerce for Transportation.
(6) Under Secretary of Health, Education, and Welfare.
(7) Under Secretary of the Interior.
(8) Under Secretary of Labor.
(9) Under Secretary of State for Political Affairs or Under Secretary of State for Economic Affairs.
(10) Under Secretary of the Treasury.
(11) Under Secretary of the Treasury for Monetary Affairs.
(12) Secretary of the Air Force.
(13) Secretary of the Army.
(14) Secretary of the Navy.
(15) Administrator of the Federal Aviation Agency.
(16) Administrator of General Services.
(17) Administrator of the Small Business Administration.
(18) Deputy Administrator of Veterans' Affairs.
(19) Deputy Administrator, Agency for International Development.
(20) Chairman of the National Mediation Board.
(21) Chairman, Civil Aeronautics Board.
(22) Chairman of the United States Civil Service Commission.
(23) Chairman of the Railroad Retirement Board.
(24) Chairman, Federal Communications Commission.
(25) Chairman, Board of Directors, Federal Deposit Insurance Corporation.
(26) Chairman of the Federal Home Loan Bank Board.
(27) Chairman of the Federal Maritime Commission.
(28) Chairman, Federal Power Commission.
(29) Chairman, Federal Trade Commission.
(30) Chairman, Interstate Commerce Commission.
(31) Chairman, National Labor Relations Board.

(32) Chairman, Securities and Exchange Commission.

(33) Chairman, Board of Directors of the Tennessee Valley Authority.

(34) Comptroller of the Currency.

(35) Commissioner of Internal Revenue.

(36) Director of Defense Research and Engineering, Department of Defense.

(37) Deputy Administrator of the National Aeronautics and Space Administration.

(38) Deputy Director of the Bureau of the Budget.

(39) Deputy Director of Central Intelligence.

(40) Director of the Office of Emergency Planning.

(41) Director of the Peace Corps.

(42) Chief Medical Director in the Department of Medicine and Surgery of the Veterans' Administration.

(43) Associate Director of the Federal Bureau of Investigation, Department of Justice, so long as the position is held by the present incumbent.

(44) Members, Atomic Energy Commission.

(45) Members, Board of Governors of the Federal Reserve System.

(46) Members, Council of Economic Advisers.

(47) Director of National Science Foundation.

(48) Deputy Administrator of the Housing and Home Finance Agency.

(49) President, Export-Import Bank of Washington.

(d) The President is authorized from time to time to place offices and positions in levels IV, V, and VI of the Federal Executive Salary Schedule in accordance with subsections (e), (f), and (g) of this section. Each such action shall be published in the Federal Register, except when it is determined by the President that such publication would be contrary to the interest of national security.

(e) Offices and positions which the President is authorized to place in level IV include assistant secretaries of executive and military departments, general counsels of executive departments, members of regulatory boards and commissions, deputy heads of large agencies, heads of certain agencies and bureaus, and such other offices and positions the duties and responsibilities of which he deems appropriate for this level. The annual rate of basic compensation of such offices and positions shall be $28,000.

(f) Offices and positions which the President is authorized to place in level V include heads of principal services and such other offices and positions the duties and responsibilities of which he deems appropriate for this level. The annual rate of basic compensation of such offices and positions shall be $27,000.

(g) Offices and positions which the President is authorized to place in level VI include heads and board members of smaller agencies, deputy heads of other agencies, and such other offices and positions the duties and responsibilities of which he deems appropriate for this level. The annual rate of basic compensation for such offices and positions shall be $26,000.

(h) Notwithstanding any other provision of law, the members (other than the Chairman or President, as applicable, or the Comptroller of the Currency in his capacity as a member of the Board of Directors of the Federal Deposit Insurance Corporation) of each of the boards and commissions, the Chairman or President of which is placed in level III of the Federal Executive Salary Schedule by subsection (c) of this section, shall be placed in level IV of such schedule.

SEC. 304. (a) Section 104 of title 3, United States Code (relating to the compensation of the Vice President), is amended by striking out "$35,000" and inserting in lieu thereof "$43,000".

(b) Section 105 of title 3, United States Code, is amended to read as follows:

"§ 105. Compensation of secretaries and executive, administrative, and staff assistants to President

"The President is authorized to fix the compensation of the six administrative assistants authorized to be appointed under section 106 of this title, of the Executive Secretary of the National Security Council, and of eight other secretaries or other immediate staff assistants in the White House Office at rates of compensation not to exceed that of level II of the Federal Executive Salary Schedule.".

Conforming changes in existing law

SEC. 305. The following provisions of law are hereby repealed:

(1) The Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2201–2209), establishing rates of basic compensation for heads of executive departments and other Federal officials.

(2) Section 3012(h) of title 10, United States Code, providing compensation of $22,000 a year for the Secretary of the Army.

(3) Section 3013(b) of title 10, United States Code, fixing the annual salaries of the Under Secretary and each Assistant Secretary of the Army at $20,000 a year.

(4) Section 5031(d) of title 10, United States Code, providing compensation of $22,000 a year for the Secretary of the Navy.

(5) Section 5033(c) of title 10, United States Code, providing the annual salary of $20,000 a year for the Under Secretary of the Navy.

(6) Section 304 of Public Law 87–651, approved September 7, 1962 (76 Stat. 526; 10 U.S.C. 5034, note), providing compensation of $20,000 a year for Assistant Secretaries of the Navy.

(7) Section 8012(g) of title 10, United States Code, providing compensation of $22,000 a year for the Secretary of the Air Force.

(8) Section 8013(b) of title 10, United States Code, fixing the annual salaries of the Under Secretary and each Assistant Secretary of the Air Force at $20,000 a year.

(9) Section 137(c) of title 10, United States Code, fixing the compensation of the General Counsel of the Department of Defense at the rate prescribed by law for assistant secretaries of executive departments.

(10) (A) The last sentence of section 22 a. of the Atomic Energy Act of 1954, as amended (68 Stat. 924; 71 Stat. 612; 42 U.S.C. 2032(a)), relating to the annual salaries of the Chairman and members of such Commission, which reads: "Each member, except the Chairman, shall receive compensation at the rate of $22,000 per annum; and the member designated as Chairman shall receive compensation at the rate of $22,500 per annum.".

(B) That part of the first sentence of section 27 a. of the Atomic Energy Act of 1954 (68 Stat. 926; 42 U.S.C. 2037(a)), relating to the salary of the Chairman of the Military Liaison Committee which reads: ", and who shall receive compensation at the rate prescribed for an Assistant Secretary of Defense".

(11) That part of Reorganization Plan Numbered 1 of 1958 (72 Stat. 1799 and 861; 75 Stat. 630; 5 U.S.C. 133z–15, note)—

(A) In section 2(b), relating to the annual salary of the Director of the Office of Emergency Planning, which reads: "and shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments";

(B) In section 2(c), relating to the annual salary of the Deputy Director of such Office, which reads: "shall receive compensation at the rate now or hereafter prescribed by law for the under secretaries referred to in section 104 of the Federal Executive Pay Act of 1956 (5 U.S.C. 2203),"; and

(C) In section 2(d) relating to the annual salaries of three Assistant Directors of such Office, which reads: "shall receive compensation at the rate now or hereafter prescribed by law for assistant secretaries of executive departments,".

(12) (A) That part of the second sentence of section 202(a) of the National Aeronautics and Space Act of 1958 (72 Stat. 429; 42 U.S.C. 2472(a)), relating to the annual salary of the Administrator of the National Aeronautics and Space Administration, which reads: ", and shall receive compensation at the rate of $22,500 per annum".

(B) That part of the first sentence of section 202(b) of such Act (72 Stat. 429; 42 U.S.C. 2472(b), relating to the annual salary of the Deputy Administrator of such Administration, which reads: ", shall receive compensation at the rate of $21,500 per annum,".

(13) (A) That part of section 201(f) of the National Aeronautics and Space Act of 1958 (72 Stat. 428; 42 U.S.C. 2471(f)), relating to the annual salary of a civilian executive secretary in the National Aeronautics and Space Council, which reads: "and shall receive compensation at the rate of $20,000 a year".

(B) That part of section 204 of such Act (72 Stat. 431, 432; 42 U.S.C. 2474(a) (1), and (d)), relating to the annual salary of the Chairman of the Civilian-Military Liaison Committee, as follows:

In subsection (a)(1), that part which reads: ", and shall receive compensation (in the manner provided in subsection (d)) at the rate of $20,000 per annum".

In the second sentence of subsection (d), that part which reads: "fixed by subsection (a)(1)".

(14) (A) That part of the second sentence of section 2(a) of the Act of May 26, 1949 (63 Stat. 111; 5 U.S.C. 151b(a)) as amended, relating to the rank and salary of the Counselor and of the Legal Adviser of the Department of State, which reads: "and shall receive the same salary as".

(B) The last sentence of section 2(a) of the Act of May 26, 1949 (63 Stat. 111; 5 U.S.C. 151b(a)) as amended, relating to the rate of basic compensation of the Deputy Under Secretaries of State, which reads: "Unless otherwise provided for by law, the rate of basic compensation of the Deputy Under Secretaries of State shall be the same as that of Assistant Secretaries of State.".

(C) That part of the second sentence of section 2(b) of the Act of May 26, 1949, as amended (73 Stat. 265; 5 U.S.C. 151b(b)), relating to the annual salary of the Under Secretary of State for Political Affairs or for Economic Affairs, as designated by the President, which reads: "shall receive compensation at the rate of $22,000 a year and".

(15) The last sentence of section 210(a) of title 38, United States Code, relating to the annual salary of the Administrator of Veterans' Affairs, Veterans' Administration, which reads: "He shall receive a salary of $21,000 a year, payable monthly.".

(16) (A) The last sentence of section 201 (a)(2) of the Federal Aviation Act of 1958 (72 Stat. 741; 49 U.S.C. 1321(a)(2)), relating to the annual salaries of the Chairman and members of the Civil Aeronautics Board, which reads: "Each member of the Board shall receive a salary at the rate of $20,000 per annum, except that the member serving as Chairman shall receive a salary at the rate of $20,500 per annum.".

(B) That part of the second sentence of section 301(a) of such Act (72 Stat. 744; 49 U.S.C. 1341(a)), relating to the annual salary of the Administrator of the Federal Aviation Agency, which reads: ", and who shall receive compensation at the rate of $22,500 per annum".

(C) That part of the second sentence of section 302(a) of such Act (72 Stat. 744; 49 U.S.C. 1342(a)), relating to the annual salary of the Deputy Administrator of such

Agency, which reads: "shall receive compensation at the rate of $20,500 per annum, and".

(17) (A) The last sentence of section 22 of the Arms Control and Disarmament Act (75 Stat. 632; 22 U.S.C. 2562), relating to the annual salary of the Director of the United States Arms Control and Disarmament Agency, which reads: "He shall receive compensation at the rate of $22,500 per annum.".

(B) The second sentence of section 23 of such Act (75 Stat. 632; 22 U.S.C. 2563), relating to the annual salary of the Deputy Director of such Agency, which reads: "He shall receive compensation at the rate of $21,500 per annum.".

(C) The second sentence of section 24 of such Act (75 Stat. 632; 22 U.S.C. 2564), relating to the annual salaries of the four Assistant Directors of such Agency, which reads: "They shall receive compensation at the rate of $20,000 per annum.".

(18) Section 3 of the Act of March 2, 1955 (69 Stat. 10; 5 U.S.C. 294, 293, 295a), relating to the annual salaries of certain officials of the Department of Justice, which reads:

"Sec. 3. (a) The compensation of the Deputy Attorney General shall be at the rate of $21,000 per annum.

"(b) The compensation of the Solicitor General shall be at the rate of $20,500 per annum.

"(c) The compensation of each Assistant Attorney General, other than the Administrative Assistant Attorney General, shall be at the rate of $20,000 per annum.".

(19) (A) The last sentence of section 102 (c) of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840; 5 U.S.C. 133z–15, note), relating to the annual salaries of the Chairman and members of the Federal Maritime Commission, which reads: "The Chairman of the Commission shall receive a salary at the rate of $20,500 per annum, and each of the other Commissioners shall receive a salary at the rate of $20,000 per annum.".

(B) That part of section 201 of such reorganization plan (75 Stat. 842; 5 U.S.C. 133z–15, note), relating to the annual salary of the Maritime Administrator in the Department of Commerce, which reads: "shall receive a salary at the rate of $20,000 per annum,".

(20) That part of the fourth sentence of section 4(a) of the Securities Exchange Act of 1934, as amended (74 Stat. 408 and 913; 15 U.S.C. 78d(a)), relating to the annual salaries of the Chairman and Commissioners of the Securities and Exchange Commission, which reads: "shall receive a salary at the rate of $20,000 a year, except that the Chairman shall receive additional salary at the rate of $500 a year and".

(21) Section 8 of the Food Additives Amendment of 1958 (72 Stat. 1789; 5 U.S.C. 2205, note), fixing the annual salary of the Commissioner of Food and Drugs at $20,000 per annum.

(22) That part of the first sentence of section 3 of the Area Redevelopment Act (75 Stat. 48; 42 U.S.C. 2502), relating to the annual salary of the Area Redevelopment Administrator in the Department of Commerce, which reads: "who shall receive compensation at a rate equal to that received by Assistant Secretaries of Commerce".

(23) The last sentence of section 203(b) (1) of the National Security Act of 1947 (72 Stat. 520; 5 U.S.C. 171c(b)(1)), relating to the annual salary of the Director of Defense Research and Engineering in the Department of Defense, which reads: "The compensation of the Director is that prescribed by law for the Secretaries of the military departments.".

(24) In section 303(a) of title 23, United States Code,

(A) That part of the second sentence, relating to the annual salary of the Federal Highway Administrator in the Department of Commerce, which reads: "shall receive basic compensation at the rate prescribed by law for Assistant Secretaries of executive departments and"; and

(B) The last sentence, relating to the annual salary of the Deputy Federal Highway Administrator in such department, which reads: "The Deputy Federal Highway Administrator shall receive basic compensation at a rate $1,000 less than the rate provided for the Federal Highway Administrator.".

(25) The last proviso in the paragraph under the heading "Immigration and Naturalization Service" and under the subheading "salaries and expenses" in the Department of Justice Appropriation Act, 1959 (72 Stat. 251; 5 U.S.C. 2206, note), relating to the annual salary of the Commissioner of the Immigration and Naturalization Service, which reads: ": *Provided further,* That, hereafter, the compensation of the Commissioner of the Immigration and Naturalization Service shall be $20,000 per annum".

(26) The second paragraph of section 3 of title 35, United States Code, relating to the annual salary of the Commissioner of Patents which reads: "The annual rate of compensation of the Commissioner shall be $20,000.".

(27) That part of section 4(a) of the Peace Corps Act (75 Stat. 612; 22 U.S.C. 2503 (a)), relating to the annual salaries of the Director and of the Deputy Director of the Peace Corps, which reads: ", whose compensation shall be fixed by the President at a rate not in excess of $20,000 per annum," and ", whose compensation shall be fixed by the President at a rate not in excess of $19,500 per annum".

(28) (A) Section 308 of title 39, United States Code, fixing the annual rate of basic compensation of the position of Chief Postal Inspector in the Post Office Department at $19,000.

(B) That part of the table of contents of chapter 3 of title 39, United States Code, which reads as follows:

"308. Chief Postal Inspector.".

(29) That part of the first sentence of section 4 of the International Travel Act of 1961 (75 Stat. 130; 22 U.S.C. 2124), relating to the annual salary of the Director of the United States Travel Service in the Department of Commerce, which reads: "who shall be compensated at the rate of $19,000 per annum,".

(30) Section 14(b) of the Federal Employees Health Benefits Act of 1959 (73 Stat. 716; 5 U.S.C. 3013(b)), which fixes the compensation of the Executive Director of the United States Civil Service Commission at $19,000 per annum.

(31) That part of the first sentence of section 107(c) of the Renegotiation Act of 1951, as amended (73 Stat. 211; 50 U.S.C. App. 1217(c)), relating to the annual salary of the General Counsel of the Renegotiation Board, which reads: ", and shall receive compensation at the rate of $19,000 per annum".

(32) (A) That part of the third sentence in section 201(a) of the National Capital Transportation Act of 1960 (74 Stat. 538; 40 U.S.C. 661(a)), relating to the annual salary of the Administrator of the National Capital Transportation Agency, which reads: ", and who shall receive compensation at a rate equal to the maximum rate for grade 18 of the General Schedule of the Classification Act of 1949, as amended, plus $500 per annum".

(B) That part of the first sentence of section 201(b) of such Act (74 Stat. 538; 40 U.S.C. 661(b)), relating to the annual salary of the Deputy Administrator of such Agency, which reads: ", and who shall receive compensation at a rate equal to the maximum rate for grade 18 of the General Schedule of the Classification Act of 1949, as amended".

(33) The last sentence of section 624(d) (1) of the Foreign Assistance Act of 1961 (75 Stat. 447; 22 U.S.C. 2384(d)(1)), as amended, fixing the compensation of certain officials in the Department of State, which reads: "The Inspector General, Foreign Assistance, shall receive compensation at the rate of $20,000 annually; the Deputy Inspector General, Foreign Assistance, shall receive compensation at the rate of $20,000 annually, and each Assistant Inspector General, Foreign Assistance, shall receive compensation at the rate of $19,000 annually.".

(34) That part of section 202 of the Act of July 1, 1960 (74 Stat. 305; 5 U.S.C. 623g), relating to the annual salary of the Administrative Assistant Secretary of Health, Education, and Welfare, which reads: ", and whose annual rate of basic compensation shall be $19,000".

(35) That part of the Public Works Appropriation Act, 1963, under the heading "DEPARTMENT OF THE INTERIOR" and under the caption "Bureau of Reclamation" and the subheading "administrative provisions" (76 Stat. 1223; 43 U.S.C. 373a–1), relating to the annual salary of the present incumbent of the position of Commissioner of the Bureau of Reclamation, which reads:

"After September 30, 1962, the position of Commissioner of Reclamation shall have the annual rate of compensation as provided for positions listed in section 2205(a) of title 5, United States Code, so long as held by the present incumbent.".

(36) That part of the Public Works Appropriation Act, 1962, under the heading "DEPARTMENT OF THE INTERIOR" and under the caption "Bonneville Power Administration" and the subheading "construction" (75 Stat. 728; 16 U.S.C. 832a–1), relating to the annual salary of the present incumbent of the position of Administrator, Bonneville Power Administration, which reads:

"After October 1, 1961, the position of Administrator, Bonneville Power Administration, shall have the same annual rate of compensation as that provided for positions listed in section 2205(b) of title 5, United States Code, so long as held by the present incumbent.".

(37) Section 205 of the Public Works Appropriation Act, 1958 (71 Stat. 423; 5 U.S.C. 483–1 note, 2206 note), as amended, relating to the salary of the present incumbent of the position of Administrator of the Southwestern Power Administration in the Department of the Interior, and to the salary of the Administrative Assistant Secretary of such Department, which reads:

"Sec. 205. After August 31, 1957, the salary of the Administrator of the Southwestern Power Administration shall be the same as the salary of the Administrator of the Bonneville Power Administration, so long as held by the present incumbent; and the salary of the Administrative Assistant Secretary of the Department shall be the same as the Solicitor of the Department of the Interior.".

(38) The provisio in the first paragraph under the heading "Federal Bureau of Investigation" and under the subheading "salaries and expenses" in the Department of Justice Appropriation Act, 1964 (77 Stat. 782; Public Law 88–245), relating to the annual salary of the present incumbent of the position of Director of the Federal Bureau of Investigation, which reads: ": *Provided,* That the compensation of the Director of the Bureau shall be $22,000 per annum so long as the position is held by the present incumbent" and provisions to the same effect contained in other appropriation Acts enacted prior to the effective date of this section relating to the annual salary of the present incumbent of the position of Director of the Federal Bureau of Investigation.

(39) That part of section 7801(b)(2) of the Internal Revenue Code of 1954, as amended, relating to the annual salary of the Assistant General Counsel of the Treasury Department who shall be the Chief Counsel for the Internal Revenue Service,

which reads: "and shall receive basic compensation at the annual rate of $19,000".

(40) (A) Sections 3018, 5014, and 8018 of title 10, United States Code, relating to the compensation of the general counsels of the military departments.

(B) The respective tables of contents of chapters 303, 503, and 803 of title 10, United States Code, are amended by striking out

"3018. Compensation of General Counsel.";
"5014. Compensation of General Counsel."; and
"8018. Compensation of General Counsel.".

(41) The proviso contained in the first sentence of section 5(d) of the Farm Credit Act of 1953, as amended (75 Stat. 793; 12 U.S.C. 636d(d)), relating to the annual salaries for not more than three positions of deputy governor in the Farm Credit Administration, which reads: ": *Provided,* That the salary of not more than three positions of deputy governor each shall be fixed by the Board at a rate not exceeding the maximum scheduled rate of the General Schedule of the Classification Act of 1949, as amended".

(42)(A) That part of section 2(a) of Reorganization Plan Numbered 2 of 1962 (76 Stat. 1253; 5 U.S.C. 133z–15, note), relating to the compensation of the Director of the Office of Science and Technology, which reads: "and shall receive compensation at the rate of $22,500 per annum".

(B) That part of section 2(b) of such reorganization plan (76 Stat. 1253; 5 U.S.C. 133z–15, note), relating to the compensation of the Deputy Director of the Office of Science and Technology, which reads: "and receive compensation at the rate of $20,500 per annum".

(C) That part of section 22(a) of such reorganization plan (76 Stat. 1255; 5 U.S.C. 133z–15, note), relating to the compensation of the Director of the National Science Foundation, which reads: "shall receive compensation at the rate of $21,000 per annum and".

(43) That part of section 624(a) of the Foreign Assistance Act of 1961 (75 Stat. 447; 22 U.S.C. 2384(a)), relating to the compensation of twelve officers in the agency primarily responsible for administering part I of such Act, which reads: "of whom—

"(1) one shall have the rank of an Under Secretary and shall be compensated at a rate not to exceed the rate authorized by law for any Under Secretary of an Executive Department;

"(2) one shall have the rank of Deputy Under Secretary and shall be compensated at a rate not to exceed the rate authorized by law for any Deputy Under Secretary of an Executive Department; and

"(3) ten shall have the rank of Assistant Secretaries and shall be compensated at a rate not to exceed the rate authorized by law for any Assistant Secretary of an Executive Department,".

(44) That part of the first sentence of section 104(b) of the Immigration and Nationality Act (66 Stat. 174; 8 U.S.C. 1104(b)), relating to the rank and compensation of the Administrator, Bureau of Security and Consular Affairs, which reads: "and compensation".

SEC. 306. (a)(1) Section 508 of title 28, United States Code, is amended to read as follows:

§ 508. Salaries.

"Subject to subsection (d) of section 303 of the Federal Executive Salary Act of 1964, the Attorney General shall fix the annual salaries of United States attorneys, assistant United States attorneys, and attorneys appointed under section 503 of this title at rates of compensation not in excess of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended.".

(2) Subject to sections 303(d) and 501 (a) and (c) of this Act, each incumbent United States attorney and assistant United States attorney shall be paid compensation at a rate equal to that of attorneys of comparable responsibility and professional qualifications, as determined by the Attorney General, whose compensation is prescribed in the General Schedule of the Classification Act of 1949, as amended.

(b) Section 411 of the Foreign Service Act of 1946, as amended (70 Stat. 704; 22 U.S.C. 866), relating to the per annum salaries of chiefs of mission, is amended by striking out the second sentence of that section and inserting in lieu thereof the following: "The per annum salaries of chiefs of mission within each class shall be at the rate provided by law for the levels of the Federal Executive Salary Schedule as follows: class 1, the rate for level II; class 2, the rate for level III; class 3, the rate for level IV; and class 4, the rate for level V.".

(c) That part of section 201(f) of the National Aeronautics and Space Act of 1958 (72 Stat. 428; 42 U.S.C. 2471(f)), fixing a limit of $19,000 on the compensation of seven persons in the National Aeronautics and Space Council, is amended by striking out "compensated at the rate of not more than $19,000 a year," and inserting in lieu thereof "compensated at not to exceed the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended,".

(d) Clause (A) of section 203(b)(2) of the National Aeronautics and Space Act of 1958 (72 Stat. 429; 42 U.S.C. 2473(b)(2)), as amended, is amended to read as follows: (A) to the extent the Administrator deems such action necessary to the discharge of his responsibilities, he may appoint not more than four hundred and twenty-five of the scientific, engineering, and administrative personnel of the Administration without regard to such laws, and may fix the compensation of such personnel not in excess of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended, and".

(e) Section 6(f) of the Act of September 24, 1959 (73 Stat. 706; 5 U.S.C. 2376(f)), relating to the maximum compensation payable to employees of the Advisory Commission on Intergovernmental Relations, is amended by striking out "at a rate in excess of $20,000 per annum" and by inserting in lieu thereof "at a rate in excess of the rate provided by law for level VI of the Federal Executive Salary Schedule".

(f) The Atomic Energy Act of 1954, as amended, is further amended as follows:

(1) In the last sentence of section 24 a. (68 Stat. 925; 71 Stat. 612; 42 U.S.C. 2034 (a)), relating to the annual salary of the General Manager of such Commission, (A) by inserting "and" immediately before "shall be removable by the Commission" and (B) by striking out that part which reads: ", and shall receive compensation at a rate determined by the Commission, but not in excess of $22,000 per annum";

(2) In the last sentence of section 24 b. (71 Stat. 612, 42 U.S.C. 2034(b)), relating to the annual salary of the Deputy General Manager of such Commission, (A) by inserting "and" immediately before "shall be removable by the General Manager" and (B) by striking out that part which reads: ", and shall receive compensation at a rate determined by the General Manager, but not in excess of $20,500 per annum";

(3) In the last sentence of section 24 c. (71 Stat. 612; 42 U.S.C. 2034(c)), relating to the annual salaries of the Assistant General Managers (or their equivalents) of such Commission, (A) by inserting "and" immediately before "shall be removable by the General Manager" and (B) by striking out that part which reads: ", and shall receive compensation at a rate determined by the General Manager, but not in excess of $20,000 per annum";

(4) In the second sentence of section 25 a. (68 Stat. 925; 71 Stat. 612; 42 U.S.C. 2035 (a)), relating to the annual salaries of directors of program divisions of such Commission, by striking out that part which reads: "and shall receive compensation at a rate determined by the Commission, but not in excess of $19,000 per annum";

(5) In section 25 b. (68 Stat. 925; 71 Stat. 612; 42 U.S.C. 2035(b)), relating to the annual salary of the General Counsel of such Commission, by striking out that part which reads: "and shall receive compensation at a rate determined by the Commission, but not in excess of $19,500 per annum";

(6) In the first sentence of section 25 c. (68 Stat. 925; 71 Stat. 612; 42 U.S.C. 2035 (c)), relating to the annual salary of the Director of the Inspection Division in such Commission, by striking out that part which reads: "and shall receive compensation at a rate determined by the Commission, but not in excess of $19,000 per annum";

(7) In the last sentence of section 25 d. (71 Stat. 612; 42 U.S.C. 2035(d)), relating to the annual salaries of certain executive management positions in such Commission, (A) by inserting "and" immediately before "shall be removable by the General Manager" and (B) by striking out that part which reads: "; and shall receive compensation at a rate determined by the General Manager, but not in excess of $19,000 per annum"; and

(8) In the second sentence of section 28 (68 Stat. 926; 42 U.S.C. 2038), relating to the compensation of the active member of the Armed Forces serving as Director of the Division of Military Application in such Commission, by striking out that part which reads "and the compensation prescribed in section 25" and inserting in lieu thereof, "and the compensation for directors of other program divisions".

(g) Section 2 of the Act of July 30, 1946, as amended (60 Stat. 712; 70 Stat. 740; 22 U.S.C. 287n), relating to the compensation of the United States representatives and alternates at sessions of the General Conference of the United Nations Educational, Scientific, and Cultural Organization, is amended by striking out "Such representatives and alternates shall each be entitled to receive compensation at such rates, not to exceed $15,000 per annum, as the President may determine," and inserting in lieu thereof "Such representatives and alternates shall each be entitled to receive compensation at such rates provided by section 412 of the Foreign Service Act of 1946, as amended, as the President may determine,".

(h) Section 2 of the Act of July 1, 1947 (61 Stat. 215; 22 U.S.C. 289a), relating to the compensation of the United States representatives and alternates at sessions of the general council and at sessions of the executive committee of the International Refugee Organization, is amended by striking out "Such representative or representatives shall each be entitled to receive compensation at a rate not to exceed $12,000 per annum, and any such alternate shall be entitled to receive compensation at a rate not to exceed $10,000 per annum," and inserting in lieu thereof "Such representative or representatives, and any such alternate, shall be entitled to receive compensation at one of the rates provided by section 412 of the Foreign Service Act of 1946, as amended."

(i) The third sentence of section 2 of the Act of May 29, 1959 (73 Stat. 63; 50 U.S.C. 402, note), is amended to read as follows: "Except as provided in subsection (d) of section 303 of the Federal Executive Salary Act of 1964, no officer or employee of the National Security Agency shall be paid basic compensation at a rate in excess of the highest rate of basic compensation contained in such General Schedule.".

(j)(1) Sections 2 and 3 of the Act of July 25, 1958 (72 Stat. 414; D.C. Code, secs.

1–204a and 1–204b), relating to the compensation of the Commissioners of the District of Columbia, are amended to read as follows:

"Sec. 2. Except as otherwise provided by this section and section 3 of this Act—

"(1) the compensation of the Commissioners of the District of Columbia shall be at the rate of $26,500 each per annum; and

"(2) the Commissioner detailed from the Corps of Engineers of the United States Army shall receive an annual compensation which, when added to any compensation he receives as an officer of the United States Army, will equal the compensation authorized by paragraph (1) of this section.

"Sec. 3. Notwithstanding any other provision of law—

"(1) the compensation of the President of the Board of Commissioners of the District of Columbia shall be at the rate of $27,000 per annum; and

"(2) if the Commissioner detailed from the Corps of Engineers of the United States Army is chosen President of the Board of Commissioners, he shall receive, as President of the Board, an annual compensation which, when added to any compensation he receives as an officer of the United States Army, will equal the compensation authorized by paragraph (1) of this section.".

(2) Section 11–702(d) of the District of Columbia Code (77 Stat. 484; Public Law 88–241), relating to the rates of annual salary of the chief judge and the associate judges of the District of Columbia Court of Appeals, is amended—

(A) by striking out "$19,000" and inserting in lieu thereof "$26,000"; and

(B) by striking out "$18,500" and inserting in lieu thereof "$25,500".

(3) Section 11–902(d) of the District of Columbia Code (77 Stat. 487; Public Law 88–241), relating to the rates of annual salary of the chief judge and the associate judges of the District of Columbia Court of General Sessions, is amended—

(A) by striking out "$18,000" and inserting in lieu there "$25,000"; and

(B) by striking out "$17,500" and inserting in lieu thereof "$24,500".

(4) The first sentence of the second paragraph of section 2 of the District of Columbia Revenue Act of 1937, as amended (D.C. Code, sec. 47–2402), relating to the compensation of the person appointed to the District of Columbia Tax Court, is amended by striking out "$17,500" and inserting in lieu thereof "$24,500".

(5) That part of the salary schedule in section 1 of the District of Columbia Teachers' Salary Act of 1955, as amended (76 Stat. 1229; D.C. Code, sec. 31–1501), relating to the compensation of the Superintendent of Schools, and Deputy Superintendent of Schools, of the District of Columbia, which reads:

"Class 1: Superintendent of Schools	$19,000	--------	--------	--------	--------	--------	--------	--------	-----
Class 2: Deputy Superintendent	16,500	--------	--------	--------	--------	--------	--------	--------	-----".

is amended to read as follows:

"Class 1: Superintendent of Schools	$26,000	--------	--------	--------	--------	--------	--------	--------	-----
Class 2: Deputy Superintendent	22,000	--------	--------	--------	--------	--------	--------	--------	-----".

(6) That part of the salary schedule in section 101 of the District of Columbia Police and Firemen's Salary Act of 1958 (72 Stat. 480), as amended (sec. 4–823, et seq., D.C. Code, 1961 edition), relating to the compensation of the Fire Chief and Chief of Police, which reads:

"Class 10. Fire Chief. Chief of Police.	17,000	17,400	17,800	18,200	--------	--------	18,600	19,000	--------".

is amended to read as follows:

"Class 10. Fire Chief. Chief of Police.	21,000	21,500	22,000	22,500	--------	--------	23,000	23,500	--------".

(k)(1) The catchline of section 3012 of title 10, United States Code, is amended by striking out ";compensation".

(2) The table of contents of chapter 303 of such title 10 is amended by striking out

"3012. Secretary of the Army: powers and duties; delegation by; compensation."

and inserting in lieu thereof

"3012. Secretary of the Army: powers and duties; delegation by.".

(3) The catchline of section 5031 of such title 10 is amended by striking out "; compensation".

(4) The table of contents of chapter 505 of such title 10 is amended by striking out

"5031. Secretary of the Navy: responsibilities; compensation."

and inserting in lieu thereof

"5031. Secretary of the Navy: responsibilities.".

(5) The catchline of section 5033 of such title 10 is amended by striking out "; compensation".

(6) The table of contents of chapter 505 of such title 10 is amended by striking out

"5033. Under Secretary of the Navy: appointment; duties; compensation."

and inserting in lieu thereof

"5033. Under Secretary of the Navy: appointment; duties.".

(7) The catchline of section 8012 of such title 10 is amended by striking out "; compensation".

(8) The table of contents of chapter 803 of such title 10 is amended by striking out

"8012. Secretary of the Air Force: powers and duties; delegation by; compensation."

and inserting in lieu thereof

"8012. Secretary of the Air Force: powers and duties; delegation by.".

CHANGES IN POSITION TITLES

Sec. 307. Whenever reference is made in any law or reorganization plan to the—

Administrative Assistant Attorney General,

Administrative Assistant Secretary of the Interior,

Administrative Assistant Secretary of Agriculture,

Administrative Assistant Secretary of Labor,

Administrative Assistant Secretary of the Treasury,

or

Administrative Assistant Secretary of Health, Education, and Welfare,

such reference shall be held and considered to mean the

Assistant Attorney General for Administration,

Assistant Secretary of the Interior for Administration,

Assistant Secretary of Agriculture for Administration,

Assistant Secretary of Labor for Administration,

Assistant Secretary of the Treasury for Administration, or

Assistant Secretary of Health, Education, and Welfare for Administration,

respectively.

LIMITATION ON SALARIES FIXED BY ADMINISTRATIVE ACTION

Sec. 308. Except as provided by this Act and notwithstanding the provisions of any other law, the head of any executive department, independent establishment, or agency in the executive branch who is authorized to fix by administrative action the annual rate of basic compensation for any position, officer, or employee shall not fix such rate in excess of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended. Nothing contained in this section shall be construed to impair the authorities provided in the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a and following), in section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819), or in section 5240 of the Revised Statutes (12 U.S.C. 481, relating to the Comptroller of the Currency).

POSITIONS PLACED UNDER CLASSIFICATION ACT OF 1949

Sec. 309. Each office or position in the executive branch specifically referred to in, or covered by, any conforming change in law made by section 305 of this Act which is not placed in a level of the Federal Executive Salary Schedule pursuant to section 303 of this Act, shall be placed in the appropriate grade of the General Schedule of the Classification Act of 1949, as amended, in accordance with the provisions of such Act.

SAVING PROVISIONS

Sec. 310. (a) Except as provided by this Act, the changes in existing law made by this Act shall not affect any office or position existing immediately prior to the effective date of any such changes in existing law, the compensation attached to such office or position, and any incumbent thereof, his appointment thereto, and his entitlement to receive the compensation attached thereto, until appropriate action is taken in accordance with this Act or other law.

(b) Nothwithstanding any provision of this Act, the rate of basic, gross, or total annual compensation received by any officer or employee immediately prior to the effective date of this section shall not be reduced by reason of enactment of this Act.

Mr. MURRAY (during the reading of title III). Mr. Chairman, I ask unanimous consent that the further reading of title III be dispensed with and that it be printed in the Record and be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk concluded the reading of title III.

AMENDMENT OFFERED BY MR. JOHANSEN

Mr. JOHANSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Johansen: On page 67, line 20, strike out all of subsection (j) down through the material which follows line 11 on page 70; and on page 70, line 12, strike out "(k)" and insert in lieu thereof "(j)".

Mr. JOHANSEN. Mr. Chairman, the effect of this amendment is to eliminate all of the officials of the municipal government of the District of Columbia from the provisions of this bill.

I direct your attention first of all to the fact that this is a provision of the bill and a provision that was added to this bill which not only was not included in the March 12 bill but which was specifically rejected on March 12 when it was offered as an amendment.

It is completely true that since March 12 hearings were held on this subject matter by the Committee on the District of Columbia, but this bill comes to the floor of the House today under the sponsorship and under the aegis of the Committee on Post Office and Civil Service.

This is one of the features of this bill which as a result of the ramrod and railroad procedures followed in the committee was not a subject of any hearings or any testimony nor was there any opportunity for discussion.

I would like to point out a further fact with respect to this provision in this subsection of the bill. Here is an area in which the principle of comparability can be reduced to as near an exact science as any segment or any section of this entire bill. What happens to comparability under these provisions?

I invite the attention of the House, and I am going to read some extracts from page 7 of the minority views. I point out the fact that the District officials in many instances are now above comparability and that this section of the bill would aggravate and would add to and further distort the excessive comparability that is involved.

Consider the matter of the District of Columbia Commissioners who would be paid $7,500 a year more or a salary of $26,500 under this bill. They would receive more compensation than the mayors in 16 out of the 21 largest cities in the United States with only 4 cities paying their mayors higher salaries.

The District of Columbia Police Chief who now earns a salary or can earn a salary up to $19,000 a year is presently the eighth highest paid police chief in all cities in the United States of over one-half million population. If the salary is raised to a maximum of $23,500, as provided in this section, only the police chiefs in Chicago and New York and Los Angeles will be paid more.

The District of Columbia Fire Chief fares even better. His present maximum salary of $19,000 makes him the sixth highest paid fire chief in all cities of over 500,000 population. If his salary is permitted to go to a maximum of $23,500, as provided in this section, he will be the third highest paid fire chief in the United States, outranked only by the fire chiefs in Chicago and Los Angeles.

This is comparability with a vengeance, I submit to my colleagues.

Listen also to this. The judges of the District of Columbia court of general sessions at their present salary of $17,500 now earn more money than the judges in comparable general trial courts in 25 of our States.

I invite the attention of the committee to this—we have been talking about comparability, the kind that has a half-billion-dollar leeway one way or the other.

If the salaries of the judges of the District of Columbia Court of General Sessions are increased, as proposed in this bill, to $24,500, they will be receiving more money than comparable judges in 44 of our States.

I urge the adoption of the amendment.

Mr. MORRISON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this provision affects fewer than 31 people in the District of Columbia. The 3 Commissioners, 23 judges, 2 school superintendents, the chief of police, and the fire chief. The total cost will be less than $200,000.

The chairman of the Committee on the District of Columbia of the House states that his committee held extensive hearings on these increases, and I should like to yield to him at this time.

Mr. McMILLAN. Mr. Chairman, I appreciate the gentleman from Louisiana yielding to me for a few minutes.

I wish to say that there has been great confusion in the District of Columbia since the pay raise bill of two years ago was passed. At the present time there are five clerks in the District of Columbia who receive more salary than the District Commissioners. This is a bad situation and the fault of the House of Representatives, since the salary increase bill passed 2 years ago by the House increased the salaries of the clerks to rates higher than the District Commissioners salary.

We have only three District Commissioners and they are supposed to be the head of the District of Columbia executive branch of the Government. It was my understanding that when this form of government was created approximately 100 years ago the Commissioners were to be the chief executives and to receive the highest salaries paid any employees in the executive branch of the District Government.

I may state that some of us do not agree with everything or all the regulations issued by the Commissioners. Some of us do not agree with all the decisions rendered by the judges in the District. If we are to have good judges and good commissioners we should take care of this situation by accepting this provision of the pay bill.

Mr. MORRISON. Mr. Chairman, I urge that the amendment be voted down.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. GROSS. Mr. Chairman, Members of the House ought to understand that no hearings whatever were held by the Committee on Post Office and Civil Service with regard to including officials and employees of the District of Columbia. For the life of me I do not understand why members of our committee were not even notified that the Committee on the District of Columbia was holding hearings on this provision which has been inserted in the bill. If we are going to be responsible for legislation brought to the House, it seems to me we should have had some testimony presented from the District government with respect to justification of these salary increases. This is a sad and sorry way in which to legislate.

Mr. JOHANSEN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Michigan.

Mr. JOHANSEN. Would the gentleman not agree that the issue here is not a question of whether it involves a few hundred thousand dollars of additional money, but the issue is the pattern of excessive payment which is set forth and the abuse of the principle of comparability which, if we accept it in this instance, will become a pattern for other abuses of a similar type?

Mr. GROSS. The gentleman is exactly correct, and I support the amendment he has offered.

The CHAIRMAN. The question is on the amendment of the gentleman from Michigan [Mr. JOHANSEN].

The question was taken; and on a division (demanded by Mr. JOHANSEN) there were—ayes 32, noes 122.

So the amendment was rejected.

The Clerk read as follows:

TITLE IV—FEDERAL JUDICIAL SALARIES

SEC. 401. This title may be cited as the "Federal Judicial Salary Act of 1964".

SEC. 402. (a) The rates of basic compensation of officers and employees in or under the judicial branch of the Government whose rates of compensation are fixed by or pursuant to paragraph (2) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C. 102(a)(2)), section 3656 of title 18, United States Code, the third sentence of section 603, section 604(a)(5), or sections 672 to 675, inclusive, of title 28, United States Code, are hereby increased by amounts which reflect the respective applicable increases provided by title I of this Act in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended.

(b) The limitations provided by applicable law on the effective date of this section with respect to the aggregate salaries payable to secretaries and law clerks of circuit and district judges are hereby increased by amounts which reflect the respective applicable increases provided by title I of this Act in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended.

(c) Section 753(e) of title 28, United States Code (relating to the compensation of court reporters for district courts), is amended by striking out the existing salary limitation contained therein and inserting a new limitation which reflects the respective applicable increases provided by title I of this Act in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended.

(d) Section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended, relating to the compensation of full-time and part-time referees in bankruptcy, is amended by striking out the existing compensation limitations contained therein and inserting new limitations of "$22,500" and "$11,000", respectively.

SEC. 403. (a) Section 5 of title 28, United States Code, relating to the salaries of the Chief Justice of the United States and of the Associate Justices of the Supreme Court of the United States, is amended by striking out "$35,500" and substituting therefor "$43,000", and by striking out "$35,000" and substituting therefor "$42,500".

(b) Section 44(d) of title 28, United States Code, relating to circuit judges, is amended by striking out "$25,500" and substituting therefor "$33,000".

(c) Section 135 of title 28, United States Code, relating to district judges, is amended by striking out "$22,500" and substituting therefor "$30,000", and by striking out

"$23,000" and substituting therefor "$30,500".

(d) Section 173 of title 28, United States Code, relating to judges of the Court of Claims, is amended by striking out "$25,500" and substituting therefor "$33,000".

(e) Section 213 of title 28, United States Code, relating to judges of the Court of Customs and Patent Appeals, is amended by striking out "$25,500" and substituting therefor "$33,000".

(f) Section 252 of title 28, United States Code, relating to judges of the Customs Court, is amended by striking out "$22,500" and substituting therefor "$30,000".

(g) The first paragraph of section 603 of title 28, United States Code, relating to the compensation of the Director and the Deputy Director of the Administrative Office of the United States Courts, is amended to read as follows:

"The Director shall receive a salary of $28,000 a year. The Deputy Director shall receive a salary of $27,000 a year."

(h) Subsection (b) of section 792 of title 28, United States Code, relating to the compensation of commissioners of the Court of Claims, is amended to read as follows:

"(b) Each commissioner shall receive basic compensation at the rate of $27,000 a year, and also all necessary traveling expenses and a per diem allowance as provided in the Travel Expense Act of 1949, as amended, while traveling on official business and away from Washington, District of Columbia."

(i) Section 7443(c) of the Internal Revenue Code of 1954 (68A Stat. 879), as amended, relating to judges of the Tax Court of the United States, is further amended by striking out "$22,500" and substituting therefor "$30,000".

(j) Section 867(a)(1) of title 10, United States Code, relating to judges of the Court of Military Appeals, is amended by striking out "$25,500" and substituting therefor "$33,000".

Mr. MURRAY. Mr. Chairman, I ask unanimous consent that the further reading of title IV be dispensed with and that it be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chariman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. UDALL: On page 78, immediately following line 2, insert the following new title:

"TITLE V—PERMANENT SYSTEM FOR THE ESTABLISHMENT AND MAINTENANCE OF PROPER SALARY RELATIONSHIPS IN FEDERAL EXECUTIVE, JUDICIAL, CONGRESSIONAL, AND CAREER SALARIES

"SEC. 501. (a) It is the sense of the Congress that—

"(1) the salary relationships established by this Act among and between the salary rates of—

"(A) the General Schedule of the Classification Act of 1949, as amended, and the Postal Field Service Schedule, in title I,

"(B) Members of Congress and the Speaker of the House of Representatives in title II,

"(C) Federal executives in title III, and

"(D) Federal judges in title IV, are consistent with the principle of comparability of Federal and private enterprise salaries contained in the Federal Salary Reform Act of 1962, and

"(2) such salary relationships should be maintained and continued, in principle, in the future in the interest of maximum efficiency in the Government.

"(b) In accordance with the policy stated in subsection (a) of this section, whenever the Congress shall increase by law the salary rates of the General Schedule of the Classification Act of 1949, as amended, the salary rate of each office or position within the purview of sections 203 and 204 of title II, sections 303 and 304 of title III, and section 403 of title IV, of this Act, shall be increased automatically, in accordance with the effective date provisions applicable to the increases so made by the Congress in the salary rates of such schedule, by a percentage equal to the greater of—

"(1) the percentage of the increase so made by the Congress in the maximum salary rate of such schedule, or

"(2) the average percentage of the increases so made by the Congress in the respective maximum salary rates of all grades of such schedule."

And on page 78, lines 3 and 4, redesignate "TITLE V" and "SEC. 501." as "TITLE VI" and "SEC. 601.", respectively.

Mr. UDALL. Mr. Chairman, this amendment falls on the last page of this bill, so I think it is apparent that we are nearing the end of the consideration of amendments. I will not attempt to pass this off as a little, old, unimportant amendment. I think it is an important amendment. I think it significantly improves the bill, and I ask that the committee adopt it. I pointed out just a little while ago that since 1866 in the administration of Andrew Johnson we have had four raises for the Members of Congress, and I suspect we have had about the same number for Cabinet members, heads of departments, and the other top people that really make this important Government run. Now, this is ridiculous. This explains why we are in this situation which we have this year. The congressional and executive and judicial salaries have been a part of this vicious cycle I wrote all of you about in this "Dear Colleague" letter yesterday. We make regular adjustments in career salaries every year or 2 years, but we wait 15 years on the average before we make any adjustment in congressional or Cabinet or top executive salaries. The result is that we get so far behind on what an adequate salary might be that we compromise. In 1955, when the last raise was put into effect, President Eisenhower's commission recommended a $30,000 salary for Cabinet members and a $27,500 salary for Members of Congress. This was compromised and compromised until we ended up with the inadequate salary which we have today.

The Randall Commission recommended last year that Cabinet salaries be $50,000; congressional salaries $35,000. And so we water down and compromise because we are so far behind that it takes a big bite to catch up, and then the cycle starts all over again. The hard fact of the matter is that the salaries we adopt in this bill will probably be in effect until 1980 if we follow the old history. I want to break this cycle. I want to set up a new system whereby we have orderly, small adjustments and keep this whole Federal pay structure in proportion.

We are establishing in this bill a structure for every single Federal employee from the top to the bottom, and if we begin to distort it in future years at the bottom and in the middle without keeping the top salaries in proportion we are going to be right back where we are today.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. UDALL. I yield.

Mr. CUNNINGHAM. Mr. Chairman, I am not going to speak on the amendment. We were on title IV, and I thought I understood the gentleman to say that he had an amendment to title IV.

Mr. UDALL. This is a new title, title V, following the end of title IV, and then we renumber the following sections.

Mr. CUNNINGHAM. There was no inquiry as I recall it from the Chair asking whether there were any amendments to title IV.

Mr. UDALL. The gentleman would have to address his inquiry to the Chair; I cannot help him.

Mr. CUNNINGHAM. The reason for the parliamentary inquiry is this. Have we passed title IV or have we not?

The CHAIRMAN. The Chair understands that this is a new title. If there are further amendments to title IV, they will be in order.

Mr. CUNNINGHAM. I thank the Chair.

Mr. MORRISON. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield.

Mr. MORRISON. Mr. Chairman, I want to commend the gentleman for his dedication, his thoroughness and the tremendous effort he has put forth on this whole salary problem. I see no reason why we should not proceed and adopt his amendment.

Mr. UDALL. I thank the gentleman.

Mr. CORBETT. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman.

Mr. CORBETT. Mr. Chairman, I, too, would like to commend the gentleman on what I think is a splendid amendment. I would like to recommend it, particularly to the people on this side of the aisle. I believe it will end future embarrassment and will do a great deal to prevent the distortion that the gentleman spoke of.

I strongly urge the adoption of this amendment.

Mr. UDALL. I thank the gentleman.

Mrs. ST. GEORGE. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the lady from New York.

Mrs. ST. GEORGE. Mr. Chairman, I also would like to add my commendation to those of my colleagues of the gentleman. I think this is a splendid amendment. I think it carries out a theory that I have long championed. In fact, all the years I have been in the Congress I have urged that these things should be done on an automatic basis so that we are not caused this embarrassment, so that the salary structure should not get completely out of kilter. I think it is a splendid amendment and I certainly hope the Committee and the House will adopt it.

Mr. MORTON. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield.

Mr. MORTON. Mr. Chairman, I would like to ask the gentleman how is this comparability to be determined?

Mr. UDALL. The adjustments in the executive, legislative, and judicial salaries will be made to cover the Federal salary structure in proportion. If the top of the Classification Act, let us say GS-18, is raised 3 percent, then we would raise Cabinet officers, sub-Cabinet officers and department heads and Members of Congress 3 percent. The formula is a little more complicated than that, but that is the essence of it.

Mr. MORTON. The gentleman realizes, looking at it from the other side of the street, that in industry a great many industrial salaries are determined as to comparability on Federal salaries and that under the gentleman's amendment we could get into a vicious cycle and have the salary structure escalated not on a sound economic basis but by one force being against another.

Mr. UDALL. I do not understand that there is any comparability comparison that is made between legislative, executive and judicial salaries in the Federal Establishment and salaries in private industry.

Mr. MORTON. Many private-industry salaries are determined as to their comparability by Federal salaries.

The CHAIRMAN. In response to the earlier inquiry of the gentleman from Nebraska [Mr. Cunningham], the Chair will state to the gentleman if he has an amendment or if there is any other amendment to title IV of the bill, it must be presented and voted on at this time before the vote is taken on the amendment which has been offered by the gentleman from Arizona [Mr. Udall].

Mr. CUNNINGHAM. Mr. Chairman, I have no amendments. I just wanted to make sure that if anyone did have an amendment, we had not gone beyond the consideration of title IV.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I should like to ask the gentleman from Arizona [Mr. Udall] a question or two. Why was this amendment not submitted in committee when the bill was considered there? This appears to be a far-reaching proposal.

Mr. UDALL. Will the gentleman yield?

Mr. GROSS. Yes, I yield to the gentleman from Arizona.

Mr. UDALL. Well, I would respond to the gentleman's question by saying that this whole problem of freezing top salaries for the past 15 or 20 years has concerned me since we originally took up the consideration of this legislation. I tried another proposal out on the members of the committee and did not obtain a very enthusiastic response. In fact, my feelings were hurt. That proposal was the establishment of this Commission. Then it seems to me that perhaps this formula as contained in the amendment which I have offered today was the answer. I began to work it up. We had drafting difficulties and we had other technical difficulties. I did not get it ready until after consideration of this measure in the committee.

Mr. GROSS. Let me ask the gentleman if it is not true that we have no testimony whatever from representatives of the Federal judiciary, from representatives of the executive branch of Government with respect to this amendment?

Mr. UDALL. If the gentleman will yield further, I have a letter from the Comptroller General of the United States, dated June 8, just 2 days ago, in which he has analyzed this amendment and says that it does what I say it will do and, in effect, approves it.

Mr. GROSS. I do not doubt that it will do what you say it will do, but I would like to know more about it, and I think the Members of the House ought to know exactly what is going to happen under the terms of this amendment. I never heard of the amendment until a few moments ago. Perhaps it is inconsequential, but I would like to know what the Civil Service Commission thinks of a proposition of this kind.

The amendment goes far beyond Members of Congress. It includes the Federal judiciary and the entire executive branch of Government, as I understand it.

Mr. UDALL. Mr. Chairman, will the gentleman yield further?

Mr. GROSS. Yes, of course.

Mr. UDALL. I have not had any official communications but I have discussed this with the Chairman of the Civil Service Commission and with the Deputy Director of the Bureau of the Budget and they have both indicated to me that they think it is a fine proposal.

Mr. GROSS. This is another in a series of unusual proceedings dealing with this pay increase legislation.

I hold in my hand a copy of the hearings of the Senate Post Office and Civil Service Committee. They have held and apparently concluded hearings on this bill, H.R. 11049. How they got H.R. 11049 I do not know, because this bill is still to be passed, if it is, by the House this afternoon. It is not possible to have much stranger procedure and proceedings than those in connection with this pay increase. Apparently, the Senate having closed its hearings likewise, will not have hearings on the gentleman's amendment. It may have merit. I do not know. I will have to oppose it, not knowing its ramifications.

Mr. JONES of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to take the full 5 minutes, but moving as fast as we are here and judging from the looks of things, I am very doubtful that we will have a rollcall vote on this bill. I am going to ask for one and hope we get it. However, I want to announce that I am opposed to the bill and I hope I get an opportunity to vote against it on a record vote. I reiterate what I said when I voted against the bill on March 12, that the legislative branch should not be included in this bill, but should be handled in separate legislation.

Mr. Chairman, I want to say in response to the gentleman from Arizona [Mr. Udall] who a minute ago talked about the great amount of care and consideration which was given to this pay bill by the Committee on Post Office and Civil Service, I wonder what consideration was given to the formula that we have in operation here in the House of Representatives. At the present time we have a base pay and in order to arrive at what the actual salary is you have to go through a total of 10 steps to do that.

Under this formula which will be adopted in committee, I presume we will add another step. I do not believe there is a Member of this House who could tell me right now without referring to his chart when you put a man on the payroll at $1,000 a year the total salary he is going to get paid. This thing has grown like Topsy. I still say this committee which brought in this legislative pay bill did not have any business fooling with it at all. It should have been handled by another committee. You have not done one thing to correct the greatest problem and abuse that we have in the Congress by this bill. Therefore I am going to vote against the bill, and I hope we will have an opportunity to get a record vote.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. JONES of Missouri. I yield to the gentleman from Minnesota.

Mr. NELSEN. I would like to compliment the gentleman for making the statement he did. I, too, hope there is a rollcall vote, but if there is not I would like the record to show I believe it would be a bad precedent for the Members of Congress to hike their salary at this time. We have talked about checking inflationary trends in our country, in my judgment we would be setting a bad example. Such action will certainly be a green light for an inflationary trend all across the board.

I join with the gentleman in the hope that a record vote will be permitted.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. JONES of Missouri. I yield to the gentleman from Minnesota.

Mr. QUIE. I just want to give the assurance that I will stand up for a record vote. We ought to be on record. It is unwise to set a precedent now of increasing salaries when we need to hold down wages and prices. President Johnson made that same statement.

Mr. MATHIAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Udall amendment and of the bill. I do not feel it is either efficient or economical for the Federal Government to be paying salary scales which are not comparable or competitive with the salary scales of private enterprise. When we have experienced personnel in the various branches of Government, legislative, judicial, and executive, it is good business to keep those qualified people. The only way to keep them is to be reasonably competitive with private enterprise. The difficulty over the years has been that the Federal Government has fallen behind business in this matter of pay. We begin to lose people as a result and then we begin to develop a pay raise which goes through a legislative process full of potholes and obstructions. These potholes and obstructions slow down the corrective action and the Government falls further behind private enterprise in comparable pay.

The Udall amendment would attempt to level out the potholes and eliminate the obstructions and will keep the Government salary scales comparable to those of private enterprise.

For that reason I am supporting both the Udall amendment and the bill.

Mr. HALEY. Mr. Chairman, I move to strike the requisite number of words.

The Chairman, I am not going to offer an amendment. All I am going to ask you to do is this: You people over here undoubtedly have the votes to pass this bill, but I want to plead with you to give the Members who are opposed to this bill an opportunity to have a rollcall so that the people of this Nation will understand which Members are practicing fiscal responsibility.

Mr. YONNGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for a long time we have regretted that the people held this organization in disrespect. I want to say to you in all confidence and sincerity the action that you will take today and the procedure which is going on here today will undoubtedly create in the minds of our people more disrespect for this House as a legislative body than any action that we have taken in the 12 years that I have been a Member of the House.

I regret this exceedingly. I do not care so much who votes for what, but the procedure under which this bill is being considered I object to. I do not think that anybody can defend as a legislative matter the procedure which is going on here. I do hope along with some of the rest of the Members that we do get a record vote on this bill, and that we get a record vote on increasing the limit of our national debt so that we can make comparisons of these votes at the time of the election.

Mr. BARRY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I support the Udall amendment, but I wish to take this time to set the record straight with regard to certain statistics. I have heard our minority leader, the gentleman from Indiana [Mr. Halleck] say many times that a Congressman is only as good as his information.

I should like to point out that the total of Federal employees' salaries today, as a percentage of our national income and gross national product, is less than it was 10 years ago. It has climbed in dollar amount to where it is now only 2.7 percent of our national income, whereas 10 years ago it was 2.8 percent. After the increase which we vote today, if we vote it, it will be back to the 1954 level of 2.8 percent. This has come about by reason of the efficiency in the Federal Government, and I say "efficiency" reservedly because I think we are trying to do too many things, but the facts are that in 1954 there was 1 Federal employee for every 66 people in the United States and now in 1964 there is 1 Federal employee for every 73 people in the United States. So if you assume that the Federal service performs today as much as it did 10 years ago for the average American, you will have to say that the Federal service is increasing efficiency by 10 percent.

There are some things about this bill I do not like—I certainly think that the postal field service shoud be given instep increases annually rather than every 2 years. I also feel that if you are going to establish the principle of comparability it should be up to date. By virtue of our delay last year when the bill was defeated, comparability is thrown back some 2 years, so it is only comparable to 1962. But it is a step in the right direction, and I think that it could stand up on the basis of comparative statistics.

Mr. ALBERT. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I think it is in order to state that the procedure as far as the handling of this bill is concerned certainly conforms to the general practices of the House. The chairman and Members on both sides of the aisle have been fair in the debate.

As to having a record vote, I have never had the slightest idea that there would not be a record vote. I personally intend to stand up for a record vote and to stand up for the bill.

Mr. BRAY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I cannot vote for this pay raise, especially as it applies to the House, Senate, and high-ranking members of the executive department. It was but a short time ago that this same bill was defeated in the House. Yet, the administration has been using every power at its disposal to force this bill through Congress despite its decisive defeat but a short time ago.

There are members of the lower paid ranks of civil service and postal workers who are entitled to a pay raise. Yet, in order to get through a great raise for other members of the Government, including Members of Congress, it has all been tied together. Why not bring the items in this legislation to Congress separately so that we can give raises where they are due and vote down the 30 percent increases to the highest paid of our Government. This present bill allows me but one choice—to vote "no."

In a few days Congress will again be called upon to raise the already astronomical debt limit. I for one am disgusted with the story that a Congressman cannot live on $22,500 per year. The people who make this claim are also those who are the loudest to proclaim that we should do something to alleviate poverty. These high raises in salaries, including the 30 percent increase for Congress, will inflate the American dollar—that is, decrease its value—and add more to the poverty rolls. Nothing will contribute more to the extension of poverty than to cause our low-income Americans to live on a dollar of decreasing value—a dollar that purchases less and less. We must return to sanity in spending and here is a good place to begin.

I know there are many who are attempting to dodge a roll call on this bill. I for one will stand up to force a roll call so that it will be clear how everyone votes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona [Mr. Udall].

The amendment was agreed to.

The Clerk read as follows:

TITLE V—EFFECTIVE DATES

Sec. 501. (a) Except to the extent provided in subsections (b) and (c) of this section, this Act and the increases in compensation made by this Act shall become effective on the first day of the first pay period which begins on or after the date of enactment of this Act.

(b) Section 204 of this Act, relating to increases in compensation for Members of Congress, shall become effective at noon on January 3, 1965.

(c) Notwithstanding any other provision of this Act (but except as otherwise provided in subsection (b) of this section)—

(1) no rate of compensation which is equal to or in excess of $22,000 per annum shall be increased in any amount, by reason of this Act, until the first day of the first pay period which begins on or after January 1, 1965; and

(2) no rate of compensation which is less than $22,000 per annum shall be increased to an amount per annum in excess of $22,000, by reason of this Act, until the first day of the first pay period which begins on or after January 1, 1965.

AMENDMENT OFFERED BY MR. SIKES

Mr. SIKES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Sikes: On page 78, line 7, strike out lines 7 and 8 and insert the words "January 1, 1965".

Mr. SIKES. Mr. Chairman, the amendment I offer is very simple. It makes the effective date of this bill January 1, 1965.

Apparently, the bill as it now is written provides for salary increases for Congressmen beginning in January for political reasons. It gives everybody else a pay raise now. That does not seem to make much sense. A pay raise, if justifiable for some, should be equally justifiable for everyone at the same time. I think my amendment makes the bill a little more palatable because it puts everyone on an equal footing.

More importantly, Mr. Chairman, my amendment would help our country during a difficult financial period. We have an unbalanced budget. We are going to be asked to raise the national debt limit within a few days. We are going to be asked to maintain the present high and unpopular excise taxes. All of these things appear to me to put a pay raise now in a difficult light. I am proposing that we simply put off adding one-half billion dollars a year to the cost of government for a few months and by doing so, join hands to help our country improve its financial status. We cannot disregard our responsibility in these matters.

Under the amendment the effective date for a pay raise for all Government employees would be next January.

Mr. JOELSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am opposed to this amendment because I think there is a very good reason for the distinction. At the time the last pay bill was brought up, it was urged that being Representatives when we ran for the office we knew what the salary was and this has a certain kind of validity to it. Therefore, we today if we pass this bill are fixing the salaries for whoever may be in Congress in January 1965. But so far as the other Federal employees are concerned, their equity is long overdue and I think they are entitled to immediate action.

For that reason, Mr. Chairman, I urge rejection of the amendment.

Mr. JOHANSEN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I am not going to take the 5 minutes. In view of the applause on the majority side, I will add, not unless an incentive is provided, Mr. Chairman. If I were disposed to waste the time of this committee, I would offer an amendment to the amendment offered by the gentleman from Florida to read that the pay raise shall become effective every January 1st hereafter. I say this because of the statement made by the gentleman from Arizona [Mr. UDALL] in his letter to the Members. He said "the Congress has already established the machinery"—and get these words so you know what you are doing—"for regular annual adjustments." Now we provide regular annual adjustments for Members of the Congress, for the judiciary and for Heaven knows how many top officials of the executive branch.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SIKES].

The amendment was rejected.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: Page 78, after line 24, add a new section to read as follows:

"SEC. 502. The increases in compensation made by this Act shall not be effective until such time as the receipts of the Government for the preceding fiscal year have exceeded the expenditures of the Government for such year, as determined by the Director of the Bureau of the Budget."

Mr. FINDLEY. Mr. Chairman, we all talk about balanced budgets. We all talk about fiscal responsibility. We all talk about holding the line on spending. And we all know that this bill is inflationary to the very core. We know it will be financed with borrowed money, not with money from the Treasury. We know full well that in a few days the Federal debt ceiling will go to $324 billion. We all know a balanced budget is nowhere in sight for the next fiscal year or for the year following. If we are unwilling to exercise a little fiscal restraint in regard to our own paychecks, can we hope that a balanced budget will occur in the foreseeable future?

My amendment, if adopted, would make "budget cutters" out of everyone on the Federal payroll, including Members of Congress, Cabinet officers, and all other civilians on the Federal payroll. If my amendment is adopted, each would have a personal stake in cutting waste and balancing the budget. It is the one sure way to get a balanced budget fast, and a pay raise, too.

Mr. JENSEN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I am glad to yield to the gentleman from Iowa.

Mr. JENSEN. I believe it might be well, Mr. Chairman, to remind the Members of this House that if this increase which is contemplated to be provided by the bill goes into effect and is made law, it will then cost each American family, on an average, to pay just for Federal employees, a little less than $30 a month. That is not $30 a year. The cost to each American family, on an average, just to be governed from Washington, D.C., will be about $350 a year.

I rise in support of the gentleman's amendment. I can vote for the bill if his amendment is approved. I shall vote against the bill if his amendment is not approved by this House.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I am glad to yield to the gentleman from Pennsylvania.

Mr. DENT. As I understand the amendment, it proposes that unless we have a balanced budget Members of Congress could not have a salary increase.

Mr. FINDLEY. That is not quite accurate. It would delay any and all increases in compensation provided in this bill until such date as the Federal Government had finished one fiscal year with a balanced budget.

Mr. DENT. Then, the gentleman would suggest that if General Motors did not have a profitable year, the employees should not have their compensation regardless of the fact that they had a contract for their compensation?

Mr. FINDLEY. General Motors is not provided for in this bill, I assure the gentleman.

I might add that if the General Motors Corp. had had a record of red ink as long as the Federal Government's, it would have been out of business long ago.

Mr. DENT. That may be true.

Mr. RHODES of Pennsylvania. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I do not want to impose unduly on the time of the House, but since General Motors has been mentioned I think it might be well to compare congressional pay with salaries of officials of General Motors, the Nation's largest defense contractor—59 executives of General Motors receive more in salaries than the salaries of the combined membership of this House of Representatives; add to that 100 Members of the U.S. Senate; add to that all members of the President's Cabinet, members of the U.S. Supreme Court, salaries of the Vice President and the President, and then add to all of those the Governors of the 50 States. And all together they add up to less than the salaries of 59 executives of General Motors. And the taxpayers in the long run pay those salaries, too.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FINDLEY].

The question was taken; and on a division (demanded by Mr. FINDLEY) there were—ayes 60, noes 162.

So the amendment was rejected.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. HOLIFIELD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11049) to adjust the rates of basic compensation of certain officers and employees in the Federal Government, and for other purposes pursuant to House Resolution 733, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

Mr. GROSS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. GROSS. I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GROSS moves to recommit the bill, H.R. 11049, to the Committee on Post Office and Civil Service.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The motion was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. GROSS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 243, nays 157, answered "present" 4, not voting 27, as follows:

[Roll No. 155]

YEAS—243

Addabbo
Albert
Anderson
Ashley
Aspinall
Auchincloss
Barrett
Barry
Bates
Becker
Beckworth
Bell
Bennett, Mich.
Blatnik
Boggs
Boland
Bolling
Bonner
Bow
Brademas
Brooks
Brown, Calif.
Broyhill, Va.
Buckley
Burke
Burkhalter
Burton, Calif.
Burton, Utah
Byrne, Pa.
Cahill
Cameron
Carey
Casey
Celler
Cohelan
Conte
Cooley
Corbett
Corman
Daddario
Daniels
Davis, Ga.
Davis, Tenn.
Dawson
Delaney
Dent
Denton
Derounian
Diggs
Dingell
Donohue
Downing
Dulski
Duncan
Dwyer
Edwards
Elliott
Ellsworth
Fallon
Farbstein
Fascell
Finnegan
Fino
Flood
Flynt
Fogarty
Fraser
Frelinghuysen
Friedel
Fulton, Pa.
Gallagher
Garmatz
Gary
Giaimo
Gibbons
Gilbert
Gill
Glenn
Gonzalez
Grabowski
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Hagan, Ga.

Hagen, Calif.
Halpern
Hanna
Hansen
Harding
Hardy
Harris
Harrison
Hawkins
Hays
Healey
Hébert
Henderson
Hoffman
Holifield
Holland
Horton
Hosmer
Jennings
Joelson
Johnson, Calif.
Johnson, Wis.
Karsten
Karth
Kastenmeier
Kee
Keith
Kelly
Kilgore
King, Calif.
King, N.Y.
Kirwan
Kluczynski
Kornegay
Kunkel
Lankford
Leggett
Lesinski
Libonati
Lindsay
Long, Md.
McCulloch
McDade
McDowell
McFall
McLoskey
McMillan
Macdonald
Madden
Mailliard
Martin, Mass.
Mathias
Matsunaga
Michel
Miller, Calif.
Milliken
Minish
Monagan
Moore
Moorhead
Morgan
Morrison
Morse
Moss
Multer
Murphy, Ill.
Murphy, N.Y.
Murray
Nedzi
Nix
O'Brien, N.Y.
O'Hara, Ill.
O'Hara, Mich.
Olsen, Mont.
O'Neill
Osmers
Ostertag
Passman
Patman
Patten
Pelly
Pepper
Philbin
Pike
Pilcher
Pool
Price
Pucinski
Purcell
Rains
Reid, N.Y.
Reuss
Rhodes, Pa.
Rivers, Alaska
Rivers, S.C.
Rodino
Rogers, Colo.
Rooney, N.Y.
Rooney, Pa.
Roosevelt
Rosenthal
Rostenkowski
Roybal
Ryan, Mich.
Ryan, N.Y.
St Germain
St. Onge
Schwengel
Scott
Senner
Sibal
Sickles
Sikes
Sisk
Slack
Smith, Calif.
Smith, Iowa
Staebler
Stafford
Staggers
Steed
Stephens
Stratton
Sullivan
Talcott
Taylor
Teague, Calif.
Thomas
Thompson, N.J.
Thompson, Tex.
Tollefson
Trimble
Tupper
Tuten
Udall
Ullman
Van Deerlin
Vanik
Van Pelt
Vinson
Waggonner
Wallhauser
Watson
Watts
Weltner
Westland
White
Wickersham
Widnall
Willis
Wilson, Charles H.
Wright
Wydler
Wyman
Young
Zablocki

NAYS—157

Abbitt
Abele
Abernethy
Adair
Alger
Andrews, Ala.
Andrews, N. Dak.
Arends
Ashbrook
Avery
Ayres
Baker
Baldwin
Baring
Beermann
Belcher
Bennett, Fla.
Berry
Betts
Bolton, Frances P.
Bray
Brock
Bromwell
Broomfield
Brotzman
Brown, Ohio
Broyhill, N.C.
Bruce
Burleson
Byrnes, Wis.
Cederberg
Chamberlain
Chelf
Chenoweth
Clancy
Clawson, Del
Cleveland
Collier
Colmer
Cramer
Cunningham
Curtin
Curtis
Dague
Derwinski
Devine
Dole
Dorn
Everett
Feighan
Findley
Fisher
Ford
Foreman
Fountain
Fuqua
Gathings
Goodell
Goodling
Grant
Griffin
Gross
Gurney
Haley
Halleck
Harsha
Harvey, Ind.
Harvey, Mich.
Hechler
Hoeven
Horan
Huddleston
Hull
Hutchinson
Ichord
Jarman
Jensen
Johansen
Johnson, Pa.
Jonas
Jones, Mo.
Kilburn
Knox
Kyl
Laird
Landrum
Langen
Latta
Lennon
Lipscomb
McClory
MacGregor
Mahon
Marsh
Martin, Calif.
Martin, Nebr.
Matthews
Meader
Minshall
Montoya
Morris
Morton
Mosher
Natcher
Nelsen
Norblad
O'Konski
Olson, Minn.
Perkins
Pillion
Pirnie
Poage
Poff
Quie
Quillen
Reid, Ill.
Reifel
Rhodes, Ariz.
Rich
Riehlman
Roberts, Tex.
Robison
Rogers, Fla.
Rogers, Tex.
Roudebush
Rumsfeld
St. George
Saylor
Schadeberg
Schenck
Schneebeli
Schweiker
Secrest
Selden
Short
Shriver
Siler
Skubitz
Smith, Va.
Snyder
Springer
Stinson
Stubblefield
Taft
Thomson, Wis.
Tuck
Utt
Weaver
Whalley
Wharton
Whitener
Whitten
Williams
Wilson, Bob
Wilson, Ind.
Winstead
Younger

ANSWERED "PRESENT"—4

Edmondson
Mills
Pickle
Randall

NOT VOTING—27

Ashmore
Bass
Battin
Bolton, Oliver P.
Clark
Clausen, Don H.
Dowdy
Evins
Forrester
Fulton, Tenn.
Hall
Herlong
Jones, Ala.
Keogh
Lloyd
Long, La.
McIntire
May
Miller, N.Y.
Powell
Roberts, Ala.
Roush
Sheppard
Shipley
Teague, Tex.
Thompson, La.
Toll

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Keogh for, with Mr. Randall against.

Mr. Herlong for, with Mr. Mills against.

Mr. Roush for, with Mr. Edmondson against.

Mr. Bass for, with Mr. Pickle against.

Mr. Thompson of Louisiana for, with Mr. Jones of Alabama against.

Mr. Toll for, with Mr. Teague of Texas against.

Mr. Powell for, with Mr. Hall against.

Mr. Clark for, with Mr. Dowdy against.

Mr. Sheppard for, with Mrs. May against.

Mr. Miller of New York for, with Mr. Don H. Clausen against.

Until further notice:

Mr. Long of Louisiana with Mr. McIntire.

Mr. Ashmore with Mr. Battin.

Mr. Roberts of Alabama with Mr. Oliver P. Bolton.

Mr. Fulton of Tennessee with Mr. Forrester.

Mr. RANDALL. Mr. Speaker, I have a live pair with the gentleman from New York [Mr. KEOGH]. If he were present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. PICKLE. Mr. Speaker, I have a live pair with the gentleman from Tennessee [Mr. BASS]. If he were present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. MILLS. Mr. Speaker, I have a live pair with the gentleman from Florida [Mr. HERLONG]. If he were present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. EDMONDSON. Mr. Speaker, I have a live pair with the gentleman from Indiana [Mr. ROUSH]. If he were present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. MORRISON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks prior to the vote on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

LEGISLATIVE PROGRAM FOR THE WEEK OF JUNE 15

Mr. HALLECK. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. HALLECK. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader as to the program for the balance of this week and the program for next week, if he can tell us at this time.

Mr. ALBERT. Mr. Speaker, will the gentleman from Indiana yield?

Mr. HALLECK. I yield to the gentleman from Oklahoma.

Mr. ALBERT. Mr. Speaker, in response to the inquiry of the distinguished minority leader, the program for the House of Representatives for the week of June 15 is as follows:

Monday is Consent Calendar Day. There are 5 suspensions:

H.R. 4994, labeling of imported woven labels.

Senate Joint Resolution 103, authorization increase for President's Committee on Employment of the Physically Handicapped.

House Joint Resolution 1041, interim 90-day extension of rental housing insurance program for the elderly.

H.R. 10000, extension of the Defense Production Act.

H.R. 11499, to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury.

On Tuesday the Private Calendar will be called. Also on Tuesday the 1965 appropriations for public works and H.R. 9876, extension and amendment of the Juvenile Delinquency and Youth Offenses Control Act of 1961. This has an open rule with 2 hours of debate.

On Wednesday H.R. 11376, the Excise-Tax Rate Extension Act of 1964. This has a closed rule with 4 hours of debate, waiving points of order.

Thursday and the balance of the week, H.R. 11375, the public debt limit. This has a closed rule with 4 hours of debate, waiving points of order.

This announcement, of course, is made with the general reservation that any further program may be announced later and that conference reports may be brought up at any time.

Mr. HALLECK. Mr. Speaker, if the gentleman will permit, in regard to H.R. 10000, I think it might be well for us to explain to the membership, in view of the fact that there were minority views filed, that that measure will be offered under suspension with an amendment which, as I understand it, removes the objections of the people who signed the minority views.

Mr. ALBERT. The gentleman's understanding coincides with mine.

Mr. ALBERT. Mr. Speaker, will the gentleman from Indiana yield for a unanimous-consent request?

Mr. HALLECK. Yes. I yield to the gentleman from Oklahoma.

ADJOURNMENT OVER TO MONDAY, JUNE 15

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The **SPEAKER.** Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The **SPEAKER.** Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

CLARENCE CANNON: MEMORIAL TRIBUTE

Mr. THOMPSON of Texas. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. THOMPSON of Texas. Mr. Speaker, among the many fine tributes to the late and greatly beloved Clarence Cannon, chairman of the House Committee on Appropriations, is that of his long-time friend and former colleague here, Maurice H. Thatcher, who served for 5 terms—1923–33—as Representative from the Louisville, Ky., district.

The two were elected to the 68th Congress, and began their service in the House at the start of that session on March 4, 1923. Mr. Thatcher was a member of the House Committee on Appropriations throughout his congressional career of 10 years. Mr. Cannon served in Congress, as a Representative from the Mark Twain region of Missouri, from the beginning of the 68th Congress until his death, which occurred on May 12, 1964, after an uninterrupted service of more than 40 years, and in 21 Congresses. He became a member of the indicated committee in 1929, and its chairman in 1941. He continued as such chairman until his death excepting the 80th and 83d Congresses, when the opposing party was in control. Thus he established a record for this chairmanship of something like 19 years, and almost twice that of any other chairman; and this, in itself, constitutes a splendid evidence of his integrity and ability, and the esteem of his colleagues.

The budgetary system of fiscal affairs was instituted during the chairmanship of the committee of Congressman Martin B. Madden, of Illinois, who like Cannon, was an outstanding head of the committee, and to whose integrity and ability Mr. Cannon always gave generous praise. Both were dedicated servants of the people; both were thoroughly informed with respect to the needs involved; and both, while wise and just in their attitudes, were also the abiding friend of the American taxpayer, and always sought to protect his legitimate interests. With all truth it may be said that Madden and Cannon were two of the greatest chairmen of this highly important committee in all its long history.

Mr. Cannon and Mr. Thatcher were good friends from the beginning of their congressional careers; and their friendship, through the long period which has since elapsed, grew stronger and ever stronger. Both had—among other common interests—a love and appreciation for the best in literature; and, touching Mr. Thatcher's occasional writings, his friend was lavish in his praise.

It may be noted that Mr. Thatcher had served, during the construction era of the Panama Canal, as Civil Governor of the Canal Zone and member of the Isthmian Canal Commission, the body which had immediate charge of the work. In these posts he had rendered distinguished service; and later came his congressional career. He sponsored and brought about the enactment of much important legislation for the benefit of the canal enterprise, and its employees—both United States and alien citizens; also for the advantage of the entire isthmus, including legislation for the establishment and operation of the Gorgas Memorial Laboratory in the city of Panama, an outstanding institution for research touching the cause and prevention of tropical disease. He is now the sole surviving member of the indicated Commission. He also rendered important service in the Congress in the field of national parks and parkways; and is yet interested in these subjects, and able to give civilian aid in these connections.

Because of his capable and useful congressional service, his membership on the House Committee on Appropriations, and his fine achievements with respect to the canal and the isthmus, the Congress, by specific enactment, and with complete unanimity, named for him the splendid new bridge across the canal at Balboa, Canal Zone, as Thatcher Ferry Bridge, which not only honors him, but as well serves to perpetuate historic memory and justice to the Thatcher Ferry, on the same site, which the bridge supplants. In the Congress he had obtained the legislation for the establishment and maintenance of the ferry, a fine, toll-free utility—as is the bridge—which, during the 30 years of its existence, performed for the zone and the entire isthmus a notable and indispensable service.

Mr. Thatcher has practiced law in Washington since he left Congress, and has also continued his activities, to the extent possible, in behalf of matters of public concern. Under leave accorded, I include, as a part of these remarks, his magnificent tribute to his greatly esteemed and beloved friend.

CLARENCE CANNON: MEMORIAL TRIBUTE

(By Maurice H. Thatcher)

I

When this, our Clarence, passed away
From mortal life to deathless day—
Alas, the loss! the people wept;
The trust they gave him he had kept;
And they, in grief, kneeled down to pray.
How great was he? Ah, time will say!
His toils for good no check could stay;
And his brave conscience never slept—
He loved the State.

Truth's path he trod—led where it may;
His zeal for light nought would allay.
He never was unskilled, inept;
Less than the best he'd not accept;
He wrought in strength, with knowledged play—
To serve the State.

II

His life was like a battle song;
He read the score with practiced eye;
His image should survive as long
As Freedom's banner greets the sky.
With human warmth he loved his friends,
And they loved him—a mutual bond.
A name like his fades not, nor ends,
But lives tomorrow and beyond.

Teacher, lawyer, statesman, chief—
Thru calm and storm, and cloud and shade;
And, minus pause or aught relief,
His rugged, sure ascent was made.
Exemplar rare, and patriot,
His life a pattern doth provide
For those who seek the nobler lot—
A norm the nation's youth to guide.

Steeped in the parliament'ry lore,
And knowledge of resolves and bills,
He won a rank as few before,
Or since; and his especial skills
Earned rich reward and potent yield
In guarding well the Nation's purse.
Thus, long he strove within his field
To find the cure, and void the curse.

By reason of his varied acts
We must account his labors great;
He knew the fictions and the facts
And how the problems to equate
Friend of his fellows, loyal, true—
He fought for that he thought was best.
We pay him laud for what is due
For efforts that were wise and blest.

He strove with ever-tireless aim;
His life was one of self-denial;
His wisdom brought him wealths of fame—
But at the price of rack and trial.
He dared to do what seemed the right,
And knew the worth of valiant deeds;
He chose to walk within the light,
And from the flowers plucked the weeds.

Full-rev'rent in his biding thought,
And e'er sustained by faith and hope—
The vital goals he sensed and sought,
And wide-expanding was the scope.
He knew the need for discipline;
The face of virtue was his chart.
His home he loved, and all therein,
With all his ardent soul and heart.

How well it was that to the last
The purpose of his will obtained,
And that he gave, with knowledge vast,
The needed aid, while strength remained.
In harness thus, he passed away—
A knightly fate which few may know,
But one for which all heroes pray:
This was the way he wished to go.

How weak the word for any man
Of such supreme, unique degree.
He was a great American,
As all the rounded world could see.
Throughout the span of lengthened years,
He served the people and the State:
Go, search the Temple—there appears
His name, in gold, upon the Gate.

* * * * *

Accept this, Clarence, from a friend
Who knew thee long, and knew thee well—
A former colleague, who would amend
Death's dark decree, its force dispel,
If in his power. The loved helpmate,
And those that bear thy blood, shall be
Shrined in the love of friends who wait
At portals of eternity.

LETTER TO CHRISTIAN HERTER

Mr. HARVEY of Indiana. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. HARVEY of Indiana. Mr. Speaker, under leave to extend my remarks in the CONGRESSIONAL RECORD, I include the following letter which I mailed today to Hon. Christian Herter, our Special Representative for Trade Negotiations in Geneva.

JUNE 11, 1964.

Hon. CHRISTIAN HERTER,
Special Representative for Trade Negotiations, Executive Office Building, Washington, D.C.

DEAR MR. HERTER: The domestic ball and roller bearing and steel ball and roller bearing industries are in considerable difficulties today, Mr. Herter, because of the imports of these items from Japan and other countries. Perhaps you have seen the several extensions of remarks in the CONGRESSIONAL RECORD which pinpoint this problem from a national scale. I would like to call your attention to what the bearing industry means to just one congressional district—my own.

The Federal-Mogul-Bower Bearing Co., in Greensburg, Ind., has over 200 full-time employees, so roughly 1,000 family members in the Greensburg area are dependent upon the success of this company. The company has an annual payroll of over $1 million in the Greensburg area alone, and most of this money is spent right at home with retailers, service and professional people. The loss of this payroll would have a most detrimental effect on the economy, not only of Greensburg, but of the entire area. This single company also pays about $100,000 in local taxes, which goes to the support of our local governmental, educational, and other institutions.

The total imports of ball bearings, roller bearings, steel balls, and rollers in the year 1963 rose 19 percent from 1962 for a total of $19,384,853. Imports in the first quarter of 1964, in total, were $5,372,072 as opposed to $4,313,124 for the same period of 1963, or an increase of about 20 percent.

Because bearings are on the list of commodities subject to negotiation at Geneva we urge that no reductions be made on ball bearings, roller bearings, steel balls, or rollers. Any reduction will only feed unemployment, loss of tax income in the area, and provide for generally depressed conditions. If the economy in Greensburg suffers, the Nation's economy suffers. There is no sense in providing further pockets of poverty in the United States by putting American workmen out of work with foreign products.

I hope that these facts will be borne in mind during the negotiations.

Very truly yours,

RALPH HARVEY,
Member of Congress.

TFX—A FLYING EDSEL

Mr. BROCK. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. BROCK. Mr. Speaker, last year Secretary of Defense McNamara arbitrarily overruled consistent recommendations of his civilian and military experts favoring the Boeing TFX warplane proposal. The experts felt it offered the best plane at the least cost. Mr. McNamara, in reversing the decision of virtually every technical adviser and military chief, states as one reason that the General Dynamics proposal involved less radical change from current techniques and therefore could be produced in less time, at least in his judgment. However, it now appears that there may be considerable change and consequent delay.

Mr. John G. Norris reported in the Washington Post that the project officer of the TFX has announced that the Navy version of this warplane will be delayed a full year. Mr. Norris adds that there have been recent reports that many Navy officers want to back out of the joint Air Force-Navy program. An alternative to cancellation of the Navy version would be to slow down production while trying to save weight, which has increased substantially, to make the Navy version differ more than originally intended from the Air Force model—or to make greater use of titanium.

All these changes would serve to bring the new plane far closer to the less expensive Boeing proposal as initially submitted, a concept which ex-Ford Co. executive McNamara rejected, yet a design preferred by both Air Force and Navy chiefs. If he does not now incorporate these new features, the Secretary may, at least as far as the Navy is concerned, have produced his first "Flying Edsel."

Under leave to extend my remarks I insert Mr. Norris' article from the May 27, 1964, Washington Post.

[From the Washington Post, May 27, 1964]

DESIGN TROUBLES MAY DELAY NAVY'S TFX A YEAR

(By John G. Norris)

MIAMI BEACH, May 26.—The Navy version of the controversial TFX fighter plane—plagued by weight problems—has been delayed a year behind its Air Force counterpart, it was announced here tonight.

Brig. Gen. J. L. Zoeckler, project officer for the F–111 (TFX), disclosed that the Air Force A version is scheduled to fly for the first time within a year while the Navy B model will not fly until a year later.

Announcement of the delay—which is sure to stir up the long simmering congressional TFX dispute—came as Gen. B. A. Schriever, chief of the Air Force Systems Command, unveiled scale models of the F–111A and F–111B at a dinner of the Association of Aviation-Space Writers meeting in convention here. Shriever is in overall charge of TFX development.

REVOLUTIONARY WING

Great interest was shown by newsmen and industry of the disclosure both of the delay and the design of the new aircraft, with its revolutionary sliding wing that when swept back permits speed 2½ times that of sound and when extended allows the craft to take off and land on short rough fields and fly slowly for long periods in close support of ground troops. The wing angle will be adjustable in flight.

Neither Schriever nor Zoeckler gave any immediate explanation of the postponement of the first F–111–B flight, but the Navy has been much concerned over the fact that the weight of the plane has grown substantially from original contractor design specifications.

Later, a Systems Command official said the first flight of the F–111–B long has been scheduled at 5½ months behind the F–111–A. The Navy hopes to meet this timetable, it was said, and any delays resulting from the weight problem will be reflected later in the introduction of lighter improved versions of the admittedly overweight initial plane.

There have been recent reports that many Navy officers want to back out of the joint project, which ultimately may cost the Government $7 billion. Uniformed chiefs of the Navy originally objected strenuously to teaming with the Air Force in developing one largely similar plane for widely differing missions and operational environment. They contended it would be too heavy for Navy carrier use.

One alternative would be to curtail performance to save weight. Another is to make the Navy version differ more than intended from the Air Force model. Still another is greater use of the light metal titanium.

There have been indications that titanium, successfully used in the 2,000-mile-an-hour A–11 experimental reconnaissance-interceptor plane, will be employed to a much greater extent than first planned.

Changes almost certainly will involve delays.

OVERRULED BY M'NAMARA

Defense Secretary Robert S. McNamara originally overruled the Navy objections in insisting on a "high degree of commonality" between the Air Force and Navy versions, contending that one largely similar craft would cost a billion dollars less than two separate planes. To permit the Navy now to back out of the TFX would be highly embarrassing to him.

McNamara awarded the TFX contract to the team of General Dynamics and Grumman although Boeing had been favored by Air Force and Navy military chiefs. Boeing put in a lower bid than General Dynamics-Grumman and promised higher performance.

A bitter, yearlong investigation was launched by the Senate Permanent Investigating Subcommittee and is not yet completed.

In his address here tonight Schriever avoided all mention of the controversial aspects of the TFX. Outlining its planned versatile characteristics, he said it "promised to be a really great system."

From the models and data made available tonight, it was disclosed that:

The F–111 is of unusual design, with its movable wings at the top of the fuselage and its airscoops under the wing. The twin-engined plane is about 70 feet long. The Navy version will carry six Phoenix missiles to shoot down planes attacking the fleet.

Instead of the usual ejection seats, in case of trouble the two-man crew will leave the F–111 in the cockpit, which will detach from the plane and form an escape capsule. Part of the wing and fuselage will go with the capsule when blasted loose, to provide stability going down. A drogue parachute will let down the capsule with life-sustaining systems intact, much like the Mercury astronaut capsule. If the pod comes down in the ocean it will send out signals.

The F–111–B will be assembled at the Grumman plant in New York, and the F–111A at the General Dynamics Fort Worth plant. The Navy version will be test-flown at Patuxent Naval Air Test Center, Md., the Air Force model at Edwards Air Force Base, Calif.

ADDRESS OF PRESIDENT JOHNSON AT HOLY CROSS COMMENCEMENT IN WORCESTER, MASS.

Mr. DONOHUE. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and to include the address of President Johnson at the Holy Cross commencement in Worcester, Mass.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. DONOHUE. Mr. Speaker, yesterday, June 10, 1964, the College of the Holy Cross in my home city of Worcester, Mass., conferred upon the President of the United States, Lyndon Baines Johnson, the honorary degree of doctor of civil law.

It was my great honor and privilege to accompany President Johnson from Washington to Worcester, ride with him in the motorcade procession to the college campus, and attend the graduation exercises where he delivered the commencement address.

Although President Johnson was operating on a very tight schedule because of important White House conferences later in the day he repeatedly demonstrated, throughout his comparatively short visit, his characteristic energy, deep affection for children, and genuine concern for his fellow Americans.

Upon arrival at the Worcester Municipal Airport he promptly proceeded to greet some 5,000 assembled children and shook hands with a great many of them. Along the parade route he stopped his limousine and, much to the dismay of his secret service detail, got out of the car to congratulate and shake hands with the members of the drum corps and color guard of the Lithuanian War Veterans and also shook hands with most of the adults who rapidly closed in on him as he returned to his automobile under the urging of the secret service agents.

Police estimates placed the cheering, welcoming crowds lining the motorcade route in excess of 175,000 and the President delivered his commencement address to a capacity college stadium audience.

The Chief Executive's visit yesterday provided one of the brightest pages in the glorious history of our community, situated in the heart of the Commonwealth of Massachusetts, and the occasion will forever be warmly remembered by those of us, child and adult, who were privileged to take part in or witness it.

Mr. Speaker, at this point I am pleased to include the citation accompanying the degree conferred upon President Johnson and his most inspiring commencement address:

HONOR CITATION: LYNDON BAINES JOHNSON, C.L.D.

Three weeks after the commencement at Harvard College in 1775, John Adams, a farmer's son from Braintree, Mass., came to Worcester to begin his career of public service as a village schoolmaster. A year later he wrote in his diary: "I sometimes, in my sprightly moments, consider myself in my great chair at school as the head of a commonwealth. In this little State, I can discover all the surprising actions and revolutions of the great world in miniature. I have several renowned generals but 3 feet high, and several deep-projecting politicians in petticoats."

Today, the College of the Holy Cross is privileged to honor the successor of John Adams, a farmer's son from Stonewall, Tex., who, while he was a student at Southwest Texas State Teachers' College, began his career of public service as a teacher in the primary grades of Cotulla, Tex. Until President Johnson releases the diary of his schoolteaching days, we shall never know if, in a sprightly moment, he ever thought of himself then as the head of a Commonwealth. We remain nonetheless grateful that he has brought to the highest political office in the free world the apprenticeship of a teacher.

Despite the pressures of history which have transformed America from the intimate and inward-looking community of the 18th century to the most outward looking of all communities in the 20th, the President of the United States remains a household presence, friendly and familiar. Because of his high office and its prerogative, he alone speaks for all of us. In his person, he stands forth as the visible sign of our Nation's continuity. The solicitude, then, which we feel for him springs from an awareness of the awesome demands that are made upon his resources. He well needs, Woodrow Wilson wrote, "the constitution of an athlete, the patience of a mother, and the endurance of an early Christian."

The College of the Holy Cross desires on this occasion to acknowledge the qualities of heart and mind which Lyndon Baines Johnson has brought to the White House: his pride of origin, his accessibility to people, his willingness to reason together on the issues that divide us, and his vigorous leadership in advancing the ideals that hold us together.

Upon this resolute champion of democracy who clearly believes in the aristocracy of the sensitive, the compassionate, and the magnanimous, Holy Cross respectfully confers the degree of doctor of civil law.

TEXT OF PRESIDENT JOHNSON'S ADDRESS

Last year, within 6 months of each other, two of the great men of this century passed from this earth: President John F. Kennedy and Pope John XXIII.

They both left a world transformed by their triumphs and lessened by their leaving. They both handed on a heritage of hope, a vision of the future which will occupy the thoughts and labors of men for generations to come.

For a generation, Americans have struggled to keep the ambitions of nations from erupting into the annihilation of nuclear war. We have struggled to diminish hostility and decrease tension while battling aggression and building our power.

The years will not dim, nor the burden destroy, our resolve to seek and not to yield, to find a way to peace in a world where freedom grows.

HORIZONS LIMITED

But even if we achieve such a world, we will only have taken a first step toward final fulfillment of the hopes of Pope John and President Kennedy. For just as the cold war has consumed our energies, it has often limited our horizons.

We have tended to place every challenge in the context of conflict, to regard every difficulty as part of a struggle for domination.

Even if we end terror and elimination tension, reduce arms and restrict conflict; even if peace were to come to the nations; we would turn from this struggle only to find ourselves on a new battleground as filled with danger and fraught with difficulty as any ever faced by man. For many of our most urgent problems do not spring from the cold war or the ambitions of our adversaries.

These are the problems which will persist beyond the cold war. They are the ominous obstacles to man's effort to build a great world society—a place where every man can find a life free from hunger and disease—a life offering the chance to seek spiritual fulfillment unhampered by the degradation of bodily misery.

NO NATION AN ISLAND

These long years of conflict have given fresh content to the ancient prophecy that no man, and no community, and no nation, is an island.

This truth, borne in upon us by the necessities of our protection, is equally true for those problems which stretch beyond our present differences. Those who live in the emerging community of nations will ignore the problems of their neighbors at the risk of their own prosperity.

It may seem difficult to accept the fact that even lasting peace will not bring respite from world responsibility. But we can bring to the challenges which surpass conflict the same qualities of resolution and compassion we have brought to the protection of freedom, then your generation can shape the great world society which is the ultimate purpose of peace.

THREE PROBLEMS

I would like briefly to mention three problems which menace man's welfare today, and will threaten it even when armed destruction and war are things of the past. They are the problems of poverty, of disease and of diminishing natural resources.

First is the problem of poverty—the growing division between the rich and poor nations. Today the per capita product of the developed countries is $1,730. In the developing countries, it is $143. And the gap is widening, not narrowing. Our own growth must continue. But we must find ways to step up the growth of others or we will be an increasingly isolated island of wealth in the midst of mounting misery.

Second, is man's struggle against disease, the focal point in his war to control the destructive forces of nature. Each year 3 million people die from tuberculosis, 5 million from dysentery, 500,000 from measles. In some countries one-sixth of the entire population suffer from leprosy. Yet, we have the knowledge to reduce the toll of these diseases, and avert these millions of separate tragedies of needless death and suffering.

Third, is the need to develop new resources and new ways to use existing resources. It has been estimated that if everyone in the world were to rise to the level of living of the United States we would have to extract about 20 billion tons of iron, 300 million tons of copper, 300 million tons of lead and 200 million tons of zinc. These totals are well over 100 times the world's present annual rate of production.

FIND NEW TECHNIQUES

There is no simple solution to these problems. In the past there would have been no solution at all. Today, the constantly unfolding conquests of science give man the power over his world and nature which brings the prospect of success within the purview of hope.

To commemorate the United Nations' 20th birthday, 1965 has been designated International Cooperation Year. I propose to dedicate this year to finding new techniques for making man's knowledge serve man's welfare. Let this be the year of science. Let it be a turning point in the struggle—not of man against man, but of man against nature. In the midst of tension let us begin to chart a course toward the possibilities of conquest which bypass the politics of the cold war.

For our own part, we intend to call upon all the resources of this Nation—public and private—to work with other nations to find new methods of improving the life of man.

USE ATOM POWER

First, by September I will report to the Third International Conference in Geneva on the Peaceful Uses of Atomic Energy on our new capability to use the power of the atom to meet human needs. It appears that the long promised day of economical nuclear power is close at hand.

In the past several months we have achieved an economic breakthrough in the use of large-scale reactors for commercial power. As a result of this rapid progress, we are years ahead of our planned progress. This new technology, now being applied in the United States, will be available to the world.

Moreover, the development of the large-scale reactor offers a dramatic prospect of transforming sea water into water suitable for human consumption and industrial use. Large-scale nuclear reactors and desalting plants offer, in combination, economical electric power and usable water in areas of need. We are engaged in research and development to transform this scientists' concept into reality.

DEFENSE ON DISEASE

Second, I intend to expand our efforts to provide protection against disease.

In the last few years we have conducted pilot projects in West Africa on methods of immunizing young Africans against measles—the single biggest killer of children in that area. The success of that project has enabled us to proceed this year, with a program to immunize one-fourth of the susceptible population in seven countries of West Africa.

During International Cooperation Year, we will expand our efforts to prevent and control disease in every continent, cooperating with other nations which seek to elevate the well-being of mankind.

No nation can stand idly by while millions suffer and die from afflictions which we have the power to prevent.

WORLD WEATHER SYSTEM

Third, we will move ahead with plans to devise a worldwide weather system—using the satellites and facilities of all industrialized countries. The space age has given us unparalleled capacity to predict the course of weather. By working together, on a global basis, we can take new strides toward coping with the historic enemies of storm and drought and flood.

These are only a few examples of the many fronts on which science can serve the society of man. These are some of the possibilities which unfold as reduced tension opens the way to larger cooperation.

We are going ahead with our determined effort to bring peace to the world.

We are going ahead, in our country to bring an end to poverty and racial injustice.

HOPE AND REDEMPTION

The message of Pope John and John Kennedy flowed from the message that burst upon the world 2,000 years ago—a message of hope and redemption not for a people or for a nation, but for all people and every nation.

We now can join knowledge to faith, science to belief, to realize in our time the ancient hope of a world which is a fit home for man.

The New Testament enjoins us to "Go ye therefore and teach all nations." Go forth then—in that spirit—to put your hands in the service of man and your hearts in the service of God.

H.R. 10000

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Mr. Speaker, in connection with the program for next week, the distinguished majority leader, the gentleman from Oklahoma [Mr. ALBERT], stated that H.R. 10000 will be taken up under suspension of the rules next Monday. The information of the gentleman from Indiana, the distinguished minority leader [Mr. HALLECK], is correct that there will be a motion made to suspend the rules and pass H.R. 10000 with an amendment. The amendment will remove that part objected to in the minority views, so there will be no controversy. It was taken up in the whole Committee on Banking and Currency this morning and agreed upon.

"I WILL" NATIONAL MONUMENT COMMISSION

Mr. LIBONATI. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. LIBONATI. Mr. Speaker, H.R. 11554 was introduced for the purpose of establishing a Federal Commission to be known as the "I Will" National Monument Commission composed of six members—four appointed by the President, one appointed by the President pro tempore of the Senate, and one by the Speaker of the House of Representatives. The members of the Commission shall serve without salary, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

The Commission is authorized to appoint and fix compensation of necessary personnel; also, to receive private donations for the erection in the harbor at Chicago, Ill., of a statue to be sculpted under the direction of Trygve A. Rovelstad in accordance with Illinois Senate Joint Resolution No. 34 passed on the 21st day of May 1963 by the Senate and adopted in the house on June 25. It reads as follows:

PRESENTATION OF RESOLUTIONS

Senators Little and Bidwill offered the following senate joint resolution:

"SENATE JOINT RESOLUTION NO. 34

"Whereas the Associated 'I Will' Sculptors of Chicago, Inc., a not-for-profit Illinois corporation, has volunteered its services to the State of Illinois to construct, free of charge, an 'I Will' statue; and

"Whereas it is proposed that this colossus be located on an artificial island just out from the Buckingham Fountain between Navy pier and the Adler Planetarium on Lake Michigan just off the coast of Chicago; and

"Whereas this modern colossus will rise to the majestic height of 500 feet above the water; and

"Whereas this fabulous statue will be unique among the world's marvels and will attract sightseers and art fans from the four corners of the world: Therefore be it

"*Resolved, by the Senate of the Seventy-third General Assembly of the State of Illinois (the House of Representatives concurring herein)*, That this General Assembly approve the placing of the 'I Will' statue in Lake Michigan, 3,000 feet out on an artificial island in Illinois territory and acceptance of title thereto by the department of conservation on behalf of the State of Illinois."

Senator Little having asked and obtained unanimous consent to suspend the rules for the immediate consideration of the resolution, moved its adoption.

The motion prevailed and the resolution was adopted.

Ordered that the secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Larson offered the following Senate resolution and, having asked and obtained unanimous consent to suspend the rules for its immediate consideration, moved its adoption:

"An appropriation not to exceed $500,000 to pay one-half the cost of the erection of the 'I Will' statue.

"The Secretary of Interior is authorized to accept the island as a unit of the national park system."

Trygve Rovelstad envisioned a gigantic statue 500 feet above the waters of Lake Michigan in Chicago Harbor in 1939. It is the project of the associated "I Will" sculptors of Chicago, a nonprofit organization chartered by the State of Illinois. Trygve Rovelstad is the president of the "I Will" corporation. Mrs. Rovelstad is vice president, and Oliver L. Rodin, a Chicago sculptor, is secretary.

The site of the statue is 3,000 feet out into the harbor from Buckingham Fountain between the Navy pier and the Adler Planetarium.

Rovelstad has made several models. Rodin, codesigner of the statue, was born in Belgium. Both admit that it will take years of hard work even before the preparation of the site. Most of the artwork would be in hammered copper or cast aluminum.

The fabulous statue will be unique among the world's marvels and will attract thousands of sightseers, tourists, and art students. An elevator is proposed to carry viewers to the top.

It is fitting that the Federal Government should participate in this program. The motto of Chicago, "I Will," reflects the determination that the spirited pioneers of early Chicago struggled to make Chicago the great city that it is today. The city of Chicago under the great leadership of Mayor Richard Daly is passing through a transition period of rebuilding and improvements, both public and private, that foretells its future great destiny as the leading modern metropolis of the Nation and the greatest inland seaport of the Americas via the St. Lawrence gateway for oceangoing ships. The statue is a symbol of Chicago's spirit—it is well for the Nation to honor her in this way.

H.R. 10000

Mr. TAFT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TAFT. Mr. Speaker, I should like to address the House on the subject of the bill H.R. 10000 which is on the calendar for Monday, for the purpose of clarifying remarks already made.

I would like to say that while the statement of the gentleman from Texas, the chairman of the Committee on Banking and Currency, with regard to this measure, is substantially correct, at the time this measure was considered this morning in committee and discussions took place with regard to the proposed amendment, I made it clear that I reserved my position with regard to this measure. I should like to advise the House that I still reserve my position and intend to appear here on Monday to ask what will be the position of the conferees on that bill if it goes to conference. I believe the ranking Republican member of the committee, the gentleman from New York [Mr. Kilburn], intends to do the same.

FOREIGN AID AUTHORIZATION BILL

Mr. CHAMBERLAIN. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CHAMBERLAIN. Mr. Speaker, in voting against the foreign aid authorization bill yesterday, it was my purpose to continue my protest against the operation of our foreign aid program. I wish to take this opportunity to make certain that my vote is not interpreted as a refusal on my part to support our efforts in the war in South Vietnam.

I am convinced that the successful prosecution of the war effort there is crucial to the cause of the free world. The President requested an added $125 million to beef up our effort in this troubled area. While I feel very strongly that dollars alone are not the full answer to our problems in Vietnam, I am ready to give the President the funds he contends are necessary to win this war. Thus, I wish to make it clear that if the foreign aid authorization bill had not been approved yesterday, I would have supported a request for funds for South Vietnam as a separate item.

BALTIC NATIONS DAY

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. Derwinski] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. DERWINSKI. Mr. Speaker, 23 years ago three small but vigorous, progressive, and independent nations—Lithuania, Latvia, and Estonia—were occupied by Communist Russia under conditions of cruelty and in complete defiance of international law and order.

June 14 commemorates massive deportation from these countries by the Soviet Union as the Communists moved viciously and deliberately to break the backbone of resistance in those countries and literally scatter these brave peoples to the four winds within the vast Soviet slave empire.

At the present time, the Soviet Union in its diabolical fashion carries on the pretext that Lithuania, Latvia, and Estonia are content as members of the U.S.S.R. and also maintains the pretext that the Soviet Socialist Republics bearing their names gives their people recognition and autonomy.

The facts are that in addition to waves of deportation, the Communists have attempted to repopulate and "Russify" the Baltic lands.

We must emphasize that for centuries the Baltic peoples lived under subjugation by the autocratic Czarist Russian regimes. They obtained a brief period of independence following World War I, to be swallowed up by their monstrous neighbor.

Our Government's position for these 23 years has been to deny the legality of the Soviet occupation of these lands, yet the leaders of the Baltic peoples now residing in the free world are rightfully disturbed that the policy of accommodation to Communists, now being conducted by the administration, might result in withdrawal of recognition of the consulates and embassies of these lands and legal acquiescence might be forthcoming from our Government to illicit Soviet control of the Baltic States.

On this occasion of Baltic Freedom Day, we must reemphasize our determination to maintain as the cornerstone of U.S. foreign policy the great principle of self-determination which, since the days of President Woodrow Wilson, has helped provide American leadership in striving for a world of true peace and freedom.

The people of the Baltic States have displayed throughout their history the stamina and ingenuity necessary to withstand years of occupation. They courageously maintain their language, cultures, and religious beliefs, and their free world brothers strive effectively to keep alive the spirit of freedom for which they stand, and look forward to restoring independence and legitimate governments to these three Baltic nations.

Mr. Speaker, the Baltic States, like all countries under Communist rule, belong properly to the community of free nations. The ideals of freedom and independence remain alive in the men, women, and children of Lithuania, Latvia, and Estonia. As we recall the horrors of the mass deportations which occurred 23 years ago June 14, we firmly vow to leave the lamp of liberty lighted for all people behind the Iron Curtain.

FALLACY OF INCREASING TRADE WITH COMMUNIST BLOC

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. Lipscomb] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. LIPSCOMB. Mr. Speaker, I can think of nothing that would fit better into the Communist scheme of things than to have Western nations fall over each other in trying to increase trade with the Communist bloc.

Yet, can there be much doubt that the United States and other nations of the Western World are doing just that, that we are proceeding on a collision course in our policies on trade with the Red bloc?

Trade with the Communists by other Western nations has risen steadily over recent years, both as to the amount and type of goods sent, involving repeated waterings down of the definition of what is strategic. Indications are that this is only the beginning.

Several days ago the United States and Rumania issued a joint communique concerning an agreement which, if carried out, will help place the United States solidly in league with the move which will result in contributing significantly toward building up the economic, scientific, and industrial, and of course the military, potential of the bloc nations.

According to the announcement, as reported, the United States and Rumania laid the foundation for trade cooperation under which Rumania will be allowed to purchase many commodities without the need for individual export licenses. Assurances were also given that export licenses would be granted for many other strategic items.

A major goal of the Communist regimes on trade is to acquire not consumer goods for the people but factories, techniques, and equipment to build up their industrial economy. This, of course, is the underlying purpose behind Rumania's agreement with the United States.

The agreement reportedly will permit Rumania to buy such things as synthetic rubber factories, hydroelectric turbines, modern oil riggings, equipment for the petrochemical industry and steel industries, all highly sophisticated and advanced items. Incredibly it has been reported that under the deal the United States would sell nuclear powerplants to Rumania. A wry ironic twist was added when British sources immediately complained about the U.S. deal with Rumania.

How is Rumania to pay for what she gets from us? How else but through the credit-guaranteed courtesy of U.S. taxpayers by way of the Export-Import Bank.

Reportedly the United States-Rumania agreement became possible because Rumania has been steering a course independent of the U.S.S.R. Even if Rumania has been attempting to and allowed by the U.S.S.R. to act independently in certain areas, are these grounds for the United States to undertake an action of this type? I believe definitely not.

Rumania is still a Communist country and there is no question but that she is under the control of the U.S.S.R. She will stay under the Kremlin thumb as long as she embraces communism.

Claiming that so-called independence on the part of Rumania is justification for us to sell advanced and sophisticated machinery and equipment seems all the more shallow when it is realized that at the same time we have been selling many items to the U.S.S.R. itself, such as potash mining equipment and wheat.

An article in the June 3 edition of the New York Times reports that in the next round we will enter into an agreement with Hungary along the lines of the Rumania arrangement. Apparently, all most Communist nations need to do to obtain from us whatever they need, and on credit, is to engage in a few superficial activities and make certain statements which they can claim show their "independence" of the Kremlin.

If the United States and the Western World were to set out expressly to help equip the Red bloc to carry out its goal of world domination, it seems we would proceed exactly as is called for under agreements of this type.

KINGMAKERS HAVE BECOME UNGLUED

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. UTT] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. UTT. Mr. Speaker, the voice of the people has been heard in the land, and the kingmakers have become completely unglued. For the first time in many years, the grassroots Republicans have had a voice in selecting a candidate for the Presidency.

Who are the kingmakers? They are a select group representing the Council on Foreign Relations, made up of both Republicans and Democrats, who control most appointments to high office and who direct the foreign policy of this country, and under no circumstances do they want any change in our foreign policy by bringing to the Presidency someone who has an affinity for the welfare of this great Republic. A year ago, when the sentiment for BARRY GOLDWATER to become the Republican nominee was getting well underway, there was a feeling that he would be the heavy favorite among Republicans but that the CFR would sidetrack the movement. I felt differently, because this was a grassroots movement above and beyond the control of the kingmakers. Therefore, it was my contention that the kingmakers would have to come to GOLDWATER and that he, GOLDWATER, would not have to compromise with them.

Always before the kingmakers, with the help of Madison Avenue, would create a popular image for the man or men of their choice, and then would move them around like pawns on a chessboard when the convention came around. A good example of this was the buildup of Governor Scranton, who had generated no steam of his own and would necessarily deflate whenever the kingmakers removed their massive support. This was very evident, judging from Scranton's appearances on television, after the rug had been pulled out from under him. On the other hand, Senator GOLDWATER's support could not be maneuvered.

Of course, the Council on Foreign Relations sent its international-minded wrecking crew to the Governors' conference in Cleveland for the sole purpose of stopping GOLDWATER, and before the show was over it was a sorry and frustrated group of gladiators. David slew Goliath. The equivocation and double-dealing of many of the Republican Governors automatically eliminated them from any consideration for the second spot on the ticket, and, in my opinion, that leaves only Congressman WILLIAM MILLER, of Buffalo, N.Y., as the best possible choice of the Republican Party for Vice President.

I can best explain the situation in allegorical terms, turning back the pages of history some 3,000 years when Haman was plotting to destroy the entire Jewish race, under the reign of Ahasuerus. You will recall that Mordecai, who had once before saved the life of the King, learned of this deceitful plot, and called Queen Esther to the King's gate to urge her to save her people. At first she hesitated, and Mordecai said, "Who knoweth whether thou art come to the kingdom for such a time as this?" And Esther replied, "And so will I go in unto the King, which is not according to the law: and if I perish, I perish." And thus the courage exhibited by Esther saved her entire race. I believe that Senator GOLDWATER was brought to Washington for such a time as this, when the very survival of this Republic depends upon a sincere and dedicated patriot to spread the gospel of truth to the American people and warn them of the disastrous direction in which this country is heading.

The Senator's victory in California was far greater than any of the columnists and commentators will acknowledge. Arrayed against him were all of the other candidates, the two largest newspapers in California, the liberal establishment, and the national television networks. It was a smear campaign, a fright-peddling campaign, with irresponsible charges made by those who have been so outspoken against such tactics, which they charge are not only used by the conservative Americans. The Senator's statements on various issues were twisted, taken out of context, and completely misquoted by the press throughout the world. The fact that the Communist press, from Pravda to the People's World, shudders at having a man like GOLDWATER for President, should be his biggest asset. For too long have we been listening to and following the dictates of foreign countries who are trying to destroy the American system of government and the American way of life. The statements of Secretary General U Thant and the rantings and ravings of Ralph Bunche, U.N. Under Secretary for Special Political Affairs, further expose the fact that the United Nations is intending to rule the world by force.

Listening to what Senator GOLDWATER says and then reading it in the press, reminds me of some of the lines in Kipling's poem, "If."

> If you can bear to hear the truth you've
> spoken
> Twisted by knaves to make a trap for fools,
> Or watch the things you gave your life to,
> broken,
> And stoop and build 'em up with worn-out
> tools:
> Yours is the earth and everything that's in it,
> And—which is more—you'll be a man, my
> son.

Senator GOLDWATER, you are that man.

Today, as this report is being written, the House will vote on a $500 million pay raise bill, and the next order of business will be to vote for a $9 billion increase in the national debt to cover the deficit spending for this coming fiscal year. Regardless of what you hear about economy, the Johnson administration is spending $2 million a day more than the Kennedy administration was spending last year. This is $5 million a day more than was being spent in the last year of the Eisenhower administration.

An example of waste: A civilian electronics technician, stationed on Santa Cruz Island off Santa Barbara, neglected to send for his absentee ballot. So the Navy dispatched a helicopter and crew to go to Santa Cruz Island and pick up the application for an absentee ballot. The Navy flew it to San Diego by jet aircraft, hand delivered it to the registrar, picked up an absentee ballot, flew it back to Santa Cruz Island, and, after the ballot was marked, they flew it back to San Diego, at an estimated cost of more than $2,000. This was not an emergency flight, nor a mercy flight, and should not be condoned by the Appropriations Committee.

RESORT TO BLUDGEON TACTICS BY ARA

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. TALCOTT] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. TALCOTT. Mr. Speaker, a Federal program should be good enough to stand on its own feet. Federal agencies, above all others, should set examples of integrity and propriety in their dealings with the public.

As presently administered, the Area Redevelopment Administration cannot function by forthright, honest presentation of its purpose and operation. ARA administrators are more and more often resorting to the tactics and techniques of the hoodlum and underground.

The administration has not hesitated to use the power of Area Redevelopment Administration and accelerated public works money as a political bludgeon to force Congress to loosen the purse strings and give them even great power. For example, a Georgia editor who inquired last October about the status of his city's application for a grant to help his city to build a badly needed sewage plant was told the way to get it approved was to put the heat on his Congressman to reverse his anti-ARA vote. Last November Secretary of Agriculture Orville Freeman, who holds life-and-death powers over the lumbermen through the Forest Service, while addressing a breakfast meeting of Congressmen and members of the National Lumber Manufacturers Association unabashedly wielded the same bludgeon. Mr. Freeman said:

> If I may be very blunt with you, I haven't seen many people from this industry up there on Capitol Hill lobbying for accelerated public works. I hope you'll decide before you leave here to get up to this Congress and help pass the APW program and get us some money so that we can do some of the things you're asking us to do.

One irate Congressman said later:

> This was an open effort to put the gun to our heads by threatening our constituents. I'll be damned if I'll buckle to such threats even if it means I don't stay in Congress.

But others, learning from many object lessons, may not be so foolhardy or courageous as to defy Washington's big stick tactics.

Consider the sad experience of Knox County, Ky. In an effort to undercut criticism before a congressional committee by President Edward P. Neilan of the U.S. Chamber of Commerce, the ARA misleadingly claimed it had the support from chamber organizations over the Nation. Many named came forward to disavow the ARA claim, among them the Knox County Chamber. So what happened? White House and ARA officials telephoned Mayor Paul Buchanan of Barbourville, the county seat, and reminded him he had pending an application for a $500,000 grant to build a municipal building, was planning to ask for a million more for sewer extensions, and that the county was seeking $340,000 to build a new courthouse. They demanded of the mayor:

> Have Barbourville and Knox County been asking us to approve these funds and slapping our face at the very time we're fighting for more congressional appropriations?

At a hurriedly called meeting of the Knox County Chamber's directors, Buchanan presented the case:

> We can hardly expect to receive the most sympathetic consideration from these officials after spitting in their eye—especially when thousands of communities are seeking this aid and there's not enough funds to go around.

Faced with this kind of not-so-subtle blackmail, one director protested:

> We've got ourselves in a position where we have to take a stand whether we want to or not.

The board then voted unanimously to "go on record in support of the ARA program" and "inform Washington officials of this action."

The integrity of the whole Federal system, as well as of the administration, ARA, and APW is at stake. Legislators, Federal and local, and private citizens must insist on higher standards.

DUTY ON BUTTON BLANKS

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Iowa [Mr. SCHWENGEL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. SCHWENGEL. Mr. Speaker, today I have introduced a bill which would correct a long-neglected oversight in the tariff schedules of the United States. This deals with the problem of "almost finished" buttons. Under present tariff regulations the almost finished button can be imported under the blank button rate of duty. This is a serious inequity and works an unnecessary hardship on domestic button manufacturers.

What is the problem?

During the 1960-61 GATT Conference a 20-percent reduction in the duty on button blanks was negotiated. This has resulted in an incredible skyrocketing of button blank imports, from 3,300 gross in 1960 to 2,600,000 gross in 1963. A lion's share of these imports have been of the almost finished button type. These buttons with over 75 percent of the total manufacturing costs of making a finished button already accomplished outside of this country cannot realistically be considered as button blanks. In fact, all that remains to be done to these almost finished buttons is for the holes to be drilled in them. They have been classified for thickness, faced to put the pattern on the face of the button, polished, and have gone through the costly inspection process for defects. All of these processes have been completed outside of this country and at a lower labor cost than possible in this country and yet they are imported at the same rate of duty as a button blank which has not been subjected to any of the forementioned processes of manufacture.

It is not hard to see the tremendous advantage costwise the importer of the almost finished button has over the American button manufacturer.

In the First District of Iowa there are 10 button manufacturing plants employing over 400 people. There are 125 such plants in this country employing 5,500 people. While this industry may be considered relatively small, it is important to the economic well-being of the communities in which they are located.

Button manufacturers have been doing almost everything conceivably possible to meet the competition from button imports. But it is impossible to compete with wages of 13 cents, 40 cents, and 80 cents an hour in importing countries when the labor costs in this country are approximately $2.50 an hour.

The legislation I, along with others, have introduced would provide that button blanks, regardless of their state of finish, would be subjected to the same duty as buttons.

To me this is eminently fair. Those to whom I have talked at the Tariff Commission and others here in the Congress agree that the present situation should be corrected. I certainly hope that this legislation will get prompt and favorable attention.

GOP CALLS FOR HIGHWAY HEARINGS IN LOUISIANA

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. CRAMER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. CRAMER. Mr. Speaker, the minority members of the House Special Subcommittee on the Federal-Aid Highway Program have become increasingly concerned over the apparent unwillingness of the chairman of this subcommittee to schedule the now long overdue hearings on the Louisiana Federal-aid highway program.

Believing that such procrastination when hearings are fully justified serves no useful purpose, but serves, instead, to undermine the purpose of and confidence in this subcommittee, the minority members of the subcommittee signed the following letter calling upon the chairman to schedule hearings.

The text of the letter, dated June 9, 1964, follows:

Hon. JOHN A. BLATNIK,
Chairman, Special Subcommittee on the Federal-Aid Highway Program of the Public Works Committee, Room 6211, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is to express our deep concern about the apparent lack of action toward setting a date for the beginning of hearings by the Special Subcommittee on the Federal-Aid Highway Program on roadbuilding practices in Louisiana.

Investigations of this subject were commenced more than 3 years ago. The staff of the subcommittee has been actively pressing its investigation for more than a year and a half and is ready to proceed with public hearings. There can be no question but that public hearings are fully warranted, and must be held at an early date if they are to serve a useful purpose.

The various investigations revealed deplorable practices in the construction of Federal-aid highways in Louisiana—particularly those on the Federal-aid secondary system. Failure to set specifications, falsification of records and reports, distribution of gifts and gratuities to State employees, and other atrocious practices which have been found in other States have been detected in Louisiana to a pronounced degree. It is important that the subcommittee have public hearings and soon. First, other States and State highway departments should be fully informed as to the deficiencies which can and do exist in the highway program, and as to what corrective actions are most appropriate and effective. Second, the legislators and other officials involved should be thoroughly and publicly informed of deficiencies, past and present, so that corrective action will be both vigorous and permanent.

At the last meeting of the special subcommittee on April 29, 1964, it was definitely understood that hearings on highway construction practices in Louisiana would be held. The only major problem involved setting a date for the beginning of the hearings, which promise to be lengthy, because of the burdensome schedule of the Members and the imminence of the presidential nominating conventions. It was our understanding that the chairman would reach a decision and inform the members of the subcommittee within 1 week.

Since that time, nearly 6 weeks have elapsed without a date for the hearings having been set, and without comment or explanation from the chairman.

If hearings are to begin on June 15 or 16, as tentatively planned, the decision must be reached immediately. In the first place, time must be allowed for subpenas to be issued and for witnesses to be able to arrange for travel to Washington. In the second place, the members of the subcommittee must have time to arrange their own schedules.

If the hearings do not begin by June 15 or 16, it is doubtful that they can be completed by the commencement of the Republican Convention in July. It is unlikely that the workload of the Congress and the busy schedules of the Members would permit the holding of hearings either during the period between the Republican National Convention and the Democratic National Convention in August, or in the succeeding weeks. It seems obvious that if hearings are to be held at all, and serve a really useful purpose, they must begin next week.

We do not know why the chairman has delayed his decision on such a simple and presumably noncontroversial matter. We cannot stress too strongly our belief that hearings on highway construction practices in Louisiana should begin and begin soon, preferably on June 15 or 16, as tentatively agreed to nearly 6 weeks ago.

The special subcommittee, which submitted a proposed budget of some $750,000 for the 2 years of the 88th Congress, has held only one public hearing so far during this Congress. That hearing, concerning highway construction practices in Arizona, was completed more than 1 year ago. While we recognize the fact that the work and effectiveness of the special subcommittee cannot be measured solely in terms of the number of hearings, we find it difficult to accept the proposition that the subcommittee is carrying out its functions and responsibilities if it fails to hold a public hearing, or unduly delays such a hearing, after the staff has completed its investigation and the subcommittee has decided that a hearing is warranted.

We respectfully urge the chairman to take immediate action to schedule the beginning of hearings on highway construction practices in Louisiana on June 15 or 16, 1964.

Respectfully submitted.

William C. Cramer.
John F. Baldwin, Jr.
Fred Schwengel.
Howard W. Robison.
William H. Harsha.
James Harvey.
James C. Cleveland.

RESIDUAL FUEL OIL RESTRICTIONS—A NEW PROPOSAL

Mr. MARTIN of Nebraska. Mr. Speaker, I ask unanimous consent that the gentleman from New Hampshire [Mr. Cleveland] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. CLEVELAND. Mr. Speaker, in my opinion, import restrictions on residual fuel oil should be completely removed. These restrictions are unfair to New England consumers and New England industry, as I have frequently pointed out before. However, if these grossly unfair import restrictions cannot be removed because of political pressures mistakenly applied by the coal mining regions of this country, they should at least be modified.

Mr. John K. Evans, executive director of the Independent Fuel Oil Marketers of America, Inc., has made a proposal to Thomas C. Mann, Assistant Secretary of State for Inter-American Affairs, that is worthy of thoughtful consideration by all who are interested in this important problem. Mr. Evans' proposal and the reasons for it are referred to in a letter dated June 9, 1964, which he wrote to Mr. Mann and which follows:

Washington, D.C.,
June 9, 1964.

Hon. Thomas C. Mann,
Assistant Secretary of State for Inter-American Affairs, Department of State, Washington, D.C.

Subject: Residual fuel oil import restrictions.

Dear Mr. Secretary: From your past experience with oil affairs as well as your past assignment in Venezuela, you are undoubtedly well informed on the subject. The purpose of this letter is to bring you up to date since this problem is one that is of great concern to Venezuela. It is also indirectly tied in with the restrictions on the importation of crude oil since this nontariff barrier also has a negative impact on the interests of Venezuela. Finally, there has been considerable comment in the trade press with regard to the question of U.S. balance of payments and the need in this regard to divert every possible dollar of offshore procurement by the Department of Defense to the United States. Here again Venezuela's interests are at stake.

For the past 3 years this organization has been fighting for either the removal of controls or the revision of governing regulations on the importation of residual fuel oil. We contend that since this product is in short supply in the United States and since imports merely fill the gap between supply and demand, there is no justification for any import restrictions. As far as the coal industry is concerned (the industry responsible for the adoption of controls by the previous administration), this entire issue is a false one and nothing less than a scheme to create a false shortage in fuels supply and to eliminate interfuel competition by end use control. Imported residual fuel oil competes with coal in a very narrow area on the eastern seaboard—a total of 6 million tons or less than 1½ percent of domestic coal production (according to a study made by the Department of the Interior several years ago). On the question of coal unemployment, this is due entirely to automation of the coal industry—10 years ago a miner produced 6 tons per day, now he produces 18 tons per day, and this is in direct relationship with the employment level of coal miners. Ten years ago 450,000 miners were employed and now just over one-third of that number produce the same volume of coal. It is regrettable that the interests of the Nation have to be sacrificed for the selfish and narrow limited interests of a few coal mine owners.

This organization filed a statement with the Trade Information Committee last November drawing the attention of Governor Herter to the fact that since a special Presidential Study Committee (headed by Office of Emergency Planning Director McDermott) found that residual fuel oil imports were not endangering national security, there is no legal justification for the continuation of these controls under the GATT terms of agreement. It is also pointed out that since residual fuel oil imports represent nearly 5 percent of our total imports, our negotiating committee at GATT was compromised and in a most difficult negotiating position since, under the terms of GATT, all members could exempt 5 percent of their imports—the only trouble is that obviously they will not pick commodities that do not have an impact on our export trade program. Another point to bear in mind is that the tariff on residual fuel oil is approximately 2½ percent ad valorem, an extremely low tariff and one that would have been a fine item to place on the bargaining table for the negotiation.

On the question of the current import program, it seems to us that for very obvious reasons there are not many concessions that can be made to Venezuela on the question of crude oil imports—the only possible areas would be those involving Canadian and Mexican imports and the special double credits that are given to the so-called U.S. tier refineries. On the subject of residual fuel oil imports, the east coast represents a market bigger than the rest of the world. The consumer (which means the 50 million residents on the east coast since they all consume some form of energy) has been forced to pay a subsidy to the coal mine owners in the form of higher prices. Further, to compound this felony, many utilities have been denied a free choice of competitive fuel. For example, Long Island Lighting has been forced to convert from lower cost residual fuel oil to higher cost, more difficult to handle, coal. These conversions have involved millions of dollars in capital expenditures. In the case of many manufacturing plants (for example the paper companies in Maine), the product of these industrial complexes has been priced out of world markets because of the high cost of residual fuel oil created as a result of import restrictions. The current program is not only causing great hardship to the independent marketers, such as the members of this organization, but it has disrupted the entire fuel economy of the east coast. Regulations are such as to eliminate competition among marketers and a cartelization and monopoly system now exists in the east coast marketplace. Consumers are captive to one supplier and, as a result there is no competition for the consumer's business. The regulations are not flexible and, as a result, there is no adjustment for varying degrees of climatic conditions or economic development and activity. This whole chaotic situation has resulted in a system that places a value in an import ticket—the value in each barrel of import allocation varies from 15 cents to 45 cents per barrel depending on climatic, calendar, and economic conditions. These import ticket values not only cause hardship to the independent marketers and the 50 million consumers, but this ticket cost is a direct loss to Venezuela since this "surcharge" is, of course, not a part of the posted f.o.b. price.

While this organization is convinced that there is no economic justification for the continuation of controls, we have reached the conclusion that "half a loaf is better than none." If the independent businessman is going to stay in business, if the consumer is to get the benefit of a competitive market, and if end use control of energy is to be eliminated, then the only solution is to revise the regulations in such a manner as to eliminate the present inequities and do away with the value of tickets.

For your information, there is attached copy of a plan we drafted as a basis for discussion within our Government to the end that current regulations on the importation of residual fuel oil are revised in such a manner as to serve the best interests of our Nation. Basically, this plan creates a procedure wherein a supplier who gets a consumer's business gets the right to import that consumer's requirements of residual fuel oil over and above the volume of domestic residual fuel oil that is available for that consumer.

Since this whole subject is of such vital importance to Latin America, we hope that you will have your staff review the enclosure. Should you have any questions, we are at your service.

Sincerely yours,

JOHN K. EVANS.

STATEMENT OF ABRAHAM J. MULTER BEFORE JUDICIARY SUBCOMMITTEE URGES GENERAL REVISION OF IMMIGRATION LAW

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. MULTER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. MULTER. Mr. Speaker, the Subcommittee on Immigration and Nationality of the Judiciary Committee has started hearings on a general revision of our outdated Immigation and Nationality Act. I was privileged to submit to the subcommittee today the following statement supporting the administration proposal:

STATEMENT OF HON. ABRAHAM J. MULTER BEFORE THE IMMIGRATION AND NATIONALITY SUBCOMMITTEE OF THE HOUSE JUDICIARY COMMITTEE JUNE 11, 1964

Mr. Chairman and members of the subcommittee, I am heartened and gratified by your decision to hold these hearings—the first to be held before a House committee on general revision of the Immigration and Nationality Act since that act was signed nearly 12 years ago.

I am here to urge you in the strongest terms to give favorable consideration to the pending administration proposal, H.R. 7700. My companion bill is H.R. 7855.

A number of alternative proposals have been introduced to amend the basic national origins provisions of the law. I introduced a bill at the beginning of the present Congress (H.R. 552), which provides a somewhat different approach than the administration bill. Many other Members have introduced other alternatives.

Since President Kennedy sent us his recommendations and proposed amendments last July, however, I have felt that we, the supporters of immigration reform, should unite in supporting the administration proposal. I believe it is the best proposal that has been introduced. We have had many years to examine and consider the many immigration reform bills that have been introduced in the past. I believe that President Kennedy and his advisers did just that last year and that they evolved the most reasonable, realistic, and workable bill which has been introduced on this subject since the Immigration and Nationality Act was enacted.

The administration bill suggests several changes in the present law. For example, it grants nonquota status to parents of U.S. citizens. This change would have a very minor numerical effect on immigration. Yet it is a change that is long overdue. I can think of no good reason why citizens of this country should be separated from their parents for any length of time simply because a second preference quota number is not available to them.

I would go even further and grant the same nonquota status to parents of permanent immigrants who are awaiting the privilege to become citizens.

The bill also would extend nonquota status to natives of all independent island countries of the Western Hemisphere. Under present law those island countries which have gained their independence since the enactment of the Immigration and Nationality Act are excluded from the provisions granting nonquota status to natives of other independent Western Hemisphere countries. This is a purely adventitious distinction which ought to be eliminated.

Other changes made by the bill include the creation of a new fourth preference category to cover aliens whose occupations are in short supply, and the creation of an Immigration Board, which would participate in issuing regulations, study conditions affecting immigration policy and perform other advisory duties.

These are some of the amendments contained in the bill. I believe that they provide important and reasonable changes in the law.

The most urgent matter dealt with in the bill, however, is the national origins quota system. This, as we all know, is the single issue that lies at the center of the storm which has raged over our national immigration policy for 40 years or more.

The national origins quota system is unjust and unfair. It cannot be justified. It is a rigid mathematical equation with absolutely no basis in reason or sound national policy. It is not sacred writ, as some would have us believe. What is more it has not worked in application—it has not governed our pattern of immigration as it was intended to.

During the last fiscal year, ending June 30, 1963, over 306,000 immigrants were admitted into the United States. The total annual quota during this time was about half of this number, around 157,000. And how many immigrants' admission was actually governed by the quota? The answer, as you know, is 103,036. So in actual practice, virtually two-thirds of the immigrants entering the United States in fiscal year 1963 entered outside the quota. Only one-third came in under the quota. The same is true, approximately, for every recent year.

What type of national policy is this? We, like the Pharisees of old, must make broad our phylactories to convince ourselves that the national origins quota system maintains the racial composition of our people as it existed 44 years ago. Yet this, precisely, is the purpose and the only purpose of the system. But is has not worked.

Nevertheless, it remains on the statute books giving offense to the peoples of the world against whom it unjustly discriminates. And it has put us in the untenable position of preaching racial equality to the people of the world while our national laws contain a basic system of immigration control which, in their eyes, appears to be racial discrimination per se. Believe me, this is an area of our national policy which is known throughout the world, especially in those countries with heavily oversubscribed quotas and those that have been granted the token quotas of 100 per year.

I do not understand why we must maintain this senseless system. The alternative system proposed in the administration's immigration bill seems to me to be clearly more sensible and reasonable.

It provides for the gradual elimination of the national origins quota system. This is the first bill to my knowledge that recognizes the problems that would arise in eliminating the existing system by providing for its gradual phasing out, rather than its abrupt abolition.

The bill contains another special provision to smooth out the transition in changing from the present system. It authorizes the President to reserve a portion of the quota numbers available under the substitute quota system to avoid hardship in the cases of immigrants who would be prevented from gaining admission into the United States because of the reductions in the national origins quotas. The purpose of this provision is to prevent discrimination against natives of those countries that are granted preferential treatment under the present quota system. Since the bill provides for immigration on a first-come, first-served basis, natives of such countries as Great Britain, Ireland, and Germany would not be able to obtain an immigrant visa for some time to come, were it not for this special provision.

The heart of the bill, then, is contained in its provisions creating a substitute for the national origins quota sytsem. In broad outline these provisions are not complex. With the abolition of the national origins system after a 5-year phasing-out period, immigrant visas would be available to any qualified alien without regard to the country of his birth.

In order to qualify for admission, an alien would, of course, have to meet the rigid admissability provisions of the law which, with some minor modifications, are preserved by the bill.

The bill also maintains the existing preference categories, with some modifications.

Thus, under the bill, skilled aliens and close family relatives of people settled here would be given admission preference.

The overall total quota would be increased only slightly, from the present 158,000 to around 165,000. This increase results from a provision of the bill raising minimum quotas from 100 to 200.

Finally, the bill provides that the natives of no one country may receive more than 10 percent of the total quota numbers available in any 1 year. This is to insure that no nation will be able to monopolize the quota to the disadvantage of immigrants from other countries.

Mr. Chairman, these are the basic elements of the provisions of the bill that would substitute for the discredited national origins quota system. They were worked out in consultation with those in the Government who are most familiar with the administrative problems of running the immigration program. I have every confidence, therefore, that they will work.

What is more, they will work in a manner that will not unnecessarily offend anyone, as our present system does. They will not, as some people seem to fear, open up the so-called floodgates to immigration.

This bill provides for a long overdue reform of the basis of our system of quantitative immigration control. It maintains all of our qualitative controls with some modifications which will improve them. There are no sleight-of-hand provisions in the bill designed to expose us to vastly increased immigration. President Kennedy cannot be accused of participating in such a plan. President Johnson has also given his unqualified endorsement to the bill. To those who have such fears regarding this bill, I would echo the words of Franklin Roosevelt that they "have nothing to fear but fear itself."

I most emphatically urge you to give this bill your full consideration and to take the necessary steps to report it favorably.

A BILL TO PROHIBIT THE USE OF "FEDERAL", "NATIONAL", OR "UNITED STATES"

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. MULTER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. MULTER. Mr. Speaker, I have today introduced a bill to prohibit any corporation, business, or association from identifying itself or from using in its name or its trademark the words, "Federal", "National", or "United States", or abbreviations thereof unless such corporation, business, or association is an agent or instrumentality of the Government or is required or specifically permitted by Federal statute to use such words.

In recent years we have seen a great proliferation of businesses and associations using names and trademarks which have the effect of leading the public to believe that the organization is part of or has the blessings of the Federal Government. Fraud can be and is perpetrated in this manner and the abuse should be stopped by enacting this bill.

SUBSIDIES RECEIVED BY 20 COTTON MILLS

The SPEAKER. Under previous order of the House the gentleman from Massachusetts [Mr. CONTE] is recognized for 10 minutes.

Mr. CONTE. Mr. Speaker, between April 11 and June 5 of this year, 20 cotton mills have received subsidies of $20,068,060 under the so-called cotton stabilization program.

After hearing this, I am overwhelmed by the fact that Secretary Freeman refused to announce the names of the firms receiving these handouts.

In fact, the whole program has not added to my own stability.

I cannot think of any Government program that refuses to name the recipients and amounts of American taxpayer dollars.

I demand that Secretary Freeman disclose the information, so that the American public may know all of the facts. This secrecy surrounding a Department that has not yet survived from the Billy Sol Estes scandals is certainly not in the best interests of the U.S. Government.

All this secrecy seems to indicate to me is that the American taxpayer's money can be spent in the most ridiculous ways, without knowing how, when, or where.

The only person to lose on such a program is the badgered American taxpayer, and, as far as the New England taxpayer is concerned, he is paying for these subsidies to nameless mills that were once stolen from his, our backyard.

The passage of the legislation which gave the go-ahead to these subsidies cannot be taken back but I would like to say that it was my impression that the whole thing amounted to a "cottondoggle" which will take its place among the great "boondoggles" and "moondoggles" of this century, and we have had some beauties.

In this respect, I would like to insert a recent editorial from the Wall Street Journal which likens the program to the old card game called Old Maid.

The editorial places the matter in perspective, and I hope that Secretary Freeman will read it and then come forward with a listing of the companies that have received in excess of $20 million.

The article follows:

COTTON'S CARD GAME

Subsidy, subsidy, who'll get the new cotton subsidy? In a way, it reminds us of that old children's card game of Old Maid. In case you've forgotten, someone winds up with an odd card and thus becomes the "Old Maid." Rather silly, we suppose, but so is the cotton game.

When the Federal price-support subsidy pushed America's cotton out of the world market, the Government played another card. Specifically, it began paying a subsidy to U.S. exporters so they could compete abroad.

But then foreign textile mills bought this U.S. cotton and processed it into goods they sold to this country. American textile mills, forced to buy their cotton at the higher domestic price, justifiably complained that they were caught in a competitive squeeze play.

Nothing daunted, the Government came up with yet another subsidy, this one designed to help the domestic mills. The trouble was that, by this time, the game had grown so confusing that no one seemed to know who should get the new payment.

About the only thing Congress was sure of was that the payment should not go to the cottongrower, who already received the price-support subsidy. In the end, the lawmakers merely decided to pass the problem along to the Agriculture Department.

That agency, sensibly enough, wasn't anxious to come to grips with the problem either. So it also passed; the solution is now up to the cotton dealers and the textile mills. The Department, however, stipulates that the subsidy will go only to someone who guarantees the cotton will be used by domestic mills or exported—and thus not for profiteering in the market.

As for the textile mills, they're understandably fed up with the cotton game; they would like the dealers to take the subsidy and use it to reduce their prices. But the dealers, also understandably, don't want to get any more involved in this childish nonsense than necessary. It, therefore, looks as though the mills, if they want lower priced cotton, will wind up with the new subsidy themselves.

This new subsidy, the Agriculture Department estimates, will cost the taxpayer $140 million in the coming year. Once again, it's easy to see who gets the Old Maid's card and loses the game.

REPORT ON THE EVENTS IN PANAMA, JANUARY 9–12, 1964

The SPEAKER. Under previous order of the House the gentlewoman from Missouri [Mrs. SULLIVAN] is recognized for 60 minutes.

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include additional material.

The SPEAKER Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

Mrs. SULLIVAN. Mr. Speaker, I have requested this time today as chairman of the Subcommittee on the Panama Canal of the House Committee on Merchant Marine and Fisheries in order to place before the House the substance of a report just made public on the rioting which occurred in Panama City and Colon, in the Republic of Panama, and which spilled over into the Canal Zone, early this year. A number of American soldiers lost their lives in those riots while defending the Canal Zone's installations and residents. The loss of life among Panamanians was much higher. It was a tragic episode, and one which both the Republic of Panama and the United States will regret for years to come.

The report on the riots just made public this week was made by an investigating committee of three men appointed by the International Commission of Jurists, a nongovernmental organization which has its headquarters in Geneva, Switzerland. It is a significant document, and worth the attention of every Member of Congress. I do not want to discuss or evaluate it, or analyze, or agree with, or dispute it at this time. The important thing, I believe, is that it be made widely available so that those who agree with it or who disagree with it can have the full text, and so that everyone interested in the background and developments of the January riots can have access to the information the report gives.

INVESTIGATION WAS REQUESTED BY NATIONAL BAR ASSOCIATION OF PANAMA

Mr. Speaker, it should be made clear at the very outset that the Government of the United States had no part whatsoever in the initiation of this particular investigation or in the selection of the jurists who made the investigation, or in any of the facts or conclusions presented in the report. Several American officials were asked to appear before the investigating committee, and did so, as did several officials of the Republic of Panama. The organization which conducted the investigation, the International Commission of Jurists, was originally invited to make this study by the National Bar Association of Panama, which had complained that the United States had infringed the Declaration of Human Rights by its activities in the Canal Zone in repulsing the rioters seeking to invade the zone.

The report made by the three foreign jurists—one from the Netherlands, one from Sweden, and one from India, was unanimous.

I am sure no one familiar with the situation in the Canal Zone and in the Republic of Panama adjoining the Canal Zone would agree with everything in the report. But, as I said, I am not attempting now to evaluate it or assess it; it should be read on its own merits.

For purposes of the record, I might point out that on February 8, 1964, Mr. Speaker, in a speech in the House beginning at page 2624 of the CONGRESSIONAL RECORD, entitled "The Guilt of the United States in Panama," I placed before the Congress a great deal of documentation which the Members might like to refer to for background purposes. My speech on February 8 was an attempt to set the record straight on the charges made by the Republic of Panama to the Organization of the American States that the United States had committed "aggression" in the Panama riots.

The report which follows does not go into those charges; instead, it concerns the alleged infringements by this country of the Declaration of Human Rights.

Mr. Speaker, under permission previously granted, I am going to read only selected portions of this report but submit the entire report for inclusion in the RECORD at this point as part of my remarks, as follows:

REPORT ON THE EVENTS IN PANAMA, JANUARY 9–12, 1964

(Prepared by the Investigating Committee appointed by the International Commission of Jurists)

INTRODUCTORY NOTE

The International Commission of Jurists was requested by the National Bar Association of Panama to investigate a number of complaints of infringements of articles 3, 5, and 20 of the Universal Declaration of Human Rights by the United States of America on the 9th, 10th, 11th, and 12th of January 1964 in Panama.

The Commission appointed an Investigating Committee consisting of three well-known jurists to undertake the investigation: Prof. A. D. Belinfante of Amsterdam University (Netherlands); Judge Gustaf Petrén (Sweden); Mr. Navroz Vakil, practicing lawyer, Bombay (India).

The Commission now presents the unanimous findings and report of the Investigating Committee. The methods and procedure adopted by the Investigating Committee are dealt with in the report.

Quite apart from the importance of the issues involved in themselves, the report marks one of the first occasions on which the provisions of articles 3, 5, 13(1) and 20 of the Universal Declaration of Human Rights have been invoked and construed authoritatively. While article 13(1) was not originally invoked, it is also considered in the report.

In this connection it will be noted that the Investigating Committee relied in part on the provisions of article 3 to construe both it and article 5. In reaching its conclusions the investigating committee considered the relevant provisions of the European Convention on Human Rights and of the Inter-American Draft Convention on Human Rights. The construction placed by the Investigating Committee on articles 3, 5, and 20(1) of the Universal Declaration and the consideration given to the three great instruments referred to will be of considerable interest to jurists all over the world and should constitute a major contribution to the evolution of a practical jurisprudence in this field.

The Commission is indebted to the Governments of the Republic of Panama and of the United States of America, as well as to all those who assisted the investigating committee in its difficult work, for their assistance and cooperation. This cooperation provides a good example of a reasoned approach, based on legal rules, to a difficult international problem.

The Commission is under a debt of gratitude to the members of the investigating committee for their willingness to undertake this difficult mission and for the care and trouble which they took in the preparation of their report. The Commission shares their hope that the work they have carried out will contribute to the growth of understanding, cooperation, and amity between the two countries and their peoples; that the members of the investigating committee have contributed to this constructive objective will be their only reward.

The report is presented as an impartial and objective assessment of the issues involved.

SEÁN MACBRIDE,
Secretary-General.

REPORT ON THE EVENTS IN PANAMA, JANUARY 9–12, 1964

PART I: THE CONSTITUTION OF THE INVESTIGATING COMMITTEE AND ITS WORK

1. On January 21, 1964, Dr. Jorge E. Illueca, president of the National Bar Association of Panama, in a letter addressed to Mr. Fernando Fournier, Member of the International Commission of Jurists, charged the military and police forces of the United States of America, stationed in the Panama Canal Zone, with violations of human rights on January 9, 10, and 11, 1964, in the cities of Panama and Colon. He requested the Commission to investigate the charges.

2. The letter charged the military and police forces of the United States of America with violations of articles 3, 5, and 20, of the Universal Declaration of Human Rights of the United Nations. The allegations under the relevant articles were:

Article 3: Everyone has the right to life, liberty, and security of person.

The troops and police of the Government of the United States of America, stationed at the Zone of the Panama Canal, violated this right when opening fire on the defenseless Panamanian civil population, in both the cities of Panama and Colon, resulting in 15 deaths. In causing these deaths, the military and police forces of North America used .38 caliber, Smith & Wesson Special, and 7 mm., 7.62 mm. projectiles.

Article 5: No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.

The North American military and police stationed in the Panama Canal Zone violated this right against the Panamanian civil population, in both the cities of Panama and Colon, by shooting at the Panamanian civil population. The North American troops used .38 calibre projectiles, Smith & Wesson Special, 7 mm., 7.62 mm. 410, and bayonets.

Article 20(1): Everyone has the right of freedom of peaceful assembly and association.

On the 9th, 10th and 11th January, 1964, the Panamanian population made a peaceful use of this right in their own territory and the North American military and police fired small arms and teargas shells for the purpose of preventing the free use of such a right.

3. The Commission appointed a team of three observers to act as an investigating committee: Prof. A. D. Belinfante, of the Netherlands; Judge Gustaf Petrén, of Sweden; and Mr. Navroz Vakil, of India. The committee met on February 28, 1964, in Geneva and left for Panama on March 1, 1964. The Governments of the Republic of Panama and the United States of America gave their full assistance to the investigating committee.

4. The parties appearing before the investigating committee were represented as hereunder:

Republic of Panama: Dr. Eloy Benedetti, Legal Adviser to the Ministry of External Affairs.

United States of America: Mr. Joseph A. Califano, general counsel to the Department of the Army, (chief of the delegation and spokesman).

Mr. Sterling J. Cottrell: Deputy Assistant Secretary of State for Inter-American Affairs; Mr. John F. Wolf, U.S. Government attorney; Mr. Dwight McKabney, assistant general counsel to the Panama Canal Company; Mr. Robert K. Donlan, attorney to the Civil Division of the United States, Department of Justice.

The National Bar Association of Panama: Dr. Jorge E. Illueca, (chief of the delegation and spokesman). Dr. Eduardo Valdez, Dr. Diógenes A. Arosemena, G; Lic. Rodrigo Arosemena, Lic. Carlos Bolívar Pedreschi, Lic. Guillermo Márquez Briceño, Lic. Ricardo A. Rodríguez.

5. The investigating committee was graciously received by the President of the Republic of Panama, His Excellency Roberto F. Chiari, and the Foreign Minister of Panama, His Excellency Dr. Galileo Solis, as also by the Governor of the Canal Zone, Maj. Gen. Robert J. Fleming, Jr., and by Gen. Andrew P. O'Meara, commander in chief, U.S. Army Southern Command.

6. Immediately after its arrival, the investigating committee had several meetings with the representatives of both sides separately in order to secure agreement on the procedure to be followed. Although diplomatic relations between the Republic of Panama and the United States of America were severed at the time, the committee insisted that in order to fulfill its task it was essential that both parties should be present at all the proceedings. The investigating committee adopted the following rules of procedure:

a. The official languages of the proceedings will be Spanish and English.

b. The Panamanian Bar Association will be requested to present a statement with each point of reference.

c. As soon as the committee has received the statement of the Panama Bar Association, it will be submitted to the U.S. representatives for a statement from their side.

d. The committee will consider the two statements in order to ascertain the issues in dispute. This will be done at a meeting with both parties present. At this meeting the evidence proposed on all disputed issues will be stated. For that reason the parties should be prepared to indicate the evidence available to them on these issues.

e. The hearing of such evidence that the committee judges necessary and relevant will then take place. All evidence will be heard in the presence of both parties.

f. Each party should be represented at the meetings by one spokesman assisted by other persons, drawn from a list given to the committee not exceeding six persons. The list of each party will be furnished to the other.

7. The terms of reference of the Investigation were agreed by the parties to include an enquiry into the following issues:

a. The death of fifteen persons during the events of January 9, 10 and 11, 1964, in Panama and Colon. Alleged violation of article 3 of the Universal Declaration of Human Rights.

b. The shooting from the Canal Zone into the territory of Panama during January 9, 10, and 11, 1964. Alleged violation of article 5 of the Universal Declaration of Human Rights.

c. The dissolution of a Panamanian students' assembly in the Canal Zone on the afternoon of January 9, 1964. Alleged violation of article 20 of the Universal Declaration of Human Rights.

d. The alleged improper blockade of the Bridge in Panama and of the corridor of Colon, during the events of January 9, 10 and 11, 1964.

8. The third issue above was later enlarged to cover the same field as that covered in the corresponding charge in the letter of January 21 quoted above. In addition to these four issues, it was agreed by the parties that written statements would be received covering allegations of inequality of treatment in the Canal Zone.

9. The chairmanship at the hearings rotated between the members of the investigating committee.

Lic. Rodrigo Oreamuno of Costa Rica acted as Secretary and as interpreter to the committee; Mrs. Angela Fahlberg acted as administrative secretary.

The hearings lasted for approximately 100 hours, during the course of which 26 witnesses were examined by the committee. The parties were also given the opportunity of questioning the witnesses. A larger number of documents were tendered in evidence; all documents presented by one side were communicated to the other. The investigating committee heard arguments by the representatives of both sides. The proceedings were tape recorded.

The investigating committee, accompanied by the representatives of the parties, visited Colon on March 12 from 9 a.m. to 12 noon and a number of relevant places Panama City as well in the Canal Zone, on March 13 from 9 a.m. to 11 a.m.

The mission left Panama on March 14, 1964.

PART II: INTRODUCTION

10. The history of the relations between the Republic of Panama and the United States is, in large measure, the history of the isthmus-canal of Panama. This history started even before the Republic of Panama came into existence, as soon as plans for the construction of a canal began to take form. It is not necessary to relate in detail the disaster of the French attempt to construct a canal, which ended in the abandonment of these plans at the end of the nineteenth century. The United States of America started where the French company left off, and concluded in 1903 a treaty with Colombia, in which this Republic granted to the United States the right to construct a canal and to acquire a zone of land on both sides thereof in the Colombian province of Panama. Panama, at the time, was part of the Republic of Colombia. This treaty, called the Hay-Herran Treaty of 1903, was not ratified by Colombia. Then, on November 3, 1903, the Colombian province of Panama proclaimed its independence. The young Republic of Panama, recognized by the United States of America on November 13, 1903, reached an agreement with the latter about the construction of a canal, the Hay-Bunau Varilla Convention of November 18, 1903. This treaty is still in force and forms the base of the relations between Panama and the United States.

11. Article 2 of the treaty begins as follows: "The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed."

12. Article 3 that follows reads: "The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in the said article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

13. On the basis of this convention a special territory on either side of the Canal, comprising about 650 square miles from the Atlantic to the Pacific, was created: it divided the territory of the Republic of Panama in two parts. The canal was opened to traffic in 1914. The canal has been of the utmost importance for the development of the economy of the Republic of Panama. It is in reality the mainspring of the economy of the Republic of Panama, as apart from the direct revenues from the canal the presence of the canal yields indirectly a substantial income from numerous other sources. On the other hand, the provisions of the convention have given rise to controversy in regard to questions of sovereignty between the two Governments almost from the beginning (i.e., from 1903) to the present day. It is not the purpose of this report to propose solutions to the problems of interpretation of the 1903 convention and the rights flowing from such interpretation. The committee, however, considers it necessary to enunciate clearly the two interpretations placed by the parties on the clauses of the convention quoted above.

14. The Republic of Panama and the Panamanian Bar Association maintain that the interpretation of these clauses must be limited and governed by the overall purpose and requirement of the convention, namely, the construction, maintenance, operation, sanitation and protection of the Canal. According to this convention the sovereignty granted under the two clauses referred to above would be strictly limited to the aforesaid overall purpose and object. This interpretation was raised as early as 1904, when the Government of Panama claimed the right to control all ports, even in the Canal Zone, and purported to deny the right of the United States to establish custom houses and a postal service, on the ground that the latter were not connected with the construction etc. of the Canal. The United States, on the other hand, maintains that the convention grants to the United States the exclusive control of and jurisdiction in the Canal Zone to the entire exclusion of the exercise therein by the Republic of Panama of any use, occupation, jurisdiction, rights, power or authority.

15. The executive power in the Canal Zone is exercised by the Governor, who is appointed by the President of the United States. The Canal Zone Government is under the supervision of the Secretary of the Army of the United States. The Governor is at the same time Director of the Panama Canal Company, a body corporate owned by the United States; the Company runs the Canal. The legislative power in the Canal Zone is exercised by the United States Congress and the judicial power is exercised by a district court forming part of the U.S. Federal court system. The United States have established in the Canal Zone a settlement of American citizens employed in the Canal Zone administration or by the Canal Company, who with dependents amount to about 16,000 persons. In addition, there are residing in the Zone non-American citizens (chiefly Panamanians) also so employed. The entire civilian population, consisting of approximately 27,300 persons (1964), constitutes a separate community which is in no way subject to the jurisdiction or administration of the Republic of Panama. Furthermore, the military forces of the United States of America in the Zone with their families consist of about 20,000 persons augmenting the figure of the population of the zone to about 47,000 in all.

16. The issue of the interpretation of the convention of 1903 is, therefore, not an abstract problem but of great practical importance. Modifications in the 1903 treaty were made in 1936, 1942, 1947, and 1955. The main problem, however, remains unresolved; indeed it is this problem that gave rise to the subject matter of the current difficulties. The Panamanians desire recognition of the titular sovereignty of Panama in the Canal Zone; hence the raising of the Panamanian flag together with the U.S. flag in the Canal Zone has assumed considerable importance as a symbol of titular sovereignty.

17. The flag issue was one of the main causes of the violent disturbances in Panama of November 1959. On September 7, 1960, President Eisenhower took the "voluntary and unilateral decision" to fly the Panamanian flag together with the U.S. flag on Shaler Triangle, a square in Panama City, which forms part of the territory of the Zone. This step, however, did not satisfy the Panamanian aspirations, based on their interpretation of the convention.

18. On June 13, 1962, Presidents Kennedy and Chiari issued a joint communique stating that they had agreed that "their representatives will arrange for the flying of Panamanian flags in an appropriate way in the Canal Zone." Both flags were flown since October 12, 1962, at the Bridge of the Americas (Thatcher Ferry Bridge), and since the end of that month at the Administration Buildings at Balboa Heights (Panama City) and Cristobal (Colon). In the meantime, the Joint Commission, created by the two Governments in pursuance of the communique of Presidents Kennedy and Chiari dated June 13, 1962, reached an agreement on January 10, 1963. Under this agreement both flags were to be flown on land in the Canal Zone wherever the flag of the United States was flown by civilian authorities. This agreement, however, was not immediately executed. According to the United States, the delay in the implementation of the agreement was mainly due to the U.S. authorities awaiting a judicial decision on the constitutionality of the "dual-flags" accord. The time for an appeal against the decision, which was given on July 8, 1963, and which dismissed the complaints, expired on September 27, 1963, without an appeal having been filed.

19. It was only at this time that the Governor of the Canal Zone took action on the footing of the agreement. But he did not implement the agreement in such a way that the Panama flag was to be flown alongside the U.S. flag at every place where the U.S. flag had been flown, on January 10, 1963. Instead, the Governor selected 17 spots where both flags were to be displayed. In other places, where the U.S. flag hitherto used to be flown, it was taken down by the Governor's orders on December 30, 1963. Especially with regard to schools, the Governor ordered that, though in front of the building no U.S. flag was to be flown, it was "in accordance with law and customs requiring the U.S. flag to be displayed in or near schools," for the U.S. flag to continue to be displayed in classrooms or elsewhere within the schools as at present.

20. This method of implementing the agreement between the two Presidents satisfied neither the Panamanian population nor the American inhabitants of the Canal Zone. The Panamanians were resentful that the Panamanian flag was not hoisted alongside the United States flag at all the places where the U.S. flag had been previously flown on land by the civilian authorities. The Americans in the zone, on the other hand, did not easily accept the removal of their flag from the front of the schools where, according to American custom, it was usually flown.

21. When, after Christmas holidays, schools in the zone reopened on January 2, 1964, the U.S. flag which used to fly in front of Balboa High School, in the part of the zone nearest to Panama City, was no longer there; some four to five hundred students of the school sent a protest to President Johnson. On January 7, 1964, before classes had started, a number of students succeeded in raising the U.S. flag, notwithstanding the fact that the halyards on the pole had been locked. The Canal Zone Government and school authorities lowered the flag the same morning; subsequently on the same morning, at the end of the first class period, the flag was again hoisted by the students. This time a group of students posted themselves around the flagpole in order to prevent the authorities from lowering the flag. After school, about 25 students remained on watch all night and were supplied with food and blankets by sympathizers. In the evening the flag was lowered and next morning it was raised again by the students. The school and civil authorities did not intervene. The Governor of the Canal Zone, however, issued a statement on January 8, 1964, in which he requested the cooperation of all U.S.

citizens in honoring their country's commitments regardless of their personal beliefs. The next day, January 9, 1964, the Governor broadcast a new statement on the flag issue. He then left the zone for the United States in the afternoon of the same day.

PART III—FLAG INCIDENT OF JANUARY 9, 1964

22. As soon as the news about the Balboa High School flag incidents spread in Panama City, students of the Panamanian National Institute planned counteraction. On January 8, 1964, a Panamanian student-leader, Mr. Guillermo Guevara Pas, along with two other Panamanian students, went to the Balboa High School, saw the principal and asked him questions about the flag. The headmaster referred him to the Panama Canal Information Officer, Mr. Baldwin, with whom he then talked. Mr. Guevara Pas did not announce to the principal or to Mr. Baldwin that he and his co-students planned a demonstration before the Balboa High School on the next day.

23. On the next day, January 9, 1964, after classes at about 4:45 p.m., a group of approximately 200 students left the Panamanian National Institute and marched into the Canal Zone by Gorgas Road. They carried a Panamanian flag, the banner of their organization, and placards. This march appears to have been very carefully prepared and did not appear to have been a spontaneous movement by the students. The flag they were carrying was that of the Panamanian National Institute; the headmaster of the institute gave them the flag for the purpose of a demonstration in front of the Balboa High School, without ascertaining whether the students had the permission of the school or the Canal Zone authorities to make the demonstration. The students were accompanied by photographers and film operators and before they had returned to the territory of the Republic of Panama, the news of their demonstration had spread among the population and a crowd was already waiting for their return in the streets near the frontier of the Canal Zone. The fact that a delegation of the students was received, immediately after their return, by the President of the Republic of Panama suggests that the Panamanian authorities may have had prior knowledge of the students' demonstration. In any case, the Ministry of External Affairs was informed by the students of their proposed demonstration before they took off.

24. It is beyond doubt that the march of the students, dressed in uniform, into the Canal Zone commenced in a peaceful and orderly manner. However, the students carried placards advising Governor Fleming to go home and claiming exclusive sovereignty over the Canal Zone for Panama.

25. Having passed the administration building of the zone, the students were stopped by the head of the Canal Zone police in the Balboa District, Capt. Gaddis Wall. He asked them their plans and the student already mentioned, Mr. Guillermo Guevara Pas, told him that they intended to display the Panamanian flag at the flagpole of the Balboa High School and to sing their national anthem there. Captain Wall, speaking in English to the group of students through an interpreter, refused to let the procession approach the flagpole in front of the school, but proposed that a delegation of five students should display the Panamanian flag at the foot of the flagpole by holding it in their hands and sing the national anthem; they would not be allowed to hoist the flag on the flagpole. The rest of the students were required to remain on the opposite side of Gorgona Road, separated by the police from the American students and adults, and from the delegation with the flag.

26. In making his proposal, Captain Wall assured the students that their delegation would have complete protection and that they need not worry about their safety. The Panamanian students then had a discussion as to whether they would accept the proposal made by Captain Wall or not. After about 45 minutes deliberation among themselves, Mr. Guevara Pas informed Captain Wall that they were willing to accept his proposition. Accordingly, five students, four holding the flag and one the banner, crossed Gorgona Road and followed Captain Wall toward the school. A sixth student carrying a placard saying that Panama alone was sovereign in the Canal Zone joined the group that was accompanied by some policemen.

27. Having regard to the fact that interpreters had to be used, the general state of agitation of those concerned, and the length of the argument, the possibility cannot be excluded that the students had misunderstood Captain Wall's proposal; they may have understood it to mean that they had permission to hoist the Panamanian flag alongside the U.S. flag on the flagpole, rather than a mere display of the flag by holding it in their hands at the foot of the pole.

28. When the six students with Captain Wall arrived at the low hedge which surrounds the flagpole, some of the students started arguing and insisting that the Panamanian flag must be raised on the flagpole alongside the U.S. flag that was already flying. The flagpole had two sets of strings which could have permitted the hoisting of two flags, but, according to Captain Wall, he had received orders to refuse to permit the hoisting of the Panamanian flag. After a few minutes of heated discussion, the group of six students, surrounded by a police cordon, proceeded over the hedge to the flagpole.

29. In the meantime, some 400 to 500 American students and adults had gathered in front of the school. A ring of American students surrounded the base of the flagpole inside the hedge. The Americans did not, in the words of Captain Wall, "behave entirely as I had hoped they would." The Balboa School students, as well as the adults, appear to have expressed their protest against the Panamanian demonstration somewhat vigorously. As the Panamanian students approached the flagpole, the crowd of Balboa School students and adults started to sing the U.S. national anthem. This appears to have worsened the situation. At this stage, the Panamanian delegation was completely surrounded by the Americans.

30. Captain Wall, who had negotiated the Panamanian students, did not at this time seriously try to calm the American students and adults. There is no indication that he, or any other person in authority, present, or nearby, tried to persuade the Americans to behave quietly when the Panamanian flag was displayed. Nor did anybody explain to them that the demonstration was directed against the flying of the American flag alone in front of the Balboa High School, contrary to the agreements between the two governments and contrary to the orders of the Governor of the Canal Zone.

31. Somewhere at about this stage, Captain Wall made a decision to cancel the Panamanian students' demonstration. He asked the Panamanian students to withdraw but they insisted on displaying the flag and singing their national anthem. The Panamanian students accused Captain Wall of not keeping his word and refused to withdraw. The main group of Panamanian students were still on the other side of Gorgona Road, separated from the delegation of six students by a line of police. Captain Wall ordered the police, who had followed the delegation, to hold their batons in front and physically to move the six Panamanian students back to the main group. The police then moved forward, urging the delegation to go to the other side of Gorgona Road. American students, also within the area which was surrounded by the hedge around the flagpole, mixed with the police and a crowd was formed, with the Panamanian students in the center. The Panamanian students, who were bearing the Panamanian flag, were exposed to considerable stress, especially when two of them stumbled over the hedge and when, some 25 feet farther, some fell a second time. At a certain stage in the general melee the Panamanian flag was torn. It was not proved that the flag was torn on purpose by American adults or students, nor was it proved that the flag was slightly torn before the six students proceeded to the flagpole with Captain Wall. It is quite likely that the flag, made of silk, was not able to resist the stress and strain of the occasion.

32. The delegation of Panamanian students was forced back by the police equipped with special riot-control batons until they were with the main body of the Panamanian students behind the police line on the other side of Gorgona Road. It is doubtful that the police used their batons only by holding the batons in both hands in front of them to push the Panamanian delegation back. Some of the policemen seem to have used their batons in a more aggressive manner against the retreating Panamanian students. As soon as the other students, who had thus far been waiting on the other side of the road for the displaying of their flag, saw their fellow students being forced back by the police, they started shouting and otherwise demonstrating their dissatisfaction. Some stones were thrown at the police line and one hit a policeman's helmet and caused him a slight wound through his helmet.

33. The retreat of the 200 demonstrating Panamanian students then started at a rather quick tempo. Patrol cars of the police followed them. The canceling of the demonstration, the retreat with a torn flag, the hostile behavior of the Americans in front of the Balboa High School, as well as during the retreat of the students, and the lack of any effective attempt by the police to quiet the American students and adults, had apparently caused a certain panic and resentment among the Panamanian students. The procession split up into two groups, the smaller one returning along Roosevelt Avenue to the Curundu area, and the second and bigger one following Gorgas Road, the same way back as the students had come, to Fourth of July Avenue. On their way back to Panama City the students following Gorgas Road caused considerable damage. They rolled garbage cans on the road, according to them, in order to slow down the patrol cars that followed them. They smashed windows and street lights. Just before leaving the zone, they smashed the traffic-control lights on Kennedy Avenue. It was mentioned that, when the students had arrived at the Episcopal Cathedral of St. Luke, two reports were heard which could have been caused by gunshots. However, there was no further evidence on this matter.

34. The main group of students left the zone at 6:45 to 7 p.m. and went to the National Institute on the Panamanian side of Fourth of July Avenue.

PART IV—DISTURBANCES IN PANAMÁ CITY

35. As mentioned, somehow, even before the Panamanian students reached the Panamanian border, the news of the flag incidents and of the torn flag had, as vividly expressed by some of the witnesses, "spread like wildfire through the city of Panamá," and a large crowd had already gathered in Calle G, which is adjacent to 4th of July Avenue, at about 6:30 p.m. At this time the crowd that had gathered ran into several hundreds.

36. When the Panamanian students crossed from the Canal Zone into the Republic of Panama between 6:45 and 7 p.m., a series of acts of violence had already taken place. A number of cars had been turned

over and burnt on Fourth of July Avenue in the neighborhood of the National Institute.

37. The crowd grew rapidly and within about half an hour there were several thousand people all along the border extending from the Balboa Road entrance to the Ancon railway station. The violence of the crowd increased; there were repeated attempts at several points all along the border to enter the Canal Zone territory with the object not only of planting Panamanian flags but also of setting fire to property and otherwise threatening public safety.

38. In the meantime, repeated attempts were made by the Canal Zone authorities to call to their aid the Guardia Nacional of Panama to take effective measures to control the violent crowd. Between 6:30 and 8:30 p.m., seven or eight telephone calls were made by the American authorities but no effective action was taken by the Guardia Nacional. On the contrary, the Guardia Nacional was purposely kept away from the trouble spots in the city of Panamá until early on January 13.

39. At the beginning, the Canal Zone police force of the Balboa district, which comprises a maximum of approximately 80 men, tried to hold back the violent crowd along the nearly 2-kilometer-long border by using most of the tear gas available to them, and later, when faced by a growing and attacking crowd, by raising their police revolvers. In view of the size of the mob and the small police force available to the Canal Zone authorities, at about 8 p.m., the Acting Governor of the zone, Lieutenant Governor Parker, called on the commanding officer of the U.S. forces, General O'Meara. He reported to him that he was unable to hold the position much longer and to maintain law and order with the help of the police and requested military assistance from the U.S. Armed Forces in the Canal Zone. Immediately, General O'Meara gave such assistance.

40. In an attempt to assuage the crowds, General O'Meara sent out a small airplane relaying appeals over a loudspeaker in both Spanish and English, enjoining residents on both sides of the border to return to their homes. It does appear that the airplane flew not only over the Canal Zone territory but also over a part of the adjacent territory of the Republic of Panama. In view of the purpose of the flight, this can hardly be treated as a serious incursion of the airspace of the Panamanian Republic. On the other hand, there was no evidence before us that any attempts were made by the authorities of the Panamanian Republic to assuage, calm, or otherwise control the crowds. Indeed, on the contrary, from the materials made available, it would appear that statements made through the radio and the television were of an inflammatory nature. Incendiary bombs, or "Molotov cocktails," were used during the rioting. These must have been made for this purpose. When, where and by whom they were made was not disclosed to the investigating committee. The fact that these were made and used would indicate some degree of premeditation and planning.

41. The investigating committee treats below the events as they occurred in different areas of the limits between the Republic of Panama and the Canal Zone.

42. Between 7 to 7:30 p.m. on January 9, part of the crowd had moved into the neighborhood of the Ancon railway station and the Ancon laundry. At the point where Frangipani Street intersects Roosevelt Avenue, the crowd started to attack passing cars, to turn them over and to set them on fire. An attempt was also made to set the laundry on fire by pushing a car on fire into it, and by using "Molotov cocktails." Another part of the crowd forced its way into the railway station and set about destroying the station and its contents. A small group of policemen under a sergeant endeavored to control this situation. In order to prevent the crowd from entering the residential areas behind the laundry, the police took up a position immediately behind the laundry and the railway station. A small theater between the laundry and the residential area was evacuated. From this position, the police, by using tear gas, started to drive the crowd back. When the situation seemed to be more difficult to control, the sergeant ordered his men to use their pistols. The pistol fire was directed over the heads of the crowd and into the ground in front of the crowd, but a part of the fire seems to have been directed into the crowd.

43. At about 7:45 p.m., a student of the National Institute, Ascanio Arosamena, aged 20, was hit by a bullet from a police revolver; it entered his shoulder, penetrated the thorax and resulted in the death of the student. Other persons appear also to have been injured by the pistol fire on the same occasion. The firing itself, however, forced the crowd back. It has been alleged that during this time civilians from the Canal Zone were seen using firearms along with the police. The investigating committee, however, had no evidence before it either to support or contradict this allegation.

44. The fire in the Ancon laundry was extinguished within a short time. A few minutes before 9 p.m. the U.S. Army took over, relieving the Canal Zone police in this area. Subsequently, it would appear that there were no further incidents in this particular area.

45. After 7 p.m., not far from the National Institute and further west from the institute along 4th of July Avenue, the crowds turned over and burned cars, threw rocks into the Canal Zone territory and caused other damage. They also attacked an iron fence on the slope along the avenue protecting the Canal Zone. They succeeded in tearing down the fence at approximately 9 p.m. Within minutes, the milling crowd surged into the Canal Zone territory at a point near the residence of Federal District Judge Crowe. The slope at this point is rather steep. The few policemen who were stationed there held the crowd back by throwing tear-gas bombs into the crowd. The crowd attacking the judge's house was armed with rocks and "Molotov cocktails"; several "Molotov cocktails" hit the judge's house which, being an old wooden house, was set on fire in several places. The crowd surged higher up the slope and reached the judge's house. At this stage the police drove the crowd back by firing shots, with shotguns, over the heads of the crowd. It does not appear that anyone was injured by these shots. The police, with the help of the Canal Zone fire brigade, successfully put out the fire. An inspection of the house established that it had been fired at.

46. At about 9:30 p.m., the U.S. Army took over the protection of this area and no further incidents occurred. It is noteworthy that the judge and his family abandoned the house the following morning.

47. On the evening of January 9, at about 8 p.m., a large crowd, of probably over a thousand persons, made a concerted effort to enter the Canal Zone from the region of El Chorrillo in Panama by Balboa Road. It would appear that some 100 or more people succeeded in entering the Canal Zone approximately 700 yards on Balboa Road. From this point, the crowd was driven back by the Canal Zone police, in the first instance by tear gas and, when the police appear to have run out of tear gas, by revolver fire. It would appear that the use of firearms was the only method by which, at this stage, the limited number of policemen present could prevent the crowd from forcing its way into the Canal Zone. It would also appear to the investigating committee that the revolver fire was not entirely directed over the heads of the crowd or into the ground in front of the crowd, but that some of it was directed into the crowd causing casualties.

48. A young boy, Estanislao Orobio, 18 years old, was fatally wounded at some stage during the night of January 9 to 10 in this area. It is alleged that he was the victim of the Canal Zone police revolver fire in this area on the evening of the 9th, when he, along with other companions, was carrying a Panamanian flag. The investigating committee is not entirely satisfied with the evidence put forward with regard to the circumstances of the death of this boy. There is some confusion as to the time when he was wounded—he died on January 11—and as to the type of firearm which caused the injuries. Under the circumstances, the committee finds it difficult to decide whether he was the victim of the Canal Zone police revolver fire or of subsequent shooting by the U.S. Army, or wounded in some other way.

49. At about 10:30 p.m. on January 9, the U.S. Army took over the protection of this area. No further incidents were reported.

50. The area of greatest violence and damage appears to have been the central part of the borderline in the district of Shaler Triangle, the Legislative Palace, and the Pan American Building on the Panama side, and the Hotel Tivoli on the Canal Zone side. When the Panamanian students were returning from their demonstration outside the Balboa High School, at about 7 p.m. on January 9, they were joined by a large crowd; together the students and the crowd started to destroy the traffic lights and street lights on 4th of July Avenue. At the time when the first acts of violence started, there was still quite a heavy late afternoon traffic on the avenue, and the crowd threw rocks at passing cars. The Canal Zone police found it hard to control and to protect the traffic. Shortly after 7 p.m., the normal stream of traffic appeared to have ceased and the street was filled by a milling, agitated crowd. The Canal Zone police gave up trying to control the traffic and took up a position on the other side of 4th of July Avenue, on the slope just within the Canal Zone territory, behind the dividing fence, in order to prevent the crowd from climbing the hill and coming over the fence.

51. Between 7:30 and 8 p.m., a large crowd assembled in President Kennedy Avenue and concentrated near the Pan American Building; it was estimated to run into several thousand people. Later, the crowd not only turned over and set fire to cars and broke street lights, but also started to break through doors and windows, and generally to loot and destroy shops and property in Panama City. Sections of the crowd directed their wrecking activities to shops in parts of Panama City along 4th of July Avenue and other streets close to it. Windows were smashed and doors were forced open. The rioting lasted late into the night and the crowd set on fire the Pan American Building, which burned out. Six persons—possibly looters—seem to have been trapped in the building, where their dead bodies were found next morning.

52. The Hotel Tivoli is an old wooden house, situated behind the iron fence that runs along 4th of July Avenue. Part of the crowd approached the hotel on several occasions on the evening of January 9 and started throwing "Molotov cocktails" and rocks against this building, which at the time was occupied by a number of guests, among them women and children. The Canal Zone police drove the crowd back by using tear gas and appeared to have controlled the situation until about 8:30 p.m., when the U.S. Army took over control of this area.

53. The U.S. troops took up a position along Kennedy Avenue from the Mary Knoll Convent to the Hotel Tivoli and from the Hotel Tivoli down to the Ancon laundry. The troops used armored personnel cars. The

troops deployed appear to have succeeded in containing the crowd and preventing it from penetrating further into the Canal Zone by using large quantities of tear gas.

54. Later in the evening, about 10 to 10:30 p.m., the U.S. troops in the vicinity of the Hotel Tivoli were fired on from the Panamanian side, from different directions and from what appears to have been a variety of firearms. A good part of the fire appeared to come from the Pan American Building and from the Legislative Palace in the Republic of Panama. From the time the U.S. Army took over the command of the Canal Zone, General O'Meara appears to have given clear orders to the troops not to fire and not to use any firearms. Following repeated requests, when the fire from the Panamanian territory grew in volume and effectiveness, the general in command gave orders, at about 10:50 p.m. on January 9, to return the fire by shotgun fire, and to direct the fire against the men firing from the Panamanian side, in order to quell the snipers. The shotgun fire was limited to the use of No. 4–No. 7/1½ birdshot.

55. The Hotel Tivoli and surrounding area appear to have been the main target for the firing from the Panamanian side during these days. The bullets recovered established that the weapons used from the Panamanian side included rifles, long and short revolvers, and .38 automatics (9 mm.). On the Hotel Tivoli, the marks of no less than 465 bullets were found. It would appear that the calibers used there were .22 to .45 (5.5 mm. to 11.35 mm.) and that .22 caliber bullets predominated. There was evidence also that there were intermittent bursts of automatic or semiautomatic fire coming from the Panamanian side from about 12:30 a.m. until the early hours of the morning of the 10th. It should be mentioned that, in Panama City, looters forced their way into the shop of a dealer in firearms and looted weapons and ammunition.

56. A select team of U.S. Army marksmen under a sergeant was ordered to take up position in the Hotel Tivoli late in the evening of January 9. General O'Meara made at least two requests, through the appropriate Panamanian authorities, for action by the Panamanian authorities to stop the firing which was being directed against the Canal Zone from the Republic of Panama. No action having been taken by the Panamanian authorities, through the Guardia Nacional or otherwise, General O'Meara issued orders after midnight on January 10, that the team of U.S. Army marksmen could use .30 caliber rifle fire to stop the snipers. At this stage four U.S. soldiers had been wounded, making a total of six casualties on the U.S. side. One soldier and one civilian had been wounded earlier.

57. The rifle firing by the U.S. Army marksmen from the Hotel Tivoli commenced on the morning of the 10th at about 12:30 a.m., and continued until 2 to 3 a.m. the same day. It started again about 10 a.m. on the morning of the 10th, and continued until 2 p.m. It was resumed again from 7:10 to 7:15 p.m. on the same evening. It is estimated that some 400 to 500 bullets were fired by the U.S. forces. An examination of the Legislative Building showed that bullets had penetrated through the walls. Throughout this period U.S. troops also used shotguns intermittently.

58. It was alleged that the U.S. Army used armored tanks, but the investigating committee is satisfied from evidence before it that armored personnel carriers using caterpillar tracks instead of wheels were mistaken for tanks. There was no evidence of any firing from tanks or armored personnel carriers.

59. In the area indicated above, in consequence of the fire from the Panamanian side, 10 soldiers of the U.S. Army were injured. On the Panamanian side the casualties appear to have been greater. A scrutiny of the records of St. Thomas Hospital showed that a total of 95 injured persons were brought to this hospital. Of these, 18 were fatal; 6 of these appear to have died when trapped in the fire of the Pan American Building. Of the remaining 12 fatal casualties, in only 6 cases were the particulars presented to the committee sufficient to enable an investigation into the circumstances of their deaths. These cases are dealt with later. As for the remaining six fatal cases, it is quite conceivable that, in view of the well directed high velocity rifle fire of the U.S. Army against snipers, some of them were snipers killed by U.S. Army fire, though the records of their deaths were not brought to the notice of the investigating committee. Under these circumstances the investigating committee found it impossible to establish with certainty the exact number of casualties on the Panamanian side caused by U.S. Army fire. Furthermore, Panamanians fired on each other, on different occasions, for different reasons. It seems also probable that shopkeepers and others used weapons in order to stop looting and to protect their property.

60. Among the six cases presented to the investigating committee, two have already been dealt with. The other four cases are the following.

61. An old fruiterer, Rogelio Lara, was killed by a rifle bullet on the evening of January 9, between 9 and 10 p.m., while lying or resting in the Avenida Central. It seems unlikely that this old man was killed by an American rifleman, because the evidence indicates that the death was not caused by a high-velocity bullet such as used by the U.S. marksmen. At the time the man was hit there seems to have been no American fire in this area.

62. Another man, Rodolfo Sanchez, aged 33, sitting in a car near the Casa Müller, was shot and killed shortly before noon of January 10. This would appear to have been caused by a .30-caliber rifle, such as was used by the U.S. marksmen. It is proved that the marksmen were shooting in this direction at this particular time.

63. A young girl, Rosa Elena Landecho, aged 11, was the unfortunate victim of a rifle bullet at about noon on January 10, when she was on the balcony of the flat of her family in the house No. 1 Calle M. In all probability, she was shot by a bullet from a marksman directed against a sniper in the same building. This conjecture is borne out by the committee's on-the-spot visit which indicated a spray of rifle bullets on this building. The medical evidence shows that it was not totally impossible, even if it were unlikely, that this girl was killed by a .30-caliber bullet such as used by the marksmen.

64. A taxi driver, Victor Garibaldo, aged 29, died on the morning of January 10 from a wound inflicted by a .30-caliber rifle. He appears to have been somewhere close to the Legislative Palace, which was the area from which there was considerable firing from the Panamanian side, and was probably shot by a marksman's bullet.

65. During January 10–11, the crowd appears to have diminished greatly, but still about a thousand people moved to and fro in the streets. There was clear evidence that, on January 10 and 11, at several points a mob endeavored to force an entry into the Canal Zone with the apparent purpose of destroying life and property. Shooting from the Panamanian side continued from January 11 to January 12. On the afternoon of January 10, the U.S. troops ceased to return the fire from the Panamanian side by rifle fire, except for a very short period of some minutes during the evening. As a result of orders given by General O'Meara, the Panamanian fire was not returned by the U.S. Army afterwards. By the early morning of January 13, the Guardia Nacional appeared, took the situation in hand and restored order in the streets neighboring the Canal Zone in the city of Panama. The investigating committee feels satisfied that, if the Guardia Nacional had taken charge of the situation early on the evening of the 9th or soon thereafter, the violence and the damage to property and the tragic casualties would not, in all probability, have taken place.

PART V—DISTURBANCES IN COLON

66. The news of the disturbances and violence in Panama City and on the border area between Panama City and the Canal Zone spread rapidly to other parts of Panama, including Cristobal-Colon. In addition, the radio broadcasts from Panama City created a tense atmosphere in Colon.

67. At about 9 p.m. on the evening of January 9, a crowd of approximately 1,000 to 1,500 people entered from Colon into the Cristobal area in the Canal Zone and proceeded down Roosevelt Avenue to the Panama Canal Administration Building in Cristobal. There was a reasonably peaceful demonstration, and the mayor of Colon was present at the time of the demonstration. Some leaders of the crowd insisted on hoisting the Panamanian flag on the flagpoles in the Administration Building in Cristobal. In the daytime, the Panamanian flag was normally hoisted at this place alongside and with the U.S. flag, but at this time in the evening both flags were usually lowered for the night. The Panamanian flag was, however, now raised again on its flagpole and flown without objection and the crowd was permitted to sing thhe Panamanian national anthem. After this ceremony the flag was lowered again by the demonstrators. It is noteworthy that the Canal Zone authorities, including the local chief of police, Captain Howard, handled the crowds tactfully and with persuasion and restraint.

68. The demonstration over, the crowd returned to Colon. As the crowd moved away from Cristobal, however, certain elements in the crowd damaged a car that was parked in Cristobal by smashing its windows. In Colon the crowd then moved toward the American consulate.

69. A little later the same evening, at about 9:45 p.m., a crowd of several thousand people started new demonstrations, a part of the crowd marching along Balboa Avenue into the Canal Zone between the Masonic Temple and the old commissary. In the beginning, Captain Howard, who was in charge of the police in Cristobal, appears to have successfully stopped the crowd some 10 yards inside the Canal Zone and dissuaded them from coming further forward on Balboa Road into the Canal Zone, by addressing them in Spanish. At about the same time, another crowd on the other side of the Masonic Temple in Bolivar Avenue started resorting to violence. They threw rocks and other objects, breaking windows of the YMCA Building and of the Masonic Temple. The tempo of violence appears to have increased rather quickly; the Canal Zone police, being outnumbered by the large crowds, called for U.S. Army assistance.

70. At about 10:30 p.m., troops of the U.S. Army took control of the situation in Cristobal and in the area around the Masonic Temple, the YMCA, and the old commissary. The U.S. troops arrived in battle uniform and helmets, guns held forward with fixed bayonets, and approached the crowd that had gathered on Balboa Avenue from the Colon side. By this time the crowd appears to have been very excited. Despite Captain Howard's attempts to persuade them to disperse and move away, a small, determined group on Balboa Avenue remained defiant, heading further toward Cristobal. The soldiers appear to have come right up to the small group standing their ground on Balboa Avenue; they stopped there in an attempt to make a show of force to persuade the crowd to move away. It is quite conceivable

that this led to the Panamanians grabbing the bayonets and guns, thus starting a scuffle. In any event, it is clear beyond doubt that, at this time, severe rioting continued in the immediate neighborhood of the Masonic Temple and the YMCA, in the course of which two buildings were seriously damaged. Windows of shops were smashed open, and looting seems to have taken place.

71. At about 10:45 p.m., the crowd having been pushed back into the Republic of Panama, the officer commanding the U.S. troops posted soldiers all along the border between the Republic of Panama and the Canal Zone, in 11th Street and Bolivar Avenue, in order to seal off the Canal Zone. At about this time, one of the U.S. officers in charge of a platoon inadvertently led a small number of his men in Bolivar Avenue over the line forming the border between the Canal Zone and the Republic of Panama to a point which was a few yards within the Republic of Panama. This error appears to have been corrected within a matter of minutes by a superior officer.

72. The crowd opposite the soldiers became violent and, at about 11:45 p.m., one of the U.S. soldiers was wounded by a shot. A little later, shortly after midnight, a U.S. soldier was killed by a bullet fired from the crowd at a soldier standing on duty. Up to this time the U.S. soldiers stood without any protection and used only tear gas to disperse the crowd and prevent it from entering the Canal Zone. In view of the casualties suffered, the soldiers were moved back into the YMCA Building, the Masonic Temple, and the old commissary, just inside the Canal Zone, to afford them protection.

73. Early on the morning of the 10th, two more U.S. soldiers were shot dead by bullets fired from the Canal Zone, and nine others were wounded. Through the night and early morning, the violence appears to have continued; it reached a new peak at 10 a.m., when "Molotov cocktails" thrown against the YMCA building at last set it on fire and burned it down. The Masonic Temple and the old commissary were also attacked with rocks and "Molotov cocktails." The old commissary was set on fire at noon the next day, the 11th, and was also burned down.

74. From the evening of the 9th and through the days and nights of the 10th, 11th, and 12th, the American troops were kept under fire from different points in the Republic of Panama. It was only on the afternoon of the 11th, at about 2:45 p.m., that General O'Meara gave permission to the local commander to use shotguns in order to counter the firing from the Republic of Panama. By this time, 3 U.S. soldiers had been killed and 12 had been wounded by the fire from the Panamanian side.

75. In the early hours of the morning of the 12th, about 2 a.m., a jeep of the Guardia Nacional was driven up 11th Street heading west, toward the harbor. It got entangled in some barbed wire at the corner of 11th Street and Balboa Avenue and came to a halt. The car had its headlamps on facing toward the harbor; otherwise the area was in complete darkness, the street lights having been shot out. A sergeant of the guardia named Celestino Villareta, 43 years old, sitting next to the driver in the jeep, was shot dead at this moment by a bullet. It is clear that the jeep received fire from two sides: shotgun fire from behind the top of the Masonic Temple by the U.S. troops and rifle fire in the front from the direction of the harbor; if from inside or outside the Canal Zone was not clarified. At no time did the U.S. troops use bullet fire in Colon and the wound that caused the death of the guardia sergeant clearly was caused by a bullet. This bullet must have come either from a rifle fired by a U.S. soldier against orders or from some unknown sniper. It was established that after the jeep had been fired on, the U.S. colonel in charge was requested over the telephone by an officer of the guardia to order the U.S. troops to stop firing while an ambulance was being sent to pick up the body of the guardia sergeant, and another man who was wounded in the jeep. The colonel agreed to this and gave specific orders to his men to withhold fire when the ambulance approached the jeep. Nevertheless, fire appears to have been opened on the ambulance from the same direction—the harbor—by an unidentified person.

76. A 6-month-old infant, Maritza Avila Alabarea, was reported to have died in Colon as a consequence of the effects of tear gas. Though the Investigating Committee requested evidence with regard to this unfortunate death, none was made available. It was therefore impossible for the Committee to reach any conclusion regarding the circumstances under which the child died.

77. Although the U.S. troops used shotguns to counter the fire from the Panamanian side from some time on the afternoon of January 11 until the morning of the 13th, no evidence was submitted to the Investigating Committee of any deaths having been caused by shotgun fire. Thirteen persons, however, were reported to have been wounded or injured by shotgun fire in Colon.

78. The Investigating Committee was satisfied on the evidence that, from time to time, the U.S. Army and police officials of the Canal Zone were in communication with the officials of the guardia, who appear to have cooperated and endeavored, within their limits, to restore order. Curiously, it was also proved that the guardia were totally disarmed during these difficult days; the guardia are usually equipped with pistols and batons. No explanation was given as to why the guardia were ordered not to carry their usual arms during these days.

79. Nevertheless, the guardia brought the situation completely under control on the morning of the 13th; this coincided with similar effective action taken by the guardia in Panama City.

PART VI—RESTRICTIONS IN COLON CORRIDOR AND ON THE BRIDGE

80. The city of Colon, which is under Panamanian jurisdiction, is on all sides surrounded by the Canal Zone. However, the Trans-Isthmian Highway leading from Panama City to Colon is under Panamanian jurisdiction, forming, in part, a corridor approximately 4 miles long running from the Canal Zone border, nearby to the town of Kativa, to the city of Colon. It was alleged that the U.S. authorities, through their Armed Forces, blocked and closed the Colon Corridor.

81. In December 1963 the Panamanian authorities closed the corridor to vehicular traffic in view of reconstruction work on the road within the corridor. All the normal traffic to Colon, therefore, passed, not through the corridor, but through another road in the Canal Zone territory, Randolph Road and Bolivar Highway.

82. On the night of January 9, after the disturbances started and the U.S. Armed Forces had taken over control, a checkpoint was established on the Bolivar Highway, within the Canal Zone, to prevent armed infiltration into the zone. The purpose of this checkpoint was to search suspects and to insure that no one entered the area with weapons; very few people were stopped and some were found with weapons—they were prevented from passing this checkpoint. No vehicular traffic bearing supplies or goods was prevented from passing this checkpoint by the U.S. forces; there was no evidence that any governmental official or other responsible persons were stopped from passing the checkpoint.

83. On January 10, in the early hours of the morning, the U.S. forces established an additional checkpoint at the end of the Colon Corridor where it enters Central Avenue within the Canal Zone limit, partly inside Panamanian territory. The purpose of this checkpoint was also restricted to preventing persons entering with weapons and it only screened pedestrian traffic, as the road was closed to vehicular traffic. No person appears to have been stopped from passing this checkpoint. It was established that, before this checkpoint was established outside the Colon Corridor, the U.S. military authorities had asked the Guardia Nacional to establish a similar checkpoint in order to screen the traffic. On the afternoon of the 11th, at 2:45 p.m., this checkpoint was taken over by the Guardia Nacional. Soon after the U.S. Armed Forces had established its checkpoint on the evening of the 10th at the end of the Colon Corridor, certain private individuals (probably Panamanians) set up a checkpoint further up on Bolivar Highway in the Canal Zone, so that, all traffic coming from Colon reaching the U.S. Army checkpoint necessarily had to go through this private checkpoint where the traffic was halted and searched. The Canal Zone authorities appear to have exercised restraint in not interfering with this checkpoint, which was within the Canal Zone.

84. The Bridge of the Americas (Thatcher Ferry Bridge), after the outbreak of the disturbances on the evening of January 9, was put under strict control by the Armed Forces of the United States. During nighttime, for the 3 nights beginning on January 9, all traffic was completely closed except for official and what was described as emergency traffic; such as, the Guardia Nacional, doctors, nurses, blood supplies, etc. Subject to a check and inspection, the bridge was open to all traffic during the daytime from the early morning of January 10. The bridge is situated within the Canal Zone and was constructed and is owned by the United States. It is admitted that the bridge is under the exclusive jurisdiction and control of the United States. The Republic of Panama has complete and free right-of-way over the bridge, as it has over all public roads of the Canal Zone, by virtue of the provisions of the convention of 1903.

PART VII—CONCLUSIONS

A. General

85. In the course of our work a number of problems of international law have arisen, such as the interpretation of the Convention of 1903, other conventions between the United States and the Republic of Panama, legal aspects of shooting from one territory into another, violations of national territory, the right of peaceful assembly of citizens of one territory in another territory, and a number of other questions involving the interpretation or definition of particular international and/or municipal laws which might be applicable to the situation. We do not think it is our function to deal with or decide these problems.

86. The issues to be decided by us depend on questions of fact and on the proper interpretation of the Universal Declaration of Human Rights, and its implications. We have endeavored in the conclusions reached to construe the relevant articles of the Universal Declaration of Human Rights in accordance with the accepted principles relating to such articles, the principles of natural justice, the generally recognized concepts of the rule of law, and good commonsense. In doing so we have also carefully considered the relevant articles of the European Convention on Human Rights, of the Inter-American Draft Convention on Human Rights, as well as the relevant provisions contained in national constitutions.

B. Article 3 of the Universal Declaration of Human Rights

87. Article 3 of the Universal Declaration of Human Rights provides that: "Everyone

has the right to life, liberty, and security of person."

88. The allegation we were asked to investigate was that the United States had violated this article. On the facts proved before us, we are unable to come to this conclusion.

89. Undoubtedly there was, as a result of the firing by the U.S. Armed Forces, a tragic loss of life on the Panamanian side. It must be recognized that in all civilized communities such an absolute right, as is enshrined in article 3, would not exclude certain necessary and reasonable exceptions. Thus, it would not be a contravention of article 3 to deprive a person of life, liberty, and security of person in order to prevent injury to other persons from unlawful violence and in order to quell a riot or violent disturbance, provided, however, that the force used was not more than that absolutely necessary. The necessary minimum force may include the use of firearms.

90. The tempo and violence of the disturbances were such that there is little doubt that they held out a real threat to life and security, which could only be met by strong measures. In these circumstances the Canal Zone authorities and the U.S. military forces were entitled to use force. Nevertheless, we entertained some doubts as to whether the force used, at some stages, was not in excess of the minimum absolutely necessary. In particular the following caused us concern:

1. In regard to the shooting by the Canal Zone police with revolvers during the early part of the evening of January 9, we are concerned with the following matters:

(a) While the Canal Zone Police had exhausted the greater part of the tear gas available to them, it was established that they did not try to obtain additional supplies.

(b) No attempt appears to have been made to use water jets to calm down and control the crowd.

(c) It also appears that, while orders were given to shoot over the heads of people or into the ground in front of the crowd, people in the crowd were struck by bullets which did not appear to be ricochet bullets.

2. A large number of bullets (approximately 400–500) were fired by U.S. Army trained marksmen using high velocity rifles. In a residential and densely populated area such extensive use of high firepower is a disturbing feature.

3. The exercise and show of force by U.S. Army personnel by marching in full battle kit right up to a crowd in Colon, with guns mounted with bayonets drawn in a position of attack.

91. While these matters have caused us concern we have to take into account all the surrounding circumstances and in particular the following:

Revolver Fire (See [1] Above)

(a) The comparatively small number of Canal Zone Police (75–80).

(b) The large dimensions and violent temper of the crowds.

(c) The deliberate and extensive use of incendiaries ("Molotov cocktails").

(d) The failure of the Panamanian authorities and of the Guardia Nacional to take effective steps to control the crowd and maintain order within the territory of the Republic of Panama.

Rifle Fire (See [2] Above)

(a) The heavy firing from the Panamanian side, by a variety of weapons, running into hundreds of bullets (estimated close to 1,000).

(b) The fact that the U.S. Army did not order firing by rifles until it had sustained several casualties as a result of the firing from the Panamanian territory.

(c) The failure of the Panamanian authorities and of the Guardia Nacional to remove snipers and other elements using firearms within Panamanian territory directed against the Canal Zone.

Use of Bayonets (See [3] Above)

(a) A large and threatening crowd had gathered and a section of the crowd had started causing destruction and damage.

(b) The show of force could have been considered an effective means of dispersing the crowd.

(c) The failure of the Guardia Nacional to maintain order, to disperse the crowd, and to prevent unlawful acts of violence.

92. Considering all the above surrounding circumstances, and in particular the grave acts of violence and the threat to life and security involved, we have come to the conclusion that, even if the force used by the Canal Zone authorities and the U.S. Army may have been at certain stages somewhat in excess of what was absolutely necessary at the time, the force used seems to have been justified; taking into account such rapidly moving, critical, and violent conditions, it is impossible to lay down a fine distinguishing line of what should have been the absolute minimum necessary.

93. We regret deeply that the Panamanian authorities made no attempt during the critical early hours, as well as for almost 3 days thereafter, to curb and control the violent activities of the milling crowds. On the contrary, there is considerable evidence to indicate that broadcasts over radio, television and loudspeakers, newspapers, and other means were adopted to incite and misinform the Panamanian public without any action by the Panamanian authorities to curtail or moderate such activities.

C. Article 5 of the Universal Declaration of Human Rights

94. Article 5 of the Universal Declaration of Human Rights provides that: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

95. The allegation we were asked to investigate under this heading was that the United States had violated this article by reason of the action of the Canal Zone Police and of the U.S. Armed Forces in shooting at the Panamanian civil population. As set out in detail in part II, the occasions when shooting was resorted to by the Canal Zone police or U.S. Army were: (1) Revolver fire by Canal Zone police to prevent the crowds from surging forward and coming further into the Canal Zone, when it was patent that the purpose of these crowds was to commit unlawful acts of violence; (2) rifle shots by trained marksmen of the U.S. Army to silence the snipers on the Panamanian side and thus to prevent further casualties to the U.S. armed personnel as well as civilians; (3) firing of birdshot to repel violent crowds from forcing an entry into the Canal Zone and also to silence snipers; and (4) shooting in order to put out the street lights.

96. We doubt if this article was intended to deal with situations such as those under review. Article 5 appears to us to have been intended to deal with cases of persons who have already lost their liberty, or who are being subjected to endemic ill treatment, rather than to deal with a temporary, emergency situation.

97. However, even if this be incorrect, it appears to us that the issues involved here are identical to those already dealt with in regard to the allegation of a violation of article 3. Accordingly, on the basis of the same reasoning adopted by us in regard to our previous conclusion we do not accept the allegation that the United States violated article 5.

D. Article 20 of the Universal Declaration of Human Rights

98. The allegation of the National Bar Association of Panama under this head was of a breach by the United States of article 20 of the Universal Declaration of Human Rights. However, we take it that the allegation is in fact limited to subarticle (1) of article 20; subarticle (2) does not seem to have any relevance to the matters under investigation.

99. Article 20(1) provides that: "Everyone has the right to freedom of peaceful assembly and association."

100. It is universally accepted that such an absolute right as is granted by article 20(1) must necessarily be curtailed in even the freest and most democratic society to meet the interests of national security, or public safety, or for the prevention of disorder, violence or crime, or for the protection of rights and freedoms of others.

101. We would here refer to the Inter-American Draft Convention on Human Rights, article 12 whereof provides: "The right of peaceful assembly, without arms, is recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or for the protection of public health or morals, or of the rights and freedom of others."

102. Similar provisions delimiting the right of free assembly are contained in most national constitutions, including the Constitution of Panama.

103. The facts and background with regard to the flag incident and the demonstration by the students of the National Institute of Panama on the afternoon of January 9 at the Balboa High School in the Canal Zone have been set out in some detail in part I.

104. In view of the turn events took, we are unable to come to a conclusion that there was a violation of the right of assembly as guaranteed in article 20(1), for the reason that the Canal Zone police were entitled to use force and disperse the assembly to prevent disorder and an outbreak of violence.

105. We cannot, however, help feeling that the Canal Zone authorities, and in particular the Canal Zone police, could have handled the situation with greater foresight. The Panamanian students having been permitted to stage their demonstration and march into the compound of the Balboa School, and the police captain having assured the safe conduct of the small group of Panamanian students who were to carry out their flag demonstration and sing the Panamanian national anthem, we think that the Panamanian students should have been better protected, and that the provocative acts of the U.S. students and citizens should have been more firmly handled. It was particularly unfortunate that physical force by the use of batons on the Panamanian students who had been previously assured safe conduct, was not avoided.

106. We would also observe that it is patent that under the charged atmosphere of the area, the flag had become a special symbol for the Panamanians as well as the citizens of the United States, particularly the students. In this atmosphere, and in the light of the accord reached in June 1962 between Presidents Kennedy and Chiari, we find it difficult to understand why the Canal Zone authorities, including the Balboa School authorities, did not take firmer and stronger action to implement the flag agreement with regard to their own students.

107. With regard to the allegation that the right of assembly was violated on January 9, 10, and 11 by reason of the actions of the Canal Zone police and of the U.S. Armed Forces in firing small arms and in using tear gas for the purpose of preventing such right of assembly inside the Republic of Panama, we do not accept that there was any such violation because the crowds against whom such measures were taken were not peaceful

but were violent and posed an immediate threat to public safety.

E. Article 13(1) of the Universal Declaration of Human Rights

108. Subarticle (1) of article 13 of the Universal Declaration of Human Rights provides that "Everyone has the right to freedom of movement and residence within the borders of each state."

109. The Panamanian allegation of "blockade" implies that by reason of the control exercised by the U.S. Army over the Colon Corridor and the Bridge of the Americas (Thatcher Ferry Bridge) article 13(1) of the Universal Declaration was violated. We do not find this allegation proved.

110. Insofar as the Colon Corridor is concerned, it was proved that in the early hours of the morning of January 10, the U.S. Armed Forces established a checkpoint at the end of the Colon Corridor where it enters Central Avenue within the Canal Zone limit. The purpose of this checkpoint was to insure that persons in possession of weapons and firearms did not go through, and it would appear that no person was stopped from passing the checkpoint. The establishment of such a checkpoint in itself does not, in our opinion, constitute an infringement of freedom of movement as guaranteed by article 13(1) of the Universal Declaration of Human Rights.

111. For some time at night all traffic over the Bridge of the Americas (Thatcher Ferry Bridge) appears to have been completely closed except for some official traffic. There was also imposed at both ends of the bridge a check and inspection to screen the traffic. This does constitute a restriction on the free movement of traffic. The closing of traffic at night caused inconvenience and even hardship in respect of commercial traffic carrying supplies and commodities transported at night, such as milk, etc. In view, however, of all the surrounding circumstances, particularly the importance of insuring the security and safety of the bridge and of the traffic over it, we are of the opinion that this restriction was in the nature of control during an emergency and was such as did not amount to an infringement of the right of freedom of movement contemplated by article 13(1).

F. Inequality of treatment

112. Regarding the alleged inequality of treatment in the Canal Zone, we are unable, on the basis of the limited materials placed before us, to reach a specific conclusion. We feel, however, that we should convey certain clear impressions we have formed.

113. Since the construction of the canal, separate communities have lived on two sides of what is known as the Canal Zone Border. On the one side U.S. citizens in the Canal Zone, and on the other Panamanians in the Republic of Panama. Over the years it has given rise to a divergency in the way of life, in the economy, and in the outlook of the two peoples living in close proximity and yet in virtual isolation from each other. It is unfortunate that the U.S. citizens who have lived all their lives in the Canal Zone, and, perhaps more particularly, the second and third generation U.S. citizens who were born and raised in the Canal Zone, have developed a particular state of mind not conducive to the promotion of happier relations between them and the people of Panama. Indeed, on the contrary, this particular state of mind has resulted in building up resentment over the decades which has found expression in the type of unbalanced attitudes on both sides such as on the subject of flying their respective flags, as was demonstrated during the unfortunate days covered by this report, and also for some considerable time previously. The passage of time, instead of assuaging these conflicting tendencies, appears to have aggravated them. Tension and resentment have increased in a vicious circle and have not been improved by certain reactions of the Panamanians.

114. We cannot help feeling that the United States, having regard to the special situation it occupies in the world, and with its resources and ideals, should reflect upon these sad facts and take effective steps to make possible a reorientation and change in the outlook and thinking of the people living in the Canal Zone. Undoubtedly this is a difficult and uphill task but it would yield rich dividends in healthier relations with the people of Panama. The Government of Panama and the life and economy of Panama is in many ways so closely tied to the Panama Canal that it would not be out of place to suggest that the Panamanian Government and Panamanian people should also reflect upon the facts as they appear to impartial observers and should exercise tolerance, moderation, and understanding in their relations with the U.S. and Canal Zone authorities.

115. In conclusion we express the fervent hope that in some small measure our work will contribute to the growth of understanding, cooperation and amity between the two countries and their peoples, so that they may move forward in the furtherance of their mutual vital interests.

A. D. BELINFANTE.
GUSTAF PETRÉN.
NAVROZ VAKIL.

MEMBERS OF INTERNATIONAL COMMISSION OF JURISTS

Mr. Speaker, I now submit for the RECORD the list of members of the International Commission of Jurists which selected the three-man investigating committee, and the Commission's own statement of its identification and purpose, as follows:

The International Commission of Jurists is a nongovernmental organization which has consultative status, category B, with the United Nations Economic and Social Council. The Commission seeks to foster understanding of and respect for the rule of law.

The members of the Commission are:

Joseph T. Thorson, former president of the Exchequer Court of Canada (honorary president).

Vivan Bose, former judge of the Supreme Court of India, president.

A. J. M. Van Dal, attorney at law at the Supreme Court of the Netherlands, vice president.

Jose T. Nabuco, member of the Bar of Rio de Janeiro, Brazil, vice president.

Sir Adetokunbo A. Ademola, Chief Justice of Nigeria.

Arturo A. Alafriz, Solicitor General of the Philippines; former president of the Federation of Bar Associations of the Philippines.

Giuseppe Bettiol, member of the Italian Parliament; professor of law at the University of Padua.

Dudley B. Bonsal, U.S. district judge of the Southern District of New York; past president of the Association of the Bar of the City of New York.

Philippe N. Boulos, Deputy Prime Minister, Government of Lebanon; former Governor of Beirut; former Minister of Justice.

U Chan Htoon, former Judge of the Supreme Court of the Union of Burma.

Eli Whitney Debevoise, attorney at law, New York; former General Counsel, Office of the USA High Commissioner for Germany.

Sir Owen Dixon, former Chief Justice of Australia.

Manuel T. Escobedo, professor of law, University of Mexico; attorney at law; former president of the Barra Mexicana.

Per T. Federspiel, attorney at law, Copenhagen; Member of the Danish Parliament; former President of the Consultative Assembly of the Council of Europe.

Thusew S. Fernando, Judge of the Supreme Court of Ceylon; former Attorney General and former Solicitor General of Ceylon.

Isaac Forster, judge of the International Court of Justice, The Hague; former Chief Justice of the Supreme Court of the Republic of Senegal.

Fernando Fournier, attorney at law; former president of the Bar Association of Costa Rica; professor of law; former Ambassador to the United States and to the Organization of American States.

Osvaldo Illanes Benitez, Judge of the Supreme Court of Chile.

Hans-Heinrich Jescheck, professor of law; director of the Institute of Comparative and International Penal Law of the University of Freiburg/B.

Jean Kréher, advocate at the Court of Appeal, Paris, France; vice president of the World Federation of United Nations Associations.

Sir Leslie Munro, former Secretary General of the International Commission of Jurists; former President of the General Assembly of the United Nations; former Ambassador of New Zealand to the United Nations and United States.

Paul-Maurice Orban, professor of law at the University of Ghent, Belgium; former Minister; former senator.

Stefan Osusky, former Minister of Czechoslovakia to Great Britain and France; former Member of the Czechoslovak Government.

Lord Shawcross, former Attorney General of England.

Sebastián Soler, attorney at law; professor of law; former Attorney General of Argentina.

Purshottam Trikamdas, senior advocate of the Supreme Court of India; sometimes Secretary to Mahatma Gandhi.

H. B. Tyabji, barrister at law, Karachi, Pakistan; former Judge of the Chief Court of the Sind.

Terje Wold, Chief Justice of the Supreme Court of Norway.

Secretary General Seán MacBride, former Minister of Foreign Affairs of Ireland.

Administrative Secretary Edward S. Kozera, former lecturer in Government, Colombia University.

RECENT PUBLICATIONS OF THE INTERNATIONAL COMMISSION OF JURISTS

Finally, Mr. Speaker, I submit the Commission's listing on the back of this report of the recent publications of the organization and of some of the special studies it has made. Again, I might say, I am doing this in order to provide the full documentation:

RECENT PUBLICATIONS OF THE INTERNATIONAL COMMISSION OF JURISTS

Journal of the International Commission of Jurists: Volume IV, No. 2 (spring-summer 1963): "Reflections on the Rule of Law and in Particular on the Principle of Administrative Action; Reflections on the Rule of Law"; "Judicial Power and the Authority of the State in the Federal Republic of Germany"; "The Principle of Legality: The Rule of Law—Myth or Reality?"; "The Rule of Law: New Delhi-Lagos-Rio de Janeiro, Some Reflections on a Journey with Excursions to Chicago and Warsaw"; "The Evolving Concept of the Rule of Law—An American View"; "Some Thoughts on the Rule of Law"; "Austria and the European Convention for the Protection of Human Rights and Fundamental Freedoms"; "Problems Involved in the Protection of Fundamental Human Rights and Liberties in the Practice of the Italian Constitutional Court"; "The Ombudsman in New Zealand" (part II); "A Chronicle of Constitutional Cases: Judicial Review of the Constitutionality of Electoral Laws." Document: "Report on a Seminar," book reviews.

Bulletin of the International Commission of Jurists: No. 19 (May 1964): "United Nations"; "Aspects of the Rule of Law in Algeria, Cuba, Czechoslovakia, Japan, New Zealand, Poland."

Newsletter of the International Commission of Jurists: No. 15 (February 1964): Appointment of new Secretary-General; members of the Commission; missions and tours; observers; press releases: South Africa, Ghana, Cuba, Haiti, Ceylon, United States of America, United Nations. Essay contest; organizational notes, publications, law student seminars.

SPECIAL STUDIES

"The African Conference on the Rule of Law" (June 1961): Report on the first African Conference on the Rule of Law, held in Lagos, Nigeria, January 1961.

"The Berlin Wall: A Defiance of Human Rights" (March 1962): The report consists of four parts: "Voting With the Feet"; "Measures To Prevent Fleeing the Republic"; "The Constitutional Development of Greater Berlin" and "The Sealing Off of East Berlin." For its material the report draws heavily on sources from the German Democratic Republic and East Berlin: their acts, ordinances, executive instruments, published court decisions and excerpts from the press.

"South African Incident: The Ganyile Case" (June 1962): This report records another unhappy episode in the history of the arbitrary methods employed by the Government of South Africa. In publishing this report the Commission seeks to remind its readers of the need for unceasing vigilance in the preservation and assertion of human rights.

"Cuba and the Rule of Law" (November 1962): Full documentation on constitutional legislation and criminal law, as well as background information on important events in Cuban history, the land, the economy, and the people; part 4 includes testimonies by witnesses.

"Spain and the Rule of Law" (December 1962): Includes chapters on the ideological and historical foundations of the regime, the single-party system, the national syndicalist community, legislative power, powers of the executive, the judiciary and the bar, defense of the regime, penal prosecution of political offenses, together with eight appendixes.

ANTIRELIGIOUS CAMPAIGN IN THE SOVIET UNION

Mr. LINDSAY. Mr. Speaker, I ask unanimous consent to proceed for 20 minutes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LINDSAY. Mr. Speaker, a few months ago Francois Mauriac, the Catholic novelist, told a meeting of Christians in Paris that, "In Moscow Christ is in agony. We must not sleep at such a moment." Mauriac was calling their attention to the intensified antireligious campaign now underway in the Soviet Union—a campaign in which all religions are being subjected to increasing restrictions, forms of interference and destructive social pressures. In the case of the Jewish people, particular pressures are being brought to bear to prevent the normal maintenance and development of their religious, social, and cultural life.

Mr. Speaker, there is nothing surprising in the Soviet Union's campaign against religion. For years the Russian Orthodox Church and other religions in the Soviet Union have existed in a hostile context of official antireligious ideology and propaganda. Nor is anti-Semitism new in Russia. Stalin, for example, played on anti-Semitic emotions when it suited his purposes. Such practices existed—and exist—despite the Soviet Constitution, which theoretically guarantees freedom of religion for believers and cultural freedom for national minority groups. But in recent years the campaign against religious institutions and Soviet Jewry has been intensified. The campaign has reached a stage where world attention must be paid. For what is involved here is an effort to obliterate the cultural traditions and values of a people, and to wipe out the legitimate institutions of people who wish to believe in God. This raises a moral issue in which people the world over are bound up and involved. The Soviet Union must not commit crimes against the human spirit without receiving the rebuke of a concerned world opinion.

How does this antireligious campaign work? On one level, Soviet publications carry articles attacking religious observances, ridiculing believers and even accusing them of anti-Government activities. Similar attacks are featured on Soviet radio and television and in public lectures. They are supplemented by atheist propaganda in the schools, where children are taught from the earliest grades that adherence to a religious faith is immoral and evidence of weakness or even depravity.

The results of this campaign have been profound. Thousands of churches, Russian Orthodox and others, have been closed and destroyed. In the last 2 years the number of churches closed has totaled more than 7,500, about 50 percent of all existing churches. Children are often prevented from being baptized and receiving any religious instruction, even from their parents. They often are not permitted to attend church services from ages 3 to 18. Priests, rabbis, and various religious leaders are persecuted. Monasteries are being closed. By 1962, the number of monasteries had fallen from 67 to about 30, and the figure keeps falling. The number of synagogues is being quietly reduced. Further, believers increasingly suffer from various forms of persecution.

But the Soviet assault on religion has gone far beyond propaganda and the application of social pressure. Without violating the letter of Soviet law, which is supposed to guarantee Russian citizens freedom of conscience, Soviet authorities have been able systematically to close and destroy churches and synagogues through a number of arbitrary decrees and administrative measures. For example, a recent decree forbids priests from serving several parishes at once. Thus, deprived of their officiating ministers, the churches were declared inviable and were closed.

Another technically legal method of closing churches and synagogues is crushing the clergy and rabbis with taxes. Religious leaders have been subjected to taxes which go as high as 83 percent of their gross income. Sometimes Soviet authorities declare as obsolescent religious buildings which are in perfect shape. When the parishes are unable to finance immediate restoration of the buildings they are closed down. At times the buildings are closed in a quite brutal manner. Militiamen appear, isolate the monastery, and drive out the monks and nuns. Those monks and nuns who have homes are asked to return to them, but those who have nowhere to go are often confined in psychiatric asylums.

The reasons for Russia's stepped-up campaign against the Russian Orthodox Church, Judaism, and the country's other religions are not hard to find. They can be found in the simple, if paradoxical, fact that religion, up until a few years ago, had been spreading in the Soviet Union. This is clearly revealed in a 1963 decree of the party central committee providing for intensification of the struggle with religion. The decree is remarkable for its admission that a significant part of the Soviet population still adheres to religion and that, although alien to the nature of Communist society, "religious ideology afflicts important aspects of the intellectual life" of the people.

To counter the spread of religion in the Soviet Union, the party central committee stressed the absolute necessity of "creating an appropriate system of education in scientific atheism, which would embrace all age groups and strata of the population and prevent the propagation of religious ideas, especially among children and minors." As outlined by a 1964 Pravda editorial, the new measures to be taken are the creation of an Institute of Scientific Atheism attached to the central committee, opening of chairs or departments of atheism in universities at the beginning of the academic year 1964–65, and urging training of a part of the students of historical and philosophical departments of universities and educational institutions as teachers of atheism. Further, the drawing of writers, artists, and cultural workers into more active antireligious work in literature, painting, and theatrical and film arts, is being planned. The Pravda editorial said that:

> It is the urgent task for party organization to struggle persistently for the liberation of the mind of every believer from the opium of religion.

While all religions in the Soviet Union exist very precariously, none has been subject to more persecution and pressure than Judaism. Anti-Semitism in Russia is not new, but since 1961 official pressure against Jewish religious institutions and practitioners has been systematically stepped up. During 1961, the synagogue presidents in six major provincial cities were deposed, six lay religious leaders in Moscow and Leningrad were secretly arrested and later sentenced to lengthy prison terms for alleged espionage. In 1962 a trade union paper charged these devout religious Jews were agents of Israeli spies who, in turn, were described as tools of American intelligence. Later in 1962 the Moscow synagogue announced that the public baking and sale of matzah—the unleavened bread indispensable to the observance of the Passover—would be forbidden. The

Soviet propaganda line is that Jewish religious holidays, and Passover in particular, are subversive. A typical slogan is that "Judaism kills love for the Soviet motherland."

The status of Soviet Jewry is complicated by the fact that the Soviet Union officially recognizes Jews as a nationality. The nationality listed in their identity documents is that of "Jew." The plight of Soviet Jewry provides a perfect example of the gap between Communist theory and Communist practice. For example, Soviet nationalities policy is based on legal recognition of the right of all nationalities within Soviet borders to cultural freedom. But the Soviet regime denies to the Jews the ethnic-cultural rights that are generally accorded other Soviet national minorities. Their distinctive language activities and community institutions have been reduced to almost zero, unlike those of other national groups. Anything more than the present minimal level of Yiddish language activities is discouraged.

In addition, Jews are not permitted any sort of national or provincial organization, secular or religious, such as other nationality groups and the recognized religious sects have had. Press treatment of synagogues, and of reference to Jewish identity generally has almost always placed them in an unfavorable context. Worship is circumscribed by the paucity of synagogues and rabbinical training.

In fact, it is in the realm of rabbinical training where Jews suffer particular discrimination. It was not until 1957 that the Jews were able to establish their first institution for the training of rabbis. At that time, a rabbinical academy was established as an adjunct of the great synagogue in Moscow. Since then, however, no more than two men have been ordained as rabbis, and neither has been allowed to function as a synagogue leader.

Discrimination against Jews pervades every area of Soviet life. While Jews are well represented in the artistic and scientific professions, and are relatively numerous in the middle levels of the economic hierarchy, they face obstacles in moving into the upper realms of Soviet life. For example, they are virtually excluded from "security sensitive" areas of the bureaucracy and the army. Soviet Jews are attacked from many sides. Press campaigns against Judaism develop the image of the Jew in anti-Semitic stereotypes. Most blatant of these offensive stereotypes is that of Jews as money worshipers. Also, the existence of Israel renders Soviet Jews vulnerable to official attack on grounds of divided loyalty, yet emigration is forbidden. Contacts with foreigners are discouraged because Jews are suspected for having ties with Western Jewry.

Perhaps the peak of the Soviet campaign against the Jews came during the economic trials of 1961, when capital punishment was instituted for such offenses as embezzlement of state property, currency speculation and bribery. Soviet press reports emphasized the Jewish identity of some of the defendants, an emphasis intended for the notice of Soviet Jews and those elements of the Soviet citizenry which retains strong anti-Semitic prejudices. By early 1963, 36 such trials had been reported in 26 different cities. In the trials, death sentences were meted out to 70 individuals—of whom at least 42 were Jews. What was the reason for this? Some observers speculated that Soviet motives in publicizing these economic crimes is that the government wanted to frighten potential economic "criminals" by the harsh penalties while at the same time deflecting adverse public reaction to the penalties by playing upon anti-Semitic sentiment.

The Soviet anti-Semitic campaign is, as Mark Decter observed last year in Foreign Affairs quarterly, an effort "to intimidate and atomize Soviet Jewry, to isolate it both from its past and from its brethren in other parts of the world, to destroy its specifically Jewish spirit."

The reasons for this campaign are to be found in the contradictions of the Soviet world-view and current Soviet policies. As Decter adds:

> Soviet policy places the Jews in an inextricable vise. They are allowed neither to assimilate, nor live a full Jewish life, nor to emigrate (as many would wish) to Israel or any other place where they might live freely as Jews. The policy stems, in turn, from doctrinal contradictions abetted by traditional anti-Jewish sentiments.
>
> On the one hand, the authorities want the Jews to assimilate; on the other hand, they irrationally fear the full penetration of Soviet life which assimilation implies. So the Jews are formally recognized as a nationality, as a religious group, as equal citizens—but are at the same time deprived of their national and religious rights as a group, and of full equality as individuals.

The paradox of Soviet encouragement of anti-Semitism is that it has provided the younger generation of Russian intellectuals, writers, and artists with a moral cause. The most dramatic example of protest came in 1961 with the publication of the poem, "Babi Yar," named after a vale on the outskirts of Kiev where thousands of Jewish martyrs were slaughtered by the Nazis in 1941. The poem, by Yevegry Yevtushenko—one of the most popular young Soviet poets—is an indictment of anti-Semitism both historically and as a reality in current Soviet society. Although Yevtushenko is not a Jew, he identifies himself with persecuted Jewry throughout history. He writes:

> "Today I am as old as the Jewish people
> It seems to me now that I am a Jew * * *"

He closes:

> "Let the Internationale ring out
> When the last anti-Semite on earth is buried.
> There is no Jewish blood in mine,
> but I am hated by every anti-Semite as a Jew.
> And for this reason
> I am a true Russian."

In this poem, Yevtushenko is declaring the existence of a historic Jewish people—a fact which Soviet doctrine denies. And he is declaring the existence of a history the Jewish people are prevented from learning. As a result, Premier Khrushchev last year accused the young poet—although a loyal Marxist—of political immaturity and ignorance of historic facts about Babi Yar.

Mr. Speaker, world attention must be focused on the Soviet Union's current campaign to eliminate the practice of religion and erode historic Jewish values and institutions. If nothing else, history tells us that man does not live by bread alone. The Soviet Union's effort to wipe out the Russian citizen's religious life is an effort to do no less than to wipe out an essential facet of the human personality. At the same time, we must be especially sensitive to the plight of Soviet Jewry. For, as Yevtushenko tells us, we are all Jews, we are all bound up in the same quest for liberty, morality, and justice.

As a country, we have by no means solved all our own problems regarding minorities. Yet the contrast between the United States, which attempts to promote tolerance among its citizens, and the Soviet Union, which plays upon the prejudices of its citizens for political ends, must be noted. At this time moral pressure must be applied on the Soviet Union to dissuade it from its present course of obliterating the cultural identity of a people and the religions of all Russians who happen to be believers. Mr. Speaker, this would be no empty gesture. The Soviets do at times demonstrate their sensitivity to moral indignation when it is mobilized on a large enough scale. When it suits their political objectives, the Soviets do worry about their image in the international arena. A recent example of this followed the publication last year of the Soviet anti-Semitic book, "Judaism Without Embellishment," published by the Ukrainian Academy of Science. Interestingly, the Communist Parties in the United States, France, Italy, and Holland condemned the book as an incitement of anti-Semitism. The book was attacked for containing anti-Jewish caricatures reminiscent of Nazi propaganda. As a result, the Ideological Commission of the Soviet Communist Party recently criticized publication of the book because it "may insult the feelings of believers and be interpreted in a spirit of anti-Semitism." The London Observer's expert on Soviet affairs, Edward Crankshaw, said that the Communist Commission's action "is an indication of how sensitive the Soviet Government is to charges of anti-Semitism."

The paradox is that while sensitive to charges of anti-Semitism, the Soviet Union continues its campaign against religion in Russia and Soviet Jews. Mr. Speaker, the people of the free world must exploit this paradox and express their moral abhorrence of these Soviet crimes. The United States, for example, has a long history of protesting the oppressive treatment of national minorities by their governments. We did so during the Nazi period and we did so when the Turks slaughtered several million Armenians in 1914. If it will help in this case, we must do so again. As Mauriac says, "We must not sleep at such a moment."

Mr. REID of New York. Mr. Speaker, will the gentleman yield?

Mr. LINDSAY. I yield.

Mr. REID of New York. I congratulate the gentleman from New York on his important statement. I think it needs stating. The lack of religious freedom for Jews in the Soviet Union is tragic and highly repugnant to all those who believe freedom of worship is a fundamental human right. Persecution of Jews in the Soviet Union is shocking and a clear violation of the U.N. Charter and the universal declaration of human rights which are morally binding on all member states of the United Nations. Indeed, since 1917 no Hebrew Bible has been published in the Soviet Union and the study of Hebrew has been outlawed.

I hope our Government will make strong, prompt, and continuing representations to Moscow about the concern of the Congress and the American people on this serious matter.

Mr. LINDSAY. I thank my distinguished colleague from New York for his contribution and for the eminently sensible and wise suggestion that he has made in respect of the actions of our Government in making such representations to the Government of the Soviet Union.

A TRIBUTE TO KAMEHAMEHA THE GREAT

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. MATSUNAGA. Mr. Speaker, today is Kamehameha Day in Hawaii. The people of the 50th State will celebrate this day with songs and hula dances, pageants, and luaus, exhibitions of ancient Hawaiian relics, athletic competitions and water sports, and parades and ceremonies, in memory of Kamehameha the Great, frequently referred to as the Napoleon of the Pacific.

I call the attention of Congress to this event because I believe it holds a special significance for the United States. When Capt. James Cook, the British navigator and explorer, discovered the Hawaiian Islands on January 18, 1778, they were separated into kingdoms ruled by warring chiefs. It was with the assistance of two Americans, Isaac Davis and John Young, who introduced firearms into Hawaiian warfare, that Kamehameha conquered the entire archipelago, by force or persuasion, united it into one state under a strong central government and put an end to the continuous state of warfare between rival kings which had plagued the islands for centuries. Thus it was with American "foreign aid" that peace was first established among a warring people who today are known throughout the world for their spirit of "aloha" or love.

King Kamehameha's first great edict was "Mamalahoa," or "the law of the splintered paddle," whereby he decreed that "the old men and the children shall sleep on the highways unmolested." It was after he himself had been attacked by a fisherman who splintered his canoe paddle on the King's head, that Kamehameha issued the decree which led to a vigorous enforcement of measures for suppressing brigandage, murder, and theft throughout his kingdom, until public safety became an accepted matter and in fact "the old men and children could sleep on the highways unmolested."

The greatness of Kamehameha lay in his humanitarian qualities, his ability to organize his government while encouraging industry and promoting agricultural endeavors among his people.

Kamehameha died on May 8, 1819, at the age of 61. His burial place has been kept a dark secret in true Hawaiian tradition. We in Hawaii are proud of the history and tradition which Kamehameha the Great has left us. We rejoice in the fact that his greatness has been recognized by the Nation by the naming of the next Polaris missile submarine, the SSBN 642, as *Kamehameha*. The people of Hawaii are grateful for this action, which was announced last year by our late beloved President Kennedy. We pledge to do credit to that honor by continuing to serve as "the showcase of American democracy" in all its dreams and ideals.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Hosmer, for June 15 through June 18, on account of official business of Joint Committee on Atomic Energy.

Mr. Monagan, for June 15 through June 20, on account of official business of Congress as observer at Geneva Disarmament Conference.

Mr. Don H. Clausen (at the request of Mr. Halleck), for today, on account of official business.

Mr. Battin (at the request of Mr. Halleck), for today, on account of official business.

Mr. Clark (at the request of Mr. Albert), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Gray, for 15 minutes, June 15; to revise and extend his remarks and to include extraneous matter.

Mr. Nelsen, for 20 minutes, June 15.

The following Members (at the request of Mr. Martin of Nebraska) and to revise and extend their remarks and to include extraneous matter:

Mr. Mathias, for 30 minutes, on June 16.

Mr. Dole, for 1 hour, on June 15.

Mr. Halpern, for 10 minutes, today.

Mr. Conte, for 10 minutes, today.

The following Members (at the request of Mr. Matsunaga) to revise and extend their remarks and to include extraneous matter:

Mr. Ryan of New York, for 60 minutes, June 16.

Mrs. Sullivan, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Congressional Record, or to revise and extend remarks, was granted to:

Mr. Smith of Iowa during debate on H.R. 11049 and to include an editorial.

Mr. Dorn.

(The following Members (at the request of Mr. Martin of Nebraska) and to include extraneous matter:)

Mr. Findley and to include extraneous matter, notwithstanding it will exceed two pages of the Record and is estimated by the Public Printer to cost $210.

Mr. Dague.

Mr. Auchincloss.

Mrs. Reid of Illinois.

(The following Members (at the request of Mr. Matsunaga) and to include extraneous matter:)

Mr. Hébert.

Mr. Powell.

Mr. Staebler.

Mr. Burkhalter.

ADJOURNMENT

Mr. MATSUNAGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 28 minutes p.m.), under its previous order, the House adjourned until Monday, June 15, 1964, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2159. A letter from the Secretary of the Army, transmitting reports of the number of officers on duty with Headquarters, Department of the Army and the Army General Staff on March 31, 1964, pursuant to section 3031(c) of title 10, United States Code; to the Committee on Armed Services.

2160. A letter from the Director, Federal Mediation and Conciliation Service, transmitting a copy of the 16th Annual Report of the Federal Mediation and Conciliation Service, for the fiscal year ending June 30, 1963; to the Committee on Education and Labor.

2161. A letter from the Clerk, U.S. Court of Claims, relative to *James William O'Donnell, Salvatore de Tucci, and Arnold Wolf, d.b.a. Suffolk Farms Packing Company* v. *The United States* (Congressional No. 2–58); to the Committee on the Judiciary.

2162. A letter from the Clerk, U.S. Oourt of Claims, relative to *N. M. Bentley, a copartnership* v. *The United States* (Congressional No. 2–62); to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PATMAN: Committee on Banking and Currency. House Joint Resolution 1041. Joint resolution temporarily extending the program of insured rental housing loans for the elderly in rural areas under title V of the Housing Act of 1949; without amendment (Rept. No. 1472). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Committee on Banking and Currency. H.R. 11499. A bill to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury; without amendment (Rept. No. 1473). Referred to the Committee of the Whole House on the State of the Union.

Mr. POWELL: Committee on Education and Labor. Senate Joint Resolution 103. Joint resolution to increase the amount authorized to be appropriated for the work of the President's Committee on Employment of the Physically Handicapped; without amendment (Rept. No. 1474). Referred to the Committee of the Whole House on the State of the Union.

Mr. POWELL: Committee on Education and Labor. H.R. 5690. A bill to amend section 302(c) of the Labor-Management Relations Act, 1947, to permit employer contributions for joint industry promotion of products in certain instances or a joint committee or joint board empowered to interpret provisions of collective bargaining agreements; with amendment (Rept. No. 1475). Referred to the Committee of the Whole House on the State of the Union.

Mr. POWELL: Committee on Education and Labor. H.R. 9586. A bill to provide for the establishment of a National Council on the Arts to assist in the growth and development of the arts in the United States; with amendment (Rept. No. 1476). Referred to the Committee of the Whole House on the State of the Union.

Mr. POWELL: Committee on Education and Labor. H.R. 10088. A bill to provide assistance in the development of new or improved programs to help older persons through grants to the States for community planning and services and for training, through research, development, or training project grants, and to establish within the Department of Health, Education, and Welfare an operating agency to be designated as the "Administration of Aging"; with amendment (Rept. No. 1477). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAYS: Delegation of the U.S. House of Representatives to the 9th NATO Parliamentarian's Conference. Report on the Ninth NATO Parliamentarian's Conference (Rept. No. 1478). Referred to the Committee of the Whole House on the State of the Union.

Mr. KIRWAN: Committee on Appropriations. H.R. 11579. A bill making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the St. Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and the Delaware River Basin Commission for the fiscal year ending June 30, 1965, and for other purposes; without amendment (Rept. No. 1479). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABBITT:

H.R. 11568. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which a woman may earn while receiving mother's insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. DULSKI:

H.R. 11569. A bill to designate the Veterans' Administration hospital at Buffalo, N.Y., as the General Donovan Veterans' Hospital; to the Committee on Veterans' Affairs.

By Mr. MORTON:

H.R. 11570. A bill to amend the Tariff Act of 1930, as amended, to provide that button blanks, regardless of state of finish, shall be subject to the same duty as buttons; to the Committee on Ways and Means.

By Mr. MULTER:

H.R. 11571. A bill to amend title 18 of the United States Code to prohibit the use of "Federal," "National," or "United States"; to the Committee on the Judiciary.

By Mr. NORBLAD:

H.R. 11572. A bill relating to the rate of duty on fresh and frozen strawberries which are imported from Mexico; to the Committee on Ways and Means.

By Mr. ST. ONGE:

H.R. 11573. A bill to amend the Tariff Act of 1930, as amended, to provide that button blanks, regardless of state of finish, shall be subject to the same duty as buttons; to the Committee on Ways and Means.

By Mrs. ST. GEORGE:

H.R. 11574. A bill to amend the Tariff Act of 1930, as amended, to provide that button blanks, regardless of state of finish, shall be subject to the same duty as buttons; to the Committee on Ways and Means.

By Mr. SCHWENGEL:

H.R. 11575. A bill to amend the Tariff Act of 1930, as amended, to provide that button blanks, regardless of state of finish, shall be subject to the same duty as buttons; to the Committee on Ways and Means.

By Mr. WALLHAUSER:

H.R. 11576. A bill to provide for the issuance of a special postage stamp in honor of the memory of the late General of the Army Douglas MacArthur; to the Committee on Post Office and Civil Service.

By Mr. WILLIAMS:

H.R. 11577. A bill to amend the Federal Aviation Act of 1958 so as to require additional precautionary measures aboard certain aircraft in the interest of the safety of the traveling public; to the Committee on Interstate and Foreign Commerce.

H.R. 11578. A bill to amend title XI of the Federal Aviation Act of 1958 to provide that certain provisions of insurance contracts covering loss of life or personal injury of passengers being transported in air transportation shall be null and void; to the Committee on Interstate and Foreign Commerce.

By Mr. KIRWAN:

H.R. 11579. A bill making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the St. Lawrence Seaway Development Corporation, the Tennessee Valley Authority and the Delaware River Basin Commission, for the fiscal year ending June 30, 1965, and for other purposes.

By Mrs. DWYER:

H.R. 11580. A bill to amend the Tariff Act of 1930, as amended, to provide that button blanks, regardless of state of finish, shall be subject to the same duty as buttons; to the Committee on Ways and Means.

By Mr. MURRAY:

H.R. 11581. A bill to amend title 39, United States Code, to authorize the Postmaster General to relieve postmasters and other employees for losses resulting from illegal, improper, or incorrect payments, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. O'BRIEN of New York:

H.R. 11582. A bill to amend the Antidumping Act, 1921; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 11583. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. TAYLOR:

H.R. 11584. A bill to impose import limitations on certain meat and meat products; to the Committee on Ways and Means.

By Mr. TUPPER:

H.R. 11585. A bill to amend and extend the National Defense Education Act of 1958 and to provide certain tax relief for persons incurring expenses for higher education; to the Committee on Ways and Means.

By Mr. DOLE:

H. Res. 748. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. ABELE:

H. Res. 749. Resolution to inquire into the financial or business interests of any present or former Member, officer, or employee of the House of Representatives; to the Committee on Rules.

By Mr. ANDERSON:

H. Res. 750. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. ANDREWS of North Dakota:

H. Res. 751. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. ASHBROOK:

H. Res. 752. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. BEERMANN:

H. Res. 753. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. BERRY:

H. Res. 754. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. BROCK:

H. Res. 755. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. BROMWELL:

H. Res. 756. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. DON H. CLAUSEN:

H. Res. 757. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. CRAMER:

H. Res. 758. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. DEROUNIAN:

H. Res. 759. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. DERWINSKI:

H. Res. 760. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. FINDLEY:

H. Res. 761. Resolution to inquire into the financial or business interests of any present or former Member, officer, or employee of the House of Representatives; to the Committee on Rules.

By Mr. FOREMAN:

H. Res. 762. Resolution to inquire into the financial or business interests of any present or former Member, officer, or employee of the House of Representatives; to the Committee on Rules.

By Mr. GROSS:

H. Res. 763. Resolution to inquire into the financial or business interests of any present or former Member, officer, or employee of the House of Representatives; to the Committee on Rules.

By Mr. HALL:

H. Res. 764. Resolution to inquire into the financial or business interests of any present or former Member, officer, or employee of the House of Representatives; to the Committee on Rules.

By Mr. LAIRD:

H. Res. 765. Resolution to inquire into the financial or business interests of any present or former Member, officer, or employee of the House of Representatives; to the Committee on Rules.

By Mr. MARTIN of California:

H. Res. 766. Resolution to inquire into the financial or business interests of any present or former Member, officer, or employee of the House of Representatives; to the Committee on Rules.

By Mrs. MAY:

H. Res. 767. Resolution to inquire into the financial or business interests of any present or former Member, officer, or employee of the House of Representatives; to the Committee on Rules.

By Mr. McCLORY:

H. Res. 768. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. McLOSKEY:

H. Res. 769. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. MILLER of New York:

H. Res. 770. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. PIRNIE:

H. Res. 771. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. RHODES of Arizona:

H. Res. 772. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. RUMSFELD:

H. Res. 773. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. SCHADEBERG:

H. Res. 774. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. SIBAL:

H. Res. 775. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. TAFT:

H. Res. 776. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. WEAVER:

H. Res. 777. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

By Mr. BOB WILSON:

H. Res. 778. Resolution to inquire into the financial or business interests of any present or former Member, officer or employee of the House of Representatives; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

The SPEAKER presented a memorial of the Legislature of the State of Pennsylvania, memorializing the President and the Congress of the United States to take whatever steps that may be necessary to protect the weakening and declining domestic mushroom industry, and restore the same to a competitive market, which was referred to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANNA:

H.R. 11586. A bill for the relief of Fanny Mar; to the Committee on the Judiciary.

By Mr. LANKFORD:

H.R. 11587. A bill for the relief of Mrs. Agnes G. Tuinman; to the Committee on the Judiciary.

By Mr. LESINSKI:

H.R. 11588. A bill for the relief of Yousif D. Najjar; to the Committee on the Judiciary.

By Mr. MULTER:

H.R. 11589. A bill for the relief of Edmond Sutton and his wife, Vivianne Sutton; to the Committee on the Judiciary.

By Mr. UTT:

H.R. 11590. A bill for the relief of Frank Yeny Horne Powlan; to the Committee on the Judiciary.

By Mr. WRIGHT:

H.R. 11591. A bill for the relief of Dr. Cenon Q. Baltazar; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

923. By the SPEAKER: Petition of Mrs. Walter Erikson and others, Palmer, Mass., relative to being greatly concerned about the fact that Bible reading is not permitted in the public schools, and feeling that the spiritual heritage which has contributed so much to this country's greatness is in danger of eradication; to the Committee on the Judiciary.

924. Also, petition of Henry Stoner, Avon Park, Fla., relative to requesting that the State legislatures follow similar procedures as the U.S. Congress in regard to publications dealing with the daily business; to the Committee on Government Operations.

EXTENSIONS OF REMARKS

The National Day of Portugal

EXTENSION OF REMARKS

OF

HON. KENNETH B. KEATING

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Thursday, June 11, 1964

Mr. KEATING. Mr. President, in selecting a national day most countries commemorate a special event in their history such as independence day or a national hero, such as the birthday of the state's liberator. Portugal, on the other hand, has chosen as its national holiday the anniversary of the death of its greatest poet, Luis Vas de Camoes, who died in Lisbon on June 10, 1580. The works of this man, one of the greatest poets of the 16th century, have long been an inspiration and an example of strength and endurance to his countrymen.

Born in 1524, this great artist shunned the restrictions of court life and instead took off as a soldier in the sprawling Portuguese Empire. In their poignancy and anguish, his lyric poems reflect the hardships of a soldier's life. His greatest epic, "Os Lusiadas"—"The Portuguese"—extols the glorious deeds of his people and their victories over the enemies of Christianity.

His feelings and thoughts, expressed 400 years ago, live on. They remind us of the fact that the Portuguese have always remained courageous in the face of aggression. Portugal is a charter member of the North Atlantic Treaty Organization. The bases which it provides in the strategically located Azores have been of great benefit to the free world. NATO is just one more indication of Portugal's traditional friendship with the United States, where many of Portugal's sturdy emigrants now make their homes.

These Portuguese are hardy and faithful allies of the mettle of Camoes. I join with them on their national day and trust that our friendship will continue forever.

Recognition of Frank W. Sheridan, Jr.

EXTENSION OF REMARKS

OF

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1964

Mr. HÉBERT. Mr. Speaker, it is a real pleasure to call the attention of my colleagues to the excellent work record of a dedicated public servant, Frank W. Sheridan, Jr.

Mr. Sheridan for the past 3 years has been manager of the Veterans' Administration regional office in New Orleans. He is leaving this post this week for a promotion to the Washington headquarters of VA, where he will be area field director for VA activity in Florida, Georgia, Alabama, Mississippi, Louisiana, Tennessee, and North and South Carolina.

Mr. Sheridan leaves his own monument in the very excellence of the VA regional office which he headed. He brought energy and enthusiasm into the job as regional manager, and his sense of dedication was contagious.

An employee of the VA since December 1945, Mr. Sheridan's tenure has been marked by progress and promotions. One of his greatest assets has been his facile ability to communicate. Speaking or writing, he is an articulate administrator.

The work Mr. Sheridan has accomplished has always been in the best interest of the veterans. He has served them well.

He richly deserves his new promotion, and I am confident he will execute his new responsibilities with the same extraordinary level of proficiency.

Bearings and Lancaster County, Pa.

EXTENSION OF REMARKS
OF
HON. PAUL B. DAGUE
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 11, 1964

Mr. DAGUE. Mr. Speaker, too often when proponents of free trade talk about the need for reduction of tariffs they talk in broad general terms. However, every concession granted to increase exports to the United States, has a most dramatic local effect. There is nothing which touches the day-to-day lives of all of us more than the effect of such reductions. Following is a letter which I have written to Hon. Christian Herter, Special Representative for Trade Negotiations, to emphasize to him just what impact increased imports of bearings could have just in Lancaster County, Pa., alone.

The letter follows:

JUNE 11, 1964.

Hon. CHRISTIAN HERTER,
Special Representative for Trade Negotiations, Executive Office Building, Washington, D.C.

DEAR MR. HERTER: As you may have noted from correspondence and from extensions of remarks placed in the CONGRESSIONAL RECORD, the domestic bearing industry is in grave trouble as a result of imports of bearings from Japan and elsewhere. I would like to acquaint you with what these imports mean in my congressional district which includes Lancaster, Pa.

The Federal-Mogul-Bower Bearing Co. in Lancaster has over 600 full-time employees, so roughly 2,500 family members in the Lancaster area are dependent on the success of this one company. The company has an annual payroll of well over $4,500,000 in the Lancaster area alone and the largest part of this is undoubtedly spent with retailers, service and professional people, in Lancaster or environs. You can see that the loss of this payroll would have a detrimental effect on the economy of the entire area. In addition, this company pays about a half millions dollars in local taxes alone which does contribute substantially to the local government operations.

The total imports of ball bearings, roller bearings, steel balls, and rollers in 1963 were up 19 percent from 1962, for a total of $19,384,853. This is strictly the import price, or invoice price paid by the importer, and does not include duty, ocean transportation, insurance, customs, brokerage fees, or any other additives. Imports in the first quarter of 1964 in total were $5,372,072 versus $4-313,124 for the same period in 1963, or an increase of approximately 20 percent.

Since bearings are on the list of items subject to negotiation in Geneva during the Kennedy round we urge that no reductions be made on ball bearings, roller bearings, steel balls, or rollers. Any reduction will encourage further foreign competition with which domestic producers cannot compete because of high wages and high taxes paid by the domestic companies.

I hope you will take these factors into consideration when the negotiations deal with bearings, balls, and rollers.

Sincerely,
(Signed) PAUL DAGUE,
Member of Congress.

Some Exporters and Importers Would Wreck International Textile Agreements

EXTENSION OF REMARKS
OF
HON. W. J. BRYAN DORN
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 11, 1964

Mr. DORN. Mr. Speaker my attention was drawn recently to press reports that an effort may be made to use the recently enacted one-price cotton law as a weapon against the international agreements under which trade is now being done in cotton textiles.

I am informed that some importers of cotton goods from Japan, Hong Kong, and India are the interested parties in this move.

It would suit their selfish purposes, I presume, if the multination agreement on cotton textile trade could be destroyed despite the harm it could cause not only to the U.S. industry but also to the textile industries abroad.

We are now in the second year of a 5-year multination agreement under which the flow of cotton textiles from foreign lands into the U.S. market is being accomplished in an orderly manner.

Today, for the first time in years, cotton textile manufacturers here and abroad are able to plan their operations forwardly and avoid ruinous market disruption.

The agreement approach toward a solution of the cotton textile import problem was prompted by the Government's wish to benefit American textile workers and prevent runaway expansion of foreign textile production based solely upon low-wage standards and the accessibility of the U.S. market.

The agreements are working well generally and have brought a measure of stability to the free world's cotton textile industry.

We enacted the one-price cotton law to eliminate the competitive disadvantage which has been thrust on the American industry by the two-price system.

It may have some retarding effect on the imports of some categories of cotton textiles. It may not. Time will tell.

But, Mr. Speaker, I for one do not want to see the one-price cotton law used to destroy the trade agreements now in effect. I resent the idea of foreign exporters of cotton textiles to the United States or the U.S. importers of such goods from trying to use this law to disrupt the tremendous effort we have made to bring some order to the American textile industry. And I feel certain that most of my colleagues feel the same way.

Estonia, Latvia, and Lithuania: A Memorial

EXTENSION OF REMARKS
OF
HON. JAMES C. AUCHINCLOSS
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 11, 1964

Mr. AUCHINCLOSS. Mr. Speaker, Estonia, Latvia, and Lithuania constitute the three Baltic countries on the eastern shore of the Baltic, in northeastern Europe. The peoples of these countries are among the most civilized, most gifted, and most progressive ethnic elements in all Europe. Although subjected to alien rule for centuries, they maintained their own identity, and at the end of the First World War they regained their national independence. Thenceforth for two decades they lived in freedom, which they were able to maintain in the face of serious threats. But with the outbreak of the last war they were no longer able to do this, and then began their tragedy.

Soon after the outbreak of the war, Lithuania and her two unfortunate neighbors were ruthlessly bullied by the Kremlin. They were forced to sign mutual assistance pacts with the Soviet Union. Then early in 1940, under some pretext, the governments of Lithuania, Latvia, and Estonia were accused by the Kremlin of anti-Soviet activities. In June the governments of these countries were compelled to agree to the occupation of these countries by the Red army. Having no choice, these governments complied with the terms of the Soviet ultimatums. Immediately the Red army advanced and occupied all three countries, and by the end of June Estonians, Latvians, and Lithuanians alike were robbed of their freedom.

In the meantime wholesale arrests and imprisonments of prominent men in every walk of life were proceeding: Terror in every quarter, and no one felt safe; even women and children were, in some cases, faced with summary arrest, imprisonment, and deportation. No one knows how many tens of thousands of Estonians, Latvians, and Lithuanians were thus arrested by Soviet agents and then deported to distant parts of the Soviet Union, but the fact that in Lithuania alone more than 34,000 were arrested in June of 1940, indicates that at least that many innocent Estonians and Latvians shared a similar sad fate. Arrests and deportations did not end in June, but continued throughout the Soviet occupation of the country during 1940–41, culminating in the wholesale arrests of tens of thousands during the nights of June 13–14, 1941. Thus at the very least more than 100,000 Baltic peoples were uprooted from their homes and exiled to distant, inhospitable Siberia.

It is impossible to say what was in store for these innocent souls in Asiatic U.S.S.R., but obviously there they suffered and labored in forced work camps under abominable conditions. No doubt many of them have died far away from their native homes. At the end of the last war a few of the survivors were allowed to return to their homes and only through them have we learned of the tragic fate of all those deported in 1940–41 by Soviet authorities. From the moment these peoples were herded into freight cars and shipped off, they knew that their share in this world was hard work, hunger, misery, and death in exile. They knew that they were doomed to a kind of serfdom to slave in forced Sovet labor camps where death itself comes to be welcomed.

Today, in observance of that June 14, 1941, we pay our respects to the memory of these Baltic peoples deported and doomed to death by the Soviet Government.

Equal Pay for Women

EXTENSION OF REMARKS

OF

HON. NEIL STAEBLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1964

Mr. STAEBLER. Mr. Speaker, June 11, 1964, is an important landmark in the long and continuing struggle of women to achieve equality in our society.

On this date, the McNamara Equal Pay Act of 1963—Public Law 88–38—becomes generally effective throughout the country.

This new law amends the Fair Labor Standards Act to prohibit discrimination in the payment of wages on the basis of sex. In other words, it sets forth in the law the simple principle of justice that equal work deserves equal pay, regardless of sex.

Its provisions will apply to an estimated 28 million workers in 1.1 million establishments—in other words, to everyone covered by the Fair Labor Standards Act. For employees covered by certain collective bargaining agreements, the effective date is deferred until June 11, 1965, or the termination date of the agreement, whichever is the earlier date.

It was my great pleasure a year ago to vote for this bill which was signed into law by the late President Kennedy on June 10, 1963.

Those of us from Michigan take particular pride in the Equal Pay Act because our distinguished senior Senator, PAT MCNAMARA, was its primary sponsor. As chairman of the Labor Subcommittee, he guided the bill through committee and as floor manager won approval of the bill by the Senate without a dissenting vote.

Thanks to his efforts, millions of working women in the future will be paid for their efforts on the basis of work accomplished and no longer will suffer discrimination in their pay checks because of their sex.

Independence of the Philippines

EXTENSION OF REMARKS

OF

HON. ADAM C. POWELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1964

Mr. POWELL. Mr. Speaker, the people of the Philippine Islands this year are celebrating the 18th anniversary of the independence of their country. We take this opportunity to send warm felicitations to His Excellency, the President of the Republic, Diosdado P. Macapagal; and His Excellency, the Philippine Ambassador to the United States, Oscar Ledesma.

Although officially granted full sovereignty by the United States on July 4, 1946, a date befitting our own great heritage, the Filipinos commemorate June 12 as their national holiday, the date remembered as the declaration of independence by their heroic leader, Aguinaldo, from Spanish rule in 1898.

Throughout the 20th century, the relations between our country and the Philippines have been very close. During the 48 years when the Philippines were under our control, the U.S. Government built the islands into a showplace of democracy. World War II did not change this harmonious union; for the Filipinos fought alongside American soldiers in the defense of their homeland. The battle for Corregidor and Bataan is as much a tribute to the bravery of the Filipino soldier as it is to our own men.

Since July 4, 1946, the Republic of the Philippines has continued to follow the patterns of development and administration set down by American personnel. A true democracy, President Macapagal presides over a government opposed to communism. As a member of the Southeast Asia Treaty Organization, the islands form a part of the chain of free countries containing the spread of international communism. More important to the United States, though, is the mutual defense agreement concluded with our Government, granting military base rights in the Philippines for our armed services.

The Philippine Government is rightfully taking a place of leadership in Asia and the Pacific. Handicapped by the vast destruction caused by the Japanese occupation and liberation of the islands during World War II, the Filipinos had first to overcome their internal weaknesses. Today, the islands are the world's largest producer of coconuts and manila hemp. The people enjoy one of the highest standards of living in all of eastern Asia. Moreover, 65 percent of the population 10 years of age and over is literate, a truly remarkable figure for an Asian state.

Its presence is also being felt in other Asian countries. President Macapagal has been attempting to mediate the dispute between Indonesia and Malaysia. Recent pronouncements by government leaders show their concern about and support for American policy in South Vietnam. Furthermore, the Philippines active participation in the Colombo plan produces a stabilizing influence and an impetus to the development of the member Asian states.

Therefore, it is with great pride that I salute the Filipinos on the anniversary of their independence. Since the United States is the islands' leading supplier of imports and the principal recipient of exports, the close ties which have existed between the two Republics in the past continue in the present. I am certain, too, that these amicable relations will endure, setting an example of peace and mutual cooperation for the world community.

The War on Poverty

EXTENSION OF REMARKS

OF

HON. EVERETT G. BURKHALTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1964

Mr. BURKHALTER. Mr. Speaker, every authority that has written or spoken with respect to the war on poverty has had something to say about the great need for education. No matter what authority on poverty you approach you will find that education is generally accepted as one of the most powerful forces that we have at our command in the fight to give all the disadvantaged some opportunity to obtain adequate food, housing, medicine, jobs, and opportunity to escape the ranks of the poor.

The education that is most needed, it is now beginning to appear, is for the millions of Americans who live above the level of poverty.

The poor have become less and less visible in recent years. Many of them are over 65 years of age and not in main stream of life. Many of them are children and are not represented in these halls by lobbyists or representative speakers.

Many of them live on small farms, in Appalachia, in the area of the upper Great Lakes, and in the Ozark Plateau.

There are no lobbyists here for them. Many more of them live in the slums of our cities and most of these are not represented here.

But within a few blocks or a few miles of this building, sometimes almost within the shadow of this Capitol and certainly on both sides of the street as the Members of this Congress drive back and forth from the Capitol to their homes are hundreds and hundreds of people living in slums, half starved, poorly housed, and depending in many cases for their livelihood on stealth and robbery or other crime.

It is of these hundreds on the threshold of the Capitol that I wish to speak today. I am moved to do this by recent statements in this chamber that the war on poverty is an election gimmick.

The 1960 census reports that some 479,000 families live in the standard metropolitan statistical area of Washington, D.C., which includes parts of both Maryland and Virginia. Of this number 10.5 percent have incomes of less than $3,000 a year. This figure is considerably lower than the figure of 15.1 percent for the same class of people over the entire United States. Those earning from $3,000 to $9,999 in the District number 68.0 percent of the total as contrasted with 66.0 percent for the Nation as a whole and those who earn over $10,000 are 30.5 percent of the total in the Washington area and only 18.8 percent for all standard metropolitan statistical areas throughout the Nation including 28,620,000 persons. From this it can be seen that Washington, D.C., is in a strong position so far as statistics go. This is further supported by the fact that unemployment here is considerably less than it is in most areas.

However, these census figures 4 years old do not tell all of the story. While the census figures are undoubtedly correct in showing that the number of persons in this area receiving more than $10,000 a year are nearly twice as numerous as in other cities, it should be remembered that although the total for families in the district receiving less than $3,000 a year is only 10.5 percent for the area, the equivalent figure for nonwhites is 23.7 percent, and that while 30.5 percent of the residents of the area earn over $10,000 a year, the nonwhite population in this bracket is 10.2 percent.

The white population of the district earning less than $3,000 a year is only 6.6 percent while the nonwhite figure for the same income bracket is 24.2 percent.

In most sociological writing the figure of $3,000 a year has been taken as the level at which real poverty begins. We may conclude then that one-fourth of the nonwhite population of this area is living in poverty. But this again does not tell the entire story.

With respect to housing in this city, there are some areas within 2 miles of this Capitol Building where more than 35.5 percent of the housing is deteriorating and dilapidated. Considerable progress has been made in some parts of the city in urban redevelopment and in the wise use of Federal funds to replace slums with low-cost housing. Much remains to be done. The task has only commenced.

Sixteen cities in the country are in the 500,000 to 1 million population class. They are Washington, Baltimore, Boston, Buffalo, Cincinnati, Cleveland, Dallas, Houston, Milwaukee, New Orleans, Pittsburgh, San Antonio, San Diego, San Francisco, Seattle, and St. Louis. Washington has the fewest automobiles per hundred residents of any of these cities with 43.7 cars per hundred families.

San Diego is the only city ahead of Washington in the percentage of housing units with all plumbing facilities. Washington has 84.9 percent and San Diego 89.2 percent. St. Louis is the lowest city in this category with 68.9 percent. Fourteen of the 16 communities are ahead of Washington in TV ownership. We are second highest in average expenditure for school pupils with $434.45 per student, per year. San Francisco is ahead with $454. San Antonio is the lowest of cities with figures available in this category with $225 a year spent per pupil.

Only Dallas with 3.3 unemployed is lower in unemployment than Washington with 4.1 percent. Highest unemployment in the list is Buffalo with 8.5 percent. Washington is fifth from the top of the list in the median school years completed with 11.7 the score. San Diego is best educated with a median score of 12.2 years, and St. Louis is lowest with 8.8 years.

Washington crime is increasing in the felony categories of robbery, aggravated assault, and housebreaking—all crimes of poverty. Criminal homicides have increased over a 5-year period but have declined the last year. Rape and attempted rape are down a slight number in recent years but grand larceny and auto thefts continue to increase. Total of crimes last year was 15,191 compared to 13,274 in 1962 and 10,163 in 1959.

Socal diseases are widely prevalent in Washington. Of the 16 cities reporting Washington led the list with 1,047 cases in 1963. Next highest was St. Louis with 672 cases. New Orleans was lowest with 261. Washington was second highest in the number of cases of syphillis with 245. Cleveland lowest with 74.

The Department of Public Welfare of Washington, D.C., was aiding 48,421 persons on the last day of fiscal 1963, June 30. This was 6,968 fewer persons than were receiving aid 1 year previous. Of this number 15,262 were adults in their own homes, 1,336 were adults in institutions, 27,911 were children in their own homes, and 3,912 were children in care away from their homes.

Surplus foods were distributed as 12 different commodities to the amount of $2,280,890 at retail prices. The case load for this distribution was approximately 11,000 cases involving more than 40,000 persons, a reduction of approximately 10 percent over the year before.

The statistical side of the picture as outlined above is a long way from telling the human side of the story. The human side of the story deals with people. It gives faces and bodies to the statistics and presents the human problems involved. For the true picture of the human story, I am indebted to a study of some 50 families here in Washington, D.C., conducted by the Bureau of Social Science Research Inc., of Washington, D.C.

The purpose of the BSSR report aims at two goals:

> A delineation of some of the effects of termination (of relief benefits) and a general description of the manner in which 50 poor families meet some of the problems of day-to-day existence.

The report points out that "the termination of public assistance did in general constitute a crisis for these families."

The impact of termination relegates the family to a substandard level of existence.

> Immediately after termination of public assistance, income drops almost to zero for some time, until, about 8 months later, the family income seems to be about two-thirds of its original level. This period appears to be one of gradual partial recovery, during which short-term help patterns may be established, and money or noncash contributions from friends or relatives may be obtained. Meanwhile, payments for such things as rent and utilities are deferred in order to provide. If all goes well, the family is not evicted, and is able to establish a precarious survival system.

Many of the cases studied illustrate one of the most important differences between public assistance and nonpublic assistance.

> Cash income may have been only 33 percent higher before, but it was regular and came from a reliable source. Current income, on the other hand, is gathered pretty much from day to day, and depends almost entirely on whether the family can make arrangements to get help from a private agency, or can find someone who is willing temporarily to help.

What this means is that the family survives only on a day-to-day basis—this is hardly consistent with the American promise of a better life for all people.

The hardship and privations that have been imposed on some of these families is almost beyond belief of such things happening in the Capital of the United States. The BSSR reports one particular case which describes the constant financial distress typical of the Capital's poor in the case of a woman whose "electricity had long been turned off, her rent was about 2 weeks overdue, she owed another utilities bill and she was due to make two time payments. The previous day a man had come to turn off still another utility, she said, and she had had to pay her back bill to him in order to stop the action. She stated that this came out of the money she was trying to gather to pay the rent, and she was thus set back further. In other words, the pattern seems to be to meet immediate demands, if possible, and to hope to be able to put the less insistent ones off temporarily. This is not so much a matter of slowly catching up on debts, but rather permanent debt delinquency, in which a small amount of money is juggled to meet shifts in the locus of demand from time to time."

This is the plight of residents of the Capital of the wealthiest nation in the world.

We also find the case of one woman with children "without utilities for a year ran a wire for lighting under the wall to a neighbor's wall socket. She and her children cannot eat hot food unless they are invited to a grown daughter's home, but neither do they have pressure from utilities companies for payment."

The illustrations in the BSSR report of the living conditions of these families include comments on housing, food, clothing, and medical care.

Housing:

> Most of the families live in the type of housing * * * characteristic of low-income populations * * *. Frequent observation was made of ratholes, roach infestation, needs for structural repairs * * * the assessment by the fieldworkers suggest that most of these dwellings would be classified as substandard.

Overcrowding of living areas is consistent throughout the families studied, and there were found frequent situations typified as in cases such as one woman and "her seven children and her sister who sleep in one room; or the mother and her five children who sleep together in a room."

Food: This basic item was found to be a grave problem and aggravated by the termination of public assistance.

> Fifty-four percent of all respondents reported that they "often" have to "give up important things so that there will be enough food in the house" * * * "important things" include clothings, shoes, laundry soap, * * * as well as food for adult members of the family.

While the BSSR report did not uncover any cases of outright starvation, there were found cases of malnutrition, problems of frequent colds, instances such as the "woman who had to feed herself and her six children on nothing but oatmeal for over a month."

And a general state of waning health due to inadequate nourishment.

Medical care: Free care provided for low-income families in District medical facilities has done much to mitigate medical care problems for these families. However, in the BSSR study of 328 individuals, 21 percent were said to have had at least 1 illness of a week or more within the past 2 years—not including those who suffer chronic illnesses or childbirths—and 15 persons had at least 1 bout of more or less serious mental illness. The real problem in the medical area is not so much treatment, but the general state of health for those people that makes them especially susceptible to illness. One child "died from pneumonia—said to have been due to lack of sufficient heat in the apartment during the winter—cases of malnutrition or abnormally low resistance to virus due to lack of adequate food were reported. Many respondents described chronic disease or disability in their families, including defective vision, nervous rashes, mental retardation, diabetes, chronic anemia, heart defects, bone ailments, tuberculosis, asthma, and epilepsy."

These ailments being caused or aggravated by substandard family diet.

Clothing: While clothing was found to be somewhat less acute than food problems, it was discovered that "clothing is one of the 'important things' [sacrificed] in order to have enough food in the house; indeed, it seems to be one of the first things to go."

Naturally, the consequence of this sacrifice is psychological as well as physical, for a child will naturally be ashamed to have only one major item of dress for the entire school week. Lack of warm clothing in the winter will lead to frequent trouble with colds and winter-associated illnesses, with time lost from school and/or work. Fortunately "clothing, unlike food, is not a problem experienced as an absolute emergency by most [families]. Used clothing is acquired in several different ways and sometimes with sufficient ease to offset emergencies."

The Bureau of Social Science Research concluded its report with some very illuminating remarks which I would like to quote into the RECORD:

> The major role that public assistance appears to have played in the lives of these 50 families was to provide them with a rare element of financial stability in a generally unstable pattern of life. Public assistance * * * did not raise them economically above a subsistence level or provide them with a new way of living * * *. The termination of assistance led to a series of impermanent solutions * * * to keep (the family) together and a roof over their heads * * *. The price the families paid * * * was an increase in the precariousness of their stratagems for dealing with poverty and a decrease in their ability to plan their lives rationally.

Most of the families studied by the BSSR could be any of the many millions of poverty-stricken families in the United States. Why a particular political party should attack any effort to improve the lot of these people, a political ploy, is beyond comprehension. Surely no political party in the United States wants to see people continue to live in substandard conditions, inadequately housed, clothed, and fed. If opposition to a sound program to alleviate the living conditions of the Nation's poor, to provide a means of learning a trade or ability to work, to provide the opportunity for the poor to learn how to care for themselves, is opposition only to bargain for something, then that political party can be described only as most callous in attitude and concern for the poor of the country. As the BSSR report muses:

> One wonders what will happen to these [families] when the limited resources of private agencies can no longer be tapped and when the possibility of debt manipulation comes to an end.

What will happen will be national tragedy that we can ill afford. For me, those who claim that programs to eliminate poverty in the United States as only politically inspired must be making the claim only to make into a political issue an imperative program. The only people to gain from the beclouding of such a program are those who would offer opposition only for the purpose of political bargaining—not in effort to find the best possible solutions for the social problems that afflict the Nation now and will even more so in the future if we do not attack the problem of poverty in the United States.

Dwight Macdonald writing in the New Yorker, January 19, 1963, presents the problems of the poor in terms that have a peculiar significance for the Members of this body and I quote:

> "Poverty is the parent of revolution and crime," Aristotle wrote. This is now a half-truth—the last half. Our poor are alienated; they don't consider themselves part of society. But precisely because they don't they are not politically dangerous. It is people with a stake in the country who make revolutions. The best—though by no means the only—reason for worrying about the other America is that its existence should make us feel uncomfortable.
>
> The effect of Government policy on poverty has two quite distinct aspects. One is the indirect effect of the stimulation of the economy by Federal spending. Such stimulation—though by wartime demands rather than Government policy—has in the past produced a prosperity that did cut down American poverty by almost two-thirds. But I am inclined to agree with Dr. Gailbraith that it would not have a comparable effect on present-day poverty.
>
> He underestimates the massiveness of American poverty, but he is right when he says there is now a hard core of the specially disadvantaged—because of age, race, environment, physical or mental defects, etc.—that would not be significantly reduced by general prosperity. (Although I think the majority of our present poor would benefit, if only by a reduction in the present high rate of unemployment.)
>
> To do something about this hard core, a second line of Government policy would be required; namely, direct intervention to help the poor. We have had this since the New Deal, but it has always been grudging and miserly, and we have never accepted the principle that every citizen should be provided, at State expense, with a reasonable minimum standard of living regardless of any other considerations. It should not depend on earnings, as does social security, which continues the inequalities and inequities and so tends to keep the poor forever poor. Nor should it exclude millions of our poorest citizens because they lack the political pressure to force their way in the welfare state. The governmental obligation to provide, out of taxes, such a minimum living standard for all who need it should be taken as much for granted as free public schools have always been in our history.
>
> It may be objected that the economy cannot bear the cost, and certainly costs must be calculated. But the point is not the calculation but the principle. Statistics—and especially statistical forecasts—can be pushed one way or the other. Who can determine in advance to what extent the extra expense of giving our 40 million poor enough income to rise above the poverty line would be offset by the lift to the economy from their increased purchasing power? We really don't know. Nor did we know what the budgetary effects would be when we established the principle of free public education. The rationale then was that all citizens should have an equal chance of competing for a better status. The rationale now is different: That every citizen has a right to become or remain part of our society because if this right is denied, as it is in the case of at least one-fourth of our citizens, it impoverishes us all. Since 1932, "the government"—local, State, and Federal—has recognized a responsibility to provide its citizens with a subsistence living. Apples will never again be sold on the street by jobless accountants, it seems safe to predict, nor will any serious political leader ever again suggest that share-the-work and local charity can solve the problem of unemployment. "Nobody starves" in this country any more, but, like every social statistic,

this is a tricky business. Nobody starves, but who can measure the starvation, not to be calculated by daily intake of proteins and calories, that reduces life for many of our poor to a long vestibule to death? Nobody starves, but every fourth citizen rubs along on a standard of living that is below what Mr. Harrington defines as "the minimal levels of health, housing, food, and education that our present stage of scientific knowledge specifies as necessary for life as it is now lived in the United States." Nobody starves, but a fourth of us are excluded from the common social existence. Not to be able to afford a movie or a glass of beer is a kind of starvation—if everybody else can.

The problem is obvious: The persistence of mass poverty in a prosperous country. The solution is also obvious: To provide, out of taxes, the kind of subsidies that have always been given to the public schools (not to mention the police and fire departments and the post office)—subsidies that would raise incomes above the poverty level. Until the act of justice that would make this possible has been performed by the three-quarters of Americans who are not poor—until then the shame of the "other America" will continue.

I submit this material for the careful consideration of the Members of the House of Representatives and hope they will feel that the present approach to the problem of poverty by President Johnson is not an election year "gimmick."

Congressman Horan's Constructive Suggestions on Commodity Credit Corporation

EXTENSION OF REMARKS
OF
HON. PAUL FINDLEY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 11, 1964

Mr. FINDLEY. Mr. Speaker, one of our most able and distinguished colleagues, the gentleman from Washington [Mr. HORAN], was the speaker at the 75th annual session of the Washington State Grange on June 9 at Wenatchee, Wash. The senior Republican on the Agriculture Subcommittee on the Appropriations Committee, the gentleman from Washington is also an active member of the Grange and past master of the Beacon Hill Subordinate.

His constructive comments in regard to the Commodity Credit Corporation are especially timely. Here is the text of his address:

ADDRESS OF HON. WALT HORAN,
OF WASHINGTON

Brothers and sisters of Washington State Grange, and friends: Here in the shadow of Saddle Rock Mountain—or Squaw Saddle, as we used to call it—I am mighty happy to greet you and to welcome you to the Wenatchee Valley.

The Grange and statehood for Washington arrived here in the Pacific Northwest before Wenatchee really existed, though optimism was high in this area at that time; the rumor was even then being confirmed that "Jim Hill is headed our way!" We could almost hear the thud of the picks, the scraping of the shovels, the clang of the fresnoes, and the cursing of the muleskinners as they attached the Rockies to our east. I must make it plain that I speak from hearsay, for although my parents were oldtimers, I had not yet arrived on the scene.

North central Washington is not a large area, as cultivated acres go. True, to the east of us there are sizable wheat farms, and to the north we have some spreads that do very well with cattle and sheep. But we have achieved a reputable status by making the most of what we have, and we are substantial contributors to our State's position as the Nation's leading producer of apples and one of its respected producers of other fruits. We have known adversity and we have known the comforts of an understanding Government—a Government which, as a partner and a counselor—not a master, has helped us through credit and advice to do our best.

Here in Chelan County you will find some of the finest fruits of our State grange's long history of effort for our rural areas. Where once one of our foremost assets, the mighty Columbia just over the hill yonder, was wasting into the sea, now some 40,000 people in this county control over $400-million worth of assets in hydrogeneration and transmission. Our public utility district is a going concern, and a grateful county has been able to do a rather remarkable thing—broaden its economy through the saleable ownership of electrical energy. Where once we had but one industry, we now have two; we have added light metals and there is promise of more. Douglas, Grant, and Okanogan Counties also have grange-sponsored public utility districts, growing, serving, on the go-forward.

Here again, Government has helped your neighbors—with surveys, advice, and other proper assistance. Here too, Uncle Sam has been partner and counselor—not master—to them.

It is this background that really inspires me to talk to you today. There are some clouds in the sky to be dispersed, some mental mountains to be leveled, and some lakes to be crossed. But the grange was born in such a period nearly a hundred years ago, born to bring people together in the unity of understanding to work for the betterment of all.

The darkest cloud, to me, is that, of the 410,421 4-year college degrees granted in the United States last year, only 4,587 were in agriculture—a very slim 1 percent of the total. Yet, small wonder that so few are preparing to make their career in agriculture: the hours are long; the pay is poor; the chances for promotion appear almost nonexistent. Opportunity simply isn't there. Darkening the sky still further, according to the Bureau of the Census the average age of all active American farmers in 1959 was 50 years and 6 months. Now, 5 years later, the average age of our farmers is probably even older. Where are adequate replacements, the farmers of tomorrow, going to come from?

For the Nation as a whole, the sky is cloudy. As we proceed into the future, we must ask ourselves another question: Where is the assurance of all this "farm abundance at bargain prices" recently referred to by the Secretary of Agriculture while testifying before the House Agriculture Committee?

The efficiency of our farms today is legend. During the fifties the productivity of the American farmworker increased at a rate of 5.1 percent a year, compared to a rate of 2.2 percent for industrial workers. Per acre, productivity has increased 70 percent since the 1920's. Today, 1 farmworker supplies food and fiber for 29 people—nearly triple what he did in 1940. The abundance the American consumer enjoys today is certainly not an accident. But without adequate reward, can it continue? Perhaps—but I, for one, would rather not take the chance.

Last Thursday the House of Representatives passed a bill which would set up a Commission on Agricultural Marketing. I supported this bill, and I hope the Commission succeeds. I hope it succeeds in ventilating the darkened corners of our marketing "closet" and I hope it succeeds in the proper oiling of all the machinery that makes our commerce flow freely from our farms to our tables. Through the medium of an active and a fair market, I hope our farmers will find rewards enabling them to share with the consumer in this American abundance.

I am happy that Secretary of Agriculture Orville Freeman will be your guest here. I join with you in bidding him the greatest of welcomes to Wenatchee, and I know he will add to the success of your convention. Orville Freeman lives three doors from me back there in Metropolitan Washington, and I know how hard he works—neighbors check on such things, you know.

Speaking at the World Trade luncheon in New York City 3 weeks ago, Mr. Freeman made this good point, and I quote: "But, whereas farm surpluses are stockpiled in bins, where they can be seen and caricatured, industry's surplus capacity is reflected by layoffs that can be seen only in unemployment statistics."

But what about our bins, our elevators, and our warehouses? You may recall, those of you who are familiar with your Bible, that the Gileadites used the word "shibboleth" to detect the fugitive Ephreamites at the River Jordan fords. The Ephreamites pronounced this word as "sibboleth," which led to their easy destruction.

I confess I am rapidly becoming an Ephreamite regarding some of the "shibboleths" used to guard the fords of our marketing Jordan.

Way back in 1930 Senator McNary and Representative Gilbert Haugen proposed that a Government corporation be set up to make enough purchases of American farm commodities to raise domestic prices above world prices. This idea and other ideas became the Agricultural Act of 1935. Well, you know the rest. We were to have an "ever-normal granary" with price supports based on the parity formula. When surpluses appeared, we planned to impose acreage allotments until supply was reduced to the level of demand. And, during World War II this program worked to the great advantage of the American farmer inasmuch as world production was disrupted and the demands on our production were enormous. But beginning in 1949, 1950, and 1951, the serpent's head of surpluses began to appear, and the old problem of how to balance supply and demand through the operations of Government programs was with us again. Since then, the major stumbling block has been how to reduce surpluses and still maintain some semblance of the support price principle.

The key to Ezra Taft Benson's program was the level at which the Government should be obliged to support prices. He suggested "flexible price supports." Today, that phrase is only unpopular, apparently, when considered in conjunction with Ezra Benson.

It is obvious that the key to Secretary Freeman's approach is that of reducing acreage. Freeman likes to call it "managed abundance," and I do mean "managed." Actually, the cotton-wheat bill recently enacted is somewhat of a combination of the Benson plan and a sizable reduction in acreage allotments—it could be called the Benson-Freeman formula. [Believe me, being Secretary of Agriculture in America is a hazardous occupation.]

I personally think we are having too much of this management from Washington, D.C. We are getting too many bad regulations, and getting even those too late. But that is the curse of a Federal law; it has to apply nationwide. Regulations on wheat, for instance, must apply to Texas, to North Dakota, to Washington State. It is hard to tailor them to fit, and all of this adds to their complexities and to our confusion.

But as we continue to reduce our acreage and make some headway in reducing the available supply, what is happening to the factor of demand? Let us take a look at some interesting statistics on our national population, which, after all, constitutes the basis of demand.

In 1790 the center of population was approximately 23 miles east of Baltimore. Through the years, that center has roughly followed the Cumberland Trail, the same trail that Daniel Boone and others used in their treks to the West. When our National Grange was founded, it was in Kentucky, south of Cincinnati, Ohio.

When our State grange was founded, it was nearing Columbus, Ind., the home of our National Grange master, Herschel Newsom, although Herschel wasn't there yet. The center of population was just east of the Indiana-Illinois border when the Agricultural Act of 1935 was written. Today, it is on the outskirts of St. Louis, Mo.

Our population has really exploded. When the National Grange was founded in 1867, there were some 38 million people in the United States, and when our own grange came into being in 1889, there were about 62 million. It was 75 million when I was born (and I won't mention this date). In 1930 the population was just under 123 million persons, and when the Agricultural Act of 1935 was written, it was 127 million. In 1938, when the act was first amended, there were close to 130 million persons living in the United States. There were almost 149 million in 1949 when surpluses started to overflow our bins, and today, according to the Bureau of the Census, our population totals almost 192 million persons.

Here is an interesting paradox. In 1949 we were producing wheat, for instance, on almost 76 million acres and worrying about the prosperity and welfare of the wheat farmer. Today, despite the fact that our population has increased by over 43 million persons since 1949, we are producing wheat on only 53¼ million acres of overall effective allotments, and we are still worrying about the prosperity and welfare of the wheat farmer. In 1949 we were producing cotton on almost 27½ million acres. Today, despite the 43 million population increase since then, we have reduced our cotton acreage by 10 million and are worrying about the prosperity and welfare of the cotton producer. On the face of it—something is wrong.

We can say, of course, it is more effective fertilizers. We can point to automation and to new machinery. We can assert our ever-increasing efficiency—a product of research and progress. All of this is good, and we should be thankful and proud of such achievements. But the fact remains that something is wrong; the welfare of our farmers has not kept pace with these achievements. Somehow, our producers of today—and more important, those we hope will be our producers of tomorrow—are being made to bear the brunt of this elusive ever-normal granary.

Why should we cuss the corporations of industry as having no soul, no pity, no conscience, when we have turned our own destiny over to political fabrications which quite obviously have no soul, pity, conscience, or, I fear, brains?

A classic example of what I mean can be found in the operations of the Commodity Credit Corporation. This executive agency is not guilty of anything—except being in itself inept, not alert, hogtied, and wholly incapable of the imaginative magic that Mr. McNary and Mr. Haugen must have assumed for their brainchild. In an effort to breathe some life into this dead hand of Government, Mr. JAMIE WHITTEN, Democrat, of Mississippi, and chairman of our House Subcommittee on Agriculture Appropriations, set up a sales office for the Commodity Credit Corporation, to ventilate it and to clear its hostage bins, warehouses, and elevators of cobwebs. And I helped him.

I am happy to say that I have served with Mr. Whitten for a score of years, and because of my seniority I am now his minority counterpart on this subcommittee. We are not a policy or legislative committee, but through the years we have made valuable contributions in this area. Both Mr. Whitten and I have been ever cognizant that price supports depend on an orderly marketing of commodity credit stocks. We recognize that while price supports are an assurance to growers, they act as both a ceiling and a floor to prices, depending on their control in relation to market supply and consumer demand.

Your own neighbor, Frank LeRoux, is now doing a commendable job as Sales Manager of the Commodity Credit Corporation. And, thankfully, our agricultural closets have been cleared of some moldy tobacco (though at a loss); cotton has been sold in world competition (again, at a loss); only in wheat have we done well in competing in the world market as far as dollar sales go, particularly in Japan. However, we must remember that under Public Law 480, which is more or less a gratuity program, we are moving a lot of wheat for which the returns in usable money are minimal. (Four years ago, I toured various countries which received shipments of wheat from our Nation under the auspices of Public Law 480, and I know from firsthand knowledge that this program has made many friends for our country. In fact, I rank it as the most worthwhile of the enormous millions we expend on foreign aid.)

Although the establishment of a Commodity Credit Corporation sales office has eased the situation somewhat, it is still not a complete or a totally satisfactory answer to our marketing problems. One man, the Sales Manager, has an enormous responsibility. He must sell commodities which were purchased by the Corporation for the very purpose of keeping them off the active open market. He must decide when to offer them, while giving full consideration to a myriad of highly complex factors which in themselves affect the market. The inevitable result is that most often the political tendency is followed, that is, to err on the safe side. The Sales Manager is the victim of a political-commercial stalemate; the shadow of Government holdings looms large, so naturally there is caution in the open market. The Sales Manager is suspect wherever he moves; one thoughtless word by anyone closely connected to the Commodity Credit Corporation can cause tremendous consequences. It is indeed a sorry situation, and because of it, we have stalemate twice compounded.

It is time, I think, for cold thinking and serious searching of the facts—not a blind insistence on what was, but what is, truly needed to give us, as farmers, an even chance for access to all this American abundance. That is why last Thursday's action on the Marketing Commission looms large in my hopes for improvement in every aspect of agricultural marketing.

Meanwhile, let us remember that world agricultural production continues to increase (too often, I fear, through the help of our own agencies—our recent Trade Expansion Act is designed to court and encourage imports, you know), and as a result of this increasing world production, imports of world products are becoming an increasing threat to our domestic markets. So, in this leveling of mental mountains, this is another one we should bring to the Great White Fathers in Washington.

Referring again to the Agricultural Act of 1935, there is a section in it gathering so much dust it is almost forgotten. This section No. 22, calls for the Secretary of Agriculture to set in motion Government actions to protect American agriculture from the unfair invasion of competitive agricultural imports—actions such as tariffs or quotas. Well, we all know that we have such imports. We have implored, begged, pleaded, even prayed, for implementation of this law, but to date, there has been none. Those of us serving on the Agriculture Appropriations Subcommittee are so concerned about the urgent need for control of excessive agricultural imports that we included in our report on the agriculture appropriations bill a complete printing of the section 22 language. We stated, and I quote: "It is impossible to maintain a balance between supply and demand through buying up of surpluses—using section 32 funds or otherwise—when unlimited amounts can enter the country from abroad in direct competition with American production."

The American market is the best in the world, and the American farmer is the biggest factor in making it so. If, under the urge to create greater world trade, the American farmer is asked to share the American market with foreign imports, he is certainly entitled to know the exact amount of that sharing. This means quotas.

We still hope for results. However, a recent press report quoted President Johnson as suggesting that our excess beef be sold in Europe. I assume that rather than controlling excessive agricultural imports, the President merely recommends that we try to sell our excess domestic cattle on the foreign market. I don't think our cattle farmers will look too kindly on this suggestion.

There are other clouds, of course, as there are other mental mountains we must level. But never forget this: If, among us patrons of husbandry, there is clear thinking in our Subordinates, if there is concurrence in our Pomonas, and if there is agreement in our State grange, our voice will be heard by those who should hear it. If this voice is sound and progressively corrective, it can and undoubtedly will prevail.

Now we come to a lake we must cross. The water is rough but passable. Referrring again to the testimony of my neighbor, Orville Freeman, before the House Agriculture Committee in regard to establishing a National Food Marketing Commission, he mentioned, not once but numerous times, "our access to abundance at bargain prices." He attributed this "abundance at bargain prices" to the production of the small farm (or, as astutely referred to in political circles, the family farm).

Well, I agree with Orville on his concern for your welfare and for the betterment of the farming industry as a whole. But I do not agree with him that the small farm is responsible for this "abundance." Let's look at the facts. While small farms constitute 78 percent of our industry, they produce only 28 percent of our food and fiber. Actually, we can credit our abundance to a mere 22 percent of our total farms, who produce 72 percent of our food and fiber. We may not like these facts, but we have to live with them, and it is my opinion that we can achieve more by facing them and conducting ourselves accordingly.

The problem of the small farm has long concerned me. For 10 years now, I have been urging the Department of Agriculture to do research on what constitutes an "economic unit" in farming. And, as a result of much concerted effort toward this end (they didn't want to take it up and I had to twist their arm a bit), the Department published its first findings in 1957. In February of 1962, they came out with this revised pamphlet (hold it up), entitled "Resource Requirements on Farms for Specified Operator Incomes." If you are interested, it is available through the Economic Research Service of the Department of Agriculture as "Agricultural Economic Report No. 5"—or easier yet, through my office. The pamphlet spells out the investment, acreage, and other factors required to return net incomes of $2,500, $3,500, $4,500, and $5,500 a year on selected types of farms around the Nation. This research, incidentally, is to be continued.

According to the figures in this pamphlet, a beef producer in south central Oklahoma requires an investment in excess of $353,000 to assure him a net income of $5,500 a year. A cotton-wheat farm in the Rolling Plains area of Oklahoma requires an investment of $282,408 to net $5,500 a year; an apple orchard right here in Wenatchee requires an investment of $119,000 to net $5,500 a year. Cotton, in the Mississippi Delta, requires nearly $68,000 invested in a farm to produce a net annual income of $5,500. The very cheapest investment to produce $5,500 net a year is roughly $36,000—this figure is for a dairy farm in the Piedmont area of South Carolina.

The farmer today faces hard economic facts, and he is entitled to every break in the book.

Here are a few more examples: You might be interested in making $2,500 a year on a farm. Well, on a dairy ranch in central Utah you would need an investment of $56,000; a hog-beef farm in southern Iowa would stand you just over $43,000; the Mississippi cotton farm would require nearly $29,000. To net $2,500 a year, a wheat farm in the Palouse area takes an investment of $38,000 and to net the grand sum of $5,500, it would require an investment of $92,500. And so it goes.

The sad fact remains that farming is expensive, hard work, and for the small farmer, far from rewarding—unless he derives his satisfaction solely from sustaining the ability of the consumer to "enjoy abundance at bargain prices."

The fact is that your farming neighbor, if he is to be successful, is no longer a clodbusting yokel. He is a businessman of the first water. I think we must treat him as such, deal with him as such, and write our laws and issue our regulations with the thought that the agricultural producer is a mature, capable American.

The fact is that the American farmer must mechanize in order to stay in production, and if he mechanizes, he must have an investment in acreage and equipment that will justify mechanization. This means larger farms and it means heavy spending for tractors and other farm equipment and facilities.

This has been apparent for many years; it has been apparent to the Subcommittee on Agriculture Appropriations for more than two decades. We believe that an all-important function of the Farmers Home Administration is to help the promising and deserving young man of good character, who desires to remain in farming, to acquire this so-called "economic unit." Toward this end, Representative WHITTEN and I joined hands 2 years ago and achieved increases in the loan levels of the Farmers Home Administration for those properties which qualified for economic assistance. As far as I am concerned, this is the only practical way in which we can help the small farmer—it makes little sense to loan money to a man in a losing venture only to have him go broke faster.

To me, the American farmer does not need a "wet nurse." He needs to be treated as the mature American that he is. If Government must enter his business, let it be as a partner, rather than a "master"; let our farmers in on the planning and they will do their part. Don't blindfold them with fallacies at the takeoff and then give them stark vision at the crash landing.

Some of our assumptions need deep analysis that we may seek, find and inaugurate wiser policies for the good of all of us. There are those, of course, who point the finger of scorn at what we spend on American agriculture. They forget that in our great country, we do have plenty—thanks to the American farmer. However, if our programs be futile, or if our controls stifle the American farmer, that is another matter. If the high aims and promises of the planning advanced in our Agricultural Act of 1935 are not being met, if despite controls and vast increases in our population, the "evernormal granary" remains elusive—then, I say, we had better take a new and agonizing look.

If "managed abundance" means only the consumer's "access to abundance at bargain prices," I, as one of your Representatives in the U.S. Congress, call for a fresh start—with more activity in the open market and less reliance on bins and Government regulations. Above all, we need to enhance the tenant farmer's chances to enlarge his equity to the end that he can own the land he tills.

Our farm economists are analyzing these factors today, and I believe our farmers, too, are being properly quizzical. It is manifest to me that the farmer of tomorrow is entitled to more than he is getting today from political largess. Every mouth he feeds, everybody he clothes, every soul he shelters should be mighty glad he lives. Let him continue to serve as faithfully as he has done, but, I say, let him also have access to this great American abundance.

William D. Boyce: Tribute on the Anniversary of His Death

EXTENSION OF REMARKS

OF

HON. CHARLOTTE T. REID

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1964

Mrs. REID of Illinois. Mr. Speaker, today, June 11, 1964, marks the 35th anniversary of the death of William Dixon Boyce who brought the Boy Scout movement to the United States from England.

In the autumn of 1909, Mr. Boyce, Chicago publisher and world traveler, became lost on a foggy London street and hesitated at a street intersection. Out of the fog a boy emerged and asked if he could help. Some accounts state that the boy "saluted smartly" and offered not only to guide Boyce to his destination but also to carry his briefcase. Other reports omit these embellishments. All are in accord, however, that the boy did guide the publisher to his destination. On arrival Mr. Boyce offered the boy a coin which he refused. The lad explained that he was a Boy Scout and could not take a tip for being of service.

The reply, the persistence in refusal, puzzled William Boyce and he began to question the lad about the Boy Scout organization. The youth explained that it had been formed by a man named Baden-Powell. The following afternoon Mr. Boyce had an interview with Gen. Robert S. Baden-Powell and learned of scouting, which was organized for peace—not for war. Several days later, when Boyce left for America, he carried with him a suitcase crammed with booklets about the Boy Scouts.

In Washington, D.C., on February 8, 1910, Boyce and a group of associates obtained a charter of incorporation for a new organization: The Boy Scouts of America. He helped finance Scouting in America and also remained a strong supporter after turning the charter over to Scout executives.

Through his interest in boys in rural areas he founded the Lone Scout organization, with a rural program dedicated to their needs, which he conducted for 8 years. This was merged with the Boy Scouts of America in 1924.

In 1926 he received the third Award of the Silver Buffalo for distinguished service to boyhood.

Mr. Boyce was born on a farm in Allegheny County, Pa., on June 16, 1858. He worked his way through the University of Wooster, Ohio. In 1889 he established the Saturday Blade in Chicago and purchased the Chicago Ledger. He was well known as a publisher, big-game hunter, and prominent citizen of his community. In 1909 he gained worldwide attention by launching a "balloonograph" expedition into the wilds of Africa, taking for the first time air-view pictures of jungle and native life. In the course of his wanderings, Mr. Boyce visited practically every country on the globe.

Mr. Boyce died of pneumonia on June 11, 1929, and was buried in Ottawa, Ill. Eagle Scouts formed a guard of honor at his funeral.

The following tribute on behalf of the Boy Scouts of America was issued by the national Scout president and the chief Scout executive at the time of Mr. Boyce's death:

> On behalf of more than 4 million boys who have had the benefits of Scout training, we extend to you our deep sympathy in your bereavement. Through William D. Boyce's perception and appreciation of the ability of Scouting to imbue the boyhood of the Nation with the spirit of service, courage, gentleness, good manners, and responsible citizenship, the Boy Scout movement was brought to America and organized in behalf of the boyhood of this country. He was one of the original incorporators and materially helped to finance the movement after turning it over to the present organization.
>
> The entire American Nation owes Mr. Boyce a debt of gratitude, and the citizens of the future will be better prepared to serve their country because of his outstanding good turn.

On June 21, 1941, Mr. Boyce was further honored by the erection and dedication of the only Boy Scout memorial statue in the United States near the Boyce family plot in the Ottawa Avenue Cemetery, Ottawa, Ill. This was made possible by voluntary contributions from Boy Scouts, Scouters, and friends from all over America; and every year thousands of Boy Scouts and Lone Scouts of America join in an annual pilgrimage to Mr. Boyce's graveside to pay homage to his memory.

SENATE

FRIDAY, JUNE 12, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 11 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

O God, whose rule is law, but whose name is love, Thou hast given us this wide and wonderful earth where Thou hast housed us as royal children.

Help us never to grow dull to all its wonders, nor lose the mystic luster of the changing pageant of earth and sky and sea.

Join us, we pray, to the seers and prophets of the past who have ever gone ahead of the crowd, to climb the beckoning hilltops of humanity's highest hopes. Keep us, we beseech Thee, from absorption in our own selves and from irritable haste as we face the tasks Thou hast set before us, for us to accomplish. Deliver us, and especially those who stand above their fellows in posts of public office, from the arrogance and corruption which lurk in earthly power and pedestals. Help us to know that when we forget Thee, whatever we build is labor lost; that only in Thy life is our enduring life, and only in Thy will is our peace.

In the name of Christ, our Redeemer, we pray. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, June 11, 1964, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries.

REPORT OF COMMODITY CREDIT CORPORATION—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Agriculture and Forestry:

To the Congress of the United States:

I am sending for the information of the Congress the report of the Commodity Credit Corporation for the fiscal year ended June 30, 1963, in accordance with the provisions of Section 13, Public Law 806, Eightieth Congress.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *June 12, 1964.*

EXECUTIVE MESSAGE REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations this day received, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed a bill (H.R. 11049) to adjust the rates of basic compensation of certain officers and employees in the Federal Government, and for other purposes, in which is requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 11049) to adjust the rates of basic compensation of certain officers and employees in the Federal Government, and for other purposes, was read twice by its title and referred to the Committee on Post Office and Civil Service.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a morning hour for 15 minutes, with statements therein not to exceed 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MONTANA DISASTER

Mr. MANSFIELD. Mr. President, in yesterday's RECORD, I am quoted as saying, last evening, "We have lost 135 Montanans, who cannot be found."

What I said was that we have lost 28 Montanans; 135 are missing; some of them very likely will not be found; and a good many of the dead and a good many of the missing are members of the Blackfeet Nation. This disaster is the worst Montana has ever suffered; and I say now, and say it sadly, that when the dead are counted, the number will exceed the number of those who died recently in the Alaska quake.

At this time I wish to express, on behalf of my distinguished junior colleague from Montana, the Acting President pro tempore of the Senate [Mr. METCALF], and myself, our gratitude and thanks to the officers and men at the Malmstrom Air Force Base, at Great Falls, who performed magnificently; also to the Air Force and other personnel who came from the Hamilton Air Force Base, in California; also to the members of the Montana National Guard, all of whom have performed in exemplary fashion in carrying out their duties; and also to all the Federal officials and others who have come to the assistance of our State, at the request of its congressional delegation, Gov. Tim Babcock and Acting Gov. Dave Manning.

Mr. RUSSELL. Mr. President, on behalf of the people of Georgia, I extend the people of Montana our profound sympathy and regret because of the great tragedy they have suffered. The people of Georgia have experienced great difficulty with tornadoes, which have cost more lives in Georgia than the total number of lives lost in any floods which any State has experienced.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT OF EXPORT-IMPORT BANK OF WASHINGTON ON GUARANTEES OF CERTAIN TRANSACTIONS

A letter from the Assistant Secretary, Export-Import Bank of Washington, Washington, D.C., reporting, pursuant to law, on the issuance by that bank on June 4, 1964, of guarantees with respect to certain transactions; to the Committee on Appropriations.

REPORT ON ACTIVITIES UNDER MERCHANT SHIP SALES ACT OF 1946

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report of the Maritime Administration of the Department of Commerce on the activities and transactions of the Administration under the Merchant Ship Sales Act of 1946, for the period January 1 through March 31, 1964 (with an accompanying report); to the Committee on Commerce.

REPORT ON UNNECESSARY COSTS IN THE LEASING OF ELECTRONIC DATA PROCESSING SYSTEMS BY GENERAL DYNAMICS CORP.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the unnecessary costs to the Government in the leasing of electronic data processing systems by General Dynamics Corp., Fort Worth Division, Fort Worth, Tex., Department of Defense, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

REPORT ON ERRONEOUS PAYMENTS MADE FOR MILITARY PAY, LEAVE, AND TRAVEL AT BIGGS AIR FORCE BASE, TEX.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on erroneous payments made for military pay, leave, and travel, at Biggs Air Force Base, Tex., Department of the Air Force, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

PETITION

The ACTING PRESIDENT pro tempore laid before the Senate the petition of Felicula Castaneda Vda de Palis, of Santa Fe, Nueva Vizcaya, the Philippines, praying for the enactment of legislation to provide pension benefits to surviving widows and children of native scouts employed by the U.S. Army Expeditionary Force to the Philippine Islands before October 1, 1901, which was referred to the Committee on Armed Services.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. MONRONEY, from the Committee on Commerce, with an amendment:

S. 1719. A bill to amend the Interstate Commerce Act and the Federal Aviation Act of 1958 in order to exempt certain wages and salary of employee from withholding for tax purposes under the laws of States or subdivisions thereof other than the State or subdivision of the employee's residence (Rept. No. 1076).

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. AIKEN (for himself, Mr. MANSFIELD, Mr. MUNDT, Mr. MORSE, Mr. SYMINGTON, and Mr. DODD):

S. 2905. A bill to provide for the appointment of a Commissioner General for U.S. participation in the Canadian Universal and International Exhibition, and for other purposes; to the Committee on Foreign Relations.

By Mr. HOLLAND:

S. 2906. A bill for the relief of Branko (Bronco) Balic; to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 2907. A bill for the relief of Jean Chen Pan (Pan Chu Jean-Chen); to the Committee on the Judiciary.

By Mr. MUSKIE:

S. 2908. A bill for the relief of Simon Der Simonian, his wife, Hossannah Der Simonian, and their children, Knel Sebouh Der Simonian, Rebecca Der Simonian, Haroutune Der Simonian, and Nishan Der Simonian; to the Committee on the Judiciary.

INCOME TAX RELIEF FOR CERTAIN DISABLED PERSONS—ADDITIONAL COSPONSORS OF BILL

Mr. SPARKMAN. Mr. President, recently I introduced a bill which was given the number S. 1325, relating to income tax relief for certain disabled persons. I offered it as an amendment to the tax bill when it was pending before the Senate earlier.

The Senator from New York [Mr. KEATING] was a cosponsor of the amendment and should be on this bill as a cosponsor.

I ask unanimous consent that he be listed as a cosponsor at the next printing of the bill.

I also ask unanimous consent that the name of the Senator from South Carolina [Mr. JOHNSTON] be added as a cosponsor.

The PRESIDING OFFICER (Mr. BIBLE in the chair). Without objection, it is so ordered.

Mr. KEATING subsequently said: Mr. President, I appreciate the courtesy of the distinguished Senator from Alabama [Mr. SPARKMAN]. He and I, along with the able senior Senator from South Carolina [Mr. JOHNSTON] collaborated on this measure when it was last before the Senate in the form of an amendment to the tax reduction bill of this year. At that time, it was approved by the Senate and sent to conference but unfortunately was deleted from the bill by the committee. In light of that history, I have no hesitation in predicting its ready approval again in the Senate the next time an appropriate revenue measure reaches us, and I will be happy to join with the Senator from Alabama [Mr. SPARKMAN] in that effort.

It is deeply regretted, of course, that this bill did not find its way into the Revenue Act of 1964. I should think that in a tax reduction bill in the neighborhood of $12 billion or more, there would have been room for modest relief for the physically handicapped and disabled. For many of them, this measure can spell the difference between enforced idleness and the ability to pursue gainful employment opportunities. There is no question that the latter goal is most deserving of Congress support, and I am hopeful it will finally be attained soon.

PROHIBITION OF USE OF MAIL COVERS—ADDITIONAL COSPONSOR OF BILL

Mr. LONG of Missouri. Mr. President, at its next printing, I ask unanimous consent that the name of the Senator from Nevada [Mr. CANNON] may be added as a cosponsor of the bill (S. 2627) to prohibit the use of mail covers, introduced by me, on March 11, 1964.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCRIMINATION AND 1973

Mr. RUSSELL. Mr. President, in the National Review magazine for October 1958, appeared what I assumed at the time to be a parody on controversial decisions of the Supreme Court of the United States uprooting existing law and changing time-honored constitutional constructions by great jurists. This parody is set out in the form of a supposed decision by the Supreme Court of the United States, ostensibly dated May 20, 1974, in an imaginary case entitled "Rippling Creek Club, Inc., et al., petitioners, against United States of America." The alleged case deals with the subject of the use of Federal power against a social organization to enforce social intermingling of the races and to end forever the right of men to choose their own associates.

I do not know who wrote this satire or parody; but I will say that it goes beyond satire, and shows that whoever wrote it was endowed with a gift of prophecy such as has not been known since biblical times. The only error the prophet made was in failing to realize that apparently we are going to reach much earlier than 1974 the social order and police state methods set forth in the suggested decision.

Mr. President, I ask unanimous consent that this satire or prophecy—it may more properly be called a prophecy—be printed in the RECORD.

There being no objection, the prophecy was ordered to be printed in the RECORD, as follows:

RIPPLING CREEK CLUB, INC., ET AL., PETITIONERS *v.* UNITED STATES OF AMERICA

[A satire from National Review magazine, October 1958]

(Supreme Court of the United States, No. 367, October term, 1973, on writ of certiorari to the U.S. Court of Appeals for the Fifth Circuit, May 20, 1974)

Mr. Justice Smith delivered the opinion of the Court.

This case involves the construction and constitutionality of certain provisions of the Federal Discrimination Commission Act, 42 U.S.C., 9001 et seq., empowering the Federal Discrimination Commission to issue cease-and-desist orders against "any individual, firm, corporation, unincorporated association, or other entity whatsoever," whenever in the Commission's opinion such entity "is engaging, or is about to engage, in any discriminatory action, practice, or course of conduct" (42 U.S.C. 9004(b)).

The corporate petitioner is a nonprofit corporation organized under the laws of the State of Alabama. Its organization and functions are those usual in country clubs. It maintains a clubhouse in which bar and dining facilities are provided, and it operates a golf course, tennis courts, swimming pool, and other customary amenities. It has, and at all times relevant to this litigation had, a membership of less than the full complement of 500 authorized by its constitution. New members are admitted upon the nomination of five regular members and the approval of the individual petitioners, an election committee of seven members appointed by the board of governors. An initiation fee and annual dues are charged. No so-called Negro is or has ever been a member.

On this state of facts the Commission instituted an investigation into petitioners' discriminatory practices, and, finding such to exist, issued on March 27, 1970, an order requiring petitioner to cease discriminating in its selection of membership (13 F.D.C. 398). This order was duly affirmed, and an injunction issued, by the Court of Appeals for the Fifth Circuit (58 F. 3d 119). We denied certiorari (391 U.S. 917). More than a year having passed, and there still being no Negroes among petitioner's membership, the Commission initiated contempt proceedings. Petitioners were adjudged in contempt, and the statutory punishment of fine and imprisonment was imposed. We granted certiorari to reaffirm basic principles in the administration of the act (402 U.S. 933).

Petitioners' primary contention is that the act can have no application to, and the Commission no jurisdiction over, purely social organizations. Stripped of irrelevancies, in one aspect this argument is in essence that the 14th amendment, under which the act was passed, applies only to State action, and that the actions neither of the corporate petitioner nor of the individuals composing its election committee come within the scope of that amendment's prohibitions. It is true that only State action is inhibited by the amendment; but to contend that action of the kind here involved is not State action is to revive the exploded fallacy of the *Civil Rights Cases*, 109 U.S. 3. As we said in *Saffold* v. *Holder*, 364 U.S. 221, 224, where the ghost of those cases was laid to rest forever:

"To say that action of a corporation is not 'State action' in the instant context is to fly in the face of juristic reality. No corporation has or can have existence of any legally significant kind without the active consent of the State. While its activities may in no sense be governmental, the life which enables it to carry on those activities was breathed into its nostrils by the State. What the State's creatures do, the State does."

The similar argument of the individual petitioners can fare no better. In the first case under the act to reach this Court, *Harrison* v. *United States*, 380 U.S. 11, 19, we said:

"Petitioner contends that even if the repeated pronunciation in public of this word as 'Nigra' amounts to discrimination within the meaning of the statute, the statute cannot be applied to him, since this conduct is not 'State action.' The true bounds of the concept of 'State action' have only recently emerged. It is plain that, under the unitary conditions of modern life, to limit the notion of 'State action' to those activities carried on by the legislature's express command or implied permission is to empty it of all significant content. The true teaching of *Marsh* v. *Alabama*, 336 U.S. 501, *Terry* v. *Adams*, 345 U.S. 461, and *Edgerton* v. *Shockley*, 361 U.S. 366, should by now be plain. It is that 'the State' cannot be dissociated from the community; that action which meets the approval of the community and expresses its mood is as surely 'State action' as is the most explicit statute."

We have frequently reaffirmed, and indeed broadened, this holding. *Firemen's Benevolent Society* v. *United States*, 397 U.S. 225; *McCracken* v. *United States*, 388 U.S. 409.

Compare *United States* v. *One Book Called "Tales of Uncle Remus,"* 31 F. 3d 922.

But the corporate petitioner's constitutional argument goes further than this; it raises the question left open in the *Firemen's Benevolent* case, supra, whether the right of assembly guaranteed by the first amendment ousts the application of the act to purely social organizations, whose sole raison d'etre is the gathering together of congenial persons. We did not reach this question in *Firemen's Benevolent*. There we held that the Commission had undoubted power to prevent the production of the "minstrel show" complained of, since the society functioned as an insurer as well as a social organization; but we intimated that this question would be ruled by our decision in *States Rights Democratic Party* v. *United States,* 393 U.S. 1. In the latter case we held that political associations could not hide from the act behind the shield of the first amendment, since such associations are by their nature concerned with government, and discriminatory action "is not reasonably related to any proper governmental objective," *Bolling* v. *Sharpe,* 347 U.S. 497, 500. Petitioners seek to avoid the impact of the States rights decision by arguing that its rationale is limited to political associations; that it holds only that the protection accorded political associations is restricted to their governmental, or would-be governmental, activities. But States rights cannot be so restricted. Whether or not the first amendment right is limited to the right of political assembly, see *Yamaguchi* v. *Weinberg,* 370 U.S. 93, 99, we hold that the amendment does not shield a mere social organization from the Discrimination Act. It would indeed be strange if it were otherwise. No discriminations leave deeper or more lasting scars than do social ones, and it was Congress' particular intention in creating the Commission "to forge a weapon capable of dealing with this threat to our democratic society" (S. Rept. No. 316, 89 Cong., 1st sess. 26).

Petitioner's other contentions are equally devoid of merit. It is settled that "the content of the term 'discriminatory' is sufficiently rooted in the common conscience of the American people to constitute a valid standard with ascertainable criteria" (*Harrison* v. *United States, supra,* at 16). Thus, the Commission's condemnation of offensive pronunciations of group names, *Harrison* v. *United States, supra;* of printing the word "Negro" without a capital initial, *United States* v. *377 Copies of the London Times,* 236 F. Supp. 346; of advertising a musical instrument as a "Jew's harp," *Apex Piano Co.* v. *United States* (44 F. 3d 619, certiorari denied, 399 U.S. 924); and of employing the phrase "dirty Irish trick" (*Ng Yang Toy* v. *United States,* 399 U.S. 772), have all been upheld. We have approved, in *Northfield Aircraft Co.* v. *United States,* decided this day, Commission regulations forbidding prospective employers to inquire as to the names of job applicants, since this might reveal the applicants' ancestry or national origin. At any rate, we are not here concerned with the borderlines of the discrimination concept. The flagrantly exclusionary conduct of the petitioners is sufficiently extreme to satisfy any definition.

Petitioners contend, finally, that the fact that no so-called Negroes applied for admission to membership absolves them of any responsibility for discrimination. This contention is likewise without merit. Ever since *Barrett* v. *United States,* 380 U.S. 585—in one sense, indeed, ever since the New York schools case, *Hunt* v. *Board of Education,* 355 U.S. 116—it has been clear that it is no defense to a charge of exclusionary discrimination that no members of the group discriminated against have sought admission. As we pointed out in Barrett, "the lack of applications tends to show not apathy but repression; to demonstrate good faith it is necessary that the party charged actively seek out members of other groups." It is urged that this confers irrebuttability on the statutory presumption of discrimination when no member of the minority group is found in the group or organization involved; but that this is not so should be obvious from *Northern Vermont Driving School, Inc.* v. *United States,* 400 U.S. 33.

We hold, therefore, that the act is constitutional as applied to petitioner; that social organizations cannot discriminate against members of minority groups. There are limits, of course, to the extent to which social alinements can be regulated (see *Gotlieb* v. *New York,* decided this day, holding invalid the New York compulsory intermarriage law). But those limits were not reached in this case. They were not even approached.

Affirmed.

TRIBUTE TO SENATOR RANDOLPH

Mr. DOUGLAS. Mr. President, I call attention to the fact that our well liked and highly regarded colleague, the Senator from West Virginia, JENNINGS RANDOLPH, led the ticket in West Virginia in the selection of delegates at large to the Democratic National Convention. Senator RANDOLPH led the ticket of 50 candidates, with an unofficial total of 128,777 votes. I am sure this will please all Members of the Senate; and it is of especial significance in view of the fact that Senator RANDOLPH has been a consistent supporter of civil rights and civil rights legislation.

ANTI-SEMITISM IN SOVIET EDUCATION

Mr. KEATING. Mr. President, there is increasing concern throughout the free world over mounting anti-Semitism in the Soviet Union. Not only does the new wave of action reflect anti-Jewish sentiments among the Soviet peoples, sentiments which contributed to the brutal pogroms of the last century, but also, Mr. President, it reflects deliberate discrimination by the Soviet Government against members of the Jewish religion.

We are familiar with the conspicuous Communist actions against religious observances—the closing of synagogues, banning of religious writings and publications, and the denial of rights to prepare matzoth. We are also familiar with the economic persecution of members of the Jewish faith who frequently become scapegoats for the economic failures of communism. When harsh penalties, including the death sentence, are imposed on Soviet Jews for so-called private enterprise activities, then it is evident to all the world that this is not justice but persecution, tyranny, and brutality.

Fewer Americans, however, are aware that even in more insidious ways, government discrimination against Jews is a part of modern Soviet life. In the field of education, for instance, a study recently completed by Prof. Nicholas DeWitt, of Indiana University, indicates the unfortunate situation in Soviet universities. Under Soviet rule today only 3.22 percent of the student population is Jewish. This compares with about 10 percent in 1918 within the Pale of Settlement, 5 percent outside the Pale, and 3 percent in St. Petersburg and Moscow. Dr. DeWitt sees strong evidence of the operation of a quota system that has increased the extent of discrimination against Jewish students. He points out, for instance, that between 1935 and 1960 the total number of Soviet students increased by 248 percent whereas the number of Jewish students declined 39 percent.

Mr. President, this study leads, as Will Maslow, executive director of the American Jewish Congress, points out, to a most depressing conclusion—greater education prejudice in the Soviet Union today than in the czarist days of pogroms and open violence.

Mr. President, in order that this outrageous state of affairs be fully revealed, I ask unanimous consent to include, following my remarks in the RECORD, the text of this remarkable and scholarly work that documents for all the world the latest evidence of the Soviet double standard and of the campaign against the Jewish religion being waged from the Kremlin.

There being no objection, the monograph was ordered to be printed in the RECORD, as follows:

THE STATUS OF JEWS IN SOVIET EDUCATION

(By Nicholas DeWitt[1])

FOREWORD

(By Will Maslow, executive director, American Jewish Congress)

A higher percentage of Jewish students was permitted to attend universities in czarist Russia than is enrolled in the U.S.S.R. today.

This is perhaps the most depressing conclusion to be drawn from the study of Jews in Soviet education by this country's outstanding authority on the subject, Prof. Nicholas DeWitt, of Indiana University.

Professor DeWitt notes that approximately 3.22 percent of the student population in Soviet universities is Jewish. Comparing this figure with the official quotas imposed on Jews in 1887 by the czarist Minister of Education, we find that according to the "History of the Jews in Russia and Poland," by the Jewish Historian Simon Dubnow, published in 1918, the Jewish university quota was 10 percent of the Christian university population within the Pale of Settlement, 5 percent outside the Pale and 3 percent in St. Petersburg and Moscow.

The Soviet Government's own statistics on the enrollment of Jewish and other nationality groups in universities give the lie to Soviet claims that no discrimination exists against Jews in Soviet education. The study by Professor DeWitt, combined with other extensive evidence of religious and cultural discrimination against the Jews of the U.S.S.R., deepens our concern for the future of Soviet Jewry.

MAY 1964.

INTRODUCTION

Over the last 10 years one of the persistent features of Soviet propaganda efforts has been an attempt to convince the world that the U.S.S.R.'s policies toward all national groups and especially toward Jews have been equitable and just. The Soviet claim has been that no discrimination, no Russification, and no restrictions whatsoever existed in the past or presently exist which would impede the equal cultural development of all national groups and all social strata in the Soviet Union. The Soviet Government claims that equality of educational opportunity is fully guaranteed by the laws and the constitution of the U.S.S.R. Any and all statements to the contrary are denounced simply as malicious lies and sinister fabrications.

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[1] Formerly research associate of the National Academy of Sciences and of the Russian Research Center, Harvard University; currently associate professor, Russian and East European Institute, Indiana University; chairman, Department of International and Comparative Education, School of Education; director, Foreign Area Studies for the State of Indiana; director, International Survey of Educational Development and Planning; and consultant to the National Science Foundation.

In order to support the pretention that the problem of discrimination against Jews in education does not even exist, Soviet propaganda agencies in recent years—through broadcasts, periodicals, embassy releases, etc.—have issued a flood of statements containing official facts and figures. These statements, released piecemeal, are intended more to confuse than to clarify the basic issue: Is there or is there not discrimination against Jews so far as the equal right of access to education is concerned?

QUOTA SYSTEMS

When put together and examined in orderly fashion, the official statistics do permit clarification of this basic issue. Since 1955, there have been persistent reports on a "numerus clausus"—more simply, a quota system—for determining the admission to Soviet universities and other institutions of higher learning of all nationalities, and of Jews in particular.

In my earlier studies of Soviet education, particularly in "Education and Professional Employment in the U.S.S.R." (especially pp. 353–360 and 420–421), I dwelt at some length on the operational features of the so-called equivalent balances. These are admission quotas by nationality, which stipulate that the composition of students by nationality should optimally be such as to give a proportionate representation among students approximately equivalent to the proportion which a given nationality has in the total population. This is a major policy directive, but how this numerus clausus is used as a direct discriminatory device against the admission of Jews to institutions of higher learning in the U.S.S.R. can be easily seen: If the share of Jewish applicants is high, the admissions are cut back and preferences are given to other nationals, though on strictly competitive and nondiscriminatory grounds most of the qualified Jewish applicants should have been admitted.

I feel deeply honored that, by calling attention to this policy directive, and especially for interpreting its operational features, I have recently been denounced by the Soviet Government for the "lunatic hallucinations of an American professor." I was pleased indeed to see that the researchers of the Institute of Economics of the Academy of Sciences of the U.S.S.R., a member of the state planning committee, and a member of the Ministry of Higher and Secondary Specialized Education all joined forces in their recent review of my book (in "Vestnik Vysshei Shkoly," December 1963, pp. 75–79). Their greatest vehemence was directed against my statements that such a quota system exists. For though it is guarded as a state secret in the Soviet Union, it is common knowledge in the West. In my judgment, and I think the factual evidence presented later will corroborate it, this device is deliberately used in the U.S.S.R. as a means of discrimination against Jews in education by the tacit exclusion or limitation of Jewish applicants from admission to institutions of higher learning in the light of intensified competition for places.

I would not have focused attention on this item were it not for the fact that in the very same review the Soviet officials explicitly admit that the "Soviet national republics, furthermore, have a special right to assign to the central major higher educational establishments a certain number of nationals for preferential admissions without competitive entrance requirements. * * * These preferential quotas * * * expand the educational opportunities. * * * These annually planned preferential admission quotas are not a hindrance and discrimination (as claimed by the author), but measures of direct benefit for the national development."

It is worth rereading statements of this sort in order to grasp their full meaning. The quotation above raises other questions. First, is there or is there not a nationality quota? There is, and it is annually planned for all key institutions. As a student of educational development, I would say that any quota system is bad, but racial or national quotas in education are utter folly.

The second question then becomes one of mere logic. If someone is admitted to an institution of higher learning on the basis of a preferential nationality quota, there must, be definition, be someone else who is excluded from admission either because he does not fall within such a quota or because there are only a limited number of admission places left after the preferential quota has been filled. Who, then, is excluded?

The final question which must be raised in regard to the equality of educational opportunity for Jews in Soviet education is this: Which of the Soviet national republics could nominate Jews for preferential admission quotas? I do not know of any.

THE STATISTICAL JIGSAW PUZZLE

I hope that this brief diversion to these questions may have served as a supplementary example of what I like to think of as Soviet tactics of deliberate confusion. Not infrequently the Soviet Government denies something merely in order to admit it. Such tactics of confusion are equally applicable to recent statistics which the Soviet information services have released as proof that something does not exist.

It is common knowledge that for almost 20 years, beginning with the late 1930's, the word "Jews" as a statistical category in the U.S.S.R. did not exist in any type of current reporting of national composition, be it of population, students, language of newsprint, native tongue, etc.

Not until the late 1950's did figures identifying Jews as Jews begin to appear in official sources. In the statistical breakdowns by nationality prior to that time, Jews were relegated either to the other nationalities category or to a residual category; that is, after all identified nationalities in a given tabulation were counted, there was invariably some officially unexplained remainder. Since 1956, however, piecemeal figures or tabulations specifically identifying Jews as Jews have appeared from time to time, although the reporting practice of using the word "other" or "remainder" is still quite common. From these piecemeal releases, facts on Jews are quoted in Soviet information sources. Usually these are used as illustrations, such as: 36,173 Jews were working in 1962 among research and academic workers; or 290,707 Jews had completed higher education as of December 1, 1960; or 143,146 Jews had completed secondary specialized education as of December 1, 1961; or 77,177 Jews were enrolled in Soviet institutions of higher learning as of October 15, 1960.

Many other isolated figures can be cited. However, the problems cannot be meaningfully understood without an analysis of the trends rather than statistical quotations in isolation. This paper, accordingly, will devote itself to an analysis of trends on the status of education of Jews as they can be ascertained from official Soviet statistics released since the mid-1950's and particularly in conjunction with the 1959 census of population.

POPULATION

It is well nigh impossible to discuss the question of educational opportunity without reference to some base, such as population, the degree of its linguistic identity, or the degree of urbanization.

First consideration for our purposes must be given to the overall size of the Jewish population in the Soviet Union.[2] Over the years, this Jewish population has been as follows: 1926 census, 2,646,000; 1937 census, no data published, declared not valid; 1939 census, data not released; 1939 estimates (in prewar U.S.S.R. boundaries), 3,021,000; 1940 (in postwar U.S.S.R. boundaries absorbing Jews from annexed territories), about 5 million; 1959 census, 2,268,000.

Largely because of the calamities of the Second World War, the Jewish population in the Soviet Union was some 17 percent smaller in 1959 than three decades earlier. Obviously, the change in the size of the population is relevant to the numerical trends in education.

LINGUISTIC IDENTITY AND URBANIZATION

Table 1 summarizes 1959 census data on the linguistic identity of the total Soviet population and of Jews within it. Two important observations become evident from these data in regard to the status of Jews in Soviet education:

1. No other national group shows a higher level of urban concentration than the Jewish population (95.3 percent were urban residents as compared with an average of only 47.9 percent for the total population).

2. Except for the Russians proper as a national group, no other national group in the Soviet Union declared Russian as its native language to the extent so declared by the Jewish population—76.4 percent. In other words, while for the total population 93.4 percent declared the language of their nationality as their native language, only 21.5 percent of the Jewish population declared the language of their nationality as their native language.

These two major observations call for further comment. One is that the meaning of the census question—"Which language do you consider your native language?"—is obviously liable to a great many subjective interpretations. This is not a mere exercise in semantics; aside from the potentially biased phraseology of the census question, the major fact remains that the Jews, either by choice or by compulsion, appear linguistically the most Russified nationality in the U.S.S.R.

The implication of this trend is particularly significant in historical perspective. While in the 1926 census about 75 percent of Jews declared Yiddish as their native language, less than 20 percent (about 400,000) probably made such a declaration in 1959. This linguistic shift has a direct bearing upon the education of Jews, particularly when it is coupled with their high degree of urbanization.

Putting the two together—linguistic homogeneity and urban concentration—we can reasonably assume that the levels of educational attainment among Jews, and thus their potential suitability for higher education (postulating random intellectual ability), must be substantially higher than that of the population at large.

EDUCATIONAL ATTAINMENT

This assumption is indeed reflected in the demographic data. The substantially higher levels of educational attainment for the Jewish population are clearly evidenced by partial data from the 1959 Soviet census of population. Table 2 presents data on the number of persons with 7 or more years of education per 1,000 population. In 1939 there were 3 to 4 times as many Jews per 1,000 population with 7 or more years of education as there were among the population at large. In 1959, although this difference narrowed, the Jewish population still had 1.5 to 2.5 times more persons per

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[2] Source 3.

1,000 population with 7 or more years of education. Unfortunately, the 1959 Soviet census failed to release these data for the U.S.S.R. at large and for most republics, which would permit comprehensive comparisons.

Parenthetically, it might be noted that the educational attainment level (7 or more years of education) over the 20-year period 1939–59 improved for the Soviet population at large by a factor of 3 to 3.5, while for the Jewish population by a factor of only 1.5 to 2.5. The implications of this are obvious: The expansion of educational opportunities for the population at large proceeded at a more rapid rate than for the Jewish population. In fact, the rates of completion of secondary schooling (i.e., 7 or more years of education) probably went down for Jews during these two decades, while for the population at large they rose.

Nevertheless, the generally higher level of educational attainment of the Jewish population is important for judging their rates of access to higher education. The general rate of completion of secondary education in urban schools of the U.S.S.R. (which most Jews attend) is about twice as high as that for rural schools. Further, most instruction (about 80 percent) in higher education is conducted in the Russian language. Both these factors are obviously relevant to the problem of continuing studies in higher education if there was merely a random selection, based on ability, for such studies.

HIGHER EDUCATION ENROLLMENTS

In the postwar period the only comprehensive set of figures for the enrollment of Jews in higher education was released by the Soviet Government for the fall of 1960. A summary tabulation, by type of program and union republic, is presented in table 3.

The data in table 3 indicate that there was substantial variation in the distribution of students by type of program for the different republics. On the average, the proportion of Jewish students enrolled in full-time day programs was slightly lower (44.5 percent) than the proportion of all students enrolled in such day programs (48.2 percent). On the other hand, there was a slightly higher proportion of Jewish students enrolled in evening programs than the proportion of all students enrolled in such programs.

The data in table 3 are of particular interest, however, when subjected to further analysis. Table 4 presents data on the Jewish population in relation to the total population and on Jewish higher education enrollment in relation to total higher education enrollment for all nationalities. On the basis of these two sets of data, the index of Jewish representation in higher education has been calculated for the different republics (column G). This index shows the relationship between the number of Jewish students to the Jewish population as compared with the number of students of all nationalities in relation to the total population. This index is simply indicative of the differential rates of access to higher education for the Jewish population and for the population at large. The very peculiar behavior of this index by republic must be noted.

While the proportion of Jewish population (col. C) in the total population varies substantially, and while the share of Jewish students (col. F) among all students also shows a strong variation, the index of representation (col. G) shows less variation. Generally speaking, depending upon republic, there is a deviation of about one-third from the national average. A further peculiarity of this index is that in the republics with a high proportion of Jewish population, the index of representation of Jewish students in higher education is below the national average. Conversely, in some republics with a smaller proportion of Jews in the total population, the index of higher education attendance is above the national average.

Such behavior of the index of representation is conceivable only in the presence of normative regulations concerning admissions of Jews to higher education. If there were no restrictive regulations, a far greater geographic variation in the index would be observed. Furthermore, those republics with a greater proportion of Jews in the population would obviously have higher rates of Jewish representation among higher education students.

An examination of the data along similar lines can be carried further if the urban population is related to higher education attendance. These data are presented in table 5. Since the Jewish population is almost exclusively urban, it is obvious that the meaning of the index of representation (in this case, the ratio of Jewish students per Jewish urban population to students of all nationalities per total population) is that in a number of republics—Byelorussia, Uzbekistan, Georgia, Lithuania and Moldavia—the access of Jews to higher education is far below the proportionate representation of Jews in the urban population of these republics. Again, note that there is a converse relationship between the proportion of Jews in the urban population and the index of representation of Jews in higher education.

To sum up, the examination of regional data relating higher education enrollments to the population for all nationalities and for Jews indicates:

1. There is a pattern strongly suggesting the presence of normative regulations (i.e., a quota system);

2. The Jewish representation among all students in relationship to the Jewish population as a whole is about three times higher than the rate of higher education attendance in relation to the total population; and

3. If, however, the ratio of Jews in the U.S.S.R.'s urban population is compared with the Jewish representation among all students, it is evident that in those republics where Jews constitute an above-average proportion of the urban population, their representation among university students is well below the rate of the general population's access to higher education. In only three of the Soviet Union's 15 republics is the Jewish university representation significantly above average.

HISTORICAL DATA ON HIGHER EDUCATION ENROLLMENTS

During the last three decades Soviet higher education enrollments have multiplied about five times. What happened to the enrollment of Jewish students during this period?

Table 6 presents data on enrollments in Soviet higher education in full-time day and evening programs (i.e., excluding extension-correspondence students). For recent years the only available data specifically identifying Jewish students were released for 1960 only. For all other years Jewish students have been included in the "unaccounted" residual.

The full implications of these data are obvious. In the late 1950's and the early 1960's there were actually fewer Jewish students in Soviet higher education than there had been in the early 1930's. The historical trend in a nutshell is as follows:

	1935	1960	Trend (percent up (+) or down (−))
Day and evening students:			
Total	563, 500	1, 400, 000	+248
Jews	74, 900	45, 800	−39

Figures for residual enrollments in the late 1950's indicate that there has been hardly any change and thus the number of Jewish students has not changed either. In the early 1960's the maximum increment possible (allowing enrollment increases for other nationalities) would be 10,000 to 15,000 Jewish students. This is an exaggeratedly optimistic figure. But even if it were true, the enrollment of Jewish students in day and evening programs in 1960 would still be substantially below that of 1935.

Soviet censorship has prevented the release of data for the late 1930's, when the number of Jewish students was probably even higher than in 1935. But if we take 1935 as a base and compare that year's figures with the total enrollment of 77,177 Jews in 1960 in Soviet higher education (including extension-correspondence students), it is evident that the current total figure is just about the same as the 1935 figure for Jewish student day and evening enrollment only.

PROFESSIONAL HIGHER EDUCATION GRADUATES

Table 7 presents figures on the total number of higher education graduates and the number of Jews among them. It is to be noted particularly that these data refer to the current stock of employed graduates and thus reflect past trends in training. These data are highly revealing if we compare them with the present situation in higher education—i.e., the current percentages of Jewish students to total enrollment. This is done in table 8.

It is obvious that the proportion of Jewish students currently enrolled in higher education is substantially smaller than the proportion of Jews who enjoyed higher education in the past.

Table 9 presents data on the number of higher education graduates employed in the national economy, the total for all nationalities, for "accounted" nationalities and for the "residiual." Again, the only year for which Jews are identified properly is 1960. On the basis of these data, however, estimates (approximate through reasonably reliable) as to the total number of Jews among professional higher education graduates for other years are possible, as follows:

Number of Jews among professional higher education graduates (*approximate*)

Year:	
1941	170, 000.
1954	250, 000 to 270, 000.
1960	290, 000.
1962	310, 000.

The implication to be drawn from these figures is that, on the average, Soviet institutions of higher education in the late 1950's were graduating annually about 10,000 Jews, which is about the same as annual output of Jewish graduates in the late 1930's. It must be recalled, however, that in the meantime the number of graduates for all nationalities combined had increased from about 100,000 annually in 1940 to about 330,000 in the early 1960's.[3]

As a result of this trend, the proportion of Jews who had completed higher education among all Soviet professionals declined from about 18 or 19 percent in 1941 to 8.2 percent in 1960.

RESEARCH AND ACADEMIC PERSONNEL

Among the figures cited most frequently by the Soviet Government in its denials of discrimination against Jews in education are those for so-called scientists. In reality, these figures do not refer to scientists as we understand the term, but rather to personnel employed as teachers in higher education and as researchers in various institutions conducting research (academies, as well as industrial, agricultural, medical and other institutes). Usually, the Soviet sources state the latest available figure, but if one takes care to consider the trend, the current situation regarding Jewish representation among Soviet academic and research professionals is markedly different from that two decades ago. Table 10 summarizes this trend.

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[3] See source 6 for a discussion of general trends in education.

While it is true that their absolute number increased (in fact, about doubled in 20 years), the proportion of Jewish professionals in the research community declined drastically. It was, in truth, cut in half. It does not seem unreasonable to conclude, therefore, that even at this high level of professional certification there were outside forces in operation responsible for this drastic change.

SUMMARY

In accordance with their heritage and history, Jews living in the lands now comprising the Soviet Union have traditionally sought opportunities for education, including university training, in numbers far exceeding their proportionate representation in the total population. This holds equally true today. Official government statistics, however, demonstrate clearly that Soviet authorities are now employing a quota system to reduce the proportion of Jews enjoying opportunities for higher education—this despite the high degree of urbanization of the Jews of the U.S.S.R. and the high percentage of Jews who speak Russian, the language used in most Soviet universities.

While Soviet Jews still attend universities in the U.S.S.R. in a proportion exceeding their statistical representation in the country at large, the evidence shows that this proportion is steadily and rapidly decreasing. According to all available figures, the Soviet Government is succeeding in its effort to limit the number of Jews in higher education.

TABLE 1.—*Total population and Jewish population in the U.S.S.R. as of 1959, by language, sex, and rural-urban composition*

	Total Soviet population (millions)			Jewish population (thousands)		
	Total	Males	Females	Total	Males	Females
Declared their native language as that of their nationality:						
Total	196.9	88.2	108.7	[1] 487.8	214.9	273.8
Urban	91.7	41.2	50.5	454.7	198.3	256.5
Rural	105.2	47.0	58.2	33.0	15.7	17.3
Declared Russian as their native language:						
Total	10.2	5.0	5.2	1,733.2	793.1	940.1
Urban	7.8	3.8	4.0	1,671.4	760.9	910.5
Rural	2.4	1.2	1.2	61.8	32.2	29.6
Declared other language as their native language:						
Total	1.7	.8	.9	[2] 46.8	23.5	23.3
Urban	.5	.2	.3	35.6	17.9	17.7
Rural	1.2	.6	.6	11.2	5.6	5.6
Total population:						
Total	208.8	94.0	114.8	2,267.8	1,030.6	1,237.2
Urban	100.0	45.2	54.8	2,161.7	977.0	1,184.7
Rural	108.8	48.8	60.0	106.1	53.6	52.5

[1] Including Jews who speak as a native language Georgian (35,700), Tadzhik (20,800), and Tatar (25,400). (Apparently, "other languages," including Yiddish, accounted for the "residual"—some 400,000.)

[2] Including Jews who use as a native language Ukrainian (24,800) and Tadzhik (5,200).

Source: Source 1, pp. 184–202.

TABLE 2.—*Number of persons with 7 or more years of education per 1,000 in the total population of the Soviet Union, and among Jews, 1939 and 1959*

[Persons with such education per 1,000 population]

	Total				Urban				Rural			
	Population		Jews		Population		Jews		Population		Jews	
	1939	1959	1939	1959	1939	1959	1939	1959	1939	1959	1939	1959
Russian S.F.S.R. (p. 416ff.)	83	282	462	690	174	369	469	694	38	168	389	615
Ukrainian S.S.R. (p. 194)	103	319	280	591	183	308	299	594	56	299	172	484
Byelorussian S.S.R. (p. 134)	83	271	206	510	204	416	211	508	43	187	166	564
Azerbaidzhan S.S.R. (p. 148)	80	282	299	478	164	355	306	484	32	216	185	285
Lithuanian S.S.R. (p. 166)	--------	188	--------	464	--------	333	--------	464	--------	99	--------	487
Moldavian S.S.R. (p. 96)	--------	196	--------	438	--------	362	--------	436	--------	148	--------	462
Latvian S.S.R. (p. 98)	--------	365	--------	597	--------	459	--------	597	--------	247	--------	623

Source: Source 2 (page number indicated in parentheses).

TABLE 3.—*Enrollment in Soviet institutions of higher education, total enrollment and Jewish enrollment, by type of program, distributed by Union Republic, fall 1960*

Union Republic	Total students of all nationalities (thousands)				Jewish students (units)			
	Total	By type of program			Total	By type of program		
		Full-time day	Evening	Extension-correspondence		Full-time day	Evening	Extension correspondence
Russian S.F.S.R.	1,496.1	699.2	167.1	629.8	46,555	21,483	6,268	18,804
Ukrainian S.S.R.	417.8	199.0	44.1	174.7	18,673	7,007	3,545	8,121
Byelorussian S.S.R.	59.3	32.3	5.5	21.5	3,020	1,416	669	935
Uzbek S.S.R.	101.3	51.3	7.1	42.9	2,902	1,238	317	1,347
Kazakh S.S.R.	77.1	42.7	3.4	31.0	837	495	84	258
Georgian S.S.R.	56.3	25.2	4.9	26.2	910	372	105	433
Azerbaidzhan S.S.R.	36.0	18.5	3.4	14.1	906	417	148	341
Lithuanian S.S.R.	26.7	15.6	1.9	9.2	413	270	77	66
Moldavian S.S.R.	19.2	10.4	.5	8.3	1,225	570	113	542
Latvian S.S.R.	21.6	12.6	1.9	7.1	800	513	61	226
Kirgiz S.S.R.	17.4	10.8	.9	5.6	263	180	33	50
Tadzhik S.S.R.	19.9	11.4	1.1	7.4	391	219	69	103
Armenian S.S.R.	20.2	10.9	1.8	7.5	52	28	12	12
Turkmen S.S.R.	13.2	8.0	.7	4.5	104	53	6	45
Estonian S.S.R.	13.5	7.6	.5	5.4	126	71	13	42
U.S.S.R. total	2,395.5	1,155.5	244.9	995.1	77,177	34,332	11,520	31,325
Distribution by program (in percent)	100.0	48.2	10.3	41.5	100.0	44.5	14.9	40.6

Source: Source 4, pp. 128–157.

Table 4.—*Soviet population and higher education enrollments for all nationalities and for Jews, and index of representation*

Union Republic	Population as of 1959			Higher education enrollments as of 1960			Index of representation
	All nationalities (thousands) (A)	Jews (thousands) (B)	Percent (C)	All nationalities (thousands) (D)	Jews (thousands) (E)	Percent (F)	(G)
Russian S.F.S.R.	117,534.3	875.3	0.745	1,496,074	46,555	3.11	417
Ukrainian S.S.R.	41,869.0	840.3	2.007	417,748	18,673	4.47	223
Byelorussian S.S.R.	8,054.6	150.1	1.863	59,296	3,020	5.09	273
Uzbek S.S.R.	8,105.7	94.3	1.163	101,271	2,902	2.86	246
Kazakh S.S.R.	9,309.8	28.1	.301	77,135	837	1.08	359
Georgian S.S.R.	4,044.0	51.6	1.276	56,322	910	1.62	127
Azerbaidzhan S.S.R.	3,697.7	40.2	1.087	36,017	906	2.52	232
Lithuanian S.S.R.	2,711.4	24.7	.911	26,713	413	1.55	170
Moldavian S.S.R.	2,884.5	95.1	3.297	19,217	1,225	6.37	193
Latvian S.S.R.	2,093.5	36.6	1.748	21,568	800	3.71	212
Kirgiz S.S.R.	2,065.8	8.6	.416	17,379	263	1.51	363
Tadzhik S.S.R.	1,979.9	12.4	.626	19,959	391	1.96	313
Armenian S.S.R.	1,763.0	1.0	.056	20,165	52	.26	458
Turkmen S.S.R.	1,516.4	4.1	.270	13,151	104	.79	292
Estonian S.S.R.	1,196.8	5.4	.451	13,507	126	.93	206
U.S.S.R. total	208,826.4	2,267.8	1.086	2,395,545	77,177	3.22	297

Sources: Table 3 above and source 1, pp. 184–185.

Table 5.—*Jewish population in the Soviet urban population and Jewish students in relation to total higher education enrollment, and index of representation*

Union Republic	Urban population, 1959			Higher education enrollments as of 1960			Index representation
	All nationalities (thousands) (A)	Jews (thousands) (B)	Percent (C)	All nationalities (thousands) (D)	Jews (thousands) (E)	Percent (F)	(G)
Russian S.F.S.R.	61,611.1	875.3	1.42	1,496,074	46,555	3.11	219
Ukrainian S.S.R.	19,147.4	840.3	4.39	417,748	18,673	4.47	102
Byelorussian S.S.R.	2,480.5	150.1	6.05	59,296	3,020	5.09	84
Uzbek S.S.R.	2,728.6	94.3	3.46	101,271	2,902	2.86	83
Kazakh S.S.R.	4,067.2	28.1	.69	77,135	837	1.08	156
Georgian S.S.R.	1,712.9	51.6	3.01	56,322	910	1.62	54
Azerbaidzhan S.S.R.	1,767.3	40.2	2.27	36,017	906	2.52	111
Lithuanian S.S.R.	1,046.0	24.7	2.36	26,713	413	1.55	66
Moldavian S.S.R.	642.2	95.1	14.81	19,217	1,225	6.37	43
Latvian S.S.R.	1,173.9	36.6	3.12	21,568	800	3.71	119
Kirgiz S.S.R.	696.2	8.6	1.24	17,379	263	1.51	121
Tadzhik S.S.R.	646.2	12.4	1.92	19,959	391	1.96	102
Armenian S.S.R.	881.8	1.0	.11	20,165	52	.26	236
Turkmen S.S.R.	700.8	4.1	.58	13,151	104	.79	136
Estonian S.S.R.	675.5	5.4	.80	13,507	126	.93	116
U.S.S.R. total	99,977.7	2,267.8	2.27	2,395,545	77,177	3.22	142

Sources: Table 3 above and source 1, pp. 184, 185.

Table 6.—*Soviet higher education—enrollments in full-time day and evening programs (excluding extension-correspondence students), total, by nationality, and Jewish students*

[In thousands]

Year	Total of full-time (day) and evening students	Number of students accounted in major nationality groups	Unaccounted residual	Jews (specifically identified)
1929	204.2			27.6
1931	405.9			45.9
1933	458.3			58.7
1934	527.3			64.3
1935	563.5			74.9
1950	845.1	747.8	97.3	[1]
1956	1,279.9	1,159.1	118.8	[1]
1957	1,320.3	1,200.1	120.2	[1]
1958	1,333.0	1,211.8	121.2	[1]
1959	1,341.6	1,221.7	119.9	[1]
1960 (usual statistical releases)	1,400.9	1,279.0	121.9	[1]
1960 (special tabulation identifying all nationalities)	1,400.9	1,279.0	(76.1)	45.8
1961	1,511.0	1,381.2	129.8	[1]
1962	1,661.0	1,518.9	142.1	[1]

[1] Not identified.

Sources: Source 5, appendix table A–5, p. 316, and sources thereto; source 6, p. 657 and sources thereto; source 7, p. 573; and table 3 above.

Table 7.—*Soviet professional higher education graduates employed in the national economy, total and Jews, by Union Republic as of December 1960*

Union Republic	Total, all nationalities	Number of Jews	Percent
Russian S.F.S.R.	2,083,306	160,732	7.68
Ukrainian SSR	685,851	83,689	12.20
Byelorussian SSR	110.177	12,636	11.47
Uzbek SSR	108,936	8,161	7.49
Kazakh SSR	124,818	4,148	3.32
Georgian SSR	106,670	1,818	1.70
Azerbaidzhan SSR	73.213	4,110	5.61
Lithuanian SSR	37,230	1.800	5.41
Moldavian SSR	33,284	6,206	18.62
Latvian SSR	40,807	3,611	8.85
Kirgiz SSR	29,776	1,073	3.60
Tadzhik SSR	23,356	1,169	5.00
Armenian SSR	41.093	204	0.50
Turkmen SSR	22,506	486	2.16
Estonian SSR	24,211	868	3.58
U.S.S.R. total	3,545,234	290,707	8.20

Source: Source 4, pp. 70–71.

TABLE 8.—*Comparison of the proportion of Jews in the Soviet urban population, in total number of higher education graduates, and among students in higher education, by Union Republic*

[In percent]

Union Republic	Proportion of Jews in urban population, 1959	Proportion of Jews in total number of higher education graduates, 1960	Proportion of Jews among students in higher education, 1960
Russian S.F.S.R.	1.42	7.68	3.11
Ukrainian S.S.R.	4.39	12.20	4.47
Byelorussian S.S.R.	6.05	11.47	5.09
Uzbek S.S.R.	3.46	7.49	2.86
Kazakh S.S.R.	.69	3.32	1.08
Georgian S.S.R.	3.01	1.70	1.62
Azerbaidzhan S.S.R.	2.27	5.61	2.52
Lithuanian S.S.R.	2.36	5.41	1.55
Moldavian S.S.R.	14.81	18.62	6.37
Latvian S.S.R.	3.12	8.85	3.71
Kirgiz S.S.R.	1.24	3.60	1.51
Tadzhik S.S.R.	1.92	5.00	1.96
Armenian S.S.R.	.11	.50	.26
Turkmen S.S.R.	.58	2.16	.79
Estonian S.S.R.	.80	3.58	.93
U.S.S.R. total	2.27	8.20	3.22

Sources: Tables 4, 5, and 7 above.

TABLE 9.—*Number of higher education graduates employed in the national economy of the U.S.S.R., 1941–62, total, accounted nationalities, and Jewish professionals*

[In thousands]

Year	Total	Accounted major nationalities [1]	Residual of other nationalities	Jews properly identified	Source
1941	909.0	718.6	190.4	(2)	No. 4, p. 69.
1954	2,008.5	1,700.0	300.5	(2)	No. 9, p. 261, 1959.
1959	3,235.7	2,809.7	[3] 426.0	(2)	No. 10, p. 617.
1960 (usual statistical releases)	3,545.2	3,091.2	[4] 454.0	(2)	No. 10, 1960, p. 663.
1960 (special tabulation identifying all nationalities)	3,545.2	3,091.2	(163.3)	[5] 290.7	No. 4, p. 67.
1961	3,824.0	3,346.4	[6] 477.6	(2)	No. 10, 1961, p. 586.
1962	4,049.7	3,552.2	[7] 497.5	(2)	No. 7, p. 473.

[1] Those of Union republic nationality (Russian, Ukranian, etc.).

[2] Not identified.

[3] Among which another 19 minor nationalities (totaling 110,200) are identified, though Jews are still censored out by this reference. The residual, net of identified minor nationalities, is 315,800, and of these the majority are obviously Jews.

[4] Again 19 other nationalities are listed totaling 122,500; the remainder, including Jews, is 331,500.

[5] Since the number of Jewish professionals is given as 291,000 other than Jews in the remainder accounted for 40,000.

[6] Again 20 other nationalities are listed accounting for 129,400; the remainder, including Jews, is 348,200.

[7] Again 20 other nationalities are listed totaling 139,600; the remainder, which included Jews, is 357,900.

TABLE 10.—*Soviet research and academic personnel, total and Jewish representation therein, 1939–61*

	1939	1947	1955	1958	1959	1960	1961
Total (thousands)	95.9	145.6	223.9	284.0	310.0	354.2	404.1
Jews (thousands)	20.0	24.4	24.6	28.9	30.6	33.5	36.2
Proportion of Jews (percent)	21.2	16.8	11.0	10.2	9.8	9.5	8.9

Source: Source 5, p. 769 and sources listed therein; and source 7, p. 584.

SOURCES

Source 1: Tsentral'noe Statisticheskoe Upravlenie pri Sovete Ministrov SSSR "Itogi vsesoiuznoi perepisi naseleniia 1959 goda: SSSR," Moscow, 1962.

Source 2: Tsentral'noe Statisticheskoe Upravlenie pri Sovete Ministrov SSSR, "Itogi vsesoiuznoi perepisi naseleniia 1959 goda" (for the 15 Soviet republics): Armenian, Azerbaidzhan, Belorussian, Estonian, Georgian, Kazakh, Kirgiz, Latvian, Lithuanian, Moldavian, Russian, Tadzhik, Turkmen, Ukrainian, Uzbek (Moscow 1962).

Source 3: M. Abramovich, "Jews in the 1959 Soviet Population Census," reprinted from Jews in Eastern Europe, n.d.; and F. Lorimer, "The Population of the Soviet Union," Geneva: League of Nations, 1946.

Source 4: Tsentral'noe Statisticheskoe Upravlenie pri Sovete Ministrov SSSR, "Vysshee obrazovanie v SSSR," Moscow, 1961.

Source 5: Nicholas DeWitt, "Soviet Professional Manpower—Its Education, Training, and Supply," Washington, D.C.: National Science Foundation, 1955.

Source 6: Nicholas DeWitt, "Education and Professional Employment in the U.S.S.R.," Washington, D.C.: National Science Foundation, 1961.

Source 7: Tsentral'noe Statisticheskoe Upravlenie pri Sovete Ministrov SSSR, "Narodnoe khoziaistvo SSSR v 1962 gody," Moscow, 1963.

Source 8: Tsentral'noe Statisticheskoe Upravlenie pri Sovete Ministrov SSSR, "Srednee spetsial'noe obrazovanie v SSSR," Moscow, 1962.

Source 9: Tsentral'noe Statisticheskoe Upravlenie pri Sovete Ministrov SSSR, "Dostizheniia sovetskoi vlasti za sorok let v tsifrakh; statisticheskii sbornik," Moscow, 1957.

Source 10: Tsentral'noe Statisticheskoe Upravlenie pri Sovete Ministrov SSSR, "Narodnoe khoziaistvo SSSR v 1959 gody," Moscow, 1960; "Narodnoe khoziaistvo SSSR v 1960 gody," Moscow, 1961; "Narodnoe khoziaistvo SSSR v 1961 gody," Moscow, 1962.

Mr. JAVITS subsequently said: Mr. President, I should like to add to what my colleague from New York has said about anti-Jewish activities in the Soviet Union by calling attention to the barbaric execution just reported of nine people, most of them Jews, according to the report in the New York Times, for so-called economic crimes in the Soviet Union—something that no other civilized nation on earth would think of doing, indicating the bald-faced hypocrisy of pretending that there is no anti-Jewish campaign in the Soviet Union, when, notwithstanding the tiny fraction of the population they represent, such barbaric punishments are imposed upon them as shown in the record. I ask unanimous consent that the report be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET EXECUTION OF NINE ON MAY 4 IS REPORTED

MOSCOW, June 11.—Nine men convicted of "economic crimes" were executed by shooting here last May 4, reliable sources said today.

All those executed were said to have had Jewish names. One was identified as Roifman, who was tried last February together with other alleged members of a large ring of speculators. A man called Shakerman had been named as leader of the ring.

At the end of the trial it was unofficially reported that the verdict called for nine death sentences. Today's report was the first indication that the sentences had been carried out.

However, one of the men reported shot May 4 had not been involved in the Shakerman case. He was identified unofficially as Klempert, a man whose trial and death sentence was reported by a Moscow newspaper last month.

RESOLUTION IN SUPPORT OF CIVIL RIGHTS BILL

Mr. KEATING. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution adopted by the Council of the Second Province of the

Protestant Episcopal Church. It is another indication of the strong support of church groups and religious leaders for this moral cause.

There being no objection, the resolution was order to be printed in the Record, as follows:

Resolution on Federal Civil Rights Bill (H.R. 7152)

Whereas other religious leaders and church people of all political persuasions have united in support of this measure, identifying it as a moral issue transcending any political considerations: Be it therefore

Resolved, That the members of the Council of the Second Province record their support of this legislation and urge the Senate of the United States to adopt the measure without further delay; and be it further

Resolved, That this resolution be communicated to all Members of the U.S. Senate.

TRIBUTE TO SENATOR DODD

Mr. RIBICOFF. Mr. President, the past weekend, our good friend and my senior colleague from Connecticut [Mr. Dodd], was unanimously renominated for a second term as a U.S. Senator. The delegates to the Democratic State convention in Connecticut fully recognized the outstanding record of Tom Dodd, and honored him with their nomination.

Senator Dodd was nominated by the great Governor of our State, John N. Dempsey, who delivered a richly deserved tribute detailing our senior Senator's record. Accepting the nomination, Senator Dodd gave a most eloquent statement, outlining the philosophy he will carry into the coming campaign. I ask unanimous consent that the speeches of Governor Dempsey and Senator Dodd be inserted in the Record.

There being no objection, the speeches were ordered to be printed in the Record, as follows:

Remarks of Gov. John Dempsey in Nomination of Thomas J. Dodd for Reelection as U.S. Senator From Connecticut, Democratic State Convention, Hartford, June 6, 1964

The spirit in this great hall today is the spirit of victory, and this convention will make an important contribution toward that victory.

Once again we are moving into an election campaign of great significance to the future of the United States and the State of Connecticut.

We meet today while the terrible memory of the assassination of a beloved President haunts our national conscience. The inspiration and the high purpose which John F. Kennedy brought to public office will serve as a model for freemen everywhere.

Our standard bearer in this campaign is a leader who with courage and responsibility met the awesome challenges imposed on him by grave national tragedy—a great leader, a great Democrat, and a great American—Lyndon B. Johnson.

President Johnson's leadership carries forward the Democratic tradition of Franklin Roosevelt, Harry Truman, and John Kennedy—the tradition in which we as Democrates are proud to share.

It was my high honor this week to welcome President Johnson to Connecticut, and to hear his inspiring report to the Nation on America's strength and America's greatness. And let me tell you that President Johnson knows the Democratic Party of Connecticut is ready and eager for this year's campaign.

Strong bonds unite the Democrats of Connecticut. We are united in a common goal of service to our people. We are united in respect for our leadership. We are united by pride in the great Democratic record of achievement, both on the national level and right here in the State of Connecticut.

Every Democratic candidate in our State will carry proudly into this year's election campaign the great record of Democratic accomplishment. This pride is reflected in the platform which this convention has adopted—a platform which commits us to the continuing fulfillment of the Democratic tradition.

The Democratic Party cares about people. Our concern for people is reflected in every section of our fine platform. Together we have done much to create a fuller life for all the citizens of Connecticut. Together we have built educational and job opportunities for our young people. We have devoted the full resources of government to the care of the sick, the mentally ill, the mentally retarded, and those in need of rehabilitation. We have worked to bring a greater measure of dignity into the lives of all our older citizens.

We have dedicated ourselves to create here in Connecticut the great society of which President Johnson has so eloquently spoken. Together we are determined to press forward on this path of progress and to enlist the support of the people of Connecticut in the great national effort which President Johnson has mobilized.

It will be the privilege of this convention to give the President of the United States an ally in the campaign battles ahead—a man who has stood shoulder to shoulder with Lyndon Johnson since the early days of the New Deal—a man on whom the President looks as a valued friend and trusted adviser.

This man has established a public record of unsurpassed distinction in a career of Government service which began more than 30 years ago. The breadth of his experience and the depth of his unique preparation for high elective office is unmatched.

As director of the national youth administration program in Connecticut, he established programs here to provide education and job opportunities for youth which became the model for action in other States.

Tireless in his zeal for justice, he has benefited by his experience as special agent for the FBI and his service as assistant to the U.S. Attorney General. In this capacity, he helped to establish, and was appointed assistant chief of the Justice Department's first civil rights section, and pioneered in the Federal prosecution of civil rights violations.

In World War II he was a keyman in the Justice Department's counterespionage and countersabotage operations.

He represented the Government of the United States as executive trial counsel, at the direct request of Supreme Court Justice Robert H. Jackson, in the Nazi war crimes trials at Nuremberg in 1945–46.

In this capacity he made a lasting contribution to world law by demonstrating beyond reasonable dispute the legal enforcibility of internationally accepted moral standards.

The qualities of leadership which he demonstrated in two terms as a Congressman won national respect; and these same qualities have been richly developed during his first term of service as U.S. Senator.

He has strongly supported and effectively advocated, in committee and on the floor of the Senate, the entire range of domestic programs which Presidents Kennedy and Johnson have sponsored.

He is a recognized leader in the battle for the civil rights bill, for medicare, for increased Federal aid to education, and for the several measures which make up President Johnson's antipoverty program.

His personal battle for progressive measures to combat juvenile delinquency and to establish more effective Federal regulation of traffic in narcotics and deadly weapons has won for him the acclaim of the entire Nation. And in the field of foreign affairs, he has coupled enthusiastic support for U.S. assistance to the free nations with unremitting vigilance against Communist aggression and subversion.

He has shown in countless actions that he recognizes the war for expanded freedom and opportunity at home, like the war in defense of freedom abroad, is a basically moral question.

He has proven himself a true champion of freedom and a determined foe of tyranny.

His inspired vision and unceasing efforts in defense of liberty and justice at home and throughout the world have richly justified the confidence of the people of the State of Connecticut.

All of you who know this man as I do, know him as a man of warmth, a man of heart, a man of compassion, a man dedicated to his country—a man of courage.

I have the high honor to place before this convention for nomination and reelection as U.S. Senator from Connecticut, the name of the Honorable Thomas J. Dodd.

Remarks of Senator Thomas J. Dodd in Accepting Renomination as Democratic Candidate for U.S. Senator, Bushnell Memorial Hall, Hartford, Conn., June 6, 1964

My friends, this is the third time I have spoken to you from this rostrum following nomination by our party as Democratic candidate for the U.S. Senate, and my heart is filled, not only with thoughts of today, but of the yesterdays that we have been through together.

Such an occasion presents a challenge, an opportunity, and a responsibility that no man can experience without mingled feelings of pride and humility, joy and anxiety.

I accept your nomination. I thank you for the chance you have given me to serve you once more.

I pledge to do my best to make the coming campaign not a sham battle of personalities and epithets, but a real contest of ideas and ideals, a contest that will end in victory—victory for our party and for the causes we uphold.

An election campaign provides an opportunity, if we will but take it, for defining and redefining our policies and the philosophy which underlies them. This we have done today, and will continue to do in the weeks and months ahead.

Politics necessarily reflects a view of life and an attitude toward people. Our views and attitudes have been on the public record for a very long time.

For the Democratic Party is our oldest political party. It goes back to the earliest days of our country. It has had many opponents, and it has prevailed over them all.

Some of those opponents have held a rather dim view of the average man and have taken up as their mission the narrow task of protecting the privileges and advancing the well-being of an exclusive group. They have tried to draw a protective line around the special interests of this group, but for the great mass of men their message has been "No trespassing."

Other opponents of the Democratic Party historically have taken a negative, hostile attitude toward the problems of people. From the earliest days they have looked upon men as too backward to be allowed to vote; too irresponsible to be allowed to band together in labor unions; too lazy to be trusted with Government benefits; too greedy to be given a voice in the management of our natural resources. They have opposed practically every program which aimed at helping people with problems too big for them to solve by themselves. They have been completely unmoved by the crushing burdens borne by humble souls, and totally impervious to the currents of change. To them, life has appeared, not as a quest for personal fulfillment, but as some sort of endurance contest.

To most men and women their message has been, "Sink or swim."

Other opponents of our party have taken a negative attitude about Government itself. They have always professed to be full of sympathy about the dilemmas facing our people, but they have claimed that government, and especially the Federal Government, is helpless to do anything about them.

Child labor? "Oh, it's a shame," they said, "But we can't do anything about it. That's the responsibility of the family."

Sweatshops? "Well, that is the employers' business," they said.

Breadlines? "That is the concern of private charities."

Slums? "That is purely a local matter."

Civil rights? "Why, that is up to the States."

Medical care for the aged? "There is no real need for it. Most of these old people own houses or property they can sell to pay their hospitals bills," they said.

And so it goes. All that this group has ever had to say to the people is, "Let George do it."

This negative, hostile, helpless attitude is still very much with us today, and it is a major factor in the coming campaign. If you doubt this, just read what our friend from our neighboring State of New York, Governor Rockefeller, has to say about the group that has just taken control of the Republican Party.

We of the Democratic Party, of course, have made mistakes but they have been the mistakes of those who were fighting to solve our Nation's problems, not to sweep them under the rug.

From its first campaign under Thomas Jefferson in the year 1800 to its latest campaign under John F. Kennedy, in 1960, our party has been optimistic about the nature of men, compassionate toward their problems, and confident that we can solve those problems if only we try.

The message of our party to our fellow Americans is today what it has always been, "Give a man freedom, give him a fair chance in life, give him a leg up in time of trouble, and he will make a go of it and build a better life for himself and for his country."

The proof of this is written for all to see in the record of our party from Jefferson and Jackson to Kennedy and Johnson.

Our past record is not our campaign document for this year. It is only our credentials, a pledge of good faith which we present to the American people as we ask for the chance to lead them into the future.

Today, our programs are new, because our problems are new, but our goal is the same—greater freedom, greater opportunity, greater progress, a better life for all the American people.

We of the Democratic Party have now set our sights on what President Johnson calls "the great society."

We seek a nation from which poverty and unemployment have been banished. When Franklin Roosevelt took up this cause 30 years ago, one-third of the Nation was ill housed, ill clad, ill nourished. We have reduced that percentage to one-fifth. This Nation has the wealth and the know-how to completely eliminate grinding poverty and to bring 9 million American families out of the shadows and into the sunlight of prosperity. And we are going to do it.

We seek a decent home, in pleasant, wholesome surroundings, for every family, and we are moving steadily toward that goal.

We seek a better education for every boy and girl, an education that will prepare them, not only for the demanding careers of the future, but also for enjoyment of the higher things of life in all of their fullness. The present Congress has done more to aid education than any in our history. The next Congress must do even better.

We seek to reverse the disintegration and decay of our cities, and what has been accomplished in Hartford and New Haven and 27 other Connecticut cities under the Federal urban renewal program shows us that it can be done.

We seek a transportation policy that will put an end to the nightmare of traffic jams and delays and inconveniences and poor commuter rail service that blight the daily existence of so many.

We seek a more beautiful America, where our rivers and streams and air are clean, where our places of natural beauty are preserved and enhanced, where the great potential of outdoor recreation and the enjoyment of wildlife and nature are made available to everyone.

We seek an America with a constantly improving cultural level, where television and radio provide education as well as entertainment, where music, art, and literature become a part of every life, and where the creative talents of our people are encouraged and rewarded as never before.

We seek an America where constitutional rights and a fair chance for all the good things of life are guaranteed to every citizen—and I say to you we stand today on the very threshold of the greatest achievement in civil rights in a century—the passage of the Civil Rights Act of 1963.

We seek an America where rapid economic growth makes it possible to reduce the tax burden of every citizen. We have given two tax cuts in the last 4 years, and we plan two more during the next 4 years.

We seek a unified America where sectionalism and factionalism and North versus South and labor versus management and white versus black are banished from our national life—and we have today in the White House the leader who can accomplish this.

We seek to maintain a strong America, the kind of Nation the President described to us 3 days ago in New London, a Nation whose unequaled might is used not to win wars but to guarantee peace.

We seek the great society in our time, for our people, and we ask our fellow citizens for their help and for their trust.

History supports us. The fate of a hundred good causes rests upon us. The faith of free nations is in us. The human heart is with us.

How, then, can we fail? We can fail only if we do not try hard enough. We can be defeated only if we defeat ourselves.

You have given me the opportunity to carry the Democratic standard in Connecticut. I will do my best to carry our message to every town and village and our message will be well received—because it is an honest message, a message of hope, a message of idealism, a message of confidence in our people and in our country.

I have taken an active part in every campaign since coming of voting age; never have I been more convinced of the rightness of our cause.

I ask for your help. I ask you to work as never before.

We must feel as though we deserve to win by 400,000 votes and work as though we will be lucky to win by 1,000 votes.

And we can rightly be inspired by the achievement and by the dedication of two men who have given us an image which we can battle for with good hearts and with high purpose: Our fallen leader, John F. Kennedy, who gave his life for the ideals for which he strived; and our new leader, Lyndon B. Johnson, who is giving every great quality of mind and body and spirit that is in him to the hour-by-hour crusade to make those ideals prevail.

Let us prepare, then, to do battle. I will meet you all soon on the campaign trail.

ALASKA HYDROELECTRIC POWER WINS HONORS FOR DAVID B. GALLOWAY OF FAIRBANKS, ALASKA

Mr. GRUENING. Mr. President, it is a source of great satisfaction to me and other Alaskans to note that the 1963 Thomas L. Stokes Resources Writing Award has resulted in special honors to Mr. David B. Galloway, executive editor of the Daily News-Miner of Fairbanks, Alaska. Mr. Galloway won first honorable mention in the contest for a distinguished presentation of hydroelectric power projects proposed in the State of Alaska.

The articles which won Mr. Galloway the award appeared in a special progress edition of the News-Miner on Wednesday, November 13, 1963, which contained a special supplement on "Power for Progress."

In this special section, it was pointed out that, although Alaska possesses a hydroelectric power potential of an estimated 19 million kilowatts, less than one-fourth of 1 percent has been utilized. Alaskans are fully aware that progressive development of these vast power resources represents the key to establishment of a sound economic base for our State.

It is of first importance that authorization be approved as soon as possible for the great Rampart Canyon Dam on the Yukon River which would supply the free world with 5 million kilowatts of power at the very low cost of 2 to 3 mills per kilowatt hour. This is the power project that will give America a hydropower facility equivalent to the giant Russian dams on the Angara and Yenisey Rivers. It will attract valuable industrial development, provide employment for thousands of people and give the great region of Alaska the economic prosperity it deserves. I recommend Rampart to President Johnson as one of the most promising contributions to victory in his valiant war on poverty.

In south-central Alaska, the Bradley Lake project, which has been authorized by Congress, will make available low-cost energy for rapidly developing industries in this region of Alaska. Bradley Lake, located in the mountains of the Kenai Peninsula, is in the area that was so badly damaged by the disastrous earthquake of March 27. The construction of this project is vital to the rehabilitation of the economy of the Anchorage-Kenai area, and I hope it will not be long before necessary funds are appropriated to make it a reality.

In southeastern Alaska, the Snettisham project, near Juneau, is badly needed to supply power for increasing development in that area and to attract new industries that will require large supplies of low-cost electric power. This project has, also, been authorized and $225,000 was appropriated at the last session of Congress for preconstruction planning of this project.

I ask unanimous consent that at the close of these remarks there be printed excerpts from the special edition of the Fairbanks Daily News-Miner describing the projects I have mentioned above, and presenting the case for hydroelectric power as a source of energy to be developed in preference to other power resources.

I join other Alaskans in offering congratulations to Mr. Galloway for his enterprise in presenting this excellent description of Alaska's hydroelectric power potential and on his receipt of a Thomas L. Stokes Award.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

[From the Fairbanks (Alaska) News Miner, Nov. 13, 1963]

WHAT, WHERE, AND WHEN?

The Rampart damsight is located in Alaska's interior on the Yukon River about 750 river miles from the mouth of the Yukon. The dam proposed would form a great lake slightly larger than Lake Erie. By controlling impoundments of water, the reservoir will require about 20 years to fill, with power available in 7 years.

General:	
Damsite, Yukon river mile	756
Drainage area, square miles	200,000
Annual runoff, estimated acre feet:	
Maximum	118,000,000
Minimum	60,300,000
Mean annual discharge, cubic feet per second	113,000
Reservoir:	
Pool elevation, feet	660
Pool fluctuation, average feet	4
Length air miles, estimated	280
Maximum width, miles, estimated	80
Storage, acre-feet	1,265,000,000
Area, full pool, acres	6,800,000
Dam:	
Elevation, top of dam, feet	680
Height, maximum section, feet	530
Power and energy:	
Average head, feet (height above turbines)	450
Prime power, kilowatts	3,910,000
Installed capacity, kilowatts	5,040,000
Firm energy estimated (kilowatt hours per year)	34,200,000,000

[From the Fairbanks (Alaska) Daily News-Miner, Nov. 13, 1963]

POWER TO AID STATE AND NATION

Alaska's hydroelectric power potential is estimated at 19 million kilowatts but less than one-fourth of 1 percent has been harnessed.

The purpose of this section of the 1963 Daily News-Miner progress edition is to describe and illustrate projects that will develop half of this potential.

Once harnessed, this low-cost energy will enable Alaska to utilize a number of known raw material resources now lying idle. These include additional forest resources, iron and copper ores, and others of which the exploration and exploitation will be stimulated and accelerated.

The projects will also bring about benefits in flood control, navigation, fresh water fisheries and recreation.

In addition, the bulk of this energy can flow into a Pacific coast power pool to meet tremendously increasing demands for electricity. Indeed, the Alaska power will represent only 1 percent of the total electric power capacity which the Nation will need by the 1970's, and no other source of electric power will be available at such low cost.

And as a vital consideration, since this power will be able to be marketed at a lower cost than now prevails in the United States, these projects carry with them the ability to pay for themselves while still retaining a margin to amortize costs of construction and operation over a period of years.

The power picture in Alaska today is ironical. Diesel plants are generating electricity at costs that prohibit resource utilization while all around us big rivers flow and high lakes perch invitingly. Only one federally financed hydro project exists in the State at this time, the 30,000-kilowatt Eklutna project near Anchorage. Although two other projects described in this section, Snettisham near Juneau and Bradley Lake near Homer, have received congressional authorization, the great long-range potential lies in the Yukon-Kuskokwim Basin.

For centuries, the mighty Yukon has just been rolling along. Its work has been to form a delta over 100 miles square in area. Flat and featureless, boggy, silty, the delta is practically uninhabited. It is composed of all debris of banks eroded by the Yukon and the trenches it has dug.

There is something better for it to do.

The big river could turn wheels, instead of eroding banks, it could help supply the Nation's fast-growing need for low-cost power. The river could serve navigation, recreation, conservation, and development of our great State—if the river is developed.

With the United States having no other immediate prospect for large amounts of low-cost power, the Yukon is rolling along, ready and able to produce up to 8 million kilowatts of firm power, sufficient for the needs of more than 20 million homes.

First and foremost among four damsites of the Yukon-Kuskokwim is Rampart Canyon, located about 100 miles northwest of Fairbanks. Here, according to the Army Corps of Engineers, a 530-foot dam would produce 5 million kilowatts of power at the incredibly low cost of 2 to 4 mills per kilowatt-hour.

Although the other damsites offer good opportunities for development, major attention is being focused on Rampart Dam now in an effort to secure congressional authorization during the 1964 session.

The Army Corps of Engineers has declared the project feasible and is now ready to deliver its affirmative report to the U.S. Congress.

The Department of the Interior, whose bureaus are responsible for helping villagers to relocate, protecting the salmon run and habitat for waterfowl, exploring resource effects and recreational benefits—not to mention the marketing of the power—is compiling reports and recommendations of these many agencies.

Since these reports have not yet been released, it has not been possible to include their plans and recommendations in this section of the progress edition.

It is known and required by law, however, that villagers now living where the lake will fill behind the dam will be fully compensated for the lands. Because of this and because of assurance that these residents of a now economically depressed area will find employment in the construction of the dam and the logging of the Rampart Basin, most of the inhabitants are not opposing the hydro project.

"As a whole, the people favor Rampart," reports State Representative Grant Pearson, whose 137,000-square-mile Yukon area district takes in only 6,326 people but is bigger than each of 46 other States of the Union. Pearson is in favor of the project too, and he identifies himself as a conservationist.

As for fish and wildlife, the Interior Department reports when submitted are expected to make recommendations for protection of the salmon run and explore the prospects of alternate habitat for migrating waterfowl. Other aspects of the project ranging from geology to recreation will receive comment.

Although these various recommendations still remain within the Department of the Interior, enough specific and documented information has become available this year to spark a statewide campaign to construct Rampart Dam and thus help put Alaska more squarely on its feet economically with the entire Nation reaping the benefits.

Spearheading this united effort is Yukon Power for America, Inc., a nonprofit group of leaders from throughout the 49th State who are convinced—and who will convince others—that Rampart's benefits will far overshadow its drawbacks.

As genuine promoters of Alaska, they recognize the power benefits, acknowledge the need for mitigation of damage, and also realize that the dam will produce important subsidiary benefits in terms of flood control and recreation, and in creating a lake that can serve as a fresh-water fishery and facilitate the transports of hitherto untapped mineral resources.

From this total view of the Yukon-Kuskokwim hydroelectric program as a multiple-use concept emerges the inevitable conclusion that Rampart will be built to serve Alaska and the Nation.

[From the Fairbanks (Alaska) Daily News-Miner, Nov. 13, 1963]

TWO- TO FOUR-MILL POWER: CHEAPEST ON THE CONTINENT—WILL ACCELERATE GROWTH, HALT DESTRUCTIVE FLOODS

The ultimate effects of Rampart Canyon Dam cannot be judiciously weighed except from some distant historical vantage point, but it is not visionary to say that the project will accelerate the development of Alaska by 50 years.

Development of Alaska has been slow as a glacier, jerky as tidal changes in the 230 years of its recorded history. It has been a difficult country to settle, a remote and inclement place. There have been floodtides of developments, rushes of exploitation, always followed by ebbs of depression.

Rampart could iron out the way to a stable economy. It is posed on a threshold between a pioneer past that will disappear inevitably, and the future whose prospects in terms of human betterment are bright. Rampart is like a sleek prairie schooner that can reach a now distant horizon much faster than by plodding trial and error. History may say Rampart permitted the telescoping of 100 years. It's safe to say 50 years.

CHEAPEST POWER

Rampart, however, is not a slicked up prairie schooner, nor is it a science fiction time machine. It is a proposed dam. The dam proposed is of conventional design to do conventional chores by using or controlling the natural flow of water. One thing the water will do is generate electricity on a surpassing scale, exceeding the capacity of any generation plant in the United States, both in amount of energy and in efficiency.

Thus, its cost of power production will be reduced to between 2 and 4 mills, delivered wholesale in Alaska; 3 and 5 mills, delivered wholesale beyond Alaska's boundaries in Canada and the U.S. Pacific Northwest. Two to four mill power is cheaper than any power available in North America today. It nears the point of being virtually free. This kind of cost rate is not susceptible of being underpriced by anything short of a visionary breakthrough in generation, making power available at no cost.

Rampart's ultimate power capacity will be reached when the reservoir is filled, about 20 years after its impoundment starts. Five million kilowatts will be generated then. This amount is more than is needed in Alaska now, or for many future years, if developments here adhere to a pioneer pace.

CONSERVATION NECESSARY

But there is need for a faster pace to meet the needs and measures of the Nation's growing population. The pace will not be furious, cutting a swath of brutal proportions across the land from Ketchikan to Barter, from Cold Bay to Tok Junction. It cannot mean that our parks will be violated, our fish poisoned, our game destroyed. It cannot mean that Americans will plunder and destroy like a marauding army. Rampart's development means conservation and growth, if it means anything. It would preserve and use a vital resource—the water resource. It will help to conserve wildlife and fish that are dependent on water. It would halt destructive flooding that now sweeps mountains of soil into the sea and annually threatens the safety and property of people who live by its banks.

The enormous amount of low-cost power will stimulate the growth of a basic industry in this State. Basic industry unlike secondary industries uses electric energy for its lifeblood. It uses enormous quantities of power to refine ores and process pulp for manufacturing. The power must be available in large quantities at low cost, if these industries are to remain competitive. In Rampart is the potential for the largest quantity of power from a single plant at the lowest cost in North America. That industry will utilize these advantages is as near to being certain as anything future can be.

SOLID PROSPECT

The time approaches, we are told, when technology will undersell Rampart power. Technology cannot be denied. Costs will be reduced by it. Many existing plants may become uneconomical. Yet no one, short of visionaries, sees the near approach of free power, when it will be available like air to all users. Yet Rampart power, selling at 2 to 4 mills delivered in Alaska and 3 to 5 mills in Canada and the Pacific Northwest, is the closest prospect on the continent to power at virtually no cost.

Speculating on the time and place of industrial developments will become a popular pastime in Alaska as time goes by. Where will they locate? There will be no surethings in this guessing game, but there will be clues available. Electric power is man's most adaptable servant. It can be sent where it is needed and the fare is low—it is getting lower. So this factor increases the chances, instead of lowering the odds. However, the industries will undoubtedly locate in the vicinity of existing communities where there are roads, supply centers, residences and other facilities of modern life.

There are sound economic reasons for this conclusion. Roads, cities cannot be stretched or transferred as readily as electric power.

But the clue is a tricky one if for no other reason, because the construction of Rampart will probably mean the building of many new roads, railroads, airports, and towns to back up the mammoth project. Where will these be located? Let's say they will be where they can do the most good and leave the rest to you.

Another interesting speculation will center on the size of the to-be industry. Again, there will not be any sure bets. It's probably safe to say that the size will not exceed the amount of low-cost power available to run it.

GETTING STARTED

How big is that? If only Rampart is considered, then the industry will not be any industrial giant like Pittsburgh or the Ruhr Valley in Europe. The Rampart energy contribution is said to be less than 1 percent of the total needed for industry in 1990. Thus the size is within the realm of speculation. There are other variables concerned, however.

A person shouldn't forget that Alaska has many other potential sources of low-cost power that may be on the line by 1990. If they develop, the size of the industry in Alaska can be tripled. Will that make it an industrial giant?

Not very likely, because 15 million kilowatts of power is said to be somewhat less than 1 percent of the total required by industry in 1990.

NUCLEAR POWER WOULD BE COSTLIER; DANGERS CITED

Concerned over the size of Rampart Lake and wildlife displacement, some conservationists have suggested that nuclear energy would be preferable to the Yukon hydroelectric plant to generate power, but other conservationists have expressed concern over the potential threat of nuclear radioactive wastes to all forms of life.

From the viewpoint of cost, Rampart power would be cheaper than that from a nuclear reactor. Net energy costs of nuclear electricity between now and 1978 range from 6.17 to 8.60 mills.

Looking ahead, the Atomic Energy Commission reports that "potential" types of reactors might produce electric power from 4.24 to 5.57 mills power kilowatt-hour.

Rampart power would cost from 2 to 4 mills.

Danger from radioactive wastes is another factor. In last month's issue of Harper's magazine, David E. Lilienthal, first chairman of the AEC, indicated this danger has been minimized and that any accident involving disposal of the "furiously radioactive" wastes could have terrifying consequences.

[From the Fairbanks (Alaska) Daily News-Miner, Nov. 13, 1963]

WHERE POWER COSTS COULD BE CUT IN HALF

Growth on the Kenai Peninsula of Alaska has radiated from a 200-mile modern highway, surfaced in the 1950's. The peninsula population has more than doubled since the road was improved.

The road was a first long step taken toward development of the underslung jaw of land forming the southeastern shore of Cook Inlet. Homesteads now form checkerboard clusters along the shiny black-topped path.

In the era of the road, a new town was born at Soldotna. Older towns have acquired young ideas about growth.

Discovery of oil and gas is the second growth factor on the peninsula. The economy has soared, as a result on the peninsula and elsewhere in Alaska. The pioneer pathlessness of the Kenai is now rapidly disappearing.

Farming is out of its infancy, taking a few strides forward. The farmland there is as productive as any in Alaska for dairy and truck farming. Full scale development of farming awaits more adequate markets. Some day the peninsula population may grow into a major market for the luscious homegrown vegetables and dairy products.

The oil industry, meantime, has developed from the test well stage to the refinery stage. Thus in 6 years gas is pumped from Kenai fields to Anchorage. Plans are afoot to build a gas liquifying plant on the peninsula to supply a Tokyo utility.

Meantime, the long-established commercial fishing industry has expanded operations. For many years salmon and halibut were the cash catches. The shrimp, crab, and bottom fishing resources were left untouched. Within 5 years this has changed. Crab and shrimp fishing has become a mainstay of commercial fishing at Seldovia, Seward, and Homer. Commercial use of clams and bottom fish is being explored.

There is plenty cooking on the peninsula today. More has come in 15 years than in the preceding 150 years of settlement.

"It's a start," concedes Businessman Homer Thompson, of Homer.

He readily admits there is a soft spot for growth in the immediate future. The cost of power today is the obstacle. Fifteen mill power at wholesale price makes many developments uneconomical. He hopes the price can be reduced to a reasonable level buttoning up the future.

For lower cost power the peninsula looks to a hydroelectric project with delivered cost rates reduced to half what they are now. The Bradley Lake project would do this. It is a scrawny-necked perched lake. Its clammy gray waters look like an acid bath in a pit of its own making.

The lake is formed in a mountain terrace overlooking Kachemak Bay, about 25 miles southwest of Homer. It drains a 75-square-mile area of ragged peaks and icefields. The glacial till—granite ground fine as face powder—colors the water gray.

From the outlet of the 7-mile lake, the water pitches down a steep incline to the bay.

SIXTY-FOUR THOUSAND KILOWATTS BY 1969

Bradley is in a remote place, inaccessible except by floatplane. It offers little in the way of fishing, hunting, or scenery. Its main opportunity is in the unused muscle of its falling water. Army Engineers propose to harness this 1,100-foot head of water to turbines located at tidelands.

In a project that has been authorized by Congress, the lake's outlet would be plugged by a small concrete dam. The lake would become a reservoir. A tunnel will be poked through the bronzed mountains, channeling the lake discharge to a powerhouse site.

The project can be generating 64,000 kilowatts by 1969, and not a minute too soon, if the Kenai's rapid development pace is to be maintained.

Initially an access road would be built scaling the mountainside, about 7 miles long, to the damsite. Supplies will be delivered by barge to a tideland staging area and relayed via the mountain road to the dam.

Shortly after project work begins, the 2¾-mile tunnel will be drilled through. The 11-foot tunnel will link the lake discharge to a surface laid steel penstock, 8 feet in diameter, eight-tenths of a mile long, connecting with the turbines at Battle Creek.

Engineers plan to install three 21,300 kilowatt generators at the river plant. They will roll out a total of 280 million kilowatt-hours of energy annually.

This amount of 7- to 8-mill power is what the peninsula needs to keep its bandwagon moving along.

Most of the transmission lines to deliver the power beyond Homer are already built. When the power gets to Homer, it can be delivered as far away as Anchorage, if needed, by the flick of a switch.

[From the Fairbanks (Alaska) Daily News-Miner, Nov. 13, 1963]

PERCHED LAKES PROVIDE NATURAL STORAGE—SNETTISHAM NEAR JUNEAU, BRADLEY LAKE NEAR HOMER

Perched alpine lakes and long tunnels will provide early-term low-cost power to meet soaring Alaskan power demands.

These are hydroelectric projects—without dams at Snettisham—and with very small dam structures at Bradley Lake.

The two are nearing the construction stage. Snettisham has a $225,000 appropriation request in this year's Federal budget. Studies are complete on the Bradley Lake project. It has been authorized by Congress.

The power can be produced and sold to prime markets in Juneau and the Kenai Peninsula for lower rates than power from existing generation plants. The project plants will produce power for as low as 7.5 mills delivered. Bradley has a 64,000 kilowatt capacity; Snettisham, 60,000 kilowatts.

NATURAL FACTORS

A combination of natural factors makes for economical generation. The high lakes located in summit areas provide natural storage and "head"—both essentials to hydropower.

The head or height above the turbines at Bradley is 1,100 feet, and 1,000 feet at Snettisham. This means each cubic foot of water multiples its potential generation capacity three times over what it would be at a typical hydro project.

The water will be channeled through tunnels to the two powerplants located near tidewater. Access for construction and operation of the plants will be by ocean commerce, reducing development and operational costs.

The three lakes are located in steep glaciated terrain, difficult to reach. Tunnels will link the lakes with the shoreside plants.

The tunneling work will be interesting since it will be on a large scale. Snettisham tunneling will extend over 2½ miles. One tunnel to Crater Lake will be over a mile long and 7 feet in diameter. The second tunnel connecting Long Lake will be a mile and a half long and nine and a half feet in diameter.

REFILLING NO PROBLEM

At Crater Lake, the tap will be under 200 feet of water when the lake is at its normal level. Building the intake structure will pose a difficult construction problem. Since underwater construction at that depth isn't practical, a tunnel will probably be dug to the lake to drain it for construction. Refilling the lake is not a problem. It is abundantly fed by snow, rain, and runoff from blanketing glaciers. The same draining procedure probably will be followed at Long Lake at a later date when the additional generative capacity is needed. Pulling the plug on the tunnel will be tricky.

This may be done remotely. A demolition crew will set up the charge and clear the tunnel to fire it. They will be hoping that the plug holds until they are clear and then they will pray for the dynamite to break the rock seal so they won't have to reset the charge on a weakened face being pressed by tons of glacier water.

Bradley Lake project calls for 4 miles of tunnels and penstock channeling the 1,100-foot head to a tidewater powerplant. It will also involve construction of a dam raising the natural lake level about 100 feet, providing a total usable storage for 311,000 acre-feet of water. The reservoir is fed by glaciers and seasonal runoff—water that now tumbles unharnessed to Kachemak Bay.

The projects' construction cost is $84,500,000 total—$47,700,000 for Bradley Lake and $36,800,000 for Snettisham.

Engineering feasibility studies were conducted by the Bureau of Reclamation at Snettisham and the U.S. Army Engineer District, Alaska, at Bradley Lake. The engineers noting the marked similarities of the two Alaska projects using alpine lakes for storage—point to many other perched lakes in Alaska having characteristics suitable for hydro developments. These may be developed if power markets grow within feasible transmission range.

The construction and design of the two lake projects will be supervised by the Alaska District, Corps of Engineers.

[From the Fairbanks (Alaska) Daily News-Miner, Nov. 18, 1963]

THE CASE FOR HYDROPOWER: FOUR REASONS

(EDITOR'S NOTE.—The following address, entitled "The Case for Hydropower," was presented last year by Charles Sargent, dean of the College of Mathematics, Physical Sciences and Engineering, and professor of civil engineering at the University of Alaska.)

The position of the United States as a world power was achieved through the exploitation of our industrial ability. This ability was created through our economic and political system and through the development of our abundant resources. It does not appear likely that we can maintain our position by any other method than continuing to exploit the same industrial ability.

If our country's economy is based upon industry, then power, from whatever source, is the key to our continued prosperity; as industry lives on power and can thrive only if new supplies are developed.

During 1960 (referring to the 1961 statistical abstracts of the Bureau of Census), the United States was using power at an annual rate of 44.8 by 1,015 B.t.u. This is an electrical equivalent of 13.14 trillion kilowatt-hours. Of the total power used, 23 percent was produced from coal, 42 percent was produced from petroleum, 31 percent was produced from natural gas, and 4 percent was produced from nonexhaustible sources such as hydropower.

Since numbers expressed in tens of thousands of trillions of B.t.u. may be relatively meaningless to you, a breakdown into quantities of fuel may be more meaningful: Coal—430 million tons; petroleum—157 billion gallons; gas—4.6 trillion cubic feet.

If all this fuel were petroleum of average heat value, it would have required a pipe 60 inches in diameter, with oil flowing constantly at 55 miles per hour to supply the U.S. power requirement during 1960.

No one actually knows how much fossil fuel exists in the earth's crust and, indeed, known resources seem, for the present, to increase at approximately the rate of consumption. But, every thinking person realizes that the supply is not inexhaustible. Continued use of fossil fuels for power purposes will entail greater cost—soon it will no longer be economically possible to supply our power needs by this means.

To conserve the fossil fuels as a valuable raw material for industry, to conserve fossil fuels primarily for transport power, and to conserve for future generations some of the earth's resources which are their heritage as well as ours, becomes a necessary goal when considering new power development.

Today we are existing upon the amount of power available, but what about tomorrow? We have all heard about the population explosion, the explosion of knowledge, and the relative "pop" of the nuclear bomb. Do these portend a need for more or less power? What may we expect as the power requirement for the United States during the next few decades?

A forecast, based upon our past experience, can be used as an estimate for the future:

The 1960 population of the United States was 178 million people, and the rate of increase shown over the previous decade was 1.65 percent annually—an annual increase of 1.44 percent over the decade preceding 1950. Using average increases since 1920 and the average increase in rate since that time, the increases for the next four decades would portend populations of 213 million in 1970, 258 million in 1980, 319 million in 1990, and 398 million in the year 2000. This estimate, if valid, means a 2¼-fold increase in population by the end of the century.

Technical knowledge has been showing a 100-percent increase every 15 years, based upon the amount of published information; new industry tends to follow closely the increase in technology. Past experience also shows a per capita increase in the use of power.

Using coefficients calculated from past per capita power requirements applied to estimated future population, the power requirements for the following four decades from fossil fuels will be approximately as follows: 1970, 64 by 1,015 B.t.u.; 1980, 99 by 1,015 B.t.u.; 1990, 165 by 1,015 B.t.u.; 2000, 296 by 1,015 B.t.u.

Using the pipeline analogy again, the above is equivalent to the heat produced from oil flowing at a rate of 363 miles per hour in a 5-foot pipe, or 10,480 cubic feet per second. This is much more than the estimated minimum rate of flow of the Yukon River.

My purpose in presenting these figures is not to confound you with large numbers, but to point out that it is essential that we change our method of producing power. One of the nonexpendable power sources is hydroelectric power; other practical methods are yet to be developed.

Nuclear energy is not a nonexpendable source and still involves many waste disposal problems—use of the fusion, rather than fission, process may be the answer but technology has yet to come up with a method of harnessing such energy for peaceful use. Direct solar energy may be another possibility.

Alaska, with its great hydroelectric potential, is one of North America's hopes for future power, as is Canada.

The estimated potential hydroelectric power which can be developed in Alaska is probably in the region of 25 million kilowatts; of this amount about 14.4 million kilowatts could be produced from the 10 largest projects now proposed; 14.4 million kilowatt-years is equivalent to about 0.11 times 10 (to the 15th power) B.t.u.'s per year; this is a bit less than one-fourth percent of the amount of the total power used in 1960 in the United States and may seem insignificant when compared to the requirements for the year 2000. It is not insignificant when compared to present values of fossil fuels. This power, converted to quantities of fuel, would save 4.6 million tons of coal, or 917 million gallons of oil, or 37 billion cubic feet of natural gas.

Oil is our most valuable portable fuel, particularly for use as motive power—the present value of crude oil is about 10 cents per gallon. Full development of the 10 dams and proper distribution of the output could mean a conservation of $917 million worth of oil per year for other uses.

If we consider Rampart Dam by itself, the annual savings in oil would amount to $286 million per year. This is about one-fifth of the estimated total cost of the proposed project.

For the conclusion of this statement, I would like to summarize:

1. The growth of industry in our country will demand more power.
2. The use of fossil fuels for stationary power is robbing future generations of their raw material sources.
3. Hydropower more than pays its way in conservation of fuels and the reduction of air pollution.
4. Finally, these structures are needed now.

ALASKA'S HOMESTEADERS AND THE GOOD FRIDAY EARTHQUAKE

Mr. GRUENING. Mr. President, one of the conspicuous and heartening aspects of the great disaster which struck central Alaska on Good Friday is the courage and tenacity of its people. Theirs is the pioneer spirit.

An excellent article which throws light on this subject, entitled "They're Still Homesteading in Alaska," by Christine McClain of Anchorage, appears in the July issue of Coronet magazine.

I ask unanimous consent that this article be printed at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THEY'RE STILL HOMESTEADING IN ALASKA

(By Christine McClain)

The earthquake that smashed the bustling city of Anchorage, Alaska, on Good Friday, March 27, proved one thing about the Alaskan temperament. It's as tough and tenacious as the frozen acres that make up Alaska's homesteads—last outposts of the restless pioneers who pushed America's frontier from the Appalachians to the Pacific.

Anchorage is the gateway to the last frontier, the only Federal lands still available under the century-old Homestead Act. And when Q-day concentrated its violence on Anchorage, it also created havoc among the log cabins and crude shacks of the Kenai Peninsula and Susitna Valley, where homesteaders have struggled to free the virgin land of stumps and rocks to take advantage of the brief summer growing season.

For many of the homesteaders, Alaska is a bleak and hostile expanse, thousands of miles from their former homes and friends. Its climate is cruel, its prices are high, its opportunities are limited. But like his ancestors, who tamed the deserts and prairies of the Old West, the Alaskan homesteader grumbles but refuses to quit. In most cases, his first reaction to one of the worst earthquakes ever recorded was to minimize its effects and then to make necessary repairs before resuming his familiar battle with the elements.

Homesteading, with the exception of Alaska, vanished from the American scene 70 years ago. Homesteading had a meaningful purpose for our forefathers—to establish a home, cultivate the land and rear a family. Any modern Alaskan homesteader will tell you the hardships haven't lessened. What has drastically changed is the pace, method—and the motivation.

A survey by the Bureau of Land Management shows that of all the homesteads patented in Alaska, only about 12 percent (400 homesteads or 80,000 acres) are being used for farming. An estimated 1,000 homesteads, or 130,000 acres, are being used solely for residences.

If not farmers, who are the homesteaders in the 49th State? And what is their purpose?

Max Pierce, a Government employee in Anchorage, and his wife, Ruth, a substitute teacher, are typical of today's Alaskan homesteaders. They include professional men and laborers, retired servicemen and Federal employees. Most have a common goal—a home away from the city, yet within commuting distance. Elsewhere it might be a suburban home or summer cottage. In Alaska it's a homestead.

Max and Ruth are in the age group of the majority of homesteaders—between 30 and 45 years of age. Max admits to being in his forties. He's 6 feet tall and his crewcut is graying.

Max has no fantasies about his undertaking. The memory of his boyhood days in Roy, Mont., was not a pleasant one. In his early youth, he had soured on country life. But in Alaska, he found a challenge.

"When I decided to homestead," said Max, "I knew Ruth would go along with the idea. Now she's the one who doesn't want to come back to town. She'd stay the winter, if she could."

But Ruth has firsthand knowledge of homesteading. She comes from a family of sturdy pioneers. Nearly a hundred years ago, her grandfather, Samuel Moon, received his homestead patent signed by President Ulysses S. Grant. Today, back in Villard, Minn., her mother still owns the original farm.

The Homestead Act dates back to 1862, 5 years before Alaska was purchased from Russia for $7,200,000. It authorized free settlement on public land, provided settlers cultivated the land, made improvements, farmed it for 6 months and took no more than 160 acres. After 6 months a settler could purchase the land for $1.25 an acre. Or after 5 continuous years, for a filing fee of $15, he could receive a patent or title to the 160 acres.

Today's basic requirements are the same. One must be 21 years of age, a citizen or an applicant for citizenship, and only the head of the family can file for a homestead. But some of the law's provisions have been modified.

In 1953, for example, under the then existing law, 40-year-old Fred Kimbrell filed for a homestead in the Little Susitna River area. He had to clear and cultivate 10 acres, then construct a habitable dwelling. For 14 consecutive months, he commuted 160 miles to and from work by plane. By 1956, he'd met the requirements to purchase the land and obtain his title. Today, he grows hay and produce, and has several head of cattle. When he retires as a Government courier and truck driver, his farm will be self-supporting.

A veteran can obtain his patent with less restrictions. For one thing, a veteran is given credit for his number of years in service, up to a maximum credit of 2 years, against the required period of residence and cultivation on the homestead. Further, he is not bound by law to have one-eighth of his acreage under cultivation at the end of the third year, as is normally the case.

A good example is John R. Nichols, a Government field engineer approaching 60. In 1959, he filed for a homestead in the Wasilla area. Nichols obtained a patent in a year's time. Cost: $16.

"It was my wife's idea," explained Nichols. "Dorrie had retired from teaching, the children are grown and it was something to do. She tramped about the country, waded through streams and had soil tested before selecting the site."

Nichols quickly put up a comfortable 20- by 36-foot cabin for less than $3,000. His major expenses were plumbing, which cost him $700; digging a well was $10 a foot (water was reached at 159 feet) and the pump cost $500. The cabin is electrically equipped, including a dishwasher. The kitchen and shower are finished in ceramic tile.

"It's real nice," said Nichols, "but it took a lot of hard work, especially clearing the land. But it gave me something to do. A job like mine doesn't give me much exercise or fresh air."

Despite lack of homestead land elsewhere in the Nation, Alaska's 365 million acres have not attracted many settlers. Back in 1916, there were 400 homesteaders in the coalfields of the Matanuska Valley, but by 1934 there were only 50 left.

Then, in 1935, the Government assisted 200 new families in establishing their farms and homes in the Matanuska Valley. But it took World War II for the colonists to realize any revenue from their hard efforts. The military forces stationed in Alaska suddenly created a demand for fresh produce and dairy products. The continuing demand brought about an Alaskan population explosion, as a cross section of Americans grabbed the "free and suitable" farmland to establish a home after hostilities ceased. Homesteading reached a new high.

Choice land was quickly taken. As recently as 1959, when 42 homesteaders left their Michigan homes in trailers, trucks, and buses with all their possessions, they were bitterly disappointed to find no available land on the desirable Kenai Peninsula, south of Anchorage, warmed by winds blowing over the Japan Current. Finally, they settled on unsurveyed land in the Susitna Valley, 6 miles west of Talkeetna and about 75 miles north of Anchorage.

Today only about a third of would-be homesteaders will be able to fulfill the requirements for eventual title. But there are 2,000 applicants ready to try.

Distance is a major obstacle. From Anchorage to Butterfly Lake, where the Pierces have their homestead, is 25 minutes by plane. Driving is possible only in the winter, and it's a 2½-hour trip one way. Since Max had to commute to and from his work in Anchorage to comply with the 7 months' residency requirement, he took flying lessons. Today he owns his own plane.

While it's roadless in summer, Max and Ruth can drive a bulldozed "cat trail" through the timber to their homestead in the winter. Where roads end, frozen rivers or lakes make ideal highways. Still, it's always hazardous driving in temperatures rarely above freezing.

Ruth vividly recalled one occasion. Bravely, they loaded a rented military-type truck with supplies, including 16 barrels of fuel oil and aviation gas, and started out. Between 8 and 10 inches of crusted snow covered the ice and ground beneath it. The rear wheels went through the ice at the first crossing of the Little Susitna River. They used the truck's winch to haul themselves out. Max handled the cable, Ruth operated the winch gears and drove the truck. At 11 p.m. they ran out of gas.

"We had to walk the last mile to a neighbor's," Ruth said. "We were wet and hungry."

Furthermore, they'd used 49 gallons of gas for a trip of less than 100 miles—at the Alaskan rate of 48 cents a gallon.

The next morning they started out again, winching over hills and digging out of drifts. Finally, 50 hours later, they parked the truck beside their cabin on the lake.

Homesteading by air creates problems that early settlers never knew existed in the days of the covered wagon or ox-driven team.

The Pierces have found the homestead costly, because most of their supplies and household goods are airlifted by helicopter or plane. Fortunately, their combined income, between $12,000 to $17,000, allows for many extras.

"We don't live on beans," said Max, "but it takes a good, steady income to homestead."

In the opinion of Jack Linton, a bank official and homesteader himself, one should have an income of at least $8,500, but it depends largely on the size of the family.

"When money runs out," he said, "it's rough—banks are reluctant to loan to homesteaders, and rarely do."

The reason is logical. Homesteaders cannot mortgage land that does not belong to them.

Linton and his wife, Kay, are homesteading in the Matanuska Valley. Kay has plenty to do caring for their two small children. From May to December, Linton commutes to Anchorage, driving 120 miles a day.

He, too, encounters driving problems, especially in the spring when the roads are soft. The bottom goes out, or a river may rise and wash out a bridge. He's carried furniture and groceries on his back across a river and even rolled a 50-gallon oil drum across the ice to the homestead.

The largest single expense for homesteaders is clearing the land of roots and burning out stump rows from felled trees. Few, if any, have the necessary experience or equipment, and hired labor must be employed. Max Pierce spent well over $1,000 for 46 hours of clearing, excluding 6 hours of travel time each way for the operator. Cost of clearing depends largely on the density of timber and location—from $100 to $150 an acre. Max saved some money by clearing the trail to the cabin and the lake front of brush and trees.

No self-respecting architect would approve the hodgepodge designs of homesteaders' dwellings—but they are habitable in accordance with Bureau of Land Management regulations. One may prefer a trailer with a lean-to, another a prefab structure, still others a log cabin.

Eventually, Max and Ruth will construct a log cabin from the native timber on their land. Today, their temporary home is a 380-square-foot domed structure, similar in appearance to an igloo. Max had to dig the footings, then put in the floor, doors and windows and protect the roof with a plastic covering.

Max and Ruth find summer months ideal for homesteading. One reason, more work can be accomplished during long daylight hours, when it's still daylight at midnight. And flying weather is more favorable for a commuting homesteader. Temperatures range from 45° to 57° for about 4 months.

Ruth doesn't leave the homestead until they move back to Anchorage for the winter. Isolation doesn't bother her, and she always has something to do.

"Without pushbutton conveniences," she said, "everything takes longer."

Washing involves bending over an old-fashioned tub and then rinsing the laundry at the lake. Usually Ruth sends the sheets and shirts out.

Shopping must be carefully planned, but Ruth is more fortunate than most homestead wives. Should she forget something important, Max can make the trip in an hour or less. He does all the shopping.

Max's birthday present to her, a three-burner propane gas stove, lessened cooking and baking time considerably. She now bakes bread every other day. Before, she had to use a Coleman stove.

A permanent newcomer to the homestead last year was a dog named Herman von Schmidt II, later shortened to Bark-Bark. His barking warns Ruth of animal intruders—bear, moose, or porcupine. Before Bark-Bark, a porcupine chewed the end of the davenport arm and the front of one of the beds.

Mosquitoes are another problem, but they do not stop Ruth from berrypicking or puttering in her small garden. She raises enough vegetables for their summer use, including lettuce, green onions, cabbage, radishes, and broccoli.

When November comes, Max and Ruth make their home in a small, modern Anchorage apartment. But they check the homestead during the winter and sometimes spend weekends there.

Last January, they stared unbelievingly at the mess caused by a dead tree that had caved in the roof. Snow was now piled on the floor, covering furniture. Worst yet, a midwinter Chinook thaw was slowly melting the snow.

It's taken less to make people leave a homestead. Undaunted, Max and Ruth cleared the debris and put the water-soaked furniture and bedding outside to dry.

On Q-day, bad flying weather kept the Pierces from spending the weekend at the homestead, and the earthquake's tremors caught them in the Anchorage apartment.

"I got a gashed nose when a mixing bowl bounced out of a cupboard," Ruth said. "Otherwise, we didn't suffer much damage."

With so much work to be done in Anchorage, Max wasn't able to get to the homestead for 2 weeks. Then he landed his ski-equipped plane on the cracked and mud-splattered ice of Butterfly Lake. An inspection of the property showed only some broken glass.

Like most other homesteaders, the Pierces feel they are safer from earthquakes on their land than in the city. As proof, Max Pierce pointed out that some of the severe aftershocks that rocked Anchorage after Q-day were not even felt at the homestead.

Most of the other homesteaders agreed that they would carry on as before, even though the quake had hurt them economically. Jack Linton, who was cut off from the rest of the world for 24 hours when the shock knocked out the road and telephone and powerlines, is going to stick it out.

"I've done too much hard work to give up," he said.

John Nichols, who had still not been able to visit his homestead some 3 weeks after the quake, added: "I'm not giving up either. It's too good a thing."

Obviously it will take more than an earthquake to stop Alaska's newest and toughest generation of homesteaders.

AMERICAN LEGION IN ALASKA SUPPORTS FOREIGN INTEREST RATE FOR ALASKA'S DISASTER LOANS

Mr. GRUENING. Mr. President, this morning I received a statement of policy adopted by the executive committee of the American Legion, Department of Alaska, concerning disaster loans which will, I believe, be of interest to my colleagues and to all readers of the RECORD.

Here is the heart of the statement:

> The construction season in Alaska is of short duration and long term, low interest mortgage money must be made available now if many of our businessmen are to survive. Loans to qualified Alaskans at a rate of interest and on terms comparable to loans made under the foreign aid program will do much to bolster the economy of the stricken State.

The American Legion, Department of Alaska, quite properly urges the Small Business Administration to make disaster loans available to Alaskans at the lowest possible rate of interest.

In its statement of policy the State executive committee terms as inconceivable the unalterable fact that loans are made under the foreign aid program to countries in which there has been no disaster at more favorable terms and at a rate of interest lower than the rate charged to citizens of this country.

The American Legion, Department of Alaska, opposes what it describes as "the double standard now in effect" and urges "our Government to act with dispatch to do for our own people what we are doing for foreigners abroad."

I ask unanimous consent that the full text of this statement of policy, adopted in Anchorage on June 7, 1964, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF POLICY

On April 30, 1964, the American Legion National Executive Committee unanimously adopted a resolution urging, inter alia, that all Federal agencies facilitate the reconstruction of Alaska with a minimum of redtape and delay and with compassion for the victims of the recent disaster.

Since the Good Friday earthquake and seismic sea wave destruction Alaskans have received repeated assurances from the Federal agencies of immediate assistance to the private sector of their economy. Due to redtape and delay, however, we fear that such assistance will be too little and too late. The construction season in Alaska is of short duration and long term, low interest mortgage money must be made available now if many of our businessmen are to survive. Loans to qualified Alaskans at a rate of interest and on terms comparable to loans made under the foreign aid program will do much to bolster the economy of the stricken State.

The American Legion urges that the Small Business Administration make available disaster loans to Alaskans at the lowest possible rate of interest. We recognize there are administrative problems involved, but it is inconceivable to us that loans made under the foreign aid program are made on more favorable terms and at a rate of interest lower than the rate charged to American citizens who are victims of a disaster of this magnitude. We believe Senator GRUENING is right in his insistence that American citizens be treated as generously as borrowers under our foreign aid program where there has been no disaster. We are opposed to the double standard now in effect and urge our Government to act with dispatch to do for our own people what we are doing for foreigners abroad.

I hereby certify that the above and foregoing statement of policy was duly adopted at a meeting of the Executive Committee of the American Legion, Department of Alaska, convened and held at Anchorage, Alaska, in accordance with the bylaws of said organization on the 7th day of June, 1964, at which a quorum was present, and that such statement is duly recorded in the minutes of said meeting.

——— ———,
Department Commander.

SIX-STEP PROGRAM TO REVISE BUDGET FEATURES—THE REPUBLICAN CRITICAL ISSUES COUNCIL

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed at this point an important statement on fiscal policy for national strength and prosperity issued by the Republican Critical Issues Council of the Republican Citizens Committee.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.—The Republican Critical Issues Council made a frontal attack today on the Kennedy-Johnson "expenditure explosion" and proposed a six-step program to revise budget procedures, reduce expenditures, cut taxes, reduce unemployment, and boost prospects for national economic growth.

The key recommendation of the council, which is headed by Dr. Milton S. Eisenhower and sponsored by the Republican Citizens Committee of the United States, is for the creation of "an independent, bipartisan citizens advisory budget committee. The committee would have a fourfold function:

1. To recomend cuts in Federal Government spending.

2. To recommend assignment of expenditures to Federal programs that represents the "citizen's concept of what our spending priorities should be."

3. To suggest a better form for the budget that would abolish "dressing up the budget accounts for image purposes."

4. To improve the budget-making process so Congress could look at the budget "as a whole rather than merely on a piecemeal basis."

The council report, the ninth in a series on major national and international problems, was drafted by Dr. Raymond J. Saulnier, Chairman of the President's Council of Economic Advisers, 1957–61, and now a professor of economics at Columbia University.

It warned that the administration has posed the risk of "creating potentially troublesome imbalances in the economy" by concentrating tax reductions this year. The council favors spreading tax cuts over a longer period.

The paper said that the concentration of the tax cut in 1964 may have "gravely impaired the revenue-gathering capability of the Federal Government * * * and limited the availability of fiscal measures for helping to offset any economic downturn that may develop in the near run."

In an examination of unemployment problems, the Republican group charged that "the administration places undue reliance on across-the-board tax reduction." It said greater emphasis should be given individual job training, counseling, and placement to fill vacancies already existing.

"The danger in the administration's approach to the unemployment problem is that it will produce harmful side effects in the form of cost and price increases and economic imbalance without providing any appreciable and lasting solution," the council declared.

If the tax system produces additional revenues every year it should be possible to reduce tax rates if, as the council recommends, "the Federal budget is kept reasonably close to balance, and if the tendency for Federal spending to increase is restrained." Such additional revenues should be systematically divided among tax reduction, increased support for essential programs, and debt retirement.

Furthermore, the council asserted, "as we move into the next phase of tax reduction, top priority should be given to changes in the tax laws that will enhance the enterprise economy's capability for creating jobs and increasing incomes."

The Government should be planning now for regular annual reductions in the general level of individual and corporate tax rates said the council, adding:

"In addition, steps to eliminate those excise taxes that were introduced as emergency measures should be taken as promptly as possible, along with steps to remove the inequities and needless complexities that remain in the tax law."

Finally, the Republican group said that a good rate of economic growth would speed progress along these lines. "But no rate of economic growth will suffice as a basis for constructive, noninflationary tax reduction if efforts are not made to eliminate unnecessary Federal spending and to prevent unwarranted expenditure increases."

Members of the Critical Issues Council are: Dr. Milton S. Eisenhower, chairman; Elliott V. Bell; Adm. Arleigh A. Burke, U.S. Navy (retired); Arthur F. Burns; Albert L. Cole; James H. Douglas; Marion B. Folsom; Thomas S. Gates; T. Keith Glennan; Oveta Culp Hobby; Walter H. Judd; Mary P. Lord; Clare Boothe Luce; Deane W. Malott; James P. Mitchell; Gen. Lauris Norstad, U.S. Air Force (retired); Don Paarlberg; C. Wrede Petersmeyer; Samuel R. Pierce, Jr.; Charles S. Rhyne; Raymond J. Saulnier; Lewis L. Strauss; Walter N. Thayer; Henry C. Wallich.

Full text of the council's statement on tax and fiscal policy is attached.

Fiscal Policy for National Strength and Prosperity

FISCAL POLICY AND THE CITIZEN

Few economic policy issues affect the citizen more deeply than those with which this paper is concerned: the amount of personal and business income that governments—Federal, State and local—take in taxes, and how taxes are levied; the amount that Government spends, and what it spends on; whether spending is matched by taxes, and how Government deficits are financed.

How Government handles these matters affects the prosperity of every American and of the Nation as a whole by its impact on jobs and incomes. It also affects the welfare and security of the citizen through its impact on prices and thus on the value of the dollar. More than that, fiscal policies are crucial to the Nation's basic strength through their impact on the relationship between government and the individual and on the vitality of the enterprise system on which our national economic strength depends. In short, how fiscal problems are handled is the keystone of the whole structure of public policy.

Fiscal issues are considered in this paper, first, by reviewing the history of spending and of tax policy during the Kennedy-Johnson administration to date; then by pointing out the major risks involved in the administration's handling of fiscal problems; and, finally, by a discussion of the leading fiscal policy questions that remain unsettled. The object is to put forward a constructive point of view, in the Republican tradition, on economic problems that are among the most important facing Americans today.

FISCAL HISTORY OF THE KENNEDY-JOHNSON ADMINISTRATION, 1961–64

A 4-year expenditure upsurge

The fiscal history of the Kennedy-Johnson administration, from its start to this date, has been marked by very large and uninterrupted annual increases in spending. In January 1961, the outgoing administration had estimated that budget expenditures in the fiscal year 1961, a fiscal period at that time half completed, would total $78.9 billion. When the fiscal year was over, however, less than 6 months after the new administration had taken office, the spending total had reached $81.5 billion. Part of this $2.6 billion increase was attributed to an underestimation of expenditures by the outgoing administration; but the new administration's capacity for accelerating expenditures was decisively demonstrated when spending in the fiscal year 1962 increased by $6.3 billion, reaching a total of $87.8 billion. This was a 1-year increase 4½ times larger than the average annual increase of expenditures in the 8 years of the Eisenhower administration. What is more, it set a rate of annual increments to spending that has been maintained to date. From fiscal 1961 through fiscal 1964, inclusive, annual increases in administrative budget spending averaged four times as large as in the previous 8 fiscal years. Using the most recent (May 22, 1964) estimates of administrative budget expenditures, spending will have risen by the end of the current fiscal year to $98.3 from $76.5 billion in fiscal 1960, an increase of $21.8 billion. Over the same period, requests for new obligational authority (NOA), which are requests made by the Executive branch to the Congress for authority to spend in a given fiscal year or later, will have risen, as reported in the January 1964 budget, from $79.6 to $102.6 billion, an increase of $23 billion. In the process, deficits of $25.4 billion will have been incurred in the administrative budget. As of May 1, 1964, the public debt was $308 billion, up from $290 billion at the end of 1960, and by the end of May 1964 steps were being taken at the administration's request to raise the statutory public debt ceiling to $324 billion.

Tax measures in 1961–62; the investment tax credit and liberalization of depreciation rules

During the early period of the Kennedy-Johnson administration it was repeatedly asserted that the precarious position of the U.S. balance of international payments, which had deteriorated rapidly toward the end of 1961 following an improvement earlier in the year, limited the use of monetary policy as a means of spurring the economy and dictated that reliance be placed largely on fiscal measures. Whatever the implication of this point of view regarding the use of monetary policy to influence the course of the economy, and it must be noted that it did not prevent the money supply from being expanded in 1961 and later at exceptionally high rates, there was little use of tax policy in this early period as a means of stimulating the economy.

Reliance was placed on increases in spending. An opportunity to make proposals for tax adjustments was passed up on February 2, 1961, when the administration submitted to the Congress a list of proposals to help promote recovery from the short-lived 1960–61 recession, by that time virtually ended. All that the message said on tax policy was that "reform" suggestions would be submitted later and that they would involve no net revenue loss. The one specific reform mentioned, and a pertinent one in the situation, was an investment tax incentive to encourage businesses to increase their expenditures for the expansion and modernization of productive facilities. It was not until April 20, 1961, that an actual proposal for the investment tax incentive was put forward. This was accompanied by proposals for so-called loophole closing, calculated to raise enough revenue to offset what would be lost through the investment tax incentive. Even then, no draft of legislation was submitted by the administration.

In the absence of a draft of legislation, the language of a highly complex and controversial piece of tax law had to be worked out in committee. Final action on the measure was not taken until October 16, 1962, a year and a half after the proposal had first been made. Furthermore, the investment tax incentive that Congress adopted was more sensible than what the administration had suggested; the administration's proposals for structural reforms, which had been widely viewed from the beginning as of dubious merit, were either altered basically or rejected by the Congress; and the whole package as enacted involved a substantial net revenue loss, whereas the administration had made a particular point of stressing that there should be none. All the same, the measure was warmly accepted by the administration and is repeatedly referred to nowadays as one of its outstanding legislative successes.

Simultaneously with the administration's 1962 efforts to obtain an investment tax incentive, two additional steps were taken in the fiscal policy area: one proved out in practice; the other came to nothing. The step that proved out carried forward the initiative begun under the Eisenhower administration to bring the rules of the Internal Revenue Service regarding the tax treatment of depreciation into line with the practices of tax examiners and, further, to liberalize these rules where desirable. This was particularly useful in the 1962 environment in restoring the confidence of business, which had been badly shaken early in the year by the steel price episode.

The step that came to nothing was a Presidential request for standby discretionary authority to make temporary cuts in taxes, subject to later congressional veto, as antirecessionary measures. This proposal was ignored by the Congress and appears now to have been abandoned as part of the administration's legislative agenda.

Mid-1962: Concern over a lagging economy

Questions concerning the effectiveness of the administration's economic policies began to multiply in mid-1962 as the economy failed to register satisfactory advances. Although the administration had taken a distinctly cheerful view of the economic outlook as the year began, not many months passed before the recovery threatened as the late President Kennedy put it, to "run out of steam." Despite large annual increases in expenditures, large budgetary deficits and expansive monetary and credit policies, the unemployment rate had failed to fall below 5.5 percent, a level significantly higher than had prevailed in 1959–60. Doubtless, the economy was adversely affected at the time—we need only recall the sharp decline of stock prices—by the offensive launched by the President and practically the entire executive branch against what was officially regarded as an unwarranted increase in the price of steel. In any case, activity lagged and serious thought was given by the administration to the advisability of requesting an emergency tax cut. However, congressional reservations regarding such a move and an improvement in the economic indicators in the late summer of 1962 caused the administration to defer any proposals for tax changes until the following year. In lieu of an emergency tax cut, a comprehensive program of longer-term tax reduction and reform was promised for the next (January 1963) session of Congress.

The January 1963 proposals: large-scale tax reductions paralleled by continued large spending increases

The next phase of the Kennedy-Johnson administration's fiscal history can be summarized as an attempt, unsuccessful as it turned out, to persuade Congress simultaneously to (1) authorize tax reductions and an assortment of structural tax reforms spread over 3 years which, when fully effective, were estimated to involve a net revenue loss of $10.3 billion annually; and (2) increase administrative budget expenditures in the upcoming fiscal year by $4.5 billion.

Two factors seem to have been important to the administration in making these policy proposals. First, its thinking on budgetary policy underwent a critically important change from what it had been in 1961. Evidence of the change appeared first in the Economic Report of January 1962 when the concept of a "full-employment budget" was introduced. This replaced the view that the budget should be balanced over the cycle, that up until that time had been prominent in President Kennedy's messages. According to the new concept, a budget balance should be achieved only when the economy had reached full employment. Indeed, a surplus achieved before that point would, according to this view, impose a drag on the economy. Considering that the unemployment rate in early 1962 was 5.5 percent or over and that there was, according to administration statements, a gap of $30 billion or more between the economy's actual production and its potential output, a tax reduction or an expenditure increase, or some combination of the two aggregating to a substantial sum, was clearly indicated by the new fiscal theory, even though there was already a deficit in the budget of well over $5 billion. The year 1962 passed, however, without any determined attempt on the part of the administration to give effect to their new concept of budget planning, though it must have been important in shaping the budgetary plan of "tax cut plus expenditure increase" which was put forward in January 1963.

The second factor that appears to have led the administration to propose a combination of large-scale tax reduction and large-scale expenditure increase was that the cheerful view of the economy that it had taken a year earlier had been transformed by January 1963 into a gloomy forecast. The economy was described in the January 1963 economic report as affected by persistent sluggishness. Failing altogether to observe the economic upsurge that was underway at the time, the economic report asserted that "nowhere are there visible spontaneous forces of sufficient strength to put an end to the period of slow growth." Also, failing to acknowledge that the administration was recommending a very large increase in Federal expenditures, the report expressed the view that the one way out was through large-scale tax reduction and reform and that for this there was no time to lose.

As it turned out, the administration misjudged both the receptivity of the Congress and the country to its fiscal policy proposals and the outlook for the economy. Opposition developed at once to the suggestion that taxes be cut and expenditures increased simultaneously. Doubts as to the wisdom of such a policy were based in large part on the fact that the budget was already in deficit and the U.S. dollar was under increasing pressure from abroad. Questions were raised in Congress about a fiscal plan that seemed to hold out no prospect of budgetary balance until 1970 or later, even on the assumption that the economy would operate uninterruptedly at a good rate. Stanch but responsible supporters of tax reduction coupled their advocacy of lower rates with pleas for, or insistence upon, expenditure control. And there was no mistaking the fact that, warnings against mythological thinking and puritanical prejudices to the contrary, popular support for a program of simultaneous cuts in taxes and increases in spending was entirely lacking.

Nor was the administration's plan to administer a massive fiscal stimulus to the economy in 1963 aided by the fact that business activity, rather than proving to be sluggish as had been officially forecast, moved up briskly. The administration had projected a GNP of $578 billion in calendar 1963 on the assumption that the tax cut would be enacted promptly. Actually, GNP reached $585 billion without benefit of tax reduction and even though administrative budget expenditures in fiscal 1963 fell short of original official plans by $1.7 billion.

The decision to concentrate the tax cut stimulus in 1964 and the move to restrain expenditures

The major impact of the congressional and public reservations concerning the 1963 fiscal plan was to force the administration to make certain moves in the direction of expenditure restraint. The first such move was taken in an August 19, 1963, letter, from President Kennedy to the chairman of the Committee on Ways and Means of the House of Representatives. The letter stated that "tax reduction must * * * be accompanied by the exercise of an even tighter rein on Federal expenditures, limiting outlays to only those expenditures which meet strict criteria of national need." Congressional concern over a policy of increasing expenditures simultaneously with the reduction of taxes was expressed in the declaration section of the House-passed tax bill and ultimately in the Revenue Act of 1964. It was stated there that it was the sense of Congress that increased revenues, resulting from such economic stimulus as the tax cut provided, should be used first to balance the Government's administrative budget and then to reduce the national debt. It was also stated that all reasonable means should be taken to restrain spending.

Following the President's tragic death in November 1963, and before the tax reduction measure was passed by Congress, another move was made, one that is widely regarded as having been the key to the tax bill's final passage. It consisted of President Johnson's putting forward a budget for the fiscal year 1965 which suggested that the 4-year upsurge in expenditures had been ended and that expenditures in fiscal 1965 would be reduced below spending in fiscal 1964. The new budget called for expenditures in fiscal 1965 of $97.9 billion—$500 million below the amount at that time estimated for fiscal 1964. Subsequently, on May 22, 1964, these budget expenditure estimates were revised, projecting spending for fiscal 1965 at $97.3 billion—a full $1 billion below a revised spending estimate of $98.3 billion for fiscal 1964.

Whether spending will in fact be restrained is crucial in the present circumstances, for two reasons. First, the Johnson administration decided early in 1964 on a cirtically important change in its handling of tax reduction. Briefly, what had started out in January 1963 as a three-stage tax reduction aggregating when fully effective to $10.3 billion a year became, through the Revenue Act enacted February 26, 1964, virtually a one-stage tax reduction (as far as its stimulus is concerned) involving a net revenue loss currently estimated officially to come to $11.6 billion. In other words, a massive tax reduction stimulus that first was planned to be spread over 3 years was concentrated, at the administration's insistence, almost entirely in calendar 1964. A tax reduction of this size, concentrated so heavily at a time when the economy was already advancing of its own momentum, involves a risk of "overheating" the economy and this risk must not be intensified by further increases in Government spending.

Second, we shall see at a later point in this paper that effective expenditure restraint by the Federal Government is crucial to the prospect for additional tax reduction in the years ahead, a prospect on which Americans have every right to count and on which they should insist.

What then is the evidence on the outlook for expenditure restraint?

HOW MUCH RESTRAINT IS THERE?

Evidence on this question is found in four different sets of budgetary and financial accounts: The conventional budget, on which the administration currently focuses most attention but which the late President Kennedy explicitly downgraded; the cash consolidated statement, which encompasses trust fund operations as well as conventional budget outlays; the Federal sector of the income and product accounts, which President Kennedy rated highest in significance and properly described as a measure of the Federal Government's drain on the economy's resources; and, finally, requests for new obligational authority (NOA), which include requests to spend in the current and subsequent fiscal years.

Figures for all of these accounts are given every year in the January budget message but they may be revised subsequently, and usually are. The situation is confusing this year, however. A revision of the administrative budget for the fiscal years 1964 and 1965 was issued by the White House on May 22, 1964, but to this date (June 6, 1964) no revisions have been issued for the other accounts despite the fact that one set cannot be revised without at least suggesting that changes are needed in the others, as well. Unsatisfactory as this is in the present case, there is no alternative but to use the figures that are available.

In the January 1964 budget message it was estimated that administrative budget expenditures would be $500 million lower in fiscal 1965 than in fiscal 1964. In the May 22, 1964, White House statement, on the other hand, this estimate of expenditure reduction was raised to $1 billion. Using the unrevised January 1964 figures for the other accounts, total cash payments to the public (cash consolidated statement) will remain unchanged and Government purchases of goods and services (Federal sector of the income and product accounts) will rise by $2.4 billion. Requests for new obligational authority (NOA) were reported in January 1964 to be $1.3 billion higher in fiscal 1965 than in fiscal 1964 but what is even more significant as an indication of likely future increases in Federal spending is the fact that they exceeded the expenditures projected for that year by nearly $6 billion.

In view of the makeup and character of the administrative budget as compared with the other accounts, it is not surprising that such expenditure restraint as is suggested by the figures is greatest in its case. But this suggestion of restraint can be misleading. Like all budgets, the administrative budget for fiscal 1965 is a mixture: it contains projected increases in spending and projected reductions. To make a realistic judgment on the chances of achieving an overall reduction, one must compare the reality and character of the projected reductions with the reality of the projected increases.

There can be little doubt about the reality of the recommended increases in spending. As detailed in the January 1964 budget message, these included the following: pay raises of over $680 million for military and civilian personnel under legislation already enacted; $250 million for the "attack on poverty," a figure already raised substantially; $286 million of additional aid for education under new and existing programs; an additional $86 million for the youth employment program; an increase of $189 million for the manpower development and training program; an increase of close to $360 million for urban renewal, public housing and other home financing and related programs; $55 million for additional Corps of Engineers construction; an additional $408 million for the operation and maintenance section of the Defense Department's budget and another $198 million for its revolving and management funds; an additional $590 million for space activities; and $400 million for increased interest payments on the public debt. These and all of the other projected increases, taken together, totaled to just over $4.5 billion.

In contrast to these projected expenditure increases, which seem certain to be fully realized if not exceeded, many of the projected spending reductions are either of doubtful practicability or are produced by what appear to be merely bookkeeping devices. Thus, a $1 billion reduction in the cost of agricultural programs is based partly on the assumption that new legislation will greatly reduce Federal outlays in this area—a dubious prospect even in January 1964—and partly on the expectation that a decline in wheat prices will make it possible to administer such programs as Public Law 480 at greatly reduced costs.

Other savings would be accomplished by offsetting against expenditures moneys which formerly were taken directly into Treasury receipts, which improves the look of the expenditure side of the budget but only at the expense of the receipts side; by transferring certain expenditures to special trust accounts, which improves the look of the conventional administrative budget but only at the expense of the cash consolidated statement; and by placing in fiscal 1964 certain outlays that might well have been placed in fiscal 1965, which improves the look of the fiscal 1965 accounts but only at the expense of fiscal 1964.

Finally—and quantitatively most important of all—the fiscal 1965 budget becomes an "economy" budget by projecting sales of Government-held loans in the amount of $2.3 billion, an increase of $700 million over the sales anticipated in fiscal 1964. Since the proceeds of such sales are treated as an offset to amounts disbursed in new lending, the result of the increase is to reduce the figure of net budget expenditures for the fiscal year 1965, relative to the figure for 1964, by $700 million. It should be said at once that this way of handling sales of governmental assets is not a departure from previous budgetary accounting practice. However, in view of the rapidly increasing importance of Federal credit programs in the budget, existing practice might well be changed to count sales proceeds as receipts. But quite apart from this, there is ground for doubting the likelihood of selling loans in the volume projected.

Three conclusions are suggested by the above. The first is that such expenditure restraint as there is in the fiscal 1965 budget may well prove temporary. This is the unmistakable evidence of the figures on requests for new spending authority (NOA). The second is that such restraint as is accomplished in the near run will probably prove to be appreciably less than the accounts suggest. Administrative budget expenditures may well rise by $2 billion in fiscal 1965 rather than fall by $1 billion. These conclusions underline the importance of continuing vigilance by citizens with regard to the level of Federal spending.

The third conclusion derives from the first two. It is that a halt should be called to the dressing up of Federal budget accounts for "image" purposes. The only defense that has been made of these practices is that every administration has used them. Whatever the merits of this assertion, the fiscal 1965 budget is in a class by itself as regards "budgeteering." What it suggests more than anything else is the need for a code of Federal accounting to be adhered to by all.

Retrospect

Three features stand out in this history. The first is the radical shift in the administration's approach to fiscal policy problems. Starting from a more or less traditional point of view, it has made its way to a budget concept which, no matter how high the rate of economic growth may be, calls for large-scale tax reduction or large-scale expenditure increases, or some combination of the two, so long as full employment has not been reached. This budget concept rests on a particular theory of the causes of the unemployment that persists in the American economy even after prolonged expansion. The theory is that the residual unemployment is due to an inadequacy of aggregate demand and the proposal is that it can be cured, and cured on more than just a temporary basis, by a fiscally produced expansion of demand. Clearly, the outcome of the fiscal policy is unlikely to be any better than the theory of unemployment on which it is based. A good improvement in the unemployment rate was registered for May 1964 but there is no assurance that this will last and, in any case, the rate continues well above the levels reached in 1955–57.

The second feature that stands out in the history is the rather loose connection between the administration's legislative program and the course of economic events. As it happens, the administration's views of the economic outlook have been, at least until 1964, more or less out of phase with the economy. Thus, in 1961 a gloomy view was being taken precisely as the economy was turning into recovery. Actually, the natural recuperative forces of the economy rather than anything done by the administration produced the recovery. In early 1962 enthusiasm was the rule, but by midsummer a case for an emergency tax cut was being developed. Again, the economy picked up before any special fiscal policy actions were taken. In January 1963 the administration's views turned to the blue side again, missing the notable economic upsurge that marked that year. Official exhortation to hasten tax reduction was ineffective, but the economy expanded all the same. Finally, 1964 presents a combination of official optimism and a policy which concentrates the stimulative impact of tax reduction just when the economy is showing unusual upward momentum. Whatever this means for 1964 it does raise questions about 1965.

The third feature that is salient in the administration's fiscal history is the lack of consistency and absence of any sign of a guiding principle in its fiscal program. At one time it was enthusiastic about tax reforms, bent on accomplishing them without net revenue loss. At another time it was enthusiastic for large, across-the-board tax reduction, with no patience for tax reform. At one time it espoused a balanced budget. At all times, until this election year, there was enthusiasm for ever-larger spending. And there is the contest just now coming to the surface which involves enthusiasts within the administration for large-scale spending increases who see the recent tax reduction as an obstacle in their path. The entire performance, typically described as a "pragmatic" approach, appears to have been heavily affected by a concern for political considerations.

RISKS IN THE ADMINISTRATION'S FISCAL POLICY

Ultimately, the administration's fiscal program will have to be judged on its success, or lack of success, in accomplishing what is its primary purpose; namely, to achieve full employment. The administration has been quite explicit in setting unemployment reduction as the standard by which its fiscal measures will stand or fall; and by this must be meant, of course, a lasting, not merely a temporary, improvement. A 5-percent unemployment rate has been set for achievement by the end of 1964, but no date has been specified for reaching the 4-percent level which must be attained and held if significant improvement is to be made over, say, the 1957 level of 4.3 percent.

The merit of vigorous economic growth as a generator of additional job opportunities is unquestionable; nevertheless, it has become increasingly clear that large amounts of unemployment in the American economy are due not so much to a sluggishness in economic growth as to inadequate productive capabilities, relative to employment costs, on the part of those who have most difficulty finding jobs. Inadequate school background and lack of skills and work experience are increasingly being recognized as major causes of the unemployment that remains to plague our economy even during good times. Besides, we need to face up to the problem of discrimination as it affects unemployment and to the reluctance of unemployed workers in depressed areas to move where jobs are more plentiful.

The cost of large selective programs of job training, counseling, and placement designed to correct structural unemployment would be high, without a doubt. But these costs would be low compared with the cost of a tax reduction program which is estimated to involve a revenue loss of $11.6 billion. What is more, the administration's fiscal policy exposes the economy to grave risks while giving little real assurance of solving, on a lasting basis, the unemployment problem to which it is principally, if not exclusively, directed.

What, more specifically, are these risks?

The acceleration of cost and price increases

The first is that the stimulative effect of the tax cut, which is being combined with an easy money policy, will accelerate cost and price increases.

On this the administration has taken a consistently complacent point of view. It has argued that the economy is operating far below its full potential and that the increase in demand which the tax cut is expected to entail will produce no significant danger of general cost and price increases. Evidence is mounting, however, to the contrary. Both governmental and private surveys have shown that large parts of the American economy are operating at what is, for all practical purposes, a full utilization of productive capacity. And the fact that the unemployment rate for married men, which has been declining since early 1961, was under 3 percent when the tax bill was enacted suggests that the economy is a good deal closer to practical full employment than the administration believes. Clearly, the evidence suggests that large-scale tax reduction under circumstances such as currently prevail does, indeed, risk starting another upward spiral of costs and prices.

The extension of direct controls over wages and prices

Related to this risk is a second; namely, that an acceleration of cost and price increases would trigger off a whole battery of hastily improvised direct controls over wages and prices. The 1962 steel price episode and the recent announcement that an "early warning system" has been established to watch for "unwarranted" price and wage increases point in this direction. Obviously, what is at risk here is free collective bargaining and free market pricing.

Creating imbalances in the economy by a spurt of expansionism

The administration's decision to concentrate the tax cut stimulus in calendar 1964, at the expense of calendar 1965, also risks creating imbalances in the economy. Unsustainable surges of business investment expenditures and of consumer durable goods purchases are the most likely possibilities. In either of these cases, the correction which would inevitably follow could result in a general downturn of the economy.

It was repeatedly stated by the administration that a tax cut would be "insurance against recession." To extend the analogy, the risk is that the insurance may prove to be a term policy. The economy can be made to expand by forced draft methods, either by spending or by tax reduction, or by both; but there is no assurance that an expansion created in this manner will be sustained. The danger of a downturn remains. Moreover, the more sudden and jerky the impact of an expansionist policy, as in the concentration of the tax cut's stimulus in calendar 1964, the greater the danger of a subsequent downturn.

Impairing our revenue-gathering capability and our capacity to use fiscal measures against recession

Finally, by using the tax system as a means for attempting to correct an unemployment situation which may, on any lasting basis, be largely indifferent to this remedy, the administration—unless truly effective restraint is exercised on expenditure—has seriously undermined the Federal Government's capability to match spending with tax revenues. Further, the recent sharp tax cut has lessened the availability of fiscal measures for use in a constructive counterattack against recession, when they may be sorely needed.

The threat which large revenue losses would have on the Federal Government's ability to carry needed expenditure programs on a noninflationary basis cannot be dismissed. Neither can one dismiss its threat to the availability of our antirecession weaponry. In present circumstances we would enter a recession, if one were to occur in the near term, with a very large deficit in being and a larger one in prospect. It is doubtful that Congress would enact an emergency-type tax reduction under such conditions and so soon after a massive tax cut had failed to fulfill the administration's fiscal theories. And no one can place much reliance on the effectiveness of attempting to counter recession by speeding up expenditures on public works.

Hopefully the fiscal experiment will turn out favorably. But it need not have been conducted as it was. A more prudent timing of the tax cut and a more selective approach to the unemployment problem would almost certainly have yielded more lasting results without equivalent risks.

AFTER THE TAX CUT: REMAINING QUESTIONS OF FISCAL POLICY

What about fiscal policies in the months and years ahead? What are the problems and the opportunities?

Answers to these questions will depend in large part on whether the 1964 tax reduction succeeds or fails. The criteria of success are clear: Growth sustained at a high rate, with reasonable stability of prices; appreciable and lasting reductions in unemployment; and the Federal budget balanced, or moved to some close approximation of balance, as full employment is approached.

As noted, failure would involve serious problems. Although hopefully the experiment will succeed there will be important questions of fiscal policy to be faced even in the happy eventuality that all goes well. Among these, three stand out prominently: (1) Can taxes be further reduced? (2) What kind of tax reduction would serve the Nation best? (3) Do we have the right distribution of expenditures?

Can taxes be further reduced?

The answer to this question is "Yes." In the first place, when the economy is advancing at a good rate, and the budget is in balance or reasonably close to balance, taxes can be cut at any time, and safely, if comparable reductions are made in expenditures. More than that, with the budget balanced and with national income growing steadily, tax rates can be cut every year as the economy's expansion produces additional tax receipts, provided that spending increases are kept within allowable limits.

Consider the first of these two possibilities; namely, tax cuts made possible by expenditure reduction. Are these really feasible?

The answer to this question is "Yes," too, despite the defeatism commonly expressed on the subject. There is an impressive body of informed, responsible opinion, based on line-by-line analyses of the budget, to the effect that large cuts are feasible without sacrificing essential national purposes. Furthermore, the feasibility of budget cuts was proven by the fact that new obligational authority for fiscal 1964 was reduced, primarily by congressional action, by $5.3 billion below the request submitted by the President in January 1963. It should go without saying that the possibilities for expenditure reduction are not inexhaustible; all the same, there is much that could be done.

It is no refutation of this point of view to argue that there are important public needs still unfilled. This is true. But that is not to say that everything Government is currently doing needs to be done above everything else. Yet it is the assumption of almost every attempt to defeat economy moves in Government that whatever Government is already doing is by that fact alone an essential activity and removable from the budget only at national peril. The Republican position has absolutely no place for this point of view, which is uninformed and essentially nonrational.

The second of the two possibilities for tax reduction derives from the fact that tax receipts grow as the economy grows. Indeed, collections may increase more than proportionately with national income.

How large an annual increase in revenues can be expected is not easy to say. The administration has placed the figure at $5 to $6 billion. Even higher estimates have been made privately. These added Government revenues are a kind of "growth dividend" that comes with vigorous, sustained expansion. The question is: How should they be used, if they are achieved?

There are three options: (1) Cut taxes every year by the amount of the revenue increase; (2) increase expenditures by the amount of the increase in tax collections; (3) let added revenues accrue as a surplus in the budget, thus reducing the public debt and releasing funds for private investment.

It is possible, of course, to use combinations of these three, but no combination adding to more than the increase in revenues can be adopted without creating a deficit or enlarging one that already exists. And if the economy is operating at or close to full employment, a deficit would be unacceptable even under the administration's concept of a full employment budget. Consistent with this limitation, some part of the increase in revenues should be allotted to tax reduction.

What kind of tax reduction would serve the Nation best?

It is possible, of course, that economic circumstances in the years ahead may at some time require emergency-type tax reduction to prevent the onset of economic recession or to reverse a downturn already underway. Hopefully, this will not be the case. If it should be, it is to be hoped also that the needed measures can be taken without harmful side effects. Obviously, everyone wishes to avoid recession.

But beyond that, emergency tax changes made under the pressure of recession would not necessarily improve the tax structure. Certainly the taxes added to raise revenues during war emergencies have not done so. What we should strive for are changes that will improve the tax structure and give promise of lasting benefit.

Top priority in such a program of tax reduction and reform should be given to cuts that will enhance the enterprise economy's capacity for creating jobs and improving incomes. As we have seen, a good rate of growth sustained over an extended period itself creates opportunities for further tax reduction. Tax reduction of this kind provides an opportunity to build success on success.

Clearly, the tax changes that would be most effective in promoting growth are those that would strengthen incentives and promote larger savings and capital formation. To this end, we should work toward a generally lower level of rates for the individual income tax and toward a less steeply graduated schedule of rates. We should also lower further the rates at which corporate earnings are taxed. Tax reduction along these lines would enhance the vigor and job-creating ability of our whole enterprise system. They would give an especially powerful boost to new and small businesses, whose ability to grow and create jobs depends mainly on their capacity to earn and to retain income, and on the availability to them of capital supplied directly by individuals.

Another self-imposed shackle on growth, and thus a deterrent to the creation of jobs, is the double taxation of distributed corporate income. Repeal of the 4 percent dividend tax credit as one of the so-called reforms of the Revenue Act of 1964 was a backward step, only partially corrected by raising the dividend exclusion to $100. Actually, more allowance should be given to the individual for taxes already paid at the corporate level, not less.

Additional goals should be kept in mind as opportunities for tax reduction are found. We should strive to eliminate at least those excise taxes that were introduced years ago as emergency measures. The taxation of capital gains deserves to be restudied, too, with an eye to encouraging thrift and investment. At the same time, possible abuses of present opportunities for converting income into capital gains should be reexamined. Further, there are elements of inequity and complexity in the tax system that should be removed. Agreement on what constitutes an inequity, like agreement on what constitutes an undesirable complication in the tax laws or a loophole, is not easily reached; but one thing is sure: a general lowering of tax rates and a less steeply graduated schedule of rates would help materially in meeting all of these problems.

To the extent that progress is made in these directions we will also have moved forward toward another objective; namely, a Federal tax system which gives greater scope to the revenue-collecting activities of State and local governments and which leaves as much income as possible in the hands of individuals and business concerns for investment or consumption as they see best.

Achieving tax reduction objectives, however, will depend on continuing attention by citizens to Federal spending policies. Ultimately, more government means more taxes and any effort to keep the Federal tax burden from rising above its present high level, or to reduce it appreciably, is essentially a problem of controlling the tendency of Federal spending to increase.

Spending priorities: Do we have the right distribution of expenditures?

Entirely apart from the question whether Federal spending is too high or too low, and apart also from the question of how the increment to tax receipts that comes with economic growth should be used, is the question whether we have the right distribution of expenditures in the Federal budget as it stands.

This question is bound to excite controversy but it is nevertheless vitally important that it be opened up for discussion. For example, is the present heavy accent on "space" warranted? Would not the Nation benefit by a shift to education or related earthbound programs of some of the $5.3 billion requested for space research and technology in fiscal 1965? To cite a second example, should the budget provide for as much as $8.5 billion of loan disbursements and $1 billion of administrative budget expenditures under Federal credit programs, a number of which are serving credit needs in open competition with private lending institutions? Would not some part of these funds be better spent if directed to programs designed to improve the skills of individuals finding it difficult to obtain employment, or to help finance a more vigorous attack on such problems as crime and juvenile delinquency? Questions may well be posed about other programs—about agriculture, for example. What is needed is a means by which the system of priorities reflected in the budget can be regularly put under scrutiny by all parties at interest.

The executive branch has ample opportunity to study spending priorities every time it puts the budget together. Whether the budget as enacted represents the views of the legislative branch on the relative importance of different programs is another matter. Congressional action on the budget is taken piecemeal and without explicit study of its structure as a whole. Consideration should be given by Congress to adopting means for correcting this situation. But beyond this, a systematic effort should be made, outside the pressures surrounding governmental activities, to obtain a citizen's evaluation of spending priorities. To obtain such an evaluation should be one of the tasks of an independent, bipartisan citizens advisory budget committee. The committee should be charged also with responsibility for preparing recommendations for expenditure reduction, for ways to improve the Federal Government's budgetmaking process, and for ways to present the budget so as to meet the citizen's need for a meaningful and understandable account of where his Federal Government stands, fiscally, and where it is heading.

SUMMARY AND CONCLUSIONS

I

More intensive interest by citizens in Federal expenditure policy is imperative in view of the present volume of Federal spending, the rate at which it has been growing recently, and indications that the current interest in economy may prove to be temporary. A constructive move toward making this interest effective would be the creation of an independent, bipartisan citizens' advisory budget committee. Its tasks should include the following:

1. To make recommendations for expenditure reductions and for a distribution of expenditures among various Federal programs which would better represent the citizen's concept of what our spending priorities should be.
2. To make recommendations for improving the Federal Government's budget-making process, in particular for enabling Congress to look at the budget as a whole rather than merely on a piecemeal basis.
3. To recommend methods of budget presentation which would put an end to the dressing up of budget accounts for "image" purposes.

II

The administration's decision to concentrate the stimulative effect of the tax reduction in 1964 and to do this when the economy was already advancing at a good rate runs the risk of having the tax cut's stimulus dissipated in cost and price increases and of creating potentially troublesome imbalances in the economy. Moreover, by this decision the administration may have gravely impaired the revenue-gathering capability of the Federal Government, which capability is essential to the noninflationary conduct of needed Government programs—defense and nondefense. The concentration of the tax cut in 1964 has also limited the availability of fiscal measures for helping to offset any economic downturn that may develop in the near run.

III

The administration has placed undue reliance on across-the-board tax reduction as a means of eliminating the unemployment that remains in the American economy even during periods of generally good times. Vigorous economic growth is, of course, essential to the creation of new job opportunities, but there is an urgent need, also, for greater emphasis on selective measures of job training, counseling, and placement to match those who are unemployed with job opportunities that already exist and which will be created in increasing numbers as our economy grows. The danger in the administration's approach to the unemployment problem is that it will produce harmful side effects in the form of cost and price increases and economic imbalance without providing any appreciable and lasting solution to the unemployment problem to which it is mainly if not exclusively directed.

IV

If the Federal budget were kept reasonably close to balance and if the tendency for Federal spending to increase were restrained, it would be possible to reduce tax rates every year out of the capacity of the tax system to produce additional revenues—a kind of "growth dividend"—as the economy grows. Systematic provision should be made now for the regular, year-by-year division of these additional revenues among tax reduction, increased support for essential Federal programs, and debt retirement.

V

As we move into the next phase of tax reduction, top priority should be given to changes in the tax laws that will enhance the enterprise economy's capability for creating jobs and increasing incomes. To this end we should be planning now for regular annual reductions in the general level and progressivity of the individual income tax and for a lowering of the tax rates applicable to corporate earnings. In addition, steps to eliminate those excise taxes that were introduced as emergency measures should be taken as promptly as possible, along with steps to remove the inequities and needless complexities that remain in the tax law.

VI

Progress along these lines would, of course, be vastly facilitated and speeded by the maintenance of a good rate of economic growth. But no rate of economic growth will suffice as a basis for constructive, noninflationary tax reduction if efforts are not made to eliminate unnecessary Federal spending and to prevent unwarranted expenditure increases.

(NOTE.—Not every member of the Critical Issues Council or Republican Citizens Committee necessarily subscribes in every detail to all the views expressed. The council endorses its papers as a substantial contribution to public awareness of current critical issues and to the presentation of positive solutions.)

RESOLUTIONS ON CIVIL RIGHTS

Mr. JAVITS. Mr. President, I ask unanimous consent that there may be printed at this point in the RECORD two resolutions on civil rights, one by the Syracuse Law College Association and the other by the Young Men's and Young Women's Hebrew Association of Washington Heights and Inwood.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

SYRACUSE LAW COLLEGE ASSOCIATION,
Syracuse, N.Y.

The Honorable JACOB K. JAVITS,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR JAVITS: At the suggestion of the executive committee of the Rutgers Law School Alumni Association, a resolution prepared by that committee and aimed at giving impetus to the passage of meaningful civil rights legislation during the current session of Congress was submitted to the executive committee of the Syracuse Law College Association. Every member of that executive committee replied. Of the 40 members of the committtee, 36 voted to approve the resolution, 1 refrained from voting, 1 voted "no," and 2 voted "no" on the ground that the resolution was too vague.

Pursuant to the will of the executive committee thus expressed, the following resolution is submitted for your consideration:

Whereas it is our considered judgment as lawyers, teachers, and students of the law that the continued viability and vitality of the Constitution of the United States demand that all citizens of the United States receive all necessary guarantees of equal rights under the law and equal protection of the law; and

Whereas it is both morally just and legally imperative that all citizens of these United States be accorded the opportunity to exercise their rights and discharge their duties without regard to race, color, creed, or national origin: Be it therefore

Resolved, That we, the executive committee of the Syracuse Law College Association, as a declaration of conscience, do hereby petition the Senate of the United States to join with the House of Representatives in enacting such meaningful legislation as will enable all citizens of the United States to live in dignity and work in harmony in the true spirit of the American ideal.

Very truly yours,

JAMES M. FLAVIN,
President, Syracuse Law College Association.

YOUNG MEN'S AND WOMEN'S HEBREW ASSOCIATION OF WASHINGTON HEIGHTS AND INWOOD,
New York, N.Y., May 27, 1964.

Senator JACOB K. JAVITS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: This is to inform you that the board of directors of this agency went on record to urge you to vote for cloture and then for the passage of the civil rights bill in its present form, unweakened by omissions, compromises, or crippling amendments.

Very sincerely yours,

SIDNEY OFFERMAN,
President.

NATIONAL FINANCIAL RESERVE

Mr. JAVITS. Mr. President, Joseph W. Barr, Chairman of the Federal Deposit Insurance Corporation, in a speech delivered at the seventh annual Loeb awards presentation luncheon in New York City on May 20, proposed that a select group of highly trained and exceptionally able men and women comprising a national financial reserve be created with the financial support of the FDIC and in close cooperation with the Council of Economic Advisers, the Treasury, the Federal Reserve System, the Bureau of the Budget, the Department of State and appropriate committees of the Congress. He envisages the training of a small group of individuals, expert in the field of political economy, trained and able to blend the economic needs of the Nation with political realities, prepared to serve the Nation in areas of high national and international economic and financial policy.

I believe Mr. Barr has come forth with an extraordinarily good idea which would make available to this Nation talented individuals in an increasingly complex field at a very small cost, and which I herewith highly commend for the consideration of the Senate.

I ask unanimous consent to have printed in the RECORD at this point in my remarks Mr. Barr's speech of May 20.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

POLITICAL ECONOMY—THE NEED FOR A NEW LOOK

Last year about this time a group of young men working toward the doctoral degree in political science came to visit with me in the U.S. Treasury. The purpose of their visit was to discuss the administration's plans for getting the tax bill passed. I launched into an enthusiastic analysis of the bill and described its potential impact on the Nation. I told them what we hoped to achieve with this legislation in the areas of employment and investment, its effect on fiscal policy, and finally how it fitted into our continuing battle with balance of payments problems.

When I got to balance of payments, one of the group interrupted to say that he and his colleagues were having difficulties understanding my arguments because they had no background in economics, and would I please confine myself to a description of the political and legislative devices we planned to employ with the Congress.

I must say I was outraged at this suggestion—for no one can work an $11 billion tax cut through the Congress of the United States by political or legislative chicanery. Admittedly, we in the Treasury and the legislative people in the White House had our plans and techniques, but they were relatively uncomplicated and singularly lacking in drama. They consisted primarily of methods of mobilizing the support then latent in the labor movement, in the industrial and financial communities, and in academic circles—and then translating this support into votes in the Congress. The translation process involved a slow, methodical discussion of the issues with virtually every Member of Congress. Of course, the powerful support of two Presidents, John F. Kennedy and Lyndon B. Johnson, was also indispensable.

None of this detracts, however, from the fundamental premise that it was not stratagems but rather the solid intellectual argument which functioned as our most powerful weapon.

To turn the coin slightly, my experience has indicated that economists generally show no more perception with regard to the legislative process than did the visiting political science students. Time and time again over the past 5 years in the Congress and in the Treasury, I have met with groups of economists who seemed to delight in advancing ideas that had absolutely no basis in political reality.

I would certainly not deny either to the political scientist or to the economist the privilege of exploring freely every aspect of his subject matter. Pure research in these disciplines is at least as valuable as in the physical sciences. But I do suggest that both studies—political science and economics—seem to be out of touch with the working politicians.

In developing my theme today, I plan to pick and choose from the storehouse of economic history. Many of my comments may prove debatable. Perhaps some of you will even find my treatment of this history a bit cavalier, but then imagine for a moment what history will do to us.

In any event, I want to focus your attention on what I deem to be an important current problem, and to suggest one part of a possible solution.

Basically, I want to ask: "What happened to the study of Political Economy?" From the early 18th century to the beginning of the 20th century—a span of about 200 years—there was a study known as political economy. What has happened to it?

A simple answer is that this study was born to fulfill the need of the times and died when the need ceased to exist. I think this answer is too pat. In my own opinion, the need has continued to exist, but it has been sorely neglected.

This seems to me a particularly appropriate subject to discuss with you. For example, I do not see how complicated financial matters can be presented intelligently to readers without an awareness of the political trends that are running in this Nation and in the world. Conversely, I cannot see how your colleagues who write of politics can do so intelligently without an awareness of economic trends and developments.

In this context, let us take a brief look at relevant history and the subject of political economy.

POLITICAL ECONOMY

The end of the Middle Ages in Europe brought about new social, economic, and political states replacing the old feudal-ecclesiastical political orders. The resulting problems, economic and political, were new and solutions were sought by many. Mercantilism flourished and was exemplified in countless writings and in the restrictive and regulative policies of statesmen such as Colbert of France.

The doctrine of "laissez faire" arose naturally as a protest against the excessive regulation of commerce by government action. Adam Smith and his contemporaries and followers are to be credited with their attempt to see and analyze a national economy as a whole. In doing so, they asked what kinds of governmental policies would best promote national wealth and prosperity. Their answers reinforced the fundamental principles of the doctrine of "laissez faire," and turned this economic doctrine into a political slogan: "That government is best which governs least." The political economists made themselves felt in the world of practical affairs and, indeed, Adam Smith and his followers had a profound influence in almost every part of the Western World.

With the activities of government curtailed and with the general acceptance of the concept that economic history would be written in a free market by competing entrepreneurs, I suppose it was only logical that the study of political economy would divide into the separate studies of political science and economics. After all, if government had little place in economic decisions and economic decisions little place in government, what profit could there be in the study of political economy?

By 1890, Adam Smith and the world as he saw it had long since vanished into the shadowing past. His world consisted of vast underdeveloped areas of the North and South American Continents, Australia, and New Zealand, and a European civilization in the early phases of the industrial revolution. By the end of the 19th century, these areas were settled and the liberating forces of the "industrial revolution" had nearly spent themselves. Though the problems of politics and economics were—and continue to be—entangled, a sizable contingent of economists withdrew intellectually from interest in the broader aspects of their subject matter. By the 20th century, the term economics came into general use replacing the older political economy, the change of name reflecting changes in the discipline itself, which had become subdivided into a number of specialties.

To me, this withdrawal and the division of the study of political economy was most unfortunate and perhaps we are still paying the price.

It took the terrible depression of the thirties to bring home forcibly the fact that national wealth and prosperity are not the automatic results of that government which governs least.

Our Government was forced to make many economic decisions—considered startling innovations by many. But you and I know there was nothing particularly novel about any of the economic decisions of the thirties. They had all been the subject of numerous economic studies for years. It took a cataclysm to make them a political reality.

To move on into our own times, I can note that Douglas Dillon is the first Secretary of the Treasury to point out that on occasion good fiscal policy requires the temporary acceptance of Federal deficits as a reasonable price to pay for economic growth and a tolerable level of unemployment. Presidents Kennedy and Johnson are the only two Presidents in the history of the United States to support a peacetime tax cut when the Federal budget is in a substantial deficit.

Lyndon B. Johnson is probably the only leader of a free government, in history, who has attempted to dedicate the energies of an entire nation to disprove the old iron law of Ricardo and Malthus that poverty is the perfectly natural corollary of a free enterprise system. All these economic decisions had been debated and rather generally accepted in the world of ideas years before the event. How, then, do we account for the timelag?

By contrast, 20 years after the detonation of the first atomic bomb, this Nation and a large part of the world—with the active participation of the atomic scientists—had come to the conclusion that some method of controlling the destructive potential of his discovery was essential. The result: a test ban treaty ratified by this Nation in 1963 and President Johnson's recent announcement of a cutback in the production of fissionable materials. Surely economics is no more difficult than the study of nuclear physics, yet the evidence strongly suggests that the physicists are in better communication with the politicians than are the economists.

The Nation is now facing a debate which involves the eventual eradication of poverty in this country. I agree with President Johnson that it is an attainable goal. Congress will soon be debating the annual foreign aid authorization and appropriations bills. I agree with Presidents Truman, Eisenhower, Kennedy and Johnson that the attempt to bring the undeveloped areas of the world up to some reasonable standard of living is feasible and well within the financial and technical competence of this Nation and our allies in the free world.

On the horizon we can see an array of problems that could confront this Nation in the next few years. To name a few, I would list our trade relations with the Common Market, the question of our peaceful trade with the Soviet bloc, the question of what to do about our Federal excise taxes, and—in my particular area—the entire question of what is an appropriate banking structure to meet the rapidly changing needs of the American economy. In the even more distant future, I would list as potential problems the impact of reduced defense expenditures and how to live with automation. This is only a partial list of problems, and some of them may simply go away. However, I believe a prudent man would agree that we will be forced to face some of them and attempt to find answers.

To meet our current and future problems will require the closest understanding and cooperation between economists and politicians. To be blunt, however, I think if we are to attack these problems with vigor and imagination it will take more than cooperation and understanding. It will take trained people. It will take people with the academic background, the intellectual capacity, and the political awareness to analyze the problems, devise the appropriate programs, and then muster the support in the Nation and the votes in the Congress to make them a political reality. In my experience, this is a fairly rare combination of talents and experience.

The question that bothers me is "Where are these people coming from?" In the past they have been recruited from the financial community, from industry, from the labor movement, from the Federal Reserve System, from academic circles, and from the political arena. The record would indicate that the Nation has, on balance, been fortunate in its ability to acquire the right man for the right job at the right time. I know from personal experience that at times the recruiting process has not been easy.

I suggest to you that the time has come when this Nation should consider a more orderly method of developing a ready reserve of men and women, qualified in the intellectual disciplines and with the political exposure required to bridge any gap that may exist between economics and politics. The Employment Act of 1946 creating the President's Council of Economic Advisers and the Joint Economic Committee of the Congress was a useful and hopeful first step in closing the communication gap. But I believe it may be time to take another step.

I would like to see the Federal Deposit Insurance Corporation, of which I am Chairman, devote a substantial sum annually to supporting the training of a corps of men and women who would comprise a national financial reserve. At this point, let me stress most emphatically that I am not talking about another educational or executive development program. Rather I contemplate the creation of an extraordinary group which, by virtue of its training and background, will be especially prepared to serve the Nation in areas of high national and international financial and economic policy.

I would like to see trained, at the graduate level, up to five people each year for a 4-year period, or so long as they showed promise. After the completion of their formal studies, these men and women would continue their training in the Federal Government for an additional 4 years. I envisage a program that would rotate them through our Corporation and the Office of the Comptroller of the Currency, the Treasury, the Council of Economic Advisers, the Federal Reserve System, the Bureau of the Budget, the Department of State, and appropriate congressional committees—to illustrate the scope of the training.

After the expiration of their 4-year terms of duty, these men and women would be subject to an additional call for a 4-year term of service during their lifetime at the request of the President of the United States. I do not expect, or even want, all the people in the corps to remain with the Government. Some of them will return to the academic community, some will enter business or finance, some may prefer Government, some may serve in the labor movement, and, hopefully, some will develop into Democrats and others into Republicans. But this corps will be available as a ready reserve for any future President of either party who needs them.

I am under no illusion that my remarks today will precipitate a remarriage of the political scientists and the economists. Signs of even a mild flirtation between the disciplines are probably more than could be immediately expected. But I do believe that, at this juncture of our history, the Nation badly needs a reservoir of trained men and women who can move with assurance in the world of economic ideas and in the world of political reality while understanding the problems of both. It is for this reason that I am today suggesting that we consider the advisability of creating a national financial reserve.

THE INTERNATIONAL FINANCE CORPORATION JOINS ADELA INVESTMENT IN COLOMBIA

Mr. JAVITS. Mr. President, it is with considerable satisfaction that I bring to the attention of the Senate a report from the New York Times of June 10 indicating that the International Finance Corporation, an affiliate of the World Bank, has joined in the first venture of the newly established Atlantic Community Development Group for Latin America—Adela. According to the story Adela invested $500,000 in shares of Forjas de Colombia, S.A., and was joined in this venture by the IFC with an investment of $1 million. The IFC will share in the underwriting of an additional issue of $1 million worth of stock.

As my colleagues may recall, Senator HUMPHREY and I have been closely involved in the nonprofit preparatory stage of the Adela project since November 1962, when I first presented this idea formally before the Economic Committee of the NATO Parliamentarians' Conference. The Adela project was organized in an effort to mobilize a multinational private effort to assist the Latin American private sector to take a leading role in the economic development of Latin America, and to create a congenial climate for a greatly increased contribution by the private enterprise system in the development of Latin America.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the New York Times article of June 10 entitled "Two 'Firsts' Set for World Bank."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWO "FIRSTS" SET FOR WORLD BANK: IDA MAKES LOAN TO INDIA—IFC JOINS ADELA DEAL

(By Edwin L. Dale, Jr.)

WASHINGTON, June 9.—The World Bank group of international lending institutions set two "firsts" today.

The International Development Association made its first loan for the purpose of financing general imports, as distinct from a specific project. The loan—the largest ever made by the IDA—totals $90 million and will go to India. It will finance imports of components and materials for a broad range of durable goods industries.

The International Finance Corporation joined in the first financial venture of the newly established Atlantic Community Development Group of Latin America, known as Adela. While Adela is still not formally organized, its interim organizing committee has joined the International Finance Corporation in an investment in a steel forgings plant in Colombia.

EQUITY DEALS PLANNED

Adela is being established by a group of banks and industrial corporations in Western Europe and the United States to make equity investments in industrial projects in Latin America. Today's investment of $500,000 was in shares of Forjas de Colombia, S.A.

The International Finance Corporation will invest $1 million and will share in the underwriting of an additional issue of $1 million worth of stock.

The loan to India by the International Development Association to finance imports does not mean that the World Bank group has abandoned its basic policy of financing primarily specific projects in the less-developed countries.

However, officials said that there could be future cases similar to today's when a country with an established industrial structure could be helped best by the financing of imports rather than a specific project.

The India loan, like all from IDA, is for 50 years, with a 10-year grace period before repayment begins.

AS FARMING GOES, SO GOES THE COUNTRY

Mr. YOUNG of North Dakota. Mr. President, there is no other segment of our national economy that has been more maligned and misrepresented by almost every publication than the farm economy of this Nation.

It is most refreshing to read the article appearing in the June 15 issue of U.S. News & World Report entitled "As Farming Goes, So Goes the Country—Still True?"

The U.S. News & World Report is to be commended for its accuracy and fairness not only in articles with reference to agriculture but in all of their coverage of the news. I wish there were more publications like U.S. News & World Report.

Mr. President, I ask unanimous consent to have this article printed in the RECORD as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AS FARMING GOES, SO GOES THE COUNTRY—STILL TRUE?

(NOTE.—Easy to forget is the fact that farming remains America's largest industry. Farmers employ more workers, spend more, sell more, own more than any other group. Dwindling in numbers, farmers still get lots of attention. Here's why.)

Once again a harvest season is starting with the outlook for reasonably good crops.

There was a time not so long ago when the country watched the harvest for a sign that would show whether the outlook for business would be good or bad. A good harvest meant a prosperous agriculture that, in turn, influenced the course of general business.

Now times have changed. Harvests come and go, getting little more than local attention. Agriculture has come to be regarded as only a minor part of an economy grown vast and varied.

Yet the farming business still is the Nation's largest—far more important than any other single industry.

The country's farmers take in around 45 billion a year from the sale of products and from a few other sources. Most of the 45 billion is spent for goods and services—the lion's share going into the smaller communities that are scattered across the country.

MILLIONS OF JOBS

American farms provide nearly 6.7 million jobs, which is 3 times the number provided by any other single industry. Farmers spend around $4.5 billion a year for capital equipment—the wide range of farm machinery that makes American agriculture the marvel of the world. This investment is well above the total for any other single industry.

Facts show, in brief, that farming, for all of its troubles, is far from an unimportant part of the Nation's economy.

To be more specific, farmers spend more than $9 billion a year for seed, feed, and livestock, $1.5 billion for petroleum products and $1.4 billion for fertilizer. The farmer also provides a large market for a variety of goods and services, including lime, pesticides, tools, harness, veterinary services, blacksmithing, and irrigation.

BILLIONS IN SPENDING

Spending by farm families for their own needs follows closely the pattern of city families. In 1962, for example, farmers spent about $13.4 billion for family needs. About 64 percent of the total went for food, housing, and clothing—about the same proportion that is spent by urban families. Farmers spend a somewhat smaller share of their income than nonfarmers for transportation, tobacco, and alcohol, but a larger share for medical and personal care.

Farming, moreover, is the mainstay for the prosperity of numerous small towns in the United States. Of $41 billion in total farm spending, less than $2 billion was spent directly in cities of more than 30,000 people. The largest share of farm spending was done in towns of 5,000 or less.

Farming is estimated to be responsible for about 40 percent of all jobs in the country. This includes the number of people actually working on farms, plus some 6 million workers who provide the goods and services farmers use. Employment also is large in the network of industries that contribute to the growing, distributing, processing, and selling of farm products.

A number of States derive 10 percent or more of their income from farming. These include North and South Dakota, Iowa, Nebraska, Kansas, Mississippi, Arkansas, Montana, and Idaho.

BUT FEWER FARMERS

Despite the continued importance of agriculture to the country's economy, however, the farming industry has been shrinking in recent years.

The number of farms in the country has dropped from nearly 5 million in 1953 to around 3.5 million now. The farm population, too, has declined—from 19.9 million in 1953 to 13.4 million. As a percentage of total population, the farm population has dropped in 10 years from 12.4 to 7.1 percent.

Yet American farmers are producing a larger volume of crops and livestock than a decade ago. They are supplying a much larger population with all the food and fiber that is needed. The improved efficiency of American agriculture, in fact, is one of the major reasons for the so-called farm problem.

INCOME LAGS

Increased efficiency has not increased total farm income. Personal income of farmers was $20 billion in 1953, is down to $19.8 billion now. Because of the smaller farm population, however, the per capita income on farms has risen. Yet it still lags behind income of nonfarmers.

The importance of farming to the country explains why the need for a flourishing agriculture gets so much attention from Congress and all Government administrations.

STUDY OF NAVAL SHIPYARDS

Mr. MUSKIE. Mr. President, in the near future, the Department of Defense will make a decision on a matter of critical importance to every American. At this time, a detailed study of our naval shipyards is underway; upon its completion, a decision will be made as to the future, if any, of those yards.

Before a decision of such importance is made, it is imperative that all points of view be heard. Therefore, I commend to my colleagues, and to Department of Defense officials with a responsibility in this matter, an article which appeared in the March 1964 issue of Shipmate. Written by Comdr. John D. Alden, U.S. Navy, "To Serve the Fleet—A Case for the Naval Shipyard" is a balanced and perceptive analysis of our naval construction requirements. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TO SERVE THE FLEET: A CASE FOR THE NAVAL SHIPYARD

(By Comdr. John D. Alden, U.S. Navy)

Year 1964 promises to be a year of real crisis for the U.S. naval shipyards. The criticisms of the past have mounted to a new peak of intensity as attacks, public and private, have come from a cost minded Department of Defense, several echelons of the press, the private shipbuilding and repair industry, and even certain groups within the Navy itself. A cost effectiveness study funded by the Bureau of Ships in an effort to arrive at a factual comparison between the Government and private shipyards, as a basis for making long range improvements, has been turned against its sponsor and cited as prime justification for dispensing with the naval shipyards forthwith. In all the public discussion concerning the issue, cost has stood forth, as the sole criterion for judgment. The defendant, already condemned in the eyes of public opinion, stands in the prisoner's dock. The jury, in the form of a high level study group whose membership includes a strong budgetary representation, has withdrawn to deliberate the case. The fate of the naval shipyards themselves, possibly that of the time-honored principle that the Navy should have its own shipyards at all, will be decided on the basis of their verdict.

It is particularly unfortunate that the voices of any of the fleet's representatives should be raised against the naval shipyards, for this indicates a lack of appreciation of the benefits which the fleet enjoys through its own facilities. These can be summarized without difficulty and, I think, with little argument. A naval shipyard offers complete facilities to support forces afloat. It has in being the capability of fabricating, installing, and maintaining every part of a ship and its equipage. In addition to the mundane shipkeeping services available at any shipyard, the naval shipyard can service the new and complex equipment becoming ever more common in the fleet—radar, sonar, weapons control, and the computers of the naval tactical data system in the electronics category; propulsion machinery of the most advanced design; weapons systems and nuclear reactors of a secret as well as a complex nature. Most private shipyards have to farm out some or all of this type of work. The naval shipyard provides a full range of military personnel services. Barracks, recreation facilities, medical and dental care, galleys and mess halls, space for officers and storage cages, schoolrooms and training courses are typical of the fringe benefits available. Seldom, if ever, are such facilities provided by private yards. Quite often the Navy has to bring in its own berthing barges so the crews of ships in private yards will have a place to live during construction or repair work, while barracks in the naval shipyard stand empty. Among other logistic services are the tugs and barges, trucks and cranes, blueprint files and photographic laboratories, calibration stations and underwater sound ranges, hand and machine tools available for loan to the ship's force, and a full-fledged supply department—all normal parts of the naval yard. Finally the naval shipyard is usually conveniently located near the home port of a ship and its crew. The commercial yard may or may not be close at hand; often to obtain competition the Navy must accept a low bidder far from the ship's home port, regardless of the personal problems created for the crew. These and more represent the tangible, physical advantages of having the Navy's work done in its own shipyards.

An even greater advantage is perhaps less evident on the surface and therefore less appreciated. This is the readiness of the naval shipyard to undertake work under any and all conditions. An explosion rips a big attack carrier. Before the last line is made fast to the pier, workmen are swarming aboard, toiling around the clock until the ship is back in the Nation's line of defense. Or a new, experimental piece of equipment has to be installed and evaluated on crash basis, without benefit of detailed plans or firm work specifications. Or changes must be incorporated into a new ship before it is delivered to the fleet. In all these situations it is the naval shipyard which can provide fast action, often completing a job in less time than needed for the preliminary legal work necessary to arrive at a contract with a private shipyard. Indeed, there have been many occasions when private yards have been unwilling to undertake naval work under any circumstances. In the naval shipyard, all that is necessary is that the fleet, represented by the Chief of Naval Operations, indicate the appropriate priority of work, and the naval shipyard will devote its entire capacity to whatever job is most urgent at the moment. The naval shipyard can never refuse to undertake work, although it may recommend against it. The overriding advantage to the fleet is simply this: the customers is also the boss.

In the face of these rather obvious advantages, the fact remains that the scales are weighted against the naval shipyards by the undeniable factor of costs. By all accounting standards, costs in a naval shipyard are higher than those in a private yard. For those who are sincerely seeking the maximum defense value for every dollar, it must indeed appear morally and legally indefensible to send the Navy's work where it will not be done most efficiently and economically. It is therefore incumbent on anyone who would advocate the case for the naval shipyards to demonstrate that either there are certain invalid statistics in the accountants' statements, or the country is getting more for its money than meets the eye. To explore these questions further, we must first review some of the basics of the shipbuilding business, both public and private.

Any shipyard is what is known as a job shop. The term is used to distinguish mass production or assembly line industry from that which works on a case-by-case, or job-by-job, basis. Even under wartime conditions with hundreds of ships being built, no individual shipyard can really approach the conditions common to true mass production. In peacetime ship construction and overhaul work, it is rare for a yard to do exactly the same job over again even two or three times in a year. When work can be done repetitively, costs can be cut significantly by any shipyard, Government or private. In building a ship, experience and commonsense tell us that there are many possible ways to do it, but not all will be equally efficient. To illustrate, take the case of a submarine which will require 300,000 man-days of productive labor to complete. (Such a man-day is the common unit measurement for shipyard work, and is roughly equivalent to the work of one man actually employed on the ship itself plus another man supporting him in the many overhead functions necessary to keep a big shipyard running.) At the extremes, we might say that 1 man could build the ship in 300,000 days, or 300,000 men could build it in 1 day, but we know that these conditions are ridiculous. Physically, it is almost impossible to concentrate more than 1,500 men per day on 1 submarine and have them work efficiently. Also, we could not afford timewise to wait 10 or 20 years to build a ship, even if that were the cheapest way to do it. In practice, it has been found empirically that a 3-year building period is realistic in peacetime, and that construction has to start with a relatively small number of workers, build up gradually to a peak, then decline gradually until only a few are engaged in the test, trial, and fitting-out phases of construction. Similar considerations govern overhaul and repair work, but here the time frame may be 2 to 6 months for the entire job. Ideal manning curves have been developed by experience which tell us in quite accurate terms the most effective pattern to follow. It is readily evident that the optimum pattern is one in which men, materials, and plans are integrated together in a smooth, logical work sequence, through the function known as scheduling. Deviations from this pattern represent potential waste and unnecessary expense or delay; consequently, much planning effort is devoted to the avoidance of interference with an orderly erection schedule.

With this general background, we are in a position to consider some basic differences between a private and a naval shipyard. These differences are real and quite fundamental to the problem of comparative costs. First, take the private yard. It exists for one purpose, to make a profit for its owners or stockholders, like any other business enterprise. The private shipyard, under ideal competitive conditions, gets work by offering the lowest bid for a fixed work package. Once the price has been established, any changes in the work package are subject to the negotiation of a contract change. If, as is often the case, the customer is not sure what repairs are necessary (compare this with the automobile owner bringing his ailing vehicle to a garage), the original fixed price includes only the work necessary to open and inspect the defective items. When the Navy contracts for work in a private yard it commits itself to certain obligations such as delivering Government-furnished equipment by a certain time, or having the ship's force complete certain work not to interfere with the contractor. If the Navy fails to meet any of these commitments, the contractor is entitled to renegotiate the contract with regard to any damages he may have suffered as a consequence, and the Navy must assume the cost of any delay which may result. No criticism of this process is implied or intended, it is accepted good business practice. Once a yard has a contract, management devotes its efforts to maintaining an efficient manning schedule. Workmen are hired or laid off as required, overtime is worked in lagging areas, and vendors or subcontractors are engaged as necessary to maintain the orderly progress of work. Given the normal competition of the marketplace and a more or less conventional type of work, this process will naturally yield satisfactory results at the best price.

The naval shipyard, on the other hand, operates under a completely different frame of reference. It exists, under Navy regulations, for one purpose only—to serve the fleet. Its work is assigned to it by administrative decision. Such preliminary negotiations as may be carried out are essentially one sided, as the shipyard is not a free agent which can accept or reject work to suit itself. The customer is in the driver's seat and determines what work shall or shall not be done.

The naval shipyard operates by law under a financial arrangement known as the naval industrial fund. The objective is to make neither profit nor loss, but to come out even at the end of each fiscal year. When it submits an estimate of the cost of a new construction ship, the estimate is for the ship as experience indicates it will be at the end of construction. Because of the length of building periods and the constant improvements in today's technology, it is only realistic to forecast a growth factor of 10 percent or more in the cost of a new warship. A private contractor interested in obtaining a contract by being the low bidder is under no obligation to consider this factor. The naval shipyard's estimate is thus not entirely comparable to the private company's fixed bid price.

Just as changes in the work package are taken for granted in the naval shipyard's estimate, so they are accepted without dispute when they come. If the changes are mandatory to improve the safety or operating effectiveness of the ship, the naval shipyard is required to do the work regardless of its disrupting effect on other jobs in the yard. The private shipyard, if directed to accomplish the same change on a mandatory basis, can and does demand full compensation in the form of a cost increase which the Navy has little option but to accept if it really wants the work done. In the case of overhaul work, it is known that open-and-inspect jobs will result in repair work, and in the naval yard most such work is done as a matter of course. Consequently, forces afloat need give little consideration to the legal phraseology in which work items are written. To overhaul a pump may mean the performance of specific and limited actions in a private yard; in a naval shipyard it means to deliver an acceptable end product.

In any overhaul, a ship has far more items on its work list than the type commander has funds to pay for. It is thus more to the benefit of forces afloat that the available funds be stretched to accomplish as many jobs as possible, than that a fixed package of the most urgent repair items be bid in at the lowest possible price. The customer is not really interested in "saving" money by leaving essential repair work undone, and the naval shipyard is not interested in making a profit at the expense of the customer. Thus an overhaul in a naval shipyard is not exactly comparable to an overhaul in a commercial yard.

Once a naval shipyard has been assigned a ship, its management also devotes its efforts to maintaining an efficient manning schedule. Workmen are hired or laid off—but in accordance with civil service procedures, and within strict maximum and minimum ceilings established in Washington. Overtime is worked in lagging areas, but under rigid percentage limitations. Vendors and subcontractors are engaged in strict compliance with the Armed Services Procurement Regulations. Contracts must frequently be placed with bidders from distressed areas, or with low bidders whose promises are glib but whose product quality or timeliness of delivery may be dubious at best. There is little consolation in seeking to recover damages while the fleet presses for the delivery of a delayed ship and the offending vendor exhausts all the legal and political appeals at his disposal. As might be expected, many items are reworked or repaired by the naval shipyard in an effort to maintain the progress of work. There is no criticism of the above practices per se, for they are all matters of law or public policy. There may be overall public advantages in a policy of farming out work to distressed areas, and in maintaining the integrity and attractiveness of the civil service. The law prescribes the preferential rights of war veterans and the procedures by which contracts must be awarded. A private businessman has every right to seek the aid of his Congressman in redressing what he feels is a grievance. Personnel ceilings and overtime limitations, however bothersome, are also serious financial controls enforced throughout the Government to insure that responsible officials do not violate the law and incur the penalties prescribed for those who permit the overexpenditure of public funds.

Other matters of law or public policy which are binding on Government activities may or may not have an effect in private shipyards. For example, Congress has, for reasons of its own, made it clear that the use of stopwatches for making time and motion studies is considered undesirable in Government activities, despite their widespread use in private industry. And perhaps most significant of all is the policy that the naval shipyards constitute a base for rapid mobilization in case of war. A private contractor can shut down or dispose of functions or departments which do not contribute to his profit. The naval shipyard commander who fails to keep his yard's facilities and manpower skills sufficiently ready to handle emergency repairs, the activation of reserve fleet warships or tankers, or the support of local civil defense and security requirements, will receive little sympathy if he is unready when disaster strikes. National requirements indeed loom large in any picture of the naval shipyards.

Having brushed up on these fundamentals, we are in a position to look at some of the significant factors leading to cost differences between the naval and the private shipyards. First of all, it can be stated flatly that an identical ship built for an identical number of man-days of equal worker productivity at the same basic hourly wage rate would still cost more in a naval shipyard solely because of the civil service fringe benefits prescribed by law. Senator **DANIEL INOUYE** of Hawaii in a recent speech cited figures of $0.45 to $0.57 per direct labor hour as representative of the extra cost of these benefits, and went on to defend these policies as the Government's obligation to "establish a shining example for the Nation's industries to follow" in matters of wages and employee benefits.

Whenever any of the other requirements of public policy take precedence over the maintenance of an orderly work schedule, it can be postulated that increased costs will result. Thus the naval shipyards start with a substantial group of costs which, while presumably in the best interests of the national welfare, impose a built-in disadvantage in any comparison with their private counterparts.

Second, we have a group of items of ostensible higher cost which in actuality represent extra value in the form of extra service to the fleet. In this category may be included the maintenance of broad spectrum skills and a mobilization base, the difference in overhaul concept, and the value of an accounting intangible, fleet readiness. What, for example, is the true cost difference between a cheaper fixed price ship representing at completion a design almost 4 years old, and its apparent sister into which continuous improvements have been built almost up to the day of delivery? (If this factor should be considered specious, it remains a fact that every privately built ship receives during its first overhaul, at Navy expense, most of the alterations which are normally incorporated into the construction of its government-built sisters.) There are ships today approaching delivery to the fleet in which hundreds of desired changes have not been incorporated because of the refusal of the private shipbuilder to undertake them.

Another intangible is the fact that experimental features of technological difficulty are usually built into those ships of a class under construction in naval shipyards. When private shipbuilders undertake such work, they usually insist on doing it under a "cost plus" type of contract frowned upon by the Pentagon because of its costliness and lack of incentive.

Also in this same category are the many fleet support services mentioned at the beginning of this article. Even though the most obvious of these costs are excluded from normal shipyard operating costs, the mere fact that they occupy space and consume utilities adds something to the overhead expense of the entire yard.

An unpublicized and little-recognized factor in the cost of privately built ships is the expense to the Navy of maintaining and supporting the offices and staffs of the supervisors of shipbuilding throughout the country. This force, which may amount to several hundred inspectors and design engineers in a single supervisor's office, is necessary to protect the Government's interest by assuring that contractual and specification requirements are adhered to throughout the process of ship design and construction. In a naval shipyard this function is woven inextricably into the very fabric of the organization. This is one more factor which adds to the apparent higher cost of new construction in naval shipyards.

Finally, there is one more major area where costs in Government yards are increased by factors beyond local control. The importance of maintaining an optimum manning curve, whether in new construction or overhaul work, has already been stressed. The earlier discussion related solely to total manning levels. However, ships are not built by jacks-of-all-trades, nor by supermen who are equally proficient at drawingboard or welding rod, forge or foundry, milling machine or oscilloscope. A multitude of trades, all highly skilled, must contribute their efforts before a ship can be delivered for service. By the very nature of the shipbuilding process it is necessary that the hull, with its heavy structural work and welding, be built first. Then pipefitters and electricians move in to ply their trades, followed by machinists, sheet-metal workers, painters, and all the other trades. Thus it can be seen that each shop or trade must have its own most efficient manning pattern. Some are more predominant early in construction or late in the fitting-out period, while others are required at a fairly steady level throughout. Similarly, in overhaul work there are distinctive trade patterns characteristic of different types of ships. The work force "mix" required to overhaul aircraft carriers, for instance, is much different than that for submarines. In practically all types of overhauls, however, the heavy structural workload of new construction is missing. Because of the inherent differences between the two types of work, private yards tend to specialize in either new construction or repair, but the naval shipyards have to take their work as it is assigned, regardless of the complications involved.

Whereas private shipyards may find it more economical to lay off men when their particular skills are no longer required, the naval shipyards usually find it more advantageous to hold onto their best people during periods of temporary slack by finding other employment for them, knowing that the changing workload will soon require them again. When the Government yard does want to cut down on personnel, civil service procedures designed to protect the rights of the individual worker from the evils of a long-vanished spoils system impose a number of serious restrictions. A reduction in force, or RIF, in a Government activity is a complicated affair. Seniority and veterans rights come into play permitting employees to "bump" into jobs held by individuals with lesser tenure. People shift from job to job, and the unlucky ones who finally have to go "out the gate" may be far removed from the jobs which were originally eliminated. In fact, individuals may frequently "bump in" to other activities in the same area or even in remote areas. As a case in point, when the impending closing of the naval repair facility at San Diego, Calif., was recently announced, all other naval shipyards were notified that they could not fill certain vacancies if there were people at San Diego qualified for the job. The problem of maintaining an optimum "trade balance" in a naval shipyard engaged in both new construction and repair work is difficult indeed. It is immeasurably complicated by the requirement that it be accomplished within arbitrary ceilings for the total shipyard.

Consider an example of a shipyard engaged in new construction, and assume that during the months of peak load 1,500 men per day are needed on one ship, leaving 500 to work on smaller projects. Then assume the assignment of a major overhaul requiring a peak workforce of 1,000 men per day. Because the total shipyard ceiling is fixed at an overall average figure, it is apparent that something will have to give. Overtime can be used for only a small percentage of the extra man-days needed, and the fleet gives priority to getting the active ship overhauled and back into service. The result is that the new construction ship will give up approximately 500 men per day during the peak period of work on the overhaul ship. Although the men can be put back on the original job later, the yard has been forced to make a serious departure from its ideal new construction manning pattern. From this point on the new construction ship will be in trouble compared to its sisters in private yards where such restrictions need not apply. As a general rule, we can state that mixed workloads tend inherently to produce inefficiencies. As a corollary to the general rule, mixed workloads can be absorbed most efficiently when the work force is very large. In other words, a big shipyard is inherently able to be more efficient than a small one provided it has a constant large workload. A shipyard with many new ships under construction at the same time with completion dates a few months apart can make great savings in shifting manpower efficiently and in making or buying several of the same items at once. Another factor affecting a large yard, such as any of the naval shipyards, is that the number of overhead employees need increase only by a small percentage to support a large increase in production. The yard could practically double its productive capacity by going to two shifts without adding a single building or machine, and with a relatively small increase in office personnel. Thus, by virtue of its heavy capital investment in land, buildings, facilities, trade skills, and mobilization potential, the naval shipyard can only be efficient if it has a heavy and constant workload.

The same situation is true of a few of the larger private yards although to a slightly lesser degree. Unfortunately, consideration of public policy are the very forces which have in recent years denied to the naval shipyards the conditions which they require to be efficient. The law has required that an increasing percentage of new construction ships be allocated to private yards. As a result, those yards which have been able to acquire a large number of contracts are doing quite well, and their sucess is being cited in justification of taking still more work away from the naval yards. At the same time, restrictions on repair funds have so squeezed the type commanders that they have begun to object to the costs of work in the naval shipyards despite the operational advantages they would otherwise receive there. Once forced to operate at an uneconomically low level of workload, the naval shipyards have entered into a spiral of increasing costs and diminishing returns, not unlike the situation which has led so many automobile manufacturers to go out of business when their volume dropped below the "break even" point. Are the naval shipyards similarly doomed? If so, it will be their ironic epitaph that matters of law and national policy were the proximate cause of death.

To conclude, it should be recognized that national requirements of security and seapower, viewed in its broadest sense as including our merchant marine as well as naval resources, demand that the United States maintain both its naval and its private shipyards. The factors and considerations which have been discussed should be sufficient to indicate that each sector of the shipbuilding industry has its peculiar strengths and weaknesses. Each has different basic reasons for existing and each should be able to accomplish certain types of work more efficiently and to the greater satisfaction of the customer. If pure cost were the only consideration, neither half of the American shipbuilding industry would have a chance. We should farm out all our new construtcion work to Japan and our repair jobs to the lowest bidders, be they in the Baltic or the Mediterranean or on the other side of the world. In fact, on a cost basis we would undoubtedly be justified in deciding to contract out our entire Defense Establishment to foreign mercenaries. It should go without saying that the hidden advantages of the Government shipyards do add a substantial weight to counterbalance the cost scales, a broad mobilization case is a defense asset which the country can ill afford to lose, and the shipyards should not be penalized because they are bound by laws and policies which Congress and the administration have established for the general good of the Nation. Our leaders are surely not determined to save money no matter how much it costs.

Service to the fleet has its price. Is it worth the cost? Let the evidence—all the evidence, pro and con—be weighed carefully before, rather than after, the verdict is delivered.

AIR POLLUTION

Mr. MUSKIE. Mr. President, one of the most critical and pressing problems confronting the citizens of the United States today is the insidious threat of air pollution. Congress, recognizing the national character of this menace, last year enacted the Clean Air Act of 1963. This legislation lays the groundwork for a combined Federal, State, and local attack on the causes of air pollution. It offers us the means for a cooperative attack on a hazard which we have created and which grows more serious as we improve our standard of living.

One of the leaders in the fight against air pollution is Mayor Raymond R. Tucker, of St. Louis, Mo., president of the U.S. Conference of Mayors. For 30 years he has been an imaginative and forceful worker for smoke and air pollution abatement in his own city. In recent years he has broadened the scope of his concerns to include the regional problem affecting his own area and the national problem affecting our Nation.

On June 3, 1964, Mayor Tucker delivered a thoughtful and incisive speech on the air pollution problem at the interstate air pollution study luncheon, Sheraton-Jefferson Hotel, St. Louis, Mo. In it he presented the case for regional cooperation in getting at the problem of air pollution and stressed the value of local and regional initiative, sustained by Federal programs. It is a model of clear thinking on how we can attack national problems within the framework of our Federal system.

I commend Mayor Tucker's speech to the attention of my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY MAYOR RAYMOND R. TUCKER, OF ST. LOUIS, INTERSTATE AIR POLLUTION STUDY LUNCHEON, SHERATON-JEFFERSON HOTEL, ST. LOUIS, MO., JUNE 3, 1964

It is indeed a pleasure to discuss the regional problems of air pollution today with my colleagues in government as well as business and professional leaders.

The subject is one that is apt to set me off reminiscing about the old smoke control days, but I promise to keep such nostalgic recollections to a minimum.

Looking back over a span of some 30 years, most of which has been in public service, I cannot help speculating on the fact that if I had not become involved in our city's smoke problem back in the late 1930's, I, quite likely, would not be in government today.

Just to make certain that I am not flying under false colors today, I would like to emphasize that I have long been removed from the detailed technical aspects of air pollution control. I am sure that there are many professionals in the audience who are better armed with up-to-date scientific know-how than I am because I have become engaged in a somewhat broader arena.

I would, however, like to discuss with you briefly what I believe to be the problem and what I believe needs to be done if we are to resolve it in a truly effective manner. I do not contend that my suggestions are the only solution, but I do feel strongly that the time has come for some meaningful public discussion aimed at a metropolitan, or regional attack on air pollution.

One thing is certain, and we need no survey to back up this statement: Everyone is opposed to air pollution and everyone thinks someone should do something about it.

The degree of concern, no doubt, varies from area to area. The man living in an exclusive and completely residential neighborhood is not as alarmed as the man who lives next to a chemical plant or a slaughterhouse.

Anyone with a nose and a pair of eyes is well aware of the fact that the city of St. Louis over the period of years has successfully conquered, for the most part, the smoke problem which used to plague our city.

However, we are also keenly aware that much, much research and study needs to be accomplished before we are able to control effectively odors, dusts, gas fumes and smog, which increasingly pollute the air of our metropolitan areas.

I think the time has come for us to tackle the problem of metropolitan air pollution with the same enthusiasm we attacked smoke back in the thirties. This time, however, I hope we do it on a regional basis rather than a municipal one.

The sea of air over us recognizes no geographical, or political, boundaries. It blows, mixes, or simply stagnates carrying the air-polluting wastes created by this great Metropolitan St. Louis complex.

Our entire St. Louis area has the opportunity to pioneer in this field because there are no pat answers. I anxiously hope that we do not wait until the problem becomes so great that it is reminiscent of the Black Tuesday which finally motivated St. Louis to do something about smoke back in the thirties.

Our citizens will reap the advantages if we begin immediately to discuss, carefully plan, and finally conceive a rational and acceptable areawide program.

Since 1930, the population of the United States has risen about 50 percent, and the St. Louis area's population has increased about the same amount. The standard of living, which means more industrial production, more transportation—and even more barbecue pits—has increased even more.

The population boom, which has been centered in the metropolitan areas has brought us a 175-percent increase in the number of automobiles—obviously, a source of air pollution.

This upward trend in population in urban areas is going to continue as well as the expanding industrial activities to support it. Therefore, it is quite obvious that the air pollution problem is not going to disappear with the next wind. It is going to get worse, and I believe a well tailored, regional vehicle of Government is the best way to attack the whole problem with any assurance of success.

The issue of cleaner air in our cities should rank with other urban problems which we view with alarm today, such as slums, transportation, education, water pollution, and so on. The air we breathe is certainly as important as the water we drink.

We are not going to be able to sweep anything so obvious under the rug. We've got the problem; it's increasing, and we had better do something about it. One thing is certain, we cannot purify the air after it is polluted. We are going to have to curb pollutants at the source, just as we controlled smoke in the combustion chamber.

The first phase of the Interstate Air Pollution Study, which involved St. Louis, St. Louis County, East St. Louis, and the adjoining Illinois and Missouri counties, was recently completed. I am sure it will prove quite beneficial in our ultimate solutions of the pollution problem.

The first phase report was criticized by some, and I do not wish to belabor that point today. But if you think that criticism was serious, you will be shocked by the criticism which will be leveled at all of us in Government if we do not recognize this as a metropolitan problem right now.

What I am trying to say is simply this: The discussions and the first phase of the survey under the direction of the U.S. Public Health Service makes it crystal clear that this it truly a metropolitan problem, and it will not be licked by unilateral action by the city of St. Louis, East St. Louis, St. Louis County, or any of the various cities or counties comprising the metropolitan area. It's a rare wind that doesn't affect all of us.

Engineers and scientists can tell us the sources of pollution, the causes, the meteorological effects, methods of control, and many other technical factors we need to know about air pollution to fight it; but it is our job, and not theirs, to establish the political machinery necessary to clear the metropolitan air.

In short, let us let the professionals go about their tasks, but let us simultaneously launch the necessary discussions and preliminary work needed to put their scientific data to work for the public benefit. If we, as governmental, business, professional, and civic leaders of the area, wait until the second phase of the scientific study is completed before we seek some means of areawide control, we certainly will be criticized and justly so, in my opinion.

If the local metropolitan communities do not recognize and play their proper roles in the fight against air pollution, which knows no political boundary, then I believe it may be quite likely that the Federal Government will consider this a proper sphere for Federal intervention.

This is certainly the message I read in the recently enacted U.S. Clean Air Act, which authorized the expenditure of $85 million over the next 3 years for air pollution control studies and assistance to local communities.

Section 5 of this act, in a way very similar to the Federal water pollution law, empowers the Secretary of Health, Education, and Welfare, whenever health or welfare is endangered, to hold conferences and make recommendations for air pollution abatement. If these recommendations are not implemented, public hearings and Federal court action may follow.

That procedure certainly reflects a policy of U.S. concern over local failure to do something about metropolitan air pollution. Certainly, none of us can deny that Federal pressure against stream pollution caused the drafting and passage of the recent $97 million bond issue for control of sewage facilities serving the metropolitan sewer district.

Personally, I think it would be most preferable if we assumed local areawide initiative for our control program. Let us utilize the valuable incentives of the Federal legislation, but let us come up with a locally determined solution wherein the system of controls is regionally conducted.

Recently, I suggested to the St. Louis Board of Aldermen the establishment of a metropolitan council which would not only debate, but seek solutions of areawide problems.

I urgently recommend that one of the first functions that such a council take up would be the matter of areawide air pollution control.

The Federal legislation which I just mentioned also makes available funds, on a 3-for-1 matching basis, to establish, develop, or improve regional air pollution programs which cut across geographic boundaries. The bill also offers $2 of Federal money to each $1 of local money for strictly local control program improvements under the direction of a single political subdivision.

It is not my intention to set forth in detail the manner in which we should attack the governmental aspects of regional air pollution control.

I am pleased to announce that I have discussed this general idea—a metropolitan approach to air pollution control—with my good friends and colleagues, Lawrence Roos, supervisor of St. Louis County, and Mayor Alvin Fields, of East St. Louis, who is also chairman of the Southwestern Illinois Council of Mayors.

Supervisor Roos, Mayor Fields, and I have agreed to the proposition that air pollution must be conquered on a regional basis. We have agreed to organize a regional advisory committee which will propose ways and means to secure that goal.

We have further agreed that this functional regional committee, together with others in the areas of planning, economic development, airport development, and so forth may become the nuclei from which a broadly based Metropolitan St. Louis Regional Council may be developed.

Certainly, we would make certain that all political levels of government—both administrative and legislative—cities, counties and the two States should be involved in such an approach. They would have to have legal assistance and, possibly, some research study assistance from the universities of the area.

Unlike many problems which face government today, I do not believe an effective air pollution program for the whole area will cost the taxpayers any significant amount of money in comparison with other problems, such as mass transportation, slum clearance, education and the like.

In St. Louis, we operate one of the most effective smoke control programs for $118,000, in this years' budget, or only fifteen one-hundredths of 1 percent of the total budget. The benefits which could be derived from an areawide program would far offset the relatively minor costs involved.

With the Federal Government willing to assist in establishing and developing urban area programs, and with the cost of operating the program minimal, the real stumbling block to any such approach will be apathy on the parts of both the people and their governments. I think it is up to those of us in government to arouse the people as to the need. It is up to us, as public officials, to point the way to a solution of air pollution problems before they strangle us—and I don't mean so to speak.

Let us not wait until we reenact Black Tuesday, by simply replacing smoke with fumes that make urban life not worth it all. It is up to all of us in government to take immediate steps in the areawide fight against all types of air pollution.

To succeed, we will need the support of the industrial and business community and all the citizens. I believe we will have such support if we face our challenge courageously, intelligently, and free from old outmoded sectional rivalries.

THE FUTURE OF FEDERALISM

Mr. DOMINICK. Mr. President, recently I received a fine and unusual publication from Oxford, England, entitled "The New Federalist." I am happy to see that the two principal editors are graduates of Colorado College in Colorado Springs, Colo. They have done a fine job, even though I do not agree, perhaps, with all the positions taken in various articles published in the magazine.

One of the articles appearing in the publication was written by a good friend of mine and my colleague [Mr. ALLOTT], a Coloradan by the name of Max Power, who is now studying at Magdalen College this year. The article, and the principal editorial on a related subject, are found in the May issue of the publication. I ask unanimous consent that the editorial entitled "The Future of Federalism" and the article by Max Power entitled "Nationalism and French Foreign Policy" be printed at this point in the RECORD.

There being no objection, the editorial and article were ordered to be printed in the RECORD, as follows:

THE FUTURE OF FEDERALISM

Believing that a national and international dedication to the principles of federalism is a vital necessity in today's world, the New Federalist has committed itself to the promotion of the future of federalism.

Nationally, it is agreed, the individual is faced with a growing loss of identify, and involvement in the working out of his own destinies. Both the economic complexity of an affluent society and the crisis ridden nature of the cold war have conspired to remove from the hands of the citizen effective control of his political and economic fates. Coupled with this, the middle classification of American society and the multiplying amount of nonproductive and noncreative leisure time available have made the individual's cultural, society, and moral identities nebulous and undefinable.

In the last three decades America has faced the economic crisis of the great depression, the military crisis of World War II, and the security crisis of the cold war. All of these crises were, and are, clearly defined and recognizable, and our National Government fulfilled its proper function by stepping in to direct our offensive against these foes. But, in developing the massive machinery necessary to fight these crises, we have developed a state of mind which has openly abdicated to our National Government the responsibility of meeting each and every crisis in our national life, regardless of how small or localized it may be. This abdication of responsibility, once begun, has led to a state of affairs where the citizen is more and more resigned to letting the "them" decide for him.

We believe that some of these abdications have been necessary and desirable. Certainly in the sphere of economics the laissez faire conceptions have long ago proven their inadequacy, and the void caused by their demise could only have been filled by the regulation and activity of the National Government. But even this nationally directed activity must make allowance for the fact that in a large diverse country such as ours, it is undesirable and inefficient to allow all power, initiative, and innovation to repose in one center.

What disturbs us most in national life is the fact that a whole new generation is growing up which is accustomed to a system of government in which more and more political and economic decisions are centrally directed from Washington, and which is totally unaware of the fruitful initiatives which can be undertaken at the State and local levels. To remove the imbalance caused by the almost inevitable centralizing forces at work today, we believe that a rededication to the principles of a federal system of government is essential.

The original Federalist arose out of the attempts by the Founding Fathers to impress a creative unity over the 13 centers of diversity which were the original colonies. The New Federalist believes that this creative pattern of unity needs to be revitalized and renewed. This revitalization can only be insured by fostering the diversity of power, initiative and innovation on all levels of government. Such a renewal is not dependent upon the dismantling of our National Government but on the seizing of the opportunity to serve, to initiate and to innovate by the local and State governments and by the citizens themselves.

Internationally the background is different but the problem is the same: How does the individual and the nation-state preserve a measure of autonomy and identity in the face of the growing need and demand for effective world cooperation under the auspices of an organization like the United Nations? It has become a popular truism that the nation-state is ill equipped to handle many of the demands of the modern age. To mention only two, military security and economic growth are no longer obtainable by one isolated nation-state, working without the agreement and cooperation of its neighbors and allies. Unfortunately the contemporary conventionally accepted alternative to the nation-state, the United Nations, has been unable to provide a viable solution to many of the problems created, or left unsolved, by the nation-state. There are good reasons for this less-than-total effectiveness of the U.N. For one, getting a hundred-odd nations, divided by ideology, tradition and geography, to work in concert is just too idealistic.

We are not rejecting the usefulness of the U.N. on some occasions when we cite this ineffectiveness. But neither are we saying that the U.N. is the only alternative we have to the nation-state. The concept of regional federations or confederations, both economically and politically based, is still a valuable one but one which has been overshadowed by the grander vista of world government offered by the United Nations.

Here again the individual units, represented by the nation-states, must seize the opportunity to serve themselves and their neighbors. Rather than resigning ourselves to accepting the gap between the squabblings of the nation-states and the utopia of world government, we must seize the opportunity provided to initiate vigorous and creative cooperation in, and between, regional communities of nations. If we delay, if we hesitate, to implement and promote the ideals and ideas of federalism among the nations of the world, we may find that our goals of world peace and prosperity-in-freedom will be as forsaken as they are unattainable.

In his 1962 Godkin lectures delivered at Harvard, Nelson Rockefeller uses the metaphor of a circle to suggest that in a federal system of government, power resides both in the center and at the circumference of that circle. We would like to extend this metaphor further and refer to federalism as a wheel whose hub in the Central Government, whose spokes are the State governments and whose rim is the local governments. Likewise we can regard the U.N. as the hub of a world wheel, the regional organizations as the spokes, and the national governments as the rim. In each case the driving force may be delivered through the hub but it's the spokes which connect the hub to the rim and it's the rim which transfers the power into motion forward, as it grips the surface of the road.

This view of government, either international or national, should not be constructed as either exclusively liberal or exclusively conservative. In fact, it is both. We are reminded of the simple definition which states that "A liberal believes that man is a product of his environment and a conservative believes that the nature of man is essentially immutable." The New Federalist, with its belief in federalism, can agree with both these views. Federalism, in fact, incorporates both views; federalism, ideally executed, recognizes the intrinsic nature of man but seeks to erect a system of government in which the most noble verities of the human condition can be evoked. The Federalist view of mankind and his governments is, therefore, both a realistic and a challenging one.

The challenge of federalism is a historic one, especially to Americans. And it is a challenge to individuals foremostly. Federalism, with its diverse centers of power and responsibility, and with its dependence upon the response of the individual to the level of government closest to his abilities, is the direct antithesis to both communism and fascism. Federalism is the only system of government in which the diversities of individuals is both recognized and built upon. That is why we, in the 1960's believing in the individual and in the necessity for a modern system of government, seek both to renew federalism in America and to extend its frontiers elsewhere in the world. This is why the New Federalist has been formed.

INTERNATIONAL: NATIONALISM AND FRENCH FOREIGN POLICY

(By Max Power)

Scarcely a discussion of international affairs these days does not quickly produce a mention of France. That nation, since Charles de Gaulle assumed its leadership 5 years ago, has attained a redoubtable eminence on the world scene reminiscent of its mighty influence during many periods in past centuries. This appears all the more remarkable in that, not so many years ago, it was not uncommon to hear pundits and professors speak of France's decline to a "second-class power."

For all the complex and perturbing problems which France's assertive foreign policy is creating for the world's great powers, the key to that policy is quite simple: It is nationalism. "No ordeal changes the nature of man, and no crisis changes the nature of states," is De Gaulle's way of stating it. Nations, he tells us, are "the most partisan bodies in the world." And De Gaulle's France aims to conduct itself as a nation, to "undertake great actions, assume great proportions, and greatly serve her own interests and"—an afterthought perhaps?—"that of the human race as well."

To this end, De Gaulle has done a number of things which have clearly and painfully indicated France's national spirit to Washington, Whitehall, Moscow, and the United Nations. Among these have been the rejection of Britain's bid, supported by France's five partners in the EEC as well as the United States, for Common Market membership; the refusal to pay France's share of U.N. peacekeeping operations in the Congo; the exertion of French influence in the Middle East, Africa, the Far East and the hemisphere; the boycott of the 17-nation Geneva Disarmament Conference and the nuclear test ban treaty; and the recognition of Communist China.

Stemming from his quest for national prestige and power, there appear to be five basic principles underlying De Gaulle's disconcertingly independent actions: a dislike for American domination in the North Atlantic, distrust of the Soviet Union, desire for the status of a nuclear power, a belief that France should lead an integrating continental Europe, and the pursuit of opportunities to involve France in the calculations of nations other than the nuclear powers.

The postwar years indeed saw American direction and influence in Europe. This in itself was hardly amenable to France's nationalism. But the fact that the United States continued its special wartime relationship with Britain, and that the American Government denied France the means to build or control a nuclear deterrent, made American preeminence a still more bitter pill to swallow. It was this special relationship of the United States with Britain, involving as it does the question of Britain's nuclear weapons, which gave De Gaulle his grounds for rejecting the British quest for Common Market participation. With this in mind, it is not difficult to see why the hopes expressed by many Europeans and especially by American officials for "Atlantic partnership" or an "Atlantic Community" have driven De Gaulle to assume an increasingly recalcitrant stance.

De Gaulle's anti-Americanism is hardly a sign of his pro-Communist feelings. The French President has often made explicit his support for a "hard line" in dealing with the Soviet Union. Indeed, he has given no favorable response to increasing Soviet-American accommodation, and he was prompt to throw his support behind President Kennedy at the time of the Cuban confrontation. His Prime Minister, Georges Pompidou, recently underscored the fact that France agrees with America that the Soviet adversary must be convinced that "any attack would be answered," and also that, in such an event, France would again be at the side of the United States. Nevertheless, De Gaulle has stated that he wishes an independent nuclear deterrent to safeguard France and Europe against the Soviet threat, because he is not satisfied that Americans mean to use their own deterrent to that end.

France's desire to develop and possess nuclear weapons has other motivations. With such weapons, France's importance in international dealings would be at least equal with that of Britain. Moreover, if France has a nuclear deterrent, then she will be in a position to lead a "third force" as a check against the two nuclear giants of the present day. It would seem that the "third force" means an association of European nations, or perhaps an umbrella under which many of the nonnuclear states, committed or uncommitted, can huddle. "Many states and world opinion," De Gaulle has noted sagely, "shy away from giants." It might be fair to ask what France expects to happen if and when it becomes a giant.

It is difficult to assess France's drive for the leadership of an integrating continent at present, for, as this is being written, the members of the Common Market are meeting at Brussels to discuss political integration. We might better understand the outcome of these negotiations, whatever it may be, by recalling some salient facts.

France is a key, in a number of ways, to the present European Economic Community. The EEC was formed largely on French initiative. As Guy Mollet, the former French Premier, recently told an English audience, the search for a means to prevent Franco-German relations from resuming their shape of the years from 1870 to 1945 brought France to pursue economic unity. There is no question that Mollet and the Frenchman Jean Monnet played central roles in the drafting and the adoption of the Treaty of Rome in 1957. And France's position within the Common Market is both economically and geographically central today. French agriculture is an important complement to the industry of West Germany and northern Italy, and France lies in the center of "The Six."

Thus France has often been able to dominate EEC affairs. She was able to blackball British entry and to press successfully for a Common Market agricultural policy favorable to her own farmers, but unfavorable to those in Germany and elsewhere. The threat of French withdrawal from the Common Market is the threat of its demise, and West Germany, Italy, the Netherlands, Belgium, and Luxembourg have benefited far too much economically since 1958 to risk that demise.

It has been assumed since the inception of the EEC that its members would move toward political as well as economic integration. France, by reason of her key position in the Common Market, her forthcoming independent nuclear deterrent and her newfound stature as a world power, hopes to lead a politically united Europe. In fact President de Gaulle has made it rather plain that he is not very interested in any sort of political integration which would compromise France's determination of her own affairs—and this strongly implies that France intends to determine a united Europe's policy.

That this should come about looks, at present, rather dubious. Chancellor Ehrhard of Germany and President Segni of Italy have both recently visited Washington and have made clear their desire for continued cooperation—close cooperation—with the United States. They both have a disconcerting habit of speaking in terms of Atlantic partnership. The smaller members of the EEC seem somewhat restive under French domination of much of the Community's economic policy, and their reactions to De Gaulle's notion of a united Europe have not been openly favorable.

Meanwhile, De Gaulle is busily seeking to increase French influence in all parts of the world. This certainly enhances French national standing and assists France in fulfilling the other goals discussed above. France has a substantial foreign aid program—twice as great as that of the United States in terms of gross national product—which is shrewdly used to win support for France, particularly from her former colonies. President de Gaulle, whose government had already been making its presence felt in southeast Asia, justified his recognition of the Chinese regime in Peiping on the ground that there is no political reality in that part of the world "that does not concern or touch China." This together with French support for a neutral Vietnam—indeed for a neutral southeast Asia, indicates a deliberate effort by France to increase her influence in that area.

But De Gaulle has not been content with increased French influence in Europe, Asia and Africa. He has scheduled visits to Mexico, Brazil and other Latin American countries this year. Moreover, in a truly remarkable statement which he recently made, the French President said that France could not remain indifferent to the French-Canadian movement for independence centered in Quebec.

De Gaulle's France has accepted its own nationalism as a hard fact, and has proceeded from it, almost as from an assumption, to an assertive, independent foreign policy. As another basic assumption, France holds that other nations share her nationalism. Thus she appeals to those nations who are restive under the dominance of the two great nuclear giants, and she has no great regard for, or faith in, NATO, SEATO or the United Nations.

France, under De Gaulle, is leading the way away from a bipolar world. In so doing, she is providing new initiatives and new perspectives in international affairs. In all of this there may indeed be constructive benefits to be derived from current French policy. At the same time, France is presenting a serious challenge to those who seek to build supranational structures—be they alliances, the Atlantic Community or the United Nations—as a basic for world order.

France's world of the present and future is simply a world made up of self-interested, jealous and competing nations—a view of things which many would hold to be quite realistic. In that world of nations, France seeks to distinguish herself and to lead.

CONSERVATION OF RECREATION RESOURCES

Mr. METCALF. Mr. President, I rise to congratulate again Federal Highway Administrator Rex F. Whitton for another step toward protection of valuable public recreation resources from damage caused by publicly financed highway construction.

It was exactly a year ago today that Mr. Whitton first moved in this direction after reports of such damage poured in from across the Nation. The concern of conservationists prompted my introduction of S. 2767 in the 87th Congress. It would have required clearance by the Secretary of the Interior for Federal-aid highway projects. Acting through the Fish and Wildlife Service, the Secretary would satisfy himself that conservation of recreation resources was considered in highway plans and surveys.

I reintroduced the bill as S. 468 in the 88th Congress, in which it was cosponsored by the junior Senator from Utah [Mr. Moss], the senior Senator from Alaska [Mr. GRUENING], and the junior Senator from Wisconsin [Mr. NELSON].

Our concern was shared by Secretary of the Interior Stewart Udall and Secretary of Commerce Luther Hodges. After making his own inquiry into the problem and after consultation with others concerned, Mr. Whitton issued an instructional memorandum last June 12. The memorandum, No. 21-5-63, was carried in full with my remarks in the CONGRESSIONAL RECORD, volume 109, part 10, page 12846.

It set as its goal "suitable coordination" between State highway departments and the conservation agencies. As a minimum, the memorandum requires State highway departments to submit plans to State fish and game agencies "at an early stage," and to give these agencies "full opportunity to study and make recommendations" to the State highway department prior to submission of the plans to the Secretary of Commerce for his approval.

The memorandum set the first of this year as the deadline, after which State applications for Federal aid for highway construction "shall contain a statement that the State highway department has considered all facts presented by the State fish and game agency and the effect the proposed construction may have on fish and wildlife resources."

According to the memorandum, the statement should include:

1. a description of the measures planned as project expenditures to minimize the effect of the proposed construction on fish and wildlife resources;

2. a description of any measures proposed by the State fish and wildlife agency to accomplish this purpose, which differ from those proposed by the State highway department; and

3. to the extent that measures proposed by the State highway department and State fish and game agency differ, an explanation of the factors considered by the State highway department in arriving at its proposal.

Shortly after this memorandum was issued, conservationists suggested that it should be broadened to include parks and other outdoor recreational and historical resources. After lengthy discussions with those also concerned, Highway Administrator Whitton issued another memorandum. Dated May 25, it requires consideration of historical and public recreational resources in Federal-aid highway programs. Included in the definition of recreational resources are public parks, playgrounds, forests, open space, game sanctuaries, "and the like."

I ask unanimous consent that the attached Bureau of Public Roads Circular Memorandum No. 39-01, dated May 25, 1964, be included in my remarks as part of the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF PUBLIC ROADS,
Washington, D.C., May 25, 1964.

Circular memorandum to: Regional and Division Engineers.

From: Rex M. Whitton, 39-01, Federal Highway Administrator.

Subject: Consideration of the overall interests of the public in the Federal-aid highway programs and programs for the protection or improvement of parks and other outdoor recreational and historical resources.

To assure that full consideration is given to the overall interests of the public in both the Federal-aid highway programs and programs for the protection or improvement of public recreational resources (such as but not necessarily limited to public parks, playgrounds, forests, open space, game sanctuaries, and the like) and historical resources, it will in the future be required that the plans, specifications, and estimates (P.S. & E.) for each Federal-aid highway project which affects natural or manmade resources devoted to, or included in realistic plans for, public recreational or historical preservation purposes by a public authority having the official responsibility therefor, contain a statement that the State highway department did afford to such appropriate public authority ample opportunity at the earliest practicable time to review the highway department's planning for the proposed highway location and construction. The opportunity for such a review, as a minimum, would consist of the initiation by the highway department of a direct contact between that department and the appropriate public authority, preferably during the preliminary stages of plan development for the highway. In all cases these contacts shall have been made prior to the time at which the public hearing is advertised. If the officials of the appropriate public authority do not agree with the planning of the State highway department, their reason for nonconcurrence shall be included with the P.S. & E. documents and the State highway department shall show that the suggestions of the above referenced public officials have been examined and the plans as submitted for public roads provide the best possible solution in the judgment of the highway department.

The procedure outlined herein shall be applicable to all Federal-aid programs, including secondary road projects undertaken pursuant to section 117 of title 123 and for which P.S. & E. are submitted after October 1, 1964. For secondary road plan projects the highway department's statement of public interest will not be required until the time of the project agreement.

Mr. METCALF. In congratulating Mr. Whitton on his interest in recreation, fish and wildlife, and historic resources, I also wish to pay tribute to the conservationists whose reports called the problem to our attention and whose dedication has apparently put us on the road to solution by administrative action.

AIR SUPERIORITY

Mr. ALLOTT. Mr. President, on June 3, Gen. Curtis E. LeMay, Chief of Staff, U.S. Air Force, delivered the graduation address to the Air Academy at Colorado Springs, Colo. In the address General LeMay expressed three things: The first requirement that he stressed was that the United States maintain its strategic advantage; the second requirement that he stressed was the need to maintain a technical superiority as the key to strategic advantage; the third point he mentioned was the counterforce concept of deterrents. These subjects are all discussed in very lucid detail, and I commend the address to anyone who is thinking and desires to think and understand our concept of defense in the United States. I ask unanimous consent that the address may be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

GRADUATION ADDRESS BY GEN. CURTIS E. LEMAY, CHIEF OF STAFF, U.S. AIR FORCE, AIR FORCE ACADEMY, COLORADO SPRINGS, COLO., JUNE 3, 1964

General Warren, Governor Love, distinguished guests, members of the graduating class, ladies and gentlemen, no one can understand better than I the importance of this Academy or take more pride in its graduates. That is why I am so greatly honored and pleased by the opportunity to join you on this significant occasion.

Through today's ceremony we affirm our confidence in you graduates who are superbly constituted and trained for leadership—and dedicated in the service of your country.

Nothing, as I see it, could justify and reward more fully the efforts that brought this institution into being.

Your graduation represents true progress toward meeting the growing need for professionalism in aerospace operations. Professionalism in this field demands continuing mastery of a changing technology and a complex art. And it demands the courage to assert and apply that mastery in supporting national objectives.

So I take pleasure in congratulating you on achievements that denote your fitness for these tasks.

You can be sure that I would value highly the opportunity to be entering on active duty in the Air Force with you at this time.

I emphasize the phrase at this time because you are being commissioned in a period that presents a unique challenge to our Nation and to the military services.

Through development of nuclear energy and advanced aerospace systems, civilization has attained its greatest capacity for progress—or for destruction.

From many sources we hear expressions of doubt concerning man's ability to avoid using this power for his destruction.

I do not share that doubt. It seems to me that modern weapons make it clear that the penalties for lapses in vigilance and misuse of power that have marred history are now prohibitive.

This means that civilization, in order to survive and progress, must do better than it has in the past.

And, it is my conviction that in recent years civilization has done better according to standards that are acceptable to our country and to the free world.

It is also my conviction that the U.S. Air Force throughout its history has done much to make that improvement possible.

My basis for that conviction is the record of Air Force operations through two World Wars, the Korean war, and through a long rollcall of crises such as Lebanon, Formosa, Berlin, and Cuba.

For about the first half of that period the Air Force was planning, testing, training, and fighting to produce the results that established it by 1945 as a dominant military instrument of national policy.

Since that time we have provided the major strategic deterrent to general war. In that role we have convinced the potential enemy that the risks incurred by full-scale aggression are unacceptable.

By improving and expanding the tactical elements of our military forces we have apparently convinced him that limited aggression on the scale of the Korean war involves unacceptable risk.

In the process, the Communist world has been forced to operate at the level of subversive action and covert aggression. And our forces are opposing them effectively every day at that lowest level on the scale of violence.

It is vital to understand that these restraints have not resulted from a sudden and miraculous transformation in the attitude and the aims of world communism. It is equally important to understand that these restraints have been imposed primarily by the superiority of U.S. strategic forces, teamed with hard-hitting tactical elements.

There can be no doubt that these forces have done much to produce Soviet agreement on major issues, including arms controls measures that are singled out periodically as prime topics of public discussion.

These arms control measures are very properly objects of public attention. It therefore is only natural that you graduates should want to know what this trend toward arms control will mean to you in the years ahead.

I am confident that I can satisfy your concern on this point by emphasizing certain continuing requirements that you will have to meet throughout your careers.

In fact, I regard these requirements and the principles to be applied in meeting them as important guidelines for defense. Your success in fulfilling these requirements will be essential to this Nation's security.

Your first requirement will be to obtain continuing support for the maintenance of U.S. strategic advantage. That advantage must be maintained as the cornerstone of our deterrent posture.

It is interesting to note what President Johnson said on this point in a recent speech, and I quote:

"We have labored to build a military strength of unmatched might. We have succeeded. If the threat of war has lessened, it is largely because our opponents realize that attack would bring destruction. This effort has been costly. But the costs of weakness are greater than the costs of strength, and the payment far more painful."

You therefore must not permit the requirement for strategic advantage to be obscured by arguments that describe the present world situation as a condition of "mutual stalemate" and "mutual deterrence."

There is no evidence of stalemate in the present power balance. It still favors us by a clear margin. It is still determined by relative pace of actions going forward in all the areas of national endeavor—social, economic, and military.

In the military area modern weapons have increased the dynamic character of our preparations for defense. We now gain our security, not from geographic isolation, but from the continuous maintenance of superior military capabilities.

The "mutual deterrence" theme obviously assumes that the United States and the Soviet have experienced a mutual threat. That assumption fails to recognize that U.S. monopoly of nuclear delivery systems during the late forties and early fifties presented the Soviet with no threat of aggression.

And it fails to consider how Soviet possession of nuclear advantage would have affected our Nation and the free world.

It is imperative that these points be understood as the basis for any realistic discussion of proposals for arms control arrangements.

And from what we have seen of mutual arms control arrangements we know their negotiation, execution and, in particular, their verification will require very careful, thorough, and painstaking work.

However, we already have placed in effect certain measures which can be considered as a form of unilateral arms control. We can expand and improve on these measures through our own initiative without detriment to our strategic posture.

One example is our development of fast and secure communications to guarantee controlled response of our forces in periods of crisis.

Other examples are the hardening and dispersing of our nuclear delivery systems and the establishment of protected command posts like the one under nearby Cheyenne Mountain.

These measures are stabilizing in their effect because, while obviously not designed for aggressive use, they help to provide a credible retaliatory force that can survive, react, penetrate, and prevail.

The systems making up this force are adaptable to any future method of checks and inspections.

They are and will continue to be the products of an intensified research and development effort.

This underscores a second major requirement that you will have to meet through all the years of your service: That of maintaining technical superiority as the key to strategic advantage.

It is important for us to note some of the reasons why the question of technical superiority will be of such great concern to you.

Research and development is the most dynamic area affecting our security. We cannot prescribe the timetable or the limits for technical advances. Nor can we foresee how other countries will apply those advances to new weapons, new strategy, and new tactics.

In the past it was not such basic developments as atomic energy and jet propulsion that produced technical surprise in conflict. Rather, it was their unexpected application.

Everything we know about the military application of science tells us that weapons of the future will be potentially more decisive in their impact on human affairs. It also tells us that we cannot depend on a static, finite defense arrangement that is based on any so-called ultimate weapon.

This means that you will need to apply vigilance and ingenuity in detecting breakthroughs that can affect our security. This applies equally to our three graduates who are reinforcing our sister services—the Army and the Marine Corps.

Beyond your immediate concern with such things as advanced manned aircraft, missiles, and space systems, you must be prepared to deal with the possibility of exotic weapons. These could emerge, for example, from basic scientific research now being conducted.

To weigh the military implications of new developments in these fields you will have to understand their effect on the nature of conflict. And this brings me to the third requirement I want to discuss.

During your careers, you will fill command, staff, crew positions, and technical assignments. In these capacities you will be faced with the constant requirement to update your thinking on strategy and operational concepts.

You will also have responsibility for conducting the flights and launches that will validate these strategies and concepts under all conditions of tests and combat. That is the hard core of your professionalism, in which your knowledge, your experience, and your skill must be unequaled.

Your prospects are good for an immediate start in attaining these qualifications both in the launch control center and in the cockpit.

Our present force of missiles will build toward an objective of more than 1,200 by 1970. Over that period, our force of more than 6,000 firstline aircraft will be continued with new, improved models coming into the inventory.

With pilots expected to be in short supply over much of that period, many of you will gain experience with these systems at a rapid rate.

Where my career began with the 150-mile-an-hour P–1, yours begins with the supersonic F–4C and B–58 and will progress through new aircraft and manned spacecraft. to systems not yet conceived.

As you gain experience with these systems here are some of the strategies and operational concepts that will undoubtedly claim your attention:

The idea of using force to achieve total defeat of an enemy is now only one of the available choices. When you consider the damage levels that high intensity war can bring even to the nominal "winner," total defeat of the enemy may be the least desirable choice.

For the future, we need to improve our methods of using weapons to gain precise, but limited, objectives for particular crisis situations. This would increase our capability to neutralize selected targets which are important to the enemy. If carefully applied, these actions could force him to back down from his initial aggression and negotiate our respective interest.

I think we also need to further develop concepts for rapid deployment of forces to produce a desired deterrent effect in certain areas.

Our composite air strike forces and strategic airlift forces have provided some excellent examples as a guide for this effort. Their rapid movement to trouble spots like Lebanon, Berlin, and Thailand has demonstrated the fact that we can prevent the exploitation of power vacuums that may exist.

We also need to increase still further the effectiveness of our operations against guerrilla forces. And we need even better methods for countering acts of covert aggression that are carried out through the movement of men and weapons across recognized borders.

There are many other ideas that need developing in recognition of the fact that flexibility is essential at all levels of deterrence or conflict.

Now as a final comment on strategy and operational concepts, I want to stress the importance of a counterforce concept of deterrence.

By counterforce I mean the ability to destroy selective elements of the aggressor's strategic offensive systems, thereby reducing his capability to attack us.

I believe counterforce provides the best deterrent because it is based on a concept of destroying or neutralizing the military forces which the enemy must depend on to gain a victory.

And through this effective deterrence we achieve the principal objective of our military forces—that is, the full protection of American lives and property.

If deterrence should fail, counterforce provides for maximum limitation of damage under the worst possible conditions.

Thus, counterforce, in situations involving either the success or failure of deterrence, provides the greatest dividend that we can gain from any strategy.

I have placed emphasis today on the areas of concern that I believe will claim a major share of your effort and attention.

These are: The requirement for strategic advantage; the requirment for technical superiority as the key to strategic advantage; and the requirement for refining strategy and operational concepts.

These are problems of broad and changing context, and I have talked chiefly of the fundamental principles involved.

I am convinced that the continued application of these principles will pay great dividends.

At the strategic level their application will be effective in preventing general war.

At the tactical level their application can prevent limited wars and uphold national policies in conflicts of lesser intensity.

These principles offer the best hope for preserving conditions that permit the nonviolent adjustment of disagreements among nations.

I can think of no higher purpose to be served with the time and talent at your command.

In my 35 years of service, I have seen aerospace power remold or set aside many traditional military concepts.

Since 1945 it has compelled action on a broad and continuing basis to meet the hard requirements of our security as determined at the highest levels of national leadership. That action, though discomfiting to some, is essential to all.

As you carry that action forward, you will build on a proud heritage of military service.

And you will attain a clear and lasting identity with the areospace pioneers who enriched that heritage.

They were men of vision, of strong moral and mental fiber, and of sure and steady skill.

They operated, as you will, at the forefront of scientific advance and close to the limits of human skill and endurance.

Through periods of calm, crisis, and combat they served with unfailing courage. And their achievements remain a living force in the pace and momentum of progress.

In protecting the life and freedom of our society they earned a public trust that will now reside in you.

I know that in fulfilling that trust you will match their integrity of thought and action, that you will persevere, and press forward, and succeed.

My heartiest congratulations and best wishes to all of you.

THE DEDICATION OF THE NEW DISTRICT BUILDING OF THE FOOD AND DRUG ADMINISTRATION IN MINNEAPOLIS

Mr. HUMPHREY. Mr. President, at the end of last month, an important landmark was achieved in the history of the Food and Drug Administration and in its service to the food, drug, and cosmetic industries of the upper Midwest. I refer to the dedication—on May 25—of the new FDA District Building in Minneapolis, combining ultramodern office and laboratory space and equipment.

An inspiring dedication ceremony was conducted under the auspices of the Minneapolis Chamber of Commerce, the Downtown Council and the U.S. Department of Health, Education, and Welfare.

It had been my hope that I might have the pleasure and privilege of attending the ceremony in person. Unfortunately, that was not possible because of my commitments in the Senate. I was happy, however, to send the following telegram to George P. Larrick, Commissioner of Food and Drugs:

Subcommittee on Reorganization
and International Organizations,
May 22, 1964.

Hon. George P. Larrick,
Commissioner of Food and Drugs, In Care of Allan E. Rayfield, District Building, Food and Drug Administration, Minneapolis, Minn.:

May I convey greetings and best wishes to you and to your staff on the inspiring dedication of your agency's splendid new Minneapolis facility. May 25 is an important historical landmark in FDA's progress in serving the industries and people of our region. This great modern installation helps further advance FDA toward the goal of scientific excellence which is equally desired by your agency, by the Senate Reorganization Subcommittee of which I am chairman, and by the many professions, industries, and agricultural activities within FDA's jurisdiction. Thus, the public officials and citizens of Minnesota and of surrounding areas welcome this fine new facility as an impressive resource for strengthening FDA's vital services to the American public.

Senator Hubert H. Humphrey.

I rejoice in the establishment of this new facility. It will help the great industries and the agriculture of my State and its neighbors to achieve still higher standards in serving the Nation's consumers. High quality and excellence have long been traditions in Minnesota-made products. FDA can now better assist in this process.

In effect, the FDA facility symbolizes a new era—an era in which modern science and regulation are joined in common service of the public health.

The facility indicates, too, that, at long last, FDA has been given the necessary resources with which to fulfill its massive workload.

I should like at this time to reiterate my congratulations and best wishes to the Commissioner and to his staff in the Washington headquarters and in the 18 districts throughout the Nation.

Regulation is rarely an easy task; it is particularly challenging in connection with industries as vast and as dynamic as foods, drugs, cosmetics, pesticides, household chemicals, and other substances.

FDA has come a long way in recent years. Many challenges still confront it. I hope the Congress will always be sympathetic and understanding of these challenges and, like FDA, that it will always be vigilant to serve the public interest, first and foremost.

I ask unanimous consent that there be printed at this point in the Record an outline of the dedication program; excerpts from the program pamphlet, describing what a visitor might see on the tour of the building and indicating the services rendered by FDA in protection of consumers; and the dedicatory statement by Commissioner Larrick.

There being no obejction, the material was ordered to be printed in the Record, as follows:

Dedication

MONDAY, 11 A.M., MAY 25, 1964

Phillip Harris, president, Minneapolis Chamber of Commerce, presiding.

Invocation, the Reverend Reuben K. Youngdahl, pastor, Mount Olivet Lutheran Church.

Flag-raising ceremony, color guard: U.S. Marine Corps.

National anthem, Minneapolis Police Band.

Recognition of guests, Mr. Harris.

Welcoming address, George Martens, president, Minneapolis City Council.

Dedications, George P. Larrick, Commissioner of Food and Drugs, Washington, D.C.

Presentation of key to building by contractor.

Benediction, the Reverend J. Jerome Boxleitner, director, Minneapolis Catholic Welfare Association.

Acceptance and ribbon cutting, Allan E. Rayfield, U.S. Food and Drug Administration, Washington, D.C.

A. Harris Kenyon is director of the Minneapolis district.

Program Pamphlet

OPEN HOUSE

Our program for showing you the building begins with our request that you sign the guest register in the lobby. Your guide will conduct a tour beginning on the second floor where you will view the new laboratories.

TOUR OF BUILDING

Laboratories

Special Purpose Laboratory No. 1 is used for preparation of food samples for pesticide analysis.

Gas chromatographs are used to record the amount of pesticide present in food samples prepared in Special Laboratory No. 1.

Main Laboratory B: Legal standards have been established for some foods which are examined to determine if standards are being met.

Bacteriological Laboratory: FDA's fight against insanitation will be greatly enhanced through tests made in the bacteriological laboratory.

Special Purpose Laboratory No. 2: Detection of radioactivity in our food supply is possible through analysis of samples in this laboratory.

Main Laboratory C: The various fractions of the colors added to our foods, drugs, and cosmetics are separated on large columns prior to instrumental analysis.

Main Laboratory A: Constant surveillance maintains and protects America's hallmark of the cleanest food supply in the world.

Main Laboratory A: Postwar technological advances in research have provided a host of new medications which must be examined to assure their accurate composition.

The answers to complex analytical problems previously unsolved, are now available to FDA through use of modern instrumentation.

Offices

Having finished your examination of the laboratories, you will now be taken to the first floor where your guide will continue with a tour of the inspectors' office.

Inspectional equipment is displayed and its use by inspectors is explained.

Modern equipment records extravagant claims made by charlatans who distribute many worthless products.

Reports of inspectional work dictated on these machines will be typed by the clerical staff, releasing the inspector to continue his assignments.

Education of all consumers is augmented by the efforts of the district consumer consultant.

You will now view the offices of the district director, his secretary, and assistant director.

Next your guide will lead you through the administrative officer's office to the clerical office.

Data processing equipment provides district management a rapid record system into which may be placed, and from which may be obtained, results of inspectional, analytical, clerical, legal, administrative, and other accomplishments.

Additional space would have to be provided for a conventional filing system were it not for the new concept of upright powered files in which our records are kept.

Maintenance area

You will now be guided to the basement area where you will view the storage area.

This garage will accommodate a fleet of 38 Government automobiles which have heretofore been stored elsewhere at considerable additional cost.

Exhibited here is a full complement of inspectional equipment. Exit through garage up ramp to Washington Avenue.

Thank you for visiting us today and we hope you will continue to return in the future when you will again be welcomed by the staff.

HOW FDA PROTECTS CONSUMERS IN THE MINNEAPOLIS DISTRICT

The United States is divided into 18 geographical areas with an FDA district headquarters in a principal city in each district. The Federal laws passed by Congress are programed into assignments for these districts along with certain allotments of money, manpower, equipment, and time to effect the greatest measure of coverage of the industries in those areas.

FDA's mission is to assure the consumer that foods are safe, pure, and wholesome; that drugs, therapeutic devices, and cosmetics are safe and effective; that all these products are truthfully and informatively labeled, and that household hazardous substances bear adequate warnings.

District personnel will soon consist of 74 inspectors, 52 analysts, 24 clerks, 8 laboratory scientific aids, 1 storekeeper, 1 administrative officer, a full-time consumer specialist, director, an assistant director, and a food and drug officer.

The area served by Minneapolis district (North Dakota, South Dakota, Minnesota, and the western half of Wisconsin) is principally an agricultural one, which is also reflected in the type of industry represented. Wheat and other grains, milk and dairy products form the bulk of the economy. Closely associated with these are the allied industries supplying pesticides to the grain growers and medicated feeds to the dairy and livestock producers.

The major efforts of Minneapolis district are directed toward assuring the public that the grain, grain products, butter, and cheese manufactured in this area are free from harmful residues of pesticides or other chemicals, and that they are clean and free from filth.

Also there are other major industries which manufacture or distribute consumer goods such as bakery goods, candy, fresh and processed fruits and vegetables, beverages, pharmaceuticals, therapeutic devices, and patent or proprietary medicines in this area.

Food warehousing is an important part of the work of the district for it is here that foods are held in quantity prior to delivery to your supermarket. Other specialty industries, such as those dealing in freezing of eggs, preparation of frozen desserts and other frozen goods, round out the more than 10,000 establishments over which this district has jurisdiction.

To determine if these products are safe, clean, and properly labeled and packaged, the Food and Drug Administration usually begins its investigation through an on-site inspection at the factory. Here raw materials, intermediate processing, equipment, labeling, net weight, and quality controls in use by the firm are carefully scrutinized to determine if violations are being committed. If so, or if it is suspected the product may not be a legal one, samples of the product are collected from interstate shipments and submitted to the laboratory for analysis.

Utilization of the latest scientific instruments is necessary to solve the analytical problems presented to the Food and Drug Administration by a growing and complex, technologically minded industry.

If analysis confirms the violation, the article itself may be seized under a court order which removes it from trade channels so consumers may not purchase it. The firm and its officials responsible for the violative shipment may be prosecuted by the Federal courts.

The inspectional procedure is an educational tool as well as a regulatory one. Inspectors discuss the impact of violative or suspect practices with management. Results of analysis of samples taken as a portion of a sanitary inspection are provided to the firm so it will know in advance if its product conforms with the law.

Not all violations stem from faulty manufacturing practices. The Food and Drug Administration constantly observes promotion techniques which may result in untruthful or misleading representations for a given article. Improper storage or handling may result in the introduction of filth into that article.

This work is augmented in great part by complaints registered by consumers, cooperating State and local officials, or by industry representatives.

In addition to products covered under the Food, Drug, and Cosmetic Act, FDA is now charged with enforcement of the Hazardous Substances Labeling Act, a law which defines toxic and flammable substances for household use and specifies how they shall be labeled. Thus, additional protection is afforded the consumer by FDA's attention to labeling of waxes, cleaners, paint and paint thinners, waterproofers, polishes, fuels, and similar articles in household-sized containers, any of which are potentially harmful, if marketed without cautions or warnings governing their use.

MINNEAPOLIS DISTRICT DEDICATION, MAY 25, 1964, BY GEORGE P. LARRICK

It is a privilege to be here today to participate in the dedication of this new Food and Drug Administration laboratory and office building that will serve consumers and the food, drug, and cosmetic industries of the upper Midwest. This building represents one more step in the modernization of the facilities from which the Nation's Food, Drug, and Cosmetic Act and related laws can be administered.

We in the FDA feel that it is indeed fortunate that this building is located in the gateway development area, convenient and readily accessible to consumers, members of industry, and cooperating officials. We are proud to be associated with the many recent additions to the area such as the Minneapolis Public Library, Federal Courts Building, Public Health Center, and the fine business establishments.

For their help in acquiring this site, we thank the Minneapolis Housing and Redevelopment Authority, its commissioners, executive director, and staff who are represented here today by Mr. Leonard F. Ramberg, vice chairman. We are grateful to the Members of Congress and their staffs, to our colleagues in local, State, and Federal governments; to consumer groups; and to leaders and representatives of food, drug, and cosmetic industries and all those whose support has made this facility possible.

As the breadbasket of the Nation and a large producer of dairy products, the upper Midwest has long played an important role in the food economy of the Nation. The Food and Drug Administration has maintained a district office in the Twin Cities since 1908.

In order that the Food and Drug Administration might fulfill its modern day obligation to the Nation's consumers, it must be able to cope with a host of complex scientific and technological problems brought about by the tremendous growth and expansion of industry in the postwar period. These changes by industry have necessitated changes in the laws—changes governing the use of pesticides, food additives, color additives, and drugs.

National attention has been focused on the rapidly changing pharmaceutical industry and the passage of the Kefauver-Harris amendments to the Food, Drug, and Cosmetic Act. A comprehensive and much needed addition to the law, this 1962 legislation allows for a greater measure of security in the strength, quality, purity, safety, and efficacy of drugs manufactured and used in the United States.

Likewise quite new is the Federal Hazardous Substances Labeling Act which established labeling requirements to safeguard the use of many articles intended for household use. The flammable or toxic properties of these products make it necessary that they be labeled with proper warnings and caution statements.

The expanded use in recent years of drugs in animal feeds for prevention and treatment of disease and growth promotion has had a significant impact on FDA activities, particularly in this agricultural area of the country. To assure that such feeds are safe and efficacious for the animals, and that the meat, milk, and eggs from such animals contain no drug residues that might be harmful to humans, requires thorough inspection and refined laboratory analyses.

Thus today the Food and Drug Administration and the regulated industries are witnessing many changes and technological advances. It is a period of great emphasis on science. It is a dynamic period.

That this building be named in honor of Allen E. Rayfield, Director of FDA's Bureau of Regulatory Compliance, is most appropriate. Not only is he a dynamic and vigorous leader whose scientific training and experience have prepared him well for today's challenges, but he, more than anyone else in the Food and Drug Administration, has been responsible for the modernizing and scientific upgrading of our field facilities. Parenthetically, it took some talking to get him to accept this honor.

Born in Mobile, Ala., Mr. Rayfield obtained his bachelor of science degree in chemical engineering at the University of Alabama. He graduated with honors and is a member of Phi Beta Kappa and Tau Beta Pi.

After working as a chemist in private industry, he joined the Food and Drug Administration in 1935 as a seafood inspector.

He was then transferred to the Philadelphia district as a food and drug inspector. In recognition of his outstanding abilities he was reassigned to more important supervisory posts until, in 1948, he was moved to Washington to be responsible for the direction and control of the field activities which, at that time, consisted of 16 district offices.

During his leadership and direction, the field quadrupled in size from a staff of approximately 500 people to over 2,300 people. New district offices were established at Detroit, Mich., and Dallas, Tex., and eight modern laboratory buildings have been constructed similar to the one here in Minneapolis to replace old, obsolete facilities. Mr. Rayfield took a personal interest in the building program and devoted much of his time to planning the construction and equipping of the new buildings.

In February of this year, Mr. Rayfield was named Director of the new Bureau of Regulatory Compliance. This Bureau has been assigned the responsibility for planning programs and processing legal actions as well as directing and controlling the activities of the 18 field offices.

Throughout his rise in Government service, Mr. Rayfield has shown a tremendous will to work. He drives no one harder than himself. He thrives on action and has the ability to get things done. A man of integrity and loyalty, he demands those same attributes from those whom he directs. It gives me great pleasure that this building is named in honor of such a deserving coworker.

THE CHURCH AND THE SOCIAL ORDER

Mr. HUMPHREY. Mr. President, it was my distinct privilege recently to deliver the commencement address at the College of St. Theresa in Winona, Minn.

It is always a great pleasure for me to visit the lovely Hiawatha Valley of the Mississippi, and a day at this distinguished school of young women made the trip a memorable one indeed. St. Theresa's is deeply ingrained with that timeless Catholic tradition of service to one's fellow men. Its student body has always impressed me with its dedication to learning, and I was delighted when they invited me to speak.

It was with no small amount of envy that I faced these alert young women about to embark on careers in our fast-changing world. Theirs may well be that era in which men learn to live successfully both with each other and with their environment. I admitted to them my envy of their long lives in this fruitful period of history, and in my remarks I drew heavily on the two encyclical letters of Pope John XXIII, Mater et Magistra and Pacem in Terris. My respect for these two documents and their eminent author is profound, and I could think of no more enlightened source on which to base my discussion of the great challenges which lie before us. Mr. President, I request unanimous consent that my address be included in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE CHURCH AND THE SOCIAL ORDER

(Commencement address, College of St. Theresa, Winona, Minn.)

I am honored to speak to this graduating class. I am also more than a little envious of you, because you are beginning your adult lives in what I believe will be one of the great constructive eras in human history. The first half of the 20th century—and indeed up through World War II—was a "time of troubles" for Western civilization. The immediate post-World War I years were years of shock over the fact that mankind could be so self-destructive, and years of indecision on what to do about it. But the clouds of history have begun to clear. The goals we seek are somewhat distant on the horizon, but they are visible. The road we must travel will be long and difficult, but we know the direction and we know we can make it if we persevere.

I want to speak briefly on those goals which I believe are the prime objectives of the last half of the 20th century. They are four:

1. A social order built on justice and charity.
2. Peace.
3. An international authority able to control the rivalry of nation-states.
4. A recommitment to a moral order.

None of these goals is independent of the others. A just social order is a precondition of a peaceful world. Peace is also required to give time to solve the problems of the great inequities of the world. It will not be possible to secure the peace of any order, unless a world public authority is capable of establishing a law of justice in the family of nations. But, at none of these levels are we dealing with mere plans, programs, or mechanical arrangements. Such plans and programs will work to the ends of justice and charity only as they are conceived from the first in a moral commitment of men to a moral order.

It comes down to one simple thought—mankind must be seeking "community." Community is another name for brotherhood, in which the infinite worth of every individual as a child of God is recognized; in which every man's potential is free to develop—in which every man's rights are guaranteed.

There is nothing new about these goals. They are as old as Scripture, but today we are in a better position to realize them than at any other previous time in history. We have the tools, we have the power to assault the ancient enemies of mankind—ignorance, poverty, disease, and war itself. The means for victory lie in our hands, if we have the will to use them. There is a searching spotlight on us. If we fail, we can plead that we did not know enough or did not have enough resources—the excuses men used, with partial truth, in the past.

Man has always desired these goals. But he has looked for a voice and for leadership. He has longed for someone to state the issues and the demands with clarity and simplicity. His desire was not in vain. In the "fullness of time"—as a more ancient world might have spoken of it—Pope John XXIII gave to the world two great encyclical letters. Not long after the beginning of his brief pontificate, he gave us "Mater et Magistra," a striking document on justice and charity in the social order. Shortly before the end of his life he published "Pacem in Terris," the greatest document on peace in our time.

If I draw upon these documents in what I have to say here, I do so because of the great clarity of vision they presented. I do so also because I wish to be one of those "men of good will" to whom the Holy Father spoke across the boundaries of many faiths and cultures. These documents define the ground on which Western civilization will survive or perish; they state the terms in which the peace of the world will be won in our time, or will be lost for an indefinite future.

The world today is one of stark contrasts. One can draw the picture in many different terms: A small part of the world is rich; the rest is desperately poor. A small part of the world has high standards of health with a growing life expectancy; the rest is debilitated with malnutrition, disease, and early death. A small part of the world has high standards of literacy and a high attainment in knowledge, science, and technology; the rest is bogged down in illiteracy, primitive tools, a centuries-out-dated agriculture, and no industry worth the name. A small part of the world is Caucasian, or white skinned; the rest is colored—brown, black, or yellow.

The small part of the world that has the wealth, the knowledge, and the hope for the good things over a long life, is the United States of America and the nations of western Europe—roughly the nations of the Northern and Western Hemispheres. It is the glory of the West to have achieved so much. It will be the shame of the West if it does not help its brothers of the east and south.

As President Johnson has said, the world is now a "single community." Spiritually and humanly speaking it always was. In emphasizing that justice and charity must form the social order of the world, Pope John noted in Mater et Magistra that all men are children of the same Creator and merit equal treatment. If we have been slow in recognizing that, we have been slower still in realizing politically that the world is a "single community." We cannot ignore either any longer. The shrinking distances in the world, the ready access to information, have made every area of the world aware of every other area. As the President has said, the wall between the rich and the poor is a window through which both sides can look. On one side of the wall a few millions of people have a high standard of living. On the other side of the wall several billions of people live on little more than a dollar a week. But since the wall is a window the depressed billions are looking through, they know that a better way of life is within human grasp. They know that depression and despair is not the ordained lot of man.

We have not only a spiritual duty, we are confronted with a political necessity. As our late President Kennedy said, "If a peaceful revolution is impossible, a violent one will be inevitable."

The United States has its own model of the world conditions on which to work. We have 40 million Americans in poverty in this land of abundance, and we have 20 million colored citizens who have been denied equality of opportunity and citizenship which should be the birthright of every American. I will not labor the facts of these situations to an audience as aware as this one. I do believe that President Johnson is profoundly correct in linking our war on poverty at home with "doing our share" in the world. He has been right to identify the cause of achieving civil rights at home, with our responsibility to seek justice and freedom for all peoples abroad. If we cannot respond to the brother we see at home, we will never be aware of the brothers we do not see overseas.

We shall win the struggle to eliminate poverty and gain civil rights at home. And we will win the struggle to lift the world to higher standards of living. We will win the struggle because the spiritual conscience of the West has been reminded of its duty. In his letter on the church as mother and teacher, Pope John recalled the words of Jesus before a hungry crowd: "I have compassion on this multitude." He went on to remind us that while the church is ultimately concerned for the salvation of souls, she begins with solicitation "for the exigencies of life."

Churchmen of every faith have been chided in recent years for being insufficiently concerned with the social order. Churchmen have been no slower than others, although perhaps we expect more from them. But the voice has been found. It is the churchmen today of all faiths who are turning the tide on civil rights legislation. The moral issue has been recognized; the responsibilities have been felt. After we achieve the law, the long struggle still ahead to change many hearts will also yield as churchmen continue to put their faith to work in their daily lives.

There will be no enduring peace in the world until its great inequities are moderated. To eliminate ignorance, poverty, and disease, is a precondition to eliminating war. Yet before the great peace comes, we must restrain the use of the unholy instruments of war and reduce their stockpiles. Pope John put it simply in Pacem in Terris. He wrote: "Justice, right reason, and the recognition of man's dignity cry out insistently for a cessation to the arms race. The stockpiles of armaments which have been built up in various countries must be reduced all round and simultaneously by the parties concerned. Nuclear weapons must be banned. A general agreement must be reached on suitable disarmament program, with an effective system of mutual control."

Because this great voice expressed the conscience of men of good will around the world in a way that could be heard around the world, I am confident mankind will exercise the restraint necessary to get through these dangerous, transitional years. We have lived through the fears of our disillusions which followed World War II—fears which accelerated the race to the possession of the ultimate in the means of mutual destruction. We have lived through the panic of fear that made us blind instead of prudent. Now we are in a more sensible state of being aghast at what we have wrought. We have come to a point of restraint. It is not yet a detente or a thaw in the cold war. But I believe that both Russia and the United States share a sense of restraint. There is hope for a detente, for a relaxing of tension that will permit us to climb back down from the peace of the atomic mountain.

To make that hope a reality we must continue to seek initiatives, for we must, as President Johnson has said, be prepared to negotiate anywhere, anytime, any place, for the conditions of honorable peace.

We must win peace, not try to drift into it. Pope John held forth a vision of the direction in which we must go to achieve the institutions and forms of peace. Since God had created men social by nature, individuals cannot live together without states, without the institutions of civil order. And Pope John pointed out that "the same law of nature that governs the life and conduct of individuals must also regulate the relations of political communities with one another." There must eventually be a worldwide "public authority" capable of handling the worldwide dimensions of the human problems.

This public authority must be instituted by common consent. It cannot be imposed by force. Although it must work through the intermediaries of nation states, its "special aim is the recognition, respect, safeguarding and promotion of the rights of the human person."

The hope for the development of this "public authority" is the progressive adaptation of the methods of the United Nations to the "magnitude and nobility of its tasks."

Have compassion on the multitude, take care of the basic social needs of men, stop the arms race and turn it back, move through firm support of the present association of nations to that consensus which will permit the United Nations to become a world authority preserving justice through law for all men—that is the clear, simple, necessary prescription.

But while many plans are needed, and many initiatives are necessary, we will not simply engineer our way into the blessings of peace and human welfare in the single world community. Possibly the most fundamental sentence in Pacem in Terris followed the Pope's urgent appeal for disarmament. "Everyone * * * must realize" he said, "that unless this process of disarmament be thoroughgoing and complete, and reach men's very souls, it is impossible to stop the arms race, or to reduce armament, or—and this is the main thing—ultimately to abolish them entirely."

In Mater et Magistra, Pope John took specific cognizance of the belief in many quarters that by science and technology alone men can plan their civilization. These disciplines do place gigantic forces at our disposal, but as they may be used for evil as well as for good, it is evident, Pope John said, that moral and spiritual values must be basic. Scientific and technical progress must serve a moral goal and spring from usual commitment.

I believe a new wind is blowing now in the world and men are recovering their ancient moral values with a new freshness for this age.

Can we do it? We can, because underneath the forces that separate and divide men there is a common human nature. There is a rational moral sense in all mankind that is capable of cooperation.

On the eve of the publication of "Pacem in Terris," Pope John appeared on television to say that the doctrinal lines of his message belonged to the sphere of natural law. He appealed to the realm of natural theology, to which all mankind of whatever faith, pagan or Christian, Communist or not, have access. The terms of this doctrine as summarized by St. Thomas in the 13th century provide the ecumenical bridge in the 20th to all men of good will.

Protestant, Catholic, Jew, and others in the West have recognized the authenticity of spirit and motive in the messages of Pope John. They have recognized even more, that no special insights or requirements of faith should mar or obscure the deeper unities of mankind. There were even signs that the Kremlin was moved.

You are graduating at a time when the world is moving into one of the most constructive eras in human history. I know it is commonplace to worry about the troubles young people face. But I am not a pessimist. I am an optimist. Your future will be a future filled with exciting and demanding challenges.

The second half of the 20th century will see man create a better and more just society on this earth. It also will see mankind reach out to the heavens to conquer space and in a real sense find new worlds in which to live.

These are more than just hopes and dreams. They will become realities if we make our standard of human endeavor one of excellence. Peace requires the best that is within us. And this age of scientific revolution requires best trained minds, for science will settle for no less than excellence.

I am confident your generation will apply these skills and this dedication to excellence—and in your lifetime you will see the elimination of poverty, hunger, disease, and war itself.

So I congratulate you. You are embarking on a whole lifetime that is dedicated to a renaissance of man. You will see its fulfillment.

OREGON STATE FOR CIVIL RIGHTS—1,000 STRONG

Mr. HUMPHREY. Mr. President, once again I bring to the attention of my colleagues still another civil rights petition. As you may have gathered by now I have a great weakness for groups of 1,000 signatures gathered together in the name of civil rights. Having circulated petitions myself at one time or another I understand the difficulties involved in getting 1,000 people—or even 67—to sign anything. In light of this I find it rather remarkable that all these signatures were collected in but a single day; indeed I would like to know their techniques.

In any event, I feel that the never-ending succession of petitions reaching my office indicates just how much this bill is truly a moral question. These Oregon students, for instance, have nothing personal to gain from passage of H.R. 7152. There is no self-interest involved. They have simply come to their own independent moral conclusions as to what sort of law is right and proper for our great land. I think the opponents of the bill would be hard pressed to produce a corresponding phenomenon.

Consequently, Mr. President, I request unanimous consent that the extremely brief text of the petition and the covering letter be included in the RECORD at this point.

There being no objection, the petition and letter were ordered to be printed in the RECORD, as follows:

JUNE 1, 1964.

Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUMPHREY: These signatures were collected June 1 during the day commemorating the 1954 Supreme Court decision to desegregate schools.

Sincerely yours,
YM–YWCA ROUND TABLE.

CORVALLIS, OREG.

We the students of Oregon State University strongly urge the passage of the civil rights bill in the form passed by the House of Representatives.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. BIBLE in the chair). The Chair states that the time allotted under the unanimous-consent agreement for a morning hour has expired.

Mr. MORSE. Mr. President, I ask unanimous consent that the morning hour be continued 15 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PEDRO SANJUAN

Mr. MORSE. Mr. President, I have some advice on domestic matters for the Secretary of State this morning. Mr. Rusk is impervious to facing facts on the foreign front. I suspect that he is equally impervious to facing facts on the domestic front. He has a tyrant down there in the Department of State that he has been warned about and that he ought to have done something about in times gone by. He is released from his leash again. His name is Pedro Sanjuan. He is supposed to be the one in charge of protocol relationships with foreign diplomats. He is setting himself up apparently as a one-man court to determine how traffic law violations in the District of Columbia committed by diplomats shall be handled and how the District of Columbia Motor Vehicle Safety Responsibility Act shall be enforced.

I wish to say to Mr. Rusk, "Put him back on leash," and, "Mr. Rusk, read the editorial in the Washington Post entitled 'Diplomatic Responsibility'" which takes to task, and rightly, Mr. Sanjuan for his attempt to let go free with impunity an admiral from Paraguay who clearly is in violation of the Motor Vehicle Safety Responsibility Act of the District of Columbia. I wish to make a statement for the benefit of Dean Rusk, since he is responsible for what goes on in the State Department, particularly when he has had past notice of arbitrary, capricious, and arrogant conduct of this man Sanjuan in the State Department.

Mr. Rusk is a lawyer. Let him read the District of Columbia Code. There is no immunity for diplomats under the District of Columbia Code for the kind of conduct this Paraguayan diplomat is guilty of.

I ask unanimous consent to have printed in the RECORD the sections of the code which applies to this diplomat's case.

There being no objection, the sections of the code were ordered to be printed in the RECORD, as follows:

§ 40–420. Review by Commissioners.

Any order or act of any agent of the Commissioners under the provisions of this chapter shall be subject to review by the Commissioners. Application for review of any such order or act shall be in writing and shall set out in detail the reasons for such review. Such application shall be filed with the Commissioners within 5 days after the issuance of the order or occurrence of the act in question. If upon review the Commissioners shall sustain such order or act, the same shall become effective immediately.

Any person whose license or motor-vehicle registration shall be denied, suspended, or revoked by the Commissioners under the provisions of this chapter may, within 30 days after such denial, revocation, or suspension has been reviewed by the Commissioners and sustained by them, file in the Municipal Court of Appeals for the District of Columbia an application for the allowance of an appeal from the order or decision of the Commissioners. If a majority of the court are of the opinion that the appeal should be allowed, the appeal shall be recorded as granted and the case set down for hearing on appeal. If a majority of the court shall be of the opinion that the appeal should be denied such denial shall stand as an affirmance of the order appealed from. Said court is authorized to prescribe fees and promulgate rules governing the application for the allowance of an appeal and the record and proceedings on appeal, and the said court shall have power to affirm, modify, or reverse the order or decision of the Commissioners, where the appeal is allowed pursuant hereto; and the decision of said court whether in denying an application for allowance of appeal or in deciding an appeal after it has been granted shall be final. The application to said court for the allowance of an appeal shall not operate as a stay of such order of the Commissioners, unless the applicant shall have deposited with the Commissioners, under protest and subject to the decision of the court, security in the amount required by the Commissioners in accordance with the provisions of this chapter, or a bond in an amount equal to the amount of security required by the Commissioners, guaranteeing that the applicant, in the event the order appealed from is sustained or modified by the court, will comply fully therewith. In the event said order of the Commissioners shall be ordered vacated, either by the court or the Commissioners, the security deposited under protest shall be returned to the depositor or the bond shall be canceled.

For the purposes of this section, the phrase "review by the Commissioners" shall mean a review by the Board of Commissioners of the District of Columbia or a review by any board of review established by the Commissioners of the District of Columbia to review the order or act of any agent of the Commissioners pursuant to the provisions of this chapter. No member of such board of review established by the Commissioners shall review any of his own orders or acts. (May 25, 1954, 68 Stat. 122, ch. 222, sec. 4; Aug. 28, 1958, 72 Stat. 954, Public Law 85–792, sec. 3.)

§ 40–434. Exceptions to requirements as to security and suspension.

The requirements as to security and suspension in sections 40–432 to 40–449 shall not apply—

(1) to the driver or owner if the owner had in effect at the time of the accident an automobile liability policy or bond with respect to the vehicle involved in the accident, except that a driver shall not be exempt under this paragraph if at the time of the accident the vehicle was being operated without the owner's permission, express or implied;

(2) to the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy or bond with respect to his driving of vehicles not owned by him;

(3) to a driver or owner whose liability for damages resulting from the accident is, in the judgment of the Commissioners, covered by any other form of liability insurance policy or bond;

(4) to any person qualifying as a self-insurer under section 40–494 or part II of the Interstate Commerce Act or to any person operating a vehicle for such self-insurer;

(5) to the driver or the owner of a vehicle involved in an accident wherein no injury or damage was caused to the person or property of anyone other than such driver or owner;

(6) to the driver or owner of a vehicle which at the time of the accident was parked, unless such vehicle was parked at a place where parking was at the time of the accident prohibited under any applicable law or ordinance;

(7) to the owner of a vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such vehicle without such permission;

(8) to the owner of a vehicle involved in an accident if at the time of the accident such vehicle was owned by or leased to the United States, a State or any political subdivision thereof, the District of Columbia, or to the driver of such vehicle if operating such vehicle with permission; or

(9) to the driver or the owner of a vehicle in the event at the time of the accident the vehicle was being operated by or under the direction of a police officer who, in the performance of his duties, shall have assumed custody of such vehicle (May 25, 1954, 68 Stat. 125, ch. 222, sec. 18; Aug. 28, 1958, 72 Stat. 955, Public Law 85–792, sec. 6).

Mr. MORSE. Mr. President, I happen to be very much interested in law enforcement in the District of Columbia, and I have been highly critical at times of the District of Columbia Commissioners and Chief of Police. In this matter they are completely right. These diplomats ought to maintain conduct in our District that complies with the law. The little dictator, Sanjuan, ought to be put back on a leash. It would be better if he were given the job of cutting out paper dolls somewhere, rather than used in a position of responsibility in which he has relations with the public. I am awaiting a reply on this domestic matter from the State Department, as I am with respect to its illegal foreign policy in Asia.

I ask unanimous consent that an article from the Washington Post of Monday, June 8, and an editorial from the Washington Post of today, June 12, be printed in the RECORD at this point along with other articles and an editorial bearing upon the subject matter.

There being no objection, the articles and editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 8, 1964]

STATE DEPARTMENT MAY AID DIPLOMAT DENIED AUTO TAGS BY DISTRICT OF COLUMBIA

A Paraguayan diplomat whose 1964 license plates have been withheld by the District may receive an affidavit from the State Department that would be intended to make his outdated plates valid.

The move was suggested yesterday by Pedro A. Sanjuan, State Department representative, to permit Rear Adm. Guillermo V. Haywood, military and naval attaché, to drive his car in Washington.

The Department of Motor Vehicles withheld Haywood's tags, saying he violated the Safety Responsibility Act passed by Congress in 1955.

In January 1962, Haywood's car skidded on a patch of ice apparently caused by a faulty fire hydrant and struck two parked cars, causing an estimated $870 damage, Sanjuan said.

The 1955 law requires an uninsured driver to post collateral of the amount of damages before he can receive new plates, according to Herman S. Cole, deputy director of the Department of Motor Vehicles.

Haywood was not insured and is precluded by his diplomatic immunity from posting the bond, Sanjuan said. He added that it has become "very difficult" for diplomats to obtain liability insurance in Washington, possibly because it is feared they would invoke immunity and refuse to testify in case of accidents.

"It's not a case of the State Department telling a careless driver to drive if he pleases," Sanjuan said of the affidavit.

When a driver is negligent, Sanjuan said, "we take over and tell them to pay," and if they do not, the United States may ask them to leave.

"But we don't consider Haywood to have been negligent or blameworthy," Sanjuan said. "It's really a little harassing on the part of the District."

Cole said the safety responsibility law did not concern itself with fault or circumstances of an accident and "we treat diplomats the same as anyone else, except Haywood wanted to be different."

The District "most likely would honor" the affidavit Sanjuan suggested, Cole said, while "things were being ironed out," but he was doubtful what effect it might have "out in the boondocks where they look for license plates and not affidavits."

[From the Washington Post, June 12, 1964]

DIPLOMATIC RESPONSIBILITY

We can see no reason under the sun for the State Department to intervene in behalf of a Paraguayan diplomat whose automobile license plates have been withheld, in accordance with law, by the District of Columbia. The diplomat, Rear Adm. Guillerino V. Haywood, was involved a couple of years ago in an accident which damaged two parked cars. A safety responsibility law enacted by Congress in 1955 requires uninsured drivers to post collateral for the amount of damages they have occasioned before new license plates can be issued to them. The diplomat was not insured; and it is said that diplomatic immunity precludes his posting collateral.

Admiral Haywood may have been blameless in connection with the accident; but so were the owners of the two cars he damaged. The congressional act requiring the posting of collateral is perfectly reasonable, and diplomats, just like ordinary mortals, ought to comply with it as a matter of course. For Admiral Haywood to post collateral or take out insurance could not in any way imaginable diminish the dignity of Paraguay or impair its security or interfere with its foreign diplomatic or commercial relations.

Pedro Sanjuan, of the State Department, says "We don't consider Haywood to have been negligent or blameworthy. It's really a little harassing on the part of the District." Apart from the consideration that the admiral's responsibility for the accident must ultimately be determined by a court rather than by Mr. Sanjuan, the castigation of the District Government seems altogether unwarranted. The District is simply obeying the law. It behooves visitors to this city and members of the State Department, whether they have diplomatic status or not, to do likewise. This is, indeed, the best possible diplomacy.

[From the Washington Post, Mar. 30, 1964]

UP HILL, DOWN DALE

The Department of State and the exalted members of the scofflaw, or diplomatic, set quartered in Washington will pardon us, we have no doubt, if we smile sardonically, yet sadly, at the solution of the great international parking ticket crisis. Dauntless in Cuba, adamant in Panama, the Government of the United States has turned tail and marched abjectly down the hill it so resolutely climbed a fortnight ago when it announced that it would require diplomatic visitors here to abide by the traffic rules designed to make transportation practicable in the Capital.

The State Department has decided, it announced on Thursday, that parking tickets received by diplomats in the official line of duty needn't be paid. Parking tickets received on private visits, however, should be paid, the Department said. Come on now, fellows, wipe that smirk off your face. Diplomats do make private visits, you know, although they rarely call them that among themselves.

We have a couple of simple suggestions to offer. About 8,000 tickets were given out last year for illegal parking to holders of DPL licenses. If the State Department wants to license all these diplomats to disregard the laws of the Capital to which they are accredited, let the State Department pay the bill for its generous hospitality; at $10 a ticket, this would help materially to pay the salaries of the policemen who spend their time writing out the parking tickets.

A second suggestion: If foreign governments think it good diplomacy to let their emissaries flout the laws here, let them meet the cost of this entertainment by paying the legitimate fines entailed.

And one final suggestion: If foreign governments want to win friends and influence people here—one of the traditional aims of diplomacy—let them instruct their representatives to observe the reasonable rules fixed for the common good of the community in which they temporarily reside.

[From the Washington Star, May 7, 1964]

ALL DIPLOMATS WILL GET TAGS DESPITE TICKETING

(By Roberta Hornig)

All members of the diplomatic corps will be issued 1964 license tags because of their "excellent record" since the State Department began its crackdown on their parking violations.

Pedro A. Sanjuan, director of the Office of Special Representational Services, said the decision was made after the Department made a statistical study of diplomats' parking tickets over the last 7 weeks.

The Department in March asked the Commissioners to begin issuing regular parking tickets to foreign government representatives here. At the same time, it asked that issuance of new diplomatic license tags be postponed until May 31.

ONE HUNDRED AND FIFTY TICKETS UNPAID

The Department announced then that it would not authorize new tags to "any diplomatic official against whom * * * ticket charges are outstanding."

But Mr. Sanjuan said today that although 150 tickets issued to diplomats have not been paid to date, the record shows that as a group they are cooperating and their record is as good as that of the average Washington citizen.

If diplomats continue their record, his office has figured, only about 1,020 tickets would go unpaid in a year's time.

"That is a far cry from the 8,000 to 11,000 tickets per year reported earlier," Mr. Sanjuan said.

FEW HAVE MORE THAN ONE

Since the order went into effect March 16, the Metropolitan Police Department has issued about 700 tickets to diplomats.

Of these, 150 have been paid. Between 450 and 500 were given in the vicinity of eight chanceries—including the Soviet Union's—with inadequate parking spaces and diplomats could not be held responsible if they are expected to carry out their official duties, Mr. Sanjuan said.

He said that of the 150 tickets still unpaid only 6 diplomats have as many as 2 tickets.

In view of this showing, Mr. Sanjuan said, the Department plans to send a note to embassies thanking them for their cooperation and saying the Department hopes it will continue.

[From the Washington Post, May 8, 1964]

DPL AUTO VIOLATIONS CUT BY HALF

(By George Lardner, Jr.)

Washington's foreign diplomats have been picking up more than 100 parking tickets a week under the city's new rule of the road.

But none is going to lose his free diplomatic license plates as a result.

"They've been trying very hard," explained Pedro Sanjuan, the State Department's director of special representational services. "The State Department is very happy with the figure."

The diplomats had been racking up more than 200 parking violations a week before they were told that they would have to start paying for them on March 16.

In the first 7 weeks since then, Washington police handed out 784 citations, Sanjuan reported.

The State Department forgave 450 of the tickets and another 150 were paid. The remaining 171 are unpaid or "unaccounted for," Sanjuan said.

SIX CARS CITED TWICE

The Department had said that continued failure to pay the tickets would result in withdrawal of DPL plates for offenders, but Sanjuan said no one had a bad enough record for that.

Of the cars that earned the 171 tickets, he said, only 6 were cited twice.

The 450 tickets that were forgiven, Sanjuan said, were all issued for parking violations during working hours near embassies or chanceries with "recognized" shortages of diplomatic parking spaces.

"We're not about to chastise what we said we would tolerate," Sanjuan said. The State Department had said it would not expect these to be paid as long as the shortages existed.

Last year, he said, the diplomats were given 11,000 warning notices for parking violations. The 784 issued so far indicate a yearly rate of about 5,600 tickets. Those unpaid or unforgiven indicate an annual rate of about 1,270.

TO THANK EMBASSIES

"We're so pleased we're going to issue a note to all embassies thanking them for their cooperation," Sanjuan said.

"Meanwhile" he said, "the State Department will continue to press for more reserved street-side parking for the diplomats." It had asked for 127 to 129 parking spots for 10 foreign missions but District traffic officials said they could approve only 56.

"Tickets issued near embassies or chanceries will continue to be forgiven until diplomats get all the street-side parking the State Department feels they need," Sanjuan said. He said "the 1961 Vienna convention made it this country's duty to provide the spots."

"Besides the 10 missions whose parking requests have been processed by District officials," he said, "State is preparing to ask for reserved spots for 11 more."

These include Czechoslovakia, Ghana, Peru, Mali, Sweden, Colombia, Poland, Yemen, Nationalist China, the Malagasy Republic, and Uruguay.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. MORSE. I yield to the Senator from Alaska.

Mr. GRUENING. Did I correctly understand the Senator to say the person involved was a Paraguayan admiral?

Mr. MORSE. Yes.

Mr. GRUENING. How can Paraguay, which is an inland country, have an admiral?

Mr. MORSE. They even want money for their navy. Under our giveaway foreign aid program, they probably will get it.

THE OIL INDUSTRY AND THE ALASKA DISASTER

Mr. BARTLETT. Mr. President, the oil industry has for some time been carrying on thriving and expanding operations in the State of Alaska.

In the aftermath of the Good Friday disaster the industry has distinguished itself in yet another way, through its participation in its own and the State's rebuilding efforts.

The May issue of the Standard Oiler contains an interesting article concerning these efforts after the disaster. The article recounts some harrowing experiences and reveals the extent and nature of the company's losses. And it reaffirms the company's resolution to work for the State's reconstruction:

> Standard will do its part, as it did years ago when this rugged land was just starting out.

I ask unanimous consent that the article may be made a part of the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WE'RE PROUD TO BE ALASKANS

Earthquakes usually don't bother Alaskans. They're used to them. But the jolt that rocked Alaska March 27, the most severe in North American history, was something else. Briefly, this is how we fared:

The ship's log read Good Friday. Then, the entry: "1735 hours—earthquake hit. Standard Oil dock collapses." Our ship, MS *Alaska Standard*, was tied up at the dock in Seward. "Immediately after the quake," Seaman Bob Belt recalls vividly, "the bay filled with swells and we were caught up in a seismic wave. The dock dropped from sight beneath us, and we were surrounded by flames."

Within minutes of the shocker, the ship was underway. "Our engineers should get credit for turning over our engines so quickly," says Capt. Harold Solibakke. Dodging floating walls of flame, the vessel moved out of danger into the bay and hove to. "By this time," the captain continued, "we could see that the wave that ripped us loose had leveled the dock and our Seward plant."

The captain ended his report of the quake by saying, "It is miraculous under the circumstances and in the position we were in, that we were able to get away. One experience like that in a lifetime is enough. We are all thankful to be alive."

Elsewhere, Western Operations facilities throughout the 49th State began reporting in via the company's preestablished emergency communications network.

Our bulk plant at Kotzebue in the far north above the Seward Peninsula reported some spillage from product tanks. Farther down the Bering coast, our Nome facility was OK, and the one at Dutch Harbor on Amaknak Island out in the Aleutians checked in with the help of a ham radio operator.

Fairbanks, Palmer, Juneau, Cordova, and a number of other locations with W.O., Inc., plants escaped with relatively little damage. Anchorage and the Kenai Peninsula where we have substantial holdings were hit harder.

In downtown Anchorage it was after 5:30 p.m. and Standard Oilers had left their offices in the Cordova Building. "We were fortunate," says Exploration's Ed Parker, "that the quake hit after working hours when no one was in the building." As it turned out, it was so severely damaged our people had to move out.

Anchorage's business district was pretty well messed up, and out at the airport, 750,000 gallons of aviation fuel poured out of tanks but somehow didn't ignite. Our bulk plant at Anchorage lost products from several ruptured tanks.

Service stations were not extensively damaged, and they began pumping gas again later that night.

"Many of our people rushed to the refinery to help clear up debris after the water tank collapsed," says D. D. Drowley, manager of the Nikiski refinery on Cook Inlet. The quake caused some damage to the tanks, as well as to our water system.

The *Nevada Standard* was dockside at Nikiski taking on products, and although the walkways to the dock collapsed, the vessel stayed at the wharf to finish loading.

The force of the earthquake, and the resulting seismic waves, were felt mostly in coastal regions. Merrill Coon, former mayor of Kodiak, who is our branch manager there, saw his dock fall into the sea. "The stone seawall for the dock was put down by Russians back in 1792," Coon says. The big waves carried fishing boats into the downtown section of Kodiak. Our distributor's dock and warehouse in Valdez, east of Anchorage on Prince William Sound, were also washed away. At Valdez, and at Homer, at the mouth of Cook Inlet, the ground sank about 6 feet. Now 3 to 6 feet of water surrounds our tank farms at these locations during high tide.

Probably the luckiest Standard Oiler is Able Seaman Ted Pederson, of the *Alaska Standard*. Pederson was standing hose watch on the Seward dock when the catastrophe occurred. He headed for land but couldn't make it.

"The last thing I remember is seeing a tremendous wave bearing down on me," says Ted. About 10 minutes after the quake, Seaman Pederson was found lying on the ship's catwalk. Best guess is he was washed aboard with debris from the collapsing dock. He's now recovering from a broken leg. But Donald Harrington, a wiper on the *Alaska Standard*, is still listed as missing.

These were the only two casualties among the hundreds of Standard Oilers and their families in Alaska.

Even though most of our operations were back in business within days, our losses are expected to run in the millions.

Alaska has a big rebuilding job ahead. Standard will do its part, as it did years ago when this rugged land was just starting out. Out of this destruction, Alaska's people have displayed a pioneering spirit of teamwork and determination that makes us prouder than ever to be Alaskans.

SENATOR GOLDWATER AND THE REPUBLICAN PARTY

Mr. HRUSKA. Mr. President, no one, whether Republican, Democrat, or Independent—none of these—can help but be deeply touched by the solicitude and concern that the liberal press, reporters, and columnists are suddenly displaying about the Republican Party. They seem to be deeply troubled because they say a Goldwater nomination will hurt the Republican Party.

I cannot help but wonder whether their concern is actually for the Republican Party or whether they fear Goldwater might be elected President if he is nominated. Can the latter concern be the reason they are straining to the utmost to prevent his nomination?

A recent editorial in the Chico, Calif., Enterprise-Record does an excellent job of pointing this out. This liberal element seems to hope that GOLDWATER will somehow be sidetracked and a Republican nominated who more nearly fits their liberal philosophy so that they would, in effect, win regardless of the outcome in the November balloting. The editor of the Chico, Calif., Enterprise-Record, in an editorial dated Thursday, May 28, points this out when he says:

> And GOLDWATER's critics and opponents are worriedly wondering just how potent a threat does that stream of thought pose against their designs for grander Federal centralization, greater Federal spending, greater citizen dependency through Federal welfare and peace in our time purchased by negotiated appeasement.

In this editorial the writer does a good job of pointing out that the American people have to learn from and understand the past, and face the events of the past bravely in order to make intelligent and meaningful plans for plotting our future course. The editorial says:

> Actually, a good many Americans today are aware that it takes a great deal of bravery to face the recent American past when you consider that it represents a period during which communism has held captive millions of Eastern Europeans by virtue of World War II diplomatic agreements signed by naive American statesmen; communism has established a base in the Western Hemisphere only 90 miles off our shore; we fought a stalemate war and lost a negotiated truce in Korea; we are now fighting a similar losing cause war in Vietnam; we spent more than $100 billion in foreign aid, yet now have fewer international friends than we started with; we pay the lion's share of U.N. expenses while a host of irresponsible and inexperienced newly emerged nations consistently bargain against us and threaten to take over entirely; we have tolerated a system of trade agreements by which countries we put back on their feet now are underselling our products and putting Americans out of work for lack of markets; we boast about being the wealthiest nation in the world while actually we are the poorest, with a national debt greater than the debts of the rest of the world combined, requiring only this week a new temporary debt ceiling to permit yet more Federal deficit spending; we have lived through some 30 years of enlightened liberalism on behalf of the little people, and yet we now are forced to launch a full-scale war on poverty to uplift some 35 million citizens.

In order that my colleagues might have the advantage of this editor's sound thinking, I ask unanimous consent to have this editorial printed in the RECORD, as a part of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GOLDWATER, THE CHALLENGE TO ME-TOOISM

Although he has been prominent on the national political scene for a number of years, Senator BARRY GOLDWATER, of Arizona, actually is something quite new to the realm of American presidential politics.

He does not wear the badge of national hero to the extent always accorded Dwight Eisenhower; he falls short of the grand eloquence and intellectual polish of Adlai Stevenson; he does not match the magnetic quality of automatic leadership attributed to John F. Kennedy; he has little of the earthy yet sure-footed bluntness of Harry Truman; he lacks the intense degree of concentration displayed by Richard Nixon.

And yet, in a sense, Senator BARRY GOLDWATER embodies just enough of each of the qualities of the men mentioned above to make him a formidable entry into that exclusive circle of men who have held or sought the Presidency of the United States.

To top it all, Senator GOLDWATER has a bountiful supply of faith in hardnosed patriotic American conservatism which confounds his critics and opponents and leaves them grasping for weapons of counterattack.

It is significant that, almost to a man, the Goldwater critics and opponents have found themselves resorting in general to a single weapon: The barb of humor.

For example, the articulate liberal Senator HUBERT HUMPHREY's famed crack that GOLDWATER is so handsome that 18th Century Fox wanted him for a screen test; the standard remark that GOLDWATER wants to repeal the 20th century; the bumper stickers joking about "GOLDWATER in 1864"; the sly remark that the Goldwater bird flies only on the right wing.

Yet GOLDWATER himself has taken all these cracks with such good humor that again his critics and opponents have been confounded.

For example, when GOLDWATER was informed that Mrs. Kennedy had remodeled the White House in 18th century decor, he said that just went to show that the White House was ready for him.

Yet millions upon millions of American citizens—and his critics and opponents as well—here in 1964 are taking Senator GOLDWATER seriously.

This is because millions of Americans have discovered that they like the sound of honest and patriotic conservative Americanism being voiced again.

And GOLDWATER's critics and opponents are worriedly wondering just how potent a threat does that stream of thought pose against their designs for grander Federal centralization, greater Federal spending, greater citizen dependency through Federal welfare and peace in our time purchased by negotiated appeasement.

Alan Cranston inadvertently put his finger on that worry here Tuesday night when he described GOLDWATER as a man who has "turned his back on the future and is facing the past bravely."

Actually, a good many Americans today are aware that it takes a great deal of bravery to face the recent American past when you consider that it represents a period during which communism has held captive millions of Eastern Europeans by virtue of World War II diplomatic agreements signed by naive American statesmen; communism has established a base in the Western Hemisphere only 90 miles off our shore; we fought a stalemate war and lost a negotiated truce in Korea; we are now fighting a similar "losing cause" war in Vietnam; we spent more than $100 billion in foreign aid, yet now have fewer international friends than we started with; we pay the lion's share of U.N. expenses while a host of irresponsible and inexperienced newly emerged nations consistently bargain against us and threaten to take over entirely; we have tolerated a system of trade agreements by which countries we put back on their feet now are underselling our products and putting Americans out of work for lack of markets; we boast about being the wealthiest nation in the world while actually we are the poorest, with a national debt greater than the debts of the rest of the world combined, requiring only this week a new "temporary" debt ceiling to permit yet more Federal deficit spending; we have lived through some 30 years of "enlightened liberalism" on behalf of the "little people," and yet we now are forced to launch a full-scale war on poverty to uplift some 35 million citizens. * * *

Those are some of the reasons why it does indeed take bravery to face the recent American past. But that past must be faced, and must be learned from, if the Nation is to avoid continuation of what now amount to accelerated trends downward, no matter what bright use Government economists make of so-called soaring gains in the gross national product.

A brave look at the recent American past reveals that America is losing ground as a nation at home and as a nation in the world.

Barry Goldwater appears to be the only announced Republican presidential candidate who is insisting that we must learn from that past and must employ a posture of conservatism to reverse those dire trends.

We do not say that Senator Goldwater has all the answers, nor that he has any of the answers.

But we do say that Senator Goldwater personifies a contrasting challenge to the status quo of the ultraliberalism in our Federal Government which is daily proving itself futile as an answer to the problems of the present and devoid of promise for a more successful America in the future.

Summed up, Senator Goldwater seems to be the only announced candidate willing to run as a proud American Republican rather than as a humble carbon copy "me-too" of the existing Democratic administration.

Senator Goldwater's bold attempt to return the Republican Party to a position of challenge rather than mimicry may not be successful in next Tuesday's California primary election. The latest polls say that "me-tooism" is currently in the lead on the GOP side of the ballot.

But the Enterprise-Record stoutly recommends that registered Republicans who desire their party to return to a position of national integrity and identity can take a step in that direction by voting for the Goldwater delegation in next Tuesday's presidential primary.

KANSAS RURAL ELECTRIFICATION ASSOCIATION SPONSORS YOUTH TOUR TO WASHINGTON

Mr. PEARSON. Mr. President, again this year the Kansas Rural Electrification Association has sponsored a youth tour to Washington. The young men and women participating in this tour are winners of an essay contest conducted by the rural electric power systems of Kansas in cooperation with the State association.

I was pleased to join this outstanding group of young Kansans this morning at breakfast. If anyone questions the ambition, intelligence, and interest in the vitalities of our Nation among our American youth, an hour with these young people will freshen his concepts, I assure him.

I want to personally and publicly congratulate these winners and to welcome them to Washington and to the Congress.

I ask unanimous consent that the names of the contest winners accompany my remarks.

There being no objection, the names were ordered to be printed in the Record, as follows:

Elaine Bergman, Seneca; Jane Ann Hartman, Clifton; Kendra Brandes, Cheney; Kevin Larson, Leonardville; Pat Pilger, Sharon Springs; Mary K. Beck, Rural Route 2, Council Grove; Jim Symes, Elmdale; Kathleen Wolf, Jetmore; Ruth Pike, Rural Route 2, Eureka; Myrene Borecky, Wilson; Darrell Brinson, Lynann Davidson, Claflin; Shari Fry, Little River; Darlene Linder, Langdon; Cheryl Gasper, Tipton; Donna Hills, Mankato; Mary Heinen, Rural Route 2, Valley Falls; Janice Overrocker, Protection; Sandra Griffin, Centerville; Ina McMillan, Parker; Pam Davis, Richard Harris, Pratt; Ann Brunner, Ramona; Jim Moorman, Solomon; Connie Norwood, Lecompton; Lynn Thompson, Osage City; Mary Anderson, Virginia Harms, Ulysses; Aleta Schumm, Warren D. Allen, Ellis; and Louise Umscheid, St. George.

THE POVERTY PROGRAM AND INFLATION

Mr. LAUSCHE. Mr. President, I have received a letter from a citizen of Ohio who is retired, expressing fear that word is coming out of Washington which indicates that we are moving toward an era of inflation. This man worked on the railroad for 40 years. He is receiving a retirement payment of $174.70 under the Railroad Retirement Act and $36.15 from a B. & O. Railroad annuity each month, making a yearly total of $2,530.20.

In his letter he states that with his small house, chickens, and garden, he can get along with that sum, but if there is to be inflation he will not be able to do so.

The letter is so pointed and reflective of the thinking of one class of people that I think it ought to be placed in the Record.

I ask unanimous consent that pertinent parts of the letter connected with the subject of inflation be placed in the Record, and that the name of the writer be omitted.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Cincinnati, Ohio,
June 1, 1964.

Hon. Frank J. Lausche,
New Senate Office Building,
Washington, D.C.

Dear Senator Lausche: I am appealing to you because I am both hurt and frightened by President Johnson's statement that his Appalachian program will place all families, whose income is below $3,000 per year, in the poverty class.

I am a retired railroad yard brakeman (40 years on the B. & O.) and I receive $174.70 from the Railroad Retirement Act and $36.15 from my B. & O. Railroad annuity each month, which will make a yearly total of $2,530.20.

Now I have always prided myself on being a good provider and have been able to possess a small home in the suburbs—with garden, fruits, and chickens—and had expected these annuities to be altogether adequate for my wife and I. She does not receive an annuity because she is only 53 years of age.

I will admit that the constant rise of expenses such as Blue Cross (we cannot afford Blue Shield) and our real estate taxes—caused by the ever-increasing school population—do make us wonder at times.

We are aware that all of labor is "straining at the leash" for a wage increase and this will again start the vicious spiral of product prices, which will help those who are working but will surely play havoc with those who have a fixed income.

Now I can find no other interpretation of President Johnson's classification of $3,000 as the poverty line, except that he expects labor's demands to be made, complied with, and the resulting cost of living going high enough to make the poverty a reality.

Will greatly appreciate your opinion and information of what is being planned in Washington that should increase the cost of living this much.

—— ——.

INVESTIGATION OF ROBERT G. BAKER BY COMMITTEE ON RULES AND ADMINISTRATION

Mr. CASE. Mr. President, there is much unfinished business left to do in the Senate. The people of this country seem to rank very high on that list the job of cleaning our house in the wake of the Bobby Baker case. If anyone needs proof of this sentiment, he need only turn to the press comments I have drawn attention to over the past 3 weeks.

Once more I ask unanimous consent for the insertion in the Record at this point of additional editorial appeals to get on with the task of restoring the good name of the Senate.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Tampa (Fla.) Times]

No Time To Halt Bobby Baker Probe

Senator Clifford P. Case, Republican, of New Jersey, certainly uttered a mouthful this week when he said, "No investigation of Bobby Baker can have any real meaning without an investigation of the relations of Members of the Senate with Bobby Baker."

Of course, many Democrats, in and out of Congress, do not agree. Indeed, they insist the investigation into the wheeling and dealing of the former secretary of the Senate Democratic majority has proceeded as far as it should. Fully conscious of the elections coming up in November, they cry out for a closing down of the probe and, at the same time, charge Republican critics with being more interested in embarrassing the Democrats than in getting at the truth.

But it strikes us—and we feel sure other persons are of the same mind—that regardless of which party may be helped politically, the public will be shortchanged if the Bobby Baker case is buried while the many unanswered questions about him and his most interesting transactions remain unanswered.

The plain fact is that the public has a right to know a great deal more than it does now about Baker's business empire and how it mushroomed. Clearly, members of the Senate Rules Committee and the group's investigators have been remarkably reluctant to delve into matters that involve influence-peddling and conflicts of interest within Congress itself. What real estate deals were made, what favorable tax rulings were secured, what gifts were made to and from Baker—for himself and political friends?

Senator CASE is right. The Senate must carry out the painful and time-consuming task of investigating itself. A full-scale investigation is an essential prerequisite for fashioning new regulations governing conflicts of interest.

As hard as some Senate Democrats may try to put it in cold storage, the Bobby Baker case remains very much in the public mind. Unless a truly conscientious attempt is made to get at the truth, the Senate itself need not be surprised when it hears one day soon the accusation that it is "taking the fifth."

[From the Paterson (N.J.) Morning Call]

THE SENATE SETS ITS STANDARDS

Being drawn to its ceremonious close is the not sufficiently mysterious case of Bobby Baker and the 10 U.S. Senators he held in the palm of his hand and used so well that he's a millionaire twice over. The case is closed. Still Senator CASE, Republican, of New Jersey, keeps going on the air and on the committee witness stand to denounce the Rules Committee's refusal to examine the evidence. Mr. CASE runs the risk of offending his colleagues and boring his constituents; yet he must be encouraged to keep needling, prodding, trying to make the Senate understand the enormity of what its majority is hastening so untidily to do. The Baker case is a test. Its nature cannot be altered by any code of ethics or catalog of rules that might be set up hereafter. No other test can be substituted for the Baker test. What matters here is not what CLIFFORD P. CASE thinks of the U.S. Senate; it is what the Senate thinks of itself. What matters is not what the people expect of the Senate; it is what the Senate expects of itself, the value it sets on itself, the Senate's own attitude toward such things as honesty and self-discipline and integrity. The Senate is establishing now its ethical standards. The prospect for tomorrow is not reassuring.

[From the Toledo (Ohio) Blade]

BUILDING PRESSURE

Democrats in the Senate at large have formally and, to all appearances, finally confirmed what the Democrats on the Senate Rules Committee had made clear more than a month ago: The Bobby Baker investigation is closed.

The tumultuous floor session during which this was driven home was dictated by election-year politics more than anything else. The Republican-sponsored resolution to extend the probe in both length and depth served to dramatize GOP charges that the shutoff was premature and aimed at protecting the administration as well as the majority congressional party from further embarrassment. By the same token, the Democrats deemed rejection of the resolution an obvious necessity.

What makes this party play more palatable is the possibility that the Baker case may yet produce results of far greater significance in the political life of the Senate than mere exposure of past links with the business ventures of the former majority secretary.

Reports persist that a bipartisan movement is under way in the rules committee itself to recommend new rules aimed at improving the ethical atmosphere in a body that has always insisted on its members' right to keep their conflicts of interest shrouded in a veil of privacy.

According to leakage from committee sources, the rules most discussed would require that Senators reveal their nongovernment income, regulate their interference with executive agencies on behalf of constituents, and permit Senate investigating committees to subpena Senators as witnesses.

These proposals are similar to those made by Senator CLIFFORD CASE, the New Jersey Republican, who has long been in the forefront of legislative reform efforts and who was buffeted by the passionate storm which swept the upper Chamber the other day.

So while the campaign pursued by Senator CASE and assisted by Senator JOHN J. WILLIAMS, Delaware Republican, who introduced the resolution on the floor, seems most unlikely to lift the lid on the Baker case, it may well build up the head of steam needed to shove the reform move forward.

At least, the time seems more ripe than ever before to achieve some sort of breakthrough on that score.

[From the Kokomo (Ind.) Tribune]

TARNISHING A GOOD NAME

It was not surprising that the Senate beat down a resolution last week to continue and broaden the Bobby Baker investigation. This is an election year and if there actually is more dirt behind the case than has been disclosed the not unnatural inclination of the Senate majority would be to keep it under the rug.

Senator CLIFFORD CASE, of New Jersey, and Senator JOHN WILLIAMS, of Delaware, both Republicans, led the fight to have the inquiry extended, and it was WILLIAMS' resolution which the Senate defeated.

Senator JORDAN, North Carolina Democrat, is chairman of the committee which held hearings on Baker. The committee made a few feeble passes at exposing Baker's influence peddling when the latter was secretary of the Senate majority, and then JORDAN moved to end the investigation on an inconclusive note.

The question of the Senate's integrity arose in the debate over Senator WILLIAMS' resolution. Senator CASE declared the integrity of the entire Senate and the reputation of all its Members were in question as long as the committee ignored Baker's reported boasts that he virtually "owned" certain Senators. Democratic Leader MIKE MANSFIELD, leading the move to kill the resolution, argued that it "would impugn the integrity" of every Senator.

Senator CASE had the better of that argument, it seemed to us. The good name of the Senate would come closer to being tarnished by refusal to investigate suspected scandals than by voting to do so.

Senate Democrats appear determined not to let the searchlight be turned on the Baker matter any further. This may have the effect of causing the public to wonder all the more whether there isn't something that is being covered up.

Indiana people were interested in noting that this State's two Democratic Senators, HARTKE and BAYH, voted against continuing the investigation.

[From the Gary (Ind.) Post-Tribune]

THE BAKER NONINQUIRY WILL END

A couple of Republican Senators shook up the hallowed Senate Chamber this week by suggesting that the committee investigating the Bobby Baker scandal should really do some investigating.

Several of their Democratic colleagues became loudly indignant when Senators JOHN WILLIAMS, of Delaware, and CLIFFORD CASE, of New Jersey, recommended that the Senate itself be included in the so-called investigation.

Democrat EVERETT JORDAN, of North Carolina, chairman of the Senate Rules Committee, which is conducting the Baker inquiry, appeared deeply wounded.

"This is a blanket indictment of all the Members of the Senate," he declared.

A cloud already hangs over the Senate because of the Baker mess, and JORDAN knows that nothing but a thorough investigation will lift that cloud. That may be why he is indignant. It is a nasty dilemma that will not go away just because the Democrats want it to.

However, they tried Thursday to make it go away by killing the move to broaden the inquiry and extend it to September 1. Most Democrats, including Indiana's VANCE HARTKE and BIRCH BAYH, voted with the majority. So the "investigation" is scheduled to end May 31. Thursday's vote did nothing except darken that cloud over the Senate.

WILLIAMS could hardly expect a warm nonresponse because he stirred up the Baker scandal late last year with a one-man study of the slick young man's outside activities while secretary to the Senate Democrats. Baker quit his Capitol Hill job and it was revealed that he had acquired a $2 million fortune. Rumors that he had a strong hold on some Senators should be either verified or dispelled.

Senator CASE said the committee could not discharge its responsibility if it merely sat and waited for evidence. Senator WILLIAMS said there should be no lingering doubts in the minds of the people about Baker's dealings. Both are right, of course, and we are sure many Democratic Senators secretly share their views.

The Senate's integrity has been challenged. Its reputation has been tarnished by the activities of a brash, greedy young whippersnapper. Every Senator who is in the clear should welcome a chance to prove it.

If JORDAN and his committee would pull their heads out of the sand, they could see what is obvious to almost everyone else: Bobby Baker is gone, but hardly forgotten.

[From the Green Bay (Wis.) Press-Gazette]

A CLEAR LOOK AT THE BOBBY BAKER CASE

Senator CLIFFORD P. CASE, Republican, of New Jersey, is one of many Members of the U.S. Senate who suffers humiliation when he sees or reads the statements of Bobby Baker, which tend to tarnish the name of the Senate and to offend all honest Members of that legislative body.

Recently, Senator CASE succeeded in getting a hearing before the Senate Rules Committee which for several weeks has been trying to investigate the Bobby Baker case without disclosing anything which might injure the Democratic cause in this election year.

Senator CASE kept hammering away until the committee called him in self-defense. The session began behind closed doors but Senator CASE immediately renewed his demand for a public hearing and finally, through the intercession of Senator JOSEPH CLARK, Democrat, of Pennsylvania, the meeting was opened to public view.

Said Senator CASE:

"When I hear an employee of the Senate boasting that he has 10 Members of this body in the palm of his hand, I do a slow burn.

"It is difficult for me to control my anger when I hear the talk, which everyone has heard, of Bobby Baker's dealings in committee assignments—granting or withholding his favor to persons elected by a sovereign State to this the greatest deliberative body in the world; Bobby Baker offering $5,000 to Senators or senatorial candidates for campaign purposes, and attaching strings to those offers in the form of commitments to vote for or against oil depletion allowances or amendments to rule XXII, a filibuster rule, for example.

"As I ponder these things it is hard for me to understand how the Senate can contain its wrath at conduct of this sort."

It is difficult to disagree with that statement. What do the Senators on the Rules Committee think of themselves as they hear the stories of Bobby Baker's powers bandied about?

Senator Case has not liked it and he has been demanding for some time that the committee extend its investigation to all Members of the Senate.

Senator Clark, although he had opened the way to a public hearing for Senator Case, was nevertheless miffed at some of the statements Case had made in his demands to be heard. And so Senator Clark took him to task. He said Case had made false statements and accused him of "repeating the false charges" that the committee had refused to hear him. But Senator Case did not back down. He said that the statement had been quoted from a newspaper column and that he would have been denied the chance to appear if the column had not been written.

Case went on to say that it was hard to believe that the committee would end the investigation until all of the facts had been recovered "from the beginning of Bobby Baker's connection with the Senate until he left it with a fortune of $2 million." He said he did not know how far the Senate had gone but "it has not been reassuring to be told that the committee is not investigating Senators." That statement had been credited to Senator Everett Jordan, Democrat, of North Carolina, earlier in the hearings.

Finally the irate Senator said, "Every Member of the Senate has his reputation, his good name, diminished by the Bobby Baker case. As an individual, I resent Bobby Baker's ability to blacken me."

It is doubtful if anything will come of it. Senators who are committed to a course are not easily changed. But even if nothing more comes of it it was a good speech, one that the people of this country should hear because it states quite clearly that there are some Members of the U.S. Senate who are not being led around by Bobby Baker or any of his friends.

[From the Huntington (W. Va.) Herald-Dispatch]

Are These 44 Senators Afraid To Probe Bobby Baker Scandal?

If the full truth of the Bobby Baker scandal is ever to be revealed to the American public, it will have to be pried out of the U.S. Senate with a legal crowbar. The Democrats in the Senate will never voluntarily submit to a really searching inquiry.

That was demonstrated again on Thursday, when 42 Democrats defeated a Republican motion to broaden the investigation into the activities of Baker, who resigned under fire last October as secretary of the Senate Democratic majority. The original inquiry—a whitewashing operation—did not include the questioning of any Senators who may have had dealings with Baker.

This, in the opinion of many Senators, has damaged the reputation of the entire Senate. Senator Clifford P. Case, Republican, of New Jersey, contended that the integrity of the Senate was in question as long as the investigating committee refused to touch on Baker's boasts that he virtually "owned" certain Members and had claims on many others.

Senator Case said: "When I hear of an employee of the Senate boasting that he had 10 Members of this body in the palm of his hand, I do a slow burn. Every Member of the Senate has had his reputation, his good name, diminished by the Bobby Baker case. As an individual, I resent Bobby Baker's ability to blacken me."

The New Jersey Senator then demanded that the committee call every Senate Member and ask each if he had any business or financial dealing with Baker and if he got anything of value from Baker.

But, protested Senator B. Everett Jordan, Democrat, of North Carolina, chairman of the investigative committee, this would be an insult to Senators.

So, although Senator John J. Williams, Republican, of Delaware, author of the original investigative resolution, proposed that the inquiry be widened to include the questioning of individual Senators, the Democrats yelled foul and the motion lost by a vote of 42 to 33. (West Virginia's two Democratic Senators, Jennings Randolph and Robert C. Byrd, voted against the resolution.)

There the matter rests and the Bobby Baker scandal seems to have been locked up again—at least until after tne November election.

Of course, no administration likes scandals. They're embarrassing. Mr. Eisenhower was embarrassed by the gifts of vicuna coats and oriental rugs to his assistant; Mr. Truman had to contend with mink coats and freezers; Mr. Roosevelt parried questions about the use to which members of his family were putting their influence.

But none of these cases had the implications of the Baker scandal. None of them put the whole membership of the U.S. Senate under a cloud of suspicion.

Why wouldn't the innocent Members of the Senate—who must surely outnumber the guilty—want to shake the dark folds out of the Baker case and hang the whole thing out on the line to air?

Surely there aren't 42 Democrats in the Senate who are genuinely afraid of being asked if they had any connections with Bobby Baker, or if they ever got anything of value from this influence peddler.

Or are there?

[From the Akron (Ohio) Beacon Journal]

Silent on Baker

As today's cartoonist notes, the American people may never know the full "inside story" of the wheeling and dealing of Bobby Baker, one-time secretary to the Senate's Democratic majority and former protege of President Johnson. The Democratic majority of the Senate has slammed the door on the Baker inquiry.

Last week 42 Democratic Senators voted to kill a resolution to broaden the scope of the Baker investigation to bring Members of the Senate into the probe and to include handling of campaign funds and other matters. The resolution also would have extended the Senate Rules Committee's investigation to September 1. The committee's authority expires at the end of May.

Nine Democrats and 24 Republicans voted, in a shouting, tumultuous session, for extending the investigation. But they didn't have a chance.

Official silence may forever hide all the ramifications of Bobby Baker's deals. How he was able to manipulate government to his own advantage may well remain a secret. And the public may never know whether any Member of the Senate was involved in any way with Baker's operations.

Assuredly, Baker isn't going to talk under oath. He took the fifth amendment when asked his name. He has, however, let it be known that he is "writing a book."

The Members of the Senate are the losers. For their integrity is beclouded as long as the aroma of the Bobby Baker case clings to the hallowed Halls.

Roscoe Drummond, in his column on this page May 2, urged that Senators be asked the following questions:

"What, if any, business or financial dealings did you have with Bobby Baker?

"Did Bobby Baker ever give you, get for you, offer you or offer to get for you any campaign contributions with conditions attached? (One Senator received such an offer and rejected it.)

"Did Baker offer any other Senators help to make up campaign deficits through gifts, purchase of tickets or otherwise, any retainer or employment, any preferment in committee assignment, anything of value?"

The people of this country have a right to know the answers.

Members of the Senate should be above suspicion. But are they, as long as the majority enforces silence about Bobby Baker?

The resolution authorizing the Rules Committee's investigation stated that the committee "is directed to make a study and investigation with respect to any financial or business interests or activities of any officer or employee or former officer or employee of the Senate."

Senator Mike Mansfield, Democratic majority leader of the Senate has stated:

"I wish to inform the Senate that, if we did not know it before, we are all employees of the U.S. Senate."

Yet it was Mansfield himself who made the motion to table the resolution to extend the inquiry and shouted down Republican Senator Clifford P. Case's efforts to get the resolution approved.

The Senators should also be reminded that they are employees of the American people and that they are answerable to the people at the ballot box for their actions and lack of action on the Senate floor.

Three Senators—Case, of New Jersey, Hugh Scott and Joseph Clark, of Pennsylvania—have already been asked and have answered questions about receiving favors from Bobby Baker. They didn't. The other 97 Senators haven't been asked and haven't answered.

Perhaps the most important question any voter in these 50 States can put to an incumbent Senator is: "What about Bobby Baker?"

[From the Fredericksburg (Va.) Free Lance-Star]

To the Bitter End

Partisan politics may be lurking in the wings as Senator Case, of New Jersey, occupies the stage with his demands that all Senators be questioned about any dealings they may have had with Bobby Baker. Case is a Republican. Because Baker was close to high Democratic figures and was secretary of the Senate majority before resigning under fire, the scandal is an embarrassment to Democrats.

Partisan or not, Senator Case is right in his insistence that the Senate has an obligation to pursue this matter to its quite possibly bitter end. Reasons given in his testimony before the Senate Rules Committee—at his request, and at a public hearing even though a majority of the committee at first sought to keep the hearing secret—are most persuasive.

Case wants the Rules Committee to ask all Members of the Senate whether they had any business or financial dealings with Baker, and whether they received anything of value from him. He correctly believes that this is the only way the Senate can get to the bottom of a sordid matter, and that until this is done the public will not be satisfied and the Senate's image will be badly stained.

There have been persistent rumors about Baker's hold on certain Senators. Case referred to them thus: "When I hear of an employee of the Senate boasting that he has

10 Members of this body in the palm of his hand, I do a slow burn. It is difficult for me to contain my anger when I hear the talk, which everyone has heard, of Bobby Baker's dealings in committee assignments—granting or withholding his favor to persons elected by sovereign States to the greatest deliberative body in the world * * *." He went into even greater detail, but this is enough to suggest that such rumors cannot be ignored. The Senate would be wise to follow Case's advice.

[From the Perth Amboy (N.J.) News]

The Senate Whitewashes Itself

In as sorry a spectacle as the Senate has seen in a number of years, the U.S. upper House voted Thursday to block expansion of the much-needed investigations into the dubious business affairs of Robert G. Baker.

We do not find ourselves in agreement often with Senator Clifford P. Case, of New Jersey, but earlier in the week he jarred the collective Senate nerves by telling Members no probe into the Baker matter can be complete without an investigation into Senators' relationships with the former secretary to the Democratic Senate majority.

Case urged the Senate Rules Committee to "get to the bottom" of the Baker case and not treat Senators as "a privileged class." Case urged that each Senator be asked if he ever had any financial or business dealings with Baker or ever received campaign contributions from him.

The reaction of the Senators was the height of hypocrisy.

For his efforts, Case was accused of "demagogery" and Senator B. Everett Jordan, chairman of the Rules Committee, said it would be an "insult" to the Senators to ask these pertinent questions.

The entire spectacle climaxed Thursday when the Senate voted 42 to 33 to kill an effort by Republican Senator John J. Williams, of Delaware, and Case to expand the probe to include any possible improper activities by Senators.

Senator Mike Mansfield, the Democratic leader, accused Case of political motives—Case was not permitted to answer the remarks.

The Senators' efforts to block this investigation are shocking to begin with, but even more so because they are so blatant.

We suggest that if there is any "insult" involved here, it is directed at the intelligence of the public.

Baker amassed a $2 million fortune while on the Senate payroll at $19,600 a year—and when he was called to testify, he repeatedly invoked the fifth amendment, thus blocking any information on whether his activities involved conflicts of interest.

Professions of piety from the Senators are wearisome because of the long and unbroken record of Congress refusing to submit to full disclosure of their financial holdings and interests and refusal to investigate any hints of wrongdoing within its own ranks.

Yet, at the same time, Congress requires that high-level Federal appointees strip themselves of all holdings before assuming Cabinet posts or other high office.

Congress' record for building itself lush office facilities and trying to raise its own pay is equally suspect.

Election to the Senate or House does not place Congressmen above Members' basic responsibility to the public. It is not a license to operate under some sort of double standard of conduct.

Senator Case, with his request to examine Senators' relationships with Baker, has pinpointed a far greater problem involving Congress' overall conduct and ethics.

Only continued pressure will force Members to adhere to codes that the public should and must demand.

[From the Painesville (Ohio) Telegraph]

Money Changers in the Temple

That intemperate shouting match the other day between two normally mild-mannered Senators, Majority Leader Mansfield and New Jersey Republican Clifford Case, showed how raw senatorial nerve ends have been rubbed by the Bobby Baker case.

And the 42 to 33 vote against broadening the inquiry to include improper activity by Senators was a pretty good indication of why the nerve ends are so raw.

The Baker noninvestigation has been marked from the start by a tremulous reluctance to let it go further than it absolutely has to. Senator Jordan's well-remembered remark, "We're not investigating Senators," has set its tone and marked its limits—despite the transcendent fact that it was Baker's relationship to the Senate—and to Senators—that attracted the public spotlight in the first place.

It's not the peccadillos of one former Senate employee, however influential, that's of paramount public concern. Rather, it's the ethical standards of the Senate itself. For Baker was the Senate's creature, and the Senate Baker's teacher.

One of Baker's levers of power was his handling of Democratic campaign funds. In adamantly refusing to investigate the way these were handled, the majority is tacitly acknowledging that it doesn't want the facts brought out.

Sadly, one of the prices we pay for elective democracy is the corruptive influence of the contributions without which campaigns can't be waged. The average voter, by not contributing, leaves the official dependent on money from those who give in the expectation of getting. Pass this money through the hands of a Baker-type operator, and it's easy to see why Senators who get it might want any inquiry tightly lidded.

But it's the public's business that the Senate conducts. It was the Senate Members' own choice to take the public stage and assume a public trust. And it's the public's right to know what role moneychangers have played in the temple of democracy.

[From the New Brunswick (N.J.) Home News]

U.S. Senate Under a Cloud

In answer to a radio announcer's query whether he intended to drop his fight in the Bobby Baker mess after the cavalier treatment he received from the majority on the Senate floor the other day, Senator Clifford P. Case said, "Indeed I am not. I am not satisfied, and I don't think the American people are satisfied, with the passive role the committee (Senate Rules Committee) has taken."

Case then added, "Press reports have appeared over and over again about Bobby Baker's relations with individual Senators. The committee cannot look away from them, nor can the investigation be buried by steamroller tactics. The reaction of the press and public makes this plain.

"No investigation of Bobby Baker can have any real meaning without an investigation of the relations of the Members of the Senate with Bobby Baker. The Senate's concern is with the Senate, its reputation and good name and that of its Members."

On Tuesday, Case amplified this position in a statement on the floor of the Senate. He said, "There is no looking away from published reports that Bobby Baker dealt in campaign funds for Senators, and bragged that he had 10 Members of this body in the palm of his hand. I shall have more to say about this in the future."

We hope Case will have plenty more to say about this. Much is at stake. The issue has tremendous import for the future of our Nation, import that transcends the future of Bobby Baker or a few Senators who may have accepted his largesse.

In a Nation such as ours, our freedoms and in fact our very life depend upon the respect of the people for their Government, for their laws, and for the people who make the laws.

Today the U.S. Senate stands tarred with the brush of rumor, but rumor which persists and is widespread and appears backed by some fact. The rumor seems supported by the fact that Bobby Baker has taken the fifth amendment to protect himself against answering questions about his relationships with Senators. The rumor can't be downed by Baker testimony, because he won't testify. The answer must be found from the Senators themselves, and the Senate Rules Committe adamantly refuses to submit entirely proper questions to the entire Senate membership, questions that no honest man need fear answering.

For one reason and another, public esteem for the Congress certainly does not stand at an alltime high today. Public esteem for the Senate must drop grievously if the Baker case is not cleared up.

As things now stand, all the Members of the Senate are under a cloud of suspicion. Case wants that cloud dispelled. Certainly the great majority of the Members of the Senate should be standing with Case today.

[From the Hackensack (N.J.) Record]

The Indictment Is Only Step No. 1

"No amount of sophistry can relieve the Senate of the public criticism now directed against it. * * * The Senate as a body and Senators individually have suffered the loss of much respect and prestige because of conditions this investigation has brought to light."

And not only that, went on this report by L. P. McLendon to the Senate Rules Committee, as whose special counsel he served through its Bobby Baker investigation, you'll excuse the expression—not only that: to prevent a recurrence of this mess, the Senate should forthwith:

1. Establish a system of public disclosure by all Senators and Senate officers and employees of their financial interests.
2. Enforcibly prohibit Senators, Senate officers, and Senate employees associating with persons and agencies doing business with the Government or before its agencies.
3. Require that any Senator respond on the call of any committee to appear and testify on any matter the committee has under investigation.

It is a great report, a forthright and implicitly damning presentment, and Mr. McLendon is to be felicitated—but not yet congratulated. The Rules Committee that swept the Baker garbage under the rug has not yet consented to refer to the full Senate this blistering criticism of its ethics and summons to penitence and correction. If the committee were to do so, the Senate itself would have yet to act; that'll be the day. And if the Senate were to act, the fact remains that the Bobby Baker case has not been adequately investigated and won't be. The public interest would be better served by a resolution to see what's wrong now than by a promise to go straight henceforward. Mr. McLendon joins Mr. Case, Republican, of New Jersey, as a splendidly articulate prosecuting attorney. But he is arguing his case before a defendant that is also judge and jury, and he must know the odds are not exactly rigged in his favor. Maybe he should send for Bobby Baker.

[From the Paterson (N.J.) News]

Senator Case Shows the Way

Score New Jersey's senior U.S. Senator at the head of the class in his unrelenting fight to introduce a decent regime of ethics into the upper House of the Federal Legislature.

Senator Case has refused to be diverted from his determination to make the Bobby Baker case produce some results for the good of the country.

He wants Senators to subscribe to the same requirements which men like the President's Cabinet have to meet, to wit: full disclosure of their sources of income.

The immediate aim, of course, is to ascertain how many Senators were in on the bubbly Baker bonanza, which netted the ex-senatorial secretary a cool $2 million in just a short time. Thereafter, his proposal of exposure would render it impractical for Senators to enter into any deal which might embarrass them if the facts were brought to light. Additionally, Senator Case wants to remove the shackles from Senators who are summoned before congressional committees and at the same time, proscribe their activities in introducing influence in behalf of corporations before governmental agencies.

Senator Case isn't asking of the others anything he doesn't practice. He was the first to make public his assets so that the world would know. If there were more such exposure, there would be no opportunity for get-rich-quick Bobby Bakers. The Jersey Senator is a man not only of probity but of great courage.

[From the Montgomery (Ala.) Advertiser]

Short, Short Story

Senator Case, of New Jersey, was merely talking for the record this week when he heaved one more rock at the Senate's fast lockup of the Bobby Baker case.

Case proposed to the Senate Rules Committee, which gave Baker a polite frisking, that every Senator be asked about his dealings with Baker and how much if any campaign assistance each received from him.

But Case knows he's batting his head against the floor. Senator Jordan, chairman of the Rules Committee, said at the beginning of the Baker inquiry that he wasn't interested in investigating Senators. Though he regretted putting it so crudely and tried to reword the statement, those were Jordan's true sentiments and he stuck by them all through the hearings.

The committee did such a skillful job of keeping the hearings in low key that Bobby Baker is already a misty, vanished figure. Case had a splendid understatement when he said that he and the public had the impression "of an effort to put an end to an unpleasant episode—to push the whole matter aside in the hope it will soon be forgotten."

Bobby Baker is the beneficiary of an election-year amnesty—and to the same degree, the public is its victim.

Baker is a better judge of drama than the committee. He says he's writing a book about himself, but the Rules Committee found him to be strictly short-story material.

[From the Milwaukee (Wis.) Journal]

Senators and Bobby Baker

The U.S. Senate in effect Thursday gave a resounding "No" to its most fearsome question: Should a Senator be held to the same standards as ordinary mortals?

This was the consequence of the Democratic defeat of a Republican proposal to broaden the Bobby Baker investigation to include allegedly improper activities of Senators.

Baker, the ubiquitous former secretary of the Senate Democratic majority who in 9 years ran up his net worth to more than $2 million on a salary of less than $19,000 a year, obviously was helped by close friendship with the late Senator Kerr, Democrat, of Oklahoma. He was not harmed by the reflected prestige of the then Senator Lyndon Johnson, of Texas, who as majority leader was Baker's boss for some years. He profited from the friendship of Senator Smathers, Democrat, of Florida.

At question is how many Senators did have dealings with Baker. Senator Case, Republican, of New Jersey, has been trying to get the Senate Rules Committee to ask each Senator whether he ever had direct or indirect business or financial deals with Baker and whether he ever had any help or offers of help from Baker with campaign funds.

As most Senators who knew Baker closely were Democrats by virtue of the former secretary's position, the Republicans were the ones backing Case. But not all were enthusiastic. Senator Dirksen, of Illinois, minority leader, has said that he does not favor poking into the financial affairs of Senators and thus making them "second class citizens."

Senator Jordan, Democrat, of North Carolina, chairman of the Rules Committee, has said that he was "not investigating Senators." Such probing, he claims, is not authorized by the Senate resolution which started the Baker investigation. The fact is that the resolution calls for investigating Senate employees and former employees. Senators, by legal definition, are Senate employees. It so states on their payroll slips.

Thus the Rules Committee can ask Senators if they had dealings with Baker—if it wants to. It doesn't want to. And, as the Thursday vote showed, it is backed by many Senators who don't want it to.

The big problem for all Senators was that if they supported such an investigation they would be flying in the face of Senate tradition which holds each Senator immune to inquiry by his fellows. By opposing such an inquiry they risk the charge of condoning wrongdoing and claiming immunity for Senators. It is the kind of dilemma that Senators dislike intensely. But in the interests of retaining the respect of the country, the Senate should ask its Members what they know about Baker and whether they had dealings with him.

[From the Chattanooga (Tenn.) News-Free Press]

Some Fear the Facts

Like a black cat with nine lives, the Bobby Baker case seems to keep coming back to the Senate's "investigating" committee that has been trying to kill the thing off and forget it.

The Senate committee, obviously under urging from the White House, has bumbled the Baker investigation. Senator Everett Jordan, Democrat, of North Carolina, has been put on a very uncomfortable spot, caught between demands for full investigation and obvious party encouragement not to turn the full light of the day on the situation surrounding President Lyndon B. Johnson's protege who parlayed a $19,600 salary as secretary to the Democratic Senate majority into a $2 million paper fortune that has since dissolved, with Bobby Baker refusing to tell the truth about his deals.

There are many loopholes; for example, the refusal of the investigators to call Mr. Johnson's White House aid, Walter Jenkins, former employee of the L.B.J. TV station, to testify fully under oath and cross examination about insurance man Don Reynolds' statement that he was required to buy unwanted television advertising on the L.B.J. station in Austin, Tex., after selling insurance to Mr. Johnson. Reynolds is the Baker friend who sent the stereo to L.B.J. at Baker's suggestion.

Some have argued that investigators don't have the power to look into Baker's reported claim that he had "10 Senators in the palm of my hand." But when Senator Clifford Case, Republican, of New Jersey, suggested full investigation of Senators' dealings with Baker be made, Senator Jordan hotly replied that would be an insult to Senators.

It wouldn't be if the truth wouldn't hurt.

Senator John J. Williams, Republican, of Delaware, proposed that the investigation be broadened to include "any illegal, immoral, or improper activities" by Senators. That threw the Senate into an uproar.

And so the whitewash continues—a very poor paint job. Maybe the American people are learning more by noting the way the "investigation" is not being conducted than by the way it is.

[From the Knoxville (Tenn.) Journal]

Senate's Tender Nerve

Senator John J. Williams, of Delaware, threw the usually sedate U.S. Senate into an uproar this week by proposing that the membership include itself in the Bobby Baker investigation. He could not have caused any greater disturbance by tossing four or five gas bombs.

What the Delaware Senator proposed was a broadening of the inquiry of the House Rules Committee so as to include "any illegal, immoral, or improper activities" by Senators. He hastened to say that he had no information to the effect that any Senator is under suspicion.

Among other things, he said:

"There have been questions in the minds of many people as to whether or not the Senate has the nerve or the integrity to carry through this investigation which involves its own house.

"We can't afford to leave any doubt lingering in the minds of the American people on this question."

From the Democrat side of the Senate there immediately burst indignant objections to the proposal, but Republican Senators Clifford P. Case, Carl T. Curtis, and Hugh Scott, the last two being members of the committee, chimed in to support the Williams proposal.

It is to be hoped that after tempers cool, the Democrat majority in the Senate will agree that the kind of inquiry proposed is in the Senate's own best interests.

This is not a situation in which, contrary to the expressed views of several Democrat Senators, the integrity of Members of the Senate is under blanket indictment. Bobby Baker enjoyed a special relationship with Members and had previously boasted that he had 10 Senators in his pocket. Certainly the Senate as the senior legislative body in our country, and in the world for that matter, deserves to get out from under the cloud of suspicion which will hang above it so long as it is apparent the Democrat majority is suppressing the Baker investigation.

[From the Trenton (N.J.) Times-Advertiser]

Martyrdom of Senator Case Could Result in Breakthrough on Senate Reform of Rules

(By George Amick)

Washington.—Senator Clifford P. Case's long war with the rules and procedures of the U.S. Senate finally flared into open battle last week.

Case lost the skirmish, an angry rowdy shouting match over whether Majority Leader Mike Mansfield had imputed improper motives to him in violation of the rules.

But in defeat he may have gained more personal sympathy among his colleagues than he has been able to do in years of talking about Senate reform.

SENATE REFORM FOR 10 YEARS

Whether this sympathy can be translated into any support for his program is far from clear. Case thinks it may have that effect, but adds that he hates to resort to "martyrdom" to win converts.

Since coming to the Senate 10 years ago, Case has told everyone who would listen that the Congress is losing the respect of the American people because it is slow and ineffective and because it is reluctant to police the outside activities of its Members.

He has been largely ignored by his colleagues, many of whom resent these charges, and much of the time has trod a lonely course.

But on Thursday CASE was the protesting victim of what appeared to many to be a violation of his Senate rights by Majority Leader MANSFIELD, Democrat, of Montana, and the temporary presiding officer, EDWARD M. KENNEDY, Democrat, of Massachusetts.

And several colleagues from both sides of the aisle agreed with CASE afterward that he had been steamrollered. Senator RICHARD RUSSELL, Democrat, of Georgia, one of the patriarchs of the Senate and a foe of most of CASE's proposed reforms, was quoted as saying CASE got "one of the rawest deals I've ever seen."

Curiously enough, CASE had little enthusiastic support, even among Republicans, when he made the suggestion that touched off the whole wrangle.

PROPOSAL INVOLVED BAKER SCANDAL

That was his proposal, offered Tuesday to the Senate Rules Committee, that all 100 Senators be summoned and questioned to discover whether they had had any improper ties with former Majority Secretary Bobby Baker.

CASE told the committee this was necessary to get to the bottom of Baker's alleged boast that "on any issue I hold 10 Senators in the palm of my hand."

Some of his colleagues protested that this proposal would amount to requiring Senators to prove their innocence of vague and indefinite charges.

"It's one thing to say Senators should be treated the same as everybody else—and another thing to say they should be treated worse than everybody else," one said.

It was also pointed out that the Baker statement was only a quote from a Chicago newspaper and was never formally introduced as evidence before the Rules Committee or any other official body. This made it a weak reed to anchor such a sweeping proposal on, the argument went.

Even Republican Senator JOHN SHERMAN COOPER, of Kentucky, seemed to be chiding the New Jerseyite when he said if any Senator had any information about improper activities by other Senators, "they should present us with the proof * * * it is not sufficient to make general allegations of impropriety or wrongdoing."

REMARK CUT CASE DEEPLY

What touched off the dispute Thursday and brought the usually mild-mannered CASE storming to his feet was a statement by MANSFIELD that "sly innuendoes" about senatorial misconduct were hurting the image of the Senate.

This cut CASE deeply—he is a man who takes pride in his integrity—and he demanded that the majority leader be called to order for impugning CASE's motives.

But the youthful KENNEDY, relying heavily on advice from the Senate Parliamentarian, rejected CASE's repeated demands.

CASE then tried to appeal KENNEDY's ruling to the whole Senate—a right provided in the rules, and one that includes the right of debate.

KENNEDY finally agreed to take the appeal and then recognized MANSFIELD, who quickly moved that the resolution pending at the time before the Senate be tabled.

KENNEDY ruled that this motion killed CASE's appeal and ordered a rollcall on it.

Afterward, CASE said that if this ruling is allowed to stand, any Senator may lose his right of appeal any time another Senator moves to table the pending business. He promised to seek to have it overturned.

And many Senators, apparently picturing themselves in the same situation some day, are—for a change—on "CLIFF" CASE's side.

[From the Wichita (Kans.) Eagle]

CONTINUE THE BAKER PROBE

The effort by Senator CLIFFORD P. CASE, Republican, of New Jersey, to get the Senate Rules Committee to extend its inquiry in the Bobby Baker scandal by questioning Members of the Senate who had financial dealings with the former Senate secretary will be viewed widely as strictly a move by the GOP to keep the Baker case alive as a political issue.

This element may be involved, but there is a more fundamental reason the inquiry should be pursued to conclusive results. As long as it is left with loose ends hanging, the public is going to believe that the Senators are unwilling to investigate each other. And that this unwillingness stems from ulterior motives.

If just the known facts and even one-tenth of the rumors around Washington are considered, Baker had dealings with Senators that were not aboveboard. The Senate as a whole, and the Rules Committee as the decisionmaking unit, should want the facts laid in the open.

As CASE told the Rules Committee, it does have the duty to "go out and get the facts." It has the power to do so, under authority given it in the original resolution establishing the investigation. If there is any doubt about this, it can be remedied easily by resolution.

It is known that the Baker scandal touches Senators in both parties, not just Democrats. And if the inquiry is pushed, undoubtedly the result would be to improve the chances of the "code of ethics" for Senators that is being promoted by some Members. Such a code would require Members of the Senate to disclose their financial dealings—either to the public, to a special committee of the Senate or to the Justice Department.

We think such a code is needed. We also think the Baker probe should be extended into whatever areas will prove productive. Until all the facts are out in the open, suspicion about conflicts of interest by Senators will prevail.

[From the Hartford (Conn.) Courant]

THE SENATE TAKES THE FIFTH AMENDMENT

In many respects the refusal of the U.S. Senators to tell of their individual dealings with Bobby Baker is not much different from the attitude of Baker himself in pleading the fifth amendment. That there were business relationships between Baker and the various Senators has been demonstrated. Real estate deals with SMATHERS, of Florida, and a $40,000 gift from Kerr, of Oklahoma, are facts on the record. Other Members of Congress tell of offers of large campaign contributions in exchange for support on oil-depletion legislation.

But these obviously are just the smallest fraction of the wheelings and dealings that transformed this clerk of the Senate majority into a millionaire in a few brief months. As Baker will not talk the obvious alternative is to ask the Senators to talk. That is precisely what Senator CASE, of New Jersey, proposes that the Senate do. He is to appear before the Senate Rules Committee to ask that all Senators be queried about any financial dealings with Bobby Baker.

Senator CASE insists that since Mr. Baker has taken the fifth amendment concerning his business activities it behooves the Senate to disclose any possible dealing with him, "to cleanse itself of the stain which this affair has placed on our institution."

The Senator first made the request more than 2 months ago, but the committee postponed action. It apparently then deferred to mounting public and press reaction. At least one of the majority on the committee, Senator CLARK, of Pennsylvania, urged hearing Senator CASE now so that the committee would not be charged with trying to contain the inquiry. But when it comes to a simple question, "Did you have dealings with Bobby Baker, and what were they?" there will be a large but significant silence. It will be in effect the same thing as though each Senator, momentarily doffing the toga of statesman, gets under the television camera, twists hands in cleansing motion, and pleads the fifth. It will not be a pleasant thing to contemplate, but apparently that's the kind of Senate we have.

[From the Wheeling (W. Va.) Intelligencer]

The frantic and thus far largely successful efforts of the Democratic establishment to keep the Bobby Baker case under wraps strengthens the suspicion that had the Senate investigation been permitted to run a natural course it would have led to some high places.

But these coverup tactics may come back to haunt the Johnson administration.

Senator CLIFFORD P. CASE, Republican, of New Jersey, demanding, apparently without much prospect of success, that the Rules Committee ask all Members of the Senate what dealings, if any, they had with Baker, or what assistance, if any was tendered by him, told the group in a heated appearance on Tuesday:

"It is hard to believe that the committee would consider for a moment dropping the investigation until it is satisfied it has every fact uncovered from the beginning of Bobby Baker's connection with the Senate until he left it with a fortune of $2 million."

And Senator HUGH SCOTT, of Pennsylvania, one of the three Republicans on the committee, calls attention in a Saturday Evening Post article to some of the highhanded tactics employed by the majority.

Describing the investigation as a "shameful farce," Senator SCOTT charges his Democratic colleagues with being concerned "not with the facts but the calendar." Because of the "approaching elections," he went on, "they were determined to cram the skeleton back in the closet."

To this end the Democratic majority "allocated itself a staff of seven investigators," Senator SCOTT relates, "but we Republicans were allowed only one, and he was detailed by the committee leadership to the safest possible assignments."

Even more significant, the Intelligencer believes, is the following Scott charge:

"In executive session of the committee the Republican members, including myself, made 14 separate attempts to summon additional witnesses we believed should be heard. We were defeated every time. Not a single witness requested by the Republicans was ever called."

Why, unless to protect somebody very high in the Democratic hierarchy would the Democratic majority go to such lengths to keep the facts of the Baker case suppressed? It is a question which, it seems reasonable to believe, will be asked with increasing insistence when the fall campaign gets under way, a question to which there can be no satisfactory answer.

[From the Lakeland (Fla.) Ledger]

UNFINISHED BUSINESS

The fight over the questioning of Members of the U.S. Senate about their past dealings with Bobby Baker, former majority secretary of the Senate, had the appearance of being composed of 49 percent political maneuvering by the Republicans and an equal part of ducking and dodging by the Democrats.

The remaining 2 percent, which had to do with getting to the bottom of the smelly Baker mess, was more or less lost in the shouting.

If the Baker case is to be cleared up to the satisfaction of the public, everyone, including present and former Members of the Senate, known, suspected or rumored to have had knowledge of Baker's operations should be questioned by the investigating committee assigned to the case.

Since Baker was the employee and general handyman of the controlling Democratic majority, it stands to reason that the Democrats could be hurt the most by a thoroughgoing investigation. By the same reasoning, it would seem likely that the Republicans would stand the best chance to gain politically.

Because of those possibilities and the absence of any new and solid evidence directly linking Members of the Senate to Baker's political and financial operations, the battle in the Senate left a strong impression of being largely sham on the part of the Republicans and clam on the part of the Democrats.

If Senator John Williams, of Delaware, and Senator Clifford Case, of New Jersey, both Republicans, are in possession of solid evidence of wrongdoing, they should have presented it to the Senate in support of their resolution. If they did not have more than unsupported suspicions to go on, they can't very well defend themselves against charges that they were merely promoting a fishing expedition for the purpose of embarrassing the Democrats.

The Democrats, however, have not improved their position in the Baker case by defeating the Williams-Case resolution. They are tarred by the fact that they permitted the Baker scandal to develop. They have been brought under suspicion of either condoning his operations or benefiting from them by reason of his employment. The reluctance of the investigating committee chairman to vigorously probe every possible lead and of the leadership in the Senate to permit it contributes to the impression that something is being covered up.

[From the Des Moines (Iowa) Register]

The Unfinished Baker Probe

The fight over the questioning of Members of the U.S. Senate about their past dealings with Bobby Baker, former majority secretary of the Senate, had the appearance of being composed of 49 percent political maneuvering by the Republicans and an equal part of ducking and dodging by the Democrats.

The remaining 2 percent, which had to do with getting to the bottom of the smelly Baker mess, was more or less lost in the shouting.

If the Baker case is to be cleared up to the satisfaction of the public, everyone, including present and former Members of the Senate, known, suspected, or rumored to have had knowledge of Baker's operations should be questioned by the investigating committee assigned to the case.

Since Baker was the employee and general handyman of the controlling Democratic majority, it stands to reason that the Democrats could be hurt the most by a thoroughgoing investigation. By the same reasoning, it would seem likely that the Republicans would stand the best chance to gain politically.

Because of those possibilities and the absence of any new and solid evidence directly linking Members of the Senate to Baker's political and financial operations, the battle in the Senate last week left a strong impression of being largely sham on the part of the Republicans and clam on the part of the Democrats.

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The questions proposed by Williams and Case were mild enough and general enough to have warranted no concern on the part of any Senator with a clear conscience.

They asked only that each Senator be called up to State whether he had ever had any business or financial dealings with Baker and whether he had received or solicited any help in raising campaign funds, obtaining employment or a retainer or in getting a committee assignment.

[From the Salt Lake City (Utah) Tribune]

The Ghost Will Walk

The Senate killed a proposal to expand the Bobby Baker investigation. But the ghost will continue to walk. It will haunt the Democrats during the coming political campaign.

Bobby Baker, secretary of Senate Democrats until he resigned under fire last year, is already being investigated by the Senate Rules Committee. But this is a limited inconclusive inquiry, and Senator Williams, Republican, of Delaware, proposed that it be broadened to include "illegal, immoral, or improper activities" of any Member or former Member of the Senate.

Williams' resolution was tabled by a 42 to 33 vote, largely along party lines. Before that happened, however, Senator Mansfield, Democrat, of Montana, the majority leader, and Senator Case, Republican, of New Jersey, engaged in an angry shouting match, something unusual for two such ordinarily mild tempered men. Mansfield branded the resolution as "sly innuendo"; Case, a sponsor of the resolution, declared his motives were being impugned.

We never expected this or any other Senate to investigate itself. But we do think the Baker inquiry should be pursued much more vigorously than it has been.

[From Newsweek magazine]

Guarding Guardians

(By Raymond Moley)

The Senate of the United States is far more than a lawmaking body. Under the Constitution it plays an important role in foreign affairs. Its advice and consent are essential to the selection of important Presidential appointments. And its committees as investigating bodies serve to protect the public interest against malfeasance, misfeasance, and nonfeasance in the executive department. Its Rules Committee, by custom and by designation by the Senate, is responsible for the conduct of Senate Members and the Senate's employees.

On October 10, 1963, a resolution introduced by Senator Williams of Delaware was enacted, directing the Rules Committee to investigate any type of misconduct by any employee or former employee of the Senate. At that time it was specifically understood that the authority given under that resolution was broad enough to include any such irregularities on the part of any Senator or former Senator. For it was obvious that the widespread operations of Robert Baker and his associates must have involved some contacts with the Senators by whom he was employed. Majority Leader Mansfield has since admitted that understanding with those who proposed the resolution.

BITTER BRAWL

However, after the investigation had been substantially terminated because Baker and others invoked the 5th amendment, the chief counsel of the Rules Committee rendered an opinion that the resolution did not contain any authority for the committee to investigate alleged improper conduct by a Member or former Member of the Senate.

On May 14 Senator Williams introduced a new resolution which would have overruled this opinion of the chief counsel and which would have permitted the committee to extend its investigation to Members and former Members of the Senate. There ensued one of the most disorderly brawls ever seen in the Senate of the United States.

Opponents of the new Williams resolution, including Mansfield, held that it was unnecessary because the original resolution was adequate. Other opponents demanded that proof of Members' complicity with Baker be presented. This was wholly irregular since the Senate as a body is not a preliminary hearing. Such evidence is properly the business of a committee hearing, perhaps in executive session. While the bitter shouting proceedings went on, the young and inexperienced Senator Edward Kennedy was in the chair. He lost his head completely, and even the Senate Parliamentarian reversed himself.

RUTHLESS MAJORITY

Finally Mansfield, who led the onslaught against the new Williams resolution, brought about a vote to table the resolution by a ruthless exercise of the power of the huge Democratic majority. The vote was 42 to 33 to table. But 11 Senators who were not present were recorded as opposing the motion to table. It is notable that nine Democrats broke with Mansfield and voted with the solid Republican minority.

There is thus raised the ancient question: "Who shall guard the guardians?" (Quis custodiet ipsos custodes?) So formidable are Members' privileges and immunities, so secure is the tenure of so many of them, and so tight are the ties within the Senate as a club that this question at the moment remains unanswered, and the public interest is left exposed at a very vital spot.

In many instances in the past the two-party system has operated to perform the function of guardianship. The minority party members have broken through to force investigations of a majority party's officials in the executive department. In the early 1920's, with Republicans in the White House and in a majority in Congress, Democratic Senators Thomas J. Walsh and Burton K. Wheeler brought to heel and to the bar of justice two Cabinet members—Albert B. Fall and Harry M. Daugherty—and other powerful members of the executive department, and a President went to his grave with a sullied reputation.

But now against such an overwhelming Senate majority, far greater than the majority in 1923, the Republican minority stands at the moment subdued and powerless.

[From the Pendleton (Oreg.) East Oregonian]

It's Good Advice

New Jersey's Senator Clifford Case and Delaware's Senator John Williams were exactly right when they told Members of the U.S. Senate last week that the facts of the Bobby Baker case were such that the Senate had yet to clear itself of guilt.

We have thought for many days, and have said so on this page, that nothing could be served by further investigating Baker.

Enough had been learned of his activities to make it completely clear that he acted improperly when he was secretary to the Senate majority. Further investigating would merely heap on some more of the same evidence. There's enough now.

That is not the way it is, however, with the Senate. Many citizens must have concluded from the evidence they have seen compiled by the Senate Rules Committee on the affairs of Baker that many Members of the Senate had to know what he was up to and had to have turned their backs on it or participated in it. This leads, of course, to a big question that is yet unanswered. Why did Members of the Senate permit Baker to run wild?

Senators Case and Williams are asking that all Senators place themselves on the record in the Baker affair: Did they or didn't they have any improper associations with Bobby Baker?

Unfortunately, many Senators are saying that they are offended and outraged by the Case-Williams proposal. They are suggesting that no citizen of good judgment could possibly think that any Members of the U.S. Senate acted improperly in their associations with Bobby Baker.

How wrong they are. In the eyes of many citizens U.S. Senators are not the all-powerful, all-knowing men of superior intellect and virtue that they consider themselves to be. Many citizens were not shocked by the obvious involvement of some Members of the Senate with Bobby Baker. They undoubtedly expected to find that was the situation when the Baker case was cracked open. So this high and mighty attitude some Senators are taking isn't throwing a lot of citizens off the trail. They know that some Senators are guilty and they want to know what those Senators have to say for themselves.

The Senate's stature has suffered from the Baker affair. It will not be repaired by Senators who scoff at the suggestion that the Senate's image has been tarnished.

Senators Case and Williams are giving the Senate some good advice. It's too bad that a strong majority of the Senate does not realize it and act accordingly.

[From the Lewistown (Pa.) Sentinel]

Baker Case Lingers

If the Senate subcommittee investigating involvements of former majority secretary of the Senate Bobby Baker terminates its inquiry May 31 as scheduled, one may be sure the last has not been heard of the extraordinarily remarkable influence system revealed by the probe.

A great deal more may be heard of the Bobby Baker case in the presidential campaign now that the end of the investigation has been decreed by the state. The impression now prevailing in the public mind is one of suspicion. Terminating the inquiry at the threshold of suggested senatorial impropriety was not a wise move.

If the act was not a desperate attempt to prevent the exposure of questionable campaign tactics, particularly in the raising and allocation of funds, it certainly did nothing to dispel that impression.

Particularly unusual was the suppression of New Jersey's Senator Clifford Case, in his attempts to employ the traditional right of minority committee members to call their own witnesses. Few parliamentary maneuvers in memory have been as brazenly crude as the blackout by the Senate majority.

As a result of this unusual procedure, and a partisan emotional conflict surrounding anything touched by Bobby Baker, a useful clearing of the air of Senate behavior has been denied. The aura which remains is not pleasant to the nostrils. It promises to linger to haunt those most actively manning the deodorizers.

[From the Louisville (Ky.) Times]

Some Rules Congress Could Follow

The Senate Rules Committee's investigation into the case of Bobby Baker, the former secretary of the Senate Democrats who reputedly made a fortune while in that position, was not particularly enlightening.

It is only to be expected, in consequence, that the draft report submitted by L. P. McLendon, special counsel for the committee, should be free of anything astonishing. It deplores, without punishing, the past. It suggests guidelines for the future that follow well established, if not well observed, patterns.

As for the past, the report says that Baker "had impaired, if indeed he had not sold, his freedom to act always in the interest of the Government" and that he engaged "in dishonest and fraudulent practices with his business associates and, in at least one instance, with an agency of the Government." Nevertheless, the report stated that Baker's actions did not constitute conflict of interest.

As for the future, McLendon's report suggested three principles:

1. Compulsory disclosure of the financial interests of Senators, Senate officers, and employees.

2. Prohibition "of all associations by Senators, officers, and employees with persons and organizations outside the Senate who are engaged in conducting business with the Government or have business before the Government officers or agents."

3. A requirement by the Senate that all Senators testify, when asked by any of its committees, about any knowledge they have of a subject under investigation.

We will be most interested in seeing what the Rules Committee and the Senate as a whole, if the question ever gets that far, will do with these propositions. From a practical standpoint, the second proposition would be more than a little difficult to put into effect, but all three of them are unimpeachable from an ethical standpoint. They are, in fact, no more than what Congress expects of the other branches of government. But Congress has long had what amounts to a double standard of morality when it comes to alleged conflict of interest—easy for itself, stiff for others.

On the issue of financial disclosure, Congress has insisted that men entering Federal service, such as a new Cabinet members, divest themselves of holdings that conceivably might conflict with Government work. But Congress does not ask its own Members to do that. It does not even ask them to reveal what they hold. As long ago as 1946 Senator Wayne Morse was asking legislation along that line. Four years later Mike Mansfield, then a Representative and now a Senator was doing the same thing. Nothing came of these efforts. However, there has been a trend recently toward voluntary discolsure. A reporter early this year counted up 29 Members of Congress who had "made public disclosures, in varying degrees and varying ways, of their personal finances." Among the Senators were Democrats Mansfield, Joseph Clark, Stephen Young (the first in 1959), William Proxmire, Philip Hart, and Morse, and Republicans Jacob Javits, Kenneth Keating, Hugh Scott, and Clifford Case.

Whether this modest trend will turn to a tide, we don't know. A disclosure law would not, of course, restrict in any legal way the freedom a Member of Congress has, but it would give his constitutents a chance to compare his actions and votes with his financial holdings. It might lead to some interesting conclusions.

In any event, McLendon's report is quite correct when it points out that the Senate must not "ignore or lightly dismiss" accusations that it has one set of standards for itself and another for the rest of Government. As it says, the Senate has "suffered the loss of much respect and prestige" as a result of the Baker case. If it wants to repair its image, it will have to take the accusations seriously.

[From the Parsons (Kans.) Sun]

Another Take

The Bobby Baker case simply won't die, even if inundated by a torrent of words and drowned out by the yelps of beagles from the White House.

Senator Case, a New Jersey Republican, moved this week that each Member of the Senate be asked to detail his relations with the fast-dough young man who once was its Democratic secretary.

Democrats reacted as if motherhood—or maybe fatherhood—had been challenged. They were incensed. Case's idea, said Senator Jordan of North Carolina, is an insult to Senators. An insult, Senator? You might run that one through again.

Now comes the relentless senatorial foe of graft and corruption, Senator Williams, of Delaware, to propose that the Senate broaden its inquiry into the Baker scandals to specifically include Senators.

The Senate can plead filibuster and try to dust the Baker mess under the nearest cloakroom divan. Senators are not, by the rules of the lodge, supposed to investigate other Senators.

But the Baker case has an odor stronger than that left by a passel of skunks on a nocturnal spree. What can't be seen will be smelled to the embarrassment of the Senate and its reputation as one of our most noble and prestigious bodies.

We suspect that whatever the investigating committee does to or with the Case resolution, Senator Williams will be around to suggest still other approaches to this rank situation. He's that kind, come fraternalism or high water.

The Senate therefore may as well lay aside its old habit of sheltering the brothers, and do another take on the Baker case with the intention of airing its malodorous angles once and for all.

In the interest of its good name, not to mention good government, it should have done that months ago as a matter of plain fact.

[From the Oklahoma City (Okla.) Oklahoman]

Not Surprising

We are not too surprised at the Senate's recent 42 to 33 vote not to extend its Bobby Baker investigation to include improper activities of its own Members.

We are surprised, however, at the vehemence with which mild-mannered majority leader Mike Mansfield accuses fellow Senator Clifford Case, who fought for the Baker probe extension, of impugning the integrity of the whole Senate with sly innuendo.

Nothing so seriously impugns the integrity of the Senate as its obvious unwillingness to let the private dealings of its own Members be investigated.

Much is heard of senatorial privilege. It should not be interpreted as the privilege of sweeping its own wrongdoings, whatever they may be, under the Capitol carpeting.

[From the Harrisburg (Pa.) Patriot]

The Issue of Conflict of Interest: At Washington the Bobby Baker Case Puts Senate on the Spot

At Washington, the Senate has refused to investigate itself in connection with the Bobby Baker case. But the good name of the Senate is at issue just the same. Men like Delaware's Senator Williams and New Jersey's Senator Case have recognized this from the beginning. So has the special counsel for the investigating committee. His report to the Senate Rules Committee put it bluntly: "No amount of sophistry can relieve the Senate of the public criticism now directed against it * * *. The Senate, as a body, and Senators individually, have suffered the loss of much respect and prestige because of conditions this investigation has brought to light."

If ever anyone was "a child of the Senate," Baker was. From his boyhood days as a page to his adult years of great power and influence as secretary of the Democratic majority, the Senators were his mentors and his friends.

Whatever may or may not be in dispute, Mr. Baker has been established as a wheeler and dealer of extraordinary talent even for the Senate, and a man of financial perspicacity who saw his opportunities and grasped them, running an ordinary salary into unusual wealth.

We have not heard the last of the Baker case, of course.

Nor has the Senate heard the last of "the criticism now directed against it."

If the Senate Rules Committee accepts the report of its counsel on the Baker investigation, it will recommend three long-overdue regulations for the 100 Members of the "world's most exclusive club" and their employees:

A compulsory disclosure of the sources of their financial assets, similar to the voluntary disclosures already being made by the more concerned and conscientious of the Senators, Pennsylvania's JOSEPH CLARK and HUGH SCOTT among them.

Compulsory prohibition "of all associations by Senators, officers and employees with persons and organizations outside the Senate who are engaged in conducting business with the Government or have business before the Government officers or agents."

A requirement that Senators appear before a committee and testify on any subject or individual under investigation about which they have personal knowledge.

This represents far more than just a code of ethical conduct. It goes beyond any rules and regulations the Senators ever have considered applying to themselves in the past.

It would end a double standard of ethics and conflict of interest in which the Congress has applied regulations rigidly and insistently to members of the executive branch but has declined to accept them for itself.

The question well may be raised that the major proposals to police the Senators do not go far enough. Political realists shrug this off, doubting that the Senate will go even this far. The record of the past supports this dismal view.

But public suspicion and distrust are cumulative. So is the concern of more and more Senators that they must put their own house in order.

So, at Washington, there is a better chance than ever before that the Senate will act to raise its standards and to regain public confidence.

PUBLIC ACCOMMODATIONS ORDINANCE—STATEMENT BY MR. JUSTICE WHITTAKER

Mr. RUSSELL. Mr. President, all of us remember the brief, though distinguished, services on the Supreme Court of Mr. Justice Charles Whittaker. He is one of the few members of that body in recent years who was a real lawyer and had prior experience as a trial judge and on the circuit court of appeals. He was appointed to the Supreme Court by President Eisenhower and had the confidence of the Congress. For some reason—whether it was because of the frustrations he encountered in dealing with amateur psychologists there or not, I do not know—the Judge lost his health and was compelled to retire.

I had the good fortune of coming into possession of a very brief, off-the-cuff statement made by Mr. Justice Whittaker to the Advertising and Sales Executive Club at Kansas City, Mo., on the day after a referendum was held in that city on a public accommodations ordinance. I had hoped to read and elaborate upon this statement in a speech on the floor, but the gag rule imposed prevents it.

I have never found more sense or philosophy or a finer statement of fundamental Americanism than were presented in a few words in the comments of Judge Whittaker. They are pearls of wisdom above price and are wasted upon the callous politicians of today.

In order that they may be available to the American people, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF OPENING OFF-THE-CUFF PORTION OF THE SPEECH DELIVERED BY JUSTICE WHITTAKER TO THE ADVERTISING AND SALES EXECUTIVE CLUB AT KANSAS CITY, APRIL 8, 1964

Mr. Chairman, distinguished guests, and my friends of the Ad Club, I am proud to be able to greet you as friends. But, perhaps, in the light of the result of yesterday's election, I should greet you as the operators of "public accommodations." Under our Constitution, we Americans have always, at least until very recently, considered it to be fundamental that we have both "public" and "private" accommodations—that those which are owned by the people in common; i.e., by the Government, State or Federal, are "public," and, hence, are subject to "public" use and governmental control; but those which are owned by individuals are "private," and, if not devoted to the conduct of commerce between the States, are not subject to "public" use or control. Until the political determination of yesterday, I thought, and supposed that you thought, that you were the operators of "private," not "public," businesses. But, today, that seems to be a lost concept—that if you are engaged in any business other than a barbershop, a beauty parlor, or in a "Mrs. Murphy's" boardinghouse, you are operating what now must be regarded as a "public accommodation."

I believe that the end, which some hopefully believe was attained yesterday, is desirable. But I do not believe that all ends justify all means. Nor do I believe that our people—even our thinking people—understand and realize that yesterday, for the determination of a constitutional right, we forsook the courthouse for the ballot box. To any thoughtful student of government, that concept would be ludicrous were it not actually being widely accepted as "righteous," and were its true portent to liberty—particularly to the liberty of minorities—not so obviously disastrous.

Now—the constitutional question having been submitted to the ballot box—I accept and will obey the verdict reached at the polls on yesterday, and I also hope you do, first, because that is the American way, and, second, because if the result had gone the other way, I would have thought it to be the duty of the losers to accept and obey it. But do you really think they would have done so? Indeed, were we not publicly and repeatedly told that it was imperatively necessary to uphold this ordinance at the polls to avoid open lawlessness in the streets? The ordinance was upheld, and I shall hope, as was promised, that it will insure racial peace. But do you really think it will? Do you believe that the appetite of any group, minority or majority, that has so fed on the fruits of pressure can be thus permanently satisfied? Or will it be but a step upon which to regroup for a new, and even more intensely pressurized campaign?

Long years of serious study and experience have caused me to think that the proper quasi-public places to teach and to learn the lessons of morality and of brotherly love, admittedly necessary to the good order, and certainly to the assimilation, of a heterogeneous populace, are the churches and the synagogues; and I did not expect to see the day when—after only a very brief and inadequate try—the effort to accomplish those ends in those places would be abandoned by those institutions in favor of the political device of enforcing conformity to their concepts of brotherly love by the punitive and painfully divisive processes of a criminal law.

For some weeks, culminating in yesterday's election, those who have been publicly styled—doubtless correctly as to most of them—the "good people" of our city have alined in favor of this ordinance. Such, of course, was their right to do. But when people permit themselves to be alined on one side of an issue as the "good people," they necessarily and automatically characterize—and most divisively—those of a contrary view as the "bad people." But perhaps we can take some comfort from the fact that yesterday's result shows that the "good people" of our city outnumber the "bad people" by 1,743. However, if we consider only the vote of the white folks, we are not so flattered, for, among them, the "bad" outnumbered the "good" by about 20,000 out of 70,000.

Also, during these weeks we were told by the spokesmen and media for the "good people"—by the strongest implication and inference if not direct statement—that in supporting this ordinance at the polls they were repelling "bigotry" and supporting God. The implication was therefore made plain that, in their view, anyone who entertained and voiced a contrary view of the ordinance was breeding "hatred" and, indeed, opposing God.

Now, we all know the difficulties of defeating even Santa Claus in an election, and surely no religious community—and we are a religious people—would vote against God. And some people who deeply support the principle of equality of economic opportunity, but equally deeply opposed the principles of this ordinance, were fearful—under the heat of such ignominious aspersions—to stand up, speak out, and be counted. But complete candor requires the surely justified observation that no segment of our population, however well-meaning, has any corner or monopoly on either morality or wisdom—nor, I should add, on "information." Nor, I submit, has any segment of the population any legal or moral right erroneously—and that word is used in charity—to cast what is really a secular issue into such an aura of divinity as must necessarily remove it from the field of any legitimate debate.

SPEECH TO BE MADE TODAY BY GOVERNOR SCRANTON OF PENNSYLVANIA

Mr. SCOTT. Mr. President, at 2:30 today, in Baltimore, Gov. William Scranton, of Pennsylvania, will make a major statement regarding his intentions as to his candidacy for the nomination for President by the Republican Party.

Our party is strong enough and tolerant enough to welcome open, free, and vigorous competition of ideas and statements in our platforms of our beliefs and in the competitions at the convention between candidates who hold firm beliefs.

I believe the statement of Governor Scranton will be timely and of interest to the American people.

Mr. KEATING. Mr. President, will the Senator yield?

Mr. SCOTT. I am glad to yield.

Mr. KEATING. I am happy to hear these remarks by the distinguished Senator from Pennsylvania. I have known Governor Scranton quite well over a period of years and have a very deep admiration for him, for his ability, for his integrity, and aggressiveness.

I wish him well in whatever endeavors he may have in mind. I welcome his availability as a nominee of our party. Governor Scranton's position, like Governor Rockefeller's, reflects the sound progressive principles of Republicanism. Their candidacies will help assure an open convention and the nomination of a candidate and adoption of a platform true to the heritage of our party.

Mr. SCOTT. I thank the distinguished Senator.

EXCESSIVE MILITARY SPENDING

Mr. McGOVERN. Mr. President, soon after the conclusion of the civil rights debate the Senate will have before it the Defense Department appropriations bill, a measure which accounts for more than half of every Federal tax dollar spent.

The subcommittee still has a week or more of hearings on the measure, I am advised. The markup will take some time. I hope that there will be time after printed hearings are available for the Members of the Senate to give most serious consideration to this huge spending measure; to examine the hearings and obtain any additional information they may need to act and vote wisely.

Because of the requirements of military security, some parts of executive sessions and hearings on the measure have to be deleted from the public record. The justification for billion-dollar items—items far exceeding the total dollars involved in measures which we contest vigorously on the Senate floor—cannot be discussed during debate. They must be studied off the floor, and off the record, if we are to act responsibly.

We are most fortunate in having as our present Secretary of Defense, Robert McNamara, who brings a rare combination of courage, intelligence, energy, and business experience to the formidable problems of the largest Federal agency. With his amazing energy, McNamara has succeeded in mastering the intricacies of the huge Department he heads, and as a result has brought an unprecedented measure of fiscal control in military spending. He deserves the praise of every one of us for saving the American taxpayer billions of dollars while building the mightiest military force in history.

I mean no disrespect to Secretary McNamara or his associates when I suggest that Congress ought to look more closely than it has in the past at the defense appropriation bill as it comes before us. It is partly his zeal in correcting instances of waste that inspires my efforts to prevent unnecessary military spending.

Nor do I mean any criticism of the highly regarded chairman of the Senate Armed Services Committee [Senator RUSSELL], who serves with equal distinction as head of the Defense Subcommittee of the Appropriations Committee, when I suggest that substantial cuts can still be made in our defense budget without in any way weakening our military posture.

The fact remains that despite the strictest vigilance by Secretary McNamara and by Senator RUSSELL and the congressional committees, unnecessary spending in the Defense Department continues, at amounts that might be reckoned in the hundreds of millions if not billions of dollars.

There are aspects of our defense spending which may not be covered in the hearings—although I hope the subcommittee will have time to go into them thoroughly and deal with them and with remedial steps which have been taken in regard to them in their report on the appropriations bill.

I refer to startling instances of waste and unnecessary spending by Defense agencies which have been reported to Congress by the General Accounting Office, and particularly those reported during the past year.

Congress most effective tool for ferreting out instances of waste in Federal agencies is the General Accounting Office, under the direction of the Comptroller General of the United States, Mr. Joseph Campbell. Over the past several years, GAO has issued a series of reports covering unnecessary spending by the Department of Defense. At my request, GAO has compiled a summary of these audit reports for a 1-year period from May 1, 1963, to May 1, 1964. These reports indicate that during that year a total of $486,928,073—almost half a billion dollars—of unnecessary expense was incurred or scheduled to be incurred. This amount is more than the cost of running the entire Department of State for the same period—in fact, it is over $100 million more. It is in excess of three times the cost of running the entire legislative branch of the Government for the year.

Moreover, the total amount is figured very conservatively, since for many of the instances of waste noted by the GAO the actual amount of loss could not be fully estimated. In this category, are such items as "noncompetitive procurement of military aircraft forgings from Aluminum Co. of America at prices substantially higher than current and expected costs of production," and "continued use of uneconomical first-class air travel accommodations by employees of defense contractors." On this last item, employees of defense contractors continued to charge the Government for first-class air travel, after the GAO had pointed out in an earlier report that such expenses were unjustified.

Some of the instances of waste cited by GAO are relatively small, such as $68,000 of unnecessary cost incurred because the Army and Marine Corps were unable to agree on whether the trousers of their summer uniforms should have flaps on the hip pocket or not.

Other items show instances of waste of large proportions.

One of these is the unjustified expense of $209 million for the P–6M seaplane. This project, on which the Navy spent almost half a billion dollars over a 10-year period, failed to produce a single serviceable plane. According to the GAO report, the Navy ordered quantity production of this plane before a satisfactory prototype had been developed.

In another instance, $300 million was spent on a missile known to have little or no operational value due to guidance and other defects.

In recent weeks the GAO reports have drawn some mention in the press and an occasional editorial. For instance, some controversy was stirred by the GAO report that Government commissary stores operating in competition with private business were frequently an unjustified expense to our taxpayers.

More often than not, however, the GAO reports are largely ignored by the press and the public. Perhaps more importantly, they have not had significant attention in Congress. We, as representatives of the taxpayers of the Nation have allowed wastes involving hundreds of millions of dollars to occur without determined action, known to the public, to prevent repetition.

The General Accounting Office summary in regard to the waste of $209,200,000 on P–6M seaplanes reads as follows:

> WASTE AND MANAGEMENT
>
> The Navy spent more than $445.4 million over a 10-year period and did not receive a single serviceable P–6M seaplane. Quantity production of 24 operational aircraft were ordered before a reasonably satisfactory seaplane had been developed, and it was known that there were serious unsolved problems with the prototype aircraft. This resulted in the expenditure of $209.2 million which might have been saved if these contracts had not been awarded. Also, significant cost increases were incurred by the Navy because of design and engineering errors committed by the contractor as well as a failure by contractor to adhere to the Navy's aircraft testing procedures.

I think we ought to know, Mr. President, what has happened in relation to this seaplane, whether the new appropriations bill contains further funds or if it has been abandoned; whether our national defense has been weakened by this apparent blundering and what assurances we have that further funds going into this project are going to get results.

We also ought to know what steps have been taken to prevent another $68,000 waste resulting from an argument over flaps on trouser pockets, for I think that the people who have to foot the defense bill are entitled to have available in the public record an assurance that such wastes are not ignored as inconsequential.

Certainly other Members of the Senate will want to be able to advise their constituents how some of these wastes came about and what has been done, not only about the tremendously costly errors already made, but also to be sure that the billions for defense we will be asked to vote in the next few weeks will not include billions for blunders.

Let me repeat that these remarks are in support of—and not critical of—either Defense Secretary McNamara or the Chairman of the Appropriations Subcommittee. I believe very strongly, Mr. President, that we uphold their hands when we make it apparent that Congress will not tolerate such wastes, that they are not going to be overlooked, and that we are not going to let Uncle Sam be a domestic Uncle Sucker who finances military boondoggles with no more than a shrug here at the Capitol.

In the General Accounting Office findings are examples of overpayment to defense contractors, overcompensation of Defense Department employees, excessive costs for spare parts and services, instances of poorly designed and constructed military items, overstatement of costs on defense contracts, and inefficient use of Government materials. Steps doubtless have been taken to remedy some of these situations, and I have no doubt that every effort will be made by responsible Defense Department officials to correct the others. The fact remains, however, that unnecessary spending does take place in the Department of Defense, the amounts involved are staggering, and we have in the past virtually ignored, at least insofar as the taxpayers and most Members of Congress are aware, these tremendous wastes of taxpayer funds.

We have a patriotic responsibility to make certain that for every dollar invested in national defense, we receive a dollar's worth of well-planned defense. Each of us has a responsibility to our constituents to know that every dollar voted is needed, that wastes have been stopped and steps taken to prevent future wastes insofar as possible. I hope that Senators will examine the list of GAO reports carefully, and will prepare themselves to ask meaningful questions and get out the facts to which their constituents are entitled when the Defense appropriations bill is before us.

Mr. President, I ask unanimous consent that the list of GAO reports on the activities of the Department of Defense for the past year be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. General Accounting Office, Defense Accounting and Auditing Division—Summary of audit reports issued to the Congress for the period May 1, 1963, through May 1, 1964

Title	Waste and mismanagement	Estimated unnecessary costs incurred or scheduled to be incurred
Review of the procurement by the Army of defective canvas end curtains for ¾-ton and 2½-ton cargo trucks. B-146783, May 16, 1963.	Canvas end curtains containing obvious defects, procured for $315,000, were accepted by the Army without an adequate inspection. As a result, (1) curtains that have been or will be issued will probably require premature replacement or repair and (2) curtains had to be fabricated at costs of $24,000 to meet urgent demands while defective curtains were withheld from issue. On the basis of Army estimates, it would cost $200,000 to repair or replace the defective curtains.	$224,000
Examination of the abnormally high prices of Polaris missile parts under subcontracts awarded to the Brush Beryllium Co. by Lockheed Aircraft Corp. and charged to the Navy under a cost-plus-fixed-fee contract. B-146756, May 17, 1963.	Lockheed issued 8 fixed-price purchase orders to Brush without being furnished adequate information on prior cost or other evidence to support the reasonableness of the prices. Brush refused to furnish detailed cost information. Lockheed was not aware that the quoted price of $2,839,420 for 259 parts was 38 percent, or $785,906, greater than prior cost based on the latest available cost experience.	(1)
Realinement of item management responsibilities in the Air Force Logistics Command pursuant to implementation of the Federal cataloging program, Department of the Air Force. B-146778, May 17, 1963.	Inadequate coordination between organizations involved in conversion from the Air Force system to the Federal cataloging program system and failure of the Air Force Logistics Command to effectively supervise resulted in material valued at more than $9,000,000 being lost to management control and, in some cases, unnecessary procurement actions were initiated.	4,000,000
	Also, deficiencies in requirements determination at one installation resulted in procurement actions not being canceled when material was no longer required. When we brought the additional assets and deficiencies in requirements determinations to the Air Force's attention purchase actions of about $4,000,000 were canceled.	
Examination of catalog prices charged for airborne radar beacons developed with Government funds and supplied to the military departments and their prime contractors under noncompetitive procurements with ACF Electronics Division, ACF Industries, Inc., Paramus, N.J. B-146781, May 20, 1963.	Prices charged by ACF Industries, totaling $1,229,000, under noncompetitive procurements for airborne radar beacons, exceeded its current costs of production by $595,000, or an average of 94 percent. The prices were based on a commercial-type sales catalog even though ACF had never sold this beacon commercially. Prior to accepting these catalog prices, agency and contractor procuring activities, in some instances, asked ACF to furnish cost and pricing data but ACF refused.	(1)
Review of ineffective programing, delivery, and utilization of aircraft and related equipment furnished to the Portuguese Air Force under the military assistance program. B-146785, May 29, 1963.	This report is classified	(1)
Unnecessary costs incurred because of delay of the Army in equipping M-151 utility trucks with necessary fixtures to facilitate use in airborne operations. B-146793, May 29, 1963.	Unnecessary costs estimated at $405,000 were incurred to modify M-151 utility trucks with certain fixtures to facilitate air delivery of the vehicles because of the Army's failure to assure that the desired fixtures would be included on the vehicles at the time of production.	405,000
Excessive costs incurred for rehabilitating to original appearance and serviceability military equipment donated to foreign nations under the military assistance program, Department of Defense. B-133280, May 31, 1963.	Military departments spend millions of dollars each year to rehabilitate materiel, given to foreign nations as grant aid under the military assistance program, to higher standards of appearance and serviceability than materiel normally furnished to U.S. forces overseas.	(1)
Ineffective utilization of supply items resulting from deficiencies in the Federal catalog system within the Department of Defense. B-146778, May 31, 1963.	Weaknesses in cataloging procedures have permitted assignment of 2 or more stock numbers to identical supply items, resulting in ineffective utilization and unnecessary purchase of supplies.	100,000
	Also, lack of defensewide system of identifying interchangeable or substitutable items led to assets not being considered to fill needs.	230,000
	Unnecessary costs incurred because stock numbers are maintained for supply items that are inactive or not recurrently used.	(1)
Substantial amounts of little used nontactical construction equipment being held on Okinawa by the military services. B-146791, May 31, 1963.	According to standards established for the use of nontactical construction equipment, the 8 nontactical military units on Okinawa had equipment valued at about $725,000 that was excess to the services' needs on a consolidated basis. Despite these excesses the services were ordering additional items of identical type valued at $387,000.	387,000
Unnecessary costs incurred because the Navy failed to purchase leased automatic data processing components offered at reduced prices B-146796, June 17, 1963.	The Navy failed to purchase components of the ADP systems being rented by Norfolk and Portsmouth Naval Shipyards although it could have been predicted that savings of about $165,000 would result in May 1961 when the manufacturer offered the components for sale at reduced prices. They Navy later deferred the replacement dates for the components, so savings from purchase would have been about $339,600. As a result of our review, the Navy bought the system at Norfolk, resulting in savings of $70,300.	339,600
Excess costs of milk purchased by the Naval Supply Center, Norfolk, Va., for the Guantanamo Naval Station, Guantanamo Bay, Cuba. B-146797, June 18, 1963.	The Supply Center at Norfolk has been buying milk in ½-pint containers for general messes serviced by Guantanamo Naval Station, while it has been buying milk in bulk lots for other activities at a lower price. If the supply center purchased milk for Guantanamo in bulk lots, after an initial cost of $4,800 for milk dispensers, annual savings of as much as $130,000 would result.	[2] 130,000
Unnecessary costs incurred by the Department of the Navy in procurement of RPM comparators. B-146794, June 21, 1963.	The Government incurred unnecessary costs of about $108,000 because the Bureau of Naval Weapons did not act promptly in a canceling production of RPM comparators, a component of the HSS-2 helicopter, when they were no longer needed.	108,000
Government's loss of capability to competitively procure replacement spare parts for military gas turbine engines developed under contracts with United Aircraft Corp., East Hartford, Conn. B-146734, June 25, 1963.	The Government invested $400,000,000 with UAC for research and development of gas turbine engines and acquired related technical data together with the unrestricted right to use the data for any Government purpose, including reprocurement. This capability was lost by the Navy's failure, on follow-on production contracts, to acquire unlimited rights to use current data which gradually replaced the unrestricted data. The effect was costly to the Government, as it established UAC as a virtual sole-source supplier of replacement parts.	(1)

See footnotes at end of table.

U.S. General Accounting Office, Defense Accounting and Auditing Division—Summary of audit reports issued to the Congress for the period May 1, 1963, through May 1, 1964—Continued

Title	Waste and mismanagement	Estimated unnecessary costs incurred or scheduled to be incurred
Unnecessary expenditures for exterior storage facilities serving family housing by the Department of the Army at Fort Dix, N.J. B-133102, June 25, 1963.	About $295,000 was unnecessarily expended at Fort Dix to construct exterior storage facilities for Wherry housing occupants instead of modifying existing interior storage facilities that would have provided equal or more space at a relatively small cost.	$295,000
Overpricing of teletypewriters procured under Department of the Army negotiated contract with Kleinschmidt division, Smith-Corona Marchant, Inc., Deerfield, Ill. B-146795, June 26, 1963.	The Government's price was increased by about $194,000 because the contract price was based on cost estimates for material and labor that were higher than those justified by information available to the contractor at the time of its proposal or before the contracting officer completed his analysis of the proposed price.	194,000
Unnecessary payment by the United States of costs properly chargeable to Japan for administrative and related expenses of the military assistance program for Japan. B-132913, June 27, 1963.	Substantial amounts of appropriated funds have been expended unnecessarily because the Military Assistance Advisory Group (MAAG) failed to adequately review and analyze administrative expenditures and obtain reimbursement from Japan for expenses chargeable to Japan. As a result of our review, the MAAG reviewed prior and current expenditures. Reimbursements totaling $403,000 have been obtained and deposited in the U.S. Treasury.	403,000
Unnecessary expenditures of more than $1,000,000 for storage of petroleum in a commercial facility at Plattsburgh, N.Y., Department of Defense. B-133149, June 28, 1963.	A requirement of the Air Force, the using agency, resulted in negotiation of a contract by Defense Petroleum Supply Center, the contracting agency, for storage at Plattsburgh at prices in excess of amounts that were initially offered to the Government by the contractor for this service. For 4 years from September 1959 to September 1963, increased prices total $1,111,000. If the Government renews the contract annually through 1970, increased prices will be reduced by $210,000 to a total of $901,000.	901,000
Unnecessary costs to be incurred under the military departments' proposals for continued operation of separate Army and Navy hospitals in the San Francisco Bay area, California. B-133226, June 28, 1963.	The Department of Defense will incur unnecessary annual costs of about $8,200,000 under a plan for the continued separate operation of Letterman Army and Oakland Naval Hospitals in the San Francisco Bay area.	[2] 8,200,000
	Also, plans being considered for construction of separate new hospitals at these locations will result in costs of $10,000,000 more than necessary to provide adequate hospital facilities for joint service use.	10,000,000
Followup review of noncompetitive procurement of aeronautical replacement spare parts within the Department of the Army. B-133396, June 28, 1963.	The Army had increased competitive procurement from 3.8 percent noted in our earlier review to 17.6 percent in last half of fiscal year 1962. However, little or no progress had been made in improving technical data files.	(1)
	During 1962, a number of noncompetitive procurements could have been made by other means, with savings of $309,000.	309,000
Overprocurement of transponders for the Nike-Hercules guided missile system by the Department of the Army. B-118755, June 28, 1963.	The Army incurred $1,400,000 of unnecessary costs in production of Nike-Hercules missiles through its failure to recognize availability of excess transponders and to provide them to the production contractor.	1,400,000
Overpricing of adaptation kits for M-113 vehicles under Department of the Army contract negotiated with FMC Corp., San Jose, Calif. B-146802, June 28, 1963.	The contract price for adaptation kits for M-113 vehicles was overstated by $83,000 because of improper cost adjustments made after specifications were significantly changed.	83,000
Illegal transactions under the Army stock fund. B-145331, June 28, 1963	This report is supplemental to B-145331 of June 13, 1962, on certain uneconomical or illegal practices identified in connection with stock fund operations. The Department of Defense advised us that it did not agree 2 of the transactions were illegal. We point out again the illegality of (1) the obligation of $232,123 of consumer funds at Fort Lewis after the authority to obligate these funds had expired and (2) the increase of $662,484 in available consumer funds at Benicia Arsenal through stock fund credits that were given to the improper appropriation.	-----------
Overprocurement of magnetos and distributors for reciprocating aircraft engines by the Department of the Navy. B-146727, June 28, 1963.	During the 7-year period ended Dec. 31, 1962, the Navy purchased more magnetos and distributors for reciprocating engines than were needed to meet its needs during the period because of the Navy's practice of leaving these items attached to uninstalled engines.	761,000
Failure of the Department of the Navy to fully recover excessive administrative cost allowances included in fixed prices negotiated with Brown-Raymond-Walsh (a joint venture) under contract NOy-83333 for the Spanish base construction program. B-118763, June 28, 1963.	The fixed price negotiated in conversion of a portion of contract NOy-83333 from cost plus a fixed fee to fixed price included administrative cost allowances $6,700,000 in excess of a reasonable estimate. We reported this to Congress in 1960 (B-118763, Dec. 30, 1960) and the Navy made recovery of $3,000,000. After completion of the contract $3,700,000 was still outstanding.	(3)
Followup review of noncompetitive procurement of aeronautical replacement spare parts in the Department of the Air Force. B-133396, June 28, 1963.	Our followup review disclosed that the Air Force had increased competitive procurement, realizing savings of $41,800,000 in 1962. We noted certain weaknesses in current contracting practices and in contract administration which appear likely to restrict the extent to which engineering data being received can be used in the future for competitive procurement.	(1)
Uneconomical use of parts kits to support depot overhaul activities in the Air Force Logistics Command, Department of the Air Force. B-133303, July 12, 1963.	Air Force Logistics Command devoted insufficient attention to criteria prescribed for determining which parts should be included in repair kits at aircraft overhaul activities. As a result, kits contained many unneeded parts.	10,000,000
Unnecessary planned procurement of 36,000 B.t.u. air conditioners by the Department of the Army. B-146807, July 31, 1963.	Engineer Supply Control Office, St. Louis, Mo., planned to buy 200 unnecessary air conditioners because of unrealistic replacement criteria.	300,000
Impairment of combat readiness of a Department of the Army combat unit at Fort George G. Meade, Md., resulting from lack of repair parts. B-146799, July 31, 1963.	The 3d Armored Cavalry Regiment, a Strategic Army Corps unit, had the majority of its combat and combat-support vehicles out of commission because of lack of repair parts and inefficient inspection practices during the preparation for deployment to Berlin in 1961. The vehicles were not made completely combat ready after 18 days of intensive effort and the poor conditions dated back to 1959.	(4)
Overprocurement by the Department of the Navy of spare guidance components for the shipboard repair of improved Tartar missiles, B-146725, July 31, 1963.	The Navy procured about $1 million worth of spare guidance components in excess of needs for maintenance of improved Tartar missiles on board vessels.	1,000,000
Unnecessary annual expenditures by the Departments of the Air Force and the Navy for leasing commercial facilities to store petroleum products in the San Francisco, Calif., area instead of using excess Government-owned petroleum facilities at the Navy Fuel Department, Point Molate, Richmond, Calif. B-133149, July 31, 1963.	A Navy-owned petroleum storage facility was excess to needs since December 1960. A nearby commercial facility was being leased by the Defense Petroleum Supply Center for the Air Force and Navy to store aviation fuels at an annual price of $305,500. By converting the unused Navy facility for $348,280 and eliminating all commercial leases the Government could save the $305,500 a year. The conversion costs would be recovered in about 14 months.	411,500
	Also the Air Force planned to spend $106,000 for constructing facilities at Point Molate for transporting fuel by truck although facilities were available for more economical transportation of fuel by water and pipeline.	
Additional costs resulting from procurement of test equipment as special tooling under cost-plus-a-fixed-fee contracts awarded to Lockheed Aircraft Corp. Missile and Space Division, Sunnyvale, Calif., by the Departments of the Air Force and Navy. B-146788, July 31, 1963.	Lockheed acquired test equipment as special tooling under various cost-plus-a-fixed-fee contracts instead of industrial facilities under no fee facility contracts. If the equipment had been appropriately identified and described it could have been acquired under a no-fee contract thereby exempting it from fees of about $289,000.	289,000
The increased price for ballistic computers resulting from excessive estimated material costs under Department of the Air Force Contract AF 09(603)-34097 with Servomechanisms, Inc., El Segundo, Calif. B-146801, July 31, 1963.	The price proposed by Servomechanisms, Inc., and accepted by the Air Force without change, included estimated material costs that were excessive in relation to cost and pricing information at the time the price proposal was prepared.	83,800
Noncompetitive procurement of military aircraft forgings from Aluminum Co. of America at prices substantially higher than current and expected costs of production, Department of the Air Force. B-146784, July 31, 1963.	Alcoa consistently quoted prices substantially above its current and expected production costs. Although there was no competition, the company refused to furnish cost data to its military customers thereby precluding open negotiation of prices. These prices exceeded current production costs by $893,300 or an average of 51 percent. The company refused to accept subcontracts on any basis other than its own terms. As a result the military customers had to accept the prices offered without benefit of normal negotiation processes.	(1)
	We found evidence that the practices noted above are generally followed by Alcoa in the pricing of all Government business amounting to many millions of dollars annually.	

See footnotes at end of table.

U.S. General Accounting Office, Defense Accounting and Auditing Division—Summary of audit reports issued to the Congress for the period May 1, 1963, through May 1, 1964—Continued

Title	Waste and mismanagement	Estimated unnecessary costs incurred or scheduled to be incurred
Unjustified cost-of-living allowances paid in the Alaska Command to military personnel not accompanied by dependents—Department of Defense. B-146800, Aug. 7, 1963.	Cost-of-living allowance payments were made to officers and noncommissioned officers on the basis that adequate Government messing facilities were not available when in fact existing military dining halls were adequate to serve both officer and enlisted personnel. Army noncommissioned officers who were residing in bachelor enlisted quarters were authorized to mess separately, merely on the basis of such residency, and to receive cost-of-living allowance payments in addition to their basic allowance for subsistence. (Continuation of these payments will result in questionable expenditures of $241,000 annually if not corrected.)	$355,000
Unnecessary costs incurred in the procurement of radar altimeters—Department of the Navy. B-146774, Aug. 26, 1963.	The Government incurred unnecessary costs of $1,100,000 because the AN/APN-120 radar altimeter was built to operate in an unauthorized frequency band and the altimeters therefore could not be used for operational purposes. The Bureau of Aeronautics left selection of the frequency bands to the discretion of the manufacturer instead of obtaining approved frequency bands prior to development as required by written instructions.	1,100,000
Illegal use of operation and maintenance funds for rehabilitation and construction of family housing and construction of a related facility of the Department of Defense. B-133102, Aug. 30, 1963.	At 7 military installations operation and maintenance funds of about $1,100,000 were illegally spent (1) to finance rehabilitation work on Wherry housing ($800,000), (2) for supplemental work or additional features on Capehart housing projects ($190,000), (3) for construction of a gas distribution system ($92,000). The illegal use of operation and maintenance funds involving Wherry housing violated sec. 3678, Revised Statutes. The illegal use of funds involving Capehart housing and the gas distribution system violated secs. 3679, 3678, and 3733, Revised Statutes, and title VIII of the National Housing Act, as amended.	1,082,000
Continued use of uneconomical 1st-class air-travel accommodations by employees of defense contractors. B-133371, Aug. 30, 1963.	In a followup review of 20 contractors, we found that 9 contractors continued uneconomical use of 1st-class air accommodations, increasing costs under defense contracts.	(1)
Unreasonably high prices paid for nickel cadmium aircraft storage batteries under negotiated fixed-price contract AF 01(601)-22629 with Sonotone Corp., Elmsford, N.Y., Department of the Air Force. B-146805, Aug. 30, 1963.	Contract price of $1,901,200 exceeded costs by about $704,000 or 58 percent because significant cost and production information available to the contractor was not disclosed to the Air Force.	(1)
Increased costs resulting from failure to procure ships spare parts competitively or directly from the manufacturer, Department of the Navy. B-133058, Sept. 11, 1963.	Purchase of parts from sole-source suppliers without inquiry into feasibility of other sources, despite savings obtainable.	1,500,000
Unnecessary costs resulting from the noncompetitive procurement of aeronautical replacement spare parts, Department of the Navy. B-133396, Sept. 17, 1963.	Failure to appreciably increase competitive procurement over that in fiscal year 1961. Of $14,000,000 worth of noncompetitive spare parts reviewed we found that the Navy incurred $3,300,000 of unnecessary costs.	3,300,000
Procurement of defective rocker arm assemblies for combat vehicle engines from Hawk Tool & Engineering Co., Clarkston, Mich., Department of the Army. B-146803, Sept. 19, 1963.	Contractor produced defective rocker arm assemblies and the Army accepted them without adequate inspection.	156,000
Excessive cost to the Government for leasing instead of purchasing analog computer systems for use under negotiated defense contracts by Martin Marietta Corp., Orlando, Fla., Department of Defense. B-146812, Sept. 19, 1963.	Excess costs will be incurred by Government because contractor leased rather than purchased EDP equipment used primarily under cost-reimbursable contracts.	[5] 230,000
Overcharges by Westinghouse Electric Corp. for propulsion machinery for the aircraft carrier U.S.S. *Enterprise*, Department of the Navy. B-146733, Sept. 20, 1963.	Price proposed by the contractor and accepted by the Navy included unwarranted provision for contingencies.	1,353,440
Payments to Naval Reserve officers on annual active duty training for unnecessary days of travel and for days in which no training or travel is performed, Department of the Navy. B-146551, Sept. 30, 1963.	Unnecessary costs resulting from payments to Navy Reserve officers for authorized travel to and from active duty posts by automobile in excess of that which would have been required for air travel time and for commencing and terminating active duty assignments unnecessarily early or late when personnel lives within commuting distance of post of duty.	[2] 600,000
Unnecessary procurement of helicopter components, Department of the Navy. B-146794, Sept. 30, 1963.	Failure to obtain rotor assemblies which were excess to Army's needs ($757,700). Also Navy failed to identify usable gear boxes available from Army. DOD has not provided centralized management of aeronautical equipment and supplies. As recommended by GAO in September 1961.	757,700
Overstatement of needs and illegal use of commercial-type vehicles by the Kanto Base Command, Japan, 6100th Support Wing, Department of the Air Force. B-146816, Sept. 30, 1963.	Overstatement of requirements resulted in the 6100th Support Wing having on hand 100 more pickup trucks than needed. (Acquisition cost $193,000.) Also, military taxis were being used for unofficial purposes.	(1)
Unnecessary procurements of specially designed 60,000-B.t.u. air conditioners, Department of the Army. B-146807, Oct. 15, 1963.	Procured 557 unneeded 60,000-B.t.u. air conditioners—air conditioners are now in storage. Failure to determine actual needs.	2,100,000
Unnecessary procurement and repair costs by the Department of the Army for J-2 gyromagnetic compass components available in the military supply systems, Department of Defense. B-146814, Oct. 15, 1963.	Procurement or repair of J-2 compass components although sufficient stock was available in military supply systems. Procurement costs, $348,000; repair costs, $105,000; planned procurement, $920,000.	1,373,000
Unnecessary costs in the procurement of clutch pressure plates, Department of the Army. B-146817, Oct. 15, 1963.	Inappropriate use of formal advertising procurement procedures resulted in unnecessary costs of $28,000; planned inappropriate use of advertised contract that would have resulted in excessive costs of $56,023.	84,023
Department of Defense reply to B-118763, June 28, 1963. Failure of the Department of the Navy to fully recover excessive administrative cost allowance included in fixed prices negotiated with Brown-Raymond Walsh (a joint venture) under contract NOy-83333 for the Spanish base construction program, Department of Defense. B-118763, Oct. 21, 1963.	Negotiated price included administrative expense allowances of $6,700,000 in excess of a reasonable estimate of costs to be incurred. Navy felt it had recovered $5,100,000 of the overpayments through negotiation of lower administrative expense allowances in prices for additional work. Investigation showed recovery of only $3,000,000.	6,700,000
Excessive costs included in prices for FALCON missile components purchased from AVCO Corp., Crosley Division, Cincinnati, Ohio, by Hughes Aircraft Co., Culver City, Calif., under a negotiated contract, Department of the Air Force. B-125071, Oct. 24, 1963.	Prices of missile stabilizers and flippers were excessive in relation to available cost data, acceptance of prices without appropriate review and evaluation.	158,110
Unnecessary costs incurred because of failure to standardize tropical wool trousers, Department of the Army and Marine Corps. B-133177, Oct. 28, 1963.	Procurement and supply of 2 types of trousers, trousers without flaps and trousers with flaps on hip pocket. Failure to refer this matter of practical standardization to the Defense Supply Agency.	68,000
Use of former Government surplus parts without authorization under Contract DA-23-204-TC-1695 with Aerodex, Inc., Miami, Fla., Department of the Army. B-118694, Oct. 29, 1963.	Government paid Aerodex $321,854 for a portion of a lot of surplus parts which Aerodex purchased from a surplus parts dealer for $71,858. At least some of the parts were former Government surplus parts.	(6)
Unnecessary annual expenditures by the Departments of the Army and Navy for leasing commercial facilities to store Government-owned empty 55-gallon steel drums in the Los Angeles, Calif., area, Department of Defense. B-146827, Oct. 29, 1963.	The Army and Navy are incurring unnecessary charges of about $112,000 annually for storing Government-owned empty 55-gallon drums at 2 commercial facilities when Government facilities are available nearby.	[2] 112,000
Unnecessary costs incurred because of administrative negligence and poor design in the construction of two Capehart housing projects, Department of the Air Force. B-133102, Oct. 30, 1963.	About $36,000 was spent for repair and repainting of siding because of failure to use proper exterior paint in construction of 800 houses at Myrtle Beach. About $127,000 will be required to correct defects in the drainage system at Chanute AFB, which was known in advance of construction, and to repair damage from flooding.	163,000
Unnecessary costs incurred by use of an inadequate interior protective coating for fuel truck tankers, Department of the Army. B-146829, Oct. 30, 1963.	The Army used an inadequate protective coating in the interior of 380 fuel truck tankers. Officials directed the use of the inadequate coating material even though they had received reports on its ineffectiveness and knew that the Air Force was using an effective coating.	118,000
Illegal per diem payments to military personnel of the Navy and Marine Corps serving as military inspection representatives in Tokyo and Osaka, Japan, Department of the Navy. B-146822, Oct. 31, 1963.	Illegal payment of per diem because the personnel were improperly placed on temporary rather than permanent duty although they were at the same location for continuous periods up to almost 4 years' duration. Per diem payments, $265,000 minus $62,000 for allowances, inspectors would have been allowed if on permanent duty.	203,000

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U.S. General Accounting Office, Defense Accounting and Auditing Division—Summary of audit reports issued to the Congress for the period May 1, 1963, through May 1, 1964—Continued

Title	Waste and mismanagement	Estimated unnecessary costs incurred or scheduled to be incurred
Unsatisfactory condition of combat vehicles and equipment in the 3d Marine Division (reinforced), Okinawa, U.S. Marine Corps, Department of the Navy. B-146832, Oct. 31, 1963.	Equipment reports of 4 battalions showed that 24 to 45 percent of the major equipment assigned to these battalions was out of service for repairs during various periods in fiscal year 1962.	(4)
Unnecessary costs incurred by leasing rather than purchasing electronics data processing equipment at White Sands Missile Range, N. Mex., Department of the Army. B-146732, Nov. 13, 1963.	The Government incurred unnecessary costs of $1,300,000 during the period Jan. 1, 1961, through Aug. 31, 1963, because the Army leased, rather than purchased, 2 704 electronic computers and supporting equipment.	$1,300,000
Overprocurement of selected accessories for jet aircraft engines by the military services, Department of Defense. B-132989, Nov. 29, 1963.	Army, Navy, and Air Force bought selected accessories that would not have been needed if the services had removed accessories from uninstalled engines and used these accessories to meet the need for spare parts. (Estimated saving of $42,000,000 from January 1963 to June 1968 if the recommendations are followed.)	[7] 9,400,000
Uneconomical procurement of electronic equipment under contract AF 01(601)-31042 with Grumman Aircraft Engineering Corp., Bethpage, Long Island, N.Y., Department of the Air Force. B-146823, Nov. 29, 1963.	The Air Force did not furnish Grumman with pertinent information relative to past, current and contemplated procurements of electronic equipment by the military services and as a result the prices paid for the equipment by Grumman were about 61 percent higher than prices currently being obtained by the services.	1,150,000
Uneconomical management of commercially available items, Department of Defense. B-146828, Nov. 29, 1963.	Department of Defense centrally manages hundreds of thousands of low-volume minor items which could be bought directly from commercial sources with the result of saving millions of dollars each year in management and supply inventory costs.	[3] 50,000,000
Unnecessary procurement of office furniture for use in the Pentagon, Department of the Air Force. B-146835, Nov. 29, 1963.	The Air Force procured wood unitized office furniture to replace significant quantities of furniture that was in good serviceable condition without evidence that replacement was economically justified.	323,000
Overpricing of modification kits for interrogator sets under fixed-price contract with General Instrument Corp., Newark, N.J., Department of the Army. B-146736, Dec. 12, 1963.	Overpricing of modification kits for interrogator sets by the General Instrument Corp. and failure of responsible agency officials to adequately review the contractor's proposed prices.	143,400
Overpricing of spare parts purchased from Hughes Aircraft Co., Culver City, Calif., under fixed-price incentive contract AF 33(600)-38280, Department of the Air Force. B-125071, Dec. 16, 1963.	Overpricing of spare parts by the Hughes Aircraft Co. and failure of resident Air Force contracting officials to adequately examine the contractor's proposal resulted in excessive costs to the Government.	201,000
Procurement of inaccurate radiation measuring instruments, Department of the Army. B-146834, Dec. 17, 1963.	The Army awarded 5 contracts for 59,776 radiacmeters even though it was aware that the radiacmeters were not suitable for Army use, $663,000 was expended for modifications and an estimated $200,000 will be incurred for work stoppages. At least 10,800 radiacmeters were scrapped.	[8] 863,000
Excessive price paid for propulsion reduction gears purchased from Westinghouse Electric Corp., Sunnyvale, Calif., Department of Navy. B-146833, Dec. 19, 1963.	A contract for gears for an amphibious transport dock vessel included rework cost although Westinghouse had successfully produced identical gears without having to perform any rework. Had Westinghouse advised Navy of this fact it would have been in a position to obtain a lower price.	64,900
Unnecessary costs being incurred as a result of the Navy's refusal to accept the standardized officers' dress shoes agreed upon by the Army, Air Force, and Marine Corps, Department of Defense. B-133177, Dec. 19, 1963.	Navy is incurring unnecessary costs because the Navy refuses to discontinue using brown dress shoes and to use only the black shoes as used by the Army, Air Force, and Marine Corps.	[3] 158,000
Unnecessary cost incurred for temporary storage of household goods for military personnel, Department of Defense. B-146779, Dec. 20, 1963.	Unnecessary costs are incurred for the storage of household goods because of the failure of transportation officers to have goods delivered to available quarters and the failure of transportation and housing officers to coordinate on the availability of quarters.	[3] 1,200,000
Erroneous reporting of taxable income and taxes withheld from pay of military personnel, Department of the Air Force. B-125036, Dec. 20, 1963.	The Air Force has inaccurately reported the taxable income and taxes withheld from the pay of members of the Air Force which has resulted in a potential loss of revenue to the Government.	(4)
Excessive cost of leasing compared with buying certain electronic data processing equipment at Kirtland Air Force Base, N. Mex., Department of the Air Force. B-146732, Dec. 24, 1963.	The Air Force would unnecessarily expend millions of dollars if it did not take advantage of the purchase option offered by Control Data Corp. for its 1604 electronic data processing system which the Air Force leases.	[3] 1,780,000
Overestimated costs included in prices negotiated for modification of aircraft engine test stands under fixed price contracts with Space Corp., Dallas, Tex., Department of the Air Force. B-114808, Dec. 30, 1963.	The Government incurred unnecessary costs in contracts for the modification of 32 jet engine test stands because Space Corp., did not supply the Air Force officials with all the cost data and the Air Force contracting officials did not perform a thorough review of the contractor's price proposal.	213,000
Erroneous purchase of a technical data package from Westinghouse Electric Corp. for $1,010,000, Department of the Navy. B-146035, Dec. 31, 1963.	The Navy contracted to pay Westinghouse for a technical data package although it had already acquired unlimited rights to use all the significant data included in the package.	1,010,000
Increased costs resulting from the procurement of spare parts under contracts for related aeronautical equipment, Department of the Air Force. B-133396, Jan. 10, 1964.	During years 1959 through 1961, Air Force procured spare parts costing about $50,800,000 under contracts for related equipment although the parts could have been bought under spare parts contracts, generally from other suppliers for $18,700,000 less.	18,700,000
	Also spare parts were purchased although they had previously been declared obsolete.	300,000
Improper disposition of refunds of group insurance premiums by Grumman Aircraft Engineering Corp., Bethpage, N.Y., Department of the Navy. B-146780, Jan. 13, 1964.	Grumman did not give the Government credit for a portion of refunds it received from a group insurance plan it maintains in its company. Since about 90 percent of Grumman work was on Government contracts during this period, the majority of the refunds would have accrued to the benefit of the Government thus reducing the contract price.	449,000
Overbuying and unnecessary overhaul costs resulting from failure of the Air Force to follow the Navy's practice of separating accessories from spare reciprocating aircraft engines, Department of the Air Force. B-132989, Jan. 14, 1964.	The Air Force has incurred unnecessary costs during the period of 1950 to 1962 by failing to remove accessories from spare aircraft reciprocating engines and buying extra accessories. By using the accessories from spare engines it reduces the number of accessories the services have to buy and it minimizes the amount of time the accessories are idle.	6,149,000
Unnecessary procurement initiated for 9,000 B.t.u. air conditioners, Department of the Army. B-146807, Jan. 16, 1964.	The Army initiated a procurement for 214 air conditioners for which firm requirements did not exist. The Signal Corps failed to advise the Corps of Engineers in a timely manner that the units were not needed.	161,500
Unnecessary cost incurred in the procurement of AN/ARN 21C tacan radio components through failure to accept option offer, Department of the Air Force. B-146836, Jan. 24, 1964.	Air Force incurred unnecessary costs of over $1,000,000 by its failure to incorporate into a contract an option offered by the supplier of tacan radio components to furnish additional quantities at the original contract price.	1,000,000
Unnecessary costs relating to reassignment of management responsibility for tool sets, Department of the Army and Defense Supply Agency. B-146856, Jan. 28, 1964.	The Defense General Supply Center, under the Defense Supply Agency, had in process or planned unnecessary procurement of $261,000 worth of handtools and $13,000 worth of needed tools were disposed of as a result of failure to transfer $1,200,000 worth of excess Army handtools to the DGSC. Moreover, the cost of complete tool sets purchased by DGSC could have been reduced by $82,000 if DGSC had furnished its contractors some of the tools needed which were available from the excess stocks.	356,000
Overbuying and unnecessary overhaul costs resulting from the failure of the Army to follow the Navy's practice of separating accessories from spare reciprocating aircraft engines, Department of the Army. B-132989, Jan. 30, 1934.	The Army bought aircraft engine accessories costing $1,014,000 during the 6-year period ended Dec. 31, 1962, and incurred overhaul costs estimated at $421,000 during fiscal years 1961 and 1962 that could have been avoided by following the Navy's practice of removing accessories from spare engines.	1,435,000
Excessive charges for components for M-60 tanks under contract with Chrysler Corp., Detroit, Mich., Department of the Army. B-133295, Jan. 31, 1964.	The revised final contract price for M-60 tanks under Department of the Army contract with Chrysler Corp. contained duplicate and excessive costs which increased the contract price by about $315,200 for components made at certain of the contractor's plants. Summary cost data submitted by the contractor as basis for negotiating the final price were prepared after the tanks were produced and the contractor should have been aware of the incurred costs. The procuring agency (1) failed to obtain a certification on the cost data, despite a contract requirement for such a certificate and (2) accepted the summary cost data without an adequate review.	315,200
Increased costs incurred for ammonium perchlorate purchased during 1961 for solid propellent missile motors, Department of the Air Force. B-146843, Jan. 31, 1964.	The Government incurred increased costs, estimated to be $500,000 in 1961, in procuring its requirement of ammonium perchlorate because prices paid by Air Force contractors generally were higher than prices paid by the Navy under contracts negotiated directly with 1 of the principal suppliers.	500,000

See footnotes at end of table.

U.S. General Accounting Office, Defense Accounting and Auditing Division—Summary of audit reports issued to the Congress for the period May 1, 1963, through May 1, 1964—Continued

Title	Waste and mismanagement	Estimated unnecessary costs incurred or scheduled to be incurred
Overpricing of ship propulsion boilers purchased under fixed-price contract Nobs-76301 negotiated with Foster Wheeler Corp., New York, N.Y. Department of the Navy. B-146733, Jan. 31, 1964.	The price that the Bureau of Ships negotiated with Foster Wheeler for boilers amounting to $1,722,300, was at least $132,200 greater than the costs Foster Wheeler could reasonably expect to incur plus profit at the rate of 10 percent of such costs, the rate used in Foster Wheeler's price proposal.	$132,200
Excessive stocks at selected bases of U.S. 5th Air Force in Japan and Korea, Department of the Air Force. B-146844, Jan. 31, 1964.	At selected bases, over $4,300,000 worth of excess stocks were on hand or on order from U.S. depots. The excesses accumulated because of failure to appropriately consider (1) prior usage, (2) large number of items on hand in maintenance shops, and (3) available substitute or reparable items.	4,300,000
Overpricing of nuclear reactor components purchased from Westinghouse Electric Corp., Pittsburgh, Pa., under cost-plus-a-fixed-fee contracts awarded by the Bureau of Ships, Department of the Navy. B-146733, Feb. 6, 1964.	Plant Apparatus Division, Westinghouse, under Navy cost-plus-a-fixed-fee contracts, awarded a subcontract for 35 pumps and 16 casings to Atomic Equipment Division, Westinghouse, without obtaining AED's estimated cost of performance or information as to actual incurred costs in prior production of similar components.	705,000
Unnecessary costs resulting from Government production of M-14 rifle repair parts rather than procurement from commercial sources, Department of the Army. B-146848, Feb. 7, 1964.	The government incurred unnecessary costs of $216,000 because the Army Weapons Command placed orders for certain repair parts for M-14 rifles with Springfield Armory without first comparing costs to be incurred by the armory with prices it was currently paying to commercial sources for the same parts.	216,000
Overpricing of B-58 aircraft bomber recording systems by Melpar, Inc., Falls Church, Va., on fixed-price purchase order 509 with General Dynamics Corp., Fort Worth, Tex., Department of the Air Force. B-118695, Feb. 7, 1964.	A firm price was negotiated by General Dynamics and Melpar, and approved by the Air Force, for production of bomber recording systems under purchase order 509 in the absence of certain data and without consideration of other cost and pricing data available. As of Sept. 1, 1963, Melpar's price exceeded incurred costs by about $821,200, or 41 percent, and it appears that a significant part of this was attributable more to negotiation of a price based on overstated cost estimates than to Melpar's efficiency.	([4])
Unnecessary costs incurred in the enlistment and discharge of unqualified applicants for Regular and Reserve forces, Department of the Navy. B-146852, Feb. 11, 1964.	In 1962, the Navy incurred unnecessary costs of more than $1,245,000 because it enlisted some 1,900 Regular and Reserve applicants who were mentally unqualified and had to be discharged from military service during recruit training.	1,245,000
Overpricing of nuclear submarine components purchased by Plant Apparatus Division, Westinghouse Electric Corp., under 2 subcontracts awarded to Edwin L. Wiegand Co., Pittsburgh, Pa. Department of the Navy. B-146760, Feb. 12, 1964.	Plant Apparatus Division acting as a prime contractor for the Navy, awarded 2 subcontracts to Wiegand Co. for 5,664 S-5W pressurizer heaters and heater terminal connectors on a negotiated basis for $671,000. The Navy paid (1) $234,000 more than was warranted because the prices were negotiated without obtaining and analyzing Wiegand's most recent experienced costs and (2) $46,000 more than warranted for connectors because Wiegand charged higher prices than other suppliers would.	280,000
Deficiencies in administration of Government quarters, messing facilities and military leave at Dow Air Force Base, Maine, Department of the Air Force. B-125037, Feb. 17, 1964.	(1) Unnecessary per diem payments were made because personnel on temporary duty were issued certificates showing that messing facilities or quarters were not available when they were.	[2] 47,900
	(2) Unused leave for which service members got lump-sum payments upon discharge was erroneously carried forward to new leave accounts upon reenlistment.	[2] 22,000
	(3) Members were not being properly charged for leave taken in conjunction with travel to new duty stations.	[3] 10,000
Unclassified letter to the Congress of the United States which transmitted a secret report on ineffective program planning and uneconomical utilization of personnel assigned to the Air Force Reserve recovery program (January 1964, B-146831), Department of the Air Force. B-146831, Feb. 17, 1964.	Because the Air Force established Reserve recovery squadrons at 200 airports in the United States before ascertaining the needs of the major Air Force commands which these squadrons were intended to serve, over 100 of these squadrons have been assigned or are being considered for reassignment to airports that are so situated that the squadrons are of little value to the using commands in the event of an emergency. Unless the Air Force can find a way of utilizing these squadrons, over half of some $30,000,000 appropriated to date for the recovery program will have been largely wasted.	([4])
The Uneconomical replacement of vehicles by the U.S. 5th Air Force, Fuchu Air Station, Japan, Department of the Air Force. B-146844, Feb. 17, 1964.	Between Jan. 1, 1961, and June 30, 1962, the 5th Air Force prematurely disposed of certain usable military (M series) vehicles, which had been used about ½ of their estimated useful life and would have been retained on the basis of Air Force regulations criteria.	1,000,000
Improper payments to military personnel for travel of dependents, Department of the Army. B-146861, Feb. 17, 1964.	During calendar years 1958 through 1962, Army personnel claimed reimbursement and were paid for travel of their dependents, although the Government had already paid the common carriers directly for such transportation. This was due to fraud or error on the part of service personnel coupled with an absence of controls to prevent the improper claims. In addition, administrative costs were incurred to investigate cases and collect overpayments.	181,000
Overprocurement of spare fuse component used for repair of improved Tartar and Homing Terrier missiles, Department of the Navy. B-146725, Feb. 18, 1964.	The Bureau of Naval Weapons unnecessarily purchased 199 units, valued at $353,000, of a fuse component used for repair of missiles because the requirements were based on outdated engineering judgments instead of actual usage experience. Due to a recent design change, there is no known current or future need for the items.	353,000
Unclassified summary of findings in classified report on development, procurement, and deployment of an unsatisfactory missile system, Department of the Army (February 1964, B-146762). B-146762, Feb. 18, 1964.	The Army spent $300,000,000 for development and production of a missile system which was unsatisfactory because of (1) its unreliable accuracy and (2) serious tactical problems in use, such as stringent maintenance requirements and high degree of susceptibility to electronic interference. The unsatisfactory characteristics were known at times when the Army ordered increasing quantities of equipment and missiles.	([4])
Unnecessary procurement initiated or planned because equipment requirements were overstated by White Sands Missile Range, N. Mex., Depertment of the Army. B-146807, Feb. 19, 1964.	The Army awarded contracts for $338,000 for air conditioners it did not need and planned future procurement for $3,000,000 worth of other unneeded equipment because the White Sands Missile Range overstated its requirements. These overstatements resulted from failure of White Sands Missile Range to assure that only actual needs were submitted to the Engineer Supply Control Office.	3,338,000
Overpayments made under a cost-plus-a-fixed-fee contract for the procurement of nuclear submarine components from Combustion Engineering, Inc., New York, N.Y., Department of the Navy. B-146846, Feb. 19, 1964.	The Navy paid Combustion $200,000 more than it was entitled to under the provisions of cost-plus-a-fixed-fee contract NObs-72363 because the Navy paid fixed prices for certain components that should have been paid for on a cost-plus-a-fixed-fee basis.	200,000
Plans for purchase of leased automatic data processing components in use at military installations, Department of Defense. B-146796, Feb. 25, 1964.	A review of Department of Defense plans initiated in response to our previous reports discloses that equipment costing over $225,000,000 can be purchased at an economic advantage to the Government, and after the break-even point is reached, the Government will realize annual savings of nearly $66,000,000. (This report was submitted to keep Congress advised of the progress being made.)	([1])
Excessive interest expense included in price negotiated for petroleum storage under contract ASP-21801 with New England Tank Industries, of New Hampshire, Inc., Department of Defense. B-146813, Feb. 25, 1964.	The Government will incur increased costs under a contract for petroleum storage in a new commercial facility because interest expense included in the 5-year price was excessive in relation to information available to the contractor during negotiations.	253,100
Unnecessary costs incurred as a result of awarding without competition a contract for overhaul and modification of aircraft engines, Department of the Army. B-133396, Feb. 28, 1964.	The Army incurred unnecessary costs because it did not acquire technical data at the time it was first known that there would be a continuing need for aircraft engine overhaul and modification.	193,000
Overpricing of CAX-12 aerial reconnaissance cameras by Fairchild Camera & Instrument Corp., Syosset, N.Y., under negotiated fixed-price contract AF 33(600)-38860, Department of the Air Force. B-146854, Feb. 28, 1964.	The Air Force negotiated firm prices without making an adequate evaluation of the contractors proposal, and was not aware that the proposed prices were based on cost estimates which included provisions for contingencies, clerical errors, and inadequate cost data. The final contract price was $814,000, or 64 percent greater than the cost of producing the items.	([1])
Overpricing of steam generators for nuclear aircraft carrier, Department of the Navy. B-146733, Mar. 5, 1964.	Generators costing over $4,000,000 were purchased from Foster Wheeler Corp. by Westinghouse Electric Corp., as prime contractor, for use under Navy cost-plus-a-fixed-fee contract NObs-72205, without either the Navy or Westinghouse reviewing Foster Wheeler's cost estimate, which contained undisclosed contingency allowances and provisions for costs that were not likely to be incurred.	489,600

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U.S. General Accounting Office, Defense Accounting and Auditing Division—Summary of audit reports issued to the Congress for the period May 1, 1963 through May 1, 1964—Continued

Title	Waste and mismanagement	Estimated unnecessary costs incurred or scheduled to be incurred
Shipment of household goods improperly classified as professional items by military personnel to avoid payment for excess weight, Department of the Army. B-146867, Mar. 5, 1964.	Army military personnel improperly claimed weight for more professional books, papers, and equipment than they actually had shipped. Improper claims were allowed because shipments were not examined to ascertain if the weight was for professional items. Also, there were no clear definitions in the travel regulations of what should properly have been classified as professional books, papers, and equipment.	[2] $250,000
Overpricing of contracts negotiated for T-38A electrical power systems with Westinghouse Electric Corp., Department of the Air Force. B-146845, Mar. 6, 1964.	The Government incurred unnecessary costs because negotiated prices for the power systems included overstated cost estimates for material. The cost estimates proposed by Westinghouse were accepted by the Air Force and Westinghouse furnished pricing certifications for the three contracts involved.	190,000
Wasteful practices in the management of age-controlled aeronautical spare parts, Department of the Air Force. B-146865, Mar. 10, 1964.	Air Force depots condemned and committed to disposal $4,800,000 worth of spare parts without examination to determine their serviceability. Ineffective control over the storage of age-controlled parts in warehouses and technical orders which were lacking in clarity further prevented the Air Force from obtaining benefit of these parts while still serviceable.	(1)
Unnecessary costs incurred in furnishing ammunition for test firing M-14 rifles, Department of the Army. B-146848, Mar. 17, 1964.	The Government incurred unnecessary costs because the Army shipped to a contractor, for use in test firing rifles, ammunition that either had been (1) manufactured and shipped to Army depots by the rifle manufacturer, (2) unnecessarily packaged and then unpackaged by the same contractor, or (3) manufactured by a different contractor and shipped to the rifle manufacturer.	145,000
Excessive costs incurred as a result of multiple management of supplies at the Atlantic Missile Range, Department of the Air Force. B-146866, Mar. 17, 1964.	Over $1,000,000 a year in administrative costs could be saved if supply management at the missile range were consolidated under the control of either the Air Force or Pan American World Airways, Inc. Savings would result from the anticipated decreased volume of supply actions and need for fewer personnel; also, savings from a reduction in inventories.	[2] 1,000,000
Overpricing of the nuclear frigate U.S.S. *Bainbridge* purchased from the Bethlehem Steel Co., Quincy, Mass., Department of the Navy. B-146718, Mar. 18, 1964.	The Navy contracted to pay Bethlehem about $5,000,000 more for the construction of the U.S.S. *Bainbridge* than was warranted based on available cost data and circumstances existing at the time of negotiations, since Bethlehem included provision for contingencies and cost overstatements in its statement of actual and estimated costs.	5,000,000
Unnecessary cost to the Government in the leasing of electronic data processing systems by the Aerospace Division of Martin Marietta Corp., Baltimore, Md., Denver, Colo., Orlando, Fla., Department of Defense. B-146812, Mar. 18. 1964.	The Government will incur unnecessary costs of about $7,700,000 over a 5-year period if the contractor continues to lease the systems because the contractor will pay rentals greater than the full purchase and maintenance cost to the Government, including interest on the investment. Amount of unnecessary cost will increase to $13,000,000 at end of 6 years and $37,000,000 by the end of 10 years.	7,700,000
Excessive costs incurred in using contractor-furnished personnel instead of Government personnel by the Pacific region of the Ground Electronics Engineering Installation Agency, Air Force Logistics Command, Department of the Air Force. B-146824, Mar. 19, 1964.	The Air Force practice of using contract technical services personnel to augment in-service manpower is costing the Government more than it would cost if civil service employees were used.	[3] 230,000
Followup review of the failure to use excess spare parts and assemblies in aircraft production, Department of the Navy. B-146727, Mar. 20, 1964.	At the time of our earlier review, the Navy had $294,000 in excess parts usable in the production of S2-type aircraft. These excess items were not used for that purpose because the Navy delayed so long in furnishing the items that Grumman's production schedule would not permit it to wait for a transfer from the Navy.	294,000
Unnecessary per diem payments for military personnel reporting early for temporary duty assignments, Department of the Navy. B-146551, Mar. 23, 1964.	Unnecessary per diem payments estimated at over $600,000 annually, are made by the Navy because military personnel report to temporary duty assignments during transfers between permanent posts of duty and are paid per diem prior to the dates that the temporary duty for which the member has been assigned to that station is scheduled to begin.	[2] 600,000
Additional costs incurred in the procurement of P6M seaplanes from Glenn L. Martin Co., Baltimore, Md., Department of the Navy. B-146885, Mar. 23, 1964.	The Navy spent more than $445,400,000 over a 10-year period and did not receive a single serviceable P6M seaplane. Quantity production of 24 operational aircraft were ordered before a reasonably satisfactory seaplane had been developed, and it was known that there were serious unsolved problems with the prototype aircraft. This resulted in the expenditure of $209,200,000 which might have been saved if these contracts had not been awarded. Also, significant cost increases were incurred by the Navy because of design and engineering errors committed by the contractor as well as a failure by contractor to adhere to the Navy's aircraft testing procedures.	209,200,000
Overpricing of B-58 electrical power systems purchased from Westinghouse Electric Corp. by General Dynamics Corp. under a cost-plus-a-fixed-fee prime contract, Department of the Air Force. B-118695, Mar. 30, 1964.	The Government incurred excessive costs because the prices negotiated for major components of the B-58 electrical power systems included overstated cost estimates for material, labor, and overhead.	81,000
Unnecessary per diem payments to military personnel during construction of nuclear-powered submarines, Department of the Navy. B-146740, Mar. 30, 1964.	The Government incurred unnecessary costs because the Bureau of Naval Personnel placed prospective crew members of nuclear-powered submarines at construction sites on temporary duty rather than permanent duty and paid them per diem. We found $6,100,000 in unnecessary costs in per diem paid to members assigned to construction sites of 33 nuclear-powered submarines; in addition, if the Navy were to continue this policy, the propsective crews of other nuclear-powered submarines under contract at October 1963 would receive per diem, which would result in unnecessary costs to the Government totaling about $9,200,000.	6,100,000
Unnecessary planned procurement of major assemblies for the M151 utility truck, Department of the Army. B-146793, Mar. 31, 1964.	The Army was preparing to incur unnecessary costs of $284,000 procuring spare engines and other major assemblies for the M151 utility truck. The Army officials either misunderstood or were unaware of the Army's policy of prohibiting rebuild of M151 major assemblies and trucks, and providing for procurement of only a limited quantity of replacement major assemblies. The planned procurement was canceled after we brought this to the attention of the Army.	284,000
Unnecessary costs incurred in the procurement of the M405 rocket handling unit, Department of the Army. B-146870, Mar. 31, 1964.	The Army incurred unnecessary costs of $7,400,000 in the production of a new trailer for transporting the Honest John rocket when knowledge was available that it had design limitations and did not represent an improvement over existing ground-handling equipment. The Army procured the new design at a cost of $10,400,000 when the same number of a design already in use would have cost $3,000,000. Additional orders were placed which will increase unnecessary costs by $297,000.	7,400,000
Excessive costs of duplicate automatic teletype switching centers in the military services, Department of Defense. B-146872, Apr. 3, 1964.	Military services will incur unnecessary expenditures from July 1964 through December 1966 because Department of Defense is delaying closing duplicate automatic teletype switching centers at Stockton, Calif., and Cheltenham, Md., until calendar year 1966 although they could be completely closed by Dec. 31, 1964.	3,570,000
Excessive costs resulting from the operation of separate departmental public information offices, Department of Defense. B-146880, Apr. 3, 1964.	The Government incurred excessive costs due to the operation of separate departmental public information offices. Consolidation of these offices under a single Defense organization would permit improved workload distribution, more efficient utilization of personnel and save more than $1,000,000 annually.	[2] 1,000,000
Improper charges to Government cost- and incentive-type contracts held by Grumman Aircraft Engineering Corp., Bethpage, N.Y., Department of the Navy. B-146877, Apr. 8, 1964.	Grumman improperly charged Government cost- and incentive-type contracts with $188,000 in costs incurred under other contracts from 1958 through 1961. The other contracts were for research and development projects that were of primary interest to Grumman.	188,000
Uneconomical practices in the management of mobilization reserve stocks of construction equipment and commercial-type vehicles, Department of the Navy. B-146765, Apr. 9, 1964.	The Navy incurred unnecessary cost of $66,400 because of inadequacies in the management of mobilization reserve stocks of commercial vehicles and construction equipment.	66,400
Unnecessary costs incurred for the naval radio research station project at Sugar Grove, W. Va., Department of the Navy. B-149775, Apr. 9, 1964.	Unnecessary costs were incurred by the Navy in the construction and cancellation of the radiotelescope and other facilities because (1) stated urgent military need for the project for national defense purposes which led to the decision to concurrently design and construct the project and (2) the delay of almost 2 years by the Department of Defense in deciding that the project would have to be canceled.	(4)

See footnotes at end of table.

U.S. General Accounting Office, Defense Accounting and Auditing Division—Summary of audit reports issued to the Congress for the period May 1, 1963, through May 1, 1964—Continued

Title	Waste and mismanagement	Estimated unnecessary costs incurred or scheduled to be incurred
Unnecessary procurement resulting from failure to review requirements for nonrecoverable spare parts during fiscal year 1963, Department of the Air Force. B-146874, Apr. 13, 1964.	The Air Force initiated procurement for $13,000,000 worth of nonrecoverable spare parts which were already in excess of current requirements. The need to reduce excess parts under contract or to be procured was not detected because the Air Force knowingly excluded nonrecoverable spare parts from mid-fiscal-year 1963 review of supply requirements.	$13,000,000
Unnecessary cost incurred by the Government by not using surplus stockpiled materiels to satisfy Defense contract needs, Department of the Air Force. B-125071, Apr. 13, 1964.	Although the Government owns, and is storing titanium and aluminum surplus to current stockpile requirements, the Air Force is procuring through its contractors substantial quantities of these materials for use in the manufacture of Minuteman weapon system. The Air Force had not considered obtaining the surpluses because the Government's disposal policies are not clearly defined.	(1)
Failure to curtail operation at Government expense of military commissary stores in continental United States where adequate commercial facilities are available, Department of Defense. B-146875, Apr. 16, 1964.	Although competitive food stores are located near most military commissary stores in the United States, commissary stores have continued in operation and increased number despite the statutory requirement since 1953 that such stores be authorized only if reasonable prices are not otherwise readily available. Their authorization has continued because the criteria established by the Department of Defense defeat the purpose of the law. Under any realistic criteria, more than half the commissary stores in the United States would be closed.	(4)
	Additionally, Department of Defense conducts surveys yearly at all stores in the United States for compliance with the criteria, costing the Government about $100,000 annually or $1,000,000 since 1953.	1,000,000
Unnecessary interest costs incurred by the Government because of improper retention of overpayments by Burroughs Corp., Detroit, Mich., Department of the Army. B-146747, Apr. 17, 1964.	The Government incurred unnecessary interest costs of $208,000 because the contractor improperly retained for long periods of time about $4,900,000 of progress payments made by the Government.	208,000
Improper utilization of trained enlisted personnel, Department of the Army. B-146890, Apr. 20, 1964.	The Army has misassigned about 35,000 trained enlisted personnel throughout the Army, with the result that $48,700,000 in training costs is being wasted. Because of deficiencies in the Army's personnel system, personnel are assigned to installations where they are not needed and utilized for duties other than those for which they are trained.	48,700,000
Unnecessary cost to the Government in the leasing of electronic data processing systems by the Boeing Co., Airplane Division, Wichita, Kans., Department of Defense. B-146732, Apr. 23, 1964.	The leasing of an EDP system by Boeing is substantially more costly to the Government, in the form of reimbursable costs and as elements of Government contract prices, than it would be for the Government to purchase this equipment and furnish it to the contractor for use on Government work. For the equipment at Boeing, Wichita, the leasing costs exceeded purchase costs by $3,700,000 over a 5-year period, $6,300,000 over a 6-year period, and $17,300,000 over a 10-year period.	[5] 3,700,000
Overpricing of B-58 aircraft components under cost-plus-incentive-fee purchase orders issued to Sperry Gyroscope Co. Division of Sperry Rand Corp., Great Neck, N.Y., by Convair, a division of General Dynamics Corp., Fort Worth, Tex., Department of the Air Force. B-118695, Apr. 27, 1964.	In negotiations for primary navigation systems for B-58 airplanes, Sperry proposed and Convair accepted target costs which were overstated by $3,289,000 because Sperry (1) estimated unit prices for proposed purchased parts at prices higher than Sperry was already paying; (2) applied an arbitrary increase of 100 percent to the estimated unit price for each purchased part proposed; and (3) added a 10-percent provision for contingencies to the estimates. These overstatements will result in increased costs to the Government for target and incentive fees of about $1,084,000.	1,084,000
Unnecessary costs to the Government in the leasing of an electronic data processing system by the Chrysler Corp., Defense Operations Division, Center Line, Mich., Department of the Army. B-146732, Apr. 28, 1964.	The leasing of an EDP system by Chrysler is more costly to the Government than it would be for the Government to purchase it and furnish the equipment to Chrysler for use on Government work. For the equipment at the Chrysler plant, leasing costs exceed purchase costs by $56,000 over a 5-year period, $141,400 over a 6-year period, and $505,000 over a 10-year period.	[5] 56,000
Unnecessary costs to the Government in the leasing of an electronic data processing system by the Continental Aviation & Engineering Corp., Research Division, Detroit, Mich., Department of Defense. B-146732, Apr. 29, 1964.	Leasing by the contractor of an EDP system is more costly to the Government than it would be if the Government purchased the equipment and furnished it to the contractor for use on Government work. At Continental, leasing costs exceed purchase costs by $72,400 over a 5-year period, $139,000 over a 6-year period, and $414,300 over a 10-year period.	[5] 72,400
Impairment of combat capability and unnecessary costs due to inefficient and uneconomical supply and maintenance practices for communications and electronic equipment within certain units of the 8th U.S. Army, Korea, Department of the Army. B-132990, Apr. 30, 1964.	The capability of certain units within the 8th Army to perform sustained combat during fiscal year 1963 was seriously impaired because significant quantities of required communications and electronic equipment had been inoperable for periods up to 150 days, because (1) responsible personnel failed to fulfill management responsibilities and stock the parts, (2) maintenance personnel were misassigned and lax in repairing materiel, and (3) unit commanders failed to aggressively comply with instructions from the commanding general, 8th Army to correct known deficiencies.	(4)
	Material was prematurely or needlessly ordered from United States and Japan, and, for a portion of this material returned from Korea to the United States, handling and transportation costs were incurred.	2,687,300
Payments to Army and Air Force Reserve officers on annual active duty training for days on which no training or necessary travel was performed, Department of Defense. B-146551, May 4, 1964.	Army and Air Force Reserve officers were paid for days on which no training or necessary travel was performed because of deficiencies in regulations.	620,000
	Total	486,928,073

[1] Not determined.
[2] Per annum.
[3] See B-118763 of Oct. 21, 1963.
[4] Indeterminate.
[5] 5 years.
[6] Not estimated.
[7] 12-year period.
[8] Plus an undetermined amount for items scrapped or to be scrapped.
[9] Estimated for fiscal year 1963.

TRIBUTE TO SENATOR EVERETT DIRKSEN

Mr. McGOVERN. Mr. President, this morning's Washington Post carries a well-deserved tribute to the distinguished minority leader, Senator DIRKSEN, by the columnist Marquis Childs. Yesterday's Washington Star included an equally moving column on the Illinois Senator by Mary McGrory.

There can be no doubt of the essential role which the Senator from Illinois has played in the historic civil rights debate this year.

When I came to the Senate a year ago as a freshman, I was strongly prejudiced against the Senator from Illinois, but no Member of the Senate has since gone up more in my personal rating.

I have found him to be a strong and consistent Republican partisan who is proud of his party and who understands its historic role in American life, but I have also found that on crucial matters of national interest, he always places the Nation first.

It is one of the interesting characteristics of American politics that those who maintain the greatest pride in their own political party also hold the Nation's interest most dearly.

As one of the younger, less experienced Democratic Members of the Senate, I take my hat off to the Republican Senator from Illinois.

I ask unanimous consent that the articles by Mr. Childs and Miss McGrory be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Star, June 11, 1964]

DIRKSEN ENJOYS LAST WORD

(By Mary McGrory)

EVERETT MCKINLEY DIRKSEN, fittingly, had the last word before the vote on cloture in the civil rights debate.

The galleries were crowded, so was the Chamber. All expected a virtuoso DIRKSEN performance. But the great organ voice was muted. He has used a greater register and more throbbing notes to speak of the duck on the wing, for instance, or the petunia in summer glory.

The master was constrained. And no wonder. He was, for once, speaking of civil rights as a moral issue, and moral issues are matters he likes to leave to the shriller tongues in the Senate. It pains him to appear as a man of principle.

He took refuge in Victor Hugo: "Stronger than all the armies is the idea whose time has come."

He was much more at home in a passage of sheer burlesque. The minority leader, even at such a historic moment, could not resist a mad moment of self-caricature.

In describing the difficulties the bill has encountered in the 3 months of its life on the floor, he painted perfectly his own conduct.

OFFERS FLORID PASSAGE

"Nor is it the first time in our history that an issue with moral connotations and implications has swept away the resistance, the fulminations, the legalistic speeches * * * and the machinations."

Since March 8, no one has resisted more floridly, fulminated more eloquently or made more legalistic speeches of melancholy doubt. Senator Dirksen's obfuscations, his tortuous passage through every line of the bill, digging in at a comma here, staking his honor on a "whereas" there, have so confused the issue that some of his best friends were not sure where he stood on civil rights, even though his name was on the bill.

Nor has any Senator more lamented what he regards as the unconscionable public interest in and public pressure on the bill. And in his final address, he could not forbear chiding those partisans who insisted on pressing their views on him. Senator Dirksen has never given out any pious nonsense about the Senate's business being the public's interest. While other Senators feel the need to give lipservice at least to the "constitutional right to petition," Senator Dirksen has always deplored it, hinting that public concern merely causes private inconvenience.

With delicate distaste, he touched on a matter he holds close to his heart, a lack of proportion on the part of civil rights advocates.

"The bill has provoked many long-distance telephone calls, many of them late at night or in the small hours of the morning," he said reproachfully.

But perhaps his most guileful touch was his evocation of the name of Herbert Hoover, one not often used in the promotion of liberal causes.

"Herbert Hoover," said the minority leader, "in his day was reviled and maligned. He was castigated and calumniated."

AIDED NEGROES

The reference may have been subjective. Senator Dirksen, who helped the Negroes as much as any man in America on Wednesday, was abandoned by them in his 1962 fight for reelection.

It could not have been more timely. The conservatives are riding high, since their victory in California. It could also have been a sop to Senator Goldwater, who walked on the floor at that exact moment, and four of whose most ardent supporters Senator Dirksen had lured away to vote for cloture by such resistance, fulmination and legalistic speeches as above mentioned.

Senator Dirksen had other reasons to embrace Mr. Hoover. He is currently in danger of becoming the darling of the liberals. He is getting rave reviews in leftist journals. To the progressives of his party, who have suffered through one of the worst weeks in their history, he may well become a shining hero, a prospect which fills him with possibly genuine horror. His personal following in the Senate derives chiefly from Goldwater conservatives.

ROLLCALL BRINGS SURPRISES

When the roll was called, it was full of surprises. All but one, Senator Cannon, Democrat of Nevada, the first Senator from his State to vote for cloture, were produced by Senator Dirksen. When Senator Curtis, of Nebraska, who campaigned for Senator Goldwater in California, answered "aye," the galleries gasped. He was followed by Senators Hruska, of Nebraska, Mundt, of South Dakota, and Miller, of Iowa.

Senator Goldwater, the presumptive new leader of the party, led a little band of five the other way.

Minority Leader Dirksen went off and had lunch with his own flock, including Senators Curtis and Hruska.

The wonderworker was charactistically modest in victory. When Senator McNamara, Democrat of Michigan, clapped him on the back and said, "I didn't believe you could do it," the Senator ho-hoed like a department store Santa Claus.

When reporters gathered around him to ask him how he had done it, he said, with that ambiguity which is the only predictable strain in his nature, "When you need the oil can, you use the oil can."

[From the Washington (D.C.) Post, June 12, 1964]

Two Republicans: A Clear Choice

(By Marquis Childs)

In the solemn hush during the vote closing off debate on the longest filibuster in the Senate's history it was possible for a moment to see in perspective what has gone before and what the future seems to promise. It is easy to be cynical about motives. But the achievement of Senator Everett McKinley Dirksen, the minority leader, in carrying all but six Republicans with him, will stand for a long time in the annals of a body in which maneuver and manipulation are a fine art.

Without oratorical flourishes of any kind he spoke the last words in the debate and they were moving words. The warning to his party was without equivocation. The Whigs compromised, temporized and disappeared. Does the Republican Party, he asked, deserve a better fate if it compromises on the issue of freedom? With no reference to candidates or campaigns he was clearly looking forward as well as backward.

Senator Barry Goldwater, of Arizona, was one of the six Republicans voting against closing off debate. This is a traditional stand for Senators from the States with small populations. They are fearful that in the pinch they will need the filibuster as protection from a roughshod majority. The Democratic Senator from Arizona, the venerable Carl Hayden, President pro tempore, voted against cloture. So did another Democrat from a more or less empty State, Senator Alan Bible, of Nevada.

But Goldwater is no longer just a Senator from Arizona. Short of the ritual of ratification at the convention in San Francisco, he is his party's candidate for President. Every move he makes, large and small, will be examined in that light.

Whether he will vote for the civil rights bill when it comes up for the final passage is still uncertain. Certainly, the measure could never have been voted on without a two-thirds majority to shut off debate. Among leading Republicans attending the recent Governors' conference in Cleveland the Goldwater stand on all issues, and particularly on civil rights, was the subject of earnest and often deeply apprehensive speculation.

The consensus of the moderates was roughly as follows: Goldwater will on most issues be perfectly agreeable to a moderate stand so long as the platform is put out under an innocuous label such as a "Declaration of Principles." After all, he has said with a certain hard-boiled realism that political platforms are a meaningless bunch of platitudinous promises.

But on civil rights he will insist on what can be interpreted as a States rights position. The concern of the moderates is that this will open the way to exploitation whether directly or indirectly of the white backlash. This conceivably could get votes if in the long, hot summer ahead rancor erupts into violence. There is little doubt of the growing emotion in white and fringe communities in the cities as demonstrations and lawless outbreaks make existence all but intolerable.

There could be in a Goldwater campaign a high road for obvious public consumption and a low road winding through the jungle of prejudice and hate. This has happened before. This is the fear of the moderates not alone for their party but for the Nation in a time of deep and bitter division that must somehow be healed. A vicious campaign fought on the low road could do incalculable damage.

Competition for the backlash vote will come from Gov. George C. Wallace, of Alabama. He has boasted that he means to get on the ballot of 20 to 30 States. His aim is in a close election, to carry enough Southern and border States so that the final outcome would be determined in the House of Representatives with the delegation of each State having a single vote.

But this is largely an empty boast. The law in most States makes it difficult to get on the ballot and particularly at this late date. The aim is to keep off crackpots who run for publicity and their nuisance value.

The party of Dirksen is the Republican Party in the Senate, as he has proved again in this instance. It is the third time that he has set his sights high. For the Kennedy administration he saved the United Nations bond issue. Goldwater voted against it. Dirksen helped to provide the sizable margin for the nuclear test ban treaty which might otherwise have been rejected or have been a dubious cliff-hanger. Goldwater voted against the treaty. The choice, as the minority leaders so bluntly stated, is clear.

PRIVATE OWNERSHIP AND TOLL ENRICHMENT OF NUCLEAR FUELS

Mr. McGEE. Mr. President, on Tuesday of this week, Robert W. Adams of Rawlins, Wyo., president and chairman of the board of directors of Western Nuclear, Inc., appeared before the Joint Committee on Atomic Energy and presented a statement in regard to his views on private ownership of special nuclear materials which was under consideration by the joint committee. His statement will, of course, be printed in the record of these hearings and made available to Members of Congress through this medium at a later date. I did wish to invite all Senators' attention to this statement at this time, however, since I feel it is significant and will be of interest to them.

Mr. Adams' statement, I believe, reflects a confidence and optimism in the future of his company and of the future of the uranium industry which I find most refreshing. He also asserts his faith and confidence in the free enterprise system which I likewise find most refreshing. In his statement, it is quite clear that Mr. Adams does not fear competition from foreign sources or elsewhere, but welcomes it and feels that he and his company, through proper management, can survive and expand under such competitive conditions.

Those of us who have known Bob Adams, and who have followed the success and growth of his company, can well understand the attitude as reflected in his statement. It is the same faith in the future that gave rise to the formation of this company, or its predecessor, a relatively few years ago by Mr. Adams and his associates, and which has seen this company grow and expand to one of Wyoming's finest industrial concerns. It is the same principle and philosophy which has made our free enterprise system and this country itself great. It is the same type of thinking and confidence in the future which will continue to add to the strength and greatness of our country and its free enterprise system.

Mr. President, I ask unanimous consent that Mr. Adams' statement may be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF ROBERT W. ADAMS, PRESIDENT AND CHAIRMAN OF WESTERN NUCLEAR, INC., CONCERNING PRIVATE OWNERSHIP AND TOLL ENRICHMENT OF NUCLEAR FUELS

Gentlemen, we welcome this opportunity to participate in your hearings on private ownership of special nuclear material and to present our thoughts to you.

Our company is a relatively small independent producer of yellow cake from ore deposits in Wyoming. We believe we are an aggressive young business and that we can grow and prosper in a competitive atomic energy industry.

We feel that the legislation you are considering is of major importance in its impact on the growth of nuclear power and it could well be a matter of life or death to us.

To begin with, we strongly urge that private ownership of special nuclear materials for power use be permitted as soon as possible. The statements of the atomic industrial forum and reviews by others have outlined the reasons for this more ably than I can, and I concur in their basic analysis.

There are two areas, however, in which I am not in total agreement. One is concerned with foreign uranium and the other with the U.S. stockpile.

First of all, we are not concerned about low cost foreign uranium destroying our domestic industry. I believe that we can do better in a competitive market than some operators think we can.

Basically, I believe that if we wish to compete all over the world for the sale of reactors and reactor systems, we had better be willing to compete all the way down the line, including fuel.

It has been argued that in the period from 1970 to 1975 quotas, embargos, or tariffs should be used to keep out low cost African uranium. It does not make sense to me that African producers are going to dump uranium in the international market at distress prices in the face of a growing demand for fuel.

For the very reason that their supply is a byproduct, sales are not a requirement to stay alive. I think it is reasonable, therefore, to assume that they will hold off for a higher price on their limited production.

We are considerably less alarmed about the Africans than we are about the U.S. stockpile. It seems important that a clear policy be established which would defer the sale of uranium from the Government stockpile until a healthy nuclear fuel market exists. While I do not know the size of this stockpile, it must certainly be many, many times the quantity estimated as being required for fuel use in the next 10 years, and as such its improper disposition could wreck all of us.

Most of us in the uranium ore milling business have a considerable respect for the wisdom of the atomic energy legislation. We also admire the impartiality and skill of the AEC in handling the difficult problems of the cutback and stretchout. This same sort of skill and wisdom needs to be exercised where this stockpile is concerned. I trust that it will be.

Specifically, I would like to recommend that the Government stockpile be reserved until such time as the free world uranium market has once again climbed to levels of 12,000–15,000 tons per year. At that time its disposition could be made at price levels which would represent a profit to the Government. Furthermore, its existence over the immediate future would help lend assurance to the public utility industry that sufficient fuel will be available to amortize the vast capital cost of reactors and, in addition, provide for defense requirements for which it was originally created.

I would like to illustrate one of the very important reasons for this recommendation. It has to do with planning. We all understand the need for the long range research in thermonuclear energy being conducted by the AEC and are glad that these affairs are guided by men who can look ahead and take action now to insure our future. The same sort of thinking must guide the activities of small companies such as ours. What will be our corporate strength 10 years from now?

My answer is that we uranium producers must be suppliers of a complete line of nuclear fuel materials. We believe that private ownership and toll enrichment will permit us to get in this position. We believe that by proper research on our part we can learn to produce specification grade uranium oxide or metal or carbide at our own mill site for sale to fabricators. We believe that such production, even of low enrichment material by blending, will cut the cost of nuclear fuel for power reactors.

In order to get in this position it is necessary for us to invest in research facilities, build our staff, develop our sales capabilities, and alter our flow sheets at the mill. This takes time as well as money, and it takes decisions now.

As a very practical matter we want to make the decision to go ahead and produce nuclear fuels cheaper, but we cannot start making plans until we know clearly that the Government stockpile will not be disposed of in a manner that will cut the ground from under our feet. Therefore, we think that the Government's stockpiling policy should be formulated along the lines I have suggested and announced immediately. A clear statement of such a policy will give the domestic uranium industry the confidence and ability to plan for and compete in a free world market.

We want to have the chance to compete in the world nuclear fuel market but we cannot do so if our competition is the Government stockpile.

In summary then, as a small but healthy uranium producer, I urge you to pass legislation making private ownership of nuclear fuel possible, manage your stockpile wisely, and trust in our ability to compete with the rest of the world.

Sincerely,

WESTERN NUCLEAR, INC.,
ROBERT W. ADAMS,
President and Chairman of the Board.

TROMBLY TRADE SCHOOL IN DETROIT—SPECIAL PROGRAM AND PETITION ON CIVIL RIGHTS BILL

Mr. HART. Mr. President, on Monday of this week I was privileged to attend a special program at Trombly's Trade School in Detroit.

On this occasion, young men between the ages of 16 and 26, some of whom have already had military service, presented to me, for myself and my distinguished colleague, the Senator from Michigan [Mr. MCNAMARA], a petition which reflects their high hopes that the Senate soon will enact the civil rights bill.

It was a memorable and moving program, and I ask unanimous consent that an outline of the program be printed in the RECORD together with the petition which accompanied it, which were presented to me. These young men acted in the finest tradition of citizens of a free society; I was proud of them and grateful they would have invited me.

Mr. HART subsequently said: Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 30 seconds.

Mr. HART. Mr. President, earlier today, I asked and received unanimous consent to have printed in the RECORD a petition and other material given to me by students of the Trombly Trade School, of Detroit. I now ask unanimous consent that the names of the signers of the petition also be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the program and petition with signatures were ordered to be printed in the RECORD, as follows:

TROMBLY TRADE SCHOOL SPECIAL PROGRAM, JUNE 8, 1964

Pledge to the Flag.
"The Star-Spangled Banner."
Remarks, Mrs. Mary Kastead.
Russell Taylor, presentation of petition.
Senator PHILIP A. HART.
Mr. George D. McWatt, principal.

TROMBLY TRADE SCHOOL,
Detroit, Mich., April 27, 1964.

Senator PAT MCNAMARA,
Senator PHILIP HART,
U.S. Senate,
Washington, D.C.

DEAR SENATORS MCNAMARA AND HART: We want you to know that we are pleased with the work you are doing to promote the civil rights legislation and we hope you will continue to do everything you can within your offices to support this legislation.

We believe all citizens, no matter what their origin, race or religion may be or where they live, should have the same and equal rights.

We know that this proposed civil rights legislation is not everything we would like it to be but it is an improvement over the present law and it is a step forward.

We are not voters, Mr. Senators, because our ages range between 16 and 20. However, we wanted you to know that we are interested in the improved rights for all citizens.

We also wanted to thank you for your help in trying to move this proposed legislation to become law.

Yours very truly,
STUDENTS OF TROMBLY TRADE SCHOOL.

SIGNATURES

Leroy Carson, Sam Vitale, Wesley Ballard, Thomas Jackson, Gary Marcinkowski, Albert Gooden, Gary Balowski, Willie Edwards, Ronald Spadafore, Bruce Matt, Stanley Akers, Francis Holschen, Robert J. Pollard, Alvin Richmond, Frank DePassio, Stanley H. Taylor, Rickie Jacobs, James Caldwell, Benney J. Brook, Jr., Paul Kuzera, Walter Cunningham, Russell Taylor, James Allport, Jerry Jarrells, Vernon Langford, Daniel Head, Thomas Rissmann, Richard Mery, Daniel Buszek, Gary Temczyk, Willie Foster.

Tom Speagle, Jim Liagre, Barry Jackson, Larry Stone, Cleveland Smith, Herbert Seidel, Karl Groenewold, Raymond Walters, Joseph Joshua, Michael Lupo, Ray Martinez, Jerry A. Ntkowiak, Robert Petroskey, Marshall Dodson, James Hubbard.

Zygmond Bogumil, Lyn Mays, Dave Zander, Roger Kowalski, Ronald Kowalski, Kenneth Ashford, Donald Lassin, Lester Gamble, James Durrah, Elmer Pearson, Marcellus Washington, Eugene Jackson, Willie Bolden, Bill Kokenos, Ralph Ervin, Gregory Balogh, Larry Szeszycki, Jim Sandeen, Berney Brooks, Jr., Stanley H. Taylor, Robert J. Pollard, Richard Phillips, Bill Smallwood, Tony Palazzola, George Fortson, Jr., Richie Jacobs, Anthony L. Affer, Robert J. Ventline, Joseph F. Wier, Ray Huldred, David Skenske, William Schulte, Jerry Boekhaut, Harold Sandirk, Rufus Granberry.

Richard Johnson, George Rodgers, George Moore, Richard Thompson, George Balkevitch, Gary Dowler, Jack Olekszyk, Robert Rendjikowski, William Hill, Jerry Powell, Robert Kobylski, Eddie Trosper, David Gallo, Martin Rhode, Eugene Stanfill, Danny Patterson, Richard J. Augustyniak, Eric Peyton, Amos Hosey, Danny Radisevich, Ralph Fleming, Thomas Briggs, Thomas Sealey, Robert Koyza, Alex Young, Bob Paxton, Louis Woods, Charles Rhodes, Douglas Harvey, Karl P. Whitner, John Rypkowski, Jimmy Walker, George Sadowski, Merrill Watt, Gene Cole.

Nick Clark, Joseph Jordon, Richard Kulich, Stanley Lawson, Amos White, Theodore Walker, Mark Kokowicz, James Keyes, Kenneth Franklin, Gerald Blount, Horace Hamilton, Randolph Smith, Ernest Hunt, Jr.

Thomas Motyl, Paul Cook, William Morgan, Randall Dockery, Robert Thomas, Elroy Harris, Norman Wray, Richard Daenzer, Edward Boyd, Paul Chorn, Art Nowak, Marvin E. Davis, Delbert Bartley, Paul Cooley, Richard Mosqueda, Ronald Jacobs, Ronald Stokes.

WAR ON POVERTY PROGRAM

Mr. HART. Mr. President, for some time I have been aware of the isolation of the Senate. Over and over, we are summoned to work our wisdom on problems with which few—or any of us—have any firsthand knowledge. Certainly, it is a physical fact that we cannot go out—100 strong—and personally inspect every area of the country which would be affected by each of the thousands of pieces of legislation handled in every Congress. For that matter, it is also a very real fact that if 100 Senators did appear on the scene, the information gathered might, indeed, be slanted a number of degrees away from the true situation.

But, granting that we try to compensate in various ways for the separation of Senators and the problems with which we deal, the fact remains that such a separation does exist.

Seldom has this distance appeared so great to me as it does with President Johnson's war on poverty.

Here we sit: in a Chamber beautiful to the point of grandeur. Here we are: surrounded by mementos of the great history of this country. Surely it is understandable if some of us find it difficult to imagine that there could be poverty in our country—let alone to picture its true face.

This is why I am glad to be able today to invite the attention of all Senators to an article entitled "Another Face of America," written by Andy Sufritz in Contact, the magazine of the Michigan Credit Union League.

The article details Mr. Sufritz' trip into the mining area of Kentucky. He and his wife went there—using vacation days—to deliver a carload of clothing and food to this area which has been suffering from its own private depression since 1950.

In brief, this is the flesh-and-blood story of what—at least one aspect—the war on poverty is all about.

There is more in this piece than a description of privation. There is dignity and pride—pride in those whom circumstances have made the sufferers, and pride in those Americans who have made themselves the helpers.

Mr. Sufritz once was a miner himself. It was natural, perhaps, that he sent a box of clothing to miners in Hazard, Ky., with a note that he understood times were hard and that perhaps the clothing would help.

To those who proclaim that the war on poverty would aid those who care not to help themselves, I should like to invite attention to this paragraph from the article:

> A reply came, describing the terrible need and suffering. But it was not a letter of defeat. The words urged aid, not for a people who were sitting back waiting for handouts, but for a people who were doing all that their limited material and human resources could accomplish. They were not words of a people searching for a lost dignity. The words proclaimed their pride and dignity, as well as their determination to endure what had to be endured and to do what had to be done to restore a decent standard of living to the area.

This, the critics may say, is the author's interpretation of the need of the people. However, I think the reader will agree, upon finishing the article, that the opinion has foundation.

Many of Mr. Sufritz' coworkers read the letter, and it was their outpouring of help—of clothing and food—that necessitated Mr. Sufritz' trip to Kentucky and thus the report was born.

Mr. President, certainly I am as aware as anyone that only a small percentage of the articles inserted into the CONGRESSIONAL RECORD each day are read by Senators. However, I do hope each will find the few minutes necessary to read this one. There is no question in my mind that it will yield a better understanding of what the war on poverty means.

There is one P.S. I should like to add to this article, and I add it with special pride in the people of Michigan.

Apparently the carload of material which Mr. and Mrs. Sufritz delivered to Kentucky was only the beginning. Soon after, members of UAW Local 212 gathered up about 2 tons of clothing and food. The Teamsters Union undertook the delivery of this.

As a result, the Teamsters themselves are organizing a drive to help these miners. As one of the drivers who went to Hazard, Ky., said:

> If I can accomplish what is in my heart, ours will be a whopper of a drive.

Several other groups, Mr. Sufritz informs us, are also considering food and clothing drives for the miners.

Mr. President, I ask unanimous consent that Andy Sufritz' article published in the April 1964, magazine of the Michigan Credit Union may be printed in the RECORD. As I do so, let me point out the obvious. All the good that it has wrought already is only a drop in the bucket to what we Members of Congress can accomplish. For these proud and dignified people need not only food and clothing to sustain them from day to day, but they also need the means once more to become contributing members of our labor force. These means are ours to give through President Johnson's war-on-poverty program.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANOTHER FACE OF AMERICA

(By Andy Sufritz)

(EDITOR'S NOTE.—Contact's associate editor added a couple of vacation days to a weekend in order to make the trip on which he here reports. Staff bylines do not often appear in Contact, but this is a story in which Andy's personal experience and occupational past are important elements.)

A note tucked in the pocket of a jacket sent in a box of clothing to Hazard, Ky., started it all. The note simply stated that my wife Olga and I knew unemployed miners and their families in the Hazard area had long struggled against poverty; hoped the clothing would help; and encouraged a reply by enclosing a self-addressed stamped envelope.

The reply came, describing the terrible need and suffering. But it was not a letter of defeat. The words urged aid, not for a people who were sitting back waiting for handouts, but for a people who were doing all that their limited material and human resources could accomplish. They were not words of a people searching for a lost dignity. The words proclaimed their pride and dignity, as well as their determination to endure what had to be endured and do what had to be done to restore a decent standard of living to the area.

It was a moving letter. Anyone receiving it would have felt compelled to try to do something to help. Experience permits saying that League staff personnel who read the letter felt the same, for they responded with generous offers of food and clothing.

The contributions swelled, and within 2 weeks the stairway to my upstairs apartment became virtually impassable, piled high with food and clothing. Costs of mailing the collected material would have been prohibitive, so my wife and I decided to deliver the food and clothing ourselves. Thus, on Friday morning, March 6, we left Detroit, our car sagging from the weight of the food and clothing jammed into every available inch of space.

The hours rolled by with us as we sped southward on the seemingly endless dual highway always stretching into the horizon ahead of us. Slowly, a feeling of unreality crept into my mind, along with a vague sense of confusion that kept nagging me.

ROAD, NATURE DENY POVERTY

The feeling persisted for a long time, until we had crossed over from Ohio into Kentucky and were climbing the highway slashed through the mountainside. Suddenly the reason for the confused unreality snapped sharply into focus: it was the tremendous contradiction between being in a car loaded with food and clothing for people suffering poverty and traveling along a magnificent road that blotted out everything but its own overwhelming grandeur. I was reminded of Detroit and its network of expressways. There, too, drivers flash by slums daily—and never notice them.

In contrast to the monotonous flat land of Michigan and Ohio, majestic mountain ranges loomed a deep purple ahead of us. This too, this beauty of nature surrounding us, defied all thoughts of poverty and its ugliness. But we knew this would come later, and so we marveled as the mountains enveloped us.

At a point only 87 miles from Hazard, we finally left the dual highway. The road to Hazard is more in keeping with those I remembered back in West Virginia, where I had worked for 10½ years as a coal miner before coming to Detroit. The narrow road wound around perilously steep hills, often curving a full 180 degrees. This road hid nothing, and now we were seeing evidence of the poverty.

APPALACHIA LONG DEPRESSED

It must be remembered that coal-rich Appalachia, sprawling from Pennsylvania down through West Virginia, Kentucky, North and South Carolina, Georgia, Tennessee, and Alabama, has been in a state of chronic economic depression since 1950, the year automation was introduced into the mining industry.

Miners were the first to raise their voices in protest to automation. They saw the machines come in and the men go out. Not all at once, but gradually, a little more each year. They protested in vain, for automation, gorging on fantastic increases of productivity (national average of 11 tons per man per day versus as much as 85 tons per man per day in automated mines) and reduced labor costs (two-thirds to three-fourths of the work force could be laid off) spread to engulf the whole of Appalachia. In its wake lay closed marginal mines, slashed work forces in mines remaining in operation—and a grinding poverty to plague families whose economic base had suddenly disappeared.

A decline in coal markets further aggravated the situation, along with the mushrooming of the strip-mining industry which requires fewer men and less expensive machinery than deep mines. Perhaps the enormity of the combined effect of these forces is best revealed in one comparison: in 1950 there were some 450,000 miners; today there are about 120,000.

No place was hit harder than southeastern Kentucky, a fact which became ever more obvious as we neared Hazard. Sagging tar-paper-roofed shacks, with outhouses standing like sentinels by each, dotted the hillsides.

CAR BODIES EVERYWHERE

Curiously, car bodies of various vintage and partially stripped could be seen everywhere: along the roadside, beside almost every shack, along the Kentucky River's shore which bordered the road, up on hillsides and down in chasms. We later learned that as the economic squeeze tightened, leaving no money for even food, the cars were simply parked and stripped of salable parts.

In sharp contrast to the shacks appeared occasional beautiful modern homes, with brick or stone siding, large picture windows, and two or three new cars parked in driveways. These, we were told, were homes of coal operators, owners of one or more of the many mines in the area.

Our destination was not Hazard proper, but a small community on the outskirts called Combs. There lived the family of Mr. and Mrs. Charles Moore, the people with whom we had established contact.

Their house stood at the end of two rows of wooden frame houses separated by a dirt road, deeply rutted, full of craters, and now a sea of water and mud from a recent rain. But we sloshed, heaved, and scraped our way through in our car to the front of the house.

At the door, we were met by the wife, Lola, who welcomed us with a warm friendliness. The pile of food and clothing seemed like a substantial amount when it was in our stairway in Detroit, but as we unloaded the car to line a wall in her bedroom, it had already shrunk in comparison to the need we had seen. Lola explained that they had a local union hall where large truckloads were delivered for distribution, but that her home often served as a way station for loads of our size.

Over a cup of coffee and a bologna sandwich (we had brought food with us, but could not eat it realizing that every mouthful we had literally would be depriving someone else), Lola answered questions and described the desperateness of the people. Her husband, she explained, was attending a meeting of unemployed miners who were always busy trying to find ways to get aid into the area.

CONDITIONS DRAW STUDENTS

One of the most interesting developments Lola related is the very close rapport established between the unemployed miners and idealistic college students who have been drawn there in response to national publicity about the area. Over 100 such students—some staying a few days, others spending 2-week holiday vacations, and still others voluntarily interrupting their educations to devote full time to help in the area—have come from widely scattered campuses.

When Lola's husband returned, we learned that Charles Moore is a leader of the unemployed miners, ranking with more widely known Berman Gibson in the respect he commands. A veteran of World War II, Moore had had the right side of his back blown off by shrapnel from an exploding enemy grenade in battle. Returning to work in the mines after his discharge, his weakened back eventually gave way. Operations could not restore his back to withstand the heavy physical strain required in his work. He was forced to leave the mines, but always maintained his union membership in good standing and participated actively in his union's affairs.

Fortunately for Charles and other miners, the United Mine Workers Union had established a chain of 12 hospitals in medically isolated regions of Kentucky, West Virginia, and Virginia. Six of these were erected in Kentucky at a cost of $21 million, one of them at Hazard.

WELFARE FUND BENEFITS

These hospitals were financed and staffed through the union's welfare fund, into which operators of unionized mines paid 40 cents for each ton of coal mined. This fund, first negotiated in 1947, provided money for the hospital program, as well as benefits to miners' widows and dependents, a pension of $100 a month to retirees, unemployment benefits to injured miners, death benefits, and complete payment for all hospital and medical care of miners and their dependents.

The fund was a tremendous achievement. For the first time in the history of this Nation, men working in one of the most hazardous industries were provided with adequate and often lifesaving medical care.

But as the coal crisis deepened with each year, depleted welfare funds forced cutbacks in programs. Injury compensation was eliminated, followed by widow benefits and nonessential medical attention. In 1959 miners pensions were cut to $75 a month, and the next year a fund ruling completely eliminated fund benefits of all miners unemployed for 12 months or more.

The latter ruling dealt a devastating blow, embittering thousands of miners who had been unemployed for 2, 3, or more years. They had fought long and hard battles, marked by bitter strikes and deprivation, to win the fund and its benefits. Now, they suddenly found themselves and their families without any protection whatsoever.

The union strived vainly to stem the flow of area operators who canceled union contracts and reverted to nonunion operations. In Perry County, where Hazard is located, there had been nine union mines. The last union-operated mine there canceled its contract with the United Mine Workers this month.

CONFLICTING FORCES

As crisis followed crisis, strong passions were unleashed. Some men who had long been with the union, faced with starving families, returned to work. The instinct for self-preservation clashed head on with long-established traditions of unionism, splitting families and driving a deeper wedge between miners and operators.

And then came the final blow. Last year the UMW announced its decision to sell the six hospitals in Kentucky. The six hospitals, built at a cost of $21 million, were sold to the State for $3.7 million. The Presbyterian Church volunteered to administer the hospitals and maintain a semblance of medical service.

NO STAFF DOCTORS

According to Lola, who had worked for years as a dietician at the Hazard Hospital but resigned when it changed hands, there had been a staff of some 18 doctors, including interns, at the hospital. Now, she said, there is not one single doctor on the staff; only emergency cases are admitted; and one of three or four local privately practicing physicians must be called in to treat patients.

We saw the beautiful hospital, pictured here, and I could not help but feel some of the frustrations I knew the miners must feel every time they go by the hospital. With the destruction of the union went the destruction of all that had been achieved by the miners.

Moore told of men working for as little as $3 or $4 a day, and of one instance where a miner had worked for 60 hours 1 week and his take-home pay amounted to $16.40. I asked how this could be when Federal law requires a minimum pay of $1.25 an hour for all workers producing goods in interstate commerce, such as coal certainly is. He just smiled and shrugged his shoulders, "You know it, I know it, the men know it, and the operators know it," he said. "But just stick around a while, you'll learn and see a lot of things you wouldn't believe were possible."

The Moores invited us to stay with them. Their eldest of three sons at home was sent to stay with a neighbor, and they insisted on turning over their own bedroom to me and my wife. At 2 o'clock in the morning, Moore was awakened from his sleep. Six students had arrived from George Washington University in Washington, D.C., and he went to help find a place for them to stay.

We met the students the next day at a meeting we were invited to attend of a committee the unemployed miners established in January of this year to help coordinate and have voice in efforts designed to lift the economic blight in the area.

NO CREDIT UNIONS

No one I talked with knew of any credit unions in Hazard, and if anyone ever needed them, these people do. They would not solve all of their problems by any means, but they would have helped soften the hard blows staggering the people there.

After the meeting, where we were introduced along with the students and spoke briefly of our mission there, Lola took us to visit a miner, his wife, and their 10 children. The outside appearance of the shack we were approaching served to prepare one psychologically to expect almost anything inside.

But as I stepped into the dark gloom of that suffocatingly hot room, the horrible impact of what was inside had the physical force of a sledge-hammer blow. My first instinct was to run, to escape what was there. I now understood completely the story Moore had told the day before of a student visiting a miner's family on a hill and cracking up. The student refused to leave the place until something was done for the family, and had to be forcibly dragged out of the place.

WAITING SHROUD

As I stood there literally paralyzed my eyes became accustomed to the gloom that fought against the light coming through the open doorway. Figures seemed to emerge from the walls—gray figures, seeming almost lifeless. The only thing I could think of was that this gloom was a shroud, waiting patiently to claim the humanity it even now covered.

In this room crowded the family and a visitor, a relative. Several of the children were barefooted, others had on what were once shoes, but they now denied that description. Ravages of malnutrition were evident from skin diseases that blotched the natural beauty in the children's faces.

In the eternity that lasted a half hour or 45 minutes we were there, not once did a smile light the face of anyone in that family. The pictures speak much more forcefully than any words I could write.

THE 2-MONTH RUPTURE

What the pictures do not show, however, is a rupture the size of two adult fists that the youngest boy, 2 years old, had carried for 2 months at the time we were there. I fought back a powerful urge to scream as they showed the rupture to me, and the vision of that beautiful hospital—only 2 miles away—suddenly jangled in my mind. And I was reminded of Moore's words of the day before, that I would see things that I had not believed possible.

Lola talked to the mother, and got the 10 children's shoe sizes, but of the 30 to 40 pairs of shoes that we had brought with us, only 7 pairs could be found to fit.

One statement the mother made will probably haunt me always. Looking around at the surrounding poverty, in a half-apologetic, half-defiant tone, she said, "I know we don't have much, but we've been blessed with children." It just seemed impossible that anything there could be even remotely related to a blessing.

SLEEP CROWDED OUT

Sleep didn't come easily that night. Sleep was crowded out by accusing looks in the haunted eyes of children who no longer smiled; by the haggard lines of worry that transformed a mother of 30 to 35 years into an old woman long before her time; of the appeal in the eyes of a husband whose face also bore the scars of unending worry.

The next morning, Sunday, we awoke to a pouring rain. Planned visits were automatically canceled by the impassible condition of the dirt roads that were the only access to the people we had made arrangements to see.

By noon, the rainstorm had grow in fury, and we all decided it would be wise for us to leave if we didn't wish to be stranded there—possibly for days. It rained all of the way back to Detroit, but nothing could ever wash away what we had experienced.

EXPLANATION OF VOTE YESTERDAY ON AMENDMENT NO. 539

Mr. STENNIS. Mr. President, I was present in the Chamber yesterday and voted on all the yea-and-nay votes except the last one. During that time I was interested in the amendment No. 539 of the Senator from Arkansas [Mr. McCLELLAN]. However, as interested in the amendment as I was, I was compelled to be away from the Chamber on business of the utmost importance for the State of Mississippi.

I offer this explanation because I had suggested to the Senator from Arkansas that he call up his amendment at that time, but then I had to leave the Chamber.

Had I been present I would have voted in favor of the amendment.

ESTABLISHMENT OF A NATIONAL COMMISSION ON FOOD MARKETING

Mr. MAGNUSON. Mr. President, I ask that the Chair lay before the Senate the amendment of the House to Senate Joint Resolution 71.

The **PRESIDING OFFICER** laid before the Senate the amendment of the House of Representatives to the joint resolution (S.J. Res. 71) to establish a National Commission on Food Marketing to study the food industry from the producer to the consumer, which was, to strike out all after the resolving clause and insert:

That there is hereby established a bipartisan National Commission on Food Marketing (hereinafter referred to as the "Commission").

Sec. 2. Organization of the Commission.—(a) The Commission shall be composed of fifteen members, including (1) five Members of the Senate, to be appointed by the President of the Senate; (2) five Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and (3) five members to be appointed by the President from outside the Federal Government.

(b) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original position.

(c) Eight members of the Commission shall constitute a quorum.

Sec. 3. Compensation of Members.—(a) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Each member of the Commission who is appointed by the President may receive compensation at the rate of $100 for each day such member is engaged upon work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

Sec. 4. Duties of the Commission.—(a) The Commission shall study and appraise the marketing structure of the food industry, including the following:

(1) The actual changes, principally in the past two decades, in the various segments of the food industry;

(2) The changes likely to materialize if present trends continue;

(3) The kind of food industry that would assure efficiency of production, assembly, processing, and distribution, provide appropriate services to consumers, and yet maintain acceptable competitive alternatives of procurement and sale in all segments of the industry from producer to consumer;

(4) The changes in statutes or public policy, the organization of farming and of food assembly, processing, and distribution, and the interrelationships between segments of the food industry which would be appropriate to achieve a desired distribution of power as well as desired levels of efficiency;

(5) The effectiveness of the services, including the dissemination of market news, and regulatory activities of the Federal Government in terms of present and probable developments in the industry; and

(6) The effect of imported food on United States producers, processors and consumers.

(b) The Commission shall make such interim reports as it deems advisable, and it shall make a final report of its findings and conclusions to the President and to the Congress by July 1, 1965.

Sec. 5. Powers of the Commission.—(a) The Commission, or any three members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by majority vote—

(1) to require, by special or general orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpena or order issued under paragraph (a) of this section to invoke the aid of any district court of the United States in requiring compliance with such subpena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under subparagraphs (3) and (4) above; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in case of refusal to obey a subpena or order of the Commission issued under paragraph (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) The Commission is authorized to require directly from the head of any Federal executive department or independent agency available information deemed useful in the discharge of its duties. All departments and independent agencies of the Government are hereby authorized and directed to cooperate with the Commission and to furnish all information requested by the Commission to the extent permitted by law.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conducting of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) When the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held confidential and shall not be disclosed by the

Commission or its staff: *Provided, however,* That the Commission shall permit business firms or individuals reasonable access to documents furnished by them for the purpose of obtaining or copying such documents as need may arise.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designated individuals on its staff and to make such rules and regulations as are necessary for the conduct of its business, except as herein otherwise provided.

SEC. 6. ADMINISTRATIVE ARRANGEMENTS.—(a) The Commission is authorized, without regard to the civil service laws and regulations or the Classification Act of 1949, as amended, to appoint and fix the compensation of an executive director and the executive director, with the aproval of the Commission, shall employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, but no individual so appointed shall receive compensation in excess of the rate authorized for GS-18 under the Classification Act of 1949, as amended.

(b) The executive director, with the approval of the Commission, is authorized to obtain services in accordance with the provisions of section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), but at rates for individuals not to exceed $100 per diem.

(c) The head of any executive department or independent agency of the Federal Government is authorized to detail, on a reimbursable basis, any of its personnel to assist the Commission in carrying out its work.

(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services: *Provided,* That the regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 46c) shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Administrator for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Commission: *Provided further,* That the Commission shall not be required to prescribe such regulations.

(e) Ninety days after submission of its final report, as provided in section 4(b), the Commission shall cease to exist.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such sums not in excess of $1,500,000 as may be necessary to carry out the provisions of this joint resolution. Any money appropriated pursuant hereto shall remain available to the Commission until the date of its expiration, as fixed by section 6(e).

Mr. MAGNUSON. Mr. President, I ask unanimous consent that action taken by the Senate on June 5 agreeing to a conference with the House on Senate Joint Resolution 71 and the appointment of the conferees be rescinded.

The PRESIDING OFFICER (Mr. MUSKIE in the chair). Is there objection?

Mr. RUSSELL. Will the Senator state the title of the joint resolution?

Mr. MAGNUSON. I shall explain it. Senate Joint Resolution 71 was reported unanimously by the Senate Commerce Committee, and at the same time the House passed a similar resolution in which there were some minor differences. At that time, the Commerce Committee thought the Senate might have a conference with the House on the matter rather than concur in the House amendment. To expedite the matter, we have since come to the conclusion that we would accept the House amendment. It is not a matter of substance.

The joint resolution provides for the establishment of a commission, proposed by the President, to make inquiry into food-marketing practices in the United States, including the price spread between the producer and the consumer.

The inquiry started in our committee under the able direction of the senior Senator from Wyoming, who concentrated upon the cattle problem as it involved the price to the producer and the price to the consumer.

The Senator from Wyoming conducted in-depth hearings on the matter. This joint resolution will now give the President authority to create the Commission. The difference between the House and Senate resolution is that the Senate provided for 2 years, and the House for 1 year. We were hoping that we might resolve this difference because the inquiry is complex and significant.

I do not like to call it an investigation, because we are not witch hunting, or pointing a finger at the villains of the piece, but we are trying to find out what the problem is in marketing and what the reason is for the spread between the farmer's price and the consumer's price.

In many cases it may be justified. A prime example being used is the 22-cent loaf of bread, and the 2 cents worth of wheat which the farmer provides.

Mr. ELLENDER. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. Let me finish my explanation, and then I shall be glad to yield to the Senator from Louisiana.

The Senator from Wyoming and our committee found real problems involved in meat marketing, including the role of chainstores, the role of the producers and the packers, and how it affects the housewife.

This is the purpose of the inquiry. I believe I have stated it fairly well. The President is desirous that we proceed immediately with the inquiry. Both resolutions now provide that there shall be five Members of the Senate, five Members of the House, and five public members on the Commission.

I believe that this inquiry is long overdue. The American people are anxious to understand the problem and know where the real difficulties lie in the great spread between the cost to the producer and to the consumer.

I suggested during the hearings that we talk a little about fruit, in which many people are interested. Take the cost spread in apples, for example. A producer receives 2½ cents a pound for a real fine Washington Delicious apple, whereas in the store it will be sold for 2 pounds for 35 or 39 cents.

In all fairness, I say that there may be good reason for this disparity in the price, but I believe that we should find out what the reason is for that disparity.

Now I am glad to yield to the Senator from Vermont, first, because he has been waiting a long time to be recognized.

Mr. AIKEN. I have been very much interested in what the Senator from Washington has just said. Although there are half a dozen agencies——

The PRESIDING OFFICER. The time of the Senator from Washington has expired.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that I may be permitted to proceed for 5 additional minutes.

Mr. MANSFIELD. Mr. President, I am constrained to object, because we are trying to accommodate as many Senators as we can and we have already gone 25 minutes beyond the original 15 minutes agreed upon.

I will not object at this time.

Mr. AIKEN. Mr. President, I should be glad to have 2 minutes of my 60 minutes used for this purpose.

Mr. MANSFIELD. I will not object.

Mr. AIKEN. Mr. President, although there are half a dozen agencies which have carried on a study of this nature, it has continued for a long time, and nothing has been done. The real reason for the trouble has not been brought to light, so it now behooves Congress to take such action in this field as may be necessary.

The Senator from Washington mentioned the meat situation. I do not know whether he has been reading the financial reports of the packing companies which have been issued reecntly; but the one that had the poorest record this year, compared with last year, shows a gain of 32 percent in profits over last year.

The one I have seen shows the highest increase in profit to be 79 percent. There may be good reason for it. Perhaps it is due to investments abroad. That may be the answer. If that is the answer, I believe the public is entitled to know that that is the reason. The public should know why prices constantly drop to the farmer and still do not drop to the consumer. I compliment the Senator.

Mr. MAGNUSON. The Senator from Vermont makes a good point. A correlated effort must be made by the various agencies. They must not be going off in different directions.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. ELLENDER. I expressed the hope earlier that the Commission would be organized. The question is whether the method of appointing the 15 members has been changed. Are the Senate Members to be appointed by the presiding officer of the Senate?

Mr. MAGNUSON. Yes; and the House Members by the Speaker. The President will appoint the public members.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. MILLER. I merely wish to add my hope that the Commission will do a good job. It is a very important one. I should like to add the suggestion that when the Commission is established, particularly with respect to the public members, great care be exercised in the appointment of the public members, so that the public will have confidence in the report and in the work of the Commission. For example, it might well be that a member of the livestock industry should serve on the Commission. There are members of the livestock industry and then there are members of the livestock industry, if the Senator knows what I mean. The same is true of members of the apple industry. I am sure the Senator from Washington understands. The appointments should represent the consensus of the majority members of the industry involved, so that people can look with confidence at the work of the Commission.

Mr. MAGNUSON. I am sure the President of the United States will take those matters into consideration. I wish to yield to the Senator from Wyoming [Mr. McGee] on his time. He has done an excellent job in getting this program off the ground in a series of hearings. He knows a great deal about the subject.

I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. Will the Senator restate his motion?

Mr. MAGNUSON. I move that the Senate concur in the House amendment to Senate Joint Resolution 71.

The PRESIDING OFFICER. Does the Senator have the official papers to present at the desk?

Mr. MAGNUSON. I shall wait. I believe the papers are on the way. When they are received I shall be notified, and then I shall renew my motion.

I yield to the Senator from Wyoming.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to amendment No. 1052, proposed by the Senator from Montana [Mr. Mansfield] and the Senator from Illinois [Mr. Dirksen], in the nature of a substitute.

Mr. McGEE. I believe the Senator from Washington has yielded to me.

The PRESIDING OFFICER. All time has expired under the unanimous-consent agreement.

Mr. McGEE. I yield myself 30 seconds from my own time on the civil rights bill.

In order to conserve the time of the Senate, and to preserve my 60 minutes, should I need them later, I am pleased that the Senate is taking this action today. I concur in the House amendment and I urge that the Senate concur in the amendment so as to get this vital study under way. I ask unanimous consent that my full statement be made a part of the Record at this point.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator McGee

I am pleased that the Senate is taking action today which will expedite the establishment of a National Commission on Food Marketing. However, there is one provision of the pending bill which concerns me. This is the limitation of the Commission to a 1-year duration and $1½ million in funds. It is doubtful whether the job which we are expecting the Commission to do can be completed in this time and with these funds.

Once the bill is passed, the members of the Commission must be appointed and brought together. The Commission must recruit and organize a professional staff. It must develop operating procedures. It must review and evaluate a massive volume of existing data and research findings. It must determine what additional information is needed and how and where it can be obtained. It will be expected to hold public hearings throughout the country. It must assemble additional information from many sources, including field surveys, personal interviews, inspection of books and records, reports and questionnaires, correspondence, and by other appropriate methods. It must cover a wide range of important agricultural commodities. It must include all stages of the marketing process from the producer through the assembler, processor, wholesale and retail distributor to the consumer. It must evaluate all of this material, make statistical analyses and arrive at significant findings and conclusions. It must prepare written reports covering all of its findings and conclusions.

Many people have been conducting research on the structure of the food industry for many years. These studies have provided partial insights into specific commodity and functional areas. However, they have not filled enough of the gaps to provide a real understanding of how our food marketing system works.

We cannot gain the necessary understanding with another partial effort. This study must get into areas of market operations which have not been covered by past research. It must provide a much needed understanding of the marketing system as a whole and not just a series of descriptive reports on individual commodity or problem areas.

Secretary Freeman has said that "This is the most significant inquiry to be proposed since the late Senator Joseph C. O'Mahoney launched the historic Temporary National Economic Committee (TNEC) in the late 1930's." I agree with this judgment. I would remind my colleagues that the work of the TNEC extended over nearly a 3-year period. The law establishing the TNEC was approved on June 16, 1938, and the Commission completed its work on April 3, 1941. It published 43 monographs on important areas of economic activity, and an additional 31 volumes and 6 supplements covering the public hearings which it held during this period.

You also are acquainted with the more recent work of the bipartisan Hoover Commission which was set up in 1947 to study the organization of the executive branch of the Government. The Hoover Commission spent 2 years and issued 15 reports in the course of its initial study. In 1953 a second Hoover Commission was established, and it spent an additional 2 years following up on the work of the first Commission.

I believe that we should expect the National Commission on Food Marketing to do the same type of job which was done by the TNEC and by the Hoover Commission.

I concur in the House amendment so that the work of the Commission can be started now and the potential pitfalls of a conference, so close to the end of the session, can be avoided. I shall certainly be prepared next year, however, to support an extension of the life of the Commission so that its work may not be prematurely foreclosed.

LAOS AND SOUTH VIETNAM

Mr. MORSE. Mr. President, I ask unanimous consent to have printed in the Record an article, published today in the Washington Post, on a statement, emanating from the State Department, seeking to rationalize further its course of illegal action in Laos and South Vietnam.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

U.S. Reports Laos Accord on Flights

(By Warren Unna)

The United States and Laos Premier, Prince Souvanna Phouma, have reached a "clear understanding" on continuing the controversial U.S. jet photo-reconnaissance flights over Laos at necessary intervals, the State Department declared yesterday.

But in the Laotian Capital of Vientiane, Souvanna gave a slightly different twist to the matter. He told a news conference the U.S. jet flights had been provisionally suspended, but would be resumed if there is evidence of further (Pathet Lao) troop movements.

These comments came just as the Communists, for the second time within a few days, charged that U.S.-made AT–6 and T–28 planes bombed and strafed Pathet Lao headquarters.

State Department officials countered that no U.S. pilots were flying these propeller-driven planes, but that Lao pilots, for some time now, had been using these U.S.-supplied planes for their own bombing missions.

On Capitol Hill yesterday, Senator Wayne Morse, Democrat, of Oregon, the administration's severest critic of its southeast Asian policy, accused the United States of acting like "an international outlaw in pursuit of its own nationalistic objectives."

Morse warned that U.S. jet flights over Laos endanger "peace, security, and justice in the United States" and are serving to escalate this country into a full-scale war with Laos' neighbor, Communist China.

At stake are the Laos peace accords reached at the 1962 Geneva International conference. Both the United States and Premier Souvanna have accused the Pathet Lao and their Communist North Vietnamese backers of violating the Geneva strictures against defiling Laos' neutrality with foreign troops and new equipment.

Both the United States and Souvanna look upon observance of these accords as the only possible way to put the Laos pack of cards back together again.

But now Communist North Vietnam and Communist China, as well as Senator Morse, have accused the United States of being the guilty party by introducing not only jet photo-reconnaissance planes but armed jet fighter escorts.

State Department spokesman Richard I. Phillips repeated yesterday that both the United States and Souvanna's government had agreed that these flights were necessary to assume preventive detection responsibilities no longer being met by the International Control Commission (ICC), composed of India, Canada, and Poland.

Phillips also said at his noon briefing that both the United States and Souvanna's government now have agreed not to discuss any "operational" aspect of the jet flights. This was regarded as a blackout on future news about the armed jet fighter escorts.

It was learned yesterday that Premier Souvanna, distressed by the Pathet Lao antiaircraft fire on the U.S. jets, had agreed to the U.S. request for the armed fighter escorts—but on the assumption that the escorts would be Lao planes piloted by Lao pilots.

The United States, aware that the planes it has been giving the Lao Air Force are only propeller driven and incapable of keeping up with jets, worked on the contrary assumption that U.S. owned and piloted escort jets were needed. And U.S. officials went ahead and introduced them into Lao air space.

Souvanna had been out of circulation until yesterday because of consultations with King Savang Vatthana in his isolated capital of Luang Prabang.

The moment Souvanna returned to Vientiane yesterday, U.S. Ambassador to Laos Leonard Unger conferred with him and word of the "agreement" emerged.

Mr. MORSE. Mr. President, in commenting on the falsification which emanated yesterday from the State Department, by means of its spokesman, in attempting to rationalize its illegal course of action in regard to Laos and South Vietnam, the fact still remains that the United States now stands in violation of both the Geneva accords of 1954 and 1962, and the United Nations Charter, and in violation of the Constitution of the United States. It objects to my use of the word "outlaw." But the sad fact is that the United States has joined the outlawry of Red China, Laos, North Vietnam, and South Vietnam.

I ask unanimous consent to have printed in the RECORD an editorial which is published today in the New York Times. At long last, the editor of the New York Times is beginning to read something besides his own editorials. He is beginning to recognize the desirability of participation by the United States in a 14-nation conference on southeast Asian problems in keeping with the framework of international law. At long last he recognizes that the United States should return to the observance of international law. I am delighted to find that a realization of the necessity for observance of international law is beginning to dawn on the editor of the New York Times.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ASIAN CONFRONTATION

Two U.S. planes have been shot down in Laos and now American armed fighter plane escorts are shooting back. The situation is deteriorating in Vietnam as well as in Laos and, by reflexion, in Cambodia, Thailand, and all of southeast Asia. When or how is the shooting going to end? When or how is the steady, if slow, advance of the Communists in the region going to be stopped?

The power factor in southeast Asia that really counts is the confrontation between the United States and Communist China. They are still at some distance from each other, but the gap is closing. When Under Secretary Ball and President de Gaulle conferred the other day, they agreed that southeast Asia should be denied to the Communists, but they disagreed on how this goal was to be achieved.

General de Gaulle insists with reason that no settlement of the Indochina conflict is possible without the concurrence of the Communist Chinese. This is the dominating factor. China is there; the United States is 10,000 miles away. Chinese power radiates over the whole of Asia from India to Korea.

The nub of the question is the American belief that a withdrawal of our military support would leave a vacuum which the Red Chinese would inevitably fill—not to mention the fact that, for better or worse, we have commitments that we must honor. The De Gaulle argument is that China has enough problems with Russia in the north, India in the west, and the United States in the east, not to mention a strained economy, to be willing to leave southeast Asia more or less alone—on the condition that China felt there was no longer any reason to fear a threat from the United States in that area.

There is no ideal solution; but it has seemed to this newspaper that the most practicable one is, in the broadest possible terms, a guaranteed neutralization of all states that formerly made up Indochina. What this means is that the interested powers—including particularly the United States, the Soviet Union, and Communist China—would mutually and gradually withdraw militarily from that area and would at the same time guarantee the independence of the respective states, possibly with a U.N. presence to enforce it.

Obviously such a solution is risky and might not work out in practice, but the risks will be great no matter what is done, and will be still greater if the outcome is left to the hazards of military escalation.

The entire problem deserves exploration in another conference of the 14 nations, Communist China included, that have been concerned with southeast Asia since the Geneva Conference of 1962. The decisive confrontation of the United States and Red China should be over a negotiating table, not with arms. In the long run, this will only be possible when Communist China is a member of the United Nations and when Washington can speak to Peiping in the normal course of diplomatic exchanges between two nations that recognize each other.

The U.S. Department of State is caught in its own web of gross misrepresentation of warmaking policy in South Vietnam and Laos. Yesterday I pointed out in a Senate speech and on an American Broadcasting Co. television interview that we are an outlaw nation in South Vietnam and Laos. The State Department, obviously stung by my statement, issued a statement to John Scali, of ABC, who covers the State Department for ABC. John Scali, over a telecast last night, June 11, 1964, reported as follows:

TEXT OF A BROADCAST BY JOHN SCALI, OF ABC NEWS, FOLLOWING A FILM OF SENATOR MORSE'S COMMENTS ON LAOS, ON THE RON COCHRAN NEWS, ON ABC–TV, 6:30 P.M., JUNE 11, 1964

Here at the State Department, the highest officials flatly and emphatically disagree with Senator MORSE's contention we've become an outlaw nation in southeast Asia.

In sending American reconnaissance planes over Laos, even those protected by jet fighters, the State Department takes the position we're responding to an appeal for help from the legitimate government of Laos, as we are in Vietnam.

And such emergency assistance is not banned by any article of the United Nations Charter.

As for Senator MORSE's claim this is the way to start a war, the State Department replies this show of force is the only way to stop a little war before it becomes a big war.

The alternative—to do nothing, to rush to the U.N. instead—would only give the Communists time to grab all of southeast Asia while the diplomats argue about what to do.

This is John Scali at the State Department.

The alibi of the spokesman for the State Department is such gross misrepresentation that it amounts in fact to lying to the American people. It is time that someone properly label the misrepresentations of the State Department for what they are.

When the State Department tries to justify the use of American planes over Laos, both unarmed and armed, it fails to tell the American people that the Geneva accords prohibit such action by any country.

When the American planes dropped bombs and strafed they committed acts of war and made our country an aggressor nation. When our country resorted to acts of aggression instead of taking the violation of the Geneva accords to the United Nations, it walked out on its obligations under the United Nations Charter. It violated not only articles 33, 37, and 51 of the charter but it violated the entire spirit and content of the charter. It violated our pledge to seek peaceful procedures for the settlement of threats to the peace rather than resort to military might.

When the State Department denied that our country's military course of action endangered peace in Asia it simply did not tell the truth. It knows that since the United States started its illegal military action in South Vietnam there has been an increasing mobilizations of Red Chinese troops along parts of its borders nearest to Laos and South Vietnam. The State Department knows that Red China cannot be counted upon to stand by militarily immobilized in the face of American military actions in Laos and South Vietnam. If the United States escalates the war with North Vietnam the State Department knows the probabilities are great that Red China will start moving her millions of soldiers into action against our forces.

Mr. President, I regret to have to say it but it should be said. The State Department should stop misleading the American people. It should stop lying to them.

It is shocking that the State Department should try to deceive the American people into accepting the alibi for our illegal action in South Vietnam by saying, "This show of force in southeast Asia is the only way to stop a little war before it becomes a big war." Shades of Hitler—that lie was also uttered by Hitler. Making war anywhere, big or little, endangers the peace of the world, and the State Department knows it. The State Department lies again when it seeks to leave the impression that those of us who are urging United Nations action in southeast Asia are urging a do-nothing policy in South Vietnam which "would only give the Communists time to grab all of southeast Asia while the diplomats argue about what to do."

When the State Department spokesman said that he lied about our position. From the beginning of this historic debate those of us who have opposed McNamara's war in South Vietnam, and the State Department's illegal course of action in respect thereto, have urged that all of our SEATO allies should be asked to join with us in maintaining a peacekeeping force in South Vietnam until a United Nations peacekeeping corps would be sent in.

We have argued that the United States should stop making war in South Vietnam and start joining with our SEATO allies in making and preserving peace. There is a great difference—

the difference between lawful conduct under international law and treaty obligations and international outlawry.

The State Department knows our position. Why does it lie about it? I think the only reason is this: The State Department knows we are right and it knows it cannot answer us with truthful answers. In my opinion the American people are beginning to see through the misrepresentations of the State Department.

The PRESIDING OFFICER. The extension of time in the morning hour has expired.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the Mansfield-Dirksen substitute, amendment No. 1052.

Mr. RUSSELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 305 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Goldwater
Gore
Gruening
Hart
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from Arkansas [Mr. Fulbright] is absent on official business.

I also announce that the Senator from Indiana [Mr. Hartke] is necessarily absent.

I further announce that the Senator from California [Mr. Engle] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. Beall] is necessarily absent to attend the Maryland State Republican Convention in order to accept the nomination for U.S. Senator.

The Senator from Massachusetts [Mr. Saltonstall] is necessarily absent.

The PRESIDING OFFICER (Mr. Muskie in the chair). A quorum is present.

Mr. STENNIS. Mr. President, I call up my amendment No. 570 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 54, between lines 7 and 8, it is proposed to insert the following new title:

"TITLE XI—TRANSPORTATION OF PERSONS OR MATERIAL INTO STATE TO VIOLATE STATE LAW

"SEC. 1101. (a) Part I of title 18, United States Code, is amended by adding after chapter 113 the following new chapter:

" 'CHAPTER 114—TRANSPORTATION OF PERSONS OR MATERIAL TO VIOLATE STATE LAW

" 'Sec.

" '2351. Transportation of persons or material to violate State law

" '§ 2351. Transportation of persons or material to violate State law

" 'Whoever—

" '(a) moves or travels in interstate or foreign commerce with the intent and purpose to commit a criminal offense under any law of any State, District, Commonwealth, or possession of the United States; or

" '(b) aids and abets any person to move or travel in interstate or foreign commerce with the intent and purpose that such person commit such a criminal offense; or

" '(c) transports any person, or aids and abets in the transportation of any person, in interstate or foreign commerce with the intent and purpose that such person commit such a criminal offense; or

" '(d) transports any material, or aids and abets in the transportation of any material, in intersate or foreign commerce, with the intent and purpose that such material be used to commit, or be used in the commission of, such a criminal offense—

shall be fined not more than $5,000, or imprisoned not more than five years, or both. Nothing in this section shall be construed as indicating an intent on the part of the Congress to deprive any State, District, Commonwealth, or possession of the United States of any jurisdiction over any offense over which it would have jurisdiction in the absence of such section.'

"(b) The analysis of part I of title 18, United States Code, immediately preceding chapter 1 of such title, is amended by adding

" '114. Transportation of persons or material into State to violate State law'

after

" '113. Stolen property' ".

On page 54, line 8, strike out "XI" and insert "XII".

On page 54, lines 9, 14, 22, and 25, strike out "1101", "1102", "1103", and "1104", and insert "1201", "1202", "1203", and "1204", respectively.

Mr. STENNIS. Mr. President, on my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, I have prepared some special points on the amendment. I ask that they be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STENNIS. Mr. President, I yield myself 5 minutes.

I especially call this amendment to the attention of the Senate because I firmly believe that favorable action by the Senate to incorporate the amendment in the bill would prevent much strife, violence, even bloodshed, and perhaps even save lives. The amendment is what has been called by the press at one time the freedom riders amendment. It is a simple proposal.

The amendment would make it a Federal crime to cross a State line for the purpose of violating a State law. It is that simple. The amendment is well bottomed upon precedents of more than 50 years.

We already have what is called the Lindbergh law, passed some 30 years ago regarding kidnaping. Then there is the law which makes it a Federal crime to cross a State line with a stolen automobile. We have a Federal criminal statute dealing with fleeing across a State line to avoid prosecution. A forerunner of that law is the so-called White Slave Act, making it a violation of the law to cross a State line for the purpose of committing an immoral act. Also, there are the Federal gambling statutes that apply in the same way.

The activity of the freedom riders started in 1961, when people gathered in New York and other States and announced in advance that they would proceed into the Southern States for the express purpose of violating the laws of those States so as to be arrested and put in jail.

I refer particularly to the incidents in Greenwood, Miss., in 1963, when the people of that fine little city, with great patience and endurance, were kept under tension, stress, strain, and turmoil for something like 60 days. All kinds of marches, trespasses and blocking of traffic took place. The mayor, the police, and other responsible officials performed extraordinary service at that time in order to quell the disturbances. In the end, no one was seriously injured. However, there were times when the city was on the verge of the most serious kind of trouble.

According to press announcements, Mississippi and other States are already marked as special targets for hordes of people to be brought in to conduct schools and engage in activities of the kind I have described.

From the very beginning until now, there has been very little discouragement of this kind of activity by those in high authority in the Federal Government. In fact, statements by many officials in high positions have clearly tended to encourage such activity, as have, unfortunately, some Supreme Court decisions. However, I shall not discuss that situation now.

I have read that groups in the city of Washington are planning to go to the State of Mississippi and to Alabama and other States to take part in public demonstrations, and are urging a panel of prominent Americans to ask that President Johnson guarantee Federal approval and guarantee their safety when they are engaged in this kind of project.

In other words, they are now asking for Federal aid and Federal protection before they leave. They plan to create strife and violence and will then expect Federal troops to be sent for their protection.

My amendment would really constitute Federal aid. It would afford protection for the people of the State, because it would tell the visitors in advance that those who go for the purpose of violating the law will be held accountable under a Federal act.

I presume that the Department of Justice is against my amendment. The Department would not want to take part in the activity of enforcing such a proposal. It would not want the responsibility. But the Senate has already made up its mind to pass the bill, so a duty and a responsibility now go with the decision that has been made.

Mr. President, according to press reports, Martin Luther King, Jr., who has been in Florida for the past few days and was arrested yesterday, announced in advance that he was going there expecting to be put in jail. At least, that was the story which the Senator from Mississippi heard in a radio announcement. I have before me a UPI dispatch stating that he is spearheading a fresh attack.

Mr. President, may we have order in the Senate? If there is one Senator who wishes to hear what I have to say, I want that one Senator to hear it.

This is what the UPI dispatch stated. I am speaking on limited time; I hope Senators will listen to what I am saying.

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired.

Mr. STENNIS. I yield myself 5 more minutes.

I read from the UPI news dispatch of yesterday.

> Negro leader Martin Luther King, Jr., spearheading a fresh attack of racial violence, said he would attempt to eat in a segregated restaurant today in "act of civil disobedience" aimed at dramatizing for an integration campaign.
>
> "If we have to go to jail, we are going," King told a crowd of 400 Negroes last night.

He was in St. Augustine, Fla., when he made this statement. He further said:

> We are determined to make this city the kind of place that the oldest city in our Nation ought to be.

That is what Martin Luther King, Jr., proposes to do by unlawful means, according to his statement. According to a radio announcement, he said he was going to violate the law. However, the article I have just read does not use those words.

But that is not all. Not only are many Federal officials in high places tolerating statements like that, but other leaders in high position are actually encouraging them.

It is sad to have to read what I am about to read, but according to a New York Times article on June 8, the U.S. Ambassador to the United Nations, Mr. Adlai Stevenson, while addressing the graduating class of Colby College, made this amazing and astounding statement:

> Ambassador Adlai E. Stevenson said today that with American students participating "in the great struggle to advance civil and human rights, even a jail sentence is no longer a dishonor but a proud achievement."
>
> Mr. Stevenson, U.S. representative at the United Nations, went on, "perhaps we are destined to see in this law-loving land people running for office not on their stainless records but on their prison records."

Mr. President, it is a sad and tragic day when such statements are made. I deplore and condemn the making of such statements—statements made by our Ambassador to the United Nations, a man with the whole world for an audience, who was supposed to be giving those young, patriotic American citizens sound advice as they started out to make their own life in the world.

Mr. President, that is a tragic situation. It shows how far some of our people have heedlessly and recklessly gone. Today Martin Luther King is in jail in Florida, as the press reports state.

So, Mr. President, I plead with Senators, in the name of innocent people who will suffer unless something is done. What about their civil rights? Does not a person have a right to protection of the law—protection of his person and of his possessions and of his home and of his right to walk on the street unimpeded?

Mr. President, this behavior has occurred since cloture on the bill now before the Senate was voted.

At this time I shall quote three short paragraphs from an editorial about the reign of terror in the city of New York, published on June 2 in the Memphis Commercial Appeal:

> And to whatever causes of this reign of terror that may have been suggested (poverty, lack of education, poor housing, and the like), we can add one that is obvious. Racial extremists, such as the leaders of CORE, have laid the groundwork for violence of this sort by glorifying en masse violation of the law.
>
> Police have been vilified. The public has been intimidated. Courts have been castigated. A new generation has been taught, by demonstration and riot and open contempt for law, that anything goes.
>
> That is at least one of the primary reasons that cruelty and terror stalk the streets of New York.

Mr. President, I urge the adoption of this amendment, for the protection of all the people. I do not urge adoption of the amendment as a censure of any leader or as a rebuke for what anyone has said. Instead, I urge adoption of the amendment for the protection of all the people—the white people, the colored people, and all others.

EXHIBIT 1

ARGUMENTS IN FAVOR OF STENNIS AMENDMENT MAKING IT A FEDERAL CRIME FOR PERSONS TO CROSS STATE LINES FOR THE PURPOSE OF VIOLATING STATE LAWS

The pattern of organized and well-planned trips from State to State for the purpose of violating the laws of those States, regardless of motives, can only lead to anarchy. The fact that in the eyes of some a law is unpopular, of doubtful validity, or does not meet the approval of some people is no excuse for the willful violation of the law. Such actions are not only a disrespect for lawful authority but encourages others to disregard the same laws, or those laws they might disagree with.

In recent years and in recent months (and with alarming frequency within the last few months), the press has reported countless incidents of organized trips from one part of the country to another, crossing State lines, with the well-publicized intent of the travel in advance, to violate a State law in a place far from his own residence.

One of the most publicized expeditions of this kind was the so-called freedom riders of 1961, when bus loads of racial agitators gathered in New York and Washington and announced their intention to travel to the Southern States and violate the laws of those States and thus invite arrest, conviction, and unavoidable violence. Of course, many were arrested and put in prison. They could expect nothing else under the circumstances.

These incidents have been multiplied many times over in the months and years since that time, creating additional disrespect for lawful authority.

Those who seek the passage of new laws, whether on the subject of civil rights or some other subject, are in a poor position when they will not obey those laws now in existence. There are lawful ways in which to express disagreement for such laws and there are lawful ways to seek redress and amendments to, or repeal of, those laws.

However, the answer is not in the wholesale violation of those laws and the endless streams of demonstrators—many of them paid by extremist organizations—to break their way into jail to publicize the cause of their leaders. The end result of this continued activity can only lead to anarchy.

All of us share the concern of the officials of the city of New York as well as those of other States where there has been widespread terrorism of law-abiding citizens in recent weeks. We deplore the actions of these hoodlums, snipers, murderers, and thieves.

But what can we expect when racial agitators and zealots, month after month, have encouraged the violation of the law?

What can we expect when our churches advise their members that it is all right to disobey man's law if they feel it is inconsistent with God's law?

What can we expect when the U.S. Ambassador to the United Nations in a public speech announced that a "jail sentence is no longer a dishonor but a proud achievement" and suggests that we might be destined to see in "this law-loving land people running for office, not on their stainless record but on their prison record?" I do not see how any citizen of the United States, worthy of his salt, can encourage the wholesale violation of the law, even if he disagrees with that law.

In a commencement address at Colby College in Waterville, Maine, on June 7, 1964, Ambassador Adlai E. Stevenson, U.S. representative at the United Nations, made the following statements, according to the New York Times in a story on June 8. Quoting from the New York Times story:

"Ambassador Adlai E. Stevenson said today that with American students participating 'in the great struggle to advance civil and human rights, even a jail sentence is no longer a dishonor but a proud achievement.'

"Mr. Stevenson, U.S. representative at the United Nations, went on, 'perhaps we are destined to see in this law-loving land people running for office not on their stainless records, but on their prison records.'"

For generations we have taught our children to obey the law and respect duly constituted authority. We have tried to establish the best police forces and have given them the most modern equipment and facilities to deal with those who violate the law. We have the FBI. We have an intricate system of State and Federal courts and spend millions of dollars each year to prosecute and punish those found guilty of violating our State and Federal laws. We spend millions of dollars for jails and prisons to punish criminals and to deter others from committing a violation of our laws.

It is a sad day indeed when a high public official such as the U.S. Ambassador to the United Nations, whose world is his audience, in effect counsels the violation of the law. Such a statement from a high government official would be inexcusable at any time, but when made to a group of young college graduates just starting out to make their way in the world, it is reprehensible.

Already the press reports an approaching well-organized and, apparently, well-financed summer program for Mississippi. We see leaflets which refer to the Mississippi summer projects and other leaflets announcing a summer stock repertory theater in Mississippi. And these pamphlets are hardly off the press before a further call is made for a "panel of prominent Americans to ask that President Johnson guarantee Federal action to guarantee the safety of those engaged in the Mississippi summer project."

The time for action is now, action to stop these people with nothing better to do and encourage them to stay at home and obey the laws of their own State rather than to travel thousands of miles to break into jail.

There is ample precedent for a Federal law making it a Federal crime to travel from one State to another for the purpose of violating a law of that State. For many years we have had a Federal law making flight from a State to avoid prosecution under the laws of that State a crime under the Federal law. We have a Federal law prohibiting the transportation of a stolen automobile across a State line. We have a law prohibiting the transportation of a female person across State lines for immoral purposes. If we are to preserve law and order in this country and respect for our Government, we must prohibit these mobs from going from State to State solely to stir up trouble.

My amendment is a reasonable one. It does not prevent any citizen of a State from testing in the courts, or in any lawful manner he choose, any law of his State with which he might not agree. But it does make it a Federal crime for a person to travel from the State of New Jersey to the State of New York for the purpose of violating a law of the State of New York.

In closing, let me quote just one part of an excellent editorial which appeared in the Memphis Commercial Appeal of June 2, 1964.

For emphasis, I quote only three short paragraphs as follows:

"And to whatever causes of this reign of terror that may have been suggested (poverty, lack of education, poor housing, and the like), we can add one that is obvious. Racial extremists, such as the leaders of CORE, have laid the groundwork for violence of this sort by glorifying en masse violation of the law.

"Police have been vilified. The public has been intimidated. Courts have been castigated. A new generation has been taught, by demonstration and riot and open contempt for law, that anything goes.

"That is at least one of the primary reasons that cruelty and terror stalk the streets of New York."

I urge the adoption of this amendment.

Mr. HOLLAND. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am glad to yield, if I have time in which to do so.

Mr. HOLLAND. Mr. President, I shall speak on my own time.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. HOLLAND. Mr. President, I commend the Senator from Mississippi for his restraint in the discussion of a most difficult situation.

One of the lead items in the Associated Press dispatch of this morning uses the following words:

> ST. AUGUSTINE, FLA.—Equal numbers of integration marchers and policemen came through almost unscathed as firm law enforcement methods kept order on the third straight night march through downtown streets.
>
> With their leader, Dr. Martin Luther King, Jr., of Atlanta, in jail as the result of a sit-in, the numbers of demonstrators last night were about 200—half that of previous nights when they were attacked by gangs of 100 or so whites in the downtown plaza around the old slave market.

Mr. President, I think it is very greatly to the credit of the white people of Mississippi and of Alabama, Florida, and other Southern States that we have rather patiently endured this invasion by do-gooders from outside our area, who have come there to break our laws and to make trouble. Despite that, they have found protection there—as did the paraders, last night, in St. Augustine. In St. Augustine, they were protected by an equal number of officers. I do not have to point out to Senators that 200 police officers in St. Augustine are a number completely beyond the normal for that small and peaceful city.

Mr. STENNIS. May I interrupt to say that it is clear that other things of that sort will occur if this bill is passed. The bill should not be passed.

Mr. HOLLAND. Mr. President, our people have been patient and long suffering, and we have done all within our power to prevent outbreaks of violence.

At this point I wish to state—in view of the clear intimation that the bill now before us will be passed—that anyone who will do what Dr. King is doing now shows vastly more enthusiasm than he does good judgment, because everyone knows the whole Nation is confronted with very great difficulties; and passage of this proposed law is imminent—a proposed law which involves, among other things, situations similar to the one Dr. King complains of. He is now in jail because yesterday he broke the law in St. Augustine, by seeking to go into a segregated eating place. All of us heard on the radio, last night, the statement that the manager of that eating place, who politely and quietly told him it was the policy of the company which operates that eating place to operate it on a segregated basis, and that he could not change the policy; and he asked Dr. King to depart in peace; but, instead, Dr. King insisted, and the manager had to send for officers, and Dr. King was arrested.

Mr. President, if this is an indication of the kind of thing we have to put up with, when Senators, who, I think, have behaved themselves rather well during this debate, are going to be there, trying to counsel patience and observance of the law, instead of law violations, we have some bad days ahead of us, not only in the South, but also elsewhere in the Nation.

Mr. President, I have no illusions about the result of the forthcoming vote on this amendment, but I am grateful to the Senator from Mississippi for having raised this point, because when Martin Luther King comes from Atlanta and tries to make trouble in our State by violating its laws and traditions, he is protected, at great expense to our people. Last night he and his allies were protected by 200 or more officers, on the streets of St. Augustine, at a time when most of the eating places there were closed, and they chose to parade at a time when such a demonstration would have been almost completely meaningless. Yet they were protected, and things of this sort continue to occur.

Mr. President, is that good judgment on the part of people for whom Members of the Senate who believe in this bill have worked diligently and for long hours? They have been patient.

Is it ordinary gratitude when a man such as Dr. King exhibits a complete lack of good judgment by doing things of the type Dr. King has done in Florida in recent days?

I shall pass over, without discussion, the act of Mrs. Peabody, a few weeks ago, because passage of this bill was not imminent then; the situation then was somewhat different.

But we have been subjected to such things for so long that it should now be evident that it is time for patience, good judgment, and law observance to be shown.

Mr. President, much as I detest the portions of the bill which would bring about such a radical change in our part of the country, I will continue to counsel patience and obedience to law, but I shall have great difficulty in impressing the importance of law observance on the people there if such things continue to be done by members of the Negro race who come from other States into our States, and constantly try to make trouble for us.

Mr. President, there in the oldest city in the United States—a city which will be 400 years old next year, where a great celebration will take place at that time—into which the Catholic Church is putting a large amount of money because of the important place that it had in the establishment of that original European settlement, to become permanent, and into which the Government of Spain is putting a large amount of money in order very adequately to celebrate their leading part in that settlement there 400 years ago, we see these demonstrations. To have this man and others like him go down there looking for trouble, merely to demonstrate their complete lack of respect for the laws of the State, which is host to them and is taking pretty good care of them while they are there, I believe is a demonstration of mighty little judgment and much less respect for our law.

Mr. President, it is a travesty against the patience of men such as the present Presiding Officer, the Senator from Connecticut [Mr. RIBICOFF], and men such as the Senator from Rhode Island [Mr. PASTORE], who generally are so patient, and others who have fought long in order to accomplish the passage of the act only to have this kind of showing of lack of understanding and lack of gratitude by a leader of this race which has so much to gain, according to their own statements, from the passage of the bill.

Mr. COOPER. Mr. President, will the Senator yield on my time?

Mr. HOLLAND. I am glad to yield to the Senator from Kentucky.

Mr. COOPER. I should like to ask the Senator a question with regard to his amendment. Under the first amendment, the right of the people to petition the Government for a redress of grievances is secured. The right to petition includes the right to engage in peaceful demonstrations.

Let us consider the possible effect of this amendment. Assume that in a certain city—in the South or elsewhere—that Negroes were demonstrating peacefully, as they have the right to do, under proper ordinances. And assume also that the State or community had enacted a statute or an ordinance prohibiting marches, or peaceful demonstrations, or limiting them in such a way that demonstrations could not really be considered an exercise of the right to petition under the first amendment. A clear constitutional right would then be limited by a State law or a community ordinance. If Negroes or others violated such a statute or ordinance by holding a peaceful demonstration or march, is it not true that such a demonstration or march would be made a Federal crime under the amendment?

Mr. HOLLAND. I am not able to say to the Senator whether it would or not. I know that cities throughout our land have the right by ordinance to issue or to refuse to issue the right to parade. After all, it will be a question for the courts to determine whether those who hold that a parade through the peaceful business section of St. Augustine at night, when a great many of the places are closed, is a proper demonstration, or whether it is a parade that requires a license. That point has not been raised by the city authorities of St. Augustine so far as I am advised. But I believe that question is beside the point. The question is merely whether we can expect this kind of violation of decency and respect for the laws of our cities and our States, or whether we must look forward to violence and invitations to violence when the act is passed.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield on the Senator's time.

Mr. COOPER. I yield on my time.

Mr. STENNIS. The Senator's question is a natural question, and the answer is obvious. The statute or ordinance would have to be valid and one which would be upheld by the Federal courts before there could be any violation of the provisions of the amendment or before an offense could be made out. If the court should hold for any reason that the ordinance was not valid, no Federal offense would be committed. That would apply in any case, and that is settled law.

Mr. COOPER. The chief reason I support the civil rights bill is that I believe it is constitutional and moral. But another reason for my support is that I have hoped that the passage of a civil rights bill would help to settle some of the issues that confront the country in the field of civil rights and lead away from the trend toward lawlessness and violence which has developed. Acts of lawlessness and violence—and their condonation—cannot be excused on the grounds of a worthy purpose, and are alien to our system of government.

I must oppose the amendment because it could be used to make a Federal crime of peaceful demonstrations which as exercised under the first amendment right to petition are being used to secure the very rights which we are now trying to assure in this bill. The right to demonstrate peacefully is a right secured under the first amendment. But under the present amendment it would be possible for a State or a community to pass a statute or an ordinance under its police powers, which would prohibit even peaceful demonstrations, and subject a person who violated such a statute or ordinance to the charge of committing a Federal crime. Of course, the constitutionality of the statute or ordinance could be tested, but the burden would be on the person denied a constitutional right, to bring such a case.

I know this is not the purpose of the Senator from Mississippi—a great judge and lawyer and one who is deeply concerned about violence. But it could be the result of the amendment.

We should pass the civil rights bill, and assure Negroes and all other citizens of their equal rights under the law—and make it known that further violent and unlawful demonstrations—exceeding the constitutional right to petition will not be condoned.

Mr. STENNIS. Mr. President, will the Senator yield at that point?

Mr. COOPER. I yield.

Mr. STENNIS. The amendment would not apply to a person who lived in the State where such an incident might happen. He would not cross a State line. The amendment would apply only to a person who would go into a State for the purpose—and that must be proved—of violating a law of that State. It has to be a law that is valid and would be upheld by the courts and determined to be in every way constitutional. Otherwise, I point out that the Attorney General under the bill we are asked to pass would be armed with power to test every conceivable law he could find, and I think we can expect that the Attorney General of the United States would test those laws.

Mr. COOPER. In order for a person to escape penalty for a breach of the peace, or for violating the State statute in question, he would have to take the case almost to the Supreme Court to first determine whether the statute was valid under the first amendment. Such delay would only increase the chances for violence, while the constitutionality of the State statute is being considered by the courts. Is that not correct?

Mr. STENNIS. They go that way sometimes, but the subject would be in the hands of the Attorney General, who would have the responsibility of enforcing the law. He would not proceed in a case unless he thought the statute or ordinance was valid to begin with.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. STENNIS. I do not have the floor. The Senator from Kentucky yielded to me.

Mr. HOLLAND. Mr. President, I have already said that I have no illusions about the fate of the amendment, but I will say what I believe should transpire. I think the President of the United States, who has been silent during all of these demonstrations and these invitations to violence, should assert himself. He is supporting the proposed legislation. The Attorney General of the United States, who has been much in evidence when any violence is threatened against members of the Negro race, should realize that there is much at stake and he should assert himself. I cannot speak with any advice that Dr. Martin Luther King will listen to, but I think he will listen to the President of the United States, the Attorney General, and others in high positions, including those in the Senate who are the strong advocates of the bill. I think it is a time for patience. I think it is the time to get away from these invitations to violence.

I know from very ugly personal experience something about what is involved when we get into open racial clashes, mobs in the streets or on the highways, and efforts to curb things of that kind, because I have been fighting them all my adult life—sometimes successfully—out at night pleading with the leaders of mobs to stay away from violence—as I say, sometimes successfully, and sometimes when the leaders of mobs were even threatening the homes of the National Guardsmen, whom we called out to try to keep the peace.

I am uttering these words of caution to my friends in the Senate. We are all friends. We are going to be friends after this bill is passed. I think it is completely incumbent upon the powers that be at certain high levels, in regard to this far-reaching national legislation, to use every influence they can to prevent such inroads as are now being made and the things we are talking about here. I am uttering these words of caution.

I shall be on the side of law observance. I shall be on the side of advising obedience to law. I am going to do everything I can to bring about that result. But I caution those who ought to assert themselves in this field that they are playing with the most dangerous kind of fire. When we get into the field of racial hatred and when we get into dealing with mobs, whether they be white or colored, forces can be released or unloosed that are among the most difficult to curb.

I know something about it. I am pleading that we insist that these matters be left—because the legislation will be passed in a few days—to the courts, to those who have some authority. Whether we believe in the objectives of this law or not—and I do not—once it is enacted, I shall counsel obedience to it.

I hope our friends in high places, regardless of their positions, or where they come from, will realize that in a part of the Nation where live 50 million people in every kind of juxtaposition—some communities where the white people are in the majority, other communities where the colored people are in the majority, some well policed, some not policed at all—we cannot release those forces without exercising the greatest degree of caution and influence at the highest level of government, indeed, at every level, in the effort to cut down threats of race violence.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. HOLLAND. I am glad to yield to the Senator, but it has to be on the time of the Senator.

Mr. TOWER. I should like to ask the Senator from Florida if it is not true that cases that arise in pursuance of this act will be initiated in Federal courts by Federal attorneys, and not by capricious State attorneys or by State governments. Therefore, would it not be up to the Federal courts, proceeding in the Federal process, to see to it that it is not likely that there will be abuses under this provision?

Mr. HOLLAND. Of course, most of the decisions will be made by the Federal courts. I call the Senator's attention, however, to the fact that local laws will not be suspended. They will not be completely revoked by the passage of this bill. Quite to the contrary, there will be tests as to whether the act covers certain State laws. There is a provision having to do with transferring local cases to the Federal courts and of remanding cases by Federal judges to local courts. So, on the face of it, the proposed law makes it quite clear that there will be cases in which it will have to be determined which law is in effect and what is the effect of differences in approach between Federal and State laws.

Final decisions will in most cases have to be made in the Federal courts, as the Senator from Florida sees it. There will be cases in the field of civil rights coming up in State and local courts under the proposed law, and the bill contemplates that there will be such cases.

Mr. TOWER. But wherever the defendant raises a question in the court of original jurisdiction, he has the opportunity, after he has exhausted his remedy at the State level, to move into the Federal court.

Mr. HOLLAND. He does if the judge feels it is a case appropriate to be moved from the local to the Federal court.

Mr. TOWER. Then the Senator will agree that there is adequate protection for the accused provided for, because the final determination will in most cases be made by the Federal courts, and they will in effect sustain the validity or find the invalidity of State law.

Mr. HOLLAND. There is a completely one-sided provision respecting the remanding by a Federal court of a case from the local court. The aggrieved defendants have the right to appeal a decision to remand to the local court, but not so as to the other parties to the case. It is a typical illustration of the one-sided and partial approach adopted in various portions of this bill.

Mr. TOWER. I thank the Senator.

Mr. HOLLAND. I yield the floor.

Mr. PASTORE. Mr. President, addressing myself to the pending amendment, I do not think the question is who initiates the action. The question is, What are we doing by this amendment? The amendment is absolutely inimical to, and absolutely in violation of the inherent rights under our Bill of Rights to peaceably assemble.

All I have to say about this amendment is that had we had it on December 16, 1773, we would not have had the Boston Tea Party, nor would we have had the burning of the *Gaspe* in Narragansett Bay.

I am not one who will encourage violence, but I think that people who feel their rights have been denied and who are aggrieved have a perfect right to travel across State lines and behave themselves in full dignity as American citizens, and be respected as dignified American citizens. They have a right, in peaceful manner, to demonstrate to their countrymen that their rights are being encroached upon, and that their rights are being infringed.

The mere fact that there have been some incidents of violence is no reason to say that Congress should enact a law to prevent an American citizen, of any color from traversing State lines when he thinks he is enforcing his constitutional, American rights, and then cause him to be indicted and tried. We would be violating what we did when we adopted the Bill of Rights to protect all Americans.

I hope the amendment will be overwhelmingly defeated. This is one amendment that is born in emotion, and should be defeated.

Mr. CASE. Mr. President, I yield myself 30 seconds. I agree completely with what the Senator from Rhode Island has said in his analysis of the effect this amendment would have. I think if anything were needed to prove it, it has been given to us satisfactorily in that the action of Dr. Martin Luther King last night would be a violation of this amendment.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). The Senator from New York is recognized for 1 minute.

Mr. JAVITS. To be practical, two things are clear. First, this is a question of jeopardy. This amendment may very well be deemed unconstitutional because it would inhibit the exercise of the rights guaranteed by the first amendment. The first amendment applies to the entire United States, not State by State, as the Senator from Rhode Island [Mr. PASTORE] has so properly stated.

Under this amendment, before a person undertakes a trip, crossing a State line, he will have to be sure that he is not running the risk—which he might be running—of violating any of the statutes of the State to which he is going. This is the "nubbin" of the situation. It involves the very kind of State statute which barred Rev. Martin Luther King from the motel yesterday and which is a completely unconstitutional statute. But who wishes to be prosecuted or to run the risk of being prosecuted in a Federal court in that particular area of the country because such a law is on the books?

There is a doctrine in the law called the doctrine of "clean hands"; before one can go into a court of equity to seek justice, he must himself have clean hands. This is not to discredit a lawyer or anyone who advocates it, but to discredit those States which advocate it. Those States have laws on the books which cannot stand up in the courts.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 additional minute.

Mr. JAVITS. To enact a law—which we are being asked to do in this amendment—which would help such States place people in jeopardy under that kind of law, is not coming into court with clean hands.

To show the kinds of laws some States have, I understand that there is a law recently enacted in the State of Mississippi which authorizes the State to declare a public emergency which will—once it is declared—prevent the free movement of people from one place to another.

There is a Federal law on the books now to protect fully against cases of unlawful violence: section 1073 of title 18 of the United States Code, which makes it a Federal crime to flee across State lines to avoid prosecution for, or the giving of testimony in regard to, a felony under State laws. That law is now on the books. It is broad law, so that any State law that can really stand up is fully protected by a Federal law; therefore, this amendment is unnecessary—unless it is to serve a purpose which is unconstitutional, to work against people who are seeking to protest an unconstitutional State law.

Mr. RUSSELL. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 2 minutes.

Mr. RUSSELL. Time and time again I have complained about the double standards applying to matters of this kind. They are apparent to anyone who has a remote sense of justice and decency.

Without going into the merits of the case, I cite a headline entitled, "King Arrested in St. Augustine Racial Protest." He was arrested for demonstrating and violating public property. This is a big headline which will be discussed all over the country and Florida will be criticized. It attributes to the people of the South a purpose to oppress Negro people for committing acts that in New York are considered terrible violations of the law. Offenses on exactly the same state of facts in New York are punished, as properly they should be, but the South is condemned and New York is praised.

The same state of facts where humble people are involved are carried in two short paragraphs under the headline "New York City," the following:

> NEW YORK, June 11.—The real estate of the New York World's Fair is private property and persons who picket or demonstrate there are trespassing, Criminal Court Judge George Balbach ruled today in the case of four Florida girl civil rights protestors.
>
> Balbach found the four young women pickets, arrested April 28, outside the Florida pavilion, guilty of disorderly conduct and intrusion on real property. He set June 17 for sentencing.

Mr. President, that is the reason why there will be a great deal of trouble enforcing the proposed law in the South. People know that a great deal of the pressure being applied to pass a bill is motivated by prejudice and a feeling amounting to hatred against the white people of the South. An invasion in the South of a southern law is praised. When the same law is violated in New York, the authorities are praised for punishing the culprits.

Mr. HUMPHREY. Mr. President, I yield myself 15 seconds.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 15 seconds.

Mr. HUMPHREY. I encourage law observance. I deplore disorder. I also deplore acts of Congress which make a local ordinance a Federal offense. The proposed amendment is one which may very well be a violation. The answer is that Martin Luther King should have been served a cup of coffee as an American citizen.

Mr. RUSSELL. How would the Senator answer the four Florida girls standing in front of the Florida pavilion?

Mr. HUMPHREY. Will the Senator from Georgia yield on his own time?

Mr. RUSSELL. I yield one-half minute.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for one-half minute.

Mr. HUMPHREY. I believe in law enforcement. I do not believe in making a violation of a local ordinance a Federal offense.

Mr. RUSSELL. That is no answer. That is camouflaged and persiflaged.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi [Mr. STENNIS] (No. 570). On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Arkansas [Mr. FULBRIGHT] and the Senator from Rhode Island [Mr. PELL] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Indiana [Mr. HARTKE] and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE], the Senator from Indiana [Mr. HARTKE], and the Senator from Rhode Island [Mr. PELL] would each vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Ohio [Mr. YOUNG]. If present and voting, the Senator from Arkansas would vote "aye" and the Senator from Ohio would vote "nay."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. BEALL] is necessarily absent to attend the Maryland State Republican Convention in order to accept the nomination for U.S. Senator and if present and voting, would vote "nay."

The Senator from Massachusetts [Mr. SALTONSTALL] is necessarily absent and, if present and voting, would vote "nay."

The result was announced—yeas 21, nays 72, as follows:

[No. 306 Leg.]

YEAS—21

Byrd, Va.
Byrd, W. Va.
Cotton
Eastland
Ellender
Ervin
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Robertson
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters

NAYS—72

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Goldwater
Gore
Gruening
Hart
Hayden
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.

NOT VOTING—7

Beall
Engle
Fulbright
Hartke
Pell
Saltonstall
Young, Ohio

So Mr. STENNIS' amendment was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I call up my amendment No. 842 and ask the clerk to read it.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 4, line 7, of the substitute amendment No. 656, beginning with the word "where" delete down through and including the first comma on line 9, as follows: "where instruction is carried on predominantly in the English language."

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I allow myself 1 minute on the amendment.

Title I of the substitute provides that, in order for the proposed presumption of literacy to be applicable, the prescribed 6 years of schooling must be in English. This amendment would eliminate the requirement that instruction be in English. There are great numbers of Puerto Ricans in the State of New York who are literate but whose formal education has been in Spanish rather than English. The English language requirement of the substitute would, in effect, exempt from the provisions of section 101(b) the situation in which the Puerto Ricans in New York find themselves, although the substitute would make the provision applicable to situations in other parts of the country. If such a provision is to be passed, it should be generally applicable, and the purpose of the amendment is to make it so.

This is a fair and reasonable amendment. It should be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Carolina [Mr. THURMOND]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the junior Senator from Virginia [Mr. ROBERTSON]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee, [Mr. GORE], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], and the Senator from Virginia [Mr. ROBERTSON] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Indiana [Mr. HARTKE] and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE] and the Senator from Indiana [Mr. HARTKE] would each vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Ohio [Mr. YOUNG].

If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Ohio would vote "nay."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. BEALL] is necessarily absent to attend the Maryland State Republican Convention in order to accept the nomination for U.S. Senator and, if present and voting, would vote "nay."

The Senator from Massachusetts [Mr. SALTONSTALL] is necessarily absent and, if present and voting, would vote "nay."

The result was announced—yeas 19, nays 70, as follows:

[No. 307 Leg.]

YEAS—19

Byrd, Va.
Byrd, W. Va.
Eastland
Ellender
Ervin
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters
Yarborough

NAYS—70

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Goldwater
Hart
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Tower
Williams, N.J.
Williams, Del.
Young, N. Dak.

NOT VOTING—11

Beall
Engle
Fulbright
Gore
Gruening
Hartke
Hayden
Mansfield
Robertson
Saltonstall
Young, Ohio

So Mr. THURMOND's amendment was rejected.

Mr. HART. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENNETT. Mr. President, I yield myself 2 minutes.

I call up my amendment No. 1051 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 44, line 15, immediately after the period, it is proposed to insert the following new sentence: "It shall not be an unlawful employment practice under this title for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 6(d) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(d))."

Mr. BENNETT. Mr. President, after many years of yearning by members of the fair sex in this country, and after very careful study by the appropriate committees of Congress, last year Congress passed the so-called Equal Pay Act, which became effective only yesterday.

By this time, programs have been established for the effective administration of this act. Now, when the civil rights bill is under consideration, in which the word "sex" has been inserted in many places, I do not believe sufficient attention may have been paid to possible conflicts between the wholesale insertion of the word "sex" in the bill and in the Equal Pay Act.

The purpose of my amendment is to provide that in the event of conflicts, the provisions of the Equal Pay Act shall not be nullified.

I understand that the leadership in charge of the bill have agreed to the amendment as a proper technical correction of the bill. If they will confirm that understand, I shall ask that the amendment be voted on without asking for the yeas and nays.

Mr. HUMPHREY. The amendment of the Senator from Utah is helpful. I believe it is needed. I thank him for his thoughtfulness. The amendment is fully acceptable.

Mr. DIRKSEN. Mr. President, I yield myself 1 minute.

We were aware of the conflict that might develop, because the Equal Pay Act was an amendment to the Fair Labor Standards Act. The Fair Labor Standards Act carries out certain exceptions.

All that the pending amendment does is recognize those exceptions, that are carried in the basic act.

Therefore, this amendment is necessary, in the interest of clarification.

The PRESIDING OFFICER. (Mr. RIBICOFF in the chair). The question is on agreeing to the amendment of the Senator from Utah. (Putting the question.)

The amendment was agreed to.

Mr. STENNIS. Mr. President, I am about to suggest the absence of a quorum, unless some Senator has an amendment to offer.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll; and the following Senators answered to their names:

[No. 308 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Goldwater
Gore
Gruening
Hart
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment in the nature of a substitute.

Mr. THURMOND. Mr. President, I call up my amendments No. 850, and ask to have them read.

The PRESIDING OFFICER. The amendments offered by the Senator from South Carolina will be stated.

The legislative clerk read the amendments, as follows:

On page 6, line 12, delete the words "injunctive relief against".

On page 9, beginning on line 24, delete all down through line 23 on page 14.

Between lines 23 and 24 on page 9, insert the following:

"SEC. 204. Any violation of the provisions of this title shall be punished by fine or imprisonment, or both: *Provided, however,* That the fine shall not exceed $1,000, nor shall imprisonment exceed a term of six months."

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I allot myself one-half minute on this amendment.

The amendment deletes the provisions of title II of the substitute providing for enforcement by injunction. It substitutes in place thereof normal criminal procedures and sets maximum punishment at a fine of not to exceed $1,000 or imprisonment for not to exceed 6 months. The practice of enforcement by injunction and the following punishment by contempt proceedings has become too widespread. This amendment would cut down on the use of injunctions and still provide adequate procedures for enforcement.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from South Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished Senator from Virginia [Mr. ROBERTSON]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Michigan [Mr. HART], the Senator from Arizona [Mr. HAYDEN], and the Senator from Virginia [Mr. ROBERTSON], are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Indiana [Mr. HARTKE], and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. HART], the Senator from Indiana [Mr. HARTKE], and the Senator from Ohio [Mr. YOUNG] would each vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from California [Mr. ENGLE].

If present and voting, the Senator from Arkansas would vote "yea" and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. BEALL] is necessarily absent to attend the Maryland State Republican Convention in order to accept the nomination for U.S. Senator and, if present and voting, would vote "nay."

The Senator from Kentucky [Mr. MORTON] is necessarily absent.

The result was announced—yeas 23, nays 66, as follows:

[No. 309 Leg.]

YEAS—23

Byrd, Va.
Curtis
Eastland
Ellender
Ervin
Goldwater
Hill
Holland
Johnston

Jordan, N.C.
Long, La.
McClellan
Mechem
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters
Williams, Del.

NAYS—66

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Yarborough
Young, N. Dak.

NOT VOTING—11

Beall
Engle
Fulbright
Gruening
Hart
Hartke
Hayden
Mansfield
Morton
Robertson
Young, Ohio

So Mr. THURMOND's amendments were rejected.

Mr. PASTORE. Mr. President, I move that the vote by which the amendments were rejected be reconsidered.

Mr. HUMPHREY. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I yield myself 2 minutes. I intend to call up an amendment which would address itself to the problem of discrimination on the part of trade unions.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. TOWER. The amendment would provide that where a union is enjoying the benefits of union shop contracts and discriminated in its acceptance of members on the ground of race, creed, color, national origin, or sex, such contracts would be void.

I call up my amendment No. 607, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 15, after line 25, insert the following new section:

AGREEMENTS REQUIRING MEMBERSHIP IN A LABOR ORGANIZATION

SEC. 719. Section 8 of the National Labor Relations Act, as amended (29 U.S.C. 158), is amended by adding the following new subsection at the end thereof:

"(g) Any agreement, as authorized in subsection (a) (3), requiring membership in a labor organization as a condition of employment, shall to that extent be unenforceable and void if such labor organization, because of race, color, religion, national origin, or sex, denies membership therein to any individual on the same terms and conditions generally applicable to and with the same rights and privileges generally and uniformly accorded to all members of such labor organization."

Mr. TOWER. Mr. President, I ask unanimous consent to make a technical modification of my amendment. It does not change it substantively. It should be changed to read as follows: On page 45 of the substitute amendment, No. 1052, between lines 13 and 14, insert the following new subsection:

(k) Any agreement, as authorized in subsection (a) (3), requiring membership in a labor organization as a condition of employment, shall to that extent be unenforceable and void if such labor organization, because of race, color, religion, national origin, or sex, denies membership therein to any individual on the same terms and conditions generally applicable to and with the same rights and privileges generally and uniformly accorded to all members of such labor organization.

The PRESIDING OFFICER. Is there objection?

Mr. PASTORE. Reserving the right to object, may I inquire what the request is?

Mr. TOWER. It is a request for unanimous consent.

Mr. PASTORE. To what does it refer? Is the Senator modifying his amendment?

Mr. TOWER. Yes.

Mr. ALLOTT. Mr. President, reserving the right to object, may I propound a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLOTT. Is the matter now pending before the Senate a request for unanimous consent?

The PRESIDING OFFICER. Unanimous consent is not necessary, because there is a general agreement, previously agreed to, to change all identifications of amendments.

Mr. ALLOTT. I understand. I still should like to have an answer to my inquiry, as to whether a unanimous-consent request is pending, regardless of any previous agreement.

The PRESIDING OFFICER. The Senator from Texas had made such a request, and has not withdrawn it.

Mr. TOWER. I withdraw my request if the matter is covered by a previous agreement.

The PRESIDING OFFICER. The Senator's unanimous-consent request is withdrawn. The question is on agreeing to the amendment, as modified.

Mr. TOWER. Mr. President, my amendment would nullify those provisions of any collective bargaining agreement which require membership in a union as a condition of employment in any case where the contracting union maintains an exclusionary policy with respect to membership based on race, religion, color, national origin, or sex.

For the past 30 years, labor unions have been the recipients of many special privileges, rights, and immunities enjoyed by no other form of private organization in our society, and conferred on them by Federal law. Among the most substantial of these union advantages is the power to contract with the employer to compel membership in the union as a condition of employment.

In 1935, Congress adopted the Wagner Act which the trade union movement refers to as its Magna Carta. A fundamental principle of the Wagner Act was that no employer could lawfully discriminate against an employee because of his membership or nonmembership in a labor union. This basic principle was embodied in section 8(3) of the Wagner Act which made it an unfair labor practice for an employer "by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization."

If section 8(3) had stopped right there, every form of compulsory union membership agreement would have been rendered unlawful. To avoid this, the Congress conferred a special immunity on labor unions by including a proviso to section 8(3) which permitted unions and employers to enter into compulsory union membership agreements without violating the law.

It was clearly recognized that this exception was in direct contradiction to the act's fundamental principle that an employee's job status was to remain completely unaffected by reason of his membership or nonmembership in a union.

In 1947, Congress recognized the need to narrow this broad and powerful immunity it had granted to labor unions 12 years earlier. Although, in enacting the Taft-Hartley Act, it continued to permit employers and unions to enter into compulsory union membership agreements, it narrowed the permissible scope of such agreements. Moreover, it also made explicit by writing into the new statute a principle which had previously been part of the unwritten law, to wit, the so-called right-to-work principle. Section 14(b) of the amended National Labor Relations Act specifically authorized the States to prohibit all forms of compulsory union membership. To date, 20 States have enacted such right-to-work laws.

Nevertheless, in the remaining 30 States, unions continue to enjoy the special privilege of lawfully being able to compel employees to join the union if they wish to hold on to their jobs. It is my firm conviction that this special privilege should be withdrawn from any labor union which denies fair and equitable treatment to qualified employees and applicants for employment and which discriminates in membership on the basis of race, religion, color, national origin, or sex.

For that reason, I am offering this amendment which, simply stated, merely renders null and void any provision in a collective bargaining agreement requiring union membership as a condition of employment, if the union which is a party to such an agreement, discriminates with respect to membership therein because of race, religion, color, national origin, or sex. If a union wishes to assert the prerogatives of a private organization to pick and choose its own members in any way it sees fit, it is inequitable for the Federal Government to grant it the special privilege of contracting for compulsory membership where the union exercises its prerogative unjustly, arbitrarily and in a discriminatory manner.

In closing I would like to point out that my amendment would not apply in any way in those States which have or which may enact right-to-work laws or which have or enact fair employment practice laws covering this matter. Inasmuch as the bill merely nullifies compulsory union membership contract provisions under certain discriminatory conditions, it can obviously have no application in any State where such provisions are already prohibited by State law.

Mr. President, this amendment is eminently fair. It is aimed at curbing discrimination by unions in their acceptance of members and in their apprenticeship program, and in all their activities. I believe strongly that if the unions are to enjoy Federal privileges that no other private organization enjoys, if they practice discrimination those privileges should be withdrawn.

Mr. COTTON. Mr. President, will the Senator yield for a question on my time?

Mr. TOWER. I yield.

Mr. COTTON. I yield myself 1 minute. I should like to ask the Senator from Texas as to who decides whether the union has been guilty of discrimination.

Mr. TOWER. That machinery has been established in title VII through the Equal Employment Opportunity Commission.

Mr. COTTON. Will the Senator tell us very quickly how it is decided?

Mr. TOWER. In the same way that discrimination is determined on the part of an employer.

Mr. COTTON. In other words, it is determined by a representative of the Government, and an appeal is provided for by the union to the Federal court. Is that correct?

Mr. TOWER. Yes. The union would enjoy the same privileges under title VII that an employer enjoys.

Mr. COTTON. I thank the Senator.

Mr. DIRKSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, on my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I yield myself 1 minute.

The amendment would add antidiscrimination teeth to the bill. In fact, a provision in title VII prohibits discrimination on the part of unions. However, the machinery for enforcement might require some time to be placed into operation. My amendment would have the immediate effect of invalidating union shop agreements in unions that discriminated to the extent that jobs were denied. Therefore, I urge the adoption of the amendment.

Mr. HUMPHREY. Mr. President, I yield myself 30 seconds.

I invite the attention of the Senate to page 41 of the revised substitute amendment, where employment practices of labor organizations relating to discrimination are made unlawful.

I feel that the amendment offered by the Senator from Texas is sweeping in its action and might utterly nullify entire contracts, resulting in great difficulty to both employers and employees.

Mr. TOWER. Mr. President, I yield myself 1 minute.

The amendment would invalidate only the union shop aspect of the contracts; it would not touch fringe benefits or wage and hour conditions.

Since unions receive privileges that no other private organization enjoys under the protection of Federal law, those privileges would be withdrawn if a union discriminated.

I reserve the remainder of my time.

Mr. ALLOTT. Mr. President, I yield myself 1 minute.

In this particular respect the amendment is very far reaching. It is impossible to tell from a reading of the amendment exactly what would happen, but it would probably void any union shop contract now in existence which in the past followed a pattern or a practice of discrimination. It is intended by the bill to stop such discrimination, and I believe the section provided for in the substitute amendment would accomplish the purpose adequately. If I did not think it would do so, I would vote to amend it.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired.

Mr. ALLOTT. I yield myself an additional 30 seconds.

By this amendment, we would be declaring void a great many—perhaps thousands—of existing contracts which are now legal.

Labor unions, like everyone else, should have a chance to bring themselves into line.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas [Mr. Tower].

Mr. MILLER. Mr. President, I yield myself 20 seconds.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 20 seconds.

Mr. MILLER. Mr. President, I am troubled by this amendment, because of the possible conflict with the language on page 42 of the bill, which provides for an exception in the case of activities in which discrimination on the basis of religion, sex, or national origin relates to—

> A bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

I believe there is an inconsistency between the amendment and this provision of the bill. Therefore, I believe the amendment not a desirable one.

The PRESIDING OFFICER (Mr. Nelson in the chair). The question is on agreeing to the amendment of the Senator from Texas [Mr. Tower].

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished junior Senator from Virginia [Mr. Robertson]. If the junior Senator from Virginia [Mr. Robertson] were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Arkansas [Mr. Fulbright], the Senator from Montana [Mr. Metcalf], the Senator from Virginia [Mr. Robertson], the Senator from Georgia [Mr. Talmadge], the Senator from Tennessee [Mr. Walters], and the Senator from Arizona [Mr. Hayden] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Ohio [Mr. Young] and the Senator from Indiana [Mr. Hartke] are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana [Mr. Hartke] and the Senator from Ohio [Mr. Young] would each vote "nay."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. Beall] is necessarily absent to attend the Maryland State Republican Convention in order to accept the nomination for U.S. Senator and, if present and voting, would vote "nay."

The Senator from Kentucky [Mr. Morton] is necessarily absent.

The result was announced—yeas 26, nays 62, as follows:

[No. 310 Leg.]

YEAS—26

Bennett
Byrd, Va.
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Goldwater
Hickenlooper
Hill
Holland
Hruska
Jordan, N.C.
Jordan, Idaho
Long, La.
McClellan
Mechem
Mundt
Russell
Simpson
Sparkman
Stennis
Thurmond
Tower
Williams, Del.

NAYS—62

Aiken
Allott
Anderson
Bartlett
Bayh
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Dirksen
Dodd
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Humphrey
Inouye
Jackson
Javits
Johnston
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smathers
Smith
Symington
Williams, N.J.
Yarborough
Young, N. Dak.

NOT VOTING—12

Beall
Engle
Fulbright
Hartke
Hayden
Mansfield
Metcalf
Morton
Robertson
Talmadge
Walters
Young, Ohio

So Mr. Tower's amendment was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I call up my amendment No. 962 and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Texas will be stated.

The CHIEF CLERK. On page 68, between lines 19 and 20, it is proposed to insert the following new section:

> EXCLUSIVE REMEDY
>
> SEC. 717. Beginning on the effective date of sections 703, 704, 706, and 707 of this title, as provided in section 716, the provisions of this title shall constitute the exclusive means whereby any department, agency, or instrumentality in the executive branch of the Government, or any independent agency of the United States, may grant or seek relief from, or pursue any remedy with respect to, any employment practice of any employer, employment agency, labor organization, or joint labor-management committee covered by this title, if such employment practice may be the subject of a charge or complaint filed under this title.

Mr. TOWER. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I yield myself 2 minutes.

This amendment is designed to give added stature to the Equal Employment Opportunity Commission established under title VII by insuring that all cases of employment opportunity are decided primarily under its auspices and that its effectiveness is not diluted by operations of other agencies and commissions within the executive branch.

The amendment is drawn because of the expressed desire of Senators not to unduly harass the employers and unions covered by title VII. In past experience with State FEPC laws and concurrent Federal jurisdictions, firms and unions have been subjected to unnecessary harassment and expense.

My understanding is that the compromised bill deals with this question as between the Federal and State employment commissions by allowing the States exclusive jurisdiction for stated periods. I am glad that revision was placed in the bill; I support it; and my amendment would in no wise change that.

However, there remains untouched by the compromised bill the question of overlapping investigations by Federal agencies or commissions. My amendment would eliminate that overlap in complete accord with the State versus Federal provisions already placed in the bill by the leadership.

My amendment would assure employers that they would not have to respond simultaneously to investigations and directions from the title VII, EEOC, and also from the various departments charged with enforcing the provisions of the President's Equal Employment Commission's rules for Federal contractors.

Graphic evidence of earlier harassment of business by the Air Force as an arm of the President's Commission is shown in the oft-lamented Motorola case. In that case, an Air Force commander ordered 13 simultaneous compliance reviews of all Motorola facilities. This covered the corporation's facilities nationwide, was ordered on short notice and seems to me to have been needlessly abusive of Federal authority.

This corporation's national operations were badly upset by its having to set aside all other management work in order to accommodate this capricious military order. The expense to a taxpayer-owned, private business was inexcusably high.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TOWER. I yield myself an additional 2 minutes.

This employment review was required concurrently at Motorola facilities in New York, Illinois, Arizona, Georgia, New Jersey, Texas, and California. It required a week's time of a Motorola vice president and the efforts of two corporate representatives serving as EEO officers for Motorola who traveled to six cities including San Francisco, Dallas, Atlanta, Newark, Buffalo, and Quincy, Ill. It also involved 12 plant general managers, 5 personnel managers, and required a supporting staff of 16 office and clerical employees.

This Air Force-required employment investigation involved, therefore, a total of 36 major employees of this major American business and a total of almost 2,000 hours of corporation time.

While I make no judgment of the merits of this individual requirement placed upon an American firm, I think it points out graphically that no firm could be expected to comply simultaneously with such an investigation as was required by the Air Force and concurrently fulfill other requirements placed upon it by title VII's EEOC.

Therefore, I propose to give the EEOC primary jurisdiction.

Let it be carefully noted that my amendment does not in any way preclude further operations by the President's Commission and by those agencies such as the Air Force which regulate the employment activities of Federal contractors. All that would be precluded by my amendment would be simultaneous, concurrent requirements placed upon an employer or union by more than one Federal agency.

The EEOC would have first shot at an investigation.

If EEOC was not investigating or had completed an investigation, the President's Commission could do whatever is within its powers.

Many Senators have stated that this bill is not designed to unnecessarily harass employers and unions. My amendment would assure that no more than one Federal commission could have its finger in the pie at one time.

Mr. President, to make a long story short, all my amendment would do would be to provide that a business or union will not simultaneously have to respond to the demands of more than one Federal agency in a case involving discrimination in employment. In other words, the amendment would give primary jurisdiction to the Equal Employment Opportunities Commission. It would not eliminate the President's Commission. It could still operate; but the amendment would protect a business from being harassed simultaneously by more than one Federal agency. I earnestly urge adoption of my amendment.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question, on my time?

The PRESIDING OFFICER. Does the Senator from Texas yield himself additional time?

Mr. TOWER. The Senator from Ohio said he would ask a question on his time.

Mr. LAUSCHE. Section 716, which is proposed to be modified, contemplates that the provisions set forth shall be the only ones under which interference may be made to achieve the objectives of the law. Will the Senator from Texas illustrate other agencies that might interfere, creating a situation in which there might be more than one Federal agency harassing a company?

The PRESIDING OFFICER. Does the Senator from Texas yield himself time to answer the question?

Mr. TOWER. I yield myself 1 minute.

Primarily the amendment would prevent simultaneous operations by the President's Commission as it affects Federal contracts and the Equal Employment Opportunity Commission in pursuance of title VII. In other words, there could be simultaneous investigations going on and a company could be required to divert personnel to handle the requirements of both agencies. I think a company should not be so harassed, and I would give primary jurisdiction to the Equal Employment Opportunity Commission.

Mr. LAUSCHE. Mr. President, I yield myself 2 minutes on my own time.

Yesterday the Senate voted on a measure which involved the Motorola case. At the conclusion, the impression was left that subparagraph (h) on page 44 dealt effectively with the Motorola type of examination.

After I asked the questions yesterday and was given answers that paragraph (h), on page 44, protected the type of examination Motorola gave, I read paragraph (h). I now want to say that after I read the paragraph, I decided that this language did not protect the type of examinations given by Motorola. I therefore voted for the amendment.

Let me read paragraph (h):

> Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to apply different standards of compensation or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations—

And finally the condition is attached:

> Provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin.

Nothing in this subparagraph (h) deals with examinations. It deals merely with difference in pay.

Now I wish to ask a question of the Senator from Texas. How does the Senator intend to protect the giving of the type of examinations that were given in the Motorola case by the language of the Senator's amendment?

Mr. TOWER. I yield myself 30 seconds.

My current amendment is not addressed to problems of tests. That subject was dealt with yesterday. I do not believe there is adequate protection for a company that wants to give a test based on intelligence and ability. However, I am afraid that, under present procedural rules, there is no opportunity to bring up such an amendment.

The current amendment does not deal with that situation, but merely with dual harassment by Federal agencies.

Mr. MILLER. Mr. President, I yield myself 30 seconds.

I should like to respond to the Senator from Ohio, because yesterday he asked me questions as to whether or not examinations such as those characterized in the Motorola case were embraced in the intention of the proponents of the bill in subparagraph (h) on page 44. I answered that they were. I should like to repeat that they were, and call attention to the Record, which shows that the same intention prevails on the part of the manager of the bill, the Senator from Minnesota.

I point out that the phrase "privileges of employment pursuant to a bona fide seniority or merit system" is intended to include such examinations.

I hope that statement will satisfy the Senator from Ohio, because that is the intention of the Congress. If the Senator has some misgivings about it, I hope he will take this assurance, because it was clearly spelled out yesterday.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MILLER. I yield myself 10 seconds.

I ask the Senator from Texas what effect this amendment would have on the Civil Rights Commission provision of the bill?

Mr. TOWER. I yield myself 30 seconds.

I do not see that it would have any effect on the Civil Rights Commission provisions, since its activities are not largely in this field, but primarily in the field of voting rights, segregation in schools, and the like. In any case of overlapping jurisdiction, primary jurisdiction would be given to the Equal Employment Opportunity Commission, when employment questions were involved.

Mr. MILLER. I yield myself 20 seconds. Would the Senator have any objections to modifying his amendment to provide that nothing herein shall impair the activities of the Civil Rights Commission or the remedies under that title?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TOWER. I yield myself 5 seconds. I do not believe such an amendment is necessary, because it would be redundant.

Mr. PASTORE. Mr. President, I invite the attention of Senators to the language on page 67 of the proposed substitute by Senators Dirksen, Mansfield, Humphrey, and Kuchel. It reads, on page 67, beginning on line 24:

> Notwithstanding subsection (a), sections of this title other than sections 703, 704, 706, and 707 shall become effective immediately.

Then (c), which is the important part:

> (c) The President shall, as soon as feasible after the enactment of this title, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this title to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this title when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this title.

I think that covers quite sufficiently the objective we are trying to accomplish. I have had an opportunity to study the amendment that has been proposed only in a cursory way. To my way of thinking, it is far-reaching, complex, and complicated.

As I understand, the Senator from Texas read only one page from a 4- or 5-page manuscript in a hurried way. I am not attempting to state that what he says the amendment would or would not do is correct, but I am of the impression that it would circumscribe the powers of the President in cases of Federal contracts in equal opportunity cases.

Mr. MORSE. Mr. President, I yield myself 1 minute to support the position of the Senator from Rhode Island.

This is the way not to amend the bill. The amendment could have widespread procedural consequences. No hearings have been held on it, and we have not had an opportunity to study it. The bill in its present form will not do any injustice. The amendment is intended to give exclusive jurisdiction. It is the type of proposal that should have hearings before the Labor Committee at the beginning of the next session, and further study.

The PRESIDING OFFICER. The time of the Senator from Oregon has expired.

Mr. MORSE. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 1 additional minute.

Mr. MORSE. We shall find that we will be making suggestions in the next year, once this bill gets into operation with some modification. Watch out for acceptance of a blanket proposal for exclusive jurisdiction. As the Senator from Rhode Island has pointed out, we can greatly weaken the hand of the President in administering the bill. Therefore, I believe that we should defeat the amendment and wait for a review of the operation of the bill in the next session of Congress.

Mr. TOWER. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. TOWER. I cannot see how this vague provision on page 68 of the bill sufficiently covers the subject.

It provides:

> The President shall, as soon as feasible after enactment of this title.

If they should call a conference and sit around to discuss it, that still would not preclude the harassment of businessmen, companies, or unions by more than one Federal agency.

On the other hand, I am somewhat amused by the talk about hearings. We have not held one single hearing in the Senate on the entire bill, or on the entire substitute. We were precluded from doing that. The bill was intercepted at the door of the Senate and has never been adequately explained, or heard in committee.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas [Mr. Tower]. On this question the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia [Mr. Robertson]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Virginia [Mr. Robertson], the Senator from Georgia [Mr. Talmadge], the Senator from Tennessee [Mr. Walters], and the Senator from Texas [Mr. Yarborough] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Indiana [Mr. Hartke], and the Senator from Ohio [Mr. Young] are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana [Mr. Hartke] and the Senator from Ohio [Mr. Young] would each vote "nay."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. Beall] is necessarily absent to attend the Maryland State Republican Convention in order to accept the nomination for U.S. Senator and, if present and voting, would vote "nay".

The Senator from Kentucky [Mr. Morton] is necessarily absent.

The result was announced—yeas 29, nays 59, as follows:

[No. 311 Leg.]

YEAS—29

Bennett
Curtis
Dominick
Eastland
Ellender
Ervin
Goldwater
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Jordan, Idaho
Lausche
Long, La.
McClellan
Mechem
Mundt
Pearson
Russell
Simpson
Smathers
Sparkman
Stennis
Thurmond
Tower
Williams, Del.
Young, N. Dak.

NAYS—59

Aiken
Allott
Anderson
Bartlett
Bayh
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Dirksen
Dodd
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hayden
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.

NOT VOTING—12

Beall
Byrd, Va.
Engle
Fulbright
Hartke
Mansfield
Morton
Robertson
Talmadge
Walters
Yarborough
Young, Ohio

So Mr. Tower's amendment was rejected.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VISIT TO THE SENATE BY HIS EXCELLENCY, DR. LUDWIG ERHARD, CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY

Mr. HUMPHREY. Mr. President, shortly the Senate will be honored by a visit by the Chancellor of the Federal Republic of Germany, Dr. Ludwig Erhard. Therefore, I ask unanimous consent that the Senate stand in recess, subject to the call of the Chair, for the purpose of receiving this distinguished visitor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The PRESIDING OFFICER (Mr. Mansfield in the chair). The Chair appoints, as a committee to escort the Chancellor into the Chamber, the Senator from Minnesota [Mr. Humphrey], the Senator from Illinois [Mr. Dirksen], the Senator from Alabama [Mr. Sparkman], the Senator from Iowa [Mr. Hickenlooper], and the Senator from Georgia [Mr. Russell].

The Senate will stand in recess subject to the call of the Chair.

Thereupon (at 2 o'clock and 45 minutes p.m.), the Senate stood in recess, subject to the call of the Chair.

His Excellency, Dr. Ludwig Erhard, Chancellor of the Federal Republic of Germany, escorted by the committee appointed by the Presiding Officer, entered the Chamber and took the seat assigned to him immediately in front of the Presiding Officer.

The members of the party accompanying Chancellor Erhard, consisting of His Excellency Dr. Gerhard Schroeder, Minister of Foreign Affairs of the Federal Republic of Germany; His Excellency Heinrich Knappstein, Ambassador of the Federal Republic of Germany; the Honorable Dr. Ludger Westerick, State Secretary, Office of the Chancellor; and Mr. Heinz Weber, Counselor, Foreign Office (interpreter) entered the Chamber and took the places assigned to them.

The Chancellor addressed the Senate in German, and his remarks were translated into English by Mr. Heinz Weber, Counselor of the Foreign Office of the Federal Republic of Germany, as follows:

Chancellor ERHARD. Mr. President and Senators, it is a great distinction and a great honor for me to address a few words to the Senate of the United States of America. I take this opportunity to pay my deepest respect for the work of the Senate of the United States of America, and to again express my gratitude for everything my country has received from the United States of America in the way of help and assistance.

What the United States of America did for Germany in the darkest hour of its history is not forgotten.

In saying that, I do not think only of the material aid, but I think, above all, of the moral support, the moral assistance; because the United States has again restored the faith and the belief to us that we will be readmitted to the group, the family of free and civilized countries.

You have restored freedom to us—not only freedom or life, but, also, the freedom and the liberty to restore a new democratic order in Germany. This is unforgotten.

I know that the United States of America is not earning gratitude everywhere for what the United States has done; but in our country these memories are alive, and we know that we have received from you this assistance, this help, and we have tried to make the best use of it in building up our country. So today we are not only allies, but friends, called upon to defend peace, security, and freedom all over the free world. [Applause, Senators rising.]

Over the past 19 years, the bonds of friendship between our two countries, our two nations, have grown deeper and deeper; and today those bonds are particularly close. In a world which is full of dangers, but also full of hopes, we are sharing your conviction, we are sharing your belief, that together we can preserve and maintain the peace of the world. When I used the word "together," of course, I did not think in terms of bilateral relationships only; what I had in mind was the free world as a whole.

Let me make one more point on this occasion. We are very grateful to you for having shown so much understanding for our main concern, for our main problem, our main worry, a problem which may be inclined to disturb the peace of the world. We are grateful that you have made that your own problem. As among friends and allies, we also are sharing the concerns you have, the problems with which you are faced, be they in Cuba or, be they in South Vietnam. Wherever peace is disturbed or threatened in the world, wherever there is danger that force may suppress freedom and liberty, we must stand together. Otherwise, it will not be possible for friendship to prosper and peace and freedom to be maintained.

Therefore, I have the firm hope and conviction that the unity between Europe and the Atlantic world will grow deeper, because it is no longer possible, in the modern world in which we are living today, to differentiate among the various fields—the defense field, the political field, the economic field, the social field. All is one whole, indivisible; and I think it will have to stand the first test soon. I think in terms of the Kennedy round. I have always supported the objectives and targets which are the subject of these negotiations, because I feel that they could strengthen the cohesion between Europe and the North American continent, and help to bring Europe closer to America and America closer to Europe.

If we stand together, we should be able to find good solutions to the problems which are besetting mankind today. Therefore, I am convinced that if we remain firm in our determination, if we remain resolute in our stand, it will be possible eventually to secure peace to the world.

Thank you very much.

[Applause, Senators rising.]

The PRESIDING OFFICER (Mr. Mansfield in the chair). The Chancellor has informed the leadership that he would like to have an opportunity to meet the Members of the Senate in the well of the Chamber.

Thereupon Chancellor Erhard entered the well of the Senate Chamber, and was greeted by the Members of the Senate.

At 3 o'clock and 5 minutes p.m., the Senate reassembled, and was called to order by the Presiding Officer (Mr. Nelson in the chair).

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The substitute amendment is open to further amendment.

Mr. RUSSELL. Mr. President, I call up amendment No. 807, and ask that it be stated.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

On page 50, in line 5, strike out "of its enactment" and insert in lieu thereof "this Act becomes effective as provided in section 1201".

On page 50, line 8, immediately after "immediately" insert "upon the effective date of this Act as provided in section 1201".

On page 50, line 10, strike out "enactment of this title" and insert in lieu thereof "the effective date of this title as provided in subsection (a)".

At the end of the bill insert the following:

"TITLE XII—EFFECTIVE DATE

"Sec. 1201. The first eleven titles of this Act shall take effect only if the qualified voters of the several States signify their approval of this Act in the national referendum provided by title XIII. If the qualified voters of the several States signify their approval in such referendum, the first eleven titles of this Act shall become effective on the day on which the results of such referendum are declared under section 1311 of this Act.

"TITLE XIII—NATIONAL REFERENDUM

"Sec. 1301. (a) Each State is requested to conduct a referendum for the purpose of ascertaining whether the qualified voters of such State approve the provisions of the first eleven titles of this Act. Such referendum shall be conducted by each State consenting to do so at the general election to be held in such State in 1964 for the purpose of electing its Representative or Representatives in the House of Representatives of the United States.

"(b) (1) As used in the remaining sections of this title, the term 'referendum' when used in reference to any State, means the national referendum referred to in section 1201 insofar as it is conducted within the jurisdiction of such State.

"(2) As used in sections 1302, 1303, and 1304, the term 'State' means only a State which consents to conduct the referendum within its jurisdiction.

"Sec. 1302. Each State shall be entitled to reimbursement for the expenses incurred by it in conducting the referendum. Reimbursement shall be made in the manner provided by section 1311.

"Sec. 1303. Except as otherwise specifically provided in this title, the referendum shall be conducted in each State according to the election laws and regulations of such State. Any State the constitution or laws of which authorize the submission of State laws to the voters of such State for their approval or disapproval may conduct such referendum in the same manner as referendums conducted with respect to its State laws. Each State, through its legislature or the proper State officers, shall be the sole judge of the manner of conduct of the referendum within its jurisdiction.

"Sec. 1304. The qualified voters in the referendum in each State shall be the persons who are qualified to vote for Representative in the House of Representatives of the United States in the election at which the referendum is conducted.

"Sec. 1305. (a) The Governor of each State which consents to conduct the referendum shall so notify the President before September 1, 1964. The President shall provide for the conduct of the referendum, in the manner provided in this section, in any State which does not consent, or is unable, to conduct the referendum. The referendum shall be held in any such State on the same day on which it would be held under section 1301 if it were conducted by such State.

"(b) The President may provide for the conduct of the referendum in any State or States under this section—

"(1) by any department or agency of the Federal Government, or

"(2) by a commission established for such purpose under the authority of subsection (c).

Subject to the provisions of subsection (e), the referendum conducted in any State under this section shall be conducted pursuant to such rules and regulations as the President may prescribe.

"(c) The President is authorized to establish a commission to conduct the referendum in any State or States which do not consent, or are unable, to conduct it. Any commission established pursuant to this subsection shall be composed of an even number of members and not more than one-half of the members shall be of the same political party. The President shall designate one of the members as chairman of the commission.

"(d) The President shall have such powers as may be necessary to enable him to carry out the duties and functions imposed on him by this section, including the power—

"(1) to appoint such experts, consultants, and other employees as may be necessary, and

"(2) to make such expenditures as may be necessary.

The President is authorized to delegate any of the powers conferred upon him by this subsection to any department or agency designated by him to conduct the referendum in any State, or to any commission established under subsection (c).

"(e) Except as otherwise specifically provided in this title, the referendum conducted in any State under this section shall be conducted, insofar as possible, in conformity with the election laws and regulations, and the referendum laws and regulations, if any, of such State. The qualified voters in the referendum in any such State shall be the persons who would be qualified voters if the referendum were conducted by such State. Such State is requested to furnish lists of such qualified voters to the President, and shall be entitled to reimbursement, out of funds appropriated to the President under section 1312, for expenses incurred in furnishing such lists. If such State refuses, or is unable, to furnish lists of such qualified voters, the determination as to the qualifications of any person to vote in the referendum in such State shall be made pursuant to rules and regulations prescribed by the President.

"Sec. 1306. (a) The Joint Committee on Printing shall have printed by the Government Printing Office copies of this Act, and copies of provisions of any laws amended by the first eleven titles of this Act in which the amendments thereto shall be indicated in boldface type. Such copies shall be in such form and style as to be suitable for exhibition at the polling places in the States for the information of the persons voting in the referendum.

"(b) The Joint Committee on Printing shall furnish to each State which conducts the referendum such number of the copies of this Act and of provisions of any laws amended by the first eleven titles of this Act printed pursuant to subsection (a) as each State may request. The Joint Committee shall furnish to the President, for use in any State or States in which the referendum is conducted under section 1305, such number of such copies as the President may request.

"(c) Each State which conducts the referendum is requested to exhibit, in conformity with the laws of such State, at the polling places at which voting in the referendum is conducted such number of the copies of this Act and of provisions of any laws amended by the first eleven titles of this Act printed pursuant to subsection (a) as may be necessary for the information of the persons voting in the referendum.

"Sec. 1307. The form of the question to be presented at the referendum shall be substantially as follows:

" 'The Congress of the United States has enacted a law known as "The Civil Rights Act of 1964", which is divided into thirteen titles, the last two of which relate to this referendum. This law provides that the first eleven titles shall take effect only if approved by the qualified voters of the several States in this referendum. Indicate by making a cross [X] in the proper square (or by pulling the proper lever) whether you approve or disapprove of these titles.

" 'Approve___________ [ ]

" 'Disapprove________ [ ]'

"Sec. 1308. (a) At the request of the Governor of any State, the Attorney General shall assign agents or employees of the Federal Bureau of Investigation to such of the polling places in such State as the Governor thereof may designate.

"(b) In any case in which the President deems it necessary or advisable, the Attorney General shall assign agents or employees of the Federal Bureau of Investigation to such of the polling places in any State as the President may designate.

"(c) It shall be the duty of any agent or employee of the Federal Bureau of Investigation assigned to any polling place under subsection (a) or (b)—

"(1) to observe the conduct of the referendum at such polling place,

"(2) to observe the counting and tabulation of the votes cast in the referendum at such polling place, and

"(3) to submit a report to the Attorney General with respect to the duties imposed on him by paragraphs (1) and (2).

"(d) Each agent or employee of the Federal Bureau of Investigation assigned to any polling place under subsection (a) or (b) shall be given access to such polling place and the place where votes cast in the referendum at such polling place are counted and tabulated in order that he may carry out the duties imposed on him by paragraphs (1) and (2) of subsection (c); but no such agent or employee shall interfere in the conduct of the referendum, or of the election in conjunction with which such referendum is held, by the State officials, or in the counting and tabulating by such officials of the votes cast in the referendum.

"(e) The Attorney General shall furnish to the Governor of any State in which agents or employees of the Federal Bureau of Investigation are assigned under subsection (a) or (b) a copy of the reports submitted to him under subsection (c) (3) by the agents or employees assigned in such State.

"(f) The Attorney General is authorized, for the purpose of carrying out the duties imposed on him by subsections (a) and (b), to appoint, without regard to the civil service laws and regulations, such temporary employees as may be necessary, and to fix their compensation in accordance with the Classification Act of 1949, except that the rate of compensation of such number of such temporary employees as he determines necessary may be fixed at rates not in excess of $75 per day.

"(g) The Attorney General shall, before January 10, 1965, submit a report to the Congress with respect to the duties imposed on him by this section, which shall contain a summary of the reports submitted to him pursuant to subsection (c) (3).

"Sec. 1309. (a) The Governor of each State which conducts the referendum shall certify the results of the referendum conducted in his State to the President of the Senate before January 10, 1965.

"(b) The President shall certify the results of the referendum conducted in any State or States under section 1305 to the President of the Senate before January 10, 1965.

"Sec. 1310. (a) The Senate and the House of Representatives shall assemble in a joint meeting in the Hall of the House of Representatives on January 15, 1965 (or as soon thereafter as possible), at which the certificates from the Governors of the States, and from the President, shall be opened, read, and the results thereof tabulated. The President of the Senate and the Speaker of the House of Representatives, acting jointly, shall declare the results of the referendum.

“(b) If a majority of the votes cast in the referendum approve of the first eleven titles of this Act, such titles shall become effective, except with respect to title VII which shall be subject to section 718, on the date on which the declaration of the President of the Senate and the Speaker of the House of Representatives is made.

“(c) If a majority of the votes cast in the referendum disapprove of the first eleven titles of this Act, such titles shall not become effective.

“SEC. 1311. Each State which conducts the referendum may, through its proper State officer, request reimbursement of the expenses incurred by it in conducting the referendum by submitting a statement of such expenses to the chairman of the Committees on Appropriations of the Senate and the House of Representatives. Such requests shall be reviewed and allowed by the Committees on Appropriations of the Senate and House of Representatives, acting jointly, and shall be certified by the chairmen of the two committees acting jointly, to the Secretary of the Treasury for payment out of moneys appropriated therefor pursuant to section 1312.

“SEC. 1312. There are authorized to be appropriated to the President such sums as may be necessary to enable him to carry out the duties and functions imposed on him by section 1305. There are authorized to be appropriated to the Joint Committee on Printing such sums as may be necessary to enable it to carry out the provisions of section 1306, including such sums as may be necessary to reimburse the Government Printing Office for expenses incurred by it under such sections. There are authorized to be appropriated to the Attorney General such sums as may be necessary to enable him to carry out the provisions of section 1308. There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to reimburse the States pursuant to section 1311 for expenses incurred in conducting the referendum.”

Mr. SMATHERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 312 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Goldwater
Gore
Gruening
Hart
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment of the Senator from Georgia [Mr. RUSSELL] numbered 807.

Mr. RUSSELL. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 10 minutes.

A FAR-REACHING BILL

Mr. RUSSELL. Mr. President, it cannot be repeated too often that this is the most far reaching bill that has ever been considered by Congress. It is, therefore, important that we consider it carefully by sections, and weigh each provision of the bill.

Bear in mind that the bill has 11 separate titles, and each one of those titles constitutes a separate proposed law. Each and every one of the titles will have a great impact on every aspect of American life if the bill is enacted. It will have a far-reaching effect on local self-government in this country. That has been the genesis of our strength. It deals with the most intimate rights of our people—the right to choose their associates and the right to dominion over their property. It affects the mores and habits of living and manner of thinking of our people in every section of the country.

Mr. President, if each of these 11 titles had been introduced separately, as is generally the case, they could have been discussed separately, and the story of what the bill contains could therefore have been gotten across to all the American people, and all of them would have had the opportunity to understand it. But here we have tied 11 titles together. We have attached an attractive but misleading title of “Civil Rights” to the bill, and the issue has become so confused with emotionalism and so clouded by political jockeying that very few of our citizens, and only the most studious citizens interested in government, really know just what the bill accomplishes.

Mr. President, until recent years, several titles of the bill that we are being asked to enact into law would have been offered in the form of amendments to our basic charter, the Constitution of the United States.

Let me illustrate. When the Supreme Court handed down its decision in the Brown case, we were told that the only way the decision could be effected by Congress would be by the adoption of an amendment to the Constitution and its submission to the several States. However the bill deals, in title II, with the so-called public accommodations sections, a decision of the Supreme Court hallowed with age since 1883. That was a decision which stated that the Congress has no authority whatever to legislate in the field which title II of the bill now undertakes to invade. Supporters of the bill are now resorting to the flimsy pretense of invoking the commerce clause to cover such facilities as a swimming pool, in order to avoid submitting a constitutional amendment to the several States, as is required by the Constitution.

I have heard the pleas for haste in the passage of this measure for fear that there will be rioting in the streets. I understand full well why the proponents of the bill prefer to rush it through as a statute, rather than undertaking to amend the Constitution, as we were told would be necessary in the case of the Brown decision.

Of course, the proponents know full well that it would be exceedingly difficult, if not impossible, to persuade two-thirds of the Congress to submit the amendment, and that in no event would three-fourths of the States vote themselves into the oblivion into which the bill would consign them by ratifying any such amendment to the Constitution.

NATIONAL REFERENDUM PROPOSED

Therefore, I am appealing to the sense of fair play of the Senate to submit the provisions of the bill to a referendum in which all of the American citizens are entitled to participate.

That is all that this amendment undertakes to do. It provides that this violent change that is proposed in our system of government, and in the way of life of one-quarter of the Nation, shall not be imposed until a majority of the American people have had an opportunity to speak, to say whether they approve of the new form of government and the entirely different social order that the bill would create.

I know, Mr. President, that in this day, no minority group in the country gets shorter shrift at the hands of Congress than do the white people of the Southern States. Their pleas are treated with callous disdain and disregard. There could be no better evidence of it than this bill, and the fact that we are seeking to apply statutes in cases where heretofore it has been demanded that amendments to the Constitution be submitted.

We are even told, “Do not worry about the decision or its constitutionality. This new breed—the liberal court—we have over here will reverse any line of cases anywhere, and approve any bill that Congress sends them that bears the title of civil rights.”

As an old-fashioned constitutionalist, I would much prefer that these drastic changes be submitted to the country in the form of amendments to the Constitution, but I am well aware that it is impossible to accomplish that at this late hour. I am also aware that the Constitution of the United States does not contain any clause that specifically provides for a referendum on any subject such as is here involved.

But, Mr. President, there is no expressed prohibition on any such referendum. We are told, in this new day, that what the Constitution does not specifically forbid the Congress may accomplish.

I appeal to Senators who call themselves liberals to let the people have an opportunity to pass on this question.

This amendment is not carelessly drafted. I ask Senators to read it. If Senators have any suggestions as to how it can be improved, I shall be glad to entertain them and to undertake to have them embodied in the amendment.

I assert to those of the liberal bent that no stream can rise higher than its source. No man can be greater than the people whe send him here.

PEOPLE SHOULD DECIDE

There is no reason why this proposal should not be submitted to the people. It would not cause any great delay to have this bill passed upon by the people.

Mr. President, everyone who knows the political facts of life is thoroughly conscious of the fact that our Government is greatly influenced by pressure groups. A relatively small percentage of our total population—vocal, well organized, even belligerent—exercise influence all out of proportion to their actual number. They exercise their influence in our political conventions and over the President of the United States. All those who serve in this body know all too well the influence of the organized pressure groups upon the Congress.

Mr. MUNDT. Mr. President, will the Senator yield?

Mr. RUSSELL. I am glad to yield to the Senator from South Dakota.

Mr. MUNDT. Will the Senator from Georgia explain how the vote would be taken?

The PRESIDING OFFICER. The time of the Senator from Georgia has expired.

Mr. RUSSELL. I yield myself 8 additional minutes.

Mr. MUNDT. Will the Senator explain how the vote would be taken? Would it be a vote in which the popular majority would determine the issue? Would it be a vote in which the majority of the States would determine the issue?

Mr. RUSSELL. It would be a vote in which the majority of those participating in the referendum would determine the issue. I apprehend that it would encounter bitter resistance if it were referred to the electoral college or to the States.

Mr. MUNDT. The electoral college system, with its loaded voting, would not be used. Is that correct?

Mr. RUSSELL. This would be an outright referendum in which the majority of the people of the country would be permitted to speak.

Mr. MUNDT. Should the referendum prevail by majority vote and be defeated in certain States, I take it it would still become a national law, applicable to all States. Is that correct?

Mr. RUSSELL. If it carried in 49 States, but a majority in the 50th State was sufficient to overcome the margin by which the 49 States voted unfavorably, it would still go into effect.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MUNDT. Mr. President, I yield myself 1 minute, if I may, of my unused 60 minutes, in order to ask a question.

The PRESIDING OFFICER. Does the Senator from Georgia yield?

Mr. RUSSELL. I am perfectly willing to yield to the Senator, if the time comes out of his time.

Mr. MUNDT. I wished to establish for the Record, firmly, this point. As I understand, if the referendum should prevail in the popular vote, even though a majority of the States voting were against it, the law would still become operative because a majority of the people of America would have spoken in the affirmative. Is that correct?

Mr. RUSSELL. The Senator is correct.

Mr. MUNDT. I thank the Senator.

Mr. RUSSELL. Mr. President, the veriest tyros in American politics today know the power of the organized bloc. They know that the masses of the people are prone to forget, whereas the members of the highly and tightly organized pressure groups are certain to be reminded to visit retribution at the polls on those who do not accede to their commands.

VOTERS REJECT CONTROLS

I point out that every time any phase of this issue has been submitted to the people of the United States in a referendum, whether it was in the North, East, South, or West, with the single exception of Kansas City, where the margin was exceedingly slim, the people have voted against the type of government intrusion into their lives that is proposed in this bill. They have opposed government control of their living, of their privacy, and of their business.

We are told that a great majority of the American people favor this bill. If that be true, let them have an opportunity to speak at the polls.

Unfortunately, in recent years the difference between the platforms of the two major political parties in this country has been just about as great as the difference between tweedledum and tweedledee. The American people have voted more on personalities than on issues.

I can think of nothing that would do more to revive the interest of our supposed self-governing people in their government than the opportunity to express themselves on an issue, instead of having to wade through tons of campaign literature and two almost identical party platforms in arriving at a conclusion as to how to vote in national elections.

The submission of this question to the people of the country not only would revive interest in our Government, but would provide a true report as to how the people feel about this proposed legislation.

We are told that the laboring people of this country favor the bill; the labor leaders, Mr. Meany and Mr. Reuther, have indeed endorsed it, and they speak for it on every occasion. But in every election that has been held, every ward, every precinct, and every congressional district, where a majority of the working people reside, they have voted against the position of their leaders on this issue.

We are told that all of the church people of the country favor the bill. Spokesmen for the National Council of Churches come and say, "We represent 50 million church people who are advocating this measure."

All of us, Mr. President, know that there are thousands of God-fearing, tithing Christians, in this country who want no part of this bill and who are opposed to it in every way.

It is unnecessary to run through all of the elections that have been held. In Kansas City, to which I have referred, the bill was approved by about 1,700 votes out of a total of 90,000 votes cast.

It was rejected in 15 of the city's 24 wards, and would have lost by 20,000 had it not received a practically unanimous vote in the Negro wards.

Mr. President, I received a letter from one of the most knowledgeable men in politics in Kansas City. I wish to read two paragraphs on what he had to say about this election. He says:

> Excluding four Negro wards, the ordinance would have been beaten by 20,000.
>
> The remarkable point is that there was no organized opposition. The Kansas City Star, our only daily newspaper, practically quit printing news, and devoted its front page to editorials and news favorable to the ordinance. Every clergyman in town, with very few exceptions, endeavored to make it a "question of conscience." As Mr. Justice Whittaker said in substance in a speech delivered the day after this vote, "the clergy having failed miserably in an effort to promote tolerance by good will now seek to enforce their views by coercive ordinance."

The letter continues:

> The vote here has had a remarkable effect, and if the election were to be held again, the ordinance would be badly beaten. Thousands of people refrained from voting because they had gained the impression from the news media and the pulpits that a negative vote would be wasted. On the same day the Wisconsin election was held, and I trust that both of these votes will have some impact.

I point out that the two white wards that voted in favor of this ordinance in Kansas City were the so-called country club wards.

It is a remarkable fact that those in this country who have vast accumulations of wealth, those who never see a Negro except on their own initiative, are the ones who principally promote this legislation.

The great political leaders of the country—the Harrimans, the Rockefellers, and the Kennedys—and people of vast wealth, who are never thrown with a Negro except on their own initiative, support the proposed legislation vigorously; but when we get down into the wards, where the people have no club to go to but the corner tavern, we find a different story. They want their privacy protected.

DEFEATED IN TACOMA, SEATTLE

I point out that a similar issue, a so-called open housing ordinance, was presented in Tacoma, Wash., through a plebiscite, and it lost by a vote of about 3 to 1.

In Seattle there was a vote on a similar issue and it was turned down by a vote of 2 to 1.

An Associated Press dispatch of April 10, from Providence, R.I., refers to the 2-to-1 defeat in the Rhode Island House of a proposal to ban discrimination in housing in that State.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RUSSELL. I yield myself 2 more minutes.

I ask to have printed in the Record the votes that were polled by Governor Wallace, of Alabama, in Wisconsin, in Indiana, and in Maryland, States where he had no political ties, as evidence that there are in this country vast numbers of people who do not wish to see this kind of change effected in our form of government.

There being no objection, the votes were ordered to be printed in the RECORD, as follows:

Governor Wallace's votes in the 3 primaries

WISCONSIN, APR. 7	
Wallace	266, 136
Gov. John W. Reynolds	522, 405
Wallace share of total Democratic vote (percent)	33. 7
INDIANA, MAY 5	
Wallace	172, 646
Gov. Matthew E. Welsh	376, 023
Wallace share of total Democratic vote (percent)	29. 8
MARYLAND, MAY 19	
Wallace	212, 068
Senator DANIEL B. BREWSTER	264, 613
Wallace share of total Democratic vote (percent)	42. 66

Mr. RUSSELL. Mr. President, the people should have an opportunity to be heard. Millions of people have become indifferent; millions do not even go to vote. Senators talk about the fact that we do not have a 100-percent vote in this country. It is really because there is very little issue involved in most of our national elections. The choice resolves itself into personalities.

If we will present this question to the people it will give them something to study; it will bring them back to the feeling that they are participating in their government.

It would be fair to those who would be most vitally affected by the bill. Unless the people of the South have the knowledge that this bill was put upon them by a majority of their fellow citizens and not by a group of political leaders under the lash, there will be bitter resentment against the bill, and it will be a long time before it is actually implemented.

If we let this issue go to the people and a majority of the people vote for it, it will be accepted everywhere, even if it is not received with enthusiasm.

I appeal to the sense of justice and fairness of the Senate to adopt this amendment. It would cause no great delay, but would let the voice of the American people be heard on an issue. It would be the first time in many years that this has been the case. The people have had no opportunity to do so through political platforms.

Mr. MUSKIE. Mr. President, I yield myself such time as is necessary.

I am sure it is not necessary for me to remind the Senate that our system of government is a republic, not a pure democracy. It might be well to remind ourselves of that by referring to the Preamble of the Constitution and the first section of the first article of the Constitution. The Preamble reads, in part:

> We the people of the United States, in order to form a more perfect union, * * * do ordain and establish this Constitution for the United States of America.

The very first thing the people did in ordaining and establishing the Constitution is contained in the next three lines of the Constitution:

> All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

So the first act of the people of the United States in ordaining the Constitution was to impose the legislative responsibility upon Congress. I cannot conceive of a piece of legislation requiring the exercise of legislative responsibility by Congress to a greater extent than this piece of proposed legislation.

As I recall, we are in the 76th day of discussion of the civil rights bill. We have been told that this prolonged debate is necessary for at least two reasons: First, in order that the Members of the Senate might fully understand the 74 pages and the thousands of words that are contained in the bill; second, in order that we might properly focus the attention of the country upon the bill, the issues that are involved, and the details of the proposed legislation. We have taken that time—76 days of it. The opponents of the bill have been among the first to urge that we take the time, so that the Senate might thoroughly understand what it was doing.

We have taken the time. We have considered the 74 pages. We have considered the thousands of words. We have before us between 400 and 500 amendments, many of which we have considered and disposed of one way or another in the past few days.

Judging by the bills the Senate has considered since I became a Member of the Senate, this kind of legislative chore is least amenable to the referendum process. It would be impossible for the electors in the individual States to give the kind of attention to the bill which the opponents of the bill have urged that the Senate itself should give.

This kind of amendment, if adopted by the Senate, would throw the country into chaos. Under the proposal of the Senator from Georgia, the referendum election would be held and conducted by each State "consenting to do so at the general election to be held in such State in 1964." I take it that that means this coming November.

The amendment further provides, on page 7, lines 16 through 20, that the people shall be called to vote not upon the bill as a whole, but upon each of the 11 titles.

Mr. RUSSELL. The Senator from Maine misstates the amendment entirely.

Mr. MUSKIE. If I am in error——

Mr. RUSSELL. The Senator is in error.

Mr. MUSKIE. Let me read the language. I will yield from my time to permit the Senator from Georgia to clarify my understanding, if I am in error.

The language of his amendment reads:

> This law provides that the first 11 titles shall take effect only if approved by the qualified voters of the several States in this referendum. Indicate by making a cross (X) in the proper square (or by pulling the proper lever) whether you approve or disapprove of these titles.

At this point I should like say that I had my first opportunity really to read the amendment for the first time a few moments ago. Perhaps I did not understand the language as I read it. I would appreciate it if the Senator from Georgia would correct me. As I read it, it would require of the voter that he indicate his approval or disapproval of each of the 11 titles. Am I in error?

Mr. RUSSELL. The Senator is certainly in error. In drafting the amendment, the language was discussed at some length to determine whether the vote should be by titles. We finally decided that the people should vote the bill up or down. The amendment provides:

> This law provides that the first 11 titles shall take effect only if approved by the qualified voters of the several States in this referendum. Indicate by making a cross (X) in the proper square (or by pulling the proper lever) whether you approve or disapprove of these titles.

That is the one question that is submitted. All the titles are submitted as a group.

Mr. MUSKIE. I stand corrected. I am happy that the RECORD indicates what the amendment provides.

Another purpose of the 76 days of debate has been to focus public opinion on this issue. If the mail of every Senator is any indication—and I am sure my own mail is representative in that respect—the people of the States are alert to this issue. They have been alert to it not only for days, but for weeks and months. They have been given ample opportunity to consider the bill and its implications. They have been exposed to the points of view of the opponents and the proponents. There have been innumerable polls indicating what public reaction has been; and I am sure the mail of each Senator has indicated to him the reaction of his constituents to this bill. So I believe the people of the United States have spoken in innumerable ways to indicate how they react to this proposed legislation.

It is the responsibility of Senators to act on the bill itself and to hammer out its details. I suggest that no legislative chore with which the Senate has grappled since I became a Member of the Senate has more effectively justified the republican nature of this body—namely, a body to fulfill the responsibilities imposed on the legislative branch by the people of the United States, in the first nine lines of the Constitution.

Mr. RUSSELL. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER (Mr. NELSON in the chair). The Senator from Georgia is recognized for 2 minutes.

Mr. RUSSELL. Mr. President, the Senator has correctly read that all legislative powers shall be vested in the Congress. Among them is the power to submit constitutional amendments to the people.

We do not in all instances pass on proposed legislation, either up or down; and in this instance we realized the impossibility of getting the two-thirds vote from the Members, under the Constitution.

So I sought to have this issue go to all the people of the United States.

I am not surprised that the proponents of the bill dare not have the bill submitted to all the people of the United States.

Mr. President, I ask unanimous consent to have printed in the RECORD certain newspaper articles relating to votes on referendums. One of them deals with the vote taken in the university city of Berkeley, Calif., on a similar issue—the FEPC plebiscite in California, which was defeated by more than one million votes, in 1946; also newspaper articles relating to other referendums, to which I have referred in the course of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Associated Press, Apr. 10, 1964]

RHODE ISLAND HOUSE OF REPRESENTATIVES DEFEATS HOUSING ANTIDISCRIMINATION BILL 2 TO 1

PROVIDENCE, R.I., April 10.—Civil rights leaders pledged to continue their fight and a legislator's house is under police guard today following a 2-to-1 defeat in the Rhode Island House of a proposal to ban discrimination in housing.

Leaders of both political parties joined the heads of groups which had lobbied for passage of the bill in expressions of disappointment at the 61 to 32 rollcall vote which killed the watered-down measure.

One of the bill's leading opponents, Representative Frank A. Martin, Jr., Democrat, of Pawtucket, told police several threatening phone calls were made to his home last night.

Police set up a watch outside the house.

Earlier, Martin said, he was accosted by an unidentified man and threatened as he was leaving the house chamber after the long and bitter debate.

Party lines, usually maintained rigidly in the Rhode Island Legislature, were shattered on the controversial issue.

Forty-two members of the Democratic majority rejected their leaders' appeals to pass the measure and redeem a pledge made in the party's 1962 campaign platform.

Nineteen Republicans joined in killing the bill, which had been backed by Republican Gov. John H. Chafee and had also been promised in the GOP platform of 2 years ago.

The favorable votes came from 25 Democrats and 7 Republicans. Representative John J. Wrenn, Democrat, of Providence, floor manager for the measure said he didn't expect further action on this issue this year in view of the decisive margin of the house vote.

However, he said, renewed effort will be made to pass a similar bill next year.

The question of a ban on housing discrimination has been before the legislature for 7 years, but yesterday was the first time the issue has been formally debated in the house.

Previous measures were killed in committee or in the Democratic majority caucus.

The senate has passed similar bills twice.

Chafee pledged to use his executive power wherever possible to combat discrimination and enhance opportunities for the State's 22,000 Negroes.

Martin and other opponents of the measure called the vote a victory for the little man whose property rights and freedoms they said would have been infringed upon if the bill became law.

[From the Washington Star, Apr. 8, 1964]

RIGHTS PLAN BARELY WINS IN KANSAS CITY

KANSAS CITY, MO., April 8.—In an amazing surge of votes, but by slightly less than 1 percent, Kansas City voters affirmed yesterday an expansion of the city's ordinance forbidding racial discrimination in establishments which trade with the public.

The unofficial count was 45,476 to 43,733—a margin of 1,743 in a total vote of 89,209. This represented 42 percent of the registered voters.

Only once before, in 1950 on a school bond issue, have so many turned out in a special election.

Only 68,196 voted last December after a strident campaign which led to adoption of a municipal tax on earnings.

Robert P. Lyons, cochairman of the People for Public Accommodations, said, "I think it is significant that our citizens voted in greater numbers on a matter of human rights than on something that affected their pocketbooks."

The new ordinance provisions prohibit racial discrimination in taverns, amusement places, recreational facilities, meeting halls, stores, transportation facilities, hospitals, and other businesses open to the public.

Excluded were barbershops, beauty parlors, other places offering personal services, rooming and boarding houses and rented apartments.

Kansas City has had a public accommodations ordinance covering hotels, motels, and restaurants since April 1962.

The city council expanded it in September 1963, but it was forced to an election in a petition campaign sparked by the Tavern Owners Association and the Association for Freedom of Choice.

Negroes number about 80,000 of Kansas City's 475,000 population and 30,000 of its 209,000 registered voters.

The wards where they live gave the new rules heavy margins. It was 4,527 to 199 in the 2d ward, 4,948 to 129 in the 14th, and 5,205 to 770 in the 17th.

The ordinance lost in 15 of the 24 wards, by 2 to 1 or more in the new suburbs Kansas City has annexed to the south, east, and north.

The eighth ward, a "silk stocking" district along ritzy Ward Parkway, voted 2,386 to 1,877 for public accommodations. The sixth, around Country Club Plaza, approved 1,456 to 1,391.

[From the Seattle (Wash.) Post-Intelligencer, Mar. 11, 1964]

VOTERS TURN DOWN OPEN HOUSING BY OVER 2 TO 1

The open housing ordinance which would have outlawed discrimination in the sale, lease, or rental of residential property in Seattle was rejected by voters yesterday by an overwhelming majority.

On the basis of early returns, the controversial measure was going down to defeat at a ratio of better than 2 to 1.

The measure, which was placed on the ballot by the city council, would have made it a misdemeanor to use race, religion, color, or national origin as the basis for refusing to consummate a real estate transaction.

Though only actively opposed by two organizations, the measure apparently was defeated by the "silent" voters who never expressed their opinions on the ordinance but decided to vote against it.

The defeat came on the heels on Monday's signing into law by two county commissioners of a similar open housing ordinance covering unincorporated areas of King County.

The county law, however, still is under a legal cloud since the commissioners modified it after holding the required public hearing.

County Commissioner Ed Munro when asked if the adverse vote would have any effect on the commissioners when considering further the county ordinance, said:

"No, what connection is there? It's two different areas. We don't pass county ordinances on the basis of what the city does."

Yesterday's decision by the voters was the culmination of nearly 2 years of activity toward open housing in Seattle.

In July of 1962, the city council, at the urging of Mayor Gordon S. Clinton, created a 15-member advisory committee on minority group housing with Alfred J. Westberg as chairman.

From this committee, which agreed that indeed a problem did exist in Seattle, emerged the human rights commission, also headed by Westberg.

The commission was created last July by a city council that had been prodded by mass demonstrations and a series of sit-ins at city hall. The commission was directed to prepare an open housing ordinance and submit it to the council within 30 days.

After a long—and sometimes stormy—hearing last October, the council adopted the ordinance. Despite Mayor Clinton's urging that it be passed with an emergency clause to place it in effect immediately, the council voted 7 to 2 to refer the ordinance to the voters.

Since early November proponents—spearheaded by the citizens committee for open housing and the opponents—led by the Seattle Real Estate Board and the Seattle Apartment House Operators Association—have waged a long and vigorous verbal battle for and against the ordinance.

Over 75 organizations, including most church groups in the Seattle area, gave open housing their indorsement.

Proponents argued that a vote for the ordinance was a Christian vote, that equality is long overdue in Seattle and that it is guaranteed under our Constitution. They further contended that Negroes wouldn't cause any mass migration if they move in and that property values wouldn't decrease.

Those against the ordinance on the other hand, claim it is coercive and takes away the free choice of property owners of whom to sell or rent to.

Finally, the opponents said, the ordinance isn't needed anyway since much integration already has taken place and that Seattle already leads the Nation in theater, hotel, restaurant, and other forms of integration.

Yesterday the voters decided which side had the most convincing argument.

[From the Tacoma (Wash.) News-Tribune, Feb. 12, 1964]

TACOMANS CRUSH OPEN HOUSING—WATERFRONT MEASURE ALSO LOSES—TOLLEFSON, CVITANICH, BOTT, MURTLAND, JOHNSON, MATSON LEADING IN RESPECTIVE RACES

(By Jack Ryan)

Tacoma voters yesterday crushed the open housing ordinance, defeated an amendment to the city charter that would permit the council to dispose of city waterfront property and gave Mayor Harold M. Tollefson a smashing vote of confidence.

In a city election that turned out a surprisingly high number of voters, totaling 34,484, about 4,000 more than had been predicted, the people of Tacoma selected eight council candidates who will run again in the final election.

Here are the results:

Proposition No. 1: Antidiscrimination-open-housing ordinances—No, 23,026; yes, 7,470.

Proposition No. 2: Sale, lease, disposal of city waterfront property—No, 15,567; yes, 11,778.

In the open housing ordinance vote, virtually every precinct in the city voted against the measure. Jack Tanner, northwest president of the National Association for the Advancement of Colored People, said the outcome was what he expected.

"First of all, that title [open housing] scared people out. It sounds like somebody could walk right into your house and take it over. Actually, placing this ordinance on the ballot was unconstitutional. The 14th amendment granted equal rights for all citizens of the United States. When you are dealing with rights granted by our Constitution, there is no such thing as 'the majority rules.' The Constitution grants rights to minorities, and the majority should not be able to vote down these rights.

"HE DIDN'T VOTE

"I did not vote in this election. I advised all members of the Negro race in Tacoma not to vote. I am certain that many of them stayed home and did not cast a ballot. If only one vote had been required to pass this ordinance, I would have refused to cast this vote.

"I am certain that the American people today, if given opportunity, would vote down their own Constitution, and destroy all the things that have made this Nation great, just because rightwing alarmists and political opportunities have told them that their small property rights might be endangered."

However, C. Gordon Fora, immediate past president of the Tacoma Board of Realtors, took a different view on the outcome of the election. Fora led the campaign to defeat the ordinance.

POSITION CORRECT

"The joint housing council's position has been that the voters wanted to have a voice in the matter of the open housing ordinance. The vote has indicated that our position was correct. We pledged ourselves to the democratic principle of equal housing rights for all our citizens and we will continue to devote our energies to this end," he said.

The results of the Tacoma open housing vote went all over the Nation, since the national news services had been requested by scores of newspapers to rush the results as quickly as possible. In cities all over America the results were awaited to see how Tacoma would go on the civil rights ordinance.

In spite of the brisk vote, County Auditor Jack Sonntag's office had the final results tabulated in full by 9:55 p.m.

[From the San Francisco (Calif.) Chronicle, Apr. 3, 1963]

Housing Law Loses in Record Berkeley Vote—Johnson Elected Mayor

Berkeley's controversial fair housing ordinance was defeated last night by a record turnout of voters in the municipal election.

The ordinance received 22,720 "no" votes to 20,323 "yes."

It was the second time in 4 years that Berkeley voters have turned down a law prohibiting discrimination in housing. A similar initiative measure was defeated in 1959.

Wallace Johnson, 50-year-old president of a scaffold company, was elected the city's new mayor. Johnson, who had opposed the housing ordinance, defeated Dr. Fred Stripp, who had supported it, 22,415 votes to 20,473.

Johnson replaces Claude B. Hutchison, retiring from office at the end of his current term. Hutchison had been mayor since 1955.

COUNCIL

The voters also reelected three incumbent city councilmen. But all three were led in the voting by Joseph P. Bort, an attorney and insurance counselor, who polled 22,832 votes.

Incumbents John K. DeBonis, with 22,400 votes; Arthur Harris, with 21,061, and Bernice Hubbard May, with 21,028, were restored to office.

Trailing these four were Daniel Dewey, with 19,587 votes; Edith J. Linford, 19,002; Tom Lem-Mon, 9,952; Frank Clarke, 8,332; Fred E. Huntley, 6,452, and Geoffrey White, 2,888. White and Rose Jersawitz, who had 531 votes for mayor, ran on the Socialist ticket.

In the race for city auditor, Fred A. Bird, with 25,028 votes, defeated Irving H. Golder, with 14,062. Sherman Maisel, running unopposed for reelection to the school board, had 32,142 votes.

PRAISE

The defeat of the housing ordinance was hailed last night by Robert D. Weinmann, northern California executive director of the Citizens League for Individual Freedom, who helped direct the league's Berkeley chapter in its fight against the measure.

"A bad law was defeated," Weinmann said. "This shows that unfair housing ordinances with threats of fines and jail sentences against private property owners is not the solution to grave social inequalities which exist among our population."

Weinmann called upon Gov. Edmund G. Brown to hold a conference of "responsible officials" to "explore" the discrimination problem.

PROBLEM

Frank Quinn, executive director of San Francisco's Council for Civic Unity and a Berkeley resident who took 3 weeks off from his job to campaign for the ordinance, bemoaned the defeat.

"While we have voted out the ordinance," he said, "we have not voted out the problem of discrimination. I think it's essential now that both the people who were for and against this particular ordinance come together soon to work on that problem."

The housing ordinance actually was passed by the city council last January, but a referendum petition with 10,555 signatures (almost 7,000 more than necessary) put it on yesterday's ballot.

TURNOUT

The result was the biggest turnout of voters for a municipal election in Berkeley history. With 265 precincts accounted for 82 percent of Berkeley's 52,936 registered voters had cast their ballots. The vote included 982 absentee ballots.

The previous high for a municipal election according to City Clerk Naomi Hess, was the 64.5 percent who voted in the 1959 election and turned down the previous housing discrimination measure. A normal vote, she said, is 55 to 60 percent.

"I've never seen anything like it," the city clerk said. "One man appeared at his precinct at 7:07 a.m. (7 minutes after the polls opened) and he was the seventh to vote."

DEBATE

The ordinance—which became in the past few weeks, one of the Nation's hottest civil rights issues—would have banned discrimination in the rental or sale of housing based on "race, color, religion, national origin, or ancestry."

It would have set up a board of intergroup relations responsible for administering the ordinance and engaging in mediation and conciliation with accused violators.

Willful disobedience of a final order by the board might have been punished by a maximum penalty of 6 months in jail and a $500 fine if upheld in court action.

The ordinance became the subject of a bitter debate among Berkeley's 3 mayoral and 10 city council candidates—and yet it was bigger than any, or all, of them.

The candidates, many of whom attempted to skirt the issue by campaigning for yacht harbor improvements or industrial development, were forced by an aroused citizenry to take stands—guarded or forthright—on the housing ordinance.

CAMPUS

"Aroused" was hardly the word to describe the reaction of Berkeley citizens to the campaign. No issue in recent years awakened this frequently lethargic college town as did ordinance No. 3915–NS.

Unlike many local issues, the housing ordinance extended its emotional range to the University of California campus, where students and faculty members campaigned for and against it with equal fervor.

The university itself is forbidden by its own charter to take a position on political issues, but the Daily Californian, the campus newspaper, editorialized in favor of the ordinance and the student senate backed it.

Vigorous campaigning was conducted on campus by such groups as the students' committee for the fair housing ordinance and by the campus young Republicans and the Intercollegiate Society of Individualists, Inc., both of which opposed the ordinance.

Both Governor Brown and Assembly Speaker Jesse M. Unruh, neither of whom is a Berkeley resident, had urged Berkeleyans to support the measure.

California Vote in 1946 on FEPC Proposal

This is in response to your request for information about the vote in California in 1946 on a proposed State FEPC law. The proposal was placed on the ballot in November 1946 as a result of an initiative. We could not find a copy of the proposal and so cannot give you a detailed summary, but newspaper accounts indicate that it would have made discrimination in employment unlawful and would have established a fair employment practices commission to enforce its provisions. It was defeated by approximately 1,682,000 votes to 675,000 (93 Congressional Record, 677). (American Law Division, Legislative Reference Service, Library of Congress.)

Mr. MUSKIE. Mr. President, I yield myself 1 more minute.

The PRESIDING OFFICER. The Senator from Maine is recognized for 1 minute.

Mr. MUSKIE. Mr. President, the Senator from Georgia has likened his proposal to a constitutional amendment.

I ask unanimous consent to have printed at this point in the Record, article V of the Constitution, the amending article.

There being no objection, the article was ordered to be printed in the Record, as follows:

ARTICLE V

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided,* That no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Mr. MUSKIE. Mr. President, nothing in article V of the Constitution calls for submitting a constitutional amendment to the people of the United States. The constitutional-amendment process is invoked whenever two-thirds of both Houses deem it necessary; and if they do deem it necessary and if they so indicate, the proposed amendment then is submitted to the legislatures of the respective States; it is not submitted to the people of the United States.

So there is no valid comparison between the procedure suggested by the Senator from Georgia and the amendment process of the Constitution of the United States.

Mr. JOHNSTON. Mr. President, I believe the amendment of the Senator from Georgia would result in a true petition from the people of the United States.

In speaking of petitions, I believe all Senators will agree that the first amendment of the Constitution reads as follows:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

In other words, if we submit this proposal to the people and if a direct vote of the people is obtained, we shall find that then they will have truly petitioned the Government; and I truly believe that if this issue were submitted to them and if they were given the right to vote on it, many Senators—those who at present are advocating the proposed legislation—would be surprised.

Mr. MUNDT. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 3 minutes.

Mr. MUNDT. Mr. President, it seems to me that we have here a very interesting and significant amendment which provides an opportunity for our respective constituents to express themselves on a piece of proposed legislation which probably affects them directly, individually, morally, and spiritually, as much as, if not more than, any other bill we have had before us in a quarter of a century.

When I first heard of the Russell amendment, I was inclined to oppose it, on either one of two grounds:

First, I thought it would be a dilatory device which, after the Senate had worked its will on the bill and had approved it, as I am confident we shall do, would delay appreciably the application of the legislation. But such is not the case, because the amendment calls for a vote next November, and calls for the bill to become operative as soon as the votes are counted, as provided in the text of the amendment, if a majority of the people vote in favor of the bill.

Next, I thought perhaps the amendment was a device whereby States reluctant to go along with the civil rights program might develop some kind of cyclone cellar for themselves by voting in the negative. But from reading the amendment and from the statement of the eminent Senator from Georgia, it is clear that even though a majority of the people of certain States were to vote in the negative, if a majority of the people of America as a whole, were to vote in the affirmative, the bill would become operative for all the States.

Mr. President, before the end of next week each of us in the Senate will express our convictions and register our judgment on this civil rights measure in a rollcall vote. That is as it should be but what is wrong with giving the people of the United States a chance also to express themselves at the polling places, in a secret ballot, on an issue of this magnitude?

I speak as one who voted for cloture, despite the fact that I come from a small State where the whole concept of cloture is repugnant, and where cloture is recognized as something to be used only as a last resort, in order to get the machinery of Government in the legislative branch moving. I speak as one who voted for cloture also because I believe there does come a time when even the most controversial of issues must be submitted for determination by majority vote. I do not believe in rule by minority objections or by minority decision.

I believe in government through self-determination by majority rule; and I should like also to know how the majority of the American citizens actually feel about this proposed legislation, after it is passed; and I speak as one who intends to vote for the bill, on the question of its final passage.

Referendums are not new in our American society. In my State, the referendum process is well established, and is frequently used. Usually the decisions of the legislative body are supported in the referendums; but sometimes they are upset; and our State's legislature is not immune to the results expressed by means of such referendums. Neither is the legislative body in Washington, D.C., in my opinion immune to the wishes of the people.

The PRESIDING OFFICER. The time of the Senator from South Dakota has expired.

Mr. MUNDT. Mr. President, I yield myself 3 more minutes.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 3 more minutes.

Mr. MUNDT. Mr. President, I point out that over and over again Congress has enacted farm legislation to be submitted to the people in a referendum before it becomes effective. So there is nothing new about such a proposal. In fact, sometimes Congress has passed farm legislation and, in that connection, has established the degree or extent of the support it must receive by the people affected before it will go into effect. Frequently the degree of support required is substantially more than a simple majority. In such cases we trust the people on the farms who are most directly affected either to validate or to invalidate the decisions which Congress has made. I hold that we can also trust the people of America to do what is right in a national referendum.

The pending bill deeply affects every family and every individual in the country. Its effectiveness and success will in the final analysis depend upon the cooperation and the attitudes of the American people. Our people are badly divided in their views in regard to the bill. In my State there are approximately 700,000 citizens; but I have received, in toto, less than 1,500 letters from the people of South Dakota, and they are divided—some on one side, some on the other. I am curious to know the feelings of the people who have not written to me, because they, too, are Americans, and all of them will be affected by this proposed legislation.

Since no delay is involved, except for a matter of 2 or 3 months; since the pending bill is of vital importance to all Americans; since the final result would be determined by popular vote of all the citizens; and since the result would be effective upon all our States, I submit that this amendment is a salutory and constructive one; and unless we are afraid that the people we represent will disagree with our decision and that we have misjudged their attitudes. I see nothing wrong in giving all the people an opportunity to approve or to nullify our decision, as they desire, in the November election. After all, we in this country are dedicated to the concept of government by, of, and for the people.

So, Mr. President, I shall support the amendment.

I reserve the remainder of my time.

Mr. ERVIN. Mr. President, I appeal to all Democratic Senators to vote for this amendment, if they really believe that Thomas Jefferson was correct when he stated that the just powers of the Government "are derived from the consent of the governed."

Mr. LAUSCHE. On my own time, will the Senator from Georgia yield for some questions?

Mr. RUSSELL. Gladly.

Mr. LAUSCHE. In determining whether approval has been given to the program, would the votes cast in the individual States on the basis of majority be treated as State votes, or would the decision be made on the basis of the aggregate number of votes cast in the country?

Mr. RUSSELL. The decision would be made on the aggregate of the total number of votes cast in the country, as appears in subsection (b) on page 10, where there is described the method of determining the election by the Senate and the House of Representatives in joint session, as is done in the case of other elections, but not under those rules.

Subsection (b) reads as follows:

> (b) If a majority of the votes cast in the referendum approve of the first 11 titles of this act, such titles shall become effective, except with respect to title VII—

Which is by terms extended to section 718—

> on the date on which the declaration of the President of the Senate and the Speaker of the House of Representatives is made.

Mr. LAUSCHE. Mr. President, I am quite certain that every Senator who has studied the subject, in making presentations to the people of his State on the plight of the captive and satellite nations, has emphasized the fact that when

Stalin, Churchill, and Roosevelt met in the Atlantic Ocean, they declared the sanctity of having open public elections in determining what types of governments shall be chosen in the nations that were subdued by Germany.

Subsequently in the establishment of the United Nations there was a redeclaration that in the captive and satellite nations open and free elections would be held in determining the types of governments that would be chosen to rule the economy, the society, the politics, and the culture of the particular country involved.

I do not mind saying to the Senate that as I have passed through Ohio, that has been the theme of my talk. If the people in Czechoslovakia, by an open public election, desire a Communist government, let them have it. If the people in Yugoslavia, under open public elections, want Tito, let them have him.

But if in those open, public elections the people say, "We do not want a Communist government; we want a government of freedom as reflected by the policies of the United States," they ought to have the ability to choose that type of government.

Mr. President, may I have the attention of the leaders?

The greatest complaint of the people in the free world against Communist domination has been that the people within the Communist countries have not been given the privilege of expressing their views.

I do not care how arguments against communism are searched for. None is more potent than the argument that those countries have not given the people the right to express themselves about what shall be done by government. If the Senators will pause momentarily, introspect, and try to find how an argument warranting the repudiation of communism could be advanced, the only one they will be able to come up with is the statement, "Let the people decide."

I have read in newspapers and magazines, and I have listened to men on the radio and television tell the significance in our history of the disposition of the present issue. Except for crises which we face in periods of war, it is alleged that there has been no more important issue in the history of our country to be decided that the present issue.

I shall vote for the civil rights bill. I shall return to the people of Ohio and tell them to approve it. I shall not go back and say, "You have not the right to express your own opinion on what ought to be done on this vital question."

Liberalism is the theme that stands out highly over the dome of the Senate. That liberalism includes freedom of expression. From every light in the Senate Chamber there shines the freedom of choice. That is the message that comes to us about what America means. If I am correct in my expression of those views, on what theory can it be said that we should not allow the people of our country, in their composite judgment, to declare what should be in the best interests of our Nation? My answer to that question is that there is no better method to achieve justice, bring solidity of thought, and support the security of our country than that method.

According to the vote that was cast on the cloture motion, out of 100 Senators, 71 will go back to their States and tell the people of their States to approve the bill. Should we be afraid, on the basis of the plea of those 71 Senators that the people will not approve the proposal? If we are afraid that 71 of us cannot influence their judgment or fortify it, I say there is something wrong with the judgment of the 71.

I do not know in how many States provisions have been written into State constitutions in respect to the right of initiative and referendum. Not until today did I become thoroughly conscious that in our country we have no outlined and designated plan of initiative and referendum. The proposal of the Senator from Georgia has adopted in the maximum degree the potentialities of having the people pass on the issue. I think it ought to be adopted. I say to the Senator from Georgia that, if it is adopted, I will go back to the people of Ohio and argue vigorously in favor of the bill that will be submitted to them for referendum. I feel quite certain, also, that every Senator who is in favor of the civil rights bill will do likewise.

I have enough confidence in the judgment of the people of my country that, after these 86, or more days of deliberation, they have learned of the details of this bill. If they have not learned about the details, the responsibility is ours to acquaint them with the details.

Mr. President, the argument will be made that we have spent 94 days or 100 days on the measure and that to spend further time would be useless. My answer to that argument is that if this question is as grave as it is claimed to be—and I believe it is—we cannot make a mistake if we submit it to the judgment of the people.

In one of the newspapers that is nationally syndicated is the legend—I do not believe I can quote the words exactly, but it is to this effect—give the public the knowledge and depend upon the correctness of their judgment. Give them the light and they will rule correctly. The legend comes from the words of Jefferson, and I am willing to abide by that judgment with the commitment that, as never before, I will travel from the northerly to the southerly boundary of Ohio, and from the easterly to the westerly boundary, urging the adoption of this measure. But even in the face of that, it is my honest feeling that the proposal made by the Senator from Georgia should be approved.

Mr. DIRKSEN. Mr. President——

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIRKSEN. Mr. President, if Senators want to destroy all hope of a civil rights bill, let them vote for the amendment offered by the distinguished Senator from Georgia.

I thought I came here as a legislator and that I was not depending on a referendum for me to determine what I should do in the legislative field.

It is no accident that the legislative branch is provided for in article I of the Constitution and that the provision for the executive and the judicial branches comes later. The language is as clear as crystal. It provides that all legislative powers herein granted shall be vested in a Congress which shall consist of a Senate and a House of Representatives. Then it proceeds to clothe Congress with authority and tell it what it can do and what it cannot do.

I point out to my friend from Ohio that there is not the slightest analogy between what he describes in the Old World as distinguished from a referendum in this country. The problem over there has been that the choice of the people is not permitted to speak for them. But in this country there is a free and unrestricted choice of our people to send to Congress a Democrat, a Republican, a man named LAUSCHE, a man named DIRKSEN, and a man named MUNDT—and they send us here to exercise some judgment.

When Senators talk about going home, perhaps the people will stand up and say, "Why did we send you to Washington in the first place if, in the face of all the evidence and judgment that have been adduced, you could not make up your mind what to do and said you would refer it back to the primary source that sent you there in the first instance?"

I will not make that confession, because the people will have a "crack" at me for that. This is the proper place for it.

My friend from South Dakota spoke about a referendum being nothing novel. A national referendum is indeed a novelty. Cite me an instance where there has been a national referendum to provide for a vote by all the people.

What is covered by the Russell amendment? Look at title XII of the amendment. It reads:

> The first eleven titles of this Act shall take effect only if the qualified voters of the several States signify their approval of this Act in the national referendum provided by title XIII.

Very well; let us look at the provision for the referendum in title XIII:

> Each State is requested to conduct a referendum—

for this purpose. So they cannot be made to do it. Perhaps Ohio will not want a referendum. Perhaps my State will not. Perhaps the States that would be hostile to the bill would want a referendum and turn out in force in order to swell the vote.

Mr. RUSSELL. If the Senator will read further, he will find that the duty would be imposed upon the President to conduct a referendum in any State that does not do it upon its own volition.

Mr. DIRKSEN. The amendment also provides:

> The Governor of each State which consents to conduct the referendum shall so notify the President before September 1, 1964.

If action on the bill is completed by the 4th of July, there will be 2 months in which to undertake to organize a referendum for the entire country. But suppose it is not done.

Mr. RUSSELL. If it is not done, the President shall do it. The Senator did not read the next line:

> The President shall provide for the conduct of the referendum, in the manner provided in this section, in any State which does not consent, or is unable, to conduct the referendum.

Mr. DIRKSEN. It may be done.

Mr. RUSSELL. It says he "shall."

Mr. DIRKSEN. But in the consenting and in view of the difficulties which might be encountered, suppose the State waits until the last minute. Suppose it waits until the first of November. What would the referendum amount to? It would not amount to a hoot, and the Senator from Georgia knows that. So why refer it back to the people?

If there is any validity to this argument, if there is any logic to the argument, why did we not say, in the case of the tax bill, which affects 90 million taxpayers, "We do not want to vote on it. There are some things in there that we do not like. We may be scolded back home. So we had better have a referendum."

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. PASTORE. How about a declaration of war?

Mr. DIRKSEN. Exactly; such proposals have been floating around ever since I first came to Congress—and that goes back 30 years. Efforts have been made to have a referendum on war. We would reach a crucial point and suddenly tie the hands of the Federal instrumentality about the time we found ourselves up to our ears in conflict.

Why did the Founding Fathers set up the Constitution as they did if that was not the "referendum"—in which the people would select Representatives for the House based on population, and select two men from each State for the Senate? Why was it provided that no State can lose its representation in this body without its consent? Have we a legislative purpose or not? If we have, let us use it and not gut the bill, because that is what happened under the Russell amendment—and make no mistake about it.

So that is what we shall be voting on directly. I trust that it can be repudiated by an overwhelming argument.

I am ready to accept my responsibility under the bill and for the bill. I am not going to pass the buck to people back home and say, "I am rather shaky on the inside. I am thinking now about my party and how it is going to fare. I am thinking about the next election. I would rather get a guideline from you." Then they should write to me and say, "Haven't you guts enough to stand up as a legislator and be counted, because of the mantle of authority with which you have been clothed by the Constitution?"

What a shameful confession to make. I shall never make it. If we want to do it, we can take nearly every major proposal that comes before the Congress and say, "Oh, let us send it back to the people for a referendum."

If the Constitution made us feel that way about it, we would not have the organic law which we have today; neither would we have the balanced Government which we have today.

This is the time to decide.

The question is before us. It has been quite thoroughly ventilated. The issue has gotten out to the country.

Are we going to improve it any by suddenly saying, in November of this year—and this is substantially the form of the question to appear in the referendum:

> The Congress of the United States has enacted a law known as the Civil Rights Act of 1964—

How perfectly unobjective. Someone says to me, "You are a Member of Congress." That is like saying to me that 2 and 2 equal 4—

> which is divided into 13 titles, the last 2 of which relate to this referendum. This law provides that the first 11 titles shall take effect only if approved by the qualified voters of the several States in this referendum.

It does not give the people a hint of what is in the bill.

If the people do not know it now from the news media, from television, from periodicals, from newspapers and magazines, they will not know it in November.

I believe that our Constitution makers wisely provided. Instead of committing this sort of thing to the people, they said, "We will take a chance on a man submitting himself to the obligations of public office. It is easier. We can find out all about him if we wish to. We can ascertain his background. We can take him to pieces in any meeting where he exhibits himself for the purpose of delineating the issues of the day."

The idea of going back to the people with that kind of referendum means exactly nothing.

This amendment has been carefully contrived. Much work has gone into it. But are we to reject and repudiate the action of the Congress after all these days of deliberation?

I remind the Senate that the first version of the bill passed the House of Representatives by a vote of 290 to 130. That is a 65-percent vote.

What an affront to the rest of the legislative branch of the Government to say, "You gentlemen had the gall to stand up and be counted on the record, but we will not do so. We will take refuge in an escape clause. We are going to send the issue back to the people and get a guideline so as to assuage our souls."

Mr. President, I shall not make that confession. Somewhere in Shakespeare it is written:

> Cowards die many times before their deaths; the valiant never taste of death but once.

God help me, I am not going to make the kind of confession which, when I go back to see my constituency, would cause them to say to me, "What kind of legislator are you, that you refuse to go on the roll and be counted? Before the first 11 titles could become effective, why did you submit them to us for a referendum?"

They might tell me, then, "The next time there is a foreign aid bill, send that back, too. The next time there is a tax bill, send that one back here, so that we can take a look at it. The next time there is a farm bill, send that one back, too."

What will have happened finally to this finely balanced, beautifully calibrated system of government that has been vouchsafed to us for more than 170 years?

Mr. ERVIN. Mr. President, will the Senator from Illinois yield for a question?

Mr. DIRKSEN. I am glad to yield to the Senator from North Carolina.

Mr. ERVIN. Does not the Senator from Illinois know that Congress has submitted many farm bills to referendum among the farmers for approval or disapproval?

Mr. DIRKSEN. Yes; but only to the farmers. The amendment deals with a national referendum. It uses the words a "national referendum."

Mr. ERVIN. The farmers are the only ones concerned with the acreage allotments and marketing quotas established by farm bills. Many other people are concerned with this bill.

Mr. DIRKSEN. The Senator from North Carolina had better talk to the Secretary of Agriculture, Mr. Freeman, about that.

Mr. President, I have very little more to say. This is a way to destroy what we have done; and it should be repudiated by an overwhelming majority.

Mr. MORSE. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 3 minutes.

Mr. MORSE. Mr. President, I come from a State which developed what is known as the Oregon system of initiative and referendum.

I wish to take these 3 minutes to speak to the people of my State as to the basic reasons for my voting against this referendum proposal.

I shall vote against the Russell amendment. I shall vote against it because it bears no relationship whatsoever to what is sought to be accomplished under the Oregon system of initiative and referendum.

Not only do I agree wholeheartedly with what the Senator from Illinois has stated, but I wish to stress that there is no policy which has more motivated my career in the Senate than support of civil rights legislation. It now goes on 20 years in which I have served in the Senate and I have pointed out time and time again that we need to pass a civil rights bill to deliver the Constitution of the United States to the Negroes of this country for the first time in a hundred years since the Emancipation Proclamation.

By that I simply mean that the basic purpose of the bill is to give to the Negroes of this country, at long last, the enjoyment of their constitutional rights.

They cannot enjoy their constitutional rights unless we effectuate the Constitution and implement it by the passage of civil rights legislation. The Constitution is not a self-executing document. Therefore, as legislators, we have the trust and the obligation to pass legislation which will implement the constitutional rights to the Negroes of the country. Both the 13th and 15th amendments to the Constitution state that "Congress shall have power to enforce this amendment by appropriate legislation." The enforcement legislation must be provided by Congress alone.

If there are those who wish to change the Constitution to deny constitutional rights to the Negroes of this country, then they should try to exercise the check which has been given to the American people by the amending process of the Constitution.

Let me say most seriously that one of the reasons I have opposed all the jury trial amendments to this civil rights bill in connection with contempt cases is that constitutional rights are involved. In my judgment, the jury box is not the place to determine my constitutional rights. Constitutional rights should not be subject to denial by a jury. Our court system is the place to determine and protect them. We have a check against arbitrary and capricious courts by an appeal procedure, through judicial process, all the way up to the Supreme Court.

Let me say most respectfully that the referendum is not the proper vehicle by which to grant or deny constitutional rights. It is wrong to follow a referendum procedure that the Russell amendment would permit us to follow which in effect would give the voters of the country an indirect way to amend the Constitution by denying the effectuation of constitutional rights through legislation to the colored people of the country.

The PRESIDING OFICER. The time of the Senator from Oregon has expired.

Mr. MORSE. Mr. President, I yield myself 2 more minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 2 additional minutes.

Mr. MORSE. The referendum is not the appropriate vehicle, Mr. President. If those who wish to defeat the purpose of the bill wish to deny constitutional rights to the Negroes of the country, let them come forward with amendments to repeal, for example, the 13th, 14th, and 15th amendments to the Constitution, and every other section of the Constitution that we seek to implement by this civil rights bill so far as permitting Negroes to enjoy their constitutional rights.

Mr. President, a referendum is not the proper vehicle by which to seek to amend indirectly or directly the Constitution of the United States. The proponents of the amendment are hopeful, because of the type of campaign that would be conducted, based upon prejudice, bias, and emotionalism that would be aroused, that they could get the voters to deny the enjoyment of full constitutional rights to the Negroes of the country.

We have a duty, under our oath, to enact such legislation as is necessary to implement the Constitution of the United States. Then, if the voters do not like it, there are two things they can do. They can defeat us the next time we come up for election, or they can proceed to take away those constitutional rights by amending the organic act itself.

A referendum, I respectfully say, is not the proper vehicle for accomplishing indirectly what the proponents of the bill know they cannot accomplish by direct amendment of the Constitution of the United States. The proponents of this amendment know that it would be impossible to amend the Constitution so as to deny constitutional rights to all of us by repealing such sections of the Constitution as the 13th and 15th amendments.

Mr. RUSSELL. Mr. President, I yield myself 2 minutes.

I can now say, at long last, that I have seen everything, when the distinguished senior Senator from Illinois [Mr. DOUGLAS] rushes over to the junior Senator from Illinois [Mr. DIRKSEN] and embraces him and congratulates him on the speech he has just made. Nothing could better demonstrate the heights to which the Senator from Illinois is capable of rising when he desires to stride to the center of the stage.

On four or five occasions he said that the adoption of this amendment would kill the bill. He misrepresented the amendment, of course. He said it would kill the bill. If that is the case, it means he is cramming it down the throats of the majority of the people of this country, when they do not want it.

I assert that that is the doctrine of Hamilton, who said, "Your people are a great beast." That is not the doctrine of Thomas Jefferson, who believed in the people and who was willing to trust them to pass upon public issues.

Who are the cowards? Those who are willing to let the people pass upon the issue, or those who, being afraid, bask in the glory of the spotlight and say, "No, the people cannot be trusted to pass upon this issue"?

Mr. ANDERSON. Mr. President, I yield myself 2 minutes.

I did not expect to have a word to say on this issue. However, I served in the House of Representatives with the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN]. I have never been more proud of having served with him than I have been today. I compliment him on the statement he made, so clearly and in unmistakable language, that the adoption of the amendment would defeat the bill. I compliment him.

Mr. TOWER. Mr. President, I yield myself 1 minute. While I am deeply sympathetic with the motivation of the Senator from Georgia in offering his amendment, and while I wish there could be some tangible manifestation of popular sentiment on this bill, I believe that the machinery for a referendum does not exist, and that the constitutional authority does not exist. We have a representative democracy, not a plebiscitary democracy. Therefore I cannot in good conscience vote for the amendment.

Mr. LONG of Louisiana. Mr. President, I yield myself 1 minute. I hold in my hand a document entitled "The American's Creed." It resulted from a contest held in the United States, with which some of the greatest Americans were concerned. It was held in the city of Baltimore, the home of the "Star Spangled Banner." The winner of the contest and the author of the creed was William Tyler Page, who, it turned out, was an employee of the House of Representatives and a descendant of President Tyler. I should like to read a few lines from this creed:

> I believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed.

Mr. President, I have raised this question previously on the floor, whether the people of this Nation would actually consent freely to this piece of proposed legislation.

The argument has been made to me, "If you think this is right, you ought to vote for it even if it beats you, and your people despise you."

I contend that an issue of this sort presents the same sort of choice that caused 500,000 Americans on two sides to lose their lives in the Civil War, which should have been avoided by statesmanship. It should properly be submitted to the people. If the people are not in favor of it, we have no right to vote for it. We are here to represent them.

It would be fair to see what their judgment is. I am one of those who say, with regard to my people, that I am not particularly interested in what they think about a matter until they have had an opportunity to discuss it and to have both sides presented to them. When I vote for it, they will agree with me after they have had an opportunity to hear both sides.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG of Louisiana. I yield myself 1 more minute.

When the people of this Nation, North, South, East, and West, have had an opportunity to vote on this issue, and on various subjects which are contained in the bill, when time and again the issues have been submitted to them, on the majority of occasions they have voted them down. Whenever provisions such as these have been adopted it has not been by a vote of the people. They have instead been imposed upon the people by the legislatures, contrary to their wishes.

I believe it fair to the people of the South who would be compelled to live under it and to those whose sons would have to put on the uniform of the Army, not by their own consent, and be sent into the South to enforce this legislation, to have the people vote on it and tell the Nation what they want done.

Mr. CASE. Mr. President, I yield myself 2 minutes.

I think the minority leader has rendered an excellent service. I agree with the Senator from New Mexico [Mr. ANDERSON], and also with the Senator from Maine. I compliment the Senator from Texas. He deserves great praise for the stand that he has taken on the principle involved, regardless of his position on the bill.

All the talk about making this provision apply without the consent of the governed rings rather hollow when we realize that the people who support the amendment do not expect to have the

Negroes in the South vote upon the matter at all.

Mr. RUSSELL. That is not true in my State.

Mr. JOHNSTON. That is not true.

Mr. CASE. I leave that to the knowledge of the country and to the Members of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendments offered by the Senator from Georgia [Mr. Russell].

Mr. RUSSELL. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Virginia [Mr. Robertson]. If he were present, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Arkansas [Mr. Fulbright], the Senator from Arizona [Mr. Hayden], the Senator from Montana [Mr. Metcalf], and the Senator from Virginia [Mr. Robertson], are absent on official business.

I also announce that the Senator from California [Mr. Engle], is absent because of illness.

I further announce that the Senator from Indiana [Mr. Hartke], and the Senator from Ohio [Mr. Young], are necessarily absent.

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from Ohio [Mr. Young].

If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Ohio would vote "nay."

I further announce that, if present and voting, the Senator from California [Mr. Engle], the Senator from Indiana [Mr. Hartke], and the Senator from Montana [Mr. Metcalf], would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. Beall] is necessarily absent to attend the Maryland State Republican convention in order to accept the nomination for U.S. Senator and, if present and voting, would vote "nay."

The Senator from Kentucky [Mr. Morton] is necessarily absent.

The Senator from Arizona [Mr. Goldwater] is detained on official business.

The result was announced—yeas 22, nays 67, as follows:

[No. 313 Leg.]

YEAS—22

Byrd, Va.
Byrd, W. Va.
Eastland
Ellender
Ervin
Hickenlooper
Hill
Holland
Johnston
Jordan, N.C.
Lausche
Long, La.
McClellan
Mundt
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.

NAYS—67

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Tower
Williams, N.J.
Yarborough
Young, N. Dak.

NOT VOTING—11

Beall
Engle
Fulbright
Goldwater
Hartke
Hayden
Mansfield
Metcalf
Morton
Robertson
Young, Ohio

So Mr. Russell's amendments were rejected.

Mr. JAVITS. Mr. President, I move that the Senate reconsider the vote by which the amendments were rejected.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MILLER. Mr. President, I refer to page 13468 of the Record of yesterday, June 11. Senators may recall that I divided my amendment into two parts. The Senate adopted one part; the other part was temporarily deferred by unanimous consent. I wish to call up that part now for consideration. This part of the amendment relates to page 70 of the bill.

In line 15, my original amendment would have proposed inserting after the word "may" the words "upon timely application."

I now wish to modify my amendment to provide that the phrase "upon timely application" follow the word "action" in the same line, and that the comma in that line be stricken. I so modify my amendment.

The PRESIDING OFFICER. Will the Senator from Iowa send his amendment to the desk, so that it may be recorded?

Mr. MILLER. The amendment was at the desk yesterday.

The PRESIDING OFFICER. The clerk does not have a copy of the modified amendment.

Mr. MILLER. I so modify my amendment now. I have discussed the amendment with the Senator from New York [Mr. Javits] and with the leadership, and it is acceptable to all parties concerned.

I should like to state what the amendment would accomplish. Originally, the amendment would have inserted the phrase "upon timely application" after the word "may" in line 15, page 70.

The modified amendment, to which we have all agreed, would strike the comma in that line and insert the phrase "upon timely application" after the word "action," and there would be no commas at all in that line.

Mr. McCLELLAN. Mr. President, I am unable to locate that language in the new bill.

Mr. MILLER. This amendment relates to amendment No. 1052, which is the latest amendment in the nature of a substitute.

Mr. McCLELLAN. Mr. President, may we have the amendment of the Senator from Iowa stated, so that we will know what we are acting upon?

The PRESIDING OFFICER. The amendment will be stated.

The Legislative Clerk. On page 70, line 15, it is proposed to insert after the word "action" the following: "upon timely application"; and to strike out the comma in line 15.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. McGovern in the chair). The Senator from Arkansas will state it.

Mr. McCLELLAN. Do I correctly understand that this amendment would limit the time in which the Attorney General could act?

Mr. MILLER. I would rather respond by saying that the amendment provides for timely application. As I explained yesterday, timely application is provided for in the other intervention section of the bill.

Mr. HUMPHREY. Mr. President, will the Senator from Iowa yield?

Mr. MILLER. I yield.

Mr. HUMPHREY. This amendment would make the bill conform to the rules of Federal procedure. The amendment is wholly satisfactory, and conforms to the other titles of the bill. So the amendment is acceptable.

Mr. MILLER. Then, Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the modified amendment of the Senator from Iowa [Mr. Miller].

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I wish to ask of the Senator from Minnesota [Mr. Humphrey], who is the effective manager of the pending bill, a clarifying question on the provisions of title VII.

I have in mind that the social security system, in certain respects, treats men and women differently. For example, widows' benefits are paid automatically; but a widower qualifies only if he is disabled or if he was actually supported by his deceased wife. Also, the wife of a retired employee entitled to social security receives an additional old age benefit; but the husband of such an employee does not. These differences in treatment as I recall, are of long standing.

Am I correct, I ask the Senator from Minnesota, in assuming that similar differences of treatment in industrial benefit plans, including earlier retirement options for women, may continue in operation under this bill, if it becomes law?

Mr. HUMPHREY. Yes. That point was made unmistakably clear earlier today by the adoption of the Bennett amendment; so there can be no doubt about it.

Mr. RANDOLPH. I am grateful for the reply.

Mr. SPARKMAN. Mr. President, I call up my amendment No. 662 and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Alabama will be stated.

The Legislative Clerk. On page 6, line 22, immediately after the word "facility", insert the words "not situated within the residence of the operator or proprietor thereof, if such facility is".

Mr. SPARKMAN. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

This amendment would exclude a certain class of restaurant, lunchcounter, or soda fountain operators from coverage under title II—namely those wherein the facilities are situated within the residence of the operator or proprietor.

This type of small owner or operator should be excluded from the bill. Regulation of them is coming very close to regulating a person's own home. As an example, let us suppose that a lady in a college town lets a few college students enter her kitchen or dining room and serves lunch to them for a price. If this is done in her home, it would be exempt under my amendment to title II.

Without this amendment, title II could be an invasion of the spirit of the Bill of Rights. The third and fourth amendments protect a person's home against the quartering of soldiers in time of peace and against unreasonable searches and seizures. A stringent Federal law which would force a small restaurant owner, whose restaurant is attached to his home, to serve anyone irrespective of race, color or national origin, would be an unreasonable seizure, so to speak, of the rights pertaining to a home which the Constitution seeks to protect.

I call your attention also to the due process clause of the fifth amendment which states "nor shall private property be taken for public use, without just compensation."

Without this amendment, the bill would be providing the homeowner with laws, regulations and mandates which he probably would not want, instead of providing him with compensation as called for in the Constitution.

Mr. President, I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, I yield myself 30 seconds.

I oppose the amendment. I do so not because of what it provides, but because of what its application might well be; namely, that it would serve as an opportunity for avoidance of the provisions of title II. The fact that a proprietor may have an eating place situated within the residence of the operator or proprietor does not necessarily mean that that is a little private, homelike surrounding. It could very well be a means of evasion. If it is a boardinghouse which invites nontransient guests, there is no coverage under title II under the terms of the bill.

Boardinghouses for nontransient guests would have no coverage at all. There is no application of the bill to them. Those with five rooms or less would be exempted. So I hope that the Senate will reject the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 662) of the Senator from Alabama. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAYH (when his name was called). On this vote I have a pair with the distinguished junior Senator from Arkansas [Mr. Fulbright]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished junior Senator from Virginia [Mr. Robertson]. If he were present and voting, he would vote "yea." If I were at liberty to vote I would vote "nay." Therefore I withhold my vote.

Mrs. NEUBERGER (when her name was called). On this vote I have a pair with the senior Senator from Virginia [Mr. Byrd]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would note "nay." Therefore I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Arizona [Mr. Hayden], and the Senator from Virginia [Mr. Robertson], are absent on official business.

I also announce that the Senator from California [Mr. Engle], is absent because of illness.

I further announce that the Senator from West Virginia [Mr. Randolph], the Senator from Indiana [Mr. Hartke], and the Senator from Ohio [Mr. Young], are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia [Mr. Randolph], the Senator from Indiana [Mr. Hartke], the Senator from California [Mr. Engle], and the Senator from Ohio [Mr. Young], would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. Beall] is necessarily absent to attend the Maryland State Republican convention in order to accept the nomination for U.S. Senator.

The Senator from Kentucky [Mr. Morton] is necessarily absent.

The Senator from Utah [Mr. Bennett] and the Senator from Arizona [Mr. Goldwater] are detained on official business.

On this vote, the Senator from Utah [Mr. Bennett] is paired with the Senator from Maryland [Mr. Beall]. If present and voting, the Senator from Utah would vote "yea" and the Senator from Maryland would vote "nay."

The result was announced—yeas 25, nays 60, as follows:

[No. 314 Leg.]

YEAS—25

Byrd, W. Va.
Cotton
Curtis
Eastland
Ellender
Ervin
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters
Williams, Del.

NAYS—60

Aiken
Allott
Anderson
Bartlett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Yarborough
Young, N. Dak.

NOT VOTING—15

Bayh
Beall
Bennett
Byrd, Va.
Engle
Fulbright
Goldwater
Hartke
Hayden
Mansfield
Morton
Neuberger
Randolph
Robertson
Young, Ohio

So Mr. Sparkman's amendment No. 662 was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I offer my amendment No. 659, and ask that it be stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Alabama will be stated.

The Chief Clerk read the amendment, as follows:

> On page 9, line 14, immediately after the period, insert the following new sentence: "No lawful action taken by any person to protect, defend, or enforce any right, privilege, or remedy conferred upon him or secured by the Constitution or any statute of the United States or by valid law of any State or political subdivision thereof shall be held to be in violation of this section."

Mr. SPARKMAN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SPARKMAN. Mr. President, I yield myself such time as I may require.

This amendment would make it clear that under title II a person could take lawful action to protect, defend, or enforce any constitutional right that he has or any right under Federal or local law.

The whole atmosphere surrounding title II appears to be one of the illegality of doing anything that might be called racial discrimination. It is only proper that the law which is enacted on this subject should state that racial tensions and incidents that may arise should not cause operators of facilities or other people to be fearful of taking necessary steps to protect themselves or their property and personal rights.

I offer this amendment to protect the right of a businessman to remove demonstrators from his property under provisions guaranteed to him by the Constitution, any statute of the United States, or by the valid law of any State or political subdivision. For example, if a demonstrator invades a businessman's property and breaks up furniture and the owner throws him out, or has him thrown out, under existing laws of the State or local subdivision, the owner would not be in violation of section 203 of title II of the proposed civil rights act.

Without this amendment the owner might have some doubts as to whether he would embroil himself in discrimination charges by doing what he should have every right to do. Congress should not enact legislation that is not clear in this regard, and my amendment would make this right of every American remain unhampered by the bill.

Mr. HUMPHREY. Mr. President, I yield myself 15 seconds.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 15 seconds.

Mr. HUMPHREY. The purpose of this amendment is not apparent because there is nothing in section 203 which would prohibit any lawful action. It would seem to me that the amendment would have, if anything, nothing but a confusing effect.

The words "by valid law of any State or political subdivision thereof shall be held to be in violation of this section" might very well impose some constitutional problem in light of certain State and local laws.

I believe this amendment would confuse the bill and add to its complexity, and I suggest that the amendment be voted down.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama [Mr. SPARKMAN]. On this question the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia [Mr. ROBERTSON]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mr. McCARTHY (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Louisiana [Mr. ELLENDER]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mrs. NEUBERGER (when her name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia [Mr. BYRD]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Louisiana [Mr. ELLENDER], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Virginia [Mr. ROBERTSON], are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Ohio [Mr. YOUNG], the Senator from Indiana [Mr. HARTKE], the Senator from Michigan [Mr. McNAMARA] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE], the Senator from Michigan [Mr. McNAMARA], the Senator from Indiana [Mr. HARTKE] would vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Ohio [Mr. YOUNG]. If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Ohio would vote "nay."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. BEALL] is necessarily absent to attend the Maryland State Republican convention in order to accept the nomination for U.S. Senator.

The Senator from Kentucky [Mr. MORTON] is necessarily absent.

The Senator from North Dakota [Mr. YOUNG] is absent on official business.

The Senator from Utah [Mr. BENNETT] and the Senator from Arizona [Mr. GOLDWATER] are detained on official business.

On this vote, the Senator from Utah [Mr. BENNETT] is paired with the Senator from Maryland [Mr. BEALL]. If present and voting, the Senator from Utah would vote "yea" and the Senator from Maryland would vote "nay."

The result was announced—yeas 22, nays 61, as follows:

[No. 315 Leg.]

YEAS—22

Dominick
Eastland
Ervin
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Pearson
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Walters
Yarborough

NAYS—61

Aiken
Allott
Anderson
Bartlett
Bayh
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Douglas
Edmondson
Fong
Gruening
Hart
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.

NOT VOTING—17

Beall
Bennett
Byrd, Va.
Ellender
Engle
Fulbright
Goldwater
Hartke
Hayden
Mansfield
McCarthy
McNamara
Morton
Neuberger
Robertson
Young, N. Dak.
Young, Ohio

So Mr. SPARKMAN's amendment was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC HEALTH SERVICE'S FISH KILL CONFERENCE IN NEW ORLEANS, LA.

Mr. DIRKSEN. Mr. President, I yield myself 2 minutes.

Mr. President, I am very much disturbed over an editorial which was published in the current issue of Chemical Week magazine, entitled "Fish-Kill Kangaroo Court." The editors of that respectable magazine have seen fit to comment on the manner in which the Pollution Control Division of the Public Health Service conduct the conferences as authorized by the Congress.

They state:

> Now that a transcript is available of last month's "fish kill" conference in New Orleans it is apparent that the U.S. Public Health Service conducted the hearing in a way that reflects discredit upon itself and upon the Federal Government.

They continue by stating:

> Whether by ineptitude or deliberate intent, the PHS officials at the conference seemed more eager to win acceptance of their conclusions than to get at the truth. Such an approach seems more appropriate to Soviet trials than to Western judicial procedures.

One of the companies involved is located in Chicago. They vehemently denied that they were responsible in any way for causing the fish kill, and presented scientific evidence to prove their statement. They were accused of polluting the river at Memphis and that the chemical traveled 700 miles downstream before it killed any fish. This ridiculous charge was made by the Public Health Service.

The question that I ask is, Why are these wild accusations made? Why must the Public Health Service go to the press and unjustly crucify a company before they get all the facts? I believe that it is imperative we have the answers to these questions. I hope that we have not reached the point in American justice where the accused must prove his innocence of any charge rather than the accuser prove the guilt.

All Senators, I am sure, have seen the reports of the fish kill. It is defined as a "massive kill" involving "millions of fish." Yet, in testimony presented at the New Orleans conference, they talk only of 175,000 fish. Why was the number intentionally inflated when they reported it first to the press? Why is it that in the official Public Health Service report on pollution which caused fish kills, they talk only of a moderate fish kill and that the causes are unknown.

It appears, Mr. President, that perhaps some have become so intoxicated with power that our Federal Government now need not be held accountable for its wild charges. It is my hope that the appropriate committee of the Senate will investigate this matter.

I ask unanimous consent to have this editorial printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Fish Kill Kangaroo Court

Now that a transcript is available of last month's "fish kill' conference in New Orleans it is apparent that the U.S. Public Health Service conducted the hearing in a way that reflects discredit upon itself and upon the Federal Government.

Most of the first day of the 2-day hearing was spent reading into the record PHS's 119-page report of the Mississippi River fish kills and its conclusions about the cause. This report was not made available ahead of time to the four pollution experts representing the States involved, but was handed to them when they arrived.

Most of the second day was spent hearing testimony and questioning various people, including those from Velsicol Chemical Corp., maker of the insecticide alleged to have caused the kill. Until about 4:45 p.m. it appeared that the four-man panel of State pollution chiefs would accept the PHS conclusions contained on the final page of the report.

At that time—when three-quarters of the conferees had left and those remaining (including the panel) were impatient to catch their planes and trains—Chairman Murray Stein whipped out his copy of the report and said to the panelists, "Now let's see what we can conclude from these hearings."

It was in the final, hectic, shouting 15 minutes that the conclusions were debated. Stein read the first of seven conclusions and asked for concurrence. One of the panelists dissented, then another one, and at the end of the hearing those present couldn't agree on what had actually been decided. And so on down the list of conclusions.

In a related incident, Senator Abraham Ribicoff, Democrat, of Connecticut, said in a press conference that Velsicol had denied Government inspectors entrance to its Memphis plant. Velsicol denied this, and Chairman Stein publicly acknowledged at the hearing that the charge was false and had not emanated from PHS.

Whether by ineptitude or deliberate intent, the PHS officials at the conference seemed more eager to win acceptance of their conclusions than to get at the truth. Such an approach seems more appropirate to Soviet "trials" than to Western judicial procedures.

It's unlikely that the steamroller approach would work if enough interested parties were present at such hearings. Perhaps the conclusions at this particular hearing would have been reached in a sounder, more orderly manner, if most fo the conferees had stayed—or if more representatives from the chemical industry had been present. Velsicol was the only company directly involved in this hearing; but Velsicol is one among scores of companies producing agricultural chemicals, all of which have a stake in how these hearings are conducted and in what manner, and with what judicial safeguards, the conclusions are reached.

It would help if the industry established a task force of "poll watchers" to attend such hearings—not to press their self-interests but to see that hearings are conducted fairly.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended, in the nature of a substitute, offered by the Senator from Illinois [Mr. Dirksen] and the Senator from Montana [Mr. Mansfield].

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 316 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ervin
Fong
Gore
Gruening
Hart
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Talmadge
Thurmond
Tower
Williams, N.J.
Williams, Del.

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment, as amended, in the nature of a substitute offered by the Senator from Illinois [Mr. Dirksen] and the Senator from Montana [Mr. Mansfield].

Mr. THURMOND. Mr. President, I call up my amendment No. 927 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The Chief Clerk read as follows:

On page 7, line 2, after "guests" and before the comma insert "from outside the State wherein the inn, hotel, motel, or other establishment is located".

Mr. THURMOND. Mr. President, I yield myself half a minute.

This amendment to title II restricts the inn, hotel, and motel coverage of title II to those places which take out-of-State guests. Any person who owns such an establishment should be allowed the option of catering only to persons from his own State, so that he will not fall within the coverage of the bill. This amendment would bring this portion of the bill more nearly in line with the Constitution.

On my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BARTLETT (when his name was called). On this vote, I have a live pair with the junior Senator from Florida [Mr. Smathers]. If the Senator from Florida were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. EDMONDSON (when his name was called). On this vote, I have a pair with the senior Senator from Louisiana [Mr. Ellender]. If the Senator from Louisiana were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished junior Senator from Virginia [Mr. Robertson]. If the Senator from Virginia were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mrs. NEUBERGER (when her name was called). On this vote, I have a pair with the senior Senator from Virginia [Mr. Byrd]. If the Senator from Virginia were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Louisiana [Mr. Ellender], the Senator from Arkansas [Mr. Fulbright], the Senator from Arizona [Mr. Hayden], the Senator from Pennsylvania [Mr. Clark], the Senator from Virginia [Mr. Robertson], the Senator from Florida [Mr. Smathers], the Senator from Tennessee [Mr. Walters], and the Senator from Texas [Mr. Yarborough] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Michigan [Mr. McNamara], the Senator from Indiana [Mr. Hartke], and the Senator from Ohio [Mr. Young] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Clark], the Senator from Indiana [Mr. Hartke], the Senator from Michigan [Mr. McNamara], and the Senator from Ohio [Mr. Young] would each vote "nay."

On this vote, the Senator from California [Mr. Engle] is paired with the Senator from Arkansas [Mr. Fulbright]. If present and voting, the Senator from California would vote "nay" and the Senator from Arkansas would vote "yea."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. Beall] is necessarily absent to attend the Maryland State Republican Convention in order to accept the nomination for U.S. Senator and, if present and voting, would vote "nay."

The Senator from Kentucky [Mr. Morton] and the Senator from New Mexico [Mr. Mechem] are necessarily absent.

The Senator from North Dakota [Mr. YOUNG] is absent on official business.

The Senator from Arizona [Mr. GOLDWATER] is detained on official business.

The result was announced—yeas 21, nays 57, as follows:

[No. 317 Leg.]

YEAS—21

Byrd, W. Va.
Cotton
Curtis
Eastland
Ervin
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Monroney
Russell
Sparkman
Stennis
Talmadge
Thurmond
Tower
Williams, Del.

NAYS—57

Aiken
Allott
Anderson
Bayh
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Cooper
Dirksen
Dodd
Dominick
Douglas
Fong
Gore
Gruening
Hart
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Morse
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.

NOT VOTING—22

Bartlett
Beall
Byrd, Va.
Clark
Edmondson
Ellender
Engle
Fulbright
Goldwater
Hartke
Hayden
Mansfield
McNamara
Mechem
Morton
Neuberger
Robertson
Smathers
Walters
Yarborough
Young, N. Dak.
Young, Ohio

So Mr. THURMOND's amendment was rejected.

Mr. RANDOLPH. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. DIRKSEN. Mr. President, I move that the motion to reconsider be laid on the table

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I call up my amendment No. 582 and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Mississippi will be stated.

The Chief Clerk proceeded to read the amendment.

Mr. STENNIS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. BREWSTER in the chair). Without objection, it is so ordered.

Mr. STENNIS's amendment is as follows:

On page 3, line 19, immediately after "(b)" insert "(1)".

On page 4, between lines 5 and 6, insert the following new paragraph:

"(2) Insert at the end of subsection (c) the following new sentence: 'In any proceeding instituted under this subsection, the court, upon request therefor by the party defendant, shall assign counsel learned in the law to represent the party defendant at every stage of the proceeding, in which case a reasonable attorney's fee shall be allowed as of course to the party defendant.' "

On page 9, line 24, immediately after "(b)", insert "(1)".

On page 10, between lines 3 and 4, insert the following:

"(2) In any action commenced pursuant to this title by the Attorney General, the court, upon request therefor by the party defendant, shall assign counsel learned in the law to represent the party defendant at every stage of the action, in which case a reasonable attorney's fee shall be allowed as of course to the party defendant."

On page 13, line 11, immediately after "SEC. 303.", insert "(1)".

On page 13, between lines 13 and 14, insert the following new paragraph:

"(2) In any action or proceeding instituted under this title by the Attorney General, the court, upon request therefor by the party defendant, shall assign counsel learned in the law to represent the party defendant at every stage of the action or proceeding, in which case a reasonable attorney's fee shall be allowed as of course to the party defendant."

On page 18, line 17, immediately after "SEC. 408." insert "(1)".

On page 18, between lines 19 and 20, insert the following new paragraph:

"(2) In any action or proceeding instituted under this title by the Attorney General, the court, upon request therefor by the party defendant, shall assign counsel learned in the law to represent the party defendant at every stage of the action or proceeding, in which case a reasonable attorney's fee shall be allowed as of course to the party defendant."

On page 43, line 8, immediately after "(h)" insert "(1)".

On page 43, between lines 10 and 11, insert the following new paragraph:

"(2) In any action or proceeding commenced under this title by the Commission, the court, upon request therefor by the party defendant, shall assign counsel learned in the law to represent the party defendant at every stage of the action or proceeding, in which case a reasonable attorney's fee shall be allowed as of course to the party defendant."

Mr. STENNIS. Mr. President, I yield myself 5 minutes on my amendment. I respectfully call it to the attention of every Senator, and particularly the lawyers who are familiar with the trial of cases and who search for the merits of such situations as the one presented.

Quite briefly, the amendment would merely authorize the court under all titles of the bill—title I through VII—to appoint counsel for the defendant in cases in which the Attorney General has brought a suit or has intervened. In his wise discretion the court would be authorized to allow an attorney's fee.

When a defendant is brought into court under any of the titles of the bill and the Attorney General, with the overwhelming resources of the Department of Justice, including the facilities of the FBI and the services of specialists, intervenes in a case, the little fellow whom he opposes—the defendant—is absolutely overwhelmed. Something must be done if that person is to be able to try his case properly in court.

The amendment does not provide that whatever lawyer a defendant might bring into court would be paid by the Government. That is not the idea. The amendment would authorize the court to appoint counsel—and the defendant would have a part in the selection, but the one chosen would have to be approved by the court—and then, in the wise discretion of the court an attorney's fee would be allowed. The judge could wait until the end of the trial, if need be, and then determine whether or not the defendant had acted in good faith and whether or not there had been a meritorious presentation of the question. If the court did not wish to allow an attorney's fee, he would not allow it at the end of the case. That subject would be the responsibility of the court.

There is nothing unusual or extraordinary about the procedure. It has happened in cases in State and Federal courts. As now written, the bill contains a provision in title II. I do not believe that provision goes far enough, but the language provides that, as to title II, in any action commenced pursuant to title II, the court may in its discretion, allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the cost.

The little fellow about whom I am talking may not prevail. He is likely to have very little resources to use in order to keep his head above the water at the beginning of the trial. My amendment would not apply in any cases brought under any title except cases in which the Attorney General would either bring the suit or intervene.

Mr. President, I do not have much time available. May I have the attention of Senators?

In relation to the subject of title III, the desegregation of public facilities, the Dirksen-Mansfield amendment provides that an action or proceeding brought under that title would entitle the court to allow costs, including a reasonable attorney's fee. Frankly, the provision is not very clear. My amendment would go a little further with reference to title III.

With relation to title IV, desegregation of public education, I point out that title IV does not mention the subject. But my amendment would apply as I have already stated. The court, in its sound discretion, would select the attorney, or the defendant would select an attorney who would be agreeable to the court, and a reasonable attorney's fee would be allowed only if the court should find everything had been done in good faith.

Title VII would place authority in the Attorney General to bring suit. My amendment would merely provide as heretofore stated.

In order to perfect my amendment, I ask unanimous consent that wherever the word "may" appears, the word "shall" be substituted, which would make the provision mandatory. I intended for the amendment to be so printed at the beginning. I overlooked it. I ask unanimous consent that the amendment be amended further by taking care of the present situation with respect to title VII and its provision with reference to the Attorney General.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. I invite discussion of the amendment on the time available to the other Senators. Most of my time has been exhausted.

Mr. President, I thought I heard laughter in the Chamber. Was that from Senators or from some of those who have the privilege of the floor? I do not resent it, but I like to use my time to advantage.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JOHNSTON. Mr. President, I shall use my own time. I call to the attention of the Senate the fact that the Attorney General came before the Committee on the Judiciary and asked that defendants be given the right to have attorneys appointed to represent them in cases. That request was made before the civil rights bill came before the Senate.

Mr. STENNIS. Oh, yes.

Mr. JOHNSTON. The Attorney General himself was advocating that right within the Judiciary Committee. Any member of that committee will tell the Senate that that occurred. The Attorney General asked that the right be given to defendants to have an attorney, the Federal Government to pay his fee.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. STENNIS. I am happy to yield to the Senator from Kentucky on the Senator's own time.

Mr. COOPER. Yes; on my time.

Do I correctly understand that the purpose and effect of the amendment of the Senator from Mississippi is that in any case brought under the various titles of the bill, if a court should determine that the defendant should have counsel and required counsel, the court could then provide such counsel and allow a reasonable attorney's fee?

Mr. STENNIS. Yes.

Mr. COOPER. Is that it?

Mr. STENNIS. That is the amendment in substance, yes.

Mr. COOPER. Is there anything else?

Mr. STENNIS. It would apply only when the Attorney General was a party to the suit, either bringing the suit or intervening in a suit already brought.

Mr. COOPER. I know that the bill provides that in certain cases when the Attorney General brings the suit, the costs fall upon the United States, and that, in effect, an attorney is provided for the claimant or the plaintiff.

Mr. STENNIS. But not the defendant.

Mr. COOPER. I said that the bill provides that when the Attorney General brings the suit, the claimant or plaintiff has an attorney and, of course, the costs are paid by the Federal Government, and the attorney's fee is paid.

Mr. STENNIS. Yes.

Mr. COOPER. Is there anything else in the Senator's amendment than the fact that, if the court believed in his judgment and discretion a defendant could not of his own means employ counsel or could not properly defend himself, the court could assign counsel? Is there anything in the amendment but that?

Mr. STENNIS. The Senator is correct; there is nothing else in the amendment, with one slight exception from the way the Senator from Kentucky expressed it. The amendment would authorize the court, in its discretion, to allow the defendant an attorney. Whether he uses the test that the man cannot get an attorney himself, or whatever test the judge applies, is left to his sound discretion. We did not outline that in the measure. It provides that in his discretion he may allow an attorney and an attorney's fee. It is in the bosom of the court. But unless there is some such provision in the bill, the court would have no authority to make such a judgment.

Mr. KEATING. Mr. President, will the Senator yield, on my time?

Mr. STENNIS. I yield.

Mr. KEATING. Am I not correct that the amendment to which the Senator is directing his attention refers to providing counsel for parties in civil actions?

Mr. STENNIS. Oh, yes; it relates to civil actions brought by the Attorney General. If the action was pursuant to contempt proceedings, it could get into that proceeding. Frankly, I did not try to cover that, but it possibly might be included.

Mr. KEATING. But the amendment relates to civil actions, and does not relate to criminal prosecutions which were the proceedings referred to by the Senator from South Carolina. I sponsored, and both Houses of Congress have passed a bill which would provide for the appointment of counsel to represent indigent defendants in criminal proceedings.

Mr. STENNIS. Yes.

Mr. KEATING. This is an entirely different situation. I am not familiar—perhaps the Senator can enlighten me—with any precedent for the Government's paying a lawyer to represent a defendant in a civil action.

Mr. STENNIS. The Senator from Mississippi understands that some States have laws which take care of situations of that kind, when a person in a civil case is unable to take care of the situation. In divorce proceedings, for example, which are civil actions, a court can assess attorneys' fees.

Mr. KEATING. Against the husband.

Mr. STENNIS. And in certain antitrust proceedings, it is possible.

Mr. KEATING. There are certain matrimonial actions in which attorneys' fees can be assessed against the husband, but not against the wife, but that is on the theory that the husband, until the marriage is terminated, has the duty of supporting the wife.

If Congress adopted this amendment, it would be creating a precedent that when the U.S. Government brings a civil suit, the defendant, no matter how much money he has or what his situation is, shall be entitled to a lawyer.

Mr. STENNIS. I beg the Senator's pardon. The amendment says "in the discretion of the court."

Mr. KEATING. That is correct. There are no rules laid down as to how the court is to exercise its discretion. It could permit the richest man in the country, in the court's discretion, to have his lawyer paid by the Government. I do not think any of us would want to see that done.

Mr. STENNIS. The Senator states a possibility, not a probability. This amendment is designed to help a man who has a bona fide defense but who might otherwise not be able to defend himself. The amendment provides that the court decides whether he should have that help.

Mr. President, I ask unanimous consent that the reference of the amendments to lines and pages be changed to conform to the Mansfield-Dirksen substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I earnestly solicit the support of the membership of the Senate solely on the ground that a man should be given a fighting chance when he is confronted with the Attorney General of the United States and all the resources of that great office. I am glad to submit the amendment.

Mr. HART. Mr. President, as has already been indicated, there is absolutely no precedent for providing, in civil actions, for the payment of an attorney's fee; and in this case, interestingly enough, even if a man were found to be in violation of the law, it would still be possible.

We have been urged to consider the bill adequately in terms not only of what may be done, but what could be done. References have been made to what could be done by some capricious judge. This is exactly what that kind of judge could do. Adoption of the amendment would set a bad precedent, and I urge its defeat.

Mr. STENNIS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LAUSCHE. Mr. President, under title II, on page 10, line 13, I think the general spirit of allowing attorneys' fees is set forth. It provides that:

> In any action commenced pursuant to this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs, the same as a private person.

That language was inserted in the bill to deter the bringing of lawsuits without foundation. Hence, it was declared that the prevailing party, except the United States, and in the discretion of the court, may be allowed attorney's fees.

The amendment of the Senator from Mississippi would make mandatory the allowance of attorney's fees in the discretion of the court, regardless of whether the contestant won or lost. I think that is quite contrary to the general rule.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield.

Mr. STENNIS. The Senator says it would make it mandatory.

Mr. LAUSCHE. No. I agree, it would not be mandatory. I correct that language.

Mr. STENNIS. It would be in the discretion of the court.

Mr. LAUSCHE. I correct my language. But, in my judgment, attorneys' fees should not be allowed in the discretion of the court except to the prevailing party—the objective being to deter the bringing of baseless actions.

The proposal of the Senator from Mississippi, in my judgment, is contrary to the general rule in allowing attorney's fees. The general rule is that when a court finds malice motivated the bringing of the lawsuit, attorney's fees may not be allowed.

In this bill we wanted to discourage the bringing of lawsuits, and we therefore provided that attorney's fees shall be allowed only in favor of the victorious party. The Senator's amendment would allow attorney's fees, in the discretion of the court, even to the party that lost the suit.

Mr. STENNIS. Mr. President, I yield myself 2 minutes.

There is some innovation in this amendment. The bill is a wagonload of innovations. Nothing like this bill has been proposed before. My amendment does not apply to suits between private persons. So there is no need to guard against paying of attorney's fees in such suits. The amendment applies only where the Attorney General brings suit or intervenes in such case, and then it would be applied only in the sound discretion of the court, when he thinks the man has defended himself in good faith and is entitled to be paid something in the way of attorney's fees

We talk about innovation. Title III, section 302, as now written, provides that:

> In any action or proceeding under this title the United States shall be liable for costs, including a reasonable attorney's fee.

It is not clear exactly what it means, except to allow someone an attorney's fee. The amendment as applied to title III would be in addition, and would certainly clear it up.

Mr. LAUSCHE. From what page is the Senator reading?

Mr. STENNIS. Section 303 on my memorandum.

Mr. LAUSCHE. Does that mean one would be liable for attorneys' fees, regardless of who won or lost the suit?

Mr. STENNIS. With all deference, I cannot interpret the language in the bill. I do not know exactly what it means, but it adopts the principle of allowing attorneys' fees.

My amendment would be specific, in that the Attorney General would have to be in the suit, and the defendant would have to have acted in good faith. It is all a matter of discretion for the court.

I trust that the Senate will rise up and adopt this title, fragmentary amendment and further the cause of justice.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi [Mr. Stennis]. On this question the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia [Mr. Robertson]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mrs. NEUBERGER (when her name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia [Mr. Byrd]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Florida [Mr. Smathers], the Senator from Virginia [Mr. Byrd], the Senator from Pennsylvania [Mr. Clark], the Senator from Arkansas [Mr. Fulbright], the Senator from Arizona [Mr. Hayden], the Senator from Virginia [Mr. Robertson], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Ohio [Mr. Young], the Senator from Indiana [Mr. Hartke] and the Senator from Michigan [Mr. McNamara] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Clark], the Senator from Indiana [Mr. Hartke] and the Senator from California [Mr. Engle] would each vote "nay."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from Ohio [Mr. Young]. If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Ohio would vote "nay."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. Beall] is necessarily absent to attend the Maryland State Republican Convention in order to accept the nomination for U.S. Senator and, if present and voting, would vote "nay."

The Senator from Kentucky [Mr. Morton] and the Senator from New Mexico [Mr. Mechem] are necessarily absent.

The Senator from North Dakota [Mr. Young] is absent on official business.

The Senator from Arizona [Mr. Goldwater] is detained on official business.

The result was announced—yeas 25, nays 57, as follows:

[No. 318 Leg.]

YEAS—25

Byrd, W. Va.
Carlson
Cooper
Cotton
Curtis
Eastland
Ellender
Ervin
Gore
Hickenlooper
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mundt
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Tower
Yarborough

NAYS—57

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Case
Church
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Williams, Del.

NOT VOTING—18

Beall
Byrd, Va.
Clark
Engle
Fulbright
Goldwater
Hartke
Hayden
Mansfield
McNamara
Mechem
Morton
Neuberger
Robertson
Smathers
Walters
Young, N. Dak.
Young, Ohio

So Mr. Stennis' amendment was rejected.

Mr. RANDOLPH. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUSCHE. Mr. President, can the Presiding Officer inform the Senate how many live quorum calls and how many yea-and-nay votes have occurred today?

The PRESIDING OFFICER. The staff advises the Chair that there have been 14 rollcalls, including quorum calls and yea-and-nay votes today.

Mr. STENNIS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I call up my amendment No. 784, to the revised substitute amendment No. 1052.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 7, beginning with line 16, strike out everything through the word "establishment" on line 21.
>
> On page 8, line 4, insert the word "and" between the semicolon and the designation "(3)".
>
> On page 8, line 7, change the semicolon to a period, and beginning with the word "and" on line 7 strike out everything through the word "subsection" on line 12.
>
> On page 9, line 5, change the comma to a period, and beginning with the word "except" strike out everything through the period on line 7.

Mr. ERVIN. Mr. President, on my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I yield myself 1 minute.

This is a simple amendment. Four categories of public accommodations or public places would be covered by title II. The first relates to lodging establishments; the second, to eating places; the third, to places of entertainment; the fourth refers to establishments that are physically located within the premises of any establishment otherwise covered by this title, or within the premises of which is located any such covered establishment which holds itself out to serve patrons of such establishments. Evidently, such an establishment as a barbershop in a hotel or a motel or a soda fountain in a shopping center would be covered. No one could possibly know whether his establishment was covered under this fourth category for the language is so vague as to defy certainty. It might be construed as covering all businesses, regardless of their nature. Presumably it could cover shoeshine parlors or doctors or lawyers who might have their offices in any hotel, shopping center, or other establishment covered under the first three categories of public accommodations. My amendment merely would strike out the fourth category without affecting the categories covering lodging places, eating establishments, or places of entertainment.

My amendment would remove much confusion from the law and would be conducive to its easier administration.

Mr. HUMPHREY. Mr. President, I yield myself 1 minute.

The fourth category, which the Senator has discussed, is an important part of the public accommodations section. If this amendment were adopted, a variety of situations could result which could cause inconvenience and embarrassment to Negro patrons of establishments covered by the bill. It would expose them to rebuffs if they were admitted to the premises. If they were admitted to a department store, they could not eat at a lunch counter in the store. If they were admitted to a hotel, they could not use the facilities of the hotel.

The provision in subparagraph (4) of section 201 of title II has been carefully designed. I believe that to adopt the amendment would be to add confusion and complexity to the provisions of title II. I ask that the amendment be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina [Mr. Ervin]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUSCHE (when his name was called). On this vote I have a pair with the senior Senator from Virginia [Mr. Byrd]. If he were present, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the junior Senator from Virginia [Mr. Robertson]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Pennsylvania [Mr. Clark], the Senator from Arkansas [Mr. Fulbright], the Senator from Arizona [Mr. Hayden], the Senator from Virginia [Mr. Robertson], the Senator from Florida [Mr. Smathers], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr Engle] is absent because of illness.

I further announce that the Senator from Indiana [Mr Hartke], the Senator from Michigan [Mr. McNamara], the Senator from Oregon [Mrs Neuberger], and the Senator from Ohio [Mr Young] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Clark], the Senator from Indiana [Mr. Hartke], the Senator from Michigan [Mr. McNamara], the Senator from Oregon [Mrs. Neuberger], and the Senator from Ohio [Mr. Young] would each vote "nay."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Arkansas would vote "yea" and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. Beall] is necessarily absent to attend the Maryland State Republican Convention in order to accept the nomination for U.S. Senator and, if present and voting, would vote "nay."

The Senator from Kentucky [Mr. Morton] and the Senator from New Mexico [Mr. Mechem] are necessarily absent.

The Senator from North Dakota [Mr. Young] is absent on official business.

The Senator from Arizona [Mr. Goldwater] is detained on official business.

The result was announced—yeas 19, nays 62, as follows:

[No. 319 Leg.]

YEAS—19

Bible
Byrd, W. Va.
Cotton
Eastland
Ellender
Ervin
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Russell
Sparkman
Stennis
Talmadge
Thurmond
Tower

NAYS—62

Aiken
Allott
Anderson
Bartlett
Bayh
Bennett
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Cooper
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough

NOT VOTING—19

Beall
Byrd, Va.
Clark
Engle
Fulbright
Goldwater
Hartke
Hayden
Lausche
Mansfield
McNamara
Mechem
Morton
Neuberger
Robertson
Smathers
Walters
Young, N. Dak.
Young, Ohio

So Mr. Ervin's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HART. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

OPPOSITION TO THE CIVIL RIGHTS BILL—RESOLUTION OF ST. JOHN'S BAPTIST CHURCH, OF EHRHARDT, S.C.

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the Congressional Record a resolution of opposition to the pending so-called civil rights legislation. This resolution was approved on June 8, 1964, by unanimous action of the members of the St. John's Baptist Church, in Ehrhardt, S.C.

I ask that the time I use in making this request not be charged against me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution is as follows:

Resolution by St. John's Baptist Church, Ehrhardt, S.C., June 8, 1964

Resolved, That the members of the St. John's Baptist Church, Ehrhardt, S.C., on June 7, 1964, unanimously oppose, on moral and constitutional grounds, the civil rights bill now pending in the Congress of the United States. Further, the members of this church publicly reaffirm our loyalty to God and to the United States of America which God permitted us to inherit from our forefathers and call upon all other Christians and men of good will of all races to join with us in this reaffirmation by opposing, with all the strength they can muster, the dangerous usurpation of power embodied in this act on the part of a power-seeking Federal Government; and be it further

Resolved, That copies of this resolution, after being signed by the pastor and church clerk upon the authorization of the church, be forwarded to the press, our Congressman, and our Senators.

Attest:

——— ———,
Pastor.
Mrs. Dorsey Johnson,
Church Clerk.

CONSULAR CONVENTION WITH UNION OF SOVIET SOCIALIST REPUBLICS—REMOVAL OF INJUNCTION OF SECRECY

Mr. HUMPHREY. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from Executive D, 88th Congress, 2d session, a consular convention with the Union of Soviet Socialist Republics, together with a protocol relating thereto, signed at Moscow on June 1, 1964, which was transmitted to the Senate today by the President of the United States. I also ask unanimous consent that the convention and protocol, together with the President's message, be referred to the Committee on Foreign Relations, and that the President's message be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a consular convention between the United States of America and the Union of Soviet Socialist Republics, together with a protocol relating thereto, signed at Moscow on June 1, 1964.

I transmit also, for the information of the Senate, the report by the Acting Secretary of State with respect to the convention.

I recommend that the Senate give early and favorable consideration to the convention and protocol submitted herewith and give its advice and consent to their ratification.

Lyndon B. Johnson.

The White House, *June 12, 1964.*

JUNE 14—A DAY LATVIANS REMEMBER

Mr. BOGGS. Mr. President, I have received from the Latvian Association of Wilmington, Del., a letter which summarizes very well the reason why June 14 is of such significance to the Latvian people. It is a day all freedom-loving people would do well to remember.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR SENATOR BOGGS: In the footsteps of Memorial Day, well known to all of us, follows a little-known day—June 14. To many it has no significance beyond being the day of our Lord, 1964.

To the Latvian people living in this State and community the 14th of June is a day to remind them of two things. Firstly, that without justice there is no human dignity accorded to the individual; secondly, this day is a very opportune time to thank the community, the city and State for its charity, tolerance and help in the modern-day exodus of the Latvian people.

Why then the 14th of June of all days in the year?

Because on this day in 1941 about 15,000 Latvian people were incarcerated by the Communists without a warrant for search and seizure. These people in family groups, but separated from each other, were shipped in cattle cars to the harshest regions of Russia including the northern reaches of Siberia. For many it meant death in transit and on arrival. And for the few who survived, it meant separation forever from their families. For those who died, it is the Latvian people's Memorial Day—the day of the deportation, the day of Latvian "Auschwitz."

Therefore, the Latvian community in Delaware turns to you to express its appreciation for the freedoms which are of concern to all of us. In this context, we the Latvian people know—though by bitter experience—that civil rights and elemental freedoms are the concern of all mankind be it here in Delaware or in Latvia.

On behalf of those Latvian people who have been less fortunate and those who have died in vain for their freedoms, we turn to you as a person in whom public trust has been reposed and hope that you will concern yourself with the fact that freedom has been deprived from many people by the Russian Communists.

Respectfully yours,

ALBERTS LIDUMS, *Chairman.*

HEARINGS OF COMMITTEE ON AGRICULTURE AND FORESTRY ON FOOD STAMP PLAN

Mr. ELLENDER. Mr. President, on the time of the Senate, I announce that next Thursday, at 9 a.m., the Committee on Agriculture and Forestry will begin hearings on the food stamp plan bill.

RECESS TO TOMORROW, AT 10 A.M.

Mr. HUMPHREY. Mr. President, at this time, let the good word go from the Senate Chamber that tomorrow, at 10 a.m., the Senate will reconvene.

Mr. President, in accordance with the order previously entered, I now move that the Senate stand in recess until tomorrow, Saturday, at 10 a.m.

The motion was agreed to; and (at 7 o'clock and 5 minutes p.m.) the Senate took a recess, under the order of Thursday, June 11, to Saturday, June 13, 1964, at 10 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate June 12 (legislative day of March 30), 1964:

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Paul Donal Harkins, O17625, Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

Lt. Gen. William Childs Westmoreland, O20223, Army of the United States (brigadier general, U.S. Army), in the grade of general.

SENATE

SATURDAY, JUNE 13, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father God: To this ancient altar of our deepest faith, we come at the beginning of another day of deliberation seeking light upon our darkened way, and strength and cleansing within, remembering that out of the heart are the issues of life.

Teach us to value a conscience void of offense and the royalty of self-respect above all the pedestals, prizes, and preferments popular acclaim can offer.

With Thy benediction upon them, may those who here speak and act for the state in this Chamber of debate and decision be loyal to the royal in themselves, seeking always the kingdom within whose radiant qualities are its faith, its starry ideals, its visions of beauty, and its aspirations that lay hold of spiritual verities.

We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Friday, June 12, 1964, was dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting nominations was communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting sundry nominations, which was referred to the Committee on Labor and Public Welfare

(For nominations this day received, see the end of Senate proceedings.)

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a morning hour, not to exceed 30 minutes, and that statements therein be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TO 11 A.M. MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of business today, the Senate stand in recess to 11 a.m. on Monday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JORDAN of North Carolina:

S. 2909. A bill for the relief of G. Nguyen Tien Hung; to the Committee on the Judiciary.

By Mr. MOSS:

S. 2910. A bill for the relief of 1st Lt. Rey D. Baldwin; to the Committee on the Judiciary.

By Mr. DODD:

S. 2911. A bill for the relief of Michael F. Canell; to the Committee on the Judiciary.

By Mr. BARTLETT:

S. 2912. A bill to provide for the inclusion of years of service as judge of the District Court of the Territory of Alaska in the computation of Federal judicial service of Hon. Walter H. Hodge; to the Committee on the Judiciary.

By Mr. DIRKSEN:

S. 2913. A bill to authorize certain modification of the project for Calumet Harbor and River, Ill., and Ind.; to the Committee on Public Works.

(See the remarks of Mr. DIRKSEN when he introduced the above bill, which appear under a separate heading.)

CONCURRENT RESOLUTION—DISPOSAL OF CERTAIN MATERIALS FROM NATIONAL STOCKPILE

Mr. SYMINGTON submitted a concurrent resolution (S. Con. Res. 89) to express the sense of the Senate on disposal from the national stockpile of certain materials, which was referred to the Committee on Armed Services.

(See the above concurrent resolution printed in full when submitted by Mr. SYMINGTON, which appears under a separate heading.)

MODIFICATION OF THE PROJECT FOR CALUMET HARBOR AND RIVER, ILL. AND IND.

Mr. DIRKSEN. Mr. President, I introduce, for appropriate reference, a bill to authorize certain modifications of the navigation project for the Calumet Harbor and River, Ill. and Ind.

The purpose of the bill is to authorize the appropriation of approximately $150,000 to the Corps of Engineers for temporary protection for the center pier of the south abutment of the New York, Chicago & St. Louis Railroad—Nickelplate—bridge as is necessary to permit dredging of the full width of the south bridge draw to the depth of 27 feet in earth and to 28 feet in rock, and extending the existing project at a 27-foot depth in Lake Calumet prior to the replacement of the bridge, and such other modification of the channel limits as is necessary to insure full use of such draw.

Calumet Harbor and River is located in the northeastern section of Illinois in Cook County, near the southern end of Lake Michigan, 12½ miles south of the Chicago Harbor. This area has a population of about 6.8 million people. The original project, authorized by the River and Harbor Act of 1962 with a benefit-cost ratio of 2.2 to 1, is within the corporate limits of the city of Chicago, except for the part of the breakwaters and anchorage area which are in Indiana.

Lake Calumet, Chicago's largest ocean shipping facility, could become a "ghost harbor" unless the Calumet River, which leads to dock facilities there, is deepened.

It is contemplated that revenues from steamship lines that use Lake Calumet are expected to decline at least 50 percent unless this project is completed soon. The mass exodus from Lake Calumet by steamship companies is dramatized by the fact that this year only 6 lines serve the Chicago Regional Port District's facilities there compared with more than 20 lines in previous years. The maximum negotiable draft in the river for ships heading into Lake Calumet to load or discharge cargo is 19 feet. The St. Lawrence Seaway's minimum draft is 25½ feet and will soon be increased to 27 feet, the same depth as the Calumet River channel. The present shallow Calumet River depth makes it necessary for ships to take on additional cargoes at other Great Lakes ports so they will be carrying a full load on the way to the Atlantic. The development of Lake Calumet has been severely handicapped by the lack of deep water, and it places the harbor at a tremendous disadvantage. Under the present circumstances, Chicago is unable to compete on an even basis with other Great Lakes ports which now have the full seaway draft.

The sum of $500,000 was appropriated in fiscal year 1964 for the removal of the present three bridges over the Calumet River and the construction of two new ones, including the Nickelplate. This bill is necessary to permit the Corps of Engineers to shore up the foundation of the bridge during the removal of the old bridge and the construction of the new one.

I ask unanimous consent to have printed in the Record a letter concerning the Calumet Harbor and River project that I just received from the Tri-Cities Regional Port District of Granite City, Ill.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the letter will be printed in the Record.

The bill (S. 2913) to authorize certain modification of the project for Calumet Harbor and River, Ill. and Ind., introduced by Mr. Dirksen, was received, read twice by its title, and referred to the Committee on Public Works.

The letter presented by Mr. Dirksen is as follows:

Tri-Cities Regional Port District,
June 11, 1964.

Hon. Everett M. Dirksen,
Illinois State Senator,
Senate Office Building,
Washington, D.C.

Dear Sir: This agency would like to take this opportunity to call to your attention the importance of the pending Calumet Harbor and River project included in the Presidential budget recommendation for the fiscal year 1965. This project, located in Calumet Harbor and River in southeast Chicago, Ill., and western Indiana, is considered to be of vital importance to the future development of the Illinois Waterway and the Tri-City Regional Port District at Granite City, Ill.

The Tri-City Regional Port District at Granite City, Ill., is considered a feeder port to the Greater Chicago area and the St. Lawrence Seaway. To this point the development of the Tri-City Regional Port District has been hampered by its inability to have a deepwater port at Chicago capable of accommodating reasonable size foreign shipping. At the present time only those small uneconomical ships can reach the Calumet River Harbor facilities, which are vitally important for transhipping from the Mississippi, Illinois Waterway system and the Tri-City Regional Port District.

In view of the importance of this project to the future potential development of import-export traffic from the metropolitan St. Louis area, it is requested that your cooperation and efforts be extended in all possible manner to expedite the procurement of the necessary funds to complete this harbor improvement at Lake Calumet.

The ratio benefits to the United States have been well documented and established prior to the submission of this project in the Presidential budget. However, if the Illinois Waterway potential is developed fully to feed the St. Lawrence Seaway project, we must have this deepwater port at Chicago.

Sincerely,

Carl A. Ranft,
Chairman.

TRIBUTE TO HUMPHREY W. TOOMEY

Mr. MANSFIELD. Mr. President, a distinguished Montanan was honored recently by the Government of Brazil. Mr. Humphrey Toomey, a leader in the development of air transportation in Latin America, was awarded the highest decoration given to foreigners by Brazil. His work in Latin America is continuing evidence of the pioneering spirit which helped develop our own country, and I am pleased to be able to call it to the attention of the Senate. Mr. President, I ask unanimous consent that I may have printed at this point in the Record an article from the Brazil Herald of March 22, 1964, describing Mr. Toomey's career and his recent award.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Brazil Herald, Mar. 22, 1964]

Brazil Honors Humphrey Toomey

Rio De Janeiro.—Humphrey W. Toomey, retired vice president of Pan American World Airways, Friday was honored by the Brazilian Government with the presentation at the Foreign Office of the "Ordem Nacional do Cruzeiro do Sul," the highest decoration given to foreigners by Brazil.

Toomey has been decorated on six occasions by the Brazilian Government for his outstanding contributions to Brazil's commercial aviation. His other decorations include, Knight of the Order of the Aeronautics Merit; Great Officer of the Sovereign Order of Vera Cruz; Merit of the Brazilian Society of Aeronautics Law; Empress Maria Leopoldina, Award, and the silver medal of the Santos Dumont Order of Merit.

Toomey, who retired in May 1961, after a 33-year career of pioneering air routes and fostering commercial aviation in Brazil and Latin American countries, is a graduate of the U.S. Naval Academy (1922). He won his wings as a U.S. Navy pilot at Pensacola in 1929.

Having spent most of his aviation career in Brazil, Toomey was empowered to carry forward the formation and operation of Panair do Brasil in 1929 and blazed a number of Brazilian domestic air routes, including the Amazon River flights between Belem and Manaus. During World War II he managed Pan Am's military contract which ferried men and supplies to the war fronts in Africa and Asia, which operated through the famous Brazilian "Corredor da Vitoria."

From 1946 to 1952, when he returned to Brazil, Toomey was manager of Pan Am's Latin American Division with headquarters in Miami, Fla.

While many of Pan American's pilots went from South American routes to worldwide routes of Pan Am, Toomey preferred to remain identified with Latin America, more particularly Brazil. There he formed friendship among the young aviation officers and enthusiasts who were then striving to create a strong air arm in Brazil's armed forces, and who wished to see that Brazil's commercial airlines developed to the potential required by the vast geographic extension of the country.

The splendid record of the Forca Aerea Brasileira in World War II and the tremendous expansion of Brazil's commercial aviation industry, which ranks as the world's third largest, are the results achieved by the then young Brazilian aviation fraternity whose vicissitudes Toomey shared.

Toomey now resides at Coral Gables, Fla., with his family.

TRIBUTE TO PRESIDENT PRO TEMPORE

Mr. RUSSELL. Mr. President, the distinguished President pro tempore of the Senate, the senior Senator from Arizona [Mr. Hayden], recently made a memorable commencement address to the graduates of the 73d session of the Federal Bureau of Investigation's National Academy.

Few men in public life are better qualified to speak to a group of law enforcement officers than the senior Senator from Arizona, who as a young man served as a frontier sheriff in Maricopa County, in what is now the State of Arizona. Senator HAYDEN is probably one of the few remaining frontier sheriffs of that stirring period. As those of us who serve in the Senate know so well, he has continued his fight for order under a government of law until this very day.

Mr. President, I ask unanimous consent that the Senator's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF THE HONORABLE CARL HAYDEN, PRESIDENT PRO TEMPORE OF THE U.S. SENATE, 73D SESSION, FBI NATIONAL ACADEMY, JUNE 3, 1964

Let me begin by extending my heartiest congratulations to you graduates of the 73d session of the FBI National Academy. This must be a very proud day for you and the members of your families. Not only have you officers successfully completed graduation requirements at the "West Point" of law enforcement, but you have become members of the National Academy Associates—a very exclusive alumni group.

Since the National Academy was founded in 1935, over 4,500 law enforcement officers from the United States and many foreign countries have been graduated. Your own class is a typical one. You represent 42 States, the District of Columbia, Venezuela, and the Philippines. I am particularly pleased to know that Alfred Walter Yazzi, a Navajo Indian who is a captain in the Navajo Police Department, is one of the graduates today. Yazzi is a good Navajo name and he comes from the Navajo Reservation in Arizona, New Mexico, and Utah, which is larger than the State of West Virginia.

Also of special interest to me is the fact that one of your classmates, Detective Lt. Bill Hill, represents the police department of Tempe, Ariz., where I was born.

It seems like only a few years ago, although it could be longer, that I was a peace officer in that area. Maybe Bill has run across my tracks—I left enough of them. Those were the days before the FBI—when we relied more on footprints than fingerprints. They were useful too. You could tell which way a man was going, how fast he was running, and how much he was carrying. We never tried to tell whether he was Republican or Democrat, but I think we might have been able to.

Let me point out, though, that my years as sheriff of Maricopa County would probably be a disappointment to today's "Gunsmoke" fans.

I never shot at anyone and nobody ever shot at me. About the nearest I ever came to shooting was the day I identified a horse thief who was supposed to be badly wanted in Utah, Colorado, and Wyoming.

I found him standing at a bar. I stuck my gun in his back and took his pistol away from him. To give me time to notify law officers in the other States, the justice of the peace put him in jail for 10 days on a concealed weapons charge.

They weren't interested enough to come and get him, so I turned him loose at the end of 10 days. I told him that as long as he didn't steal any horses in Arizona, it was all right with me.

But the days are gone when a local sheriff needed only a fast horse and the ability to follow tracks to capture a fleeing criminal. Today, we have the Fugitive Felon Act which permits the FBI to help local law enforcement in locating and returning people who commit crimes and flee across State borders.

However, the best change in the Nation's law enforcement is the FBI itself, and the way in which Mr. Hoover has built it into an agency whose esteem and respect are second to none.

Alexander Hamilton once called the administration of criminal and civil justice the great cement of society. He said law enforcement is the guardian of life and property, and it contributes more than anything else to the people's affection, esteem, and reverence toward their government.

I am certain Mr. Hoover shares this philosophy, for he has modeled the FBI along these lines. He began his distinguished career with the conviction that law enforcement is a true profession. He realized that a profession has never been created by resolution nor has it become so overnight. A true profession consists of ideals which its employees maintain, a dignity of character which they bring to the performance of their duties, and a set of self-imposed ethical standards.

Throughout his long and distinguished career, Mr. Hoover has scorned quick and easy success. He has operated the FBI from the beginning on the theory that what we do well now, we must do better tomorrow. And, in doing this, he has set an example which is a heartening indication that a man of steady purpose can earn a place of true distinction in today's world.

Not the least of his many accomplishments has been the work he has done over the years to establish a spirit of mutual cooperation among law enforcement agencies. He has dedicated his efforts to the belief that the most effective way to fight crime is through a combination of all law enforcement agencies. The result of his dedication has been the constantly expanded services which the FBI makes available to all agencies. Typical working examples of this cooperation are the FBI Laboratory, the Identification Division, police schools, publications, and specialized law enforcement conferences.

And you men have just had the privilege of taking advantage of one of the finest cooperative services offered by the FBI—attendance at its National Academy. Mr. Hoover established the Academy more than a quarter of a century ago for the purpose of sharing with fellow officers the best techniques and the most modern strategy in police work. Because he felt that trained personnel is synonymous with progressive law enforcement, Mr. Hoover made it the Academy's objective to send highly trained instructors to both domestic and foreign police departments.

You graduates now bear a heavy responsibility. You were selected for the Academy because you had already shown yourselves to be first-class leaders. You are equally at home when teaching a class, or on the firing line. You are now better equipped to serve as instructors, and you now have the very important responsibility of sharing the Academy training with your fellow officers.

This is a responsibility that I know you will not take lightly. In spite of the cooperation between local law enforcement officials and the Federal Government, and in spite of the modern methods of scientific detection and identification, crime in the United States continues to rise. In 1963 there was a 10-percent increase in serious crimes over 1962. The unhappy truth is that in the past 5 years crime has increased four times faster than our population.

If we are ever to reverse this dangerous trend, it is vitally necessary that you and the members of your departments do everything humanly possible to keep the people convinced that law enforcement is, as Hamilton said, the great cement of society.

Every police officer is performing a high and noble job when he upholds law and order in our society. Whether he walks a beat or serves as administrator, he is not just performing a dirty job which someone has to do from necessity. You are members of an honorable profession, and as professionals, you should strive constantly to improve yourselves and your departments. Don't just hope that the current crime picture will improve of its own accord; you know better than I that this is not in the cards.

I know that each of you is deeply interested in the efficiency of your own department. I hope you realize that whatever you would have that department become, you must set the example by your own actions. Let me urge you to leave here today filled with a determination that what you have learned in the FBI National Academy will become the starting place for your own ideas. For it is only through each of you men, individually, that law enforcement in your country can develop and progress.

If you do this, I assure you that your example will bring about the affection, esteem, and reverence toward government that Hamilton claimed.

Long ago someone said there are four things that never come back: the spoken word, the sped arrow, the past life, and the neglected opportunity. The success your department enjoys in the future will, in many cases, be directly attributed to the effort you put forth when you return. Don't neglect the opportunity you now have to make valuable contributions to your profession. It may never come back.

Godspeed to each of you, as lawmen and proud graduates of the 73d session of the FBI National Academy.

OUR GREATEST RESOURCE—THE INDIVIDUAL

Mr. DIRKSEN. Mr. President, one of our country's most enlightened business leaders, I am proud to say, is a distinguished constituent of mine, Mr. W. A. Patterson, chairman of the board and chief executive officer of United Air Lines.

On June 6, one of America's great institutions of learning, St. Mary's College at Moraga, Calif., recognized the outstanding abilities of this fine industrialist and citizen and awarded him a doctorate in human affairs and had him deliver the commencement address to its graduates.

The title and theme of Mr. Patterson's address "Our Greatest Resource: The Individual" is typical of this good man's whole life as he rose from a poor boy in San Francisco to the presidency and in 1963 to the chairmanship and chief executive officer of the world's largest commercial airline, with its chief offices in the great city of Chicago. The inspiring words of Mr. Patterson's talk to these graduates as they embark on their respective careers come out of the crucible of his own life and experiences, so that they are truly meaningful.

And, most importantly, Mr. Patterson is not a person filled with doom and gloom about the future of his country; indeed, he is a prophet for even greater accomplishments and achievements for this beloved land of ours stating that our "present accomplishments—impressive as they seem—dwindle to modest scale when compared with tomorrow's achievements."

It is a privilege to place this inspiring message in the RECORD, as a part of my remarks, and I urge all Senators to take a few moments to meditate upon the message this good and most successful man imparted to the graduates of St. Mary's on June 6.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the address by William A. Patterson, chairman of the board and chief executive officer of United Air Lines, Inc., on June 6, 1964, at the commencement of St. Mary's College, Moraga, Calif.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

OUR GREATEST RESOURCE: THE INDIVIDUAL

(An address by William A. Patterson)

I have given long thought to what I might say to you young gentlemen leaving St. Mary's College—some few words that could be of possible value in your coming years of achievement. And the more I considered the range of subjects, the more I was persuaded to discuss several truths that have grown dim in recent years—old truths that some regard as threadbare platitudes.

In discussing them today, I hope there are those among you who resolve to act on these truths—to revitalize them through your accomplishments.

The truths I refer to have no particular glitter or glamour. They are simply this: You are individuals, unique in your endowments and character, responsible for what you do and what you become. You have freedom to choose from various courses of action—to follow your own plans to success or failure. The path you take is your path—it is not forced upon you by fraud or tyranny. It is your path and no man has placed limitations on how far you can proceed.

Now, these may seem small truths, hardly worth mentioning and of no great timeliness. But let me assure you they are important truths and, as for timeliness, they are involved in the world political struggle.

What else is communism but the denial of individualism and individual rights? The Communist state assumes that the individual is incapable of being responsible for himself. It assumes that the individual needs a state-controlled pattern of life, rather than freedom to pursue his own goals. It assumes that you, as a person, cannot be trusted to exert self-discipline. It assumes that the nature of man is not good but evil.

In contrast with this political philosophy, we have our concept of individual freedom, subject of course to the rights of others. It's a concept older than our Constitution, but here in America it has received its best and widest applications.

In the earliest years of this Nation, the European world was astonished by the energy, industry, and inventiveness that freedom suddenly unloosed. "Yankee ingenuity" became a familiar term for the ability of Americans to improve, improvise, and create. Inventions came by the hundreds, ranging from the cotton gin and harvester to the telegraph and the safety pin. By the late 1860's, a century ago, patents were being issued at an annual rate of up to 14,000.

Yankee ingenuity also consisted of seeing opportunity where no one else had seen it before. One of my favorite examples is provided by the career of Frederic Tudor, a New Englander. As a young man in the 1820's, he worked aboard ship briefly, sailing from Boston to the West Indies. He was extremely uncomfortable in the island heat, and this gave him the idea of selling ice in tropical countries.

When he got back to Boston he began investigating methods to insulate ice during shipment by sailboat. People thought the tropical sun had affected his mind. But he persevered in his experiments year after year and eventually worked out a satisfactory way to insulate ice with pine sawdust. He acquired rights to harvest ice from the frozen ponds and lakes near Boston. And he went into business. In 1826 he shipped 4,000 tons to Cuba, Martinique and other hot climes. Within 10 years, ice from Boston ponds was being used to cool drinks in places as far off as Calcutta.

Well, there are many similar stories, both past and present, of objectives attained and initiative rewarded. This story is so common and so continuous in our country that it has almost lost its power to arouse interest. In this day we are more likely to pay attention to news reports about people who have never ventured to exercise initiative, or about those who have failed to hit the mark.

Such cases are often pounced upon by critics of private competitive enterprise. They would have it believed that each near miss, each failure, is proof that the odds are rigged against the individual. These critics are convinced that individual opportunity ended with the settling of the frontier. They feel that all is hopeless because the gold mines have been claimed and the best homestead lands have been fenced. And they'll say there's nothing for you but scraps and leavings.

And I say don't believe it. Don't be taken in by defeatist talk that can undermine confidence in your abilities and future.

The concept of individual initiative is under constant attack from many sectors. There are those who will tell you that the individual has been ground down to a cipher by our urbanized, specialized, and industrialized society.

As one of those ciphers, I say don't believe it.

They will tell you that such marks of character as courage and determination are merely the effect of body chemistry and glandular secretions.

Don't believe it.

They will tell you that individuality of thought has been stifled by an educational system that breeds conformity—and by news media that present an identical viewpoint.

Don't believe it—think for yourself.

They will tell you that the right of the individual to pursue self-established goals has no meaning, because the path up ahead is blocked.

And, again I say, don't believe it. The ways are open on every side, and they go to the summit.

The role of individual initiative in the progress of this Nation was never seriously doubted or challenged until we suffered prolonged economic distress, some 30 years ago. I recall this period with particular clarity because at that very time I was a newcomer with an unknown potential in a new industry that had an uncertain potential. In other words, I was just getting started in air transportation.

The question of whether people would fly in sufficiently rewarding numbers was still open to speculation. We had no assured prospects, no seniority, no automatic pay increases, no fringe benefits. But we had challenge and the enthusiasm to go ahead in spite of reverses, disappointments, and in the midst of a national depression.

In those grim days, one of the economic villains held up for public censure was the type of person described as a "rugged individualist." He was portrayed as entirely selfish, antisocial—a creature without human emotions or moral scruples.

Well, I happened to be acquainted with several of those so-called rugged individualists. And they were unlike the general conception.

They had feelings, they had scruples—they weren't renegades from the human race. Looking back, I realize they were responsible for more good in the long run than their detractors.

There was another breed of enterpriser, however, who grossly abused freedom. And that abuse brought on restrictive legislation and regulation. The movement of government into areas of private competition began some 70 years ago, and from what I've read, it was justified. Subsequent abuses down through the decades invited further legislation. And, today, unless we have consistent self-discipline and wise use of freedom, there will be additional restrictions.

And, let me say, there's more joy in self-discipline than there is in doing the right thing because someone has a shotgun pointed at you.

Individualism thrives best in an atmosphere of freedom, such as we have. There are controls, as I've indicated, but our system of competitive enterprise offers ample latitude for achievement. You and others who inherit this system are trustees. It will be in your custody to improve or impair. It's a wonderfully productive mechanism, and it provides the world's highest standard of living. There are imperfections, granted, but they're small in relation to total benefits.

In following a chosen path with single-minded purpose there is always the risk of becoming too intent on the goal. Some men, in concentrating on the objectives ahead, tend to overlook human considerations that are immediate and obvious. That's a mistake.

The life of any person is enriched by what he can do to help others help themselves. We must not be blind to social problems—to grievous defects in housing, health and education. Each of us has an obligation to take part in good works.

The man who follows his own narrow way, unheeding misfortune around him, supplies government with reasons to go beyond its proper area. That area was defined many years ago by a man of great compassion, Abraham Lincoln. And he said that government's proper role is to do for people what needs to be done, but what they cannot of themselves do at all or do so well.

Further displacement of unskilled workers by technology, along with population upsurges that are forecast, must be met by expansion in training and educational facilities. Among other advantages, a good education equips people to make better choices—to become more selective in what they expect of government and what they require from the economic system. Backward, illiterate people are easy victims for gimcracks in the marketplace and demagogs in public office.

Most of you graduating today will see the next century come up on the calendar. You will see present accomplishments—impressive as they seem—dwindle to modest scale when compared with tomorrow's achievements. I hold no claim to prophecy, but I have a clear conception of an America in which current advances will be viewed as having been only the starting point.

I envy those who have the opportunity to build that America, as I know it will be built. And I wish them great success, as I wish you young gentlemen great success on this auspicious day.

TRIBUTE TO AMATEUR RADIO OPERATORS FOR ASSISTANCE DURING ALASKAN EARTHQUAKE

Mr. GOLDWATER. Mr. President, as an amateur radio operator it is with a great deal of pride that I call to the attention of my colleagues the honor bestowed upon fellow amateurs by two California cities for their assistance during the tragic Alaskan earthquake. Resolutions adopted by the cities of Los Angeles and San Gabriel recognize and salute amateur radio operators who worked day and night during those terrible hours to keep emergency communications flowing in and out of Alaska when all other lines of communication were disrupted.

I have personal knowledge of the dedicated and selfless work of these men and women, for I handled some of the traffic myself at my own station. The city of San Gabriel, in its resolution, congratulated and commended Lt. Comdr. Ray E. Meyers, U.S. Navy, retired, and the members of the Ramona Radio Club for their "outstanding public service to their fellow man and for their unselfish devotion to the cause of assisting others in a time of extreme emergency."

The city of San Gabriel congratulated and commended Lieutenant Commander Meyers "and the thousands of amateurs of the American Radio Relay League, which he represents," with the same language.

I am certain that the entire Senate would wish to join with me in commending these operators. My personal message to my fellow amateurs is this: The American people read you 5 by 9 and send their best 73's. Mr. President, I ask unanimous consent that the two resolutions referred to, be printed in the Record.

There being no objection, the resolutions were ordered to be printed in the Record, as follows:

Resolution 64–17

A resolution of the City Council of the City of San Gabriel, commending Ray E. Meyers and members of the Ramona Radio Club for their outstanding public service following the Alaska earthquake

Whereas on March 27, 1964 (Good Friday), the State of Alaska was struck by a devastating earthquake; and

Whereas the severity of this earth movement was of such intensity that normal wireline communications within cities and between other points of the State of Alaska and the outside world were suddenly made inoperative; and

Whereas commercial power lines were disabled to such an extent that electric power was unavailable to both civilian and military establishments other than those equipped with auxiliary powerplants; and

Whereas the radio amateurs in Alaska were quick to mobilize portable and mobile radio communication equipment to permit the flow of intrastate and interstate emergency communications; and

Whereas our San Gabriel amateur radio operators, under the leadership of our civil defense and disaster communication chief, Lt. Comdr. Ray E. Meyers, U.S. Navy, retired, maintained continuous vigil and established vital communication circuits with a score of amateur stations in the devastated areas of Alaska; and

Whereas, amateur radio operators, members of the city-sponsored Ramona Radio Club, and our city of San Gabriel Radio Amateur Communications Emergency Service (RACES), were able to establish communications with Alaskan stations within an hour after the earthquake; and

Whereas a number of Los Angeles radio broadcast and television stations made "on the spot" news broadcasts from the home of Mr. Meyers in order to keep the general public throughout the Nation accurately informed as to actual conditions in various cities of Alaska; and

Whereas this type of good publicity brought much recognition to our city of San Gabriel, named for the patron saint of communications: Now, therefore, be it

Resolved, That by the adoption of this resolution the city of San Gabriel does hereby congratulate and commend Lt. Comdr. Ray E. Meyers, U.S. Navy, retired, and the members of the Ramona Radio Club for their outstanding public service to their fellow man and for their unselfish devotion to the cause of assisting others in a time of extreme emergency; and be it further

Resolved, That copies of this resolution be presented to Commander Meyers, chief of communications for our civil defense organization, and to Mr. Wilbur Porter, president of the Ramona Radio Club and coordinator for the Navy's military affiliate radio service, and that a copy be mailed to the American Radio Relay League, 225 Main Street, Newington, Conn., as evidence of the high regard the city of San Gabriel has for the devotion to duty displayed by the amateurs throughout the United States.

Passed and adopted by the City Council of the City of San Gabriel this 14th day of April 1964.

Gordon W. McGinley,
Mayor.
Helen Achilles,
Vice Mayor.
Helen Kennedy,
Councilwoman.
James L. Durden,
Councilman.
Richard E. Nichols,
Councilman.

Resolution of the City of Los Angeles

Whereas on March 27, 1964 (Good Friday), the State of Alaska was rocked by a devastating earthquake; and

Whereas the severity of this earth movement was of such intensity to disable all normal wire line communication circuits within cities, and between cities of Alaska and the outside world; and

Whereas commercial power lines were disabled to such an extent that electric power was unavailable to both citizens and military forces in all areas of devastation except in cases where auxiliary power plants were available; and

Whereas the Radio Amateurs of Alaska were quick to mobilize mobile and portable radio communication equipment to permit the exchange of vital intrastate and interstate radio communications; and

Whereas our Southland radio amateurs under the leadership of Lt. Comdr. Ray Meyers, U.S. Navy (retired), director for the Southwestern Division of the American Radio Relay League, Inc., maintained continuous vigil and vital communications with a score of amateurs in the devastated areas of Alaska; and

Whereas a number of Los Angeles radio broadcast and television stations made "on the spot" broadcasts from the home of Commander Meyers in San Gabriel, Calif., in order to keep the general public accurately informed as to conditions in the stricken cities of Alaska; and

Whereas this type of public service and accurate information has brought much recognition to our city, our radio and news media, and our dedicated radio amateurs of Los Angeles and vicinity: Now, therefore, be it

Resolved, That by the adoption of this resolution the City Council of the City of Los Angeles does hereby congratulate and commend Lt. Comdr. Ray Meyers U.S. Navy (retired), and the thousands of amateurs of the American Radio Relay League, which he represents, for their outstanding public service to their fellow man and for their unselfish devotion to the cause of assisting others in a time of extreme emergency.

Presented by:
John S. Gibson, Jr.,
Councilman, 15th District.
Seconded by:
James Harvey Brown,
Councilman, 13th District.
April 8, 1964.

RESPONSIBILITY OF THE AMERICAN PRESS FOR INFORMING THE AMERICAN PUBLIC

Mr. MUSKIE. Mr. President, with the expansion of the power of business, labor, and government, the power of the American press has also expanded. As newspaper ownership has consolidated and competition has decreased, the influence of individual newspapers has increased correspondingly.

While a few papers have failed their public trust, the vast majority have fulfilled their responsibility of keeping the American public informed without prejudice or bias. Moreover, they have used their editorial pages to exercise responsible leadership.

An aspiring journalist, Peter Thompson, a student at the University of Maine, has concisely reviewed the challenges and the responsibilities of the press in American democracy. Since this is a subject vital to the future of our country, I ask unanimous consent to have Mr. Thompson's observations printed in the Record at this point, They deserve thorough and thoughtful consideration.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Approximately 1,750 daily newspapers lead the mass communications media in providing timely information to the American public. One writer feels that this job of informing is "the greatest power entrusted to men: to inform a free people."[1] This concept of power is somewhat different, however, from the more distinct powers entrusted in the delegates whom we, the public, choose to represent us in government.

We have no opportunity to elect the newspaper publishers and editors. These people acquire their power positions, not by campaigning and displaying themselves before the public eye, but rather by running efficient business enterprises in one of America's most dynamic industries. Publishers need not be good debaters or even popular personalities in order to attain their power; rather they need to be good businessmen and aware of the various criteria in the press market which help their businesses to thrive. Publishers do not necessarily represent the desires of the people; seldom do they run for reelection to their top executive positions; seldom are they influenced by public opinion, especially when it flows counter to their own philosophies.

The publisher may use this power entrusted in him as he wishes; he and his editors must decide how to disseminate the news to the readers; he and his editors must assess a voluminous influx of news articles each day and decide what of this material is newsworthy, how much space each story should be allotted, and where each story should be placed in the newspaper. These decisions are made with much less regard to public opinion than are those decisions made by our elected public officials. Thus we may attribute to human nature the fact that a Democratic publisher might influence his editors to give more publicity to the Democrats and less publicity to the Republicans. Or, by the same token, a Republican publisher may give equal space to both parties but offer only detrimental news about the Democrats. Or a publisher may see to it that only news about his party is worthy of placement on the front page while stories of the other party are hidden on the inside pages. From the viewpoint of the general public these practices are not highly regarded.

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[1] Reo M. Christenson and Robert O. McWilliams, editors, Voice of the People (New York, 1962), p. 146.

To inform a free people, then, is not only the greatest power entrusted to men. It is also one of the greatest responsibilities entrusted to men—or imposed on men. A publisher must accept the responsibility to be fair to his constituents—his readers. He must treat the news without regard to his own party affiliation—without regard to partisan pressures from his colleagues. Publishers have every right to express their own political opinions; in fact many people feel that straightforward expression of its views is a newspaper's duty. However, these opinions should be confined to the spaces explicitly provided as a public forum—the editorial pages.

Most of the early newspapers were partisan sheets devoted to savagely attacking party opponents. Freedom of the press, to the early editors, meant "the right to be just or unjust, partisan or nonpartisan, true or false in news column or editorial column."[2] Since the early papers, the press has had an increasing importance in informing the American public. And the public does not like to be fooled or only partially informed. Thus on the news pages the newspapers must attempt to present a fair and complete picture of events—a picture that is true; a picture that is colorful enough to attract readers; yet a picture that does not color one party or one candidate bad and the other party or another candidate good solely on the basis of which party or candidate the newspaper favors.

According to Damon Runyon, "The artistic phase of reporting is the ability to put not only fact into the story but also color and human interest, also feeling and good taste. The last elements are, I think, the most important."[3] A basic rule of news reports would restrict Runyon's "feeling" to objective accuracy. The news reports must not include any feeling that is commentary. Whereas the editorial columns are as persuasive as possible the news columns must be as objectively accurate as possible. The managing editor of the New York Times summed up this rule in connection with the election of 1952. He said: "The Times is supporting General Eisenhower on its editorial page. It goes without saying, of course, that the news columns should offer no clue to this position. The editorial page is of no concern to Times reporters and news editors. It might be stressed conversely that bending too far in the other direction in an effort not to give any semblance of favoring the paper's candidate is also to be avoided. The rule—and this is a hard and fast one—is the same as they give to the umpires: 'Call them as you see them.' "[4]

Although this is a good general rule, it is one that is sometimes difficult to stand steadfast to. Personal feelings of the reporter are always liable to slant a story; the feelings of the news editor may then alter the size of the story and give it unjust placement.

Power then is very real in the newspaper, but it must be used judiciously with consideration for and responsibility to the American people. The communications media have a definite effect on our politicians. When he was a U.S. Senator from Massachusetts, John F. Kennedy wrote: "Today the challenge of political courage looms larger than ever before. For our everyday life is becoming so saturated with the tremendous power of mass communications that any unpopular or unorthodox course arouses a storm of protest."[5] A newspaper may have an adverse effect upon an innovating politician if the paper is strongly against a proposal. The press, however, must not misuse its freedom provided in the Bill of Rights.

Wilbur Schramm breaks down "freedom of the press" into three parts. "(1) Freedom to know—the right to get the information we need in order to organize our lives and take an intelligent part in governing. (2) Freedom to tell—the right to transmit information freely and to take a public stand on an issue and argue for it. (3) Freedom to find out—the right of access by communicating media to sources of information which needs to be told and known."[6] The third freedom here is necessary in order that the newspapers may live up to the responsibilities in the first.

Misuse of the press freedom could possibly lead ultimately to governmental regulation. The only way the press can resist Government regulation is by resisting encroachment of the Government on their freedom and by accepting the responsibility themselves of doing the many things the law does for other enterprises.

The public is dependent upon the communications media. We depend upon the newspaper to tell us exactly what is happening in Washington. V. O. Key, Jr., wrote, "This dependence, the argument goes, makes the public a plastic to be molded by the masters of the media into almost any form they desire. The free and independent citizen beloved of democratic theorists becomes an automaton actuated by the impulses transmitted by anonymous rulers through the system of communication. While the capacity of the media collectively to affect public attitudes and behavior cannot be doubted, the luxuriant verbiage on the subject contains a generous component of buncombe."[7] Newspapers then are not the makers of public opinion. Sometimes they reflect public opinion; sometimes they argue that their editorials are public opinion. The press is a great dry river bed that could be flowing with public opinion if the sleeping public thoughts could be brought to the attention of the publishers.

In 1950 daily newspapers faced competition in less than 10 percent of the cities that had dailies. Because of this lack of competition newspapers are liable to disregard some of their responsibilities to the public.

Whom do the newspapers serve politically? According to V. O. Key, Jr., "As the press became a commercial interest in its own right and dependent on the greater commercial interests in society, it acquired a freedom from party and Government but a freedom that would be exercised chiefly, if at all, in only one direction. The press could serve, in the large, the commercial interests, or it could remain neutral. The liberal interests could not afford to buy the press; the conservative interests did not need to."[8] Another author gives less credit to the advertisers as a motivating factor of newspapers' conservatism. Louis M. Lyons feels that, "Readers are most conscious of publishers' absolute control of 'public opinion' at election time * * * (It is) not usually advertiser influence that presses him to the conservative side, or even his own economic stake as being a big taxpayer and big employer. Rather it is his consciousness of representing the part of the community closest to him, the downtown club, his fellow trustees and directors and vestrymen."[9]

IMPACT OF FEDERAL URBAN DEVELOPMENT PROGRAMS ON LOCAL GOVERNMENT ORGANIZATION AND PLANNING

Mr. MUSKIE. Mr. President, in cooperation with the Advisory Commission on Intergovernmental Relations, the Committee on Government Operations has just released a significant report describing the impact of Federal urban development programs on local government organization and planning. The report was prepared and adopted by the Advisory Commission to fill a need for systematic attention toward two much-discussed questions of intergovernmental relations. First, to what extent do the more than 40 separate programs of Federal financial aid for urban development promote the creation of special districts or otherwise affect the structure of local government? And second, to what extent do they employ performance standards requiring coordination of federally aided projects with local plans and decisions?

As an organization composed of both legislative and executive officials representing Federal, State, and local governments, the Advisory Commission makes recommendations which carry special significance. The Commission's recommendations in this case are based on detailed descriptions and evaluations of each urban development program.

Among the major findings of the Commission report are that almost all of the Federal aids are available to special purpose units of government at the State or local level, as well as cities, counties, and other general governments, and almost half are available to nongovernmental persons or groups. Only four of the programs surveyed—open space, urban renewal, community renewal, and public housing—had the positively stated objective of furthering locally adopted comprehensive plans for urban development.

Through one means or another—legislative or administrative, formal or informal—a little more than one-quarter of the surveyed programs provide that aided projects should not be inconsistent with comprehensive plans for urban development, if such plans exist. About one-quarter of the programs operate under formal interagency agreements for sharing review responsibilities for plans or projects, and another quarter have legislatively established working relationships.

The Senate Committee on Government Operations has as one of its functions the duty of studying intergovernmental relations and overseeing the work of the Advisory Commission on Intergovernmental Relations. This responsibility has been delegated to the Subcommittee on Intergovernmental Relations. The Commission has made a number of fundamental recommendations for reorientation of many of the Federal urban development programs, in order that they may be better administered through effective and responsible State and local recipients coordinated with each other and with local planning and decisionmaking.

The most controversial recommendation was "that the States assume their proper responsibilities for assisting and facilitating urban development; to this end Federal grants-in-aid to local governments for urban development be channeled through the States in cases where a State first, provides appropriate administrative machinery to carry out relevant responsibilities, and, second, provides significant financial contributions and when appropriate, technical assistance to the local governments concerned." The States, of course, have the authority to require that Federal grants to localities be channeled through them. On the other hand, as the mayors on the Commission pointed out, a uniform Federal procedure for channeling grants through the States might entangle lines of intergovernmental communication which have been clear and disrupt a direct Federal-local relationship, which has worked well in existing programs. The failure of many States to develop an understanding of and sympathy with these cooperative efforts must not be overlooked.

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[2] Wilbur Schramm, "Responsibility in Mass Communication" (New York, 1957), p. 217.

[3] Alan J. Gould, editor, "Writing for the AP" (New York, 1956), p. 5.

[4] Schramm, p. 218.

[5] John F. Kennedy, "Profiles in Courage" (New York, 1956), p. 18.

[6] Schramm, p. 107.

[7] V. O. Key, Jr., "Public Opinion and American Democracy" (New York, 1963), p. 344.

[8] Ibid., p. 389.

[9] Christenson and McWilliams, p. 139.

It is my thought that the administrative and financial responsibilities set forth in the last four lines of the recommendation should be linked directly with the initial statement:

> The Commission recommends that the States assume their proper responsibilities for assisting and facilitating urban development.

This would provide the kind of emphasis that is required here. It would clearly place the burden on the States to initiate any rechanneling.

This new publication will provide the basis for further examination by the subcommittee, by the affected Federal agencies concerned, and by others concerned with the impact of Federal programs on urban development.

EUROPEAN COMMON MARKET AND POULTRY PRODUCTION

Mr. WILLIAMS of Delaware. Mr. President, in the past couple of years our poultry industry has had increasing difficulties as a result of the increased tariffs in the European Common Market. Thus far, we have been unsuccessful in getting the State Department to bring any pressure to bear upon representatives of the Common Market in an effort to have this situation corrected.

Quite the contrary, I find that our Government, through its various lending agencies, has been furnishing a substantial amount of money to various enterprises for the purpose of increasing the poultry production abroad. In addition, we have been selling American grain to these countries at a large discount and below world market prices.

In this connection, I ask unanimous consent that a letter which I received, dated March 26, 1964, in which are outlined a report of these loans to one company, along with a supplementary report on other AID loans and grants for the calendar year 1963 for the expansion of poultry production in foreign countries, be printed at this point in the RECORD.

It is my understanding that some of these companies getting these loans are owned or controlled by the Rockefeller interests in New York. Just why the taxpayers would have to finance this outfit is not explained.

There being no objection, the letter and the supplementary report were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
AGENCY FOR INTERNATIONAL
DEVELOPMENT,
Washington, D.C., March 26, 1964.

Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: I regret the delay in this full reply to your letter of December 18 requesting a report on all loans and guarantees that have been authorized for the International Basic Economy Corp. Here is the information you requested:

Development loans (dollar loans): No dollar loans have been extended by AID or its predecessor agencies to International Basic Economy Corp.

Development bank subloans (dollars or local currencies): No dollar subloans are known to have been made by AID-financed development banks in underdeveloped countries to International Basic Economy Corp.

Local currency loans: In India, one loan of 2,500,000 Indian rupees (approximately $630,000) was made on August 8, 1963 to Arbor Acres Farms India, Ltd., a corporation 22½ percent owned by International Basic Economy Corp., 27½ percent owned by Arbor Acres Farms Corp. (a U.S. company), and 50 percent owned by local Indian interests. This was a "Cooley loan" made pursuant to section 104(e) of Public Law 480. The loan is made at 7-percent interest for 7 years and is repayable in Indian rupees in semiannual installments beginning March 23, 1965. Repayment in dollars is permissible.

An application has been received for a local currency loan for a company in Iran in which International Basic Economy Corp. has a similar minority interest.

In Chile, a loan of 150,000 escudos (equivalent to $142,000) was made on September 27, 1961 under section 104(e) of Public Law 480 by the Export-Import Bank to Empresa Constructadora IBEC y Fuentes, Ltd., a Chilean construction corporation 50 percent owned by International Basic Economy Corp. This loan is at 10 percent interest for 5 years. Repayment started October 21, 1963. The loan is repayable in escudos, but repayment in dollars is permissible.

Specific investment guarantees: While foreign government approvals have been received on several proposed investments of International Basic Economy Corp. in South America, no guarantee contracts covering inconvertibility, expropriation or war risks under article 221 of the Foreign Assistance Act have been issued and none are currently outstanding.

Transoceanic AOFC, a wholly owned subsidiary of International Basic Economy Corp., has investment guarantee coverage against inconvertibility on an $838,901 investment in connection with a privately owned petrochemical complex now under construction in Argentina, PASA, Petroquimica Argentina, Sociedad Anonima Industrial, Comercial, Financiera y de Mandatos.

Latin America housing guarantees: No Latin America housing guarantees under article 224 of the Foreign Assistance Act have been issued to International Basic Economy Corp. as an investor. One housing guarantee of not to exceed $10 million was authorized to be issued to Connecticut General Life Insurance Co. on January 3, 1964, for a loan to the Caja Central de Ahorro y Prestamo, an agency of the Government of Chile, to provide long-term financing for a private housing project in Huachipato, Chile, being developed by International Basic Economy Corp.

Another such housing guarantee application is currently being considered for a project in Peru which International Basic Economy Corp. is developing.

Other connections: The International Basic Economy Corp. and its wholly owned subsidiary, Transoceanic AOFC, together own less than 5 percent of the stock of Pakistan Industrial Credit & Investment Corp. (PICIC), 60 percent owned by the Government of Pakistan and 40 percent owned by non-Pakistan investors. AID has furnished loans of $21.7 million to PICIC for relending to private enterprises in Pakistan.

Please let me know if we can furnish you any additional information.

Sincerely yours,

CRAIG RAUPE,
Director, Congressional liaison.

AID LOANS AND GRANTS FOR EXPANSION OF POULTRY PRODUCTION, JUNE 18, 1963

Africa:

Libya—Livestock improvement: Poultry phase estimated $50,000, year started, fiscal year 1952; year discontinued, fiscal year 1961.

Objective: To introduce and distribute improved breeding stock, establishment of breeding centers, provide advice and guidance in improved management techniques, and train Libyan personnel.

Morocco—Livestock and poultry development: Year started, fiscal year 1963, poultry phase will run through fiscal year 1963, dollar amount 88,000, plus $2 million of surplus grains.

Objective: Provide a poultry adviser, equipment for a poultry station, 10,000 Rhode Island red chicks, 18,000 tons of food-for-peace grain, and 8 participants.

Tunisia—Poultry improvement: $659,000 total including planned fiscal year 1964, started fiscal year 1958; will phase out in fiscal year 1964.

Involved the establishment of government demonstration, breeding, and training centers which will encourage the development of an enlarged and commercially viable poultry industry supported by private farmers and private allied industries, feed manufacturers, hatcheries, supply dealers, processing and marketing facilities. Original target was 100-percent increase in poultry production by 1970. This target will be accomplished by 1965.

Sudan—Livestock and poultry research, demonstration and training: Estimated poultry phase—$200,000—started in fiscal year 1959. Will be phased out in fiscal year 1964. To establish a 3,000-hen breeding flock, 30,000-egg hatchery, and feed-mixing plant.

Nigeria—Agricultural production and distribution (three regions): Poultry phase—estimated $486,000. Started June 1957—continued at this time.

Improvement of Nigeria's poultry industry is one objective of AID's effort to help Nigeria obtain valuable proteins and an excellent source of income. One poultry center which produced over 125,000 day-old chicks within 2 years, has stimulated the growth of commercial poultry firms and demands far exceeding current supply.

Latin America:

AID has provided poultry production information through agricultural services, extension projects, livestock improvement projects, and general agricultural projects in about half the countries in Latin America over the course of U.S. technical assistance projects there. In most cases, general livestock technicians have, in the course of normal duties, supplied specialized information on poultry production.

Dominican Republic: In fiscal year 1963, a development grant of about $40,000 was made to the Dominican Republic for livestock improvement. About $23,700 of this was earmarked for the increase of poultry production. This is the only country in Latin

America where we are actually assisting to build up a poultry industry.

Paraguay: In an ongoing agricultural development and productivity project in Paraguay, poultry is being introduced into the rural diet and economy. In fiscal year 1964 it is expected that small sums will be made available for poultry breeding stock. This project is designed to help feed persons at the local level.

Far East:

The Far East region does not have any projects financed either from grants or loans that are specifically limited to poultry production. Five missions, however, have general livestock technicians who, in the course of their normal duties, would advise the country concerned on all livestock matters, including poultry production. For example, a livestock production project in Cambodia served by one technician is concerned with dairy and beef cattle, hog and poultry production.

Livestock technicians [1]

Cambodia	1
China	1
Laos	1
Thailand	2
Vietnam	1
Total	6

[1] The China position is being abolished. The Thailand positions are being reduced from two to one. Vietnam is recruiting an additional livestock technician.

Calculated on an average technician cost of $15,000 to $20,000, these livestock specialists have cost AID approximately $90,000 to $120,000 per year. On the assumption that they would spend a third of their time on poultry production, the Far East region would therefore have spent $30,000 to $40,000 per year on poultry production or $60,000 to $80,000 since AID was created.

GRANTS—NEAR EAST/SOUTH ASIA

Afghanistan: National agricultural development, one livestock specialist; and Helmand Valley development, one livestock specialist.

India: Animal husbandry, one full-time poultry specialist; agricultural universities, five teacher advisers.

Iran: Crop and livestock production, two livestock specialists.

Jordan: Assistance to rural development, two extension and livestock specialists.

Nepal: Technical agricultural training, two extension advisers.

Turkey: Agricultural extension, one extension adviser.

Pakistan: Agricultural organization—East Pakistan, one extension adviser.

LOANS

There have been two identifiable major loans affecting poultry expansion.

Greece: Public Law 480, section 104(e) (Cooley) loan of $300,000 to Voktas Feeds, Inc. (in Greece) for poultry-raising facilities, repayable in local currency in 3½ years at a 6-percent interest rate agreed to January 17, 1963.

India: Arbor Acres Farm, an affiliate of IBEC (International Bank Econ-Corp.) in India, for $2.5 million. It was approved on October 23, 1962. Purpose: improvement of poultry production. This is also a Cooley loan.

OFFICIAL CONCERN OVER CLOSE TIES BETWEEN ALGERIA AND RUSSIA

Mr. MILLER. Mr. President, when Algerian President Ahmed Ben Bella recently visited Russia, U.S. newspapers printed stories that Washington officials were becoming concerned over the close ties between the two countries.

These officials, who appeared to have been looking the other way for a long time, had reason to be worried—if articles recently appearing in Washington newspapers contain the seeds of truth.

Both the Washington Evening Star of May 20 and the Washington Post of May 21 carried reports that Russia and Algeria reportedly have signed agreements providing for a Soviet nuclear submarine base in Algeria.

If true, and if permitted to be placed into effect, Algeria may very well become the Cuba of Africa and the Soviet Union will have the foothold in Africa which it has long sought.

If true, it will enable the Soviet Union to bargain for the removal of our Polaris submarine base from Spain. If true, it raises the question—and the warning—that it is time for the United States to chart a new course in foreign policy.

If true, it raises the question as to why, with all the handwriting on the wall over the past year or so, the United States failed to anticipate this development.

This situation is serious. It could mean the turn of the tide on the continent of Africa away from the free world.

I ask unanimous consent that the two articles, entitled "Reds May Base Subs in Algeria," and "Red Sub Base Deal Reported," be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, May 21, 1964]

RED SUB BASE DEAL REPORTED

Russia and Algeria reportedly have signed an agreement providing Russia with a nuclear submarine base in Algeria, according to the French newspaper Figaro.

Figaro said the agreement was one of the protocols signed by President Ahmed Ben Bella during his recent talks with Premier Khrushchev in Russia. At the time Russia announced only that the Soviet Union would grant Algeria financial and technical aid.

On his Egyptian tour last week, Premier Khrushchev urged Arab nations to bar U.S. Polaris subs from the Mediterranean, presumably meaning to bar U.S. bases in the Mediterranean.

The Soviet sub base, if true, could be used as a bargaining point with the United States to force the removal of the U.S. Polaris sub base at Rota, Spain. The joint Spanish-American Rota base, across the bay from Cadiz, has become a Polaris submarine haven since an agreement was reached with Spain during the recent visit of Navy Secretary Paul H. Nitze.

[From the Washington (D.C.) Evening Star, May 20, 1964]

REDS MAY BASE SUBS IN ALGERIA

PARIS, May 20.—The newspaper Figaro said today that Russia and Algeria reportedly have signed an agreement providing for a Soviet nuclear submarine base in Algeria.

The conservative newspaper said:

"According to certain observers informed on North African affairs, the agreements recently concluded between Mr. Khrushchev and (Algerian President Ahmed) Ben Bella in Moscow included a series of secret protocols. One, at least, reportedly provides for the installation of a Russian nuclear submarine base in Algeria."

The Figaro dispatch was written by its correspondent in Madrid. It gave no further details.

Mr. Ben Bella recently visited Moscow. It was announced then that the Soviet Union had granted Algeria financial and technical aid.

NEW BOOST IN SOCIAL SECURITY TAXES POSSIBLE EVEN WITHOUT MEDICARE

Mr. MILLER. Mr. President, in the April 27 issue of the Wall Street Journal there is an excellent article entitled "New Boost in Social Security Taxes Possible Even Without Medicare."

In view of the current interest in medicare, I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW BOOST IN SOCIAL SECURITY TAXES POSSIBLE EVEN WITHOUT MEDICARE: CONGRESS MAY VOTE INCREASE IN RETIREMENT BENEFITS; HOUSE UNIT WEIGHS CHOICES

(By Arlen J. Large)

WASHINGTON.—Odds are growing that Congress will vote a new boost in social security taxes this year, whether or not it enacts the administration's medicare plan.

How high the tax might go above the already scheduled increases depends on the outcome of a decision to be made early next month in the House.

The House Ways and Means Committee must tackle these main choices:

Combine into a fat election-year package both a hospital insurance plan for the elderly and a rise in regular social security cash retirement benefits. Such a package would require a relatively steep tax increase for all of the 75 million workers paying into the social security system, along with the 5.3 million employers who make matching payments. For one thing, the hospital insurance, or "medicare" plan, would require more revenue than the administration first requested.

Or forget medicare this year, and stick with a straight boost in retirement benefits that lawmakers can tout as compensation for rising living costs since 1958, the last year of an across-the-board benefit liberalization. This might be financed by a tax boost for only some workers, although there are alternative methods.

Some GOP members of the Ways and Means Committee are beginning to talk of still a third possibility: A stalemate between advocates of the two choices, resulting in no major social security legislation this year. The stalemate could come either within the narrowly divided Ways and Means Committee, or later in the session in a House-Senate standoff.

Such a deadlock over social security, however, wouldn't rule out separate legislation expanding the existing Kerr-Mills program of assistance to old people who can't afford big medical bills; this setup is financed by regular Government revenues and borrowings.

NO TEST VOTES TAKEN

The range of possibilities remains broad at this point because the 25-member Ways and Means Committee has taken no test votes yet that will illuminate the strength of each faction. In several days of closed-door meetings on the general subject of medical care for the elderly, the panel has mainly undergone a statistical refresher course in the complex workings of existing welfare programs. Some members are bored.

"It's like listening to somebody explain astronomy in broken English," says one Democratic advocate of medicare.

Some committee voting might begin this week, but the final decisions are likely to be delayed to mid-May. A number of key members, for example, will be out of town next week and serious work can resume only on their return.

Still, arguments over "medicare" and its alternatives can be expected to grow louder on Capitol Hill as a showdown approaches. In the Senate a special subcommittee on health problems of the elderly opens public hearings today on the "adequacy" of private health insurance plans. The panel is headed by Senator McNamara, Democrat, of Michigan, an advocate of the administration's social security-financed hospital insurance proposal. He and other Democratic Members will try to punch holes in the private insurance industry's contention that a Government-financed plan is unnecessary; insurance industry witnesses will be quizzed closely on recent boosts in health insurance premiums.

It's doubtful the McNamara panel hearings will change any votes in the House Ways and Means Committee, where the medicare plan has been lodged for years. If anything, the position of the promedicare minority appears to have deteriorated a bit in recent weeks.

COSTS OF PROGRAM

Questioning by committee Chairman Mills, Democrat, of Arkansas, a longtime medicare enemy, has drawn from officials of the Health, Education, and Welfare Departments an admission that the plan would require stiffer tax increases than originally proposed. To finance the program of hospital care and certain other benefits for everyone aged 65 and over, HEW originally requested this tax formula: A quarter of a percentage point would be added to the payroll tax already paid by employers and employees. Also the amount of employees' income on which the higher tax rate is levied would climb to the first $5,200 from the present $4,800.

The proposed $5,200 wage base, however, was derived from patterns of income and hospital cost levels in 1961. HEW officials have agreed that an updated formula would require a 1965 wage base of $5,800—meaning stiffer dollar payments on middle and upper incomes than was first contemplated. Further, the officials have said a continued rise in income levels and hospital costs in the years ahead would require additional boosts in the taxable wage base to at least $6,700 by 1970, $7,800 by 1975, and higher levels after that. Otherwise, the hospital insurance benefits would put too great a burden on the social security trust fund.

Besides the new estimates of costlier financing, the committee's medicare advocates suspect their voting lineup isn't as solid as they hoped. The most optimistic nose count has never found more than 12 committee Democrats likely to vote for a payroll tax financing system. This would be one short of a majority. Counted firmly on the promedicare list was Representative Bass, Democrat, of Tennessee. Lately, however, Mr. Bass has been insisting he has never committed himself one way or the other on medicare; colleagues attribute his fence-sitting to his tight primary race for one of Tennessee's seats in the U.S. Senate.

MILLS MAY HOLD KEY

The possibility that they are losing strength has forced promedicare Democrats to abandon any hope of blasting the bill out of committee over Chairman Mills' opposition. The goal is to try to convert Mr. Mills himself—with hoped-for help from President Johnson—in the belief he could swing a committee majority behind almost any plan he wants.

A watering down of the original proposal is needed if advocates hope to satisfy Mr. Mills' worry about solvency of the social security trust fund. Proponents of the bill are willing to slice off some of the benefits to reduce its cost; one possibility being mentioned is to shorten the maximum 180-day hospital care period originally proposed. Anybody requiring more extended care could fall back on his own resources or on Kerr-Mills assistance.

Whether any formula to lighten medicare's cost or safeguard the social security fund will convert Mr. Mills is unknown; the chairman in the past has tried to discourage any idea he would go for compromise. Opponents of medicare insist Mr. Mills and the committee's majority will hold out for a boost in regular social security benefits as a partial substitute for Government-paid hospital insurance.

HIGHER PAYMENTS

As it stands, the social security trust fund can't afford a boost in cash payments currently going to more than 13 million retired people, to 4 million widows and other survivors, and to 1.5 million disabled workers. Under the formula in effect since 1958, the average monthly check for a retired individual runs from a minimum of $40 to a theoretical maximum of $127, depending on a person's earnings history in his working years. The average payment is about $77.

These benefits have been costing the trust fund more than it gets in revenues from the existing 3⅝ percent tax paid each by the employer and employee on the first $4,800 of payroll. To cure this deficiency, Congress already has scheduled a boost in the tax rate to 4⅛ percent on January 1, 1966, and to 4⅝ percent 2 years later. Once these increases are in effect, HEW officials figure the trust fund will be barely within the boundaries of solvency for decades to come, provided somewhat more of the fund's income is earmarked for disability benefits.

The cost of living has gone up an estimated 6 percent since 1958, when benefits were last liberalized. Any new compensatory fattening of benefits for people already retired would require additional financing. HEW men calculate an across-the-board benefit increase of 6 percent would force Congress to raise the taxable wage base to $6,400. This would mean bigger payments for about one-third of the system's covered 75 million workers, whose earnings top the existing base of $4,800. If only regularly employed male workers are counted, it would mean a tax increase for 61 percent.

Alternatively, a 6-percent increase in benefits could be financed by increasing the tax rate a quarter of a percentage point each for all employees and employers, or by some combination of a higher rate and a higher taxable wage base above $4,800.

Supporters of the medicare plan naturally see danger in these figures; an additional tax rate boost above those already scheduled just to finance higher retirement benefits would make inroads on the limited cushion of taxpayer tolerance for higher levies and hurt medicare's popularity. To some Republicans, this raises the possibility that the committee's medicare bloc of at least 10 members might oppose a cash liberalization so strongly that Mr. Mills wouldn't be willing to risk an internal Democratic fight on the House floor.

COMPROMISE POSSIBILITY

In the groping for compromise solutions, some liberal Democrats talk of a big package that would avoid a deadlock by containing a little of everything.

A sample plan:

Raise the $4,800 wage base to provide some liberalization of cash retirement benefits, while establishing an entirely separate new fund for hospital insurance. The insurance coverage would be somewhat less generous than the original medicare proposal to reduce its cost, which would be partly financed through a separately stated payroll tax. The fund would be simultaneously fattened by cash from the Treasury's general fund, representing savings realized from a leveling off of Kerr-Mills assistance. The Kerr-Mills program, according to this reasoning, wouldn't grow as fast if much of its burden is assumed by a new hospital insurance setup.

The Kerr-Mills program, enacted in 1960, makes Federal money available to States on a matching basis for elderly persons who have too much income to qualify for regular relief assistance, but not enough to pay big medical bills. Federal Kerr-Mills payments from the Treasury are expected to rise to $235.2 million in the 1965 fiscal year starting July 1, up from $201.1 million in the current fiscal year.

Not all States have yet established local Kerr-Mills programs, and the system is criticized because most of the Federal money so far has gone to a few rich States. No matter what's done in the social security field, Chairman Mills wants to amend Kerr-Mills to spread the Federal funds more evenly throughout the Nation, perhaps by establishing Federal guidelines for eligibility and benefits.

THE POWERS OF THE FEDERAL GOVERNMENT

Mr. MILLER. Mr. President, in the June 10 issue of the Wall Street Journal the lead editorial entitled "A Mixed-Up Mix" offers a timely criticism of the fiscal policies of the Treasury Department. Also in the same issue of the Wall Street Journal is a timely article entitled "State House Slide," which points out the powers of the Governors are waning as the Federal Government's grow. I ask unanimous consent that those articles be printed at this point in the Record.

There being no objection, the editorial and articles referred to were ordered to be printed in the Record, as follows:

A Mix-Up Mix

It used to be that officials were somewhat reluctant to proclaim their efforts at outright manipulation of the economy, but not any more. Now they take deep, if misplaced, pride in their interventions.

Thus Treasury Secretary Dillon told an audience, the other day that the past 3½ years have been remarkable not only for the economic advance they have witnessed but also for the kind of economic policy that has developed in Government. What has emerged, he said, is "a national determination to use fiscal policy as a dynamic and affirmative agent in fostering economic growth." Fiscal policy in this sense can be translated as budget deficits; at least, that is what we have been having.

Moreover, these years have "demonstrated, not in theory but in actual practice, how our different instruments of economic policy—expenditure, tax, debt management and monetary policies—can be tuned in concert toward achieving different, even disparate economic goals."

Now where anyone would get the idea that a national consensus favors deliberate, planned, continual budget deficits is a little mysterious. As far as we can judge, a great many Americans view that policy with suspicion and misgivings. The President himself can hardly consider deficits unalloyed blessings, for he tried to reduce the prospective one for the coming fiscal year. But to the extent there is determination to pursue the deficit course, it appears largely confined to Washington, D.C.

With regard to the substance of the Secretary's remarks, we think they contain some assumptions that are open to question.

It may be that the combination of the tax cut, including the anticipation of it, and the prevailing easy money policy has been a stimulus to business activity, though consumers don't seem to be throwing away their tax saxings in any wild binge. The extent of such Federal influence, however, is impossible to gage with any precision; what is certain is that the private economy has been generating its own expansionist forces.

Not that the Government policy has been without identifiable effects. The inflation of the money supply during the past 3 years or more is showing up in several places, notably real estate, with evident overbuilding, foreclosures and declining credit quality. It could spill over into wage settlements that administration economists would regard as inflationary, and that could touch off a wage-price spiral.

In addition, some economists are wondering how long the boom can keep on building, no matter what the Government does or does not do. It is hard for them to see, for just one example, how the auto industry could expect to duplicate this year's feat next year or how business in general could rival this year's indicated spending on plant and equipment. Maybe the boom can go on forever, but things usually don't work out that way.

Mr. Dillon has an answer of sorts to this problem of the business cycle. The big obstacle, in his view, to using tax policy as a countercyclical tool is Congress; it won't act on taxes fast enough. Something should be done, he suggests, consistent with Congress' prerogatives. But how tax changes could be speeded up without interfering with those prerogatives is not exactly clear.

All in all, we are unpersuaded that the Government is anywhere near finding a magic key to uninterrupted prosperity. It can indeed inflate, but that customarily means aggravating the business cycle rather than smoothing it out. Even its manipulations are not especially well calculated, as is shown in its failure to counteract the inflation it has generated.

It is possible the economy would enjoy sounder growth if the Government would stick to its main economic business of providing sound money and an atmosphere of freedom. Certainly its vaunted mix of spending, tax and monetary policy is a pretty mixed-up affair—and not, in our opinion for self-congratulation.

POWERS OF GOVERNORS WANE AS FEDERAL PROGRAMS GROW

(By Henry Gemmill)

CLEVELAND.—A few days of immersion in a Governors' conference can give you the feeling that all State executives are affable, some are able, and none are influential.

Nowadays most Governors are Democrats, but is there one of these who could stir excitement here? Apart from the skeleton in their closet, Dixiecrat Wallace, certainly not; for a flurry the Democrats had to await the inexplicable arrival of an express agent from Washington, Pierre Salinger, who so recently went out to California and clobbered Governor Brown's candidate for the Senate.

One newspaper headline said "Republican Governors Steal Spotlight at Conference." In a way, yes—but the light showed pie on their faces: Romney, Rocky, and Scranton, each in command of a great industrial State, all alarmed about the junior Senator from little Arizona, and none of them able to do a thing to thwart his march toward the presidential nomination. Senator GOLDWATER ducked in and out of the conference without so much as acceding to the Republican Governors' desire that he at least sit down and talk with them. And this is the Senator who stands for States rights.

It used to be that Governors were mighty men, and the White House was filled from the statehouse. When in 1960 the Democrats chose from a field almost exclusively composed of national officeholders—Senators Kennedy, Johnson, Humphrey, Symington—some considered it just an odd coincidence. But the impotence of State executives is on display again in 1964. The chairman of this conference is Gov. John Anderson, of Kansas, and he runs the show well, but he failed even to win a seat at the GOP national convention.

As individuals, Governors don't appear intrinsically less able or alluring than the people one encounters in Washington; in fact 21 Members of the Senate used to be Governors. Probably the newspapers and TV are partly to blame for the dwarfing of State politicians. The news folk look all the Governors over once a year, but swarm about Washington year round. Particularly neglected are westerners such as Oregon's attractive Gov. Mark Hatfield, because the mechanics of news transmission is set up to flow from east to west.

STATE ACTIVITIES BURIED

But, of course, the chief fact is that State activities have long since gotten buried under Federal programs and spending. Though State budgets balloon, too, Texas Gov. John Connally remarks that more than $10 billion of what the States disburse in the next 12 months will merely be funneled through them—it comes as Federal aid. The Governors applauded when Dwight Eisenhower came to town and advised them to resist and reverse all this; some had been making similar speeches at each other. Emotionally, many of them are all for turning back the Federal tide, but there is little indication they hope to do it, and practically they want more from Washington rather than less.

The host of this conference is a conservative Republican, Ohio Gov. James Rhodes. What does he view as the outstanding event of the sessions? "As far as I'm concerned," he said, "it was a breakfast at which Midwestern State executives agreed to gather their congressional delegations and shove hard to get their region more Federal contracts for research and development from the space agency and other Washington spending outlets."

BARRY GOLDWATER's spokesman at this conference is Arizona's Gov. Paul Fannin. At the opening session on Federal-State relations, what was the one proposal of this conservative Republican? He called for a new program of Federal aid, for highway maintenance. The Governor declared he was proud of the highway building program which has mingled so much Federal money with State expenditures, but as the roads get built it would be unfair to expect States such as his to bear the burden of keeping them in good shape.

Connecticut's John Dempsey used this Governors forum to call for Federal construction of "activity centers" and other facilities for old folks; Montana's Tim Babcock thinks it's up to the Federal Government to bolster beef prices by choking off imports; Otto Kerner of Illinois focuses his defense of States' rights on opposition to "any reduction in Federal support for any element of the Army National Guard."

SOME WELCOME FEDERAL AID

Some of the Governors, including Endicott Peabody of Massachusetts, have no regrets. They seem to feel the future of State executives lies in welcoming new Federal programs, such as the "war" against poverty, and in assisting in their execution. California's Governor Brown carries to its logical conclusion this idea that State government should be integrated into National Government.

A council of Governors should be formally created, proposes Governor Brown, and it should be just as much an official part of the Federal Government as is the President's Council of Economic Advisers. The President would select from among the 50 Governors just five to sit on this council, with representation for both parties and various sections of the land. The council chairman would be a Federal official, "perhaps the Vice President." And the task of the council would be to have a "direct voice of policymaking at the Federal level."

Those who are not yet ready to join Governor Brown in bidding farewell to the old idea of separation of State and Federal Government, who would reassert the strength of Governors and State legislatures, have difficulty in blueprinting how it can be done.

Assuredly the conference of Governors cannot currently be considered a strong tool. Perhaps it never was. This body got started only at the suggestion of Teddy Roosevelt and not when he was a Governor but after he had taken over the Federal leadership. But at least the Governors used to get together in sort of a trade convention atmosphere, swapping shop secrets on how to run State governments. During the last several years all this has changed radically. Democratic National Chairman John Bailey came on the conference scene; GOP National Chairman Bill Miller joined him. Governors began holding party caucuses. The conference became an organ of political propaganda over issues not of State government but of national legislation—civil rights, medicare and the like.

"IT'S POLITICS ALL THE TIME"

"The Governors used to pay some attention to their agenda at least every second year, when there was no election on, but now it's politics all the time," comments one veteran staffman.

General Eisenhower, confessing that next to nothing came of all his efforts as President to turn back revenues, responsibilities and power to the States, appeared to give this conference some more suggestions—including the startling idea that the States might for the first time in history call a convention to amend the Federal Constitution.

History is no straight line, and it would be foolhardy for any observer of this 1964 gubernatorial outing to conclude that Governors are doomed to be perpetually inconsequential or that there will be no resurgence of strength in State government. But it is probably safe to say that if the pendulum swings it will hardly be through the mechanics of Gov. Pat Brown's suggested council or General Ike's suggested convention.

For this, a more fundamental change must occur. Some suspect it may already be underway, under pressure from the Supreme Court. The theory runs thus: Federal action has expanded for lack of State action. The vacuum in State activity has been due to "rotten borough" legislatures, failing to reflect proportionately the growth of urban and suburban populations. Redistricting under the impetus of court decisions will remedy this. So State governments will take over their proper burdens and Federal instructions will dwindle.

That could be. Or maybe, in the words of Governor Rockefeller when he heard that Governor Romney was out to stop GOLDWATER, "it's not too little, but it's too late."

TRANSMISSION LINE INTO SOUTHERN IDAHO

Mr. SIMPSON. Mr. President, the citizens of Wyoming are deeply concerned and disturbed at attempts by the

Department of Interior and the Bonneville Power Administration to build a power transmission line into southern Idaho thus preempting private enterprise. The physical installation of the transmission line and the industrial plant it would serve are in Idaho but the economic impact of this taxpayers subsidized public power proposal would be disastrous to the coal industry of Wyoming.

Utah Power & Light Co. built in the State of Wyoming a 150,000 kilowatt plant which uses 500,000 tons of coal per year. This steam-generating plant serves the area which BPA is trying to invade in an effort to steal customers, territory, and prerogatives from a taxpaying, investor-owned industry in Wyoming.

We in Wyoming are doing our best to see to it that the Congress of the United States does not appropriate the first $1 million of an amount well over 100 times that figure needed to build the power transmission line from the BPA installation at McNary Dam in Oregon to southeastern Idaho. The line is needed by BPA so that the Federal Government can sell to Monsanto Co. 120,000 kilowatts per year at 2 mills per kilowatt-hour. Monsanto now buys the power from an investor-owned utility company and pays 4.9 mills per kilowatt-hour. This is little more than is presently charged the customers of the Tennessee Valley Authority. The 2 mills per kilowatt-hour is considered by experts not even enough to cover the cost of transmission. Consequently, the taxpayers must make up the deficit.

Mr. President, the front page of Barron's, National Business and Financial Weekly of June 1, 1964, carries an excellent article on this matter. It is entitled, "Era of Good Feeling? The Bonneville Power Administration Shatters an Illusion." I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ERA OF GOOD FEELING? THE BONNEVILLE POWER ADMINISTRATION SHATTERS AN ILLUSION

After a controversial year in office, Edwin P. Neilan, past president of the U.S. Chamber of Commerce, has quietly returned to his Delaware bank, leaving behind a legacy of candor and courage. During his stormy tenure, Mr. Neilan rarely failed to call a spade a spade; in speech after speech he assailed the trading of votes for Federal handouts, a common practice which, he charged, turned elected representatives into "bagmen" and their constituents into "pushers." He assailed subsidies as opiates and bribes; he criticized any businessman "who takes the tax money of his fellow citizens and uses it for his own selfish ends." That was plain talk. However, even the outspoken Ed Neilan would have had trouble improving upon a press release from the Council of State Chambers of Commerce which landed on this desk the other day, "Business Organization," ran the jolting headline, "Sees Piracy in Public Power Grab."

In eight well-chosen words, the council thereby went a long way toward shattering the widespread illusion that a new era of good feeling somehow prevails these days between Government and business. It also added its voice to a mounting chorus of protest against the current wheeling and dealing of the Bonneville Power Administration, which generates and sells electricity on the Columbia River. With the full support of the Secretary of the Interior, who controls the main switches, Bonneville is seeking to thrust its market penetration nearly 500 miles to the south. Toward this end it has asked Congress to authorize the construction of a high-voltage transmission line into southern Idaho; it also has signed up at least one major industrial consumer for its subsidized kilowatts.

Both parties to what Mr. Neilan has aptly called seduction by subsidy stand to profit—each in its own coin—from the affair. The only losers, as far as anyone can see, are the taxpayer, the business community, and free enterprise. On the first count, the Bonneville Power Administration, despite the most ingenious bookkeeping, persistently operates in the red; the new facilities would simply swell the deficit. By proposing to duplicate existing capacity and attract customers through the lure of artificially low rates, the Federal agency also has mounted a threat to the future of investor-owned utilities throughout the area. Finally, by lavishing a subsidy upon one large user of electricity, the Monsanto Co., Bonneville inevitably would jeopardize the competitive status of others. The two principals may regard the arrangement as a fruitful partnership. To us it looks more like an unholy alliance.

From any viewpoint it represents an aggressive move to extend the sphere of public power. The spadework was done last spring, when the Secretary of the Interior quietly—some say illegally—designated Bonneville to replace the Bureau of Reclamation as marketing agent in Idaho. The agency promptly slashed electric rates, which were designed to recapture the cost of several Reclamation projects, by 40 percent. It also swiftly took steps to exploit its new territory. In particular, it negotiated a 20-year contract with Monsanto Co., which operates a large electrolytic phosphate concentration plant at Soda Springs, for the sale of 120,000 kilowatts per year, starting in 1966. It also won administration backing for a proposed 490-mile, 500,000-kilowatt transmission line, running from the McNary Dam in Oregon to southeastern Idaho. Congressional hearings on the initial appropriation of $1 million, downpayment, on work which will ultimately cost over 100 times as much, began last month.

The project has evoked widespread opposition, not only from the utilities directly in its path but also from the Governors of Idaho and Utah, State regulatory authorities, a number of chemical and fertilizer producers and even the International Brotherhood of Electrical Workers, whose spokesman shocked several of the assembled lawmakers with a high-voltage blast against public power. From the record emerges a tale of Federal bureaucracy run wild. In support of the new transmission line, for example, the Department of the Interior has cited the surplus of power in the Pacific Northwest. Barely 2 years ago, however, in urging construction of an obsolete atomic power station at Hanford, Wash., its freewheeling officials argued that the region faced a dire power shortage.

The Department's accounting practices are as changeable—did somebody say shifty?—as its projections of supply and demand. Although Federal law requires Bonneville to set its electric rates at levels high enough to cover both operating costs and amortization, the agency has run at a deficit for the past half-decade. Last year, prior to certain adjustments, the loss added up to an above-average $13.2 million. In the midst of the annual audit, however, Bonneville abruptly stretched out its amortization schedules and revised cost allocations on two big hydro projects. According to the Council of State Chambers of Commerce, such statistical sleight-of-hand caused most of the red ink to vanish. Bonneville's juggling act also helped stave off, for another year at least, a threatened increase in its rates.

In public power, as in any realm of socialism, nothing succeeds like failure. Thus Bonneville, having piled up an impressive record of deficits in Washington and Oregon, is uniquely qualified to repeat the process in Idaho. As its contract with Monsanto suggests, it has made an excellent start. Monsanto now buys electricity from Utah Power & Light at 4.9 mills per kilowatt-hour, little more than its pays the Tennessee Valley Authority. Bonneville, in contrast, has offered to furnish power at only 2 mills per kilowatt-hour, less than half of what TVA charges in its own backyard and too little, so experts have calculated, to cover the cost of transmission, let alone all the other customary cost elements. Washington usually frowns on selling below cost, a practice which it calls dumping. In this case, which involves the use of taxpayer's money to capture a market, the Council of State Chambers of Commerce has found a better word: "piracy."

The freebooters' first targets, of course, are Utah Power & Light and the Idaho Power Co., both of which at one time were negotiating new supply contracts with Monsanto. Bonneville's proposed giveaway not only has cost them an old customer but also raises the threat of further economic attrition. Congressional approval of the transmission line, Idaho Power avers, would compel it to halt construction on its Hells Canyon Dam. That would be a red letter day for public power zealots, who sought for years to preempt Hells Canyon for their own. However, the rest of the community, which depends upon a thriving utility system, would have scant cause to celebrate. On the contrary, local concerns, which might someday have to vie with a subsidized competitor, have already voiced alarm, a sentiment which ironically has echoed as far away as the Tennessee Valley. Competitive enterprise, so businessmen in Idaho have begun to realize, cannot peacefully coexist with privilege.

By this stern yardstick, Bonneville, like any source of Federal largess, must be rated as profoundly antibusiness. The same is true of the Johnson administration, which, despite lipservice to the enterprise system, remains devoted to trafficking in favors. However, since it takes two to strike a bargain, the fault lies not only with those who trade financial advantage for political power, but also with those who are willing to pay the price. Thousands of years ago a birthright was sold for a mess of pottage. To judge by the foregoing, the market hasn't risen appreciably since.

WHAT IS OUR MEMORIAL?

Mr. SIMPSON. Mr. President, since coming to Washington I have had the privilege of being associated with Saint David's Episcopal Church. Our rector is the Reverend Albert E. Taylor, who has the complete love and respect of his congregation. His greatness is the result of his dedication, service, and intimacy with his God and his Saviour.

Father Taylor delivered on Sunday, May 31, 1964, another sermon which I feel deserves the attention of the Senate. I hesitate to make any comment on his compassionate message entitled, "What Is Our Memorial?" because I do not want to detract or diminish in any way from his beautiful and inspirational sermon.

Mr. President, I ask unanimous consent that the sermon of the Reverend

Albert E. Taylor, rector of Saint David's Episcopal Church, on Sunday, May 31, 1964, be printed in the RECORD at this point.

There being no objection, the sermon was ordered to be printed in the RECORD, as follows:

WHAT IS OUR MEMORIAL?

St. Mark 14: 9: *Verily I say unto you, wheresoever this Gospel is preached throughout the whole world this also that she hath done shall be spoken of for a memorial for her.*

Yesterday, our Nation celebrated National Memorial Day. On Friday and Saturday, the Government and many other businesses had a holiday, and today, the holiday is still being kept, for over the long weekend there was a general exodus of people out of Washington, and possibly a slight influx of people.

To some, yesterday meant a great deal. To others, possibly absolutely nothing. Some visited cemetaries, some listened to political speeches, many of them terribly slanted, and some gathered in churches today will be remembering their loved ones who in past wars made the supreme sacrifice.

This morning my theme is, "What Is Our Memorial?" This has nothing to do with wars, past, present, or the future. However, before I get to the meat of my theme I do wish to make this observation. At this memorial time of the year, the year of 1964, where do we find ourselves? I really think we are in a pretty sad mess. We are in a mess and the whole world is keeping us company. The press, the radio, the TV, the magazines, the speeches some men are making are enough to scare the living daylights out of us, and we look around to see if we cannot find a "tennie weenie" little island where with a few of our most loved and intimate friends we can last out our days in peace. We all want peace, some of us pray for peace, and this means not only the abolition of war, but the abolition of fear; this is the peace we seek.

Now, to my sermon. Most of us know how easy it is to give away other people's money. The larger the sum that is given away, the better we like it. Yes, quite a few of us are experts in the distribution of other people's beneficence.

We are given a splendid example of other people's generosity in the life of Jesus. He had come to Bethany, where His friend Lazarus had been raised from the dead on the last Sabbath Day in his life. Jesus had come to this little town in great courage, notwithstanding the fact that a price had been placed on His head. On the evening of that Sabbath, a feast was prepared for Him and His devoted friends. All were guests in the house of Simon the Leper. Present, also, were Mary, Martha, and Lazarus. As usual, Martha was serving and as usual Lazarus was silent. It was Mary who gained the center of interest. Quietly and unnoticed she slipped away and bought a jar of precious ointment. The Bible does not say much in praise of money, but in each Gospel it is stated that Mary's ointment was very precious; very costly. But Mary took this precious ointment and poured it upon the hair and head of Jesus. Then she anointed His feet and wiped the ointment from His feet with her hair.

It was a ceremony that belonged only to royalty and was such as only a monarch could expect to receive. The record is quite explicit. She poured it all out. A few drops might have sufficed, but she gave all.

It was a gift that only wealth could give and it awakened among some of the guests violent reactions. St. Matthew in his Gospel tells us, that, "when the Disciples saw it, they had indignation saying, 'To what purpose is this waste?'" St. John says that it was Judas who raised the storm of opposition. Judas said: "Why was not this ointment sold for 300 pence, and the money given to the poor?"

Judas was indignant and spoke out of his indignation in terms of emphatic denunciation. It was a reflection upon Mary—yes, and upon Jesus.

Why do we have beautiful churches, costly organs, stained glass windows, colored hangings, silver and gold chalices? Why do we have flowers on the altar every Sunday? Yes, why do we have all these things when little children are hungry and old people are homeless?

Why should men and women ride in luxurious cars and live in expensive homes? Why should we have symphony orchestras and art buildings and monuments, when the community fund and the Red Cross cannot always make their quotas? And why do people load the casket with costly floral blankets when the poor are asking for our cast-off clothes? Yes, why? It is Judas asking all these questions. The old question: "Why was not the ointment sold and the money given to the poor?"

It is the age-old argument. If we think about it too much it will get some of us down. Most certainly, not one of us wishes to see the poor starve—to deny children and older people in Europe and Asia and in parts of America, clothing, food and shelter. But the question must be answered—and where are we going to draw the line?

If the argument is sound, then the very feast which Jesus and His disciples attended in Simon's house should have been called off. We do not want to gorge ourselves at the table whilst the poor have their noses pressed against the window panes.

But who are the poor? We must answer this question before we ask another. Are we poor because we have no bread and butter or baked beans? Is poverty confined to hunger—a hunger that may be satisfied by a soup kitchen? Was Jesus hungry? Was He poor? Was He crying out, facing Gethsemane and Calvary as He was, for something that Mary was trying to supply?

You see, then, there is another hunger—another poverty that cannot be supplied and cannot be satisfied with money or bread. For, for what are we hungry? Every person present this morning and those who are absent are hungry for something.

We belong to the poor. What is it we need? What would we like to have? Is it not something that will warm our hearts, will make us feel somebody needs us, somebody wants us—somebody believes in us? And are we not made extremely rich when someone pours out upon us the wealth of an affectionate and understanding love which is dearer to us than all the contents of a department store, or bakery, or food mart, or bank?

That is why I feel sure there is something wrong with the argument because it was Judas who made the complaint. I do not know about you, but I have no desire to line up with Judas. St. John is not backward in telling us that Judas did not really care for the poor. It was because, fundamentally, he was a moneylover, and because he carried the moneybag, and wanted to get hold of Mary's money. It was Mary's ointment he wished to sell, and give the money away, but he never spoke about giving any of his own money away. You and I know people like that. Quite anxious to spend other people's money, but never a cent of their own.

Once there was a boy who after working all week, spent $7 on his mother for a bouquet of roses. There isn't a person here who couldn't have shown that young fellow how to spend his money to better advantage. One person would have suggested groceries—another fuel—another, articles of clothing—another might have suggested "sticking it in the bank." But you see, it was his money, and if he wanted to pour out $7 worth of fragrance upon his mother (because he loved her) that was his business and not ours. And if Mary wanted to be extravagant because of her love for Jesus, it behooves miserly men to keep silent.

There are many ways of giving to the poor than by giving bread to the hungry—and Jesus Himself was poor that day. There was no one who understood—no one who entered into His experience except Mary, and she tried to express her sympathetic understanding, her affection in her own way. She knew only too well that charity was not bound up in bags of flour; that life was more than meat, and the body more than raiment.

There is one more thing to be said. If Judas and the disciples wanted to give to the poor, there was plenty of opportunity. Jesus said, "The poor we have always with us," and I imagine, that as much as we want to abolish poverty—as long as the world lasts, the opportunity to help someone will not be wanting. And I am willing to bet, that Mary herself, and not Judas was the greatest lover of the poor in all that circle. The person who pours out treasure for Christ's sake is not likely to be hardhearted or forgetful, when he comes face to face with the needy, at any time or any place.

So I for one cannot agree with Judas. It is not Judas who is right, but Jesus. Jesus is not likely to ignore the poor. He said: "Blessed are the poor." He will never neglect the needy. It was Jesus who told us about the Good Samaritan. Yes, Jesus is all on the side of the poor, but He was against Judas.

Judas had apparently carried his complaint and his indignation right to Mary herself and was annoying her with eloquence about the poor, for whom he cared not the snap of his finger. And Jesus sensing the situation, said, "Let her alone. Why are you bothering her? She has done a beautiful thing to Me. The poor you have always with you, but you will not always have Me. She has done all she could—she has anticipated my burial. I tell you truly, wherever the gospel is preached throughout the world, men will speak of what she has done, in memory of her."

What a wonderful memorial Mary raised to herself that day—and what a memorial it is to all those who love beauty and loveliness, kindness and sympathy. How amazing it is, that here you and I are in Washington, a town that did not even exist when Jesus spoke those words, yet today we are perpetuating the remembrance of Mary's gracious act.

Mary was the only one on that memorable day who fully understood the meaning of the cross—for you see, Jesus was within 6 days of the Crucifixion and ere another Sabbath rolled around it would be too late for anyone to speak in behalf of Him or do anything to help Him.

It was too late for Nicodemus, rich though he was—it was too late when he came forward with his 100 pounds of precious spices to anoint the body of Jesus.

On our civic Memorial Day, when we memorialize our beloved, heroic dead—what other memorial have we? We now know of Mary's memorial erected to her memory because of an extravagant love for the one she called, Master.

What extravagance of giving has the love of Jesus called forth in us? How are we going to match the extravagance of His love—the love that gave all of Himself for us?

At the moment I make no reference to our contributions toward the support of the church. To mention such at this time would be a descent. For I want to ascend to the extravagance of love. So once again I ask, "How may you and I memorialize ourselves and match the extravagance of His love"?

Our Lord, though He was rich, yet for our sakes became poor * * * and that we through His poverty might become rich—How shall we match that?

How are we to match the extravagance of His cross? "The Son of God came not to be ministered to but to minister, and to give His life a ransom for many." Tell me, how can we match that? Surely, there was nothing beautiful about the cross. It was an instrument of suffering and death. It was stained with His blood. But Mary of Bethany wove about it the fragrance of her love and Jesus was satisfied.

I suppose you, like myself have often been interested during a wedding reception to peek at the gifts spread out—especially when someone in the know has taken us around and said, "Senator so and so gave that." "The president of a certain railroad gave that." "Mr. and Mrs. so and so gave that." It is all very nice and we always enjoy the little personal note regarding each gift. After such weddings my thoughts have gone back to the elaborate array of gifts and caused much reflection on my part. I have said to myself, "How about when we get to Heaven and Jesus the Bride of God shows us His gifts. Shows us His treasures?"

I picture myself beside Him, and hear Him saying as He points to this gift and that gift: "That is one of my choicest gifts; it came from the widow in the temple—it was everything she had." Or, "The Samaritan woman gave that"—or, "The man who helped Me carry My cross gave Me that," or, "The women who came to the tomb on Easter morning gave Me those spices and linens."

"The baskets of flowers are from lepers and blind men whom I healed—and that alabaster box is My most treasured possession—note that its fragrance still fills both earth and heaven." After seeing all this in my imagination, I ask, "Has Jesus anything of mine?" As Jesus takes His guests around will He point to something and say: "That gift is from Albert Taylor. I appreciate it so much because I know the sacrifice behind it." Or will it be that my name will never come up, because I had nothing worthwhile to give?

Let us think about it. Will Jesus be able to boast about the memorials we left in His name? Such memorial gifts may be our riches, our time, our loyalty, even the insignificant cup of cold water. But it matters not what we give as long as it is our best, and is the extravagant outpouring of our love for Him. I repeat, if it is our best, then our gift will find its place amid the memorials He is keeping in heaven.

THE 20TH ANNIVERSARY OF D-DAY IN NORMANDY

Mr. INOUYE. Mr. President, just a few days ago, this Nation observed the 20th anniversary of D-day in Normandy. Mr. Sanford Zalburg, city editor of the Honolulu Advertiser, was on Omaha Beach that day as a member of an artillery forward observer party in the 116th Regimental Combat Team of the 29th Infantry Division.

In the June 6 issue of the Honolulu Advertiser, Mr. Zalburg recalled Omaha Beach as it was 20 years ago. If there are no objections, I would like to share those memories with my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"AND THEN IT COMES BACK"

NOTE.—Sanford Zalburg landed at H-hour plus 30 minutes, on Normandy's Omaha Beach on D-day, 20 years ago today. He was a member of an artillery forward observer party in the 116th Regimental Combat Team of the 29th Infantry Division.

(By Sanford Zalburg)

All year long you forget about it and then on June 6 wherever you are and whatever you are doing you remember. And then it comes back and you're in an LCVP again (landing craft, vehicles and personnel, can you forget?) and the spray is dashing against the boat and the water slapping the side and spilling over onto you and you are sick to your stomach and heaving into a brown paper sack. Then suddenly the beach looms ahead, brazen in the dull early morning light. The boat scrapes bottom, the ramp drops and splashes and the coxswain is screaming: "All out, Army. End of the line * * *."

LANDING AT NORMANDY

"So this is France," you say to yourself as you go ashore. The next landing boat grinds onto the beach. There is a whiplash crack of a flat trajectory shell and the boat is hit and a puff of dirty gray smoke floats up and above the smoke pieces of brown uniform are flying.

Now the scenes begin to whirl through the mind:

The Ranger lieutenant, dying in the sunlight in the village square in Vierville-sur-mer, and the private holding his head and brushing off the flies as they crawled across his lips and saying softly: "You'd have been proud of me, Loot. I shagged 'em into the house and cleaned them out."

LES AMERICAINS

The French boy with the small black dog frisking at his heels walking down the road to St. Laurent while the mortar shells crumped in the fields. "Comment ca va?" I said to him. "How are you?" "Ca va bien," "I'm fine," he replied. The woman in the Bureau de Poste, sitting in her rocker, rocking back and forth while the shells erupted in the street. The woman in the farmhouse who looked out at the strange soldiers in their mushroom-shaped helmets, got a bottle of calvados to greet them with and said: "Americains? Comme je suis content de vous voir." "How glad I am to see you."

"YOU'LL GET KILLED HERE"

The stocky, one-star general, armed with just a cane, walking along the terrible beach, tapping a soldier on the sole of his boot as he lay there cringing and saying mildly: "Beat it, buddie. You'll get killed here. Go up there on the crest." Col. Charles Canham, the regimental commanding officer, with a handkerchief tied around his wounded hand, and a .45 in his other hand.

The soldier lying at the point where the two dirt roads came together. He was covered with white Normandy dust so that he looked as though he had been sprinkled in flour. The four German dead on the top of the crest. Their green uniforms were neat and their boots were polished and their faces were waxen. The young Ranger who had never seen a dead man before said: "Be careful, Sarge. They're dummies, but they may be mined."

THE OMAHA MEMORIES

The dead. The dead that littered Omaha Beach. The smashed, mangled dead. The man whose clothes had been ripped off by the force of a shell exploding near him; unmarked, he lay there naked with nothing on but his wristwatch.

All that you remember after 20 years.

So there it is and it will never go away. But who cares about it anymore? Who cares about D-day? It was just a brief moment in the eternity of history. Did I dream about it? you say to yourself. Did I see it in a movie? Did I read it in a book?

D-DAY REMINDER

It's different for the man who carries a lasting wound. Like my friend in Campbell County, Va., who lived, though a piece of shrapnel half the size of your thumb hit him in the shoulder as he was wading ashore and plunged through his chest. The scar tissue from the operation has filled the bottom of his lungs and every breath is a reminder of D-day.

But even now the faces of friends who died that day are fading. Did he have blue eyes? Was his chin pointed? How did he speak? The faces are fading, but not the scenes.

The scenes stay with you forever.

DANISH INDEPENDENCE DAY

Mr. HART. Mr. President, it had been my hope and plan this weekend to accept the hospitality of the Danish people and the descendants of Danish people in Michigan as they celebrate Danish Independence Day. Because of the continued series of votes on the civil rights bill, I am sure they will understand my absence. I ask unanimous consent that remarks I had prepared for that occasion, tomorrow, Sunday, at Rochester, Mich., be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

DANISH INDEPENDENCE DAY, JUNE 14, 1964, ROCHESTER, MICH.

There is good cause to celebrate Danish Constitution Day. June 5 marks the calendar day in 1849 when the people of Denmark contributed significantly to liberty's hall of fame.

On a continent strewn with revolutionary upheaval and violence, the Danes peacefully brought forth and supported free discussion and parliamentary government, confirmed and elaborated in the constitutional acts of June 5, 1915, and June 5, 1953. Of special note in the latter act, is a section reflecting the postwar trend toward international cooperation and responsibility of national government in international organization.

But it was the liberal constitution of 1849 which first set the framework for democracy and parliamentary government, and for the social and economic changes which laid the foundations of modern Denmark.

That Denmark is called the kingdom of reason is to understand. Her modern history is marked by a responsible citizenry and peaceful change, by great tolerance for others and a keen sense of respect for human dignity.

The Danes who came to America—in heavy numbers during the last half of the 19th century—carried with them this good spirit of modern Denmark.

These sturdy Danes, and their fellow immigrants—creative, industrious, and unafraid—built Michigan and America in the pursuit of freedom, and, historically, are this Nation's true wealth.

One could wish, I suppose, that the activity of our forebears had created the perfect society.

We know, of course, this is not so, nor can it be; for eternal vigilance is, indeed, the price of liberty—the pursuit of justice is a continuing course.

New frontiers, creative thinking, vigorous activity are the lifeblood of any society—especially that of a democratic people schooled in freedom and morality, in individualism and private initiative.

Even the most insensitive person cannot really escape the problems and challenges in our contemporary society.

We have new frontiers—ever testing the qualities of citizenship which over the years have spurred our development, and made America the great and powerful nation it is today.

As President Johnson said earlier this week "We can expect a constant testing of our

Nation's leadership and our Nation's purpose. Because our Government is the sum total of the people it serves, the choices you personally make, the choices you personally follow, the contest you personally join—these will finally decide the character of this country."

We honor today "the kingdom of reason"—a leader among nations in the cause of freedom and the good society. A few days ago, the Danish Prime Minister, Otto Krag, visited Washington. His visit reminds all of us of the place of respect and leadership Denmark occupies in today's world. This place rests not on great military or economic power, but rather upon Denmark's long devotion to democratic principles and the good example Danes have set in the striving for justice and the good society. Theirs is leadership by attitude and by example.

To give more significance and meaning to human dignity and freedom, to equal opportunity and justice, to the making of the good society—this is America's greatest long-term challenge. What we do for the cause of justice within our society gives powerful substance to the moral and political leadership we claim in the world. It hammers to the world that we mean what we say—that our effort abroad in the cause of freedom and justice is not a hollow vessel—that we yield to none in the striving for the good society, for the people of all nations.

The plight of the American Negro immediately comes to mind—but there are others as well, who, because of their national origin, their race, or religion, are not fully sharing in the opportunities of our land, and are often looked upon by some of their fellow citizens as something less than equal members of this society.

All of us know the problem well—we have seen it spelled out time and again—in the areas of housing and employment, of voting and education, of public accommodations.

The fundamental issue is simply the struggle for human dignity and freedom. I believe this fact has finally been established. And I am hopeful that we can keep it this way—as the moral issue it really is. This is right and proper. It is progress in justice. It is true Americanism.

Much the same can be said about President Johnson's war on poverty. When the society which has produced the highest standard of living in history—the richest nation in the world—turns as a matter of national priority to the needs of the underprivileged, then we are showing that no level of social accomplishment satisfies the free human spirit. Again, it is right and proper. It is progress in justice. It is true Americanism.

Less dramatic than civil rights or the war on poverty—but equally an issue in the struggle for human dignity and equal opportunity—is immigration reform.

A newcomer should not arrive at our Nation's door, hat in hand, apologizing for his parentage or birthplace. This is the great vice of the national origins quota system now on the books.

True, we need a careful selection of immigrants. We should be selective—but not with irrational concepts founded on theories of racial and ethnic superiority. Such is contrary to our moral code. We need only "discriminate" in the best meaning of the word—on the grounds of security and economic and scientific benefit; on the principles of family unity and asylum to the homeless and the oppressed.

Congress has a grave responsibility to enact legislation in all these areas—and many more.

But this does not end the problems of furthering human dignity and equal opportunity—however important legislation is.

The heart of the matter is the conscience of each individual American—and this brings the making of the good society into everyone's living room and everyone's backyard. It is the attitude and actions of the individual citizens in their daily contacts, in the voting booth at election time, in the neighborhood meeting, in stimulating responsible discussion of the issues. This gives effect and durability to legislation. This will decide ultimately the character of this country; by attitude and by example it will determine the quality of our world leadership.

The spirit of our age is a good one. So, I am confident that our present generations, our Nation, in viewing the challenges to our society, will echo in attitudes and action the words of President Kennedy in January 1961. "I do not shrink from this responsibility," he said: "I welcome it."

Especially is this important in 1964—an election year. It can be a constructive and nationally fulfilling experience—or it can become a degrading and hate-filled experience. The debates, the contests, the level on which the issues are chosen and argued, will be set within the weeks immediately ahead.

Each of us has an opportunity and obligation to guide the direction and tone of this year's campaign.

Individually and collectively, we are the "tone-setters" of election year U.S.A.

By our inaction and silence the election and the issues can be governed by the hate peddlers and fearmongers of the radical right, or taken over by the bubbleheads of the radical left.

Or, if we choose, the election and the issues can be governed by reason—and by responsible citizens who have faith in America—and who believe that the great challenges to American leadership, at home and abroad, can be met with skill and ingenuity, and with progress and compassion in the finest traditions of freedom and justice, a tradition enriched by contributions of Danes and their children.

I am confident our citizens will not shrink from their responsibility. I would hope that they would welcome it—and fully participate in the making of the good society.

There could be no finer activity in the world. Again, I am proud and grateful that you who add to America the devotion to freedom which mark Denmark would invite me to join you as you mark Danish Independence Day.

THE MONOLITHIC PHILOSOPHY OF THE COMMUNIST PARTIES OF THE WORLD

Mr. LAUSCHE. Mr. President, on June 8th, President Tito of Yugoslavia visited Moscow. He had a meeting with Khrushchev, the alleged objective of which was to discuss ways and means of reconciling the differences that have occurred among the Communist forces. This important meeting is the third one within the period of the last 2 years. Some very interesting information has come out of that meeting regarding the true attitude of Tito and Khrushchev with respect to communism.

Mr. President, the New York Times has published three articles on the subject. I shall later ask that they be printed in the RECORD. I wish briefly to read from a story in the New York Times written by David Binder in Belgrade:

> The phrase "monolithic unity" in the communiqué issued after the talks between President Tito and Premier Khrushchev in Leningrad this week has raised a warning flag in Belgrade.
>
> The communiqué contained a passage in which the two Communist leaders "stressed the imperative need" of the "achievement of monolithic unity of fraternal Communist and Workers' Parties."
>
> The concept of monolithic unity originated in the Stalin period when the Soviet Union held sway over the Communist Parties of the whole world. It was a term expressing the singleness of purpose of the global movement under the "leadership of the Soviet Union."
>
> The reappearance of the phrase, particularly in a document signed by President Tito, has drawn attention here from foreign developments as well as from Yugoslavia.

The document signed by Tito redeclares the monolithic philosophy of the Communist Party to the world.

Mr. President, the report is of extraordinary significance because it refutes the concept that some within the State Department have that the monolithic unity of the Communists has come to an end. They are united in purpose. Their objective is to communize the world. In my judgment, that philosophy will become increasingly more conspicuous as time goes on.

I ask unanimous consent that the articles to which I have referred, published in the New York Times, be printed at this point in the RECORD, and that there also be printed in the RECORD a letter written by Prof. Cyril A. Zebot of Georgetown University which I inserted in the RECORD on May 15 and which appears on page 10991 of the RECORD.

There being no objection, the articles and letter were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 12, 1964]

TITO CONCESSION TO KHRUSHCHEV IS SEEN IN COMMUNIQUE ON TALKS

(By David Binder)

BELGRADE, YUGOSLAVIA, June 11.—The phrase "monolithic unity" in the communique issued after the talks between President Tito and Premier Khrushchev in Leningrad this week has raised a warning flag in Belgrade.

Contrary to the conclusions of observers in the West, it is suggested by knowledgeable sources here that the phrase signals a meaningful concession by this independent Communist country to the Soviet Union.

The communique contained a passage in which the two Communist leaders "stressed the imperative need" of the "achievement of the monolithic unity of fraternal Communist and workers' parties."

The concept of monolithic unity originated in the Stalin period when the Soviet Union held sway over the Communist parties of the whole world. It was a term expressing the singleness of purpose of the global movement under the "leadership of the Soviet Union."

When Yugoslavia was ousted from the Cominform in 1948, Marshal Tito and his followers also broke with the concept of monolithic unity and with the idea of subservience to Moscow-dictated policy.

REAPPEARANCE STIRS DIPLOMATS

The reappearance of the phrase, particularly in a document signed by President Tito, has drawn attention here from foreign diplomats as well as from Yugoslavs.

Equally surprising for these observers was the communique's statement that Mr. Khrushchev and Marshal Tito had found a "unity of views on the main problems of our times."

This appeared to be much stronger than "full mutual understanding and agreement on substantive questions of internal development"—the phrase covering the same subject in a communique following 2 days of talks last August on the island of Brioni.

In the context of the Leningrad communique the "unity of views" and the aim of "monolithic unity" concerned the split between the Soviet Union and its friends on the one hand and Communist China and its friends on the other.

Though no inside information is available, it appears now that President Tito did associate himself with a new Soviet plan concerning the split. Until recently Yugoslavia had been committed to a bystander's role.

As recently as April the official party newspaper, Komunist, rejected Mr. Khrushchev's idea for a world Communist conference to deal with the Chinese.

The implication of the Leningrad communique appears to be an oath of allegiance taken by President Tito to a Khrushchev program of building an anti-Chinese monolith.

Possibly that is the only goal of the program. Considering Yugoslavia's insistence upon independent action, possibly that goal is the only one on which President Tito would agree to the "monolithic" position.

Yugoslav observers point out that Marshal Tito spoke extremely apologetically about his Leningrad talks when he returned to Belgrade. They suggest he was attempting to calm fears about his sudden commitment to "monolithic unity."

[From the New York Times, June 8, 1964]

KHRUSHCHEV SEES TITO ON RED SPLIT: TWO LEADERS URGE ALL PARTIES TO HELP END DIFFICULTIES WITH CHINESE LEADERS

(By Henry Tanner)

MOSCOW, June 8.—Premier Khrushchev met President Tito of Yugoslavia in Leningrad today.

It was widely assumed by Western diplomats that the Yugoslav leader had come to the Soviet Union to urge caution by the Soviet leaders in dealing with the Chinese Communists.

The meeting is being held against the background of an apparent Soviet determination to bring the Chinese-Soviet ideological conflict to some sort of climax by convening a world conference of Communist parties.

CURRENT QUESTIONS DISCUSSED

The talks ended tonight after only a few hours. Marshal Tito is scheduled to leave tomorrow for Belgrade.

A communique issued by Tass, the Soviet press agency, alluded to the Chinese-Soviet dispute. It said the two leaders had discussed current questions concerning the international Communist movement.

It said they attached great significance to the unity of the movement and "stressed the need for every Communist and workers' party to make its contribution toward ending the difficulties that have arisen in the world Communist movement and toward achieving unity."

COEXISTENCE CONFIRMED

The communique said they had confirmed their adherence to the principle of peaceful coexistence as the principal line of foreign policy of their countries.

Mr. Khrushchev's policy of peaceful coexistence has been one of the principal targets of attack by Peiping.

The two leaders noted the close relations between their two countries and studied possibilities for even closer and more extensive cooperation, the communique said.

The Yugoslav President was given a friendly reception on arriving by plane this morning from Helsinki, where he was on a state visit.

Mr. Khrushchev embraced and kissed him after he had come down the ramp from his Soviet-built plane. This is a form of greeting the Premier likes to bestow only on his closest political friends and allies.

"The friendliest of relations are developing between our two countries," the Premier told his visitor in his welcoming speech. Soviet television carried the arrival ceremony.

Observers believe the Leningrad meeting will have as its most immediate effect a further exacerbation of Chinese-Soviet relations. It is certain to deepen the anger of the Chinese Communists.

Marshal Tito, even more than Mr. Khrushchev, has been a target of Chinese wrath. Before the Peiping leaders decided to concentrate their fire on the Soviet Premier, they had labeled the Yugoslav President a "dangerous traitor" to Marxism-Leninism.

TITO HAS MISGIVINGS

While he is far closer to the Soviet than the Chinese position ideologically, Marshal Tito nevertheless is believed to have had several misgivings about Soviet tactics in dealing with the challenge from Peiping.

With his own excommunication from the Communist camp in 1948 a not-too-distant memory, he is thought to be wary of being associated with any move that might lead to another "excommunication."

He is thought to be concerned over the possibility that a formal denunciation of the Chinese by the majority of Communist parties might tighten the organization of the Communist camp and thus force him to make a choice between joining and staying out.

He has had an unusual position of independence for 16 years, and his freedom of action has been greatly enhanced by the vagueness of relations between Communist parties.

[From the New York Times, June 8, 1964]

KEY DIFFERENCE EXISTS

(By David Binder)

BELGRADE, YUGOSLAVIA, June 8.—Just why President Tito has decided to meet Premier Khrushchev for the third time in 18 months is a matter of intense speculation here.

There have been no official commentaries, but knowledgeable observers point to the following sequence of events:

After 2 days of talks last summer the two leaders declared on August 27 that they were in "full mutual understanding and agreement on substantive questions of international development."

The implication then and later was that the Russians had decided to forget differences with the Yugoslavs as far as Belgrade's 1948 break with the Communist movement was concerned and that the differences between the two Communist parties were no longer large.

Since the winter, however, the sharpening of the conflict between the Soviet Union and Communist China has polarized new bodies of interests in the Communist movement.

PARLEY AT ISSUE

In this case, it appears that Yugoslavia's interests do not coincide with those of the Soviet Union on one crucial point: whether to convene another meeting of Communist parties to deal with the Chinese-Soviet rift.

The call for the conference went out early in the spring from Moscow after the publication of the latest in a series of Chinese Communist letters to the Kremlin. The Bulgarian party immediately supported the idea and suggested October as a date. Other parties followed, without discussing timing.

The Chinese and their supporters rejected the idea of a conference in 1964, saying it would take 4 or 5 years to prepare one.

Of the anti-Chinese parties, only the Yugoslavs and the Italians flatly opposed the proposal for a world meeting modeled on those of 1957 and 1960.

Last week Izvestia, the Soviet Government newspaper, published a list of 53 parties that had announced support for a new conference. The Yugoslavs were not on the list.

THE YUGOSLAV POSITION

President Tito's party made its position clear in a series of newspaper articles early in April. The Yugoslav argument advanced in Politika, the Belgrade daily, and Komunist, the weekly party organ, went this way:

It would be a folly to hold a conference to excommunicate the Chinese Communists from the movement or to anathematize their leader, Mao Tse-tung. The bitter experiences following the excommunication of Yugoslavia in 1948 should be warning enough on that score.

The argument went on that neither "resolutions or votes" nor "open polemics or illusive compromises" could suppress or solve the problems of the Chinese-Soviet split.

Behind this contention was the Yugoslav fear that a new Communist conference could do two things to harm this country's international position.

First, a world meeting under Soviet aegis could, with enough support, impose a new sort of Kremlin hegemony on Communist parties that have been achieving more and more freedom of action.

Second, a world meeting could take a new and distasteful position not only on the leftwing dogmatism of the Chinese Communists, but also on the rightwing opportunism of the independent parties such as Marshal Tito's. That was the case at the last two meetings.

[From the CONGRESSIONAL RECORD, May 15, 1964]

SOVIET-CHINESE RIFT—DISPUTE CONSIDERED NO BASIS FOR RELAXATION BY WEST

(The writer of this letter, a professor of economics at Georgetown University, is the author of a forthcoming book, "The Economics of Competitive Coexistence.")

To the EDITOR:

By customary Western standards, open controversies of the scope and intensity of the current Soviet-Chinese verbal exchanges, in which Khrushchev has personally taken part, are not easily settled. In fact, there are widespread expectations in the West that the estrangement between Moscow and Peiping may be irreparable.

Such, however, need not be the logic of quarrels and insults among the Communists. Tito's party was expelled from the Cominform and the separation appeared complete and irreversible. Yet for all purposes, Tito has since been accepted back into the fold of the world Communist movement by all Communist parties except the Chinese and their few scattered satellites.

The evolving ideological and organizational differences in the world Communist movement may indeed provide a more flexible framework to accommodate a wider and larger assortment of actual and potential Comumnists throughout the world. Thus peacefully separated, all the world's Communists may continue to work, in a greater variety of ways, for what still are their essentially similar domestic and global objectives.

For all of them, the utopian Communist end may continue to justify all the means short of those who use would clearly be likely to destroy their own end.

REDUCING DIFFERENCES

When the Chinese Communists eventually come around to admitting that war, in the nuclear age, is such a means, their differences with Moscow may be reduced to manageable proportions.

In the meantime it is possible that the Moscow-Peiping controversy may evolve or erupt into a more ominous form of competitive coexistence between the two separated Communist blocs. The dynamics of this might force Moscow to revert to a more

Stalinist posture at home as well as in relation to its satellites and the rest of the world.

Whichever way the controversy may turn, detour or return, the West has no discernible reason to relax in anticipation of some favorable outcome that is not clearly in sight. Those who read such relaxing implications into Senator FULBRIGHT's provocative speeches on American foreign policy were carried away by wishful thinking.

If Milovan Djilas could comment on the evolving Soviet-Chinese controversy, he would be likely to view it from a longer perspective as a major manifestation of the same basic contradiction within the Communist system which has produced a growing variety of tensions within the Soviet Union and inside other Communist-dominated countries.

These tensions are real. But they are not such as to justify either adventurous responses or complacency on the part of the West. Rather we should remain composed but anxious enough to try so to influence these tensions that they will contribute to the evolution of more freedom and justice and a safer peace in the world.

CYRIL A. ZEBOT.

WASHINGTON, *April 30, 1964.*

ADDRESS BY GOV. WILLIAM W. SCRANTON AT THE REPUBLICAN STATE CONVENTION IN MARYLAND

Mr. SCOTT. Mr. President, I ask unanimous consent to have printed at this point in the RECORD the transcript of the address of Gov. William W. Scranton of Pennsylvania at the Maryland Republican State convention yesterday.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 13, 1964]

TRANSCRIPT OF SCRANTON TALK

(NOTE.—Following is a transcript of Gov. William W. Scranton's speech yesterday before the Maryland Republican State convention announcing his candidacy for the Republican Presidential nomination)

Mr. Chairman, Senator Beall, Congressman Mathias, Mayor McKeldin and all the wonderful Marylanders in the wonderful land of crabmeat, terrapin, and history.

In the tide of history, a political party can afford almost any adversity except to lose the bold spirit that gave it its birth.

Our libraries and our archives are filled with the dry bones of the Federalists, the Whigs, and a score of others who met their moment of truth, but they did not seize it.

Today the Nation, and indeed the world, waits to see if another proud political banner which is our own will falter, grow limp and collapse in the dust.

Has the Republican Party, our fellow citizens said, outlived its usefulness? They're asking us that question now.

And we Republicans ask: Can we pretend, even to ourselves, that it is possible for us to stand with one foot in the 20th century and the other in the 19th?

Can we afford to pretend that all is well, when all is not?

Can we in good conscience turn our backs on the century-old progressive history of our party?

You and I know we cannot.

I believe that, as members of a party that is more than a hundred years old, we have no right to sell out to the modern expediences of the easy answer, or the fast draw or the quick solution.

RECALLS FIRST ADMINISTRATION

I know we have an obligation, dearly bought by our forefathers over a long period of time, to remind ourselves and to remind America that our first national administration under Abraham Lincoln was elected because it was responsible, because it was creative, and because it was imaginative, too.

It was responsible—responsible for human liberty, its preservation on the North American Continent and its inspiration, not only here in America but around the entire world; responsible for giving—and don't forget it—every American a fair chance at the share of the good life that we have here; responsible for underlining the injunctions of the Constitution and the Declaration of Independence to put solid flesh on those noble words, that all men are created equal.

Those responsibilities for the liberty of all citizens, for the economics of a great nation, for equal opportunities for everyone—those are the responsibilities which our party was born to bear, and which we have proudly borne throughout the years.

Within those responsibilities is the bold spirit we dare not lose. The Republican Party was born to save the Nation from destroying itself from within, and our mission today can be no less than that, as I know it won't be.

I say that the true spirit of the Republican Party today stands equally dedicated to preserving this Nation from the dry rot of phony liberalism or the slow death of blind reaction.

I say that the time has come for us to stand fast against both those who would compromise us into slavery and those who would lead us there in a burst of irresponsible flame.

Lincoln—Lincoln led our party because he had faith in the commonsense of every American person, and I think that we had better get about the business of keeping faith with Abraham Lincoln.

WOULD DRIVE OUT FEAR

For his work is not yet done, and neither is the work of Theodore Roosevelt, or the work of Taft and of Dwight Eisenhower. We have the solemn duty to get on with this task. We have the solemn duty to drive fear from the heart of America.

Let us be done with the fear of our system spread by the fumbling promoters of boom or bust in the opposition party, for that's the only thing they understand. And let us be done with the fear spread by the small-minded in our own party who hint that America has not enough prosperity to go all the way around.

And let us be done, too—and this I mean with everything I can say—let us be done with the fear of the black man and the fear of the white man and let us have the courage to say that there are those in each party who wish to trade on both of them.

Let us be done with that irrational fear that man has had too much liberty and let us build an even greater nation on the theory that America is blessed by God to stand forever as the guardian of freedom.

For to defy those fears—and remember this, think back to 1856 and 1860—for to defy those fears, this, our party, was born. And to defy those fears—to defy them, remember—is the reason that I'm here and the reason I am a Republican.

This is what the Republican Party is all about, and the minute we forget it is the minute we shall begin to die. We shall not let that happen. Not this year. The Republican Party will endure, it will prosper, and it will prevail.

The Republican Party will prevail because it will build upon the principles to which Americans have always pledged their heartfelt allegiance.

We shall prevail because we shall have the commonsense—and all Americans have enough of it—to gird our beliefs with solid political muscle.

Our party is not about to forget that the first great act of a great American President is to get elected.

LOCAL RACES EMPHASIZED

Nor are we about to forget, I hope, our candidates for the U.S. Senate, for the House of Representatives, for the Governors' chairs, for the State legislatures, and for the local offices throughout America.

Lincoln would cry out in pain if we sold out on our principles—we all know that. But he would laugh out with scorn if we threw away an election.

Mr. Lincoln saved the Union but he used his sagacity as a political leader to do it.

As a political leader he should applaud the quality of candidates, and we should too, on every level of government with which our party is very blessed this year.

And caring a great deal about the unity of the Republican Party, which he knew was built from the precinct up, Abraham Lincoln might remind us today not to throw away those fine candidates, but to support them and elect them.

He knew—he knew, as all of you know and I know—that in a presidential year the candidate at the top of the ticket can obviously help those below or he can doom them to undeserved defeat.

Therefore, any political party which seriously undertakes to lead the Government of this Nation—not only in Washington, but also in the State capitals, and in the courthouses and in the city halls—such a great party will not lightly throw away the top places on its ticket.

Choosing the top of the ticket is well underway—we know that—in our party. There are those who are so afraid of free choice in San Francisco that they pretend the selection is already completed.

CONVENTION, NOT CORONATION

With more than half of the delegates not yet committed—with more than half of the delegates not yet committed, they tell us to surrender the dignity of our party, the respect of our fellow citizens, and all hope of a Republican victory in the fall.

I stand before you today to challenge that point of view.

I say that we're going to San Francisco to hold a convention, not a coronation—and I hope you agree that we're not going there to hold a wake.

We will convene there in 4 weeks' time to select the man who best squares with the enduring principles of the Republican Party, not to embrace a cause which has no roots in American history.

We will convene there to select the man who can lead the whole ticket to victory—every one of them, up and down this Nation—not to embrace—we're not going there to embrace a cause which has already written off part of America and has been written off by the rest of them.

We will leave San Francisco—and I dedicate to you today that we will do that as a united party, but united beyond—behind our traditional principles and not behind some weird parody on our real beliefs.

In short—in short, the Republican challenge in San Francisco is to plan our Nation's practical business and to embrace her moral challenge. But there is a danger.

A stand must be made, but the hour is late.

We have waited dangerously long to call upon our party's conscience, and upon its wisdom and upon its will.

For too many months we have been slow to act but fast to say that it couldn't happen to us, not to our party.

FINDS PARTY IN DANGER

I share responsibility and I admit it with others of our leaders—with others of our leaders who until now have failed to so act.

I frankly express my admiration for those who earlier entered the lists, with energy and dedication.

Now—surely all of us now—at this time we must confront what is a reality.

It is about to happen to our party.

The Republican Party is in danger. And some say our country may be, too.

We could send down to defeat—we could send down to defeat—we could send down to defeat good men and good women who stand ready to carry our banner into several States.

We could take the responsibility, the reason, the Lincoln, the heart and the soul—all of those things we could take out of our party.

We will do so if we let the exclusion-minded minority dominate our platform and choose the candidates.

But we have a choice, and that is why I've come here today.

I've come here to offer our party a real choice. I reject the echo we have thus far been handed—the echo of fear and of reaction, the echo from the never-never land that puts our Nation on the road backward to a lesser place in the world of free men.

I come here to announce that I am a candidate for the Presidency of the United States.

I offer leadership. I offer leadership—leadership for a good fight, the good fight to bring us victory in November, the good fight to put America in first place, not only right here but throughout the world; the good fight to strip away wornout formulas dragged out once again by the other party in a futile effort to lead America here at home.

Let this one be clearly understood:

I am not entering this crusade for the privilege of presiding over a whipped minority.

We shall be satisfied with nothing less than a tremendous victory in November and—and then, in the years ahead, we can build our party once again into the majority party here in America, as it once was.

I need your help, everyone of you.

I need the help of every Republican. We are reading no one out of this party. We welcome every hand and every heart that believes in the true Republican cause.

And that's why I say to you, with every bit of feeling that there is at my command:

Help me gain our party's nomination, and I will lead our party to victory.

Stand—stand with me in the cause of freedom. Stand with me for the integrity of our party and the security of the Nation.

Stand with me as free men and free women, free Republicans and free Americans.

Stand with me because the cause is right, and because it is right, we shall prevail.

CITIZENS ORGANIZE TO FIGHT CRIME IN NEW YORK CITY

Mr. KEATING. Mr. President, almost daily during this debate those opposed to civil rights have been reading us crime stories from the New York Times. They overlooked a story in yesterday's Times, however, which I would like to call to their attention.

It is a story describing the efforts of Negroes and white citizens in Brooklyn to do something constructive about the vicious crimes plaguing New York City. It is a story about Negroes and whites working together in organizing to help the police to combat crime. Led by the Reverend B. J. Lowry, the ministers movement of Brooklyn and Long Island has joined forces with the Crown Heights community group organized by Rabbi Samuel Schrage of the United Lubavitcher Yeshivoth to preserve order and safety in their community. I applaud these efforts.

Every citizen is shocked by vicious attacks on the defenseless public by gangs of depraved and uncivilized hoodlums. The right to live in peace and security in our homes and communities deserves every protection and concern. Indeed, there is no greater deprivation of anyone's life or liberty than that suffered by the victim of a rape, or a mugging, or an assault in the dead of the night, and citizens have every right to organize against these outrages. The efforts of Reverend Lowry and Rabbi Schrage will be welcomed by every supporter of civil rights.

It is slanderous to suggest that those supporting Federal civil rights legislation are less concerned about these incidents than are the opponents of civil rights. The crocodile tears being shed over New York's crime problem by those dedicated to defeating the Federal legislation is shameful. We should view this horrible situation with concern for the victims, not with thinly disguised glee at having more ammunition against the bill.

Let me state as emphatically as I can that there is nothing in the pending Federal legislation which would relieve anyone of his responsibility to obey the law. On the contrary, enactment of this legislation will help to create a better society, a society in which individual responsibility and merit are encouraged and lawlessness in any form is universally condemned.

The Federal Government has no power to provide more police protection in New York City or in any other city in our Nation. But it can and it must promote respect for the law and individual rights in every part of the land and that is what those of us fighting for this legislation are trying to do.

Mr. President, I ask unanimous consent that the text of the New York Times article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEGRO MINISTERS TO AID CRIME FIGHT: BROOKLYN-LONG ISLAND GROUP SUPPORTS HASIDIC JEWS

(By David Halberstam)

A Negro clergymen's group that represents 72 churches in Brooklyn and on Long Island endorsed yesterday the Crown Heights community patrols originated by Hasidic Jews in Brooklyn. The ministers pledged their own participation in the fight against crime in this city.

In a statement they announced an "immediate effort to organize community agencies in Bedford-Stuyvesant for the purpose of making the community safe for all residents."

The group, called the Ministers Movement of Brooklyn and Long Island, held a press conference at which spokesmen said the ministers had no immediate program of their own to attack crime, as their plans were still in the exploratory stage.

The chairman, the Reverend B. J. Lowry, denied that Negroes would sponsor their own roving patrols, but he said that the number of Negroes participating in patrols with the Hasidic Jews would be increased.

At the conference the ministers were sharply critical of what they called police and public apathy toward crime in this city. One of them, the Reverend W. A. Jones, Jr., said:

"We recognize the absence of adequate police protection in the area. The people in Crown Heights were the ones who brought it to our attention. Perhaps we ourselves have been somewhat apathetic and lethargic in the past. But we want to combat apathy of the public and the slowness of the police."

CONCERN ABOUT VIOLENCE

In their statement the ministers said: "We do announce here and now that we are deeply concerned about the numerous muggings and acts of violence throughout the city, and we will organize immediately to make the entire community safe for all citizens.

"The problem is both moral and legal. Therefore we issue a call for a concerted effort on the part of the clergy and law enforcement agencies to use every resource available (except brutality) to transform the immoral image of our city into one of moral concern and mutual goodwill."

The Crown Heights community patrols are made up of citizens who have volunteered to patrol the Bedford-Stuyvesant area to supplement police protection. They were organized earlier this year when the Hasidic Jews felt they were being terrorized and harassed. They first called themselves the Maccabees, after warriors who protected Jews in pre-Christian days.

VIGILANTES WERE FEARED

When the patrols were first formed Negroes in the area feared they had been organized by a vigilante group. The Negroes now say their suspicions are groundless and that the group is helping to reduce crime in the community. About 20 Negroes are riding in the patrols now, according to the community group.

The patrols were organized by Rabbi Samuel Schrage of the United Lubavitcher Yeshivoth. One of his assistants, Martin Glass, was at yesterday's meeting and said he endorsed the steps the Negro ministers were taking.

Mr. Jones said the Negro ministers hoped to work for more jobs for young Negroes and for better housing in an attempt to reduce crime. "We hope to apply moral and political pressure," he said.

HANDCUFF CRIMINALS, NOT COPS

Mr. ALLOTT. Mr. President, I would like to congratulate the Senator from New York [Mr. KEATING] and state my concurrence in his remarks. Along a similar line, Mr. President, on May 24 Frank S. Hoag, Jr., the publisher and president of the Pueblo Star-Journal & Chieftain in Colorado wrote an editorial entitled "Handcuff Criminals, Not Cops." The editorial was based upon an editorial by Jenkins Lloyd Jones of Tulsa, Okla., on the same subject. I believe that everyone in the United States is becoming genuinely concerned about the lawless situation in this country. It is not an exaggeration to say that in Washington, D.C., we live in a jungle—a jungle which offers protection to no one, and in which anyone who goes abroad at night with inadequate protection may suffer the consequences of a beating, a mugging, and a robbery. I do not criticize the police for that, because the police are doing the best they can at the present time. But I believe it is time for Americans to start reorienting their thinking. As Jenkins Lloyd Jones said:

> Let's get on a new kick.
> Let's start weeping for the innocent.

It is about time for the average American citizen to begin to realize that the laws and the police are to protect us against the lawless, and that they are not a whipping post for every crackpot who happens to get a few ideas about the protection of the people.

It is significant to note at the same time that there is a growth of laws against the carrying of guns. All we are doing is putting into the hands of criminals the ability to prey upon the innocent. The criminals are armed, while the law-abiding citizens are defenseless. Old fashioned as it may seem, if a few more ordinary, common citizens had guns and knew how to use them, we would probably stop some of the crime.

In this week's Time magazine there is a recitation of situations in the city of New York. I am not trying to beat the city of New York over the head, because a similar situation exists in every State. But we must reorient our thinking.

Let me read a portion from the editorial:

> In *People* v. *Jose Estrialgo,* police found a boy carrying expensive luggage. The boy said he was carrying it to a friend. The officers put the boy in a scout car and drove around the neighborhood to locate the "friend." Thereupon the boy confessed he had broken into a car and stolen the luggage. The judge declared that the temporary detention of the boy was an illegal arrest and bawled out the cops.

It is about time, also, that our Supreme Court started to use a little commonsense and realized that the laws are to protect the innocent against outrages occurring by the hundreds and thousands from one end of the country to the other. The Supreme Court has lost itself in a maze of technicalities, in which it seems to me they have no realization of what is going on in the cities; and the application of commonsense to legal principles has been completely lost.

I ask unanimous consent that the editorial to which I have referred be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Pueblo (Colo.) Star-Journal and Sunday Chieftain, May 24, 1964]

Handcuff Criminals, Not Cops

So many higher court decisions have turned criminals loose on technicalities as to how evidence was collected, how arrests were made, how investigations were conducted, and how the incorrigible and frequently assaulting conduct of those arrested was dismissed as of no consequence, while the police forces of the Nation have been subjected to humiliation and court censure, that the American people should do something about the problem.

Recently there was a case by a higher court that Federal agents, in attempting to track down narcotics pushers, could not obtain a conviction because they eavesdropped on a conversation. The case involved an agent who worked his way into the confidence of a narcotic peddler. He induced the peddler to ride in his car to a certain destination. The car was bugged with a microphone and small transmitter which was picked up in a scout car following and occupied by Federal agents. Those in the car receiving the transmission of the conversation between the agent and the suspected peddler, obtained names and addresses of individuals which led later to arrests and solid evidence sufficient to convict many in the narcotic ring.

But the court ruled that obtaining evidence in this manner was illegal and an infringement of the personal rights of the accused. The criminal got off scot-free.

Jenkins Lloyd Jones, a newspaperman and columnist of Tulsa, Okla., wrote a column recently which we feel is worth quoting in full. It was entitled "Handcuff the Criminals, Not the Cops." It follows:

"The time has come to take a few handcuffs off our cops so that they may put more of them on the criminals.

"We have overprotected the malefactor and underprotected his victims. Our courts have stretched the theory of 'reasonable doubt' far beyond the point of reasonableness. One thing there is no doubt about, and that is that human life and property are now in greater jeopardy in America than at any time since law came to the Wild West.

"Let's get on a new kick. Let's start weeping for the innocent.

"Maybe the courts opened Pandora's box back in 1914 in the famous case of *Weeks* v. *The United States* when the U.S. Supreme Court ruled that if there were any doubt about the legality of police methods of obtaining evidence the criminal must go free no matter how overwhelming the proof of his guilt.

"Los Angeles Police Chief William A. Parker has commented:

" 'It is the guilty criminal who profits when he is given his freedom on a technicality, and it is the innocent victims of his future crimes who lose. The criminal prosecution pits the people of the State and not the police, in opposition to the criminal. I fail to see how the guilty criminal freed constitutes a personal loss to the police officer who has merely attempted to bring a criminal to justice.'

"Oddly enough, while illegally seized evidence is barred in criminal cases it may be used in civil cases. Which has caused Edward L. Barrett, Jr., in an article in the Supreme Court Review, to point out that recent court interpretations 'give the personal liberties of law-abiding citizens less protection than is accorded persons suspected of crime.'

" 'Illegal evidence' usually means evidence obtained as a result of research which the courts hold was conducted on the basis of insufficient presumption of guilt. Last month in Tulsa an ex-convict, stopped by police for questioning, was found to be carrying a gun. The judge not only ruled out prosecution for carrying a concealed weapon, but forced the police to give back the gun.

"In a new book, 'Criminal Law and Society,' by Frank D. Day, professor of police administration at Michigan State University, there are some gory examples of recent court decisions that have told American criminals to go-go-go.

"In *People* v. *Albert Brown,* a policeman at midnight saw a man conceal a suitcase behind a bench. The officer approached and asked what was in the bag. The man denied he had one. When the bag was opened it was found to be full of identifiable loot from a burglary. The court scolded the policeman for acting improperly and turned the burglar loose.

"In *People* v. *Jose Estrialgo,* police found a boy carrying expensive luggage. The boy said he was carrying it to a friend. The officers put the boy in a scout car and drove around the neighborhood to locate the 'friend.' Thereupon the boy confessed he had broken into a car and stolen the luggage. The judge declared that the temporary detention of the boy was an illegal arrest and bawled out the cops.

"In *People* v. *Edward Cassone,* in the dead of night officers saw two men carrying a heavy object from a building, place it in a car and speed away. The police stopped the car. In the trunk were a safe and burglar tools. The building had indeed been broken into and the safe had come from an office in it. The judge dismissed the case on the grounds that the arrest was unlawful for being based 'on mere suspicion sparked by keen intuition.'

"An appellate court has held that a suspect could legally assault a police officer even if apprehended in the course of a misdemeanor charge if subsequent examination should find some flaw in the misdemeanor charge. Under such a ruling an honest cop trying to do his duty not only has no protection, but he can even be sued.

"In 1961 the New York courts adopted stringent rules of search and seizure which gave elaborate protection to suspects. In the first year, according to the New York Times, convictions for drug peddling dropped 38 percent. During this same year 2,525 New York City police officers were assaulted either by individuals or mobs.

"No wonder no honest citizen wants to venture into Central Park after dark unless he's in the center of a hollow square of Marines.

"In the decade from 1950 to 1960 the American crime rate increased 98 percent while the population was going up 18 percent.

"It is time that decent Americans began to yell bloody murder. The robbers have been chasing the cops long enough. Let's turn the race around. Let's recognize that honest people have some rights, too, and that among these rights is the protection afforded by making it dangerous to rob, loot, maim, or murder them.

"What is needed is a new definition of 'reasonable cause.' Our courts are so deeply mired in technicalities that this may take new legislation. No legitimate human rights need be violated. The flood of confessed or redhanded criminals who walk out the courtroom doors smirking at the bailiffs represent not a triumph of law but it's idiotic failure."

COLLEGE REGISTRARS SUPPORT HARTKE EDUCATION BILL

Mr. HARTKE. Mr. President, among the various organizations which have given official support to the Hartke college student assistance bill, S. 2490, one which is most closely concerned with the financial problems of students is the American Association of College Registrars and Admitting Officers. Dr. William F. McAloon of Pace College, Westchester, N.Y., is chairman of the group's Committee on Scholarships and Financial Aid. The committee has studied the bill and evaluated it. In a statement submitted to Chairman Wayne Morse of the Education Subcommittee on April 15, the college registrars and admitting officers officially state that they "fully support this bill."

I ask unanimous consent, Mr. President, to include at this point in the Record portions of the statement of the Association.

There being no objection, the extracts were ordered to be printed in the Record, as follows:

Statement Submitted by the Committee on Scholarships and Financial Aid of the American Association of Collegiate Registrars and Admissions Officers

Having read and thoroughly studied S. 2490, a bill to provide assistance for students in higher education by increasing the

> amount authorized under the National Education Act of 1958 and by establishing programs for scholarships, loan insurance, and work-study, the Committee on Scholarships and Student Aid of the American Association of Collegiate Registrars and Admissions Officers fully support this bill.
>
> It is our belief that this bill will provide a greatly needed combination of ways whereby the youth of America may have a variety of means through which an opportunity for higher education can be made available to all those desiring such an opportunity.
>
> The expansion of loans through the National Defense Education Act amendments as specified in the new bill with regard to institutional eligibility, and extending loan preference not only to prospective elementary and secondary schoolteachers but also to college and university teachers are vital to the future of higher education.
>
> The loan insurance feature of the bill will vastly expand loan funds available to students, particularly in States where no guaranteed loan plans now exist. It would eliminate the waste of vast sums of money paid in exceedingly high interest rates to organizations by parents and students who can ill afford to pay such rates.
>
> * * * * *
>
> We commend the sponsor of the bill for the inclusion of the scholarship provision and we feel that this incentive alone will vitalize all other parts of the bill.
>
> The work-study section of the bill will, in our opinion, provide a new catalyst in the prepartion for various careers and academically related work. It will make it possible for many institutions to fulfill an unmet need in providing new or expanded programs whereby support may be obtained by the institution and the trainee.
>
> Respectfully submitted.
>
> WILLIAM F. MCALOON, Ph. D.

RESOLUTION OF APPRECIATION FOR REV. DR. JOE Z TOWER, FATHER OF SENATOR TOWER, OF TEXAS

Mr. GOLDWATER. Mr. President, it is with great pride that I rise to ask for permission to insert in the RECORD a resolution passed at the Texas Annual Conference of the South Central Jurisdiction of the Methodist Church honoring the father of one of our distinguished colleagues.

Rev. Dr. Joe Z Tower, the father of the junior Senator from Texas, has long been a tower of strength in the Methodist Church. He has served long and faithfully in the Texas Conference of the Methodist Church, as did his father before him. He has now retired, and the members of the conference council, meeting in session on May 13, 1964, expressed their appreciation with a standing ovation, and the passage of a resolution of praise and thanks for his long service in the cause of methodism.

Dr. Tower has been pastor of two churches in Houston, one in Jacksonville, Beaumont, Wichita Falls, Lufkin, and has served as district superintendent on the Tyler, Longview, Palestine, and Texarkana districts. Upon his retirement, he was executive secretary of the Texas conference with offices in Houston. He is a member of the Board of Trustees of Southern Methodist University. He has many other honorary positions in methodism.

I might also note, Mr. President, that Dr. Tower's wife, the former Beryl Goodwin, is the daughter of a man who served 50 years in the Texas Conference of the Methodist Church. It is obvious that here is a family steeped in the history, the heritage, and the cause, of the Methodist Church.

Dr. Tower was born in Douglasville, Tex., the son of the Reverend and Mrs. C. A. Tower. He served in the hospital corps of the U.S. Navy through World War I. He received his college training at Baylor University College of Pharmacy, and Southern Methodist University. The doctor of divinity degree was conferred on him by Southern Methodist University in 1946. He is the father of two children, our colleague, the distinguished junior Senator from Texas, and Mrs. J. B. Cochran of Fort Worth.

Mr. President, without objection, I would like to enter into the RECORD the resolution recently adopted by the annual conference council, in appreciation of the long years of faithful service rendered by the Reverend Dr. Joe Z Tower.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A RESOLUTION OF APPRECIATION FOR JOE Z TOWER

Whereas Joe Z Tower, a greatly beloved and highly esteemed member of the Texas Annual Conference of the South Central Jurisdiction of the Methodist Church, has elected to enter the retired relationship at the forthcoming session of the annual conference; and

Whereas he has served as a skilled servant of the church, a prophetic preacher of the word of God, and a masterly minister to the people of his congregations; and

Whereas Joe Tower, out of a variety of appointments and experiences, has brought to the office of the executive secretary of the Texas conference his winsome personality, his deep convictions and insights, his willingness to be heard, his spontaneous sense of humor, all of his many talents, and his great love for the Methodist Church; and

Whereas he has, with alertness, and boundless energy, delivered in dedicated fashion his invaluable influence, his unique understanding, and his abundant abilities to the conference and its program during these 4 years of service: Now, therefore, be it

Resolved, That this conference council does hereby adopt this resolution this the 13th day of May in the year of our Lord 1964, as an expression of the council's affection and regard for Joe Z Tower, and its appreciation of his outstanding leadership and service as its executive secretary and that copies of this resolution be furnished his wife, Beryl Goodwin Tower, his daughter, Mrs. J. B. Cochran of Fort Worth, Tex. and his son, Senator John Goodwin Tower of Washington, D.C.; and that it be recorded in the minutes of the council.

WAYNE H. MCCLESKEY, *Chairman,*
MRS. E. MAURICE FAUBION, *Secretary,*
Mr. JEFF AUSTIN,
Committee on Resolutions.

U.S. POLICY IN REFERENCE TO SOUTHEAST ASIA

Mr. MORSE. Mr. President, yesterday I answered an unidentified spokesman for the State Department who had given a statement to John Scali, of ABC, in reply to my criticism of State Department policy in southeast Asia that I had made over an ABC telecast.

I understand that the State Department is very unhappy because I pointed out that the rationalizations and alibis and gross misrepresentations of statements of this undisclosed spokesman for the State Department constituted lying to the American people. I repeat it today.

The time has come to call the shots as they are. The continuation of the misrepresentations of the State Department in regard to southeast Asia must be challenged every time an untruthful statement is made.

I inform the Senate that the latest rationalization by the State Department is a brandnew one as to why we cannot take the southeast Asia crisis to the United Nations. Mr. President, do you know why it is stated by the State Department that it cannot be done? The State Department's alibi is that it cannot be done because temporarily the United Nations is immobilized, under article 19, due to the fact that France and Russia are in financial arrears. It is alleged that if the General Assembly is called there is an understanding with congressional leaders that the position of the United States will be to challenge the right of France and Russia to vote because they have not paid up their assessments in the United Nations.

If ever I saw an attempt of trying to slide down an escape hatch, this is it. If the southeast Asia issue is brought before the General Assembly of the United Nations, the position of the United States will not be upheld and the State Department knows it. It will not be upheld because this Government is following an illegal course of action in southeast Asia along with South Vietnam, North Vietnam, Laos, and Red China. It is one that cannot be reconciled with the Charter of the United Nations and the Geneva accords of both 1954 and 1962.

As I have said officially to the State Department, I want to say on the floor of the Senate to the State Department, that we ought to call for an extraordinary session of the General Assembly of the United Nations the moment Russia vetoes in the Security Council the taking over by the United Nations of jurisdiction over the war going on in southeast Asia. We should take the whole issue first to the Security Council and put Russia on the spot, our illegal policy in southeast Asia is one in which the United States is engaged without a declaration of war having been made by the United States and in which American boys are being killed without justification.

We should first take the southeast Asia crisis to the Security Council of the United Nations and if Russia vetoes our proposal for United Nations jurisdiction we should then take it to the General Assembly and join the freedomloving nations in establishing a peacekeeping corps in southeast Asia to protect the peace rather than make war.

That is the solution I have been offering for weeks along with the Senator from Alaska [Mr. GRUENING], ably supported by the Senator from South Carolina [Mr. JOHNSTON] and the Senator from Louisiana [Mr. ELLENDER]. The State Department should stop lying about our position as its spokesman did to Mr. Scali when he sought to leave the impression that we seek to have the United States withdraw from South Vietnam before a SEATO or United Nations peacekeeping corps is sent in. Such a corps is needed to stop warmaking in South Vietnam.

Mr. TOWER. Mr. President, I am glad to hear the very fine comments being offered by the distinguished Senator from Oregon [Mr. MORSE] regarding the State Department.

If he is not careful, he may turn our country back into a republic.

FEDERAL INTERVENTION IN THE COTTON INDUSTRY

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Wall Street Journal of June 11, which points out the problems Federal intervention has caused in the cotton industry, and the administrative shortcomings of the Agriculture Department.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

COTTON'S CARD GAME

Subsidy, subsidy, who'll get the new cotton subsidy? In a way, it reminds us of that old children's card game of Old Maid. In case you've forgotten, someone winds up with an odd card and this becomes the Old Maid. Rather silly, we suppose, but so is the cotton game.

When the Federal price-support subsidy pushed America's cotton out of the world market, the Government played another card. Specifically, it began paying a subsidy to U.S. exporters so they could compete abroad.

But then foreign textile mills bought this U.S. cotton and processed it into goods they sold to this country. American textile mills, forced to buy their cotton at the higher domestic price, justifiably complained that they were caught in a competitive squeeze play.

Nothing daunted, the Government came up with yet another subsidy, this one designed to help the domestic mills. The trouble was that, by this time, the game had grown so confusing that no one seemed to know who should get the new payment.

About the only thing Congress was sure of was that the payment should not go to the cottongrower, who already received the price-support subsidy. In the end, the lawmakers merely decided to pass the problem along to the Agriculture Department.

That agency, sensibly enough, wasn't anxious to come to grips with the problem either. So it also passed; the solution is now up to the cotton dealers and the textile mills. The Department, however, stipulates that the subsidy will go only to someone who guarantees the cotton will be used by domestic mills or exported—and thus not for profiteering in the market.

As for the textile mills, they're understandably fed up with the cotton game; they would like the dealers to take the subsidy and use it to reduce their prices. But the dealers also understandably, don't want to get any more involved in this childish nonsense than necessary. It therefore looks as though the mills, if they want lower priced cotton, will wind up with the new subsidy themselves.

This new subsidy, the Agriculture Department estimates, will cost the taxpayer $140 million in the coming year. Once again, it's easy to see who gets the Old Maid's card and loses the game.

SENATOR GOLDWATER NOT AN ISOLATIONIST

Mr. TOWER. Mr. President, the contention has often been made that our distinguished friend the Senator from Arizona [Mr. GOLDWATER], is an isolationist.

This, of course, is fatuous nonsense.

An excellent editorial was published in the Arizona Republic on Tuesday, June 9, entitled, "The 'Isolationist.'"

It states in part:

> One of the silliest allegations made against Senator BARRY GOLDWATER is that he is an isolationist.
>
> The fact is, as a Life editorial made plain last year, that Senator GOLDWATER long has supported NATO, SEATO, and CENTO, the three principal free world alliances aimed at collectively thwarting our Communist enemy.

Mr. President, I ask unanimous consent to have this editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, June 9, 1964]

THE "ISOLATIONIST"

One of the silliest allegations made against Senator BARRY GOLDWATER is that he is an isolationist.

An editorial in Lord Beaverbrook's London Daily Express, shortly after the Arizonian's victory in the California primary, made that very charge, adding that Britain should not rely on the United States for a nuclear shield "if the Americans were going to elect a President like GOLDWATER."

The fact is, as a Life editorial made plain last year, that Senator GOLDWATER long has supported NATO, SEATO, and CENTO, the three principal free world alliances aimed at collectively thwarting our Communist enemy.

Unlike Senator J. WILLIAM FULBRIGHT, who advocates an isolationist policy toward Cuba, GOLDWATER claims that we must do everything in our power—tighten the economic boycott already in force, arm and train Cuban exile forces—in an effort to rid the hemisphere of a dangerous enemy. (This position, incidentally, is similarly held by most Republicans in Congress and by many Democrats.)

Unlike Senator WAYNE MORSE, who advocates pulling out of Vietnam and abandoning what's left of that country to the Communists, GOLDWATER believes that the United States should use whatever methods are required to repulse the Vietcong and thereby stave off a Red takeover of southeast Asia.

And, unlike those many Americans who agitated for a coalition government for Laos (with the result that Laos today is communized in all but name), GOLDWATER was one of the few voices in Congress who predicted—correctly—what would happen if the United States foolishly trusted Communist promises.

It is true that GOLDWATER voted against the limited nuclear test ban treaty. He did so saying that if the Soviets were as desirous of reducing international tensions as many treaty supporters claimed, they should demonstrate their sincerity by removing Russian troops from Cuba and by tearing down the Berlin wall. The treaty, of dubious value, passed Congress overwhelmingly, yet the Berlin wall remains standing and Soviet troops remain in Cuba. But, as an administration spokeman admitted last week, America's signature on the test ban treaty now makes it impossible for the United States to construct an Atlantic-Pacific canal (in place of the Panama Canal) by means of nuclear explosives, a process which would save considerable time and money.

Finally, GOLDWATER'S "isolation" is sometimes said to stem from his opposition to the direction in which the United Nations is heading. It is foolish to contend that foreign affairs cannot be conducted outside the U.N. when in fact most foreign negotiations already are conducted there. And GOLDWATER is right in suggesting that official Washington change its attitude toward the recklessness of the U.N., that it act as a world leader rather than allowing itself to be led by the immature nations of the world.

GOLDWATER'S critics cannot have it both ways—that is, by claiming in one breath that he is an isolationist and by charging in another that he is a warmonger. The truth, of course, is that he is neither of these—as we suspect most of his critics well realize.

IMPRISONMENT OF MARTIN LUTHER KING IN ST. AUGUSTINE, FLA.

Mr. JAVITS. Mr. President, we face a strange anomaly in the fact that Rev. Martin Luther King, Jr., until today continues to be in jail in St. Augustine, Fla., subject to a charge of trespass, his crime consisting of the fact, that he sought to be served at a restaurant "in a segregated motel."

Lately, I have been listening to a great deal of advice being given the people of the State of New York, which I have not resented, but have instead appreciated, because we will listen to it seriously, and if we believe it is good advice, we shall take it.

As Florida is also a part of the United States, of course, I believe it is well to ask the people of a State like Florida to bethink themselves of their own situation. The argument is being made that there is deep concern in the country over the protest against the deprivation of civil rights. Even spokesmen from that area of the country are willing to admit that the pending civil rights bill will probably be enacted into law.

The pending bill contains a standard which is exactly the opposite of the standards by which Rev. Martin Luther King—who is acknowledged to be perhaps the single leading individual in the whole Negro community in the United States—is being imprisoned; yet, we see this strange paradox of the continuance of his imprisonment in the face of what seems to be a broad consensus, that a man, even if he is a Negro, should be entitled to be served in a motel.

I trust that much thought will be given to this question and that in the interests of peace, tranquillity and moderation it would even be in order to determine whether State laws like the one under which Reverend King is held—which are, in my judgment, unconstitutional, and which certainly will run afoul of the standard which will, without too much question, soon become the national standard—should nonetheless continue to be enforced at a time like this—as if people lived on another planet.

I suggest only that, and submit it, because it does seem so anomalous to me—and I believe to many other Americans—as we read the papers and hear the arguments taking place in the Senate, that to this very moment Rev. Martin Luther King, Jr., remains in jail because he is a Negro in applying at a motel to be served and was refused service on the ground, as frankly stated by the manager that his motel was segregated. He should be released now.

LETTER TO THE EDITOR OF THE OREGONIAN ON SOUTHEAST ASIA

Mr. MORSE. Mr. President, I ask unanimous consent that a letter to the editor of the Oregonian written by Dr. Remy W. Fulsher, of Portland, Oreg., may be printed in the RECORD. The letter rightly takes the Oregonian to task for an editorial on Indochina. It is a sound criticism.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 1, 1964.

THE EDITOR,
The Oregonian,
Portland, Oreg.

DEAR SIR: I am writing in reference to your "Anti-U.S. Ally" editorial, presenting France as a "friend of Red China."

The matter of "hot pursuit," where armed forces violate the frontiers of a sovereign country and kill unarmed civilians, is obviously wrong under international law. When the French did this in Tunisia, your newspaper was against it, so was Ambassador Lodge in the U.N. who voted with the Communists against the French, at the time. Perhaps you and Ambassador Lodge have changed your minds. Apparently the U.N. has not. Or do you still support the U.N.?

It was not "ineptitude" which caused the French to lose the war in Indochina and to let the country be partitioned. Following the collapse of a coalition of United Nations in North Korea, resulting in permanent partition of Korea, enormous quantities of military supplies, especially artillery, and volunteers from China, were deployed against the French. Partition of the country was suggested by the U.S. Government (Eisenhower) who pledged support to the anti-French Ngo Diem and presumably to his sister-in-law, Emperor Bao Dai's music teacher, Mme. Nhu.

When you say that France is "a friend of Red China," I think that you are placing yourself in the same category with extremists who have called everybody—Eisenhower, Kennedy, Morse, etc.—Communists. This, in my opinion, is unpardonable.

If you go to the effort of reviewing the history of French-Cambodian relations, you will find that France has never "let that country drift." Cambodia, the remnant of the ancient Khmer empire, was saved from extinction at the hands of her neighbors, the Siamese and the Annamites, by the French. Cambodia was never a French colony but a protectorate. In the Indochinese war, the Royal Cambodian Contingent fought loyally alongside the French to the end against the common Communist enemy. Today, Cambodia is still a very pro-French constitutional monarchy. It is not a dictatorship. Private property there has not been nationalized. The country has managed to remain free from the ravages of war thanks to its popular Chief of State, Prince Norodom Shihanouk. Prince Norodom Shihanouk no longer accepts American aid following alleged attempts by the CIA to depose him. Perhaps he has let himself be influenced by the words of Mme. Nhu, "If you have America for a friend, you don't need any enemies."

If you publish this letter, please do not edit it or delete parts of it.

Sincerely,

REMY W. FULSHER, M.D.

PORTLAND, OREG.

THE PROBLEM OF VIETNAM

Mr. MORSE. Mr. President, I ask unanimous consent that a penetrating article written by Eliot Janeway and published in the Chicago Tribune on March 19, 1964, may be printed in the RECORD. It is entitled "Viets Not in World Stream of Economics." It is an excellent article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Mar. 19, 1964]

VIETS NOT IN WORLD STREAM OF ECONOMICS

(By Eliot Janeway)

NEW YORK, March 18.—The decision of New Hampshire Republicans: "We'll take Lodge," raises issues outside the partisan orbit of domestic politics. The sore and troubled problem of Vietnam has been haunting American opinion for years. Lodge's victory brings it to the surface.

Is Vietnam another Korea? Is it a second chance at the gamble that didn't come off there? Or is it a muddy morass, waiting to swallow troops and equipment, hopes and policies, time without end?

Now that the Lodge candidacy is sharpening the smoldering anxiety over Vietnam, there's bound to be greater pressure for a decision.

There are times and places, however, when it's the better part of valor to hold back from irretrievable decisions. Certainly, we don't want to concede Vietnam to the Communists. Nor do we want to send our boys into a beartrap.

In any policy consideration of the risk-reward ratio of all-out U.S. commitment in Vietnam, it's understandable that many Americans should confine their thinking to Vietnam alone. But the decision whether to draw a line in our confrontation with Soviet imperialism, and to hold it, is bigger than any single trouble spot in Asia.

IS IT PLACE TO FIGHT?

Certainly, there's no suggestion of appeasement or dealing from weakness if we stop to ask ourselves: Is Vietnam the right front for us to fight on? Or would we be cannier to bait a trap of our own in terrain better suited to the mobilization of our resources?

Lodge's late boss, John Foster Dulles, urged us to operate from what he described as "situations of strength"; so that we might confront the enemy at times and places of our choosing, not his. Here's one suggested standard for determining where the United States is stronger, and where Soviet imperialism is weaker.

A STRANGE FAILURE

The standard is economic—that is, it is on the economic front that our strength is overwhelmingly greater than our enemy's. But we have never learned to mobilize it fully against Moscow and Peiping. This is a strange failure in view of the decisive role played by American economic power in winning World War II against economies that were more formidable than the Soviets are today.

Stated baldly, there is little fighting our economy can do for us in Vietnam. Vietnam has yet to be drawn into the world economic stream. The only power we can bring to bear on that tormented region is military; and, because the choice of weapons there is so rudimentary, the potential of military power is bound to be mainly manpower.

ANSWER IS LATIN AMERICA

Where then, is the front on which we would do best to take our stand? And where would our enemy have to stand up to us at the greatest strategic disadvantage? Surely, the answer is Latin America. By contrast with Vietnam, it has been drawn into the orbit of modern economic life, and the issue has been joined there between Castroism and the forces of economic progress and welfare.

Surely, it would be a monumental miscalculation for us to accept Vietnam as our No. 1 fighting front, and then to find ourselves forced to operate from weakness in Latin America. If, instead, we think of Vietnam as a limited and remote holding operation, we can time our heavy economic artillery, our imagination, and our know-how toward the kind of Latin American operation which we have the power and the will to see through to victory.

PORTLAND STUDENT WINS SCHOLARSHIP

Mr. MORSE. Mr. President, it gives me great pleasure to invite the attention of Senators to the accomplishment of a young Oregonian, Mr. Franklin Foster, a high school student who will be graduating from Jefferson High School in Portland, Oreg., this month. I am very proud that this young Negro has brought such an honor to Jefferson High School and to Oregon.

Mr. Foster, who is the stepson of a janitor, has been awarded a $12,000 scholarship which will enable him to undertake his collegiate work at Princeton University. I thoroughly concur in the comments made by the principal of Jefferson High School, Mr. Roy O. Malo, when he said:

> This is a singular honor for Frank, but one which he merits from every standpoint—scholarship, leadership, citizenship, and strength of character.

Mr. President, I ask unanimous consent to have an article under the byline of Mr. Jim Running, education editor of the Oregon Journal, concerning Mr. Foster printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Oregon Journal]

PORTLANDER AWARDED SCHOLARSHIP TO PRINCETON VALUED AT $12,000

(By Jim Running)

The stepson of a janitor will attend Princeton University next fall on one of the biggest scholarships ever given to a Portland high school student.

The student is Franklin David Foster, 5842 Northeast 10th Avenue, who will be graduated from Jefferson next month.

The scholarship and other aid granted by the university totals $12,000.

"A singular honor for Frank, but one which he merits from every standpoint—scholarship, leadership, citizenship, and strength of character," Jefferson Principal Roy O. Malo said.

Two other universities—Stanford and Oregon State—also competed for Foster with offers of scholarships, but he chose the New Jersey school.

At Princeton, the Nation's fourth oldest college, and a school without fraternities, the youth will live in a dormitory as do nearly all the students, freshmen through seniors.

The scholarship is for $2,400 the first year for tuition and partial living expenses. To pay his expenses further, the university will give him a job paying $400 for the year, and will loan him $200.

If his performance in his freshman and succeeding years is satisfactory, the $3,000 in aid will be granted as well in his sophomore, junior and senior years.

Franklin's father, Nelson Foster, died in 1948. His mother, Mrs. Helen Brown, is head cook at a convalescent home. His stepfather, Leo Brown, is custodian for the Portland School District.

The youth is one of eight children. Sisters Patty and Shirley attend Woodlawn Grade School. His five older brothers are married, living in Tacoma, Portland, and Germany.

Asked to describe Franklin, his Jefferson counselor says, "One is pressed to avoid superlatives.

"Frank Foster is a tremendous young man, always pleasant and cheerful, keen and alert, well-groomed, highly respected, immediately and enduringly liked by all the students, teachers, administrators, and adults with whom he comes in contact.

"As a citizen and participant in classroom, student activity, and homelife, Frank stands out and brings to any individual or group task he enters that special 'Foster' mark of inquisitiveness, easy humor, and dedication to the task of completion."

An honor student at Jefferson, Foster was president of his junior class and the National Honor Society chapter.

His hobbies are chess, fishing, book collecting, student government, and reading.

"Biology is one of his big interests, as is choral music," his counselor said. "He spent 4 years in Jefferson's senior choir, in addition to taking a cluster of honor courses in math, science, and English."

EDUCATION—OUR BEST CAPITAL INVESTMENT

Mr. MORSE. Mr. President, the value to all the people of the United States which results from giving student aid to its young people has frequently been a source of speculation. Many are convinced that the education of the human material resources of our young people should be considered as a capital investment which returns tangible benefits both to the individual and to the community.

I invite the attention of Senators to a short but incisive, and to my mind, an unanswerable analysis of the problem prepared by Dean Richard Wynn, of the School of Education at the University of Pittsburgh. Dr. Wynn has illustrated most persuasively the case that education is a high yield investment and I commend his cogent analysis to Senators.

Mr. President, I ask unanimous consent to have the analysis to which I have referred printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

EDUCATION—OUR BEST CAPITAL INVESTMENT

(By Richard Wynn, Associate Dean, School of Education, University of Pittsburgh)

Benjamin Franklin observed that "an investment in knowledge always pays the best interest." But somehow we have consistently failed to grasp the truth of this simple but powerful idea. We continue to regard the costs of education as a levy upon our pocketbooks, a charge against tax revenues. We need to see the cost of education as a high-yield investment, an opportunity to capitalize graduates' future earnings just as we develop capital on future earnings of our corporations.

Consider this dramatic illustration of the concept of education as capital investment. The U.S. Government could make a neat profit by providing for every capable young man[1] a free college education including total subsidy of tuition, fees, books, room, board, and personal expenses. Here is how it would work.

1. Lifetime income of males with college education	$419, 871
2. Lifetime income of males with high school education	$241, 844
3. Difference in lifetime income (No. 1 minus No. 2)	$178, 027
4. Average annual income of male college graduates (No. 1 divided by 40 years)	$10, 497
5. Average annual income of male high school graduates (No. 2 divided by 40 years)	$6, 046
6. Average annual income tax paid by male college graduates	$1, 693
7. Average annual income tax paid by male high school graduates	$676
8. Average lifetime income tax paid by male college graduates (No. 6 multiplied by 40 years)	$67, 730
9. Average lifetime income tax paid by male high school graduates (No. 7 multiplied by 44 years)	$29, 744
10. Difference in lifetime income tax payments of male college graduates over male high school graduates (No. 8 minus No. 9)	$37, 986
11. Estimated total cost of 4-year college education paid by Government	$10, 000
12. Profit to U.S. Government (No. 10 minus No. 11)	$27, 986
13. Annual profit to U.S. Government (No. 12 divided by 40 years)	$699. 65
14. Rate of income on investment (No. 13 divided by $10,000) (percent)	7
15. Interest rate on money borrowed by Government to provide full scholarships (percent)	5
16. Rate of net profit to U.S. Government (No. 14 minus No. 15) (percent)	2

The additional profits yielded from the byproducts of this investment—increased productivity of the national economy and lower social security payments, to mention a few—would be enormous. Can this country afford to give all its able young men a college education? It can hardly afford not to.

DOCUMENTATION AND EXPLANATION OF DATA

1. Source: Statistical Abstract of the United States, 1962, table 150, p. 119. Income of males 25 to 64 years of age in 1958. Includes income of males with more than 4 years college education.

2. Source: Ibid.

4, 5. Divisor of 40 represents age span 25 to 64 for data in 1 and 2.

6, 7. Statistical Abstracts of the United States, 1962, table 516, p. 393.

8, 9. Multipliers of 40 and 44 represent estimated years of gainful employment for college males and high school males respectively estimated from mortality rates, Statistical Abstracts of the United States, 1962, table 64, p. 61 and corrected for estimate of years of employment beyond age 65.

10. Data based upon figures for 1958, the latest year for which such information is available. The figure for 1963 would probably be greater.

11. Generous estimate of the average total cost of a 4-year college education in 1963.

THE CONSTITUTION OF THE ASSOCIATED STUDENTS OF CENTRAL OREGON COLLEGE

Mr. MORSE. Mr. President, one of the great attributes of our American political system, which contributes to its permanence and its durability, is the training in democracy which our citizens undertake in connection with their voluntary organizations.

We are a self-governing people. The signs of our political maturity are shown in the minds of our young people from the grammar school through the graduate departments of our great universities.

Recently, I have been given an opportunity to review one of the fruits of this training in citizen-statesmanship, in the form of a constitution which has been adopted by the Associated Students of Central Oregon College at Bend, Oreg. I wish to commend these students, and in particular, Mr. J. Vernon Crawford, president of the Associated Students of Central Oregon College who, with his colleagues, have hammered out on the anvil of conscionable compromise the organic law to which they willingly subject themselves.

Mr. President, I ask unanimous consent that the constitution to which I refer may be printed in the RECORD at this point in my remarks.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

THE CONSTITUTION OF THE ASSOCIATED STUDENTS OF CENTRAL OREGON COLLEGE

We, the Associated Students of Central Oregon College, to describe the nature of our organization and to provide for its operation, do ordain and establish this constitution:

ARTICLE I—NAME, PURPOSE, AND SYMBOLS

SECTION 1. The name of our organization is the Associated Students of Central Oregon College and may be abbreviated to ASCOC.

SEC. 2. The purpose of the ASCOC shall be to promote the intellectual curiosity and capability, physical and mental maturity, and social and economic advantages of its members.

SEC. 3. (1) The Central Oregon College colors shall be ice-blue and silver.

(2) The athletic symbol shall be a silver letter "O."

(3) The mascot shall be the bobcat.

ARTICLE II—MEMBERSHIP

SECTION 1. Active membership in the ASCOC shall be granted to any person who is properly enrolled at Central Oregon College.

SEC. 2. Associate membership in the ASCOC shall be granted to all former active members.

SEC. 3. Honorary membership may be conferred upon any person for distinguished attainment or contributions of interest to the ASCOC by a majority vote of the senate.

SEC. 4. No member shall be discriminated against because of his race, creed, or color.

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[1] Unfortunately this proposal cannot be applied with profit to female college students because the difference in earnings between female college graduates and female high school graduates is substantially less than for males.

ARTICLE III—ASSEMBLIES

SECTION 1. General assemblies of the entire ASCOC may be held whenever deemed desirable by the ASCOC president.

ARTICLE IV—ELECTIONS

SECTION 1. Any active member may be nominated for office by filing a completed petition, as required in the bylaws, with the ASCOC elections committee chairman at least 2 weeks prior to the election for that office.

SEC. 2. The general election shall be held on the second Tuesday and Wednesday after the first Monday in May each year.

(2) The special fall election shall be held on the first Tuesday and Wednesday after the first Monday in November each year.

SEC. 3. In all elections to fill office, the candidate receiving the greater number of votes cast shall be declared elected, except in a tie vote, for which the bylaws shall provide.

SEC. 4. All elections shall be made by Australian secret ballot. The full text of the ballot shall be made public in accordance with the bylaws.

SEC. 5. Only active members may vote in ASCOC elections or be candidates for office.

SEC. 6. The elections committee shall provide for the administering of elections in accordance with this constitution and bylaws.

SEC. 7. Special ASCOC elections may be held in cases of emergency and as prescribed elsewhere in this constitution and bylaws.

ARTICLE V—OFFICERS

SECTION 1. (1) The officers of the ASCOC shall be: (a) President, (b) vice president, (c) secretary, (d) treasurer, (e) senators.

(2) The president, vice president, secretary, treasurer, and four senators shall be elected at the general election and four additional senators shall be elected from the freshmen at the special fall election.

SEC. 2. (1) An officer shall hold his office from the time of his installation to the installation of his successor in office, unless sooner relieved. All installations shall be held at least by the end of the term in which the election for that office is held.

(2) Should the presidency become vacant, the order of succession shall be: Vice president, secretary, and treasurer.

(3) An ASCOC officer must retain active membership throughout his tenure of office.

SEC. 3. Each officer shall perform responsibly all duties required by his position.

SEC. 4. (1) The president shall faithfully adhere to the constitution and bylaws; preside over all general assemblies; serve as ex officio chairman of the senate; appoint the following, with the consent of a majority vote of the senate: standing committee chairmen, the crier, the assistant crier, the student court members, and replacements for ASCOC and senate vacancies.

(2) The vice president shall faithfully perform all the duties of the president in his absence, serve as the elections committee chairman, serve as an ex officio member of all other committees, and coordinate the actions of all committees.

(3) The secretary shall keep an up-to-date journal of all general assemblies and senate meetings, and shall maintain all the correspondence and records of the ASCOC, except the financial records.

(4) The treasurer shall collect and disburse all ASCOC funds in accordance with the constitution and bylaws, shall maintain accurate, up-to-date ASCOC financial records, and shall serve as the budget committee chairman.

(5) The senators shall perform those activities which are expeditious to the functioning of the ASCOC and senate.

SEC. 5. (1) ASCOC activities requiring public notification shall, in accordance with the constitution and bylaws, be publicly announced by the crier. The president may assign additional duties to the crier.

(2) The crier and assistant crier's tenure of office is subject to the discretion of the president.

ARTICLE VI—RECALL

SECTION 1. (1) Any ASCOC officer is subject to recall from office by the active members.

(2) A recall election may be demanded only by a petition signed by its sponsors and at least 10 percent of the active members. The petition shall set forth in not more than 200 words the reasons for the demand.

(3) The recall election shall be held within 2 weeks of the day the completed recall petition is filed with the elections committee chairman, which shall be done in accordance with the bylaws.

(4) If two-thirds of a majority of the active members in the recall election vote in favor of recall, the officer is recalled and his office is vacant.

SEC. 2. The reasons for demanding recall shall be printed, in not more than 200 words, on the recall ballot. The officer whose recall is demanded shall have the privilege of including on the recall ballot, in not more than 200 words, his justification for his course of action.

ARTICLE VII—LEGISLATIVE BODY

SECTION 1. (2) The name of the ASCOC legislative body is the student senate, which may be referred to as the senate.

(2) The legislative power of the ASCOC, except for the initiative and referendum powers reserved to the active members, is vested in the senate.

(3) Changes in and/or additions to the bylaws may be made by approval of a majority of the senate.

(4) No action by the senate may have effect unless the motion for action and the vote by which the motion is approved or rejected take place at proceedings open to the active members.

SEC. 2. (1) The voting members of the senate are the president, vice president, secretary, treasurer, and senators.

(2) The nonvoting members of the senate are the crier and assistant crier, editor of the ASCOC newspaper, editor of the ASCOC annual, and faculty adviser(s).

(3) Only active members shall be selected for the senate, except the faculty adviser(s).

(4) Any member of the senate may be temporarily suspended for disorderly behavior by a majority vote.

SEC. 3. (1) The senate shall adopt rules for the government of its members and meetings in accordance with the constitution and bylaws.

(2) The senate shall meet regularly and publicly at least twice each month at times and places designated in the rules governing senate meetings.

(3) A quorum, which shall be a majority of the voting members, shall be required for the transaction of business at senate meetings.

SEC. 4. (1) The standing committees shall be as follows: The elections committee, the student activities committee, and the budget committee. Only voting members shall be selected as standing committee chairmen.

(2) Only active members may serve on committees.

(3) All actions of committees shall be in accordance with the constitution and bylaws.

SEC. 5. (1) The elections committee shall administer and publicize all ASCOC elections and nominations.

(2) The student activity committee shall be responsible for the coordination of intramural and social activities.

(3) The budget committee shall propose a budget which, if approved by a majority vote of the senate, shall be published in the approved form.

ARTICLE VIII—INITIATIVE AND REFERENDUM

SECTION 1. (1) The active members reserve to themselves the initiative power, which is to propose bylaws, resolutions, or amendments to the constitution and enact or reject them at an election.

(2) An initiative may be proposed only by a petition signed by at least 10 percent of the active members.

(3) An initiative petition shall include the full text of the proposed bylaw, resolution, or amendment to the constitution.

(4) A proposed initiative shall embody one subject only and subjects properly connected therewith.

SEC. 2. (1) The active members reserve to themselves the referendum power, which is to approve or reject at an election any act, or part thereof, of the senate.

(2) A referendum may be ordered only by a petition signed by at least 10 percent of the active members.

SEC. 3. (1) An election on a referendum or initiative, except a proposed constitutional amendment, shall be held between 15 and 30 days following the filing of the completed petition with the elections committee chairman.

(2) A referendum or initiative measure, except a proposed constitutional amendment, becomes effective immediately upon approval by a majority of the votes cast thereon.

(3) A referendum affects only that part of the act to which it refers.

ARTICLE IX—AMENDMENT AND REVISION

SECTION 1. Proposed amendments to or revisions of the constitution shall be submitted to the active members at the general election.

SEC. 2. The senate may propose amendments to or revisions of all or a part of the constitution by majority approval.

SEC. 3. An amendment to the constitution proposed by the senate shall embody one subject only and subjects properly connected therewith.

SEC. 4. A revision may include more than one subject and may be voted upon as a whole.

SEC. 5. A proposed amendment to or revision of the constitution must be published at least 30 days prior to the election thereon.

SEC. 6. An amendment to or revision of the constitution proposed by the senate or an initiative measure shall become effective 30 days after the election thereon if approved by two-thirds of the votes cast.

ARTICLE X—JUDICIARY

SECTION 1. (1) The judicial power of the ASCOC shall be vested in a student court.

(2) The student court has general jurisdiction in all cases arising under this constitution and bylaws, and duly established regulations.

SEC. 2. (1) The student court shall consist of a presiding judge and two associate judges. Their terms shall be concurrent with that of the appointing president.

(2) In the absence of a judge or judges, the president shall make temporary appointments to serve during such absences.

(3) Only active members are eligible to receive such appointments.

SEC. 3. Cases must be heard by the court within 30 days following a citation.

ARTICLE XI—RATIFICATION

SECTION 1. The ratification of this constitution by a majority of the votes cast by the ASCOC shall be sufficient for the immediate establishment of this constitution.

ARTICLE XII—TRANSITIONAL

SECTION 1. The purpose of this article is to insure an orderly transition from the former ASCOC constitution to this constitution. When that purpose is accomplished and all provisions of this article cease to have any continuing effect, the senate shall so declare by a majority vote, and thereafter this article shall not be retained as part of this constitution.

SEC. 2. Except as otherwise provided in this constitution, a person now holding any elective or appointive ASCOC office shall continue to hold that office and exercise the functions of that office until that office is abolished or altered or his successor is selected and qualified in accordance with this constitution or bylaws enacted pursuant thereto.

SEC. 3. Bylaws may be enacted to insure an orderly transition from the former ASCOC constitution to this constitution by a majority of the senate.

Mr. MORSE. Mr. President, so long as our young citizens practice, preach, and are concerned with the rule of law to which they give their free adherence, our institutions will endure.

The PRESIDING OFFICER (Mr. INOUYE in the chair). The 30 minutes for the morning hour have expired.

Mr. LAUSCHE. Mr. President, I ask unanimous consent to extend the morning hour for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAY INCREASES FOR GOVERNMENT EMPLOYEES

Mr. LAUSCHE. Mr. President, a few days ago, the House of Representatives passed the pay increase bill which, if finally adopted, will give Members of Congress a salary of $30,000 a year, being a 140-percent increase over that received in 1955.

The salary in 1955 was $12,500, and in that year it was raised to $22,500, or 80 percent.

It is now contemplated to raise the salary from $22,500 to $30,000, and similar increases will be made in the case of board members and judges.

The passage of the bill in the House itself I cannot understand, but I am completely mystified by an amendment which was offered to the bill; namely, a provision that whenever the salaries of the employees of the Federal Government are raised generally, that general increase will automatically become applicable to Congress.

That means that Members of Congress will not be required to express their views, and that their salaries will be automatically increased when a salary increase is voted for employees generally.

Mention was made today of immorality. I begin to wonder whether sound ethics are involved in the philosophy that we tie ourselves like a caboose to a train, so that wherever that train goes in dealing with employees generally, we become a part of it.

There is another aspect that causes me to ponder. To grant pay increases will become an inducement, because we shall benefit by every pay increase that is granted. If we grant a 10-percent pay increase to the general employees, automatically we shall receive the same pay increase.

This is a matter which is worthy of serious attention in analyzing many foreboding aspects of what is proposed. I have spoken my view that we are making a serious mistake in setting an example in the Congress which will enable the proponents of increased costs to say that Members of Congress voted themselves a 140-percent pay raise in 9 years, and that such demandants should not be denied an 8-percent, 15-percent, or 20-percent pay raise, or whatever is asked.

We shall not be able to do it. I contemplate continuing the fight against this proposal. I cannot stand idly by, knowing that the advisers on economics to the President have said that a 3.2-percent increase should be the guideline. This year, we shall grant ourselves 33⅓ percent over $22,500 which is in addition to the 80 percent we enjoyed when in 1955 we raised our salaries from $12,500 to $22,500.

It is a travesty on justice, an exploitation of the taxpayer, a theft of the savings, pensions, and annuities of our citizenry, and the beginning of a real move into inflation.

I not only will not approve the proposal but I vigorously condemn it.

SITUATION IN SOUTHEAST ASIA

The PRESIDING OFFICER. The morning hour has now ended.

The Senator from Alaska——

Mr. GRUENING. Mr. President, I ask unanimous consent to extend the morning hour an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRUENING. Mr. President, I support the eloquent, continued, and unanswerable pleas of the senior Senator from Oregon [Mr. MORSE] for a policy of peace rather than a policy of war in southeast Asia.

It is difficult to understand why the administration, which inherited the mess in southeast Asia, which was not of its making, cannot see that by not reversing that inherited policy, it is being wholly inconsistent with its professions of seeking peace on earth, inconsistent with its actions in other parts of the world where it has sought peaceful solutions, and called in the United Nations, and that it must pursue a policy of peace-seeking if it wishes to save us from a great disaster; if it wishes to be responsive to the clear wishes of the American people, as my mail, which runs 100 to 1 in favor of a peaceful settlement in southeast Asia demonstrates, and if it does not take this matter to the United Nations.

A week ago, on the floor of the Senate, I called for a cease-fire in southeast Asia to be initiated by the United Nations.

That plea, which was made for the first time on the floor of the Senate—so far as I know for the first time anywhere—was ignored by the press although it was carried by the wire services. Not a line was published in the New York Times or in the Washington Post.

I believe that we should make every effort to stop the killing, not merely of American boys but also of South Vietnamese as well, that we should stop the bombing of villages with napalm and the burning of innocent civilians, men, women, and children, who have no part in this conflict except as its victims.

I shall repeat this plea again and again, until we cease and desist from our war-making and begin waging peace instead.

The PRESIDING OFFICER. The time extended for the morning hour has expired.

Mr. ELLENDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 320 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Goldwater
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Williams, N.J.
Williams, Del.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Michigan [Mr. MCNAMARA], the Senator from Virginia [Mr. ROBERTSON], the Senator from Arkansas [Mr. FULBRIGHT], and the Senator from Tennessee [Mr. WALTERS] are absent on official business.

I also announce that the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that the Senator from California [Mr. ENGLE] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from New Mexico [Mr. MECHEM] and the Senator from Kentucky [Mr. MORTON] are necessarily absent.

The Senator from North Dakota [Mr. YOUNG] is absent on official business.

The PRESIDING OFFICER. A quorum is present.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on

Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the Dirksen-Mansfield substitute amendment, as amended. It is open to further amendment.

Mr. JOHNSTON. Mr. President, I call up my amendment No. 555.

The PRESIDING OFFICER. The amendment will be stated.

The Legislative Clerk. On page 35, between lines 9 and 10 of amendment No. 1052, it is proposed to insert the following new section:

> Sec. 605. Nothing contained in this title shall apply to any agency or organization providing child welfare, foster home, or adoption services with respect to the function of such agency or organization in placing children in homes, foster family care, group care, or institutional care.

Mr. JOHNSTON. Mr. President, mine is a very simple amendment. It springs from my concern about the giant bureaucracy this bill would impose over the activities of the American people.

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order. Senators will extend the usual courtesy to the Senator from South Carolina to discuss a very important amendment. Senators will cease conversations. The Senator may proceed.

Mr. JOHNSTON. While most of the sections contained in this bill cover the activities of businessmen, labor unions, commercial enterprises, and so forth, title VI is so broad it will affect virtually every citizen in the United States. Of particular concern to me is the effect of an adverse ruling by some bureaucrat that the use of racial criteria in the placing of little children for adoption or in foster homes is discrimination and, therefore, requires the cutting off of all Federal funds used to assist in these child welfare programs.

The efforts on the part of the Federal Government to assist the States and localities in caring for orphan children or children from broken homes has really just begun and is only now beginning to bear fruit. Over $25 million of Federal funds have been expended each year to help our 50 States, the three territories, and the District of Columbia in carrying out these child welfare services.

Mr. President, there is not one of the 50 States that does not use racial criteria as one of many factors in placing these children for adoption in foster homes. They even go so far, in setting up their criteria, to take into consideration the religion of the child. In almost every instance that is done. But we can imagine what some bureaucrats might do in the future under the bill we are now considering. Indeed, not only racial criteria are used, but in many instances such matters as skin coloring and varying degrees of skin coloring are taken into consideration.

Since the experience of every State welfare agency has led to the very practical use of racial criteria in placing children in new homes, no Federal bureaucrat, on the strength of the civil rights bill, should be allowed to overrule the experienced judgment of the social workers in all the States and require local welfare agencies to place children in homes regardless of race, creed, or color.

I ask every Senator in determining his vote on this amendment to search his soul and see if he does not agree with the unanimous verdict of the welfare agencies of the 50 States that racial criteria in this instance are, indeed, a valid basis upon which to place a child in a particular home.

I am sure that every Senator is deeply interested in the welfare of the children who are placed in foster homes. The children cannot look out for themselves; they can be cared for only by the various welfare bureaus throughout the United States. My amendment would merely throw protection around the children and make certain that in the future they will be cared for as they have been in the past, in the best interests of our great Nation.

Mr. MAGNUSON. Mr. President, I yield myself 1 minute of my time.

How much does the Federal Government contribute to this program?

Mr. JOHNSTON. It has been about $25 million for several years. I am reliably informed that by 1969 the amount will be increased to $50 million.

Mr. MAGNUSON. As I recall, when this program was inaugurated, Congress placed it on the same basis as the programs that provide aid to the blind and the handicapped.

Mr. JOHNSTON. That is true.

Mr. MAGNUSON. I think that was the justification, if the Senator will examine the record, because of the condition existing all over the United States.

Mr. JOHNSTON. That is true. I am only asking that the children be given protection in this particular field. I cannot see why anyone should object to an amendment such as this at this particular time, because it merely assures the fathers and mothers who have to give up their children, perhaps because of broken homes or because of a death in the family, necessitating intervention by the government, that the child will be placed in the proper way, similar to the way the program has been handled in the past. I think it should be handled in the same way in the future.

Mr. President, while a large number of Senators are in the Chamber, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, I seriously hope that the amendment will be defeated. It is not necessary at all. To some extent it would straitjacket title VI. Much of what the distinguished Senator from South Carolina is concerned about will never happen. After all, the people who administer these programs are fair-minded. No one will compel a person to adopt a child; the individual must have the heart to do so.

We hear much discussion about the category of foster homes. If we begin to write such provisions into the bill, this title will become impossible of administration. I hope the situation will not be confused.

A history has been made. I feel sure that the program will be administered sensibly and realistically, taking into account everything that involves the sensitivity of people. I do not believe any danger is involved. I hope the amendment will be rejected.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 555 offered by the Senator from South Carolina [Mr. Johnston]. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished Senator from Virginia [Mr. Robertson]. If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mrs. NEUBERGER (when her name was called). On this vote I have a pair with the Senator from Virginia [Mr. Byrd]. If he were present and voting, he would vote "yea." If I were permitted to vote I would vote "nay." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Michigan [Mr. McNamara], the Senator from Virginia [Mr. Robertson], and the Senator from Tenessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Indiana [Mr. Bayh], the Senator from West Vrigiania [Mr. Randolph], and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana [Mr. Bayh], the Senator from California [Mr. Engle], and the Senator from Michigan [Mr. McNamara] would each vote "nay."

On this vote, the Senator from West Virginia [Mr. Randolph] is paired with the Senator from Arkansas [Mr. Fulbright]. If present and voting, the Senator from West Virginia would vote "nay," and the Senator from Arkansas would vote "yea."

Mr. KUCHEL. I announce that the Senator from New Mexico [Mr. Mechem] and the Senator from Kentucky [Mr. Morton] are necessarily absent.

The Senator from North Dakota [Mr. Young] is absent on official business.

The Senator from Arizona [Mr. Goldwater] is detained on official business.

The result was announced—yeas 29, nays 56, as follows:

[No. 321 Leg.]

YEAS—29

Bartlett
Byrd, W. Va.
Cannon
Cooper
Cotton
Curtis
Eastland
Ellender
Ervin
Gore
Hayden
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
Magnuson
McClellan
Monroney
Russell
Smathers
Sparkman
Stennis
Symington
Talmadge
Thurmond
Williams, Del.

NAYS—56

Aiken
Allott
Anderson
Beall
Bennett
Bible
Boggs
Brewster
Burdick

Carlson
Case
Church
Clark
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Morse
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Simpson
Smith
Tower
Williams, N.J.
Young, Ohio

NOT VOTING—15

Bayh
Byrd, Va.
Engle
Fulbright
Goldwater
Mansfield
McNamara
Mechem
Morton
Neuberger
Randolph
Robertson
Walters
Yarborough
Young, N. Dak.

So Mr. Johnston's amendment was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ALLOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I call up my amendment No. 963 and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Texas will be stated.

The Legislative Clerk. On page 68, between lines 19 and 20, it is proposed to insert the following new section:

IDENTIFICATION IN PERFORMANCE OF DUTIES OF COMMISSION

Sec. 717. (a) Each member, officer, agent, attorney, or employee of the Commission shall, in the performance of his official duties, identify himself as such a member, officer, agent, attorney, or employee in any relations with any employer, labor organization, employment agency, joint labor-management committee, or any person other than a member, officer, agent, attorney, or employee of the Commission.

(b) If any member, officer, agent, attorney, or employee of the Commission fails to comply with the provisions of subsection (a), no determination shall be made by the Commission, and no civil action may be filed under section 706 or 707, with respect to the unlawful employment practice alleged in the charge concerning which such failure to comply occurred.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. How much time does the Senator from Texas yield himself?

Mr. TOWER. I yield myself 2 minutes.

The amendment would require employees of the EEOC to identify themselves at any time they are in an official capacity as investigators, and so forth. It provides that if they do not, there can be no unfair employment practice finding.

The amendment is a simple safeguard with which I hope the Senate will agree. It spells out that any employee of the title VII EEOC must fully identify himself to employers and unions.

This may seem a little elementary to some in the Chamber, but once again I need only cite the Motorola case to show that, in past fair employment investigations, the investigators apparently have not identified themselves, and this has led to employer charges of "entrapment" of witnesses.

The specific allegations in the Motorola case are documented in the material I previously submitted for the record.

Specifically there have been charges that investigators of the President's Equal Employment Commission have not identified themselves and have thus misled witnesses.

This, of course, should not be allowed, and thus my amendment.

This is a simple amendment making certain that simple and wholly reasonable safeguards of legality and courtesy are observed.

This is a very courteous and legal body, and I am confident that it wishes to give full attention and adequate effect to law. Therefore I hope that the Senate will concur in my amendment.

Mr. ALLOTT. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order? The Senator may proceed.

Mr. ALLOTT. Mr. President, I yield myself 1 minute.

I concur wholeheartedly in the principle that the distinguished Senator from Texas is trying to adopt, which is that the members of the Commission should identify themselves. However, I should like to point out for the benefit of Senators—and I especially invite the attention of the Senator from Texas—that his amendment would permit every case to go off on a side question and proof as to whether or not the investigator actually did identify himself. If some other penalty could be applied, such as the disemployment of the person who failed to identify himself or something of that sort, that would be all right. But, if a case should come into court, the whole question could be decided upon a disputation of fact as to whether or not the investigator actually did disclose who he was. So we do not want any amendment of the sort proposed.

Mr. TOWER. Mr. President, I yield myself 30 seconds. I point out that cases in courts of law very often fail on procedural points on matters that are not related to the substantive issue before the court. For example, a faulty indictment may result in the negation of a criminal charge. I think that is not unreasonable. I think it is altogether reasonable that Federal officers should identify themselves to the businessman or employer so that the employer would not be placed at an unfair advantage. I therefore urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas numbered 963. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COOPER (when his name was called). On this vote I have a pair with the Senator from Arkansas [Mr. Fulbright] If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished Senator from Virginia [Mr. Robertson]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mrs. NEUBERGER (when her name was called). On this vote I have a pair with the Senator from Virginia [Mr. Byrd]. If he were present and voting he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Arizona [Mr. Hayden], the Senator from Michigan [Mr. McNamara], the Senator from Tennessee [Mr. Walters], and the Senator from Virginia [Mr. Robertson] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. Randolph] and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. Engle] and the Senator from Michigan [Mr. McNamara] would each vote "nay."

On this vote, the Senator from West Virginia [Mr. Randolph] is paired with the Senator from Tennessee [Mr. Walters]. If present and voting, the Senator from West Virginia would vote "nay" and the Senator from Tennessee would vote "yea."

Mr. KUCHEL. I announce that the Senator from New Mexico [Mr. Mechem] and the Senator from Kentucky [Mr. Morton] are necessarily absent.

The Senator from North Dakota [Mr. Young] is absent on official business.

The result was announced—yeas 30, nays 55, as follows:

[No. 322 Leg.]

YEAS—30

Bartlett
Bennett
Church
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Goldwater
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Jordan, Idaho
Long, La.
McClellan
Miller
Pell
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Williams, Del.

NAYS—55

Aiken
Allott
Anderson
Bayh
Beall
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Clark
Dirksen
Dodd
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, Ohio

NOT VOTING—15

Byrd, Va.
Cooper
Engle
Fulbright
Hayden
Mansfield
McNamara
Mechem
Morton
Neuberger
Randolph
Robertson
Walters
Yarborough
Young, N. Dak.

So Mr. TOWER's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. DIRKSEN. Mr. President, I move that the motion to reconsider be laid on the table.

Mr. ALLOTT. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. LONG of Louisiana. Mr. President, I send to the desk my amendment as modified.

The LEGISLATIVE CLERK. On page 9, lines 3 and 4, strike out "bona fide", and on line 9——

Mr. HUMPHREY. Mr. President, that should read "line 4."

Mr. LONG of Louisiana. Mr. President, that should read "line 4."

The LEGISLATIVE CLERK. And on line 4 after the word "not", insert the words "in fact".

Mr. LONG of Louisiana. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 2 minutes.

Mr. LONG of Louisiana. The purpose of the amendment is to clarify this particular section and make it conform to the legislative history.

Its purpose is to make it clear that the test of whether a private club, or an establishment not open to the public, is exempt from title II, relates to whether it is, in fact, a private club, or whether it is, in fact, an establishment not open to the public. It does not relate to whatever purpose or animus the organizers may have had in mind when they originally brought the organization or establishment into existence.

I have discussed this clarification with the Justice Department, and they insisted on this modification, which I have made a part of my amendment. I believe it now meets with the approval of the Senators in charge of the bill, as well as the distinguished sponsor of the substitute.

Mr. HUMPHREY. Mr. President, I yield myself 15 seconds.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 15 seconds.

Mr. HUMPHREY. Mr. President, we have discussed this amendment with the Senator from Louisiana, the Senator from Illinois, and other Senators, as well as the Justice Department.

The modification is, I believe, a good one, and the language is more precise.

The test as to whether a private club is really a private club, or whether it is an establishment, really not open to the public, is a factual one. The language of the proposed amendment reflects that objective.

It is not our intention to permit this section to be used to evade the prohibitions of the title by the creation of sham establishments which are in fact open to the white public and not to Negroes. We intend only to protect the genuine privacy of private clubs or other establishments whose membership is genuinely selective on some reasonable basis.

We accept the amendment.

Mr. SALTONSTALL. Will the Senator from Minnesota kindly repeat what the new language will be? As the Senator knows, we have worked very hard in trying to make the language precise.

Mr. HUMPHREY. The new language would be:

> On page 9, lines 3 and 4, strike out "bona fide." After the word "not," insert the words, "in fact," so that the section would read, "(e) The provisions of this title shall not apply to a private club or other establishment not in fact open to the public."

I believe it tightens up the language, and makes it mean what we said it meant, rather than what someone else might feel was the intent.

Mr. SALTONSTALL. The public could not get in merely by paying $10 or $15?

Mr. HUMPHREY. As a sham establishment? No.

Mr. ERVIN. Mr. President, I rise for information. Does the amendment have anything to do with the remainder of that section (e), beginning with the words, "except to the extent" on line 5 and ending with the words "subsection (b)"—on line 7?

Mr. HUMPHREY. It does not.

Mr. ERVIN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana, as modified.

The amendment was agreed to.

Mr. HILL. Mr. President, I call up my amendment No. 680. I intend to modify it slightly.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 9, line 5, after "thereof." it is proposed to insert the following:

> This section shall not apply to homes, churches, cemeteries or to private clubs of any kind or to fraternities or other organizations of any kind membership in which is selective.

Mr. HILL. Mr. President, in view of the amendment of the Senator from Louisiana which has just been agreed to, I should like to modify my amendment by striking out the words "private clubs of any kind," since that situation has now been covered in the amendment of the Senator from Louisiana just agreed to.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. HILL. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. How much time does the Senator from Alabama yield himself?

Mr. HILL. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2 minutes.

Mr. HILL. Mr. President, this amendment would exempt from title II, the public accommodations title of the bill, homes, churches, cemeteries, and fraternities.

I submit to the Senate that there is nothing that the American people cherish more than their privacy——

Mr. STENNIS. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senator will suspend. Will all Senators please take their seats, and clerks and aids please take their seats?

The Senator from Alabama.

Mr. HILL. As I have said, there is nothing that the American people cherish more than the privacy of their homes—the sanctity of the home. Surely, there should be no reason, no justification, for the Federal Government in any way to intrude itself upon, or in any way to interfere with, the sanctity of the home.

As has been well stated, the rain and snow may enter one's home, but no king may enter, no government may enter.

This amendment would insure that there would be no intrusion, no aggression, no interference on the part of the Government with the sanctity of the home.

It would also exempt churches. Surely, we need no argument for this exemption. If there is any one thing that is fundamental to the American system of government which our Founding Fathers wrote into the Constitution and insisted on its inclusion, it is the separation of church and state.

No government—certainly not our Government—should attempt in any way to intrude upon or interfere with the membership of any church. That would be in violation of the first amendment of the Constitution, which expressly prohibits the Government from taking any action looking to the establishment of any religion.

With respect to cemeteries, the American people regard them as sacred places. There are many different cemeteries, some Protestant, some Jewish, some Catholic. When we travel the length and breadth of this land we see many little church cemeteries by the roadside. There could be no reason why the Federal Government should in any way intrude itself upon the sacredness of any cemetery.

The PRESIDING OFFICER. The time of the Senator from Alabama has expired.

Mr. HILL. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 1 minute.

Mr. HILL. As to fraternities, does any Senator believe that the Federal Government should intrude upon or interfere with the membership of the fraternity, whether Masonic, Knights of Columbus, Knights of Pythias, or any other fraternal order. That is what this amendment would do, protect the fraternity from any such aggression or intrusion on the part of the Government.

This is the purpose of my amendment. Where we have privacy, where we have sanctity, where we have sacredness today, this amendment would insure that the privacy, the sanctity, and the sacredness would be honored and would be observed and there could be and would be no Government interference or intrusion.

Mr. HART. Mr. President——

The PRESIDING OFFICER. How much time does the Senator from Michigan yield himself?

Mr. HART. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 2 minutes.

Mr. HART. Section 202 prescribes discrimination or segregation if it is required by a State or local law. Amendment No. 680 would specifically exclude the following from the application of section 202: homes, churches, cemeteries, private clubs, fraternities and organizations of any kind, membership in which is selective.

Since, so far as appears, there are no State or local laws requiring segregation in places enumerated in amendment No. 680, the amendment would seem to have no practical effect. At any rate, such laws would obviously be unconstitutional.

Presumably, amendment No. 680 is intended primarily as a congressional expression favorable to the maintenance of segregation in all of the places to which it would apply. If the amendment were adopted, some State and local legislative bodies might enact laws requiring discrimination in these places if only to have legislation on the books reflecting a segregationist public policy. With justification, they could point to this amendment as support for such legislation.

Clearly, therefore, this amendment should be rejected.

The PRESIDING OFFICER. The question is on agreeing to amendment (No. 680) offered by the Senator from Alabama [Mr. Hill]. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. COOPER (when his name was called). On this vote I have a pair with the Senator from Arkansas [Mr. Fulbright]. If he were present and voting he would vote "yea." If I were at liberty to vote I would vote "nay." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished Senator from Virginia [Mr. Robertson]. If he were present and voting he would vote "yea." If I were at liberty to vote I would vote "nay." I therefore withhold my vote.

Mrs. NEUBERGER (when her name was called). On this vote I have a pair with the Senator from Virginia [Mr. Byrd]. If he were present and voting he would vote "yea." If I were at liberty to vote I would vote "nay." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Arizona [Mr. Hayden], the Senator from Michigan [Mr. McNamara], the Senator from Tennessee [Mr. Walters], and the Senator from Virginia [Mr. Robertson] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. Randolph] and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. Engle] and the Senator from Michigan [Mr. McNamara] would each vote "nay."

On this vote, the Senator from West Virginia [Mr. Randolph] is paired with the Senator from Tennessee [Mr. Walters]. If present and voting, the Senator from West Virginia would vote "nay," and the Senator from Tennessee would vote "yea."

Mr. KUCHEL. I announce that the Senator from New Mexico [Mr. Mechem] and the Senator from Kentucky [Mr. Morton] are necessarily absent.

The Senator from Arizona [Mr. Goldwater] and the Senator from North Dakota [Mr. Young] are absent on official business.

The result was announced—yeas 26, nays 58, as follows:

[No. 323 Leg.]

YEAS—26

Byrd, W. Va.
Cotton
Curtis
Eastland
Ellender
Ervin
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, Mo.
Long, La.
McClellan
Mundt
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower
Williams, Del.

NAYS—58

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, Ohio

NOT VOTING—16

Byrd, Va.
Cooper
Engle
Fulbright
Goldwater
Hayden
Mansfield
McNamara
Mechem
Morton
Neuberger
Randolph
Robertson
Walters
Yarborough
Young, N. Dak.

So Mr. Hill's amendment was rejected.

Mr. HART. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. I move to lay that motion on the table.

The PRESIDING OFFICER (after putting the question). The motion to lay on the table is agreed to.

Mr. ERVIN. Mr. President, the Chair did not give me an opportunity to vote "No." If the Chair will permit me to do so, I should like to vote.

The PRESIDING OFFICER. Those in favor of the motion to table will say "aye"; those opposed, "no."

Mr. ERVIN. No.

The PRESIDING OFFICER. The ayes appear to have it. The ayes have it. The motion to lay on the table is agreed to.

Mr. HILL. Mr. President, I call up my amendment No. 702 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The Legislative Clerk. On page 26, line 12, after "hearing" insert "conducted in conformity with the provisions of the Administrative Procedure Act."

The PRESIDING OFFICER. How much time does the Senator from Alabama yield himself?

Mr. HILL. I yield myself 2 minutes. On my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HILL. Mr. President, the amendment applies to title VI of the bill. The title provides for the cutting off or denial of Federal financial assistance by way of grants, loans, or contracts. It provides that this may be done after a hearing, but it does not provide what that hearing shall be. Nothing is said about the kind of hearing, who shall determine whether there shall be a hearing, or whether it will be a bona fide hearing or perhaps some kind of a sham hearing conducted by someone in the department.

The amendment would provide that the hearing shall be conducted in conformity with the provisions of the Administrative Procedure Act. Congress passed this act some years ago, so that when questions arose before departments of the Government, there might be a standard procedure and an orderly procedure; and that there might be fairness and justice.

The amendment would provide for hearings under the Administrative Procedure Act. That means that the accused party would have the opportunity to be notified of the time of the hearing, so as to be sure to be present and to be represented by counsel, if he saw fit to be represented, and to bring with him witnesses or to present such testimony as he saw fit.

The amendment would provide that under title VI the great fundamental principles and procedures of our Anglo-Saxon system of justice would be followed. The accused would have his right and his opportunity to present his case, and not have it railroaded through without an opportunity to present his facts or his side of the case.

Mr. EASTLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 324 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper

Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Williams, N.J.
Williams, Del.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to amendment No. 702 of the Senator from Alabama [Mr. HILL].

Mr. HUMPHREY. Mr. President, we amended the original House text to which the amendment of the Senator from Alabama was directed. I call attention to the words included in the Dirksen-Mansfield substitute: "finding on the record after opportunity for hearing," which modified the text as it came from the House. This addition makes the amendment by the Senator from Alabama unnecessary.

Mr. HILL. Mr. President, I yield myself one-half minute. The Senator does not even pretend that an accused should have the rights given under the Administrative Procedure Act. All he says is that he will have an opportunity. What that opportunity is will be left to the discretion of someone else. This amendment seeks to provide that the accused shall have his rights under the Administrative Procedure Act to due notice of hearing, the right to have a hearing, the right to have counsel, and the right to come in and present his testimony and his case. This amendment would seek to give an accused his day in court.

Mr. PASTORE. Mr. President, I yield myself one-half minute. As title VI is written now, insofar as a respondent is concerned, it is much stronger and much more protective of the rights of a respondent than the provisions of the Administrative Procedure Act. This was done deliberately so that there would be no question about it. As titleVI is drawn now, I want the Senate to understand clearly that the rights of the respondent under this title are much better protected than they would be under the Administrative Procedure Act.

Mr. HILL. Mr. President, I yield myself a half minute. The Administrative Procedure Act would not in any way interfere with the rights that an accused would have under the Mansfield-Dirksen substitute. The amendment would insure and safeguard his rights to a fair hearing and to a fair and just consideration of the case. It would insure that he would have his day in court.

Mr. HUMPHREY. Mr. President, I yield myself 1 minute.

Title VI must be taken in its totality. The Administrative Procedure Act is but one procedure. In this title, as the Senator from Rhode Island has pointed out, the recipient of the Federal assistance is notified. No grant is terminated until there has been a hearing and an express finding on the record. No rule shall become effective until approved by the President of the United States. Every effort must be made to secure voluntary compliance. A decision to terminate Federal assistance will be filed with the appropriate legislative committees of the Congress. The entire decision will also be subject to judicial review. With these safeguards, the amendment is not necessary.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. COOPER. Mr. President, in what way would the adoption of this amendment interfere with the administration of this bill?

Mr. HUMPHREY. If we were to adopt this amendment, we should upset the delicate and finely balanced procedures which have been set up for the issuance, promulgation, enforcement, and review of these rules under title VI. The rights given to a party accused under the terms of the title are all spelled out on page 36 of the bill.

The PRESIDING OFFICER (Mr. KENNEDY in the chair). The time of the Senator has expired.

Mr. COOPER. Mr. President, I yield myself 3 minutes.

I have been very much interested in title VII. Several weeks ago I raised questions about this part of the bill on the floor. I was told in a colloquy with the Senater from Rhode Island that no criteria were necessary for this title and that if any criteria were desired, that I should suggest some.

I did so in amendments that I offered in the Senate and also in consultation with my leader [Mr. DIRKSEN] in the conferences I might add, that the amendments which are incorporated in title VI of the substitute bill substantially represent the changes which I suggested.

A few days ago the Senator from Tennessee [Mr. GORE] offered an amendment to strike title VI. I voted for the amendment for two reasons. I know the principle that no program paid for by Federal funds should be used to discriminate against anyone, is right. But in some cases this title would punish the innocent as well as the guilty. Title VI also involves an unusual procedure in our system of law. It involves an element of coercion. I know the principle is correct that no program paid for by Federal funds should be used to discriminate against anyone. But a second principle is also in issue. It is whether we should use a coercive procedure to correct a wrong.

I do not now go so far as to say that title VI will be used wrongfully or unfairly. But as it includes that possibility, we ought to take every precaution to see that it is fair to those who may be charged with wrongdoing under it. Prescribe definite rules as to the way in which a hearing would be unlimited in order to assure notice to all persons who may be affected by it.

Mr. President, I yield myself 2 additional minutes.

On April 22, I wrote a letter to the Attorney General. One of the questions I addressed to the Attorney General was as follows:

> Title VI would apparently enable each Federal department or agency to establish its own rules and regulations for cutting off Federal funds. How it is intended that a consistent set of regulations prohibiting discrimination in a Federal financial assistance program shall be established throughout the departments and agencies?

I asked the Attorney General the question which is involved in the amendment before us.

The answer of the Attorney General was as follows:

> Section 602 provides that each agency's rules and regulations shall be approved by the President. The validity of such rules and regulations shall be subject to judicial consideration in any judicial review proceeding. Any cutoff of funds must be reported to the appropriate congressional committee.

The Attorney General correctly described the procedures which are contained in the section.

In my judgment, there is no provision in this section which would establish consistent procedures throughout all agencies and departments. None has yet been spelled out which would give an equal assurance of justice in the administration of title VI.

Mr. President, I shall vote for the amendment because I see nothing harmful about it. On the contrary, I see something good about requiring a hearing before the order is promulgated. Such hearings are often provided, where interested parties are allowed to present their views, before an agency decides to issue a particular order. The purpose of the civil rights bill is to establish equal justice for all our people. I am for that principle 100 percent. But there should be justice for everyone who may be parties to administrative and judicial action under the titles of this bill. I believe the amendment of the Senator from Alabama should be adopted, to assure such fairness under this title.

The chief thrust of the civil rights bill is to secure compliance with, and enforcement of, constitutional rights for all our citizens, and respect for law. We will not secure compliance and respect, however, by being unfair to those who may be charged with violation of this bill. There is a little of the spirit of old Thaddeus Stevens, and Charles Sumner hovering over the Senate Chamber when we, who are advocates of the civil rights bill, resist simple procedures to assure that justice shall be done to everyone.

Mr. PASTORE and Mr. JAVITS addressed the chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. PASTORE. Mr. President, what we are losing sight of is the fact that section 602 does spell out a procedure which is very liberal and far reaching. It is possibly somewhat more liberal toward a respondent than the Administrative Procedure Act would be, because once the Administrative Procedure Act is invoked, as presently written, the next recourse is an appeal to the courts.

As we have written the bill, as will be revealed if it is read very carefully, Senators will notice that section 602 states that, after all the precautions of holding a hearing and making a finding on the record have been taken—

> *Provided, however,* that no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means.

The fact is that the whole pitch of title VI is toward voluntary compliance. We have set up a mechanism by which a respondent would be notified. He would be told of the situation. He would be given a hearing. True, we would not spell out all the details as to how the hearings should be held. But the fact is that a finding must be made on the record, which becomes permanent. Then after a finding is made and every means has been exhausted to see to it that there is voluntary compliance, a report must be made to the pertinent committees of Congress, and that report must remain here 30 days before anything can happen. Meanwhile, the respondent can take an appeal under the Administrative Procedure Act.

On page 37 of the bill appears language which would require even further procedures. We would make it even stronger by saying that a respondent may obtain judicial review of such action, in accordance with section 10 of the Administrative Procedure Act, and then we would amend that by going further and saying—

> Such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

In other words, under the Administrative Procedure Act the discretion of the agency would be unreviewable. We will have gone a step further by saying that that is out. It would be reviewable. So I do not see how much farther we could go in protecting the rights of a respondent.

I believe that the proposal would be redundant. It would confuse. It would make the procedure much more complex. I believe title VI as it now stands would give very adequate protection to a respondent who is willing to abide by the policy of Congress.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. PASTORE. I yield for a question.

Mr. LAUSCHE. The Senator has stated that under the Administrative Procedure Act certain decisions would not be reviewable.

Mr. PASTORE. Yes.

Mr. LAUSCHE. Will the Senator read where such language appears?

Mr. PASTORE. Referring to amendment No. 1052, starting at the bottom of page 34, the following language appears:

> Any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

Therefore, section 10 of the Administrative Procedure Act as presently written would not give a person the right of review of a discretionary decision of the agency, but that provision would.

Mr. HOLLAND. Mr. President, will the Senator yield on my own time for a question?

Mr. PASTORE. I yield.

Mr. HOLLAND. Does not the Senator recognize the fact that what he has read does not apply at all unless it is in this kind of situation:

> In the case of action, not otherwise subject to judicial review—

In other words, if an agency has provisions for judicial review, they would take precedence over the provision which the Senator has read, which would make available a certain part of the Administrative Procedure Act which would not be applicable unless there is no right of judicial review under the procedures of the agency.

Mr. PASTORE. The Senator is correct. But the sum and substance of it is that it would be subject to judicial review in any case, since the provision refers very clearly to any instance in which an agency's discretion cannot be reviewed as stipulated in section 10 of the Administrative Procedure Act. The amendment states that insofar as this law is concerned, that is out. The discretion shall not be final but shall be subject to judicial review.

Mr. HOLLAND. Mr. President, will the Senator yield for a question?

Mr. PASTORE. I yield.

Mr. HOLLAND. The point I am making is that all the reference to the inclusion of the Administrative Procedure Act under the proposed act applies only in the limited case concerning which there is no provision under the agency procedure which is involved for judicial review. That agency procedure may vary as to different agencies, and undoubtedly does. So what possible objection could there be to making available the same sort of equitable procedure in all cases by the amendment offered by the Senator from Alabama?

Mr. PASTORE. Mr. President, I yield myself one-half minute.

The only trouble is that we are proceeding under cloture. We are considering amendments on the floor of the Senate. Those amendments have been drawn. They have not been heard. They have not been studied. But title VI has been studied by all the parties who sat down in conference and took into consideration even the suggestions made by the Senator from Kentucky. The Senator from Rhode Island was not present, but everyone else was present. We believe we are getting what we consider to be a good law which would protect the respondent in every single way.

What disturbs the Senator from Rhode Island is that if we begin to trifle with the situation, we may be doing the respondent an injustice.

Mr. JAVITS. Mr. President, I yield myself 30 seconds.

I am considered to be—properly—one of the strong supporters of the bill. My thought is that due process will insure an element of stability and fairness to those in the South who disagree so ardently with this measure. But due process must conform to the architecture of what we are trying to accomplish. Let us remember one thing that has not been brought out. We are primarily trying to reach units of government, not individuals. In the majority of cases they will be the defendants under title VI. Therefore, we designed a procedure under title VI which in some particulars is even stronger than that provided by the Administrative Procedure Act, as my colleague has brought out. In some particulars there is a considerable difference: for example, there is provision for conciliation and provision for reports to Congress. Therefore, if we are to apply this proposal generically, across the board, we shall not deal with what we are trying to deal with. We shall, in my judgment, distort the real effect of what is intended.

Therefore, the amendment should be defeated.

Mr. COOPER. Mr. President, I yield myself 1 minute. With all regard for my friend from New York, I find his statement, that the adoption of the amendment would distort the purpose of title VI, to be incomprehensible. The amendment would not distort title VI in any way. A point that has been overlooked is that in section 602 there is no provision which requires a hearing, before any order, by an agency, is issued, and no definite procedure protecting the parties in hearings.

Mr. PASTORE. Yes, there is.

Mr. COOPER. An agency under title VI can issue its rules and regulations, and after the rule or regulation has been promulgated, it must go to the President for his approval, and then reviewed by appropriate committees of Congress. But it is in the hearings—before a rule is published—that fair treatment and justice must be secured. I cannot find in title VI any provisions which provides for the safeguards of a hearing, as required under the rulemaking procedures of the Administrative Procedure Act—title 5, United States Code, section 1003(b).

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. I yield myself 1 more minute. A hearing with procedures to protect both sides is fundamental to any process of justice. There is a later provision for review by the courts, but the first step is to have procedures which secure firmness in a hearing. As the Administrative Procedure Act now requires.

I am only asking that this section be administered equally for all by prescribing, as the Senator's amendment does, that the provisions for a hearing under the Administrative Procedure Act should be required.

Mr. PASTORE. Will the Senator yield to me, on my time, if I may have another half minute?

Mr. COOPER. I yield.

Mr. PASTORE. What the Senator from Kentucky has said is not correct. The objective of the title is to cut off Federal assistance in the event certain things happen or do not happen. If there is discrimination, there is authority to cut off assistance. That is the objective. The making of a rule is something that is a predicate or condition precedent. But, to answer the question that there is no provision for a hearing, of course there is. I am reading from page 33:

> No such rule, regulation, or order shall become effective unless and until approved by the President.
>
> Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant—

Now we are getting to the meat of it—

> or to continue assistance under such program or activity to any recipients as to whom there has been an express finding on the record—

Now we are getting into the meat of it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PASTORE. I yield myself one-half minute.

There must be an express finding on the record.

I continue to read:

> after opportunity for hearing.

It is all there. There is ample opportunity for a hearing—not before, not at the same time, but after opportunity for a hearing. So how can it be argued that there is no opportunity to be heard?

Mr. LAUSCHE. Mr. President, I yield myself a half minute.

It strikes me, upon a reading of the reviewability made allowable by the language on page 35, that it refers to the eventuality that there is no reviewability established by the department. It means that if the department does not provide in its regulations for the right to appeal, by the language mentioned by the Senator from Florida [Mr. HOLLAND] and the Senator from Rhode Island [Mr. PASTORE], a review is allowed, in that there can be reviewed even what normally are discretionary judgments or what under the Administrative Procedure Act is not reviewable.

I summarize by saying that if the agency or department does not provide review, there is language in the bill which provides that a review shall be allowable.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DIRKSEN. Mr. President, I yield myself 3 minutes.

First, it ought to be pointed out that this amendment does not go to the substitute version; it goes to the House version, to the original bill. This language could be added to the House bill, and there would still be no decision or finding on the record. That is the reason why we modified the language in the substitute.

If one takes the trouble to examine the Administrative Procedure Act, he will see that it provides, in the first place, that agency means each authority of the Government, and so forth. So it is of general applicability, including the agencies, to begin with.

Secondly, we had in mind section 1004 of the code, which reads as follows:

> In every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing—

And so forth.

So we materially improved the House version.

If the amendment were to be adopted, it would be an exercise in futility, because it is directed not to the substitute, but to the House version of the bill. When we found that imperfection, we cured it in the substitute.

The amendment should be rejected, because in our efforts to clarify, sometimes we clarify into a state of confusion. Each part has been worked over until it is fairly well balanced. I trust the Senate will not add to the confusion, and that the amendment will therefore be rejected.

Mr. HILL. Mr. President, I yield myself 1 minute.

We find in the Administrative Procedure Act specifically what such a hearing shall be and how it shall be conducted. The person shall be entitled to notice. It provides that a person shall be timely informed of the time, place, and nature of the hearing, and of the legal authority and jurisdiction under which the hearing is to be held. The matters of fact and matters of law are to be asserted.

The provision continues with the details, none of which are spelled out in the bill before the Senate.

My amendment would give to the person what is known as due process of law, so that he can be informed of what he is charged with, when the hearing is to be held, what kind of hearing it is to be, and whether he can be present with his witnesses.

Mr. DIRKSEN. Mr. President, I yield myself 15 seconds.

That is the very reason for the expression in section 1004 of the code, the Administrative Procedure Act:

> In every case of adjudication required by statute.

That is why the requirement is in the substitute before us. That is why nothing would be accomplished by an amendment directed to the original bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia [Mr. ROBERTSON]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mrs. NEUBERGER (when her name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia [Mr. BYRD]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

The rollcall was completed.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Arizona [Mr. HAYDEN], the Senator from Michigan [Mr. McNAMARA], the Senator from Virginia [Mr. ROBERTSON], and the Senator from Tennessee [Mr. WALTERS] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. RANDOLPH] and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE] and the Senator from Michigan [Mr. McNAMARA] would each vote "nay."

On this vote, the Senator from West Virginia [Mr. RANDOLPH] is paired with the Senator from Tennessee [Mr. WALTERS]. If present and voting, the Senator from West Virginia would vote "nay," and the Senator from Tennessee would vote "yea."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from North Dakota [Mr. YOUNG] are absent on official business.

The Senator from New Mexico [Mr. MECHEM] and the Senator from Kentucky [Mr. MORTON] are necessarily absent.

The result was announced—yeas 22, nays 64, as follows:

[No. 325 Leg.]

YEAS—22

Byrd, W. Va.
Cooper
Eastland
Ellender
Ervin
Fulbright
Gore
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Metcalf
Russell
Smathers
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower

NAYS—64

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Simpson
Smith
Williams, N.J.
Williams, Del.
Young, Ohio

NOT VOTING—14

Byrd, Va.
Engle
Goldwater
Hayden
Mansfield
McNamara
Mechem
Morton
Neuberger
Randolph
Robertson
Walters
Yarborough
Young, N. Dak.

So Mr. HILL's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. MANSFIELD. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. MUNDT. Mr. President, I call up my amendment 831 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 35, line 24, immediately after "United States,", insert "an Indian tribe,".

Mr. MUNDT. Mr. President, I shall take only a few minutes of my time to explain my amendment. I have worked it out in cooperation with the representatives of the Bureau of Indian Affairs. The amendment involves the welfare of our oldest and most distressed American minority, the American Indians, the original landlords of America.

I have also discussed this amendment with the leadership on civil rights on both sides of the aisle. They have informed me that they will accept it. Therefore, unless there is other opposition we can approve it by a voice vote.

My amendment merely adds at the bottom of page 35 after "the United States, a corporation wholly owned by the Government of the United States," the words "an Indian tribe." The reason why it is necessary to add these words is that Indian tribes, in many parts of the country, are virtually political subdivisions of the Government. To a large extent many tribes control and operate their own affairs, even to the extent of having their own elected officials, courts, and police forces. This amendment would provide to American Indian tribes in their capacity as a political entity, the same privileges accorded to the U.S. Government and its political subdivisions, to conduct their own affairs and economic activities without consideration of the provisions of the bill.

Let me emphasize that Indian tribes in an effort to decrease unemployment and in order to integrate their people into the affairs of the national community, operate many economic enterprises, which are more or less supervised by the Indian tribes, the employees serving as apprentices in many instances, and as supervisors and regularly employed and paid employees in others.

My amendment has the support, among others, of the National Congress of American Indians. I ask unanimous consent to insert in the Record at this point a letter from the congress, and also some telegrams, as supporting evidence.

There being no objection, the material was ordered to be printed in the Record, as follows:

National Congress of
American Indians Fund, Inc.,
Washington, D.C., June 9, 1964.

Hon. Karl Mundt,
Senate Office Building,
Washington, D.C.

Dear Senator: The National Congress of American Indians is in full support of those amendments which have been agreed to by the Senate leadership.

We urge that title VII, section 701(b) be amended to include Indian tribes as proposed. We also urge that title VII, section 703(i) be included in the Civil Rights Act of 1964 as proposed.

We favor these amendments because of the legislative history that surrounds the Indian tribes. As you know, our Indian tribes are suffering from a national unemployment rate of 50 percent and everyone is doing all that is possible to overcome this terrible unemployment rate. These amendments will greatly protect our business and enterprises on the reservations, and it will greatly increase the possibility of the tribes themselves progressing to overcome this unemployment figure.

We wish to thank all of you who are concerned about the American Indian people and we sincerely hope that these amendments will be enacted into law. With these amendments, we would fully endorse the principle of the Civil Rights Act of 1964.

Most sincerely,
Robert Burnette,
Executive Director.

Rosebud, S. Dak.,
June 4, 1964.

Senator Karl Mundt,
U.S. Senate,
Washington, D.C.:

The Rosebud Sioux Tribe endorses proposed Civil Rights Act of 1964. We especially support section 703(I) which entitles Indian Reservations a preferential treatment because of past legislative and historical treatment. We urge that you support the Civil Rights Act of 1963.

Cato W. Valandra,
President, Rosebud Sioux Tribe.

Chadron, Nebr.,
June 3, 1964.

Senator Karl Mundt,
Senate Office Building,
Washington, D.C.:

The Oglala Sioux Tribe of Pine Ridge, S. Dak., fully endorse the proposed Civil Rights Act of 1964. We especially support section 703, subsection I, which entitles our Indian reservation to preferential treatment because of past legislative and historic treatment. We urge that you support Civil Rights Act of 1963.

Enos Poorbear,
President, Oglala Sioux Tribal Council, Pine Ridge, S. Dak.

Rolla, N. Dak.,
June 8, 1964.

Senator Karl Mundt,
Washington, D.C.:

Turtle Mountain Band of Chippewa Indians endorses the Civil Rights Act of 1963 provided that the Indian amendment title 7, section 701, subsection (B), and section 703, subsection (I), are made part of this act.

Turtle Mountain Tribal Council.

Devils Lake, N. Dak.,
June 8, 1964.

Senator Karl Mundt,
Senate Building,
Washington, D.C.:

The Fort Totten Sioux endorses the Civil Rights Act of 1963, provided that the Indian amendment in title 7, section 701, subsection B, and section 703, subsection I are made a part of the act.

Lewis Goodhouse,
Chairman, Devils Lake Sioux Tribe.

Washington, D.C.,
June 8, 1964.

Hon. Karl Mundt,
U.S. Senate,
Washington, D.C.:

Cheyenne River Sioux Tribe favors amendment to section 701(B)(1) adding to line 24, page 35, after comma, "or Indian tribes," and adding to section 703 a new paragraph (I) as set forth in amendment No. 656 of May 26, 1964.

Thank you for looking after interests of American Indians.

Frank Ducheneaax,
Chairman, Cheyenne River Sioux Tribal Council.

El Reno, Okla.,
June 9, 1964.

Senator Karl Mundt,
Senate Office Building,
Washington, D.C.:

Cheyenne and Arapaho Tribes respectfully urge your continuing efforts to protect the Indians' rights in pending civil rights bill.

Respectfully submitted.

Woodrow Wilson Act,
Chairman, Cheyenne and Arapaho Tribes, Concho, Okla.

Mr. MUNDT. Mr. President, I do not believe there is any opposition to the amendment. I believe we all realize that equitable treatment for the American Indians is long overdue. This is an effort to take an important step in that direction. If there is no objection, there can be a voice vote on the amendment. That will be satisfactory to me.

In conclusion, Mr. President, I would like to say that if my present amendment is approved by the Senate, we shall have done an excellent job in this civils rights bill of protecting and promoting the welfare and opportunities of our American Indians—the one minority group in the United States which has suffered the longest and the most from the callous indifference and the poor judgment of Americans generally. An earlier amendment which I authored and offered to be of assistance to our Indians was, I am glad to say, approved and it is now part of the so-called package substitute which we all recognize will be the basic legislation which will be approved by the Senate next week after the current amendatory process has been completed.

My earlier amendment will be found on page 44 of the May 26 substitute package bill. It is identified as subsection (i) of section 703 of title 7—the so-called equal employment opportunity title of the bill. That amendment reads: "Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given any individual because he is an Indian living on or near a reservation."

That amendment, Mr. President, together with the one I now have on the desk and which I trust will be approved will assure our American Indians of the continued right to protect and promote their own interests and to benefit from Indian preference programs now in operation or later to be instituted.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. MUNDT. I yield.

Mr. HUMPHREY. I have discussed this matter with the Senator from South Dakota. Any economic activity on the part of the Indian tribes must have the approval of the Secretary of the Interior. I see no reason to object to the amendment. We accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Dakota.

The amendment was agreed to.

Mr. MUNDT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 326 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Williams, N.J.
Williams, Del.
Young, Ohio

The PRESIDING OFFICER (Mr. Kennedy in the chair). A quorum is present.

Mr. ERVIN. Mr. President, I call up my amendment No. 778 and ask that it be read. It has been adjusted to conform to the revised amendment in the nature of a substitute No. 1052.

The PRESIDING OFFICER. The amendment will be stated.

The Legislative Clerk. On pages 2, 3, 4, 5, and 6 strike out title I in its entirety.

Renumber all succeeding titles and sections appropriately.

Mr. ERVIN. Mr. President, I yield myself 2 minutes.

Upon the Federal statute books are seven statutes, sufficient in the hands of any competent lawyer to secure to any qualified citizen anywhere in the United States the right to register and to vote. Those statutes are: Sections 241, 242, and 371 of title 18 of the United States Code; sections 1983 and 1985 of title 42 of the United States Code; and the Civil Rights Act of 1957 and the Civil Rights Act of 1960.

There is no necessity for further legislation on the subject of voting rights. The purpose of my amendment is to keep Congress from engaging in the enactment of unnecessary legislation. My amendment would strike out title I of the revised substitute amendment No. 1052 in its entirety.

On my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. I reserve the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina [Mr. Ervin]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. On this vote I have a pair with the junior Senator from Virginia [Mr. Robertson]. If he were present, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mrs. NEUBERGER. I have a pair with the senior Senator from Virginia [Mr. Byrd]. If he were present, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arizona [Mr. Hayden], the Senator from North Carolina [Mr. Jordan], the Senator from Michigan, [Mr. McNamara], the Senator from Virginia [Mr. Robertson], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. Randolph] and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. McNamara] would vote "nay."

On this vote, the Senator from West Virginia [Mr. Randolph] is paired with the Senator from Tennessee [Mr. Walters]. If present and voting, the Senator from West Virginia would vote "nay," and the Senator from Tennessee would vote "yea."

On this vote, the Senator from California [Mr. Engle] is paired with the Senator from North Carolina [Mr. Jordan]. If present and voting the Senator from California would vote "nay," and the Senator from North Carolina would vote "yea."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from North Dakota [Mr. Young] are absent on official business.

The Senator from New Mexico [Mr. Mechem] and the Senator from Kentucky [Mr. Morton] are necessarily absent.

The result was announced—yeas 16, nays 69, as follows:

[No. 327 Leg.]

YEAS—16

Eastland
Ellender
Ervin
Fulbright
Gore
Hill
Holland
Johnston
Long, La.
McClellan
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond

NAYS—69

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Tower
Williams, N.J.
Williams, Del.
Young, Ohio

NOT VOTING—15

Byrd, Va.
Engle
Goldwater
Hayden
Jordan, N.C.
Mansfield
McNamara
Mechem
Morton
Neuberger
Randolph
Robertson
Walters
Yarborough
Young, N. Dak.

So Mr. Ervin's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE SUPERSONIC TRANSPORT

Mr. SYMINGTON. Mr. President, I yield myself whatever time is needed.

This question of a proposed supersonic transport has been one of deep interest to me for a long time.

Recently the policy committee of the Cornell-Guggenheim Aviation Safety Center, headed by Gen. Elwood R. Quesada, the able and experienced former Administrator of the Federal Aviation Agency, has published some interesting observations.

Because I know of the great interest Members of the Senate have in this subject, I ask unanimous consent that this statement, and a resolution incident to the conclusions of this committee, be printed at this point in the Record.

There being no objection, the statement and resolution were ordered to be printed in the Record, as follows:

The Supersonic Transport

In building the proposed supersonic civil transport the Federal Government was cautioned today by the policy committee of the Cornell-Guggenheim Aviation Safety Center, headed by Gen. E. R. Quesada, to continue to make certain in the interests of public safety that the end product be first in point of excellence rather than first in point of time.

General Quesada's committee adopted a resolution pointing out that human factors present in the situation, such as prestige, competition, and self-imposed deadlines can lead to acceptance of a compromised or less-than-best solution, despite the best intentions.

Harry F. Guggenheim, president of the Daniel and Florence Guggenheim Foundation, and chairman of the foundation committee of the Cornell-Guggenheim Aviation Safety Center, is an ex officio member of the policy committee.

The resolution warned that the "safety of the public and the reputation of the world's aviation industry can be adversely affected thereby to a serious degree."

Government agencies and the aviation industry were urged therefore to recognize and avoid the danger and economic waste that could result if the exacting and technological task of developing a sound supersonic transport were permitted to become a race to be first or a psychology of haste.

The Government agencies and the industry, the resolution said, should not permit the pressure of prestige and competition to overcome the more worthy considerations of public safety and economic logic.

All design and economic factors, according to the resolution, should be deliberately tested and evaluated to assure maximum effectiveness of the solution selected to insure that the end product be first in point of excellence rather than first in point of time.

Members of the policy committee of which General Quesada is chairman are: Dr. Joseph Charyk, president of the Communications Satellite Corp., and a former Under Secretary of the U.S. Air Force; Dr. Paul W. Cherington, of the Harvard Graduate School of Business, who headed a committee that made a study of aviation economics for former President Eisenhower; Daggett Howard, former General Counsel of the Federal Aviation Agency and at present a partner of the Washington law firm of Cox, Langford & Brown; Jerome Lederer, director of the Cornell-Guggenheim Aviation Safety Center; Dr. F. A. Long, vice president, Research and Advanced Development of Cornell University; Dr. W. Randolph Lovelace II, president of the Lovelace Foundation for Medical Education and Research, Albuquerque, N. Mex.; and Prof. Courtland T. Perkins, head of the Aeronautical Engineering Department, Princeton University. Dr. James A. Perkins, president, Cornell University, is also an ex-officio member of the committee.

RESOLUTION ON SUPERSONIC TRANSPORT DEVELOPMENT

Whereas active steps are being taken looking toward the development of a supersonic civil transport aircraft in the United States and abroad; and

Whereas there is general recognition of the known safety problems involved; and

Whereas there are human factors present, such as prestige, competition, and self-imposed deadlines, which could lead to acceptance of a compromised or less-than-best solution, despite the best intentions; and

Whereas the safety of the public and the reputation of the world's aviation industry could be adversely affected thereby to a serious degree: Be it therefore

Resolved—(1) That the Government agencies and the broad aviation industry recognize and avoid the danger and economic waste that could result, if the exacting technological task of developing a sound supersonic transport were permitted to become a race to be first or a psychology of haste.

(2) That the pressures of prestige and competition not be permitted to overcome the more worthy considerations of public safety and economic logic.

(3) That all design and economic factors be deliberately tested and evaluated to assure maximum effectiveness of the solutions selected to insure that the end product be first in point of excellence rather than first in point of time.

DISPOSAL OF CERTAIN MATERIALS FROM NATIONAL STOCKPILE

Mr. SYMINGTON. Mr. President, I allow myself 1 minute and ask unanimous consent to submit, for appropriate reference, a concurrent resolution to dispose from the national stockpile of small amounts of 10 materials.

I also ask unanimous consent that papers pertinent to the disposals be printed in the RECORD—a letter to the Honorable RICHARD B. RUSSELL, chairman of the Armed Services Committee, from the Administrator of the General Services Administration; the notice of the proposed disposition of the 10 materials; and background information relating to the disposals, including a brief explanation of each of the materials.

The PRESIDING OFFICER. The concurrent resolution will be received and appropriately referred; and, without objection, the letter, notice, and background information will be printed in the RECORD.

The concurrent resolution (S. Con. Res. 89) was referred to the Committee on Armed Services, as follows:

S. CON. RES. 89

Resolved by the Senate (the House of Representatives concurring), That the Congress expressly approves, pursuant to section 3(e) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(e)), the disposal from the national stockpile of the following materials in approximately the following quantities:

1. One thousand five hundred and sixty-seven short tons of Bolivian blue (soft) crocidolite asbestos.
2. One hundred and sixty-five short tons (copper content) of copper and copper base alloys in scrap and thin strip form.
3. Three hundred and sixty-six short tons of cupro-nickel ingots.
4. Three hundred and fifty-five pieces of diamond dies.
5. Forty-six thousand eight hundred pounds of lead castings.
6. Two hundred twenty thousand two hundred and thirty pounds of punch mica.
7. Sixty-six thousand eight hundred and thirty-four pounds of nickel in fabricated and miscellaneous forms, such as wire, tubing, anodes, cathodes, pellets, and cut cathodes.
8. Twenty-five thousand seven hundred and forty pounds of tantalum in various forms.
9. Two hundred and twenty-one thousand and eighty-seven pounds of zinc in the form of engraving plates.
10. Two hundred and fifty short tons of low-grade manganese ore.

The letter, notice, and background information presented by Mr. SYMINGTON, are as follows:

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., June 5, 1964.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a notice of the proposed disposition of 10 materials now held in the national stockpile and described in said notice. This notice is being published in the Federal Register and is forwarded to the Congress and the Armed Services Committee of each House thereof in accordance with the provisions of section 3(e) of the Strategic and Critical Materials Stock Piling Act, 50 U.S.C. 98b(e).

The Office of Emergency Planning has made revised determinations, pursuant to section 2(a) of the act, 50 U.S.C. 98a(a), of the quantities of these materials to be stockpiled. As a result of said revised determinations, the quantities proposed for disposition are no longer needed for the stockpile.

Section 3(e) of the Strategic and Critical Materials Stock Piling Act provides that no material constituting a part of the stockpile may be disposed of without the express approval of the Congress, except where the revised determination is by reason of obsolescence of the material for use in time of war. Since the revised determinations with respect to these materials were not by reason of obsolescence, we request that the Congress approve the proposed dispositions. A draft concurrent resolution which would provide such approval is enclosed, together with a statement setting forth a detailed justification.

All executive agencies concerned have concurred in the proposed disposals.

Sincerely yours,
BERNARD L. BOUTIN,
Administrator.

GENERAL SERVICES ADMINISTRATION MATERIALS HELD IN THE NATIONAL STOCKPILE—PROPOSED DISPOSITION

Pursuant to the provisions of section 3(e) of the Strategic and Critical Materials Stock Piling Act, 50 U.S.C. 98b(e), notice is hereby given of the proposed disposition of the following materials, in approximately the following quantities, now held in the national stockpile:

1. One thousand five hundred and sixty-seven short tons of Bolivian blue (soft) crocidolite asbestos.
2. One hundred and sixty-five short tons (copper content) of copper and copper base alloys in scrap and thin strip form.
3. Three hundred and sixty-six short tons of cupro-nickel ingots.
4. Three hundred and sixty-five pieces of diamond dies.
5. Forty-six thousand and eight hundred pounds of lead castings.
6. Two hundred and twenty thousand two hundred and thirty pounds of punch mica.
7. Sixty-six thousand eight hundred and thirty-four pounds of nickel in fabricated and miscellaneous forms, such as wire, tubing, anodes, cathodes, pellets, and cut cathodes.
8. Twenty-five thousand seven hundred and forty pounds of tantalum in various forms.
9. Two hundred and twenty-one thousand and eighty-seven pounds of zinc in the form of engraving plates.
10. Two hundred and fifty short tons of low-grade manganese ore.

The Office of Emergency Planning has made revised determinations, pursuant to section 2(a) of the Strategic and Critical Materials Stock Piling Act, 50 U.S.C. 98a(a), of the quantities of said materials to be stockpiled. As a result of said revised determinations, the above quantities are no longer needed for the stockpile.

Since the revised determinations were not by reason of obsolescence of the materials for use in time of war, these proposed dispositions are being referred to the Congress for its express approval, as required by section 3(e) of the Strategic and Critical Materials Stock Piling Act.

General Services Administration proposes to make these materials available for transfer to other Federal agencies, to offer said materials for sale on a competitive basis, or otherwise to dispose of them in the best interest of the Government, upon the express approval by the Congress of these proposed dispositions, but not earlier than 6 months after the date of publication of this notice in the Federal Register.

The quantity of asbestos to be offered for sale initially will be less than the total quantity covered by this notice; the amount and timing of subsequent sales will be determined after evaluation of earlier sales and existing market conditions. The punch mica will be made available either on a similar basis or by one or more sales offerings under which deliveries would be scheduled over a sufficient period of time to minimize market impact. The entire quantities of the other materials will be made available for disposal after the statutory requirements with respect to approval by the Congress and the 6-month waiting period have been met.

This plan and the dates of disposition have been fixed with due regard to the protection of producers, processors, and consumers against avoidable disruption of their usual markets, as well as the protection of the United States against avoidable loss.

PROPOSED DISPOSAL FROM THE NATIONAL STOCKPILE OF MATERIALS BY THE DEFENSE MATERIALS SERVICE OF GENERAL SERVICES ADMINISTRATION

(a) Approximately 1,567 short tons of soft crocidolite asbestos.

(b) Approximately 165 short tons (copper content) of copper and copper base alloys in scrap and thin strip form.

(c) Approximately 366 short tons of cupro-nickel ingots.

(d) Approximately 355 pieces of industrial diamond dies.

(e) Approximately 46,800 pounds of lead castings.

(f) Approximately 250 short tons of low-grade manganese ore.

(g) Approximately 220,230 pounds of punch mica.

(h) Approximately 66,834 pounds of nickel in fabricated and miscellaneous forms.

(i) Approximately 25,740 pounds of tantalum in various forms.

(j) Approximately 221,087 pounds of zinc in the form of engraving plates.

BACKGROUND AND JUSTIFICATION

The proposed disposal of the 10 lots of material from the national stockpile is designed to clear the inventory of limited use forms of excess materials which are nonobjective, or are of nonstockpile grade. These specific lots are generally a small part of the same materials which are now excess to stockpile requirements. Industry specialists have been consulted on an informal basis during the planning period, and those consulted in industry and in Government have advised that the plans can be carried out with the minimum formalities and with no significant impact on the market. The materials will be available for utilization by other Government agencies. Taking advantage of favorable market conditions and using orderly and sound merchandising practices, the disposal of these materials will provide savings by eliminating further storage, inspection, maintenance, accounting, and other property management costs.

BASIC LAW

Under section 2(a) of the Strategic and Critical Materials Stock Piling Act, 50 U.S.C. 98a(a), the Director of the Office of Emergency Planning is authorized and directed to determine which materials are strategic and critical under the provisions of the act and the quality and quantities of such materials which shall be stockpiled under the act.

Section 3(e) authorizes General Services Administration, at the direction of the Director of the Office of Emergency Planning, to dispose of any materials held pursuant to the act which are no longer needed because of any revised determination made pursuant to section 2. Notice of any proposed disposition must be published in the Federal Register and transmitted to the Congress and to the Armed Services Committee of each House thereof. The plan and date of disposition must be fixed with due regard to the protection of the United States against avoidable loss on the sale or transfer of material to be released, and the protection of producers, processors, and consumers against disruption of their usual markets. The express approval of the Congress of any proposed disposition is required unless the revised determination, referred to above, is by reason of obsolescence of the material to be disposed of. Dispositions may not begin until 6 months after the date of publication and transmission of the notice of the proposed disposition as outlined above.

NEED FOR CONGRESSIONAL ACTION

Since the revised determination in this case was not by reason of obsolescence, the express approval by the Congress of the proposed disposition is required. This approval can be accomplished by means of a concurrent resolution.

CRITERIA FOR DEVELOPMENT OF DISPOSAL PROGRAM

The requirements of section 3(e) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h), and the policies and principles enunciated in the Executive Stockpile Committee Report of January 16, 1963, approved by the President on January 30, 1963, have been considered and given full effect in drawing up the 10 disposal plans.

GSA proposes to offer the material (a) for sale on a competitive basis, (b) to agencies of the U.S. Government for direct or indirect use, (c) as payment-in-kind for services involved in upgrading Government-owned inventories or for other barter transactions, or (d) for sale under foreign aid programs, or otherwise to dispose of the material in the best interest of the Government.

The materials will be made available for disposal after the passage of the concurrent resolution or 6 months after the date of publication of the disposal notice in the Federal Register, whichever is later.

Asbestos, crocidolite, soft (Bolivian blue)

Present objective: No objective.

Amount in all inventories: 1,567 short tons (soft); 27,437 short tons (harsh).

Amount of excess: 1,567 short tons (soft); 27,437 short tons (harsh).

Amount of excess proposed for disposal: 1,567 short tons.

Acquisition cost of amount for disposal: approximately $702,000.

Date of F.R. notice: ——

Quality: Varies slightly from specification, mainly in amount of moisture, also contains some foreign matter.

Origin: Bolivia.

How we got excess: Obtained by direct purchases. All crocidolite asbestos was removed from the list for stockpiling on September 27, 1960. No current requirement.

Uses: Stockpiled originally for filters in gas masks.

Current market price: Crocidolite asbestos transactions are based on negotiations. Estimated market price of this material is $50 per short ton.

U.S. consumption and supplies: No domestic production of either soft or harsh crocidolite asbestos. U.S. consumption, represented by imports, averaged about 20,000 short tons of "harsh" fiber. No significant production of asbestos at present in Bolivia.

The crocidolite asbestos held in the national stockpile was acquired by direct purchase for the national stockpile. The acquisition cost for the total tonnage of soft crocidolite asbestos averaged $447.96 per short ton.

Crocidolite asbestos was removed from the list of strategic and critical materials for stockpiling on September 27, 1960.

The soft, blue crocidolite asbestos for disposal originated in Bolivia and was purchased because of its unique properties which made it useful as a filter in gas masks. The current market for soft, blue crocidolite is small, because Fiberglas is now used as a substitute filter.

There is no domestic production of crocidolite asbestos. The disposal will have little impact internationally, because there is no significant production in Bolivia, and the crocidolite produced in Africa and Australia is of the harsh variety used extensively in the production of asbestos cement products. It is believed that a market will have to be developed for the particular variety of soft fiber, and it is desirable to offer a substantial quantity as an inducement for potential users for the purposes of sampling and experimentation. An initial competitive offering of approximately 800 short tons will be made. The amount and timing of the sales following the first offering will be determined after an evaluation has been made of the earlier sales and existing market conditions.

By phasing the disposition over a minimum of two offerings, due regard has been given to the protection of producers, processors, and consumers against avoidable disruption of their usual markets as well as the protection of the United States against avoidable loss on disposal.

Copper and copper base alloys, nonspecification (scrap and thin strip form)

Present objective (copper): 775,000 short tons.

Amount in all inventories: 1,120,174 short tons.

Amount of excess: 345,174 short tons.

Amount of excess proposed for disposal: 165 short tons (cubic content).

Acquisition cost of amount for disposal: $85,470 (approximately).

Date of F.R. notice: ——

Quality: Approximately 10 short tons of electrolytic copper rods in twisted and tangled coils. Balance is high-copper alloy in strip form stored outside. Oxidation is a factor. May have value other than scrap.

Origin: Some of the scrap represents termination inventory items transferred to the stockpile from other agencies (without reimbursement) for their metal content. About 10 tons of rods were acquired by purchase.

How we got excess: See above.

Uses: Transferred material was accepted for the stockpile for its copper content.

Current market price: Estimated value as scrap, $420 per short ton.

U.S. consumption: Approximately 1.2 million tons of scrap copper consumed annually in the United States.

The nonspecification grade copper and copper base alloys held in the national stockpile in the form of thin strip and scrap were acquired by transfer from termination inventories after World War II. The specification grade copper in the form of electrolytic copper rods was acquired by direct purchase for the national stockpile. The acquisition cost for the total tonnage in the national stockpile inventory averaged $518 per short ton.

The Director of the Office of Emergency Planning reaffirmed the stockpile objective for copper on March 13, 1964, at 775,000 short tons. As of March 31, 1964, the quantity of copper excess to this objective was 345,174 short tons of stockpile grade material.

Approximately 10 short tons of electrolytic copper rods proposed for disposal are part of a large quantity of such rods that are stored in steel-banded coils in open storage. Occasionally the bands rust and the rods become uncoiled, twisted, and tangled to the extent that they are beyond rewinding.

The high-copper alloy in thin strip form (.100" and up in thickness) is oxidized because of its being exposed to changing atmospheric conditions in outside storage. Oxidation is a relatively large factor compared to the total cross section. The alloy may have value other than scrap because it is stronger and harder than copper, although it has only about one-half the electrical conductivity of copper. It may be useful for making various articles, such as costume jewelry, weather stripping, or stamped hardware.

The uncoiled copper rods are believed to be of value only as clean copper scrap. Some commercial application may be found for the copper alloy, otherwise it would have the prevailing scrap value. The metallic content of the copper to be offered for disposal is negligible when compared with the 1,200,000 tons of scrap copper consumed annually in the United States.

Cupro-nickel ingots (*nonspecification grade*)

Present objective: (Copper) 775,000 short tons.

Amount in all inventories: 1,120,174 short tons.

Amount of excess: 345,174 short tons.

Amount of excess proposed for disposal: 366 short tons.

Acquisition cost of quantity for disposal: $190,000 (approximately).

Date of F.R. notice:——.

Quality: These are cupro-nickel alloy ingots—containing 81.05 percent copper and 18.36 percent nickel—18,871 ingots, size 2½ by 3½ by 16 inches each.

How we got excess: Transfer from another Federal agency without reimbursement. No objective was established for copper alloy ingots, the material was accepted for its copper content. Nickel content was not charged to the objective. No longer required in view of the excess of specification grade copper in the inventories.

Use: A major use for cupro-nickel ingots is in condenser tubing in marine and stationary powerplants.

Current market price: Estimated at $700 per short ton.

U.S. consumption, 1962: Copper, 1,768,000 short tons; nickel, 118,677 short tons.

All of the present inventory of cupro-nickel alloys held in the national stockpile consists of approximately 366 short tons of ingots containing 81.08 percent copper and 18.36 percent nickel. This material, which was transferred from another Federal agency without reimbursement, is estimated to have been acquired originally at a cost of $190,000.

No stockpile objective was ever established for a copper alloy. The material was accepted for its copper content, its nickel content was not charged to the objective. Because of the excess specification grade copper now in the inventories, there is no need for stockpiling these cupro-nickel ingots.

Cupro-nickel is the generic classification of all alloys of copper and nickel wherein copper is the major constituent. Cupro-nickel alloys vary in nickel content from 2½ percent to 50 percent nickel, but most commonly contain from 5 to 30 percent nickel. These alloys are ductile, malleable, and have good corrosion resistance. One of their major uses is in the form of condenser tubing in powerplants.

Data on U.S. consumption of cupro-nickel alloys in recent years are not available but the importance of the 366 tons of cupro-nickel alloys proposed for disposal can be gaged against U.S. consumption in 1962 of 1,768,000 short tons of copper and 118,677 short tons of nickel.

The proposed sale of this small quantity of cupro-nickel alloy should have no significant impact on producers, processors, distributors, or consumers of articles of copper or nickel.

Diamond dies, subgrade (*large*)

Present objective: None.

Amount in all inventories: 355 pieces.

Amount of excess: 355 pieces.

Amount of excess proposed for disposal: 355 pieces.

Acquisition cost of amount for disposal: $10,700 (approximately).

Date of F.R. notice: ——.

Quality and origin: These dies consist of used, out-of-round, or otherwise defective dies. Classified as below specification grade because they exceed hole size limitation.

How we got excess: Transfers from RFC in 1947, without reimbursement.

Uses: Dies are used in drawing wire to extreme degrees of fineness.

Current market price: Estimated at $3 per piece.

U.S. consumption: The current trend is toward the use of smaller dies for drawing very fine wire. U.S. consumption of dies less than 0.008 inch in diameter in 1962 was 8,944 pieces.

The present inventory of large diamond dies held in the national stockpile consists of approximately 355 subgrade pieces. These represent a portion of a large quantity of used, out-of-round, or otherwise defective dies transferred from Reconstruction Finance Corporation, without reimbursement, in 1947. These dies have been classified as below specification grade and are, with few exceptions, unmounted. The original acquisition cost of the dies proposed for disposal is estimated at approximately $10,700.

The Director of the Office of Emergency Planning reaffirmed the stockpile objective for small diamond dies on March 5, 1964, at 25,000 pieces smaller than 0.00079 inch in diameter. There is no objective for the large diamond dies.

The diamond dies proposed for disposal range in size from 0.00155 to 0.0064 inch in diameter of hole, and are of a type used in drawing wire. Their defects, however, limit their potential usefulness for such use.

U.S. consumption of diamond dies less than 0.0008 inch in diameter amounted in 1962 to 8,944 pieces. In recent years the trend in drawing wire has been toward using dies of smaller diameter than those covered by this proposal.

The proposed sale of this small quantity of large diamond dies should have no significant impact on producers, processors, distributors, or consumers of diamond dies.

Lead castings (*scrap lead*)

Present objective: None.

Amount in all inventories: 1,378,453 short tons.

Amount of excess: 1,378,453 short tons.

Amount of excess proposed for disposal: 46,800 pounds (23.4 short tons).

Acquisition cost of amount for disposal: Approximately $7,488.

Date of F.R. notice: ——.

Quality: Lead is in the form of gun weights of the type used in French 75-millimeter artillery pieces. Stored in deteriorated boxes. Each box contains three 50-pound bars of lead plus a 75-pound lead casting.

Origin: Unknown.

How we got excess: Transfer to the stockpile from the Department of the Army in 1953, without reimbursement.

Uses: Lead is used in storage batteries as cable coverings, in ammunition, solder, babbitt and bearing materials, type metals, castings, and die castings. In construction, in foil and certain brasses and bronzes. Also, in gasoline, paints, and pigments.

Current market price: Scrap lead reported as 6½ to 8 cents per pound in the Cincinnati, Ohio, area.

U.S. consumption, 1962: Approximately 1,109,635 short tons, primary and secondary.

Lead in the form of gun weights of the type used on French 75-millimeter artillery pieces was transferred to the national stockpile in 1953 from the Department of the Army. Transfer documents show a value at that time of $7,488. The lead is of unknown origin and grade. It is stored in badly deteriorated wooden boxes. Each box contains three 50-pound bars of lead 13 by 4 by 2⅜ inches together with a 75-pound lead casting of a complicated trapezoidal contour. It is believed the bars may have a potential end use for ballast, but the other casting appears to have only scrap value.

Lead castings were never on the list of strategic and critical materials for stockpiling. On June 17, 1963, the Director of the Office of Emergency Planning revised the objective for lead of stockpile grade to zero.

The proposed sale of 23.4 short tons of lead castings will have no measurable impact on the markets of producers, processors, or consumers in view of the huge annual U.S. consumption of both primary and secondary lead which in 1962 totaled more than 1.1 million short tons.

Manganese ore (*subspecification grade*)

Present stockpile objective: 7,900,000 short deadweight tons.

Amount in all inventories: 12,592,704 short deadweight tons.[1]

Amount of excess: 4,692,704 short deadweight tons.[1]

Amount of excess proposed for disposal: 250 short deadweight tons.

Acquisition cost of amount for disposal: Approximately $7,208.

Date of F.R. notice:——

Quality: The 250 short tons consist of large lumps and boulders, some more than 10 to 12 inches in size, analyzing about 14.65 percent manganese.

How we got excess: By transfer from RFC without reimbursement to the stockpile in 1946. The 250 tons represent the residue of about 58,000 tons transferred and subsequently removed for beneficiation purposes.

Use: The possibility of treating this low-grade ore to produce a commercially usable product has been explored and determined to be uneconomical.

Current value: It is doubted that the material has any commercial value.

Proposed abandonment: Express congressional approval is necessary for the purpose of complying with statutory requirements prior to beginning action toward the legal abandonment of this material in accordance with GSA procedures.

The 250 short tons of manganese ore are all that remain of a pile of some 58,000 long dry tons of low-grade ore transferred to the stockpile in 1946. The usable ore was the subject of a processing contract performed during the Korean emergency. This residue was considered unusable and was not processed under the contract. The material is of such low grade in such form (large lumps and boulders) that it has not present or future potential for use, except perhaps for roadfill or riprap. It should, in fact, be described as waste rather than ore.

The material is stored in one grass-covered pile adjacent to the town of Philipsburg, Mont., on land leased from the State of Montana.

Although it will be offered for sale, it seems likely that it will ultimately have to be abandoned, after compliance with the applicable GSA administrative order, which provides:

"(a) If, after public announcement and the customary advertising, no adequate offers are received for the material, a determination may be made in writing by the contracting officer that such material is not commercially salable, or that the estimated cost of continued care and handling would exceed the estimated proceeds from its sale. Such determination must be supported by an appropriate finding. The contracting officer may recommend disposition of the material by abandonment, destruction, or release, if feasible, to governmental bodies.

"(b) The recommendation to effect such disposition shall be referred to the Economic and Marketing Research Division (of Defense Materials Service) which will conduct further research and submit a report on the recommendation to the DMS Contract Board. Upon approval of the recommendation by such board and by the Commissioner, DMS, disposition, as approved, shall be effected in accordance with the provisions of applicable law and regulation."

The Land Commissioner of the State of Montana has indicated that there would be no objection to canceling the lease and permitting the Government to abandon the material in place.

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[1] Includes 2,335,997 short deadweight tons nonstockpile grade.

Punch mica

Present objective: None.

Amount in inventory: 220,230 pounds.

Amount of excess: 220,230 pounds.

Amount of excess proposed for disposal: 220,230 pounds.

Acquisition cost of amount for disposal: Approximately $48,450.

Date of F. R. notice: ——.

How we got excess: RFC in 1947 and 1948 transferred large quantities of surplus mica to the stockpile without reimbursement. GSA in 1952 engaged in a classification project to classify this World War II surplus mica into proper grades. Punch mica is a byproduct of the operation. Retained as a nonobjective material having some commercial value.

Quality: In general, punch mica is thumb-trimmed low quality block mica about 1 5 by 2 inches, but of sufficient area to yield a disk at least 1.5 inches in diameter free of cracks and open areas. Much variation in quality and condition of the various lots for disposal.

Uses: Very limited number of consumers of punch mica. Used mainly as insulation in electrical equipment, appliances, furnaces, etc.

Current market price: Estimated at 5 cents per pound.

U.S. production: Bureau of Mines reports 263,123 pounds of uncut punch and circle mica used in 1963.

The punch mica held in the national stockpile was acquired as the byproduct of a GSA project to properly classify World War II surplus mica into the proper stockpile grades. It was kept in the stockpile as a nonobjective material having some commercial value.

There has never been a stockpile objective for punch mica. Under the Defense Production Act program, such punch mica generated from the retrimming operations at the mica purchase depots has regularly been accumulated and sold.

Punch mica is a term given to small sized, low-quality thumb trimmed block mica of sufficient area to yield a disk at least 1.5 inches in diameter free of cracks and open areas.

The Bureau of Mines reports 263,123 pounds of uncut punch and circle mica were used in 1962. It is probable that a number of stockpile sales covering a period of 3 to 5 years may be required, or that deliveries from one or more sales be scheduled in such a manner as to minimize the market impact. GSA will be guided by the amounts which are absorbed in regular marketing channels without avoidable loss to the Government and without creating hardships in the domestic or friendly foreign economies.

Nickel (nonstockpile in fabricated and miscellaneous forms)

Present objective: 100 million pounds.

Amount in all inventories: 438,956,952 pounds.

Amount of excess: 338,956,952 pounds.

Amount of excess proposed for disposal: 66,834 pounds.

Acquisition cost of amount for disposal: Approximately $36,350.

Date of F. R. notice: ——.

Quality: 26,240 pounds are in the form of plates and sheets of various sizes; approximately 6,334 pounds are described as shim stock, wire and rods; about 2,860 pounds of pipes and tubing; 932 pounds of cathodes of various sizes; 27,455 pounds of small cut cathodes about 2 by 2 by one-fourth inches; and 255 pounds in the form of pellets and cathodes.

How we got excess: Approximately 39,379 pounds in various fabricated forms and shapes were transferred from other agencies to the national stockpile, without reimbursement; an additional quantity of 27,455 pounds of small cut cathodes is material captured in Japan during World War II and transferred to the stockpile by the Department of the Army for their nickel content. There are no stockpile objectives for material in these forms.

Current market price: Estimated market value is 80 cents per pound.

U.S. consumption, 1962: 237,354,000 pounds.

Possible transfer to U.S. mint: It would appear that the small cut cathodes may be suitable for transfer to the mint for use in their present form thereby eliminating the cutting charges for converting stockpile specification nickel to the size desired by the mint.

During the period from 1953 through 1956, approximately 39,379 pounds of nickel in various fabricated forms and shapes were transferred to the national stockpile. An additional quantity of 27,455 pounds for disposal is comprised of small cut ingots captured in Japan during World War II and transferred to the stockpile by the Department of the Army. Also there are 100 pounds in pellet form and 155 pounds in ingot form.

The average unit cost of the national stockpile inventory of nickel is $0.544 per pound.

A revised stockpile objective for nickel was established July 18, 1963, at 100 million pounds. The total nickel excess to stockpile requirements on March 31, 1964, was approximately 340 million pounds. There was never a stockpile objective for nickel in fabricated form.

The U.S. Mint appears to have a regular annual requirement for nickel, and the existing direct Government use program is expected to continue. It would appear that the small cut cathodes will be suitable for transfer to the Mint for use in its present form, thereby eliminating the cutting charges for converting stockpile specification nickel to the size required.

The proposed sale of this small quantity of nickel should have minimal impact on the markets of producers, processors or consumers, in view of the rate of consumption in the United States which in recent years has been in excess of 200 million pounds annually.

Tantalum, nonspecification forms

Present stockpile objective: 3,400,000 pounds.

Amount in all inventories (stockpile grade): 3,047,079 pounds.

Amount of excess (nonstockpile grade): 1,947,243 pounds.

Amount of excess proposed for disposal: 25,740 pounds.

Acquisition cost of amount for disposal: Approximately $450,000.

Date of F.R. notice: ——.

Quality: In miscellaneous forms such as powder, foil, wire, clips, ribbons, and plate which do not meet the specification for capacitor grade tantalum powder or ingots. The quantity for disposal represents a very small part of the total excess quantity of nonspecification tantalum in the stockpile.

How we got excess: More than half of the total quantity was transferred without reimbursement to the stockpile by AEC. Much of it represents termination inventories, some of which was in commercial end-use form. The remaining quantities were transferred without reimbursement by other agencies such as Department of the Army, RFC, and Veterans' Administration.

Uses: Capacitor production represents more than half of the tantalum market. Capacitors are used in computers, military electronics systems, and communication equipment. Also used in surgical procedures, equipment and devices. Tantalum metal is used also in electron tubes, chemical process equipment, and high-temperature alloys.

Current market price: Price ranges per pound depending on grade (powder, $30 to $49; sheet, $47 to $60; rod, $52 to $65).

U.S. consumption, 1962: 946,000 pounds metal content.

The various forms of tantalum which do not meet the national stockpile specification for capacitor grade tantalum powder or ingots were acquired through transfer from other Government agencies. Most of the items were from termination inventories that were transferred to the national stockpile during the period 1946–56 as tantalum scrap and obsolete fabricated parts.

The possibility of using this material for upgrading to capacitor grade tantalum has been explored. Two of the principal producers of tantalum metal powder for capacitor use have told us that this material would require chemical processing to practically the same extent as required to produce capacitor grade tantalum powder from ores and concentrates. The processing cost would be about the same as for ores and concentrates or possibly higher, since the plants are not set up for treating this type material, and some plant modifications would be required.

On April 17, 1964, the Director of the Office of Emergency Planning reaffirmed the stockpile objective for tantalum at 3,400,000 pounds tantalum content in concentrates. As of April 30, 1964, the quantity of tantalum excess to this objective was 1,947,243 pounds of nonstockpile grade material. The odd lots proposed for disposal are a very small part of the total excess quantity of nonspecification tantalum in the stockpile.

Originally regarded as an exotic metal, tantalum found an early application as a metallic lamp filament but lost this market to tungsten. Capacitor production represents more than 50 percent of the tantalum market, as it currently exists. Miniature capacitors are used in computers, military electronics systems, and communication equipment. Since it will not irritate human tissue, tantalum has found uses in surgical procedures, equipment and devices.

There has been no domestic mine production of tantalum-columbium since Porter Bros. Corp. closed its facilities in Idaho at the end of the 1959 season. These were the last domestic ores processed and shipped to the stockpile. There are several U.S. companies producing the primary tantalum metal. The volume of production, while comparatively small, has been gaining steadily—122 tons in 1959, 150 tons in 1960, 242 tons in 1962.

Some of the items were in commercial end-use form when transferred, but their current value is not known. It will be determined, however, through the competitive bidding process. The balance of the tantalum metal should have a value as a scrap metal for use by producers of commercial tantalum ingot.

Zinc, nonspecification form (engraving plates)

Present stockpile objective: None.

Amount in all inventories: 1,580,643 short tons.

Amount of excess: 1,580,643 short tons.

Amount of excess proposed for disposal: 110.5 short tons (221,087 pounds).

Acquisition cost of amount for disposal; Approximately $33,830.

Date of F. R. notice: ——

Quality: The material which is in nonspecification form consists of 118,703 pounds classified as "high grade" zinc engraving plates, and the remainder, about 102,384 pounds, is carried as "intermediate grade." Most users of engraving plates have changed to plates produced from metals and alloys other than zinc. Due to width and thickness, these plates do not appear suitable to the needs of the Government printing and engraving plants.

How we got excess: Transferred without reimbursement to the national stockpile in 1948 from the Army Signal Corps. Not required in view of huge surplus of zinc of specification grade.

Uses: Accepted for stockpile for zinc content. When remelted has some application and use as primary metal.

Current market price: Estimated value as scrap zinc is 7 cents per pound. These items will be adequately described when offered for sale so bidders may identify them as usable items with commercial application rather than as scrap.

U.S. consumption: All classes of zinc consumed in 1962 amounted to 1,331,000 short tons.

Zinc in the form of engraving plates was transferred to the national stockpile in 1948 by the Army Signal Corps. Transfer documents indicated a value at that time of $33,830.

There was never a stockpile objective for zinc in fabricated form and on June 17, 1963, the Director of the Office of Emergency Planning established a revised stockpile objective for zinc of stockpile grade at zero.

The small tonnage of zinc for disposal should have no measurable impact on the markets of producers, processors, or consumers.

The possibility of the engraving plates being utilized in their present form by other Federal agencies is being explored. However, preliminary indications are not encouraging since most users of engraving plates have changed to plates produced from metals and alloys other than zinc. In addition, the width and thickness of these plates do not appear to be suitable to the needs of the principal Government printing and engraving plants.

When lotted and offered for sale these items will be adequately described so that prospective bidders can readily identify and classify them correctly as usable items with commercial applications, if this is presently the case, rather than as scrap.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 328 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Williams, N.J.
Williams, Del.
Young, Ohio

The PRESIDING OFFICER. A quorum is present. The question is on agreeing to the amendment in the nature of a substitute. [Putting the question.]

Mr. HOLLAND. Mr. President——

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. HOLLAND. Mr. President, I understand that the Senator from North Carolina [Mr. ERVIN] has left the Chamber. I should like to call up one of his amendments.

Mr. HUMPHREY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute offered by the Senator from Illinois [Mr. DIRKSEN] and the Senator from Montana [Mr. MANSFIELD].

Mr. SMATHERS. Mr. President, I have an amendment that I would like to call up.

The PRESIDING OFFICER. Will the Senator identify his amendment?

Mr. SMATHERS. Mr. President, I call up my amendment No. 919 and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Florida will be stated.

The legislative clerk proceeded to read the amendment.

Mr. SMATHERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment of Mr. SMATHERS is as follows:

> On page 9, line 22, strike out "if he", and insert in lieu thereof the following: "upon receipt of a complaint in writing under oath or affirmation signed by the person aggrieved, if the Attorney General".
>
> On page 11, line 21, immedately after "complaint", insert the following: "in writing under oath or affirmation".
>
> On page 17, line 3, immediately after "complaint", insert the following: "in writing under oath or affirmation".
>
> On page 19, line 10, immediately after "(c)", insert "(1)".
>
> On page 19, between lines 12 and 13, insert the following:
>
> "(2) Each witness at a hearing of the Commission shall take an oath or affirmation prior to giving any evidence or testimony."

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. SMATHERS. Mr. President, I yield myself 3 minutes.

I first ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SMATHERS. Mr. President, the amendment would require that certain complaints and testimony provided for in title IV and title V be under oath or affirmation. The complaints to which such requirement would apply are complaints required as a condition precedent to the Attorney General's initiation of actions in behalf of those claiming to be aggrieved in cases regarding desegregation of schools and complaints or statements before the Civil Rights Commission.

In title III of the bill, where statements are called for, the drafters of the bill provided that all statements shall be in conformity with section 1001 of title 18 of the United States Code which states:

> Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and wilfully falsifies, conceals, or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both.

The purpose of the amendment is to have exactly the same type of penalty apply under title IV and title V. If we are to have the provision in title III, if we are going to say that a person is liable to punishment if he files a false complaint, it seems to me that we ought to have the same principle apply in the other titles. The other titles, of course, are titles IV and V. I believe the amendment would make the administration of the bill much more effective because it would eliminate any frivolous statement being made by a complainant.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SMATHERS. I yield myself 2 additional minutes.

The Attorney General, when he looked at the statement made, would know that it was a genuine statement, because the law would provide that if it were not a genuine statement, or if it were a false statement, the person would be subjected to the same punishment provided for under title III.

So, in essence, all I am trying to do here is try to help the drafters. While I am not for the bill, so long as we are to have a bill, we may as well have the best bill it is possible to get. If there is a provision in some titles which requires that statements be accurate, and that if they are not accurate the person making the inaccurate statement may be fined and punished, we ought to apply it to persons who make similar complaints of discrimination under titles IV and V.

If we want to bring about equity, I should think the proponents of the legislation would be willing to accept the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida [Mr. SMATHERS].

Mr. DOUGLAS. Mr. President, I yield myself 2 minutes.

This is another harassing amendment. It is not needed. There are no criminal penalties provided under the act. This is a provision that is not necessary. The proceedings under the Administrative Procedure Act are to be followed. This provision is absolutely unnecessary. If adopted, it would be used to intimidate and frighten witnesses.

Mr. SMATHERS. Mr. President, I yield myself 1 minute in light of that statement. I know I caught the Senator from Illinois by surprise in the sense that he has been just assigned to defend the particular bill for the moment and is not as well acquainted with the amendment as he ordinarily would be if he had had an opportunity to examine the amendment. Under title III there is a provision in section 304 which reads:

> A complaint as used in this title is a writing or document within the meaning of section 1001, title 18, United States Code.

My amendment makes that same application, which I have already read. The provision reads that if a person files a fraudulent statement or makes a misrepresentation, he is liable to a $10,000 fine. All I want to do is have applied to the other two sections what applies to title III, so that only complaints that are supported will be made and so no frivolous statements will be filed. It would make administration of the bill a bit easier.

Mr. DOUGLAS. Mr. President, I yield myself half a minute. The Senator from Florida has said I did not have sufficient time to understand the amendment he has offered. It is true that these amendments suddenly "pop out of the blue" and we have to reply on the spur of the moment, but I am saying that it is not necessary to eat all of a rotten egg in order to know that it is rotten.

Mr. SMATHERS. If the Senator thinks it is rotten, he ought to be willing to take it out of the bill.

Mr. DOUGLAS. I mean the amendment.

Mr. SMATHERS. My amendment puts in titles IV and V what is already in title III. If it would be rotten in titles IV and V, the Senator ought to be willing to take it out of title III; but if it is going to remain in title III, let us have it in titles IV and V as well.

Mr. CASE. Mr. President, I yield myself as much time as I may need.

I invite the attention of the Senator from Florida to the fact that in title IV there is a provision, on page 24 of the document that I have—in any event, it is section 407—that—

> A "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code—

The same title the Senator read before, which makes unnecessary any specification or a requirement for being under oath.

Mr. SMATHERS. I am reading from the Mansfield-Dirksen-Humphrey-Kuchel version. The Senator is reading from the original bill. That is correct. I would have to amend my amendment to have it apply only to title V.

Mr. CASE. Let us see if it is in title V.

Mr. SMATHERS. Mr. President, I would like to reserve my time. I hope the time now being used is not being taken out of my time now.

Mr. CASE. While we sit here and cerebrate slightly, I do not want the time to run against me, either.

Mr. SMATHERS. Mr. President, I ask unanimous consent that I may withdraw my amendment for the time being.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CASE. I think it does apply if the Senator wants it to apply, but it is not necessary.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

Mr. DOUGLAS. Mr. President, I ask for the yeas and nays on the Mansfield-Dirksen substitute.

Mr. ERVIN. Mr. President, I call up my amendments No. 779, modified by me to conform to the revised substitute, amendment No. 1052, and ask that the clerk state the amendments.

The PRESIDING OFFICER. The amendments offered by the Senator from North Carolina will be stated.

The legislative clerk read the amendments, as follows:

> On pages 2 and 3, beginning with line 7 on page 2, strike out everything through line 24 on page 3.
>
> On page 3, line 19, change the designation (b) to the designation (a).

Mr. ERVIN. Mr. President, I ask for the yeas and nays on the amendments.

The yeas and nays were ordered.

Mr. ERVIN. I yield myself 2 minutes.

This is an amendment which would strike out all of the provisions of title I which undertake to prescribe the way literacy tests shall be administered. This is no legislation under the 15th amendment, because it contains no reference to denial or abridgment of the right to vote on account of race, color, or previous condition of servitude.

I ask unanimous consent to have printed at this point in the body of the RECORD the case of *Karem* v. *United States*, 121 Fed. 250, to sustain that proposition.

There being no objection, the case was ordered to be printed in the RECORD, as follows:

KAREM *v.* UNITED STATES

[Circuit Court of Appeals, Sixth Circuit, Feb. 24, 1903—No. 1,068]

1. Election—Federal legislation affecting State elections—Limitation of power: The power of Congress to legislate on the subject of voting at purely State elections is entirely dependent upon the 15th constitutional amendment, and is limited by such amendment to the enactment of appropriate legislation to prevent the right of a citizen of the United States to vote from being denied or abridged by a State on account of race, color, or condition; and since the amendment is, in terms, addressed to action by the United States or a State, appropriate legislation for its enforcement must also be addressed to State action, and not to the action of individuals.

2. Penal statute—construction—constitutional power to enact: A penal act of Congress cannot be sustained, as an exercise of the power given by a constitutional provision to enact appropriate legislation for its enforcement, where the act is broader in its terms than the constitutional provision, and the language used covers wrongful acts without as well as within the same. In such case the courts cannot limit the act by construction, and bring it within the constitutional grant of power.

3. Elections—preventing citizen from voting at State election—Federal statute: Revised statutes section 5508 [U.S. Comp. St. 1901, p. 3712], which makes it a criminal offense "if two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States," is not appropriate legislation for the enforcement of the 15th constitutional amendment, both because it relates to the acts of individuals, and not of a State, and because it is broader in its terms than the legislation authorized by the amendment; and it will not sustain an indictment for conspiring to prevent a citizen from voting at a purely State or municipal election on account of his race or color, whether the defendants are charged as individuals, or as officers of the State.

In error to the District Court of the United States for the Western District of Kentucky:

The plaintiff in error has been convicted under an indictment framed under section 5508 of the Revised Statutes [U.S. Comp. St. 1901, p. 3712]. The indictment, in substance, charges that the plaintiff in error and C. H. Watson and G. P. Bohn and others, to the grand jury unknown, combined and conspired together to injure, oppress, threaten, and intimidate certain named persons of color, citizens of the United States and of the State of Kentucky, and lawfully qualified voters under the law of Kentucky, from exercising and enjoying "a right and privilege secured to them * * * by the Constitution and laws of the United States, to wit, the right and privilege to vote at the election hereafter named, without distinction of race, color, or previous condition of servitude." It is then averred that there was held within the State of Kentucky on November 7, 1899, an election for State and municipal offices only, and that at a certain named precinct the defendant Karem was a judge of election, C. H. Watson a clerk, and G. P. Bohn the sheriff holding the election, and that the said persons of color were lawful voters in said precinct, and legally entitled to vote at said election, and that they each appeared at the polls within the time fixed by law and offered to vote in and at said election, but that, in pursuance of the conspiracy aforesaid, the said defendants did prevent them from voting on account of their race, color, and previous condition of servitude. To this indictment the defendant Karem demurred upon the ground that the facts stated did not constitute an offense against the laws of the United States. The demurrer was overruled. The indictment was dismissed as to the alleged conspirator Bohn. The remaining defendants, Karem and Watson, entered pleas of not guilty. At the conclusion of all the evidence each of the defendants moved the court to instruct the jury to find against the Government. This motion was allowed as to Watson and disallowed as to Karem, who has sued out this writ to reverse a judgment based upon a verdict of guilty.

W. M. Smith and Swager Shirley, for plaintiff in error.

R. D. Hill, for defendant in error.

Before Lurton, Day, and Severens, circuit judges.

Lurton, circuit judge, after making the foregoing statement of the case, delivered the opinion of the court.

Many errors have been assigned and argued, but, inasmuch as we are of opinion that no offense was charged against the United States in the indictment, it is wholly unnecessary to pass upon any of the other questions of either fact or law.

If Congress has not declared the acts charged to have been done by Karem to be an offense against the United States, the courts have no power to treat them as such, even though the Congress may have the constitutional power to make such acts a crime against the United States. *United States* v. *Reese* (92 U.S. 214, 23 L. Ed. 563).

The contention of the Government is that the acts charged constitute an offense indictable and punishable under sections 2004 and 5508 (U.S. Comp. St. 1901, pp. 1272, 3712). Those sections are in these words:

"SEC. 2004. All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or territory, or by or under its authority, to the contrary notwithstanding."

"SEC. 5508. If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 and imprisoned not more than 10 years; and shall, moreover, be thereafter ineligible to any office, or place of honor, profit, or trust created by the Constitution or laws of the United States."

Neither the act from which section 2004 is taken, nor any section of the Revised Statutes, undertakes, in terms, to make its violation an offense against the United States, or provide for any punishment. It does nothing more than the amendment does proprio vigore. As said in *Ex parte Yarbrough*, 110 U.S. 651, 4 Sup. Ct. 152, 28 L. Ed. 274, the amendment "annulled the discriminating word 'white,' " wherever it was found in a State constitution or election law, "and thus placed the colored person in the enjoyment of the same right as white persons." "And," said Justice Miller, in the same case, "such would be the effect of any future constitutional provision of a State which should give the right of voting exclusively to white people, whether they be men or women."

But if section 2004 be regarded as anything more than a declaration of the effect of the 15th amendment, no penalty is provided for its violation. In *United States* v. *Reese*, 92 U.S. 214, 216, 23 L. Ed. 563, the court said: "If Congress has not declared an act done within a State to be a crime against the United States, the courts have no power to treat it as such."

Referring to this section 2004, then the first section of the act of 1870 (act May 31, 1870, c. 114; 16 Stat. 140), the Court said: "It is not claimed that there is any statute which can reach this case, unless it be the one in question. Looking, then, to this statute, we find that its first section provides that all citizens of the United States, who are or shall be otherwise qualified by law to vote at any election, * * * shall be entitled and allowed to vote thereat, without distinction of race, color, or previous condition of servitude, any constitution * * * of the State to the contrary notwithstanding. This simply declares a right, without providing a punishment for its violation."

The indictment in this case must therefore be predicated wholly upon section 5508, or the acts charged have not been constituted an offense punishable by the United States. But the constitutional authority for the legislation embodied in this section is very much broader than the 15th amendment. It was the sixth section of the enforcement act of 1870 (act May 31, 1870, ch. 116; 16 Stat. 141). The character of the "rights and privileges" protected is best illustrated by some of the cases in which it has been construed and enforced. The right of a qualified voter to vote for a Member of Congress is a right "secured by the Constitution or laws of the United States," within the meaning of section 5508 of the Revised Statutes. *Ex parte Yarbrough* (110 U.S. 651, 4 Sup. Ct. 152, 28 L. Ed. 274). In the case cited the indictment was brought under sections 5508 and 5520 of the Revised Statutes. The indictment in that case charged that the conspiracy was to deprive certain qualified colored voters, on account of their color, race, or previous condition of servitude, "of the enjoyment of the right and privileges of suffrage in the election of a lawfully qualified person as a Member of the Congress of the United States, * * * which said right and privilege of suffrage was secured to the said Berry Saunders by the Constitution and laws of the United States." The Supreme Court held that the right to vote in a congressional election was a right secured by, and dependent upon, the Constitution and laws of the United States. In *Lackey* v. *United States* (46 C.C.A. 189, 107 Fed. 114, 53 L.R.A. 660), after quoting from the opinion the argument for that conclusion, we said: "The judgment of the court was also rested, in part, upon the broader ground that the Congress had the general implied power to protect the elections on which its existence depends from violence and corruption. But all that is said in that case upon this aspect of the question was said of elections at which electors or Congressmen are to be chosen, and of the direct interest of the United States in securing such elections from violence, corruption, and fraud. But whether the power of Congress to legislate in respect to congressional elections depends upon the effect of the second and fourth sections of article I of the Constitution, or arises out of the implied power to protect such elections against violence and fraud because they are Federal elections so far as Federal officials are thereby directly chosen, it is very obvious that, whether such power be attributed to either the one or the other source, it furnishes no reason for any interference at a purely State election."

In *United States* v. *Waddell* (112 U.S. 76, 5 Sup. Ct. 35, 28 L. Ed. 673), an indictment under this section was also sustained. "The particular right held in that case to be dependent on and secured by the laws of the United States, and to be protected by section 5508 of the Revised Statutes, against interference by individuals, was the right of a citizen, having made a homestead entry on public land, within the limits of the State, to continue to reside on the land for 5 years, for the purpose of protecting his title."

In *Logan* v. *United States* (144 U.S. 263, 12 Sup. Ct. 617, 36 L. Ed. 429), it was held that a citizen of the United States, in the custody of a marshal of the United States under a lawful commitment to answer an offense against the United States, has the right to be protected by the United States against lawless violence, and that this right is a right secured to him by the Constitution and laws of the United States and that a conspiracy to prevent his enjoyment of this right of protection is indictable under section 5508.

None of the cases in which an indictment under this section has been sustained involved a discrimination against voters in a purely State election on account of race, color, or previous condition of servitude. It is plain that resort can be had to this section only upon the theory that the right to vote at a purely State election is a right or privilege secured by the Constitution or laws of the United States. But the power of Congress to legislate at all upon the subject of voting at purely State elections is entirely dependent upon the 15th amendment. *United States* v. *Reese* (92 U.S. 214, 23 L. Ed. 563); *United States* v. *Cruikshank* (92 U.S. 542, 23 L. Ed. 588). The plain purpose of that amendment was to prevent all discrimination by the United States and by the States in the exercise of the suffrage on account of "race, color, or previous condition of servitude." The amendment reads thus:

"SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

"SEC. 2. The Congress shall have the power to enforce this article by appropriate legislation."

The well-settled construction of the article is that it does not confer the right of suffrage upon anyone. *United States* v. *Reeves* (92 U.S. 214, 23 L. Ed. 563); *United States* v. *Cruikshank* (92 U.S. 542, 23 L. Ed. 588).

In the case last cited the opinion in the circuit court was by Justice Bradley, and is reported as *U.S.* v. *Cruikshank* (1 Woods, 308, and Fed. Cas. No. 14,897). In the opinion referred to, the learned justice, referring to the amendment, said:

"It does not confer the right to vote. That is the prerogative of the State laws. It only confers a right not to be excluded from voting by reason of race, color, or previous condition of servitude, and this is all the right that Congress can enforce."

Referring to the power of Congress to enforce this amendment by appropriate legislation, he said:

"It is not the right to vote which is guaranteed to all citizens. Congress cannot interfere with the regulation of that right by the States, except to prevent, by appropriate legislation, any distinction as to race, color, or previous condition of servitude. The State may establish any other conditions and discriminations it pleases, whether as to age, sex, property, education, or anything else."

In *United States* v. *Reese*, cited above, the court said:

"The 15th amendment does not confer the right of suffrage upon anyone. It prevents the States, or the United States, however, from giving preference in this particular to one citizen of the United States over another on account of race, color, or previous condition of servitude. Before its adoption, this could be done. It was as much within the power of a State to exclude citizens of the United States from voting on account of race, etc., as it was on account of age, property, or education. Now it is not. If citizens of one race, having certain qualifications, are permitted by law to vote, those of another having the same qualifications must be. Previous to this amendment there was no constitutional guarantee against this discrimination. Now there is. It follows that the amendment has invested the citizens of the United States with a new constitutional right, which is within the protecting power of Congress. That right is exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. This, under the express provisions of the second section of the amendment, Congress may enforce by 'appropriate legislation.' "

In *United States* v. *Cruikshank*, cited above, the court said: "In *Minor* v. *Happersett*, 21 Wall. 178, 22 L. Ed. 627, we decided that the Constitution of the United States has not conferred the right of suffrage upon anyone, and that the United States have no voters of their own creation in the States. In *United States* v. *Reese* et al., supra, we hold that the 15th amendment has invested the citizens of the United States with a new constitutional right, which is exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship, but that exemption from discrimination in the exercise of that right on account of race, etc., is. The right to vote in the States comes from the States, but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been."

The 15th amendment is therefore a limitation upon the powers of the States in the execution of their otherwise unlimited right to prescribe the qualification of voters in their own elections, and the power of Congress to enforce this limitation is necessarily limited to legislation appropriate to the correction of any discrimination on account of race, color, or condition. The affirmative right to vote in such elections is still dependent upon and secured by the Constitution and laws of the State, the power of the State to prescribe qualification being limited in only one particular. The right of the voter not to be discriminated against at such elections on account of race or color is the only right protected by this amendment, and that right is a very different right from the affirmative right to vote.

There are certain very obvious limitations upon the power of Congress to legislate for the enforcement of this article: First, legislation authorized by the amendment must be addressed to State action in some form, or through some agency; second, it must be limited to dealing, with discrimination on account of race, color, or condition. These in their order:

1. That State, and not individual, action, is the subject of this article, would seem clear from many considerations. The right to vote in a purely State election, being, as we have seen, a right granted by and dependent upon the law of the State, is therefore a right which can only be denied or abridged by the State. The amendment is therefore, in terms, addressed to State action. Action by the United States and by the State in contravention of this right of nondiscrimination on account of race, color, or condition is inhibited. It has been argued that the amendment operates only to annul discriminations in existing constitutions and laws, and to prohibit all future legislation denying or abridging the right of suffrage on account of race, color, and condition, and that the power of Congress to enforce it is therefore limited to legislation appropriate to the prevention and punishment of conduct based upon discriminating legislation. We think this too narrow a view of the article. Although it has reference to State, and not individual, action, it has a wider scope than the mere nullification or inhibition of State legislative action, and avoids and inhibits not only State legislation, but all State action of every kind, and by everyone assuming to exercise the power of the State, whether the State's authority be exceeded or not. When the Constitution speaks of a State, and inhibits the doing of certain things, it sometimes includes under the term "State" every instrumentality or agency of the State which presumes to act by authority of the State, and in other cases the action of the State in its sovereign or legislative character is alone referred to. This amendment is not limited to the prohibition of "laws" denying or abridging the elective function. For this very reason we conclude that legislation enforcing it may be corrective of any State action, whether based on State laws authorizing discrimination or not. With the exception of the first clause of the first section of the 14th amendment, that section is, like the 15th amendment addressed broadly to the State. The other clauses of that section read as follows: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Each of the clauses quoted above has been authoritatively construed as addressed to State action in some form, and not to mere individual conduct. *Slaughter House* case, 16 Wall. 36, 21 L. Ed. 394; *Ex parte Virginia*, 100 U.S. 339, 25 L. Ed. 676; *United States v. Cruikshank*, 92 U.S. 542, 23 L. Ed. 588; *United States* v. *Harris*, 106 U.S. 629, 638, 1 Sup. Ct. 601, 27 L. Ed. 290; *Virginia* v. *Rives*, 100 U.S. 313, 25 L. Ed. 667; *Civil Rights* case, 109 U.S. 3, 11, 3 Sup. Ct. 18, 27 L. Ed. 835; *Chicago, B. & Q. R.* v. *Chicago*, 166 U.S. 226, 17 Sup. Ct. 581, 41 L. Ed. 979.

In *United States* v. *Cruikshank*, the Chief Justice said: "The 14th amendment prohibits a State from depriving any person of life, liberty, or property without due process of law, or from denying to any person the equal protection of the laws; but this provision does not add anything to the rights of one citizen against another. It simply furnishes an additional guaranty against any encroachment by the State upon the fundamental rights which belong to every citizen as a member of society."

In *Virginia* v. *Rives* the court said: "The provisions of the 14th amendment here refer to State action, exclusively, and not to any action of private individuals."

In *United States* v. *Harris*, Justice Woods, after citing and commenting upon the earlier cases, said of the 14th amendment: "The language of the amendment does not leave this subject in doubt. When the State has been guilty of no violation of its provisions; when it has not made or enforced any law abridging the privileges or immunities of citizens of the United States; when no one of its departments has deprived any person of life, liberty, or property without due process of law, or denied to any person within its jurisdiction the equal protection of the law; when, on the contrary, the laws of the State, as enacted by its legislative and construed by its judicial and administered by its executive departments, recognize and protect the rights of all persons, the amendment imposes no duty and confers no power upon Congress."

Referring to *Ex parte Virginia*, 100 U.S. 339, 25 L. Ed. 676, where a law of Congress prohibiting discrimination in jury service on account of race, color, etc., was upheld as warranted by the last clause of the first section of the 14th amendment, the court, in the *Civil Rights* case, 109 U.S. 3, 151, 3 Sup. Ct. 18, 24, 27 L. Ed. 835, said:

"In *Ex parte Virginia*, 100 U.S. 339, 25 L. Ed. 676, it was held that an indictment against a State officer under this section for excluding persons of color from the jury list is sustainable. But a moment's attention to its terms will show that the section is entirely corrective in its character. Disqualifications for service on juries are only created by the law, and the first part of the section is aimed at certain disqualifying laws, namely, those which make mere race or color a disqualification; and the second clause is directed against those who, assuming to use the authority of the State government, carry into effect such a rule of disqualification. In the Virginia case, the State, through its officer, enforced a rule of disqualification which the law was intended to abrogate and counteract. Whether the statute book of the State actually laid down any such rule of disqualification or not, the State, through its officer, enforced such a rule; and it is against such State action, through its officers or agents, that the last clause of the section is directed. The aspect of the law was deemed sufficient to divest it of any unconstitutional character, and makes it differ widely from the first and second sections of the same act which we are now considering."

In *Chicago, Burlington & Quincy R. Co.* v. *Chicago*, 166 U.S. 226, 17 Sup. Ct. 581, 41 L. Ed. 979, it is said, referring to the 14th amendment:

"That the prohibitions of the amendment refer to all the instrumentalities of the State, to its legislative, executive, and judicial authorities; and therefore whoever, by virtue of public position under a State government, deprives another of any right protected by that amendment against deprivation by the State, violates the constitutional inhibition; and as he acts in the name and for the State, is clothed with the State's power, his act is that of the State."

In *Logan* v. *United States*, 144 U.S. 263, 293, 12 Sup. Ct. 617, 626, 36 L. Ed. 429, the cases cited above were reviewed, and the doctrine to be deduced from them thus formulated: "The whole scope and effect of this series of decisions is that, while certain fundamental rights, recognized and declared, but not granted or created, in some of the amendments to the Constitution, are thereby guaranteed only against violation or abridgment by the United States, or by the States, as the case may be, and cannot, therefore, be affirmatively enforced by Congress against unlawful acts of individuals, yet that every right created by, arising under, or dependent upon the Constitution of the United States may be protected and enforced by Congress by such means and in such manner as Congress, in the exercise of the correlative duty of protection, or of the legislative powers conferred upon it by the Constitution, may, in its discretion, deem most eligible and best adapted to attain the object."

The principles of interpretation applicable to the first section of the 14th amendment are equally applicable to the construction of the 15th amendment. The amendment simply limits State power in respect to suffrage at State elections by prohibiting discrimination in the enjoyment of the elective franchise on account of race, color, or condition. The right to vote in its own election can be conferred only by the State. No one, therefore, but the State, can "deny or abridge" the right to vote. The amendment is therefore properly addressed to the State. Individuals may by unlawful force or fraud prevent an otherwise lawful voter from voting. But it would simply be an act of lawless violence. The right of suffrage would not be denied or abridged. Individuals cannot deny or abridge the right of suffrage, for they cannot confer it. It is a right which is secured by, and dependent upon, law. Individuals cannot "deny or abridge" a right of suffrage confirmed by law by a mere lawless act of fraud or intimidation of violence. To deny or abridge it in the sense and meaning of the 15th amendment, there must be some act of the State, through its legislative, judicial, or executive departments. Someone exercising the power of the State, whether with or without the sanction of the law of the State, must deny to otherwise qualified voters the right to vote on account of race, color, or condition. That would be an act of the State, and such act might be made an offense against the United States by virtue of the power granted by the 15th amendment. To justify legislation directed to the mere lawless acts of individuals at a purely State election, even though such acts be based upon color or race, would be to enter the domain of the police power of the State. We speak only of purely State elections, for the power of Congress over its own elections rests upon altogether different principles. There is no more reason for assuming that this amendment authorizes legislation for the punishment of the ruffianly act of an individual in preventing the enjoyment of the right to vote in a State or municipal election, even though the intimidation be grounded upon race, color, or previous condition of servitude, than there would be for legislation punishing a trespass upon property upon the ground that such a trespass would be a denial of due process of law. Both the 14th and the 15th amendments are addressed to State action through some channel exercising the power of the State.

2. Appropriate legislation grounded on this amendment is legislation which is limited to the subject of discrimination on account of race, color, or condition. The act commonly known as the Enforcement Act (being the act of May 31, 1870; 16 Stat. 140) contained a number of sections which were plainly intended to enforce the provisions of the 15th amendment These sections were the first, third, fourth, and fifth. The first has been carried into the Revised Statutes as section 2004 [U.S. Comp. St. 1901, p. 1272]. The third, having been held unconstitutional, is dropped out. The fourth, in a somewhat changed form, is carried into the Revised Statutes as section 5506, and the fifth section is section 5507 [U.S. Comp. St. 1901, p. 3712] of the Revised Statutes. The third, fourth, and fifth sections of that act have been held to have been in excess of the jurisdiction of the Congress under the 15th amendment, and therefore null and void. The ground upon which this conclusion was reached was that neither section was confined in its operation to discriminations on account of race, color, or previous condition of servitude, and all were broad enough to cover wrongful acts both within and without the jurisdiction of Congress under the article. *United States* v. *Reese,* 92 U.S. 214, 23 L. Ed. 563; *Lackey* v. *United States,* 46 C.C.A. 189, 107 Fed. 114, 53 L.R.A. 660.

3. It may be conceded that the Congress has power to provide for the indictment and punishment of any person exercising the power of the State who should exclude, on account of race, color, or previous condition of servitude, the vote of lawfully qualified voters, even at a purely State election. But has Congress so legislated? Section 5508 [U.S. Comp. St. 1901, p. 3712] is plainly not limited to acts done by persons acting under and exercising the power of the State. The indictment charges that the defendant conspirators were officers of election, and, as such officers, excluded colored voters from voting on account of race, color, etc. If the case made by the indictment is within this section, it is not because it provides specifically for the punishment of the offense charged, but because it comes under the general provision providing for the punishment of any unlawful interference with the free enjoyment of some right or privilege secured by the Constitution or laws of the United States. This section has for its object the punishment of all persons who conspire to prevent the free enjoyment of any right or privilege secured by the Constitution or laws of Congress, without regard to whether the persons so conspiring are private individuals or officials exercising the power of the United States or of a State. Neither does it draw any distinction between a conspiracy directed against the exercise of the right of suffrage based upon race or color, and a conspiracy not so grounded. It is therefore not legislation appropriate to the enforcement of the 15th amendment; and, if the only warrant for its enactment was that article, we should be obliged to hold that Congress had exceeded its jurisdiction, because broad enough to cover wrongful acts without as well as within its jurisdiction. That it is not within the province of the courts to so limit an act by judicial construction as to make it operate only on that which Congress may rightfully prohibit and punish is now a well-settled principle of constitutional interpretation. *United States* v. *Reese,* 92 U.S. 214, 23 L. Ed. 563; *United States* v. *Cruikshank,* 92 U.S. 542 23 L. Ed. 588; *Trade-Mark* cases, 100 U.S. 82, 25 L. Ed. 550; *United States* v. *Harris,* 106 U.S. 629, 1 Sup. Ct. 601, 27 L. Ed. 290; *Civil Rights* cases, 109 U.S. 3, 3 Sup. Ct. 18, 27 L. Ed. 835; *Lackey* v. *United States,* 48 C.C.A. 189, 107 Fed. 114, 53 L.R.A. 660.

The case of *United States* v. *Reese,* above cited, is very much in point. The court had under consideration the constitutionality of sections 3 and 4 of the act of May 31, 1870, now constituting section 5506 of the Revised Statutes. The indictment charged two inspectors of a municipal election in the State of Kentucky with refusing to receive the votes of certain colored voters, in contravention of the terms of the third section of the act. The section in question was directed to the conduct of election judges and inspectors, but did not limit the operation of the the act to exclusions from suffrage on account of race, color, or condition. The court said, in speaking of the section then under consideration:

"We find there no words of limitation, or reference, even, that can be construed as manifesting any intention to confine its provisions to the terms of the 15th amendment. That section has for its object the punishment of all persons who, by force, bribery, etc., hinder, delay, etc., any person from qualifying or voting. In view of all these facts, we feel compelled to say that, in our opinion, the language of the third and fourth sections does not confine their operation to unlawful discriminations on account of race, etc. If Congress had the power to provide generally for the punishment of those who unlawfully interfere to prevent the exercise of the elective franchise, without regard to such discrimination, the language of these sections would be broad enough for that purpose. It remains now to consider whether a statute so general as this in its provisions can be made available for the punishment of those who may be guilty of unlawful discrimination against citizens of the United States, while exercising the elective francise, on account of their race, etc. There is no attempt in the sections now under consideration to provide specifically for such an offense. If the case is provided for at all, it is because it comes under the general prohibition against any wrongful act or unlawful obstruction in this particular. We are therefore directly called upon to decide whether a penal statute enacted by Congress, with its limited powers, which is in general language, broad enough to cover wrongful acts without as well as within the constitutional jurisdiction can be limited by judicial construction so as to make it operate only on that which Congress may rightfully prohibit and punish. For this purpose we must take these sections of the statute as they are. We are not able to reject a part which is unconstitutional, and retain the remainder, because it is not possible to separate that which is unconstitutional, if there be any such, from that which is not. The proposed effect is not to be attained by striking out or disregarding words that are in the section, but by inserting those which are not now there. Each of the sections must stand as a whole, or fall altogether. The language is plain. There is no room for construction, unless it be as to the effect of the Constitution. The question, then, to be determined, is whether we can introduce words of limitation into a penal statute so as to make it specific, when, as expressed, it is general only. It would certainly be dangerous if the legislature could set a net large enough to catch all possible offenders, and leave it to the courts to step inside and say who could be rightfully detained, and who should be set at large. This would, to some extent, substitute the judicial for the legislative department of the Government. The courts enforce the legislative will, when ascertained, if within the constitutional grant of power. Within its legitimate sphere, Congress is supreme, and beyond the control of the courts; but if it steps outside of its constitutional limitations, and attempts that which is beyond its reach, the courts are authorized to, and, when called upon in due course of legal proceedings must, annul its encroachments upon the reserved power of the States and the people. To limit this statute in the manner now asked for would be to make a new law, not to enforce an old one. This is no part of our duty. We must therefore decide that Congress has not as yet provided by 'appropriate legislation' for the punishment of the offense charged in the indictment, and that the circuit court properly sustained the demurrers and gave judgment for the defendants."

In *United States* v. *Harris,* 106 U.S. 629, 637, I Sup. Ct. 601, 27 L. Ed. 290, section 5519 [U.S. Comp. St. 1901, p. 3714] was held void, as not warranted by the Constitution. That section is in these words:

"SEC. 5519. If two or more persons in any State or territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges or immunities under the law; or for the purpose of preventing or hindering the constituted authorities of any State or territory giving or securing to all persons within such State or territory the equal protection of the laws; each of such persons shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment."

It was sought to be supported under the 13th, 14th, and 15th amendments. The court said:

"It is clear that the 15th amendment can have no application. That amendment, as was said by this court in the case of *United States* v. *Reese,* 92 U.S. 214, 23 L. Ed. 563, 'relates to the right of citizens of the United States to vote. It does not confer the right of suffrage on any one. It merely invests citizens of the United States with the constitutional right of exemption from discrimination in the enjoyment of the elective franchise on account of race, color, or previous condition of servitude.' See, also, *United States* v. *Cruikshank,* 92 U.S. 542, 23 L. Ed. 588; s.c. 1 Woods, 308, Fed. Cas. No. 14,897. Section 5519 of the Revised Statutes [U.S. Comp. St. 1901, p. 3714] has no references to this right. The right guaranteed by the 15th amendment is protected by other legislation of Congress; namely, by sections 4 and 5 of the act of May 31, 1870, c. 114, and now embodied in sections 5506 and 5507 of the Revised Statutes [U.S. Comp. St. 1901, p. 3712]. Section 5519, according to the theory of the prosecution, and as appears by its terms, was framed to protect from invasion by private persons the equal privileges and immunities, under the laws, of all persons and classes of persons. It requires no argument to show that such a law cannot be founded on a clause of the Constitution whose sole object is to protect from denial or abridgement by the United States or States, on account of race, color, or previous condition of servitude, the right of citizens of the United States to vote."

The court further held that the act was not warranted by either of the other amendments, because it covered cases both within and without the authority of Congress. Referring to the claim that it might be supported by the 14th amendment, the court said:

"As therefore, the section of the law under consideration is directed exclusively against the action of private persons, without reference to the laws of the State, or their administration by her officers, we are clear in the opinion that it is not warranted by any clause of the 14th amendment."

Assuming that exemption from discrimination at a State election is a "right or privilege secured by the Constitution or laws of the United States," it is a right which originates only in the 15th amendment, and can only be enforced by legislation directed to State action in some form, by which otherwise qualified voters are denied the elective franchise on account of race or color. This is the limit of the power of Congress under the article. Section 5508 is not so limited, and is not, therefore, appropriate legislation for the enforcement of the 15th amendment. The warrant for the section is found in other provisions of the Constitution, and other sections of the act of 1870, from which this section was taken, carried into the Revised Statutes as sections 5506 and 5507, were intended to enforce this amendment. We therefore conclude that the offense charged in the indictment is not included within or covered by section 5508.

The judgment must be reversed with directions to sustain the defendants' demurrer to the indictment.

Mr. ERVIN. This is legislation under section 4 of article I of the original Constitution, and it cannot be sustained as legislation under that provision because it has no reference to the manner of holding elections.

To sustain this point, I ask unanimous consent to have inserted in the body of the RECORD as a part of my remarks an extract from the dissenting opinion of Justice Field in *Ex parte Clarke,* 100 U.S. 399, at page 418.

There being no objection, the extract was ordered to be printed in the RECORD, as follows:

> The power vested in Congress is to alter the regulations prescribed by the legislatures of the States, or to make new ones, as to the times, places, and manner of holding the elections. Those which relate to the times and places will seldom require any affirmative action beyond their designation. And regulations as to the manner of holding them cannot extend beyond the designation of the mode in which the will of the voters shall be expressed and ascertained. The power does not authorize Congress to determine who shall participate in the election, or what shall be the qualification of voters. These are matters not pertaining to or involved in the manner of holding the election, and their regulation rests exclusively with the States.

Mr. President, the Supreme Court has held in every case in which the question has been raised that the power to prescribe qualifications for voters, including literacy tests, belongs to the States and not to the Federal Government.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. I yield myself 1 additional minute.

To sustain my position on this point, I ask unanimous consent to have printed in the RECORD two articles written by me, one entitled "Literacy Tests for Voters: A Case Study in Federalism," which was published in the summer issue, 1962, of a publication of the School of Law, Duke University, "Law and Contemporary Problems," and an article entitled "Political Rights As Abridged by Pending Legislative Proposals," which appeared in the winter issue, 1964, of the Federal Bar Journal.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From "Law and Contemporary Problems," School of Law, Duke University, summer issue, 1962]

LITERACY TESTS FOR VOTERS: A CASE STUDY IN FEDERALISM

(By SAM J. ERVIN, Jr.)

Among the major problems of our American constitutional system has been the maintenance of a proper balance of power between the States and the Federal Government. This problem, foreseen by our forefathers in 1787, has been experienced in somewhat similar form in several countries, and, in the United States, has been aggravated by developments during the past few years.

I have been especially disturbed by recent developments which threaten to erode the traditional State control of the electoral process. The Supreme Court's reapportionment decision in *Baker* v. *Carr*[1] is one step in this direction and has produced judicial intervention in an area where political solutions, in my view, would be more lasting and satisfactory.[2] This intervention may well present some of the administrative and other difficulties that have characterized Federal court intervention in the educational process under the authority of *Brown* v. *Board of Education.*[3]

Recently the Senate had occasion to consider a proposed constitutional amendment that would prohibit State poll taxes.[4] Although I am not an advocate of the poll tax and my own State of North Carolina has had no such tax as a prerequisite for voting for many years, I did not consider that this amendment was conducive to the most suitable balance between State and Federal authority.

In the five States where it currently exists,[5] the poll tax seems to express a philosophy that a voter will take much more interest in the exercise of his franchise if he has paid something, albeit a token amount, in order to vote. A somewhat similar rationale has been advanced for proposals designed to encourage a broad popular base of campaign contributions in elections.[6] According to this view, a voter takes a much greater interest in a party or candidate to which he has made a contribution; and because of this greater interest, there will be greater public understanding of issues to be decided.

Although the poll tax may not produce in practice the advantages which its proponents claim, I feel that each State should be free to make the decision as to whether such a limitation on the franchise is desirable. Under my view of federalism, the States should retain considerable leeway to experiment with different institutions and with different solutions to problems. After balancing the national interest in an election free of poll tax limitations against the desirability of allowing each State to determine it own qualifications for voting, I was unable to support the proposed constitutional amendment. To me it did not seem best to restrict each State's choice in this matter by an amendment to the Federal Constitution.

If, however, the Constitution is to be amended, I prefer that these amendments be adopted openly in the manner authorized by that document itself, rather than result indirectly from judicial decision or from congressional enactment of legislation which tends to destroy the traditional State-Federal balance. Into this latter category of legislation fell the proposals concerning literacy tests for voters. Three of these bills were the subject of an extensive study by the Senate Committee on Constitutional Rights.

S. 2750, sponsored by Senators MANSFIELD and DIRKSEN, requires registration in Federal elections of applicants, including Spanish-speaking citizens from Puerto Rico, who have completed 6 years of schooling; S. 480, introduced by Senator JAVITS, sets a similar sixth grade standard as a test for literacy, which encompasses not only Federal but State elections; S. 2979, sponsored by Senator KEATING, also sets a sixth grade standard, but in addition, prohibits denial of registration to vote on any ground other than failure to meet the literacy test, inability to meet reasonable age and residence requirements, legal confinement at the time of the election or registration, or conviction of a felony. Neither S. 480 nor S. 2979 includes provisions pertaining to Puerto Ricans.

Inasmuch as the Senate floor debate on literacy tests centered about the provisions of S. 2750, as an administration-backed measure, it is to this bill that the following comments are directed.

Both the Democratic and Republican campaign platforms in the 1960 national elections had pledged an effort to push legislation concerning literacy tests which, in some form, exist in some 20 States.[7] The platform promises were apparently based on findings by the U.S. Commission on Civil Rights that, in some instances, persons otherwise qualified to vote had been denied that right because of unlawful and discriminatory application of literacy tests.[8] The principal objection to the bill is that it is an unconstitutional attempt by Federal action to prescribe voter qualifications, and thereby to impose Federal standards on the States.

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[1] 369 U.S. 186 (1962).

[2] In this connection I agree with the dissent of Justice Frankfurter in *Baker* v. *Carr,* 369 U.S. 186 (1962). He pointed out in his opinion:

"In sustaining appellants' claim, based on the 14th amendment, that the district court may entertain this suit, this Court's uniform course of decision over the years is overruled or disregarded. Explicitly it begins with *Colegrove* v. *Green,* supra, decided in 1946, but its roots run deep in the Court's historic adjudicatory process." Id. at 277.

"Although the district court had jurisdiction in the very restricted sense of power to determine whether it could adjudicate the claim, the case is of that class of political controversy which, by the nature of its subject, is unfit for Federal judicial action." Id. at 330.

[3] 347 U.S. 483 (1954).

[4] S.J. Res. 29. Passed the Senate Mar. 27, 1962. Passed the House Aug. 27, 1962. Now awaiting action by State legislatures.

[5] Alabama, Arkansas, Mississippi, Virginia, Texas.

[6] In appointing a Commission on Campaign Costs to study the cost of campaigning in presidential elections, President Kennedy commented:

"For candidates to depend on large financial contributions of those with special interests is highly undesirable, especially in these days when the public interest requires basic decisions so essential to our national security and survival * * *. The financial base of our presidential campaigns must be broadened." New York Times, Oct. 5, 1961, p. 28, col. 1.

Among many proposals considered by the Commission were: direct Federal subsidies to campaigns; subsidies to communications media; tax incentives such as that proposed in S. 1555 by Senator NEUBERGER, to provide a tax credit of up to $10 for campaign contributions; and community action to encourage small donations. See also 20 Congressional Quarterly Weekly Report 299 (1962).

The legislative recommendations of the Commission were transmitted to the Congress on May 29, 1962. One of their recommendations is embodied in S. 3484, introduced by Senator CANNON, which allows a deduction or credit against tax for contributions to National and State political committees.

Endorsing the constitutionality of this proposal, the Attorney General of the United States told the Senate Subcommittee: [9]

"On their face and as a matter of history, the 14th, and 15th amendments are an affirmative grant of power to Congress to enact legislation to guarantee the rights protected by these amendments, including, principally, the right to vote.

"I have no doubt that this bill is valid under that grant of power."

In addition to the 14th and 15th amendments, the Attorney General found a source of power in the original Constitution. It was his opinion that,[10] "since our proposal is limited to the protection of Federal elections, it is supported also by article I, section 4 of the Constitution and the broad, inherent power of Congress to govern the Federal elective process."

The obvious defects in this argument and the absence of congressional authority to enact such legislation become apparent upon careful examination of the history of these provisions and an analysis of decisions in which their meaning has been construed by the Supreme Court of the United States.

My opinion, as a longtime student of our Federal Constitution, is that the States alone possess the right to establish qualifications for voting. The very first article of the Constitution provides that, in choosing Members of the House of Representatives, the electors shall have the same qualifications required for electors of the most numerous branch of the State legislature. The same proposition is enunciated by the 17th amendment with respect to elections of U.S. Senators. Under the only reasonable interpretation of article I, section 2, and the 17th amendment, anyone qualified to vote for members of the most numerous branch of the State legislature also is entitled to vote for Members of Congress and for Senators. Conversely, those who do not have the right to vote for State legislators are ineligible to vote for Members of the House and Senate.

According to James Madison's Journal of the Constitutional Convention, article I, section 2, would appear to be the provision that met with the most complete approval of the delegates to the Constitutional Convention.[11] The overwhelming majority there felt that the right of the States to prescribe qualifications should remain unfettered, and they were loath to authorize the National Legislature to decide who might vote. George Mason of Virginia said,[12] "A power to alter the qualifications would be a dangerous power in the hands of the National Legislature"; and James Madison took the floor to state that,[13] "The right of suffrage is certainly one of the most fundamental articles of republican government, and ought not to be left to be regulated by the [National] Legislature."

ARTICLE I, SECTION 4

Article I, section 4, of the Constitution, gives Congress the ultimate power to regulate the "times, place, and manner of holding" elections for Senators and Representatives. Under the rule of ejusdem generis, it seems clear that the words "manner of holding" refer only to the procedures and methods for holding elections, rather than to the qualifications of those persons who are to participate as voters in the electoral process. As Hamilton said in The Federalist: [14] "The qualifications of the persons who may choose or be chosen as has been remarked upon other occasions, are defined and fixed in the Constitution and are unalterable by the [National] Legislature."

The debates held on article I, section 4, do not suggest that the "manner of holding" elections was in any way related to voter qualifications.[15] Mr. Rufus King, who, along with Hamilton was a member of the style-drafting committee, stated that,[16] "[T]he power of control given by this section extends to the manner of election, not the qualifications of the electors." The debates in the various State conventions, concerning ratification of the Constitution, reflect a similar interpretation.[17] Upon ratifying the document, the States of Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia, all passed resolutions expressing their sense that Congress should neither make nor alter State regulations respecting the times, places, and manner of holding elections except where the States did not so act.[18]

If article I, section 4, authorized the Congress to determine who was qualified to vote for Senators and representatives, it would also seem arguable, under article I, section 2, that Congress would then have the authority to determine the qualifications of electors of the State legislature. After all, article I, section 2, and the 17th amendment reveal unmistakably that the qualifications for electors in the senatorial and congressional elections shall be the same as those for the election of State legislators, and it seems highly unlikely that, either when the Constitution was originally adopted, or at the time the 17th amendment was adopted, there was any intent to give the Federal Government any power over State elections. In fact, when the 17th amendment regarding election of Senators was ratified in 1913, it in effect recognized and sanctioned anew the principles of article I, section 2. The words in article I, section 4, of the Constitution, taken in conjunction with section 2 of the same article, lead inevitably to the conclusion recited by Mr. Justice Field in Ex parte Clarke: [19]

"Regulations as to the manner of holding elections cannot extend beyond the designation of the mode in which the will of the voters will be expressed and ascertained. The power does not authorize Congress to determine who shall participate in the election, or what shall be the qualification of the voters. These are matters not pertaining to or involved in the manner of holding the election, and their regulation rests exclusively with the States. The only restriction upon them with respect to these matters is found in the provision that the electors of representatives in Congress shall have the qualifications required for electors of the most numerous branch of the State legislature, and the provision relating to the suffrage of the colored race. And whatever regulations Congress may prescribe as to the manner of holding the election for representatives must be so framed as to leave the election of State officers free, otherwise they cannot be maintained."

The proponents of the Mansfield-Dirksen bill feel that it does not set qualifications for voters and therefore is not in violation of article I, section 2; rather it is valid under the language of article I, section 4 because it only prescribes some guidelines or standards, by which literacy might be measured. Attorney General Robert F. Kennedy testified before the Subcommittee on Constitutional Rights: [20] "As I have said, it is concerned solely with the appropriate, fair, and nondiscriminatory manner of measuring the qualifications of Federal voters under State law."

He further stated: [21] "I would say that if we came in here and offered legislation that set the qualifications of the voters, that it would be unconstitutional; not unconstitutional only under article I, section 4, but under the 14th and 15th amendments. I would agree with you entirely then, but we are not doing that. * * * All we are doing is suggesting legislation which deals with the testing of these qualifications."

According to the late Henry Cabot Lodge, Sr., former majority leader of the U.S. Senate, the words relating to "times, places, and manner," in article I, section 4, were put in the Constitution only because "toward the close of the Revolution the States failed to send delegates, in many cases, to the Continental Congress, and during the Confederation they absolutely brought the Government to a standstill by their failure to provide representation at the seat of government, and this was put in to prevent the new Government from being paralyzed in that way."[22] James Madison offered essentially the same explanation to the Virginia Ratifying Convention.[23] Thus, the section was intended to serve only the most narrow and limited purposes, and clearly had nothing to with the voter qualifications. Article I, section 4, granted no power to the Federal Government which would sustain an attempt by the Congress to establish qualifications for electors in Federal elections.

Of course, this section has been interpreted as giving Congress the power to protect the electoral process itself, and to assure that elections are conducted free from fraud, corrupt practices, violence, intimidation, and illegal political activities. In Ex parte Yarbrough, the Supreme Court referred to the positive duty of the Government[24] to see that, "its service shall be free from the adverse influence of force and fraud practiced on its agents, and that the votes by which its Members of Congress and its President are elected shall be the free votes of the electors, and the officers thus chosen the free and uncorrupted choice of those who have the right to take part in that choice."

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[7] Alabama, Alaska, Arizona, California, Connecticut, Delaware, Georgia, Hawaii, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, New York, North Carolina, Oregon, South Carolina, Virginia, and Washington. In addition to these States, Oklahoma has a literacy law which has been declared unconstitutional, but which still remains on the books. In Nebraska the voter must sign his own name in the register. The constitutions of Colorado and North Dakota require that the legislatures of those States enact an educational qualification; however, the legislatures have not so acted.

[8] U.S. Commission on Civil Rights, report, pt. 2 (1959).

[9] "Hearings Before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, on Literacy Tests and Voter Requirements in Federal and State Elections," 87th Cong., 2d sess., p. 264 (1962) [hereinafter cited as hearings].

[10] Id. at 468.

[11] 2 James Madison, (editorial), Journal of the Constitutional Convention, 462 et seq. (1898).

[12] Id. at 468.

[13] Id. at 470.

[14] The Federalist No. 60, at 379 (Lodge ed., 1888) (Hamilton).

[15] 2 Max Farrand, "The Records of the Federal Convention of 1787," at 137, 139, 152, 153, 164 (1927).

[16] 2 Jonathan Elliot (editorial), "The Debates in the Several State Conventions," 51 (1836); see also id. at 49–51, 183 (1836).

[17] See, for example, the debates in the Virginia Convention, as reported in 3 id. at 8, 60, 185, 202, 203.

[18] 47 CONGRESSIONAL RECORD 1892, 1893 (1911).

[19] 100 U.S. 399, 418 (1879).

[20] Hearings 265.

[21] Id. at 271.

[22] Hearings 17.

[23] 3 Elliot, op. cit., supra, note 16, at 367.

The language is clearly limited to apply to "those who have the right to take part in that choice" and to no others.

The Supreme Court, in In re Coy, stated:[25] "The power under the Constitution of the United States, of Congress to make such provisions as are necessary to secure the fair and honest conduct of an election at which a Member of Congress is elected, as well as the preservation, proper return, and counting of the votes cast thereat, and in fact, whatever is necessary to an honest and fair certification of such elections, cannot be questioned."

However, here there is no intimation that power exists in the Federal Government to determine who is eligible to vote.

Mr. Justice Miller, in Ex parte Yarbrough,[26] said: "The States in prescribing the qualifications of voters for the most numerous branch of their own legislatures do not do this with reference to the election for Members of Congress. They define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for Members of Congress in that State. It adopts the qualifications thus furnished as the qualifications of its own electors for Members."

These cases leave no doubt that the Constitution's grant of power to Congress to alter certain State regulations should not provide congressional authority to enfranchise persons not otherwise qualified. Where the right to vote exists, the full protection of article I, section 4, surrounds the applicant; but until that time the power of Congress is nonexistent. The power to alter and amend, granted by this section, may be power to correct; but it is not a power to create.

ARTICLE II, SECTION I, PARAGRAPH 2

While the method of choosing Senators and Representatives may be subject to certain regulations by the Congress under authority granted by article I, section 4, it is quite clear that Congress may not even prescribe the mode by which electors for President and Vice President are chosen. This is most clearly a matter for the States alone to determine, and each may adopt a different mode, provided the method is fair and nondiscriminatory.

Article II, section 1, clause 2 states that, "Each State shall appoint in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

The 12th amendment prescribes the method by which the votes of the presidential electors shall be taken and counted, and the administration of the duties of those who compose the electoral college is regulated in a fixed and certain manner. However, the qualifications of those persons who are electors are not subject to congressional regulation, but are left entirely to the State legislatures. Therefore, as might be expected, we find that various States choose electors by various methods, all of which are perfectly legitimate and approved by the Constitution and not within the power of Congress to alter.[27]

THE 14TH AMENDMENT

Supporters of the administration bill apparently fail to realize that the equal protection clause only forbids unreasonable classification. Classification of prospective voters on grounds of literacy is certainly not unreasonable. Putting it differently, there is a universal policy of encouraging literacy—a policy reflected in the compulsory education laws existing in many States. It could hardly be argued that a State acts unreasonably in distinguishing between the literate and illiterate in determining who may vote. As recently as 1959, Mr. Justice Douglas, speaking for a unanimous Court, wrote that "in our society * * * a State might conclude that only those who are literate should exercise the franchise."[28]

If the test of literacy is arbitrarily or unreasonably applied, Federal sanctions can be invoked against the persons responsible; but the test itself is valid if on its face it applies without distinction to race or color or sex. When the right to vote is denied or in any way abridged, existing civil and criminal statutes afford adequate remedies, and are sufficient to secure to every qualified voter of any race anywhere in the United States the right to vote.[29]

If Congress legislates on literacy tests under the purported authority of section 5 of the 14th amendment, it would violate the Supreme Court's mandate that,[30] "the legislation which Congress is authorized to adopt in this behalf is not general legislation upon the rights of the citizen, but corrective legislation, that is, such as may be necessary and proper for counteracting such laws as the States may adopt or enforce, and which, by the amendment, they are prohibited from making or enforcing." S. 2750 is clearly general legislation. Corrective legislation prohibiting discriminatory application of any State law is already in exstence.

Thaddeus Stevens, as Chairman of the Joint Committee on Reconstruction, spoke to the House of Representatives on January 31, 1866, during the 1st session of the 39th Congress.[31] He expressed quite clearly and irrefutably that the Joint Committee on Reconstruction, which reported the proposal which later became section 2 of the 14th amendment, had no desire whatever to interfere with the basic right of the States to prescribe the qualifications of their voters.

Attention should be given to the words of Chief Justice Waite in *Minor* v. *Happerset*:[32]

"The amendment did not add to the privileges and immunities of a citizen. It simply furnished an additional guarantee for the protection of such as he already had. No new voters were necessarily made by it. Indirectly it may have had that effect, because it may have increased the number of citizens entitled to suffrage under the Constitution and laws of the States, but it operates for this purpose, if at all, through the States and the State laws, and not directly upon the citizen."

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[24] 110 U.S. 651, 662 (1884).

[25] 127 U.S. 731, 752 (1888).

[26] 110 U.S. 651, 663 (1884).

[27] *McPherson* v. *Blacker*, 146 U.S. 1 (1892).

[28] *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45, 52 (1959).

[29] 1. Under sec. 242 of title 18 of the United States Code, a State election official commits a crime punishable by a fine of as much as $1,000 and imprisonment for as much as 1 year if he willfully deprives any qualified person of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or if he willfully deprives any qualified person of his right to vote in a State election on account of his race or color. 18 U.S.C. 242 (1958); *United States* v. *Classic*, 313 U.S. 299 (1941); *Guinn* v. *United States*, 238 U.S. 347 (1915).

2. Under sec. 241 of title 18 of the United States Code, State election officials commit a crime punishable by a fine of as much as $5,000 and by imprisonment for as much as 10 years if they conspire to deprive any qualified person of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or if they conspire to deprive any qualified citizen of his right to vote in a State election on account of his race or color, 18 U.S.C. 242 (1958); *United States* v. *Classic*, 313 U.S. 299 (1941); *United States* v. *Mosley*, 238 U.S. 383 (1915); *Guinn* v. *United States*, 238 U.S. 347 (1915).

3. Under sec. 1983 of title 42 of the United States Code, any qualified person may maintain a civil action for damages against any State election official who deprives him of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or who deprives him of his right to vote in a State election on account of his race or color. *Lane* v. *Wilson*, 307 U.S. 268 (1939); *Nixon* v. *Herndon*, 273 U.S. 536 (1927); *Myers* v. *Anderson*, 238 U.S. 368 (1915).

4. Under sec. 1983 of title 42 of the United States Code, any qualified person may maintain a suit in equity to obtain preventive relief by injunction against any State election official who threatens to deprive him of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or who threatens to deprive him of his right to vote in a State election on account of his race or color. *Baskin* v. *Brown*, 174 F. 2d 391 (4th Cir. 1949).

5. Under the Civil Rights Act of 1957, the Attorney General may maintain a civil action of an equitable nature at public expense in the name of the United States against any State election official to obtain preventive relief by injunction or other order in behalf of any qualified person if the election official is about to deprive such person of his right to vote in a Federal election for any reason whatever, or if the election official is about to deprive such person of his right to vote in a State election on account of his race or color, 42 U.S.C. 1971 (1958); *United States* v. *Raines*, 362 U.S. 17 (1960).

6. Under the Civil Rights Act of 1960, in case the court finds in a civil action of an equitable nature brought under the Civil Rights Act of 1957 that any qualified person has been deprived of his right to vote in any State election on account of his race or color, and that such deprivation was pursuant to a pattern or practice, the court must receive applications from any other persons of the same race or color within the affected area whom State election officials have refused to register, and must order such election officials to register them to vote in both Federal and State elections if it appears to the court from testimony taken by the court, or voting referees appointed by the court, that they have the qualifications for voting established by State law. The court may appoint an unlimited number of voting referees, who are empowered to take the testimony of applicants in ex parte proceedings from which the State election officials concerned are barred and report such evidence together with their findings thereon to the court. Under the act, the court accepts the testimony given by the applicants before the voting referees as to their ages, residences, and prior efforts to register or otherwise qualify to vote as prima facie evidence; it considers no testimony whatever as to the literacy and understanding of other subjects by the applicants save that offered by them before the voting referees, and it automatically orders the registration of all applicants found qualified by the voting referees, except in those cases in which the State election officials file verified public records or affidavits of witnesses having personal knowledge of the facts indicating that the findings of the voting referees are not true, 42 U.S.C., sec. 1971 (1960).

[30] *Civil Rights Cases*, 109 U.S. 3, 11 (1883).

[31] Congressional Globe, 39th Cong., 1st sess., 535 (1866).

[32] 88 U.S. 162, 171 (1874).

It does not appear necessary to dwell longer on the 14th amendment. If that amendment had been intended to deal with suffrage, the 15th amendment would have been mere surplusage. Since the 15th amendment deals with, and is specifically limited to, the right to vote, it seems clear that we must center our attention on this amendment.

THE 15TH AMENDMENT

As I understand it, the most popular argument for the constitutionality of S. 2750 is as follows: "The second section of the 15th amendment gives Congress the power to enforce by appropriate legislation the terms of the first section of that amendment, which declares that no person shall be denied the right to vote because of his race or color. The Civil Rights Commission, established to investigate and report to Congress and to the President on matters pertaining to civil rights, has found that literacy tests have been and are being arbitrarily and unreasonably used to deny Negroes the right to vote because of their race and color, in violation of the 15th amendment. Congress, in the preamble to S. 2750, adopts the findings of the Commission, and finds further that * * * education in the United States is such that persons who have completed six primary grades in a public school or accredited private school cannot reasonably be denied the franchise on grounds of illiteracy or lack of sufficient intelligence to exercise the prerogatives of citizenship."

The bill declares that Congress has the duty to provide against such abuses effected through use of literacy tests and other performance examinations. The legislation only limits and does not abolish the literacy test; nor does it set the qualifications for voters. The proposal is, therefore, within the scope of the 15th amendment.

This, of course, was not the only argument used by the proponents. However, because of the frequency of its recurrence and the complexity of the reasoning involved, I feel it should be explicitly dealt with. The following discussion of the 15th amendment—the congressional intent behind it, the language employed, and the Supreme Court cases interpreting it—refutes this thesis of those seeking passage of S. 2750.

Congress has authority, under the 15th amendment, to enact appropriate legislation to insure that no person is deprived of the right to vote because of race, color, or previous condition of servitude. This amendment does not grant a right to vote where it did not formerly exist; it only prohibits the States from denying suffrage on the ground of race or color. The essentially negative mandate of the 15th amendment in effect declares that if a person can qualify under State laws to vote for members of the most numerous branch of his State legislature, the State may not deny him that right because of his race, color, or previous condition of servitude.

The Supreme Court of the United States has defined the negative mandate of the amendment in numerous decisions. For instance, in *Reese* v. *United States*,[33] two inspectors of a municipal election in Kentucky were prosecuted under the Civil Rights Act of May 31, 1870, for refusing to receive and count the vote of a Negro. Sections of the act imposed penalties upon officials who prevented performance of an act necessary for qualification as a voter, and penalized any person who by force or intimidation sought to hinder a citizen from voting or qualifying to vote. The Supreme Court held that these provisions could not be sustained under the 15th amendment because they were not limited to deprivation of the right to vote "on account of race, color, or previous condition of servitude." Chief Justice Waite in the majority opinion said: [34]

"The 15th amendment does not confer the right of suffrage upon anyone. It prevents the States, or the United States, however, from giving preference, in this particular, to one citizen of the United States, over another on account of race, color, or previous condition of servitude. The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment, and can be exercised by providing a punishment only when the wrongful refusal to receive the vote of a qualified elector at such elections is because of his race, color, or previous condition of servitude."

Thus, the privilege to vote is not given by the Federal Constitution, or any of its amendments; it is not a privilege springing from citizenship of the United States, but rather is within the jurisdiction of the State itself, and is to be exercised as the State may direct, upon such terms as it may deem proper, provided no discrimination is made between individuals in violation of the Federal Constitution. This constitutional principle was reiterated by the Supreme Court in its decision in *Pope* v. *Williams*: [35]

"The Federal Constitution does not confer the right of suffrage upon anyone, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constitution, already stated; although it may be observed that the right to vote for a Member of Congress is not derived exclusively from State law. See Federal Constitution, article I, section 2. But the elector must be one entitled to vote under the State statute. The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one."

In addition to violating the negative mandate of the 15th amendment, S. 2750 attempts to nullify the literacy laws of 21 States and deprive the other 29 of their power to set literacy tests for voters.

The Supreme Court has twice dealt with the constitutionality of State literacy test requirements as a condition to the exercise of the voting privilege. In both instances, it has decided that, in the absence of unreasonable and discriminatory application as condemned by the 15th amendment, the literacy test is a valid exercise of the State's power, and the citizen is not deprived of any right under the U.S. Constitution.

In *Guinn* v. *United States*, the Supreme Court held that an amendment to the Oklahoma constitution which contained a "grandfather clause" was contrary to the 15th amendment. The Court stated, however: [36]

"Beyond doubt the [15] amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of State and National authority under the Constitution and the organization of both governments rest would be without support and both the authority of the Nation and the State would fall to the ground. In fact, the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals. [I]t is true also that the amendment does not change, modify or deprive the States of their full power as to suffrage except of course as to the subject with which the amendment deals and to the extent that obedience to its command is necessary. Thus, the authority over suffrage which the States possess and the limitation which the amendment imposes are coordinate and one may not destroy the other without bringing about the destruction of both. "No time need be spent on the question of the validity of the literacy test considered alone since, as we have seen, its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision."

This language of 1915 has not been overruled; in fact, it was reaffirmed just 3 years ago in the case of *Lassiter* v. *Northampton County Board of Elections*.[37] There, Mr. Justice Douglas, speaking for a unanimous Court, held that, in the absence of a showing that the North Carolina literacy test had been capriciously applied, the plaintiff had not been denied her rights under the U.S. Constitution. The following excerpt from the Court's ruling amply defines the power of the States to require literacy of its voters: [38]

"We come then to the question whether a State may, consistently with the 14th and 17th amendments, apply a literacy test to all voters irrespective of race or color. The Court in *Guinn* v. *United States* disposed of the question in a few words. No time need be spent on the question of the validity of the literacy test considered alone, since, as we have seen, its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and indeed, its validity is admitted. [238 U.S. at 366]

"The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised. *Pope* v. *Williams*, 193 U.S. 621, 633, *Mason* v. *Missouri*, 179 U.S. 328, 335, absent, of course, the discrimination which the Constitution condemns. Article I, section 2 of the Constitution in its provision for the election of Members of the House of Representatives and the 17th amendment in its provision for the election of Senators provide that officials will be chosen 'by the people.' Each provision goes on to state that 'the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.' So while the right of suffrage is established and guaranteed by the Constitution (*Ex parte Yarbrough*, 110 U.S. 651; *Smith* v. *Allwright*, 321 U.S. 649) it is subject to the imposition of State standards which are not discriminatory and which do not contravene any restriction that Congress, acting pursuant to its constitutional powers, has imposed."

It cannot be deemed unreasonable to place ever greater emphasis on intellectual ability to perform the duties of citizenship. This is not to say that we should turn government over to "philosopher-kings," as advocated by Plato in his Republic. However, in our society, which presents a voter with difficult and complicated issues to determine in Federal, State, or local elections, the damage done by ignorant exercise of the franchise is almost immeasurable. This has been found equally true in performance of jury duty. New York was one of the States that pioneered in the use of a "blue ribbon jury"—a device intended to increase the likelihood of intelligent determinations of guilt and innocence in complicated and serious cases. The Supreme Court of the United States upheld the constitutionality of the "blue ribbon jury," and ruled that a State was free to consider intellectual qualifications for jury service.[39] While the performance of jury duty is of special importance in our society, the exercise of the franchise is not so far down the scale of civic duties in importance that a State could not reasonably consider the citizen's intellectual ability to vote.

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[33] 92 U.S. 214 (1876).

[34] Id., at 217.

[35] 193 U.S. 621, 633 (1904).

[36] 238 U.S. 347, 362, 366 (1915).

[37] 360 U.S. 45 (1959).

[38] Id. at 50.

When the 15th amendment was being considered by Congress, the Senate amended the House version of the bill to provide that in addition to the prohibition against denial of the voting privilege on grounds now encompassed by that amendment, no State should deny the franchise on the ground that the applicant lacked educational attainment. The Senate amendment was then sent back to the House, which struck it out by a vote of 133 to 37. It does not seem reasonable to conclude that Congress can now, under the guise of enforcing the 15th amendment as it stands, pass legislation to overrule this very conscious deletion made in 1870, and thereby amend the Constitution.

George W. McCrary, who was Chairman of the Committee on Elections at the time the 15th amendment was proposed, wrote in 1875: [40]

"Subject to the limitation contained in the 15th amendment to the Constitution of the United States, the power to fix the qualifications of voters is vested in the States. Each State fixes for itself these qualifications, and the United States adopts the State law upon the subject, as the rule in Federal elections, as will be seen by reference to section 2, article I, of the Constitution."

A former Speaker of the House and Member of the Senate, James G. Blaine, recalled in his memoirs: [41]

"The 15th amendment, now proposed, did not attempt to declare affirmatively that the Negro should be endowed with the elective franchise, but it did what was tantamount, in forbidding to the United States, or to any State, the power to deny or abridge the right to vote on account of race, color, or previous condition of servitude. States that should adopt an educational test or a property qualification might still exclude a vast majority of Negroes from the polls, but they would at the same time, exclude all white men who could not comply with the tests that excluded the Negro. In short, suffrage by the 15th amendment was made impartial, but not necessarily universal, to male citizens above the age of 21 years."

CONCLUSION

Proponents of S. 2750 neglect to recognize the existence of conditions precedent to the exercise of the power of Congress to protect the right to vote. After the State determines who its voters are to be, after it sets uniform standards to apply to all prospective voters, then Congress constitutionally may legislate to insure that persons who meet those standards are able to cast their ballot. It is clear that under the Constitution as it exists today, and under the decisions of the U.S. Supreme Court, when Congress considers a bill to establish uniform voter qualifications, it considers an amendment to the Constitution.

The right referred to in the 14th amendment was created not by that amendment but by the laws of the various States. However, if a State refuses to allow a person the right to vote because of his race or color, the 15th amendment protects him. Otherwise, until a prospective voter can bring himself within that class of people which the State has established as eligible to vote, Congress power under these amendments to secure his vote is nonexistent. It follows that a State may, without violating the Constitution, reasonably require its voters to be literate.

Since the 14th and 15th amendments forbid certain specific actions, legislation to enforce their provisions must be specifically directed to State action which violates those amendments. I submit that since it does not meet these criteria, S. 2750 is unconstitutional. Its provisions are not tailored to correct State discrimination on the grounds of race or color. It is, furthermore, an attempt to legislate affirmatively upon voter qualifications, a subject which is constitutionally within the power of the States.

It ought to be clear that the entire scheme known to us as "federalism" finds its best expression in the theory that the States, composing the Union and acting in concert where the circumstances demand that kind of action, have nonetheless retained the powers commensurate with their status as sovereign governments, and that the Founding Fathers envisioned the States as sovereign governments, possessing that authority which distinguishes the sovereign from the subject. One of the attributes of such a sovereignty is the power to prescribe how citizens shall exercise their granted prerogative of suffrage. This attribute was clearly recognized and provided for by the framers of the Constitution. It was their explicit intention to permit the States to adopt such fair and reasonable qualifications as they chose for the purpose of determining who should and who should not vote.

In the case of electors for President and Vice President, the Constitution permits the States to make their determination in such manner as they shall prescribe by legislative enactment. In the case of electors for Senators and Representatives, the Constitution prescribes a different rule, but the salient factor in the entire consideration is that in both cases, the qualifications of the persons who shall be electors, subject to the requirements of fairness and uniformity of application, are left to the States alone, and the Congress has no power, express or implied, to alter by legislation a State law which is consistent with the Constitution.

I wish to make it crystal clear that I deplore the act of any election official in any Southern State who wrongfully denies to any person of any race his right to register and vote. I do this for two reasons: First, he does a gross wrong to the individual concerned; and second, he adds immeasurably to the task of those of us who reverence the Constitution.

When men succumb to the temptation to do evil, they often lay to their souls the flattering unction that the evil they do will result in good. It is thus with the advocates of S. 2750; and the magic name of "civil rights bill" cannot cure the evil inherent in the measure. The Constitution is too precious a document to be lightly tampered with, for the evil we do, even in the name of a just cause, will surely come back to haunt us some day through the precedents we set.

The highest goal any judge or elected Representative can have is to preserve the Constitution for the benefit of all Americans of all generations and all races.

[From the Federal Bar Journal winter issue, 1964]

POLITICAL RIGHTS AS ABRIDGED BY PENDING LEGISLATIVE PROPOSALS

(By SAM J. ERVIN, JR.)

INTRODUCTION

It is imperative that the importance of constitutional government always be kept in mind when weighing proposals that have as their purported aim the protection of rights of minority groups. For if such legislation weakens the fabric of our free society, all our citizens will be harmed, including those whose special interests the legislation is designed to serve. The provisions of the administration's civil rights proposal would actually abrogate precious civil rights of all persons, Negro as well as white.

The framers of our Constitution comprehended in full measure the everlasting political truth that no man or group of men can be safely trusted with governmental power of an unlimited nature. In consequence, they were determined, above all things, to establish a government of laws and not of men. To prevent the exercise of arbitrary power by the Federal Government, they gave the authority of the Central Government to three separate and coequal branches. They further gave to the Federal Government only the power necessary to enable it to discharge its limited functions as a central government and left to the States all other powers. The basic overwhelming defect in the proposed civil rights legislation is the abrogation of the principles of federalism and balance of powers which is inherent in all of its provisions.

In discussing those provisions of the administration's civil rights bill which affect political rights, I shall center my remarks around the bill as passed by the House of Representatives, since as of this writing it is that version which is before the Senate.

STATE DETERMINATION OF VOTER QUALIFICATIONS

Title I of the administration's civil rights bill, introduced in the House of Representatives as H.R. 7152, is denominated "Voting rights." Among its provisions are the following: A requirement that those who have completed the sixth grade be presumed literate despite a finding by a valid State literacy test that they are not; authority for the Attorney General or the defendant to request a three-judge court in cases arising under the title; and a requirement that Federal courts give preference to cases arising under this title to other cases on their dockets.

My opposition to these provisions has no relation whatsoever to any matter of race or color. I have always maintained that all qualified citizens of all races are entitled to register and vote.

I oppose this title for two reasons. The first is that existing Federal laws are adequate to secure to every citizen anywhere in the United States the right to vote; and in consequence, the enactment of this title is wholly unnecessary. Secondly, these provisions of the administration's civil rights bill are utterly incompatible with the Constitution.

The literacy provision is nothing more than an attempt to legislate qualifications for voters and the Constitution specifically states in section 2 of article I, section 1 of article II, and the 17th amendment that the States have the power to establish voter qualifications for presidential electors and for Senators and Representatives in Congress; nor would such an enactment constitute appropriate legislation within the meaning of the 14th and 15th amendments.

Twenty-one States have constitutional or statutory provisions establishing certain literacy requirements as qualifications for voting in both Federal and State elections, and subjecting persons who apply for registration to vote in such elections to appropriate literacy tests to determine whether they possess such qualifications. These States believe that these requirements and tests are reasonably designed to insure an independent and intelligent exercise of the right of suffrage. The charge that such laws are complicated and do not create objective standards is without validity. On the contrary, they are simple in nature and furnish definite, objective, and practical standards for determining the literacy of applicants for registration. Moreover, the Supreme Court by unanimous opinion in 1959 held that such laws are constitutional and do not violate any provision of the Constitution of the United States.[1]

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[39] *Fay* v. *New York*, 332 U.S. 261 (1947).

[40] George W. McCrary, "A Treatise on the American Law of Elections," 7 (1875).

[41] 2 James G. Blaine, "Twenty Years of Congress: From Lincoln to Garfield," 417–418 (1886).

In each of these States, these constitutional and statutory provisions are a part of the laws which define "the qualifications requisite for electors of the most numerous branch of the State legislature" within the meaning of section 2 of article I of the Constitution and the 17th amendment.[2]

Only seven of these States—namely, Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia—are located in the South. The other 14, Alaska, Arizona, California, Connecticut, Delaware, Hawaii, Maine, Massachusetts, New Hampshire, New York, Oklahoma, Oregon, Washington, and Wyoming, are scattered about other areas of the country.

Proponents of legislation designed to curtail use of literacy tests maintain that the object of such legislation is to prevent abuses in the application of such tests. This is not the actual effect, however. The actual effect is to impose upon the States a particular standard of literateness and to do this is to legislate voter qualifications. Furthermore, Congress cannot evade the constitutional provisions which deny it the power to prescribe qualifications for voting by calling what is, in effect, a rule of substantive law, a presumption.

As the Supreme Court declared in *Heiner* v. *Donnan:*

"This Court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the 14th amendment. 'It is apparent,' this Court said in the Bailey case 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions." [3]

The plain words of the Constitution prohibit the Congress from legislating qualifications for voting, and the history of the adoption of the Constitution only buttresses this clear meaning.

HISTORICAL BACKGROUND

The only dissension over article I, section 2, arose when Gouverneur Morris proposed that all electors of Representatives should be required by the Constitution to be freeholders.[4] However, the overwhelming majority of the framers felt that the right of the States to prescribe qualifications should remain unfettered. According to Oliver Ellsworth, of Connecticut, "The States are the best judges of the circumstances and temper of their own people." [5]

The delegates were, in fact, loath to submit to the national legislature the power to decide who might vote. George Mason, of Virginia, said, "a power to alter the qualifications would be a dangerous power in the hands of the [National] Legislature." [6] James Madison himself took the floor often to defend this article which he had helped to draft. At one point, he noted that, "The right of suffrage is certainly one of the most fundamental articles of republican government, and ought not to be left to be regulated by the [National] Legislature." [7]

Later, during the campaign for ratification of the Constitution, article I, section 2, was defended in "The Federalist Papers." At the beginning of Federalist No. 52, the author states:

"The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the Convention, therefore, to define and establish this right in the Constitution. To have left it open for the occasional regulation of the Congress, would have been improper for the reason just mentioned. To have reduced the different qualifications in the different States to one uniform rule, would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention. The provision, made by the Convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established, or which may be established by the State itself." [8]

Justice Story in his definitive analysis of the history of the Constitution notes the practicality of this section: "It would not be very easy for the Convention to frame any rule which would satisfy the scruples, the prejudices, or the judgments of a majority of its own members." [9]

Some proponents of these proposals find support for them in article I, section 4, which gives to Congress the ultimate power to regulate the times, places, and manner of elections. These persons aver that the word "manner" relates to matters of substance. However, the word "manner" as it appears in section 4 obviously relates only to the procedures of holding elections and not to the qualifications of the electors. According to Alexander Hamilton, writing in Federalist No. 60:

"The truth is, that there is no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect or be elected. But this forms no part of the power to be conferred upon the National Government. Its authority would be expressly restricted to the times, the places, the manner of elections. The qualifications of the persons who may choose, or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution, and are unalterable by the [National] Legislature." [10]

The Supreme Court has consistently upheld Hamilton's interpretation.[11]

However, even these assurances of Hamilton and Madison as to the limited scope of article I, section 4, did not satisfy many of the States. For example, the States of New York, Pennsylvania, and South Carolina prefaced their ratification of the Constitution with provisos and expressions of concern that Congress should not make or alter State regulations respecting the times, places, and manner of holding elections for Senators and Representatives, except when the States did not act.[12] North Carolina resolved:

"That Congress shall not alter, modify, or interfere in the times, places, and manner of holding elections for Senators and Representatives, or either of them, except when the legislature of any State shall neglect, refuse or be disabled by invasion or rebellion to prescribe the same." [13]

Virginia, Massachusetts, and Rhode Island all passed similar resolutions on ratifying the Constitution.[14]

But, it is contended that the 14th and 15th amendments authorize Congress to countermand the clear language of other constitutional provisions, even though the 14th amendment does not deal with electoral qualifications at all.

CASE LAW

In *Minor* v. *Happersett*,[15] the Court discussed suffrage and its relation to the 14th amendment. The opinion of Chief Justice Waite makes it clear that the proponents of this legislation can find no comfort in the provisions of the 14th amendment:

"The amendment did not add to the privileges and immunities of a citizen. It simply furnished an additional guarantee for the protection of such as he already had. No new voters were necessarily made by it. Indirectly it may have had that effect, because it may have increased the number of citizens entitled to suffrage under the Constitution and laws of the States, but it operates for this purpose, if at all, through the States and the State laws, and not directly upon the citizen.[16]

It is not necessary to dwell on the 14th amendment. For if that amendment were meant to deal with suffrage, then the [15th] amendment would be mere surplusage.

The subject of the 15th amendment, on the other hand, is clearly limited to suffrage:

"SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation."

It is clear from this language that the 15th amendment is negative in character. It prohibits States from denying the right to vote to anyone on account of three enumerated possible disabilities. It is presumed that if States were precluded from establishing other qualifications, the amendment would have enumerated those, too. Further, no power was given to Congress to regulate the electoral process, except within a narrowly defined area.

According to the Supreme Court in *United States* v. *Reese:* [17]

"The 15th amendment does not confer the right of suffrage upon anyone. It prevents the States, or the United States, however, from giving preference, in this particular, to one citizen of the United States over another on account of race, color, or previous condition of servitude." [18]

The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment. It is only when the wrongful refusal [to receive the vote of a qualified elector] at such elections is because of his race, color, or previous condition of servitude, that Congress can interfere and provide for its punishment." [19]

A very relevant case concerning the power of Congress under the 15th amendment and the power of States under article I, section 2, is *United States* v. *Miller* [20] which declared:

"Before the adoption of the 15th amendment, it was within the power of the State to exclude citizens of the United States from voting on account of race, age, property, education, or on any other grounds however arbitrary or whimsical. The Constitution of the United States, before the adoption of the 15th amendment, in no wise interfered with this absolute power of the State to control the right of suffrage in accordance with its own views of expediency or propriety. It simply secured the right to vote for Members of Congress to a definite class of voters of the State, consisting of those who were eligible to vote for members of the most numerous branch of the State legislature. Further than this no power was given by the Constitution, before the adoption of the 15th amendment, to secure the right of suffrage to anyone. The 15th amendment does not in direct terms confer the right of suffrage upon anyone. It secures to the colored man the same rights to vote as that possessed by the white man, by prohibiting any discrimination against him on account of race, color, or previous condition of servitude. Subject to that limitation, the States still possess uncontrollable authority to regulate the right of suffrage according to their own views of expediency." [21]

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[1] *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45 (1959). Also see *Stone* v. *Smith*, 159 Mass. 413, 34 N.E. 521 (1893).

[2] *United States* v. *Classic*, 313 U.S. 299 (1941); *Ex Parte Yarbrough*, 110 U.S. 651 (1884).

[3] *Heiner* v. *Donnan*, 285 U.S. 312, 329 (1932).

[4] II Madison, Journal of the Federal Convention 467 (Scott ed. 1898).

[5] Id. at 468.

[6] Ibid.

[7] Id. at 470.

[8] The Federalist, No. 52 at 341–342 (the Modern Library, New York, 1941).

[9] I Story, Commentaries on the Constitution of the United States 434 (5th ed. 1905).

[10] The Federalist, No. 60, supra, note 8 at 394.

[11] *Pope* v. *Williams*, 193 U.S. 621 (1904); see also *United States* v. *Miller*, 107 Fed. 913 (D. Ind. 1901).

[12] Hearings before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary (bills relating to literacy tests and voter requirements), 87th Cong., 2d sess., 16 (1962).

[13] Ibid.

[14] Id. at 17.

[15] 88 U.S. 162 (1874).

[16] Id. at 171.

[17] 92 U.S. 214 (1876).

[18] Id. at 217.

[19] Id. at 218.

[20] Note 11, supra.

The Supreme Court adopted this same interpretation in the following language found in *Pope* v. *Williams*: [22]

"The Federal Constitution does not confer the right of suffrage upon anyone, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constitution, already stated, although it may be observed that the right to vote for a Member of Congress is not derived exclusively from the State law. (See Federal Constitution, art. I, sec. 2.) But the elector must be one entitled to vote under the State statute. In this case no question arises as to the right to vote for electors of President and Vice President, and no decision is made thereon. The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one. We do not wish to be understood, however, as intimating that the condition in this statute is unreasonable or in any way improper." [23]

Commenting for the first time on literacy tests specifically and their possible relation to the 15th amendment, the Supreme Court in *Guinn* v. *United States* [24] said:

"Beyond doubt the amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the diversion of State and National authority under the Constitution and the organization of both governments rest would be without support and both the authority of the Nation and the State would fall to the ground. In fact, the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals.

"It is true also that the amendment does not change, modify, or deprive the States of their full power as to suffrage except of course as to the subject with which the amendment deals and to the extent that obedience to its command is necessary. Thus, the authority over suffrage which the States possess and the limitation which the amendment imposes are coordinate and one may not destroy the other without bringing about the destruction of both.[25]

"No time need be spent on the question of the validity of the literacy test considered alone since as we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision." [26]

This language in the Guinn case has not been overruled. It has, in fact, been reaffirmed by a unanimous opinion handed down by the Court in *Lassiter* v. *Northampton County Board of Elections*.[27]

The proposed legislation not only provides for the Federal Government to interfere with the functions of State election machinery, but it also seeks to have the legislative branch tell the judicial branch how to manage its affairs. I refer to the provision which would dictate to the Federal courts that they must gives cases which arise under title I preference over others.[28]

THREE-JUDGE COURTS

Section 101(h) of the House bill provides that either of the parties may choose to have a voting case heard by a three-judge court rather than by a judge of the district court in which the proceeding was instituted. The three-judge panel would consist of one circuit judge, one judge from the district court in which the proceeding was brought, and one other judge from the circuit. The panel is to be chosen by the chief judge of the circuit or the presiding circuit judge. The ostensible purpose of this section is to expedite voting cases. This provision is designed to serve that function by allowing appeals from the three-judge court directly to the Supreme Court, thus omitting one normal appellate stage. This provision will undoubtedly lead to a practice similar to "forum shopping." Otherwise, why is it made discretionary? Why, if it is true that voting cases are subject to undue delay, should not the Federal Government desire to expedite all such cases? Perhaps, then, the real motive behind inclusion of this provision in the bill is a desire to have voting cases come before only certain judges who are known to be favorably disposed to such actions. The fact that the chief judge of the circuit has almost complete discretion in deciding the composition of the three-judge court tends to confirm this suspicion. In a case arising in Georgia, two of the three judges might be from Texas. If a suit were brought in Arkansas, one judge might be from Minnesota, and another from North Dakota; and two Ohioans might be appointed to preside over a case arising in Tennessee. This section reveals on the part of its drafters a complete lack of confidence in the integrity of local Federal district judges.

Jurisdiction to try all cases of the same nature, such as voting cases, should be vested in one court. In the United States that one court, created by act of Congress, is the Federal district court; and we should not allow another forum to be chosen at the caprice of the Attorney General or any other lawyer.

It is nonsense to say the provision will expedite the work of the courts when it provides for three judges to do the work of one. It would only clog the dockets and delay all litigation in the Federal courts.

Civil rights advocates are often impatient men who seek short cuts to ends they deem just. This section is one such short cut. Human experience, however, shows that short cuts are the most direct road to disaster.

EXISTING LAW

There are laws already on the books sufficient to protect the right of all qualified persons to vote. Unfortunately, from the standpoint of some, these laws all preserve such time-consuming and inconvenient procedures as the necessity for full and convincing proof in individual cases, and the guarantee of trial by jury. In their haste to achieve the end to any discrimination in voting anywhere, the proponents of this legislation are willing to sacrifice our traditional procedural safeguards and destroy the balance of powers in our Federal system.

I wish to make it crystal clear that I deplore the act of any election official in any State who wrongfully denies any person of any race his right to register and vote. I do this for two reasons: First, he does a gross wrong to the individual concerned; and second, he adds immeasurably to the task of those of us who revere the Constitution and seek to preserve it for the benefit of all Americans of all generations and races. I lay down this second proposition because of the character of the legislative proposals which are given the magic name civil rights bill.

Any election official in any State who wrongly denies any qualified Negro the right to vote ought to be taken to task, but he ought to be taken to task in a constitutional manner.

Let me enumerate and present a brief analysis of the existing Federal laws. They are as follows:

A. Under section 242 of title 18 of the United States Code a State election official commits a crime punishable by a fine of as much as $1,000 and imprisonment for as much as 1 year if he willfully deprives any qualified person of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or if he willfully deprives any qualified person of his right to vote in a State election on account of his race or color.[29]

B. Under section 241 of title 18 of the United States Code, State election officials commit a crime punishable by a fine of as much as $5,000 and by imprisonment for as much as 10 years if they conspire to deprive any qualified person of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or if they conspire to deprive any qualified citizen of his right to vote in a State election on account of his race or color.[30]

C. Under section 1983 of title 42 of the United States Code, any qualified person may maintain a civil action for damages against any State election official who deprives him of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or who deprives him of his right to vote in a State election on account of his race or color.[31]

D. Under section 1983 of title 42 of the United States Code, any qualified person may maintain a suit in equity to obtain preventive relief by injunction against any State election official who threatens to deprive him of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or who threatens to deprive him of his right to vote in a State election on account of his race or color.[32]

E. Under the Civil Rights Act of 1957, the Attorney General may maintain a civil action of an equitable nature at public expense in the name of the United States against any State election official to obtain preventive relief by injunction or other order in behalf of any qualified person if the election official is about to deprive such person of his right to vote in a Federal election for any reason whatever, or if the election official is about to deprive such person of his right to vote in a State election on account of his race or color.[33]

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[21] Id. at 915.

[22] Note 11, supra.

[23] Id. at 633.

[24] 238 U.S. 347 (1915).

[25] Id. at 362.

[26] Id. at 366.

[27] Note 1, supra.

[28] H.R. 7152, 88th Cong., 2d sess., sec. 101 (h) (1964).

[29] *United States* v. *Classic*, supra, note 2; *Guinn* v. *United States*, supra, note 24.

[30] See cases cited in note 29, supra, and *United States* v. *Mosley*, 238 U.S. 383 (1915).

[31] *Lane* v. *Wilson*, 307 U.S. 268 (1939); *Nixon* v. *Herndon*, 273 U.S. 536 (1927); *Myers* v. *Anderson*, 238 U.S. 368 (1915).

[32] *Baskin* v. *Brown*, 174 F. 2d 391 (4th Cir. 1949).

F. Under the Civil Rights Act of 1960, where the court finds in a civil action of an equitable nature brought under the Civil Rights Act of 1957, that any qualified person has been deprived of his right to vote in any State election on account of his race or color and that such deprivation was pursuant to a pattern or practice, the court must receive applications from any other persons of the same race or color within the affected area whom State election officials have refused to register and order such election officials to register them to vote in both Federal and State elections if it appears to the court from testimony taken by the courts or voting referees appointed by the court that they have the qualifications for voting established by State law. The court may appoint an unlimited number of voting referees, who are empowered to take the testimony of applicants in ex parte proceedings from which the State election officials concerned are barred and report such evidence together with their findings thereon to the court. Under the act, the court accepts the testimony given by the applicants before the voting referees as to their ages, residences, and prior efforts to register or otherwise qualify to vote as prima facie evidence, considers no testimony whatever as to the literacy and understanding of other subjects by the applicants save that offered by them before the voting referees, and automatically orders the registration of all applicants found qualified by the voting referees except in those cases in which the State election officials file verified public records or affidavits of witnesses having personal knowledge of the facts indicating that the findings of the voting referees are not true.[34]

In the light of these six Federal statutes, it is obvious that no additional law is necessary to secure to any qualified citizen his right to vote. Criminal prosecutions under sections 241 and 242 of title 18 of the United States Code and civil actions for damages under section 1983 of title 42 of the United States Code are triable in Federal district courts before Federal district judges and juries. The Federal district judges hold lifetime appointments, are free from political pressure, and are devoted to the legal concept that all men are entitled to stand equal before the law. The juries are drawn from jury boxes prepared by Federal officials. The trials are usually held in places comparatively remote from the area in which the wrongs allegedly occur. Moreover, the Federal district judges are empowered by law to express to trial jurors their opinions on the facts.[35] Anyone who has practiced in the Federal courts knows from personal experience that trial jurors usually return verdicts conforming to any opinion on the facts expressed to them by the trial judges.

Suits in equity under section 1983 of title 42 of the United States Code and civil actions of an equitable nature under the Civil Rights Acts of 1957 and 1960, are triable in Federal district courts by Federal district judges, who sit without juries and find the facts as well as declare the law.

If the Federal district judge trying a civil action of an equitable nature under the Civil Rights Acts of 1957 and 1960, finds that any person has been denied his right to vote on account of his race or color pursuant to a practice or pattern, he may, acting either in person or through voting referees unlimited in number, take actual charge, for all practical intents and purposes, of passing upon the qualifications for voting and registering for all elections, Federal and State, of all other persons of the same race residing within the affected area not previously registered by State election officials. As I have demonstrated on the Senate floor and in committee hearings,[36] the judge or a voting referee appointed by him can determine an applicant's ability to read in as little time as a minute, and can determine the ability of hundreds of applicants to read within a very short time by writing a short constitutional provision upon a blackboard and directing the applicants to copy the same.

FEDERAL AID AS A POLITICAL SANCTION

I also want to discuss title VI of the administration bill, as introduced, which would enable the executive branch to deny participation in federally assisted programs to communities and States which administer those programs discriminatorily. This title relates to political rights in that it would give to the Federal Government a very powerful tool with which it can stifle deviation by local communities from the acceptable standards laid down in Washington in matters of race relations, thereby sapping local ability to make independent political judgments as to the best method to structure their social and political order.

Section 602 of title VI reads as follows:

"Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guarantee, shall take action to effectuate the provisions of section 601[37] with respect to such program or activity. Such action may be taken by or pursuant to rule, regulation or order of general applicability and shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. After a hearing, compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding of a failure to comply with such requirement, or (2) by any other means authorized by law."

This provision undertakes to vest in the administrative agencies discretionary powers of unprecedented sweep, undefined character, and unspecified severity. They make one thing, and only one thing, reasonably clear, namely, the Federal executive agencies are to use, according to their uncontrolled discretion and in ways of their own devising, untold billions of dollars of congressional appropriations as a weapon of economic blackmail to coerce States, political subdivisions of States, charitable institutions, business enterprises, and individuals into conformity with the administration's notions concerning racial relations. In all other respects, Congress is to leave the matter covered by these provisions to the agencies without standard or rule to be dealt with as they please. This assertion finds ample proof in the orders relating to employment and housing issued by the President[38] and the orders relating to so-called places of public accommodations, issued by the Secretary of Defense without congressional authorization.[39] Under the orders of the Secretary of Defense, the Departments of the Army, the Navy, and the Air Force are in the process of converting the military and naval commanders of our country into political arms of the executive department and of putting the Armed Forces at economic warfare with the civilian population to compel civilians to operate their commercial enterprises in conformity with the administration's will.

Section 602 does provide that no "rule, regulation or order shall become effective unless and until approved by the President." This language, however, refers not to individual cases, but to such general rules as the agencies may promulgate.[40] Anyone familiar with administrative procedure knows that it is the way a rule is applied that is significant, not the unglossed words standing alone.

Section 603 provides that agency action is subject to judicial review. (A bit of legislative history is in order here. The civil rights bill as introduced in the Senate and House made no provision for judicial review under title VI. It was only after the unconstitutionality of such a lack was demonstrated to the Attorney General at the Senate Judiciary Committee hearings that the Justice Department proposed an amendment to provide judicial review under title VI.[41] I mention this, parenthetically, because of the recent attacks which have been made in and out of the Senate on the Senate Judiciary Committee's contributions in the area of civil rights.) Provision for judicial review certainly improves this section, but by no means does it perfect it.

I am also concerned that this section can be used as a political club. It is a power that no good executive should want and no bad executive should have. There is no requirement, after all, that this section be administered with an even hand. It takes no great imagination to foresee that an agency could find discrimination in the administration of Federal highway funds in one political subdivision so as to necessitate terminating the program; yet in another political subdivision whose political leaders were more in tune with the powers in Washington, alleged instances of discrimination in the administration of the very same program would be winked at.

The power of the purse is a potent weapon. Nothing in title VI prohibits its use in the manner I have outlined—as a weapon to insure conformity with the administration's wishes in areas which may be totally divorced from civil rights. I might add one further word of warning: such a provision as title VI should not be judged by what measures this administration is likely to take under it or any administration that is likely to follow; it should be judged by assessing what avenues it opens to those who may some day come and whose actions are not motivated by concern for the country's welfare.

Apart from the language which relates to a denial of participation or benefits in federally assisted programs or activities, the only reference in title VI to discrimination is to individuals who are subjected to discrimination on the ground of race, color, or national origin. The determination of the individuals covered by this reference is left to the unbridled imagination of the Federal agencies.

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[33] 71 Stat. 634, 637 (1957), as amended, 74 Stat. 86, 92 (1960), 42 USC 1971 (c); *United States* v. *Raines*, 362 U.S. 17 (1960).

[34] 74 Stat. 86, 90–91 (1960), 42 U.S.C. 1971 (e).

[35] Fed. R. Crim. P. 30; *Quercia* v. *United States*, 289 U.S. 466, 469 (1933).

[36] Hearings before the Subcommittee on Constitutional Rights, supra, note 12 at 112–113.

[37] SEC. 601. "Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

[38] Ex. O. 10925, 26 Fed. Reg. 1977 (1961); Ex. O. No. 11063, 27 Fed. Reg. 11527 (1962).

[39] DOD Directive 5120. 36 (July 26, 1963).

[40] Statement of Nicholas deB. Katzenbach, Deputy Attorney General, at briefing for Senate staff members on February 24, 1964.

[41] Hearings before the Committee on the Judiciary, U.S. Senate ("Civil Rights—The President's Program, 1963"), 88th Cong., 1st sess. 349 (1963).

I make this assertion because it is well established by dictionaries and judicial decisions that the word "discrimination" without context merely means the act of treating one differently from another. The word "discrimination" as used in this reference has no contextual explanation whatever other than that individuals participating in or benefiting from federally assisted programs and activities not be subjected to it. Within this context, the discrimination condemned by this reference occurs only when an individual is treated unequally or unfairly because of his race, color, or national origin. What constitutes unequal or unfair treatment? Title VI does not say.

When all is said, title VI constitutes an effort to transfer to the executive branch the lawmaking power of Congress in violation of article I, sections 1 and 8 of the Constitution. This is true because this title leaves the determination of these questions to the arbitrary discretion of the President, acting in person or through Federal executive agencies.

What acts or omissions constitute unequal or unfair treatment under the provision which condemns, without elaboration, discrimination against individuals "on the ground of race, color, religion, or national origin?" What economic, legal, or political rights and what governmental powers must States and political subdivisions of States relinquish to the Federal Government for the privilege of participating in federally assisted programs or activities? What economic legal, personal, or property rights must charitable institutions, business enterprises, and individuals surrender to the Federal Government for the privilege of participating in federally assisted programs or activities? What courses must participants in such programs or activities pursue in carrying them out to avoid charges of unequal unfair, or illegal discrimination? By what procedures are participants in such programs or activities charged with unequal, unfair, or illegal discrimination to be convicted or acquitted? What punishments are to be imposed upon participants in such programs or activities when they are convicted of unequal, unfair, or illegal discrimination? Title VI does not say.

CIVIL DISOBEDIENCE

I would like to discuss briefly one other matter which, though not a part of the civil rights bill, can certainly be considered in the category of political rights. I refer to the rights of peaceable assembly and petition for redress of grievances as they relate to the spate of civil rights demonstrations which we are witnessing all over the country.

The rights of assembly and petition are not absolute. They are subject to the reasonable exercise of the State police power utilized to safeguard equally important rights of its citizens to an orderly and peaceful community. As a general rule, I feel picketing, for example, is constitutionally protected. Similarly, I don't believe parade permits can constitutionally be denied on the basis of the unpopularity of the views espoused by the marchers.

At the same time, I think that it is perfectly proper for the community to require permits and to regulate the route of marchers in the interest of keeping traffic unclogged and maintaining order. Certainly I think that the number of demonstrators can be limited if such is necessary to allow for normal pedestrian traffic and ingress and egress of business establishments. The current pseudorespectability that some civil disobedience demonstrations enjoy is disturbing and completely out of context with our traditional adherence to judicial determination of controversies. Civil disobedience is a euphemism for breaking the law. Supposedly what distinguishes this type of lawbreaking from other admittedly venal forms is the fact that the lawbreakers are sincerely convinced that the laws they are disobeying are bad laws. Whatever may be the merits of civil disobedience in totalitarian societies, our society provides ample means for changing laws without recourse to violation of the laws sought to be changed. To sanction civil disobedience in a democracy is to invite anarchy. For it would allow any citizen to order his conduct according to personal conviction rather than according to the strictures of society.

Nor am I impressed by the fact that civil rights demonstrations are labeled "nonviolent." Since the coercion inherent in a multitude of demonstrators is equivalent to the use of actual violence, it is wholly erroneous to describe such demonstrations as peaceful and nonviolent. Lying in the streets or blocking doorways may not be violent in themselves, but such action certainly provokes violence and at least causes public disturbance. It further denies to the general public its undoubted legal right to the free use of public streets and public sidewalks and to the private owners of property their undoubted legal right to use their own property for their own purposes.

For this reason, I do not feel that such forms of protest as sit-ins, which violate State trespass laws and frequently lead to violence, are constitutionally protected. Nor can I agree with those who say that State enforcement of trespass laws against those protesting private discrimination amounts to State action under the 14th amendment.[42]

Commenting on the majority opinion in *Peterson* v. *Greenville*, Justice Harlan said:

"Although the right of a private restaurateur to operate, if he pleases, on a segregated basis is ostensibly left untouched, the Court in truth effectually deprives him of that right in any State where a law like this Greenville ordinance continues to exist. For a choice that can be enforced only by resort to 'self-help' has certainly become a greatly diluted right, if it has not indeed been totally destroyed.[43]

The case involved trespass charges against Negro students who were sitting in at a lunch counter in a Greenville dime store. Greenville had an ordinance requiring segregation in eating places, and the Supreme Court held that the law enforcement officers were enforcing the ordinance and therefore the arrests under the trespass statute were unconstitutional. As Justice Harlan pointed out, the majority opinion based its holding on the fact of the existence of the ordinance, not on whether the restaurant operator actually wanted to discriminate or not.

The right to petition for redress of grievances also does not include the right to express dissatisfaction through violence. Rather those who invoke this right are bound to exercise it in an orderly manner, mindful that society, too, enjoys certain rights. Among them is the right to public order.

I also think that those who seek to change the laws must remember that only through persuasion of their fellows will true change come. The wise observation of Alexis de Toqueville is applicable today:

"In the consideration of laws a distinction must be carefully observed between the end at which they aim and the means by which they are directed to that end, between their absolute and their relative excellence. If it be the intention of the legislator to favor the interests of the minority at the expense of the majority, and if the measures he takes are so combined as to accomplish the object he has in view with the least possible expense of time and exertion, the law may be well drawn up, although its purpose be bad; and the more efficacious it is, the greater is the mischief which it causes." [44]

COERCED EQUALITY OR FREEDOM?

In closing I would like to offer several general comments on the subject of civil rights legislation.

Civil rights advocates assert that Federal legislation is necessary to confer equality upon Negroes. It would simplify the issue if they would explain exactly what they mean by equality. They are certainly not referring to equality before the law. All Americans of all races now possess identical rights under the Constitution and laws of the United States. There certainly is no need for any additional Federal legislation to vindicate these rights. It is difficult to believe that they mean economic or social equality. No men of any race can law or legislate their way to either economic or social equality in a free society. Anyone who maintains the contrary is either fooling himself or trying to fool somebody else.

The civil rights bills do not really undertake to confer equality upon their supposed beneficiaries. The converse is true. They attempt to confer upon their supposed beneficiaries privileges superior to those ever granted to any other Americans in history.

The reason why civil rights advocates are willing to impose unequal laws upon all Americans to confer what they call equality upon the beneficiaries of such laws is revealed by this comment which recently appeared in an editorial in the Wall Street Journal:

"In recent times, among other things, America's traditional tolerance toward minorities has shown a tendency to get twisted; if a person is a member of a minority his rights are sometimes alleged to be superior to the majority's by virtue of his minority status." [45]

In the last analysis, the demand for the enactment by Congress of civil rights bills destroying or curtailing the right of the individual to be free from all pervasive control by the Federal Government is based on these arguments:

Americans now possess the liberty to consider the matter of race, and even to prefer persons of their own race over members of another race, in their dealings with others; this liberty is essentially iniquitous and must be blotted out by the Federal Government to confer equality upon members of the minority race; the Federal Government should blot out this liberty even if such action requires the Federal Government to divert all its functions and activities from their primary purposes and to destroy all of the principles and rights established by the Constitution to protect individuals from tyranny at its hands; the Federal Government is justified to take such drastic action because legally coerced equality for persons of the minority race is more precious than the liberty of all Americans to manage their own affairs free from Federal interference and control.

I repudiate these arguments as unwise. Americans must choose between equality coerced by law and the freedom of the individual. We cannot have both. I choose freedom of the individual as the more precious of these incompatible goals.

Mr. ERVIN. Mr. President, I ask the Senate to stand by the Constitution and strike down legislation in a field which is reserved to the States and prohibited to Congress by the Constitution.

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[42] 373 U.S. 244 (1962).

[43] Id. at 252.

[44] De Tocqueville, Democracy in America, vol. 1, 163–64 (Oxford Univ. Press, London, 1953).

[45] Wall Street Journal, Sept. 11, 1963, p. 14, col. 2.

Mr. KEATING. Mr. President, all Senators agree that the States have the right to determine qualifications of voters. That is already embodied in the Constitution. All that is sought to be eliminated by the distinguished Senator from North Carolina is that the States must administer the provisions of the bill the same for everyone, and that they must not violate the Constitution of the United States.

The amendments should be defeated.

Mr. DIRKSEN. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 30 seconds.

Mr. DIRKSEN. Let me point out to my good friend the Senator from New York [Mr. Keating] that we nailed this down by making it applicable only to Federal elections.

The amendments should be defeated.

Mr. KEATING. I do not agree with that. I do agree, however, that we have it nailed down.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from North Carolina [Mr. Ervin]. On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia [Mr. Robertson]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mrs. NEUBERGER (when her name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia [Mr. Byrd]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arizona [Mr. Hayden], the Senator from North Carolina [Mr. Jordan], the Senator from Michigan [Mr. McNamara], the Senator from Virginia [Mr. Robertson], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. Randolph] and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. McNamara] would vote "nay."

On this vote, the Senator from California [Mr. Engle] is paired with the Senator from North Carolina [Mr. Jordan].

If present and voting, the Senator from California would vote "nay," and the Senator from North Carolina would vote "yea."

On this vote, the Senator from West Virginia [Mr. Randolph] is paired with the Senator from Tennessee [Mr. Walters].

If present and voting, the Senator from West Virginia would vote "nay," and the Senator from Tennessee would vote "yea."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from North Dakota [Mr. Young] are absent on official business.

The Senator from New Mexico [Mr. Mechem] and the Senator from Kentucky [Mr. Morton] are necessarily absent.

The result was announced—yeas 16, nays 69, as follows:

[No. 329 Leg.]

YEAS—16

Eastland
Ellender
Ervin
Fulbright
Gore
Hill
Holland
Johnston
Long, La.
McClellan
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond

NAYS—69

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Tower
Williams, N.J.
Williams, Del.
Young, Ohio

NOT VOTING—15

Byrd, Va.
Engle
Goldwater
Hayden
Jordan, N.C.
Mansfield
McNamara
Mechem
Morton
Neuberger
Randolph
Robertson
Walters
Yarborough
Young, N. Dak.

So Mr. Ervin's amendments were rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendments were rejected be reconsidered.

Mr. INOUYE. Mr. President, I move that the motion to reconsider be laid on the table.

Mr. KUCHEL. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

THE 80TH BIRTHDAY ANNIVERSARY OF DR. PETER ZENKL

Mr. PELL. Mr. President, I yield myself 1 minute.

Today, Saturday, June 13, marks the 80th anniversary of the birth of an eminent fighter and champion of freedom and of the principles of democratic government which we cherish—Dr. Peter Zenkl, renowned Czech patriot.

Dr. Zenkl's career includes illustrious service to his country, both in its days of freedom and in its days of adversity. He was three times Lord Mayor of Prague; and before the tragic events which precipitated World War II, he was Minister of Social Welfare and Public Health under President Benes, Czechoslovakia's celebrated anti-Communist leader.

Mr. President, I am particularly glad to be able to salute Dr. Zenkl on his birthday since I knew him in his days of glory and heavy responsibility in Praha, just as I have continued to know and stay in touch with him in his days of adversity as a refugee. He is truly the kind of man for whom our American welcome mat should be drawn out. Having myself been arrested thrice by the Nazis and Fascists before our entry into World War II, and thrice since by the Communists, I find my sympathies extend to call those who seek to follow the middle of the political road. Dr. Zenkl is a man who has truly suffered, first through 6 years in Nazi concentration camps—and I wonder how many of us would have the intestinal fortitude to survive that long a time under that kind of treatment—only to be again abused by the Communists after the Communist putsch that took over his unhappy country in February 1948, a day I shall never forget as I was in his country at the time establishing the American Consulate General in Bratislava. Fortunately, he was later able to flee, and ever since has lived the thankless life of a refugee in a foreign land.

An especially moving tribute to Dr. Zenkl has been written by the Honorable Edward R. Murrow, our former distinguished Director of the U.S. Information Agency, and a man who has consistently championed the cause of freedom himself.

> Dr. Zenkl is a fighting man, with as much faith in freemen's ability to govern themselves, as any many I have ever known.

Mr. Murrow writes in his preface to an account of Dr. Zenkl's life by Brackett Lewis, published a few years ago.

Mr. Murrow continues:

> He spent 6 years in Nazi concentration camps, was condemned to death, but managed to survive those last few indescribable days of horror at Buchenwald. When this reporter had the honor of finding him there, he was not a broken man; he had not even bent. His faith in his country, in democratic processes, in the dignity of the individual and his right to be free, were undiminished.
>
> Czechoslovakian Communists in Buchenwald, seeing me in the company of Zenkl, warned me against him. They hated and feared him because, fortified with an idea, he would not break. They promised to destroy him if he returned to his native land. It never occurred to him to do anything else. He became deputy Prime Minister under Dr. Benes. And then, for the second time, saw his country go down under the flood of a foreign tyranny. Finally he managed to escape, and now resides in this country.
>
> The years in prison and in exile have served to intensify and strengthen his intolerance of injustice. He knows that in a world where there is no security for little nations, there is no security for big ones. He is a quiet man, with a truly ferocious faith in freedom. And there will come a time when schoolchildren in his own country—and I hope in mine—will read the story of Peter Zenkl, his life and his works, and will draw from it the pride, inspiration, and respect for human rights which is the diet

on which individuals and nations must survive.

Mr. President, let us pay our own respects to this gallant gentleman on his 80th birthday.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. **HOLLAND**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 330 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, La.
Long, Mo.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Williams, Del.
Williams, N.J.
Young, Ohio

The **PRESIDING OFFICER**. A quorum is present.

Mr. **JOHNSTON**. Mr. President, I call up my amendment No. 495, modified so as to apply it to the revised amendment in the nature of a substitute, No. 1052. I ask that the amendment be read.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

On page 5, lines 12 and 13, it is proposed to strike out "a district judge of the court in which the proceeding was instituted" and insert "the district judge before whom the proceeding was instituted (or if the proceeding was not instituted before any one district judge, a district judge of the court in which the proceeding was instituted)".

Mr. **JOHNSTON**. Mr. President, I regret very much that we are discussing today matters as to which the fever is running high throughout the United States, both pro and con, on the proposed legislation. I have found that legislation passed under such circumstances, both in State legislatures and in Congress, has an evil effect later. We shall find that the proposed legislation will have such an effect.

The 14th and 15th amendments to the Constitution, which were adopted in the Reconstruction days, were so obnoxious to the general public that little was done to implement them until the present time. That is evidenced by what is sought to be done today by the legislation that is proposed to be put on the statute books. Those amendments have never been put into full effect.

The amendment I am offering would be beneficial to all the people of the United States. I feel that there is a tendency on the part of the Senate to reject all amendments, whether they are good or bad. That is not a good situation for any legislative body to work under.

Amendment No. 495 would take away from the Attorney General the right to shop around to get the judges he might want to comprise a three-judge court. It would not allow him to shop for judges who would be favorable to his cause.

As the language of the revised substitute amendment now stands, at least one member of the three-judge court must be a district judge of the court in which the proceeding was instituted. My amendment would strike that language and require that at least one of the judges be the district judge before whom the proceeding is pending. That judge should know more about the case than any other judge.

My amendment would apply good logic. It would be good legislation. It would establish good procedure in the courts. There is no reason why there should be any departure from the traditional concept of three-judge courts. On the contrary, there is every reason why the judge before whom the complaint was originally registered, being knowledgeable of the pleadings and knowledgeable, perhaps, of some of the facts, should sit as a judge at the hearing.

I believe that my amendment would give to the people throughout the United States the feeling that they would get a square deal. Without making any predictions for the future, I feel certain that we shall hear much opposition to the right of the Attorney General to shop here, there, and yonder in order to get judges who would be favorable to his cause. If Senators want that kind of legislation to be passed, they are not thinking as I am thinking. I want a square deal to be given for all. I do not think we are providing it when we give the Attorney General the right to shop around to determine what judges he wishes to have try cases.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from South Carolina.

Mr. **RUSSELL**. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **MANSFIELD** (when his name was called). I have a pair with the Senator from Virginia. If he were present, he would vote "yea." If I were to vote, I would vote "nay." I withhold my vote.

Mr. **MOSS** (when his name was called). On this vote I have a pair with the distinguished Senator from Virginia [Mr. Byrd]. If the Senator from Virginia were present and voting, he would vote "yea," and if I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. **HUMPHREY**. I announce that the Senator from Virginia [Mr. Byrd], the Senator from North Carolina [Mr. Jordan], the Senator from Michigan [Mr. McNamara], the Senator from Oregon [Mrs. Neuberger], the Senator from Virginia [Mr. Robertson], the Senator from Tennessee [Mr. Walters], and the Senator from Georgia [Mr. Russell] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. Randolph], and the Senator from Texas [Mr. Yarborough], are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. McNamara], and the Senator from Oregon [Mrs. Neuberger], would each vote "nay."

On this vote, the Senator from California [Mr. Engle] is paired with the Senator from North Carolina [Mr. Jordan]. If present and voting, the Senator from California would vote "nay," and the Senator from North Carolina would vote "yea."

On this vote, the Senator from West Virginia [Mr. Randolph], is paired with the Senator from Tennessee [Mr. Walters]. If present and voting, the Senator from West Virginia would vote "nay," and the Senator from Tennessee would vote "yea."

Mr. **KUCHEL**. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from North Dakota [Mr. Young) are absent on official business.

The Senator from New Mexico [Mr. Mechem] and the Senator from Kentucky [Mr. Morton], are necessarily absent.

The Senator from Nebraska [Mr. Hruska] is detained on official business and if present and voting, would vote "yea."

The result was announced—yeas 21, nays 62, as follows:

[No. 331 Leg.]

YEAS—21

Byrd, W. Va.
Cotton
Curtis
Eastland
Ellender
Ervin
Fulbright
Hayden
Hickenlooper
Hill
Holland
Johnston
Long, La.
McClellan
Mundt
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tower

NAYS—62

Aiken
Allott
Anderson
Bartlett
Bayh
Beall

Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Young, Ohio

NOT VOTING—17

Byrd, Va.
Engle
Goldwater
Hruska
Jordan, N.C.
Mansfield
McNamara
Mechem
Morton
Moss
Neuberger
Randolph
Robertson
Russell
Walters
Yarborough
Young, N. Dak.

So Mr. JOHNSTON's amendment (No. 495) was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I call up my amendment No. 952, which I ask to have modified. I send to the desk the modification and ask that it be stated. It is my understanding that under a previous agreement, a Senator may be allowed to modify his own amendment.

The PRESIDING OFFICER. The amendment will be stated, as modified.

The legislative clerk read as follows:

> On page 44, line 15, insert the following after the word "origin"; nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, or national origin.

Mr. TOWER. Mr. President, I yield myself 1 minute.

This is similar to an amendment which I offered a day or two ago, and which was, I believe, agreed upon in principle. But the language was not drawn as carefully as it should have been.

It is my understanding that the present language has been cleared through the Attorney General, the leadership, and the proponents of the bill.

I therefore urge its adoption. I ask for the yeas and nays.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. HUMPHREY. Mr. President, I think it should be noted that the Senators on both sides of the aisle who were deeply interested in title VII have examined the text of this amendment and have found it to be in accord with the intent and purpose of that title.

I do not think there is any need for a rollcall. We can expedite it. The Senator has won his point.

I concur in the amendment and ask for its adoption.

Mr. TOWER. Mr. President, I withdraw my request for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 952 offered by the Senator from Texas [Mr. TOWER].

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay the motion to reconsider on the table was agreed to.

Mr. ERVIN. Mr. President, I call up my amendment No. 781 to amendment No. 1052 to the bill (H.R. 7152) and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

> On pages 3 and 4, beginning with the designation (b) on line 25 on page 3, strike out everything through the word "election" on line 10 on page 4.
>
> Change the designation (c) on page 4 to the designation (b).

Mr. ERVIN. Mr. President, I had intended to make a unanimous-consent request that the Senate recess until Monday and go out to the ball game, where men are not struck out before they come to bat, and where umpires call the plays as they see them. But, knowing that the request would be refused, I will not make it.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. HUMPHREY. What team is the Senator for?

Mr. ERVIN. I am on the team on the side of righteousness. I am for the Senators.

The amendment is very simple. It would strike out the provisions of the bill which make the completion of a sixth-grade education a presumption of literacy and understanding.

The provision of the revised substitute is an effort to destroy the provisions of the Constitution by circumvention. The Constitution vests the power in the States to prescribe qualifications for voting, including literacy tests. That power ought to be left in the place where the Constitution placed it, and not be nullified by a presumption created by Federal law.

The amendment would strike out this presumption and leave the Constitution as it is, uncircumvented. I think the Senate ought to support it.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BYRD of West Virginia. Mr. President, I yield myself 2 minutes.

I trust that the amendment will be adopted, although I realize that under the present circumstances it will not be adopted. The language which the amendment would strike would seek to establish the completion of the sixth grade as a rebuttable presumption of literacy.

Mr. President, I submit that the completion of the sixth grade is not a definite and dependable standard. I point out that many students are promoted from one grade to another until they have completed the sixth grade, and yet they do not have a sixth grade education and are illiterate.

So I maintain, first, that the provision of the bill to which I have referred is impracticable. Secondly, I maintain that it would contravene article I, section 2, clause 1 of the U.S. Constitution, which provides that—

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State legislature.

I submit that the provision would contravene article II, section 1, clause 2, of the Federal Constitution which provides that in the case of presidential electors, they shall be appointed in such manner as each State legislature may direct.

I submit that the provision would contravene the 1st clause of the 17th amendment, which has reference to the election of U.S. Senators. and which provides that electors of Members of the U.S. Senate shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

So on the basis of impracticability of application of the provision and on the basis of its unconstitutionality, I submit that the Senate should adopt the amendment which would strike the language to which I have referred.

Mr. MILLER. Mr. President, I yield myself 30 seconds.

Every Senator knows that there is a constitutional question involved on the point, but no one knows whether the Supreme Court will decide it one way or the other. The proponents of the bill proceed on the assumption that the provision is constitutional and it will be held constitutional. The saving clause in the bill protects the rest of the bill.

So far as the line being drawn at a sixth-grade education is concerned, that is a line about which many arguments could be waged.

I point out that, first, if the States do not like the line which would be drawn because certain students are not literate after they have completed the sixth grade, let them revise their educational system. Second, if they do not like the line drawn, they can provide another standard. For example, the States could establish a standard which would require all voters to have completed 10 or 12 grades. So I do not believe that we need to be concerned about the fact that this is a line which has been drawn from a practical standpoint, which States can get around if they wish to play fair. I hope the amendment will be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the junior Senator from Virginia [Mr. ROBERTSON]. If he were present and voting, he would vote "yea." If were at liberty to vote, I would vote "nay." Therefore I withhold my vote.

Mrs. NEUBERGER (when her name was called). I have a pair with the senior Senator from Virginia [Mr. Byrd]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from North Carolina [Mr. Jordan], the Senator from Michigan [Mr. McNamara], the Senator from Virginia [Mr. Robertson], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. Randolph] and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. McNamara] would vote "nay."

On this vote, the Senator from North Carolina [Mr. Jordan] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from North Carolina would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Tennessee [Mr. Walters] is paired with the Senator from West Virginia [Mr. Randolph]. If present and voting, the Senator from Tennessee would vote "yea," and the Senator from West Virginia would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from North Dakota [Mr. Young] are absent on official business.

The Senator from New Mexico [Mr. Mechem] and the Senator from Kentucky [Mr. Morton] are necessarily absent.

The Senator from Nebraska [Mr. Hruska] is detained on official business, and if present and voting would vote "nay."

The result was announced—yeas 18, nays 67, as follows:

[No. 332 Leg.]

YEAS—18

Byrd, W. Va.
Cooper
Eastland
Ellender
Ervin
Fulbright
Hayden
Hill
Holland
Johnston
Long, La.
McClellan
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond

NAYS—67

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Tower
Williams, N.J.
Williams, Del.
Young, Ohio

NOT VOTING—15

Byrd, Va.
Engle
Goldwater
Hruska
Jordan, N.C.
Mansfield
McNamara
Mechem
Morton
Neuberger
Randolph
Robertson
Walters
Yarborough
Young, N. Dak.

So Mr. Ervin's amendment (No. 781), as modified, was rejected.

Mr. COOPER subsequently said: Mr. President, I ask unanimous consent to have printed in the Record, at the point in the proceedings showing the vote on the literacy test amendment, a statement explaining my vote.

There being no objection, the statement was ordered to be printed in the Record, as follows:

MEMORANDUM

Mr. President, I have no doubt that the Congress has the authority and the duty under the 15th amendment to assure the right to vote. It has the authority to enact legislation which would require that literacy tests be applied equally to all, and not used to prevent the right to vote.

In 1962, I introduced legislation which would have accomplished this purpose. In 1963, Senator Dodd and I introduced a bill to prohibit discrimination in the application of literacy tests. Title I, with the exception of section 101(b)—dealing with the "sixth-grade presumption"—is almost identical with the bill we introduced.

I believe, however, that the section establishing a rebuttable presumption, that a sixth-grade education meets the requirement of literacy, is not constitutional, and that it is a method to evade the requirements of article I, section 4 of the Constitution. Many of my colleagues hold otherwise, and, of course, they may be right, but that is my understanding of the constitutional provision, and it has guided my decision on this question.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER (Mr. Muskie in the chair). The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I make the point of no quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 333 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Williams, N.J.
Williams, Del.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

The question is on the Dirksen-Mansfield substitute.

Mr. THURMOND. Mr. President, I call up my amendment No. 1014, and ask to have the clerk read it.

The PRESIDING OFFICER. The amendment offered by the Senator from South Carolina will be read.

The legislative clerk read the amendment as follows:

On page 74, after line 23, insert the following new section:

"Sec. 1106. (a) No treaty or agreement of the United States with any tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States shall hereafter be abrogated, modified, or otherwise altered except in conformity with legislation hereafter enacted by the Congress. Whenever any governmental officer or agency has taken any action, or there is reasonable ground for belief that any such officer or agency is about to take any action, which is prohibited by this section, a civil action for preventive relief may be instituted against such officer or agency by any such tribe, band, group, or member thereof who is or would be aggrieved by such action.

"(b) Any action instituted under this section may be instituted in the district court of the United States for any judicial district in which the plaintiff resides or is found. Such court shall have jurisdiction to hear and determine such action, and to enter such restraining orders and such temporary or permanent injunctions as it may deem proper. Process of the district court for any judicial district in any action instituted under this section may be served in any other judicial district of the United States by the United States marshal thereof."

Mr. HUMPHREY. Mr. President, this amendment applies to treaties with Indian tribes. I do not believe it is germane to the substance of the bill and, therefore, I make the point of order that the amendment is not germane.

Mr. THURMOND. Mr. President, I could not hear the statement of the Senator from Minnesota.

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order? The Chair cannot hear the point of order. Will Senators please take their seats or leave the floor?

Will the Senator from Minnesota restate his point of order?

Mr. HUMPHREY. My point of order is that the amendment is not germane. It does not relate to the substance of the title of the bill. It relates to matters concerning treaties of the United States with Indian tribes and, therefore, it is not relevant or germane to the substance of the issue before the Senate.

The PRESIDING OFFICER. The Chair has not yet had an opportunity to study the amendment closely, but the Chair's reaction to it, upon reading it, following the Senator's point of order, is that the point of order has merit and the Chair will so rule.

Mr. THURMOND. Mr. President, what is the ruling of the Chair?

The PRESIDING OFFICER. That the amendment is not germane.

Mr. THURMOND. Mr. President, I appeal from the ruling of the Chair, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Will the Chair please restate the question so that all Senators may know what they are doing when they vote "yea" or "nay."

The PRESIDING OFFICER. The Chair has sustained the point of order made by the Senator from Minnesota [Mr. Humphrey], on the amendment offered by the Senator from South Carolina [Mr. Thurmond].

A "yea" vote would sustain the Chair.

Mr. COTTON. Mr. President, is it in order to request that the amendment be read once more, so that we may be aware of what is in it?

The PRESIDING OFFICER. Is there objection to a second reading of the amendment? The Chair hears none, and it is so ordered.

The clerk will read the amendment once more.

The Chief Clerk. On page 74, after line 23, insert the following new section:

Sec. 1106. (a) No treaty or agreement of the United States with any tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States shall hereafter be abrogated, modified, or otherwise altered except in conformity with legislation hereafter enacted by the Congress. Whenever any governmental officer or agency has taken any action, or there is reasonable ground for belief that any such officer or agency is about to take any action, which is prohibited by this section, a civil action for preventive relief may be instituted against such officer or agency by any such tribe, band, group, or member thereof who is or would be aggrieved by such action.

(b) Any action instituted under this section may be instituted in the district court of the United States for any judicial district in which the plaintiff resides or is found. Such court shall have jurisdiction to hear and determine such action, and to enter such restraining orders and such temporary or permanent injunctions as it may deem proper. Process of the district court for any judicial district in any action instituted under this section may be served in any other judicial district of the United States by the United States marshal thereof.

The PRESIDING OFFICER. The question is, Shall the ruling of the Chair stand as the judgment of the Senate? On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished Senator from Virginia [Mr. Robertson]. If he were present and voting he would vote "nay." If I were at liberty to vote I would vote "yea." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from North Carolina [Mr. Jordan], the Senator from Michigan [Mr. McNamara], the Senator from Virginia [Mr. Robertson], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. Randolph] and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. McNamara] would vote "yea."

On this vote, the Senator from California [Mr. Engle] is paired with the Senator from North Carolina [Mr. Jordan]. If present and voting, the Senator from California would vote "yea," and the Senator from North Carolina would vote "nay."

On this vote, the Senator from West Virginia [Mr. Randolph] is paired with the Senator from Virginia [Mr. Byrd]. If present and voting, the Senator from West Virginia would vote "yea," and the Senator from Virginia would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from North Dakota [Mr. Young] are absent on official business.

The Senator from New Mexico [Mr. Mechem] and the Senator from Kentucky [Mr. Morton] are necessarily absent.

The result was announced—yeas 67, nays 20, as follows:

[No. 334 Leg.]

YEAS—67

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Smith
Symington
Tower
Williams, N.J.
Young, Ohio

NAYS—20

Curtis
Eastland
Ellender
Ervin
Fulbright
Hill
Holland
Hruska
Johnston
Long, La.
McClellan
Mundt
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Williams, Del.

NOT VOTING—13

Byrd, Va.
Engle
Goldwater
Jordan, N.C.
Mansfield
McNamara
Mechem
Morton
Randolph
Robertson
Walters
Yarborough
Young, N. Dak.

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. THURMOND. Mr. President, I am amazed that the Senate has refused to vote for an amendment which provides civil rights to Indians.

I now call up my amendment No. 928.

The PRESIDING OFFICER. The amendment will be stated.

The Chief Clerk. On page 8, line 2, in amendment No. 656, after "travelers" put a semicolon and delete the rest of line 2, all of line 3, and all through the semicolon in line 4.

Mr. THURMOND. Mr. President, in view of the fact that the acting majority leader has stated that he has had enough today, I withdraw the amendment, without prejudice.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. HUMPHREY. Mr. President, the acting majority leader did not say he had had enough for today, but he has looked at some of his colleagues, who have indicated that they have had enough for today.

TABULATION SHOWING AMOUNT OF TIME FOR DEBATE REMAINING TO EACH SENATOR

Mr. SMATHERS. Mr. President, I wonder if it would be possible to have printed in today's Record, for our information on Monday, how much time remains to each Senator. I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

There being no objection, the tabulation was ordered to be printed in the Record, as follows:

	Minutes
Aiken	60
Allott	53
Anderson	59
Bartlett	60
Bayh	60
Beall	59
Bennett	58
Bible	59
Boggs	60
Brewster	60
Burdick	60
Byrd of Virginia	60
Byrd of West Virginia	58
Cannon	60
Carlson	60
Case	52
Church	60
Clark	60
Cooper	31
Cotton	58
Curtis	60
Dirksen	40
Dodd	57
Dominick	60
Douglas	58
Eastland	60
Edmondson	60
Ellender	60
Engle	60
Ervin	32
Fong	54
Fulbright	59
Goldwater	60
Gore	21
Gruening	60
Hart	56
Hartke	60
Hayden	60
Hickenlooper	60
Hill	54
Holland	45
Hruska	60
Humphrey	44
Inouye	60
Jackson	60
Javits	49
Johnston	48
Jordan of North Carolina	60
Jordan of Idaho	60
Keating	50

	Minutes
Kennedy	60
Kuchel	58
Lausche	20
Long of Missouri	60
Long of Louisiana	31
Magnuson	57
Mansfield	54
McCarthy	60
McClellan	49
McGee	60
McGovern	60
McIntyre	60
McNamara	59
Mechem	60
Metcalf	60
Miller	42
Monroney	56
Morse	45
Morton	58
Moss	60
Mundt	52
Muskie	51
Nelson	60
Neuberger	58
Pastore	29
Pearson	60
Pell	58
Prouty	60
Proxmire	60
Randolph	58
Ribicoff	49
Robertson	54
Russell	29
Saltonstall	60
Scott	60
Simpson	60
Smathers	44
Smith	60
Sparkman	55
Stennis	40
Symington	59
Talmadge	57
Thurmond	57
Tower	26
Walters	60
Williams of New Jersey	60
Williams of Delaware	60
Yarborough	60
Young of North Dakota	60
Young of Ohio	60

RECESS TO 11 A.M. MONDAY

Mr. HUMPHREY. Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in recess until 11 o'clock a.m. on Monday next.

The motion was agreed to; and (at 2 o'clock and 50 minutes p.m.) the Senate took a recess, under the previous order, until Monday, June 15, 1964, at 11 o'clock a.m.

NOMINATION

Executive nomination received by the Senate June 13 (legislative day of March 30), 1964:

PUBLIC HEALTH SERVICE

The following candidates for personnel action in the Regular Corps of the Public Health Service subject to qualifications therefor as provided by law and regulations (for appointment):

To be senior surgeons

George E. Bock

Martin M. Cummings

To be assistant pharmacist

Nancy B. Finch

To be health services officer

Howard L. Kitchener

HOUSE OF REPRESENTATIVES

MONDAY, JUNE 15, 1964

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. ALBERT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair lays before the House a communication from the Speaker:

The Clerk read as follows:

JUNE 15, 1964.

I hereby designate the Honorable CARL ALBERT to act as Speaker pro tempore today.

JOHN W. MCCORMACK,
Speaker of the House of Representatives.

PRAYER

Rabbi Josiah Darby, Rego Park Jewish Center, New York, offered the following prayer:

Psalms: 119: 126: *This is the hour to act; Thy law, O Lord, has been broken.*

Eternal God, we thank Thee for another day of life and health and opportunity.

In this hour of crisis abroad and confusion at home we ask Thy blessings upon our beloved country, upon our President, and upon this legislative body.

Recognizing the limitations of our mortal wisdom, we turn to Thee for guidance as we grope for the elusive solutions to the weighty problems that confront us.

Shed Thy light upon us to illuminate our way. Teach us how to serve with a unity of purpose even as we maintain the diversity of our views.

Inspire us with courage and resolution that we may meet the challenge of our responsibilities.

Hold us fast to those truths, which are rooted in Thy fatherhood, and in the brotherhood of Thy children, so that all our deliberations and decisions may conform to Thy holy will. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, June 11, 1964, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Miller, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Secretary of the Senate requests the House of Representatives to return to the Senate the joint resolution (S.J. Res. 71) entitled "Joint resolution to establish a National Commission on Food Marketing to study the food industry from the producer to the consumer," together with all accompanying papers.

ANNOUNCEMENT

Mr. CLARK. Mr. Speaker, on Thursday I was in Montana with other Members inspecting the flood damage. On rollcall 155, through error, I was paired for the bill. If present, I would have voted "no."

COMMUNIST PROPAGANDA JUNKETS

Mr. SELDEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. SELDEN. Mr. Speaker, news reports indicate that 75 members of a so-called U.S. student group have circumvented the Department of State's ban on travel to Communist Cuba and are presently propaganda guests of the Castro government.

This is the second such group to violate State Department policy barring use of passports to visit that Communist satellite in the Caribbean. It is reported also that this trip was arranged by the same organization and persons that arranged the similar propaganda visit to Cuba last year by so-called U.S. students.

The first propaganda report to issue from this year's delegation in Havana was a call by a Negro member of the group for the destruction of the United States. The nature of this message points up the fact that the Communist and fellow-traveler composition of the current group is similar to that of last year's delegation.

At the time the first so-called student group visited Havana last year I called for State Department action against the passport privilege violators upon their return to this country. As I then argued, if it were possible a just punishment would be the denial of reentry into the United States for all such turncoats and advocates of treason. Consider the fact that while Americans are laying down their lives fighting totalitarian communism in Vietnam, here we have a handful of moral renegades serving as willing dupes for the cause of communism in our own hemisphere.

Obviously, whatever action the Department of State did take against the Cuban travelers last year was ineffective and insufficient to prevent a second such trip. I am therefore asking the Department of State and the Department of Justice for a complete report on what it has done and what it intends to do to punish such violations of the passport privilege. These violators must be punished. If existing legislation to curb such Communist propaganda junkets is not on the books, I intend to introduce legislation with teeth that will inhibit the actions of these Communist propaganda agents.

EAT DELICIOUS, JUICY, TENDER, CORN-FED STEAK

Mr. JENSEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. JENSEN. Mr. Speaker, last week, 61 boosters of corn-fed beef from the district which I have the honor to represent in Congress, arrived in Dearborn, Mich., with enough delicious, tender, juicy, corn-fed T-bone steaks to give the people at a banquet there a real treat. The 61 cattle feeders and businessmen from Iowa sat down with an equal number of important people from the Dearborn-Detroit area to enjoy "top of Iowa steak."

Among the guests at the banquet were representatives of the Alcoa Chemical Corp., Chrysler Motors, the Department of Agriculture, the Greater Detroit Chamber of Commerce, the Great Atlantic & Pacific Tea Co., the Michigan Farm Bureau, the University of Michigan, the Live Stock Exchange, and the Ford Motor Co., along with representatives from other industries and banks, and municipal officials from both Dearborn and Detroit.

The main purpose of this affair was of course to give the people at the banquet a taste of the most delicious and most nourishing of all beef, corn-fed beef, which in the past has not received the publicity it deserves.

You see, Mr. Speaker, it takes corn longer to mature than any other grain, hence nature and the sun instills more of the essential vitamins necessary for human health and strength into corn-fed meats than into other meats or vegetables. Of course the same is true of corn-fed pork and poultry.

Every housewife, and every restaurant, motel and hotel where food is served would do well to feature these wonderful foods. Facts are, every eating place owes it to themselves and to their customers to print on their menus these words: "Eat our delicious, tender, juicy, corn-fed beefsteak, pork, and poultry." Then watch their business grow.

CHILDREN TO CHILDREN PROGRAM FOR ALASKA

Mr. BECKER. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BECKER. Mr. Speaker, I was tremendously pleased to be advised by an elementary school in my district; namely, the Woodmere, Long Island, N.Y., elementary school that they wanted to do something to help the children and people of Alaska who had suffered so terribly by the recent earthquake.

The children, through their student council, devised the idea of a cake sale. But they placed certain restrictions on this. The children, themselves, had to bake their own cakes, bring them to school and then they were sold at 10 cents per slice. This was a real do-it-yourself project and went over big. They raised the sum of $295, by this sale.

I was invited by the student council to attend their assembly on Friday, June 12, at 9:45 a.m., and the check for $295, made out to the Governor's reconstruction fund, was presented to me.

This was one of the most pleasant experiences of my political career. These children could, perhaps, have gone to their parents and asked for some money to contribute. They did not do this. They wanted to do something themselves, and they did. I expressed my great satisfaction to them, to their faculty, and their student council adviser.

I took the opportunity of telling these students it was their spirit that made our country great, that it was their willingness to do a job themselves, their self-reliance, the spirit of a good deed well done, and a sense of responsibility to help others in need.

I am certain this contribution will be put to good use through the Governor's reconstruction fund and bring a little more to the children of Alaska than just love and affection.

COMMITTEE ON RULES

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

REPORT OF THE COMMODITY CREDIT CORPORATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with accompanying papers, referred to the Committee on Banking and Currency:

To the Congress of the United States:

I am sending for the information of the Congress the report of the Commodity Credit Corporation for the fiscal year ended June 30, 1963, in accordance with the provisions of section 13, Public Law 806, 80th Congress.

LYNDON B. JOHNSON.

The WHITE HOUSE, *June 12, 1964.*

NATIONAL COMMISSION ON FOOD MARKETING

The SPEAKER pro tempore laid before the House a message from the Senate, as follows:

IN THE SENATE OF THE UNITED STATES,
June 15 (legislative day, March 30), 1964.

Ordered, That the Secretary of the Senate request the House of Representatives to return to the Senate the joint resolution (S.J. Res. 71) entitled "Joint resolution to establish a National Commission on Food Marketing to study the food industry from the producer to the consumer" together with all accompanying papers.

Mr. HALLECK. Mr. Speaker, reserving the right to object, and I shall not object, this matter was discussed with me and in turn I have discussed the matter with the ranking Republican member of the Committee on Agriculture. I want it to be in the RECORD that my understanding is correct, which is, that the purpose of the action here sought to be had is to bring to final enactment a bill dealing with this matter as it passed the House of Representatives.

Mr. HOEVEN. Mr. Speaker, will the gentleman yield?

Mr. HALLECK. I yield to the gentleman from Iowa.

Mr. HOEVEN. I want to concur in the statement of the minority leader. It is my understanding that the purpose of sending these papers back to the other body is that they may concur in the House amendments. At least that is my understanding and I, therefore, shall not object.

The SPEAKER pro tempore. Is there objection?

There was no objection.

CHANG IN WU

Mr. FEIGHAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1887) for the relief of Yan Ok Kim, Chang In Wu, and Jung Yol Sohn, with Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: "That, notwithstanding the provisions of section 205(c) of the Immigration and Nationality Act, a petition may be filed in behalf of Chang In Wu by Mr. and Mrs. Robert Ainley, citizens of the United States, pursuant to section 205(b) of the said Act."

Amend the title so as to read: "A bill for the relief of Chang In Wu."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Senate amendment was concurred in.

The title was amended to read as follows: "A bill for the relief of Chang In Wu."

A motion to reconsider was laid on the table.

WATER RESEARCH

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2) to establish water resources research centers at land-grant colleges and State universities, to stimulate water research at other colleges, universities, and centers of competence, and to promote a more adequate national program of water research, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. ASPINALL, ROGERS of Texas, HALEY, SAYLOR and BURTON of Utah.

CONSENT CALENDAR

The SPEAKER pro tempore. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

ACQUISITION OF PROPERTY IN SQUARE 758 IN THE DISTRICT OF COLUMBIA

The Clerk called the bill (S. 254) to provide for the acquisition of certain property in square 758 in the District of Columbia, as an addition to the grounds of the U.S. Supreme Court Building.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

ADDITIONAL COMMISSIONERS OF THE U.S. COURTS OF CLAIMS

The Clerk called the bill (S. 102) to provide for additional commissioners of the U.S. Court of Claims.

Mr. FORD. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PROTECTION OF NATIONAL FORESTS AND NATIONAL GRASSLANDS

The Clerk called the bill (H.R. 7588) to provide for enforcement of rules and regulations for the protection, development, and administration of the national forests and national grasslands, and for other purposes.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 4, 1897, as amended (30 Stat. 11, 35; 16 U.S.C. 551), second full paragraph, page 35, and section 32(f), title III, of the Bankhead-Jones Farm Tenant Act, as amended (50 Stat. 526; 7 U.S.C. 1011(f)), are further amended by addition of the following sentence in each case: "Any person charged with the violation of such rules and regulations may be tried and sentenced by any United States commissioner specially designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in title 18, United States Code, section 3401, subsections (b), (c), (d), and (e), as amended."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EDITH NOURSE ROGERS MEMORIAL VETERANS' HOSPITAL

The Clerk called the bill (H.R. 10926) to designate a Veterans' Administration hospital in Bedford, Mass., as the Edith Nourse Rogers Memorial Veterans' Hospital.

Mr. TEAGUE of California. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SAM RAYBURN MEMORIAL VETERANS CENTER

The Clerk called the bill (H.R. 10936) to designate the Veterans' Administration center at Bonham, Tex., as the Sam Rayburn Memorial Veterans Center.

Mr. TEAGUE of California. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

JOHN ELLIOTT RANKIN MEMORIAL VETERANS HOSPITAL

The Clerk called the bill (H.R. 146) to designate the Veterans' Administration hospital at Jackson, Miss., as the John Elliott Rankin Memorial Veterans Hospital.

Mr. RYAN of New York. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

TRANSFER OF LAND TO McKINNEY, TEX.

The Clerk called the bill (H.R. 10610) to provide for the conveyance of certain real property under the control of the Administrator of Veterans' Affairs.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. FORD. Reserving the right to object, Mr. Speaker, I should like to ask the author of the bill or a member of the committee a question concerning the purpose for which this land would be used by the city of McKinney, Tex.

Do I understand correctly that in the deed of conveyance from the Federal Government to the city of McKinney there would be a reverter clause in case the land is not used for recreational purposes?

Mr. ROBERTS of Texas. That is correct.

Mr. FORD. This will be a part of the conveyance by the Federal Government to the city?

Mr. ROBERTS of Texas. That is correct. It was explained by the Veterans' Administration that he will add this provision to the conveyance.

Mr. FORD. As I understand it, it is the fact that the city of McKinney is going to use this land for recreational purposes that prompted the Veterans' Administration to transfer this land at 50 percent of the appraised value?

Mr. ROBERTS of Texas. That is correct. This is a part of the Veterans' Administration hospital and it adjoins a golf course which was built by Ben Hogan and Byron Nelson and was given to the veterans. This adjoins it and will be a municipal golf course.

Mr. FORD. I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs shall be authorized to convey to the city of McKinney, Texas, at 50 per centum of its appraised value, and for recreational purposes, all right, title, and interest of the United States in and to a portion of the real property of the Veterans' Administration Hospital, McKinney, Texas, approximating thirty-nine acres, more or less. The exact legal description of such real property shall be determined by the Administrator of Veterans' Affairs and in the event a survey is required in order to make such determination the city of McKinney shall bear the expense thereof.

With the following committee amendments:

On line 9, page 1, after the word "description" insert "and the appraised value".

On line 1, page 2, after the word "survey", insert the words "or an appraisal".

On line 2, page 2, strike the word "determination" and insert the word "determinations".

At the end of the bill, add section 2 as follows:

"SEC. 2. Any deed of conveyance made pursuant to this Act shall contain such additional terms, conditions, reservations, and restrictions as may be determined by the Administrator of Veterans' Affairs to be necessary to protect the interests of the United States."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TRANSFER OF SEWAGE TREATMENT PLANT TO McKINNEY, TEX.

The Clerk called the bill (H.R. 10611) to provide for the conveyance of certain real property under the control of the Administrator of Veterans' Affairs.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, reserving the right to object, I would like to make legislative history with reference to this bill. Do I understand that in the deed of conveyance for this sewage disposal plant to the municipality of McKinney, Tex., it will be provided that the Veterans' Administration hospital, after the 10 years in which sewage is to be disposed of free of charge to the Veterans' Administration, that then the Veterans' Administration will pay the minimum rate charged to all other users of the sewage disposal plant as operated by the city of McKinney, Tex.

Mr. ROBERTS of Texas. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. ROBERTS of Texas. The gentleman is correct and I thank him very much for bringing out the fact that that provision will be included in the deed of conveyance.

Mr. GROSS. I thank the gentleman.

Mr. ROBERTS of Texas. I thank the gentleman.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs is authorized to convey to the city of McKinney, Texas, the sewage treatment plant of the Veterans' Administration hospital of McKinney, Texas, if the city of McKinney, Texas, in consideration therefor, agrees to treat all sewage from such hospital without charge for a period of ten years from the date of such conveyance.

With the following committee amendments:

On page 1, line 5, after the word "plant" insert "(with the easements relating thereto)".

At the end of the bill insert section 2 as follows:

"SEC. 2. Any deed of conveyance made pursuant to this Act shall contain such additional terms, conditions, reservations, and restrictions as may be determined by the Administrator of Veterans' Affairs to be necessary to protect the interests of the United States."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RELATING TO THE ESTABLISHMENT OF CONCESSION POLICIES IN THE AREAS ADMINISTERED BY NATIONAL PARK SERVICE

The Clerk called the bill (H.R. 5886) relating to the establishment of concession policies in the areas administered by National Park Service and for other purposes.

Mr. McFALL. Mr. Speaker, at the request of another Member, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

QUARTERS AND FACILITIES FOR GOVERNMENT PERSONNEL

The Clerk called the bill (S. 1883) to authorize Government agencies to provide quarters, household furniture and equipment, utilities, subsistence, and laundry service to civilian officers and employees of the United States, and for other purposes.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the head of the each department, independent establishment, and Government corporation may, under such regulation as the President may prescribe and where conditions of employment or availability of quarters warrant it, provide, either directly or by contract, civilian officers and employees stationed in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, with quarters (Government owned or leased), household furniture and equipment, utilities, subsistence, and laundry service.

SEC. 2. Rental rates for any Government owned or leased quarters provided under authority of section 1 of this Act, or occupied on a rental basis under authority of any other provision of law, and charges for any furniture and equipment, utilities, subsistence, and laundry service made available in connection with the occupancy of such quarters, shall be based on the reasonable value thereof to the officer, employee, or member of the uniformed services concerned, in the circumstances under which furnished. Such rates and charges shall be determined in accordance with such regulations as the President may prescribe, and the amounts thereof shall be paid by or deducted from the salary of such officer, employee, or member of the uniformed services, or otherwise charged against them: *Provided,* That the amounts of any payroll deductions for such charges shall remain in the applicable appropriation or fund, but whenever payments are made by any other method the amounts shall be credited to miscellaneous receipts of the Treasury or to such appropriation or fund as may be otherwise provided by law.

SEC. 3. Whenever, as an incidental service in support of a Government program, any Government owned or leased quarters, and any related furniture and equipment, utilities, subsistence, and laundry service are provided, under specific Government direction, to any person who is not an officer or employee of the Government or a member of the uniformed services, the rates and charges therefor, which shall be paid or otherwise credited to the Government, shall be determined in accordance with section 2 of this Act: *Provided,* That the amounts of any such charges shall be credited to miscellaneous receipts of the Treasury or to such appropriation or fund as may be otherwise provided by law.

SEC. 4. No civilian officer, employee, or member of the uniformed services shall be required to occupy Government owned or leased rental quarters unless the head of the agency concerned shall determine that necessary service cannot be rendered or property of the United States cannot be adequately protected otherwise.

SEC. 5. Section 2 of this Act shall not be construed as repealing or modifying any provision of law which may authorize the provision, without charge or at specified rates, of any of the items enumerated in section 1 of this Act, to any specific civilian officer or employee, or to any class of such officer or employees, or to such officers or employees under emergency conditions or to members of the uniformed services.

SEC. 6. Section 3 of the Act of March 5, 1928 (45 Stat. 193 (5 U.S.C. 75a)), is repealed.

With the following committee amendment:

Strike out all after the enacting clause and insert:

"That, for the purposes of this Act—

"(1) 'Government' means the Government of the United States of America.

"(2) 'agency' means—

"(A) each executive department of the Government;

"(B) each agency independent establishment in the executive branch of the Government;

"(C) each corporation owned or controlled by the Government, except the Tennessee Valley Authority; and

"(D) The General Accounting Office.

"(3) 'employee' means a civilian officer or employee of an agency.

"(4) 'United States' means the several States of the United States of America, the District of Columbia, the territories and possessions of the United States, and the Commonwealth of Puerto Rico.

"(5) 'quarters' means quarters owned or leased by the Government.

"(6) 'facilities' means household furniture and equipment, garage space, utilities, subsistence, and laundry service.

"(7) 'member' and 'uniformed services' have the meanings given them by section 101 of title 37, United States Code.

"SEC. 2. Whenever conditions of employment or of availability of quarters warrant such action, the head of each agency may provide, directly or by contract, any employee stationed in the United States, with quarters and facilities.

"SEC. 3. Rental rates for quarters provided for an employee under section 2 of this Act or occupied on a rental basis by an employee or a member of the uniformed services under any other provision of law, and charges for facilities made available in connection with the occupancy of such quarters, shall be based on the reasonable value of the quarters and facilities to the employee or the member of the uniformed services concerned, in the circumstances under which the quarters and facilities are provided, occupied, or made available. The amounts of such rates and charges shall be paid by, or deducted from the salary of, such employee or member of the uniformed services, or otherwise charged against him in accordance with law. The amounts of payroll deductions for such rates and charges shall remain in the applicable appropriation or fund, but, whenever payment of such rates and charges is made by any other method, the amounts of payment shall be credited to the Government as provided by law.

"SEC. 4. Whenever, as an incidental service in support of a program of the Government, any quarters and facilities are provided, by appropriate authority of the Government, to any person other than an employee or a member of the uniformed services, the rates and charges therefore shall be determined in accordance with this Act. The amounts of the payments of such rates and charges shall be credited to the Government as provided by law.

"SEC. 5. An employee or a member of the uniformed services shall not be required to occupy quarters on a rental basis unless the head of the agency concerned shall determine that necessary service cannot be rendered, or that property of the Government cannot adequately be protected, otherwise.

"SEC. 6. The President may issue regulations governing the provision, occupancy, and availability of quarters and facilities, the determination of rates and charges therefor, and other related matters, as are necessary and appropriate to carry out the provisions of this Act. The head of each agency may prescribe and issue such regulations, not inconsistent with the regulations of the President, as may be necessary and appropriate to carry out the functions of such agency head under this Act.

"Sec. 7. Section 3 of this Act shall not be held or considered to repeal or modify any provision of law authorizing the provision of quarters or facilities, either without charge or at rates or charges specifically fixed by law.

"Sec. 8. Section 3 of the Act of March 5, 1928 (45 Stat. 193; 5 U.S.C. 75a), is hereby repealed.

"Sec. 9. The foregoing provisions of this Act shall become effective on the sixtieth day following the date of enactment of this Act."

The bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act to authorize Government agencies to provide quarters and facilities to civilian officers and employees of the Government, and for other purposes."

A motion to reconsider was laid on the table.

APPLICATION OF FEDERAL HEALTH AND LIFE INSURANCE LAWS TO CERTAIN U.S. COMMISSIONERS

The Clerk called the bill (H.R. 5708) to amend the Federal Employees Health Benefits Act of 1959 to extend coverage to certain U.S. commissioners.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(a) of the Federal Employees Health Benefits Act of 1959, is amended by inserting after the word "includes" the following: "any United States commissioner to whom the Civil Service Retirement Act applies by operation of section 2(g) of that Act,".

With the following committee amendments:

Page 1, line 4, immediately after "1959" insert ", as amended (5 U.S.C. 3001(a),".

Page 1, line 4, strike out the word "after" and insert in lieu thereof the words "immediately following".

Page 1, immediately following line 7, insert the following:

"Sec. 2. Section 2(a) of the Federal Employees' Group Life Insurance Act of 1954, as amended (5 U.S.C. 2901(a)), is amended by inserting immediately following 'District of Columbia' the following: ', and each United States Commissioner to whom the Civil Service Retirement Act applies by operation of section 2(g) of that Act,'."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "An act to bring certain United States commissioners within the purview of the Federal Employees Health Benefits Act of 1959 and the Federal Employees' Group Life Insurance Act of 1954.".

A motion to reconsider was laid on the table.

APPLICATION OF EVACUATION AND ALLOTMENT PAY LAW TO GOVERNMENT PRINTING OFFICE

The Clerk called the bill (H.R. 8827) to extend the act of September 26, 1961, relating to allotment and assignment to pay, to cover the Government Printing Office, and for other purposes.

Mr. FORD. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO PREPARE A ROLL OF PERSONS ELIGIBLE TO RECEIVE FUNDS FROM AN INDIAN CLAIMS COMMISSION JUDGMENT IN FAVOR OF THE SNAKE OR PAIUTE INDIANS OF THE FORMER MALHEUR RESERVATION IN OREGON, TO PRORATE AND DISTRIBUTE SUCH FUNDS, AND FOR OTHER PURPOSES

The Clerk called the bill (H.R. 8080) to authorize the Secretary of the Interior to prepare a roll of persons eligible to receive funds from an Indian Claims Commission judgment in favor of the Snake or Paiute Indians of the former Malheur Reservation in Oregon, to prorate and distribute such funds, and for other purposes.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. SAYLOR. Mr. Speaker, reserving the right to object, I would like to direct a question to the gentleman from Florida, chairman of the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs.

I shall be happy to yield to the gentleman from Florida if he will tell me whether it is the intention to establish a program for the rehabilitation of these Indians, in view of the fact that they are so widely dispersed and have no reservation lands of their own at the present time.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I am happy to yield.

Mr. HALEY. The gentleman understands, I know, that there is no proposal to establish a rehabilitation program or anything else for this band of Indians. They are widely dispersed all over the country. This proposal merely would allow for the distribution of the remaining funds, from any judgment against the United States.

Mr. SAYLOR. The funds are in the Treasury of the United States drawing interest, and if the roll is prepared they will be distributed and dispensed with; is that correct?

Mr. HALEY. That is correct.

Mr. SAYLOR. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The committee amendment is as follows:

Strike out all of section 1 and insert the following: "That the Secretary of the Interior shall prepare a roll of the persons of Snake or Paiute Indian ancestry who meet the following requirements for eligibility: (1) They were born on or prior to and living on the date of this Act; and (2) they were members of or are lineal descendants of members of the bands whose chiefs and headmen We-you-we-wa (Wewa), Gaha-nee, E-hi-gant (Egan), Po-nee, Chaw-wat-na-nee, Owits (Oits), and Tash-e-go, signed the unratified treaty of December 10, 1868; and (3) they do not elect to participate as beneficiaries of any awards granted in the docket No. 87 claim of the Northern Paiute Nation. Applications for enrollment must be filed with the Area Director of the Bureau of Indian Affairs, Portland, Oregon, within nine (9) months after the date of this Act on forms prescribed for that purpose. The determination of the Secretary regarding utilization of available rolls or records and the eligibility for enrollment of an applicant shall be final."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ESTABLISHING THE ROOSEVELT CAMPOBELLO INTERNATIONAL PARK

The Clerk called the bill (H.R. 9740) to establish the Roosevelt Campobello International Park, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Roosevelt Campobello International Park Act".

Sec. 2. For the purposes of this Act:

(a) The term "Commission" means the Roosevelt Campobello International Park Commission.

(b) The term "United States members" means members of the Commission appointed by the President. The term "Canadian members" means members of the Commission appointed by the appropriate authorities in Canada.

Sec. 3. There shall be established, in accordance with the agreement between the Governments of the United States and Canada signed January 22, 1964, a joint United States-Canadian Commission, to be called the "Roosevelt Campobello International Park Commission," which shall have as it functions—

(a) to accept title from the Hammer family to the former Roosevelt estate comprising the Roosevelt home and other grounds on Campobello Island;

(b) to take the necessary measures to restore the Roosevelt home as closely as possible to its condition when it was occupied by President Roosevelt;

(c) to administer as a memorial the Roosevelt Campobello International Park comprising the Roosevelt estate and such other lands as may be acquired.

Sec. 4. The Commission shall have juridical personality and all powers and capacity necessary or appropriate for the purpose of performing its functions pursuant to the agreement between the Governments of the United States and Canada signed January 22, 1964, which shall include but not be limited to the power and capacity to—

(a) acquire property, both real and personal, or interests therein, by gift, including conditional gifts whether conditioned on the expenditure of funds to be met therefrom or not, by purchase, by lease or otherwise, and to hold or dispose of the same under such terms and conditions as it sees fit, excepting the power to dispose of the Roosevelt home and the tract of land on which it is located;

(b) enter into contracts;

(c) sue or be sued, complain and defend, implead and be impleaded, in any United States district court. In such suits, the Attorney General shall supervise and control the litigation;

(d) to appoint its own employees, including an executive secretary who shall act as secretary at meetings of the Commission, and to fix the terms and conditions of their employment and remuneration;

(e) to delegate to the executive secretary or other officials and to authorize the redelegation of such authority respecting the employment and direction of its employees and the other responsibilities of the Commission as it deems desirable and appropriate;

(f) to adopt such rules of procedure as it deems desirable to enable it to perform the functions set forth in this agreement;

(g) to charge admission fees for entrance to the park should the Commission consider such fees desirable; however, such fees shall be set at a level which will make the facilities readily available to visitors; any revenues derived from admission fees or concession operations of the Commission shall be transmitted in equal shares to the two Governments within sixty days of the end of the Commission's fiscal year, the United States share to be turned over to the appropriate Federal agency for deposit into the United States Treasury as miscellaneous receipts;

(h) to grant concessions, if deemed desirable;

(i) adopt and use a seal;

(j) obtain without reimbursement, for use either in the United States or in Canada, legal, engineering, architectural, accounting, financial, maintenance, and other services, whether by assignment, detail, or otherwise, from competent agencies in the United States or in Canada, by arrangements with such agencies.

SEC. 5. (a) The Commission shall consist of six members, of whom three shall be the United States members and three shall be the Canadian members. The United States members shall be three persons appointed by the President, of whom one shall be selected from nominations made by the Governor of the State of Maine. Alternates to United States members shall be appointed in the same manner as the members themselves. The United States members and their alternates shall hold office at the pleasure of the President. A vacancy among the United States members of the Commission or their alternates shall be filled in the same manner in which the original appointment was made. An alternate shall, in the absence of the member of the Commission for whom he is alternate, attending meetings of the Commission and act and vote in the place and instead of that member of the Commission.

(b) The Commission shall elect a Chairman and a Vice Chairman from among its members, each of whom shall hold office for a terms of two years. The post of Chairman shall be filled for alternate terms by a Canadian and by a United States member. The post of Vice Chairman shall be filled by a Canadian member if the post of Chairman is held by a United States member, and by a United States member if the post of Chairman is held by a Canadian member. In the event of a vacancy in the office of Chairman or Vice Chairman within the two-year term, the vacancy shall be filled for the remainder of the term by special election in accordance with the foregoing requirements. The Vice Chairman shall act as Chairman in the absence of the Chairman.

(c) Four members of the Commission shall constitute a quorum for the transaction of business, but the affirmative votes of at least two United States members, or their alternates, and at least two Canadian members, or their alternates, shall be required for any decision to be taken by the Commission.

SEC. 6. No compensation will be attached to the position of United States members of the Commission. United States members or their alternates shall be reimbursed by the Commission for travel expenses in accordance with section 5 of the Administrative Expenses Act of 1946, as amended, and the Standardized Government Travel Regulations.

SEC. 7. The Commission may employ both United States and Canadian citizens.

SEC. 8. The Commission shall hold at least one meeting every calendar year and shall submit an annual report to the United States and Canadian Governments on or before March 31 of each year, including a general statement of the operation for the previous year and the results of an independent audit of the financial operations of the Commission. The Commission shall permit inspection of its records by the accounting agencies of both the United States and Canadian Governments.

SEC. 9. The Commission shall maintain insurance in reasonable amounts, including, but not limited to, liability and property insurance. Such insurance may not cover the Commissioners or employees of the Commission except when sued by name for acts done in the scope of their employment.

SEC. 10. In an action against the Commission instituted in a district court of the United States, service of the summons and of the complaint upon the Commission shall be made by delivering a copy thereof to the United States attorney for the district in which the action is brought, or to an assistant United States attorney, or to a clerical employee designated by the United States attorney to accept service in a writing filed with the clerk of the court, and by sending a copy of the summons and of the complaint to the Commission by registered mail.

SEC. 11. (a) The United States Government shall not be liable for any act or omission of the Commission or of any person employed by, or assigned or detailed to, the Commission.

(b) Any liability of the Commission shall be met from funds of the Commission to the extent that it is not covered by insurance, or otherwise. Property belonging to the Commission shall be exempt from attachment, execution, or other process for satisfaction of claims, debts, or judgments.

(c) No liability of the Commission shall be imputed to any member of the Commission solely on the basis that he occupies the position of member of the Commission.

SEC. 12. The Commission shall not be subject to Federal, State, or municipal taxation in the United States on any real or personal projerty held by it or on any gift, bequest, or devise to it of any personal or real property, or on its income, whether from governmental appropriations, admission fees, concessions, or donations.

SEC. 13. For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted by the Commission under authority of this Act shall be deemed to be a gift, devise, or bequest to or for the use of the United States if it is not deducted as a gift, devise, or bequest to or for the use of the Government of Canada under the income, estate, or gift taxes of the Government of Canada.

SEC. 14. There are hereby authorized to be appropriated to the Department of the Interior without fiscal year limitation such sums as may be necessary for the purposes of this Act and the agreement with the Government of Canada signed January 22, 1964, article 11 of which provides that the Governments of the United States and Canada shall share equally the costs of developing and the annual cost of operating and maintaining the Roosevelt Campobello International Park.

With the following committee amendments:

Page 2, line 12, after "President" insert "Franklin Delano".

Page 2, line 21, strike out "capacity to—" and insert "capacity—".

Page 2, line 22, after the subsection designation "(a)" insert "to".

Page 3, line 5, after the subsection designation "(b)" insert "to".

Page 3, line 6, after the subsection designation "(c)" insert "to".

Page 3, line 13, strike out "remuneration;" and insert "compensation;".

Page 4, lines 6 and 7, strike out "as miscellaneous receipts;" and insert:

"In accordance with the laws governing entrance fees received by the National Park Service;".

Page 4, line 9, after the subsection designation "(i)" insert "to".

Page 4, line 10, after the subsection designation "(j)" insert "to".

Page 4, line 20, after "nominations" insert "which may be".

Page 5, line 5, strike out "attending" and insert "attend".

Page 6, line 2, strike out "taken" and insert "made".

Page 6, line 10, strike out "Regulaitons." and insert "Regulations."

Page 7, line 12, after "registered" insert "or certified".

Page 8, line 7, strike out all of section 13 and insert the following:

"SEC. 13. For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest to or for the use of the Commission, and accepted by the Commission under authority of this Act, shall be deemed to be a gift, devise, or bequest to or for the use of the United States, as the case may be, if it is not deducted as a gift, devise, or bequest to or for the use of the Government of Canada under the income, estate, or gift tax laws of the Government of Canada."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. ROOSEVELT] may extend his remarks at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. ROOSEVELT. Mr. Speaker, I should like to express my sincere thanks and appreciation to the members of the Committee on Interior and Insular Affairs for their favorable consideration of H.R. 9740. I was particularly gratified to learn the committee had taken the trouble to go to Campobello to make an on-site survey.

H.R. 9740 is not only a fine tribute, it is a further and significant step in the bonding of the close friendship we enjoy with our neighbors to the north.

The committee has reported the bill with a few perfecting and technical amendments, and I am pleased to concur in these recommendations.

For the benefit of my colleagues who may not be familiar with the story behind the bill, I should like to include a portion of my recent testimony to the

Subcommittee on National Parks during its consideration of this measure last month:

> Campobello was my father's second home. It was purchased by my grandfather in 1883, the year after father was born, and the house was completed by 1886. Almost every year thereafter, father went to Campobello in the summer, first with his parents, then with his widowed mother, and finally with his own family. After father and mother were married, and there became too many of us to camp out comfortably in grandmother's house, father and mother acquired their own place on Campobello. After mother passed away, the property was purchased by the Hammer brothers, who are well known in the business world and also for their New York art gallery.
>
> My memories of this rugged, rocky island are wonderful ones. It was here father taught me to swim and how to sail a boat. With no telephone and no electricity, the beauty of nature, especially in summer, was in no way spoiled, and Campobello was a wonderful haven from the cares of the world.
>
> Even when I was a boy, the formalities of the border between Canada and the United States were at a minimum. The friendship and understanding of the citizens of these countries has long served as an example for all the world to follow. Now, thanks to the agreement signed on January 22 of this year between the Government of the United States and the Government of Canada, there is an opportunity to establish a further symbol of the fine relationship which has so long existed between our people.
>
> The Roosevelt Campobello International Park will, I am confident, bring considerable enjoyment to many visitors from both countries. The Hammer family has generously offered the Roosevelt summer home as a gift, with the intention that it be opened to the general public as a memorial. H.R. 9740 proposes to establish a Roosevelt Campobello International Park Commission to accept title to the property, to restore the house as closely as possible to its condition when it was occupied by President Roosevelt, and to administer the park as a memorial.

May I also express my appreciation and thanks to my colleagues, the Honorable CLIFFORD G. McINTIRE and the Honorable STANLEY R. TUPPER, for their fine support by introduction of identical bills.

Mr. McINTIRE. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. McINTIRE. Mr. Speaker, I wish to say that I, too, have introduced legislation to establish the Roosevelt Campobello International Park; my legislation—H.R. 9741—being companion to that introduced by Representative ROOSEVELT, of California, and Congressman TUPPER, of Maine.

My State of Maine is deeply interested in this matter, because an international bridge connects Lubec, Maine, with Campobello Island in the Province of New Brunswick. Maine citizens, too, know how fond President Roosevelt was of this area proposed for the park and his profound appreciation of the beauty of the Passamaquoddy Bay.

This international park is unique, for it represents the first time that the United States and Canada have joined hands to share an international park of this nature. And it should be noted that even though the physical aspects of this park would be located in Canada, the United States would share in the privileges and responsibilities of this park project.

I would like to take this opportunity to commend the Hammer family for the generosity and good will it has demonstrated in the advancement of this park, doing this by surrendering up its title to the former Roosevelt estate comprising the Roosevelt home and other ground on Campobello Island.

Mr. Speaker, it would be highly appropriate for favorable consideration to be extended the pertinent legislation, for such a park would serve as a symbol of the very fine international relations that have prevailed through a long span of years between the United States and Canada. The park would also pay tribute to a great President and would, in the process, serve as a point of historical reference and scenic beauty for tourists from the two countries concerned.

The U.S. Department of State has extended its formal approval to the establishment of this park, stating in its report on the legislation as follows:

> The Department of State urges the speedy enactment of these bills so that the park may be established and opened to the general public as soon during the 1964 tourist season as possible.

Mr. Speaker, a substance of the tourist season remains in this year for tourists to use the facilities of the Roosevelt Campobello International Park. The House of Representatives can bring a realization of this use one step closer to reality by approving the legislation now before it. I urge the adoption of this legislation designed to establish the Roosevelt Campobello International Park.

Mr. Speaker, Congressman STANLEY R. TUPPER, of Maine, has introduced H.R. 9742 on the same subject, and he would like to be associated with this statement.

The SPEAKER pro tempore. This concludes the call of the Consent Calendar.

SEVENTY-THREE STUDENTS VIOLATE LAWS IN TRAVEL TO COMMUNIST CUBA: NEW LAWS NEEDED TO PREVENT THIS

Mr. CRAMER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CRAMER. Mr. Speaker, I am here offering a bill which has, as its ultimate goal, the purpose of implementing through effective legislation, the express policy of the State Department's ban on travel to Cuba and other countries with which we don't have diplomatic relations or travel to which is against our national interests.

Through a press release dated June 29, 1961, the State Department publicly announced that all U.S. citizens desiring to travel to Cuba must obtain passports specifically endorsed for such travel by the State Department.

This policy has been repeatedly frustrated and the latest group of U.S. citizens to thumb their noses at our laws are now in Cuba, having made their journey through Prague.

This group of so-called students is lead by Ed Lemansky, a self-admitted Communist. The group plans to stay in Cuba 1 month and then return to this country. They will be subjected to the customary Communist brainwashing and indoctrination and will return to the United States to preach pro-Castro doctrine.

Seventy-three in all, this group, like the group that traveled to Cuba last summer, has dramatized the need for the bill I am introducing today. To date, the Justice Department has been unable to get one single conviction of U.S. citizens violating this travel ban after they return to this country.

This latest venture by American citizens is inexcusable and shows clearly the inability of the State Department to do anything about these people who openly and nortoriously violate our laws.

The bill I am introducing today, a substitute for a bill I introduced over 1 year ago to correct this same problem, serves to separate the passport question from the problem of controlling U.S. nationals as our national interest may require.

In effect, it closes the loophole now existing in our laws and will make prosecution of the ringleaders in this movement possible.

Specifically, it amends the Immigration and Nationality Act to authorize, in the national interest, restrictions on travel by nationals of the United States in certain designated areas of the world, these areas to be so designated by the Secretary of State.

WHO IS TO BLAME?

Mr. FEIGHAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. FEIGHAN. Mr. Speaker, the problem outlined by our colleague from Florida is a very important one, a very disturbing one. The Subcommittee on Immigration and Nationality has had a considerable experience with it. Last year we held a hearing on the illegal travel of so-called students from the United States to Communist-occupied Cuba, via Prague, Czechoslovakia. That hearing was very revealing and established the fact that those so-called students were engaged in a deliberate attempt to violate Federal law; in fact, the hearing established the additional fact that this planned, deliberate violation of law was aimed at forcing a test of the law in our courts, as a propaganda maneuver and in the long-shot hope the validity of the controlling law could be overturned.

The bill introduced by our colleague will be given very careful study by our subcommittee. His purposes are worthy. He seeks to close what may appear to be a gap in law, to make certain that those who break the law will be punished, and to protect our country against those who seek to destroy law as the orderer of society.

I am not yet convinced that the Government does not already have all the authority needed to act in such cases set forth by our colleague. The travel control laws now in effect provide the Secretary of State with authority to proscribe countries that are "off limits" for holders of valid U.S. passports and provides a penalty of $5,000 fine, 5 years imprisonment, or both. The pertinent question is, whether the Department of Justice is applying the necessary vigor and determination to give full effect to the law, or whether the law denies the Department of Justice a clear course of legal action.

There is no doubt of the need to clear up the pertinent question I have raised. Our colleague's proposal serves a constructive purpose because it calls for an answer to that question.

PRESIDENT'S COMMITTEE FOR EMPLOYMENT OF THE HANDICAPPED

Mrs. GREEN of Oregon. Mr. Speaker, I move to suspend the rules and pass the resolution (S.J. Res. 103) to increase the amount authorized to be appropriated for the work of the President's Committee on Employment of the Physically Handicapped.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949 (63 Stat. 409), as amended, is amended by striking out "$300,000" and inserting in lieu thereof "$400,000".

The SPEAKER pro tempore. Is a second demanded?

Mr. GROSS. Mr. Speaker, in order to assure an explanation, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

Mrs. GREEN of Oregon. Mr. Speaker, this bill was passed by the Senate in November of last year. It provides that the funds for the President's Committee on Employment of the Physically Handicapped be increased from $300,000 to $400,000. There was no objection in the subcommittee which considered this bill on the House side. There was no objection from any member of the full committee when it was favorably reported by the Education and Labor Committee of the House. Briefly, the reason for the need for the increased funds is the increased effort to employ not only the physically handicapped but those who are handicapped by reason of mental retardation or mental illness. The record which has been made during the last year speaks very eloquently for the work of the President's Committee. In 1960, when the $300,000 appropriation was first authorized, 88,300 handicapped persons were rehabilitated through the Vocational Rehabilitation Administration. This year the number is expected to increase to 126,000. Over the last 12 months 102,000 disabled veterans were placed in employment. The Civil Service Commission also reported that 9,000 handicapped people found jobs in the Federal Government last year, well above the previous year's record. The placement of the handicapped by the Nation's local public employment offices totaled 278,000, which was very close to the previous year's 280,000 and still far ahead of the 256,000 placement of the year before. One of the reasons for this very heartening increase in the employment of the handicapped lies in the many activities of the President's Committee in cooperation with public and private agencies and organizations. I may also say to the House that in each of the 50 States there is a Governor's committee on the employment of the handicapped and in over 1,000 cities across this land there are also citizens committees to encourage the employment of the handicapped.

Mr. Maas, the ex-Chairman of the President's Committee on the Employment of the Handicapped, in a letter to the Director of the Bureau of the Budget, said this:

Abstract of Letter From Melvin J. Maas, Ex-Chairman of the President's Committee on Employment of the Handicapped, to the Director of the Bureau of the Budget

We feel that a change in our ceiling is imperative during this session of Congress so we may request additional funds in fiscal year 1965, principally for promotional and informational work in behalf of job opportunities for the mentally restored and retarded. The present ceiling of $300,000 has already been exceeded due to the Federal Salary Reform Act. If the executive salary increase is voted, there will be additional salary costs.

Every single person handicapped either physically or mentally who can be employed becomes a productive member of society and the costs to the Government are measurably decreased. The benefits from this program far exceed the costs. Therefore, I urge the House to support the recommendation of the subcommittee and the full committee in increasing this appropriation.

Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. Powell] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Mr. POWELL. Mr. Speaker, I rise in support of the Senate Joint Resolution 103 which would increase the authorization for appropriations for the President's Committee on Employment of the Physically Handicapped from $300,000 per year to $400,000 per year. This additional $100,000 would make it possible to expand the work of the Committee in behalf of job opportunities for the mentally restored, the mentally retarded, and the increasing numbers of physically handicapped being rehabilitated for employment. No one of us present would raise a question regarding the outstanding accomplishments of the President's Committee during the period of years that it has been in existence. It is more than gratifying to note that more than 600 public-spirited citizen organizations and individuals representing business, civic, industrial, labor, medical, professional, religious, women's, veterans, and other groups have given so generously of their time and efforts in helping to utilize to the fullest extent all of our human resources. It is likewise important to realize that the Cabinet members and Federal agency officials who have cooperated in this program have reported unusual satisfaction in the efforts they have made to increase the employability of the handicapped.

America is as strong as its weakest link. We cannot say in one breath that we believe that "all men are created equal, that they are endowed by their Creator with certain inalienable rights" and at the same time mistreat large segments of our population. The Committee, which was established in 1947 by the President, was given more permanent structure through congressional action in 1949. The Executive orders of 1955 and 1962 delineated with greater specificity the responsibilities of the Committee and provided a staff responsible for implementing the general purposes of the public law. Since its establishment, the Committee has been instrumental in providing for a continuing program of public information in education for the employment of handicapped citizens. It has cooperated with all groups interested in the employment of the handicapped including governmental agencies, private groups, and individuals. It has worked with the Governors of each of the 50 States and the mayors of more than 1,000 cities in coordinating the activities throughout our Nation in this important area of employment. It is amazing, indeed, how much has been accomplished by the Committee on such a limited budget as has been provided for their activities. Outstanding among its accomplishments has been:

First. The presentation of awards to employers for exceptional records in hiring handicapped persons.

Second. Development of special studies of the disabled veterans and the special employment problems related to them.

Third. Sponsoring of essay contests as a means of increasing the public knowledge and understanding of problems connected with the hiring of handicapped persons.

Fourth. Preparation and development of public relations materials and programs. Many of the States and local governments feel that they could not have developed as creative programs nor stimulated wide-scale employment had they not had the guidance of the President's Committee. Handicapped persons continually sing the praises of the Committee as they have been in increasing numbers accepted into the labor market and given greater opportunities to express their abilities and skills. With knowledge of the fact that 1 person in 10 in the United States had an impairment which limits his normal activities, greater stress must be given to special employment problems faced by this large number of American citizens. The Bureau of Labor Statistics estimates that in the past 5 years an average of approximately 80,600 persons received permanently disabling working injuries every year. Thus, there are approximately 7 million physically handicapped workers in the United States to whom attention must be given. Added to this number are approximately 18 million persons who have mental or emotional disorders which require psychiatric treatment. Another 5 million are mentally retarded but are potentially trainable.

Such figures demonstrate, undoubtedly, the tremendous need for increased expenditures by the President's Committee in its efforts to help in the employment and acceptance of these Americans. With the acceleration of the job placement program of the employment security offices during the past 2 fiscal years, the President's Committee has stepped up its promotional activities to assure a concomitant increase in the number of handicapped applicants successfully placed. These activities have contributed to a marked forward surge in the total of handicapped accessions to the labor force. For example, total placements of handicapped applicants during 1962 swelled to nearly 280,000 or an increase of 9.1 percent over 1961. The Committee has been actively engaged in helping to remove architectural barriers which impose further problems to the handicapped as they seek employment. One out of every nine persons in the United States would benefit by the removal of architectural barriers. Included in this number are the 3 million with severe heart conditions, the 250,000 in wheel chairs, the 200,000 with heavy leg braces; the 140,000 with artificial limbs, and the 16½ million persons who are over age 65. Thus, with increasing numbers of persons and with improved services and activities, the additional $100,000 per year requested in this Senate joint resolution seems minute. I urge, therefore, the passage of this resolution, and I trust that every Congressman present voting positively for this measure will recognize that he renders a service not only to others but to the development of our basic concept of equality for all Americans.

Mr. GROSS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion of the gentlewoman from Oregon that the House suspend the rules and pass Senate Joint Resolution 103.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and bill was passed.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF HOUSE REPORT 1480 ENTITLED "STATE TAXATION OF INTERSTATE COMMERCE"

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent for the immediate consideration of House Resolution 779.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the resolution, as follows:

Resolved, That there shall be printed one thousand additional copies of House Report 1480 entitled "State Taxation of Interstate Commerce," with illustrations and maps, for the use of the House Committee on the Judiciary.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXTEND INSURED HOUSING LOAN PROGRAM FOR ELDERLY

Mr. PATMAN. Mr. Speaker, I move to suspend the rules and pass House Joint Resolution 1041, temporarily extending the program of insured rental housing loans for the elderly in rural areas under title V of the Housing Act of 1949.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 515(b) (5) of the Housing Act of 1949 is amended by striking out "June 30, 1964" and inserting in lieu thereof "September 30, 1964".

The SPEAKER pro tempore. Is a second demanded?

Mr. HARVEY of Michigan. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. PATMAN. Mr. Speaker, House Joint Resolution 1041 which has been introduced by the gentleman from Alabama [Mr. RAINS], chairman of the Housing Subcommittee of the Committee on Banking and Currency, was reported unanimously from the Committee on Banking and Currency and I believe it is completely noncontroversial. All it would do is provide a 90-day extension for the program of insured loans on rental housing for the elderly in rural areas. This is necessary because existing law includes a termination date of June 30, 1964, and it is evident that the Congress will not have time to act on general housing legislation by then.

This is a small, promising program which was established just 2 years ago by the Senior Citizens Housing Act of 1962 and is part of that growing recognition of the need for more and better housing for the elderly. In fact, the Senior Citizens Housing Act passed the House by the overwhelming vote of 367 to 6. The program involves not 1 cent of cost to the Government. By insuring loans it enables private lenders to fill this urgent need wherever possible. The borrower pays a market rate of interest which covers the insurance premium and the Farmers Home Administration administrative costs, as well as the return to the lender. Since this program operates only in thinly populated places—rural areas and communities of less than 2,500 population—the individual loans are small and, in fact, are limited by law to not more than $100,000 per loan.

Right now there are 56 applications on hand in FHA offices and this resolution is needed to enable the agency to continue processing these loans until the Congress can act on general housing legislation.

I urge all of my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HARVEY of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. GROSS].

Mr. GROSS. Mr. Speaker, I take this time to ask the gentleman from Texas a question or two.

When was this program originated?

Mr. PATMAN. It originated 2 years ago, in 1962.

Mr. GROSS. Why have only seven loans been approved under this program?

Mr. PATMAN. These programs do not get off the ground quickly or immediately, as the gentleman knows. It takes time for planning and many other things. It is making satisfactory progress. There are 56 applications pending.

Mr. GROSS. You do not really expect very heavy participation at a 5¾-percent interest rate, do you?

Mr. PATMAN. Well, there seems to be quite a demand for it; yes. The fact that 56 applications are pending would indicate that demand.

Mr. GROSS. Fifty-six applications are not many for a program of this kind. How does the interest rate compare with the interest rate on the International Development Association loan program? What is the IDA interest rate?

Mr. PATMAN. I do not recall offhand whether the IDA interest rate is 1 percent or less. But in any case, these housing loans are, $50,000, $60,000, or $100,000. They are not small. They are large loans and they are intended to be on a private business basis.

Mr. GROSS. They are large loans?

Mr. PATMAN. Yes, up to $100,000.

Mr. GROSS. Of course, loans to foreigners under IDA can be for several million dollars, is that not true?

Mr. PATMAN. That is true.

Mr. GROSS. And at no interest rate at all for 50 years. How does the gentleman square the IDA program for loans to foreigners, that he supports, with an interest rate of 5¾ percent for the elderly citizen of this country?

Mr. PATMAN. We have to deal with these things on a separate basis. Each one stands on its own legs.

Mr. GROSS. Yes, I guess you do have them on separate legs. But how can you square your philosophy, particularly with respect to an interest rate of 5¾ percent to be levied upon those who want to provide facilities for the elderly of this country with a 50-year loan with no interest for foreigners?

I have been waiting for a reply, but I suspect it will be a cold day in July before the gentleman gives me a good, solid answer.

Mr. PATMAN. I will answer it now. It is for different persons. One is for the elderly people of this country. The other involves foreign affairs and peace in the world, and a program in which we are only one of 17 lending nations.

Mr. GROSS. And peace in the world?

Mr. PATMAN. Yes.

Mr. GROSS. How do you square this insofar as the international program is concerned?

Mr. PATMAN. We want to get along with these other countries. We want to make it possible for them to live so that we are not going to have civil war, chaos or communism. It is part of our overall program.

Mr. GROSS. I am sure the gentleman will agree there is a good deal of fighting and dying going on in Vietnam, and elsewhere in the world. So we are not exactly at peace, and I doubt if the gentleman really believes we are going to buy peace anywhere in the world.

Mr. PATMAN. No single appropriation will do it, I agree with the gentleman. He is exactly right, no single appropriation will do it.

Mr. HARVEY of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. HALEY].

Mr. HALEY. Mr. Speaker, I should like to present a question to the Chairman of the Committee on Banking and Currency. I am also disturbed about the interest rate. We talk a good deal about assisting the elderly people, yet you have in this particular program one of the highest interest rates that the Government collects from any other project or any other agency. I wonder how you can explain, for instance, lending REA funds at 2 percent, or some foreign loans, we make at no interest rate; when here we charge a substantial interest rate on these projects where apparently the Congress and everybody else says they want to help these elderly people.

Mr. PATMAN. This is just one program. It is a plan for large projects, and it takes an interest rate that will, of course, enable the lenders to get their money back and maintain the program on a business basis. It is a private project. The Government is not out any money on this.

Mr. HALEY. I understand that.

Mr. PATMAN. The interest rate is high, but there are other programs where the interest rate is much lower.

Mr. HALEY. May I just say to the chairman of the Committee on Banking and Currency, I hope that someday he and his committee will go over the various rates that are charged for these programs and let us see if somewhere along the line we cannot establish a happy medium so that we will not continually have people saying to you, "Well, the Congress did this in a particular case at a lower interest rate," and so forth. I just wish that there would be some figure beyond which you could not go.

Mr. PATMAN. As long as you have some of them public and some of them private you are going to have differences in the amounts of interest. There is no way to have an exact cost on all programs.

Mr. HALEY. I thank the gentleman.

Mr. HARVEY of Michigan. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, the gentleman from Texas has well summed up the action of our committee on this bill. It was reported out unanimously. In my own case I opposed the omnibus housing bill of 1962 although I was in favor of this particular act when it was reported in 1962. Thus far there have been only 56 applications for this particular program. When you consider that we have 50 States, it shows that over a 2-year period the program has not been utilized to a very great extent. Undoubtedly the factor that has entered into it is the interest factor, which the gentleman from Iowa commented upon, which accounts for the fact it has been used very little. Regardless of that fact, the committee felt that under all circumstances it would be desirable to continue this program for an additional 90 days, and I urge the Congress do that.

The SPEAKER pro tempore. The question is: Will the House suspend the rules and pass House Joint Resolution 1041?

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

EXTENSION OF DEFENSE PRODUCTION ACT OF 1950

Mr. PATMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10000) to extend the Defense Production Act of 1950, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 717(a) of the Defense Production Act of 1950 is amended by striking out "June 30, 1964" in the first sentence and inserting in lieu thereof "June 30, 1966".

SEC. 2. Section 303(b) of the Defense Production Act of 1950 is amended by striking out "June 30, 1965" and inserting in lieu thereof "June 30, 1975".

SEC. 3. Section 304(b) of the Defense Production Act of 1950 is amended by striking out the period at the end of the next to last sentence and inserting in lieu thereof a colon and the following: "*Provided,* That no new purchases or commitments to purchase under section 303 shall be made or entered into after June 30, 1964 (except purchases made pursuant to commitments entered into on or before such date), unless the President makes a finding that such new purchases or commitments are essential to the national security: *Provided further,* That the total of such new purchases and commitments, including contingent liabilities, made or incurred under section 303 after June 30, 1964, shall not exceed $100,000,000."

The SPEAKER pro tempore. Is a second demanded ?

Mr. KILBURN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. PATMAN. Mr. Speaker, the existing program is essential to our national defense. The Defense Production Act was first passed in September 1950 and has been extended at regular intervals since that date. In 1962 it was extended to June 30, 1964.

A number of provisions in the original act have been terminated because they were no longer considered essential. H.R. 10000 would extend the remaining provisions which are deemed essential for another 2 years. First of all, it would extend contracting authority so that purchases and sales of essential goods and services would be extended from June 30, 1965 to June 30, 1975, among other things, and would enable the General Services Administration to contract for the sale of materials that were purchased at a time when materials were considered to be in short supply but which are not now needed in large quantities.

The remaining provisions of the act provide authority for priorities and allocations; authority to guarantee loans to defense contractors who need working capital or equipment for new defense production, as well as lending and procurement authority. Other provisions contain authority permitting voluntary cooperation of businesses to meet defense needs and authority to restrict shipping under the priorities and allocations authority of the act in the case of certain critical materials.

The administration has recommended that all of the above provisions of the Defense Production Act be continued. The administration has also included a provision relating to the cancellation of interest. This provision would be deleted by the amendment at the desk. That is the sole purpose of the amendment. It is preferred because there is a good deal of opposition to canceling the interest payments to the Treasury for obligations created from previous investments in defense production programs. A number of Members are opposed, so, in the interest of getting this very necessary legislation enacted before its termination a few weeks hence, a majority of the committee is willing to eliminate the one controversial feature of the original bill. It is not an essential part of the legislation. Of course, the matter may come up in conference and if it does, we will have to cope with it at that time.

Mr. Speaker, H.R. 10000 with the amendment should be passed without delay.

The SPEAKER pro tempore (Mr. ROONEY of New York). The Chair recognizes the gentleman from New York [Mr. KILBURN].

Mr. KILBURN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I think the chairman of the committee, the gentleman from Texas [Mr. PATMAN] has stated the case well. If Members will look at the report, they will notice every single member of the minority on the committee signed the minority views. In my own judgment, I would think that the House, if it ever came to a vote on that point, would sustain the minority members' views on the payment of interest. The chairman has offered an amendment to correct that and put it the way it was, so that interest has to be paid. I just want to add this.

In view of the position of the House, I would like to have it absolutely understood that our conferees will stick on that and not just try to make the best deal they can—but stick on that point.

Mr. PATMAN. It has always been my policy as chairman of the committee to maintain the position of the House. My loyalty to that principle has been demonstrated in the past. That will be my position and I know it will be the position of the other conferees if we have a conference on this bill. If we were to agree to an absolute commitment in advance, we would tie our hands and we would be, in effect, telling the other body that they will have to go a certain way or there would be no bill.

Furthermore, it would be in violation of the rule of the House, as I understand the rules to provide, that every conference between the two Houses must be a free conference. The conferees must have that freedom to act and they must have flexibility. They cannot be placed in a straitjacket.

Mr. KILBURN. But the conferees can be instructed.

Mr. PATMAN. But they cannot agree in advance that they will do certain things. I have known it to happen in the Congress, where one body did that and the other body would refuse to have a conference on the theory that the rule requires the conferees to be free and, if the conferees are tied up, there is no free conference. All I can say to the gentleman is that I personally will do my best to maintain the position of the House and I feel sure that the other Members on this side will do likewise.

Mr. KILBURN. I would point out to the gentleman that I understand the rules of the House, but I still want it to be understood that we are agreeing to this on the understanding that the House is going to stick to its position.

Mr. Speaker, I now yield 3 minutes to the gentleman from Ohio [Mr. TAFT].

Mr. TAFT. Mr. Speaker, I take this time because I think the House should know, in view of the colloquy that has just taken place with regard to the matter of what may happen in conference with regard to this interest payment, that the Director of the Bureau of the Budget appeared before the committee and at that time presented a letter and followed up his letter with his personal statement. There is a particular provision in the letter that I would like to call to the attention of the House. This statement is as follows in a letter dated April 23, 1964, from Kermit Gordon, Director, to the chairman of the committee, the gentleman from Texas, the Honorable WRIGHT PATMAN. It reads as follows:

> No useful purpose would be served by continuing to require payment of interest on funds borrowed from the Treasury some time ago to finance the acquisition of these largely inactive inventories.
>
> To continue to require the payment of interest would only add additional costs to the program, thereby increasing the deficit of the fund. This would require seeking an appropriation each year for the sole purpose of paying interest to the general fund, by the movement of funds from one pocket into another, with no effect on the Treasury.

My question is, Does the chairman, in view of the fact that he is agreeing to the amendment and in view of the fact that the majority of the committee is agreeing to the amendment, have any information indicating that there has been a change of position by the Director of the Bureau of the Budget or by the administration in regard to this provision?

Mr. PATMAN. All I can say to the gentleman is that I expect personally to do everything I can to maintain the position of the House, and I believe the majority Members will do as much to maintain the position of the House on this subject. We are not going for or against the Director of the Bureau of the Budget. We are concerned about getting the bill through by June 30—passing it in the House of Representatives; in agreeing to this amendment, we obligate ourselves as conferees to maintain the position of the House.

That will be my position.

Mr. TAFT. The question I have is, Has there been any indication of any change of position on the part of the administration in this connection?

Mr. PATMAN. I have not contacted the administration. I do not know of any. I assume they would not change, because they were rather adamant in their position. Of course, they base that on something the gentleman did not bring up. They base that on the precedent that in the 80th Congress—which was, of course, under the control of the gentleman's party—the Congress did agree to do a similar thing concerning the Reconstruction Finance Corporation. It was believed that since it had already been done at one time, and by the opposite party, there would be no problem for the administration to get this through as proposed.

But we are trying to get this bill through by June 30. To do that we are agreeing to the amendment.

The **SPEAKER** pro tempore. The time of the gentleman from Ohio has expired.

Mr. KILBURN. Mr. Speaker, I yield the gentleman 3 additional minutes.

Mr. PATMAN. Mr. Speaker, will the gentleman yield further?

Mr. TAFT. I am glad to yield further to the gentleman from Texas.

Mr. PATMAN. We agreed to sustain the gentleman's position on the interest provision, as I said, and, in doing that, we obligated ourselves to maintain the position of the House.

Mr. TAFT. I thank the gentleman for his explanation.

I should like to comment somewhat further on this. At the time the action was taken in respect to the Reconstruction Finance Corporation, the future ongoing activity of that corporation in every respect, except for the pure liquidating process, certainly was one of termination.

Under the provisions of this bill, as presently proposed, certain functions, it is true, would be terminated, and there is a liquidation in process; however, as I understand it, many other functions may continue over a long period of time.

I should like to point out, to the extent that this interest might be removed from the budget as originally proposed, this would present a more favorable budget comparison in this election year. This is similar to what happened on the Commodity Credit Corporation bill, which came before the House awhile ago, as to which there was a discrepancy presented in regard to the comparative budget figures because of the wiping out of required payments of some $930 million. This bill, I would suggest, would be a part of the same pattern, unless the amendment is adopted and stuck to by the conference committee. I feel that this is necessary, because I consider that this bill is another instance of "budget gimmickry" which is being carried on by the present administration in fixing up comparisons as between fiscal years 1964 and 1965, a process which began with the state of the Union message, in which it was stated with pride that the figures were going to be some $1 billion lower than the figures presented to the House for the fiscal year 1964 by President Kennedy. In fact, the actual comparison should have been between the figures actually approved by this House and the figures being asked for fiscal year 1965, which would point out that the budget increase actually involved and being asked for, was in excess of $5½ billion.

Mr. PATMAN. Mr. Speaker, I yield myself 3 minutes.

The gentleman from Ohio has suggested that the interest waiver originally in the bill was political, that it was intended to keep the budget down, and that it would present an untrue budget or a false budget. I do not share the gentleman's views.

If we wish to impugn motives, we could even say that the gentleman was opposing this because he would like to put the administration in an unfavorable light by requiring the payment of a large sum of money as interest, when it is really not true at all. Either way the budget surplus or deficit would not be changed.

That is just like taking money out of one pocket of Uncle Sam and putting it in another pocket of Uncle Sam. There are strong arguments in favor of the original proposal, but we have given up the argument because we want to get the bill passed now, having agreed to the amendment, and we are committed to defend the position of the House. That is what we will do. However, I assure the gentleman that there are no politics in this, not on our side at least, nor am I accusing the gentleman of making politics out of it on his side.

Mr. Speaker, I hope this legislation passes.

The **SPEAKER** pro tempore. The question is on the motion of the gentleman from Texas that the House suspend the rules and pass the bill H.R. 10000.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

EXTEND FEDERAL RESERVE DIRECT PURCHASE AUTHORITY

Mr. PATMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11499) to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(b) of the Federal Reserve Act, as amended (12 U.S.C. 355), is amended by striking out "July 1, 1964" and inserting in lieu thereof "July 1, 1966" and by striking out "June 30, 1964" and inserting in lieu thereof "June 30, 1966."

The SPEAKER pro tempore. Is a second demanded?

Mr. KILBURN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. PATMAN. Mr. Speaker, this bill would extend for 2 years the authority of the Federal Reserve banks to purchase U.S. obligations directly from the Treasury up to a limit of $5 billion.

This direct purchase authority was originally provided in 1942 for a period of 2 years and has been extended periodically since that time. The existing authority expires on June 30, 1964.

Secretary of the Treasury Dillon and Chairman Martin of the Federal Reserve, in testimony before our committee, strongly urged the passage of H.R. 11499. This authority is designed to protect the U.S. Treasury against the inevitable uncertainties in estimates of receipts and expenditures, in borrowing operations and any other contingencies such as a national emergency. In addition, this seldom-used power permits more economical management of cash and by allowing the public debt to be kept at a minimum thus saves the taxpayers unnecessary interest costs.

Mr. Speaker, the Banking and Currency Committee unanimously approved this legislation. I do not see how anyone could seriously object to it and it should be passed without delay to avoid lapse on June 30.

Mr. Speaker, I reserve the balance of my time.

Mr. KILBURN. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. GROSS].

Mr. GROSS. Mr. Speaker, this is the legislation which the late and distinguished Senator from Ohio, Mr. Taft, described back in 1942 as a printing press money bill. Make no mistake about it, there could be outstanding within 2 years' time, if it is so desired, at the expiration of the life of this bill, $5 billion in printing press money, and there would not be much that could be done about it except to levy taxes to take the money out of circulation if that should be the case. The authority, as provided by this legislation in the past, has not been abused. I fervently hope it will not be. I simply point out the dangers inherent in this kind of legislation.

Mr. KILBURN. Mr. Speaker, I think this is a good bill. I think it is a fine arrangement, and just for the information of the gentleman from Iowa, although perhaps he knows it, it has been used just twice or for 2 days on one occasion in the last 9 years.

It is simply a device to quickly take care of a possible shortage due to tax returns in the Treasury.

I am sure that both Chairman Martin and Secretary Dillon realize the situation. They have been very, very careful in the manner in which they have operated under it.

Mr. Speaker, this is a good thing to have in a backlog if some unforeseen emergency came up. That is the reason they have never used anywhere near the amount authorized, of course, since 1942.

Therefore, I believe that we are all agreed, at least on our side, that it is a good bill and I hope that it passes.

Mr. GROSS. Mr. Speaker, would my friend, the gentleman from New York, yield to me?

Mr. KILBURN. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. I tried to make it plain that this authority had not been abused insofar as I have been able to discover and it is my fervent hope that it will not be abused, but I am sure my friend, the gentleman from New York, will agree with me that there is nothing to prevent cranking up the Government printing presses and printing $5 billion worth of currency that could be outstanding at the termination of the effectiveness of this act.

Mr. TAFT. Mr. Speaker, will the gentleman yield?

Mr. KILBURN. I yield to the gentleman from Ohio.

Mr. TAFT. Mr. Speaker, I think it should be made clear here that regardless of what the provisions of the original bill may have been in this regard back in 1942—and I will be frank to say that I do not know what they were. I do know that the provisions here can apply only if the Federal Reserve goes along with the request of the Treasury to make the borrowing which is requested by the Treasury on an emergency basis.

Mr. Speaker, in view of this additional safeguard and the confidence which many of us have in the Federal Reserve as it is already set up, at any rate, I see no particular danger involved in the bill which I think we need to go into today.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Texas that the House suspend the rules and pass the bill H.R. 11499.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. This concludes the suspensions.

Mr. GROSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GROSS. Mr. Speaker, it is not then proposed to take up H.R. 4994, the labeling of imported woven labels?

The SPEAKER pro tempore. The Chair will advise the gentleman that that bill has been put over.

PRAYER AND BIBLE READING IN PUBLIC SCHOOLS

Mr. BECKER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include a letter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BECKER. Mr. Speaker, it is 10 days less than 2 years since the U.S. Supreme Court's decision barring prayer and Bible reading in our public schools.

I have tried in those 2 years to bring this matter before the House. Finally the Committee on the Judiciary started hearings in April, but up to the present time we have no result of those hearings.

I would like the Committee on the Judiciary to bring in a recommendation. Knowing the time is running short in this session, however, I have sent a letter to the members of the Committee on the Judiciary and Members of the House asking for their support and signature on the discharge petition I have filed. I did not do this during the course of the hearings starting in April up until the present time, but I feel with the shortness of time I must now proceed and ask the Members to furnish the balance of the 52 signatures necessary to bring this matter before the House during the present session.

The letter I refer to follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 15, 1964.

Re discharge petition No. 3: (H.J. Res. 693 and 58 identical open rule, 4 hours' general debate).

DEAR COLLEAGUES: The hour is getting late in this session of Congress, time is running out, and that is what the opposition is counting on.

Almost 2 years have passed since the Supreme Court decision of June 25, 1962, the hearings have been held, and there is no word of any action to be taken by the committee—111 Members have introduced similar resolutions—166 Members have signed the discharge petition—many of these have never signed one before. The issue is entirely different—a principle is involved—52 more signatures are necessary. Many Members have assured me they will sign if nothing is forthcoming from the Judiciary Committee.

I advised the members of the Judiciary Committee last week that I am forced to make this move—and I hope you will understand. The urgency of this matter is so great, and I believe, with all my heart, the great mass of the American people support this move to return the first amendment to its original meaning—as it stood for 175 years.

In listening to the opposition testimony before the Judiciary Committee, I almost forgot I was living in a democracy. The word "democracy" was constantly stressed by the opposition witnesses. All I seemed to hear was the constant refrain, "We must respect the right of the minority, even a minority of one." True, but what about the right of the great majority? Is this a thing of the past? I always thought the "spirit of tolerance" was a two-way street, but it was very apparent the "opposition" does not think so and only desires the right of the "minority of one" to receive consideration.

By this amendment, children throughout this Nation will have the right, once again, to offer prayers and read from the Bible in our public schools—on a voluntary, noncompulsory basis.

All I ask you is to "let your conscience be your guide." Sign the discharge petition now and bring this matter to the floor of the House, for debate and a vote.

Sincerely yours,

FRANK J. BECKER,
Member of Congress.

FREE ENTERPRISE IN THE FREE WORLD: A BUSINESS-GOVERNMENT JOINT VENTURE

Mr. MICHEL. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MICHEL. Mr. Speaker, when the National Chamber of Commerce held its 52d annual meeting here in Washington April 26 to 29, 1964, Mr. William Blackie, president of Caterpillar Tractor Co., Peoria, Ill., and the Honorable Dean Rusk, Secretary of State, engaged in an interesting colloquy entitled "Free Enterprise in the Free World: A Business-Government Joint Venture," and I ask unanimous consent that the entire text of this colloquy be reprinted in the RECORD at this point.

COLLOQUY—FREE ENTERPRISE IN THE FREE WORLD: A BUSINESS-GOVERNMENT JOINT VENTURE

(By William Blackie, president, Caterpillar Tractor Co., Peoria, Ill., and the Honorable Dean Rusk, Secretary of State)

Mr. BLACKIE. Mr. Chairman, chamber members, ladies and gentlemen, Mr. Secretary, those of us engaged in international trade, and particularly in operations involving oversea investment, recognize that in the ordinary course of our business we are, or could be, an arm, an instrument of American foreign policy. When this is so, we would hope to be a good right arm, and it is in this spirit that we approach discussion of business-Government relations and responsibilities in foreign economic affairs. We do not have in mind any idea that the one would make decisions for the other or that decisionmaking would be a joint responsibility. Each has its separate and proper functions and objectives, but in the long run these should tend to converge on one point of perspective—a strengthening of the United States. In such circumstances, I believe I speak for American business when I say that we are prepared to recognize our responsibilities as an instrument of national foreign policy. To be as effective as possible, however, we feel that in some respects we could properly be aided more and possibly restricted less by our own Government. We understand that this view is now becoming more widely held in official circles here in the Capital and that you, our Secretary of State, are one of the leading exponents of the idea of a more constructive rapprochement in foreign affairs between National Government and international business.

On behalf of the Chamber of Commerce of the United States, I therefore offer you a very special welcome to this meeting, Mr. Secretary, and I invite you to open this morning's path to greater understanding by telling us first how you define what U.S. foreign policy is trying to accomplish today and to what extent American business abroad is, or might be, a means toward achieving the objectives.

Secretary RUSK. Mr. Blackie, let me first say how very happy I am to have a chance to be here with you and the chamber of commerce this morning.

As a matter of fact, the central objectives of our foreign policy and the guiding principles on which we operate are relatively simple and are well understood both at home and abroad. You can find a modern definition of them, for example, in articles I and II in the preamble of the United Nations Charter.

If people become puzzled, as they frequently do, it is because it is not easy to know how to apply those principles and to seek those objectives in relation to some very complicated and fast-moving and even dangerous situations in all parts of the world. It isn't surprising that they are puzzled, because we who carry responsibility are frequently puzzled as well. But in essence what we are trying to do is to help to build a world environment in which this country will be safe and prosperous. And that is just about it.

For the first decade of our history we exploited, if you like, the differences among the then great powers to help us on this continent in developing it and expanding the United States. We went into about a century of isolation, and then during and after World War II we discovered that our own safety and prosperity required us to take a massive interest in the affairs of the rest of the world. And so under today's conditions we must be strong enough to deter aggression and to reduce the dangers of nuclear war, because nuclear war is an operational question under modern conditions.

We must expand and strengthen our relationships with other free world industrial countries, to develop that common strength that we need, and we must help the developing countries of the free world to realize their own aspirations for modernization and for a better life.

Now, you men in business play a critical role in all of these three. A high level of business activity and a growing, dynamic economy here at home makes it easier for us as a nation to meet our large international responsibilities. The GNP and its rate of growth are very important elements in our total strength, and so we in the Department of State are very much concerned about how we are doing at home.

Foreign trade and investment, which are carried out by the business community itself, can greatly strengthen ties among these countries of the free world, and of course you can do a great deal through trade and investment in the developing countries of the world as a major instrument for bringing modern technology to grips with the problems of economic growth.

Now, I think there is another element, too. You are the ones who can demonstrate as responsible businessmen that modern capitalism is not the kind of capitalism against which Karl Marx ranted in the middle of the 19th century, because that ideological struggle is still important, and the ghost at which Karl Marx was pointing no longer exists, even if it did exist in part only in the 19th century.

And so responsible management has a great deal to do with telling the rest of the world what kind of country we are.

Mr. Blackie, I will be interested in knowing what you as an experienced international businessman are trying to accomplish overseas and what in general you find to be the objectives of American business abroad.

Mr. BLACKIE. Our motives and objectives as private businessmen are, within our sphere, not unlike those which you have defined as the purposes of national foreign policy.

We seek to secure and improve our position in a world in which long-term success rests on the basis of progressive accomplishment. We recognize that growth and prosperity are matters of decision and action. The ultimate objective of both nation and business must surely be betterment, improvement, gain. In the national sense, a gain is probably best measured in real security—economic and social and political and military strength in relation to that, of course, of the opposition.

In a business sense, gain is measured by success in the honorable processes of earning a profit, in the face of whatever competition may exist.

In order to do our part better, it would be helpful if we in business knew more about our Government's attitude toward our operations abroad, what it expects of us; are we to export more but invest less, are we to trade everywhere but to eschew investment in the more developed countries while increasing it in the riskier, less developed areas?

Secretary RUSK. Mr. Blackie, in the first place I would urge you to be yourselves when you go abroad and be yourselves at your best. I see no reason why businessmen should have different goals in their operations abroad than they have at home, because the very qualities that enable a firm to operate at a profit and to protect the interests of its shareholders and employees apply to operations abroad. Expert knowledge, flexibility, imagination—those are the things that mark the management of any successful firm, and those when applied abroad turn out to be a powerful support of American objectives abroad.

But conditions abroad vary. They differ from those at home. And it is the test of good management to gear operational methods to the conditions of the market. So, if U.S. business is to be effective in trading with other industrial countries, and we think it is essential that you be successful, then it must not view these countries as merely an extension of the U.S. market. We must be prepared at all times to compete, both at home and abroad, with foreign goods. And that competition will be difficult, but it will be to the mutual advantage of both ourselves and our trading partners.

The more open our trading environment, the stronger will be the economic foundations of the free world.

Now, in the developing countries of the world we should be alert to the great differences in conditions and outlook that characterize these nations as well as their needs, and we must be prepared to adjust to these individual situations. The opportunities for large-scale trade and investment are there.

Remember that the great adventure of American business has been in the growth of American population and its own standard of living, and out in that part of the world lie the vast markets of the future on which expansion can be built. But they require greater reliance on new forms of investment, more emphasis on manufacturing sectors, through joint ventures and licensing agreements, and efforts to train the nationals of these countries for management positions as rapidly and extensively as we can.

Our commitments abroad are long-term commitments, and these modern operating guidelines which you gentlemen have been hammering out in your own experience would be consistent with that type of long-term commitment. I think experience shows and will show they also make good business sense.

In turn, Mr. Blackie, what does business expect from its Government abroad?

Mr. BLACKIE. I think business expects only that kind of cooperation to which it is entitled by reason of its position as a corporate American citizen, a U.S. taxpayer, and a member of that great body of private enterprise which, in pursuing its own ends, generally also serves the best interests of the country as a whole.

I might inject a personal thought also, because I have a rather strong opinion that since it has chosen to exact its pound of taxation from the flesh of our overseas gains, if any, our Government has incurred an obligation to contribute some quid pro quo. And business, I believe, is perfectly willing to fight its own battles when it is free and able to do so. But it needs and deserves help when it runs up against a sovereign power in areas, for example, where the matter must necessarily be handled on a government-to-government basis. These would include reduction of foreign barriers which impede exports of American goods, tariff duties, nontariff barriers, and some of the more subtle forms of discrimination which will undoubtedly be discussed in Geneva in the forthcoming weeks.

We would hope, too, that in helping to build up the growth and expansion of other nations' economies our Government would avoid doing so by subsidizing projects in direct competition with private U.S. business. I happen again to have a rather strong personal opinion which does not favor the so-called import replacement view, one which says it is more blessed to help a foreign country make our products than it is to receive the many benefits of holding that market by the export of goods made in America. And my view is even dimmer when this sort of thing is financed with any part of our tax money.

We respect the whole concept and function of competition when it is conducted on equal terms, but these do not include the involuntary subsidization of one competitor by another.

Finally, we need the best possible cooperation from our Government embassies and missions abroad. We know, Mr. Secretary, that you have moved to upgrade the quality of official representation both in the commercial and economic areas. Perhaps you would like to tell us what we may now expect in these avenues of expanding opportunity.

Secretary RUSK. We have been making very serious efforts here in recent years to provide better Government service for American business abroad. Now, truth to tell, business and Government fell into some rather lazy habits during and after World War II when we were in a seller's market and the great problem was to find the goods to meet the demand around the world. That situation has changed. We are now required to compete and compete with increasingly effective competitors. So we have got to sell. We have got to provide the services.

Now, diplomatic efforts must reinforce that in every possible way. We have been emphasizing that to our Ambassadors and to all the members of our embassies, not just to the commercial representatives. We have been trying to expand our commercial representation, but we have had a certain difficulty in getting appropriations to expand those as much as we should like. But trade opportunities are a major target of our diplomatic representation abroad.

We need to find better ways to get that information to you as promptly as possible, so that those of you who can do something about it can move in to meet them.

There are still some unresolved questions that we need to work out on the basis of some experience. For example, at what point do you gentlemen want us to get into a situation where you are having your difficulties? From your point of view, you are better off to do it yourselves to the extent that you possibly can, and to call upon us when trouble seems to be looming and you need some help.

From our point of view there is the problem if we are to be brought in on the crash landing that we get in on the takeoff, so we need to keep in close touch with each other to see how our diplomatic effort can reinforce your own. But I think we are improving in these respects, and I think you are finding, from all the reports I get, that you are getting increasingly effective support.

Mr. Blackie, what can business itself do to help put our foreign economic policies into effect? I have been very much interested, for example, in your experience with the Illinois Trade Expansion Commission. I wonder if you could comment on that.

Mr. BLACKIE. Well, for business in a position to do so, one good way to aid foreign economic policy is to maximize domestic jobs, profits, even income tax revenues, through exports. This would also contribute the maximum toward more favorable balances of trade and of payments. In this regard, I believe that not nearly enough exporting is being done, and that many units of so-called private American enterprise are being more private than enterprising. In saying this, I hope I am not being inordinately proud of the fact that in the past decade the company with which I am happily associated has made a net contribution of $2½ billion to the balance of payments, and that last year, had it not been for our exports, the deficit would have been 10 percent greater.

Another business contribution to our objectives abroad would be made through foreign investment and licensing. As the profits return to the United States—and they are returning at a faster and heavier rate—they add to the sum total of our productive capital, our industrial wealth, and our economic strength. And while they are being used abroad, American money, know-how, and initiative help to build the kind of free, strong, independent societies that can help to preserve our similar form of society and the system that makes it possible.

As to the Illinois Committee for Trade Expansion, it consists of a group of about 50 Illinois businessmen who, because of their active interest in international trade and their experience and understanding of its significance, have willingly accepted the Governor's invitation to undertake voluntary work in an effort to stimulate exports from Illinois. Illinois is already the greatest exporter State in the Nation, but this is no reason why it should not be greater. So we have been conducting meetings, seminars, workshops, but our most dramatic and I think our most immediately rewarding action was the charter flight mission to Europe, with principal ports of call in Britain and West Germany. Seventy-eight responsible businessmen from our State made the trip, and they would vouch for its effectiveness.

I am sure they would also wish me to express their gratitude for the excellent preparatory work done by the U.S. Department of Commerce.

Now we are working with a number of other organizations that have similar interests, and we are seeking to aid them, to be the catalyst where they could do the job better than we.

Sans doute the purpose of our committee is to create jobs, to substitute employment for unemployment, to relieve distress and the burdens that go with it through the expansion of international exports from Illinois.

Benefits at a State level are, of course, equally valid at the national level. In few if any other objectives could there be found such a happy combination of mutually inclusive benefits to business, government, and the public at large.

Now, to direct a somewhat related thought to you, Mr. Secretary, there are some indications that our business activities overseas, our exports and returns on investments, may overcome the other reasons for our chronic payments deficit. Do you agree with this, and if so what are you doing to encourage it?

Secretary RUSK. We have been very much encouraged, quite frankly, in the last several months to see the strong improvement that has occurred in our balance-of-payments situation since the middle of last year. We do need a trade export balance of several billion dollars if we are to sustain our necessary international responsibilities in the years immediately ahead.

As you point out, our trading position is better and receipts from oversea investments have risen. We hope this trend will continue, and we expect for the year as a whole, a much improved position from that of 1963. But, on the other hand, we are not yet close enough to a position of equilibrium, and we can't relax our efforts to increase exports and strengthen our competitive position abroad.

And so, as far as the Government is concerned, as I pointed out a few moments ago, we are prepared to take every step that we can to encourage that development. The Cabinet Committee on Exports meets regularly to consider new possibilities. The National Coordinator for Export Expansion is trying to interest more American firms in foreign markets. The Government is trying to furnish improved credit facilities available to the exporter, and our entire Foreign Service, all of our posts overseas, are organized to give every possible assistance to our businessmen interested in foreign markets.

I might say also that I, too, am in the tourist business. I have solicited tourist business personally, and I have crossed the ocean to talk to a chancellor about chickens, so that I, too, am getting into this business of trade support and stimulation.

Mr. BLACKIE. What is it that U.S. policy is designed to accomplish in the complex and very important area of our relations, diplomatic and economic, with the so-called less developed countries? What kinds of societies, what kinds of economies are we trying to help them build? Are we trying to mold them in our image, or do we care if they emerge along socialistic lines?

Secretary RUSK. I would like to enter just a word of caution about the abuse or over-use of this word "socialistic." I think we need to remind ourselves that here in this country there is a very large involvement of public funds and finance in Federal, State, and local governments, larger than in some countries which call themselves socialist, and in some countries which call themselves socialist or are governed by a socialist government there is a very large and vigorous private sector.

Perhaps the best answer to the question is to repeat what President Johnson said on this subject in his speech last week to the Associated Press:

"What we desire for the developing nations is what we desire of ourselves—economic progress which will permit them to shape their own institutions and the independence which will allow them to take a dignified place in the world community."

The term "developing countries" includes a majority of the nations of the world and a majority of the world's population, and these countries are greatly diverse in culture and history and social organization.

Now, we ourselves are firmly convinced that these countries can make the most rapid progress in their attempt to achieve economic growth by giving all possible scope to private enterprise. It has proven to be a highly adaptable form of economic organization, which in all circumstances manages to bring out the individual initiative that makes for economic progress. And we are not overlooking the fact that the Communist world, let alone the socialist world, is now talking a great deal about incentives and the necessity for letting a great many individuals make the hundreds of thousands of decisions that have to be made every day in a large and complex society. But as a nation we don't ourselves seek to dictate the form or shape of the econmic systems of other countries. These are basic questions of national policy and national decision in each of the countries concerned.

But, on the other hand, it is our objective to help these countries share with us a common environment of freedom and independence, and as a practical matter we believe that means a large and strong and vigorous private sector left alone to do its job, in accordance with the experience which we have had over the decades with private enterprise.

Now, Mr. Blackie, what do you think American business expects from these less developed areas? What factors persuade a company to go into a relatively new and unstable area? What kind of advice would you like to give them about the interests of American business?

Mr. BLACKIE. Well, one factor which would persuade a company to move into such an area would be, of course, natural resources not elsewhere available, or so readily or on such favorable terms. But apart from this as in a manufacturing enterprise, I presume that the major attraction would generally be an opportunity to capitalize on the market and profit proceeds which look sufficient to justify the risk. Unfortunately, the risk taking element in a profit earning enterprise is not always given the respect it deserves. Profit is not the wages for mere work. It should also encompass special reward for special risk taking. When we, for example, go into countries like Brazil, which is included among the less developed countries, we go for several reasons. One would be to supplement exports; another to defend an existing worthwhile market. But perhaps the most important in the long run would be to establish a place for broader future markets to be served as may be appropriate from foreign production or exports from the United States.

This leads me rather naturally to a question about our foreign aid program. As you know, this chamber has held a position favoring foreign aid as a proper part of U.S. foreign policy, and this it has continued in spite of some occasional misgivings about administration, effectiveness, cost, and interminability. Sometimes we may even wonder why we are for it, and we get a little bit concerned, this morning's paper says, perhaps unduly, about planned economies and the whole concept of planning.

Would you please help us reinforce our convictions or at least our position?

Secretary RUSK. Mr. Blackie, I think it is important to draw the distinction between a national development plan or a country plan, as we would see it from the point of view of our own AID organization, and a planned economy.

U.S. foreign aid is designed to stimulate the mobilization of private capital and not to replace it. Our program in effect must encourage and mobilize maximum self-help measures if they are to assist the developing countries to achieve self-sustaining growth. So its development plan is a major vehicle for determining those self-help measures, and one way of determining foreign aid requirements. It is somewhat comparable to some of the steps that one has to take in a Western country in allocating resources in time of war, because some of these countries are engaged in a war against their problems at the present time. It provides a framework for testing the consistency between a government's development objectives and the resources available to meet these objectives, because we don't like to see our aid simply disappear without a trace in the absence of a rational approach to development on the part of the receiving country. And these plans, so called, do help allocate those resources, somewhat in the way that an investment budget perhaps helps a company to apportion funds among its various divisions and enterprises. But these plans are consistent with a strong and growing private sector. Indeed, opportunities for the private sector are part of the plan. They are not to be confused with the notion of a planned economy in which the entire economy is run from a single center.

We should also remember that when foreign assistance is used to help countries build up their basic services—transportation, communications, and power—those things open up new opportunities for private investment and greatly improve the investment planning.

Now, another reason I think why you gentlemen should continue your support of foreign aid, which we have very much appreciated, is that it does help to provide jobs and exports here at home. Foreign aid supports American trade. More than 80 percent of AID's economic assistance funds are now being committed to buy products made in the United States. The percentage is still higher, above 90 percent, if you include Export-Import Bank loans and food for peace and military equipment.

It is estimated that the work that goes into producing commodities and equipment for foreign economic aid is the equivalent of more than 500,000 full-time jobs, but alongside of that is the fact that, by general experience, aid does open up channels of trade and is a powerful adjunct to the future development of a vigorous trade program.

I don't know whether I have helped to persuade you, Mr. Blackie, but how do you see this aid program now as you think about it?

Mr. BLACKIE. I think you have helped me, Mr. Rusk, to realize I am probably more afraid of planners than I am of plans.

As I mentioned, the chamber supports foreign aid, and one of the reasons it does so lies in the belief that it can promote private enterprise and initiative in these less developed countries. We have accordingly worked to encourage a maximum private business role in aid programs, and in this regard we particularly appreciate the cooperation we have received from AID Administrator David Bell.

The chamber is cooperating, for example, in establishing a new executive service corps of experienced U.S. advisers overseas, and I would not be surprised if some of the candidates are in the hall this morning.

But foreign aid, as we all know, can only help needy countries get started on the development process. They also need trade. These developing countries, therefore, are asking for some rather far-reaching preferences at the U.N. Conference on Trade and Development going on just now in Geneva. It seems neither the U.S. Government nor U.S. business is fully prepared to meet most of these demands. What can business and Government do, together or separately, to expand trade with the last developed nations?

Secretary RUSK. There are some expectations abroad these days which cannot, I think, be fully met, partially because economic facts don't permit it, but we can and must do a great deal to give the developing countries the opportunity to export more to us, and this is the only way they will be able to pay for their growing import requirements for machinery and equipment. A strong domestic economy will in itself provide a better market for the exports of those developing countries, but in addition we and other industrial countries must be prepared to reduce tariffs and other barriers to the import of primary products, semiprocessed materials, and manufactured goods of special interest to the developing countries. We should be prepared, with other industrial countries, to cooperate wherever and whenever feasible in efforts to stabilize the prices of specific primary commodities which are in chronic oversupply, and to do so at levels that are consistent with market forces and with development requirements.

Finally, we can do a great deal, both Government and private firms, in providing technical assistance to exporters in the developing countries. They need better knowledge of marketing opportunities abroad, the facts of markets, and the stimulus to upgrade the quality and design of their products to take advantage of these opportunities.

Mr. BLACKIE. Not all of our trade problems, of course, are with the less developed countries. There is a good deal of talk just now that the so-called Kennedy round of tariff negotiations under GATT, scheduled to start in Geneva next week, will not lead to substantial trade benefits for either us or Western Europe. What do you deem to be the prospects, and what might business do to help our Government win its battle for expanded trade, particularly with highly industrialized Western Europe?

Secretary RUSK. I hope no one is expecting these Kennedy round negotiations to be either quick or easy, but we do believe that the prospects for this Kennedy round are good. There has been much talk of our differences, and we tend to overlook the large area of consensus. We are agreed in general on a working hypothesis of a 50-percent cut in tariffs, with a minimum of exceptions, and we have also made good progress in clarifying the rules of the negotiations. But we should expect a period of hard bargaining, as is appropriate among large trade partners who are friendly with each other. But the main point is that we and our industrial friends continue to believe that there is great mutual advantage in further reducing the barriers to trade and expanding the volume of trade.

The public advisory committee, which includes you and other members of the chamber, will be very helpful in providing us with a continuing point of contact with American industry during the course of these negotiations, and so we shall be in very close touch with you about it.

Mr. Blackie, what do you see as the major obstacle to expanding trade among the industralized nations of the free world?

Mr. BLACKIE. One is the very purposeful intent of most of the industralized nations to become even more industrialized, more self-sustaining, more competitive, more export expert, and in fact to try to outdo us in all we are trying to do or be, and in their endeavors they are frequently favored by advantages of lower wage rates, lower taxes, and tax systems which favor exports. Thus, in our own Federal system a very substantial part of the revenue is derived from taxes on income and relatively little from taxes related to the sale of goods, but in the major countries of Europe, those most competitive in third party markets, a considerable portion of national revenue is obtained from sales turnover or value added taxes, which in accordance with the provisions of GATT are waived when goods are exported.

There may be some kind of argument on grounds of principle as between income taxes and sales taxes as a means of raising revenue, although it is my impression that we generally tend toward an expedient compromise between political acceptability and "get it where you can." But in international trade we cannot dictate the rules of the game, and if we are going to play to win we can hardly expect to do so if we place ourselves at a significant price disadvantage.

I suggest, therefore, that we recognize that in third party markets we are lacking an advantage which could only be obtained if it were decided to modify our tax system to one which places less reliance upon disincentive income tax and more upon moderate sales or value added or similar type of tax, roughly in harmony with the uniform practices toward which the European Common Market is moving.

But when we talk of expanded trade with Europe, or for that matter investment there, we seem generally inclined to presuppose that we are really moving toward closer economic, if not political, relations with Europe. In the light of some of the seeming strains in the Atlantic Alliance, recently so evident in the actions of General de Gaulle, is any assumption of an enduring Atlantic partnership a realistic one? Are we and Western Europe drifting apart rather than closing ranks?

Secretary RUSK. I have no doubt at all what the present and future long-range trend will be, and that is toward unity and toward partnership. There are some discussions from time to time that throw some doubt upon it and disclose some differences, but those differences have to do with how we write the next chapter, how we take the next step, and do not really bear upon the unity of the Alliance of the Atlantic if we were faced with external threat or serious danger. Indeed, free Europe itself, despite some of the discussions across the Atlantic, is moving toward unity. The three executives of the three communities are being unified this year, and we ourselves are moving toward closer partnership with this newer developing Europe.

There is a great deal of cooperation that has also been achieved by us and Europe in defense, in political consultation, and in trade, and financial and economic and other matters. The importance of these achievements is sometimes underrated because we and our European allies recognize that we must address our efforts to new tasks and to additional requirements in each of these fields, and where we go in this great process necessarily causes large public discussion and discloses some difference of approach. And so there are some strains, but they come about through differences in point of view about the future and the future direction. They arise also from changes in our relative position, as Europe continues to grow strong and to become better equipped to assume greater responsibilities and obligations. This "20-mule team" of the free world was pulled just after the war by 1 mule. The other mules were in the wagon, licking their wounds. Now they are out in harness and they are pulling this wagon. And those who think that there may not be problems about which directions we go don't recognize either mules or sovereign States.

Mr. BLACKIE. In this broad general area the hottest topic at the moment seems to be the so-called depolarization of the Communist bloc. There seems to be some growing thinking that it might be good for more than one reason if through trade we would establish a somewhat closer relationship with at least some of the European Soviet satellites, one in which they might perhaps turn a little more to the West and a little less to the East. I have read with great interest your explanation of why different Communist countries should be considered and treated differently. We are now doing business with Yugoslavia; Poland, Hungary, and Rumania have just stopped jamming our radio broadcasts, and the idea that we might aid our national policy, our foreign purpose and domestic business, by developing channels of trade and communication with some of these countries seems to me to have enough merit to justify very careful consideration. If you feel free to express them, we would certainly be pleased to hear your thoughts on that.

Secretary RUSK. Mr. Blackie, differences within the Communist groups of countries are, of course, a very significant development of these most recent years, and our position is that since these countries no longer form a monolithic bloc in political terms we should not treat them as a monolith in trade terms. I personally am inclined to keep my own eyes on two questions. One is: Are they prepared to leave their neighbors alone and live in peace? Second, are they making a strong effort peacefully to address themselves to the unfinished business of their own people? In other words, we must tailor our trade policies to differentiate among the Communist countries, in accordance with differences of behavior in each of these countries. Now, in the case of the U.S.S.R., which is a largely self-sufficient industrial complex, the hard core of our policy is to prohibit export of items of direct military significance. We also restrict shipment of machinery and data embodying certain items of advanced technology that might adversely affect our national security and welfare. But we do permit the flow of trade in and other consumer goods as well as in most types of equipment for production of these goods.

In the case of Eastern Europe, our policies take into account the different situations we see in the individual countries. You mentioned Yugoslavia. But, now some of these other Eastern European countries are seeking closer relations with Western Europe and the United States, and so in our trade policies we have sought to encourage such tendencies.

But in Communist China and North Korea and North Vietnam we face countries actively engaged in aggressive activities. They are not leaving their neighbors alone, and in response we have imposed a total embargo on our trade and any financial transactions with these areas.

In Cuba our restrictions on trade are a part of our total effort under the policies of the inter-American system as expressed at Punta del Este—to isolate Castro's regime and to reduce its capacity to subvert other governments, and those attempts at subversion continue. The Cuban economy is in bad condition and in our view should not be assisted by the free world.

But, in carrying out these policies we are trying to gain agreement with our allies on prohibiting the sale of commodities that would build up the military strength of the Communist countries. And I note that the proposal of the chamber on East-West trade supports this position.

In the area of trade in peaceful goods, I don't believe that we can do business with Communist countries simply on their terms. There are problems to be worked out in this field, particularly those relating to the protection of industrial property and to pricing policies, but we are prepared to explore these problems as a part of our effort to make trade a useful instrument of policy in our relations with Communist countries.

From the point of view of the businessman, under what conditions would you sell to Russia? Do you see a difference between the Soviet Union and these other countries?

Mr. BLACKIE. The question reminds me of George Orwell's "Animal Farm," when the Communist pigs declared, "All are equal but some are more equal than others."

Perhaps your question, Mr. Secretary, may be answered for my part by the gist of an internal memorandum which I recently wrote for general guidance within my own company. It has five points:

One, U.S. Government approval would be a basic prerequisite for any trade with any member of the Soviet bloc, and I would hope if it were given it might be something more than a mere passive consent.

Two, we would not be interested in doing business with a Soviet or satellite country unless the volume of business were to be fairly substantial. There would be no point in selling just a few machines of a few different models or a few prototypes to be copied. The time, trouble, and risk would not be justified, and the later consequences could destroy any earlier benefits. In my opinion, we should try to concentrate on reasonable quantities of relatively few models.

Three, if we could attain the foregoing objective it would simplify our third requirement that we would not be prepared to sell in any country unless adequate measures were taken to provide the necessary parts and service support. Our company's success has lain in providing our customers with all three basic elements—machines, parts, and service—and we should not depart from this principle in dealing even with a Soviet satellite.

Four, we should sell for nothing less than full price. If there are to be intermediaries between the Caterpillar source and the ultimate user, the intermediaries would have to get their margin of reward out of a price higher than the one we ordinarily realize.

Five, I believe also that we should grant no special credits to the Soviet Union or any of its satellites. At this stage of developments I do not think we would be justified in taking anything other than a least-favored-nation position.

Let me ask you another question related to this whole matter. The current issue of East-West trade has been brought to the fore in part by failures of communism in the economic sphere. Is weakness in the Russian and Red Chinese economies a source of Western satisfaction or not? Are we more afraid of Communist success or of the dangers of a belligerent Communist reaction to its own failures?

Secretary RUSK. I think this turns a great deal upon what the Communists are going to do with their resources. I am a little skeptical of the notion that a fat Communist is a peaceful Communist until I know whether in fact the additional resources which become available to him are going to be used to make people fat instead of making them well armed. The allocation of resources is the important thing. It could be a very important matter to peace and to us in the free world if the Russian people, for example, and the people of Eastern Europe find a way to require that the allocation of resources is directed more heavily to the consumer end. We have some interest in more goulash and in that second pair of pants. But it comes back to the question of what they are going to do about the rest of the world, whether they are going to leave their neighbors alone, whether they can recognize the fact that peaceful coexistence means peaceful coexistence and not simply a continuation of the world revolution through other means.

So these are things that need to be explored. There is an element of sobriety in the present situation, at least in Eastern Europe. There are elements of additional danger out in Peiping and the area surrounding Peiping but I think we are in a period of motion. I think there are points that need exploration. Trade exploration is one of them, but we should not be under any illusion as to what the character of the present problem is. We do not see yet the end of the trail or where the policies of these principal Communist countries will be leading. There is not yet a detente, Mr. Blackie, not yet a detente. Certain agreements have been reached, but the big, explosive, dangerous situations are still with us—Berlin, Cuba, Vietnam, and some others. Now there is a groping toward a greater responsibility, and we think there is an element of caution, an element of realism in a world in which there can be a nuclear exchange. I think they are concerned about it across the curtain as we have to be concerned about it here. But these things have to be probed.

I don't see major and dramatic developments in this direction immediately ahead of us on any front, but we continue to probe, to find out whether we can find additional points of agreement, to move us a little further toward other points, whereby we can find out whether in fact peaceful coexistence can come to be real, as ordinary people in the free world would understand it, or whether a world of tension is for our future. But that means we must remain strong, continue our effort, show sturdiness as well as patience and get on with this job. And that means defense budgets, it means foreign aid, it means space efforts, it means a tremendous effort on the part of American business to see that our great economy here flourishes and that we put ourselves in a strong economic relationship with free countries right around the rest of the world.

U.S. PAVILION AT WORLD'S FAIR A DISAPPOINTMENT

Mr. RUMSFELD. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. RUMSFELD. Mr. Speaker, as an American, I was amazed, disappointed, saddened, and, finally, maddened, during my visit to the U.S. pavilion at the World's Fair this weekend. Regrettably, it is a national disgrace, and that is probably an understatement. There is so much of the greatness of this Nation that needs to be told and retold, yet the impact of our costly fair pavilion is almost totally negative.

Meaningless newspaper blowups dominate the exhibit and a movie, constituting one-third of the exhibit and highlighting crowd and mob scenes is a waste of time and concludes with a credit line commercial for a New York bank. The ride, constituting another one-third of the exhibit, presenting a series of slides on American history, also falls short of the mark. Impressions on departing the pavilion are of civil rights demonstrations, crowds, mobs, and words such as "exploited," "conquered," "oppressed," "trampled," ring in one's ears.

This negative portrayal of U.S. life tells little of our Nation. Rather than inspire the thousands, young and old, who see the exhibit weekly, it effectively neutralizes any feeling they may have for this Nation. How did this happen? Who is responsible? The Smithsonian, the Archives, the Library of Congress, museums across the country, all would gladly lend historical documents and historical items for the exhibit. The film shown to thousands each week in Williamsburg, titled "the Story of a Patriot," could be made available and would say more in 35 minutes at little or no cost than the entire U.S. exhibit. Little use is made of our great American music. Again, this would be easy to remedy.

Mr. Speaker, I am today writing the President and the Secretary of Commerce urging that immediate steps be taken to revamp the contents and exhibits in the U.S. pavilion so that it can tell the eloquent story of our country and convey to the visitors the true greatness of this Nation. This can be done through inspiring movies, the use of music, and displays of historical documents and items, at relatively little cost.

I have recently received a communication from Independence Hall of Chicago offering to loan valuable documents and other appropriate historical Americana pertaining to our national heritage for the display and, in addition, offering to help raise some of the money that may be necessary to revamp the U.S. exhibit. There is, in my opinion, no excuse for delay.

THE U.S. EXHIBIT AT THE WORLD'S FAIR IN NEW YORK

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. ASPINALL. Mr. Speaker, I have listened with amazement at the criticism of the gentleman from Illinois with reference to the U.S. exhibit in New York. I have seen that exhibit twice, and I enjoyed it the last time more than I did the first time I saw it.

There are certain lessons to be drawn from that exhibit and the showing which is made, and I am quite favorable to what is intended and how it is presented.

SENATOR BARRY GOLDWATER'S CANDIDACY AND ITS IMPACT ON REPUBLICAN CAMPAIGNS

Mr. MICHEL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MICHEL. Mr. Speaker, if BARRY GOLDWATER is the Republican candidate for President, he will help more Members—via the coattail route—than any other Republican candidate. A survey, in which I participated, appearing in the June 14, 1964, issue of the New York Herald Tribune points out the aforementioned fact.

It was particularly interesting to note that out of 37 votes cast in the New England and Middle Atlantic States, 20 Members indicated that Senator GOLDWATER would not hurt their chances. It is therefore obvious that among those whose political careers are at stake in the so-called liberal areas, a majority do not object to Senator GOLDWATER.

Under unanimous consent, the aforementioned survey is included at this point:

WHERE GOLDWATER WOULD HELP AND WHERE HE'D HURT GOP

(By Michael F. Keating and Richard L. Madden)

Unlike Republican Governors, most Republican Congressmen, Senators, and aspirants are not alarmed at the prospect of running on a ticket this fall headed by Senator BARRY GOLDWATER. In fact, a majority say they like the idea.

But a sizable number of Republicans facing the test of the electorate are unhappy with the conservative Senator and fear that he might bring them down in defeat at the polls. These Republicans come mostly from the large industrial States, the States that hold the large populations and electoral votes so necessary for the election of a President.

These were the findings of a Herald Tribune poll of 125 Republican U.S. Senators, Representatives, and candidates for those 2 offices across the country.

The question: "In your judgment, would a Goldwater ticket this fall help, hurt, or make any difference in your candidacy in your district?"

The result: 53 said it would help, 28 said it would hurt, 33 said it would make no difference, 11 said they didn't know or didn't want to discuss it.

When the poll was taken last week, the "stop Goldwater" movement at the Governors' conference in Cleveland had collapsed and it appeared that Senator GOLDWATER had the nomination within his grasp. Therefore, the poll does not show the effect of Gov. William W. Scranton's entrance onto the scene as an active contender for the presidential nomination. At the conference, most of the Republican Governors expressed unhappiness at the prospect of a Goldwater-led ticket.

Geographically, Senator GOLDWATER was most popular among GOP officeholders and seekers in the South, Midwest, Mountain and some Western States. The endorsement from the South was unanimous.

He was least popular in New England and the big Middle Atlantic States.

Possible effects of a Goldwater ticket on the GOP congressional and senatorial races has been a favorite guessing game in recent days. "That's all they're talking about in the cloakroom," one Republican Congressman said. "They've even forgotten sex as a topic."

Help or hurt? It depends on who you talk to. For example, two GOLDWATER backers—Representatives JACK WESTLAND, of Washington, and BRUCE ALGER, of Texas—predicted that a Goldwater national ticket would result in an increase of 30 to 40 House seats for the Republicans.

But the moderate-liberal Republican camp came up with its survey showing that with Senator GOLDWATER the GOP stands to lose 30 to 50 House seats and 5 seats in the Senate, including those of KENNETH B. KEATING, of New York, and HUGH SCOTT, of Pennsylvania.

At present, the House is 274–178 Democratic with 3 vacancies; the Senate, 67–33 Democratic. All House seats are at stake this fall, but only 9 of the 33 Republican Senators are up for reelection this year.

Across the Nation, here is what they had to say:

NEW ENGLAND

Of the 10 Republican Congressmen from New England interviewed, none thought that Senator GOLDWATER would give them much help in getting reelected.

Three said a national GOLDWATER ticket would hurt them, five said it would not make much difference, and two said they either didn't know or declined comment.

"It's too bad that it won't be Lodge," said one New Englander. "But I don't think it will make much difference in my getting reelected."

Several GOP Congressmen from New England said they were banking on a moderate-to-liberal platform on which they could campaign. "I don't think it (a national GOLDWATER ticket) will be too relevant as long as there's a good platform," said one. "I'm not too concerned about my changes, but I know some of the guys are."

Perhaps he was thinking of a fellow New Englander who said a GOLDWATER ticket "will put me in real trouble." It "might very well result in my defeat," he added.

MIDDLE ATLANTIC

In the populous, big-city Middle Atlantic States, including New York, Pennsylvania, and New Jersey, Senator GOLDWATER is regarded as more of a hindrance than a help by a number of Republican Congressmen.

Of the 30 GOP lawmakers running for reelection and interviewed by the Herald Tribune, 4 said Senator GOLDWATER would be a help, 14 said he would hurt their candidacies, 11 said it would make no difference, and 2 said they did not know or declined comment.

"On the whole," said one Pennsylvania lawmaker, "I would say GOLDWATER could carry my district, but naturally I'd be better off with Bill Scranton. I would have to work much harder with GOLDWATER heading the ticket."

"It will hurt," echoed another easterner. "With GOLDWATER," he added, "Republicans are going to have to paddle their own boats."

One eastern Congressman, asked how Senator GOLDWATER would affect his campaign, replied with a long silence. "That's your answer," he said. Asked to be more specific, he replied with an unprintable word.

The anti-GOLDWATER sentiment, however, is not unanimous among eastern solons. Several Congressmen noted, for example, that they come from districts with big Republican majorities and said they could see little impact on themselves with a GOLDWATER ticket.

"My district is pretty conservative," said one eastern Congressman. "I think Senator GOLDWATER could be a help to me."

MIDWEST

Next to the South, BARRY GOLDWATER is most popular in the Midwest. Of the 51 incumbents or candidates reached in that area, 27 said the Senator would help their campaigns, 6 said he would hurt, 14 said he would make no difference, and 4 had no opinion or comment.

Perhaps hurting the most of all is the Reverend Wilbur N. Daniel, a Negro Baptist minister running in Chicago's First Congressional District, which is nearly 100 percent Negro. "Senator GOLDWATER definitely will hurt my campaign," the Reverend Mr. Daniel said. "He does not stand for the things that the people in my district want." What will he do? "I will disassociate myself from the Senator as much as I can."

Another candidate, this one in Indiana, beat around the bush for 5 minutes before admitting: "Well, off the record, I'd be better off without GOLDWATER."

But at least two other Indiana incumbents said the State was basically a conservative one and a conservative at the head of the ticket would be good for all.

A candidate for a congressional seat in Iowa now held by a Democrat said a GOLDWATER candidacy would be damaging "but I don't think it's going to be as bad as some of us thought. Unless he changes his tune, though, it's going to be a little hard for us. It's going to give the Democrats quite an opportunity to embarrass us. I'm hoping to keep my campaign confined to local issues."

Incumbents in Ohio offered two sides. "I think it will hurt," said one man. "I'm just lucky I don't have much of an opponent this time."

Representative JOHN M. ASHBROOK, of Ohio, said: "It's about time. I like to see conservative representatives assert themselves. It is fine for the candidacy and for the party."

The reason given by those who said Senator GOLDWATER would be an asset was that their States were conservative ones and like the conservative views espoused by the Senator.

SOUTH

Few Republicans are elected in the South. But hope springs eternal, so there are Republican candidates. All of the men contacted who are seeking congressional seats now held by Democrats said they thought a Goldwater ticket would help their local campaigns.

"He's the only man mentioned who can help me," said William T. Stockton of Jacksonville, Fla., who is running in that State's Second Congress District, which never has elected a Republican. Mr. Stockton, a lawyer, felt that Senator GOLDWATER's stance on civil rights (basic responsibility is the States') would draw Democratic votes, and that's what a Republican needs to be elected in the South. "An integrationist could not be elected in my district," Mr. Stockton said. "GOLDWATER's stand on cloture (against) is something I can talk about here."

Paul J. O'Neill of Miami is running in the Third Congress District, regarded as the most liberal in Florida. It has the highest concentrations of Negroes, Jews, and other minorities of any district in the State. He thinks Mr. GOLDWATER will help him because he will attract a big white vote on the Republican side. "If the ticket was headed by any one more moderate it would hurt me," Mr. O'Neill said. It would be futile in his district to have a liberal Republican at the head of the ticket, he said, because the liberal vote always goes solidly to the Democrats. Besides a white vote, Mr. GOLDWATER also should bring out a lot of Republicans for a change because "he offers a choice," Mr. O'Neill said.

Rhodes Bratcher is running in the Second Congress District in Kentucky, which Republicans stand a chance of winning, and he likes Senator GOLDWATER, too.

"I think there is a strong surge of conservatism in this district," he said; "I think I can win with GOLDWATER." The district covers 16 predominantly rural counties. "There is disenchantment with the Democratic Party over how they've handled the civil rights issue," he said.

MOUNTAIN

Mountain State Republican Congressmen in general said they would be glad to have Senator GOLDWATER as the party's standard bearer. Of the six interviewed, five said a Goldwater ticket would help them win reelection. Only one said he would hurt.

"What else could GOLDWATER be but a help?" said one Republican. "He is a westerner, too. He is very popular in the area. He would be a tremendous help."

"Senator GOLDWATER will be a big help to candidates in the Southwest, West, Midwest, and the South," echoed another Mountain State Republican.

"Just say it will be a help," said another.

The only discordant note from the area was one from Congressman who said some of Senator GOLDWATER's views were "a cause for worry."

But this westerner added that a moderate Republican platform, and Senator GOLDWATER's actions and statements over the next few weeks could still help him attract the needed independent voters in his area.

WEST

Of the 19 Republican incumbents or candidates contacted in the Western States, nine thought Senator GOLDWATER would help, four thought he would hurt, three thought he would make no difference, and three had no opinion or no comment.

There were strong feelings on both sides, particularly in California where the liberal-conservative clash was vigorous and bitter in the Goldwater-Rockefeller primary election contest. "There is not a doubt in my mind that any candidate other than GOLDWATER will make my job much more difficult," said Robert C. Cline, of Los Angeles, a conservative running in the 22d Congressional District, one of the highest income suburban areas in the country and 54 percent Democratic despite it. "The Republicans who do the work are conservatives and they will work much harder for a conservative candidate," he said.

But in another part of Los Angeles—low income, many Negroes, a lot of labor unions, 65 percent Democratic—the GOP candidate was not happy. "I do not consider GOLDWATER an asset," he said, then added plaintively—"I do not think any Republican will help me." He does not plan to advertise his Republicanism.

"He will hurt like hell," said an incumbent California Congressman. "It will not defeat me, but it will make it harder for me where I would have had an easy race." His district went big for Governor Rockefeller in the primary.

Another California incumbent said that Senator GOLDWATER "will help four Republican candidates around the country whereas his name on the ballot might hurt one."

Those contacted in Oregon and Washington did not think the Senator's candidacy would affect them much one way or another. Senator GOLDWATER did very poorly in the Oregon primary election.

PRAYER AND BIBLE READING IN PUBLIC SCHOOLS

Mrs. GREEN of Oregon. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Mrs. GREEN of Oregon. Mr. Speaker, probably no single issue, other than civil rights, has generated more mail in congressional offices during this session of the 88th Congress than that which concerns pending amendments to the first amendment to the Constitution. Hearings on the amendments have been held by the House Judiciary Committee. The amendments were offered as a consequence of the decisions by the Supreme Court on prayer and Bible reading in public schools.

There is obviously extensive misunderstanding as to just what the Court did state in its majority decisions. It did not remove God from the classroom as some would have us believe. It did not prohibit voluntary religious exercises or silent prayer in classrooms. It did suggest that church and home are the most effective places for effective religious training of our boys and girls.

Fortunately, in recent weeks, many respected Americans, both in the ministry and the laity, and many major religious organizations have spoken clearly on the matter. Some of these enlightening, informative viewpoints I include in the RECORD at this point:

IS A PRAYER AND BIBLE READING AMENDMENT NEEDED?

(Statement of California Southern Baptist, Apr. 23, 1964)

Two historic Supreme Court decisions regarding required Bible reading and prayer in the public schools have opened the door to a wave of confusion growing out of a misunderstanding of what the Court said. Well meaning but misinformed Americans have denounced the Supreme Court and some have even called for the dissolution of the Supreme Court.

A rising tide of misguided action now threatens to overthrow one of the most cherished principles enunciated in the Constitution of the United States. The irony of this situation is that the dozens of amendments to the Constitution which have been proposed in Congress are all based upon a misunderstanding of what the Supreme Court said in the celebrated prayer and Bible-reading cases. It is widely assumed that the Supreme Court prohibited Bible reading and prayer in the public school. The Supreme Court has nowhere banned or prohibited the reading of the Bible or the offering of prayer in any of the Nation's public schools. What the Supreme Court did say was that the Government at various levels could not require Bible reading or the offering of prayer. This is vastly different from what many have understood.

The Constitution of the United States says simply, in the first amendment, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." By this simple statement the framers of the Constitution were guaranteeing to posterity the right to worship and conduct their religious affairs according to the dictates of individual conscience. Government is restrained from either restricting or promoting religion in any way. Thomas Jefferson said, in words quoted by the Supreme Court, that the first amendment erected a wall of separation between church and state. The Supreme Court across the years has upheld the principle of official Government neutrality toward any and all religious groups and practices.

In the two celebrated Bible-reading and prayer cases argued before the Supreme Court, the circumstances in each of the cases were that the Government—in the person of the school board—was officially requiring the reading of the Bible and/or the recitation of an officially composed prayer. The essence of each case did not hinge upon the fact of either Bible reading or prayer within the school. The point under consideration in each case was the fact that the Government, through its authority and prestige was requiring a religious act. In rendering its decision in the cases under consideration, the Supreme Court made it quite clear that its judgment was upon the fact of a school board as a governmental agency requiring a religious observance and not upon Bible reading or prayer as such.

The Supreme Court took great pains to indicate the value of religious culture in America and even suggested that an objective study of the Bible in the public schools would be proper. The carefully worded decision of the Court pointed out the importance and values of religion in American life. The Supreme Court decision in each case was not hostile to religion; rather, it was a major decision designed to guarantee the religious freedom which our forefathers sought. It is improper for government at any level to require any kind of religious observance. Religion is a matter of personal choice and practice in which the government may not interfere in any way.

Many public officials, particularly in the schools, have gone to ridiculous extremes in misapplying the Supreme Court decisions. They have twisted what the Court said to give a foundation to ridiculous and unjust rulings of various sorts. If the Supreme Court had said what some people think it said, then an amendment to the Constitution would be needed. The problem, however, is not with what the Court said but with a misunderstanding of the historic decisions delivered by the Nation's highest Court.

The various proposed amendments to the Constitution, if adopted, would have the effect of destroying the very principle of religious freedom guaranteed by the first amendment. It is ironic that the very thing which many of the proposed amendments seek is not prohibited either by the first amendment or the Supreme Court's interpretation of that amendment. It is unfortunate that the various proposed amendments would destroy the very atmosphere of religious freedom which they seek.

We do not need a new amendment to the Constitution. What we do need is an understanding of the one that we have. We suggest that those who so readily criticize the Supreme Court for its history-making decisions and others who would so readily butcher the constitutional provision of religious liberty with ill-conceived amendments would do well to read carefully the Supreme Court's decisions in the so-called Bible reading and prayer cases. We do not believe that they have understood what the Constitution says in the principle enunciated in the first amendment or the clear and correct interpretation announced by the Supreme Court in upholding the integrity of religious freedom in America.

The Supreme Court throughout our history has endured periods of popular misunderstanding and reaction against some of its historic decisions. In most of these instances time has proved that the Court's decision was right. The Supreme Court in recent years has received considerable criticism for decisions in other cases. It would be a national tragedy if Americans were now to destroy the constitutional guarantee of religious liberty simply to take a legal slap at the Supreme Court while giving expressions to certain other frustrations.

A program of required Bible reading and prayer in the public schools cannot produce anything more than an innocuous religion of religion itself. If Christianity has become so weak that it must depend upon government-required Bible reading and officially composed prayer for its existence, Christianity has then already become a dead religion of the past and no amount of Government support can resurrect it.

Benjamin Franklin said "When a religion is good * * * it will support itself and when it cannot support itself and God does not care to support it, so that professors are obliged to call for help of the civil power, it is the sign * * * of its being a bad one."

We do not believe that the kingdom of God on earth is brought about through Government sponsorship of religion. Let us keep the present constitutional provision of complete religious liberty so that every individual and group may have complete freedom to pursue and extend their religious faith. What the Constitution has provided let not man obliterate.

In the words of James Madison, said to be the father of the Bill of Rights, "It is proper to take alarm at the first experiment on our liberties. * * * Who does not see the same authority which can establish Christianity, in exclusion of all other religions, may establish, with the same ease, any particular sect of Christians, in exclusion of all other sects?"

Those who would alter the provision of the first amendment to the Constitution would tamper with the soul of America. May God and the American people forbid.

PLACE OF RELIGION IN THE PUBLIC SCHOOLS

(A policy statement of the National Council of the Churches of Christ in the United States of America)

No person is truly educated for life in the modern world who is not aware of the vital part played by religion in the shaping of our history and culture, and of its contemporary expressions. Information about religion is an essential part of many school subjects such as social studies, literature, and the arts. The contributions of religious leaders, movements, and ideas should be treated objectively and broadly in any presentation of these subjects. Public school administrators and textbook producers are to be commended for the progress made to date in including objective information about religion in various subject matter fields. Teachers should be trained to deal with the history, practices, and characteristics of the various religious groups with competence and respect for diverse religious convictions. Their greatest influence will be through the life and attitudes they reflect in the classroom. They should be free as persons to express their own convictions in answer to direct questions from pupils when appropriate to the subject matter under study.

The full treatment of some regular school subjects requires the use of the Bible as a sourcebook. In such studies—including those related to character development—the use of the Bible has a valid educational purpose. But neither true religion nor good education is dependent upon the devotional use of the Bible in the public school program.

The Supreme Court of the United States in the regents' prayer case has ruled that "in this country it is no part of the business of Government to compose official prayers for any group of the American people to recite as part of a religious program carried on by the Government." We recognize the wisdom as well as the authority of this ruling. But whether prayers may be offered at special occasions in the public schools may well be left to the judgment of the board responsible for the program of the public schools in the local community.

While both our tradition and the present temper of our Nation reflect a preponderant belief in God as our source and our destiny, nevertheless attempts to establish a "common core" of religious beliefs to be taught in public schools have usually proven unrealistic and unwise. Major faith groups have not agreed on a formulation of religious beliefs common to all. Even if they had done so, such a body of religious doctrine would tend to become a substitute for the more demanding commitments of historic faiths.

Some religious holidays have become so much a part of American culture that the public school can scarcely ignore them. Any recognition of such holidays in the public schools should contribute to better community understanding and should in no way divert the attention of pupils and the community from the celebration of these holidays in synagogues and churches.

We express the conviction that the first amendment to our Constitution in its present wording has provided the framework within which responsible citizens and our courts have been able to afford maximum protection for the religious liberty of all our citizens.

[From the Christian Century, Apr. 1, 1964]

COMMITTING RELIGIOUS SUICIDE

Several religious and political forces in the United States appear determined to destroy the Nation's constitutional guarantee of religious freedom. In State legislatures and in the U.S. Congress they have launched more than 100 attacks upon the first amendment. * * * The numerous efforts to circumvent the U.S. Supreme Court's decisions on Bible reading and prayer in the public schools are variously motivated. Some of the efforts rise from a sincere but misguided notion that the Supreme Court's rulings have jeopardized religion in the United States. * * * Whipping the Supreme Court, even when it faithfully interprets the Constitution, is a popular pastime, and a political candidate who runs on a platform that defends God expects from providence a reciprocal courtesy. The American Jewish Congress views attempts to amend the Constitution to permit prayer and Bible reading in public schools as "the most serious challenge to the integrity of the Bill of Rights in American history." The danger is even graver than that. Frenetic attacks on the Bill of Rights imperil the very soul of the Nation and jeopardize every man's right to worship and obey God in freedom. God does not need our defense, but we need to defend ourselves against religion-intoxicated fanatics, sincere but bungling religionists and opportunistic politicians who offer us their kind of religion and their brand of god in exchange for God-given religious freedom.

May 14, 1964.

The Honorable Edith Green,
House Office Building,
Washington, D.C.

My Dear Mrs. Green: Representing the Seventh-day Adventist Church in the United States, I wish to lodge our protest against the proposed Becker amendment, and any others of similar purpose. In our opinion these amendments would breach the wall of separation between church and state, restrict religious freedom guaranteed by the first amendment to the Constitution, and be a divisive force in American society.

The Supreme Court of the United States has recently upheld the basic safeguard of religious freedom by declaring that no government authority may prescribe prayers or readings from any version of the Scriptures in public schools. Far from being an attack on religion, this decision is a protection of religion. Once our Government begins supporting any religion by either legislation or funds from the public treasury, then religion will be set against religion and the American ideal will be shattered.

We urge your support of the first amendment to the Constitution, and your opposition to the Becker amendment and others of similar purpose.

Respectfully yours,
Theodore Carcich,
President, North American Division, General Conference of Seventh-day Adventists.

The United Presbyterian Church
in the United States of America,
April 29, 1964.

The Honorable Edith Green,
House Office Building,
Washington, D.C.

Dear Congresswoman: Concerning current proposals to amend the U.S. Constitution so as to permit prayer and Bible reading in public schools, we wish to call to your attention the action taken by the General Assembly (plenary body) of the United Presbyterian Church in the U.S.A. in May 1963:

"Religious observances (should) never be held in a public school or introduced into the public school as part of its program. Bible reading in connection with courses in the American heritage, world history, literature, the social sciences, and other academic subjects is completely appropriate to public school instruction. Bible reading and prayers as devotional acts tend toward indoctrination or meaningless ritual and should be omitted for both reasons. * * *"

This statement had previously been studied in committee for over a year, and was then referred to the presbyteries and churches for further study before its final adoption. Of the 131 presbyteries and 989 congregational groups reporting the results of their study, nearly two-thirds of both gave their approval. The statement was adopted in the General Assembly by a vote of 528 to 298. The general assembly is half laymen, half ministers.

We are aware of the apparently widespread popular support for proposals like the Becker amendment (H.J. Res. 693). But we have the very clear impression from the experience of our denomination that, in contrast to unconsidered and emotional reactions to the Supreme Court decisions, careful study of the issue by responsible groups usually results in decisive opposition to such devotional practices in governmental institutions.

The same general assembly also "expressed its conviction that the first amendment to the Constitution in its present wording has minimized tension and conflict among religious interests, and for 180 years has provided the framework within which responsible citizens and our courts have been able to afford maximum protection for the religious liberties of all citizens."

We hope you will oppose all efforts to make the freedom to worship and the other liberties guaranteed by the Bill of Rights, subject to majority vote.

Sincerely,
Joseph J. Copeland,
Chairman, Counseling Committee, Church and Society.
Margaret E. Kuhn,
Acting Director, Office of Church and Society.

[From Ave Maria, national Roman Catholic publication, Apr. 4, 1964]

BEFORE THE SPEECHES ON A PRAYER AMENDMENT

A rule was suggested at a recent meeting of authors and editors: If you're going to use a quotation, at least avoid quoting yourself.

In our issue of December 21 we said of the problem of prayer in public schools: "* * * it seems to us that it is a panic reaction to suggest that only a constitutional amendment can solve what is certainly a serious problem for our society."

However, there is a reason for restating this position at this time. Not too long after this appears we're going to be hearing a great many statements in favor of God, prayer, the Constitution, and public schools. (Not always in that order.) On April 22 the House Judiciary Committee will begin sessions on the desirability of an amendment to the Constitution which would override the recent Supreme Court decisions on this matter.

Because some of the testimony before Congressman Celler's committee will suggest that opposition to this amendment involves opposition to God, the Constitution, and the public schools, we wish to repeat our position before the oratory begins.

We favor prayer at all times * * * for everyone. We oppose organized prayer practices in public schools when they defy the ruling of the Supreme Court. We do not, at this time, see any convincing argument for a "prayer amendment" to the Constitution. In fact, we see very grave reasons against such a move, the most important of these reasons being (as we said in our issue of December 21): "Authority over religious education should not be conveyed by majority vote."

The Greater Portland
Council of Churches,
May 14, 1964.

Representative Edith Green,
House Office Building,
Washington, D.C.

Dear Mrs. Green: In a regular meeting on May 13, the board of directors of the Greater Portland Council of Churches voted to accept the statement and recommendations presented concerning the proposed amendments to change the first amendment of the Constitution and thus overturn the Supreme Court's decision on prayer and Bible reading in the schools.

A copy of that statement as accepted is enclosed.

Sincerely,
William B. Cate,
Executive Secretary.

GREATER PORTLAND COUNCIL OF CHURCHES, CHRISTIAN SOCIAL CONCERNS COMMISSION—STATEMENT CONCERNING BIBLE READING AND PRAYERS IN THE PUBLIC SCHOOLS WITH SPECIAL REFERENCE TO PROPOSED CONSTITUTIONAL AMENDMENTS, MAY 13, 1964

The Greater Portland Council of Churches recommends the following:

1. Stresses the importance of Christian people knowing the contents of the recent Supreme Court decisions regarding Bible reading and prayers in the public schools, and the official positions of cooperating Protestant denominations on this matter; e.g., the position of the United Presbyterian Church, United States of America, the Methodist Church, the Lutheran committee embracing three synods, and others.

2. Emphasizes that worship and Christian education, including Bible reading and prayer as devotional acts, are responsibilities of the church and home.

3. Challenges Christian pastors and people to take the lead in helping the community find ways in which the study of religion can properly be made a part of the public school curriculum in connection with courses in the American heritage, world history, literature, comparative religions, the social sciences, and related subjects.

4. Commends those school systems, officials, and teachers who have recognized the distinction between religion as worship and religion as a subject of study, and who, recognizing that "the history of man is inseparable from religion," are leading the way to the study of religion as an indispensable element in the public school curriculum.

5. Rejects all efforts to obtain constitutional amendments which would support devotional practices in the schools because such practices threaten religious freedom for all religious groups, because they are inconsistent with the purposes of public school education, and because they tend toward indoctrination or meaningless ritual.

6. Calls attention to the prevalent danger of relying upon the state to do the religious work of the churches, and the possibilities inherent in state-sponsored religious exercises of any sort, even though voluntary, of secularizing religion or even developing a religion contrary to all meaningful theism.

7. Urges Christian people to consider the church-state issues involved soberly and carefully lest hasty action based upon pious impulse or understandable fear lead to an unintentioned establishment of a lowest common denominator religion in the educational institutions of the land.

May 5, 1964.

Hon. Edith Green,
House Office Building, Washington, D.C.

Dear Congresswoman Green: I am writing in behalf of the Union of American Hebrew Congregations to urge you as strongly as possible to reject all legislative proposals to amend the U.S. Constitution in order to overturn the Supreme Court decisions on religious practices in the public schools.

The Bill of Rights has been a shelter of liberty for all Americans. It should not be tampered with in a mood of public passion as a result of widespread disagreement with one or another Supreme Court decision. As a religious leader, I share with many clergymen of all faiths the deep conviction that the Court has rendered a service to religion by affirming religious liberty and separation of church and state.

It is said that the proposed constitutional amendment would provide for "voluntary" prayers and devotions in the public schools. The truth is that there is nothing voluntary whatever about a class of youngsters engaging in prayer or Bible reading in the public school. Such devotions do not stem spontaneously and simultaneously in the hearts of all the students, but flow very obviously from the direction of the teacher and the school officials. The Court has reminded us that prayer must come from the heart, and not from the school board, in the free spirit of American democracy.

No doubt you have received much mail in favor of rewriting the Constitution. If the foundations of the Constitution were to bow to the wind of whatever popular passion stirs each generation, the Bill of Rights would already be a relic of history.

The Union of American Hebrew Congregations is the central association of 650 Reform synagogues throughout the United States, representing a million Americans of Jewish faith.

Thank you for your kind consideration.

Sincerely,

Maurice N. Eisendrath.

Statement by Bishop Lichtenberger

April 17, 1964.

Statements by the Right Reverend Arthur C. Lichtenberger, D.D., presiding bishop of the Episcopal Church with regard to the decision of the Supreme Court in *Abington Township* v. *Schempp* (No. 142, October term, 1962) (and concurrently *Murray* v. *Curlett*, No. 119) in which the Court ruled 8 to 1 that Bible reading and recitation of the Lord's Prayer were unconstitutional when part of a religious exercise in public schools.

Bishop Lichtenberger's first statement also refers to the Court's decision in *Engel* v. *Vitale* (No. 468, October term, 1961) in which it stated that "it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

June 6, 1963, before reading the Abington opinion: "Not having read the opinion of the Court, I have only one comment to make at the present time. It should be understood that the Court's action is not hostile to religion. These decisions reflect the Court's sense of responsibility to assure freedom and equality for all groups of believers and nonbelievers expressed in the first amendment to the Constitution."

June 18, 1963, after reading the Abington opinion: "The Court makes it clear that it is not the task of public schools to inculcate religious beliefs or habits of worship. This is the task of our homes and churches and synagogues. We are indeed a "religious people," but our varied beliefs are embodied in institutions which are not governmental and are not dependent on majority votes.

"It is now clear that public authorities are required to show neutrality toward all groups of believers and nonbelievers. In public schools members of religious minorities are not required to choose between participating in religious practices against their conscience and submitting to the handicap of expressing their dissent by conspicuous withdrawal. On this point the Court seems unanimous, although Justice Stewart thought there should be clear proof that dissenters are handicapped.

"We may be thankful that the Constitution does not permit the government to define and give preference to some general version of Christianity or of Judeo-Christian religion.

"The Court does not rule out objective study of religion in public schools; indeed the Court encourages such study. It forbids the State-sanctioned religious practice of corporate worship through prayer and devotional reading of the Bible. But the Court does not forbid teaching of the place of religions in our culture and history and the importance of mutual respect among religious groups. With such teaching included, public school programs cannot be charged with teaching nonreligious humanism and can introduce students to the full range of our cultural heritage."

[Editorial from the Maryland Baptist, Apr. 9, 1964]

Don't Amend the Amendment

The first amendment is in jeopardy.

A militant campaign by a Baltimore organization and other groups around the Nation to "amend the amendment" now threatens the first article of the Bill of Rights.

Capitol Hill is being inundated with petitions and letters favoring a "constitutional prayer amendment." This measure, springing from the highest of motives, would change the meaning of the first amendment and undermine this cornerstone of our liberties.

The action stems from a misunderstanding or misinterpretation of recent Supreme Court decisions on prayer and Bible reading in the public schools. A hysteria is sweeping the Nation, and many Baptist people are being caught up in it.

With Baptists divided on the issue, a Baptist editor cannot speak for Baptists. He must, at all times, speak to Baptists. The fears that have arisen need calm and reasonable analysis.

First, it is being said that the Supreme Court has ruled against prayer in the public schools and, by implication, throughout our national life. The Court has not outlawed prayer, except in the case of officially required or sanctioned prayer in the public schools.

The Court has not forbidden little boys and girls to pray at their desks, as detractors of the decisions have stated. The rulings are not a restraint against the people but against the state.

The tribunal has ruled against an establishment of religion; it has not restrained the free exercise thereof.

Public schools boards have been restricted from prescribing, and teachers from leading, devotional exercises in the schools because these actions constitute State sanction. The pupils themselves have not been restrained from personal, voluntary religious devotions.

Second, the Court's decision in the Maryland prayer and Bible reading case is viewed by some as a victory for atheism. While it is true that an avowed atheist was the litigant in this case, the ruling should not be construed as a triumph for atheism but as a gain for all who believe in the separation of the state and religion.

Upon this separation religious liberty depends. The first amendment guards this separation. Those who want to amend it would substitute establishment for separation.

If the state, through its public schools, can prescribe or sanction one type of religious exercise, it can prescribe or sanction another. It could even establish antireligion.

The first amendment requires the state to stay out of the arena of religion, thus guaranteeing to the people free exercise. This freedom cannot be assured any other way—to all the people, majority and minority alike.

Secularism is not established as the religion of the public schools by the first amendment as interpreted in the recent decisions. This is the fear of some. The first amendment simply makes the state neutral in matters of religion and places the responsibility for its propagation on the people acting through nongovernmental means. The recent interpretations so state, and they are correct.

Some fear that our religious heritage will decline if it is not propagated by the public schools. If there is any validity in this fear, it is appropriate to ask, of what value is a culture-type of religion that is fostered by public institutions? Religion must be personal and voluntary, or it is nothing.

Finally, the separation of the state and religion, as President Johnson has declared, "does not mean the divorce of spiritual values from secular affairs." The Supreme Court rulings in no way restrain a public schoolteacher, or any other employee of the state, from applying to his service the moral and spiritual values derived from his faith.

Baptists helped to enact the first amendment to the Constitution, and it has been a bulwark to the religious liberty that they champion. Now that it is being interpreted in an absolutist sense, will they renege in their support of it?

Baptists, of all people, should rally to the defense of this guardian of our liberties and oppose any amendment that would dilute it. Write to your Congressmen to oppose any "constitutional prayer amendment." Don't amend the first amendment.

[From the Friends Committee Newsletter, April 1964]

Congress Considers Prayer Decision

Among the many complex issues in church-state relations the place of prayer and Bible reading in the schools has now become a topic of intense discussion. There have been 144 bills introduced in the House of Representatives and referred to the House Judiciary Committee, most of them proposing a constitutional amendment allowing voluntary prayers and Bible reading in the public schools. Hearings begin April 22.

Article I of the Bill of Rights of the U.S. Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." In October 1961, the Supreme Court said in *Engel* v. *Vitale* "that the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of Government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

In this 6-to-1 decision the Court held that a 22-word prayer, composed by the New York State Board of Regents and adopted by a local school board which ordered the school district's principal to require its daily recitation, was unconstitutional.

In *Abington Township* v. *Schempp* in October 1962, the Court ruled 8 to 1 that Bible reading and recitation of the Lord's Prayer were unconstitutional when part of a religious exercise in public schools. Just what might be permitted was not completely defined. Justice Clark said, "Nothing we have said here indicates that * * * study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be * * * consistent with the 1st amendment."

Justice Clark further said: "The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church, and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or to retard."

Delegates from 24 denominations at the National Study Conference on Church and State held in Columbus, Ohio, February 4–7 agreed "in broad outline" to support Supreme Court decisions which prohibit officially prescribed prayers and require devotional reading of the Bible in public schools and to recognize that such decisions underscore the primary responsibility of the family and church for religious education. The Baptist joint committee which is supported by eight Baptist bodies opposed compulsory prayers or devotions, March 10.

Portland, Oreg., *April 27, 1964.*

Hon. Edith Green,
Congresswoman from Oregon,
House of Representatives,
Washington, D.C.

Dear Mrs. Green: This letter is to protest both as a practicing lawyer and as a former President of the Temple Beth Israel in Portland, the possible passage of the Becker amendment by Congress. I think it would constitute an opening wedge for the breakdown of the first amendment and the constitutional Bill of Rights by creating the beginnings of a state religion in our country.

If a state prayer or even the reading of the Bible is to be enforced in our schools, who is going to decide what prayer will be given or what version of the Bible will be read? I have traveled in many countries with a state church where the actual attendance is exceedingly small. The power of religion in this country is that it is voluntary. To force it upon a captive group would be an abnegation of what should be done in the home and the church and a confession that the church is finding its powers of moral suasion weakening.

Yours sincerely,
George W. Friede.

June 3, 1964.

Hon. Edith Green,
U.S. House of Representatives,
Washington, D.C.

Dear Representative Green: I am writing in regard to the proposed amendment to the first amendment to the Constitution.

I am very much for the Bible and prayer, but I am also for the first amendment to the Constitution, so I am against any amendment that would weaken it in any way.

The first amendment to the Constitution has ever protected the rights of the people both Christian and non-Christian, both the majority and the minority regarding religion in relation to the state; and, therefore, believe that to adopt one of the presently proposed amendments would weaken and could destroy the first amendment to the Constitution.

The Supreme Court decisions do not prohibit voluntary prayer; therefore, the proposed amendments are unnecessary.

Many religious bodies representing millions of Christians are also against the proposed amendments.

Thank you sincerely,
Mrs. Larry Smith,
Portland, Oreg.

Portland, Oreg.,
June 1, 1964.

Congresswoman Edith Green,
House Office Building,
Congress of the United States,
Washington, D.C.

Dear Congresswoman Green: I am writing to urge your strong opposition to the proposed Becker amendment which would permit officially sponsored prayers. My family and many other members of the church of which I am a member strongly oppose this breach of the traditional separation of church and state.

The long history of favoritism of one denomination over another in Bible reading and the divisive struggle which resulted from these practices are lessons which should not have to be repeated today.

Finally, I urge you not to sign the discharge petition to remove the amendment from committee.

Very truly yours,
Richard Hallley.

United Synagogue of America,
New York, N.Y., March 30, 1964.

The Honorable Edith Green,
House of Representatives,
Washington, D.C.

Dear Madam: There is presently before the House Judiciary Committee a resolution introduced by Congressman Frank J. Becker of New York which has for its purpose the passing of an amendment to the U.S. Constitution allowing prayer and devotional Bible reading in "any governmental or public school, institution or place."

The United Synagogue of America wishes to record its unequivocal opposition to this resolution or any resolution proposing an amendment to the Bill of Rights.

The United Synagogue of America, which I have the honor of serving as president, is the congregational arm of the conservative movement in Judaism and embraces more than 700 synagogues in the United States (as well as many in Canada). Their members and adherents total about a million and a half Jewish men, women and children, representing approximately a third of the entire Jewish community of this country.

In testimony submitted to the Committee on the Judiciary of the U.S. Senate in August 1962 I said among other things the following:

"Our children today do not have that freedom of choice about going to school. The child is not free to absent himself from school because he disagrees with any part of the curriculum. To guarantee freedom of religion, therefore, the only means open to us is to abstain from introducing any religious element in the curriculum. Only thus can we secure for the child the guarantee of the first amendment that the Congress shall make no law prohibiting the free exercise of religion. By introducing prayer in the public schools there is a coercive, compulsive, or at the very least a subtly persuasive form of religion which violates the constitutional free exercise thereof.

"For that period of time that the religious prayer is recited in the school, the school becomes a house of worship. To that house of worship we would, under our system of compulsory education, be sending our children willy-nilly. On the American scene religion has always been and should always be a voluntary right in every sense of the word, not to be abrogated for any period of time, however brief.

"This concept of the captive child, it seems to us of the United Synagogue, lies at the heart of the Supreme Court's decision, as it lies at the very core of religious freedom. We feel that our children should be taught religion; the Old Testament enjoins us, 'These words, which I command thee, shall be upon thy heart; and thou shalt teach them diligently unto thy children.' But those children should be taught God's words where alone such teaching can be of value—in a free atmosphere devoid of any hint or taint of coercion, at a time and place of the parents' own choosing, in a form and manner acceptable to the family's religious convictions. Religion must be taught always to a free child, never to a captive child. In the language of the Constitution, the child must be able to pray in the free exercise of his religious rights. He must never pray where governmental authority has told him he must.

"The United Synagogue of America earnestly prays that no legislation will be enacted by the Congress which will in any way compel or threaten to compel the children of America to worship in Government agencies under the aegis of temporal authority. The religious training of American children should be permitted to flourish in church, synagogue, and home, where it belongs. Religion cannot become, however remotely, an arm of Government."

What I said then applies with equal force to the proposed constitutional amendments now under consideration.

Sincerely yours,
George Maislen,
President.

Statement by the Executive Council of the Lutheran Church in America Respecting the 1962 Decisions of the Supreme Court of the United States of America on the Public School Lord's Prayer and Bible Reading Issues

(Minutes of the sixth meeting of the Executive Council of the Lutheran Church in America, June 28–29, 1963)

We do not believe that much has been lost in terms of the specific points covered by the recent decisions of the U.S. Supreme Court in the school prayer and Bible reading cases. If the Lord's Prayer were to be recited in schoolrooms only for the sake of the moral and ethical atmosphere it creates, it would be worth nothing to the practicing Christian. The Lord's Prayer is the supreme act of adoration and petition or it is debased. Reading the Bible in the public schools without comment, too, has been of dubious value as either an educational or religious experience. The more we attempt as Christians or Americans to insist on common denominator religious exercise or instruction in the public schools, the greater risk we run of diluting our faith and contributing to a vague religiosity which identifies religion with patriotism and becomes a national folk religion.

At the same time, in candor, these decisions must be seen as a watershed. They open an era in which Christianity is kept separate from the state in a way that was foreign and would have been repugnant to the minds of our ancestors at the time when the Constitution was written and ever since. They signalize the fact that the United States of America, like many other nations, is past the place where underlying Christian culture and beliefs are assumed in its life.

This event intensifies the task of the church. It heightens the need of the church for strength to stand alone, lofty and unshaken, in American society. It calls for greater depth of conviction in all Christian men and women.

Lebanon, Oreg.,
March 19, 1964.

Representative Edith Green,
House Office Building,
Washington, D.C.

Dear Representative Green: I oppose the amendment to the Constitution which would permit prayer and Bible reading in the public schools. These acts are inconsistent with the existence of a pluralistic society. The place for religion is in those institutions erected for that purpose.

The schools should integrate a community, not divide it. With prayer and Bible reading in the school, all kinds of disharmony arises. The biggest conflict is between the theists and nontheists. However, lesser discord arises between sects oriented along different lines.

When the school enters the realm of religion, there are always opportunities for some authority figure to push in his own limited view on young people and make them more confused than they already are. In our society, no group has the right to have his Bible or his prayers given the governmental seal of approval. Yet, how can this be avoided if they are presented in the public schools? Somewhere, some man must decide what Bible to use, what prayer the students are to receive.

We must say either that these prayers, etc. are unimportant and really do not influence people (and, therefore, are unnecessary), or we must recognize that they may well have an effect (and, therefore, are unfair because they give the advantage to the group with the floor).

If Congress is intimidated into starting this ill-considered bill on its way, then the country is in for a very black future.

Sincerely,

ARTHUR M. JACKSON.

AMERICAN JEWISH CONGRESS,
New York, N.Y., April 1, 1964.

Hon. EDITH GREEN,
House of Representatives,
Washington, D.C.

MY DEAR CONGRESSWOMAN GREEN: In my capacity both as president of the American Jewish Congress and as a clergyman, I am writing to urge you to oppose the Becker amendment and all other proposals for prayer recitation and devotional Bible reading in the public schools. In this I associate myself with such eminent religious leaders as Presiding Bishop Lichtenberger of the Protestant Episcopal Church; Dr. Franklin Clark Fry, president of the Lutheran Church in America and of the World Federation of Lutheran Churches; Dr. Eugene Carson Blake, stated clerk of the United Presbyterian Church; Methodist Bishop John Wesley Lord of Washington, D.C.; C. Emanuel Carlson, executive director of the Baptist Joint Committee on Public Affairs; Father Robert F. Drinan, S.J., and many others.

As spiritual leaders, our opposition to these proposals is based on a deep commitment to religious values. We believe that the spiritual communion with God which is the purpose of prayer and Bible reading cannot be achieved by their mechanical repetition in an atmosphere devoid of the religious spirit which only the home, the church, and the synagogue can supply. Because such cheapening of prayer and of the Bible is not helpful to religion but hurtful to it and because the various proposals to amend the Constitution would make such cheapening inevitable, we oppose them and strongly urge you to do the same.

Sincerely yours,

Rabbi JOACHIM PRINZ,
President.

THE VERSATILE COL. JACK REILLY

Mr. LIBONATI. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. LIBONATI. Mr. Speaker, Col. Jack Reilly is the most versatile Chicagoan who ever directed the social, historical, religious, athletic, and political programs of the city of Chicago in its history.

Mayor Richard Daley needed some outstanding public relations genius to reflect the true picture of Chicago's image to the Nation, and to the world—so his honor appointed Colonel Reilly—the mayor's director of special events.

Colonel Reilly is a respecter of persons and never misses making friends. His resourcefulness in tight-spot problems and his alert mind function in every emergency. He has won for himself nationwide recognition as a great administrator of public events. The colonel is a typical Chicagoan in his deep feeling for his city—he has done a wonderful job of advancing the cause of Chicago's real image to those at home and abroad.

Colonel Reilly is cool and calculating of mind in his work, yet is very considerate of the problems of those associated with him in his tasks. Even to the very hour of the event, he finds time to straighten out matters for the individual citizen in attendance. His kindness of heart and sincere interest in what is going on around him make him the master ringmaster that he is.

Mayor Daley gives Colonel Reilly full control, and in glowing terms has never failed to publicly acknowledge the indebtedness that the citizens of Chicago owe to him for the great heritage belonging to our city that he has brought to the attention of the Nation and the world.

Colonel Reilly is a doer and does it with no fanfare—he is not an exhibitionist, but glories quietly within himself upon the success of each event—for only a great city with a fine citizenry can secure that degree of greatness enjoyed in the successes or the mammoth undertakings and events that have been his task to implement and promote. The citizens of Chicago are proud of Colonel Reilly and compliment the great mayor of Chicago, Richard Daley, on his appointment to a most important post in our city government.

The distinguished feature writer, James Harper, of the Chicago Tribune staff, last Sunday, June 14, has written a most complimentary article concerning the accomplishments and qualifications of our popular friend, Colonel Reilly, for which we thank him. The article appears herewith:

COLONEL REILLY HAS THE JOB OF ORGANIZING SITUATIONS; SERVES CHICAGO AS OFFICIAL RINGMASTER

(By James Harper)

The official title is "Mayor's Director of Special Events," but a more accurate description would be "Supervisor of Details in Situations No One Ever Thought Would Come Up."

And a collateral title might be "Organizer of Situations that Wouldn't Otherwise Happen."

But however he is described, Col. Jack Reilly is Chicago's official ringmaster and tub thumper.

His office in a corner of the space provided the corporation counsel in city hall is a working office. There are no draperies; books, papers, leaflets, and letters strewn about; and the chairs there are meant for sitting. The only wall adornment is the calendar Reilly lives by.

KEEPS HAND ON PHONE

With his one good eye on the calendar, and a hand on the telephone, he talks about his job.

"Special events," he explained, "cover just about everything for which there has been no prior provision. The job is just about as flexible as it can be. One function is to help supervise the visits of foreigners. Another is to help stage events which will help Chicagoans or improve our image."

Reilly's most recent program has been arranging for the visit of the Israel Prime Minister. Before that he toured Europe with Mayor Daley's group. Other escapades have included the reception of Queen Elizabeth, preparation for Operation Inland Seas, and arranging for the Pan American games, all in the summer of 1959.

REILLY GETS THE CALL

And there are daily details which come under no specific heading, but must be handled by the city. The odds are, when everyone else in city hall is stumped, Colonel Reilly gets the call.

Though there were earlier Chicago promoters, Reilly is the first to hold the special title. He has been in the office since the beginning of the Daley administration.

The 9 intervening years have seen many changes in Chicago. "For so long, the city prided itself on its isolationism," he said. "This situation has changed, and we've been trying to help. The city's image has changed.

"Lately there has been a steady stream of world leaders through here. Years ago, none of these people came to Chicago because Chicago showed no interest in having them. Now that has changed, we are happy for them to come, and the city rates high with the State Department as a host for foreigners." Reilly is protocol chief for receiving the foreigners.

REPRESENTS DAILY AT CONSULATES

Annual special events supervised by Colonel Reilly include the city championship football game, the Venetian Night Water Parade, and the November Folk Fair at Navy pier. He is also the mayor's regular representative at functions of the 52 consuls in the city.

A native of Ossining, N.Y., Reilly joined the Army there in 1917, and never returned. "After the war," he said, "I had obtained the use of reason, and decided to leave New York and come West." Except for brief periods, he has since lived in Chicago.

Involved in public relations since 1923, he was director of special events for the Century of Progress Exposition in 1934, the New York World's Fair in 1939, and the Chicago Railroad Fair in 1948.

MILITARY GOVERNOR IN GERMANY

In the Army again in World War II ["I pride myself in being in the infantry in both wars,"] Reilly attained the rank of lieutenant colonel. After the war he was military governor of Mannheim, Germany.

Of the mayor's recent European tour, he said: "He turned in a most magnificent piece of missionary work for Chicago. It was one of the best things that could have happened for the city." High spot of the trip was, naturally, the visit to Ireland. "Any person with a drop of Irish blood in him thinks of himself as Irish," he said. "It was good to be home."

Married, Reilly lives at 6230 Kenmore Avenue. A son is an Army career officer.

Reilly must keep his weak left eye shielded from light. Other than that, at 64, he is the picture of health. What is good for Chicago is obviously good for Jack Reilly, and he is working hard to keep both healthy.

A MANDATE TO INVESTIGATE

The **SPEAKER** pro tempore. Under previous order of the House the gentleman from Kansas [Mr. DOLE] is recognized for 1 hour.

Mr. DOLE. Mr. Speaker, we have all followed with interest the efforts of some in the Senate to have the so-called Bobby Baker probe continued until all of the facts are before the American people.

The Senator from New Jersey [Mr. CASE] sought unsuccessfully recently to have the investigation cover Baker's alleged dealings with Senators. For, indeed, there are many rumors concerning the role which Baker played in the distribution of campaign funds, many of them in cash.

The questions which the Senator from New Jersey suggested should be asked each Member of the Senate were:

> 1. Did you ever have any business or financial dealings with Bobby Baker, directly or indirectly? If so, what are they?
>
> 2. Did Bobby Baker ever give you, get for you, offer you, or offer to get for you: any campaign contributions; any help in making up campaign deficits by gifts, purchase tickets or otherwise; any retainer or employment; any preference in committee assignment or otherwise; anything of value?

These are certainly proper questions to ask. They are proper questions for every Senator to answer, and yet we find that the probe of Baker's highflying and farflung financial activities when he was an employee of the Senate is being closed.

The American public has a right to suspect that a broad white brush is being used in this investigation following the pattern of the Billy Sol Estes whitewash. Matters relating solely to the Senate are for that body to consider, for it is the reputation of the Senate which is at stake.

There is another matter, closer and more important, about which I wish to speak today. This concerns the reputation of the House of Representatives. As a result of the Baker probe in the Senate, we belatedly learn that a former House employee has received large cash gifts from at least two sources, and there are rumors that other cash was involved from yet other sources.

I refer to William Norman McLeod, former Chief Clerk of the House District Committee, who served in that position for many years until his service was terminated December 31, 1962.

In the Baker hearings there was the insinuation clearly made that cash was paid to McLeod and as a result of this cash payment certain legislation passed the House of Representatives.

This is a very serious matter and one which reflects upon the integrity of the House of Representatives as an institution and upon each Member of this House. It is a matter which I believe deserves the fullest possible discussion and complete investigation by the appropriate committee of the House.

I believe the appropriate committee to investigate this matter is the House Administration Committee, inasmuch as it is charged with matters of this sort and is the House counterpart to the Senate Rules and Administration Committee in such matters.

It was determined during the Baker hearings that Mr. McLeod received $1,000 from a local police association. The association says that this payment was for services McLeod performed. The question which most obviously follows is: Was McLeod able to serve this association and the people of the District of Columbia as well as the Nation's taxpayers simultaneously?

Perhaps it is of interest that Mr. McLeod was hired in 1963 to represent the pawnbrokers in the District of Columbia. In view of McLeod's longtime association with the District Committee, the question that naturally arose in some people's mind is whether there was any action taken by McLeod during his tenure as an employee of this House which resulted in this business arrangement after his employment was terminated.

On good authority, I understand that for some years Mr. McLeod met weekly for lunch in a private dining room with leading liquor distributors in the District of Columbia. I believe that the House must satisfy itself as to whether this was merely a social occasion or whether this was more involved in view of the regularity with which liquor legislation came before the District Committee.

Indeed, what, if any, was Mr. McLeod's role in the disposition of liquor price control bills which came before the committee? Did he have an interest which he represented, either distributors, retailers, or bar owners? If he had an interest, then how could he serve the people of the District of Columbia and the Nation's taxpayers to whom he owed his first allegiance?

It is my understanding that Mr. McLeod has said that a South Carolina company paid him a retainer each quarter from some period of time during the time he was Chief Clerk of the House District Committee. This amount has been estimated to be $900 to $1,500 a quarter. What services did this employee of the House of Representatives perform in order to warrant the payment of such a large sum over a continuing period of time?

It has been reported in the past, on more than one occasion, that McLeod once received a color TV set as a gift from a well-known Washington gambler. What possible reason would an employee of this House have to accept such a gift from a person of this type?

Mr. Speaker, these are but a few of the facts and reports which have come to my attention concerning this person who by his high position as a responsible official of the House of Representatives has brought questions to the minds of many as to the activities and actions of House employees.

If the Senate has found it necessary to investigate the conduct of its employees with an eye toward drawing up a code of ethics or rules of conduct, then I suggest, with all due respect, that it is time that the House of Representatives consider such aspects in regard to its employees. The involvement of a House employee in the Bobby Baker case has been a source of concern to many Members of this body. The tie-in to the bids and bonds of the District of Columbia Stadium has also been of concern to many of this body. The payments by insurance man, Don Reynolds, to Mr. McLeod is a matter of concern along with the payment from the police association. I feel, as do many many others, that an investigation should be commenced immediately for the benefit of Members, their staffs, committee staffs, and above all the public.

Mr. ANDERSON. Mr. Speaker, will the gentleman yield?

Mr. DOLE. I yield to the gentleman from Illinois.

Mr. ANDERSON. Mr. Speaker, I am pleased to join with my colleague from Kansas [Mr. DOLE] in calling attention to the need for the House of Representatives to clean its own skirts.

Many of us have been concerned as the months have passed since the revelations concerning former House District Committee Chief Clerk McLeod were made in the Baker hearings and nothing has been done about them on this side of the Capitol. I have been concerned because I believe that the Congress suffers enough abuse from various sources without sitting still in the face of charges and innuendoes such as those contained in the record of the Baker hearings.

I have with me a copy of those hearings, and you will find, I think, a very significant statement on page 591, a statement by the junior Senator from Rhode Island [Mr. PELL], when he said this:

> I realize also that the conduct of an employee of the House is not in the terms of reference of our inquiry. So it is not for us to make any judgment on your action—

Referring to Mr. McLeod—

> in accepting that gift.

I think this makes it clear, that if this is not within the terms of reference of the Senate inquiry, it then becomes incumbent upon the House to take responsibility in this matter. That we have done by the resolutions which were dropped in the hopper of this body last week.

There is ample time yet in this session of Congress for a complete investigation into these matters which are being brought to the attention of the House again today by our colleague from Kansas and other Members. There are so many rumors in this city, repeated time after time through the weeks, concerning the construction of the District of Columbia Stadium and the Rayburn Office Building that the House of Representatives should take notice of them and take steps to put them to an end if there is no truth to them.

Other rumors concern such matters as legislation before the House of Representatives, especially that emanating from the House District Committee. The matter of regulation of loan companies is something which has been the subject of much speculation. It is interesting to me that former Chief Clerk McLeod now reportedly offices with the Household Finance Corp., here in Washington and is registered as a lobbyist for that company. One of the officials of that company with whom McLeod, when he was with the House District Committee, had frequent conversations, according to my information, was Mr. Nathaniel W. Barber, Eastern Public Relations Director for HFC. It is of interest to me and I am sure to the public that Mr. Barber is under indictment as a result of a Massachusetts special grand jury investigating graft and corruption in the Massachusetts State government and especially the offering and paying of bribes. I think the public is entitled to know what McLeod's connection was with the company during his tenure as a House employee. At the conclusion of my remarks, I will include in the RECORD an article concerning the investigation in Massachusetts and the indictment which accuses Mr. Barber.

In conclusion, may I say again that I think sincerely, not only as a former prosecuting attorney in the State of Illinois but as a Member of this body, which I respect and revere, that the evidence already presented to the Senate Rules Committee and the other matters of which many of us have knowledge are certainly sufficient to warrant a complete investigation by the appropriate agency of this House of Representatives. I urge and invite all Members of this body to join those of us who have called for this investigation by introducing similar resolutions or otherwise indicating their support for this effort to clean up the mist of uncertainty surrounding the activities of House employees.

Mr. Speaker, this is not a partisan matter. We welcome, indeed, we enlist the wholehearted cooperation and support of Members on both sides of the aisle to the end that we may, I would hope, repair any damage that has been done to the reputation of the House of Representatives because of some of the charges that have been made and some of the rumors that have been filtering and circulating through this city in recent weeks.

Mr. Speaker, I now ask unanimous consent to include in the Record at this point the article to which I referred earlier, appearing in the Washington Post of May 9, 1964.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The article referred to is as follows:

Bay State Graft Quiz Indicts Three Area Men

Three Washington area officials of small loan firms are among the businessmen and politicians indicted yesterday by a Massachusetts special grand jury on a series of charges connected with a drive to sweep graft and corruption out of the State government.

With 2½ months of investigation and testimony under its belt, the grand jury indicted Massachusetts House Speaker John F. Thompson, a Democrat, and former Speaker Charles Gibbons, a Republican, on charges of bribery.

Two dozen other businessmen and politicians were named in the indictment that swept the State government from top to bottom.

The three from this area are Calvert I. Bean and Wilbur A. Bean, of State Loan Finance Management Corp., of Washington, and Nathaniel W. Barber, eastern public relations director for Household Finance Corp., of Chicago.

Calvert Bean is senior vice president of the company; Wilbur Bean is a member of the board.

Wilbur Bean and Barber were specifically charged with offering and paying bribes, while Calvert Bean was charged with conspiracy to pay bribes and to obstruct administration of law.

State Loan & Finance Management, a subsidiary of State Loan and Finance Corp., was also indicted for offering and paying bribes.

Neither Bean was available for comment. President David A. Penney, of State Loan and Finance Corp., said he had "no information" about the indictments. "I haven't seen it, and have no comemnt," he added. Nor did he know where either Bean could be reached.

Barber, who lives at 15309 Rosecroft Road, Manor Country Club, said, "I haven't heard a word about it, and there's no truth to the charge." Both firms have loan offices in Massachusetts.

Details of the alleged bribery were not disclosed, nor did the grand jury say whether the charges against those named were related in any way.

But Attorney General Edward W. Brooke, who presented the evidence to the special grand jury, said most indictments, including those against Thompson and Gibbons, involved suppression of legislation. Brooke indicated that the legislation in question would have affected agencies which make small loans.

Besides the three men and State Loan and Finance Management, a host of other loan officials throughout the country were named, as well as Seaboard Finance Co., Los Angeles, Liberty Loan Co., St. Louis, Household Finance Corp., Chicago, Family Finance Corp., Indianapolis, and Family Finance Corp., of Wilmington, and Beneficial Management Corp., Morristown, N.J.

All the loan companies named were charged with offering and paying bribes.

Massachusetts officials named include Martin J. Hanley, suspended supervisor of the Small Loan Agency and Deputy Commissioner of Banking, who was charged with requesting and accepting bribes, and conspiracy; and Morris Garfinkle, former member of the Small Loans Regulatory Board, now member of the Boston Arena Commission, charged with requesting and accepting bribes.

Mr. DOLE. I thank the gentleman from Illinois.

Mr. Speaker, I yield to the gentleman from Florida [Mr. Cramer].

Mr. CRAMER. Mr. Speaker, I too am glad to join with the gentleman with regard to this investigation that has been called for. I would think that after some 31 Members introduced resolutions last week that action by the appropriate House committee would automatically follow. I do not know of many instances where there have been such a large number of resolutions introduced by Members of the House showing such grave concern about questions raised by previously existing and exposed facts—questions that to date remain unanswered and being unanswered cast a cloud over the basic integrity of the Congress of the United States. I, too, have seen week after week here, particularly in recent months where criticism of the House of Representatives and the legislative branch of government in particular, has taken place. I have been concerned about it. I think it is to a large extent unjustified. But so far as this particular case is concerned, there is certainly enough smoke to justify the belief of many people that there may be some fire there too. I think a thorough investigation is justified. The interest shown by this many Members of the House should cause the leadership of the House and the Congress itself on the House side to do something about it.

I want to join in the remarks that are being made by the gentleman. I, too, have waited since February when McLeod appeared before the Senate Rules Committee and he acknowledged receipt of $1,000 from the Metropolitan Police Relief Association for the House to take cognizance of this huge gift and to inquire just what the reason behind it was—why was this amount given to Mr. McLeod from the Metropolitan Police Relief Association.

I want to include in the Record, and I ask unanimous consent to do so, Mr. Speaker, a copy of a story from the Washington Star of February 19 of this year concerning the $1,000 gift which McLeod received some 7 months after he quit as clerk of the House District Committee. I think it will make interesting reading for everyone who is concerned about these matters.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. CRAMER. I also want to call attention to the $1,500 that John B. Reynolds, Silver Spring insurance agent told the committee last month, and this article is dated February 19, for his help—that is Mr. McLeod's help—$1,500 in obtaining passage of the bill authorizing the District of Columbia Stadium. I am reading from the Washington Star of February 19, 1964, article:

> The committee in its investigation of Robert G. Baker secured copies of letters in which Mr. McLeod billed Mr. Reynolds "for legal services."
>
> However, Mr. Reynolds insisted that Mr. McLeod never provided any legal services for him.
>
> Today (February 19) Mr. McLeod said that the $1,500 was a "gift" rather than compensation for legal work.
>
> "I billed him for legal services at his request. His bookkeeper or somebody wanted it billed as a legal service," he said.

Mr. Speaker, the article I have referred to is as follows:

[From the Washington (D.C.) Star, Feb. 19, 1964]

Police Association Paid McLeod $1,000 for Help—Gift Came 7 Months After He Quit as Clerk of House District of Columbia Committee

(By John Barron)

The Metropolitan Police Relief Association paid William N. McLeod, Jr., $1,000 in appreciation of services he performed while clerk of the House District Committee.

Directors of the association unanimously voted to give Mr. McLeod the money last June, about 7 months after he quit the committee.

The police were grateful for all Mr. McLeod did for them while he was a congressional employee, according to Lt. Garland Waters, secretary-treasurer of the association.

Appearing in closed session before the Senate Rules Committee Monday, Mr. McLeod acknowledged receipt of the $1,000.

He told a reporter today that last summer he was invited to a meeting of the association and that to his surprise the group gave him a check and a letter of appreciation.

ASSOCIATION GOT CHARTER

He recalled that the letter said the directors desired to "make some recognition of services and courtesies over the many years."

The $1,000 was given to Mr. McLeod shortly after Congress granted the association a charter through a law which also exempted it from taxes and insurance regulations.

"The Superintendent of Insurance had indicated that this organization and several others were operating contrary to the insurance laws and we had quite a struggle to survive," Lieutenant Waters said yesterday.

"Over a span of 10 or 12 years, we sought to get legislation through giving us a charter. McLeod was always ready to hear us, to suggest people we might talk to, to give us a helping hand and to help our attorney."

> DUES PROVIDE BENEFITS
>
> The association provides death benefits to members from a fund maintained by collection of monthly dues.
>
> Asked if it customarily rewards its friends with cash gifts, Lieutenant Waters said:
>
> "No, no, it's not a habit by any means. I don't recall any others."
>
> The police payment was the second one to Mr. McLeod disclosed in recent weeks.
>
> Don B. Reynolds, Silver Spring insurance agent, last month told the Rules Committee that he paid Mr. McLeod $1,500 for his help in obtaining passage of the bill authorizing the District of Columbia Stadium.
>
> The committee in its investigation of Robert G. Baker secured copies of letters in which Mr. McLeod billed Mr. Reynolds "for legal services."
>
> However, Mr. Reynolds insisted that Mr. McLeod never provided any legal services for him.
>
> Today, Mr. McLeod said that the $1,500 was a "gift" rather than compensation for legal work.
>
> "I billed him for legal services at his request. His bookkeeper or somebody wanted it billed as a legal service," he said.
>
> CITES MANY SERVICES
>
> Asked why Mr. Reynolds would present him with a $1,500 gift, Mr. McLeod answered:
>
> "I've done a million things for him over the years. I've known him 23 years * * * I get him airplane reservations, inaugural ball tickets, get him on the Congressional Special going to the Army-Navy game and that sort of thing."
>
> He also noted that people in Congress recive a lot of gifts, "like at Christmas, fruitcakes."
>
> During an informal briefing of reporters yesterday, Rules Committee Counsel L. P. McLendon referred to some of Mr. McLeod's unreleased testimony as "amazing."
>
> But he did not specify which portions he considered so surprising.

Then in reviewing this case, the counsel for the Senate committee said during an informal briefing with reporters yesterday—meaning Friday 18:

> The Rules Committee counsel, L. P. McLendon, referred to some of Mr. McLeod's unreleased testimony as "amazing."

Now is it any wonder that there should be a cloud cast over the activities of Mr. McLeod as brought out by the committee and the unreleased testimony that should be made public and the public is entitled to know all the facts? That is what those introducing the resolution call for and I join in that effort.

Mr. DOLE. I thank the gentleman from Florida.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. DOLE. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. Mr. Speaker, I commend my colleagues for taking this special order to discuss this important matter. There is a good deal of unrest in the country about the matter of congressional reform and although the Baker case is the most publicized, there are many other facets.

For example, I recently wrote an article on the matter of badly needed staffing reform, parts of which were widely publicized; indeed, the impact of the article was felt in a recent primary election.

It seems to me this House must have the fortitude and courage, as shown by my colleagues today, in calling for a thorough investigation of certain congressional activities, if we are to practice what we preach in the cause of good government, which of course is based upon responsible legislation responsive to the needs of all the people and not to special interests which bid for our attention.

It is for this reason I wish to associate myself with the remarks of the gentleman from Kansas [Mr. Dole], the gentleman from Illinois [Mr. Anderson], and the gentleman from Florida [Mr. Cramer], and others who will speak later. I commend them for their efforts and trust that from this there will evolve the thorough investigation they request, which is so manifestly and badly needed.

Mr. DOLE. I thank the gentleman from New Hampshire.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DOLE. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. I join with my other colleagues in commending the gentleman from Kansas for bringing this subject to the floor of the House. I have spoken on some angles of it previously, as the gentleman knows.

I find the interrogation of Mr. William McLeod by the investigating committee of the other body quite interesting. For instance, the chief counsel for the investigating committee of the other body asked these questions, and answers were given in this fashion:

> Mr. McLendon. I asked you about the meeting.
>
> Mr. McLeod. Yes, I did attend a meeting in Baker's office.
>
> Mr. McLendon. Who was present?
>
> Mr. McLeod. Mr. Matt McCloskey was there, who was treasurer of the Democratic National Committee, one of his vice presidents was there from Philadelphia—I do not remember his name—I never saw either one of them before; Don Reynolds was there, Congressman John McMillan, and myself, and Baker.
>
> Mr. McLendon. Who called the meeting, if it was called?
>
> Mr. McLeod. Baker called the meeting.
>
> Mr. McLendon. Did he phone you and invite you to the meeting?
>
> Mr. McLeod. Yes, sir.

And so it goes, through the hearing.

It is strange that the committee did not go into a thorough investigation of the full nature of the meeting or the part that McLeod played in it, because McLeod, as I understand it, was a member of the Advisory Board for the stadium and at this meeting, as a member of the Advisory Board, he was helping decide who was going to get the performance bond on the stadium. Of course, from that flowed the "kickback" or rebate to McLeod, and all the time he was on the payroll of the Federal Government as an employee of the House of Representatives.

I also found interesting the question-and-answer testimony with respect to what happened to the stadium bill in the House. The bill providing for Federal participation in the stadium, to which I had long been opposed, was approved by the House and sent to the Senate. The other body amended it and sent it back to the House. This was at a time near the end of that particular session of Congress. A request was then made that the bill be taken to conference. I objected to that. Then, at some time when apparently I had my back turned and was not as alert as I ought to have been, someone asked that the bill be returned to the other body. So, despite the fact that the other body had found it necessary to amend the bill and send it to the House, the request was made—I will not say surreptitiously, but certainly it was never called to my attention—that the bill and the papers be returned to the other body.

Thereupon Senate concurred in the House bill and it became law without amendment. I do not know what part McLeod played in this shenanigan that was practiced as between the two bodies.

Again I commend the gentleman for calling this matter to the attention of the House, and assure him of my full support for a thorough investigation of all phases of the McLeod-Baker operation.

Mr. DOLE. Mr. Speaker, I thank the gentleman from Iowa not only for his expression of interest today but for his continuing interest in this matter and the fact that he introduced a resolution last Thursday calling for an investigation. The fact many of us have waited since February for the House to do something on its own. Nothing has been done; hence we felt it necessary this important matter be called to Member's attention in this fashion.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. DOLE. I am happy to yield to the gentleman from Illinois [Mr. Findley].

Mr. FINDLEY. Mr. Speaker, I thank the gentleman. It is hard to know and, in fact, it is impossible to know just how widespread affairs like the Bobby Baker scandal may be here on Capitol Hill. We cannot possibly know until we have a hearing which will actually bring the facts to light. Some say that this is strictly a partisan political move on the part of those who sponsor these resolutions. I will have to admit that as of today it does have somewhat of a partisan character to it, because as of today, to the best of my understanding, only Republicans are pushing for the answers to these questions. It is true that the political affiliation of Bobby Baker is pretty well known. The one way that the Members on the other side of the aisle can eliminate the partisan character of this is to join in and cooperate in a hearing. Who knows where it will lead? It may lead into Republican offices and desks, too. If so, let the chips fall where they may.

Mr. DOLE. Mr. Speaker, I thank the gentleman from Illinois for his statement.

Mr. McLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. DOLE. I am happy to yield to the gentleman from Illinois [Mr. McLoskey].

Mr. McLOSKEY. Mr. Speaker, I wish to associate myself with the gentleman in the well, the gentleman from Kansas, Congressman Dole, and the other Members of this body who have introduced similar resolutions with respect to this problem. I think it unfortunate that over the past number of months there has been so much written in the press, there has been so much on radio and television condemning and criticizing this great deliberative body. I like my good friend the gentleman from Illinois, Congressman ANDERSON, am very proud and happy to belong to this great House of Representatives. Most certainly I should like to see each and every one of us do everything that we can to bring about an uplift in the position and stature of this body so that in the eyes of the public we will once again be recognized for the great body that we are.

Much has been said about Mr. McLeod, a former employee of this House, and if all of these allegations and all of these rumors have any foundation at all, then I think it behooves us as Members, irrespective of party, to do all we can to dig into the bottom of this and find out just what does go on.

I have another little reason for being vitally interested in this. Ever since it has been my privilege to serve in this body at times this has become quite embarrassing because I seem to be mistaken for another McCloskey, one who apparently throughout the years has been blessed with the receiving of a number of lucrative construction contracts here in the District, the latest of which, of course, is the New House Office Building. There has been much criticism of this building. There have been a number of rumors as to kickbacks on performance bonds.

Once again I would like to make it publicly clear that I am not this McCloskey. I hate to have the good name of McLoskey sullied in any manner. For that reason, if for no other, I am happy to join with the other Members of this body in doing all that we can to find out just if anything that might be wrong is wrong and do our part to clean it up.

Mr. DOLE. I certainly thank the gentleman from Illinois, Mr. ROBERT McLOSKEY.

Mr. Speaker, I yield back the balance of my time.

THE COMPTROLLER GENERAL OF THE UNITED STATES FINDS THAT INADEQUATE RELOCATION ASSISTANCE WAS PROVIDED FAMILIES DISPLACED FROM URBAN RENEWAL PROJECTS IN KANSAS AND MISSOURI

Mr. CRAMER. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. WIDNALL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. WIDNALL. Mr. Speaker, I wish to call attention at this time to the June 1964 report to the Congress by the Comptroller General of the United States regarding the inadequate relocation assistance to families displaced from certain urban renewal projects in Kansas and Missouri administered by the Fort Worth regional office of the Housing and Home Finance Agency.

The findings by the Comptroller General prove the contentions I have been making regarding relocation problems and practices encountered under the Federal urban renewal program.

The GAO report makes the following points:

First, that displaced families have been relocated into substandard housing at times with the assistance of local public agencies which have, in turn, filed erroneous reports. The GAO report states on page 4 that:

> A significant number of families who were displaced from slum clearance and urban renewal projects in St. Louis, Mo., and Kansas City, Kans., and who were taken into the LPA's workloads, relocated into substandard housing. In many instances, the families who relocated into substandard housing were actually relocated into substandard housing by the LPA's, were offered only other substandard housing by the LPAs, or were not offered relocation assistance by the LPAs. Many of the families who were relocated into substandard housing were reported by the LPAs as having been relocated into standard housing. We believe that there were inadequate review and supervision of the LPAs' relocation activities by the Fort Worth HHFA regional office.

Second, that relocation assistance is not provided soon enough to be of any aid to displaced families leaving the project area before the loan and grant contract is signed.

Third, that there is insufficient reliable information of relocation needs and results, which contribute to the shifting of slums, contrary to the intent of the Congress. The GAO report on pages 8 and 9 states that:

> Our review disclosed that more than 3,300 of the nearly 7,000 families that the LPA's estimated were living in the Mill Creek Valley and Kosciusko projects in St. Louis, Mo.; the Douglas School project in Columbia, Mo.; and the Gateway project in Kansas City, Kans., were omitted from the LPA's relocation workloads and that they were thus never afforded relocation assistance. Some of the families may not have accepted LPA assistance, and some of the movement from the area may have been normal turnover. The whereabouts of most of the 3,300 families is unknown, and their absence was not shown on the LPA's relocation progress reports. Probably a significant number of these families moved into substandard housing, as did a significant number of self-relocated families whose housing conditions were a matter of record.

The GAO report goes on to state:

> We believe that the URA regulations are inadequate in that they do not require the LPA's to advise families residing in areas selected for urban renewal projects of the relocation assistance that will become available to them until after the execution of a loan and grant contract. We believe also that URA should have required the LPA's to obtain more reliable information regarding relocation requirements and resources prior to the execution of a loan and grant contract. If reliable information on housing needs and resources is not obtained prior to the effective date of the contract for a loan and grant, significant relocation problems, such as a lack of available standard housing, may not be recognized in time to meet the needs of all the displaced families. Generally, by the time a contract has been executed, the residents of the area selected for the project have been aware for many months that they probably will be required to relocate. Consequently, many of these families, in anticipation of acquisition of the property by the LPA, move into other housing without having been advised of the relocation assistance that would ultimately become available to them. Of the self-relocated families whose housing conditions were a matter of record at the St. Louis, Mo., and Kansas City, Kans., LPA's, a significant number relocated into substandard housing. The relocation of a significant number of displaced families into substandard housing—the shifting of slums—negates much of the benefit of the project and is contrary to the clearly expressed intent of the Congress that the problems of slums and blight be attacked on a communitywide basis.

In each case the findings by the Comptroller General confirm statements I have made regarding relocation deficiencies. Rather than rely on the same administrative personnel who contributed to these relocation deficiencies in the first place I have offered specific amendments to the basic law itself. These suggestions are contained in my housing bill, H.R. 9331.

I have suggested, for instance, the physical verification of relocation housing facilities immediately prior to the start of condemnation proceedings and relocation of evictees. This follows the specific recommendation of the Connecticut Advisory Committee to the U.S. Civil Rights Commission contained in the July 1963 report. In addition, I have suggested the provision of relocation assistance at the earliest time possible in the history of a project, including relocation assistance to small businessmen. I might point out, too, that while the Federal Urban Renewal Administration has attempted by administrative regulation to correct certain deficiencies these efforts did not take place until August 1963. When the Federal Urban Renewal Commissioner, therefore, cites figures to show the success of efforts to relocate displaced families into standard housing he is using figures which are both inaccurate and incomplete. What is more to the point, he knows it.

The text of the report by the Comptroller General of the United States follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., June 12, 1964.

To the Speaker of the House of Representatives and the President pro tempore of the Senate:

In our view of the relocation of families displaced from selected urban renewal projects administered by the Fort Worth regional office, Housing and Home Finance Agency, we noted that a significant number of the families displaced from urban renewal projects in St. Louis, Mo., and Kansas City, Kans., were relocated into substandard housing and that a substantial number of the families displaced in these cities and in Columbia, Mo., were not afforded relocation assistance. We believe that the regional office's supervision and review of relocation activities of local public agencies were not adequate to fulfill the intent of title I of the Housing Act of 1949, as amended, that displaced families be afforded an opportunity to relocate into decent, safe and sanitary housing.

The Commissioner, Urban Renewal Administration, has informed us that he has taken certain actions and that he plans to take other actions which we believe will, if properly implemented, significantly improve the agency's administration of relocation activities.

Copies of this report are being sent to the President of the United States; the Administrator, Housing and Home Finance Agency; and the Commissioner, Urban Renewal Administration.

JOSEPH CAMPBELL,
Comptroller General of the United States.

Report on Inadequate Relocation Assistance to Families Displaced From Certain Urban Renewal Projects in Kansas and Missouri, Administered by Fort Worth Regional Office, Housing and Home Finance Agency

INTRODUCTION

The General Accounting Office has made a review of the relocation of families displaced from selected urban renewal projects in Kansas and Missouri. The Fort Worth regional office, Housing and Home Finance Agency (HHFA), has jurisdiction over the administration of the urban renewal program in eight States, including Kansas and Missouri. Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67). The scope of our review is described on page 14 of this report.

The urban renewal program is authorized by title I of the Housing Act of 1949, as amended (42 U.S.C. 1450). This act authorizes Federal financial assistance through advances, loans, and capital grants to local communities for the purpose of (1) assisting in the elimination and prevention of the spread of slums and blighted or deteriorating areas and (2) providing maximum opportunity for the redevelopment, rehabilitation, and conservation of such areas by private enterprise.

Pursuant to section 106 of the Housing Act of 1949, as amended (42 U.S.C. 1456), the Administrator, HHFA, delegated to the Commissioner, Urban Renewal Administration (URA), broad authority for administering the urban renewal program. The URA office is located in Washington, D.C.; the field activities of the program are carried out by the seven HHFA regional offices. A list of principal officials responsible for the activities examined in our review is presented as the appendix of this report.

The prime responsibility for initiating and administering the urban renewal program at the local level is placed with the communities themselves. Each urban renewal project is carried out by a local public agency (LPA) which is defined by statute as any State, county, municipality, or other governmental entity or public body, or two or more such entities or bodies, authorized to undertake the project for which assistance is sought.

To assist in the administration of the program, URA has issued an Urban Renewal Manual which contains the policies, procedures, and requirements to be adhered to by the LPA's in undertaking an urban renewal project pursuant to title I of the Housing Act of 1949, as amended. The HHFA regional offices are responsible for determining whether LPA's follow the requirements set forth in the manual, with respect to the submission of project proposals and subsequent execution of the project.

BACKGROUND

In most urban renewal projects, a problem arises with regard to families displaced from the urban renewal areas. These families are often from low-income minority groups with limited means of acquiring adequate housing in other areas. Even though the LPA makes relocation payments (from funds provided by the Federal Government) to cover the costs of moving, the requirement to move often places a financial burden on these families. When there is insufficient standard housing for displaced families, such families tend to move into, and further congest, existing slums or deteriorating areas. Inadequate housing resources or improper relocation plans could result in shifting slum conditions from one area of a city to another.

The Congress recognized this problem, and one objective of enacting section 105 of title I of the Housing Act of 1949 was to provide that families displaced by urban renewal activities be rehoused in decent, safe, and sanitary housing, with a minimum amount of hardship. Section 105(c) of the act provides that contracts for loans or capital grants require that:

"There be a feasible method for the temporary relocation of families displaced from the urban renewal area, and that there are or are being provided, in the urban renewal area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families displaced from the urban renewal area, decent, safe, and sanitary dwellings equal in number to the number of and available to such displaced families and reasonably accessible to their places of employment."

In Report No. 1, transmitted to the House Committee on Banking and Currency on January 31, 1956, the Subcommittee on Housing made the following comments on the relocation of displaced families:

"The subcommittee is concerned that adequate safeguards are being taken to see that such families are transferred, as painlessly as possible, to alternative decent housing which they can afford. * * * The subcommittee urges that the Federal authorities charged with overseeing relocation responsibilities exercise increased vigilance to make sure that the municipalities are in fact doing an effective and humane job in this area. Every effort should be made to insure a workable relocation plan with adequate personnel to supervise the working out of the program. If displaced families are merely shunted to another slum area or an area which is on the verge of becoming a slum, the problem is only aggravated further."

Although the law itself does not specifically direct the LPA to relocate families, it indirectly imposes this obligation on the LPA. Accordingly, the URA relocation requirements, which are intended to carry out the declared purpose of title I of the Housing Act of 1949, as amended, provide for the acceptance of such an obligation by the LPA.

Prior to the execution of a loan and grant contract, the LPA must submit a relocation plan to the HHFA regional office. This plan sets forth the policies and procedures which will be followed in carrying out the relocation phase of the project. The plan, as finally approved by the URA, constitutes the official criteria to which the LPA must adhere and is incorporated, by reference, in the executed loan and grant contract.

INADEQUATE RELOCATION ASSISTANCE TO FAMILIES DISPLACED FROM CERTAIN URBAN RENEWAL PROJECTS

In our review of the relocation of families displaced from selected urban renewal projects administered by the Fort Worth regional office, HHFA, we noted that a significant number of the families displaced in St. Louis, Mo., and Kansas City, Kans., were relocated into substandard housing and that a substantial number of the families displaced in these cities and in Columbia, Mo., were not afforded relocation assistance. We believe that the regional office's supervision and review of relocation activities of LPA's were not adequate to fulfill the intent of title I of the Housing Act of 1949, as amended, which was that displaced families be afforded an opportunity to relocate into decent, safe, and sanitary housing.

The Commissioner, URA, has informed us of his views on our findings and proposed corrective actions. His comments have been considered in the preparation of this report. The three cities whose relocation activities are discussed in this report were provided an opportunity to comment on the factual data presented herein, and we have given consideration to the views that they expressed.

Specific comments on these matters follow.

Displaced families relocated into substandard housing

A significant number of families who were displaced from slum clearance and urban renewal projects in St. Louis Mo., and Kansas City, Kans., and who were taken into the LPA's workloads, relocated into substandard housing. In many instances, the families who relocated into substandard housing were actually relocated into substandard housing by the LPA's, were offered only other substandard housing by the LPA's, or were not offered relocation assistance by the LPA's. Many of the families who were relocated into substandard housing were reported by the LPA's as having been relocated into standard housing. We believe that there were inadequate review and supervision of the LPA's relocation activities by the Fort Worth HHFA regional office.

St. Louis, Mo.: The LPA reports of relocation progress of the Mill Creek Valley and Kosciusko projects in St. Louis, Mo., as of June 30, 1961, contained the following information with regard to relocated families:

	Families	
	Mill Creek Valley	Kosciusko
Housing units relocated into—		
Standard units	1,426	410
Substandard units	379	174
Housing condition not known	162	66
Removed from workload	1,967	650

The above information shows that 553 families from the two projects had relocated into substandard housing. At June 30, 1961, the Mill Creek Valley project relocation effort was virtually complete; the Kosciusko project effort was about 65 percent complete.

We inspected 35 dwelling units selected at random from units reported as standard by the LPA and into which families displaced from the Mill Creek Valley project were relocated. On the basis of the standards set forth in the LPA's relocation plan, we concluded that 21 of these dwelling units were substandard. The deficiencies we noted included such things as inoperative plumbing, no running water, no heating facilities, doors falling off hinges, infestation with vermin, and leaks in roofs and walls. The head of the LPA's relocation section revisited seven of the dwelling units with us and agreed that these units were substandard. He informed us that visits to other units were not necessary and that he accepted our conclusion that the other 14 units we had inspected were substandard.

We inspected 31 dwelling units selected at random from units into which families displaced from the Kosciusko project were relocated. Twenty-eight of these units had been reported as standard by the LPA, and the other 3 had been reported as standard by the HHFA Fort Worth regional office site representative. The site representative had reported also as standard 4 of 28 units reported as standard by the LPA. On the basis of the housing standards set forth in the LPA's relocation plan, we concluded that 30 of the dwelling units were substandard. The head of the LPA's relocation section revisited 11 of the dwelling units with us and agreed that these units were substandard. He informed us that visits to other units were not necessary and that he accepted our conclusion that 19 of the other 20 units we had inspected were substandard. The regional office site representative stated that his inspections consisted of visual observations from his automobile as he drove by the properties and that, in classifying the dwelling units as standard, he relied on the statements of the LPA personnel.

Some of the families who had been relocated into the substandard dwellings were so relocated by the LPA. Many of the other families either were offered only substandard housing by the LPA or were offered no relocation assistance by the LPA. The LPA assisted families displaced from the Kosciusko project in finding relocation housing by offering them addresses (referral lists) prepared from newspaper advertisements. Accompanied by an LPA relocation official, we inspected 16 of the 33 dwelling units listed on a Kosciusko project referral list dated June 6, 1961. The relocation official acknowledged that each of the 16 dwelling units was substandard. The dwelling units had not been inspected prior to their inclusion on the referral lists, as required by the LPA's relocation plan.

Regarding the Kosciusko project, the LPA reported to the Fort Worth HHFA regional office that, of a total of 724 families taken into the LPA's relocation workload as of August 1961, 178 families had self-relocated into substandard housing. We reviewed the files of 40 families, selected at random, that had self-relocated into substandard housing and found no evidence that the LPA made any effort to relocate these families from the substandard housing they had chosen into standard housing, as required by the LPA's relocation plan.

In commenting on the maters discussed above, the executive director of the St. Louis LPA questioned the basis that we used in classifying as substandard the houses that we inspected. The standards that we used as guidelines in our inspections were those contained in the LPA's relocation plans for the Mill Creek Valley and Kosciusko projects. We did not conclude that housing was substandard solely because of minor items; our conclusions were based on a combination of deficiencies—some major and some minor. For example, the deficiencies we noted for one of the structures above included: leaks in roof and walls, doors falling off hinges, toilet shared with congregation of church, no kitchen facilities, no bathing facilities, inoperable windows, no water, no electricity, and no heating facilities. The LPA's own inspectors, accompanied by us, classified as substandard about 35 percent of the structures which we concluded were substandard and accepted our conclusions on the remaining 65 percent of the structures.

Kansas City, Kans.: At April 30, 1961, the Gateway project relocation effort was virtually complete; the Armourdale Industrial Park project relocation effort was about 90-percent complete. The LPA reports of relocation progress for the Gateway and Armourdale Industrial Park projects as of that date disclosed the following information with regard to relocated families:

	Families	
	Gateway	Armourdale
Housing units relocated into—		
Standard units	323	83
Substandard units	10	----------
Housing condition not known	5	5
Removed from workload	338	88

The above data shows that the LPA reported only 10 Gateway families and no Armourdale Industrial Park families had relocated into substandard housing. However, the LPA's records as of that date showed that 29 Gateway families and 6 Armourdale Industrial Park families were relocated into dwelling units classified as substandard by the LPA.

We inspected 18 dwelling units selected at random from units recorded as standard by the LPA and into which families displaced from the Gateway and Armourdale Industrial Park projects were relocated. On the basis of the standards set forth in the LPA's relocation plan, we concluded that three of these units were substandard. One of these units was located in a substandard apartment building into which eight families had been relocated. The LPA classified this building on its relocation records as standard for the first six of these families, two of which were relocated into the building by the LPA, and as substandard for the other two families, one of which was relocated into the building by the LPA. LPA officials revisited this building with us and agreed that it was substandard. The LPA subsequently revised its April 30, 1961, report of relocation progress for the Gateway project to show that 50 displaced families, rather than 10 as originally reported, were living in substandard housing.

Although the LPA's relocation plans for the Gateway and Armourdale Industrial Park projects require that inspections be made of dwellings into which displaced families are relocated, LPA officials informed us that in many instances the only inspections of relocation housing by the relocation staff consisted of visual external inspections, made while the inspectors drove past the properties.

In instances where the LPA relocation staff inspectors classified dwellings as substandard, they did not report to the city's minimum housing code office, for corrective action, violations of the city's housing code. An LPA official told us that housing code violations were not reported to the city's minimum housing code office because LPA officials believed that (1) such action would adversely affect the availability of housing resources and (2) the relocation staff was not qualified to determine whether the housing met the city's minimum housing code requirements.

The Regional Director of Urban Renewal advised us that more emphasis would be placed on relocation activities. Subsequent to our field review, the Urban Renewal Manual was revised to require that an LPA notify the local housing code enforcement agency of instances where the LPA's inspections reveal that self-relocated families who declined standard relocation housing are living in dwelling units that do not meet local housing code requirements.

We believe that these actions will tend to improve the administration of relocation activities. However, in our opinion, the deficiencies disclosed by our review show that there were inadequate supervision and review of the LPA's relocation activities by the Fort Worth HHFA regional office. Accordingly, we proposed that the Commissioner, URA, require that HHFA regional officials provide closer supervision over the execution of project relocation plans by LPA's and that such officials make periodic inspections of relocation housing. We proposed also that the Commissioner not authorize future projects for St. Louis, Mo., and Kansas City, Kans., unless URA had received positive evidence from the LPA's that sufficient standard housing would be available for permanently relocating all displaced project families into decent, safe, and sanitary housing.

In a letter dated August 5, 1963, the Commissioner informed us that the agency had implemented the first of the above proposals by authorizing regional offices to employ additional site representatives who would specialize in the examination of all LPA relocation activities. He stated that these specialists would be required to inspect the interiors of relocation housing to ascertain whether such housing meets the standards of the approved relocation plan.

In regard to the second of the above proposals, the Commissioner informed us that the proposal had been made part of URA policy which was implemented by the issuance on May 17, 1963, of Regional Circular No. 627. This circular requires the HHFA regional offices, at the time, and LPA submit an application for survey and planning for a title I project, to make a systematic evaluation of past and current performance of urban renewal activities in the locality, including the quality of the relocation operation. He informed us also that the St. Louis, Mo., and Kansas City, Kans., LPA's had instituted changes in their administrative policies and actions which were intended to provide that displaced families be relocated in standard housing. He stated that these actions on the part of the LPA's, combined with closer regional office supervision, should result in far more satisfactory relocation activities in both cities.

We believe that the proper implementation of the actions described by the Commissioner should result in significant improvement in the quality of relocation activities conducted by LPA's.

Relocation assistance not provided soon enough

We found that a substantial number of families displaced from urban renewal areas were not afforded relocation assistance by LPA's because certain URA relocation requirements were not applicable until after the execution of the loan and grant contract. We believe that the displaced families should have been informed of the relocation assistance that would become available to them.

Our review disclosed that more than 3,300 of the nearly 7,000 families that the LPA's estimated were living in the Mill Creek Valley and Kosciusko projects in St. Louis, Mo.; the Douglass School project in Columbia, Mo.; and the Gateway project in Kansas City, Kans., were omitted from the LPA's relocation workloads and that they were thus never afforded relocation assistance. Some of the families may not have accepted LPA assistance, and some of the movement from the area may have been normal turnover. The whereabouts of most of the 3,300 families is unknown, and their absence was not shown on the LPA's relocation progress reports. Probably a significant number of these families moved into substandard housing, as did a significant number of self-relocated families whose housing conditions were a matter of record.

The Urban Renewal Manual (ch. 16–1) provides that an LPA submit with its survey and planning application (1) estimates of the number of residents in the project area and the number of families that will be displaced and (2) narrative descriptions of the housing supply in the locality. An LPA is also required to submit, with its application for a loan and grant contract, more detailed estimates of relocation needs and resources. Although the manual (sec. 16–2–2) authorizes the LPA to make a complete survey to obtain information on relocation needs, it does not require that such a survey be made. The LPA is required to initiate relocation activities as soon as site occupants enter the relocation workload. The manual (sec. 16–3–1) provides that:

"A site occupant enters the relocation workload when any of the following occurs:

"(1) The property occupied is acquired by the LPA or other public body.

"(2) A landlord requests assistance in relocating a tenant to permit rehabilitation or code enforcement.

"(3) A code enforcement agency requests assistance in vacating a unit.

"(4) A site occupant requests assistance as a result of rehabilitation or code enforcement.

"As soon as practical after the effective date of the contract for loan and grant, each site occupant shall be interviewed for the following purposes:

"(1) Obtaining information on relocation requirements from families and individual householders.

"(2) Determining the relocation assistance which the site occupant requires.

"(3) Delivering to the site occupant informational material developed by the LPA explaining the relocation services which are available."

We believe that the URA regulations are inadequate in that they do not require the LPA's to advise families residing in areas selected for urban renewal projects of the relocation assistance that will become available to them until after the execution of a loan and grant contract. We believe also that URA should have required the LPA's to obtain more reliable information regarding relocation requirements and resources prior to the execution of a loan and grant contract. If reliable information on housing needs and resources is not obtained prior to the effective date of the contract for a loan and grant, significant relocation problems, such as a lack of available standard housing, may not be recognized in time to meet the needs of all the displaced families. Generally, by the time a contract has been executed, the residents of the area selected for the project have been aware for many months that they probably will be required to relocate. Consequently, many of these families, in anticipation of acquisition of the property by the LPA, move into other housing without having been advised of the relocation assistance that would ultimately become available to them. Of the self-relocated families whose housing conditions were a matter of record at the St. Louis, Mo., and Kansas City, Kans., LPA's, a significant number relocated into substandard housing. The relocation of a significant number of displaced families into substandard housing—the shifting of slums—negates much of the benefit of the project and is contrary to the clearly expressed intent of the Congress that the problems of slums and blight be attacked on a communitywide basis.

St. Louis, Mo.

The relocation plan for the Mill Creek Valley project, St. Louis, Mo., was approved by URA on June 24, 1958. This relocation plan showed that an estimated 4,212 families were to be relocated. The LPA report of relocation progress dated June 30, 1961, showed that the total relocation workload for the project was only 2,072 families. The head of the LPA's relocation section stated that as of June 30, 1961, the relocations from the Mill Creek Valley project area were virtually completed. Therefore, the remaining 2,140 families, or more than 50 percent of the families from the project area, were not taken into the relocation workload or provided relocation assistance.

The relocation plan for the Kosciusko project, St. Louis, Mo., approved by URA on May 12, 1959, showed that an estimated 1,872 families were to be relocated. The head of the LPA's relocation section informed us that only about 1,000 families were to be taken into the relocation workload. Therefore, the remaining 872 families from the project area were not to be taken into the relocation workload or provided relocation assistance.

An LPA official informed us that many families were not taken into the relocation workload because, in anticipation of the property acquisitions to be made by the LPA, they moved from the Mill Creek Valley and Kosciusko project areas prior to the actual acquisition of the properties in which they were residing.

Columbia, Mo.

The relocation plan for the Douglass School project in Columbia, Mo., was approved by URA on December 1, 1958. This plan indicated that an estimated 410 families would be displaced from the project area. However, the LPA's relocation records failed to account for 183, or over 40 percent, of these families.

LPA officials advised us that the original estimate of 410 families actually included individual householders, as well as families. However, our review of the LPA's records supporting the original estimate disclosed that, consistent with URA's definition (Urban Renewal Manual, sec. 16–3–2) of the term "family"—two or more persons who are living together in a single dwelling unit—410 families were to be displaced from the project area.

At June 30, 1961, the LPA reported the relocation progress of the project to the Fort Worth HHFA regional office. This report showed that 165 families had been taken into the relocation workload, leaving a balance of 245 families still remaining in property to be acquired by the LPA. However, on July 1, 1961, we noted that these properties contained only 62 families. Therefore, it appeared that relocation assistance would be provided to not more than 227 families, or about 56 percent of the 410 families reported in the relocation plan.

Kansas City, Kans.

The relocation plan for the Gateway project, Kansas City, Kans., approved by URA on February 26, 1958, showed that an estimated 657 families were to be relocated. In January 1961, the Fort Worth HHFA Regional Director of Urban Renewal requested his site representative to explain why the LPA's relocation records did not account for 293, or over 40 percent, of these families. The site representative replied that the 293 families had moved and that no one seemed to know where or when they went.

Our review disclosed that, since 166 individuals were included in the original estimate of 657 families, the number of families to be relocated should have been reported as 491. The LPA's report on relocation progress at May 31, 1961, showed that the total relocation workload included only 349 families, or less than 72 percent of the 491 families, with relocation virtually completed. Therefore, on the basis of the LPA's revised estimates, about 142 families displaced from the project were not taken into the relocation workload.

In commenting on this matter, the executive director of the Kansas City, Kans., LPA informed the Fort Worth HHFA regional office in a letter dated May 7, 1963, that the LPA had no responsibility under the prior URA regulations to relocate those families not taken into the relocation workload. He stated, however, that although there were no records to show that any contact had been made with these families, the LPA did encourage them, through newspapers, personal contacts, and letters, to remain in their housing until the LPA purchased the property in which they lived.

In enacting section 105(c) of title I of the Housing Act of 1949, as amended, the Congress intended that decent, safe, and sanitary housing be made available for all families displaced by slum clearance and urban renewal activities. We believe that the achievement of this objective would be advanced by URA's requiring that, during the period when survey and planning applications are being developed, rather than after the effective date of the loan and grant contract, the LPA's inform the residents of proposed urban renewal areas of the relocation assistance that will become available to them should the properties be acquired. We believe also that URA should require that the LPA's obtain reliable information regarding relocation requirements and resources during the survey and planning stage of the project.

We proposed that the Commissioner, URA, require that (1) at the time LPA's develop information to support their survey and planning applications, they inform the residents of proposed urban renewal areas of the relocation assistance that will become available to the residents should the properties in which they live be acquired and (2) during the planning stage of the projects, the LPA's obtain reliable information regarding relocation requirements and resources.

In a letter dated August 5, 1963, the Commissioner agreed to adopt our first proposal. Regarding the second proposal, he stated that:

"Since the projects referred to in this report have gone into execution, there have been extensive revisions in manual requirements with respect to the kind of showing an LPA is required to make as to relocation needs and resources. Detailed data on incomes, including breakdowns of families with incomes of less than $200 a month, family size, number of bedrooms required, housing availability by unit size and by rent and sales price brackets, makes it necessary for an LPA to examine both its requirements and housing resources much more carefully than was the case previously. If such an examination indicates the need for construction of additional housing, public or private, the manual requires that the LPA spell out in detail concrete plans for the provision of these additional resources and proposals for dealing with problem cases among displaced families, including the elderly, the handicapped, etc. If public housing is necessary to establish the relocation feasibility, an annual contributions contract must have been executed before a loan and grant contract will be approved for the urban renewal project.

"Review procedures also instituted in the last several years at both the regional and central office levels are such as to minimize errors in estimating requirements and resources. Errors and inconsistencies in the documentation are returned to the LPA's for clarification and explanation. Where long lapses are involved between relocation planning and project execution, the LPA's are required to bring their estimates up to date. This, of course, does not mean that we consider no further improvement possible in our present policies and procedures. The policies and procedures are under constant review and modifications will be introduced when the need for modification is indicated by experience."

We believe that the proper implementation of these procedures should result in a significant improvement in the quality of relocation activities administered by HHFA.

Scope of review

Our review of selected slum clearance and urban renewal program relocation activities was made at the HHFA Fort Worth regional office and at five local public agencies under its jurisdiction whose offices are located at St. Louis, Mo.; Kansas City, Mo.; Kansas City, Kans.; Topeka, Kans.; and Columbia, Mo. Our examination included a review of:

(1) The basic laws authorizing the program and the pertinent legislative history.

(2) URA's policies and procedures and its administrative regulations applicable to the relocation activities of local public agencies in the federally subsidized slum clearance and urban renewal program.

(3) Selected transactions and related project correspondence, documents, and other data pertaining to selected slum clearance and urban renewal projects.

Some verification to supplement our review at the HHFA office was performed at the above local public agencies.

APPENDIX

Housing and Home Finance Agency—Principal officials responsible for the activities examined in review and tenure of office

Administrator, HHFA

Albert M. Cole, from March 1953 to January 1959.

Norman P. Mason, from January 1959 to January 1961.

Lewis E. Williams (acting), from January 1961 to February 1961.

Robert C. Weaver, from February 1961 to present.

Commissioner, URA

Richard L. Steiner, from April 1957 to July 1959.

David M. Walker, from July 1959 to January 1961.

Charles L. Oswald (acting), from January 1961 to March 1961.

William L. Slayton, from March 1961 to present.

Regional Administrator, Fort Worth HHFA Regional Office

Waldemar H. Sindt, from December 1955 to February 1960.

John A. Foster, from February 1960 to March 1961.

Roderick A. Bethune (acting), from March 1961 to September 1961.

Roderick A. Bethune, from September 1961 to December 1962.

Robert C. Robinson (acting), from January 1963 to March 1963.

William W. Collins, Jr., from March 1963 to present.

Regional director of urban renewal, Fort Worth HHFA Regional Office

Robert C. Robinson, from January 1955 to October 1961.

Leonard E. Church, from November 1961 to present.

FAILURE OF RULES COMMITTEE TO REPORT H.R. 9903, TRANSPORTATION ACT OF 1958

Mr. CRAMER. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. YOUNGER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. YOUNGER. Mr. Speaker, the failure of the Rules Committee to report H.R. 9903 simply means that there will be another lapse of time before the Transportation Act of 1958 can be properly implemented so that all modes of transportation will be permitted to exercise their inherent advantages of cost and services which they possess.

Mr. Morris Forgash, president of the United States Freight Co., one of the foremost authorities on our transportation system, delivered an address on June 11, 1964, before the Boston Security Analysts Society at the Somerset Hotel in Boston, Mass. The address was entitled "Transportation Equation: Apathy Plus Inaction Divided by Talk Equals Crisis and Nationalization." He so clearly points out what will happen if Congress does not act, and I am sure that everyone interested in preserving our transportation systems will be interested in his address which follows:

TRANSPORTATION EQUATION: APATHY PLUS INACTION DIVIDED BY TALK EQUALS CRISIS AND NATIONALIZATION

(By Morris Forgash, president, United States Freight Co., before the 18th annual meeting of the Boston Security Analysts Society, Boston, Mass.)

I am glad to be with you. It is fitting that we should come together in this historic setting to discuss one of man's most ancient problems—mobility.

The city of Boston is very old and justly proud of its history and traditions, but it has never hesitated to part with the past in order to make a rendezvous with the future. That symbol of mobility, the American railroad, with which we are here so largely concerned, also has a proud and historic past, but its destiny is not so clear. The choice seems to be between realism and requiem.

The people of Boston have accumulated a reputation for fierce loyalty to the heritage of their past. The reputation lives on in many a good-natured yarn. Just the other day I heard of the little old lady who had lived all her life in Boston, and when asked why she had never traveled she promptly responded: "Why should I? I am already here." New Yorkers, of course, have a different philosophy. We travel even to the remotest suburbs of our city tolerating the local pride which causes some of them to be called by such names as Philadelphia, Washington, and Los Angeles.

In these environs were nurtured the hopes and the aspirations of a people seeking respite from tyranny, determined to create in a new land a new way of life. Here, from the balcony of the Old State House, the Declaration of Independence was proclaimed. Here, as a center of revolutionary activity, historic Faneuil Hall earned its name and its fame as the "cradle of liberty." Here, from the steeple of the Old North Church, a signal lantern flashed the message which Paul Revere carried to his rugged compatriots. The Boston Tea Party and the Battle of Bunker Hill stand as monuments to the raw courage and unconquerable determination of the people of this land.

With such a breed of men and such a patrimony, it is not surprising that Boston early became a center of manufacturing and financial activity. Here, before me, I see proof positive of the latter fact. The roster of the Boston Security Analysts Society forms an elite chapter in the "Who's Who" of the financial world. I confess to some trepidation in presuming to address you. And yet, as the manager of certain transportation enterprises, I feel a strong kinship with your endeavors. For while I lay no claim to being an expert in your field—and certainly I have not been initiated into the secrets of your profession—no man can successfully run a transportation business of any size today without a working knowledge of finance.

Investment is the employment of capital in the expectation of income or profit. Transportation cannot function without capital. In a free enterprise system the capital necessary to maintain and develop a transportation plant—other than earnings and depreciation—must come from the private money market. The common carriers compete in the money market with other industry. If their earnings are not comparable to those of industry generally they will not attract the capital necessary to maintain their credit position, modernize facilities and equipment, and improve efficiency.

These are simple economic facts. I recite them only to emphasize the predicament of the railroads. The rate of return on net investment in the railroad industry has not been good for quite a number of years. In 1962, according to figures released by the Interstate Commerce Commission, the overall rate of return was 2.72 percent. Broken down, the figures range from 0.79 percent in the giant Eastern district, to a high of 7.15 percent in the small Pocahontas region. In the Southern region the rate of return in 1962 was 4.02 percent and in the West it was 3.26 percent.

According to figures published by the Association of American Railroads, the return on investment of the railroads as a whole rose to 3.10 percent in 1963. That is encouraging, but it is not a cause for jubilation. The important fact is that the rate of return on railroad investment has risen above 4 percent in only 5 of the 18 postwar years, 1946–63. The peak year of the period was 1955, when the return was 4.22 percent. You can interpret these figures as well as I can, and your clients will assess their significance in the marketplace. I venture to suggest that they are not the kind of figures calculated to support sound financing.

The rate of return reflects the results of rail operations. We must be concerned with causes. To learn the causes of the declining railroad position it is necessary to examine some political and economic history and to look at some operating trends and statistics against the backdrop of the overall economy and the performance of other carriers.

Before I go into those matters, let me say that I have been making public statements about the transportation situation for a number of years now, and I have consistently stressed the railroad problem, simply because it is the heart of the transportation problem. I am aware that some people think I am an alarmist, and there are a few who consider me a railroad advocate. If I am an alarmist, I only hope I am an effective one, but I deny that I hold a brief for any particular mode of carriage. If someone should invent tomorrow an entirely new instrumentality for the movement of people and goods which would more adequately serve our economy and culture and improve our posture for defense and survival, I would shed no tears for the old order.

But transportation we must have and we must predicate our thinking on the undisputed fact that our railroads are still the essential ingredient of our transport system. The railroads are in deep trouble, and each tick of the clock brings us closer to the zero hour. If a sufficient number of people do not become alarmed about the situation to generate effective action, we will one day soon be forced to nationalize the railroad industry. If that occurs, it is the verdict of transport history that the other modes will quickly lose their independence. If we are to preserve the free enterprise system which is our greatest legacy, we must at all costs avoid taking this first long step toward changing our social order.

I am not, then, talking as an advocate of a mode of carriage—I am talking as an advocate of a way of life and a system of government to which our Founding Fathers pledged and risked their lives, their fortunes, and their sacred honor.

The dilemma of the railroad industry is perhaps the greatest paradox in history. The economic advantages of moving freight by rail as opposed to other means of transport are obvious and undisputed. A report recently submitted to the Secretary of Commerce by a Committee of the National Academy of Sciences shows that railroads can transport freight with less propulsive resistance over a wider range of speeds than any other mode of carriage. For example, the propulsive resistance generated by 50 net tons of freight in a railroad freight car is 6 pounds per ton at 40 miles per hour. At the same speed, the propulsive resistance is 31.7 pounds per ton for 15 net tons of freight transported by a tractor and semitrailer over a highway. In an airplane flying at 300 miles per hour 20 net tons of freight has a propulsive resistance of 400 pounds per ton. Railroads can move freight in mass quantities at lower costs than any other media save tows on natural waterways.

Moreover, the railroad plant is in existence. It covers the Nation. The industry has the lines, the equipment, and the capacity to move vastly greater tonnage than it is moving today. Why is it, then, that the most economical mode of transportation, on a national scale, in the United States is rapidly losing its place in the economy and sitting helplessly by while its tonnage slips away to other modes? The answer will not be found in economics. We must look somewhere else. There are only two other places to look—governmental policy, and managerial acumen and skill. I will examine those areas. First, however, let me support my thesis that there is a railroad problem, of critical proportions.

On the graph of rail performance, tonnage and revenues have been forming a downward curve since 1952. There have been peaks and valleys, and there was a slight upturn in 1962 and again in 1963, but the curve is still downward. We must examine this trend, but not in isolation—it follows a pattern.

THE DOWNWARD SPIRALING RAILROAD CYCLE

For almost half a century now the economic history of the railroads has been tracing a series of cycles which form a downward spiral. In each cycle the pattern has been the same—crisis, war, and recovery. The cycles have grown shorter and the recovery has become less pronounced at each turn. The spiral is always downward. Thinking men no longer can accept this as a natural phenomenon.

In any human endeavor there comes a point in time which marks the dividing line between the past and the future. World War I stands at the juncture of railroad history. It is the equinox from which all who would understand the railroad story must look back and look forward. It ended an era of wholly restrictive regulation under which a splendidly equipped industry had been all but starved to death in the midst of plenty. It saw the birth of a new philosophy of regulation to which we still adhere, but which we have never quite succeeded in implementing.

The first World War forced upon us the hard choice of Government ownership or private enterprise in transportation. Many men of respected judgment thought that the sun had already set on free enterprise in transportation—that we had no real choice except permanent nationalization. Among them were Eastman, McAdoo, and the men who spoke for rail labor. It was clear to everyone that we had boggled the job of regulation, and that if private ownership was to succeed, Government policy had to be aimed at promoting and preserving transportation as well as protecting the public from abuse.

We chose free enterprise and Congress wrote a new transport charter—the Transportation Act of 1920. By all calculations it should have worked. It was designed to guarantee a fair return on the value of railway property; to recapture excess earnings and solve the problem of the weak lines on a "share the wealth" basis; and to bring about consolidation of the rail lines into limited systems for economical operation. But something went wrong somewhere down the line.

Men make resolutions under stress of crisis and tend to forget them in good times. We started out under the act of 1920 with high resolve and good purpose. Rate increases ranging from 25 to 40 percent were promptly granted. Prosperity came to the country and the railroads had a surface glow of well being. Net railway operating income, starting from practically nothing in 1920, rose to more than a billion dollars in 1925. It was a rosy picture.

But we made a crucial mistake in the prosperous twenties. We failed to implement the one vital provision of the act of 1920 which, if promptly carried into effect, might have averted the troubles which were compounded in later years. I refer to rail consolidation. The ICC promptly designed and promulgated a tentative plan, based largely on the recommendations of Professor Ripley. It called for 19 basic rail systems, and was made public in 1921. A storm of protest greeted the proposal. A discouraged Commission threw up its hands and asked to be relieved of its task by legislation. Failing in that effort, the Commission went through the gesture of lengthy hearings and, in 1929, issued a so-called final plan for the consolidation of rail lines into 21 systems. The law called for voluntary action and there were no volunteers.

Depression and new and vigorous competition hit the railroad industry at the same time, and after a decade of relative prosperity the railroads passed into the dark and chaotic decade of the 1930's—a decade of crisis. In their struggle to stay alive the railroads made rates with little or no thought for their growing truck competition, and their policies actually encouraged the expansion of highway transport. Thus, while a third of the railroad industry was sliding into bankruptcy, and most of the solvent roads were limping along on the crutch of Government loans, the trucking industry was becoming a potent and pervasive force in transportation.

By 1939 the first cycle on this side of the railroad equinox had been completed. The brave new charter of 1920 had failed. The industry was in worse condition than it had been in 1917. A new transport industry had been born and established its place in the sun. Nationalization was imminent and almost inevitable. It was on the drawing boards. On April 15, 1935, powerful Senator Burton K. Wheeler had introduced, as S. 2573 of the 74th Congress, a bill drawn up by Joseph B. Eastman to establish a Federal corporation, the "United States Railways." The corporation would have been directed to acquire all railroads and authorized to acquire all other carriers.

Then World War II changed the picture as dramatically as had World War I, but with certain differences. The war-generated traffic pumped new lifeblood into the railroad industry, but instead of precipitating Government ownership, as in the first War, it averted that catastrophe—at least in the short range. We had learned some lessons from the First World War—transportation was more diversified—and we had had more time to plan for effective Government-industry cooperation.

The second cycle started, as did the first, with a new congressional charter for transport regulation—this time the Transportation Act of 1940. That act brought domestic water carriage under the aegis of the ICC and undertook to provide for fair and impartial regulation of all modes, so administered as to preserve the inherent advantages of each. It was thought important to insure, as the act did, that rates would be made by each mode with regard to its traffic, and not the traffic of other carriers. This was supposed to give more latitude in the making of competitive rates and prevent "umbrella" ratemaking, but it has taken 24 years and a subsequent amendment to make that purpose effectively clear.

The war-induced prosperity of the railroads in the 1940's did not last very long. After World War II mounting costs forced the railroads to initiate a whole series of general, across-the-board, rate increases. These flat percentage increases distorted rate patterns and encouraged the rapid growth and expansion of long-distance trucking. By 1949 the second postwar cycle was beginning to reach the proportions of a crisis.

The Korean incident caused an upsurge of traffic which again encouraged a false sense of security to obscure the ever-deepening railroad problem. This mock prosperity ran its course in about 2 or 3 years. Then started the third march of the railroads down a familiar trail which is now moving us toward a point of decision or a point of no return.

A LOOK AT THE LONG-RANGE DECLINE

The declining position of the railroad industry in the economy and the distribution pattern is starkly revealed by figures which are available to all but which few take the time to read. First, let's go back just a quarter of a century, to 1939.

Between 1939 and 1962 the gross national product increased more than six times, rising from $91.1 billion to $554.9 billion.

In 1939 rail freight revenue of $3,376 million amounted to 3.73 percent of the gross national product. In 1962 rail freight revenue of $8,385 million was only 1.51 percent of the gross national product.

During this same 1939–62 period, operating revenues of motor carriers of property rose from $880 million, or 0.99 percent of the gross national product, to $8,131 million, or 1.46 percent of the gross national product.

In 1939 the railroads handled 62.3 percent of all ton-miles of freight moved in the United States. By 1962 their share of the total had dropped to 42.9 percent. Motor carriers of property increased their share of total ton-miles from 9.7 percent in 1939 to 23.7 percent in 1962.

Now, let us go all the way back to World War I for a few comparisons.

In 1921 the railroads employed 1,659,513 people. In 1963 there were only 679,828 rail employees. The average earnings, which were 62 cents per hour in 1921 had risen to $2.99 in 1963, so that the annual payroll increased from $2.8 billion in 1921 to $4.6 billion in 1963.

In 1921 the railroads owned 1,038,222 boxcars. The number had dwindled to 639,460 in 1962. Since more tons were handled in 1962 than in 1921 it is obvious that performance was improved. The average capacity of the 1921 boxcar was 37.5 tons—it had risen to 50.1 tons in 1962. Freight train speeds between terminals rose from 11.5 miles per hour in 1921 to 20 miles per hour in 1962, resulting in an increase in car miles per serviceable freight car day from 25.8 miles in 1921 to 47.5 miles in 1962. Doing more with less kept the railroads from sinking, but it did not keep them up front in the race.

In 1921, 36.9 percent of all car miles represented empty movements. The percentage had increased to 39.1 in 1962. In all areas save this the railroads have almost made up through improved technology what they have lost in units of work and equipment. Reducing empty car miles ought to be near the top of the railroads' agenda.

The rate of return on net railroad investment in 1921 was 3.04 percent, as against 3.10 percent in 1963. But 1921 was a year of transition from war to peace, and from Government operation to private management. The rate of return rose to 5.30 percent by 1929. It was 6.36 percent in the war year of 1942. In 1950 it was 4.28 percent, and it has never since been that high. We are in another downward cycle, and we should not delude ourselves into believing that the slight upturn in 1962 and 1963 has reversed the trend of nearly half a century.

THE PATTERN OF THE CURRENT DOWNTREND

Taking 1952 as the starting point of the present cycle let us examine a few statistics to see where we are heading.

In 1962 class I railroads handled 149 million tons less than they did in 1952—they received $801 million less in freight revenue. Here is how the figures for 1962 compare with those for 1952 in the various categories of traffic:

Products of agriculture, tons up 17 million; revenue down $54 million.

Animals and products, tons down 5 million; revenue down $98 million.

Products of mines, tons down 118 million; revenue down $270 million.

Products of forests, tons down 5 million; revenue down $9 million.

Manufacturers and miscellaneous, tons down 30 million; revenue down $102 million.

All LCL, tons down 7 million; revenue down $252 million.

It will be noted that revenue declined in every category of traffic over the 11-year span. Tonnage declined in all categories except products of agriculture where the railroads are hauling more tons for fewer dollars.

Considering 1952 as 100 percent, rail tonnage dropped to 89.22 percent and rail freight revenue fell off to 91.28 percent in 1962. Meanwhile, the gross national product, in 1962, stood at 159.91 percent of its 1952 level.

These are shocking facts and figures. They cannot be rationalized or swept under the rug. They tell a story which has to be understood to be appreciated. What happened to the products of mines and of forests—long considered to be almost captive to the railroads. What is responsible for the sharp decline in revenue on products of agriculture? Did these commodities go to other common carriers, or to private carriage, or did some of them lose out in the battle among products and perhaps reappear under some other category and in the statistics of some other mode? These are questions which should be a cause of concern to management and Government alike because somebody has to find the answers.

I suggest that this question should be the cause of greatest concern: Why are the railroads losing their manufactured commodities, and to whom? Without this traffic the railroads cannot survive. In 1962 the manufactured and miscellaneous category of traffic accounted for 28 percent of rail tonnage and 49 percent of rail freight revenues. If the railroads continue to lose this traffic at the present rate, they will be insolvent in a very few years.

It is manufactured and miscellaneous freight—the lifeblood of the railroads—which is most vulnerable to truck competition, regulated and unregulated. This is the freight on which the gray area operator feeds. It is the traffic toward which air transport is turning hungry eyes. This is the area of greatest danger to the railroads, but it also is the area in which they have the greatest opportunity to recoup their staggering losses and revive their sagging fortunes.

The entire range of manufactured and miscellaneous commodities is susceptible of containerization and handling in piggyback service. In this field the inherent advantages of railroading are so great, the economies are so apparent, and the potentials so unlimited, that to ignore them would be to play Russian roulette with the future of the industry and the investments of millions of citizens.

GOVERNMENT'S ROLE SINCE 1920

In the title of my talk I gave you an equation. I did not make it up—the facts make it our legacy. Apathy, plus inaction, divided by talk, equals crisis and nationalization of transportation. I have stated the facts with which we must deal. This is not a game with the competing carriers in the arena and the investors, shippers, and general public in the cheering section. This is a test of our determination to maintain the best transportation system that our technology can produce and to make it work under the principles of free enterprise. Each of us shares the responsibility for the success of that endeavor.

We are prone to criticize the role of Government in transportation, forgetting that Government speaks with the voice of the people, if the people make their voice heard. We carved out a new policy for transportation in 1920, but we never carried it out in full and we have consistently ignored some of its basic tenets.

In 1935 we decided to regulate transportation on the highways, but Congress wrote in so many exemptions and exclusions, and left so many loopholes in the law, that it excluded, more than it included. According to ICC statistics, federally regulated trucks accounted for only 33.4 percent of intercity ton-miles of highway transportation in 1961—unregulated trucks accounted for 66.6 percent of the total.

Then, in 1940, the decision was made to bring domestic water carriage under ICC regulation. This time Congress devised exemptions with even bolder strokes. The Commission estimated that in 1961 regulated water carriers transported only 14.9 percent of the ton-miles of waterborne domestic traffic. Much of the traffic handled by the regulated water carriers is, in turn, exempted from regulation, so that it is reliably estimated that not more than 10 percent of water transportation is regulated.

It was in 1940 that the national transportation policy which prefaces the Interstate Commerce Act was adopted. Previously, a similar policy had applied to motor transportation, but there had been no overall statement of policy. I have already referred to the new ratemaking policy adopted in 1940, designed to encourage greater freedom in the making of competitive rates.

In 1942 freight forwarders were brought under Federal regulation, by part IV of the Interstate Commerce Act, and subjected to the same controls and standards as are applied to other carriers.

The Transportation Act of 1958 was in the nature of an emergency measure, growing out of hearings on the deteriorating railroad situation. Congress expressed concern about the fact that the railroads' share of freight traffic had declined "from 74.9 percent of the total intercity ton-miles in 1929 to 48.2 percent in 1956." As I have already pointed out, the railroads' share of ton-miles had dropped to 42.9 percent in 1962—or one percentage point a year—and yet no one seems particularly concerned today.

Congress again revised the rule of ratemaking in 1958, so as to "encourage competition between the different modes of transportation." The Senate Commerce Committee said, in reporting the new rule, that it believed the policy of Congress always had been "that each form of transportation should have opportunity to make rates reflecting the different inherent advantages each has to offer." But it added that "the Interstate Commerce Commission has not been consistent in the past in allowing one or another of the several modes * * * to assert their inherent advantages in the making of rates."

When the railroads undertook to carry out the admonition of Congress to adjust rates to compete more effectively for business they encountered litigation by a solid front of competitors. The litigation dragged on. In 1961 legislation was introduced which would have completely reversed the ratemaking policy of the act of 1958, as well as that adopted in 1940. When the facts were made clear on the record, Congress rejected the legislation—bill S. 1197—and in 1963 the Supreme Court stated, in unmistakably lucid language, the meaning and intent of section 15a(3) as adopted in 1958. It said the purpose was to "permit the railroads to respond to competition by asserting whatever inherent advantages of cost and service they possessed."

EXEMPTIONS AND INEQUALITY

Meanwhile, faced with the grave knowledge that conditions in transportation were steadily worsening, the late President Kennedy sent to Congress, on April 5, 1962, a historic message requesting a bold new approach to the equalizing of competitive opportunity. Among other things, he requested that the exemptions in the act either be extended, in substance, to all carriers, or completely repealed. The implementing legislation took the approach of extending, rather than repealing, the exemptions. Extensive hearings resulted in a stalemate on the original bills.

Then the chairman of the House Interstate and Foreign Commerce Committee undertook to salvage the essential features of the Presidential bills. His committee reported H.R. 9903, providing for extension of the agricultural exemption to all carriers and for a limitation of the bulk-commodity exemption in water carriage to one commodity per vessel in lieu of three. This was later amended to provide for two exempt commodities. As you know, the Rules Committee refused to clear this bill for consideration.

That is where we stand today. That is where we will stand tomorrow and the next day if we simply wait and talk until the trends I have analyzed sweep us through crisis to nationalization.

The statement of national transportation policy which has been on our statute books for almost a quarter of a century, could not be improved upon. But we have dressed a shabby law in a silk hat. It is a cynical mockery to preface a law that regulates only half of an industry with a policy that calls for fair and impartial regulation of all. We must achieve equality of regulation and the only way to achieve it is to regulate all carriers alike or deregulate all to the same extent. That is the oldest concept of justice and the only one we can tolerate.

If we must face the fact that the political situation in this country is such that the agricultural exemptions which the trucks enjoy cannot be repealed, surely it is not an inescapable corollary that the exemptions may not be extended to other carriers. Certainly those carriers who have the benefit of the exemptions can present no logical or forceful reasons why the same exemptions should not be extended to their competitors. Shippers who like the exemptions and who, alone, could have any real reason for not wanting them repealed, assuredly could have no valid objection to their extension to other carriers.

The fear sometimes expressed that if the railroads are unshackled they will cut rates on exempt commodities to the point of destroying both themselves and their competitors is answered by the reality that it has not happened in the trucking industry where the exemptions have always applied. Shippers who say they would never know what their competitors are being charged probably really fear that they would no longer be able to gouge their own customers by pricing on the basis of a published rate while using an unpublished charge.

Insofar as the bulk commodity exemption is concerned I think it is time to bring the facts out of the shadows so that the American people can take a look at them. We ought to have the courage to regulate domestic water carriage or give up the pretense. A statute which regulates only 15 percent of an industry and 10 percent of its traffic is inequitable to the industry and grossly unfair to its competitors. When the segment of the industry that is regulated can handle both regulated and unregulated commodities it is understandable that it should not want to see the number of exempt commodities reduced. But, again, if the pressures are such that complete repeal cannot be effectuated then a start should be made somewhere. And if that cannot be done then the exemption should be extended to all carriers.

Exemptions will not be leveled out, and equality of regulation will not be achieved, until the people who are being hurt get down into the arena and take off their kid gloves and fight.

THE GRAY AREA PROBLEM

Solving the exemptions problem will not, of itself, bring about equality of regulation. All regulated carriers are faced today with the rankest kind of unfair and destructive competition from carriers who lurk in the gray areas of the law created by inexact definitions and statutes designed to protect bona fide private carriage. Sometimes called gypsies or buy-and-sell operators, these are the bootleggers of transportation.

According to the Commission's 77th annual report, 451 court enforcement actions were brought against gray area operators in the fiscal year 1963, resulting in a total of $359,000 in fines. Shippers were included as defendants in 103 of these cases. And still the activity grows. In the same report the Commission estimated that gray area operators cost the regulated carriers at least $600 million a year.

Actually, it is a misnomer to call these carriers gray area operators. The only categories of carriers are duly authorized, regulated carriers; exempt carriers; legitimate private carriers; and illegal for-hire carriers. But the law has gray areas. The law defines common and contract carriers with precision but the definition of private carriage is fuzzy, and the leasing regulations do not apply to private and certain exempt carriage. These loopholes must be plugged up before the gray area cancer of transportation becomes terminal. If, by definition, private carriage is limited to its own sphere, and the law is amended so that there can be absolutely no intermingling of private and for-hire transportation, the gray area operator will be forced out into the open where he can be spotted and coped with.

There has been a lot of talk—a number of bills have been introduced—extensive hearings have been held—the law has been patched a little from time to time, but the problem remains unsolved. You and your clients are paying a heavy price for inaction. Let's build some fires.

MERGERS ARE INEVITABLE—WHY NOT NOW?

The railroad industry knew, at the turn of this century, that consolidation into a limited number of systems was inevitable. The movement was stopped by the Supreme Court's interpretation of the antitrust laws in the Northern Securities case in 1904.

In 1920, Congress made consolidation of the railroads a matter of governmental policy. The railroad industry was not ready to accept consolidation on so broad a scale as the Commission proposed in 1929. Ultimately, the directive to the ICC, to affirmatively propose a plan was dropped from the law, but section 5 of the act, read in the light of the national transportation policy, in my opinion, still reflects a policy favoring merger of rail lines into efficient systems. The statute establishes procedures for the approval of mergers which are found to be in the public interest and the transportation policy directs that the act be so administered as to encourage economic conditions in transportation.

The economic necessity for large-scale mergers is greater now than it was in 1920. Then it became a matter of policy, now it is a condition of survival. Those who think we are moving too fast in the matter of mergers have not considered the consequences of moving too slowly. I say we are moving much too slowly, and that it is the obligation of everyone—the owners, the managers, the users of the railroads, and the Government, to speed up the process of consolidation. If we do not have the initiative and the ingenuity to plan and execute mergers of the rail lines into efficient and economical systems under private ownership circumstances will force us to do so under Government control.

COORDINATION THROUGH DIVERSIFICATION

Coordination of transportation has been a goal of our policy and a target of our study and planning ever since the newer forms of transport came upon the scene. But with it all the modes of transport have remained largely compartmentalized. We have shied away from the one means of achieving coordination that holds the greatest promise—diversification through common ownership.

We have made a "bogey man" of common ownership and a fetish of preservation of the modes. After the newer forms of transport had reached the stage where it became necessary to bring them under Federal regulation they persuaded a receptive Congress that they needed protection from being "gobbled up" by their powerful competitors, the railroads. As the industries grew up, the need for an iron curtain gradually disappeared, but the wall still stands.

Industry has diversified and dispersed. Everything has changed except the pattern of transportation. Plants and outlets have moved away from the railhead, but the railroads have been limited in their opportunity to take to rubber tires to follow the traffic. In my opinion the law in this respect is too rigid and it has been too rigidly applied. The inherent advantages of the various modes are being suppressed in the mistaken belief that they are being protected.

In my opinion, our laws and our policies with regard to diversification of ownership are due for an overhaul. We are operating under old rules in a new world. I suggest we wake up and modernize while there is yet time.

PRICE, CAPACITY, AND ECONOMY

The only commodity that any transportation agency has to sell is service. The competition of industry and markets has made the shipping public increasingly price minded. A wider choice of transport media has sharpened the shippers' taste for service. The railroad industry has not been sufficiently alert to the pricing of its service to reflect its own economies, its own capacity, and its advantages in the competitive arena.

I ask you to bear in mind these fundamentals: The advantages of rail service are directly related to volume; railroads have a tremendous unused capacity; and their potential for handling greater volumes at higher speeds has hardly been tapped.

How do the railroads attract the volume necessary to fill out capacity and invoke the true economics of rail transportation? The first answer is to tailor pricing to suit the market. Other nations in the world are far ahead of us in the matter of guaranteed, contract, and incentive rates designed to attract and retain volume. We have all-commodity rates and a limited number of multiple-carload and trainload rates—even annual volume rates. So-called "guaranteed rates" under which a shipper agrees to give a railroad a specified percentage of his tonnage, have been disapproved. Plans have been devised for "integral trains" and "shuttle" trains.

By and large, however, the rail rate structure is still tied to capacity of a boxcar. This is unrealistic today. Charges must be designed to fit the traffic and not the unit of haulage. Moreover, prices must be designed to reflect the economy of mass movement. A railroad has a fixed plant, like a manufacturer. The plant incurs certain costs whether it is used or not. Much of the capacity is not used. If the service is priced to reflect full costs the railroads will not attract the volume necessary to maximize the economy of their operations. It would add to the overall economy and efficiency of rail operations if rates were fixed, in the first instance, on the expectation of volume and at no more than is necessary to offset the cost of handling the added traffic. If someone says this is the "added traffic theory" I say: "So what?" It will benefit the railroads and the shipping public in the long run, and this is a time to be realistic, not theoristic.

The next area to explore is improved service. Speed is an essential ingredient of service in today's market. I showed earlier that in 41 years, between 1921 and 1962, the speed of freight trains was increased by only 8.5 miles per hour. Speeds fantastically higher than the present average of 20 miles per hour are possible. Between all points where solid trainloads of freight can be generated freight trains can exceed the speed of passenger trains because passenger stops would be bypassed.

Today the elapsed passenger time from New York to Los Angeles is approximately 57 hours. A solid train of freight cars, equipped with roller-bearing wheels, could better that time and roll into Los Angeles for second midnight or very early third morning placement for delivery. Even the air freight carriers, with speeds of 600 miles an hour, could not shade that time sufficiently to justify the differential in price which they must exact.

Finally, new techniques must be explored and exploited if the inherent advantages of railroading are to be fully realized. Piggybacking is a stirring example of what I am talking about. The advantages of transporting freight in containers that can be freely interchanged among modes of carriage without transfer of lading have been known for decades. But because the old way is the easy way we did not find the initiative to perfect and make modern application of the technique of piggybacking until just a few years ago.

Even while trailer-on-flatcar service was in its early experimental stages, beset by legal questions raised by those who would thwart its progress, it was meeting with instantaneous success in the marketplace. The shippers liked it, and liked the simple and realistic basis on which it was priced. I gave you the declining figures of overall rail service for current years. Piggyback carloadings are a far different story: 550,000 cars in 1960; 600,000 in 1961; 700,000 in 1962, and 800,000 in 1963. If overall rail service had advanced at that rate we could close up the office and go fishing.

It is the potentials and not the progress of piggybacking which now must occupy the thought and attention of everyone concerned. Piggybacking offers the only hope for recovery by the rail lines of their manufactured and miscellaneous freight which they are losing at the rate of 30 million tons a decade. It is the most effective weapon the railroads have against private carriage because the pricing of the service is oriented to the cost of do-it-yourself transportation. It is the only effective means the railroads now have for extending the railhead to a dispersed industry.

Piggybacking is the only medium yet discovered which permits the railroads to turn out a product composed of pure rail service, stripped of costly terminal handlings, switching, classification, transfers, and so on. It is the only service which can be priced on exactly known rail costs, and priced at a figure that is profitable to the railroads and economical to the shippers.

The speed of piggyback service is built in, by the avoidance of delays at terminals, transfer points, and sidings, and the speed can be greatly enhanced. By pooling their piggyback cars the railroads could run only trains of trailer-on-flatcar traffic between some points today—between many others very shortly. Any rail facility for the loading of piggyback trailers can be a "union station" for piggybacking. Consolidated rail piggyback trains can make faster delivery schedules between all major cities than any other surface medium and can reduce the differential in time between rail and air transport to a point where rail service will be fully competitive with air freight.

CONCLUSION

I have called upon fact and history to show the direction in which we are headed in transportation, and I have told you what I think we must do if we would arrive at a different destination. I hope that by being painfully realistic I have not given the impression that I am unduly pessimistic. A renaissance in transportation in this age of miracles is not a mirage—it need not be a distant shore. If we do not reach that shore it will be because we sank in a sea of apathy.

Transportation is our strength, our protection, and the hope of our future. The success of our endeavor to keep transportation in the realm of free enterprise will, in a very large measure, reflect our capacity to govern ourselves in the manner conceived by our Founding Fathers. It is a relentless fact that we are now drifting listlessly on a tide of indifference in the wrong direction. But you and I can change the course of events. We can bring about equality of opportunity under regulation, and we can insure to all modes complete freedom to assert their inherent advantages. Given such freedom and equality of opportunity, I am confident that the managers of transportation have the imaginative genius and the indomitable determination to do the rest.

None of us will do any of these things if we wait and make studies and talk. What I suggest will require hard work and complete indifference to obstacles. It is as true today as when it was said in the fourth century B.C. by a great dramatist, poet, soldier, and financier, a man called Sophocles, that—"Heaven never helps the man who will not act."

THE WHEAT-COTTON-FOOD STAMP DEAL—TOM CURTIS WRITES TELLINGLY OF AN OUTRAGEOUS EPISODE

Mr. CRAMER. Mr. Speaker, I ask unanimous consent that the gentleman from New Hampshire [Mr. CLEVELAND] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CLEVELAND. Mr. Speaker, having served for 12 years in the New Hampshire State Senate, I can honestly say that I am no stranger to the rumbling of rolling logs. When I came here last year, however, I had hoped that this practice would be tempered by the alertness of the fourth estate, seemingly so loud and perceptive in its important task of exposing legislative foibles to public scrutiny. But, alas, I have waited in vain since the passage of the wheat-cotton-food stamp package for the fourth estate to perform its function. It is true that many Congressmen have written about this sad and outrageous performance but the general press has been strangely silent.

On Wednesday, April 8, and in the early hours of April 9 of this year, the body of a truly great American, General MacArthur, lay in state in the Capitol rotunda—symbol of duty, honor, and country—one could almost hear the bugles of glory. But glory found a sad and sickening echo here in the House. Representative THOMAS CURTIS, my distinguished colleague from Missouri, has written a definitive account of those events in his newsletter to his constituents for the month of May 1964. This account should be required reading for every student of good government in this Nation and, indeed, the world. If representative government is to survive, the doings of this, the greatest representative body in the world, must be scrutinized constantly, objectively, and forthrightly. The cause of representative government owes a special debt to people like THOMAS CURTIS for their painstaking scholarship and fearless commentary. I hope that my colleagues will find his newsletter of interest and that thoughtful people throughout the Nation will read and reread the powerful and perceptive prose of this great American from Missouri. I hope that concerned citizens and organizations will find ways to spread the truth about this sorry episode that seems to have escaped the public scrutiny it so richly deserves. TOM CURTIS' newsletter follows:

NEWSLETTER OF TOM CURTIS OF MISSOURI

MAY 1964.

DEAR CONSTITUENT: The following is a form letter I prepared in answer to the many letters I received on the cotton-wheat legislation which recently became law. I think it is a matter of great concern to all of us and accordingly I have devoted this newsletter to it: "Thank you for your recent letter commenting upon the cotton-wheat and food stamp legislation which recently passed the House of Representatives. In order to answer these inquiries in some depth I have prepared the following mimeographed letter.

"The two bills and three basic subject matters are so interwoven that the matters cannot be treated separately as they should be.

"HOUSE STARTS WITH A BAD COTTON BILL

"The House earlier this year passed a cotton bill. In my judgment this was a bad bill because it compounded two previous errors with still another error and made the entire cotton picture, farming and cotton textile manufacturing, worse. The first error was made many years ago when the Federal Government continued to subsidize the growing of cotton in the United States after the end of World War II instead of gradually bringing cotton growing back to marketplace regulation. Having subsidized the growing of cotton, our cotton farmers found that they were pricing themselves out of the world market. The price of U.S. cotton boosted by the subsidy was higher than the world market price.

"Instead of taking a look at the whole picture which indicated that it was the subsidy that was causing the trouble our cotton farmers asked for a further subsidy. The cotton farmers' position prevailed and a law was passed permitting the Federal Government to sell cotton abroad at a lower than domestic market price with the U.S. taxpayers subsidizing the difference.

"A TRIPLE SUBSIDY

"This subsidy upon a subsidy created an untenable position for our domestic cotton textile companies because they found that foreign textile manufacturers, Japan and Hong Kong in particular, could buy U.S. grown cotton, subsidized by the U.S. taxpayers, at a cheaper price. Accordingly, the cotton textile manufacturers came to the Federal Government, not to remove the first two subsidies which were creating the problem, but to get a subsidy for themselves so they could buy U.S. grown cotton at the same price the foreign manufacturers were paying.

"This was the cotton bill which passed the House. A subsidy on a subsidy on a subsidy. What will happen now that this has become law? It is already beginning to happen. The manmade fiber textile companies are complaining about the subsidy to their competitors, the cotton textile companies. Shall we correct this inequity with another subsidy to the rayon, dacron, etc., textile companies and to the companies that make these chemicals, to be paid for by the U.S. taxpayer and the U.S. consumer? This whole process is bad economics for the cotton farmer, the cotton textile manufacturer, the U.S. taxpayer, and the U.S. consumer.

"SENATE ADDS BAD WHEAT BILL

"Nonetheless the cotton bill was passed albeit by a slim margin. Enough northern city Democrats voted with their party allies in the South. The cotton bill came to the Senate where it was placed ahead of the civil rights bill. In the meantime the Johnson administration had become alarmed about the wheat farmers who had rejected by an overwhelming vote the wheat subsidy program of last year. The Democrat administration said then that the wheat farmers could stew in their own juice. However, President Johnson changed his mind and by a very slim margin, a wheat bill, quite similar to the discredited wheat subsidy bill of last year was tacked onto the cotton bill and the bill, now the cotton-wheat bill, passed the Senate.

"GAG RULE MAKES WRONGS RIGHT

"The cotton-wheat bill came back to the House of Representatives because it had become a different bill. To prevent the House from studying, amending, or adequately debating the wheat bill portion, the Democrat leadership then resorted to some very poor parliamentary tactics. They obtained a rule which permitted no amendments and limited the debate to the completely inadequate time of one-half hour to a side. This is the 'gag rule' and is deplored by all fairminded people of whatever political party.

"BREAD TAX UNCONSTITUTIONAL

"The wheat bill added to the woes of the cotton bill because it too was a bad bill. Not only did it provide a Government straitjacket for the wheat farmers but it imposed a tax on the processors of wheat * * * the bakers of bread, for example * * * and an export tax on the exporters of wheat, to pay for the wheat farmers' subsidy. The bill is clearly unconstitutional because (1) tax laws must originate in the House and this bread tax originated in the Senate; (2) export taxes are expressly forbidden by the Constitution; (3) the Supreme Court has held processing taxes like this proposed bread tax unconstitutional. The House leadership didn't have the vote to pass these two bad bills joined together. So they looked for another bill to get a new bloc of votes.

"FOOD STAMP BILL ADDED—A RAW POLITICAL DEAL

"Previously this year the House Agriculture Committee had rejected a bill to provide, countrywide, food stamps for persons on welfare. This bill was not just an extension of the pilot food stamp program, which was designed to reduce agricultural surpluses. In fact, it forbade agricultural surpluses being disposed of in areas where the new food stamp proposal was to be set up.

"The food stamp bill had been rejected by the House committee for several reasons. (1) Its excessive costs. (2) It was not designed to get rid of agricultural surpluses. (3) It negated the theory of the present welfare programs based upon cash rather than goods. (4) It was difficult to police and lent itself to fraud.

"The northern city Democrats looked upon the food stamp program as a method of aiding the voters in their districts who were on welfare. However, they knew the cotton-wheat bill would raise the price of food and clothing to their people so they didn't like to vote for it anymore than the southern Democrats liked to vote for the food stamp bill which did nothing for their constituents.

"TIMBER—THE LOGS START TO ROLL

"A cold raw political deal was made. The southern Democrat said to the city Democrat, you vote for my cotton bill, I'll vote for your food stamp bill. The northern city Democrat said, you vote for my food stamp bill and I'll vote for your cotton bill. The American public, constitutional law, correct congressional procedures notwithstanding.

"Neither side to this illegal logrolling deal trusted the other. Accordingly, it was agreed that both bills * * * the cotton-wheat bill and the previously rejected food stamp bill would be brought up on the floor of the House on the same day. However, the northern city Democrats demanded that the food stamp bill be brought up first and voted on so they could be certain that the southern Democrats didn't pull a doublecross.

"All of this was general knowledge on the floor of the House and, I might add, to the news reporters. The deal moved forward. The House debated the food stamp bill but when the time came for a vote the Republicans interjected a bit of parliamentary strategy of their own and asked for an 'engrossed copy' of the bill. On a lengthy bill which had amendments added, it requires several hours to prepare an 'engrossed' or a freshly written bill. This usually means that the House adjourns and goes over until the next day, which was, of course, exactly what the Republicans wanted so the cotton bill would be voted upon before the food stamp bill and so possibly break up the illegal logrolling going on.

"So the vote was delayed and the cotton bill was called up. As the gagged debate started Congressman BOLLING, a spokesman for the city machine Democrats, went to the Speaker's chair and engaged in heated discussion with Speaker MCCORMACK. It was obvious what Mr. BOLLING was saying. The deal is off, unless the vote on the food stamp bill comes first. We don't trust the southern Democrats and we won't deliver on the cotton bill until the vote on the food stamp bill is taken.

"PARLIAMENTARY MOVES QUESTIONABLE

"A strange and unusual thing then happened. The Speaker interrupted the debate, banged his gavel and announced: 'The House is in recess at the call of the Chair' and before anyone could raise a question of parliamentary procedure he had disappeared from the House Chamber.

"I ran up to the Parliamentarian, Louis Deschler, to ask, 'By what right does the Speaker recess the House? He has no right unless the House by majority vote agrees to a recess.' The Parliamentarian said: 'Yesterday the House by unanimous consent granted the Speaker the right to recess the House today and tomorrow at his discretion.' But, I said, 'This permission was granted to the Speaker so that the House could attend the ceremonies in the Capitol rotunda to pay tribute to Gen. Douglas MacArthur when his body arrived to lie in state. It was only for this purpose and for no other purpose.' The Parliamentarian said 'the wording was in general language.' And so it was, technically. But what a shocking abuse of a permission granted solely to permit a deserved tribute to that great American, Douglas MacArthur.

"About 10:30 that night, the Speaker finally called the House back into session from the recess. The engrossed copy of the food stamp bill was then ready for vote.

"LOGROLLING PASSES BILLS

"The Speaker, still playing fast and loose with the rules of procedure, interrupted the Republican he had recognized, to call up the food stamp bill for a vote. The vote was taken and enough southern Democrats delivered on their part of the bargain to pass the bill.

"No amendments to the cotton-wheat bill were permissible under the gag rule, so after a half-hour debate on each side the vote was taken. It was then past midnight. On the two readings of the rollcall the vote seesawed back and forth, but in the end, the cotton-wheat bill passed by a margin of four votes, enough city Democrats had delivered on their part of the bargain."

This is the story of the cotton-wheat bill passed in the 2d session of the 88th Congress and signed by President Lyndon Johnson. The food stamp bill still faces an uncertain future in the Senate. This story should be fully known and evaluated by the people of our country. It should be a basic issue in the coming November elections. And it will be if the people ever get the story.

DIRE IMPLICATIONS

I don't know whether the dire implications of this incident comes through in just one reading.

Please read the letter again.

Let me stress some of the points.

Legislation for the special interest of three limited groups in our society, the cotton textile manufacturer, a portion of the wheat farmers, and certain people on relief, none of which could be passed on its own merits, was enacted to the grave detriment of both the freedom and living standard of the overwhelming majority of the American people. Certainly each one of the three bills will ingratiate the promoters of the legislation in the eyes of these blocs of voters. But the majority of the voters who are hurt may never know what happened to them.

ILLEGAL TACTICS

Illegal tactics were employed to bring this about. Logrolling is a criminal offense. No action by the Justice Department, of course, is contemplated any more than action by a congressional committee because all power is vested in the leaders responsible for the crime. The Constitution was knowingly violated. Improper procedures were followed in the House of Representatives. Adequate study and debate was suppressed.

The House passed a measure, the wheat bill portion, without the matter ever being referred to the Agriculture Committee for public hearings and study. There was no study of the measure in the House. Debate was limited to one-half hour on a side. No amendments were permitted under the gag rule.

The majority leader, CARL ALBERT, defended these tactics saying the "majority had the right to work its will." I responded that in a representative government the majority has a right to work its will only after adequate study, debate and amendment. That is the purpose of a Congress and the reason for the established Rules of Procedure of the Congress. This distinguishes an independent legislative body like the U.S. Congress from the servile legislative bodies of a dictator. Hitler's Germany kept the Reichstag in existence just as Khrushchev still has the Supreme Soviet.

PEOPLE ARE LOSING FREEDOMS

Finally, the news reporters have failed to inform the people of these matters, even the complaints registered in speeches on the floor of the House. So the people are losing their freedoms based as they are upon the integrity of an independent Congress and a proper regard for the Constitution without being aware that this is coming about.

Government by men is replacing government by law while the news media fosters the personality cult, the hero worship technique which permits this to come about.

Sincerely,

TOM CURTIS,
Your Congressman.

THE BRACERO PROGRAM

Mr. CRAMER. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. TEAGUE] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. TEAGUE of California. Mr. Speaker, under leave to extend my remarks, enclosed is an excellent editorial from the Lompoc (Calif.) Record. The quotation from William G. Kenyon, executive secretary of the General Teamsters, Warehousemen and Helpers Union, Local No. 890, is commended to the attention of my colleagues:

BRACERO BOOBOO

Largely on the advice and urging of certain elements in organized labor, State and Federal officials finally succeeded in convincing Congress that the long-established and mutually successful bracero agreement with the Mexican Government should be terminated. There are, labor leaders had promised, ample domestic workers ready, willing, and able to do the hard stoop labor in the hot farm fields formerly done by the seasonal Mexican immigrants.

Experience has not supported this contention at all. California Farmer recently quoted an executive of the Teamster local which has a contract to supply all the workers neded by two Salinas Valley lettuce growers as saying:

"We can't supply the stoop labor requirements of these two growers, let alone others. Domestics are not hungry enough to do stoop labor." The labor executive, William G. Kenyon, executive-secretary of General Teamsters, Warehousemen and Helpers Union, Local No. 890, added that the average length of stay by domestics is 3 days. He also declared that despite the claim of some top union officials that higher wages would attract domestic help, "even if wages were increased to $5 per hour it would not bring sufficient workers to the fields to fill the requirements."

Mr. Kenyon is concerned with his union's reputation for living up to a contract, and the precarious nature of such contracts under the circumstances. It is unfortunate that more labor leaders, and their sponsors in Sacramento and Washington, haven't had the same informed and conscientious concern in the past.

APPORTIONMENT OF STATE LEGISLATURES

Mr. CRAMER. Mr. Speaker, I ask unanimous consent that the gentleman from Michigan [Mr. JOHANSEN] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. JOHANSEN. Mr. Speaker, because of the incredible and intolerable decision rendered by the U.S. Supreme Court relative to the apportionment of State legislatures, I have today addressed the following communication to the distinguished chairman of the House Committee on the Judiciary:

HON. EMANUEL CELLER,
Chairman, House Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: In view of today's shocking decision by the U.S. Supreme

Court requiring that wherever practical both houses of State legislatures must be apportioned on the basis of population exclusively, I respectfully request the prompt scheduling of hearings by the House Committee on the Judiciary on House Joint Resolution 34 which I introduced January 9, 1963.

This joint resolution is identical with one which I previously first introduced July 23, 1962.

In my judgment, the instant decision of the U.S. Supreme Court is an act of unprecedented judicial usurpation based on incredible distortion of the equal protection clause of the 14th amendment.

By this single sweeping action, the Court reverses both judicial and historical precedent antedating even the adoption of the U.S. Constitution.

Indeed, I believe that this decision, by destroying the historic system of checks and balances as between the two houses of the State legislatures, in effect defies the first clause of section 4 of article 4 of the Constitution which provides:

"The United States shall guarantee to every State in this Union a Republican Form of Government, * * *"

House Joint Resolution 34 calls for the submission to the States of the following proposed amendment to the Constitution:

"Nothing in the Constitution of the United States shall be deemed to prohibit any State from establishing, through its own constitution, representation in one house of its legislature based on factors other than population exclusively."

I believe that such a constitutional amendment is a desperately needed corrective for today's incredible decision. I know of no other recourse now remaining to the States or the people except this or a similar amendment to the Constitution of the United States. I believe they are entitled to the opportunity to exercise this recourse forthwith.

Sincerely yours,

AUGUST E. JOHANSEN.

FOREIGN AID: AN OBJECTIVE APPRAISAL

The SPEAKER pro tempore. Under previous order of the House the gentleman from New York [Mr. HALPERN] is recognized for 15 minutes.

Mr. HALPERN. Mr. Speaker, I wish to express at this time my favorable reaction to the responsible action of the House which last week reiterated the Nation's firm commitment to assist the less developed countries of the world.

The House has favorably considered the authorization measure for fiscal 1965. We have again reaffirmed our support for a program which is indispensable in the attainment of our global objectives.

I think, firstly, that it is important to point out although the scope of economic and military assistance has been narrowed, its purpose remains valid.

I believe we would be forfeiting much of the world to either a tragic chaos or Communist domination if we failed to take up the challenge which our free world leadership has thrust upon us. In the complexity and diversity which characterizes the present age, it is not often possible to detect precise gains. This is not a simple sporting event in which points can be chalked up in bold print. Nor is it a contest for mastery of the world's poorer populations. It is, more appropriately, a concerted effort to assist those who would help themselves toward a better life. Only through steady progress on this front can we hope to achieve a world of law and order in which men deal with each other by accepted and common rules of behavior.

I cannot believe that this is a mere pipedream. Of course, it is not something which can be accomplished in weeks or months or even years. This long-range goal will take years and perhaps decades to materialize. Yet, if the Nation does not base its general policy upon these far-reaching objectives, then every thrust on our part, political or economic, loses its rationale.

The foreign aid program is a vital arm of foreign policy. It is essential for our own security interests and the goals we seek in the world at large.

This year the authorization measure provided for new money approximating $3.5 billion. This figure is $1 billion less than last year's request. The Agency for International Development, following last year's appropriations, has been actively engaged in an attempt to concentrate the aid and subject it to more efficient regulation. Specific aims have been more concisely defined.

Technical cooperation and development grants will now be channeled to only 49 countries, 8 having been removed from eligibility. In the last 15 years, 17 nations have progressively developed to the stage where no further aid was needed. In the immediate postwar years, 12 percent of our Federal budget was allocated toward foreign economic and military assistance; today, that allocation amounts to 4 percent.

Furthermore, I think it is significant to realize that this $3.5 billion authorization represents only 0.6 percent of the gross national product. France, among other industrialized states, is earmarking a greater percentage. American foreign aid constitutes 4 cents out of every tax dollar.

I cannot conceive of this great Nation, the richest in the world, leader of the free world, disengaging herself from a concerted enterprise which fits so instrumentally into promising long-range objectives. Certainly, 0.6 percent of the total productive value of our goods and services can be afforded toward an enlightened challenge of bolstering the fortunes of much less privileged peoples.

The military program represents slightly above $1 billion of the total aid amount. Two-thirds of this $1 billion is programed for 11 countries which border upon the Communist bloc. This section and the rest of the authorization is geared to strengthen the military forces of nations which recognize, and are willing to participate in meeting, Communist military power. At the same time, it is necessary to maintain at high efficiency the many American bases around the globe. This is clearly in our own security interests and those of the free world.

There is one aspect of the program, however, to which I must take serious exception. While registering my overall aproval of the legislation, the fact that the United Arab Republic continues to be regarded as an eligible recipient distorts the picture. The record is abundantly clear that Colonel Nasser and the Egyptian Government are corrupting the purpose and objectives of the foreign assistance program.

The administration has not called into action the provision of the law barring aid to any State which is preparing for aggressive war against the United States or any other recipient of our aid. The language of the statute clearly stipulates, and the legislative history specifically establishes, that the provision applies to the United Arab Republic. The intent of the Congress could not be more direct. The Egyptian Government has engaged in military adventure in Yemen and it consistently vows to destroy Israel. The United Arab Republic has flagrantly violated international agreements, it foments subversion in other Near East States, it makes extravagant missile deals with the Soviet Union, it employs Nazi scientists to build offensive and unnecessary death weapons, it spews anti-American propaganda in its government controlled news media; and it continues to spend millions of dollars to support a military development scheme which this country, through its economic help, has underwritten.

This is not a record that can justify large-scale deployment of American tax money. It is patently destructive of the goals we seek in our implementation of foreign aid. It is corroding and subverting the intent of the program as a whole.

What is needed at this point is application of the provision in existing law which was aimed at Colonel Nasser. His regime should be cut off from assistance forthwith. By his threats to the peace and his mammoth arms buildup, his government cannot legitimately claim any assistance.

We cannot oppose grants of assistance to any country which indicates a genuine and intelligent effort to improve its own economic position and its standard of living. Indeed, this must continue as the basis for foreign aid. The Egyptian Government has failed to meet the criteria. Economic aid to Nasser's government cannot be justified unless it demonstrates its willingness to abide by international agreements and common standards of behavior; Egypt cannot qualify unless she reverses her policy of external subversion and channels her resources toward economic self-improvement.

Mr. Speaker, I fervently urge the administration to carry out the full intent of present law, contained in section 620 of the Foreign Assistance Act of 1961. The enforcement of this provision against the United Arab Repulbic is long overdue. With such action, we can be sure that the objectives and purposes of the assistance program will be ultimately realized.

JUNE 15, 1964, MARKS THE 188TH ANNIVERSARY OF DELAWARE AS A SOVEREIGN STATE

The SPEAKER pro tempore. Under previous order of the House the gentleman from Delaware [Mr. McDOWELL] is recognized for 10 minutes.

Mr. McDOWELL. Mr. Speaker, Delaware is proud of the fact that it was the first State to ratify the U.S. Constitution. This action occurred on December 7, 1787. However, 11 years before this historic event, the assembly of the three lower counties on the Delaware voted on June 15, 1776, to establish a provisional State government, subsequently known as the Delaware State. Today, therefore, marks the 188th anniversary of Delaware as a sovereign State.

Popular government in Delaware first achieved its impetus under William Penn's "Frame of the Government of the Province of Pennsylvania," when Penn's first assembly, convened at Upland in 1682 and passed the Act of Union joining the lower counties or territories—Delaware—with the Province of Pennsylvania.

In 1701, Penn proclaimed a more liberal charter, called the Charter of Privileges which permitted, inter alia, the "Territories" to hold a separate assembly from the "Province" if either desired.

The three counties of New Castle, Kent, and Sussex upon the Delaware River did not accept Penn's Charter of 1701 but, as a conclusion to controversies and disagreements which had existed since Penn's arrival with deeds from the Duke of York in the late 17th century, the three lower counties separated from the several counties of the Province of Pennsylvania in 1704. The three lower counties on the Delaware thereupon established their own assembly at New Castle, Del. Whereupon, this general assembly passed a resolution on June 15, 1776, declaring the Delaware counties independent of the British Crown.

By their own assembly, and with the Governor and Council of the Province of Pennsylvania, the three Delaware counties were governed until a convention elected by the people adopted a separate constitution for the Delaware State on September 20, 1776.

MODERATION

Mr. SCHWENGEL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SCHWENGEL. Mr. Speaker, because of some firm convictions which I have about moderation in politics, and because I have spoken on this subject all over the United States at various times in the last 3 or 4 years and, further, because a number of Members of Congress have asked me to take the floor and discuss this matter further in view of developments and in view of the problems that prevail on the political front, beginning tomorrow I will be speaking under unanimous-consent request which has been granted to me for 30 minutes on this subject.

Mr. Speaker, I mention this here only so that the Members of the House may be alerted of the fact and those who may wish to join me in this or even to question me about it may be present to do so.

THE FATE OF H.R. 4994

Mr. GROSS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. GROSS. Mr. Speaker, I inquired a few moments ago about the fate of H.R. 4994, the bill to provide for the labeling of imported woven labels.

Since that time it has been reported to me that the State Department did not want that bill called up today. I have no verification as of this moment that the State Department intervened to stop consideration of this bill.

I hope that is not true. I hope it is not true that the State Department is running the legislative schedule of the House of Representatives.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. Cramer):

Mr. Halpern, for 15 minutes, today.

Mr. Pillion, for 60 minutes, June 25, 1964.

Mr. Nelsen, for 30 minutes, June 16, 1964.

Mr. Schwengel, for 30 minutes, June 16, 1964.

Mr. McDowell (at the request of Mr. Price), for 10 minutes, today; to revise and extend his remarks and to include extraneous matter.

Mr. Whitener (at the request of Mr. Price), for 60 minutes, June 25, 1964; to revise and extend his remarks and to include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Congressional Record, or to revise and extend remarks, was granted to:

Mr. Pelly and to include the text of a question and answer TV program, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $202.50.

Mr. Rumsfeld and to include extraneous matter.

Mr. Addabbo (at the request of Mr. Price) and to include extraneous matter.

Mr. Alger.

Mr. Schwengel and to include an article on his introduction of the Watershed Conservation Act and also a statement on watersheds during the next decade.

(The following Members (at the request of Mr. Cramer) and to include extraneous matter:)

Mr. Fino.

Mr. Jensen.

Mr. Schadeberg.

(The following Members (at the request of Mr. Price) and to include extraneous matter:)

Mr. Thomas.

Mr. Burton of California.

Mr. Multer.

Mr. Gilbert.

ADJOURNMENT

Mr. PRICE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 41 minutes p.m.) the House adjourned until tomorrow, Tuesday, June 16, 1964, at 12 o'clock noon.

EXECUTIVE COMMUNICIATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2163. A letter from the Associate Administrator, Foreign Agricultural Service, U.S. Department of Agriculture, transmitting a report on title I, Public Law 480 agreements signed during May 1964, pursuant to Public Law 85–128; to the Committee on Agriculture.

2164. A letter from the Attorney General, transmitting a report pursuant to section 708(e) of the Defense Production Act of 1950, as amended; to the Committee on Banking and Currency.

2165. A letter from the Assistant Secretary, Export-Import Bank of Washington, transmitting a report stating that the Export-Import Bank of Washington on June 5, 1964, issued its guarantee with respect to certain transactions with Hungary, pursuant to title III of the Foreign Aid and Related Agencies Appropriation Act of 1964, and to the Presidential determination of February 4, 1964; to the Committee on Foreign Affairs.

2166. A letter from the Comptroller General of the United States, transmitting a report on a review relating to unnecessary costs to the Government in the leasing of electronic data processing systems by Aerojet-General Corp., Sacramento, Calif., Department of Defense; to the Committee on Government Operations.

2167. A letter from the Comptroller General of the United States, transmitting a report on a review relating to erroneous payments made for military pay, leave, and travel at Biggs Air Force Base, Tex., Department of the Air Force; to the Committee on Government Operations.

2168. A letter from the Comptroller General of the United States, transmitting a report on a review relating to inadequate relocation assistance to families displaced from certain urban renewal projects in Kansas and Missouri administered by the Fort Worth regional office, Housing and Home Finance Agency; to the Committee on Government Operations.

2169. A letter from the Comptroller General of the United States, transmitting a report on a review relating to unnecessary costs to the Government in the leasing of electronic data processing systems by General Dynamics Corp., Fort Worth Division, Fort Worth, Tex., Department of Defense; to the Committee on Government Operations.

2170. A letter from the Clerk, U.S. Court of Claims, relative to *S. N. T. Fratelli Gondrand* v. *The United States,* (Congressional No. 7–58); to the Committee on the Judiciary.

2171. A letter from the Secretary of Commerce, transmitting the quarterly report of the Maritime Administration of this Department on the activities and transactions of the Administration, pursuant to the Merchant Ship Sales Act of 1946, from January 1 through March 31, 1964; to the Committee on Merchant Marine and Fisheries.

2172. A letter from the Deputy Administrator, National Aeronautics and Space Administration, transmitting a report to the House of Representatives pursuant to 10 U.S.C. 2304(e), listing certain required information with respect to contracts made by the National Aeronautics and Space Administration under 10 U.S.C. 2304(a) (11) (16); to the Committee on Science and Astronautics.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CELLER: Committee on the Judiciary. Report on State taxation of interstate commerce (Rept. No. 1480). Referred to the Committee of the Whole House on the State of the Union.

Mr. McMILLAN: Committee on the District of Columbia. S. 628. An act to amend the District of Columbia Redevelopment Act of 1945; with amendment (Rept. No. 1481). Referred to the Committee of the Whole House on the State of the Union.

Mr. ELLIOTT: Committee on Rules. House Resolution 781. Resolution for consideration of H.R. 8954, a bill to amend section 409 of title 37, United States Code, to authorize the transportation of house trailers and mobile dwellings of members of the uniformed services within the continental United States, within Alaska, or between the continental United States and Alaska, and for other purposes; without amendment (Rept. No. 1482). Referred to the House Calendar.

Mr. COLMER: Committee on Rules. House Resolution 782. Resolution for consideration of H.R. 9124, a bill to amend title 10, United States Code, to vitalize the Reserve Officers' Training Corps programs of the Army, Navy, and Air Force, and for other purposes; without amendment (Rept. No. 1483). Referred to the House Calendar.

Mr. ELLIOTT: Committee on Rules. House Resolution 783. Resolution for consideration of H.R. 10314, a bill to further amend the Federal Civil Defense Act of 1950, as amended, to extend the expiration date of certain authorities thereunder, and for other purposes; without amendment (Rept. No. 1484). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 784. Resolution for consideration of H.R. 10322, a bill to extend the provisions of the act of August 11, 1959, Public Law 86-155, as amended (74 Stat. 396) to provide improved opportunity for promotion for certain officers in the naval service; without amendment (Rept. No. 1485). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 785. Resolution for consideration of H.R. 11579, a bill making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the St. Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and the Delaware River Basin Commission, for the fiscal year ending June 30, 1965, and for other purposes; without amendment (Rept. No. 1486). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BECKWORTH:

H.R. 11592. A bill to amend the Internal Revenue Code of 1954 to authorize and facilitate the deduction from gross income by teachers of the expenses of education (including certain travel) undertaken by them, and to provide a uniform method of proving entitlement to such deduction; to the Committee on Ways and Means.

By Mr. BENNETT of Michigan:

H.R. 11593. A bill to provide for the issuance of a special coin honoring the copper country of Michigan; to the Committee on Banking and Currency.

By Mr. COHELAN:

H.R. 11594. A bill to authorize the Secretary of the Navy to convey to the State of California certain lands in the county of Monterey, State of California, in exchange for certain other lands; to the Committee on Armed Services.

H.R. 11595. A bill to establish a National Commission on Automation and Technological Progress; to the Committee on Education and Labor.

By Mr. FULTON of Pennsylvania:

H.R. 11596. A bill to amend title 39, United States Code, to authorize the Postmaster General to relieve postmasters and other employees for losses resulting from illegal, improper, or incorrect payments, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GRANT:

H.R. 11597. A bill to provide micronaire readings of cotton; to the Committee on Agriculture.

By Mr. HALPERN:

H.R. 11598. A bill to amend the Antidumping Act, 1921; to the Committee on Ways and Means.

H.R. 11599. A bill to provide that tips received by an employee in the course of his employment shall be included as part of his wages for old-age, survivors, and disability insurance purposes; to the Committee on Ways and Means.

By Mr. SCHADEBERG:

H.R. 11600. A bill relating to the tariff treatment of parts designed for use or chiefly used in agricultural or horticultural implements or in tractors suitable for agricultural use; to the Committee on Ways and Means.

By Mr. ABELE:

H.R. 11601. A bill to protect American Indians from the flooding of their lands by any department or agency of the United States before suitable provision has been made for their relocation; to the Committee on Interior and Insular Affairs.

By Mr. COHELAN:

H.R. 11602, a bill to authorize and direct the conveyance of certain property in the county of San Diego to the regents of the University of California; to the Committee on Government Operations.

By Mr. CRAMER:

H.R. 11603. A bill to amend the Immigration and Nationality Act to authorize, in the national interest, restrictions on travel by nationals of the United States in certain designated areas of the world; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 11604. A bill to authorize and direct the conveyance of certain property in the city of San Diego to the regents of the University of California; to the Committee on Government Operations.

By Mr. SHEPPARD:

H. Con. Res. 313. Concurrent resolution to endorse the concept of World Farm Center; to the Committee on Agriculture.

By Mr. UTT:

H. Res. 780. Resolution to inquire into the financial or business interests of any present or former Member, officer, or employee of the House of Representatives; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

The SPEAKER presented a memorial of the Legislature of the State of Louisiana, memorializing the President and the Congress of the United States to preserve the Atchafalaya River Basin from destruction by the U.S. Corps of Engineers, which was referred to the Committee on Public Works.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LENNON:

H.R. 11605. A bill for the relief of Pola Bodenstein; to the Committee on the Judiciary.

By Mr. POWELL:

H.R. 11606. A bill for the relief Christine Johnson (also known as Christine Cayenne); to the Committee on the Judiciary.

By Mr. PRICE:

H.R. 11607. A bill for the relief of Antoni Stanislaw Blicharski; to the Committee on the Judiciary.

By Mr. PUCINSKI:

H.R. 11608. A bill for the relief of Jozefa Pietka; to the Committee on the Judiciary.

By Mr. RIVERS of South Carolina:

H.R. 11609. A bill to authorize the Secretary of the Navy to convey real property of the United States to the Navy-Marine Resident Foundation, Inc., as a site for a permanent home or resident foundation, to be known as Vinson Hall; to the Committee on Armed Services.

By Mr. TOLL:

H.R. 11610. A bill for the relief of Harry J. Alker, Jr., and the estate of Alfred A. DuBan, deceased; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

925. By the **SPEAKER**: Petition of Stanley P. Budrys, secretary, Racine branch, Lithuanian American Council, Inc., Racine, Wis., relative to the Soviet Union occupying, by force of arms, the countries of Estonia, Latvia, and Lithuania, and thereby depriving them of their independence; to the Committee on Foreign Affairs.

926. Also, petition of Marchant D. Wornom, executive vice president, Virginia Bankers Association, Richmond, Va., relative to requesting that the officers of the Federal Government, the Members of Congress, and the judiciary are admonished to leave to the States the powers reserved to them under the 10th amendment, whether or not the States choose to exercise them, because the election of the States not to do so is not in itself tantamount to the granting of new powers to the Federal Government; and because the system of Federal subsidies to States, localities, and individuals is wrong in principle, no new subsidy programs should be established, and others should be reduced from time to time so that the Federal Government's deficits may be ended, and its expenditures reduced to a point where the income tax as a source of revenue will not be further abused; to the Committee on the Judiciary.

927. Also, petition of Henry Stoner, Avon Park, Fla., requesting Congress to appropriate adequate funds to restore Alaska to its recent prequake status; to the Committee on Appropriations.

928. Also, petition of Henry Stoner, Avon Park, Fla., requesting Congress never to consider an amendment to the U.S. Constitution which exempts or cuts out Congress in the process of amending the U.S. Constitution; this would be a vicious proposal and delete Congress from the amendment process; to the Committee on the Judiciary.

SENATE

MONDAY, JUNE 15, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 11 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father who revealest Thyself to us in all that is pure, and true, and lovely: we beseech Thee to help us make our hearts and minds the fitting audience chambers for Thy presence.

Give us the courage in all things to be masters of ourselves that we may be the servants of all. In meeting grave issues, growing out of the failures of our own democracy, and out of the human problems of the world so largely in the chains of bondage, reveal to us what is wrong with ourselves. Make us vividly conscious that we cannot meet and conquer prejudice, hatred, and rampant self-seeking at home, and aggression abroad, with material weapons only; but that our own hearts must be the homes of love and purity and honesty, if we are to become Thy instruments for transforming the world to Thy radiant purpose for all mankind.

In these crucial and creative days enable Thy servants here in posts of high public office to perform faithfully and well what Thou dost require, even to do justly, to love mercy, and to walk humbly with Thee, our God.

In the dear Redeemer's name we ask it. Amen.

THE JOURNAL

On request by Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Saturday, June 13, 1964, was dispensed with.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a morning hour for not to exceed 30 minutes, and that statements therein be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TO 11 A.M., TUESDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 o'clock on Tuesday morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following communication and letters, which were referred as indicated:

ISSUANCE OF GUARANTEES BY THE EXPORT-IMPORT BANK IN CONNECTION WITH THE SALE OF U.S. PRODUCTS AND SERVICES TO RUMANIA

A communication from the President of the United States, informing the Senate that he had determined that it is in the national interest for the Export-Import Bank to issue guarantees in connection with the sale of U.S. products and services to Rumania; to the Committee on Appropriations.

REPORT ON CONTRACTS NEGOTIATED FOR EXPERIMENTAL, DEVELOPMENT, OR RESEARCH WORK

A letter from the Deputy Administrator, National Aeronautics and Space Administration, Washington, D.C., transmitting, pursuant to law, a report on contracts negotiated by that Administration for experimental, development, or research work, for the 6-month period ended June 30, 1963 (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

REPORT ON REVIEW OF VOLUNTARY AGREEMENTS AND PROGRAMS

A letter from the Attorney General, transmitting, pursuant to law, a report on review of voluntary agreements and programs, as of May 9, 1964 (with an accompanying report); to the Committee on Banking and Currency.

REPORT ON INADEQUATE RELOCATION ASSISTANCE TO FAMILIES DISPLACED FROM CERTAIN URBAN RENEWAL PROJECTS IN KANSAS AND MISSOURI

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on inadequate relocation assistance to families displaced from certain urban renewal projects in Kansas and Missouri, administered by Fort Worth regional office, Housing and Home Finance Agency, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

REPORT ON UNNECESSARY COSTS TO THE GOVERNMENT IN LEASING OF ELECTRONIC DATA PROCESSING SYSTEMS BY AEROJET-GENERAL CORP.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on unnecessary costs to the Government in the leasing of electronic data processing systems by Aerojet-General Corp., Sacramento, Calif., Department of Defense, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of Louisiana; to the Committee on Public Works:

"HOUSE CONCURRENT RESOLUTION 14

"Concurrent resolution memorializing the Congress of the United States to preserve the Atchafalaya River Basin from destruction by the U.S. Corps of Engineers

"Whereas the Atchafalaya River Basin is comprised of some thirteen hundred square miles of unique, irreplaceable wildlife habitat in Louisiana and is a scenic, semiwilderness area without parallel in the production of fish and game; and

"Whereas the Atchafalaya Basin is the last of its kind in Louisiana or anywhere else and is one of the finest sport fishing, boating, hunting, commercial fishing, crawfishing, crabbing, trapping, and turtle catching areas in the Nation; and

"Whereas the overflow of the Atchafalaya River onto the floodplains is almost an annual occurrence which stimulates and is ideal for the production of fish and animal life; and

"Whereas the U.S. Corps of Engineers intends to end the annual inundation which has, throughout recorded history, made this bottomland one of the most interesting and productive in the world and in so doing has failed to give consideration to wildlife and recreation in the Atchafalaya Basin in pursuing its flood project; and

"Whereas a comprehensive plan for the development of the Atchafalaya Basin could be prepared which could equally benefit fish, wildlife, recreation, and the need for flood control and failure to provide and adopt such a program would be of great disadvantage, and would cause great economic and recreation loss to the citizens of Louisiana and the United States: Therefore be it

"Resolved by the House of Representatives of the Legislature of Louisiana (the Senate thereof concurring herein), That the Congress of the United States is hereby memorialized to adopt a fair Federal policy by requiring the U.S. Corps of Engineers to investigate thoroughly every conceivable alternative which could accomplish a multipurpose development of the Atchafalaya Basin for flood control, navigation, hunting, fishing, boating, and other forms of recreation and economic advantage without destroying the irreplaceable natural resources of this unique area; and be it further

"Resolved, That the members of the Louisiana delegation in Congress are hereby urged and requested to take appropriate action to accomplish the above and to do all things in their power to achieve the preservation of the Atchafalaya Basin in its present state; and be it further

"Resolved, That a copy of this resolution shall be sent to the President of the United States, to the presiding officers of each House of the U.S. Congress, and to each member of the Louisiana delegation in the Congress of the United States.

"VAIL M. DELANEY,
"Speaker of the House of Representatives.
"C. C. AYCOCK,
"Lieutenant Governor and President of the Senate."

A resolution adopted at the annual convention of the Virginia Bankers Association, relating to States rights; to the Committee on the Judiciary.

A resolution adopted at the annual meeting of the New York Conference of the United Church of Christ, at Albany, N.Y., relating to racial justice; ordered to lie on the table.

The memorial of Mrs. Kathatine Hayden Salter, of Madison, Wis., remonstrating against the enactment of the so-called civil rights bill; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McINTYRE, from the Committee on Banking and Currency, without amendment:

H.R. 8230. An act to amend section 24 of the Federal Reserve Act (12 U.S.C. 371) to liberalize the conditions of loans by national banks on forest tracts (Rept. No. 1077).

By Mr. BEALL, from the Committee on Commerce, without amendment:

S. 2318. A bill to amend the joint resolution approved August 20, 1958, granting the consent of Congress to the several States to negotiate and enter into compacts for the purpose of promoting highway traffic safety (Rept. No. 1079).

FEDERAL CREDIT UNION ACT AMENDMENTS—REPORT OF A COMMITTEE — SUPPLEMENTAL VIEWS (S. REPT. NO. 1078)

Mr. SPARKMAN. Mr. President, from the Committee on Banking and Currency, I report favorably, without amendment, the bill (H.R. 8459) to amend the Federal Credit Union Act to allow Federal credit unions greater flexibility in their organization and operations, and I submit a report thereon. I ask unanimous consent that the report be printed, together with the supplemental views of the Senator from Illinois [Mr. Douglas].

The PRESIDING OFFICER (Mr. Inouye in the chair). The report will be received, and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Alabama.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. DOMINICK (for himself, Mr. Allott, and Mr. Curtis):

S. 2914. A bill to exempt from taxation certain property of the United Supreme Council, 33°, Ancient and Accepted Scottish Rite of Freemasonry, southern jurisdiction—Prince Hall Affiliation; to the Committee on the District of Columbia.

(See the remarks of Mr. Dominick when he introduced the above bill, which appear under a separate heading.)

By Mr. ALLOTT (for himself, Mr. Anderson, Mr. Bennett, Mr. Dominick, Mr. McGee, Mr. Mechem, Mr. Moss, and Mr. Simpson):

S. 2915. A bill to provide for the transfer of receipts of the Colorado River Development Fund to the Upper Colorado River Basin Fund, commencing with fiscal year 1967 and as long thereafter as necessary to reimburse said basin fund for its contributions to Hoover Dam powerplant deficiencies; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. Allott when he introduced the above bill, which appear under a separate heading.)

By Mr. KUCHEL:

S. 2916. A bill to authorize and direct the conveyance of certain property in the city of San Diego to the regents of the University of California; to the Committee on Government Operations.

By Mr. CANNON:

S. 2917. A bill to reduce the size of the Desert Game Range, Nevada; to the Committee on Commerce.

(See the remarks of Mr. Cannon when he introduced the above bill, which appear under a separate heading.)

EXEMPTION FROM TAXATION OF CERTAIN MASONIC PROPERTY IN THE DISTRICT OF COLUMBIA

Mr. DOMINICK. Mr. President, recently the United Supreme Council of the 33° Masonic Order, southern jurisdiction—Prince Hall, has received from the Federal Internal Revenue Service an exemption from Federal income taxes. This group is now in the process of trying to construct a building, at a cost of $500,000 or $600,000, here in Washington, D.C.

Despite the fact that it has received an exemption from Federal income tax and that contributions to the organization have been ruled deductible, the District Commissioners are nevertheless reluctant to give them an exemption from District real estate taxes. The 33° Supreme Council spends all its funds for charitable purposes.

One of the numerous activities consists of integral scholarship program operating in 22 States and numerous communities.

Funds of the council are also expended to the following organizations: March of Dimes, Metropolitan Police Boys Club, American Red Cross, distribution of Thanksgiving baskets in 22 States and 75 communities, distribution of gifts to needy for Christmas in 22 States and 75 communities, National Tuberculosis Association, educational scholarships, homes for the aged, Boy and Girl Scout organizations, National Association for the Advancement of Colored People, the Urban League, National Association for the Study of Negro Life and History, United Givers Fund, and the United Negro College Fund.

By virtue of the situation in which they find themselves, they have requested me to introduce a bill. I am happy to do so. I send a bill to the desk for the exemption from the District of Columbia real estate taxation of certain property which they now own. The bill is cosponsored by my colleague, the senior Senator from Colorado [Mr. Allott], and the Senator from Nebraska [Mr. Curtis].

Mr. President, I ask that the bill be referred to the appropriate committee. I further ask that, prior to that action, the bill be held at the desk, as I feel there will be several Senators who would like to cosponsor the bill.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will lie at the desk as requested.

Mr. DOMINICK. I request that it be held for the remainder of this calendar week.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2914) to exempt from taxation certain property of the United Supreme Council, 33°, Ancient and Accepted Scottish Rite of Freemasonry, southern jurisdiction—Prince Hall affiliation, introduced by Mr. Dominick (for himself and other Senators), was received, read twice by its title, and referred to the Committee on the District of Columbia.

HOOVER DAM POWERPLANT DEFICIENCIES

Mr. ALLOTT. Mr. President—

> The wise man of Miletus thus declared:
> "The first of things is water."

We of the West know only too well the truth of Pythagoras' statement.

On May 11 of this year, the Secretary of the Interior announced the closing of the gates at Glen Canyon Dam in Arizona, marking the termination of the misappropriation of Colorado River water belonging to the Upper Colorado River Basin. This was indeed welcome news to the upper basin States and their delegations, which had fought vigorously to halt the further unlawful depletion of upper basin resources.

But, the Colorado River water thus preserved for the upper basin is being used by the Secretary to wash down a bitter pill. On May 11, the Secretary also announced his intention to charge the upper basin fund with the cost of furnishing deficiency power to the Hoover Dam power contractors. However, the Secretary failed to indicate the source of this claimed authority, and I have been unable to find any law granting him the authority to make such an arbitrary decision.

If the upper basin were withholding water beyond its legal entitlement, there might be some basis for the charge to the upper basin in equity, if not in law. But, the upper basin has already delivered to the lower basin nearly 20 million acre-feet of water in excess of its legal obligation under the Colorado River compact. What kind of justice would require the upper basin to pay for the privilege of keeping what lawfully belongs to it?

Mr. President, I send to the desk for Senators Anderson, Bennett, Dominick, McGee, Mechem, Moss, Simpson, and myself, a bill which is designed to help relieve the upper basin of this oppressive and unlawful burden, and ask that it be appropriately referred, and ask unanimous consent it be printed at the conclusion of my remarks. Mr. President, it gives me great pleasure to announce that the sponsors of this bill represent virtually the entire upper basin.

The effect of this bill is to charge the Hoover Dam power deficiencies to the special fund established by the Boulder Canyon Project Act entitled "Colorado River development fund," into which $500,000 per year is transferred from the Colorado River dam fund. The Colorado River development fund is presently authorized to be used for the "investigation and construction of projects" in the Colorado River Basin, including both the upper basin and the lower basin. I believe that this approach is both reasonable and equitable to all concerned; and, it is the hope of all of its sponsors that it will receive early and favorable consideration.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 2915) to provide for the transfer of receipts of the Colorado River development fund to the Upper Colorado River Basin fund, commencing with fiscal year 1967 and as long thereafter as necessary to reimburse said basin fund for its contributions to Hoover Dam powerplant deficiencies, introduced by Mr. ALLOTT (for himself and other Senators), was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(d) of the Boulder Canyon Project Adjustment Act, as amended (43 U.S.C., sec. 618a (d)), is hereby further amended to read as follows:

"(d) Transfer, subject to the provisions of section 3, hereof, from the Colorado River Dam Fund to a special fund in the Treasury, hereby established and designated the 'Colorado River development fund', of the sum of $500,000 for the year of operation ending May 31, 1938, and the like sum of $500,000 for each year of operation thereafter, until the purposes specified in this section 2(d) are accomplished. The transfer of the said sum of $500,000 for each year of operation shall be made on or before July 31 next following the close of the year of operation for which it is made: *Provided,* That any such transfer for any year of operation which shall have ended at the time this section 2 (d) shall become effective shall be made, without interest, from revenues received in the Colorado River Dam Fund, as expeditiously as administration of this Act will permit, and without readvances from the general funds of the Treasury. Receipts of the Colorado River Development Fund for the years of operation ending in 1938, 1939, and 1940 (or in the event of reduced receipts during any of said years, due to adjustments under section 3 hereof, then the first receipts of said fund up to $1,500,000), are authorized to be appropriated only for the continuation and extension, under the direction of the Secretary, of studies and investigations by the Bureau of Reclamation for the formulation of a comprehensive plan for the utilization of waters of the Colorado River system for irrigation, electrical power, and other purposes, in the States of the upper division and the States of the lower division, including studies of quantity and quality of water and all other relevant factors. The next such receipts up to and including the receipts for the year of operation ending in 1955 are authorized to be appropriated only for the investigation and construction of projects for such utilization in and equitably distributed among the four States of the upper division: *Provided, however,* That in view of distributions heretofore made, and in order to expedite the development and utilization of water projects within all of the States of the upper division, the distribution of such funds for use in the fiscal years 1949 to 1955, inclusive, shall be on a basis which is as nearly equal as practicable. Such receipts for the years of operation ending in 1956 to 1966, inclusive, are authorized to be appropriated for the investigation and construction of projects for such utilization in and equitably distributed among the States of the upper division and the States of the lower division. The terms 'Colorado River system', 'States of the upper division', and 'States of the lower division' as so used shall have the respective meanings defined in the Colorado River compact mentioned in the Project Act. Such projects shall be only such as are found by the Secretary to be physically feasible, economically justified, and consistent with such formulation of a comprehensive plan. Nothing in this Act shall be construed so as to prevent the authorization and construction of any such projects prior to the completion of said plan of comprehensive development; nor shall this Act be construed as affecting the right of any State to proceed independently of this Act or its provisions with the investigation or construction of any project or projects. Receipts of the Colorado River Development Fund for the year of operation ending in 1967, and for so many years thereafter as is necessary to accomplish the purposes hereinafter described, are authorized to be appropriated and transferred under the direction and control of the Secretary to the Upper Colorado River Basin Fund of the Colorado River Storage Project Act (70 Stat. 105), for the sole purpose of reimbursing that fund for all losses heretofore or hereafter occasioned to it by reason of allowances made to the Hoover Dam powerplant for deficiencies in firm energy generation at that powerplant, as such deficiencies are defined in the document entitled 'General Principles To Govern, and Operating Criteria for, Glen Canyon Reservoir (Lake Powell) and Lake Mead During the Lake Powell Filling Period', approved by the Secretary of the Interior on April 2, 1962 (27 F.R. 6851). The reimbursement to the Upper Colorado River Basin Fund shall include all monies expended from that fund, either directly or indirectly, for the accomplishment of such Hoover Dam powerplant deficiency allowances, and the value to the Basin Fund of any electrical energy delivered to satisfy Hoover Dam deficiencies which would otherwise have accrued to the credit of said Basin Fund, together with interest thereon at the rate charged to the reimbursable costs of Glen Canyon Dam, it being the purpose of this section to reimburse the Upper Colorado River Basin Fund to the full extent as though no Hoover Dam powerplant deficiencies had ever been assessed in the first instance. Transfers under this section 2(d) shall be deemed contractual obligations of the United States, subject to the provisions of section 3 of this Act."

REDEFINING THE DESERT GAME RANGE

Mr. CANNON. Mr. President, I send to the desk, for appropriate reference, a bill to revise the boundaries of the desert game range in southern Nevada.

This area was set aside by Executive order in 1936 to preserve and allow for the development of certain species of wildlife which are common to our great Western area. It is jointly administered by the Bureau of Land Management and the Fish and Wildlife Service.

At the time the desert game range was established it was unknown what acreage might be needed and since the State was so sparsely developed it was apparently deemed advisable to include every possible acre which might have any potential for wildlife habitat. The acreage set aside was considerably larger than the entire State of Rhode Island, amounting to over 2 million acres. This bill would reduce the size by about one-third, but I would point out that the reduced acreage would still give each Big Horn sheep over 200 acres on which to graze.

In almost 30 years of administration it has become possible to delineate the portions of the range which are actually utilized by the desert game and it therefore seems advisable at this time to redraw the boundaries to more realistically serve the function for which the game range was first established.

In addition to these reasons for a reduction in the size is the more important reason that the recreational demands have been increasing geometrically as the population of southern Nevada has expanded and as those residents have acquired more income and more leisure time for recreational use.

May I cite the following figures to emphasize the need in southern Nevada for expanded recreational development. At the time the desert game range was established, the population of Clark County in which most of the range is located was about 12,000. At the close of 1963 the county population had increased to 230,000. Needless to say every possible recreational site must be carefully preserved since the anticipated growth is equally as phenomenal as was past expansion.

In proposing a realinement of the boundaries, I have taken into consideration the location of the habitat of the estimated 6,000 Big Horn sheep which represent by far the predominate wildlife within the game range. I have not disturbed any of the other existing uses of the area. The acreage which my proposal would exclude leaves the function of the game range unimpaired but at the same time would return to the open public domain those sites with most potential for recreational development. As a matter of fact, the Nevada State office of the Bureau of Land Management has just completed a detailed survey of the area and has suggested a course of resource use and recreational development.

The unparalleled population explosion in southern Nevada requires that this legislation be labeled "urgent" and that expeditious action be taken to develop long-range planning for recreational use.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2917) to reduce the size of the desert game range, Nevada, introduced by Mr. CANNON, was received, read twice by its title, and referred to the Committee on Commerce.

EXTENSION OF TIME DURING WHICH FEDERAL PAYMENTS MAY BE MADE FOR FOSTER CARE OF CERTAIN CHILDREN—AMENDMENT (AMENDMENT NO. 1054)

Mr. RIBICOFF submitted an amendment, intended to be proposed by him, to the bill (H.R. 10473) to extend the period during which Federal payments may be made for foster care in child-care institutions under the program of aid to families with dependent children under title IV of the Social Security Act, which was referred to the Committee on Finance and ordered to be printed.

VISIT BY ROCKY MOUNTAIN COLLEGE CONCERT CHOIR, BILLINGS, MONT.

Mr. MANSFIELD. Mr. President, I know it is against the rules of the Senate for Senators to give recognition to any particular group; but I feel as a Montanan, I would be remiss if, on behalf of the distinguished Acting President pro tempore, the junior Senator from Montana [Mr. METCALF], and myself, I did not take note of the fact that one of the outstanding choral groups of the Northwest, from Rocky Mountain College, a fine liberal arts institution in Billings, Mont., is at this moment in the Senate Gallery, and will shortly be meeting with the Montana Senators.

They have earned a splendid reputation during their tour, which began on the first of this month, shortly before the floods occurred in Montana; and they have been a most important asset to our State. We are very proud, indeed, of them.

THE MONTANA FLOODS

Mr. MANSFIELD. Mr. President, on Sunday, June 14, in company with Mr. Edward McDermott, Director of the Office of Emergency Planning, I left Washington at 3 a.m., Montana time, and arrived at Malmstrom Air Force Base, at Great Falls, at 8:30 a.m., and returned to the capital at 10 p.m. the same day.

During our stay in Montana we were able to cover seven counties east of the Continental Divide, and to inspect the flood damage in that part of my State. Due to the limitation on time, it was not possible to get west of the Divide to the Flathead and the Clark Fork Counties, but we were able to get firsthand reports of the damage which had been inflicted by the floods there. Col. George Budway, the commanding officer at the Malmstrom Air Force Base, placed at our disposal a helicopter under the command of Lt. Col. Thomas Beavers. It was by this means that we were able to see the terrible effects of the flood—the worst in Montana's history—at Southwest Great Falls, Vaughn, Choteau, Augusta, Birch Creek, Two Medicine, East Glacier, Holy Family Mission, Valier, Conrad, and all points between.

The aftermath of the floods, which began a week ago today, were awesome indeed. Mr. McDermott and I met with the Federal, State, county, and local officials; and we were impressed with the high degree of cooperation displayed, and, most especially, with the dedication to duty of the officers and men at Malmstrom Air Force Base. They saved and rescued hundreds of stranded people, through the use of thirteen helicopters assigned to Malmstrom; and they did so in close cooperation with the Montana Pilots Association, which operated light planes out of Cut Bank, Mont. We were also impressed by the come-back spirit of Montanans, who now are devoting themselves to the job of cleaning up and going forward. There was no defeatism on their part, but there was a recognition of the fact that there was a job to be done and that they would do it. They may have been down temporarily; but they were not out, nor do they intend to be.

I express my thanks to President Lyndon B. Johnson for his personal and continued interest in the Montana disaster; for sending his No. 1 disaster expert, Mr. Edward McDermott, to Montana; and for placing at our disposal a Presidential jet star, to enable us to undertake a survey between sessions of the Senate.

It is interesting to note that the big dams at Hungry Horse, Tiber, Canyon Ferry, and Holter played an extremely important part in controlling the water flow in their reservoirs, and thereby lessening the flood damage. Had these dams not been in operation, the disaster would have been far greater than has been the case.

I am happy to report that Secretary Udall; Philleo Nash, of the Bureau of Indian Affairs; and Floyd E. Dominy, of the Bureau of Reclamation, all went to Montana to survey the damage on the Blackfeet Reservation and the reclamation projects in the area affected.

The Montana State Highway Commission and the Bureau of Public Roads are putting forth extraordinary efforts to restore bridges, wherever possible; to rebuild bridges, where necessary; and also to restore and rebuild roads, as well.

There has been the utmost cooperation among the full Montana congressional delegation in doing all we can to be of assistance at this time; and there has been full cooperation between the delegation, the Federal Government, Gov. Tim Babcock, Acting Gov. Dave Manning, while he was in that office, and Generals Kendall and Foster, of the Montana National Guard. The Army Corps of Engineers was, as usual, alert to the needs and necessities of the situation; and Colonel St. Clair informs me that the Corps of Engineers is prepared to undertake a survey of the Sun River, for which it has $30,000 available. He also states that more funds would be needed to undertake this survey.

I asked him if he would, at his earliest convenience, let me know, through the corps, how much more would be needed, and assured him I would do my utmost, in cooperation with the rest of the Montana delegation, to get the funds required.

The ACTING PRESIDENT pro tempore. Under the morning-hour limitation, the time available to the Senator from Montana has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I also discussed with the appropriate officials a flood-protection plan which had been submitted for the protection of the city of Great Falls by the Corps of Engineers in June of 1956. This project was authorized by the 1958 Flood Control Act. Twice in the last 11 years Sun River floods have hit Great Falls, and the losses have been very much in excess of $1 million, when the final figures are counted up. The Army Engineers estimated that the original flood control project would cost $2,750,000, of which $1,900,000 would be in Federal funds. Great Falls' share of the cost, and this would be for easements and rights of way, would have been under $900,000. I would hope that in view of what has happened, because of the rampage of the Sun River, the past week, this project could be revived; and to that end I am taking it up with the Senate Public Works Committee, and am asking that it immediately look into this matter.

Mr. President, despite the damage Montana has suffered, the State is still open, the highways will be repaired, and we do not want any of those who have been intending to visit Montana to detour because of the floods. We would like to have them come to Montana. The latch string is out to them; and they will find that Montana is all they anticipated, if not a little bit more.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD briefs prepared, at my request, by various Federal agencies, including the Department of Defense; and also excerpts from Montana newspapers, and correspondence I have had with various individuals and agencies downtown.

There being no objection, the briefs, excerpts, and letters were ordered to be printed in the RECORD, as follows:

SUMMARY OF ACTIONS TAKEN BY FEDERAL AGENCIES

I. OFFICE OF EMERGENCY PLANNING

As soon as news was received regarding a flood condition in Montana, the regional director, OEP, departed for the State. He consulted with Governor Babcock and the State officials and explained the operations of Public Law 875. Contact was made with the Federal agencies, and requests for damage assessments were made to the appropriate agencies. Due to disaster conditions in Alaska, a request was made to other regions for additional personnel. These personnel arrived Thursday, June 11. Emergency offices were set up at Great Falls and Kalispell. County officials from all affected counties have been contacted, and the Public Law 875 has been explained. Emergency health protective measures under Public Law 875 have been authorized by the regional director.

II. CORPS OF ENGINEERS

Under their own statutory authority, the corps has carried out flood fight measures, including river forecasting. This forecasting provided a warning period in many areas. OEP has requested the Omaha district of the corps to provide general damage figures east of the divide. These first rough-cut figures will be available June 14. The Seattle district of the corps is carrying out similar functions west of the divide and damage figures in that area are expected about the same date. The Omaha district has been requested to remove health hazards, certified by the State, from Birch Creek. They are now conducting that service. At the request of OEP, the corps is assisting local communities to arrive at firm damage figures. The corps is also providing technical engineering assistance to local communities.

III. DEPARTMENT OF AGRICULTURE

Under their own statutory authority, USDA is prepared to assist individual farmers regarding rehabilitation of their property, including authorized financial assistance. The State and local agriculture disaster boards have met to survey agricultural damages and plan appropriate actions. County officials from affected counties have been briefed by USDA personnel regarding available USDA assistance. At the request of OEP, USDA has provided damage estimates on farm property.

IV. BUREAU OF PUBLIC ROADS

BPR is assisting the State highway department on repairing the Federal aid system. They have also briefed county officials on BPR's program and at the request of OEP are working with local officials to provide damage estimates and technical assistance on road repairs of the Federal aid system. It is expected that BPR will have a rough cut figure on road damage on or about June 14.

V. BUREAU OF RECLAMATION

Under their own statutory authority the Bureau of Reclamation has prepared damage estimates on their own irrigation projects. OEP has requested they conduct damage estimates on public irrigation facilities outside their jurisdiction (local irrigation districts). These are now being prepared. OEP has also informed the Bureau of Reclamation that they may be requested to assist local irrigation districts in repairs, if the proper resolution is passed by the local entity.

VI. PUBLIC HEALTH SERVICE

The Public Health Service has assigned two engineers to the disaster area. They are meeting with local officials on health and sanitation problems. DHEW will provide technical assistance to these local entities as well as carrying out repairs within their own jurisdiction.

VII. SMALL BUSINESS ADMINISTRATION

SBA has established an emergency loan office in Great Falls and may establish another in Kalispell. SBA officials have briefed county officials on their program.

VIII. BUREAU OF INDIAN AFFAIRS

BIA is providing assistance to the Indians located on Indian reservations.

IX. U.S. AIR FORCE

The Air Force provided tremendous emergency support, including rescue of many citizens. They also provided materials and equipment to meet emergency needs. The saving of many lives can be attributed to USAF.

X. RED CROSS

Although not a Federal agency, it should be mentioned that the Red Cross is doing an excellent job caring for those in need as a result of the flood.

341ST STRATEGIC MISSILE WING,
Malmstrom Air Force Base, Mont.,
June 14, 1964.

Memo to Senator MANSFIELD:

Upon general notification and awareness of the potential flood conditions in northwestern and central Montana, Brig. Gen. Lawrence S. Lightner, commander, 341st Strategic Missile Wing, Malmstrom Air Force Base, activated the Base Disaster Control Center at 2 p.m., Monday, June 8, 1964. The overall operation of the center was under the supervision of Col. George Budway, base commander, and Lt. Col. Harold C. Wise, vice base commander, Malmstrom Air Force Base.

True yeoman service was accomplished by the 341st Strategic Missile Wing Helicopter Section under Lt. Col. Thomas Beavers and his 13 assigned helicopters. Colonel Beavers personally rescued the largest share of the 194 Montanans rescued during the 3-day operation. Included in Colonel Beavers' "saves" were 11 people by hoisting them off their perch into the helicopter. One of these was an 81-year-old priest from the Browning area where he was working with the Blackfeet Nation.

Additionally, the fixed wing aircraft from Malmstrom were used to spot people for the helicopters to rescue. They also observed and reported danger areas to the disaster center for relay to the local civil defense agency in Great Falls. Additionally, they performed airlift of food, clothing, telephone equipment, generators and other miscellaneous cargo throughout the disaster area. All of the aircrews, ground crews, and support personnel put many hours of work and effort into the overall operation.

In the Great Falls area, Malmstrom Air Force Base assisted local civil defense agency and provided assistance in the evacuation of 112 families and their personal belongings from the disaster area. In addition air police provided security for personal belongings and controlled access to the flooded areas. The true extent of assistance cannot be calculated accurately as many Air Force personnel voluntarily offered their services and assistance outside the established organization. Further, the base hospital, transportation squadron, air police, supply activities, food service personnel, family services, Red Cross volunteers, and many other base agencies made extra special contributions to the flood disaster. The details of these contributions are attached.

341ST STRATEGIC MISSILE WING,
Malmstrom Air Force Base, Mont.,
June 14, 1964.

Summary of air operations

HELICOPTERS

Date	Missions	Rescued	Passengers	Cargo
Monday, June 8, 1964	1	9	0	0
Tuesday, June 9, 1964	24	185	0	0
Wednesday, June 10, 1964	12	12	27	7,700
Thursday, June 11, 1964	9	36	20	6,965
Friday, June 12, 1964	4	10	40	0
Total	50	252	87	14,665

NOTE.—Type helicopter used: CH-3C, CH-3B, H-43B, H-19, UH-1B (1 mission).

(2 H-43B helicopters stationed at Glasgow Air Force Base and assigned to Western Air Rescue Service (MATS) also assisted.)

FIXED-WING AIRCRAFT

Date	Missions	Passengers	Cargo
Monday, June 8, 1964	0	0	0
Tuesday, June 9, 1964	25	27	19,300
Wednesday, June 10, 1964	13	18	29,300
Thursday, June 11, 1964	3	0	15,000
Friday, June 12, 1964	3	0	7,000
Total	44	35	70,600

NOTE.—Type aircraft used: C-123, C-47, T-33, U-6A, U-3A (2 C-123's from Hamilton AFB assisted in cargo movement).

Surface operations

EMERGENCY ISSUES IN SUPPORT OF FLOOD RELIEF (JUNE 8–10, 1964)

Item	Quantity	Destination
Sleeping bags	497	Choteau.
Blankets	200	West Junior High.
Do	300	Browning.
Do	173	Choteau.
GI cots	50	West Junior High.
Mattresses	166	Do.
In-flight rations..meals	4,200	Choteau.
Mae Wests	75	Great Falls.
Flashlights	30	Do.
Flashlight cases, batteries.	4	Do.
Recreation boats and motors.	8	Do.

SUPPORT OF FLOOD RELIEF (JUNE 8–10, 1964)

Item	Quantity	Destination
Sandbags (filled and empty).	4,200	Great Falls area.
Shovels	100	Do.
Personnel (plus aircrews).	748	Do.
Vehicles (various types) (432 dispatches).	32	Do.
Security guards	58	Do.
Medicine units (tyhoid serum).	8,000	Cut Bank-Browning area.

LIST OF KNOWN VERIFIED DEAD, JUNE 14, 1964

GLACIER COUNTY

1. Craighton, Stanford, 32, Cardston, Alta.
2. Williams, Ivan, 48, St. Mary's.
3. Grant, Rose, 84, Two Medicine Creek.
4. Grant, Robert, Jr., 3, Two Medicine Creek.
5. Guardipee, Alvin Merle, 3, Two Medicine Creek.
6. Guardipee, Elaine, Two Medicine Creek.
7. Guardipee, Keith, 13, Two Medicine Creek.
8. Colbell, Galea, 13, Two Medicine Creek.
9. Guardipee, Terry Lee, 2, Two Medicine Creek.

PONDERA

1. Bradley, Peggy, 10, Upper Birch Creek.
2. Thomas, Jerry Wayne, 4, Upper Birch Creek.

MISSING OR PRESUMED DEAD

1. Newbreast, Sam, Upper Birch Creek.
2. Newbreast, Ethel (wife), Upper Birch Creek.
3. Newbreast, Patricia, 3, Upper Birch Creek.
4. Lauffer, Ernest, 58, Upper Birch Creek.
5. Hall, Mrs. Tom, Jr., Upper Birch Creek.
6. Hall, Tom, 12, Upper Birch Creek.
7. Marjorie, 10 (Hall), Upper Birch Creek.
8. Martha, 8 (Hall), Upper Birch Creek.
9. Cathy, 6 (Hall), Upper Birch Creek.
10. Hall, Marlyn, 4, Upper Birch Creek.
11. Hall, Edward, 2, Upper Birch Creek.
12. Hall, Jody, 1, Upper Birch Creek.
13. Hanline, Joe, Upper Birch Creek.
14. Oberlock, Ralph, Upper Birch Creek.
15. Thekson, Bean, Upper Birch Creek.
16. Arnous, Linda, Blackfeet Reservation, Upper Birch Creek.
17. Long Time Sleeping, Lorraine, Two Medicine Creek.
18. Duckhead, George, Big Badger Creek.
19. Duckhead, Mrs. George, Big Badger.
20. Evans, Aloysious, Home Lake.
21. England, Gilbert.
22. Happy Tatsy.
23. Hall, Patrick Stinky.
24. Lewis, the Bob Lewis family, 5 people.
25. George Found Gean's Mother.
26. Westfield, Joe, Augusta.

Disaster flood of June 1964, northwestern Montana—Summary of community damages in 7-county disaster area within U.S. Army Engineer district, Omaha

County	Basin	Community	Estimated damage in thousands of dollars		
			Public	Private	Total
Glacier	Milk River	St. Mary	10.0	260.0	270.0
Do	do	Babb	0	0	0
Do	Marias River	Browning	15.0	25.0	40.0
Do	do	Kiowa	0	0	0
Do	do	East Glacier	65.0	5.0	70.0
Do	do	Two Medicine	0	50.0	50.0
Do	do	Indian Village	0	20.0	20.0
Total			90.0	360.0	450.0
Toole	Maris River	Shelby	127.0	88.0	215.0
Pondera	do	Dupuyer	0	6.0	6.0
Do	do	Walier	0	0	0
Do	do	Conrad	0	9.0	9.0
Total			0	15.0	15.0
Teton	Teton River	Choteau	120.0	910.0	1,030.0
Cascade	Sun River	Great Falls	[1] 2,650.0	4,600.0	7,250.0
Do	do	"Big Sky Vista"	33.0	226.0	259.0
Do	do	Sun River	0	276.0	276.0
Do	do	Fort Shaw	0	0	0
Do	do	Simms	0	0	0
Do	Belt Creek	Belt	25.0	0	25.0
Do	do	Raynesford	0	4.0	4.0
Total			2,708.0	5,106.0	7,814.0
Chouteau	Missouri River	Loma	.2	.3	.5
Do	do	Fort Benton	.3	.2	.5
Total			.5	.5	1.0
Lewis and Clark	Sun River	Augusta	0	55.0	55.0
Grand total			3,045.5	6,446.5	9,580.0

[1] Entire disaster estimate for Montana Power, Montana State Telephone, Great Northern RR., and Cascade County surveyor amounted to $1,700,000.

Estimate of damages sustained by disastrous June 1964 flood in northwestern Montana

[In thousands of dollars]

Damage item	Cascade County	Chouteau County	Glacier County	Lewis and Clark County	Pondera County	Teton County	Toole County
Communities:							
Public	2,708.0	0.5	90.0	0	0	120	127.0
Private	5,106.0	.5	360.0	55	15	910	88.0
Rural (USDA):							
Buildings	750.0	50.0	166.0	50	250	500	130.5
Livestock	87.5	24.0	25.0	3	100	100	33.5
Crops	400.0	76.0	35.0	10	75	500	8.9
Livestock feed	200.0	5.0	10.0	5	25	100	59.0
Machinery, tools, etc	500.0	5.0	210.0	15	100	400	64.5
Household goods	150.0	5.0	30.0	2	30	500	29.5
Cars and trucks	0	0	0	0	0	200	0
Farm roads and bridges	0	0	30.0	0	0	500	0
Loss of productivity because of lack of water on irrigated crops	0	0	240.0	0	0	0	0
ASC (includes irrigation)	2,195.0	378.5	75.5	50	487	711	96.0
County roads bridge	500.0	500.0	700.0	100	1,000	1,600	100.0
Indian roads and bridge		0	750.0		0	0	
Other damage	380.0	0	3,025.0	60	0	0	135.0
State highway $3,000,000							
Railroads 2,000,000							
Total, flood	12,976.5	1,044.5	5,746.5	350	2,082	6,141	871.9
Total damage estimate 34,212,400							
Public 7,554,500	3,208.0	500.5	790.0	100	1,000	1,720	227.0
Private 26,657,900	9,768.5	544.0	4,956.5	250	1,082	4,421	644.9

NOTE: All rural agricultural damages provided by the U.S. Department of Agriculture.

Tabulation of communities affected and damages sustained as a result of the disaster flood of June 1964 in western Montana within the jurisdiction of the Corps of Engineers, Omaha district

County	Basin	River	Tributary 1st	Tributary 2d	Name of community	Population (1960 census or later estimate)	Homes flooded	Business flooded
Glacier	Milk	Milk	St. Mary River	Divide Creek	St. Mary	100	20	19
	do	do	do		Babb	50	0	0
	Marias	Marias	Cut Bank Creek	Willow Creek	Browning	2,011	55	3
	do	do	do	South Fork	Kiowa	10	0	0
	do	do	Two Medicine Creek	Midvale Creek	East Glacier	400	17	
	do	do	do		Two Medicine	100	17	
	do	do	do	Lower Badger Creek	Indian Village		10	
Toole	do	do	A dry creek		Shelby	4,017	150	1
Pondera	do	do	Birch Creek	Dupuyer Creek	Dupuyer	125	30	0
	do	do	do	Lake Francis	Valier		0	0
	do	do	Pondera Creek	Pondera Coulee	Conrad	2,665	18	0
Teton	Teton	Teton River plus overflow via side drain			Choteau	1,966	530	9
Cascade	Sun	Sun			Great Falls	58,500	800	
	do	do			Big Sky Vista	265	28	0
	do	do			Sun River	100	57	8
	do	do			Fort Shaw	100	0	0
	do	do			Simms	200	0	0
	Missouri	Missouri	Belt Creek		Belt	757	0	0
	do	do	do	Big Otter Creek	Raynesford	50	1	1
Chouteau	do	do			Loma	125	1	
	do	do			Fort Benton	1,887	1	
Lewis and Clark	Sun	Sun	South Fork		Augusta	400	70	15
Total								

Tabulation of communities affected and damages sustained as a result of the disaster flood of June 1964 in western Montana within the jurisdiction of the Corps of Engineers, Omaha district—Continued

County	Public damages					Private damages			Total community damage	Community damage Total by county
	Streets	Water	Sewer	Utilities	Miscellaneous	Residential	Commercial	Miscellaneous		
Glacier	$10,000					$60,000	$200,000		$270,000	
									0	
	15,000					24,000	1,000		40,000	
									0	
	5,000	$60,000				5,000			70,000	
						50,000			50,000	
						20,000			20,000	$450,000
Toole		125,000			$2,000	75,000	10,000	$3,000	215,000	215,000
Pondera						6,000			6,000	
									0	
					1,000	8,000			9,000	15,000
Teton	60,000	25,000	$12,500	$15,000	7,500	535,000	345,000	30,000	1,030,000	1,030,000
Cascade	495,000	250,000	185,000	[1] 1,700,000	20,000	4,400,000	100,000	100,000	7,250,000	
	2,500	2,500	28,000			223,000		3,000	259,000	
					6,500	175,000	69,500	25,000	276,000	
								0	0	
								0	0	
					25,000				25,000	
						3,000	500	500	4,000	7,814,000
Chouteau					250	250			500	
					250	250			500	1,000
Lewis and Clark						39,000	15,000	1,000	55,000	55,000
Total										9,580,000

[1] Disaster area estimate from Montana Power, Mountain States Telephone, Great Northern (not complete), and Cascade County surveyor.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF EMERGENCY PLANNING,
Washington, D.C., June 10, 1964.
Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: The President today declared that the damage in Montana caused by excessive rainfall and flooding was of sufficient severity and magnitude to warrant assistance under the Federal disaster assistance program (Public Law 81-875).

The Office of Emergency Planning, under delegation from the President, has responsibility for administering this program and for directing and coordinating disaster assistance by all Federal agencies.

Upon determination of the amount of funds necessary to cover immediate emergency needs, President Johnson will authorize an allocation from his disaster assistance fund.

The President has expressed his deep concern for the people afflicted by the disaster. I have instructed my director of region 8, at Everett, Wash., Mr. Creath A. Tooley, to keep in close contact with Gov. Tim M. Babcock and his staff and to do everything possible to provide relief and the temporary restoration of essential public facilities.

Mr. Charles Beal, Chief, Natural Disaster Division (code 128, x22247), or Mr. Gordon Gillis, congressional liaison (code 128, x22687), will be pleased to furnish any information you may desire. The enclosed Federal Disaster Assistance Handbook should be helpful in acquainting you with the provisions of the Federal disaster law.

Be assured of my solicitude for the welfare of the people of your State.

Sincerely,
EDWARD A. MCDERMOTT,
Director.

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., June 10, 1964.
EDWARD A. MCDERMOTT,
Director, Office of Emergency Planning,
Washington, D.C.

DEAR ED: I would like to express my personal appreciation for the attention that you and your staff have given to the disastrous flooding in Montana during the past 48 hours. I know it is impossible to know to what extent damage has been done and that it will take some days before anything can begin to crystallize. However, at this time, I would like to bring to your attention the following items in view of the inquiries which I have received from the various areas. I would appreciate your coordinating these with the proper agencies for assistance under Public Law 81-875.

I have received a telephone call from the Glacier County Commissioners stating that all county roads and bridges have been damaged and their survey shows that they will need approximately $700,000 to repair them. I have advised these gentlemen that they should contact the Montana State Highway officials and request assistance under the above law. Would you have your officials contact William McAlpine, Frank Krshka, and O. A. Tellefero, county courthouse, Cut Bank, Mont., and give to them the necessary information. I am also contacting the Bureau of Public Roads and calling to their attention the request of Glacier County. I have not been directly contacted by the officials of other counties, but it is my understanding that considerable damage has been done to bridges and roads in all the other counties.

I have also been advised that there will be quite a problem in Evergreen (Flathead County), because this community did not have sewage disposal facilities. Would you refer this to the proper officials to see what can be done. I understand there is also a pollution problem involved in that area (Kalispell, Evergreen, Columbia Falls) due to some leakage from oil tank storage, and 5,000 cubic centimeters of typhoid are being sent in to that area from Helena for general vaccination. While I have not received any request for assistance on this, would you kindly alert the proper people so that if any additional vaccine is necessary, it will be sent.

It is my understanding that approximately 30 miles of the Great Northern Railroad in the vicinity of Columbia Falls has been washed out. I would appreciate your having the proper officials advise me as to the amount of damage and what assistance might be rendered on this.

I understand that the Forest Service roads near Hungry Horse Reservoir have been washed out, and I have called this to the attention of the Forest Service officials. If that agency does not have funds to repair these, would you advise me if Public Law 875 would take care of them?

The water system at the town of Hungry Horse, I understand, is one of the several water systems out in communities. I would appreciate your having someone advise me what might be done to replace such facilities where needed.

Would you also have someone advise me what assistance may be rendered to individual homes where damage has been done as a result of the flooding?

I have been informed by the Small Business Administration that they have designated the counties in Montana to be eligible for assistance through that agency. I would assume that this assistance would be for loans for businesses. Would you advise me if businesses would be eligible for any other assistance under Public Law 875?

In the event that you do not know, Secretary Udall advised me late yesterday afternoon that Floyd Dominy, Commissioner, Bureau of Reclamation, and Philleo Nash, Commissioner, Bureau of Indian Affairs, left for Montana last night to render assistance on matters which would come under their jurisdiction.

I realize, Ed, that I have listed quite a number of items and that your agency will not be in a position to answer these until your staff has made a survey to determine all the damages. Therefore, I do not expect an immediate answer. However, I am taking the liberty of bringing the above to your attention, as these various items have been mentioned to me by individuals in the course of my several telephone conversations to Montana.

Thanking you for your continued assistance, and with best personal wishes, I am,

Sincerely yours,
———— ————.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF EMERGENCY PLANNING,
Washington, D.C., June 12, 1964.
Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR MIKE: In reply to your letter of June 10, which we received this afternoon, I appreciate your generous comments about our response to the Montana flood problem and will endeavor to provide you with responsive answers to the several questions which you raised. I will discuss them in chronological order:

1. Glacier County: County roads and bridges damaged or destroyed in the disaster are eligible for repair or replacement (subject to prescribed standards) under the provisions of Public Law 875. The Bureau of Public Roads engineers are making damage surveys for the Office of Emergency Planning

to determine the extent of damage and eligible work. The BPR engineers will work closely with the State Highway Department with whom Glacier County officials are already in contact. The actual damage surveys may be made by BPR in conjunction with State engineers.

The Glacier County commissioners should work through the Montana Disaster Agency (General Kendall, Adjutant General and State disaster coordinator) in applying for Public Law 875 assistance.

OEP is having a series of meetings with officials of all involved counties to explain Public Law 875 assistance in detail and describe claimancy procedures. My disaster representatives in Montana will specifically contact Messrs. McAlpine, Krshka, and Tellefero at Cut Back. All other counties will be provided this information in the meetings to which I have just alluded.

2. Flathead County: The Public Law 875 program does not provide for building sewage disposal facilities where none existed prior to the flood. Where a health, sanitation, or pollution problem exists as a result of the flood we can provide for the emergency measures necessary to relieve the situation. Local officials should inquire into programs of the Community Facilities Administration for a permanent solution.

I have asked our regional director, Mr. Creath Tooley, now in Great Falls, to check into this problem with Flathead County authorities and take such steps as are necessary to provide temporary relief.

We have also communicated with the Public Health Service concerning the pollution problem resulting from oil tank leakage and additional vaccines will be made available if required. At my request a Public Health Services representative has been sent to Montana to deal specifically with water and dead animal problems.

3. Great Northern Railroad damages: Damages to the Great Northern Railroad System in the vicinity of Columbia Falls are being surveyed. I know of no Federal program, however, which will provide direct financial assistance for necessary repairs. This would be a corporate obligation of the railroad handled by their regular maintenance and construction crews.

4. Forest roads: All forest roads, including those near Hungry Horse Reservoir, are the responsibility of the Forest Service. Inquiry to the Forest Service discloses that they have the authority and the necessary funds to take care of these road repairs. These road repairs will be expedited in order to be ready for the forest fire season.

5. Hungry Horse water system: Public Law 875 provides for the emergency repair of essential public facilities. Assuming the Hungry Horse water system is publicly owned, it would be eligible for emergency repairs if damage was a result of the flooding. Local officials should be in touch with the State Disaster Agency for assistance in processing their application for Public Law 875 funds.

6. Small Business Administration: As you indicate, SBA has designated the flooded counties as eligible for SBA loans. While Public Law 875 does not provide for direct assistance to individual disaster victims, disaster loan assistance (at interest not in excess of 3 percent, with up to 20 years to pay) is available through the SBA. This loan assistance is available for the repair or replacement of disaster damaged commercial or residential structures and the loan authority extends to contents and inventory as well as structures.

Individual needs (for clothing, replacement of lost furnishings, etc.) are taken care of through the emergency relief and rehabilitation programs of the American Red Cross where the requirement for this assistance is established.

While businesses are not eligible for assistance under Public Law 875, SBA disaster loan assistance is available to individuals, business concerns (including corporations, partnerships, cooperatives), churches, charitable institutions, and other nonprofit organizations.

I hope this general guidance will be helpful to you and assure you of our continued close attention to these problems both here in the national office and in the field. Be in touch with me concerning any other questions you may have.

Sincerely,

EDWARD A. MCDERMOTT,
Director.

PRESS RELEASE BY SMALL BUSINESS ADMINISTRATION

Mr. William S. Schumacher, regional director of Small Business Administration, arrived in Great Falls this morning to survey the flood disaster area and to establish a disaster field office in Great Falls to expedite the processing of SBA disaster loan applications. Accompanying Mr. Schumacher were Mr. Rex B. Zachary, Montana SBA branch manager and other members of his staff.

Immediately following President Johnson's declaration of Montana as a major disaster area, SBA Administrator Eugene P. Foley made a similar declaration, thus establishing the eligibility of the area under the SBA disaster loan program. The area covered by the declaration encompasses the counties of Glacier, Toole, Pondera, Teton, Cascade, Chouteau, and Flathead.

Under the SBA disaster program individuals, business concerns and nonprofit organizations such as churches, may borrow from SBA amounts sufficient to restore their property as closely as possible to its pre-disaster condition. Loans may be used to repair or replace real estate, furnishings, equipment, fixtures, and inventory. Loans may be made for as long as 20 years at an interest rate of only 3 percent. Applications for such loans may be made through commercial banks in the area or directly to the SBA field office.

Mr. Schumacher pledged complete support of the SBA in making the fullest possible use of existing legislative authority to provide relief to people in the stricken area. He also stated that every step will be taken to avoid any undue delay in the processing and disbursement of SBA disaster loans.

While in Great Falls Mr. Schumacher will also meet with representatives of the Red Cross, chambers of commerce, Montana bankers, Army engineers, and civil defense to coordinate SBA efforts in the area.

Request for disaster county designation and ACP emergency funds

1. State: Montana.
2. County: Cascade.
3. Program year: 1964.
4. Ending date: ....
5. Kind of disaster: Flood.
6. Dates and duration of disaster: ....
7. Number of farms damaged: 200.
8. Intensity (if applicable): ....
9. Farmland damaged (acres): 12,800.
10. Estimated extent of reduction in the productivity of the damaged farmland if these new conservation problems are not treated (percent): ....
11. Frequency of occurrence of this type of damage (10-year history): ....

KIND AND EXTENT OF EMERGENCY CONSERVATION MEASURES NEEDED TO CORRECT THE NEW CONSERVATION PROBLEMS AND THEIR COST

12. County estimates: ....

Emergency conservation measures (A)	Kind of unit (B)	Number of units needed (C)	Average total cost per unit (D)	Total cost ((C)×(D)) (E)	Percent will correct this year (F)	Cost under this program ((E)×(F)) (G)	For State office use (H)
Fencing and repairs (all types)	Rod	128,000	$2.07	$265,000	100	....	....
Removal of debris (including gravel bars)	Acre	6,000	20.00	120,000	60	....	....
Reseeding of vegetative cover	do	800	30.00	24,000	20	....	....
Releveling land	do	4,000	50.00	200,000	10	....	....
Repair of irrigation ditches	Mile	200	900.00	180,000	100	....	....
Repair or replacement of irrigation structures	Number	2,000	100.00	200,000	75	....	....
Cleaning drainage ditches	Mile	20	1,500.00	30,000	10	....	....
Repair or replacement of irrigation pumping installations	Number	40	2,000.00	80,000	100	....	....
13. Total cost and cost under this program ((G) plus (E))	....	....	....	....	....	....	....
14. Estimated amount (of item 13(G)) farmers can reasonably be expected to bear.	....	....	....	....	....	....	....
15. Estimated amount (of item 13(G)) available under regular cost-sharing programs.	....	....	....	....	....	....	....
16. Total ACP emergency funds needed for this program year and requested (13(G) minus 14(G) minus 15(G)).	....	....	....	....	....	....	....

RECOMMENDATION OF USDA COUNTY DISASTER COMMITTEE

That the above-named county be designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made as shown in item 16G.

....
(Chairman)

Date: ....

RECOMMENDATION OF USDA STATE DISASTER COMMITTEE

17. That the above-named county (be) (not be) designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made amounting to ....[1]

....
(Chairman)

Date: ....

[1] Explain here any difference between amounts in items 16(G) and 17: ....

Request for disaster county designation and ACP emergency funds

1. State: Montana.
2. County: Cascade.
3. Program year: 1964.
4. Ending date:
5. Kind of disaster: Flood.
6. Dates and duration of disaster:
7. No. farms damaged: 200.
8. Intensity (if applicable):
9. Farmland damaged (acres): 12,800.
10. Estimated extent of reduction in the productivity of the damaged farmland if these new conservation problems are not treated (percent):
11. Frequency of occurrence of this type of damage (10-year history):

KIND AND EXTENT OF EMERGENCY CONSERVATION MEASURES NEEDED TO CORRECT THE NEW CONSERVATION PROBLEMS AND THEIR COST

12. County estimates:

Emergency conservation measures (A)	Kind of unit (B)	Number of units needed (C)	Average total cost per unit (D)	Total cost ((C)×(D)) (E)	Percent will correct this year (F)	Cost under this program ((E)×(F)) (G)	For State office use (H)
Replacement of ditch company structures	Project	4	$50,000	$200,000	20		
Riprap and repair of streambanks	do	5	40,000	200,000	3		
Replacing and repair stockwater dams	Number	10	500	5,000	50		
Replacing tile drains	Mile	5	12,000	60,000	0		
Weed control	Acre	12,800	50	640,000	10		
13. Total cost and cost under this program ((G) plus (E))				2,185,000			
14. Estimated amount (of item 13(G)) farmers can reasonably be expected to bear: 20 percent.							
15. Estimated amount (of item 13(G)) available under regular cost-sharing programs.							
16. Total ACP emergency funds needed for this program year and requested (13(G) minus 14(G) minus 15(G)).							

RECOMMENDATION OF USDA COUNTY DISASTER COMMITTEE

That the above-named county be designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made as shown in item 16(G).

(Chairman)

Date:

RECOMMENDATION OF USDA STATE DISASTER COMMITTEE

17. That the above-named county (be) (not be) designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made, amounting to [1]

(Chairman)

Date:

[1] Explain here any difference between amounts in items 16(G) and 17:

Request for disaster county designation and ACP emergency funds

1. State: Montana.
2. County: Chouteau.
3. Program year: 1964.
4. Ending date:
5. Kind of disaster: Flood.
6. Dates and duration of disaster:
7. Number of farms damaged: 21.
8. Intensity (if applicable):
9. Farmland damaged (acres): 2,580.
10. Estimated extent of reduction in the productivity of the damaged farmland if these new conservation problems are not treated (percent):
11. Frequency of occurrence of this type of damage (10-year history):

KIND AND EXTENT OF EMERGENCY CONSERVATION MEASURES NEEDED TO CORRECT THE NEW CONSERVATION PROBLEMS AND THEIR COST

12. County estimates:

Emergency conservation measures (A)	Kind of unit (B)	Number of units needed (C)	Average total cost per unit (D)	Total cost ((C)×(D)) (E)	Percent will correct this year (F)	Cost under this program ((E)×(F)) (G)	For State office use (H)
Fencing and repair (all types)	Rod	16,000	$2.20	$35,200	100		
Removal of debris	Acre	2,580	10.00	25,800	100		
Reorganizing irrigation systems (including ditches and structures).	System	11	5,500	60,500	100		
Releveling land	Acre	1,520	50.00	76,000	100		
Reseeding	do	2,000	13.00	26,000	100		
Land shaping	do	1,060	10.00	10,600	100		
Streambank protection, channel realinement, and diking	Mile	5	500	2,500	100		
Channel clearing on Teton River	do	50	150	7,500	100		
13. Total cost and cost under this program ((G) plus (E))							
14. Estimated amount (of item 13(G)) farmers can reasonably be expected to bear.							
15. Estimated amount (of item 13(G)) available under regular cost-sharing programs.							
16. Total ACP emergency funds needed for this program year and requested (13(G) minus 14(G) minus 15(G)).							

RECOMMENDATION OF USDA COUNTY DISASTER COMMITTEE

That the above-named county be designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made as shown in item 16(G).

(Chairman)

Date:

RECOMMENDATION OF USDA STATE DISASTER COMMITTEE

17. That the above-named county (be) (not be) designated a disaster county under, Public Law 85-58, and that an allocation of ACP emergency funds be made amounting to [1]

(Chairman)

Date:

[1] Explain here any difference between amounts in items 16(G) and 17:

Request for disaster county designation and ACP emergency funds

1. State: Montana.
2. County: Chouteau.
3. Program year: 1964.
4. Ending date: ------------------
5. Kind of disaster: Flood.
6. Dates and duration of disaster: ------------------
7. Number of farms damaged: 21.
8. Intensity (if applicable): ------------------
9. Farmland damaged (acres): 2,580.
10. Estimated extent of reduction in the productivity of the damaged farmland if these new conservation problems are not treated (percent): ----------
11. Frequency of occurrence of this type of damage (10-year history): ----------

KIND AND EXTENT OF EMERGENCY CONSERVATION MEASURES NEEDED TO CORRECT THE NEW CONSERVATION PROBLEMS AND THEIR COST

12. County estimates: ------------------

Emergency conservation measures (A)	Kind of unit (B)	Number of units needed (C)	Average total cost per unit (D)	Total cost ((C)×(D)) (E)	Percent will correct this year (F)	Cost under this program ((E)×(F)) (G)	For State office use (H)
Private road repair	Mile	12	$450	$5, 400	100		
13. Total cost and cost under this program ((G) plus (E))				249, 500			
14. Estimated amount (of item 13(G)) farmers can reasonably be expected to bear (20 percent)							
15. Estimated amount (of item 13(G)) available under regular cost-sharing programs.							
16. Total ACP emergency funds needed for this program year and requested (13(G) minus 14(G) minus 15(G)).							

RECOMMENDATION OF USDA COUNTY DISASTER COMMITTEE

That the above-named county be designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made as shown in item 16(G).

(Chairman)

Date: ------------------

RECOMMENDATION OF USDA STATE DISASTER COMMITTEE

17. That the above-named county (be) (not be) designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made, amounting to: ------------------[1]

(Chairman)

Date: ------------------

[1] Explain here any difference between amounts in items 16(G) and 17: ------------------

Request for disaster county designation and ACP emergency funds

1. State: Montana.
2. County: Flathead.
3. Program year: 1964.
4. Ending date: ------------------
5. Kind of disaster: Flood.
6. Dates and duration of disaster: ------------------
7. Number of farms damaged: 200.
8. Intensity (if applicable): ------------------
9. Farmland damaged (acres): 28,800.
10. Estimated extent of reduction in the productivity of the damaged farmland if these new conservation problems are not treated (percent): ----------
11. Frequency of occurrence of this type of damage (10 year history).

KIND AND EXTENT OF EMERGENCY CONSERVATION MEASURES NEEDED TO CORRECT THE NEW CONSERVATION PROBLEMS AND THEIR COST

12. County estimates: ------------------

Emergency conservation measures (A)	Kind of unit (B)	Number of units needed (C)	Average total cost per unit (D)	Total cost ((C)×(D)) (E)	Percent will correct this year (F)	Cost under this program ((E)×(F)) (G)	For State office use (H)
Fencing and repair (all types)	Rod	15, 000	$1	$15, 000	100		
Removal of debris	Acre	15, 000	2	30, 000	100		
Reseeding vegetative cover	do	1, 000	6	6, 000	100		
Shaping and grading eroded land	do	2, 500	4	10, 000	100		
Repair of dikes and levees along river				50, 000	70		
13. Total cost and cost under this program ((G) plus (E))				111, 000			
14. Estimated amount (of item 13(G)) farmers can reasonably be expected to bear: 20 percent.							
15. Estimated amount (of item 13(G)) available under regular cost-sharing programs.							
16. Total ACP emergency funds needed for this program year and requested (13(G) minus 14(G) minus 15(G).							

RECOMMENDATION OF USDA COUNTY DISASTER COMMITTEE

That the above-named county be designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made as shown in item 16(G).

(Chairman)

Date: ------------------

RECOMMENDATION OF USDA STATE DISASTER COMMITTEE

17. That the above-named county (be) (not be) designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made, amounting to ------------------[1]

(Chairman)

Date: ------------------

[1] Explain here any difference between amounts in items 16(G) and 17: ------------------

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U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., June 10, 1964.

Hon. ORVILLE FREEMAN,
Secretary, Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: As you know, a large portion of Montana is just beginning to recover from the most disastrous flood in the State's history. It will be some days before we will have reasonably accurate estimates of the tremendous damage that has been done. Undoubtedly there will be a great need for conservation work on agricultural lands.

The President has now signed into law the deficiency appropriation bill which contains $4 million for emergency ACP programs. I realize that there are many requests for these funds from areas that have been plagued with floods and drought, but in view of the very serious nature of the conditions in Montana, I ask that you earmark and hold back some of these funds for use in Montana.

Both Senator METCALF and I would be most appreciative of your cooperation in this matter. Please keep both of our offices advised on major developments in the Department to provide disaster relief to Montana.

With best personal wishes, I am,

Sincerely yours,

______ ______.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 12, 1964.

Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: I appreciate the opportunity to advise you of what the Department of Agriculture is doing to help alleviate the problems arising from the floods in Montana. Our people in Montana have been working almost constantly since the initial reports of flooding to get detailed information and set up actions that can be taken.

In response to your specific question about assistance under the emergency agricultural conservation program I am advised the State USDA disaster committee is getting county estimates of damage and appraising the consequent needs for assistance. This committee is under the leadership of Mrs. Viola Herak, State ASC chairman, and they are working closely with the county disaster committees. I am sure you realize that it is not possible for the county committees to be accurate in their surveys and estimates until the water goes down and they can determine what work must be done. We expect some preliminary estimates and advice on this sometime next week.

The Department recently asked for $12 million to replenish this fund because of the demands arising in the Ohio flood and the drought condition over several States in the last 2 years. The Congress appropriated $4 million. Staff personnel are in the process of allocating assistance on the basis of needs established by other States. I have asked that $500,000 of this fund be tentatively earmarked for the Montana situation pending receipt of specific estimates from Montana. We will have a responsible man in Montana reviewing this matter with the State disaster committee.

I am happy to report on some other actions in which the Department has participated or planned for needed assistance. Some 11 tons of food were airlifted to the Browning-Cut Bank area where the distributing agency is helping displaced families. A preliminary report received on June 11 indicates that many displaced people are being fed in private homes and community facilities.

Initial reports indicate substantial damage to farm buildings and loss of household furnishings, feed supplies, and farm equipment. The Farmers Home Administration is preparing to authorize loans where they are needed by those farmers who are unable to get adequate credit from other sources. These loans will be made at 3-percent interest and may in some instances be scheduled for repayment over a period up to 7 years. A decision as to need for real estate and housing loans will be made when more information is available.

Initial plans were made to airlift some feed in for displaced livestock but later reports indicated that this was not necessary. Most of the cattle were being regrouped and taken care of by other means. We are prepared to release hay or pasture now designated as diverted conservation acreage under the conservation reserve, the wheat and feed grain programs, if requested to do so by the State disaster committee and the Governor.

You will be kept advised of our progress and I wish to assure you that every possible action will be taken to help Montana farmers who have been injured severely by the floodwater.

Sincerely,

ORVILLE L. FREEMAN,
Secretary.

[Release by U.S. Department of Agriculture, Washington, June 9, 1964]

USDA FOODS READY IN MONTANA FLOOD EMERGENCY

Ample supplies of foods donated by the U.S. Department of Agriculture are available to help feed evacuees from flooded areas in Montana, Secretary of Agriculture Orville L. Freeman said today.

Scattered reports indicate that the village of Choteau has been evacuated, and that Great Falls may be affected, but the number of persons involved is not known. Walter Anderson, controller of the Montana Purchasing Department which handles the distribution of USDA foods in the State, contacted civil defense and other emergency agencies last night to notify them of the availability of Federal commodities in a State-operated warehouse at Warm Springs. Since schools frequently are employed as evacuation centers, the State school lunch director, William Howard, has also been alerted and is ready to lend any needed assistance through school facilities.

The Secretary said that field personnel of Agricultural Marketing Service's San Francisco Food Distribution Division office is maintaining contact with Montana officials in the event that additional foods are needed. However, State distributing agencies have standing authority to provide existing stocks of USDA foods to feed victims of disasters. Foods so used will be replaced by the Government to continue regular distribution to schools, institutions, and needy families when the emergency has passed.

U.S. DEPARTMENT OF AGRICULTURE,
AGRICULTURAL STABILIZATION AND
CONSERVATION SERVICE, MONTANA STATE OFFICE,
Bozeman, Mont., June 12, 1964.

Hon. MIKE MANSFIELD,
Senate Building,
Washington, D.C.

DEAR MIKE: For your information we are enclosing preliminary estimates of flood damage to farmland in Cascade, Chouteau, Flathead, Glacier, Pondera, Teton, and Toole Counties. These counties have requested emergency ACP funds to assist farmers in repairing the flood damage. Lewis and Clark and Powell Counties have been designated as disaster areas, but estimates have not been received from these counties.

Sincerely yours,

DOUGLAS G. SMITH,
State Executive Director.

Request for disaster county designation and ACP emergency funds

1. State: Montana.
2. County: Glacier.
3. Program year: 1964.
4. Ending date. --------------------
5. Kind of disaster: Flood.
6. Dates and duration of disaster: --------------------
7. Number of farms damaged: 40.
8. Intensity (if applicable): --------------------
9. Farmland damaged (acres): 3,500.
10. Estimated extent of reduction in the productivity of the damaged farmland if these new conservation problems are not treated (percent): ------------
11. Frequency of occurrence of this type of damage (10-year history): ------------

KIND AND EXTENT OF EMERGENCY CONSERVATION MEASURES NEEDED TO CORRECT THE NEW CONSERVATION PROBLEMS AND THEIR COST

12. County estimates: ------------------

Emergency conservation measures (A)	Kind of unit (B)	Number of units needed (C)	Average total cost per unit (D)	Total cost (C)×(D) (E)	Percent will correct this year (F)	Cost under this program (E)×(F) (G)	For State office use (H)
Fencing and repair (all types)	Rods	22,400	$2.00	$44,800	80		
Removal of debris, reseeding, and shaping	Acres	767	30.00	23,000	50		
Reorganizing irrigation systems	C.y.	32,000	.20	6,400	50		
Irrigation structures	Number	25	50.00	1,250	50		
13. Total cost and cost under this program (G) plus (E)				75,450			
14. Estimated amount (of item 13(G) farmers can reasonably be expected to bear.							
15. Estimated amount (of item 13(G) available under regular cost-sharing programs.							
16. Total ACP emergency funds needed for this program year and requested (13(G) minus 14(G) minus 15(G)).							

RECOMMENDATION OF USDA COUNTY DISASTER COMMITTEE

That the above-named county be designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made as shown in item 16(G).

(Chairman)

Date: ------------------

RECOMMENDATION OF USDA STATE DISASTER COMMITTEE

17. That the above named county (be) (not be) designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made, amounting to ------------------ [1]

(Chairman)

Date: ------------------

[1] Explain here any difference between amounts in items 16(G) and 17: ------------

Request for disaster county designation and ACP emergency funds

1. State: Montana.
2. County: Pondera.
3. Program year: 1964.
4. Ending date:
5. Kind of disaster: Flood.
6. Dates and duration of disaster:
7. Number of farms damaged: 75.
8. Intensity (if applicable):
9. Farmland damaged (acres): 80,000.
10. Estimated extent of reduction in the productivity of the damaged farmland if these new conservation problems are not treated (percent):
11. Frequency of occurrence of this type of damage (10-year history):

KIND AND EXTENT OF EMERGENCY CONSERVATION MEASURES NEEDED TO CORRECT THE NEW CONSERVATION PROBLEMS AND THEIR COST

12. County estimates:

Emergency conservation measures (A)	Kind of unit (B)	Number of units needed (C)	Average total cost per unit (D)	Total cost ((C)×(D)) (E)	Percent will correct this year (F)	Cost under this program ((E)×(F)) (G)	For State office use (H)
Fencing and repairs (all types)	Rod	96,000	$2.00	$192,000	90		
Removal of debris	Acre	10,000	15.00	150,000	50		
Reseeding permanent cover	do	2,000	5.00	10,000	50		
Reconstructing irrigation ditch and drains	C.y.	100,000	.25	25,000	80		
Reconstructing structures in irrigation systems	Number	200	50.00	10,000	80		
Releveling	Acre	1,000	40.00	40,000	50		
Grading eroded land	do	1,000	50.00	50,000	60		
Reclaiming silted land	do	1,000	10.00	10,000	50		
13. Total cost and cost under this program ((G) plus (E))				487,000			
14. Estimated amount (of item 13(G)) farmers can reasonably be expected to bear							
15. Estimated amount (of item 13(G)) available under regular cost-sharing programs							
16. Total ACP emergency funds needed for this program year and requested (13(G) minus 14(G) minus 15(G))							

RECOMMENDATION OF USDA COUNTY DISASTER COMMITTEE

That the above-named county be designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made as shown in item 16(G).

(Chairman)

Date:

RECOMMENDATION OF USDA STATE DISASTER COMMITTEE

17. That the above-named county (be) (not be) designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made, amounting to [1]

(Chairman)

Date:

[1] Explain here any difference between amounts in items 16(G) and 17:

Request for disaster county designation and ACP emergency funds

1. State: Montana.
2. County: Teton.
3. Program year: 1964.
4. Ending date:
5. Kind of disaster: Flood.
6. Dates and duration of disaster:
7. Number of farms damaged: 350.
8. Intensity (if applicable):
9. Farmland damaged (acres): 12,000.
10. Estimated extent of reduction in the productivity of the damaged farmland if these new conservation problems are not treated (percent):
11. Frequency of occurrence of this type of damage (10-year history):

KIND AND EXTENT OF EMERGENCY CONSERVATION MEASURES NEEDED TO CORRECT THE NEW CONSERVATION PROBLEMS AND THEIR COST

12. County estimates:

Emergency conservation measures (A)	Kind of unit (B)	Number of units needed (C)	Average total cost per unit (D)	Total cost ((C)×(D)) (E)	Percent will correct this year (F)	Cost under this program ((E)×(F)) (G)	For State office use (H)
Reconstructing fences	Rod	160,000	$1.88	$300,000	75		
Removal of debris				30,000	85		
Reseeding vegetative cover	Acre	5,000	8.00	40,000	20		
Reclaiming eroded and silted land (land leveling, grading)	do	5,000	20.00	100,000	40		
Reconstruct irrigation ditches	Farm	100	300.00	30,000	50		
Reconstruct structures	Number	50	1,500.00	75,000	40		
Reconstructing and repairing springs, dams, and wells	do	50	400.00	20,000	60		
Channel realinement	Project	10	6,000.00	60,000	40		
Drainage of impounded floodwater	do	12	500.00	6,000	30		
Riprap on streambanks	Square yard	20,000	2.50	50,000	10		
13. Total cost and cost under this program ((G) plus (E))				711,000			
14. Estimated amount (of item 13(G)) farmers can reasonably be expected to bear.							
15. Estimated amount (of item 13(G)) available under regular cost-sharing programs.							
16. Total ACP emergency funds needed for this program year and requested (13(G) minus 14(G) minus 15(G)).							

RECOMMENDATION OF USDA COUNTY DISASTER COMMITTEE

That the above-named county be designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made as shown in item 16(G).

(Chairman)

Date:

RECOMMENDATION OF USDA STATE DISASTER COMMITTEE

17. That the above-named county (be) (not be) designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made, amounting to [1]

(Chairman)

Date:

[1] Explain here any difference between amounts in items 16(G) and 17:

Request for disaster county designation and ACP emergency funds

1. State: Montana.
2. County: Toole.
3. Program year: 1964.
4. Ending date: ....
5. Kind of disaster: Flood.
6. Dates and duration of disaster: ....
7. Number of farms damaged: 13.
8. Intensity (if applicable): ....
9. Farmland damaged (acres): 18,000.
10. Estimated extent of reduction in the productivity of the damaged farmland if these new conservation problems are not treated (percent): ....
11. Frequency of occurrence of this type of damage (10-year history): ....

KIND AND EXTENT OF EMERGENCY CONSERVATION MEASURES NEEDED TO CORRECT THE NEW CONSERVATION PROBLEMS AND THEIR COST

12. County estimates: ....

Emergency conservation measures (A)	Kind of unit (B)	Number of units needed (C)	Average total cost per unit (D)	Total cost ((C)×(D)) (E)	Percent will correct this year (F)	Cost under this program ((E)×(F)) (G)	For State office use (H)
Fencing and repair (all types)	Rod	18,000	$2.50	$45,000	100		
Removal of debris	Acre	400	10.00	4,000	75		
Reorganization of irrigation systems	do	1,000	10.00	10,000	50		
Releveling land	do	900	25.00	22,500	40		
Reseeding pasture and hayland	do	650	15.00	9,750	50		
Planing or grading (due to silt)	do	600	5.00	3,000	60		
Restoration of drainage systems	Hour	150	15.00	2,250	50		
13. Total cost and cost under this program ((G) plus (E))				96,500			
14. Estimated amount (of item 13(G)) farmers can reasonably be expected to bear (20 percent)							
15. Estimated amount (of item 13(G)) available under regular cost-sharing programs							
16. Total ACP emergency funds needed for this program year and requested (13(G) minus 14(G) minus 15(G))							

RECOMMENDATION OF USDA COUNTY DISASTER COMMITTEE

That the above-named county be designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds to be made as shown in item 16 (G).

....
(Chairman)

Date: ....

RECOMMENDATION OF USDA STATE DISASTER COMMITTEE

17. That the above-named county (be) (not be) designated a disaster county under Public Law 85-58, and that an allocation of ACP emergency funds be made, amounting to....................[1]

....
(Chairman)

Date: ....

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[1] Explain here any difference between amounts in items 16(G) and 17: ....

CONRAD, MONT.,
June 12, 1964.

Senator MIKE MANSFIELD,
Washington, D.C.:

Request information re possibility of Federal aid in replacing Swift Dam. Swift Dam is owned by Pondera County Canal and Reservoir Cos. A company owned by the farmers in this area and is used for flood control, irrigation purposes, and city of Conrad water supply, and for recreational purposes. Replacement of Swift Dam without Federal assistance would be virtually impossible and any help you can give in this matter will be greatly appreciated.

Please advise names of agencies we should contact in this regards.

EUGENE C. EGAN,
President, Pondera County Canal and Reservoir Co., Valier, Mont.

CONRAD, MONT.,
June 10, 1964.

Senator MIKE MANSFIELD,
Washington, D.C.:

Please advise re Federal funds available to assist Pondera County in replacing or repairing roads and bridges and to assist individuals in repairing or replacing buildings and personal property damaged or destroyed by flood. And to replace Swift Dam which is an integral part of the irrigation and drinking water supply facilities in this area. In the event such Federal funds are allocated on a percentage of loss basis, please advise applicable percentages. Kindly direct your answer to Pondera County Board of County Commissioners at Conrad, Mont. Thank you for your courtesy and cooperation.

BILL SHERMAN,
Pondera County Attorney.

GREAT FALLS, MONT.,
June 12, 1964.

Hon. MIKE MANSFIELD,
Senate Office Building,
Washington, D.C.:

Estimated damage to city streets, city utilities, and other facilities, $1 million. We request confirmation of Federal aid up to this amount.

MARIAN S. ERDMANN,
Mayor, City of Great Falls, Mont.

GREAT FALLS, MONT.,
June 12, 1964.

Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.:

Estimated damage to roads and bridges in Cascade County now at $501,000.

EDWARD L. SHUBAT,
Chairman, Board of County Commissioners, Cascade County, Great Falls, Mont.

EAST GLACIER PARK, MONT.,
June 10, 1964.

Hon. MIKE MANSFIELD,
Senate Office Building,
Washington, D.C.:

Imperative that immediate steps be taken to have Corps of Engineers establish a Bailey Bridge over Flathead at West Glacier. Great Northern operating shuttle service from west to Belton and from east to East Glacier. Absolutely no connecting link between east and west without access through going to the Sun Highway. Bridge over West Glacier imperative. Estimates to reestablish present bridge will take year and a half. Intolerable suffering will result. Park Service joins in this request. Your valuable assistance urged.

DON HUMMEL,
President, Glacier Park, Inc.

WASHINGTON, D.C.,
June 13, 1964.

Senator MIKE MANSFIELD,
Senate Office Building,
Washington, D.C.:

(In reply refer to NPSEA-8.)

Reference your wire to Omaha district regarding reestablishing east-west traffic through Glacier National Park via West Glacier. Action referred Seattle district as being in this district's area. Lt. Col. H. E. Dewey, deputy district engineer, meeting today with representatives Glacier National Park, Inc., regarding site for temporary bridge. Action initiated with Fort Lewis, Wash., for Bailey Bridge. Will keep you advised.

——— ———,
District Engineer, District of Seattle, Wash.

WASHINGTON, D.C.,
June 15, 1964.

Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.:

(In reply refer to NPSEA-11.)

Reference our wire NPSEA-8, June 13, regarding bridge at West Glacier. Colonel Dewey, deputy district engineer, met with representatives of Glacier National Park and Bureau of Public Roads at West Glacier on June 13 and made site investigation. Decision reached to utilize an old road and existing bridge by rebuilding approaches as best and most expeditious temporary construction to restore traffic. Bureau of Public Roads will contract to form abutments and reconstruct bridge. Estimate approximately 1 week required to restore traffic. Bailey Bridge will not be required. Fort Lewis advised.

——— ———,
Perry District Engineer, U.S. Army Engineer District, Seattle, Wash.

[From the Great Falls Tribune, June 10, 1964]

RELIEF OF DISTRESS IS FIRST ORDER OF BUSINESS IN MONTANA

With streams already swollen near bankfull, it took only a few more days of overabundant rainfall to turn Montana's vast watersheds into distress areas—most widespread in the State's history.

Our normal occupations and concerns have become secondary to rescue and mercy operations. Our shock at the loss of life and the extensive property damage and destruction is tempered by thankful appreciation of the outpouring of effective help that so quickly has been brought into action by so many organizations and individuals.

Space available in these columns does not permit a detailed listing of the great number of agencies, public and private who have joined in the mercy activity and ministration.

The Air Force, with its helicopters and supply stores at Malmstrom, has been performing a service that was beyond the capabilities of any other agency—spotting those stranded in flood waters doing rescue work and providing supplies in otherwise inaccessible areas.

The civil defense organization, State and local, has done a splendid job of coordinating and directing the emergency assistance program. And, as usual, the Red Cross lost no time in getting on the job with its capable emergency help. Its assistance will extend through the rehabilitation period.

In the field emergency communication, radio stations have been working around the clock, keeping all areas informed of dangers to come, and broadcasting distress messages and other information necessary to rescue missions. The Shelby radio station KSEM has done an outstanding job of clearing and coordinating information for major distress areas of northern Montana.

Police and sheriffs offices have gone all out rendering assistance.

The list could be greatly extended.

The aftermath of planning for rehabilitation and flood control is still to come. But here the new and more extreme damage and distress of Sun River flooding in low areas of West Great Falls may well impel a hard new look at plans for dikes to protect the urban area from the Sun's flood course in future years.

[From the Montana Standard-Post, June 12, 1964]

Montana Mops Up—Return, Reclaim, Rebuild

Mopping up, in the most literal sense of the phrase, becomes the task of all who can help as floodwaters recede from ravaged areas of the State. Lives lost cannot be recovered, but damage can be repaired and normal living resumed where property loss and disruption of daily routines have resulted from the most tragic flooding in Montana history.

Even while floods continue to harass or threaten some districts, while several counties remain on the disaster area list, rehabilitation of stricken towns and countrysides is underway where conditions permit, and the job is recognized as one for all Montanans—with Federal assistance and cooperation, and with other help generously and promptly offered even before needs were appraised.

Water has brought a greater disaster to our State than the earthquake of 1959 or the forest fires of 1910, and Montana's deep wounds from its losing battles this week with suddenly vicious streams will be a long time healing. Those wounds will leave scars in the State's economy, scars on its rural landscapes, and its urban centers, scars in the minds of bereaved citizens and those who have seen past, present, and much of the future literally washed from under their feet.

But time is a peerless physician for such ills, and nature has a way of helping repair the ruin her forces occasionally inflict.

Already recovery is in progress, already plans are being discussed to prevent such disasters in coming years or modify their effects if they must come.

Meanwhile, we all stand rudely reminded that our State has much water within its boundaries, appearing in variable ways and shapes, and capable of great good or great harm according to the controls man may be able to impose on it or the lack of such controls.

The latter, the lack of control, is a condition we are likely to experience for some time to come, for our race has not yet achieved dominion over the elements nor complete mastery of water on the move. We are baffled by such things and awed by their unleashed power—and so we have floods and must, it seems, continue having them.

As far into the future as anyone can see, such diasters are certain to afflict the human race, for the habitable portions of the earth are those where water flows or is stored, and water is always on the move. It rises from seas, lakes and streams to form vapor and condenses into precipitation as it meets cool air; it expands when heated and expands when frozen; it may move as a ripple on a lake, almost undiscernible to the eye or as a tidal wave; it may flow under control from a tap or out of all control over the banks of a river—but wherever water is, it is doing something all the time, exerting pressure if nothing else.

Both nature and man have erected barriers and constructed channels intended to contain and control the movements of water or minimize the harm it can do. Many heavy rainfalls or runoffs have been accurately predicted; many floods have been forecast and some have been controlled; men are amazingly able to direct the movements of water to their own advantage—but water remains, like fire and earthquake, a natural force bearing always with it the threat of disaster.

Because we cannot live without it, we are fated to experience the frequent difficulty or the occasional downright impossibility of living with it. Men before Noah and since have fled from flood or rode it out; and in other lands and other times, as in Montana today, the damp aftermath has found human beings with the courage and determination to return, reclaim, and rebuild.

[From the Great Falls Tribune, June 14, 1964]

Mansfield, McDermott To Inspect Flood Area—Whirlwind Air Tour Today

Senator Mike Mansfield and Edward A. McDermott, Director of the Office of Emergency Planning (OEP), were due at Malstrom Air Force Base this morning at 8 a.m. to begin an aerial inspection of Montana flood damage.

Creath Tooley, regional director for the OEP, said Mansfield and McDermott would receive a briefing at the airbase, then fly over flood-devastated sections of the State.

The officials will return here for a 1:30 p.m. news conference and then return to Washington, D.C. They will make a personal report to President Johnson on the magnitude of the disaster.

In a telephone call from Washington, Mansfield said the party would take off from the Nation's Capital at 3 a.m., Montana time.

McDermott, who directed emergency work during the Alaskan earthquake earlier this year, was asked by President Johnson to inspect Montana, Mansfield reported.

They will take recommendations from Federal and State agencies and make final estimates of how much Federal aid is needed, then report to the President.

"I've asked Walter Wetzel, of the Blackfeet Reservation, to meet with us and outline the Indians' needs," Mansfield said.

He announced Secretary of Agriculture Orville Freeman tentatively has earmarked $500,000 in Department funds for Montana.

The Farmers Home Administration is prepared to make funds available for feed and repairs to land and buildings, the Senator explained.

Meanwhile Saturday, the grim task of cleaning up and rebuilding went on throughout the devastated area.

BODY RECOVERED

Another body was recovered from the Two Medicine Creek section of the Blackfeet Indian Reservation. It was that of 2-month-old Terry Lee Guardipee, 1 of 16 persons packed into a pickup truck caught in the wall of water that rushed down the creek.

Bodies of two brothers and a sister of the infant were recovered previously.

The number of bodies recovered in the Two Medicine and Upper Birch Creek areas now stands at 11. Search parties in Glacier and Pondera Counties are continuing the hunt for bodies from the series of floods that killed at least 28.

FOUR HIGHWAYS CLOSED

Four main highways in Montana remain closed. Hardest hit was U.S. 2, where 20 miles of road were destroyed south of Glacier National Park.

U.S. 87 is closed between Fort Benton and Havre; U.S. 91 is closed between Dutton and Conrad, and U.S. 89 is closed between Choteau and Browning and between Babb and the Canadian border.

Damage to Great Falls streets and sewage and water distribution systems by the Sun River flood has been estimated at $1 million, Mayor Marian Erdmann disclosed Saturday.

Mayor Erdmann said a telegram had been sent Mansfield informing him of this estimate.

She said the exact figure will not be known until the floodwater leaves.

"The loss may be worse than we think," she commented.

Great Falls went through the day Saturday without new rain to add to the unpleasantness of the flood.

SHOWERS FORECAST

A chance was seen for some scattered thunderstorms in the area Saturday night and today, with a high temperature of 75° forecast today. The 1 p.m. temperature here Saturday was 70°.

Red Cross disaster headquarters at the civic center returned to an 8 to 5 daily schedule, including Sunday, but 92 persons were still receiving shelter at the evacuation center at West Junior High School.

Southwest Great Falls residents proceeded doggedly with cleanup operations as the Sun River level continued its slow fall.

The U.S. Weather Bureau at International Airport reported the reading on the river gage at the 14th Street Southwest bridge Saturday was 15.7 feet. This was nearly a foot above flood stage but 8.9 feet below the level at the crest early Wednesday morning.

MISSOURI TO RISE

The Weather Bureau said the Sun River would drop only slightly in the next 24 hours, while the Missouri River level would rise slightly.

More water was being released into the Missouri from the Canyon Ferry Reservoir, where the flow had been cut figuratively to a trickle during the flood to enable the Missouri to carry the load disgorged by the flooding Sun River at Great Falls.

Drainage from the Dearborn and Smith Rivers and other upstream tributaries also contributed to the slight rise in the Missouri Saturday.

Elsewhere, as in the affected Great Falls area, residents of flooded sections struggled to return to normal living.

SITUATION UNDER CONTROL

Montana Civil Defense authorities said the statewide situation appeared to be under control.

The first motor vehicle in more than 4 days entered Choteau, a town of 2,000 population, but over a devious route. Main highways in the area were still cut by washouts.

The only community still completely isolated, a civil defense spokesman said, was Heart Butte, on the Blackfeet Indian Reservation.

Flood threats which developed Thursday night from new rains along the eastern slope of the Rocky Mountains had diminished or passed by Saturday.

Residents of Shelby's North Side had returned to their homes after being ordered out Thursday night in the wake of a cloudburst which breached a reservoir, flooding part of the city with up to 2 feet of water. Two other reservoirs above the city of 4,000 held.

TOWNSEND THREATENED

Townsend, only point in the State with rising water early Saturday, was expecting a river crest at least a foot below flood stage. Townsend is on the Missouri River at the head of the Canyon Ferry Reservoir.

The Jefferson River at Whitehall was back below flood level.

After effects of the flood continued to interfere with repair and replacement operations.

A landslide west of Sumit, on the Continental Divide east of Kalispell, took out the temporary repairs on Montana Power Co.'s natural gas transmission line.

Memorandum Regarding Flood—A Partial List of Inquiries by Telephone or Wire

Pondera County:

Mr. Bill Sherman, county attorney, Conrad, Mont., county bridges and roads repair.

Mr. Eugene C. Egan, president, Pondera County Canal and Reservoir Co., Valier, Mont., repair to Swift Dam.

Toole County: Dr. James Williamson, mayor of Shelby, Shelby, Mont., Shelby water system.

Lewis & Clark County: Mr. Al Gaskill, county commissioner, Helena, Mont., damage to streets and utilities in Augusta.

Glacier County:

Mr. William McAlpine, county commissioner, Cut Bank, Mont., county roads and bridges repair.

Mr. O. A. Tellefero, county commissioner, Cut Bank, Mont., approximately $750,000.

Mr. Frank Krshka, county commissioner, Cut Bank, Mont.

Cascade County:

Mr. Edward L. Shubat, chairman, board of county commissioners, Cascade County courthouse, Great Falls, Mont., county roads and bridges, approximately $501,000.

Hon. Marian (Mrs. Charles) Erdmann, mayor, Great Falls, Mont., Great Falls city streets and utilities and other facilities, approximately $1 million.

Flathead County:

Mr. Don Hummel, president, Glacier Park, Inc., Glacier Park, Mont., repairs to bridges at West Glacier over Flathead River; Bailey Bridge, from Fort Lewis, Wash., to Corps of Army Engineers.

Messrs. Houston, Knapton, and Haines, board of county commissioners, Flathead County, Kalispell, Mont., Evergreed sewage problem and pollution; Kalispell, Evergreed, and Columbia Falls, pollution from oil tanks; Highway No. 2, 20 miles out; Great Northern Railroad, 30 miles out.

Glacier County: Mr. Walt Whetzel, Browning, Mont., damage to Blackfeet Indian Reservation.

[From the Great Falls Tribune, June 14, 1964]

Flood Victims Are Eligible for Emergency Financial Aid

Now that the first shocks of the flood are wearing off, homeowners whose property and possessions have been destroyed or damaged by the raging waters are asking themselves "Where can I get help?"

Although many questions remain to be answered, the main avenues for help to individuals appears to be grants from the American Red Cross and loans from the Small Business Administration.

Another side not to be overlooked is that much of the property and personal items lost may be tax deductible, according to an official at Internal Revenue office located at 2910 10th Avenue South.

It is pointed that persons who have suffered loss can best establish it through photographs and records documenting the loss and made as soon as possible after the loss occurred.

For information concerning property loss tax deductions, persons should contact the Internal Revenue office, the official said.

The Red Cross began accepting applications for rehabilitation assistance Friday.

Those persons who need help should go to the Red Cross facility in the civic center, room 103, according to James Kalivas, Los Angeles, director of public information for the local disaster.

Kalivas said the persons would be assigned a caseworker who with a building adviser would check the house and property which was damaged by the flood to estimate the loss. At the same time the applicant would file an application for rehabilitation assistance.

Kalivas said that the Red Cross aid "isn't given on a loss basis but rather is given on a need basis."

"We do not replace what you lose but what you need to get back to a normal living," he said.

The Red Cross assistance can include food, clothing, repairing and rebuilding of homes, replacement of basic household goods and medical care.

Kalivas, in a hypothetical example, explained that if it takes $8,000 to rebuild a person's home, $2,000 to replace necessary household goods, and $300 for clothing and food, the Red Cross would replace all of this—not as a loan, but as a grant—if a need was shown.

He said that the money used by the Red Cross consists of contributed funds so the need is checked closely.

A person's finances—insurance, wages, money in the bank—are some of the items checked, he said.

Kalivas stated that the Red Cross wants each person to use his "own resources practically and to take care of himself if at all possible."

"If a person earns enough wages to have a surplus at the end of the month to borrow money for a partial downpayment from an agency such as the Small Business Administration (SBA) the Red Cross will pick up the difference," he said.

"But if a person can borrow money from an agency to set himself up again then the Red Cross will not grant him aid," he concluded.

ANOTHER SOURCE

The other source of aid is in the form of a loan from the Small Business Administration, which has set up an emergency center in space at the former Kaufman's store at 304 Central Avenue. The location is occupied by Bishop Condon's jubilee development program headquarters.

Loans are made to help repair or rebuild homes, businesses, and nonprofit institutions, and to help replace furnishings or business fixtures, machinery, equipment, and inventory.

Individuals, business concerns, and nonprofit organizations such as churches and charitable institutions are eligible for consideration for disaster loans, provided:

1. They have suffered tangible property loss as a result of flood or other catastrophe.

2. The Small Business Administration has declared their area a disaster for purposes of financial assistance.

Loans will not be made by the agency to repair or replace damaged or destroyed summer or winter cottages, camps, lodges, or other residential property occupied by the owner exclusively for recreation or relaxation.

Farmers and stockmen are not eligible for general disaster loans from the SBA, but should apply instead to the Farmers Home Administration.

TO RESTORE PROPERTY

The purpose of a SBA disaster loan is to restore a victim's home or business property as nearly as possible to its predisaster condition.

If it is necessary or desirable to construct a new home or new business or institutional facility on a different site the loan may be used for that purpose.

However, the loan is limited to the estimated cost of restoring the destroyed property.

The SBA has no limit on the amount of a loan but a loan cannot be for more than the actual tangible loss suffered as a result of the disaster, less any amount the disaster victim has recovered from insurance or obtained from any other source, such as the Red Cross, for purposes of rehabilitation.

In the case of any application, there is no specific requirements with respect to collateral as security for a disaster loan, nor has the SBA established any firm rule in regard to collateral.

However, applicants are expected to pledge whatever collateral they can furnish.

The interest rate on an SBA direct disaster loan is 2 percent per annum. They are generally to be repaid in equal installments, including interest, usually beginning not later than 5 months after date of the note.

Application forms for the SBA disaster loans may be obtained from the emergency center on Central Avenue.

[From the Great Falls Tribune, June 14, 1964]

Great Falls Should Act Now on Sun River Control Levees

The Senate Public Works Committee has asked Army Engineers to review previous recommendations for flood control of the Sun River and its tributaries to see if modification of plans is now advisable on the basis of the disastrous floods of last week in Great Falls.

Great Falls City, or city and county, officials should lose no time in getting together on plans for handling the local share of financing for the levee project recommended by the Army Engineers, a plan proposed in 1956 after extensive engineering survey.

The time for praying and procrastinating has ended. Twice in the last 11 years disastrous—Sun River floods have hit West Great Falls. In 1953 the loss in this urban area was placed at $403,000. The loss in last week's much bigger and more extensive flood will be more than twice as much.

The Army Engineers put a price tag on the original flood control project at $2,750,000, of which $1,890,000 was in Federal funds. The local community's share of the cost, mostly for easements and obtaining right-of-way, would have been around $860,000, a little more than the loss in the 1963 flood but less than half as much as the combined loss in the two floods.

Congress approved the Army Engineers proposed project in 1958 but it was shelved in 1960 because of this community's failure to act on financing for its share of the cost.

Those two floods should be lessons enough. Great Falls should act now before memory dims.

[From the Great Falls Tribune, June 14, 1964]

Tiber Dam Pays Way in Flood Week

Chester.—The Tiber Dam, that controversial irrigation dam that has never done any irrigating, this week proved it is still a valuable piece of property when the rampaging Marias River was brought under control by the dam. From the Rocky Mountains to Tiber Dam stories of loss of life, havoc, and destruction were widespread.

Construction of Tiber Dam began in September of 1952. It was built as an irrigation dam, but when farmers refused to sign repayment contracts for the irrigation water, the project was not completed. Since that time many disparaging remarks have been made about the dam. It has been called the Bureau of Reclamation's $20 million red face, and much worse. This week, those who live near the shores of the Marias River are thankful the Bureau of Reclamation built Tiber, irrigation or no irrigation. How much damage the flood would have done between Tiber and Loma is a matter of conjecture, but there are those who are saying that this week the Tiber Dam paid for itself.

[From the Great Falls Tribune, June 14, 1964]

Louisianan Sends Check for Flood Victim Help

Gratitude for the safety of his son who was vacationing in Glacier Park when the floods hit, has prompted a Louisiana businessman to send a check to help in the flood recovery work.

Gerald V. Viator, Lutcher, La., called the Tribune Tuesday morning asking for some word of his son and his family who had planned to drive to Great Falls Monday from Glacier Park.

A reporter tried to assure him no tourists were among the casualties and that those who had stuck to the main highways in the park or between there and Great Falls were rescued. He was told the Red Cross would be asked to put his son's name on the inquiry and call-home lists.

The elder Viator later advised the Tribune saying his son had called home, having been marooned Monday in the park but making it to Havre that night.

"From following news reports we know how rough it has been for you people in Great Falls," the Louisianan wrote. "I wish you to know of the consolation just talking to you afforded my wife and me. There will be a need to help. Take this check for your fund."

The check is being turned over to the Red Cross.

[From the Great Falls Tribune, June 14, 1964]

Malmstrom Memo

(By Shiela Kendall)

This past week of heartbreak for all Montanans has seen many Malmstromites from all parts of the country extend their hands in friendship and help to their Great Falls neighbors.

Among the most visible were the rotor-powered, khaki clad "angels of mercy," who plucked so many from the tempestuous torrents that "couldn't happen here."

Some of the lifesaving men from the helicopter section of the 341st Combat Support Group were Lt. John Ross, Capt. Edward Heft, Capt. Alan Perrin, Capt. Joseph Faust, Lt. Theodore Krawiec and Lt. Donald Summers.

The small H-43 types were flown by Capt. Donald Litke, Capt. Bobby Walker and Lt. Kenneth Fujishige, who are on temporary duty from the Glasgow Air Force Base.

Strange coincidences make one realize what a small world we all inhabit. Lt. Col. Thomas Beavers, credited with saving many lives in the past days, previously saved the life of a Great Falls resident, Darrell Isaacson in a spot rather remote from Montana's flooded waterways.

Beavers plucked Isaacson and two companions from a rugged Alaskan mountaintop in December 1954, after the crash of their light plane. For this feat Beavers received the "Winged S," rescue emblem, from Sikorsky Corp.

Many surprising incidents occurred this week. A crew sighted a mother and teen-age daughter on a rooftop. After lifting the girl, they prepared to lift the mother. Instead of getting into the sling, she reached back into the house not once but three times for babies left with another woman in the house. The amazed crew took all six to safety.

All the Great Falls friends and acquaintances of the Chaplain and Mrs. Robert Lanz will be delighted to know that, after five boys, they finally found the recipe for a girl. Susan Grace was born in England on May 17.

Malmstrom Garden Club will dispense with its regular meeting this month. Instead members will tour local gardens. They will meet at the bandshell in Gibson Park at 1 p.m., on Friday.

Members plan to exhibit their "treasures" and antiques at the officers club on June 23, when the Malmstrom group will entertain delegates here for the State convention. The exhibit will be held at a reception following a tour of the base. More information may be obtained by calling Mrs. Charles Gardenhire.

All local square dancers are invited to attend the square dance jamboree at the community center ballroom Wednesday at 8 p.m. Delbert Hanson, State champion caller from Ashland, will call.

The airmen's wives club will hold its annual potluck supper Thursday evening at the community center. The affair will be limited to couples only, and the center will be open only to those attending the supper. Dancing and games are scheduled after the supper. Nursery care will be provided those making reservations from Mrs. Robert Ditmer.

The officers wives club will visit the Great Falls Brewery Wednesday. A luncheon of dishes made with beer will be served. Members will meet at the officers club at 11:15.

[From the Great Falls Tribune, June 13, 1964]

Agency Officials Tell of Federal Assistance

Federal assistance for emergency repair and construction of roads and bridges, water facilities, sanitation facilities, rehabilitation of agricultural lands and facilities, and low-cost, long-term personal business loans are all available to people in the eight-county area declared a disaster by the Federal and State Governments.

The entire program of Federal assistance was explained by agency chiefs and representatives to officials at a meeting in the Civic Center Theater called by Gov. Tim Babcock Friday afternoon.

"The work will be tedious and time consuming," the Governor said, "but it will be accomplished."

Creath Tooley, Everett, Wash., regional director of the Office of Emergency Planning (OEP), was meeting chairman. The OEP is the coordinating agency for all disaster assistance furnished by the Federal Government. The OEP's primary work and engineering force is the U.S. Corps of Engineers.

PUBLIC LAW 875

The OEP was set up by Public Law 875, or the Disaster Act, and directs several bureaus and agencies of the Federal Government to do disaster work they would not ordinarily do.

"Some people may be disappointed," Tooley said at the outset of the meeting. "We are here to help only when State and local help is exhausted."

All applications for Federal assistance must be made through Walt Anderson, National Guard Armory, Helena. Anderson is acting as the Governor's representative during the emergency repair and construction period in the eight-county area surrounding Great Falls. Many have already contacted Anderson.

Tooley said funds will be available for emergency short-term work only in fields of public protection, sanitation, health, public roads, and clearing debris.

Personal property and damage will be the responsibility of each person. To help the small businessman is the Small Business Administration whose main program is disaster loans for as long as 20 years at 3 percent interest. The loans are made through a person's own bank.

Individuals' banks can also act as sponsors of long-term home mortgage loans at 3 percent interest, Representative Arnold Olsen said.

Harold Aldrich, Great Falls, Bureau of Reclamation, said flood damage to irrigation facilities have been roughly estimated, and funds are available for emergency work being done now or to begin soon.

He said most of the damage is in diversion canal work around Fort Shaw. He said about $100,000 will be required for emergency and temporary access work.

Doug Smith, executive director, Agriculture Stabilization and Conservation Service, Bozeman, said the Department of Agriculture is now surveying damage to all farmlands. Estimates show $487,000 worth of damage to Pondera County farmlands; $96,000 in Toole, $111,000 in Flathead, $75,000 in Glacier, $249,500 in Chouteau, and $2,195,000 in Cascade County.

He said farmers will receive assistance under several farm programs now in effect and the emergency agricultural program, some on a cost-sharing basis of 80 percent by the Federal Government and 20 percent by the farmer.

Cascade County suffered an additional $2,087,500 in damage to farm equipment and facilities. Smith said this includes 400 miles of fencing, 200 miles of main ditch work, 2,000 irrigation structures, 40 pumps, $200,000 worth of riprap, 10 stock reservoirs, 150 buildings at about $5,000 apiece, and 500 head of stock at about $125 per head, and weed control at $640,000. The difference in crops should amount to about $400,000, Smith said.

Smith said farmers will get help through temporary grazing on retired land, conservation reserve land, short-term feed grain disaster donations from the Commodity Credit Corporation, the Agricultural Marketing Service, which supplies food for farmers, loans from the Farmers Home Administration, and loans from the Rural Electrification Administration.

The Soil Conservation District, a bureau within the Department of Agriculture, will provide technical assistance in land leveling, pasture planning, and additional personnel in cases directed by the OEP.

BPR ASSISTANCE

The representative of the Bureau of Public Roads said the Bureau will assist with 100 percent Federal funds in the rebuilding to minimum standards essential roads and bridges not in the Federal aid system. Those highways in the Federal aid system will be assisted on the regular 50-percent participation system.

Essential county and city streets and bridges will be rebuilt by the Bureau of Public Roads only on an emergency basis and so far as the emergency affects the safety of people. A road with less than 100 cars per day will be built one lane wide, or 12 feet. More than 100 cars per day will qualify an eligible road or bridge for an 18-foot width.

Tooley said rented pumps, emergency supplies, or materials are reimbursable if the damage was to a public-connected facility. He said substantiated costs and complete records in all cases of Federal assistance is extremely important.

Maj. Gen. George H. Walker, Missouri River Division engineer with the Corps of Engineers, said his guidelines are much the same as the Bureau of Public Roads. He said only emergency work in public water supplies and sanitation will be done. This will be accomplished through local contractors.

General Walker said 40 engineers are already in the eight-county area surveying damage. He indicated a $250,000 water system recently put into operation by Shelby would constitute an eligible emergency project as most water supplies would, whether in an incorporated community or not.

HEADS EMERGENCY WORK

Col. Jack St. Clair will head the emergency work in the area. As the primary work agent of the OEP, the Corps of Engineers will likely engineer and contract most of the rehabilitation work.

A representative of the American Red Cross estimated that 3,000 families were affected by the flood in the eight counties. Federal assistance programs fall short of helping individual persons with personal property and this is where the Red Cross will be of most help.

[From the Great Falls Leader, June 13, 1964]

AGENCIES OFFER FINANCIAL HELPING HAND TO DISTRESSED FLOOD VICTIMS

Now that the first shocks of the flood are wearing off, homeowners whose property and possessions have been destroyed or damaged by the raking waters are asking themselves "Where can I get help?"

Although many questions remain to be answered, the main avenues for help to individuals appear to be grants from the American Red Cross and loans from the Small Business Administration.

Another side not to be overlooked is that much of the property and personal items lost may be tax deductible, according to an official at Internal Revenue office located at 2910 10th Avenue South.

It is pointed out that persons who have suffered loss can best establish it through photographs and records documenting the loss and made as soon as possible after the loss occurred.

For information concerning property loss tax deductions, persons should contact the Internal Revenue office, the officials said.

ACCEPT APPLICATIONS

The Red Cross began accepting applications for rehabilitation assistance Friday.

Those persons who need help should go to the Red Cross facility in the civic center, room 103, according to James Kalivas, Los Angeles, director of public information for the local disaster.

Kalivas said the persons would be assigned a caseworker who, with a building adviser, would check the house and property which was damaged by the flood to estimate the loss. At the same time the applicant would file an application for rehabilitation assistance.

Kalivas said that the Red Cross aid isn't given on a loss basis but rather is given on a need basis.

"We do not replace what you lose but what you need to get back to a normal living," he said.

The Red Cross assistance can include food, clothing, repairing and rebuilding of homes, replacement of basis household goods and medical care.

EXPLAINS EXAMPLE

Kalivas, in a hypothetical example, explained that if it takes $8,000 to rebuild a person's home, $2,000 to replace necessary household goods, and $300 for clothing and food, the Red Cross would replace all of this—not as a loan, but as a grant—if a need was shown.

He said that the money used by the Red Cross consists of contributed funds so the need is checked closely.

A person's finances—insurance, wages, money in the bank—are some of the items checked, he said.

Kalivas stated that the Red Cross wants each person to use his "own resources practically and to take care of himself if at all possible."

"If a person earns enough wages to have a surplus at the end of the month to borrow money for a partial downpayment from an agency such as the Small Business Administration (SBA) the Red Cross will pick up the difference," he said.

"But if a person can borrow money from an agency to set himself up again then the Red Cross will not grant him aid," he concluded.

ANOTHER SOURCE

The other source of aid is in the form of a loan from the Small Business Administration which has set up an emergency center in space at the former Kaufman's store at 304 Central Avenue. The location is occupied by Bishop Condon's jubilee development program headquarters.

Loans are made to help repair or rebuild homes, businesses, and nonprofit institutions, and to help replace furnishings or business fixtures, machinery, equipment, and inventory.

Individuals, business concerns, and nonprofit organizations such as churches and charitable institutions are eligible for consideration for disaster loans, provided:

1. They have suffered tangible property loss as a result of flood or other catastrophe.

2. The Small Business Administration has declared their area a disaster for purposes of financial assistance.

Loans will not be made by the agency to repair or replace damaged or destroyed summer or winter cottages, camps, lodges, or other residential property occupied by the owner exclusively for recreation or relaxation.

Farmers and stockmen are not eligible for general disaster loans from the SBA, but should apply instead to the Farmers Home Administration.

TO RESTORE PROPERTY

The purpose of an SBA disaster loan is to restore a victim's home or business property as nearly as possible to its predisaster condition.

If it is necessary or desirable to construct a new home or new business or institutional facility on a different site the loan may be used for that purpose.

However, the loan is limited to the estimated cost of restoring the destroyed property.

The SBA has no limit on the amount of a loan but a loan cannot be for more than the actual tangible loss suffered as a result of the disaster, less any amount the disaster victim has recovered from insurance or obtained from any other source, such as the Red Cross, for purposes of rehabilitation.

In the case of any application, there is no specific requirements with respect to collateral as security for a disaster loan, nor has the SBA established any firm rule in regard to collateral.

However, applicants are expected to pledge whatever collateral they can furnish.

The interest rate on an SBA direct disaster loan is 2 percent per annum. They are generally to be repaid in equal installments, including interest, usually beginning not later than 5 months after date of the note.

Application forms for the SBA disaster loans may be obtained from the emergency center on Central Avenue.

[From the Great Falls Tribune, June 13, 1964]

FOUR-DAY FLOOD CRISIS FADING, RIVERS RECEDE

Montana's 4-day flood crisis appeared over Friday with the last two trouble spots under control.

The Jefferson River in southwestern Montana crested during the night without causing any serious damage and a nightlong effort by volunteers and heavy machines reinforced two stock-water reservoirs which had been on the verge of breaking at Shelby in the northern part of the State.

"Due to the steady decline of most streams, further flooding during the next few days is not expected," the Weather Bureau said in an encouraging report to water-weary Montanans who suffered the worst floods in the State's history.

FOOT OVER FLOOD STAGE

The Weather Bureau said the Jefferson crested at 1 foot above flood stage near its confluence with the Madison and Gallatin Rivers at Three Forks to form the Missouri. The Jefferson held steady Friday morning and was expected to drop about 2 feet during the next 2 days.

At Townsend, on the Missouri 35 miles southeast of Helena, the river rose steadily as anticipated and was 1½ feet below flood stage Friday morning. The Weather Bureau said the river at Townsend would crest Friday night at 10 feet as water from the Jefferson moved downstream, but that would still be a foot below flooding.

The Bureau of Reclamation stepped up its discharge from Canyon Ferry Dam on the Missouri near Helena as the reservoir neared its capacity.

Below Canyon Ferry, the Missouri and its troublesome tributaries continued a slow but steady fall, the Weather Bureau said.

ABOUT 300 EVACUATED AT SHELBY

About 300 homes on the north side of Shelby, located 84 miles north of Great Falls, were evacuated Thursday night when one of three stock-water reservoirs in a coulee north of the community of 4,000 gave way after a cloudburst.

Water 2 to 3 feet deep surged into about one-third of the town and flooded some basements, but the runoff was fast. Residents were evacuated when it appeared dams on the other two reservoirs also would give way.

But the shoring-up project worked and Friday morning the evacuated families began returning to their homes.

Before it crested, the Jefferson washed out some bridges and sections of roads in rural areas.

[From the Great Falls Tribune, June 13, 1964]

SHELBY RADIO GETTING CITATION FROM INDIANS

SHELBY.—Radio station KSEN's work in the flood disaster is going to get special recognition from the Congress of American Indians.

Walter Wetzel, of Browning, the organization's national president and chairman of the Blackfeet Tribe, said he will award a presidential citation next week.

The station was among the first to tell of breaks in Birch Creek and Two Medicine dams last Monday. Because of poor communications, disaster officials used the station's voice to carry information to civil defense crews in the field.

The station also used an airplane and helicopter to keep abreast of flood developments. Station owner John Lyon is a pilot.

[From the Great Falls Tribune, June 13, 1964]

RED CROSS STARTS WORK TO REHABILITATE STRICKEN

Six more Red Cross disaster workers—a nurse, three case workers and two building advisers—arrived in Great Falls Friday bringing the total here to more than 50.

The nurse and case workers were immediately reassigned to Kalispell in the Flathead Valley; one building adviser went into Choteau and will work in that area and in Glacier County. The other one will work in Cascade County.

More than 500 evacuees spent the night last night in Red Cross shelters in Choteau, Browning, Valier and Great Falls. Early today, Ed Novis, Red Cross chapter chairman for Cascade County, announced that the organization had begun accepting applications for rehabilitation assistance.

Novis pointed out that Red Cross assistance can include food, clothing, repair or rebuilding of homes, replacement of basic household goods and medical care.

"Whatever it takes," Novis said, "to get the disaster sufferer back to normal living."

The chairman stressed that Red Cross assistance is given on a need basis and that all help is given—not as a loan—but as an outright gift from the American people "with no strings attached."

He said the Red Cross already has spent more than $50,000 for mass care in the emergency phase of the flood disaster and continued that he believes the rehabilitation effort may cost the Red Cross an additional $250,000.

Novis said that those who need help should go to the Red Cross facility in the civic center, room 103. Office will be open from 8 a.m. until 5 p.m., 7 days a week.

[From the Great Falls Tribune, June 13, 1964]

UPPER HIGHWOOD AREAS LOSE 10 BRIDGES IN FLOOD

HIGHWOOD.—All bridges at Upper Highwood numbering about 10, were washed out as 4.1 inches of rain dumped on that mountain area.

Five 14-year-old boys who were camping in the Highwood Mountains got out safely with the help of Charles Kind and Bill Lehman, though the campers' car was washed away.

Seventy youths at the Farmer's Union Camp were reported OK. There is no road left for 300 to 400 feet above the Arrow Peak Ranch and between there and Highwood is intermittently washed out.

Ranchers gathered to work on the Townsend Bridge and had it usable Wednesday. Ranchers' access bridges throughout the area are gone but ranchers can still come out through their fields.

Workers have been constantly reinforcing the bridge in the town of Highwood to keep it open. Several families immediately east and west of this bridge have been evacuated. In Upper Highwood a number of families have been leaving their homes at night.

Water damage is reported not as extensive as in the 1953 flooding but has cut into feed lots and run over the roads at many places. In the town rainfall was 3.75 inches from Sunday noon to Monday night.

[From the Great Falls Tribune, June 13, 1964]

GN EYES 3 WEEKS OF REPAIRS

EAST GLACIER.—Tom Jerrow, vice president of the Great Northern Railway, said Thursday it may take three weeks to reopen the flood-damaged tracks between East Glacier and West Glacier.

He said heavy equipment and 150 men are to be brought into the area to handle the repairs. Several of the 11 railroad bridges in the area were damaged, some approaches were washed out and two tunnels were filled with water.

Main line trains are being routed onto Northern Pacific Railway tracks.

Meanwhile, service to the park is maintained through daily shuttle trains between Spokane and West Glacier and between Havre and East Glacier.

Jerrow and GN President John Budd inspected the damaged rail area by helicopter Thursday before Budd headed back to St. Paul.

[From the Great Falls Tribune, June 13, 1964]

MISSOURI, SUN CONTINUE DROP

Drier and warmer weather is ahead for Montana, according to the Weather Bureau.

The forecast called for light, scattered showers today and for below normal precipitation starting Sunday.

The Missouri and Sun Rivers continued to drop Friday.

At 8 a.m. Friday, the 14th Street Southwest Bridge reading was 17.4 feet, still 2.4 feet above flood stage of 15 feet.

At 4:45 p.m. Friday, the Sun had dropped there to 16.7 feet.

WAIT TO RETURN

Weary homeowners, driven from their homes by floodwaters, continued to wait to move back to those residences not totally damaged or swept away in the Great Falls Sun River area and other stricken Montana flood areas.

Residents of all of the valleys and areas involved in addition to the wait, joined in a hunt for missing persons, and with each passing day grows the fear that the missing are dead.

Undoubtedly bodies now covered by silt and debris will never be found.

AIR FORCE WITHDRAWS

With traffic in requests for emergency air transport quieting in the area, the Air Force Friday withdrew personnel from the Office of Civil Defense in the Rainbow Hotel where they had been working in conjunction with local and State Civil Defense authorities, as well as other local and State agencies.

[From the Great Falls Tribune, June 13, 1964]

WHITE MAN'S MEDICINE TOO STRONG

BROWNING.—The Indians are saying the white man's medicine was too strong.

Two months ago the Bureau of Indian Affairs was studying means of alleviating drought conditions in the Blackfeet Indian Reservation in northwestern Montana.

In the aftermath of the death and destruction of Montana's worst flood in history the Indians haven't lost their sense of humor.

"Your medicine was too strong," they told Charles H. Schramm, BIA land operations officer in his inspection of the Blackfeet area.

[From the Great Falls Tribune, June 13, 1964]

WHERE TO BEGIN IS FIRST PROBLEM AS LOWER SUN SALVAGING STARTS

Where to begin was the problem facing hundreds of residents of the lower Sun River area as they return to their flood-damaged homes.

The mountainous task of cleaning up and rebuilding is underway, but it will be years before the deep scars etched by the rampant Sun River disappear.

Few homes in the area escaped the fury of the rampaging Sun. From the outside, some appear as if nothing had happened. On close examination, water marks can be seen on the sides or across windows.

The full impact of the destructiveness of the flood can be found inside the homes. Basements are still brimming with water, paint is pealing off walls in sheets, furniture left behind is in complete disarray and ruined, and there is mud, mud and more mud.

Two inches of silt was left behind on everything touched by the unleashed Sun. One man, as he was washing the muck off his living room walls with a garden hose, said, "I don't think this water will hurt anything in here."

There was activity at almost every house freed from the grip of the Sun. Others were still locked tight as if abandoned by discouraged owners.

Despite early warnings for complete evacuation of the area, there were those who failed to take heed or were unable to do so. They came back to find a refrigerator hurled by the flood into the front room, living room furniture on the front lawn or down the street, a mattress floating in the basement or a heavy desk had floated through a picture window. These are just minor problems. Untangling and cleaning furniture and clothing adds to the heartaches.

Frank H. Schrupp, a resident of the lower Sun River since 1920, sat in his car on Central Avenue West for an hour Friday before deciding against trying to reach his still flooded property at 402 24th Street SW. Schrupp had not been to his home since evacuating Tuesday, but was told by a neighbor that his chicken coop and several sheds were gone. The 76-year-old retired smelterworker saved his calves and some furniture.

Schrupp voiced the sentiments of the majority of residents in the flood-stricken area, "We're staying, this is our home."

Robert A. Siegling, 2400 Central Avenue West, said, "I'll rent or sell." Mr. and Mrs. Siegling, who have made their home there for 19 years, got out with only a car. Their furniture was ruined. Expensive wall-to-wall carpeting was a wall-to-wall mud. Water dripped from clothing in closets.

A lost and found department will be needed in the area. Lud Jun, 2126 Central Avenue West, has an overturned boat in his backyard and doesn't know where it came from. A woman stopped at another house on Central and said the bridge in the front yard belonged to her.

Gordon Garrett reached into a water-filled ditch and pulled out his mailbox which had been attached to a post on Central. The Garretts, Gordon and his father, Lee, next-door neighbors, were clobbered by the flood. Both of their homes were inundated. No furniture was saved and only one of seven cars was salvaged.

The residents of the lower Sun River aren't giving up. They're too busy.

[From the Great Falls Tribune, June 13, 1964]

ASC HELP INFORMATION REQUESTED

Senator MIKE MANSFIELD Friday advised the Tribune that he had specifically asked Secretary of Agriculture Orville L. Freeman about assistance available under the emergency agricultural conservation program.

He said Freeman explained how the Montana USDA disaster committee, directed by Mrs. Viola Herak, State ASC chairman, was getting county disaster estimates.

MANSFIELD said Freeman has asked that $500,000 be tentatively earmarked for the Montana situation and that a responsible man will be in Montana reviewing the situation with the disaster committee.

MANSFIELD said the Farmers Home Administration is preparing to authorize loans where they are needed by those farmers who are unable to get adequate credit from other sources. He said these loans would be at 3 percent and may in some instances be scheduled for payment over a period of up to 7 years.

Montana's senior Senator said a decision as to the need for real estate and housing loans will be made when more information is available.

[From the Great Falls Tribune, June 13, 1964]

LABOR MAKES CLEANUP HELP OFFER

Organized labor in Great Falls will assist flood victims in cleaning up their property prior to moving in, according to Murray McNicol, Trades and Labor Assembly vice president, and Peter J. Gilligan, Great Falls Public Trades Council secretary.

The two men said Friday that persons interested in having aid in cleaning up should contact the Red Cross, which in turn will contact with them.

They said there are certain restrictions on the scope of the help.

The labor men will not assist in putting in plumbing, doing wall plastering work or construction, but will help in cleaning up debris and give other help. Also the cleanup men will not go into any residence until they have permission from persons who have authorization from the proper city or county agencies.

The group intends to help first those persons who are physically handicaped with age or infirmities, but the service will be made as general as possible, they said.

Any member of the labor organizations who is interested in helping in the cleanup work should contact their business agent or representative, they said.

[From the Great Falls Tribune, June 13, 1964]

GLACIER TO SALVAGE SEASON

"We can restore the roads and facilities and have a normal summer here," Secretary of the Interior Stewart Udall said in Great Falls during a brief stop Friday.

He said "We want people who planned to come here to come right ahead.

"It is unfortunate these devasting floods happened at the very beginning of the outdoor recreation season but the damage will be quickly restored," he added.

PLANE REFUELS HERE

The Secretary of the Interior was on his way to Browning when his Bureau of Reclamation plane stopped at International Airport for refueling. He addressed a meeting of the Montana Junior Chamber of Commerce at East Glacier Friday night and is expected to stop again briefly in Great Falls this morning.

A helicopter flight gave the Secretary a view of the damage and needs on the Blackfeet Reservation and damage in Glacier Park. He was to inspect flood ravaged areas between here and the park on the flights up and back.

JOHNSON REQUESTS

"When President Johnson learned I was going to make this trip to Montana," Udall said, "he asked that I make a personal report on the damage and what is needed to get the area back to normal. We will work closely with State and local authorities and agencies to get the job done."

Udall said he regretted engine trouble in the two-engine Bureau of Reclamation plane in which he is making the trip forced it to return to Denver Friday morning and caused cancellation of his scheduled luncheon engagement here.

DOING ALL POSSIBLE

He assured that everything possible is being done to have park facilities ready to receive the annual influx of tourists and said he hopes to get back here this summer and is anxious to fulfill Senator MIKE MANSFIELD's invitation that he meet the Senator in Montana sometime during July or August when Congress is in recess.

OPEN THIS MONTH

Going to the Sun Highway in Glacier Park will be ready for travel in late June, L. A. (Lon) Garrison, Omaha, Regional Director of the National Park Service, said here Friday.

We will need a break or two and there may be some one-way traffic for awhile but the highway, extensively damaged by floods this week, will be open late this month, he said. Its opening will require major road repairs and a Bailey bridge at West Glacier.

Garrison, Superintendent of Yellowstone National Park for 7 years before being made Regional Director, said water and sewer systems lost in the floods will be restored as quickly as possible.

Many Glacier Hotel will open as scheduled next week with the convention of the Montana Bankers Association, he said. Almost every crossing in the park's thousand miles of trail system was washed out but essential ones will be restored without delay, Garrison added.

[From the Great Falls Tribune, June 13, 1964]

BLACKFEET DECLARE JUNE 8 AS A TRIBAL MEMORIAL DAY

BROWNING.—The Blackfeet Indians have declared June 8 a tribal memorial day.

It will be set aside as a day of tribal mourning for the Blackfeet who lost their lives on that date in the floods which devastated the reservation in northwestern Montana.

Walter Wetzel, chairman of the tribal council, said the council made the designation at a meeting attended by Commissioner of Indian Affairs Philleo Nash, who inspected the flood damage on the reservation.

Wetzel said that because of the flood emergency, the Blackfeet Tribal Council election scheduled next Tuesday had been postponed 2 weeks, until June 30. The election also will include balloting on proposed changes in the tribal constitution and bylaws.

Wetzel said damage to homes on the reservation had been estimated at $5 million. He said officials believed it would cost $4 million to replace the dam that washed out at lower Two Medicine Lake with a larger structure.

"Our big job now is to take care of the emergency, to take people out of isolated areas," Wetzel said.

[From the Great Falls Leader, June 13, 1964]

HARD WORK TAKES LEADING ROLE IN BATTLE TO CLEAN UP MESS

Work, work and more work. This is the pattern for residents of West Great Falls and all of the communities in the Sun River drainage all of the way to the mountain front.

Silt, debris and animal victims of the raging Sun River which brought on the area's greatest flood disaster on record, has to be cleaned up.

While the river continues to drop slowly, the tempo of cleanup effort increases in direct proportion to the amount of river fall. Neither is rapid; both are noticeable.

REQUESTS DWINDLE

With emergency traffic requests dwindling, the Air Force withdrew personnel from the Office of Civil Defense with which they had been associated in flood evacuation and relief work.

At 8 this morning, the Sun River had dropped to 15.8 feet—still nearly a foot above flood stage but 8.8 feet below the early Wednesday morning crest.

Officials at the U.S. Weather Bureau forecast center on Gore Hill issued a flood bulletin at 12:30 this afternoon in which they stated the river has continued to fall slowly during the past 24 hours both at Great Falls and upstream at Simms and Diversion Dam.

The officials said water levels will drop only slightly in the next 24 hours holding at near flood stage. The Missouri River, near the confluence with the Sun River in Great Falls and for a short distance upstream beyond the Meadow Lark Country Club, will hold at levels near the present stage but considerably below the peak of Tuesday night.

TO RISE SLOWLY

Further upstream on the Missouri River to points not previously affected by backup from the Sun River crest, the river will rise slowly today but will remain below the peak height of Tuesday afternoon and night for the next 24 hours.

The weathermen pointed out that Missouri River readings at Cascade are up almost 2 feet over Friday's readings but that the Dearborn River levels are lowering. The lowering level of the Dearborn is expected to equalize fairly well the rise in the Missouri which has been occasioned by the release of additional water from Canyon Ferry and Holter Dams.

At the height of local flood, Bureau of Reclamation officials virtually closed Canyon Ferry Dam but now, with the dam's reservoir area almost full, additional water has to be released from behind the structure as a precaution against heavy snowpack runoff or possible additional rains.

This increase from the two dams has been gradual with 17,820 cubic feet of water per second coming over Holter today.

FLOW DROPS

Flow over Diversion Dam in the Sun River dropped 400 cubic feet per second since Friday to 7,350 which is sufficient to keep Sun River levels fairly high.

With temperatures slowing rising over Montana, residents of the Great Falls area can look for some thundershowers activity late this afternoon and tonight. These storms will be fewer and more isolated Sunday, the weatherman said.

Some of these storms will bring quite heavy showers in localized areas, the weatherman said, but are not expected to develop into widespread activity as the pressure gradient is fairly level over the whole State, indicating nothing of a major nature is developing.

The 1 p.m. temperature here was 70 and the weatherman is calling for a high of 75 Sunday. The low tonight and Sunday night will be about 50.

[From the Great Falls Leader, June 13, 1964]

CENTRAL MONTANA ROADS IMPROVE; MANY CLOSED

Traffic conditions in central Montana continued to improve today but conditions remained a far cry from being normal.

U.S. 87 North: Remains closed north of the Fort Benton Wye where the Teton River washed out the road. Highway open Havre to Loma. U.S. 87 East: Open Great Falls east.

U.S. 91 South: Open Great Falls to Helena and south with short detour in Hardy Creek area. U.S. 91 North: Open Great Falls to Dutton. Open Dutton to Shelby by alternate route for light emergency vehicles only. No trucks permitted. Route being used is Dutton to Choteau on secondary 221; Choteau to Pendroy on U.S. 89; Pendroy to Conrad, secondary 219; Conrad north to Shelby, U.S. 91: Shelby north to Canadian border open and good.

U.S. 89 North: Open to Fairfield. Choteau to Pendroy. Closed between Fairfield and Choteau and Pendroy and Browning. Open to Babb north of Browning. Road open into Two Medicine from Browning.

U.S. 2: Open all eastern points to Summit. Closed Summit to West Glacier.

U.S. 89 South: Open Great Falls to Armington Junction. Closed Armington to Monarch. Traffic moving over U.S. 87 to Raynesford then over secondary to Monarch, then back on U.S. 89 Monarch to White Sulphur Springs and south.

Montana 20: Open Great Falls to Missoula, caution required in Sun River and Lincoln areas.

Highway 287: Open Wolf Creek to Augusta, closed Augusta to Choteau.

Montana 21: Closed Simms to Augusta.

[From the Great Falls Tribune, June 13, 1964]

ABOUT $1 MILLION DAMAGE SET FOR CITY WATER, SEWER

Damages to Great Falls streets and sewage and water systems by the Sun River floods this week have been estimated roughly at

$1 million, according to Mayor Marian Erdmann.

The mayor said the full extent of the damage to the systems cannot be fully determined until the flood water leaves, and the loss may be worse than we think.

She said the administration's first concern is for the sewer and water systems because of their vital relationship to health. A wire has been sent by the city notifying Senator MIKE MANSFIELD of the estimate.

MANSFIELD and Edward A. McDermott, Director of the Office of Emergency Planning, Washington, D.C., are coming to Great Falls Sunday to inspect the conditions here and in the entire flood area.

MANSFIELD said in a telegram today that McDermott has provided some specific information about Small Business Administration loan assistance. He said that while Public Law 875 does not provide for direct assistance to individual disaster victims, disaster loan assistance, at interest not to exceed 3 percent with up to 20 years to pay, is available through the SBA.

The assistance is available for repair or replacement of disaster damaged commercial or residential structures and the loan authority extends to contents and inventory as well as structures.

Individual needs for clothing, replacement of lost furnishings and similar needs are taken care of through the emergency relief and rehabilitation programs of the American Red Cross, he said.

While businesses are not eligible for assistance under Public Law 875, SBA disaster loan assistance is available to individuals, business concerns, including corporations, partnerships, cooperatives, and churches, charitable institutions and other nonprofit organizations.

MANSFIELD said further, concerning flood problems in Glacier County, that county roads and bridges damaged or destroyed in the floods are eligible for repair or replacement under provisions of Public Law 875. Bureau of Public Roads engineers are making damage surveys for the OEP to determine the extent of damage and eligible work. He said Glacier County commissioners should work through the Montana disaster agency headed by Gen. Richard C. Kendall, adjutant general and State disaster coordinator, in applying for Public Law 875 assistance.

[From the Great Falls Tribune, June 13, 1964]

COUNTY LOSS HIGH IN LAND, EQUIPMENT

Cascade County farmlands were damaged to an estimated $2,195,000 by this week's floods and the county suffered an additional $2,087,500 in damage to farm buildings and equipment, Doug Smith, executive director of the Agriculture Stabilization and Conservation Service, Bozeman, said Friday at a flood relief and rehabilitation coordination meeting called by Gov. Tim Babcock.

The meeting was presided over by Creath Tooley, Everett, Wash., regional director of the Office of Emergency Planning, coordinating agency for disaster assistance furnished by the Federal Goverment.

Smith said the county farm equipment and facilities loss estimates include 400 miles of fencing, 200 miles of main ditch work, 2,000 irrigation structures, 40 pumps, $200,000 worth of riprap, 10 stock reservoirs, 150 buildings, 500 head of cattle, and weed control of an estimated $640,000 value.

Smith said farmers will get help through temporary grazing on retired land, conservation reserve land, short-term feed grain disaster donations from the Commodity Credit Corporation, the Agricultural Marketing Service which supplies food for farmers, loans from the Farmers Home Administration, and loans from the Rural Electrification Administration. The soil conservation district will provide technical assistance in land leveling, pasture planning, and additional personnel in cases directed by the OEP, he said.

CONSERVATION HIGHLIGHTS, 1963—AID BY SOIL CONSERVATION SERVICE TO NORTH DAKOTA

Mr. BURDICK. Mr. President, the help furnished by the Soil Conservation Service in North Dakota means a lot to the farmers and ranchers of my State. More than 36,000 farmers and ranchers now are cooperators with North Dakota's 71 soil conservation districts which blanket the State. More than 25,000 of them have developed basic conservation plans for 17½ million acres of land.

In total, 67 of the 71 soil conservation districts in the State have updated their plans of operations to include broader conservation programs and have signed modernized working arrangement with the Department of Agriculture. This is a great cooperative effort between the Department of Agriculture and these local units of government organized under State law.

There has come to my attention a digest of the 1963 annual report of the Soil Conservation Service. It sets forth numerous facts about the scope of work, accomplishments, and conservation needs in a form that can be read in only a few minutes of time. It carries the following statement from Mr. D. A. Williams, Administrator of the Soil Conservation Service:

> A dynamic program of soil and water conservation is going forward throughout the United States.
>
> It is a voluntary program of the people aided by local, State, and Federal Governments.
>
> Its emphasis is on meeting the needs of the entire population for land and water uses while improving the economy and livability of rural America.
>
> The progress reported here stems from organized local effort and leadership coupled with the vision and skills of technically trained people.
>
> This partnership recognizes the fundamental truth that only the people who own and control the land can really do conservation work. The rest of us are privileged to help. We are proud of that partnership and that progress.

Mr. President, I believe that other Senators would have use for the facts set forth in this Conservation Highlights, 1963, issued on January 1, 1964. Therefore, I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the digest was ordered to be printed in the RECORD, as follows:

CONSERVATION HIGHLIGHTS 1963—DIGEST OF THE ANNUAL REPORT OF THE SOIL CONSERVATION SERVICE

NEW HORIZONS

The Soil Conservation Service (SCS) enlarged its service to urban as well as rural people in fiscal year 1963.

The Food and Agriculture Act of 1962 resulted in new tasks for SCS in rural recreation, resource conservation and development projects, watershed development, and cropland conversion.

SCS made 1 million acres of soil surveys for immediate use in rural-urban planning. It provided information on soil and water use in urban fringe areas.

SCS helped plan watershed projects to include recreation and wildlife development, water supply, and other purposes along with flood prevention. Sixty percent of new projects authorized in 1963 are multipurpose.

SCS helped soil conservation districts revise their programs in relation to broadened horizons in conservation. The Secretary of Agriculture signed new working agreements with 500 districts with modernized programs.

RURAL AREAS DEVELOPMENT

Watershed projects, rural recreation, and all resource conservation contribute directly to rural areas development.

Forty percent of small watershed projects approved for operations in fiscal 1963 are in counties designated for assistance by the Area Redevelopment Administration.

To date, watershed projects have provided more than 6,200 man-years of construction work in rural communities.

SCS provided technical assistance to 2,008 county and area rural areas development committees and to 2,785 technical action panels in fiscal 1963.

RESOURCE CONSERVATION AND DEVELOPMENT PROJECTS

In response to the Food and Agriculture Act of 1962, the Secretary of Agriculture directed U.S. Department of Agriculture (USDA) agencies to assist local communities with new-type resource conservation and development projects.

These projects will be locally initiated and sponsored within approved areas of several adjoining counties or watersheds. They will concentrate all USDA programs for the conservation and coordinated development of land, water, and related resources to improve local economic conditions.

SCS is responsible for USDA leadership and will provide technical assistance in planning projects and installing resource conservation and development measures.

In fiscal 1963, local organizations submitted applications for 16 projects covering 22 million acres. The Secretary approved the Lincoln Hills area in southern Indiana as the first project.

RURAL RECREATION

The Secretary of Agriculture assigned to SCS leadership for USDA's activities in developing income-producing outdoor recreation on non-Federal rural land.

Through assistance to soil conservation districts and small watershed projects, SCS helped farmers and ranchers convert land to outdoor recreation uses for pay.

In fiscal 1963 more than 9,800 district cooperators established one or more income-producing recreation enterprises. Of these, 945 adopted recreation as a primary source of income on 238,000 acres of land.

Of 473 small watershed projects authorized by June 30, 17 included recreation and 48 included fish and wildlife as a purpose.

SERVICES TO URBAN FRINGE AREAS

SCS increased soil survey work and consultive assistance to urban fringe areas in response to requests from officials needing information to guide land use planning and development.

It made soil surveys in 20 urban fringe areas under formal cost-sharing agreements with cities and towns and did special mapping work in at least 50 others.

GREAT PLAINS CONSERVATION PROGRAM

In the 383 counties designated for the Great Plains conservation program, SCS assisted farmers and ranchers prepare complete land use and conservation plans as a basis for 2,852 new cost-sharing contracts with USDA.

The plans cover 5,051,330 acres and provide for conversion of 191,826 acres of cropland to other uses.

This is an increase over 1962 of 16 percent in number of contracts and 2 percent in acres.

CONSERVATION PROGRESS, FISCAL YEAR 1963

Programs and plans

	Fiscal year	To date
Soil conservation districts:		
Soil conservation districts (net increase):		
Number	13	2,942
Acres	13,077,327	1,718,856,998
Farms and ranches in districts: Number	24,433	3,653,001
Land in farms and ranches: Acres	6,276,222	1,050,990,909
Cooperators:		
Number	114,785	1,979,151
Acres	39,765,836	634,928,801
Basic conservation plans:		
Number	105,466	1,472,660
Acres	37,277,583	455,341,029
Land owners and operators assisted: Number	1,041,526	--------------
Land owners and operators applying practices: Number	665,829	--------------
Group project plans prepared:		
Number	2,473	27,636
Acres	1,141,579	21,078,804
Landowners in groups: Number	15,075	202,501
Soil surveys: Acres	68,324,153	785,235,012
Great Plains Conservation program:		
Contracts signed:		
Number	2,852	12,393
Acres	5,051,330	28,438,161
Contracts completed:		
Number	989	1,504
Acres	1,418,681	2,293,088
Planned cropland conversion: Acres	191,826	861,303
Agricultural conservation program:	Program year	
Cost-sharing referrals received: Number	387,594	--------------
Cost-sharing referrals serviced: Number	372,519	--------------

Conservation practices applied

	Fiscal year	On the land
Farms and ranches:		
Contour farming acres	6,104,602	39,204,454
Conservation cropping systems acres	22,909,067	131,704,734
Cover cropping do	4,984,775	23,850,064
Crop residue use do	18,499,453	93,898,863
Strip cropping systems acres	667,305	19,043,818
Seeding pasture and range acres	2,693,429	49,122,566
Tree planting do	375,132	10,717,075
Wildlife development acres	220,257	3,019,422
Irrigation land leveling acres	511,125	7,587,890
Irrigation water management acres	2,408,550	8,600,236
Terracing miles	40,557	1,213,203
Diversion construction miles	3,310	82,458
Pond construction: Number	53,886	1,262,237
Watershed projects:		
Floodwater retarding structures: Number	379	2,578
Grade stabilization: structures: Number	757	7,901
Silt and debris basins: Number	580	16,085
Stream channel improvement miles	346	1,429
Floodways do	12	110

SOIL CONSERVATION DISTRICTS

The Soil Conservation Service assisted 1,041,526 landowners and operators plan and apply soil and water conservation practices in fiscal 1963.

During the year, soil conservation districts added 114,785 cooperators with 39,765,836 acres of land. SCS helped them prepare 105,466 basic conservation plans on 37,277,583 acres.

On June 30, SCS was providing technical assistance to 2,942 soil conservation districts containing 1,718,856,998 acres in the United States, Puerto Rico, and the Virgin Islands.

These districts include 97 percent of the farms and 93 percent of the land in farms. Twenty-four States and the two Caribbean territories are completely covered by districts.

Most districts are in the process of updating their programs as a basis for new memorandums of understanding with USDA providing for broadened assistance "in soil conservation, watershed protection, flood prevention, farm forestry, and rural areas development."

CONSERVATION PRACTICES APPLIED

SCS helped 665,829 landowners and operators apply one or more soil and water conservation practices.

Cooperators installed conservation cropping systems on 22,909,067 acres, an increase of 30 percent over the previous year. They practiced contour farming on 6,104,602 acres, an increase of 27 percent.

Water conservation through improved irrigation practices also increased sharply. Farmers leveled 511,125 acres of land and applied irrigation water according to conservation standards on 2,408,550 acres.

Farmers and ranchers following conservation plans seeded 2,693,429 acres of pasture and range, planted 375,132 acres of trees, and developed wildlife habitat on 220,257 acres.

They also built 40,557 miles of terraces, 3,310 miles of diversions, and 53,886 ponds.

SOIL SURVEYS

SCS completed field mapping 68,324,153 acres of soil surveys in fiscal 1963, compared to 65,040,992 acres in 1962.

A total of 785,235,012 acres has soil surveys in sufficient detail for use in conservation planning of farms, ranches, watersheds, and other uses. This is about three-fourths of the land in farms (and half the total land area) in soil conservation districts.

Twenty-eight soil surveys were published during the year, and the maps and texts for 162 surveys are in various stages of preparation for publication.

The use of soil surveys by both public and private agencies and by individuals continues to increase. Nonagricultural users—especially State, city, and town planning groups—are requesting more soils information applicable to urban and suburban areas.

SCS is cooperating with the Bureau of Land Management in three pilot surveys on extensive rangelands in the West.

WATERSHED PROJECTS

Eighty-eight new small watershed projects were approved for operations and 121 were authorized for planning in fiscal 1963, the largest number in any year since the program started.

By the end of the year, 48 States and Puerto Rico had submitted 1,936 applications for Federal assistance covering 138.3 million acres.

On June 30, a total of 890 watersheds had been authorized for planning. Of these, 473 were approved for operations.

In addition, SCS prepared work plans for 11 subwatersheds covering 874,000 acres in the 11 major river basins authorized for flood control work.

Construction work in all types of watershed activity during fiscal 1963 completed 379 floodwater retarding structures, 757 grade stabilization structures, 580 silt and debris basins, 346 miles of stream-channel improvement, and 12 miles of floodways.

RIVER BASIN INVESTIGATIONS

Soil Conservation Service participated with other Federal and State agencies in surveys of 25 major river basins in fiscal 1963.

These surveys aim to develop comprehensive plans for the coordinated and orderly development, management, and use of the water and related land resources of the basins.

INTERNATIONAL ASSISTANCE

During fiscal 1963 SCS completed a tentative work plan for a watershed project in Tunisia under contract with the Agency for International Development (AID).

SCS also contracted with AID to provide technical services to the Government of Algeria in rural rehabilitation and soil conservation.

During the year SCS made available to AID 12 professional conservationists for short assignments in 6 countries.

SCS assisted with training in the United States of 330 foreign nationals from 60 countries.

CONSERVATION NEEDS INVENTORY

Results of a National Inventory of Soil and Water Conservation Needs, begun in 1957, were published in August 1962 as USDA Statistical Bulletin 317.

All agencies of USDA concerned with land and water resources cooperated in the inventory under the leadership of SCS. State and local representatives of USDA and other interested agencies participated in all counties.

The inventory revealed that nearly two-thirds of all non-Federal rural land needs conservation treatment of some kind and 8,358 small watersheds need community-type projects for flood prevention and water management. (See table.)

Conservation needs

	Acres	Percent
Non-Federal rural land needing treatment:		
Cropland	272,080,000	62
Erosion hazard	161,582,000	37
Excess water	59,925,000	14
Unfavorable soil	36,463,000	8
Adverse climate	14,111,000	3
Pasture and range	364,797,000	73
Establishment of plant cover	72,380,000	14
Improvement of plant cover	107,570,000	22
Protection of plant cover	184,847,000	38
Forest and woodland	242,371,000	55
Establishment of timber stand	69,656,000	16
Improvement of timber stand	160,260,000	36
Erosion control	12,454,000	3
Other land	10,358,000	17
Total area needing treatment	889,606,000	62
	Number	
Small watersheds needing projects for—		
Flood prevention	6,364	50
Erosion control	4,661	36
Drainage	3,937	31
Irrigation	2,625	21
Total number needing projects for 1 or more purposes	8,358	65

THE COVER-UP—A NEW MORALITY

Mr. DOMINICK. Mr. President, I bring to the attention of the Senate one matter which I think is particularly important. This deals directly with the struggle between the legislative and executive departments, in connection with actions of the executive department. As Senators well know, on many occasions there have been investigations of what happens in various departments, including the Billie Sol Estes case, the Otepka case, and a number of others.

It now appears that in almost every instance in which some employee of one of the executive departments gives Congress information leading to an investigation and the revelation of dealings which, to say the least, are not proper, that person is punished by his department; and the person who has not done anything about it, and has resisted in many instances the bringing of evidence from other departments to Congress, gets a promotion or goes free from criticism.

I have before me two newspaper articles which comment on this situation. One is from the Rocky Mountain News of June 7, 1964. The article is entitled "Federal Wheels Grind Slowly in Bizarre Security Case." This pertains to the Otepka case.

The other article is from the Washington Star. It is entitled "The Coverup—A New Morality—Record Shows Federal Officials Who Expose Shady Deals Get Bounced."

Because I think this is of such importance, I ask unanimous consent that these articles be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Rocky Mountain News, June 7, 1964]

FEDERAL WHEELS GRIND SLOWLY IN BAZARRE SECURITY CASE

(By Richard H. Boyce)

WASHINGTON, June 6.—Every workday morning Otto F. Otepka, a $16,900-a-year Government employee, goes to the State Department, and every afternoon he goes home. During the 8 hours in between, Otepka does nothing but read the CONGRESSIONAL RECORD.

Otepka is Chief of the State Department Security Evaluation Division. But he is not permitted to do the work he is paid for.

He gets no important Department mail. In an entire year he has had only two Department phone calls. Fellow workers snub him. He's not invited to office luncheons or Department social affairs.

It's a lonely life for Otepka, 49 and ruggedly handsome. He thinks his office is bugged. He doesn't trust his desk telephone. He won't let his private briefcase out of his sight, even takes it to the washroom with him.

He reads the CONGRESSIONAL RECORD because his superiors told him to—after they filed charges against him that can cost him his job. Reading the RECORD is supposed to keep Otepka busy until a hearing is held on his ouster. He has been doing "mostly nothing" for a year now—a hearing date still hasn't been set.

TWENTY-EIGHT YEARS' SERVICE

Otepka has been in Government service for 28 years, moving up all the time—until last year. His troubles started after he testified in November 1961 and March 1962 before the Senate Internal Security Subcommittee. As a longtime security expert, Otepka told the Senators that some new State Department appointees were being given rush-job security clearances.

The committee at the time was investigating Fidel Castro's rise to power and his links with communism. Otepka had something critical to say about that, too, in connection with high State officials and State Department security practices.

Early in 1963 Otepka was called back to the committee. Some of his earlier testimony differed from statements made by other Department officials. To prove he was right, Otepka gave Committee Counsel Jay Sourwine three confidential documents.

CHARGES VIOLATION

This was all right, Otepka said, because Sourwine had security clearance. Besides, Otepka insists, the documents didn't endanger national security.

But the Department said Otepka violated a 1948 order by President Truman forbidding unauthorized disclosure of executive department files. Otepka concedes this, but points to a 1948 law which says "the right of any member of the classified civil service to furnish information to any Member of Congress shall not be denied."

Otepka also leans on a 1958 joint congressional resolution saying "any person in Government service should put loyalty to country above loyalty * * * to any Government department."

Nevertheless the State Department said Otepka's acts were insubordination, and on June 27, 1963, charged him with conduct unbecoming an officer.

AID RECANTS

To get evidence to back up the charge, Otepka's phone was tapped. Later John F. Reilly, Deputy Assistant Secretary of State for Security, and Elmer D. Hill, Chief of the Technical Services Division, were fired because they lied to the committee, saying they knew nothing of the wiretap.

David Belisle, Reilly's special assistant, told the committee he knew nothing of it, then recanted and said he knew of it but didn't do it. He was transferred to other work outside the Security Section.

Besides the wiretap, Otepka's trash baskets were sifted, his typewriter ribbon deciphered, and his torn carbon papers pieced together. One night his office safe was "burglarized." Someone drilled it open and photostated papers in it.

Twelve file cabinets and two safes in Otepka's office were then impounded by the Department. Otepka was turned out of office, given a cubbyhole, and told to read the CONGRESSIONAL RECORD, to determine Congressmen's attitudes toward the security program—obviously a makework assignment.

Seven members of his staff have been reassigned to other work, and Otepka charges this was because they openly declared they would testify for him.

Raymond Loughton, Francis Gardner, Edwin Burkhardt, John R. Norpel, Jr., Harry Hite, and Howard J. Shea—all experienced in security work—were transferred to the Department's Latin American Affairs Section "to review highly sensitive security cases."

They have privately told friends they are doing no worthwhile work.

ACCEPTS DEMOTION

Billy N. Hughes was persuaded to accept demotion to an investigator position created in Memphis, Tenn.

Only 11 security evaluators remained in Otepka's section. To fill the vacancy, field investigators were brought in. Otepka believes they are not experienced in handling the complicated evaluation system he worked out.

Otepka demands that he be reinstated. Under Department regulations he is entitled to a hearing before another Department employee. Otepka wants an outsider to hear the case.

A decision has been hanging since Otepka filed his demand on January 20.

[From the Washington Evening Star]

THE COVERUP: A NEW MORALITY—RECORD SHOWS FEDERAL OFFICIALS WHO EXPOSE SHADY DEALS GET BOUNCED

(By Richard Wilson)

The handwriting on the wall has been written large here: Don't buck the system. This truth is freshly proved by a Government distinguished service award to an obscure official named Horace D. Godfrey. Mr. Godfrey is the Administrator of the Agricultural Stabilization and Conservation Service under Agriculture Secretary Freeman.

It is charged in the House of Representatives that Mr. Godfrey was given this award although in his branch of the Federal service "obviously a coverup was attempted in the entire Billie Sol Estes case." The evidence in the Billie Sol Estes investigation showed, it is charged, incredible confusion, mismanagement, lack of records, duplication, and "woeful lack of management and knowledge of what was going on in the Estes case."

Mr. Freeman so values Mr. Godfrey today, however, that he confers upon him the highest accolade of his Department as an example to others.

But what of the man who testified and supplied records to show that the bigtime Texas promoter now under prison sentence for fraud was shown favoritism in Mr. Freeman's Department as early as November 1961? This man, N. Battle Hales, has been denied an automatic in-grade promotion which would ordinarily have come to him in the course of his Federal service. Thus the accuser languishes and the accused flourishes, although the record seems clear that Billie Sol enjoyed a favored position in the Department of Agriculture.

Mr. Freeman has no monopoly on this technique. One Jerry Jackis, who revealed to Congress the use of foreign aid funds in Cambodia for a Communist-sponsored hospital, was fired while the State Department official who made a record against him was promoted.

Otto Otepka, State Department security official, who committed the unforgivable sin of peaching on his superiors and telling Congress what is wrong with the internal security system in the State Department, is in limbo. But William J. Crockett, Deputy Under Secretary, who was in charge of the Otepka matter for Secretary Rusk, is up for promotion to career minister, a better job. The Senate Foreign Relations Committee is looking into this because the record shows wiretapping, general harassment, and attempts to degrade Mr. Otepka after he helped the Senate Internal Security Committee to expose some of the weaknesses of the State Department security system.

It is worth noting also that Gen. Curtis LeMay has been given an extension, at least until after the election, of his tenure as Air Chief of Staff. General LeMay protested against the multimillion-dollar award of the TFX contract for what he thought was a second best fighter plane to be used by both the Navy and Air Force. The Navy commander, Admiral Anderson, who also objected openly before Congress, has long since vanished from the Washington scene. But General LeMay was pointedly given only a 1-year reappointment, instead of the usual 2, and this has now been extended. But it looks as if General LeMay's service is rapidly coming to a close.

The pattern set in these several cases is shocking. The lesson taught to Federal officials is that if they see mismanagement, wrongdoing, or bad judgment they would be wise to keep their mouths shut if they wish to maintain or improve their job status.

Their worst sin would be to tell their story to Congress, although it is the clear and imperative responsibility of Congress to inquire into the operation of Federal executive departments funded solely by the votes of Congress. Congress controls absolutely the appropriation of money to operate the Federal Government and of taxation to provide these funds. This is its exclusive power, and Congress has the right to know how the funds are spent.

Some kind of a new morality seems to have gotten lodged in official Washington. It is the morality of blind loyalty to superior

authority and complete obeisance to the word from on high. It is the morality of coverup in the Billie Sol Estes case and whitewash in the Baker case. And it is not a very healthy atmosphere for the prudent conduct of the public's business.

SALVATION ARMY DOES BATTLE

Mr. BARTLETT. Mr. President, assistance to Alaska in its great disaster has flowed from many organizations and individuals. Alaskans will long remember March 27 and its aftermath, but I believe as the years go by the good done by these private individuals and associations will live longest in their memories.

One of the organizations which has contributed so much is the Salvation Army. Most of us in the United States in one way or another probably have had associations with this great organization. However, I do not believe many of us know in detail the good deeds performed by the Salvation Army in behalf of those caught in personal losses and tragedies. I believe, therefore, a report which I have just received telling how the Salvation Army went about its job after the Alaska earthquake and subsequent tidal waves will be of particular interest. I ask unanimous consent that the article may be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALASKA EARTHQUAKE AND TIDAL WAVES

Almost before the earth had stopped shaking on that memorable Good Friday afternoon, March 27, 1964, the Salvation Army was here, there, and everywhere giving needed help.

As the days became weeks, this service continued in all of the stricken areas, supplies being distributed and money provided with no strings attached, an example of people helping people that Alaskans will never forget.

The end is not in sight. Damage wrought by the tidal waves proved most disastrous in some areas and was followed by still further property damage from unprecedented high tides. Homes were destroyed and businesses wiped out with tragic losses that will require assistance for months to come.

In the beginning, when it became apparent there had been a major disaster, Maj. Forrest Mosely, division secretary, quickly marshaled forces and all possible reserves; committees and volunteers were quickly organized to perform a variety of needed services. In the early minutes, it was a search and rescue job; then came the stupendous task of clearing the names of missing persons and notifying the next of kin.

The Army was asked to take over the task of processing the thousands of inquiries pouring into civil defense headquarters. Inquiries included everything from missing persons to requests for housing. The divisional headquarters building at Eighth and Barrow became a communications center, with scores of runners, investigators, and secretarial assistants locating missing persons and compiling lists of former residents of the hard-hit Turnagain area.

Services of the MARS (U.S. Army Communications) and SAC (Strategic Air Command), RACES (Ham Radio Network consisting of over 800 operators in Alaska), and three teletype operators from Fairbanks, were put at the disposal of the Salvation Army. The Air National Guard, PNA, and other airlines flew in large supplies of bedding, toys, food, and clothing from several States. Civil Air Patrol and military planes from Elmendorf and Fort Richardson made possible the quick distribution of supplies to all disaster areas. Other Salvationists organized a production line for preparing sandwiches, coffee, and other food, which was dispersed through 10 mobile canteens for Anchorage disaster workers, guards, and other "on duty" personnel. It proved to be an immediate morale builder for the stricken to find that someone cared or was interested and shared in their grief with a kindly "God bless you."

Total mobilization of all facilities, personnel, and equipment was offered to the city and State civil defense. Five areas of service were agreed upon for immediate action:

1. Mass feeding: (a) social center; (b) mobile canteens.

2. Emergency housing.

3. Receiving and distributing clothing.

4. Processing inquiries and notifying next of kin.

5. Establishing offices and personnel in disaster areas.

An organization was effected with officers in charge of the above major divisions, assisted by other officers and volunteer workers.

In the early hours the Salvation Army established sleeping accommodations in the Anchorage Post Office building. Food, water, and hot coffee were provided, and the homeless were accommodated in the hallways of the post office, with cots, mattresses, and blankets from the military and others.

All telephones were out in Anchorage, and the only means of communication between Army workers was the use of radio station KENI. Each worker carried a transistor radio.

The movement of canteens and preparation of food was constant. Army workers slept and worked in shifts, but sleep was limited to a few hours at a time. Sandwiches were made at the rate of 1,000 an hour when the demand was greatest. The social center at Eighth and C became a depot for serving hot meals and distributing food, baby supplies, and household effects. The headquarters building, Eighth and Barrow, was set up to distribute clothing and bedding and provide for special needs.

A private detective agency volunteered its services and "Hot Rod" club runners, as well as Explorer Scouts and other groups with cars, spent many hours tracking down missing persons, utilizing all available leads. Inquiries pouring in from all points of the United States and from countries around the world were promptly processed by Mrs. Major Moseley and volunteers and replies returned at once.

Many unusual requests came to the Army:

Salvationists helped to remove a man who had barricaded himself in a hotel room.

Three elderly women were assisted from their home in a badly devastated area of Anchorage.

Racing with the stork was a girl from the Army Booth Memorial Home who faced an additional emergency brought on by the earthquake. With transportation impossible, Salvationists literally walked her to the Native Hospital six blocks away just in time to beat the stork.

On Sunday morning, the Salvation Army was asked to present an Easter service to the community via radio, since all churches were closed. The broadcast originated in Anchorage and was received with gratifying reaction from many remote areas.

Sorting and distributing clothing for all disaster areas required immediate coordination. The divisional headquarters building was set up as the distribution center for Anchorage, under the direction of Mrs. Capt. William Lynch.

Under the able leadership of Mrs. Lieutenant Colonel Rody, a warehouse was obtained for sorting, sizing, and packing clothing, bedding, and household furnishings. A production line, preparing for shipment to various parts of the State as needed, was set up.

The machinery of assisting other communities with cash and supplies was put into motion. Lieutenant Colonel Rody, divisional commander, made a complete survey of all outlying communities affected by the earthquake and tidal waves and established offices in each stricken town, where Salvation Army personnel began working with local committees in the tremendous job of assisting the homeless and helping small businesses to reestablish the economy of the communities.

SEWARD

Maj. Lester Holmes, service extension director, was sent almost immediately to Seward with a load of supplies. He set up a canteen in the State employment office, which became a 24-hour-a-day meeting center. Since the Alaska Railroad had been demolished, he obtained a truck for making regular trips to outlying areas cut off from sources of supply. Later, Mrs. N. V. Jensen came from Portland to take over his duties.

Working with the Seward Disaster Committee, she continued the canteen service and began plans for filling the greater needs of families and businesses. Of the 87 Seward homes destroyed, 60 were those of people in the low-income group; $18,000 was provided for immediate cash assistance in replacing personal effects. Medical bills for individual needs amounted to $5,250. In some cases, the Salvation Army paid rent and purchased necessities.

Serious losses in the Seward hospital included destruction of kitchen and laundry equipment and the generator. An emergency generator was purchased and funds made available for replacement of other equipment.

KODIAK

Damage to Kodiak was so extreme that Lieutenant Colonel Rody estimates emergency help will be needed there for a year or more.

Following the quake and wave disaster, Lt. Col. Max Kurtz, former Alaskan divisional commander, was sent from San Francisco to Kodiak, where he made a careful survey of the most urgent needs. He set up headquarters in the civil defense trailer at the request of the civil defense director.

With the economy at a standstill because of loss of the boats and canneries, Lieutenant Colonel Kurtz aimed at quick repair of vital small businesses, dispersing funds to augment what was available locally. A sawmill and boat repair shop were given immediate assistance with $7,500, and a cannery with $3,000.

Twenty-seven families who had suffered total losses received immediate cash grants totaling $3,000, and $12,000 additional was set aside for emergency needs, which so far have helped 50 families. A total of 180 homes had been destroyed.

As in other communities, the Salvation Army set up a service center for dispensing such necessities as baby food and diapers, detergents, bedding, rain gear, and clothing for children and adults.

Now in charge at Kodiak are two Salvationists, Mr. and Mrs. Dave Thompson, who maintain an office and coordinate the continuing needs of the islanders. At their request, the Anchorage headquarters sends needed supplies and funds. The most recent shipment consisted of 1,800 pounds of clothing, detergents, canteen supplies, bedding, and blankets which were part of a gift sent by Japanese businessmen. The total commitment to date for Kodiak is $24,000.

VALDEZ

Valdez suffered almost total devastation.

Brig. and Mrs. Stanley Jackson of Prince Rupert arrived shortly after the quake and flood, setting up a headquarters office in the State highway building. An Army detachment from Fairbanks provided personnel to help clean the quarters, which, like everything else in Valdez, was a mess of mud and filth.

A kerosene heater and butane stove sent from Anchorage provided heat and cooking facilities for the canteen, which became the community gathering place at all hours, with buffet service operating continuously.

Beyond filling such morale-building needs as visiting the bereaved and providing the services which Mrs. Jackson, an R.N., was qualified to give and the spiritual and practical ministry of her husband, it was plain to Brigadier Jackson that the greatest emergency lay in getting the Valdez people home from the widely scattered area to which they had been evacuated.

So "Operation Mobile Igloo" came into being—homes for Valdez.

Lieutenant Colonel Rody purchased and sent to Valdez 10 modern mobile duplex homes at a cost of $32,000 giving rent-free housing to the first of the homeless "refugees," slowly returning after weeks of living temporarily in settlements all the way from Juneau to Fairbanks.

For cleanup work, the Salvation Army sent hip boots and rain gear, along with food, clothing, and other necessities. Much help came from Fairbanks, which in effect "adopted" Valdez.

Brigadier Jackson, eager to get local businesses going, arranged for funds for a grocery store to get started, and provided a grant of $2,000 for a restaurant, where meals were served again 6 weeks after the quake. Before this time all of Valdez was fed in a community dining room beyond the flooded area, with food and cooks provided by Civil Defense.

For 20 families in desperate need of all personal effects, a grant of $4,000 was made available. Another $10,000 was set aside for such expenses as rent, groceries, bedding, and such emergent needs not provided by Government or other agency, making a total of more than $48,000 for Valdez to date.

HOMER-SELDOVIA

These lower Cook Inlet key fishing communities sustained unusual and desperate losses affecting the economy of the entire peninsula.

At Homer, the spit, with the area's only deep-water pier, sank and was inundated in high tides. At Seldovia, homes on lower ground and the main street boardwalk were completely flooded.

When Lieutenant Colonel Rody inspected the towns, he observed that the entire area was periled, and that each regular high tide posed a new threat. Unique emergency needs developed, so the Salvation Army quickly provided 60 20-ton jacks, which were flown up from San Francisco and Seattle to elevate as quickly as possible buildings in the peninsula communities.

Gabians (wire baskets filled with rocks) were supplied as protection to canneries against the next high tide. Capt. Don Pack, from Anchorage, was stationed in Homer to coordinate disaster plans.

Immediate grants of $2,500 to a cannery and $1,500 to a seafood processing plant were made. Fifteen families were given building materials for raising and repairing their homes, at a cost of $8,100, and $2,700 was granted for pilings to support four other houses.

A professional mover was hired at a cost of $7,000 to direct the operation and use his equipment in salvaging anything possible before the next flooding.

Additional $6,000 in cash grants for families with emergency needs was furnished, making a total of more than $26,000 expended in Homer, Seldovia and Halibut Cove area.

CHENEGA

At Chenega the tidal wave reached a height of 160 feet above sea level, causing unbelievable havoc. Through the Salvation Army, Cordova Service Unit, Mr. Durwood Cotton set up emergency headquarters at the bowling alley. Supplies to meet family emergent needs and grants were provided as in other stricken communities for families who were dispersed; $30,600 was committed.

PORTAGE

To meet emergency needs when the April high tide brought greatest damage to Portage, the Salvation Army provided a 6-man raft, a supply of hip boots, rubber gloves and 20 parks used by volunteer rescue workers. Five rescued families were immediately outfitted with clothing.

HOPE

The Salvation Army air lifted a case of water purifier from Seattle to meet Hope's urgent requirement for pure water. Groceries and clothing were also made available to this isolated community.

SOUTHEAST ALASKA

A sum of $15,000 was made available for needy southeastern families. In Craig and Klawock, 4 families who lost everything in the big wave found temporary housing and were given $7,700 to replace furnishings, groceries, bedding and other immediate needs.

SEVEN WEEKS LATER

The Salvation Army headquarters in Anchorage is still very much "disaster headquarters" for Alaska. More than $186,000 has been committed by the Army thus far in Alaska.

"Our offices," said Colonel Rody, "will continue to operate in all the communities until the emergency is over. Clothing, bedding, and other supplies will be made available on a continuous basis." The commander has high praise for the courage of Alaskans and the generosity of their fellow Americans who have provided funds and supplies of all kinds.

The names of Salvation Army workers who gave wholehearted assistance to Alaskans following the Good Friday disaster would be too numerous to list. Countless individuals and groups worked with them in carrying out their carefully organized plans for giving immediate help.

Messages of thanks pour in every week from political and civic leaders across the country, friends of the Salvation Army, and, of course, from those who were assisted.

As the stricken communities come back to normal life, a grateful people keep a comforting memory of the "angels in blue uniforms" who did all but the impossible in speeding Alaska's recovery.

The Salvation Army officers provided much of the leadership and clear thinking required when the disaster struck. In addition to the major services rendered, there were also innumerable intangible ones, perhaps the greatest being a promise from the Bible, a prayer with the bereaved, and the assurance of a comforting "God bless you."

While earthquakes break up ground and houses, they also tear into the composure of human lives. Here is where the healing ministry of the dedicated Salvationist is most effective and little talked about. During this disaster a solemn funeral procession was led by an officer; the bereaved and next of kin were visited, sacred worship services were conducted, and a comforting Easter radio broadcast from Anchorage reached and blessed many in remote communities.

All this because you made it possible.

THEY STRIP OHIO BEAUTY

Mr. YOUNG of Ohio. Mr. President, Ohio ranks 35th in area, 5th in population and second to none among the States in scenic beauty. Our State has often been called the "United States in miniature" because it represents such a complete cross-section of all American life. With the exception of high mountains and deserts, Ohio has almost every type of terrain. There are great sweeps of rolling farmland, vast forests, beautiful valleys interlaced with rivers and lakes, and the flat land of the Corn Belt.

However, the natural beauty of a great part of Ohio has been desecrated by strip mine coalfields. The same is true in many other States in the Appalachia region. In strip mining for coal, unfortunately, beautiful trees, grass, shrubs and topsoil are rooted from the earth and in their place is left shale and rock on which nothing will grow. Barren, unsightly earth and acid-poisoned holes are what remain after the mineowners and operators and the strip miners have done their job.

The owners and operators of Ohio coal strip mines have repeatedly fought against the enactment of legislation that would require them to restore the land to some semblance of the beauty that existed before their mining operations began. While State governments permit strip miners to ravish the land, it is at the same time suggested that Federal funds be used to rehabilitate it. This is a ridiculous paradox.

My colleague, the distinguished senior Senator from Ohio [Mr. LAUSCHE], as Ohio's Governor and from that time as U.S. Senator has over the years been the leader in the attempt to remedy this problem. At the present time he has a bill pending before the Senate calling for a study of strip coal mine operations. I fervently hope that this needed and important legislative proposal will be enacted into law before this session of the Congress adjourns. For the sake of future generations it is high time that the Federal Government began to take a real interest in a condition which has caused the destruction of so much of our Nation's land. Furthermore, State legislators owe a duty to provide remedial legislation.

Mr. President, on Tuesday, June 2, the Plain Dealer, one of the two great newspapers in Cleveland, Ohio, and one of the great newspapers of the Nation, had an excellent article by George E. Condon entitled, "Miners Strip Ohio Beauty." This article clearly describes what has happened to large areas of my State as a result of strip mining operations and the apathy on the part of coal operators that exists regarding this problem. I commend this to my colleagues and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Cleveland (Ohio) Plain Dealer, June 2, 1964]

MINERS STRIP OHIO BEAUTY

(By George E. Condon)

COSHOCTON, OHIO.—The Ohio country is still among the loveliest sights to be found anywhere in the land.

The hills are just as beautiful as the poets say, and the rivers are just as dreamy as the songwriters have described them. The fields are still lush and rich in their bounty, and the forests still cover much of the countryside with their shady grace.

It's a great sight to see—but you'd better hurry.

There's a little thing called strip mining which is eating away at the sovereign State of Ohio far from the attention of the majority of the people who call this home; the people who live in the cities and all too seldom drive about to admire the sights of their own State.

The strip miners work in the quiet of the rural counties, deep in the silent hills, and away from the busy roadsides, as a rule. As the years roll along, though, it becomes harder and harder to overlook what the coal companies are doing to Ohio in the name of industry, commerce, and progress. What already has been done is a crime against nature and all the generations of Ohioans yet to come.

Henry Clay was quoted once as saying, after a visit to Ohio, that never in all his travels had he seen a section for which God had done so much, and man so little.

We're making up for that, we Ohioans. We are doing a lot to our State in this modern era. If you don't believe that, direct your car on what the State highway department has chosen to call, "The Scenic Route" or State Route 76, which extends from Lake Erie, on Cleveland's far West Side, in a southerly direction toward the Ohio River.

They dubbed it right when they called it "The Scenic Route." It is all of that; a road that takes you leisurely twisting and turning through some of the prettiest country in all the world. But when you get down as far south as Coshocton, you suddenly begin to see some strange and disturbing evidence of the strip mining art. You see hills of yellowish, slaglike refuse along the side of the road, followed by a stretch of greenery, then again the unsightly remains of what once had been the living land.

Perhaps you turn on to Route 78, also called "The Scenic Route," and for a while you drink in the old beauty and you are in a kind of natural paradise. You come out of paradise rather abruptly as you move toward Athens. You find that the road has taken you somehow to a scarred, pitted, and lifeless horror. The vegetation—the trees, the grass, and the flowers—have disappeared, and in their place there is nothing but devastation and death.

What has been done to the Ohio fields and hills and farms in the extraction of surface coal is nothing less than a social catastrophe. The ravaged landscape has no counterpart except, perhaps, in the dead mountains and valleys of the moon.

There is something terribly wrong with a civilization that will stand by and permit some of the fairest country in all the world to be raped and ravaged the way Ohio is being assaulted at the present time by the strip mining interests.

A lot of Ohioans have seen the destruction for themselves, and most Ohioans have heard about it, but there isn't much of an outcry, and nobody really is rushing in to fight off the despoilers. They don't want to get involved. The future generations will do the crying.

COST EFFECTIVENESS OF THE BROOKLYN NAVY YARD

Mr. KEATING. Mr. President, at a time when U.S. Navy yards are under close scrutiny and when attention is called to the cost of shipbuilding in public and private yards, a most encouraging story has come to my attention.

A young engineer at the Brooklyn Yard offered a shrewd suggestion that saved $23,600 on three amphibious transports now under construction there. By eliminating an extra power supply and simplifying and making more reliable existing power supplies, this enterprising electrical engineer, Matthew Di Serio, exhibited the kind of know-how that makes Brooklyn Navy Yard unique. His suggestion shows clearly the concern at Brooklyn Navy Yard, long known as the can-do yard, for efficient and economical performance and it is typical of the ability and of the skill of the fine team of men now employed at the yard. Mr. Di Serio and the yard management deserve our thanks and congratulations for their work.

Mr. President, I ask unanimous consent to have printed in the RECORD a more detailed account of Mr. Di Serio's contribution.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

NAVY YARD ENGINEER CUTS $23,600 FROM SHIP COSTS

At a time when the cost of building Navy ships has become a major topic of discussion from coast to coast, Matthew Di Serio, a 30-year-old electrical engineer at the Brooklyn Navy Yard, showed that action still speaks louder than words by submitting a suggestion that saved $23,600 on three amphibious transports now under construction at the can-do yard.

Since the employee suggestion program is a two-way street, Mr. Di Serio, who lives at 30–36 49th Street, Long Island City, Queens, profited handsomely by collecting an award of $770 for his idea.

The three ships on which Mr. Di Serio's suggestion were used are the amphibious transports *Duluth*, *Austin*, and *Ogden*. What he proposed was to eliminate the third power supply to switchboards and steering gear, in addition to replacing seven automatic transfer switches with a manual type for such services as weapons and cargo elevators, radio and radar equipment, and machinery room ventilation systems.

The dual advantages of Mr. Di Serio's suggestion are these:

(1) It eliminates one of three sources of power to switchboards and steering gear rooms, providing sufficient reliability with only two sources; and

(2) It accomplishes the same purpose of manually restarting equipment when power is lost as with the automatic switches, and at one-third the cost.

Mr. Di Serio was employed as a draftsman at the Navy yard in July 1951 immediately after receiving his diploma from Brooklyn Technical High School. Later he enrolled at City College of New York for evening study that helped equip him for promotion in September 1960 to his current position of electrical engineer.

Mr. Di Serio and his wife, Gertrude, have two daughters, Janine, 6, and Karen, 4; and a son, John, who will reach his second birthday on October 10. His award money, he says, will go toward buying them some new clothes, and getting needed repairs done on the family car.

While the money comes in handy, Mr. Di Serio emphasizes the greater satisfaction comes from knowing his idea helped the yard save a sizable sum on the three construction jobs. "If I've contributed anything to proving the Brooklyn Navy Yard builds the best for less," declared the young engineer, "then I've been amply compensated."

While the three ships benefiting from Mr. Di Serio's suggestion are the last on the yard's construction schedule, perhaps he has helped open the way for more such jobs. But at the very least he has shown the tangible effort he and his thousands of coworkers are putting into cutting shipbuilding costs.

STATE TAXATION OF INTERSTATE COMMERCE

Mr. KEATING. Mr. President, over the weekend the House subcommittee which has been investigating the tangled skein of State taxation of interstate commerce issued the first of two reports which it is required to make under its authorizing legislation. This report deals only with State income taxes, but a second report later in the year will cover State sales and use taxes. These reports, Mr. President, I hope will lay the groundwork for constructive remedial legislation in this extremely delicate area of Federal-State relations. If the States themselves do not voluntarily adopt a uniform State tax law to reduce the immense burdens of enforcement and compliance that have been imposed upon interstate businesses, then there will be no alternative to Congress stepping in and laying down the law which it has full power to do under the commerce clause.

Mr. President, apart from Federal Internal Revenue Service matters, there is probably no one area in which I receive more complaints from businessmen, large and small, than in multistate income, sales, and use taxation. It is glaringly evident to me that if our free enterprise system is to survive and prosper under our Federal form of government, the State must assume a more responsible attitude of voluntary self-restraint in the application of their tax systems. If all the State tax laws on business were strictly and uniformly applied, the 50 States under the present pattern would soon be overregulating American business to its death and throwing millions of workers out of jobs. We cannot afford to let this happen, and I know Congress will not let it happen even if Federal action becomes necessary as a last resort.

Mr. President, the Wall Street Journal this morning carried a concise and apt editorial on this subject, together with a lengthier article dealing with some of the practical and legal problems in this confused area, and I ask unanimous consent that these be printed in the RECORD at this point.

There being no objection, the editorial and article were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 15, 1964]

TANGLED TAXES

When and how does a State tax a corporation headquartered elsewhere? Congress thought it had partly solved that problem 5 years ago, but, as an article on this page indicates, the situation seems about as snarled as ever.

No one seriously questions the right of a State to tax the income of companies that have stores, offices, or warehouses within its borders, whether the companies' headquarters may be. But a lot of people questioned a 1959 Supreme Court decision which held a company was subject to taxes in a State where it had no facilities and only solicited orders that were accepted—and filled—outside the State.

So many people raised questions, in fact, that Congress later in the same year passed a law to bar such taxes. Recently, however, an Oregon court held the 1959 law was unconstitutional, and the whole issue is headed back to the Supreme Court again.

There's no way of knowing what the High Court will decide, but a ruling the other day suggests most of the Justices still take a broad view of the States' taxing powers. For the Court majority held that the State of Washington could tax sales made by General Motors to its dealers in the State—even though GM has neither facilities nor salesmen in Washington.

Even if it is finally established just when a corporation may be taxed by a State, there will remain the even more serious problem of just how such taxes are to be imposed. In this case, no solution is likely soon.

The States for years have tried without success to agree on a uniform method for determining what part of a multi-State company's income each may tax; the result is a diversity of methods. Aside from the horrendous confusion this creates for corporations, there is the possibility that a company may end up paying State taxes on more income than it has. Surely that makes no sense at all.

By far the best solution would be for the States to untangle their own tax affairs; if they don't, a federally imposed standard eventually will become inevitable. The tax burden is heavy enough when the rules are intelligible. It's intolerable when governments insist on tying taxpayers in knots.

[From the Wall Street Journal, June 15, 1964]

State Tax Snarl—Study Shows How Confusion Surrounds Income Levies

(By Arlen J. Large)

Washington.—Shed a (temporary) tear for Consolidated Ajax Corp., a real company bearing a disguised name.

Consolidated Ajax is one of the 21,000-odd corporations which pay income tax not only to Uncle Sam, but to two or more States as well. Each year these companies must sift through the list of States in which they do business, to see how many have laws claiming a part of their profits. It often costs them more to make out a tax return to a State collector than the piddling amount of money actually due.

Now simmering far beneath the surface of Congress is some explosive Federal legislation that would shear away some of the brambles of State tax law affecting interstate commerce. It could simplify the paperwork problems of companies which are required to pay small amounts of tax in several States, a task which has driven Westinghouse Electric Corp., for one, to using a Univac machine.

Whether a law establishing Federal guidelines for State tax policy could ever be enacted is questionable, of course. State governments tend to be highly jealous of their taxing power, a status symbol of sovereignty. And even those interstate corporations which moan about the horrors of complying with State tax laws might find their tax payments actually running higher if Congress straightens things out.

An important new congressional study of the problem turns up this surprising twist: For an individual company paying taxes in several States, the patchwork of different laws is more likely to produce undertaxation than overtaxation.

ONLY PARTIALLY TAXED

That's why the treasurer of Consolidated Ajax is not steeped in sorrow. According to the new study, this company in a recent year paid State income taxes on only 47.6 percent of its $1.5 million profit. Had the company been subject to only one State's law, it presumably would have been taxed on 100 percent of its earnings. Because a standardized Federal formula for computing multi-State taxes would tend to cover a company's total income, Representative Edwin Willis, Democrat, of Louisiana, has warned business groups that any lessening of the confusion might cost them money.

Nevertheless, Representative Willis is now convinced that Congress should do something in the interest of unhampered commerce between the States, and he's in a position get things rolling. This bushy-haired 59-year-old Louisianan's main job in the House is to chair the famous Un-American Activities Committee. But in his spare time he's also chairman of a special Judiciary Subcommittee that's done nothing but study State tax systems for 3 years. His staff of a dozen lawyers, accountants, and economists has spent $400,000 so far rummaging through a 22-foot-high compilation of State tax laws, holding public hearings and circulating thousands of questionnaires to businessmen.

The subcommittee's first report, out today, deals only with State income-type taxes. A second report at the end of the year will cover State sales and use taxes, including a discussion of the latest Supreme Court decision to cause consternation among business groups: Last week's 5-to-4 ruling that the State of Washington can make General Motors Corp. pay a sales-type tax on the basis of its promotional activities in the State.

Representative Willis doesn't plan to frame his specific legislative ideas until next year, and today's "just-the-facts" report on State income taxes avoids any outright proposals. Yet the bulky document is deliberately worded to give tax lawyers a strong hint of what's coming. If ever enacted, the report's embryonic ideas would mean big changes in the structure of State tax law. For between the technical lines of tax jargon can be glimpsed a Federal formula which would ban the most widespread way in which States now compute how much tax is owed, and which would lop many companies from a State's tax rolls if they do little more than sell goods there. The report contends such a formula wouldn't crimp State revenues.

WISCONSIN PIONEERED TAX

To see how the system would change, some background is necessary. Wisconsin enacted in 1911 what is regarded as the first modern State income tax on corporations. From the beginning the Wisconsin law applied not only to companies headquartered there but to out-of-State outfits doing business in Wisconsin as well. Today, all 37 States with corporate income taxes continue to prowl the paths of interstate commerce, seeking to tax that portion of the profits of remote companies attributable to operations within their borders.

There are two main ways in which States figure out their share of a distant corporation's earnings. One method, preferred by only five States, is called "separate accounting." Assume an Arizona-based shoe retailing chain also operates stores in New Mexico, where this method is used. The company's accountant segregates the income and expenses of the New Mexico stores, computing a separate profit for operations in that State alone. New Mexico taxes this figure only, ignoring profits of the neighboring Arizona stores.

Most States, however, use a more complicated technique. Assume a Chicago-based company with nationwide sales of $2 million, property holdings of $800,000 and a total payroll of $75,000 is computing the income tax owed to Louisiana.

In that State alone, the company's sales total $500,000; it owns property valued at $200,000; and it pays $25,000 to Louisiana employees. The accountant calculates that Louisiana accounts for one-fourth of the company's total sales, one-fourth of its property and one-third of its payroll. He then averages these fractions, concluding that five-eighteenths of the company's profits arise from Louisiana activities and are taxable by that State.

Twenty-six States use this "three-factor formula for apportionment of a company's income. There are confusing State-by-State variations in how to determine the value of local property, and even who to include on a "payroll." But the hardest problem for a company selling goods into several States is to hack through the conflicting rules on how to count a "sale."

Consider a hypothetical company making office furniture in Alabama and selling it in other States. As soon as a desk is manufactured, Alabama counts a "sale" there and then. If the desk is shipped temporarily to a sales office in Tennessee where an order is taken, a "sale" is entered in Tennessee's formula. Finally, if the desk's ultimate destination is to a buyer in North Carolina, a "sale" is racked up by that State. Such pyramiding of taxes on a single piece of merchandise is the reason why some companies wind up being taxed on more than 100 percent of their nationwide income.

On the other hand, the hopscotch pattern of rules can produce just the opposite effect. If our furniture maker were located in North Carolina, where manufacturing isn't the test of a "sale," and he shipped the desk to a customer in Alabama, which has no destination test, the merchandise wouldn't incur any tax at all. That's how such companies as Consolidated Ajax legally pay tax on only part of their income. Failure of the tax laws of individual States to mesh with each other, plus enforcement difficulties, leads the Willis report to conclude that "interstate companies as a group pay somewhat less than their fair share of the State income tax burden."

The ultimate destination of a product is now the most widespread criteria for counting a "sale," being used in some degree by 24 States. The Willis subcommittee clearly implies this is the source of much of the confusion. Indeed, its report strongly suggests the "sales" factor should be dropped from the three-factor formula entirely, leaving the tax to be computed on the basis of property and payroll alone.

The report also suggests that if a company could compute its tax on the ratio of local property and payroll to its national holdings and employment, there'd be less confusion over whether any tax is owed in the first place. Each State has different rules on how much activity within its borders makes an out-of-state company liable to taxation. Most of the controversy in recent years has centered on attempts by States to tax companies which sell goods locally, but have little in the way of property or resident employees.

SUPREME COURT'S DECISION

Legal fireworks really broke out, for example, when Minnesota revenuers hauled the Iowa-based Northwestern States Portland Cement Co. into court for failure to pay income tax over a 15-year period in which the company had sold cement in Minnesota. Northwestern States insisted mere solicitation of orders through a Minnesota sales office shouldn't expose it to the State's income tax. This quarrel went all the way to the U.S. Supreme Court for decision in 1959.

The Court alarmed businessmen by siding with Minnesota, and later made them even more nervous by refusing to review two lower court decisions upholding Louisiana's power to tax even if a company confined its activity to sending traveling salesmen into the State.

The resulting outcry in 1959 pushed Congress into its first attempt to curb State taxation under its constitutional power to "regulate commerce with foreign nations, and among the several States, and with the Indian tribes." The new Federal law said a State can't slap its income tax on a distant corporation which only solicits orders through salesmen; greater activity, such as maintenance of a sales office, can still make a company liable to taxation.

This statute, known in the tax trade simply as Public Law 86–272, was intended as a stopgap protection for interstate companies until the Willis subcommittee could make its big study and decide if even stronger congressional action is needed. Though limited, the 1959 law has been attacked by many State tax officials as unconstitutional; Louisiana is planning to challenge Public Law 86–272 in the U.S. Supreme Court.

Representative WILLIS says he's confident the law will be upheld. If so, the battlefield will be clear for his proposals for stricter guidelines within which all States must confine their tax rules. The Council of State Governments is on record as favoring each State's voluntary adoption of a uniform State tax law, in lieu of Federal legislation. Thus, a tangled legal question that's plagued the courts for years is heading for a political showdown on Capitol Hill.

AMERICAN SAMOA

Mr. FONG. Mr. President, I wish to call the attention of my colleagues to a most informative report on the South Sea island territory of American Samoa. The author of this illuminating series of eight eyewitness accounts of what is happening in America Samoa is George Chaplin, editor of the Honolulu Advertiser.

A well-traveled newsman, Mr. Chaplin recently returned from American Samoa, 2,270 miles southwest of Hawaii and 8,000 miles from Washington. There, he focused his attention on the many changes that are taking place to advance the welfare of the population and to uplift living conditions of the people.

He reports, for example, on a school system that has been "tragically inadequate—in a population where half the population is under 18."

Quoting further:

> The single high school could take only one-third of the children who were qualified to go. Most teachers themselves had only a fourth or fifth grade education by stateside standards. The most ambitious young people were leaving their own tropical panorama for the brighter educational and economic scenery of Hawaii and the west coast.

Now, bold steps to advance public education on American Samoa are being taken, including the use of television for teaching, to do in its schools in a few years what normally would take a quarter century.

Mr. Chaplin is correct in his observation that American Samoa, while tiny in size, is large in its implications both for the United States and other world powers. He notes:

> American prestige in the Pacific—and at the U.N.—is inextricably linked to how well or how poorly we do in that unincorporated territory (which our enemies call a colony).

The people of Hawaii, among whom are many Samoan nationals and American citizens of Samoan ancestry, are keenly interested in the progress of American Samoa. They are making available educators, technicians and other specialists to help their neighbors to the south. They are inviting Samoans to come and learn from the Hawaiian experience, and they are sending Hawaiian technical know-how to the island chain.

Mr. Chaplin is a veteran journalist, a Nieman fellow at Harvard University, and a widely known editor of many years' standing. He has performed a real service by contributing his perceptive observations, his warm understanding and his able analysis of American Samoa's problems.

I commend his articles, which appeared between May 11 and May 19, 1964, in the Honolulu Advertiser, to all who want to read an up-to-date report on American Samoa.

INTEGRATION IN THE THEATER

Mr. JAVITS. Mr. President, further evidence that art reflects the society and civilization in which we live is provided by the new emphasis in the New York theater on plays about Negroes and the realistic roles performed by Negro actors. The civil rights struggle as it affects the individual is mirrored in these plays, many of them by new Negro playwrights, and this ferment is expected to lead to a fresh surge of creative expression which will enhance American culture. The further cultivation of such cultural resources is a national responsibility which should be met by S. 2379, a bill to establish an Advisory Council and a National Foundation on the Arts, passed by the Senate last year, and now pending in the House.

I ask unanimous consent to have printed in the RECORD the report by Milton Esterow, entitled "New Role of Negroes in Theater Reflects Ferment of Integration," which appeared in the New York Times of June 15.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW ROLE OF NEGROES IN THEATER REFLECTS FERMENT OF INTEGRATION

(By Milton Esterow)

The racial ferment across the country is bringing widespread changes in New York's legitimate theater. Increasingly, the Negro playwright, actor, and theatergoer is being heard from, on and off Broadway.

New Negro playwrights are emerging. A growing number of playwrights—Negro and white—are writing about the Negro today.

In the season that just ended, there were 13 productions relating to the Negro—from a gospel singing play to dramas of anguish and bitterness. Next season, Broadway and off Broadway may stage more works by Negro writers than ever before.

More Negro actors than ever are working in shows here—in roles from housemaids in comedies to major tragic figures in Greek drama. Much of this is due to the arrival of plays with a Negro theme. However, hardly a show opens these days without at least one or two Negroes in the cast.

In the 1962–63 season there were more integrated casts than there ever had been, more shows in which Negroes played roles not specifically calling for Negroes. In Edward Albee's "Ballad of the Sad Cafe," one of the major roles went to Roscoe Lee Browne, a Negro. Mr. Browne's understudy was a white actor.

The figure for integrated shows in the 1963–64 season is expected to be higher.

The increase in these plays and in Negro casting, as well as an expanding Negro intellectual and middle class, are enlarging the Negro audience at playhouses around town.

"They're certainly not coming in droves," said Frederick O'Neal, who last month became the first Negro to be elected president of Actors Equity, "but this takes time."

From 52d Street to Greenwich Village, theatergoers have listened to many voices in the recent season and heard some of the earthiest dialog ever spoken on stages here.

In James Baldwin's "Blues for Mister Charlie," at the ANTA Theater, a young Negro who is slain by a white southern bigot, says to him: "Can't we walk? Let me walk, white man? Let me walk. You a man, and I'm a man. Let's walk."

The play is based—"very distantly," says Mr. Baldwin—on the case of Emmett Till, the Negro youth who was murdered in Mississippi in 1955.

At the Cherry Lane is "Dutchman," a highly praised one-act play by LeRoi Jones, a 29-year-old Negro. The play deals with a well-spoken Negro man who is accosted by a white woman on a subway train. "What right have you to wear a tie and a three-button suit?" she shouts. "Your grandfather was a slave."

SPIRIT OF AMERICA

Mr. Jones says, "She represents the spirit of America."

A few blocks away, at the Sheridan Square Playhouse, is "In White America," by Martin B. Duberman, who is white. Last month, Gloria Foster, a Negro actress and one of the play's stars, shared awards for excellence off Broadway with the production itself.

Early in the play, which is something of an editorial and a record of the Negro's agony, someone calls out, "After 400 years of barbaric treatment, the American Negro is fed up with the unmitigated hypocrisy of the white man." Someone else says, "Sure I love my white brother, but I watch him."

It is not all thunder and denunciation. The Negro laughs at himself, too. There is satire on the hypocrisy of the white and the Negro.

In "Fly Blackbird," a 1962 musical written by a Negro and a white, the company sang about a little house by the sea. When someone inquired "Which sea?" a Negro replied, "Black Sea, of course."

In "Purlie Victorious," the 1961 play by Ossie Davis, Negro actor and playwright, which poked fun at Negro and southern stereotypes, an old Negro asks: "Whasa matter with running? Running emancipated more Negroes than Abe Lincoln."

IMPROMPTU DIALOG

Occasionally, during a performance, theatergoers hear dialog not in the script. There have been tears and nearly a fist fight at the St. Marks Playhouse, where "The Blacks," which opened in 1961 with a Negro cast, is playing. It was written by Jean Genet, a white Frenchman, and it shifts from reality to illusion in exploring the heart and mind of the Negro.

In one scene, Genet refers to South African killings resulting from a race riot. There is a line about "1,000 youngsters lying in the dust."

The day after four Negro children had been killed in Birmingham, Ala., James Earl Jones, in one of the leading roles, changed the line to "four little girls who died in a Birmingham church."

Until 1919, Negro actors, outside of their own stock companies, were employed only for comic roles. The roles of Negroes were filled by actors in black face. Twenty-seven years later, Canada Lee, the late Negro actor, was appearing on Broadway in what might be described as white-face in "The Duchess of Malfi."

Eugene O'Neill's one-acter "The Dreamy Kid" in 1919, about a Negro gangster and his dying mother, was one of the first plays to be cast with Negro actors in serious roles by a white producing company.

This paved the way for two later O'Neill plays, "The Emperor Jones" in 1920 and "All God's Chillun Got Wings" in 1924, both dealing with Negroes and cast with Negro actors.

In "All God's Chillun," a Negro, played at the time by Paul Robeson, marries a white woman. The play created a controversy and received poison-pen letters, threats of reprisal from the Ku Klux Klan and warnings of legal action.

PLAYWRIGHTS

LeRoi Jones smiles and says, "The whole situation of the Negro in America is playable—it's dramatic material."

If the Negro playwright is concentrating on the social revolution he also has broader aims. He is not abandoning his moral indignation. He is seeking to widen it, to address himself to all mankind.

"I sense a tremendous ferment," Mr. Baldwin said. "There is a whole army of people from whom one has never heard—most of them black—who are finding their voices and changing our consciousness. I think if God is good and we don't lose our nerve, we may turn this into a country instead of a European outpost, a European outpost culturally and spiritually. The whole doctrine of white supremacy comes from Europe.

"What we're trying to do is crack the metaphor. Civil rights is an absurdity." He pointed to a Negro musician sitting across the room and said: "He has kinky hair and dark skin, which doesn't make him a Negro. This is a man."

In a speech, "To Be Young, Gifted, and Black," Lorraine Hansberry, the Negro playwright who wrote the 1959 play "A Raisin in the Sun," recently told prizewinners of a creative writing contest for Negroes:

"Write about the world as it is and as you think it ought to be and must be—if there is to be a world. Write about the sit-ins; write about the lady who bored you on the airplane; write about how the stars seem viewed from earth. In short, write about all the things that men have written about since the beginning of writing and talking, and write to a point."

Miss Hansberry's play is about a Negro family in Chicago. In a deeper sense, it is about the human condition. Her next play "The Sign in Sidney Brustein's Window," with Mort Sahl as a Greenwich Village publisher, opens on Broadway in the fall.

Mr. Davis, who is 45 years old and working on a play about a Negro woman who is "integrated into corporate society and makes discoveries on her arrival," says the Negro must speak as an artist rather than as an exponent of a cause. "We must speak for the whole country the way Emerson and Thoreau did. We must get over our parochialism."

Like many of his colleagues, he believes the Negro playwright has become the social conscience many white playwrights have abandoned.

ARTISTS FOR FREEDOM

Mr. Davis, Mr. Baldwin, the Negro writers Louis Lomax and John Killens and such performers as Sidney Poitier, Odetta and Ruby Dee (Mr. Davis' wife) are members of what Mr. Davis calls a loosely formed aggregation called the Association of Artists for Freedom.

"We meet from time to time to talk and argue," Mr. Davis said. "It grew out of the Birmingham bombings. We talk of what we as artists can do, how we can express the anguish for the moral situation we find in this country but not as civil rights pleaders."

Although plays about Negroes are still considered in some quarters as box office poison, the success of "Raisin in the Sun," which ran for 19 months, has encouraged Negro playwrights.

Alice Childress, who has written several off-Broadway plays, will make her Broadway debut in October with "Wedding Band," a love story about a Negro woman and a white man in the South. Diana Sands will head the cast. Miss Childress finds the theater atmosphere encouraging. One of these days she says, "your're going to see Negro producers coming to Broadway. It will be happening soon."

MORE MANUSCRIPTS BY NEGROES

Miss Childress is on the executive board of the New Dramatists Committee, which encourages young playwrights. She said there has been a considerable increase in the number of manuscripts submitted by Negroes.

"You have a growing Bohemian and intellectual class among Negroes, a bigger black bourgeoisie," Mr. Jones, a graduate of Howard University, said.

The mood of the Negro intellectual varies. "Jimmy Baldwin's been accused of being excessive," Miss Hansberry said. "He's only scratched the surface."

Mr. Baldwin agrees. "There's much more," he said. "I don't think I'm trying to avoid anything. There's an enormous gap for me between my intentions and achievements. I know much more than I've yet been able to find a way of saying. It's much worse and much better. It's much more terrible and much more beautiful."

There is a group of young Negro intellectuals whose views are similar to those of Mr. Jones. "To see this schizophrenia—between being an American and being alienated from America, well, that alienation has reached a point where a lot of people value it," he said.

TO TRANSFORM SOCIETY

"A lot of young Negro intellectuals are not interested in integration in the sense of making a headlong flight of disappearing into white America. It's like being asked to take up residence in a burning building. They're interested in having society transformed so it's a better thing."

Mr. Davis has another view. "You can't cut yourself off from the mainstream of American life," he said. He added, "I escaped being an angry young man."

The voices of the white playwright are being heard more often on the subjects. White playwrights are including Negro characters in their plays, not as stereotypes but as human beings. "Blood Knot," a parable about South Africa today by Atholl Fugard, a South African writer, is at the Cricket. Lewis John Carlino, who is considered one of the country's most promising young playwrights, is planning to spend 3 months in the South to do research for his next play.

ACTORS

In 1960, a friend of Miss Hansberry's, a Negro actress who had received excellent notices, was talking about prospects for other roles.

She said she had an offer to read for a television part. "It wasn't a maid," she said. "It was the native girl bit. I got the script, studied the lines and went to the reading. And I read: 'Me sit on de hummock and me tink me hear sounds in de night and den.' I choked up on it, thanked the people for hearing me and left. I can't make that scene any more. Dis here native is tired of sittin' on de hummock."

During that season, according to Frederick O'Neal of Actors Equity, four shows had integrated casts. In 1960–61, there were 8; in 1961–62, 10; in 1962–63, 13. The employment picture for Negro actors has never been brighter.

Of Equity's 13,000 members, from 300 to 400 are Negroes. To broaden opportunities for Negro actors, the union has been meeting with representatives of the League of New York Theaters, the Dramatists' Guild, the Society of Directors and Choreographers and agents.

One of the highly regarded young Negro actresses is Gloria Foster of "In White America." Miss Foster attended Illinois State University and studied at Chicago's Goodman School of Drama for several years. She came here in 1961 as an understudy in "Purlie Victorious."

"I would hate to have anyone think it's gravy in New York for a Negro actor," she said. "But I can see the Negro actor taking part in theater he would not have had access to 10 years ago. Many areas around the country are opening. Negro actors are appearing in the classics. Joe Papp of the New York Shakespeare Festival is a leader in the field. And university groups are using more Negroes in production."

Last January, the Seven Arts Chapter of the Congress of Racial Equality was formed to help Negroes in show business. Its chairman is Frances Foster, a Negro actress.

"You've got to be realistic," Miss Foster said. "Take 'Nobody Loves an Albatross,' a play about television and set in Hollywood. One of the roles is a Negro maid. But there aren't any other parts in that play that could be played by Negroes. It would be unrealistic to have more Negroes in that show."

DISCRIMINATING CASTING

There are many views on this point. A Broadway producer, who asked not to be identified, said: "I think it is completely naive to assume Negroes can play white parts indiscriminately, because the essence of theater is casting discrimination. You don't cast just anybody for any part. If a part calls for a short, fat man, you don't cast a tall, thin man. When a man's color is a factor in the characterization, you have to consider it. You have to discriminate.

"Diana Sands said recently, why can't you have an interracial couple in the comedy 'Mary, Mary.' For an interracial couple to play 'Mary, Mary' is preposterous. I don't think interracial couples should play anything but interracial couples. Would you cast a white actor in 'The Blacks'? It's a terribly complex problem."

THEATERGOERS

During intermission at "Blues for Mister Charlie" the other night, a Negro in his 20's, said, "I don't go to the theater as often as I'd like to—I can't afford it—but more young Negroes are going to plays than ever before, and they're encouraging their parents to do so."

Louis Peterson, a 41-year-old Negro playwright who wrote the 1953 drama "Take a Giant Step" and whose play "Count Me For a Stranger" is due next season, agrees. He said: "You see a lot of Negroes at the theater. They're taking more interest in what's taking place in the United States culturally."

Frances Foster said that one reason for the increase was that Negroes can see things with which they can identify. "They're not afraid they're going to be insulted or embarrassed by the roles Negroes are playing," she said.

If Negroes are attending plays with a Negro theme, they are also going to all sorts of shows—from "Hello, Dolly!" to "Dylan."

"As a matter of fact," said Lonnie Elder, a playwright and member of the Harlem Writers Guild, "they've taken on some of the bad habits of the general theatergoing public—in terms of taste and in going because it's the thing to do.

The theatrical consensus is that since the bulk of the audience is white and seeks escapist fare, plays about race problems are seldom financial successes. Many of the recent plays of this kind have not done well. "Blues for Mister Charlie" is having box-office troubles. It has been suggested that the market has been saturated with plays on the Negro theme.

Philip Rose, who produced "Purlie Victorious," said that without the Negro audience, the show might have closed in a month. "We lost most of our investment of $100,000, but it ran for 9 months. On some nights, the audience was up to 70 and 80 percent Negro.

But we went after the Negro audience. We advertised in the Negro press. We went to Negro churches, clubs, and organizations to promote the play."

"Raisin in the Sun" was much more successful. It made a profit of $700,000 on a $100,000 investment in 19 months. Mr. Rose, who was coproducer of the play and is planning to stage a new play by Sidney Poitier next season, said that about 10 percent of the audience was Negro.

Mr. Rose and many others believe that Broadway does not cultivate the Negro audience.

ARTS AND FILM FESTIVALS

Mr. JAVITS. Mr. President, the increasing number of film festivals which are being held all over the world provide a stage for American cultural expression of considerable importance. American films have a demonstrated impact on people of other nations as a reflection of our life and society, and American festival participation could become a valued instrument in the cold war. The quality of artistic expression is one of the measures of a nation's progress, and the Federal Government has a national responsibility to foster the development of our cultural resources. For this purpose a National Arts Foundation as provided in S. 2379, which the Senate has passed—and the general framework of which is now pending in the House—is essential and I have sponsored and supported this proposal for many years.

I ask unanimous consent to have printed in the RECORD the article by George Stevens, Jr., entitled "A Festival for All Seasons," which appeared in the journal of the Screen Producers Guild, June; and the article by George W. Oakes entitled "Federal Arts Bill Endangered in Election Year Tactics," which appeared in the Sunday Star, Washington, D.C., May 31, 1964.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Journal of the Screen Producers Guild, June 1964]

A FESTIVAL FOR ALL SEASONS

(By George Stevens, Jr.)

(In the 2 years or more that he has been chief of the Motion Picture Division of the U.S. Information Agency in Washington, George Stevens, Jr., has made an enviable record. If the American image at foreign film festivals is improving, a good deal of the credit should go to him.)

There will be more than 130 international film festivals in 1964 and in one way or another USIA and the Department of State will become involved with each one. This involvement comes about in two ways—an official invitation to Washington from the government of the host country or a request for cooperation directed to the U.S. Embassy in the country organizing the festival.

Many of these are documentary film exhibitions, or specialized theatrical events such as the festival of religious film in Spain, or the science fiction competition in Trieste.

The most prominent festivals are those for which the Secretary of State officially accepts an invitation on behalf of the U.S. Government—i.e., the annual events at Buenos Aires, Cannes, Berlin, and Venice, plus those which alternate annually between Moscow and Karlovy Vary, Czechoslovakia. In addition there are full-fledged feature film gatherings in such places as Locarno, Cartagena, Acapulco, San Francisco, Edinburgh, Melbourne, San Sebastian, Djakarta, Beirut, Boston, and Bombay.

In the competitions for which the State Department officially accepts an invitation the United States is asked to send an "official film" entry in the feature category and often one for the short subject and documentary section. We are expected to designate a delegation chairman and an alternate delegate in the person of a USIA officer from the local embassy. In the past Frank Capra, Charlton Heston, Karl Malden, James Stewart and other figures from the American film community have been accredited by the State Department as delegation heads. These representatives serve at the request of USIA with the concurrence of the White House.

For the past 2 years the "official American film" has been selected by the Film Festival Selection Committee of which Fred Zinnemann is chairman. The committee is composed of actors, directors, producers and writers appointed by their guild presidents, plus two members of the Motion Picture Export Association. Besides the official entry which each major film producing nation is entitled to enter, the various festival organizers invite additional films for showing both in and out of competition. The number of films competing ranges from over 30 at Moscow to as few as a dozen at Venice.

The overall coordination for American festival participation is now in the hands of a committee composed of Mr. Zinnemann representing the selection group, Arnold Picker representing the major companies, Ralph Hetzel for MPEA, and this writer representing the Government. Because the different festivals operate with varying procedures and needs, the coordinating committee cooperates to meet those needs and makes certain that interested parties in the United States are informed and kept up to date. USIA has assumed responsibility for contacting artists and for issuing invitations in those cases in which the festival wishes assistance.

Why do members of the selection committee, the individuals selected as delegates and the scores of others who travel, give of their time and occasionally suffer for it—why do they make the effort?

The reasons are many and they vary with the individual. Most Americans involved in motion pictures have in their personalities differing degrees of the artist, the businessman, and the citizen—each of whom is affected by the foreign policy of motion pictures as it exists at international film festivals.

For the artist there is the opportunity to see the work of colleagues from all parts of the world. "The 400 Blows," "La Dolce Vita," "Ballad of a Soldier," "David and Lisa," "Tom Jones" will be seen and talked about at festivals long before they appear in Hollywood. Also shown are films of interest that will never be seen in the United States plus worthwhile retrospective presentations such as the recent ones honoring John Ford and Buster Keaton.

At festivals the American maker of films is always gratified and often surprised to receive respect as an artist and to be greeted with a broad knowledge of his work—a striking contrast to the indifference which exists in the United States.

The fact is that interest in films as art elsewhere around the world is largely the result of film festivals. Jean Cocteau was instrumental in organizing the Cannes festival for the very purpose of making certain that motion pictures gained recognition as an art form.

It is not easy to separate the artist from the businessman when it comes to film people, but at festivals the business mind is exposed to the world marketplace, to an advance look at new talent, and where it often gains some sense of trends. All this means something in a business which will continue to become more competitive and which depends on foreign markets for over one-half of its income.

One has only to recall the statements of Lenin, Stalin, and Khrushchev to realize that the Soviet Union regards the medium of motion pictures as the most important art and means of communication for advancing the Soviet dream of world communism. To this end the Communist bloc has seized upon the film festival as a platform for launching its influence through the cinema. This is reflected in reports to the Secretary of State by American delegates to Moscow and Karlovy Vary. These festivals devote intense attention to the nations of Africa and Asia, and the result of this influence is borne out by the emergence of the recent Afro-Asian festival in Indonesia, which President Sukarno personally used as a platform to assault Western culture and filmmaking.

Realizing that excellence creates a following, it has been the conclusion of many in American films that the United States must make an effort to excel in the international festival—and since this country is one of the few in which motion picture making is not somehow influenced and controlled by the Government, a greater responsibility rests with the private citizen in films.

It would be naive to overlook the fact that there are irritants and dissatisfactions continually in the forefront of the festival scene. There are and there will be for the very reason that so many nations and interests are involved. Some say that a picture can be hurt by its showing at a festival. Sometimes this may be true, yet it would seem that more often a film is given a special opportunity when it is screened before several hundred journalists, with attendant press conferences for the filmmakers and stars.

Complaints about the structure of festival juries have often been valid, and have been effective in forcing changes. At Cannes this year there were three Americans on the jury—imbalance in reverse. This year for the first time there will be only one Italian on the Venice jury. And besides, Stanley Kramer demonstrated that even in the Soviet Union one man can influence a doctrinaire majority.

On the whole it would seem that festivals, despite their inherent drawbacks, are a striking affirmation that motion pictures are at the center of 20th-century life as art, business, and bearer of ideas. Therefore the United States and its film community cannot wisely look away from them—and anyway, to attempt to do so would be like giving the world 24 hours to get out of town.

[From the Washington Evening Star, May 31, 1964]

FEDERAL ARTS BILL ENDANGERED IN ELECTION YEAR TACTICS

(By George W. Oakes)

Significant Government aid to the arts will become a reality if the Johnson administration effectively backs the Senate-approved House bill to establish an Arts Advisory Council and a National Arts Foundation.

Abe Fortas, a prominent Washington lawyer who is unofficial arts consultant to the President, has called it "a great bill" and one "I hope will pass."

Whether it does or not depends on what pressure, if any, the administration exerts to overcome traditional opposition in the House, especially by Chairman SMITH of the Rules Committee.

In order to gain his support for the Johnson antipoverty legislation, it seems probable according to reliable sources, that the White House will sacrifice—at least for this election year—the vital part of the arts bill—authorziation for a federally financed National Arts Foundation.

In that event, legislation would be enacted to establish only a Federal Advisory

Council on the Arts, which the President is about to set up by executive order anyway.

The Senate has passed the bill now before the House for both the Council and the Arts Foundation. At present the bill rests in the House Education and Labor Committee which is expected to report out early next month only the section authorizing the Council. The subcommittee headed by Representative Thompson, Democrat, of New Jersey, who is sponsoring the legislation reported out earlier this month, the bill which passed the Senate in the current session and which authorizes both the Council and the Foundation.

WHITE HOUSE AID

Although one House Democrat close to the Rules Committee believes that Chairman Smith would approve the entire legislation since only $10 million a year is requested, it is understood he would not do so unless the White House made concessions on such bills as the antipoverty program. Despite the number of impoverished artists in this country and the fact that twice as many Americans annually attend museums as those who go to professional baseball games, there are fears that the Johnson administration does not regard the arts as having important popular and therefore electoral appeal.

Perhaps the outstanding illustration of successful Federal aid to the arts in Washington is the regular congressional appropriation for the maintenance of the National Gallery of Art. This year it amounts to more than $2 million.

The concept of a National Arts Foundation, which has been championed in Congress mainly by Senator Jacob Javits, Republican, of New York, is based on the experience of the British Arts Council which for years has had a successful record of grants to performing and visual arts groups throughout Great Britain. It has effectively stimulated local as well as national arts groups such as the Royal Ballet of Covent Garden.

Under the present bill which Senator Pell, Democrat, of Rhode Island, piloted through the Senate, the National Arts Foundation would make 50–50 matching grants to nonprofit professional groups concerned with the arts and also matching grants in approximately equal amounts to the States both to assist existing arts programs and to develop new ones. The purpose is to encourage support for the performing and visual arts by providing "seed money." Officials point out that it is amazing how many of the performing artists sent abroad by the State Department come from small towns in obscure parts of the country. The New York State Arts Council has found the State funds have stimulated private foundations to support various arts projects. Art authorities are convinced that Federal grants would produce similar results in many communities.

PRIVATE DONATIONS

As John Walker, Director of the National Gallery of Art, said in his testimony before the Senate Subcommittee on the Arts, "The importance of this legislation is the stimulus it will provide for private donations for cultural enterprises, especially on the part of the great foundations which now devote so small a part of their total resources to the arts."

John D. Rockefeller III stated before the same Senate subcommittee that the establishment of a National Arts Foundation would "furnish the tools which seem to me necessary if Federal recognition of the arts as a mainspring in the lives of the American people is to be truly meaningful. * * * I have no reservations about the need—even the urgency—for government action at all levels—city, State, National—in the area of the arts."

The upsurge of public interest in the arts in recent years is illustrated by the extraordinary increase in museum attendance. (The National Arts Foundation could make grants to museums.) Otto Wittman, vice president of the American Association of Museums and director of the Toledo (Ohio) Museum of Art, has pointed out that today there are 5,500 museums in the United States compared to 1,500 30 years ago. In 1962, total attendance is estimated at 200 million people, or double that of 10 years ago. Educational extension programs of some 600 American museums enrolled 7 million children, 5 million adults, and 53,000 art students in 1962.

TERMS OF THE BILL

Under the bill the Senate passed, the President would appoint the 21-member National Arts Foundation's Board of Trustees. These private members would select their own chairman and vice chairman. In contrast to the composition of the Smithsonian's Board of Regents of which the Chief Justice is chancellor, no Members of Congress are proposed for exofficio membership on the National Arts Foundation Board. Officials of leading Washington art galleries and museums appear to be divided over the question of whether it is advisable for Members of Congress to serve on such a board. Although Senator Javits would like the National Arts Foundation to be "as much like the Smithsonian as possible," others would prefer to use the National Science Foundation as a model. All of its board members are private individuals, most of whom are distinguished scientists and educators. No Members of Congress serve on the board but this has not impaired the foundation's annual appropriations.

The proposed law for the National Arts Foundation would authorize the President, with the advice and consent of the Senate, to appoint a full-time director who would be the foundation's executive officer and an ex officio trustee. He would be subject to the general supervision and policy direction of the board of trustees.

Enactment of a national arts foundation bill providing Federal "seed money" for museums, art galleries, art schools, orchestras, music schools, operatic, theater and ballet group, etc., could have a major impact in stimulating the visual and performing arts just at the time when the public is patronizing these arts on an unprecedented scale.

WASTE IN DEFENSE SPENDING

Mr. NELSON. Mr. President, one of the most important responsibilities of the Congress is to oversee the spending of taxpayers' money by the various agencies of our Government. More than half of our vast Federal budget is presently spent for military purposes. I am convinced that the American people recognize the importance of this tremendous investment in our national security.

However, we have a great obligation to make certain that this great investment in national security is not wasted. And we also have an obligation to make certain that funds which are desperately needed for other purposes—to meet the tremendous challenges in the field of education, unemployment, conservation, public health, and scientific research—are not lost through unwise or unnecessary spending under the guise of national security.

Recognizing this responsibility, it comes as something of a shock to me to learn that almost half a billion dollars of waste in military spending has been documented by the U.S. Government Accounting Office—GAO—over a 12-month period.

Like all Members of Congress, I receive copies of the GAO audit reports. I asked the agency to prepare a summary of its audit reports over a 12-month period. The report summarizes the GAO activities relating to waste and mismanagement in the Defense Department between May 1, 1963, and May 1, 1964. The report shows that during this period, a total of $486.9 million of waste in military spending was disclosed.

I want to put such a figure in its proper context. Although filed in a 12-month period, these reports often cover more than 1 year of spending. However, they cover only a fraction of total military spending and therefore represent only a sample of the kind of waste which exists. Certainly, some waste is bound to occur in a budget of close to $50 billion. Also, I recognize that the President and the Secretary of Defense have made laudable efforts to cut waste in military spending to an absolute minimum.

These reports simply show that much more can be done.

We should not fall into the error of thinking that $486 million is "not very much money." It represents almost the entire executive budget of the State of Wisconsin for a 2-year period—a budget which is raised to meet the burdens of State and local government only through considerable sacrifice by Wisconsin taxpayers.

These audit reports confirm what a number of Senators have stated on the Senate floor for some time. The mere fact that money is earmarked for "defense" does not guarantee that it will be wisely spent. These audits have uncovered substantial waste, and I am confident that closer scrutiny of the military spending budget by the Congress would uncover far more waste and unnecessary spending.

For instance, earlier this year the permanent Subcommittee on Investigations of the Senate Committee on Government Operations showed that fantastic profits were being made under Defense contracts.

As you know, companies receiving defense contracts often subcontract their work to other firms. They add the subcontractor's costs and profits to their own costs, add a profit for themselves, and bill the Defense Department for the total. Under this system, firms earn astounding profits on the effort or investment which they themselves make in the contract.

In the Nike program, profits of 31.3 percent on actual effort were paid to Western Electric.

Profits of 44.3 percent on actual effort were paid to Douglas Aircraft.

On a total of 17 Nike production contracts worth over $1.5 billion, Western Electric and Douglas Aircraft were paid $114.6 million in profits, for which they did absolutely no work.

Western Electric took markups of $77.3 million on work done by others. Douglas Aircraft took similar markups of $37.3 million.

On launcher loader contracts, profits of 6,684 percent—on actual effort—were paid to Western. Thus Western made $955,000 on a $14,293 investment.

Similarly, on launcher loader subcontracts, astounding profits of 36,531 percent on effort were paid to Douglas. In other words, Douglas made $1.2 million on a $3,316 investment.

In still another case, profits of $3.2 million were paid to Western on trailer contracts. But Western did absolutely no work to earn this fee. Similarly profits of $3.6 million were paid to Douglas on trailer subcontracts. And this fee was over and above any work Douglas did in connection with the trailers.

We recently enacted a major tax cut bill because we were convinced that Federal taxes were a brake on our economy and were impeding the economic growth of the Nation, which is our source of greatest strength.

Taxes are still a substantial burden on American business, industry, and individuals. Where this money is necessary to keep our Nation strong, to protect public health and safety, to meet the social and economic problems which cannot be met in any other way, I am perfectly ready to support the necessary taxation.

But no Senator can be expected to support the taxation of American citizens to provide 6,000 percent profits to a single industry. And no taxpayer should be forced to sacrifice to help raise half a billion dollars which will be squandered by the Defense Department.

I am convinced that, under the leadership of Secretary McNamara, the incentive to eliminate waste and unsound contracting methods exists in the Defense Department. But it is up to the Congress—the voice of the American taxpayers—to review this spending and make certain that tax dollars are not thrown away simply because we all realize it takes a lot of money to build a strong national defense system.

After reviewing these reports I am more convinced than ever that we could cut at least 2 percent out of our $50 billion military budget without endangering national security in the slightest.

I ask unanimous consent that a letter to me from the Comptroller General of the United States be included in the RECORD at the conclusion of my remarks.

In this connection, I would also like to offer for the consideration of the Senate the following article from the May 29, 1964, Science magazine, which details one example of how great sums of money can be spent for no good purpose at all, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter and article were ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, June 12, 1964.

The HONORABLE GAYLORD NELSON,
U.S. Senate.

DEAR SENATOR NELSON: In response to your informal request, we are submitting certain information from the audit reports issued by our office during the period May 1, 1963, through May 4, 1964, on Department of Defense activities. You specifically asked for the total amount of wasteful or unnecessary costs shown in these reports.

We issued these reports during the period mentioned covering procurement, maintenance, and supply activities in the Departments of Army, Navy, and Air Force. The unnecessary expenditures or costs which we were able to identify in these reports as having been made, or scheduled to be made, amounted to over $485 million. Some of the costs scheduled to be incurred were canceled as a result of our reviews.

Our reviews of DOD activities are limited to a small percentage of the total funds spent by that Department, but we attempt to use our manpower resources where we feel we can make the greatest contribution to increased economy and better management.

Sincerely yours,

JOSEPH CAMPBELL.

[From Science, May 29, 1964]

NEWS AND COMMENT—BIG DISH: HOW HASTE AND SECRECY HELPED NAVY WASTE $63 MILLION IN RACE TO BUILD HUGE TELESCOPE

On the basis of a detailed and official autopsy report on the Navy's 7-year attempt to build the world's largest radiotelescope, it appears that the most promising piece of salvage from $63 million in outlays might be a libretto for a musical comedy.

The Department of Defense, which killed the trouble-ridden project in 1962 despite Navy protests, has offered assurances that newly devised management techniques make further cases of this sort unlikely. And, since Defense Secretary McNamara has demonstrated an unprecedented ability to blend rationality with the uncertainties of military research and development, the assurances command respect. Nevertheless, the telescope venture—even if it can't happen again—makes it easy to understand Congress flourishing skepticism toward research and development proposals, and it also throws some illumination on the corrosive effects that the cold war has had on scientific and technical enterprises. The other side of the coin—namely, the nonmilitary benefits accruing from R. & D. motivated by East-West rivalry—has been amply publicized; but it is long overdue for equal time to be given to the fact that a lot of talent, money, and spirit go to waste when technological foolishness is permitted to gallop under a national security banner.

Although the telescope episode ended in July 1962 with a brief cancellation announcement by the Navy, the first detailed account of this security-bound project was not available until last month, when the General Accounting Office, Congress financial investigatory arm, issued a 53-page report titled, "Unnecessary Costs Incurred for the Naval Radio Research Station Project at Sugar Grove, W. Va."

Sugar Grove, as the telescope was conveniently referred to, was conceptualized, in 1948, as a purely scientific undertaking by personnel of the Naval Research Laboratory (NRL). The proposal, to build a large, steerable radio telescope for detecting radio emanations from outer space, had shaped up by 1956 to a design calling for what would have been the largest movable land-based structure in the world: a reflector dish 600 feet (180 m.) in diameter—more than 7 acres in area—that would rise to a maximum height of 675 feet above its foundation. To maintain its parabolic configuration in all environmental conditions, including high winds, icing, and bright sunlight, the surface of the dish was to be covered with hydraulically motivated and electronically controlled aluminum panels, 50 by 50 feet.

In the spring of 1956, Congress was told that the construction cost would be $20 million, and, without a quibble, it appropriated an intial $1.3 million for achitectural and engineering services. By the winter of 1957, Congress was told that the cost had risen to an estimated $52.2 million. Not long afterward it was told that it would be desirable to combine highly classified military functions with the instrument's scientific capabilities, and that this would raise the cost to $79 million. (These military functions have never been publicly spelled out, but it appears that they involved using the moon as a relay point to monitor Soviet radio transmissions.) Later estimates raised the cost to $126 million, and then to $200 million and possibly as much as $300 million. In September 1961, even Congress generally boundless indulgence for military research was insufficient for Sugar Grove's requirements, and a ceiling of $135 million was placed on the project. Shortly thereafter, the Defense Department concluded that the military tasks prescribed for Sugar Grove could be attended to by other means, presumably space satellites, and it directed the Navy to end the project. At that point, expenditures totaled $63 million, for which the Navy had a lot of plans, a large clearing in the West Virginia mountains, a 17,000-cubic-yard concrete foundation, a 550-ton pintle bearing, and a few other monumental odds and ends that will surely baffle archeologists of some coming century unless a copious explanation is carefully left behind.

In examining how and why it happened, the General Accounting Office spells out a story that Lewis Carroll might have envied. From the start, the Navy was in a desperate hurry, a fact that the GAO attributes to Sugar Grove's military potential, but which also may have had something to do with the Navy's desire, early in the space age, to get a piece of space jurisdiction for itself. In this spirit of haste, the Bureau of Yards and Docks (BuDocks), which was managing the project, decreed that construction would proceed concurrently with design. Work on the foundation then got underway, while design on the superstructure proceeded. Meanwhile, various scientific advisory bodies were expressing doubts about the costs and technical capabilities of the telescope, but BuDocks attended to that problem by keeping the scientists out of the project.

HEAVIER AND HEAVIER

"After structural design was initiated," the GAO reports, "early results indicated that, if the instrument were to retain its configuration automatically * * * a complex control system would be required. It was found that any increase in rigidity to prevent deflection of the reflector would be self-defeating since the added weight of steel would in itself cause more deflection. Accordingly, the design for the superstructure was changed from a simple to a novel and highly complex form. Conventional methods for the necessary check analysis of structural stresses could not be used. * * * BuDocks decided on a machine (computer) computation for the analysis of the unique design problem. * * * Normally detailed structural design would have been delayed until the computer results were known, but BuDocks considered that the military urgency of the project made it necessary to proceed with the preparation of the bid requests and the procurement of steel. * * * By the summer of 1960, studies of the computer results showed that much of the prior design had been inadequate. The overall moving weight of the instrument was calculated to approximate 36,000 tons which would be far in excess of the designed capacity of the supporting structure already under construction. The weight calculation was, even then, based on estimates for several highly important areas for which design had progressed to only a concept stage. Many major problems for which no precedent existed were still unsolved."

BuDocks then obtained the services of a new design firm, which found, as GAO put it, that "prior design assumptions could not be relied upon and that a total reanalysis and redesign of the project would be required. * * * In the meantime, much of the construction of the supporting structure had been completed."

SPEED AND SECRECY

While BuDocks was pleading military urgency and pouring concrete, it was also hanging out top secret signs to fend off the participation of the very scientists who had helped originate the project. Although work at the Sugar Grove site was going full blast, the GAO concluded, "the scientific problems involved in the construction of a 600-foot radio telescope had not been solved, nor was there any prior experience in constructing an instrument of this size with the required mobility and close tolerances in all its parts. Therefore, the successful fulfillment of the project required close collaboration and the best efforts of the scientific and the construction agencies of the Department of the Navy.

"This need for close collaboration * * * was not adequately recognized until about the end of the history of this project. Rather, the record shows that BuDocks * * * almost completely eliminated effective scientific participation in the big dish project by scientific personnel until it became very clear to BuDocks that assistance from the scientific community was essential to solve several of the scientific problems.

"After BuDocks had been given responsibility for construction * * * communication with the scientific and research engineering community outside the Government diminished or was completely closed by the security classification of significant elements of the project and actions of BuDocks personnel, and liaison with Naval Research Laboratory and Office of Naval Research scientists and research engineers deteriorated."

In 1959, the GAO report continues, "despite evidence that design problems were getting out of hand," BuDocks proposed disestablishment of the Sugar Grove Steering Committee, whose representatives—from NRL, ONR, and BuDocks—were supposed to coordinate research, design, engineering, and construction. When the Chief of Naval Research protested that the committee was ONR's only formal link with the project's planning, BuDocks agreed, in July 1959, to retain the committee. The records show, however, that the committee held only one meeting after that date.

In that same year, the Office of the Secretary of Defense appointed an advisory group that the GAO described as "the country's outstanding experts in fields allied to those comprehended by the Big Dish." The group reported back that "the project is cloaked in a mantle of security which precludes participation by the scientific community in the formulation of the design, for the dish."

BUDOCKS VERSUS THE EXPERTS

A few months later, the Defense Department's director of research and engineering brought together a group of specialists to consider the project. BuDocks, however, was not interested. A memorandum to the director from a member of his staff, "I have been informed that the Bureau of Yards and Docks area commander, Norfolk, has intervened and stated that he will take charge of the meeting from the Navy side and that none of the experts mentioned above will be included." The Secretary of Defense had to take the matter up with the Navy to bring about the meeting with the expert group.

As for the NRL scientists who had first developed the concept for the telescope, they found that BuDocks and its original designers had little patience for their opinions. Although GAO concluded that "NRL had an abundance of structural engineering capability," NRL scientists found that their reservations about construction matters were not appreciated, and they were also told that BuDocks "could not wait for the 'scientific approach'."

By early 1960, it was clear that the project had acquired a vitality of its own and that it would not be easily responsive to the will of men. When NRL first worked out its plans, it assumed that a staff of 30 would do nicely, to man the telescope, its computers, the library, and other facilities. The Navy, the GAO found, "revised this concept to a planned complement of 1,146 people with all the additionally required housing, commissary, and other support facilities."

As for GAO's contention that the project should have been slain in 1960, rather than in 1962, it was informed by the Secretary of Defense that—in GAO's words—"cancellation was tardy to some extent * * * but in almost all cases resulting in cancellation there is a significant delay between the date of the decision and the date that cancellation is actually effected. However, they stated that such a delay normally should not exceed about 6 months."

Perhaps the most disturbing thing about the Sugar Grove debacle is that it apparently has not driven anyone in Washington to raving anger. Part of the reason, of course, is that McNamara—over the violent protests of the military services—has since instituted review and management procedures that would make it difficult for a similar octopus to get loose. But the principal reason for the ho-hum attitude is that when a national security tag is hung on a project, sound judgment often goes out the window. It might be useful to speculate what would have happened in Congress if, let's say, the National Science Foundation had been responsible for what happened at Sugar Grove.

D. S. GREENBERG.

SAM YETTE AND THE PEACE CORPS

Mr. HUMPHREY. Mr. President, the Peace Corps continues to receive just praise, not only favorable for its program activities, but for its quality of personnel.

It has been my privilege to know Mr. Sam Yette, who was recently appointed to a key position in the Peace Corps. He left his community with plaudits of his fellow citizens and the editorial congratulations and support of the Dayton Journal Herald of Dayton, Ohio. The editorial speaks eloquently of Mr. Yette and justly praises the work of the Peace Corps. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Dayton (Ohio) Journal Herald, Apr. 15, 1964]

PEACE CORPS, A PROTOTYPE

The Peace Corps recruiting efforts in Dayton of Sam Yette, the Journal Herald's prize alumnus, remind us of the high and rightful esteem the Peace Corps has won for itself.

We ourselves think that the corps offers a prototype for a far larger role for America in world affairs.

Sam Yette came to us as the first Negro reporter on a metropolitan paper in our community. There could not have been a better pioneer. The whole town seemed to welcome him. When he left to become executive secretary to the Peace Corps a year ago, it was certain that the Peace Corps would get a boost, too.

The Peace Corps perhaps needed one in its early years. There were a lot of skeptics, including to a certain extent ourselves. People felt they were sending boys to do men's work.

Now everybody's convinced. The young Americans who make up the corps have won hearts nearly every place they've gone. Their devotion to making life better around the world has been unmistakable. The enrichment of our own country when they return, as Mr. Yette was pointing out yesterday, will be one of its greatest rewards.

It is pretty certain, perhaps, that trained experts in farming, medicine, transportation, and administration would have got more done than these young men and women who are usually fresh from college. We have such, too, of course, in the Agency for International Development (AID). But they hardly win the hearts, and these young ones, we suspect, are the vanguard of an army of the future, an army of Americans going out to help build and organize a better life around the world, many of them in private business, we hope, some sent by our Government, and all inspired by the dedication of the Peace Corps pioneers.

RECOGNITION OF CHARLES C. STELLE

Mr. HUMPHREY. Mr. President, many of us who knew him, were deeply saddened by the death of Charles C. Stelle. Mr. Stelle has been acting chief delegate for the United States at the disarmament conferences in Geneva, for the last 4 years. He was a major negotiator in achieving the limited test ban treaty, and also in establishing the hot line between Washington and Moscow. Experience and skill is at a special premium in the field of disarmament negotiation, and Charles Stelle's loss, at the early age of 53, is a most regrettable one for the United States.

Although he was known as a dedicated and valuable career officer in the Foreign Service, with an excellent record to his credit in many assignments, his work on the limited test ban treaty and hot line will undoubtedly be outstanding hallmarks of his career.

He was known as a diplomat who worked by keeping himself in the background. Yet those of us who came to know him personally, came to have the highest appreciation for the skill, competence, and strength of character of Charles Stelle. His passing is a loss to the United States, and a personal loss to me.

The New York Times in noting his death, summarized his career in terms I should like to appear in the CONGRESSIONAL RECORD. I ask unanimous consent at this time, to have that notice printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHARLES C. STELLE, 53, IS DEAD; HELPED NEGOTIATE TEST BAN PACT—TOP U.S. DISARMAMENT AID ALSO WORKED ON HOTLINE—SERVED SPACE AGENCY

WASHINGTON, June 11.—Charles C. Stelle, a major U.S. negotiator in the atomic test ban treaty and the Washington to Moscow "hotline" agreement, died here this morning in Georgetown University Hospital of complications from a recent operation. He was 53 years old.

Mr. Stelle, who had been the acting chief delegate at the disarmament conferences in Geneva during most of the sessions for the last 4 years. was in Washington for consultations on a special assignment he had been on with the Space Sciences Laboratory at the University of California.

Secretary of State Rusk said Mr. Stelle was "a dedicated career officer" who had "performed outstanding service for his country in varied and difficult assignments."

Survivors are his widow, the former Jane Kellogg, and a son, Kellogg Sheffield Stelle.

OLD-SCHOOL DIPLOMAT

Mr. Stelle was a diplomat of the old school who preferred to work outside the spotlight. It was not his doing that the subjects with which he dealt in the last few years—the nuclear test ban treaty and the hot line from the White House to the Kremlin—turned it on himself.

Even as chief negotiator at Geneva in disarmament talks from 1960 until last summer, he said as little as possible in public about his work. One correspondent who had to deal with him there described him as "the type of diplomat who thinks twice before answering a reporter who asks him the time of day."

Part of this reticence may have been acquired through his work with the Office of Strategic Services in the Far East during World War II. He joined the wartime intelligence operation as a civilian in 1941 but later was commissioned in the Army and was discharged as a major with a Bronze Star and oak leaf cluster. He joined the State Department in 1946 as Chief Director of Research for the Far East.

Mr. Stelle was well prepared for his work in the Far East. He was born October 25, 1910, Peiping, of missionary parents, and lived in China until he was 14. He went back there in 1932 for 2 years at the College of Chinese Studies in Peiping. The diplomat retained his interest in the Orient and his command of the Chinese language even when his duties at State channeled his activities toward other areas of the world.

Mr. Stelle was the first of several generations of his family to choose the striped pants of a diplomat over the surplice of the clergy. A Stelle had been minister of a Reformed Church founded by his Huguenot ancestors at Piscataway, N.J., for seven generations without interruption.

When he was sent to Geneva in 1960 by President Eisenhower as deputy head of the U.S. mission to the short-lived 10-nation disarmament conference in 1960, with the rank of "Minister," he cabled his mother: "After seven generations I finally made it."

Mr. Stelle had few interests or hobbies outside his work although he liked to play both chess and bridge and make an occasional study of the roulette wheel at Evian-les-Bains during his years in Geneva. He and his wife also liked to explore the culinary delights of the many French restaurants that were within easy driving distance across the border from Geneva. He left the disarmament talks last summer to come home for special work with the space agency.

In addition to his studies at Peiping, Mr. Stelle received A.B. and Ph. D. degrees at the University of Chicago and was a Rockefeller Foundation fellow at Harvard, 1938–40. He also attended Phillips Academy at Andover, Mass., and Amherst College.

STEEL COMPANIES AND UNITED STEELWORKERS AND NONDISCRIMINATION

Mr. HUMPHREY. Mr. President, in the morning papers today there is good news—the agreement between the United Steelworkers Union on the one hand and 11 major steel companies on the other pledging continuing joint action to advance nondiscrimination in employment in the steel industry.

This is a landmark agreement, Mr. President, and one which demonstrates what can be done when men of good will and intelligence sit down together, and place a high priority on working out solutions.

This splendid agreement to encourage objective, nondiscriminatory attitudes within both union and management is one which I hope and trust will be followed in similar agreements throughout American industry.

The contemplated passage of the civil rights bill is only one step in the campaign to destroy discrimination in America. Equally important will be the voluntary steps taken in just such fashion as the steelworkers and the steel company management have taken them.

Mr. President, I wish to express congratulations to the cochairmen of the Joint Human Relations Committee of the steel industry, David J. McDonald, president of the United Steelworkers, and R. Conrad Cooper, executive vice president of United States Steel, and to their associates who have broken this new ground in the path to a just and equitable treatment of all our citizens.

BALTIC PEOPLES AND THEIR TREATMENT BY THE SOVIET GOVERNMENT IN 1940–41

Mr. CASE. Mr. President, almost 25 years ago, when the Western World became involved in what turned out to be a global war, the Soviet Government was reaching out beyond its borders. Early in 1940 the democratic Governments of the three Baltic States—Estonia, Latvia, and Lithuania—were forced to submit to the Soviet Government's dictation. The Governments of these countries were forced to allow the garrisoning of Soviet troops at all strategic points. Of course, this meant the loss of independence on the part of these states. Then in mid-June, these countries were overrun and occupied by the Red army, thus putting an end to freedom there.

In that fatal June, began the Soviet Government's deepest cruelty in these countries, when mass arrests and deportations of innocent people by the tens of thousands were made. Such arrests and imprisonments, and the deportations of victims to far off parts of the Soviet Union continued for a whole year while terror reigned in these countries.

These arrests and deportations were intensified in mid-June of 1941, when it was reported that during the night of June 13–14 nearly 10,000 people were rounded up in Estonia alone, all destined for deportation. It is impossible for us to know how many hundreds of thousands of innocent and helpless men, women and children were uprooted, deported, and lost their lives in some distant, desolate corner of the Soviet Far East.

Today, in observing the 24th anniversary of that sad and tragic event, Mr. President, we honor the memory of these victims of Soviet inhumanity under Stalin.

Let us hope that the modest liberalizations in the treatment of the fortunate survivors by the present Soviet Government may be greatly increased and strengthened. And let us never lose hope that the freedom so highly cherished in the three Baltic countries may ultimately be restored.

HUMANE TREATMENT OF ANIMALS

Mrs. NEUBERGER. Mr. President, editorial support continues to grow for legislation to provide humane treatment of animals used in scientific experiments.

Editors point out that bills pending before House and Senate committees do not constitute antivivisection legislation. They emphasize that medical and scientific research must continue for man's health and benefit, but this does not mean that human carelessness and cruelty to animals are a necessary part of attaining that objective.

I ask consent to include in the RECORD an editorial from the Mobile, Ala., Register of March 26, 1964, entitled "Needless Torturing of Animals Should End."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Mobile Register, Mar. 26, 1964]

NEEDLESS TORTURING OF ANIMALS SHOULD END

On many questions, we do not see eye to eye with Senator JOSEPH S. CLARK, of Pennsylvania, Senator MAURINE B. NEUBERGER, of Oregon, and the New York Times. They are often too "New Dealish" for us.

But on the question of further Federal legislation against needless torture of dumb animals used in medical and scientific research, we agree that Congress should enact it.

It is an outrage to subject so-called laboratory animals to unnecessary cruelties, and Congress should not hesitate to strengthen and broaden prohibitory Federal law.

"The Clark-Neuberger bill pending in the U.S. Senate and a companion bill in the House would insure decent treatment of laboratory animals, including adequate rest and exercise areas, proper feeding and sanitation," comments the Times.

It adds that animals subjected to painful tests would be anesthetized—"now not always the case."

Also, says the Times, "the existing Federal Humane Slaughter Act covers about 80 percent of the animals slaughtered in this country; but the rest can be covered only by State laws."

This suggests the advisability of adequate anticruelty State laws for the protection of dumb animals where these do not exist.

Whether the Clark-Neuberger bill in its exact present form is the perfect answer to the advisability of more effective Federal legislation, we do not know. But either it, a variation of it, or a substitute for it, should be enacted by Congress without quibbling and without paying any attention to lobbyists running around with propaganda which, if successful, would leave dumb animals still exposed to much needless torture.

Senator NEUBERGER reminds that she and Senator CLARK, in sponsoring the Senate bill, "have always stressed that it is in no way designed to slow medical and scientific research."

It is well that this fact is emphasized. For one important thing, emphasizing the fact is frustrating to the opposition—and a full dose of frustration is what the opposition deserves.

We have been pleading for a long time against needless torture of dumb animals in slaughter and experimentation. We hope our pleading has contributed to the progress against that outrageous practice, and will continue to contribute to progress against it.

HIGHER ACHIEVEMENT THROUGH HIGHER EDUCATION

Mrs. NEUBERGER. Mr. President, we are all aware of the growing enormous significance of education in American life. The vital importance of education in the fight by the Negro community to achieve the full fruits of citizenship have been emphasized again and again during the civil rights debates. The Department of Labor statistics illustrate the all too close relationship between school dropouts and subsequent unemployment in a skill-demanding society. State after State is having to face agonizing choices in the legislature and on the ballot to decide how much the people can afford to tax themselves for public education facilities and services at all levels. I recall how proud I was that the voters in the recent Oregon primary election approved a State bond issue for higher education, demonstrating once again their sophisticated understanding of where their real interests lie.

One of the more striking attempts to come to grips with the demands for increased educational opportunities and for "a more practical curriculum" has been the emergence of the community college. Oregon already has thriving community colleges and shows every sign of sharply increasing their number. A recent study of student body characteristics at two Oregon community colleges has been published by the University of Oregon School of Education. I found some of the highlights of that study fascinating. Certainly the study provides us with much needed evidence on which to base an intelligent judgment on the contribution of these colleges to the larger community.

I ask unanimous consent that the article from the Eugene Register-Guard summarizing the study be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Eugene (Oreg.) Register-Guard, May 31, 1964]

Study Shows Community Colleges Pay

Oregon's community colleges are proving successful in encouraging bright students from lower income families to continue their educations and giving lower achievement students an opportunity for some type of post-high school training, according to a University of Oregon study.

The results of the study, entitled "Student Body Characteristics Reveal the Educational Contribution of Oregon's Community Colleges," appear in a recent issue of the Bulletin of the Oregon Study Council, published by the University School of Education.

The study was made by Martin Scheffer, former university graduate student, now teaching at Contra Costa (Calif.) Junior College.

Scheffer studied the 1962 high school graduating classes in six Oregon cities located close to two community colleges, the Central Oregon Community College and the Southwestern Oregon Community College.

The communities studied were Bend, Redmond, and Prineville in central Oregon, and North Bend, Coos Bay, and Coquille in southwestern Oregon.

Graduates were divided into those attending 4-year colleges and universities, those attending community colleges, and those not attending colleges. Each group was studied for family background, high school achievement and activities, and personal characteristics.

The community college enrollment is quite heterogeneous, Scheffer noted, and includes considerable numbers of students from all social levels.

However, the study showed that the community college draws 64 percent of its student body from blue-collar families compared to 39 percent in 4-year colleges.

Observing that "family background is the single important factor in determining college attendance," Scheffer pointed out that "a much larger proportion of high school graduates from the * * * blue-collar classes can justifiably be said to be continuing their education largely as a result of the community college in their area."

The community college is drawing almost half of its students from the lower half of the high school graduating classes, while 4-year colleges are admitting only about 13 percent of this group, the study showed.

Half of all community college entrants have general education backgrounds in high school compared to only 17 percent of 4-year college entrants, most of whom have college preparatory backgrounds.

Many of the community college students may have decided late in their high school careers to attend college, and the 2-year college is giving them an opportunity to make up deficiencies in core subjects before going on to higher institutions, Scheffer said.

Community college entrants fell halfway between the other two groups in number of college preparatory courses taken, grade point average earned, participation in extracurricular activities, and attendance while in high school.

Seventy-eight percent of community college entrants have a measured IQ of 100 or above, and 76 percent of this group are from blue-collar families, demonstrating that "the community college does in fact serve a valuable democratizing function by drawing capable students from lower socioeconomic-class levels," the report said.

On the other hand, the more than 20 percent of community college entrants with IQ's below 100 are being given an opportunity for post-high-school training in job skills.

The study also brought out the fact that 36 percent of high school graduates with IQ's of 100 or above do not go on to college. This includes 10 percent with IQ's in excess of 120.

"This is a striking indication of the immense amount of talent which is educated short of its potential," Scheffer observed.

The older a high school student is at the time of graduation the less likely he is to go on to college. High school graduates below 18 are almost four times as likely to go on to college as graduates over 18. The community college enrolls the highest percentage of entrants over the age of 18, perhaps giving an added opportunity to "late bloomers," the study showed.

Although the sex ratio proved to be almost exactly one male to one female for both 4-year college entrants and those not going on to college, the community college contains a sex ratio of more than two males to one female, probably reflecting the technical-vocational emphasis in these institutions.

As the community colleges in Oregon grow and develop a more comprehensive curriculum, the proportion of women students will probably increase, Scheffer predicted.

Nationwide, the 2 to 1 ratio holds for 4-year institutions, while this is not true in Oregon. There is no immediate explanation for the increased enrollment of Oregon girls in 4-year colleges, Scheffer said.

NATIONAL COMMISSION ON FOOD MARKETING—REQUEST FOR THE RETURN OF PAPERS FROM THE HOUSE OF REPRESENTATIVES

Mr. MAGNUSON. Mr. President, I yield myself 1 minute. I ask unanimous consent that the House be requested to return to the Senate the official papers on Senate Joint Resolution 71, to establish a National Commission on Food Marketing.

As I explained to the Senate on Friday, it was expected that there would be a conference with the House on the joint resolution. However, we decided that we would not have a conference and that we would accept the House amendment. That is the reason for the request. I understand that we must request the House to return the papers, and therefore I make that request.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

Is there further morning business? If not, morning business is closed, and the Chair lays before the Senate the unfinished business.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The **PRESIDING OFFICER.** The substitute amendment is open to further amendment.

Mr. HILL. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 335 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Goldwater
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Johnston
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller

Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from Virginia [Mr. Byrd], the Senator from Tennessee [Mr. Gore], and the Senator from North Carolina [Mr. Jordan], are absent on official business.

I also announce that the Senator from Pennsylvania [Mr. Clark], the Senator from Florida [Mr. Smathers], and the Senator from Texas [Mr. Yarborough], are necessarily absent.

I further announce that the Senator from California [Mr. Engle] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. Cooper] and the Senator from Illinois [Mr. Dirksen] are absent on official business.

The Senator from Texas [Mr. Tower] is necessarily absent.

The Senator from New York [Mr. Javits] is detained on official business at the White House.

The PRESIDING OFFICER. A quorum is present.

The Dirksen-Mansfield substitute is open to further amendment.

Mr. ERVIN. Mr. President, I call up my amendment No. 782, modified to conform to the revised substitute amendment No. 1052. I ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The Chief Clerk. On pages 4, 5, and 6, beginning with the designation "(d)" on line 19 on page 4, strike out everything through the word "expedited" on line 11 on page 6.

Mr. ERVIN. Mr. President, I yield myself 1 minute.

I believe that all cases of like character ought to be tried by the same court. Also, I believe that the courts should have control of their own dockets.

The amendment would strike out the provision in title I which would authorize the Attorney General or the attorney for the defendant to go "judge shopping," in order to select the district court or a three-judge court to try a case, according to whichever one suited his wishes or his fancy.

It would also strike out the provision which undertakes to regulate the court's handling of its own dockets.

I believe it a meritorious amendment, and that its adoption would improve the bill.

I reserve whatever time I have not used of the minute I yielded to myself.

I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Carolina [Mr. Ervin]. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. PELL (after having voted in the affirmative). On this vote I have a pair with the Senator from Maryland [Mr. Brewster]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Virginia [Mr. Robertson]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from Virginia [Mr. Byrd], the Senator from Tennessee [Mr. Gore], the Senator from North Carolina [Mr. Jordan], and the Senator from Virginia [Mr. Robertson] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Florida [Mr. Smathers], the Senator from Texas [Mr. Yarborough], and the Senator from Pennsylvania [Mr. Clark] are necessarily absent.

On this vote, the Senator from Virginia [Mr. Byrd] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Virginia would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from North Carolina [Mr. Jordan] is paired with the Senator from Pennsylvania [Mr. Clark]. If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Pennsylvania would vote "nay."

I further announce that, if present and voting, the Senator from Florida [Mr. Smathers] would vote "yea."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. Cooper] and the Senator from Illinois [Mr. Dirksen] are absent on official business, and if present and voting, would each vote "nay."

The Senator from Texas [Mr. Tower] is necessarily absent and, if present and voting, would vote "nay."

The Senator from New York [Mr. Javits] is detained on official business at the White House, and, if present and voting, would vote "nay."

The result was announced—yeas 23, nays 62, as follows:

[No. 336 Leg.]

YEAS—23

Byrd, W. Va.
Eastland
Ellender
Ervin
Fulbright
Hayden
Hickenlooper
Hill
Holland
Johnston
Long, Mo.
Long, La.
McClellan
McGovern
Metcalf
Russell
Simpson
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters

NAYS—62

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Goldwater
Gruening
Hart
Hartke
Hruska
Humphrey
Inouye
Jackson
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Magnuson
McCarthy
McGee
McIntyre
McNamara
Mechem
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—15

Brewster
Byrd, Va.
Clark
Cooper
Dirksen
Engle
Gore
Javits
Jordan, N.C.
Mansfield
Pell
Robertson
Smathers
Tower
Yarborough

So Mr. Ervin's amendment was rejected.

Mr. PASTORE. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, I call up my amendment No. 904 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The Chief Clerk. Is is proposed to strike out title II, beginning on page 6, line 12, down to and including line 23, on page 14, as follows:

TITLE II—INJUNCTIVE RELIEF AGAINST DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

Sec. 201. (a) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

(b) Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

(1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;

(3) any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment; and

(4) any establishment (A)(i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

(c) The operations of an establishment affect commerce within the meaning of this title if (1) it is one of the establishments described in paragraph (1) of subsection (b); (2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b), it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph (4) of subsection (b), it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

(d) Discrimination or segregation by an establishment is supported by State action within the meaning of this title if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance, or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of the State or political subdivision thereof.

(e) The provisions of this title shall not apply to a bona fide private club or other establishment not open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

SEC. 202. All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule, or order of a State or any agency or political subdivision thereof.

SEC. 203. No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 201 or 202, or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 201 or 202, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 201 or 202.

SEC. 204. (a) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved and, upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security.

(b) In any action commenced pursuant to this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

(c) In the case of an alleged act or practice prohibited by this title which occurs in a State, or political subdivision of a State, which has a State or local law prohibiting such act or practice and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no civil action may be brought under subsection (a) before the expiration of thirty days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings.

(d) In the case of an alleged act or practice prohibited by this title which occurs in a State, or political subdivision of a State, which has no State or local law prohibiting such act or practice, a civil action may be brought under subsection (a): *Provided*, That the court may refer the matter to the Community Relations Service established by title X of this Act for as long as the court believes there is a reasonable possibility of obtaining voluntary compliance, but for not more than sixty days: *Provided further*, That upon expiration of such sixty-day period, the court may extend such period for an additional period, not to exceed a cumulative total of one hundred and twenty days, if it believes there then exists a reasonable possibility of securing voluntary compliance.

SEC. 205. The Service is authorized to make a full investigation of any complaint referred to it by the court under section 204(d) and may hold such hearings with respect thereto as may be necessary. The Service shall conduct any hearings with respect to any such complaint in executive session, and shall not release any testimony given therein except by agreement of all parties involved in the complaint with the permission of the court, and the Service shall endeavor to bring about a voluntary settlement between the parties.

SEC. 206. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) In any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

SEC. 207. (a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) The remedies provided in this title shall be the exclusive means of enforcing the rights hereby created, but nothing in this title shall preclude any individual or any State or local agency from asserting any right created by any other Federal or State law not inconsistent with this title, including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right.

Mr. BYRD of West Virginia. Mr. President, on my amendment I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. How much time does the Senator from West Virginia yield himself?

Mr. BYRD of West Virginia. I yield myself 15 minutes.

Mr. President, 749 years ago today, on June 15, in the year 1215, the English barons, in a meadow at Runnymede, between Windsor and Staines, forced King John to attach his signature to the great charter of English liberty.

In general terms, Magna Carta was intended to prevent the exercise of arbitrary authority over his subjects by an English King.

The great document, wrenched from a pusillanimous King John, consisted of 63 articles, many of which secured to Englishmen their natural rights in property.

I wish to quote a few words by Woodrow Wilson, taken from his book entitled "Constitutional Government." He said:

> Roughly speaking, constitutional government may be said to have had its rise at Runnymede, when the barons of England exacted Magna Carta of John; and that famous transaction we may take as the dramatic embodiment alike of the theory and of the practice we seek. The barons met John at Runnymede, a body of armed men in counsel, for a parley, which, should it not end as they wished it to end, was to be but a prelude to rebellion. They were not demanding new laws or better, but a righteous and consistent administration of laws they regarded as already established, their immemorial birthright as Englishmen.
>
> They had found John whimsical, arbitrary, untrustworthy, never to be counted on to follow any fixed precedent or limit himself by any common understanding, a lying master

who respected no man's rights and thought only of having his own will; and they came to have a final reckoning with him. And so they thrust Maga Carta under his hand to be signed—a document of definition, which spoke of rights which had been disregarded and which must henceforth be respected, of practices until now indulged in which must be given over and remedied altogether, of ancient methods too long abandoned to which the King must return; and their proposal was this: "Give us your solemn promise as monarch that this document shall be your guide and rule in all your dealings with us, attest that promise by your sign manual attached in solemn form, admit certain of our number a committee to observe the keeping of the covenant, and we are your subjects in all peaceful form and obedience—refuse, and we are your enemies, absolved of our allegiance and free to choose a King who will rule us as he should." Swords made uneasy stir in their scabbards, and John had no choice but to sign. These were the only terms upon which government could be conducted among Englishmen.

That was the beginning of constitutional government, and shows the nature of that government in its simplest form. There at Runnymede a people came to an understanding with its governors, and established once for all that ideal of government which we now call constitutional—the ideal of a government conducted upon the basis of a definite understanding, if need be of a formal pact, between those who are to submit to it and those who are to conduct it, with a view to making government an instrument of the general welfare rather than an arbitrary, self-willed master, doing what it pleases—and particularly for the purpose of safeguarding individual liberty.

And so Magna Carta speaks of no new rights. It grants nothing. It merely safeguards. It provides methods and reforms abuses. It does not say what men shall have by way of freedom and privilege; it speaks only of what restraints the King's government shall observe in seeking to abridge such freedom and privilege as Englishmen already of right enjoy. Let the famous 29th clause serve as an example. It says nothing of the grant to any man of life, liberty, or property; it takes it for granted that every man has the right to these, as our own Declaration of Independence does, and enacts simply that "no man shall be deprived of life, liberty, or property, save by the judgment of his peers and the law of the land." It is seeking to regulate the exercise of power, to adjust its operation, as safely and conveniently as may be, to that general interest which is the sum of the interest of every man.

Mr. LONG of Louisiana. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from West Virginia will suspend. The occupants of the galleries will be in order.

Mr. LONG of Louisiana. And also those on the floor, Mr. President.

The PRESIDING OFFICER. Senators will take their seats.

The Senator from West Virginia may proceed.

Mr. BYRD of West Virginia. By some queer twist or irony of fate, Mr. President, some of us find ourselves, just 749 years later, to the exact day, fighting for an amendment to safeguard individual liberty against the abuses and excesses of arbitrary government.

In its simplest terms, that is what this amendment does. It safeguards the natural and God-given right of the individual, whether he is white or nonwhite, to manage and control the use of his property, within certain reasonable limits, of course, as he desires and not as an all-powerful Government would dictate that he use it.

For when it is remembered that one's daily bread, earned by honest sweat and toil, is property, then property rights become important in the scale of human rights. The natural right to own, manage, improve, and control the use of property is, in reality, one of the most basic of human rights, and it is a right that existed before the Federal Constitution and Bill of Rights, before the Declaration of Independence, and before Magna Carta itself.

As Supreme Court Justice Patterson said in 1795:

> It is evident that the right of acquiring and possessing property, and having it protected, is one of the natural, inherent, and inalienable rights of man.

Madison, in the 10th Federalist Paper, referred to the rights of property as having originated from the diversity in the faculties of men.

Troplong, an influential French jurist of the 19th century, said:

> Liberty is inextricably linked with property; the latter shares the fate of the former.

Mr. LONG of Louisiana. Mr. President, may we have order? It is very difficult to hear a Senator's speech when conversations are in progress on the floor. Some of us are very much interested in what the Senator from West Virginia is saying.

Mr. RUSSELL. Mr. President, I, too, make the point of order that the Senate is not in order. Senators who do not want to hear the debate should retire to the cloakrooms.

The PRESIDING OFFICER (Mr. NELSON in the chair.) The Senate will be in order. Senators will take their seats.

The Senator from West Virginia may proceed.

Mr. BYRD of West Virginia. Mr. President, one may ask the question: What is property? McKenna, in *United States* v. *Ohio Oil Co.*, 234 U.S. 548, said:

> The conception of property is exclusiveness, the rights of exclusive possession, enjoyment, and disposition. Take away these rights and you take away all that there is of property. Take away any of them, force a participation in any of them, and you take property by that extent.

Title II, which my amendment would strike, constitutes a taking of property. Why do I say this? Because it encroaches upon the privilege of use, which is one of that "bundle of privileges" which Cardozo said "make up property or ownership."

The taking may be ever so slight, but every journey to a forbidden end begins with a single step.

How does it take away property? By interfering with and forcing a participation in those rights of exclusive possession to which McKenna referred, and by interfering with one's freedom of contract.

How does title II force a participation in the rights of exclusive possession? By requiring the owner of a lodging house, be that owner white or nonwhite, to open his doors to certain persons against his will and perhaps to his injury.

How does title II interfere with the property owner's freedom of contract? By requiring him, whether he be white or nonwhite, to serve and sell to certain persons against his will.

I believe that all Senators will agree that the power of Congress to enact a law must be traceable to a grant of such power in the Constitution, for Congress possesses only that power which the Constitution gives it. Where is that constitutional grant of power which would support title II? The proponents seek to find it in the 14th amendment and in article I, section 8, clause 3, commonly known as the commerce clause.

It seems to me to be unmistakably clear that the 14th amendment will not give comfort to the opponents, because that amendment does not authorize Congress to prohibit acts of private discrimination.

Section 1 of the 14th amendment provides in part:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The crucial words of the 14th amendment are these: "no State shall." These are the magic words out of which any exercise of powers granted by section 5 must evolve. Action on the part of a State or political subdivision thereof is the vital touchstone for the exercise of Federal power authorized by the 14th amendment. The prohibitions in section 1 are restrictions on State action and do not operate against individuals acting alone.

Yet title II seeks to regulate and prohibit purely private individual acts of discrimination by hotel owners, motel owners, restaurateurs, and other owners of private property who engage in accommodating the public. There is not even the shadow of State involvement in these activities.

A further limitation in respect of the 14th amendment lies in the fact that section 5 thereof does not authorize Congress to adopt general legislation, but only corrective legislation is authorized.

Congress is powerless to prohibit any action not prohibited by the 14th amendment. Congress may properly correct, counteract, and nullify any State action prohibited by the amendment and shown to exist, but Congress cannot, on the basis of that amendment, operate against individuals by creating any new Federal right.

I call attention to the *Civil Rights Cases*, 109 U.S. 3, wherein the Supreme Court held unconstitutional a public accommodations statute which had been enacted in 1875—18 Stat. 335. That public accommodations statute was the twin brother of the title II, of the civil rights bill which we are discussing.

Mr. Justice Bradley went immediately to the crux of the matter: "Has Congress constitutional power to make such a law? Of course no one will contend that the power to pass it was contained in the Constitution before the adoption of the last three amendments." He was referring to the 13th, 14th, and 15th amendments. He continued:

> The power is sought, first in the 14th amendment, and the views and arguments of distinguished Senators, advanced whilst the law was under consideration, claiming authority to pass it by virtue of that amendment, are the principal arguments adduced in favor of the power. We have carefully considered those arguments, as was due to the eminent ability of those who put them forward, and have felt in all its force, the weight of authority which always invests a law that Congress deems itself competent to pass. But the responsibility of an independent judgment is now thrown upon this Court; and we are bound to exercise it according to the best lights we have.

We are often importuned by Senators who support this bill to vote for the titles on the chance that they will be later held constitutional. Some persons may say that we as Senators should not concern ourselves much about the constitutionality of this bill, or any other bill for that matter, and that the Supreme Court will fulfill that function at the appropriate time. But in this case, Mr. Justice Bradley sounded a note which I think is pertinent when he referred to "the weight of authority which always invests a law that Congress deems itself competent to pass."

So the courts presume that a law is constitutional when it is enacted by the Congress, and that presumption of constitutionality is based upon the fact that Senators have some responsibility of considering, ascertaining, and determining the constitutionality of a statute which is enacted by the Federal Legislature.

After stating that the 1st section of the 14th amendment "is prohibitory in its character, and prohibitory upon the States," Mr. Justice Bradley went on to say:

> It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty, or property without due process of law, or which denies to any of them the equal protection of the laws. It not only does this, but in order that the national will, thus declared, may not be a mere brutum fulmen, the last section of the amendment invests Congress with power to enforce it by appropriate legislation.

With reference to the corrective force to which the amendment is limited, the Court used these words, and I repeat:

> The last section of the amendment invests Congress with power to enforce it by appropriate legislation.

To enforce what? To enforce the prohibition. To adopt appropriate legislation for correcting the effects of such prohibited State laws and State acts, and thus to render them effectually null, void, and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it.

The Court went on to say:

> It does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress against the operation of State laws, and the action of State officers, executive or judicial, when these are subversive of the fundamental rights specified in the amendment. Positive rights and privileges are undoubtedly secured by the 14th amendment; but they are secured by way of prohibition against State laws and State proceedings affecting those rights and privileges, and by power given to Congress to legislate for the purpose of carrying such prohibition into effect: and such legislation must necessarily be predicated upon such supposed State laws or State proceedings, and be directed to the correction of their operation and effect.

Again and again the Court hammered on the point that State action is the object of the 14th amendment prohibition:

> Until some State law has been passed, or some State action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the 14th amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity: for the prohibitions of the amendment are against State laws and acts done under State authority.

The Court said that any legislation bottomed on the 14th amendment would have to be directed to the mischiefs and wrongs which the amendment was intended to provide against, "and that is, State laws, or State action of some kind, adverse to the rights of the citizen secured by the amendment."

It is interesting to note that the Court referred to property rights as being included among men's civil rights, a point that is overlooked by some of the ardent civil rights partisans of today, and the Court did this in emphasizing the fact that the 14th amendment was intended to provide corrective action, in general legislation:

> It is absurd to affirm, that, because the rights of life, liberty, and property (which include all civil rights that men have), are by the amendment sought to be protected against invasion on the part of the State without due process of law, Congress may therefore provide due process of law for their vindication in every case; and that, because the denial by a State to any persons, of the equal protection of the laws, is prohibited by the amendment, therefore Congress may establish laws for their equal protection. In fine, the legislation which Congress is authorized to adopt in this behalf is not general legislation upon the rights of the citizen, but corrective legislation, that is, such as may be necessary and proper for counteracting such laws as the States may adopt or enforce, and which, by the amendment, they are prohibited from making or enforcing, or such acts and proceedings as the States may commit or take, and which, by the amendment, they are prohibited from committing or taking.

The Court discussed the rights secured by the equal protection and due process clauses:

> In this connection it is proper to state that civil rights, such as guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individual, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress. An individual cannot deprive a man of his right to vote, to hold property, to buy and sell, to sue in the courts, or to be a witness or a juror; he may commit an assault against the person, or commit murder, or use ruffian violence at the polls, or slander the good name of a fellow citizen; but, unless protected in these wrongful acts by some shield of State law or State authority, he cannot destroy or injure the right; he will only render himself amenable to satisfaction or punishment; and amenable therefor to the laws of the State where the wrongful acts are committed.

The Supreme Court decision in the civil rights cases established the following points: First, that the 14th amendment prohibitions are not applicable to individual invasions of individual rights but only to the denials of rights which result from State action; and, second, that the enactment of general legislation cannot spring from the congressional power conferred by section 5 of the amendment; rather, authority only is granted to enact corrective legislation to counteract or regulate State action designed to deny the rights of individuals.

Now I realize that the present Supreme Court at times appears to be more influenced by sociological arguments than by the precedents established by previous Supreme Courts, but the Court may yet adhere to the doctrine of stare decisis when a case comes before it involving private discrimination under title II. The Courts have, in recent years, appeared to establish, even more firmly the decision in the Civil Rights cases.

In the case of *Shelley* v. *Kraemer*, 334 U.S. 1, the Court, in 1948, held that a restrictive covenant entered into by private property owners could not be court enforced, but take note of what the Court did say:

> Since the decision of this Court in the *Civil Rights cases*, 109 U.S. 3 (1883), the principle has become firmly embedded in our constitutional law that the action inhibited by the 1st section of the 14th amendment is only such section as may fairly be said to be that of the States. That amendment creates no shield against merely private conduct, however discriminatory or wrongful.

Reaffirmation of this point occurred in the case of *Petersen* v. *City of Greenville*, 373 U.S. 244. This case was decided on May 20, 1963. In its decision the court said:

> It cannot be disputed that under our decision private conduct abridging individual rights does no violence to the equal protection clause unless to some significant extent the State in any of its manifestations has been found to have become involved in it.

There are those who advance the notion that where the action of an individual, such as the operation of a business, is regulated by the State by virtue of the simple act of licensing or, under the jurisdiction of the State with reference to sanitary and fire requirements, and so forth, the action of the individual becomes State action and is thus within the scope of the 14th amendment's prohibition. It is argued that the operation of private enterprise then becomes State action subject to the limitations and conditions embodied by the 14th amendment.

The act of licensing is unquestionably a State action, but, as Justice Harlan stated in Peterson against the City of Greenville, supra:

> This is not the end of the inquiry. The ultimate substantive question is whether there has been State action of a particular character—whether the character of the State's involvement in an arbitrary discrimination is such that it should be held responsible for the discrimination.

Anyone who is willing to view the matter objectively can see that there is no nexus between the fact of licensing and the act of private discrimination. Were it otherwise, the case, a legal picture would be created that would open a Pandora's box. If the State is to be held responsible for the discrimination resulting from the conduct of a privately owned but licensed business, say a barbershop, may it not likewise be responsible for the loss of my hair if the barber mistakenly sprinkles my scalp with an acid rather than a tonic?

Or, in the case of a laundry, for the loss of my shirt?

The Achilles' heel of this argument rests in the confusion between a license and a franchise. In the New York case of *Madden* v. *Queens County Jockey Club*, 72 N.E. 2d 697, the court was asked to determine whether the operator of a racetrack could, without reason or sufficient excuse, exclude a person from admission to the races. In upholding the right of the operator to be arbitrary in the conduct of his business, the court discussed the plaintiff's contention that the license "constituted the licensee an administrative agency of the State and a permit to perform a public purpose." The court said:

> Plaintiff's argument results from confusion between a "license" imposed for the purpose of regulation of revenue, and a franchise. A franchise is a special privilege, conferred by the State on an individual, which does not belong to the individual as a matter of right. It creates a privilege where none existed before, its primary object being to promote the public welfare. A familiar illustration is the right to use the public streets for the purpose of maintaining and operating railroads, waterworks, and electric light, gas and power lines.
>
> A license, on the other hand, is no more than a permission to exercise a preexisting right or privilege which has been subjected to regulation in the interest of the public welfare. The grant of a license to promote the public good, in and of itself, however, makes neither the purpose a public one nor the license a franchise, neither renders the place public nor places the licensee under obligation to the public.

This distinction has also been clearly noted by the Federal courts. In *Bowman* v. *Birmingham Transit Company*, 280 F. 2d 531 (1960), the Fifth Circuit Court of Appeals held that a city transit company could not segregate bus passengers on racial grounds.

In distinguishing between a license and a franchise, the court said:

> It is, of course, fundamental that justification for the grant by a State to a private corporation of a right or franchise to perform such a public utility service as furnishing transportation, gas, electricity, or the like, on the public streets of the city, is that the grantee is about the public's business. It is doing something the State deems useful for the public necessity or convenience. This is what differentiates the public utility which holds what may be called a special franchise from an ordinary business corporation which in common with all others is granted the privilege of operating in corporate form but does not have that special franchise of using State property for private gain to perform a public function.

So, Mr. President, these case holdings appear to reveal the state of the law in connection with the 14th amendment. The courts have consistently held that section 1 of the 14th amendment is a prohibition against "State action." This has been the status of the law over the years and it is the status of the law today. Obviously, the Congress has no authority conferred upon it by the 14th amendment to enact title II of the civil rights bill.

So, what have the supporters of this so-called civil rights bill done? Realizing the difficulty involved in predicating the constitutional basis for title II solely upon the 14th amendment, they have sought to find shelter in the commerce clause of the Constitution.

In the Civil Rights cases which, as we have noted, invalidated a congressional statute prohibiting discrimination in places of public accommodations, the Supreme Court declared:

> No one will contend that the power to pass this law was contained in the Constitution before the adoption of the last three amendments.

The power of Congress to regulate commerce among the several States remains today as it existed in the original Constitution. Consequently, if the commerce power, which "was contained in the Constitution before the adoption of the last three amendments," did not support this kind of legislation in 1883, it will not do so today.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I yield myself 5 additional minutes.

The Court, in *Santa Cruz Fruit Packing Co.* v. *N.L.R.B.*, 203 U.S. 453, stated that the exercise of the commerce powers must rest upon "a close and substantial relation to interstate commerce in order to justify the Federal intervention for its protection." In *N.L.R.B.* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1, the Court said that the commerce powers may not "be pushed to such an extreme as to destroy the distinction which the commerce clause itself establishes between commerce 'among the several States' and the internal concerns of a State. That distinction between what is national and what is local in the activities of commerce is vital to the maintenance of our Federal system."

It is a difficult matter to establish the line which separates congressional and State power over commerce, but the course of decisions leaves no doubt that the commerce clause was not intended to regulate the use of private property or to govern personal relations within the borders of a State. Yet, this bill would attempt precisely to do this. The bill attempts to make interstate commerce that which is essentially intrastate commerce. This cannot be done without violating the spirit and the letter of the commerce clause. The power of Congress to regulate commerce depends upon the existence of activities which obstruct or burden commerce "among the several States" or foreign commerce. The exercise of this power must have a real or substantial relation or bearing upon commerce among the several States.

There has been no showing that private discriminatory practices in connection with so-called public accommodations have any demonstrable effects upon commerce.

The Court dealt with this aspect squarely and head on in the case of *Williams* v. *Howard Johnson Restaurants*, 268 F. 2d 845.

The Court there said in no uncertain terms:

> We think, however, that the cases cited are not applicable because we do not find that a restaurant is engaged in interstate commerce merely because in the course of its business of furnishing accommodations to the general public it serves persons who are traveling from State to State. As an instrument of local commerce, the restaurant is not subject to the constitutional and statutory provisions discussed above and, thus, is at liberty to deal with such persons as it may select.

Mr. President, if this proposed legislation should be enacted, and if it should be sustained, there is no activity of our citizens which may not be controlled by Federal legislation based upon the commerce clause. There is no individual who may not be directly affected and dealt with in relation to any and all of his private affairs. If such power, in reality, exists in the commerce clause, then much of the remainder of the Federal Constitution is nullified. Such a power would be the ultimate power, and the commerce clause could henceforth be relied upon to justify just about anything Congress might choose to do.

The Court in *Carter* v. *Carter Coal Company*, 298 U.S. 238, said; with reference to the commerce clause:

> It is safe to say that if, when the Constitution was under consideration, it had been thought that any such danger lurked behind its plain words, it would never have been ratified.

Madison, in paper No. 45, of the Federalist papers, referred to the commerce clause, by saying:

> The regulation of commerce, it is true, is a new power, but that seems to be an addition which few oppose, and from which no apprehensions are entertained.

Mr. President, there is real cause here for entertainment of grave apprehensions, for if title II is sustained—and I know that Congress will enact it precisely as it appears before us—one may appropriately inquire as to whether there can be any such thing as intrastate commerce ever again. And the words "among the several States" in the commerce clause would become a mere mockery. Even the "transient" guest of a lodginghouse, under title II, comes within the ambit of interstate commerce.

If this philosophy be sustained, it is difficult to comprehend the limitations and bounds of interstate commerce. One could hardly say, "It goes so far and no further."

Moreover, Mr. President, any statute which requires a person to render involuntary personal labor to another raises the question of the constitutionality of that statute under the 13th amendment. I submit that, unless the action is entered into voluntarily, even though the individual is being compensated for the personal services, it still constitutes involuntary servitude. I refer especially to section 201(b)(4) which will involve barbershops, beauty salons, and so forth, in those situations covered by that paragraph.

Mr. President, many times when I sat in the other body, great body though it is, I would say, "Thank God for the Senate." This was because the free and unlimited debate permitted under the Senate rules offered a protection against ill-advised legislation borne upon the wings of passion and fostered by organized, special interest, pressure groups.

We now see, as I prophesied during my speech on the night of last Tuesday, that once the cloture rule is invoked and debate is then limited, this great body no longer is able to protect the liberties of the people. The Senate then becomes but an extension of the House of Representatives.

Madison, in No. 63 of the Federalist Papers, spoke of the Senate as an institution which "may be sometimes necessary as a defense to the people against their own temporary errors and delusions."

He said:

> There are particular moments in public affairs when the people, stimulated by some irregular passion or some illicit advantage or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterward be the most ready to lament and condemn.
>
> In these critical moments, how salutary will be the intereference of some temperate and respectable body of citizens in order to check the misguided career, and to suspend the blow meditated by the people against themselves until reason, justice, and truth can regain their authority over the public mind?
>
> What bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions? Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens the hemlock on one day and the statutes on the next.

The **PRESIDING OFFICER**. The time of the Senator has expired.

Mr. **BYRD** of West Virginia. Mr. President, I yield myself 5 additional minutes.

Mr. President, we have seen in the past few days what has happened in the Senate. We have seen the effect of the invoking of cloture upon this body.

Witness the votes that have occurred upon amendments since 71 Senators voted to shut off debate. Up to this moment there have been 34 amendments voted upon by rollcall votes. Of these, 32 were voted down, by votes generally ranging from 2 to 1 to more than 4½ to 1. On only one amendment was there a close vote.

The pattern is clear. Meritorious amendments, designed to make the bill more reasonable and workable, meet the same fate as frivolous amendments meet. The bipartisan steamroller crushes all who would stand in its path and as the command rings out, "Damn the amendments—full speed ahead."

In some instances, the proponents do not even bother themselves to speak in opposition to the amendments being offered. They perfunctorily vote them down, and they can do so because they have the votes. Senators entering the chamber to answer rollcalls merely ask the question, "what is the vote?" The answer is that the leadership's position is against the amendment, so the Senators vote "no."

On Friday I heard one Senator vote "no" after he had rushed into the Chamber, and then turned to inquire, "Now what was it I just voted on?"

Especially, in considering such a controversial bill as this, one would expect Senators to listen to the debate, or at least read the amendments, and then vote on the merits of the amendments. But many of them do not do so. So let history record the results.

I know that my amendment will be voted down just as indifferently, mechanically, and summarily as other amendments have been voted down, but this does not mean that Senators should roll over and play dead. My amendment would not be pleasing to some, but it would provide a safeguard for individual freedom against the excesses of arbitrary government, and it would protect property rights, which are among the most precious of human rights, whether the property owners be white or nonwhite.

Mr. **ERVIN**. Mr. President, I yield myself 1 minute, or such time as I may use.

I commend the able and distinguished Senator from West Virginia upon one of the most courageous and intelligent speeches ever delivered in this chamber.

I ask unanimous consent to have printed at this point in the RECORD, as a part of my remarks, the *Civil Rights Cases of 1883,* 109 U.S. 3. The majority opinion in these cases makes it crystal clear that the Senator from West Virginia is clearly right when he states that title II cannot possibly be sustained under the 14th amendment.

Mr. President, I also ask unanimous consent to have printed in the RECORD at this point, as a part of my remarks, a statement prepared by one of the most distinguished lawyers in America, Laurence H. Eldredge, of Philadelphia, Pa., in opposition to titles II and X. This statement was originally prepared by Mr. Eldredge for delivery before the Senate Judiciary Committee when it was considering the original administration bill in which title X was designated as title IV. Subsequent to its preparation, the Senate refused to permit the Senate Judiciary Committee to consider this matter despite the rules of the Senate which confer jurisdiction over such matters upon such committee.

I ask unanimous consent that both the Civil Rights cases and Mr. Eldredge's statement be printed in the RECORD in lieu of the argument I would like to make but am not permitted to make because of cloture.

There being no objection, the opinion in the Civil Rights Cases of 1883 and the statement were ordered to be printed in the RECORD, as follows:

CIVIL RIGHTS CASES (109 U.S. 3)—SYLLABUS

UNITED STATES *v.* STANLEY—ON CERTIFICATE OF DIVISION FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF KANSAS

UNITED STATES *v.* RYAN—IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA

UNITED STATES *v.* NICHOLS—ON CERTIFICATE OF DIVISION FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI

UNITED STATES *v.* SINGLETON—ON CERTIFICATE OF DIVISION FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

ROBINSON & WIFE *v.* MEMPHIS AND CHARLESTON RAILROAD COMPANY—IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TENNESSEE

[Submitted October term, 1882, decided October 15, 1883]

Civil rights—Constitution—District of Columbia—inns—places of amusement—public conveyances—slavery—territories

1. The first and second sections of the Civil Rights Act passed March 1, 1875, are unconstitutional enactments as applied to the several States, not being authorized either by the 13th or 14th amendments of the Constitution.

2. The 14th amendment is prohibitory upon the States only, and the legislation authorized to be adopted by Congress for enforcing it is not direct legislation on the matters respecting which the States are prohibited from making or enforcing certain laws, or doing certain acts, but is corrective legislation, such as may be necessary or proper for counteracting and redressing the effect of such laws or acts.

3. The XIIIth amendment relates only to slavery and involuntary servitude (which it abolishes); and although, by its reflex action, it establishes universal freedom in the United States, and Congress may probably pass laws directly enforcing its provisions; yet such legislative power extends only to the subject of slavery and its incidents; and the denial of equal accommodations in inns, public conveyances, and places of public amusement (which is forbidden by the sections in question), imposes no badge of slavery or involuntary servitude upon the party, but at most, infringes rights which are protected from State aggression by the XIVth amendment.

4. Whether the accommodations and privileges sought to be protected by the 1st and 2d sections of the Civil Rights Act, are, or are not, rights constitutionally demandable; and if they are, in what form they are to be protected, is not now decided.

5. Nor is it decided whether the law as it stands is operative in the Territories and District of Columbia: the decision only relating to its validity as applied to the States.

6. Nor is it decided whether Congress, under the commercial power, may or may not pass a law securing to all persons equal accommodations on lines of public conveyance between two or more States.

Statement of Facts

These cases were all founded on the first and second sections of the act of Congress, known as the Civil Rights Act, passed March 1, 1875, entitled "An act to protect all citizens in their civil and legal rights." 18

Stat. 335. Two of the cases, those against Stanley and Nichols, were indictments for denying to persons of color the accommodations and privileges of an inn or hotel; two of them, those against Ryan and Singleton, were, one on information, the other an indictment, for denying to individuals the privileges and accommodations of a theater, the information against Ryan being for refusing a colored person a seat in the dress circle of Maguire's theater in San Francisco; and the indictment against Singleton was for denying to another person, whose color was not stated, the full enjoyment of the accommodations of the theater known as the Grand Opera House in New York, "said denial not being made for any reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude."

The case of Robinson and wife against the Memphis & Charleston Railroad Co. was an action brought in the Circuit Court of the United States for the Western District of Tennessee, to recover the penalty of $500 given by the second section of the act; and the gravamen was the refusal by the conductor of the railroad company to allow the wife to ride in the ladies' car, for the reason, as stated in one of the counts, that she was a person of African descent. The jury rendered a verdict for the defendants in this case upon the merits under a charge of the court to which a bill of exceptions was taken by the plaintiffs. The case was tried on the assumption by both parties of the validity of the act of Congress; and the principal point made by the exceptions was, that the judge allowed evidence to go to the jury tending to show that the conductor had reason to suspect that the plaintiff, the wife, was an improper person, because she was in company with a young man whom he supposed to be a white man, and on that account inferred that there was some improper connection between them; and the judge charged the jury, in substance, that if this was the conductor's bona fide reason for excluding the woman from the car, they might take it into consideration on the question of the liability of the company. The case was brought here by writ of error at the suit of the plaintiffs. The cases of Stanley, Nichols, and Singleton, came up on certificates of division of opinion between the judges below as to the constitutionality of the first and second sections of the act referred to; and the case of Ryan, on a writ of error to the judgment of the Circuit Court for the District of California sustaining a demurrer to the information.

The Stanley, Ryan, Nichols, and Singleton cases were submitted together by the Solicitor General at the last term of court, on the 7th day of November 1882. There were no appearances and no briefs filed for the defendants.

The Robinson case was submitted on the briefs at the last term, on the 29th day of March 1883.

Argument for the United States

Mr. Solicitor General Phillips for the United States.

After considering some objections to the forms of proceedings in the different cases, the counsel reviewed the following decisions of the court upon the 13th and 14th amendments to the Constitution and on points cognate thereto, viz: *The Slaughter-House Cases*, 16 Wall. 36; *Bradwell* v. *The State*, 16 Wall. 130; *Bartemeyer* v. *Iowa*, 18 Wall. 129; *Minor* v. *Happersett*, 21 Wall. 162; *Walker* v. *Sauvinet*, 92 U.S. 90; *United States* v. *Reese*, 92 U.S. 214; *Kennard* v. *Louisiana*, 92 U.S. 480; *United States* v. *Cruikshank*, 92 U.S. 542; *Munn* v. *Illinois*, 94 U.S. 113; *Chicago B. & C. R.R. Co.* v. *Iowa*, 94 U.S. 155; *Blyew* v. *United States*, 13 Wall. 581; *Railroad Co.* v. *Brown*, 17 Wall. 445; *Hall* v. *DeCuir*, 95 U.S. 485; *Strauder* v. *West Virginia*, 100 U.S. 303; *Ex parte Virginia*, 100 U.S. 339; *Missouri* v. *Lewis*, 101 U.S. 22; *Neal* v. *Delaware*, 103 U.S. 370.

Upon the whole these cases decide that—

1. The 13th amendment forbids all sorts of involuntary personal servitude except penal, as to all sorts of men, the word servitude taking some color from the historical fact that the United States were then engaged in dealing with African slavery, as well as from the signification of the 14th and 15th amendments, which must be construed as advancing constitutional rights previously existing.

2. The 14th amendment expresses prohibitions (and consequently implies corresponding positive immunities), limiting State action only, including in such action, however, action by all State agencies, executive, legislative, and judicial, of whatever degree.

3. The 14th amendment warrants legislation by Congress punishing violations of the immunities thereby secured when committed by agents of States in discharge of ministerial functions.

The right violated by Nichols, which is of the same class as that violated by Stanley and by Hamilton, is the right of locomotion, which Blackstone makes an element of personal liberty. Blackstone's Commentaries, book I, chapter 1.

In violating this right, Nichols did not act in an exclusively private capacity, but in one devoted to a public use, and so affected with a public; i.e., a State, interest. This phrase will be recognized as taken from the *Elevator Cases* in 94 U.S., already cited.

Restraint upon the right of locomotion was a well-known feature of the slavery abolished by the 13th amendment. A first requisite of the right to appropriate the use of another man was to become the master of his natural power of motion, and, by a mayhem therein of the common law to require the whole community to be on the alert to restrain that power. That this is not exaggeration is shown by the language of the court in *Eaton* v. *Vaughan*, 9 Missouri, 734.

Granting that by involuntary servitude, as prohibited in the 13th amendment, is intended some institution; viz, custom, etc., of that sort, and not primarily mere scattered trespasses against liberty committed by private persons, yet, considering what must be the social tendency in at least large parts of the country, it is "appropriate legislation" against such an institution to forbid any action by private persons which in the light of our history may reasonably be apprehended to tend, on account of its being incidental to quasi-public occupations, to create an institution.

Therefore, the above act of 1875, in prohibiting persons from violating the rights of other persons to the full and equal enjoyment of the accommodations of inns and public conveyances, for any reason turning merely upon the race or color of the latter, partakes of the specific character of certain contemporaneous solemn and effective action by the United States to which it was a sequel—and is constitutional.

Arguments for Plaintiffs in Error

Mr. William M. Randolph for Robinson and wife, plaintiffs in error.

Where the Constitution guarantees a right, Congress is empowered to pass the legislation appropriate to give effect to that right. *Prigg* v. *Pennsylvania*, 16 Peters, 539; *Ableman* v. *Booth*, 21 How. 506; *United States* v. *Reese*, 92 U.S. 214.

Whether Mr. Robinson's rights were created by the Constitution, or only guaranteed by it, in either event the act of Congress, so far as it protects them, is within the Constitution. *Pensacola Telegraph Co.* v. *Western Union Tel. Co.*, 96 U.S. 1; *The Passenger Cases*, 7 Howard, 283; *Crandall* v. *Nevada*, 6 Wall. 35.

Opinion of the Court

In *Munn* v. *Illinois*, 94 U.S. 113, the following propositions were affirmed:

"Under the powers inherent in every sovereignty, a government may regulate the conduct of its citizens toward each other, and, when necessary for the public good, the manner in which each shall use his own property."

"It has, in the exercise of these powers, been customary in England from time immemorial, and in this country from its first colonization, to regulate ferries, common carriers, hackmen, hackers, bakers, millers, wharfingers, innkeepers, etc."

"When the owner of property devotes it to a use in which the public has an interest, he in effect grants to the public an interest in such use, and must, to the extent of that interest, submit to be controlled by the public, for the common good, as long as he maintains the use."

Undoubtedly, if Congress could legislate on the subject at all, its legislation by the act of March 1, 1875, was within the principles thus announced.

The penalty denounced by the statute is incurred by denying to any citizen "the full enjoyment of any of the accommodations, advantages, facilities, or privileges" enumerated in the first section, and it is wholly immaterial whether the citizen whose rights are denied him belongs to one race or class or another, or is of one complexion or another. And again, the penalty follows every denial of the full enjoyment of any of the accommodations, advantages, facilities, or privileges, except and unless the denial was "for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude."

Mr. William Y. C. Humes and Mr. David Posten for the Memphis & Charleston Railroad Co., defendants in error.

Mr. Justice Bradley delivered the opinion of the Court. After stating the facts in the above language he continued:

It is obvious that the primary and important question in all the cases is the constitutionality of the law: for if the law is unconstitutional none of the prosecutions can stand.

The sections of the law referred to provide as follows:

"SECTION 1. That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

"SEC. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities, or privileges in said section enumerated, or by aiding or inciting such denial, shall for every such offense forfeit and pay the sum of $500 to the person aggrieved thereby, to be recovered in an action of debt, with full costs; and shall also, for every such offense, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $500 nor more than $1,000, or shall be imprisoned not less than thirty days nor more than one year: *Provided*, That all persons may elect to sue for the penalty aforesaid, or to proceed under their rights at common law and by State statutes; and having so elected to proceed in the one mode or the other, their right to proceed in the other jurisdiction shall be barred. But this provision shall not apply to criminal proceedings, either under this Act or the criminal law of any State: *And provided further,* That a judgment for the penalty in favor of the party aggrieved, or a judgment upon an indictment, shall be a bar to either prosecution respectively."

Are these sections constitutional? The first section, which is the principal one, cannot be fairly understood without attending to the last clause, which qualifies the preceding part.

The essence of the law is, not to declare broadly that all persons shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances, and theaters; but that such enjoyment shall not be subject to any conditions applicable only to citizens of a particular race or color, or who had been in a previous condition of servitude. In other words, it is the purpose of the law to declare that, in the enjoyment of the accommodations and privileges of inns, public conveyances, theaters, and other places of public amusement, no distinction shall be made between citizens of different race or color, or between those who have, and those who have not, been slaves. Its effect is to declare, that in all inns, public conveyances, and places of amusement, colored citizens, whether formerly slaves or not, and citizens of other races, shall have the same accommodations and privileges in all inns, public conveyances, and places of amusement as are enjoyed by white citizens; and vice versa. The second section makes it a penal offense in any person to deny to any citizen of any race or color, regardless of previous servitude, any of the accommodations or privileges mentioned in the first section.

Has Congress constitutional power to make such a law? Of course, no one will contend that the power to pass it was contained in the Constitution before the adoption of the last three amendments. The power is sought, first, in the 14th amendment, and the views and arguments of distinguished Senators, advanced whilst the law was under consideration, claiming authority to pass it by virtue of that amendment, are the principal arguments adduced in favor of the power. We have carefully considered those arguments, as was due to the eminent ability of those who put them forward and have felt, in all its force, the weight of authority which always invests a law that Congress deems itself competent to pass. But the responsibility of an independent judgment is now thrown upon this court; and we are bound to exercise it according to the best lights we have.

The first section of the 14th amendment (which is the one relied on), after declaring who shall be citizens of the United States, and of the several States, is prohibitory in its character, and prohibitory upon the States. It declares that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty, or property without due process of law, or which denies to any of them the equal protection of the laws. It not only does this, but, in order that the national will, thus declared, may not be a mere brutum fulmen, the last section of the amendment invests Congress with power to enforce it by appropriate legislation. To enforce what? To enforce the prohibition. To adopt appropriate legislation for correcting the effects of such prohibited State laws and State acts, and thus to render them effectually null, void, and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it. It does not invest Congress with power to legislate upon subjects which are within the domain of State legislation; but to provide modes of relief against State legislation, or State action, of the kind referred to.

It does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress against the operation of State laws, and the action of State officers executive, or judicial, when these are subversive of the fundamental rights specified in the amendment. Positive rights and privileges are undoubtedly secured by the 14th amendment; but they are secured by way of prohibition against State laws and State proceedings affecting those rights and privileges, and by power given to Congress to legislate for the purpose of carrying such prohibition into effect: and such legislation must necessarily be predicated upon such supposed State laws or State proceedings, and be directed to the correction of their operation and effect. A quite full discussion of this aspect of the amendment may be found in *United States* v. *Cruikshank,* 92 U.S. 542; *Virginia* v. *Rives,* 100 U.S. 313; and *Ex parte Virginia,* 100 U.S. 339.

An apt illustration of this distinction may be found in some of the provisions of the original Constitution. Take the subject of contracts, for example. The Constitution prohibited the States from passing any law impairing the obligation of contracts. This did not give to Congress power to provide laws for the general enforcement of contracts; nor power to invest the courts of the United States with jurisdiction over contracts, so as to enable parties to sue upon them in those courts. It did, however, give the power to provide remedies by which the impairment of contracts by State legislation might be counteracted and corrected: and this power was exercised. The remedy which Congress actually provided was that contained in the 25th section of the Judiciary Act of 1789, 1 Stat. 85, giving to the Supreme Court of the United States jurisdiction by writ of error to review the final decisions of State courts whenever they should sustain the validity of a State statute or authority alleged to be repugnant to the Constitution or laws of the United States. By this means, if a State law was passed impairing the obligation of a contract, and the State tribunals sustained the validity of the law, the mischief could be corrected in this court. The legislation of Congress, and the proceedings provided for under it, were corrective in their character.

No attempt was made to draw into the U.S. courts the litigation of contracts generally; and no such attempt would have been sustained. We do not say that the remedy provided was the only one that might have been provided in that case. Probably Congress had power to pass a law giving to the courts of the United States direct jurisdiction over contracts alleged to be impaired by a State law; and under the broad provisions of the act of March 3, 1875, chapter 137, 18 Stat. 470, giving to the circuit courts jurisdiction of all cases arising under the Constitution and laws of the United States, it is possible that such jurisdiction now exists. But under that, or any other law, it must appear as well by allegation, as proof at the trial, that the Constitution had been violated by the action of the State legislature. Some obnoxious State law passed, or that might be passed, is necessary to be assumed in order to lay the foundation of any Federal remedy in the case; and for the very sufficient reason, that the constitutional prohibition is against State laws impairing the obligation of contracts.

And so in the present case, until some State law has been passed, or some State action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the 14th amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity: for the prohibitions of the amendment are against State laws and acts done under State authority. Of course, legislation may, and should be, provided in advance to meet the exigency when it arises; but it should be adapted to the mischief and wrong which the amendment was intended to provide against; and that is, State laws, or State action of some kind, adverse to the rights of the citizen secured by the amendment. Such legislation cannot properly cover the whole domain of rights appertaining to life, liberty, and property, defining them and providing for their vindication. That would be to establish a code of municipal law regulative of all private rights between man and man in society. It would be to make Congress take the place of the State legislatures and to supersede them.

It is absurd to affirm that, because the rights of life, liberty, and property (which include all civil rights that men have), are by the amendment sought to be protected against invasion on the part of the State without due process of law, Congress may therefore provide due process of law for their vindication in every case; and that, because the denial by a State to any persons, of the equal protection of the laws, is prohibited by the amendment, therefore Congress may establish laws for their equal protection. In fine, the legislation which Congress is authorized to adopt in this behalf is not general legislation upon the rights of the citizen, but corrective legislation; that is, such as may be necessary and proper for counteracting such laws as the States may adopt or enforce, and which, by the amendment, they are prohibited from making or enforcing, or such acts and proceedings as the States may commit or take, and which, by the amendment, they are prohibited from committing or taking. It is not necessary for us to state, if we could, what legislation would be proper for Congress to adopt. It is sufficient for us to examine whether the law in question is of that character.

An inspection of the law shows that it makes no reference whatever to any supposed or apprehended violation of the 14th amendment on the part of the States. It is not predicated on any such view. It proceeds ex directo to declare that certain acts committed by individuals shall be deemed offenses, and shall be prosecuted and punished by proceedings in the courts of the United States. It does not profess to be corrective of any constitutional wrong committed by the States; it does not make its operation to depend upon any such wrong committed. It applies equally to cases arising in States which have the justest laws respecting the personal rights of citizens, and whose authorities are ever ready to enforce such laws, as to those which arise in States that may have violated the prohibition of the amendment. In other words, it steps into the domain of local jurisprudence, and lays down rules for the conduct of individuals in society toward each other, and imposes sanctions for the enforcement of those rules, without referring in any manner to any supposed action of the State or its authorities.

If this legislation is appropriate for enforcing the prohibitions of the amendment, it is difficult to see where it is to stop. Why may not Congress with equal show of authority enact a code of laws for the enforcement and vindication of all rights of life, liberty, and property? If it is supposable that the States may deprive persons of life, liberty, and property without due process of law (and the amendment itself does suppose this), why should not Congress proceed at once to prescribe due process of law for the protection of every one of these fundamental rights, in every possible case, as well as to prescribe equal privileges in inns, public conveyances, and theaters? The truth is, that the implication of a power to legislate in this manner is based upon the assumption that if the States are forbidden to legislate or act in a particular way on a particular subject, and power is conferred upon Congress to enforce the prohibition, this gives Congress power to legislate generally upon that subject, and not merely power to provide modes of redress against such State legislation or action. The assumption is certainly unsound. It is repugnant to the 10th amendment of the Constitution, which declares that powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

We have not overlooked the fact that the fourth section of the act now under consideration has been held by this Court to be constitutional. That section declares "that no citizen, possessing all other qualifications which are or may be prescribed by law, shall be disqualified for service as grand or petit juror in any court of the United States, or of any State, on account of race, color, or previous condition of servitude; and any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than $5,000."

In *Ex parte Virginia*, 100 U.S. 339, it was held that an indictment against a State officer under this section for excluding persons of color from the jury list is sustainable. But a moment's attention to its terms will show that the section is entirely corrective in its character. Disqualifications for service on juries are only created by the law, and the first part of the section is aimed at certain disqualifying laws, namely, those which make mere race or color a disqualification; and the second clause is directed against those who, assuming to use the authority of the State government, carry into effect such a rule of disqualification. In the Virginia case, the State, through its officer, enforced a rule of disqualification which the law was intended to abrogate and counteract. Whether the statute book of the State actually laid down any such rule of disqualification, or not, the State, through its officer, enforced such a rule: and it is against such State action, through its officers and agents, that the last clause of the section is directed. This aspect of the law was deemed sufficient to divest it of any unconstitutional character, and makes it differ widely from the first and second sections of the same act which we are now considering.

These sections, in the objectionable features before referred to, are different also from the law ordinarily called the civil rights bill, originally passed April 9, 1866, 14 Stat. 27, ch. 31, and reenacted with some modifications in sections 16, 17, 18, of the Enforcement Act, passed May 31, 1870, 16 Stat. 140, ch. 114. That law, as reenacted, after declaring that all persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses and exactions of every kind, and none other, any law, statute, ordinance, regulation or custom to the contrary notwithstanding, proceeds to enact, that any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any rights secured or protected by the preceding section (above quoted), or to different punishment, pains, or penalties, on account of such person being an alien, or by reason of his color or race, than is prescribed for the punishment of citizens, shall be deemed guilty of a misdemeanor, and subject to fine and imprisonment as specified in the act. This law is clearly corrective in its character, intended to counteract and furnish redress against State laws and proceedings, and customs having the force of law, which sanction the wrongful acts specified. In the Revised Statutes, it is true, a very important clause, to wit, the words "any law, statute, ordinance, regulation or custom to the contrary notwithstanding," which gave the declaratory section its point and effect, are omitted; but the penal part, by which the declaration is enforced, and which is really the effective part of the law, retains the reference to State laws, by making the penalty apply only to those who should subject parties to a deprivation of their rights under color of any statute, ordinance, custom, etc., of any State or Territory; thus preserving the corrective character of the legislation (Rev. St. secs. 1977, 1978, 1979, 5510). The civil rights bill here referred to is analogous in its character to what a law would have been under the original Constitution, declaring that the validity of contracts should not be impaired, and that if any person bound by a contract should refuse to comply with it, under color or pretense that it had been rendered void or invalid by a State law, he should be liable to an action upon it in the courts of the United States, with the addition of a penalty for setting up such an unjust and unconstitutional defense.

In this connection it is proper to state that civil rights, such as are guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individuals, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress. An individual cannot deprive a man of his right to vote, to hold property, to buy and sell, to sue in the courts, or to be a witness or a juror; he may, by force or fraud, interfere with the enjoyment of the right in a particular case; he may commit an assault against the person, or commit murder, or use ruffian violence at the polls, or slander the good name of a fellow citizen; but, unless protected in these wrongful acts by some shield of State law or State authority, he cannot destroy or injure the right; he will only render himself amenable to satisfaction or punishment; and amenable therefor to the laws of the State where the wrongful acts are committed. Hence, in all those cases where the Constitution seeks to protect the rights of the citizen against discriminative and unjust laws of the State by prohibiting such laws, it is not individual offenses, but abrogation and denial of rights which it denounces, and for which it clothes the Congress with power to provide a remedy. This abrogation and denial of rights, for which the States alone were or could be responsible, was the great seminal and fundamental wrong which was intended to be remedied. And the remedy to be provided must necessarily be predicated upon that wrong. It must assume that in the cases provided for, the evil or wrong actually committed rests upon some State law or State authority for its excuse and perpetration.

Of course, these remarks do not apply to those cases in which Congress is clothed with direct and plenary powers of legislation over the whole subject, accompanied with an express or implied denial of such power to the States, as in the regulation of commerce with foreign nations, among the several States, and with the Indian tribes, the coining of money, the establishment of post offices and post roads, the declaring of war, etc. In these cases Congress has power to pass laws for regulating the subjects specified in every detail, and the conduct and transactions of individuals in respect thereof. But where a subject is not submitted to the general legislative power of Congress, but is only submitted thereto for the purpose of rendering effective some prohibition against particular State legislation or State action in reference to that subject, the power given is limited by its object, and any legislation by Congress in the matter must necessarily be corrective in its character, adapted to counteract and redress the operation of such prohibited State laws or proceedings of State officers.

If the principles of interpretation which we have laid down are correct, as we deem them to be (and they are in accord with the principles laid down in the cases before referred to, as well as in the recent case of *United States* v. *Harris*, 106 U.S. 629), it is clear that the law in question cannot be sustained by any grant of legislative power made to Congress by the 14th amendment. That amendment prohibits the States from denying to any person the equal protection of the laws, and declares that Congress shall have power to enforce, by appropriate legislation, the provisions of the amendment. The law in question, without any reference to adverse State legislation on the subject, declares that all persons shall be entitled to equal accommodations and privileges of inns, public conveyances, and places of public amusement, and imposes a penalty upon any individual who shall deny to any citizen such equal accommodations and privileges. This is not corrective legislation; it is primary and direct; it takes immediate and absolute possession of the subject of the right of admission to inns, public conveyances, and places of amusement. It supersedes and displaces State legislation on the same subject, or only allows it permissive force. It ignores such legislation, and assumes that the matter is one that belongs to the domain of national regulation. Whether it would not have been a more effective protection of the rights of citizens to have clothed Congress with plenary power over the whole subject, is not now the question. What we have to decide is, whether such plenary power has been conferred upon Congress by the 14th amendment; and, in our judgment, it has not.

We have discussed the question presented by the law on the assumption that a right to enjoy equal accommodation and privileges in all inns, public conveyances, and places of public amusement, is one of the essential rights of the citizen which no State can abridge or interfere with. Whether it is such a right, or not, is a different question which, in the view we have taken of the validity of the law on the ground already stated, it is not necessary to examine.

We have also discussed the validity of the law in reference to cases arising in the States only; and not in reference to cases arising in the territories or the District of Columbia, which are subject to the plenary legislation of Congress in every branch of municipal regulation. Whether the law would be a valid one as applied to the territories and the District is not a question for consideration in the cases before us: they all being cases arising within the limits of States. And whether Congress, in the exercise of its power to regulate commerce amongst the several States, might or might not pass a law regulating rights in public conveyances passing from one State to another, is also a question which is not now before us, as the sections in question are not conceived in any such view.

But the power of Congress to adopt direct and primary, as distinguished from corrective legislation, on the subject in hand, is sought, in the second place, from the 13th amendment, which abolishes slavery. This amendment declares "that neither slavery, nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction;" and it gives Congress power to enforce the amendment by appropriate legislation.

This amendment, as well as the 14th, is undoubtedly self-executing without any ancillary legislation, so far as its terms are applicable to any existing state of circumstances. By its own unaided force and effect it abolished slavery, and established universal freedom. Still, legislation may be necessary and proper to meet all the various cases and circumstances to be affected by it, and to prescribe proper modes of redress for its violation in letter or spirit. And such legislation may be primary and direct in its character; for the amendment is not a mere prohibition of State laws establishing or upholding slavery, but an absolute declaration that slavery or involuntary servitude shall not exist in any part of the United States.

It is true that slavery cannot exist without law, any more than property in lands and goods can exist without law; and, therefore, the 13th amendment may be regarded as nullifying all State laws which establish or uphold slavery. But it has a reflex character also, establishing and decreeing universal civil and political freedom throughout the United States; and it is assumed that the power vested in Congress to enforce the article by appropriate legislation, clothes Congress with power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States; and upon this assumption it is claimed that this is sufficient authority for declaring by law that all persons shall have equal accommodations and privileges in all inns, public conveyances, and places of amusement; the argument being, that the denial of such equal accommodations and privileges is, in itself, a subjection to a species of servitude within the meaning of the amendment. Conceding the major proposition to be true, that Congress has a right to enact all necessary and proper laws for the obliteration and prevention of slavery with all its badges and incidents, is the minor proposition also true, that the denial to any person of admission to the accommodations and privileges of an inn, a public conveyance, or a theater, does subject that person to any form of servitude, or tend to fasten upon him any badge of slavery? If it does not, then power to pass the law is not found in the 13th amendment.

In a very able and learned presentation of the cognate question as to the extent of the rights, privileges, and immunities of citizens which cannot rightfully be abridged by State laws under the 14th amendment, made in a former case, a long list of burdens and disabilities of a servile character, incident to feudal vassalage in France, and which were abolished by the decrees of the National Assembly, was presented for the purpose of showing that all inequalities and observances exacted by one man from another were servitudes, or badges of slavery, which a great nation, in its effort to establish universal liberty, made haste to wipe out and destroy. But these were servitudes imposed by the old law, or by long custom, which had the force of law, and exacted by one man from another without the latter's consent. Should any such servitudes be imposed by a State law, there can be no doubt that the law would be repugnant to the 14th, no less than to the 13th amendment; nor any greater doubt that Congress has adequate power to forbid any such servitude from being exacted.

But is there any similarity between such servitudes and a denial by the owner of an inn, a public conveyance, or a theater, of its accommodations and privileges to an individual, even though the denial be founded on the race or color of that individual? Where does any slavery or servitude, or badge of either, arise from such an act of denial? Whether it might not be a denial of a right which, if sanctioned by the State law, would be obnoxious to the prohibitions of the 14th amendment, is another question. But what has it to do with the question of slavery?

It may be that by the Black Code (as it was called), in the times when slavery prevailed, the proprietors of inns and public conveyances were forbidden to receive persons of the African race, because it might assist slaves to escape from the control of their masters. This was merely a means of preventing such escapes, and was no part of the servitude itself. A law of that kind could not have any such object now, however justly it might be deemed an invasion of the party's legal right as a citizen, and amenable to the prohibitions of the 14th amendment.

The long existence of African slavery in this country gave us very distinct notions of what it was, and what were its necessary incidents. Compulsory service of the slave for the benefit of the master, restraint of his movements except by the master's will, disability to hold property, to make contracts, to have a standing in court, to be a witness against a white person, and such like burdens and incapacities, were the inseparable incidents of the institution. Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offenses. Congress, as we have seen, by the civil rights bill of 1866, passed in view of the 13th amendment, before the 14th was adopted, undertook to wipe out these burdens and disabilities, the necessary incidents of slavery, constituting its substance and visible form; and to secure to all citizens of every race and color, and without regard to previous servitude, those fundamental rights which are the essence of civil freedom; namely, the same right to make and enforce contracts, to sue, be parties, give evidence, and to inherit, purchase, lease, sell and convey property, as is enjoyed by white citizens. Whether this legislation was fully authorized by the 13th amendment alone, without the support which it afterward received from the 14th amendment, after the adoption of which it was reenacted with some additions, it is not necessary to inquire. It is referred to for the purpose of showing that at that time (in 1866) Congress did not assume, under the authority given by the 13th amendment, to adjust what may be called the social rights of men and races in the community; but only to declare and vindicate those fundamental rights which appertain to the essence of citizenship, and the enjoyment or deprivation of which constitutes the essential distinction between freedom and slavery.

We must not forget that the province and scope of the 13th and 14th amendments are different; the former simply abolished slavery; the latter prohibited the States from abridging the privileges or immunities of citizens of the United States; from depriving them of life, liberty, or property without due process of law, and from denying to any the equal protection of the laws. The amendments are different, and the powers of Congress under them are different. What Congress has power to do under one, it may not have power to do under the other. Under the 13th amendment, it has only to do with slavery and its incidents. Under the 14th amendment, it has power to counteract and render nugatory all State laws and proceedings which have the effect to abridge any of the privileges or immunities of citizens of the United States, or to deprive them of life, liberty or property without due process of law, or to deny to any of them the equal protection of the laws. Under the 13th amendment, the legislation, so far as necessary or proper to eradicate all forms and incidents of slavery and involuntary servitude, may be direct and primary, operating upon the acts of individuals, whether sanctioned by State legislation or not; under the 14th, as we have already shown, it must necessarily be, and can only be, corrective in its character, addressed to counteract and afford relief against State regulations or proceedings.

The only question under the present head, therefore, is, whether the refusal to any persons of the accommodations of an inn, or a public conveyance, or a place of public amusement, by an individual, and without any sanction or support from any State law or regulation, does inflict upon such persons any manner of servitude, or form of slavery, as those terms are understood in this country? Many wrongs may be obnoxious to the prohibitions of the 14th amendment which are not, in any just sense, incidents or elements of slavery. Such, for example, would be the taking of private property without due process of law; or allowing persons who have committed certain crimes (horse stealing, for example) to be seized and hung by the posse comitatus without regular trial; or denying to any person, or class of persons, the right to pursue any peaceful avocations allowed to others. What is called class legislation would belong to this category, and would be obnoxious to the prohibitions of the 14th amendment, but would not necessarily be so to the 13th, when not involving the idea of any subjection of one man to another. The 13th amendment has respect, not to distinctions of race, or class, or color, but to slavery. The 14th amendment extends its protection to races and classes, and prohibits any State legislation which has the effect of denying to any race or class, or to any individual, the equal protection of the laws.

Now, conceding, for the sake of the argument, that the admission to an inn, a public conveyance, or a place of public amusement, on equal terms with all other citizens, is the right of every man and all classes of men, is it any more than one of those rights which the States by the 14th amendment are forbidden to deny to any person? And is the Constitution violated until the denial of the right has some State sanction or authority? Can the act of a mere individual, the owner of the inn, the public conveyance or place of amusement, refusing the accommodation, be justly regarded as imposing any badge of slavery or servitude upon the applicant, or only as inflicting an ordinary civil injury, properly cognizable by the laws of the State, and presumably subject to redress by those laws until the contrary appears?

After giving to these questions all the consideration which their importance demands, we are forced to the conclusion that such an act of refusal has nothing to do with slavery or involuntary servitude, and that if it is violative of any right of the party, his redress is to be sought under the laws of the State; or if those laws are adverse to his rights and do not protect him, his remedy will be found in the corrective legislation which Congress has adopted, or may adopt, for counteracting the effect of State laws, or State action, prohibited by the 14th amendment. It would be running the slavery argument into the ground to make it apply to every act of discrimination which a person may see fit to make as to the guests he will entertain, or as to the people he will take into his coach or cab or car, or admit to his concert or theater, or deal with in other matters of intercourse or business. Innkeepers and public carriers, by the laws of all the States, so far as we are aware, are bound, to the extent of their facilities, to furnish proper accommodation to all unobjectionable persons who in good faith apply for them. If the laws themselves make any unjust discrimination, amenable to the prohibitions of the 14th amendment, Congress has full power to afford a remedy under that amendment and in accordance with it.

When a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that State, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights as a citizen, or a man, are to be protected in the ordinary modes by which other men's rights are protected. There were thousands of free colored people in this country before the abolition of slavery, enjoying all the essential rights of life, liberty, and property the same as white citizens; yet no one, at that time, thought that it was any invasion of his personal status as a freeman because he was not admitted to all the privileges enjoyed by white citizens, or because he was subjected to discriminations in the enjoyment of accommodations in inns, public conveyances and places of amusement. Mere discriminations on account of race or color were not regarded as badges of slavery. If, since that time, the enjoyment of equal rights in all these respects has become established by constitutional enactment, it is not by force of the 13th amendment (which merely abolishes slavery), but by force of the 13th and 15th amendments.

On the whole we are of opinion, that no countenance of authority for the passage of the law in question can be found in either the 13th or 14th amendment of the Constitution; and no other ground of authority for its passage being suggested, it must necessarily be declared void, at least so far as its operation in the several States is concerned.

This conclusion disposes of the cases now under consideration. In the cases of the *United States* v. *Michael Ryan*, and of *Richard A. Robinson and Wife* v. *The Memphis & Charleston Railroad Company*, the judgments must be affirmed. In the other cases, the answer to be given will be that the first and second sections of the act of Congress of March 1, 1875, entitled "An act to protect all citizens in their civil and legal rights," are unconstitutional and void, and that judgment should be rendered upon the several indictments in those cases accordingly.

And it is so ordered.

Dissenting Opinion

Mr. Justice Harlan dissenting.

The opinion in these cases proceeds, it seems to me, upon grounds entirely too narrow and artificial. I cannot resist the conclusion that the substance and spirit of the recent amendments of the Constitution have been sacrificed by a subtle and ingenious verbal criticism. "It is not the words of the law but the internal sense of it that makes the law: the letter of the law is the body; the sense and reason of the law is the soul." Constitutional provisions, adopted in the interest of liberty, and for the purpose of securing, through national legislation, if need be, rights inhering in a state of freedom, and belonging to American citizenship, have been so construed as to defeat the ends the people desired to accomplish, which they attempted to accomplish, and which they supposed they had accomplished by changes in their fundamental law. By this I do not mean that the determination of these cases should have been materially controlled by considerations of mere expediency or policy. I mean only, in this form, to express an earnest conviction that the Court has departed from the familiar rule requiring, in the interpretation of constitutional provisions, that full effect be given to the intent with which they were adopted.

The purpose of the first section of the act of Congress of March 1, 1875, was to prevent race discrimination in respect of the accommodations and facilities of inns, public conveyances, and places of public amusement. It does not assume to define the general conditions and limitations under which inns, public conveyances, and places of public amusement may be conducted, but only declares that such conditions and limitations, whatever they may be, shall not be applied so as to work a discrimination solely because of race, color, or previous condition of servitude. The second section provides a penalty against any one denying, or aiding or inciting the denial, to any citizen, of that equality of right given by the first section, except for reasons by law applicable to citizens of every race or color and regardless of any previous condition of servitude.

There seems to be no substantial difference between my brethren and myself as to the purpose of Congress; for, they say that the essence of the law is, not to declare broadly that all persons shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances, and theaters; but that such enjoyment shall not be subject to conditions applicable only to citizens of a particular race or color, or who had been in a previous condition of servitude. The effect of the statute, the Court says, is, that colored citizens, whether formerly slaves or not, and citizens of other races, shall have the same accommodations and privileges in all inns, public conveyances, and places of amusements as are enjoyed by white persons; and vice versa.

The Court adjudges, I think erroneously, that Congress is without power, under either the 13th or 14th amendment, to establish such regulations, and that the first and second sections of the statute are, in all their parts, unconstitutional and void.

Whether the legislative department of the Government has transcended the limits of its constitutional powers, "is at all times," said this Court in *Fletcher* v. *Peck*, 6 Cr. 128, "a question of much delicacy, which ought seldom, if ever, to be decided in the affirmative, in a doubtful case. * * * The opposition between the Constitution and the law should be such that the judge feels a clear and strong conviction of their incompatibility with each other." More recently in *Sinking Fund Cases*, 99 U.S., 718, we said: "It is our duty when required in the regular course of judicial proceedings, to declare an act of Congress void if not within the legislative power of the United States, but this declaration should never be made except in a clear case. Every possible presumption is in favor of the validity of a statute, and this continues until the contrary is shown beyond a rational doubt. One branch of the Government cannot encroach on the domain of another without danger. The safety of our institutions depends in no small degree on a strict observance of this salutary rule."

Before considering the language and scope of these amendments it will be proper to recall the relations subsisting, prior to their adoption, between the National Government and the institution of slavery, as indicated by the provisions of the Constitution, the legislation of Congress, and the decisions of this Court. In this mode we may obtain keys with which to open the mind of the people, and discover the thought intended to be expressed.

In section 2 of article IV of the Constitution it was provided that "no person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on a claim of the party to whom such service or labor may be due." Under the authority of this clause Congress passed the fugitive slave law of 1793, establishing a mode for the recovery of fugitive slaves, and prescribing a penalty against any person who should knowingly and willingly obstruct or hinder the master, his agent, or attorney, in seizing, arresting, and recovering the fugitive, or who should rescue the fugitive from him, or who should harbor or conceal the slave after notice that he was a fugitive.

In *Prigg* v. *Commonwealth of Pennsylvania*, 16 Pet. 539, this Court had occasion to define the powers and duties of Congress in reference to fugitives from labor. Speaking by Mr. Justice Story it laid down these propositions:

That a clause of the Constitution conferring a right should not be so construed as to make it shadowy, or unsubstantial, or leave the citizen without a remedial power adequate for its protection, when another construction equally accordant with the words and the sense in which they were used, would enforce and protect the right granted;

That Congress is not restricted to legislation for the execution of its expressly granted powers; but, for the protection of rights guaranteed by the Constitution, may employ such means, not prohibited, as are necessary and proper, or such as are appropriate, to attain the ends proposed;

That the Constitution recognized the master's right of property in his fugitive slave, and, as incidental thereto, the right of seizing and recovering him, regardless of any State law, or regulation, or local custom whatsoever; and,

That the right of the master to have his slave, thus escaping, delivered up on claim, being guaranteed by the Constitution, the fair implication was that the National Government was clothed with appropriate authority and functions to enforce it.

The Court said: "The fundamental principle, applicable to all cases of this sort, would seem to be that when the end is required the means are given, and when the duty is enjoined the ability to perform it is contemplated to exist on the part of the functionary to whom it is entrusted." Again: "It would be a strange anomaly and forced construction to suppose that the National Government meant to rely for the due fulfillment of its own proper duties, and the rights which it intended to secure, upon State legislation, and not upon that of the Union. A fortiori, it would be more objectionable to suppose that a power which was to be the same throughout the Union, should be confided to State sovereignty which could not rightfully act beyond its own territorial limits."

The act of 1793 was, upon these grounds, adjudged to be a constitutional exercise of the powers of Congress.

It is to be observed from the report of Priggs' case that Pennsylvania, by her attorney general pressed the argument that the obligation to surrender fugitive slaves was on the States and for the States, subject to the restriction that they should not pass laws or establish regulations liberating such fugitives; that the Constitution did not take from the States the right to determine the status of all persons within their respective jurisdictions; that it was for the State in which the alleged fugitive was found to determine, through her courts or in such modes as she prescribed, whether the person arrested was, in fact, a freeman or a fugitive slave; that the sole power of the General Government in the premises was, by judicial instrumentality, to restrain and correct, not to forbid and prevent in the absence of hostile State action; and that, for the General Government to assume primary authority to legislate on the subject of fugitive slaves, to the exclusion of the States, would be a dangerous encroachment on State sovereignty. But to such suggestions this Court turned a deaf ear, and adjudged that primary legislation by Congress to enforce the master's right was authorized by the Constitution.

We next come to the Fugitive Slave Act of 1850, the constitutionality of which rested, as did that of 1793, solely upon the implied power of Congress to enforce the master's rights. The provisions of that act were far in advance of previous legislation. They placed at the disposal of the master seeking to recover his fugitive slave, substantially the whole power of the Nation. It invested commissioners, appointed under the act, with power to summon the posse comitatus for the enforcement of its provisions, and commanded all good citizens to assist in its prompt and efficient execution whenever their services were required as part of the posse comitatus. Without going into the details of that act, it is sufficient to say that Congress omitted from it nothing which the utmost ingenuity could suggest as essential to the successful enforcement of the master's claim to recover his fugitive slave. And this Court, in *Ableman* v. *Booth,* 21 How. 506, adjudged it to be "in all of its provisions fully authorized by the Constitution of the United States."

The only other case, prior to the adoption of the recent amendments, to which reference will be made, is that of *Dred Scott* v. *Sanford,* 19 How. 399. That case was instituted in a circuit court of the United States by Dred Scott, claiming to be a citizen of Missouri, the defendent being a citizen of another State. Its object was to assert the title of himself and family to freedom. The defendant pleaded in abatement that Scott—being of African descent, whose ancestors, of pure African blood, were brought into this country, and sold as slaves—was not a citizen. The only matter in issue, said the court, was whether the descendants of slaves thus imported and sold, when they should be emancipated, or who were born of parents who had become free before their birth, are citizens of a State in the sense in which the word "citizen" is used in the Constitution of the United States.

In determining that question the Court instituted an inquiry as to who were citizens of the several States at the adoption of the Constitution, and who, at that time, were recognized as the people whose rights and liberties had been violated by the British Government. The result was a declaration by this Court, speaking by Chief Justice Taney, that the legislation and histories of the times, and the language used in the Declaration of Independence, showed that "neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that instrument;" that "they had for more than a century before been regarded as beings of an inferior race, and altogether unfit to associate with the white race, either in social or political relations, and so far inferior that they had no rights which the white man was bound to respect, and that the Negro might justly and lawfully be reduced to slavery for his benefit;" that he was "bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it;" and, that "this opinion was at that time fixed and universal in the civilized portions of the white race. It was regarded as an axiom in morals as well as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in mattters of public concern, without for a moment doubting the correctness of this opinion."

The judgment of the Court was that the words "people of the United States" and "citizens" meant the same thing, both describing "the political body, who, according to our republican institutions, form the sovereignty and hold the power and conduct the government through their representatives"; that "they are what we familiarly call the 'sovereign people,' and every citizen is one of this sovereignty"; but, that the class of persons described in the plea in abatement did not compose a portion of this people, were not "included, and were not intended to be included, under the word 'citizen' in the Constitution"; that, therefore, they could "claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States"; that, "on the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the government might choose to grant them."

Such were the relations which formerly existed between the Government, whether National or State, and the descendants, whether free or in bondage, of those of African blood, who had been imported into this country and sold as slaves.

The 1st section of the 13th amendment provides that "neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." Its second section declares that "Congress shall have power to enforce this article by appropriate legislation." This amendment was followed by the Civil Rights Act of April 9, 1866, which, among other things, provided that "all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States" (14 Stat. 27).

The power of Congress, in this mode, to elevate the enfranchised race to national citizenship, was maintained by the supporters of the act of 1866 to be as full and complete as its power, by general statute, to make the children, being of full age, of persons naturalized in this country, citizens of the United States without going through the process of naturalization. The act of 1866, in this respect, was also likened to that of 1843, in which Congress declared "that the Stockbridge tribe of Indians, and each and every one of them, shall be deemed to be and are hereby declared to be, citizens of the United States to all intents and purposes, and shall be entitled to all the rights, privileges, and immunities of such citizens, and shall in all respects be subject to the laws of the United States." If the act of 1866 was valid in conferring national citizenship upon all embraced by its terms, then the colored race, enfranchised by the 13th amendment, became citizens of the United States prior to the adoption of the 14th amendment. But, in the view which I take of the present case, it is not necessary to examine this question.

The terms of the 13th amendment are absolute and universal. They embrace every race which then was, or might thereafter be, within the United States. No race, as such, can be excluded from the benefits or rights thereby conferred. Yet, it is historically true that that amendment was suggested by the condition, in this country, of that race which had been declared, by this Court, to have had—according to the opinion entertained by the most civilized portion of the white race, at the time of the adoption of the Constitution—"no rights which the white man was bound to respect," none of the privileges or immunities secured by that instrument to citizens of the United States. It had reference, in a peculiar sense, to a people which (although the larger part of them were in slavery) had been invited by an act of Congress to aid in saving from overthrow a government which, theretofore, by all of its departments, had treated them as an inferior race, with no legal rights or privileges except such as the white race might choose to grant them.

These are the circumstances under which the 13th amendment was proposed for adoption. They are now recalled only that we may better understand what was in the minds of the people when that amendment was considered, and what were the mischiefs to be remedied and the grievances to be redressed by its adoption.

We have seen that the power of Congress, by legislation, to enforce the master's right to have his slave delivered up on claim was implied from the recognition of that right in the national Constitution. But the power conferred by the 13th amendment does not rest upon implication or inference. Those who framed it were not ignorant of the discussion, covering many years of our country's history, as to the constitutional power of Congress to enact the Fugitive Slave Laws of 1793 and 1850. When, therefore, it was determined, by a change in the fundamental law, to uproot the institution of slavery wherever it existed in the land, and to establish universal freedom, there was a fixed purpose to place the authority of Congress in the premises beyond the possibility of a doubt. Therefore, ex industria, power to enforce the 13th amendment, by appropriate legislation, was expressly granted. Legislation for that purpose, my brethren concede, may be direct and primary. But to what specific ends may it be directed? This Court has uniformly held that the National Government has the power, whether expressly given or not, to secure and protect rights conferred or guaranteed by the Constitution. *United States* v. *Reese,* 92 U.S. 214; *Strauder* v. *West Virginia,* 100 U.S. 303. That doctrine ought not now to be abandoned when the inquiry is not as to an implied power to protect the master's rights, but what may Congress, under powers expressly granted, do for the protection of freedom and the rights necessarily inhering in a state of freedom.

The 13th amendment, it is conceded, did something more than to prohibit slavery as an institution, resting upon distinctions of race, and upheld by positive law. My brethren admit that it established and decreed universal civil freedom throughout the United States. But did the freedom thus established involve nothing more than exemption from actual slavery? Was nothing more intended than to forbid one man from owning another as property? Was it the purpose of the Nation simply to destroy the institution, and then remit the race, theretofore held in bondage, to the several States for such protection, in their civil rights, necessarily growing out of freedom, as those States, in their discretion, might choose to provide? Were the States against whose protest the institution was destroyed, to be left free, so far as national interference was concerned, to make or allow discriminations against that race, as such, in the enjoyment of those fundamental rights which by universal concession, inhere in a state of freedom? Had the 13th amendment stopped with the sweeping declaration, in its first section, against the existence of slavery and involuntary servitude, except for crime, Congress would have had the power, by implication, according to the doctrines of *Prigg* v. *Commonwealth of Pennsylvania,* repeated in *Strauder* v. *West Virginia,* to protect the freedom established, and consequently, to secure the enjoyment of such civil rights as were fundamental in freedom. That it can exert its authority to that extent is made clear, and was intended to be made clear, by the express grant of power contained in the second section of the amendment.

That there are burdens and disabilities which constitute badges of slavery and servitude, and that the power to enforce by appropriate legislation the 13th amendment may be exerted by legislation of a direct and primary character, for the eradication, not simply of the institution, but of its badges and incidents, are propositions which ought to be deemed indisputable. They lie at the foundation of the Civil Rights Act of 1866. Whether that act was authorized by the 13th amendment alone, without the support which it subsequently received from the 14th amendment, after the adoption of which it was reenacted with some additions, my brethren do not consider it necessary to inquire. But I submit, with all respect to them, that its constitutionality is conclusively shown by their opinion. They admit, as I have said, that the 13th amendment established freedom; that there are burdens and disabilities, the necessary incidents of slavery, which constitute its substance and visible form; that Congress, by the act of 1866, passed in view of the 13th amendment, before the 14th was adopted, undertook to remove certain burdens and disabilities, the necessary incidents of slavery, and to secure to all citizens of every race and color, and without regard to previous servitude, those fundamental rights which are the essence of civil freedom; namely, the same right to make and enforce contracts, to sue, be parties, give evidence, and to inherit, purchase, lease, sell, and convey property as is enjoyed by white citizens; that under the 13th amendment, Congress has to do with slavery and its incidents; and that legislation, so far as necessary or proper to eradicate all forms and incidents of slavery and involuntary servitude, may be direct and primary, operating upon the acts of individuals, whether sanctioned by State legislation or not. These propositions being conceded, it is impossible, as it seems to me, to question the constitutional validity of the Civil Rights Act of 1866. I do not contend that the 13th amendment invests Congress with authority, by legislation, to define and regulate the entire body of the civil rights which citizens enjoy, or may enjoy, in the several States.

But I hold that since slavery, as the court has repeatedly declared, *Slaughter-House Cases*, 16 Wall. 36; *Strauder* v. *West Virginia*, 100 U.S. 303, was the moving or principal cause of the adoption of that amendment, and since that institution rested wholly upon the inferiority, as a race, of those held in bondage, their freedom necessarily involved immunity from, and protection against, all discrimination against them, because of their race, in respect of such civil rights as belong to freemen of other races. Congress, therefore, under its express power to enforce that amendment, by appropriate legislation, may enact laws to protect that people against the deprivation, because of their race, of any civil rights granted to other freemen in the same State; and such legislation may be of a direct and primary character, operating upon States, their officers and agents, and, also, upon, at least, such individuals and corporations as exercise public functions and wield power and authority under the State.

To test the correctness of this position, let us suppose that, prior to the adoption of the 14th amendment, a State had passed a statute denying to freemen of African descent, resident within its limits, the same right which was accorded to white persons, of making and enforcing contracts, and of inheriting, purchasing, leasing, selling, and conveying property; or a statute subjecting colored people to severer punishment for particular offenses than was prescribed for white persons, or excluding that race from the benefit of the laws exempting homesteads from execution. Recall the legislation of 1865–66 in some of the States, of which this court, in the Slaughter-House cases, said that it imposed upon the colored race onerous disabilities and burdens; curtained their rights in the pursuit of life, liberty, and property to such an extent that their freedom was of little value; forbade them to appear in the towns in any other character than menial servants; required them to reside on and cultivate soil, without the right to purchase or own it; excluded them from many occupations of gain; and denied them the privilege of giving testimony in the courts where a white man was a party (16 Wall. 57).

Can there be any doubt that all such enactments might have been reached by direct legislation upon the part of Congress under its express power to enforce the 13th amendment? Would any court have hesitated to declare that such legislation imposed badges of servitude in conflict with the civil freedom ordained by that amendment? That it would have been also in conflict with the 14th amendment, because inconsistent with the fundamental rights of American citizenship, does not prove that it would have been consistent with the 13th amendment.

What has been said is sufficient to show that the power of Congress under the 13th amendment is not necessarily restricted to legislation against slavery as an institution upheld by positive law, but may be exerted to the extent, at least, of protecting the liberated race against discrimination, in respect of legal rights belonging to freemen, where such discrimination is based upon race.

It remains now to inquire what are the legal rights of colored persons in respect of the accommodations, privileges and facilities of public conveyances, inns and places of public amusement?

First, as to public conveyances on land and water. In *New Jersey Steam Navigation Co.* v. *Merchants' Bank*, 6 How. 344, this court, speaking by Mr. Justice Nelson, said that a common carrier is "in the exercise of a sort of public office, and has public duties to perform, from which he should not be permitted to exonerate himself without the assent of the parties concerned." To the same effect is *Munn* v. *Illinois*, 94 U.S. 113. In *Olcott* v. *Supervisors*, 16 Wall. 678, it was ruled that railroads are public highways, established by authority of the State for public use; that they are none the less public highways, because controlled and owned by private corporations; that it is a part of the function of government to make and maintain highways for the convenience of the public; that no matter who is the agent, or what is the agency, the function performed is that of the State; that although the owners may be private companies, they may be compelled to permit the public to use these works in the manner in which they can be used; that, upon these grounds alone, have the courts sustained the investiture of railroad corporations with the State's right of eminent domain, or the right of municipal corporations, under legislative authority, to assess, levy and collect taxes to aid in the construction of railroads. So in *Township of Queensbury* v. *Culver*, 19 Wall. 83, it was said that a municipal subscription of railroad stock was in aid of the construction and maintenance of a public highway, and for the promotion of a public use.

Again, in *Township of Pine Grove* v. *Talcott*, 19 Wall. 666: "Though the corporation [railroad] was private, its work was public, as much so as if it were to be constructed by the State." To the like effect are numerous adjudications in this and the State courts with which the profession is familiar. The Supreme Judicial Court of Massachusetts in *Inhabitants of Worcester* v. *The Western R.R. Corporation*, 4 Met. 564, said in reference to a railroad:

"The establishment of that great thoroughfare is regarded as a public work, established by public authority, intended for the public use and benefit, the use of which is secured to the whole community, and constitutes, therefore, like a canal, turnpike, or highway, a public easement. * * * It is true that the real and personal property, necessary to the establishment and management of the railroad, is vested in the corporation; but it is in trust for the public." In *Erie, etc., R.R. Co.* v. *Casey*, 26 Penn. St. 287, the court, referring to an act repealing the charter of a railroad, and under which the State took possession of the road, said: "It is a public highway, solemnly devoted to public use. When the lands were taken it was for such use, or they could not have been taken at all. * * * Railroads established upon land taken by the right of eminent domain by authority of the commonwealth, created by her laws as thoroughfares for commerce, are her highways. No corporation has property in them, though it may have franchises annexed to and exercisable within them."

In many courts it has been held that because of the public interest in such a corporation the land of a railroad company cannot be levied on and sold under execution by a creditor. The sum of the adjudged cases is that a railroad corporation is a governmental agency, created primarily for public purposes and subject to be controlled for the public benefit. Upon this ground the State, when unfettered by contract, may regulate, in its decretion, the rates of fares of passengers and freight. And upon this ground, too, the State may regulate the entire management of railroads in all matters affecting the convenience and safety of the public; as, for example, by regulating speed, compelling stops of prescribed length at stations, and prohibiting discriminations and favoritisms. If the corporation neglects, or refuses, to discharge its duties to the public, it may be coerced to do so by appropriate proceedings in the name or in behalf of the State.

Such being the relations these corporations hold to the public, it would seem that the right of a colored person to use an improved public highway, upon the terms accorded to freemen of other races, is as fundamental, in the state of freedom established in this country, as are any of the rights which many brethren concede to be so far fundamental as to be deemed the essence of civil freedom. "Personal liberty consists," says Blackstone, "in the power of locomotion, of changing situation, or removing one's person to whatever places one's own inclination may direct, without restraint, unless by due course of law." But of what value is this right of locomotion, if it may be clogged by such burdens as Congress intended by the act of 1875 to remove? They are burdens which lay at the very foundation of the institution of slavery as it once existed. They are not to be sustained, except upon the assumption that there is, in this land of universal liberty, a class which may still be discriminated against, even in respect of rights of a character so necessary and supreme, that, deprived of their enjoyment in common with others, a freeman is not only branded as one inferior and infected, but, in the competitions of life, is robbed of some of the most essential means of existence; and all this solely because they belong to a particular race which the Nation has liberated. The 13th amendment alone obliterated the race line, so far as all rights fundamental in a state of freedom are concerned.

Second, as to inns. The same general observations which have been made as to railroads are applicable to inns. The word "inn" has a technical legal signification. It means, in the act of 1875, just what it meant at common law. A mere private boardinghouse is not an inn, nor is its keeper subject to the responsibilities, or entitled to the privileges of a common innkeeper. "To constitute one an innkeeper, within the legal force of that term, he must keep a house of entertainment or lodging for all travelers or wayfarers who might choose to accept the same, being of good character or conduct." Redfield on Carriers, etc., section 575. Says Judge Story:

"An innkeeper may be defined to be the keeper of a common inn for the lodging and entertainment of travelers and passengers, their horses, and attendants. An innkeeper is bound to take in all travelers and wayfaring persons, and to entertain them, if he can accommodate them, for a reasonable compensation; and he must guard their goods with proper diligence. * * * If an innkeeper improperly refuses to receive or provide for a guest, he is liable to be indicted therefor. * * * They (carriers of passengers) are no more at liberty to refuse a passenger, if they have sufficient room and accommodations, than an innkeeper is to refuse suitable room and accommodations to a guest." (Story on Bailments, secs. 475–476.)

In *Rex* v. *Ivens*, 7 Carrington & Payne, 213, 32 E.C.L. 495, the Court, speaking, by Mr. Justice Coleridge, said: "An indictment lies against an innkeeper who refuses to receive a guest, he having at the time room in his house; and either the price of the guest's entertainment being tendered to him, or such circumstances occurring as will dispense with that tender. This law is founded in good sense. The innkeeper is not to select his guests. He has no right to say to one, you shall come to my inn, and to another you shall not, as everyone coming and conducting himself in a proper manner has a right to be received; and for this purpose innkeepers are a sort of public servants, they having in return a kind of privilege of entertaining travelers and supplying them with what they want."

These authorities are sufficient to show that a keeper of an inn is in the exercise of a quasi-public employment. The law gives him special privileges and he is charged with certain duties and responsibilities to the public. The public nature of his employment forbids him from discriminating against any person asking admission as a guest on account of the race or color of that person.

Third. As to places of public amusement. It may be argued that the managers of such places have no duties to perform with which the public are, in any legal sense, concerned, or with which the public have any right to interfere; and, that the exclusion of a black man from a place of public amusement, on account of his race, or the denial to him, on that ground, of equal accommodations at such places, violates no legal right for the vindication of which he may invoke the aid of the courts. My answer is, that places of public amusement, within the meaning of the act of 1875, are such as are established and maintained under direct license of the law. The authority to establish and maintain them comes from the public. The colored race is a part of that public. The local government granting the license represents them as well as all other races within its jurisdiction. A license from the public to establish a place of public amusement, imports, in law, equality of right, at such places, among all the members of that public. This must be so, unless it be—which I deny—that the common municipal government of all the people may, in the exertion of its powers, conferred for the benefit of all, discriminate or authorize discrimination against a particular race, solely because of its former condition of servitude.

I also submit, whether it can be said—in view of the doctrines of this court as announced in *Munn* v. *State of Illinois*, 94 U.S. 113, and reaffirmed in *Peik* v. *Chicago & N.W. Railway Co.*, 94 U.S. 164—that the management of places of public amusement is a purely private matter, with which government has no rightful concern? In the Munn case the question was whether the State of Illinois could fix, by law, the maximum of charges for the storage of grain in certain warehouses in that State—the private property of individual citizens. After quoting a remark attributed to Lord Chief Justice Hale, to the effect that when private property is "affected with a public interest it ceases to be juris privati only," the court says:

"Property does become clothed with a public interest when used in a manner to make it of public consequence and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use, but, so long as he maintains the use, he must submit to the control."

The doctrines of *Munn* v. *Illinois* have never been modified by this Court, and I am justified, upon the authority of that case, in saying that places of public amusement, conducted under the authority of the law, are clothed with a public interest, because used in a manner to make them of public consequence and to affect the community at large. The law may therefore regulate, to some extent, the mode in which they shall be conducted, and, consequently, the public have rights in respect of such places, which may be vindicated by the law. It is consequently not a matter purely of private concern.

Congress has not, in these matters, entered the domain of State control and supervision. It does not, as I have said, assume to prescribe the general conditions and limitations under which inns, public conveyances, and places of public amusement, shall be conducted or managed. It simply declares, in effect, that since the Nation has established universal freedom in this country, for all time, there shall be no discrimination, based merely upon race or color, in respect of the accommodations and advantages of public conveyances, inns, and places of public amusement.

I am of the opinion that such discrimination practiced by corporations and individuals in the exercise of their public or quasi-public functions is a badge of servitude the imposition of which Congress may prevent under its power, by appropriate legislation, to enforce the 13th amendment; and, consequently, without reference to its enlarged power under the 14th amendment, the act of March 1, 1875, is not, in my judgment, repugnant to the Constitution.

It remains now to consider these cases with reference to the power Congress has possessed since the adoption of the 14th amendment. Much that has been said as to the power of Congress under the 13th amendment is applicable to this branch of the discussion, and will not be repeated.

Before the adoption of the recent amendments, it had become, as we have seen, the established doctrine of this Court that Negroes, whose ancestors had been imported and sold as slaves, could not become citizens of a State, or even of the United States, with the rights and privileges guaranteed to citizens by the national Constitution; further, that one might have all the rights and privileges of a citizen of a State without being a citizen in the sense in which that word was used in the national Constitution, and without being entitled to the privileges and immunities of citizens of the several States. Still, further, between the adoption of the 13th amendment and the proposal by Congress of the 14th amendment, on June 16, 1866, the statute books of several of the States, as we have seen, had become loaded down with enactments which, under the guise of apprentice, vagrant, and contract regulations, sought to keep the colored race in a condition, practically, of servitude. It was openly announced that whatever might be the rights which persons of that race had, as freemen, under the guarantees of the national Constitution, they could not become citizens of a State, with the privileges belonging to citizens, except by the consent of such State; consequently, that their civil rights, as citizens of the State, depended entirely upon State legislation. To meet this new peril to the black race, that the purposes of the Nation might not be doubted or defeated, and by way of further enlargement of the power of Congress, the 14th amendment was proposed for adoption.

Remembering that this court, in the Slaughter-House cases, declared that the one pervading purpose found in all the recent amendments, lying at the foundation of each, and without which none of them would have been suggested—was "the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly made freeman and citizen from the oppression of those who had formerly exercised unlimited dominion over him"—that each amendment was addressed primarily to the grievances of that race—let us proceed to consider the language of the 14th amendment.

Its first and fifth sections are in these words:

"SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

* * * * *

"SEC. 5. That Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

It was adjudged in *Strauder* v. *West Virginia*, 100 U.S. 303, and *Ex parte Virginia*, 100 U.S. 339, and my brethren concede, that positive rights and privileges were intended to be secured, and are in fact secured, by the 14th amendment.

But when, under what circumstances, and to what extent, may Congress, by means of legislation, exert its power to enforce the provisions of this amendment? The theory of the opinion of the majority of the Court—the foundation upon which their reasoning seems to rest—is, that the General Government cannot, in advance of hostile State laws or hostile State proceedings, actively interfere for the protection of any of the rights, privileges, and immunities secured by the 14th amendment. It is said that such rights, privileges, and immunities are secured by way of prohibition against State laws and State proceedings affecting such rights and privileges, and by power given to Congress to legislate for the purpose of carrying such prohibition into effect; also, that congressional legislation must necessarily be predicated upon such supposed State laws or State proceedings, and be directed to the correction of their operation and effect.

In illustration of its position, the Court refers to the clause of the Constitution forbidding the passage by a State of any law impairing the obligation of contracts. That clause does not, I submit, furnish a proper illustration of the scope and effect of the 5th section of the 14th amendment. No express power is given Congress to enforce, by primary direct legislation, the prohibition upon State laws impairing the obligation of contracts. Authority is, indeed, conferred to enact all necessary and proper laws for carrying into execution the enumerated powers of Congress and all other powers vested by the Constitution in the Government of the United States or in any department or officer thereof. And, as heretofore shown, there is also, by necessary implication, power in Congress, by legislation, to protect a right derived from the national Constitution. But a prohibition upon a State is not a power in Congress or in the National Government. It is simply a denial of power to the State. And the only mode in which the inhibition upon State laws impairing the obligation of contracts can be enforced, is, indirectly, through the courts, in suits where the parties raise some question as to the constitutional validity of such laws.

The judicial power of the United States extends to such suits for the reason that they are suits arising under the Constitution. The 14th amendment presents the first instance in our history of the investiture of Congress with affirmative power, by legislation, to enforce an express prohibition upon the States. It is not said that the judicial power of the Nation may be exerted for the enforcement of that amendment. No enlargement of the judicial power was required, for it is clear that had the 5th section of the 14th amendment been entirely omitted, the judiciary could have stricken down all State laws and nullified all State proceedings in hostility to rights and privileges secured or recognized by that amendment. The power given is, in terms, by congressional legislation, to enforce the provisions of the amendment.

The assumption that this amendment consists wholly of prohibitions upon State laws and State proceedings in hostility to its provisions, is unauthorized by its language. The first clause of the first section—"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside"—is of a distinctly affirmative character. In its application to the colored race, previously liberated, it created and granted, as well, citizenship of the United States, as citizenship of the State in which they respectively resided. It introduced all of that race, whose ancestors had been imported and sold as slaves, at once, into the political community known as the "People of the United States." They became, instantly, citizens of the United States, and of their respective States. Further, they were brought, by this supreme act of the Nation, within the direct operation of that provision of the Constitution which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States" (art IV, sec. 2).

The citizenship thus acquired by that race, in virtue of an affirmative grant from the Nation, may be protected, not alone by the judicial branch of the Government, but by congressional legislation of a primary direct character; this, because the power of Congress is not restricted to the enforcement of prohibitions upon State laws or State action. It is, in terms distinct and positive, to enforce the provisions of this article of amendment; not simply those of a prohibitive character, but the provisions—all of the provisions—affirmative and prohibitive, of the amendment. It is, therefore, a grave misconception to suppose that the fifth section of the amendment has reference exclusively to express prohibitions upon State laws or State action. If any right was created by that amendment, the grant of power, through appropriate legislation, to enforce its provisions, authorizes Congress, by means of legislation, operating throughout the entire Union, to guard, secure, and protect that right.

It is, therefore, an essential inquiry what, if any, right, privilege, or immunity was given, by the Nation, to colored persons, when they were made citizens of the State in which they reside? Did the constitutional grant of State citizenship to that race, of its own force, invest them with any rights, privileges, and immunities whatever? That they became entitled, upon the adoption of the 14th amendment, to all privileges and immunities of citizens in the several States, within the meaning of section 2 of article IV of the Constitution, no one, I suppose, will for a moment question. What are the privileges and immunities to which, by that clause of the Constitution, they became entitled? To this it may be answered, generally, upon the authority of the adjudged cases, that they are those which are fundamental in citizenship in a free republican government, such as are "common to the citizens in the latter States under their constitutions and laws by virtue of their being citizens." Of that provision it has been said, with the approval of this court, that no other one in the Constitution has tended so strongly to constitute the citizens of the United States one people. *Ward* v. *Maryland*, 12 Wall. 418; *Corfield* v. *Coryell*, 4 Wash. C.C. 371; *Paul* v. *Virginia*, 8 Wall. 168; *Slaughter-House Cases*, 16 id. 36.

Although this court has wisely forborne any attempt, by a comprehensive definition, to indicate all of the privileges and immunities to which the citizen of a State is entitled, of right, when within the jurisdiction of other States, I hazard nothing, in view of former adjudications, in saying that no State can sustain her denial to colored citizens of other States, while within her limits, of privileges or immunities, fundamental in republican citizenship, upon the ground that she accords such privileges and immunities only to her white citizens and withholds them from her colored citizens. The colored citizens of other States, within the jurisdiction of that State, could claim, in virtue of section 2 of article 4 of the Constitution, every privilege and immunity which that State secures to her white citizens. Otherwise, it would be in the power of any State, by discriminating class legislation against its own citizens of a particular race or color, to withhold from citizens of other States, belonging to that proscribed race, when within her limits, privileges and immunities of the character regarded by all courts as fundamental in citizenship; and that, too, when the constitutional guarantee is that the citizens of each State shall be entitled to "all privileges and immunities of citizens of the several States." No State may, by discrimination against a portion of its own citizens of a particular race, in respect of privileges and immunities fundamental in citizenship, impair the constitutional right of citizens of other States, of whatever race, to enjoy in that State all such privileges and immunities as are there accorded to her most favored citizens. A colored citizen of Ohio or Indiana, while in the jurisdiction of Tennessee, is entitled to enjoy any privilege or immunity, fundamental in citizenship, which is given to citizens of the white race in the latter State. It is not to be supposed that any one will controvert this proposition.

But what was secured to colored citizens of the United States—as between them and their respective States—by the national grant to them of State citizenship? With what rights, privileges, or immunities did this grant invest them? There is one, if there be no other—exemption from race discrimination in respect of any civil right belonging to citizens of the white race in the same State. That, surely, is their constitutional privilege when within the jurisdiction of other States. And such must be their constitutional right, in their own State, unless the recent amendments be splendid baubles, thrown out to delude those who deserved fair and generous treatment at the hands of the Nation. Citizenship in this country necessarily imports at least equality of civil rights among citizens of every race in the same State. It is fundamental in American citizenship that, in respect of such rights, there shall be no discrimination by the State, or its officers, or by individuals or corporations exercising public functions or authority, against any citizen because of his race or previous condition of servitude. In *United States* v. *Cruikshank*, 92 U.S. 542, it was said at page 555, that the rights of life and personal liberty are natural rights of man, and that "the equality of the rights of citizens is a principle of republicanism." And in *Ex parte Virginia*, 100 U.S. 334, the emphatic language of this Court is that "one great purpose of these amendments was to raise the colored race from that condition of inferiority and servitude in which most of them had previously stood, into perfect equality of civil rights with all other persons within the jurisdiction of the States." So, in *Strauder* v. *West Virginia*, 100 U.S. 306, the Court, alluding to the 14th amendment, said: "This is one of a series of constitutional provisions having a common purpose, namely, securing to a race recently emancipated, a race that through many generations had been held in slavery, all the civil rights that the superior race enjoy." Again, in *Neal* v. *Delaware*, 103 U.S. 386, it was ruled that this amendment was designed, primarily, "to secure to the colored race, thereby invested with the rights, privileges, and responsibilities of citizenship, the enjoyment of all the civil rights that, under the law, are enjoyed by white persons."

The language of this Court with reference to the 15th amendment, adds to the force of this view. In *United States* v. *Cruikshank*, it was said: "In *United States* v. *Reese*, 92 U.S. 214, we held that the 15th amendment has invested the citizens of the United States with a new constitutional right, which is exemption from discrimination in the exercise of the elective franchise, on account of race, color, or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship, but that exemption from discrimination in the exercise of that right on account of race, and so forth, is. The right to vote in the States comes from the States; but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been."

Here, in language at once clear and forcible, is stated the principle for which I contend. It can scarcely be claimed that exemption from race discrimination, in respect of civil rights, against those to whom State citizenship was granted by the Nation, is any less, for the colored race, a new constitutional right, derived from and secured by the national Constitution, than is exemption from such discrimination in the exercise of the elective franchise. It cannot be that the latter is an attribute of national citizenship, while the other is not essential in national citizenship, or fundamental in State citizenship.

If, then, exemption from discrimination, in respect of civil rights, is a new constitutional right, secured by the grant of State citizenship to colored citizens of the United States—and I do not see how this can now be questioned—why may not the Nation, by means of its own legislation of a primary direct character, guard, protect, and enforce that right? It is a right and privilege which the Nation conferred. It did not come from the States in which those colored citizens reside. It has been the established doctrine of this court during all its history, accepted as essential to the national supremacy, that Congress, in the absence of a positive delegation of power to the State legislatures, may, by its own legislation, enforce and protect any right derived from or created by the National Constitution. It was so declared in *Prigg* v. *Commonwealth of Pennsylvania.* It was reiterated in *United States* v. *Reese,* 92 U.S. 214, where the court said that "rights and immunities created by and dependent upon the Constitution of the United States can be protected by Congress. The form and manner of the protection may be such as Congress, in the legitimate exercise of its discretion, shall provide. These may be varied to meet the necessities of the particular right to be protected." It was distinctly reaffirmed in *Strauder* v. *West Virginia,* 100 U.S. 310, where we said that "a right or immunity created by the Constitution or only guaranteed by it, even without any express delegation of power, may be protected by Congress." How then can it be claimed in view of the declarations of this court in former cases, that exemption of colored citizens, within their States, from race discrimination, in respect of the civil rights of citizens, is not an immunity created or derived from the National Constitution?

This Court has always given a broad and liberal construction to the Constitution, so as to enable Congress, by legislation, to enforce rights secured by that instrument. The legislation which Congress may enact, in execution of its power to enforce the provisions of this amendment, is such as may be appropriate to protect the right granted. The word appropriate was undoubtedly used with reference to its meaning, as established by repeated decisions of this Court. Under given circumstances, that which the Court characterizes as corrective legislation might be deemed by Congress appropriate and entirely sufficient. Under other circumstances primary direct legislation may be required. But it is for Congress, not the judiciary, to say that legislation is appropriate—that is—best adapted to the end to be attained. The judiciary may not, with safety to our institutions, enter the domain of legislative discretion, and dictate the means which Congress shall employ in the exercise of its granted powers. That would be sheer usurpation of the functions of a coordinate department, which, if often repeated, and permanently acquiesced in, would work a radical change in our system of government. In *United States* v. *Fisher,* 2 Cr. 358, the Court said that "Congress must possess the choice of means, and must be empowered to use any means which are in fact conducive to the exercise of a power granted by the Constitution." "The sound construction of the Constitution," said Chief Justice Marshall, "must allow to the National Legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional" (*McCulloch* v. *Maryland,* 4 Wh. 421).

Must these rules of construction be now abandoned? Are the powers of the National Legislature to be restrained in proportion as the rights and privileges, derived from the Nation, are valuable? Are constitutional provisions, enacted to secure the dearest rights of freemer and citizens, to be subjected to that rule of construction, applicable to private instruments, which requires that the words to be interpreted must be taken most strongly against those who employ them? Or, shall it be remembered that "a Constitution of Government, founded by the people for themselves and their posterity, and for objects of the most momentous nature—for perpetual union, for the establishment of justice, for the general welfare, and for a perpetuation of the blessings of liberty—necessarily requires that every interpretation of its powers should have a constant reference to these objects? No interpretation of the words in which those powers are granted can be a sound one, which narrows down their ordinary import so as to defeat those objects" (1 Story Const. sec. 422).

The opinion of the court, as I have said, proceeds upon the ground that the power of Congress to legislate for the protection of the rights and privileges secured by the 14th amendment cannot be brought into activity except with the view, and as it may become necessary, to correct and annul State laws and State proceedings in hostility to such rights and privileges. In the absence of State laws or State action adverse to such rights and privileges, the Nation may not actively interfere for their protection and security, even against corporations and individuals exercising public or quasi public functions. Such I understand to be the position of my brethren.

If the grant to colored citizens of the United States of citizenship in their respective States, imports exemption from race discrimination, in their States, in respect of such civil rights as belong to citizenship, then, to hold that the amendment remits that right to the States for their protection, primarily, and stays the hands of the Nation, until it is assailed by State laws or State proceedings, is to adjudge that the amendment, so far from enlarging the powers of Congress—as we have heretofore said it did—not only curtails them, but reverses the policy which the General Government has pursued from its very organization. Such an interpretation of the amendment is a denial to Congress of the power, by appropriate legislation, to enforce one of its provisions. In view of the circumstances under which the recent amendments were incorporated into the Constitution, and especially in view of the peculiar character of the new rights they created and secured, it ought not to be presumed that the General Government has abdicated its authority, by national legislation, direct and primary in its character, to guard and protect privileges and immunities secured by that instrument. Such an interpretation of the Constitution ought not to be accepted if it be possible to avoid it. Its acceptance would lead to this anomalous result: that whereas, prior to the amendments, Congress, with the sanction of this Court, passed the most stringent laws—operating directly and primarily upon States and their officers and agents, as well as upon individuals—in vindication of slavery and the right of the master, it may not now, by legislation of a like primary and direct character, guard, protect, and secure the freedom established, and the most essential right of the citizenship granted, by the constitutional amendments. With all respect for the opinion of others, I insist that the National Legislature may, without transcending the limits of the Constitution, do for human liberty and the fundamental rights of American citizenship, what it did, with the sanction of this Court, for the protection of slavery and the rights of the masters of fugitive slaves.

If fugitive slave laws, providing modes and prescribing penalties, whereby the master could seize and recover his fugitive slave, were legitimate exercises of an implied power to protect and enforce a right recognized by the Constitution, why shall the hands of Congress be tied, so that—under an express power, by appropriate legislation, to enforce a constitutional provision granting citizenship—it may not, by means of direct legislation, bring the whole power of this Nation to bear upon States and their officers, and upon such individuals and corporations exercising public functions as assume to abridge, impair, or deny rights confessedly secured by the supreme law of the land?

It does not seem to me that the fact that, by the second clause of the first section of the 14th amendment, the States are expressly prohibited from making or enforcing laws abridging the privileges and immunities of citizens of the United States, furnishes any sufficient reason for holding or maintaining that the amendment was intended to deny Congress the power, by general, primary, and direct legislation, of protecting citizens of the several States, being also citizens of the United States, against all discrimination, in respect of their rights as citizens, which is founded on race, color, or previous condition of servitude.

Such an interpretation of the amendment is plainly repugnant to its fifth section, conferring upon Congress power, by appropriate legislation, to enforce not merely the provisions containing prohibitions upon the States, but all of the provisions of the amendment, including the provisions, express and implied, in the first clause of the first section of the article granting citizenship. This alone is sufficient for holding that Congress is not restricted to the enactment of laws adapted to counteract and redress the operation of State legislation, or the action of State officers, of the character prohibited by the amendment. It was perfectly well known that the great danger to the equal enjoyment by citizens of their rights, as citizens, was to be apprehended not altogether from unfriendly State legislation, but from the hostile action of corporations and individuals in the States. And it is to be presumed that it was intended, by that section, to clothe Congress with power and authority to meet that danger. If the rights intended to be secured by the act of 1875 are such as belong to the citizen, in common or equally with other citizens in the same State, then it is not to be denied that such legislation is peculiarly appropriate to the end which Congress is authorized to accomplish, viz, to protect the citizen, in respect of such rights, against discrimination on account of his race. Recurring to the specific prohibition in the 14th amendment upon the making or enforcing of State laws abridging the privileges of citizens of the United States, I remark that if, as held in the *Slaughter-House* cases, the privileges here referred to were those which belonged to citizenship of the United States, as distinguished from those belonging to State citizenship, it was impossible for any State prior to the adoption of that amendment to have enforced laws of that character. The judiciary could have annulled all such legislation under the provision that the Constitution shall be the supreme law of the land, anything in the Constitution or laws of any State to the contrary notwithstanding.

The States were already under an implied prohibition not to abridge any privilege or immunity belonging to citizens of the United States as such. Consequently, the prohibition upon State laws in hostility to rights belonging to citizens of the United States, was intended—in view of the introduction into the body of citizens of a race formerly denied the essential rights of citizenship—only as an express limitation on the powers of the States, and was not intended to diminish, in the slightest degree, the authority which the Nation has always exercised, of protecting, by means of its own direct legislation, rights created or secured by the Constitution. Any purpose to diminish the national authority in respect of privileges derived from the Nation is distinctly negatived by the express grant of power, by legislation, to enforce every provision of the amendment, including that which, by the grant of citizenship in the State, secures exemption from race discrimination in respect of the civil rights of citizens.

It is said that any interpretation of the 14th amendment different from that adopted by the majority of the court, would imply that Congress had authority to enact a municipal code for all the States, covering every matter affecting the life, liberty, and property of the citizens of the several States. Not so. Prior to the adoption of that amendment the constitutions of the several States, without perhaps an exception, secured all persons against deprivation of life, liberty, or property, otherwise than by due process of law, and, in some form, recognized the right of all persons to the equal protection of the laws. Those rights, therefore, existed before that amendment was proposed or adopted, and were not created by it. If, by reason of that fact, it be assumed that protection of these rights of persons still rests primarily with the States, and that Congress may not interfere except to enforce, by means of corrective legislation, the prohibitions upon State laws or State proceedings inconsistent with those rights, it does not at all follow, that privileges which have been granted by the Nation may not be protected by primary legislation upon the part of Congress.

The personal rights and immunities recognized in the prohibitive clauses of the amendment were, prior to its adoption, under the protection, primarily, of the States, while rights, created by or derived from the United States have always been, and, in the nature of things, should always be, primarily, under the protection of the general government. Exemption from race discrimination in respect of the civil rights which are fundamental in citizenship in a republican government, is, as we have seen, a new right, created by the Nation, with express power in Congress, by legislation, to enforce the constitutional provision from which it is derived. If, in some sense, such race discrimination is within the letter of the last clause of the first section, a denial of that equal protection of the laws which is secured against State denial to all persons whether citizens or not, it cannot be possible that a mere prohibition upon such State denial, or a prohibition upon State laws abridging the privileges and immunities of citizens of the United States, takes from the Nation the power which it has uniformly exercised of protecting, by direct primary legislation, those privileges and immunities which existed under the Constitution before the adoption of the 14th amendment, or have been created by that amendment in behalf of those thereby made citizens of their respective States.

This construction does not in any degree intrench upon the just rights of the States in the control of their domestic affairs. It simply recognizes the enlarged powers conferred by the recent amendments upon the general government. In the view which I take of those amendments, the States possess the same authority which they have always had to define and regulate the civil rights which their own people, in virtue of State citizenship, may enjoy within their respective limits; except that its exercise is now subject to the expressly granted power of Congress, by legislation, to enforce the provisions of such amendments—a power which necessarily carries with it authority, by national legislation, to protect and secure the privileges and immunities which are created by or are derived from those amendments. That exemption of citizens from discrimination based on race or color, in respect of civil rights, is one of those privileges or immunities, can no longer be deemed an open question in this court.

It was said of the case of *Dred Scott* v. *Sandford*, that this court, there overruled the action of two generations, virtually inserted a new clause in the Constitution, changed its character, and made a new departure in the workings of the Federal Government. I may be permitted to say that if the recent amendments are so construed that Congress may not, in its own discretion, and independently of the action or nonaction of the States, provide, by legislation of a direct character, for the security of rights created by the National Constitution; if it be adjudged that the obligation to protect the fundamental privileges and immunities granted by the 14th amendment to citizens residing in the several States, rests primarily, not on the Nation, but on the States; if it be further adjudged that individuals and corporations, exercising public functions, or wielding power under public authority, may, without liability to direct primary legislation on the part of Congress, make the race of citizens the ground for denying them that equality of civil rights which the Constitution ordains as a principle of republican citizenship; then, not only the foundations upon which the national supremacy has always securely rested will be materially disturbed, but we shall enter upon an era of constitutional law, when the rights of freedom and American citizenship cannot receive from the Nation that efficient protection which heretofore was unhesitatingly accorded to slavery and the rights of the master.

But if it were conceded that the power of Congress could not be brought into activity until the rights specified in the act of 1875 had been abridged or denied by some State law or State action, I maintain that the decision of the court is erroneous. There has been adverse State action within the 14th amendment as heretofore interpreted by this Court. I allude to Ex parte Virginia, supra. It appears, in that case, that one Cole, judge of a county court, was charged with the duty, by the laws of Virginia, of selecting grand and petit jurors. The law of the State did not authorize or permit him, in making such selections, to discriminate against colored citizens because of their race. But he was indicted in the Federal court, under the act of 1875, for making such discriminations. The attorney general of Virginia contended before us, that the State had done its duty, and had not authorized or directed that county judge to do what he was charged with having done; that the State had not denied to the colored race the equal protection of the laws; and that consequently the act of Cole must be deemed his individual act, in contravention of the will of the State. Plausible as this argument was, it failed to convince this court, and after saying that the 14th amendment had reference to the political body denominated a State, "by whatever instruments or in whatever modes that action may be taken," and that a State acts by its legislative, executive, and judicial authorities, and can act in no other way, we proceeded:

"The constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty without due process of law; or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and, as he acts under the name and for the State, and is clothed with the State's power, his act is that of the State. This must be so, or the constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annul or evade it. But the constitutional amendment was ordained for a purpose. It was to secure equal rights to all persons, and, to insure to all pesrons the enjoyment of such rights, power was given to Congress to enforce its provisions by appropriate legislation. Such legislation must act upon persons, not upon the abstract thing denominated a State, but upon the persons who are the agents of the State, in the denial of the rights which were intended to be secured" (*Ex parte Virginia*, 100 U.S. 346-347).

In every material sense applicable to the practical enforcement of the 14th amendment, railroad corporations, keepers of inns, and managers of places of public amusement are agents or instrumentalities of the State, because they are charged with duties to the public, and are amenable, in respect of their duties and functions, to governmental regulation. It seems to me that, within the principle settled in Ex parte Virginia, a denial by these instrumentalities of the State, to the citizen, because of his race, of that equality of civil rights secured to him by law, is a denial by the State, within the meaning of the 14th amendment. If it be not, then that race is left, in respect of the civil rights in question, practically at the mercy of corporations and individuals wielding power under the States.

But the court says that Congress did not, in the act of 1866, assume, under the authority given by the 13th amendment, to adjust what may be called the social rights of men and races in the community. I agree that Government has nothing to do with social, as distinguished from technically legal, rights of individuals. No government ever has brought, or ever can bring, its people into social intercourse against their wishes. Whether one person will permit or maintain social relations with another is a matter with which Government has no concern. I agree that if one citizen chooses not to hold social intercourse with another, he is not and cannot be made amenable to the law for his conduct in that regard; for even upon grounds of race, no legal right of a citizen is violated by the refusal of others to maintain merely social relations with him. What I affirm is that no State, nor the officers of any State, nor any corporation or individual wielding power under State authority for the public benefit or the public convenience, can consistently either with the freedom established by the fundamental law, or with that equality of civil rights which now belongs to every citizen, discriminate against freemen or citizens, in those rights, because of their race, or because they once labored under the disabilities of slavery imposed upon them as a race. The rights which Congress, by the act of 1875, endeavored to secure and protect are legal, not social rights. The right, for instance, of a colored citizen to use the accommodations of a public highway, upon the same terms as are permitted to white citizens, is no more a social right than his right, under the law, to use the public streets of a city or a town, or a turnpike road, or a public market, or a post office, or his right to sit in a public building with others, of whatever race, for the purpose of hearing the political questions of the day discussed.

Scarcely a day passes without our seeing in this courtroom citizens of the white and black races sitting side by side, watching the progress of our business. It would never occur to anyone that the presence of a colored citizen in a courthouse, or courtroom, was an invasion of the social rights of white persons who may frequent such places. And yet, such a suggestion would be quite as sound in law—I say it with all respect—as is the suggestion that the claim of a colored citizen to use, upon the same terms as is permitted to white citizens, the accommodations of public highways, or public inns, or places of public amusement, established under the license of the law, is an invasion of the social rights of the white race.

The Court, in its opinion, reserves the question whether Congress, in the exercise of its power to regulate commerce amongst the several States, might or might not pass a law regulating rights in public conveyances passing from one State to another. I beg to suggest that that precise question was substantially presented here in the only one of these cases relating to railroads—*Robinson* *and Wife* v. *Memphis & Charleston Railroad Company.* In that case it appears that Mrs. Robinson, a citizen of Mississippi, purchased a railroad ticket entitling her to be carried from Grand Junction, Tenn., to Lynchburg, Va. Might not the act of 1875 be maintained in that case, as applicable at least to commerce between the States, notwithstanding it does not, upon its face, profess to have been passed in pursuance of the power of Congress to regulate commerce? Has it ever been held that the judiciary should overturn a statute, because the legislative department did not accurately recite therein the particular provision of the Constitution authorizing its enactment? We have often enforced municipal bonds in aid of railroad subscriptions, where they failed to recite the statute authorizing their issue, but recited one which did not sustain their validity.

The inquiry in such cases has been, was there, in any statute, authority for the execution of the bonds? Upon this branch of the case, it may be remarked that the State of Louisiana, in 1869, passed a statute giving to passengers, without regard to race or color, equality of right in the accommodations of railroad and street cars, steamboats or other water crafts, stage coaches, omnibuses, or other vehicles. But in *Hall* v. *De Cuir*, 95 U.S. 487, that act was pronounced unconstitutional so far as it related to commerce between the States, this Court saying that "if the public good requires such legislation it must come from Congress, and not from the States." I suggest that it may become a pertinent inquiry whether Congress may, in the exertion of its power to regulate commerce among the States, enforce among passengers on public conveyances, equality of right, without regard to race, color or previous condition of servitude, if it be true—which I do not admit—that such legislation would be an interference by Government with the social rights of the people.

My brethren say that when a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights as a citizen, or a man, are to be protected in the ordinary modes by which other men's rights are protected. It is, I submit, scarcely just to say that the colored race has been the special favorite of the laws. The statute of 1875, now adjudged to be unconstitutional, is for the benefit of citizens of every race and color. What the Nation, through Congress, has sought to accomplish in reference to that race, is—what had already been done in every State of the Union for the white race—to secure and protect rights belonging to them as freemen and citizens; nothing more. It was not deemed enough "to help the feeble up, but to support him after." The one underlying purpose of congressional legislation has been to enable the black race to take the rank of mere citizens. The difficulty has been to compel a recognition of the legal right of the black race to take the rank of citizens, and to secure the enjoyment of privileges belonging, under the law, to them as a component part of the people for whose welfare and happiness government is ordained.

At every step, in this direction, the Nation has been confronted with class tyranny, which a contemporary English historian says is, of all tyrannies, the most intolerable, "for it is ubiquitous in its operation, and weighs, perhaps, most heavily on those whose obscurity or distance would withdraw them from the notice of a single despot." Today, it is the colored race which is denied, by corporations and individuals wielding public authority, rights fundamental in their freedom and citizenship. At some future time, it may be that some other race will fall under the ban of race discrimination. If the constitutional amendments be enforced, according to the intent with which, as I conceive, they were adopted, there cannot be, in this Republic, any class of human beings in practical subjection to another class, with power in the latter to dole out to the former just such privileges as they may choose to grant. The supreme law of the land has decreed that no authority shall be exercised in this country upon the basis of discrimination, in respect of civil rights, against freemen and citizens because of their race, color, or previous condition of servitude. To that decree—for the due enforcement of which, by appropriate legislation, Congress has been invested with express power—every one must bow, whatever may have been, or whatever now are, his individual views as to the wisdom or policy, either of the recent changes in the fundamental law, or of the legislation which has been enacted to give them effect.

For the reasons stated I feel constrained to withhold my assent to the opinion of the court.

STATEMENT OF LAURENCE H. ELDREDGE, OF PHILADELPHIA, PA., BEFORE THE U.S. SENATE COMMITTEE ON THE JUDICIARY CONCERNING THE PROPOSED CIVIL RIGHTS ACT OF 1963 (S. 1731)

I appreciate this committee's invitation to appear before it. I am deeply concerned about "Title II—Injunctive Relief Against Discrimination in Public Accommodations" and "Title IV—Establishment of Community Relations Service" of the proposed Civil Rights Act of 1963.

Solely for the purpose of identifying myself on the record, may I say that I am actively practicing law in Philadelphia and have been a member of the Philadelphia bar for more than 35 years. I am a former chairman of the board of governors of the Philadelphia Bar Association, and I have been in the past a professor of law in the University of Pennsylvania Law School and in the Temple University School of Law, and I was twice visiting professor at Columbia University Law School. Over the past 30 years I have served as both reporter and adviser to the American Law Institute, with respect to the restatement of torts and the model code of evidence. My community activities have included presidencies of the Better Business Bureau, Episcopal Hospital, the Philadelphia Art Alliance and Pennsylvania Alcoholic Beverage Study, Inc., and a vice presidency of the Philadelphia Grand Opera Company. I recently completed a term as national president of the Lafayette College Alumni Association. I am governor of the Colonial Society of Pennsylvania and a former governor of the Pennsylvania Society of Mayflower Descendants. However, I want to stress the fact that I am appearing only as an individual citizen and what I have to say is only a statement of my own personal views.

I am completely sympathetic to the efforts which members of the Negro race are making to eliminate in our public life the gross injustices which they have suffered in the past. Much of what has happened to them, and is still happening, both in the North and in the South, flagrantly violates our fundamental ideas of equal justice under law and equal rights for all citizens.

Nonetheless, the proposal for the Congress to enact a statute of nationwide application which would compel all persons who engage in providing services or selling goods to serve all prospective customers without any discrimination, under penalty of going to jail for contempt of court, disturbs me greatly.

In the first place, every thoughtful student of legal history knows that there are some things which cannot be accomplished by law. Our laws do and must undergo change, and they reflect the felt necessities of the times. However, with his customary acuity, Justice Holmes warned us long ago:

"It cannot be helped, it is as it should be, that the law is behind the times. I told a labor leader once that what they asked was favor, and if a decision was against them they called it wicked. The same might be said of their opponents. It means that the law is growing. As law embodies beliefs that have triumphed in the battle of ideas and then have translated themselves into action, while there still is doubt, while opposite convictions still keep a battlefront against each other, the time for law has not come; the notion destined to prevail is not yet entitled to the field. It is a misfortune if a judge read his conscious or unconscious sympathy with one side or the other prematurely into the law, and forgets that what seem to him to be first principles are believed by half his fellow men to be wrong."

It is essential for the enforcement of any law that it have, at least, the approval of a majority of the decent people in the community. A law which does not have such community support cannot be enforced. The worst part of the flouting of such a law by decent citizens, and the resentment against it which is created, is that this creates disrespect for law in general and for courts and law enforcement agencies. A striking example of it in our own history, which is well known to you and me if not to the younger generation, is the history of the prohibition amendment. All the power of the U.S. Government, with the aid of the Coast Guard and of State enforcement agencies, could not compel obedience to the law, which was violently opposed by large numbers of responsible citizens in various parts of the country. The result was the growth of a general spirit of lawlessness in the 1920's, admiration in some circles for mob gangsters, and a general spirit of disrespect for law and government which was sickening to every thoughtful student of government.

The Congress of the United States cannot, by statute, compel the people on a nationwide scale to measure up to a standard of what a portion of the population believes to be fair and decent and good morals. Deep-seated prejudices widely held can be eradicated only by education and persuasion. The American people can be led, but they don't like to be driven. They enjoy the satisfaction of doing a good deed; but they resent being compelled to do it under threats of sanctions. It is only in a so-called totalitarian or welfare state that "big brother" decides what every individual citizen must do or not do. Standards of morality and decency are fluid concepts which defy precise definition.

It has always been a fundamental part of the Anglo-Saxon tradition of law that private citizens have a right to lead their own lives as they see fit, to make utter fools of themselves and incur community condemnation, and to be eccentric, unreasonable, bigoted and nasty, if they choose to lead that kind of a life. Of course there are limits to this, and when an eccentricity expands to shooting one's neighbor because he is cross-eyed, that requires community sanctions.

To me a shocking thing about the pending Senate bill is that it is based upon the constitutional power of Congress to regulate interstate commerce. This is intellectual dishonesty. The only rational basis for such legislation would be the 14th amendment. The very fact that the Attorney General has primarily based title II upon the commerce clause emphasizes the distinction which has always existed between the power to control State action and the lack of power to control the conduct of private citizens. Unless the *Civil Rights Cases*, 109 U.S. 3, are squarely overruled, and I believe that would be highly undesirable, the law is clear that Congress has no power conferred upon it by the 14th amendment to enact either title II or title IV of this bill. The first sentence of that amendment makes all persons born in the United States citizens of the United States. But I cannot accept the suggestion recently made in this committee that that sentence gives the Congress power to define the rights and privileges of American citizens. The power to define rights is the power to expand, contract, or destroy those rights. The rights of American citizens have been defined in the common law and in the Bill of Rights, and Congress cannot change them.

When I taught the law of torts, I thought it was a fundamental concept of property that one of the most important attributes of ownership of real estate is the right to exclusive possession of that real estate, and that anybody who enters without my permission is a trespasser, unless he has a law-given privilege to enter. I may stand at the door of my shop and tell a man who wants to enter, "Keep out. I just saw you kick a dog and I don't like you." I may also keep him out upon less rational grounds, such as the fact that I do not like the color of his necktie. In other words, it has always been a part of my rights as a citizen owning property to be mean, ornery, cantankerous, and wholly unreasonable in living my life. This carries over into my disposition of my property after my death, and citizens may make strange disposition of their property by will. What is done with property during life, and even after death, may incur community condemnation because it does not fit in with the community thinking, and yet, except in extreme instances, no laws are violated.

If I observe a blind man who is a stranger to me walking toward a precipice and I do not raise my voice to save him from certain disaster, I will incur the condemnation of the community but I will not violate any law as it presently exists.

Getting back to the power of government to regulate business, I realize that even the early English common law imposed special duties upon the innkeeper and the common carrier, and a few others, upon the ground that such businesses were of peculiar public interest. There were strong reasons why the weary traveler who knocked at the door of the inn late in the afternoon should not have the door slammed in his face with the only other accommodations a day's journey distant. It is also true that our concept of what businesses are affected with a public interest, and hence subject to special regulation, has undergone change and expansion to reflect "the felt necessities of the times." Nonetheless, the fundamental distinction has always been preserved between "private business" and "public business" or public utilities. Up to the present "private business" has been in the large majority.

It is of course possible, subject to constitutional limitations, for Congress to say that in the year 1963 every person who engages in business or offers services, and hopes the public will come to his premises to buy his wares or partake of his services, is operating a public utility and the Government can tell him how he must conduct himself in accepting or rejecting customers. I suppose this could even apply to doctors and lawyers and dentists.

However, if this change takes place in our law, it will mark a revolutionary change in what has been a fundamental concept of the rights of private citizens engaging in what has heretofore been considered "private" business to conduct such business as ineptly as they choose, even though it results in bankruptcy. This is the "big brother" concept with a vengeance. The Congress will set up a nationwide standard which is, in large part, a standard of morality and human decency as to how the businessman must treat customers and prospective customers and refrain from humiliating them. It tells the businessman how he must act, not only with Negroes but also with Jews, Catholics, Presbyterians, Jehovah's Witnesses, and a whole host of other groups. I doubt that it is the function of law to impose such standards even where 75 percent of the Nation strongly approves of the standard and its imposition. Unless we come to a welfare state, the other 25 percent have the right to remain free to be unreasonable and nasty if they can withstand the community condemnation which results from such conduct.

I doubt that the standard presently being considered by the Senate is now approved by a large majority of our population. The question is one of intense dispute among decent people in many States in all geographical parts of this vast Nation. As Holmes put it, the "opposite convictions still keep a battlefront against each other." A legislator, as well as a judge, should not forget "that what seem to him to be first principles are believed by half his fellow men to be wrong."

I turn now to title IV which is called Establishment of Community Relations Service. From what I have read and heard not very much has been said about title IV in these hearings. If I correctly understand the powers it would confer and create, this title is the worst part of the whole bill. Some years ago there was a book called It Can't Happen Here. I ask you to consider carefully what could happen here in these United States if sections 401 and 402 became the law of the land.

Section 401 provides for a Director of the Service to be appointed by the President. It authorizes the Director "to appoint such additional officers and employees as he deems necessary to carry out the purposes of this title." What this unspecified number of employees can do in every part of the United States is set forth in section 402 which defines "the function of the Service," and says what it may do. The Service may intervene in any "dispute, disagreement, or difficulty" relating to an alleged discriminatory practice based on race, color, or national origin, anywhere in these vast United States. Whether a store proprietor fires an employee because of incompetence or theft, or refuses to sell goods because of the applicant's bad credit, as the proprietor contends, or because of the man's color or national origin as the complainant contends, will present a question of fact for investigation.

In a given locality, the Service will necessarily perform its function by employees working in local offices. We cannot expect many of them to possess the wisdom of Solomon and the fairness of the Goddess of Justice. Few human beings do. As I envision it, these local employees can project themselves into any community "dispute, disagreement or difficulty" officiously ("upon its own motion"), or upon the request of any "interested person." I suppose any "interested person" includes any and all persons who claim to have a gripe about anybody engaged in offering goods or services to residents of the community. This authorization could put another 100,000 persons on the Federal payroll who would populate Community Relations Service offices in every county, parish, township, city, borough, and town in the United States. There is, at least, the possibility, human nature being what it is, that this could turn into a great new Federal bureaucracy which could harass and persecute the business and professional men of every community; drag them in for secret Star Chamber inquiries; and all this in the name of a high moral standard which the zealous inquisitor is enforcing as national public policy.

Indeed, even private clubs could be invaded, in view of the except clause on page 15, lines 12 to 14 in section 202(b) of title II. Many private dinners are held in private dining rooms of clubs by groups which would come within the words "customers or patrons of an establishment" on page 15, lines 13, and 14.

Of course, it might not work out that way. But the possibilities are there; and before the Congress creates new Federal powers, never before known in this Nation's history, I respectfully suggest that it should most thoughtfully consider the possible abuse, as well as use, of that power. In some ways title IV strikes me as the most appalling part of this extraordinary bill.

I appreciate the honor of being invited to appear before this distinguished committee. I hope that I have been of some help to you and I shall be glad to try to answer any questions you may have for me.

Mr. McCARTHY. Mr President, I yield myself 2 minutes.

I think the record should show that this amendment, or at least the general area of this proposal, was discussed during the 70 or more days of debate. So if Senators vote it down, it could not properly be considered as being arbitrary action to which Members of this body had given no consideration or no reflection.

The second point I wish to make is that there were 70 days of debate in which this amendment could have been offered, in which Senators who would like to have stricken this title could have offered an amendment to do so. Here we are under cloture, and it is offered now, and the charge is made that Senators who support the bill are unwilling to give this amendment full consideration after the debate has continued for so long.

I should say that those charges do not run against those of us who are supporting the bill and who are likely to vote against this particular amendment.

Mr. HART. Mr. President, I yield myself a couple of minutes.

The distinguished Senator from West Virginia began his interesting and thoughtful speech by reminding us that we are at the "umpteenth" anniversary of Runnymede. That should remind us also that for almost as long as there was a Runnymede, there was an obligation on the part of the innkeepers of England to put up for the night anyone who was traveling and stopped for the night, if he had the money to pay for it.

True enough, we do not have a Federal common law, but it is a reminder of the tradition of Runnymede that persuades us that title II makes good sense.

Second, at all levels, we have a deep obligation to take action which seeks to balance competing interests—the so-called interest of the persons and the so-called property interest. As to the priority of values that shall be placed upon the desire of one who hangs out a sign and invites the public in, but, under his breath, says, "But not if you are colored," or perhaps fall into some other arbitrary category, as against the interest of permitting the free flow of American citizens traveling north and south without the indignity of being adjudged while they are still 50 feet away, I think the determination of such priority is easy, and it is reflected in title II.

The government controls what can be done with private property after a person dies. The only ones affected are one's next of kin. Nobody is offended by that. It is in good order.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HART. I yield myself 2 minutes.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HART. On the Senator's time.

Mr. JOHNSTON. But an individual has the right to make a will and give his property to whomsoever he chooses.

Mr. HART. That is correct; and he has the right not to go into the business establishment of a person who hangs out a sign, just as he has a right to die intestate if he wishes.

Lastly, no title of this bill has had as full an analysis by a standing committee of the Senate as has this one. As a member of the Committee on Commerce, I am proud of the quality of the hearing that was conducted by that committee over a dozen days. The committee recommended the adoption of a public accommodations statute. It reported a bill, almost unanimously, that is stronger than title II now before the Senate.

I may say something that hits a sensitive nerve. We are not supposed to legislate under the gun.

The PRESIDING OFFICER. The time of the Senator has again expired.

Mr. HART. I yield myself 2 minutes.

We legislate in the light of the facts of life. I would suspect that the tea at Boston was not very significant except that at that moment in history it was overwhelmingly significant. A cup of coffee to a Negro serviceman who is drafted in Detroit and who tries to get one in some other State is just as significant at this moment of history as tea was at the time of the Boston Tea Party. Our failure to take care of that situation is indeed a fact of life that we ought to recognize and upon which we ought to respond.

I hope the amendment is defeated.

Mr. LONG of Louisiana. Mr. President, I make the point that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 337 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, Va
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Goldwater
Gore
Gruening
Hart
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment of the Senator from West Virginia [Mr. BYRD]. On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia [Mr. ROBERTSON]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Arizona [Mr. HAYDEN], the Senator from Virginia [Mr. ROBERTSON], the Senator from New Jersey [Mr. WILLIAMS], and the Senator from Indiana [Mr. HARTKE] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. CLARK], the Senator from Rhode Island [Mr. PELL], the Senator from Florida [Mr. SMATHERS], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the senator from Pennsylvania [Mr. CLARK], the Senator from California [Mr. ENGLE], the Senator from Rhode Island [Mr. PELL], and the Senator from New Jersey [Mr. WILLIAMS] would each vote "nay."

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from Maryland [Mr. BREWSTER]. If present and voting, the Senator from Florida would vote "yea" and the Senator from Maryland would vote "nay."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. COOPER] and the Senator from Illinois [Mr. DIRKSEN] are absent on official business.

The Senator from Texas [Mr. TOWER] is necessarily absent.

If present and voting, the Senator from Kentucky [Mr. COOPER] would vote "nay."

On this vote, the Senator from Illinois [Mr. DIRKSEN] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Texas would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 23, nays 63, as follows:

[No. 338 Leg.]

YEAS—23

Bennett
Byrd, Va.
Byrd, W. Va.
Cotton
Eastland
Ellender
Ervin
Fulbright
Goldwater
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—63

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—14

Brewster
Clark
Cooper
Dirksen
Engle
Hartke
Hayden
Mansfield
Pell
Robertson
Smathers
Tower
Williams, N.J.
Yarborough

So the amendment of Mr. BYRD of West Virginia was rejected.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 339 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. (Mr. NELSON in the chair). A quorum is present.

Mr. RUSSELL. Mr. President, I call up my amendment No. 766 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed to strike out all of the language on line 9, page 17 in subparagraph (b) following the word "origin" and substituting a period for the comma after the word "origin", the language to be stricken reading as follows: "but 'desegregation' shall not mean the assignment of students to public school in order to overcome racial imbalance.", strike out the language beginning on page 21, line 18, after the word "section" down through and including "standards" on line 1, page 22, the language to be stricken from the substitute bill reading as follows:

> *Provided*, That nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards.

Mr. RUSSELL. Mr. President, on my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. RUSSELL. I yield myself 3 minutes.

Mr. President, in a bill that is shot through and through with sectionalism and hypocrisy of the most monumental——

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order.

Mr. RUSSELL. Mr. President, I ask that my time not begin to run until the Senate is in order.

The PRESIDING OFFICER. The time of the Senator from Georgia will not run until the Senate is in order.

The Senate will be in order.

The Senator from Georgia may proceed.

Mr. RUSSELL. Mr. President, in a bill that is sectional in character and shot through and through with hypocrisy, the most glaring of all the hypocrisies is the provision of the bill in title IV, which would prohibit the Attorney General from moving against de facto segregation.

I wish to make it perfectly clear that I do not believe it constitutional for the Attorney General or anyone else to undertake to correct racial imbalance in the schools. Under our constitutional system, I do not believe that the Federal Government has any power whatever over the schools of the country.

However, the bill contains a provision to remove the jurisdiction of Federal courts from any action looking to the correction of de facto segregation at the same time that it provides for three-judge courts to be assembled immediately to move into the section of the country whence I come to strike down segregation under the separate-but-equal doctrine that has been sustained and approved by the greatest jurists who have ever adorned the Supreme Court of the United States.

The Supreme Court has stricken down so-called de jure segregation, or the separate-but-equal theory. But the bill says the Government cannot move into the area of de facto segregation, nor can anyone else do so; it prohibits the courts from even assuming jurisdiction or handing down any order whatever that would deal with desegregation in the great cities of this land where segregation is just as complete as it ever was by law in the State whence I come. My amendment would strike this discriminatory provision from the bill.

Mr. President, this bill is lopsided throughout; but this particular provision is so manifestly unfair that my amendment should commend itself to the basic sense of fairness of the Senate, if any is left. However, in view of the way the Senate has mechanically mowed down amendment after amendment that has been offered here—even taking the position that cemeteries are engaged in interstate commerce—and in view of the haste with which Senators have proceeded to vote to strike down all the amendments, the chance of getting the Senate to adopt such an amendment as this one seems remote.

However, Mr. President, I appeal to Senators not to vote for such a hypocritical provision as will deny jurisdiction to the Federal courts to even consider the effect of segregation of students in the schools in the great cities where, as all of us know, as a practical matter there is total segregation in many of the schools while sending the full forces of the Department of Justice into the South to force an intermingling of the races even in areas where both races prefer separate facilities.

Mr. President, let us at least stop, hesitate, and think for 1 minute, and consider what Senators are doing when they vote to arm the Attorney General with almost every weapon on earth, so as to enable him to invade the Southern States and destroy the social order and upset the system that obtains there. Senators from the Northern States will, by their votes, be protecting their own States, by virtually exempting them from the provisions of the fair employment and equal accommodations titles of the bill.

In dealing with title IV, Senators should not vote to make the bill so absurdly lopsided, prejudiced, and hypocritical as even to deny the courts jurisdiction to consider whether de facto segregation is a violation of the constitutional privileges of any American child.

The PRESIDING OFFICER. The time of the Senator from Georgia has expired.

Mr. EASTLAND. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 2 minutes.

Mr. EASTLAND. Mr. President, the object of the bill is to preserve segregation in the northern cities. That is why this provision is included in the bill, among other provisions which the Senator from Georgia desires to have stricken from it.

In its decision in the Brown case, the U.S. Supreme Court said, in referring to children of the two races:

> To separate them from others of similar age and qualification, because of their race, generates a feeling of inferiority as to their status in the community, and may affect their very hearts and minds in a way unlikely ever to be undone. Segregation of white and colored children in public schools has a detrimental effect upon the colored child.
>
> While the policy of separate races is usually interpreted as denoting inferiority of the Negro group, a sense of inferiority affects the motivation of a child to learn.

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired.

Mr. EASTLAND. I yield myself 1 more minute.

The PRESIDING OFFICER. The Senator from Mississippi may proceed for 1 more minute.

Mr. EASTLAND. Let Senators consider the situation in the northern cities, where there is de facto segregation. An attempt was made to argue that the bill would apply to areas other than the South; but anyone who studies the bill knows, from the Brown case decision, how the Supreme Court would rule.

So by means of this bill, Senators propose to limit the jurisdiction of the courts. Why? In order to preserve segregation in the North, but to destroy segregation in the South.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia [Mr. RUSSELL]. On this question, the yeas and nays have been ordered.

Mr. HUMPHREY. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. HUMPHREY. Mr. President, this matter requires a statement. Therefore, I take this time to state, for the proponents of the bill, that the language of title IV which provides that nothing in the title shall empower any Federal court or official to issue an order requiring the transportation of school children to correct racial imbalance in the schools has been the subject of considerable discussion. This provision of title IV recognizes that the problems of racial imbalance and school transportation are presently the subjects of considerable court consideration and local administrative action, as well as a great deal of discussion, often heated, among parents and educators. In some instances, courts have decided that racial imbalances may constitute a denial of equal protection of the laws. *Balaban* v. *Rubin*, 32 U.S. L.W. 2465; *Blocker* v. *Board of Education*, 32 U.S. LW. 2465; *Jackson* v. *Pasadena School Board*, 382 F 2d 878. On the other hand, relief has been denied on the grounds that school racial imbalance resulting from de facto segregation is not per se unconstitutional. *Bell* v. *City of Gary*, 324 F. 2d 309, certiorari denied, 32 U.S. LW. 3384. Some communities are attempting to correct racial imbalances by the transporting of children; others refuse to do so. The purpose of the pending Dirksen-Mansfield-Humphrey-Kuchel substitute is to make clear that the resolution of these problems is to be left where it is now, namely, in the hands of local school officials and the courts. This bill is made neutral on the resolution of these problems by the language of title IV. It is to be used as the vehicle to require transportation to correct racial imbalances; it is not to be used as an excuse for local officials to refuse to carry out their obligations. Obviously this provision could not affect a court's determination concerning racial imbalance and possible corrective measures; this is dependent upon the court's interpretation of the 14th amendment.

As floor manager of this legislation, I wish to note the intention of those who sought to deal with the vexing problem of de facto segregation through the language contained in Dirksen substitute amendment.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired.

Mr. HUMPHREY. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 1 more minute.

Mr. HUMPHREY. Mr. President, the Constitution declares segregation by law to be unconstitutional, but it does not require integration in all situations. I believe this point has been made very well in the courts, and I understand that other Senators will cite the particular cases.

I shall quote from the case of Bell against School City of Gary, Ind., in which the Federal court of appeals cited the following language from a special three judge district court in Kansas:

> "Desegregation does not mean that there must be intermingling of the races in all school districts. It means only that they may not be prevented from intermingling or going to school together because of race or color." *Brown* v. *Board of Education,* D.C. 139 F. Supps. 468, 470.
>
> In *Briggs* v. *Elliott* (EDSC), 132 F. Supp. 776, 777, the Court said: "The Constitution, in other words, does not require integration. It merely forbids discrimination."

In other words, an overt act by law which demands segregation is unconstitutional. That was the ruling of the historic Brown case of 1954.

If school district boundaries are determined without any consideration of race or color, there is no affirmative duty under the Constitution to alter these boundaries so that a particular racial balance in the schools will result. Senators should distinguish between segregation which results from an overt or affirmative act by the State or the local school board and de facto segregation which results from neighborhood residence patterns. This is a matter better left to the courts and to the localities to resolve as each community deems wisest. It is not a consideration of the present bill.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I believe this amendment can truly be called a "red herring" amendment, because it does not relate to what we are trying to correct by means of the bill. The amendment relates to racial imbalance and therefore does not relate to a civil right guaranteed by the U.S. Constitution, and does not go to the point made in the decision in the case of Brown against Board of Education.

The bill would only provide Federal enforcement for the constitutional right to go to any public school under normal school plans—and the State courts and the Federal courts have authority, when they have jurisdiction, to pass on normal school plans—which admit children, based on reasonable standards, based on neighborhood, or on whatever other basis there may be for the standard, and which require that a child cannot be kept out because of his color, if he falls within the normal pattern.

While the courts do not deal with racial imbalance, as involving a civil right under the Constitution within the decisions of the Supreme Court, that does not exclude the use of busing—as, for example, in the New Rochelle school case—in cases in which there is found to be segregated exclusion within the prohibition of the Brown case.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. I yield myself one-half minute more.

The PRESIDING OFFICER. The Senator from New York is recognized for one-half a minute more.

Mr. JAVITS. In the New Rochelle case, the court dealt with the civil right to desegregate through the use of busing. That is entirely agreeable to us.

Mr. President, I call this the "red herring" amendment. It seeks to equate racial imbalance with segregation which is interdicted by the Constitution, by the Supreme Court, and by the law which we are trying to enact.

I am glad this amendment is before the Senate. I think it is high time that the Senate express itself decisively upon this point.

Mr. SALTONSTALL. Mr. President, I yield myself such time as I may need on this amendment.

I am very surprised at the amendment for this reason. I was present at the meetings when the bill was revised, and this clause was particularly studied and discussed. We tried to provide that the court would not be given any more power than it now has with respect to achieving a racial balance in schools by busing of children or in correcting a racial imbalance.

As I see it, it refers to the local administration, wherever that local administration may be. It is not an effort to do something for the North as against the South. I am certainly opposed to anything in the bill that is of a regional character.

The substitute bill provides that the local authorities, within their responsibilities, shall operate the school system, and are not required to achieve a racial balance or correct a racial imbalance through moving children by bus into a community where they ordinarily would not go to school.

I am for this provision in the substitute because it makes clear the authority of the local school boards, and also clarifies the intent of this title with respect to the limited Federal authority over local situations.

For that reason, I am surprised at the amendment of the distinguished Senator from Georgia [Mr. RUSSELL]. If I correctly understand it, it would give the local authorities less power than they would have in this field under the substitute.

Mr. SMATHERS. Mr. President, will the Senator yield on my time, in order that I might ask him a question?

Mr. SALTONSTALL. I yield.

Mr. SMATHERS. What the Senator from Massachusetts is saying is that if there is now de facto segregation, whether it is in Massachusetts or in New York, the courts now have no authority to bring about desegregation. The condition which obtains in Massachusetts today will obtain until the local authorities change it. Is that what the Senator is saying?

Mr. SALTONSTALL. This question arose in Massachusetts. As I understand what happened there the Boston school committee opposed moving the children out of their present school districts simply because there were too many colored children and not enough white children in one school or vice versa.

Mr. SMATHERS. The Senator agrees with that majority decision?

Mr. SALTONSTALL. Yes.

Mr. SMATHERS. Would the Senator be willing to grant the same right to the people in the South that has been granted to the people in Massachusetts?

Mr. SALTONSTALL. As I understand, this provision would certainly apply to all parts of the country. That is the reason I agreed to the language in the substitute bill.

Mr. SMATHERS. Do I correctly understand that what the Senator from Massachusetts and other Senators are saying is that they expect the local school board authorities in the South to have the final determination on this point just as they will in Massachusetts and New York, and that no longer can the children be bused from one area to another, and no longer can there be desegregation, even though in fact there is segregation?

Mr. SALTONSTALL. The whole purpose of the substitute amendment is to see that the courts will not be given by this law, any more power on the question of busing and the question of racial imbalance than they have at the present time.

Mr. SMATHERS. The Senator will agree that whatever rights the local school board has in Massachusetts and other areas, the same rights should be given to the local school boards in Georgia, Florida, and all the rest of the States?

Mr. SALTONSTALL. Certainly.

Mr. RUSSELL. Mr. President, I yield myself 2 additional minutes.

Mr. President, one may talk of "red herrings." I am willing to leave it to the judgment of any objective person as to who is dragging the "red herrings." An effort has been made to defend two perfectly indefensible provisions of the bill. We have been told over and over since 1954 that the Supreme Court has decided against segregation. It has said that the minds, the hearts, and the lives of the young colored people would be destroyed unless they could sit by the white children in school.

The proponents say now: "When you threaten our school, we will build a fort that not even the Supreme Court of the United States can attack, because we will not let it have jurisdiction of this matter. It matters not what happens to the minds, the hearts, and the futures of the little colored children in Boston and New York, because we are not going to let the Court act there at all. We are going to give the Government every weapon, every device, every power that the mind of man can conceive to move into the Southern States and proceed against the same state of affairs."

Mr. President, I assert without fear of contradiction that this is the most unjust and oppressive attempt to define different standards for different sections of the country that has ever been witnessed in the history of the American Congress.

Senators underestimate the intelligence of the Negro citizens of New York, Chicago, Boston, and the other nonsouthern cities. These citizens are primarily interested in eliminating de facto segregation in the ghettos of those cities and they will understand that Senators who pose as their friends have denied them the elementary right of bringing a legal proceeding to determine their rights.

Mr. ELLENDER. Mr. President, I yield myself 1 minute.

I discussed this new language at length a few days ago. I am surprised to note how naive the Senator from Massachusetts can be. The House of Representatives provided language in its bill that made it almost impossible for the busing of students from one neighborhood school to another, in the large cities. But the proponents of this measure in the Senate were not satisfied with the House language. They want it spelled out. This language, as the Senator from Georgia [Mr. Russell] has stated, prevents officials and the courts from intervening.

Would anyone in the Senate deny that the main source of the trouble in New York, Chicago, and Cleveland resulted from the fact that Negroes are not permitted to be bused to white schools so as to bring on balance of whites and Negroes in public schools? Why, Mr. President, when the Negroes wake up and find out how they have been betrayed on the question of school imbalance, particularly in the large cities, there will be mischief to pay.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia [Mr. Russell]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished Senator from Virginia [Mr. Robertson]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mr. WALTERS (when his name was called). On this vote I have a pair with the Senator from Maryland [Mr. Brewster]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from Arizona [Mr. Hayden], and the Senator from Virginia [Mr. Robertson] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. Clark] and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Clark] and the Senator from California [Mr. Engle] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. Cooper] and the Senator from Illinois [Mr. Dirksen] are absent on official business, and if present and voting, would each vote "nay."

The Senator from Texas [Mr. Tower] is necessarily absent and, if present and voting, would vote "nay."

The result was announced—yeas 18, nays 71, as follows:

[No. 340 Leg.]

YEAS—18

Byrd, Va.
Eastland
Ellender
Ervin
Fulbright
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Young, N. Dak.

NAYS—71

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Goldwater
Gore
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Young, Ohio

NOT VOTING—11

Brewster
Clark
Cooper
Dirksen
Engle
Hayden
Mansfield
Robertson
Tower
Walters
Yarborough

So Mr. Russell's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HART. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

AID TO FAMILIES WITH DEPENDENT CHILDREN—AMENDMENT NO. 1054

Mr. RIBICOFF. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 1 minute.

Mr. RIBICOFF. Mr. President, under the aid to families with dependent children program, a child is eligible for relief assistance up to the age of 18. Many children reach their 18th birthday while still in high school, or in a vocational school. The existing age limitation cuts these children off. If the child is the only child in the family, the mother is cut off as well. This is a most unfortunate result that tends to undermine all the other efforts we are making to encourage young boys and girls to stay in school and complete their education. For many of these children, the burden of supporting themselves and their mothers forces them to drop out of school—sometimes just a few weeks or months before securing their high school diplomas.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection the Senator from Connecticut is recognized for 1 additional minute.

Mr. RIBICOFF. To avoid this senseless result, I propose a stay-in-school amendment to the aid to families with dependent children program, to let each State continue children on public assistance beyond age 18, so long as they are bona fide students in a high school or vocational school. This new coverage would be optional with the States. The Department of Health, Education, and Welfare estimates that about 50,000 children would be aided. The amendment also precludes State eligibility requirements under the age of 18, a restriction now found in only 2 of the 50 States.

I therefore submit, for appropriate reference, an amendment to H.R. 10473, and ask unanimous consent that it be printed at this point in the Record.

The PRESIDING OFFICER. The amendment will be received, printed, and appropriately referred; and, without objection, the amendment will be printed in the Record.

The amendment was referred to the Committee on Finance, as follows:

At the end of the bill insert the following:

"Sec. 2. Section 406(a) of the Social Security Act is amended by inserting '(1)' after 'needy child', by striking out 'under the age of eighteen,', and by inserting before the semicolon at the end thereof ', and (2) who is (A) under the age of eighteen, or (B) under the age of twenty-one and (as determined in accordance with standards prescribed by the Secretary) a student regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment.'

"Sec. 3. (a) Section 402(b) of the Social Security Act is amended by striking out the comma after 'dependent children' and inserting in lieu thereof '(1)', by striking out '(1)' after 'State' and '(2)' after 'or' and inserting in lieu thereof '(A)' and '(B)', respectively, and by inserting before the period at the end thereof ', or (2) effective July 1, 1965, an age requirement which denies aid with respect to any child who is under the age of eighteen.'

"SEC. 4. So much of section 407 of the Social Security Act which precedes paragraph (1) is amended by striking out 'under the age of eighteen' and inserting in lieu thereof 'who meets the requirements of section 406(a) (2),', by inserting a comma after 'parent', and by striking out 'relatives specified in section 406(a)' and inserting in lieu thereof 'relatives specified in section 406 (a) (1)'."

SITUATION IN SOUTH VIETNAM

Mr. MORSE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 2 minutes.

Mr. MORSE. Mr. President, this morning the Secretary of State briefed the Foreign Relations Committee on southeast Asian American policy for more than 2 hours. I believe that at least 90 percent of what he said should have been in public instead of in executive session. I told the Secretary of State at the meeting, and on the record, that I was incorporating by reference every speech that I have made for weeks in the Senate against the State Department's policy in southeast Asia and that I stand by every word of criticism I have made of that policy.

I also told him that I would welcome the opportunity to meet him on any platform, or on as many platforms as he wished to select, and debate before the American people what I consider to be the State Department's unsound warmaking American policy in southeast Asia.

It is my opinion that once again the Secretary of State did not give one single valid reason for the warmaking policy of the United States in southeast Asia. In fact, his briefing this morning is already out of date. I ask unanimous consent to have printed in the RECORD a dispatch which just came off the ticker, showing that instead of a lull which the State Department seems to believe is going on in the South Vietnam war, the opposite is true. This dispatch states that the Vietcong have doubled their attacks in the past week, and the casualties of the Government have doubled, whereas the casualties of the Vietcong have been reduced by 20 percent.

There being no objection, the dispatch was ordered to be printed in the RECORD, as follows:

> SAIGON, VIETNAM.—The ministry of defense announced today a sharp increase in Communist Vietcong activity which could indicate a month-long lull in Vietnamese civil war is about to be broken in renewed widespread fighting.
>
> The ministry reported government casualties nearly doubled during the week ending Saturday, while Vietcong casualties dropped 20 percent.
>
> The report said 172 government soldiers were killed or captured during the week, compared to 92 in the previous week. Vietcong losses were 185 compared to 233 in the previous week. Toll of the wounded was not given.
>
> Vietcong operations jumped from 151 the previous week to 217 last week, the ministry said. Only 134 Vietcong-initiated operations were reported 3 weeks ago. Government operations have been stepped up, too, but not to the same extent, from 168 in the previous week to 187 last week.

Mr. MORSE. Mr. President, I am more convinced than ever, after listening to the Secretary of State, that we are heading for a major war in Asia if we continue our unilateral military action in Asia. It is an unconscionable policy. We should take the southeast Asia policy to the United Nations without further delay. We have that clear, moral duty to the world and the cause of peace. Our conduct in southeast Asia, in my judgment, is irreconcilable with our international law obligations.

Today's New York Times publishes an editorial that is typical of the "double think" that is characterizing American policy in Asia and those who speak for it. The Times calls the United States "policeman to the world." It points to our joint effort with the United Nations to keep peace in the Mediterranean.

But the Times conveniently overlooks the fact that we are making war, not peace, in southeast Asia. "Independence and a genuine neutrality are legitimate goals," says the Times, just as though the United States were seeking independence or neutrality or both for the people of that area.

South Vietnam is not independent at all. The Khanh government, and its two predecessors, are totally dependent, financially and militarily, on the United States for its existence. The United States has quite carefully backed certain military factions in Vietnam to make certain that that country does not become independent, because with true independence might come neutrality. The United States has come to fear a government in South Vietnam that might neutralize the country as much as it fears a Vietcong victory.

We enforce a peace in Cyprus, because it is not in our interest to have a war there. But we wage war in Asia, because we believe that a peaceful solution would not be in our interest.

When practiced by Britain, that kind of policy was called imperialism.

When practiced by the Soviet Union, it was called aggression.

But when practiced by the United States, its apologists dress it up as an unwelcome burden of policing the world.

The United Nations is the only legitimate policeman in international affairs. That is why we are supporting it in Cyprus. Why are we not supporting it in Vietnam? Only because we know that what we are doing in Vietnam is illegal and would not be endorsed by the U.N.

In recent days I have heard the excuse from the State Department that the U.N. could not finance an operation in southeast Asia. But this allegation was not heard when the Security Council voted to send a peacekeeping mission to Cyprus.

I ask: Why cannot the United States support and cooperate with a similar U.N. mission in Laos and Vietnam?

We can, if we have the will to do so, if we believe the world's policeman should represent the world, and if we appreciate that, in the long run, our own interests will be better served by the United Nations acting in Asia to keep peace than by an American war in Asia.

We should stop our policy of warmaking in Asia, and return to our commitment under the United Nations Charter and the Geneva accords. We should stop being an outlaw nation tested by international law.

SEVENTY-FIFTH BIRTHDAY ANNIVERSARY OF FORMER SENATOR PRENTISS M. BROWN

Mr. McNAMARA. Mr. President, I yield myself such time as I may need. I shall be brief.

The PRESIDING OFFICER. The Senator my proceed.

Mr. McNAMARA. Mr. President, June 18 will mark the 75th birthday of Prentiss M. Brown, a distinguished citizen of Michigan, and a former Member of the Senate.

Senator Brown has had a long and active career in business, politics, and public office, and that career is continuing today almost unabated.

Born in 1889 in St. Ignace, Mich., on the northern tip of the Straits of Mackinac, Prentiss Brown first attained public office in 1914 as prosecuting attorney for Mackinac County.

He held that position until 1926 and served also as city attorney for St. Ignace from 1916 to 1928.

Senator Brown began his congressional career with election to the House of Representatives for the 73d Congress—taking office March 3, 1933.

Reelected to the 74th Congress—he next ran for the Senate and served in this body from November 19, 1936, until January 3, 1943.

After brief duty as Administrator of the Office of Price Administration in 1943, Senator Brown returned to Michigan to resume his business activities fulltime.

Prentiss Brown's executive and business ability carried him to the chairmanship of the board of the Detroit Edison Co.—southeast Michigan's major electric supplier—and he held this position until 1954.

Today Senator Brown refuses to retire completely from business and civic affairs.

His most recent public duty has been chairmanship of the Mackinac Bridge Authority—the organization responsible for the construction of the 5-mile bridge connecting Michigan's Upper and Lower Peninsulas.

Mr. President, I am sure that his colleagues who still serve in the Senate join with his many friends in Michigan and elsewhere in wishing Prentiss Brown a happy birthday and many more years of productive effort.

I ask unanimous consent that an article written by James Pooler on Prentiss Brown, published in the June 14 issue of the Detroit Free Press may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPOTLIGHT ON SENATOR PRENTISS BROWN, SERVANT OF THE STATE

(By James S. Pooler)

Big Mac stands as a monument to him—and his love of Michigan.

And 30 grandchildren have swelled the ranks of his 7 homegrown Democrats.

There are laws in the land that he wrote—like that one that rallied the wealthy to save the banks here and throughout the Nation.

And to think that next Thursday Prentiss Brown will be 75 years old.

In honor of the occasion, Governor Romney saluted him Friday, and proclaimed June 18 as "Prentiss M. Brown Day" in Michigan.

You go out to the River House thinking that this has been quite a career since that day in 1914 when, fresh out of his bar exams, he was elected prosecutor of St. Ignace, to go on to Congress, to the Senate and also to contribute mightily to the economic life of his State.

And there's the "Senator," gray-haired now but, Good Lord, you should belie your years like that—just a gray thatch on top of young vigor. Bouncing around, like spending a week in his apartment at River House when he comes down for board meetings of the National Bank of Detroit or the Detroit Edison and then 3 weeks "at home," St. Ignace, where the old roots are.

But his heart is all over Michigan, and there's intimacy with so much of it and us, for you start off reminiscing of the Great Lakes fishing tugs, the fishing families, the famous wrecks and the hinge turns on the fact that the old Senator keeps a hand in things today.

Like writing our new Senator, PHIL HART, in support of his plan to turn Canadian rivers into the Great Lakes—"anything to keep the level up"—and reminding him that "away back when I was in the Senate there was a plan to build a weir at Port Huron to diminish the flow out of Lake Huron" in which there still is interest in Washington.

Which was a great point to plunge into those colorful years of the great depression, the Roosevelt era, when Prentiss Brown first went down to Washington.

This was in the years when he said that there were so few Democrats in the Upper Peninsula he had to raise his own—seven of them—but there turned out to be enough to send him to Congress in 1932, the first Democrat ever elected in Michigan's 11th District.

There he landed on the House Banking Committee in a position to influence some mighty important legislation—not just for those times but into today.

"I saw one thing wrong—that double liability on bank stockholders—they were liable for the amount they had in stock," he said.

The law was amended—bank deposits were put in—and double indemnity on bank stockholders removed.

Which brought two benefits. The wealthy, no longer "threatened with being socked twice," rallied to save the closed banks. And today you still get your savings insured up to $10,000.

Then on to a little-known story of loyalty and politics. Normally Republican Michigan elected Democrat Brown to the Senate in 1936. Before he could take his seat, Senator James Couzens died and there were 2 months left to serve in his term.

True to the old school tie of Upper Peninsula boys, Brown wanted the grand old man of Michigan politics, "my friend and supporter," ex-governor Chase S. Osborn, given the honor of serving out Couzens' unfilled term.

"But Gov. Frank Fitzgerald said, 'No'," Brown recalled. "He said if he appointed me it would give me seniority on the other new Democrats elected to the Senate that year."

It may have been a kick in the teeth to loyalty but it turned out to be good practical politics. For Senator Brown, with his 2 months seniority, went on two of the top committees—Finance and the Banking and Currency—most vital to those troubled economic times.

He sponsored such legislation to gladden the average man's heart as putting Government employees, even Federal judges, under income taxes like the rest of us, and led the fight against inflation with such matters as his draft of the law for the Office of Price Administration—which didn't do him any good politically with such groups as farmers and others who didn't want controls.

It was the kind of integrity, you remembered, which got him voted by the press "the most typical American in the Senate," and praised for his "intelligence, industry, and courage."

That last word—courage—reminded you that he'd gotten in bad with President Roosevelt.

"Yes," he grinned, "I was one of the handful of Senators who went up to the White House and told him he couldn't win on his decision to pack the Supreme Court."

But he didn't stay in the presidential "doghouse" long for after Roosevelt appointed Senator James Byrnes to the Supreme Court, he "needed help in the Senate" and called on Brown.

Later he was to appoint friend Prentiss as Administrator of the Office of Price Administration—the law for which, Brown says not without some pride, "still is on the books for Presidential emergency."

But you can lose a man in the pattern of politics or even big business. Brown was to come back to chairman the board of Detroit Edison, to serve on innumerable other business boards, to head brotherhood weeks, to chairman fund drives for his old alma mater, Albion.

But here is the fellow who got his "first tailormade pair of pants by hitting .402 on the Albion baseball team in my sophomore year," and who knows how an athlete can outrank even a U.S. Senator.

This was in the days when Forrest Evashevski, now his son-in-law, was courting his daughter, Ruth. The two of them were bound for Washington in a new car. It was the week after Evashevski had quarterbacked the Michigan team to a whopping victory over Ohio State.

"And we got nailed by a speed cop in, of all places, Ohio," Brown said. He flashed his credentials—a U.S. Senator is immune to such misdemeanors as speeding.

The cop ignored them. He got to peering at Evashevski—"the last guy you'd want him to recognize"—and insisted on his name.

"Gee," said the cop, "the guy who beat Ohio State. I never expected to meet you," and waved them on, grandly, a man who could distinguish quarterbacks from mere Senators.

Here is a man who is a lawyer—"I might have been a good one if I'd had more time for it," he said wryly.

His clients go back to pennypinching lumber barons. There was one, worth $8 million, who nursed his Cadillac along and at Gaylord always stopped and put in 10 gallons of "blue" gas, the cheapest grade. One day Brown finally asked why.

"Haven't you figured it out," the millionaire said. "It's downhill all the way from Gaylord to Bay City."

From such characters a young lawyer got a very small fee, even when fighting cases involving millions.

At 75 a man can look back on many things—and ahead if he's young in heart—and so you come to that big thing, the Mackinac Bridge, that probably only an Upper Peninsula boy, knowing the importance of linking Michigan's two peninsulas, could see from a dream to a reality. Prentiss Brown has been chairman of the bridge authority since its beginning in 1948.

He knows the tough fight it was to sell those $80 million in 4 percent bonds and the $20 million second lien 5½ percent—the day when the first little insurance company bought $2 million worth and then a bigger one $6 million.

He can take pride that there now is $6 million in reserve. When there's $12 million they can start to retire the bonds.

Dreamer, businessman, looker-ahead, Prentiss Brown is the "authority" all right.

"I think the nothern part of the State is in for a great era," he predicts. "Touristwise things are going great. And mining's reviving with the pelletizing of low grade ore."

With an eye on agriculture he says potatoes are coming on great—"the climate's like Maine's"—and doggone if he can't cite record crops to the acre. It looks a little rosy for the once neglected Upper Peninsula.

Which is more than enough to gratify a man. But there's family too. His 7 homegrown Democrats have multiplied to 37 with the 30 grandchildren.

The old drive is still going. Beside all his continuing links to industry and banks, the family still runs what likely is "the oldest passenger line on the Great Lakes," the Arnold Transit Co., operating a ferry line between Mackinaw City, St. Ignace, and Mackinac Island.

And he has enough vigor left over to head up the $100-a-plate dinner for President Johnson here on June 26.

Which is why next Thursday a large number of citizens will be saying "Happy Birthday" to Prentiss Brown who, during three-quarters of the century of living, has contributed so much to his State and Nation.

Mr. HART. Mr. President, will the Senator yield?

Mr. McNAMARA. I am glad to yield.

Mr. HART. No opportunity is more welcome than this, to join in the appreciation which has just been voiced by my distinguised colleague the Senator from Michigan [Mr. MCNAMARA], as we observe the birthday anniversary of former Senator Prentiss M. Brown.

My colleague has cited some of the public contributions that have been made by former Senator Brown over a long and useful life. I should like to comment on the quiet role that he has played in his private life.

He has been a good friend to many people in need, but never with ceremony or public attention. He has been a quiet counselor to all who have sought his counsel. Not all of them are among the great and mighty. His attitude is the same toward all, and reflects a deep religious conviction and good sense of values, which all in Michigan have come to admire.

He is a neighbor of ours. Senator Brown's home is at St. Ignace Island. Our home is on Mackinac Island in the Straits of Mackinac. There Mrs. Hart and our children met and came to know Senator and Mrs. Brown and their children.

This has been an enriching experience to our family, one that I prize.

I believe that Senator Brown was the first Senator I ever met. The first impression could not have been finer, and his good counsel has helped me over the intervening years. I welcome this opportunity publicly to acknowledge it.

VISIT TO THE SENATE BY DR. S. M. SADJADY, PRESIDENT OF THE IRANIAN SENATE

Mr. SCOTT. Mr. President, it is my great honor and privilege to present to the Senate the President of the Iranian

Senate, Dr. S. M. Sadjady. We are happy to have him with us. [Applause, Senators rising.]

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 341 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. NELSON in the chair). A quorum is present.

Mr. McCLELLAN. Mr. President, I call up my amendment No. 519 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 35, between lines 20 and 21, insert the following new subsection:
>
> "(h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice (1) for an employer to hire any individual, or for an employment agency or labor organization to refer for employment, at the request of an employer, any individual, of a particular race, color, religion, sex, or national origin, in those certain instances where the employer involved believes, on the basis of substantial evidence, that the hiring of such an individual of a particular race, color, religion, sex, or national origin will be more beneficial to the normal operation of the particular business or enterprise involved or to the good will thereof than the hiring of an individual without consideration of his race, color, religion, sex, or national origin, or (2) for an employer to fail or refuse to hire any individual in those certain instances where the employer involved believes, on the basis of substantial evidence, that the hiring of such individual would not be in the best interests of the particular business or enterprise involved, or for the good will thereof."

Mr. McCLELLAN. Mr. President, I ask that the amendment be modified so as to read:

> On page 45, between lines 13 and 14, insert the following new subsection: "(k)".

The PRESIDING OFFICER. The amendment will be so modified.

Mr. McCLELLAN. On my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes.

The amendment permits the hiring by an employer, or by an employment agency or labor organization to refer for employment at an employer's request, of any individual of a particular race, color, creed, or religion, when the employer believes, on the basis of substantial evidence, that the hiring of such an individual of a particular race, color, religion, sex, and so forth, would be more beneficial to the normal operations of his particular business or to its good will than the hiring of an individual of another particular race, color, or creed; and it would also permit an employer to fail or refuse to hire any individual under the same circumstances.

The provisions of the bill as now written, which this amendment is designed to amend, are destructive of property rights and are confiscatory in their consequences; therefore, these provisions should be eliminated. The present provisions of the bill constitute an infringement on personal liberty, denying to the employer the right to exercise his judgment in his own business affairs as to whom he might employ to help him carry on his business and whom he might employ to make the business more prosperous.

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired.

Mr. McCLELLAN. I yield myself half a minute.

The provisions of the bill are also coercive, in that they deny to the individual who has created a business the freedom of choice to employ his assistants and those who will be associated with him in carrying on the business.

Without this amendment, the bill as now written constitutes destruction of the right of a person to be free in the United States.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. The yeas and nays have been ordered——

Mr. McCLELLAN. Mr. President, I note the absence of a quorum.

Mr. CASE. Mr. President, will the Senator withhold his suggestion of the absence of a quorum?

Mr. McCLELLAN. I am glad to do so.

Mr. CASE. Mr. President, I yield myself half a minute.

The issue is clearly drawn by this amendment. The Senator from Arkansas does not believe in the FEPC title of the bill and would eliminate them, in effect, by the provisions of his amendment. I think there is no question about that.

We who believe in fair employment practices and the intervention of the Federal Government in this field to the extent provided for by the leadership amendment must resist the amendment of the Senator from Arkansas with all our power, because it would destroy the bill.

Mr. McCLELLAN. Mr. President, I yield myself half a minute.

I intended no subterfuge, no deception. I think the terms of the bill as they are now written are abhorrent to our sense of freedom, justice, and human liberty; therefore, I oppose them and ask that they be eliminated.

Mr. CASE. Mr. President, I yield myself 5 seconds.

The Senator from New Jersey never suggested any dissembling on the part of the Senator from Arkansas.

Mr. McCLELLAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 342 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. KENNEDY in the chair). A quorum is present.

The question is on agreeing to the amendment of the Senator from Arkansas [Mr. McCLELLAN].

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALTERS (when his name was called). On this vote, I have a pair with the Senator from Maryland [Mr. BREWSTER]. If the Senator from Maryland were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. BREWSTER] is absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. CLARK] and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE] and the Senator from Pennsylvania [Mr. CLARK] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. COOPER] and the Senator from Illinois [Mr. DIRKSEN] are absent on official business.

The Senator from Texas [Mr. TOWER] is necessarily absent.

The Senator from Arizona [Mr. GOLDWATER] is detained on official business.

If present and voting, the Senator from Kentucky [Mr. COOPER] would vote "nay."

On this vote, the Senator from Illinois [Mr. DIRKSEN] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Texas would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 30, nays 61, as follows:

[No. 343 Leg.]

YEAS—30

Bennett
Byrd, Va.
Byrd, W. Va.
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Fulbright
Gore
Hickenlooper
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Morton
Mundt
Robertson
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Williams, Del.

NAYS—61

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Dodd
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hayden
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, N. Dak.
Young, Ohio

NOT VOTING—9

Brewster
Clark
Cooper
Dirksen
Engle
Goldwater
Tower
Walters
Yarborough

So Mr. MCCLELLAN's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KUCHEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HILL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 344 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. ERVIN. Mr. President, I call up my amendments Nos. 792 and 793. I ask unanimous consent that the reading of these two amendments be omitted, that they be printed in the RECORD at this point, and that the Senate vote on the two amendments en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments offered by Mr. ERVIN are as follows:

On page 15, line 12, strike out "certifies" and insert in lieu thereof: "satisfies the court by competent evidence after notice and an opportunity to be heard are given to the proposed adverse parties".

On page 15, lines 13 and 14, strike out "in his judgment,".

On page 15, line 22, insert the following between the period and "The": "After notice and an opportunity to be heard are given to them, the district court of the United States may authorize".

On page 15, line 22, change the capital "T" in "The" to a little "t".

On page 15, line 22, strike out "may" and insert in lieu thereof "to".

On page 16, line 3, strike out "The Attorney General may deem" and capitalize the "a" in the article "A".

On page 16, line 4, insert "are" between "persons" and "unable".

On page 16, line 9, strike out "he is satisfied that".

On page 21, line 4, strike out "certifies" and insert in lieu thereof "satisfies the court by competent evidence after notice and an opportunity to be heard are given to the proposed adverse parties".

On page 21, line 5, strike out the two commas and the words "in his judgment".

On page 22, line 1, insert between the period and the word "The", "After notice and an opportunity to be heard are given to them, the district court of the United States may authorize", and change the capital "T" in "The" to a little "t".

On page 22, line 4, strike out "The Attorney General may deem" and capitalize the article "a".

On page 22, line 5, insert "are" between "persons" and "unable".

On page 22, line 10, strike out "he is satisfied that".

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I yield myself 1½ minutes.

Titles III and IV of the bill provide that the Attorney General may bring suits to desegregate public facilities and public schools, if two conditions exist. The first condition is that the party or individual seeking relief must be unable to bring the suit. The second is that the bringing of the suit must promote public policy as declared in the respective titles.

It is a perversion and prostitution of the judicial process to provide by legislation that a lawyer in a case can determine whether the court has jurisdiction of the case. That is precisely what these two sections of the bill provide.

They provide that the Attorney General, without offering any evidence before the court and without any action being taken by the court, can issue a certificate stating that the two conditions essential to jurisdiction exists and thereby confer jurisdiction on the courts to try the suits. That ought not to be. Every court ought to have power to determine for itself whether it has jurisdiction to try a case.

All my amendments provide is that this question, instead of being determined by the Attorney General, shall be determined by the court itself, after notice to the adverse parties and opportunity to be heard.

These two amendments ought to be voted for by every Senator who believes in a procedure for which respect can be entertained.

I reserve whatever amount of time remains out of the minute and a half I yielded to myself.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc offered by the Senator from North Carolina (Nos. 792 and 793). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. BREWSTER], The Senator from Arkansas [Mr. FULBRIGHT] and the Senator from Virginia [Mr. ROBERTSON] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. CLARK] and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

On this vote, the Senator from Maryland [Mr. BREWSTER] is paired with the Senator from Arkansas [Mr. FULBRIGHT]. If present and voting, the Senator from Maryland would vote "nay" and the Senator from Arkansas would vote "yea."

On this vote, the Senator from Virginia [Mr. ROBERTSON] is paired with the Senator from California [Mr. ENGLE.] If present and voting, the Senator from Virginia would vote "yea" and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. COOPER] and the Senator from Illinois [Mr. DIRKSEN] are absent on official business.

The Senator from Texas [Mr. TOWER] is necessarily absent.

The Senator from Arizona [Mr. GOLDWATER] is detained on official business.

If present and voting, the Senator from Kentucky [Mr. COOPER] would vote "nay."

On this vote, the Senator from Illinois [Mr. DIRKSEN] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Texas would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 37, nays 53, as follows:

[No. 345 Leg.]

YEAS—37

Allott
Byrd, Va.
Byrd, W. Va.
Carlson
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Gore
Hayden
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Jordan, Idaho
Long, La.
McClellan
Mechem
Metcalf
Miller
Morton
Mundt
Pearson
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.
Young, N. Dak.

NAYS—53

Aiken
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Case
Church
Dodd
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, Ohio

NOT VOTING—10

Brewster
Clark
Cooper
Dirksen
Engle
Fulbright
Goldwater
Robertson
Tower
Yarborough

So Mr. ERVIN's amendments Nos. 792 and 793 were rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HART. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. EASTLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 346 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Engle
Ervin
Fong
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. JOHNSTON. Mr. President, I call up my amendment No. 493, corrected to make it conform as an amendment to the substitute amendment No. 1052.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 2, line 6, beginning with "as follows:", strike out all through line 18, on page 4, and in lieu thereof insert "by adding at the end thereof the following new subsection:".

On page 4, line 19, strike out "(h)" and insert "(g)".

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I realize that the Senate probably will vote against the amendment, as it has voted down all the other amendments that have been proposed, except one or two.

The PRESIDING OFFICER. How much time does the Senator yield to himself?

Mr. JOHNSTON. I yield myself 2 minutes. Mr. President, the amendment would strike the voter qualifications sections of title I. The present language is unconstitutional, and can be justified neither under article I of the Constitution nor under the 15th amendment.

Article I, section 4 of the U.S. Constitution provides that the States shall prescribe "the time, place, and manner" of holding elections, subject to alteration by Congress. The present language of the bill would go far beyond an alteration of "time, place, or manner" of Federal election, and would intrude the Federal Government into a regulation of voter qualifications. The right to establish voter qualifications is clearly and unambiguously given to the States in the words which are still a part of the U.S. Constitution, namely that voters for Senators and Representatives "shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

The 15th amendment to the U.S. Constitution provides that no person shall be denied the right to vote because of race or color. Surely that provision cannot be stretched to give Congress the power to determine the literacy requirements which a State may demand of all its citizens as a qualification for voting for the most numerous branch of the State Legislature.

Mr. President, if this section passes in its present form, we will have thrown the State baby out with the Federal bath water. I urge the acceptance of this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JOHNSTON. I yield myself 1 more minute. All I ask is that Senators vote their consciences. If they feel that the Constitution does not set the qualifications for voters, they should vote against the amendment. If they believe the Constitution means something, they should vote for the amendment. I am here to carry out my oath of office as a Senator. I believe that my vote requires me to vote against provisions such as the one I would strike by my amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

FOOD FOR PEACE

Mr. McGOVERN. Mr. President, I yield myself 1 minute.

The Secretary of Agriculture, Orville L. Freeman, has authored a most interesting summary of some of the highlights of the food for peace program for Parade magazine, June 14, 1964.

Food for peace has been one of Secretary Freeman's major interests. He has contributed greatly to the expansion of the program over the past 3½ years.

I ask unanimous consent that his excellent article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOOD FOR PEACE

(By Orville L. Freeman, U.S. Secretary of Agriculture)

WASHINGTON, D.C.—For centuries alchemists believed in the existence of a philosopher's stone, which by the merest touch would turn base metals into gold. It was a good thing they never found it. If they had, the world would have starved to death. No one would have tilled the fields or cared for the kine, and there would have been nothing to put on the golden plates.

Yet from the dawn of history, man has had a philosopher's stone right under his nose—the food he eats. And it has a magic of its own.

It will change sick, feeble children into healthy citizens of the future. It will hack roads through jungles and over mountains, fling bridges and dams across rivers, set powerplants humming to provide the muscle for industry. More important still, it will remove from men's hearts the hatred and violence born of hunger.

As a Nation, we have many achievements of which we can be proud. But there is none finer than our food for peace program, 10 years old this year.

Too many Americans, I find, tend to regard the program as just another "giveaway." Yet nothing could be further from the truth.

In the first place, food for peace provides jobs for some 300,000 Americans in the farm and food trades. It has prevented an enormous buildup in storage of our agricultural surpluses. Foreign currencies, earned by food for peace sales, have paid for $850 million in U.S. expenses overseas.

RESULTS IN JAPAN

By helping to put countries back on their economic feet, food for peace has created markets for our own goods worth millions of dollars a year. Japan, for example, having received $470 million in U.S. food and fiber assistance over the past 10 years, bought $651 million worth of American farm products last year alone. According to Tokyo school officials, Japanese children have become too big for their desks. They have been consuming two or three times as many wheat, milk, and meat products as they did before World War II, thanks to school lunch programs and food for peace sales.

Other nations that have become cash customers include Spain, Italy, Israel, Greece, and Taiwan. Spain, a major olive oil producer, has become the largest cash buyer of American soybean oil.

Food for peace has made friends for us, not only among the world's statesmen but among those they lead: the countless millions who live on the razor edge of starvation.

In the towering Andes ranges of Peru, for example, the Indians have long chewed cocoa leaves, from which cocaine is derived. The drugging effect dulls the pangs of hunger. It also dulls their minds and condemns them to early death. Today, Indian children who get American food are growing up sturdy and strong without the need for this killing narcotic.

Children in Kerala, India, suffered from xerosis (abnormal dryness) of the eyes and skin due to a deficiency of vitamin A. When they began getting school lunches of U.S. food, this ailment disappeared and the children gained weight rapidly.

A Chilean mother, whose family had been given a food for peace wheat mixture, became worried when she and her children no longer felt hunger pangs. She thought they were a normal part of life.

Some 10 million children in Latin America are now receiving U.S. food, ranging from a glass of milk to a full meal a day, under Operation Ninos (the Spanish word for children). For many, their school meal is their only meal. It is not enough, God knows, but they are healthier than they have ever been.

There is no stigma of charity about food for peace. There are food-for-work projects in Korea, Tunisia, Morocco, and many other lands. With food as part of the pay packet, men go out to reclaim land, dig irrigation ditches, build schools, roads, or clinics for their communities. When they sit down to a meal at the end of the day, they can enjoy it because they have earned it. Such projects are helping to feed 5 million people in 22 countries.

Emergency relief for victims of floods, droughts, crop failures, and other natural disasters has virtually removed the threat of famine from the world. When hundreds of thousands of people were left homeless by spring cyclones in east Pakistan last year, food for peace came to the rescue. The terrible earthquake that killed 1,500 people in Skopje, Yugoslavia, left thousands more homeless. They were also helped by food for peace.

TASTES GOOD, LIKE BREAD SHOULD

Food for peace is also always on the lookout for new ideas. Many people in other lands do not eat foods that we regard as commonplace. To raise the protein intake of Arab children, the Department of Agriculture and the American milling industry developed an enriched bread that looks and tastes like beladi bread, the staple of the Arab diet. Bulgur, a wheat product used in Bible times, has also been reintroduced by food for peace, creating a new cash market for the product, which keeps well, can be stored easily.

Men may not live by bread alone, but they cannot live without it. The Communists may promise paradise on earth, but they have failed to feed their people. Yet 3½ million American farmers have shown that they can feed not only their own countrymen but millions of other people throughout the world besides. That lesson has not been lost on those now enjoying better lives because of food for peace.

And another lesson the men and women of the Peace Corps learned was that filling people's stomachs was the first requisite for getting them to improve their own lives.

I am convinced that when the history of this era is written, the food for peace program will be recorded as the distinguishing characteristic of our Nation. We may not have killed the dragon of world hunger, but we have at least attacked it in its lair.

THE BLOOD BANK SCANDAL

Mr. McGOVERN. Mr. President, our distinguished colleague from Missouri [Mr. LONG] has authored a most provocative article, entitled "The Blood Bank Scandal" for Parade magazine, June 14, 1964.

Senator LONG, the author of S. 2560, has taken the lead in trying to protect Americans against improperly operated blood banks.

I commend his important article to the attention of the Congress and ask that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BLOOD BANK SCANDAL

(By EDWARD V. LONG, U.S. Senator, Democrat, of Missouri)

WASHINGTON, D.C.—Did you know that in many American cities a skid row derelict, sapped by malnutrition and sodden with alcohol, can sell a pint of his blood for $5 or $6, enough for several more bottles of cheap wine? Do you realize that his blood, given to you or a loved one during an emergency transfusion, may not save but cost a life or cause serious illness?

I don't mean to sound lurid, but the American people need to be shocked into an awareness of a health scandal that is rapidly assuming perilous proportions. Nothing is more vital in modern medicine than the blood transfusion.

Yet a group of Russian doctors, specialists in blood disorders, recently toured American blood banks and commented that "the Russian system is much better organized." It would be easy to put this down to Soviet bragging. Unfortunately, when I began to probe, I found to my horror that those Russian doctors had spoken the truth.

In its 25 years of existence, blood banking in this country has become not only a lifesaving service but a lucrative business. Nearly 6 million units of blood, or 750,000 gallons, are used every year—enough human blood to fill a large oil tanker.

This is collected and distributed by some 6,000 blood banks. They range from huge organizations like the Red Cross to hole-in-the-wall "leeches" which collect blood for the cash it brings: blood money in the truest sense.

With some variations, blood banks fall into two categories: (1) nonprofit community banks which get most of their blood freely from volunteers and (2) privately owned commercial blood banks which draw their blood from paid, often professional, donors.

The skid row bum, willing to exchange his blood for wine, can pick up $5 for a pint of blood, an extra buck or two for rarer types. According to type and need, the blood can be processed and resold to doctors and hospitals at $12 to $60 a pint.

MINIMAL PRECAUTIONS

It must be said, of course, that many private banks are highly reputable. They are scrupulous in keeping records and checking on their donors. But others take blood with only a minimum of medical precaution. Apart from a perfunctory blood pressure check, the donor may have no test for his fitness to give blood.

Yet it is vital to know how much alcohol a donor has consumed, whether he has ever suffered from jaundice, hepatitis, malaria, syphilis or any other infectious disease that might still lurk in his bloodstream.

The worst problem has been hepatitis, an always serious, sometimes fatal liver disease, which in some areas is transmitted in 1 of every 150 to 200 transfusions. Since 2.5 million Americans receive transfusions every year, an alarming number—running into the thousands—are infected with hepatitis.

Most contaminated blood comes from the commercial blood banks, which supply approximately one-fifth of all blood used in transfusions. For a commercial bank, with a quick market for blood, is inclined to ask fewer questions of its donors.

Yet, despite this danger, a Federal agency—an agency created to protect the public—is threatening to force the nonprofit blood banks out of business and to place all blood on the market to be sold like castor oil or mouthwash. This agency is the Federal Trade Commission, which, acting on the complaints of two small but reputable commercial blood banks, charged the Kansas City Community Blood Bank with unfair competition.

The case has been dragging on for years, and legal bills have already cost this nonprofit institution more than $100,000. Incredibly, the first FTC rulings have gone against the Kansas City Community Blood Bank. If these rulings become final, then not only will a fine blood bank go out of existence, or at least be seriously restricted, but hundreds of other nonprofit community blood banks will share the same fate.

AN END TO CHAOS

Not the least of these will be the great New York City Blood Center, now being readied to handle the transfusion needs of 18 million people. It was founded to end anarchy in the collection, processing, and distribution of blood in the Nation's largest city.

Because there were no central records, nobody knew how much blood was stored in the city, or of what kind, on any particular day. Frequently, operations had to be delayed until blood could be found in distant cities and brought to New York. In an emergency, doctors sometimes had to use blood that didn't exactly match that of the patient and hope for the best. There was undue reliance on professional donors and their dubious medical histories. In short, there was never any certainty that the right type of blood, in the right quantity, would be available to save a human life.

The new blood center will knit together all nonprofit blood banks and, in cooperation with the Red Cross, will supply the blood needs of the entire metropolitan area. An IBM computer will keep a central inventory of every pint of blood stored not only in the center itself, but in all cooperating hospitals. The computer will respond to emergency requests for blood with a list of places where it is available or a list of certified donors—all in roughly 2 minutes.

Yet this great service, like the Kansas City Community Blood Bank, now stands in danger of liquidation by the FTC.

Not long ago, it was revealed that people in a Tokyo slum were selling their blood, half a pint at a time, as often as 25 times a month. They kept up their strength between donations by drinking such exotic stimulants as chicken blood and iron filings mixed with salt water. Their blood money averaged $22.50 a month, more than they could make by working.

After our Ambassador to Japan, Edwin Reischauer, received an emergency transfusion, he developed a dangerous case of hepatitis. Many indignant newspapers in this country criticized the Japanese blood program. "It would never have happened if he had been given American blood," they implied. No? Consider these cases.

FOR THE RECORD

In New York, a Federal grand jury charged a commercial blood bank with changing the dates on containers—a serious offense since whole blood, kept longer than the maximum 21 days, may produce ill effects in a recipient.

A commercial bank in New Jersey was investigated following an outbreak of hepatitis. It was found that people had been transfused with blood (more than 200 pints) taken from donors who were known to be narcotics addicts.

A parole violator who was a heavy drinker confessed that in 1 month he gave five pints of blood in five different cities while working as a bargehand on the Ohio and Mississippi Rivers. None of the banks gave him a medical examination.

Last year, a New Yorker was given an open-heart operation which required 23 pints of blood to keep him alive. The operation was successful, but he came down with malignant malaria. This was traced to blood that had come from a commercial bank. The donor, who had transmitted the disease and was himself in danger, could not be located. He was one of three who had given assumed names and addresses to the bank.

Investigation of this bank uncovered that it collected 75 pints of blood every day, more than half from Bowery bums. The derelicts themselves boasted it was the only way they knew of picking up a few dollars for lying down. Their word was accepted when they were asked if they had ever suffered from an infectious disease.

We must act to clean up the trade in human blood. The last thing we should do is aid the blood profiteers by forcing the closure of community blood banks. I cannot believe that the authors of our antitrust laws ever intended that they should apply to nonprofit organizations providing a vital medical service. You will never persuade me that human blood was meant to be an item of commerce.

The Federal Trade Commission, in its strained and obtuse approach to the problem, should consider the precedent it would be setting. As medical science progresses and new techniques of transplanting are perfected, there will be no item of human tissue that will not be put on the auction block to the highest bidder. Eyes, teeth, skin, kidneys, hearts, livers, sinews, bones—all will be for sale. A father or mother who wants to give an eye for a child, much less a pint or two of blood, might find himself in the middle of an antitrust suit.

I cannot believe the American people will allow such a travesty of humanity to take place. With the support of other Senators, I have introduced a bill—S. 2560—to save our community blood banks and set a proper precedent. It must not fail.

Here's how you can help.

Write to your Congressman and ask him to act on my bill this year, not to shelve it for the indefinite future.

Get in touch with local authorities and insist that regulations be enforced or, where necessary, new ones adopted to safeguard against those private blood banks that do not keep records or check donors.

WHAT MAKES A GREAT SENATOR?

Mr. McGOVERN. Mr. President, David Broder, the brilliant political reporter for the Washington Star, has written a thoughtful article entitled "What Makes a Great Senator?" for the New York Times magazine, June 14, 1964.

I think Members of the Senate will find this article of interest and I therefore ask that it be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

What Makes a Great Senator?

(By David S. Broder)

Washington.—In Oklahoma this spring a famous football coach, Bud Wilkinson, easily defeated two professional politicians for the Republican nomination for the U.S. Senate. In Ohio, astronaut John Glenn won over 200,000 votes in the Democratic primary against the incumbent Senator, even though he had withdrawn from the race. In California, Republicans chose a onetime movie dancer, George Murphy, as their candidate for the Senate, while Pierre Salinger, a former presidential press agent, untested at the polls, battled an experienced votegetter for the Democratic nomination and won.

In this Capital, where the politicians can spot a threatening trend a continent away, there is already a good deal of mumbling about what these "celebrity types" will do to the Senate. It is not that Washington has anything against such men. But the city cherishes, along with its cherry blossoms and its cheap liquor, the notion that it takes something very special to be a Senator of the United States, and it is not sure that mere fame fills the bill.

Just what qualities mark a man as fit for membership in the world's most self-exalted legislative body are undefined. But the imprecision of the standards in no way lessens the intensity of the belief that there are standards to be maintained.

The difficulty of judging the quality of a Senator was discussed in this magazine 7 years ago by John F. Kennedy. "There are no standard tests to apply to a Senator," he wrote, "no Dun & Bradstreet rating, no scouting reports. His talents may vary with his time, his contributions may be limited by his politics. To judge his true greatness * * * is nearly an impossible task."

Mr. Kennedy, at the time, was engaged in the task of selecting the five greatest Senators, whose portraits were to adorn the Senate reception room. But the difficulty of picking the outstanding men in the history of the institution is essentially the same as the problem of defining the qualities that make for distinction in the Senate today.

Must the "good Senator" be a man of eloquence, who can supply the oratorical gloss to finished legislation during floor debate? Or is it more important that he have the legal skills that make him a superb craftsman behind committee doors?

Is it sufficient that the good Senator excel at protecting his State's interests and representing its point of view on the issues of the day? Or must he also don the toga and advise the Secretary of State and the President on how to handle their jobs?

Is the good Senator the man who adheres always to the dictates of his own conscience—a relentless investigator, a shunner of compromise? Or is he the cheerful pragmatist whose willingness to split the difference makes it possible to pass a bill now and then?

Is he a John Kennedy or a Barry Goldwater, using the Senate as the base for a national campaign? Or is he a Carl Hayden or a George Aiken, whose labors are scarcely noticed by the public?

Simply to raise these questions is to suggest that there is room in a 100-man Senate for men of differing tastes and talents. Any arbitrary standard that ignores these individual variations is certain to be wrong.

In one basic sense, Washington's belief in the distinctiveness of the Senate is well justified. The most striking single fact about the Senators we have is that they are uncommon Americans. Prof. Donald R. Matthews described the typical Senator of the post-World War II decade as "a late middle-aged or elderly, white, Protestant, native-born man with rural or small-town and upper-middle-class origins, a college-educated lawyer and a 'joiner.'" As Mr. Matthews noted in his classic study, "U.S. Senators and Their World," this combination of characteristics is so far from the norm of American society that "probably less than 5 percent of the American people have any significant chance of every serving in the Senate so long as the present informal 'requirements' for the office hold."

The major abnormality about Senators, in career terms, is that they are professional officeholders. Mr. Matthews found that almost half the postwar Senators achieved their first public office before they turned 30 and that three-quarters of them were on the public payroll before they were 40. The average Member had spent approximately half his adult life in officeholding—even before he became a Senator.

Of the 100 current Senators, 66 came to that body directly from other public offices; 21 more relied chiefly on the fame won in prior public service—service which, in most cases, had terminated only briefly before their Senate campaigns began. That leaves only 13 of today's Senators who launched their campaigns from reputations earned outside public office. Most of these men are "political accidents" of one sort or another.

With so much similarity in their backgrounds, what determines which Senators rise to distinction and which stay submerged in the pack? Again, one must be wary of generalizations.

A favorite myth, for example, is that Governors—or other executive types—fare badly in the Senate. They are, according to legend, extremely unhappy at sharing their sovereignty and command authority with 99 others. But then comes a man like the late Robert Kerr, from the governorship of Oklahoma, who finds the paths to power in the Senate ridiculously easy to explore. No one was ever more at home or more skillful in committee machinations or in floor debates than ex-Governor Kerr.

In a body dominated by lawyers, there is a strong tendency to think that lawyers have a special calling for the Senate. Even Joe Clark, of Pennsylvania, normally a man to deride the prejudices of "The Senate Establishment," is convinced that "lawyers make the best Senators; to make laws you have to know law." But Lyndon Johnson, the ablest leader the Senate has had in years, was no lawyer, nor is Mike Mansfield, nor is Hubert Humphrey.

Energy, eloquence, wit, good humor, intelligence, frankness, honor—all these are worthy qualities, esteemed by Senators, as by most men, in their fellows. But to catalog these virtures is not to describe the special qualities that make a man a good Senator. For, in candor, there have been good Senators, even great ones, who were a mite bad tempered, or a mite dull or less than irreproachable in their personal codes.

Thus, all the popular generalizations prove false, in some degree. One comes closer to the truth by noting that the best Senators, generally, are those who have acquired seniority and who use their powers, not simply for the advantage of their States, but also to serve their conception of the national interest.

It takes time to develop influence in the Senate and a Senator's greatness is measured by the reach of his influence. It is a place, as Lee Metcalf of Montana has remarked, "where you have to do a lot of favors for others before they start doing them for you." It is a unique political structure—an assemblage of delegates from sovereign States, each man, in theory, the equal of any other. The seniority system is its only acknowledged ranking order and its influence is pervasive.

The five men selected by Mr. Kennedy's committee to be enshrined in the Senate's Hall of Fame—Henry Clay, Daniel Webster, John C. Calhoun, Robert La Follette and Robert A. Taft—served a total of 86 years. Their first responsibility, no less than that of the lowliest of today's freshman Senator's, was to gain reelection. Only with the confidence of his own constituency, renewed at the polls, can a Senator play his role on the national stage.

But if seniority is an essential for effective and distinctive senatorial service, it is obviously not a guarantee of such a career. A special combination of personal qualities and political circumstances marks the history of the best members.

What are those qualities? First is the instinct or the drive in some men that takes them to the heart of the issues of their time. The late Robert Taft and the late Styles Bridges were contemporaries in the Senate and both achieved great power. But Bridges confined himself by choice to the private, backroom trades of projects, patronage and appropriations, while Taft engaged himself publicly in all the major debates of his era—touching the responsibilities of American government in foreign affairs, domestic welfare and labor relations. It is Taft, not Bridges, who has a memorial on Capitol Hill today.

A second quality is diligence, again well typified by Taft or by his successor in the Republican leadership today, Everett Dirksen of Illinois. Senator Dirksen owes much of his influence to the simple fact that he studies more intensively and knows more intimately the provisions of the bills he is debating than the vast majority of his colleagues.

A third quality is breadth of interest, a refusal to be bound by the parochial concerns of one's own State. Senators have achieved great reputations in the past as spokesmen for their States and regions, but as our politics have become national and international, so have the perspectives of the best Senators. It is the man who can see beyond the borders of his own State whose contribution is remembered—George Norris of Nebraska sponsoring the Tennessee Valley Authority, Lyndon Johnson of Texas guiding the first civil rights bill in a century into law, Arthur Vandenberg of Michigan leading the Senate into an acceptance of its world responsibilities.

The Senate, for all the criticism it receives, is a tolerant place. It finds uses for all sorts of talents. Most Members take the established route up the seniority ladder to a committee chairmanship and increasing influence with the establishment. But the Senate, to its credit, also provides outlets for "the angry men" who cannot conform to these comfortable career lines.

An Estes Kefauver investigating drugs, a John McClellan exposing labor racketeering or a John Williams documenting financial chicanery are not the most congenial companions for "The Club" Members. But persistence and publicity are forces the Senate recognizes. The iconoclasts, too, can make their mark in the history books.

There are circumstances which can disqualify Senators from playing the roles of which they are capable, as with the southerners today. The southern Senators are men of ability, and some—like J. W. Fulbright and Richard Russell—have achieved distinction in special fields like foreign policy and defense. But their isolation from the mainstream of American politics on the central question of race relations bars them from leadership roles, to their own loss and the loss of the country.

By and large, though, seniority, talent, diligence, breadth of vision, and a grasp of major issues will enable a Senator to contribute his full share to the making of national policy. The Senate has its shortcomings, but it is not arbitrary or capricious in the way it weighs its Members and judges them for what they are. In time, undoubtedly, the Senate will pass fair judgment on those of the current celebrity candidates who join its ranks.

Just now, however, these men are under a cloud—and understandably so. Their candidacies represent a shortcutting of the normal political process, an effort by one party or the other to gain temporary advantage on the cheap. The cost of electing a Senator has grown so heavy that a candidate with built-in name value offers enormous practical advantages. Running against an incumbent in a large State, a celebrity can save his party hundreds of thousands of dollars that would have to be spent to build up an ordinary politician to the point where he would have a reasonable hope of victory.

Judging from past experience, a few of these celebrities will win, but more will be rejected by the voters—simply because they have nothing but their names to recommend them. The pertinent point, however, is that whatever contribution fame makes to their first election, their ultimate influence and standing will depend on their ability to gain reelection as Senators. Norris Cotton, of New Hampshire, puts it neatly when he says, "They may get here the first time because they're celebrities, but if they come back, it's because they're politicians."

Most observers would agree with Senator Clark that "it would be disastrous to convert the Senate into a repository for miscellaneous famous Americans," a sort of living hall of fame. But that is not really in prospect—not when the present membership is slanted so heavily in the direction of career officeseekers and when any new Senator must prove his political skills by gaining reelection before he can begin to exercise real influence.

The serious question is whether the Senate might not be made a more representative body if some of its Members were recruited from fields other than professional politics. Senator Cotton, a career man on Capitol Hill himself, suggests that the Senate might receive an infusion of energy and ideas from men of diverse backgrounds, just as the professional foreign service receives a leavening influence from the Ambassadors drawn from private life.

Hopefully, the celebrity candidates would be found, as time goes on, not just in the realms of sports and entertainment and derring-do, but in the arts and science, the professions and industry. A handful of educators and businessmen and even one labor leader sit in the Senate now. If James Van Allen decided to run from Iowa or Jonas Salk from Pennsylvania, would the Republic be destroyed? It is hard to think so.

John Jay, in the Federalist papers, spoke of Senators as "men of talents and integrity." The lawyers and the professional politicians have had the place pretty much to themselves for a long time. They have no monopoly on the qualities that make for greatness in a Senator. It may be well now to consider emphasizing the plural in "talents."

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 2) to establish water resources research centers at land-grant colleges and State universities, to stimulate water research at other colleges, universities, and centers of competence, and to promote a more adequate national program of water research, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Aspinall, Mr. Rogers of Texas, Mr. Haley, Mr. Saylor, and Mr. Burton of Utah were appointed managers on the part of the House at the conference.

The message also announced that the House had passed, without amendment, the joint resolution (S.J. Res. 103) to increase the amount authorized to be appropriated for the work of the President's Committee on Employment of the Physically Handicapped.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H.R. 1887) for the relief of Yon Ok Kim, Chang In Wu, and Jung Yol Sohn.

The message returned to the Senate, in compliance with its request, the joint resolution (S.J. Res. 71) to establish a National Commission on Food Marketing to study the food industry from the producer to the consumer.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. HUMPHREY. Mr. President, I yield myself 30 seconds. The amendment, No. 493, offered by the Senator from South Carolina, would strike from title I everything but the provisions for three-judge district courts and for expediting voting cases. Eliminated would be first, the uniform standards provision, second, the immaterial errors provision, third, the written literacy test provision, and fourth, the rebuttable sixth-grade presumption provision. These provisions are designed to strike at the principal means by which voting discrimination by registrars is carried out, as evidenced by the cases the Department of Justice has instituted to enforce the 1957 Civil Rights Act. Adoption of this amendment would mean that discrimination will continue to be easily accomplished and difficult to prove.

The effect of this amendment is to practically destroy title I.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina [Mr. Johnston]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALTERS (when his name was called). On this vote I have a pair with the junior Senator from Maryland [Mr. Brewster]. If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. BREWSTER] is absent on official business.

I also announce that the Senator from California [Mr. ENGLE], is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. CLARK] and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. CLARK] and the Senator from California [Mr. ENGLE] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. COOPER] and the Senator from Illinois [Mr. DIRKSEN] are absent on official business, and if present and voting, would each note "nay."

The Senator from Texas [Mr. TOWER] is necessarily absent and, if present and voting, would vote "nay."

The result was announced—yeas 18, nays 74, as follows:

[No. 347 Leg.]

YEAS—18

Byrd, Va.
Eastland
Ellender
Ervin
Fulbright
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Robertson
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond

NAYS—74

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Goldwater
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—8

Brewster
Clark
Cooper
Dirksen
Engle
Tower
Walters
Yarborough

So Mr. JOHNSTON'S amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HART. Mr. President, I move to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 348 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Goldwater
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. THURMOND. Mr. President, I call up my amendment No. 928, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 8, in line 2, after "travelers", it is proposed to insert a semicolon, and to delete the rest of line 2, all of line 3, and all through the semicolon in line 4, as follows: "or a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce;".

Mr. THURMOND. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself three-quarters of a minute.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for three-quarters of a minute.

Mr. THURMOND. Mr. President, this amendment to title II restricts the eating establishment coverage of title II to places which serve interstate travelers. As the bill is presently worded, eating establishments are covered merely because they serve food or use utensils which have been transported in interstate commerce. This is far too broad; and this amendment would delete that portion of title II, and thereby would limit the coverage to places which serve interstate travelers.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALTERS (when his name was called). On this vote I have a pair with the junior Senator from Maryland [Mr. BREWSTER]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. BREWSTER] and the Senator from Oregon [Mrs. NEUBERGER] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. CLARK] and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania[Mr. CLARK] and the Senator from California [Mr. ENGLE] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. COOPER] and the Senator from Illinois [Mr. DIRKSEN] are absent on official business.

The Senator from Texas [Mr. TOWER] is necessarily absent.

If present and voting, the Senator from Kentucky [Mr. COOPER] would vote "nay."

On this vote, the Senator from Illinois [Mr. DIRKSEN] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Texas would vote "yea," and the Senator from Illinois would vote "nay."

The result was announced—yeas 30, nays 61, as follows:

[No. 349 Leg.]

YEAS—30

Bennett
Byrd, Va.
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Fulbright
Goldwater
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Morton
Mundt
Robertson
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Williams, Del.

NAYS—61

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Dodd
Douglas
Edmondson
Foug
Gore
Gruening
Hart
Hartke
Hayden
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, N. Dak.
Young, Ohio

NOT VOTING—9

Brewster
Clark
Cooper
Dirksen
Engle
Neuberger
Tower
Walters
Yarborough

So Mr. THURMOND'S amendment (No. 928) was rejected.

Mr. KUCHEL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SMATHERS. Mr. President, I call up amendment No. 480, and ask to have it stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 9, after line 7, insert the following:

(f) The provisions of this title shall not apply to any barber shop or beauty parlor.

Mr. SMATHERS. Mr. President, I yield myself 3 minutes.

This is obviously a simple up-or-down type of amendment. What we seek to do is to exclude from title II of the public accommodations section its application to barbers and beauticians on the ground that the activity of barbers and beauticians, according to the Florida State Association of Barbers—and I am sure other State associations—is of such a personal nature that they believe they should have the right of choice as to whom they should serve.

I cannot help believing that they should have the right of choice, just as doctors, dentists, and chiropodists and others who perform personal services, have the right of choice.

We do not provide in the bill, and I do not think we intend to provide, that if a lawyer happens to be working in an office that may have some connection with a hotel, the lawyer from that time on shall never have the choice as to whom he will represent. Surely lawyers and other types of professional people have a choice as to whom they will work for. In my experience, and I believe in the experience of every Senator from the South who has practiced as a lawyer, no discrimination has been made as to clients lawyers represent. I am sure there never has been a lawyer in the South who did not represent both white and colored citizens. But at least they had the right of choice, if they wanted to exercise that long-established right of choice.

I cannot help thinking that we should give to barbers and beauticians the same right of choice that has been given to other people. This provision as written in the substitute, brings under Federal law all barbers and beauticians, if they happen to be located in a building which itself is classified as an operating public accommodations. A barber in such a building might find himself in direct competition with a man across the street who is not in such a building. There would therefore be unfair competition. I insist that these operators should have the right of choice.

I would hope they would not discriminate. I would hope they would be figuratively speaking, color blind. But we are not going to accomplish anything of long-range value by commanding them, contrary to the 13th amendment, that they have to serve somebody they might not want to serve in something that requires personal and private attention, and this is of particular interest and sensitiveness with respect to beauticians.

Those people have been writing in, saying, "We would like to be excluded from the provisions of the bill."

If doctors and other professionals are to be excluded, I think these people are entitled to that long established, and heretofore agreed to personal privilege of an individual's right to private choice.

Mr. HUMPHREY. Mr. President, I yield myself 30 seconds.

I point out that only barbers and beauticians who are located in motels and hotels engaged in interstate commerce covered by title II are covered by the provisions of the bill. Other shops not within such hotels and motels are excluded. It seems to me indefensible to say to a patron of a hotel or motel that he is not entitled to services available to all others in that hotel or motel.

Incidentally, a house doctor is required to serve all clients in such public accommodation.

Mr. FULBRIGHT. Mr. President, I yield myself 2 minutes.

I join in supporting the amendment. I think the Senator from Florida has stated the best reason for it, namely, the difficulty that would arise from competition between those located in a building engaged in interstate commerce, and those not so located. I think this would certainly be a difficult matter to adjust.

I hope the Senator will support the amendment.

Mr. SMATHERS. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida [Mr. Smathers]. On this question the yeas and nays have been ordered; and the clerk will call the roll.

The chief clerk proceeded to call the roll.

Mr. WALTERS (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Maryland [Mr. Brewster]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster] is absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. Clark] and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Clark] and the Senator from California [Mr. Engle] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. Cooper] and the Senator from Illinois [Mr. Dirksen] are absent on official business.

The Senator from Arizona [Mr. Goldwater], is necessarily absent.

The Senator from Texas [Mr. Tower] is necessarily absent.

If present and voting, the Senator from Kentuky [Mr. Cooper] would vote "nay."

On this vote, the Senator from Illinois [Mr. Dirksen] is paired with the Senator from Texas [Mr. Tower]. If present and voting, the Senator from Texas would vote "yea," and the Senator from Illinois would vote "nay."

The result was announced—yeas 30, nays 61, as follows:

[No. 350 Leg.]

YEAS—30

Bennett
Byrd, Va.
Byrd, W. Va.
Fulbright
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Cotton
Curtis
Dominick
Jordan, N.C.
Long, La.
McClellan
Mechem
Monroney
Robertson
Russell
Eastland
Ellender
Ervin
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

NAYS—61

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Dodd
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hayden
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Young, Ohio

NOT VOTING—9

Brewster
Clark
Cooper
Dirksen
Engle
Goldwater
Tower
Walters
Yarborough

So Mr. Smathers' amendment (No. 480) was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDRESS BY HON. DOUGLAS DILLON, SECRETARY OF THE TREASURY, AT PRIZE DAY CEREMONIES, GROTON SCHOOL, MASSACHUSETTS

Mr. FULBRIGHT. Mr. President, I yield myself 2 minutes.

There has come to my attention a speech delivered on June 10, 1964, by Hon. Douglas Dillon, Secretary of the Treasury, at the Prize Day ceremonies of the Groton School, Massachusetts.

Mr. Dillon presented one of the most persuasive and eloquent statements I have seen made by anyone in regard to public service in our Government. I commend it to my colleagues. I think they will all read it with a great deal of pleasure, as I did.

I ask unanimous consent that it be printed in the body of the Record, as a part of my remarks.

There being no objection, the address was ordered to be printed in the Record, as follows:

Remarks of the Honorable Douglas Dillon, Secretary of the Treasury, at Prize Day Ceremonies, Groton School, Groton, Mass., Wednesday, June 10, 1964

This is a very special and happy occasion for me for, although I have been back to the school many times since that Prize Day 37 years ago when Groton sent me forth into the world, this is the first time I have been back here for Prize Day.

This is the occasion when we of an older generation pay homage to those who are about to enter upon their most fruitful and productive years. It is, of course, not always easy for one generation to speak to another. I recall that vivid scene in "The Education of Henry Adams," in which the young

Henry, not "much more than 6 years old," engaged "one summer morning in a passionate outburst of rebellion against going to school." Clinging with all the strength in his small arms to the bottom of a staircase, the boy was on the verge of victory, when his grandfather—the former President of the United States, John Quincy Adams—appeared. Silently, the old man took young Henry by the hand and walked him nearly a mile through the hot sun of early summer to his school. Thereby, the old President earned the lifelong admiration of his grandson, because, in the words of The Education, "during their long walk he had said nothing, uttered no syllable of revolting cant about the duty of obedience and the wickedness of resistance to law," and the boy "gave his grandfather credit for intelligent silence."

But much as I admire that story, I cannot today be silent, for I am convinced that one of the great needs of our Nation is not for silent, passive observers, but for active, intelligent, and effective voices. It is of that need—particularly in public service—that I wish to speak today.

You sixth formers who are graduating today have received something very special—the best secondary school education available in our land. You have enjoyed the rare opportunity of working closely with a superb faculty under the guidance and leadership of a great headmaster, John Crocker. Today, as in the past, Groton has stressed, not only the pursuit of excellence in all things, but the importance of public service as one of the highest of human endeavors.

It can fairly be said that never before in our history has the need or the opportunity for public service been so great. As our civilization grows and becomes more complex, ever greater responsibilities descend upon Government at every level—upon the county courthouse and upon the city hall, upon our State capitals, and upon the Federal Government in Washington.

Think of today's problems of education, or urban renewal, in a great city such as New York or Chicago, or Philadelphia, problems unthought of only a few years ago. Think of the challenges posed by our exploration of outer space, an enterprise so vast and expensive that it could only be undertaken by the Federal Government.

There has never been a more exciting or momentous time to live—and we Americans live at the very center of challenge and opportunity. Yet, as the counterpart of its tremendous opportunities, this age of nuclear weapons and supersonic travel holds tremendous dangers as well. There is, of course, the awesome danger of nuclear war and worldwide holocaust that we can neither ignore or forget when we formulate or evaluate national policy.

But behind this danger is another equally fundamental. I speak of the danger that, in this world of dazzling and sometimes bewildering change—in this world of incredibly complex and shattering events—our courage may fade, our endurance flag, our patience run out. And we may seek refuge in the deceptive security of the past, or of a single oversimplified solution, or of a sudden rash act. But we cannot—and we must not—yield to the temptation of such easy escapes from reality. For in the real world alone will we find our destiny—and in that world there is no simple answer to our problems, no single cure for our ills, and no easy way to success.

I have, however, not the slightest doubt that we will be well preserved against this danger, as against others, if young men of talent, intelligence, and training like yourselves do not hold back, but take hold of the complex and difficult problems of our times and move to the very vanguard of events in the years that lie ahead.

Those years hold the promise of an affluence for our people far beyond anything we have ever known. The great challenge will be, not merely to take part in creating that affluence, although that is important, but to transform it into something more than an orgy of comfort—to make of it a springboard that can bring the life of this Nation closer to its ideals. Nowhere will that challenge be greater—nowhere can it be met with better result—than in public service.

As you sixth formers go out into the world this morning, I urge you to give serious thought to public service, for its needs and its opportunities are limitless. So, except in material ways, are its rewards.

When I speak of public service, I mean many things. There are the scientists probing outer space for the National Aeronautics and Space Administration. There are the dedicated members of our Foreign Service working in more than 100 countries to advance the cause of freedom as well as to protect the interests of our country. There are the unsung toilers in our Central Intelligence Agency. There are the city planners grappling with the mounting and tortuous problems posed by our ever-spreading cities. There are the judges charged with preserving our laws, our Constitution, our very way of life. And then there are those who seek elective public office—the men we speak of as politicians.

I have no patience with the presumption shared by some that the word "politician" is somehow unsavory. There has been, and will continue to be, corruption in politics as long as human beings are corruptible—just as there will be in business or in any other walk of life. But there is nothing inherently corrupt or grimy about politics—either in theory or in practice. And far more than in other aspects of our national life, any taint that may soil our political activities can only do so to the extent that we, the people of our land, by our indifference or by our unconcern, permit it to exist. I know of few callings of any kind that are, on the whole, so well honored and so well served by the men who follow it.

While I have never run for public office, I have worked actively for many years with our elective officials—at the county level, in the statehouse in New Jersey and, for the past 11 years at the national level, first in Paris, and then in Washington. Over those years I have come to know well many holders of political office. I have seen the pressures under which they operate. And I have come to know one thing—and to know it well: Our country, in the years ahead, will be just as good as, and no better, than the men who serve her in elective public office. For these men not only represent the people who chose them, but have the power to influence profoundly the thinking and conduct of their communities—and, ultimately, of the Nation as a whole.

I fully recognize that many of you, for one reason or another, may find it impracticable to make a career in public life. You may find your calling in the practice of medicine or of law, or in teaching or in the ministry. You may join the fields of banking or of business. Excellence in all these areas is essential to the progress of a free people. But to those of you who find that you cannot participate directly in public life, may I express the hope that you will endeavor to share in that life by working actively in the political vineyards.

That does not mean just once every 4 years when we elect a President, but on a continuing basis at the State and local levels. Do not shrug off your responsibility and argue that government is something for someone else to worry about. Local government is the very root and core of our national political system. It cannot thrive without your help and the help of men like you. You can help shape the course of community events by helping your elected officials. They need and want that help badly, and in many ways—in the form, naturally, of political contributions and votes, but also in the form of active help at the precinct level and, perhaps most importont of all, in the form of intelligent, friendly, and unprejudiced advice, both before and after election.

It may be that some of you will seek election to the U.S. Congress, or will be in the forefront of help and counsel for someone else who does. If either course is ever open to you, then I fervently hope that you will take it.

In our Government of checks and balances, as you know, we put great power in our President. But, as you must also know, he can do little or nothing without the support of the Congress. And that support does not come to a President automatically, as it does to the leaders of governments operating under the parliamentary system, with its requirement for strict party discipline. This, in our American view, is as it should be, for otherwise the centralization of power would be far too great. But it also imposes a heavy responsibility upon our Congress, a responsibility that will be met well or ill according to the quality of those who make up the Congress. We may, as we proclaim, be a nation of laws and not of men, but we must never forget that it is men, the men whom we elect, who make our laws.

In my years in Washington I have come to know and admire many of our Senators and Representatives. My respect for them, and the manner in which they so ably discharge their heavy responsibilities, is unbounded. No man could find a better way to serve his country than through membership in one of the Houses of our Congress—and nowhere, with the exception of the Presidency, is it more imperative that we have men and women of the highest ability.

Let no one deceive you: Public life is hard, sometimes frustrating, and—as heaven and the public servant well know—it is often underpaid. Many of our public officials put in longer and harder hours than most other citizens. And by and large their material compensation is less for equal effort. Their life is filled with a thousand vexations, and their work continually hampered by one obstacle or another.

But there is also great reward. It is not acclaim, for few public officials are fortunate enough to receive public plaudits—or even, once they leave office, to live very long in the memories of their constituents, let alone in the pages of the history books. Rather, the reward of which I speak is the one of which we hear all too often—and experience, perhaps, all too seldom: the reward that comes from doing something that matters—from serving in a cause far greater than oneself or one's immediate personal interests—from serving one's country, one's ideals, and one's fellow citizens.

There is also reward in the fact that in few pursuits, except public service, can one come so closely in touch with the most vital and vibrant issues and opportunities of one's time. In this sense, the life of a public official, while it has its long hours of routine, is continually filled with unexpected and varied challenges. Public life, as I have observed and experienced it, is far from monotonous. It is exciting, even thrilling. And it is this excitement, created by the continual encounter with ever-changing experiences, that gives to public life its zest and appeal.

Our late President John Kennedy once said, "Of those to whom much is given, much is required." He also delighted in remarking that, "The Greeks were right when they defined happiness as the full use of one's powers along the lines of excellence." And there was in his mind—as there is in mind today—a close kinship between those two thoughts. For nowhere is there more required of those to whom much has been given than in the public service. And nowhere is there an occupation that offers so abundantly the sheer joy that comes from using one's powers to the fullest and in the pursuit of the most excellent purposes. For you who leave Groton today, I can think of no higher recommendation.

BALANCE OF PAYMENTS

Mr. FULBRIGHT. Mr. President, I hold in my hand an editorial from yesterday's newspaper which contains a part of a statement from an annual report of the Bank for International Settlement relating to the question of balance of payments. This problem has troubled a great many of my colleagues in the Senate, as well as others in government, ever since 1955. This is the most authoritative and hopeful statement with regard to the present status of our international payments that I have seen.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. I yield myself 1 more minute.

I think it is well worth our consideration as it has a great bearing upon other legislation, such as foreign aid, with which this body deals.

I ask unanimous consent that the editorial be printed in the RECORD as a part of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE TROUBLE SPOT SHIFTS

Analysts of the international economic scene await with eagerness the annual reports of the Bank for International Settlement, a central banking institution established in Basle to cope with the problems of reparation payments after the First World War. The latest report once again demonstrates that the quintessential conservatism characterizing thought among European central bankers need not preclude an analysis of the world economy that is cogent, authoritative, and insightful.

The important conclusion of this year's report is rapidly summarized:

"For the first time in some years, a major change has taken place in the economic picture over the last 12 months. In essence, the economic trouble spot has shifted from the United States to continental Western Europe and the conflict between domestic and external considerations, which has complicated policymaking in both Europe and the United States for several years, has been significantly reduced.

"In the United States there are firmer grounds for confidence with regard to both domestic economic growth and the restoration of equilibrium in the balance of payments. On both fronts more vigorous policy measures in the year just past have made a major contribution to the improvement."

The cause of the shift in the economic trouble spot has generally been excessive demand in Western Europe resulting in rising prices, in tightness in the labor markets, soaring imports and a deterioration of trade balances. And while policies of restraint have been adopted to counter these pressures, the BIS suggests that they are too mild.

One cannot assume that the Europeans will be so kind as to resolve our balance-of-payments problem by submitting abjectly to inflation. But the pressures which are causing consternation in Europe are in large part the result of a radical change in personal consumption patterns, and that change, like other deepseated trends, is not likely to be checked in the near future. Thus, while the U.S. payments balance grows stronger and our negotiators no longer appear as supplicants, the likelihood of obtaining agreement on the reform of the international monetary system should increase.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 351 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. THURMOND. Mr. President, I call up my amendment No. 929 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The Chief Clerk read as follows: On page 12, it is proposed to delete beginning with line 5 down through line 9 on page 14, as follows:

SEC. 206. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) In any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circut judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

Renumber section 207 as section 206.

Mr. THURMOND. Mr. President, on my amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself three-quarters of a minute.

This amendment deletes the new section 206 from title II of the Dirksen-Mansfield substitute.

Section 206 would give the Attorney General power to instigate suits in the name of the United States when he believed there was a pattern or practice of discrimination in a particular State or area.

It is evident that this section is aimed specifically at the South. I believe it serves no useful purpose in the proposed legislation. Therefore, it should be deleted by the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Virginia [Mr. BYRD], the Senator from Arizona [Mr.

HAYDEN], the Senator from Oregon [Mrs. NEUBERGER], and the Senator from Virginia [Mr. ROBERTSON] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. CLARK] and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. CLARK] would vote "nay."

On this vote, the Senator from Maryland [Mr. BREWSTER] is paired with the Senator from Virginia [Mr. ROBERTSON].

If present and voting, the Senator from Maryland would vote "nay" and the Senator from Virginia would vote "yea."

On this vote, the Senator from California [Mr. ENGLE] is paired with the Senator from Virginia [Mr. BYRD].

If present and voting, the Senator from California would vote "nay" and the Senator from Virginia would vote "yea."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. COOPER] and the Senator from Illinois [Mr. DIRKSEN] are absent on official business.

The Senator from Arizona [Mr. GOLDWATER] is necessarily absent.

The Senator from Texas [Mr. TOWER] is necessarily absent.

If present and voting, the Senator from Kentucky [Mr. COOPER] would vote "nay."

On this vote, the Senator from Illinois [Mr. DIRKSEN] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Texas would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 23, nays 65, as follows:

[No. 352 Leg.]

YEAS—23

Byrd, W. Va.
Cotton
Curtis
Eastland
Ellender
Ervin
Fulbright
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.

NAYS—65

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, N. Dak.
Young, Ohio

NOT VOTING—12

Brewster
Byrd, Va.
Clark
Cooper
Dirksen
Engle
Goldwater
Hayden
Neuberger
Robertson
Tower
Yarborough

So Mr. THURMOND's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. PASTORE. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. LONG of Louisiana. Mr. President, I call up my amendment No. 1009.

The PRESIDING OFFICER (Mr. BAYH in the chair). The amendment of the Senator from Louisiana will be stated.

The CHIEF CLERK. On page 6, beginning with line 1, it is proposed to strike out all through line 17 on page 11 (title II), and in lieu thereof to insert the following:

TITLE II—LOANS TO PROVIDE PLACES OF PUBLIC ACCOMMODATION WHICH SERVE THE PUBLIC WITHOUT DISCRIMINATION

SEC. 201. (a) Section 7 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

"(e)(1) If the Administration finds that any person is deprived of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation, on account of his race, color, religion, or national origin, and that such deprivation is pursuant to a pattern or practice within the area of the State in which such place of public accommodation is situated, the Administration is empowered to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to provide places of public accommodation within such area offering comparable goods, services, facilities, privileges, advantages, or accommodations without discrimination or segregation on the ground of race, color, religion, or national origin. For purposes of this subsection, each of the following establishments which serves the public is a place of public accommodation—

"(A) any inn, hotel, motel, or other place of business which provides lodging to transient guests;

"(B) any restaurant, cafeteria, lunch room, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; and any gasoline station;

"(C) any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment; and

"(D) any establishment (i) which is physically located within the premises of any establishment otherwise described in this subsection, or within the premises of which is physically located any such described establishment, and (ii) which holds itself out as serving patrons of such described establishment.

"(2) Financial assistance under this subsection shall be subject to the following limitations—

"(A) No financial assistance shall be extended pursuant to this subsection unless the borrower agrees to provide to all persons the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation to be provided by such financial assistance without discrimination or segregation on the ground of race, color, religion, or nation origin.

"(B) No financial assistance shall be extended unless such assistance is not otherwise available on reasonable terms.

"(C) In agreements to participate in loans on a deferred basis, such participation shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

"(D) No loan, including renewals and extensions thereof, shall be made for a period or periods exceeding twenty years.

"(E) The rate of interest for the Administration's share of any loan shall not exceed 5 per centum per annum.

(b) Section 4(c) of such Act is amended by—

(1) striking out "$1,666,000,000" and inserting in lieu thereof "$2,166,000,000"; and

(2) inserting after the fourth sentence the following: "Not to exceed an aggregate of $500,000,000 shall be outstanding from the fund at any one time for the purposes described in section 7(e) of this Act."

Amend the title so as to read: "A bill to enforce the constitutional right to vote, to authorize loans to provide places of public accommodation which serve the public without discrimination, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes."

Mr. LONG of Louisiana. Mr. President, I yield myself 2 minutes.

Mr. President, this is a substitute for title II. It takes the approach that this Senator has always thought should be taken with regard to the problem of equal facilities.

It provides that in any area where there are alleged to be insufficient facilities for any minority group, loans would be available in the aggregate amount of $500 million to provide equal facilities in regard to hotels, motels, or any other facilities referred to in title II of the bill.

If one were to go to my own hometown of Baton Rouge, La., he would find hotels owned and operated by colored citizens. They are very good hotels and motels—as good as any in town.

If one were to go to New Orleans, he would find some of the best hotels and motels in that city being owned and operated by colored citizens. All except three of the hotels accept colored citizens. Those hotels include some of the very best and some of the most expensive in town. There are some hotels that provide service on a completely segregated basis and exclude white citizens.

The object of this amendment is to provide that in any area in America where there may not be adequate facilities for one race or another on a free and equal basis of free choice, such facilities would be provided, in addition to permitting colored people to own their own motels or hotels. So if they did not want to build such facilities for their own people, others could do it.

This amendment would make $500 million available through the Small Business Administration which is all that would be needed, to provide adequate facilities anywhere in America where anyone feels that the facilities available are not adequate.

This amendment is offered as a substitute for title II. I feel that this is a much better way to do it.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1009 offered by the Senator from Louisiana [Mr. Long]. The yeas and nays have been requested.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from Arizona [Mr. Hayden], the Senator from Oregon [Mr. Morse], the Senator from Oregon [Mrs. Neuberger], the Senator from Virginia [Mr. Robertson], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. Clark] and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Clark] and the Senator from California [Mr. Engle] would each vote "nay."

On this vote, the Senator from Maryland [Mr. Brewster] is paired with the Senator from Virginia [Mr. Robertson]. If present and voting, the Senator from Maryland would vote "nay," and the Senator from Virginia would vote "yea."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. Cooper] and the Senator from Illinois [Mr. Dirksen] are absent on official business.

The Senator from Arizona [Mr. Goldwater] is necessarily absent.

The Senator from Texas [Mr. Tower] is necessarily absent.

The Senator from Wyoming [Mr. Simpson] and the Senator from Massachusetts [Mr. Saltonstall], are detained on official business, and, if present and voting, would each vote "nay."

If present and voting, the Senator from Kentucky [Mr. Cooper] would vote "nay."

On this vote, the Senator from Illinois [Mr. Dirksen] is paired with the Senator from Texas [Mr. Tower]. If present and voting, the Senator from Texas would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 17, nays 68, as follows:

[No. 353 Leg.]

YEAS—17

Byrd, Va.
Eastland
Ellender
Ervin
Fulbright
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond

NAYS—68

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morton
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Smith
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—15

Brewster
Clark
Cooper
Dirksen
Engle
Goldwater
Hayden
Morse
Neuberger
Robertson
Saltonstall
Simpson
Tower
Walters
Yarborough

So the amendment of Mr. Long of Louisiana was rejected.

Mr. MAGNUSON. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HUMPHREY. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. HILL. Mr. President, I call up my amendment No. 679 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The Legislative Clerk. On page 7, line 16, after "(b)," insert "it has more than five employees and".

Mr. HILL. Mr. President, this amendment would exempt from the provisions of title II, the public accommodations section, any business that has five or a lesser number of employees. Any business employing one, two, three, four, or five employees would be exempt from the public accommodations section of the bill.

We know that many businesses with five or fewer employees are family-operated businesses. Why should family-operated businesses, come under title II, the public accommodations section of this bill? The father, mother, and the children, members of the family, operate the business. Many businesses which have five or fewer employees—perhaps one, two, three, or four employees—are operated more or less on a shoestring basis. Such businesses do not have strong financial structure behind them, so why should they come under this particular title of the bill?

These businesses come under the fair employment practices title of the bill, and they have the same burdens and obligations which that title would impose on businesses with a minimum of 25 employees. As Senators know, under the pending bill a boarding house which does not have more than six rooms for rental is exempt under title II.

It is only fair, right, and equitable to exempt a family business operating on a shoestring basis with five or fewer employees; and that is what this amendment will do.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Washington is recognized for 1 minute.

Mr. MAGNUSON. The test is not the number of employees in this category. The test is whether these businesses hold themselves open to the public. It does not make any difference whether they employ 10 or 2 employees. If a restaurant is opened for the public in interstate commerce, it does not make any difference whether it is a family restaurant or any other kind of restaurant; it must not discriminate in its services to the public.

The exemption is entirely different from that of the five-room lodging house, which in many cases is not open to interstate commerce, or to the public.

That is the distinction.

We took up this matter with the committee and had long discussions on it; and it was felt that it had no bearing whatsoever on this particular section of the bill, or the segment of the people who are serving the public as the Senator from Alabama [Mr. Hill] contends.

Mr. PASTORE. Mr. President, will the Senator from Washington yield one-half minute on my own time?

Mr. MAGNUSON. I yield.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for one-half minute.

Mr. PASTORE. The effect of the amendment would be that in a restaurant employing four people, a Negro could not go in and get a cup of coffee, but in a restaurant employing six people, he could.

I believe that would be inequitable and unfair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama (No. 679). On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Tennessee [Mr. Walters]. If he were present and voting he would vote "yea." If I were at liberty to vote I would vote "nay." I therefore withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from Arizona [Mr. Hayden], the Senator from Minnesota [Mr. McCarthy], the Senator from Montana [Mr. Metcalf], the Senator from Oregon [Mr. Morse], the Senator from Oregon [Mrs. Neuberger], the Senator from Virginia [Mr. Robertson], the Senator from New Jersey [Mr. Williams], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle], is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. Clark] and the Senator from Texas [Mr. Yarborough], are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Clark], and the Senator from California [Mr. Engle], would each vote "nay."

On this vote, the Senator from Maryland [Mr. Brewster] is paired with the Senator from Virginia [Mr. Robertson].

If present and voting, the Senator from Maryland would vote "nay," and the Senator from Virginia would vote "yea."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. COOPER] and the Senator from Illinois [Mr. DIRKSEN] are absent on official business.

The Senator from Arizona [Mr. GOLDWATER] is necessarily absent.

The Senator from Texas [Mr. TOWER] is necessarily absent.

If present and voting, the Senator from Kentucky [Mr. COOPER] would vote "nay."

On this vote, the Senator from Illinois [Mr. DIRKSEN] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Texas would vote "yea," and the Senator from Illinois would vote "nay."

The result was announced—yeas 21, nays 62, as follows:

[No. 354 Leg.]

YEAS—21

Byrd, Va.
Byrd, W. Va.
Cotton
Eastland
Ellender
Ervin
Fulbright
Gore
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond

NAYS—62

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Cannon
Carlson
Case
Church
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McGee
McGovern
McIntyre
McNamara
Miller
Monroney
Morton
Moss
Mundt
Muskie
Nelson
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—17

Brewster
Clark
Cooper
Dirksen
Engle
Goldwater
Hayden
Mansfield
McCarthy
Metcalf
Morse
Neuberger
Robertson
Tower
Walters
Williams, N.J.
Yarborough

So Mr. HILL's amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CASE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 355 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. McCLELLAN. Mr. President, I call up my good amendment No. 547 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 33, line 1, after "employment," insert "solely".

On page 33, line 7, after "employee," insert "solely".

On page 33, line 12, after "individual" insert "solely".

On page 33, line 14, after "individual" insert "solely".

On page 33, line 19, after "individual" insert "solely".

On page 34, line 1, after "employment," insert "solely".

On page 34, line 10, after "individual" insert "solely".

Mr. McCLELLAN. Mr. President, on my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I yield myself 1 minute.

This amendment ought to be accepted. It merely inserts one word—"solely."

The bill provides that it shall be an unlawful employment practice for an employer to do several things. I shall read one as an illustration:

> (1) To fail or refuse to hire or discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.

If that is what is meant, if that is really the purpose of the bill, we should insert the word "solely," so that there will not be a dragnet, a catchall, to leave something uncertain for a court to interpret. Let us use the word "solely."

I hope the word "solely" will be accepted.

Mr. CASE. Mr. President, I yield myself 15 seconds.

The Senator from Arkansas, as always, seeks to provide the benefit of great clarity and simplicity in his objectives and methods. The difficulty with this amendment is that it would render title VII totally nugatory. If anyone ever had an action that was motivated by a single cause, he is a different kind of animal from any I know of. But beyond that difficulty, this amendment would place upon persons attempting to prove a violation of this section, no matter how clear the violation was, an obstacle so great as to make the title completely worthless. I therefore regret that we are obliged to oppose the amendment, and also to recommend that it be rejected.

Mr. MAGNUSON. Mr. President, I yield myself half a minute. This subject was considered at some length. The difficulty is that a legal interpretation or a court interpretation of the word "solely" would so limit this section as probably to negate the entire purpose of what we are trying to do.

Mr. CASE. There is no doubt about it.

Mr. McCLELLAN. I yield myself half a minute.

Then it is not intended to stop at what it is said is intended. Therefore, the provision is a dragnet. The proponents want to leave the section open to any kind of wild interpretation. The victim will not know why he has been rejected. It is unfair to the person whom it is intended to make the victim.

Mr. CASE. Mr. President, I yield myself 5 seconds.

Whatever might be the truth of the last suggestion so far as I am concerned, no one could possibly say that it was true so far as the Senator from Washington is concerned. The suggestion is really absurd on its face. I suggest that the amendment be rejected.

Mr. LONG of Louisiana. Mr. President, I yield myself 1 minute.

Having heard both presentations, I cannot for the life of me understand why someone would want to insist on leaving out the word "solely," because my impression was that if it were desired to hire someone because he was a brother-in-law or a first cousin, a person could not complain that he failed to get the job because of his race.

To say that a person who wanted to hire a relative or one who had been a close personal friend for many years would have to hire someone of a different color because he got there first is unreasonable.

If Senators are talking about two persons with regard to whom the employer had had no previous contact, or of whom he had had no previous knowledge, one way or the other, that provision would make sense. That is why the word "solely" is proposed to be included.

Mr. LAUSCHE. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 1 minute.

Mr. LAUSCHE. I join the Senator from Arkansas in favoring the inclusion of the word he wishes to have included. From reading subparagraph (1), it is obvious that the offense would be considered committed when equality of treatment was denied on account of religion, race, sex, or national origin.

The Senator from Arkansas wishes to make this point clear. Therefore, he proposes the inclusion of the word "solely," in terms of denial of employment because of race, color, sex, or national origin.

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

Mr. LAUSCHE. I yield myself 10 seconds more, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio may proceed.

Mr. LAUSCHE. Mr. President, the argument that the inclusion of the word proposed to be included would negate the provision is, in my opinion, absolutely specious and captious, and is an attempt to find, on some pretext, a reason for opposing the amendment.

The PRESIDING OFFICER. If there is to be no further debate on the pending amendment, the question is on agreeing to the amendment of the Senator from Arkansas. The yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Oregon [Mr. MORSE], the Senator from Virginia [Mr. ROBERTSON], and the Senator from Arizona [Mr. HAYDEN] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE], is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. CLARK], and the Senator from Texas [Mr. YARBOROUGH], are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. CLARK], and the Senator from California [Mr. ENGLE], would each vote "nay."

On this vote, the Senator from Maryland [Mr. BREWSTER], is paired with the Senator from Virginia [Mr. ROBERTSON]. If present and voting, the Senator from Maryland would vote "nay," and the Senator from Virginia would vote "yea."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. COOPER], and the Senator from Illinois [Mr. DIRKSEN] are absent on official business.

The Senator from Arizona [Mr. GOLDWATER] is necessarily absent.

The Senator from Texas [Mr. TOWER] is necessarily absent.

If present and voting, the Senator from Kentucky [Mr. COOPER] would vote "nay."

On this vote, the Senator from Illinois [Mr. DIRKSEN] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Texas would vote "yea," and the Senator from Illinois would vote "nay."

The result was announced—yeas 39, nays 50, as follows:

[No. 356 Leg.]

YEAS—39

Bennett
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Church
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Fulbright
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Jordan, Idaho
Lausche
Long, La.
McClellan
Mechem
Morton
Mundt
Pearson
Russell
Simpson
Smathers
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, Del.
Young, N. Dak.

NAYS—50

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Burdick
Case
Dodd
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Williams, N.J.
Young, Ohio

NOT VOTING—11

Brewster
Clark
Cooper
Dirksen
Engle
Goldwater
Hayden
Morse
Robertson
Tower
Yarborough

So Mr. McCLELLAN's amendment was rejected.

Mr. MAGNUSON. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HUMPHREY. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. LAUSCHE. Mr. President, may I inquire how many yea and nay votes have been taken today?

The PRESIDING OFFICER. Twelve yea-and-nay votes. If the Senator desires that the time required to obtain the information be taken out of his time, the Chair will be glad to make inquiry.

Mr. LAUSCHE. Mr. President, how many quorum calls have there been?

The PRESIDING OFFICER. Nine quorum calls.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 357 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cotton
Curtis
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Are there further amendments to be offered?

Mr. ERVIN. Mr. President, I call up my amendments No. 887, and ask the clerk to state them, as modified by me.

The PRESIDING OFFICER. The clerk will state the amendments, as modified.

The legislative clerk read as follows:

On page 32, line 23, immediately after "SEC. 601.", insert the subsection designation "(a)".

On page 33, between lines 2 and 3, insert the following new subsection:

"(b) No program or activity listed hereinafter in this subsection shall be deemed for any purpose of this title to be a program or activity receiving Federal financial assistance:

"(1) insurance of bank deposits by the Federal Deposit Insurance Corporation;

"(2) insurance of savings and loan accounts or equities by the Federal Savings and Loan Insurance Corporation;

"(3) Federal crop insurance;

"(4) national service life insurance;

"(5) Federal employees group life insurance;

"(6) mortgage insurance and guarantees of the Veterans' Administration and the Federal Housing Administration; and

"(7) grants, loans, payments, and assistance under the Agricultural Adjustment Act, the Commodity Credit Corporation Act, or any other statute providing for the benefit of farmers any agricultural price support assistance or marketing program."

Mr. ERVIN. Mr. President, I yield myself 1 minute.

This is an amendment which the Senate will adopt if the Senate acts in an intelligent manner.

Title VI is like one of Old Mother Hubbard's dresses—it covers everything.

When the question was raised by the able and distinguished senior Senator from Kentucky [Mr. COOPER], in a letter to the Attorney General, as to whether or not title VI was intended to cover insurance of bank deposits by the Federal Deposit Insurance Corporation; insurance of savings and loan accounts or equities by the Federal Savings and Loan Insurance Corporation; Federal Crop Insurance; national service life insurance; Federal employees group life insurance; mortgage insurance and guaranties of the Veteran's Administration and the Federal Housing Administration; and grants, loans, payments, and assistance under the Agricultural Adjustment Act, the Commodity Credit Corporation, or any other statute providing for the benefit of farmers any agricultural price support assistance or marketing program, the Attorney General wrote the Senator from Kentucky that it was not intended to cover those items.

This amendment would make certain that the interpretation of the Attorney General is correct, and that these programs are excluded. Why not make certain that which the language of title VI leaves uncertain?

I ask for the yeas and nays on my amendments.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the Ervin amendments No. 887. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia [Mr. ROBERTSON]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore I withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Oregon

[Mr. Morse], the Senator from Virginia [Mr. Robertson], and the Senator from Ohio [Mr. Lausche] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. Clark], and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Clark], and the Senator from California [Mr. Engle] would each vote "nay."

On this vote, the Senator from Maryland [Mr. Brewster] is paired with the Senator from Arkansas [Mr. Fulbright]. If present and voting, the Senator from Maryland would vote "nay," and the Senator from Arkansas would vote "yea."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. Cooper], and the Senator from Illinois [Mr. Dirksen] are absent on official business.

The Senator from Arizona [Mr. Goldwater] is necessarily absent.

The Senator from Texas [Mr. Tower] is necessarily absent.

The Senator from Kentucky [Mr. Morton] is detained on official business.

If present and voting, the Senator from Kentucky [Mr. Cooper] would vote "yea."

On this vote, the Senator from Illinois [Mr. Dirksen] is paired with the Senator from Texas [Mr. Tower]. If present and voting, the Senator from Texas would vote "yea," and the Senator from Illinois would vote "nay."

The result was announced—yeas 29, nays 56, as follows:

[No. 358 Leg.]

YEAS—29

Bennett
Byrd, Va.
Byrd, W. Va.
Cannon
Church
Curtis
Dominick
Eastland
Ellender
Ervin
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Monroney
Russell
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.

NAYS—56

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Burdick
Carlson
Case
Cotton
Dodd
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, N. Dak.
Young, Ohio

NOT VOTING—15

Brewster
Clark
Cooper
Dirksen
Engle
Fulbright
Goldwater
Hayden
Lausche
Mansfield
Morse
Morton
Robertson
Tower
Yarborough

So Mr. Ervin's amendments were rejected.

Mr. MAGNUSON. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HUMPHREY. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HUMPHREY. Mr. President, will the Senator from Florida withhold his request, inasmuch as we shall recess very shortly after one more vote?

Mr. HOLLAND. Mr. President, having received such pleasing information, I ask unanimous consent that the order for the quorum call may be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I call up my amendment (No. 930), and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The Legislative Clerk. On page 10, line 8, after "complainant" insert "or the defendant".

On page 10, line 10, after "complainant" insert "or such defendant".

Mr. THURMOND. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself three-quarters of 1 minute.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for three-quarters of 1 minute.

Mr. THURMOND. Mr. President, this amendment would allow the court to appoint an attorney for the defendant as well as the complainant if an action were brought against the defendant under the provisions of title II.

As the substitute is now worded, the court is allowed to appoint an attorney for the complaining party upon his request. There is much more precedent for the court to appoint an attorney for the defendant than there is for the court to appoint an attorney for the complainant.

This amendment would provide the same equal justice for a defendant as is sought to be given the complaining party.

Mr. HUMPHREY. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 30 seconds.

Mr. HUMPHREY. Mr. President, section 204(a) authorizes the court to appoint an attorney for a complainant in a title II suit in such circumstances as the court deems just.

This amendment would authorize the court to appoint an attorney for the defendant in such a suit.

This amendment is unnecessary. The present provision is included because Negroes in some areas are unable to obtain legal representation to institute civil rights suits. That is not true of persons who are defendants in such suits.

It should be noted that section 205 authorizes the court to allow the prevailing party in a title II suit, other than the United States, a reasonable attorney's fee as part of the costs. Thus, there is protection for either party, where justified insofar as the cost of legal representation is concerned.

Mr. President, I urge that the amendment be defeated.

The PRESIDING OFFICER. Is there further discussion? If not, the question is on agreeing to the amendment of the Senator from South Carolina. On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Ohio [Mr. Lausche], the Senator from Oregon [Mr. Morse], the Senator from Virginia [Mr. Robertson], and the Senator from Tennessee [Mr. Walters], are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. Clark], and the Senator from Texas [Mr. Yarborough] are necessarily absent.

On this vote, the Senator from Maryland [Mr. Brewster] is paired with the Senator from Virginia [Mr. Robertson]. If present and voting, the Senator from Maryland would vote "nay" and the Senator from Virginia would vote "yea."

On this vote, the Senator from Pennsylvania [Mr. Clark] is paired with the Senator from Tennessee [Mr. Walters]. If present and voting, the Senator from Pennsylvania would vote "nay" and the Senator from Tennessee would vote "yea."

On this vote, the Senator from California [Mr. Engle] is paired with the Senator from Arkansas [Mr. Fulbright]. If present and voting, the Senator from California would vote "nay," and the Senator from Arkansas would vote "yea."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. Cooper] and the Senator from Illinois [Mr. Dirksen] are absent on official business.

The Senator from Arizona [Mr. Goldwater] is necessarily absent.

The Senator from Texas [Mr. Tower] is necessarily absent.

The Senator from Kentucky [Mr. Morton] is detained on official business.

If present and voting, the Senator from Kentucky [Mr. Cooper] would vote "yea."

On this vote, the Senator from Illinois [Mr. Dirksen] is paired with the Senator from Texas [Mr. Tower]. If present and voting, the Senator from Texas would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 24, nays 60, as follows:

[No. 359 Leg.]

YEAS—24

Byrd, Va.
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Mundt
Russell

Smathers
Sparkman
Stennis
Talmadge
Thurmond
Williams, Del.

NAYS—60

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Dodd
Douglas
Edmondson
Fong
Hart
Hartke
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Young, N. Dak.
Young, Ohio

NOT VOTING—16

Brewster
Clark
Cooper
Dirksen
Engle
Fulbright
Goldwater
Gruening
Hayden
Lausche
Morse
Morton
Robertson
Tower
Walters
Yarborough

So Mr. THURMOND's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE STOCKMAN'S DILEMMA

Mr. McGOVERN. Mr. President, I yield myself 2 minutes. Over the past year or more there has been an intensive search for a solution for the steadily falling price of beef cattle. Many who have tried to analyze this problem have come up with a single answer to the problem—one action that would restore to the cattle producer a price level that would allow him a reasonable profit on his time, effort, and initiative.

Unfortunately, Mr. President, the world is not quite that simple. Raising beef is a complicated business and when the complexities of marketing, imports, consumer tastes, and even the weather are all added in, it becomes impossible to reduce this complex situation to anything amenable to a one-shot cure.

Nowhere have I seen this hard fact of life better illustrated than in a speech recently made by my good friend the senior Senator from Wyoming [Mr. McGEE] to the Wyoming Stock Growers Association in Torrington, Wyo. This speech not only outlines the myriad problems that confront the stockman today but gives a realistic appraisal of the many different things that must be done if we are to restore equity to this currently distressed situation.

Mr. President, I ask unanimous consent that this speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

A HARD LOOK AT THE STOCKMAN'S DILEMMA

(Remarks by the Honorable GALE MCGEE, U.S. Senator, before the 1964 Annual Convention of the Wyoming Stock Growers Association, Torrington, Wyo., June 5, 1964)

For some time now the American cattleman has been engaged in an operation known as "hanging on by the skin of your teeth." And while you are doing this and every day coming closer and closer to bankruptcy, we politicians are busily running about trying to find simple solutions to your problems so that we can come before groups such as this and stick out our chests and say, "Look, here's your problem and here is how I have solved it." That is the way Jack Armstrong and Horatio Alger work things and we would like to do the same.

But, unfortunately, the problem just won't hold still. Every time we try to pin a label on it we have a new wiggle and away we go in another direction. After a few rounds of this I have come to some conclusions that I would like to share with you today.

You may have heard that I have been backing a study of the operations of the giant food chains to see if perhaps some of the consumer's meat dollar that should go to the cattleman and the farmer is not getting stuck somewhere along the way. I have spent a good deal of time and study on this matter and have reached the conclusion that it is not the answer to the cattlemen's dilemma.

And I have spent a good deal of time and study on the problems of imports. I have joined in sponsorship of bills to put a restrictive quota on beef imports, and after all this I have concluded that import barriers are not the answer.

Likewise, the one-third increase in a short period of time in the amount of domestic beef production cannot be blamed for the alarming decline in cattle prices.

I would like to be able to tell you that I have discovered a new inequity that I plan to correct next week and you can all run out and sell your cattle for $27.50 again. But that is not the case. What I am trying to tell you is that there is no single, simple answer to your problem. Chainstores, imports, overproduction, competition from other meats, and a host of others factors all play a part. And to get back on solid ground we must go to work on all these problems.

I am sure that if one of your membership advanced the theory that the entire secret to efficient cattle production was the improvement of breeding stock, you might suggest that he had better pay some attention to the quality of his feed and pasture, the problems of parasite control and even think a little about timing and the proper weights for marketing. For a modern stockman is a man of many trades and occupations, all with one end in mind, the production of the best beef cattle in the world. And to ignore one element of your trade is to invite disaster.

Having said this, I would like now to run down some of the pertinent facts on these various factors to try and make some sense out of this patchwork situation.

Since I seem somehow to be identified with it, I will discuss the chainstore investigation first. In case there is some confusion on this issue, I would begin by explaining just how the McGee resolution works. This is not an investigation by a committee of the Congress or by an agency of the Government. Rather, it is a look at a new factor in American commerce by a special Commission made up of five Senators, five Members of the House of Representatives, and five members appointed by the President from the public at large.

The purpose behind this National Commission on Food Marketing is to take a look at the chainstores to see if this new method of merchandising food, which has brought about an almost complete revolution on the American scene since the end of World War II is conforming to our free enterprise traditions. The end in mind is not the persecution of the chainstores or the reversal of the trend toward the supermarket and food chain. What President Johnson proposed and what I was proud to put into the Senate hopper is a method of assuring the public that its interests are being protected in this new development.

Those of you who can remember back to the so-called "good old days" before the atomic age will remember that there was a time when the cattleman was in another kind of a bind. And the people who were putting the squeeze on were the operators of the big packinghouses. Over the years these three or four large-scale operators had gradually gained control of the market for meat and meat products from the producer to the consumer and both the producer and the consumer were getting the short end of the stick in this almost complete form of vertical integration. It took quite a bit of time before the full effects of this squeeze became obvious—and during this time the stockman and the farmer were bearing the brunt of these squeeze tactics and finding out what it meant to have the choice of selling their products to one buyer at his price or not selling them at all. Eventually Congress took action and passed the Packers and Stockyards Act, which corrected many of the evils of the vertical integration of the packinghouses and let a fresh breath of open competition into a closed market.

If we have learned any lesson from the history that led to the Packers and Stockyards Act, it is that if we wait until the situation is so bad that it is obvious to everyone then the damage has already been done and many innocent people will suffer before a correction can be made. But, if we learn from history, if we can take a "stitch in time," we can prevent a recurrence of the old squeeze play. But to be able to take effective action, or even to know if action is necessary, we must have the facts. To wait until the facts are obvious is too late for the public's protection.

So what the McGee resolution says is that we had better watch this new giant on the merchandising scene to see just what happens when he flexes his muscles. I am not suggesting that the food chains are deeply involved in illegal or unethical practices. I am not saying they are too big or too powerful. What I am saying is that from the outside you cannot tell what is going on and there have been enough complaints and enough unanswered questions to demand a thorough investigation to determine just what the real facts are.

During the hearings on this proposal before the Commerce Committee, considerable testimony was given which strengthened the arguments I have just given you. Various pressures against food producers were alleged and pressures were even put on those who indicated a willingness to testify before the committee. But above and beyond all this, there is one question that to my mind has never been answered. Why, if prices to the producer—in this case you here today—have dropped sharply, why have not the prices to the consumer—the housewife—dropped at least a little? The wages of butchers and meatpackers have gone up in recent years, but the increased use of machines and automation has raised productivity even higher. So the conclusion must be reached that either somebody is making a lot more money than they used to or these old prices that you seek to return to were too high for a good number of years.

When the proposal for this Commission was first mentioned, quite a few people could not see the necessity for it, but as the hearings continued it was very gratifying to see how support grew. And now almost everybody who is concerned with this situation is behind the National Commission on Food Marketing. The list includes the National Association of Chain Stores—and that's most of the big operators—the Farmers Union, the American Farm Bureau Federation, the National Grange, the National Federation of Independent Businesses, the American Stockyards Association, the American National Cattlemen's Association, the woolgrowers, the cattle feeders, the National Association of Retail Grocers, many labor organizations, and many, many individuals. We received a great deal of mail in support of this proposal from across the Nation. This mail included one letter and a telegram from the State commissioner of agriculture of a certain Western State which I was glad to accept as evidence that there is no partisan political animosity connected with this matter in any way, shape, or form.

As I mentioned earlier, this investigation is not going to produce a single handed elimination of the problems you face today. But I have suggested, and received assurances, that the first field of study for the Commission will be red meat, for there is where the real pinch is being felt. The Commerce Committee hearings were centered around meat and enough information has already been collected so that the Commission can go right to work and an interim report should be expected before the end of the year.

Earlier I mentioned some of the unanswered questions concerning the chainstore investigation. Well, there are some unanswered questions in another field, too. I refer to the question of imports. Now before I discuss this question I want to make it plain that I hold no brief for imports. I have joined in sponsorship of legislation to severely restrict imports; I am the author of another bill to curtail imports and a third to require labeling of all meat imported into the United States.

But, in all candor, I must say that those who pin the entire blame for the decline in meat prices to the producer to meat imports are leaning on a mighty slender reed. I cannot tell you that someday we shall be able to cut off completely all imports that compete with what you produce; the world is not built that way. But I can tell you that imports can and will be controlled to the point where you can live with them. And things are already being accomplished to that end. The most recent figures collected by the Bureau of the Census—and they are the only agency keeping an up-to-date count—show that imports of red meat from abroad have declined about 20 percent so far this year. That figures out to a 225 million pound drop over the entire year. And foreign producers have indicated that they intend to cut back to 27 percent for the rest of the year. A recent report from Mexico showed that their exports to us in the first quarter of 1964 were about one-half of what they were in the same period last year. And the same holds true for Canada.

You all are familiar with the argument that the great amount of imported beef of the lean, manufacturing type, has forced our cattlemen to concentrate on the production of fed cattle to the detriment of the domestic market. It would stand to reason, if this is true, that there should be a sizable increase in the amount of lean beef available, what with all these imports plus the production of those who can't afford marketing their canners and cutters. Yet, the domestic production of lean beef has dropped off by a large percentage—in fact, it has dropped off so fast that all the imports of the past few years have not been able to make up the difference.

Last year, with 1.5 billion pounds of manufacturing beef imported, the total amount of this type meat available for domestic consumption was one-half billion pounds less than in 1955. This figures out to a 15 percent per person reduction in the total supply. So again we must ask the obvious question. If imports are the only villain in this crime against the cattleman why has the amount of this meat available decreased? If the law of supply and demand is functioning in any valid way, you would expect the price on an item to increase as the supply decreases. And I would add that consumer demand for this type meat has increased as the supply decreased. The largest single meat item purchased by the housewife—and I can give personal testimony to this fact—is hamburger. The producers of fed beef certainly contribute to our hamburger supply, with a large percentage of that commodity made up of scraps, pieces, and less choice cuts of fed beef. But with the high finish put on American fed cattle today a certain percentage of lean beef must be added or the mixture is too fat for consumer acceptance. In light of all these facts, it might be well to consider if part of our troubles do not stem from too much concentration on the production of only one type of meat animal.

Along that line we should keep in mind the fact that in 1958 there were 24 million head of beef cows in this Nation and last year there were 31.8 million, a one-third increase in 6 years. This is an increase five times greater than the increase in imports. And along with the increase in numbers, the average cow is being fed 16 percent heavier than it was 10 years ago. While the consumer has tried to help and has increased his consumption by a per capita expansion of from 80 pounds a year in 1954 to 95 pounds a year in 1963, it stands to reason that the cowman can help his own cause if a way can be developed to break this mounting production spiral.

So far I have mentioned a number of complicated factors that I believe have all had a hand in the creation of the drastic plight of the American cattleman. Now I would like to mention a few of the things that can be done and are being done to improve the situation.

President Johnson, who is no stranger to the problems of the cattleman, recently sent a market study mission to Europe to see if there are potential markets there for American beef. The mission members reported that there is indeed a sizable market there for American beef. At the present time meat prices are going sky high in France and England. The Paris housewife is at this moment paying $2.52 a pound for beef roast. In London beef prices have gone up 70 percent in the last year with top round now selling for $1.40 a pound. Now it seems to me that with a little effort that two can play at this import-export game. And further good news along this line was the 50-percent reduction in the French tariff on imported fresh and frozen beef as part of their current anti-inflation program.

Now it will not be enough to just box up a few boatloads of frozen beef and send it over to Europe. European tastes are used to a different, leaner, type of meat than that produced for the American diet. But I am confident that the American tradition of ingenuity in the face of challenge and determination to make the best of every opportunity can help us make the most of this chance to compete in new markets. In fact, the first boatload of meat is already on the way. Until this year we have never exported beef in large quantities but the possibilities for such exports are evidenced by the fact that in the first quarter of this year our red meat exports have increased by 33 percent over the same period last year.

And there are other avenues of improvement open for the American cattleman. I'm sure most of you are familiar with the recent report of the National Advisory Committee on Cattle which made several recommendations for the overall strengthening of the domestic cattle market. Merritt N. Barton, of Upton, represents you on this National Advisory Committee.

The first recommendation I have already mentioned, the promotion of exports to foreign nations.

The second was the continuation of the present U.S. Department of Agriculture beef purchase program and its limitation to beef of USDA Choice quality. Under this program purchases could go as high as 480 million pounds of beef with the Defense Department buying another 100 million pounds under its new program of furnishing our oversea military bases with more American-produced beef. The Department has completely eliminated purchase of beef from foreign sources.

A third suggestion was that the USDA institute changes in beef grading to deemphasize maturity as a grading factor and to encourage marketing of lighter cattle. And I believe this is one of the most important of the group's suggestions. It seems to me that when price conditions force a feeder to keep feeding to heavier weights even when he will not get back the money he put into the extra feed, that something must be done to encourage the sale of these cattle before they are so large. A recent report by a group of Iowa State University economists shows that by reducing market weights by 50 pounds per steer the price of Choice steers could be raised by about $1.30 per hundred.

The committee also urged continuation of all attempts to cut back foreign imports and to spread those imports around to various ports of entry so that no one section of the Nation—and I won't remind you which part of the Nation is closest to Australia—has to bear the brunt of this competition.

We have been talking about competition and its effects upon the cattleman. There is one form of competition that you must meet that I consider particularly insidious. And that is the competition right here at home from the part-time stockman, the briefcase farmer, who makes his money in a downtown office and finds his recreation—and a healthy tax writeoff—on the ranch. This man does not care if he makes a profit on his herd; in fact, it is to his advantage to take a loss so that he may write it off against his earnings elsewhere. But this nonchalance about profits is a luxury that the full-time stockman cannot afford. I have talked to many members of the Senate Finance Committee and they agree with my contention that the next session of income tax revision hearings should consider the question of protecting the stockman against this kind of competition.

And, finally, the committee suggested that Congress pass legislation authorizing emergency loans by the Farmers Home Administration to farmers and ranchers who have been backed to the wall by this price drop and are unable to obtain credit locally. A bill to authorize these loans was introduced in the Senate last November 14. I am proud to be a sponsor of that bill, S. 2307. To many ranchers this may be a distasteful step but for many the alternative is liquidation and I do not think our agricultural economy can stand to lose a large segment of its most productive members. We have proved that the stockman can produce economically and profitably and he will do so again. But while we search for the solutions to his problem, we must provide some protection for the smaller operators who are always the first to feel the effects of this type of price squeeze.

These proposals, like the problems, do not provide a single ready answer to your problems. But they are a necessary first step if we are to obtain action. And we must have action if the American cattleman is to survive. I believe that I have had enough experience with the cattleman to know that he is not looking for complete protection against all obstacles that may stand between him and a fair profit. But he is looking for the chance to demonstrate that when the odds are even he can compete with the best producers from any nation and can meet and match the efforts of all who would try to sell to his markets. But at the present time the American cattleman is not faced with competitive equality—he is faced with a stacked deck and loaded dice in this gamble for economic life.

I am sure that you will agree with my supposition that the stockman is not looking for a guaranteed income or freedom from all competition, foreign and domestic. I need not try to convince you of that today. But what I hope you will understand is the necessity to make a realistic appraisal of your situation and take some constructive steps to correct some of the inequalities that now exist. It is not enough to seek assistance in Washington—we can help you and we want to help you—but you must also help yourselves.

For example, you are going to have to take some additional losses to get rid of the heavy steers now on feed. And you are going to have to work to solidify the new markets that I have talked about in Europe. Whether or not the new prosperity that exists on that continent will be transferred to you through increased sales of American beef depends in large measure upon your initiative in following up the first overtures in that direction. The President's mission proved that it can be done, you must now show that it will be done.

It is obvious that there is no shortage of problems on the cattle front. But I can assure you that I for one will keep working on them until we begin to see results. I cannot and I will not promise you that by doing this or that we will have everything solved, I am sure that there are many people willing to do that, but I can promise you that by continued effort, and cooperation of all concerned, taking an inch here, a foot there, and never giving up, we will make progress—progress you can measure in miles and progress that will put you back on the road to economic health and prosperity.

LITTLE FISH AND THE SHARK: CRISIS IN INDOCHINA

Mr. BARTLETT. Mr. President, I yield myself 1 minute.

Once again there is crisis in Indochina, once again we read of emergency meetings, and once again we hear talk of the collapse of Western interests in the Far East, of falling dominoes and loss of face. In urgent tones we are told to withdraw before it is too late; or to step up the war with strategic bombing and hot pursuit. We are even told that we should use atom bombs to strip the leaves from the trees so that fleeing guerrillas can be seen from the air.

There is panic in the air and there should not be.

The situation in South Vietnam is not much different in kind from what it was last month, or last year, or even 10 years ago. The forces at work, the pressures, the instability are the same. They will be there long after the present crisis is forgotten.

For over 20 years Asia—and particularly southeast Asia—has been swept by what Harold Macmillan has called the "Winds of Change." Nationalism and self-determination are in the air. The great powers, the ex-imperialists are distrusted; alliance with the East or the West are suspect. As the London Economist has said:

> From Burma to Vietnam and south to Indonesia the dominant sentiment of southeast Asia is nationalism; and one aspect of nationalism is the desire for a neutral detachment between the great Communist and anti-Communist coalitions.

This is popular sentiment; there is no such popular sentiment in favor of becoming a bastion of democracy on the frontline of the cold war just as there is little sentiment in favor of becoming a card-carrying member of the Communist camp.

The people of southeast Asia are more interested in their own problems than they are in participating in the cold war. This nationalism contributes to the instability of the nations of Indochina, an instability which is lasting and chronic because of geography and history, not because of some new form of Communist infiltration.

The history of the Indochina peninsula is similar to that of the Baltic States of Latvia, Estonia, and Lithuania; to Poland, Korea, or Cuba. These are little states on the edge of a large and powerful nation. They are there only at the forbearance of the great power. They must remain in alliance with that power or else remain quietly nonalined and hope to survive by being overlooked. They cannot—without extreme danger—overly annoy their neighbor. For reasons both historic and military it is intolerable to the great power for its little neighbors to come under the domination of a rival great power. The recent history of Korea, Finland, and Cuba give example of the role of small countries next to great powers. So, too, do the countries of old Indochina. The peoples of the 10-year-old countries of Laos, Cambodia, and the Vietnams have struggled for 2,000 years to maintain their independence of China. The Chinese have never denounced their claim to these lands—a claim supported not only by Mao Tse-tung but also by Chiang Kai-shek.

Little fish can live in the sea with the shark but they must be very careful. So, too, must the countries neighboring China be careful.

During the 1950's our policies in southeast Asia were formed under the stewardship of Secretary of State John Foster Dulles. China, newly Communist and militant, was a threat to our side of the world. Secretary Dulles was determined that Chinese influence should not be allowed to grow and that Red China could be encircled and contained by the strength of small but strong, well-armed countries united in freedom and resolved to resist Communist encroachment wherever it might appear.

Secretary Dulles lived in a world of contrast and principle. To him the struggle between freedom and communism was paramount. To it all the myriad other streams and forces forever in interplay were subordinate. To such a man foreign policy was a matter of morality—there was right and there was wrong; you were with us or you were against us. If you were with us we would give you every support; if you were not with us, you were with them. There was no in between.

In our efforts to make strong the weak and to build a military bastion on the shores of Asia, we have spent well over $5 billion. We are now spending at a rate above $1 million a day in the State of South Vietnam alone. When the French were fighting their ill-fated war to maintain the colonial status of Indochina we supported the French, contributing over $1½ billion, financing 75 percent of their war effort at the end.

We are now financing far more than 75 percent of the war effort of Vietnam's General Khanh.

In 1954 we came close to intervening with arms and men on the side of the French. We did not do so then fortunately; we have, however, done so now. Our troops are committed, they are fighting and they are dying in the war being waged between the central government of South Vietnam and the guerrilla insurgents, the FNL, the national liberation front. The war is not going well.

At the same time, the fragile, fragile neutralist coalition in Laos has again fallen apart. Twice before, in 1958 and 1960 right wing military leaders have seized control of the centralist government. The Communist Pathet Lao offenses which followed close upon these coups received substantial assistance from Communist sources outside the country. Once again an uprising on the military right has been met with an uprising on the military left. And as a result what the Economist calls "that tightrope-walking human pyramid known as the coalition government of Laos" has again fallen off its tightrope.

Crisis hangs heavy in the air. This is not, however, a new crisis. The balance of power has not suddenly shifted. The situation has not suddenly altered. Nothing has suddenly changed. The gradual failure of the Dulles effort to build a non-Communist alliance on the mainland of Asia and the gradual reassertion of China's continuing interest in the Indochina peninsula, together with the increasing national consciousness of the peoples of this region—these things are not new.

The crisis of today has been developing for many years and will continue with us for years to come. We should not allow the pressures of the minute to deflect us from our long-term purposes and policy. There is no need to act in haste. There is, in fact, great need to insure that we do not act in haste for what we do in response to the needs of the instant will affect the outcome of events for years to come. For this reason, what we do now must be weighed in the full perspective of the past and the expected future.

There is no need to act in haste. Southeast Asia is not going to fall down like a house of cards, not so long as there is effective American power in the region. We have, right now, overall superiority in arms in the Orient. There will be no overnight collapse to communism so long as we make sure our determination and interest are sound and our powder is dry.

In our analysis of our interest we must be very clear in our thinking. It is not necessary that the new Indochinese nation be ours. What is esesntial is that they not become theirs. So long as they do not become Chinese Communist dominated satrapes we should be content. It should be our policy to insist and to insist effectively that these nations may have any government they choose so long as the choice is theirs and not that of their Communist neighbor. They have chosen not to aline themselves with the West just as we must insist they do not aline themselves with the East. They can be neutral in the cold war as they desire and we should help them to be so. As Secretary McNamara has said:

> There is not objection in principle to neutrality in the sense of nonalinement.

Our national purpose in southeast Asia is comparatively simple. Secretary Rusk put it well speaking on the British Broadcasting Corp. television encounter May 10:

> As far as we're concerned, we're not interested in any bases or special military position in that area. All we want is that these people in southeast Asia have the chance to develop their own national lives, free from these threats from the north.

This is a purpose very different from total victory, very different from attempting to build an anti-Communist military alliance on mainland Asia. This is a purpose which is simple, legitimate, and, I believe, possible.

Once this is understood the war in South Vietnam takes on a different and perhaps more hopeful visage. Our purpose is not to maintain the government in power against all comers for ever and ever. Our purpose is not to obtain total victory. That phrase may have meaning and validity in the traditional wars of Europe and the West. It has very little meaning indeed in the dissension-torn, guerrilla-ridden jungles of Indochina. It is often said that warfare is but a tool of diplomacy and diplomacy is but the way a nation goes about obtaining its purposes.

We should seek our purpose with every tool at our command. There is no reason whatever that we should utilize the battlefield and refuse to utilize the conference table. It is, after all, precisely because we are willing to go to battle for our friends and because we have in the area the arms, the men, and the money necessary to do so that we need have no fear of conferring. Walter Lippmann has pointed out that a paraphrase of Sir Winston Churchill's statement "We arm to parley" has application here: We war to parley. If we were not warring there would be no hope for us in parley; for why should our enemies waste time with words when there would be nothing to keep them from seizing what they wished on the battlefield. This is not, however, the case. We are at war—our enemies cannot seize the spoils they wish. They and we must in time talk turkey.

And, so, in a very real sense, we war to parley. For there will be no stunning military victory for us in southeast Asia. Our victory will come in a combination of conference and battle. We cannot go to conference unless we are willing to fight; there is no point to the fighting unless we are willing to confer. There is nothing contradictory here. One does not negate the other.

When we go to conference, as when we go to war, we should be clear on our objectives. As in war, they are limited. I doubt that any conference would be able to bring an end to the fighting per se in South Vietnam. This is, in spite of all that has been claimed, still largely an internal insurrection within the borders of that country.

Nowhere have I seen any hard evidence to indicate that the truth is otherwise. Over 90 percent of the arms, over 90 percent of the men fighting for the FNL, the rebels, are from the south. The arms are stolen from the Americans; a few are purchased from Chinese traders, and a few come down from the north by the Ho Chi Minh trail. The men are South Vietnamese. Some have been trained in the north and some have allegiance to the north; the majority have not.

At conference we might be able to obtain some workable border guarantees to insure the integrity of South Vietnam and to close the border to guerrilla raids and arms shipments. This would, to a degree, be helpful. It would not end the war. The war would continue. The FNL, the National Liberation Front, according to a recent article in Le Monde, "wishes to be master of its decisions: there is no indication in this camp of a desire for a political settlement." It is "not in any great hurry to see an end to the fighting." It is the FNL which must be beaten. It will only be beaten inside South Vietnam.

It is doubtful that an international conference could bring a cease-fire within South Vietnam or a truce agreement which would be acceptable at this stage to us, the South Vietnamese Government, and the FNL.

A conference could, however, achieve something far more important; a general recognition on the part of the great powers of the importance of defusing southeast Asia; a recognition by the powers of the dangers these present and a hands-off agreement leading to a general stabilization of the area.

It is hard to see how any nation stands to gain from the present confused and continually critical state of southeast Asian affairs and it is very easy to see how each and all could come to lose a very great deal should southeast Asian affairs turn worse.

Take it country by country, power by power, each has an interest in going to the conference table.

North Vietnam is a country hungry for food, in deep balance-of-payment difficulties. It needs trade to make progress, trade with hard currency countries. It needs food from the productive agricultural economy of South Vietnam.

Ho Chi Minh well recognizes these economic facts of life. At a conference in Hanoi on April 3, he paid token obeisance to the standard North Vietnamese policy of peaceful unification of all Vietnam but emphasized that in the meantime it was necessary to seek to establish economic, political, and cultural relations between the two factors of that divided country.

General de Gaulle's suggestion of a reopening of negotiations leading to some form of a neutralized Indochina, with adequate guarantees of political integrity, free of formal commitment with East or West, was received with interest by the North Vietnamese. Ho Chi Minh, in an interview with a Japanese newspaper April 23, observed "the recent French propositions concerning the neutralization of Vietnam deserve serious study."

It is well known that the Vietnamese—North and South—have struggled for centuries to keep their independence in the face of the massive strength of their Chinese neighbor. Ho Chi Minh has so far successfully maintained his independence from Red China and there are reasons to believe that he would not be adverse to playing a Tito-type role in Asia given the proper guarantees from the signatories of the Geneva Conference. Ho not only infiltrates other countries; he has infiltration problems of his own, notably the Red Chinese attempts to seize control of his government. These will be strengthened and North Vietnam will be driven closer to China if the war is escalated or if the hope for international recognition and guarantee of the sovereignty of the small Indochinese nations is lost.

Obviously, North Vietnam has an interest in negotiation.

Red China does, too. This Communist country's economic problems are well known and legion. Six years after the disaster of the 1958 "great leap forward" China has yet to recover. The Economist estimates that but 15 percent of its gross national product is reinvested as compared with a 30-percent level for the U.S.S.R. With the continuing Sino-Soviet dispute, China's 4,500-mile-long border on Siberia has become particularly vulnerable. It is being armed by both sides. Never in history has the exact location of this border been fully agreed upon. As recently as last week the Russians and the Chinese traded claims on its proper location. The Russians accused the Chinese of flagrant and constant violations, viewed the situation with especial alarm. With troubles on its northern border, China needs stability on its southern border, provided this stability can be achieved without embarrassing loss of prestige. There is no reason why it cannot. This need, together with America's obvious determination to continue as a strong presence in the Indian Ocean and the China Sea, impells China toward the conference table. The alternative, which could include escalation of the war, should be a source of deep concern to a China whose army is in a most backward state after the withdrawal of Soviet military technicians, advisers, and assistance.

Russia's interest in a conference is clear and simple: Russia will not tolerate the advance of China's interests in any place where they can possibly be stopped. A return to the stabilized status quo in the Cochin China peninsula would forestall the possibility of such an advance. Russia's concern with shortcircuiting her former ally was explained by Joseph Alsop:

> The fact that Moscow wants no more victories for Peiping, even if they are Communist victories too, can be inferred from the merger of Tanganyika and Zanzibar.

The kingdom of Laos with its off again-on again three-in-one neutralist government, wants and needs to be left alone.

A conference leading to a reaffirmation of its 1962 neutralization agreement might make such solitude possible. The rightist coup in April, and the resultant rout on the Plaine des Jarres by the leftist Pathet Lao, in May, illustrates how weak is the structure of peace in Laos and how extremely susceptible it is to foreign influence. This small country is a small prize. It and the world should be interested in anything which would remove it from the cold war arena.

Cambodia, a small and poor country, which has nevertheless under the leadership of Prince Norodom Sihanouk, managed to thrive in recent years, has every interest in preserving its borders intact, in peace and a modicum of security.

We have already seen America's interest. It is shared by all other powers of the West. It is certainly shared by the French, who have substantial financial and cultural investments in the area and who are certainly not anxious to see it fall once more under Chinese domination.

It is, perhaps, unfortunate that French policy has been presented in such a way as to appear antipathetic to American policy; it is not necessarily such. The French have severe and lasting memories of the agony of Dienbienphu. They see parallels with the present U.S. position in Vietnam, but they are not naive and they do not stretch the comparison too far. As Le Monde stated on May 13:

> It is not very likely that American and Vietnamese leaders in Saigon have reached the eve of a new Dienbienphu. If the political situation in the South Vietnamese capital appears as hopeless and chaotic as 10 years ago, the problems faced by the military leaders are much less severe.

As James Reston pointed out recently, the French have learned well three things in their 70 years in Indochina, three things to which we must face up:

> First, that however much the Vietnamese differed among themselves or with the Chinese, they tended to hate each other less than the white man; second, that no major source of Western power could be established in that peninsula right up against the Chinese border, without the acquiescence of the Chinese; and, third, that the Vietnamese Communists were tough soldiers.

It is with consideration of this knowledge that the French were moved to suggest the seeking of a political solution to the Indochina problem. The press on June 7 carried reports of Under Secretary Ball's talks with President de Gaulle. Apparently the French were anxious to assure the United States that its proposal advocating a conference did not mean that it wished the United States to appear at the conference in a weak position. France, it was stated would favor anything the United States could do to strengthen its military posture in South Vietnam.

This posture is being strengthened. The President has requested an additional $125 million to step up our efforts and I am sure the Senate intends to support his request.

It is possible that a renewed conference of the signatory nations of the 1954 Geneva accord as suggested by France could produce a reaffirmation of the independence and integrity of the nations of southeast Asia. If this is so, there is no reason why the United States should not be a full and active participant in such a meeting. If the final agreement is acceptable to American policy we should be willing to sign it and having signed it to see that it is enforced. This we were unwilling to do in 1954.

Such a conference, if it is to succeed, must include within it all interested parties and interested parties obviously include North Vietnam and Red China. There is now no clear reason why the United States should not sit down across the table from these two nations. We know we need not fear to negotiate. Wars are not won at the conference table, but neither are they lost there. Talking does not change power nor does it change the force of history or geography. Empires do not rise or fall by conferences alone.

Our strength in southeast Asia is what it is. We can make it what we will. We need not fear that we will lessen it by talking. It is lessened or strengthened to the degree that we are willing to commit our men and arms to the region. Prof. Hans Morgenthau summed it up well in an article which appeared in the Washington Post, March 15, when he pointed out the basic conflict in our Asian policy: We want more than we are willing to pay for, more than we have any reason to need or expect. He said:

> We are here in the presence of a persistent quality of our China policy which Prof. Tang Tsou has demonstrated in his "America's Failure in China." We set ourselves goals which cannot be achieved with the means we are willing to employ. If we want to contain communism in Asia by striking at its source behind the present line of demarcation, we must be ready to strike at the sources of China's power itself.
>
> If we are not ready to do that, we must trim our objectives to the measure of the means we are willing to employ. Any other course of action will conjure up unmanageable complications at home and abroad.

Thus, Mr. President, as always, a discussion of Vietnam and of Indochina ends with a discussion of Red China itself.

A settlement within Vietnam is impossible without a settlement of Indochina generally; such a settlement is impossible without the participation of Red China.

The success or failure of conference, the success or failure of what has come to be called escalation depends upon what China's intentions are.

And these we do not know.

Because of past policies, policies which are in serious need of review we have no sound knowledge of the intentions of the Chinese.

We are, all of us, in final analysis boxing in the dark in Indochina.

Recently, I prepared but, because of the Alaska earthquake, was unable to deliver a speech for the Anchorage World Affairs Council on the internal problems facing Vietnam. I ask unanimous consent that this speech be made a part of the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

VIETNAM: THE PIPER AND THE TUNE

(Statement of Senator E. L. (BOB) BARTLETT, prepared for delivery before the World Affairs Council, Anchorage, Alaska, April 3, 1964)

In foreign affairs, Senators and newspapermen are sometimes like firemen. They arrive on the scene only when the house is burning down.

In Vietnam our house is on fire.

You never hear Senators speaking about Haiti, or south Africa, or Persia, even though the combustibles are piled high in each of these places. When the revolution comes, however, when our interests go up in flames, then you will hear from the Senate and the press.

This is what has happened in Vietnam. Few were the warnings raised in the Senate or the press about our policy in that sad country as, over the years, an unfortunate situation was allowed to become increasingly unfortunate.

My topic today is "Southeast Asia," but you will find that most of my words will be directed to the situation in South Vietnam. This is where the fire is.

All of you know the so-called domino theory that holds the fall of South Vietnam will be followed in swift order by the fall of Cambodia, the completion of the takeover in Laos, the collapse of Burma, Thailand, Malaysia, and so forth. Without necessarily subscribing to this rather hysterical view of the region, it is still obvious that what happens in South Vietnam will provide a key to the future balance and developments in the region.

First a little geography:

China is a huge country which throughout 3,000 years of recorded Asian history has dominated the East. Its population is so large that no accurate census has ever been taken of it. We have only estimates. You will remember the Ripley's "Believe It or Not" column which said that if all the Chinamen in China were to march four abreast past a given point, the line would never end; for by the time the end of the present generation was marching past, a whole new generation would be grown up, ready to begin marching. The Library of Congress tells me Ripley first printed this in 1929. At that time China's population was estimated to be a little over 400 million. Today it is estimated at 800 million. That is a lot of people.

China's land mass is roughly the size of the United States (including Alaska, of course). China has, China always has had, more people than food. This makes it a troublesome neighbor.

China has pushed to expand its borders for thousands of years. Korea, Manchuria, Mongolia, Tibet, Burma, Thailand, and the little countries of old French-Indochina have all, at one time or another, been part of Imperial China. In the approximate 2,000 years of recorded Vietnamese history there has never been a period without Chinese interference. For one stretch of over 1,000 years Vietnam was, in fact, a province of China.

The history of any of the southeast Asian peoples has one constant and reappearing theme—China. Over most of their history these people have been dominated by China, by the colonial powers or have struggled to maintain a temporary and uneasy independence.

Although what is usually called the international Communist conspiracy has recently entered the scene, the equation remains much the same.

Control of the Indochina peninsula was taken from China by France in 1885. France held control over the region until 1941 when the Japanese pushed them out. France never again regained effective control.

During the Second World War the Vietnamese people, always a proud and stubborn people, always willing to fight for their independence, began a highly effective guerrilla campaign against their Japanese conquerors.

During this struggle a remarkable and extremely popular military hero led the guerrilla forces to victory. His name is Ho Chi Minh. Around him centers most of the modern history of Vietnam.

After the end of the Second World War, Communist Ho Chi Minh—for Communist he is—did not disband his guerrilla forces. He turned them instead upon the French and began the Vietnamese war for independence.

He won this war after 8 years of terrible struggle. In 1954 French resistance collapsed completely after their defeat at Dienbienphu. The French had over 200,000 soldiers in the field including their famous paratroopers and legionnaires. They had over 200,000 Vietnam loyalists fighting side by side with them and they had supporting forces numbering over 150,000 men in the country. There is no reason to believe that the strategic skill of their generals or the fighting capacity of their men was any less than ours.

Ho Chi Minh and his men won that war because they knew, as the French so painfully learned, the strength of guerrilla warfare. Given certain conditions, a guerrilla operation may be contained or controlled, but cannot be beaten.

These conditions are two: (1) Guerrillas must be drawn from the people in whose country they are fighting; (2) they must be fighting for a cause which has the support of the people.

Granted these two conditions, a guerrilla movement cannot be wiped out without wiping out the entire population and destroying every building in the land. This is so because, as old Mao Tse-tung has said, guerrilla fighters are like fish who can swim in the sea of the people. They are indistinguishable from the people. When they are not actually fighting, they can fade into the landscape. They can live on the land and among the people and, with the people's support they will not be turned in.

Five peasants working in the rice paddy, which one is the guerrilla? Who knows? The people know. But if they do not want to tell you, you will not find out. And when night comes the guerrilla fighter leaves his village, picks up his gun from the hole in the tree in which it is cached, meets his fellow guerrillas at a prearranged spot and they proceed to blow up the railroad or whatever is the prearranged target.

A guerrilla type insurgent movement which has the support of the people has yet to be beaten.

The withdrawal of the French was negotiated at Geneva in 1954. This conference established as independent nations, Cambodia, Laos, North and South Vietnam. North Vietnam was to be Communist and independent under Ho Chi Minh. South Vietnam was to be independent and free, alined with the West. Elections were to be held in South Vietnam but they have never been held.

With the assistance of the United States, the able, intelligent, and honest Diem was made president.

With Diem came the intricate web of his family relations, corrupt, ruthless, and powerseeking. Diem remained until overthrown last November 1 by an army coup under the nominal leadership of an affable general known to all as Big Minh. Big Minh turned out to be not so big and certainly not so strong. He in turn was overthrown January 30 by the present ruler, General Khanh.

There have been no presidential elections in South Vietnam since its creation. This is so, President Eisenhower tells us in his memoirs, because it is generally agreed that in any election, whether in North or South Vietnam, Ho Chi Minh would be the winner.

Guerrilla activities in South Vietnam never really ended after its 1954 independence. It was not, however, until the end of the 1950's that these operations became a real threat to the central government. It was not until 1961 that the United Sates committed itself so heavily in that country. In 1950 we had but 180 United States military and civilian personnel in all southeast Asia. Today we have over 18,000 in South Vietnam alone. This is a measure of our commitment.

There is no doubt the rebels in South Vietnam are Communist inspired and Communist led. There is no doubt that most of the leaders of this movement were trained in North Vietnam by Ho Chi Minh. Many of them in fact fought side by side with Ho against the Japanese and against the French. It is generally agreed that in the mid-1950's South Vietnamese volunteers were trained in guerrilla warfare in North Vietnamese camps.

Most observers believe that this is the fullest extent of North Vietnamese physical participation in the South Vietnam war.

The rebels are from the south. They are now trained in the south. They fight in the south. Their weapons come principally from the United States—that is, their weapons are mostly ones captured from the U.S. trained loyalist army.

Recently there have been accounts purporting to show that North Vietnam has been arming the rebels, arming them with sophisticated weapons of Chinese origin. I do not believe this. Perhaps a few weapons have been smuggled into the Mekong Delta by means of Chinese junks sneaking past the shore defenses. Some may have come down the so-called Ho Chi Minh trail. This is nothing more than a series of jungle paths which connect the north with the south. Only material which can be carried on the back of a man can be carried on this trail. There have been no parachute drops into the country for we would have noted the presence of foreign planes on our radar.

All this, I believe, makes it fairly obvious that the war in South Vietnam is not, in the usual sense, North Vietnamese or Chinese aggression. It is a South Vietnamese civil war. It will be won or lost in South Vietnam.

This is why talk of taking the war to North Vietnam, escalating it into something more than it is, seems to me both irresponsible and unnecessarily dangerous.

We could bomb Hanoi, we could even bomb Shanghai but that wouldn't get the guerrillas out of South Vietnam.

It may be that we may not be able to get the guerrillas out of South Vietnam. We are, however, committed to try, and all of Asia—Communist and free—knows of our commitment. They are watching us with great care.

If we are to have a hope of winning this war or at least of controlling guerrilla activities, it is vital that we convince the people of South Vietnam—not the landlords, the aristocrats and the friends of Madam Nhu, but the people themselves—that they have something at stake in this struggle. The people must be given reason to believe that their lot will be better cast with the central government and with us than it would be with the Communists.

If we can convince them of this, we will win; if we do not, we will lose no matter what else in the way of men, money, and bombs we invest.

For if the people are with the central government, then, to use the Mao Tse-tung analogy, the guerrilla fighters will no longer be able to swim in the safe and protecting waters of the sea of the people. For the people will betray them; the people will turn them in; the people will assist the loyalist army in smoking them out.

How can the central government gain the support of the people? How can we insist that the central government undertake the peaceful revolution which this will require? In the past we have not insisted.

For years experts on southeast Asia, such as Senator MANSFIELD, have warned that even though the Americans have pledged millions of dollars and thousands of men to the Diem regime, we still had practically no influence over the decisions and operations of that regime. We have, in effect, given the central government a blank check for money and men.

The cost now runs at about a million and a half dollars a day and we are told the costs are to mount, in money and otherwise.

The central government must reform itself and Vietnamese society if it is to gain the popular support it needs.

The French, during their long and agonizing war, paid lipservice to reform but they did little about it.

The Diem regime, during its long and agonizing years, paid lipservice to reform but it did little about it.

Now General Khanh promises substantial reforms.

We shall see.

This time we must be ruthless with the government. This time we must insist upon reforms. He who pays the piper is supposed to call the tune. We have paid the piper for years. Now it is time for us to call the tune. This is what our present policy must be:

Insistence upon basic structural reform and continuation of military operations at current level. Granted both these things, granted good luck, the situation in Vietnam may improve.

If it does, and let us hope it will, we must then give careful thought to next steps.

General de Gaulle, acting with characteristic French logic, has recognized Red China because it is there. He has done so, he tells us, again in a characteristic Delphic tone, as the first step of the reentry of France in southeast Asian affairs. France has a genuine interest in southeast Asia, in historic, cultural, and money terms. This interest gives France influence and France intends, again, to make use of this influence.

General de Gaulle wants a neutral Indochina, an Indochina that would be formally committed neither to East nor West. The borders of Laos, Cambodia, and the two Vietnams would be guaranteed, in some manner by the major powers, including China, and by these nations themselves.

Such a plan has much to recommend it. North Vietnam is worried, as always, about the threat of China. Cambodia is worried, as always, about the threat of Vietnamese aggression. Laos is confused, weak, and tempting, as always, and we well know the trouble South Vietnam is in. Should De Gaulle be able to pull off the neutralization of the peninsula, the threats posed by these and other Indochina frictions would be lessened.

There would be nothing dishonorable about a neutralization in which Communist North Vietnam, free South Vietnam, Laos, and Cambodia were taken out of the mainstream of the cold war. Other areas have been neutralized, notably Finland and Austria.

At the present time our policy in South Vietnam is to seek a military solution to the guerrilla war. Our policy might be called a search for the unconditional surrender of the rebels. As we have seen, the French made such a search in 1954. The French then had no alternative available to them. They were out for victory or defeat. They got defeat.

This is why, on February 19, I spoke out on the Senate floor. I am afraid that we are following in French footsteps. We are not giving enough thought to the development of alternative solutions to the Vietnam problem.

General de Gaulle has offered us one. I doubt that it is an ideal solution, I am not even sure it is a possible solution. I believe, however, that we cannot afford to spurn it. We should not reject it out of hand; we should explore it.

Our present choices are to continue the war at its current level which may or may not bring victory; to escalate the war by taking it to North Vietnam, which I believe could only make a bad problem worse. If a third choice is possible, we should certainly not discourage it.

Southeast Asia will never be neat or tidy. China will always be there and will always be troublesome. Past history and current geography will continue to determine much of what goes on in the East.

Our commitment in this region should never be with the remains of white imperialism. We should not be on the side of the status quo or the defense of the "haves" against the "have nots."

There are tides of change sweeping across Asia and we must sail with the tide.

BIPARTISAN CIVIL RIGHTS CAPTAINS RELINQUISH STRENGTHENING AMENDMENTS TO ASSURE SWIFT ENACTMENT

Mr. HUMPHREY. I yield myself 1 minute.

Mr. President, on behalf of the bipartisan civil rights captains, the Senator from California [Mr. KUCHEL] and I, who are the bipartisan floor managers of the bill, I make the following statement:

The bipartisan civil rights bill, on which the Senate is now nearing the completion of its work, is the result of more than 1 year of arduous labor and numerous refinements and modifications by both Houses of Congress. As the bill now stands, as amended by the package substitute sponsored by Senators DIRKSEN, MANSFIELD, HUMPHREY, and KUCHEL, and the perfecting amendments made on the Senate floor, we believe it is an effective civil rights measure suited to the national need.

Accordingly, to expedite the remaining consideration of the bill, as an earnest of the bipartisan cooperation which has distinguished the action on the bill both in the Senate and House, and in view of the fact that more than 500 amendments to the bill had been filed and more than 35 have already been called up and rejected, we who have been designated captains of the various titles of the bill have agreed together to relinquish all of the strengthening amendments which we have proposed. We shall devote our every effort, after consideration of the other remaining amendments which may be called up, to enacting the package substitute, as we consider the expeditious final enactment of this bill into law to be in the highest national interest.

The statement is issued on behalf of the following Senators: THOMAS H. KUCHEL, KENNETH B. KEATING, JACOB K. JAVITS, JOHN SHERMAN COOPER, HUGH SCOTT, GORDON ALLOTT, CLIFFORD P. CASE, HUBERT H. HUMPHREY, WARREN G. MAGNUSON, WAYNE MORSE, PAUL DOUGLAS, EDWARD V. LONG, JOHN O. PASTORE, JOSEPH S. CLARK, THOMAS J. DODD, and PHILIP A. HART.

RECESS UNTIL 11 A.M. TOMORROW

Mr. HUMPHREY. Mr. President, if there is no further business to come before the Senate, I move, under the previous order, that the Senate stand in recess until tomorrow, Tuesday, June 16, at 11 o'clock a.m.

The motion was agree to; and (at 5 o'clock and 50 minutes p.m.) the Senate took a recess, under the order previously entered, until tomorrow, Tuesday, June 16, 1964, at 11 o'clock a.m.

EXTENSIONS OF REMARKS

The Late Governor William P. Hobby, of Texas

EXTENSION OF REMARKS
OF
HON. ALBERT THOMAS
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Monday, June 15, 1964

Mr. THOMAS. Mr. Speaker, Texas has lot one of her greatest sons. Gov. William P. Hobby passed away only a few days ago. The Governor lived a very long and most useful and highly respected life. He was an outstanding political and civic leader in Harris County—and Texas—for at least 50 years.

At a very early age he was elected Lieutenant Governor and later became Governor. His record in those two high offices was superb. He left an indelible mark for honesty, fairplay, and good government upon all of Texas.

In more recent years, the Governor devoted his untiring efforts, energy, and enormous ability to editing the Houston Post and managing a great television and radio station. These three agencies of social control were used to the profit and benefit of all Houston and Texas in promoting efficient and praiseworthy government and improving the quality of our citizenship.

His passing will leave a great void in the public life of south Texas. But, like the passing of all other good and outstanding leaders, time will produce other giants who will benefit by Governor Hobby's outstanding leadership and good examples.

I join his lovely family—his wife, Oveta; his distinguished son, Bill; and his daughter, Jessica—in their sorrow and great loss. I, too, have lost a true and devoted friend.

Wartime Excise Taxes Should Be Repealed

EXTENSION OF REMARKS
OF
HON. BEN F. JENSEN
OF IOWA
IN THE HOUSE OF REPRESENTATIVES
Monday, June 15, 1964

Mr. JENSEN. Mr. Speaker, as you know, the Republican members of the House Committee on Ways and Means proposed an amendment to H.R. 11376. That bill provides for a 1-year extension on all wartime excise taxes still in effect.

The Republican amendment would reduce by 50 percent after June 30, 1964, the present excise taxes on toilet preparations, jewelry and related items, ladies' handbags, luggage, furs and fur-trimmed coats, and be eliminated entirely after June 30, 1965.

Should the rule on H.R. 11376 not permit such an amendment, then a motion to recommit the bill will be offered to include the Republican amendment and report back forthwith.

Mr. Speaker, I have long advocated that all wartime excise taxes on the above-listed articles should be repealed; hence I shall support this move to accomplish that end.

Flag Waving

EXTENSION OF REMARKS
OF
HON. HENRY C. SCHADEBERG
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Monday, June 15, 1964

Mr. SCHADEBERG. Mr. Speaker, we all are aware that the expression "flag waving" has a derisive connotation. But in its highest signification it stands for an outward expression of a deep and inner feeling of patriotism—a patriotism which includes a genuine love for our country, a respect for and adherence to the principles on which it was founded, and an unstinting dedication and devotion to the preservation and defense of those principles—at all times and by whatever means necessary.

Yesterday was Flag Day, commemorating the adoption by the Continental Congress on June 14, 1777, of the original Stars and Stripes as our national flag. During the 187 years that have followed, the flag has been symbolic of the noblest and bravest deeds of men and of a priceless heritage that is our American way of life. Flag Day, together with our other patriotic holidays, gives us an opportunity to display and wave our flags. Would that Americans throughout the land would do so, literally and of course in the higher meaning and true spirit of the occasion.

I wonder if most citizens feel as I do—that there is discernible across the land a revival of patriotism going on in the hearts and minds of Americans. No single individual or event is responsible for this rousing from a somewhat dormant sense of patriotism to a keener appreciation of our American heritage. Many persons are making a contribution to this American revival. One notable example would be the statement of Col. John Glenn to the Congress in joint session assembled:

> I still get that hard-to-define feeling deep down inside when the flag goes by * * *.

And, incidentally, there could be no hint of "flag waving" in its derisive sense in Colonel Glenn's simply but profoundly expressed sentiment—a sentiment Americans everywhere share.

One of the wonderful things about patriotism is that all Americans can feel and manifest it in equal measure. It belongs no more to the most sincere 4th of July orator than to the least prominent listener in the audience.

And patriotism does not belong exclusively to those of us who are fortunate to have been born in the United States. It is expressed as well—sometimes better—in letters which come across my desk, written by newly naturalized citizens whose hearts overflow with gratitude for the newfound joys of freedom in the United States.

It is right to be patriotic every day. It is right, also, that a special day be set aside in tribute to the American flag, under which so many have sacrificed so much that the United States of America remain always the land of the free and the home of the brave. As Old Glory proudly waved in front of your home and mine on June 14, so let it wave in our hearts and souls, forever.

To Know, To Desire, To Do

EXTENSION OF REMARKS

OF

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1964

Mr. ADDABBO. Mr. Speaker, on June 7, 1964, my good friend and esteemed colleague, Representative HUGH L. CAREY, delivered the commencement address to the 1964 graduating class of King's College, Wilkes-Barre, Pa.

Paraphrasing the wisdom of Aquinas, Congressman CAREY's address, entitled "To Know, To Desire, To Do," is an intensive examination of present and future problems in the area of higher education and a perceptive appraisal of the requisite steps that must be taken if we are to meet the tests of the years ahead.

As a member of the House Committee on Education and Labor, HUGH CAREY has worked diligently for the improvement of education at all levels and in all areas of the country. His efforts to extend educational facilities in depressed areas and his dedication to the preservation of the parental right of freedom of choice in the education of the child have earned for him the title, "Mr. Education," of our New York delegation.

His address, which I now recommend to my colleagues, offers us the benefit of his insight into and understanding of the challenges that lie ahead in the field of higher education. His comprehensive grasp of these problems qualifies him to speak, as few others can, on this most important of subjects.

His address follows:

TO KNOW, TO DESIRE, TO DO

The late John F. Kennedy once said: "One man can change the world, and every man should try." In a similar vein, St. Thomas Aquinas said: "Three things are necessary for the salvation of man—To know what to believe; to know what to desire; and to know what to do." (Two Precepts of Charity.)

I should like to adapt those statements to the responsibilities which fall upon you as you accept your diplomas today: "Three things are necessary if a man would change the world: To know what has been and what is; to desire the best that can be; and to do what he can to help make it so." To put it more briefly, he must know, desire, and do.

At any given time, if an individual is normal, he knows more than he has ever known before. If he is wise, he recognizes also that what he knows, indeed all that he knows, is but a minute part—an atom—in the universe of the knowable.

At no time in history has it been more important for mankind to be humble before knowledge, avid for learning, and purposeful in his application of what he knows in the creation of what may be. Scientific knowledge is accumulating at a rapid pace. Automation and other products of progress accelerate the problems of and the responsibilities for fostering humanitarian advancements in a world community of cooperating peoples.

But it isn't enough to know what is, even if the individual could somehow possess all knowledge accumulated from the past and present. I think it was Terence, the Roman dramatist who lived more than a hundred years B.C., who said: "True wisdom consists not only in seeing what is before our eyes, but in foreseeing what is to come." (Adelphi, act III.) Such wisdom is not a matter of clairvoyance, of looking into a crystal ball and preparing in advance to roll with the punches.

Rather, such wisdom is a matter of discriminating choices, day by day and hour by hour, between what is profitable or expedient on the one hand and what is right and good on the other. It is a matter of knowing what is and what can be, and of deliberately pursuing the best ends by the best means for the betterment of all. Of the three elements with which we started this discussion—knowing, desiring, and doing—the first two are sterile without the capstone of the third.

All of you are familiar with the slogan of the Christophers: "It is better to light one candle than to curse the dark." Let us look for a moment at what you as an individual and your candle of educational preparation can do to help make this a better world. After all, progress in the world of tomorrow depends upon the development and application of the talents and abilities of individuals.

You do not have to be a scientist to realize that your every act—even your inactivity—helps to form the currents of the stream of progress. The problem is to find where your particular abilities, your particular leadership, can do the most of the good that needs to be done.

Lest we spread ourselves too thin in our discussion and go off in all directions, let us look at responsibilities in just one field, the field of education, where the tools for advancement are forged and where the surge and direction of progress initially take root and begin their growth. The educational impetus of each generation depends upon the informed action of individuals, and here is a civic responsibility which falls to each and every one of us.

But, lest our subject be still too broad, let us narrow it to higher education in particular—to the needs and problems of higher education and what you can do about it in the years immediately ahead. I need not remind you that, in limiting our discussion to higher education, we are in no way minimizing the dignity and worth of those individuals who, for reasons of their own, do not aspire to a college education.

In general, however, society has come to demand a higher level of intellectual maturity of all citizens, and individuals must provide the framework and financial means for an educational enterprise to meet this demand. In the decade from 1952 to 1962, for example, the number of jobs increased most in those categories filled by individuals with the most education. In fact, jobs filled by those with 4 or more years of college increased by 54 percent, while jobs filled by those with 1 to 3 years of post high school training increased by 41 percent. (Fact Sheet: "Educational Attainment and Needs in the United States, Office of Education," June 1963.)

Colleges are being pressed from every side to accommodate rapidly increasing enrollments, to provide an increasingly wide array of programs, and to develop and improve those methods which will insure quality performance in a world changing so fast that today's information is likely to be insufficient to solve tomorrow's problems.

In such an educational renaissance, colleges in both the public and private sector are capitalizing on their strengths in an effort to serve the greatest number for the greatest good. Small colleges are developing their own particular approaches to excellence, and larger ones are striving to balance quality with diversity. Schools such as King's College are proving that small colleges can be great colleges. It is most essential for the preservation of our traditional pattern of freedom of choice in education that there be a variety of options to the mass central programs of the large universities. The community college movement seeks to bring appropriate post high-school education within the geographic reach of an increasing number of students. Still, there are numerous problems which must be met head on and solved, if appropriate higher education is to become available for all who want it and can benefit by it.

As we seek to extend educational opportunity, however, we must not let our pride in increasing enrollments blind us to the fact that college attendance is too often related to ability to pay. Intelligence is not related to family income, but college attendance is and it shouldn't be. Areas of poverty—whether in the mining sections of Appalachia, or on the tenant farms of the South, or in the slums of the cities—are the seedbed of hopelessness and lack of motivation. It is difficult to rise by one's own bootstraps when one has no boots. Our democratic ideals—and our commonsense—tell us that it is better to help these individuals acquire the educational tools necessary for their own progress and self respect rather than to face the alternative of continued and increasing welfare relief.

To that end the Congress is moving an expanded program of individual self-help steps to students in need. The increased loan program and the work study feature of the opportunity bill which is erroneously termed the poverty bill are two major steps. In addition, the college construction law of 1963 is beginning to bring college education within the reach of a greater number by stabilizing costs and increasing facilities.

To the extent that we fail to provide educational opportunity for the disadvantaged, we waste our resource potential. As Cicero once said: "As a field, however fertile, cannot be fruitful without cultivation, neither can a mind without learning." (Tusculanarum Disputationum, bk. ii.) The pace of progress in today's world demands "educational cultivation" to the extent of the individual's abilities to benefit by it.

For an increasing number, this means higher education and each of us has a responsibility to help provide the impetus for local, voluntary, and national action to extend such educational opportunities without regard for financial and/or racial handicaps. The day of talking is past. It is a time for action—informed individual action as a basis for community, State, and National action in a free society. We cannot "let George do it." Those who have received much in terms of educational advantages must shoulder their responsibilities to give much in terms of encouragement and effort. I need not remind you that this includes far more than higher education per se.

If your interest and effort could somehow extend higher education opportunity to every individual who wants it, your responsibilities would not end there. Quality in higher education—indeed, in all of education—demands continuous improvements within the educational enterprise itself. No one would belittle the educational advances spurred on by the launching of sputnik. They have contributed to immeasurable scientific progress. The challenge which faces us now is to balance our scientific and technological progress with attention to the humanities and the arts. This is especially important in a world where individual freedom must be tempered with sensitivity and concern for others, where international competition must be regulated by international understanding, where individual ambition must be moderated by respect for the integrity and the various talents and abilities of others.

Furthermore, by extending the reach of higher education to a broader spectrum of society, we also are challenged to extend the scope of programs to provide improved social tools and cultural outlooks and to accommodate an increasing variety of vocational competencies. Such an education cannot be designed once and left to serve for all time. It requires constant vigilance, constant pruning, constant nourishing with new ideas.

The world is looking at American education, at the interrelationship between educational excellence, leadership, and production. Developing nations have found our experiences with land-grant colleges especially valuable in their own educational planning. Our collegiate pluralism is a mirror of our religious and cultural pluralism and answers the demand for variety in a free society. It is understandable that a world newly discovering its polycentric nature would look to the universal character of our educational opportunities with increasing attention.

For example, the Robbins report, which assesses England's higher education needs for the next decade, recommends ways to assure that "courses of higher education should be available to all those who are qualified by ability and attainment to pursue them and who wish to do so." In effect, the Robbins report rejects the highly selective admissions policies of British universities and proposes to broaden the base of higher education. This decision has important implications for us, especially in those American institutions where admissions requirements are based on strictly academic measures of ability. While the world is looking at our higher education, we ourselves need a constant reevaluation of its appropriateness for our needs. In this, you as individuals have a responsibility to take a vital part.

In my plea that you "get in there and pitch" for whatever community or national action we need to extend the reach of higher education and to keep its quality and appropriateness on an ever-upward climb, I do not wish to play Polonius, but I should like to inject a word of caution. In years to come, as age brings nostalgia, there may be temptations for you—as there have already been with me—to muse that higher education isn't the same as it used to be. But the world for which we are educating is not the same as it used to be either.

Your children and mine will live in a changing world and our educational system will need a world of change to meet their needs.

It is for you to meet and make these changes. The quantity and quality of new education can be left up to the State but only at great risk. The State has no choice but to conform its education, higher or primary, to a common ideal. Such conformity is in itself a handicap. Only by participation of private voluntary institutions such as King's College can we have the true and valuable diversity of high ideals our country deserves. This makes it incumbent on you as leaders of the intellect to support and participate in the growth of our education, public and private. Even the word "private" is subject to change since these institutions are truly, parapublic, serving a great public purpose under private leadership.

In this connection I hail the announcement of the Ordinary of Pittsburgh, Bishop Wright, who has announced that the parochial schools of Pittsburgh will be open to all children of low income without regard to their religious belief.

Surely such splendid innovations deserve your valued support and participation as part of the great new adventure in grace that is 20th century, Chris Fianity.

With the accelerating rate of change already upon us, much that you have learned here at King's College will be subject to critical analysis as you pursue that freedom of inquiry which is the great scholastic vitality.

It will be up to you to determine what the abiding truths are. You and I live in the age of surging expectation and we will either move with the crest of understanding or founder in the undertow of fallacy unless we continue the course of constant reeducation.

More important than what you have learned is the momentum to keep on learning, the desire to understand yourself and your fellow man, and the will to add your bit to the forward thrust of humanity. The kind of higher education we have in tomorrow's world should be different from what we have today. It will be better to the extent that it serves tomorrow's world. It is your task to keep it always viable and adaptable to society's needs and yet straightforward in its task of preparing individuals for the future they will help to shape.

Let us return full circle to St. Thomas Aquinas. "Three things are necessary * * * to know what to believe; to know what to desire; to know what to do."

To this I would add the capstone, "To do the best one knows." You will change the world, for good or ill, the extent and direction depending upon how much you know and what you do with it. You can change higher education—or education in general—and thereby contribute to the effectiveness of the leavening agent by which the future becomes better than the past. You—and only you—can determine whether your educational candle burns brightly and your torch is held high and glowing against the darkness.

Baltic Nations Day

EXTENSION OF REMARKS

OF

HON. DONALD RUMSFELD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1964

Mr. RUMSFELD. Mr. Speaker, 23 years ago, during the night of June 13–14, tens of thousands of people in the Baltic States of Lithuania, Estonia, and Latvia were seized and deported from their homelands by ruthless Soviet agents to farflung parts of the Soviet Union to exist in misery, hunger, and slavery in Soviet labor camps. The world knows that Soviet Russia has enslaved millions of people in eastern and central Europe who, until 1939, lived under their own national governments. The Communist aggressors, against the will of the overwhelming majority of the people of the Baltic States, illegally and forcibly incorporated them into the Soviet Union and they still remain under the cruel yoke of communism. Communist regimes have kept these nations in bondage, deprived their people of fundamental rights, and subjected them to ruthless colonial exploitation. This has been achieved by the use of force and fraud, in violation of international law. Soviet wartime and postwar pledges of free elections for the countries of east-central Europe have not been fulfilled and little has been done by the free world to demand fulfillment.

Until the human rights of personal and political freedoms are restored to these and other enslaved peoples, the world will not see true peace. The basic issue involved in today's conflict is human rights: the right to life, liberty, and security against arbitrary arrests and detentions; the right to own property; the right of opinion and expression; the right to assemble peacefully; the right to work; the right to form trade unions; the right to religious freedom.

All these rights, Mr. Speaker, that we in this country believe are basic to the individual, are being denied and violated in the captive nations of Estonia, Latvia, and Lithuania—and the continuance of these violations is harmful to world peace and cooperation.

There are those who apologize for Soviet Russia and insist that we must accept the status quo if we are to come to a peaceful settlement of world problems. If the United States is to retain its leadership in the struggle against communism, it must demonstrate courage and firmness and an unequivocal stand for basic human rights. The yearning for freedom of these enslaved people and their continued devotion to the ideal of human liberty constitute a threat to the rule of the Communist oppressors. We must help keep that faith alive. For 23 years our Government has refused to recognize the legality of the Soviet occupation of these countries, but today the many gestures toward accommodation with the Soviet rules are discouraging and frightening to the many friends of these Baltic States.

In observance of that June 14, 23 years ago, we today pay tribute to the bravery and dedication of these people and assure them they have not been forgotten.

Iowa Soil and Water Conservation Week

EXTENSION OF REMARKS

OF

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1964

Mr. SCHWENGEL. Mr. Speaker, this week soil conservationists around the country are celebrating Soil and Water Conservation Week. As one who has long been interested in soil and water conservation, I would like to pay tribute to those individuals who work full time in this field. They are doing a great service and the results and benefits of their efforts will be realized for many years to come.

This year, in an effort to get the message of soil and water conservation to the people, I had my research team of college students at the State University of Iowa prepare a kit for distribution to all of the newspapers in the First District of Iowa. It contains stories about the work of the Soil Conservation Service of the Department of Agriculture, pamphlets, and other material that newspaper editors can use in publicizing soil and water conservation.

For the newspaper kit I wrote the following article which is titled "The Challenge":

THE CHALLENGE

(By Representative FRED SCHWENGEL, First District of Iowa)

The challenge of saving the productive land of America soars to tremendous proportions. Its dimensions begin with the vastness of a nation, look outward to a hemisphere, and ultimately encompass the globe. At stake is the well-being of mankind, now and for the future. All men depend on the productivity and uses of the land, not only for the food of existence but also for the nourishment of spirits. Here is more than the place where we live. Here also is the space and setting for our future growth, which may be limited or limitless. Its proportion of value is determined by each individual's concern for the land.

The proper management of soil and water resources is one of the most critical problems our Nation faces. While rural and urban residents today face a greater challenge in the development of land and water resources than during any period in this Nation's history, they also possess more efficient means to meet this challenge.

To each among us there is a share in the brotherhood of soil and water stewardship. There is a share to further the beauty of creation, to reject waste in a complex society, to build strong communities and prosperous farms, and to develop goals. This Nation cannot afford to be concerned about soil and water problems only on farms, for land and water resource problems extend beyond the grassy farm fields and into the concrete pathways of cities.

Farm legislation has recently taken this into proper consideration. Congress last year provided comprehensive conservation tools to help meet our Nation's resource needs. The Department of Agriculture has been extended additional authority to work with local people and their organizations in programs which have been widened in scope to meet the expanding need of this Nation.

It is gratifying to see Iowa as a leader in soil and water conservation—a leader not only in the Corn Belt but also in the Nation—but I still feel deeply that the rate of conservation progress deserves to be increased.

The accomplishments of soil conservation districts have brought increased benefits not only to the farmers but to the urban-suburban populations as well. A large measure of a district's success can be attributed to the tireless efforts of its locally elected farm commissioners who can be proud of the important part which they have played in conservation.

Land use changes are occurring at ever-increasing rates. The growing acreage of urban-suburban land poses new conservation problems.

The Department of Agriculture's recently published inventory of conservation needs gives a good picture of the physical needs for the conservation of our land. It shows the nature and the magnitude of the conservation tasks to be faced, and it shows that we have ample land resources to meet the anticipated needs for the foreseeable future. The inventory indicates that in the 12 counties in Iowa's First Congressional District, the present acreage of 2.5 million acres planted in cropland will probably exceed 2.6 million by 1975—an increase of more than 3½ percent. Of the projected 2.6 million acres about 54 percent will need conservation treatment. The report further indicates that 29 watersheds, lying wholly or partly within these counties, are in need of project type action, primarily for flood prevention through floodwater and sediment damage reduction and for upland erosion damage reduction.

Congress already has provided for the Department of Agriculture to give technical and financial help through soil conservation districts which have been the nucleus of the conservation program at a local level. The Department's small watershed program provides the means whereby local people can initiate their own soil and water management and flood prevention projects in community-size watersheds and receive Federal technical and financial assistance. Greater effort is needed to achieve city-county cooperation in areas where a watershed development specifically involves both farm and city land. The Department can now give wider financial assistance for municipal and industrial water supplies.

Conservation is an issue which has long concerned me. We should establish a long-range goal to successfully accomplish the many tasks before us. We have an excellent team—local, State, Federal, and private interests. One important way in which we can strengthen our team is to get better public understanding of the job we are doing—the understanding not only of farmers but of city dwellers as well.

Of increasing importance is the soil survey information and experience gained by the soil conservation services in working with farmers. In addition to its value to farmers in planning land use, soil survey information is an important tool for engineers and urban planners in building construction, locating highways, water control, sewage disposal, and other matters important to suburban development.

Conservation is a responsibility which steadily grows larger and more exacting. Pressing against the limited resources on all sides are the mounting demands of an increasing population and the spreading requirements of our more complex world. More people want more uses more often from the resources at hand, and every indication is that the trend will continue. Whether conservation is practiced by individual farmers, or by townspeople and farmers working together, the results benefit everyone.

We can be proud of the things we have done, but we should think more of today, tomorrow, and the crucial years ahead. We must broaden our outlook to horizons which constantly widen the new problems, new complexities, and therefore to new opportunities. The real job, of course, rests ultimately with the people—farm and nonfarm alike.

This is a good time to examine the tasks before us and our own responsibilities to the preservation of our Nation's resources. With faith and courage in the processes which bring about better conservation procedures, we welcome the future.

Washington Report

EXTENSION OF REMARKS

OF

HON. BRUCE ALGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1964

Mr.. ALGER. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following newsletter of June 13, 1964:

WASHINGTON REPORT

(By Congressman BRUCE ALGER, Fifth District, Texas)

JUNE 13, 1964.

FOREIGN AID—BORROWING MONEY TO GIVE IT AWAY

The House voted (230 to 175) to give more of your money away this week. The foreign aid authorization bill, H.R. 11380 was approved. You have been led to believe by the Johnson administration that this is a bare bones program. This is far from true. The bill passed by the House provided new authorization totaling $2,041,600,000. The appropriation request totals $3,516,700,000. But the true figure in foreign aid spending is $7,442,356,000. In other words the President leads you to believe he has made great savings and that you are only going to be asked to cough up $3 billion for foreign aid projects when in reality he is spending over $7 billion.

Here is a recapitulation of the various authorization proposals and appropriation requests during 1964. These are only those requests and appropriations which can be identified. Millions more are spent under programs not clearly defined.

Foreign Assistance Act:	
Economic assistance	$2,461,700,000
Military assistance	1,055,000,000
Peace Corps	115,000,000
Food for Peace (Public Law 480)	2,215,000,000
Inter-American Development Bank:	
Social progress trust fund	750,000,000
Callable capital stock	412,000,000
International Development Association	373,656,000
Tax credit proposal	60,000,000
Total	7,442,356,000

In addition, on hand and unspent (called the pipeline) $6 billion—$4 billion military, $2 billion economic.

In stating my opposition to the flagrant wasting of your money in the foreign aid program, I pointed out in debate:

"Over the years the faults of our foreign aid have been so apparent that it seems inconceivable that we have not learned the basic lessons that foreign aid is self-defeating, antithetical to basic American religious and moral concepts as we subsidize alien philosophies, and that the wealthy of other countries have padded their bank accounts. The money never reached the people."

The six Republican members of the Foreign Affairs Committee submitting a minority report did a masterful job of writing a bill of particulars against continuing foreign aid in its present form. In my remarks on the floor of the House I listed 22 reasons why foreign aid should be reevaluated. A partial list includes:

1. The Congress has lost all semblance of control over the aid program.
2. The executive branch continues to make long-term aid commitments without prior congressional approval.
3. Trade and aid continues with Communist countries.
4. Much of the military assistance is beyond the capacity of the recipient nation to utilize.
5. The program is overfunded and lacks consistency or direction.
6. There is little evidence that it has been successful in achieving its objectives.
7. The impact of assistance fails to reach the grassroots level.
8. The aid effort is diffused and reasonable criteria in the selection of recipients are lacking.
9. Administrative and program deficiencies abound, including overprograming, hoarding of funds, wastes, and extravagance.
10. We are attempting too much for too many too soon.
11. AID finances government-owned facilities which compete with private enterprises.
12. Fiscal responsibility is not the watchword of the aid administering agency.

Two important arguments in conclusion:

1. The least action required by Congress is to regain control and redirect the foreign aid program toward meaningful objectives.
2. We should not borrow money to give away.

BORROWED MONEY FOR FEDERAL PAY RAISES

The Johnson administration's Federal pay raise bill passed the House (243–157). I voted against the bill because we have not earned it. President Johnson is not reducing spending, he is increasing it. In every appropriation bill passed by the House this year, we have appropriated more than was spent last year. Of course, we practiced the usual double trick of reducing the budget request but spending more to make you believe the administration is saving money.

The minority report on the pay bill stated among other things:

1. It is ill timed, unwarranted, expensive, and contrary to sound reasoning and responsibility.
2. It was cooked up overnight and reported from the Post Office and Civil Service Committee under pressure tactics so blatant and callous they shame our American legislative process.
3. No committee hearings were held.
4. General pay raises for almost all Federal employees took effect January 1, 1964.

Again, we are borrowing money to pay this bill and this is morally wrong. I am for higher salaries for Federal employees when they are earned through reduced Federal spending, a balanced budget, and lower taxes for all the people. When we are deficit spending, a pay raise bill can't even be fairly evaluated.

Congress Must Revise and Liberalize Our Immigration Laws

EXTENSION OF REMARKS
OF
HON. JACOB H. GILBERT
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, June 15, 1964

Mr. GILBERT. Mr. Speaker, the Committee on the Judiciary, of which I am a member, is now considering legislation to revise and liberalize our present immigration laws. I am hopeful that favorable action will be taken by this Congress so that present inequities will be eliminated. Following is my statement to the committee concerning the bill I introduced:

> Mr. Chairman and members of the Committee on the Judiciary, I am gratified that your committee is holding hearings on legislation to revise and liberalize our present immigration laws. Reform of our antiquated and unfair immigration laws is long overdue, so that we may better serve humanity and further the interests of equality, the obnoxious principle of national origin upon which our immigration system has been based since 1924 must be eliminated.
>
> Our esteemed chairman of the Committee on the Judiciary introduced a bill, H.R. 7700, based upon the suggestions and wishes of our dearly beloved former President Kennedy; President Johnson also has requested and urged this Congress to approve the bill. I introduced an identical bill, H.R. 7902, to show my strong support. Ever since coming to Congress, I have introduced bills calling for a complete overhaul and liberalization of our immigration and naturalization laws. The need for such action on the part of Congress is forcibly brought home to me almost daily; my congressional district is one which contains a large percentage of immigrants and new U.S. citizens; many pathetic letters reach me describing the heartache resulting from interminable separation of members of a family. Children are frustrated in their efforts to bring their parents here; relatives in many countries face a lifetime of waiting for their turn to be reached under our unfair quota system.
>
> The task before your committee should be undertaken with compassion and forthrightness and the recognition of the fact that the proposed changes in our laws are reasonable and are demanded by existing circumstances. Our country became great under our earlier policy of unrestricted immigration. Those who sought refuge and freedom here contributed mightily of their brawn, their brains, and their loyalty; our Nation grew strong and prospered. The present quota system which is based on the place of birth or the racial origin of a human being has proved to be a blot upon our conscience as a Nation. We must acknowledge that birthplace and racial origin of a human being do not determine the quality or the level of a man's intellect, his moral character, or his qualifications for becoming a part of our Nation and our society.
>
> The administration bill and my identical bill provide that our future total immigration quota will be divided, regardless of the immigrant's place of birth, into categories completely divorced from the concept of race, nationality, citizenship, or place of birth. A person's skill, or his relationship to a citizen in the United States or to an immigrant previously admitted to our country for permanent residence, will determine his inclusion in one of the categories listed. However, a large portion of the annual immigration quota will remain available for refugees and displaced persons so that we, as a nation, can serve humanity and help unfortunates. We shall also give those who wish to leave their homelands and seek opportunities here for themselves and their children, an opportunity to do so.
>
> We are mindful of the sad situation which exists at present—when thousands of immigrant visas allocated under existing quotas are not used by certain nations, by immigrants born in those countries which we have favored. At the same time immigrants born in other countries—less favored by us, if we are honest enough to admit it and which have infinitesimal quotas—have to wait for permission to come here for periods of 5 to 25 years. This is a shameful state of affairs and it must be brought to an end.
>
> Under the new system the entire quota will be used in every 12-month period. The process of elimination of the national origins principle will continue for 5 years after enactment of the bill. We would have preferred that the old condemned system of national origins be wiped out immediately. However, we must recognize that such a drastic change, if imposed overnight, would create havoc with the administrative processes of immigration and visa issuance by our consulates spread all over the world. Thus it is proposed to cut 20 percent of our quota in each of the 5 years succeeding enactment of the bill, and place that number of visas in a pool to be operated under the new system. At the end of the 5-year period, the new system will be in full effect, and the administrators will have gained necessary experience by that time through gradual use of the new system.
>
> After the fifth year following enactment of the bill, all quota numbers would be drawn from a single worldwide quota of 164,582. Quota numbers would be allocated in the order of preference specified in amended section 203 of the Immigration and Nationality Act. That is, first call on the first 50 percent is given to persons whose admission, by virtue of their exceptional skill, training or education, would be especially advantageous to the United States; first call on the next 30 percent, plus any part of the first 50 percent not issued to the skilled specialists, is given to unmarried sons and daughters of U.S. citizens, not eligible for nonquota status because they are over 21 years of age; first call on the remaining 20 percent, plus any part of the first 80 percent not taken by the first two classes, is given to spouses and children of aliens lawfully admitted for permanent residence; and any portion remaining is issued to other applicants, with percentage preferences to other relations of U.S. citizens and resident aliens, and then to certain classes of workers. Section 203 further provides that within each class, visas are issued in the order in which applied for—first come, first

served. These preference provisions, which under present law determine only relative priority between nationals of the same country, will now determine priority between nationals of different countries throughout the world.

No country would be allowed to receive more than 10 percent of the quota numbers available in any year (including those from the quota reserve pool during the first 5 years, from the area's quota), with certain exceptions.

The bill contains many other necessary and helpful provisions. Among other things, it would grant nonquota status to parents of U.S. citizens.

The United States and worthy people all over the world need this bill. It is our responsibility to approve and pass it so that we may prove to all mankind that we truly believe in the equality of all men and that we are ready to welcome persons to our great land on a fair and equitable basis and to discard the old laws which are based on racial prejudice and are unfairly discriminatory.

I urge your Subcommittee on Immigration and Nationality to approve this important legislation. I look forward to the privilege of voting for it in our full Committee on the Judiciary. I shall do all in my power to secure its passage by the Congress, so that the changes can be brought about as soon as possible.

Address by Senator Kenneth B. Keating to the Association of Mayors of Puerto Rico

EXTENSION OF REMARKS

OF

HON. PAUL A. FINO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1964

Mr. FINO. Mr. Speaker, I had the honor of serving with Senator KENNETH B. KEATING when I was first elected to the House and it has been my privilege to observe his distinguished career ever since he first entered Congress in 1946. Senator KEATING is an outspoken advocate of a strong and forthright foreign policy and a leader in the fight for equal opportunity for all men.

Because KEN KEATING is one of the two Senators appointed to the Commission To Study the Status of Puerto Rico, the speech which he gave Monday, June 8, to the Association of Mayors of Puerto Rico is particularly significant. Senator KEATING stressed the contribution that Puerto Ricans have made to American culture and pointed out the contrast between Puerto Rican successes and Castro's failures.

As Senator KEATING said, the relationship between the United States and Puerto Rico "is built on voluntariness and is held together by friendship and mutual interest." In his words:

> We are showing the world that these qualities can cement bonds between nations as firmly as between individuals.

Senator KEATING's speech follows:

It is a privilege and a personal delight to take part tonight in this dinner in honor of Puerto Rico's leading citizens.

Yesterday, New Yorkers were treated to a magnificent demonstration of free institutions and cultural and economic solidarity in the wonderful "Desfile Puerto Riqueño."

We American citizens who live on the mainland, and particularly those of us here in New York City, are vitally interested in the 2½ million American citizens of the sunny island of Puerto Rico and the additional million in the United States.

Puerto Ricans are making an important contribution to the industry and commerce and culture of this greatest of cities—a contribution not only of their many highly developed skills but also of their willingness and quickness to learn new ones.

We are learning about and enjoying the rich traditions of language and music and literature and art of the Puerto Rican people. There is a two-way culture absorption going on in this city—we are assimilating you and you are assimilating us, and we will both be the richer for it. I have already learned to obey the "No Fume" (No Foo-may) signs throughout the city.

We have taken great pride in Puerto Rico's economic development and in your firm dedication to free institutions and representative government.

We were particularly gratified when, in 1950, the Commonwealth established her own point 4 program to share her knowledge and skills with underdeveloped countries throughout the world. Recently, Puerto Rico welcomed her 23,000th point 4 visitor. He was the latest in a long line of officials who have come from 137 countries to learn about the industrial incentives program that attracted nearly 1,000 manufacturers to Puerto Rico, and to visit the schools, farms, hospitals, and housing programs of the island.

Puerto Rico has sent to our shores government leaders, economists, teachers, and scientists of note. Two islanders have won distinguished service medals from the Federal Government for their achievements in the civil service: Guillermo Medina, who now heads the Navy's oceanographic office, and Raul Rodriguez, who received the Army's Civilian Exceptional Meritorious Service Award for his role in developing a water supply system for our servicemen in Greenland. The number of Puerto Rican doctors and lawyers has doubled in the last 10 years.

Tad Moscosco has played a vital role in shaping our Latin American policy.

Pablo Casals—an adopted Puerto Rican, whose mother was a native-born islander—was honored at the White House, but even more important, honored us by sharing his gift for life and for music.

We have also witnessed with pride Puerto Rico's phenomenal economic growth and development. In two decades, Operation Bootstrap has increased the island's net income 700 percent. Per capita income has risen, the number of factories has increased from 52 plants in 1949 to more than 660 today.

Puerto Ricans have always known that economic advancement and the abolition of poverty were not ends in themselves, but rather means to a better life.

And with this long term goal, the island instituted Operation Serenity—a concerted emphasis on education, the arts, and the development of the Puerto Rican culture. The results—a vast scholarship program at the university, and the establishment of the Casals Festival, to name a few examples—have been as astounding as the results of Operation Bootstrap.

We on the mainland must retain these goals, too. The enrichment of the American culture, the fostering of the arts, the improvement of education for all Americans, must be one of our important objectives. The abolition of economic poverty is a necessary prerequisite, but not the end of our task.

We know right here in New York City—even within the Puerto Rican community itself—that there are other objectives which must be achieved—that economic success is important, but not enough. We are dedicated to working for those broader goals, not only for Puerto Ricans in New York, but for all Americans. Better schools as well as better jobs. Scholarships as well as steel plants. Concerts as well as commercial development. All are needed for the better civilization we are planning.

Every thoughtful person is deeply impressed with the speed and thoroughness with which our Puerto Rican citizens have adapted to the ways of the New Yorker.

They have set down their roots and made long range plans for their futures with remarkable speed.

It is not generally known that there are more than 6,000 Puerto Rican business establishments in New York City alone. Puerto Ricans have settled all over this big wonderful State and have bought homes and have joined parent-teacher associations.

The major problem we have in this city with our Puerto Rican friends is how we can make available to them more quickly and more easily the education they want so urgently, both for themselves and for their children. They seem almost frantically eager to advance their mastery of English and of United States customs and social, commercial and legal patterns.

I understand that the Spanish language newspapers here carry more advertisements for schools and educational opportunities of various sorts than for any other product or service. And, obviously, their editors know what their readers want to see. My Puerto Rican friends tell me that almost everyone who comes here from the beautiful island, has a personal credo borrowed from our first Republican President, Abraham Lincoln—"If you keep on studying and learning, you will be ready when opportunity knocks."

The impression is unmistakable that Puerto Rican New Yorkers are here to stay. They are anxious to assume their share of responsibility in the affairs of their local, State, and Federal governments.

It is to this end that they so eagerly pursue their American education.

There is another aspect to the relations between the United States and Puerto Rico, one which bears directly on our security and freedom. Puerto Rico is of strategic importance to the United States and to the free world as a glittering showplace of democracy and economic progress in the troubled Caribbean.

Only 800 miles of water separate San Juan from Havana but the gulf between them in free government and fine institutions is vast indeed.

It is thrilling to see the wonderful manifestation of this difference here tonight—assembled here are the mayors of Puerto Rico's cities and towns, freely elected by the will of the people—and the leaders among their chosen representatives in their government: all of this in sharp contrast with the situation in Castro Cuba.

I have been told that the bonds between Puerto Rico and the Cuban people are very close and very strong; that they are like two wings of the same bird. Puerto Rico and Cuba were both liberated in the same war and I know you share with me the conviction that there can be no real security in the Caribbean until Cuba is again free.

And the Cuban people are not free, any more than are the people of Hungary. Castro remains a menace: to the future of Cuba, and of Latin America, and of the whole Western Hemisphere. What Castro wants more than anything else—what he must have to survive—is recognition that communism in Cuba is permanent, that it is the wave of the future, and that it is irreversible. Acceptance of that idea by the world is more important to Castro than any other issue confronting him.

He must never be given this recognition or respect. The Castro regime serves as an agent for foreign Communist domination of a strategic point in the Western Hemisphere; and as an instrument for the export of Communist terrorism, sabotage, weapons, and ideology throughout Latin America.

It also serves as a case history of the dismal failure of communism. Castro is a weak link in the Communist empire. Concerted economic measures short of war and the increasing opposition of the Cuban people can break this link. This is my belief and the basis for the policy of the U.S. Government.

We must never meekly accept the Castro regime as inevitable and unalterable, and every member of the Organization of American States must stand together behind a strong policy—to name Castro the Communist aggressor he so obviously is, and to initiate united action to prevent this dictator from subverting free and independent governments throughout the hemisphere.

Fortunately, one of the best weapons in freedom's arsenal is the showplace that is Puerto Rico. Blessed by nature with a magnificent country and climate, Puerto Rico is demonstrating clearly the added blessings that spring from free government and free enterprise. All peoples must be made as aware of Puerto Rico's remarkable successes as they are of Castro's failures.

This year, the Congress enacted legislation to create a Commission to Study the Status of Puerto Rico. I was privileged to be selected as one of the two Senate members of the Commission, which is composed of seven U.S. residents and six residents of Puerto Rico.

We will have our first meeting tomorrow. One of our tasks will be to evaluate all the arguments on the various proposed relationships between the two governments, and to make nonbinding recommendations for legislation to the President. I am fully aware of the importance of this subject and intend to give this issue my most earnest study and consideration without any prejudgments.

But there is another important task before the Commission which must not be overlooked. It can serve to focus the attention of the whole world on the magnificent story of Puerto Rico.

It is a proud and inspiring story of what can be accomplished by free men and women working together for the general welfare. Its last chapter has not been written—but I am confident that the future of Puerto Rico will witness ever-increasing success in our joint quest to provide a better life for all peoples.

In Puerto Rico, there is a saying that one should take pride in his house but keep the windows open on all sides to let in fresh breezes. Puerto Rico's house was Spanish for 400 years. Her people take pride in that house, but for decades, they have kept their windows open to breezes from other parts of the world.

I have tried to make it clear tonight that relationship between the United States and Puerto Rico is mutually beneficial. The United States has helped Puerto Rico and bears a special responsibility for its welfare. But Puerto Rico has also advanced the interests of the United States both culturally and strategically.

Our relationship is built on voluntariness and is held together by friendship and mutual interest. We are showing the world that these qualities can cement bonds between nations as firmly as between individuals.

There is much the world can learn from this, but unfortunately there are many places in the world where windows are not kept open—even in the springtime.

We welcome all of you and wish you every future success. If I can close with a wish for myself—it is that I will be able to visit you in your cities in the not too distant future.

Questions and Answers About the Antipoverty Program

EXTENSION OF REMARKS

OF

HON. THOMAS M. PELLY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1964

Mr. PELLY. Mr. Speaker, as a Member of Congress, I have wanted my constituents to have a full understanding of the administration's proposals for an all-out war on poverty. Is the newly reported poverty bill a cruel hoax? Is it basically a matter of politics by slogan? Is it a dressed-up package of the old shopworn ideas? Is it the discredited relief concept of the 1930's? Is it promoted for partisan political advantage? Does it hit at symptoms rather than causes of poverty? Is it an expensive yet completely inadequate salvage operation?

Mr. Speaker, if any or all these charges which have been made are true or false, at least the people should have the facts on which to make a judgment.

In this connection, our colleague, the gentleman from New Jersey [Mr. FRELINGHUYSEN] appeared on the television program "City Side" last Sunday and answered questions on the bill put to him by David Burnham, of Newsweek magazine, and Harold Walker, WTOP news reporter. Julian Barber was the moderator.

I was greatly impressed with the fairness and informative nature of this public service program. I wished every citizen in America, and especially those with lower incomes, could have the benefit of the gentleman from New Jersey's [Mr. FRELINGHUYSEN] informative explanations and answers.

Frankly, I have severely criticized the poverty bill as it was reported by the House Education and Labor Committee. I have not liked the idea of a Federal agency bypassing State and local governments. I have not approved of one Federal agency duplicating the efforts and programs of other Federal agencies as in this case, and too, especially, I object to this bill because it does not provide sufficient restrictions on use of funds by political, religious, or other nonprofit organizations. The bill badly needs constitutional guidelines.

For these and other reasons, Mr. Speaker, I expect to vote against the bill, but I want the people I represent to be in a position to evaluate such a vote. Certainly, I do not want to be judged in the light of coldly opposing a measure to eliminate poverty.

Therefore, Mr. Speaker, I obtained a transcript of that WTOP-TV program of June 7 and under leave to do so, I include at this point Mr. FRELINGHUSEN'S answers to those questions on H.R. 11377, the so-called Powell-Landrum poverty bill.

Mr. BARBER. Thank you, sir. Now let's begin that talk with David Burnham, of Newsweek magazine.

QUESTION. The Republican members of the committee have—for the last 2 or 3 months—been sharply criticizing the poverty bill as introduced by the President. Now, this has come to suggest to some that the Republicans do not think that persistent poverty is a problem. I wondered if you could briefly tell us where you think the problems of the poor are, what problems are most serious of the poor in the United States today.

Mr. FRELINGHUYSEN. Well, to begin with, I think it is a very inaccurate charge (if such a charge is being made) that Republicans are not concerned about poverty and not anxious to develop suitable program to alleviate it. This is not our position. The reason that we are opposed to this bill is that we do not think it would be effective, we think it would establish an unwise and unnecessary new Federal agency to handle a very considerable amount of money and it would not strike at what the President himself has called the roots of poverty.

Poverty appears in so many places that it is hard to give a quick answer to your question. I would say one of the problems is the lack of opportunity in our big cities. There is no question that slums, and the poverty and lack of motivation which slums create, provide a problem for all of us.

There is no question to some extent that the changing situation on our farms creates poverty in the marginal farmers. In theory, at least, President Johnson has recognized this and said that his program would do something about those areas. In our opinion, it would not; it would be a very expensive effort which would not really strike at any of the basic roots of poverty.

I might say that these roots are not easy to get at from a legislative standpoint. Basically, to give a quick answer to your question, I think that the lack of an adequate education in many cases is responsible for the poverty of the people concerned. We are not talking, of course, simply about the millions of unemployed in this country when we talk about poverty, we are talking about those who have too little to live on and that definition can be very flexible.

QUESTION. Well, Congressman, that definition can be, of course, very flexible. How would you define poverty? Can you define it in terms of a number of thousand dollars per annum?

Mr. FRELINGHUYSEN. Well, I might say, the bill does not attempt to define it. I do not think we would accomplish anything very useful if we tried to. If we are talking—as the President talks—about 30 to 35 million people as being in the poverty classification, and I would be reluctant to get into a numbers game with the President of the United States or with anyone on this panel * * * we are not going to get at it by spending an additional billion dollars.

I myself think that this expression "poverty" has already been overworked. I think it's being done so by Democrats, unfortunately, for an attempted partisan advantage. I think it's seriously overworked in an international sense. I would think it has probably done more damage to the prestige of the United States abroad to harp constantly on poverty than any single thing that I can think of within the last 3 or 4 years.

So I'm very disturbed and I don't think we're proving much if we're going to try to define what poverty is before we decide what to do about it.

We know there are various manifestations and we've got practical programs—to a large extent financed by the Federal Government already—to do something about these things. I would like to get down to specifics * * * talk about what needs to be done and how the President's program might do it.

Mr. BARBER. Mr. FRELINGHUYSEN, in answer to Hal Walker's question, you touched upon one of the chief criticisms of your party of the administration bill. It's been denounced by some more vocal Republican critics as a cruel hoax, and the President has been charged with playing politics with poverty. Is this just election-year propaganda, or do you sincerely believe that this is a cruel hoax, a deliberate hoax, on the part of the administration?

Mr. FRELINGHUYSEN. I don't know who first used the expression, Mr. Barber, but let me say to begin with that I deplore this Republican-Democratic approach to the question of the way the Federal Government should discharge its responsibilities—to alleviate poverty or anything else.

It is very regrettable to me that we find no Democrats who offered any meaningful criticism of anything in this particular package. The fact that Republicans see it for what it is and that we've been calling it some plain names is not done for partisan political advantage. All the Republicans on the committee, it is true, have their doubts about this program. I would hope that a lot of good, honest Democrats would have their doubts if they would only look at the contents.

So I think we should make this plain. I think it could easily be called a "hoax"; I have not done so, though I don't think it's too strong an expression. Because it is only going to provide about a billion dollars in the next 12 months—if it should be enacted to provide assistance to what the President indicates are going to be 30 or 35 million people. Well, of course, it is going to do no such thing. It isn't going to find substantial numbers of jobs for many people; it isn't going to be doing much for our young people or for the middle aged or for our old ones. And yet it's creating an expectation that this is going to be the new broom to start an all-out war on poverty.

I find that this is a deception on the American people and I think it's being done for political advantage, as I've said. We couldn't possibly accomplish with a billion dollars what the broad objectives of eliminating poverty in this country—in New York City alone in a 12-month period—spend a billion dollars.

So the expectations that are created by this assumption of additional responsibilities by the Federal Government is very great and there isn't any substance which is going to meet those expectations.

QUESTION. Along the lines of the question of * * * as you know, the Republicans and Democrats on the committee have—over the past few years—worked together to quite a surprising degree—coming out with some very sound and progressive programs. On the poverty program there has been this complete split.

Do you feel that the Democratic administration made a specific and deliberate effort to antagonize and split off and isolate the Republicans in an effort to develop an issue for the November campaign?

Mr. FRELINGHUYSEN. It's a good question, I think. I can't really answer it. I don't think that cooperation between Democrats and Republicans on our committee—or any other committee—should come as a surprise. We have consistently tried to make constructive suggestions with a lot of legislation—some of it very controversial. We have tried to do that in this field. I might say that it has distressed me that the Democrats have, in effect, turned their back on us. They have literally excluded us on discussion about changes which they recognize should be made in the President's program. For almost 2 weeks we were excluded from those discussions. They ignored and certainly adopted no suggestions of any significance by the Republicans.

Now it isn't that Republicans don't have as reasonable suggestions to make as Democrats. It's because—to my mind—something has happened to solidify the Democratic position and they have failed consistently to discuss this bill with us—we've had several attempts to bring out on the House floor a discussion of the merits and demerits of this program and the 19 members of that committee have, in effect, boycotted us. The first time we tried it, two members of the committee did show up and made some very casual remarks in response to our criticisms and reservations. The last time only 1 out of the 19 even bothered to show up.

Well, now, this is not the way to get a meaningful evaluation of what is in the bill, and this is what we've been attempting. And apparently they're relying on the magic of the word "poverty" to get something through without Congress taking a look—[one of the interviewers tries to interrupt here]—which offends me as a legislator, not as a Republican, but as a legislator. I think we're not discharging our responsibility.

QUESTION. But do you think it will be an effective campaign issue against Republicans?

Mr. FRELINGHUYSEN. I can't believe it. In the first place, I think that trying to prick the conscience of America for political advantage is a dangerous game. Of course, we recognize that more needs to be done in this field as in others, but when you take a look at what is being proposed and you realize the dangers of this program, it seems to me if anything the Republicans will have the advantage if an attempt should be made to use failure to pass this legislation—or voting against this legislation—if that should be used as an issue.

QUESTION. Well, a moment ago you deplored the Democratic-Republican split, or discussion, of it along those lines. But it has been reported that when the bill was first drafted you supported the bill, but later pressures were brought to bear on you to oppose it. Is there any truth in this report?

Mr. FRELINGHUYSEN. None. It was a completely unreliable, inaccurate report—if we're thinking about the same one. At the opening of the hearings in the middle of March, I said that I thought it was important for all of us on the committee keeping an open mind with respect to these recommendations. I did feel that, and I regret that the Democrats on the committee apparently didn't feel the same way * * * they had a completely closed mind, they had made no major changes in any of the proposals—even though some of them are hotly controversial and are sure to get this bill into trouble if it should be brought up to a vote on the House floor.

I think openmindedness on the part of a legislator is important, but I might say that most of these specific recommendations are retreads of old programs which have not received congressional approval, which indicates that they don't have so very much merit in my book.

QUESTION. Mr. FRELINGHUYSEN, is the crux of the Republican opposition to the Powell-Landrum bill based on (if I may use this term) grounds of States rights * * * that this would place too much authority in the hands of the Federal Government and that the States and local communities are excluded from the operation of the plan?

Mr. FRELINGHUYSEN. Well, we have so many objections to it that I probably won't get a chance to discuss them all. There is no question with respect to this one * * * this question of the degree of control that the new Federal agency would have * * * we are seriously disturbed at the authority that is being requested of this new Director of the Office of Economic Opportunity, the man we call the "Poverty Czar," because he will have so much power. He will have the power, as an example, to go into a community and get an application for Federal assistance from an element of that community * * * it can be a public agency or a private agency—it no longer even has to be a broadly representative agency of that community * * * and he can finance a project which has not and may not be approved by the local governing body. There is no role for the States to play in this process; this is direct Federal intervention.

We think this is a very serious weakness with respect to a program that could have very major significance.

QUESTION. Recalling one of the exchanges you had during the hearings with Sargent Shriver, I recall his answer to that and would repeat it now * * * that we are dealing with people, not with States. Isn't that correct?

Mr. FRELINGHUYSEN. Well, if he said that, I would say it was a very naive way to talk, because if we are going to have one individual, namely, Mr. Shriver, responsible for the decisions that will affect the lives of tens of thousands of communities, we're dealing with an individual who has too much authority. It seems to me that our system of government—the Federal aid programs that we have provided—have used the States and communities because we recognize they know more about their own problems than a bureaucrat sitting in Washington knows, and he obviously is anxious to avoid the redtape and the delay of utilizing the machinery of States and communities may represent.

This strikes me as a very unwise—in fact, very naive—approach to a problem of this magnitude * * * to say nothing of very probable undercutting of Federal programs already on the books aimed at poverty which involve the expenditure of $9 or $10 billion every year. So you're talking about something of very real significance.

QUESTION. Mr. Congressman, at that point * * * several days ago before the House you talked about that most of the program was just a retread of existing programs.

Mr. FRELINGHUYSEN. Well, existing or proposed programs.

QUESTION. I was going to say * * * isn't the Job Corps and the new community action program * * * are two new * * * I mean, they have been proposed before, of course, but this will be the first time they have been tried on a fairly large-scale basis, isn't it?

Mr. FRELINGHUYSEN. Well, the Job Corps is new in the sense that we haven't approved it yet. It's not new in the sense that States haven't been trying it. The Governor of Indiana came in and said they have a program * * * there is a program in the State of California. What that would do to those State programs is anybody's guess * * * if you set up a Federal program, does that undercut the State efforts? It's new in the sense that it's much bigger than the program that had previously been authorized. It's not new in the sense that it wasn't tried in the Civilian Conservation Corps days of the 1930's.

QUESTION. Of course, this is going to be considerably different from the Civilian Conservation Corps——

Mr. FRELINGHUYSEN. It's going to be a lot more expensive, I might say. If we're trying to provide economic opportunities for young people, is it necessary that we enroll them for 2 years in a Job Corps—without specifying how they're to be selected, who is to teach them, what they're to be taught, how discipline is going to be maintained, and what they're going to be equipped to do when they get out after 2 years—and to do it at a cost of $4,700? This to me is an indication of why we're worried.

It may be on an experimental basis that we can justify it, Federal financing of residential centers for disadvantaged young people. But we have that legislation on the book already—the Vocational Education Act we passed last year provides an opportunity for the Federal Government to lift people out of slums, just as an example, and put them in special schools to learn a trade. Well, what will that program not prove that the Job Corps will? And yet if we establish Federal responsibility for setting up Job Corps all over the country—at $4,700—we've assumed a very large responsibility for apparently educating these people.

We're talking about education—perhaps hundreds of millions—Congressman Landrum suggests that maybe there'll be over a million young people in this Job Corps that prove to be a success, whatever that is. Well, if we're doing it because they have not received an adequate education, they can't read or write, they've been rejected by the draft or whatever the reason is, it would seem to me we might better take a look at the educational system of this country instead of adopting a very broad program of Federal aid to education in effect without even knowing, or attempting to find what is to be accomplished.

Question. The idea of the Job Corps is to take these kids out of the environment that they live in, the total slum environment, whether it's urban or rural, and give him training at the same time which the training centers in the slums might not be able to achieve.

Mr. Frelinghuysen. The training centers that I was referring to, the vocational training education centers, would not be in the slums—they can be outside. We suggested that the District of Columbia would make a prime area for us to try this out because there is a very real Federal responsibility.

Question. Along that line, Mr. Frelinghuysen, I'm armed with some statistics from the Health and Welfare Council of the National Capital Area, and according to this, the way I read it, one provision of this bill does the very thing that you would propose—giving some local responsibility. According to this information, it says: "Title II provides for the local community to develop its own action program." They're referring to one of the youth programs. "Programs which can be developed include employment, job training and counseling, health, housing, home management and welfare, special remedial and other noncurricular educational assistance for the benefit of low-income individuals and families." Doesn't that title in the bill meet objections that you raised?

Mr. Frelinghuysen. No, it very definitely does not. It means that a community, such as the District of Columbia, could take responsibility for developing a program and asking for Federal finance. But it could also mean that a segment of that community could ask for financing whether or not the District government—the coordinated effort that was developed felt this was a good idea or not. So, in effect, if the Federal Government should decide not to support the community approach but to decide to accept one private agency's suggestions, they could undercut what the community might be trying to adopt.

As an example of what I mean, we've already seen direct discussions between the chairman of the New York Board of Education and Mr. Shriver with respect to a hundred-million-dollar program to integrate New York City's public school system. Well, suppose that the mayor of the city of New York did not approve of this particular approach, or he felt he should have some veto power over a Federal program to accomplish this. Under this bill the mayor of the city of New York has no authority to control this—except he, too, could appeal to Shriver and say, "Don't you understand, this will upset my program?" The potential is there for real mischief on the part of the new agency.

Our feeling is that if we should spend more money on poverty, we should do it through existing agencies in approved ways. Again, maybe we don't provide enough assistance to the District of Columbia, maybe the Department of Health, Education, and Welfare doesn't provide it in ways in which the District would like, but there again, the question should be: Do we expand existing programs, do we utilize existing agencies—not set up a new one with a blank check to spend it as they see fit?

Question. Of course, in the District there are some people who feel the District government doesn't want to do anything—and this becomes a problem. We don't have the vote, of course.

Mr. Frelinghuysen. Well, again, this makes it difficult. If you don't have the vote, you may not have as much of an influence on the result. I happen to feel that Congress should exercise more responsibility than it does toward the District's problems because of the nature of the Federal City.

But the fact that there may be some sitting on the hands of a community or a State, an unwillingness to do what is within their capacity, does not seem to me to justify the bypassing by a Federal agency of that community or that State. In one way or another we should involve them in the process of solving their own citizens' problems.

Question. That's a very profound question. That's really the heart of it, isn't it?

Mr. Frelinghuysen. Well, there are so many hearts and, unfortunately, we've had no meaningful discussion between reasonable men and women in committee—and I doubt we do on the floor. What the administration is apparently saying is: You buy this program, it's on my "must" list and we will not discuss the contents.

So far, all we've had in 2 months of hearings is, in effect, a string of witnesses come in and say poverty is a bad thing.

Of course, poverty is, but we need to look specifically at what is being proposed. Do we want a program—and we had a witness in here who said this program would provide these funds—do we want a program that would provide Federal assistance to individual citizens so that they would have adequate, up-to-date plumbing? We had a witness from Arkansas who says a great many older citizens of Arkansas have to use outdoor privies * * * as they become infirm they have to go to nursing homes if they can't have facilities inside, the community-action program would provide such facilities.

Now this is the kind of intervention that seems to me very unwise.

Question. Congressman, in your own district, the median income is somewhat over $7,000, whereas in Mr. Landrum's district, of nearly half his constituents are less than $3,000 a year. Is it possible that Mr. Landrum has a more personal contact with poverty than you have?

Mr. Frelinghuysen. I have no idea what Mr. Landrum's contacts with poverty are. I can assure you that my attitude toward this bill is not shaped by whether or not I have many poor people in my district. It's shaped by my concern as a legislator in the Federal Government with the nature of the existing Federal efforts (and they're very considerable) and the advisability of adding a new layer of authority to an already complex picture. It has nothing to do with whether or not I've lived in a log cabin or been exposed to a miner's life at all. I sympathize with the poor * * * I feel as a representative of a wealthy State that we may have a responsibility toward those who are less fortunate. That does not mean that we should waste the taxpayers' money or to spend it unwisely or to give undue authority to an individual without delineating how the money should be spent. We have a responsibility to the taxpayers' money—as well as to those who may or may not benefit by the distribution of this money.

Question. There has been some talk of objections to the bill because it would help Negroes more than it would help whites in the country. Do you see this as a serious objection?

Mr. Frelinghuysen. I know of no one who has objected to that on those grounds. I would think that if the Negro is in need, he probably—that racial group—should stand to benefit substantially from it. I would certainly think it would be a very untenable way to argue against this bill and I don't happen to think that anybody has done so.

Question. The Republican policy committee this week came out unanimously, I believe, against the poverty program as reported out * * * the question that puzzles the reporters up in the gallery is how many of the Pennsylvania, urban, Republicans—the Republicans in districts that are not getting along so well—how many of those do you think you're going to lose when you come to the vote?

Mr. Frelinghuysen. Well, as I say, I will reiterate: I do not think we should be looking at this from the party line point of view. I think it's outrageous that we should be asked to be loyal to something that we feel is bad because our party feels this way, and I think it would be equally outrageous to oppose a program because the party position is in opposition to it. If there is merit in this bill, it should be approved by individuals. What I deplore is the fact that so many Democrats seem to be pressured into taking a position in favor of this bill. I have no idea how Republicans will go on this. I hope we'll look at it on the merit side * * * that's all we've been agitating for. We think there are very serious weaknesses and dangers to what we've got and our own Federal-State relationships if this should be passed.

Question. Dependable as the partnership may be, Mr. Frelinghuysen, isn't it a fact that this has become, and is now, a partisan issue, a political issue, the very vote from the committee—19 to 12, I believe—was strictly along party lines.

Mr. Frelinghuysen. Well, President Johnson himself, of course, has led the pack unfortunately. He showed a very partisan attitude toward this, in my opinion. He excoriated me before some Democratic women here in Washington not so long ago for my blind opposition to his bill, and in effect, as I understand it, hoped that I would meet oblivion at the polls next November.

My opposition, I assure you, was not blind * * * my opposition is not because I am a Republican. But if the President of the United States feels this way, of course, his own followers are not likely to challenge him and tell him you're talking through your hat.

Mr. Barber. Mr. Frelinghuysen, I'm sorry now that's all the time we have. Thanks to today's guest: Republican Representative Peter H. B. Frelinghuysen, of New Jersey.

Gen. David Sarnoff Honored With Yeshiva University's Distinguished Science Award

EXTENSION OF REMARKS

OF

HON. ABRAHAM J. MULTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1964

Mr. MULTER. Mr. Speaker, on May 24, 1964, I was privileged to attend and participate in a dinner at the Hotel Waldorf-Astoria in New York honoring the chairman of the board of the Radio Corp. of America, Gen. David Sarnoff. On that evening Yeshiva University presented General Sarnoff with its Distinguished Science Award for his service to the scientific community and to all of his fellow citizens.

I commend to the attention of our colleagues the tributes paid to General Sarnoff on that occasion by President Lyndon B. Johnson and by the chairman of the board of trustees of Yeshiva University. These are followed by General Sarnoff's able and illuminating remarks. Those assembled were also honored with the presence of Astronaut Scott Carpenter—a living symbol of the triumph of science in space.

The remarks of President Johnson, Yeshiva's Board Chairman Max J. Etra, and General Sarnoff follow:

REMARKS BY MAX J. ETRA, CHAIRMAN, BOARD OF TRUSTEES, YESHIVA UNIVERSITY

In the first year of this century a young boy arrived at these shores. He was one of millions of all nationalities and religions—who came to this country because it held forth the promise of freedom, new life, new opportunity. The most ardent enthusiast could not have predicted the enormous impact this boy has made on the life of his country.

If I were to sum up Gen. David Sarnoff's career in one word, I would say that that word is service. His gifts of imagination, his genius in predicting the future of science and technology—and in making the dream of tomorrow the reality of today, his humanitarian concerns—all have at their root a desire to serve mankind.

Yeshiva University, too, in its long history, has been motivated by the desire to serve the community as a vital force in education. More than three-quarters of a century ago, what has become Yeshiva University today came into being on New York's lower East Side.

During the last two decades, this university—inspired by the unprecedented role that higher education has come to play in national well-being—has experienced a meaningful expansion that has rarely been paralleled in education—so at present we number 17 schools in our university. During these years, Yeshiva University has at all times responded to urgent national needs. It was to meet the tremendous shortage of skilled teachers and administrators that the university established its graduate school of education. To meet a need in the unprecedented demand for social work personnel to work with our youth, our aged, and our indigent—the university founded its school of social work.

In response to a serious national challenge our Albert Einstein College of Medicine for the training of doctors and for the advancement of medical research came into being.

Most individuals in this country would agree that our greatest need today is to strengthen our Nation's scientific resources. Most people will recognize the vast implications that scientific strength has for every sector of American life. Our strength and future as the leader of the free world depends on it. The progress of American industry—and the progress of every American business—depends on it. The well-being and health of every citizen depend on it.

Yeshiva University's first important contribution to science was in establishing its Belfer Graduate School of Science 5 years ago. This school has now reached the stage where to realize the tremendous potential for distinctive service it is moving forward with a $15 million program to build the Nation's newest science center. So how proper it is that one whose career can be summed up as service to his country, to all people and all the world should be honored this evening by Yeshiva University, an institution also dedicated to the service of all mankind.

INTRODUCTION OF CONGRESSMAN ABRAHAM J. MULTER

I am happy to call on a distinguished member of our Federal Government and a long-time friend of Yeshiva University—one who has shared a great deal in making possible the university's development.

He has been a Member of the U.S. House of Representatives for almost two decades. He serves on a number of important legislative committees and plays an active role in the affairs of the Congress. I venture to say there are few men, in Government or in business, who devote as much energy and time on behalf of their fellowmen.

I am proud to present our honorary alumnus, Congressman ABRAHAM J. MULTER.

REMARKS OF REPRESENTATIVE ABRAHAM J. MULTER

Mr. Toastmaster, Dr. Belkin, Commander Carpenter, distinguished guests on and off the dais, my task tonight is brief but most pleasant. I am sure you will agree with me that the honor roll of alumni of Yeshiva University includes many great men and women, but none more illustrious than the one I will give you tonight. When I told him what Yeshiva University intended to do here tonight, and invited him to participate and share this evening with us, his ready response was, "How can I say no to a fellow alumnus?"

Ladies and gentlemen, it is my great pleasure, my distinct privilege, my high honor, to present to you, on the screen to my right, the President of the United States.

STATEMENT BY PRESIDENT LYNDON B. JOHNSON, FILMED FOR PRESENTATION AT THE YESHIVA UNIVERSITY DISTINGUISHED SCIENCE AWARD DINNER, WALDORF-ASTORIA HOTEL, NEW YORK CITY, MAY 24, 1964

I'm delighted to be able in this way to join you in the tribute to my friend General Sarnoff.

It has been said that the greatest use of a lifetime is to spend it for something that outlasts it. By that standard, General Sarnoff has already more than earned the award that you present to him tonight. Few people have contributed more to our beloved America. He is responsible for major expansions on the horizons of knowledge. He has brought the benefits of science and technology to all the people. He has devoted himself with a singleness of purpose to the advancement of scientific thought and the advancement of scientific talent to national problems.

No one better illustrates the genius of America. His life, from immigrant boy to industrial statesman, is an inspiring record. The establishment of a new science center for Yeshiva University is a fitting occasion for the presentation of the Distinguished Science Award to General Sarnoff.

George Washington once wrote, "if I have a wish ungratified, it is that the arts and sciences may continue to flourish with increasing luster." That same wish seems to be the basis for this project. We need more scientists. We must have more science teachers. Our very future depends upon more scientific research. The graduate school of science, which the new science center will house, therefore is directly responsible to the wish of the first President—and to the wishes of your current President.

I understand that Scott Carpenter is with you this evening. On this, the second anniversary of Scott's flight, it is particularly appropriate, I think, that General Sarnoff be honored for refusing to be bound by existing frontiers of science, that a new science center be established to enlarge our scientific resources, and that we be rededicated to the principles of courage in scientific inquiry represented by Scott Carpenter's flight 2 years ago and General Sarnoff's record of a lifetime.

As a holder of a degree from Yeshiva, it gives me great pride and satisfaction to participate in this tribute to my old and dear friend, David Sarnoff.

ADDRESS BY DAVID SARNOFF, CHAIRMAN OF THE BOARD, RADIO CORPORATION OF AMERICA, AT THE PRESENTATION OF YESHIVA UNIVERSITY'S DISTINGUISHED SCIENCE AWARD, NEW YORK CITY, MAY 24, 1964

Mr. Chairman, Mr. President, Commander Carpenter, members of my "Mishpucha," and friends, the warm and generous tribute from the President of the United States and the chairman and president of Yeshiva have moved me deeply. It is difficult for me to find words that could adequately express my feelings at this moment. I am very happy to share this evening's platform with the distinguished man who has brought glory to our Nation and to himself, Commander Carpenter.

I am both proud and grateful to be the first person to receive the Yeshiva University's Distinguished Science Award. In less than a decade, the Belfer Graduate School of Science has won a reputation for accomplishment that institutions far richer in years and resources may well envy. It's contributions to scientific progress have been original, daring, and far reaching.

It was particularly gratifying to note the references, in your generous citation, to my efforts to achieve a marriage between science and industry. Now that they live so happily together, it is easy to forget that this was not a case of love at first sight. Actually, both parties resisted matrimony. In the beginning they were suspicious of the match, and their courtship progressed only under the pressure of events and interested individuals.

From mutual distrust it advanced slowly to mutual tolerance, and finally to mutual respect. If the number of offspring and the rate of production are any measure, then the marriage's consummation has been a conspicuous success.

Today there is hardly a major industrial company in the United States which does not acknowledge, directly or indirectly, its massive debt to science and technology. In this generation, the combined efforts of industry and science have unlocked some of the secrets of the universe on a scale that dwarfs all past history. The very composition of tonight's assembly—its blending of scientists and industrial executives, with educators interested in both fields—testifies to the continued vitality of the relationship.

To describe the interplay between science and industry in the human terms of a marriage is logical, for it is people that dominate the equation. Progress in any area, in the final analysis, is a gage of human creativity. Indeed, the great challenge of our time is to stimulate and hasten the expression of latent creativity that is within us, and particularly within our youth. And this, I believe, is primarily the obligation and the opportunity of the teaching profession.

It concerns me, therefore, to find that there is at the university level a growing separation of many of our finest professors from the function of teaching. More and more, the task of educating new college generations, especially in the sciences, is being left to less experienced hands, including graduate students. More and more, the status of a professor in these areas tends to be measured not by how much but how little time he spends in the classroom.

A recent survey by the Brookings Institution of over 3,000 college and university faculty members of every rank showed that half of the university scientists do not even know the names of the seniors majoring in their department. This growing alienation between teacher and student seems to me to present a situation that needs correction.

If there is justified concern over the instruction of young people at the college level, what shall we say about their progress through the elementary and secondary school grades? The truth is that in this first decade of the space age, we have yet to apply the full effort needs to upgrade our education in the critical formative years when career decisions are usually made.

We should also be concerned with the vital matter of compensation to the teacher.

Too few teachers are adequately paid. For example, the salary of public school teachers ranks 15th among average earnings for 18 professions. It is nearly 13 percent below the average salary level for Federal civilian employees. And nearly two-thirds of all male teachers, to maintain their families, must take on **extra jobs.**

But while there are teaching problems at all learning levels there also are solutions. One of them is suggested by Yeshiva itself.

The Belfer Graduate School of Science has numbered among its faculty Dr. Atle Selberg and Dr. Jesse Douglas, winners of the highest international awards in mathematics. Paul Dirac, of Cambridge University, a Nobel Prize winner, will be here this coming school year. Prof. Peter Bergmann, world-renowned authority on relativity and one of Einstein's closest associates is here now. So, too, is Dr. Leon Landovitz, the man who computed the weight of the island universe through which our solar system travels—the Milky Way.

In many comparable institutions such men would be as aloof from the routines of undergraduate instruction as a Wagnerian tenor would be from the lowliest spear carrier. Their talents would be considered far too valuable for the humble rewards of the classroom.

At Yeshiva, these men have every opportunity for creative study that the school can offer. But these distinguished scientists and mathematicians also will be found instructing undergraduates, including first year students. Their contact with young people still in the process of determining their careers has had a striking impact upon the level of teaching and student response.

Another solution to the problem is the planned use of scientists from industry to enrich student experience at the junior and senior high school levels. I have long been convinced that industry has as great an obligation as any segment of the Nation to promote the education of our youth. Forty-two percent of all American scientists are in its laboratories. Self-interest alone demands that the supply of talent be enriched and replenished.

My conviction on this score is reinforced by the experience of my own boyhood. The greatest inspiration to my career in radio and electronics came from contact with men of genius—particularly with one whom I idolized when I was a boy of 16. That man was Guglielmo Marconi, whom I first met when I was the office boy in New York at the Marconi Wireless Telegraph Co. It was also my good fortune to know such men as the brilliant electrophysicist, Michael Pupin of Columbia University, and the truly great Albert Einstein. These contacts and friendships stimulated and inspired my own efforts.

In any case, I have long felt that if scientists from industry could contribute part of their time and talents to schools in their community, they could help kindle in this generation of youth that sense of excitement in the pursuit of science which men like Marconi, Pupin, and Einstein kindled in my own mind.

In the fall of 1962, such a program was launched by the New York City Board of Education and the Radio Corp. of America on a pilot basis. The results have been encouraging. Of the participating students, 89 percent indicated that they wanted more class sessions given by working scientists, and 87 percent said that these sessions would influence them toward careers in science.

This year the industry-science teaching program which we initiated has been expanded with the participation of scientists from eight other companies in the New York area. I am hopeful that it will spread to other companies and to other communities across the Nation. There are more than 1,350,000 physical scientists and engineers in the United States. If only 5 percent of them would devote a fraction of each year to education, our high school students would have direct access to nearly 70,000 of the finest technical brains available anywhere.

Some 2,300 years ago, Diogenes observed that the foundation of every state is the education of its youth. It seems to me that there can be no more important matter of concern to our society than the strengthening of that foundation. And this suggests still another avenue through which the quality and prestige of teaching can be upgraded.

Within the past decade and a half, the Government has become one of the most influential forces on the university campus through its support of scientific research. As a result, it has helped decisively to shape the nature and direction of much of our higher educational effort.

A number of approaches have been suggested for strengthening Government support to education. One is that Federal funds should be balanced more evenly between research and teaching. Another is that grants and fellowships should unite the tasks of instruction and research. However, there is one action, requiring neither allocation of funds nor reorientation of Federal programs, that would have a dramatic and salutary effect upon the quality of our teaching. I refer simply to the official recognition, at the highest level, of the vital role that our most dedicated teachers play in the national advancement of quality in teaching.

From the beginning of the Republic, our Government has paid full homage to its leaders and heroes, in peace and in war. In recent years it has recognized the services of oustanding civil servants, and awarded high honors to the Nation's great men of science. I suggest that it is time now to honor the quieter victories of the classroom, and to call attention to those men and women who, year in and year out, add new sinew to the Nation's brainpower.

Last month, President Johnson announced the appointment of a special Commission to select a total of 121 presidential scholars—the most gifted boys and girls from this year's graduating class of secondary schools—two from each State, from Puerto Rico, from the District of Columbia, from American territories, and up to 15 at large. The President rightly referred to these young people as the most precious resource of the United States. They will be invited in June to the White House as guests of the Nation and presented with a medallion.

I venture to suggest that a parallel program might be created to place the mantle of White House prestige around the Nation's outstanding elementary and secondary schoolteachers. Through the cooperation of such organizations as the National Education Association and the Congress of Parents and Teachers, names of the best qualified members of the teaching profession in every section of the country could be assembled and submitted to the President's Special Commission for final approval.

Possibly both students and teachers might be presented together at the White House to meet the President. The title of "Presidential Teacher" might be conferred upon the instructors. Each would be entitled to wear an emblem, perhaps a rosette, signifying that he is a member of an academic "legion of honor." I am convinced that this would do much to elevate the prestige and the level of both the teacher and teaching in the public mind.

This is one example among many that can be found if we earnestly set about to achieve the solutions. But however we choose to do it, there is no doubt in my mind that there must be a concerted effort to raise the status of teaching to the honored position it should occupy in the Nation. It is evident that new talent must be cultivated to meet the pressing needs of new technology. It is equally evident that we cannot continue our progress in one without providing for progress in the other.

It was Henry Adams who wrote that a teacher affects eternity for he can never tell where his influence stops. To this thought I would add that the purpose of education is not merely to put inspiration into youth but also to draw it out, for in many instances the inspiration is already there, lying fallow, awaiting the touch of an inspired teacher to put forth shoots.

We are greatly in need of the inspiration that can be provided by the greatest human resource—our youth.

President Johnson has told us tonight: "We need more scientists. We must have more science teachers. Our very future," he said, "depends upon more scientific research."

As we look ahead to the remaining years of the present century, we may reasonably except that science and technology will advance more in the next 36 years than in all the millenia since man's creation. By the century's end, man will have achieved a growing ascendancy over his physical being, his earth, and his planetary surroundings.

The primary reason is man's increasing mastery of the electron and the atom from which it springs. Through this knowledge he is capable of transforming everything within his reach, from the infinitesimally small to the infinitely large. He is removing the fetters that for more than a million years have chained him to the earth, limiting his hegemony over nature, and left him prey to biological infirmities.

By the year 2000, I believe our descendants will have the technological capacity to make obsolete starvation, to lengthen appreciably the Biblical lifespan, and to change hereditary traits. They will have a limitless abundance of energy sources and raw materials. They will bring the moon and other parts of the solar system within the human domain. They will endow machines with the capacity to expand the power of the human brain.

If our wisdom can be stimulated to grow with the growth of knowledge we shall gain from the progress of science, we may look forward to the future with hope that is justified. The wise use of the products of science and technology for the benefit of all mankind, could provide the best guarantee for the peace of the world.

To translate these possibilities into realities, we must educate and train our young men and women and inspire them to equip themselves for the new opportunities in a changing world.

In the utilization of its human resources for teaching as well as research, Yeshiva and its Belfer Graduate School have demonstrated their pioneering excellence both in the education of youth and the advancement of science. They have created a grand design for higher learning that recognizes the fact that a machine cannot supplant the human brain and that science is no substitute for the human spirit and its social conscience.

And in so doing, they have helped to release the potentialities in our young so that progress can continue its march for the benefit of all society.

Hearing Before a Select Panel on Mississippi and Civil Rights

EXTENSION OF REMARKS
OF

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1964

Mr. BURTON of California. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following testimony given before a select panel on Mississippi and civil rights, National Theatre, E Street and Pennsylvania Avenue NW., Washington, D.C., June 8, 1964:

HEARING BEFORE A SELECT PANEL ON MISSISSIPPI AND CIVIL RIGHTS, SECTION 4 OF TESTIMONY, CONGRESSMAN: THE HONORABLE PHILLIP BURTON, OF CALIFORNIA

TESTIMONY OF MARVIN WILSON (HAVING BEEN FIRST DULY SWORN BY MR. FREEDMAN)

Mr. FREEDMAN. Would you state your name and address, please?

Mr. WILSON. My name is Marvin L. Wilson, resident of Jackson, Miss.

Mr. FREEDMAN. How long have you lived in Jackson?

Mr. WILSON. Fourteen years.

Mr. FREEDMAN. How old are you?

Mr. WILSON. Fourteen.

Mr. FREEDMAN. And what have you come here to tell us about?

Mr. WILSON. Well, during the summer when we were demonstrating, it was on June 2, we were starting from the NAACP office. We was going to the courthouse. But before we got there they picked us up. When we was going down the street we saw about 50 blue helmets coming toward us. And the man said to take a detour. So we turned. After we turned that way, we started down the street and they blocked us off again. So he said keep going. So we kept going. But finally stopped. When they stopped us, they took their clubs and just hold them like that, and they were pushing us to the paddy wagon. And so as they were pushing me, they had the club in my back. And I was stumbling my way up there, and I fell. And when I fell one kicked me and grabbed me in the back and said "Get up, nigger." And after I had got to the paddy wagon, you see the mark here, I fell again, he kicked me again. And then he caught my leg and he pushed it, and it hit the side of the paddy wagon, and I cut my head.

When he got to the corner, he slammed on his brakes and I bumped my head.

After he got there, he turned the heat on in the paddy wagon—man, we thought we were going to fry.

But this juvenile court man by the name of Calhoun, he said "Bring the little ones out." We came out. So the boy you just talked to, he went first. He said, "Come here, boy." He walked there. "What's your name?" He said, "What?" And then the cop asked him what he said. He wanted him to say "Yes, sir." He wouldn't. So he grabbed him. So I figured out if my friend did it, why couldn't I. So I went up there and he asked me my name. I told him. He didn't ask me no questions. So I didn't get a chance to say anything.

But when we came out for lunch, I wouldn't eat the food. I threw my tray down. Some peas fell down. He came over and said, "You're smart, aren't you? Pick up all the peas." So I grabbed a handful of peas and everything and threw them there. He said "You come see me." So I went in. He said, "Now just sit down, I want to talk to you. I don't want to hurt you." So he tried to make me "Tom."

Mr. FREEDMAN. You say he tried to make you "Tom"?

Mr. WILSON. That's right.

Mr. FREEDMAN. T-o-m?

Mr. WILSON. Yes.

Mr. FREEDMAN. What does that mean?

Mr. WILSON. That means to tell what the people are planning for the next day. And so anyway, I wouldn't tell him. He said "What are they doing in the NAACP office?" I said, "The same thing you are—sitting behind a desk, talking."

And so he got up. He said, "Does your mother know you are here?" I said, "Of course." "Boy, ain't you lying to me?" I said, "No, I don't have to lie to you." So at that time he said, "You are too smart a nigger, you know that? If you were a little bigger I'd kill you."

So at the time he hit me two times with a backhand and a forehand.

Mr. FREEDMAN. And did anything else happen before you were turned loose?

Mr. WILSON. Nothing but they were just pushing and grabbing and shoving me.

Mr. FREEDMAN. Mr. Chairman.

Chairman TAYLOR. Are there any questions?

Mr. SYKES. Could you tell me how you got started in these demonstrations? How old were you?

Mr. WILSON. It was down on Capitol Street. I was just down there looking.

Mr. SYKES. I don't mean this particular instance.

Mr. WILSON. Yes, I know what you mean. This is how I got in it.

We were standing up there. I was just standing there watching them. So the police came over there. And they said, "All right, all you niggers move along." So when I stumbled he hit me with a club. I said umph. He said "Umph hell—you got to move."

Mr. SYKES. How old were you when you first got in?

Mr. WILSON. I was 13.

Mr. SYKES. Is this last year?

Mr. WILSON. That's right.

Mr. SYKES. The first time that you have ever done it?

Mr. WILSON. That's right.

Mr. FREEDMAN. On this occasion when you were hit in the stomach with a stick, were you participating then in any kind of movement?

Mr. WILSON. No. But that is what made me get into it. I was just watching. After I had got hit, I went to the NAACP.

Mr. FREEDMAN. It was a kind of backlash.

Mr. WILSON. That's right.

Mr. HELLER. Marvin, were you scared when you were in the police station?

Mr. WILSON. No.

Mr. HELLER. Were you scared when you were talking to him?

Mr. WILSON. That is something else.

Mr. HELLER. When you go back to Mississippi, are you going to be demonstrating, be active?

Mr. WILSON. Well, that is what I am going to do in Mississippi.

Mr. HELLER. Are you going to be scared when you go back?

Mr. WILSON. No, no.

Mr. HELLER. I will be scared for you.

Chairman TAYLOR. Do you work with older people in the community, or are you just working with the 14-year-old group?

Mr. WILSON. Well, at the time I was working with the older people, helping them get to the courthouse, helping them learn how to vote. At the time we have the students, I will be helping with the students.

Mr. COLES. I will ask you the same question I asked your schoolmate this morning. Do you think that many people of your age are doing the kinds of things you are doing?

Mr. WILSON. Well, it is not really—most of them, they are not scared. They just don't take time off to see what is going on. But some—after they are really doing something, like demonstrating, we have more kids. But at the time it is just older people. All the young can do is help them into the courthouse and all.

Mr. COLES. How do you account for your strength and guts?

Mr. WILSON. Huh?

Mr. COLES. Where do you get your—well, what I am saying is that I am concerned—I just wish more young people of your age had what you have.

Mr. WILSON. I do, too.

Chairman TAYLOR. Thank you very much, Marvin.

Mr. FREEDMAN. Jimmy Travis.

TESTIMONY OF JAMES TRAVIS (HAVING BEEN FIRST DULY SWORN BY MR. FREEDMAN)

Mr. FREEDMAN. Would you please state your name and your residence and your occupation?

Mr. TRAVIS. My name is James Travis. I live at 2147 Powers Avenue, Jackson, Miss.

Mr. FREEDMAN. How long have you lived in Jackson, Miss.?

Mr. TRAVIS. I have lived in Jackson, Miss., 21 years. All of my life.

Mr. FREEDMAN. And what do you do now?

Mr. TRAVIS. Well, I have worked for the Student Non-Violent Coordinating Committee as a field secretary.

Mr. FREEDMAN. How long have you been in that work?

Mr. TRAVIS. Well, I began in the summer of 1961, working on voter registration.

Mr. FREEDMAN. Why did you go into that kind of work?

Mr. TRAVIS. Well, it was during the time of the freedom ride, and I said if people from America, people from all over are willing to come to Mississippi to do something to help the people in Mississippi, the least we can do is get up and do something for ourselves.

Mr. FREEDMAN. Does that mean that you did not care to do anything about the situation before people came down from the North?

Mr. TRAVIS. Well, the leadership was not what it is now.

Mr. FREEDMAN. Were the people waiting for this kind of leadership, or did the leadership create the resentment among the people that they had never felt before?

Mr. TRAVIS. Well, leadership has come from within, through the help of people from outside.

Mr. FREEDMAN. Did you have any specific incident that you wanted to tell the panel about?

Mr. TRAVIS. Yes, I do.

February 28, 1963, I attended a voter registration meeting in Greenwood, Miss., along with Robert Moses and Randolph Blackwell. After the meeting was over, we left the SNCC office en route to Greenville, Miss. A white Buick 1962 began following us. There were three white men in it.

About 7 miles from Greenwood, Miss., when no other cars were in sight, this white 1962 Buick pulled up alongside and opened fire with a submachingegun. I was hit in the back of the head and in the shoulder.

I was taken to the campus of Mississippi Vocational College, which was the closest point from where the shooting took place. There was no doctor on the campus. So a doctor was called from Greenwood, Miss., and he came in and took one look and said that they should rush me to the hospital in Greenwood. So they took me to the hospital in Greenwood.

The doctor took some X-rays and he wanted to remove the bullet. But I did not want him to remove the bullet, because I was afraid. So I remained in the hospital overnight, and the following day I was transferred to a hospital in Jackson, Miss., a university hospital. The bullet was removed that afternoon, without any anesthesia, because they said they were afraid that they might hit a nerve, and I would not be able to react if they did.

So I stayed in the hospital 2 days after they took the bullet out and on the second day, which was a Sunday, the doctor came in after breakfast and said: "You are discharged. You can leave now." So I told him I did not feel up to it. So he left. He came back after lunch and he said: "You are discharged. You can leave."

Again I told him I did not feel up to it.

So he came in after supper, and he said, "You are discharged, and you got to leave." So I left.

That's about it.

Mr. Freedman. Do you have any idea who the people were who shot at you?

Mr. Travis. The people who did the shooting were arrested a few days after the shooting—well, they were arrested, and they were released on bond. And in November the trial was to come up, but after the death of President Kennedy they postponed it. They said that the people would have resentment because of the assassination of President Kennedy. And nothing more has come of it.

Mr. Freedman. Is there anything else that you have to tell us?

Mr. Travis. I now have an ulcer from working in the movement.

Chairman Taylor. May I ask about the police action to find the people in the white Buick? You reported the incident to the police from the hospital, or did Bob report when he took you or what?

Mr. Travis. Bob reported the incident. Then later, while in the hospital in Jackson, I talked with the FBI. I gave him a description of the car. They found the car, and they traced the owners of the car. And they were arrested.

Chairman Taylor. Was that the local police in Jackson, or was that the FBI who took over the case?

Mr. Travis. The FBI was instrumental in getting the local officials to do something. But only after quite a bit of pressure.

Mr. Freedman. What do you mean by pressure?

Mr. Travis. Well, Wiley Branton, who is the director of voter education project, called upon the Federal Government for intervention in this case, because the shooting took place on a U.S. highway, Highway 82, and for that reason I believe the FBI moved and thereby causing the local officials to move.

Chairman Taylor. Would it not be possible for the FBI to have acted as promptly were it not on a State highway, or rather on Highway 82?

Mr. Travis. Well, I don't think that they would have acted as fast otherwise.

Chairman Taylor. Mr. Sykes.

Mr. Sykes. In seeking legal help, or police help in matters of this sort are there any Negro judges, any Negro lawyers, any Negro policemen, any Negro FBI agents in Mississippi that you can turn to?

Mr. Travis. There are no Negro FBI agents in Mississippi. There are no Negro judges in Mississippi. They have a few Negro policemen in Jackson now. But other than that, not that I know of.

Mr. Sykes. Could I ask you a second question? Are there any white FBI agents, any white judges or any white lawyers or any white policemen that you think would help you in Mississippi?

Mr. Travis. Well, there is the possibility that they would help if they were not afraid of what the white community would say.

Mr. Sykes. Could you suggest anything, then, that might help in this situation, and which you could have made available to you—legal and police aid through some kind of a Federal agency or in some other form?

Mr. Travis. Well, with the appointment of Federal judges and this summer Federal marshals from Mississippi—because this is going to be it in Mississippi.

Mr. Sykes. Thank you.

Mr. Coles. Where did the bullet go?

Mr. Travis. It went into the back of the head.

Mr. Coles. Where you are pointing now?

Mr. Travis. Yes.

Mr. Coles. And you went to a local hospital in what town?

Mr. Travis. Greenwood.

Mr. Coles. Was this the city hospital, and county hospital?

Mr. Travis. County.

Mr. Coles. And why didn't you want to have it removed there?

Mr. Travis. I was afraid that they might not do the best they could.

Mr. Coles. You felt that they were not friendly to you, even though they were doctors in a hospital?

Mr. Travis. True.

Mr. Coles. Did they do anything or say anything that gave you that feeling, or was it based on your past experience?

Mr. Travis. Well, seeing that I had worked with civil rights, I did not think they would take too kindly to it.

Mr. Coles. Now, when you went into Jackson, what hospital did you go to?

Mr. Travis. The university medical center.

Mr. Coles. This is a State medical school center?

Mr. Travis. Yes.

Mr. Coles. And a surgeon operated on you. And what is it he said to you—that he would not give you anesthesia because he was afraid of damaging a nerve?

Mr. Travis. Yes. He said that if I were given anesthesia, then I would not be able to react if he hit a nerve. Evidently a nerve was hit, because for over 6 months I had no feeling after the operation behind my ear at all.

Mr. Coles. Do you know the name of the surgeon? Did he ever make his name known to you?

Mr. Travis. No, I do not.

Mr. Coles. He never introduced himself to you?

Mr. Travis. I met him again, but I was in a hurry.

Mr. Freedman. I would like the record to show that when the witness said "right here" he indicated a point behind his left ear and near the base of his skull.

Mr. Day. Do you know what the bail bond was on the men who shot you?

Mr. Travis. I think it was—I am not sure.

Mr. Day. Thank you.

Chairman Taylor. Thank you very much.

Mr. Freedman. We have just been informed about 1:30 Sunday night a bomb was thrown into the window of the Freedom House in Canton, Miss. Two COFO workers sleeping inside were not injured, although the window was destroyed. Complaints were filed with the Justice Department. United Press International says the FBI had no comment.

TESTIMONY OF GREENE BREWER (HAVING BEEN FIRST DULY SWORN BY MR. FREEDMAN)

Mr. Freedman. Would you state your name, please.

Mr. Brewer. My name is Greene Brewer, Charleston, Miss.

Mr. Freedman. How long have you lived in Mississippi, Mr. Brewer?

Mr. Brewer. I lived there for 24 years.

Mr. Freedman. And is there something in particular that you wanted to bring to the attention of this panel?

Mr. Brewer. Well, yes, I would.

Well, back awhile back I left Mississippi and went to New Jersey, so I have been staying up there for about 5 years. And my baby brother, who is in the Army now, he left about 3 years ago and had been staying in Indianapolis, Ind. So I hear from him, by writing, and he hears from me. And we decided to come down to visit my family.

While we were down, we decided to visit some friends which stay not very far from where my mother stayed. And so we did. And we was there for a short while and decided to leave So when we got ready to go, we noticed a tire on the car was almost down. So the store wasn't very far, a country store. So we said when we would go by the store we would put air in the tire.

So me and my brother and another friend, one of our schoolmates, Dave, got in the car. We went to the store.

David got out to put air in the tire.

So my baby brother, Charles, he went into the store to get some cold drinks. And so he was in the store a good while. I never got out of the car. So David went and pushed the door open, and started in the store. So he backed up very fast, he turned away from the door and started fast toward the road.

Well, he left the door a crack open and I could hear a sound in the store. And I knew my baby brother was in there. So I decided to go in and see what was going on.

I jumped out of the car and ran into the store. My brother was laying on the floor unconscious, bleeding. Two white fellows—one of them was John Little and the other was the store owner, Jesse Hunter, was standing there. So I called my brother twice and asked him what happened. He never said nothing.

So Mr. Hunter said I better get him out of there before they kill him. And so I said it looked like they already had killed him. I said, "What is it for?" He said, "You heard what I said, get him out before I kill him."

So I picked my brother up, and helped him to the door, and when he got to the door he could sort of stand up, by holding it. And he had some sun glasses. I went back for them.

Mr. Hunter ran behind the counter, had an ax handle, grabbed a pistol, and every time I would make an attempt to try to get out the door he would keep calling me bad words and keep me from going out the door.

While I was watching him, so he couldn't get up on me with the ax handle, Mr. Little was behind me, I couldn't watch him; he made a sneak attack from behind.

When I did get close enough to try to go out of the door, he was close enough to make his hit then. So he hit me with the ax handle and from the lick I was hospitalized for about 8 days. So I suffered with a fractured skull, a cracked jaw bone, a broken nose, a busted eyeball.

Mr. Freedman. Mr. Brewer, did you report this to anyone?

Mr. Brewer. Well, at the time, being I wasn't able—but I have a brother here. He reported it and tried to have action done about it, and I am sure he would like to tell you what happened.

Mr. Freedman. Thank you very much.

Mr. Brewer. Thank you.

Chairman Taylor. I think that story tells itself. Are there any questions?

Mr. Freedman. We can call him back if we want after his brother.

Chairman Taylor. Perhaps we can hear the rest from your brother.

TESTIMONY OF PERCY BREWER (HAVING BEEN DULY SWORN BY MR. FREEDMAN)

Mr. Freedman. Would you please state your name.

Mr. Brewer. Percy Brewer.

Mr. Freedman. And are you the brother of Greene Brewer, who just testified?

Mr. Brewer. I am.

Mr. Freedman. And you want to continue with the story that he was telling?

Mr. Brewer. I could tell you my part of the story.

Mr. Freedman. All right. Would you please?

Mr. BREWER. On the 4th of February, 1964, I was at home about 8:30 at night. My mother suffered heart trouble. I live about 600 feet from where she does. She went to my house and told me to go and see about the other two children. She heard they got beat up. The fellow that had visited, he come across the woods, he come to tell my mother about it. She ran down and told me about it. So I got up. I wouldn't get my car—I went to get my father-in-law's car and went to the hospital.

Well, the law had been there. My sister was there. She told me to get away.

Well, I came back home.

The next morning I didn't know anything to do. I went to Sumner, Miss., to the county seat, west side of the county, and I contacted a lawyer. He told me there wasn't nothing he could do with it. He said he was in the citizens council. He said he couldn't take no action because he was supported by the right people in that county. I couldn't tell him too much. He seemed to have already heard about it. And he told me the best advice he could give me was to go to Clarksdale, to the Post Office Building, upstairs, and check with the FBI—and don't report his name, don't have him in in no kind of way, because he wanted to live in that county.

So I went to Clarksdale to see the FBI the next couple of days.

My brother—this one, he had his eyeball busted out, the side of his head caved in. He went to the hospital—they couldn't do him no good at Charleston. Then at the hospital he had to pay $50 before he got in there. And I had to try to get the $50. So it was 2 days before I could go to Clarksdale to see the FBI.

When I got there and reported my statement to the FBI, he wrote it down and told me he would see about it. So he asked me what I know. He said if the committee takes action in a couple of days I would be interviewed, and also the boy in the hospital.

Mr. FREEDMAN. If what committee takes action?

Mr. BREWER. He said he wasn't nothing but an FBI agent—there was nothing he could do but take what a person brings in because he had to mail it to Memphis, Tenn., to some other main office there, and they would check on it. And if they thought it fit, they would check on it. So they never interviewed me.

Mr. FREEDMAN. You have heard nothing since then about it?

Mr. BREWER. I ain't through telling what he said. He asked me whether I contacted the sheriff of the county, which was Tallahatchie County. I told him "no." He asked my why. When I went to this lawyer, the lawyer advised me not to go to the sheriff.

Mr. FREEDMAN. This is a white lawyer?

Mr. BREWER. Yes. He asked me was my brother in pretty bad shape. I told him one of them was beat up pretty bad all over and he was still paralyzed and couldn't talk, and the other said he didn't want to be beat up all over. And so I didn't contact the sheriff. He sent me to the FBI. The FBI told me to contact the sheriff and tell him he sent me there. When I went to contact the sheriff I told him what I come for. And he told me was I talking about the Brewer boys in the hospital, and I told him yes, that they were my brothers, and he told me, "Hell, they're supposed to be dead." And he turned and walked out the door.

Mr. FREEDMAN. Has there been any word from the FBI or anyone else about this since that time that you have received?

Mr. BREWER. No, sir. No sheriff, no FBI. There have been some NAACP people came down.

Mr. FREEDMAN. Approximately when was it that you spoke to the FBI agent?

Mr. BREWER. It was the 7th—no, the 8th—because it was on the 5th of February when I checked with the lawyer, and it was 2 days later before I checked with the FBI agent.

Mr. FREEDMAN. February of this year?

Mr. BREWER. Of this year, 1964.

Mr. GOODMAN. What was the involvement of the NAACP in it?

Mr. BREWER. Would you repeat that?

Mr. FREEDMAN. The question was would you state what the involvement was of the NAACP. How were they in this? You mention them but you did not explain.

Mr. BREWER. How they got in I do not know, but in Clarksdale, the way the FBI man was talking, it just seemed it wasn't no good. And I went to the NAACP in Clarksdale, which was Henderson—I don't remember the names.

Mr. FREEDMAN. What did they do, if anything?

Mr. BREWER. Well, around a week or so later there was a man came—I don't know where he was from, but he came to interview my brother, asked him questions about how it was and everything.

Chairman TAYLOR. What was the circumstance of the beating of your first brother?

Mr. BREWER. Well, now, he said after he came to 3 days later, after he got where he could talk—he said he went in the store and called for two pops, one for him and one for my brother over here and said the store owner asked him if he wanted the pops opened, and he told him "Yes." The man said "When a damn nigger goes North and comes back, he gets beside himself, and he gets where he can't respect white folk." He snapped the drinks from his hand and stuck them in the box. He turned to walk out of the store. Mr. Little reached behind a heater and pulled out an ax handle and cut him off between there and the door. He turned around and Mr. Hunter, the store owner, swung at him with an ax handle. He throwed up his left arm, he hit his arm, so he grabbed the ax handle with his right hand and said a lick come from behind him, and that is all he remembered before the next about 4 days in the hospital. So I asked the doctor what condition he was in, was he broke up or anything, and the doctor told me he didn't have no broken bones, but he had a lot of broken skin and things and for about 5 days he would throw up blood by the pan full, bleed from his nose and mouth and ears. He stayed in the hospital for 8 days. He came out of the hospital on the 12th and was drafted into the Army on the 17th. And that is where he is now.

Mr. COLES. You mean they just took him in, even though he was recovering?

Mr. BREWER. Well, he was still blue——

Mr. COLES. Was that a draft board in Jackson?

Mr. BREWER. The draft board in Sumner, Miss.

Mr. COLES. I see. Do I understand you to say that he came out of a hospital, still recovering, injured, and was then taken into the Army by a local draft board?

Mr. BREWER. He was examined in Indianapolis, Ind., and he passed there. But when he was coming down to Mississippi, he had his local board changed to Mississippi, where any time they write for him, they would know where to write and find him. They called him while he was in Mississippi. They examined and passed him in Indiana. So after he got out of the hospital, he got his call.

Chairman TAYLOR. Are there any other questions?

All right. Thank you very much, Mr. Brewer.

Next we will hear from Congressman WILLIAM RYAN, from New York.

STATEMENT OF HON. WILLIAM F. RYAN, A REPRESENTATIVE IN CONGRESS FROM THE 20TH DISTRICT OF THE STATE OF NEW YORK

Representative RYAN. Mr. Chairman, distinguished lady and gentlemen of the panel, it is a real pleasure and a privilege for me to appear this afternoon and to make a statement before this distinguished panel on the situation in the State of Mississippi and the need for there to be action on the part of the Federal Government to protect those workers who are involved in the voluntary effort in that State.

Although great advances have been made toward equality for all our citizens since the beginning of what I call the second American revolution, these advancements have only been made because of the courage and dedication of thousands of ordinary citizens, many of whom are young people. These citizens have risked and are risking their liberty and even their lives to secure the liberty of their fellow citizens.

While there has been progress, there is no place for complacency. We may be on the road to freedom, but we still have a long journey before we reach our destination.

This summer a large number of people will take us further down freedom's road, by participating in the Mississippi summer project. A massive education, community improvement and voter registration drive in that State this summer is being sponsored by the Council of Federated Organizations which represents NAACP, the Southern Christian Leadership Conference, and the Student Nonviolent Coordinating Committee. I understand that the National Council of Churches is also supporting this project, and hundreds of clergymen will join with the hundreds of students, teachers, and lawyers and others in Mississippi this summer.

It is a tragedy that, instead of welcoming these volunteers who have the potential of raising the social and living standards of all Mississippians, the State of Mississippi has determined to meet the summer project with massive resistance. In addition to increasing the police force and adding new equipment, the State of Mississippi has passed several laws which impinge upon the constitutional rights of petition, assembly, and free speech. If the past is any indication of the future, we can expect violence and brutality in Mississippi this summer unless action is taken by the Federal Government.

Since the State of Mississippi has made it clear that it is more interested in persecution than protection, the Federal Government must step in and protect the summer volunteers. I am glad to support COFO's plea to President Johnson.

We know that the summer project is not seeking the establishment of rights, but the enjoyment of rights already established. In the eloquent words of Mr. Justice Goldberg, these rights "are present rights; they are not merely hopes to some future enjoyment of some formalistic constitutional promise. The basic guarantees of our Constitution are warrants for the here and now." *Watson* v. *Memphis*, 373 U.S. 526, 533 (1963).

The Federal Government has an obligation to protect those who are striving to insure the rights of others. Federal action in Mississippi would not only fulfill this obligation, but would serve as a warning in the future that local and State officials will not be allowed to deprive U.S. citizens of their constitutional rights.

What action can be taken?

The two most important sections of the United States Code in regard to the protection of individual rights are sections 241 and 242 of title 18.

Section 241 makes it a crime for "two or more persons to conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same." The penalty under section 241 is a fine of not more than $5,000, or imprisonment of not more than 10 years, or both.

Section 242 makes it a crime for any person to act willfully under color of State law to deprive any person of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States because of his color or race. The penalty under section 242 is a fine of not more than $1,000 or imprisonment for not more than 1 year or both.

Unfortunately, the Supreme Court in *Screws* v. *United States,* 325 U.S. 91 (1945), construed the term "willfully" in section 242 very narrowly and thus made the implementation of that statute more difficult.

However, we must never use the fact that it is difficult to get southern juries to convict as an excuse for inaction under these statutes. For one thing, the Federal Government cannot allow juries to in effect abrogate the laws. In addition, the mere fact that the Federal Government will bring suits against State and local officials for violating the constitutional rights of others may serve as a deterrent to officials who in the future might interfere with constitutional rights.

The statutes I have cited cover situations where crimes have already been committed. If we wait for the commission of Federal crimes in Mississippi before the Federal Government uses its power, lives may well be lost.

This panel has heard detailed accounts of past experiences in Mississippi. In view of these experiences and the present actions of the State of Mississippi, I strongly urge that the Federal Government send to Mississippi Federal marshals to insure the protection of the rights of those participating in the Mississippi summer project and all citizens of Mississippi.

U.S. marshals are authorized to (1) carry firearms, (2) serve warrants and subpenas, (3) make arrests without warrants and on the spot for any offense against the United States committed in their presence, and (4) arrest for any felony under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony (sec. 3053, title 18, United States Code).

I have drafted a proposed letter to the Attorney General requesting that U.S. marshals be sent to Mississippi this summer. I have asked several of my colleagues in the House to join with me in signing this letter.

One hundred years ago, in May of 1864, General Grant in a dispatch from Spotsylvania Court House wrote: "I propose to fight it out on this line, if it takes all summer." Today 100 years later the people who have courageously volunteered for the Mississippi summer project are fighting for freedom and will continue to do so if it takes all summer or many summers. They should not fight alone. The Federal Government must take its stand alongside of its citizens in the struggle for equality. The time to begin is now. The place to begin is Mississippi.

I thank you for the opportunity to appear and express my support for the dedication of the many, many hundreds of young men and women who will be making this pilgrimage to Mississippi and who will be fighting alongside of those who are Mississippi citizens who have been denied their rights for too long a time. [Applause.]

Chairman Taylor. Do you have a copy of that letter?

Representative Ryan. I have a copy of the proposed letter to the Attorney General.

Chairman Taylor. If we could have it, we would appreciate it.

Thank you very much.

Representative Ryan. Thank you.

SENATE

Tuesday, June 16, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 11 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. Metcalf).

Rev. Charles M. C. Kwock, pastor, First Chinese Church, Honolulu, Hawaii, offered the following prayer:

O Lord, our God, we turn to Thee in humility and gratitude this day for what Thou hast been to us as a nation. Thou hast favored us with such an abundance of material and spiritual blessings that we are, indeed, grateful to Thee.

As we humble ourselves to thank Thee, O Lord, lead us to acknowledge Thee as the Supreme Ruler of us all; thus, to act contrary to Thee will spell division and strife; but to live in harmony with Thee will mean peace and tranquillity for all.

In our consciousness of Thy lordship, O God, awake in us the sense of our own shortcomings and weaknesses as a people, for all of us have strayed away from Thee to such a degree that none of us can claim to be so virtuous as to act according to our set ways and feelings, instead of always with an open heart and mind. Have mercy upon us, O Lord, and forgive us for that which we have done wrongly and for the things we have left undone, and bring health back to our common life together.

With a sense of our present need, O Lord, we invoke Thy special blessing upon this august body, the Senate of the United States, which has been vested with the authority to make just laws. Bless each and every one of the Senators here now in session with such spiritual insights and wisdom as to see clearly the real issues of our times, and not be bogged down with secondary matters.

Give unto them such integrity of character and such fidelity to the truth, that they will act according to the dictates of their own consciences, and not give way to external pressures.

Bring to their remembrance such appreciation of our Christian heritage as a Nation that they will remain true to our common ideals and principles. Keep alive in them the hope and faith which sustained our Founding Fathers during the difficult days when our Nation was young and weak. May our present leaders likewise hold high the torch of freedom and justice, so that America will continue to be strong, not only in things material, but also in things of the spirit.

Grant unto them the faith that can see far ahead of our times, the hope that admits no defeat, and the courage to be able to stand by that which we know to be right in Thy sight.

Save us as a people from hatred and violence, from dissension and strife. Restrain the passions of men everywhere. May our citizens be so blessed as to think not only in terms of rights and privileges but also in terms of duties and responsibilities, so that someday we shall lead the downtrodden peoples of other nations into a new world order of freedom and justice, where wars shall be no more.

We make this our common supplication in the name of Jesus Christ, our Lord and our Redeemer. Amen.

THE JOURNAL

On request of Mr. Inouye, and by unanimous consent, the reading of the Journal of the proceedings of Monday, June 15, 1964, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As an executive session,

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the nomination of Murat W. Williams, of the District of Columbia, a Foreign Service officer, for promotion from class 1 to the class of career minister, which nominating messages were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. INOUYE. Mr. President, I ask unanimous consent that there be a morning hour, for not to exceed 30 minutes, and that statements therein be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TO 11 A.M., WEDNESDAY

Mr. INOUYE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 o'clock on Wednesday morning, June 17.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Report on Unreasonable Expensive One-Family Employee Residence at the U.S. Penitentiary, Leavenworth, Kans.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the unreasonably expensive one-family employee residence built at the U.S. Penitentiary, Leavenworth, Kans., Bureau of Prisons, Department of Justice, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

Report on Certain Excessive Prices Negotiated by the Defense Petroleum Supply Center, St. Ignace, Mich.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on excessive prices negotiated by the Defense Petroleum Supply Center, for storage of petroleum in a commercial facility, at St. Ignace, Mich., Department of Defense, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

Report on Unnecessary Costs in the Leasing of Electronic Data Processing Systems, Department of Defense

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the unnecessary costs to the Government in the leasing of electronic data processing systems by Autonetics, a division of North American Aviation, Inc., Anaheim, Calif., Department of Defense, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

Report on Unnecessary Costs Incurred for M-61 Machinegun Components, Department of the Army

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the unnecessary costs incurred for M-61 machinegun components under contracts with the General Electric Co., Burlington, Vt., Department of the Army, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

Report on Need To Strengthen Requirements for Establishing Entitlement to Social Security Benefits

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need to strengthen requirements for establishing entitlement to social security benefits, Social Security Administration, Department of Health, Education, and Welfare, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

Report on Unnecessary Costs Incurred in Development and Procuremet of Utility Cap With Serviceability Limitations

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the unnecessary costs incurred due to the development and procurement of an expensive utility cap with serviceability limitations, Department of the Army, dated June 1964 (with an accompanying report); to the Committee on Government Operations.

Report on Activities Under the Small Reclamation Projects Act of 1956

A letter from the Secretary of the Interior, reporting, in conformance with section 10 of the Small Reclamation Projects Act of 1956, that the Byron-Bethany Irrigation District, in Alameda, Contra Costa, and San Joaquin Counties, Calif., had applied for a loan for the rehabilitation and enlargement of its existing irrigation distribution system; to the Committee on Interior and Insular Affairs.

PETITION

The ACTING PRESIDENT pro tempore laid before the Senate a resolution adopted by the Town Assembly of Motobu, Okinawa, requesting the reversion of Okinawa to Japan; which was referred to the Committee on Foreign Relations.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. BYRD of Virginia, from the Committee on Finance, without amendment:

H.R. 287. An act to amend title II of the Social Security Act to include Nevada among those States which are permitted to divide their retirement systems into two parts for purposes of obtaining social security coverage under Federal-State agreement (Rept. No. 1080);

H.R. 1608. An act to amend the Tariff Act of 1930 to provide that certain aircraft engines and propellers may be exported as working parts of aircraft, and for other purposes (Rept. No. 1081);

H.R. 2652. An act to amend the Tariff Act of 1930 to provide for the duty-free importation of certain wools for use in the manufacturing of polishing felts (Rept. No. 1082);

H.R. 3348. An act to amend section 316 of the Social Security Amendments of 1958 to extend the time within which teachers and other employees covered by the same retirement system in the State of Maine may be treated as being covered by separate retirement systems for purposes of the old-age, survivors, and disability insurance program (Rept. No. 1083);

H.R. 4198. An act to amend the Tariff Act of 1930 to provide for the free importation of soluble and instant coffee (Rept. No. 1084);

H.R. 7480. An act to suspend for a temporary period the import duty on manganese ore (including ferruginous ore) and related products (Rept. No. 1085);

H.R. 8268. An act to prevent double taxation in the case of certain tobacco products exported and returned unchanged to the United States for delivery to a manufacturer's bonded factory (Rept. No. 1086);

H.R. 8975. An act to provide for the tariff classification of certain particleboard (Rept. No. 1087);

H.R. 9688. An act to extend the period during which responsibility for the placement and foster care of dependent children, under the program of aid to families with dependent children under title IV of the Social Security Act, may be exercised by a public agency other than the agency administering such aid under the State plan (Rept. No. 1088);

H.R. 10463. An act to continue until the close of June 30, 1965, the existing suspension of duties for metal scrap (Rept. No. 1089);

H.R. 10465. An act to extend for a temporary period the existing provisions of law relating to the free importation of personal and household effects brought into the United States under Government orders (Rept. No. 1090);

H.R. 10466. An act to amend title XI of the Social Security Act to extend the period during which temporary assistance may be provided for United States citizens returned from foreign countries (Rept. No. 1091);

H.R. 10468. An act to continue until the close of June 30, 1966, the existing suspension of duty on certain copying shoe lathes (Rept. No. 1092); and

H.R. 10537. An act to continue for a temporary period the existing suspension of duty on certain natural graphite (Rept. No. 1093).

By Mr. BYRD of Virginia, from the Committee on Finance, with amendments:

H.R. 9311. An act to continue for 2 years the suspension of duty on certain alumina and to make permanent the suspension of duty on certain bauxite (Rept. No. 1094).

EXECUTIVE REPORT OF A COMMITTEE

As in executive session,

The following favorable report of a nomination was submitted:

By Mr. BYRD of Virginia, from the Committee on Finance:

Stanley E. Rutkowski, of New Jersey, to be comptroller of customs at Philadelphia, Pa.

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. McGEE:

S. 2918. A bill for the relief of Pejo Topolic; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 2919. A bill to amend title 28, United States Code, to withdraw from courts of the United States jurisdiction with respect to State legislative apportionment proceedings; to the Committee on the Judiciary.

(See the remarks of Mr. Thurmond when he introduced the above bill, which appear under a separate heading.)

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. Inouye in the chair). The Chair, for the President pro tempore, announces the appointment of the following 10 members to the Interparliamentary Union Conference, to be held in Copenhagen August 20 to 28, 1964: Senator Robertson, Senator Talmadge, Senator Thurmond, Senator Neuberger, Senator Metcalf, Senator Lausche, Senator Kuchel, Senator Allott, Senator Morton, and Senator Tower.

TRIBUTE TO MILTON KELLY

Mr. MANSFIELD. Mr. President, I take this means to welcome back to the Press Gallery our old friend, Milton Kelly.

Milton has not been feeling well for the past several months. We are delighted to see him back, acting like his old self, looking 10 pounds lighter and 10 years younger, and with the lines out of his face.

We wish him well, and hope he will make it a point to stay with us for a while.

CRIMES OF VIOLENCE IN NEW YORK CITY

Mr. EASTLAND. Mr. President, yesterday's Washington Evening Star carried another story from New York City to add to the chamber of crime horrors that have been emanating from that city over the past few months. The story reads:

> Two men, who knocked down two Negroes for allegedly molesting their wives as they walked along brightly lighted Broadway last night, were mobbed and beaten by eight Negroes minutes later. Dozens of strollers just watched.
>
> As the two men's wives screamed and begged for help, one bystander did call police.

Of the 50 persons who merely looked on, an unidentified detective commented: "That's about par for the course."

I ask unanimous consent that the complete text of this story be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EASTLAND. Mr. President, it is a tragic commentary on our times that citizens can be so callous as to stand by, as has recently happened in New York, and witness the brutal rape, maiming, and murder of their fellow men and women. I say with sincerity that this cannot happen in the southern part of the country; and I am proud that even our Mississippi Negroes when in New York are willing and eager to come to the help of their fellow man, be they black or white. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the story of one Larry Thomas, of Vicksburg, Miss., who is credited as a hero because of frightening off a gang of Negro boys who attacked a white boy on a subway train. Larry is quoted as saying:

> I had rather wait on tables at $27 a week there [Vicksburg, Miss.] than get my head kicked in here.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. EASTLAND. Finally, Mr. President, Morris Cunningham, Washington correspondent for the Memphis Commercial Appeal, has recently visited New York and done a series of studies in depth on the New York crime situation, with particular emphasis on the mob violence and senseless assaults and murders that are being committed by the Negro population of Harlem and Brooklyn. I ask unanimous consent that the text of these three articles, which appeared in the Commercial Appeal of Memphis, Tenn., on June 8, 9, and 10, also be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 3.)

EXHIBIT 1

[From the Washington Evening Star, June 15, 1964]

FIFTY WATCH NEGROES BATTLE FOUR ON BROADWAY

NEW YORK, June 15.—Two men, who knocked down two Negroes for allegedly molesting their wives as they walked along brightly lighted Broadway last night, were mobbed and beaten by eight Negroes minutes later. Dozens of strollers just watched.

As the two men's wives screamed and begged for help, one bystander did call police.

Of the 50 persons who merely looked on, an unidentified detective commented: "That's about par for the course."

The victims were Michael Massa, 30, and his wife, Ann, 27, and Edward Costa, 38, and his wife, Margaret, 30, all of Brooklyn.

Police gave this account:

"Today is the Massas' 11th wedding anniversary. They had a late dinner with their friends and the foursome was strolling on Broadway between 51st and 52d Streets, headed for a nightclub, when two men made obscene remarks to the women, but were ignored.

"Then the pair put their hands on the women. Mr. Costa and Mr. Massa knocked the men down. The Negroes fled to a lunchroom on Broadway near 52d Street.

"The couples then headed down Broadway.

"In the lunchroom, a witness told police, the Negroes turned to patrons, whom they apparently knew, and said: 'Come on. Let's get those guys. They roughed us up.'

"At 49th Street, eight men jumped Mr. Costa and Mr. Massa, throwing them to the sidewalk and kicking them about the body and face.

"One of the attackers turned to the crowd and said: 'Don't anybody interfere. We got a knife.'

"By the time police came, the attackers had fled.

"'We yelled for help but nobody helped,' one of the women said.

"The Costas and Mr. Massa were treated at a hospital for face and body cuts. Mr. Costa was detained for X-rays.

"Said Mrs. Costa:

"'It's a disgrace. Not one person lifted a finger to help my husband or Mike—nobody cares about each other.'"

EXHIBIT 2

[From the Jackson (Miss.) Daily News, June 8, 1964]

MISSISSIPPI NEGRO FINDS NEW YORK UNSAFE

NEW YORK.—After 3 weeks in New York City, an 18-year-old Negro from Mississippi says he's going back to Vicksburg.

"I'd rather wait on tables at $27 a week there than get my head kicked in here," said Larry Thomas.

Thomas was hailed as a hero by New York newspapers a week ago because he frightened off a gang of Negro boys who had attacked a white boy on a subway train. The Negroes ran when Thomas shouted, "The cops are coming!"

Thomas then helped the injured white youth, Howard Weiner, 16.

Thomas said Sunday, he'd never seen anything like the subway assault in Mississippi.

"Once in a while a cop will hit someone alongside the head with a blackjack, but that's all," he said.

Thomas said he left Vicksburg a few months ago, did odd jobs in Florida, and eventually arrived in New York on a potato truck.

He got a job making change at a Coney Island concession, but lost it when the boss learned he had a juvenile police record. Then he got another job at Coney Island, $10 a night for setting up milk bottles for people to knock over with baseballs. He got a cheap hotel room.

As a result of his subway heroism, a Manhattan man mailed him $30. Police put him up in a good Brooklyn hotel while he was a court witness. Weiner's parents were grateful and explained to Thomas' boss why he was late that day.

Nevertheless, Thomas says he plans to be on the road to Mississippi in about 10 days, when the court case will be cleaned up.

"When it comes down to fighting," he said, "I'm nowhere around."

EXHIBIT 3

[From the Memphis Commercial Appeal, June 8, 1964]

MORE VIOLENCE THREATENS GOTHAM

(By Morris Cunningham)

NEW YORK, June 7.—New York authorities are braced for even more serious outbreaks of violence in this teeming city in the months ahead.

They fear the wave of brutal murders, rapes, senseless stabbings and cruel muggings by Negro terrorists is only a preview of what may come in the hot, muggy summer months ahead.

The racial clashes are in addition to the city's continuing heavy output of nonracial violence which police officials stress accounts for an overwhelming part of New York's overall crime picture.

The racial element is of gravest concern because of its potential for mass violence involving large numbers of people.

This potential is not present in the great majority of the city's murders, robberies, and other criminal acts.

Sampling of opinions show the apprehension of the authorities is shared by rank-and-file citizens in the five boroughs of this sprawling metropolis, the world's greatest city.

A laborer tells you: "I think it is going to get worse."

A law-enforcement agent who works day hours in an office confides that, while he has not been in the habit of carrying a pistol, he now straps one on when he leaves his home or office at night.

A New York police patrolman assigned to an uptown Manhattan precinct reveals he has joined the "flight to the suburbs."

"We used to live near here," he disclosed. "But when the Negroes and Puerto Ricans started moving in, and the crime rate went up, it got too bad for me. I didn't want to raise my kids in this kind of neighborhood. We moved out to the Bronx. My wife went to work to help pay our expenses."

There has always been crime in New York, of course. Every big city has its share of murders, rapes, robberies, and other criminal acts. But there is a loathesome element abroad in New York today—racial hate.

One senses it in the mixed neighborhoods in Brooklyn and Manhattan. It is prevalent on the streets, in the stores. It is evident in the furtive glances, the guarded looks.

On the subway platforms and in the roaring subway trains the apprehension sometimes turns into sheer terror—as, for instance, recently when four Negro youths, one armed with a meat cleaver, roamed through a moving subway train, threatening passengers, destroying furnishings, and plunging three cars into darkness.

A husky, intelligent, white college graduate confides: "I avoid riding the subways whenever possible. On the streets and in the subways I never look at anyone. And I caution my wife not to."

In the Crown Heights section of Brooklyn Jewish residents have started patroling the streets at night in their own cars to try to stem a wave of murders, rapes, and robberies committed by invaders from the adjacent, predominantly Negro Bedford-Stuyvestant section.

Rabbi Samuel Schrage, 29, who started the private patrol, said residents of the Jewish community had become virtually housebound by fear.

At patrol headquarters in a street level two-room vacant store, Rabbi Schrage told this reporter the patrol will continue until residents are assured of adequate police protection on a permanent basis.

Rabbi Schrage and his followers are Hasidic Jews, devoutly religious and peaceful. They wear long black coats and wide-brimmed black hats or skull caps. The men often wear beards.

The sect's modern-day patrolmen have been dubbed Maccabees, after a Jewish family that led a fight for religious freedom when the King of Syria attempted to force hellenism upon Judea in the second century B.C.

Rabbi Schrage started the patrol after a rabbi's wife had been attacked and beaten by a Negro, and after a gang of Negroes attacked Jewish children at a Yeshiva. He said the area's crime rate has dropped sharply since the patrol, in which about 250 men are participating, began on May 17. Eight to ten cars carrying four to six men—all unarmed—cruise the streets every night, shining flashlights, escorting women, and calling police when they spot anything suspicious.

Only in the heart of Manhattan, the area frequented by most out-of-towners and prosperous, influential suburbanites, is there a feeling of relative security. But even here, violence can and does strike.

Come with me to the office of Deputy New York Police Commissioner Walter Arm:

"This is a big, bustling city with people of different racial backgrounds living close together," Commissioner Arm points out. "Their origins, habits, likes and dislikes are different. Often there is a lack of communication. This generates friction—and trouble.

"Not all of it is racial. A lot of it would occur regardless. There are a lot of young punks loose here now, robbing and mugging and giving civil rights as a reason, who have been punks all their lives. Their police records are as long as your arm.

"We do have the racial element. Every night up in Harlem there are street corner meetings with Negro speakers spouting hatred of the white man. They try to stir up the people. They speak of 'direct action.' Most pay them no attention. But a few do. The police never know what might happen at one of these street corner meetings.

"Last year one of these meetings was going on and a peddler came up, pushing a cart. The cart had some quart soda bottles in it. A Negro cop spotted the bottles, figured persons in the crowd might grab them as weapons, and asked the peddler to move on. The peddler argued and the cop pushed him. The people in the crowd saw this, and came over to crowd around the cop, threatening him, pushing him down. He called for help and we got some other cops there in a hurry.

"The crowd was stirred up, and word spread around of 'police brutality.' There wasn't any, of course, but that didn't make any difference.

"Later that night a gang of teenagers formed in Harlem, marched down 125th Street, and onto Broadway, destroying property as they came. The police met them on Broadway, and broke up the gang."

Will the racial violence get worse in New York before it gets better? "There is no doubt about it," Commissioner Arm said.

[From the Memphis Commercial Appeal, June 9, 1964]

"TURNSTILE JUSTICE" BALKS EFFORTS OF NEW YORK POLICE

(Second of three articles)

(By Morris Cunningham)

NEW YORK, June 8.—New York Police are fighting a losing battle against a rising wave of racial violence and what they bitterly call "turnstile justice."

A patrolman confides that the morale of the average policeman is sagging. A city councilman tells of the growing difficulty of recruiting rookies.

The 26,000-man force polices a sprawling city of 8 million. The population includes 1,200,000 Negroes and 800,000 Puerto Ricans.

Police are jeered, assaulted, beaten, stabbed, and shot. It is not uncommon for one or even two patrolmen to be knocked down or backed against a wall by a menacing crowd, particularly in Harlem, the city's biggest Negro area. Law-abiding white and Negro citizens hurry past such scenes, eyes averted, rarely responding to a policeman's cry for help.

To encourage public support, the police department is pinning medals on citizens who risk their lives to assist the police. Five such medals were awarded last week. Fearing reprisals against the medal winners, the police prudently withheld their addresses from news media.

The mother of one of the medal winners, reached by telephone by a newsman, said: "Please don't publish our address. This is a terrible neighborhood here—a rough street. Something terrible might happen. We don't want any trouble—please."

Top police officials refrain from criticizing the way the criminal courts operate. Patrolmen are less inhibited.

"We call it turnstile justice," one said. "We arrest them and haul them in. Next thing they're back in the neighborhood, sneering at us. This cheapens us, weakens our authority. We can haul them in again. But what good will it do?

"The four Negroes that terrorized the people on the subway, one with a meat cleaver—there's an example. The court paroled them to their parents. Their parents been fooling with the punks for 18 years. These punks have been stealing, robbing, mugging all their lives. What can their parents do for them they haven't already done?

"No, don't use my name; I'd lose my job.

"I blame the courts for citizens not helping the police. What do you expect? A guy jumps in and helps a cop fight off somebody. The cop takes him down to the station as a material witness. Maybe he doesn't object to this. Maybe he doesn't mind when he gets the subpena to appear in court. What he minds is when the trial is postponed time after time, and he has to keep going back. This thing spreads. The guy tells his friends. 'I don't ever help a cop—you'll be in court the rest of your life.' "

City Councilman Robert J. Berman, who lives in the Crown Heights section of Brooklyn, blames the leniency of the courts on the city's inadequate facilities for youthful offenders. "There isn't room for all of them, so the courts turn some loose," he said.

Councilman Berman is demanding that the city council investigate the steady increase in crime, particularly crimes of an antiwhite or anti-Jew.

"Our police problem," Councilman Berman continued, "is not financial—it is a problem of recruitment. The starting pay for a patrolman is about $6,200 a year, which isn't bad. It is the danger involved, and the future.

"Last summer the city sent people out in several directions, probably as far as Memphis, trying to recruit men for the police force. I know they went into New England."

In the mounting crisis, the police force is fighting with every available weapon—and fighting mostly alone.

On the subways you see policemen wearing their uniforms to and from work—a new order, which the policemen resent. As a police lieutenant said: "When you put on this uniform, you're on duty—no matter where you are. Some of the boys spend an hour and a half each way commuting, and we get no extra pay."

Police shifts change at 8 a.m., 4 p.m., and midnight. The result is thousands of uniformed men riding on the subways around these times.

A key police strategy is a show of force. Riding by taxi through sections the taxi driver called "jungles" and the police call "trouble areas," you see the police patroling on foot in two's and three's. And when any officer telephones a distress call to a precinct station, heavy reinforcements are rushed in. In addition, there are indications police are drawing their guns more often—and shooting to kill more frequently.

Placing a new strain on racial feelings is the board of education's newly announced plan to achieve greater "racial balance" in some public schools. The plan would transfer 18,000 pupils in 44 elementary and 10 junior high schools and "pair" 8 elementary schools, 4 predominantly white and 4 predominantly Negro. Outraged white parents have denounced the plan as going too far, and Negro leaders have blasted it for not going far enough. A crisis will come when schools reopen in September.

On the bright side, from the police viewpoint, are two new State laws which will become effective July 1. One, called the "no knock law," will enable police armed with a search warrant to break in without knocking. The other, called the "stop-and-frisk law," will authorize police to halt suspicious-looking persons on the street and search them for dangerous weapons.

[From the Memphis Commercial Appeal, June 10, 1964]

SENSELESS ATTACKS BLAMED ON HARLEM "BLOOD BROTHERS"

(By Morris Cunningham)

NEW YORK, June 9.—Last October, New York Police began to notice a pattern of apparently senseless attacks on whites by Harlem Negroes.

Within the space of 6 months four white persons were murdered in Harlem by Negroes for no apparent reason.

Jules Bulgach, a 71-year-old white fruit peddler, was stabbed to death October 21 on a Harlem street.

David Watts, 29, who had served as a missionary in Harlem for 7 years, was killed March 23 on a Harlem street.

Eileen Johnston, a 28-year-old, city-employed social worker, was stabbed to death April 11 as she walked with a Negro coworker in Harlem.

Mrs. Magit Sugar was knifed to death April 29 in her secondhand clothing store in Harlem.

During the 6-month period police also recorded a number of other apparently motiveless attacks on whites by Harlem Negroes which did not result in a fatality.

The attacks have been linked to organizations of Negro youths called "blood brothers," who are said to have dedicated themselves to "direct action" against whites.

Three youths, said to be members of the antiwhite gangs, have been indicted in the slaying of Mrs. Sugar, police say two of them also have admitted the stabbing of Miss Johnston.

The police have been handling the situation with extreme care in the hope that such apparently militant racial hostility would not spread and infect the whole city.

While New York newspapers, particularly the New York Times, have published extensive reports on the antiwhite gangs, Police Commissioner Michael J. Murphy has never publicly acknowledged their existence.

The cooperation of New York newspapers and radio and television stations has been requested. Police officials have asked the news media to handle the "blood brothers" story in a way that will seek to avoid inflaming racial hostilities in this already racially tense city.

Policemen have more than a casual interest in the affair because the "blood brothers" reportedly hate white policemen most of all.

The existence of the "blood brothers" first was reported by Junius Griffin, a Negro reporter for the New York Times who lives in Harlem.

He reported May 29 that "the blood brothers freely admit a hatred of precinct patrolmen, but express an even more intense hatred of the tactical patrol force officers who have been sent into central Harlem since the fruit riot."

The "fruit riot" occurred April 17 after Negro youngsters overturned some cartons at Joe's fruit stand in Harlem. In the melee that followed police rushed in reinforcements with drawn guns and swinging night sticks.

Frustrations over the slow pace of desegregation often are cited as a reason for the hostilities of Negro activists. Weary of poverty, filth and the hopelessness of ghetto existence, many Negroes—particularly the younger ones—advocate "direct action."

They are encouraged by the street corner speakers who stand on Harlem streets spouting hate and haranguing all who will listen about the evils of whites.

This reporter's inquiries produced conflicting responses as to the effect that enactment of the pending civil rights bill by Congress would have on racial problems in New York.

Most said passage would have no effect since the bill's provisions would not apply to the situation here. For instance, the bill is silent on the question of discrimination in housing, and specifically forbids Federal judges from directing that children be transported to other schools to end racial imbalances. Also, New York already has State civil rights laws.

On the other hand, several persons questioned said that if Congress failed to pass the bill that civil rights leaders would seize upon it to mount new demonstrations that probably would further antagonize racial feelings.

TITLE II OF THE CIVIL RIGHTS ACT OF 1963

Mr. ERVIN. Mr. President, title II of the pending civil rights bill, which undertakes to deal with public accommodations, shows utter contempt for the distinction which the commerce clause itself establishes between commerce "among the several States" and the internal concerns of a State. As a consequence, this title is incompatible with the Federal system of government established by the Constitution.

I invite the attention of the Senate to certain statements which point out the distinction which the commerce clause itself makes between what is national and what is local in the activities of commerce. They are as follows:

First. The underlined portions of 15 C.J.S., commerce, sections 10 and 26.

Second. The underlined portions of 11 Am. Jur., commerce, sections 14 and 15.

Third. An extract from the opinion of Chief Justice Hughes in *National Labor Relations Board* v. *Jones and Laughlin Steel Corporation,* 301 U.S. 1, 30.

Fourth. Fifteenth C.J.S., commerce, section 25.

Fifth. An article entitled "Honest Constitutionalism," by Woodrow Wilson, which was reprinted with a note by David Lawrence in the U.S. News & World Report for July 22, 1963.

I ask unanimous consent that these statements be printed at this point in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Excerpts From 15 C.J.S., Section 10, Internal Commerce

A State has an inherent and reserved right to regulate its local, domestic, and internal commerce. The only limitations on this right are that it must be exercised in a manner not interfering with, or placing a burden on, interstate commerce, and that it is subject to such regulation of intrastate commerce as Congress properly may and does make in order to regulate and protect interstate commerce. Within these limits, the power of a State to control and regulate its purely internal commerce is full, complete, plenary, unrestricted by the commerce clause of the Federal Constitution, and free of the dominion of Congress.

Excerpt From 15 C.J.S., Section 26

Ordinarily, the sale of goods in the State at the time of sale is not a transaction of interstate commerce, regardless of what prior transportation of the goods may have taken place; and property sold and delivered to a resident of the State free from any claim of title by the seller, and which is held for sale by retail in the State, is no longer a subject of interstate commerce but becomes a part of the common mass of property of the State and subject to the laws thereof, although, as shown infra section 28, this rule is qualified by the so-called original package doctrine. So, the local sale of goods after they have been brought into the State from another State and come to rest there is not a transaction in interstate commerce, even though the buyer takes the thing purchased across the State line to another State or country, or may intend to do so; but the rule is otherwise as to sales of goods which have not come to rest within the State.

Excerpts From 11 Am. Jur., Sections 14 and 15

Section 14. Intrastate transactions.—The power of Congress does not extend to the purely internal or intraterritorial commerce of the States. Thus, Congress cannot prohibit trade within the limits of a State. A license to carry on a particular business under an act of Congress conveys to the licensee no authority to carry on the licensed business wholly within a State. As a general rule, a regulation of Congress is void if it in terms applies to intrastate commerce.

Section 15. Transactions indirectly affecting commerce.—In the determination of how far the Federal Government may go in controlling intrastate transactions upon the ground that they affect interstate commerce, there is a necessary and well-established distinction between direct and indirect effects. The power of Congress must be considered in the light of our dual system of government and may not be extended to embrace effects upon interstate commerce so indirect and remote that to do so, in view of our complex society, would effectually obliterate the distinction between what is national and what is local and would create a completely centralized government.

National Labor Relations Board *v.* Jones & Laughlin Steel Corporation, 301 U.S. 1, 30

(Majority opinion by Chief Justice Hughes)

The authority of the Federal Government may not be pushed to such an extreme as to destroy the distinction, which the commerce clause itself establishes, between commerce "among the several States" and the internal concerns of a State. That distinction between what is national and what is local in the activities of commerce is vital to the maintenance of our Federal system.

Excerpts From 15 C.J.S., Section 25

When once acquired, the impress of interstate commerce is not removed until the completion of the service by the last movement, or at least until the shipment reaches the point where the parties originally intended that the movement should finally end, and this is generally held to include the switching of cars and delivery to the consignee at the terminal point, and unloading, unless the unloaded car be used for indefinite storage or as a distributing point for local sales.

A shipment is divested of its interstate character, however, where the transit was broken by the owner for his own purposes or convenience disassociated from interstate commerce as such, as where the goods were removed en route to be placed in storage to meet the convenience of their owners.

Commerce ends when the product moved comes to rest at its destination. Interstate commerce ceases when the product has come to rest definitely at a given point, as when the articles carried arrive at their destination and are there held for final disposal or use or when they are kept at some intermediate point between the place of shipment and ultimate destination for the use and benefit of the owner. So when the property arrives in the State of its destination, and passes from the importer to the buyer to be used in intrastate trade, it ceases to be an article of interstate commerce and becomes a part of the general property of the State and amenable to its laws.

[From U.S. News & World Report, July 22, 1964]

Honest Constitutionalism

(Attorney General Robert F. Kennedy, in a recent address on the Constitution, said that "perhaps no one has better defined the unique nature, the unique significance of these treasured papers than Woodrow Wilson." Mr. Kennedy then cited this quotation: "The Constitution of the United States is not a mere lawyers' document. It is a vehicle of life, and its spirit is always the spirit of the age."

(Mr. Wilson's comment was construed by the Attorney General later in his speech as justifying a flexibility of interpretation such as he himself now advocates in proposing that all hotels and restaurants be regulated under the "commerce clause" of the Constitution.

(But the quotation from Mr. Wilson's historic lectures must be put into context to get the true meaning. He stressed, indeed, the need for judicial interpretation as new circumstances arise, but he called for basic honesty on the part of the judges in respecting the limits imposed by the Constitution.

(Mr. Wilson taught constitutional law at Princeton after many years as a practicing lawyer. Extracts are given below from his analysis of our court system and his discussion of the "commerce clause" and the "spirit" of the Constitution.—David Lawrence, editor.)

(By Woodrow Wilson)

The United States have clearly from generation to generation been taking on more and more of the characteristics of a community; more and more have their economic interests come to seem common interests; and the courts have rightly endeavored to make the Constitution a suitable instrument of the national life, extending to the things that are now common the rules that it established for similar things that were common at the beginning.

The real difficulty has been to draw the line where this process of expansion and adaptation ceases to be legitimate and becomes a mere act of will on the part of the Government, served by the courts. The temptation to overstep the proper boundaries has been particularly great in interpreting the meaning of the words, "commerce among the several States."

Manifestly, in a commercial nation almost every item of life directly or indirectly affects commerce, and our commerce is almost all of it on the grand scale. There is a vast deal of buying and selling, of course, within the boundaries of each State, but even the buying and selling which is done within a single State constitutes in our day but a part of that great movement of merchandise along lines of railway and watercourse which runs without limit and without regard to political jurisdiction.

State commerce seems almost impossible to distinguish from interstate commerce. It has all come to seem part of what Congress may unquestionably regulate, though the makers of the Constitution may never have dreamed of anything like it and the tremendous interests which it affects. Which part of the complex thing may Congress regulate?

Clearly, any part of the actual movement of merchandise and persons from State to State.

May it also regulate the conditions under which the merchandise is produced which is presently to become the subject matter of interstate commerce? May it regulate the conditions of labor in field and factory?

Clearly not, I should say; and I should think that any thoughtful lawyer who felt himself at liberty to be frank would agree with me. For that would be to destroy all lines of division between the field of State legislation and the field of Federal legislation. Back of the conditions of labor in the field and in the factory lie all the intimate matters of morals and of domestic and business relationship which have always been recognized as the undisputed field of State law; and these conditions that lie back of labor may easily be shown to have their part in determining the character and efficiency of commerce between the States.

If the Federal power does not end with the regulation of the actual movements of trade, it ends nowhere, and the line between State and Federal jurisdiction is obliterated. But this is not universally seen or admitted. It is, therefore, one of the things upon which the conscience of the Nation must make test of itself, to see if it still retains that spirit of constitutional understanding which is the only ultimate prop and support of constitutional government. It is questions of this sort that show the true relation of our courts to our national character and our system of government.

No one can doubt that it was necessary for the maintenance of the system that the courts of the Federal Government should be the arbiters of all questions of disputed jurisdiction or conflicting authority. But of course such a principle constitutes the courts of the United States the guardians of our whole legal development. With them must lie the final statesmanship of control.

For by according such powers to our courts we virtually vest in them the statesmanship of control.

The Constitution is not a mere lawyers' document: It is, as I have more than once said, the vehicle of a nation's life.

No lawyer can read into a document anything subsequent to its execution; but we have read into the Constitution of the United States the whole expansion and transformation of our national life that has followed its adoption. We can say without the least disparagement or even criticism of the Supreme Court of the United States that at its hands the Constitution has received an adaption and an elaboration which would fill its framers of the simple days of 1787 with nothing less than amazement.

The explicitly granted powers of the Constitution are what they always were; but the powers drawn from it by implication have grown and multiplied beyond all expectation, and each generation of statesmen looks to the Supreme Court to supply the interpretation which will serve the needs of the day. It is a process necessary but full of peril. It is easier to form programs than to exercise a wise and moderate control, and the task of the courts calls for more poise, nicer discriminations of conscience, a steadier view of affairs, and a better knowledge of the principles of right action, than the task of Congress or of the President. Both the safety and the purity of our system depend on the wisdom and the good conscience of the Supreme Court.

Expanded and adapted by interpretation the powers granted in the Constitution must be; but the manner and the motive of their expansion involve the integrity, and therefore the permanence, of our entire system of government.

Every government is a government of men, not of laws, and of course, the courts of the United States are no wiser or better than the judges who constitute them. A series of bad appointments might easily make them inferior to every other branch of the Government in their comprehension of constitutional principles, their perception of constitutional values.

But that would be because the Government had fallen into wrong hands, and would not invalidate the principle upon which our courts are constituted and empowered. It is an argument for electing the right men to the Presidency and to the Senate, which confirms the President's appointments; it is not an argument for changing our constitutional arrangements. The constitutional powers of the courts are no less indispensable, no less central and essential to our whole system and conception of government, because they are sometimes unwise or unintelligent in their exercise of them.

Indeed, it is not easy to speak of this subject, so fundamental, so deeply significant, without pausing to point out the interesting interdependence of the several parts of our Government and the many contingencies upon which their excellence and their integrity depend. The courts of the United States control the action of the other branches of the Government in the interest of our fundamental constitutional understandings; and yet the courts of the United States are constituted by Federal statute and by the President's appointment.

The judicial power of the United States is vested "in one Supreme Court and in such inferior courts as Congress may from time to time ordain and establish"; only the Supreme Court exists by direct provision of the Constitution itself. Other courts Congress may establish or abolish, increase or decrease, assign to this jurisdiction or to that. The Constitution provides, indeed, that all judges of the United States shall hold their offices during good behavior, but Congress could readily overcome a hostile majority in any court or in any set of courts, even in the Supreme Court itself, by a sufficient increase in the number of judges and an adroit manipulation of jurisdictions, and could with the assistance of the President make them up to suit its own purposes. These two coordinate branches of the Government, to which the courts speak in such authoritative fashion with regard to the powers they may and may not exercise under the Constitution, namely, Congress and the Executive, may, in fact, if they choose, manipulate the courts to their own ends without formal violation of any provision of the fundamental law of the land.

There has never been any serious fear that they would do anything of the kind, though an occasional appointment to the Supreme Court has made the country suspicious and uneasy. But it is well to keep the matter clearly before us, if only that we may remind ourselves of the only absolute safeguards of a constitutional system. They lie in the character, the independence, the resolution, the right purpose of the men who vote and who choose the public servants of whom the Government is to consist.

Any government can be corrupted, any government may fall into disrepair. It consists of men, and the men of whom it consists will be no better than the men who choose them.

The courts are the people's forum; they are also the index of the Government's and of the Nation's character.

SOVIET DEPORTATION OF BALTIC PEOPLES IN 1940–41

Mr. KEATING. Mr. President, the Second World War spelled tragedy to the peoples of Europe. All of them suffered, endured privations, and faced hardships throughout that war. But some suffered more than others, and some are suffering even today from its tragic consequences. The Baltic peoples inhabiting their respective countries on the eastern shore of the Baltic—Estonia, Latvia, and Lithuania—were among the first victims of the war; and, unfortunately, their suffering is not over yet.

These sturdy and stouthearted peoples, justly proud of their distinct individuality and undaunted spirit of freedom, regained their independence at the end of the First World War, and were enjoying their richly deserved freedom in their historic homeland under their chosen forms of democratic governments. For two decades they worked hard in making their respective countries havens of independence. They were content with their lot. But the Second World War ushered in a period of misery and misfortune which has become part of their unenviable lot for a quarter of a century.

Early in the war the Soviet Government took full advantage of the weakness and helplessness of these peoples, and imposed its totalitarian system upon them. First, the governments of these countries were forced to sign mutual assistance pacts with the Soviet Union; then they were compelled to allow Russian garrisons to be stationed in these countries; and finally, in June of 1940, the Red army attacked and occupied these countries. By that time, these peoples were robbed of their freedom and independence, and became prisoners of the Red army. In the meantime, Soviet agents had instituted a reign of terror. Estonians, Latvians, and Lithuanians by the tens of thousands were arrested, imprisoned, and deported to distant parts of the Soviet Union. The terror continued until the Red army was forced out of these countries by the Nazis, in late June of 1941. In mid-June, however, just before their eviction, Soviet authorities intensified their reign of terror; and in one night alone, on June 13–14, tens of thousands of innocent people were deported. All told, during the first stage of their occupation of these countries, Soviet authorities deported many hundred thousand Baltic people, whose sad fate is not known to this day.

It is tragic that we solemnize the anniversary of this tragedy while the fate of its victims is still not fully known, and while the survivors of that tragedy still suffer under Soviet totalitarian tyranny. We pay homage to the memory of those who suffered and died for their righteous cause, and pray for the freedom of those who still survive.

URBAN MASS TRANSIT LEGISLATION: RESOLUTION OF THE VILLAGE OF MAMARONECK, N.Y.

Mr. KEATING. Mr. President, the village board of the Village of Mamaroneck, N.Y., adopted, on June 8, 1964, a resolution urging the passage at the earliest possible time of H.R. 3881, the proposed Urban Mass Transit Act.

The Senate version of this important measure, S. 6, passed the Senate in April of 1963. It had my full and wholehearted support at that time, and I certainly share the hope of the Mamaroneck Village Board for its prompt passage by the House of Representatives.

I ask unanimous consent that a copy of the resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution by Board of Trustees of the Village of Mamaroneck, N.Y.

Whereas the House Rules Committee has cleared for House consideration proposed law known as mass transit bill, dealing with Federal aid to both public and private transit systems, and which would authorize Federal grants up to two-thirds of the cost of building new facilities and improving old ones; and

Whereas it has been repeatedly stated that the financial condition of the New York, New Haven & Hartford Railroad, which runs through our village, is such that no moneys can be expended on improvements, new or old, and, in fact, doubt has been expressed as to whether railroad service will be continued unless financial aid is received; and

Whereas it is of vital importance to the welfare to our village that railroad service be maintained for our hundreds of commuters, and others of our citizens, and that the present facilities be improved, and new equipment acquired: Now, therefore, be it

Resolved, That the Board of Trustees of the Village of Mamaroneck hereby respectfully urges the Congress of the United States to pass the mass transit bill at the earliest possible date, to the end that essential railroad service to our village be improved and continued; and be it further

Resolved, That a copy of this resolution be sent to Congressman Ogden R. Reid; Senators Jacob K. Javits and Kenneth B. Keating; Dr. William J. Ronan, secretary to Governor Rockefeller; County Executive Edwin G. Michaelian; Supervisor George Burchell; Mr. A. L. Strunsky, citizens action committee; and the Daily Times.

TRIBUTE TO SENATOR McCARTHY

Mr. RIBICOFF. Mr. President, an article about Senator Eugene J. McCarthy, of Minnesota, one of the able and respected Members of the U.S. Senate, appears in the current issue of a leading magazine. This article, entitled "Senator Eugene McCarthy—How To Succeed by Ignoring Your Well-Wishers" is interesting and perceptive. I ask unanimous consent that this article from the June 1964 issue of Harper's magazine be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Senator Eugene McCarthy—How To Succeed by Ignoring Your Well-Wishers

(By Marshall Smelser)

(A Minnesota friend who never doubted the Senator's prowess as a scholar, farmer, and first baseman can't quite get used to his unnerving habit of winning elections.)

The name of Senator Eugene J. McCarthy, of Minnesota, keeps cropping up as a possible Democratic candidate for Vice President. Though he is said to be a long shot, it just might happen. So I feel this is the moment to get my particular I-knew-him-when story on record. Since I am a historian by trade I have a special duty in the matter; for in his case I have been privileged not merely to observe but to make history. The Senator, I may say, has arrived at his present eminence only because he willfully flouted my advice about two crucial decisions. This, I think, establishes me as what may be called a key figure in his career.

I first met Gene when we were both on the faculty of the College of St. Thomas in St. Paul and, by the luck of the draw, shared an office. He had become a college teacher more or less inadvertently.

After World War II, the McCarthys had bought a farm near Watkins, Minn., where his family has lived for almost a century. After they renovated the house, the children down the road said, "It isn't a real farm, they got a bathroom."

Gene hoped to start a private high school nearby. However, his chief concern was for the problems of the small farmers in the surrounding country. He had done graduate work in economics at the University of Minnesota and had great faith in the consumer-cooperative movement as a cure for endemic poverty. So he spent a good deal of his time talking to the needier farmers about co-ops.

Then a floodtide of returning veterans began to swamp the colleges. The president of the College of St. Thomas persuaded Gene to leave the farm to teach economics, while his wife Abigail taught English at the nearby College of St. Catherine. The McCarthys lived in a converted basement until the college acquired some Government-surplus barracks for temporary faculty housing on the campus. Gene is skilled in all the domestic crafts except plumbing, for which the rural Minnesota of his youth made no demand. One of his colleagues once remarked, "I hate that man. My wife keeps saying, 'If you had a modicum of mechanical ability you could make our place as comfortable as Gene makes theirs'."

In the fall of 1946, Gene and Abigail drove my family up to their Watkins farm for a weekend. As we rode, Gene appraised the value of the farms and the caliber of the owners by his own yardsticks—the number and quality of animals fed and the sizes of the October woodpiles. And he enthralled our daughter with stories about his wife's grandmother, who appeased hostile, hungry Indians with gifts of homemade bread.

As an economics professor McCarthy was concerned more with the distribution of wealth than with its production or consumption. The effect on his students was mixed. After a semester of exposure to McCarthy's ideas of social justice, one young conservative protested, "Professor, you're softening us up so we won't be able to go out of here and compete."

Gene and I both hankered after active involvement in local politics—the result perhaps of the frustrating wartime years we had both spent in voteless Washington. We sought the advice of a State legislator Gene knew. "Go over to Minneapolis and get in on Hubert Humphrey's action," he said.

The magical Humphrey—then mayor of Minneapolis—and his talented circle of University of Minnesota political scientists had recently united the Democratic and Farmer-Labor Parties. But its cohesion was now threatened by a factional struggle between a leftwing of Marxist radical persuasion and liberals like ourselves whose roots were in the New Deal and the Midwestern progressive movement of the elder La Follette. Ours was the rightwing point of view by DFL standards. Humphrey urged us to move into the party in Ramsey County (St. Paul) with as many like-minded friends as we could muster. They proved to be scarce in 1947.

I recall one early morning caucus when Gene and Abigail failed to appear, leaving my wife and me alone. "Maybe the McCarthys aren't with it," I said and reflected bleakly on the mercurial nature of most eager volunteer politicos. As it turned out, Abigail was suffering the first morning-sickness of a pregnancy, and Gene had stayed home to see her through it.

In our preliminary rites before the county convention, I nominated Gene McCarthy for the first time in his career for a political task. Gene and I were the caucus of the rightwing and we had to choose a leader. After we ticked off a list of all the elected delegates who might be suitable, I said, "I guess you're all that's left." But I faced this dismaying shortage of talent with bravado. In my spirited nominating speech I hit the Irish Catholic Democrats with McCarthy's still hush-hush career in Army signals (patriotism), and harvested the flinty-eyed Farmer-Labor types by offering them "a plain dirt farmer from Watkins, the only candidate who owns a walking plow" (populism). We had only one opponent, and a lady nominated him with the peroration, "I haven't got anything against professors, but I think we ought to have a man who works for a living." We drones won handily, and the right wing (mostly AFL leaders, professors, and soreheads) were elated. A few days later the left wing massacred us on the convention floor.

Since the convention proper had no nominees to select, its chief business was to choose party officers. The rightwing got none. The convention also adopted a platform. In the style then prevalent in leftwing circles, its planks ranged from world problems to St. Paul streetcar fares. After I was booed for defending the Truman doctrine, Gene suggested that I might do better to propose an amendment to the popular carfare plank, calling on Archbishop Murray to cut the pew rents in St. Paul's Cathedral. We went home defeated. But Gene McCarthy had emerged our leader against all who booed the Truman doctrine and attacked Humphrey as a reactionary lackey of the interests.

NO ONION GROWER

Some anomaly in the bony structure of one foot had made Gene unacceptable to the Armed Forces. But it did not prevent him from doing a secret civilian job in Pentagon communications. He had also had a notable career as a first baseman and relief pitcher in the Soo Valley League, where he learned to take the inevitable ballpark catcalls. Gene adapted the technique of bench jockeying to convention heckling. When the leftwing became too odious, we put our heads between our knees and let fly loud political epithets. Neither the chairman nor speaker could locate the source.

Within a year Gene became Ramsey County chairman of the DFL, a job which seemed to me an excellent vehicle for his limited talents and experience. But in 1948 when he said he might run for Congress I knew he was rushing things. After all, he had only been in politics 20 months. I told him he should take a Ph. D. at Notre Dame's Medieval Institute because a good medievalist could always get a job. Perhaps he might even be asked to join the Notre Dame faculty. I was about to move to Indiana myself and I praised the muck lands of the Kankakee Valley (not mentioning the vast amounts of nitrates they devour, nor their unhappy tendency to blow away or to catch fire in dry summers). I painted a rosy picture of the McCarthys happily presiding over the annual Muck Crops Festival while Gene grew onions and practiced Latin paleography with equal felicity.

But Gene persisted in his headstrong ways. He filed for the congressional nomination in August. That was the year Dewey ran against Truman, and I predicted that the President would have to be chosen by the House of Representatives because Strom Thurmond's Dixiecrats and Henry Wallace's Progressives would hopelessly split the Democratic vote. When I told my mother-in-law that the gentleman who had driven her to church the preceding Christmas was running for Congress, she was appalled. "They seemed such nice quiet people," she said.

Gene squeaked through the primary election by 380 votes. I warned him that the

Republican incumbent was invincible because incumbent. Gene said the Republicans only carried St. Paul when the Democrats and the Farmer-Laborites fell out. He thought an urbanized Irish Catholic farm boy could unite them. Despite my pessimism, he won hands down. I suppose I should have known. After all, he was the only candidate who owned a walking plow while living in a metropolitan area of a million and a half.

A few years later Gene began to speculate about running for the Senate. Hoping to put an end to that foolishness, I joined with other prudent friends who pointed out the folly of discarding a safe seat in the House in a hopeless quest for the Senate. After all, no Catholic could carry the whole State of Minnesota. But he was reckless and pigheaded as usual. He ran in 1958. The result:

McCarthy (Catholic) 52.3 percent, Thye (Protestant incumbent) 47.7 percent. Two years later, the returns in Minnesota were: Kennedy (Catholic) 50.7 percent, Nixon (Protestant) 49.3 percent. Minnesota, I guess, is a very peculiar State. Or perhaps there is something peculiar about the bonds Gene McCarthy cemented within the DFL Party.

RAMSEY COUNTY'S LOSS

In fact, you can't always be sure what Gene is up to, for he is given to long, reflective, fruitful silences. At a flocking of politicians he moves slowly from person to person with a friendly hand for each, an inclination of the head, and uninterrupted listening. His approach to life, like Adlai Stevenson's, is broody, but he is more certain of his answers. Though he lacks, perhaps, the dash and glitter of President Kennedy, he has the same respect for solid learning and for the arts. He also has a similar wryness of wit, which we stereotype as Irish, unless it is used by George Burns or Dick Gregory. In looks, he rather resembles the movie star, Ray Milland.

The rhetoric of his office newsletter hints at a multiplicity of authors and little senatorial blue penciling. But his own stuff is first rate when he is moved, as in his speech nominating Stevenson in 1960, or his extempore TV remarks during President Kennedy's funeral, or the elegy when he drew from Scripture his analogy of the white horse of glory and the pale horse of death. He might seem more narrowly educated than President Kennedy, but his drill cores are drawn from deep strata. Like President Johnson, he can talk fluently about black angus cattle or poland china hogs, but he has also been shaped by an industrialized constituency. Those now close to him say he has a strong personal affection for President Johnson.

To judge by his voting record his economic philosophy has not changed over the years and accurately reflects the views of the liberal urban constituency he represented for 10 of his 15 years in Congress. He has after all won six Federal elections in a two-party State, and he has lost none.

To the question, Where does he stand? it might be said that he is equidistant from his admired friend, President Johnson; from his beau ideal, Adlai Stevenson; and from his respected colleague and chief, President Kennedy. He differs from each, but has traits in common, and is their peer. His qualities complement but do not duplicate President Johnson's. If necessary he could occupy the White House with grace, intelligence, and wisdom.

He hasn't asked me yet whether he should run for Vice President, and I suppose the only man whose vote will count hasn't asked him, or anybody else. But if Gene is the one tapped, he will be a sure bet if he simply continues ignoring my advice as he has done at every fork of the road of his public career.

If he had only followed my counsel he might have been chairman of the Ramsey County DFL for another 20 years or so. Or he might be slapping mosquitoes in the Kankakee bottoms, while producing onions and purified textual editions of medieval mystics. And, if he wanted to keep his hand in at politics he could fight doggedly every 2 years to be elected a Democratic precinct committeeman. Who knows, our county committee might even be asking him to help pick township candidates in rural elections.

COLLEGE SPEECH CLASS SUPPORTS EDUCATION BILL

Mr. HARTKE. Mr. President, I have previously indicated to Members of the Senate the fact that support for my college student assistance bill, S. 2490, has come from both organizations and leaders of education in professional positions and from average people, both students and parents, who have learned of the bill.

Among the many letters which have reached me, one of the more interesting came from a student at Indiana State Teachers College. The student, John Raub, gave a speech in his college speech class on the subject of my bill. At the conclusion, he asked other members of the class who believed with him that this bill is needed to sign the letter with him. Eleven of the thirteen joined in signing the letter.

In view of that record, the bill, providing as it does for scholarships, National Defense Education Act loan expansion, Federal guarantee of student loans, and a work-study program, makes its own persuasive appeal, because it embodies an approach which goes far toward aiding in the solution of a national problem.

Mr. President, the letter from John Raub is as follows:

Dear Sir: I gave a speech in my college speech class supporting Federal loans and scholarships to college students. I informed the class about the Hartke college assistance bill you introduced in the Senate. At the end of the speech I asked members of the class to sign this letter if they favored the bill and thought the bill was needed. All of us wish you good luck in getting the bill passed.

Sincerely,

John Raub.

The other students' names follow in their own handwriting.

When this bill appears on the Senate Calendar, as I trust it will before long, I hope the sentiment may be as favorable and the arguments for it as persuasive as they were in John Raub's class. I shall be satisfied if 11 out of every 13 of the Senate's Members—or 88 out of the 100 among us—likewise give it a favorable vote.

SPEECH BY MISS LYNDA BIRD JOHNSON, IN HAWAII

Mr. INOUYE. Mr. President, it gives me a great deal of personal pleasure to submit for the Record a speech which was delivered by Miss Lynda Bird Johnson before the Second Little White House Conference on Children and Youth, at the University of Hawaii, in Honolulu, Hawaii, on Saturday, June 13, 1964.

This speech is remarkable, both from the standpoint of the comparatively youthful age of its deliverer, and the maturity of concern manifested throughout it. To be able to deliver such a speech before thousands of young people is, I think, a credit to the poise and composure of a person twice the age of Miss Johnson. To express such mature and responsible thinking is a credit to a seasoned speaker of any age.

I ask unanimous consent that the speech by Miss Lynda Bird Johnson be made part of the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Remarks of Miss Lynda Bird Johnson, Second Little White House Conference on Children and Youth, University of Hawaii, Honolulu, Hawaii

We belong to the largest younger generation in the history of the world. Today over half the world's population is under the age of 25.

Some people think that the growing youthfulness of our population is a dangerous thing. But it shouldn't be frightening to us. We should remember that Thomas Jefferson wrote the Declaration of Independence at the age of 33, Alexander Hamilton helped shape our Constitution at the age of 32, and John F. Kennedy had already served 14 years in the Congress when he became President at the age of 42.

The great problems of today—social justice and progress at home, peace and economic development abroad—will require new efforts of imagination, a fresh flow of ideas, and untiring energy and effort. And these qualities, above all, are what we can bring.

If there is one thing that characterizes us, it is that we share a "new idealism." Ours is a new idealism that places great emphasis on practical action. But it also realizes that all practicality in the world is useless unless it is guided by convictions and purposes which are never sacrificed to immediate gain.

This new idealism is the belief that high aspirations and strong ideals are not inconsistent with the most practical and efficient of programs. There is no separation between the deepest desires of heart and mind and the application of human effort to human problems.

I think that most of us could agree on the kind of world we want. It would be a world in which our own country was working to eliminate poverty, bring about racial justice, and improve the quality of life for every citizen. It would be a world of independent nations, freely pursuing justice for their people. It would be a world of constant progress—not material progress as an end in itself, but as a means to liberate the talents of every individual.

In time of war, the first people called to serve their country are the young people. Too often in time of peace we have assumed that the important work could only be trusted to older hands. We now have the responsibility and the chance to show what we can do to participate in the important work of the world.

The Peace Corps is one wonderful example of what young Americans are able to do today. Tens of thousands of young people throughout this country have responded to the Peace Corps. Their spirit may be summed up in a letter written by a Peace Corps volunteer in Colombia, David Crozier, just before he was killed in an airplane crash. He wrote: "Should it come to it, I had rather give my life trying to help someone than looking down a gun barrel at them." This spirit moves those 7,000 young volunteers—now working in 50 nations—who proved to a doubting country that our youth could reshape and improve the world's understanding of America, and bring a better life, and the light of hope, to thousands of villages in far off places.

The poverty program will give us a chance to help the poor of our own country. Every young American can become personally involved in fighting to end poverty in the United States. You have been discussing ways students can help eliminate juvenile delinquency and school dropouts. It is wonderful to know that high school students in towns and cities all over the country are leading recreation programs for less fortunate young people, are tutoring elementary school students, and participating in many other programs to improve their communities. In the city of Cleveland alone, over 1,000 high school students have volunteered to tutor third, fourth, and fifth graders this summer.

Whatever you do to help, don't think your individual contribution won't make a difference. Even the smallest contribution makes a difference and lots of small contributions make progress possible.

As our generation assumes its responsibilities in the world, we must make sure we are responsible, well-informed citizens.

It is important that we take advantage of the excellent opportunity we have during the campaigns and elections this summer and fall to inform ourselves about our country's political process and government.

We should seek out every chance to learn more about other parts of the world and make a special personal effort to increase international understanding in the United States. We need especially to learn more about the new developing nations in Asia, Latin America, and Africa as these countries assume their important places in world affairs. You in Hawaii are particularly fortunate with people coming through from so many different countries and so many nationalities represented here.

I think all of us could do a lot more for and learn a lot more from foreign students in our communities. High schools can invite former Peace Corps volunteers and others to come talk about their experiences.

There are many other ways we can educate ourselves as responsible citizens in a new age.

As we assume our responsibilities we must not lower our horizons or lose our idealism.

Anne Frank, facing death in a concentration camp, wrote: "I see the world gradually being turned into a wilderness. I hear the ever-approaching thunder, which will destroy us, too. I can feel the sufferings of millions, and yet, if I look up into the heavens, I think it will all come right. In the meantime, I must uphold my ideals, for perhaps the time will come when I shall be able to carry them out."

Anne Frank never lived to carry out her ideals.

But we have the chance to carry out ours. If we are willing to sacrifice and labor for those ideals, then we can build a world in which Anne Frank's kind of tragedy will never again darken the pages of history.

LIFE MAGAZINE AND J. EDGAR HOOVER

Mr. MUNDT. Mr. President, Life magazine is one of the fine periodicals published in this country. I have subscribed to it for many years, and have received much enjoyment and benefit from reading it.

However, like any other periodical, it sometimes "goes off the beam." I must say that when it endeavors to mix prejudice with pictures and photography, and pulls a boo-boo, it does so with stupendous success.

I call attention to the fact that in a recent article in Life magazine a very prejudicial attempt was made to discredit one of our great American public servants—J. Edgar Hoover. The article is so patently wrong and so obviously prejudiced that it really defeats the purpose of the writer. But I do think it might be beneficial to include in the RECORD at least one critique of that particular article. In the New York Journal American for Sunday, June 14, 1964, Walter Winchell in his inimitable style addressed to "Mr. and Mrs. United States" a communication in which he discussed the unfortunate article in Life magazine.

I ask unanimous consent to have Walter Winchell's article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Journal-American, June 14, 1964]

WALTER WINCHELL OF NEW YORK: MR. AND MRS. UNITED STATES

Life magazine's recent article was directed at No. 1 G-Man John Edgar Hoover. Competence is described as cause for resignation—dedication is scorned as demagoguery—pride is derided as self-glorification—longevity is dismissed as dangerous.

The bulk of the mag's indictment is encompassed in this paragraph: "But the most serious defect in this business of Mr. Hoover's continuing one-man rule centers around the Bureau's preoccupation with him. Evidence of the Hoover cult abounds. Perhaps the most startling signs appear in the documents put out by the FBI about the boss. In one biographical handout Mr. Hoover's career is described with such unequivocal sentences as: 'During the past 30 years, the entire complexion of law enforcement throughout the United States has been changed primarily because of the principles advocated by Mr. Hoover and successfully tried by law-enforcement agencies.'"

The rather obvious suggestion is that Mr. Hoover's accomplishments are mere personal propaganda. The truth is that they are matters of historical record. On May 10, 1964, the New York Times reported: "No one disputes Mr. Hoover's solid accomplishments. He eliminated political influence in appointments. He had the foresight to promote—on a scale never before attempted in America—high scientific standards in detective work. And he established a huge fingerprint collection, an indispensable resource in tracking down criminals. He also created a skilled laboratory to make scientific tests on minute physical clues. Mr. Hoover also founded the National Police Academy, which trains selected officers from departments throughout the country in the latest scientific methods." The newspaper added: "Mr. Hoover has made an incalculable contribution to raising the standards of law enforcement in the United States."

The primary problem with debunking the article is that so much of it is ludicrous—it is difficult to choose the most foolish paragraph. But this one comes close: "But I wonder if the loyalty of his staff and his own continuing efficiency, his remarkable popularity with Presidents and public officials and the confidence so many private citizens have in his ability, really qualify Mr. Hoover for a perpetual lock on the job."

If loyalty, efficiency, popularity, respect, and integrity don't qualify a man for a job—whatinell does? Disloyalty? incompetence? unpopularity? disrespect? dishonesty?

The obvious conclusion is simply this: When a man's record and reputation are unassailable you can abuse him by describing good as evil. This is to remind the magazine's editors that for more than 40 years the FBI has been unblemished by scandal.

There is no function of our national existence—from the lonely blinking lights off the Florida Keys—to the signal towers of the Alaska Railroad—whose operations are not the responsibility of some very responsible person in our Nation's Capital. Tens of thousands of faithful Americans give the civil services the same selfless devotion—that the flag receives from the Armed Forces. Their heartbreaking role is that their effectiveness is taken for granted. And, in this case, a diligent and dedicated public servant is being reproached for being successful.

The article against J. Edgar Hoover is launched with: "Under ordinary circumstances the Roman senate conferred god status on a few emperors while they were still in office, and more or less the same thing just happened to J. Edgar Hoover. Not that he hasn't been at least a demigod for a long time."

The blasphemy is apparent. The stupidity of the analogy is equally clear. Mr. Hoover has always functioned within his constitutional powers.

The article goes on: "One gets the feeling that if Mr. Hoover departed the Bureau (FBI) would fold. The 170 million fingerprints would fade away on their cards, and the agents, mourning the retirement of their leader, would turn flabby. I don't think that either the Bureau or J. Edgar Hoover would suffer much from a separation."

The FBI chief has never contended he is indispensable. And it would be equally unrealistic to deny his importance to the Nation's security. To suggest Mr. Hoover is too old during these critical days would be as recklessly foolish as demanding the resignation of General Eisenhower during the Normandy invasion. The FBI may or may not suffer from such a divorce. But we know that the American people would suffer—since it would represent a triumph for every spy, subversive, hoodlum, corrupt politician, and traitor—here, there, and everywhere.

The picture weekly comments that Mr. Hoover "could take any one of a number of jobs that have been offered him in private business or he could just putter with his azaleas and play the horses at his favorite $2 window."

I have another scandal for Mr. Luce's lily-white magazine: J. Edgar occasionally loses as much as $10 at the track—his limit.

Let there be no misconceptions: This reporter has no desire to disgrace Mr. G-Man (and his agents) with a defense. But I would be derelict in my duties as a newspaperman and citizen if I neglected to debunk Life's bunk.

I believe that its blow-the-man-down article should not go unchallenged. So I urge my readers to clip this column and mail it to the Time and Life Building, 50th Street and 6th Avenue in New York City with a request for rational explanation.

Several weeks ago President Johnson called Mr. Hoover "a quiet, humble, and magnificent public servant."

The only people we can think of, who might not subscribe to the President's sentiments, are those named on the FBI's "Ten Most Wanted" list.

STATES ARE BECOMING SATRAPIES OF THE FEDERAL GOVERNMENT

Mr. RUSSELL. Mr. President, the pending bill, together with two decisions of the Supreme Court yesterday, practically sound the deathknell of our Federal system. Under the proposed legislation and the decisions of yesterday, the States will become mere satrapies of the Federal Government. I hope our people will be able to preserve their freedom and liberties under a centralized government. If we do so, it will be the first time in human history that has ever been accomplished.

This morning's New York Times carries an article, by Mr. Arthur Krock, entitled "Judge-Made Amendments to the Constitution." It is a very mild criticism or analysis of the impact of these two decisions upon what was once our Federal system.

I ask unanimous consent that the article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Judge-Made Amendments to the Constitution

(By Arthur Krock)

Washington, June 15.—In recording that, as a matter of fact, the Supreme Court today twice amended the Constitution, it should be noted that, also as a matter of fact, the Constitution is what a majority of the Court says it is from time to time. And it should further be noted that judicial supremacy over the acts of the other two Federal Government branches and the States has reached so high a degree of acceptance that the President automatically enforces the decrees of the Supreme Court; and that appeals to Congress to exercise its limited power to vacate them, get nowhere.

The result is that when the Court proclaims, as it did today, revolutions in the American political process and in the legal process of the States, the revolutions are immediately accomplished. The only authoritative protest comes from within the Supreme Court itself, by the dissenters. Today these numbered four against the ruling that State courts are bound, as the Federal courts are, by the fifth amendment's ban on further questioning when a witness in criminal trials merely makes a claim of liability to self-incrimination. And there were three dissenters to the Supreme Court's decree that the members of both branches of a State legislature must be chosen "as nearly as is practicable" on a basis of equal population in the voting districts—"one person, one vote." In each instance these decisions were in fact amendments of what the Court previously proclaimed to be the Constitution.

The revolutionary political effect of the ruling concerning the makeup of State legislatures was well described by Justice Stewart in a dissent joined by Justice Clark. "What the Court has done," he wrote, "is to convey a particular political philosophy into a constitutional rule, binding upon each of the 50 States * * * without regard and without respect for the many individualized and differentiated characteristics of each State * * * stemming from [its] distinct history, distinct geography, distinct distribution of population and distinct political heritage. * * * I could not join the fabrication of a constitutional mandate which imports and forever freezes one theory of political thought within our Constitution * * * and forever denies to every State any opportunity * * * to accommodate within a system of representative government the interests and aspirations of diverse groups of people, without subjecting any group or class to absolute domination by a geographically concentrated or highly organized majority."

MISCHIEVOUS CONSEQUENCES

The revolutionary effect of the decision which abruptly extended to certain State judicial procedures the absolute guarantee of the fifth amendment against self-incrimination was best summed up by Justice Harlan, dissenting. "The reasoning behind the Court's decision," he wrote "carries extreme mischievous, if not dangerous consequences for our Federal system in the realm of criminal law enforcement * * *. This Court now [has decided] that the 14th amendment makes the fifth's privilege against self-incrimination applicable to the States [and that] the Federal standard justifying a claim of this privilege likewise applies to the States * * *.

"The ultimate result is compelled uniformity * * *. As recently as 1961 this Court reaffirmed that 'the fifth amendment's privilege against self-incrimination' was not applicable against the States."

The "Federal standard" referred to is that, "wherever the question arises in criminal trials whether a confession is competent because not voluntary, the issue is controlled by that portion of the fifth amendment * * * commanding that no person 'shall be compelled in any criminal case to be a witness against himself.'" The general standard of the States is that a mere claim of self-incrimination is not sufficient; the trial judge may determine whether "there is reasonable ground to apprehend danger of criminal liability from his [the person's] being required to answer."

More than a dozen opinions were written by the Justices in the reapportionment and self-incrimination cases. These will require weeks for even the most experienced constitutional lawyers to digest. But the clear overriding fact is that both decisions were basic Supreme Court amendments of the Constitution as previously affirmed and reaffirmed by the Supreme Court.

HIGH-SOUNDING PHRASES DO NOT ALWAYS REPRESENT WORKABLE SOLUTIONS

Mr. BENNETT. Mr. President, over 4 years of hearings have failed to diminish the key arguments against Senate bill 750, the so-called truth-in-lending bill:

First. Its provisions would result in untruthful disclosure.

Second. Its provisions would create burdensome calculations, in some cases; and impossible ones, in other cases.

Third. It would duplicate, decimate, and debilitate the existing fabric of effective State legislation.

In the June 15 issue of the Wall Street Journal, we perhaps gain further insight into the evident goals of this bill's proponents: complete Federal control and regulation of the consumer credit industry, with so-called truth-in-lending but the opening wedge. It appears that the President's Consumer Advisory Council wants a full-scale investigation made of the banking industry and other consumer lending activities.

Mr. President, I ask unanimous consent to have the article printed in the Record, as part of my statement.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal,
June 15, 1964]

Steps To Prevent Disguised Credit Costs Proposed by President's Advisory Council

Washington.—President Johnson's Consumer Advisory Council recommended a number of steps to insure that consumers know the real cost of their borrowings.

The Council, an 11-member citizens' group headed by Helen G. Canoyer, dean of Cornell University's College of Home Economics, submitted its proposals to the Committee on Consumer Interests, chaired by Esther Peterson. The Council, the committee, and Mrs. Peterson all serve as advisers to the President; none has regulatory authority.

Most of the Council resolutions proposed investigation and elimination of what it considers loopholes in the laws against misrepresenting the cost of credit.

The Council asked Mrs. Peterson to bring together representatives of Federal agencies regulating consumer credit to decide what new legislation is required. It hopes to supplement, rather than replace, the so-called truth-in-landing bill pending in Congress. That bill would require lenders to disclose to borrowers in advance the actual amount of their commitment and the annual rate of interest. It has been widely assailed by lenders as unworkably complicated.

DISGUISED CREDIT COSTS

The Council called for a poll of Federal agencies regulating banks to determine their jurisdictions and legislation needed to prevent disguised credit costs. The Federal Trade Commission has ruled it a deceptive practice to charge the advertised interest rate on the whole amount of a loan when the principal is being gradually repaid. However, commercial banks don't come under FTC jurisdiction.

The group also asked Mrs. Peterson to find out if Federal examiners of national banks determine whether consumer notes comply with State antiusury laws. The Council asked for a survey of examiners' practices in comparing actual rates charged by national banks with the rates permitted by States.

Because of variations in the closing costs of federally financed home purchases, the Council asked the Federal agencies that finance home purchases for appraisals of present practices and proposals of legislation to prevent abuses.

The Council also requested a conference of Federal referees in bankruptcy, representatives of the Labor Department and representatives of Federal credit agencies to seek out and recommend changes in bankruptcy legislation and suggest improved methods for meeting the credit needs of low-income families.

LACK ESSENTIAL FACTS

The Council began a study of the social pathology of consumer credit addicts last December. In its present recommendation, it noted with alarm the growing number of bankruptcies and the failure of contracts to convey meaningfully to credit users essential facts in the contract.

The group also urged that each college with a loan program endorsed by the college require the lender to make public the cost of loans in simple annual rates.

It also urged enactment of legislation, proposed by Senator Ribicoff, Democrat, of Connecticut, for strict control of pesticide manufacturers. Specifically, Mr. Ribicoff's bill would require pesticide manufacturers to register each factory with the Agriculture Department and acquire a waste-disposal permit barring any environmental pollution that will endanger the public health and welfare.

NINETEEN DECADES OF SERVICE

Mr. BARTLETT. Mr. President, several thousand miles lie between Bunker Hill and south central Alaska, and 189 years separate that first severe battle of our American Revolution from the harsh reality of this country's worst earthquake. But there is a strong bond between the two events in our history which tested man's courage and gave him confidence to conquer his enemy.

The bond linking events bridged by almost 19 decades was established when

George Washington on June 16, 1775, named as this country's first engineer Col. Richard Gridley who fortified the American position at the Battle of Bunker Hill. June 16, 1964, finds Colonel Gridley's engineering heirs doing battle for Alaska's recovery.

From the days of its beginnings to the present, the Corps of Engineers as it gathered strength has reaped many honors. Not to be forgotten are the difficult tasks assigned to the Corps in World War II, such as construction of artificial harbors, temporary docks and airfields, clearing of beachheads and other actions performed under enemy fire. Surely a great contribution to victory was the Bailey Bridge created through joint efforts of American and British engineers to ease the crossing by troops and equipment of major rivers during the war. Combat found engineers fighting as infantry, especially at the Battle of the Bulge. The engineers served well in war; they serve well in peace.

We in Alaska have had many occasions to mark our gratitude to the Corps of Engineers. Here is a land, strategically located, 586,000 square miles in size including 10 million acres of inland water acres. Through this land flow mighty rivers, the Yukon and the Kushokwim, the Copper and the Susitna, and others. Alaska's shores are washed by the Pacific Ocean, the Bering Sea, the Chukchi Sea, the Arctic Ocean and the Beauford Sea. Alaska is a vast peninsula and its economy in great measure is dependent upon the fishery resources of these waters. And, in turn, our fishermen in need of safe anchorage have found refuge in small boat harbors built under the supervision of the Corps of Engineers.

The corps has had many opportunities to assist when the Alaska spring begins with the breakup of ice on our big rivers. This is the time of floods and high waters. This is the time when through the aid and cooperation of the Army, Air Force, and Navy, the corps puts to practice its authority to relieve such situations. Within the past 3 weeks, in addition to all the tasks it is performing in the wake of Alaska's earthquake, the corps fought floods and performed evacuation of flooded areas. Some 550 Alaskans were moved from flood-threatened areas to rescue centers by the Alaska district of the corps through use of Army and Air Force helicopters. Ninety of these people were moved from Stevens Village on the Yukon and 460 from villages on the Kuskokwim. Over 100 aerial reconnaissance flights were made by hydraulic engineers employed by the Alaska district during breakup. The corps under its authority in such situations to call upon locally available military personnel and equipment asked the Navy to drop 25,000 pounds of bombs to blast out ice jams. The bombing was a major factor in saving the community of Bethel from flooding and alleviating flood damage elsewhere on the Kuskokwim. The Yukon required little bombing this year except at the mouth of the south channel to ease flood threats to the village of Alakanuk and vicinity.

These are examples of how the activities of the corps touch the lives of Alaskans and assist in their problems. These are the kind of aids which Alaskans have long known and appreciated, as have other Americans in similar circumstances throughout our country.

The military construction work performed by the corps in Alaska has been considerable. Large-scale construction did not start until the early 1940's. First begun under the jurisdiction of the Quartermaster General, the work was transferred to the Chief of Engineers at the end of 1940. It was then that work began on Ladd Air Force Base near Fairbanks and Fort Richardson at Anchorage, on the 1,600-mile Alaska Highway and airstrips in the Aleutian Islands. At the same time under the jurisdiction of the Seattle District Engineer construction of airfields and garrisons started at Yakutat and Annette Island in southeastern Alaska.

After January of 1941 when the district engineer at Seattle was given the responsibility for War Department construction in Alaska an area office was established at Anchorage. During the period between 1940 and 1946 Alaska military construction totaled $1 billion.

Following World War II representations made for a separate Alaska office were successful, and the Chief of Engineers on April 9, 1946, signed the general order creating the Alaska District, and on May 1 the district began active operation with headquarters at Anchorage. Its first assignment was to carry on the military construction undertaken in World War II. In 1949 civil works responsibilities were added to the initial mission, and the first project in this category was started, the survey of all water resources of Alaska. Major projects of the district's military program have included construction of Army and Air Force bases, troop and family housing, the Haines-Fairbanks pipeline, the DEW line extensions, BMEWS and aircraft and warning stations, Nike-Hercules sites, and Alaska's first nuclear powerplant at the Army base of Fort Greely.

These military construction and civil public works programs have played large roles in Alaska's economic development. Improvement and maintenance of Alaska's navigable waters have aided the fishing and lumbering industries. The potentials of Alaska's hydroelectric energy estimated at upward of 18 million kilowatts of prime power, have been studied and advanced by the Alaska district.

But the biggest task and the most meaningful the Alaska District has been called upon to undertake was assigned by nature when on March 27 at 5:36 p.m., south central Alaska time, the earth rolled and heaved and cracked for seemingly endless minutes, and the huge waves came and then receded and took with them docks and canneries and breakwaters, all vital, almost all destroyed. And the land tilted so that some areas dropped several feet and others rose. A massive reconstruction effort was ordered by President Johnson with initial and considerable assistance coming from his disaster fund administered by the Office of Emergency Planning under the direction of its extremely able and dedicated Director, Edward A. McDermott. The Alaska district was assigned the task of rebuilding the public sector using OEP disaster funds and in some cases funds available to the corps. The work being accomplished by contract and by the corps itself includes repair of access roads, power and communication cables, water systems and sewers, demolition of buildings, clearing of massive rubble, repair of schools and harbor facilities, and many more. All of this presents a tremendous challenge to skill, to organization, to efficiency, to endurance. Lt. Gen. Walter K. Wilson, Jr., the corps' 42d Chief of Engineers, Col. Kenneth T. Sawyer, Alaska's district engineer, and all those who work with them are meeting this challenge magnificently.

In recognition of this contribution to Alaska's reconstruction and for past services rendered and as a salute to the 189th anniversary of the Corps of Engineers, Alaska's Gov. William A. Egan has proclaimed this day U.S. Army Corps of Engineers' Day in the 49th State. I ask unanimous consent to have the Governor's proclamation printed at this point in the Record as I take this opportunity to add my congratulations and thanks to the Corps of Engineers as it turns toward its 20th decade of service to this country.

There being no objection, the proclamation was ordered to be printed in the Record, as follows:

> Whereas the U.S. Army Corps of Engineers will celebrate its 189th birthday on June 16, 1964; and
>
> Whereas for 95 years the Corps of Engineers have been active in Alaska in many fields including construction and improvement of Alaska's harbors, navigation channels, and flood control projects; and
>
> Whereas with the advent of World War II, the Corps of Engineers constructed under extremely adverse conditions, the Alaska Highway, linking Alaska with the first 48 States; and
>
> Whereas the Corps of Engineers also supervised construction of the Nation's northern defense system on Alaskan soil; and
>
> Whereas the Corps of Engineers responded speedily and efficiently in rendering assistance to earthquake stricken south-central Alaska; and have diligently pursued plans and activation of a reconstruction program designed to get Alaska's economy back in normal channels: Now, therefore,
>
> I, William A. Egan, Governor of the State of Alaska, in recognition of the achievements of the U.S. Army Corps of Engineers, hereby proclaim Tuesday, June 16, 1964, as U.S. Army Corps of Engineers' Day in Alaska and urge all Alaskans to pay recognition to the Corps of Engineers, U.S. Army, both uniformed and civilian, for the tremendous task they have achieved in planning, construction, and maintenance programs in the State of Alaska, as well as throughout our Nation.
>
> In witness whereof, I have hereunto set my hand and caused the seal of Alaska to be affixed, this 3d day of June in the year of our Lord, 1964.
>
> William A. Egan,
> *Governor.*
>
> Attest:
>
> Hugh J. Wade,
> *Secretary of State.*

RED CROSS CONTRIBUTION TO ALASKA DISASTER

Mr. BARTLETT. Mr. President, it was with grave concern that I read the news of the devastating earthquake which hit our Pacific neighbor of Japan in recent hours. To us in Alaska knowledge of natural disasters will forever have a particular and personal meaning which would perhaps not have been the case had we, too, not been ravaged by the elements. To our Japanese friends and neighbors go our deepest sympathy in this time of sorrow.

The Good Friday earthquake in Alaska and the subsequent seismic waves brought economic losses to a sizable portion of our State. We are endeavoring to the best of our ability to reestablish our economic base. If there were a fortunate aspect in all of this it is the fact that the loss of life was comparatively light. We are advised that 117 lives were lost; we sorrow over each and every one of them.

But it is not my intent here to address the Senate concerning our tragedy. Through the weeks and now even months since that Good Friday weekend we Alaskans have learned that we were not to stand alone in our time of need. We shall never forget the warmth with which tangible assistance came to us. It came from all quarters of the earth and through many organizations and individuals. I have spoken before of the manner in which aid came to us. Only this week the Red Cross informed me that contributions received for the Alaska disaster have reached a total of $397,659.75. These contributions and the personal services of the Red Cross have brought relief to scores of Alaskans. This is the story of the Red Cross wherever disaster has struck.

So it is that I am particularly heartened over the fact that the Red Cross is standing by in Japan to render immediate assistance. In Alaska over $650,000 has been spent for construction materials, household furnishings, house moving, and related help which has meant so much.

DANISH CONSTITUTION DAY

Mr. DODD. Mr. President, the month of June marks an occasion that has great significance for thousands of our fellow Americans of Danish descent, for during the month of June more than a century ago the people of Denmark took the first important step toward achieving the high degree of democracy and economic and social progress for which Denmark is known and admired throughout the world.

The year was 1849 and the liberal constitution that was peacefully adopted, providing for free discussion and parliamentary government, was in marked contrast to the revolution and violence that had beset the continent and would continue to do so in some areas for many years.

The history of Denmark is one of steady, peaceful, and responsible progress toward a better life for all of its citizens, without diminishing in any way the dignity and the freedom of the individual.

Indeed great respect for the rights of his fellow man has consistently been an attribute of the individual Dane and of the nation as a whole.

Denmark today enjoys an unusual and well deserved place in the councils of the free world. This is not because of great military or economic power or because of tremendous resources or a large population, but rather because Denmark is a valued and trusted ally, one that can be counted on to cooperate and work for the common good of the international community instead of pursuing only its own self-interest and limited national goals.

A reminder of Denmark's unique and respected place in the world was the visit to Washington of the Danish Prime Minister, Otto Krag, earlier this month.

And just as we know and respect Denmark for its peaceful, reasonable, and commonsense approach to the solution of its problems, so also do we remember the heroic resistance of the Danes to Nazi oppression during the dark days of World War II.

Denmark in many ways then embodies the ideal for which Western civilization strives. It is a nation that seeks to accomplish its goals by peaceful, reasonable means, but when all else fails and the Danes must fight for that in which they believe they do so and they do it with conviction and with determination.

The many Danes who have immigrated to the United States during the 19th and 20th centuries have brought with them the spirit and outstanding characteristics that we identify with their homeland.

And they have contributed to, enriched, and become integral parts of the communities in which they settled in various parts of our country, through their industry, their creativity, and their great capacity for tolerance and respect for the dignity and the rights of their friends and neighbors.

To Denmark and to the people of Danish origin or descent in the United States I express my gratitude and thanks for their support of and devotion to the cause of freedom and opportunity for the individual.

The **ACTING PRESIDENT** pro tempore. Is there further morning business? If not, morning business is closed.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The **ACTING PRESIDENT** pro tempore. The question is on agreeing to the Mansfield-Dirksen substitute, amendment No. 1052, as amended.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 360 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

Mr. HUMPHREY. I announce that the Senator from Florida [Mr. SMATHERS] is absent on official business.

I also announce that the Senator from Oklahoma [Mr. EDMONDSON], the Senator from Texas [Mr. YARBOROUGH], and the Senator from West Virginia [Mr. BYRD] are necessarily absent.

I further announce that the Senator from California [Mr. ENGLE] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Utah [Mr. BENNETT] is detained on official business.

The **PRESIDING OFFICER** (Mr. INOUYE in the chair). A quorum is present.

The question is on agreeing to the Dirksen-Mansfield amendment, as amended. This substitute amendment is open to further amendment.

Mr. LONG of Louisiana. Mr. President, I call up my amendment No. 755.

The **PRESIDING OFFICER.** The amendment offered by the Senator from Louisiana will be stated.

The CHIEF CLERK. On page 7, lines 4 and 5, immediately after the word "entertainment", it is proposed to insert the words "not situated within the residence of the operator or proprietor thereof".

The **PRESIDING OFFICER.** How much time does the Senator from Louisiana yield himself?

Mr. LONG of Louisiana. Mr. President, I yield myself 1 minute.

The **PRESIDING OFFICER.** The Senator from Louisiana is recognized for 1 minute.

Mr. LONG of Louisiana. Mr. President, this amendment has to do with the public accommodations section. It will be noticed that the section defines a place of public accommodations in terms so broad that it could include a private home where someone would sponsor an art exhibition, a cooking contest, or some other benefit for the good of a widow, perhaps, or for the good of a private school, a Boy Scout organization, or otherwise.

The word "entertainment" is such a broad word that a private home could fall under the definition of place of public accommodations, merely because it was being used as a place of entertainment or exhibition, and so on.

I do not believe it should be intended that a private home could be regarded as a place of public accommodation.

For that reason, I offer my amendment.

Mr. President, I do not believe a quorum is present; but I ask for the yeas and nays on the question of agreeing to my amendment, in the event the Senate is ready to vote at this time.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 30 seconds.

Mr. HUMPHREY. Mr. President, this amendment would exclude from the places of entertainment covered by title II those which are "situated within the residence of the operator or proprietor thereof."

Delicacy and discretion prohibit any inquiries into exactly the kind of places of entertainment within a residence which are intended to be covered by this amendment. At any rate, it is hard to think of any significant coverage of title II which would be affected by this amendment. On the other hand, enactment of this amendment might give rise to attempts at avoidance of the prohibitions of title II by persons who would establish their residence in the premises of a movie, theater, and the like.

This amendment should be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. DIRKSEN when his name was called. On this vote, I have a pair with the distinguished Senator from Texas [Mr. TOWER]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Arkansas [Mr. McCLELLAN], the Senator from Florida [Mr. SMATHERS], and the Senator from Tennessee [Mr. WALTERS] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. BYRD], the Senator from Oklahoma [Mr. EDMONDSON], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from Florida [Mr. SMATHERS] would vote "yea."

On this vote, the Senator from Arkansas [Mr. McCLELLAN] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Tennessee [Mr. WALTERS] is paired with the Senator from Oklahoma [Mr. EDMONDSON]. If present and voting, the Senator from Tennessee would vote "yea," and the Senator from Oklahoma would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Utah [Mr. BENNETT] is detained on official business, and if present and voting, would vote "yea."

The pair of the Senator from Texas [Mr. TOWER] has been previously announced.

The result was announced—yeas 24, nays 65, as follows:

[No. 361 Leg.]

YEAS—24

Byrd, Va.
Cotton
Curtis
Eastland
Ellender
Ervin
Fulbright
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
Mechem
Morton
Robertson
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Williams, Del.

NAYS—65

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Dodd
Dominick
Douglas
Fong
Gruening
Hart
Hartke
Hayden
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, N. Dak.
Young, Ohio

NOT VOTING—11

Bennett
Byrd, W. Va.
Dirksen
Edmondson
Engle
Goldwater
McClellan
Smathers
Tower
Walters
Yarborough

So Mr. LONG of Louisiana's amendment (No. 755) was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JAMES A. FARLEY'S ASSESSMENT OF THE COMING PRESIDENTIAL CAMPAIGN

Mr. McGEE. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 1 minute.

Mr. McGEE. Mr. President, no man is more revered in the Democratic Party than former Postmaster General James A. Farley. Not only is he an institution in our party, but he is also noted for political astuteness second to none.

On May 29, the Wyoming Eagle, of Cheyenne, Wyo., published a column, written by its editor, Bernard Horton, setting forth Mr. Farley's assessment of the coming presidential campaign. As one who concurs most heartily in his analysis, I ask unanimous consent that this column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wyoming Eagle, Cheyenne, Wyo., May 29, 1964]

POLITICAL AND OTHERWISE

(By Bernard Horton)

National polls and expert political opinion agree that President Lyndon B. Johnson is by all odds the favorite presidential candidate in the United States this year.

If the election were held today, President Johnson would win going away—regardless of whom the Republican nominee might be—and the same will be true on November 3, unless something drastic and unforeseen happens in the meantime.

Some polls and opinions indicate President Johnson may sweep the Nation in a landslide as overwhelming as the tremendous victory scored by the late President Franklin D. Roosevelt over Alfred M. Landon in 1936. That year, Roosevelt carried every State in the Nation except Maine and Vermont. Landon received only 8 electorial votes and Roosevelt 523.

Former Postmaster General James A. Farley, one of the Nation's most respected and astute political pros, is not quite that optimistic, although he, too, sees a Johnson sweep.

He has said that, according to his analysis and barring unexpected developments, President Johnson will win the election on November 3 in a sweep of the same proportions as that which Roosevelt chalked up in 1932 when he whipped Herbert Hoover.

That year, Roosevelt won 42 of the 48 States with a total of 472 electoral votes. Hoover carried Connecticut, Delaware, Maine, New Hampshire, Pennsylvania, and Vermont with a total of 59 electoral votes.

Farley, who served as national Democratic chairman during the 1930's, won nationwide attention in 1936 with his exact prediction of the outcome of the election. Despite the fact some polls showed Landon would be the winner, Farley publicly predicted Roosevelt would carry every State except Vermont and Maine. That is precisely what happened.

Since then, even more than before, Farley has been recognized as one of the Nation's leading political analysts, and his predictions and observations are widely respected.

He is not just talking politics when he sees President Johnson in a landslide this year.

According to news reports, he bases his prediction upon his analysis of the national political situation.

He has noted the Nation's economy is stable and indications are it will stay that way.

He believes President Johnson will be stronger in the Southern and Western States, where the late President Kennedy was weakest, and that he will carry the Eastern States.

He has been quoted as saying President Johnson will make inroads into the normal Republican vote, and that he will cut into

GOP campaign contributions because many businessmen think well of him.

There is little doubt that President Johnson will be elected this fall, barring unexpected developments.

And it will be interesting to see just how close the 75-year-old Jim Farley came in his very early analysis and prediction.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 362 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hayden
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

The substitute amendment, as amended, is open to further amendment.

Mr. ERVIN. Mr. President, I call up my amendment No. 785, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The Legislative Clerk. On page 32, in line 24, it is proposed to insert the word "religion" between the word "color" and the word "or".

Mr. ERVIN. Mr. President, I yield myself 1 minute. On this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, titles II, III, IV, V, VII, and IX piously proclaim that the purpose of the bill is to prevent discrimination on account of race, color, national origin, or religion; but not so with respect to title VI. Title VI only undertakes to prevent discrimination on the basis of race, color, and national origin. It omits any reference to discrimination on the basis of religion.

A primary rule for the construction of statutes is that the expression of one thing is to the exclusion of another.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. ERVIN. I yield myself another minute.

The omission of the word "religion" throughout this title stamps with the approval of Congress discrimination in federally assisted activities and programs on account of religion.

All Senators who believe there ought to be discrimination on account of religion in federally assisted activities and programs ought to vote against my amendment. But all Senators who believe there ought not be discrimination on the ground of religion in federally assisted activities and programs ought to vote for the amendment.

Mr. CLARK. Mr. President, I yield myself 15 seconds.

For reasons already fully developed in the course of the debate, the leadership opposes the amendment, and hopes that it will be rejected.

Mr. TALMADGE. Mr. President, I yield myself 1 minute.

The Senator from North Carolina has made an outstanding point in his argument on this amendment. It is indeed strange that the other sections of the bill should list not only race, color, and national origin, but also religion, and then omit religion from title VI. I do not believe that is warranted. I do not believe the Senate would want to put its stamp of approval on that. I am sure Senators would not want to discriminate against people because of religion.

In recent months and years, the Supreme Court has handed down some far-reaching decisions on this subject. I do not believe Congress wants to put its stamp of approval on a proposal which favors discriminating against people because of their religion, whatever their religion may be.

I hope the amendment of the Senator from North Carolina will be agreed to.

Mr. STENNIS. Mr. President, will the Senator yield to me, so that I may ask some questions?

Mr. TALMADGE. I am glad to yield to the Senator on my time.

Mr. STENNIS. I thank the Senator, but I shall speak in my own time. I yield myself 1 minute.

The Senator from Pennsylvania, instead of answering the Senator from North Carolina, has said the reasons for leaving out the word "religion" have already been stated. Has the Senator from Georgia heard any explanation on the floor of the Senate as to why the word "religion" was omitted?

Mr. TALMADGE. I have not.

Mr. STENNIS. Would not the Senator from Georgia like to hear the reasons, if there are any, for discriminating against religious groups in this nondiscriminatory bill?

Mr. TALMADGE. If the Senator from Pennsylvania would like to explain, I would listen with rapt attention to his explanation.

Mr. STENNIS. In the rest of my minute, I ask the Senator from Pennsylvania to state those reasons.

Mr. CLARK. Mr. President, I yield myself 1 minute. I do not intend to detain the Senate.

Some time ago, in the presence of a number of other Senators, I argued this subject at great length with the Senator from Tennessee [Mr. Gore]. The putting of the word "religion" into this particular title would cripple a number of Federal programs, including the school lunch program and the housing program.

I yield back the remainder of my time.

Mr. STENNIS. Mr. President, will the Senator yield for a question on his time? He has not used his full minute. Does not the Senator from Pennsylvania think the omission of the word "religion" would cripple all the rest of the programs, as well as those he has mentioned?

Mr. CLARK. No, I do not.

Mr. CASE. Mr. President, I yield myself a half minute.

Mr. President, I think the statement already made by the Senator from Pennsylvania is adequate. We are not here to try for verbal symmetry in legislation. The argument made here is really based only on that.

We are trying to correct the evils that have been proved. There has been no evidence that there is no discrimination in any Federal programs.

Mr. TALMADGE. Mr. President, I yield myself 20 additional seconds.

It is a strange thing that legislation because of religion is mentioned. Thomas Jefferson wrote the statute of religious freedom in Virginia. He set the pattern for the first amendment.

I thought we were free of discrimination on the basis of religion or lack of religion, throughout the land.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 785) of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Florida [Mr. Smathers] is absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from West Virginia [Mr. Byrd] and the Senator from Texas [Mr. Yarborough] are necessarily absent.

On this vote, the Senator from Florida [Mr. Smathers] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Florida would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

If present and voting, the Senator from Texas [Mr. Tower] would vote "nay."

The result was announced—yeas 27, nays 67, as follows:

[No. 363 Leg.]

YEAS—27

Bible
Byrd, Va.
Cannon
Dominick
Eastland
Ellender
Ervin
Fulbright
Gore
Hayden
Hickenlooper
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Pearson
Robertson
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—67

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Boggs
Brewster
Burdick
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—6

Byrd, W. Va.
Engle
Goldwater
Smathers
Tower
Yarborough

So Mr. Ervin's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORRIS CAFRITZ

Mr. ANDERSON. Mr. President, on Sunday morning, June 14, 1964, Rabbi Norman Gerstenfeld paid tribute to a fine public citizen and a prominent developer of Washington real estate, Morris Cafritz.

As one of the honorary pallbearers at the funeral, I was particularly struck by the eloquence of Rabbi Gerstenfeld and by the fine sentiments which he pronounced. I discussed this subsequently with the Senator from West Virginia [Mr. Randolph], who had known Mr. Cafritz since 1934, and he agreed with me that it was a beautiful tribute and well deserved. It was my very good fortune to be well acquainted with Mr. Cafritz for a period of more than 20 years and to accompany him to baseball games, sporting events, to enjoy a social evening of bridge with him and to be entertained many times at the beautiful home which he established on Foxhall Road.

I, therefore, regard it as a special privilege, on behalf of the Senator from West Virginia [Mr. Randolph] and myself, to ask unanimous consent to have printed in the Congressional Record the tribute which Rabbi Gerstenfeld paid to Morris Cafritz for the great work which he had done in the development of Washington and the construction of its buildings and for the contributions he made to many worthy causes.

There being no objection, the tribute was ordered to be printed in the Record, as follows:

Morris Cafritz—June 14, 1964

My dear Gwen and sons Calvin, Carter, and Conrad and sister Carrie and brother Edward and all who are tied to our beloved Morris Cafritz with the bonds of the flesh or of the heart. We have gathered around the earthly remains of your beloved to speak a word of homage and to find some vision of God's comfort.

We have just read the lovely lines of the 90th Psalm: The days of our years are 3 score and 10 or even by reason of strength 4 score years yet is their pride but travail and vanity, for it is speedily gone and we fly away. So teach us to number our days that we may get us a heart of wisdom. Our fathers have often reminded us that our lives are always very brief. From the cradle to the grave is only a few puffs of breath so they advised us to number our days that we may get us a heart of wisdom. We must thank God for each day with our dear ones. We must count our blessings however evanescent they may be. We must live each day as if it is our last, reaching out to the good, the honorable, and the worthy.

If we number our days with a heart of wisdom we seek every blessing we can give, every honorable act of character we can attain, every worthy form of human service God grant us the strength to achieve.

In our brief lives we must reach out to the values that never die—to the strengthening of the forms of civilization that are the folkways of our faith—that are the channels of our spiritual quest and give meaning to our lives as the children of a good God.

How true this was of our beloved's life. It was Friday afternoon in Berlin that the sad news came to me and since I return tomorrow I will have traveled 9,000 miles in 3 days to pay my last respects as the rabbi of this congregation to one of our most deserving souls.

There are many in this community who think of Morris as the great builder. By this they refer to his many and varied real estate projects. We see his name on some of the finest structures that have risen in our city. He has indeed changed our skyline on every side. It required many great skills, and especially the quality of imagination, to recognize the potential and help it come to life. But Morris' building went together with a noble faith in the future. There was many a time when Morris soared to eloquent heights when he spoke of Washington. He had seen it grow from a little village and knew it was becoming the capital of the free world. He dedicated all he had to make true the vision his heart had glimpsed.

His faith in and labors for the future was to bring him a rich harvest but Morris was never corrupted by wealth. Morris realized that wealth without humility and responsibility could be a curse, a curse to the self-made man who turns rotten with arrogance—and an even more devastating curse to the family who without the discipline of personal quest fail to recognize the labor and devotion out of which the worldly harvest has come. Morris looked with pity on the arrogant rich who worshipped the golden calf and were surrounded by fawning sycophants who sought their favor. He also felt pity for their blighted offspring who have never felt the winged power of personal challenge. This moral judgment went together with his humility. He never presumed to speak as an infallible paragon of human virtue and he never turned his back on old friends. He felt that humility and kindness revealed the truest approach to other human beings as befits the wisest of men on this earth. There were times when some thought he was too kind. I remember his plea for a new approach to certain philanthropies to fit the broad horizon of our duty; but then he extended his warm support to the very formula he had only yesterday questioned. But this was not the tolerance of indifference. It was the natural concession a man of peace would make. He did not care to throw his weight around as would a self-righteous bully—nor would he break with others with whom he differed.

He did not care to hurt anyone's feelings. He was in the truest sense a gentleman: gentle in his natural humility; gentle in his basic decency; gentle in his peaceful integrity. He wanted no ugly scenes even for the sake of principle. He treasured the good will of his neighbors.

But behind the flexible flesh there was an inflexible bone. There was the bone that gave him backbone and made him stand erect and there was the bone that gave him the firm hand for the strong grip on reality. He sought good will but he also felt that there was a difference between right and wrong and that a real man should see the difference and do what was right. He did not suffer from the moralistic relativism that utters pious words and ends with the analysis that is ethical paralysis. He was a conservative who wanted men to rise above impotent moral verbiage and to do what was right.

Thus when it came to the racial problem in local housing—when Morris became aware of its evils he pleaded for community initiative, but he also stated with clarity and integrity that it must never come through the new devices of coercion that in recent times have come to the West from the jungles and barricades of the Old World; but the right must be done because our own principles of reverence for all men demands it—and these principles should be interpreted in just laws that have behind them the majesty of the law of a free society. This was the way of peace. This was the way of promise if the West was to be true to the spirit that gave it birth and hope for the years to come.

We can understand Morris' character only when we see its roots in his ancestral faith: the spiritual odyssey of an ancient heritage that has challenged the world with the vision that we are children of a just God and creative partners of a good God, a God who demands of man both justice and mercy—a God who demands of man the creative initiative if we are to be the source of new blessing. This heritage Morris derived from the good home into which he was born, where faith and character were murtured with every morsel of one's daily bread.

One of the most inspiring sights that faced me every high holy day was to see Morris and Gwen attend every service. They came at the very beginning of each service. After the final blessing it was usual for them to speak a word of warm greeting and gratitude for the sermon. One felt always that these words came not only from the lips but from the heart. This has been true from the first high holy days I shared with them 30 years ago, even until this last high holy day we shared in the sanctuary of God. There never was a more devoted and loyal member of our great congregation. He was the first to speak up for a new temple and hastened to provide the funds to purchase the land on which this sanctuary arose. But he gave not only of his means. He gave of his warmth. He gave of his love. He was a truly devoted child of his faith. Because he was rooted in his faith he had faith in the righteousness of the community. Because he was spiritually secure he was above any form of religious bigotry. Because he believed in God and man he was a man of charity and responsibility and integrity: the charity that included men of all races and creeds; the integrity that made him witness of the highest personal honesty in his relations to his fellow man; the responsibility that made him realize the inescapable duty of the righteous act—what his ancestors referred to as the mitzvah—man's duty as a child of God. Here was a good, gentle, worthy citizen who has fully earned our respect and our love.

The leaves have their time to fall, flowers their time to fade, stars their time to set. Now the time has come for the soul of Morris to set into the great beyond.

Beruch—Dayan—Ha-Emes: Blessed be the righteous judge who in His wisdom has sent this soul to dive in our midst and has now taken him unto his eternal rest. Zecher Tzadick Livrocho: The memory of the righteous is an eternal benediction.

STATEMENT ON COMMEMORATION OF SOVIET OCCUPATION OF THE BALTIC STATES

Mr. DODD. Mr. President, this week marks the anniversary of an event, or series of events, which, like Pearl Harbor, will live in infamy. It is a particularly sad week for those Americans born in the Baltic States of Estonia, Lithuania, and Latvia. For during this week, 24 years ago, the Soviet Union, in violation of solemn treaties, occupied the three small defenseless Baltic States and embarked upon an orgy of wholesale murder and mass deportations which can only be described by the term "genocide."

The perfidy which characterized the Soviet occupation of the Baltic States is something that the free world would do well to remember.

In the case of Lithuania, the Kremlin delivered an ultimatum at 11 p.m. on June 14 demanding a complete change in the Lithuanian Government, the arrest of the Minister of the Interior and other Government officials, and permission for an unlimited number of troops to enter Lithuania. The deadline was set for 8 a.m., June 15, or 9 hours after the ultimatum was submitted.

The ultimatum was accepted because the tiny Lithuanian nation with its army of 20,000 men had no means of resisting the mighty Red army. But despite the acceptance of the ultimatum, the Red army crossed the frontiers in force the next day. Almost simultaneously, the Soviet Army moved into Latvia and Estonia. There then began a reign of terror which, for sheer brutality, has never been surpassed in any country.

Scores of thousands of Baltic citizens were deported to Siberia. The prime target of the deportations was the intellectual elite—university professors, newspapermen, lawyers, doctors, the clergy, and political and community leaders. By destroying this intellectual elite, the Soviet occupiers sought to destroy the capability of the Baltic peoples to offer resistance.

Those who were deported were herded into cattle cars under appalling conditions and sent to remote areas of Siberia. The great majority of them perished en route to their destination, or else perished in the Kremlin's infamous slave labor camps, where the mortality rate was reputed to exceed 25 percent per annum. Only a tiny minority survived to return to their Soviet-dominated homelands.

Lithuanian resistance leaders estimate that in the period immediately following the occupation, some 400,000 Lithuanian citizens were either murdered by the Soviet secret police or deported to Soviet Siberia, and that approximately another 400,000 had fallen victim to Nazi terror during the war. Thus, they point out, Lithuania's population loss as a result of the Soviet and Nazi occupation amounted to 25 percent of its total population.

In Latvia and Estonia the cost of the Soviet occupation was equally disastrous.

We, as Americans, cannot forget the tragedy of those dark days. Nor can we forget that the longing for independence and the hope of freedom are unquenched sparks in the hearts and minds of the still enslaved people of these captive countries. To them we owe a pledge of continued effort to release them from their bondage.

I believe it is to the great credit of our foreign policy that we have consistently refused to recognize the Soviet annexation of the Baltic countries and that we steadfastly affirm our belief in the right of the Baltic peoples to independence.

It is, however, a situation which defies understanding that in the United Nations there should be repeated votes demanding independence for every African nation, no matter how underdeveloped or how unready for self-government, while not a single voice is raised to demand independence for the long-civilized and long-suffering Baltic nations. I feel that this is a matter which our representative should raise at every session of the U.N., repeatedly setting forth the facts about Soviet imperialist oppression in the Baltic States and repeatedly demanding the right of the Baltic peoples to self-determination.

The flags of a free Lithuania, a free Latvia and a free Estonia still fly from their embassies in Washington. In observing the anniversary of the Soviet occupation of the three Baltic States, let us pray that the time is not too far distant when these free flags will again fly over lands from which they are now excluded by the Soviet imperialist occupiers.

THE "J.F.K. MARCH" BY EUGENE JELESNIK, UTAH COMPOSER

Mr. MOSS. Mr. President, it was my pleasure yesterday morning to be present at a Pentagon ceremony in which Eugene Jelesnik, distinguished Utah composer, presented the score of his "J.F.K. March" to representatives of the U.S. military service bands to be played at times when it is appropriate.

The score was accepted by Col. John J. Christy, Director for Community Relations, Office of the Assistant Secretary of Defense for Public Affairs, and by representatives of two of the bands: Lt. Col. Hugh Curry, Director of the U.S. Army Band, and Capt. James B. King, Jr., Assistant Director of the U.S. Marine Band. The score will also be made available to the U.S. Navy Band, and the U.S. Air Force Band.

Composer Jelesnik wrote the "J.F.K. March" during the late President Kennedy's lifetime, and dedicated it to him. It was played for the President during his visit to Salt Lake City in September 1963, just about 2 months before his assassination. In a letter dated October 23 of last year, President Kennedy acknowledged the composition in his honor, and commended Mr. Jelesnik on "his great musical talent."

Mr. Jelesnik is a Russian born professional musician who received his training in Hungary, Germany, and the United States, coming to this country in 1925. For the past two decades he has made his home in Salt Lake City.

In admitting Mr. Jelesnik to the United States, we made a most fortunate investment, and the country has been drawing on that investment ever since. Mr. Jelesnik has greatly enriched the cultural and patriotic life of Salt Lake, and he has also played a role in the Nation's two great physical encounters with communism. Mr. Jelesnik was awarded the Civilian Service Award Ribbon for entertaining the troops in World War II, and was given the Silver Medal Citation for the same service during the Korean encounter. In the latter hostilities, he traveled 35,000 miles to entertain Armed Forces in Japan, the Philippine Islands, Okinawa, Guam, and Hawaii, as well as in Korea.

Eugene Jelesnik typifies very well the spirit of the famous admonition in President Kennedy's inaugural address. He has not asked what his adopted country and community can do for him, but he has shown his willingness to do whatever he can for them.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 364 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore

Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. NELSON in the chair). A quorum is present.

Mr. ERVIN. Mr. President, I call up my amendment 791, and I ask that it be read.

The PRESIDING OFFICER. The amendment offered by the Senator from North Carolina will be stated.

The LEGISLATIVE CLERK. On page 35, between lines 9 and 10, it is proposed to insert a new section reading as follows:

SEC. 605. Any taxpayer of the United States, suing in behalf of himself and all other taxpayers, may bring a civil action in the nature of an action for a declaratory judgment against the head of any Federal department or agency embraced within the provisions of the preceding section in the United States District Court for the District of Columbia alleging that any Federal financial assistance which such department or agency is extending or proposing to extend to any program or activity by way of grant, loan, or contract is inconsistent with the first amendment, the fifth amendment, or any other provision of the Constitution of the United States. Notwithstanding any decision, statute, or rule to the contrary, the United States District Court for the District of Columbia shall have jurisdiction to entertain, try, and determine such civil action and to enjoin the continuance or proposed extension of such Federal financial aid to such program or activity in case it adjudges that the continuance or extension of such Federal financial assistance is inconsistent with the first amendment, the fifth amendment, or any other provision of the Constitution of the United States. In the event two or more civil actions are brought under the provisions of this section challenging the constitutional validity of the continuance or proposed extension of the same Federal financial assistance, the United States District Court for the District of Columbia may consolidate such civil actions for the purpose of trial and judgment.

Mr. ERVIN. Mr. President, I yield myself 1 minute.

Justice Jackson declared, in the Everson case, that one of the basic civil rights of all Americans is the right not to be taxed in violation of the establishment of religion clause of the first amendment.

Certain language in the case of Massachusetts against Mellon casts doubt upon the jurisdiction of the Federal courts to entertain suits by taxpayers of the United States challenging the use of Federal tax money for religious purposes, in violation of the first amendment.

My amendment merely provides that a taxpayer suing on behalf of himself and all other taxpayers of the United States can bring a suit in the United States District Court for the District of Columbia to test the validity of the use of Federal tax moneys in any federally assisted activity or program covered by title VI under the first amendment, the fifth amendment, or any other provision of the Constitution.

Mr. STENNIS. Mr. President, will the Senator suspend, to let the Chair try to get the Senate in order, and not charge the speaker with the time?

The PRESIDING OFFICER. The Senator will not be charged with the time.

Senators are asked to take their seats.

The Senator may proceed.

Mr. ERVIN. Any Senator who believes the Federal courts ought to have jurisdiction to determine whether——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. I yield myself 20 seconds.

Any Senator who believes Federal courts ought to have jurisdiction to determine whether federally assisted programs or activities violate the establishment of religion clause of the first amendment should vote for this amendment.

Mr. MORSE. Mr. President, on this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina [Mr. ERVIN].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Arizona [Mr. HAYDEN], the Senator from Minnesota [Mr. MCCARTHY], and the Senator from Florida [Mr. SMATHERS] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Texas [Mr. YARBOROUGH] is necessarily absent.

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Florida would vote "yea" and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

If present and voting, the Senator from Texas [Mr. TOWER] would vote "yea."

The result was announced—yeas 30, nays 63, as follows:

[No. 365 Leg.]

YEAS—30

Bible
Byrd, Va.
Church
Curtis
Dominick
Eastland
Ellender
Ervin
Fulbright
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Lausche
Long, La.
McClellan
Mechem
Morton
Robertson
Russell
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.
Young, N. Dak.

NAYS—63

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Clark
Cooper
Cotton
Dirksen
Dodd
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
Mansfield
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Young, Ohio

NOT VOTING—7

Engle
Goldwater
Hayden
McCarthy
Smathers
Tower
Yarborough

So Mr. ERVIN's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HILL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 366 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. ERVIN. Mr. President, I call up my amendment No. 786, and ask that it be read. On my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HOLLAND. Mr. President, I ask that the clerk read the amendment loudly enough so that we can hear it.

The PRESIDING OFFICER (Mr. NELSON in the chair). Let there be order in the Senate, so that the clerk can be heard.

Will the Senator from California and the Senator from Pennsylvania cease their conversation, so that the clerk can be heard?

The clerk may proceed.

The legislative clerk concluded the reading of amendment No. 786, which is as follows:

On page 73, between title X and present title XI, insert the following new title:

"TITLE XI—JUDICIAL REVIEW OF CONSTITUTIONALITY OF CERTAIN LOANS AND GRANTS

"SEC. 1101. The Congress hereby declares that one of our basic rights is to be free of taxation to support a transgression of the constitutional command that the authorities 'shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof'.

"Sec. 1102. The approval or disapproval of an application of any public or other nonprofit agency or institution for a loan or grant under—

"(1) the Higher Education Facilities Act of 1963,

"(2) title VII of the Public Health Service Act,

"(3) the National Defense Education Act of 1958, or

"(4) the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963,

shall be effected by an order of the Federal officer making such grant or loan which shall be conclusive except as otherwise provided in this Act. Notice of such order shall be published in the Federal Register and shall contain such information as the Federal officer issuing the order deems necessary to effectuate the purposes of this title.

"Sec. 1103. Any public or other nonprofit institution or agency which is or may be prejudiced by the order of the Federal officer making such a loan or grant in a particular year to another such agency or institution, by virtue of the fact that the making of such loan or grant serves to reduce the amount of funds available for loans or grants in such year to the agency or institution which is or may be prejudiced, may bring a civil action for declaratory relief to determine whether the order of the Federal officer extending the loan or grant to such other agency or institution is consistent with the first amendment to the Constitution of the United States. Defendants in such action shall be the Federal officer and the agency or institution whose application has been approved. Such an action may be brought no later than sixty days after the publication of the order of the Federal officer in the Federal Register.

"Sec. 1104. Any citizen of the United States upon whose taxable income there was imposed an income tax under section 1 of the Internal Revenue Code of 1954 for the last preceding calendar or taxable year and who has paid any part of such income tax may bring a civil action against the Federal officer making such a loan or grant to restrain or enjoin him from taking any action under any of the Acts enumerated in section 1102 of this title which the plaintiff challenges as invalid under the first amendment to the Constitution. No additional showing of direct or indirect financial or other injury, actual or prospective, on the part of the plaintiff shall be required for the maintenance of any such action.

"Sec. 1105. Any public or other nonprofit institution or agency whose application for a loan or grant under any of the Acts enumerated in section 1102 of this title has been denied by the Federal officer having appropriate authority on the ground that such loan or grant would be prohibited by the first amendment to the Constitution may bring a civil action to obtain a review of the final decision of such Federal officer.

"Sec. 1106. (a) Any civil action under the preceding section shall be brought in the District Court of the United States for the District of Columbia, and such court shall have jurisdiction without regard to the amount in controversy. Any such action pending before the district court or court of appeals for hearing, determination, or review shall be heard, determined, or reviewed at the earliest practicable time and shall be expedited in every practicable manner. All process, including subpenas, issued by the district court of the United States for any such district may be served in any other district. No costs shall be assessed against the United States in any proceeding under this title. In all litigation under this Act, the Federal officer shall be represented by the Attorney General.

"(b) The judgment of the district court shall be subject to review as provided in sections 1291 and 1254 of title 28 of the United States Code.

"Sec. 1107. (a) After receipt of notice of the agency or institution of an action under this title, the Federal officer shall, pending final determination of such action, make no payment on a grant or loan pursuant to the order which is claimed to be invalid in such action.

"(b) When and if any judgment becomes final that declares invalid an order of the Federal officer under this title, the agency or institution receiving the grant made by the Federal officer pursuant to such order shall refund the same, and if a loan has been made pursuant to such order it shall be refunded with accrued interest at the rate fixed therefor, for credit to the appropriation from which it was paid. The Federal officer may in his discretion permit deferment for a reasonable time of repayment of the grant or loan, including interest thereon.

"(c) If the Federal officer's order in favor of a defendant agency or institution is finally set aside pursuant to a judgment under this title and the Federal officer has determined that, but for such order, the plaintiff agency's or institution's application would have been approved for a grant or loan chargeable to the same grant or loan allotment or appropriation, such allotment or appropriation shall be available for making such grant or loan to the plaintiff except to the extent that payments therefrom have been made to the defendant agency or institution and are not recovered under this title.

"Sec. 1108. If any provision of any Act referred to in section 1102, or the application of such provision to any person or circumstance, shall be held invalid under this title, the remainder of such title, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

On page 73, line 1, strike out "Title XI", and insert in lieu thereof "Title XII."

On page 73, line 2, strike out "Sec. 1101", and insert in lieu thereof "Sec. 1201".

On page 74, line 3, strike out "Sec. 1102", and insert in lieu thereof "Sec. 1202".

On page 74, line 8, strike out "Sec. 1103", and insert in lieu thereof "Sec. 1203".

On page 74, line 16, strike out "Sec. 1104", and insert in lieu thereof "Sec. 1204".

On page 74, line 19, strike out "Sec. 1105", and insert in lieu thereof "Sec. 1205".

Mr. ERVIN. Mr. President, I yield myself 1 minute. This amendment would make it certain that the Federal courts would have jurisdiction to pass upon a challenge of the Higher Education Facilities Act of 1963, and certain other enumerated statutes on the ground that they violate the establishment of religion clause of the first amendment.

Let me confess that all of this amendment, except the first section, is the brainchild of the senior Senator from Oregon [Mr. Morse] and the senior Senator from Pennsylvania [Mr. Clark].

I kidnaped their brainchild out of a bill which they introduced and which is pending before the Judiciary Committee. I expect both of the distinguished Senators to vote for my amendment. Otherwise they will be committing legislative infanticide on their own brainchild.

This amendment merely makes it certain that there can be a court review of the specified programs. I trust that the Senate will vote for it.

Mr. MORSE. Mr. President, I yield myself 1 minute.

I express my appreciation to the Senator from North Carolina for calling the attention of the Senate to this very sound proposal advanced by Senators Morse, Clark, Ervin, Cooper, and—I believe—other sponsors.

It is a wonderful legislative child. But I do not want to get him out in public yet. He is stark naked. I want to dress him in the committee hearings. I think it is most important that we take this child through the entire procedure of the committee hearing.

I pledge to the Senator from North Carolina [Mr. Ervin] that if it happens to fall before my own subcommittee—and as soon as we get the civil rights bill out of the way—my subcommittee will start hearings on this proposal. We shall introduce it as an independent bill.

I could not very well vote for it today. I owe the Senate the obligation to carry out the promise that I made when the higher education bill was before the Senate. It will be remembered that I pledged that we would hold hearings on the proposal and get it before the Senate as an individual bill.

I want the Record to show that by voting against this amendment today, I am not spanking my child. I am merely keeping him in until I get him dressed. We shall do that in legislative hearings at an early date.

Mr. CLARK. Mr. President, I yield myself 30 seconds.

I agree wholeheartedly with the senior Senator from Oregon. In addition, this amendment has no place in a civil rights bill. If that makes me an infanticide, I am happy to be an infanticide.

Mr. ERVIN. Mr. President, I yield myself 30 seconds for the purpose of saying that I am much saddened by the fact that the senior Senator from Oregon [Mr. Morse] and the senior Senator from Pennsylvania [Mr. Clark] are not willing to join me in giving their deceased brainchild a decent burial.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina (amendment No. 786). The yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished Senator from Louisiana [Mr. Long]. If the Senator from Louisiana were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Arizona [Mr. Hayden], the Senator from Louisiana [Mr. Long], the Senator from Virginia [Mr. Robertson], and the Senator from Florida [Mr. Smathers] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Texas [Mr. Yarborough] is necessarily absent.

I further announce that, if present and voting, the Senator from Florida [Mr. Smathers] would vote "yea."

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

If present and voting, the Senator from Texas [Mr. Tower] would vote "yea."

The result was announced—yeas 20, nays 71, as follows:

[No. 367 Leg.]

YEAS—20

Byrd, Va.
Church
Eastland
Ellender
Ervin
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Lausche
McClellan
Mechem
Russell
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—71

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Fulbright
Gruening
Hart
Hartke
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
Metcalf
McCarthy
McGee
McGovern
McIntyre
McNamara
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—9

Engle
Goldwater
Hayden
Long, La.
Mansfield
Robertson
Smathers
Tower
Yarborough

So Mr. Ervin's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE RECESSES FOR INDEPENDENCE DAY AND REPUBLICAN NATIONAL CONVENTION

Mr. DIRKSEN. Mr. President, I should like to ask the majority leader about the pre-Independence Day recess, since Independence Day comes on Saturday, July 4. Then there is a period thereafter, namely, Sunday, July 5, and Monday, July 6. Some of the committees in connection with the Republican National Convention in San Francisco will start meeting on the 7th and 8th.

I had hoped and thought that perhaps the week after the Fourth of July would be devoted to the business of the party, and that we could return on Monday, the 20th.

So I should like to ask the majority leader about those points.

Mr. MANSFIELD. Mr. President, I am well aware that the Republicans are going to have a convention next month, and the Democrats the month following; but, in response to the question by the distinguished minority leader, I should like to announce the intention of the leadership to recess the Senate from the conclusion of business on Thursday, July 2, until noon on Monday, July 6. This recess will be in keeping with the schedule announced earlier this session.

In addition, the leadership understands that a conference of some importance to the minority is scheduled to open in San Francisco on July 13. It is my understanding that it will be necessary to have a few days in advance of July 13, to "get the ducks in order"; and that a number of days after July 13 will be required, in order to keep them in order. Accordingly, it is the intention of the leadership to keep the Senate—by one means or another—in inactive status from the close of business on Friday, July 10, to noon on Monday, July 20. If that is insufficient time to enable the minority to resolve its business in San Francisco, my only suggestion would be that it give it up, and join the majority for a swim at Atlantic City, on August 24.

Mr. DIRKSEN. I will send my friend the majority leader a postcard from San Francisco, and will tell him what progress is being made. I shall probably supplement that with a Western Union telegram, and even a long-distance call, in consideration of the intriguing business and heavy work of our convention and its effect in connection with our country and its destiny and future.

I now make this in the form of an entreaty, and ask the Senator to extend the time necessary, in the interest of this Republic and its people.

Mr. MANSFIELD. Let me say that, as always, I am sympathetic with any request made by the distinguished minority leader; but I would point out that it is anticipated that very likely the time to be taken for the Democratic National Convention will be about half that being suggested for the Republican Convention.

Mr. DIRKSEN. I have no immediate comment to make on that subject. Of course, the work in hand is much deeper; but if they would like to extend the program and convention in Atlantic City, I suggest I shall go there and read all the sins that have been committed by our friends on the other side; and that will give them a couple of weeks in which to defend themselves against the charges.

Mr. MANSFIELD. I hereby extend a most cordial invitation to the distinguished minority leader to join the Democrats at Atlantic City.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. STENNIS. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The substitute amendment, which is open to further amendment.

Mr. THURMOND. Mr. President, I ask that my amendment No. 931 be called up and be read by the clerk.

The PRESIDING OFFICER. The amendment offered by the Senator from South Carolina will be stated.

The Legislative Clerk. On page 10, it is proposed to delete beginning with line 13 down through "and" on line 16 and capitalize "the" before "United States".

Mr. THURMOND. Mr. President, on this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. I yield myself 30 seconds.

Mr. President, this amendment deletes the provision in title II of the substitute which allows the court to award attorney's fees to the prevailing party as a part of the costs of the suit. The Senate Commerce Committee, after much careful deliberation on the public accommodations provision, deleted the same provision from that bill, S. 1732. The adoption of this amendment by the Senate would uphold the previous action taken by the Senate Commerce Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). Mr. President, on this vote, I have a pair with the distinguished Senator from Texas [Mr. Tower]. If the Senator from Texas were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Robertson], the Senator from Florida [Mr. Smathers], the Senator from Arizona [Mr. Hayden], and the Senator from Nevada [Mr. Cannon] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Texas [Mr. Yarborough] is necessarily absent.

I further announce that, if present and voting, the Senator from Virginia [Mr. Robertson] would vote "yea."

On this vote, the Senator from Florida [Mr. Smathers] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Florida would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The pair of the Senator from Texas [Mr. TOWER] has been previously announced.

The result was announced—yeas 29, nays 62, as follows:

[No. 368 Leg.]

YEAS—29

Bennett
Byrd, Va.
Carlson
Cotton
Curtis
Eastland
Ellender
Ervin
Fulbright
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
Magnuson
McClellan
Mechem
Morton
Mundt
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.

NAYS—62

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Case
Church
Clark
Cooper
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, N. Dak.
Young, Ohio

NOT VOTING—9

Cannon
Dirksen
Engle
Goldwater
Hayden
Robertson
Smathers
Tower
Yarborough

So Mr. THURMOND'S amendment was rejected.

Mr. KEATING. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, I call up my amendment No. 901, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 70, beginning with line 1, in amendment No. 656, strike out all of title IX, down through line 18, as follows:

TITLE IX—INTERVENTION AND PROCEDURE AFTER REMOVAL IN CIVIL RIGHTS CASES

SEC. 901. Title 28 of the United States Code, section 1447(d), is amended to read as follows:

"An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1443 of this title shall be reviewable by appeal or otherwise."

SEC. 902. Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws under the fourteenth amendment to the Constitution on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action, if the Attorney General certifies that the case is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

Mr. BYRD of West Virginia. On the question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BYRD of West Virginia. I yield myself 2 minutes.

May we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD of West Virginia. Mr. President, title IX would amend 28 U.S.C. 1447(d) to permit appeal, from a Federal court, of the remanding, to the State court from which it was removed, of any civil rights case removed pursuant to 28 U.S.C. 1443. This is a vicious title, and because it involves court procedure, it has attracted less attention than most parts of the bill. Its effect will be to bypass and impede the processes of justice in our State courts. The law presently does not permit appeal from a Federal District Court order remanding a case to the State court from which it was removed. From 1875 to 1887, all cases which were removed from State courts could, upon remand, be appealed. This provision for an appellate review was expressly repealed in 1887 and the law remains so today. Prohibition against appeal of such remand order promotes prompt and orderly litigation, preserves the authority and dignity of State courts, and helps to maintain the constitutional distinction between the State and Federal judicial systems. If a remand order is appealable, more time is consumed and during the delay the State court's hands are tied, and the State is without power to resolve the civil controversy or to enforce the criminal law involved. Such delay invites agitators to organize mass demonstrations which may provoke other violations of State laws, including perhaps the same laws involved in the case which has been removed, remanded, and appealed. Title IX would change, with respect to civil rights cases only, a time-honored and time-proven policy of judicial procedure. It thus would place civil rights cases in a special and preferred category, thus opening the door for dilatory tatics which may frustrate the execution of State laws. This title would not be good adjective law and should be stricken from the bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, perhaps Senators will get some indication of what is really going on in the Chamber when I recall to them that on June 11 the Senate rejected an amendment to strike out section 901, and did so by a vote of 51 to 31; and on the same day it rejected, by a vote of 46 to 34, an amendment to strike section 902.

It seems to me, therefore, that having passed once upon these matters, separately, the Senate ought to pass upon them in exactly the same way in dealing with them together.

The subject has been thoroughly argued and debated; and it is now redundant. So I ask that the Senate reject the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN. On this vote, I have a pair with the Senator from Texas [Mr. TOWER]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. MANSFIELD (after having voted in the negative). On this vote, I have a pair with the Senator from Pennsylvania [Mr. CLARK]. If present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. HUMPHREY. I announce that the Senator from Arizona [Mr. HAYDEN], the Senator from Florida [Mr. SMATHERS], and the Senator from Pennsylvania [Mr. CLARK] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Texas [Mr. YARBOROUGH] is necessarily absent.

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Florida would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The pair of the Senator from Texas [Mr. TOWER] has been previously announced.

The result was announced—yeas 25, nays 66, as follows:

[No. 369 Leg.]

YEAS—25

Byrd, Va.
Byrd, W. Va.
Curtis
Eastland
Ellender
Ervin
Fulbright
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Robertson
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—66

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Cooper
Cotton
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—9

Clark
Dirksen
Engle
Goldwater
Hayden
Mansfield
Smathers
Tower
Yarborough

So the amendment of Mr. BYRD of West Virginia was rejected.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I urge Senators to remain in the Chamber, so that we do not have to go through the ordeal of waiting for both votes and quorum calls.

Mr. RUSSELL. Mr. President, it is a bad practice, anyway, if I may say so without using any time.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 718) for the relief of W. H. Pickel.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 5708. An act to bring certain U.S. commissioners within the purview of the Federal Employees Health Benefits Act of 1959 and the Federal Employees' Group Life Insurance Act of 1954;

H.R. 7588. An act to provide for enforcement of rules and regulations for the protection, development, and administration of the national forests and national grasslands, and for other purposes;

H.R. 8080. An act to authorize the Secretary of Interior to prepare a roll of persons eligible to receive funds from an Indian Claims Commission judgment in favor of the Snake or Paiute Indians of the former Malheur Reservation in Oregon, to prorate and distribute such funds, and for other purposes;

H.R. 9740. An act to establish the Roosevelt Campobello International Park, and for other purposes;

H.R. 10000. An act to extend the Defense Production Act of 1950, and for other purposes;

H.R. 10610. An act to provide for the conveyance of certain real property under the control of the Administrator of Veterans' Affairs;

H.R. 10611. An act to provide for the conveyance of certain real property under the control of the Administrator of Veterans' Affairs; and

H.R. 11499. An act to amend section 14 (b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase United States obligations directly from the Treasury.

The message further announced that the Speaker had affixed his signature to the following enrolled bill and joint resolution, and they were signed by the Acting President pro tempore:

H.R. 1887. An act for the relief of Chang In Wu; and

S.J. Res. 103. Joint resolution to increase the amount authorized to be appropriated for the work of the President's Committee on Employment of the Physically Handicapped.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles, and referred as indicated:

H.R. 5708. An act to bring certain United States commissioners within the purview of the Federal Employees Health Benefits Act of 1959 and the Federal Employees' Group Life Insurance Act of 1954; to the Committee on Post Office and Civil Service.

H.R. 7588. An act to provide for enforcement of rules and regulations for the protection, development, and administration of the national forests and national grasslands, and for other purposes; to the Committee on Agriculture and Forestry.

H.R. 8080. An act to authorize the Secretary of Interior to prepare a roll of persons eligible to receive funds from an Indian Claims Commission judgment in favor of the Snake or Paiute Indians of the former Malheur Reservation in Oregon, to prorate and distribute such funds, and for other purposes; and

H.R. 9740. An act to establish the Roosevelt Campobello International Park, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 10000. An act to extend the Defense Production Act of 1950, and for other purposes;

H.R. 11499. An act to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase United States obligations directly from the Treasury; to the Committee on Banking and Currency.

H.R. 10610. An act to provide for the conveyance of certain real property under the control of the Administrator of Veterans' Affairs; and

H.R. 10611. An act to provide for the conveyance of certain real property under the control of the Administrator of Veterans' Affairs; to the Committee on Labor and Public Welfare.

THE TRAGEDY OF LITHUANIA, ESTONIA, AND LATVIA

Mr. SCOTT. Mr. President, 23 years ago a tragic event occurred in the Baltic States of Lithuania, Estonia, and Latvia. For 3 agonizing days of June 14, 15, and 16, 1941, over 100,000 people were deported to Soviet concentration camps in Siberia.

While the rest of the world's attention was focused on the Battle of Britain, Red troops moved into the Baltic States. The mass deportations of men, women, and children began, and these small but proud and free nations were brutally incorporated into the Soviet empire.

Today, the suppression of these heroic nations continues. The Soviet Union is still lord and master.

On this sad anniversary, let us offer a prayer for those who are suffering behind the Iron Curtain. Let us join their kinsmen in the United States in expressing the hope that someday soon Lithuania, Estonia, and Latvia will be free again.

Mr. STENNIS. Mr. President, reserving the right to object, and I shall not object, we could not hear the Senator. We do not know what we were asked to agree to.

Mr. SCOTT. I was speaking of the Baltic States and their rights.

Mr. STENNIS. I thank the Senator.

Mr. RUSSELL. The Senator might include them in the bill.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. SPARKMAN. Mr. President, I call up my amendment No. 676, which amends title II of the bill, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 8, between lines 23 and 24, it is proposed to insert the following new subsection:

(f) No establishment of any of the following categories shall be deemed to be a place of public accommodation within the meaning of this title:

(1) church or other place of religious worship;

(2) seminary or other institution devoted to the teaching or propagation of any religious faith;

(3) mortuary or cemetery;

(4) privately owned and operated hospital, clinic, sanitarium, or home or other domiciliary facility for the care of the aged;

(5) office or establishment for the rendition of medical, psychiatric, opthalmological, optometric, dental, osteopathic, chiropractic, or prosthetic service, or for the practice of any other healing art, including the services of any Christian Science practitioner; or

(6) office or establishment for the rendition of legal or other personal professional services.

Mr. SPARKMAN. Mr. President, on this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SPARKMAN. Mr. President, I yield myself sufficient time to make a statement.

In the substitute bill, this amendment would be to page 9, line 7.

This amendment is primarily designed to protect doctors and lawyers who have offices in buildings in which there are business establishments covered under the public accommodations provisions of the bill. As written the bill includes facilities located on the premises of establishments covered. Whether or not it is the intent of the sponsors of the bill to include all offices located in these establishments, we should take safeguards to protect professional offices. Professional men and women should be unhampered by governmental dictates that by implication could emerge from title II in situations which I do not wish to arise. My amendment also spells out a few other categories that should be excluded and about which some questions at least might arise, and if they should arise the law should have anticipated it and should have stated that they are not covered. I refer to churches and religious educational institutions and, also, to privately owned hospitals and homes for elderly people. These categories should not be included in title II and it should be stated clearly that they are not.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama—amendment No. 676. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the Senator from Texas [Mr. Tower]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Arizona [Mr. Hayden], the Senator from Connecticut [Mr. Ribicoff], the Senator from Florida [Mr. Smathers], the Senator from Oklahoma [Mr. Monroney], and the Senator from Louisiana [Mr. Ellender], are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that the Senator from Texas [Mr. Yarborough] is necessarily absent.

On this vote, the Senator from Florida [Mr. Smathers] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Florida would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Connecticut [Mr. Ribicoff] is paired with the Senator from Louisiana [Mr. Ellender]. If present and voting, the Senator from Connecticut would vote "nay," and the Senator from Louisiana would vote "yea."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

The pair of the Senator from Texas [Mr. Tower] has been previously announced.

The result was announced—yeas 34, nays 56, as follows:

[No. 370 Leg.]

YEAS—34

Beall
Bennett
Byrd, Va.
Byrd, W. Va.
Carlson
Cotton
Curtis
Dominick
Eastland
Ervin
Fulbright
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Jordan, Idaho
Long, La.
McClellan
Mechem
Morton
Pearson
Robertson
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.
Young, N. Dak.

NAYS—56

Aiken
Allott
Anderson
Bartlett
Bayh
Bible
Boggs
Brewster
Burdick
Cannon
Case
Church
Clark
Cooper
Dodd
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, Ohio

NOT VOTING—10

Dirksen
Ellender
Engle
Goldwater
Hayden
Monroney
Ribicoff
Smathers
Tower
Yarborough

So Mr. Sparkman's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KUCHEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERTSON. Mr. President, I yield myself 5 minutes.

I am unalterably opposed to the pending substitute. It does make a few minor changes from the bill as originally presented, but it still contains unworkable provisions, undesirable provisions, and unconstitutional provisions; and the Congress has no power to amend the Constitution.

I feel bound by my oath, which I took in this body now 20 years ago, to support and uphold the Constitution. And, by the same token, I do not think the Supreme Court has any power to amend the Constitution.

I was pleased to see that at least one Justice on the Court said that on yesterday. I read what Mr. Justice Harlan said on that subject:

> These decisions—

Let me interrupt, to say that we had always left to the States the right to fix the qualifications of their electors, provided they did not make a different qualification for electors for Federal positions than they made for the most numerous branch of their own legislatures. That was so clearly written into the Constitution that even the present Senate would never pass a bill to abolish the poll tax. Finally—unnecessarily, in my opinion—the Congress proposed a constitutional amendment, and it was adopted. So all the poll taxes go out.

Thus, in Virginia, for instance, if we ever require an adequate literacy test—which we never have done—and if we abolish permanent registration and require annual registration it is going to be infinitely more difficult to vote in Virginia under the so-called reform than it was in the past.

But let us go back to the 14th amendment.

Those who have followed the history of the Court know that in the last 10 years, time after time it has used the 14th amendment to strike down any State law it pleased. So it struck down nearly all State redistricting laws relating to State legislatures.

This is what Justice Harlan said about that:

> These decisions give support to a current mistaken view of the Constitution and the constitutional function of this Court. This view, in a nutshell, is that every major social ill in this country can find its cure in some constitutional principle, and that this Court should take the lead in promoting reform when other branches of government fail to act.

Incidentally, as I shall point out, while we are rushing ahead to amend the Constitution as fast as we can, the Court did not wait for us.

I continue to read from what Justice Harlan said:

> The Constitution is not a panacea for every blot upon the public welfare, nor should this Court, ordained as a judicial body, be thought of as a general haven for reform movements.

Mr. President, it is generally anticipated that before the end of the current week, the Senate will have voted for the omnibus civil rights bill as amended by the Mansfield-Dirksen substitute—or the Humphrey-Dirksen substitute, I believe they want to call it now. It is all right by me. I think he is really entitled to the credit. He ought to have it. Let us call it the Humphrey-Dirksen substitute. That bill will not only call upon the Supreme Court of the United States to overrule a decision concerning the right of travelers to demand accommodations from the owners of private hotels, motels, and so forth, which has stood since 1883, but eventually will call upon the Court to approve an unprecedented delegation of power to the President and those operating under him in the executive branch of the Government, and likewise to approve, for the first time in our national history, a Federal law which denies to the individual the constitutional right of selecting his own business associates for reasons he may deem to be best calculated to promote his personal business interests.

The PRESIDING OFFICER (Mr. McIntyre in the chair). The time of the Senator from Virginia has expired.

Mr. ROBERTSON. I yield myself 5 minutes more.

Mr. President, keeping pace with this congressional denial of fundamental constitutional rights, including what the late Mr. Justice Brandeis termed the most cherished of all constitutional rights—the right to be let alone—is the action of the highest court in the land to strip from sovereign States their last vestige of State sovereignty. In dozens of decisions since the most famous case of Brown against Board of Education in 1954, the Supreme Court has, in effect, interpreted the 14th amendment as an unlimited grant of power to the Supreme Court of the United States to strike down any State law which does not conform to the Court's preconceived theories of political philosophy. It strikes down State laws concerning voluntary reading of the Bible in schools, it strikes down State laws to eliminate the employment of Communists in State positions, it strikes down State laws on the subject of desegregation in public schools, it strikes down State laws on the payment of tuition for private schools, it strikes down State laws on the subject of congressional redistricting and then on redistricting for State legislatures, and last, but by no means least, it arrogates to itself the function of State legislatures and political subdivisions of a State to compel the imposition of taxes for the operation of public schools.

Mr. President, the sum of the whole matter is this: When the Congress decided that the general welfare clause definitely written into the Constitution to limit appropriations to the general welfare was an unlimited grant of authority to appropriate, eliminating all barriers against the appropriation for any spending scheme, however socialistic, and however limited to a special group which a temporary majority of the Congress may see fit to approve, and when the Supreme Court 10 years ago misconstrued the meaning of the 14th amendment and has persisted in that misconstruction, the combined action of two great branches of our Government joined to take us down the road to dictatorship.

The distinguished Senator from Georgia [Mr. RUSSELL] last week referred to the fact that democracies of the past have committed suicide. It is futile to say that cannot happen to us. In modern times, we have witnessed the loss of personal freedom first in one country and then in another. This has been the accepted pattern:

First. Governments have spent money in excess of current revenue.

Second. Governments have moved into the general field of socialism.

Third. Governments desperate for operating funds have confiscated accumulated wealth.

Fourth. Government has squandered accumulated wealth until it has redistributed poverty. The next step, of course, is revolution, and out of the revolution comes the dictator, and under the dictator we lose our cherished and personal freedoms.

Mr. President, I wish to commend the action of the three members of our U.S. Supreme Court, who on yesterday, took a very definite and a very notable stand against the abuse of judicial power and a misconstruction of the 14th amendment. It will be recalled that on yesterday a majority of the Supreme Court held that the districting of legislative districts in several States was unconstitutional and in doing so, it struck down the legislative districting laws of practically every State in the Union. Mr. Justices Stewart and Clark disagreed in the cases from New York and Colorado, but Mr. Justice Harlan disagreed in all six cases decided at that time on this subject.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. ROBERTSON. Mr. President, I yield myself 3 more minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 3 more minutes.

Mr. ROBERTSON. Incidentally, Mr. Justice Harlan was recently awarded a doctor of laws degree by Harvard University and the president of that university, in awarding that degree, said of Mr. Justice Harlan that he was a "noted scion of a noted juridical line, a judge's judge, whose sagacity serves well the function of our highest Court."

In order that the people of this Nation may gain a clearer understanding of the concerted attack by both Congress and the courts upon the sovereignty of the States—the major bulwark against dictatorship—I ask unanimous consent to have printed in the RECORD excerpts from the dissenting opinion of Mr. Justice Harlan, and from the dissenting opinion of Mr. Justice Stewart.

There being no objection, the excerpts from the dissenting opinions were ordered to be printed in the RECORD, as follows:

HARLAN DISSENT

(Justice John Marshall Harlan dissented from all six of the decisions in a single opinion. Excerpts from his dissent follow.)

PRELIMINARY STATEMENT

Today's holding is that the equal protection clause of the 14th amendment requires every State to structure its legislature so that all the members of each house represent substantially the same number of people; other factors may be given play only to the extent that they do not significantly encroach on this basic population principle. Whatever may be thought of this holding as a piece of political ideology—and even on that score the political history and practices of this country from its earliest beginnings leave wide room for debate (see the dissenting opinion of Judge Frankfurter in *Baker* v. *Carr,* 369 U.S. 186, 266, 301–232)—I think it demonstrable that the 14th amendment does not impose political tenet on the States or authorize this Court to do so.

The Court's Constitution discussion * * * for its failure to address itself at all to the 14th amendment as a whole or to the legislative history of the amendment pertinent to the matter at hand. Stripped of aphorisms, the Court's argument boils down to the assertion that petitioners' right to vote has been invidiously "debased" or "diluted" by systems of apportionment which entitle them to vote for fewer legislators than other voters, an assertion which is tied to the equal protection clause only by the constitutionally frail tautology that "equal" means "equal."

Had the Court paused to probe more deeply into the matter, it would have found that the equal protection clause was never intended to inhibit the States in choosing any democratic method they pleased for the apportionment of their legislatures. This is shown by the language of the 14th amendment taken as a whole, by the understanding of those who proposed and ratified it, and by the political practices of the States at the time the amendment was adopted. It is confirmed by numerous State and congressional actions since the adoption of the 14th amendment, and by the common understanding of the amendment as evidenced by subsequent constitutional amendments and decisions of this Court before *Baker* v. *Carr, supra,* made an abrupt break with the past in 1962.

The failure of the Court to consider any of these matters cannot be excused or explained by any concept of "developing" constitutionalism. It is meaningless to speak of constitutional "development" when both the language and history of the controlling provisions of the Constitution are wholly ignored. Since it can, I think, be shown beyond doubt that State legislative apportionments, as such, are wholly free of constitutional limitations, save such as may be imposed by the republican form of government clause (Constitution, article 8, section 4), the Court's action now bringing them with the purview of the 14th amendment amounts to nothing less than an exercise of the amending power by this Court.

* * * * *

The facts recited above show beyond any possible doubt:

First. That Congress, with full awareness of and attention to the possibility that the States would not afford full equality in voting rights to all their citizens nevertheless deliberately chose not to interfere with the States' plenary power in this regard when it proposed the 14th amendment.

Second. That Congress did not include in the 14th amendment restrictions on the States' power to control voting rights because it believed that if such restrictions were included, the amendment would not be adopted.

Third. That at least a substantial majority, if not all, of the States which ratified the 14th amendment did not consider that in so doing they were accepting limitations on their freedom, never before questioned, to regulate voting rights as they chose.

Even if one were to accept the majority's belief that it is proper entirely to disregard the unmistakable implications of the second section of the amendment in construing the first section, one is confounded by its disregard of all this history. There is here none of the difficulty which may attend the application of basic principles to situations not contemplated or understood when the principles were framed. The problems which concern the Court now were problems when the amendment was adopted.

By the deliberate choice of those responsible for the amendment, it left those problems untouched.

The years following 1868, far from indicating a developing awareness of the applicability of the 14th amendment to problems of apportionment, demonstrate precisely the reverse: that the States retained and exercised the power independently to apportion their legislatures.

* * * * *

In my judgment, today's decisions are refuted by the language of the amendment which they construe and by the inference fairly to be drawn from subsequently enacted amendments. They are unequivocally refuted by history and by consistent theory and practice from the time of the adoption of the 14th amendment until today.

The Court's elaboration of its new "constitutional" doctrine indicates how far—and how unwisely—it has strayed from the appropriate bounds of its authority.

The consequence of today's decision is that in all but the handful of States which may already satisfy the new requirements the local district court, or it may be, the State courts, are given blanket authority and the constitutional duty to supervise apportionment of the State legislatures. It is difficult to imagine a more intolerable and inappropriate interference by the judiciary with the independent legislatures of the States.

Records such as these in the cases decided today are sure to be duplicated in most of the other States, if they have not already. They present a jarring picture of courts threatening to take action in an area which they have no business entering, inevitably on the basis of political judgments which they are incompetent to make. They show legislatures of the States meeting in haste and deliberating and deciding in haste to avoid the threat of judicial interference. So far as I can tell, the Court's only response to this unseemly state of affairs is ponderous insistence that "a denial of constitutionally protected rights demands judicial protection." By thus refusing to recognize the bearing which a potential for conflict of this kind may have on the question whether the claimed rights are in fact constitutionally entitled to judicial protection the Court assumes, rather than supports its conclusion.

It should by now be obvious that these cases do not mark the end of reapportionment problems in the courts. Predictions once made that the courts would never have to face the problem of actually working out an apportionment have proved false.

This Court, however, continues to avoid the consequences of its decisions, simply assuring us that the lower courts "can and * * * will work out more concrete and specific standards." Deeming it "expedient" not to spell out "precise constitutional tests," the Court contents itself with stating "only a few rather general considerations."

Generalities cannot obscure the cold truth that cases of this type are not amenable to the development of judicial standards. No set of standards can guide a court which has to decide how many legislative districts a State shall have, or what the shape of the districts shall be, or where to draw a particular district line.

No judicially manageable standard can determine whether a State should have single-member districts or multimember districts or some combination of both. No such standard can control the balance between keeping up with population shifts and having stable districts.

In all these respects, the courts will be called upon to make particular decisions with respect to which a principle of equally populated districts will be of no assistance whatsoever. Quite obviously, there are limitless possibilities for districting consistent with such a principle.

* * * * *

Although the Court—necessarily, as I believe—provides only generalities in elaboration of its main thesis, its opinion nevertheless fully demonstrates how far removed these problems are from fields of judicial competence. Recognizing that "indiscriminate districting" is an invitation to "partisan gerrymandering," the Court nevertheless excludes virtually every basis for the formation of electoral districts other than "indiscriminate districting."

In one or another of today's opinions, the Court declares it unconstitutional for a State to give effective consideration to any of the following in establishing legislative districts: (1) History; (2) "economic or other sorts of group interests"; (3) area; (4) geographical considerations; (5) a desire "to insure effective representation for sparsely settled areas"; (6) "availability of access of citizens to their representatives"; (7) theories of bicameralism (except those approved by the court); (8) occupation; (9) "an attempt to balance urban and rural powers"; (10) the preference of a majority of voters in the State.

PEOPLE ARE NOT CIPHERS

So far as presently appears, the only factor which a State may consider, apart from numbers, is political subdivisions. But even "a clearly rational State policy" recognizing this factor is unconstitutional if "population is submerged as the controlling consideration."

I know of no principle of logic or practical or theoretical politics, still less any constitutional principle, which establishes all or any of these exclusions. Certain it is that the Court's opinion does not establish them. So far as the Court says anything at all on this score, it says only that "legislators represent people, not trees or acres," that "citizens, not history or economic interests, cast votes," that "people, not land or trees or pastures, vote."

All this may be conceded. But it is surely equally obvious, and, in the context of elections, more meaningful to note that people are not ciphers and that legislators can represent their electors only by speaking for their interests—economic, social, political—many of which do reflect the place where the electors live.

* * * * *

These decisions also cut deeply into the fabric of our federalism. What must follow from them may eventually appear to be the product of State legislatures. Nevertheless, no thinking person can fail to recognize that the aftermath of these cases, however desirable it may be thought in itself, will have been achieved at the cost of a radical alteration in the relationship between the States and the Federal Government, more particularly the Federal Judiciary. Only one who has an overbearing impatience with the Federal system and its political processes will believe that that cost was not too high or was inevitable.

Finally, these decisions give support to a current mistaken view of the Constitution and the constitutional function of this Court. This view, in a nutshell, is that every major social ill in this country can find its cure in some constitutional "principle," and that this Court should "take the lead" in promoting reform when other branches of Government fail to act. The Constitution is not a panacea for every blot upon the public welfare, nor should this Court, ordained as a judicial body, be thought of as a general haven for reform movements.

The Constitution is an instrument of Government, fundamental to which is the premise that in a diffusion of governmental authority lies the greatest promise that this Nation will realize liberty for all its citizens. This Court, limited in function in accordance with that premise, does not serve its high purpose when it exceeds its authority, even to satisfy justified impatience with the slow workings of the political process. For when, in the name of constitutional interpretation, the Court adds something to the Constitution that was deliberately excluded from it, the Court in reality substitutes its view of what should be so for the amending process.

STEWART DISSENT

(Justices Potter Stewart and Tom C. Clark agreed with some of the results reached by the majority but disagreed with its basic constitutional reasoning. Their views were stated in a dissent to the New York and Colorado decisions, written by Justice Stewart and joined by Justice Clark. Excerpts follow.)

It is important to make clear at the outset what these cases are about. They have nothing to do with the denial or impairment of any person's right to vote.

Nobody's right to vote has been denied. Nobody's right to vote has been restricted. Nobody has been deprived of the right to have his vote counted. The voting right cases which the Court cites are, therefore, completely wide of the mark.

Secondly, these cases have nothing to do with the weighting or dilating of votes cast.

TWO CASES NOT RELEVANT

The rule of *Gray* v. *Sanders*, 372 U.S. 368, is therefore, completely without relevance here. Thirdly, these cases are not concerned with the election of Members of the Congress of the United States, governed by article 1 of the Constitution. Consequently the Court's decision in *Westberry* v. *Sanders*, 376 U.S. 1, throws no light at all on the basic issue now before us.

The question involved in these cases is quite a different one. Simply stated the question is to what degree, if at all, the equal protection clause of the 14th amendment limits each sovereign State's freedom to establish appropriate electoral constituencies from which representatives to the State's bicameral legislative assembly are to be chosen. The Court's answer is a blunt one, and I think, woefully wrong. The equal protection clause, says the Court, "requires that the seats in both houses of a bicameral State legislature must be apportioned on a population basis."

* * * * *

To put the matter plainly, there is nothing in all the history of this Court's decisions which supports this constitutional rule. The Court's Draconian pronouncement, which makes unconstitutional the legislatures of most of the 50 States, finds no support in the words of the Constitution, in any prior decision of this Court, or in the 175-year political history of our Federal Union.

With all respect, I am convinced these decisions mark a long step backward into that unhappy era when a majority of the members of this Court were thought by many to have convinced themselves and each other that the demands of the Constitution were to be measured not by what it says, but by their own notions of wise political theory. The rule announced today is at odds with long-established principles of constitutional adjudication under the equal protection clause, and it stifles values of local individuality and initiative vital to the character of the Federal Union which it was the genius of our Constitution to create.

What the Court has done is to convert a particular political philosophy into a constitutional rule, binding upon each of the 50 States, from Maine to Hawaii, from Alaska to Texas, without regard and without respect for the many individualized and differentiated characteristics stemming from each State's distinct history, distinct geography, distinct distribution of population, and distinct political heritage. My own understanding of the various theories of representative government is that no one theory has ever commanded unanimous assent among political scientists, historians, or others who have considered the problem.

FABRICATION CHARGED

But even if it were thought that the rule announced today by the Court is, as a matter of political theory, the most desirable general rule which can be devised as a basis for the makeup of the representative assembly of a typical State, I could not join in the fabrication of a constitutional mandate which imports and forever freezes one theory of political thought into our Constitution, and forever denies to every State any opportunity for enlightened and progressive innovation in the design of its democratic institutions, so as to accommodate within a system of representative government the interests and aspirations of diverse groups of people, without subjecting any group or class to absolute domination by a geographically concentrated or highly organized majority.

Representative government is a process of accommodating group interests through democratic institutional arrangements. Its function is to channel the numerous opinions, interests, and abilities of the people of a State into the making of the State's public policy. Appropriate legislative apportionment, therefore, should ideally be designed to insure effective representation in the State's legislature in cooperation with other organs of political power, of the various groups and interests in making up the electorate. In practice, of course, this ideal is approximated in the particular apportionment system of any State by a realistic accommodation of the diverse and often conflicting political forces operating within the State.

I do not pretend to any specialized knowledge of the myriad of individual characteristics of the several States, beyond the records in the cases before us today. But I do know enough to be aware that a system of legislative apportionment which might be best for South Dakota might be unwise for Hawaii with its many islands, or Michigan with its northern peninsula. I do know enough to realize that Montana with its vast distances is not Rhode Island with its heavy concentrations of people.

VARIATIONS AMONG STATES

I do know enough to be aware of the great variations among the several States in their historic manner of distributing legislative power—of the Governors' councils in New England, of the broad powers of initiative and referendum retained in some States by the people, of the legislative power which some States give to their Governors by the right of veto or otherwise, of the widely autonomous home rule which many States give to their cities.

The Court today declines to give any recognition to these considerations and countless others, tangible and intangible, in holding unconstitutional the particular system of legislative apportionment which these States have chosen. Instead, the Court says that the requirements of the equal protection clause can be met in any State only by the uncritical, simplistic, and heavy-handed application of sixth-grade arithmetic.

But legislators do not represent faceless numbers. They represent people, or more accurately, a majority of the voters in their districts—people with indefinable needs and interests which require legislative representation, and which can often be related to the geographical districting, the constitutional validity of which the Court does not question, carries with it an acceptance of the idea of legislative representation of regional needs and interests.

Yet if geographical residence is irrelevant, as the Court suggests, and the goal is solely that of equally "weighted" votes, I do not understand why the Court's constitutional rules does not require the abolition of districts and the holding of all elections at large.

DIVERSE INTERESTS NOTED

The fact is, of course, that population factors must often to some degree be subordinated in devising a legislative apportionment plan which is to achieve the important goal of insuring a fair, effective, and balanced representation of the regional, social, and economic interests within a State. And the further fact is that throughout our history the apportionments of State legislatures have reflected the strongly felt American tradition that the public interest is composed of many diverse interests, and that in the long run it can better be expressed by a medley of component voices than by the majority's monolithic command.

What constitutes a rational plan reasonably designed to achieve this objective will vary from State to State, since each State is unique, in terms of topography, demography, history, heterogeneity and concentration of population, variety of social and economic interests, and in the operation and interrelation of its political institutions. But so long as a State's apportionment plan reasonably achieves, in the light of the State's own characteristics, effective and balanced representation of all substantial interests, without sacrificing the principle of effective majority rule, that plan cannot be considered irrational.

Mr. ROBERTSON. Mr. President, in order that we may get a clearer conception of how far both the Congress and the courts have departed from the historical interpretation of the 14th amendment, I ask unanimous consent to have printed in the RECORD the brief filed by one of Virginia's most brilliant lawyers, the late Mr. T. Justin Moore, of Richmond, together with the Attorney General of Virginia and other counsel for the Prince Edward County school authorities, in the famous case of Brown against Board of Education.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

[Supreme Court of the United States, October term, 1953—No. 4]

DOROTHY E. DAVIS, ET AL., APPELLANTS *v.* COUNTY SCHOOL BOARD OF PRINCE EDWARD COUNTY, VIRGINIA, ET AL., APPELLEES

(Appeal from the U.S. District Court for the Eastern District of Virginia, brief for appellees on reargument)

Hunton, Williams, Anderson, Gay & Moore, of counsel.

T. Justin Moore, Archibald G. Robertson, John W. Riely, T. Justin Moore, Jr., 1003 Electric Building, Richmond, Va., counsel for the Prince Edward County school authorities.

J. Lindsay Almond, Jr., attorney general, Supreme Court Building, Richmond, Va.; Henry T. Wickham, special assistant to the attorney general, State-Planters Bank Building, Richmond, Va., for the Commonwealth of Virginia.

Dated November 30, 1953.

PRELIMINARY STATEMENT

On June 8, 1953, this Court ordered that this case, together with the other four cases relating to segregation by race in the public schools, be restored to the docket and set down for reargument. We were then directed to discuss five listed questions "insofar as they are relevant" to this case. All of the questions are, or might conceivably be, relevant to this case.

Judicial decisions are not, however, law review articles. They cannot be divorced from their facts and left for determination in the lofty realm of abstract legal issues. The judicial power, with which we shall here be much concerned, is not exercised in a vacuum. By this we mean that the question before this Court for decision in this case is the constitutionality of segregation by race in the high schools of Prince Edward County, Va. There are no doubt principles involved of a broader application, but we trust that we may be excused if, from time to time, we refer to the facts developed in the record of this case and found as facts by the Court below, for they are entitled to that consideration here which, in our opinion, goes far to determine the matter at issue.

We refer briefly to the points presented in our brief filed with the Court at the last term for it related more directly to the record of this case. We discussed at length the parties and the school problem in Prince Edward County where the Negro high school population has grown by leaps and bounds during the last decade. We then made clear that, if the rule of stare decisis is to be followed here, no issue remains, for the only question presented to the Court has been repeatedly decided by it. But if the matter is to be considered anew, it must, we suggested, be considered in the light of the established rule that a reasonable legislative classification in the light of the particular circumstances does not offend the Constitution.

We then went on to show the action now being taken by Virginia to strengthen its school system. We next pointed out that, in one major respect, this case differs materially from the other four school segregation cases now before this Court. That difference is substantial; it lies in the evidence of record here and the findings of fact made by the court below on the basis of that substantial evidence. We then reviewed the evidence presented for appellants and showed how flimsy it was when compared with that presented for the school authorities. Finally we pointed out that the court below made clear findings that school segregation was reasonable in the Prince Edward County high schools both as a matter of law and as a matter of fact based on substantial evidence.

We believe that brief worth reviewing in connection with this reargument. Since we do not desire to overburden the Court, we have not repeated here all that we said there, although we shall refer to the precedents, the evidence and the findings in our discussion of the judicial power. But here we are called on to discuss specific questions posed by the Court and to answer a brief of 235 pages.

We consider that a few comments are required as to the brief of the appellants. It is obvious that in the short time allowed we have not been able to point to all of its errors and its unsupported conclusions. It must be read with care. In many places, the impatient reader will overlook the fact that material placed in apparent relation in succeeding paragraphs is in fact unrelated and that conclusions are drawn as to specific questions from generalities. We think that action unfair and where possible we have pointed to the unfairness. But that has not been possible in all instances. This unfairness will, nevertheless, be apparent to the careful reader.

Our primary purpose, however, is to discuss the questions asked by the Court. The major questions relate to the history and meaning of the 14th amendment. For convenience of reference, we therefore quote the amendment in full and then the provisions of the Constitution and Code of Virginia which, according to the appellants, conflict with the amendment. We turn, then, to the questions. To the extent that they involve matters of fact, we shall attempt factual answers. Our investigation has led to the conviction that we have nothing to fear from the record of history.

THE CONSTITUTIONS AND THE STATUTE

The 14th amendment provides:

"SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

"SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial offices of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

"SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a Member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

"SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss of emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

"SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

The appellants assert that the amendment makes unconstitutional section 140 of the

Constitution of Virginia and section 22-221 of the Code of Virginia of 1950, as follows:

"SEC. 140. **Mixed schools prohibited.**—White and colored children shall not be taught in the same school."

* * * * *

"SEC. 22-221. White and colored persons.—White and colored persons shall not be taught in the same school, but shall be taught in separate schools, under the same general regulations as to management, usefulness and efficiency."

We pass at once to the questions. We have included after each question a summary of the answer that we then give in detail below; accordingly, we have prepared no formal summary of our argument.

QUESTION 1

What evidence is there that the Congress which submitted and the State legislatures and conventions which ratified the 14th amendment contemplated or did not contemplate, understood or did not understand, that it would abolish segregation in public schools?

Answer. There is substantial evidence that the Congress which submitted the 14th amendment both contemplated and understood that it would not abolish segregation in the public schools.

There were 37 States in the Union at the time of the ratification of the amendment. There is affirmative evidence from 23 of these States that it was understood that the amendment would not abolish school segregation. In 14 States, no evidence, either affirmative or negative, is available. In not one State have we found substantial affirmative evidence that it was either contemplated or understood that ratification of the amendment would mean that segregation in the public schools was abolished.

Discussion:

A. THE CONGRESSIONAL HISTORY

1. Introduction

In considering this phase of the question, it will not do to look only at the 1st session of the 39th Congress. It is true that the amendment was proposed at that session. But the amendment had antecedents that presaged its proposal; these must be explored. At the same time, subsequent sessions of Congress may well give important information as to what the amendment meant to those who participated or were close to participation in its proposal; their words cannot be disregarded.

For this reason, we have reviewed the congressional civil rights and school history of the decade from 1865 until 1875, from the end of Civil War until Democratic victories in congressional elections put an end to major civil rights agitation. That review is found in appendix A. We think it correct and as complete as time and space have permitted. What we place here is a summary of that summary to contain only the most salient facts. To the extent that the appendix is incomplete, this summary must of necessity be even more fragmentary.

2. The District schools

No Congress would, we conceive, propose a constitutional amendment which it thought would abolish segregated schools and, at the same time, nurture segregated schools in territory subject to its direct control. The power of Congress in the District of Columbia is supreme; the school history there bears directly on our question.

The answer is remarkably plain. There were no public schools for Negroes in the District before 1862 when slavery was abolished there. Congress established public schools for Negroes there on a segregated basis in 1862.[1] It amended these school laws in 1864 and retained segregation.[2] In the middle of the debate on the resolution proposing the 14th amendment, Congress adopted a statute granting certain property to the trustees of the District's colored schools "for the sole use of schools for colored children."[3] The same session of Congress adopted another statute providing for an equitable apportionment of school funds to the Negro schools.[4]

The Congress that proposed the 14th amendment thus recognized the existence and sanctioned the continuance of segregated schools in the District of Columbia. That action has been considered as substantially determinative that Congress did not intend the 14th amendment to abolish segregated schools by a court sitting almost contemporaneously with ratification of the amendment.[5]

But that is not the end of the school story in the District. In 1868 and 1869, Congress passed a bill to combine the trustees of the white and Negro schools of the District; the schools themselves were specifically to remain segregated.[6]

This was vetoed by the President but his veto did not contain any disapproval of school segregation.[7]

In 1871, Senator Sumner, of Massachusetts, made a strong effort to secure enactment of a bill to outlaw school segregation in the District.[8] The bill was debated at length but never brought to a vote since its passage was apparently impossible.[9] Sumner tried again the next year.[10] Again a long debate ensued without a vote.[11] Finally, when, in 1874, Congress codified the laws relating to the District, it specifically preserved the statutes providing for school segregation.[12]

The record of school segregation in the District is a record of continuous congressional approval. Appellants refer to other legislation relating to the District (brief, pp. 77-78); they choose in this case not to mention the District schools. The facts are clear and are of deep significance: the Congress that proposed the 14th amendment approved school segregation; succeeding Congresses refused to change the system.[13]

3. The Civil Rights Act and the amendment

In 1866, Congress passed the first supplement Freedmen's Bureau bill.[14] This purported to give the President the right to use the power of the Federal Government to correct any harm resulting whenever "any of the civil rights or immunities belonging to white persons, including the right to make and enforce contracts, to sue, be parties, and give evidence; to inherit, purchase, lease, sell, hold and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, are refused or denied to Negroes * * * on account of race."

This bill was to be applicable only in the seceding States. It was passed by both Houses of Congress but it was vetoed by the President, his veto being narrowly sustained.[15] There is no evidence that it was intended to require mixed schools.

A companion measure, both having been introduced at the same time by Senator Trumbull, became the Civil Rights Act of 1866. As enacted, this act contained a definition of citizenship comparable to that found in section 1 of the 14th amendment and went on to declare that "such citizens of every race and color, without regard to any previous condition of slavery * * * shall have the same right to make and enforce contracts, to sue, be parties, and give evidence; to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens and shall be subject to like punishment * * * and to none other, any law, statute, or ordinance, regulation, or custom to the contrary notwithstanding."[16]

On this matter, there was a very extended debate, ranging through all sorts of questions, for the act was to be effective throughout the United States and was not to be confined to the seceding States. Questions as to its effect on school segregation and antimiscegenation statutes were raised in the Senate but its patron specifically denied that it would affect the latter, stating that the act was concerned only with the listed civil rights.[17] In the House, the school segregation question was specifically debated. A lone opponent of the act thought that it might require amalgamated schools even though equal schools were provided.[18] The committee chairman and floor leader who was in charge of the bill, Wilson of Iowa, gave the same unequivocal answer twice:

"Do [the provisions of the bill] mean that in all things civil, social, political, all citizens, without distinction of race or color, shall be equal? By no means can they be so construed * * *. Nor do they mean that * * * their children shall attend the same schools. These are not civil rights or immunities.[19]

* * * * *

"He knows, as every man knows, that this bill referes to those rights which belong to men as citizens of the United States and none other; and when he talks of setting aside the school laws and jury laws and franchise laws of the States by the bill now under consideration, he steps beyond what he must know to be the rule of construction which must apply here, and as the result of which this bill can only relate to matters within the control of Congress." [20]

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[1] 12 Stat. 394, 407, 537 (1862).

[2] 13 Stat. 187 (1864).

[3] 14 Stat. 342 (1866).

[4] 14 Stat. 216 (1866).

[5] *State ex rel. Garnes* v. *McCann*, 21 Ohio State 198 (1871).

[6] Congressional Globe, 40th Cong., 2d sess. (1868), 3900; Congressional Globe, 40th Cong., 3d sess. (1869), 919.

[7] Id. at p. 1164.

[8] S. 1244, 41st Cong., 3d sess. (1871).

[9] Congressional Globe, 41st Cong., 3d sess. (1871), 1053-61.

[10] S. 365, 42d Cong., 2d sess. (1872).

[11] Congressional Globe, 42d Cong., 2d sess. (1872), 2484, 2539-41, 3057, 3099, 3122-3125.

[12] Revised Statutes of the District of Columbia, 18 Stat. pt. 2, secs. 281, 283, 306, 310, 314 (1874). The history of these statutes is fully reviewed in the brief for the District of Columbia in *Bolling* v. *Sharpe*, October term, 1953, No. 8, and in the opinion of the Court of Appeals of the District of Columbia in *Carr* v. *Corning*, 182 F. 2d 14 (1950).

[13] We have not considered evidence from other territories directly under congressional control since none of them had as many as 500 Negro citizens in 1870. See table included in app. B.

[14] S. 60, 39th Cong., 1st sess. (1866).

[15] Congressional Globe, 39th Cong., 1st sess. (1866), 421, 688, 743, 916, 943. The bill was later enacted in a slightly modified form over a veto. 14 Stat. 173 (1866).

[16] 14 Stat. 27 (1866). As introduced, the bill had contained broad language prohibiting "discrimination in the civil rights and immunities" of all inhabitants on account of race. This broad language was eliminated by the House Judiciary Committee to leave the bill, as the chairman said, relating only to the rights specifically stated. He did not think that the amendment changed the meaning. Congressional Globe, 39th Cong., 1st sess. (1866), 1366-1367.

[17] Id. at pp. 475, 500, 505, 598, 600.

[18] Rogers of New Jersey. Id. at p. 1121. As to the weight to be given his views, cf. *Schwegmann Brothers* v. *Calvert Distillers Corp.*, 341 U.S. 384, 394-395 (1951).

[19] Congressional Globe, 39th Cong., 1st sess. (1866), 1117. This statement of Wilson and the next, both made before the bill was amended. completely discredit appellants' broad assertion (Brief, pp. 90-91) that "most Senators and Representatives" thought that it would destroy all State power to distinguish on the basis of race.

These quotations put beyond question the meaning of the Civil Rights Act of 1866. It was not intended in any way to outlaw school segregation.[21] It applies only to the rights listed in the section quoted above.

That fact is of peculiar significance. It was generally assumed that the purpose of the 1st section of the 14th amendment was to write into the Constitution the provisions of the Civil Rights Act of 1866.[22] There were differences of view as to why this was desirable; some thought that only by adoption of the amendment could the Civil Rights Act be made constitutional, while others thought adoption of the amendment desirable to prevent a loss of rights which might result from subsequent repeal of the Civil Rights Act. But there was no substantial dissent from the position that the two were intended to cover the same ground. Since that is true and since the evidence is clear that the Civil Rights Act was not intended to abolish school segregation, it is equally clear that the amendment cannot of itself be interpreted to require its abolition.

The debates on the amendment make this result plain. The proceedings of the Joint Committee on Reconstruction, where the amendment was born, and its reports contain no reference to school segregation.[23] Thaddeus Stevens, the spearhead of the radical forces, said that the design was to prevent repeal of the Civil Rights Act.[24] Many followed in the House to express the view that the two encompassed the same principles. They include Finck, Garfield, Thayer, Boyer, Bromall, Raymond, Eliot, Randall and Rogers.[25] For example, Raymond, a Republican, said: "And now, although [the Civil Rights Act] became a law and is now upon our statute-book, it is again proposed so to amend the Constitution as to confer upon Congress the power to pass it." [26]

Boyer, a Democrat, said: "The first section embodies the principles of the civil rights bill." [27]

The same theme is found in the Senate debates.[28] In addition, the general understanding was that the amendment was designed to give Congress the power to restrain State action in the field of listed civil rights; and the public schools nowhere appear in the list.[29] The only real mention of the schools was to the effect that the amendment would require equal and not unequal taxation for the support of education.[30]

Appellants assert that the amendment was designed to go beyond the Civil Rights Act. But that is not supported by the record. The radical leaders perhaps wished to go further, but they recognized that Congress and the country would not accept a more extreme proposal.[31] So they kept the amendment within the same bounds as the Civil Rights Act. Regulation of schools is outside those bounds.

Thus, the 14th amendment was proposed. The chief purposes of its first section were to give constitutional support to the Civil Rights Act and to define citizenship. Even if, as some have argued, there was the additional purpose to make the first eight amendments applicable to the States, that has no relevance here, for none of them has any bearing on separate schools.

4. Subsequent civil rights agitation

After the 14th amendment had become a part of the Constitution, the question of national school segregation became for the first time an issue of importance. The leader of those who desired to outlaw segregation was Charles Sumner, Senator from Massachusetts. It was Sumner who, as we have seen, tried in vain to have segregation abolished in the schools of the District of Columbia. He was equally unsuccessful in the broader field.

One fact should be noted at the beginning. Sumner, the leader of those opposed to segregation—in fact, he dedicated much of his life to the subject—was clearly of the opinion that the 14th amendment did not abolish school segregation without more. This opinion is forcefully expressed in a letter to a convention of Negroes that assembled in Columbia, S.C., in 1871. Sumner said:

"The right to vote will have new security when your equal right in * * * common schools is at last established.

"Help yourselves, and others will help you. The civil rights law needs a supplement to cover such cases." [32]

Since the abolition of school segregation was not already required, Sumner bent every effort to have Congress act to abolish it.[33] The question as to the power of Congress to do so is discussed at another place below; we merely mention here the debates as they relate to the self-executing operation of the amendment.

Sumner prepared what he called his supplemental civil rights bill. In all of its several forms, it purported to outlaw segregation in railways, hotels, theaters, churches, and cemeteries as well as in the schools. It was introduced and unfavorably reported in 1870 and 1871.[34]

In 1872, sentiment in Congress strongly favored the enactment of a bill to provide general relief from the disabilities imposed on most southern citizens by the 3d section of the 14th amendment. Sumner proposed that such amnesty should be granted only if coupled with his supplemental civil rights bill. On two occasions, he persuaded the Senate to add his bill to the amnesty bill; on both occasions, the amnesty bill, which required a two-thirds vote, failed to pass. Finally, the supplemental civil rights bill was amended to eliminate reference to schools, churches, and cemeteries and passed while Sumner was off the floor; it did not receive House consideration. The amnesty bill was adopted by both Houses and became law.

The debates on these measures were tremendous.[35] But in none of them is it suggested that the law was unnecessary, because the 14th amendment, properly interpreted and enforced, would of itself produce the same result. There was much argument over the power of Congress to act; there was even more argument as to the expediency of congressional action; there was no suggestion of the fact that, even though action might be required, Congress was not the place where it should be taken.

These conclusions are equally true as to the Civil Rights Act of 1875.[36] In the 1st session of the 43d Congress, bills to require mixed schools, as well as forced intermixture in hotels, railway cars, and the like, were debated in both Senate and House. Again the questions debated were the power of Congress and the expediency of congressional action, but nowhere is it suggested that no congressional action was required to reach the desired result.

The House never adopted any bill in 1874 and the bill passed by the Senate was never brought up in the House. In the elections of the fall of 1874, the Democrats unseated 100 House Republicans. As a matter of political expediency, the Republicans wished to enact some civil rights legislation before they lost control of Congress. In the lame duck session that began in December 1874, the old supplemental civil rights bill was brought up again. A long debate ensued in the House. At last, it was amended to eliminate all reference to the public schools and passed.[37] In the Senate no reference was made to the school system. The bill was enacted as the Civil Rights Act of 1875. Even as so emasculated by the elimination of schools, it was promptly held unconstitutional by this Court.[38] Throughout this debate, it was never urged that the 14th amendment should be interpreted as self-executing to the extent of abolishing segregated schools.

One further word must be added. As late as December 1875, President Grant recommended to Congress an amendment to the Constitution to require all States to maintain schools to educate all children "irrespective of * * * color." [39] This qualification would hardly have been necessary if the 14th amendment had already abolished segregation in the schools.

5. Conclusion

The Civil Rights Act of 1866 admittedly was not designed to abolish segregated schools. The 14th amendment was proposed so that the rights protected by the Civil Rights Act should thereafter receive constitutional protection. Those measures were intended to cover the same field; the amendment was to be substantially coextensive with the act. This interpretation of the amendment finds support in the history of subsequent civil rights legislation. Although the question of school segregation received an inordinate amount of legislative consideration, it was not thought that its decision lay with the courts and not with Congress and that congressional action would therefore be superfluous. And throughout the whole period, Congress fostered segregated schools in the District of Columbia and refused all attempts to abolish segregation there although no question of its power could there arise.

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[20] Id. at p. 1294. The views of Wilson as committee chairman are entitled to great weight. *Duplex Printing Press Co.* v. *Deering*, 254 U.S. 443, 474–475 (1921).

[21] The bill was enacted over a veto. Congressional Globe, 39th Cong., 1st sess. (1866), 1679, 1809, 1861.

[22] This is the generally accepted view:

"In fact, there seems to be little, if any, difference between the interpretation put upon the first section by the majority and by the minority, for nearly all said that it was but an incorporation of the civil rights bill." Flack, "The Adoption of the 14th Amendment" (1908), 81.

"Over and over in this debate, the correspondence between section 1 of the amendment and the Civil Rights Act is noted. The provisions of the one are treated as though they were essentially identical with those of the other." Fairman, "Does the 14th Amendment Incorporate the Bill of Rights?" (1949), 2 Stan. L. Rev. 5, 44.

[23] An early version of the amendment conferred affirmative power on Congress to secure privileges and immunities and equal protection. But this draft met opposition from those who thought the powers conferred too broad and it never came to a vote. Congressional Globe, 39th Cong., 1st sess. (1866) 806, 813, 1094–5.

[24] Id. at p. 2459.

[25] Id. at pp. 2460–2467, 2498–2545.

[26] Id. at p. 2501.

[27] Id. at p. 2467.

[28] E.g., at pp. 2896, 2964, 3031, appendix, p. 240. When Senator Fessenden denied this purpose, Senator Howard was quick to correct him. Id. at 2896.

[29] Id. at pp. 2765, 2961.

[30] Id. at appendix, p. 219.

[31] Id. at pp. 2459, 2896. Appellants make much of extraneous statements made by members of the Joint Committee on Reconstruction (brief, pp. 93–103). But they do not relate in general to the specific terms of the amendment and cannot be accepted as authoritive guides to its meaning.

[32] Lester, "Life and Public Services of Charles Sumner" (New York 1874), 511.

[33] Sumner was the most radical of radicals. His views were so extreme that he had been excluded from membership on the Joint Committee on Reconstruction and never became a member. 2 Fessenden, "The Life and Public Service of William Pitt Fessenden" (1907), 20.

[34] Congressional Globe, 42d Cong., 2d sess. (1872), 821–822.

[35] Congressional Globe, 42d Cong., 2d sess. (1871–2). Most of the individual speakers are referred to in app. A.

[36] 18 Stat. 335 (1875).

[37] 3 CONGRESSIONAL RECORD, 43d Cong., 2d sess. (1875) 1010–1011.

[38] *Civil Rights Cases*, 109 U.S. 3 (1883).

[39] "7 Messages and Papers of the Presidents" (1898), 334.

The answer is clear: the 14th amendment did not abolish school segregation when it became a part of the Constitution in 1868.

B. The record from the States

We have reviewed in appendix B all of the available evidence as to the contemplation and understanding of the 37 States at the time in the Union as to the meaning of the 14th amendment. We refer to the appendix for a more detailed statement of the material summarized here.

The evidence from the States, unlike that of Congress, is rarely direct. In only two States, Indiana and Pennsylvania, are there full reports of the debates in the legislatures that considered the amendment.[40] Even in those States, the reports are not of particular assistance. In addition, the addresses of Governors and legislative journals have been reviewed, but it is rare that the amendment and the schools were considered there at the same time.

But the amendment and the schools were often considered substantially contemporaneously. It is from action taken in connection with the school systems that we derive evidence. And it is evidence of a very substantial nature. If the legislature that ratified the amendment established a system of segregated schools, it cannot be urged in good conscience that the legislature thought that school segregation was incompatible with the amendment. An interval of time may make the evidence less forceful but it is nevertheless relevant.

On the other hand, if school segregation had been abolished prior to ratification of the amendment, ratification is not evidence that the amendment was thought to prohibit school segregation. Nor can isolated statements made generally by those who opposed ratification and wished to overemphasize the calamities to result be taken as determinative of our question.

We must, however, make brief mention of the discussion by the appellants on this question. In addition to their customary relation of the unrelated and their unsupported conclusions, they allege in substance that many of the Southern States perpetrated a conscious and colossal fraud on the United States. Virginia is one of the States in respect of which that allegation is made. It is false. There is no evidence to support such a theory of conspiracy. In fact, as to all the States, the truth becomes apparent only if the individual discussions in the appellants' brief and in appendix B to this brief are compared side by side. When that is done, the error of the conclusions drawn by the appellants is at once apparent.

With these preliminary words, we turn to the States. We cite, in a sentence or two, the controlling evidence from each but without citation of authority, for that is given in detail in the appendix. At the end we shall attempt a summary to point up the conclusions of our investigation.

Alabama: The same legislature that ratified the amendment enacted, less than a month later, a general school law that, in essence, required segregated schools.

Arkansas: The same legislature that ratified the amendment passed a statute making segregated schools mandatory.

California: The amendment was never ratified in California and school segregation seems not to have been considered in connection with the rejection. Segregated schools existed before and after the amendment became a part of the Constitution. The amendment was considered at the 1866–67 legislative session; laws providing for separate schools were enacted in 1863, 1864, 1866 and 1870.

Connecticut: The same legislature that ratified the amendment outlawed segregation in the schools. There were less than 10,000 Negroes in Connecticut; it was recognized that school segregation was never a problem there.[41]

Delaware: The amendment was rejected at first and finally ratified in 1901. There seems to have been no connection between rejection and the school system. Schools for Negroes were not directly supported by the State until 1881. Negroes were never admitted to the white public schools during the Reconstruction period.

Florida: Under military pressure, Florida ratified the amendment in 1868. At that time, Florida supported Negro schools but had no State-supported white schools. Segregation was not required by law until 1887.

Georgia: The same session of the Georgia Legislature that ratified the amendment established the public school system and made segregation mandatory.

Illinois: Illinois had segregated public schools before and after ratification of the amendment, separate schools being abandoned only in 1874.

Indiana: Negro children were excluded from the schools at the time that the amendment was ratified in 1867. Separate schools for Negroes were provided in 1869. The Indiana Supreme Court held in 1874 that segregated schools did not violate the amendment.

Iowa: Segregated schools were held to violate the Iowa constitution in 1858, long before the amendment was considered. This ruling was reaffirmed in 1868 but the amendment was not mentioned.

Kansas: The Kansas Legislature of 1867 ratified the amendment; the legislatures of 1867 and 1868 authorized segregated schools.

Kentucky: Kentucky rejected the amendment, but schools played no part in the rejection. The same legislature enacted a statute permitting the establishment of Negro schools. No real education of the Negro was undertaken until 1882.

Louisiana: Louisiana, in the year in which it ratified the amendment, adopted a constitution prohibiting segregated schools. Mixed schools could never be put into practical operation. The evidence from Louisiana is so conflicting as to defy a rational conclusion.

Maine: Maine, with 1,606 Negro inhabitants in 1870, gives no evidence of consideration of the question here at issue.

Maryland: The 14th amendment was rejected by Maryland in 1867; schools were not apparently an issue in the rejection. The first comprehensive school system, adopted in 1868, required segregated schools.

Massachusetts: Segregated schools were held inoffensive to the Massachusetts constitution in 1849 but were outlawed in 1855 by statute. There is no record that school segregation was considered in connection with ratification of the amendment.

Michigan: In 1869, Chief Justice Cooley, a renowned constitutional lawyer, held school segregation offensive to a Michigan statute. The issue was a difficult one. He never mentioned that the amendment might apply to the case, although it would have made decision easy if the general view had then been that the amendment abolished school segregation.

Minnesota: Segregation in the schools had been prohibited in Minnesota in 1864. There were 759 Negroes in Minnesota in 1870. No evidence can be derived from the records of this State.

Mississippi: The legislature that ratified the 14th amendment enacted a general school law permitting local determination of the question whether the schools should be segregated.

Missouri: Missouri's public schools have been segregated either on a permissive or a mandatory basis since a time prior to the ratification of the amendment.

Nebraska: Admitted to the Union after the amendment was proposed, Nebraska promptly outlawed segregated schools, but there is no evidence that this action bore any relation to the 14th amendment.

Nevada: The legislature that ratified the amendment prohibited mixed schools and required the establishment of segregated schools.

New Hampshire: There were less than 600 Negroes in New Hampshire in 1870. There is no evidence that segregation was considered in connection with the amendment.

New Jersey: School segregation existed in New Jersey before and after ratification of the amendment, and there is no record that the matter was taken into account when the amendment was ratified.

New York: The amendment was ratified in New York in 1867. By a statute of 1864, the legislature authorized segregated schools. Segregated schools existed in New York all through the Reconstruction era and were upheld by its courts against constitutional attack as late as 1900.

North Carolina: The same legislature that ratified the 14th amendment established segregated schools in North Carolina.

Ohio: Separate schools for Negroes were required in Ohio long before the ratification of the amendment and continued until 1887. The Ohio Supreme Court held the amendment inapplicable in 1871.

Oregon: Oregon, with 346 Negroes in 1870, had certain legislation dealing specially with Negroes and separate schools existed to some extent after ratification. Nothing in the history of ratification of the amendment gives a clear answer on the question raised here.

Pennsylvania: Segregated schools were required in Pennsylvania as early as 1854 and existed until 1881. Debates on ratification of the amendment give no clear picture that a majority thought that school segregation would be abolished and in fact no action was taken to abolish it in Pennsylvania schools for 14 years after ratification.

Rhode Island: Segregation in the schools was permitted in Rhode Island before 1866 but was then abolished by statute. No evidence exists that the matter was considered when the amendment was ratified in 1867.

South Carolina: Both the incoming and outgoing Governors recommended segregated schools to the South Carolina Legislature that ratified the amendment. There was never a real effort to establish amalgamated schools.

Tennessee: The same legislature that ratified the amendment amended the school law to require segregated education in Tennessee.

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[40] Ratification in every State where accomplished was by the legislature and not by a convention as the question implies as a possibility.

[41] A Connecticut Senator made this point clear in opposing congressional action to prohibit segregated schools. See app. A, pp. 127–128.

Texas: The same Texas Legislature that ratified the amendment enacted a statute permitting school segregation on a local option basis.

Vermont: Vermont, with less than 1,000 Negroes in 1870, never had segregated schools and the question was not an issue in connection with ratification of the amendment.

Virginia: The same legislature that ratified the amendment made segregated schools mandatory in Virginia. The language of the statute was almost identical with that at issue in this case.

West Virginia: The same legislature that ratified the amendment enacted a statute requiring segregated schools in West Virginia.

Wisconsin: Wisconsin, with few Negroes, never had segregated education and there is no evidence that this question played any part in the ratification of the amendment.

How may these diverse conclusions be summarized? A summary will be attempted as follows, with a look first to those States providing no evidence, either affirmative or negative, that school segregation was considered in connection with ratification of the 14th amendment.

1. States with few Negroes where the question never seems to have arisen at all: Maine, New Hampshire, Oregon, Vermont, Wisconsin; total, five.

2. States where segregated schools were prohibited prior to or substantially contemporaneous with ratification of the 14th amendment: Connecticut, Iowa, Massachusetts, Michigan, Minnesota, Nebraska, Rhode Island; total, seven.

3. States, generally under Negro control, where conditions were so chaotic that no answer is possible: Florida, Louisiana; total, two.

Now, let us turn to States providing an affirmative answer:

1. States where segregated schools were established, either on a mandatory or a permissive basis, by the same legislature that ratified the 14th amendment: Alabama, Arkansas, Georgia, Kansas, Kentucky,[42] Mississippi, Nevada, North Carolina, Tennessee, Texas, Virginia, West Virginia; total, 12.

2. States where segregated schools existed, either on a mandatory or a permissive basis, both before and after ratification of the amendment: California,[42] Illinois, Missouri, New Jersey, New York, Ohio, Pennsylvania; Total, seven.

3. States where segregated schools were established within 2 years following ratification of the amendment: Indiana, Maryland [42]; total, two.

4. State where the first schools for Negroes were established after ratification on a segregated basis: Delaware [42], total, one.

5. State where segregation was recommended contemporaneously with ratification by two Governors and the schools were always segregated: South Carolina, total, one.

Into these categories fall all of the 37 States. If a summary is now made of the summary, this is the result:

Number of States where substantial evidence exists that ratification of the 14th amendment was not thought to outlaw segregated schools	23
Number of States where no substantial evidence on the question exists	14
Number of States where substantial evidence exists that ratification was thought to outlaw school segregation	0
Total	37

The answer to the question cannot be mistaken. The legislatures that ratified the 14th amendment neither contemplated nor understood that it would abolish segregation in the public schools.

QUESTION 2

If neither the Congress in submitting nor the States in ratifying the 14th amendment understood that compliance with it would require the immediate abolition of segregation in public schools, was it nevertheless the understanding of the framers of the amendment—

(a) That future Congresses might, in the exercise of their power under section 5 of the amendment, abolish such segregation; or

(b) That it would be within the judicial power, in the light of future conditions, to construe the amendment as abolishing such segregation of its own force?

Answer.

(a) There is no indication that the Congress that proposed the amendment understood that future Congresses might act to abolish school segregation. In succeeding Congresses, there were many who thought that Congress had this power, but they were never enough to enable Congress to enact a statute outlawing school segregation. This question should, therefore, be properly answered in the negative.

(b) No.

Discussion.

A. THE POWER OF CONGRESS

The 14th amendment is not primarily a grant of power to Congress. It is specifically expressed in terms of a prohibition against State action. In fact, a proposed amendment in the form of a grant of power to Congress was presented by the Joint Committee on Reconstruction, debated and returned to the committee without action after substantial opposition had developed.[43]

The power of Congress is derived solely from the fifth section: "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

This provision was derived with minor variations from the 13th amendment and has been repeated, again with minor changes, in the 15th, 18th, and 19th.

The meaning of section 5 was the subject of much debate. A number of those who voted in favor of the Civil Rights Act of 1866 based the constitutional power of Congress to enact that statute on the similar words of the 13th amendment. That this was not considered firm support is evidenced, as we have seen, by the fact that many thought that the 14th amendment was designed to make that act constitutional.

In the debates on the 14th amendment itself, very little was said of the fifth section. Senator Howard stated that it gave Congress "authority to pass laws which are appropriate to the attainment of the great object of the amendment." [44]

But that is almost all that is available on the subject. Since the Members of the Congress that proposed the amendment understood so clearly that the amendment was not designed to prohibit segregation in the schools, it is not remarkable that they did not discuss the right of Congress to abolish school segregation by statute. But it is remarkable that there was no further discussion of the general power of Congress under section 5, for it was to be a guide for future action by the very persons framing the amendment.

If discussion of congressional power was absent in the late sixties, there was indeed a surfeit of it in the early seventies. While Charles Sumner was pressing so hard for enactment of his supplemental civil rights bill, either by itself or as an amendment to the General Amnesty Act, the Halls of Congress rang with discussions of its power to outlaw school segregation. Sumner was the leader of those who thought that power plenary and his principles permeate the debate. There was, he said, "a new rule of interpretation for the Constitution, according to which * * * it is to be interpreted uniformly for human rights." [45]

Again he said: "I have also sworn to support the Constitution and it binds me to vote for anything for human rights." [46]

Another facet of Sumner's philosophy of constitutional law was his trust in the Declaration of Independence. He considered that "more sublime in character and principle" than the Constitution,[47] and often found a constitutional basis in the Declaration for the measure which he supported so ardently.

Sumner was strongly opposed because of these unorthodox beliefs. Senator Morrill, of Maine, stated that the amendment was not a grant of power to the Central Government and that it could not take cognizance of school matters.[48] Similarly, Senator Trumbull asserted that the right to go to school was not a civil right and never had been, and that Congress therefore had no right to act.[49]

The debate continued after Sumner's death while the Civil Rights Act of 1875 was on the road to enactment. Thus proponents of congressional action asserted that Congress could act to enforce civil rights, including mixed schools, even though no State had acted to deny those rights.[50] Opponents held the contrary view; Congress could act to correct State action that infringed civil rights but only after that action had been taken.[51] Their view was that the amendment was not a grant of additional power to Congress. At all events, the right to go to school was not a fundamental right protected by the 14th amendment.[52]

In summary, nothing in the recorded history of the Congress that proposed the amendment indicates that it thought Congress could outlaw segregated schools by statute. In later Congresses, there was much dispute on the question, but Congress never passed a statute relating to school segregation. Twice the Senate passed bills to abolish school segregation, in each case by a tie vote broken by the vote of the Vice President.[53] but no such bill was ever passed by the House and the amendment to eliminate all references to schools in the bill that became the Civil Rights Act of 1875 was adopted in the House by the overwhelming vote of 128 to 48.[54]

One further factor must be taken into account that is in reality an imponderable. That is the extent that partisan politics played in the opinions expressed on the school issue. The Democrats opposed and the Republicans favored civil rights legislation. The Republicans thought and admitted that the enactment of civil rights legislation would win them Negro votes.[55] The Republicans lost heavily in the elections of 1874; the Civil Rights Act of 1875 was enacted by a lame duck Congress for political reasons so that Republicans might assure retention of the Negro vote before the Democrats took over. The constitutional opinions of those open to such obvious bias are of necessity suspect.

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[42] California, Kentucky, and Maryland never ratified the 14th amendment; ratification was not accomplished in Delaware until 1901.

[43] Congressional Globe, 39th Cong., 1st sess. (1866) 813, 1094–1095.

[44] Id. at p. 2766. Only Rogers of New Jersey, a die-hard States-rights Democrat, thought that Congress might outlaw equal separate schools. He was in the minority on the amendment. Id. at appendix, pp. 133–134.

[45] Congressional Globe, 42d Cong., 2d sess. (1872), 727.

[46] Id. at p. 3263.

[47] Id. at p. 761.

[48] Id. at appendix, pp. 3–5.

[49] Id. at p. 3189.

[50] See, e.g., 2 CONGRESSIONAL RECORD, 43d Cong., 1st sess. (1874), 412–413.

[51] See, e.g., id. at pp. 379–380.

[52] Id. at pp. 384–386.

[53] Congressional Globe, 42d Cong., 2d sess. (1872), 919, 3268.

[54] CONGRESSIONAL RECORD, 43d Cong., 2d sess. (1874), 1010.

We conclude, therefore, with the opinion that many in the early 1870's thought that Congress had the power to outlaw school segregation. But they were never an effective majority. And there were just as many, if not more, who were of the contrary view. Furthermore, the existence of these opinions does not make clear any opinion at all in preceding Congresses, and it is the 39th Congress that is the important one. That Congress—the one that framed the amendment—had no affirmative view that later Congresses might by legislation outlaw segregation by race in the public schools.

One further word is required. We have limited this answer, as we understand the question to be limited, to a discussion of the intention of the framers of the amendment. We refer to the answer to the third question for a brief discussion of the point whether Congress might now, under the limited authority given it by section 5, enact a statute abolishing school segregation. We think that question also to require a negative answer.

B. THE CONGRESSIONAL OPINION OF THE EXPANDING JURISDICTION

The Congress that proposed the 14th amendment did not understand that it would be within the judicial power, in light of future conditions, to construe the amendment as abolishing school segregation of its own force.

The judicial system received bare mention in the civil rights agitation. On one occasion, a Senator opposing the Civil Rights Act of 1866, suggested that it should be left to the courts to determine the incidents of slavery prohibited by the 13th amendment.[56] Later on, others thought that the 14th amendment should be enforced by the judiciary and not by Congress.[57] Thus, Senator Thurman, of Ohio, opposing civil rights legislation in 1872, thought that the 5th section of the 14th amendment added not "one iota to the power of Congress," and that Congress could enforce the amendment only "by providing for the making of a case for the judicial tribunals of the United States." [58]

But these are merely incidental references. The framers of the amendment were interested in conditions at that time and not in changed conditions that might exist at a later time. The leaders of the radicals rather feared a Supreme Court which, at that time, had views more conservative than theirs. Many of their immediate successors thought that the Court was too restrictive in its interpretation of the amendment.[59] None of them looked to the Court to expand the meaning of the amendment under any circumstances.

Indeed, it would have been remarkable if any other result were true. It would, in effect, have been a delegation of legislative power to assume, at the beginning, that a power to determine school segregation unconstitutional should arise, like a springing use, at some undetermined future time. Thaddeus Stevens and the other leaders of reconstruction were intent on gathering power into their own hands, as Andrew Johnson learned; it was not in their nature to delegate to others.

The answer to this question is "No."

QUESTION 3

On the assumption that the answers to questions 2(a) and (b) do not dispose of the issue, is it within the judicial power, in construing the amendment, to abolish segregation in public schools?

Answer. Certainly judicial power exists if the only question be whether this Court is empowered to make an enforcible decision. But to interpret the 14th amendment as authority for the judicial abolition of school segregation would be an invasion of the legislative power and an exact reversal of the intent of the framers of the amendment. It would reverse unquestioned precedent in decisions of this Court that have withstood the test of time without impairment. Furthermore, it would overturn the established meaning of the amendment that the Court should sustain State legislative action which is, as here it was found to be, reasonable on the particular facts. In these circumstances, abolition of school segregation is not within the judicial power.

Discussion:

A. INTRODUCTION

This is, we conceive, the most difficult of the question posed by the Court. Its difficulty does not lie in the weakness of our position but in the phrasing of the question.

Let us take the first clause; we are asked to assume that the answers to questions 2 (a) and (b) do not dispose of the issue. That seems to us a simple assumption, although the necessity for making it is confusing. What the framers of the amendment considered that Congress might do in the future has little, if any, bearing on a situation where Congress has done nothing. Similarly, what those framers thought that this Court might do in the future would not dispose of this case, no matter whether conditions had materially changed (which they have not). It does not seem that an answer to either part of that question, regardless of what the answer might be, could dispose of the issue. So, although the assumption is easily made, to be required to make it is disconcerting because it seems remote from the issue.

We pass then to the question itself. That is framed in terms of judicial power. Has the Court in mind the ability to make an enforcible decision? Certainly that is an aspect of judicial power in its broadest sense. Or is the Court merely asking whether, in the facts of this case, it may properly reverse the decision of the court below? That, again, concerns an aspect of judicial power in proper application.

This question, therefore, covers a broad field. The whole field cannot be explored without an excursion that the Court would find unwelcome into a discussion of jurisprudence, an area always approached with hesitation by those such as we who are the artisans and not the artists of the law. In a word, we cannot, within any reasonable limits of space, follow all the trails which this question asks us to enter. Our brief discussion will center on five points: first, the power of this Court in its broadest sense; second, the relation of the judiciary to the legislature; third, the nature of the process by which a statute is held to conflict with the Constitution; fourth, the effect and weight of the relevant precedents; and, finally, the meaning of the 14th amendment as applied to the facts of this case.

B. POWER

A dictionary defines power as "ability to act." A legal scholar has circumscribed its meaning deftly by terming it the correlative of liability and the opposite of disability.[60] If power be used in this sense, this Court certainly has judicial power to declare school segregation offensive to the Constitution.

Mr. Justice Cardozo made this point clear more than 30 years ago. He said: "Judges have, of course, the power, though not the right, to ignore the mandate of a statute, and render judgment in despite of it. They have the power, though not the right, to travel beyond the walls of the interstices, the bounds set to judicial innovation by precedent and custom. Nonetheless, by that abuse of power, they violate the law." [61]

In result, however, the conclusion of Mr. Justice Cardozo is wrong when applied to the particular decisions of this Court. The decisions of this Court are the law binding the parties and there is no appeal. They will be enforced, in the absence of revolution or executive disregard.[62] We urge no such course of action; nor, we assume, does anyone. In this sense, therefore, the power of this Court is plenary.

We point out that the question is, nevertheless, not a simple one of whether schools shall be segregated or not. There is the further alternative of whether there shall be schools or not. We find nothing in the Constitution that requires public education by any State. Again, this is not a threat; it is a simple statement of fact. Georgia for example, has appropriated more than $100 million in 1953 for the public schools. The appropriation is conditioned on continued segregation. If segregation ends, so do State funds for the public schools.[63]

In the broadest sense, then, the Court has the power to end segregation in the public schools. It exercised this power in other years when it refused to outlaw segregation on the ground that segregation was not unconstitutional but not on the ground that this Court could not decide the question. But this answer seems too obvious; it cannot have been the intention of the Court. The Court must mean for us to discuss the field in which its power is properly to operate. In that sense, we discuss the judicial power in succeeding sections.

C. LEGISLATIVE POWER

Mr. Justice Holmes said: "Great constitutional provisions must be administered with caution. Some play must be allowed for the joints of the machine, and it must be remembered that legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts." [64]

We take this to mean that this Court, though it be always vigilant to protect fundamental rights of liberty and property, has limited authority. There are areas in which the judicial power may operate; equally, there are areas reserved to the legislature in which the judicial power may not operate. We suggest to the Court with all deference that this case lies in an area for the operation of the legislative power in which the judicial power should not interfere.

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[55] See, e.g., 2 CONGRESSIONAL RECORD, 43d Cong., 1st sess. (1874), 4167.

[56] Congressional Globe, 39th Cong., 1st sess. (1866), 1805.

[57] Congressional Globe, 42d Cong., 2d sess. (1872), 913–915; 2 CONGRESSIONAL RECORD, 43d Cong., 1st sess. (1873), 380.

[58] Id. at p. 4083.

[59] Such was the view of some after the decision in the *Slaughter-House Cases*, 16 Wall. 36, (1873).

[60] Hohfeld, "Some Fundamental Legal Conceptions as Applied in Judicial Reasoning" (1913), 23 Yale L. J. 16, 30; (1917), 26 Yale L. J. 710.

[61] Cardozo "The Nature of the Judicial Process" (New Haven 1921), 129.

[62] "John Marshall has made his decision—now let him enforce it." Andrew Jackson quoted in 4 Beveridge, "The Life of John Marshall" (New York 1919), 551.

[63] Georgia Laws (1953), No. 202.

[64] *Missouri, K. and T. R.* v. *May*, 194 U.S. 267, 270 (1904).

This Court is not equipped to solve the problem. Nor is the system of Federal courts as a whole. Segregation exists in the schools of 17 States. In these States, there are certainly more than a thousand counties and probably many more school districts. Is this Court to supervise the operation of amalgamation in each of these school districts? New school district lines will be universally required; is the Federal judiciary to pass upon the propriety of each? That is not the machinery of the judicial system; it is expressly the machinery of the executive carrying out the declared will of the legislature.

Furthermore, in a technical sense, a reversal of the lower court decision here is of necessity of limited effect. In this sense, nothing that this Court can do at this time will affect the schools of North Carolina. Nor will a reversal here affect the schools of Nottoway County, Va., adjoining Prince Edward County. Nor, for that matter, will it affect the elementary schools of Prince Edward County, for they are not at issue in this case. Yet a holding that school segregation by race violates the Constitution will result in upheaval in all of those places not now subject to Federal judicial scrutiny. This Court has made many decisions of widespread effect; none would affect more people more directly in more fundamental interests and, in fact, cause more chaos in local government than a reversal of the decision in this case.

It seems to us that this points up the fact that the problem before the Court is essentially legislative—it is a policy decision to be made in the light of present social conditions and the great guarantees of the 14th amendment. To abolish school segregation would be a long step in the field of social relations, of the type normally to be taken after mature consideration by persons elected directly by the people. Segregation has existed in the schools for more than a century; to eliminate it overnight would be to do more than fill a gap in the social framework of the country.

We know of no firm line that can be drawn between the judicial and the legislative powers. Judges legislate; everyone recognizes that. To quote again from Mr. Justice Holmes: "I recognize without hesitation that judges do and must legislate, but they can do so only interstitially; they are confined from molar to molecular motions. A common-law judge could not say I think the doctrine of consideration a bit of historical nonsense and shall not enforce it in my court." [65]

Is the abolition of school segregation a crack or crevice in the law? Would the Court, in taking that action, be merely filling a gap? History and size belie that conclusion.

This Court stays its hand in many matters where it has the power to act, if the term power be used in its broadest meaning. In one sense, whenever the Court refuses to hold a statute unconstitutional it makes a determination that the judicial power is not then to interfere with the legislature. But there are other cases. The Court will not determine questions as to the proper ratification of an amendment to the Constitution; [66] it will not enforce the constitutional guarantee of a republican form of government; [67] it will not interfere with relations with other nations nor review judgment determinations made in the exercise of the war power.[68] It will not even decide the question of title to personal property held by a lower court if that question depends for solution on the validity of action taken by a foreign nation.[69] These are among many examples that could be chosen. The reason that the Court refuses to make the requested determination is that it does not possess the machinery necessary to make or to enforce its determination, or that some other branch of the government has better machinery. That same condition, we suggest, exists in this case.

Again we point out that we do not need at this time to conclude the question as to the location of the legislative power. Of course, the State legislatures may act. Whether Congress may act presents a novel and more difficult question. Our view is that Congress may not abolish school segregation by a statute within its constitutional power. We give here, in summary form, the reasons for our view.

Any power possessed by Congress must be found in section 5 of the amendment. That section gives Congress the right to enforce the other sections of the amendment and no more. Congress is not empowered to define acts which violate the amendment nor is it authorized to define the scope of the amendment's operation. Much less is Congress authorized to expand the effect of the amendment. Congress has the simple power to provide appropriate relief in the event of violations: "This is the legislative power conferred upon Congress, and this is the whole of it. * * * It does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress against the operation of State laws * * * when these are subversive of the fundamental rights specified in the amendment." [70]

The only section of the amendment possibly applicable in the case of school segregation is the first section. But that section confers no power on Congress; it is by its express terms only a limitation of the powers of the States. The Congress that proposed the amendment refused to propose it in a form conferring power on Congress; the affirmative form was considered and rejected while the negative form was proposed and ratified. Congress acquired no power under the first section.

On this basis, we take as our major premise the fact that school segregation was not outlawed by the first section of its own force. Congress may enforce the provisions of that section within the scope of its intended operation; Congress is given no power to expand its meaning. Therefore, Congress may not outlaw school segregation, for to do so would be to expand the operation of the first section of the amendment and that is beyond the power of Congress.

This syllogistic reasoning is not, as it may appear, an oversimplification of the problem. It does not result in divesting section 5 of all meaning and purpose. Congress could enact a statute declaring that any State law is void which prohibits all left-handed people from owning property and Congress could provide a remedy in the Federal courts in the event of the attempted enforcement of such a law. Thus Mr. Justice Bradley stated that he would uphold any act of Congress that—

"Is clearly corrective in its character, intended to counteract and furnish redress against State laws and proceedings, and customs having the force of law, which sanction the wrongful acts specified." [71]

But those wrongful acts must be within the scope of operation of the amendment. Beyond that Congress may not go.

Furthermore, section 5 has a field for operation entirely beyond the first section of the amendment. For example, the second section of the amendment has never been made operative, but it could be put into effect only by an act of Congress. In putting it into effect, Congress would act under section 5. Finally, we refer again to the apparent congressional disinclination in the Reconstruction era to rely on the judiciary to enforce the new rights then created; that disinclination is, of itself, sufficient justification for inclusion of the fifth section.

The reasoning that we urge here has the support of authority. Time and time again, as we show in appendix A, the limited power given Congress under the amendment was made clear in the great congressional debates of the 1870's. A congressional declaration that school segregation violated the amendment would be an extension of the amendment's terms, and Congress has no power to make that extension.

But this is a question that may arise at some future time; it is not at issue here for Congress has not acted. We discuss the question briefly here for it was raised in argument by the Court and we believe that our position should be made clear. But we assume that no full argument is required now for that should await the time when Congress has acted and the question is presented to this Court for determination.

We point out here only that the question now before the Court is, on the record here, a legislative question. The mere size of the problem makes that clear as does its history. Segregated schools are not an isolated custom but a social pattern followed by one-third of the Nation, a pattern that has been followed, under the scrutiny of Congress, the State legislatures and the courts, for a century. To change this pattern by court decree—of uncertain and indirect effect in different localities—would be to do more than fill a gap, more than to legislate "interstitially." That decree would be judicial legislation of unprecedented scope and effect. It would be an invasion of the power reserved to the legislature.

In this sense, this Court has no judicial power to reverse the decree of the court below.

D. THE POWER TO HOLD UNCONSTITUTIONAL

In 1793, the General Court of Virginia exercised the judicial prerogative of declaring an act of the general assembly in conflict with the constitution of Virginia. The report goes on to show that this decision so strongly affected the judges that they forthwith filed a remonstrance with the general assembly and resigned in a body.[72]

Modern judges do not feel so strongly as to conflicts with the legislative branch. But throughout our history, the act of declaring a statute unconstitutional has been taken only with the greatest hesitation. John Marshall set the precedent:

"The question, whether a law be void for its repugnancy to the Constitution, is, at all times, a question of much delicacy, which ought seldom, if ever, to be decided in the affirmative in a doubtful case. The opposition between the Constitution and the law should be such that the judge feels a clear and strong conviction of their incompatibility with each other." [73]

This is the "presumption of constitutionality" [74] which is given to every legislative act, including the constitution and statute of Virginia under attack in this case. This has been termed "a policy of the Court which recognizes that the lawmaking power resides in the legislature."[75]

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[65] *Southern Pacific Co.* v. *Jensen*, 244 U.S. 205, 221 (1917).

[66] *Coleman* v. *Miller*, 307 U.S. 433 (1939).

[67] *Highland Farms Dairy Co.* v. *Agnew*, 300 U.S. 608 (1937).

[68] *Ex parte Republic of Peru*, 318 U.S. 578 (1943); *Hirabayashi* v. *United States*, 320 U.S. 81 (1943).

[69] *Oetjen* v. *Central Leather Co.*, 246 U.S. 297 (1918).

[70] *Civil Rights Cases*, 109 U.S. 3, 11 (1883).

[71] Id. at p. 16.

[72] *Kamper* v. *Hawkins*, 1 Va. Cas. 20 (1793); see id. at pp. 98, 108.

[73] *Fletcher* v. *Peck*, 6 Cranch 87, 128 (1810).

[74] See, e.g., Brandeis, J., in *O'Gormon and Young, Inc.* v. *Hartford Fire Insurance Co.*, 282 U.S. 251, 257–258 (1931).

This Court clearly has the power to overcome the presumption. Mr. Justice Cardozo has well stated the reason for the existence of the power:

"The utility of an external power restraining the legislative judgment is not to be measured by counting the occasions of its exercise. The great ideals of liberty and equality are preserved against the assaults of opportunism, the expediency of the passing hour, the erosion of small encroachments, the scorn and derision of those who have no patience with general principles, by enshrining them in constitutions, and consecrating to the task of their protection a body of defenders. By conscious or subconscious influence, the presence of this restraining power, aloof in the background, but none the less always in reserve, tends to stabilize and rationalize the legislative judgment, to infuse it with the glow of principle, to hold the standard aloft and visible for those who must run the race and keep the faith."[76]

Do we face in this case an assault of opportunism, a resort to expediency, a small encroachment, an attack by the unprincipled? Again, a century of experience in 17 States makes such a claim absurd. This is not the sort of case for the exercise of the power.

What, in general terms, is the extent of this phase of the judicial power? We quote again from Mr. Justice Holmes:

"While the courts must exercise a judgment of their own, it by no means is true that every law is void which may seem to the judges who pass upon it excessive, unsuited to its ostensible end, or based upon conceptions of morality with which they disagree. Considerable latitude must be allowed for differences of view as well as for possible peculiar conditions which this Court can know but imperfectly, if at all."[77]

This case, we submit, falls squarely in the category of legislative discretion. The 14th amendment did not outlaw school segregation at the time of its ratification. Whether or not to adopt school segregation is a matter for the conscience of the individual State legislatures based on factual conditions in the several States. These facts, of necessity, are best known to the legislatures.

But we are met with the doctrine of the evolving Constitution. Mr. Justice Cardozo said:

"The great generalities of the Constitution have a content and a significance that vary from age to age."[78]

Mr. Justice Frankfurter has expressed a similar view:

"The Constitution of the United States is not a printed finality but a dynamic process; its application to the actualities of government is not a mechanical exercise but a function of statecraft."[79]

We do not deny that many judges of wide renown have accepted these precepts.[80] But we seek to ascertain the scope of the doctrine. Is the present rule broader than the rule stated in an opinion in which Mr. Justice Holmes concurred that the meaning of the Constitution "does not alter" but that: "as changes come in social and political life it embraces in its grasp all new conditions which are within the scope of the powers in terms conferred."[81]

To what extent can changed conditions expand the meaning of the Constitution? We take it that each State will remain entitled to two Senators regardless of the extent of changed conditions. But we submit that this Court's power is certainly more limited than that.

Let us make our point clear. When this Court had before it for decision the case of *Hammer* v. *Dagenhart*,[82] it did not have any knowledge of the intention of the framers as to the exact meaning of the commerce clause as applied to the exact factual situation then presented to the Court. The framers never considered that exact question. Nevertheless, this Court made its decision. When substantially the same facts came before the Court 23 years later, the Court had no further insight as to the exact meaning of the framers on the exact facts of the case. But the 1941 Court was not disturbed; it held that the 1918 Court had mistaken the meaning of the commerce clause and overruled the earlier decision.[83]

This is a different case. Here the exact intention of the framers is known, as we have shown above. They did not intend the amendment to abolish school segregation; it is just as if they had put a footnote to the amendment to that effect.[84] Now the Court is asked, because of changed conditions, to overrule its prior decisions in exact accord with the expressed intention of the framers and to reach a result exactly opposite to their expressed intention.

To put the case bluntly: Where the Constitution, as interpreted by its framers, says that red is red, can this Court, because of changed conditions, say that red is not red?

The Court may have that power; but we can find no case where the question has been faced in those terms and a decision reached. We submit that the Court cannot carry the doctrine of the evolving Constitution to this extreme and that the judicial power does not extend to reversal of the exact intention expressed by the framers of the Constitution.

E. THE EFFECT OF PRECEDENT

If this case were to be decided solely on the basis of precedent, this brief could have been much more limited. There is ample precedent in the decisions of this Court to uphold school segregation:

"But for over a century it has been settled doctrine of the Supreme Court that the principle of stare decisis has only limited application in constitutional cases. It might be thought that if any law is to be stabilized by a court decision it logically should be the most fundamental of all law—that of the Constitution. But the years brought about a doctrine that such decisions must be tentative and subject to judicial cancellation if experience fails to verify them. The result is that constitutional precedents are accepted only at their current valuation and have a mortality rate almost as high as their authors."[85]

If this be the rule of the Court, it presents many unfortunate facets. It makes the ordering of their affairs difficult, if not impossible, for citizens who would attempt plans for the future in the light of the experience of the past. It makes every case subject to determination by an ab initio examination based on broad principles. It sharply diminishes precedent as a guide to the decisions of this Court.

We had not thought that a question directed to the scope of the judicial power could be answered exclusively by resort to historical precedent. It seemed to us to require a broader investigation. We thought that it required an examination of general principles underlying the Constitution and its great doctrine of the separation of powers. But appellants have chosen to present an answer relying entirely on their interpretation of historical precedent. We are happy to meet them on their own ground.

We turn first to the controlling precedents. The first is *Plessy* v. *Ferguson*, 163 U.S. 537 (1896). That case concerned a Louisiana statute requiring railways in that State to provide "equal but separate accommodations for the white, and colored races." This Court upheld that statute. In the majority opinion, the Court admirably set forth the principles stated by those who favored the 14th amendment in the 39th Congress and, at the same time, made the rule applicable to this case unmistakably clear:

"The object of the amendment was undoubtedly to enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the State legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which has been held to be a valid exercise of the legislative power even by courts of States where the political rights of the colored race have been longest and most earnestly enforced" (p. 544).

In that same case, many of the same arguments of fact were presented then that appellants present now. The Court dismissed those arguments then as this Court should now:

"We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it. The argument necessarily assumes that if, as has been more than once the case, and is not unlikely to be so again, the colored race should become the dominant power in the State legislature, and should enact a law in precisely similar terms, it would thereby relegate the white race to an inferior position. We imagine that the white race, at least, would not acquiesce in this assumption. The argument also assumes that social prejudices may be overcome by legislation, and that equal rights cannot be secured to the Negro except by an enforced commingling of the two races. We cannot accept this proposition. If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits and a voluntary consent of individuals" (p. 551).

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[75] Levy, "Our Constitution: Tool or Testament?" (New York, 1941), 246.

[76] Cardozo, "The Nature of the Judicial Process" (New Haven, 1921), 92–93.

[77] *Otis* v. *Parker*, 187 U.S. 606, 608–609 (1903).

[78] Cardozo, "The Nature of the Judicial Process" (New Haven 1921).

[79] Frankfurter, "Mr. Justice Holmes and the Supreme Court" (Cambridge, 1939), 76.

[80] See the discussion of this point in Jackson, "The Task of Maintaining Our Liberties" (1953) 39 A.B.A.J. 961, 964. It may be noted that in this case there is no conflict between the will of the legislature and the original meaning of the Constitution; here the Court is asked to act on "election returns" without an election.

[81] *South Carolina* v. *United States*, 199 U.S. 437, 448 (1905).

[82] 247 U.S. 251 (1918).

[83] *United States* v. *Darby*, 312 U.S. 100 (1941).

[84] Compare, for example, the decision in *Shelley* v. *Kraemer*, 334 U.S. 1 (1948), which seems historically correct. The Civil Rights Act of 1866 expressly gave the Negro "the same right to * * * purchase * * * real * * * property." The 14th amendment constitutionalized the Civil Rights Act. The Court's decision appears, therefore, to coincide with the intent of the framers.

[85] Jackson, "The Task of Maintaining Our Liberties" (1953), 39 A.B.A.J. 961, 962.

The appellants seek now to turn Mr. Justice Harlan's dissenting opinion into a controlling precedent by extolling its virtues (brief, pp. 40–41). But Mr. Justice Harlan did not refer to schools. When a school question arose again at a later date, he took the other side.

That case was *Cumming* v. *Board of Education*, 175 U.S. 528 (1899). There a county school board supported a high school for whites with public funds but refused to support a high school for Negroes with like funds. The appellants sought to enjoin continued support of the white school. The relief that they sought was denied. Mr. Justice Harlan spoke for a unanimous court. He said:

"Under the circumstances disclosed, we cannot say that this action of the State court was, within the meaning of the 14th amendment, a denial by the State to the plaintiffs and to those associated with them of the equal protection of the laws or of any privileges belonging to them as citizens of the United States. We may add that while all admit that the benefits and burdens of public taxation must be shared by citizens without discrimination against any class on account of their race, the education of the people in schools maintained by State taxation is a matter belonging to the respective States, and any interference on the part of Federal authority with the management of such schools cannot be justified except in the case of a clear and unmistakable disregard of rights secured by the supreme law of the land. We have here no such case to be determined" (p. 545).

It cannot with fairness be said that *Plessy* v. *Ferguson* does not support our position in this case, and indeed appellants recognize this by asking that *Plessy* v. *Ferguson* be overruled. No other solution is possible if their position is to be upheld. But they refuse to give equally controlling weight to another precedent. That is *Gong Lum* v. *Rice*, 725 U.S. 78 (1927). There the question was the right of a Chinese child to attend a white school rather than a Negro school. Mr. Chief Justice Taft said for a unanimous Court that included Holmes, Brandeis, and Stone:

"Were this a new question, it would call for very full argument and consideration, but we think that it is the same question which has been many times decided to be within the constitutional power of the State legislature to settle without intervention of the Federal courts under the Federal Constitution" (p. 86).

The Chief Justice then proceeded to cite 15 cases to support this proposition and added a substantial quotation from *Plessy* v. *Ferguson*.

But it is urged (brief, p. 48) that the separate but equal doctrine was not "at issue" in *Gong Lum* v. *Rice*. That seems denied by the closing words of the Chief Justice:

"Most of the cases cited arose, it is true, over the establishment of separate schools as between white pupils and black pupils, but we cannot think that the question is any different or that any different result can be reached, assuming the cases above cited to be rightly decided, where the issue is as between white pupils and pupils of the yellow races. The decision is within the discretion of the State in regulating its public schools and does not conflict with the 14th amendment" (p. 87).

The Gong Lum case presents a clear situation where the separate but equal doctrine was sustained under attack.

These are the school cases decided by this Court that relate to the separate but equal doctrine. In all of the other cases, this Court found inequality to exist in fact. If the separate but equal doctrine has vitality, as we are certain that it does, these are the precedents that determine the matter.

But appellants refer to "the mistaken belief that the doctrine of *Plessy* v. *Ferguson* is a correct expression of the meaning of the 14th amendment" (brief, p. 31). The rule announced there is held to be "wholly at variance with that of the earlier cases and the intent of the framers." With the latter we do not deal here, for that has been covered in the earlier sections of this brief. We merely repeat that the intent was that the amendment should relate to civil rights and that the author of the Civil Rights Act of 1866, Senator Trumbull, of Illinois, said:

"The right to go to school is not a civil right and never was." [56]

As to the earlier cases, they are not in point. This Court reviewed them when it decided *Plessy* v. *Ferguson* and said:

"The distinction between laws interfering with the political equality of the Negro and those requiring the separation of the two races in schools, theaters, and railway carriages has been frequently drawn by this Court. Thus in *Strauder* v. *West Virginia*, 100 U.S. 303, it was held that a law of West Virginia limiting to white male persons, 21 years of age and citizens of the State, the right to sit upon juries, was a discrimination which implied a legal inferiority in civil society, which lessened the security of the right of the colored race, and was a step toward reducing them to a condition of servility. Indeed, the right of a colored man that, in the selection of jurors to pass upon his life, liberty, and property, there shall be no exclusion of his race, and no discrimination against them because of color, has been asserted in a number of cases. (*Virginia* v. *Rives*, 100 U.S. 313; *Neal* v. *Delaware*, 103 U.S. 370; *Bush* v. *Kentucky*, 107 U.S. 110; *Gibson* v. *Mississippi*, 162 U.S. 565.) So, where the laws of a particular locality or the charter of a particular railway corporation has provided that no person shall be excluded from the cars on account of color, we have held that this meant that persons of color should travel in the same car as white ones, and that the enactment was not satisfied by the company's providing cars assigned exclusively to people of color, though they were as good as those which they assigned exclusively to white persons." (*Railroad Company* v. *Brown*, 17 Wall. 445.)

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"In the *Civil Rights* case, 109 U.S. 3, it was held that an act of Congress, entitling all persons within the jurisdiction of the United States to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, public conveyances, on land or water theaters and other places of public amusement, and made applicable to citizens of every race and color, regardless of any previous condition of servitude, was unconstitutional and void, upon the ground that the 14th amendment was prohibitory upon the States only, and the legislation authorized to be adopted by Congress for enforcing it was not direct legislation on matters respecting which the States were prohibited from making or enforcing certain laws, or doing certain acts, but was corrective legislation, such as might be necessary or proper for counteracting and redressing the effect of such laws or acts. In delivering the opinion of the Court, Mr. Justice Bradley observed that the 14th amendment 'does not invest Congress with power to legislate upon subjects that are within the domain of State legislation; but to provide modes of relief against State legislation, or State action, of the kind referred to. It does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress against the operation of State laws, and the action of State officers, executive or judicial, when these are subversive of the fundamental rights specified in the amendment."

* * * * *

"Thus in *Yick Wo* v. *Hopkins*, 118 U.S. 356, it was held by this Court that a municipal ordinance of the city of San Francisco, to regulate the carrying on of public laundries within the limits of the municipality, violated the provisions of the Constitution of the United States, if it conferred upon the municipal authorities arbitrary power, at their own will, and without regard to discretion, in the legal sense of the term, to give or withhold consent as to persons or places, without regard to the competency of the persons applying, or the propriety of the places selected for the carrying on of the business. It was held to be a covert attempt on the part of the municipality to make an arbitrary and unjust discrimination against the Chinese race. While this was the case of a municipal ordinance, a like principle has been held to apply to acts of a State legislature passed in the exercise of the police power," (pp. 545–550).

These quotations cover all except two of the cases prior to *Plessy* v. *Ferguson* cited by the appellants and their inapplicability to this case is made as apparent by the reasoning there given as it would be by further discussion here. In *United States* v. *Cruikshank*, 92 U.S. 542 (1875), the Court found that long indictments under the Enforcement Act of 1870 were inadequate as a matter of law since they did not charge a conspiracy to deprive persons of their rights as citizens of the United States but of their rights as citizens of States. This was merely an application of the rule of the *Slaughter-House Cases*, 16 Wall. 36 (1873), that the amendment was designed only to protect rights derived as citizens of the United States. *Ex Parte Virginia*, 100 U.S. 339 (1879), was simply another jury exclusion case. No alternative was offered; Negroes were simply excluded from jury service.

None of these cases with one exception presented the question that arose in *Plessy* v. *Ferguson*. None brought before the Court a separate but equal situation. They all concerned absolute exclusion of Negroes; no separate equality was offered. They can therefore have no relevance to this case and the general language found in them cannot be applied by analogy here for there is no analogy.

The one exception is *Railroad Company* v. *Brown*, 17 Wall. 445 (1873). But there the charter of the company enacted by Congress forbade "exclusion" from cars because of color and this Court very properly held that the company could not adopt a regulation in contravention of the act of Congress authorizing it to operate. The 14th amendment is not mentioned in the opinion and had no relevance to the decision.

It is true that *Plessy* v. *Ferguson* was a case of first impression in the Supreme Court. But other courts of importance had considered and given their approval to the separate but equal doctrine. These included the highest courts of New York, Ohio, Indiana, and California.[57] And, among the earlier cases, appellants have chosen to disregard *Hall* v. *DeCuir*, 95 U.S. 485 (1877). There, as applied to interstate transportation, this Court held invalid as a burden on commerce a Louisiana statute prohibiting regulations distinguishing on the basis of race or color. In a concurring opinion, Mr. Justice Clifford reviewed and approved the early State cases upholding segregation in the schools. It cannot be urged that the doctrine of *Plessy* v. *Ferguson* was something unknown; it was novel only because it was generally accepted and the Court had not been called on at an earlier date to restate the obvious.

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[56] **Congressional Globe, 42d Cong., 2d sess. (1872), 3189.**

[57] ***Dallas* v. *Fosdick*, 40 How. Prac. (1869); *Peoples ex rel. Dietz* v. *Easton*, 13 Abb. Prac. (N.S.) 159 (1872); *People ex rel. King* v. *Gallagher*, 93 N.Y. 438 (1883); *State ex rel. Garnes* v. *McCann*, 21 Ohio State 198 (1871); *Cory* v. *Carter*, 48 Ind. 327 (1874); *Ward* v. *Flood*, 48 Cal. 36 (1874).**

Next it is urged that *Plessy* v. *Ferguson* was in error because the Court gave some weight to the customs and traditions of the people (brief, pp. 42–43). We do not think this error. We do not urge that customs and traditions may override a clear constitutional prohibition. But there is no prohibition in the field of education. The mere constant repetition of the unwarranted assertion that the purpose of the 14th amendment was to prohibit all distinctions based on race cannot change the established fact that its purpose was to eliminate distinctions on the basis of race in certain specific fields of civil rights and the school system was not included within those fields. We do not urge customs or tradition as the sole basis for our position. We do not countenance threats of violence nor do we suggest in any way whatsoever that the possibility of violence should bear on the decision of this case. That is not in point. But customs and traditions, like long continued administrative interpretation of a statute, have a bearing on intention, construction, and the test of reasonableness. After all, as Mr. Justice Frankfurter has said:

"The 14th amendment did not tear history up by the roots."[68]

Similarly, a jury made up of men brought fresh from Tibet to Washington, D.C., would not satisfy the requirements of procedural due process. In a word, all men act in varying degrees on the basis of history and custom. A man who knew nothing of our history or our customs could not fit the definition of a reasonable man as that term is used in our law. By the same token, a determination of reasonableness cannot be made without reference to history and customs. Of course, history and customs are not conclusive; but they are entitled to consideration. Appellants assert here, as they did so often at the former hearing, that reasonableness must be determined in a vacuum. No man lives by the unvaried application of the doctrinaire. Appellants seek to avoid the facts of life; this Court cannot avoid them when decisions are to be reached.

Finally, appellants offer the Court an interpretation of the history of the 19th century (brief, pp. 50–65). That section is written, apparently, by a hand different from the one that composed, in lawyer-like fashion, the earlier argument. It is an irrelevance and a perversion.

History is a difficult subject. The historian must have capacity for detachment. No one factor can bear too strongly in his interpretation. Otherwise, he sees history, as through a colored glass, in terms of his own predilections. We have had historians who believed that all events could be explained by the characters of a few leading men who took the principal roles. The Civil War era, about which we are here much concerned, may be explained in apparently persuasive terms from either a radical northern or a radical southern point of view; the stories, if compared, would seem to relate to different wars. We are accustomed to the theory of history that interprets all events in terms of the class struggle.

This section, we suppose, is written by one of the Negroid-conspiracy school of historians. It is a school to which we are not accustomed. It interprets all history in the light of a supposed race struggle. All white persons belong either to the saints (who desire exaltation of the Negro) or the sinners (who desire subjugation of the Negro). For a short time the saints gained the ascendancy. But in some dark and smoke-filled room in 1877 a conspiracy was hatched and the sinners regained control. For the remainder of the century the sinners persecuted the Negro and controlled this Court. *Plessy* v. *Ferguson* was one of the results.

We have already mentioned the tendency of appellants to charge conspiracy where no evidence warranted the charge. Here this Court becomes a party to the conspiracy. But one fact cannot be explained. Segregated education was widespread all during the sixties and seventies, and Congress fostered it in the District of Columbia all the time that the saints were in control. Why was not the issue presented to this Court before the dark conspiracy of 1877 was hatched? The failure to do so was remarkably inopportune. The reason was that no one ever thought that school segregation offended the 14th amendment. That theory is a 20th century afterthought. The conspiracy has now been manufactured to lend color to the theory.

We say no more about this section. It is, we suppose, an effort: "* * * in the name of 'realism,' to rely upon 'facts' to determine decisions. These they would select largely from sociology, political science, psychology, and other nonlegal disciplines. Citations of weekly magazines, newspapers, and an endless list of popular, scientific, and professional books and reviews are now found."[69]

But this section is none the less a perversion of history. All of life can no more be interpreted in terms of a supposed race struggle than it can in terms of a supposed class struggle.

We come, then, to the turn of the century. *Plessy* v. *Ferguson*, respresenting a determination of a question of first impression, is the established rule. We seek now to determine whether the decisions of this Court in the last five decades have robbed it of vitality. They have not.

We turn first to the school cases, the only ones bearing any direct relationship to this case. Of these there are four; and none of them weakens the authority of *Plessy* v. *Ferguson*. We take them up one by one.

The first was *Missouri ex rel. Gaines* v. *Canada*, 305 U.S. 337 (1938). There, Missouri provided a law school for white students; it provided none for Negroes; it would pay tuition fees in a foreign university. The States cited *Plessy* v. *Ferguson*. This Court held the separate but equal rule inapplicable where the State, in fact, did not provide separate facilities:

"But * * * the fact remains that instruction in law for Negroes is not now afforded by the State * * * and that the State excludes Negroes from the advantages of the law school it has established" (p. 345).

These facts determined the matter; *Plessy* v. *Ferguson* did not apply.

The next case was *Sipuel* v. *Board of Regents*, 332 U.S. 631 (1948). Oklahoma had a law school for whites but none for Negroes; it refused admission of Negroes to the white school. Of course, this was the same case as the Gaines case and that is the only authority cited in the per curiam opinion. Again, *Plessy* v. *Ferguson* did not apply.

Next comes *Sweatt* v. *Painter*, 339 U.S. 629 (1950). There Mr. Chief Justice Vinson stated:

"We cannot find substantial equality in the educational opportunities offered white and Negro students by the State" (p. 633).

That determination made *Plessy* v. *Ferguson* automatically inapplicable. This the late Chief Justice formally recognized:

"We cannot, therefore, agree with respondents that the doctrine of *Plessy* v. *Ferguson* * * * requires affirmance of the judgment below" (pp. 635–636).

Had these words been the end, *Plessy* v. *Ferguson* would have stood unimpaired. But that was not the end. The Chief Justice went on:

"Nor need we reach petitioner's contention that *Plessy* v. *Ferguson* should be reexamined in the light of contemporary knowledge respecting the purposes of the 14th amendment and the effects of racial segregation" (p. 636).

We do not assert those words to be a reaffirmation of the doctrine of *Plessy* v. *Ferguson*, but we cannot interpret them as questioning its doctrine.

The last of these cases is *McLaurin* v. *Oklahoma State Regents*, 339 U.S. 637 (1950). Again the decision was based on a finding of factual inequality. The State adopted restrictions which set "McLaurin apart from the other students. The result is that appellant is handicapped in his pursuit of effective graduate instruction" (p. 641).

The conclusion was that "the conditions under which this appellant is required to receive his education" deprived him of constitutional rights (p. 642). In a word, there was separation but no equality. *Plessy* v. *Ferguson* was again inapplicable.

These are all of the school cases. In all of them there was separation; in none of them was there equality. The separate but equal doctrine comes through them unimpaired.

But appellants strongly rely on other authority. That is *Buchanan* v. *Warley*, 245 U.S. 60 (1917). It is cited in five different sections of their brief. But it has no applicability here. Counsel and this Court in that case made unmistakable its present irrelevance.

Buchanan v. *Warley* concerned a Louisville ordinance that prohibited a Negro from moving to a residence on a block where more than half the present residents were white and vice versa. A white man offered his house to a Negro; the Negro agreed to buy if he could occupy the house. The white man sought specific performance; the Negro set up the ordinance. This Court held the ordinance invalid. As a result, the white man was successful in his suit.

The argument for the white man is found in the report. His counsel distinguished the transportation cases and then went on:

"The cases of public schools are even more remote from that under consideration. The States are not bound to provide schools for anybody. Statutes regulating attendance at schools do not cut down rights previously recognized, but grant privileges which would not otherwise exist. If, therefore, the privileges granted to white and to colored children are in general similar, there can be no complaint" (p. 63).

This Court adopted an historical interpretation of the 14th amendment. It pointed to the Civil Rights Act of 1866 which specifically gave the Negro the same right as the white to purchase, sell, and hold property. It then pointed out that this statute had been reenacted after the ratification of the 14th amendment. The Court continued: "These enactments did not deal with the social rights of men, but with those fundamental rights in property which it was intended to secure upon the same terms to citizens of every race and color. *Civil Rights Cases*, 109 U.S. 3, 22. The 14th amendment and these statutes enacted in furtherance of its purpose operate to qualify and entitle a colored man to acquire property without State legislation discriminating against him solely because of color" (p. 79).

That might well have been the end to the matter. But the Court went on to distinguish *Plessy* v. *Ferguson:* "It is to be observed that in that case there was no attempt to deprive persons of color of transportation in the coaches of the public carrier, and the express requirements were for equal though separate accommodations for the white and colored races" (p. 79).

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[68] *Goesart* v. *Cleary*, 335 U.S. 464, 465 (1948).

[69] Jackson, "The Task of Maintaining Our Liberties" (1953) 39 A.B.A.J. 961, 962.

But this was not all:

"As we have seen, this Court has held laws valid which separated the races on the basis of equal accommodations in public conveyances, and courts of high authority have held enactments lawful which provide for separation in the public schools of white and colored pupils where equal privileges are given. But in view of the rights secured by the 14th amendment to the Federal Constitution such legislation must have its limitations and cannot be sustained where the exercise of authority exceeds the restraints of the Constitution. We think these limitations are exceeded in laws and ordinances of the character now before us" (p. 81).

Finally, appellants cite this case to bolster the Court against intimidation from violence which they assert that we threaten. We deny any threat as emphatically as possible. We expect dislocation if schools are amalgamated. We do not urge that race hostility be avoided by the denial of constitutional rights; we do urge that race hostility not be promoted where, as here, no constitutional rights are at issue.

We do not see how *Buchanan* v. *Warley* helps the cause of appellants. This Court there noted the existence of school segregation and said that it presented a different case. The separate but equal doctrine passes inviolate and tacitly approved.

The other cases cited by appellants are more remote from the issue; none of them involves the separate but equal doctrine. Most, in fact, concern situations of exclusion without equality. It will serve no useful purpose to refer to all of them; we note a few. *Shelley* v. *Kraemer,* 334 U.S. 1 (1948), and *Barrows* v. *Jackson,* 346 U.S. 249 (1953), are extensions of *Buchanan* v. *Warley* and have historical justification in the constitutionalization of the Civil Rights Act of 1866 by the 14th amendment. A State may not destroy because of race the right to acquire property. *Oyama* v. *California,* 332 U.S. 633 (1948). A State may not unreasonably exclude residents from engaging in occupations. *Truax* v. *Raich,* 239 U.S. 33 (1915); *Takahashi* v. *Fish and Game Commission,* 334 U.S. 410 (1948). A State may not use its machinery to limit the right of voting when the limitation is based on racial discrimination. *Smith* v. *Allwright,* 321 U.S. 649 (1944). Still further removed are cases arising under the commerce clause or relating to limitations on Federal power. *Morgan* v. *Virginia,* 328 U.S. 373 (1946); *Ex parte Endo,* 323 U.S. 283 (1944). In none of the cases arising under the 14th amendment is anything concerned except a stark prohibition; none of them involves or could involve the separate but equal doctrine.

That is all that there is to precedent. *Plessy* v. *Ferguson* remains unimpaired. At the time that the opinion was delivered, it was a correct decision on the basis of history of a question of first impression in this Court and it was in accord with prior decisions of this Court. Since that time, it has withstood attack and the principle which it invoked remains as vital today as it was in 1896.

Here we are concerned with the nature of the judicial power. If the Court means by this question to seek the nature of the judicial power in terms of its prior decisions, a meaning that seems to us remote, our answer is clear. The judicial power, so defined and circumscribed, does not authorize in this case reversal of the court below.

F. THE 14TH AMENDMENT RECONSIDERED

It is, of course, too late to consider the 14th amendment anew, as if it had none of the gloss that repeated decisions of this Court have given to it. Those decisions have become as much a part of our way of life as the amendment itself. The language of the amendment in the light of the decisions of this Court stakes out with sufficient plainness the limits of the judicial power.

Even if we were to take a fresh look at the privileges and immunities clause, the first of the great guaranties, we should be compelled to follow the path taken by this Court. The amendment, it will be recalled, begins with definitions of citizenship and makes it clear that there are two kinds of citizenship. Only then does it continue: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

This clause was carefully drawn. It had constitutional precedent. A State may not abridge the privileges and immunities, not of citizens of all types, but only of citizens in respect of their capacity as citizens of the United States. So the conclusion was obvious: "It is only the [privileges and immunities of the citizen of the United States] which are placed by this clause under the protection of the Federal Constitution, and * * * the [privileges and immunities of the citizen of the State], whatever they may be, are not intended to have any additional protection by this paragraph of the amendment."[90]

This conclusion cannot be disputed; the only question left is to determine the privileges and immunities of citizens of the United States.

Again, this Court then followed a path that we would have to follow today. Before the amendment, the specific civil rights given to the citizen by the Constitution were few—bills of attainder, ex post facto laws, the sanctity of contracts. Did the amendment transfer to Congress the duty to protect all rights? Of course not. Only those rights which were at the time derived directly from citizenship of the United States are protected by the amendment.[91]

Is the privilege of going to an unsegregated school a right derived from the Constitution? We are reminded again of the remark of Senator Trumbull, the Senator who introduced the bill that became the Civil Rights Act of 1866: "The right to go to school is not a civil right and never was."[92]

Surely the method and place of education is not a privilege or immunity conferred on citizens of the United States by the Constitution as it existed before the amendment was ratified. The privileges and immunities clause can have no relevance to this case.

The rule as to privileges and immunities so adopted by this Court has never varied:

"Privileges and immunities of citizens of the United States * * * are only such as arise out of the nature and essential character of the National Government, or are specifically granted or secured to all citizens or persons by the Constitution of the United States."[93]

* * * * *

"The privileges and immunities clause protects all citizens against abridgement by States of rights of national citizenship as distinct from the fundamental or natural rights inherent in State citizenship."[94]

* * * * *

"The protection extended * * * by the privileges and immunities clause includes those rights and privileges which, under the laws and Constitution of the United States, are incident to citizenship of the United States, but does not include rights pertaining to State citizenship."[95]

So the judicial power, to the extent that it is conferred by the privileges and immunities clause, does not authorize reversal of the court below and the abolition of school segregation.

We pass over the due process clause, for life and property are surely not involved in this matter and liberty can be brought in only by the most tortured reasoning. We come then to equal protection: "nor [shall any State] deny to any person within its jurisdiction the equal protection of the laws."

Equality is not identity. All persons are not entitled to the same treatment. It has never been urged that a State may not lock up a thief nor hospitalize a lunatic. Yet all persons are not accorded the treatment given thieves and lunatics. On any rational basis, equal cannot be interpreted to mean the same.

"It has been decided many times that a State may classify persons and objects for the purpose of legislation. We will * * * consider whether the classification of the law is based on proper and justifiable distinctions, considering the purpose of the law and the means to be observed to effect that purpose."[96]

* * * * *

"* * * what the equal protection of the law requires is equality of burdens upon those in like situation or condition. It has always been held consistent * * * to permit the States to classify the subjects of legislation, and make differences of regulation where substantial differences of condition exist."[97]

What is the test applied by this Court? The sole test is whether the legislature acted within the bounds of reason. Mr. Justice Holmes said: "The 14th amendment is not a pedagogical requirement of the impracticable * * *. The only question is whether * * * the legislature * * * could not have had any reasonable ground for believing that there were such public considerations for the distinction made by the present law. The deference due to the judgment of the legislature on the matter has been emphasized again and again. * * * Of course, this is especially true when local conditions may affect the answer, conditions that the legislature does but that we cannot know."[98]

In briefer form, Mr. Justice Hughes said: "The inquiry must be whether, considering the end in view, the statute passes the bounds of reason and assumes the character of a mere arbitrary fiat."[99]

The determinations of reasonableness are not made in the air; the particular conditions of each case lead to the result in that case. That is what Mr. Justice Holmes said above. That is still the view of this Court: "The 14th amendment enjoins 'the equal protection of the laws,' and laws are not abstract propositions. They do not relate to abstract units A, B, and C, but are expressions of policy arising out of specific difficulties, addressed to the attainment of specific ends by the use of specific remedies. The Constitution does not require things which are different in fact or opinion to be treated in law as though they were the same."[1]

Again, the same idea has been expressed in another way: "It is by such practical considerations based on experience rather than by theoretical inconsistencies that the question of equal protection is to be answered."[2]

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[90] *Slaughter-House Cases,* 16 Wall. 36, 74 (1873).

[91] Id. at p. 78.

[92] Congressional Globe, 42d Cong., 2d sess. (1873), 3189.

[93] *Twining V. New Jersey,* 211 U.S. 78, 97 (1908).

[94] *Madden* v. *Kentucky,* 309 U.S. 83, 90–91 (1940).

[95] *Snowden* v. *Hughes,* 321 U.S. 1, 6–7 (1944).

[96] *St. John* v. *New York,* 201 U.S. 633, 636–637 (1906).

[97] *Phoenix Insurance Co.* v. *McMaster,* 237 U.S. 63, 72–73 (1915).

[98] *Dominion Hotel, Inc.* v. *Arizona,* 249 U.S. 265, 268 (1919).

[99] *Purity Extract and Tonic Co.* v. *Lynch,* 226 U.S. 192, 204 (1912).

[1] *Tigner* v. *Texas,* 310 U.S. 141, 147 (1940).

The question under equal protection is thus whether the State action is within the bounds of reason in all of the circumstances of the case. If that is the only question, precedents are of little value. Certainly at other times in other places prior courts have thought that school segregation met this test.[3] Even less relevant are all the other equal protection decisions upholding State legislation, such as the medical decisions which this case closely resembles.[4] We are remitted to the facts of this case at this time for a determination of reasonableness.

We do not fear this examination. The record in this case abounds with testimony as to the reasonableness of school segregation. The court below found such segregation reasonable and proper at this time in Virginia as a matter of fact.[5] We will review here very briefly indeed that testimony and finding at the risk of repeating to a large extent what was contained in our brief on the original hearing.[6]

The expert witnesses for the appellants were men who had no knowledge of Virginia conditions (R. 154, 169–170, 194, 214, 218–219, 261–262, 245–246). They based their conclusions on "general readings" (R. 194) and on a questionnaire completely lacking in significance (R. 204, 232, 554–555). In addition, one conducted two tests, one of which was subject to "a slightly controlled answer" and the other of which gave results similar to those obtained in New England (R. 248–253, 519, 255–260, 278, 280–282). No one could form on the basis of their expert testimony a reliable opinion that school segregation in Prince Edward County is without reason (original brief, pp. 21–24).

The witnesses who supported school segregation were equally expert, had wide experience and were completely familiar with conditions in Virginia. We summarize again their testimony:

Dr. Howard, Virginia's superintendent of public instruction, with 30 years of experience as a teacher and administrator in Virginia schools (R. 438): "It has been my experience, in working with the people of Virginia, including both white and Negro, that the customs and the habits and the traditions of Virginia citizens are such that they believe for the best interests of both the white and the Negro that the separate school is best" (R. 444).

Dr. Lancaster, former State superintendent of public instruction, now president of Longwood College, Farmville, Va. (R. 463): "I have no evidence that segregation in the schools per se has created warped personalities, and so forth * * *." "But there is certainly nothing to indicate that [Negro students] are thwarted in their development or affected adversely" (R. 472). If segregation be stricken down, "the general welfare will be definitely harmed" (R. 472). "* * * there would be more friction developed" (R. 468). "* * * the progress of Negro education * * * would be set back at least half a century" (R. 469).

Dr. Darden, former Member of Congress and Governor of Virginia, now president of the University of Virginia (R. 452): "I think the races separated, if given a fairly good opportunity, are better off" (R. 458). "Given good schools and good teachers, the children in separate schools in Virginia would be better off than in mixed schools" (R. 459).

Dr. Stiles, dean of the Department of Education of the University of Virginia, not a native Virginian and with wide experience in States where schools are not separate (R. 486–489): In mixed schools, the Negroes "keep to themselves," "may become very aggressive * * * or * * * very submissive" (R. 489–490). The Negroes are not accepted by the white students (R. 490) or by teachers. "The teacher's acceptance of a child * * * is a vital factor in her ability to teach him, or the child's being accepted in a group * * * is a vital factor in how well he learns" (R. 500–501). If the Negro children were placed in the same schools as the white, "* * * I think they would be worse off at the present time" (R. 504). "The Negro child gets an opportunity to participate in segregated schools that I have never seen accorded to him in nonsegregated schools. He is important, he holds offices, he is accepted by his fellows, he is on the athletic teams, he has a full place there" (R. 512).

Dr. Kelly, child psychiatrist, a native of Michigan with national experience and 6 years in Virginia (R. 515–516): "I think that the abrupt termination of segregation [by law] would make for some very vicious and very subtle forms of segregation" (R. 523). "When the two groups are merged, the anxieties of one segment of the group are quite automatically increased and the pattern of the behavior of the group is that the level of group behavior drops" (R. 524). "Given equal opportunities of physical equipment and teacher background, I could visualize no great harm coming to either group" (R. 525).

Mr. Buck, clinical psychologist educated in Philadelphia's mixed public schools and with a broad Virginia experience (R. 530–534): "I don't think that any thoroughly objective and sufficiently large study [of the effect of segregated schools] has ever been done" (R. 539). "I do not think it would be possible for the Negro child to obtain general acceptance by white teachers and students" (R. 537–538). "I do not know of any instance in history where a social ill was corrected by coercion or by a dramatic or sudden change, where the results were beneficial to either group or both groups" (R. 536).

Dr. Garrett, chairman of the Department of Psychology of Columbia University, a leading national authority under whom two of appellant's experts studied, a native Virginian and a graduate of a Virginia college (R. 545–548): "So long as the facilities which are allowed are equal, the mere fact of separation does not seem to me to be, in itself discriminatory" (R. 550). "It seems to me that in the State of Virginia today, taking into account the temper of its people, its mores, and its customs and background, that the Negro student at the high-school level will get a better education in a separate school than he will in mixed schools" (R. 555).

But appellants assert that these experts admitted that school segregation is harmful (brief, p. 29). That is not a fair statement of their conclusions. Dr. Garrett, for example, made his position completely clear:

"What I said was that in the State of Virginia, in the year 1952, given equal facilities, that I thought, at the high school level, the Negro child and the white child—who seem to be forgotten most of the time—could get better education at the high school level in separate schools, given those two qualifications: equal facilities and the state of mind in Virginia at the present time.

* * * * *

"If a Negro child goes to a school as well equipped as that of his white neighbor, if he had teachers of his own race and friends of his own race, it seems to me he is much less likely to develop tensions, animosities, and hostilities, than if you put him into a mixed school where, in Virginia, inevitably he will be a minority group. Now, not even an act of Congress could change the fact that a Negro doesn't look like a white person; they are marked off immediately, and I think, as I have said before, that at the adolescent level, children, being what they are, are stratifying themselves with respect to social and economic status, reflect the opinions of their parents, and the Negro would be much more likely to develop tensions, animosities, and hostilities in a mixed high school than in a separate school" (R. 568–569).

This statement cannot be mistaken. Appellants' effort to make these witnesses conclude something that they did not mean is another example of their refusal to look at facts in their surroundings. Their conclusion is not the proper one.

One further factual matter merits attention. Appellants assert that the factors which led this Court to find factual inequality in the case of *Sweatt* v. *Painter*, 329 U.S. 629 (1950), are equally present "at any level of public education." (Brief, p. 27.) If that were true as a matter of law, the *Sweatt* decision becomes an absurdity. This Court would not have been so careful to preserve *Plessy* v. *Ferguson* if it meant that its rule could never be applied.

But that contention is not true as a matter of fact. Chief Judge Parker disposed of that contention in a most admirable manner in his opinion in *Briggs* v. *Elliott* (98 F. Supp. 529, 535, E.D.S.C. 1951; Record on appeal, pp. 185–186). In this case, his views are supported by expert testimony:

"Dr. STYLES. I think as people are more alike in their adult status and in their cultural attainments there is a greater chance of * * * mutual acceptance. The problem in the high school level is accentuated by the attitudes of parents. I think [the high school] would be the most difficult level at which to bring about the abolition of segregation (R. 439).

"Dr. LANCASTER. I think it has been pretty clearly brought out that we have a state of maturity that is obtained, certainly on the graduate and professional levels, where there is far more tolerance than there is among children (R. 468).

"Dr. GARRETT. I think that graduate students * * * are mature enough to meet their own responsibilities and to decide for themselves who their friends will be * * * so that it is no longer on a strictly racial basis" (R. 565).

These expert opinions make clear what is general knowledge. The level of maturity is important in human relations. The level of maturity is quite different in high school students from the level of graduate students. At the high school level, a different set of values obtain. To the extent that the factors relied on in *Sweatt* v. *Painter* have any bearing on the high school students, they are outweighed by other factors of greater importance.

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[2] *Railway Express Agency, Inc.* v. *New York*, 336 U.S. 106, 110 (1949).

[3] See sec. E above. If changed conditions were the only issue, we should point out here that the arguments made and the facts asserted by appellants are to a remarkable extent mere echoes of the arguments made and the facts asserted by Charles Sumner in the Senate in the 1870's.

[4] See e.g., *Jacobson* v. *Massachusetts*, 197 U.S. 11 (1905), and *Bacon* v. *Walker*, 204 U.S. 311 (1907).

[5] The question of time and place is an important one in the test of reasonableness. Segregation exists only where the two races live side by side in substantial numbers. Almost 70 percent of the Negro population of the Nation are found in the States and the District of Columbia where school segregation is mandatory. In the 27 States where there is no segregation, Negroes constitute less than 5 percent of the population. These statistics, taken from the 1950 census, will be found in the table printed as app. C.

[6] We do not touch here the question of equal facilities. Since the trial in the court below, a new high school for the Negroes of Prince Edward County has been completed. In physical facilities, it is better than anything provided for the whites. In curriculum, it is at least the equal of the white schools. Information on these points is supplied to the Court in app. D.

This evidence could lead only to one factual conclusion. The findings of fact by the court below are impressive:

"It indisputably appears from the evidence that the separation provision rests neither upon prejudice, nor caprice, nor upon any other measureless foundation. Rather the proof is that it declares one of the ways of life in Virginia. Separation of white and colored 'children' in the public schools of Virginia has for generations been a part of the mores of her people. To have separate schools has been their use and wont" (R. 620).

* * * * *

"So ingrained and wrought in the texture of their life is the principle of separate schools, that the president of the University of Virginia expressed to the Court his judgment that its involuntary elimination would severely lessen the interest of the people of the State in the public schools, lessen the financial support, and so injure both races * * *. With the whites comprising more than three-quarters of the entire population of the Commonwealth, the point he makes is a weighty practical factor to be considered in determining whether a reasonable basis has been shown to exist for the continuation of the school segregation.

"In this milieu we cannot say that Virginia's separation of white and colored children in the public schools is without substance in fact or reason. We have found no hurt or harm to either race. This ends our inquiry. It is not for us to adjudge the policy as right or wrong—that, the Commonwealth of Virginia 'shall determine for itself'" (R. 621–622).

These findings are that school segregation in the facts of this case is reasonable. They are clearly supported by substantial evidence in the record. They were made by a court of experienced judges who have a much more intimate knowledge of local conditions than this Court can possibly have or obtain.

Does this Court, then, have the judicial power to cast aside these findings and, on its own initiative, hold school segregation beyond all reason in the high schools of Prince Edward County, Va.? That is what it must do in order to abolish school segregation there. We submit that the Court does not have that power.

In this sense, again, it is not within the judicial power to abolish segregation in the public schools.

G. CONCLUSION

We have attempted to approach the answer to this question from various points of view. But, in essence, the problem is unitary; it is the question of judicial restraint. We quote once more from Mr. Justice Holmes: "There is nothing that I more deprecate than the use of the 14th amendment beyond the absolute compulsion of its words to prevent the making of social experiments that an important part of the community desires, in the insulated chambers afforded by the several States, even though the experiments may seem futile or even noxious to me and to those whose judgment I most respect."[7]

This case is fraught with feeling. That is true on both sides. It is hard to view it on the basis of the record with the detachment that alone can lead to sound judgment. But, if viewed in that light, the case falls squarely within the words just quoted.

The problem of school segregation is a legislative problem. As time passes, it may well be that segregation will end. But the judges of the proper time to end it should be the legislators who are so much nearer the facts of the racial problems that caused segregation. The question is a practical one for them to solve; it is not subject to solution in the theoretical realm of abstract principles.

In this most basic meaning of the term "judicial power," we conclude that the judicial power does not authorize the abolition of school segregation.

QUESTION 4

Assuming it is decided that segregation in public schools violates the 14th amendment—

(a) Would a decree necessarily follow providing that, within the limits set by normal geographic school districting, Negro children should forthwith be admitted to schools of their choice, or

(b) May this Court, in the exercise of its equity powers, permit an effective gradual adjustment to be brought about from existing segregated systems to a system not based on color distinctions?

Answer: The Court may permit an effective gradual adjustment if it should find that school segregation must be abolished. Percipitate action would make education impossible and do irreparable harm to all children in the schools.

Discussion:

We discuss this question and the next less at length, for they assume that the critical issue has been decided in a fashion contrary to the position that we urge. But we think that neither of them presents a point of difficulty.

We believe that no extended discussion is needed to show that havoc that would result if we should find one Monday noon in March that all schools had to be amalgamated on Tuesday. School district lines are drawn by legislative or administrative bodies that cannot act overnight. Teacher assignments would have to be changed; facilities would have to be reallocated; transportation would have to be rearranged. The ways of life that have existed for generations would be swept away. They could not be replaced in a twinkling.

Unless these changes could be made pursuant to an ordered plan, immense harm would result. The harm would primarily be to the children; if segregation harms them, which it does not, then precipitate amalgamation would be far worse. We venture to suggest that, if immediate amalgamation were ordered in the Virginia schools, they could not reopen for 12 months. The action of this Court would result in a lost year of Virginia education. It is not an overstatement to say that the prospect is appalling.

But there is no need for the Court to take such action. There is a wealth of precedent to support its authority to permit gradual amalgamation. The closest analogy comes not from the decisions of this Court but from the decisions of lower courts as to separate but unequal schools. In those cases it has been almost the universal rule to permit a reasonable time for equalization. Immediate amalgamation is not required if the local officials are taking proper steps to eliminate inequality. Chief Judge Parker made this point in a case now before this Court: "In directing that the school facilities afforded Negroes within the district be equalized promptly with those afforded white persons, we are giving plaintiffs all the relief that they can reasonably ask and the relief that is ordinarily granted in cases of this sort."[8]

The same rule has been applied in many other situations. Perhaps the most familiar are those arising out of the antitrust laws. It is generally recognized that the economic tangles which those statutes have required to be unwound cannot be eliminated without some delay and it is the established rule to permit a reasonable time to accomplish the result desired. Thus in the Standard Oil litigation this Court modified the decree of the court below "in view of the magnitude of the interests involved and their complexity" by extending the period allowed for the decree to take effect.[9] This same principle is consistently applied in antitrust litigation; "a liberal time period" is allowed to carry out the decrees of the court.[10] In another recent case, a 2-year period was established for a divestment order.[11]

These are merely applications of the general equitable rule that the remedy afforded should fit the particular case established. This Court has said: "The power of a court of equity, in the exercise of a sound discretion, to grant, upon equitable conditions, the extraordinary relief to which a plaintiff would otherwise be entitled, without condition, is undoubted."[12]

* * * * *

"It is always the duty of a court of equity to strike a proper balance between the needs of the plaintiff and the consequences of giving the desired relief."[13]

* * * * *

" 'Equity will administer such relief as the exigencies of the case demand at the close of the trial.' "[14]

These principles make it clear beyond dispute that this Court has the power to permit a gradual adjustment. The facts of this case make it equally clear that, if segregation is to go, it should not be overthrown in precipitate disregard of the interests of the schoolchildren who, in the last analysis, must look to this Court for protection from educational chaos.

QUESTION 5

On the assumption on which questions 4 (A) and (B) are based, and assuming further that this Court will exercise its equity powers to the end described in question 4(B)—

(a) should this Court formulate detailed decrees in these cases;

(b) if so, what specific issues should the decrees reach;

(c) should this Court appoint a special master to hear evidence with a view to recommending specific terms for such decrees;

(d) should this Court remand to the courts of first instance with directions to frame decrees in these cases, and if so, what general directions should the decrees of this Court include and what procedures should the courts of first instance follow in arriving at the specific terms of more detailed decrees?

Answer:

(a) No.

(b) None.

(c) No.

(d) In the event of a decision to reverse, this case should be remanded to the court below with instructions to require the amalgamation of the high schools of Prince Edward County, Va., within a reasonable time in such manner as that court shall find reasonable in all the circumstances.

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[7] *Truax* v. *Corrigan*, 257 U.S. 312, 344 (1921).

[8] *Briggs* v. *Elliott*, 98 F. Supp. 529, 537 (E.D.S.C. 1951).

[9] *Standard Oil Co.* v. *United States*, 221 U.S. 1, 81 (1911).

[10] *United States* v. *Aluminum Company of America*, 91 F. Supp. 333, 419 (S.D.N.Y. 1950).

[11] *United States* v. *Timken Roller Bearing Co.*, 83 F. Supp. 284 (N.D. Ohio 1949), modified 341 U.S. 593 (1951). In similar proceedings under the Public Utility Holding Company Act, Congress gave a period of 1 year for compliance and added provisions for extensions of time. 15 U.S.C. 79k(c).

[12] *Central Kentucky Natural Gas Co.* v. *Railroad Commission*, 290 U.S. 264, 271 (1933).

[13] *Eccles* v. *Peoples Bank*, 333 U.S. 426, 431 (1948).

[14] *Chapman* v. *Sheridan-Wyoming Coal Co., Inc.*, 338 U.S. 621, 630 (1950).

Discussion:

We will discuss the alternatives suggested by the Court very briefly.

It is normally not the province of an appellate court to frame detailed decrees:

"In order to prevent any complication and to clearly define the situation we think instead of affirming and modifying, our decree, in view of the broad nature of our conclusions, should be one of reversal and remanding with directions to the court below." [15]

* * * * *

"We would exceed our appellate functions were we to adopt that suggestion [to approve a specific form of relief] in this case. 'The framing of decrees should take place in the district rather than in appellate courts.'" [16]

The rule so announced makes it clear why the first three alternatives suggested by the Court should not be adopted. It is not the duty of this Court to work out the details necessary to carry out a gradual policy of school amalgamation. The Court does not have the machinery to accomplish that result and should not, in any event, attempt to shoulder that burden.

As far as sections (a) and (b) of this question are conceived, we submit that this Court is at present unable to adopt the alternative they suggest because the record contains no evidence as to how the result proposed can be reached. It is not a problem subject to easy solution. It certainly cannot be solved in the absence of the facts. We do not now know the facts. This alternative seems inconceivable.

There are many arguments why this Court should not attempt the same result through a special master. First, a matter of this sort is customarily determined by the courts of first instance. Second, the court below is a local court with a much closer knowledge of the local situation and that knowledge can be used to advantage to reach the proper result. Finally, the Court is not legislating a nationwide statute to abolish school segregation. It will act in this case to abolish school segregation in the high schools of Prince Edward County, Va. In the companion cases, it will act to outlaw school segregation in the particular localities from which those cases come to this Court. Conditions vary materially in those five places, and the form and nature of the respective decrees must vary accordingly. This Court may tell Virginia how not to conduct its schools; it may not tell Virginia how the schools shall be run. Nothing will be gained by reference to a master appointed by this Court except confusion of issues and results.

If the decision of the court below is to be reversed, this case should go back to the district court with instructions to see that segregation is abolished within a reasonable time. We do not suggest any particular time for that should be determined by the court below after plans for amalgamation have been prepared and submitted to that court for approval by the local school authorities. The best solution may require years before amalgamation is complete. Perhaps only one class should be amalgamated each year; perhaps amalgamation should be accomplished in different schools at different times. These are matters which should be left to the sound discretion of the oourt below with its greater familiarity with local conditions. That court will not be reluctant to supervise in the most diligent manner the consummation of the best plan that can be devised.

We suggest, therefore, that any adverse decision at the most require the court below to receive evidence promptly as to the best plan for amalgamation and thereafter to supervise that plan until the program provided for shall have been concluded. That is, in our view, the only orderly and practical way in which school segregation can be abolished.

But no matter how it is done, to abolish school segregation by court decree will result in difficulties that can hardly be overestimated. These are difficulties of physical equipment and difficulties of emotional conflicts. The school system of Virginia will suffer a body blow from which it will require years to recover.

CONCLUSION

We close this brief with a feeling of renewed conviction. Our many hours of research and investigation have led only to confirmation of our view that segregation by race in Virginia's public schools at this time not only does not offend the Constitution of the United States but serves to provide a better education for living for the children of both races. Nothing that we have found in our new and more painstaking review of the history, the law, and the record in this case has shaken that conclusion in the least.

The court below in this case found as a matter of law and as a matter of fact based on substantial evidence that school segregation in the Prince Edward County high schools did not constitute unlawful discrimination. Its decision should be affirmed.

Respectfully submitted.

T. Justin Moore, Archibald G. Robertson, John W. Riely, T. Justin Moore, Jr., 1003 Electric Building, Richmond, Va., Counsel for the Prince Edward County School Authorities; J. Lindsay Almond, Jr., Attorney General, Supreme Court Building, Richmond, Va.; Henry T. Wickham, Special Assistant to the Attorney General, State-Planters Bank Building, Richmond, Va., for the Commonwealth of Virginia; Hunton, Williams, Anderson, Gay & Moore, of Counsel.

NOVEMBER 30, 1953.

Mr. ROBERTSON. Mr. President, how much time have I used?

The PRESIDING OFFICER. The Senator from Virginia has used 12 minutes.

Mr. ROBERTSON. Mr. President, I reserve the remainder of my time.

Mr. LONG of Louisiana. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 minute.

Mr. LONG of Louisiana. Mr. President, I have no desire to be dilatory with regard to suggesting the absence of a quorum. However, when I have a meritorious amendment to offer, and when I observe no more than 15 or 20 Senators in the Chamber, I should like to direct specific attention to the fact that the Constitution requires a quorum be present, if the Senate is to do business.

I do not care to be dilatory, but I see no prospect of getting agreement to my amendment if Senators will not expose themselves to it.

Therefore, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 371 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Robertson
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. LONG of Louisiana. Mr. President, I call up my amendment No. 1003.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 9, in line 15, of amendment No. 656, immediately after the word "shall", it is proposed to insert the word "willfully".

Mr. LONG of Louisiana. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. LONG of Louisiana. The amendment is offered to the public accommodations section, which is title II, in an effort to assure that no one will be punished, put in jail, or fined for an inadvertent act to which a minority group may take offense. If Senators will look at section 201 of the substitute, they will note that it states:

> All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation—

And so forth.

Then if Senators will turn to page 9, and will look at section 203, they will note that it reads as follows:

> No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 201.

It seems to me that if someone is to be punished, fined, or put in jail because he did not seat a person in a restaurant as quickly as he seated someone else, or because someone working for him perhaps did something completely contrary to the intention of the owner or proprietor, perhaps by failing to provide a colored man with service as quickly as he provided the same service to a white person, the burden should be upon the person who made the complaint, and who would seek to have the owner fined or put in jail, to show that it was the owner's intention, and not an inadvertence, or not the act of an employee which was completely contrary to the intention of the proprietor.

There are many ways in which a person can be punished under the statute, if the bill is passed, for an offense under it. However, there are also certain other things at which a person may take umbrage, but which were not intended as an offense. If a person is to be punished, he should be punished for committing an unlawful act, not for something that he did not do willfully.

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[15] *United States* v. *American Tobacco Co.*, 221 U.S. 106, 188 (1911).

[16] *Besser Manufacturing Co.* v. *United States*, 343 U.S. 444, 449 (1952).

Mr. McCLELLAN. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. McCLELLAN. Is it not true that it is characteristic of a criminal statute that the language used is clearly defined and that the intent is clearly shown?

Mr. LONG of Louisiana. I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. LONG of Louisiana. The only basis upon which a person can be punished for an act of omission, at least so far as I know of is when there exists what amounts to a criminal omission. For instance, this might be true in a case in which a person was regarded as being under a heavy duty to take a certain degree of care to see that another person was not injured. To punish a person because one of his employees did something without the employer's knowledge or consent, or to punish him for a trifling or inadvertent act, seems to me to be unfair. Therefore it is necessary to add the word "willfully", to make the intent clear.

Mr. ROBERTSON. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. ROBERTSON. This is a very wise and pertinent amendment. Some weeks ago, I sent to the desk an amendment somewhat along the same line, to meet the same problem. Under the bill, as it now reads, a person could be penalized for something he did not intend to do. My amendment provided if a person were to be taken into court and subjected to punishment, it would be necessary to prove by substantial evidence what the person had done.

We know that under the language of the bill, if it became law, if a person were taken into court, all that the bureaucracy would need to show would be some evidence of discrimination, no matter how slim or inconsequential it might be, or how arbitrary or capricious. The Senator's amendment goes to the very heart of the problem.

Mr. LONG of Louisiana. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PASTORE. I yield myself a half minute.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 30 seconds.

Mr. PASTORE. If title II were a punitive section, there would be some reason for inserting the word "willfully." If Senators will read title II, they will note that the objective of the title is compliance. That is why the title provides injunctive relief. All we are trying to do is to avoid discrimination and to get compliance. No penalty is prescribed by the title. Therefore, there is no reason for inserting the word "willfully."

Mr. CASE. I yield myself 10 seconds.

The PRESIDING OFFICER. The Senator is recognized for 10 seconds.

Mr. CASE. Mr. President, no one could be more clear and eloquent in his explanation than was the Senator from Rhode Island.

There is no desire to be punitive. The only consequence of a violation, whether inadvertent or intentional, is that the Commission will ask the person charged to stop. To add that it is necessary to have an intentional violation, would be to misconceive the whole purpose of the section, which is persuasive and salutary. We should not dilute its effectiveness by inserting unnecessary restrictions.

Mr. LONG of Louisiana. I yield myself 1 more minute.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 minute.

Mr. LONG of Louisiana. Under the act, if the bill is passed, the court, it is anticipated, will issue an order parallel to the language of the act. When a court issues an order, it will state that a person shall no longer discriminate in any fashion. Then any person charged with discrimination will be subject to be tried and, if found guilty, to be fined or put in jail for violating the act. That will be done in accordance with the language of the act. Involved will be how a person is seated in a restaurant or to what room he is assigned in a hotel, for example.

Upon that basis, if persons are to be punished, they ought to be punished for something they did willfully, not for something they did inadvertently or beyond their control.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. McINTYRE in the chair). The Senator will state it.

Mr. MORSE. I am interested in the procedure we are following. Curiosity is getting the better of me. I am a little disturbed about the timekeeping. The Senator from New Jersey [Mr. CASE] yielded himself 10 seconds, and took 60. The Senator from Louisiana [Mr. LONG] has been yielding himself a part of a minute or a minute, and talks longer than that time. Is a stopwatch being used, to keep track of the debate? Why was not the Senator from New Jersey called to order after 10 seconds? Why was not the Senator from Louisiana called to order after 60 seconds?

The PRESIDING OFFICER. The Senator from New Jersey was charged with 1 minute. As the Chair understands, a request for 15 or 30 seconds is customarily by the timekeeper considered as 1 minute.

Mr. MORSE. If a Senator asks for 30 seconds, he is charged with 1 minute?

The PRESIDING OFFICER. Yes.

Mr. YOUNG or North Dakota. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Dakota will state his parliamentary inquiry.

Mr. YOUNG of North Dakota. Mr. President, this is the trouble we get into when we vote for cloture. We are voting on many amendments. Not many Senators realize their full impact. We have great difficulty learning what they mean. We find one Senator yielding himself 10 seconds, and another Senator yielding 10 seconds to another Senator to explain an amendment of far-reaching importance.

I have 1 hour's time. This is an important amendment. I should be glad to yield as much time as is necessary to any Senator who wishes to explain why he is opposed to the amendment or for it.

The PRESIDING OFFICER. Under the rule, the Senator from North Dakota may not yield his time to another Senator.

Mr. MANSFIELD. Mr. President, I yield myself 1 minute.

I think the timekeepers are doing the very best they can. If a Senator yields himself 10 or 15 seconds, or any amount of time under 30 seconds, the timekeepers set that amount to one side. The next time that Senator is recognized and yields himself 15 seconds more, it is added to the time previously set aside.

The timekeepers are trying to be fair. I hope Senators will not find fault with them. I, for one, would dislike to have their job.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. McCLELLAN. Did I correctly understand the Chair to say, a few minutes ago, that if a Senator were to yield himself 10 seconds, he would be charged with 1 minute's time?

The PRESIDING OFFICER. The Chair is informed that is generally what is done.

Mr. McCLELLAN. By what arbitrary authority is that done? I ask that as a parliamentary inquiry.

Mr. MANSFIELD. Mr. President, may I answer that question? I tried to do so briefly. When a Senator uses 10 or 15 seconds, that amount is put to one side. Later, if the same Senator uses 15 or 30 seconds, that amount is added to the previous amount. So no time is lost by any Senator.

Mr. McCLELLAN. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. McCLELLAN. That does not conform with the statement made by the Presiding Officer, to the effect that if a Senator yielded himself 10 seconds, he would be charged with 1 minute's time. I want to be charged with the amount of time I actually use; I do not want to have half a minute or three-quarters of a minute charged to me, when I have yielded myself 15 seconds. I do not know of any rule that permits that to be done, if it is being done—and the majority leader says it is being done.

Mr. YOUNG of North Dakota. Mr. President, I yield myself 1 minute.

Has the Chair ruled that I cannot ask some Senator who opposes the amendment to explain, on my time, why he is opposed to it?

The PRESIDING OFFICER. No.

Mr. YOUNG of North Dakota. I would be more than happy to yield to any Senator, on my time, to have him explain why he is opposed to the amendment. May I do that?

Mr. JAVITS. Mr. President, as I understand, the Senator from North Dakota has asked why I am opposed to the amendment.

Mr. YOUNG of North Dakota. I yield the Senator as much time as he desires.

Mr. JAVITS. The Senator may not do that; but I can answer the Senator's question on his time.

I am opposed to the amendment because it introduces a separate element of mental operation, in terms of whether a person has or has not violated title II.

This is not a criminal statute; it is a civil statute. In a civil statute, operations of the mind are not included. The court is given an additional responsibility and an additional duty. One has to prove intent. Generally, that requires a jury trial.

It is for these reasons—because the amendment does not belong in the bill, and would only frustrate its application, which is a direct civil application—that I oppose the inclusion of a provision normally associated with intent in a criminal act.

Mr. COTTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Hampshire will state it.

Mr. HUMPHREY. Mr. President, may we have order?

The PRESIDING OFFICER. Senators will take their seats.

Mr. COTTON. Mr. President, if the rule provides that each Senator is entitled to 1 hour's debate subsequent to the adoption of cloture, and if the rule provides, as I understand it does, that no Senator may yield any part of his hour to any other Senator, how is it in order, time and again, as has been done, and as was done a moment ago by the Senator from New York—although I am not criticizing him, to ask a question of a Senator who has the floor and to say, "You may answer it out of my time"? If that is not yielding time, the Senator from New Hampshire does not understand what yielding time is.

Mr. HUMPHREY. The Senator is correct.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that a Senator who has the floor may yield, on his time, for a question. But a Senator who has the floor may not interrogate another Senator.

Mr. COTTON. Perhaps I have not made my inquiry clear. Again and again during the debate I have noticed that when a Senator who has the floor is speaking, another Senator will ask him to yield for a question, and will then ask the question, and will say, "The Senator may answer the question on my time." That seems to me to be completely out of order; yet it has been going on constantly since the debate following cloture started.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that a Senator may not yield his time in that way.

Mr. COTTON. That is not the situation. I am speaking about the situation when another Senator asks a question of a Senator who has the floor, and says, "The Senator may answer this question on my time." That is entirely different.

The PRESIDING OFFICER. That may not be done if a call for the regular order is made.

Mr. HUMPHREY. Mr. President, I call for the regular order.

Mr. McCARTHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Minnesota will state it.

Mr. McCARTHY. What is the ruling of the Chair with regard to the time taken for parliamentary inquiries?

The PRESIDING OFFICER. It is the understanding of the Chair that the time taken for parliamentary inquiries is being charged to Senators who make the parliamentary inquiries.

Mr. McCARTHY. In other words, the time I am taking now is charged against my time; and the same rule applies to any other Senator who makes a parliamentary inquiry, does it?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCARTHY. Was that true in the case of the Senator from Arkansas [Mr. McCLELLAN]?

The PRESIDING OFFICER. Yes.

Mr. AIKEN. Mr. President, I yield myself 2 minutes.

I think there is a simple formula for determining how to vote on these amendments. It is perfectly obvious that the sponsor of an amendment cannot explain it in less than 5 minutes; therefore, when the sponsor of an amendment asks for 30 seconds in which to explain it, it is perfectly obvious that he does not care whether Senators have read his amendment or not, much less understand it.

No Senator is justified in voting for an amendment which he has not read or which has not been properly explained. Therefore, when the sponsor of an amendment asks for less than 5 minutes, it is obvious that he does not care whether I understand his amendment or not. So I vote "nay." It is a very simple formula, which is available to any Senator.

Mr. PASTORE. We have just heard the enunciation of the Aiken rule. It is a wonderful rule. I applaud it.

Mr. LONG of Louisiana. Mr. President, I yield myself 1 more minute.

The last two statements did not display a very gracious attitude on the part of those who voted to gag those of us who oppose the bill.

Mr. STENNIS. Mr. President, will the Chair suspend the time of the Senator from Louisiana until the Senate is in order?

The PRESIDING OFFICER. The Chair will suspend the running of the time of the Senator from Louisiana until the Senate is in order.

Mr. LONG of Louisiana. Mr. President, right is right, even if one is gagged, and no matter if one has but 1 minute to explain an amendment.

Senators contend that in a civil action, it does not make any difference whether one does something willfully or intentionally. But it makes all the difference in the world. All lawyers know that it makes a difference whether a person does something willfully or whether it happened completely unintentionally.

We are talking about a section of the bill that would permit a court to rule, "You shall not discriminate." We are talking about a case in which a man is tried for criminal contempt for failing to comply with a court order, in a case in which someone was seated at a place where the proprietor did not think he should have been seated. Then that man requests that the proprietor of the establishment be sent to jail.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LONG of Louisiana. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 additional minute.

Mr. LONG of Louisiana. The man then demands that the proprietor of the establishment be sent to jail or be heavily fined for his failure to comply with a court order, although the court order was violated completely inadvertently and the violation was beyond the control of the proprietor—perhaps even contrary to the instructions he gave his employee. Is he to be punished because something that was beyond his control happened, or because something that was completely unintended or inadvertent happened? I do not think he should be. With regard to most criminal statutes, when a person is punished, it is done because he deliberately did something which was wrong.

I do not think a man should be punished under this section in such an instance.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CASE. Mr. President I yield myself such time as I may require.

Mr. President, the Senator from Louisiana—though I am sure he did not intend to do so—is asking for about three different crimes for the same violation.

It is perfectly obvious that the emphasis is on persuasion the first time a man does something which is prohibited by the statute. The title provides that the court may refer the matter to the Community Relations Service, to see whether he could be persuaded not to do it, or not to permit it to be done, if it were done by an agent or employee. If he refused, he could then be brought before the court, if the Attorney General decided that was not a single case, but was part of a pattern or practice of discrimination.

He would have a complete chance for a trial on this issue if the court found there had been a pattern or practice of discrimination. How could one be responsible for a pattern or practice which exists by inadvertence? It is impossible. So we are dealing with an utter strawman that is raised by the Senator from Louisiana—of course, through inadvertence. He did not mean to do this, but this is what he has done. We shall not penalize him in any sense. But we shall vote against his amendment.

There is a final, third hurdle that anyone must jump before he can possibly go to jail: It is that he must have a jury trial before he may be sent to jail.

Mr. President, we have gotten to the point where we are lengthening the debate to a ridiculous degree. I suggest that there is no merit whatever in the amendment. It should be opposed by all Senators who believe that discrimination is wrong and is a matter of Federal concern.

Mr. LAUSCHE. Mr. President, I cannot sit idly by and leave the impression that I approve of the argument that in civil actions, willful purpose is never required. That is not the law; and any effort to speak glibly to the effect that never in a civil action is it necessary to prove willful conduct does not have the support of law.

There are countless instances in which, in a civil action, willful purpose must be proved. It was argued that normally it is not required that one prove willfulness. That may be true. But that does not mean that no willful purpose need be shown in connection with civil action. An action for damages in an assault and battery case is a civil action. In such an action, willful purpose must be proved.

I repeat that I cannot sit idly by and allow the making of assertions that are seized upon solely as a convenient method of supporting a position. If we were to go to the tort book or to the equity law book, we would find instance after instance in which, in order to maintain a civil action, willful purpose must be proved.

Mr. President, I will support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. DOMINICK. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 1 minute.

Mr. DOMINICK. Mr. President, as one who voted for cloture and who has been in favor of doing something about civil rights, I point out that the fact that a Senator may support an amendment of this kind does not mean that he is in favor of discrimination. Yet that certainly was the implication of the statement made by the Senator from New Jersey.

I intend specifically to support this amendment. I think it is a good amendment. I think it makes sense.

The court is not required to turn this over to the compliance service, and have it handled on a voluntary basis. The court is entitled to seek immediate injunctive relief against whoever is in violation or alleged violation of the act. It seems to me that if it is an innocent act, there should not be a penalty.

So it seems to me that the word "willfully" deserves to be included. Having stated that I am in support of this position, I do not like also to be put in the position of being in favor of discrimination, which I am wholeheartedly against.

Mr. CASE. Mr. President, I yield myself such time as I may require.

There is no suggestion on my part that anyone has a wrong intent. That statement applies to the Senator from Colorado [Mr. DOMINICK], as well as the Senator from Louisiana [Mr. LONG]. But the effect of adoption of this amendment would be, I say, the destruction of a very important part of the minimal protection the bill would provide.

I urge all Senators to consider whether one can be innocently, inadvertently guilty of a pattern or practice of discrimination.

Mr. LONG of Louisiana. Mr. President, to show how unfair people can be——

The PRESIDING OFFICER. How much time does the Senator yield to himself?

Mr. LONG of Louisiana. Mr. President, I yield to myself such time as I require.

Mr. President, to show how unfair people can be, I point out that the Senator from New Jersey suggests that a man should be punished if those in the area are guilty of a pattern of discrimination. No single restaurant keeper can establish a pattern of discrimination.

If a pattern of discrimination is to be proved, it must be proved by showing the conduct of the entire community. If a court order were issued against a particular person—a restaurant owner or operator, for example, and if he was not guilty of discrimination, but if one of his waitresses inadvertently seated someone in a corner, and if that person thought he should have been seated in the middle of the restaurant, perhaps the result might be to deny the full use of that facility to the person who was seated in the corner, instead of in the middle. The question is whether it was done willfully.

It might very well be that the restaurant owner told the waitress: "When these folks come in, please put them in the middle, so everyone will know they are here." But she might have failed to do so.

The question is whether the innkeeper should be put in jail for violating the law willfully, or whether it could be done inadvertently. If it could be shown that his act was "willful," he would be subject to punishment for willful violation of the court's order. But if he was trying to comply with the court's order, and did not intentionally do anything to violate it, but if, perhaps as a practical matter, he did violate it, should he be punished for inadvertently doing something in violation of the court's order?

Mr. JAVITS. Mr. President, I yield myself 30 seconds, to clear up a point.

The PRESIDING OFFICER. The Senator from New York is recognized for 30 seconds.

Mr. JAVITS. Mr. President, the Senator has stated a number of times that a man can go to jail for an unintentional violation. That is not a fact. The jury trial amendment affords him a jury trial if he violates the law. Intent must then be proved, because that is a criminal prosecution. So that the scheme of the proposed statute is complete. I agree with the Senator from New Jersey that insertion of the word "willfully" would result in nullification; it would introduce the element of intent where the element of intent does not belong. On the other hand, in case of an intended violation of the injunction, the individual defendant will be fully protected.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. JAVITS. I have finished.

Mr. LONG of Louisiana. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 30 seconds.

Mr. LONG of Louisiana. The Senator from New York is too good a lawyer not to know that a person cannot be put in jail for a mere act of omission. There are plenty of cases in law to support that assertion. That could be the case if a person were not seated in the place in which he desired to be seated in a restaurant, or if he did not obtain the room he wanted in a particular hotel.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana. On this question the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the Senator from Texas [Mr. TOWER]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. HUMPHREY. I announce that the Senator from Florida [Mr. SMATHERS] and the Senator from Arizona [Mr. HAYDEN] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that the Senator from Texas [Mr. YARBOROUGH] is necessarily absent.

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Florida would vote "yea" and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The pair of the Senator from Texas [Mr. TOWER] has been previously announced.

The result was announced—yeas 43, nays 50, as follows:

[No. 372 Leg.]

YEAS—43

Allott
Beall
Bennett
Bible
Boggs
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Cooper
Cotton
Curtis
Dominick
Eastland
Edmondson
Ellender
Ervin
Fulbright
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Jordan, Idaho
Lausche
Long, La.
McClellan
Mechem
Morton
Mundt
Pearson
Robertson
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.
Young, N. Dak.

NAYS—50

Aiken
Anderson
Bartlett
Bayh
Brewster
Burdick
Case
Church
Clark
Dodd
Douglas
Fong

Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, Ohio

NOT VOTING—7

Dirksen
Engle
Goldwater
Hayden
Smathers
Tower
Yarborough

So the amendment (No. 1003) was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. NcNAMARA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I call up, and ask to have read, my amendment No. 651.

The PRESIDING OFFICER. The amendment of the Senator from Mississippi will be stated.

The CHIEF CLERK. On page 13, line 10, immediately after the period, it is proposed to insert the following new sentence:

> Whenever the defendant in any such action is an officer or employee of a State or any political subdivision of a State, the Attorney General of that State may intervene in such action upon the same terms and conditions upon which intervention by the Attorney General of the United States is allowed in that action.

The PRESIDING OFFICER. How much time does the Senator yield to himself?

Mr. STENNIS. Mr. President, if the Senate will be in order——

The PRESIDING OFFICER. Senators will take their seats.

How much time does the Senator yield to himself?

Mr. STENNIS. If I may have the attention of the Senate for 3 minutes——

The PRESIDING OFFICER. How much time does the Senator yield to himself?

Mr. STENNIS. Three minutes.

If I may have the attention of the Senate for 3 minutes to explain this amendment, I shall be willing to submit it to a voice vote—or to a standing vote, if it seems to be close—and let it go at that; but I specially ask the attention of the Senate.

Section 302 provides that the Attorney General may intervene in any action concerning the subject matter of this bill as a matter of right, and may become a party to the suit.

My amendment merely provides that if the Attorney General does intervene and if the suit is against a State official or public official of the State, or town, or school district, or any political subdivision thereof, the attorney general of the State involved may, as a matter of right, also intervene.

That is all the provision means. As a general practice, that is what would happen——

Mr. GORE. Mr. President, will the Senator yield for a question?

Mr. STENNIS. May I finish the explanation?

As a general practice, that is what would happen anyway; but there is a peculiar situation when a suit can be started by two civilians, and then the Attorney General can come in and can have other parties—a police official or a policeman, or some minor official—brought in. I want it to be mandatory that if the Attorney General does intervene, the attorney general of the State can come in, as a matter of right.

I now yield briefly to the Senator from Tennessee.

Mr. GORE. I think the Senator's latter statement has cleared up the question I had in mind. Do I correctly understand that the Senator's amendment would permit the intervention of the State attorney general only in the event the U.S. Attorney General had intervened?

Mr. STENNIS. That is correct. The State attorney general could come in only if the U.S. Attorney General had come in, and then only in case the defendant was a public official.

I hope the amendment will be unopposed, and will be adopted by voice vote.

I reserve the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself 30 seconds.

I have not had time to study the question of whether this amendment is conditioned upon intervention by the Attorney General of the United States. Though the section itself deals with intervention by the Attorney General, it would take a minute to determine that question.

The other point is that if the defendant in any such action is an official or employee of the State or political subdivision thereof, the State may provide by law—and may provide it now, as I know, for I have been a State attorney general—that the State attorney general shall actually appear in such action, for such intervention. Therefore, there is no need for this provision to carry out such intervention. I think it is a matter within the purview of every State; and therefore the amendment is unnecessary.

Mr. STENNIS. Mr. President, the purpose of the amendment is to make certain that this door will be open under the circumstances I have already outlined.

I now submit the question, for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi. [Putting the question.]

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, one word of observation on this amendment: It is another one of many amendments that have been offered, but are totally unnecessary to the bill.

First of all, this amendment is not clear as to whether the attorney general of a State could intervene only whenever the Attorney General of the United States actually intervened, or also when the Attorney General might intervene as provided in this section.

Significantly—and this is what every lawyer ought to know, even if some of the nonlawyers know it—this amendment is hinged on a defendant's being an official or employee of a State or political subdivision of a State, a condition which is patently unnecessary.

State law could, and usually does, make the attorney general the legal representative of the State's officers; and, under such legislation, the State attorney general would, of course, appear as counsel for the defendant.

We might as well provide in the bill that today is Tuesday, if we are to approve this amendment. There are certain items that should not be attached to the bill because they would be redundant and unnecessary, and would encumber the bill.

I urge that the amendment be rejected.

Mr. JOHNSTON. In reply to what the Senator from Minnesota has just said, I point out that certainly the counties have some rights. The Attorney General does not come into a case in a school district. The same thing is true all over a State, and also in a city. Therefore, we need such an amendment if the Attorneys General are to come in.

Mr. HUMPHREY. Mr. President, I yield myself whatever time may be necessary to respond to the Senator from South Carolina [Mr. JOHNSTON].

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. HUMPHREY. It is commonplace—as common as the fact that the seventh day is the Sabbath—for a city attorney to defend a city official, or a county attorney to defend a county official, or a State attorney general to defend a State official or an official of any political subdivision of the State. So there is no reason at all why the bill should be encumbered with this unnecessary amendment; and I respectfully urge that it be rejected.

Mr. STENNIS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 1 minute.

Mr. STENNIS. To argue that this amendment would encumber a bill of this size is to beg the question. This part of the bill deals with unusual cases—those which started as suits between two individuals. Now we are providing for machinery to enable the Attorney General of the United States, with his vast powers and prerogatives, to intervene as a matter of right; and of course he will dominate the case. Then he can bring in additional parties.

My amendment merely provides that should any of those defendants that he brings in be officials of a subdivision of a State, county, or school district or public agency the attorney general of that State, if he wishes to, may intervene. It makes no difference what State law applies to it. We want in the pending bill a provision that will be binding in such a suit, so as to give the State attorney general an opportunity to come in, anyway, if the Attorney General of the United States does.

Can we, in good faith, justice, and fairness open up this whole matter to the power of the Attorney General of the United States, and then deny the right of the little people who will be sued to bring in, if they can, the attorney general of their own State?

Mr. HUMPHREY. Mr. President, I yield myself only so much time necessary to make a correction.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. HUMPHREY. This is not a matter between two individuals. This is under title III, which is known as the Public Facilities title. This is a matter of a suit by individuals against a public official. It is common practice that public officials of a State or a political subdivision thereof have, as their attorney, the State attorney or county attorney or city attorney, or the public official who acts in the capacity of an attorney.

Mr. STENNIS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 1 minute.

Mr. STENNIS. I respectfully deny every word the Senator from Minnesota has said. This section has been debated in the Senate all the time since March 9. It has never before been denied that section 302 of the old bill is so broad that it would include any kind of suit based on a civil right or alleged wrong. It expressly provides that it be brought under the 14th amendment. So this is the old part III that was stricken out of the law of 1957. There is no question that it applies in all kinds of cases.

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Iowa will state it.

Mr. MILLER. Would the Chair please advise the Senate where this amendment will go with respect to the substitute amendment?

Mr. STENNIS. It will go in title IX.

Mr. MILLER. It will be under title IX?

Mr. STENNIS. Section 902 of title IX in the Dirksen-Mansfield substitute is the old section 302, brought forward.

Mr. MILLER. Mr. President, will the Senator from Mississippi yield for a question?

Mr. STENNIS. I yield.

Mr. MILLER. Would the Senator then say that his amendment covers the general intervention section provided in the bill, rather than title III?

Mr. STENNIS. The old part III of the old bill of 1957 is what I was referring to in my argument; but if this provision is included, it will be adjusted to apply to the Dirksen-Mansfield substitute.

Mr. MILLER. Which is the intervention section?

Mr. STENNIS. Title IX.

Mr. MILLER. I thank the Senator.

Mr. JAVITS. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from New York is recognized for 30 seconds.

Mr. JAVITS. I have now had an opportunity to read the amendment carefully. It does not provide that it is conditioned upon intervention by the Attorney General of the United States. Hence, the attorney general of a State, if we should agree to pass the amendment, could intervene in such action, notwithstanding nonintervention by the Attorney General of the United States.

I repeat that if this matter of representation of the defendant by the attorney general of a State is entirely within the competence of the State legislature, I do not believe we should include a separate provision for intervention by the Attorney General at some later stage of the proceedings, notwithstanding whatever the State may do and who represents the defendant in that particular proceeding.

I repeat that intervention by the Attorney General of the United States is not denied. It provides only that he may intervene upon the same conditions that the State attorney general may intervene. But that does not mean the Attorney General of the United States will have intervened in a case in which the State attorney general, under this amendment, could then intervene as of right.

Mr. STENNIS. As I understand, the old amendment, under the agreement, could then apply, by getting that consent to the new version of the bill.

I ask unanimous consent that the references, therefore, be amended, so as to refer to the new version of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Mississippi. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the Senator from Texas [Mr. TOWER]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Arizona [Mr. HAYDEN], the Senator from Florida [Mr. SMATHERS], and the Senator from Virginia [Mr. ROBERTSON] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Florida would vote "yea," and the Senator from California would vote "nay."

I further announce that, if present and voting, the Senator from Virginia [Mr. ROBERTSON] would vote "yea."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The pair of the Senator from Texas [Mr. TOWER] has been previously announced.

The result was announced—yeas 37, nays 56, as follows:

[No. 373 Leg.]

YEAS—37

Bennett
Bible
Boggs
Byrd, Va.
Byrd, W. Va.
Cannon
Church
Cotton
Curtis
Eastland
Edmondson
Ellender
Ervin
Fulbright
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
McIntyre
Mechem
Miller
Mundt
Randolph
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.
Yarborough

NAYS—56

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Brewster
Burdick
Carlson
Case
Clark
Cooper
Dodd
Dominick
Douglas
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McNamara
Metcalf
Monroney
Morse
Morton
Moss
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, N. Dak.
Young, Ohio

NOT VOTING—7

Dirksen
Engle
Goldwater
Hayden
Robertson
Smathers
Tower

So Mr. STENNIS' amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NURSING HOME PROBLEMS

Mr. McNAMARA. Mr. President, I yield myself such time as I may require.

The distinguished Senator from Utah [Mr. MOSS], who is chairman of the Joint Subcommittee on Long-Term Care of the Special Committee on Aging, recently conducted public hearings on nursing home problems. They were part of a thorough study which the joint subcommittee is making of nursing home conditions in this country.

I think all Senators are deeply concerned with the quality of nursing home services available to our aged citizens and many have been watching with interest the efforts of professional groups to establish a national program of accreditation for nursing homes. Such a program has great potential for improving the quality of nursing home care. This has been amply demonstrated by the tremendous contribution of the Joint Commission on Accreditation of Hospitals to the quality of our Nation's hospital services.

The June issue of the Journal of the American Hospital Association reported on the joint subcommittee hearings and emphasized the importance of its inquiry into nursing home accreditation. I should like to call the attention of Senators also to an article on the accreditation controversy in the current issue of Medical World News. This is an informative article based largely on the work of the Moss subcommittee.

The Senator from Utah has done a great service in drawing these issues into focus for the information of the Senate and the public. I ask unanimous consent that the articles to which I have referred be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Journal of the American Hospital Association, June 1, 1964]

Nursing Home Accreditation Discussed

Problems and developments in accreditation of nursing homes were a major subject at public hearings of a Senate subcommittee last month. Under the general topic of conditions and problems in the Nation's nursing homes, the Joint Subcommittee on Long-Term Care of the Senate Special Committee on Aging heard testimony on May 5, 6, and 7 from more than a dozen interested groups. After the hearings closed, Senator Frank E. Moss, Democrat, of Utah, subcommittee chairman, said the study will continue and additional hearings may be held.

"According to the testimony we heard from experts," Senator Moss continued, "it would seem that the greatest potential for upgrading care in nursing homes lies in a program of voluntary accreditation such as we have in the hospital field." He added "The Joint Commission on Accreditation of Hospitals has a highly effective program which could be extended to nursing homes, and has immense prestige."

Senator Moss also noted that three-fourths of the aged patients now being sent to State mental hospitals either need not go there or could be returned to their communities within a short time if nursing homes and related community health services were adequate. He said that he could "readily understand * * * that mental health directors would have difficulty finding nursing home facilities to which they would be willing to refer aged patients from their hospitals. In the first place, there is an overall shortage of nursing home facilities which is especially acute in rural areas and small communities. Of the nursing homes that we do have, only 29 percent have a full-time registered nurse and 55 percent have no professional staff at all."

In a statement at the opening of the hearings, Senator Moss said the subcommittee's initial studies in the nursing home field made it clear that Federal "programs are a patchwork. The Federal Government," he continued, "lacks a coherent policy toward the long-term care field and toward its role in assisting this field to develop."

ASSOCIATION TRACES ACTIVITIES

Accreditation was also a key point in testimony to the subcommittee by the American Hospital Association. Tracing its activities in this area, the Association noted that it has developed criteria for its registration program for nursing homes. In December 1961, the Board of Commissioners of the Joint Commission on Accreditation of Hospitals voted to proceed on a program of accreditation of nursing homes, but a year later the American Medical Association and the American Nursing Home Association decided to set up a separate National Council for Accreditation of Nursing Homes. The AHA told the Senate subcommittee that it "continues to believe that one nationally directed accreditation program for both hospitals and nursing homes is essential to the quality of care in nursing homes and other long-term care facilities" and it will "continue to direct (its) efforts to this end."

Another major point in the AHA testimony was the "relatively new development" of associating the nursing home with the general hospital. Favoring this, the AHA "has been devoting primary effort to developing guiding principles to facilitate agreements between hospitals and nursing homes and other long-term care facilities." The association also told the Senate group it "is convinced that sponsorship of nursing home facilities under nonprofit community auspices is in the public's best interest."

[From Medical World News, June 5, 1964]

Clash Over Nursing Homes

Nursing homes are pictured as the weak spot in the Nation's health-care system. To strengthen standards and improve the quality of care, top organizations in the profession are advocating a program of accreditation by a qualified body. For 4 years the controversial question has been—and still is—which body is best qualified.

In the search for an answer, the AMA and the American Hospital Association are taking sharply divergent positions. The AMA and the American Nursing Home Association (ANHA) formed their own jointly sponsored organization to accredit nursing homes. The move is seen by hospital officials as a rebuff to AHA efforts to establish a program under the Joint Commission on Accreditation of Hospitals.

Now the interprofessional breach has broadened. The AHA for the first time has publicly decried the AMA action in the nursing-home field. Hospital representatives declare that the AMA has torpedoed the most "logical" national accreditation program, one that would be run by the joint commission.

Furthermore, the AHA is accelerating its own nursing home "registration" program, which is similar to its "listing" program for hospitals that fulfill basic requirements. Upgrading of the registration program, now being planned, will result in an unprecedented situation in medical affairs—the two most powerful organizations will be in direct competition over nursing-home approval.

The hospital association's position was presented at hearings of the Senate subcommittee on long-term care by Father John J. Humensky, director of Catholic hospitals in Cleveland. He outlined some of the "numerous discussions and meetings" that had taken place on the possible development of a national accreditation program under the joint commission.

Father Humensky then noted that the AMA voted in November 1962 to oppose such a plan. He said that the AMA's action "prevented the development of a nationwide program of accreditation by the joint commission. The AHA deplored this action as not being in the best interest of the American people," he told the Senators.

The Cleveland hospital leader indirectly criticized the State-by-State accreditation program of the AMA-ANHA-supported National Council for the Accreditation of Nursing Homes. "The AHA firmly believes that an accreditation program on a State-by-State basis, with each State acting in a completely autonomous manner, is not likely to be successful."

Father Humensky declared that "one nationally directed accreditation program for both hospitals and nursing homes is essential to the quality of care in nursing homes and other long-term care facilities." In order that "time not be lost" until such a program is developed, the AHA program of registration "has been strengthened, and we are making a major effort to provide for the inspection of nursing homes."

Father Humensky's testimony was disputed by Dr. H. Close Hesseltine, chairman of the National Council for the Accreditation of Nursing Homes. "We are proud of our accreditation program," Dr. Hesseltine told the Senate subcommittee. "We have set up realistic and attainable standards. We have a single set of standards, which nursing homes throughout the country can work toward."

Dr. Hesseltine said that the national council's program has been enthusiastically received in all areas of the health professions, including many State medical society committees on aging. He pointed out that the program not only accredits nursing homes that qualify but also assists ineligible homes to improve their standards. And he noted that the national council accredits all qualified nursing home facilities, whether they be governmental, nonprofit, or proprietary.

Dr. Hesseltine also denied that the AMA, in which he is a member of the house of delegates, deliberately sabotaged the joint commission approach to nursing home accreditation. "There have been too many misquotes and too much misinformation about the past role of the AMA in this matter," he said. "As medical men, our only interest is to see that patients in nursing homes get the best care."

DEFINITION ENCOMPASSES MANY INSTITUTIONS

The main reason for AMA opposition to the AHA plan, he continued, was that the American Nursing Home Association would have been left out of final accreditation decisions. "Since ANHA facilities are involved, this would have been highly undemocratic."

The U.S. definition of "nursing home" encompasses every type of institution specifically devoted to the care of the elderly, from lay supervised boarding establishments to chronic disease hospitals. Only half of the 23,000 nursing homes in the United States are licensed. About 90 percent are proprietary homes run for profit; an estimated 5 to 10 percent of them are owned by physicians.

The ANHA is the main representative body of proprietary nursing homes. Its 4,500 member institutions account for 170,000 of the estimated 350,000 nursing home beds in the United States. Its National Council for the Accreditation of Nursing Homes has approved 298 institutions.

Nonprofit nursing homes are represented primarily by the American Association of Homes for the Aged (AAHA), which is cooperating with the AHA. The AAHA has 550 institution members with 100,000 beds.

Underlying the friction between hospitals and physician-organizations over accreditation is a fundamental difference in approach. The AMA, speaking primarily for physicians in private practice, holds that the free enterprise approach can be applied with success to development and upgrading of nursing homes.

On the other hand, the AHA is tuned to the attitudes of the men who run 6,000 hospitals. It favors a nonprofit, community-oriented approach to nursing homes, with an integrated, overall relationship with hospitals.

This difference of philosophy has been a key stumbling block to an AMA-AHA agreement on nursing-home accreditation. The AHA insists that the nursing home maintain some kind of relationship with a general hospital, no matter how informal, in order to be accredited. The AHA maintains that such a relationship should provide for more effective use of inpatient facilities and easy admittance to a hospital for nursing-home patients who become seriously ill. The AMA reportedly does not agree that the nursing home should be included in the hospital complex.

Association with a hospital is now one of the requirements for a nursing home's registration with the AHA. The hospital association has registered about 1,300 nursing homes and related long-term-care facilities.

Other present requirements for registration include a license from local authorities, patient care and administrative supervision records, safety of physical plant, availability of diagnostic services, maintenance of dietary by a physician, adequate keeping of medical standards, and availability of nursing care 24 hours a day.

Similar requirements are necessary for recognition by the National Council for Accreditation of Nursing Homes. However, the national council accredits facilities on three levels, depending on the amount of skilled nursing care. Homes are listed as intensive, skilled, or intermediate.

The accreditation of nursing homes by one or more groups will have an effect on the public and on State health and welfare agencies, Blue Cross, and other organizations that seek standards by which to purchase care, particularly for the aged. If competition develops between the AMA and the AHA, confusion could result. But large purchasers of care may help to determine which accreditation program is most effective.

AHA REGISTRATION NECESSARY IN OVER HALF

For example, 43 Blue Cross plans now offer coverage of nursing home care. Such coverage is not provided in basic Blue Cross certificates, but is specified in the senior citizen contracts, designed for patients aged 65 and over. None of these 43 plans requires accreditation by the AMA-sponsored national council. But more than half require AHA registration and hospital affiliation.

"We want nursing homes operated by hospitals, or very closely affiliated with them, so that patients can be readily transferred," said James M. Ensign, director of professional relations for the national Blue Cross. Testifying before the Senate subcommittee, he stressed the existence of a traditional relationship between Blue Cross and the Nation's hospitals.

Blue Shield is also taking an increased interest in nursing-home care, although accreditation is not directly involved. At present, 35 Blue Shield plans provide some payment for physician visits to nursing-home patients as part of special, over-65 packages.

Despite the clash between the AMA and the AHA, leaders on both sides still hope that the two associations can eventually agree on a single program. "It just doesn't make sense to have two or three accreditation plans," declares Dr. Hesseltine. The AHA wants a single national program, but insists that it be undertaken by the joint commission, or at least that hospital arrangements be a requirement for accreditation.

Whether or not the impasse is resolved, one point seems clear. The emphasis on care for the aged, by voluntary or Government programs, is placing increasing importance on nursing-home care. Efforts toward accreditation will accelerate. Says Dr. Hesseltine: "Accreditation is important. The public wants it. It's here to stay."

SUPREME COURT DECISION ON REAPPORTIONMENT OF STATE LEGISLATURES

Mr. THURMOND. Mr. President, before calling up my next amendment, I yield myself a minute and a half, to speak on the Supreme Court decision of yesterday relating to the reapportionment of State legislatures.

I introduce, for appropriate reference, a bill which would withdraw from the Federal courts jurisdiction in cases involving the reapportionment of State legislatures. I ask that the bill be printed in the RECORD at the conclusion of my remarks along with a statement I issued yesterday concerning these decisions.

The revolutionary and completely unexpected decisions of the Supreme Court in the reapportionment cases, handed down yesterday, place Federal judges in a position superior to that of our several State legislatures. By virtue of these decisions, Federal district judges will be able to dictate to State legislatures the nature and extent of their constituency and their very existence. It is certainly not wise to leave in the hands of the judiciary such life or death power over the duly elected officials of any State government.

The Supreme Court has unconstitutionally assumed jurisdiction over these purely political matters. Congress has the power to enact legislation limiting or expanding the appellate jurisdiction of the Supreme Court and the general jurisdiction of any inferior Federal court. The best course of action to take at the present time is to withdraw from the Federal courts any jurisdiction which they have, or might in the future assume, in matters involving State legislative reapportionment and give each State legislature the opportunity to act as the people of each State determine to be best for themselves.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and release will be printed in the RECORD.

The bill (S. 2919) to amend title 28, United States Code, to withdraw from courts of the United States jurisdiction with respect to State legislative reapportionment proceedings, introduced by Mr. THURMOND, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VI of title 28, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 181—STATE LEGISLATIVE APPORTIONMENT

"Sec.
"2691. Jurisdiction.
"§ 2691. Jurisdiction.

"No court of the United States shall have jurisdiction to hear or determine any action or proceeding involving or relating to any matter concerning the composition of any legislative body or assembly of any State or the apportionment of the membership thereof, or to enter, enforce, or review any judgment, decree, or order in or relating to any such action or proceeding."

(b) The analysis of part VI of that title is amended by adding at the end thereof the following new item:

"181. State Legislative Apportionment..2691."

The news release presented by Mr. THURMOND is as follows:

STATEMENT BY SENATOR STROM THURMOND, OF SOUTH CAROLINA, ON SUPREME COURT REAPPORTIONMENT DECISIONS

The Supreme Court's decisions on reapportionment are revolutionary and dictatorial.

The Court totally abandoned the field of jurisprudence, and by its reapportionment decisions, is attempting to alter the political structure of the United States by revolutionary means.

In today's decision, the Supreme Court didn't ignore the Constitution, they tore it up and threw it out the window.

The Court, in attempting to strike down the form of virtually all of the State governments, is attempting to use the 14th amendment to deal a death blow to our constitutional system by having the National Government dictate to the States, and to the people of the States, the precise form of State government which they may employ.

The issue which the Court presumed to decide is not even within its jurisdiction, for it is a political question rather than a legal one. There is, therefore, no basis whatever in law for the decisions of the Court.

The effect of this decision in my own State of South Carolina would be not only to destroy the form of State government, but also to wipe out the system of local self-government now used in the counties.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. THURMOND. Mr. President, I call up my amendment No. 932, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 14, line 12, strike out beginning with "and" down through "whether" on line 13 and insert in lieu thereof a colon and the following: *"Provided, however,* That".

On page 14, line 13, strike out "any" and insert in lieu thereof "all".

Mr. THURMOND. Mr. President, on my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself three-quarters of a minute.

This amendment would require any "aggrieved party" to exhaust all administrative remedies which may be available before he would be allowed to file a court action under the provisions of title II.

The bill establishes a Community Relations Service, but this one section of title II states that a complainant does not have to exhaust administrative remedies before going to court. This amendment would merely make the proposed law conform to the provisions of numerous other acts which require the exhaustion of all administrative remedies previous to the filing of a suit in court.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum. Few Senators are in the Chamber to vote.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the Senator from Texas [Mr. TOWER]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Arizona [Mr. HAYDEN], the Senator from Florida [Mr. SMATHERS], the Senator from Virginia [Mr. ROBERTSON], and the Senator from Mississippi [Mr. EASTLAND] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. ROBERTSON] and the Senator from Mississippi [Mr. EASTLAND] would each vote "yea."

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Florida would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The pair of the Senator from Texas [Mr. TOWER] has been previously announced.

The result was announced—yeas 24, nays 68, as follows:

[No. 374 Leg.]

YEAS—24

Byrd, Va.
Byrd, W. Va.
Cotton
Curtis
Ellender
Ervin
Fulbright
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.
Yarborough

NAYS—68

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Young, N. Dak.
Young, Ohio

NOT VOTING—8

Dirksen
Eastland
Engle
Goldwater
Hayden
Robertson
Smathers
Tower

So Mr. THURMOND's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 375 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Ellender
Engle
Fong
Fulbright
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, La.
Long, Mo.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, Del.
Williams, N.J.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. ERVIN. Mr. President, I call up my amendment No. 895, and ask that it be stated.

The PRESIDING OFICER (Mr. RIBICOFF in the chair). The amendment of the Senator from North Carolina will be stated.

The LEGISLATIVE CLERK. On page 70, line 17, it is proposed immediately after the word "importance", to insert the words "and the court determines that the ends of justice require such intervention".

On page 70, line 17, it is proposed to strike out the words "United States", and insert in lieu thereof the word "plaintiff".

On page 70, line 18, it is proposed to strike out the words "the same relief as if it had instituted the action", and insert in lieu thereof the words "such relief as the court may determine to be appropriate".

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina for 1 minute.

Mr. ERVIN. Section 902 of title IX provides that when a private citizen brings a suit for his own relief under the equal protection of the laws clause of the 14th amendment, the Attorney General may intervene in the suit without the plaintiff's consent and without the consent of the court merely by making a certificate that the case is of general public importance. I believe that the judges rather than the Attorney General ought to run the courts. So under my amendment not only would the Attorney General be required to certify that the case is of general public importance, but also the judge would be required to determine that the ends of justice necessitate the intervention of the Attorney General.

The amendment would make the bill a better bill. It is an amendment for which every Senator who believes in a government of laws rather than a government of men ought to vote.

Mr. McNAMARA. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 1 minute.

Mr. McNAMARA. It becomes very obvious that we are now engaged in a form of filibuster, with senseless and useless quorum calls in order to kill time. Mr. President, I do not know what the leadership will do, but I hope they will keep us here all night, and that we run "a tough show" from here on.

Mr. ERVIN. Mr. President, I yield myself 20 seconds.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 20 seconds.

Mr. ERVIN. I am giving the Senator from Michigan an opportunity to vote for a good amendment.

Mr. JAVITS. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from New York is recognized for 30 seconds.

Mr. JAVITS. This is the third time that we have been asked to deal with the particular section of the bill to which the amendment relates. Obviously the section has raised the fear of all our friends who are opposed to the bill, because it deals with fundamental opportunities for individuals who are often deeply abused by excessive police action, and would provide some relief in court for such individuals, for it would offer them an opportunity to have the Attorney General of the United States look into their cases.

The very purpose of this section is to provide for the intervention of the Attorney General. The Senate has twice sustained the provision. In addition, the Senate has amended it at the request of the Senator from Iowa, in order to provide for timely application to do what we are seeking to do. The Senator from North Carolina is now making an effort to interpose another obstacle in the pursuit of justice. In my judgment, the amendment should be rejected.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 895 of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the Senator from Texas [Mr. TOWER]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. HUMPHREY. I announce that the Senator from Arizona [Mr. HAYDEN], the Senator from Florida [Mr. SMATHERS], the Senator from Arkansas [Mr. FULBRIGHT], and the Senator from Virginia [Mr. BYRD] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announced that, if present and voting, the Senator from Arkansas [Mr. FULBRIGHT], and the Senator from Virginia [Mr. BYRD] would each vote "yea."

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Florida would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from North Dakota [Mr. YOUNG] is detained on official business.

The pair of the Senator from Texas [Mr. TOWER] has been previously announced.

The result was announced—yeas 25, nays 66, as follows:

[No. 376 Leg.]

YEAS—25

Byrd, W. Va.
Cotton
Curtis
Eastland
Ellender
Ervin
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Robertson
Russell
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.
Yarborough

NAYS—66

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Young, Ohio

NOT VOTING—9

Byrd, Va.
Dirksen
Engle
Fulbright
Goldwater
Hayden
Smathers
Tower
Young, N. Dak.

So Mr. ERVIN's amendment No. 895 was rejected.

Mr. DIRKSEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LENGTH OF SESSION TONIGHT

Mr. DIRKSEN. Mr. President, I should like to ask the majority leader what his plans are for running into the evening.

Mr. MANSFIELD. Mr. President, the majority leader has thought for some time that we ought to stay in session a little late. At this moment, I would say 11 o'clock or thereabouts.

Mr. McCLELLAN. Mr. President, did the majority leader say "7" o'clock?

Mr. MANSFIELD. The Senator has good ears.

METALS AND THE NATIONAL STOCKPILE

Mr. BENNETT. Mr. President, I yield myself 30 seconds.

On several occasions in the past, I have inserted in the CONGRESSIONAL RECORD articles authored by Dr. Charles Will Wright. The primary thrust of Dr. Wright's articles is to show how vital an adequate stockpile of strategic metals is to the defense and safety of the United States. He has pointed out that we face increasing competition for metals to which we have previously had access.

Because of his knowledge of metals and his position as former Chief of the Mining Division of the U.S. Bureau of Mines, I feel that his answers to some very pertinent questions in an interview with Mr. Bishop of Metal Market are worthy of the attention of Members of Congress. I therefore ask unanimous consent that the interview be included in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

WASHINGTON REPORT: METALS AND THE NATIONAL STOCKPILE—AMERICA'S RESERVE STRENGTH

(EDITOR'S NOTE.—Dr. Charles Will Wright is considered to be one of the Nation's most influential experts on metals and the metals industries. He is probably best known for his view on metals and their importance to the U.S. economy. Last week, while Dr. Wright was in Washington, a telephone interview was arranged with Metal Market's Freeman Bishop. The following is an account of what Dr. Wright had to say in answer to several pertinent "questions of the day" posed by Mr. Bishop.)

(By Freeman Bishop)

Question. Most readers of the Metal Market are concerned about how the United States is to supply the increasing demand for metals during the present decade and later. What are your suggestions?

Answer. As our industrial and military strength lies in our ability to produce and acquire metal products, the vital importance of stockpiles is not sufficiently recognized. Those threatening to dispose of them should realize the need to maintain our stockpiles as a defense reserve—a protection against being deprived of foreign supply sources upon which we are dependent for many strategic metals and minerals.

Question. What should we do to maintain our traditional sources of metal supplies abroad?

Answer. Every effort must be made through tax and tariff benefits to encourage American mining companies with interests abroad, to expand mine operations and development projects by private enterprise, and to induce the World Bank, the Eximbank, and the Inter-American Development Bank to extend credits to American mining companies, in which local mine investors and banks may participate. Mining and metallurgical projects will increase the output of metals that are in short supply, for export to the United States.

Question. Should we consider a "Common Market" for trade in metal supplies within the American Republics?

Answer. As the United States is the largest importer and consumer of metals within the Western Hemisphere, we should urge the American Republics to establish a Common Market for mineral trade as well as a mineral policy that will be feasible and acceptable to all the Republics, not in conflict with the objectives of the United States. Such a policy should be studied without delay by the Pan American Union and the Inter-American Foundation.

Question. But how can we prevent aggressive Communist controlled countries from acquiring metal supplies they lack from our traditional supply sources in the free world countries?

Answer. By banning shipments of strategic materials and machinery to the Soviet bloc, including Cuba, from the United States, and by discouraging such trade by the Western Powers.

Question. What is the U.S. position relative to metal supplies?

Answer. Since metals are indispensable for industrial and military power, the Red nations are striving to gain control of available sources of supply within the free world countries and are contracting with metal producers for future deliveries. From 1954 to 1962 Communist nations increased their production of iron ore, steel, and chromite from one-fourth to one-third of the world's total; that of manganese ore and tungsten from one-third to over one-half; of aluminum, tin, lead, and zinc from one-fourth to one-third and of copper from one-eighth to one-sixth in 1962. These increases are most disturbing as there was a corresponding decrease in Western Powers contracts for foreign production. This reflects a growing domination of world metal supplies by our adversaries.

Question. What is the U.S. position relative to metal supplies?

Answer. The United States with less than one-sixteenth of the world's population consumes about one-sixth of the world's metal output. We are largely dependent upon Latin American, the African States, and other free world areas for metal supplies to maintain industrial and military supremacy. We are in danger of being deprived of some of our traditional sources, such as tin from southeast Asia, cobalt from the Congo, and manganese ore from Brazil, because of political changes and anti-American attitude prevalent in these countries and inspired by our adversaries.

Communist influence has encouraged Mexico, Bolivia, and Brazil to nationalize their mining industries. Also, Argentina has increased income tax on American-owned oil companies to 70 percent and Chile, on American big copper companies to 80 percent. Local capital hestitates to invest in mining ventures and in most cases has not the necessary technical and managerial staffs to market large-scale operations.

Question. To what extent are the less developed nations in a position to support themselves through mineral output?

Answer. Less developed nations are lacking in qualified personnel, as well as the desire to raise their standards of living. Once their essential needs are met by financial and material aid from local and foreign sources, the ambition to work for local industrial progress is lacking.

Question. How are we meeting our metal supply and demand problems?

Answer. Today's unbalanced supply and demand metal problems have been recognized more fully than in the past by industry and the Department of Interior. To meet our needs in the event of interruption of the regular flow of metal supplies from foreign areas, as already mentioned, stockpiles should be maintained at peak levels. The vital importance of adequate supplies of strategic metals should be more fully recognized by Congress and by the administration.

ADDRESS BY THE SECRETARY OF THE INTERIOR ON COOPERATIVE CONSERVATION FOR WESTERN PROGRESS

Mr. METCALF. Mr. President, I yield myself 1 minute.

Mr. President, Secretary of the Interior, Stewart L. Udall, was a recent visitor to my State of Montana as the guest of the Montana Junior Chamber of Commerce at its statewide convention which was held, despite the tremendous flood damage in the area, at Glacier National Park, June 12.

Secretary Udall spoke of many significant things in his remarks before this convention of young Montana community leaders. He commended the Jaycees for their conservation work in the last session of the Montana State Legislature by securing enactment of a new law requiring coordination between the State Highway Department and the State Fish and Game Department to mitigate hunting and fishing losses that might be caused by highway construction. He told them of the contribution that Tiber, Canyon Ferry, and Hungry Horse Dams made in minimizing the flood damage and of the contributions that Knowles Dam and proposed dams on the Jefferson and Gallatin Rivers will someday make. He spoke of the need for local, State, and Federal cooperation in all phases of development, of the need for recreational development, of the need for wilderness legislation, of the Indians and the war on poverty, and of the challenge and opportunity of the future.

Mr. President, the remarks of the Secretary of the Interior are so significant that I ask unanimous consent that they be printed in the Congressional Record at this point.

There being no objection, the address was ordered to be printed in the Record, as follows:

Cooperative Conservation for Western Progress

(Remarks prepared for delivery by Stewart L. Udall, Secretary of the Interior, before Montana Junior Chambers of Commerce, Glacier National Park, Mont., June 12, 1964)

I had been looking forward to this opportunity to visit Montana, as the invited guest of the junior chambers of commerce, in statewide convention at Glacier Park. Now the occasion turns out to be a somber one, perhaps the worst natural disaster in the history of the Treasure State.

In this tragic situation, while we mark down and study our losses and plan emergency relief and long-range rebuilding, we must also begin to think about how to prevent another calamity like this. It is interesting to note that physical damage and perhaps loss of life might well have been heavier without the dams built as far up as possible on both slopes of the Rockies by the Bureau of Reclamation.

Tiber Dam on the Lower Marias minimized flooding along the main stem of the Missouri below Fort Benton. It was particularly useful in catching the crest of the overflow from a private dam which failed upstream. Canyon Ferry Dam curbed the flow of the Missouri about Great Falls and made more room for the floodwaters that bore down on that city from the Sun River.

On the western Slope, Hungry Horse Dam and Reservoir stored all but 500 second-feet of a flow of 55,000 cubic feet per second pouring in from the South Fork of the Flathead River on Tuesday. One can only imagine what could have happened without Hungry Horse. Even with Hungry Horse, the Flathead River was flowing at the rate of 150,000 second-feet into Flathead Lake—an all-time record, far exceeding the 132,000 second-feet recorded at one point in 1894.

The contributions made by these dams and lakes in holding back the sudden, torrential rainfall and the high elevation snowmelt clearly shows that more structures of this kind would be enormously helpful in future emergencies.

The proposed Knowles Dam, now under consideration by Congress, would control the waters of the Flathead River downstream from Flathead Lake. Dams proposed by the Bureau of Reclamation on the Jefferson and the Gallatin Rivers would impound some of the Missouri's headwaters for release at the proper time.

Simultaneously, these high elevation structures would insure water for irrigation and municipal and industrial uses in times of low flow. This is the best kind of flood control—to incorporate this purpose into multiple-benefit projects.

COOPERATION IS THE GENERAL RULE

Disasters, like all bitter and tragic experiences, give us cause to look within ourselves, to extract the deepest, most meaningful message we can. We can be proud of some things. Our Federal and State and local officials worked together wonderfully, day and night, during this terrible week in Montana. In fact, they usually do work well together, but people often don't notice.

A strange recent development has been the emergence of a breed of westerners who seem to feel that if the Federal Government would just go away, all the serious problems of the West and of the Nation would somehow be solved. A few of these people have gone so far as to say they fear Washington more than Moscow as a threat to their individual freedoms.

Let us examine the picture of the ruggedly individualistic westerner, this man who wants as little as possible to do with the National Government.

When you get up a little closer you find he isn't really as fanatically individualistic as some of the image makers would have you believe. He's a member of the irrigation district board. He helped organize the local rural electric cooperative some years ago, and he is an active participant in the business of his soil conservation district. He is a member of the district advisory board that helps the Bureau of Land Management keep the Federal range from being ruined by irresponsible me-firsters. He's on the valley's water conservancy board. What's more, he doesn't feel as if his individual liberties have been infringed by these activities. Our proud, free westerner is a grassroots leader of this kind of action by free association, perfectly willing to work with the Federal, State and local governments to develop the resources of the region.

Sitting across the table from these men, representing the National Government, are familiar Montana people, many of whom grew up with you. They are sunburned park and forest rangers, and schoolteachers from the nearby Indian agency, and engineers from the Bureau of Reclamation, and soil conservationists from the Department of Agriculture. They are working to implement programs that were developed by the people of the West, who knew the needs. And our rugged individualist is glad they are there.

THE WEST HAS SPECIAL PROBLEMS

Since the time of Theodore Roosevelt and Gifford Pinchot, the great body of informed opinion has been in agreement that the West is, indeed, a special case. Its own peculiar gifts and handicaps work to make it so. Let me enumerate just a few of the basic agreed-upon assumptions:

To begin with, we agree that water development and conservation, the first priority of western survival and growth, can be realized fully only with Federal help. Second, that arid climate and thin soils require that much of the land in the West must remain in public ownership. Third, that to preserve watersheds, and to insure the orderly harvesting of timber and forage, the forested mountain country should be managed under principles of sustained yield. Fourth, that the finest scenic areas should be parks for the enjoyment of all Americans, present and future. Fifth, that those who take products from the public domain, or use public lands for personal gain, should pay for that privilege. These are some of the basic beliefs.

FEDERAL-STATE COOPERATION IN MONTANA

Now, let's see what this knowledge and these basic beliefs have meant to Montana in recent years—thanks in large part to the outstanding leadership Montana has given to the National Congress in the persons of such leaders as the late Interior Committee Chairman Jim Murray, and Majority Leader Mike Mansfield, and the dynamic Senator Lee Metcalf.

The most dramatic examples of the Federal presence in Montana have been the great multipurpose dams built by the Interior Department's Bureau of Reclamation and the Army's Corps of Engineers. Perhaps there aren't enough of them yet, as recent floods have indicated. But there have been the Hungry Horse and Canyon Ferry and Fort Peck and Yellowtail, and soon, Libby Dam too. As you may have heard, the Canadians ratified the Columbia River Treaty this week. This means that as soon as advanced planning is completed and funds are made available to the Corps of Engineers, construction can begin on Libby Dam—hopefully within 2 years. This project has been authorized since 1950.

Since the U.S. Senate ratified the treaty in January 1961, we have worked out a power marketing agreement with Canada, which is conditional on our construction of new extra-high-voltage transmission lines between the Pacific Northwest and California, and that is now being worked out. In turn, it has required legislation to define the regional power marketing responsibility of the Bonneville Power Administration. All these many intricate negotiations now seem near success.

MONTANA'S LEADERSHIP IN NATIONAL AFFAIRS

And I need not tell you what it has meant, during the years while the treaty and the supplemental agreements were being worked out, to have a man of the caliber of Senator Mike Mansfield leading the majority party in the Senate, and serving on the Canadian Affairs Subcommittee of the Senate Committee on Foreign Relations—right where he could make certain that the interests of Montana and the United States would be safeguarded.

The other major new start for Montana in the 1960's has been Yellowtail Dam, another tribute to your two splendid Senators. When completed in 1967, Yellowtail will be a permanent economic asset. On the 205 farms in southeastern Montana scheduled to get irrigation water from Yellowtail, net income will rise by $2.2 million each year. Area business will increase by an estimated $1.5 million each year. And the project will provide 250,000 kilowatts of low-cost electric power—certainly a lure to industry. Already, construction of this $98 million project has been a major economic stimulant to the area.

THE UNFENCED OUTDOORS

Quite apart from material rewards, the presence of the National Government here in the West has brought intangible advantages. In this audience tonight, I know, are some of Montana's most ardent outdoorsmen. You like being where you are because of the unique freedom of living next door to great parks and forest lands and open spaces. The "no trespassing" and "do not enter" signs are few and far between in Montana, and we hope this continues.

I want to salute the Jaycees of Montana for their conservation work in the last session of the State legislature, by obtaining enactment of a new law requiring coordination between the State highway department and the State fish and game department. Henceforth, highway plans will include steps to mitigate hunting and fishing losses caused by highway construction. I understand that the American Motors Co. has recognized your efforts by presenting its conservation award this year to one of your members—Harry Mitchell, of Great Falls.

It may interest you to know that on the Federal level, with strong encouragement from Montana's delegation, we were able recently to arrive at a similar agreement between the Interior Department's Bureau of Sport Fisheries and Wildlife and the Commerce Department's Bureau of Public Roads.

Here in the West we tend to feel as if the game and fish aren't as abundant as they once were. But the fact is that a couple of generations ago, in many western localities, the deer, elk, and fish had been almost killed off. Fortunately they have made a splendid comeback. I give a great deal of the credit for this to the cooperation of the National Government—in this case the Fish and Wildlife Service of the Interior Department—and the State game and fish commissions. And this has been accomplished without controls from Washington.

Recently I read an account of an episode in the life of Charlie Russell, Montana's fine cowboy artist—some of whose works now, incidentally, are in the White House. Once Charlie's wife got him to make a speech at a kind of booster gathering. The toastmaster introduced him as a pioneer. Charlie began: "I have been called a pioneer. In my book a pioneer is a man who comes to a virgin country, traps off all the fur, kills off all the wild meat, cuts down all the trees, grazes off all the grass, plows up the roots, and strings 10 million miles of bob wire. A pioneer destroys things and calls it civilization. I wish to God that this country was just like it was when I first saw it and that none of you folks were here at all." About this time, he realized that he had insulted his audience. He left the room without another word.

Now, I suspect that many of us from the West share at least some of Charlie Russell's feelings. Some of us would be just as happy if there weren't a lot more people coming to fill our trails and campsites and to fish out our streams and deplete our wild game. We like the West the way it is, right now.

THE TOURISTS ARE COMING

But more people are coming and we had better be ready. In 1930, the entire National Park System recorded only about 3 million visits. By 1950, there were 33 million visits. This year, it is estimated there will be 98.5 million visits—nearly 3 times as many as in 1950, with the curve still rising. The fact is that Yellowstone and Glacier National Parks and Custer's Battlefield National Monument had nearly as many visitors last year as the entire National Park System from coast to coast had in 1930—something like 3 million.

There are now about 190 million Americans. By the turn of the century there will be 350 million or more. All indications are that these Americans will have more leisure and be more inclined than ever befor to vacation in the publicly owned parks, forests and recreation areas. That is why we are seeking a land and water conservation fund, which will permit Federal or State or local authorities—whichever is appropriate—to develop recreational areas while there is still time.

To meet the construction costs, we are recommending that visitors who want to use developed facilities—and only developed facilities—display a nominally priced window sticker on their cars. Families with window stickers could come and go in any developed Federal recreation area all year and have the satisfaction of knowing that their contribution is helping build more boat ramps, campsites, and sanitary facilities for use next year. The window sticker would be no more complicated or expensive than buying a fishing license once a year. And it would go far toward protecting against overcrowding, overuse, and eventual ruin of the parks and forests.

RECREATION SPURS PRIVATE BUSINESS

The national investment in recreation has paid off handsomely for private business in Montana. It has been estimated that the American tourist couple spends an average of $31 a day. In other words an area attracting two dozen tourists per day is economically comparable to acquiring a new industry with an annual payroll of more than $125,000. Figure that roughly in terms of the millions of visits to Montana's national parks, national monuments, Reclamation and Corps of Engineers recreation sites, and wildlife refuges.

We are moving ahead to make sure that Montana keeps up with the rising demand for recreation. Just as certain kinds of areas are best for State or local development, certain others are naturally suited to national development. One of these is the planned Big Horn Canyon National Recreation Area, the more than 63,000 acres of lake and shore behind Yellowtail Dam.

Existing areas need improvement too. In the fall of 1962, to ease unemployment in the Kalispell area and keep Glacier National Park in condition to meet its tourist load, the Department of the Interior set up a $400,000 accelerated public works program on the west side of Logan Pass. One of the major accomplishments was to open up the east shore of Lake McDonald. Now the lake shore drive is as beautiful as its engineers originally intended. We have also added a new visitor center at the top of Logan Pass and improved docks and campgrounds.

DEVELOPMENT PROBLEMS OFTEN DIFFICULT

Anyone can recognize the public park values in a beauty spot like Glacier, or in a great storage reservoir area like Big Horn. But what is the best use of that unspoiled section of the Missouri River between Fort Benton and Fort Peck? Should we now develop its falling water for power and use the reservoirs for fishing, swimming, and boating? Should we keep at least one portion of the Big Muddy as the pioneers saw it, and preserve its scenery and wildlife? Are there other combinations possible, or better? During the last 2 years, representatives of the State of Montana and of various Federal agencies carefully have worked out 11 possible plans for the comprehensive use of the Missouri between Fort Benton and Fort Peck. We think all of the workable alternatives have been explored thoroughly. And we are reviewing these plans right now. Finding the right combination isn't easy.

Equally difficult sometimes are decisions about the unspoiled wilderness areas of the West. The late Senator Jim Murray of Montana was the originator of the wilderness bill which is now before Congress again—actively supported by both Senators MANSFIELD and METCALF. In a Nation as urban as ours is becoming, the maintenance of wilderness areas has become virtually a necessity. Jim Murray was right, and passage of the wilderness bill is a must.

INDIANS AND THE WAR ON POVERTY

Montana and the Department of the Interior have another primary common interest—welfare of the Indians.

Montana's 21,000 Indian citizens, occupying 7 major reservations covering an area the size of the State of Massachusetts, have not enjoyed their fair share of the national prosperity. They are more than willing to make the contribution of which they are capable and we want them to develop to the fullest potential. Four actions by the Kennedy-Johnson administration show what can be done to help Montana's Indians help themselves.

Indians need credit. Loans of nearly $2 million have been made to finance tribal enterprises in Montana during the last 3 years. These efforts have stimulated the investment of $722,000 of tribal funds to promote economic development of the reservations.

Indians need housing. Of some 60,000 Indian families in the United States, 9 out of 10 have been living in substandard housing. In Montana, 2,840 Indian families need a new home. We found in 1961 that the Federal housing laws could be extended to Indian reservations by a simple legal interpretation. Tribal housing authorities were established on six Montana reservations. This year, 391 new mutual self-help and low-rent houses will be built in Montana—enough in 1 year to provide housing for one-eighth of the need.

Indians need schooling. A new $1.5 million school at Busby and a new pupil dormitory at the Blackfeet Reservation just east of Glacier National Park are improving Indian educational opportunities. New adult education courses are extending academic and vocational skills to 600 Montana Indians this year.

Indians need jobs. Finding nearly half the Indian labor force unemployed, we initiated $2 million in accelerated public works in Montana beginning in 1962. The projects have provided 3,700 man-months of work on needed soil conservation, road construction, forest and range improvements and community facilities on Montana Indian reservations.

THE GREAT SOCIETY—CHALLENGE AND OPPORTUNITY

We haven't licked these problems yet, but we are trying. The demands are enormous, and the need is great for public servants at both Federal and State levels who have ideas and ideals, a knowledge of history, and an appreciation of the great economic and social challenges and opportunities we face today.

A few days ago, at the University of Michigan, President Johnson said some memorable things. Let me quote a few lines:

"For a century we labored to settle and to subdue a continent. For half a century we called upon unbounded invention and untiring industry to create an order of plenty for all of our people. The challenge of the next half century is whether we have the wisdom to use that wealth to enrich and elevate our national life, and to advance the quality of our American civilization. * * * For in your time we have the opportunity to move not only toward the rich society and the powerful society, but upward to the great society."

The President went on to outline his vision of a great society. As he sees it, every American youngster deserves a chance to build himself a good and productive life, unfettered by poverty and ignorance and disease and racial discrimination. And the great society, he said, is more than that:

"It is a place where man can renew contact with nature. It is a place where men are more concerned with the quality of their goals than with the quantity of their goods. But most of all, the great society is not a safe harbor, a resting place, a final objective, a finishing work. It is a challenge constantly renewed, beckoning us toward a destiny where the meaning of our lives matches the marvelous products of our labor."

The task ahead of us, said the President, is a challenge worthy of the very best we can achieve. We will have to build homes, highways, and facilities equal to all those built since this country was first settled, and we will have to do it by the turn of the century—within the lifetimes of most of us in this room.

WE NEED ONE ANOTHER

The countryside, said President Johnson, must be defended against blight and ugliness, against contamination of water and soil and air. And, he said, another place to build the great society is in the classrooms, where your children's lives will largely be shaped. Let me quote directly once more:

"The solution to these problems does not rest on a massive program in Washington, nor can it rely solely on the strained resources of local authority. They require us to create new concepts of cooperation, a creative federalism, between the National Capital and the leaders of local communities * * *. We have the power to shape the civilization that we want. But we need your will, your labor, your hearts, if we are to build that kind of society."

If you share President Johnson's vision of the tremendous job that lies ahead, then you will readily understand why it is so important that every young person have a chance at good schooling to develop his potential. You will recognize that as long as there is deep poverty in Appalachia or in the big cities there are going to be people who cannot pay their share of taxes and cannot buy the products of Montana's farms and ranches, mines and mills.

You will understand what President Johnson means by creative federalism by looking all around you. The West is far ahead of the rest of the country in its development of a creative partnership with the National Government. The public-private partnership in conservation is a tremendous success, perhaps unequaled anywhere in the world. It has developed new forms of human cooperation; it has set records for the wise investment of national wealth; it has achieved a balance of forces, a sharing of the load, and a magnificent way of life.

Strengthened by our past experience, we can move forward to develop new and better ways to work together for the good of all of us—and more importantly, for the good of our children and their children in an era of growth and change unlike anything the world has ever seen.

THE PUBLIC INTEREST AND THE FEDERAL POWER COMMISSION

Mrs. NEUBERGER. Mr. President, I yield myself one-half a minute.

Reappointment of Mr. Charles H. Ross as a member of the Federal Power Commission has become an issue which goes to the heart of effective regulation of franchised monopolies in the public interest. The issue is discussed in an editorial appearing in Public Power, the magazine of the American Public Power Association, for June 1964. The editorial concludes that reappointment of Mr. Ross would improve the "public interest" image of the Commission, a conclusion with which I agree.

I ask consent to include the editorial in the RECORD with my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CONSUMER INTEREST BACKER

In an address to the American Public Power Association convention in Jacksonville, Fla., Prof. Horace M. Gray of the University of Illinois discussed the benefits of the competition provided in the electric utility industry by consumer-owned electric systems and remarked, almost casually, "Here I discount the protection afforded by public regulation, for I consider that well nigh worthless."

Although this may seem like an overly harsh appraisal of utility regulation, it should be remembered that it comes from a leading student of this field. Similar views are held by some others who have studied the history of utility regulation, and the record is replete with examples of regulatory failure compared with a far less impressive list of achievements.

Because regulation, both on the State and Federal levels, has not measured up to its expectations, it would be dangerous to conclude that the entire process of regulation should be scrapped. A more reasonable and realistic course for consumer interest groups to pursue is to be more vigilant about the process of regulation and to fight harder for an improvement in the caliber of men selected for regulatory positions.

It is for this reason that considerable concern was expressed by various consumer groups last month about the reappointment of Charles R. Ross to another term on the Federal Power Commission. As Public Power went to press, President Johnson had not acted either to reappoint Mr. Ross to a new term on the Commission or to drop him. His present term expires June 22, and there were widespread reports last month that Mr. Ross' reappointment was "in trouble" because of opposition from the natural gas industry. The charge against Mr. Ross: He is a "consumer" man, rather than an "industry" man—or as one gas trade journal phrased it, he is a "strong consumer interest backer."

We view Mr. Ross' record on the Commission with somewhat mixed emotions. We applaud his support for "consumer" positions in advocating flow-through to the consumer of the benefits of the Federal tax concessions to utilities and in seeking stricter enforcement of licensing provisions for power company hydroelectric projects.

Because many local publicly owned electric utilities also are large users of natural gas as a fuel in their generating plants, these utilities also have a big stake in the decisions made by the FPC in natural gas cases, and we applaud Mr. Ross' stand in protecting the consumer interest in such cases. In many instances, he, along with Chairman Joseph C. Swidler and Commissioner David Black (and his predecessor, Howard Morgan), has been the "swing" vote providing a 3 to 2 margin in favor of the consumer.

On the other hand, we deplore Mr. Ross' stand for higher cost power to consumers and underdevelopment of a great natural resource in backing construction by a power company combine at the Mountain Sheep site.

More important perhaps than even the record of votes on individual cases is whether Commissioner Ross has sought to regulate in the interest of consumers or whether he has succumbed—as have so many regulators through the years—to the thesis that what is good for the regulated utility is good for the consumer. The nature of the opposition to Mr. Ross' reappointment indicates that he is truly consumer minded.

The Washington Post, in an editorial endorsing him, said that in performing his duties "in a forthright and independent fashion," Commissioner Ross "has incurred the wrath of the natural-gas lobbyists who for years have attempted to wreck the regulatory machinery."

If Mr. Ross is not reappointed, he will join a distinguished group of Federal Power Commissioners who "incurred the wrath of the natural-gas lobbyists" and either were not reappointed to FPC or not confirmed for a new term by the Senate. This group in the last 15 years includes the late Leland Olds, the late Thomas Buchanan, Dale Doty, and William R. Connole. In their service on FPC, they all were guilty of being "strong consumer-interest backers."

What is at stake in Mr. Ross' reappointment is not just the fate of this Commissioner or the fate of the Federal Power Commission. The larger issue here is the future of the regulatory process itself. The job of a regulator is a trying one under the best of circumstances, but if the conscientious regulator finds that his only reward is to get the ax at the conclusion of his term, then it is doubtful whether his successors will have any inclination to stand up for the consumer.

Furthermore, if "consumer-minded" regulators continually are denied reappointment merely because they have committed the "sin" of choosing to regulate in the consumer interest, then it is questionable whether other "consumer-minded" men can be persuaded in the future to accept appointments to the Federal Power Commission or other regulatory agencies.

In the final analysis, not only the consumers but the regulated industries themselves should have a vital, long-range stake in effective regulations. The regulated industries for some years have been countering charges that they are monopolies with the contention that they are "regulated in the public interest." In view of the past history of regulation, we have always considered this a somewhat specious argument. But if the public gets the impression that the regulatory agencies more and more are merely tools of the industries they regulate, then there will be a complete lack of confidence by the public in the argument that monopolistic public service companies are "regulated in the public interest."

By the time this issue of Public Power reaches its readers, the question of Mr. Ross' reappointment may already have been decided. If so, we hope the decision will strengthen rather than weaken the public's confidence in the regulatory process.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on

Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The substitute amendment, as amended, is open to further amendment.

Mr. McCLELLAN. Mr. President, I call up my amendment No. 550, and ask to have it stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Arkansas will be stated.

The CHIEF CLERK. It is proposed, on page 20, line 10, immediately after the period, to insert the following new sentence:

> Nothing contained in this subsection shall be construed to authorize the Commission to withhold any evidence or testimony or any transcript or record from any court, any committee of the Congress, or any subcommittee of any such committee.

Mr. McCLELLAN. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 minute.

Mr. McCLELLAN. This is another one of my good amendments. The reason I say it is good is that the statute as proposed needs clarification.

I invite attention to the part of the bill which it would amend—namely, subparagraph (g), on page 25, which provides:

> No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

My amendment merely adds, at the close of that paragraph, the following words:

> Nothing contained in this subsection shall be construed to authorize the Commission to withhold any evidence or testimony or any transcript or record from any court, any committee of the Congress, or any subcommittee of any such committee.

With the provision as it now stands, question could very well arise as to whether Congress or the courts could secure information that the committee may take and secure in executive session.

The Senate should not set up a Frankenstein that would have greater power than Congress. The bill should be explicit, and should provide that Congress shall have a right to call congressional committees, if necessary, to inquire into such matters and to obtain those records; and, likewise, so should the court.

Mr. HART. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 1 minute.

Mr. HART. Mr. President, the amendment offered by the Senator from Arkansas would add nothing to existing law on the subject; but of course there is the certainty that the amendment would produce great harassment aimed at the Commission and its work, and would tend to negate the value of providing for executive sessions for certain types of testimony. That would be one certain outcome, should the amendment be adopted. The likelihood is great that it would also add nothing with respect to existing law on the subject.

For these reasons, I hope the Senate will reject the amendment.

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. On this question the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). Mr. President, on this vote, I have a pair with the distinguished Senator from Texas [Mr. TOWER]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Florida [Mr. SMATHERS], the Senator from Virginia [Mr. ROBERTSON], and the Senator from Arizona [Mr. HAYDEN] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. ROBERTSON] would vote "yea."

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Florida would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Kentucky [Mr. MORTON] is detained on official business.

The pair of the Senator from Texas [Mr. TOWER] has been previously announced.

The result was announced—yeas 32, nays 60, as follows:

[No. 377 Leg.]

YEAS—32

Bennett
Byrd, Va.
Byrd, W. Va.
Cotton
Dominick
Eastland
Ellender
Ervin
Fulbright
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Jordan, Idaho
Lausche
Long, La.
McClellan
Mechem
Monroney
Mundt
Pearson
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.
Young, N. Dak.

NAYS—60

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Curtis
Dodd
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Keating
Kennedy
Kuchel
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Yarborough
Young, Ohio

NOT VOTING—8

Dirksen
Engle
Goldwater
Hayden
Morton
Robertson
Smathers
Tower

So Mr. McCLELLAN's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 378 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

READINGS ON THE AMERICAN CREDO—BY PROF. JOSEPH F. SMITH, OF THE UNIVERSITY OF HAWAII

Mr. MOSS. Mr. President, I yield myself 1 minute.

Last evening in the New Senate Office Building, Prof. Joseph F. Smith, of the University of Hawaii, delivered a recital—a series of readings on the American Credo. In addition to the great readings, Professor Smith gave his own commentary on the American Credo. Those who were present to hear Professor Smith were deeply moved by his brilliant and ofttime inspired reading and commentary. All of us felt strengthened and uplifted at hearing again the story of our heritage in the inspired words of some of our great documents, our national anthem, and modern writings. I regret that the entire membership of the Senate was not there to hear the evening of reading by one of the great interpretive readers of our time.

The junior Senator from Hawaii [Mr. INOUYE] introduced Professor Smith, his longtime friend. He and the senior Senator from Oregon [Mr. MORSE], also a longtime friend were cohosts at the recital as a compliment to me. To them I express my deep gratitude. To Professor Smith, my former university teacher, I say that I am most grateful and honored.

THE WAR IN SOUTHEAST ASIA

Mr. MORSE. Mr. President, I yield myself such time as it may take to deliver this speech.

Aside from all the other mistakes the United States is making in southeast Asia, we have now added the mistake of fighting a war there anonymously. At least there are those who seem to think it is possible for the United States to engage in warfare without admitting that we are doing it.

Today's New York Times carries an item from its reporter in Hong Kong that:

> Reliable sources in Washington reported last weekend that U.S. Air Force jets had bombed Communist gun positions in Laos last Tuesday after two Navy planes had been downed. But there were no reports that U.S. planes were involved in the raid Thursday.

The same story includes an item from Vientiane, Laos, that Premier Souvanna Phouma said that:

> Laotian Air Force fighters had never bombarded the Pathet Lao headquarters at Khang Kay. Concerning American planes, please contact the U.S. Embassy for information.

Mr. President, it is very interesting that the head of the Laotian Government does not know whether a key base in his country has been bombed or not or who bombed it. There is no doubt that it was bombed; but that is a part of the coverup that I charge on the floor of the Senate today the U.S. Government is carrying out deliberately and intentionally to conceal from the American people the facts concerning this government's illegal course of action in southeast Asia.

From Manila, the New York Times reports:

> The Department of Foreign Affairs said today that U.S. planes based in the Philippines had not been used in action on the mainland of southeast Asia. The statement said the U.S. Embassy here had assured the Acting Foreign Secretary, Librado Cayco, of this after reports that jets based at Clark Air Base had been used to attack Communist antiaircraft positions in Laos.

The editors of Aviation Week are not controlled by the Philippine Government. Aviation Week is a reliable source of information upon our air activities. The current issue of Aviation Week, dated June 15, states flatly that American planes are attacking in Laos, that they are coming from Clark Air Force Base in the Philippines, and that it is now official U.S. policy to refuse to acknowledge responsibility or participation in this aerial war.

Aviation Week states:

> President Johnson has decided upon a punch-for-punch military policy for southeast Asia with the built-in safety valve of not admitting to such strikes as the bombing last week of the Red Pathet Lao headquarters and flack concentration in the Plaine des Jarres by eight U.S. Air Force North American F–100's from Clark Field in the Philippines. The strike came after Communist groundfire downed two U.S. aircraft over the same area.
>
> White House advisers who have sold the policy to the President contend this approach will convince the Communists the United States means business without escalating southeast Asian wars. Officially admitting U.S. bombing raids, the theory goes, would compel the Communists to outdo the United States in some dramatic and dangerous fashion, or lose face.
>
> Newsmen felt the impact of this new policy last week as they vainly sought official White House, State Department, and Pentagon comment on Communist radio reports that 6 U.S. jets dropped 12 bombs and fired 2 rockets on Phong Savang, one of the Communist strongholds in the Plaine des Jarres.
>
> What the newsmen got was the runaround. White House press spokesmen referred questions to the State Department which in turn referred them to the Pentagon. Arthur Sylvester, Pentagon information chief, continued the game by tossing the ball back to State. At State, news spokesman Richard I. Phillips would say only that reconnaissance flights over Laos "will be undertaken in close consultation with the Royal Laotian Government."
>
> Unarmed Navy Ling-Temco-Vought RF–8's are flying reconnaissance over Laos, escorted by armed F–8's which have been given the authority to fire back if fired upon. One RF–8 and one of the armed escorts were downed by the Communists, setting the stage for the counterpunch.
>
> This lack of official confirmation, remindful of the Cuban information fiasco, led many newsmen to speculate that the aircraft which did the bombing were Navy F–8's. Actually, they were F–100's from the 405th Tactical Fighter Wing at Clark Field.
>
> President Johnson appears ready to use the Air Force F–100's and other aircraft poised nearby to continue this new counterpunch policy in southeast Asia. This get-tough policy for international problems contrasts with the "let us reason together" technique he has relied upon to solve domestic problems.

As the United States pursues warfare in southeast Asia that is illegal both under international law and under the U.S. Constitution—and the bombings in Laos are clearly illegal under article IV of the Geneva Accords of 1962—we are encouraged by Australia, that alleged ally of ours under SEATO, to continue fighting.

Despite its well-distributed press releases and the statements of its Foreign Minister, whose statement is an insult to the intelligence of anyone who will look into the facts, Australia's contribution to the war in Vietnam continues to be almost negligible.

When its Foreign Minister announces that Australia is "doubling" its advisers in South Vietnam, one would be impressed if one did not know that the figure being doubled is 30. In fact, if one listened to the Secretary of State in the Committee on Foreign Relations yesterday, he would have been impressed with Australia's role, until the facts were brought out as to what that role is.

Listen to the facts as to what the role of this alleged ally of ours—Australia—is. And of any country or state in southeast Asia, which has a vital interest in South Vietnam, one would think it would be Australia. Also New Zealand, another alleged ally, has walked out on us in respect to South Vietnam. Who does the Foreign Minister of Australia think he is fooling? Why, Australia is increasing its advisory force from 30 to 60 advisers and you can be sure they will keep them away from the combat zone.

I have not heard yet of any casualty among these Australian advisers. Furthermore we are not going to hear of any. Australia is perfectly satisfied to endorse instead the American war effort and encourage us to continue it unabated. It is all right with Australia to have American boys die in South Vietnam.

Australia is a member of the United Nations. Australia ought to be presenting a petition before the United Nations to bring the southeast Asia crisis within the framework of international law instead of egging the United States on to continue an obviously illegal course of action in southeast Asia.

Australia also promises to contribute some air transport in the form of six planes and crews—but not right away. No, this six-plane Australian Air Force is not to be available until 4 months from now. Undoubtedly, Australia hopes that the issue will be resolved by then, before any Australian planes get anywhere near a battle zone. The Australian six planes will be contributed for the purpose of getting materiel into South Vietnam. They will not be combat planes.

I point out to the American people that Australia is not offering any combat air forces. She is not offering to attack Communist antiaircraft positions in Laos. Instead, she offers encouragement to the United States to do the attacking, the fighting, and, of course, the dying if anyone is killed. Four months from now, she promises to have some transport planes and crews on the scene.

The anonymous war—and it is not anonymous in fact to the Communists any more than it is to the United States or to those who are egging us on—that we are conducting in Asia should be stopped by the American people. If it is not stopped, it will carry them into a full-scale war on the Asian mainland. The chances are that if it does, we will fight the war with even fewer allies than the number presently standing on the sidelines and offering little more than diplomatic encouragement to us to keep fighting. Our SEATO allies have walked out on us. Oh, yes, they will be glad to have us do their bleeding for them. Once again, I call their roll: Australia, New Zealand, Pakistan, Thailand, Philippines, Great Britain, and France.

Mr. President, I ask that the article published in the New York Times of

June 16, 1964, entitled "Peiping Warns United States Risks Retaliation With Laos Flights," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PEIPING WARNS UNITED STATES RISKS RETALIATION WITH LAOS FLIGHTS—SAYS SOUTHEAST ASIA PEACE IS HANGING BY THREAD—RENEWS PARLEY CALL

(By Seymour Topping)

HONG KONG, June 15.—Communist China asserted today that U.S. air operations in Laos were inviting retaliatory action.

Warning that "peace in Indochina and southeast Asia is hanging by a thread," Peiping pressed its demand for the prompt reconvening of the 1962 Geneva Conference on Laos.

Jenmin Jih Pao, official organ of the Chinese Communist Party, said in a lengthy editorial that the United States bore responsibility for the bombing Thursday of Peiping's mission at the headquarters of the Communist-led Pathet Lao at Khang Khay, in north-central Laos. One Chinese was reported to have been killed and five staff members were said to have been injured.

Rejecting denials by the U.S. Embassy at Vientiane, Laos, that U.S. planes were involved in the attack Thursday, the editorial charged that the bombing had been planned by the Johnson administration as a premeditated and deliberate provocation against Communist China.

PLANES DESCRIBED AS LAO

The raid was reportedly carried out by T–28 trainer aircraft converted to fighter bombers that were supplied to the rightwing Laotian Air Force by the United States. Strikes by the Laotian Air Force and reconnaissance flights by U.S. Navy planes began last month after Pathet Lao troops had attacked neutralist forces on the Plaine des Jarres.

Reliable sources in Washington reported last weekend that U.S. Air Force jets had bombed Communist gun positions in Laos last Tuesday after two Navy planes had been downed. But there were no reports that U.S. planes were involved in the raid Thursday.

Western analysts here said the editorial had apparently been intended to exert pressure for acceptance of Peiping's demand for reconvening the Geneva Conference without delay. This demand was put forward in notes sent to Britain and the Soviet Union cochairman of the Geneva Conference which guaranteed Laotian independence and neutrality.

The notes strongly protested the Khang Khay bombing.

However, analysts also noted that the editorial had hinted more strongly than any previous statement that Chinese Communist forces might become directly involved in the Laotian conflict.

"Having reconnoitered intensively and taken detailed aerial photographs, U.S. aircraft dropped their bombs into quarters of the Chinese economic and cultural mission in Khang Khay, which flew the flag of the People's Republic of China," the editorial asserted. "This is a deliberate provocation."

It continued:

"We want to question the Johnson administration: What are you planning to do? Do you intend to force the Chinese people to react to your provocations? It appears that U.S. imperialism is trying to use force to carry out intimidation in an attempt to compel the Chinese Government and people to renounce their stand of upholding the Geneva agreements."

Signatories of the Geneva agreement in 1962 pledged to refrain from military involvement in Laos.

UNITED STATES BEGAN AID IN 1963

The United States, which signed the agreement, undertook military aid to the rightwing and neutralist forces after Pathet Lao troops, which operate with North Vietnamese cadres, attacked the neutralists in April 1963.

The consensus among analysts here was that Peiping wished to avoid direct involvement in the Lao conflict but that it had virtually committed itself to some kind of action if U.S. flights and Lao Air Force bombings of the Pathet Lao continued.

They said Peiping was obviously cautious because of its limited capabilities for action. Intervention by the outdated Chinese Communist Air Force would risk humiliation by the more modern U.S. fighters operating from aircraft carriers and from Thailand.

PATHET LAO MOVE HINTED

In its warnings that general civil war in Laos might result from U.S. action, Peiping has implied that Pathet Lao forces might be unleashed. For 2 years, the Pathet Lao has had the military capability to seize Vientiane and the Mekong River Valley, which borders on Thailand. But it has been deterred by the prospect of U.S. intervention.

A decision to allow the Pathet Lao to take Vientiane would require the agreement of North Vietnam, which has provided cadres and supplies for the Pathet Lao and occasionally entire supporting units.

Both Communist China and North Vietnam would then be confronted with the danger of turning the conflict into general war by the counteraction of the United States and its allies of the Southeast Asia Treaty Organization.

The editorial suggested that Peiping was still placing its hopes on the reconvening of the Geneva Conference and the consideration of not only Laos but also the war in South Vietnam and the issues raised by the pursuit of Communist guerrillas across the Cambodian border.

PREMIER DENIES BOMBINGS

VIENTIANE, LAOS, June 15.—Premier Souvanna Phouma said today that Laotian Air Force fighters had never bombarded the Pathet Lao headquarters at Khang Khay.

In answer to a written question asking him to comment on Pathet Lao and Peiping charges that either Laotian or U.S. fighters dropped bombs on Khang Khay last Thursday, the neutralist Premier said: "Our planes have never bombarded Khang Khay. Concerning American planes, please contact the U.S. Embassy for information."

However, he added that "to my knowledge, there have been no [American] reconnaissance flights by jetplanes on June 11, 12, and 13."

U.S. reconnaissance flights are escorted by jet fighters.

PATHET LAO GETS WISH

VIENTIANE, June 15.—Premier Souvanna Phouma's office announced today that the Government had agreed to allow Pathet Lao officials and troops to leave the administrative capital of Vientiane as they had requested.

The action came as Government troops were reported to be regrouping around Muong Soui in an attempt to save that stronghold on the main Communist supply route from North Vietnam.

DENIAL IN PHILIPPINES

MANILA, June 15.—The Department of Foreign Affairs said today that U.S. planes based in the Philippines had not been used in action on the mainland of southeast Asia.

The statement said the U.S. Embassy here had assured the Acting Foreign Secretary, Librado Cayco, of this after reports that jets based at Clark Airbase had been used to attack Communist antiaircraft positions in Laos.

PEIPING RETALIATION DOUBTED

WASHINGTON, June 15.—Officials within the administration expressed the view today that Communist China, despite its threats of retaliation, was not likely to enter the Laotian conflict and risk the danger of general war.

They also believed that the Communist-led forces in Laos would not start a major offensive now. They said the reconnaissance flights being flown by U.S. Navy jets were helpful in determining this.

Meanwhile, the administration curtailed public comment by officials on U.S. air operations in Laos. But no doubts were left that the reconnaissance flights would be maintained as long as necessary and that the escort aircraft would hit back against any Communist fire.

Assurances that this would be so were reported to have been given by Secretary of State Dean Rusk in a 2-hour closed meeting with the Senate Foreign Relations Committee.

Other officials have said the role of the escort aircraft was to protect the unarmed reconnaissance planes whenever they were attacked.

They emphasized privately that the reconnaissance flights would be maintained as long as required and that no terminal date had been contemplated when the operations began May 21.

The flights, they said, are designed to check on the movements of the Communist-led Pathet Lao and the North Vietnamese troops in Laos and to discourage them from undertaking any drive against the strategic Mekong River Valley.

SILENCE MAINTAINED

Aside from this broad statement of policy, however, there was no disposition here, even in private comments, to discuss the day-to-day air operations over Laos and the most recent Chinese Communist charges that U.S. jets had again attacked Communist positions.

The State Department Press Officer, Richard I. Phillips, said that he would not offer any comments on the operational aspect of the situation and that he would not discuss any Chinese Communist allegations.

Mr. Rusk also refused to be drawn into discussions of the flights, except to say after the session before the Senate committee that the Laotian regime had requested the reconnaissance flights and that "we are escorting our own planes."

However, the tone of the administration's thinking was reflected in a remark after the Rusk appearance by Senator J. W. FULBRIGHT, of Arkansas, the committee's chairman, that if U.S. aircraft in Laos were attacked by Communist fire "they are justified in defending themselves."

Mr. MORSE. Mr. President, the article points out what some of the Communist reaction is. Of course, we can ignore Communist reaction. Those who wanted to ignore it before the Korean war, when they were saying that the Chinese would not come in, learned to their regret that we cannot afford to ignore Communist reaction.

I hate China and what it stands for. But China is an ugly Communist reality on the face of the globe.

The United States cannot set itself up as the policeman of the world. If we think that we are going to police the world, we will lead the American people in the not-too-distant future into a major war in Asia. It will be a war that cannot be won for the simple reason that such a war in all probability will lead to a nuclear war. Out of that war will come no victor.

At the meeting of the Foreign Relations Committee on yesterday, in the presence of the Secretary of State I renewed my urging that we take this war in southeast Asia to the United Nations. I announced again, as I did the last part of last week on the floor of the Senate, the most recent alibi of the Secretary of State as to why we are not getting into the United Nations with this issue. The State Department claims that it has committed itself to the Congress to challenge France and Russia at the next meeting of the General Assembly under article XIX because France and Russia are in arrears. They owe money to the United Nations and therefore under article XIX their rights to vote can be challenged. The United States is going to make the fight at any meeting of the General Assembly, to make that the issue in order to see to it that Russia and France do not vote until they pay up their financial arrears.

As I have suggested, the State Department needs to reread the Charter of the United Nations. A procedure is provided for in the Charter that makes it possible to request the convening of an extraordinary session of the General Assembly of the United Nations.

Yesterday I renewed my proposal to the Secretary of State suggesting that we ought to call for such a meeting. We ought to make it perfectly clear that we are asking for the calling of such a meeting for the limited jurisdictional purpose of considering the war in Asia. We ought to make it perfectly clear that we are willing to waive any question involving Russia and France under article 19 for the purpose of the special meeting, but serve clear notice that when a regular meeting of the General Assembly is called, we will raise then the question of their being in financial arrears.

Mr. President, we cannot justify before the world our failure or refusal to request the United Nations to act by trying to maintain peace in Asia.

Our failure to date to take the threat to peace in Asia to the United Nations, as the State Department is now advancing our alibi, is that under article 19 France and Russia are in arrears and therefore the General Assembly would be immobilized as an effective instrument for maintaining peace in Asia. Such an alibi is pure nonsense.

I say that the question of war or peace is too serious for us to delay trying to solve through the United Nations. We should urge the applying of the procedures of international law to Asia. Let us face up to the fact that we have a clear duty to lay the matter before the United Nations.

I close by saying again to the Secretary General, Mr. U Thant, as I have in past speeches here in the Senate: "What are you doing Mr. Secretary General? What are you doing in attempting to bring the United Nations into action on Asia? It would appear that you are abdicating your responsibilities. By your inaction you are permitting this threat to the peace of mankind to build itself up at an accelerated rate in Asia. As the Secretary General of the United Nations, you are apparently not taking steps to bring the United States to an accounting, to bring North Vietnam to an accounting, to bring all the violators of the Geneva Accords and the United Nations Charter to an accounting."

I believe that our country ought to be held to an accounting just as well as any other violator of the United Nations Charter. I am satisfied that the United States has been violating the United Nations Charter for months gone by.

At long last there was some intimation that finally some consideration would be given by the Secretary of State to my proposal that the crisis in Asia should be taken to the United Nations. I hope that at long last my Government will give serious consideration to getting back within the framework of international law. It must stop making war in Asia. It must stop its outlawing. It must stop killing American boys without a declaration of war. It must stop undercutting the United Nations. It must stop substituting American military might for the peaceful procedures of international law as set forth in the United Nations Charter and the many other treaties which the United States has signed and is now violating by its acts of war in South Vietnam and Laos.

Mr. DODD. Mr. President, I yield myself 3 minutes of my own time.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 3 minutes.

Mr. DODD. Mr. President, I have an item that I have just taken off the news ticker in the lobby. It reads as follows:

> WASHINGTON.—The State Department, reversing earlier denials, said today that "some American civilian pilots" are flying sorties for the Congolese Government in the eastern part of the Congo.
>
> The Central Congolese Government has been using U.S.-built T–28 combat planes in the Bukuvu area against rebel forces which reportedly have had some Chinese Communist contacts.
>
> Charges came from Red China some days ago that American fliers were operating the T–28's on combat missions. Press reports from the Congo also said that American civilian pilots under contract to the Congolese Government had made many sorties in the embattled region.
>
> As recently as late yesterday afternoon a spokesman said the State Department's "information is that no American citizen pilots are flying these planes in combat missions in the Congo."
>
> Today press officer Richard I. Phillips was asked whether any Americans were operating T–28's in the Congo and he replied:
>
> "In response to inquiries the department has checked through the American Embassy in Léopoldville and is now informed that some American civilian pilots under contract with the Congolese Government have flown T–28 sorties in the last few days in the eastern part of the Congo."

I remember very well that a year or two ago, when I spoke in the Senate about the Congo, I was clobbered with the accusation that Katanga was using mercenaries. That was supposed to be a dreadful thing.

The statement has a strange ring when the State Department acknowledges that the Congo Government is now using American mercenaries. Apparently it depends on whose mercenaries are hired.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. RUSSELL. At the time when we had the discussion of the Tshombe mercenaries, no one denied that they were being paid by Tshombe out of the treasury of Katanga. However, it is highly likely that the pilots to whom the Senator refers are being paid by funds transferred by this Government to the Congo. Is that correct?

Mr. DODD. The Senator is quite correct. That is, I believe, the only difference between this situation and the one which existed prior to this. I merely wish to call it to the attention of my fellow Senators, so they may be aware of the situation.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed a joint resolution (H.J. Res. 1041) temporarily extending the program of insured rental housing loans for the elderly in rural areas under title V of the Housing Act of 1949, in which it requested the concurrence of the Senate.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 1041) temporarily extending the program of insured rental housing loans for the elderly in rural areas under title V of the Housing Act of 1949, was read twice by its title, and referred to the Committee on Banking and Currency.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. JOHNSTON and Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from South Carolina.

Mr. JOHNSTON. Mr. President, I rise to a point of no quorum. I wish Senators to be present to hear my colleague. I fear that many Senators have not known what they have been voting upon.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 379 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs

Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. THURMOND. Mr. President, I call up my amendment No. 933, and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from South Carolina will be stated.

The Legislative Clerk. On page 9, it is proposed to strike out beginning on line 8, down through line 14.

Renumber succeeding sections accordingly.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself a half minute.

The PRESIDING OFFICER. The Senator is recognized for one-half a minute.

Mr. THURMOND. The amendment would delete a provision of title II which prevents discrimination or segregation wherever it may be required by law. Under the decisions of the Supreme Court, any State or local law requiring segregation is now invalid and unenforceable. Therefore, this provision of the bill is repetitive and not necessary.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the Senator from Texas [Mr. Tower]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Arkansas [Mr. Fulbright], the Senator from Arizona [Mr. Hayden], the Senator from Montana [Mr. Metcalf], the Senator from Virginia [Mr. Robertson], and the Senator from Florida [Mr. Smathers] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. Robertson] and the Senator from Arkansas [Mr. Fulbright] would each vote "yea."

On this vote, the Senator from Florida [Mr. Smathers] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Florida would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

The Senator from Nebraska [Mr. Curtis] and the Senator from Delaware [Mr. Williams] are detained on official business, and if present and voting would each vote "nay."

The pair of the Senator from Texas [Mr. Tower] has been previously announced.

The result was announced—yeas 17, nays 72, as follows:

[No. 380 Leg.]

YEAS—17

Byrd, Va.
Byrd, W. Va.
Eastland
Ellender
Ervin
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Russell
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—72

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kennedy
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—11

Curtis
Dirksen
Engle
Fulbright
Goldwater
Hayden
Metcalf
Robertson
Smathers
Tower
Williams, Del.

So Mr. Thurmond's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. PASTORE. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Dirksen-Mansfield substitute is open to further amendment.

Mr. THURMOND. Mr. President, I call up my amendment No. 934, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 9, line 2, after "thereof", change the period to a colon and add: "*Provided, however,* That the enforcement of State or local trespass laws by State or local police officials, upon the express request of the owner, proprietor, or person in charge of any privately owned establishment shall not be deemed to be discrimination or segregation supported by State action."

Mr. THURMOND. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself one-half minute.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for one-half minute.

Mr. THURMOND. This amendment would add a new provision to title II of the bill. This new provision states that the enforcement of local trespass laws by local enforcement officers, upon request of a citizen, would not be deemed to be an action requiring segregation or discrimination under color of law.

The right of a citizen to have his private property protected from trespass by local law-enforcement officers must not be done away with.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). Mr. President, on this vote, I have a pair with the distinguished Senator from Texas [Mr. Tower]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Florida [Mr. Smathers], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Arkansas [Mr. Fulbright] would vote "yea."

I further announce that, if present and voting, the Senator from Alaska [Mr. Gruening] would vote "nay."

On this vote, the Senator from Florida [Mr. Smathers] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Florida would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Tennessee [Mr. Walters] is paired with the Senator from Massachusetts [Mr. Kennedy]. If present and voting, the Senator from Tennessee would vote "yea," and the Senator from Massachusetts would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

The pair of the Senator from Texas [Mr. Tower] has been previously announced.

The result was announced—yeas, 20, nays 69, as follows:

[No. 381 Leg.]

YEAS—20

Byrd, W. Va.
Cooper
Eastland
Ellender
Ervin
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Robertson
Russell
Simpson
Sparkman
Stennis
Talmadge
Thurmond

NAYS—69

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—11

Byrd, Va.
Dirksen
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Smathers
Tower
Walters

So Mr. THURMOND's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ERVIN. Mr. President, I call up my amendments Nos. 789, 790, 794, and 795 to the substitute amendment No. 1052. I ask unanimous consent that the reading of the four amendments be omitted, that the amendments be printed at this point in the RECORD, and that the Senate vote on the amendments en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments, ordered to be printed in the RECORD, are as follows:

AMENDMENT No. 789

On page 7, line 24, insert the following between the designation (b) and the semicolon: "and bears such a close and substantial relation to commerce that the provisions of this Act are necessary or appropriate to the regulation of commerce".

AMENDMENT No. 790

On page 8, line 1, strike out the words "or offers to serve".

AMENDMENT No. 794

On page 8, line 4, insert the words "and has not come to rest within a State" between the word "commerce" and the semicolon.

AMENDMENT No. 795

On page 8, line 7, insert the words "and have not come to rest within a State" between the word "commerce" and the semicolon.

Mr. ERVIN. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 1 minute.

Mr. ERVIN. Mr. President, the four amendments make the tests of public accommodations in title II comply with the decisions of the courts upon the commerce clause of the Constitution.

I ask unanimous consent that six statements, prepared by me, with accompanying decisions and excerpts from decisions, be printed at this point in the RECORD.

There being no objection, the statements and excerpts were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR ERVIN

An establishment which provides lodging to transient guests or which sells food for consumption on its premises is not engaged in interstate commerce merely because in the course of its business of furnishing accommodation to the general public it serves persons who are traveling from State to State. (*Elizabeth Hospital, Inc.*, v. *Richardson*, 269 F. 2d 167; *Williams* v. *Howard Johnson's Restaurant*, 268 F. 2d 845.)

ELIZABETH HOSPITAL, INC., APPELLANT *v.* FOUNT RICHARDSON; FRIEDMAN SISCO; RUTH ELLIS LESH; STANLEY APPLEGATE, INDIVIDUALLY AND AS PRESIDENT OF WASHINGTON COUNTY MEDICAL SOCIETY; AND WASHINGTON COUNTY MEDICAL SOCIETY, APPELLEES

(No. 16187—U.S. Court of Appeals Eighth Circuit, July 10, 1959)

Action by hospital to recover treble damages for alleged violations of the Sherman Act and to obtain injunctive relief. The U.S. District Court for the Western District of Arkansas, John E. Miller, chief judge, 167 F. Supp. 155, entered an order dismissing the complaint and plaintiff appealed. The court of appeals, Vogel, circuit judge, held that complaint alleging that a conspiracy on the part of a county medical society and individual members thereof interfered with referral of patients to the hospital from outside the State, and that such conspiracy was based upon refusal of county medical society to admit hospital's chief of staff to membership in the society, with resulting loss to the hospital due to a reduction in the number of patients both within and without the State seeking treatment at the hospital, was insufficient to state a cause of action under the Sherman Act, due to its failure to show that the conspiracy complained of had any restraining effect on interstate commerce within the meaning of the act.

Affirmed.

1. Courts 🔑 406.2: The court of appeals will accept the considered judgment of a trial judge in any matter of doubtful or disputed local law.

2. Conspiracy 🔑 18: Complaint of hospital alleging a conspiracy on the part of a county medical society and individual members thereof which interfered with referral of patients to the hospital from outside the State, based upon refusal of the county medical society to admit the hospital's chief of staff to membership in the society failed to state a right of action under the law of Arkansas.

3. Monopolies 🔑 12(1.1): Essential to jurisdiction of a cause of action under Sherman Antitruct Act, is that conspiracy complained of be in restraint of trade or commerce among the several States. Sherman Antitrust Act, sections 1, 2, as amended 15 U.S.C.A. 1, 2.

4. Commerce 🔑 16: Operation of a hospital, including rendition of hospital services to some persons who came from outside the State, did not constitute engaging in interstate commerce for purposes of stating a claim under the Sherman Antitrust Act, since the fact that some of the hospital's patients might have traveled in interstate commerce did not alter the local character of the hospital. Sherman Antitrust Act, sections 1, 2, as amended 15 U.S.C.A. 1, 2.

5. Monopolies 🔑 12(1.1): Interference with intrastate activity cannot constitute a violation of the Sherman Act unless its effect on interstate commerce is both substantial and direct. Sherman Antitrust Act, sections 1, 2, as amended 15 U.S.C.A. 1, 2.

6. Monopolies 🔑 28(6.6): Complaint alleging that a conspiracy on the part of a county medical society and individual members thereof interfered with referral of patients to the hospital from outside the State, and that such conspiracy was based upon refusal of county medical society to admit hospital's chief of staff to membership in the society, with resulting loss to the hospital due to a reduction in the number of patients, both within and without the State, seeking treatment at the hospital, was insufficient to state a cause of action under the Sherman Act, due to its failure to show that the conspiracy complained of had any restraining effect on interstate commerce within the meaning of the act. Sherman Antitrust Act, sections 1, 2, as amended 15 U.S.C.A. 1, 2.

James R. Hale, Fayetteville, Ark., for appellant.

Eugene R. Warren, Little Rock, Ark. (Warren & Bullion, Little Rock, Ark., were on the brief), for appellees.

Before Sanborn, Vogel, and Van Oosterhout, circuit judges.

Vogel, circuit judge. Elizabeth Hospital, Inc., plaintiff (appellant here), is a Delaware corporation authorized to do business in Arkansas, where it maintains and operates a hospital at Prairie Grove, Washington County. Its stockholders are Frank Riggall, Eva E. Riggall, Cecil Riggall, and Robert Douglas Manning, each of whom owns 25 percent of the capital stock. The defendants are Fount Richardson; Friedman Sisco; Ruth Ellis Lesh; Stanley Applegate, individually and as president of Washington County Medical Society; Washington County Medical Society; and American Medical Association. The individual defendants are all physicians and surgeons and all defendants excepting the American Medical Association are citizens and residents of the State of Arkansas. The Washington County Medical Society is an unincorporated organization with at least 36 dues-paying or active members. The defendant, Stanley Applegate, is a member and president of such society and the other individual defendants are members thereof. A motion for dismissal as to the American Medical Association, a corporation organized under the laws of the State of Illinois, was granted by this court and it is accordingly not involved herein. For convenience, the parties will be designated as they were in the court below.

Plaintiff brought this action to recover treble damages in the total amount of $300,000 for alleged violations of the Sherman Antitrust Act, 15 U.S.C.A. 1, 2, 12, and 15, and to obtain an injunction requiring the society and association to admit Dr. Frank Riggall to membership therein. Plaintiff also alleged a violation of the constitution, statutes and common law of Arkansas, attempting thereby to create two grounds for Federal court jurisdiction: First, under the Sherman Act; and, second, because of diversity of citizenship and amount involved.

In brief summary, plaintiff's complaint alleged that it was authorized to and did engage in the operation and maintenance of a hospital of which Dr. Frank Riggall was chief of staff; that it purchased medical equipment and supplies, etc., for its use in operating its hospital from outside the State of Arkansas. It alleged a conspiracy on the part of the defendants which interfered with the referral of patients to the plaintiff hospital from outside the State of Arkansas. The conspiracy was based upon the refusal of the Washington County Medical Society to admit Dr. Frank Riggall to membership therein, resulting in denial to him of membership in the Arkansas Medical Society and the American Medical Association.

Excepting for the fact that Elizabeth Hospital, Inc., is the named plaintiff in the instant case and here alleged violations of the law of Arkansas as well as violations of the Sherman Antitrust Act, the complaint is virtually the same as that contained in a recent case wherein the plaintiff was Dr. Frank Riggall and wherein the defendants included all those named as defendants herein and in which this court, in *Riggall* v. *Washington County Medical Society*, 8 Cir., 1957, 249 F. 2d 266, certiorari denied 355 U.S. 954, 78 S. Ct. 540, 2 L. Ed. 2d 530, sustained the district court's dismissal of the complaint. The same district court granted motions to dismiss here—*Elizabeth Hospital, Inc.* v. *Richardson*, D.C.W. D. Ark. 1958, 167 F. Supp. 155.

[1, 2] To sustain jurisdiction in the Federal court it must be found that the allegations of the complaint, which for present purposes we must assume to be true, establish a claim under the law of Arkansas or that the complaint states a claim under the Sherman Antitrust Act. It has already been noted that the allegations of the instant complaint are, for all practical purposes, the same as the allegations contained in the complaint filed by Dr. Riggall in what might be termed the earlier case, *Riggall* v. *Washington County* etc., 249 F. 2d 266. Therein Dr. Riggall was the sole plaintiff. He sought to recover treble damages in the same amount as is sought by Elizabeth Hospital, Inc., in the present case. There, Dr. Riggall sought recovery because of alleged wrongful refusal of the Washington County Medical Society to admit him to membership. The alleged damage to the plaintiff here is likewise based on the society's refusal of membership to plaintiff's chief of staff—the same Dr. Frank Riggall. In addition to the allegation of a conspiracy or combination in violation of the Sherman Antitrust Act, it was alleged that there was a conspiracy under the law of Arkansas to injure or damage the plaintiff by refusing Dr. Riggall and certain members of his staff membership in the Washington County Medical Society. Dr. Riggall's application for membership in the society was rejected by the membership by a secret vote of 34 to 2. The bylaws of the society are set forth in plaintiff's complaint. Among other things, they provide that the society shall be the judge of the qualifications of its members. They also provide that the members shall vote upon all applications and that the elections shall be by secret ballot and that three-fourths of the votes of the membership present and voting shall be necessary to elect. The opinion of the district court ably demonstrates that under neither the common nor statutory law of Arkansas was there a right of action spelled out in plaintiff's complaint, 167 F. Supp. 155. Citing Arkansas statutes dealing with monopolies, combinations and attempts to regulate or fix prices, it concluded, at page 162:

"Since no monopoly or attempt at monopoly is alleged or shown by the facts in the complaint, and since it is likewise apparent that the plaintiff is not being driven from competition, these statutes have no application."

And at page 163:

"The action of the medical society and its individual members, whatever their motive may have been, was not action to attain an unlawful purpose or to use unlawful means in attaining a lawful purpose, absent some specific statutory requirement that all persons be admitted to membership.

"It is true that the plaintiff alleges that the refusal of the defendants to admit Dr. Riggall to membership has resulted in a number of other conditions unfavorable to the plaintiff hospital as well as to Dr. Riggall. It may be seriously doubted whether any of the numerous conditions alleged to have been caused by the denial of membership are proximate results of that action by the medical society. Compare *Robinson* v. *Lull*, D.C. Ill. 1956, 145 F. Supp. 134, at page 137, where the court considered a series of facts similar to those presented here, and found no proximate connection between the acts of the defendants and the alleged injury.

"Assuming, however, that the conditions and injuries allegedly resulting from the medical society's denial of membership to Dr. Riggall were all proximate results of that action of the medical society, there is nevertheless no showing of any violation of State law in that action or any conspiracy to violate any State law. Most of the injuries said to result to the plaintiff and to Dr. Riggall from his inability to obtain membership in the medical society relate to the alleged loss of patients of the hospital. These assertions are in essence specifications of the allegation that the defendants 'imposed a professional boycott upon the plaintiff, and thereby prevented the plaintiff from receiving great numbers of patients from outside the State of Arkansas and elsewhere.' These allegations, however, fall short of establishing a claim under Arkansas law."

Plaintiff here has utterly failed to demonstrate anything to the contrary and on this point cites but one case, *Southwestern Publishing Co.* v. *Ney*, 1957, 227 Ark. 852, 302 S.W. 2d 538. Such case is no support for plaintiff's contention. It is this court's well established rule to accept the considered judgment of the trial judge on any matter of doubtful or disputed local law. *Guyer* v. *Elger*, 8 Cir., 1954, 216 F. 2d 537, 540, certiorari denied 348 U.S. 929, 75 S. Ct. 342, 99 L. Ed. 728; *Barnard* v. *Wabash R. Co.*, 8 Cir. 1953, 208 F. 2d 489, 493; *Buder* v. *Becker*, 8 Cir., 1950, 185 F. 2d 311, 315–316; *Northern Liquid Gas Co.* v. *Hildreth*, 8 Cir., 1950, 180 F. 2d 330, 336. We concur in the trial judge's opinion that the complaint spelled out no right of action under the law of Arkansas.

[3] Next for consideration is whether a claim under the Sherman Antitrust Act has been alleged. Essential to jurisdiction is that the conspiracy complained of be "in restraint of trade or commerce among the several States * * *." To establish this fact, plaintiff alleged that the wrongful exclusion of its chief of staff from the Washington County Medical Society so diminished his professional standing as to reduce the number of patients, both from within and without Arkansas, seeking treatment at plaintiff's hospital. Plaintiff also alleged that it purchases from outside the State of Arkansas medical equipment and supplies, etc., for its use in operating its hospital. However, this fact need not be considered here as plaintiff has failed to assert that the conspiracy complained of interfered with these purchases.

[4] We think that the plaintiff's operation of a hospital, to include rendition of hospital services to some persons who came from outside the State, is no more engaging in interstate commerce than was Dr. Riggall in rendering medical services to persons who likewise came from other States. The fact that some of plaintiff's patients might travel in interstate commerce does not alter the local character of plaintiff's hospital. If the converse were true, every country store that obtains its goods from or serves customers residing outside the State would be selling in interstate commerce. Uniformly, the courts have held to the contrary. *A.L.A. Schechter Poultry Corp.* v. *United States*, 1935, 295 U.S. 495, 55 S. Ct. 837, 79 L. Ed. 1570; *Lawson* v. *Woodmere*, 4 Cir., 1954, 217 F. 2d 148, 150; *Jewel Tea Co.* v. *Williams*, 10 Cir., 1941, 118 F. 2d 202, 207; *Lipson* v. *Socony-Vacuum Corp.*, 1 Cir., 1937, 87 F. 2d 265, 267, certiorari granted 300 U.S. 651, 57 S. Ct. 612, 81 L. Ed. 862 certiorari dismissed 301 U.S. 711, 57 S. Ct. 788, 81 L. Ed. 1364.

[5] Interference with intrastate activity can not constitute a violation of the Sherman Act unless its effect on interstate commerce is both substantial and direct. *A.L.A. Schechter Poultry Corp.* v. *United States*, *supra; Mandeville Island Farms* v. *American Crystal Sugar Co.*, 1947, 334 U.S. 219, 68 S. Ct. 996, 92 L. Ed. 1328; *Local 167* v. *United States*, 1933, 291 U.S. 293, 54 S. Ct. 396, 78 L. Ed. 804. We observed in the earlier case at page 268, 249 F. 2d: "There is no allegation in the complaint remotely suggesting that the acts of defendants cast any burden upon interstate commerce. The mere fact that plaintiff at his location in Arkansas may be treating patients from other States who must travel interstate does not result in practicing his profession in interstate commerce, as the transportation of such patients is incidental. The practice of his profession as disclosed by the allegations of his complaint is neither trade nor commerce within section 1 of the Sherman Antitrust Act, nor are there any allegations in the complaint indicating that the actions of defendants here complained of resulted in a monopoly within the provisions of section 2 of the act. Plaintiff has not been prevented from practicing his profession, but in the final analysis his complaint is that he could practice it more profitably but for the acts of the defendants."

The case of *Spears Free Clinic and Hospital for Poor Children* v. *Cleere*, 10 Cir., 1952, 197 F. 2d 125, is on almost all fours with the instant case. Therein the court stated, at page 126:

"The practice of the healing arts in Colorado, including chiropractic, is wholly local in character. The alleged conspiracy and the acts alleged to have been done in furtherance thereof had for their purpose and object the monopolization and restraint of purely local activities. No price fixing or price maintenance for professional or other services was involved. There was no intent to injure, obstruct or restrain interstate or foreign commerce. The mere fact that a fortuitous and incidental effect of such conspiracy and acts may be to reduce the number of persons who will come from other States and counties to the Spears Hospital for chiropractic treatments does not create such a relation between interstate and foreign commerce and such local activities as to make them a part of such commerce.

"To come within the purview of the Sherman Act the restraint of commerce or the obstruction of commerce must be direct and substantial and not merely incidental or remote."

[6] We think the complaint here is wholly lacking in a jurisdictional essential in that it fails to show that the conspiracy complained of had any restraining effect on interstate commerce within the meaning of the Sherman Antitrust Act.

Affirmed.

[U.S. Court of Appeals, Fourth Circuit—Argued June 15, 1959—Decided July 16, 1959—No. 7867]

Charles E. Williams, Appellant, *v.* Howard Johnson's Restaurant, Russell V. Keyes and Mary Barnes, Appellees

Action complaining that defendant, operating private restaurant in State of Virginia, violated plaintiff's Federal rights in refusing to serve him because he was a

Negro. The U.S. District Court for the Eastern District of Virginia at Alexandria, Albert V. Bryan, J., dismissed the action and plaintiff appealed. The court of appeals, Soper., circuit judge, held, inter alia, that a privately operated restaurant, as an instrument of local commerce, was at liberty to deal with such persons as it might select and that the commerce clause and the 13th and 14th amendments of the Federal Constitution did not operate to prevent proprietors from excluding Negroes.

Affirmed.

1. Civil rights 🔑 5: The Civil Rights Act of 1875, insofar as it is constitutional, creates no cause of action against privately owned restaurant based on its refusal to serve persons assertedly because they are Negroes. Act March 1, 1875, §§ 1, 2, 18 Stat. 335.

2. Constitutional Law 🔑 213, 254: Customs of people of State do not constitute State action within prohibition of 14th amendment to United States Constitution. U.S.C.A. Const. Amend. 14.

3. Constitutional Law 🔑 216: Where statutes of State did not require private restaurant operators to exclude Negroes from their establishments, no acquiescence of State in exclusionary practices would amount to State action within condemnation of 14th amendment to Federal Constitution. U.S.C.A. Const. Amend. 14; Code Va. 1950, §§ 18–327, 18–328, 35–26, 56–196, 56–325, 56–326, 56–390, 56–396.

4. Commerce 🔑 16: A restaurant was not engaged in interstate commerce merely because, in course of its business, it furnished accommodations to general public and served persons travelling from State to State. U.S.C.A. Const. art. 1, § 8, cl. 3; Interstate Commerce Act, § 3(1), 49 U.S.C.A. § 3(1).

5. Constitutional Law 🔑 216: A privately operated restaurant, as an instrument of local commerce, was at liberty to deal with such persons as it might select, and the commerce clause and the 13th and 14th amendments of the Federal Constitution did not operate to prevent its proprietor from excluding Negroes. U.S.C. Const. art. 1, § 8, cl. 3; Amends. 13, 14.

Charles E. Williams, Lexington, Va., pro se.

James H. Simmonds, Arlington, Va. (Howard M. Murphy, Arlington, Va., on brief), for appellees.

Before Sobeloff, chief judge, and Soper and Haynsworth, circuit judges.

Circuit Judge SOPER: Charles E. Williams, an attorney in the Internal Revenue Service of the United States, brings this suit on his own behalf and on behalf of all others similarly situated against Howard Johnson's Restaurant in the city of Alexandria, Va., complaining that he was wrongfully refused service by the restaurant on the morning of April 20, 1958, because he is a Negro. He seeks a declaratory judgment that his exclusion on racial grounds amounted to discrimination against a person moving in interstate commerce and also interference with the free flow of commerce in violation of the Constitution of the United States, as well as a violation of the Civil Rights Acts of 1875, 18 Stat. 335. He prays for an injunction restraining the defendant from denying him and persons similarly situated access to the restaurant and also a money penalty for the infraction of the statute. On motion of the defendant his suit was dismissed by the district court. Notwithstanding the substantial inconvenience and embarrassment to which persons of the Negro race are subject in the denial to them of the right to be served in public restaurants, the dismissal of the suit was in accord with the decisions of the Supreme Court of the United States and other Federal courts.

[1] Sections 1 and 2 of the Civil Rights Act of 1875, upon which the plaintiff's position is based in part, provided that all persons in the United States should be entitled to the full and equal enjoyment of accommodations, advantages, facilities and privileges of inns, public conveyances and places of amusement, and that any person who should violate this provision by denying to any citizen the full enjoyment of any of the enumerated accommodations, facilities or privileges should for every such offense forfeit and pay the sum of $500 to the person aggrieved. The Supreme Court of the United States, however, held in Civil Rights cases, 109 U.S. 3, 3 S. Ct. 18, 27 L. Ed. 835, that these sections of the act were unconstitutional and were not authorized by either the 13th or 14th amendments of the Constitution. The Court pointed out that the 14th amendment was prohibitory upon the States only, so as to invalidate all State statutes which abridge the privileges or immunities of citizens of the United States or deprive them of life, liberty or property without due process of law, or deny to any person the equal protection of the laws; but that the amendment did not invest Congress with power to legislate upon the actions of individuals, which are within the domain of State legislation. The Court also held that the question whether Congress might pass such a law in the exercise of its power to regulate commerce was not before it, as the provisions of the statute were not conceived in any such view (109 U.S. 19, 3 S. Ct. 27). With respect to the 13th amendment, the Court held that the denial of equal accommodations in inns, public conveyances and places of amusement does not impose the badge of slavery or servitude upon the individual but, at most, infringes rights protected by the 14th amendment from State aggression. It is obvious, in view of this decision, that the present suit cannot be sustained by reference to the Civil Rights Act of 1875.[1]

The plaintiff concedes that no statute of Virginia requires the exclusion of Negroes from public restaurants and hence it would seem that he does not rely upon the provisions of the 14th amendment which prohibit the States from making or enforcing any law abridging the privileges and immunities of citizens of the United States or denying to any person the equal protection of the law. He points, however, to statutes of the State which require the segregation of the races in the facilities furnished by carriers and by persons engaged in the operation of places of public assemblage;[2] he emphasizes the long-established local custom of excluding Negroes from public restaurants and he contends that the acquiescence of the State in these practices amounts to discriminatory State action which falls within the condemnation of the Constitution. The essence of the argument is that the State licenses restaurants to serve the public and thereby is burdened with the positive duty to prohibit unjust discrimination in the use and enjoyment of the facilities.

[2, 3] This argument fails to observe the important distinction between activities that are required by the State and those which are carried out by voluntary choice and without compulsion by the people of the State in accordance with their own desires and social practices. Unless these actions are performed in obedience to some positive provision of State law they do not furnish a basis for the pending complaint. The license laws of Virginia do not fill the void. Section 35–26 of the Code of Virginia, 1950, makes it unlawful for any person to operate a restaurant in the State without an unrevoked permit from the Commissioner, who is the chief executive officer of the State Board of Health. The statute is obviously designed to protect the health of the community but it does not authorize State officials to control the management of the business or to dictate what persons shall be served. The customs of the people of a State do not constitute State action within the prohibition of the 14th amendment. As stated by the Supreme Court of the United States in *Shelley* v. *Kraemer*, 334 U.S. 1, 68 S. Ct. 836, 842, 42 L. Ed. 1161:

"Since the decision of this Court in the *Civil Rights Cases*, 1883, 109 U.S. 3, 3 S. Ct. 18, 27 L. Ed. 835, the principle has become firmly embedded in our constitutional law that the action inhibited by the 1st section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment erects no shield against merely private conduct, however discriminatory or wrongful."

The plaintiff makes the additional contention based on the allegations that the defendant restaurant is engaged in interstate commerce because it is located beside an interstate highway and serves interstate travelers. He suggests that a Federal policy has been developed in numerous decisions which requires the elimination of racial restrictions on transportation in interstate commerce and the admission of Negroes to railroad cars, sleeping cars, and dining cars without discrimination as to color; and he argues that the commerce clause of the Constitution (art. I, sec. 8, clause 3), which empowers Congress to regulate commerce among the States, is self-executing so that even without a prohibitory statute no person engaged in interstate commerce may place undue restrictions upon it.

The cases upon which the plaintiff relies in each instance disclosed discriminatory action against persons of the colored race by carriers engaged in the transportation of passengers in interstate commerce. In some instances the carrier's action was taken in accordance with its own regulations, which were declared illegal as a violation of paragraph 1, section 3 of the Interstate Commerce Act, 49 U.S.C.A., section 3(1), which forbids a carrier to subject any person to undue or unreasonable prejudice or disadvantage in any respect, as in *Mitchell* v. *United States*, 313 U.S. 80, 61 S. Ct. 873, 85 L. Ed. 1201, and *Henderson* v. *United States*, 339 U.S. 816, 70 S. Ct. 843, 94 L. Ed. 1302. In other instances, the carrier's action was taken in accordance with a State statute or State custom requiring the segregation of the races by public carriers and was declared unlawful as creating an undue burden on interstate commerce in violation of the commerce clause of the Constitution, as in *Morgan* v. *Com. of Virginia*, 328 U.S. 373, 66 S. Ct.

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[1] Even if the act of March 1, 1875, were valid, it would not support the plaintiff's case since it covers only inns, public conveyances and places of amusement. It has been held in Virginia, *Alpaugh* v. *Wolverton*, 184 Va. 943, 36 S.E. 2d 906, in a case which did not involve race relations, that a restaurant owner is not an innkeeper charged with the common-law duty to serve everyone who applies. The Court said at page 948 of 184 Va., at page 908 of 36 S.E. 2d:

"A restaurant, on the other hand, is an establishment where meals and refreshments are served. 28 Am. Jur., Innkeepers, § 10, p. 545; 43 C.J.S., Innkeepers, § 1, subsec. b, p. 1132.

"The proprietor of a restaurant is not subject to the same duties and responsibilities as those of an innkeeper, nor is he entitled to the privileges of the latter. 28 Am. Jur., Innkeepers, § 120, p. 623; 43 C.J.S., Innkeepers, § 20 subsec. b, p. 1169. His rights and responsibilities are more like those of a shopkeeper. *Davidson* v. *Chinese Republic Restaurant Co.*, 201 Mich. 389, 167 N.W. 967, 969, L.R.A. 1918E, 704. He is under no common-law duty to serve everyone who applies to him. In the absence of statute, he may accept some customers and reject others on purely personal grounds. *Nance* v. *Mayflower Tavern*, 106 Utah 517, 150 P. 2d 773, 776; *Noble* v. *Higgins*, 95 Misc. 328, 158 N.Y.S. 867, 868."

[2] See Code of Virginia, 1950, title 56, secs. 196, 325, 326, 390, 396; title 18, secs. 327, 328.

1050, 90 L. Ed. 1317; *Williams* v. *Carolina Coach Co.*, D.C. Va., 111 F. Supp. 329, affirmed 4 Cir., 207 F. 2d 408; *Flemming* v. *S.C. Elec. & Gas Co.*, 4 Cir., 224 F. 2d 752; and *Chance* v. *Lambeth*, 4 Cir., 186 F. 2d 879.

[4, 5] In every instance the conduct condemned was that of an organization directly engaged in interstate commerce and the line of authority would be persuasive in the determination of the present controversy if it could be said that the defendant restaurant was so engaged. We think, however, that the cases cited are not applicable because we do no find that a restaurant is engaged in interstate commerce merely because in the course of its business of furnishing accommodations to the general public it serves persons who are traveling from State to State. As an instrument of local commerce, the restaurant is not subject to the constitutional and statutory provisions discussed above and, thus, is at liberty to deal with such persons as it may select. Our conclusion is, therefore, that the judgment of the district court must be affirmed.

Affirmed.

Statement by Senator Ervin

The retail sale of gasoline by filling stations within the boundaries of a State is a State affair not subject to regulation by Congress under the interstate commerce clause, even though the gasoline may have been brought in the State from other States. (11 Am. Jur. Commerce, sec. 74; *State* v. *Hobson* (*Del.*), 83 A. 2d 846.)

Excerpt From 11 Am. Jur., Section 74

Sec. 74. Termination.—Interstate commerce continues as such until it reaches the point where the parties originally intended that the movement should finally end. In other words, transportation usually is not complete until the shipment arrives at the point of destination and is there delivered. Thus, the delivery, by a carrier into storage tanks located within the State, of oil for distribution to various points within the State terminates the interstate character of the shipment where the ultimate destination of the oil is not known when it is delivered into the storage tanks. Where gas is transported from another State, the interstate movement ends with the delivery of the gas to distributing companies; its subsequent sale and delivery by these companies to their customers at retail are intrastate commerce, which is subject to State regulation.

Excerpt From 83 Atlantic Reporter

III. The commerce clause.—Defendant asserts that in selling gasoline at retail he is engaged in interstate commerce and that the restrictive provisions of the act of June 5 unduly burden that commerce, and that therefore the act is in conflict with the commerce clause of the Federal Constitution and is void.

[7, 8] We think there is no substance in the argument. The retail sale of gasoline from filling stations in quantities to suit the purchaser does not constitute interstate commerce, though all the gasoline that is dealt in must be brought from other States. *Askren* v. *Continental Oil Co.*, 252 U.S. 444, 40 S. Ct. 355, 64 L. Ed. 654; *State* v. *Crane Hook Oil Storage Co.*, 2 Terry 194, 41 Del. 194, 18 A 2d 427. In *United States* v. *Mills*, D.C., 7 F. Supp. 547, 549, Judge Chesnut said: "Indeed it would be difficult to state an activity more clearly involving only intrastate commerce than the business of local sales of gasoline from filling stations."

Statement by Senator Ervin

The retail sale of food or beverages by an establishment within a State for consumption within the State is a local transaction not subject to regulation by Congress under the interstate commerce clause, even though the food or beverages may have come into the State from another State. (*Wagner* v. *City of Covington*, 251 U.S. 95; *Commonwealth* v. *Di Meglio*, 179 P. Super. 472, 117 A. 2d 767; *Parrott & Co.* v. *Benson*, 114 Wash. 117, 194 P. 986.)

Wagner et al., Partners, Doing Business Under the Name of W. T. Wagner's Sons, *v.* City of Covington

(Error to the Court of Appeals of the State of Kentucky, No. 61, Argued November 10, 11, 1919; decided December 8, 1919)

Where a manufacturer of goods habitually causes them to be carried on his vehicles from the State of manufacture to various establishments of retail dealers who are his customers in an adjoining State, and there sold and delivered to such dealers in the original packages in such quantities as they may desire to purchase at the times of such visits, the business, as thus transacted with them, is that of an itinerant vender or peddler, and may be taxed in the second State under a nondiscriminating license tax law without imposing a direct burden on interstate commerce. P. 102.

A State tax which in substance and effect is constitutional cannot be made otherwise by the name it bears in the State laws and decisions (p. 101). (177 Kentucky, 385, affirmed.)

The case is stated in the opinion.

Mr. Harry Brent Mackoy, with whom Mr. William H. Mackoy was on the briefs, for plaintiffs in error:

The goods are shipped from Ohio and sold and delivered at wholesale in Kentucky in the original packages; are always in transit except during the short pause incidental to delivery; when shipped, they are appropriated in a practical, if not in a technical, sense to the fulfillment of contracts with certain specific existing customers, with whom a general understanding is previously had that plaintiffs in error will furnish them with such as they may need or desire to purchase of them.

The goods are not carried into Kentucky with the intention of having them remain there permanently, or for an indefinite period, or for sale to the general public; but merely for a temporary purpose which is either to apply them to fulfilling the contracts, or to carry back into Ohio the part not so applied. This is all done and intended to be done on the same trip of the same vehicle, which consumes at the most but a few hours. They are never hawked about, peddled, offered or sold to the public generally.

This course of dealing constitutes a continuous current of commerce between plaintiffs in error, as residents of Ohio, and their standing customers in Kentucky. The original packages do not become part of the general mass of property in Kentucky until after the sale and delivery to the customers, and hence are not subject to state regulation or control in the hands of plaintiffs in error. This power does not extend to the taxation of such packages while temporarily within the State, which are in course of transportation or which are being held therein only long enough to find out the exact needs of the customers. The person who imports goods in original packages from one State into another has the right to sell them in such packages in the latter State as a necessary incident to the right to import, without being subject to State regulation or control, and this right continues until the original packages are commingled with the general mass of property in the State either by actual sale, or by breaking up the packages, or by some other act which indicates that they are to be so commingled. (*Leisy* v. *Hardin*, 135 U.S. 100; *Lyng* v. *Michigan*, 135 U.S. 161; *Schollenberger* v. *Pennsylvania*, 171 U.S. 1; *Austin* v. *Tennessee*, 179 U.S. 343; *Cook* v. *Marshall County*, 196 U.S. 261; *Purity Extract Co.* v. *Lynch*, 226 U.S. 192; *Adams Express Co.* v. *Kentucky*, 238 U.S. 190; *Price* v. *Illinois*, 238 U.S. 446; *Rosenberger* v. *Pacific Express Co.*, 241 U.S. 48.)

An examination of the decisions of courts of last resort in the various States shows that all of them are in accord with this rule, and, so far as we have been able to find, Kentucky stands alone in holding to the contrary.

Where goods are sent for sale from a place in one State, with the expectation that they will end their transit, after purchase in the same form in another State, and when in effect they do so, with only the interruption necessary to consummate the purchase at the point of destination, and when this is a typical, constantly recurring course of business, the current thus existing is a current of commerce among the States and the purchase of the goods is a part and incident of such commerce. (*Swift & Co.* v. *United States*, 196 U.S. 375.)

The current does not cease to flow until the articles are delivered to the persons for whom they are intended, or to whom they are destined to be sold, even though the consignor ships them at the starting point by a common carrier consigned to himself at the point of destination, and himself makes delivery to such persons instead of by the common carrier, and even though the title does not pass until then. (*Caldwell* v. *North Carolina*, 187 U.S. 622; *Rearick* v. *Pennsylvania*, 203 U.S. 507; *Crenshaw* v. *Arkansas*, 227 U.S. 389; *Stewart* v. *Michigan*, 232 U.S. 665; *Western Oil Refining Co.* v. *Lipscomb*, 244 U.S. 346; *York Mfg. Co.* v. *Colley*, 247 U.S. 21.)

In each of the last-mentioned cases the article was started to move in pursuance of a previously existing definite contract of sale—but this is not essential. It is sufficient that the intention be conditional, depending upon the ability to negotiate a sale upon exhibition or after pause for negotiation; or it suffices if the article is started because of an expectation to sell. (*Swift & Co.* v. *United States, supra; Dozier* v. *Alabama*, 218 U.S. 124; *Coe* v. *Errol*, 116 U.S. 517; *Kelley* v. *Rhoads*, 188 U.S. 1; *Davis* v. *Virginia*, 236 U.S. 697; *General Oil Co.* v. *Crain*, 209 U.S. 211. See also *Weigle* v. *Curtice Bros. Co.*, 248 U.S. 285; *Rast* v. *Van Deman & Lewis Co.*, 240 U.S. 342, 362; *Crew Levick Co.* v. *Pennsylvania*, 245 U.S. 292, 295–298; *United States Glue Co.* v. *Oak Creek*, 247 U.S. 321, 326–327.)

Original packages of interstate commerce themselves only become taxable when they have come to rest at their destination or have become part of the general mass of property in the State.

There is a distinction between the right to impose a tax on the nonresident importer for the privilege of selling goods in the original packages and the right to impose a tax on the original packages themselves after they reach their destination and come to rest in the State.

There is also a distinction between the right to impose a tax on an importer who is using persons licensed by the State to make sales for him within the State and the right to impose a tax on the importer himself for making such sales, as is sought to be done here.

The so-called "peddler" cases, *Machine Co.* v. *Gage*, 100 U.S. 676, and *Emert* v. *Missouri*, 156 U.S. 296, do not apply, because the license here involved is one for dealing at wholesale in soft drinks, and under the decisions of the Court of Appeals of Kentucky and the statutes of that State, the plaintiffs in error are not engaged in a peddling business. (*City of Newport* v. *French Brothers Bauer Co.*, 169 Kentucky, 174, 183 S. W. Rep. 532, 536, 537.) Moreover, the business there carried on was purely intrastate, as an examination of the two cases will show. (See

Watters v. *Michigan,* 248 U.S. 65; *Crenshaw* v. *Arkansas, supra.*)

Mr. E. A. Stricklett for defendant in error.

Mr. Justice Pitney delivered the opinion of the court.

This was an action brought by plaintiffs in error in a State court of Kentucky against the city of Covington, a municipal corporation of that State, to recover license fees theretofore paid by them under certain ordinances of the city for the conduct of their business in Covington, and to enjoin the enforcement against them of a later ordinance calling for further like payments. The several ordinances, each in its turn, required all persons carrying on certain specified businesses in the city to take out licenses and pay license fees; among others, the business of wholesale dealer in what are known as soft drinks. Plaintiffs were and are manufacturers of such drinks, having their factory and bottling works in the city of Cincinnati, in the State of Ohio, on the opposite side of the Ohio River from Covington. They have carried on and do carry on the business of selling in Covington soft drinks, the product of their manufacture, in the following manner: They have a list of retail dealers in Covington to whom they have been and are in the habit of making sales; two or three times a week a wagon or other vehicle owned by plaintiffs is loaded at the factory in Cincinnati and sent across the river to Covington, and calls upon the retail dealers mentioned, many of whom have been for years on plaintiffs' list and have purchased their goods under a general understanding that plaintiffs' vehicle would call occasionally and furnish them with such soft drinks as they might need or desire to purchase from plaintiffs; when a customer's place of business is reached by the vehicle the driver goes into the storeroom and either asks or looks to see what amount of drinks is needed or wanted; he then goes out to the vehicle and brings from it the necessary quantity, which he carries into the store and delivers to the customer; upon his trips to Covington he always carries sufficient drinks to meet the probable demands of the customers, based on past experience; but, with the exception of occasional small amounts carried for delivery in response to particular orders previously received at plaintiffs' place of business in Cincinnati, all sales in Covington are made from the vehicle by the driver in the manner mentioned.

Sometimes the driver succeeds in selling there the entire supply thus carried upon the wagon, sometimes only a part thereof; or he may return after having made but a few sales, or none at all, in which event he carries the unsold supply back to plaintiffs' place of business in Cincinnati. The soft drinks in question are delivered in stopped bottles or siphons, according to their nature, and these are placed (at the bottling works) in separate wooden or metal cases, each case being open at the top and holding a certain number of bottles or siphons according to the nature of the drinks and the custom of the trade; the filled bottles or siphons are carried upon the vehicle, sold, and delivered in these cases, each case remaining entire and unbroken, and nothing less than a case being sold or delivered. The retail dealers usually pay cash, and purchase only the contents of the bottles, while the bottles and cases remain the property of plaintiffs and are subsequently collected, when empty, by plaintiffs' drivers or agents on their regular visits; there are, however, a few customers who pay for and thereafter own the bottles in which distilled water is delivered. The ordinances were and are respectively applicable to all wholesaler dealers in such soft drinks in Covington, whether the goods were or are manufactured within or without the State.

The trial court and, on appeal, the Court of Appeals of Kentucky gave judgment for defendant, overruling the contention of plaintiffs that the ordinances as carried into effect against them were repugnant to the "commerce clause" (art. I, sec. 8) of the Constitution of the United States, 177 Kentucky, 385; and upon this Federal question the case is brought here by writ of error.

It is important to observe the precise point that we have to determine. It is indisputable that with respect to the goods occasionally carried upon plaintiffs' wagon from one State to the other in response to orders previously received at their place of business in Cincinnati, plaintiffs are engaged in interstate commerce, not subject to the licensing power of the Kentucky municipality.

The court of appeals in the present case, in line with its previous decisions in *City of Newport* v. *Wagner,* 168 Kentucky, 641, 646, and *City of Newport* v. *French Brothers Bauer Co.,* 169 Kentucky, 174, recognizing the authority of the decisions of this court bearing upon the subject, conceded that this part of plaintiffs' business was not subject to State regulation (177 Kentucky, 388). At the same time the court held that with respect to the remaining and principal part of the business conducted in Covington, that which consists in carrying a supply of goods from place to place upon wagons, exposing them for sale, soliciting, and negotiating sales, and immediately delivering the goods sold, plaintiffs were subject to the licensing ordinances; and it is with this alone that we have to deal. If, with respect to this portion of their business, plaintiffs may be subjected to the regulatory power of the State acting through the municipality, we are not concerned with the question whether the general language of the ordinances, if applied with respect to some other method of dealing with goods brought from State to State, might be repugnant to the Federal Constitution.

From the facts recited it is evident that, in essence, that part of plaintiffs' business which is subjected to regulation is the business of itinerant vender or peddler; a traveling from place to place within the State selling goods that are carried about with the seller for the purpose. Plaintiffs in error insist that this view of the matter is untenable because the courts of Kentucky have held that sales made to a retail merchant for resale do not constitute peddling within the meaning of the statutes of that State. (*Standard Oil Co.* v. *Commonwealth,* 107 Kentucky, 606, 609; *City of Newport* v. *French Brothers Bauer Co.,* 169 Kentucky, 174, 185.)

These decisions, however, deal merely with a question of statutory definition; and it hardly is necessary to repeat that when this court is called upon to test a State tax by the provisions of the Constitution of the United States, our decision must depend not upon the form of the taxing scheme, or any characterization of it adopted by the courts of the State, but rather upon the practical operation and effect of the tax as applied and enforced. The State court could not render valid by misdescribing it, a tax law which in substance and effect was repugnant to the Federal Constitution; neither can it render unconstitutional a tax, that in its actual effect violates no constitutional provision, by inaccurately defining it. (*St. Louis Southwestern Ry. Co.* v. *Arkansas,* 235 U.S. 350, 362.)

We have, then, a State tax upon the business of an itinerant vender of goods as carried on within the State, a tax applicable alike to all such dealers, irrespective of where their goods are manufactured, and without discrimination against goods manufactured in other States. It is settled by repeated decisions of this court that a license regulation or tax of this nature, imposed by a State with respect to the making of such sales of goods within its borders, is not to be deemed a regulation of or direct burden upon interstate commerce, although enforced impartially with respect to goods manufactured without as well as within the State, and does not conflict with the "commerce clause." (*Woodruff* v. *Parham,* 8 Wall, 123, 140; *Machine Co.* v. *Gage,* 100 U.S. 676; *Emert* v. *Missouri,* 156 U.S. 296; *Baccus* v. *Louisiana,* 232 U.S. 334.)

The peddler's license tax considered in *Welton* v. *Missouri,* 91 U.S. 275, was denounced only because it amounted to a discrimination against the products of other States, and therefore to an interference with commerce among the States. To the same effect, *Walling* v. *Michigan,* 116 U.S. 446, 454.

Of course the transportation of plaintiff's goods across the State line is of itself interstate commerce; but it is not this that is taxed by the city of Covington, nor is such commerce a part of the business that is taxed, or anything more than a preparation for it. So far as the itinerant vending is concerned, the goods might just as well have been manufactured within the State of Kentucky; to the extent that plaintiffs dispose of their goods in that kind of sales, they make them the subject of local commerce; and this being so, they can claim no immunity from local regulation, whether the goods remain in original packages or not.

The distinction between State regulation of peddlers and the attempt to impose like regulations upon drummers who solicit sales of goods that are to be thereafter transported in interstate commerce, has always been recognized. In *Robbins* v. *Shelby County Taxing District,* 120 U.S. 489, Mr. Justice Bradley, who spoke for the court, said (p. 497): "When goods are sent from one State to another for sale, or, in consequence of a sale, they become part of its general property, and amenable to its laws; provided that no discrimination be made against them as goods from another State, and that they be not taxed by reason of being brought from another State, but only taxed in the usual way as other goods are. (*Brown* v. *Houston,* 114 U.S. 622; *Machine Co.* v. *Gage,* 100 U.S. 676.) But to tax the sale of such goods, or the offer to sell them, before they are brought into the State, is a very different thing, and seems to us clearly a tax on interstate commerce." See also, *Crenshaw* v. *Arkansas,* 227 U.S. 389, 399–400, where the distinction was clearly set forth. And in all the "drummer cases" the fact has appeared that there was no selling from a stock of goods carried for the purpose, but only a solicitation of sales, with or without the exhibition of samples; the goods sold to be thereafter transported from without the State. (*Rogers* v. *Arkansas,* 227 U.S. 401, 408; *Brennan* v. *Titusville,* 153 U.S. 289; *Caldwell* v. *North Carolina,* 187 U.S. 622; *Rearick* v. *Pennsylvania,* 203 U.S. 507, 510; *Dozier* v. *Alabama,* 218 U.S. 124; *Browning* v. *Waycross,* 233 U.S. 16; *Western Oil Refining Co.* v. *Lipscomb,* 244 U.S. 346; *Cheney Bros. Co.* v. *Massachusetts,* 246 U.S. 147, 153.)

Judgment affirmed.

No. 62. *Gilligan* v. *City of Covington.* By stipulation of counsel this case was heard with No. 61, and it is agreed that a similar judgment is to be entered.

Judgment affirmed.

Mr. Justice McKenna and Mr. Justice Holmes dissent.

Excerpt From 117 Atlantic Reporter

[7,8] It should be further noted that the Pennsylvania legislation does not prevent the shipping into, or sale of the Jell-O product within, this Commonwealth. Indeed, the product is freely sold for home use throughout the State. If the ingredients alone had been held for sale after shipment in interstate commerce the situation would be entirely different. However, the addition of egg yolks, water and pie crust makes a completely different and new product. The

Jell-O filling thus loses its interstate characteristic and becomes entirely intrastate in every respect.

Statement by Senator Ervin

The performance of a legitimate stage play in a theater located within the boundaries of a State is a State affiair not subject to regulation by Congress under the interstate commerce clause, even though the players participating in the play may have come into the State from another State. (11 Am. Jur. Commerce, sec. 88; 15 C.J.S. Commerce, sec. 32; *United States* v. *Shubert*, 348 U.S. 222; *Hart* v. *B. F. Keith Vaudeville Exchange*, 262 U.S. 271; *Southern Pacific Company* v. *State of Arizona*, 249 U.S. 472; *Newgen* v. *Associated Chautanqua Co.*, 70 F. 2d 605; *Hart* v. *B. F. Keith Vaudeville Exchange*, 12 F. (2d) 341, 47 A.L.R. 775; *Pappas* v. *American Guild of Variety Artists*, 125 F. Supp. 343; *San Carlo Opera* v. *Conley*, 72 F. Supp. 825; *United States* v. *Interstate Circuit*, 20 F. Supp. 868; *People* v. *Newman*, 180 N.Y.S. 892, 109 Misc. 622.)

Southern Pacific Company *v.* State of Arizona

(Error to the Supreme Court of the State of Arizona, No. 238, submitted March 13, 1919, decided April 14, 1919)

Whether a shipment was at a given time interstate is a question of fact (p. 477).

Evidence held insufficient to prove that a traveling show was moving interstate, at the time of proceedings before a State commission, to require transportation within the State and fix the rate. (Id.)

The mere intention to continue the tour of a traveling show beyond the State where it was performing, held not enough to give interstate character to a contemplated journey within the State. (Id.)

A claim of Federal right which was not set up in the State court and made in the assignments of error held not open in this court (p. 478).

Semble, that when required by a State commission to transport a traveling show at a rate which is not objected to and upon terms the same as it has habitually and voluntarily agreed to in like cases, a railroad company has no ground to complain that it is thus deprived of its liberty to make or refuse a contract as a private carrier, in violation of the equal protection and due process clauses of the 14th amendment (p. 478).

Affirmed: 19 Arizona, 20.

The case is stated in the opinion.

Mr. C. W. Durbrow, Mr. Henley C. Booth, and Mr. William F. Herrin for plaintiff in error, in support of the contention that the movement was interstate, cited *South Covington Ry. Co.* v. *Covington*, 235 U.S. 537, 545; *United States* v. *Union Stock Yards of Chicago*, 226 U.S. 266, 304; *Missouri, Kansas & Texas Ry. Co.* v. *Texas*, 245 U.S. 484; *Western Oil Refining Co.* v. *Lipscomb*, 244 U.S. 346, 348.

In support of the contention that the right of private contract was invaded, in violation of the 14th amendment—*Chicago, Rock Island & Pacific Ry. Co.* v. *Maucher*, 248 U.S. 359; *Santa Fe, Prescott & Phoenix Ry. Co.* v. *Grant Brothers Construction Co.*, 228 U.S. 177; *Baltimore & Ohio S. W. Ry. Co.* v. *Voigt*, 176 U.S. 498; *Wilson* v. *Atlantic Coast Line*, 129 Fed. Rep. 774; affd. 133 Fed. Rep. 1022; *Chicago, Milwaukee & St. Paul Ry. Co.* v. *Wallace*, 66 Fed. Rep. 506; *Cluff* v. *Grand Trunk Western Ry. Co.*, 155 Fed. Rep. 81; 1 Hutchinson on Carriers, 3d ed., § 88; Moore on Carriers, § 38, pp. 79, 80.

It is not necessary in order to render an order or a statute obnoxious to the Federal Constitution that it in terms or in effect authorize the actual physical taking of the property or the thing itself, so long as it affects its free use and enjoyment or the power of disposition at the will of the owner. *Forster* v. *Scott*, 136 N.Y. 577; *Monongahela Navigation Co.* v. *United States*, 148 U.S. 336.

Mr. Wiley E. Jones, attorney general of the State of Arizona, for defendant in error.

Mr. Justice Clarke delivered the opinion of the Court.

An agent for Campbell's United Shows applied to the Southern Pacific Co. to transport 18 cars, carrying a carnival show equipment, including employees and animals, from Tucson via Maricopa, to Phoenix, Ariz.

In reply to this application the company gave two reasons for refusing the request. The first of these was that the company had contracted for the transportation of another show, under an agreement not to carry a second one within 30 days, which had not expired; and the second, that the company was not a common carrier of shows and would not make the customary contract with Campbell. but would serve him only at certain published interestate rates, which it regarded as applicable. These were many times greater than had been charged for the same show and than had been the customary charge by the Southern Pacific and other companies for similar service.

Upon receiving this refusal, an application by the owner of the shows to the Arizona Corporation Commission for relief, resulted in an order to the Southern Pacific Co. and the Arizona Eastern Railroad Co., operating a connecting line, to show cause why they should not publish, on 1 day's notice, a special rate, designated in the order of the commission, for the transportation of the shows between the points named. The reasonableness of the required rate is not contested, and the order permitted the Southern Pacific Co. to make the special terms for transportation of the shows which had been customary with it in like cases.

The company refused to obey the order and the commission issued to it a second rule to show cause why it should not be punished for contempt for such disobedience. On this second rule a hearing was had, and the company was adjudged in contempt and fined $1,500, which it refused to pay.

Thereupon the State of Arizona instituted this suit in a superior court of that State to recover the amount of the fine.

In its answer to the complaint of the State, the Southern Pacific Co. alleged that the proposed movement of the shows was "interstate in character" because they were engaged in a tour, beginning at the city of El Paso, Tex., and designed to extend through the State of Arizona and New Mexico into the State of California, of which tour the movement from Tucson to Phoenix was a part; that in its necessary operation the order would require the company to accept a rate lower than its published interstate rate and would be a direct burden upon interstate commerce; and that, for these reasons, the order for the transportation was in contravention of the provisions of articles I, section 8, of the Constitution of the United States, and the fine for contempt was unlawfully imposed and void.

The judgment of the superior court was in favor of the State, the company appealed to the Supreme Court of Arizona, which affirmed the judgment, and the case is here on writ of error.

The only claim of error argued in this court which is properly presented by the record is: Whether the persons and property which the Commission ordered the railroad company to carry were in interstate transportation when the order was made for the service between two stations in Arizona. If the shipment was then in interstate commerce the order was void, and if it was not the order was valid and the judgment of the Supreme Court of Arizona must be affirmed.

The evidence which was before the courts and the Commission was as follows:

Early in February 1914, an agent for the shows applied to the Southern Pacific Co. for their transportation from El Paso, Tex., to various towns in Arizona where it was desired to exhibit, and ultimately to Cochise, Ariz., from which point another line would be taken into Tucson. Nothing came of this application and an arrangement was made for carriage to Tucson by another road. Before the shows arrived at Tucson the application out of which this suit arose was made. The agent for the shows testified that the tentative purpose of the management was to go from Tucson to Prescott, to Clarkdale, to Kingman, all in Arizona, and then to Needles, Calif., exhibiting in each town, but when testifying on March 28, when his show was exhibiting in Tucson, he said that although he had made application to the Santa Fe Railroad Co. for a contract for transportation beyond Phoenix, he had not at that time received a reply.

The agent for the Santa Fe Co. at Phoenix testified that about March 20 an application was made to him for a rate and contract for the transportation of the shows over his line from Phoenix to Prescott, "possibly to Clarkdale and to Needles, Calif."

Two contracts with the Santa Fe Co. were introduced in evidence, one dated April 3, providing for the transportation of the shows from Phoenix to Prescott, to Kingman and to Needles, and the other dated April 16, providing for transportation from Prescott directly to Bakersfield, Calif.

The shows were actually carried by the Southern Pacific Co. on March 29 or 30 from Tucson to Phoenix but at an interstate rate insisted upon in defiance of the commission's order. At Phoenix the transportation ended so far as the Southern Pacific Co. was concerned, and the contract with the Santa Fe Co. to carry the shows beyond that city was not concluded, as we have seen, until April 3—in its modification form not until April 16.

This statement of the case decides it. Whether a shipment was at a given time in interstate commerce is a question of fact, *Railroad Commission of Ohio* v. *Worthington*, 225 U.S. 101, 108; and it is plainly impossible to say that the property and persons constituting the shipment of the shows here involved were in progress of interstate transportation when the Arizona commission entered its order on March 25 that the company should accept the intrastate shipment from Tucson to Phoenix. For at that time the shows were in the exclusive possession and control of the owner, exhibiting for 6 days at Tucson, and the application to the Southern Pacific Co., which was refused, shows, incontrovertibly that the transportation to Tucson had terminated, and that no other transportation had then been contracted for. The company itself proved that interstate transportation was not subsequently arranged for until April 3 certainly—and probably not until April 16—and then was via another line from Phoenix, after 2 weeks for exhibition in that city.

The mere intention of the shipper to ultimately continue his tour beyond the State of Arizona did not convert the contemplated intrastate movement into one that was interstate. The case is ruled by *Coe* v. *Errol*, 116 U.S. 517; *Chicago, Milwaukee & St. Paul Ry. Co.* v. *Iowa*, 233 U.S. 334; *Gulf, Colorado & Santa Fe R.R. Co.* v. *Texas*, 204 U.S. 403; *Arkadelphia Milling Co.* v. *St. Louis Southwestern Ry Co.*, *ante*, 134.

It is further argued by the plaintiff in error that the order of the State commission deprived it of its right to make or refuse to make a contract as a private carrier for the transportation of traveling shows, and thereby deprived it of the equal protection of the laws and of its property without due process of law.

It would be enough to say of this contention that no such claim was asserted in the answer of the company in the State court, or even in the assignments of error in this court, and that, therefore, it cannot be considered here. But this omission is not an oversight, for the record shows that it had been the prior practice of the plaintiff in error to transport such shows on application under special contract—a short time before it had transported another show and the year before it had accepted these same shows for transportation—and that the order of the commission was: "It is understood * * * that the * * * company may enter into a contract covering this transportation, the terms of which shall not be in substantial variance with the contract now existing between the Arizona Eastern Railroad Co. and Sells-Floto Shows Co., with respect to details, as to responsibility, service, and conditions," which contract was on file with the commission, and was dated March 4, 1914. This form of contract was one also used by the Southern Pacific Co.

Thus this second claim, obviously an afterthought, is so clearly without merit that it cannot be considered, and the judgment of the Supreme Court of Arizona is affirmed.

Statement by Senator Ervin

The presentation of a motion picture film in a theater located within the boundaries of a State is a State affair not subject to regulation by Congress under the interstate commerce clause, even though the film may have been shipped into the State from another State 15 C.J.S. Commerce, (sec. 32; *Mutual Film Corporation* v. *Kansas*, 236 U.S. 248; *Mutual Film Corporation* v. *Ohio Industrial Commission*, 236 U.S. 230; *United States* v. *Crescent Amusement Co.*, 323 U.S. 173; *Tad Screen Advertising* v. *Oklahoma Tax Commission*, 126 F. 2d 544.

An athletic exhibition, such as boxing, baseball, and the like, within the boundaries of a State is a State affair not subject to regulation by Congress under the interstate commerce clause, even though the persons participating in the exhibition may have come into the State from another State. (11 Am. Jur., Commerce, sec. 88; 15 C.J.S., Commerce, sec. 32; *United States* v. *International Boxing Club*, 348 U.S. 236; *Toolson* v. *New York Yankees*, 346 U.S. 356, 98 L. Ed. 64; *Federal Baseball Club* v. *National League*, 259 U.S. 200, 66 L. Ed. 898, 26 A.L.R. 898; *Kowaesic* v. *Chandler*, 202 F. 2d 413, affirmed at 346 U.S. 356, 98 L. Ed. 64; *Livingston* v. *Shreveport-Texas League*, 128 F. Supp. 191, affirmed 228 F. (2d) 623; *Metropolitan Casualty Co.* v. *Huhn*, 165 Ga. 667, 142 S.E. 142, 59 A.L.R. 719; *People* v. *Levy*, 128 N.Y.S. 2d 275, 283 App. Div. 383.)

Metropolitan Casualty Insurance Company of New York *v.* Huhn, 165 Ga. 667, 142 S.E. 142, 59 A.L.R. 719

5. Another contention of the plaintiffs in error is that there can be no recovery in this case by the claimant under the Compensation Act and amendments thereto, because that act and its amendments are void and of no force and effect, in that the act interferes with and attempts to regulate interstate commerce, and is a burden on interstate commerce insofar as this particular case is concerned. We do not think the contention is sound. In the case of *Federal Baseball Club* v. *National League*, 259 U.S. 200, 42 S. Ct. 465, 66 L. Ed. 898, 26 A.L.R. 357, it was said by the Supreme Court of the United States:

"The business is giving exhibitions of baseball, which are purely State affairs. It is true that, in order to attain for these exhibitions the great popularity that they have achieved, competitions must be arranged between clubs from different cities and States. But the fact that in order to give the exhibitions the leagues must induce free persons to cross State lines and must arrange and pay for their doing so is not enough to change the character of the business. According to the distinction insisted upon in *Hooper* v. *California*, 155 U.S. 648, 655 (15 S. Ct. 207, 39 L. Ed. 297), the transport is a mere incident, not the essential thing. That to which it is incident, the exhibition, although made for money would not be called trade or commerce in the commonly accepted use of those words. As it is put by the defendants, personal effort, not related to production, is not a subject of commerce. That which in its consummation is not commerce does not become commerce among the States because the transportation that we have mentioned takes place."

Mr. ERVIN. Mr. President, on these four amendments, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is an agreeing, en bloc, to the amendments offered by the Senator from North Carolina [Mr. Ervin]. The yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN. On this vote I have a pair with the Senator from Texas [Mr. Tower]. If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Virginia [Mr. Robertson], and the Senator from Florida [Mr. Smathers] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

On this vote, the Senator from Florida [Mr. Smathers] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Florida would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from Massachusetts [Mr. Kennedy]. If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Massachusetts would vote "nay."

I further announce that, if present and voting, the Senator from Virginia [Mr. Robertson] would vote "yea."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

The Senator from Kentucky [Mr. Cooper] is detained on official business, and, if present and voting, would vote "nay."

The pair of the Senator from Texas [Mr. Tower] has been previously announced.

The result was announced—yeas 22, nays 66, as follows:

[No. 382 Leg.]

YEAS—22

Bennett
Byrd, Va.
Byrd, W. Va.
Cotton
Eastland
Ellender
Ervin
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Russell
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—66

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Hart
Hartke
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—11

Cooper
Dirksen
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Robertson
Smathers
Tower

So Mr. Ervin's amendments Nos. 789, 790, 794, and 795 were rejected.

Mr. HUMPHREY. Mr. President, I move that the Senate reconsider the vote by which the amendments were rejected.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment in the nature of a substitute is open to further amendment.

Mr. STENNIS. Mr. President, I yield myself 3 minutes. I should like to have the attention of the membership.

I wish to make the point again that Title II of the bill flies directly into the teeth of the plain holding of the decision of the Supreme Court of the United States in 1883, which from that date until now has been the settled law of the land. It was affirmed to this extent as late as 1959, when the precise question as to whether Congress had constitutional authority to pass such a law was decided by the circuit court of appeals in the Howard Johnson case. That court held that Congress did not have such power. That decision was not appealed to the Supreme Court; and it is as much the law on that subject as is the older one.

I have previously called on the proponents of this measure to give a basis for such action by Congress. With great deference to them, I submit that they have not yet cited any decisions of sufficient logic, statute, standing, and legal merit to overcome the 1883 decision of the Supreme Court of the United States.

To sustain my position, I refer to the testimony of the Attorney General of the United States, the chief architect of this entire bill, when he spoke on July 1, 1953, before the Senate Committee on Commerce.

Mr. President, may I have the attention, please, of Senators, and have quiet on the part of those who are attachés of the Senate?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Mississippi may proceed.

Mr. STENNIS. The Attorney General said:

> We recognize that in 1883 the Supreme Court held in the civil rights cases (109 U.S. 3), Congress did not have power under the 14th amendment to prohibit discrimination in privately-owned places of public accommodation, and that Congress' power under that amendment is only over discrimination accomplished by the action of a State.

Those are the words of the Attorney General, not mine. He also said:

> However, the 1883 decision has not been overruled and remains the law of the land. It is for this reason that we rely primarily on the commerce clause.

That was what the Attorney General said with reference to the 14th amendment.

He said, further:

> I happen to feel that if this law were predicated on the 14th amendment, it would be declared constitutional by the Supreme Court.

I do not see how the Attorney General can explain those two inconsistent statements.

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired.

Mr. STENNIS. I yield myself 2 more minutes.

I thought I should quote both statements of the Attorney General. He said, further:

> But I would say that there are many of my colleagues in the Department of Justice, and others, who have a very, very serious question about it.
>
> For instance, the Solicitor General feels that it makes far, far more sense to base this on the commerce clause than on the 14th amendment. There are others who feel the same way.

We are asked to act upon a matter that the Attorney General of the United States says he has the gravest doubt about. He states, in effect, that the Solicitor General of the United States has more doubt than he does. I shall come to the commerce clause in just a moment.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. STENNIS. I yield to the Senator on his time.

The PRESIDING OFFICER (Mr. EDMONDSON in the chair). Without objection, it is so ordered.

Mr. LAUSCHE. As the Senator from Mississippi read the RECORD, is it not clear that the Attorney General has said that with the change in the times and the change in the personnel of the Supreme Court, probably they will now change their interpretation of the 14th amendment?

Mr. STENNIS. Yes. I think that is the substance of what he said. That is what I was coming to. We are told it is a matter of looking to a change in the personnel of the Court. Just think of that, Mr. President.

We are asked to base serious legislation on a supposition of the Attorney General of the United States that with a change in the personnel of the Supreme Court and a change of the times, the holding will change.

Mr. ERVIN. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 1 minute.

Mr. ERVIN. Does not the Senator from Mississippi fear that the statement of the Attorney General on that point reflects a lack of confidence in the intellectual integrity and judicial ability of the Supreme Court as it is now constituted?

Mr. STENNIS. Mr. President, I would not think of having said a thing like that about the Supreme Court of the United States, or any individual on it.

I point further to the wobbling nature of the entire matter. And the bill must be based on something in the Constitution. The July 19, 1963, issue of Life magazine commented in this way, in an editorial:

> Attorney General Robert Kennedy has contributed to the constitutional uncertainty by giving an unsatisfactory explanation of the legal basis on which we seek to outlaw racial discrimination in places catering to the public.

Mr. President, those are the words of Life magazine, not mine.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, may I have 2 additional minutes?

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 2 additional minutes.

Mr. STENNIS. I have excerpts here. In an actual case in 1883, the Supreme Court said:

> And so in the present case, until some State law has been passed, where some State action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the 14th amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity.

That is very plain and clear, and no one denies what the Court held.

Here is what the Court said there about the interstate commerce part:

> Has Congress constitutional power to make such a law? Of course, no one will contend that the power to pass it was contained in the Constitution before the adoption of the last three amendments.

That refers, of course, to the post-Civil War amendments, including the 14th amendment, and excluding the commerce clause, which, of course, was in the original Constitution.

I do not have time to refer to all of the quotation.

I have here, also, the Howard Johnson case. I challenge, in all seriousness, the proponents of this measure to show logic, reasoning, and authority for passing title II. I do that with great respect for them.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. STENNIS. I yield on the time of the Senator.

Mr. DOUGLAS. Yes. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. DOUGLAS. Mr. President, it is always unpleasant to differ with my good friend from Mississippi, who is one of the finest Members of this body, and who is always a perfect and considerate gentleman in his personal relations. But I would like to remind the Senator that constitutional law is not a static science. It is instead an evolutionary and evolving science. And many provisions and interpretations of law which originally were declared unconstitutional by the Court have in the process of time been declared constitutional.

It is perfectly true that in 1883 the Supreme Court declared the Civil Rights Act of 1875—which was really the Public Accommodations Act of that day—to be unconstitutional. It is true that the Court did this by a vote of 8 to 1. But the dissent in that case by Justice Harlan, a former slaveowner, is, in my judgment, one of the greatest opinions of all time. In his dissent Justice Harlan declared that the Constitution was colorblind.

And I would remind my good friend that in 1896 the Supreme Court, in the case of Plessy against Ferguson, also declared that segregation was constitutional provided the accommodations were equal, which of course they never were, but that is when the separate but equal doctrine was approved by the Supreme Court. In this case, Justice Harlan was again the sole dissenter. But after 58 years, the Supreme Court, in the Topeka against Brown case, by a unanimous opinion reversed the opinion in Plessy against Ferguson. Thus, the lone minority opinion of 1896 became the unanimous view of 1954.

That the Constitution is colorblind became the unanimous opinions of the Court because the conscience of the country was touched. The national conscience came to believe in the equal protection of the laws, and that a State should carry out the 14th amendment and should not deprive citizens—and the Negroes are citizens—of the equal protection of the laws.

I personally believe that just as the Supreme Court in the Brown case reversed Plessy against Ferguson, another Supreme Court taking a look at the facts and the realities would reverse the 1883 decision in the civil rights cases. Constitutional law is not something which is fixed, like the laws of the Medes and Persians. It depends instead upon the interpretation of informed opinion from generation to generation. It is not a straitjacket. It permits the law to adapt itself to the changing conditions and the changing conscience of our time. I hope my good friend from Mississippi and his associates will not try to put us in the straitjacket of 1883.

Let me say simply in conclusion that this section is based not merely on the 14th amendment, but, as he said, also on the commerce clause. Congress was given the power to regulate commerce between the several States and among the Indian tribes. And in the process of time, particularly in the last 25 years, the commerce clause has been broadened. Thirty years ago, it referred primarily to goods which moved across State lines in transportation. But it was broadened, and, I believe, broadened in accordance with the 18th century meaning of the word "commerce" at the time the Constitution was adopted; namely, economic activity. So that activities "affecting commerce" will moreover actually affect the actual movement of the commodities as well.

Why not pass this law and let the Supreme Court make the decision as to whether or not it is constitutional? We are not constitutional lawyers. My good friend from Mississippi is indeed a good lawyer, and a very fine gentleman. But why not let the Supreme Court decide whether it is constitutional under the 14th amendment or under the commerce clause? We are not overruling the Court. We are giving the Court the opportunity to reverse itself in accordance with changing views of the very meaning of the 14th amendment and of the commerce clause. We are also giving the Court the chance to distinguish between the text of the 1875 act and the circumstances under which its constitutionality was argued as compared with the language of the present bill and its attendant legal setting.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. STENNIS. I thank the Senator for his enumeration of the change in the Supreme Court cases. Those were accidentally put there. The Court overruled itself in one case. The Court overruled itself in another case. In the last 2 years, we have had from the Court decisions that we did not like. But the Senator did not tell us to get a law passed to overrule the Supreme Court. The Senator would not let us do it that way. I think the position of the Senator then was correct—that we cannot overrule a decision of the Supreme Court. Of course we cannot. But that is exactly what they are trying to do here. They are trying to overrule the Supreme Court of the United States.

Now, on my time, may I refer——

Mr. DOUGLAS. Surely.

Mr. STENNIS. I wish to refer to what the Senator said about the commerce clause.

Mr. President, in the case of a small cafe on a side street in a small town anywhere in the United States—a cafe which will not have more than five customers, if any, a year who are traveling from one State to another—we are still saying it is engaged in interstate commerce.

Why should that be? It is ridiculous and absurd to try to approach the question in that way and to go that far.

On the next page of the bill we see reference to the provision that often is called the Mrs. Murphy's Boarding House provision. If there were on the same side of the street a little boarding house containing five beds or less, it would not be said to be operating in interstate commerce.

How can the bill be so inconsistent? The inconsistency shows that the proponents of the bill have nothing to stand on, so far as the commerce clause of the Constitution is concerned.

Mr. President, I renew the challenge: I ask Senators to point out in the Constitution any substantial language upon which that title could be based.

Mr. DOUGLAS. Mr. President, it is always dangerous to trade legal opinions with the Senator from Mississippi, particularly when one is not himself a lawyer. I should like to point out that restaurants, hotels and motels generally operate under license from municipalities, which in turn are creatures of the State. Therefore, they are in a sense State agents. The 14th amendment protects individuals against acts of the States, and therefore the 14th amendment can protect individuals against acts of licensees of the States. So that even if an interpretation of interstate commerce is farfetched—and I do not grant necessarily that it is because we have similar problems in relation to minimum wages and other features of the Fair Labor Standards Act—in my judgment, there is ample protection to include businesses which are licensed by the State or by subdivisions of the State, and are therefore subject to the 14th amendment. Licenses to innkeepers and to other places of accommodation have historically under the common law generally carried with them the obligation to serve the wayfarers and not to turn the well behaved away from their doors.

Mr. MAGNUSON. Mr. President, I yield myself 3 minutes, or such time as I may need.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. MAGNUSON. The Senate Committee on Commerce was deeply concerned about the legal questions involved in title II. Because of that concern, the committee held lengthy hearings. We devoted our attention not only to the practical application of title II, but also to the legal application. We heard scores of witnesses, from all walks of legal life. We heard practicing attorneys, deans of law schools, and even those who merely write legal tomes, and who may not be lawyers. Questions relative to the 1883 cases always came into the discussion.

The overwhelming opinion of some of the finest legal minds in our country was that title II was clearly constitutional under the commerce clause of the Constitution.

Some days ago, in making a speech of some length in the Senate on title II of the bill, I took great pains to have printed in the RECORD not only the opinions of the authorities who believe the proposal to be constitutional, but also the opinions of those who may have had some doubt.

Mr. President, we have discussed the question over and over, for hours and weeks.

Mr. STENNIS. Mr. President at this point, will the Senator yield?

Mr. MAGNUSON. First, I should like to finish my statement.

In the committee, the question was not whether we had such authority under the commerce clause, or whether the Supreme Court of the United States had gone too far in stretching the authority, if some wish to put it in that way, under the commerce clause. The only question we had to decide was how far we wanted to use the commerce clause, as a matter of public policy, for purposes of the bill.

We did not say that facilities such as the so-called "Mrs. Murphy's boarding houses" were not operating in interstate commerce. If one reads the Supreme Court decisions, it seems clear that the house of "Mrs. Murphy" would be operating in interstate commerce. We merely said that for purposes of the bill, "Mrs. Murphy" boarding houses were not included. No one contended that such boarding houses do not operate in interstate commerce.

The Court has gone a long way. The most extreme case, which is always cited, is the case of the farmer who raised wheat on his own farm and used it for feed.

The Supreme Court held that he was operating in interstate commerce because he affected the economy of the wheat market all over the country. Perhaps some of us would say that decision goes too far.

But I believe it is an exercise in legal futility to suggest that the commerce clause of the Constitution, as interpreted up to the present time by the Supreme Court, would not include all the facilities covered by title II. Our only job was to say, as a matter of public policy, how far we wanted to go, within the authority of the commerce clause, for purposes of the bill. That is all there is to it.

Mr. STENNIS. Mr. President, will the Senator yield to me for a question?

Mr. MAGNUSON. I yield to the Senator on my time.

Mr. STENNIS. I thank the Senator. The Senator has discussed the eminent authorities whose testimony was heard by the committee of which he is chairman. He has reviewed that testimony, and has put into the RECORD a reference to it. Did the Senator name the judge who wrote that 1959 decision? Did the Senator refer to the circuit court of appeals that unanimously affirmed the 1883 decisions to which I referred? If the Senator did not cite those cases, why did not he do so?

Mr. MAGNUSON. I shall get them, and shall insert them in the RECORD tomorrow. In the hearings, I believe the witnesses cited every case of this sort that has ever been dealt with in the entire history of the Supreme Court and the circuit court of appeals. Cases from Mississippi were cited.

Mr. STENNIS. If the Senator wishes to discuss the decisions, I invite him to discuss the decisions of the Court in the 1883 cases, in which the Court unanimously held what I contend is the law of the land. I am told that the present Supreme Court will hold the other way and will be more moderate. That statement may be correct.

Mr. MAGNUSON. If that case is decided on the basis of the 14th amendment, that will be one thing. I am talking about the commerce clause of the Constitution. I cannot yield for a long legal argument. Obviously we do not have the time. We put into the RECORD every possible case we could find in the books on the question, and we discussed those cases with eminent authorities.

In all fairness to the Senator from Mississippi, I must say that some authorities that were cited might be in some agreement with what the Senator from Mississippi has said. But the overwhelming opinion of the finest legal minds that we could find in the country was that under the commerce clause the authority existed. I shall not argue whether the authority is too broad or whether the Supreme Court has gone too far. Nevertheless, those are the legal facts of life.

In title II, we limited the coverage of the bill for the purposes of title II to certain persons. We did not suggest that others were not operating in interstate commerce. We merely said that for the purposes of the bill, they were not to be included.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. STENNIS. If the Senator could give us the background of some of those eminent authorities, I would very much appreciate the information. Were there included judges or practitioners who really knew both sides of the legal questions and who, as trial lawyers, had tried such cases in court? What are the backgrounds of the men to whom the Senator referred? Any theoretician can reach a conclusion on that question, I agree. But what about the hard facts of the lawsuits tried in the country? All the decisions hold against the position of the Senator, do they not? Is that not correct?

Mr. MAGNUSON. No, it is not correct.

Mr. STENNIS. Will the Senator point out wherein it is not correct?

Mr. MAGNUSON. The Senator from Mississippi is speaking on my time. I hope he will not say the cases hold against me. I did not make these decisions. I merely point out that we took a long look, in great legal depth, into the question. Perhaps as Senators we are not as capable as we were when we were practicing lawyers. But I am still a lawyer, and I still can read law books, and still can interpret fairly well the cases that appear in the books.

I realize, as the Senator from Illinois [Mr. DOUGLAS] has said, that the question is flexible. It is not inflexible. The Constitution was never intended in relation to commerce to be inflexible, because if it was, we would have stifled and strangled the growth of commerce in the United States.

I do not believe that would have been a good thing.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield 2 minutes of my time to the Senator from Ohio. I shall not use much of it later.

Mr. LAUSCHE. Mr. President, I shall frankly express my opinion——

Mr. MANSFIELD. Mr. President, the Senator from Washington may not yield his time.

Mr. LAUSCHE. I believe that is correct.

The PRESIDING OFFICER. The Senator may not yield his time.

Mr. MAGNUSON. I tried to be gracious to the Senator.

Mr. LAUSCHE. The Senate has missed much intelligent advice. [Laughter.]

Mr. MAGNUSON. But, in closing, let me say I shall put in the RECORD, tomorrow, as I have done over and over again, the whole list of legal authorities, discussions, questions, witnesses' testimony, and everything else on this phase.

Does the Senator want to ask a legal question of the eminent legal authority from the State of Washington? [Laughter.]

Mr. ERVIN. Mr. President, I should like to, if I can do it on the Senator's time.

Mr. LAUSCHE. Was not it developed in the hearing that while the 1883 decision still stands, it was anticipated that the 1964 Court might take a different view?

Mr. MAGNUSON. Yes; that was suggested.

Mr. LAUSCHE. Second, was not it developed that what was called the "affecting interstate commerce" language in law affected interstate commerce if it had a minimal impact on interstate commerce, and that "minimal impact" meant insignificant impact?

Mr. MAGNUSON. That is correct.

Mr. LAUSCHE. And that therefore, under present law, whether we like it or do not like it, the proposal was within the interstate commerce clause?

Mr. MAGNUSON. That is correct.

Mr. LAUSCHE. Then I rebelled—and I ask the Senator if it is not a fact that I rebelled——

Mr. MAGNUSON. Do not have me rebel with the Senator. [Laughter.]

Mr. LAUSCHE. I ask the Senator——

Mr. MAGNUSON. The Senator from Ohio can ask whether the Senator from Washington would rebel with the Senator from Ohio; and then the Senator from Washington will answer the question.

Mr. LAUSCHE. I ask the Senator from Washington if it is a fact that I rebelled at the argument that "affecting interstate commerce" meant that it could have a minimal impact, and that "minimal impact" meant insignificant impact. Perhaps the Senator does not recall that.

Mr. MAGNUSON. Yes, I recall that; and I am sure the Senator from Rhode Island recalls it, because he held some of the hearings when I could not be present. I am sure that if the Senator were asked a question along these lines, he would agree that we went into this matter into depth—into all the legal depth with which it is possible for a congressional committee to go into such a matter.

Mr. LAUSCHE. May I ask the Senator a further question? Is it his understanding that it was concluded that there was a probability that, under the 14th amendment, the present Supreme Court would reverse the 1883 decisions, and that, under the decisions on the interstate commerce clause rendered within the last 30 years, it was inevitable that it would be so reversed by the Court?

Mr. MAGNUSON. That was suggested by several eminent legal authorities.

Mr. ERVIN. Mr. President, the Senator suggested he would entertain a question so as to give legal information.

Mr. MAGNUSON. No, the Senator from Washington did not suggest he would give any legal information. The Senator from Washington suggested he was giving some factual information about the extent to which the Commerce Committee went into the legal question suggested by the Senator from Mississippi.

I am not yet on the Supreme Court, and I have not made any legal opinions; but I do think the RECORD ought to show clearly that the legal opinions of every authority we could find were solicited, and they were men of eminent legal authority.

Mr. ERVIN. Mr. President, I yield myself 2 minutes.

No intellectually honest judge could hold that title II of this bill is valid under the 14th amendment. Public accommodations are run by private individuals for profit. The 14th amendment applies only to State action which denies a person the privileges and immunities of citizenship or due process or equal protection of the laws.

No intelligently honest judge could hold that the action of individuals is State action in any one of those respects. Nobody can hold that. One would have to murder the king's English, the queen's English, and everybody else's English to say that State action means individual action.

Mr. HUMPHREY. Mr. President, I yield myself 2 minutes.

The Senator from North Carolina has stated exactly why in the civil rights cases of 1883 the Supreme Court declared the Civil Rights Act of 1875 invalid—because, while it was directed at the 14th amendment, it was directed toward private actions, and not State actions.

It has been suggested that perhaps there should be modern authority to judge the validity of title II. As has been indicated, that can be decided by the Court. But in March of this year, the Senator from California [Mr. KUCHEL] and I addressed a letter to two eminent lawyers in this country, and asked for their viewpoint. They, in turn, consulted 20 of the most respected, prominent deans of law schools, jurists, and former

Attorneys General. The letter was addressed to Mr. Harrison Tweed, of New York, and Mr. Bernard G. Segal, of Philadelphia.

Mr. Tweed was chairman of the council and past president of the American Law Institute and chairman of the Joint Committee on Continuing Legal Education. Mr. Segal was president-elect of the American College of Trial Lawyers, and he has a distinguished record as a lawyer in his own right.

The lawyers who signed this communication included three former Attorneys General of the United States—Francis Biddle, Herbert Brownell, and William P. Rogers; four former presidents of the American Bar Association—David F. Maxwell, John D. Randall, Charles S. Rhyne, and Whitney North Seymour; four law school deans—Erwin N. Griswold, of Harvard; Eugene V. Rostow, of Yale; John W. Wade, of Vanderbilt; and William B. Lockhart, of Minnesota.

What did they say?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUMPHREY. I yield myself 1 additional minute.

They said:

> Reliance upon the 14th amendment is consistent with the Civil Rights Cases, 109 U.S. 3 (1883). The Civil Rights Act of 1875 was declared invalid because it was not aimed at State action but rather at individual conduct. The defect found by the Supreme Court in the 19th century legislation would seem to have been corrected by predicating title II upon discriminatory conduct supported by State action.
>
> In our considered judgment, the commerce clause and, where State action is involved, the 14th amendment, are sound constitutional bulwarks supporting the validity of title II of H.R. 7152.

There is evidence, as the Senator from Washington pointed out, that is replete. The Senator from Minnesota, not being a lawyer, but being able to read, presented to the Senate, on April 7, documentary evidence of court law, as well as what I read later on to support the constitutionality of title II.

The Civil Rights Act of 1875 and the cases of 1883 are history. They are law only in the sense that the 14th amendment does not apply to private acts, but to State acts. That is exactly what these eminent lawyers have said.

Mr. STENNIS. Mr. President, I yield myself 2 minutes on the bill.

I say to the Senator from Minnesota that we do not have a long list of individuals. The only authority we have is the Supreme Court of the United States.

The Circuit Court of Appeals for the Fifth Circuit decided, in 1959, the question on the interstate commerce clause. I read from Federal Reporter, 2d series, 268, page 848. The interstate commerce clause question was raised in the Howard Johnson case. The court said:

> In every instance the conduct condemned was that of an organization directly engaged in interstate commerce and the line of authority would be persuasive in the determination of the present controversy if it could be said that the defendant restaurant was so engaged.

The reference is to Howard Johnson's, which was on the side of the highway.

I read further:

> We think, however, that the cases cited are not applicable because we do not find that a restaurant is engaged in interstate commerce merely because in the course of its business of furnishing accommodations to the general public it serves persons who are traveling from State to State.

Could anything be clearer, firmer, sounder, or more final?

I quote further:

> As an instrument of local commerce, the restaurant is not subject to the constitutional and statutory provisions discussed above and, thus, is at liberty to deal with such persons as it may select.
>
> Our conclusion is, therefore, that the judgment of the district court must be affirmed.

In other words, they upheld the right of this restaurant to make its own selection, because it was not engaged in interstate commerce.

Mr. President, I reserve the remainder of my time.

Mr. THURMOND. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 2 minutes.

Mr. THURMOND. I am a member of the Committee on Commerce, of which the able Senator from Washington is chairman. There is no question that there are only two grounds on which title II could possibly be held constitutional.

One is the 14th amendment. In 1875, Congress passed a law almost word for word similar to the present title II, the so-called public accommodations section of the pending bill. In 1883, the Supreme Court declared it unconstitutional, and held that a man had a right to serve whom he pleased on his own private premises. That decision has never been overruled. I challenge anyone to show that it has.

I agree with the Senator from Mississippi [Mr. STENNIS] that if we pass this bill, the effect of it will be to override the decision of the Supreme Court on this particular point.

The only other ground on which it could be held constitutional would be under the commerce clause. The commerce clause is clear. The latest decision we have on this point is in the case of Williams against Howard Johnson's Restaurant, to which the Senator from Mississippi has just referred.

A Howard Johnson's restaurant in Virginia refused to serve a certain person. That person brought suit, and alleged that the restaurant refused to serve him.

Howard Johnson's is a chain restaurant.

The Fourth Circuit Court of Appeals held that the Howard Johnson's restaurant was not compelled to serve that person, unless it wished to do so, because it was operating on its own private property, although the restaurant was located beside an interstate highway which was built in part with Federal funds.

I do not know of any stronger decision. That is the latest decision. It is the decision of the Circuit Court of Appeals—which is next in importance, of course, to the U.S. Supreme Court.

So either way we go, we are blocked. If we go the way of the 14th amendment, which deals with State action, we are blocked by the decision of the highest court in the United States in the civil rights decision.

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired.

Mr. THURMOND. Mr. President, I yield myself one-half a minute.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for one-half a minute.

Mr. THURMOND. And if we go the route of the commerce clause, we are blocked by the 1959 decision in the case of Williams against Howard Johnson's restaurant.

There is another decision which was similar to that one—in the case of Elizabeth Hospital, Inc., against Richardson, which also was decided in 1959.

There, the Court held:

> The fact that some of the plaintiff's patients might travel in interstate commerce does not alter the local character of plaintiff's hospital. If the converse were true, every country store that obtains its goods from or serves customers residing outside the State would be selling in interstate commerce.

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired.

Mr. THURMOND. Mr. President, I yield myself one-half a minute.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for one-half a minute.

Mr. THURMOND. I quote further, Mr. President:

> Uniformly, the courts have held to the contrary. Uniformly—

Listen to this:

> the courts have held to the contrary.

Either way we go, we have got to overrule the highest court in the land on the theory of the 14th amendment, or the next to the highest court in the land, the circuit court of appeals, if one travels the interstate commerce route.

Mr. STENNIS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment, as amended.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. THURMOND. Mr. President, I call up my amendment No. 1036, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 15, line 7, after the comma following the word "religion", add "sex,".

Mr. THURMOND. Mr. President, on this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself one-half a minute.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for one-half a minute.

Mr. THURMOND. Mr. President, this amendment would include "sex" as one of the grounds on which a State could not discriminate by denying access to or full and complete utilization of any public facilities it owns or operates.

While Congress is attempting to eliminate alleged discrimination by a State, it should act in all States to accomplish the emancipation of women. This amendment to title III of the substitute would accomplish that end.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Maryland [Mr. Brewster], the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. Walters] would vote "yea."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from Massachusetts [Mr. Kennedy]. If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Virginia [Mr. Byrd] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Virginia would vote "yea" and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

If present and voting, the Senator from Texas [Mr. Tower] would vote "nay."

The result was announced—yeas 17, nays 74, as follows:

[No. 383 Leg.]

YEAS—17

Eastland
Ellender
Ervin
Gore
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Robertson
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond

NAYS—74

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—9

Brewster
Byrd, Va.
Engle
Fulbright
Goldwater
Hayden
Kennedy
Tower
Walters

So Mr. Thurmond's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I move that when the Senate adjourns or recesses tonight, there be printed in the Record a tabulation of the time each Senator has remaining.

The PRESIDING OFFICER. That must be done by unanimous consent.

Mr. JOHNSTON. I ask unanimous consent that that be done.

Mr. JAVITS. Mr. President, what was the request?

The PRESIDING OFFICER. The Senator from South Carolina has asked unanimous consent that the time remaining to each Senator be printed in the Record. Is there objection? The Chair hears none, and it is so ordered.

(The tabulation appears at the end of today's Senate proceedings.)

The PRESIDING OFFICER. The amendment in the nature of a substitute is open to further amendment.

Mr. THURMOND. Mr. President, I call up my amendment No. 926, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The Legislative Clerk. Beginning on page 20, it is proposed to delete sections 407, 408, 409, and 410.

Mr. THURMOND. Mr. President, on my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself 1 minute.

The number of school integration suits brought by private persons over the past few years demonstrates conclusively that there is no need, for this purpose, to grant the Attorney General the unprecedented authority to bring suits in the name of the United States. This amendment would eliminate from the substitute the proposed authority for the Attorney General to bring integration suits, by striking sections 407, 408, 409, and 410 from title IV of the substitute.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the junior Senator from Texas [Mr. Tower]. If he were present and voting he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Virginia [Mr. Robertson], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. Walters] and the Senator from Arkansas [Mr. Fulbright] would each vote "yea."

On this vote the Senator from Virginia [Mr. Byrd] is paired with the Senator from Massachusetts [Mr. Kennedy]. If present and voting, the Senator from Virginia would vote "yea" and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Virginia would vote "yea" and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

The pair of the Senator from Texas [Mr. Tower] has been previously announced.

The Senator from Kentucky [Mr. Morton] is detained on official business.

The result was announced—yeas 15, nays 74, as follows:

[No. 384 Leg.]

YEAS—15

Eastland
Ellender
Ervin
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond

NAYS—74

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—11

Byrd, Va.
Dirksen
Engle
Fulbright
Goldwater
Hayden
Kennedy
Morton
Robertson
Tower
Walters

So Mr. Thurmond's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG of Louisiana. Mr. President, I call up my amendment No. 985.

The PRESIDING OFFICER. The amendment of the Senator from Louisiana will be stated.

The LEGISLATIVE CLERK. On page 7, in line 24, immediately after the words "of subsection (b)", it is proposed to insert the words "and a substantial portion of its patronage is provided by individuals who are interstate travelers".

Mr. LONG of Louisiana. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 minute.

Mr. LONG of Louisiana. Mr. President, the purpose of this amendment is to provide that there be some substantial connection with interstate commerce, at least to the extent that a substantial portion of the persons served in the establishments covered by title II would have to be interstate travelers.

It would seem to this Senator that if no more than an occasional interstate traveler were served by one of these establishments there would not be sufficient connection with interstate commerce to justify placing it under the commerce clause.

Mr. President, on this question I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. EASTLAND. Mr. President, I move that the Senate do now adjourn.

Mr. HUMPHREY. Mr. President, on this motion, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Minnesota will state it.

Mr. HUMPHREY. Mr. President, was not the motion of the Senator from Mississippi that the Senate adjourn?

The PRESIDING OFFICER. That is correct.

Mr. HUMPHREY. And the yeas and nays have now been ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to adjourn. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The vote on the motion to adjourn is in process. A parliamentary inquiry is not permitted while a vote is in process. The clerk will resume the call of the roll.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Minnesota [Mr. MCCARTHY] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

On this vote, the Senator from Virginia [Mr. BYRD] is paired with the Senator from Massachusetts [Mr. KENNEDY].

If present and voting, the Senator from Virginia would vote "yea" and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Minnesota [Mr. MCCARTHY].

If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Minnesota would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

If present and voting, the Senator from Texas [Mr. TOWER] would vote "nay."

The Senator from Kentucky [Mr. MORTON] is detained on official business.

The result was announced—yeas 18, nays 73, as follows:

[No. 385 Leg.]

YEAS—18

Byrd, W. Va.
Eastland
Ellender
Ervin
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Robertson
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—73

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Gruening
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—9

Byrd, Va.
Engle
Fulbright
Goldwater
Hayden
Kennedy
McCarthy
Morton
Tower

So the motion to adjourn was rejected.

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 985 of the Senator from Louisiana [Mr. LONG]. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the Senator from Texas [Mr. TOWER]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. ELLENDER (when his name was called). On this vote, I have a live pair with the distinguished Senator from Missouri [Mr. SYMINGTON]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Missouri [Mr. SYMINGTON], and the Senator from Alaska [Mr. GRUENING] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

On this vote, the Senator from Virginia [Mr. BYRD] is paired with the Senator from Massachusetts [Mr. KENNEDY].

If present and voting, the Senator from Virginia would vote "yea" and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Minnesota [Mr. MCCARTHY].

If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Minnesota would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Kentucky [Mr. MORTON] is detained on official business.

The pair of the Senator from Texas [Mr. TOWER] has been previously announced.

The result was announced—yeas 21, nays 66, as follows:

[No. 386 Leg.]

YEAS—21

Byrd, W. Va.
Eastland
Ervin
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Monroney
Robertson
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—66

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Hart
Hartke
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—13

Byrd, Va.
Dirksen
Ellender
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
McCarthy
Morton
Symington
Tower

So Mr. LONG's amendment No. 985 was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUMMARY STATUS OF THE RECORD—TITLE VI

Mr. SPARKMAN. Mr. President, I yield myself 10 minutes.

Since I last addressed the Senate concerning title VI, a new section 605 has been added. The import and meaning of the whole title as now written are of sufficient importance to warrant a clear and concise statement as to what this title means in several categories, especially with respect to contracts of insurance or guarantee.

I, therefore, make these remarks for the sake of the legislative history of this extremely broad and dangerous title and to make it clear to other Senators exactly what I believe they will be voting for in the event the title is enacted into law as now written.

There can be no doubt, to my way of thinking, that title VI as passed by the House clearly excluded contracts of insurance or guarantee. That was the purpose of the floor amendment in the House, and the leadership here in the Senate have stated repeatedly that that was their interpretation of the title as they presented it to the Senate. I believe that they will agree with me now that contracts of insurance and guarantee are still excluded from title VI, although section 605 has been added subsequently by a floor amendment here in the Senate.

Section 605 states:

> Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of contract of insurance or guaranty.

In other words, existing authority is frozen but there is nothing to prevent the prospective or future application of the express language of title VI. This is normal in statutory construction anyway. Laws in general apply prospectively and not retroactively.

We turn now to exactly what this means to banks insured by the Federal Deposit Insurance Corporation, savings and loan associations insured under the Federal Savings and Loan Insurance Corporation, the Federal Housing Administration, the Veterans' Administration, and other insurance and guarantee programs in agriculture or elsewhere. Title VI cannot apply in the future to any of them.

They are excluded. It will take affirmative, separate legislation and not merely an Executive order under so-called existing authority to include them as being within the purview of section 601 or of title VI in its entirety. If the situation is otherwise, we should know it now. We are entitled to this knowledge and I do not believe that the sponsors of the bill intend otherwise. Certainly the language of section 605 would not authorize an Executive order drawing in banks, savings and loan associations, and the bulk of the conventional housing market into a policy of forced racial integration. If such an Executive order were ever issued, I would say instantly that it would be unconstitutional. It would be attempted usurpation of legislative power by the President in the greatest of all the fields of housing, the conventional market.

The present Executive order on housing was issued without authority and was an attempt by the President to make law. Congress, and not the President, writes the laws of this land and the Executive should bear this in mind if there are renewed outside pressures to bring the conventional housing market into a policy of forced racial integration. I shall, of course, oppose any such proposal at every possible turn.

The great financial institutions of this land should know where they stand respecting this pending legislation. Suppose at this moment we should pass the word to them, here on the floor or otherwise, that banks and savings and loan associations are now in danger of having an Executive order on housing apply to them because of the pending language of title VI. A flood of protests would arise instantly and the same would happen in the House of Representatives.

Let me say that when this revision was written into the bill in the House of Representatives, there was the frank statement by the chairman of the Judiciary Committee, Representative CELLER, that it came about because of the great many protests which had come to them regarding it.

This is as it should be, because the conventional market, by all means, should and must remain free from Government dictates, concerning integration in housing. We should do nothing in Congress in a so-called civil rights bill, or in any other legislation, to change the freedom from useless racial embroilment that the conventional housing market now enjoys.

The unconstitutional Executive order on housing in itself has hurt our Government housing programs. In the immediate year following this order—that is, last year—Government-sponsored housing starts decreased 15 percent, and starts in the conventional market increased 15 percent.

Let me interject this statement: A great many people believe the Federal Government's housing program is the big part of housing in this country. That is not true. The FHA and the VA together do considerably less than half the business in the country. More than half the amount of housing in this country—and I am speaking, of course, of its financing—is accomplished under conventional financing. That is something for us to remember. It is the conventional market that is primarily affected, because the provision declares that no contracts of insurance or guarantees shall be covered by title VI.

That is the type of housing that would be built under a financing plan where a person either paid for it out of his own pocket, borrowed it individually from some other person, borrowed it from the bank, from an insurance company, from a savings and loan association, or from any private concern.

The provision was written into the bill on the floor of the House of Representatives, because of the protests which had come in. There had been a great deal of talk to the effect that since banks were insured by the Federal Deposit Insurance Corporation—an arm of the Federal Government, and at least authorized and regulated by the Federal Government—loans from the savings and loan associations, whose funds were insured by the FSLIC——

The PRESIDING OFFICER. The time of the Senator from Alabama has expired.

Mr. SPARKMAN. Mr. President, I yield myself 5 more minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 more minutes.

Mr. SPARKMAN. There was fear that in the case of loans authorized by the Federal Government and regulated by the Federal Government, and from various other sources where there might be some farfetched idea of governmental control, an Executive order which would cover them might be issued. That is why the provision was written into the bill—undoubtedly on the floor of the House of Representatives: to make certain that they would not be covered by the terms of title VI.

The provision that was written in was a simple one. It said, in parentheses, "except contracts of insurance or guaranty," end parentheses.

But in the Senate the bill has been amended by an amendment offered by the distinguished Senator from Louisiana. As it stands now, as section 605, a separate section of title VI, it states in no uncertain terms that "Nothing in this Act shall apply to any contract of insurance or guaranty."

Mr. LAUSCHE. Mr. President, will the Senator from Alabama yield for a question?

Mr. SPARKMAN. I am glad to yield to the Senator from Ohio, because I believe this is an important matter, and that is the reason why I am taking the time that I am on it.

Mr. LAUSCHE. My understanding was that the exclusion dealt only with contracts of insurance covering deposits in banks or building and loan associations; but from what the Senator from Alabama has said, I judge it also excludes guarantees of payment of mortgage indebtedness.

Mr. SPARKMAN. And FHA insurance and VA guarantees. When I say "guarantee," it would refer to any contract of guarantee which relates primarily to the program under the Veterans' Administration, so that in the future any loan covered by the VA guarantee program——

Mr. LAUSCHE. Or the FHA.

Mr. SPARKMAN. Or the FHA insurance program would likewise be excluded, as well as conventional loans.

Mr. LAUSCHE. The statement that only those insurance provisions of FHA and VA entered into before 1962 are excluded is erroneous; that is, I have been told that under the Executive order of the President, all guarantees made after

1962, under the VA or the FHA, are within the provisions of this bill.

Mr. SPARKMAN. That is not correct. According to the terms of sections 602 and 605 they are excluded. As a matter of fact, the Senator from Louisiana offered an amendment which I read a few minutes ago, which stated, "Nothing in this title can add to or detract from it."

Mr. HUMPHREY. The new section 605 is a statement of congressional policy.

Mr. SPARKMAN. Yes; it was agreed to by both sides.

Mr. HUMPHREY. What it provides is that whatever constitutional authority the President may have in this area is not impaired. That is what the intent of the new section is.

Mr. SPARKMAN. That is; correct except that there is a prior provision.

Mr. HUMPHREY. Section 602.

Mr. SPARKMAN. Section 602, which affects future guaranties.

Mr. HUMPHREY. It relates to Federal departments and agencies which are empowered to extend financial assistance. It limits the power of these agencies for the purpose of acting under the authority of this legislation; but it does not impair the constitutional authority of the President to take action if he deems it necessary to do so. Congress cannot restrict the constitutional authority of the President.

Mr. SPARKMAN. I am not covering that point in these remarks; but I seriously question the authority of the President to write laws.

Mr. HUMPHREY. Nor does it impair the President's existing order.

Mr. SPARKMAN. I did not say it did. I have contended from the beginning that the existing order was invalid. I am not arguing that point in this paper; I am arguing about the impairment of the President in the future.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPARKMAN. I yield myself 5 additional minutes. I should like to call attention to the well-known principle of law that when Congress seizes a field of legislation, even if the Executive should have authority originally to enter it, the power of the Executive ceases.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. LONG of Louisiana. Cannot we agree that section 605 means that if the President seeks to issue some sort of order, or requests the Board to issue an order, with respect to any insured loan made by a bank, such Federal authority must be found elsewhere than in the bill?

Mr. SPARKMAN. Yes; that is correct.

Mr. HUMPHREY. Such authority must be found in the residual power of the Executive, under the Constitution.

Mr. SPARKMAN. Yes; I will admit that, without admitting that he has such power.

I shall continue my statement.

Moreover, I have learned only recently, that only about 20 percent of FHA's business in the field of individual homes is with new construction. This is far below what it used to be. The remaining 80 percent is in the field of existing homes, where the Executive order does not apply to single-family owner-occupied property, and with foreclosed properties, which are running at a rather high rate. These foreclosed homes have to be sold, under existing procedures, by FHA on a racially open occupancy basis in competition with the private conventional real estate market.

It is an obvious fact of life that people are going to find ways of getting housing without racial integration. The shift in FHA's business to existing homes and the overall decrease of Government-sponsored housing starts since issuance of the housing order both illustrate this point clearly.

In 1959, on September 14, to be exact, in connection with a discussion of the recommendations of the Civil Rights Commission, I made the frank and straightforward statement on the floor of the Senate that if we wanted to hurt our Federal housing programs, saddling them with forced racial integration would be the way to do it. On October 9, 1962, I repeated that statement here on the floor of the Senate—CONGRESSIONAL RECORD, volume 108, part 17, page 22908—and urged the President not to attempt to take over the lawmaking authority of Congress and issue the Executive order on housing.

The PRESIDING OFFICER. The time of the Senator from Alabama has again expired.

Mr. SPARKMAN. I yield myself 1 more minute.

Today, I stand just as consistently as I have in the past and repeat that statement again. Moreover, I warn all concerned that civil rights and housing need more than a legislative catalyst to mix with one another. They will not mix anymore than will oil and water unless under destitute economic circumstances people are forced to accept whatever they can get and to forgo their natural impulses and inclinations. I trust that this Nation does not come to this plight. I trust also that we do not attempt to force racial integration in housing as a dictatorial government. The result can be the destruction of that which we seek to promote; namely a safe, sanitary, and decent home for all Americans.

Title VI is filled with an effect on housing despite what has been said here on the floor of the Senate and in the press. All of the Federal programs are covered except FHA insurance and VA guaranties.

I would like, in closing, to clear up, if I can, some misconceptions that may exist about section 601 being all inclusive and unlimited by the remainder of title VI. I do not endorse or agree with section 601 but it is obviously clear that it is limited by section 602 which excludes contracts of insurance or guaranty and in so doing specifically refers to section 601. Therefore, it defines section 601, and the well known maxim that the specific takes precedence over the general applies to the whole title. The leadership in sponsoring this bill before the Senate have stated that section 602 limits section 601. There should be no doubt about it. By the same token, FHA and VA must be excluded in the prospective application of the title.

The addition of section 605 is a further limitation on section 601 because it states that section 601 cannot add anything to existing authority in financial assistance programs of contract or guaranty. The Mansfield-Dirksen substitute makes this point even more clear than the House-passed bill because it states that the executive branch is "authorized and directed" to effectuate section 601 except as to contracts of insurance or guaranty by cutting off funds or by any other means authorized by law. Hence, there is a definite intent to cover the entire field of placing title VI into operation and to exclude contracts of insurance or guaranty. This gives more meaning to the address that I made on April 10 in the Senate on title VI, to the effect that Congress has entered the field of what shall be included or excluded prospectively in racial integration matters in the field of financial assistance programs and has excluded insurance and guaranty contracts. This means further that only Congress, and not the President, henceforth, can include insurance and guaranty contracts in the field of open occupancy or compulsory racial integration.

Mr. President, how much time have I used up to this time?

The PRESIDING OFFICER. The Senator has used 21 minutes.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield myself 1 more minute; and I yield.

Mr. LAUSCHE. I wish to commend the Senator from Alabama for discussing this very important subject. It is one that is causing deep concern throughout the whole country. The description and analysis which the Senator from Alabama has given will be very helpful. I do not know whether they will be challenged by any other Senator, but I thank him for what he has said.

Mr. SPARKMAN. I appreciate the remarks of the Senator from Ohio. I am willing to rest on the statement I have made. I believe it is legally sound and factually correct.

THE PROGRAM OF CUTBACKS IN DEFENSE INSTALLATIONS

Mr. SPARKMAN. Mr. President, on Monday, June 8, the New York Daily News carried an editorial commending the efforts of the distinguished junior Senator from South Dakota to establish a National Economic Conversion Commission to deal with the entire problem of program cutbacks in defense installations and shifts in defense spending.

Recently, the Commerce Committee initiated hearings on the McGovern bill, S. 2274, and I consider it appropriate to call to the attention of the Members of the Senate this editorial, commending the Senator and supporting this important proposal.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

UNCLE SAM'S UNEMPLOYED

The United States owns and operates 6,800 military installations, here and around the world. Backing up these Army-Navy-Air Force locations are countless thousands of defense plants. Their paychecks are an important factor in their communities' economy.

But now, in the interest of the taxpayers, Defense Secretary Robert McNamara has embarked on a drastic cutback program. Hundreds of aircraft, missile, aerospace, naval and such plants have been engaged in activities which no longer are regarded as essential. It's probably a sound idea to get them off the public's back.

However, says Senator GEORGE S. McGOVERN, Democrat, of South Dakota, haphazard shutdowns to date have caused serious hardships in at least 29 States, and he insists that Government-made poverty is bound to snowball.

McGOVERN'S remedy, as spelled out before the Senate Commerce Committee, is the creation of a National Economic Conversion Commission to deal with the entire problem.

M'NAMARA CAN'T TELL

Defense firms about to be cut or shut down, he recommends, should be given plenty of advance notice, plus help in landing nondefense contracts. Plant personnel—as in our own Brooklyn Navy Yard or Long Island or New Jersey aircraft plants—would be steered to or trained for new jobs.

One grim feature of this growing, Washington-made unemployment emergency is that only the politically naive really expect Secretary McNamara to give adequate warning notices to any great number of defense plants before November. This is an election year.

But the McGovern plan is both sound and humane, and it or something like it must be adopted unless our Washington ruler-employers crave to be cursed from coast to coast. Here is one bill on which Congress, if only in its own interest, should act with alacrity.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. CASE. Mr. President, I yield myself such time as I may require.

I cannot let what the Senator from Alabama has said go by without challenge. I believe the conclusions in his address—and of course they were made in all good faith and sincerity—are erroneous.

I do not believe the record shows that section 602 modifies or limits in any way the statement of policy in section 601.

Section 601 states a policy that seems to me to be very clear and all-encompassing. It states:

> No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

This, I think, is an absolute, unqualified statement of Federal policy. As a matter of fact, it cannot be qualified as a matter of constitutional principle.

Similarly, I must say that I disagree with the suggestion, or assertion made by the Senator from Alabama [Mr. SPARKMAN], that the passage of the bill with the inclusion of the provisions of the various sections of title VI would mean that Congress would be seizing all power in regard to elimination of discrimination in federally assisted programs, and that henceforth, after the effective date of the law, both the President and anybody else would be limited.

What would be done by section 602 and certain following sections would be to prescribe ways in which branches of the Government—that is to say, Federal departments and agencies—dealing with Federal financial assistance shall conduct themselves in the implementation of the broad and unfettered policy announced in section 601. But that is all. The President—as I think the colloquy earlier this evening between the Senator from Alabama [Mr. SPARKMAN] and the majority whip [Mr. HUMPHREY] indicates—would not be restricted in the future, any more than he has been in the past, in regard to what he may do, under the Constitution of the United States in implementation of nondiscriminatory provisions stated in section 601.

I dislike very much to find myself in disagreement with the Senator from Alabama in regard to any matters as to which we should not be in disagreement. But I believe his effort to state the effect, or what would be the effect, of this title has been an unfortunate one, and that it might very well mislead people into actions and lull them into a sense of security about matters which would not be upheld when the courts came to interpret the powers of the President under the Constitution and, indeed, as they may be further strengthened by the act itself.

Mr. LAUSCHE. Mr. President, will the Senator from New Jersey yield for a question?

Mr. CASE. I am happy to yield, on the Senator's time.

The PRESIDING OFFICER. The amendment in the nature of a substitute is open to further amendment.

Mr. SPARKMAN. Mr. President, I shall yield 1 minute, if the Senator desires.

Mr. MANSFIELD. Mr. President, I object.

Mr. CASE. I would be happy to yield on my time.

Mr. MANSFIELD. I object.

Mr. CASE. A person has to use a little sense in disposing of his own resources.

Mr. LAUSCHE. Does the Senator from New Jersey believe there would be any distinction in the application of the law——

The PRESIDING OFFICER. The Senator will suspend.

Does the Senator from New Jersey yield his own time for a question?

Mr. CASE. Yes.

Mr. MANSFIELD. I object. The Senator may yield for a question, but he may not yield his own time.

Mr. CASE. I would be willing to yield to the Senator; I am sorry I cannot.

Mr. President, on my time, I should like to address a question to the Senator from Ohio: What is troubling the old fellow? [Laughter.]

Mr. LAUSCHE. I may say that if the youth of the Senate would listen more to the wisdom of the age of the Senate, we would be in far better shape than we are.

What is bothering me is this: In the mind of the Senator from New Jersey, is there a distinction between the guarantees made by the Federal Deposit Insurance Corporation of deposits in banks and building and loans and the guarantees made by the FHA and the VA for the repayment of borrowings made under those two programs?

Mr. CASE. No, I do not know of any.

Mr. LAUSCHE. The guarantees of deposits are definitely exempt. Does the Senator from New Jersey claim that the guarantees by the FHA and the VA of mortgage indebtedness which will be repaid are also included in the exemption?

Mr. CASE. When the Senator asks about an exemption, is he talking about the provision of 602 with its express exclusion clause?

Mr. LAUSCHE. Yes.

Mr. CASE. Section 602 reads as follows:

> Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract—

Then comes the language in which the Senator from Ohio is interested—

> other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601—

And so forth.

What is intended is a contract of insurance or guarantee. I know of no reason to distinguish between FHA and FDIC contracts of insurance or guarantee.

Mr. LAUSCHE. How does the Senator from New Jersey take exception to the position of the Senator from Alabama?

Mr. CASE. I think the Senator from Alabama believes, in attempting to make legislative history, that the proposed language would limit the President in his future activities under any Federal program.

Mr. SPARKMAN. Oh, no.

Will the Senator yield?

Mr. CASE. I shall be happy to yield, if I am mistaken as to this.

Mr. SPARKMAN. I did not go to that extent. I was relating my remarks to the field of housing insurance and guarantees. I did say that contracts of insurance and guarantee, of whatever nature, ought to be covered by the bill; but I was particularly discussing the housing field. I did say that so far as such contracts were concerned, the Executive in the future would not have authority, because Congress would have seized the field itself. In other words, Congress would have taken action; and would have written them out of coverage.

My own personal opinion—and I admit that it is my personal opinion, but it is agreed with by an eminent jurist whose legal article I quoted in my speech in the Senate on April 10—is that the President did not have constitutional authority to issue the original order. I discussed that order with President Kennedy on more than one occasion before he issued it. I think I knew what his reasoning was, and I knew of his feeling that savings and loan associations ought to be exempted from the order. I did not intend to cover the wide field the Senator has suggested.

Mr. CASE. Mr. President, I had not realized—because I am a little bit new at the business of cloture—that the Senator was talking on my time. May I propound a parliamentary inquiry? Is that true? I had not said a word about yielding.

The PRESIDING OFFICER (Mr. BREWSTER in the chair). The time of the Senator from New Jersey was being used.

Mr. CASE. May I ask how it was being used? I should like to know what the rule is.

The PRESIDING OFFICER. The Chair's understanding is that the Senator from New Jersey had yielded for a question; and the Chair rules that the time of the Senator from New Jersey has been used—and is still being used.

Mr. CASE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Jersey will state his parliamentary inquiry.

Mr. CASE. Am I correct in understanding that just a moment ago the majority leader said I would not be permitted to yield time, and therefore suggested that I ask a question of the Senator from Ohio? I did so in order to give the Senator from Ohio a chance to interrogate me.

The PRESIDING OFFICER. Objection was raised to the attempt of the Senator from New Jersey to yield time; and that objection would have been sustained. The Senator from New Jersey may yield for a question, but he may not yield his time.

Mr. CASE. If, when a question is asked, it turns into a 10-minute speech, is that speech charged to my time, too?

The PRESIDING OFFICER. The Senator from New Jersey may terminate a colloquy at his discretion.

Mr. CASE. Fine.

Mr. President, I continue to yield myself such time as I may take. I shall not be long. I shall yield to no one.

I reiterate my complete disagreement with the conclusion the Senator from Alabama has attempted to make as a part of the legislative history.

We are not, for the purpose of housing guarantees, mortgage guarantees, bank insurance guarantees, or any other form of guarantees, of insurance, or anything else, in any way taking away any authority of the President—under any program—which he has exercised in the past, or which he may exercise in the future.

Mr. LONG of Louisiana. Mr. President, I should like to address myself to the subject, only because it has come up, and also because I think the legislative history the Senate is making is fairly clear. I hope the Senator from New Jersey will hear me.

Mr. CASE. I hope I will.

Mr. LONG of Louisiana. Regardless of any power the President may or may not have to issue orders with relation to guaranty programs, I believe we can agree that the whole effect of the section 605 is that any power which the President may have with respect to the guaranty programs is not derived from title VI of the act. That is the purpose of section 605. That is what this Senator had in mind when he offered it. The power is there, but it is not conveyed by title VI.

Mr. JOHNSTON. Mr. President, I yield myself one-half minute.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for one-half minute.

Mr. JOHNSTON. Is it not true that the whole thing boils itself down to the question of who makes the laws? When Congress has made the law, the question then is whether the President can change it.

Mr. HUMPHREY. Mr. President, on March 16, 1964, as appears on page 5408 of the CONGRESSIONAL RECORD for that date, I stated:

> In my discussion with Senator CASE on Friday it is possible that I did not make it completely clear that title VI does not derogate from the authority that agencies may already have under existing laws to see to it that beneficiaries of their programs are not discriminated against because of race, color, or national origin. This point was made wholly clear in the course of the debate in the House and I would like to reiterate it here.
>
> Within its scope, title VI will require—and not merely authorize—agencies to take certain actions, will specify certain procedures applicable to such actions, and will give those actions statutory support. It is not intended to, and does not, take away any discretionary authority which Federal agencies now possess, to deal with problems of discrimination which are outside its scope. Specifically, enactment of title VI:
>
> First. Will not invalidate, or cast doubt on, any actions taken by the executive branch prior to its enactment; and
>
> Second. Will not affect in any way existing executive or agency powers to deal with discrimination in programs or activities not covered by title VI, such as VA or FHA housing programs as to which existing statutes and an outstanding Executive order confer such power; any action taken in the past or in the future in connection with such programs would be taken pursuant to power existing independently of the enactment or defeat of title VI and such power would not be created, broadened, or narrowed by title VI.

Mr. President, section 605 had the sole and specific intention of making this clear. It was for this reason that section 605 was added to the language of the House-passed bill.

The PRESIDING OFFICER. The question is on agreeing to the substitute Dirksen-Mansfield amendment (No. 1052), as amended.

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 387 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Gore
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Long, La.
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Russell
Saltonstall
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. LONG of Louisiana. Mr. President, I call up my amendment No. 973.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 6, in line 21, it is proposed to strike out the word "serves", and insert in lieu thereof the words "is regularly engaged for profit in the business of serving".

Mr. LONG of Louisiana. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 minute.

Mr. LONG of Louisiana. Mr. President, under this bill, any establishment such as a cafe, motel, hotel, or place of entertainment is described as being a place of public accommodation merely because it serves the public.

It seems to me that the place of business should at least be required to be a place that is in business for profit, rather than a place that may be open for only a day, 2 days, or a week out of a month. It should be a place that is regularly in business. To me, that would seem to be a minimum requirement, rather than to cover anyone who happens to open his home for an exhibition of 1 day, or that sort of thing. The amendment requires that the place be one which is regularly in business for profit.

Mr. President, on this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 973 of the Senator from Louisiana [Mr. Long]. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the Senator from Texas [Mr. Tower]. If he were present and voting, he would vote "yea"; if I were at liberty to vote I would vote "nay." I withhold my vote.

Mr. ELLENDER (when his name was called). On this vote, I have a pair with the senior Senator from Missouri [Mr. Symington]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Pennsylvania [Mr. Clark], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Minnesota [Mr. McCarthy], the Senator from Virginia [Mr. Robertson], the Senator from Missouri [Mr. Symington], and the Senator from West Virginia [Mr. Byrd] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. Kennedy], and the Senator from Pennsylvania [Mr. Clark] would each vote "nay."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from Minnesota [Mr. McCarthy]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Minnesota would vote "nay."

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater], and the Senator from Texas [Mr. Tower] are necessarily absent.

The pair of the Senator from Texas [Mr. Tower] has been previously announced.

The Senator from Kentucky [Mr. Morton] is detained on official business.

The result was announced—yeas 19, nays 65, as follows:

[No. 388 Leg.]

YEAS—19

Eastland
Ervin
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters
Yarborough

NAYS—65

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Cooper
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Hart
Hartke
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Magnuson
Mansfield
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—16

Byrd, Va.
Byrd, W. Va.
Clark
Dirksen
Ellender
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
McCarthy
Morton
Robertson
Symington
Tower

So Mr. Long's amendment No. 973 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The substitute amendment is open to further amendment.

Mr. THURMOND. Mr. President, I ask to call up my amendment No. 843, and ask to have it stated.

The PRESIDING OFFICER. The amendment offered by the Senator from South Carolina will be stated.

The Legislative Clerk. It is proposed, on page 17, in line 17, to substitute a period for the second comma, and to delete lines 18, 19, and 20.

Mr. THURMOND. Mr. President, on this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself three-fourths of a minute.

In the definition of "public school" contained in section 401(c) of the substitute, there is included "any educational institution" which is operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

There is no limitation on the remoteness of the derivation of the funds; and, therefore, there is present in the language of this section an ambiguity which could result in the inclusion within the scope of this title of purely private educational institutions. This amendment would eliminate the language from which the ambiguity arises.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ELLENDER (when his name was called). On this vote, I have a pair with the senior Senator from Missouri [Mr. Symington]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished senior Senator from Virginia [Mr. Byrd]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from West Virginia [Mr. Byrd], the Senator from Pennsylvania [Mr. Clark], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Virginia [Mr. Robertson], and the Senator from Missouri [Mr. Symington] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Clark], and the Senator from Massachusetts [Mr. Kennedy] would each vote "nay."

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

If present and voting, the Senator from Texas [Mr. Tower] would vote "nay."

The Senator from Kentucky [Mr. Morton] is detained on official business.

The result was announced—yeas 15, nays 70, as follows:

[No. 389 Leg.]

YEAS—15

Eastland
Ervin
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—70

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Saltonstall
Scott
Simpson
Smith
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—15

Byrd, Va.
Byrd, W. Va.
Clark
Ellender
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Mansfield
Morton
Robertson
Symington
Tower

So Mr. Thurmond's amendment No. 843 was rejected.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. KEATING. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I call up my amendment No. 767 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is no ordered; and the amendment will be printed in the Record at this point.

The amendment (No. 767) submitted by Mr. Sparkman is as follows:

On page 22, beginning with line 24, strike out all through line 2, on page 23, and insert in lieu thereof the following:

"Sec. 410. Nothing in this title shall prohibit classification and assignment for reasons of intelligence or academic achievement, based on objective tests, or for other reasons not based on race, color, religion, or national origin."

Mr. SPARKMAN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I had this amendment prepared to the original bill. Later in the amended form, section 410 was added to the bill, on the bottom of page 22 and the top of page 23; and that is in the amended bill. It states:

> Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin.

My amendment deals with the assignments of schoolchildren for reasons of intelligence or academic achievement and willingness to learn, and would state that nothing in title IV would prohibit such assignment which would in a sense comply with desegregation.

I should like to inquire of the Senator from Minnesota, with whom I have discussed this amendment, if this proposition, as stated, is covered, in his opinion, under the existing language of section 410.

Mr. HUMPHREY. Yes, it is. The Senator had modified his original amendment considerably. The exact language reads:

> Nothing in this title shall prohibit classification and assignment for reasons of intelligence or academic achievement, based on objective tests, or for other reasons not based on race, color, religion, or national origin.

As I said to the Senator in his discussions with me, he had raised this point early in debate on the bill. As the Senator recalls, the language now in section 410 of the substitute was not in the House-passed bill.

Mr. SPARKMAN. The Senator is correct.

Mr. HUMPHREY. The reason we placed the language of section 410 in the substitute bill was that the colloquy and discussion which took place on the floor of the Senate, not on one occasion, but on several occasions, related to this matter. As I told the Senator, I thought his amendment was not required, because the substance of his amendment is covered even more generously in section 410. It would be good advice, I told him, if he would accept in good faith the assurance that the substance of the amendment offered by the Senator from Alabama is fully covered in section 410, and that there is no need for the Senator to press for adoption of his amendment.

Mr. SPARKMAN. I discussed this matter with the distinguished Senator from Illinois [Mr. Dirksen], and he told me substantially the same thing.

Mr. HUMPHREY. Yes, indeed. I was present when that discussion took place. Section 410 is broad in its scope.

Mr. SPARKMAN. In fact, the statement was made that it was much broader than my amendment.

Mr. HUMPHREY. The Senator is correct; yes, it is much broader than the Senator's amendment.

Mr. SPARKMAN. Mr. President, in view of that explanation, I should like to withdraw my amendment; but I should like to have both the original amendment, which was stated by the clerk, as well as the one I was prepared to offer as a substitute for the amendment, printed at this point in the Record.

Mr. HUMPHREY. I understand that the original amendment goes much further.

Mr. SPARKMAN. The Senator is correct, and the colloquy relates to that proposed substitute.

Mr. HUMPHREY. I understand that.

Mr. SPARKMAN. That is correct.

The PRESIDING OFFICER. The Senator's amendment is withdrawn; and, without objection, both amendments will be printed in the Record.

The amendment (No. 767) ordered to be printed in the Record is to insert, on page 18, after line 23, the following new section:

Sec. 410. (a) The Congress recognizes that—

(1) a democratic society can survive and succeed only through the development of the highest capacities of its members;

(2) the expansion of human knowledge and the rapid advance of technology impose a constantly increasing requirement for the development of our human resources to the maximum;

(3) the youth of the Nation constitute its principal resource, and arbitrary restraints placed upon the educational opportunities accorded to the youth of the Nation through the denial to able and talented students of adequate opportunity to realize their full potential will redound to the severe and lasting disadvantage of the Nation; and

(4) no permanent advantage to the Nation or to any part of its citizenry can be achieved by the suppression of individuals who are able, competent, and energetic through the adoption of low or mediocre educational standards devised to fit the requirements of individuals who lack the capacity, motivation, self-discipline, and energy required for educational achievement.

(b) Nothing contained in this Act shall be construed to authorize or require any officer, agency, or instrumentality of the United States, any State, or any political subdivision of any State to deprive any child of full opportunity to develop his maximum potential for education development by requiring that child to attend a public school or to be placed in a class the students of which are predominantly or in large part of appreciably—

(1) lower intelligence;

(2) lower achievement in academic pursuits;

(3) lower motivation for educational development;

(4) subnormal cultural level or development; or

(5) lower capacity or willingness to adjust to the requirements of deportment and self-discipline necessary for effective educational achievement.

(c) Nothing contained in this Act shall be construed to authorize or require any officer, agency, or instrumentality of the United States, any State, or any political subdivision of any State to deprive any teacher in any public school of full opportunity to develop the maximum potential of the students entrusted to him by requiring that teacher to accept classes of students composed of individuals who vary markedly in intelligence, academic achievement, motivation for educational development, cultural level or development, or capacity or willingness to conform to the requirements of academic discipline.

(d) Nothing contained in this Act shall be construed to authorize or require any officer, agency, or instrumentality of the United States, any State, or any political subdivision of any State to obligate any school board to impose any requirement for the commingling, within any class conducted or supervised by or within any public school, of students who vary markedly in intelligence, academic achievement, motivation for educational development, or capacity or willingness to conform to the requirements of academic discipline.

(e) Whenever any officer, agency, or instrumentality of the United States, any State, or any political subdivision of any State imposes or attempts to impose with respect to any public school, any public school system, or any subdivision of any public school system any restraint or requirement inconsistent with the provisions of this section—

(1) any parent or group of parents whose minor children are being or would be deprived of full opportunity for educational development through the imposition of any restraint or requirement of a kind described in subsection (b);

(2) any teacher or group of teachers in any public school or public school system who are being or would be deprived of full opportunity to develop the maximum potential of the students entrusted to them through the imposition of any restraint or requirement of a kind described in subsection (c); and

(3) the school board charged with the administration of the public school, public school system, or subdivision of any public school system which is or would be affected by a restraint or requirement of a kind described in subsection (d),

may institute in any court of competent jurisdiction of the State or of the United States a civil action for the prevention or removal of such restraint or requirement. Such court shall have jurisdiction to hear and determine such action, and to grant by appropriate judgment, decree, or order such relief as may be required to prevent and to remove effectively such restraint or requirement.

(f) Process of the district court of the United States for any judicial district in any action instituted under subsection (e) may be served in any other judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any such action is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

(g) It shall be a conclusive defense to any action instituted, under section 407 of this Act or otherwise, for the assertion of any claim of denial of equal protection of the laws by reason of the failure of a school board to achieve desegregation to show that the granting of the relief sought in such action would result in or produce any consequence which is or would be inconsistent with the provisions of this section. No judgment, decree, or order may be entered, and no relief may be granted, in any such action if such judgment, decree, order, or relief would result in or produce any such consequence.

(h) As used in this section—

(1) the term "parent" has the meaning given thereto by section 407(c) of this Act; and

(2) the term "school board" includes the chief administrative officer of a school district and any officer or body of individuals charged with the administration or supervision of a public school, a public school system, or a subdivision of a public school system.

The amendment (No. 767, as modified) is as follows:

On page 22, beginning with line 24, strike out all through line 2, on page 23, and insert in lieu thereof the following:

"Sec. 410. Nothing in this title shall prohibit classification and assignment for reasons of intelligence or academic achievement, based on objective tests, or for other reasons not based on race, color, religion, or national origin."

Mr. HUMPHREY. I understand that the amendment is withdrawn.

The PRESIDING OFFICER. The amendment has been withdrawn, and both amendments have been printed in the Record.

Mr. LONG of Louisiana. Mr. President, I call up my amendment No. 1002.

The PRESIDING OFFICER. The amendment will be stated.

The Chief Clerk. On page 10, line 5, of amendment No. 656, immediately after the word "instituted", it is proposed to insert a comma and the following: "upon a showing of good cause therefor,".

On page 10, line 8, immediately after the word "action" insert the words "if the Attorney General certifies to the court the basis for his belief that the purposes of this title will be materially furthered by such intervention".

Mr. LONG of Louisiana. I yield myself 1½ minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1½ minutes.

Mr. LONG of Louisiana. Mr. President, this amendment is intended to assure the public that the new powers created by the bill will not be used in a manner either arbitrary or giving the appearance of being so.

The amendment states simply that when under the provisions of section 204 (b), the judge wishes to allow the prevailing party an attorney's fee as part of the costs, he shall do so only after a showing of good cause therefor. We should presume that he would have good cause if he did so; therefore why not give the people this assurance in order that the law as a whole will cast a better image of reasonableness and acceptability?

The second part of the amendment states merely that before the Attorney General intervenes in a case under section 204(a) he shall—as he probably would anyway—certify to the court the basis for his belief that the purposes of title II will be materially furthered by his intervention.

On this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the senior Senator from Virginia [Mr. Byrd]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the Senator from Texas [Mr. Tower]. If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Pennsylvania [Mr. Clark], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], and the Senator from Virginia [Mr. Robertson] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Clark] and the Senator from Massachusetts [Mr. Kennedy] would each vote "nay."

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from California would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

The Senator from Massachusetts [Mr. Saltonstall] is detained on official business, and if present and voting would vote "nay."

The pair of the Senator from Texas [Mr. Tower] has been previously announced.

The result was announced—yeas 25, nays 62, as follows:

[No. 390 Leg.]

YEAS—25

Byrd, W. Va.
Cotton
Curtis
Eastland
Ellender
Ervin
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Russell
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.
Yarborough

NAYS—62

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Cooper
Dodd
Dominick
Douglas
Edmondson
Fong
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Lausche
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Williams, N.J.
Young, N. Dak.
Young, Ohio

NOT VOTING—13

Byrd, Va.
Clark
Dirksen
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Mansfield
Robertson
Saltonstall
Tower

So Mr. Long's amendment No. 1002 was rejected.

Mr. HUMPHREY. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHRISTIAN MINISTER BEATEN IN ST. AUGUSTINE, FLA., DEMONSTRATION

Mr. McGOVERN. Mr. President, I yield myself 1 minute.

Last feek, on June 9, a group of Negro and white Americans walked two abreast from St. Mary's Baptist Church in St. Augustine, Fla., to that city's old slave market to protest segregation. During an earlier walk, on May 28, white youths had beaten newsmen covering the event, although the marchers themselves remained peaceful and dignified. That earlier march resulted in a police ban. The ban was lifted by order of U.S. District Judge Bryan Simpson, and on June 9 the demonstrations, protected by the Constitution of the United States, were resumed.

This time the marchers themselves were attacked as they returned to the church. Although the police were there, they did not interfere as the marchers, and particularly the white citizens among them, were set upon and beaten. One of those who was beaten was the Reverend William England, now chaplain of Boston University and formerly a student minister at the Congregational Church in Vermillion, S. Dak.

During my 1960 campaign, I visited the campus of the University of South Dakota in Vermillion and met the Reverend Mr. England who impressed me at the time as a young man of strength and idealism. His courage and his religious faith were tested and proved last Tuesday in St. Augustine. A white man, described in an AP news dispatch as weighing about 230 pounds, knocked the Reverend Mr. England to the sidewalk and methodically kicked and stomped him as he lay on the ground. Rev. Mr. England did not resist, nor did he attempt to meet violence with violence.

He put his hands over his head and took it. Finally, a 12-year-old Negro boy threw his body over him to shield him from the blows. No arrests were made.

Mr. President, the people of South Dakota who knew him are proud of the Reverend Mr. England. He has followed the Christian ethic, displaying his courage in the cause of human dignity and human rights. He has suffered torments inflicted by the ignorant and the cynical, and has not been deterred by unjust treatment. He did not answer force with force, but turned the other cheek. His cause—which is the cause of all of us—will triumph.

Mr. President, I ask unanimous consent to have printed in the Record the newspaper article entitled "White Gangs Attack Rights Marchers in St. Augustine," published in the Sioux Falls Argus Leader of June 10, and a letter sent by Mr. and Mrs. Ernest W. Dewey of Vermillion, S. Dak., to the Mayor of St. Augustine, describing feelings for the Reverend Mr. England that are shared by many citizens of South Dakota.

There being no objection, the article and the letter were ordered to be printed in the Record, as follows:

White Gang Attacks Rights Marchers in St. Augustine

St. Augustine, Fla.—Gangs of screaming white men and youths attacked white and Negro marchers with fists and feet in bold defiance of the law in this old city.

The slugging, kicking attackers moved in on their victims—marching two abreast on a downtown sidewalk—and then fled when policemen armed with clubs moved in Tuesday night.

About a dozen demonstrators were assaulted. The violence ended when marchers returned to the church where they began their protest.

NO ARRESTS

Police headquarters said there were no arrests.

The march came within a few hours after a Federal judge in Jacksonville ordered police to lift their ban on night demonstrations and to reduce bail for a group of marchers arrested earlier.

"Despite what happened, we are going to continue protesting unjust discrimination," said the leader of the march, the Reverend Andrew Young.

Young was struck in the mouth, knocked down, and beaten but not hurt seriously. Wiping at a cut on his lip, Young shrugged off questions whether he would ask for Federal protection.

He is an aid to the Reverend Martin Luther King, Jr., head of the Southern Christian Leadership Conference, who was scheduled to arrive here Wednesday.

Tuesday night's march started from St. Mary's Baptist Church, a few blocks from the downtown area. The target, as in past marches, was the old slave market in the city park near the riverfront.

Nearly 300 demonstrators walked quietly downtown without incident. As they headed back toward the church they ran into trouble. White marchers were singled out.

MINISTER BEATEN

A big white man, weighing about 230 younds, pummeled to the pavement the Reverend William England, 33, Boston University chaplain, who is white. The assailant then methodically kicked and stomped the chaplain, slumped with his hands over his head.

The thud of the kicks was punctuated with groans from the victim. A slender Negro boy, about 12, threw his body over the chaplain.

Policemen attempted no arrests of the assailants.

An injunction by the U.S. District Judge Bryan Simpson opened the way for a renewal of night marches, banned by police order May 28 after white youths attacked newsmen during a night protest.

Vermillion, S. Dak.,
June 10, 1964.

Mayor of the City of St. Augustine,
St. Augustine, Fla.

Dear Sir: We just read in this evening's newspaper and heard on our television newscast of the Reverend William England being beaten in the streets of your city by assailants who were neither stopped nor arrested. For 2 years Reverend England was student minister at the Congregational Church in this city, serving the University of South Dakota students. He is known and respected here as a fine Christian and an extremely sensible young man. We are proud that a former member of our community is working for racial justice in an area in which there is apparently so little justice for any individual who differs with those in power.

This is the only way we know to express our shock and horror that an American city can accept and indeed condone such brutality. We are sending a copy of this letter to both our Congressman and our Senators as simply further evidence that this is a national problem and needs a national solution.

Sincerely,
Mr. and Mrs. Ernest W. Dewey.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the Dirksen-Mansfield amendment in the nature of a substitute, as amended.

Mr. THURMOND. Mr. President, I call up my amendment No. 844 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The Chief Clerk. On page 29, line 21, it is proposed to delete the words "being accorded or".

Mr. THURMOND. Mr. President, on my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself 45 seconds.

The 14th and 15th amendments, by their language, are directed exclusively at denials of rights by the States. There is nothing in the Constitution which which gives the Federal Government any jurisdiction over cases where persons are unlawfully accorded rights such as the right to vote. The provision of authority for the Civil Rights Commission to investigate the allegation that citizens are being unlawfully accorded the right to vote, which authorization is contained in section 104(a)(5) of title V of the substitute, exceeds the constitutional powers of Congress. This amendment would strike the proposed authority of the Civil Rights Commission to investigate allegations that citizens are being unlawfully accorded the right to vote by the States.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the senior Senator from Georgia [Mr. Russell]. If he were present, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Pennsylvania [Mr. Clark], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Ohio [Mr. Lausche], the Senator from Virginia [Mr. Robertson], and the Senator from Georgia [Mr. Russell] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from Massachusetts [Mr. Kennedy]. If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Virginia would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from Virginia [Mr. Byrd] is paired with the Senator from Pennsylvania [Mr. Clark]. If present and voting, the Senator from Virginia would vote "yea" and the Senator from Pennsylvania would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

The Senator from Massachusetts [Mr. Saltonstall] is detained on official business, and if present and voting, would vote "nay."

If present and voting, the Senator from Texas [Mr. Tower] would vote "nay."

The result was announced—yeas 17, nays 69, as follows:

[No. 391 Leg.]

YEAS—17

Curtis
Eastland
Ellender
Ervin
Gore
Hill
Holland
Johnston
Jordan, N.C.
Long. La.
McClellan
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—69

Aiken
Allott
Anderson
Bartlett
Bayh
Beall

Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cooper
Cotton
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—14

Byrd, Va.
Clark
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
Robertson
Russell
Saltonstall
Tower

So Mr. Thurmond's amendment was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the Mansfield-Dirksen substitute amendment, as amended. The substitute amendment is open to further amendment.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 392 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Eastland
Edmondson
Ellender
Ervin
Fong
Gore
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. LONG of Louisiana. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the Dirksen-Mansfield substitute amendment, as amended.

Mr. THURMOND. Mr. President, I call up my amendment No. 1016, and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from South Carolina will be stated.

The Chief Clerk. On page 25, in line 13, it is proposed to change the period to a colon, and add the following:

> *Provided, however*, That nothing in this section shall be construed as making it unlawful for any employee to give any such information to any authorized committee or subcommittee of the Congress.

Mr. THURMOND. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself 45 seconds.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 45 seconds.

Mr. THURMOND. Section 102(g) of title V of the substitute would make it a criminal offense for any employee of the Civil Rights Commission to divulge information gathered by the Commission. No exception is made, in the language of the substitute, for employees who testify before committees of Congress. My amendment would except from the criminal provisions of section 102(g) of title V of the substitute testimony by employees of the Civil Rights Commission before committes of Congress, so that employees of the Civil Rights Commission could testify before congressional committees candidly and fully, without fear or risk of a violation of the criminal provisions of this section.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1016 of the Senator from South Carolina. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the Senator from Texas [Mr. Tower]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished Senator from Georgia [Mr. Russell]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Pennsylvania [Mr. Clark], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Ohio [Mr. Lausche], the Senator from Virginia [Mr. Robertson], and the Senator from Georgia [Mr. Russell] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from California [Mr. Engle]. If present and voting the Senator from Virginia would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from Massachusetts [Mr. Kennedy]. If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Virginia [Mr. Byrd] is paired with the Senator from Pennsylvania [Mr. Clark]. If present and voting, the Senator from Virginia would vote "yea" and the Senator from Pennsylvania would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

The Senator from Massachusetts [Mr. Saltonstall] is detained on official business, and if present and voting would vote "nay."

The pair of the Senator from Texas [Mr. Tower] has been previously announced.

The result was announced—yeas 34, nays 51, as follows:

[No. 393 Leg.]

YEAS—34

Beall
Bennett
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
McIntyre
Mechem
Miller
Monroney
Morton
Mundt
Pearson
Simpson
Smathers
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, Del.
Young, N. Dak.

NAYS—51

Aiken
Allott
Anderson
Bartlett
Bayh
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Cooper
Dodd
Douglas
Edmondson
Fong
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McNamara
Metcalf
Morse
Moss
Muskie
Nelson
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Smith
Williams, N.J.
Yarborough
Young, Ohio

NOT VOTING—15

Byrd, Va.
Clark
Dirksen
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
Robertson
Russell
Saltonstall
Tower

So Mr. Thurmond's amendment No. 1016 was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG of Louisiana. Mr. President, I call up my amendment No. 1006.

The PRESIDING OFFICER. The amendment offered by the Senator from Louisiana will be stated.

The Legislative Clerk. On page 9, line 9, it is proposed to strike out the words "establishment or place", and to insert in lieu thereof "place of public accommodation".

Mr. LONG of Louisiana. Mr. President, I yield myself 2 minutes.

Mr. President, I hope Senators will pay attention to this amendment, because, in my judgment, the present language does something that the Senate does not intend. At least, it has not been explained.

Under section 201, in the public accommodations title, "places of accommodation" are defined to include hotels, motels, restaurants, and so forth.

Section 203 then forbids anyone from discriminating or withholding services in those places.

But then section 202, instead of limiting itself to "places of accommodation," refers to "any establishment or place," which could be a home or a backyard.

There are situations in which State laws or ordinances provide that the races shall not be mixed in a barroom—which laws, incidentally, could be for the purpose of keeping the peace. If Ku Kluxers and Black Muslims are mixed together and get drunk, they are going to have fights. To prevent that situation, there are State ordinances which bar persons of more than one race from drinking in the same barroom.

If the present words remain in the bill, the Federal Government will be able to reverse State laws designed to preserve the peace, and to apply the Federal law. Thus, a Federal law would require that members of the Ku Klux Klan and Black Muslims be served in the same barroom, even though State law prohibits it.

The same thing applies to barbershops. There are State laws which prohibit the cutting of the hair of colored persons and white persons in the same shop. However, the proposed Federal law would require that to be done, even though there are State laws that prohibit it.

The amendment is simple: Where there are State laws, and where Federal laws will replace them, the latter will prevail only in places of public accommodation.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. LONG of Louisiana. Mr. President, I yield myself 1 more minute.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 more minute.

Mr. LONG of Louisiana. In my judgment, most of the segregation statutes would be declared unconstitutional, anyway. The moment they were contested, they would be declared unconstitutional. But merely because of the existence of what would be held to be an unconstitutional State act, we should not extend the bill to cover States where there is no such act and where there would be no application of it. I believe this amendment is simple enough.

Mr. President, on my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana [Mr. Long]. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished Senator from Georgia [Mr. Russell]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Ohio [Mr. Lausche], the Senator from Virginia [Mr. Robertson] and the Senator from Georgia [Mr. Russell], are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. Byrd] would vote "yea."

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from California [Mr. Engle].

If present and voting, the Senator from Virginia would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from Massachusetts [Mr. Kennedy].

If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Massachusetts would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

The Senator from Massachusetts [Mr. Saltonstall] is detained on official business.

On this vote, the Senator from Massachusetts [Mr. Saltonstall] is paired with the Senator from Texas [Mr. Tower]. If present and voting, the Senator from Massachusetts would vote "nay," and the Senator from Texas would vote "yea."

The result was announced—yeas 23, nays 64, as follows:

[No. 394 Leg.]

YEAS—23

Byrd, W. Va.
Cotton
Eastland
Ellender
Ervin
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Morton
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters
Yarborough

NAYS—64

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Hart
Hartke
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Smith
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—13

Byrd, Va.
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
Robertson
Russell
Saltonstall
Tower

So the amendment (No. 1006) of the Senator from Louisiana [Mr. Long] was rejected.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I call up my amendment No. 1019.

The PRESIDING OFFICER. The amendment of the Senator from South Carolina will be stated.

The Legislative Clerk. On page 33, in line 13, of amendment No. 656, it is proposed to delete the words "the President", and to insert in lieu thereof the words "the Congress".

Mr. THURMOND. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. I yield myself 45 seconds.

The PRESIDING OFFICER. The Senator is recognized for 45 seconds.

Mr. THURMOND. Mr. President, title VI of the substitute amendment authorizes the withholding of funds by the various Federal agencies, to prevent discrimination in programs receiving Federal financial assistance. This would be a colossal and unprecedented grant of authority to the executive branch; and it should be surrounded with the maximum safeguards, if it is to be passed at all. The substitute specifies that the acts of the executive branch under the title shall be exercised under rules of general applicability.

My amendment would add the additional and essential safeguard that such rules shall not become effective until approved by the Congress.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Carolina. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished senior Senator from Georgia [Mr. Russell]. If he were present and voting he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachuetts [Mr. Kennedy], the Senator from Ohio [Mr. Lausche], the Senator from Virginia [Mr. Robertson], and the

Senator from Georgia [Mr. RUSSELL] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. BYRD] would vote "yea."

On this vote, the Senator from Virginia [Mr. ROBERTSON] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Massachusetts [Mr. KENNEDY]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Massachusetts would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Massachusetts [Mr. SALTONSTALL] is detained on official business and if present and voting would vote "nay."

If present and voting, the Senator from Texas [Mr. TOWER] would vote "nay."

The result was announced—yeas 16, nays 71, as follows:

[No. 395 Leg.]

YEAS—16

Eastland
Ellender
Ervin
Gore
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—71

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—13

Byrd, Va.
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
Robertson
Russell
Saltonstall
Tower

So Mr. THURMOND's amendment, No. 1019, was rejected.

Mr. JAVITS. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. MILLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MILLER. Mr. President, I yield myself such time as I use.

In connection with the amendment on which the Senate has just voted, by which the word "President" would have been stricken on page 33, in line 13, it may be pointed out, since a large number of Senators are in the Chamber, that I had considered proposing an amendment, which was in the drafting stage, to provide that none of the rules should be inconsistent with one another, because we all know that businessmen can be quite put upon if Government agencies publish inconsistent regulations.

However, I have been advised that the intention of the House was that by having the President approve the regulations, inconsistencies would be prevented. I have received from the office of the Deputy Attorney General a letter confirming what I have just stated.

Mr. President, I ask unanimous consent that the letter be printed at this point in the RECORD as a part of the legislative history concerning the intention of Congress with respect to this particular part of the bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE, OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., June 11, 1964.

Hon. JACK MILLER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This is in response to your request for comment on a suggestion that has been made for amending the provision in section 602 of H.R. 7152 which requires Presidential approval of the regulations to be issued by Federal agencies pursuant to that section. The suggestion is that language be added directing the President to make certain that the regulations issued by the agencies not be inconsistent with each other.

Complete uniformity in agency regulations is impossible because of the diversity in the programs and factual situations covered by title VI, and in the statutes under which those programs are administered. It is, of course, desirable that the regulations be drafted so that there will be no inconsistency in similar factual situations involving similar statutory provisions. Significant disparities in common procedures, or in the rules of agencies with similar programs, would be unjustified and, if they occurred, would undoubtedly lead to difficulties in the enforcement of title VI.

These considerations, as I understand it, were among the principal ones which motivated the House in writing and adopting the provision for Presidential approval in section 602. It was intended that once White House scrutiny and approval of agency rules was required, inconsistencies of the kind referred to would be discovered and eliminated.

In view of the foregoing, I do not believe that the suggested amendment is necessary.

Sincerely,

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

Mr. LONG of Louisiana. Mr. President, I call up my amendment No. 999, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 11, in line 5, immediately after the period, it is proposed to insert the following new sentence:

> The Attorney General shall not intervene in any such case until he has conducted an appropriate investigation to determine whether probable cause exists for belief that the alleged act or practice prohibited by this title has occurred or is threatened. Upon a determination by the Attorney General, upon the basis of such investigation, that such probable cause does exist, he shall transmit a true and correct copy of the report of such investigation to the appropriate State or local authority.

Mr. LONG of Louisiana. Mr. President, I yield myself 1 minute.

The amendment provides that before the Attorney General intervenes in a suit, he must determine that it is an appropriate cause of action; and if he decides that probable cause does exist, he must transmit a true and correct copy of the report of his investigation to the appropriate State or local authority.

On my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 999) of the Senator from Louisiana. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished senior Senator from Georgia [Mr. RUSSELL]. If he were present, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Virginia [Mr. ROBERTSON], and the Senator from Georgia [Mr. RUSSELL] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. BYRD], would vote "yea."

On this vote, the Senator from Virginia [Mr. ROBERTSON] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Massachusetts [Mr. KENNEDY]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Massachusetts would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Massachusetts [Mr. SALTONSTALL] is detained on official business.

On this vote, the Senator from Massachusetts [Mr. SALTONSTALL] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Massachusetts would vote "nay," and the Senator from Texas would vote "yea."

The result was announced—yeas 24, nays 63, as follows:

[No. 396 Leg.]

YEAS—24

Byrd, W. Va.
Cotton
Curtis
Eastland
Ellender
Ervin
Gore
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters
Williams, Del.

NAYS—63

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Dirksen
Dodd
Dominick
Douglas
Edmondson
Fong
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Smith
Symington
Williams, N.J.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—13

Byrd, Va.
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
Robertson
Russell
Saltonstall
Tower

So the amendment (No. 999) of Mr. LONG of Louisiana was rejected.

Mr. McCARTHY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. Mr. President, how many recorded rollcall votes have we had since the Senate convened today?

The PRESIDING OFFICER. The information given to the Chair is that there have been 27 yea-and-nay votes, and 8 quorum calls.

Mr. STENNIS. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. Does that exceed the total votes cast in the Senate on any previous day?

The PRESIDING OFFICER. The Chair rules that is not a proper parliamentary inquiry.

Mr. STENNIS. Mr. President, a point of information, then.

The PRESIDING OFFICER. The Chair does not have the information requested.

Mr. STENNIS. It has been 11 hours since we convened. Some other amendments are reserved for consideration and rollcall vote. But certainly this has already been a long day.

If the leader insists that the hours be kept exactly, this Senator would simply suggest that we take a recess now, and convene in the morning at 10 o'clock.

Mr. DIRKSEN. Mr. President, it is still an early hour.

Mr. MANSFIELD. Mr. President, the leadership still holds that we shall continue until at least 11 o'clock, and very likely considerably beyond that.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none.

Mr. GORE. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The matter is not subject to debate.

Mr. STENNIS. Mr. President, I ask unanimous consent that, for the time being, the order for the quorum call be rescinded.

Mr. GORE. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. GORE. Mr. President, reserving the right to object——

The PRESIDING OFFICER. It is out of order to reserve the right to object. The matter is not now debatable.

Is there objection? The Chair hears none.

The question is on agreeing to the Dirksen-Mansfield substitute amendment as amended.

Mr. GORE. Mr. President——

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I did not object to the request for withdrawal of the order for the quorum call——

Mr. DIRKSEN. Mr. President, whose time is this on?

The PRESIDING OFFICER. The time of the Senator from Tennessee.

The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I did not object to the request for withdrawal of the quorum call, because a new record might be broken. I have heard so many Senators answer "no" on a yea-and-nay votes, that I was afraid we might vote down a quorum call.

Mr. MANSFIELD. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Montana is recognized for 1 minute.

Mr. MANSFIELD. Let me say that I hope no Senator is interested in having the Senate make records. What we should be interested in is the achievement of results and in facing up to the responsibilities which are ours collectively, as an institution.

I point out that the leadership has an accurate tally on the number of quorum calls which have been had:

Yesterday, there were 10 quorum calls in a period of 5½ hours.

Today, in a period of 10 hours, we have had 10 quorum calls.

I hope the membership of this body will show some consideration in this respect, and will not make it a habit to call for a quorum call every hour, on the hour, but that, instead, we will collectively attempt to face up to our responsibility and to bring the issue to a final vote. I hope we can get to the third reading of the bill before too many hours have passed.

Mr. STENNIS. Mr. President, will the Senator from Montana yield to me?

Mr. MANSFIELD. I yield.

Mr. STENNIS. My idea in dispensing with quorum calls now is that if we must remain here, I would rather have the amendments considered; I would prefer to use the time in that way.

Mr. MANSFIELD. That is my understanding of the situation. I hope the Members of this body, collectively and individually, will give some consideration to the image the Senate is presenting to the country.

Mr. ERVIN. Mr. President, I call up my amendment No. 777, and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from North Carolina will be stated.

The LEGISLATIVE CLERK. On pages 70, 71, and 72, it is proposed to strike out everything from the beginning of line 21 on page 70 through line 24 on page 72 (title X); and to renumber title XI as title X, and to renumber sections 1101, 1102, 1103, 1104, and 1105, respectively, as sections 1001, 1002, 1003, 1004, and 1005.

Mr. ERVIN. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 1 minute.

Mr. ERVIN. The amendment would strike from the bill title X, relating to the Community Relations Service.

When my son was 4 years old, my wife and I decided to go on a trip. My wife's mother lived with us, and we had a full-time cook who stayed on the premises. We talked about bringing in a nurse to look after our son. Our son said, "It does seem that it wouldn't take three women to look after one little 4-year-old boy."

In 1957, we created in the Department of Justice a division called the Civil Rights Division. We also created the U.S. Commission on Civil Rights. Now it is proposed by means of this bill to create a third body—the Community Relations Service, in the Department of Commerce. Such a provision would add confusion in the field of civil rights, for then there would be one independent agency, an agency in the Department of Justice, and an agency in the Department of Commerce—all three for the same purpose. I do not know the purpose in having all three, unless the Commission on Civil Rights is intended to agitate, the Civil Rights Division of the Department of Justice is intended to aggravate, and the Community Relations Service is intended to conciliate.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. I yield myself 30 seconds more.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 30 additional seconds.

Mr. ERVIN. I respectfully submit that title X provides for an unlimited number of employees. I think we have already created too many permanent Federal departments and agencies. I ask Senators who do not believe that we ought to expand the Federal Government with hundreds—possibly thousands—more employees to vote for the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 777 of the Senator from North Carolina (putting the question).

Mr. ERVIN. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 777 of the Senator from North Carolina. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, up to this point, I have given 16 pairs to the very distinguished Senator from Texas [Mr. TOWER]. For the moment, I am relieved of that obligation; and in the interest of novelty and variety, and as a tribute to the distinguished chairman of the Senate Committee on the Judiciary, the Senator from Mississippi [Mr. EASTLAND], I announce that I now have a pair with him; if he were present, he would vote "yea"; and if I were at liberty to vote, I would vote "nay." So this is a novel situation for me; and I withhold my vote.

Mr. MANSFIELD. On this vote, I have a pair with the distinguished senior Senator from Georgia [Mr. RUSSELL]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Mississippi [Mr. EASTLAND], the Senator from Georgia [Mr. RUSSELL], and the Senator from Virginia [Mr. ROBERTSON] are absent on official business.

I further announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. BYRD] would vote "yea."

On this vote, the Senator from Virginia [Mr. ROBERTSON] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Virginia would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Massachusetts [Mr. KENNEDY]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Massachusetts would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Massachusetts [Mr. SALTONSTALL] is detained on official business, and if present and voting would vote "nay."

If present and voting, the Senator from Texas [Mr. TOWER] would vote "nay."

The result was announced—yeas 16, nays 69, as follows:

[No. 397 Leg.]

YEAS—16

Ellender
Ervin
Gore
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—69

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Hart
Hartke
Hickenlooper
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
McNamara
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—15

Byrd, Va.
Dirksen
Eastland
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
Robertson
Russell
Saltonstall
Tower

So Mr. ERVIN'S amendment No. 777 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I call up my amendment No. 853, and request that the clerk read it.

The PRESIDING OFFICER. The amendment offered by the Senator from South Carolina will be stated.

The LEGISLATIVE CLERK. On page 35, between lines 9 and 10, it is proposed to insert the following new section:

> SEC. 605. The Secretary of Health, Education, and Welfare is hereby directed to withhold funds, granted or loaned under any Federal program presently in effect or hereafter enacted, from any school district in any State, the District of Columbia, or any territory or possession of the United States, which has voluntarily desegregated its public schools without being required to do so by order of a Federal court, when the school district does not attempt, by bussing or otherwise, to correct a racial imbalance which may exist in any public school of that school district.

Mr. THURMOND. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. I yield myself three-fourths of a minute.

Title VI of the substitute provides for the withholding of Federal funds from schools which are segregated because of official policies of the school board, but would not direct withholding of Federal funds from school districts outside the South which have voluntarily adopted a nominal policy of integration, but practice de facto segregation.

This amendment would extend the fund-withholding provisions of title VI to school districts outside the South which proclaim official policies of integration, but practice de facto segregation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote I have a pair with the distinguished Senator from Mississippi [Mr. EASTLAND], the chairman of the Judiciary Committee. If he were present and voting, he would vote "yea." If I were free to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished senior Senator from Georgia [Mr. RUSSELL]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Michigan [Mr. MCNAMARA], the Senator from Virginia [Mr. ROBERTSON], and the Senator from Georgia [Mr. RUSSELL] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Massachusetts [Mr. KENNEDY]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Virginia [Mr. ROBERTSON] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Virginia [Mr. BYRD] is paired with the Senator from Michigan [Mr. MCNAMARA]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from Michigan would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Massachusetts [Mr. SALTONSTALL] is detained on official business and, if present and voting would vote "nay."

If present and voting, the Senator from Texas [Mr. Tower] would vote "nay."

The result was announced—yeas 12, nays 72, as follows:

[No. 398 Leg.]

YEAS—12

Ellender
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Smathers
Sparkman
Stennis
Thurmond
Walters

NAYS—72

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Ervin
Fong
Gore
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Talmadge
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—16

Byrd, Va.
Dirksen
Eastland
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
McNamara
Robertson
Russell
Saltonstall
Tower

So Mr. Thurmond's amendment (No. 853) was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ERVIN. Mr. President, it is apparent that a quorum is not present. I have a very important amendment to call up. Therefore, despite the request of the majority leader, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Ribicoff in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 399 Leg.]

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dirksen
Dodd
Dominick
Douglas
Edmondson
Ellender
Ervin
Fong
Gore
Hart
Hartke
Hickenlooper
Hill
Holland
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Jordan, N.C.
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Long, La.
Magnuson
Mansfield
McCarthy
McClellan
McGee
McGovern
McIntyre
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smathers
Smith
Sparkman
Stennis
Symington
Talmadge
Thurmond
Walters
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. ERVIN. Mr. President, I call up my amendment No. 787, and ask that the clerk be instructed to state it.

The PRESIDING OFFICER. The clerk will state the amendment.

The Legislative Clerk. Beginning in line 3, on page 33 of amendment No. 1052, it is proposed to strike out all to and including line 3, on page 35, and to insert in lieu thereof the following:

Sec. 602. (a) Whenever any Federal department or agency which is empowered to extend Federal financial assistance to any program or activity by way of grant, loan, or contract (other than a contract of insurance or guaranty) receives from any interested individual a complaint, duly subscribed and executed under oath, alleging that violation of section 601 is occurring in the administration of that program or activity, such department or agency shall transmit such complaint to the Attorney General for such action as he may deem appropriate pursuant to the provisions of this section.

(b) Upon receipt of any such complaint, the Attorney General may conduct an investigation to determine whether there is probable cause for belief that the allegations contained therein are supported by substantial evidence. If the Attorney General, upon the basis of such investigation, determines that such allegations are so supported, he may institute, in the district court of the United States for the district in which such violation is alleged to be occurring, a civil action to restrain or enjoin the continuance of such alleged violation. Upon application made by any defendant in such action, determination of the question whether the alleged violation in fact is occurring shall be made by an impartial jury of the State and district in which such violation is alleged to be occurring. Section 1291 and section 1254 of title 28, United States Code, shall be applicable for the review of judgments, decrees, and orders entered in actions instituted under this subsection.

(c) No Federal department or agency may withhold any financial assistance from any program or activity because of any alleged violation of section 601 until it has been determined, by final judgment, decree, or order entered in an action instituted under subsection (b), that such violation is occurring.

Mr. ERVIN. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. ERVIN. Mr. President, title VI is a very cumbersome title. It affects 50 or 60 different Federal departments and agencies. Furthermore, it provides for review according to the laws relating to the various departments and agencies having about 49 sets of procedures. A person practicing before such agencies must be familiar with all the procedures, instead of one procedure.

Moreover, each agency or department has the power to cut off funds.

The amendment is a very simple one. It strikes out all of title VI except section 601. It leaves standing the definition of discrimination.

Whenever there is reason to believe that discrimination has been practiced, the amendment provides that the agency, instead of trying the case itself, shall refer the matter to the Attorney General; and the Attorney General may then conduct an investigation, and may bring suit to end the discrimination. The amendment provides that then the court may enter such order as it deems necessary to enter to prevent the discrimination from being practiced.

Determination of the question of whether the alleged violation in fact is occurring shall be made by an impartial jury, upon application by a defendant.

This question would be tried under a law written by Congress, not under a regulation made by any of the 50 or 60 departments.

Furthermore the Government would have the burden of showing that the funds should be cut off. The question would be tried in the court, in accordance with the rules of civil procedure.

The amendment simplifies title VI, and makes it a workable title in harmony with the procedure which is in existence and is known to lawyers throughout the land.

Mr. GORE. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 1 minute.

Mr. GORE. The amendment deserves the very careful attention of the Senate. In my opinion, it is carefully drawn. It does not seek, as I sought earlier, to strike out title VI, though I would prefer to strike out title VI, believing, as I do, that it is coercive, unwise, and, in application, will work great hardship and will punish innocent people, particularly those whom we desire most to help, and who are in the greatest need of help.

Nevertheless the amendment, carefully drawn as it is, does not seek to prevent the denial of Federal aid.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GORE. I yield myself half a minute more.

The PRESIDING OFFICER. The Senator is recognized for half a minute.

Mr. GORE. The amendment provides a very careful procedure for ascertaining the fact of discrimination. Furthermore, it makes specific provision for punishment and for alleviation of the condition of discrimination.

Moreover, as the Senator from North Carolina has stated, it provides for a uniform procedure. Under the bill there would be no uniformity. There would be no set way by which any citizen or official could determine the procedure to which he might resort. Indeed, all would be subject to the regulations of the various agencies, myriad as they are.

So I suggest that the amendment is particularly meritorious.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 787 of the Senator from North Carolina. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. I have a pair with the Senator from Georgia [Mr. Russell]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. DIRKSEN. I have a pair with the Senator from Mississippi [Mr. Eastland]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. McGEE. Mr. President——

The PRESIDING OFFICER. On this vote, the yeas are 16, the nays are 67——

Mr. McGEE. Mr. President, may I ask how I am recorded?

Mr. MANSFIELD. Mr. President, the Senator from Wyoming sought recognition before the Chair announced the result of the vote.

Mr. McGEE. Mr. President, may I ask how I am recorded as voting?

The PRESIDING OFFICER. The Senator from Wyoming is recorded as voting in the negative.

Mr. JACKSON. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator is recorded.

Mr. JACKSON. How am I recorded?

The PRESIDING OFFICER. The Senator from Washington is recorded as voting in the negative.

Mr. SYMINGTON. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator from Missouri is recorded.

Mr. SYMINGTON. How am I recorded?

The PRESIDING OFFICER. As voting in the negative.

Mr. HARTKE. Mr. President, am I recorded on this vote?

The PRESIDING OFFICER. The Senator from Indiana is recorded as voting in the negative.

Mr. HICKENLOOPER. Mr. President, a point of order: A moment ago, I understood the Chair to announce the result of the vote. Therefore, I raise a point of order.

The PRESIDING OFFICER. The point of order is well taken.

Mr. MANSFIELD. Mr. President, the Senator from Wyoming was on his feet, seeking recognition, before the result of the vote was announced.

Mr. HICKENLOOPER. I recognize the validity of the majority leader's position with respect to the Senator from Wyoming. I was raising the point of order as to Senators who subsequently sought recognition by the Chair.

Several Senators. The regular order.

Mr. CHURCH. Mr. President——

The PRESIDING OFFICER. The Senator from Idaho entered the Chamber before the point of order was made.

Mr. CHURCH. I vote "nay."

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Mississippi [Mr. Eastland], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Ohio [Mr. Lausche], the Senator from Michigan [Mr. McNamara], the Senator from Virginia [Mr. Robertson], and the Senator from Georgia [Mr. Russell] are absent on official business.

I also announce that the Senator from California [Mr. Engle] is absent because of illness.

On this vote, the Senator from Virginia [Mr. Byrd] is paired with the Senator from California [Mr. Engle].

If present and voting, the Senator from Virginia would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from Massachusetts [Mr. Kennedy].

If present and voting, the Senator from Virginia would vote "yea," and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from Michigan [Mr. McNamara].

If present and voting, the Senator from Arkansas would "yea," and the Senator from Michigan would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

The Senator from Massachusetts [Mr. Saltonstall] is detained on official business, and if present and voting would vote "nay."

If present and voting, the Senator from Texas [Mr. Tower] would vote "nay."

The result was announced—yeas 16, nays 68, as follows:

[No. 400 Leg.]

YEAS—16

Byrd, W. Va.
Ellender
Ervin
Gore
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters

NAYS—68

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—16

Byrd, Va.
Dirksen
Eastland
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
McNamara
Robertson
Russell
Saltonstall
Tower

So Mr. Ervin's amendment was rejected.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ERVIN. Mr. President, I call up my amendment No. 788. I ask for the yeas and nays on the question of agreeing to it.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. DIRKSEN. Mr. President, whose time is this on?

Mr. ERVIN. It is on my time. I am not asking anyone else for time.

Mr. DIRKSEN. The Senator has not asked for time or asked to yield himself time.

The PRESIDING OFFICER. The clerk was asked to state the amendment.

Mr. DIRKSEN. But when the Senator is recognized, that is when the time begins.

Mr. STENNIS. I call for the regular order.

Mr. DIRKSEN. This is the regular order.

The PRESIDING OFFICER. The amendment has been called up by the Senator from North Carolina. The clerk has been requested to state it.

The Chief Clerk. Beginning with line 3, on page 33, it is proposed to strike out all to and including line 3, page 35, and to insert the following in lieu thereof:

Sec. 602. (a) Whenever any Federal department or agency which is empowered to extend Federal financial assistance to any program or activity by way of grant, loan, or contract (other than a contract of insurance or guaranty) receives from any interested individual a complaint, duly subscribed and executed under oath, alleging that violation of section 601 is occurring in the administration of that program or activity, such department or agency shall transmit such complaint to the Attorney General for such action as he may deem appropriate pursuant to the provisions of this section.

(b) Upon receipt of any such complaint, the Attorney General may conduct an investigation to determine whether there is probable cause for belief that the allegations contained therein are supported by substantial evidence. If the Attorney General, upon the basis of such investigation, determines that such allegations are so supported, he may institute, in the district court of the United States for the district in which such violation is alleged to be occurring, a civil action to restrain or enjoin the continuance of such alleged violation. In the event it finds by the greater weight of the evidence that the alleged violation of section 601 is occurring or is about to occur, the district court of the United States may enter such judgment as may be appropriate to prevent the same. Section 1291 and section 1254 of title 28, United States Code, shall be applicable for the review of judgments, decrees, and orders entered in actions instituted under this subsection.

(c) No Federal department or agency may withhold any financial assistance from any program or activity because of any alleged violation of section 601 until it has been determined, by final judgment, decree, or order entered in an action instituted under subsection (b), that such violation is occurring.

Mr. ERVIN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 2 minutes.

Mr. ERVIN. Mr. President, this is an amendment which ought to be voted for by Senators who are supporting the bill.

I have been perplexed by the linguistic abomination of title VI, ever since the bill was sent down by the President, last year.

This amendment leaves section 601 just as it is. It leaves the definition of discrimination just as it is. It leaves the policy just as it is. It provides that instead of having the laws made by 50, 60, or 70 departments or agencies, section 601 shall be the law. And, instead of having these departments or agencies act as courts, it provides that they shall transmit the matter to the Attorney General whenever they have reason to believe discrimination as described in section 601 is being practiced. The Attorney General is authorized to investigate it; and if he determines that the allegations are supported, he may bring a suit in the appropriate district court. If the court finds that discrimination exists or is about to occur, the court may enter a judgment to prevent it. That is the difference between this amendment and my earlier one; this amendment provides that upon application to the judge, the judge can enter an order to prevent whatever discrimination is being practiced.

The amendment has the advantage of not allowing the departments or agencies of the executive branch, to exercise judicial power as well as legislative power. It provides for a trial in court by the uniform rules of civil procedure, as all of the lawyers know them. It provides that the judge can enter whatever judgment is necessary to prevent discrimination. It makes certain that the innocent will not be punished for the sins of the guilty.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. Mr. President, I yield myself 30 additional seconds.

The PRESIDING OFFICER. The Senator is recognized for 30 additional seconds.

Mr. ERVIN. Any Senator who wants a good, workable bill without the linguistic abomination now contained in title VI should vote for this amendment. Any Senator who wants to deprive the departments and agencies of the Government of delegated judicial and legislative power ought to vote for this amendment. It is an honest effort to make the bill a workable law.

Mr. HUMPHREY. Mr. President, will the Senator yield on my time?

Mr. ERVIN. I yield.

Mr. HUMPHREY. Is this the same amendment, No 787, that was brought up before, with the exception that the Senator has eliminated the jury trial provision?

Mr. ERVIN. That is correct.

Mr. HUMPHREY. In other words, it provides for a court trial, instead?

Mr. ERVIN. Yes, it provides for a court trial. It provides that the controversy shall be settled in the way controversies have been settled from the time the Republic was founded.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the Senator from Mississippi [Mr. EASTLAND]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished senior Senator from Georgia [Mr. RUSSELL]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Michigan [Mr. MCNAMARA], the Senator from Virginia [Mr. ROBERTSON], and the Senator from Georgia [Mr. RUSSELL] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

On this vote, the Senator from Virginia [Mr. BYRD] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Massachusetts [Mr. KENNEDY]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Virginia [Mr. ROBERTSON] is paired with the Senator from Michigan [Mr. MCNAMARA]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from Michigan would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Massachusetts [Mr. SALTONSTALL] is detained on official business, and if present and voting, would vote "nay."

If present and voting, the Senator from Texas [Mr. TOWER] would vote "nay."

The result was announced—yeas 19, nays 65, as follows:

[No. 401 Leg.]

YEAS—19

Byrd, W. Va.
Church
Ellender
Ervin
Gore
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Monroney
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Walters
Yarborough

NAYS—65

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Cannon
Carlson
Case
Clark
Cooper
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Mechem
Metcalf
Miller
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Young, N. Dak.
Young, Ohio

NOT VOTING—16

Byrd, Va.
Dirksen
Eastland
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
McNamara
Robertson
Russell
Saltonstall
Tower

So Mr. ERVIN's amendment (No. 788) was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOUGLAS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I call up my amendments No. 855, and ask that they be stated.

The PRESIDING OFFICER. The amendments of the Senator from South Carolina will be stated.

The CHIEF CLERK. On page 33, line 2, immediately after "origin," it is proposed to insert the following: "or because such individual is not a member of a labor organization".

On page 33, line 9, immediately after "origin", it is proposed to insert the following: "or because such individual is not a member of a labor organization".

On page 33, line 13, immediately after "origin,", it is proposed to insert the following: "or because such individual is not a member of a labor organization,".

On page 33, line 15, it is proposed to strike out "or national origin" and insert in lieu thereof the following: "national origin, or membership in a labor organization".

On page 34, line 11, immediately after "origin", it is proposed to insert the following: "or because such individual is not a member of a labor organization".

On page 36, line 15, it is proposed to strike out "or national origin" and insert in lieu thereof the following: "national origin, or membership in a labor organization".

Mr. THURMOND. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself three-quarters of a minute.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for three-quarters of a minute.

Mr. THURMOND. Mr. President, title VII of H.R. 7152 is the most lengthy in the bill. It goes into the greatest detail in an ostensible attempt to assure that all citizens have equal opportunities for employment. One of the principal grounds on which persons are now denied equal opportunities for employment is for not belonging to a labor union. If the Congress wants to provide equal opportunities of employment for all citizens, it must provide against discrimination in employment against persons who do not belong to labor unions. This amendment would prohibit denials of equal employment opportunities because an individual does not belong to a labor union in addition to the grounds already listed in the bill.

The PRESIDING OFFICER. The question is on agreeing to amendments No. 855 of the Senator from South Carolina. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote I have a pair with the Senator from Mississippi [Mr. Eastland]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished Senator from Georgia [Mr. Russell]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Mississippi [Mr. Eastland], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Ohio [Mr. Lausche], the Senator from Michigan [Mr. McNamara], the Senator from Virginia [Mr. Robertson], the Senator from Georgia [Mr. Russell], the Senator from Georgia [Mr. Talmadge], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I further announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Georgia [Mr. Talmadge], and the Senator from Tennessee [Mr. Walters] would each vote "yea."

On this vote, the Senator from Virginia [Mr. Byrd] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from Massachusetts [Mr. Kennedy]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Virginia [Mr. Robertson] is paired with the Senator from Michigan [Mr. McNamara]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from Michigan would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. Tower] are necessarily absent.

The Senator from Massachusetts [Mr Saltonstall] is detained on official business.

On this vote, the Senator from Massachusetts [Mr. Saltonstall] is paired with the Senator from Texas [Mr. Tower]. If present and voting, the Senator from Massachusetts would vote "nay," and the Senator from Texas would vote "yea."

The result was announced—yeas 17, nays 65, as follows:

[No. 402 Leg.]

YEAS—17

Bennett
Curtis
Ellender
Ervin
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Smathers
Sparkman
Stennis
Thurmond

NAYS—65

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—18

Byrd, Va.
Dirksen
Eastland
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
McNamara
Robertson
Russell
Saltonstall
Talmadge
Tower
Walters

So Mr. Thurmond's amendments (No. 855) were rejected.

Mr. DIRKSEN. Mr. President, I move to reconsider the vote by which the amendments were rejected.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I call up my amendments No. 1020, and ask that they be read.

The PRESIDING OFFICER. The amendments offered by the Senator from South Carolina will be stated.

The Legislative Clerk. On page 35, in line 19, it is proposed to delete the word "affecting," and to insert in lieu thereof the words "engaged in interstate".

On page 39, beginning on line 11, delete down through line 16.

Mr. THURMOND. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself half a minute.

The language of title VII of the substitute which determines the scope of applicability of the title under the commerce clause of the Constitution adopts the broadest possible language, by proposing to cover all industries "affecting" commerce. These amendments would accomplish adherence to the much sounder limits of jurisdiction under the commerce clause, by restricting the application to industries which are actually "engaged in interstate" commerce.

The PRESIDING OFFICER (Mr. Inouye in the chair). The question is on agreeing to the amendments of the Senator from South Carolina [Mr. Thurmond]. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. DIRKSEN (when his name was called). On this vote, I have a pair with the distinguished Senator from Mississippi [Mr. Eastland.] If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the distinguished Senator from Georgia [Mr. Russell]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. Byrd], the Senator from Mississippi [Mr. Eastland], the Senator from Arkansas [Mr. Fulbright], the Senator from Alaska [Mr. Gruening], the Senator from Arizona [Mr. Hayden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Ohio [Mr. Lausche], the Senator from Michigan [Mr. McNamara], the Senator from Virginia [Mr. Robertson], the Senator from Georgia [Mr. Russell], and the Senator from Tennessee [Mr. Walters] are absent on official business.

I further announce that the Senator from California [Mr. Engle] is absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. Robertson], and the Senator from Tennessee [Mr. Walters] would each vote "yea."

On this vote, the Senator from Virginia [Mr. Byrd] is paired with the Senator from California [Mr. Engle]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from Arkansas [Mr. Fulbright] is paired with the Senator from Massachusetts [Mr. Kennedy]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Massachusetts would vote "nay."

On this vote—live pair—the Senator from Illinois [Mr. Dirksen] is paired with the Senator from Mississippi [Mr. Eastland]. If present and voting, the Senator from Illinois would vote "nay," and the Senator from Mississippi would vote "yea."

On this vote—live pair—the Senator from Montana [Mr. Mansfield] is paired with the Senator from Georgia [Mr. Russell]. If present and voting, the Senator from Montana would vote "nay," and the Senator from Georgia would vote "yea."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. Goldwater] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Massachusetts [Mr. SALTONSTALL] is detained on official business.

On this vote, the Senator from Massachusetts [Mr. SALTONSTALL] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Massachusetts would vote "nay," and the Senator from Texas would vote "yea."

The result was announced—yeas 22, nays 61, as follows:

[No. 403 Leg.]

YEAS—22

Bennett
Cotton
Curtis
Dominick
Ellender
Ervin
Hickenlooper
Hill
Holland
Hruska
Johnston
Jordan, N.C.
Long, La.
McClellan
Mechem
Simpson
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Williams, Del.

NAYS—61

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Dodd
Douglas
Edmondson
Fong
Gore
Hart
Hartke
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Smith
Symington
Williams, N.J.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—17

Byrd, Va.
Dirksen
Eastland
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
McNamara
Robertson
Russell
Saltonstall
Tower
Walters

So Mr. THURMOND's amendments were rejected.

Mr. KEATING. Mr. President, I move that the vote by which the amendments were rejected be reconsidered.

Mr. PASTORE. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I call up my amendment No. 846, and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from South Carolina will be stated.

The LEGISLATIVE CLERK. On page 47, beginning on line 3, it is proposed to delete the following language:

> The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman.

And to insert in lieu thereof the following language:

> The Commission shall elect its own Chairman and Vice Chairman.

Mr. THURMOND. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield myself 45 seconds.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 45 seconds.

Mr. THURMOND. Title VII of the substitute would authorize the President to appoint a chairman and a vice chairman of the Equal Employment Opportunities Commission.

It is far better administrative procedure for the chairman and the vice chairman of any commission to be elected by the commission itself, rather than to be appointed by the President. A good example of this better administrative procedure is provided by the Interstate Commerce Commission which, since 1887, has elected its own chairman.

This amendment would provide that the Equal Employment Opportunities Commission be empowered to elect its own chairman and vice chairman.

Mr. HICKENLOOPER. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 1 minute.

Mr. HICKENLOOPER. Mr. President, I am sorry the leadership and the assistant leadership on both sides of the aisle are not present in the Chamber at the moment, because I wish to address to them a question as to the purpose of this particular session.

Earlier this evening, and before dark, it was generally understood—and, whether officially announced or not, it was bandied about on both sides of the aisle—that we were going to take a recess at 11 o'clock this evening.

Eleven o'clock has long since gone by. It is now 40 minutes past 11 o'clock.

So far as I know, there is no understanding as to how long this session is going to last, or what the purpose of its continuance may be.

If we wish to stay here all night, I can stay all night; but I do believe we should at least be given the courtesy of a warning, especially since 11 o'clock was generally understood to be the time when we would take a recess this evening.

I notice that the leadership has now returned to the Chamber. I do not like to repeat my question, particularly; but I just wonder what goes on.

Mr. MANSFIELD. Mr. President——

Mr. HICKENLOOPER. I yield to the Senator from Montana 1 minute out of my own time, if that is necessary.

SEVERAL SENATORS. The Senator cannot do it.

Mr. MANSFIELD. I shall yield 1 minute——

Mr. HICKENLOOPER. I shall ask the Senator from Montana a question on my time.

SEVERAL SENATORS. The Senator cannot do it.

Mr. HICKENLOOPER. I believe I can.

The PRESIDING OFFICER. A point of order has been made.

Mr. MANSFIELD. Can I ask a question on the Senator's time?

Mr. HICKENLOOPER. Mysterious situations are arising, but I am happy to have the Senator do it.

Mr. MANSFIELD. I yield myself 1 minute.

If the Senator from Iowa will recall, when the leadership made the statement, it said: "As of 11 o'clock or thereafter." Later, it said, "11 o'clock or some hours afterward."

I know the statement I am about to make will result in some disappointment on the part of some Members, and perhaps justifiably so, but it is not the intent of the leadership to have the Senate stay in session all night. It is the intent of the leadership to have the Senate take a recess within the next 2 hours.

I hope the membership will trust our judgment in this matter. It may be good, it may be bad, but in view of what we have been able to arrive at in the form of a consensus among ourselves, that is the best we can say at the moment.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUNDT. Mr. President, I yield myself such time as I may require.

I ask that the Senate be in order. I cannot waste my time by attempting to speak when the Senate is in disorder.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MUNDT. I rise to express the sentiment I share with the distinguished Senator from Iowa, and some concern and some surprise about the turn of events, after 12½ hours of continuous session. Although we were told we would be out of here by 11 p.m., for some reason unbeknown to a great many of us in the Chamber, who also are Members of the Senate, we are now being told that we are expected to stay here for 2 more hours.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. MUNDT. I yield.

Mr. MANSFIELD. The Senator will take my word, I am sure, that the leadership never did say we would take a recess by 11 o'clock. We said, "11 o'clock as a minimum." My first statement was to the effect that it would be 11 o'clock or thereabouts. About 2 hours ago the question came up again; and I said, "11 o'clock and some hours afterwards." I believe that is the exact language I used.

Mr. MUNDT. Of course, I take the word of the Senator from Montana. I did not get the addendum.

Mr. MANSFIELD. That was my fault.

Mr. MUNDT. I should like to have the leadership take the rest of the Senate into its confidence, so we can find out whether this is to be a test of endurance. If so, I can take it. Normally, I do not go to bed until midnight; and I am just beginning to get underway; and I feel a speech coming on. I have a whole hour to use, and I might as well be doing something. If this session is to be some kind of endurance contest, I wish to be informed. If this session is to serve some useful purpose, I do not wish to throw a monkey wrench into the machinery; but I like to be confided in.

I should like to know what the thinking of the leadership is, and what the purpose of the leadership is in keeping us here in an almost around-the-clock session, which I thought might have been much more appropriately employed about 30 days ago, before we got to the situation of cloture.

Mr. MANSFIELD. The Senator from South Dakota knows that I have always been opposed to the idea of around-the-clock sessions. I hope the distinguished Senator from South Dakota and the membership of the Senate as a whole will recognize that the distinguished minority leader and I have attempted, in conjunction with the deputy leaders, to arrive at a consensus which we believe will serve the best interest of the Senate and, we hope—we do not know—will be in the best interests of the bill.

We have tried to be very circumspect in our dealings. It is no secret, I suppose, that many times on yesterday and today we could have raised points of order, on the basis of the quorum calls which were being too frequently asked for. However, we felt that in the interest of harmony, it would be best not to do so.

We feel that the decision we have just arrived at is in the best interest of the Senate and is in the best interest of the consideration of the bill. All I can say to the Senator, on behalf of all of us, is that we hope he will trust us a little longer.

Mr. MUNDT. I am a very trusting soul. I trust everyone. I just did not happen to be included in the polling process by which the consensus was arrived at. So it comes as a surprise.

I should like to make one observation, because I have a great deal of time left. Inasmuch as apparently we are not interested in saving time, but are interested in utilizing time, I am very glad to utilize some of my time.

I am now speaking as one who voted for cloture—one of the few times in my life that I reluctantly did. I did it because I believe in majority rule; I believe there comes a time, in a legislative body, when it is quite apparent that either there must be cloture or the majority will be denied the right to vote on a legislative measure, and therefore, in order to avoid rule by a minority, it is necessary to engage in the process called cloture.

However, I should like to say for the record because cloture will be proposed again, some day, that there will be those who will argue that we should tighten rule XXII, to make it easier to get cloture.

We are witnessing one reason why I was opposed to cloture. It tends to make a shambles of the legislative process.

I am sure no one here seriously believes we are giving careful consideration to any of the amendments being proposed. I have voted against most of them, as most other Senators have; and most of us voted against them for the same reason. There has been very little discussion of the amendments, in connection with their presentation. So when there is any doubt, it is usually safe parliamentary procedure to vote "nay."

If cloture means, as it apparently does, that after cloture is obtained, the majority will try to grind down, by an endurance testing process, any support of amendments by Senators who have legitimate reasons to suggest amendments, or who propose them, that is an additional reason why we should not change rule XXII, and is an additional reason why we should go slow in voting cloture.

I reserve the remainder of my time.

Mr. HICKENHOOPER. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 1 minute.

Mr. HICKENLOOPER. I fully understand that the majority leader and the minority leader did not formally announce that the session would come to an end at 11 o'clock. But I distinctly remember conversations, at about 8 o'clock, on the floor of the Senate, in which it was stated to me that the majority leader and the minority leader had put themselves in a position in which 11 o'clock would probably be about the time for us to recess, and that they did not want to be embarrassed by being requested to take a recess earlier than that time. Of course I realize their responsibilities.

I rose to ask why this change of rules when we are between second and third base. I still do not understand it. If something constructive is to be accomplished, that is one thing.

The PRESIDING OFFICER. The time of the Senator from Iowa has expired.

Mr. HICKENLOOPER. I yield myself half a minute more.

The PRESIDING OFFICER. The Senator is recognized for half a minute.

Mr. HICKENLOOPER. I am like the Senator from South Dakota: I have left plenty of time in which to speak. If a constructive purpose is to be accomplished at this hour, I do not know what it is, and I have been unable to find on this side of the aisle any Senator who knows what that constructive purpose, if any, is. I am only looking for light and for some explanation.

Mr. LONG of Louisiana. Mr. President, I call up my amendment numbered——

The PRESIDING OFFICER. An amendment is pending now. The question is on agreeing to the amendment (No. 846) submitted by the Senator from South Carolina [Mr. THURMOND].

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKEN (when his name was called). I have a pair with the senior Senator from Mississippi [Mr. EASTLAND]. If present, and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the senior Senator from Georgia [Mr. RUSSELL]. If present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Michigan [Mr. McNAMARA], the Senator from Virginia [Mr. ROBERTSON], the Senator from Georgia [Mr. RUSSELL], and the Senator from Tennessee [Mr. WALTERS], are absent on official business.

I also announce that the Senator from California [Mr. ENGEL], is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. WALTERS], would vote "yea."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Massachusetts [Mr. KENNEDY].

If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Virginia [Mr. ROBERTSON] is paired with the Senator from California [Mr. ENGLE].

If present and voting, the Senator from Virginia would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from Virginia [Mr. BYRD] is paired with the Senator from Michigan [Mr. McNAMARA].

If present and voting, the Senator from Virginia would vote "yea" and the Senator from Michigan would vote "nay."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Massachusetts [Mr. SALTONSTALL] is detained on official business.

On this vote, the Senator from Massachusetts [Mr. SALTONSTALL] is paired with the Senator from Texas [Mr. TOWER].

If present and voting, the Senator from Massachusetts would vote "nay," and the Senator from Texas would vote "yea."

The result was announced—yeas 13, nays 70, as follows:

[No. 404 Leg.]

YEAS—13

Ellender
Ervin
Hill
Holland
Johnston
Jordan, N.C.
Long, La.
McClellan
Smathers
Sparkman
Stennis
Talmadge
Thurmond

NAYS—70

Aiken
Allott
Anderson
Bartlett
Bayh
Beall
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, W. Va.
Cannon
Carlson
Case
Church
Clark
Cooper
Cotton
Curtis
Dodd
Dominick
Douglas
Edmondson
Fong
Gore
Hart
Hartke
Hickenlooper
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Keating
Kuchel
Long, Mo.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Mechem
Metcalf
Miller
Monroney
Morse
Morton
Moss
Mundt
Muskie
Nelson
Neuberger
Pastore
Pearson
Pell
Prouty
Proxmire
Randolph
Ribicoff
Scott
Simpson
Smith
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—17

Byrd, Va.
Dirksen
Eastland
Engle
Fulbright
Goldwater
Gruening
Hayden
Kennedy
Lausche
Mansfield
McNamara
Robertson
Russell
Saltonstall
Tower
Walters

Mr. WILLIAMS of Delaware. Mr. President, I ask for a recapitulation of the vote.

The PRESIDING OFFICER. The Senator from Delaware asks for a recapitulation of the vote. The clerk will recapitulate it.

The Chief Clerk recapitulated the vote.

The result was again announced—yeas 13, nays 70, as previously recorded.

So Mr. THURMOND's amendment (No. 846) was rejected.

TABULATION SHOWING AMOUNT OF TIME FOR DEBATE REMAINING TO EACH SENATOR

Under the order previously entered, the following tabulation of the amount of time for debate remaining to each Senator was submitted for printing in the RECORD:

	Minutes
Aiken	59
Allott	53
Anderson	59
Bartlett	59
Bayh	60
Beall	58
Bennett	57
Bible	59
Boggs	60
Brewster	60
Burdick	60
Byrd of Virginia	60
Byrd of West Virginia	31
Cannon	59
Carlson	60
Case	33
Church	60
Clark	58
Cooper	31
Cotton	56
Curtis	60
Dirksen	40
Dodd	51
Dominick	60
Douglas	52
Eastland	58
Edmondson	60
Ellender	59
Engle	60
Ervin	10
Fong	54
Fulbright	58
Goldwater	60
Gore	18
Gruening	60
Hart	50
Hartke	60
Hayden	60
Hickenlooper	58
Hill	52
Holland	45
Hruska	60
Humphrey	31
Inouye	60
Jackson	60
Javits	41
Johnston	44
Jordan of North Carolina	60
Jordan of Idaho	60
Keating	50
Kennedy	60
Kuchel	58
Lausche	15
Long of Missouri	60
Long of Louisiana	13
Magnuson	42
Mansfield	50
McCarthy	58
McClellan	41
McGee	59
McGovern	58
McIntyre	60
McNamara	53
Mechem	60
Metcalf	60
Miller	40
Monroney	56
Morse	27
Morton	58
Moss	57
Mundt	46
Muskie	51
Nelson	60
Neuberger	57
Pastore	27
Pearson	60
Pell	58
Prouty	60
Proxmire	60
Randolph	58
Ribicoff	56
Robertson	41
Russell	27
Saltonstall	58
Scott	59
Simpson	60
Smathers	39
Smith	60
Sparkman	26
Stennis	23
Symington	59
Talmadge	45
Thurmond	39
Tower	26
Walters	60
Williams of New Jersey	60
Williams of Delaware	60
Yarborough	60
Young of North Dakota	57
Young of Ohio	60

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 16, 1964, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 103) to increase the amount authorized to be appropriated for the work of the President's Committee on Employment of Physically Handicapped.

RECESS TO 11 A.M. ON WEDNESDAY

Mr. MANSFIELD. Mr. President, in accordance with the order previously entered, I move that the Senate stand in recess until 11 o'clock a.m. this morning.

The motion was agreed to; and (at 12 o'clock and 1 minute a.m.) on Wednesday, June 17, 1964, the Senate took a recess, under the previous order until 11 o'clock a.m. of the same day.

NOMINATIONS

Executive nominations received by the Senate June 16 (legislative day of March 30), 1964:

FEDERAL MARITIME COMMISSION

George Henry Hearn, of New York, to be a Federal Maritime Commissioner for the term expiring June 30, 1968.

DIPLOMATIC AND FOREIGN SERVICE

Randolph A. Kidder, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Cambodia.

U.S. COURT OF CLAIMS

Wilson Cowen, of Maryland, to be Chief Judge of the U.S. Court of Claims, vice Marvin Jones.

U.S. CUSTOMS COURT

Philip Nichols, Jr., of Massachusetts, to be judge of the U.S. Customs Court.

POSTMASTERS

ALASKA

Katherine D. Nordale, Juneau, Alaska, in place of M. E. White, retired.

ARIZONA

Richard Fasoulis, Claypool, Ariz., in place of M. L. Massey, Jr., resigned.

Thomas J. Lemme, Rillito, Ariz., in place of S. M. Timmons, retired.

CALIFORNIA

Henry S. Johnstone, Jr., Cotati, Calif., in place of E. J. Chadwick, deceased.

Francis T. Claffey, Newhall, Calif., in place of E. B. Pullar, retired.

Hazel L. Lewis, Stanton, Calif., in place of M. J. Davis, retired.

COLORADO

William D. Forsha, Wiggins, Colo., in place of C. C. Haarhues, transferred.

CONNECTICUT

Charles P. Fox, Hampton, Conn., in place of E. P. Estabrooks, retired.

Raymond S. Manning, North Franklin, Conn., in place of R. R. Browning, retired.

Thomas A. Hayes, Simsbury, Conn., in place of A. O. Barnaby, retired.

FLORIDA

Clarence D. Donaldson Lake Mary, Fla., in place of V. P. Anderson, retired.

GEORGIA

Hugh R. Dorsey, Jr., Barnesville, Ga., in place of H. A. Sappington, retired.

Harold L. Wilson, Tennga, Ga., in place of C. L. Wilson, retired.

IDAHO

Loren D. Kenyon, Wilder, Idaho, in place of O. A. Brown, retired.

ILLINOIS

Philip E. Talbot, Batavia, Ill., in place of A. J. Mier, retired.

Roy J. Prather, Catlin, Ill., in place of P. H. Collins, retired.

Elbert A. Hoppe, Chester, Ill., in place of H. F. Doerge, retired.

William J. Winget, Clayton, Ill., in place of R. E. Gibbs, retired.

Patrick M. Gorman, Peotone, Ill., in place of H. J. Gorman, retired.

Edward R. Remus, Plainfield, Ill., in place of L. V. Keeley, deceased.

Beverly J. Ebert, Ridott, Ill., in place of M. H. Weiler, deceased.

INDIANA

James C. Jackson, Elwood, Ind., in place of R. A. Hancher, retired.

Charles R. Miller, St. John, Ind., in place of H. E. Dike, deceased.

M. Louise Smith, Wilkinson, Ind., in place of M. W. Branigan, retired.

IOWA

Selah W. Jones, Imogene, Iowa, in place of D. C. Kamman, resigned.

W. Douglas Magnussen, Royal, Iowa, in place of N.W. Jespersen, transferred.

Wayne W. Acken, Waverly, Iowa, in place of A. C. Kohlmann, retired.

KENTUCKY

Elton B. Souder, Corinth, Ky., in place of E. H. Jackson, retired.

George W. Billings, Jr., Stanton, Ky., in place of V. B. Stephens, retired.

LOUISIANA

Walter O. Hunter, Coushatta, La., in place of S. D. Hunter, retired.

William L. Dees, Jr., Florien, La., in place of A. V. McLanahan, retired.

Beulah L. Berly, Marthaville, La., in place of G. C. Berly, transferred.

Jules A. Dupuy, Minden, La., in place of A. F. Gambrell, retired.

MAINE

Celia E. Laughlin, Brooklin, Maine, in place of A. L. Staples, removed.

Millard P. Crowley, Jr., Jonesport, Maine, in place of O. A. Kelley, retired.

MARYLAND

Herschel S. Blackburn, Edgewood, Md., in place of N. J. Schnepfe, retired.

Robert L. Evans, Jr., Hagerstown, Md., in place of T. M. Simpson, retired.

MASSACHUSETTS

Herbert P. DeCouto, Eastondale, Mass., in place of L. F. Howard, retired.

MICHIGAN

Raymond J. Halfmann, Fowler, Mich., in place of Ernest Halfmann, retired.

Velma L. Bancroft, Maple Rapids, Mich., in place of N. I. Biemaster, retired.

Adora M. Kisshauer, Walled Lake, Mich., in place of H. A. Gready, retired.

MISSOURI

Glenn W. Rhodes, Sr., Advance, Mo., in place of C. A. Revelle, transferred.

George W. Brown, Caruthersville, Mo., in place of B. F. Brooks, retired.

Leo G. Kidd, Eureka, Mo., in place of M. L. McBride, retired.

John W. Dickey, Jr., Gallatin, Mo., in place of J. H. Lowrie, retired.

Joseph L. Nestle, Glencoe, Mo., in place of E. I. McRaven, retired.

MONTANA

Cecil F. MacDonald, Jr., Saint Regis, Mont., in place of C. F. MacDonald, retired.

NEBRASKA

Edward W. Lechner, Grand Island, Nebr., in place of H. C. Menck, deceased.

Francis L. Jewett, Kennard, Nebr., in place of L. E. Peterson, deceased.

Herman P. Kaup, Snyder, Nebr., in place of H. A. Pateidl, retired.

NEW HAMPSHIRE

Richard R. Ramsdell, Greenland, N.H., in place of R. A. Rolston, removed.

NEW JERSEY

Harold F. Burd, Jr., Washington, N.J., in place of C. D. Tingley, deceased.

NEW MEXICO

Reese L. Greaves, Lovington, N. Mex., in place of M. E. Love, retired.

NEW YORK

John J. Murphy, Brookview, N.Y., in place of C. J. Cooper, retired.

Nathan Raskin, Ellenville, N.Y., in place of Edwin Craft, retired.

Ralph K. Braden, Knox, N.Y., in place of D. Z. Weidman, resigned.

Joseph W. Mannion, Memphis, N.Y., in place of Carmen Murano, resigned.

Edward R. Perrin, Palmyra, N.Y., in place of E. F. Van Deventer, retired.

Peter La Monica, Pleasantville, N.Y., in place of L. D. Olmsted, deceased.

Frances W. Schillaci, Rock Glen, N.Y., in place of A. M. Healy, retired.

Richard A. Vimmerstedt, West Falls, N.Y., in place of H. D. Kellogg, retired.

Joseph J. Durish, West Sayville, N.Y., in place of William Johnson, retired.

NORTH CAROLINA

Donald H. Elingburg, Arden, N.C., in place E. F. Shuford, deceased.

Charles R. Cowan, Mount Mourne, N.C., in place of H. A. Alexander, retired.

Wilbur J. Underhill, Wendell, N.C., in place of F. M. Pearce, retired.

NORTH DAKOTA

Leslie L. Bahr, Mooreton, N. Dak., in place of G. D. Davis, transferred.

OHIO

C. H. Hertenstein, Bellefontaine, Ohio, in place of K. W. Moore, deceased.

Donald R. Pettay, Freeport, Ohio, in place of K. E. Caldwell, transferred.

Robert J. Haeuptle, Milan, Ohio, in place of H. E. Dickerson, retired.

William L. Henry, North Hampton, Ohio, in place of W. J. Gallehue, retired.

Vernon A. Bonar, Shadyside, Ohio, in place of P. M. Keyser, retired.

OKLAHOMA

W. Ike Webb, Hugo, Okla., in place of R. R. Hardway, retired.

Clarence C. Towns, Keota, Okla., in place of H. R. Hare, retired.

Donald L. Harman, Nardin, Okla., in place of J. W. Clarke, deceased.

OREGON

Charles M. Cox, Lowell, Oreg., in place of W. E. Sneddon, deceased.

Alice J. Thoreson, Talent, Oreg., in place of R. C. Smoot, retired.

PENNSYLVANIA

Woodrow W. Weaber, Annaville, Pa., in place of W. A. Euston, retired.

James M. Welsh, East Pittsburgh, Pa., in place of G. V. Beech, retired.

Carlton I. Olsen, Youngsville, Pa., in place of W. H. Jones, retired.

SOUTH DAKOTA

Homer V. Morris, Custer, S. Dak., in place of H. M. Himebaugh, retired.

TENNESSEE

Robert H. Easterly, Cleveland, Tenn., in place of J. F. Anderson, retired.

Felix B. Spence, Holladay, Tenn., in place of F. G. McIllwain, deceased.

John W. Dunn, Townsend, Tenn., in place of F. G. Ezell, retired.

Ray E. Kizer, Wildersville, Tenn., in place of H. W. Walker, transferred.

TEXAS

John M. Harkins, Crosbyton, Tex., in place of J. M. Littlefield, retired.

Arthur C. Wendel, Richmond, Tex., in place of E. J. Mueller, deceased.

O. C. Sewell, Jr., Sulphur Springs, Tex., in place of Byron Williams, retired.

VERMONT

Carroll E. Brown, East Ryegate, Vt., in place of R. G. Franklin, resigned.

Lawrence M. Casey, Underhill Center, Vt., in place of B. M. Legrand, resigned.

VIRGINIA

Jean P. McDonald, Round Hill, Va., in place of F. T. Beans, retired.

Thomas R. McDonald, Salem, Va., in place of G. A. Scruggs, retired.

WASHINGTON

Benjamin L. Morse, Auburn, Wash., in place of C. O. Jackson, retired.

Mary J. Sterley, Elmer City, Wash., in place of L. E. Bartlett, retired.

Geraldine N. Stegenga, Ford, Wash., in place of R. W. Garwood, resigned.

Virginia O. Bockemuehl, Hartline, Wash., in place of E. C. Carey, resigned.

WEST VIRGINIA

John S. Ballingall, Cabincreek, W. Va., in place of K. C. Brannen, retired.

WISCONSIN

Gladys L. Thorpe, Darien, Wis., in place of A. W. Christman, resigned.

Daniel J. Cress, Phillips, Wis., in place of B. F. Pope, retired.

Bernard E. Matchey, Whitehall, Wis., in place of H. J. Elstad, deceased.

WITHDRAWAL

Executive nomination withdrawn from the Senate June 16 (legislative day of March 30), 1964:

The following-named Foreign Service officer for promotion from class 1 to the class of career minister which was sent to the Senate on April 3, 1964:

Murat W. Williams, of the District of Columbia.

HOUSE OF REPRESENTATIVES

TUESDAY, JUNE 16, 1964

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Hebrews 12: 14: *Follow peace with all men, and holiness, without which no man shall see the Lord.*

O Thou God of all majesty and mercy, may we begin each new day with a clear vision of the great mission of our beloved country and our responsibility to preserve and perpetuate its lofty ideals and principles.

Help us to sense the need of Thy guiding spirit when we encounter conditions and circumstances which are far beyond our own finite wisdom and strength.

May we be lovers of righteousness and justice and earnestly strive to hasten the time when peace and good will shall prevail in all human relationships.

Hear us in Christ's name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

PERMISSION TO ADDRESS THE HOUSE

Mr. TUCK. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

CALL OF THE HOUSE

Mr. BEERMANN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Will the gentleman withhold the point of order until the gentleman from Virginia makes his 1-minute speech?

Mr. BEERMANN. I should like to have the Members hear his 1-minute speech, Mr. Speaker.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 156]

Abele
Alger
Ashley
Avery
Barrett
Barry
Bass
Bennett, Mich.
Blatnik

Bolling
Buckley
Burkhalter
Burleson
Clawson, Del
Corman
Davis, Tenn.
Dawson
Diggs
Dingell
Dowdy
Ellsworth
Foreman
Forrester
Gallagher
Gubser
Halpern
Hanna
Healey
Hoffman
Hosmer
Jarman
Joelson
Kee
Laird
Lankford
Leggett
Lloyd
McDade
Miller, N.Y.
Monagan
Morton
Osmers
Patman
Pepper
Pilcher
Pool
Powell
Quie
Rains
Reifel
Roudebush
St. Onge
Scott
Senner
Snyder
Staebler
Staggers
Steed
Teague, Tex.
Thompson, La.
Toll
Tupper
Udall
Waggonner
Wallhauser
Westland
Wilson, Bob
Wright

The **SPEAKER** pro tempore (Mr. ALBERT). On this rollcall 363 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

The **SPEAKER** pro tempore. The gentleman from Virginia [Mr. TUCK] has been recognized for 1 minute.

THE SUPREME COURT DECISIONS IN THE APPORTIONMENT CASES

Mr. TUCK. Mr. Speaker, the Supreme Court decisions in the apportionment cases mark a new and shocking interference by the Federal judiciary with the right of the sovereign States to conduct their domestic affairs. Going far beyond any alleged denial of franchise because of race, color, religion, or sex, reversing a uniform course of prior judicial decisions, the Court asserts a novel judicial power under which the Federal courts are encouraged to intervene in what are essentially political questions, heretofore uniformly entrusted to the States. These unfortunate decisions do not arise out of any issue dividing the North and the South. They must prove as obnoxious to Michigan as to Louisiana; to California as to Virginia. As an instrument for destroying the delicate balance of State-Federal relationships, it is unique and unprecedented, even for a court well known for its disregard of the rights of the States.

The decisions in these cases constitute a wide departure from the wise policy of judicial restraint. They strike destructively at the Federal Union obtained by the Constitution.

The Court has assumed for the Federal judiciary power to review the acts of a State legislature respecting the apportionment or reapportionment of the States into legislative districts. This assumption of jurisdiction necessarily implies the assumption of power to direct by judicial edict any such apportionment or reapportionment in a manner agreeable to the views of the Federal courts rather than to those of the legislature or the people of the respective States. In order to reach this conclusion, the Court has reversed and set at naught a long line of decisions of the Supreme Court holding that it had no such power as it now assumes to exercise.

The time has come now when we must recognize that the Supreme Court is using, and for a long time has used, the nebulous provisions of section 1 of the 14th amendment to nullify explicit provisions of the Constitution. Not regarding the provisions of article I, section 8, of the Constitution, to wit:

> The Congress shall have Power To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

The Supreme Court has not only placed interpretation on the powers delegated to the Central Government by section 1 of the 14th amendment, but it has, by judicial fiat, sought to carry such interpretation into execution in plain defiance of the explicit mandate of the Constitution.

Section 5 of the 14th amendment, far from obviating the above provision of article I, section 8, undertakes to preserve to Congress all powers regarding the enforcement of the provisions of the 14th amendment, by the following language:

> The Congress shall have power, by appropriate legislation, to enforce the provisions of this article.

If the Supreme Court can usurp the powers of Congress with respect to enforcing the provisions of the 14th amendment, why can it not usurp the powers exclusively delegated to Congress by article I, section 8? The language of delegation is exactly the same, that is to say:

> The Congress shall have power . . .

From a reading of the decisions of the Supreme Court during recent years, without recourse to the Constitution and the amendments thereto, one must conclude that the 10th amendment had been deleted from the Constitution. In case this amendment has been forgotten, it reads:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

For many years the Supreme Court has been encroaching upon the powers of the States, without so much as mentioning the 10th amendment, the great bastion established by the Constitution to preserve the States.

The Congress must begin to consider whether a disposition is not developing through the vast powers assumed by the Supreme Court and the Executive to crush Congress between the upper and nether millstones of the overwhelming powers of the judicial and executive departments.

I have introduced a bill having for its purpose defining the jurisdiction of the U.S. Supreme Court and all Federal courts inferior thereto, in certain instances. The bill reads as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That neither the Supreme Court of the United States, nor any Federal court inferior thereto, shall have jurisdiction, either original or appellate, to change, modify, direct, or set aside any apportionment or reapportionment of legislative districts adopted by the lawmaking bodies of the respective States.

Article III, section 2, of the U.S. Constitution confers upon the U.S. Congress exclusive right to define and regulate the appellate jurisdiction of the Supreme Court of the United States. The same section of our Constitution confers upon Congress the exclusive power to establish and maintain Federal courts inferior to the Supreme Court.

The bill does not deprive any aggrieved person or set of persons of a forum to which they may go for redress in this class of cases. The courts of the respective States have ample powers which they may and do frequently exercise.

Congress has a clear duty to undo the mischief of these decisions through exercise of its power to withdraw the jurisdiction which the Federal courts have now assumed in such cases. The bill which I have introduced does just that.

Although there are those who will contend that a constitutional amendment is necessary if we are to negate the evils of these decisions, there is ample authority to the effect that no constitutional amendment is necessary in such a case and that Congress has the power to act. I am supported in this view by the counsel for the Virginia Commission on Constitutional Government, a very able and distinguished organization recognized as such throughout the country. A great Virginia constitutional lawyer, Judge William Old, of Chesterfield, has said:

> The U.S. Congress undoubtedly has the plenary power to limit and control all elements of jurisdiction of the Federal courts inferior to the Supreme Court and also has the power to limit and control the appellate jurisdiction of the Supreme Court.

If our distinctive way of life which all patriotic Americans love and cherish is to survive, an end must be made forthwith to these Federal incursions into the rights of the States and localities.

Congress has the power to lay the hand of restraint upon the Federal judiciary and stop these judicial indiscretions and abuses. I hope it has the will.

QUOTAS ON BEEF IMPORTS

Mr. SHORT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

Mr. SHORT. Mr. Speaker, recent press releases from the Department of Agriculture and statements by Secretary Freeman to the effect that there is no need for legislation to establish quotas on beef imports: "because we will not face an import problem for at least 18 months," completely disregards the simple biological facts, to say nothing of statistical facts.

At this moment this country has the largest cattle population in our history—106 million head—and the highest proportion ever of mother cows. In 1964 the American cattle industry will produce the largest calf crop in history.

Secretary Freeman is quoted as claiming that administration actions to reduce beef imports have achieved for this year the levels of imports sought by cattlemen through legislation and "we have at least 18 months of grace," and "at the end of that time we can reassess our position."

Overlooked in this statement is the fact that the U.S. beef cattle industry is in its current oversupply and price depressant condition because unusually heavy imports during 1962–63 distorted the normal supply situation.

More important is the fact which should not come as a surprise to Secretary Freeman that it takes 9 months for a cow to produce a calf, another 6 or 7 months for the cow to raise the calf and 5 to 10 months more for the calf to become beef for market. So 18 months of "grace" will hardly give the rancher or feeder time to put his house in order. Cattle numbers are going to be at an all-time high in this country for more than that long.

This is why cattlemen are pressing hard for legislation now to establish fair and equitable quotas which would apply where prices are severely depressed.

We simply cannot afford to have continued the disastrous price situation for another 18 months while this administration "reassesses" a situation which is an obvious fact now.

IMPROPER USE OF AMERICAN AID MONEY

Mr. THOMSON of Wisconsin. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. THOMSON of Wisconsin. Mr. Speaker, it is still my opinion that our AID officials should prevent the improper use of American AID money and, likewise, AID should be stopped where foreign governments refuse to repay AID money improperly used.

During debate, June 10, on H.R. 11380, the gentleman from New Jersey [Mr. GALLAGHER] suggested such a policy would stop AID to Pakistan because of an $878 arrearage, stop AID to Korea because of one claim in the amount of $192, and stop AID to Vietnam because of an unpaid claim in the amount of $4,291.

This House should know that those are just examples, because there is due to America on March 31, 1964, for improperly used AID moneys a total of $24,560,250, of which total Pakistan is delinquent in the amount of $720,362, Korea is delinquent in the amount of $829,903, and Vietnam is delinquent in the amount of $210,656.

But the unpaid account with Vietnam does not include a total of almost $22,000 for androgenic hormone, a sex stimulant, evidenced by 13 separate purchases for which claims were filed and then withdrawn, leaving the American taxpayer to foot the bill for sex stimulants going to a country we are already feeding.

How many other claims to recover improperly used funds have been written off by the State Department? It is time these practices are prevented.

DISTORTION OF EQUAL PROTECTION CLAUSE BY SUPREME COURT

Mr. JOHANSEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. JOHANSEN. Mr. Speaker, speaking of the claim of "inherent power" made some years ago by President Truman in seizing the steel mills, Mr. Justice Jackson said that the claimed power "either has no beginning or it has no end."

I suggest that the authority attributed to the equal protection clause and again asserted by the Supreme Court in the apportionment decisions yesterday may be similarly characterized.

The power alleged by the Court under this clause is one which "either has no beginning or has no end."

I further suggest that unless the usurpations of the Supreme Court are curbed either by constitutional amendment or by legislation restricting the appellate authority of the Court there are virtually no limits to the dictatorial power which the Court may hereafter exercise, under this clause.

Last year, by majority vote, the people of the State of Michigan adopted a new constitution. This constitution has been drafted by a convention elected by the people. This constitution provides that the State senate shall be apportioned on an 80–20 basis; that is, the factor of population shall be weighted 80 percent and other factors 20 percent.

Under yesterday's decisions a majority of the Court has arrogated to itself alleged authority to veto this decision of a majority of the voters of Michigan.

By implication the Court has gone even further. It has, in effect, decreed that those who have the responsibility of devising a system of representation may—not—consider that factors other than bare numbers should be taken into account.

This reverses all historical precedent.

In his first inaugural address more than a century ago, President Lincoln said:

> The candid citizen must confess that if the policy of the Government upon vita questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigation by the parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal.

Yesterday's decisions have proven that Lincoln's words were ominously prophetic.

A JUSTIFICATION FOR THE SUPREME COURT DECISION

Mr. ROONEY of New York. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ROONEY of New York. Mr. Speaker, I should like to point out to my distinguished friend, the gentleman from Michigan [Mr. JOHANSEN] and to my distinguished friend, the gentleman from Virginia [Mr. TUCK] that in the State of New York, in upstate New York, we have a Republican member of the lower body of the State legislature who as Jimmy Breslin says represents 15,000 people from Schuyler County and almost 10,000 Holstein cows. This would compare with a Democratic legislator from Brooklyn in the city of New York who represents almost 150,000 people.

Perhaps there is something to the Supreme Court decision on reapportionment.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Private Calendar. The Clerk will call the first bill on the Private Calendar.

DR. AND MRS. ABEL GORFAIN

The Clerk called the bill (H.R. 2706) for the relief of Dr. and Mrs. Abel Gorfain.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

CHARLES WAVERLY WATSON, JR.

The Clerk called the bill (H.R. 2728) for the relief of Charles Waverly Watson, Jr.

Mr. CONTE. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

JOHN F. MACPHAIL

The Clerk called the bill (H.R. 5145) for the relief of John F. MacPhail, lieutenant, U.S. Navy.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ESTATE OF J. W. GWIN, SR.

The Clerk called the bill (H.R. 2747) for the relief of the estate of J. W. Gwin, Sr.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CWO. ELDEN R. COMER

The Clerk called the bill (H.R. 6136) for the relief of CWO. Elden R. Comer.

Mr. CONTE. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HELEN J. GOOGINS

The Clerk called the bill (H.R. 6839) for the relief of Helen J. Googins.

Mr. CONTE. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

JONG WAN LEE

The Clerk called the bill (H.R. 6479) for the relief of Jong Wan Lee.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

N. M. BENTLEY AND GEORGE MARKWALTER

The Clerk called the bill (H.R. 7823) granting jurisdiction to the Court of Claims to render judgment on certain claims of N. M. Bentley against the United States.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MR. AND MRS. BLANTON DARBRO

The Clerk called the bill (H.R. 8184) for the relief of Mr. and Mrs. Blanton Darbro.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the limitations of time prescribed in paragraph (1) of subsection (a) of section 715 of title 32 of the United States Code, or any other provision or doctrine of law, any claim by Blanton Darbro and/or Lue Darbro, his wife, of Vevay, Indiana, for damages as a result of the crash of a Kentucky Air National Guard airplane on their property on or about October 30, 1957, shall be settled under the remaining provisions of the said section 715 if such claim is presented in writing within one year after the date of enactment of this Act.

With the following committee amendment:

Page 1, line 4, strike "paragraph (1) of subsection (a)" and insert in lieu thereof "clause (1) of subsection (b)".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROGER A. ROSS

The Clerk called the bill (H.R. 8746) for the relief of Roger A. Ross.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Roger A. Ross, of San Diego, California, a former member of the United States Navy, is hereby relieved of liability to the United States in the sum of $649 representing amount paid him as extra hazardous diving pay at the rate of $5.50 an hour in connection with dives performed in the summer of 1959 as a member of a Navy underwater demolition team in connection with a series of special dives near Wake Island. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount for which liability is relieved by this Act.

(b) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Roger A. Ross, an amount equal to the aggregate of any amounts paid or withheld from sums otherwise due him by reason of the liability referred to in this Act. No part of the amount appropriated in this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HUGH M. BRADY

The Clerk called the bill (H.R. 3220) for the relief of Hugh M. Brady.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Hugh M. Brady, of Jersey City, New Jersey, the sum of $200, in full settlement of all claims of Hugh M. Brady against the United States for reimbursement of amounts paid by him in settlement of an action brought against him in the district court of Hudson County, New Jersey, as a result of a motor vehicle collision on January 7, 1958, in West New York, New Jersey, between a privately owned vehicle and a Government vehicle being operated by him within the scope of his employment with the United States Post Office Department: *Provided,* That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 2, lines 4 and 5: Strike "in excess of 10 per centum thereof".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNE S. HENKEL

The Clerk called the bill (H.R. 9764) for the relief of Anne S. Henkel.

There being no objection the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Anne S. Henkel of Portsmouth, Virginia, is relieved of liability to the United States in the amount of $533.12, representing an overpayment of salary paid to her in 1960, 1961, 1962, and 1963 by the Department of the Navy as a result of an erroneous calculation of her appropriate salary at the time of a demotion effective December 25, 1960, because of a reduction in force. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this Act.

SEC. 2. The Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Anne S. Henkel an amount equal to the aggregate of the amounts paid by her or withheld from sums otherwise due her, in complete or partial satisfaction of the liability to the United States specified in the first section of this Act. No part of the amount appropriated by section 2 of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 2, lines 10 and 11, strike "in excess of 10 per centum thereof".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

W. H. PICKEL

The Clerk called the bill (H.R. 9886) for the relief of W. H. Pickel.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

Mr. ASHMORE. Mr. Speaker, I ask unanimous consent that an identical Senate bill, S. 718, be considered in lieu of H.R. 9886.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There being no objection, the Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay out of any moneys in the Treasury not otherwise appropriated, to W. H. Pickel, of Greeneville, Tennessee, the sum of $385.25, in full satisfaction of his claim against the United States for refund of an overpayment of the tax imposed by section 3301 of the Internal Revenue Code of 1954 (the Federal unemployment tax) for the calendar year 1956: *Provided,* That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 9886) was laid on the table.

CERTAIN INDIVIDUALS

The Clerk called the bill (H.R. 9901) for the relief of certain individuals.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each individual named in section 2 of this Act is relieved of liability to pay to the United States the amount set forth opposite his name, which amount represents an overpayment of per diem received by him while stationed at Fleet Air Western Pacific Repair Activity, Tokyo and Osaka, Japan. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this Act.

SEC. 2. The individuals referred to in the first section of this Act and the amount of the liability of each of them, are as follows:

Wilson, Ruddy (2686566), United States Navy Fleet Reserve, $1,708.60.

Gilbert, William L. (2747774), United States Navy Fleet Reserve, $5,232.45.

Hoover, Russel D. (3132792), United States Navy Fleet Reserve, $6,783.20.

Floyd, Fretwell J. (8456082), United States Navy Fleet Reserve, $8,273.20.

Dahlen, Wallace A., lieutenant commander, United States Navy, $6,378.74.

Benson, Leonard R. (3933163), United States Navy Fleet Reserve, $11,218.75.

Raines, James C. (2952599), United States Navy Fleet Reserve, $6,953.80.

Ringstead, Richard G. (3286779), United States Navy Fleet Reserve, $3,821.85.

McKee, Benjamine A. (3466670), United States Navy Fleet Reserve, $6,471.45.

Coleman, Johnny R. (3603289), United States Navy Fleet Reserve, $4,280.85.

Hudson, William J., Jr. (2744556), United States Navy Fleet Reserve, $1,226.70.

Lindley, William R. (814054), United States Marine Corps Fleet Reserve, $3,446.80.

Gorski, William S. (507173), United States Marine Corps Fleet Reserve, $2,843.95.

Zidnak, Leonard G., 1772 Carlyle Street, Memphis, Tennessee, $4,898.95.

SEC. 3. The Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to each individual listed in section 2 of this Act an amount equal to the aggregate of the amounts paid by him, or withheld from sums otherwise due him, in complete or partial satisfaction of the liability to the United States specified in the first section of this Act. No part of the amount appropriated in this Act for the payment of any one claim in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendments:

Page 2, line 7, strike "$5,232.45" and insert "$7,154.70".

Page 2, line 13, strike "$6,378.74" and insert "$7,508.36".

Page 3, line 2, strike "$3,446.80" and insert "$10,232.80".

Page 3, line 6, strike "$4,898.95" and insert "$5,261.55".

Page 3, line 15, strike "one claim in excess of 10 per centum thereof" and insert "claim".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOE C. ODEN

The Clerk called the bill (H.R. 10066) for the relief of Joe C. Oden.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Joe C. Oden, of Jacksonville, Alabama, a civilian employee of the Department of the Army at Fort McClellan, Alabama, is hereby relieved of liability to the United States in the amount of $1,187.90, the amount by which he was overpaid, as a result of administrative error, during the period from September 21, 1952, to April 4, 1962. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for any amount for which liability is relieved by this Act.

SEC. 2. The Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Joe C. Oden, of Jacksonville, Alabama, an amount equal to the aggregate of the amounts paid by him, or withheld from sums otherwise due him, in complete or partial satisfaction of the liability to the United States specified in the first section: *Provided,* That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendments:

Page 1, line 6, strike "$1,187.90" and insert "$1,089.34."

Page 2, lines 8 and 9, strike "in excess of 10 per centum thereof."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. MARIE ROSE COLANDRO

The Clerk called the bill (H.R. 4967) for the relief of Mrs. Marie Rose Colandro.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. ASHMORE. Mr. Speaker, I ask unanimous consent that the bill, H.R. 4967, be recommitted to the Committee on the Judiciary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

MARY HORALEK, BLUE RAPIDS, KANS.

The Clerk called the bill (H.R. 5407) for the relief of Mary Horalek, Blue Rapids, Kans.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mary Horalek, of Blue Rapids, Kansas, an amount not to exceed $6,500, determined by the Secretary of the Army to be the fair market value of the real estate owned by her adjacent to the Tuttle Creek Reservoir in Marshall County, Kansas, upon conveyance of a good and merchantable title to that land to the United States of America within a period of one year from the date of notification to Mary Horalek of the value determined by the Secretary of the Army. The payment of the sum so determined shall be paid Mary Horalek as the full consideration for conveyance of the land and shall be in full settlement of her claims for damages she suffered due to the construction of the Tuttle Creek flood control reservoir.

No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Amend the title so as to read: "A bill for the relief of Mary Horalek and Eva Horalek, Blue Rapids, Kansas."

With the following committee amendments:

On page 1, line 5, after "Mary Horalek" insert "and Eva Horalek,".

On page 1, line 8, strike "her" and insert "them".

On page 2, line 1, after "Mary Horalek" insert "and Eva Horalek".

On page 2, line 3, after "Mary Horalek" insert "and Eva Horalek".

On page 2, line 5, strike "her" and "she" and insert "their" and "they".

On page 2, lines 7 and 8, strike "in excess of 10 per centum thereof".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended to read as follows: "A bill for the relief of Mary Horalek and Eva Horalek, Blue Rapids, Kans."

A motion to reconsider was laid on the table.

MALONEY BROS. NURSERY CO., INC.

The Clerk called the bill (H.R. 6882) for the relief of the Maloney Bros. Nursery Co., Inc.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the State of New York the sum of $1,232.06. Such sum shall be paid to the State of New York only if the Secretary of Labor certifies to the Secretary of the Treasury that such sums will be used by the State of New York as a credit against the liability for tax under the New York State unemployment tax laws of the Maloney Brothers Nursery Company, Incorporated, of Dansville, New York, for the taxable years 1953, 1954, and 1955, and will extinguish all liability of the said Maloney Brothers Nursery Company, Incorporated, under such laws for such taxable years. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of the preceding sentence shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1, strike lines 6, 7, and 8 and insert "$1,232.06 on the conditions that it will be used".

The committee amendment was agreed to.

The bill was ordered to be engrosed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CAPT. LESLIE B. SHANOFF

The Clerk called the bill (H.R. 8286) for the relief of Capt. Leslie B. Shanoff.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Captain Leslie B. Shanoff is releived of liability to pay to the United States the sum of $1,201.67 representing overpayments of flying pay as the result of an error made by the Government during the period January 26, 1962, to June 30, 1963, while he was serving on active duty with the United States Air Force. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount of which liability is relieved by this Act.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay out of any money in the Treasury not otherwise appropriated, to Leslie B. Shanoff, an amount equal to the aggravated of any amounts paid or withheld from sums otherwise due him by reason of the liability referred to in section 1 of this Act. No part of the amount appropriated in this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILMER ALLERS AND JANE B. ALLERS

The Clerk called the bill (H.R. 9372) to remove a cloud on the title of certain property owned by Wilmer Allers and Jane B. Allers, both of Malin, Oreg.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to release to Wilmer Allers and Jane B. Allers (husband and wife), both of Malin, Oregon, and their heirs and assigns, that interest reserved by the United States in lots 4, 5, 6, and 7 of block 29, supplemental plat of Malin (Klamath County), Oregon, pursuant to the Act of August 30, 1890 (26 Stat. 371), which interest relates to the right of the United States to construct ditches and canals upon and through such lots.

SEC. 2. Upon payment within six months following the date of enactment of this Act by the said Wilmer Allers and Jane B. Allers (or their heirs or assigns) to the Secretary of the Interior of an amount equal to the current fair market value of the interest authorized to be released under the first section as determined by the Secretary after appraisal, the Secretary shall execute and deliver to Wilmer Allers and Jane B. Allers (or their heirs or assigns) an appropriate written instrument which will effect the release so authorized.

With the following committee amendment:

Strike all after the enacting clause and insert the following:

"That the United States hereby releases and quitclaims to Wilmer Allers and Jane B. Allers (husband and wife), both of Malin, Oregon, and their heirs and assigns, that interest reserved by the United States in lots 4, 5, 6, and 7 of block 29, supplemental plat of Malin (Klamath County), Oregon, pursuant to the Act of August 30, 1890 (26 Stat. 371, 391), which interest relates to the right of the United States to construct ditches and canals upon and through such lots."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

PUBLIC WORKS APPROPRIATION BILL, 1965

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 785, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That during the consideration of the bill (H.R. 11579), making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and the Delaware River Basin Commission, for the fiscal year ending June 30, 1965, and for other purposes, all points of order against title III of said bill are hereby waived.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. BROWN] and pending that I yield myself such time as I may consume.

Mr. Speaker, the resolution speaks for itself. The Committee on Appropriations finds itself in a situation where it is necessary to go ahead and appropriate for the many programs falling under the public works program. Included in that program are the appropriations for the Atomic Energy Commission. That authorization bill, of course, only recently passed the House and is at present pending before the other body where, because of other business at hand, they have not had an opportunity to act upon it. Therefore, the authorization has not been signed into law. So the purpose of this resolution is simply to waive points of order against title III of the bill. That is all the resolution does. Therefore, Mr. Speaker, I urge the adoption of House Resolution 785, and I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

As the gentleman from California [Mr. SISK] has explained, this rule simply makes in order the consideration of H.R. 11579, the annual public works appropriation bill after providing for a waiver of points of order on one section of the bill, which is, of course, the section relating to appropriations for the Atomic Energy Commission. The Atomic Energy Commission authorization bill has passed the House but has not yet passed the Senate. Therefore, it is necessary to waive points of order on that particular section of this bill. The bill itself is, of course, an annual measure, is a very important one from many angles. It carries a total of $4,325,969,200, which, by the way, is some $79,534,000 less than was appropriated for the same purposes last year and some $46,479,800 less than requested in the President's budget.

The largest amount or item in the bill, of course, is the one for the Atomic Energy Commission itself, the total for that agency of the Government alone being $2,621,073,000. This bill also carries, as the title of the measure shows, appropriations for many other civil functions of the Government, such as the operation of the Panama Canal, certain agencies within the Department of the Interior, the St. Lawrence Seaway Development Corporation, the Tennessee Valley Authority, the Delaware River Basin Commission, and also carries a number of flood control projects throughout the Nation.

I would like to point out, if I may, that the entire appropriation contained in this bill for various flood control purposes in the Mississippi River and tributary basins, where most flood control projects are located, amounts to only $73,550,000 in all. But they are all important projects, and a great many congressional districts are affected by this particular section of the bill. I am sure the full measure itself will receive the favorable attention of the House.

There is no limit as to the length of time to be assigned for general debate. That will depend entirely upon the desires of the Subcommittee on Appropriations itself which is headed by the gentleman from Ohio [Mr. KIRWAN].

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman.

Mr. GROSS. Points of order are waived on this bill only because the authorization bill has not been cleared by the other body; is that correct?

Mr. BROWN of Ohio. That is correct.

Mr. GROSS. And signed by the President.

Mr. BROWN of Ohio. That is correct.

Mr. GROSS. There is nothing in the section applying to the Atomic Energy Commission that would otherwise be subject to a point of order?

Mr. BROWN of Ohio. That is the understanding that was given very clearly to the Committee on Rules. The testimony before the Committee on Rules was that the only reason for requesting a waiver of points of order was the legislative situation which exists in connection with the authorization bill for the Atomic Energy Commission and does not in any way affect any other portion of the bill. I suggest to the gentleman that he might address his remarks to the gentleman from Ohio [Mr. KIRWAN]. I think he will agree that is the understanding that we had before our committee.

Mr. GROSS. Mr. Speaker, if the gentleman will yield so I may ask a question of the gentleman from Ohio. What I am trying to ascertain is whether there is anything in the Atomic Energy Commission section of this bill which would be subject to a point of order other than the fact that the authorization bill has not been enacted into law.

Mr. KIRWAN. Yes, there is one which we indicated in the report.

Mr. GROSS. Then by waiving points of order on this bill we are waiving it for a multiplicity of reasons, not just one reason, is that correct?

Mr. KIRWAN. There is no change in the language at all except for provision for one transfer, similar to what we have had in past years.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time.

Mr. SISK. Mr. Speaker, I note the presence of the distinguished chairman of the Subcommittee on Appropriations for Public Works. I would like to take just a moment of the time of the House to direct a clarifying question to the distinguished chairman. This has to do with the language on page 44 of the report.

I am informed that the Bureau of Reclamation has virtually reached an agreement with P.G. & E. for wheeling which, if satisfactory, could eliminate the necessity for a Federal line. I understand that it was for this reason that the language of the report was framed in the manner it has been. However, in order to ascertain the true intent, I would like to ask if I am correct in assuming that it is the committee's intention that, if for any reason such an agreement were not consummated, the amount of $2,300,000 could be used for construction of a Federal line.

Mr. KIRWAN. Not this year. The committee does not want the money used for any other purpose, including the construction of the Federal line. For example, the language in the report prevents the Bureau from using the money to build the Denver office building.

Mr. SISK. I thank the distinguished chairman very much for that answer because the specification was that this money could not be used, for example, as the gentleman indicated, to build a building in Denver, or for a variety of other purposes, but could only be used for purposes of this wheeling agreement in connection with the construction of a transmission line in this particular area.

Mr. JENSEN. Mr. Speaker, will the gentleman yield.

Mr. SISK. I yield to the gentleman from Iowa.

Mr. JENSEN. Mr. Speaker, I believe the gentleman understands this matter thoroughly. The language in the report, of course, is quite clear. The gentleman is correct, as I understand, when he says that the funds allowed are available only to implement the wheeling offer. That is the purpose of the money and for that only.

Mr. SISK. It is my understanding—and this, of course, was the only reason I asked the question—that this money cannot be used for any purpose other than arrangements for getting power from Tracy into the San Luis pumping plant. Whether any money can be used in implementing the wheeling agreement which I understand is probably firm and whether it is used for construction, it is still limited to this specific project and cannot be transferred to some other project or item.

Mr. JENSEN. The gentleman is correct.

Mr. SISK. I thank the gentleman.

Mr. RHODES of Arizona. Mr. Speaker, will the gentleman yield?

Mr. SISK. I am glad to yield to the gentleman from Arizona.

Mr. RHODES of Arizona. Perhaps the gentleman from California does not realize this—I think he does—but as I understand it this money cannot be used for any purpose other than implementing the wheeling agreement. It cannot be used for construction.

Mr. SISK. This, of course, is not the understanding I have nor is it the understanding of the Bureau of Reclamation.

The limitation here and the intent of the language is that this money has to be used for a transmission line or for wheeling arrangements dealing with the transmission of power from Tracy to the San Luis pumping plant.

Mr. RHODES of Arizona. That is not as I understand the situation.

Mr. SISK. Otherwise, I might say to the gentleman from Arizona, of course, there would not be any point in the language, because the purpose here was to get the best agreement we could from the Pacific Gas & Electric Co. for wheeling. I understand they are probably close to an agreement, and I have no disagreement with them, unless, of course, however, there is to be a prohibition here to the effect that no money can be used. In other words, in essence, if Congress is saying they cannot build a transmission line, this would place the Department in an untenable position.

Mr. JENSEN. And if we do not obtain a good contract from the P.G. & E., they will probably start building the line; is that correct?

Mr. SISK. That is my understanding.

Mr. RHODES of Arizona. It is not my impression that the money could be used for construction under any circumstances.

Mr. KIRWAN. Mr. Speaker, if the gentleman will yield, the money could not be used for construction this year.

Mr. RHODES of Arizona. Not this year.

Mr. KIRWAN. We expect to get a good contract from the P.G. & E. We expect that and that is what we want.

Mr. RHODES of Arizona. And if that contract is not concluded then the Bureau of Reclamation must come to the Congress next year for any money to be used for construction purposes?

Mr. KIRWAN. That is right; we would consider it again next year. They cannot perform any construction this year.

Mr. SISK. I understand that and that was the point I was attempting to make. The only reason the question was asked was for interpretive purposes.

Mr. JENSEN. If the gentleman will yield further, the Bureau of Reclamation now has an offer from the local utility, the Pacific Gas & Electric Co., to supply wheeling service at less than Federal cost. The committee has disallowed the use of funds for construction of facilities covered by this offer. The funds allowed are available only to implement the wheeling offer. That is the situation in a nutshell.

Mr. SISK. I understand exactly what the committee is doing. I simply want to make it clear that the limitation on these funds had to do with their use, but it did not say in essence that you must consummate an agreement for wheeling with Pacific Gas & Electric.

I am inclined to agree that Pacific Gas & Electric can wheel here probably for less money than the Federal Government can afford to build a line and do it. On the other hand, the point I am trying to make clear is that this is not a demand upon the Department that they must consummate this agreement. This is simply a limitation to the effect that this money cannot be used for any other purpose. Of course, as the gentleman indicated, nor for construction this year of this line. If they cannot come up with an agreement that is satisfactory then, of course, we will meet the issue next year if we need to build a Federal line.

Mr. JENSEN. Mr. Speaker, if the gentleman will yield further, the language in the report speaks for itself.

Mr. SISK. I got the interpretation that I was seeking, I might say to the gentleman from Iowa.

Mr. JENSEN. I thank the gentleman.

Mr. SISK. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

IN THE COMMITTEE OF THE WHOLE

Mr. KIRWAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the reconsideration of the bill (H.R. 11579) making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the St. Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and the Delaware River Basin Commission, for the fiscal year ending June 30, 1965, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 2 hours, one-half of the time to be controlled by the gentleman from Iowa [Mr. JENSEN] and one-half by myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 11579, with Mr. BOGGS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. KIRWAN. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman, this bill totals $4,325,969,200 which is $79,534,500 below the 1964 appropriation and $46,479,800 below the budget estimate.

For the Corps of Engineers the bill includes a total of $1,178,308,200, an increase of $28,944,200 over the budget. The committee has added 33 unbudgeted studies, increased the budget on 6 studies, added 11 new planning starts, making a total of 28 new planning items; and added 16 new unbudgeted construction starts, making a total of 54 new starts.

The bill includes a total of $318,013,000 for the Bureau of Reclamation, a decrease of $36,068,200 from the current year and an increase of $263,000 over the budget.

The bill includes five new budgeted reclamation construction starts.

The committee has disallowed the $1 million budgeted for planning a high-voltage line from the Bonneville system into southern Idaho. The committee has directed in the report—page 47—that no funds be expended except for good faith negotiations to be continued or initiated with interested parties to wheel Bonneville power to serve preference customers only in the southern Idaho Federal marketing area. If no satisfactory wheeling arrangements can be reported to the committee by the time of its action on the fiscal year 1966 budget estimates, it will invite a further proposal for Federal construction.

The bill includes a total of $2,624,073,000 for the Atomic Energy Commission, a decrease of $118,596,000 from 1964, and a reduction of $68,927,000 in the budget. The reduction in the budget includes a decrease of $10,965,000 made by the authorizing committee and $57,962,000 made by our subcommittee, primarily in physical research, reactor development, and anticipated slippage and increase in carryover unobligated balances.

Mr. Chairman, now I would like to tell you about the importance of this program.

I have been on this committee about 21 years. I think this is one of the best public works bills that ever came to the House. Down through history the Corps of Engineers has spent a total of $16.5 billion on this country for flood control, navigation, and multiple-purpose projects. Twelve billion, seven hundred million dollars of this, or 77 percent, has been spent just in the last 20 years. Very little was done for America until the past 20 years. Seven billion, six hundred million dollars of the total has been spent just since 1956.

When you realize that we received over 350 requests from Members of Congress to either add to budgeted projects or add unbudgeted projects you can appreciate the job that remains to be done. They know what is going on in their own districts. They see the need with their own eyes. Down through the years very little action has been taken in comparison to the projects that must be constructed.

The gross national product of this Nation in 1929 was $104 billion. In 1932 it was $58 billion. In 1933 it was only $56 billion. Last year it was $600 billion. Just stop and think of that, over 10 times greater than it was in 1933. Thus you know this committee and this Congress itself are not wasting money. We are building America, as we must, if we want to stay on top and lead the rest of the nations.

The Ohio River project was constructed by the Army Engineers beginning in 1929. When they first started to dredge that river in the early twenties some thought it would haul 20 million tons of freight. In 1942 they hauled 32 million. In 1962 they hauled 85 million tons on the Ohio River, and it is now up around 90 million. The Ohio River is next in the world to the Rhine in tonnage of freight hauled.

The population of America at the turn of the century was 76 million. In 1952 we had 145 million. In 1964 we have 192 million. In 1975 we will have about 225 million people. The question is, Where are you going to get the water?

At the rate we are going, in 1975, 10½ years from now, we are going to wake up some morning and there will be no water. Look at what happened this year in droughts all over the Nation, and last year. Just stop and think. People on many occasions were not allowed to use water for certain purposes all over this country. But take 225 million people 9½ years from now in this country. Every time they build a house, a garage, a drive, and a street out in front of it, we cannot get that water into a storm sewer fast enough to get it in the river and on its way to the sea. We have made little effort since the beginning of time to preserve that water. All we have done is see how fast we can destroy ourselves by getting it into a storm sewer. At the rate we are going there will be only one answer, we will wake up some morning to our own destruction, unless we do a better job at passing bills and putting more money into building America. We are building the rest of the world, but any time you try to do something in and for this country you have the toughest job anybody has had. Everybody is in the way at every turn of the road.

The number of people employed in the United States in 1942 was 53.7 million. When a former Vice President said that some day we were going to employ 60 million people in this country, you might say that they ran him out of public office. Remember the cry that went up that day when he made that prediction?

I called this morning and asked how many people were employed in America. Today over 70 million people are employed in America. You see how far even that man missed the boat. But what did they call that gentleman all over this country? He was denounced as being radical.

Now let us look at the recreation business. Under the Corps of Army Engineers, in 1950, only 16 million people visited the reservoirs. That is how few we had at that time. But with the investment in recent years in these projects, in 1962 127 million people visited the reservoirs and recreation areas.

In 1950, the Forest Service had only 27 million visitors, but in 1962 they had 113 million.

In 1950, the Park Service had 33 million visitors, and in 1962 they had 88 million visitors.

In 1950, all they had was a total of 76 million people to visit these recreation areas in our parks, forests, and the corps projects. Three hundred and twenty-eight million people visited them in 1962. The total visits are up over 400 percent since 1950 and 800 percent on the corps projects. Just stop to think of that. People are now spending far more each year on recreation alone than we appropriate in this bill. I have been chairman of the Interior Appropriations Subcommittee and I remember in 1950 a gentleman came down the aisle and offered an amendment to cut the Park Service by $100,000. Suppose we had let it stay that way. Do you think we would have had 88 million people going to visit the national parks unless the funds were provided?

You hear a lot of people talk about what creates prosperity—whether it is the automobile industry, the railroad industry, the utilities, and so on. There is only one place that prosperity comes from and that is from the wood and the land and the water. That is where prosperity comes from. It starts with our natural resources, not from Ford, not from General Motors, where the product is finished. The investment we have made in protecting our resources has come back many times and we should increase our expenditures if we are going to maintain and increase our prosperity. So that is the point I am trying to stress and to bring home to you. That our prosperity starts down on that land and wood and water—in agriculture, in the forests, and in the minerals of our land. Every bit of it is down there and that is what this bill means.

So what I am asking you here today is to approve this bill and I can tell you, after being on this committee a long time, that this is one of the best bills that has ever come to the Congress. Every year that I come down to the well of this House to speak for this bill, the only difference is that there should be another billion dollars in the bill for water because 9 years from now you will not be able to put in $6 or $8 billion into one bill and expect that you are going to be able to build the dams and reservoirs overnight. These projects take 3 and 4 and 5 and 6 years to build. That is why I am telling you that when we provide for only 54 new construction starts in this bill, only 2 more than in the House bill last year, we are only doing a minimum job. The country has grown bigger than that. So every one of you in this Chamber today should take an inventory of his district when he goes home this fall, if he wants to do something for America, and see what is needed in the way of water and in the way of taking care of our home, the greatest country in the world, America.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. KIRWAN. I yield to the gentleman from Iowa.

Mr. KYL. In the light of what the gentleman is saying about trying to do something for the country, and so on, I should like to to ask the distinguished chairman of the committee if the Appropriations Committee has given attention to a matter which I wish to point out.

One of our reclamation projects, in one bid for some roller mounted gates and outlet works, results in the following bid situation: A Japanese firm offered to do the job for $300,000 and a Bavarian company for $341,000, while the smallest amount bid by an American is one-third higher, $436,000. Two American firms bid up to $737,000 on this job.

One of these American companies demonstrated to me, through its figures, that it anticipated, by doing everything in the most efficient manner possible, it could come out with a 7-percent profit on its bid, which is more than 33⅓ percent higher than the Japanese bid on the same project.

As I stated before, I wish to find out from the distinguished gentleman if the Appropriations Committee has gone into the matter of foreign and domestic bidding on such projects as are found in the reclamation field.

Mr. KIRWAN. I would not say that the Appropriations Committee has gone into this to any extent for we consider it a legislative matter. I will say that so long as we are selling $22 billion in exports to the other countries of the world and they are only selling $17 billion worth to us, I am for recognizing some of those countries and letting them do some work here.

Mr. KYL. I thank the gentleman.

Mr. KIRWAN. I am happy to tell the House that this is a good bill. I hope, as time marches on, that we who serve in the Congress of the United States will realize the truth of what I am stating here today.

When the rain falls today, we should make proper provisions to assure that it is conserved, not wasted and allowed to cause such great flood damages.

What I said a year ago I say again today. For one of the first times in the United States—over in nearby Virginia—they are building a settlement which will house 75,000 people, and the first thing they have done is to build a reservoir to save and protect the water.

We must not permit the water to get away. We must keep it where God let it fall. We must do that when we are building new towns or new communities. We must support appropriations for water resource development if we are to meet our present and future needs.

I ask Members to stop awhile, to think of the $600 billion gross national product for last year, compared to one of $56 billion in 1933. What a vast difference there is. Today 70 million people are working. There were 35 million people working at that time. Yet there is complaint about spending a dollar on America.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. KIRWAN. I yield to the gentleman from Iowa.

Mr. GROSS. I must take slight issue with the gentleman—and perhaps more than slight issue with the gentleman from Ohio—with respect to the trade issue and the favorable balance of trade of the United States, which he claims exists.

I believe if the gentleman would shake the Public Law 480 sales—and when I say "sales" I put quotation marks before and after the word—shake out of the Public Law 480 sales for foreign currencies and grants-in-aid to foreign countries, he would find a different situation.

I doubt very much that he will find we are ahead in the trade picture today if he shakes that out of the trade figures.

Mr. KIRWAN. I am talking about exports and imports that are paid for. My figures exclude military grant aid.

Mr. GROSS. I am talking about imports and exports.

Mr. KIRWAN. Yes.

Mr. GROSS. But the trouble with these figures is that they load the so-called Public Law 480 sales figures into the export figures. We do not sell for cash or true barter any substantial amount of Public Law 480 products.

Mr. KIRWAN. I called on the Department of Commerce with reference to what the gentleman is talking about and was assured the figures excluded military grant aid.

Back in 1954 there was only $2 billion in difference between the imports and exports. Much of this was due to the imports of minerals for stockpiling that we did not need and the gentleman knows the part I played in stopping this needless stockpiling.

The gentleman is one of the best Members in the Congress and I appreciate his comments on this problem.

Mr. GROSS. Thank you.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. KIRWAN. Yes. I yield to the gentleman.

Mr. ULLMAN. I want to commend the gentleman from Ohio. He made a very eloquent plea, as he always does, for the full development of our water resources. He is one of the great conservationists of our time. He knows that the district I represent has some 7 to 13 inches of annual rainfall and we know the problem of conserving water there. We are developing the water resources we have. I want to say every time I appear before the gentleman's committee we get the most sympathetic attention to our problem. I also want to say that of all the projects that have been developed there has not been a dollar wasted and this is the best investment in the future of America that we can make now. I want to say that the gentleman from Ohio bears a great share of the credit for the work going on. I think we should all pay heed to his warning that it is not going to be too long from now when water is going to be so critical that it will not just be areas such as mine which are short of rainfall, but it will be all of the areas of the country where we are going to feel the pinch with regard to shortages of water.

Mr. KIRWAN. I thank the gentleman.

Again I repeat I do not expect to be around in 1975. My Maker has been very, very kind to me now. But again I repeat it is time to take warning. It is estimated that we will have about 225 million people here in this country in just about 10 years from now, in 1975. You know what the stress is today on water. What do you think it will be on some sunny morning in 1975 when there are 225 million people in this country? So we had better stop, look, and listen and do a better job than has been done down through the years. In conclusion, I want to say that it has been a real pleasure to work with all the members of the subcommittee and the staff in preparing this bill for the House.

Mr. JENSEN. Mr. Chairman, I yield myself such time as I may need.

Mr. Chairman, the gentleman from Ohio [Mr. KIRWAN] and I have worked on the same committees for the past 21 years. We sometimes disagree, but we always disagree agreeably and we work out our differences in committee, if differences arise in language or in figures. When we bring a bill to the floor, the record will show that those bills have been amended very, very little.

I want to pay my compliment to every member of this Subcommittee on Public Works Appropriations. They worked long and faithfully. We had long hearings. They are dedicated Members of this House. We also have a staff in Carson Culp and Eugene Wilhelm of which we are very proud. They have been with us many, many years and give us good service.

Mr. Chairman, the gentleman from Ohio [Mr. KIRWAN] has explained this bill so far as dollars are concerned. The report shows that this bill calls for $46,479,800 less than the budget requested. Also it is $79,534,500 below the 1964 fiscal year budget. I can assure every Member of this House and every American living in the U.S.A. today that it is no small chore for the committee to hold this bill down to these figures. Over 1,000 people presented themselves before our subcommittee this year from almost every State in the Union and from almost every district. Requests were made to increase the budget by over 300 of those witnesses, through their spokesman.

So that to hold this bill to the figures we have submitted, as I have just given them, again I say is no small task.

We all realize the importance of keeping the raindrops that fall from the heavens as near to the spot as possible where they fall. Water is becoming liquid gold, so to speak, in almost every area of these United States. On the other hand, floods destroy not only property by the hundreds of millions of dollars every year but also take many lives. So we have a sort of a two-pronged responsibility: First, to conserve our precious liquid gold, and next to control floodwater which we know, unless controlled, will continue to destroy property and life.

Hence we build dams on the main stems of our rivers and on the tributaries to control the floods and to flood water also that it might filter back into the land adjacent to the dams and thus bring the water level up closer to the roots of crops.

Mr. Chairman, it was not too many years ago when the underground fresh water had gone down 11 feet on an average in the entire United States. We are gradually raising the water level by building these impoundments on the main stems and on the tributaries. The Soil Conservation Service program has done and is doing much to assist in conserving our land and water resources.

Mr. Chairman, I was quite disturbed, as, I think, were all of the members of the committee, when the atomic energy officials talked about money in this bill for the purpose of exploring from the Moon other planets after we land a man or men on the Moon. Well, the question is: Are we going to be able to land a man or men on the Moon? But already they have a very ambitious program all dreamed up, after we do land a man on the Moon, then we must from there explore Jupiter and Mars and all the rest of the planets. That, of course, will cost billions of dollars over the period from now on until Gabriel blows his horn.

However, Mr. Chairman, the Committee on Appropriations is not a legislative committee. Hence the responsibility falls on the legislative committees of Congress to determine just what we are going to do in that big, broad, heavenly field. So there was not much we could do except to indicate to the Atomic Energy Commission, and they in turn to the Space Administration, they best go slow on this one.

All of us who are trying to conserve our taxpayers' money by not wasting their hard-earned dollars are well aware that every American today is working about 4 months of the year for Uncle Sam, meaning local, State, and Federal.

Not too many Americans are aware of the fact that all the farms in America are estimated at actual value only $143 billion. One of these days a bill will come before this House to raise the national debt ceiling up to $325 billion. Now, when we talk about the national product we had best at the same time think seriously about how much each American family is assessed each year for local, State, and national taxes. The facts and figures are plain.

For instance, the House a few days ago passed a bill which raised the salaries of all Federal employees, Congressmen, judges, and all Federal servants. Every American family, on an average, will pay, if this salary raise is made law, $30 each month just to be governed from Washington, D.C. Yes, quite startling.

Also may I remind my colleagues that it costs each American family, on an average, about $17 a month just to pay the interest on the national debt.

At the same time it is necessary, as the gentleman from Ohio [Mr. KIRWAN] stated, to conserve our great resources, land, woods, and water. All new wealth springs from Mother Earth, all raw products either grows out of the ground, is pumped or mined out of the bowels of the earth, or is fished out of the water. Everybody employed in the United States either produce, transfer, process, market, or use the finished product made from those raw products.

Mr. Chairman, I have never apologized for supporting this bill, which appropriates the dollars of the American people for America and for no one else but Americans.

Mr. KIRWAN. Mr. Chairman, I yield such time as he may desire to the gentleman from Tennessee [Mr. EVINS].

Mr. EVINS. Mr. Chairman, public works is a justifiably honored title in our country.

Public works have provided the sinews of much of our national strength throughout our history.

Public works have made America great and strong.

In discussing some of the details of this bill—the public works appropriations bill of 1964—it is appropriate that we reflect on some of the great achievements our country has made in the past.

The Panama Canal, Hoover Dam, Grand Coulee Dam, the St. Lawrence Seaway—all of these great projects stand as enduring landmarks in our country's steady growth toward broader frontiers of opportunity. They are symbols of our country's vast creative capacity.

The Tennessee Valley Authority, in my own State, has won world recognition and acclaim as a comprehensive development in a seven-State area of the South.

We have built massive dams in the Northwest and other regions of our great country to harness power and control floods.

We have turned wastelands into fruitful gardens through irrigation projects.

We have built levees along the mighty Mississippi, cleared river channels, dredged harbors. We have developed America.

I ask, Mr. Chairman, how better could these Federal funds have been spent?

Our mighty Nation can well afford to invest in the conservation and development of its precious natural resources. It can never afford to neglect public works.

This bill, Mr. Chairman—the public works appropriation bill for 1965—is one of the most important of the annual appropriation bills coming before the Congress. The bill will provide for the continued development of our Nation's resources—for the overall growth and strengthening of our country—the United States of America.

Appropriations included in this bill will provide funds for the civil works functions of the Corps of Engineers, for the Bureau of Reclamation of the Department of the Interior, the several public power agencies, including the Bonneville, Southeastern and Southwestern Power Administration, the Atomic Energy Commission, the Tennessee Valley Authority, the Panama Canal, the Delaware River Basin Commission, along with an appropriation for the public works acceleration program, among others.

As has been said, this is an "all-American bill." It is a bill to strengthen our own country.

This bill has been carefully screened. Every provision has been considered in minute detail. Every project involved has been examined thoroughly with regard to its usefulness and with relation to our overall fiscal obligations.

Testimony and other relevant data received and considered by our committee fill nearly 4,000 pages in 4 printed volumes of the hearings that extended over more than 5 months. In addition to weighing the testimony from the various agency heads and their assistants, from State and local public officials, from Members of Congress, and from interested citizens in connection with the projects included in this bill, our committee has done a monumental job of analyzing the requests for funds.

This is the last public works appropriations bill bearing the stamp of our late great chairman of the Committee on Appropriations, the gallant gentleman from Missouri, the Honorable Clarence Cannon. He was both the Chairman of the Whole Committee and chairman of the Public Works Subcommittee on Appropriations. Over the years, his great experience and broad knowledge in the public works field have been invaluable to the committee in analyzing and preparing the annual public works appropriations bills. He had worked zealously to advance and perfect the present bill before his death on May 12.

Clarence Cannon's great work and his leadership were never more evident than in the appropriations procedures of this session. He established the stepped-up timetable which the Committee on Appropriations and the House have maintained this year. Despite his 85 years, he continued his customary heavy working schedule to the last.

He was a distinguished legislator, a world renowned parliamentarian, and our generation's great conservator of the public funds. He was a powerful champion of development programs for his beloved Missouri River and other great rivers of the Nation. He was a true friend of TVA and other programs enacted by the Congress to conserve and develop our natural resources.

His influence continues and will long continue to serve our country well. In his distinguished successor, the gentleman from Texas, the Honorable George H. Mahon, the Committee on Appropriations has a chairman who serves in the same great tradition.

I know that I speak the sentiments of all my colleagues in paying tribute to the memory of the gentleman from Missouri, and in expressing pride and appreciation at the privilege of having served with him on this committee.

I deem it a great privilege to serve on this committee also with the gentleman from Ohio [Mr. Kirwan], who has so ably presented this bill; the gentleman from Rhode Island [Mr. Fogarty], the gentleman from Massachusetts [Mr. Boland], the gentleman from Mississippi [Mr. Whitten], the gentleman from Iowa [Mr. Jensen], the gentleman from New York [Mr. Pillion], the gentleman from Arizona [Mr. Rhodes], and the gentleman from Pennsylvania [Mr. Milliken].

Throughout the hearings we have had the expert assistance of the two very able and knowledgeable members of our subcommittee staff, Carlson Culp and Gene Wilhelm. They deserve to be commended publicly for the valuable work they have performed in handling many of the details and much of the work on this bill.

As has been said, Mr. Chairman, this bill carries total appropriations of $4,325,696,200—a reduction of $46,467,900 in the budget estimates, and a decrease of $79,534,500 below appropriations for fiscal year 1964.

Funds are provided in this bill for 51 new construction starts for the Corps of Engineers and 6 for the Bureau of Reclamation—a total of 57 new construction starts, excluding reimbursements and resumptions. These projects include 18 new construction starts for the Corps of Engineers that were provided for in budget estimates, plus 18 added by the committee.

In addition, appropriations for 32 unbudgeted surveys and for the initiation of planning on 13 unbudgeted projects are included in this bill.

A breakdown of the estimates and the appropriations recommended for the various public works programs follows:

Activity	Budget estimate, 1965	Recommended by the committee	Change from budget estimate
Cemeterial expenses	$13, 295, 000	$13, 295, 000	
Rivers and harbors and flood control	1, 149, 364, 000	1, 178, 308, 200	+$28, 944, 200
The Panama Canal	33, 909, 000	33, 909, 000	
Bureau of Reclamation	317, 750, 000	381, 013, 000	+263, 000
Power agencies of the Department of Interior	64, 250, 000	61, 490, 000	−2, 760, 000
Atomic Energy Commission	2, 693, 000, 000	2, 624, 073, 000	−68, 927, 000
Tennessee Valley Authority	50, 915, 000	47, 915, 000	−3, 000, 000
Delaware River Basin Commission	131, 000	131, 000	
Public Works acceleration	5, 000, 000	4, 000, 000	−1, 000, 000
Indefinite appropriations	44, 835, 000	44, 835, 000	
Total	4, 372, 449, 000	4, 325, 969, 200	−46, 479, 800

The total amount of appropriations recommended in this bill certainly is a large sum of money, but these funds represent a capital investment in America—an investment which will add overall strength and bring vast economic benefits to our Nation as a whole.

With these investments, our country will realize enormous new benefits through the prevention of floods and the reclamation of barren wastelands, through improved waterway systems and increased use of our water resources, through the generation of electricity and the promotion of navigation—and through the development of atomic energy for peaceful purposes and national defense.

Mr. Chairman, projects of the nature funded in this bill have come under attack from time to time by certain national magazines and others, who characterize them as "pork barreling" and contend they are a waste of money. I disagree wholeheartedly with such shortsighted views. These projects are indeed investments—wise and prudent investments in America and a proper use of public funds.

Each year this committee screens hundreds of projects and recommends appropriations only for the most worthwhile. A great deal of screening and eliminating of projects is done in the legislative authorizing process even before the matter comes before the Appropriations Committee. Our committee then gives the closest possible scrutiny to each item to make certain that every project funded has a favorable benefit-to-cost ratio and is worth while.

Every region and every section of the Nation will share in the projects included in this bill. It is a bill with a national purpose—one which recognizes the needs of every area of our country—truly an all-American bill.

One of the immediate benefits from these new starts, in resources development, is the increased employment which the projects will provide throughout the country. This is, to be sure, a side effect—an incidental benefit—but a benefit that will mean much to our country, at this time, and have a long-range benefit for the future.

These projects funded in this bill, are in all sections of our country and are, I repeat, investments in America.

CORPS OF ENGINEERS

Total appropriations of $1,178,308,200 for, the rivers and harbors and flood control programs and activities of, the Corps of Engineers are provided in this bill. For general construction, we are recommending an appropriation of $905,767,300. This includes funds for 306 construction projects and funds for engineering and design of 109 other projects. All of our 50 States are included in the list of construction projects and 35 are represented in the list of planning projects.

The Committee is recommending an appropriation of $20,540,000 for the general investigations of the corps—$795,000 more than the budget estimates and $1,476,000 more than was appropriated for 1964. Funds provided under this heading are allocated to surveys and other navigation, beach erosion and flood control activities in all parts of the country—for 257 projects in areas including 44 States and Puerto Rico.

The amount recommended for flood control on the Mississippi and its tributaries—$73,550,000—is $1,690,000 above the budget estimates. Most of this increase is represented by two items the Committee added to the 1965 channel improvement program—$665,000 for Memphis reach and $1 million for Terrene Landing revetment. For channel improvement generally, on the Mississippi the Committee recommends an appropriation of $26,165,000. This is the largest item in the $50,875,000 recommended for flood control construction projects. Included in this figure are $1,400,000 for west Tennessee tributaries and $600,000 for Memphis harbor.

The expanding activities of the corps are reflected in the $158,676,000 appropriation recommended for general operation and maintenance. This is $4,676,000 above the amount appropriated for 1964. In approving the full budget estimate, the Committee finds this increase justified by the rate at which additional projects are moving into the operation and maintenance stage.

A new appropriation item appearing in this bill is the $4.5 million recommended for flood control, hurricane and shore protection emergencies. Appropriations for this function formerly were carried under the "operation and maintenance, general" heading. Disastrous occurrences of the last year, including floods in the Ohio Valley and the destructive tidal waves resulting from the Alaskan earthquake, underscore the timeliness and urgency of this new provision for emergency protection.

For general expenses of the Office of the Chief of Engineers, the offices of the division engineers, activities of the Board of Engineers for Rivers and Harbors and the work of the Beach Erosion Control, we are recommending $15,575,000—the full amount requested, and $575,000 more than was appropriate for 1964.

IMPORTANT TENNESSEE PROJECTS ADVANCED

Among the great projects which are advanced by funds provided in this bill are several of particular interest in Tennessee. Three of these projects are the Cordell Hull Lock and Dam, the Percy Priest Dam and the Barkley Dam—each named after a distinguished former colleague.

Tennessee is one of the major areas affected by this public works appropriations bill through the programs and operations of the Corps of Engineers, the Tennessee Valley Authority and the Atomic Energy Commission, one of whose major installations is maintained and operated at Oak Ridge, Tenn.

To speed up construction of two of the important multipurpose dams now being built in Tennessee, the committee is recommending some additions to the $35 million requested for the various projects of the Corps of Engineers in Tennessee.

Our committee has approved the $35,348,000 budgeted for construction and operations on existing facilities in Tennessee and we have added increases in the appropriations for the Cordell Hull and Percy Priest projects, in line with the capabilities of the Corps of Engineers.

Our committee is recommending a $1 million increase above the budget—which is the corps' capability—for continued construction of the Cordell Hull dam and lock on the Cumberland River. The budget request was $7.1 million and the amount recommended is $8.1 million for the next year on this project. With the addition of the navigation lock feature, this project has assumed increased importance in the future economic development of the upper Cumberland region.

The bill carries an appropriation of $10.1 million for continued construction of the Percy Priest Dam on the Stones River in Rutherford and Davidson Counties in Tennessee. Construction of this multipurpose dam, which will cost $34 million when completed, will be speeded up from 3 to 6 months by the additional funds provided for fiscal 1965.

Our committee determined that expanded construction activity is well within the capability of the corps and it was the consensus that the economic benefits to be derived from these developments fully justify larger construction efforts.

A sum of $15.4 million—the full amount requested—was approved by the committee for further construction of the Barkley Dam on the lower Cumberland. The first construction stage of this project—a $145 million development for flood control, navigation, and hydroelectric power generation—will be completed this year.

This bill also carries a recommendation for the transfer of $100,000 in previously appropriated funds to enable the U.S. Engineers to conduct a reevaluation study of the Tennessee-Tombigbee water route. The proposed waterway would connect the Tennessee River in west Tennessee with the Tombigbee River in west central Alabama, thus giving an outlet to Mobile on the Gulf of Mexico. Development of this waterway would be of inestimable value to the South as well as the Nation as a whole.

The action taken for the reevaluation study, has the approval and recommendation of President Johnson. This action gives renewed emphasis that this important and long-range waterway link will be built.

TENNESSEE VALLEY AUTHORITY

The budget estimates for TVA as approved by the Bureau of the Budget for fiscal 1965 included an appropriation request for $50,915,000 for navigation, flood control, construction, and general administration.

There are no funds carried in the bill for TVA's power program. TVA's power operations are self-sustaining and self-liquidating; and, as a profitable operation, returns running into the millions of dollars are made annually into the Treasury.

In providing funds for TVA's construction program for 1965, the committee has recommended a general reduction of $2 million from the amount requested which should be readily offset by unobligated balances at the end of the current fiscal year.

The only other change made by the committee was a reduction of $1 million from the $6 million requested for land acquisition in TVA's Between the Lakes National Park development program. This will not result in a slowdown, since the committee finds there is some carry-over of funds. The $5 million additionally provided should bring an actual acceleration of land buying operations.

TVA directors assured our committee that facilities of the Between the Lakes National Recreation Area will be open to the public at the beginning of 1965. It is expected that this new park, bounded on one side by the Tennessee River and on the other side by the Corps of Engineers' Barkley Lake, will attract approximately 2 million visitors during the first year. With more than 300 miles of shoreline, it will provide unexcelled outdoor recreational opportunities on a large and varied scale. Land acquisition and development will proceed with final approval of this new appropriations bill.

Among the other funds for TVA provided in this bill are some $1 million for tributary area development, including the Elk River development; $9.8 million for further construction on the Nickajack Dam and Reservoir, some $3 million for the Beech River multipurpose water control system, and $3.6 million for multipurpose project operations in Tennessee and adjacent States.

Included in this bill is $700,000 for the design of a TVA central operations building to be located on the Chickamauga Dam and Reservoir near Chattanooga. This TVA dispatch and operations office building, when completed, will consolidate all TVA offices and facilities now housed in some 18 different buildings in downtown Chattanooga and effect substantial savings in rental costs.

TVA is the Nation's most profitable Government operation—not only from a dollar-and-cent point of view, based on cash returns into the Treasury, but also from the point of view of TVA's contributions to the strengthening of our economy and our defense system.

Mr. Chairman, I would like to point out at this time that TVA is far ahead in its payments into the Treasury. The return to the Treasury out of TVA's power proceeds for fiscal 1964 is more than $52 million. Over the 31-year TVA history, this agency has paid back into the Treasury more than $480 million—almost one-half billion dollars.

In addition Federal agencies using TVA power have realized and are continuing to realize immense power-cost savings.

TVA provides a great service to the people living in the seven-State area it serves directly. TVA also returns great benefits to all the Nation. TVA is the world's greatest showcase of democracy in action.

BUREAU OF RECLAMATION

This bill carries $318,013,000 in funds for the Bureau of Reclamation of the Department of the Interior.

For the Bureau's construction and rehabilitation operations, the committee recommends an appropriation of $182,433,000—$409,000 more than the amount requested—to finance continued construction on about 30 major reclamation projects in nearly 20 States, plus 11 advance planning projects. Included in these recommended appropriations are $55,280,000 for the California Central Valley project, $22.1 million for the Canadian River project in Texas, $6.2 million for the Fryingpan-Arkansas project in Colorado, $7,786,000 for the Weber Basin project in Utah and $6.8 million for the Columbia Basin project in Washington.

For the Missouri River Basin project, the committee recommends appropriations of $65,285,000 for construction, $850,000 for advance planning, $1,668,000 for investigations, and $3,349,000 for other department agencies—a grand total of $70,302,000.

The appropriation in this bill for the Upper Colorado River storage project is $62.3 million—a drop of $35,689,200 from the amount appropriated for 1964.

For operation and maintenance of the Bureau, the committee recommends an appropriation of $40,219,000. This is $2,219,000 above last year's appropriation for this purpose, an increase reflecting the completion of additional facilities for the Bureau.

We have approved $2,650,000 for transfer to the GSA to start construction of the new Denver office building of the Bureau.

For the Bureau's general investigations, we are recommending $10,354,000—the same amount provided for fiscal year 1964. This involves a reduction of $146,000 in the budget estimate, and $74,000 of that amount was budgeted for the Wood Canyon project, which the committee has disallowed because of lack of compliance with Government policy with respect to projects jointly considered by both the Bureau of Reclamation and the Corps of Engineers.

ATOMIC ENERGY COMMISSION

The largest appropriation item included in this bill is for operations of the Atomic Energy Commission. The budget estimates for the AEC operating expenses for fiscal 1965 are $2,323 million. The committee recommends an appropriation of $2,261,073,000, representing a cut of $61,927,000 from budget estimates.

The budget estimate for AEC plant and capital equipment was $379 million; the amount recommended by the committee is $363 million.

A breakdown of the budget estimates and the amounts recommended by the committee for operation of the various programs of the AEC are shown on the following table:

Program	Budget estimate	Recommended by the committee	Change from budget estimate
Raw materials	$267, 455, 000	$267, 455, 000	
Special nuclear materials	401, 500, 000	395, 000, 000	−$6, 500, 000
Weapons	771, 747, 000	765, 000, 000	−6, 747, 000
Reactor development	497, 900, 000	490, 000, 000	−7, 900, 000
Physical research	222, 000, 000	210, 000, 000	−12, 000, 000
Biology and medicine	80, 000, 000	78, 000, 000	−2, 000, 000
Training, education, and information	17, 700, 000	15, 700, 000	−2, 000, 000
Isotopes development program	10, 300, 000	9, 300, 000	−1, 000, 000
Civilian applications of nuclear explosives	11, 000, 000	11, 000, 000	
Community program	9, 035, 000	9, 035, 000	
Program direction and administration	76, 780, 000	76, 000, 000	−780, 000
Security investigation program	7, 000, 000	7, 000, 000	
Cost of work for others	5, 100, 000	5, 100, 000	
Change in selected resources	−18, 451, 000	−21, 451, 000	−3, 000, 000
Revenues and reimbursements from non-Federal sources	−36, 066, 000	−36, 066, 000	
Unobligated balance brought forward		−20, 000, 000	−20, 000, 000
Total	2, 323, 000, 000	2, 261, 073, 000	−61, 927, 000

Reductions made by our committee include a net cut of $7,965,000 that was made by the Joint Committee on Atomic Energy in the authorizing legislation.

The reduction of $6,747,000 in the weapons program is based on experience showing there are considerable underruns in costs compared with estimates in the budget presentations.

A reduction of $6.5 million, in the special nuclear materials program, is based on similar underrun experience.

The reduction in the Pluto reactor development program includes a $1.5 million cut that was made by the Joint Committee and a $5.5 million cut made by our committee. As the committee report notes, the successfulness of the ramjet propulsion recator powerplant has been amply demonstrated, but there exists no military requirement for this powerplant. As no engine system or vehicle to carry this reactor has thus far been developed, the committee sees no reason why further testing is necessary at this time.

The Joint Committee on Atomic Energy—the authorizing committee—has reduced the physical research authorization by some $4 million, and our committee has made an additional $8 million cutback in the physical research expenditures by AEC.

Our committee is emphasizing for the third consecutive year that there must be better administrative control of this program. To quote from the committee's report, there must be "a tightening up in the process of selecting areas and subjects of research undertakings with greater emphasis on overall usefulness of the potential results."

BONNEVILLE AND OTHER POWER ADMINISTRATIONS

Mr. Chairman, this is a well-balanced bill in many respects—a bill that has been drawn with particular concern for a meeting of minds and adherence to the broadest possible consensus. Illustrative of that concern is the committee's action in handling one of the more controversial items proposed in this bill—I refer to the proposed $1 million budgeted for planning of a high voltage transmission line from the Bonneville Power Administration into southern Idaho.

The committee deferred final decision on this proposal. We directed that no funds be expended for any other purpose than good faith negotiations between interested parties on the proposition of wheeling Bonneville power to serve preference customers in the Federal marketing area of southern Idaho.

There was much testimony and support for the building of this transmission line. There was also testimony to the effect that private utilities in the areas could not supply all the power needed on an uninterruptable basis. The committee decided to defer action on this matter, however, pending further negotiations for a power wheeling contract.

The committee will at a future date determine whether private utilities in the area can and will supply the power needs and requirements of the area or whether the transmission line should be built at a later date.

In addition to disallowing the $1 million budgeted for this project, the committee made other cuts totaling $1,600,000 in the amounts budgeted for the Bonneville Power Administration. The committee recommends a total appropriation of $41,200,000 for Bonneville construction projects, and $14,980,000 for operation and maintenance of the Administration. Compared with last year's appropriations, these figures represent an increase of $5,916,000 for construction and an increase of $1,480,000 for operations and maintenance.

For the Southeastern Power Administration we have recommended the full amount requested for operations and maintenance—$1 million, the same as last year.

For the Southwestern Power Administration, this bill provides $2,610,000 for construction and $1,680,000 for operation and maintenance. The committee cut $160,000 from the amount budgeted for construction.

The appropriation recommended for operation and maintenance is $180,000 above the budget estimate.

The Bonneville, Southwestern and Southeastern Power Administrations are power marketing agencies selling the power produced on projects in their areas to rural electric cooperatives, municipalities, industrial users and others. The profits from the sale of power by each of these agencies go into the Federal Treasury.

Estimated revenues of these three Federal power agencies for fiscal 1964 are:

Bonneville: $85.2 million, an increase of $3 million over fiscal 1964.

Southeastern: $26.4 million, an increase of $1.3 million over fiscal 1964.

Southwestern: $12.9 million, over the estimate for fiscal 1964.

PANAMA CANAL

Appropriations which finance our Canal Zone operations are repaid annually to the Treasury from revenues of the Panama Canal Company. The administration requested $29,088,000 for operations in fiscal 1964. Our committee has recommended the full amount budgeted.

The Canal Zone Government has some 18,000 employees in the various civilian branches, such as the public school system, police and fire departments and other services provided for the Canal Zone. Of these, about 15,000 are Panamanians. The Governor asked for an allowance enabling him to add up to 80 new personnel. The committee recommends an increase in the limitation on general administration expenses which will permit addition of half that number of new jobs requested.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Our only provision in this bill for the St. Lawrence Seaway Development Corporation is an increase in the limitation on administrative expense—from $429,000 in fiscal 1964 to $450,000 in fiscal 1965. This great seaway now has an operating history of five seasons, during which tolls have been sufficient to cover payroll and operating expenses as well as to provide more than $11 million for payment to the Treasury.

In testimony before the committee, the Administrator of the Corporation, Mr. Joseph H. McCann, stated that though the Corporation still is behind in payments, "the practical success of the seaway is assured. There now seems no questioning of the fact that the waterway will reach its goal of 50 million tons during the early 1970's. And, while original estimates show the seaway's tonnage leveling off at 50 million, it has now been determined that this figure is conservative. Traffic is expected to rise to 60 million tons."

CONCLUSION

In summary, Mr. Chairman, I repeat, this is a big bill, a good bill—an all-American bill—providing for public works for all sections of the United States.

The funds carried in this bill will build up America, and help to make our country a stronger, more prosperous and a more secure Nation.

This bill should have the unanimous approval of the House and I urge its passage.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. EVINS. I yield to the gentleman.

Mr. JONES of Alabama. Mr. Chairman, I want to take this opportunity to commend the Appropriations Committee and its Public Works Subcommittee for their achievement in reporting out and bringing to the floor of the House a bill which, in my opinion, represents one of the foremost steps in water resource development in the United States that I have ever seen. In view of the fact that I am on the Committee on Public Works which has jurisdiction, among other things, over the water resource development of the Corps of Engineers, I am particularly gratified to find that the Appropriations Committee has given very serious consideration to appropriating funds to continue or to initiate those projects which my committee has authorized. This is evidenced by the fact that the total appropriation for rivers and harbors and flood control recommended by the committee is $1,178,308,200. This is an increase of $28,944,200 over the budget estimate. I am particularly interested in this because the Public Works Committee is very greatly concerned with the entire field of water resources, including not only the programs of the Corps of Engineers, but also a large part of the program for small watershed development of the Soil Conservation Service; in the water pollution control legislation which is now on the books and is under the jurisdiction of the Department of Health, Education, and Welfare; and a number of other public projects such as the St. Lawrence Seaway and the Tennessee Valley Authority.

An increasing number of articles in the press and in national publications indicate the ever-growing awareness by the American people of the importance of all elements of water resource development. This includes the control of floods; the improvement of waterways for navigation; the impoundment of waters for domestic, municipal, and industrial consumption; the abatement of sewage pollution; the use of our manmade lakes created by reservoirs for recreational use; the development of hydroelectric power; and the many other related water problems. These articles have dealt with the growing shortage of pure water and the need for effective measures to provide water suitable for use for the ever-growing population of this country. If these steps are not taken, we will be faced with an actual shortage of pure water prior to the turn of the century. These articles have also pointed out that the control of floods have represented one of the best investments the United States has ever made, and the projects designed for this purpose have returned more than three times their cost in the way of savings in property damage, not to mention the many intangible benefits such as prevention of loss of life, stabilization of the economy of communities and other incidental benefits. The tonnage borne by our inland waterway system has risen each year. The Ohio River alone carries far more tonnage than was ever visualized by those who planned the early locks and dams. These locks and dams are now being modernized to accommodate up-to-date tows and, when completed, will be one of the finest manmade navigable channels in the entire world.

The great ports of our Atlantic, gulf, and Pacific coasts have been deepened and improved by the vision of those who foresaw the need for the accommodation of the tremendous amount of oceangoing traffic, both imports and exports, that are necessary for our national economy. One of the most outstanding developments in the world, visited by thousands from all over the world, is the great Tennessee Valley Authority program which not only prevents floods, provides for navigation, but furnishes electric power which has lifted the valley from one of the lowest points of economic depression to a position comparable to many other prosperous areas in the United States. I could cite many, many programs and projects which have been authorized by the Committee on Public Works, and it is all of this which makes me so proud to be a member of that committee.

I would like, as an example, in connection with the present appropriation bill, to indicate the effect that this will have on my own State of Alabama. Included in this bill is a total of $16,500,000 for construction of four major projects, $234,000 for planning on two other projects and $40,000 for a study for flood control of the Warrior River and tributaries which I hope will eventually lead to an authorized project. The construction and planning amounts are to be applied to the following projects:

Claiborne lock and dam on the Alabama-Coosa River Basin for navigation has received a prior appropriation in the amount of $460,000 for the initial stages of this project. The Appropriations Committee has included in the total of $16,500,000, to which I referred, the sum of $1 million to initiate construction.

The Miller's Ferry Dam, for navigation, power, and general multiple purposes, is included for a total of $6 million. This project has already had appropriations in a total of $3,624,000 and the amount in the 1965 fiscal year budget will permit the continuation of construction.

With respect to Jones Bluff lock and dam, also for multiple purposes, this project has already received $666,000 for planning and the committee, I am pleased to say, has included $134,000 which will complete the planning and permit the initiation of construction in fiscal year 1966.

One of the most important projects for which the Appropriations Committee is granting funds is the deepening and further improvement of the harbor and channel at Mobile. This is vital to the people of the State of Alabama and, indeed, to a much wider tributary area. The committee has included an amount of $1,500,000 so that construction can be undertaken to deepen this project to 40 feet.

These foregoing projects are part of the Alabama-Coosa Basin and will be part of a full-scale development of the regions' water resources.

The basin is rich in natural resources and although it has supported in the past primarily an agricultural economy, times have changed and there is a rapid industrial expansion. The river drains 22,500 square miles and is undoubtedly one of the most underdeveloped rivers in the United States. The major cities of Birmingham and Mobile in Alabama, Chattanooga in Tennessee, and Atlanta in Georgia, with a combined population of 1½ million give this area within a 65-mile radius a total population of over 3 million persons.

We have heard much lately about the question of unemployment and what can be done about it. We have heard much lately about the full scale development of our national economy. An overall project such as the Alabama-Coosa is one of the prime examples of what can be done. With the many natural resources available in this area the combination of the natural wealth of the region and the development of the river will, I am sure, within a very short period of time bring about a resulting increase of economic resources of the area and, at the same time, provide not only vitally needed flood protection for the region but the many other intangible benefits that a complete water resource development always brings with it.

Finally, Mr. Chairman, I would like to mention the largest construction appropriation in the present bill—that of $8 million for Holt lock and dam. This is one of the most important projects in my State and its completion will be greatly beneficial as a unit in the Warrior River system. The last authorized project, which I am sure you are familiar with, is the Tennessee-Tombigbee Waterway in Alabama and Mississippi. The amount allowed by the committee is $100,000 for continuation of planning, and I sincerely trust that we will all see the day when the vital connecting link between the Gulf of Mexico and the Tennessee River will be complete.

In closing, I would like again to express my gratitude and commendation to the members of the Public Works Subcommittee and to the members of the full Appropriations Committee for the untiring effort and the many long hours which they spent in hearings and in executive session prior to bringing this bill to the floor.

Mr. RHODES of Arizona. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, as has been said many times, this is a water bill. I do not mean a pork barrel bill, either; I mean a water bill. This is a bill which provides either for putting water on land or for keeping it off land. It also provides for the development of water and for the conservation of it.

As the chairman of the subcommittee so ably said, as times goes on this will be an even more important endeavor in which all Americans must be interested.

I come from an area in which there is an annual rainfall of 8 inches, if we are lucky. If we did not conserve water in the mountains and use it on the land down in the valleys, and for our growing cities, we would not only be short of water for baths but we would also be short of water for drinking. So those of us who know the value of water are particularly desirous of making certain that this is the best possible bill which we can pass for all of America.

This bill has been called a pork barrel bill, and I want to tell the Members that nothing makes me more irate than to have here this name. This is an all-America bill, as the gentleman from Ohio has often said.

It has been said that this is a bill which we use to help Members of Congress get reelected, that this is a bill by which we take the taxpayers' money and redistribute it. Certainly nothing is farther from the truth. The members of the legislative committees authorize these projects, and they as well as the members of the Appropriations Committee are very zealous concerning getting the best possible deal for the American taxpayer in this great task of conserving our natural resources.

I should like to compare the process of getting a project—either a reclamation project or a flood-control project—through Congress, to be built with public money, with the process of getting a similar project built under our foreign-aid laws in other countries. I happen to serve on the Foreign Operations Subcommittee of the Appropriations Committee, as well as on the Public Works Subcommittee, and I believe I am in a good position to compare the two.

If I were to start tomorrow to attempt to get a flood-control dam built in my district, it would be necessary for me to get the Corps of Engineers to survey the project. They would have to make engineering studies and estimates. They would have to make plans to justify the expenditure, and present them before the Public Works Committees of the House and of the Senate. It would be necessary to have an authorization for the project pass both Houses and be signed by the President. The Bureau of the Budget would have to put money in the budget for the project, at the beginning, for planning. Finally, there would be money for construction. If I were lucky, all of this might take less than 10 years.

On the contrary, if I sought to have a similar dam built in Ethiopia or in Egypt or in Iran or in Iraq, with foreign-aid money, the process would be something like this: The head of our AID mission in that country would negotiate with his "opposite number" in the government of that country. Plans would be drawn up. A commitment would be made by us. The engineering would be done. Then Washington would approve it, and immediately money would start to flow into the project. If they were very unlucky, Mr. Chairman, that might take 3 years.

So if anyone calls this public works bill a pork barrel bill, I suggest he should look at some of the real pork barrel projects under the foreign-aid program as conducted around the world.

I am not saying this as one who is opposed to all of the things we are doing in foreign aid, for I am not. I merely wish to emphasize, however, that in many instances the people of the United States are treating our friends around the world much better than we are treating ourselves. This is not an indictment of us. In fact, I suppose we can all take some pride and gratification in the fact that we are this type of people.

But the next time someone is tempted to write a column or a story calling the public works bill a pork barrel bill, I suggest he should reflect on the facts which I have just mentioned.

Mr. Chairman, as the next months and years go by the conservation of water in the Colorado River Basin is going to become even more important that it has been in the past. As we know, the upper Colorado storage project, one of the great reclamation projects of all time, is nearing the initial stage of its completion.

The lake behind Glen Canyon Dam is becoming filled to the extent that power will soon be manufactured by the great turbines which have been installed there, and the fruition of the Upper Colorado storage project will be in sight. Now comes the time for the people of the Lower Colorado Basin to begin to plan for the beneficial consumptive use of the water which has been allocated to the Lower Colorado Basin and to which title has finally been settled by the famous but bloody case of Arizona against California.

Mr. Chairman, we are in high hopes that since the solution of this problem which has existed between two of the great States of the Southwest has been furnished by the Supreme Court, that these two States, their Representatives in the Congress, their Governors and State governments and all the entities involved may go forward together for the development of that lifegiving fluid which flows down the Colorado River.

Mrs. FRANCES P. BOLTON. Mr. Chairman, will the gentleman yield for a question?

Mr. RHODES of Arizona. I yield to the gentlewoman.

Mrs. FRANCES P. BOLTON. In your committee do you work on the changing of salt water to fresh water?

Mr. RHODES of Arizona. This is in the Interior Department budget. The money is voted in a bill which appropriates money for the Department of the Interior.

Mrs. FRANCES P. BOLTON. Thank you very much.

Mr. JENSEN. Mr. Chairman, will the gentleman yield?

Mr. RHODES of Arizona. Yes. I yield to the gentleman from Iowa.

Mr. JENSEN. I may say to the distinguished lady that much progress has been made on desalinization of sea water and on demineralizing of brackish water. I think the lady would be interested to know that we are now desalinizing sea water and selling it for around 95 cents per 1,000 gallons.

Mrs. FRANCES P. BOLTON. And we hope to get down to 30 cents, do we?

Mr. JENSEN. Well, that will be quite some time.

Mrs. FRANCES P. BOLTON. Yes, but that is where we are going.

Mr. JENSEN. But I think on the average the American people are paying for water in their homes now about 50 cents a thousand gallons. So we are gradually getting down to the point where the sea water that we desalt will be competitive with other water.

Mrs. FRANCES P. BOLTON. I thank the gentleman very much.

Mr. PILLION. Mr. Chairman, will the gentleman yield?

Mr. RHODES of Arizona. Yes. I yield to the gentleman.

Mr. PILLION. I might also say to the gentlewoman from Ohio that I believe there is money in this budget for study and research into the use of nuclear fuels for the desalinization of water.

Mrs. FRANCES P. BOLTON. Thank you very much.

Mr. RHODES of Arizona. The gentleman from New York is correct. This is in the section of the bill dealing with the Atomic Energy Commission.

Mr. STINSON. Mr. Chairman, will the gentleman yield?

Mr. RHODES of Arizona. Yes. I yield to the gentleman from Washington.

Mr. STINSON. Could the gentleman tell me if there is any money in this bill to build the electrical power intertie between California and the Northwest?

Mr. RHODES of Arizona. There is no money in this bill for that purpose. However, I should remind the gentleman from Washington that in the public works appropriation bill for last year there was an amount of $8 million for the purpose of beginning the construction of that part of the interties which would be built by Federal agencies, contingent, however, on the passage of that piece of legislation which is known as the regional preference law. That law would protect the Pacific Northwest from having some preference customer outside of its area getting what would amount to a prior lien on power which is produced in the Northwest. Until this bill becomes law, no part of this $8 million would be spent.

Mr. STINSON. I thank the gentleman.

Mr. RHODES of Arizona. Now, Mr. Chairman, I would like to return again to the Pacific Southwest water plan. This is a plan which envisages the construction of the central Arizona project to bring water from the Colorado River into the middle of Arizona for the use of the cities there and for supplemental water for the agricultural community. There would be no additional land put under cultivation. In addition, the initial plan provides for some help for and some enlargement of the California water plan.

It also provides for certain work to be done along the Colorado River for the conservation of water, the control of phreatophytes, control of seepage and the like. This is a very ambitious project but a very necessary one. It is not necessary for me to remind the Members of this House that the Pacific Southwest is one of the great growing regions of the country and one in which development will continue to occur. I do not think anyone could keep it from occurring. This will be one of the projects which is worthy of a Federal loan to develop water, and of course reclamation is always a loan, not a gift. The people of that great region will welcome your assistance for the purpose of helping them solve the greatest problem which they have facing them for their continuing development. Mr. Chairman, as time goes on and as the plans are perfected for the Pacific Southwest water plan, we will come before the House and the Senate for authorizing legislation and later for the appropriations necessary to put this plan into operation. It is my hope that the Members of the House and of the Senate will look upon this project as kindly as we now look upon projects which are ripe for development at the present time.

Mr. KIRWAN. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado [Mr. Aspinall].

Mr. ASPINALL. Mr. Chairman, as the chairman of the committee which authorized many of the projects taken care of by this particular appropriation bill, and as a member of another committee which authorizes some of the programs taken care of in this appropriation bill, to wit: those of the Atomic Energy Commission, I wish to commend, as usual, the work of the committee. I commend my good friend, the chairman of the committee [Mike Kirwan], who is second to none in his allegiance, in his desire and in his efforts to further the growth of the United States of America and its human and natural resources. I also wish to commend his counterpart on the committee, the gentleman from Iowa [Mr. Jensen] also, a friend of the constructive program of our Nation; and the members and staff of the subcommittee, as well as those of the full Committee on Appropriations, which Members and staff of the Congress have need of their recognized diligence, which they always show, in bringing before the House of Representatives a bill in which the inherent differences of approach to the problems involved have largely been taken care of, and a bill which is constructive in its approach to the necessary monetary problems of the areas concerned.

Mr. Chairman, I would be remiss today if I did not say that I miss our late friend, the former chairman of the full committee, and the chairman of this particular subcommittee, Mr. Cannon, who also was attentive and sympathetic to these programs. I would say at the same time that I am glad to see his successor, the gentleman from Texas [Mr. Mahon] here on the floor as chairman of the full committee, watching the progress of this particular bill.

It is a pleasure to work with subcommittees chairmanned by such distinguished Members as the gentleman from Ohio [Mr. Kirwan] and his counterpart on the minority side, and the chairman of the full committee. When it is understood that the authorizing responsibility is before a committee that has already acted upon programs and in many instances the authorizing committee is not too attentive to its responsibilities that will later be the responsibility of the Appropriations Committee. It is well to have complete understanding in the committee operations. The work that the House Committee on Interior and Insular Affairs has and its association with the committee and subcommittees of the Appropriations Committee concerned, in my opinion, has been most delightful, and also the same constructive cooperation exists between the staffs and the committee members.

Mr. Chairman, it has been publicized nationally that the water resources program has been increased as far as appropriations for fiscal 1965 are concerned. This is true, and I commend the executive department and the Appropriations Committee for what has been done. But I feel that it should be understood that the program for the reclamation activities for such period has been cut.

While I am disappointed with the amount included for the Bureau of Reclamation, I can find no fault with the action of the committee because the committee actually increased the amount recommended by the administration by $263,000.

However, I would like to set the record straight with respect to the amount recommended by the administration because spokesmen for the administration have stated on several occasions that this year's budget request for water resources development was increased over the appropriations made for fiscal year 1964. This statement is based upon the combined programs of the various agencies for water resources development.

The administration requested $1,149,364,000 for rivers and harbors and flood control or an increase of more than $56 million over the amount appropriated for fiscal year 1964. The administration requested $317,750,000 for the Bureau of Reclamation or a decrease of over $36 million in the amount appropriated last year and a decrease of more than $50 million in the amount requested by the administration for fiscal year 1964. In other words, while it is true that there has been no reduction in the overall water resources development program, the funds requested for the Bureau of Reclamation have been reduced while the funds requested for the Corps of Engineers program have been increased. Now, as I indicated to the Public Works Appropriations Subcommittee, I appreciate the President's efforts to reduce overall Federal expenditures to a minimum but I cannot agree with the reduction in the funds for the Reclamation program which, in my opinion, constitutes an investment in the future economic strength of our Nation.

I have appeared before the Public Works Appropriations Committee now for several years pleading for an annual reclamation construction program of at least $300 million. Last year the administration requested $299 million for construction. This year the requested amount was reduced by more than $50 million. Many Members of this body are interested in legislation to authorize new reclamation projects. When you consider the fact that it will require more than $2 billion to complete the projects which are presently under construction and that there are project authorization bills pending before my Committee on Interior and Insular Affairs totaling more than $2.7 billion, you can see what we are up against in considering new authorizations unless the annual level of spending for this meritorious program can be increased. It is completely inconsistent, it seems to me, for the administration to recommend that more and more projects be authorized without recommending at least sufficient funds annually to carry out an orderly construction program. It does not make sense for Congress to authorize projects that cannot be started until many years in the future. If we do, the plans simply get out of date and Congress loses control of the program, resulting in the situation we have in the Missouri River Basin at the present time.

Again, I want it understood that I am not criticizing the Appropriations Committee. I just want my friends who are interested in the reclamation program and in the development of the West to know that the program suffered a setback this year.

Mr. Chairman, I particularly wish to commend the gentleman from Arizona [Mr. Rhodes] who just preceded me.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. KIRWAN. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. ASPINALL. I believe the approach which has been made by the gentleman from Arizona [Mr. Rhodes] as to a comparison between the work that we do in the United States on some of these projects, especially the water resources projects, and what we permit to be done in like endeavors in our sister nations with our moneys is something that all of us should understand a little bit better. I believe that the criticism was well voiced.

Mr. JENSEN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Mrs. May].

Mrs. MAY. I thank the gentleman from Iowa.

Mr. Chairman, I am both pleased and grateful that the Appropriations Committee has seen fit to recommend the funding of the multipurpose and reclamation projects in the Fourth Congressional District of the State of Washington. Very often my colleagues point out that this particular part of our great United States always does very well in this budget. I, in turn, have to point out that we are fortunate enough to be bounded by both the Columbia and the Snake Rivers which is a geographical coincidence. This is an area which offers so much in natural resources for the economical development of the Pacific Northwest to benefit not only this area, but the entire Nation.

It is with regret that I note that the committee has not allowed sufficient funding to enable certain projects in my district to go forward, however. I do believe the beginning of construction on the authorized Lower Granite Dam is economically justified, and in fact, would be less costly to start now, than to delay.

I also feel that now is the time to direct the Corps of Engineers to investigate the feasibility of including navigation locks in the authorized Asotin Dam on the Snake River, because it appears such locks are highly desirable and it could be a serious mistake not to include them.

Of paramount concern is the fact that the funds allowed for the Columbia Basin reclamation project are insufficient to allow construction on this half-completed project to go along in an orderly manner. The Governor of my State, the Honorable Albert Rosellini, responsible witnesses from the project area, came to Washington, D.C., earlier this year to join me and other Members of Congress in presenting sound evidence that the budgeted appropriation was insufficient to provide for on-schedule, economical, orderly development. Let me say, Mr. Chairman, that I am convinced that the able and respected members of the Appropriation Committee are well aware of the needs I have just enumerated, and I assume that their decision not to include this additional funding was not pinpointed against these projects. The decision, rather some members have indicated, was based on overall budgetary considerations.

I agree wholeheartedly with the remarks just made by the distinguished gentleman from Colorado [Mr. ASPINALL] on the budgetary cut made for reclamation. Fifty million dollars is a distressingly large cut in this area which returns such manifold benefits to the Nation in relation to taxpayer funds invested.

I would not support the additional requests enumerated if I were not convinced, however, that the Federal obligation in these areas is economically sound and fully justified. It is my hope, therefore, that before the bill we are today considering is fully processed by both bodies of the Congress, the funds can be included.

Mr. KIRWAN. Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, may I say it is a real pleasure to me to serve on the subcommittee handling this bill. This is my third year as a member of the subcommittee, although I have worked with the members of this committee on other matters throughout the years. I do not know of a committee that is more fair or that deals with the membership of the Congress in all areas of the country in a more impartial manner than does the subcommittee under the chairmanship of the gentleman from Ohio [Mr. KIRWAN].

Mr. Chairman, I shall not go into the details of this bill. It speaks for itself, and it has been explained fully by those who preceded me. I do take this time, however, to cite an illustration that I have used several times in years past.

I am on the Defense Appropriations Subcommittee. Sometimes I think I have perhaps done more for defense by being on the Agricultural and Public Works Appropriations Commitees than perhaps on the other.

Some time ago, in World War II, when we were trying to get prepared for a possible all-out war effort, I walked back over to the House from the hearing room with Joe Fowler, who headed the National Production Authority. As we walked along he said "If I was Stalin—" and it was in his day, "and if I wanted to wreck the United States of America, I would declare 10 years of peace."

That was a shocking statement. He proceeded, and said: "Think of it, if all the men were out of the service and had no jobs, if we closed down all munitions plants, if we canceled out all the war contracts, if we stopped all of these things connected with the war effort, think about what it would do to our economy."

I realized we had the greatest material prosperity that we ever enjoyed in our history, yet I could see what he was talking about. Yet surely it could not be necessary that we have war or preparation for war to have material prosperity. As I studied the matter, I began to realize it was not war or preparation for war, as such, which made for material prosperity but it was the extra effort. If you carry it one step further you can see that while in war you use up your natural resources, you burn up your fuel, you destroy your timber and end up a poorer country. If we could divert that same degree of extra effort to harnessing our streams, developing our harbors, reforesting the hillsides, and developing our water resources, we would have the same prosperity and a richer country. The trouble is, Mr. Chairman, I do not know whether the American people would back you in expending that much effort on our own country. That certainly cannot be said of this subcommittee and of our chairman.

I want to say the members of the subcommittee, and particularly the chairman of the subcommittee, the gentleman from Ohio [Mr. KIRWAN], pay attention to our needs, and may I say further if this country does not pay proper attention to itself it will not be the fault of the gentleman from Ohio or the members of this committee. We joined with him and many others in overriding a Presidential veto in 1959, saving 62 new starts. As I said then:

> The more our obligations, the more we owe, the greater our difficulties, the more imperative it is that we look out for our own country, because it is the basis upon which we must meet all these other problems.

Again, I compliment my colleagues on this committee. They have dealt as fairly as they possibly could with every segment of the country.

In conclusion, may I say, the whole Nation owes a debt of gratitude to our chairman, MIKE KIRWAN. Always he has led the fight to protect America, pointing out to all that the funds in this bill are really an investment in America.

Mr. JENSEN. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BALDWIN].

Mr. BALDWIN. Mr. Chairman, I should like to express my deepest thanks to the chairman of the subcommittee, the gentleman from Ohio [Mr. KIRWAN], the gentleman from Iowa [Mr. JENSEN], and the other members of the subcommittee for their consideration and understanding in incorporating under title II, the Department of the Interior, the language at the bottom of page 11 which reads as follows:

> *Provided further,* That no funds shall be made available under this appropriation for the construction in Contra Costa County, California, of any portion of the interceptor drain in connection with the San Luis Unit which terminates at any point east of Port Chicago.

This pertains to a difficult problem which has arisen in California in connection with the proposed construction of an interceptor drain for the San Luis project. The Bureau of Reclamation originally announced plans that would terminate this interceptor drain in the middle of the Sacramento-San Joaquin Delta. The Sacramento-San Joaquin Delta is the largest pool of fresh water in our State. We depend on it for a source of fresh water for the Contra Costa Canal, which serves practically all of my district, and the Delta Mendota Canal, which serves most of the west side of the San Joaquin Valley. Under a State law passed 4 years ago, there is now also under construction a State project which will pump water from the delta pool down to southern California. The proposed interceptor drain which would discharge water at Antioch Bridge in the middle of the delta would be discharging impure, polluted, alkaline water right in the middle of the fresh water pool on which Contra Costa County, the western San Joaquin Valley, and the southern part of the State are going to be dependent for fresh water.

The Public Health Service of the U.S. Department of Health, Education, and Welfare has rendered a strong report against this proposed terminal point. I quote from the report under date of November 20, 1963, from the San Francisco regional office of the U.S. Public Health Service, sent to the Central Valley Regional Water Pollution Control Board in California which states:

> As a result of these studies, we have concluded that a discharge to the San Joaquin River in the vicinity of the Antioch Bridge is extremely undesirable because of the pollution problem that will inevitably develop in this area."

The purpose of the amendment which the committee with its understanding has been kind enough to add to this bill would be to bar the termination of this drain in the middle of the delta in the vicinity of the Antioch Bridge and would in fact, bar the termination of the drain at any point east of Port Chicago, which is about 10 miles farther down toward San Francisco Bay. The Antioch Bridge is above the confluence of the San Joaquin and the Sacramento Rivers. It is on the San Joaquin River. During the summer months there is no noticeable flow in the San Joaquin River. This means that at high tide the water is being pushed upstream. Just 3 or 4 miles above the Antioch Bridge are the pumps for the Contra Costa Canal, and just above that the pumps for the Delta Mendota Canal. This means that this discharge of alkaline waste water from the drain if discharged at the Antioch Bridge would be pulled by the pumps up into these canals, which are the source of the domestic water, the irrigation water, and the industrial water for Contra Costa County and the western San Joaquin Valley, and would therefore defeat the whole purpose of the San Luis drain.

Therefore, the committee through its deep understanding has been of great help to the people who want to protect this fresh source of domestic water, irrigation water and industrial water and have added this amendment to the bill to be sure this drain will not be discharging right in the middle of this fresh water pool.

The citizens of our district want to join me in their thanks to the members of this committee for their understanding and their helpfulness.

Mr. KIRWAN. Mr. Chairman, I yield 5 minutes to the gentlewoman from Missouri [Mrs. SULLIVAN].

Mrs. SULLIVAN. Mr. Chairman, I am most appreciative of the work of the chairman and the members of this great subcommittee on public works. It is with reluctance that I rise today to discuss one portion of the bill concerning the Panama Canal which, in my estimation, need to be called to the attention of the Members of this House.

Mr. Chairman, what we have here is a situation in which the resources of the Panama Canal Company are in jeopardy of further dissipation as part of a foreign policy objective to try to appease or soften the demands of the Republic of Panama for eventual ownership and control of the canal. We are talking now about installations inside the Canal Zone—U.S. property. For instance, this involves some piers located physically within the Canal Zone, subject to complete jurisdiction, and ownership, and control by the Panama Canal Company for the Government of the United States, but which are coveted by some of the rich families of the Panamanian oligarchy. They want possession in the name of the Republic of Panama—ownership, or at least full control. The Congress has steadfastly opposed the further surrender of our treaty rights within the Canal Zone, except and unless by treaty. I think it would be be a violation of law if the piers were turned over to Panamanian interests, or if the commissaries and other service facilities in the Canal Zone were given or rented or leased or sold to the Republic of Panama or to Panamanian commercial interests subject to Panamanian jurisdiction—we have never permitted any such thing in the Canal Zone in the 61 years since the original treaty was signed.

We wrote this amendment into the public works appropriation bill last year—it was done in the Appropriations Committee and it went through the House and through the Senate and became law, even though the President, in signing the bill, held to the opinion it was probably an unconstitutional intrusion by the legislative upon the prerogatives of the executive branch but he nevertheless added:

> It is entirely proper for the committees to request information with respect to the disposal of property, and I recognize the desirability of consultations between officials of the executive branch and the Congress. Therefore, it is my intention to treat the provision as a request for information and to direct that the appropriate legislative committees be kept fully informed with respect to the disposal and transfer actions taken by the Panama Canal Company.

Mr. Chairman, that was the President's comment on this provision in signing the bill last year, but as chairman of the Subcommittee on the Panama Canal I am of the opinion that it means only that we would be notified after the fact rather than be consulted in advance on a matter so vital to the country under the jurisdiction of our committee.

Mr. Chairman, we are in deep trouble in the Canal Zone if we give away our rights—surrender them—in an attempt to appease the ultranationalist elements which killed our soldiers and jeopardized the safety of civilians and the safety of the Canal itself last January. The security problems would be immense if we gave away the piers inside the Zone, and if we turned the service activities of the Canal Company over to private commercial interests subject not to our jurisdiction but to the jurisdiction of the Republic of Panama—yet operating inside the Canal Zone itself.

Mr. Chairman, at the proper time I am going to offer an amendment to this bill which was written into the appropriation bill last year, as I said, but which was deleted from the bill this year.

The language of the amendment would prevent the Panama Canal Company from disposing of any real property or any rights to the use of real property by transfer, lease, or otherwise without first obtaining the approval of the appropriate legislative committees of the House and Senate.

Mr. KIRWAN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. SECREST].

Mr. SECREST. Mr. Chairman, I wish to take this brief time to commend my colleague from Ohio, MIKE KIRWIN, and the members of the committee for what I consider to have been an arduous and difficult task well completed in the preparation of this bill.

In the Ohio Valley since World War II more than $18 billion worth of new industry has been constructed, much of it in the chemical industry. The future prosperity of these existing plants and the future growth of the Ohio Valley depend in great measure upon adequate navigation facilities.

This bill will provide for the continued improvement of facilities along the Ohio River.

For the Belleville locks and dam there is $16.5 million for construction.

For the Pike Island locks and dam there is $7,539,000 for construction.

For the continued construction of the Racine locks and dam there is $6.2 million.

There is planning money for two very important future dam and lock improvements on the river. For the Hannibal locks and dam there is $230,000. For the Willow Island lock and dam there is $325,000.

There is also $325,000 for a comprehensive survey of the Ohio Valley and the tributaries of the Ohio River. I am hopeful that the Muskingum survey can be included in this amount.

The future of the Ohio Valley depends upon these in great measure, and I thank the chairman and the members of the committee personally for the attention they have given to the problems of the great Ohio Valley.

Mr. KIRWAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. JOHNSON].

Mr. JOHNSON of Wisconsin. Mr. Chairman, I would like to indicate my strong support of the appropriation for continuing construction of the Eau Galle River flood control project at Spring Valley, which is located in my home district in Wisconsin. This item is part of the public works appropriation bill we are considering today.

An appropriation of $400,000 for the Eau Galle project was included in the President's budget request for the civil works program of the Army Corps of Engineers for fiscal 1965. I am pleased that the House Appropriations Committee has retained the full amount requested for Eau Galle in reporting out the public works appropriation bill. I urge my colleagues in the House to do likewise.

This Eau Galle appropriation will be the third one to be made for construction of the long-awaited flood control project in the Spring Valley and Elmwood area. Last year, $200,000 in construction funds were okayed by Congress, and $340,000 had been made available for construction in fiscal 1963.

Previously, $570,000 had been appropriated over a 3-year period for planning the project.

Mr. Chairman, the history of Spring Valley reveals that flood records date back as far as 1894 and describe damage to roads, bridges, homes, and business places. The 1934 flood took one life, and two deaths are linked indirectly to the catastrophic flood of September 17, 1942.

That flood had been preceded by an earlier flood in May of the same year, which did considerable damage to both the business and residential areas of Spring Valley. Downstream from the village, railroad embankments and highways were washed out, bridges were damaged, and cultivated fields were inundated.

Residents in the Eau Galle valley had hardly recovered from the May flood when they were deluged again. Few buildings in Spring Valley escaped damage as a 16-foot wall of water moved through the community. Sixteen residences and 19 business places were completely destroyed, and the average damaged home and public building could not be reoccupied for about 30 days.

Mr. Chairman, the people of Spring Valley refused to be defeated. They rebuilt and cleaned up their town in an amazing and heart-warming display of courage and civic spirit and pride. Meanwhile, they continued to work with the Federal Government toward the establishment of the Eau Galle River flood control project which, when completed, will insure that the flood-splashed history of the Spring Valley area will not be repeated.

The Eau Galle project dates back to 1941, when the Senate Commerce Committee adopted a resolution requesting a review of the Corps of Engineers report on the Chippewa River and its tributaries. The Corps of Engineers started preliminary survey work on the Eau Galle Dam in 1942 as part of an overall Chippewa River project, but World War II halted all work on civil works projects.

Later, the Corps of Engineers approved Eau Galle River as a separate project. It subsequently received the blessing of the Bureau of the Budget.

In 1955, I introduced a bill in the House to authorize the Eau Galle Dam. This measure was incorporated in the omnibus rivers and harbors bill, which was passed in 1956 by the 84th Congress and received a pocket veto from President Eisenhower. He also vetoed a similar bill approved in 1957 by the 85th Congress. Authorization of the Eau Galle project finally came in 1958, when the President signed the revised omnibus rivers and harbors bill.

Mr. Chairman, the people of Spring Valley have complied with all the stipulations set up by the Corps of Engineers as conditions for participation of the Federal Government in this project. The Eau Galle Dam is now under construction. I urge that construction funds continue to be appropriated as needed so that the project can be completed without further delays. Only then will the people of the Eau Galle River valley be freed from the nagging fear that rising waters will again wash away their homes and businesses and threaten their lives.

Mr. KIRWAN. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. EDMONDSON].

Mr. EDMONDSON. Mr. Chairman, I thank the gentleman for yielding.

In my judgment, the entire House should recognize the outstanding work done by the great Committee on Appropriations in this bill.

I believe the gentleman from Ohio, the Honorable MIKE KIRWAN, could appropriately be called "Mr. America" for the contribution he has made to the development and strengthening of our country and its great natural resources.

The gentleman from Iowa [Mr. JENSEN] and the other distinguished members of this great committee are among America's unsung heroes in the building of America, through their consistent support of water resource development throughout the land.

The committee's able staff has worked competently and hard in preparing this important appropriations bill, and has made a contribution for which all of us are deeply grateful. I wholeheartedly support the bill and urge its approval.

I thank the gentleman for yielding to me.

Mr. JENSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FULTON].

Mr. FULTON of Pennsylvania. Mr. Chairman, I wish to congratulate the committee for doing a good job. I believe we are building assets for the American people, and making progress for the benefit of the whole country, by this public works construction program.

I wish to bring to the attention of the Congress one project in my district, the Chartiers Valley flood control project, which is a vital necessity to the people of this large industrial valley for the safety and protection of their families, their homes, the plants, industries, and their jobs.

Congressman THOMAS MORGAN has worked with me to advance the study by the U.S. Army Engineers, as have the two Pennsylvania U.S. Senators, Senator JOSEPH CLARK and Senator HUGH SCOTT.

Under resolution of the Public Works Committee, requested by me, there has been provided to date $230,500 by Congress for the study and preparation of the report by the U.S. district engineer for the western district of Pennsylvania. This study was started by the Army Engineers on February 7, 1958, and on final approval of the report by the chief of U.S. Engineers in Washington, was forwarded by the Secretary of the Army on January 28, 1964, to the U.S. Bureau of the Budget.

The Bureau of the Budget has now approved the Chartiers Valley flood control project, and the program costing in total $16,620,000 in Allegheny County, my district, and $3,655,000 for the Washington County section—Congressman THOMAS MORGAN'S district—has been forwarded to Congress, and is now before the House Public Works Committee.

The Bureau of the Budget has approved $9,320,000 as the Federal contribution of the Allegheny County part, and $2,887,000 for the Washington County part. I have learned that the present administration and the House Public Works Committee do not plan for an omnibus public works authorization bill in this session of Congress, but only next year. I will read from the letter of the House Public Works Committee of June 10, 1964, to me, as follows:

COMMITTEE ON PUBLIC WORKS,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 10, 1964.

Re Chartiers Creek Basin, Pa., House Document 302, 88th Congress.

Hon. JAMES G. FULTON,
Cannon House Office Building,
Washington, D.C.

DEAR MR. FULTON: As you know, the report of the Corps of Engineers relative to Chartiers Creek Basin, Pa., was submitted to the Congress on May 6, 1964. In confirmation of my previous conversations with you relative to this matter, to the best of my knowledge there are no present plans for the House Committee on Public Works to hold hearings and report out an omnibus rivers and harbors and flood control bill this session of the Congress.

Sincerely yours,
CLIFTON W. ENFIELD.

This failure to take action in Congress leaves the Chartiers Valley flood control project without the necessary authorizing legislation. Hence, the House Appropriations Committee has left this emergency project out of the present public works appropriation bill, as it did many other unauthorized projects.

I am advised the House Appropriations Committee included no project without authorization in the present public works appropriation bill. In fact, 108 Members of Congress have projects they want to include in this legislation, but because there are no prior authorizations, none of these projects have been included in this public works appropriation bill by the House Appropriations Committee.

Unfortunately there is no authorization for the Chartiers Valley flood control project, so that it cannot be put in the bill by amending. I have prepared such an amendment which I have with me as the Members can see, for both the Washington County and Allegheny County parts of the program. I understand from both sides that there would be a point of order made against it if such an amendment were proposed at this time to the bill. Therefore, I will not offer the amendment as both Congressman MORGAN and I feel it cannot be considered by the House today. All this project needs is $60,000, according to our local U.S. district engineer for the coming fiscal year, 1965, for both portions of the project, to initiate preliminary planning and preliminary surveys and borings. Col. B. de Melker, U.S. Army district engineer, Pittsburgh district, advised me $60,000 would be enough to carry this $20 million emergency project, in his telegram to me of April 30, 1964, in answer to my telegram to him of April 29, 1964.

Mr. JENSEN. Mr. Chairman, will the gentleman yield?

Mr. FULTON of Pennsylvania. I will be glad to yield to the gentleman from Iowa.

Mr. JENSEN. Of course, the committee is well aware of the gentleman's great interest in this project. He has urged that we make an appropriation to start the surveys for it. However, the fact of the matter is that the project has not been authorized. Had it been authorized, I could assure my good colleague from Pennsylvania [Mr. FULTON], that the committee would have looked with favor on his request and they would have no doubt included the funds which he has requested for it.

Mr. FULTON of Pennsylvania. Thank you for your good comments on my work for the Chartiers Valley flood control program, as we do need this project on an emergency basis for flood protection, and to help this valley which has chronic high unemployment. Coming from the ranking minority member of the House Appropriations Committee, your remarks are encouraging to me. May I thank the gentleman for his good comments, and second, I thank him for his cooperation. Likewise I thank the chairman of the Appropriations Committee, the gentleman from Ohio [Mr. KIRWAN], who today said to me when I consulted with him, that you will get it next year. The studies and engineers' report have been made, but it was too late by the time the U.S. Bureau of the Budget got the favorable report to act on it and get the program voted upon by this Congress in the current budget.

Today I have consulted individually with both Pennsylvania U.S. Senators, Senator JOSEPH CLARK and Senator HUGH SCOTT, and they have both said the Chartiers Valley flood control project will continue to have their full cooperation.

I will be glad to continue my work with our two Pennsylvania U.S. Senators, Senator JOSEPH CLARK and Senator HUGH SCOTT, as well as my friend and neighboring Congressman, THOMAS MORGAN, and our local officials, upon a nonpartisan and mutually helpful basis, as we have been proceeding, to get the earliest possible action on the Chartiers Valley flood control program.

Mr. JENSEN. Mr. Chairman, I yield such time as he may desire to the gentleman from Illinois [Mr. FINDLEY].

Mr. FINDLEY. Mr. Chairman, I appreciate the consideration given by the distinguished chairman of the subcommittee, the gentleman from Ohio [Mr. KIRWAN], the distinguished ranking minority member, the gentleman from Iowa [Mr. JENSEN], and other members, to the pressing flood-control problems of the district I represent, the 20th Congressional District of Illinois.

I express the thanks of thousands of farmers and other property owners in the Mississippi and Illinois River bottom areas. The subcommittee has been most generous in giving its time and attention to these problems, and in responding to them.

Mr. KIRWAN. Mr. Chairman, I yield such time as he may desire to the gentleman from Montana [Mr. OLSEN].

Mr. OLSEN of Montana. Mr. Chairman, I wish to commend the committee and especially the chairman for their leadership in water development and the conservation programs of the past as well as for what they have done in this regard in this bill. In Montana we live in some areas with too much water too soon and in other areas with very little water at all. In our recent experience last week we would have much greater destruction of life and property from floods from the mountains were it not for the already established projects constructed under appropriations from this committee. We are very grateful in Montana and, of course, we look forward to further development and to further ability to fight the floods which we are subject to, while at the same time diverting this water to useful and progressive uses, such as irrigation, recreation, power development, and the like.

Projects heretofore provided by investment by this committee in Montana's rivers saved us from worse floods than we experienced last week.

In the case of the Flathead River, the flood last week from the Middle Fork and the North Fork amounted to 150,000 cubic feet per second as compared with the previous record of 1894 amounting to 135,000 cubic feet per second. But this year the flood would have been more than 210,000 cubic feet per second were it not for Hungry Horse Dam. This great multipurpose dam held back the entire flow of South Fork of the Flathead—a flow of more than 61,000 cubic feet per second.

The Sun River in Montana, which flooded tens of thousands of acres of farmland and the west suburbs of the city of Great Falls, would have flooded hundreds of thousands of acres of farmland and literally washed away portions of cities, were it not for the Gibson Reservoir of the Bureau of Reclamation holding back the larger portion of the mountain flood.

The Marias Dam of Bureau of Reclamation on the Marias River protected downstream communities and contained the entire flood of Birch, Dupuyer, and Cutbank creeks which had wrought great destruction of life and property upstream.

The Canyon Ferry Dam on the Missouri absolutely saved the city of Great Falls from other flooding by holding back the Missouri, while the excesses of the Sun rampaged its excesses.

The projects in this bill, Beaver Creek—part of Milk River—Libby Dam on the Kootenai River, and the several projects on the Missouri will further promote flood control. But more than that the projects will—every one of them either directly or indirectly—develop electric power, provide irrigation and reclamation, as well as supply fish and wildlife in addition to pure water for recreation. Yes, and all of them support navigation.

We are grateful in Montana for the savings and benefits of the existing projects. We trust they will be examples for continued future investments in water conservation and development, and in flood control, in Montana and everywhere in the country.

Mr. ROGERS of Florida. Mr. Chairman, this legislation before the House today contains a number of provisions for projects in Florida. Among those are projects in the Sixth Congressional District. I am particularly pleased that the distinguished Appropriations Committee has seen the merit of these projects, and approved funds for their development.

Among the projects listed in the bill are Everglades National Park, Martin County, Fla., both of which are surveys, and construction items for the central and southern Florida flood control project, the West Coast Intracoastal Waterway, port of Palm Beach, Port Everglades, and reimbursement to local interests for expenses incurred as part of a beach erosion project in Palm Beach County.

I urge that the House adopt the Appropriations Committee's action and approve the funds specified for these projects so vital to the continued orderly growth of Florida and the Nation.

Mr. ST GERMAIN. Mr. Chairman, I shall not impose on the time of this body, but I come before you once again to cite particular provisions of this measure. They are of vital interest to the citizenry of my district and State.

Two of the five Rhode Island projects recommended by the Corps of Engineers are of deep concern to my district: the Fox Point hurricane barrier, for which $1,857,000 is included for construction; and the Lower Woonsocket flood control project for which $2 million is included for construction. Both of these projects have been authorized previously and are well underway—the Fox Point barrier is approximately three-fourths completed and the Woonsocket project will be 50 percent completed this year.

Hurricanes and floods in previous years caused millions of dollars in property damage as well as untold hardship and deprivations to the individuals affected. Appropriation of these funds to continue construction of these two projects will afford the industries and citizens of these communities assurances of security and protection from the future onslaught of such disasters.

I want to take this opportunity publicly to commend the committee for its thorough work and fine presentation.

Mrs. SULLIVAN. Mr. Chairman, H.R. 11579, the public works appropriation bill for fiscal 1965, includes the very substantial sum of $10 million to continue the construction work on the flood control project for St. Louis, Mo. This will bring to $44,710,000 the total amount of Federal funds made available since the start of the project authorized by Public Law 256 of the 84th Congress, approved August 9, 1955. At that time the entire Federal cost was estimated at more than $100 million. Changes in some of the designs and other economies have reduced the estimate of Federal costs to $85,600,000.

The money made available in this appropriation bill will enable the Army engineers to bring the project, by June 30, 1965, to within 52 percent of completion.

The target date for completion is June of 1968. Once in place, the levee work and related facilities will protect more than 600 major industries and commercial enterprises within the corporate limits of the city of St. Louis. Mr. Chairman, this project will be a good investment for the Government of the United States and the taxpayers of the United States because it will prevent very substantial flood losses which are deductible for income tax purposes and thus a drain on the tax receipts of the United States as well as on the economy of the Nation.

I know it is popular to speak of the public works appropriation bill as "the pork barrel bill," even though many of the newspapers which do so and which tend to ridicule this kind of Federal spending nevertheless recognize the importance of individual projects in their own areas to the economy and the protection and the future of their own communities or localities. The late Clarence Cannon, who served as chairman of the Subcommittee on Public Works of the House Appropriations Committee, of which he was also chairman, was understandably impatient with the criticisms which were directed at this particular bill each year because he knew from close personal study of the waterways of our country the vital role that they played in commerce and the hazards which arose from the periodic flooding of our rivers. No Member of Congress was more of a foe of unnecessary Government spending than Clarence Cannon, but no one was more aware of the importance of the funds provided each year in this appropriation bill.

We in St. Louis will always be grateful for his vision and his leadership in this field, and the tremendous help which he gave to us in getting this project underway at a time when the Budget Bureau had accorded it a low priority as a "new start." The project is now approaching 40 percent of completion, thanks primarily to the help he gave us in getting it started 8 years ago.

Mr. Chairman, I want to thank our colleague from Ohio, Congressman KIRWAN, a worthy successor to Clarence Cannon as chairman of the Subcommittee on Public Works, and also the other members of the subcommittee, in recommending in this bill the full budget amount of $10 million for St. Louis.

Mr. TRIMBLE. Mr. Chairman, I wish to express my grateful thanks to the gentleman from Ohio [Mr. KIRWAN] and the members of the Subcommittee on Appropriations and to the full committee for what they have done in this bill to help Arkansas preserve its land, its wood, and its water. This will be a great heritage to leave to our children and our children's children.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I am pleased that H.R. 11579, before the House today, carries with it an appropriation for continued construction of the Kinzua Dam at Warren, Pa., in the amount of $27 million.

This amount is the largest appropriation for any project in Pennsylvania and ranks as the fourth largest in the Nation.

The size of the appropriation is commensurate with the great importance of the construction of the Kinzua Dam. It will provide flood protection for a large area of Pennsylvania, and Ohio as well. The recreational opportunities that will be afforded the people of a large area will mean tremendous enjoyment, health, and comfort for all who will have the privilege of making use of this fine new facility.

In addition to the appropriation for the Kinzua Dam, there is also an appropriation for another project in the 23d District—$3,200,000 for continued construction of the Curwensville Reservoir which also is a vitally important flood control project in central Pennsylvania.

It is estimated that the great flood which hit the Curwensville area this spring would not have occurred if the reservoir had been in operation, thus saving millions of dollars in damages.

As a Congressman, I am pleased to support these projects as money well spent for the people back home. It does not represent squandering of the taxpayers' money as do the worthless donations from us that are literally squandered by foreign nations and serve no useful purpose.

Mr. ROUSH. Mr. Chairman, the passage of this bill is of great importance to the people of Indiana and more particularly to the people of my congressional district. Included are funds for three major flood control projects, the Mississinewa, the Salamonie and the Huntington. These projects not only provide necessary flood control but are drastically changing the complexion of my section of the country. Each of these projects is under construction. This means that towns are being relocated, cemeteries are being relocated, roads are being changed, new bridges built, the courses of streams are being changed and new communities are being built. A new water wonderland is beginning to take shape.

The Mississinewa Reservoir is the largest of the three. The dam itself is 8,310 feet in length and is 140 feet high. It will have a permanent pool of 1,280 acres, a seasonal pool during the months of June, July, August, and September of 3,180 acres and a maximum flood pool of 12,830 acres. At various places around the pool will be located recreation areas varying in size from 10 to 1,165 acres. The Salamonie Reservoir is located 3.1 miles from the point where the Salamonie joins the Wabash River. The Salamonie Dam is 6,940 feet in length and 130 feet high. There will be a permanent pool of 976 acres, a seasonal pool of 2,855 acres and a maximum flood pool of 9,340 acres. There will be five access or recreation areas around the pool which vary in size from 10 to 1,342 acres in size. The Huntington Reservoir is the smallest of the three reservoirs under construction. The dam itself will be 6,260 feet in length and 90 feet in height. The permanent pool will be 500 acres in size and the seasonal pool will be 900 acres in size. In the event of severe flooding there will be a capacity of 29 acres of storage. The recreation areas are in the planning stage and the number and size of these areas has not been announced.

For those of us who love the great out of doors and who are interested in conserving God-given natural resources, I see great opportunities as these reservoirs come into being. Thousands of acres will be preserved in their natural form. This in turn will provide a natural habitat for wild animal and bird life which are rapidly diminishing in numbers. The development of these reservoirs as three of the greatest fishing "holes" in the Midwest cannot be overlooked. Recreation has not been the goal of these projects; however, we would be remiss if we did not exploit the opportunity we have for using these reservoirs as a means of supplying for our people recreation facilities which, if properly developed, will be more useful, more beautiful, and more attractive than anything we now find in the Midwest. I, for one, am hopeful local interests will cooperate fully with the Federal and State Governments in planning the development of these areas and that there be an insistence that a plan of development and growth be followed.

These projects are already making a tremendous impact on the central part of Indiana. The economy of the area is being affected with the promise of enhancement of the economy beyond the dreams of even the most serious and aggressive advocates of the projects. Because of the location of these projects Indiana will be a more attractive place for industry.

The enticement of basic industry into the area will assure Indiana and more particularly north central Indiana of its place in a rapidly growing economy. The presence of good, clean water and plenty of it, the protection from floods, the low flow control which will permit a constant flow of water through the streams below the dams, and, of course, the availability of recreational facilities of the finest outdoor type will be of great help in the industrial development of our area. Mr. Speaker, although I have barely touched on the potential these projects offer, I would want the House to know of my great excitement and enthusiasm for them. I urge that the bill pass.

Mr. GOODELL. Mr. Chairman, I rise to express my personal appreciation to the members of the Subcommittee on Public Works of the Committee on Appropriations for the special attention they gave my request for inclusion in this bill of $300,000 for the planning of the Tioga-Hammond Reservoir. As I explained in my statement to that hardworking subcommittee, this project should prove to be of immense value to sections of my congressional district in New York.

In my many conversations with members of the subcommittee and the full committee, I sought to bring out that the objections and concerns which had been expressed earlier by some had been dispelled and that their arguments had been met. In these discussions, I was afforded the fullest opportunity to present the merits of the project, which I endorse so strongly. The willingness of the committee to listen to the details of the project and to hear me out in urging inclusion of this amount is typical of this subcommittee.

The Tioga-Hammond Reservoir is a worthwhile project. I support it enthusiastically, and have established that the Corps of Engineers can effectively use the sum of $300,000 included. This item has my support.

Mr. WEAVER. Mr. Chairman, the public works appropriation bill before the House today contains a number of vital projects for the 24th Pennsylvania District, where flooding is a major problem.

Many sections of northwestern Pennsylvania suffer from floods each year. It is only through the combined efforts of the U.S. Soil Conservation Service and the civil works program of the U.S. Army Corps of Engineers that this flooding can be eliminated.

The Soil Conservation Service has developed an effective program of flood control that has progressed satisfactorily, curtailing or eliminating some of the flooding in the Mercer-Crawford-Erie district.

The Army Engineers have also planned control measures that—when they become a reality—will stop the flooding that has caused millions of dollars in damages annually in northwestern Pennsylvania.

These projects are urgently needed to bring relief to property owners in the 24th district.

SHENANGO RESERVOIR

The 1965 Federal works budget includes $11,300,000 for continuing work on the $36-million Shenango River Reservoir near Sharpsville in Mercer County, scheduled to be finished in June 1965.

Approval of the $11,300,000 allocation will insure the completion of the reservoir on time.

In March of this year the Shenango River overflowed its banks, causing thousands of dollars in damages to the Sharon area. This flood forced the closing of a school and at least five roadways.

Sharon merchants spent from $75,000 to $100,000 to prepare for the flood.

The flood of January 1959 was the most severe causing an estimated $4,900,000 in damages in the Sharon sector.

The Shenango reservoir will control more than 1,200 square miles of the Beaver Valley watershed and will be operated as a unit of a coordinated reservoir system for flood protection in the Shenango, Beaver, and Ohio River valleys.

If the reservoir had been completed before the flood period this year, damages in the amount of $2,331,000 would have been prevented, according to the Army engineers.

FRENCH CREEK BASIN

The budget also includes $100,000 for advanced engineering and design for the proposed Union City reservoir on French Creek in Erie County, $60,000 for the Woodcock Creek reservoir, and $25,000 for the Muddy Creek reservoir, both in Crawford County. The last two sums are for planning. The dams will comprise a three-dam system of flood control for the French Creek Basin.

Floodings in the past have severely disrupted the economies of Meadville and other communities in the basin. The spring floods this year almost completely isolated the city by cutting off all of the roadways but one leading into the city.

In April 1947, some 7,000 acres of rural land and some 600 acres of urban land were under flood waters.

The engineers have noted in reports that the average annual primary flood damages in the Meadville area is estimated at $1,260,000. Had the three dams been in existence at the time of the 1964 floods they would have prevented damage in the following amounts: $643,000, Woodcock; $643,000, Muddy Creek, and $1,284,000, Union City.

PORT DREDGING AT ERIE

The 1965 budget did not contain an allocation to complete the last major dredging program to place the port of Erie in a competitive position with other Great Lakes oceangoing ports.

We in Pennsylvania feel that our only lake port has a great potential and that its development would help stabilize the economic status of northwestern Pennsylvania.

On behalf of the people of Erie, I want to thank the Public Works Subcommittee on Appropriations for recognizing the need for a better port by approving $25,000 for predredging studies. It is my hope that $725,000 can be allocated in the 1966 budget for the actual deepening of the harbor.

Dredging at Erie Harbor was authorized by the 1962 River and Harbor Act, as recommended in House Document No. 340, 87th Congress, 2d session. The work involves dredging a relatively small area lying between the existing 28-foot Federal project areas and the Duquesne marine terminal owned by the Erie Port Commission. The area would be dredged to 27 feet in soft material and 28 feet in hard material, to accommodate oversea general-cargo vessels.

The work would involve removal of about 33,000 cubic yards of earth and 39,500 cubic yards of rock. The latest estimate of cost of the Federal work is $750,000, based on July 1963 price levels. The work would require two fiscal years: $25,000 is needed in the first fiscal year to do detailed field surveys and complete preconstruction planning, and the remaining $725,000 would be needed in the next fiscal year to do the dredging. The benefit-cost ratio is 2.1 to 1.0. The required assurances of local cooperation were furnished by the city of Erie and were approved on May 23, 1963. The port commission has already done necessary dockside dredging in connection with pier rehabilitation work.

Erie Harbor has established itself in the oversea general cargo trade via the St. Lawrence Seaway. The only general cargo dock at Erie is the Duquesne marine terminal. The present controlling depths in the dock approach area are not sufficient to allow vessels to use the terminal when loaded to the full draft permitted by the St. Lawrence Seaway connecting channels system. Deepening to the authorized 27-foot project depth would permit the efficient use of the harbor by the general cargo vessels utilizing this system. In common with other Great Lakes harbors, Erie is being adversely affected by prevailing low lake levels. Deepening of the dock approach area would help alleviate the effects at Erie.

The 1965 budget includes $80,000 for routine operation and maintenance in Erie Harbor. This money is necessary for dredging at the channel entrance and to remove sediment that has accumulated in the harbor from streams and other sources.

SMALL HARBOR DEVELOPMENT

A total of $35,000 is budgeted for planning for small harbors. The Buffalo office of the Corps of Engineers has proposed 25 possible sites within its jurisdiction for these harbors. Elk Creek in Erie County is one of the sites. Another is at North East in the same county.

These harbors will have an important function—serving as a refuge for boaters seeking safety from storms. Boaters, many of them unskilled, are increasing with great number. The harbors would serve as a convenience for them.

All of these projects will contribute to a better northwestern Pennsylvania whose lagging economy is in need of rejuvenation and stimulation. I urge my colleagues to support H.R. 11579, the public works appropriation bill.

Mr. SAYLOR. Mr. Chairman, I note with considerable satisfaction that the Appropriations Committee, in the bill before us, has deleted the $1 million requested by the Bonneville Power Administration for planning on an extra-high-voltage transmission line into southern Idaho. The committee report directs Bonneville to spend no funds for any other purpose than for good faith negotiations for wheeling power into southern Idaho for preference customers only. Even this action is to be deplored, as there is no real justification or need for the Bonneville invasion of southern Idaho.

A recent editorial in a southern Idaho newspaper headed, "Let's Invite BPA To Get Out—And Stay Out" aptly expresses the sentiment of the majority of the people of southern Idaho who strongly oppose the extension of the Bonneville Power Administration's market area into southern Idaho.

That this opposition is real and tremendous is vividly illustrated by the testimony presented to the Public Works Subcommittee of the Appropriations Committee of this House when hearings were held on this matter. Here is a summary list of some of the various groups, representing tens of thousands of southern Idahoans, who testified or presented resolutions strongly opposing Bonneville's entry into their area.

The Idaho Farm Bureau, 28 local farm bureaus, 24 farm granges, 13 school groups—school boards, districts and PTA's, 4 county commissioner groups, 4 municipal governments, 53 members of the Idaho Legislature, Idaho tax commission, American Falls reservoir district, Idaho State Reclamation Association, Idaho State Chamber of Commerce, 21 individual chambers of commerce, 9 junior chambers of commerce, Exchange Club, 5 Kiwanis Clubs, Snake River Valley Electrical Association, Boise, Sun Valley Business & Professional Women's Club, Idaho Association of Insurance Agents, Associated Industries of Idaho, businessmen of Shoshone, Idaho, and North Side Canal Co.

I am sure most of my colleagues will remember that I placed an extended series of articles in the CONGRESSIONAL RECORD earlier this year which pointed up the tremendous opposition in southern Idaho against the invasion by Bonneville. One Idahoan at that time suggested I use the following as a heading for my articles:

SOUTHERN IDAHO'S NEW SLOGAN—BONNEVILLE PLEASE INCLUDE US OUT

Now we find a southern Idaho editorial inviting Bonneville to "Get Out and Stay Out."

Earlier this year Bonneville, in taking over the marketing of power from Bureau of Reclamation powerplants in southern Idaho, entered into 20-year utility responsibility type contracts with the existing preference customers for electric power from the Bureau projects. I question the legal authority of Bonneville to take over this marketing of power from the Bureau of Reclamation plants and the authority to reduce by some 40 percent the previous Bureau rates for the power. This reduction is currently admittedly costing the taxpayers of the Nation some $750,000 annually. With the same power, from the same plants, being delivered to the same customers, one of two things is true; either the preference customers were being gypped by an unwarranted high rate, or the taxpayers of the Nation are being gypped to furnish an unwarranted additional subsidy of $750,000 annually. There is no question but that the latter is the case.

A reading of the Appropriations Committee hearings on the Bonneville contract proposal to deliver below cost power to an industrial giant, now getting power from the existing private electric utilities in southern Idaho, discloses that rather than increase Bonneville's net revenue and provide for expanded employment in the area, it would have just the opposite effect.

I shall now summarize a number of the valid reasons for objecting to the Bonneville invasion of southern Idaho.

First. It would provide unfair competition to the existing electric utilities who are and have been providing the southern Idaho area with ample supplies of electric power at reasonable rates well under the national average. There is not now and never has been any shortage of power in this area to meet the growing load requirements of the area.

Second. The stockholders of the existing electric utilities in southern Idaho invested their funds in good faith and should not be subjected to unfair and unwarranted competition from tax-free Federal power at rates around one-half the actual cost of production and delivery of such Federal power.

Third. Proposed construction and operation of the transmission line and related facilities is totally uneconomic, and unwarranted under any realistic method of cost analysis. Bonneville admits cost of all Federal facilities needed to supply load contemplated would total over $132 million. Interest cost alone at a realistic 4 percent would exceed revenue.

Fourth. The reliability of the proposed direct current line of 750,000 volts is very questionable. There is no line of such voltage and capacity operating any place in the world today. Bonneville's 1965 budget requested one-half million dollars to continue tests on high voltage direct current lines and related facilities.

Fifth. The major customer to be served by the proposed transmission line is the Monsanto Chemical Co., an industrial giant with total assets of around $1.5 billion. This company reportedly is now the largest single producer of elemental phosphorus in the world. Monsanto's latest quarterly report shows that the company has achieved the highest quarterly sales and earnings in its history. Certainly, it is not in need of below-cost electric power subsidized by the Nation's taxpayers.

Sixth. The Bonneville contract with this industrial giant provides for sale of electric power at rates less than half the cost of production and delivery, at a time when Bonneville is operating with an annual loss averaging around $15 million or more. Based on a proper interest rate of 4 percent, Bonneville now has a total deficit of well in excess of $100 million instead of the claimed surplus of around $20 million.

Seventh. Construction of this line and the transmission of Federal power thereon at the contemplated rates would amount to totally unwarranted subsidization of an industrial giant by the taxpayers of the Nation. It would give Monsanto Chemical Co., a sizable and totally unfair economic advantage over its competitors. Testimony at the hearings disclosed that this unfair advantage undoubtedly would force many competitors out of business. This would result in the loss of many times more jobs than the proposed expansion of Monsanto would provide.

Eighth. The contemplated invasion of southern Idaho by the Bonneville Power Administration and the proposed taxpayers' subsidization of an industrial giant now being served by the existing utilities in the area strikes at the very foundation of the economic system on which this Nation was founded and has grown great.

Ninth. Bonneville's proposed power rate to Monsanto is less than the equivalent tax rate per kilowatt-hour paid by the major private electric utilities of southern Idaho. This illustrates the inability of these private utilities to compete with tax-free Bonneville power.

Tenth. The Bonneville invasion of southern Idaho, contemplated by the construction of the proposed transmission lines into that area, would have very serious adverse effects on the local and State tax situation.

Eleventh. Delivery of Federal power to the preference customers in southern Idaho cannot justify the construction of the proposed transmission line, as those customers' loads are now being served by power generated at Bureau of Reclamation hydropower plants. The existing private taxpaying electric utilities of southern Idaho are now wheeling and delivering this power for Bonneville, just as they did for the Bureau of Reclamation before Bonneville took over the marketing. These private taxpaying utilities have presented written proposals to continue wheeling Federal power to meet all present and future load growth of these existing preference customers, and to take payment for such wheeling in electric energy from Bonneville. Consequently, these preference customers are assured of Federal power at Bonneville rates, without the need to spend a huge amount of taxpayers' funds to construct the proposed Bonneville transmission lines and related facilities. The electric energy to be delivered by Bonneville in payment for wheeling can, for the most part, be surplus hydroenergy that Bonneville cannot otherwise sell. This would result in a very low wheeling cost.

Twelfth. According to testimony presented at the hearings, construction of the proposed Bonneville transmission line into southern Idaho would result in reduction of future production of coal—to supply proposed increased steam electric power production—in an area of Wyoming that is just now trying to shed its poverty-stricken and disaster-area label. We cannot understand or support a proposal to affect adversely an area that is doing all it can to overcome its low economic plight, while at the same time the administration is championing a so-called fight-on-poverty program.

Thirteenth. Evidence presented at the hearings indicated quite clearly that the majority of people of southern Idaho did not and do not want Bonneville power in that area. Indicative of this is the editorial—May 14, 1964—I mentioned earlier, from a newspaper serving one of the major cities of southern Idaho headed "Let's Invite BPA To Get Out and Stay Out."

The editorial follows:

[From the Eastern Idaho Farmer, May 14, 1964]

LET'S INVITE BPA TO GET OUT AND STAY OUT

The time has come to invite the Bonneville Power Administration to get out of southern Idaho—and stay out.

Nobody invited BPA into the Snake River Valley in the first place. Perfunctory preliminary steps were taken, it's true. But there was no organized, extensive effort to find out whether southern Idaho really wanted BPA to invade this territory. And we certainly heard no clamor for BPA, not even from the potential BPA customers.

But Interior Secretary Stewart Udall went ahead and did it anyway by official edict—a glaring example of bureaucratic power run wild. Conniving with him, apparently, were Senator FRANK CHURCH and Congressman RALPH HARDING. It was, we suppose, conceived as another of those grandiose "do good" gestures.

We viewed the whole proceeding at the time with grave concern, anticipating that southern Idaho was shortly to be embroiled in controversy and bickering which could last for years and far into the indefinite future. And that's exactly what is happening.

We were getting along all right in southern Idaho before BPA invaded the Snake River Valley. For years, what public power we had had been administered by the Bureau of Reclamation. It was closely identified with Idaho's water resource development, certainly Idaho's No. 1 responsibility and economic opportunity.

During all of those years, Snake River Valley residents have worked in harmony with the Bureau of Reclamation. We met our obligations; we didn't depend on anybody outside our area; we pursued the orderly development of rivers, streams, and arid lands. We used the power byproduct to help defray those project costs.

Then BPA came—and the U.S. Bureau of Reclamation relinquished its power operations to the invader. It is significant that, over the long years of Idaho's water resource development, with the cooperation of the Bureau of Reclamation, southern Idaho was singularly free of serious controversy or conflict. We knew where we were trying to go; we got along. It wasn't until Burns Creek hit the Bureau of Reclamation's construction calendar that we ran into opposition—and that, we think practically everyone will agree, was the match that set the BPA conflagration.

Where are we today? Exactly where we used to be so far as resource development is concerned. And the prospect for the future is far from bright.

BPA today has already signed up every eligible customer in the Snake River Valley. It is handling identically the same power that the U.S. Bureau of Reclamation formerly administered. BPA has a central office in Idaho Falls, a manager and personnel. That personnel is superimposed on what we already had; another fine example of growing bureaucracy and paternalism with higher and higher salary outlays.

Nor is that all. Only three municipalities of any consequence in all of the Snake River Valley qualified for BPA contracts because they either operated powerplants or municipal distribution systems. Those favored three: Idaho Falls, Burley, and Rupert.

We don't know what happened in Burley and Rupert. But Idaho Falls was handed a plum totaling about $120,000 per annum along with its BPA contract. That's an outright gift which somebody, somewhere, has to pay inasmuch as BPA currently is operating in the red at the rate of almost $20 million per year.

If there is another important Idaho city which, now or ever, can qualify for such a power contract, we don't know that city. And we submit that there is sound reason for other cities to scream to high heaven about all this; they are being discriminated against, penalized by BPA's rate structure which today has no sound economic background. It isn't fair, it isn't right, it isn't even honest.

And then came that preposterous proposal to provide power to Monsanto Chemical Co. at Soda Springs for 2.2 mills.

The arguments on that one have been pretty well aired; how we've already lost a $4 or $5 million wet process plant addition in Pocatello; how it may cost Idaho the final big generating plant on Snake River below Weiser.

If 2.2 mills is a favorable industrial rate, how can BPA justify the much higher municipal rates charged such major users as the city of Idaho Falls?

And how, if what we've been paying for Federal power to liquidate obligations under Bureau of Reclamation projects repayment contracts are right, can we hope to devise an acceptable feasibility report for such projects as Burns Creek and the Fremont Dam?

Or are we in Idaho to be classed as one of the Nation's underprivileged, poverty-stricken regions to be perpetually subsidized by tax-grabbing Uncle Sam, dedicated to the proposition that he can take money—millions of dollars—away from somebody else to give to us?

We don't like any of this. We wish that there were some way to get rid of BPA now and forever.

Also indicative of the thinking of southern Idahoans is the editorial from another Idaho newspaper entitled "We're Not That Hungry in Idaho."

This editorial follows:

[From the Independent Enterprise, May 14, 1964]

WE'RE NOT THAT HUNGRY IN IDAHO

Now comes a new problem in the Bonneville Power squabble over the $73 million transmission lines into southern Idaho. Backers of the BPA plan right now are telling special committees in both the House and Senate at Washington how much good it would do the phosphate industry in Idaho and how many jobs it would create.

They are basing their arguments on a joint report of the Bonneville Power Administration and the Bureau of Reclamation that "capacity of phosphorus operations in southern Idaho could be expected to quadruple," and that "lower costs for power hold the key to the future of the phosphate industry in the State."

That same treatment—word for word—was used Thursday by the Stauffer Chemical Co. of New York City in saying that if the Federal Government follows through on its plan to extend Bonneville power into Idaho, in all probability, the company would be forced to close its $15 million plant in Butte and put some 250 employees on the jobless rolls.

This comes on the heels of the statement by the J. R. Simplot Co. that it will have to abandon planned expansion at their big Pocatello plant which would eliminate another large parcel of new jobs for Idaho.

The Stauffer Co., we think, takes a very sensible and reasonable view of the situation. The company, a producer of phosphorus in Montana, Tennessee, and Florida, and phosphate products in six other States, contends it is "not an enemy of public power."

The company based its opposition partly on what it termed a "basic change in Federal power marketing policy." Direct sale of Federal power to industrial users, it pointed out, has previously been limited to industries which cannot reasonably be served by non-Federal utilities. The Idaho phosphate industry, the company contends, already has access to an adequate supply of electric power at low rates.

And while the argument goes on in Washington, this Stauffer action brings up a very pertinent question right here in Idaho.

How badly does Idaho want to become the leader of the phosphate industry? Putting aside all other arguments on the rightness or the wrongness of the situation or the contentions of public versus private power, does Idaho really want to make gains of any kind in the industrial field at the expense of a sister State and, probably, other States in the country?

For instance, how could Idaho possibly point to any rise in our own employment due to the expanded phosphate operations here when we knew that we kicked 250 breadwinners and heads of families out of a livelihood in Butte, Mont.? Or in Florida or in Colorado or anyplace else?

Are we that hungry?

And just what kind of a reputation would Idaho have—even before the ink on the Bonneville contract was dry? What would businessmen think who are considering Idaho as a site for their factories or industries? What would organized labor think? What would anybody with a spark of fairplay and the least bit of feeling for his fellow man's well-being think?

Personally, we don't want folks thinking things like that about us. And when Senator CHURCH says in Washington that "he and Representative HARDING are expressing the views of the people of Idaho in supporting the proposal," we think that Senator CHURCH is a long way from telling the truth.

Mr. MOORE. Mr. Chairman, I rise in support of H.R. 11579 and express approval of the action of the Appropriations Committee with respect to the projects designated in West Virginia.

On March 5, 1964, I requested the Public Works Committee of the House to approve a resolution of mine to authorize a study of the Middle Island Creek Basin, and I was pleased to receive on May 8, 1964, a letter from the Honorable CLIFFORD DAVIS, chairman of the Subcommittee on Flood Control, in which he stated:

> I am delighted to advise you that our full Committee on Public Works this morning approved your resolution providing for a study of the Middle Island Creek Basin.

In addition, Mr. Chairman, after some conversation concerning this flood control project with the gentleman from Ohio [Mr. KIRWAN], I was pleased to find that the Committee on Appropriations had included $20,000 for the Middle Island Creek Basin study, even though the same was an unbudgeted item for this year.

With respect to the other projects in West Virginia for which sums are to be appropriated, I express my thanks to the gentleman from Ohio and to the other members of the Appropriations Committee.

Mr. FUQUA. Mr. Chairman, industry and commerce have responded exceedingly well to the intracoastal waterways system and its connecting portions, such as our navigable rivers. The improvement of these projects to our waterways brings industry to areas and affords them the use of one of the most inexpensive means of transporting products and raw materials. Thinking of the service to our people, to commerce, and to industry, it is exceedingly pleasing to me to find that the Committee on Appropriations has favorably considered some waterway projects for which I have particular interest.

There is much to be done to complete the job in order that an integrated system of waterways will provide a most efficient operation. I am very glad to see that H.R. 11579 appropriates the requested $80,000 for the fiscal year 1965 to continue the study of a missing link in the intracoastal waterways; namely from the St. Marks River to the Tampa Bay. This gap is a part of the portion of the coastline of the eastern United States which prevents there being a protected inland waterway from Trenton, N.J., to the Mexican border, a distance of nearly 3,000 miles. The committee's appropriation is a great step forward in our efforts toward a finer and more complete waterway system. I am sure the study will mean a great deal and will point out the need for authorized construction.

Another portion of this gap which is now being considered extends from the

St. Marks River to Carrabelle, Fla., and is a 28-mile section of the waterways system. It seems most logical that a survey of this portion of the waterways system should be made effective in order that it will form a consistent program of operations toward the completion of the entire intracoastal waterways. The Corps of Engineers needs $20,000 to begin and conduct this study. However, I regret that favorable consideration was not given this request. It is hoped that in the near future its importance will be realized and it will be seen fit to allow funds

Our rivers play a most important role in the waterways system in this country, and the Apalachicola River in my district plays a fine and excellent role in contributing to commerce of our area. The river has had an amazing growth in the traffic of fuel oils, chemicals, and bulky raw materials; and there is a prospective annual commerce estimated at 2,500,000 tons. The work which has already been done on this river has justified the need for further channel improvement, and I am most happy that the needed appropriation of $100,00 has been made.

Every effort that contributes toward the completion of our entire intracoastal waterways is needed and desired, and I feel these projects are significant in this respect.

Mr. WHITE. Mr. Chairman, today the House is scheduled to act on a $4 billion public works appropriation bill. Some opposing Members prefer to call this the pork barrel bill, but in my part of the country the necessity for water resource development would make it more accurately termed the "bread and butter" bill. The reclamation, power producing, navigational, and flood control projects constructed by the Federal Government have been and continue to be tremendous stimuli in the economic development of the West. I wholeheartedly support H.R. 11579. My only wish is that more funds were available for these projects. In particular I had hoped that final design and initial construction funds had been recommended for the Lower Granite Lock and Dam in the State of Washington.

Lower Granite was authorized over 15 years ago and its total cost will be $174 million. To date over $2 million have been appropriated for design work and some test drilling has been accomplished. According to construction schedules, $1,600,000 should be made available for fiscal 1965 work. I firmly believe that a delay in funds this year would be a mistake and a prime example of false economy. The estimated cost of the project of this magnitude increased over $5 million per year. Every year of procrastination will ultimately cost the taxpayer more than the $5 million because of the very favorable cost-benefit ratio for Lower Granite. Viewed from this aspect, every year's delay costs us nearly $10 million. Compare $1,600,000 to $10 million and you readily see what I mean by false economy.

Although Lower Granite is located in the State of Washington, I have a very keen interest in this multiple purpose project. Lower Granite is the last link in the series of locks and dams which will provide slack-water navigation to Lewiston, Idaho. Its completion will put 2,328,000 tons of products into the streams of commerce through navigation down the Snake and Columbia Rivers. Slack-water navigation to the inland State of Idaho was considered a vague, vague possibility. Completion of Lower Granite will make this a reality. The prospect of water transportation to the west coast stirs even the most pessimistic souls in Idaho, because our greatest economic barrier is the high cost of land transportation of our products to the large markets. The rich resources of our State and neighboring inland areas will be allowed to enrich the Nation if we are given the opportunity to use our waterways for their transport.

Navigation is not the only, nor even the greatest benefit of the Lower Granite Lock and Dam. It is truly a multiple purpose project; the greatest of which is the generation of electricity which will help energize not only the Northwest but the whole of the west coast. The negotiation for the interchanges of electrical power between the Northwest and the Southwest will be given 500-kilowatt impetus through completion of Lower Granite. Our growing population and industry will demand this energy and more by the time this dam is completed. I sincerely and hopefully ask that the Members of the 88th Congress will be remembered for their true economy and foresightedness in keeping Lower Granite on schedule.

Mrs. HANSEN. Mr. Chairman, I would like to join my colleagues in the commendation of the very distinguished chairman of the Subcommittee on Public Works Appropriations, the gentleman from Ohio, Congressman Mike Kirwan. He has long been a friend of programs in this Nation to develop and make possible national development and progress. He has mentioned water today. In my own district we are beginning one of the outstanding water projects of the Northwest, the Wynooche. We are part of the land where there is a surplus of rainfall and yet we suffer from lack of storage water. The construction and development of reservoirs in this area will not only save hundreds of acres from flood damage, but will make possible the development of industry because of this water storage.

In the bill today, also, and for the Northwest, are funds for deepening the channel of the Columbia River. This river has long been the economic lifeline of my district. For over a hundred years Northwest trade and commerce have moved on it to nations of the world, but as the draft depth of ships increased, so has the need for increased channel modernization. It is, indeed, with gratitude that the citizens of both Oregon and Washington mark the passage for this purpose.

I am also grateful for the flood control encompassed in this legislation. In 1948 one of the most disastrous floods of this century occurred in the very heart of my district. Prevention of damage for the future is essential and today there are funds for both Oregon and Washington.

In conclusion I want to thank the committee and its magnificent staff not only for the preparation of this bill, but also for each Member's intelligent interest in the problems presented to them by public and congressional witnesses. They asked thoughtful, searching questions which always lead to a better understanding of economic involvements which are inherent in any public works program.

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. Fascell] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. FASCELL. Mr. Speaker, I wish to take this opportunity to congratulate our colleague, the gentleman from Ohio, Mike Kirwan, and the members of the subcommittee on this bill, which is an example of legislation as it should be. The hard work, the care, and consideration given this bill is obvious.

I must say this difficult legislation is in competent hands—from the gentleman from Ohio [Mr. Kirwan] to the capable and able committee staff. I wholeheartedly supported this bill and I wish to express my gratitude and thanks for the consideration given to the projects in Florida's Fourth Congressional District.

In approving the full budget request for the central and southern Florida flood control project, the committee recognized the need for stepped-up construction and expansion of flood control works to prevent further serious flood damage and loss of life from the torrential floods which occur periodically. During the last two decades, southeastern Florida has doubled in population each 10 years, and with each disastrous flood, the resulting damage and loss of life is certain to increase accordingly.

In the Cutler drain area of South Dade County nine disastrous floods have inundated the land for periods of from 2 to 40 days since 1947. The flood control work a part of the authorized central and southern Florida flood control project is now underway and $775,000 is provided in the bill for its continuation.

Funds to begin construction on canal C–111—Aerojet Canal—part of the South Dade plan of the Central and Southern Florida Flood Control District were appropriated last year and I am pleased to say that bids were opened April 24 to begin excavation. The $1,296,000 included in this legislation is for continuation of this extremely important canal, which will enable Aerojet General Corp. to barge their huge solid fuel rocket engines to Cape Kennedy and at the same time provide a prominent segment of the South Dade flood control project.

The committee allowed the full budget requests of two other major items of importance to Dade County, Fla.—modification of Miami Harbor and survey for deepening Miami Harbor. Dade County is modernizing, rebuilding, and expanding its seaport at a non-Federal cost of nearly $20 million. Total Federal cost is estimated at $2,580,000 and the $1,076,000 included in the 1965 public works appropriation bill will complete the Federal share.

Because of increased ship traffic to the port of Miami, local port officials consider a deeper ship channel imperative. The $40,000 provided in this legislation will allow the initiation of a survey review for the deepening of the harbor from the present 30-foot depth to 35 feet.

The Department of Interior has expressed grave concern over the prospect of a continuing decline in the water level of Everglades National Park. The Corps of Engineers and the Department felt that a study to determine the extent of the decline and feasible means of correcting it was necessary if we would preserve the unique flora, wildlife, and natural beauty of this vast, primitive region. The study was initiated by an appropriation of $75,000 last year and the $137,000 included in the House-passed bill will serve to continue the study.

I am particularly grateful to the committee for including in this legislation $44,000 to complete and update a study began some years ago on Miami River lock and dam. Since 1946 Dade County, Fla., has maintained an interim salinity dam to prevent encroachment of salt water into the Miami Springs well field which is fed by Miami Canal. It has long since exceeded its normal life expectancy and its hydraulic capacity is totally inadequate. The original comprehensive flood control project plan authorizes construction of four of these control structures, but subsequent developments indicate the possibility of a better solution to the problem by constructing a single control structure in Miami Canal below its confluence with Tamiami Canal.

Once again, let me express my appreciation for the attention and consideration given to the Florida projects, and especially those of the Fourth Congressional District.

The CHAIRMAN. If there are no further requests for time, the Clerk will read the bill for amendment.

The Clerk read as follows:

PANAMA CANAL COMPANY

CORPORATION

The Panama Canal Company is hereby authorized to make such expenditures within the limits of funds and borrowing authority available to it and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation, including maintaining and improving facilities of other Government agencies in the Canal Zone for Panama Canal Company use.

AMENDMENT OFFERED BY MRS. SULLIVAN

Mrs. SULLIVAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SULLIVAN: Page 9, line 5. After the word "use", change the period to a colon and add:

"*Provided*, That no real property or rights to the use of real property, or activity shall be disposed of or transferred by license, lease, or otherwise except to another agency of the United States Government unless specifically approved by the appropriate legislative committees of the House and Senate."

Mr. KIRWAN. Mr. Chairman, I make a point of order against the amendment that it is legislation on an appropriation bill.

Mrs. SULLIVAN. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentlewoman from Missouri is recognized on the point of order.

Mrs. SULLIVAN. Mr. Chairman, I am prepared to speak to the point of order.

This language was originally inserted in the public works appropriation bill for 1964—it is the same language exactly—by one of the most distinguished parliamentarians ever to serve in the Congress of the United States, the late Clarence Cannon of Missouri, the dean of my delegation and the chairman of the Committee on Appropriations and, by all odds, the best expert one could consult on the proper language to insert in this appropriation bill to serve a high patriotic purpose. This is the 1963-64 Cannon-Sullivan amendment to last year's bill.

This amendment does not prevent the Panama Canal Company from carrying out its legal responsibilities under the Government Corporation Control Act, and I shall document that.

Section 104 of the Government Corporation Control Act—31 U.S.C. 849—which is the legislative provision under which this particular appropriation item appears in the bill, and which deals with the powers of Congress in reviewing the activities of Government corporations and their budgets, states, and I quote:

> The budget programs transmitted by the President to the Congress shall be considered and legislation shall be enacted making necessary appropriations, as may be authorized by law, making available for expenditure for operating and administrative expenses such corporate funds or other financial resources or limiting the use thereof as the Congress may determine and providing for the repayment of capital funds and the payment of dividends.

There is, of course, more to the section, including several provisos that it shall not prevent the corporations from carrying out existing law or existing authority to make contracts, and so forth, but, Mr. Chairman, there is nothing in present law to authorize the Panama Canal Company to breach the treaty with Panama, or to surrender sovereignty within the Canal Zone, or to give away facilities for operation by foreign nationals within the zone.

Futhermore, the language I have cited provides specifically for congressional limitation of the use of corporate funds or other financial resources which involve, among other things, the ability of the corporation to repay capital funds and to pay dividends. If the Panama Canal Company gives away, or leases below value or cost, or otherwise dissipates its investment in the piers, dairy, commissaries, and other installations, its ability to repay capital funds will be diminished and the dividends it would otherwise pay to the Treasury would be destroyed. Mr. Chairman, I ask that the point of order be rejected.

The CHAIRMAN (Mr. BOGGS). The Chair is prepared to rule. From the reading of the amendment, the Chair feels that the language is purely legislation. It has no bearing upon the appropriation and falls within the prohibition of legislating on an appropriation bill.

The point or order is sustained.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am looking at page 1098 of the hearings and I would like to ask a question of someone. I believe the gentleman from Tennessee [Mr. EVINS] did the questioning at this point in the hearing record. Do I understand that this Government is putting some $84.4 million into Panama? Is this going to the Panamanian Government, when they have a budget for their own support of only some $80 million? In other words, are we putting more money into the Panamanian Government and within reach of the Panamanian Government than they are putting up in terms of their own budget? Is that correct, will the gentleman state for the record?

Mr. KIRWAN. If the gentleman will yield, yes, the amount is $84 million. It consists of the amount of $1.9 million, $36 million in salaries and the balance is for purchases made in the Panamanian economy as a result of the canal operation.

Mr. GROSS. We are putting $4 million more into the Panamanian Government than they collect from their people in taxes with which to sustain their own Government?

Mr. KIRWAN. Yes; but that is to be expected for the canal is the main source of income and expenditure in the area. Annual cost of operation of the canal is about $100 million.

Mr. GROSS. I am just trying to get some facts straight, that this Government, the foreign giveaway outfit, the foreign aid outfit, call it whatever you want, is putting $3 million in so-called economic aid into Panama to sugarcoat the tolls situation, to give that Government more money rather than increased receipts from tolls from the canal. In other words, this Government is apparently giving them a sop of $3 million and calling it foreign aid to make up for the difference the Panamanians think we ought to give them in tolls collected on the Panama Canal. Can this be correct?

Mr. KIRWAN. I do not have anything to do with the $3 million. It is not in this bill.

Mr. GROSS. I still do not have an answer to the question. Is the foreign aid outfit giving them $3 million as a differential between what they get and what they think they ought to have?

Mr. KIRWAN. I do not know myself. That matter is contained in another bill.

Mr. GROSS. When did we last raise the tolls for the Panama Canal?

Mr. KIRWAN. There has never been a change in tolls on the Panama Canal since 1914. There was one change in method of measurement for assessing.

Mr. GROSS. But we take out of so-called foreign aid—that is why I call it a giveaway—take $3 million from foreign aid in lieu of a larger apportionment of the tolls from the canal?

Mr. KIRWAN. The canal pays for itself. That is No. 1. We are putting money down there in this appropriation bill for canal and Canal Zone operations only. We have nothing to do with foreign aid.

Mr. GROSS. I will say to the gentleman that I believe he will find that the canal lacks $500 million being paid for, and that money is owed to American taxpayers.

Mr. KIRWAN. I am talking about covering the operating expenses and capital improvements.

Mr. GROSS. I see.

Mr. KIRWAN. This committee only takes care of the annual operating expenses. We are putting no other money in there. This committee is not responsible for that.

Mr. GROSS. I understand, but there are some facets of this that I hope the committee will go into before the next appropriations bill comes up. I believe the committee ought to know why the tolls have not been increased.

Mr. KIRWAN. If the gentleman will yield further, I say to the gentleman that that is a fair request and if I am around next year, we shall go into it.

Mr. GROSS. I thank the gentleman.

Mrs. SULLIVAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentlewoman from Missouri

Mrs. SULLIVAN. I would like to answer the gentleman's question in this way. The reason I was very hopeful of getting the previous language which I offered in this bill is because the Panama Canal Company feels that it has the right under its present authority to lease or give away any of the facilities that are within the Canal Zone. These facilities at the present time hire and use some 5,000 Panamanian workers, not U.S. workers. These workers are paid on the wage scale prevalent in the United States.

Mr. GROSS. I think the gentlewoman will find that that figure is 7,000-plus.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. GROSS. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mrs. SULLIVAN. Mr. Chairman, will the gentleman yield further?

Mr. GROSS. I yield to the gentlewoman from Missouri.

Mrs. SULLIVAN. The figures I received last month were direct from the Panama Canal Company. These facilities I mentioned before, including the piers, are the most important at the present time. They are very desirous of leasing these piers which handle all of the cargo coming into Panama Canal except cargo that comes in on Panama ships. They want to turn that over to a Panamanian operator who, if they get permission to do this, will throw these Panamanian workers out of work and hire their own help from Panama, but at a rate of somewhere between 25 to 40 cents an hour. At the present time these Panamanians are making under the U.S. wage scale from 95 cents to $2.95 an hour.

This is one of the reasons I wanted to prevent this thing from happening, because if they do lease these piers or any of the facilities it is going to do more to hurt the Panamanian people through helping one or two of the oligarchy who get all of the returns.

Mr. GROSS. I would have been most happy to support the amendment offered by the gentlewoman from Missouri, and I hope it can be attached to some bill to which it will be germane.

Mrs. SULLIVAN. I thank the gentleman.

The Clerk read the bill.

Mr. KIRWAN (interrupting reading of the bill). Mr. Chairman, I ask unanimous consent that the bill be considered as read, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Are there any points of order to be made to the bill? [After pause.] Are there any further amendments? [No response.]

Mr. KIRWAN. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. BOGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11579) making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the St. Lawrence Seaway Development Corporation, the Tennessee Valley Authority and the Delaware River Basin Commission, for the fiscal year ending June 30, 1965, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

Mr. KIRWAN. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes had it.

Mr. CLANCY. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 360, nays 11, answered "present" 2, not voting 58, as follows:

[Roll No. 157]

YEAS—360

Abbitt
Abele
Abernethy
Adair
Addabbo
Albert
Anderson
Andrews, Ala.
Andrews, N. Dak.
Arends
Ashbrook
Ashmore
Aspinall
Auchincloss
Ayres
Baker
Baldwin
Baring
Barrett
Bates
Battin
Becker
Beckworth
Beermann
Belcher
Bell
Bennett, Fla.
Berry
Betts
Boggs
Boland
Bolton, Frances P.
Bolton, Oliver P.
Bonner
Bow
Brademas
Bray
Brock
Bromwell
Brooks
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke
Burkhalter
Burton, Calif.
Burton, Utah
Byrne, Pa.
Byrnes, Wis.
Cahill
Cameron
Carey
Casey
Cederberg
Celler
Chamberlain
Chelf
Chenoweth
Clark
Clausen, Don H.
Cleveland
Cohelan
Collier
Conte
Cooley
Corbett
Cramer
Cunningham
Curtin
Curtis
Daddario
Dague
Daniels
Davis, Ga.
Davis, Tenn.
Dawson
Delaney
Dent
Denton
Derounian
Derwinski
Diggs
Dole
Donohue
Dorn
Downing
Dulski
Duncan
Dwyer
Edmondson
Edwards
Elliott
Everett
Evins
Fallon
Farbstein
Fascell
Feighan
Findley
Finnegan
Fino
Fisher
Flood
Flynt
Fogarty
Fountain
Fraser
Frelinghuysen
Friedel
Fulton, Pa.
Fulton, Tenn.
Fuqua
Gallagher
Garmatz
Gary
Gathings
Giaimo
Gibbons
Gilbert
Gill
Glenn
Gonzalez
Goodling
Grabowski
Grant
Gray
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Gross
Grover
Gurney
Hagan, Ga.
Hagen, Calif.
Haley
Hall
Halleck
Halpern
Hanna
Hansen
Harding
Hardy
Harris
Harrison
Harsha
Harvey, Ind.
Harvey, Mich.
Hawkins
Hays
Healey
Hébert
Hechler
Henderson
Herlong
Hoeven
Holifield
Holland
Horan
Horton
Huddleston
Hull
Ichord
Jarman
Jennings
Jensen
Johnson, Calif.
Johnson, Pa.
Johnson, Wis.
Jonas
Jones, Ala.
Jones, Mo.
Karsten
Karth
Kastenmeier
Keith
Kelly
Keogh
Kilburn
Kilgore
King, Calif.
Kirwan
Kluczynski
Knox
Kornegay
Kunkel
Kyl
Landrum
Langen
Lennon
Lesinski
Libonati
Lindsay
Long, La.
Long, Md.
McClory
McCulloch
McDowell
McFall
McIntire
McLoskey
McMillan
Macdonald
Madden
Mahon
Mailliard
Marsh
Martin, Calif.
Martin, Mass.
Martin, Nebr.
Mathias
Matsunaga
Matthews
May
Meader
Michel
Miller, Calif.
Milliken
Mills
Minish
Minshall
Montoya
Moore
Moorhead
Morgan
Morris
Morrison
Morse
Mosher
Moss
Multer
Murphy, Ill.
Murphy, N.Y.
Murray
Natcher
Nedzi
Nelsen
Nix
Norblad
O'Brien, N.Y.
O'Hara, Ill.
O'Hara, Mich.
O'Konski
Olsen, Mont.
Olson, Minn.
O'Neill
Ostertag
Patman
Patten
Pelly
Pepper
Perkins
Philbin
Pickle
Pike
Pillion
Pirnie
Poage
Poff
Price
Pucinski
Purcell
Quillen
Randall
Reid, N.Y.
Reuss
Rhodes, Ariz.
Rhodes, Pa.
Rich
Riehlman
Rivers, Alaska
Rivers, S.C.
Roberts, Ala.
Roberts, Tex.
Robison
Rodino
Rogers, Colo.
Rogers, Fla.
Rogers, Tex.

Rooney, N.Y.
Rooney, Pa.
Roosevelt
Rosenthal
Rostenkowski
Roudebush
Roush
Roybal
Rumsfeld
Ryan, Mich.
Ryan, N.Y.
St. George
St Germain
St. Onge
Saylor
Schadeberg
Schenck
Schneebeli
Schweiker
Schwengel
Secrest
Selden
Shipley
Short
Shriver
Sibal
Sickles
Sikes
Siler
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Va.
Staebler
Stafford
Steed
Stephens
Stinson
Stratton
Stubblefield
Sullivan
Taft
Talcott
Teague, Calif.
Teague, Tex.
Thomas
Thompson, La.
Thompson, N.J.
Thompson, Tex.
Thomson, Wis.
Tollefson
Trimble
Tuck
Tuten
Ullman
Van Deerlin
Vanik
Van Pelt
Vinson
Watson
Watts
Weaver
Weltner
Whalley
Wharton
White
Whitener
Wickersham
Widnall
Williams
Willis
Wilson, Charles H.
Wilson, Ind.
Winstead
Wydler
Wyman
Young
Younger
Zablocki

NAYS—11

Broomfield
Bruce
Clancy
Devine
Hutchinson
Johansen
King, N.Y.
Latta
MacGregor
Reid, Ill.
Smith, Calif.

ANSWERED "PRESENT"—2

Snyder
Utt

NOT VOTING—58

Alger
Ashley
Avery
Barry
Bass
Bennett, Mich.
Blatnik
Bolling
Buckley
Burleson
Clawson, Del
Colmer
Corman
Dingell
Dowdy
Ellsworth
Ford
Foreman
Forrester
Goodell
Gubser
Hoffman
Hosmer
Joelson
Kee
Laird
Lankford
Leggett
Lipscomb
Lloyd
McDade
Miller, N.Y.
Monagan
Morton
Osmers
Passman
Pilcher
Pool
Powell
Quie
Rains
Reifel
Scott
Senner
Sheppard
Springer
Staggers
Taylor
Toll
Tupper
Udall
Waggonner
Wallhauser
Westland
Whitten
Wilson, Bob
Wright

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Utt for, with Mr. Alger against.
Mr. Reifel for, with Mr. Snyder against.
Mr. Tupper for, with Mr. Laird against.
Mr. Westland for, with Mr. Hoffman against.

Until further notice:

Mr. Staggers with Mr. Avery.
Mr. Blatnik with Mr. Ford.
Mr. Sheppard with Mr. Bob Wilson.
Mr. Buckley with Mr. Gubser.
Mr. Dingell with Mr. Barry.
Mr. Joelson with Mr. Osmers.
Mr. Waggonner with Mr. Morton.
Mr. Ashley with Mr. Ellsworth.
Mr. Taylor with Mr. Bennett of Michigan.
Mr. Leggett with Mr. Hosmer.
Mr. Rains with Mr. Springer.
Mr. Corman with Mr. Lipscomb.
Mr. Udall with Mr. Del Clawson.
Mr. Scott with Mr. Foreman.
Mr. Monagan with Mr. Goodell.
Mr. Whitten with Mr. Quie.
Mr. Dowdy with Mr. Wallhauser.
Mr. Toll with Mr. McDade.
Mr. Pool with Mr. Miller of New York.
Mr. Pilcher with Mrs. Kee.
Mr. Powell with Mr. Lankford.
Mr. Wright with Mr. Bass.
Mr. Colmer with Mr. Passman.

Mr. SNYDER. Mr. Speaker, on this vote I voted "nay." I have a live pair with the gentleman from South Dakota [Mr. REIFEL]. If he were present he would vote "yea." Therefore, I withdraw my vote and vote "present."

Mr. UTT. Mr. Speaker, I have a live pair with the gentleman from Texas [Mr. ALGER]. Were he here he would have voted "nay." I voted "yea." Therefore, I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. KIRWAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONSIDERATION OF JUVENILE DELINQUENCY AND YOUTH OFFENSES CONTROL ACT

Mr. ELLIOTT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 744 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9876) to amend the Juvenile Delinquency and Youth Offenses Control Act of 1961 by extending its provisions for two additional years and providing for a special project and study. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. ELLIOTT. Mr. Speaker, I yield myself such time as I may consume, pending which, I yield 30 minutes to the gentleman from California [Mr. SMITH], to be used or controlled by him.

Mr. Speaker, House Resolution 744 provides for consideration of H.R. 9876, a bill to amend the Juvenile Delinquency and Youth Offenses Control Act of 1961 by extending its provisions for 2 additional years and providing for a special project and study. The resolution provides for what we call an open rule. In other words, if this rule is adopted, the bill will be open for amendment. The rule provides for 2 hours of general debate.

Mr. Speaker, H.R. 9876 would extend the Juvenile Delinquency and Youth Offenses Control Act of 1961 for 2 additional years and amend it to provide for first, a special study of school attendance and child labor laws; and, second, a national demonstration project on juvenile delinquency prevention and control in the Capital area.

Mr. Speaker, the Juvenile Delinquency and Youth Offenses Control Act presently is scheduled to expire on June 30, 1964. Extension of the act is necessary in order to permit the orderly completion of projects which have been started or which are in the advanced planning stages. There has been some criticism because planning has taken so long. However, at best fighting juvenile delinquency is a difficult undertaking, and careful planning is in order.

The bill authorizes appropriations of $10 million for each of the 2 additional years, plus the sum of $5 million for the national demonstration project, to remain available until expended.

Mr. Speaker, I urge the adoption of House Resolution 744.

Before I close, Mr. Speaker, I want to take this opportunity to pay a highly deserved compliment to the gentlewoman from Oregon [Mrs. GREEN], the chairman of the subcommittee, from which this bill comes to us. I can testify that her interest in preventing juvenile delinquency had much to do with this program being initiated in the first place. Her devotion to a decisive approach that will bring usable results is deep. She has studied the problem longer and with a greater determination to do something about it than anybody I know. It has been a pleasure to be associated with her in trying to find a solution to this problem.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as stated by the gentleman from Alabama [Mr. ELLIOTT], House Resolution 744 provides for an open rule and for 2 hours of consideration for the extension and the amendment of the Juvenile Delinquency and Youth Offenses Control Act of 1961.

Mr. Speaker, I do not think there is any doubt but what every Member of this House of Representatives would be ready, able, and willing to appropriate much, much more money than is called for in this bill if we knew we could materially reduce juvenile delinquency.

When I handled this particular rule at the time the bill was originally brought to the floor on August 30, 1961, I asked what the program would call for and what the plans were. If my memory serves me correctly I was unable to ascertain any particular information as to what the plan or program called for.

At that time I suggested that we have a pilot program in the District of Columbia where we have jurisdiction. It was felt apparently we should not do that at that time. But now this bill 2 years or almost 3 years later will set up and call for the first time for a pilot program for a 2-year study in the District of Columbia.

Mr. Speaker, I wish we could do something to stop juvenile delinquency. Actually it has increased more during the past 2½ years. In making inquiry as to what has happened to the $18 or $20 million that was authorized, and almost that much has been expended, the answer is it has been too early to tell what the accomplishments of this particular program are, so it needs to be extended for another period of time in order to carry out the complete program.

If you read the report you will find that a number of grants have been made to various colleges, to teach individuals and teachers the problems of juvenile delinquency; but, as a law enforcement officer I cannot help but say it seems to me we are spending money to get a nice report in the way of information instead of reaching right down at the core of the problem. I feel very sincerely and strongly that we are sparing too many rods and spoiling too many children.

There is too much juvenile delinquency. It might be a good idea to study parental delinquency. There are too many parents who do not take care of their children, who do not know where they are. We have many, many people who criticize the law enforcement officer who is trying to protect their life and property 24 hours a day. But when he makes a mistake people criticize him, and so on down the line. I just cannot help feeling that some place along the line we should get down to the people who really know about juvenile delinquency. They can make some suggestions as to what we should do. I noticed from the mail I have received that time after time an individual 21 or 22 years of age who has worked and labored hard to obtain a college education and wants to go on to become a doctor or lawyer is then drafted. Why do we not take some of these juvenile delinquents who are not desirous of going through school and who are dropouts and draft them into the Army and make men out of them? The answer seems to be that the Army does not want that type of individual. They want the most intelligent person rather than having to face the problem of juvenile delinquents.

Mr. Speaker, I have no objection to this rule. I am 100 percent for fighting juvenile delinquency, and I will do anything I can to help. If we could get some of these experts who know the problem and who have studied it I believe they can make many, many suggestions that will help to some extent to cut down juvenile delinquency. Merely spending $30 million is not going to do it, and if I am here 2 years from now I will make this same inquiry, and I am willing to prognosticate that we will have accomplished very little with the $30 million. We will make some more grants and maybe have a nice report that will gather dust down here in the basement of the Capitol.

I am for attacking this problem of juvenile delinquency to the fullest extent. But I am not very happy with the approach we are making to it at the present time.

Mr. Speaker, I urge adoption of the rule.

Mr. ELLIOTT. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

Mrs. GREEN of Oregon. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9876) to amend the Juvenile Delinquency and Youth Offenses Control Act of 1961 by extending its provisions for 2 additional years and providing for a special project and study.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9876, with Mr. HOLIFIELD in the chair as Chairman pro tempore.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mrs. GREEN of Oregon. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, as the gentleman from Alabama suggested when he was discussing the rule, this House in 1961 passed legislation designed "to provide Federal assistance for projects which will demonstrate or develop techniques and practices leading to the solution of the national juvenile delinquency control problems." The original legislation provided $10 million for each of 3 years. This legislation expires on June 30, 1964; in other words, about 2 weeks from now, if we do not extend it today.

May I say to the House that of the $30 million which was authorized in 1961 for the 3-year period only about $19 million has actually been appropriated.

In presenting the original legislation for control and prevention of juvenile delinquency, there was no proponent of the bill who suggested for one moment that the major responsibility resided in the Federal Government. Indeed, the very modest request indicated that no Federal program could possibly supplant the multitude of independent efforts which must go into any successful attack on juvenile delinquency.

However, in 1961, the distinguished gentleman from Alabama [Mr. ELLIOTT], who had been the chairman of the subcommittee that originally had jurisdiction over this legislation, said to the House that the time has come to provide resources to pursue some experimentation on techniques and practices of controlling juvenile delinquency and to encourage and aid States, communities, and nonprofit organizations to conduct demonstration and evaluation projects with a view toward developing new techniques and practices.

I listened also to the gentleman from California, who is a member of the Rules Committee, a few moments ago. May I say that none of us on the committee who are the proponents of this legislation, believed that the $30 million that was authorized or the $19 million that was appropriated would solve the juvenile delinquency problems. We only hoped when we offered the original legislation that first, we would perhaps have a better understanding of the juvenile delinquent and the causes of juvenile delinquency; secondly, that we would have additional trained personnel who would be working with the juvenile delinquents or the potential delinquents; thirdly, that we would have new techniques or demonstration projects which would show what might be done or indeed what should be done to prevent more juvenile delinquency; and lastly, that the Federal program would stimulate the local governments to provide better programs in this area.

We did not propose in 1961 that money would be spent in accumulating additional studies to gather dust on library shelves. The gentleman from Iowa [Mr. KYL], in the debate in 1961, appropriately pointed out that he had in his office 47 different studies which the Federal Government had made on juvenile delinquency and that the Library of Congress bibliography listed 480 major contributions on the subject.

But those of us on the committee who were recommending the legislation did hope that leadership would be given at the Federal level to this ever-increasing problem confronting the country.

There is no State, there is no city, there is no community, there is no rural area that is immune to the problems presented by the uneducated, the unemployed and by the unemployable young men and young women who comprise the million dropouts from our schools.

The statistics show that unemployment in this country is about three times as high among the 16 to 21 year olds as it is among the rest of the population.

The Labor Department reports that the number of persons entering the labor market in 1964 is approximately 2.6 million people and that of those, there will be 1.8 million young people between the ages of 16 and 21. Roughly one-third of those 1,800,000 seeking employment do not have high school diplomas.

Now I would say to my colleagues that it just does not seem sufficient to cry out in alarm over these startling statistics, and it is not sufficient just to demand more severe punishment for the offenders. We must do our best to seek methods of preventing and controlling juvenile delinquency and hopefully to try to find constructive solutions to the problems.

In the last few years under this legislation, planning grants have been made to 16 cities or 17, if we count the HARYOU and the ACT programs in New York City as two separate programs.

Action grants have been given in 13 cities.

In a letter from the director of the juvenile delinquency program dated yesterday, June 15, he said:

> We plan in fiscal 1965 to maintain not more than eight and possibly less, of the comprehensive projects that we have started. In addition, we plan to spend $1,800,000 for a number of limited demonstration projects focusing directly on delinquency in communities other than the present project cities.

In addition, Mr. Chairman, during the last few years grants have been made to six training centers for programs to train needed personnel.

Eleven grants have been made for curriculum development, and nine grants have been made for short-term workshop and institute training programs.

The legislation we bring before you today would extend the program for 2 years only. At the appropriate time I am going to offer an amendment which will limit the authorization of appropriations for 1 year only so that the committee will have the opportunity of reevaluating the program and the direction that is being followed.

In addition to the extension of the program for 2 years beyond June 1964, the bill provides for a special study of school attendance and child labor laws with a view to determining the effect of such laws on juvenile delinquency and youth offenses. In 1961 the committee was very hopeful that those who were administering the program would carry on this kind of study. This year we have written the language so that such a study is mandatory.

In 1961 the committee was also most anxious that particular attention be given to the juvenile delinquency problems in the Washington metropolitan area, as a member of the Committee on Rules suggested a moment ago, because, clearly, the District of Columbia is a Federal responsibility.

The most recent figures we have from the Deputy Chief of Police in the District of Columbia indicate that the incidence of juvenile delinquency in the District is at an alltime high and has been that way for the last 10 months.

There is an average of 480 criminal and quasi-criminal juvenile offenses each month which are referred to the juvenile court. In fiscal years 1957 and 1958 there were only 240 to 250 such offenses per month referred to the juvenile court.

On July 1, 1962, the first grant was made to the District of Columbia, for the program known as WAY. Some of us believe that not enough attention has been given to this particular area. On that basis a new section was added to the bill now before us to provide a special project in the Washington metropolitan area.

We expect that there will be provided additional guidance and counseling personnel and services to supplement those already provided.

We expect that there will be the establishment and operation of halfway houses—residential centers for the delinquents—those who have already been incarcerated in institutions or those who have been referred by the courts.

We hope that from this special project greater job opportunities will be created for youth in the Washington area.

In addition, we expect there will be an increase in the number of roving leaders to work with delinquents and potential delinquents.

We also expect that there will be a maximum utilization of school facilities and recreation services, that there will be additional remedial reading classes to help prevent school dropouts, and that there will be special work training programs established.

The legislation, for this particular project, provides an additional authorization of $5 million.

Mr. Chairman, it would be most unfortunate, I believe, to assume from the comments I have made that a majority or even a large percentage of American young people are juvenile delinquents. Quite the contrary is true. Most experts agree that between 95 and 97 percent of our young people never come to the attention of police officers or of the courts because they are responsible young Americans. The youthful offenders are limited to approximately 3 or 4 percent.

Nevertheless the number of crimes and the number of police arrests are alarming.

We are told that each youth who embraces a career of crime, or travels the pathway of delinquency, costs society $85,000 during his lifetime. If, by passage of this legislation, we are able to save 200 youngsters—to prevent 200 youngsters from following a life of crime—we will have paid for the cost of the entire bill. It should also be noted that the reported cost of confining a young person in a Federal institution is approximately $3,500 a year.

Mr. Chairman, we will either help our delinquents, or potential delinquents, to become useful and productive members of society, or they may become destructive and dependent. This legislation may or may not accomplish what we hope and expect, but it is an absolute certainty that if we do not make the effort the alternative will cost a great deal more.

I urge that the legislation be adopted.

Mr. COHELAN. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I am happy to yield to the gentleman from California.

Mr. COHELAN. Mr. Chairman, I wish to take this opportunity to compliment the gentlewoman for her fine statement and to associate myself with her remarks.

Mr. SMITH of Iowa. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. The gentlewoman quite appropriately pointed out that the committee in 1961 intended that the money mainly be used for demonstration projects and for evaluation of those projects. Can the gentlewoman tell me how many of these demonstration projects have been completed and evaluated?

Mrs. GREEN of Oregon. I would say to my colleague from Iowa that there has not been a project which really has been completed and totally evaluated. The projects are still in the action phase. I might also remind the gentleman that only $19 million of the full $30 million has been appropriated.

Mr. SMITH of Iowa. As a matter of fact, the gentlewoman would not really deny that the vast majority of the $19 million has not been used in accordance with the intent of the committee as the legislation was adopted in 1961; is that not correct? It has mostly been "blown" for planning, in other words, that was not even contemplated at that time.

Mrs. GREEN of Oregon. I will say to my colleague from Iowa, in all honesty, that some of us have been critical of the way some of the money has been spent. By-and-large, however, we believe we are obtaining useful information. And that we will obtain additional valuable information if the program is permitted to continue for 2 additional years. New techniques may be developed; young people undoubtedly will be helped because many concerned committed people are involved in the program.

Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. POWELL] may extend his remarks at this point in the RECORD and include extraneous matter.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Mr. POWELL. Mr. Chairman, I rise in support of H.R. 9876, a bill to amend the Juvenile Delinquency and Youth Offenses Control Act of 1961 by extending its provisions for 2 additional years and providing for a special project and study.

Juvenile delinquency is widely recognized as a major social problem. Throughout our Nation we are increasingly dismayed by the rising tide of juvenile offenses. We have recognized that there is a direct and important relationship between levels of unemployment in our communities both urban and rural and the incidence of juvenile delinquency. Unemployment carries a high price to society in many areas. One of the most tragic is the toll it exacts among our young people in fostering conditions and attitudes conducive to disrespect for law and violation of societal norms and standards.

The mounting frequency of juvenile delinquency and youth crime in the United States has reached near epidemic proportions and even though local, State, and Federal governments, as well as private organizations and agencies, have utilized every effort known to cope with this problem, delinquency continues to rise. This mass attack on delinquency has resulted from a realization that delinquency is complex and multicausal. Many contributing factors involve problems and conditions that cannot be resolved in the space of a few years. Hence, as we view the achievements made throughout our Nation since the enactment of the Juvenile Delinquency and Youth Offenses Control Act of 1961, we realize that continued effort must be made to decrease the rising tide of delinquency.

At the time of the passage of the Juvenile Delinquency Act, the rate of juvenile offense and crime was at an alltime high throughout America. Even a cursory observation indicated the need for Federal assistance in curbing what might be considered one of America's greatest problems. This urgency was expressed by the late President John F. Kennedy when, on May 11, 1961, he established the President's Committee on Juvenile Delinquency and Youth Crime and named the Attorney General as Chairman and the Secretary of Labor and the Secretary of Health, Education, and Welfare as the other two members. It was thereby recognized that no single individual or agency could carry out the complex and vast job of eradicating juvenile crime in our great country. Transmitting his proposed legislation to the Congress, the President said:

> Juvenile delinquency and youth offenses diminish the strength and vitality of our Nation. They present serious problems to all the communities affected; and they leave indelible impressions upon people involved which often cause continuing problems.

Public Law 87-274 was signed by the President on September 22, 1961. With the passage of that act, Federal assistance was provided for projects that would give guidance in the solution of the Nation's juvenile delinquency problems. During the period in which the law has been enforced, grants have been made to seven State, local, or other public or nonprofit agencies for action programs in this area. Some of our major cities have been involved in such demonstration activities including New York, Cleveland, New Haven, San Francisco, Los Angeles, Boston, and Charleston.

Federal funds were also made available for planning programs in 16 cities. Through 76 grants, funds were made available for 67 training projects conducted by universities, colleges, and public and private nonprofit organizations. It is anticipated that by the end of this fiscal year approximately 7,500 persons will have received short-term training under this act. One of the most successful of these programs has been conducted in my own district where the incidence of juvenile delinquency is highest in all of New York City. Central Harlem is an area that exemplifies a problem common to major cities across the country—the concentration of disadvantaged youth in high delinquency neighborhoods close to the heart of the city. The number of out-of-school and unemployed youth between ages 16 through 21 has been estimated at about 75 percent of this age group. The school dropout presents a serious problem to the community, often leading to delinquency. With the establishment of the Associated Community Teams, with its Urban Youth Service Corps and its direct attack on the problems of delinquency, cooperation between home, school, and the community has been strengthened. There is evidence of greater motivation among the youth who previously would be classified delinquents, and the adults in the community have recognized their role in ridding the community of one of its greatest ills. This program, commonly referred to as ACT was conceived by me even before we were successful in passing Public Law 87-274. Having lived and worked as a clergyman in this community all of my adult life, I sincerely believed that the only way we could come to grips with this major problem facing our youth was through coordinated community action. Thus, in Harlem the first and only truly action program was developed. Here, too, we find the first domestic peace corps, a corps of American young people trained in American universities and colleges, dedicating their services to a community in stress. Such services caused youth whom they served to be motivated and to realistically develop new patterns of behavior. I wish to compliment Livingston L. Wingate who has served at director of this project and the staff of dedicated professionals and community volunteers who have made possible this demonstration in an area most difficult to work.

My own experience, therefore, with the implementation of Public Law 87-274 convinces me that further opportunity for experimentation through study, action, and training programs is necessary if meaningful steps are to be made toward conquering this problem. Certainly, the Federal Government cannot expect the local communities to assume the entire burden of eradicating a disease of this magnitude. In my own community of Harlem alone it is hoped that the most ambitious community project ever seen in American living will continue the work that has begun on a miniature scale.

The plans for the future include:

First. A Reading Mobilization Year, during which every Harlem student would improve his reading ability.

Second. Total reorganization by the board of education of Harlem schools to make them "models of educational excellence." This would include higher standards of teacher selection and extra pay for teachers and administrators in Harlem schools.

Third. Forty preschool academies for 4,000 children, aged 3 to 5, to raise their cultural and educational levels even before they being regular classes.

Fourth. After-school remedial centers in churches and store fronts for 18,000 pupils, grades 4 to 6, where academic failure is fastest.

Fifth. Five training and employment centers that will train 7,000 youths—about 2,300 a year—to hold useful jobs. The target will be both dropouts and high school graduates who cannot find work. The training centers will stress training for occupations in short supply—auto crafts, clerical work, appliance repair, nurse's aid, metal crafts, and construction work.

Sixth. Neighborhood brownstone academies—the Harlem Youth Junior Academy for delinquents between the ages of 8 and 13 and senior academies for those between 14 and 17. These will serve as "halfway" houses between an institution to which a youth has been committed and the community.

Seventh. A Harlem Youth Cadet Corps using uniforms, rank, insignia, and other quasi-military symbols of status will appeal to young people, much as the Boy Scouts do in other places.

Eighth. Five local neighborhood boards will help make program decisions. They will be housed in a renovated store front. During the day this would serve as a community services center, and in the evenings it would be used for meetings, discussion groups, and recreation programs. Such programs as consumer education, selective buying, and voter registration drives would be conducted out of these offices.

I believe the juvenile delinquency program has stimulated a fresh wave of thinking across the land. Local leaders are taking a new look at youth problems, and beginning to act on a bigger scale against them. New and vital training programs are putting this new knowledge into usable form. But now we must decide whether this outstanding program, which has achieved so much in so short a time, is to finish its job or not. Unless we extend this legislation, programs from coast to coast will die before they ever have a chance to do their job. If this program stops now, millions of dollars and the work of thousands of persons will go down the drain. It would be a tragic waste. By extending this legislation, the local demonstration projects will be able to finish what they started. We will get the carefully researched evidence we set out to get. The 2-year extension that is proposed will enable us to get the full payoff from this legislation. The amount requested is only $10 million a year, but combined with local funds and local initiative it can mean new opportunities for thousands of young people in dozens of communities, large and small, across the Nation.

The Juvenile Delinquency and Youth Offenses Control Act is scheduled to expire on June 30, 1964—just a few days hence. Extension of the act is necessary to permit the orderly completion of projects which have been started or are in the advanced planning stages. In reporting H.R. 9876 the committee wishes to amend the existing law by requiring the Secretary of HEW to make a special study of compulsory attendance laws and regulations affecting the employment of minors. We hope that such a study would give light to our understanding of the interrelationship between school attendance, employment, and juvenile delinquency.

H.R. 9876 also requires the Secretary to conduct a special project in the Washington metropolitan area for the purpose of demonstrating to the Nation the effectiveness of a large-scale, well-rounded program for the prevention and control of juvenile delinquency and youth offenses.

The bill authorizes appropriations of $10 million for each of the 2 additional years, plus a sum of $5 million for the national demonstration project.

I urge, therefore, that favorable consideration be given this measure so that the important work which has begun may be extended and young people once considered delinquent become contributing members to our society.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield myself 10 minutes.

First, let me say that I regret that the gentleman from Minnesota [Mr. QUIE] cannot be here today to talk on this bill. He served as an active member of the subcommittee which considered this measure. As the members will recall he was named by the Speaker as delegate to the International Labor Organization, just opening in Geneva, Switzerland.

Mr. Chairman, the gentlewoman from Oregon [Mrs. GREEN] has described the basic purpose of this bill. It provides for a 2-year extension of the Juvenile Delinquency Act which we approved in 1961 and which, if not extended, will expire in a few weeks time. It also provides for the authorization of two additional related programs.

At the outset I wish to make it clear that I am not opposing the enactment of this bill. However, I wish also to make it clear that the administration of the act, as the gentlewoman from Oregon has also pointed out, has raised certain questions which concern members of the committee. The gentlewoman from Oregon has already expressed her reservations about the bill with considerable eloquence, and about the way in which the program has been administered thus far.

I believe strongly that the suggestion is a good one; namely, that this act should be extended actually for 1 year only, so that the Committee on Education and Labor may have another early look at how the program is being administered. Instead of the 2-year extension of the program approved by the committee, we would have a 1-year extension only.

The purpose of this act was to fund, on a purely experimental basis, demonstration projects which would give promise of producing new ways to deal with a rising tide of juvenile crime. A correlative purpose, of course, was to discover those methods which do not work and which should therefore be discarded. This act does not contemplate that the Federal Government should assume either a major or a permanent responsibility in financing the work of many agencies, public and private, which are at work in this field. The intent is that a number of promising demonstration, experimental and pilot programs should be carried out, and that the results of these programs should be evaluated and made known to all agencies which share in the responsibilities of helping our young people to lead productive lives.

Mr. GROSS. Mr. Chairman, will the gentleman yield to me?

Mr. FRELINGHUYSEN. Yes. I yield to the gentleman from Iowa.

Mr. GROSS. I have been looking at the demonstration grants and the training grants which have already been made presumably under this act so far. I fail to find a single southern university—that is, a Deep South university—or city in this list. Is there no juvenile delinquency in the Deep South, or have they been excluded from this? I do not understand it. I think the bulk of it is going to the State and the city of New York.

Mr. FRELINGHUYSEN. To tell you the truth, Mr. Chairman, I must confess that I am not a member of the subcommittee which had direct responsibility for this legislation. I do not know the answer to the gentleman's inquiry. There may be reason for excluding certain parts of our country from this kind of money, but if there is, I do not know about it myself. I will be glad to yield to anyone else who might be able to answer.

Mr. HALEY. Mr. Chairman, will the gentleman yield to me?

Mr. FRELINGHUYSEN. Yes. I yield to the gentleman from Florida.

Mr. HALEY. In response to the gentleman's question, I might say we have enough demonstration of the kind of people who apparently are already in this program in the South now. We do not need any others.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentlewoman.

Mrs. GREEN of Oregon. I would point out to my colleague from Iowa in response to his question that training grants have been given to the University of North Carolina and the University of Texas and for a demonstration project a grant was made to the city of Houston.

Mr. GROSS. Mr. Chairman, will the gentleman yield further?

Mr. FRELINGHUYSEN. I yield to the gentleman from Iowa.

Mr. GROSS. I do not think anyone considers the University of Texas to be in the Deep South nor, for that matter, the University of North Carolina.

Of course, Southern Illinois University might be considered since they use the word "Southern." The University of Southern California might come into that category, I do not know. But I am talking now about Mississippi, Alabama, and the "deep" South States; I will say to the gentlewoman from Oregon [Mrs. GREEN] I do not find them in this anywhere.

Mr. Chairman, if the gentleman will yield further, I would like at this time, since I mentioned the fact that apparently the bulk of this money is going to the State and the city of New York—and I guess if you broke it down between the State and the city, most of it would be found going to the city of New York—I would like to discuss this $250,000 grant to an outfit known as Associated Community Teams, Inc., headed by Congressman ADAM CLAYTON POWELL and associates, who it is alleged are developing the nucleus of a domestic Peace Corps. The total grant is $157,080, not more than one-half to be spent for personnel, and the outfit is to rent space at $17,000 a year, which is owned by the Adam Clayton Powell Community Center, Inc. Does the gentleman know anything about this manipulation that is going on in New York City?

Mr. FRELINGHUYSEN. No, I do not. Perhaps I should know more. All I know is what I read in the newspapers. One of the things that has been concerning me about the way some of these programs have been developing is the political implications. So far as we know there is a real political contest between the mayor of New York and the chairman of our committee and other key individuals in New York City who are engaged in a struggle, for political advantage presumably, in the disposition of the funds. As I understand it, the contemplated prize with respect to all funds for use in this general area comes to something like $110 million. This would involve some money that would come from the antipoverty package, if that should be authorized, as well as funds that would come from the Juvenile Delinquency Act.

What we have is apparently a very major struggle for power. This is one of the reasons why I have serious reservations about the advisability of establishing a novel Federal program under the authority of the antipoverty program, so-called.

Mr. GROSS. Mr. Chairman, if the gentleman will yield further, I now note in the report on this bill that ADAM CLAYTON POWELL's Associated Community Teams, Inc., has gotten two grants. Instead of the $250,000 that they originally got from Health, Education, and Welfare, there have been dished out to them two grants to the tune of $374,601. I note in the New York Times, as of June 15, that Dr. Kenneth B. Clark seems to be operating another program of some kind—antipoverty—and seems to be in direct conflict with the ADAM CLAYTON POWELL group in New York City.

Mr. FRELINGHUYSEN. As I understand the situation, the group headed by Dr. Clark is supposed to merge with the group in which Representative POWELL is interested. Unless they do merge they apparently will not get the substantial Federal funds which I just referred to. There is a contest as to who should be the executive director of the merged group and who should have the control.

Mr. GROSS. I note, for some reason or other, that Mr. ADAM CLAYTON POWELL is calling Dr. Clark a liar. I have not been quite able to figure out from the New York Times clipping, but I just wonder who is going to win this power struggle for control of the money that is going into New York City allegedly to cure juvenile delinquency and perhaps to do something about the antipoverty program. I would be glad if somebody from New York City would try to explain this.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentlewoman from Oregon; and then I shall yield to the gentleman from New York. Perhaps we can thus have this situation elucidated.

Mrs. GREEN of Oregon. Mr. Chairman, if we want to discuss political power plays I suppose we could spend the next 2 hours discussing those that are occurring in both political parties. It seems to me that today our main concern is with the large number of delinquents, or potential delinquents in this country.

And, certainly, in Harlem there is a high incidence of juvenile delinquency. It seems to me there is every justification for a grant being made in that area.

The implication has been made that more money has been given in this area, if I understood correctly the gentleman from Iowa, than in all of the other grants. These are just simply not the facts.

In the Mobilization for Youth which is on the lower East Side a total of $1,969,000 out of a total of grants of $7,275,000 has been made in full-scale action programs.

In Harlem which would include both the action program and the HARYOU program there has been a total of that amount of $871,271.

So, it would seem to me that the total amount for demonstration projects up to this time is $10,722,000. So the amount that has been allocated for the lower East Side and for the central Harlem and the

HARYOU programs is fully justified on the basis of the high incidence of juvenile delinquency.

The CHAIRMAN (Mr. GALLAGHER). The time of the gentleman from New Jersey has expired.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield myself 5 additional minutes, in view of the fact that we seem to have developed some discussion.

Mr. FARBSTEIN. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I am glad to yield to the gentleman from New York.

Mr. FARBSTEIN. I believe we ought to put this program into proper focus.

Now, the Mobilization for Youth program which is one of the action projects or demonstration projects was initiated a little over a year ago in the congressional district which it is my privilege to represent. This Mobilization for Youth program has opened gas stations and has trained youths who are dropouts from school to become gas station attendants.

They have opened lunchrooms and have taught other dropouts to become short order cooks and saladmakers. They have given large families "mothers' helpers." They have taken young people who have dropped out from school and given them supervisory services in order that their education might be enhanced.

I, myself, have suggested to various of the churches and synagogues in my district that they undertake social voluntary projects of a similar nature.

Mr. Chairman, all of this is focused upon the problem of the prevention of juvenile delinquency. We try to take these kids and teach them trades. We try to get unions to take young people who are dropouts so that they, in turn, can be taught trades and become useful citizens.

There is a good deal more than apparently meets the eye as to what has been discussed here this afternoon. These are still pilot programs and are in the pilot stage.

I believe it would result in a holocaust if this juvenile delinquency program were to be terminated at this time; because I, from my own experience, know that a lot of good has been done and continues to be done.

Mr. FRELINGHUYSEN. I am not suggesting, I say to the gentleman from New York, that these programs be terminated. New York City is a big place and I imagine the money is being well spent. I certainly have not criticized in any way of the amount of money that has been spent. However, I regret to see the nature of the power struggle which seems to be going on among major political personalities, when the problem to which the effort has been directed is poverty. The gentleman has referred to the value of the juvenile delinquency program. This makes me aware of the fact that we do not need, in addition to this juvenile delinquency program, a so-called antipoverty bill. If we need to improve what we have got in the way of legislation of this kind, that is what we should do. We should not launch into a new program that might well end up in competition with, or as a duplication of, what we already have on the books.

Mrs. FRANCES P. BOLTON. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentlewoman from Ohio.

Mrs. FRANCES P. BOLTON. I want to ask some questions, probably of the gentleman from New Jersey, and possibly some of the chairman of the subcommittee.

I am wondering when the expenditures are used whether in the opinion of the experts in juvenile delinquency and those who have judgments about all these things if there has been any of these projects completed or have they gone far enough to have at any point any knowledge as to how much good they are really doing?

Mr. FRELINGHUYSEN. A brief answer to the gentlewoman is this. On the basis of my own knowledge, although we are at the conclusion of a 3-year program, we have not had a single substantive finding, conclusion or result from the expenditure of nearly $20 million.

I find this very disappointing. The manner in which this program has been administered has been unfortunate. It is the result of administration, the emphasis being on broad community planning instead of the experimental nature of the program.

Mrs. FRANCES P. BOLTON. What about the training of adults? Who is caring about the child, and what are they doing for the whole environment of the individual child? That troubles me very much. I know some people who have been working at this for a good many years. They have found a few very simple things; for instance, both boys and girls hungry for love and understanding. When those things are met even halfway it destroys their desire to be on the outs with society and they do so many things the right way instead of the wrong way. I am wondering where the emphasis is being put in these training projects.

Mr. FRELINGHUYSEN. I trust that our expression of concern about the way in which this program has been handled thus far will have some effect downtown. It may result in a reshaping of the program so that it is more effective in the future.

Mrs. FRANCES P. BOLTON. I hope it will be.

Mr. LINDSAY. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from New York.

Mr. LINDSAY. I thank the gentleman from New Jersey for yielding to me. I just wish to say if there is a political battle going on in New York City in connection with the administration of this program it clearly ought to be won by the nonpolitical forces. If the HARYOU program, for example, in Harlem, should come under political instead of professional command the program will defeat itself. I am fully confident that professional command will win out; that it will be brought under professional command rather than political command. If we make a record here as to what should be done and insist on it being done, and I have confidence in the gentleman and members of the committee to insist upon this, the executive branch will be required to take notice and to take proper action.

I would like to commend the gentlewoman from Oregon for the excellent statement she made a moment ago. If it is correct that this program does more for New York City than for any other part of the country, that is good. New York does a lot for the rest of the country by way of taxes and contributions. Now we have a critical problem in New York City. We have a school dropout problem and a juvenile delinquency problem. It is proper when it comes to the allocation of Federal funds that recognition be made of this situation.

We have organizations such as the Wiltwyck School for Boys that do remarkable work in the rehabilitation of broken youth. Wiltwyck, to name one organization, has a school upstate. It has a halfway house in the city. It is doing individual work that is a thousand times worth the investment. With a little bit of additional money how much more could such organizations do?

I take it under this program and plans that Wiltwick and schools like it would qualify for some assistance.

I think this bill is potentially the soundest investment we can make in our big cities.

The gentlewoman from Ohio asked the question, Where is the money going? Most of it goes into the training of workers in the field. In New York City we do not have enough people qualified to work with juvenile delinquents. We cannot get them. They are not paid well enough, even if they can be suitably trained.

Mrs. FRANCES P. BOLTON. The gentleman says "trained in." In what? How can those things be done?

Mr. LINDSAY. I am sure the gentlewoman knows that special training is required when dealing with school dropout problems, broken homes, narcotic addiction, absence of vocations, and all the other problems that stem largely from the defaults of the adult world. Young people need guidance, they need someone they can turn to. If they don't have it at home, it must be supplied. This is true regardless of economic status, except that the economically deprived have even less of a chance. It takes special training to rehabilitate a youngster. When a special school like Wiltwick, for example, takes a young boy and gives him special guidance, gives him some basic training so that he can get a worthwhile job, he must be guided even when he leaves the school. This may require a halfway house, or the time of a special fieldworker. Otherwise he may slip back. All this requires training.

Mr. FRELINGHUYSEN. I thank the gentleman for his comments.

There has been, unfortunately, turmoil, bickering, and confusion in some communities in the attempt to achieve community planning. This could be instructive to us as we consider the Landrum-Powell poverty bill. The bill, I should point out, does not plan to carry on experimental practices as this bill does. It goes into a full-scale Federal program, with over $200 million authorized in the first year.

Quite aside from the serious question of Federal intervention in private and local action, the Landrum-Powell proposal promises to compound confusion. It will almost inevitably result in duplication of effort. It also promises the kind of political donnybrook that we can see already taking place in New York City. The president of the board of education, for example, is already getting in touch with Mr. Shriver to find out how much Federal money is going to be available to the city's educational programs. Various key figures in the city are jockeying to see who is going to be in charge of the poverty program. There is a coordinator of Mayor Wagner's poverty program, but he apparently knows little about what is going on. Various agencies appeal to Washington about which he knows nothing and over which he has no control. This is a very serious problem.

Before the Rules Committee this morning the suggestion was made that we needed only 2 hours to debate the poverty package. The absurdity of so short a time can be seen by the discussion necessary on this modest proposal. We can see how quickly 2 hours can go in the discussion back and forth on this subject.

Mr. CAREY. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from New York.

Mr. CAREY. I appreciate my colleague from New Jersey's referring to the city of New York. I wonder if during the past 2 years that this program has been in operation he has taken the trouble to come and visit us and see these operations? They immediately adjoin his constituency in New Jersey.

Mr. FRELINGHUYSEN. I have not, but I am in no way criticizing them. I would assume these programs are doing an excellent job. What I am reluctant about is to provide additional sources of Federal funds, on a basis which is inevitably going to promote maneuvering for political advantage in order to get the control over those funds. That is what we should resist at all cost. We should spell out the way in which additional funds should be made available. We should spell out also that no additional funds can be made available if there are existing programs.

Mr. CAREY. I think the gentleman and I and all members of the committee and the Congress can agree that practically and semantically there is a diffence between delinquency and poverty. All bad people are not poor and all poor people are not bad.

Mr. FRELINGHUYSEN. I do not yield any further. I am not arguing that juvenile delinquency and poverty are identical. What I am saying is that we now have a juvenile delinquency problem and that is where the money should go if the need exists. We should not set up a poverty program where the umbrella is so great that the money could be used for almost any purpose. I do not want to argue with the gentleman. I simply say we should clarify our objectives. We should not confuse them by adding additional ones.

In conclusion, I feel that there should be an extension of the present program in regard to juvenile delinquency, and should also authorize the two specific projects which this bill contemplates.

One project directs the Secretary of Health, Education, and Welfare to make a special study of the effect upon juvenile delinquency of compulsory school assistance laws and the laws relating to the employment of minors. The value of specific knowledge in this respect is obvious.

The other new provision, which Republican members of our committee have supported, is for an intensive, large-scale project to prevent juvenile delinquency in the District of Columbia. This program, as the gentlewoman from Oregon has pointed out, would require an additional $5 million, but I personally believe this additional authorization is most desirable.

I need not dwell on the Federal Government's notorious neglect of its most immediate and its only direct responsibility for management of urban affairs. I only wish that all the champions of increasing Federal control over matters which should be State and local have both the opportunity and the inclination to see how problems are dealt with, or how they are not dealt with, in the Nation's Capital.

The special project authorization, Mr. Chairman, in my opinion, assuming competent administration, is a small but hopeful step toward discharging one of our very special obligations.

Mrs. GREEN of Oregon. Mr. Chairman, I yield 5 minutes to the author of the bill, the gentleman from Maryland [Mr. SICKLES].

Mr. SICKLES. Mr. Chairman, my colleague, the gentlewoman from Oregon [Mrs. GREEN], has given a clear and concise statement of the provisions of the bill.

I would like to take just a very few minutes to discuss the special project for the Washington, D.C., area.

I think the need for such a project is apparent and I am glad to see that there is so much support on both sides of the aisle for this particular project.

I would like to clarify the provision for this authorization so that there will be no confusion about it. Although we are talking about $5 million, of course, we are not talking about $5 million each year. This is a one-time authorization to be expended during the course of a 3-year project.

There is no question but what we recognize that we, in the Congress, have a constitutional responsibility. We also have a personal involvement because of one residence in this greater metropolitan area.

I think it is an added advantage that here in this area, if we do have a demonstration project, we may watch it closely and actually see it in operation without having to leave the immediate area of our homes in order to see how one of these demonstration projects is working and to see what progress is being made and what success is being achieved in the operation of the project.

To assure you that there is local support of this project, I have secured correspondence from Mr. Horsky on behalf of the President of the United States and from Mr. Tobriner, Chairman of the District of Columbia Commissioners and also from the president of the Board of Education, Mr. Hansen. Each one of these individuals has indicated their wholehearted support for this entire project and the need for having such a project in this area.

I might point out even though the project is not yet in the action stage because it is not fully funded, as a matter of fact, there have been three comparatively minor action programs.

One of these projects was a summer job project in the summer of 1963. During that period 1,100 young people were placed in summer jobs—85 percent of these youngsters—and these were deprived youngsters—were rated as average to excellent by their employers.

There has also been an operation known as a Youth Employment Guidance Center. Under this program youngsters who live in the vicinity of the Cardoza High School who most need this guidance in order to secure employment have been helped. About 1,200 young people have been helped during this short period of time.

There has also been a pilot program for Peace Corps returnees in order to demonstrate the effectiveness of using these Peace Corps returnees as schoolteachers in these disadvantaged areas.

So far, even though it has been a very short period of time, the principal of the school involved has indicated she is extremely happy and would like to see the program continued.

Of course, other things are just in the planning stage. The full action program will depend upon getting the funds which are to be authorized here, and from private institutions, and that has not been adopted as yet.

I should like to say, in summary, that we have contacted all of the civic as well as political leaders in the community. This has uniform local acceptance. We have received editorial support from both the major newspapers in town. The Washington Evening Star said editorially that the program is just about to bear fruit, and the Star expressed the hope that we will continue this program, particularly in respect to providing funds for the Nation's Capital.

An editorial in today's Washington Post says, in part:

> (The bill) deserves the vote of every Congressman who believes that the juvenile crime rate is too high, and that the Federal Government can spend its money most efficiently by helping local agencies at work in their own cities.

To the extent that I have time remaining I must emphasize the fact that I believe we sometimes spend too much time talking about what is wrong with American youth. I believe that nothing has been more impressive to me than the task we have, as Congressmen, to select persons to go to the Academies. I have never been more impressed by the youngsters of the State of Maryland—their qualities, their abilities, their level of education.

We cannot, of course, ignore the statistics which tell us about juvenile delinquency. Those of us who live here are aware of the problem in the Metropolitan Washington area and the real need to help cure the problem.

I hope that the bill will be passed today.

Mr. FRELINGHUYSEN. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN (Mr. GALLAGHER). The gentleman from New Jersey has 35 minutes remaining and the gentlewoman from Oregon [Mrs. GREEN] has 42 minutes remaining.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan [Mr. GRIFFIN].

Mr. GRIFFIN. Mr. Chairman, I do not particularly enjoy making a "I told you so" speech, but the Committee should recall that in 1961, when the legislation was first before the House, an effort was made on this side of the aisle to restrict the operation of this program to a pilot demonstration project in this District of Columbia. We pointed out then that there was, and is, a serious juvenile delinquency problem in the District of Columbia, that so far as the District is concerned a clear Federal responsibility exists, and that a pilot demonstration in the District could serve to show the country what could be done in this field. The Committee of the Whole House, in 1961, actually adopted the amendment to so limit this legislation but when the roll was later called the vote was reversed, and the present program got underway.

Three years and some $20 million later, we find that there is very little to show for the money which has been expended. In the meantime, the problem of juvenile delinquency has grown worse in the District of Columbia right under the shadow of the Capitol.

The bill before the House would authorize a continuation of the program for 2 additional years, so that those projects which have been started can be completed. Finally, after 3 years, this bill would now specifically authorize a project in the District of Columbia.

I have mixed feelings about this particular bill. So far as the addition of the project for the District of Columbia is concerned, I favor it. I am also pleased that this bill would authorize and direct the Secretary to conduct a study of the relationship between juvenile delinquency and compulsory school attendance laws as well as the effects of laws and regulations which restrict work opportunities for young people upon juvenile delinquency.

In addition, I suppose it is reasonable to allow those projects which are now underway to be completed. But, frankly, I am concerned as to whether this is in fact a temporary program at all; whether it is the intention of those sponsoring this legislation ever to see an end to it.

I wonder if I might ask the distinguished gentlewoman from Oregon, who is the chairman of the subcommittee, to comment. Incidentally, I wish to say that she has done an outstanding job in following this program, and I commend her for her diligence and thoroughness with which she has tried to keep the program on the track. I wonder if the gentlewoman foresees this extension as a final extension, or is it merely a vehicle to lay the base for an ever expanding, increasing Federal program over a period of years ahead which will encourage all of the communities in all of the States of the Nation to look to the Federal Government for funds to solve the problems of juvenile delinquency?

Would the gentlewoman care to comment?

Mrs. GREEN of Oregon. Yes, if the gentleman will yield.

Mr. GRIFFIN. Yes. I am glad to yield.

Mrs. GREEN of Oregon. Let me say first that juvenile delinquency is a continuing problem. We have had it ever since the day of Cain and Abel.

Mr. GRIFFIN. Of course it is.

Mrs. GREEN of Oregon. But in direct response to the gentleman's question, let me state my own position. I am serving notice as far as I am concerned that I have no intention of offering any new bill to extend the program beyond these 2 years. I think those who are administering the program in those cities involved in it should be put on notice that this program is being phased out. Whether there is someone else who will introduce a bill or some other proposal will be made, of course, I have no control over this, but as far as I am concerned, I think this 2-year extension should be the end of this particular program and we would hope we would have some results from the money expended here.

Mr. GRIFFIN. Can the chairman of the subcommittee agree that the principal purpose of legislation continues to have pilot and demonstration projects which will not be expanded and multiplied but which will serve as examples for the States and cities to adopt on their own if they see merit in the examples? Is that the general idea of this program?

Mrs. GREEN of Oregon. In the original authorization of $30 million for 3 years and which was not fully appropriated, and in this bill today, which will amount to $15 million, we certainly did not expect to bring about any social reforms either citywide or nationwide. It would be ridiculous. But, as the gentleman from Michigan so well said, we hope by this legislation that we would learn some new techniques and some new ways to prevent and control juvenile delinquency. That was the original intent of the program, and as far as I am concerned, it is the intent or the reason for continuing it a further 2 years.

Mr. GRIFFIN. New techniques and practices which we hope the States and local governments, which have the primary responsibility, will then adopt and follow on their own.

Mrs. GREEN of Oregon. That is correct.

Mr. GRIFFIN. I thank the gentlewoman for responding to my question.

The gentleman from New York [Mr. LINDSAY] earlier referred to some political battling that seems to be related to this bill. I do not think this discussion should fail to focus attention on one fact. As it is presented here, this legislation will extend the program for 2 years. I understand that an amendment will be offered to provide for only a 1-year authorization, with funds for the second year to be authorized again next year. So far as that amendment is concerned—and I am sure it would be the intention of the chairman of the subcommittee—it should be considered only for the purpose of allowing the Congress to maintain close scrutiny of the program. For that purpose, and that purpose alone, it would seem to be a good suggestion. However, it should not be overlooked that such an amendment might coincidentally operate to give one side or the other some advantage in the political battle going on in New York; I wonder. I am sure the gentlewoman who will offer this amendment will be glad to assure the House that it has nothing to do with the battle for political control of this program in New York.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield to me?

Mr. GRIFFIN. Yes. I yield to the gentlewoman.

Mrs. GREEN of Oregon. The only purpose I have had in ever offering this legislation is to try to find ways to prevent and to control juvenile delinquency; somehow to reduce it. Maybe we will be successful and maybe we will not. I do not know. The purpose of offering this amendment is so that the committee itself may take a good look at the end of 1 year and reevaluate the program and see if we think it is going in the direction that was originally intended by the Congress.

I would remind the gentleman from Michigan—and he has helped draft legislation on two other proposals that are before the Committee on Education and Labor in the Higher Education Facilities Act, if he will recall—that we limited the program as far as the authorization of funds was concerned so that we could look at the direction in which it was going. We did it also in the poverty bill the other day that was voted out of the committee. We provided for a 1-year authorization then, if I recall correctly.

Mr. GRIFFIN. The gentlewoman is correct.

Mrs. GREEN of Oregon. This is exactly the same purpose here, so that the committee itself can have a better idea of what is really happening with the funds that we have the responsibility for authorizing.

Mr. LINDSAY. Mr. Chairman, will the gentleman yield?

Mr. GRIFFIN. I yield to the gentleman from New York.

Mr. LINDSAY. Mr. Chairman, I thank the gentleman for yielding. I would like to ask this question as a supplemental question to the one put to the gentlewoman from Oregon by the gentleman from Michigan. The gentlewoman would agree, would she not, that the purpose of the program, which is to control and to correct juvenile delinquency, can be undermined completely if political rather than professional control takes over? Would not the gentlewoman agree with that, in the administration of the program locally?

Mrs. GREEN of Oregon. Mr. Chairman, the purpose of the legislation, of course, is to provide the best professional help that we can get. The training grants were given for this purpose, to train professional probation officers and social workers and teachers to work in the hard core centers, the target areas of the city. This was the only purpose of it. Those of us who are supporting it want to carry it out in this direction and, indeed, if one wishes to follow it very closely, I think this was the way it has been carried out. Let me make a comment in regard to the ACT program.

I went up and visited the program in central Harlem. I think even then, about a year and a half ago, there were 200 young people who were actually working in these slum areas. They were working in the hospitals; they were working with the youngsters who came from the most disadvantaged homes. So I think that from this standpoint—and there are other places where perhaps if I had been administering it I would have changed it, but in regard to this particular matter I think it has been carried out by professional people. And I have hoped that it will continue to be, and I am sure the members of the committee will watch it and see that it is.

Mr. LINDSAY. Mr. Chairman, I thank the gentlewoman. I want to assure her also that those of us on this side of the aisle who support this program are going to be watching it very carefully and will raise the roof if we discover that there is a continuation, or a beginning—either way—of political control in the administration of this program.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 7 minutes to the gentleman from Ohio [Mr. ASHBROOK].

Mr. ASHBROOK. Mr. Chairman, I would like to draw your attention and the attention of my colleagues on both sides of the aisle to a rather fascinating but nonetheless audacious demonstration of pressure being brought to bear by the executive branch on us in this branch of Government.

Today we are to consider the extention of the Juvenile Delinquency Act and in the very near future it is expected that the so-called Opportunity Act of 1964 will be before us. It would therefore be stretching credulity too far to suppose that the announcement at this time of the setting up of "model educational laboratories" to "lift slum children out of poverty" under our very noses in the Nation's Capital—that this perfect timing was "happenstance."

Last Friday, June 12, Mr. Chairman, the Washington Post reported, and I quote:

> A dramatic new educational approach to salvaging the talents of Washington's deprived children was proposed yesterday by School Superintendent Carl F. Hansen.
>
> The educational experiment, expected to begin during the next school year, would create a model public school complex involving 18 schools in the Cardozo High School area.
>
> These schools would be testing grounds for curriculum development, imaginative teaching techniques and wide-ranging enrichment programs for all children, including preschoolers.
>
> The model approach for coping with big city school deficiencies was recommended in March by a special Presidential panel of educational innovators who are working closely with District school officials to develop the program.

Now here is the proof of the pudding, Mr. Chairman—and I quote again, in part:

> As yet, no price tag has been placed on the District's plan. School officials are counting heavily on funds from private foundations and President Johnson's antipoverty program to support the initial phases of the program.
>
> Hansen yesterday recommended with enthusiasm the model plan as one of the steps in educational planning which could have a profound effect on our educational system not only in Washington but throughout the United States.
>
> The plan of action, Hansen said, should be completed by September 1. Implementation then will depend on the availability of money.
>
> As explained by Hansen, the model plan will absorb the rather limited demonstration programs which the school board, working with Washington Action for Youth (WAY), approved last January for the 18 schools in the Cardozo area.
>
> That area has been designated as the inner city target area. WAY, the local arm of the President's Committee on Juvenile Delinquency, is completing plans for a saturation of services to improve the health, recreation and family living of the area's young people.
>
> But WAY's initial 20-point program for the 18 schools, which called for drastic revisions in such sensitive areas as curriculum, textbooks and teacher training, ran into trouble from school officials. A key criticism centered on the danger that the functions of the school board and the school superintendent might be usurped.
>
> Eventually, the school board adopted a watered-down version of the WAY proposals. Shortly thereafter, the Presidential Panel on Educational Research and Development issued its report on the model school system plan.
>
> This plan, Hansen said yesterday, has a far greater potential for meeting the needs of deprived children than the school board proposals of last January.
>
> On hand yesterday to help explain the model system to school board members were Joseph Turner and Vincent McRae of the Office of Science and Technology, Executive Office of the President, and Herman R. Branson, chairman of the Department of Physics, Howard University.
>
> They are working with school officials here and in other cities in the hope that a few of the model systems can get underway next fall.
>
> School administrators experimenting with the model systems will maintain close ties so that they can help each other adopt new educational techniques.

This "model public school complex," Mr. Chairman, eminates not from the school board, but from the White House, from the Chairman of the Panel on Education Research and Development of the President's Science Advisory Committee, Jerrold R. Zacharias. His report, entitled "Innovation and Experiment in Education," published in March, is the blueprint for the proposed model school system here. I shall have more to say on that report at a later date, Mr. Chairman. But just now, I want to concentrate on the President's adviser's model demonstration.

It is my contention that first, because of the timing of the announcement, this model demonstration is pressure on Congress to pass the juvenile delinquency extention bill and the so-called Economic Opportunity Act of 1964; second, because it is to get underway by September, it is politically inspired; third, since it was initiated in the White House, it is an illustration of a bypassing of school board control of education; fourth, since dollars are to be held out to those school systems that will agree to follow the model, it is the beginning of a centralized plan of curriculum control; and fifth, since this same pattern is recommended in the administration's poverty package, it should be a warning of Federal bypassing of the school boards and centrally controlled curriculum changes contemplated in the Economic Opportunity Act.

Mr. Chairman, this is a good example of the liberal modus operandi. Get enough programs in the area you want and you will get Federal aid. Use poverty programs, juvenile delinquency, cooperative research grants, et cetera, and by bureaucratic proliferation and semantic cover on real motives, gain your goal.

I include at this point in the RECORD the Washington Post article from which I quoted:

> MODEL SCHOOL SETUP IS SET FOR DEPRIVED; MAY HELP ALL IN DISTRICT OF COLUMBIA—PLAN TO FOSTER BETTER TEACHING, ENRICHED PROGRAM
>
> A dramatic new educational approach to salvaging the talents of Washington's deprived children was proposed yesterday by School Superintendent Carl F. Hansen.
>
> The educational experiment, expected to begin during the next school year, would create a "model" public school complex involving 18 schools in the Cardozo High School area.
>
> These schools would be testing grounds for curriculum development, imaginative teaching techniques, and wide-ranging enrichment programs for all children, including preschoolers.
>
> The 18 schools, it is hoped, will be so superlative that they eventually will attract children from the city's better neighborhoods.
>
> NO PRICE TAG ON PLAN
>
> Furthermore, all District schoolchildren are expected to benefit from the program because teaching techniques in the model schools will be applied rapidly to the entire Washington school system.
>
> The "model" approach for coping with big city school deficiencies was recommended in March by a special Presidential panel of educational innovators who are working closely with District school officials to develop the program.
>
> The panel estimated that the cost of each big city's model system could build up to $10 million a year.
>
> As yet, no price tag has been placed on the District's plan. School officials are counting heavily on funds from private foundations and President Johnson's antipoverty program to support the initial phases of the program.

TO NAME COMMITTEE

Hansen yesterday recommended "with enthusiasm" the model plan "as one of the steps in educational planning which could have a profound effect on our educational system not only in Washington but throughout the United States."

Equal enthusiasm came from a school board committee that approved the appointment of a special committee to develop measures to put the model system in operation. That proposal is expected to get final school board approval next Wednesday.

The plan of action, Hansen said, should be completed by September 1. Implementation then will depend on the availability of money.

As envisioned the model system would be a semiautonomous unit headed by a "top school officer" who would have administrative authority but would be responsible to Hansen and the Board of Education.

Hansen said he had no special person in mind for the job, that the post would be advertised and filled according to regular procedures. It has been rumored, however, that Norman W. Nickens, executive assistant to Hansen, is a frontline contender for the job.

As explained by Hansen, the model plan will absorb the "rather limited demonstration programs" which the school board, working with Washington Action for Youth (WAY), approved last January for the 18 schools in the Cardozo area.

That area has been designated as the inner city target area, WAY, the local arm of the President's Committee on Juvenile Delinquency, is completing plans for a saturation of services to improve the health, recreation, and family living of the area's young people.

But WAY's initial 20-point program for the 18 schools, which called for drastic revisions in such sensitive areas as curriculum, textbooks, and teacher training, ran into trouble from school officials. A key criticism centered on the danger that the functions of the school board and the school superintendent might be usurped.

Eventually, the school board adopted a watered-down version of the WAY proposals. Shortly thereafter, the Presidential Panel on Educational Research and Development issued its report on the model school system plan.

This plan, Hansen said yesterday, has a "far greater potential" for meeting the needs of deprived children than the school board proposals of last January.

On hand yesterday to help explain the model system to school board members were Joseph Turner and Vincent McRae of the Office of Science and Technology, Executive Office of the President, and Herman R. Branson, chairman of the Department of Physics, Howard University.

They are working with school officials here and in other cities in the hope that a few of the model systems can get underway next fall.

School administrators experimenting with the model systems will maintain close ties so that they can help each other adopt new educational techniques.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. KYL].

Mr. KYL. Mr. Chairman, I applaud all those people who have given serious consideration to what might be the most serious problem we have in this Nation.

I support this legislation perhaps more in hope than from logic. But my plea today, Mr. Chairman, is to Members of this body as citizens rather than as Members, and to citizens everywhere because, amazingly enough, the average individual citizen in this Nation does not realize his vital, his absolutely necessary role in this battle to not only prevent delinquency but also to build the best kind of mental health and behavior in our youngsters.

There is almost always a tendency to oversimplify a problem like juvenile delinquency. In a problem area where there are almost as many causes as cases, it is easy to feel that solutions are simple. The bill we debate today makes money available. In this battle, we need money. There is a possibility, however, that we think we have accomplished our purpose by appropriating funds. Nothing could be further from the truth. For in this field, it is the simple personal relations which are most important. Time and personal relationships, not money, are the precious commodities.

Yes, we need money. This is important. But we can get into the position of the chief church benefactor back home who, when called on to pray at a men's meeting, indignantly stood up to report, "I don't pray, I pay." Or, we might consider the case of the small community which for years had held notable "pot luck" suppers, with each family bringing some dish for the meal. Someone got the idea that if the family did not have the time to prepare a contribution of food, they could contribute a dollar. Imagine the consternation when, one night, the table was covered with dollar bills but no scalloped potatoes or fried chicken.

Too much emphasis on money can destroy the personal relationships which are so necessary. The emphasis leads to recreation programs which hand spare time activity to the youngsters on a platter. When the platter is withdrawn, the youngsters are helpless, not knowing how to entertain themselves.

Every child, like every adult, needs something of his own. More important, he needs someone of his own. The poet of another era noted that "Of all sad words ere struck by pen, the saddest are these: 'It might have been.'" So far as our children are concerned, I would amend the phrase, "Of all sad words ere struck by pen, the saddest are these: 'I have no time.'" Practically, it is the busiest people who can mean most to the youngster who needs "somebody." But it is within the power of every citizen to help, and help they must.

Statistics are dangerous at times, as well as helpful. The human factors involved prevent turning to computers for magic answers. Yet, there is one cause of delinquency which stands out above all others. Every human being needs to be recognized as an individual. He needs to be recognized for doing some job better than some other human can do it. The accomplishment need not be large. Every kindergarten teacher knows that lacking some other device, she can sometimes stimulate a youngster who erases blackboards better than someone else. It is in this area that every citizen counts. It is with such human factors that every citizen must be concerned.

Luther Burbank said that if we had paid no more attention to our plants than we have to our children, we would be living in a jungle of weeds. This may be true. But with people, solutions are more difficult. We cannot "spray" the less conforming to destroy them. We cannot scientifically select the parent stock. We cannot discard anyone. We have been too concerned with the forest rather than the trees. We have not been specific enough, though we have studied the general problem to death.

There are some who are unfortunately denied at birth, and there are some who are retarded by events of life. These usually require technical care and facilities which are the duty of citizens generally through government, or government assistance, in massive form. There are physically and mentally capable individuals who must be taught responsibilities of citizenship and this teaching goes beyond the school and the church.

In the absence of the sense of responsibility, there must be a deterrent.

One awareness that we must sharpen is the fact that delinquency is not someone else's problem. We are not simply concerned with youngsters a thousand miles away in some slum area. With the pressures of this day, every youngster is subject. The kid next door is a potential delinquent.

One governmental area cries for improvement. It seems to me that adjustments will have to be made in our judicial thinking—in realistic philosophy as well as machinery. The court system which brings a child to court a year after the alleged violation needs to be greatly improved. The court which determines that a violator is guilty of one of a pair of crimes simultaneously committed, and innocent by reason of mental disturbance of the other, is engaged in a frustrating inconsistency.

There is something amiss when a juvenile is charged with a first serious violation in October, and in the next 6 months is charged with seven additional violations before going to court, especially when the youngster is simply placed in the custody of his father as his only treatment.

There is a difference, which should be legally noted, between the violator who is mischievous or impulsive, and the individual who is premeditative in his viciousness.

My chief thesis is this: At this stage, we must concentrate on the big ounce of prevention and, in this preventive effort, we must enlist the daily assistance of every citizen everywhere. Delinquency is not the specific property of anyone or any group. It is certainly not the specific property of the poor. Inference to the contrary not only denies logic, but casts the abhorrible idea that the poor are innately bad and the rich are innately good.

Realizing that, like a dread disease, delinquency can invade every home in America, I today call on every American to make this campaign his personal, daily business—not simply to contribute funds or join in organized efforts, but more importantly, to take the time daily to recognize all youth as individuals—to recognize their achievements personally—to be the somebody that every youth needs. I repeat that time, and personal relationships, not money, are the precious commodities in this battle against delinquency.

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Ohio.

Mr. DEVINE. The gentleman from Iowa has said some things here that needed to be said. He does not speak idly. I know from firsthand experience and knowledge that the gentleman from Iowa [Mr. KYL] has devoted a great portion of his life to trying to resolve the problem of juvenile delinquency. I know that just last Saturday the gentleman from Iowa personally escorted over 60 orphans, most of them Negro children, to a ballgame. I know that as late as last night the gentleman, although he probably does not want me to say these things because he is not looking for recognition or publicity, purchased from his own funds toys to take to orphans at Boys Village. He has true compassion in his heart. I think we could all emulate the gentleman from Iowa in helping to combat juvenile delinquency.

Mr. KYL. The gentleman from Ohio is prejudiced by friendship, I fear. He is also active in the fight against juvenile delinquency. I would only hope that what he said can be true in the future.

Mr. LINDSAY. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from New York.

Mr. LINDSAY. I should like to compliment the gentleman on the excellence of his statement and to thank him for the contribution he has made to this troubled problem.

Mr. KYL. I thank the gentleman.

Mr. SCHWENGEL. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Iowa.

Mr. SCHWENGEL. As a colleague from Iowa I certainly want to join with those who are giving plaudits to the gentleman from Iowa [Mr. KYL]. I know he has been a prominent educator in his life and he has many, many times gone the extra mile, and he did that long before he came here. Fortunately, we have here in this Congress many who can join this kind of activity, for his example is very worthy of emulation. I want to commend him for his fine statement and for his insight and for his willingness to come here and say the things that need to be said, and I hope this gets some publicity in the papers.

Mr. KYL. Mr. Chairman, in relation to the comments of my colleague, the gentleman from Iowa, I want to repeat the words of the poet who said:

> Of all sad words e'er struck by pen,
> The saddest are these, "It might have been."

Mr. Chairman, so far as our children are concerned, I think I would amend those words today to say that so far as we are concerned, the saddest words we speak these days are—"I do not have time."

Mr. FOGARTY. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman.

Mr. FOGARTY. Mr. Chairman, I rise to commend the gentleman from Iowa on the statement that he has made. I think it is one of the finest statements I have heard on this problem of juvenile delinquency. I hope that everyone will take the time to read the talk he has made here this afternoon. As for those who have had the privilege of listening to him, I am sure they will vote for this legislation today.

Mr. KYL. I thank the gentleman.

Mr. FOGARTY. Mr. Chairman, I rise in support of H.R. 9876 for the extension and amendment of the Juvenile Delinquency and Youth Offenses Control Act of 1961.

The Juvenile Delinquency and Youth Offenses Control Act of 1961 was the first effort by the Federal Government to do something about the urgent problem of youth crime. It was sponsored by President Kennedy and backed by a President's Committee on Juvenile Delinquency, consisting of the Attorney General, the Secretary of Labor, and the Secretary of Health, Education, and Welfare.

Under the guidance of this committee, an extremely ambitious program has been carried out. From the first, it was assumed that small, isolated youth programs, however excellent in themselves, could not make a dent in the complex social forces that produce delinquency.

The challenge was to unite whole communities for major programs that were equal in scope to the problem itself. Many services—in education, job training, recreation, social work, and health—would have to work together, complementing one another, if cities were to meet this challenge.

To qualify for a demonstration grant, communities had not only to develop good programs, they had to exhibit high-level community support, and the professional know-how to carry out their programs.

In short, this program has resisted overnight panaceas in an effort to find long-range answers to the complex problems that beset our Nation's young people. This program has attempted to stimulate entire communities into new action for youth, on the belief that nothing less can do the job.

The juvenile delinquency program has encountered difficulties, certainly, but in most communities it has stimulated a new approach to local youth problems. People are working together, exchanging ideas and resources, who had always worked separately before.

In my own city, Providence, I know that the health and welfare council, the city government, the schools, the recreation department, the juvenile court, Brown University, and other important groups are cooperating in a new effort to get at the roots of delinquency. The same is true in cities across the Nation. A new national wave of concern and action has been sparked by this program.

This has been a realistic program. In city after city it has stressed the need to prepare young people for productive, self-sufficient lives. By taking this positive approach, we prevent the negative result of juvenile delinquency.

The local projects have stressed work, and work training, but they have realized that much more than this is needed to help young people hold jobs. Changes in the schools are needed, from increased vocational training at the high school level to remedial reading at the elementary school level to preschool programs at age 4 and 5. The schools and agencies must try to make up for the cultural experiences which most children take for granted, but slum children rarely receive.

The schools and agencies must try to make up for the most severe family problems. They must try to convince young people that there is a useful place for them in American society when the evidence they see about them in the slums denies this.

It is this positive job—which one city has called "human renewal"—which the juvenile delinquency program has undertaken to prevent youth crime. I think it has been remarkably successful.

In their training program, thousands of teachers, social workers, police, and other frontline workers have been given short-term training courses.

In the demonstration program, 10 cities have projects underway and at least 6 more are nearly ready to launch them. And these are projects on a scale that has never before been attempted—coordinated efforts that involve dozens of agencies and hundreds of people at every level of the community.

Among the most productive projects have been those in Boston, New Haven, Lane County, Oreg.; Los Angeles, Charleston, W. Va., the Lower East Side, Harlem, Providence, and Washington, D.C.

There has been progress at several levels—on the streets, where boys and girls are taught, trained, and encouraged; and in councils of local government, where far-reaching decisions on policy and finance are made. These cities are refocusing their social services to meet the specific needs of the young people who most need help.

It would be a tragic waste to stop this program now. We would be cutting off this great social experiment before we could benefit from its results. We would be snatching the hope of opportunity from the hands of thousands of young people. We would be retreating, moving backward, after making such a fine beginning when we passed this bill 3 years ago.

I have followed this program closely. I have found it to be ambitious, realistic, and successful. If this extension is passed, we should know in a few years a great deal about the successful prevention of juvenile delinquency, in both urban and rural areas. If the extension is not passed, 3 years of hard work and several million dollars will be lost.

I urge every Member to support this vital legislation.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman.

Mr. VANIK. Mr. Chairman, I want to associate myself with the splendid remarks of the gentleman from Iowa, and I want also to express my appreciation to the committee for bringing out this bill and particularly to express my appreciation to the chairman of the subcommittee, the distinguished gentlewoman from Oregon for setting forth such a splendid case for this bill.

Mr. Chairman, as a Representative from the Cleveland area which participates extensively in the Juvenile Delinquency Control Act, I have carefully followed the progress of the Cleveland project known as Community Action for Youth. While some phases of this program of the rate of its development have been under attack and discussion, the entire Cleveland community is fully united in the goals of the program and the need for its continued support at both Federal and local levels.

In surveying the Cleveland project, I am pleased to report significant activities in six project areas.

SECONDARY EDUCATION

The following programs have been instituted at East High School in our demonstration area and each of them is unique to the city of Cleveland:

Youth Corps: One hundred and fifty potentially troubled boys and girls have been organized into a volunteer service organization with the objective of reducing their alienation from the regular school program.

Reading improvement: Sixty boys and girls with several academic handicaps are receiving educational remediation in an effort to prevent school retardation and dropout.

Sports clinic: One hundred boys, not athletically proficient—one-third of them with behavior problems—receive sports training from 10 male volunteers who are area residents.

Home mechanics: Twenty-five boys, the majority of whom are disciplinary problems and/or potential dropouts, receive an enriched mechanical training course (appliance and related repair work). In addition, a new and different mathematics course is being taught to help them. Early experience has shown that school attendance of these boys has been improved.

Special attendance counselor: Tenth grade boys' tardinesses dropped from 447 in one 32-day period to 262 for a following 32-day period, during which a special attendance counselor (John Brown of the Cleveland Browns football team) worked with the boys to cut down on lateness. This is a pilot effort to measure the effectiveness of this type of special effort.

Teacher-aids: Thirty academically successful high school students serve as role models for elementary school children needing educational remediation with each one being responsible for 10 elementary school youngsters.

The following programs have been instituted at Addison Junior High School in our demonstration area and are unique either in form or intensity in the city of Cleveland:

EXTENDED DAY PROGRAM

First. Remediation: Almost 400 students are receiving instruction in reading and arithmetic skills to raise their academic achievement and improve their potential for completing high school.

Second. Work orientation courses: Forty boys in food handling and preparation.

Third. Youngsters who show signs of alienation from school have been organized into a drum and bugle corps—30 students—and a drill team—20 students. An adult male volunteer from the demonstration area and the American Legion are giving volunteer help.

Fourth. Judo and boxing are taught to potentially insecure boys to give them a defense that would eliminate antisocial behavior. The physical and social disciplines invoked in both defense arts seem to undergird the pride in acceptable male behavior.

Special counseling: Youngsters with special needs in the areas of learning and behavior are being identified from among 700 students in the seventh grade. One full-time counselor and one part-time counselor are used in addition to the regular counsel of the junior high school.

Health education: Three hundred ninth grade boys in 10 classes received special emphasis on a two- or three-times-a-week basis in health education. This is being followed by a physical fitness outside playground program where 150 of these same boys will be served.

Home nursing: Fifty potential girl dropouts with records of poor attendance and achievement have learned basic home nursing skills. The Cleveland chapter of the American Red Cross certifies the graduates of this course.

ELEMENTARY EDUCATION

The following programs have been instituted at the seven elementary schools in the demonstration area and each of them is unique to the city of Cleveland.

EXTENDED DAY PROGRAM

First. Remediation for 300 of the most deficient youngsters in fourth, fifth, and sixth grades. The 29 teachers involved receive instruction from CAY staff.

Second. Special activities program for 700 children at four of the seven schools are handled with regular teachers. Among the interests are Audubon Society, Explorer Club, School and Community Service groups, gymnastics, physical fitness, arts and crafts, and dramatics.

Field trips: Five to six thousand youngsters were taken on field trips to provide cultural experiences supplemental to their academic lessons.

ADULT

One hundred fifty adults from 19 to 65 years of age—mostly parents of pupils in CAY schools—are learning basic education at East High. This course is for those with very little formal schooling. It helps parents understand the problems and needs of the child in school as well as giving them new skills for self-betterment.

TEACHERS

Special instruction resources center has four full-time master teachers give special paired teaching lessons to one-fourth of all demonstration area elementary students and have given more than 150 demonstration lessons.

Home visitation: Six teachers have visited some 2,000 families—approximately 50 percent of all families in the Hough demonstration area. Their visits have headed off or controlled discipline problems.

Teacher education program: Twenty sophomore to senior students from Central State and Kent State participated in a 7-week cooperative learning experience specific to the demonstration area.

Curriculum development and teaching standards committee has created reading remediation material and set standards for new teachers, i.e., special skills for relating with youngsters who live in ghettoes and slums.

New teacher conference: Fifty teachers in first year teaching or in training received orientation to special skills for teachers serving socially deprived areas.

NURSING SERVICE

There is now a full-time nurse at Addison Junior High School and at each of the seven elementary schools. The nurse gives direct service. This is a pilot program based upon the concept that many behavior problems in poverty areas begin from health problems.

PRESCHOOL FAMILY NURSERY

From January 1 to June 15, this program involved 60 children in a half-day, 5-day week nursery school and their 60 mothers in a 1-day parent education program. Beginning June 22, the number served will be 110 children and 110 mothers.

About 5 percent of the 3- to 4-year-olds in the demonstration area will be served in these schools.

About 15 percent of the 3- to 4-year-olds in our area whose families are receiving public assistance, or who have older brothers and sisters who are academically retarded, or whose families are broken will be served in this program. It should be noted that children with these criteria are high risks from a delinquent point of view. Although the preschool family nursery program may seem as removed from the older adolescent, it has a potential for affecting adolescent behavior in a profound way.

EMPLOYMENT AND TRAINING

Three hundred and forty youths, aged 16 to 21, were interviewed in the CAY employment program between January 1 and May 30. Of that number, 168 received counseling. Seventy-four entered work training programs and 58 were placed on jobs. This program was accomplished by temporarily borrowing funds from several program areas while awaiting U.S. Office of Manpower and Training grant of $270,000. The OMAT youth employment grant has now been received and it is anticipated that our employment center will be opened within the next 30 days. It will enable the project to serve 60 youngsters through job placement, work training, and counseling.

PUBLIC ASSISTANCE

There are 16,800 persons in the demonstration area receiving public assistance. These persons are served in 4,200 cases, including about 10,600 children under 18 years of age. The CAY services to families program aims at improving the quality of services to these families, in order to increase the number of self-supporting, self-directing families, and particularly seeks to prevent personal disorganization and delinquency among children and youth. In the past, public assistance caseloads in this area have been very heavy, averaging 135 cases per worker. Our goal is to lower caseloads to an average of 75 per worker. They have already been reduced since January to an average of 120, and are expected to be on target by September. Difficulties in recruiting staff have prevented the reduction of caseloads, but June college graduates are now being hired in substantial numbers by the county welfare department.

COMMUNITY SERVICES

Eleven nonprofessional residents of the Community Action for Youth, Inc., demonstration area have been employed to work with other residents in tenant education including, for example, protection and conservation of property, cleanup, paintup, and fixup projects, and in strengthening community support for law compliance and law enforcement. The total number of community residents involved has exceeded 3,000 since March 1.

Two hundred and fifty boys and girls judged by school authorities as behavior problems and considered to be delinquency prone have been organized into four programs including Boy Scout and Girl Scout and YMCA-YWCA programs. The scouting programs are organized in local elementary schools.

CORRECTIONS

First. Residential work camp: One of the most innovative aspects of the Community Action for Youth correction plan calls for the establishment of a residential work camp for boys. This program has not gotten underway because efforts to locate a campsite have been unsuccessful to date. One reason for this has been community opposition to the location of a group of delinquent boys in residential areas. The camp will serve 25 boys who have received suspended sentences to the boys' industrial school, a training-correction institution.

Second. High standard probation unit: In this program, 6 highly trained probationary officers will carry an average caseload of 25 adjudicated delinquent boys instead of the normal one of 40. The program is designed to show how high-quality personnel can increase the effectiveness of probation for delinquent youth. We now have two workers awaiting assignment of youth, and additional probation officers will be hired in the next 6 weeks.

It is therefore quite evident that considerable progress has been made on the Cleveland project. Under its present leadership and with continued Federal support, I am confident that it will produce proud and encouraging results which will be useful to the entire Nation.

Mrs. GREEN of Oregon. Mr. Chairman, I yield such time as he may require to the gentleman from New York [Mr. FARBSTEIN].

Mr. FARBSTEIN. Mr. Chairman, I desire to speak in behalf of the extension of the Juvenile Delinquency and Youth Offenses Control Act of 1961.

I welcome this chance to record my conviction that the extension of this act, and all it stands for, is of vital importance to the health and welfare of this great Nation.

The continued existence of a high level of youth unemployment in America has had a wide variety of social and economic consequences. Youth delinquency is one of the most severe and visible results.

New York City, which I have proudly represented here in Congress for 8 years, was one of the first cities in the Nation to launch comprehensive programs to reduce juvenile delinquency. The postwar period has seen an enormous expansion of youth services in the city, including the initiation of some of the most creative and imaginative programs in the country.

Indeed, my own 19th District is the site of the first demonstration project pursuant to the Juvenile Delinquency Act of 1961. I refer, of course, to the now nationally known Mobilization for Youth.

This project, I think you will all agree, has been extremely useful in carving out new means of eliminating the causes of delinquency and other social problems in the following ways:

By improving educational programs of deprived youngsters;

By improving the chances for unskilled youth, who often are illiterate or near illiterate, to obtain meaningful employment;

By stimulating the development of neighborhood leadership, leading to the marshaling of resources in the area to respond to problems besetting its residents and further calling to the attention of the established private and governmental agencies those community requirements that are unmet; and

By organizing ongoing means of planning and coordination at the neighborhood level.

Mobilization for Youth, while operating in its 67-block target area on the Lower East Side, has become the largest and most comprehensive action-research demonstration project in the country. Its short life has been extremely fruitful; already the fruits of its labors have been shared with other cities across the country.

As recently as the last week in April of this year, Mobilization for Youth cosponored, with the Columbia University School of Social Work, a training institute for the leading officials of juvenile delinquency prevention projects.

The purpose of the week-long institute was to make available the benefit of Mobilization for Youth experience to the personnel of other urban projects in such cities as San Francisco, Charleston, W. Va., Los Angeles, Chicago, Providence, Boston, Eugene, Oreg., and others.

I wish to point out that the institute, which was highly praised by those who participated, was financed through a grant from the President's Committee on Juvenile Delinquency and Youth Crime.

During the institute, I was afforded an opportunity to address a luncheon of the delegates, sharing a rostrum that included a distinguished assemblage of city officials, educators, and our colleague from Rhode Island, Representative JOHN E. FOGARTY.

Our esteemed colleague, Representative FOGARTY, on that occasion also praised the 17 projects of the President's Committee on Juvenile Delinquency throughout the country as exemplified by Mobilization for Youth.

I would like to join in the praise of this pioneering effort. The programs of Mobilization for Youth have indisputably helped the Lower East Side and the city of New York and as a resident and representative of that section and the city I can say that we would be the lesser had not the President's Committee done so much to launch such a venture.

It would be tragic were this effort to be blunted by the failure to extend the Juvenile Delinquency Act. Programs being advanced under the act are vitally needed in areas across the country that are in the process of carrying out important experiments in the field of delinquency prevention and control.

The President's Committee on Juvenile Delinquency has done a splendid job in administering the act of 1961. Attorney General Kennedy, Secretary Celebrezze, Secretary Wirtz, the committee's staff, including Executive Director David Hackett, and others are to be commended for their skill, imagination and steadfast devotion to the task of finding basic answers to a difficult, complex national problem.

They have properly linked the problem of juvenile delinquency and the broad issues of youth development. They have sought comprehensive, rather than fragmented programs.

I cannot overstate the importance of preserving our greatest national resource, this Nation's young people. I cannot overstate the role that H.R. 9876 will play in achieving this end.

We cannot forget, we must not forget the corrosive effects of the scourge of delinquency upon our young men and young women.

We can and must make an important contribution to our Nation's future, assuring the fullest possible development of a new generation, by passing this bill.

Mr. GOODELL. Mr. Chairman, I rise in support of this bill, H.R. 9876. As a matter of fact, I am a cosponsor of the bill with my colleague, the Honorable CARLTON SICKLES.

The bill does three major things:

First. It incorporates my proposal for a special study of the compulsory school attendance laws and the laws and regulations affecting the employment of minors. This study is not limited to Federal laws and regulations. In early 1963, I suggested that many restrictive local, State, and Federal regulations with reference to employment of young people have outlived their usefulness. They were designed in an era of sweatshops, grinding poverty, and exploitation of minors. Obviously, this special study is for information only. We have no authority to change State or local regulations. It was my contention, endorsed unanimously by the Republicans of the Education and Labor Committee, that a compilation of outmoded regulations and laws could lead to corrective measures by the responsible officials themselves. We may find that legislative action is indicated to correct Federal deficiencies in this respect.

Second. The Juvenile Delinquency Act is extended for 2 additional years. As originally enacted it was a 3-year experimental and demonstration program. It is clear that most of the projects included cannot reasonably be expected to yield results in the original 3-year period. We accordingly are ready to extend the program to a total period of 5 years. I should emphasize that it is a strongly bipartisan position that this program should end finally after 5 years.

Third. The Washington action for youth program will be given an additional $5 million for a special project on juvenile delinquency and the problem of increasing job opportunities for young people. The District of Columbia is peculiarly the responsibility of Congress. I strongly support this proposal.

Mr. Chairman, permit me to emphasize that the 2 additional years for the juvenile delinquency program will add a total of $20 million to the authorization. These programs are designed to utilize local ideas to meet local problems. There should be no implication of permanent Federal responsibility for operational costs of such a program. It is our hope that this legislation, on an experimental and demonstration basis, together with training grants, will give us some answers. Knowing that certain approaches do not work is almost as important as the knowledge that certain approaches do work in attacking the causes of juvenile delinquency. Although we on the subcommittee have at times been highly critical of this program, it is my overall judgment that it deserves our endorsement here today for an additional 2 years of life. I hope the House will pass this legislation today.

Mr. RYAN of New York. Mr. Chairman, I strongly support the extension of the Juvenile Delinquency and Youth Offenses Control Act of 1961. I have first-hand knowledge of the progress this program has made, and I am impressed at the amount of work that has been done for the youth of New York City under this legislation in less than 3 years.

Under the demonstration grant program, as directed by the President's Committee on Juvenile Delinquency, the first funds for a demonstration project went to the now famous Mobilization for Youth program in the Lower East Side. On May 31, 1962, at the White House, President Kennedy announced a $1.9 million Delinquency Act grant to Mobilization for Youth. The project also received $5 million from the National Institute of Mental Health, $4 million from the city of New York, and $1.8 million from the Ford Foundation.

In the 2 years since those grants were made, Mobilization for Youth has made a major impact on life in the Lower East Side. More than 2,000 young people have applied to its youth jobs center, and work or work training has been found for 1,300 of them.

Nearly 1,000 boys and girls have been enrolled in the Urban Youth Service Corps. They have been given supervised training in clerical work, carpentry, woodwork, auto repair, cooking, electrical repair, and sewing. They have operated their own restaurant and service station. More than 300 have been placed in on-the-job training programs with stores and businesses, and direct placement in regular employment has been made for more than 400.

In the field of education, more than 250 high school students have tutored more than 600 elementary school students in the homework helper program.

One hundred students are currently involved in a junior high school reading clinic, and 70 in an elementary school reading clinic. Early enrichment programs for 4- and 5-year-olds have included more than 1,300 children in 12 schools.

In its first year, a special guidance and tutoring program reached 150 students. A summer reading clinic last year attracted 200 boys and girls, and during the past school year 8 teachers worked with 96 children in a twice-a-week reading teachers program.

And eventually almost every child in the Lower East Side will benefit from a curriculum program in which educational experts are producing texts and courses that have real meaning to children from lower income families.

A group of neighborhood women known as visiting homemakers, who work out of 2 storefront neighborhood service centers, have helped 2,000 families and more than 10,000 persons in the first year of their program.

A special program to help young parolees readjust to community life has involved more than 300 young people. The adventure corps, with sports, parades, and trips for boys and girls age 9 to 13, has enrolled more than 300 youngsters. Two new coffeehouses are serving as social centers for more than 300 boys and girls, most of them former gang members; and this is not all of the mobilization for youth program. There are other programs in each of its action areas.

This is what we mean by major community action. This is not a halfhearted program. It is a massive attack on youth problems that aims to reduce delinquency by creating a new climate of opportunity for the young people of New York's traditional "melting pot."

This program has started a totally new trend in community action against juvenile delinquency.

Another promising program has been started in Harlem under the Juvenile Delinquency Act. Preliminary grants were made to two community groups: HARYOU, $230,000, and ACT, $250,000. The first group, HARYOU, spent more than a year mapping out a major demonstration project. The other group, ACT, operating with a training grant, brought volunteers into central Harlem and trained them to work with youth in schools, churches, settlement houses, and hospitals. These young volunteers have, in the past year, brought the spirit of the Peace Corps to the dismal slums of central Harlem.

Now HARYOU has completed its blueprint and is ready to put it into action, and the two groups are to merge as HARYOU-ACT. The blueprint includes:

Devoting an entire school year to reading, to counteract the poor reading habits that cause widespread dropouts and school failures.

Forty HARYOU-ACT preschool academies for 4,000 children age 3 to 5.

Afterschool remedial centers in churches and storefront buildings to 18,000 students who face school failure.

An employment program to provide job training for 6,000 to 7,000 young people—about 2,300 each year of the 3-year demonstration project.

A program to reduce drug addiction and to help youths who are already addicted.

Youth academies to serve as halfway houses for teenage boys who have been released from institutions and need help in adjusting to community life.

A cadet corps which, like Mobilization's adventure corps, will provide recreation for young people in their early teens.

Neighborhood boards, representing the people to be helped by the program, will be deeply involved in decisionmaking for the project.

This is only part of the HARYOU-ACT project. Whereas Mobilization for Youth is costing about $13 million for 3 years, the Harlem project is estimated at more than $100 million for the same period. The Nation's most dismal Negro ghetto has brought forth the Nation's most ambitious youth program. The President's Committee has approved parts of the program for funding in the immediate future. Funds are also expected from local, private, and other Federal sources.

Federal funds and stimulation were basic to Mobilization and HARYOU-ACT. But now a similar community program has sprung up in the high-problem Bedford-Stuyvesant section of Brooklyn. This program, with city funds and consultation from Federal experts, is learning from both Mobilization for Youth and HARYOU-ACT and will soon have a program of similar scope and importance. This is an example of how other communities can benefit, on their own, from what is learned in federally supported demonstration projects.

In addition to the demonstration projects, which are in action in 15 communities besides New York, the President's Committee on Juvenile Delinquency has stressed the training of youth workers, and the development of new curricula to train youth workers.

Many outstanding projects of this nature have been launched in New York City, including the following:

A $109,000 grant to Hunter College to produce texts and courses designed specifically to prepare education students for the problems they will face teaching in slum schools. Several hundred young teachers have been involved in testing out these new materials.

A $15,000 grant to the Citizen's Committee for Children which was used to hold a series of meetings of civic leaders and which resulted in a manual outlining how women civic leaders can combat youth problems.

A $110,000 grant to the Council on Social Work Education to improve juvenile delinquency programs by preparing new teaching materials for use with delinquents and potential delinquents.

A $24,000 grant to the Vera Foundation to help support the extremely well received National Conference on Bail which was held recently in Washington.

An $800 grant to the Civic Center Clinic, Brooklyn, for a series of ten 2-hour workshops for probation and parole workers, and family agency workers, with stress on vocational guidance.

A $66,000 grant to Hunter College School of Social Work to enable the college to work with the City of New York's Interdepartmental Neighborhood Center in a demonstration of how a graduate school and a social agency can work together.

A $12,000 grant to the Kings County Court, Brooklyn, to bring 50 college students for a special series of courses on delinquency held at the court.

A $54,000 grant to Youth Research, Inc., which brought college seniors and graduates to live and work in schools, settlement houses, and agencies in the upper West Side of New York City.

A $32,000 grant to the Bank Street College of Education for a series of training programs for elementary schoolteachers, counselors, and administrators, which stressed successful techniques in teaching children in slum schools.

A $45,000 grant to the Columbia University School of Social Work, for a series of workshops for youth workers specializing in community projects to combat delinquency.

These training programs have helped provide the skilled workers who are needed to carry out such programs as Mobilization for Youth and HARYOU-ACT. Thus the training program supported under the Delinquency Act has complemented the demonstration program.

It is impossible to calculate how many young people—and adults—have benefited from the projects I have just mentioned. Certainly they number in the thousands.

Yet this program, in New York and nationally, is just entering full operation. On many projects like HARYOU, the laborious groundwork has just been completed, and the payoff is now to come.

This is the reason the extension of this legislation is so essential. In New York, and across the Nation, extremely important projects are either ready to start or in progress. To cut them off now would be a grave mistake.

We must extend this legislation so that we get the maximum return from these projects, so that every city has a chance to learn from these demonstrations.

Mr. Chairman, I recall an editorial that appeared in the Wichita, Kans., Eagle, when Mobilization for Youth was first announced. It said:

> The justification for Federal participation is in the possibility that the project may pilot the way toward solutions of delinquency problems elsewhere in the Nation—even in Wichita.

I agree. A long-range effect of the projects I have outlined lies in the impact their results will haye on communities, large and small, across the Nation.

I urge the adoption of this legislation.

Mr. BRADEMAS. Mr. Chairman, I rise in support of H.R. 9876.

All of us are aware of the increasing youth problem which we must face in this decade. Delinquency continues to rise, and so do high school dropouts and youth unemployment. There is a growing army of unemployed, out-of-school youth, which Dr. James B. Conant has aptly termed "social dynamite."

Three years ago, with the passage of the Juvenile Delinquency Act, of which I had the honor to be sponsor in the House, Congress took a first step toward solving these problems. The amount of money authorized was small, and the problems were vast. But the Juvenile Delinquency Act has been carefully administered to reap the greatest possible reward from each dollar spent.

Each project is carefully designed and researched. As one newspaper noted, entire slums have been used as test tubes to seek solutions to social problems.

These projects have both short- and long-term goals. Already, thousands of young people in many cities have received better schooling, job training, recreation, and other social services under the auspices of the juvenile delinquency program. These are concrete, positive results.

But there are also long-range goals. Each school program, each job training center, is being closely studied. Ideas that work will be shared with other cities. Those which do not work will either be improved or discarded. Often as much can be learned from those that do not work as from those that do.

In city after city the foundation has been laid for a sensible, effective attack on the youth problems of the decade to come.

By extending this legislation, we will permit many communities to continue to build on these solid foundations, and we will pave the way for more knowledge and more effective techniques in the prevention of juvenile delinquency in the years ahead.

Mr. COHELAN. Mr. Chairman, I rise in support of this bill which would perfect and extend the Juvenile Delinquency Control Act for 2 additional years.

When Congress first enacted this program in 1961, it was evident that the existing, fragmented, partial, and occasional approaches to a rising incidence of juvenile delinquency were not and could not be effective. Juvenile delinquency quite clearly stems from a broad range of social and personal forces; a range which can only be attacked successfully on a coordinated basis.

Under the Juvenile Delinquency Control Act of 1961 we have begun that coordinated attack, and progress has been made. In those cities which received grants, major citizen groups with little or no prior contact, are now working cooperatively on integrated programs. And even in communities which have not received grants to date, comprehensive programs have been begun; programs utilizing the guidelines of the Federal act.

But much more remains to be done. The problem is still of a critical nature and demands our continued best efforts.

Extension of this Juvenile Delinquency Control Act is essential if we are to permit the orderly completion of projects which are already underway, or in the advanced stages of planning. Extension is essential if we are to find out, for example, what the effect may be of compulsory school attendance laws and regulations on the employment of minors. Extension is essential if we are to conduct an urgently needed attack on a mounting problem of juvenile delinquency in our Nation's Capital—and from that attack learn further how we may better cope with this disease of delinquency in our own communities.

Juvenile delinquency is a costly condition—estimates run as high as $2.6 billion a year. And it is national in scope for no area is free of its social devastation and human waste. But the major attack cannot be carried on by the Federal Government. It must be accomplished by State and local agencies, by both private and public bodies, which are actually on the scene.

The fact remains, however, that the Federal Government does have an important and legitimate function to perform in the control and treatment of juvenile delinquency. This is the role of leadership; the role of incentive and support which is both needed and desired by local agencies.

This program effectively provides for such a role. The results to date have been encouraging. But when the dimension and implications of this pressing problem are weighed we are left with no recourse but to move ahead and complete the job at hand.

Mr. Chairman, I urge that this bill be approved.

Mr. DONOHUE. Mr. Chairman, I rise to most earnestly urge my colleagues to unanimously approve this bill before us, H.R. 9876, to amend the Juvenile Delinquency and Youth Offenses Control Act of 1961 by extending its provisions for 2 additional years and providing for a special project and study.

This bill is designed, with certain amendments, to continue and expand the program we adopted 3 years ago providing Federal grants to help local communities combat juvenile delinquency; the program initiated under that original legislation is just beginning to bear fruit and it would be obviously and extremely unwise to cut it off now.

Besides extending the act of 1961 for 2 additional years this bill additionally provides for a special study of school attendance and child labor laws and a national demonstration project on juvenile delinquency prevention and control in the Capital area.

This Capital City is now embarked on a broad and extremely promising program, in cooperation with the schools, which could very well develop new and more effective ways to work with underprivileged and delinquent children. Out of the lessons learned here there is every reason to believe there will emerge, for national application, a pattern of types of effective community action to combat delinquency throughout the country.

Mr. Chairman, basically and fundamentally this program is an investment in a substantial part of our youth and, therefore, it is an investment in the future welfare of this Nation. Many legislative proposals have come before us in this Congress with what we might call greater publicity but, I daresay, few, if any, of them will prove to be more important to national progress than this particular bill, H.R. 9876.

In concern for American youth in urgent need of training and guidance assistance and in fulfillment of our larger duty to preserve and advance the national welfare I ask that we approve this measure without further delay.

Mrs. HANSEN. Mr. Chairman, first, I would like to commend the very distinguished gentlewoman from Oregon for her magnificent management of this bill, for her understanding of the scope of juvenile delinquency needs, and for her diligent work during the past 2 years on programs authorized by the last bill on this subject, passed when I had the privilege of serving as a member of the Education and Labor Committee. She has given you an understanding review of the problems in this field and has outlined the challenges.

As I listened this afternoon to the debate, there were many who suggested that we could do with less planning and more action. Perhaps this is true, for I know of no program in the United States, or probably in the world, that cannot be improved. Life is eternally the search for perfection. But, it is also true that we have some problems with us today because of lack of adequate planning many, many years—in fact, decades ago. Our Nation grew rapidly and transportation has changed. The quiet tranquillity of the 19th century became the tumult of this century. In its place, came changes in the complexity of problems that face humanity. It is no longer possible to say simply that a problem belongs to a State or a community and it is their responsibility to solve per se. Do you say to a State, "Because there are no juvenile delinquents in your area, you shall make up an entire Army corps"; or to another State, "Because you have not met the problems of juvenile delinquency and have not solved the problems, your young men shall not be called upon to defend our Nation." No, I do not think so.

Today's society is compounded of many things—a national roads system which has led to the growing use of itinerant workers with families often undereducated. It has led to the assumption by some States of responsibilities far beyond their own abilities to meet, and subsequent problems arising were not of their creation, but were the creation of our society as a whole.

There are many facets of juvenile delinquency. The single facet that not one of us can ignore is that it is an expensive ill which we cannot tolerate lying upon the body of our Nation. No child is inherently bad. Many factors contribute to delinquency—broken homes, lack of jobs, lack of education, lack of parental guidance, highly populated urban areas. We often ignore playgrounds and recreational facilities. We have not planned ahead to meet the dropout situation. All of these things and many more lie under the problem. The Federal Government does have an interest and a responsibility for the people's lives within it.

The preamble of our Constitution is, in fact, the statement of our interest in this problem. Domestic tranquillity and the general welfare are at stake in our continuing search to eliminate causes of juvenile delinquency.

I do urge the passage of this bill and in passing I would like to bring to the attention of this House two outstanding projects in my own State. One is known as the Cowlitz Youth Camp which was established through the guidance of a very wise and compassionate judge of the superior court in Cowlitz County, Judge Ralph Armstrong. Young people, instead of being sent to a correctional institution, are given the opportunity in this camp for rehabilitation in the outdoors. The community, county and my State have responded magnificently. Yet they have fought an increasing battle to secure needed funds. This could well be the type of project useful for a pilot study, particularly for those young people in our urban areas who perhaps may, more than any other, desire to participate in the outdoors.

In the early part of July, Lewis County in my district will dedicate the Mayfield Youth Camp. This is for the recreation of young people and can serve as a major deterrent to juvenile delinquency. Again, communities in Lewis County banded together and cooperatively developed this program.

Both of these are so outstanding that they deserve recognition for their thorough planning, for their contribution to the elimination of juvenile delinquency, and for their "look ahead."

Mr. FRELINGHUYSEN. Mr. Chairman, I have no further requests for time.

Mrs. GREEN of Oregon. Mr. Chairman, I have no further requests for time and ask that the Clerk read the bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Juvenile Delinquency and Youth Offenses Control Act of 1961 is amended by striking out "two" and inserting in lieu thereof "four".

SEC. 2. The Juvenile Delinquency and Youth Offenses Control Act of 1961 is further amended by adding at the end thereof the following new sections:

"SPECIAL STUDY OF SCHOOL ATTENDANCE AND CHILD LABOR LAWS

"SEC. 8. The Secretary shall make a special study of the compulsory school attendance laws and of the laws and regulations affecting the employment of minors with a view to determining the effects of such laws and regulations on juvenile delinquency and youth offenses. The Secretary shall transmit an interim report on the results of such study to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate on or before June 30, 1965, and shall make a final report on the results of such study, together with recommendations for executive or legislative action, to the President and to the Congress as soon as practicable but in any event by January 31, 1966.

"NATIONAL JUVENILE DELINQUENCY DEMONSTRATION PROJECT

"SEC. 9. (a) The Secretary shall formulate and carry out a special project in the Washington metropolitan area for the purpose of demonstrating to the Nation the effectiveness of a large-scale, well-rounded program for the prevention and control of juvenile delinquency and youth offenses. In carrying out such project, the Secretary may utilize the services and facilities of public and private organizations and agencies engaged in combating juvenile delinquency and youth offenses. Such project shall include among other things the provision of guidance and counseling services to supplement (without any reduction in personnel) those provided by the public school system, and the establishment and operation of halfway houses. The project shall also be designed to demonstrate methods of increasing job opportunities available to young people who are, or are in danger of becoming, juvenile delinquents or youth offenders.

"(b) In addition to the sums authorized to be appropriated by section 6, the sum of $5,000,000 is authorized to be appropriated to carry out this section, to remain available until expended."

Mrs. GREEN of Oregon (during the reading of the bill). Mr. Chairman, I ask unanimous consent that the further reading of the bill be dispensed with and that it be open for amendment at any point.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

AMENDMENT OFFERED BY MR. BENNETT OF FLORIDA

Mr. BENNETT of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENNETT of Florida: Page 1, after line 2, insert the following: "That section 3(a) of the Juvenile Delinquency and Youth Offenses Control Act of 1961 is amended by inserting before the period at the end thereof the following: (, and including techniques for the establishment of high ethical and community responsibility standards'."

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. BENNETT of Florida. I yield to the gentlewoman.

Mrs. GREEN of Oregon. Mr. Chairman, the gentleman from Florida was kind enough to provide me in advance with a copy of his amendment. I have studied it very carefully and I want to commend him for offering it. I wish at this time to commend both the gentleman from Florida and the gentleman from Iowa for their longtime interest in problems of juvenile delinquency and for the personal contributions that they have made which I know are great contributions. So on this side of the aisle, Mr. Chairman, we have no objection to the amendment.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. BENNETT of Florida. I yield to the gentleman.

Mr. FRELINGHUYSEN. Mr. Chairman, I, too, have had an opportunity to read this amendment. Certainly, no one would suggest that we are not all interested in high ethical standards or in community responsibility. While it is not quite clear to me just what techniques we could develop to emphasize these fine aspirations, I have no objection to the amendment and I know of no objection to it on this side.

Mr. BENNETT of Florida. Mr. Chairman, I thank the distinguished gentlewoman from Oregon.

Mr. Chairman, today the House is considering a rather important piece of legislation that, in the terms of money, must be referred to as modest. The amount of money that the Federal Government is putting into the Juvenile Delinquency and Youth Offenses Control Act is certainly modest when the size of the problem is considered. The cost of juvenile delinquency has been estimated at $2.6 billion annually, and this legislation has cost approximately $19 million since the act was adopted in 1961. What has been accomplished by this legislation is well documented in the hearings on the bill. We have certainly made a timely effort to combat the increasing rate of juvenile delinquency in America, and we must do more in this field to cut into the 9-percent increase in crimes among those only 18 years of age which occurred between 1962 and 1963, according to the FBI.

Complicating the problem of controlling delinquency among young people, especially in the category between age 10 and age 17—which will increase from 25 to 33 million persons in this decade—are recent decisions by the Supreme Court outlawing Bible reading and prayers in public schools.

The Supreme Court's decisions in this field, now subject to a close scrutiny by the Congress, the churches, public officials, and the general public, have left a vacuum in the teaching of ethics and community responsibilities in our schools. There can be no argument that the atmosphere created by Bible reading and prayer in our schools had a good and moral impact on students in our elementary and secondary schools. As a result of the Court's decisions the country is faced with threatened degradation of the ethical and moral responsibilities which have been guiding principles for our Nation since its beginning.

The Supreme Court must be held partially responsible for the decline in support of those standards which lead away from juvenile delinquency. Woodrow Wilson said it with clarity:

> Our civilization cannot survive materially unless it be redeemed spiritually.

To fill the vacuum created by the Court, I believe it is necessary to teach ethical lessons in our schools. I have introduced legislation to accomplish this through lectures, textbooks, and other teaching methods in our public schools. My bill, H.R. 7767, would provide Federal assistance to States and their political subdivisions to assist them to carry out projects for the establishment of proper ethical and community responsibility standards. The principle expressed in this bill has received wide support from such organizations as the General Conference of the Methodist Church, Youth for Christ International, Camp Fire Girls, several trustees of the National Conference of Christians and Jews, the National Council of the Churches of Christ in the U.S.A., National Catholic Welfare Conference, the American Lutheran Church, Salvation Army, American Legion, and the American Council of Education. H.R. 7767 is now pending in the House Education and Labor Committee, and I have requested hearings to be held on the legislation.

It seems to me that the principles of this legislation should be incorporated in the legislation before the House today, to amend the Juvenile Delinquency and Youth Offenses Control Act of 1961. This act—Public Law 87-274—authorizes the Secretary of Health, Education, and Welfare to make grants and conduct studies dealing with the prevention of juvenile delinquency or youth offenses.

I believe this act is a proper and the most expedient avenue to accomplish the study of programs and projects which will lead to the teaching of moral and ethical responsibility standards for all of our youth. The subject matter for these classes and lessons could be drawn from studies and stories from the history of civilization; from such events in the world's history as the American Revolution or the adoption of the Declaration of Independence; from the biographies of great men and women, for example Christopher Columbus, Ben Franklin, or Joan of Arc; and from the history, background, and content of statutes and ordinances designed to prevent theft, murder, and other crimes and defaults of character.

This is a serious problem, for the youth of today will be the leaders of tomorrow, and I believe my amendment to this act will go a long way to developing a better climate in America in which to live and raise our families.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida.

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mrs. GREEN of Oregon: Page 1, strike out lines 3, 4, and 5, and insert in lieu thereof the following:
>
> "SEC. 2. Section 6 of the Juvenile Delinquency and Youth Offenses Control Act of 1961 is amended to read as follows:
>
> "'AUTHORIZATION OF APPROPRIATIONS
>
> "'SEC. 6. For the purpose of carrying out the programs provided for in the preceding sections of this Act during the period ending June 30, 1966, there is hereby authorized to be appropriated to the Secretary for the fiscal year ending June 30, 1962, and each of the three succeeding fiscal years, the sum of $10,000,000; and for the fiscal year ending June 30, 1966, only such sums may be appropriated as the Congress may hereafter authorize by law'.".

Mrs. GREEN of Oregon. Mr. Chairman, I will not impose further upon the time of the Members of the House. In my preliminary statement I explained the purpose of this amendment. This program will be extended for 2 years. For the next fiscal year there would be authorized $10 million, and for the following year such sums as the Congress may authorize to be appropriated.

I urge the adoption of the amendment.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I supported the bill when it came up 3 years ago. I was a member of the subcommittee. While I and others did not believe that it would solve the problems we have with respect to juvenile delinquency in the United States, we did hope it would accomplish a lot more than it has accomplished.

I believe it was clear at that time what we expected. We expected some demonstration projects, we expected that they would be evaluated and the information distributed, and that there would be some training of personnel. At no time was it expected by the committee, in respect to the bill brought out, that the money would be spent mostly on "planning."

And "planning" consists mostly of sending someone who, by attaching to his name the word "planner," becomes an expert, and then goes out to the local community to establish a superstructure over the welfare agencies to tell them what they have to do to solve the problems. He has all the answers. We were of the firm belief that no one had all the answers and expected the money to be spent finding answers. But "planning" is the way most of the money has been spent under this program.

The Commission had 3 years in which to spend the money and to operate without coming back to the Congress. They did not try very hard to cooperate with the committee to carry out the intent of Congress. They seemed to take the attitude that they had a blank check and would spend the money the way they wanted to rather than as directed by the legislation.

We have heard some examples here this afternoon of programs being carried out in New York. Some good things are being done in New York under a project started 3 or 4 years before this program ever came along but some of those expenditures are not what Congress expected either. I do not believe we intended that this money be used to acquire oil stations so that boys can be hired to work in them. Surely there are other ways to train people for jobs needed and surely vocational training could better be carried out as vocational programs have traditionally through on-the-job training with employers and as they are carried out under the Manpower and Development Act in New York and elsewhere. I support vocational training for these youths carried out in that manner.

I believe this is one of the worst administered commissions in the U.S. Government, and I measure my words carefully when I say that. I believe it is one of the worst administered commissions we have ever had in the U.S. Government, and I speak from the standpoint of carrying out the intent of the Congress and accomplishing the objectives set forth in the authorizing legislation.

I deplore the waste of money as much as anybody else, but that is not the most deplorable thing about the way it has been administered. The most deplorable thing is that we have lost most of the 3 years and this was valuable time needed to find some answers.

There was supposed to be cooperation between the Department of Health, Education, and Welfare, the Department of Labor, and the Attorney General's Office in the administering of the program and the three Cabinet officers were supposed to administer it, but, as a matter of fact, a young fellow by the name of Hackett has been placed in the Attorney General's office and is running the program. That is not in accordance with the structure set up under the bill, but that is what has happened.

I deplore the fact that most of this time has been lost and there is no way of knowing how many young men and women could have been helped with the money which has been wasted, if there had been better administration. There is no way to know how many local communities would have used information that could have been gathered from action demonstration projects had it been administered as contemplated.

Merely because they say they are going to change their ways in the future does not give me much hope either. For example, when we had the appropriation under consideration a year ago, they said they were not going to spend any more money for "planning," but 3 days after the appropriation bill passed the House they announced there was a new planning grant to Providence, R.I., for $137,000. Instead of spending that kind of money to start "planning," they were supposed to evaluate action programs that local people had planned and agreed upon. Everyone had assumed we were looking for answers rather than assuming that a reserve of planners were available to send to local areas to plan their programs.

I do not have much hope that they are going to want to change much in the future, so the only hope we have is to limit this authorization to 1 year so that they have to come back to the committee soon, so their actions will be scrutinized soon and thus cause them to be more apt to follow the intent of Congress.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. Yes. I yield to the gentleman from Illinois.

Mr. PUCINSKI. I would like to associate myself with the remarks of the gentleman. We served on this committee together. Certainly the Commission has not lived up to the expectations we all had for it when this legislation was originally passed, but would the gentleman feel the fact that we are now providing that they must come back every 12 months, which means in effect that they have to be back here next April to justify any further expenditures on this program, might eliminate some of the fears that the gentleman has mentioned?

Mr. SMITH of Iowa. I think it would be very helpful.

Mr. PUCINSKI. I am quite sure the Commission can meet our expectations with the amendment before us now. The only hope we have for this is to have a 1-year program and I therefore support the pending amendment.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. Yes. I yield to the gentleman.

Mr. NELSEN. Do I understand oil stations have been purchased?

Mr. SMITH of Iowa. In New York City they acquired them, as I understand it.

Mr. NELSEN. I wish the gentleman would enlarge on that.

Mr. SMITH of Iowa. It was for the training of boys on how to fill automobiles with gasoline, I understand. I do not pretend to be an expert on all phases of that project. I did visit New York and saw some good work being performed before this program was passed in 1961.

Although some parts of the project are good, I think some of the activities started since this act passed bear some watching, and if this is limited to 1 year, they will be more apt to avoid the questionable areas.

Mr. NELSEN. I thank the gentleman.

Mr. SMITH of Iowa. In closing, I urge the adoption of the pending amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mrs. GREEN of Oregon. Mr. Chairman, in regard to the comments made by the gentleman from Iowa, I have probably been as critical of some phases of this program as any Member of this House. Yet it does seem to me when we consider human needs and human rights, we always view with alarm if the appropriations expended do not live up to our full expectations. The other day in the newspaper I clipped this brief statement which said that "The Air Force said yesterday it has experienced about a dozen failures in operational training missions involving Atlas missiles since 1959." A dozen of them. I called up the Defense Department and found out that each of these cost approximately $2 million. So in this project alone we have $24 million which was spent supposedly on research in the hope that they would find better ways of defending this country. Twenty-four million dollars went down the drain.

Now, I am the first one to admit that some of the money spent on this program is probably not providing the answers that we hoped it would provide and it has not provided all of the solutions to juvenile delinquency. Heaven knows we probably never will reach the millennium where all juvenile delinquency is eliminated.

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. Yes. I yield to the gentleman from California.

Mr. MILLER of California. I think the gentlewoman's remarks and her simile are very good. Out of those 12 or more failures—and there were many more than 12—we have now an operational missile. We had to try before we got it. Maybe if we apply this reasoning here and spend a little money, we can perfect the technique that will help cure juvenile delinquency and help the people of this country, just as this other expenditure now helps our defense.

Mrs. GREEN of Oregon. I thank the gentleman from California very much. He is exactly right. Research in human problems—human relations is just as important as in science or defense needs.

I do not want to appear overly critical of the gentleman from Iowa because some of his remarks are pertinent, but this is exactly what we are doing today when we bring this legislation before you: We are saying, give us $15 million more to try to find some of the solutions and try to find some of the ways to help the disadvantaged youngsters that the gentleman from Iowa [Mr. Kyl] spoke about so eloquently. The answers to juvenile delinquency control are not going to be found easily—but through the leadership of professionally trained people in the Federal Government and through State programs and through the community and through individuals perhaps we can decrease the numbers of potential juvenile delinquents and make them productive members of our society. This is our goal.

Mr. STRATTON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise in support of the amendment, and I would also like to take this time to ask the gentlewoman who is in charge of the bill whether the intention of the program is to carry out the original commitment of the act, which was to see that at least a portion of these funds were channeled into smaller communities and into rural communities.

I have the honor, for example, to represent a district which has no city larger than 30,000. I have been a little bit disturbed looking through the report to see that the grants all seem to be going to the larger cities. There was one which came up into our area in upstate New York the other day, and in fact the Attorney General himself personally delivered it, in the amount of $750,000. This is a fine thing and I am glad to see this help is coming into some of the smaller cities in New York State, but I wonder if perhaps we can also expect to get some going into even smaller cities of 30,000 and 20,000 or less where a similar need might also exist.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentlewoman.

Mrs. GREEN of Oregon. In response to the gentleman, I will say, with reference to the question raised by the gentleman from New York, that yesterday I did talk to the Director of the program and if I may reread part of the statement which I presented earlier, Mr. Bernie Russell, who is the Director, said this:

> We plan in fiscal year 1965 to maintain not more than eight and possibly less of the comprehensive projects that we have started. In addition we plan to spend $1.8 million for a number of limited demonstration projects focusing directly on delinquency in communities other than the present project cities.

So I think the answer to the question is "Yes," that there would be a chance for the community which the gentleman represents to make application for such funds.

Mr. STRATTON. Mr. Chairman, I thank the gentlewoman for that information. I do think that there is a real need for this program in smaller areas. I hope all of the funds will not be channeled into just a few of the larger cities of the country.

Mr. LINDSAY. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. LINDSAY. Did I hear correctly the gentleman to say that the Attorney General himself brought the money there? Was he referring to the Attorney General of the United States or the Attorney General of New York State?

Mr. STRATTON. The Attorney General of the United States delivered the announcement of the grant to Syracuse. I do not suggest that he carried the funds in his own hip pocket.

Mr. LINDSAY. He did not get a receipt for it?

Mr. STRATTON. All I know, I can say to the gentleman, is what I read in the newspapers. The newspapers carried the report that the Attorney General had announced the news of the award of $750,000 to Syracuse during a recent visit there.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield.

Mr. GROSS. Was that money for planning or study of the problem?

Mr. STRATTON. I am not sure; the Attorney General did not consult with me before he made the announcement, I will say to the gentleman.

Mr. GROSS. If it went to Syracuse very likely it went for more planning or more spending.

Mr. STRATTON. I might say that Syracuse is a city under the control of the gentleman's own party, so I am not the best person to ask about the background of the particular project.

Mr. GROSS. Does the gentleman mean that the gentleman from Iowa has something politically to do with Syracuse, N.Y.?

Mr. STRATTON. The gentleman happens to be of the same party which is in charge of the administration in the city of Syracuse which I might say to the gentleman, is not in my congressional district. Mine is limited to cities of 30,000 or less, but the people of Syracuse seemed mighty pleased to get this Federal help.

Mr. FOGARTY. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I still would like to commend the gentlewoman from Oregon for bringing this bill to the floor today.

In her usual diligent manner, the gentlewoman from Oregon [Mrs. GREEN] has worked on this legislation month after month until she was able to bring to the floor a bill which she felt would do the job that needs to be done. A bill that would broaden the effectiveness of the war on delinquency. By her efforts, the gentlewoman from Oregon [Mrs. GREEN] has earned the gratitude of all who hold a genuine interest in combating juvenile delinquency. And most certainly she must occupy a high place in the esteem of parents throughout the country for whom she has done so much.

I think she has done a wonderful job in the past 3 years in bringing the attention of this problem to the Congress and to the people of our country.

I should also like to reiterate what I said about the speech made by the gentleman from Iowa [Mr. KYL] on juvenile delinquency. It is one of the finest that I have heard on this subject in a long while.

Mr. Chairman, I should like to disagree wholeheartedly with my friend from Iowa [Mr. SMITH] on the administration of this program. I do not agree with anything he said when he was in the well. I believe that the program has been fairly well administered. I do not agree with him at all that we should not have spent so much money on planning. The only responsible way of running such a program is to spend money on planning first, to try to plan the job and do it right. If we had not spent money on planning there is a possibility that all of the $20 million might have gone down the drain. But because they had sense enough to spend the money on planning, the money that they did spend, we have some good projects going now. And for the gentleman's information the one in Providence, R.I., in my opinion, will be as good as or better than any other in the country in the next year or two.

The following fact sheet and progress report, Mr. Chairman, gives some indication of the ambitious goal of the Providence project.

Fact sheet: Providence, R.I.

Grants:	
Providence Youth Progress Board, Inc., from Apr. 16, 1963, through Aug. 15, 1964	$137,024
Providence Youth Progress Board, Inc., from Aug. 16, 1964, through Dec. 31, 1964	72,000
Final proposal expected in October 1964	209,024

PROGRESS REPORT

A good deal of data has been gathered about youth in Providence, including a number of neighborhood studies. Based on these studies, programs are in preparation in the following areas:

CORRECTIONS

(a) A police referral unit has been formed.

(b) An aftercare (parole) unit is being cooperatively established.

(c) A coordinated program with the juvenile court is being developed.

(d) A neighborhood research unit will provide for coordination among agencies and referral of delinquent youth to established community services.

YOUTH EMPLOYMENT

(a) A community service corps will prepare youth for job placement.

(b) Training in reading and writing skills for illiterate youth will be offered.

(c) Job training of various kinds consistent with employment needs will be available.

(d) Work tryout programs for youth who are not ready for the job market will be established.

(e) An intensive employer education program to increase opportunities for young workers will be undertaken.

EDUCATION

(a) Supportive tutoring for potential dropouts.

(b) Special programs to get dropouts to return to school.

(c) Special school programs for returned school dropouts.

(d) Special institutes for teachers to implement new programs.

As far as the matter of training gasoline station attendants is concerned, I only wish he would take a look at some of the vocational education programs that have been sponsored and supported in the past. They have been training gasoline station attendants in this country under the vocational education programs for I do not know how many years. This is one of the most popular programs in the country today, training gasoline station attendants in the small rural areas, such as those in the State of Iowa and other areas under the vocational education program administered by the Department of HEW.

So, Mr. Chairman, I do not like to laugh off some of these things, make little of them, or make light of them. In my opinion the gentleman from Iowa does not know Mr. Hackett nor does he know what he has been doing. I do know him and I have the utmost respect for him as a man and as an able administrator. He was brought in here by former President Kennedy to try to do a job in this area. I believe that to date he has done a real good job and given the tools provided in the legislation now before us he will do an even better job in the future.

For Dave Hackett is one of those people that this country seems blessed to develop—the right person at the right time to handle the crisis of the moment. I hesitate to use the word dedicated but I can think of no other word to adequately describe Dave Hackett's approach to the area of juvenile delinquency. This country is fortunate, Mr. Chairman, to have such a man available and willing to devote his talents to its better welfare. For myself, I am proud to know him and to know of his fine, effective work. As far as I am concerned, Mr. Hackett is one of the finest Americans I have ever met in my life.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Oregon.

The amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. GALLAGHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9876) to amend the Juvenile Delinquency and Youth Offenses Control Act of 1961 by extending its provisions for 2 additional years and providing for a special project and study, pursuant to House Resolution 744, he reported the bill back to the House for sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mrs. GREEN of Oregon. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

RESIGNATION FROM COMMITTEE

The SPEAKER. The Chair lays before the House the following communication:

The Clerk read as follows:

MAY 27, 1964.

The Honorable JOHN W. MCCORMACK,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I hereby tender my resignation as a member of the House Committee on Rules.

Respectfully yours,
ELMER J. HOFFMAN,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

ELECTION TO COMMITTEE

Mr. HALLECK. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 786

Resolved, That JOHN B. ANDERSON, of Illinois, be, and he is hereby, elected a member of the standing Committee of the House of Representatives on Rules.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LOTTERIES IN LATIN AMERICA GROSS OVER $375 MILLION

Mr. FINO. Mr Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include a table.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FINO. Mr. Speaker, while we in the United States stubbornly refuse to capitalize on the people's urge to gamble, most of the civilized countries throughout the world recognize and accept the wisdom and advantages of a government-run lottery.

Throughout the globe, 81 foreign nations utilize a government-operated lottery not only as a compromise with their gambling problems but as a revenue-raising device as well.

Today, I would like to bring to the attention of the Members of Congress, the tremendous success of the Latin American lotteries. All of these countries have found that lotteries not only yield high revenues but also help eliminate underworld problems.

Mr. Speaker, I am happy to list 21 countries in Latin America which accept that gambling is a fact of life and channel these gambling funds to work for the public good rather than against it.

In 1963, the 21 countries listed below took in gross receipts of over $378 million from its government-run lotteries. The net income to the governments of these countries came to over $100 million which was used for public and medical programs, hospitals, schools, housing, welfare, culture, science, and other worthwhile projects.

Mr. Speaker, is it not time that we started to demonstrate similar wisdom and courage in this country? A national lottery in the United States would easily and painlessly raise $10 billion a year in additional revenue. What are we waiting for?

Country	Gross receipts	Net income	Purpose used
1. Argentina	$35,325,546	$16,105,863	Public works and medical programs.
2. Bolivia	789,355	347,146	Red Cross, public health, and welfare programs.
3. Brazil	33,032,258	16,832,519	Public service projects, schools, hospitals, and housing.
4. Chile	13,000,000	2,099,999	Colleges, public health, and hospitals.
5. Colombia	38,050,000	15,304,556	Homes for the poor and aged, and charity.
6. Costa Rica	9,546,819	2,071,112	Hospitals and mental institutions.
7. Dominican Republic	12,258,000	2,589,887	Social betterment and public works.
8. Ecuador	3,500,000	1,143,100	Social assistance hospitals.
9. El Salvador	7,992,400	1,040,000	Welfare services.
10. Guatemala	2,553,060	313,874	National theater, arts, and culture.
11. Haiti	2,688,000	841,178	Education, social welfare, and assistance.
12. Honduras	18,395,435	2,192,319	Schools, hospitals, and health centers.
13. Jamaica	658,000	138,880	Hospitals.
14. Mexico	60,000,000	11,200,000	Health and welfare.
15. Nicaragua	4,710,000	775,721	Hospitals and social programs.
16. Panama	44,889,290	7,201,873	Hospitals and public assistance.
17. Paraguay	1,103,175	182,539	Child care and public health.
18. Peru	2,685,000	526,400	Hospitals and medical care.
19. Puerto Rico	54,000,000	10,636,540	Public improvements.
20. Uruguay	13,970,904	3,645,000	General purposes.
21. Venezuela	19,575,750	5,692,439	Social welfare.
Total	378,723,992	100,880,945	

ATLANTIC STEPPINGSTONES TO AMERICA

The SPEAKER. Under previous order of the House the gentleman from Maryland [Mr. MATHIAS] is recognized for 30 minutes.

Mr. MATHIAS. Mr. Speaker, there are four islands or island groups in the Atlantic that are of vital importance to the American people. And curiously enough, when we consider recorded history these four islands have always been absolutely vital to mainland North America. They are Iceland, Newfoundland, the Azores, and Bermuda.

Let us think a little about history before we bring this case down to the present time. Iceland is an ancient nation. I had the privilege not long ago of visiting the Parliament of Iceland, the Althing—the oldest legislative body in the world—founded in the year 930 and in existence ever since that date. And it was in the Iceland of that early era when the Althing was being founded that the Vikings began their voyages of exploration. If Europeans—Scandinavians—had not been able to come to Iceland first, I think it is questionable whether they would ever have got to the mainland of North America as our historians and archeologists agree today that they did. And so Iceland for a thousand years has been a steppingstone across the Atlantic.

Shifting south we find the Azores. Those who have read the fascinating book by Adm. Samuel Elliot Morrison entitled "Admiral of the Ocean Fleet," have virtually made Columbus' voyage with him because this is what Admiral Morrison did. On a small sailing ship he recreated as nearly as possible the first Columbian voyage of exploration. Columbus required a steppingstone or, if you will, call it an advance base, in which to carry on his voyage of exploration from Spain to the New World. The Azores provided that advance base for Columbus. It was a steppingstone to North America.

Newfoundland was an early object of tremendous interest to the people who colonized this country. Those of us from Maryland will recall that Lord Baltimore did not begin his efforts to found an American settlement in Maryland. The first colony was founded by the Calvert family in Newfoundland. The initial experience of many settlers with North America was gained in the Calvert Colony at "Avalon" in Newfoundland until the climate and the conditions there finally drove Lord Baltimore to seek a more salubrious climate on the banks of the Potomac River.

Bermuda, "the wild Bermuthes," the Somers Isles about which Shakespeare wrote—was a very important steppingstone for the members of the Virginia Company who founded Jamestown, the first permanent English colony in the New World, and who constantly had occasion to trade back and forth between the Virginia coast and the island of Bermuda.

No event that I have mentioned happened less than 300 years ago. But each place I have mentioned is a very current topic of interest. It is current because of the nature of the threats to America today and the response that we as a nation can make to those threats.

There is an evaluation that there still exists a manned-bomber threat for attack on the United States. If there were to be a manned bomber attack on the United States coming from, let us say the Soviet Union, the chances are that it would come in a route over or near Iceland and down past Newfoundland.

There is a constant necessity for the United States to have the ability to send large numbers of troops or equipment or both by air and sea to any part of the world. Our failure to have the freedom to do this will limit the kind of policies we can pursue—and, of course, this is a function of the Military Air Transport Service—MATS. These islands in the Atlantic, all four of them, Iceland, Newfoundland, the Azores, and Bermuda are vital to the operation of MATS.

There is the growing threat to America from under the surface of the sea. The Russians today command a submarine fleet thought to be somewhere between 400 and 600 operational submarines of various sizes, but conservatively estimated to be 10 times the size of the submarine fleet with which Hitler started World War II. The Red Chinese in Peiping command a submarine fleet which is approaching the status of the third most powerful submarine fleet in existence today. We must consider that the submarine threat is a major factor in planning our defense.

Submarines, as men who fought in World War II can well remember, were a threat to shipping. They were a threat to the sealanes of the world. But today submarines have moved into an entirely different category. They still threaten shipping, they still threaten our ability to move on the oceans of the world, but even more, submarines are the most effective, covert agent for delivering highly effective, highly damaging missiles, atomic or conventional, to points within a broad band from either of our coastlines. This submarine threat is a very difficult problem on which the Navy is making great strides, but it has not yet been conquered.

Our ability to cope with the submarine problem depends to a great degree upon our continued use of these four vital steppingstones in the Atlantic—Iceland, Newfoundland, the Azores, and Bermuda. This is so because time and distance are tremendous factors in the Atlantic. With the latest kind of Navy patrol aircraft, the P3V, which is similar in some respects to the Lockheed Electra used on the airlines, based in the Azores and in Bermuda, we can have an intensive aerial search underway in any area of suspicion. We can bring this flying platform which carries with it the equipment that listens and searches for the submarines, to any given area in the Atlantic Ocean within 3 hours and we can keep it there for several hours. But if we should lose Bermuda as a base, or even more possible, if we should lose the Azores as a base, we would find that instead of taking 3 hours to reach the mid-Atlantic it would be 5 hours. Our ability to stay there and conduct the search and a satisfactory surveillance would be reduced from several hours to insufficient time and our ability to conduct any kind of antisubmarine warfare in the Atlantic would be severely hampered if not almost totally denegated. This applies, of course, not only to aircraft, it also applies to surface vessels. We are able to keep some destroyers particularly equipped for antisubmarine warfare in Bermuda. They get "on station" at some reasonable distance from Bermuda in a matter of hours, but if they have to come from Norfolk or Charleston, it will be days. Atomic submarines which proceed at greater speeds than ever before, at greater depth than ever before, more silently than ever before, will have long since departed from the areas of suspicion before our forces can be brought to bear.

What has been the policy of our Government toward these vital steppingstones in the Atlantic Ocean? Iceland has been a problem. The Icelandic people are a proud people. They should be a proud people, they have great traditions. They underwent hardship during World War II. Our relationship with them has not been uniformly harmonious. But today they are our partners in NATO—they are supplying us with the real estate on which to operate a vital base as a contribution to NATO. I want to express my great admiration for the officers and men of our uniformed services in Iceland, who on a people-to-people basis have done so much to improve our relationship with the Republic of Iceland. But I cannot say that we here in Washington have been entirely cooperative in this effort. What has been done by our soldiers and sailors and airmen in Iceland on a people-to-people basis has been undone to some degree by irritations on a government-to-government level as a result of decisions made here. I give you one example—we have been selling Iceland food under Public Law 480, title I. This permits payment in soft currency and we have some use for Icelandic currency—it is not a drug on the market for us because we have large military expenditures there. Without adequate notice, our Government suspended the existing arrangements by which we sold foodstuffs to the Icelanders in soft currency and demanded dollars for all of it. For the current year they finally worked out a compromise. This year they worked out a system by which we sell them $960,000 in soft currency and $1,200,000 in hard currency. This is a lot of money to any one of us as individuals but think of what this means to the security of the United States. Iceland is not asking us to give them the foodstuff—they are willing to pay for it—but overnight we tell them to change the method of doing business. This is not the way to make friends or to keep friends, and I think the people who make that kind of a decision ought to realize that Iceland is essential to the maintenance of the GI-UK barrier—that extension of the distant early warning line by which we have airplanes aloft almost 100 percent of the time over Greenland and Iceland and in a line over to the United Kingdom in all kinds of weather, to be sure that nothing crosses over in our direction with a payload on it.

And then there is Portugal. The Azores are today administratively an integral part of the Portuguese Republic. We do not have time now to go into all the questions that deal with our relationship with Portugal. There are perhaps some issues on which we cannot and should not agree with Portugal, but friends can disagree harmoniously, friends can disagree with courtesy toward each other and with respect for each other's feelings. I am not sure that we have always extended this kind of courtesy to Portugal. The people who make these decisions ought to consult with our military and naval authorities and get their assessment of the importance to the United States of the ability to use the Portuguese airbase at Lajes on the island of Terceira, Azores, in conjunction with the Portuguese airport because this is vital both to the Military Air Transport Service and to our antisubmarine warfare services.

Bermuda—happily in Bermuda we have a very pleasant relationship with the Government of Bermuda—with the people of Bermuda. I cannot be, however, entirely cheerful about the situation in Bermuda from the point of view of our own troops down there. We have, of course, the balance-of-payments problem. I think the cure for the balance-of-payments problem may be right here in Washington and not somewhere else. We need more fiscal control over what we are doing here. The servicemen in Bermuda were told "Send your wives and children back to the United States because we want to save the rent you are paying on your houses that you have in Bermuda." We have separated those families. These boys are sitting around the airbase and the naval station and they look over and see the big luxury hotels tenanted almost exclusively by Americans spending money like it was going out of style; throwing dollars around on a foreign market without any regard for the balance-of-payments problem whatever. It is difficult to explain, as I tried to explain to a young sailor, why he cannot have his wife there because he wanted to pay $60 or $70 a month to a Bermuda family for a couple of rooms in their house or for a small apartment. This balance-of-payments problem demands strong measures, but commonsense has always got to be an ingredient with the policies of Government.

Newfoundland is a bright spot in our present picture. We not only have achieved a government-to-government rapport with the Canadians but we have got a service-to-service cooperation and that is even extended down to a command-to-command ability to coordinate activities. This is a very desirable thing and I hope will long continue.

It is important to remember that in the Atlantic Ocean there are four islands. These islands do not belong to the United States but they are vital to our security. In forming the total policy of this country, in laying down the broad outlines on which we must conduct our affairs, those who make the decisions should remember that we need these islands and we need the good will of the people who live in them and to whom they belong.

COUNCIL OF FEDERATED ORGANIZATIONS CIVIL RIGHTS ACTION PROGRAM IN THE STATE OF MISSISSIPPI

The SPEAKER. Under previous order of the House the gentleman from New York [Mr. RYAN] is recognized for 60 minutes.

Mr. RYAN of New York. Mr. Speaker, this summer the Council of Federated Organizations is undertaking a civil rights action program in the State of Mississippi. COFO, a coalition comprised of the Congress on Racial Equality, Student Nonviolent Coordinating Committee, National Association for the Advancement of Colored People, and Southern Christian Leadership Conference, plans to launch a massive education, community improvement and voter registration drive. The objectives of this program are to raise the social and economic standards of thousands of underprivileged white and Negro citizens of Mississippi and to enfranchise many of those who have been denied the right to vote. COFO is being joined in this effort by students, lawyers, teachers, clergymen, and others who are volunteering their time and talents this summer. These volunteers, who are expected to number over a thousand, are pledged to a peaceful and nonviolent course of action.

Instead of welcoming these dedicated men and women into the State, Mississippi plans to meet the volunteers with massive resistance. The local press has been stirring up public resentment against the volunteers, referring to them in headlines as "invaders and agitators." The State legislature has passed a series of restrictive laws which infringe upon the rights of peaceful assembly and free speech. There are new statutes intended to harrass the schools and community centers which COFO plans to establish.

There has been much publicity given to the beefing up of already disproportionately large State and municipal police forces, and the purchase of weapons and elaborate equipment, including gas masks, shotguns, police dogs, and a vehicle closely resembling a military tank.

Mr. Speaker, the courage and dedication of the volunteers is reflected in the letters which I have received from a number of my constituents who are either going themselves, or whose children and relatives have volunteered.

On June 11, 1964, one of my constituents wrote me:

> I want you to know that I shall go to Mississippi as a volunteer for the COFO freedom summer project * * *. Due to my being white, female, and 54 years old, my assignment will be to the Jackson Community Center where I shall give instruction in folk dancing, the most peaceful undertaking possible.
>
> Yet, as we all know, Mississippi is ready for war against any type of educational effort by "outsiders" in the Negro community, so, unless we receive support, moral, legislative, and legal from the Senate, Congress, and the Justice Department, anything might and probably will happen.

Only yesterday I received a letter from the mother of one of my constituents who is going to Mississippi this summer. She wrote:

> Our oldest son is Mississippi bound. If he were going to war to protect our country from a common enemy, I would not be distraught but would pray for our country and my son. But he is not going to war; he is going to Mississippi to help register citizens so that they can exercise their right to vote.
>
> He is facing equal physical danger—but within our country. This is not a civil war, but these students and teachers face brutality and humiliation for wanting to spread the ideals and prerogatives of our Constitution to some more of our citizens.
>
> These young men and women are not radicals; they want to conserve the constitutional right to vote. They are not disenchanted with their Government, they want to strengthen it at home. These people are not irresponsible: they are our future teachers and leaders; they are dedicated to preserving the ideals of the American way of life—a Government based on laws by which all citizens are bound.
>
> It is vital to the self-respect of our Government that steps be taken to assure that our national laws are upheld in Mississippi, that these devoted Americans are protected from physical injury while pursuing a constitutional objective.

Mr. Speaker, how can anyone quarrel with these objectives? And how can anyone disregard the danger? I am sure that many of my colleagues in the House share my concern and are concerned about the safety of their constituents who will be following the call of their consciences into Mississippi.

In order to alert the Nation to the flagrant denial of constitutional rights and the overt terror and violence in Mississippi, COFO held on June 8, 1964, an all-day session of hearings before a panel of distinguished Americans: Dr. Harold Taylor, former president of Sarah Lawrence College and now with the Eleanor Roosevelt Foundation, who presided; Paul Goodman, author and educator; Joseph Heller, novelist; Murray Kempton, journalist; Justice Justine Wise Polier, New York City domestic relations court; Noel Day, Boston Freedom Workers; Gresham Sykes, president of the American Sociological Association; and Robert Coles, research psychiatrist, Harvard University Health Services.

I attended the hearing, testified, and heard the moving testimony which spelled out a shocking story of violence and brutality which should make us realize that the United States has not fulfilled its obligations to our Negro citizens.

The blatant and brutal denial of human rights is caused not only by private citizens but by the police, the police of the State of Mississippi, under color of law.

From the testimony it is clear that Negro citizens of Mississippi and the civil rights volunteers, who will be working in Mississippi, will be subject to serious and great danger this summer. Their constitutional rights are not being protected, and will not be, unless action is taken. It is clear that there is a breakdown of law and order. As Members of Congress, we must alert the country and the Department of Justice.

I have participated with other Members of Congress in sending a letter to the Attorney General asking that the Justice Department dispatch Federal marshals to protect those who will be working this summer in this volunteer effort.

Mr. Speaker, I ask unanimous consent to include at this point in the RECORD portions of the testimony which was given on June 8 at the hearing to which I have previously referred. I hope that this testimony will be read by all of the Members of the House and that other Members will join with us who have already expressed our concern to the Attorney General and ask that U.S. marshals be sent to Mississippi this summer to protect the constitutional rights of our citizens.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The matter referred to follows:

HEARING BEFORE A SELECT PANEL ON MISSISSIPPI AND CIVIL RIGHTS AT THE NATIONAL THEATER, E STREET, AT PENNSYLVANIA AVENUE NW., WASHINGTON, D.C. MONDAY, JUNE 8, 1964

Met, pursuant to notice, at 10:15 a.m.

Panelists: Dr. Harold Taylor, of the Eleanor Roosevelt Foundation, presiding; Paul Goodman, author and educator; Joseph Heller, novelist; Murray Kempton, journalist; Judge Justine Polier, Domestic Relations Court, New York City; Noel Day, Boston Freedom Workers; Dr. Gresham Sykes of the American Sociological Association; and Dr. Robert Coles, research psychiatrist, Harvard University Health Services.

Also present: Robert Moses, program director, COFO, and Monroe Freedman, general counsel.

PROCEEDINGS

Mr. MOSES. My name is Robert Moses. I was with the Student Nonviolent Coordinating Committee. I am with the Council of Federated Organizations of Mississippi. I have been asked to say just a few words to you.

The purpose of the meeting is to try to open to the country and the world some of the facts which we who work in Mississippi know only too well. They deal with some of the things which have happened to Negroes across the years and which, for one reason or another, have not been publicly aired and it is very difficult to get across to the country.

We have with us a panel of people who have agreed to spend the day hearing this testimony. Introducing them, to your left is Mr. Gresham Sykes, executive officer of the American Sociological Society; Justine Wise Polier, judge of the Domestic Relations Court of New York City; Dr. Harold Taylor, former president of Sarah Lawrence College, now with the Eleanor Roosevelt Foundation; Paul Goodman, author, social critic, and teacher; Dr. Robert Coles, who is a psychiatrist and has done extensive work investigating problems of children, desegregating schools in the South and migrant workers; Murray Kempton, journalist; Noel Day of the Boston Freedom Workers; Joseph Heller, author. Mr. Monroe Freedman of Georgetown Law School is general counsel of the panel. Dr. Taylor has agreed to serve as chairman.

Chairman Taylor. As chairman, I will ask, Mr. Freedman, will you proceed to call the witnesses?

Mr. Freedman. I think to keep the record straight, I should say I am Monroe Freedman from George Washington University Law School.

Is Mr. Lawrence Guyot here, please?

TESTIMONY OF LAWRENCE THOMAS GUYOT, JR.

(Having been first duly sworn by Mr. Freedman.)

Mr. Freedman. Mr. Witness, would you state your name, please?

Mr. Guyot. My name is Lawrence Thomas Guyot, Jr. I am a resident of Hattiesburg, Miss.

Mr. Freedman. Mr. Guyot, what do you do professionally?

Mr. Guyot. I work with the Student Nonviolent Coordinating Committee. I also work with the Council of Federated Organizations.

Mr. Freedman. Mr. Guyot, do you have any particular statement you want to make in connection with that work?

Mr. Guyot. I think I am quite concerned with the lack of involvement as far as local officials are concerned on not only the protection of people who attempt to organize around the focuses of civil liberties and civil rights, but it is a question that any attempt at organization in Mississippi will be met with the same resistance.

* * * * *

Mr. Freedman. Mr. Guyot, continue, please.

Mr. Guyot. I am concerned specifically about one incident that occurred when four people who were organized around voter registration in Hattiesburg attempted to travel from Hattiesburg to Jackson. We were stopped in Magee, Miss., by the State highway patrol, at which time we were informed by the officer that a call had been given to them in regard to the passengers in the car. In the car was one organizer, Marie McGothrie who was from New York, working on voter registration in Mississippi. We were then taken to the jail. All of us were held for investigation. The only person who was retained in the jail was the driver on a traffic violation.

We then asked, in view of the fact that we were aware of the history of the activities of oppression in Magee, if we could remain in the police station until someone from Jackson came to pay the traffic fine, at which time we could all leave. We were informed in view of the fact that it was unnecessary for us to worry about our safety, that it was necessary for us to leave the jail immediately. We were then thrown out of the waiting room of the jail, at which time it was then a question, the police turned out the lights, left the jail. We were then approached by 8 or 10 people with chains and guns. Then it was up to us to make a decision whether or not we should drive illegally or whether we should remain in an attempt to in some way go along with this endeavor. We felt that it was necessary to leave, at which time we left.

We, I think, traveled one block. We were then stopped by two cars of policemen and another car of State highway patrolmen, the same people who had arrested us. We then informed them that we had called the FBI. At which time the entire reaction of the highway patrol was changed, and they escorted us from Magee to Mendenhall and then gave us protection, only after we had informed them that someone in Jackson had called the FBI, and they knew about our presence.

We were approached by one of the local members of Governor Johnson's committee, who at that moment informed the police that there was a water hydrant that had been broken in the area and that the police should give their attention to this, and they could handle the rest of the problem.

This was one of the many instances that in and of itself was one of the many patterns that we have been constantly forced to address ourselves to.

I think Mrs. Hamer is here. I am sure she can testify to the June 9 beating of five people in the Winona jail by members of both the local police department and the State highway patrol. The Justice Department thought it necessary to file a suit which, in and of itself, I thought, gave an adequate attempt to bringing about the facts. However, Judge Clayton, a Federal district judge, felt that while the evidence was acceptable, he felt that it did not in and of itself establish the fact that these policemen had actually beaten us, that perhaps the prisoners had.

* * * * *

Mr. Freedman. Mr. Guyot, you referred to voter registration. At the beginning of your statement, it appeared to relate to police brutality. Do you think you will be able to make substantial or adequate progress in voter registration if police brutality continues in Mississippi?

Mr. Guyot. It is a question of in order to register to vote, an individual must apply in the local courthouse. There are 82 counties in Mississippi. There is one courthouse. This means you expect Negroes who all of their lives have been oppressed physically and psychologically by the police, who in fact represent the epitome of oppression, with this type of thing in mind and with—also, I think it is a question that the police have stated across the State that they are prepared for the summer. They have increased—Jackson has spent a million and a quarter dollars on enforcing, both in the form of shotguns and special tanks, et cetera. It is really a question, and I am not purposely evading your question—I think we have to take all of this into consideration. We also have to take into consideration the inactivity of the Federal Government and the rest of the United States in really addressing itself to the problem of Mississippi.

Mr. Freedman. To your knowledge, Mr. Guyot, how many voter registration cases have been brought by the Justice Department in Mississippi?

Mr. Guyot. To my knowledge, I am specifically concerned with two, the Pinola case and the Forrest County case.

Mr. Freedman. Do you notice what progress has been made in those cases?

Mr. Guyot. The Forrest County suit which was filed against Theron C. Lynd, who is the registrar of that county, was first filed in 1961. It was heard in September 1962, and it was finally ruled on in August of 1963, at which time, I would like to enter this picture as evidence. If you will note in the sign here, it says that applications for registration must be completely filled out without any assistance or suggestions of any person. The court order specifically stated that the registrar was to point out errors or omissions in order that the applicant would have an adequate attempt at completing the form. The sign—this picture shows a sign stating to the contrary in the office of the registrar. That is but one of the many types of, shall we say, inadequacies of court orders that exist. I think it is really going to take a question of more court orders which are very positive and which in fact eliminate the need for the registration of the written application, which is composed of 22 questions, one of which demands that the applicant interpret to the satisfaction of the registrar any one of the 286 sections of the Mississippi State constitution.

Mr. Freedman. Mr. Guyot, referring to the picture which you have submitted, have you personally seen this sign depicted here?

Mr. Guyot. I not only have seen that sign, I have attempted to register in that office. I have also been given a card which states "You are not registered; the registrar is not permitted to point out errors or omissions. You are to return in 33 days. Your name will be published in the paper 2 consecutive weeks."

Chairman Taylor. Excuse me, could you read the sign? Some of us didn't see it.

Mr. Freedman. Yes, the sign is a large notice. What are the dimensions of the sign?

Mr. Guyot. I don't know.

Mr. Freedman. It would appear, in relation to the people standing next to it, Mr. Chairman, that the sign is approximately two and a half feet by three. It is hanging over the registration desk and states "Applications for registration must be completely filled out without any assistance or suggestions of any person or memorandum.

"After 10 days applicants names and addresses are published for 2 consecutive weeks in the newspaper. They cannot be ruled on until 14 days after the second publication. Therefore it can take as long as 33 days before we can give you an answer as to your application being accepted or rejected.

"Your indulgence is appreciated. The Registrar."

We will accept this and mark it exhibit A and I will pass it to the members of the panel.

(The document referred to was marked "Exhibit A" for identification.)

Mr. Freedman. Mr. Guyot, as the result of the two voting cases that have been brought in Mississippi, do you know how many, if any, people have been successfully registered?

Mr. Guyot. On January 22 of this year, with the assistance of the Presbyterian Commission on Religion and Race and other organizations of this type, we initiated demonstrations around voting in Forrest County. Since that time, a thousand people have attempted to—Negroes have attempted to register. Of this number, 150 have successfully completed the test. In some instances, we know of cases where people have applied, have attempted to fill out this test, for sometimes four to six times. All of this is really a thing—our immediate concern is how do we bring the gap between getting a suit filed and getting it actually implemented as far as this specific case is concerned? The court order in and of itself is fine. But there is no way—in fact, it has been more disregarded than it has been adhered to, both by registrar and by the police.

Mr. Freedman. Is there any relationship between police brutality and failure to register, or could a failure to register on a part of a substantial number of Negroes be attributed simply to apathy on their part?

Mr. Guyot. Well, I think in view of the case that the name of the applicant will be published in the local newspaper for 2 weeks and it is then a question that there is no secrecy involved in registration—you must report to the circuit clerk—that apathy as such does not exist. It is an immediate and practical concern for physical safety. It is also a concern for economic reprisals in the form not only of losing a job, but if you are in business, making sure there is not a freezeout as far as your products are concerned.

Apathy, to my knowledge, in Mississippi as far as voting is concerned, does not exist. It is a question really of attempting to implement the so-called existing laws.

Mr. Freedman. Mr. Guyot, do you have any personal knowledge of any action brought by the U.S. Department of Justice with respect to official violence against Negroes because they are Negroes, or because of their activities in achieving civil rights? Do you know of any prosecutions by the Justice Department to protect people in such a position?

Mr. Guyot. I know of one attempt—well, I know of two attempts. When a voter registration drive was initiated in Greenwood, Miss., which is in the Delta, eight people were arrested, at which time the Justice Department asked for a temporary restraining order to halt the arrest of people who were demonstrating around voter registration. This was—I think what finally evolved out of this was a deal or an agreement between the Justice Department and the State officials in that the people would be released if the Justice Department did not ask for the temporary restraining order. The Justice Department did not ask for the temporary restraining order, the people were released.

The only other thing I can think of in relation is in fact an attempt at prosecuting the members of the State highway patrol and the sheriff and deputy sheriff of Winona and the beating of the five people. To my knowledge, that is all.

Mr. Freedman. What happened in this case? There was actually prosecution?

Mr. Guyot. There was an attempt at prosecution. There was no conviction. There was no prosecution.

Mr. Freedman. Was the case tried?

Mr. Guyot. Yes, it was tried by a circuit court, Judge Clayton—a Federal District judge, I am sorry.

Mr. Freedman. You have another picture here. Would you explain this to us, please?

Mr. Guyot. This is a picture of the auxiliary force of the Police Department of Hattiesburg, Miss., as they marched to the courthouse. The Forrest County courthouse would be located to the left. This was on the morning of January 22, immediately after the picket line has established itself in front of the courthouse.

Mr. Freedman. Were you present when this picture was taken?

Mr. Guyot. I was present; at the time we were picketing.

Mr. Freedman. Mr. Chairman, I am going to mark this "B" and pass it to members of the panel.

(The document referred to was marked exhibit B for identification.)

Mr. Guyot. I have here a picture of Oscar Chase, who is an SNCC worker, who is also very concerned about organizing voting. This picture was taken immediately after he arrived from the jail. There was a concern on the part of Howard Zinn and Jack Pratt, attorney from New York, to visit the FBI and prepare an argument or ask that an investigation be conducted about the violence that was perpetrated upon Oscar while he was in jail. He was in this condition when he walked into the room with blood over his shirt.

The other two gentlemen were neatly dressed. The FBI agent, who is a local——

Mr. Freedman. Who were the other two gentlemen?

Mr. Guyot. Howard Zinn and Attorney Jack Pratt were neatly dressed when they walked into the room. The FBI agent, who was a local citizen of Hattiesburg, asked immediately, "Who has been beaten?" Oscar was in the condition he now is in. His shirt was bloody, and this is the type of question—this in and of itself might seem quite negligible to people who expect some type of assistance from the FBI, from the local police, et cetera. The only thing we can expect is legalized brutality or legalized indifference to the—so what, you know?

I would like very much to enter this as evidence.

Mr. Freedman. Were you present when this picture was taken?

Mr. Guyot. I was present. It was taken in the Forrest County registration office.

Mr. Freedman. To your knowledge, has any action been taken by any State or Federal officer with relation to this case?

Mr. Guyot. None whatsoever, to my knowledge.

Mr. Freedman. I am going to mark this "C," Mr. Chairman, and pass it to the panel.

(The document referred to was marked exhibit C for identification.)

Mr. Freedman. Mr. Guyot, is there any other statement you would like to make in connection with the proceedings?

Mr. Guyot. No.

Mr. Freedman. Thank you very much.

Chairman Taylor. Do members of the panel have any questions? Mr. Goodman?

Mr. Goodman. It seems to me there are two quite different issues that you brought up, Mr. Guyot. One is the voter laws of Mississippi. The second is what our panel I think is mostly interested in, the protection of the voter registration drive.

What I would like to know is, very briefly if possible, when you say that the Negroes are physically and psychologically repressed and do not or would not appear in the courthouse to register, what do you do specifically in the voter registration drive? That is, my interest is what action of yours is interfered with? What specifically?

Mr. Guyot. It is a question first of all of our attempting to escort people to the courthouse. This we have always met with opposition on here. We people who are identified with voting in Forrest County are not allowed to stand around the area of the courthouse. Now, the police will not interfere with applicants, not immediately, not collectively, as they have in the past. But any attempt on our part to go or to inveigle a person to actually go into the courthouse will be met with oppression by the police.

Mr. Goodman. Mr. Guyot, could you explain what you mean exactly by escort or any attempt to inveigle? Just what is it? I mean it in the most simple terms?

Mr. Guyot. First of all, it is a question that we attempt to work closely with a personal involvement of the individual within the institutionalized framework of the church. That is the only meetingplace that we can rely on. Any attempt to meet in any other building owned by any other agency will be met with not only immediate police intervention but also perhaps the burning of the building. I do not mean the churches are safe from these burnings. I do not want to imply that. We also attempt not only to communicate with people who are very concerned about registration, but to provide as much information by giving them copies of the test, showing them how to fill out the test, how to interpret the constitution, and then explaining how it is quite necessary in order to get these laws changed to have as many applicants as possible in attempting to interpret and correlate as much activity on the part of the Justice Department to their involvement and to the inactivity on the part of the registrar as possible. This we do daily, and it is a question of we are hindered not only by the police in our ability to communicate to a large number of people by hampering our places to meet, but also, immediately, when a Negro's name is published in the newspaper, he then becomes a target. The police will then pick him up endlessly on either drunk charges, traffic violation, or simply hold him for investigation. This we have seen occur quite a number of times.

Chairman Taylor. Mr. Guyot, do you have evidence of these incidents here today?

Mr. Guyot. I don't have evidence of that here today.

Chairman Taylor. Mr. Coles, did you want to inquire?

Dr. Coles. Yes. Sir, there has been a lot of talk about apathy in Mississippi. Do I understand you to say that if there were some assurance on the part of people in these towns that the police would not be able to do what you have described they are doing or are ready to do, that there would not be any need for a long period of teaching, education so far as getting people to vote, that there is a willingness on the part of people to vote, which is available to them, that they know this but they can't, out of fear, conscious fear, exercise this privilege? Or is it that they are indifferent to this and that even with some restriction of the power of the police, it would take time for this readiness or willingness to vote to arise in these people? I think this is an important national issue. A lot of people have various ideas about the readiness of people in Mississippi to take these responsibilities, given even some protection.

Mr. Guyot. The 1961 Civil Rights Commission report on voting states quite correctly that at that time, there were 12 registered voters in Forrest County. And it stated before 1961 that there had been no applicants. In this same county, after demonstrations were brought about and after an attempt at communicating, with the fear—we don't mean to communicate with the basic interests of the people as it relates to voting. We attempt to communicate and if possible, and annihilate the fear that is prevalent and quite pervasive. Then it is a question if you get 1,000 applicants in a period of 4 to 5 months, why is it that these same people, who have lived in the same county, did not register before 1961?

Mr. Goodman. Is that figure 1,000 the figure?

Mr. Guyot. Yes.

Mr. Goodman. Roughly?

Mr. Guyot. Roughly.

Mr. Freedman. Are there questions from any other members of the panel?

Mr. Kempton?

Mr. Kempton. After the local police officials were brought to trial in the Winona case and the case failed, could you tell me whether there has been any particular change in the attitude of the Winona police toward you?

Mr. Guyot. No, I couldn't tell you. I can only tell you that at the trial, some 43 people were brought in as witnesses who said they had either been beaten or other prisoners had been influenced to beat them while in jail. To my knowledge—I don't know of any discontinuance of this practice in the Winona jail.

Mr. Kempton. You don't know anything about the change in the circumstances brought by the mere fact of a Federal trial?

Mr. Guyot. In Mississippi, as long as you have Federal district judges who are appointed by senatorial courtesy, a white man doesn't have to worry about the Federal Government. The Federal Government in Mississippi is the white man.

Mr. Kempton. However, in Magee, as I recall, earlier you said in Magee you had called the FBI.

Mr. Guyot. That is right.

Mr. Kempton. Was that enough to get you released, the mere mention of the FBI?

Mr. Guyot. That was enough in that particular incident, and that was enough because of the reaction of the fear of a policeman, a single individual.

Now, in the battle with the State of Mississippi, and we do that everytime there is a suit or injunction imposed, we lose.

Mr. Freedman. Other questions from the panel?

Judge Polier. I would like to ask whether when the case of Chase was published, it was known that the FBI had asked who was beaten up—it was perfectly clear who had been beaten up—whether the Department of Justice took any action with regard to that specific FBI man so it would deter others from acting this way?

Mr. Guyot. To my knowledge, no action was taken on the part of the Justice Department. I think everyone should know that after Oscar's arrest, he immediately requested the Attorney General to act on his behalf in view of the fact that he was arrested for entering the Negro section of the bus station, which was contrary to the ICC rule. There was no answer to his request, to my knowledge.

Chairman Taylor. Thank you very much, Mr. Guyot.

Mr. Freedman. The next witness, Mr. Chairman, I would like to call is Mr. George Greene.

TESTIMONY OF GEORGE GREENE, GREENWOOD, MISS.

(Having been first duly sworn by Mr. Freedman.)

Mr. Freedman. Mr. Witness, would you state your name and address, please?

Mr. Greene. My name is George Greene. My address is Greenwood, Miss.

Mr. Freedman. Mr. Greene, what testimony do you have for this committee?

Mr. Greene. I would like to testify that in March of 1964, I was beaten in Ruleville by a Ruleville police officer.

I was stopped traveling to Ruleville. I was traveling with a companion, Mindy Samstein. We had just come through Ruleville, coming from Cleveland, Miss. We were told by a police officer that we have violated a curfew hour, that we were not allowed to pass through the city of Ruleville at such an hour, that people were to be off the street at 11 o'clock, we were passing through the city at 12 o'clock, and we were to go to jail. After a long argument, he said that the two of us were under arrest.

We were taken down to the station. He kept insisting that we had been talking to people in Ruleville and we were not passing through Ruleville, that we came to Ruleville with an attempt to stir up trouble, when we were just passing through the city en route to Jackson.

Going closer to the conversation, he kept asking me where I had been. I kept telling him the same thing, that I had just left Cleveland, Miss., and I was en route to Jackson, Miss. He said that I was a liar and punched me in the ribs with a pistol. He asked me again where I had been, and I said that I had just left Cleveland and I was en route to Jackson, Miss., and he again called me a liar and cocked the pistol and said "Nigger, I'll kill you. Tell me again where you have been." I told him where I had been. For another 15 minutes, he continued to punch me in the ribs with a pistol and tried to force me to say I had been in Ruleville, talking to people in Ruleville.

Finally he asked me what kind of work did I do, and I told him I worked for the Student Nonviolent Coordinating Committee and Council of Federated Organizations out of Jackson. He said we were a bunch of people from New York and all across the country who had deliberately come down to stir up trouble between the Negroes and whites and that we must go to jail.

Mr. Freedman. This picture you have, would you describe that, please?

Mr. Greene. This picture is a picture of Herman Frazile, who was involved in the demonstration in Jackson, Miss. I believe the demonstration took place on February 3, 1964. On the picture, it shows several marks on the face of Herman Frazile where he was beaten by a police officer in Jackson, Miss. The demonstration had occurred on February 3, after a girl was hit, one of the students at Jackson was struck by a car. The students of Jackson stayed there and decided to have a demonstration asking the State for a stoplight. The police immediately rushed out and started beating people up. This was one of the people who was beaten up. There were several other people.

Going closer to the demonstration, four people were shot by the Jackson police. They came out with shotguns and billy clubs and started to beat and shoot into crowds of people.

Mr. Freedman. Mr. Greene, were you present when this picture was taken and when these events occurred?

Mr. Greene. Yes.

Mr. Freedman. Mr. Chairman, I would like to mark this "B" and present it to the members of the panel.

(The document referred to was marked exhibit B for identification.)

Mr. Freedman. Mr. Chairman, do you or any of the members of the panel have any questions for Mr. Greene?

Chairman Taylor. Mr. Sykes?

Dr. Sykes. Mr. Greene, you said you were picked up at about midnight. How long were you questioned before you were taken to the station?

Mr. Greene. Well, we were questioned, I guess, some 45 minutes to an hour—45 to 60 minutes out on the street and then taken to a station.

Dr. Sykes. How long were you kept in the station?

Mr. Greene. We were held in jail about 11 or 12 hours. We were released after we paid a fine.

Dr. Sykes. What were you charged with at that time, violating the curfew?

Mr. Greene. Well, there were two charges. I was charged with violation of the curfew, and after we paid the fine for violating the curfew, $12, then I was charged with running a stoplight that didn't exist.

Dr. Sykes. When you say you were beaten, could you tell me a little more precisely what it was? He had a gun. Did he hit you with it?

Mr. Greene. Yes, I was hit several times with the pistol, with the barrel of the pistol, in the ribs. At the same time, the pistol was cocked and the officer kept threatening to shoot me or kill me.

Dr. Sykes. Has this ever happened to you before?

Mr. Greene. Yes.

Mr. Freedman. Mr. Heller?

Mr. Heller. In the police station, were there just the three of you while he was questioning you or beating you or were there other police in there or prisoners?

Mr. Greene. The beating occurred on the streets in Ruleville. There were only three of us out on the street.

Mr. Heller. And in the station house, when you were taken to the police station, were you threatened there or abused?

Mr. Greene. When we were taken to the station, we were thrown in the jail and left in the jail over night. We spent the night in jail on cold steel. I guess it must have been 30 some odd degrees that night and the jail house did not have a heater or any form of heat.

Mr. Heller. Was there just one policeman or another one in the car?

Mr. Greene. There was one policeman and a local white guy with him.

Mr. Heller. In the police car?

Mr. Greene. Right.

Mr. Heller. And you don't know whether this other person had any official status or not, whether he was a member of the police force? You don't know who he was?

Mr. Greene. No. I couldn't say.

Chairman Taylor. Dr. Coles?

Dr. Coles. Mr. Greene, was any report of this made in any newspaper of the State of Mississippi that you know of so they would have any access to this information?

Mr. Greene. Not that I know of. The information was only given to the Department of Justice. At this point, I still haven't heard from anybody in the Department of Justice.

Mr. Freedman. When was that information given to the Department of Justice, Mr. Greene?

Mr. Greene. It was given the day after we got into jail.

Judge Polier. When was that?

Mr. Greene. I can't remember the exact date. It was in March of 1964.

* * * * *

Mr. Freedman. Mr. Greene, you mentioned that he used racial epithets in speaking to you. Did that start in the first place at the police station? Was there one instance or were there more? Tell us more about that.

Mr. Greene. It started on the street. I guess it grew out of the fact that my companion was a Caucasian. In Mississippi, Negroes and whites don't usually ride around together.

Chairman Taylor. Mr. Heller?

Mr. Heller. Is there in effect a curfew in Ruleville, and for the 20 to 30 minutes you were in the street, were you the only ones there or were there other cars passing?

Mr. Greene. There were other cars passing down the street. The street is also the highway.

Mr. Heller. And is there a curfew?

Mr. Greene. There is a curfew, but the curfew only applies to Negroes.

Chairman Taylor. Thank you very much, Mr. Greene.

Mrs. GREEN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. RYAN of New York. I yield.

Mrs. GREEN of Oregon. During the last week it has been my privilege to participate in several meetings at colleges across the United States. I believe in every one there were young people from these colleges who were making plans to go into the southern areas this summer to participate in this drive. These are very concerned people.

I also share the concern that the gentleman from New York has expressed about the police brutality which we have read about in the newspapers and which has been reported in letters which have come to us from our constituents. I am concerned about any constituent from my own First Congressional District of Oregon who may go to any of the Southern States to participate in registration drives or, indeed, who may go into any other area of the United States, that that person shall be protected and shall have all of the rights that are guaranteed to him or to her by the Constitution.

Mr. RYAN of New York. I thank the gentlewoman for her contribution.

Mrs. GREEN of Oregon. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and also to include at this point some of the testimony that was given at the hearing on June 8 to which the gentleman from New York referred just a moment ago.

The SPEAKER. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The matter referred to follows:

MISSISSIPPI HEARINGS SECTION 2

TESTIMONY OF MRS. VERA PIGEE, CLARKSDALE, MISS. (HAVING BEEN FIRST DULY SWORN BY MR. FREEDMAN)

Mr. Freedman. Would you state your name and address, please?

Mrs. Pigee. I am Mrs. Vera Pigee, 611 Bayard Avenue, Clarksdale, Miss.

Mr. Freedman. Mrs. Pigee, what testimony do you have for the panel?

Mrs. Pigee. Well, on December 7, 1961, I was handcuffed because a boycott was in effect in Clarksdale, Miss. I was handcuffed and carried up and was released and later we had to post a $2,000 bond. We were charged with conspiring to withhold public trade from the downtown area.

Mr. Freedman. What is the nature of the boycott that you referred to? What did it stem from and how was it conducted and who conducted it?

Mrs. Pigee. Across the years, in Clarksdale and Coahoma County, there has been a Christmas parade. There are two Negro bands, a high school and a college band. Each year they have been participating. This year, they had been invited and uninvited. Therefore, we decided that if the kids could not participate in the parade, then we wouldn't trade over town.

Mr. Freedman. When you say "we," to whom are you referring? Who decided that who would not trade in town?

Mrs. Pigee. It seemed as though this was a common consent, that all the Negroes had decided that if our children could not parade in the streets where we paid taxes, then we wouldn't trade over town.

Mr. Freedman. And it was as a result of this boycott that you were arrested?

Mrs. Pigee. That is right. Of course, the prosecuting attorney said that he was not—he didn't want any harm to come to us. There were seven of us arrested that day and four handcuffed. He said he only wanted to talk with us.

Mr. Freedman. What did you talk about?

Mrs. Pigee. Well, he wanted to know if we were ready to call off the boycott, and we told him "No."

Mr. Freedman. This was after you were handcuffed, that he started questioning you?

Mrs. Pigee. This was after we were handcuffed.

Mr. Freedman. Where did this take place?

Mrs. Pigee. This took place at my house. A friend of mine and I were having coffee when the chief of police, Mr. Ben C. Collins, knocked at the door. He told us we were under arrest. In fact, the prosecuting attorney of the county had made out the warrant. When I opened the door to get in the car, the second policeman in the car handcuffed me.

Mr. Freedman. Was there anything else relating to the boycott?

Mrs. Pigee. Later on I was acquitted in the justice of the peace court, and, of course, three were still under bond.

Mr. Freedman. Did you spend any time in jail or did any of the others?

Mrs. Pigee. No, we were all released on the same date. There were seven of us, and each of us had to post $2,000 property bond.

Mr. Freedman. How much did this cost you?

Mrs. Pigee. Well, it was a property bond.

Mr. Freedman. Are there any questions of the members of the panel?

Chairman Taylor. I have one, if I may, a point of information.

You were known publicly as a member of the boycott group?

Mrs. Pigee. Well, I am the secretary of the Coahoma County branch of the NAACP. This automatically identifies me.

Chairman Taylor. That answers my question.

Mr. Sykes?

Dr. Sykes. Could you tell me a little bit more about this crime or misdemeanor, which is conspiring to withhold trade from the downtown area of Clarksdale, Miss.? What is the offense, legally?

Mrs. Pigee. I am afraid I don't understand.

Dr. Sykes. Is it written down in some such form, a statute that it is a misdemeanor or a crime to withhold trade from the downtown area?

Mrs. Pigee. It is.

Mr. Freedman. Mr. Sykes, we are going to have some lawyers as witnesses later on. I honestly don't know the answer to the question, myself, but I think they may have some legal knowledge about this.

Dr. Sykes. I have one other question. Could you tell me a little more of the details of where and when you were actually arrested and whether it was really an arrest or simply a matter of being handcuffed? Was it a warrant?

Mrs. Pigee. It was a warrant. The chief of the police had a warrant which had been signed by the county prosecuting attorney, Mr. Pearson.

Chairman Taylor. In the warrant, it was for restraint of trade?

Mrs. Pigee. It was worded for conspiring to withhold public trade from the downtown area.

Chairman Taylor. And we will get the legal material on that later?

Mr. Freedman. I hope we will, Mr. Chairman; yes. We have some lawyers later this afternoon, and I hope they will be able to speak to that.

Chairman Taylor. In the meantime, do you have any special information about the origin or the legality?

Mrs. Pigee. There are several other things that have happened that I would like to mention also.

On April 23, 1963, I was beaten at a gas station. We stopped, my husband and I, and purchased gas and oil. While we were there, I asked to use the ladies restroom. One of the service station attendants offered me a key, which I did not take. He said I would have to use the restroom all the way around the back, and I told him I was afraid to go around there, I wanted a key to the ladies room on the front. I turned to walk out, and he called me back. He was a teenage boy. He said, "Take the key. The little time I have worked here, I have only seen white ladies use it, but you are decent. Take the key and use it."

While I was trying to unlock the ladies room door, the man servicing my car, Mr. Green, came to the ladies room and said I couldn't use it. I asked him why. He refused to answer. Of course, he told me I would have to go all the way around the back, and I told him the same thing, about going around in the dark. He said, "Give me the key."

I said OK. I told him I was going to report him to the manager and he would lose his job. He said, "Good, go ahead and report me, I have too many jobs anyway. We don't cater to nigger trade."

I asked him for my change. This teenage boy, the money I had given him was a $10 bill. He gave Mr. Green the $10. He stood there about a minute without giving me my change or anything.

I asked him, "You are not going to let me use the restroom or give me my change, either?"

At this point, he raised his voice and told me to stop talking to him, and I said I would be glad to stop talking to him if he would give me the change. He said this about three times.

Then he ran from behind the counter and struck me in the left temple with his fist and on my lip and my chin. My husband ran in and asked what was going on, and I told him what had happened.

We went home, and I called the chief of police. When I called the police station, they told me the chief was out and of course, they would give him my message when he came—50 minutes later, the chief of police came to my house and arrested me for disturbing the peace.

The next day, my husband had to post $26 bond to get me released so I could get attention that night. He carried me about 30 miles away from Clarksdale to the hospital. The next day, about 5 o'clock, they had my trial.

The State judge served as judge, prosecuting attorney, jury. Also, he charged me $51 for disturbing the peace.

Dr. Coles. Mrs. Pigee, I would like to ask you about the property bond. Is that what you said you gave, a $2,000 property bond? Was that on property you owned?

Mrs. Pigee. No, it was someone else. In fact, it was two on the bond, Negroes who owned property in Coahoma County.

Dr. Coles. So if you didn't know these people, you would have had difficulty raising the money?

Mrs. Pigee. That is right.

Dr. Coles. And then there was $26 and $51. What does your husband do?

Mrs. Pigee. Well, the $26 was bond posted. Then when I was fined, we had to make it out $51. My husband is a common laborer man. He works at a compress in Clarksdale, Miss.

Chairman Taylor. Any other questions?

You have no recourse to any other source of justice than the local situation? Have you presented this to the Justice Department?

Mrs. Pigee. Yes, we have.

Chairman Taylor. Have you heard from them?

Mrs. Pigee. No, I haven't.

Chairman Taylor. When did you bring it to the attention of the Department?

Mrs. Pigee. The affidavit was mailed the next day.

Chairman Taylor. That was in——

Mrs. Pigee. April 24.

Chairman Taylor. Of this past year?

Mrs. Pigee. Yes, 1963. And on June 8, 1963, my house was fired on, about 12:45 a.m. No arrest has been made.

Mr. Freedman. You say your house was fired on?

Mrs. Pigee. Yes.

Mr. Freedman. You mean gunfire?

Mrs. Pigee. Gunfire, yes.

Mr. Freedman. Was there anything damaged? Was anybody hurt?

Mrs. Pigee. Well, there is a hole in the window and the venetian blind and it ricocheted away to the piano and to the floor.

Mr. Freedman. Was this reported to the local authorities?

Mrs. Pigee. Yes, it was.

Mr. Day. You called the sheriff back to the service station?

Mrs. Pigee. I did.

Mr. Day. And did you attempt to swear out a warrant for his arrest for assault?

Mrs. Pigee. I did.

Mr. Day. What was done about that?

Mrs. Pigee. He was arrested.

Mr. Day. His trial has not come up?

Mrs. Pigee. No.

Mr. Day. But yours came when?

Mrs. Pigee. The next day.

Mr. Day. For disturbing the peace.

Mrs. Pigee. Yes.

Mr. Day. Thank you.

Mrs. Pigee. There is also a curfew in the city of Clarksdale. No one is supposed to be in the street after 12 o'clock. Of course, my house was fired on at 12:45.

Chairman Taylor. Any other questions?

(No response.)

Chairman Taylor. Thank you very much.

Excuse me, do you know the amount of bond of the service station attendant for his trial?

Mrs. Pigee. No, he didn't post bond.

Chairman Taylor. There was no bond posted?

Mrs. Pigee. No.

Chairman Taylor. But he is out on bail?

Mrs. Pigee. He is out, but not on bail.

Chairman Taylor. Thank you, Mrs. Pigee.

Mr. Freedman, we are not quite clear. The service station incident occurred in April 1963?

Mrs. Pigee. April 23, 1963.

Chairman Taylor. And the house firing——

Mrs. Pigee. June 8, 1963.

Mr. Goodman. May I ask a question of the witness?

Do you happen to know anything about— do you happen to know this man otherwise, the man who struck you?

Mrs. Pigee. No; I had never seen the man who struck me before.

Mr. Goodman. You see, what I am after is this—his behavior seems to be in an important way irrational. I would like to know if the man is that way generally or does he just get set off in this kind of circumstance?

Mrs. Pigee. Well, I think he is that way generally when Negroes are involved.

Mr. Goodman. Especially if they act up a little?

Mrs. Pigee. Because I couldn't say that he didn't know me, but I had never seen him before. In fact, this is the first time I had stopped at this particular station.

Mr. Heller. In your capacity as an official of the NAACP, do you know of any cases in which a Negro is given sympathetic treatment in a courtroom or any actions involving a conflict between a colored person or Caucasian, as you call them, and a white person, in which the action might be in favor of the colored person against the white person?

Mrs. Pigee. No.

Mr. Heller. Now, I am not limiting this just to civil liberty cases, but to all sorts of cases. Is it possible that a white man in Mississippi can commit any kind of crime against the colored person and escape without punishment?

Mrs. Pigee. That is possible; in fact, it is being done in the case of the service station, where I had my trial the next day and I had to post bond to get out that night and then the next day was fined, had to pay $25 more and then that same day we had an affidavit made out against Mr. Green for assault and battery and Mr. Green, I heard—I didn't see them arrest him, but I heard that he was arrested and was released within 5 minutes.

Mr. Heller. Would you say if the same action took place and involved someone who was not connected with the voters' registration program or boycotts, would you say that the treatment each received in a courtroom would probably be the same as you are receiving?

Mrs. Pigee. If he was a Negro?

Mr. Heller. Yes.

Mrs. Pigee. Yes, because at one time they would identify people by the office they held in the NAACP or CORE or Student Nonviolent Coordinating Committee. But now they don't take any chance. They think that all of us are guilty.

Mr. Heller. One other question. Are there any individuals in the white population who ever extend a sympathetic word, a sign of encouragement or protest, or do you feel there is a solidarity which indicates there is no opposition to what the extreme elements are perpetrating in Mississippi?

Mrs. Pigee. Well, we get these calls and they say "I am with you, I sympathize with you." We say, "Who are you?" They say, "Oh, no, I can't identify my identity, because if I do, they will fire on my house, beat me up," or "I am in business, they will boycott my business."

Mr. Heller. Is it your position that there is a substantial amount of the white population that is in sympathy with you but is subdued because of the threat of retaliation by other whites?

Mrs. Pigee. Well, yes, I am sure that there are some who are in sympathy with us. In fact, I operate a beauty shop in Clarksdale, Miss., and I have had a few to come in and talk with me. The time I was beaten at the service station and my face was swollen, my daughter had been arrested many times. Some of them would come in to talk and break down into tears. But they would say, "Please don't tell anybody, because I have children."

Dr. Coles. I am glad this has come out about the intimidation of white people in the South. I would like to ask you a question or two about the behavior of this man in the gas station. Do you think that his behavior, that he is like the man that we saw here earlier today on the stage? Do you think that that is the explanation of this kind of behavior, something that, as Mr. Goodman said, is irrational and you would find difficult understanding why anybody would do things like this, or do you think he is a certain kind of person living in a State where this kind of behavior is traditional and allowed and in some cases encouraged? In other words, do you think there is something wrong with this man's mind that would cause him to suddenly leap out and strike you?

Mrs. Pigee. I would have to separate him from the man here today. I would certainly think there was something wrong with his mind. But in the State of Mississippi, this is an old pattern that they have followed. We have many there who are not willing to turn with the tide. He happens to be one of them. In fact, you find many of them.

Dr. Coles. It is clearly difficult for us to deal with a man like this, as we all realized here. But how do you think this country can deal with the man who struck you? Do you think they are similarly difficult to deal with, or do you think there are different solutions for handling these different kinds of people?

Mrs. Pigee. There have to be different solutions to handling the two different personalities. But I don't have the answer.

Dr. Coles. I was just leading up to the point that I wondered, it seems to me that it is easier to control the kind of behavior of this man who struck you, in the sense that if the town, the police, and the State were not going to allow this, whereas dealing with this kind of man——

Mrs. Pigee. Well, I will agree with that, because that is why they feel free to strike the Negro, because the county, the city, and the State have allowed them not only to strike Negroes but to shoot them down in an instance like the Medger Evers case.

Dr. Coles. I was just wondering, though. You do feel some difference between that man and this man today?

Mrs. Pigee. Yes, I feel quite a bit of difference.

Dr. Sykes. Could I ask one question?

Chairman Taylor. Mrs. Pigee, do you mind? Mr. Sykes has now quickened into action.

Dr. Sykes. You were telling us about a very disastrously uneven application of the law. The law is coming in in a way, really, where you don't want it. But are there other instances where you would like to have the law, the police, come to your help and they do not come to your help where offenses were committed, something happens, and you want the police there and they simply do not respond?

Mrs. Pigee. That is true, because I called the policeman within minutes after the man had beaten me at the service station. It was 10 minutes past 9 o'clock when I called, and he came to my house at 10 o'clock to arrest me. And sometimes he would come identifying me as working in voter registration or with the civil rights activities, "You need help and you called."

I called the fire department one morning. My stove exploded, and my husband ran 3 or 4 blocks before the firetrucks arrive. I feel that this is because I am identified with the NAACP and other groups.

Chairman Taylor. Are there any other questions?

Mr. Kempton. Mrs. Pigee, what do the police call you? When you call the chief of police, how does he address you, by your first name or last name?

Mrs. Pigee. Of course, he addresses me as Vera, and he said he is not going to call a nigger "Mrs."

Mr. Kempton. Did you raise the issue of being called "Mrs."?

Mrs. Pigee. Yes. When they arrested me the night I was beaten, at the police station, filling out the arrest sheet, he asked me what was my name, and I said Mrs. Vera Pigee. The police chief said, "Don't come over here with that, Vera. You are a prisoner, and we are going to treat you just like we do all other prisoners."

Chairman Taylor. Thank you very much, Mrs. Pigee.

Mr. Freedman. Is Mrs. Hamer here, please?

TESTIMONY OF FANNIE LOU HAMER, RULEVILLE, MISS., (HAVING BEEN FIRST DULY SWORN BY MR. FREEDMAN)

Mr. Freedman. Would you state your name and address, please?

Mrs. Hamer. My name is Fannie Lou Hamer, and I exist at 626 East Lafayette Street in Ruleville, Miss.

Mr. Freedman. How long have you lived in Mississippi?

Mrs. Hamer. Six years.

Mr. Freedman. Mrs. Hamer, what is it that brings you before the panel today?

Mrs. Hamer. To tell about some of the brutality in the State of Mississippi. I will begin from the first beginning, August 31, in 1962. I traveled 26 miles to the county courthouse to try to register to become a first-class citizen. I was fired the 31st of August in 1962 from a plantation where I had worked as a timekeeper and a sharecropper for 18 years. My husband had worked there 30 years.

I was met by my children when I returned from the courthouse, and my girl and my husband's cousin told me that this man my husband worked for was raising a lot of Cain. I went on in the house, and it wasn't too long before my husband came and said this plantation owner said I would have to leave if I didn't go down and withdraw.

About that time, the man walked up, Mr. Marlow, and he said, "Is Fannie Lou back yet?"

My husband said, "She is."

I walked out of the house at this time. He said, "Fannie Lou, you have been to the courthouse to try to register," and he said, "We are not ready for this in Mississippi."

I said, "I didn't register for you, I tried to register for myself."

He said, "We are not going to have this in Mississippi, and you will have to withdraw. I am looking for your answer, yea or nay."

I just looked. He said, "I will give you until tomorrow morning. And if you don't withdraw, you will have to leave. If you do go withdraw, it's only how I feel. You might still have to leave." So I left that same night.

On the 10th of September, they fired into the home of Mr. and Mrs. Robert Tucker 16 times for me. That same night, two girls were shot at Mr. Herman Sissel's. Also, they shot Mr. Joe Maglon's house. I was fired that day and haven't had a job since.

In 1963, I attended a voter registration workshop and was returning back to Mississippi. At Winona, Miss., I was arrested there. Some of the folk had got off the bus, Miss Annelle Ponder, June West Johnson, Euvester Simpson, Rosemary Freeman, and James West got off the bus to go into the restaurant to get food. Two of the people decided to use the restroom. I saw them come right straight out of the restaurant. I got off the bus to see what had happened. Miss Ponder said, "They won't let us eat." She said, "There was a chief of police and a highway patrolman inside, and they ordered us out." I said, "Well, this is Mississippi."

I got back on the bus, and about the time I just got sat down good, I looked out the window, and they were getting Miss Ponder and the others into the highway patrolman's car.

I stepped off the bus to see what was happening, and one screamed, "Get that one there." I was picked up, the police, Earl Wane Patric, told me I was under arrest. He opened the door, and as I started to get in, he kicked me. They carried me to town to this county jail.

We were carried to the booking room. Soon as we walked inside, I was in the car with Earl Wane Patric and one plain clothesman. I don't know whether he was a policeman or not. He didn't have on police clothes, had a crew haircut. They would ask me questions going on to jail, and as I would go on to answer, they would curse me and tell me to hush.

I was carried on to the booking room and carried from the booking room to a cell. After I was locked up in a cell with Miss Euvester Simpson, I began to hear the sounds of licks, and I could hear people screaming. I don't know how long it lasted before I saw Miss Ponder, the southside supervisor for SCLC, pass the cell with both her hands up. Her eyes looked like blood, and her mouth was swollen. She passed my cell. Her clothes was torn. She backed and they carried her again out of my sight.

After then, the State highway patrolman, because it was on the insignia on his arm and another silver plate across his pocket, walked into my cell with two other white men. He asked me where was I from, and I told him. He said, "I am going to check."

They left my cell, and it wasn't too long before they returned, and he said, "You damn right, you are from Ruleville," and he called me a bad name. He said they would make me wish I was dead.

I was carried out of the cell into another cell where there were two Negro prisoners. The State highway patrolman gave the first Negro a long blackjack that was heavy. It was loaded with something, and they had me to lay down on the bunk with my face down, and I was beat, I was beat by the first Negro until I was exhausted.

After I was beaten by the first Negro, the State highway patrolman ordered the other Negro to take the blackjack. The second Negro, he began to beat. The State highway patrolman ordered the first Negro that had beat me to sit on my feet. One of the white men that was in the room, my dress would work up because it had a large skirt, but I was trying to keep it down and trying to shield the licks from the left side, because I had polio when I was a child. During the time that I was trying to work my dress down and keep the licks off my left side, one of the white men walked over and pulled my dress up.

At this time I had to hug around the mattress to keep the sound from coming out.

Mr. Freedman. Mrs. Hamer, you referred to the woman from the SCLC. Is that a religious organization, as I understand it?

Mrs. Hamer. Yes, Southern Christian Leadership Conference.

Mr. Freedman. Is there anything that you would like to add to your statement before you are questioned?

Mrs. Hamer. We have a curfew in our town, Ruleville. Also, the night police there is a brother to J. V. Milan, that lynched Emmett Till in Sunflower County, the boy that was 14 years old and put in Tallahatchie River. We have a curfew only for Negroes. It was a little before Christmas. My husband got up at 5 o'clock to go to the washroom. As he walked out, we heard a knock at the door, and he opened the door. He said, "Come in." Two policemen walked in, Mr. Milan and Mr. Dave Fleming, and asked him, what was he doing up at this time of night?

Not only have I been harrassed by the police. I had a call from the telephone operator after I qualified to run as congresswoman. She told me, "Fannie Lou, honey, you are having a lot of different callers on your telephone. I want to know do you have any outsiders in your house? You called somebody today in Texas. Who was you calling, and where are you going? You had a mighty big bill." I said the bill was paid. "Well, I wouldn't let no outsiders come into my house."

I said, "What do you mean outsiders?"

"Well, we are going to check on this, and we just don't want no people from outside your house coming in and making outside calls."

I would like to add right now, the people I was with in Boston had to call the doctor to get some relief for my back that I still suffer with.

Chairman Taylor. Mrs. Hamer, may I ask, what was the charge on which you were arrested on the bus incident?

Mrs. Hamer. Well, during the time I asked the jailer, "Would you leave the door open so I could catch air." During the time the door was open, I heard discussion: "Now, what is we going to charge them with?" Somebody said something. He said, "Well, you are going to have to get up something better than that. Man, that is the end of the wire."

So, I actually didn't know what we were charged with until they got ready to have our trial, and we were charged with resisting arrest and disorderly conduct.

Dr. Sykes. We are all concerned about what might possibly happen in Mississippi this summer. Can you tell us about some things that have happened, what is going on now? But what do you think might happen with people going to Mississippi this summer?

Mrs. Hamer. Well, I can say there will be a hot summer in Mississippi, and I don't mean the weather. Because the people are really getting prepared. They have been riding with the guns. But Ruleville is a very small town. There are about 2,000 people in there. I see now they have a tank, and they are keeping the dog riding on the back of the truck so if the truck stops, the dog won't have aything to do but jump off.

And the mayor, he would ride around and tell folk don't let the outside people come into their homes, because after they stay awhile, they would just beat them up. But they say, "Don't say nothing to old Fannie Lou Hamer about it."

I am not even going on that street. My husband was fired the day after I qualified to run as Congresswoman in the Second Congressional District. Last week he had gotten a second job. The mayor went out on this job on which he was working, so he will probably be fired by the time I get back home.

Dr. Coles. First of all, this curfew, is this legally done, or is this done—how is this known that there is a curfew?

Mrs. Hamer. As long as there is a white man says that a Negro violated, it is legal with them.

Dr. Coles. There is no public statement?

Mrs. Hamer. No, you just get arrested, a Negro, if you are out after 12 o'clock.

Dr. Coles. What do they say?

Mrs. Hamer. They say you have broke the curfew hour. Violated the curfew hour.

Dr. Coles. Is it a local ordinance? That is what we want to know? Is there a local law that says that if you are on the streets after 12 o'clock, you are violating the law?

Mrs. Hamer. It must be, because I know you do get arrested.

Dr. Coles. Has anyone challenged this?

Mrs. Hamer. No.

Dr. Coles. The other thing I would like to find out is, who do you pay your telephone bills to? Is this the Southern Bell Telephone Co.?

Mrs. Hamer. That is right.

Dr. Coles. Now, this is the town telephone operator, is it?

Mrs. Hamer. The long distance operator—they operate out of Cleveland, Miss., because I asked her her name. She told me her name, and she said that it was just too much. And also, they take the telephone wire loose from the telephone post and got it right in front of the house and clipped on the main line.

Dr. Coles. All I can say is I lived in a town in Georgia, and no telephone operator ever talked to me like this.

Mrs. Hamer. Well, it was the first time for me, but it did happen. One of the other things that happened in Sunflower County, the North Sunflower County Hospital, I would say about 6 out of the 10 Negro women that go to the hospital are sterilized with the tubes tied. They are getting up a law said if a woman has an illegitimate baby and then a second one, they could draw time for 6 months or a $500 fine. What they didn't tell is that they are already doing these things, not only to single women but to married women.

Chairman Taylor. Thank you very much. Mr. Freedman?

Mr. Freedman. Is Mrs. Elizabeth Allen here?

TESTIMONY OF MRS. ELIZABETH ALLEN, LIBERTY, MISS. (HAVING FIRST BEEN SWORN BY MR. FREEDMAN)

Mr. Freedman. Mrs. Allen, would you give your name and address, please?

Mrs. Allen. My name is Elizabeth Allen from Liberty, Miss. My husband was Lewis Allen, and was killed the 31st day of January by shots.

He had applied to get a job. He was leaving for Milwaukee on the a.m. train, the 9 o'clock train the next morning and he got out on the gap that leads to his home and he was shot down with buckshot. No one was in the home but Mrs. Elizabeth Allen and little Mary Allen, 3 years old, the mother and the daughter, when the shots were fired. He wasn't a man that stays out late at night. So after he didn't come in and I looked at the time, I wondered what was wrong. My baby son was 18 years old. He was out with his girl friend. When he came in some hours later, he came in saying had his daddy come in. He found his daddy's body at the gap, shot down, which he had been dead ever since 8:30.

The reason I know it was 8:30, there is a special program that I watch on a Friday night, and I was watching this program, and when the shot was fired, I switched the TV off and listened.

Then I heard another shot and I heard another shot. Then I saw the truck lights at the gap, but I still didn't know that it was my husband, and I didn't know that it was the truck. I didn't know what was going on until about 1:30 or 2 o'clock, my baby son came in. I asked him, I said, "Son, where is your father?" I said, "He don't stay out late at night."

I have heart trouble and a bad stomach, and he said, "Sit down, let me tell you something now."

I sat down, and he said, "Daddy is dead."

The minute he said it, I said, "Well, I heard the shots."

I said, "He has been killed ever since 8:30."

He said, "Well, he has been killed awhile."

Then he went and got his oldest brother which is married and staying about 2½ miles out of town with his mother-in-law, visiting his mother-in-law. He stays with me, but that night he was visiting his mother-in-law. Then they moved his body.

So the undertaker came in and said, "Mrs. Allen, you have to bury your husband tomorrow, because we can't hold him out until Sunday." I wanted to save his body until Sunday.

They had the inquest and the undertaker fixed up his body and came up to the funeral home. Then the high sheriff, which is Mr. Daniel Jones of Liberty, Miss., came in and questioned me and asked me did I hear anything at the road.

I said, "Sure, I heard three shots, but I didn't know it was someone killing Lewis Allen, Mr. Lewis Allen," my husband.

He said, "What time were they fired?"

I said, "At 8:30." I said, "I was watching my TV program when the shots were fired."

Then, during that time that I said I had heard them shoot, he asked me did I know it was my husband. I told him no, I didn't know it was my husband until my baby son came in and told me that my husband was dead. But I knew my husband wasn't a man to stay out at night. So I was worried, I was wondering what had happened, but I didn't know that he was down at the road, dead.

Mr. FREEDMAN. Mrs. Allen, do you have any reason to know why your husband was killed?

Mrs. ALLEN. Well, I wouldn't really know why he was killed, but they had been picking at him before they killed him. On the Herbert Lee case, as far as I know. It was a man that was killed at the gin, named Herbert Lee. When he testified that Herbert Lee did have an iron—they wanted him to testify that Mr. Herbert Lee had a piece of iron, which he said he was ready to kill him, he said Mr. Herbert Lee didn't have a piece of iron. He said Mr. Herbert Lee didn't have anything. He said he didn't want to tell them a story on his color they picked at him, and they continued to pick at him until they destroyed him.

Mr. FREEDMAN. Where was Mr. Herbert Lee killed?

Mrs. ALLEN. He was killed at Westbrook jail in Liberty, Miss., 1962.

Mr. FREEDMAN. You say they were picking at him before they killed him. Who was picking at him and in what way?

Mrs. ALLEN. Well, Mr. Daniel Jones and different other white people. In 1962, Mr. Daniel Jones came out there and told him that he was under arrest, at 10 o'clock on Saturday night—about 10:30 on Saturday night. He went out to see what he was arresting him about. So he told him that he was under arrest. He said he didn't know anything, and he said, "Can I go my bond?"

He said, "No, not niggers, you can't go your bond."

So right there, watching TV, he was bound. Then he asked, "Can I get my hat?"

He said, "No, not you, nigger, you can't get your hat."

So his baby son, which is this child, was standing in the door. He looked around and said, "Well, let my baby son bring my hat."

He struck him with the flashlight and broke his jawbone and then carried him on and put him in jail.

I don't know whether they was carrying him off to finish him off or what, and I told my baby son, "Let's get in the car and see what they're going to do with my husband and your father."

We got in the car and tried to follow him, but there was no way on earth to follow him, because they were driving too fast. When I got to town, Mr. Daniel Jones was coming from the courthouse. I asked him, "What did you do with my husband?"

He said, "I put him in jail and that is where the hell he's staying."

He cursed me and told me if I didn't get my so and so back across the river and mighty quick, I would be in jail, too.

Then he said, "Where are you going?"

I said, "I'm going down to my son's mother-in-law's to pick up my son and tell him that his father has been brutally arrested."

He said, "You go down there and get your son and get the hell back across that river."

So I went down there, picked up my son, and done just as he said and went back home, all three of us.

So the next morning, my son went up and asked his daddy, "What do they have you for?"

He said he really didn't know at the time. Then he said, "I'll tell you they hit me last night, and they broke my jawbone."

He said, "Go out to the high sheriff," which was Mr. Caston; Mr. Daniel Jones wasn't sheriff at that time, "and ask him would he get a doctor for me?"

He run the children away and he wouldn't get a doctor for him. So he stayed in jail until Monday or Tuesday—I disremember what day, but it was the first of the week he got out. He still hadn't had a doctor, and he couldn't eat anything, because what they would carry to him, he couldn't eat because his jawbone was broken. When they let him out of jail they charged him $17.50, I think it was.

Then he came, later on, home. Then he went to Somerville, Miss., to the doctor, next day, and from there to Jackson, Miss., to the doctor, because he is a veteran, to the veterans' hospital and took treatment there. They told him that for him to stay there and they would treat him, he would have to stay a certain amount of days.

Well, he has a family, so he couldn't stay as many days as they wanted him to stay, so he came on back home the next day or two and there he stayed until the jaw got the least bit better, and then he went back to work.

Mr. DAY. You said that your husband, Lewis Allen, was a witness to the killing of Herbert Lee?

Mrs. ALLEN. That's right.

Mr. DAY. Who was Herbert Lee killed by?

Mr. ALLEN. G. H. Hurst—E. H. Hurst, of Liberty, Miss.

Mr. DAY. What kind of——

Mrs. ALLEN. A white man.

Mr. DAY. What kind of work did Mr. Lee do?

Mrs. ALLEN. He was a farmer.

Mr. DAY. What about Mr. Hurst?

Mrs. ALLEN. He run a big dairy. I don't really know what Mr. Hurst is. He—Mr. Hurst was a farmer, and they was laborers, also.

Mr. DAY. Is this the same Mr. Hurst that was in the Mississippi State Legislature?

Mrs. ALLEN. That's right, the same Mr. Hurst.

Mr. DAY. And your husband saw the killing of Herbert Lee?

Mrs. ALLEN. That's right.

Mr. DAY. Was Mr. Hurst ever brought to trial for this?

Mrs. ALLEN. I don't understand you.

Mr. DAY. Did they ever arrest Mr. Hurst?

Mrs. ALLEN. I really don't know whether they have arrested Mr. Hurst or not, because they don't arrest white people in Mississippi. They arrest Negroes, but they don't do anything to white people.

Mr. DAY. Did your husband ever have to go to court to testify?

Mrs. ALLEN. That's right. I left that out. I also went. I went to court in Jackson. It was my husband and my baby son and his nephew and my nephew and my daughter, which is his daughter, my stepdaughter. He told them in Jackson about Mr. Daniel Jones breaking his jawbone, and we went to Jackson on that account.

Mr. DAY. But did your husband ever have to go to court and say, "I saw Herbert Lee get killed?"

Mrs. ALLEN. Sure; he went to court twice on Mr. Herbert Lee's death.

Mr. DAY. Did anything happen?

Mrs. ALLEN. They called him and told him, the leaders, they call themselves the leaders in Liberty, Miss., which is Mr. Daniel Jones and the high sheriff, which was Mr. Caston at the time, they told him he would have to testify that Mr. Herbert Lee had a piece of iron if he expected to live in Liberty, Miss. They all knew he didn't have a piece.

Mr. DAY. The sheriff told your husband he would have to say he saw Mr. Herbert Lee with a piece of iron?

Mrs. ALLEN. That's right.

Mr. DAY. Did your husband say this in court?

Mrs. ALLEN. Yes.

Mr. DAY. Why did he say it?

Mrs. ALLEN. He said he tried to live because he had a family to live for, but he told the court Mr. Herbert Allen had a piece of iron and he told the FBI different, that Mr. Herbert Lee didn't have a piece of iron.

Somehow or other, it got back to Mr. Jones. He said everything that you tell the FBI has to go back to him. He said Lewis wouldn't be laying dead on the ground if he hadn't told the FBI that Mr. Herbert Lee didn't have a piece of iron, which he didn't have a piece.

Mr. DAY. Could I just check this over again? They told your husband to lie in court?

Mrs. ALLEN. That's right. They told him to lie, and he did lie, because he wanted to live.

Mr. DAY. But he told the FBI the truth?

Mrs. ALLEN. But he told the FBI the truth, but he was living there where he knew they would take his life in a minute if he told them; he told the FBI the truth.

Mr. DAY. Did he ask the FBI for protection?

Mrs. ALLEN. Yes.

Mr. DAY. What did they say?

Mrs. ALLEN. That is why he went to Jackson when the police broke his jawbone. He asked the FBI for protection and they tell him different ones would help him, because he has a fear in himself. They took his credit from him. He had stood good in Mississippi. But after he tried to raise himself and he a man that wasn't just anything, they took his credit from him and which he got killed the 31st of January, but he was going to leave.

Mr. DAY. And the sheriff said to you that he was going to leave, and if he hadn't told the FBI he wouldn't be lying there?

Mrs. ALLEN. That's right.

Mr. DAY. And so your husband is dead?

Mrs. ALLEN. He was killed from the Herbert Lee case, I believe, as sure as I know.

Chairman TAYLOR. Are there any other questions?

(No response.)

Mr. NIX. Mr. Speaker, will the gentleman yield?

Mr. RYAN of New York. I yield to the gentleman from Pennsylvania.

Mr. NIX. Mr. Speaker, I feel it is incumbent upon me at this time to bring to the attention of the House certain testimony pertaining to the conduct of law enforcement officers in the State of Mississippi. Both native Negroes of that State and other peaceful citizens of the United States, who are assisting them to qualify to register and vote, are being brutally persecuted for their activity. This is constitutionally protected activity, nevertheless the State of Mississippi officially is visiting violence upon the persons involved and their property. So that all my colleagues may know the facts, I ask unanimous consent to place a portion of that testimony in the CONGRESSIONAL RECORD at this point.

The SPEAKER pro tempore (Mr. LIBONATI). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The matter referred to follows:

SECTION 3: MISSISSIPPI HEARINGS

Mr. FREEDMAN. Gene Young.

TESTIMONY OF GENE YOUNG, JACKSON, MISS. (HAVING FIRST BEEN DULY SWORN BY MR. FREEDMAN)

Mr. FREEDMAN. Would you please tell us your name and where you live?

Mr. YOUNG. My name is Gene Young. My residence is Jackson, Miss.

Mr. FREEDMAN. How old are you, Gene?

Mr. YOUNG. Thirteen.

Mr. FREEDMAN. How long have you lived in Jackson, Miss.?

Mr. YOUNG. Thirteen years.

Mr. FREEDMAN. Almost a lifetime?

Mr. YOUNG. Yes.

Mr. FREEDMAN. Gene, what did you come here to tell us about?

Mr. YOUNG. About police brutality in the city of Jackson, Miss.

Mr. FREEDMAN. What do you know about it?

Mr. YOUNG. Which happened to—what do I know about it?

The police are treating our people wrong. They don't do nothing, but the police will beat them up for just walking along the streets.

Take, for instance, Mrs. Annie Lee Smith on the day the school I attended staged a walkout. Mrs. Smith was beaten because she was on her way to pick up her children. She didn't think it would be safe for them to stay in school because the police were running at the children in the building.

Mr. FREEDMAN. How do you know about this, Gene? Did you see it happen?

Mr. YOUNG. Yes, I attended the school.

Mr. FREEDMAN. You were there when she was beaten?

Mr. YOUNG. Yes.

Mr. FREEDMAN. Do you know of any other things of this sort?

Mr. YOUNG. Well, when——

Mr. FREEDMAN. That you have seen yourself?

Mr. YOUNG. When I was in jail, a friend of mine——

Chairman TAYLOR. Excuse me, Mr. Freedman.

Before we get into jail, could we have the part about Annie Smith? We didn't hear who beat her up or what the circumstances were.

Mr. YOUNG. Mrs. Annie Lee Smith.

We had staged a walkout. She lived not too far from the school and she heard about it and she came to pick up her three children. She has two girls and one son who attend the same school. While she was on her way, somebody started hollering and shouting, so the police really didn't know what to do, so they just took it out on her and just started beating her for no reason at all.

Mr. FREEDMAN. Who started beating her?

Mr. YOUNG. The police. They jumped on her and beat her all across the chest.

Mr. FREEDMAN. With their night sticks?

Mr. YOUNG. Yes, and beat her across the head and beat her across the legs and they were swoll.

Someone told them to stop and they grabbed another boy and let her go. They put her in the patrol truck. They grabbed another boy and started beating him and tore his clothes off and put him in the truck. But when they started beating another boy, this boy got away, but Mrs. Smith was beat too bad to get away.

Mr. FREEDMAN. What were you doing in jail?

Mr. YOUNG. Well, we had demonstrated. We were about to participate in the third demonstration of the summer.

Mr. FREEDMAN. Who is "we"?

Mr. YOUNG. The students of Jackson, Miss. The majority—well, some students of Jackson. Some of them came from various schools in Jackson. But we were walking down the street and demonstrating when the police told us to disperse or we would be under arrest. So we kept on walking and they arrested us.

They took us to the Mississippi State Fairgrounds, where they had set up facilities for us to stay in. But we had to sleep on concrete floors with no pillows or mattresses or nothing. Our food was cooked in garbage cans and turned with mops.

While I was being interrogated, the police asked me a question and I refused to say, "Yes, sir," and "No, sir." He twisted my arm and he called me all sorts of names and pushed me around for other police to hit over me and do what they wanted with me.

Mr. FREEDMAN. How many of you were arrested?

Mr. YOUNG. I would say approximately about 150 to about 200.

Mr. FREEDMAN. Were any of the other people hurt?

Mr. YOUNG. Well, I don't know, because—I really don't know about the other people.

Chairman TAYLOR. May we ask, what was the demonstration about?

Mr. YOUNG. Well, we were going to see could we walk down the streets in silent protest and make it to the capitol. We weren't saying nothing, but we were just walking down the streets with flags in our hands, and just saying nothing. We had nothing in our pockets or nothing.

Mr. GOODMAN. What were you protesting?

Mr. YOUNG. The right to assemble ourselves when we wanted to. Because if you could just take about five people and walk down the streets of Jackson, they'll get you and say you were demonstrating.

Judge POLIER. When did this happen? How long ago?

Mr. YOUNG. This happened in June of 1963.

Mr. DAY. How many police hit you out at the fairgrounds?

Mr. YOUNG. There were two who were actually—one twisted my arm and two, they kept pushing me around to each other and pushing me to other police.

Chairman TAYLOR. Is it necessary to have a permit in Jackson to have a demonstration?

Mr. YOUNG. Yes, you need a permit, but you have to go to the mayor. He won't hardly let a Negro have a permit to demonstrate or parade.

Chairman TAYLOR. The charges against you and the others were that you demonstrated without a permit?

Mr. YOUNG. Parading.

Mr. KEMPTON. Aren't you a juvenile offender? Did they take you to children's court?

Mr. YOUNG. Yes.

Mr. KEMPTON. What is the age limit?

Mr. YOUNG. I think it is 18.

Mr. KEMPTON. All the students went to children's court?

Mr. YOUNG. All those that were under 18. I think there was a few that were over 18.

Mr. FREEDMAN. Was this a special jail for children, or a part of the jail for children that you were in?

Mr. YOUNG. No. See, we were at the Mississippi State Fairgrounds. We had concrete floors. They wouldn't furnish us with nothing. There were too many children to keep us in the jail, so they just kept us in the stockyard pens where they keep animals.

Dr. COLES. How long have you been involved in this kind of protest activity? I'm trying to find out, how long have you been involved in this kind of demonstration activity?

Mr. YOUNG. Well, I have been involved in it ever since last summer about this time.

Dr. COLES. So at that time, were you about 12, yould you say?

Mr. YOUNG. Yes.

Dr. COLES. How do you think—let's take all the people of your age in the State of Mississippi. How do you think the others feel that are your age in Mississippi who are Negro?

Mr. YOUNG. Well, I think the others, the other students about my age, they are ready to do whatever is necessary for their State, but their parents are the ones that are afraid because they're scared they might be killed or a bomb might be thrown into their house, or they might lose their job.

Dr. COLES. Are your parents scared?

Mr. YOUNG. I don't think so, no. [Applause.]

Mr. GOODMAN. What class are you in?

Mr. YOUNG. I passed to the ninth this year.

Mr. GOODMAN. Do you like school?

Mr. YOUNG. Well, I like school but we're not learning nothing in school. It's just not necessary to go to school in Mississippi. [Applause.]

Mr. GOODMAN. Well, do you like your school?

Mr. YOUNG. Well, it's all right in my school.

Mr. GOODMAN. I just wanted to know.

Mr. YOUNG. But some of the teachers—they don't teach Negro history. They just tell you, like, we ought to know that our ancestors weren't treated right, just like in today, people are today still getting lynched. But they are telling us, the white man took your ancestor to church with him, or something like that.

Judge POLIER. I would like to ask you one question. After you were at the fairgrounds, did anybody take you to a children's court or make any charge against you or did they just let you go after you had been there awhile?

Mr. YOUNG. Well, after we had our summons to come to court, they put us in the custody of our parents.

Judge POLIER. That is a year ago. What has happened since? Anything at all?

Mr. YOUNG. I made a trip to New York. While I was in New York, Medgar Evers was killed and by brother's arm was broken. When I came back, I was put in jail again for breach of the peace.

Judge POLIER. What had you done that time?

Mr. YOUNG. We went to a white park and started swinging.

Judge POLIER. Swinging or swimming?

Mr. YOUNG. Swinging.

Judge POLIER. You mean you were on a swing. You weren't hitting anybody?

Mr. YOUNG. No. The police said that no Negroes were allowed on this park ground. But they had a colored man out there picking up paper and sweeping around the park. But then he told us to go away and never come back. But we kept on swinging. Then he told us to come over by the tree and we stood over there by the tree for a little while. He took our names and our addresses and what grade we were in and sex. Then he told us to jump in this patrol wagon and then he took us to the city jail.

We stayed in this air-conditioned room for a long time. But afterwards, we were booked and they took our money and stuff from us and kept them while we were serving our time.

Judge POLIER. How long did they keep you this time?

Mr. YOUNG. Well, they kept me until my court day. That was for 9 days.

Judge POLIER. Then you were kept in the jail for 9 days?

Mr. YOUNG. Yes.

Judge POLIER. Did your parents visit you?

Mr. YOUNG. They wouldn't let my mother visit me because she was so active in demonstrations, no one liked her down at city jail.

Judge POLIER. Well, was anybody allowed to visit you from the family?

Mr. Young. No one. They sent food up. My mother told me one time she had sent so many of something. She had kept account of it. But after the jailer had taken out what he wanted, then he sent the rest of it up to you.

Judge Polier. Did you ever have a lawyer represent you?

Mr. Young. Well, one time, we were supposed to attend this school to keep us from demonstrating. The police had furnished us a school in the courthouse building. We had to attend this school. But I never did want to attend this school so I just took it and stayed home every day.

Judge Polier. No, you are not answering my question. While you were in jail, did any grown up person who was a friend of yours or a lawyer or a member of the family come to visit you?

Mr. Young. No.

Judge Polier. Then you went straight to court alone?

Mr. Young. I went to court, but not alone. My mother was waiting for me in the court.

Judge Polier. What happened in the court?

Mr. Young. Well, he asked me did I want to stay up here and I told him no, because I had been there long enough. Then he asked me did I want to go home and I said I really didn't care.

Then he said that he would leave us in custody of our parents.

Judge Polier. When he asked you whether you would like to go home and you said you didn't care, what did you mean?

Mr. Young. Well, some of our other friends, they had volunteered to stay up there and as long as they stayed up there, I would have stayed up there, too.

Judge Polier. In other words, you were standing by your friends. It wasn't that you didn't want to go home, was it?

Mr. Young. I was standing by my friends, because they were up there.

Judge Polier. Thank you very much.

Dr. Sykes. Could you tell me if you have ever seen police dogs or electric poles used on Negroes?

Mr. Young. We have seen police dogs in such instances as the other day, we had to walk out near the high school, they had about seven or eight police dogs around by the side of the school waiting for children to come around there. But electric poles, I have never seen them used.

Chairman Taylor. Thank you very much. You have been a marvelous witness.

It is getting a little late and we had better adjourn until 1:30 or a quarter to 2. Would that be all right with you, Mr. Freedman?

Mr. Freedman. I think so.

Chairman Taylor. All parents from Philadelphia are asked to meet during the intermission in the mezzanine lobby. Also, any other parents or students who are going to Mississippi.

(Whereupon, at 12:30 p.m. the hearing recessed to reconvene at 1:30 p.m. of the same day.)

AFTERNOON SESSION

Chairman Taylor. Mr. Freedman, if you are ready, we will continue the afternoon session with the witnesses you bring to us.

Mr. Freedman. Thank you, Mr. Chairman. Is George Raymond here, please?

TESTIMONY OF GEORGE RAYMOND (HAVING BEEN FIRST DULY SWORN)

Mr. Freedman. Would you state your name and address, please?

Mr. Raymond. George Raymond. I am a resident of New Orleans, La.

Mr. Friedman. Mr. Raymond, what connection have you had with the problems in Mississippi?

Mr. Raymond. Well, I am a fieldworker for the Congress of Racial Equality, and representing the Council of Federated Organizations in Mississippi.

Mr. Freedman. What experiences did you have in Mississippi in that regard?

Mr. Raymond. Well, several of them. I can start by telling you about an incident that occurred in Yazoo City, Miss.

Last part of October and November of 1963, several civil rights workers, along with myself, went to Yazoo City, attempted to start a voter registration drive, along with—attempted to set up a freedom vote campaign over there.

Three times we were escorted out of Yazoo City by police officers, and everywhere we went around the city we were followed by three or four cars of local city police officers and State highway patrolmen.

I think about the first or second day of November 1963 one of the young ladies was arrested for distributing leaflets without a permit.

While I was going around the city to attempt to get a telephone, to call the Jackson office and let them know about it, three or four police officers was walking behind me, saying all sorts of dirt and filthy language, and they threatened to—if I didn't stop walking in front of them, that they would push me out in front of a car. You see, the street is also the highway. And, at this time, I sort of stepped aside and walked a little bit faster.

In the later part of the day, we managed to get the young lady out of jail and went back to a cafe, to call Jackson. And while I was walking through the door, Officer Otis of the Yazoo City Police Department, kicked me through the door, and told me, "Nigger, I have you where I want you now. You are in my town." And used some other filthy language which I do not care to repeat.

Later that night, while we were leaving town, going home, R. E. Moody, who is the highway patrolman in the State of Mississippi, stopped the car that I was driving on the highway, with five other passengers and held us on the highway for about 2 hours. And wrote "agitator" on my driver's license, and misspelled it.

In about 2 hours—and then he finally came out to the car and decided to talk with us. He asked us all to get out of the car and stand at the back of the car, where he took pictures of us. Then he finally let us go.

I returned back to Yazoo City a few days later. I don't know if my dates are right, but it was the early part of November 1963. And we were escorted around town again like all the previous times, by police, three and four cars of police officers, and some white people from the community, including the mayor of Yazoo.

And while leaving Yazoo City, I was arrested for reckless driving, and the people that were in the car with me had to walk back to Jackson, or find a way—I don't know exactly how—and the car was towed in. I was placed under arrest, and I was kicked into the car by R. E. Moody, State highway patrolman, of Mississippi. I was brought to the jailhouse. I was dragged out of the car—dragged out of the car, and I had handcuffs that he had put on. They were pretty tight, and cutting the circulation off.

Then he brought me into the jailhouse, and kicked me all the way up to the steps after he booked me, and things like that. That was R. E. Moody.

Mr. Freedman. Did you make any formal complaint about these events?

Mr. Raymond. There was a formal complaint made to the Justice Department of the United States of America, but so far nothing has come of it.

Mr. Freedman. How long ago was that complaint made?

Mr. Raymond. The complaint was made just about the next day—the next day.

Mr. Freedman. Did you personally participate in sending this complaint to the Department of Justice?

Mr. Raymond. The FBI—let me see—I spoke with some FBI agents and some of the Justice Department agents, told them about it, and they drew up statements, and I signed it.

Mr. Freedman. Have you ever gotten any formal acknowledgment of any kind?

Mr. Raymond. I have not.

Mr. Freedman. Mr. Chairman?

Chairman Taylor. Any questions?

Mr. Heller. When you make a complaint to the Justice Department, what procedure do you follow?

Mr. Raymond. Well, the procedure that was followed in this past incident—I was arrested, and I stayed overnight. The night that I was arrested, the Justice Department was called by the Jackson office.

Mr. Heller. The Justice Department—do they have an office in Jackson?

Mr. Raymond. In Washington.

Mr. Heller. Does the Justice Department have a representative in Mississippi?

Mr. Raymond. They have the FBI. Sometimes they send out representatives. At this time, some were in the State, I believe.

Mr. Heller. But you had to make a long-distance call to Washington to report this?

Mr. Raymond. To Washington; yes.

Mr. Heller. Did you know who to ask for?

Mr. Raymond. I didn't make it myself, but someone from the Jackson office did.

Mr. Heller. Is anything ever put in writing? Do you ever have any record of a person who is supposed to process it and acknowledge it, or reply to it or act upon it?

Mr. Raymond. Well, this is what the FBI men tell me. They tell me they take our statements and they send them to Washington.

Mr. Heller. You give a statement to the FBI in Mississippi?

Mr. Raymond. And they send them to Washington. And they say—this is for their records. Sometimes we ask them. The only thing I can say is that these statements are for the records.

Mr. Heller. But you have no way of knowing if the FBI ever passes them on to Washington, or if you did want to complain or follow up or add to your report, you would not know who to contact in Washington or in the Justice Department?

Mr. Raymond. I would not, because every guy that comes down asks the same questions, like they don't have any records.

Mr. Heller. Was it you who made the report, or was it the SNCC?

Mr. Raymond. The COFO office made the report, but as far as my statement, I gave my statement to the FBI.

Mr. Heller. And as far as you know, the COFO office never received any acknowledgment of this complaint, either?

Mr. Raymond. Not that I know of. They haven't told me of it.

Mr. Heller. Thank you.

Mr. Freedman. I believe there are other incidents you wanted to discuss.

Mr. Raymond. Yes. One night in the first part of January 1964 I loaned my car to a guy in the community to go get his wife some dinner, something like that. Anyway, I was sitting around the house——

Mr. Freedman. Excuse me. Where did this take place?

Mr. Raymond. In Canton, Miss., Madison County.

And someone came in, I can't remember exactly who it was, and told me the police had this guy down the street with my car.

Immediately I stepped down the street, Boyce Street, in Canton, Miss., to see what was going on. So I went up to the car and one of the police officers came over and told me that Herb has your car in charge and you have to see him about it. I went over and asked him what seems to be the trouble, Constable Evins. He said something smart—I cannot exactly remember what he said. I said, what are you holding my car for? This is when he hit me upside the gun with his left hand, and struck me across the face with his right hand—some kind of way he opened the door of the police car, and the next thing I knew I was in jail.

Chairman Taylor. What was the charge?

Mr. Raymond. The charge was intimidating an officer and resisting arrest. After I was in jail he also hit me while I was in jail.

Mr. Freedman. When did this happen?

Mr. Raymond. This happened the early part of January 1964. I can't remember the date.

Mr. Freedman. Has any report been made of that?

Mr. Raymond. A report was made for the Justice Department.

Mr. Freedman. Has anything come of it, to your knowledge?

Mr. Raymond. Not that I know of. They also have pictures of my head, bruises.

Mr. Freedman. Who has the pictures?

Mr. Raymond. The Justice Department.

Chairman Taylor. Did you do that personally, sir, or was that done through CORE—COFO?

Mr. Raymond. It was done through COFO. They took the pictures.

I talked with them and I gave them the statement personally.

Chairman Taylor. Did you speak to the FBI about this incident?

Mr. Raymond. I spoke to the FBI about every incident that happened to me, including they have a picture of my driver's license that R. E. Moody wrote agitator on and misspelled it.

Mr. Goodman. Can you happen to remember what all what is called intimidating an officer by him? What had you said?

Mr. Raymond. I didn't say anything to him other than "What seems to be the trouble, Constable Evins?" Anything intimidates an officer in Mississippi when you are a Negro.

Dr. Coles. Are you treated with respect by the FBI people when you make these reports? How does their behavior toward you compare to the attitude of the police?

Mr. Raymond. Well, it depends—well, respect—we might be treated with respect to a certain extent. You are treated with respect like I would treat this young man with respect. But what happens when he turns his back, I don't know. And I don't think it is too good.

Mr. Day. Do they call you Mister—the FBI agents?

Mr. Raymond. The ones that are not familiar with you.

Dr. Coles. The point I am making is that apparently Federal law—I am simply trying to point out that it is interesting that Federal law—this is something I noticed when I lived and worked in an Air Force hospital—that Federal law apparently can influence the behavior of white Mississippians toward Negroes if they are working for the Government, in the sense because they are working for the Government there is some difference in behavior on their part toward you, even if you don't get results from them—they treat you with a certain amount of respect, which you apparently don't get from the local police—even though all of these people come from the same town.

Would that be a fair statement?

Mr. Raymond. It is not necessarily—it is a fair statement in the sense that as long as I am in a conversation with you, I am going to treat you with respect. But when you turn your back, it is a different situation altogether, because I can cite an incident that occurred in my office in Canton, Miss., where two FBI agents, which I am not going to name, were in the office, and there was two guys in the office, and each went out the office—and the FBI men actually attempted to go through the records. And I don't call this, you know, respect.

Mr. Goodman. Would you explain why you won't give their names?

Mr. Raymond. Why I won't give their names?

Well, no comments.

Mr. Freedman. Did you have any other incidents you wanted to discuss?

Mr. Raymond. Yes; I do have a few more incidents.

Let me see. The 27th of January 1963, City Detective John Chance, in Canton, Miss., told me to leave town, and if I didn't leave town that there were forces in the community that would run me out, and if I didn't leave they would kill me. He said that I should leave town that night, and if I didn't leave town that I should be in his office the next morning at 8 o'clock.

Mr. Freedman. For what purpose were you to be in his office tomorrow morning at 8 o'clock?

Mr. Raymond. He didn't give any purpose at all. He said that I was leading the people in the wrong direction. He said—he stressed that the people were happy in Madison County, and it was going to be that way, and I was going to leave, he was going to run me out.

And the very next night, Claude Weaver, Matt Swarez, and myself were leaving Canton, Miss., en route to Jackson, on Highway 51, south. A highway patrolman pulled my car on to the side—at least there were about 15 or 20 cars behind me, while I was driving on this highway, because I looked on the rear view mirror, and it looked like Broadway behind me, with all the lights. And the highway patrolman pulled me to the side. He asked to see my license. Then he told me to get out of the car. Then he brought me behind my car and behind his car to Constable Herby Evins' car, who is one of the constables of Madison County, and he gave my license to him.

He asked me a few questions.

The highwayman went back to my car and left Constable Evins and myself in the back, in the dark.

So Constable Evins took his gun off, and he took his badge off, and his watch off, and he said, "George, let's fight." Just like that. And I said, "I don't want to fight you." He kept insisting. And then he seen I wasn't going to fight him, and that is when he kicked me. He kicked me against his car. And he said, "Come on, let's fight." And then he continued to kick me several times.

Then he saw I wasn't going to fight him. What I did, I began walking back toward the car. He walked behind me, saying a whole lot of words, which I can't remember.

And finally the highwayman stopped talking with my other two friends and came back and said, "George, do you think you are a bodyguard or something," because what I was really doing, two of my friends were in a car ahead, Ed Holland and Maurine Murphy—they were in the car ahead, and I was trying to see that they could leave Canton safely. And so I said, "No"; and he looked at my license. He gave it back to me and said, "You get on out of here."

Then Evins walked back to my car with me and told me, "George, you come by and see me any time, just any time."

Then they let me go. I was not arrested or charged with anything.

I went on to Jackson, and I made a formal report about it.

Now, on Saturday night, in Canton, Miss., I was in the voter registration office. A young man from Valley View community walked in the office and he was really hysterical. He used the term "Oh, Lord. I was out there on the highway." He told me, "George, I just seen Williams along with the police, and they were falling into the ditch on the highway." Then he told me—you know, he was riding behind, and he noticed something up ahead on Highway 51 north of Canton.

So what I did, I jumped in the car, along with Landon McNamara, and we rode out into the rural area to see what we could find.

After awhile, we did manage to find him. And he told us that the police officer, Herby Evins and Constable Hawkins, had stopped him on the highway. He was with his wife and two kids. And they told him his headlights were not burning. And he said, "Well, I better check it." He went out of his truck and went to the back and checked it. And after checking it seemed they were not burning. And Evins said "Nigger, I am not going to let you get away like that." But I guess it was more dramatic than that. "What I'm going to do, I'm going to blow a hole in your head."

And so he said, "You don't mean that."

Williams told the police officer, "You don't mean that."

He said, "Yes; I do."

So they kept on talking.

And, meanwhile, Mr. Williams' sister-in-law drove up. So he stopped out in front of the car and said, if you are going to kill me, you might as well kill me where I can see it in the light.

So when he said this Constable Evins walked out behind him and put his arm around his neck and reached for his gun. Mr. Williams noticed he was reaching for his gun, so he grabbed his hand to prevent him from getting his gun. And Hawkins, the other police officer, he noticed that Mr. Williams was about to get the gun, so what he did, he grabbed the gun, and this gave him two guns. So he told Mr. Williams to come and get in the car.

He said no, he was going to stay right with his family.

So what Evins did, the constable, he swung his stick, still thinking he was going to kill Mr. Williams—he swung his stick at Mr. Williams hard, and put a dent about this deep in a young lady's car that drove up.

And so while all this excitement was going on, what Mr. Williams did—no, first, Hawkins, the other constable, he was getting kind of scared. And he said, "Come on, Williams," he started pleading with him. So what William did, he ducked around a car, and then to the woods. And he got away from him.

So I finally brought him in—I talked with the sheriff on Sunday—and the sheriff said he would be protected.

Prior to that, the FBI got a statement from him.

Sunday night, the sheriff said if I turned him in he would be protected. So I turned him in 4:30 Sunday evening. He was charged with drunken driving at first, resisting arrest, and faulty equipment.

After they found out that he had ulcers and did not drink, they changed the drunken driving to reckless driving.

This is about it.

Mr. Freedman. Mr. Raymond, this last story that you told us, did you observe any of this personally?

Mr. Raymond. I did not observe it, but what I did, that very night, when this young man walked into the office and said this guy was out on the highway, I went directly to the area that it happened, and went a little bit farther into the woods around his home, and found Mr. Williams, and did stay with him all that night, until the next day.

Mr. Freedman. And the young man——

Mr. Raymond. This is what he told me.

Mr. Freedman. Do I understand there was a young man who did observe this or a substantial part of it and ran to the office in a state of excitement and told you this story?

Mr. Raymond. Yes, sir.

But the story I am telling now is the story I got from Mr. Otha Williams himself.

Mr. Freedman. Was this corroborated by the story you got from the young man who was still excited from having seen it?

Mr. Raymond. They didn't really fall into the bushes or anything like this guy said. They didn't really fall into the bushes.

Chairman Taylor. Thank you very much.

Mr. Freedman. Is Bessie Turner here?

TESTIMONY OF BESSIE TURNER (HAVING BEEN FIRST DULY SWORN BY MR. FREEDMAN)

Mr. Freedman. Would you please state your name and your place of residence.

Miss Turner. My name is Bessie Turner. I live in Mississippi—I live at 515 McKinley.

Mr. Freedman. How long have you lived in Mississippi?

Miss Turner. Five years.

Mr. Freedman. Is there something in particular you wanted to tell the Committee about?

Miss Turner. Yes.

On February 4, 1961, we went to the fair—we remained there until 4 o'clock the next morning. We came back and it was too late for me to go home, so I stayed until daylight, then I went home.

When I came from the fair, the next day my sister told me the police had been looking for me. I asked why. She didn't know, because they never tell her. I tried to call that night, but I could not get them.

I called the next day, went down to the city hall to find out what they want with me.

Later at city hall she told me to say "no ma'am"—because I didn't say no ma'am, because it sound like a man.

That Sunday I called to find out what they wanted with me, and two policemen came in my house and picked me up, a short one and a tall one. And they carried me to the city hall. On the way, when they were carrying me to the city hall, they asked me a lot of questions. They asked me has I ever been married, how many children I have, where I work at. And I told them I had been married. They asked me what about children. He asked me how did I get my children.

They carried me to a little small room around behind the desk. And he told me to lie down on the floor. I lied down on the floor. He told me to pull up my dress. I pulled up my dress. He told me to pull down my panties. Then he started whipping me with a brown wax strap. He hit me several times behind, and then he had me turn over and hit me between my legs about four times.

And then he brought me back home.

When I was at city hall, I was crying. He told me to stop crying. He had me put my clothes back on and put my pants on.

When he got out of the car he came in the house—he searched my house. He looked in my refrigerator, he looked in my pocketbook. I had $1.

He tried to make me say I took $7 or $8 from the man. The money I had got from picking cotton.

He asked me where the money was. I told him I didn't have any more. He wanted me to tell him where the money was. I told him I didn't have any.

The next week the chief came to my house. I was sitting outside. He asked me, "You Bessie Turner?" I said, "Yes."

He told me "Get up and put your clothes on, I come after you." I put my clothes on. My mother told me to go out the back door. I ran out the back door. When I ran out the back door I heard my mother say, "Don't you shoot my daughter, or me either." My mother said he went for his pistol. But I was gone then.

Mr. Freedman. Miss Turner, this happened back in 1961, did you say?

Miss Turner. Yes.

Mr. Freedman. Were you examined by a doctor after this beating?

Miss Turner. Yes; I want to the doctor. He says he didn't see anything wrong with me. My brother is a marine. He came with Dr. McKesson and he examined me.

After I came back home, my brother carried me to Dr. Henry. Dr. Henry called over to the city hall. He asked did they whip me, and they told him no. The next day I went to Lawyer Pearson and Lawyer Pearson—I told my story to Lawyer Pearson. He had me show where they whipped me. I showed him.

I went to another doctor. I can't remember his name. At the county hospital.

Mr. Freedman. Did any one of the doctors recognize that you had been whipped from the marks that were on you?

Miss Turner. Dr. McKesson; yes.

Mr. Freedman. Did you make any formal statement of any kind about this? Did you write anything or sign anything?

Miss Turner. Yes. I went to the hospital. The last doctor examined me. I went to two doctors.

Mr. Freedman. Do you know whether any written complaint was ever made to any official about what happened to you?

Miss Turner. What?

Mr. Freedman. Did you ever write down anything, or did someone ever talk to you about it, and write down what you were saying?

Miss Turner. I told Dr. Henry what happened. And he wrote down what I said, what happened to me.

Mr. Freedman. And do you know what ever happened to what he wrote down that you told him?

Mr. Turner. He sent it to Washington.

Mr. Freedman. And have you ever heard anything from Washington since then? Do you know whether anything has happened about this?

Miss Turner. The FBI came by my house to talk to me. That was after I got whipped.

Mr. Freedman. And did you tell him the whole story?

Mr. Turner. I told him the whole story.

Mr. Freedman. And then do you know whether they did anything for you? Did you see them again, hear from them?

Miss Turner. The FBI?

Mr. Freedman. Yes.

Miss Turner. I talked with some more FBI too. I went to Oxford and I told the story what happened to me, and I went to Greenville and told the story what happened to me.

Mr. Freedman. And do you know whether anybody has ever been punished for what happened to you?

Miss Turner. No, sir.

Mr. Freedman. Is the policeman who did this or the sheriff still in office, do you know?

Miss Turner. The chief is still on. I have not seen the other one, but I heard he is still on.

Mr. Freedman. Mr. Chairman.

Mr. Coles. Are these Negro doctors that you saw?

Miss Turner. One Negro and one is white.

Mr. Freedman. The question, for the record, was were these Negro doctors that you saw. The doctor who said that he could not see that you had been whipped—was he the Negro doctor or the white doctor?

Miss Turner. The white doctor.

Mr. Coles. Was this in a hospital, a city hospital, or a town hospital?

Miss Turner. The Holmes County Hospital. Dr. McKesson, he has an office. It is not in the hospital.

Mr. Coles. Is that the Negro doctor?

Miss Turner. Yes.

Mr. Coles. Then you went to a hospital in the town of——

Miss Turner. I went to a hospital in town.

Mr. Coles. And he is a doctor that said to you that he could not see any evidence that you had been whipped?

Miss Turner. Yes, sir.

Mr. Coles. And was there evidence that you could see on your skin?

Miss Turner. Yes. I was swollen.

Mr. Coles. Did he treat you as a doctor treats patients?

Miss Turner. He treated me. He examined me. He gave me some pills to take. But he said he didn't see anything wrong with me.

Mr. Coles. Did you believe he could not see anything wrong with you, or did you feel there was something else preventing him from saying what he saw? Apparently he said there was nothing wrong with you, and you felt there was something wrong that could be seen. How do you account for the fact that he could not find anything wrong with you? Why did he say there was not anything wrong with you?

Miss Turner. I don't know. But there was something wrong with me, because I was still sore, and I was swollen some.

Chairman Taylor. Mr. Heller.

Mr. Heller. I may have missed this. Were you active in voter registration before this incident or connected with the NAACP?

Mr. Freedman. Have you ever done anything about civil rights? Have you ever joined any organizations? Have you ever tried to register to vote or to get other people to register to vote?

Miss Turner. No, sir.

Mr. Heller. Do you think there was any connection between the policeman coming to you and anything you might have done with regard to voting or picketing or boycotting?

Miss Turner. I don't understand what you mean.

Mr. Heller. Do you think it was something you did that made the police pick you out and take you to the police station?

Miss Turner. He picked me up because the man said I took $7 or $8 from him. This is why he whipped me, try to make me say I had $7 or $8.

Mr. Heller. That was the cause of it. You yourself have not been active with voting or demonstrations. You think the policeman came to you only because the man accused you of taking money.

Miss Turner. Yes.

Mr. Freedman. Miss Turner, is there any indication that he treated you the way he did in part or in whole because you are colored? Did he say anything to indicate that, or is there anything that you know about the situation that indicated it was your race that in any way made him do the things that he did?

Miss Turner. I don't know.

Chairman Taylor. Thank you very much, Miss Turner.

Mr. RYAN of New York. I thank the gentleman very much for his very fine contribution.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. RYAN of New York. I yield to the gentleman from California.

Mr. EDWARDS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include certain statements.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. EDWARDS. Mr. Speaker, that certain white Americans are continually and systematically brutal and criminal in their conduct towards Negro Americans is a truth the overwhelming white majorities seek to hide from their consciousness.

This arrogant flaunting of our Constitution and duly enacted laws is an ugly scar upon the face of our country, whose philosophy of government we earnestly desire to be imitated by the other nations of the world.

Mr. Speaker, what happens when an American citizen, who happens also to be Negro, attempts to register to vote in Mississippi?

For the details of what happened to one American, I am going to read to you the sworn statement of Hartman Turnbow.

For attempting to register to vote, Mr. Turnbow was insulted and cursed. His home was bombed and set afire. He was shot at as he left the burning house with his wife and daughter. And have the culprits been arrested? Not to date by either the local police or the FBI.

But I think we should let Mr. Turnbow tell in his own words of his persecution and the awful crimes perpetrated against him and his family.

TESTIMONY OF HARTMAN TURNBOW

(Having been duly sworn by Mr. Freedman.)

Mr. FREEDMAN. Would you state your name, sir, and your residence?

Mr. TURNBOW. My name is Hartman Turnbow. I live at Tchula, Miss., Route 2, Box 25.

Mr. FREEDMAN. Mr. Turnbow, I understand you have been involved in attempts to register to vote.

Mr. TURNBOW. Yes, sir; I has.

Mr. FREEDMAN. And have you been successful in that attempt?

Mr. TURNBOW. No, sir; I haven't.

Mr. FREEDMAN. Why is that?

Mr. TURNBOW. Well, the second time I went to take it over again, the circuit clerk told me no, I didn't pass, I wouldn't never pass. And he tried to raise a big fuss with me. So I walked out.

Mr. FREEDMAN. You said the second time. How many times have you tried altogether?

Mr. TURNBOW. Two times. I went and registered the first time, and then 30 days later I went back to see did I pass.

Mr. FREEDMAN. Did you have any difficulty getting to the registration office?

Mr. TURNBOW. The first time?

Mr. FREEDMAN. Either time.

Mr. TURNBOW. Oh, the first time we had lots of trouble. The first time we had heard a citizenship school being taught in Leflore County. So one of the fellows who were participating in it in Leflore County. Some of the citizens in our area asked them to come down and tell us about it. So they came round and asked us would we meet at the church to hear them. So we all said yes, we agreed to come out and hear it.

So John Ball, he come, and he talked to us and told us that it was learning us how to register, since we were not familiar with registering in Mississippi—he thought we needed some help to prepare us to go register. So the story sounded reasonable to us, and we told them to come on, we would accept him for our citizenship teacher.

So he come down and started teaching us. So he taught us how to fill the registration forms out for about 2 weeks.

So in a 2-week period, 14 of us thought we knowed it well enough to go register. So 14 of us got in our cars. We went to Lexington. We didn't drive our cars up in town. We stopped them outside and we walked uptown.

We didn't walk in a big gang. We walked in two's about 10 or 12 feet apart, so they couldn't say we was demonstrating.

So we was met by the sheriff, Mr. Andrew P. Smith. He met us at the south door of the courthouse. And he stopped us.

So Samuel Block was leading us. And Samuel Block said "March forward." And Mr. Smith put one hand on his blackjack and the other one on his pistol and said, "None of that goddammed forward stuff here."

So I stepped out the line. I said, "Mr. Smith, we only come to register."

He said, "Well, Turnbow, go around to the north side of the courthouse and stop under that tree and don't go in no big crowd, go in two's."

So we did that, so when we got round under the tree, all 14 of us, and stopped, Mr. Smith, Mr. Andrew P. Smith, the sheriff, he came round there under the tree where we were standing and he looked at us, and he looked at us, he put one hand on his blackjack and the other on his pistol and raised his voice. He said, "All right, now, who will be first?" And the 14 of us got scared, looked one at the other one. So when the 14 commenced looking one at the other one, I just stepped out the 14. I said, "I will be first, Mr. Smith." Well, no sooner I said I will be first than Mr. Smith calmed his voice. He said, "All right, Turnbow, go down the side, the edge of the curb and go in the courthouse in the first door on the left, and do what you got to do." I told him, "Yes, sir." I did that. I got in there. The lady—the Circuit Clerk wasn't in—but the lady was in there. She said, "What do you want?" I said, "I want to register to vote." She said, "Well, you have to see Mr. McLennon about that, and he is not in here." I said, "May I wait until he comes?" She said, "Yes, you may."

So I had a seat in a chair in there. I sat down.

So I sat there until 12 o'clock. She said, "Well, I am going to dinner now. He ain't come yet. " I said, "Yes, Ma'am, I will be back after dinner."

So after dinner, about 2 or 3 o'clock, I went back in and he was in. She had told him about it. He said, "What do you want?" I said, "I want to register to vote." He just handed me the form and I filled it out and signed it and handed it back to him. So then after that I noticed the next day the Lexington Herald, a little local paper they write—they had a writeup in the Lexington Herald that "Hartman Turnbow was an integration leader," so I noticed that about 2 weeks or a little after that my house was fire bombed and shot in all at the same time. And about 3 o'clock in the morning it took place. My wife and daughter, she is 16, they jumped out of bed screaming and hollering that the house is on fire, it has been bombed. So I woke up—I was kind of hard to wake up—I woke up and my room was full of smoke. So I didn't run out. But they done gone. I raised the window and took my foot and kicked the screen out so the smoke could get out. Then I had a little old .22 automatic Remington sitting over in the corner. I picked it up and pushed the safety off and got it in shooting position and run out. When I run out, I met my wife and 16-year-old daughter coming back to the burning house. And as I run out, I noticed the living room was just full of flames and smoke. I noticed the back bedroom was in flames and smoke. And no sooner I got out in the open with my rifle in my hand, I saw two white men, and one of them no sooner he saw me he shot at me. He must have been shooting an automatic, because the next day we found three .45 hulls laying there where he was standing when he shot at me. So he shot at me the first time. I had my .22 already in position and I just commenced shooting at him right fast. So there was two of them. The first one run—the first white man made the first shot, while the second one run. When I started shooting right fast at him, he broke and run. But while me and this one was on the back were shooting at each other, somebody on the front was shooting all in the front of the house. We got four .45 bullets off the house there and one what hit and went another way we couldn't find. But they shot in front of the house in the house five times.

So about 3 or 4 minutes, they all was gone.

Then myself and wife and daughter went to pumping water and we put the fire out. And that is what I got for going to register.

Chairman TAYLOR. Did anything as exciting as that happen the second time? You went a second time.

Mr. TURNBOW. The second time? Oh, the second time I went back to see did I pass. The circuit clerk raised such a fuss with me until I walked out. I didn't argue with him. I just walked out.

Mr. FREEDMAN. Has anyone been arrested because of the firing and shooting and burning of your house?

Mr. TURNBOW. I was. After the shooting was all over, myself, my wife and daughter huddled on the back porch, after we put the fire out. And we sat there until day.

After daylight broke, we got in the car and we went out to Mitchell's and we asked some of the boys would they call the Justice Department. They said yes, they would. So I told them to call them and ask them to send an FBI to investigate the shooting and the burning. So then I called Mr. Andrew P. Smith, and I called the FBI, and told them about it, but he wasn't in his office. But after he wasn't in his office, I sent word to Mr. Mote, that is the Tchula police, and asked him—Mr. Judge Keller—could they get the sheriff and tell him about it. So they must have got him, because he come after the FBI—they was there investigating when the sheriff got there. So when he come the first thing he said, after the FBI left, and I had never carried my rifle in the house—I left it setting out there in the yard, when I went in to talk with the FBI. So they left there when they got through asking me questions about it. So I went out and picked up my rifle, and just at that time, Mr. Smith, the sheriff, he drove up and got out of his car. And the first word he said, "Put that goddamned rifle up. Do you want to put it up or do you want me to put it up." I said, "No, sir; I will put it up." So I carried it in the house and set it side the door. And he walked around the house and looked. So he went on in the back bedroom, where it had been burning, the mattress and everything burnt up, all the bedding burnt up. So he is talking.

He asked me, "How did it start?" I told him how it started and when I got to the point that two white men shot at me, and I shot back at them, and they bombed the house, he said, "You could have done it." Then when he said I could have done it, I said, "Mr. Smith, can I ask you a question?" He said, "Yes, you can ask me a question, one". I said, "Well, do you think I would set my house on fire and don't have no insurance on it?"

I had borrowed money from the FHA to make a crop year and the tractor is hard to crank, and it is sitting beside the house, and there was my pickup sitting there, and there is no insurance on anything and even myself "and then you think I would set my house on fire to burn up everything?" He didn't say anything. He got up and walked out.

So late that evening, about dark, Mr. Smith come back to my house and called me. I walked out there where he was. He said, "I got an arson charge against you, get them up." Well, he said that, I got them up. And they pat me down. He said, "Get on in the car." I got on in the car. So they took me to Lexington and put me in jail.

So a fellow, colored fellow at Greenwood, he bonded me out. I stayed in jail 2 days. When he bonded me out and I got out, Mr. Smith, they carried me up there to his office, but he didn't carry me in the sheriff's office, it is another office right in front of the sheriff's office, where he keeps a big old collie police dog. So we went in there. And he had two more white men in there that he called fire marshals. And they asked me how it happened. I told them the story how it happened. So I got to the point where I said it was two white men bombed the house, and they shot at me and I shot back at them and somebody was shooting in the house in the front, they told me I was a goddamned liar, I done it myself, and all that kind of stuff. They just cursed me out. I didn't say anything.

So after all of that, Mr. Smith just went and got a bond—he didn't tell me what it was—he said, "They got your name Turnbow Hartman but I want it Hartman Turnbow. Put it right there." I put it right there. He said, "Now, you are free to go." So I went on home then—at least the man what bonded me out, they carried me home.

So the next day in the JP court in Tchula they tried—they had that hearing. So I failed to testify, but they convicted me anyhow, and I was already under the $500 bond. Then they released me. So they started the trial again in Jackson, Miss., in the post office building. So that is when I knowed they had dropped the charges, when they brought it up that time—they told Mr. John Doar and Mr. Bob Owens that they had dropped the charges. But I didn't know it until then.

So that was the end of that.

Since that time, they are still doing everything against me they can, because they have a conference at Edward, Miss., and they wanted all the farmers to come to the conference. So myself and wife and daughter, we got in the truck and we started to it. And we got at a little place they call Bentonia—there was a highway patrol check, they were checking driver's licenses. So there has been lots of publicity about me. So when I give him my license, he knowed I was Turnbow that all the writeup was about. So then he told me to pull over.

I pulled over and he checked folks as they come by until it got so there wasn't nobody coming by right then. And then he called the other highway patrol and told them to check my license to see was it clean. He checked it and said, "Yes, ain't nothing against Turnbow." So then he asked me was that the license plate for my truck. I told him I bought it at the sheriff's office and if it ain't the one for it I ain't responsible—Mr. Andrew P. Smith is responsible. So he asked me a whole lot of other questions, just trying to intimidate me. He held me there for 30 minutes by my watch. And then he couldn't get anything. Then he said, "You can go." I got in my truck and I went on to the conference at Edward, Miss.

So in November, while I was combining my soybeans, two young white fellows—I had a load of soybeans on my pickup, I had hauled 2,200 and 2,100 pounds of soybeans on the truck to the elevator. So those two young white fellows caught up with me and run into the back of my truck and knocked the bumpers off and crushed the endgate and wasted about 300 or 400 pounds of my soybeans in the road. And then no sooner I stopped my truck and got out and went back there to see what the damage was, they just got in their car and drove away and didn't say nothing to me, didn't give me no kind of satisfaction for knocking my back bumper off, crushing my endgate and wasting 200 or 300 pounds of soybeans in the road.

So I went and unloaded the rest of my beans at the elevator and I went to Lexington and reported it to the highway patrol. The highway patrol said, "Turnbow, you have got to file an affidavit with the sheriff so I can pick them up. I can't pick nobody up without an affidavit."

So I went to the sheriff's office and I told him I wanted to file an affidavit against two white fellows for running into the back of my truck, crushing the endgate and knocking the bumpers off and wasting some of my soybeans. So he told me, "Well, I can't do it. You have to go to Tchula and do it with Mr. Kelly. It happened there and that is why you have to file your affidavit there."

So I got in my truck and come on back to Tchula to Mr. Kelly. Judge Kelly, he is the one that convicted me in the justice of peace court. He already knew about it. So I told him I wanted to file an affidavit against two white fellows that run into the back of my truck and knocked the bumpers off and waste my beans. And he looked at me and said, "Why didn't you catch them and hold them there?" So I replied to Mr. Kelly, I said, "It is not the custom in Mississippi for colored people to catch a white man and hold him until the highway patrol comes. Have you ever heard of that?" And he says, "Well, it ain't no need making no affidavit. When they find them, then you come and make one." And the highway patrol already told me he couldn't pick them up unless an affidavit was made. He said he would have to have it. So he couldn't go out and pick folks up and no charges against them. So Mr. Kelly, the judge at Tchula, he failed to make the charges. He didn't do it. That is because I had been in the registration. I attempted to register, and they bombed my house and shot in it, so he would not do it.

So every little thing they can get on me, they still do.

Chairman Taylor. There is just one question that I have. Did the other 13 original registrants continue?

Mr. Turnbow. They continued, but didn't but about three get registered that day. It took them about a week for 14 folks to get registered.

Chairman Taylor. Have they been all right, or have they had trouble, too?

Mr. Turnbow. Well, every one—they had different kinds of trouble. Lots of them had been buying gas for their farm tractors on credit, and that was cut out. Also me. But we didn't care about that too much. But everything they could do to us, they did it. They cut the credit off and all that kind of stuff. Some said if we niggers didn't quit that mess they was going to bomb the church and all that kind of stuff.

Chairman Taylor. Are there any other questions?

Thank you very much, Mr. Turnbow.

Mr. Edwards. That, Mr. Speaker, is the testimony of Mr. Turnbow. And it happens in our country, not in a foreign police state, not in Nazi Germany, Fascist Italy or Communist Russia.

The question naturally arises, Mr. Speaker, how can such atrocities go unpunished? Are there not Federal laws which make this vicious conduct by white men in Mississippi a crime?

Why are these men not arrested by a Federal marshal? Or by the FBI?

As you know, Mr. Speaker, I was an FBI agent in 1940 and 1941. I know that FBI agents have the power of arrest where Federal law is violated in their presence.

Let me read to you the testimony of other witnesses, including that of the distinguished attorney, Mr. Lawrence Speiser, director of the Washington Office of the American Civil Liberties Union. And also the testimony of Prof. Robert Harris of the University of Michigan Law School.

Mr. Freedman. Mr. Chairman, with your permission I would like to turn now to the lawyer witnesses that we have, and then we can get back on the other witnesses.

Mr. Speiser.

STATEMENT OF LAWRENCE SPEISER

Mr. Freedman. Would you state your name, residence, and occupation?

Mr. Speiser. I am Lawrence Speiser, I live in the District of Columbia. I am the director of the Washington office of the American Civil Liberties Union.

Mr. Freedman. Do you have a statement for us, Mr. Speiser?

Mr. Speiser. I do not have a prepared statement, but I want to put into the record some correspondence that the American Civil Liberties Union has had with the Department of Justice concerning the enforcement of the so-called Civil Rights Act.

This is title 18, United States Code, section 242, which makes it a crime for any official of a State to deprive any individual of his constitutional rights.

In February of last year, the director of the American Civil Liberties Union, John Pemberton, wrote to the Attorney General raising some question about the enforcement or lack of enforcement of this particular section. This section subjects State and local officials to Federal prosecution if they do deprive individuals of their constitutional rights.

The letter was prompted by the filing of a complaint in the U.S. District Court here in the District of Columbia against the Attorney General and the head of the FBI, J. Edgar Hoover, alleging that they were not actively enforcing this particular section.

We received a reply in March of 1963 from the Assistant Attorney General of the Civil Rights Division, Burke Marshall, who in effect denied that they were not vigorously enforcing this section.

He said, "It is not true, as you suggest, that there have been few if any prosecutions under section 242 in recent years. For the same period as mentioned above, eight cases involving police or prison brutality were presented to Federal grand juries sitting in the State of Mississippi."

The period he is referring to was between January 1962 to February 28, 1963—14 months—in which there had been a total of 102 complaints filed alleging deprivation of civil rights in the State of Mississippi and they were received and investigated.

Now, of those 102 complaints, they presented eight cases to the Federal grand jury sitting in the State of Mississippi. And six of them the grand juries refused to return indictments. Of the two cases in which indictments were returned, one went to trial, defendant was acquitted by the verdict of the jury.

"The trial of the remaining case was expected to take place in the near future."

This was back in March of 1963.

"I think you will agree that this record reflects a vigorous enforcement policy on the part of this department."

In his letter, Mr. Marshall indicated one reason for not filing more charges against State and local officials, he said. "But I will not permit the filing of a criminal information where I am not convinced evidence will support a conviction and sustain the judgment on appeal, for to do so it seems to me would involve a gross violation of the rights of the defendant. I do not believe that such use of prosecutive authority is permissible even where the ultimate purpose is to effect a desirable sociological change."

Now, we wrote back in March of 1963 contending that such a high level of proof is not utilized in all other kinds of cases—that when a prosecution begins, either by an indictment before a grand jury or on information which is brought on by the Federal prosecutor, he does not at that time have to satisfy himself that there is proof beyond a reasonable doubt. He merely has to have a prima facie case, and he goes ahead with the prima facie case and attempts to get a conviction.

So we responded to Mr. Marshall's letter in which we said, "There are two arguable points of view in considering what role Federal law enforcement can most effectively play in Mississippi. You would presumably argue that the role of the Federal Government would be demeaned if it were to bring prosecutions that invariably resulted in acquittals. We disagree. We think that there is a great deal to be gained by vigorous efforts to enforce section 242 even if acquittals are generally forthcoming."

And we suggested the reason for this is that this would increase the visibility of efforts of law enforcement, Federal law enforcement and that private citizens in Mississippi working on behalf of civil rights will receive that kind of encouragement that they need but which is often disappointedly absent.

"In addition we think there is at least as much to be said for a fairly large number of prosecutions that result in acquittal as there is to be said for a single prosecution in 14 months that has the same result. In the latter case everyone's impression is either that there is no such systematic transgression of civil rights in Mississippi or that the Federal Government is seriously neglecting its duty. If the former practice were adopted, it would become clear soon enough to the Nation at large that the citizens of Mississippi cannot be expected to be fair in any aspect of their treatment of civil rights. Less pessimistically, perhaps, it might even be that a larger incidence of prosecutions will result eventually if not immediately and more frequent convictions."

The second point that we raised in the reply letter was that Federal officials should be utilized to protect individuals in Mississippi, and this has been true where they have been forewarned there were going to be civil rights demonstrations or attempts to register people to vote. And we suggested that there is a proper function for Federal officials in protecting individuals where it is clear that not only will local officials not protect them, but in many cases, as involved with the Student Nonviolent Coordinating Committee, the local law enforcement officers themselves were the ones that denied them the rights.

There has been no subsequent correspondence on this. We feel there is a serious misconception on the part of the Justice Department as to what their role could be in the State of Mississippi as well as in other States in utilizing more effectively the Civil Rights Act, section 242, to prosecute local law enforcement officers who violate constitutional rights of citizens.

Mr. Freedman. Mr. Speiser, perhaps you can confirm my recollection that the Justice Department prosecuted James Hoffa five times unsuccessfully before they finally convicted him on the sixth time. Are you aware of any similar extended efforts on the part of the Justice Department in prosecution of any State official accused of brutality or violation of civil rights?

Mr. Speiser. I have never heard of any.

Chairman Taylor. Mr. Speiser, when Congressman Ryan was here, he spoke of a letter he was circulating to the Attorney General's office requesting Federal marshals for this coming summer.

Do you have views about that as an appropriate thing for the Justice Department to do?

Mr. Speiser. Well, we essentially took the same view in our correspondence, that considering the way people have been treated as has been done in Mississippi, that there is certainly an obvious danger that exists, and that individuals who are American citizens have a right to go into any State and be protected in their constitutional rights.

There is enough certainly to warrant the feeling that local law enforcement has broken down and in fact that local law enforcement officers may themselves deprive individuals of rights. And we think there is a clear power within the Federal Government to protect individuals under those circumstances. I would agree with Congressman Ryan's position.

Mr. Heller. Is there any basis for having declared invalid an election of some Federal office, Congress or the Senate, if it can be demonstrated that either fraud was committed or that a substantial part of the people in that State were denied the right to vote? That is, can a Senator raise a question about admitting to the Senate a Senator from Mississippi who has been elected or a Representative?

Mr. Speiser. This has been suggested in the past under the second section of the 14th amendment, which has an implementing power to declare elections unconstitutional where any sizable portion of the citizenry have been denied the right to vote.

I think it is a little optimistic to assume that either House of Congress is going to enforce that. I think you have to look elsewhere for the enforcement of that, to put that into effect.

There has been some legislation proposed to do something about this. It has been suggested perhaps the executive has some power. But I think that under the present circumstances it is somewhat Pollyannaish to expect that the Senate is going to implement that section.

Mr. Sykes. Could I ask you a question? You are suggesting the possibility of sending Federal marshals into Mississippi this summer. Could you be a little more specific on two points:

Could you tell us a little bit more on what they will actually do in Mississippi, and what would their relationships be to both the local police officials and to the FBI in the area?

Mr. Speiser. Well, let me just answer in a shorthand fashion. I think that Federal officers have the power to make an arrest—if they see violations of the Civil Rights Act committed in their presence. And I think if you have the marshals there and they see a violation occur, in which there is a violation of constitutional rights by local law enforcement officers, that they have a right to make an arrest on the spot. And I do not think it requires anything more than that.

Mr. Sykes. Before we go on to the next point, that is a right that already exists for every citizen.

Mr. Speiser. That's right.

Mr. Sykes. And I wondered why you think these Federal marshals might better be able to exercise it than other people.

Mr. Speiser. Well, I think that we have gone a long way from the point of view of citizens' arrests as being a feasible method of law enforcement—and there is a great deal of danger that exists in that, in the utilization of that. I would think it would be far better to have representatives of the Federal Government making arrests for violation of Federal law rather than relying on citizens to do the same sort of thing. And when you speak of marshals, I would assume the same thing is true as far as FBI agents are concerned. I would think their power would be coextensive in this area.

Mr. Freedman. I think there may also be a problem that a citizen's arrest would be controlled by a State law, and that the scope of authority of a citizen and the danger that he might be subjected to in a civil suit might vary considerably because he is a citizen and not a law-enforcement official.

Mr. Speiser. I would like to submit the copies of the correspondence for the record. Thank you.

Chairman Taylor. Thank you very much, Mr. Speiser.

TESTIMONY OF ROBERT HARRIS

(Having been first duly sworn.)

Mr. Freedman. Will you state your name and your residence and your profession, please?

Mr. Harris. My name is Robert Harris. I live in Ann Arbor, Mich. I am an associate professor of law at the University of Michigan Law School.

Mr. Freedman. And do you have a statement, Professor Harris?

Mr. Harris. I do.

I was asked to give an opinion on the statutory authority and the constitutionality of sending marshals to Mississippi with the power to make on-the-spot arrests.

The U.S. Constitution authorizes the Congress to make all necessary and proper laws to regulate the manner of holding Federal elections. And it also authorizes the Congress to enforce by appropriate legislation several prohibitions on State action.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor deprive any citizen of life, liberty, or property, without due process of law, nor deny or abridge the rights of citizens of the United States to vote on account of race or color. And the Constitution says the President "is to take care that the laws be faithfully executed."

Now, the Congress has passed the following relevant laws:

"The President shall appoint, by and with the advice and consent of the Senate, a U.S. marshal for each judicial district." Mississippi has two such districts, northern and southern.

"The Attorney General may authorize any U.S. marshal to appoint deputies.

"The Attorney General shall supervise and direct marshals in the performance of public duties.

"U.S. marshals and their deputies may carry firearms and may make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony."

The statutes go on to say, "U.S. marshals and deputy marshals are authorized and required at the expense of the United States to cause persons violating the criminal provisions of the civil rights laws to be arrested and imprisoned or bailed, for trial before the court of the United States having cognizance of the offense."

Now, there are two relevant criminal provisions which the U.S. marshals could enforce. The first is a felony punishable by up to $5,000 fine and/or up to 10 years in jail. It applies when two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in his exercise of certain rights, or because of his having exercised these rights. Included among these rights are:

(1) The right to vote in primary and general elections of Congress.

(2) The right to assemble peaceably and petition for redress of grievances.

(3) The right to inform the Federal Government that someone has broken Federal law.

Conspiracies to deprive people of these rights are felonies.

The second statute is a misdemeanor, punishable by up to $1,000 fine and/or 1 year in jail. It applies when anyone is deprived of certain rights willfully and under color of law. Willfully means that the interference with the rights was done with the deliberate purpose of depriving the victim of such rights, and under color of law means that the person committing the crime is a State or local official using or abusing his official powers.

The rights protected by this misdemeanor provision include those already mentioned, and, in addition, two others; first, the right to be free from having the police take the law into their own hands, and impose a beating as punishment without trial; and, second, the right to be free from having the police enforce laws of the kind the Supreme Court has held unconstitutional. And this includes both laws which the Court has held unconstitutional because they offend the equal protection laws and laws the Court has held unconstitutional because they offend the first amendment protection of free speech and association.

There is no question that it is constitutionally permissible to enforce these statutes to protect the rights just mentioned, however questionable it may be to extend the statutes to other rights not relevant here.

This has been determined in the Classic Screws and Williams cases of 1941, 1945, and 1951.

Nor is there any real question about the constitutionality of moving Federal marshals into a State. In 1879 the Court decided ex parte Siebold, where one of the defendant's contentions was that Congress could not constitutionally authorize deputy marshals to keep the peace at the registration and polling places during congressional elections since this duty belonged to State authorities alone. In affirming the conviction of the defendant, Mr. Justice Bradley wrote: And I read the words of Justice Bradley, writing for the Court, a majority of seven:

"We hold it to be an incontrovertible principle, that the Government of the United States may, by means of physical force, exercised through its official agents, execute on every foot of American soil the powers and functions that belong to it. This necessarily involves the power to command obedience to its laws, and hence the power to keep the peace to that extent.

"Why do we have marshals at all, if they cannot physically lay their hands on persons and things in the performance of their proper duties? What functions can they perform, if they cannot use force? In executing the processes of the court, must they call on the nearest constable for protection? Must they rely on him to use the requisite compulsion, and to keep the peace whilst they are soliciting and entreating the parties and bystanders to allow the law to take its course? This is the necessary consequence of the positions that are assumed. If we indulge in such impracticable views as these, and keep on refining and re-refining, we shall drive the National Government out of the United States, and relegate it to the District of Columbia, or perhaps to some foreign soil. We shall bring it back to a condition of greater helplessness than that of the old confederation."

Mr. Justice Bradley said, "The argument is based on a strained and impracticable view of the nature and powers of the National Government. It must execute its powers, or it is no government. It must execute them on the land as well as on the sea, on things as well as on persons. And, to do this, it must necessarily have power to command obedience, preserve order, and keep the peace; and no person or power in this land has the right to resist or question its authority, so long as it keeps within the bounds of its jurisdiction.

"The questions involved have respect no more to the autonomy and existence of the States, than to the continued existence of the United States as a government to which every American citizen may look for security and protection in every part of the land."

Now, a practical objection can be raised to any plan whereby Federal marshals try to arrest State or local policemen, at the very moment when the local police are attempting to arrest civil rights workers. Obviously, there is a peril of a small arms fight between the State and Federal police officer. But there is a practical solution to the practical objection.

The marshals need not make their arrest at the very moment State police are attempting to arrest demonstrators. The marshals can take photographs at that moment, and proceed at once to obtain arrest warrants for the State police in question.

The State police can be picked up by the marshals later in the day.

If this does not work, and it may not work, there still may be one more way to enforce Federal law without bringing in the troops.

In the Debs case the Supreme Court held that the Attorney General, without any specific statutory authority, may seek injunctions against those who obstruct the Government in carrying out its enumerated powers. If the courts today should hold that the Federal Government's duty to keep open the franchise and the political process in Mississippi is as important as it was to keep open the railroad lines during the pullman strike, police officers and conspirators may find themselves in contempt of court without jury trial if they persist in ignoring Federal civil rights laws.

In any event, the President has the ultimate weapon which was invoked at Little Rock, Oxford, and Tuscaloosa, the ability to bring in marshals and troops and federalize National Guardsmen to "suppress domestic violence and unlawful combinations that obstruct the execution of the laws of the United States."

It is my opinion that the President and the Attorney General today have the constitutional and statutory power, if they choose to use it, to restore the United States, in Mr. Justice Bradley's words, "as a government to which every American citizen may look for security and protection in every part of the land."

Chairman Taylor. May I ask one practical question? Is there anything in the law as it is written which would indicate at what point one is entitled to call in Federal marshals?

Mr. Harris. There is nothing that would limit the Attorney General from requiring U.S. marshals to add deputies at any time. The Attorney General today could tell any U.S. marshal in any judicial district to increase his force of deputies and the Attorney General could then supervise the use of them.

This, of course, was done in Oxford and various other instances.

Chairman Taylor. Do you have any sort of practical speculation about how the marshals could work and would work in a State like Mississippi as it now stands?

Mr. Harris. I think it would be a question of how many marshals would be put in. Certainly if you have enough marshals, I should think the easiest thing is to keep them where COFO workers are working. There at least you have them as witnesses with the power to make arrest and file complaints.

Chairman Taylor. About how many would you consider enough?

Mr. Harris. I don't think you could have too many.

Chairman Taylor. You would have a marshal for every worker?

Mr. Harris. I would like to.

Mr. Freedman. Do you have any idea, Professor Harris, how many marshals there are per worker today?

Mr. Harris. I can't answer that question.

Mr. Heller. Dr. Harris, is there any way that the Federal Government could compel these registrars to be more cooperative when Negroes come to register, or perhaps even compel the local police force to guarantee the safety?

Mr. Harris. I don't know how local police forces could be made to guarantee the safety as a matter of litigation in the courts.

The Civil Rights Act of 1957 provides for injunctive relief against the registrars. This is a question, however, of getting judges who will convict and getting civil rights divisions large enough and ambitious enough and with full enough investigative facilities to make the Civil Rights Act more of a reality than it has been to date.

Chairman Taylor. May I ask one other question about the Justice Department and its possibilities?

As you heard Mr. Speiser talk about the inadequacy in his judgment of what the Department was doing—do you have any suggestions for us about what might be appropriate as extended action by the Justice Department?

Mr. Harris. I think—are you talking in reference to the Mississippi situation?

Chairman Taylor. Yes.

Mr. Harris. I certainly think it would be desirable to use marshals to bypass the Federal Bureau of Investigation in this particular type of operation. The Civil Rights Commission report in 1961 goes into painful detail on the difficulties of getting the Federal Bureau of Investigation to work vigorously in this area. And I think that there are two obstacles that will never be overcome—there is no feasible way to cooperate with local police officials in enforcing routine crime, and also be the agency that polices these very officials with whom you are trying to cooperate very closely. The FBI is in that position, and it doesn't like the position. It has to sacrifice one role or the other, and the role it has sacrificed is the one that people are here to complain about today.

The other difficulty is that the FBI, by its very nature, is interested in having a good batting average. It lives in the press. Its appropriations are geared to its public image. And you don't get a good public image if you investigate cases and the press indicates you are involved in cases and then no convictions are forthcoming.

So I think it is very difficult, given the FBI's other roles and other images and its recent traditions, to expect it to turn out to be the investigative force for the Justice Department Civil Rights Division.

I think the marshals would do better—assuming that the person who appoints the marshals and supervises them has a will to achieve the goals we are discussing today.

Mr. Goodman. Inasmuch as the Justice Department has been remiss, do you have any idea as to the best way of bringing them to book?

Mr. Harris. At the polls.

Mr. Goodman. That is by political pressure.

Mr. Harris. I don't know any means by litigation. And I don't know any serious means at the polls, to be quite frank with you.

Chairman Taylor. We thank you very much for your clear and admirable statement, Professor Harris. Thank you.

Mr. Freedman. Next witness.

TESTIMONY OF WILLIAM L. HIGGS

(Having been first duly sworn.)

Mr. Freedman. Would you please state your name, residence, and profession?

Mr. Higgs. William L. Higgs, Washington, D.C., civil rights consultant.

Mr. Freedman. Mr. Higgs, have you practiced law?

Mr. Higgs. Yes, in the State of Mississippi for about 4 years.

Mr. Freedman. And do you have a statement for this panel today?

Mr. Higgs. Yes, I do. I was asked to prepare one and there are some mimeographed copies.

The statement is more in the form of a legal brief, and is not particularly susceptible to being read as it stands. So what I will do is just comment and supplement some of the things that have been said up to the present time.

Professor Harris has very well said that the Federal marshals have ample power under the Federal statutes to go in and to make arrests on the spot when these civil rights statutes are being violated—these statutes which say that whoever deprives a person of his constitutional rights under color of law shall be subject to fine and imprisonment.

Now, I would like to point out that if you have, for example, a bank robber at the American Security & Trust Co., who is going into that national bank and you know it, and you call up the FBI or Federal marshals, they are going to be there, and they are going to be there quick. That guy isn't going to have a chance.

Now, that is a Federal crime.

But just as much a Federal crime are violations of sections 241 and 242, the Civil Rights Act of the U.S. Criminal Code.

Now, when you call these particular law enforcement agencies up—and believe me the FBI is also a law enforcement agency, because the Federal statute was amended in 1951, over the Coplon case, to give them full power to make arrests. This was the Communist situation. Of course they don't use it for civil rights.

Nevertheless, in this situation, of course, you do have a very quick preventive action—whatever is necessary to take care of the bank robber. You do not have it in the civil rights cases. There is no legal reason you do not have it. It is strictly a policy reason.

Mr. Freedman. Mr. Higgs, could I ask you a question, please?

I have heard the Attorney General of the United States say that FBI agents have no power to arrest because they are merely investigatory agents. Are you contradicting the Attorney General of the United States?

Mr. Higgs. Yes, I am. I would refer the Attorney General to section 3052, title 18 of the United States Code. That is the 1958 edition, which he gets free. Some of us have to pay $95 for it.

"The powers of Federal Bureau of Investigation. The Director, Associate Director, Assistant Director, inspectors and agents of the FBI of the Department of Justice may carry firearms, serve warrants and subpenas, issued under the authority of the United States, and make arrests without warrant for any offense against the United States committed in their presence, or for any felony, cognizable under the laws of the United States, if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony."

That is section 3052, title 18, of the United States Code.

So then it is very clear that not only Federal marshals but also the FBI have the authority to make these arrests, not only on the spot, but any time where the offense is a felony.

And one of these sections—I believe 241—is a felony.

Now, Federal marshals have even another statute that is only one sentence long. But I think it is relevant, too. This is title 28, United States Code, section 549. The caption is "Power of Sheriff." And that section says, "A U.S. marshal and his deputies, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of such State may exercise in executing the laws thereof."

So we see how plenary the powers of marshals, particularly, and also of the FBI are in enforcing Federal law.

Under the statutes, there is absolutely nothing, for example, to prevent the Attorney General of the United States from stationing 20, 40, 200 marshals in various cities in Mississippi and having a marshal present whenever he is notified that a registration effort or a freedom school or any other situation which might result in retaliation from the local authorities is about to take place. There is no reason why he could not have Federal law enforcement officers there, precisely as would occur if he were notified that a bank robbery of a national bank were about to take place.

Now, on a slightly different topic that was bearly mentioned by Professor Harris, and one, of course, that we would not like to see occur, though many of us perhaps think that it should be happening now, and that is the use of troops in a particular State to protect constitutional rights.

It is very interesting how broad the powers of the President are in this area. It is also very interesting how back in the 1860's and 1870's these problems that we are having today were so well taken care of in terms of authority, even that is now on the books. And a particularly interesting statute in this regard is section 332, title 10, United States Code. That, too, is a short section. It seems to be about one sentence.

It is captioned, "Use of Militia and Armed Forces to Enforce Federal Authority." And the section reads as follows: "Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, makes it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the Armed Forces, as he considers necessary to enforce those laws or to suppress the rebellion."

It seems to me, having heard almost all of the testimony here today, that it is very clear that not only is it impracticable but it is almost impossible to enforce the laws of the United States in the State of Mississippi by the ordinary course of judicial proceedings. And it seems to me more than sufficiently have these prerequisites been met in this statute for the President to send whatever troops are necessary into the State of Mississippi to make sure that these laws are enforced.

So I would point out that this statute, which is frequently overlooked, is there in its full force, its full vigor, for use by the President at any time to prevent what is now occurring in the State of Mississippi, as evidenced by this testimony.

I don't think that I could add any more, or, frankly, that any more would need to be added in regard to the authority of either the President or the Federal marshals or the FBI.

Legally, it seems to me to protect constitutional rights the authority is very great indeed—in fact, as I see it, as Professor Harris has said, they are not only authorized to do these things, particularly the marshals and the FBI, but they are required to by the United States Code.

* * * * *

Chairman Taylor. Thank you very much, Mr. Higgs.

Could we have, then, the other witnesses in rapid order?

Mr. Freedman. Yes, sir. John Young.

TESTIMONY OF JOHN YOUNG

(Having been first duly sworn.)

Mr. Freedman. Would you state your name and your residence, please?

Mr. Young. My name is John Young. And I live at 525 Campbell Street, Jackson, Miss.

Mr. Freedman. Mr. Young, could you tell us as briefly as you could what in particular has brought you here today?

Mr. Young. Well, I came here today to testify about police brutality when I was in the hospital.

Mr. Freedman. How did you get in the hospital?

Mr. Young. Well, we was on a demonstration on June 12, 1963, during the summer. And we had flags there. We went down to the fairgrounds. And that was right in front of the fairgrounds we had to get off the trucks. So we began to get off. And I was about the third person to get off the truck and then as I got off, the driver, he had stopped the truck, and then all of a sudden he just started back, and backed it up on me. And I then had a fractured leg and a broken wrist.

And then I rushed to the University Hospital, and while I was in the hospital, the nurse had gave me some shots. And the policeman—there were two policemen there. He told the nurse, he said, "There isn't nothing wrong with this nigger. Tell the damned nigger to get off the bed and put on some clothes, and go, we are going to take him to jail."

She said he hadn't been checked out yet, he has to have an X-ray. And then the nurse had left the hall, and the policeman said, "I don't see nothing wrong with him," and started grabbing my leg, which was bruised at the time. And then after that when the nurse gave me some shots in the arm to put me to sleep, he said, "There ain't nothing wrong with this nigger," and started beating me on my stomach, and tell the lady that "there ain't nothing wrong with this nigger."

Mr. Freedman. Was this a doctor?

Mr. Young. A policeman.

Mr. Freedman. A policeman was doing that?

Mr. Young. Yes.

Mr. Goodman. You were on the bed?

Mr. Young. Yes, sir; a stretcher. And then after that my parents came, and got me out of the hospital.

And then a nurse came and told me there was something wrong with me, but it had been too late for them to find out until they got time to use the X-ray room. So before my parents came, he kept on sticking the stick in my stomach, and hitting me, "There ain't nothing wrong with you, if you don't get up, we are going to put the dogs on you."

Mr. Freedman. Mr. Young, perhaps at some later day there will be a fuller hearing, perhaps by the Civil Rights Commission, or some other agency of the Government, and you will have a chance to tell your story more fully. I am sorry, we are going to have to rush you today. It is not that we are not interested, but we will not have the use of the theater very soon. Thank you.

Dr. Coles. Was there a nurse there, standing by, while this was happening, or a doctor? Or did they leave the room?

Mr. Young. No, sir. I was still out in the hall on the stretcher, and they had left.

Dr. Coles. They left. You were in the hospital?

Mr. Young. Yes, sir.

Dr. Coles. And left you on the stretcher?

Mr. Young. Yes, sir.

Dr. Coles. Do you know why they left you?

Mr. Young. No, sir. When I came down—when they rushed me in there, they left me out in the hall all the time.

Dr. Coles. The nurse wanted to keep you there, and I gather could not.

Mr. Young. Yes, sir. The police kept telling her there was nothing wrong with me.

Chairman Taylor. Thank you.

Mr. RYAN of New York. I thank the gentleman from California for his observations. A reading of the testimony that the various Members are submitting for the Record during this special order will clearly point out that a reign of terror does exist in the State of Mississippi and that Federal action is necessary to protect those dedicated American citizens who are advancing the cause of civil rights and equality for all our citizens.

Mr. EDWARDS. Mr. Speaker, following my remarks I ask unanimous consent that the gentleman from New York [Mr. Stratton] may extend his remarks.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. STRATTON. Mr. Speaker, I would like to join with my colleague from New York [Mr. Ryan] in urging the Attorney General and the Justice Department to take preventive measures in Mississippi to insure the safety and constitutional rights of those student volunteers working on voter registration drives and education projects in connection with the Mississippi summer project.

The actions of the Mississippi State Legislature in terms of laws passed and bills introduced indicates that the law enforcement agencies of that State are determined to go all out to stop any efforts by these students to gain equal voting rights for the Negro citizens of that State and to give them an opportunity to be educated in their rights and freedoms under the U.S. Constitution.

In addition, the buildup in membership strength of extremist segregationist groups threatens the physical safety of these dedicated volunteers. Acts of violence to civil rights advocates during the past year indicate that these students are indeed placing themselves in grave danger of bodily harm. I hope that the Department of Justice will use its full authority to help prevent any such violence befalling these volunteers.

The work of these students is toward a noble objective, that of attaining full constitutional rights for all citizens, regardless of color. Their methods have been and properly of course should be, within the bounds of legal action. Their rights in their attempt to attain rights for others should be protected. I feel confident it will be protected.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. RYAN of New York. I yield to the gentleman.

Mr. ASHBROOK. I have been listening to the gentleman's statement. I would certainly agree that citizens ought to have the right to travel anywhere and not be molested. He also mentioned the fact that he has received quite a few communications from his constituents. I would say in all honesty, I have received five that I know of from my constituents who are somewhat concerned about traveling in the gentleman's home area of New York City to visit the World's Fair. I would wonder if the gentleman could advise us possibly as to what is going to be done in his area to prevent in the words of the gentleman from California, the arrogant flaunting of the laws which seems to be more and more a part of the New York City pattern which I am sure he will recognize is of nationwide interest just as the State of Mississippi is.

Mr. RYAN of New York. The gentleman fails to understand the situation in New York. The laws of the city and State of New York are fully enforced. Constitutional rights are respected. The citizens who live in the city of New York live in a great city, a city which is a leader in this Nation in every respect. There is nothing comparable whatsoever between the suggestion of the gentleman and the daily—yes, daily confrontation with violence that citizens are facing in the area I spoke of earlier this afternoon.

RURAL ELECTRIFICATION

The **SPEAKER** pro tempore (Mr. Libonati). Under previous order of the House, the gentleman from Minnesota [Mr. Nelsen] is recognized for 30 minutes.

Mr. NELSEN. Mr. Speaker, one of the finest programs ever established by the Congress of the United States is the Rural Electrification Administration, put in motion first by Executive order in 1935. In 1936, the Congress enacted the Rural Electrification Act which was expressly designed to bring electricity to rural America. The success of this program has been phenomenal. The repayment record on loans has been remarkably good and electricity now is available to 99 percent of the farms of America by virtue of the accomplishments of this act.

When the Rural Electrification Act was passed, Senator Norris insisted on inclusion of section 9 patterned after a similar provision of the Tennessee Valley Authority Act. In reading the record it is clear that legislative intent in the instance of TVA provided that the Commissioners who supervise and run this program be required to refrain from political activity. This intent has been followed religiously by the TVA Commissioners to this day. Therefore it becomes clear in legislative intent that the REA Administrator refrain from political activity, including the Administrator's office. This policy was adhered to by former REA Administrators, including myself. The law has not been changed, but in spite of history and precedent, the present REA Administrator, Mr. Clapp, ignores the intent of Congress as well as the best interest of the rural electrification program.

In June of 1963, I inserted in the Record a statement wherein I pointed out that during the time I was the Administrator of this program a political attempt was made to make it appear that I had involved the office in political activity. I was reminded by Chairman Dawson of the Government Operations Committee that under the law the REA Administrator was not supposed to engage in politics. I informed the committee that I was well aware of that and had been so advised by counsel in the Administration. The incident upon which the charge had been based was so ridiculous that the committee dropped it when the facts were brought out.

I am sure that the Administrator, as an appointee of the President, is exempt from the provisions of the Hatch Act, but for the record I did want to go briefly into the legislative history of the Rural Electrification Administration Act and to point out that in accordance with legislative intent and administrative tradition the head of this agency has not in the past engaged in partisan political activity.

Now we find in a recent speech in Wisconsin the present REA Administrator, who has previously gone on political forays throughout the country brazenly in violation of tradition and legislative intent, said:

> I am sure that I do not need to remind you that REA's G. & T. program is controversial. We may wish that everyone would be for it, but everyone is not. I say to you in all candor that the future of REA's G. & T. program depends a great deal upon the political decisions which the American people are going to make this year. REA is limited to the authority and the resources provided by the Congress. In the exercise of its functions it is responsible to the President. It follows, as night follows day, that the selection of the new Congress and the President next November is of crucial importance to the future of REA.
>
> It does make a difference who represents you in the U.S. House of Representatives and the U.S. Senate; it does make a difference who sits in the White House in the years ahead. We are indeed fortunate that the man in the White House today, President Johnson, is one of the pioneers of rural electrification. He knows the needs of rural electrification, and he, in his great office, is helping you meet them.

Continued performance such as this by the Administrator certainly will do the REA no good. We have had fine bipartisan support for this program, but if the Administrator is going to use this program for his political tool, which he certainly is doing, the fine program is damaged in the process.

This political activity on the part of the REA Administrator, of course, is in line with the political arm twisting which has been going on in the agency for the sale of $100 political dinner tickets. Employees have been called to the Deputy Administrator's office and subtly coerced into the purchase of dinner tickets for fundraising purposes. This is a direct violation of the Hatch Act, a total disregard for the dignity of Federal employees, and a step toward a return to the spoils system in Government service.

On repeated occasions I have made references to this political activity in the REA and my statements in the Congressional Record have now finally come to the attention of the Civil Service Commission. I have received a letter from the Commission's general counsel in which he states in part as follows:

> Consonant with the Commission's responsibilities under the Hatch Act, and within its jurisdiction over Federal employees in the competitive civil service, the Commission welcomes your cooperation. If you will furnish the Commission with the information in your possession, with appropriate identification of the persons and employing agencies, a thorough investigation will be made and you will be informed of the results.

In my reply to General Counsel Meloy I am informing him that my records and the evidence which I have in my office are all available to investigators of the Commission. The Commission will have my complete cooperation in their investigation of this matter. I have today been informed that representatives of the Commission will promptly review my files.

Further, I ask my colleagues here in the House on both sides of the political aisle to join with me in protesting the use being made of this agency in partisan political activity and in protecting the program in the best interests of rural America.

I might add further to the Members of the House here that I have been interested in this program's activity since the very beginning. I was the author of the tax bill in Minnesota, which was one of the best in the United States. At the time that I was in REA no employee was ever contacted in that agency for any political contribution of any kind.

Mr. SCHWENGEL. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. Yes. I yield to the gentleman from Iowa.

Mr. SCHWENGEL. I am very glad that our colleague from Minnesota took the well today to talk about this problem. He understands the REA program, as all of us know, as well as anyone in this House. I remember very well, sir, when you were in the same spot that Mr. Clapp was in and you were in my district. I attended the affair of which you spoke. There were some of us who thought, knowing of your political interests and background, that we would like to talk to you, but you found it impossible because you were identified with this REA and supposed to be not in politics. You set a fine example worthy of emulation by this gentleman of whom you spoke this afternoon.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. I, too, Mr. Speaker, desire to commend the gentleman for the statement he has just made.

Mr. NELSEN. I thank the gentleman.

IS THIS A TAX EVASION MANEUVER BY BAKER AND BLACK? WHO IS BOBBY BAKER'S ANGEL IN THE TAKEOVER OF SERV-U?

Mr. GROSS. Mr. Speaker, will the gentleman yield further?

Mr. NELSEN. I yield to the gentleman.

Mr. GROSS. I call attention to the story in today's Washington Daily News by Julian Morrison in which it is reported that Robert G. (Bobby) Baker has acquired 97 percent of the stock of Serv-U Vending Co. This shift in the ownership of the Serv-U stock raises some interesting questions about the former secretary to the Democratic majority:

First. Is the sale of the stock of Fred B. Black, Jr., to Baker a convenient way of trying to keep this valuable block of vending company stock out of the hands of the Internal Revenue Service to satisfy that big $200,000 tax debt that it looks like Black will have. Remember that Black, Baker's partner, has been convicted on Federal tax evasion charges and it would appear that he would be liable to pay the Federal Government at least $200,000 in back taxes and fraud penalties.

Second. Where did Baker, under investigation and even condemned and discredited in the eyes of some Democrats, find the hundreds of thousands of dollars to buy the stock from Black, and those two gambling figures—Benjamin Siegelbaum and Ed Levinson? In the past we have seen that Baker was able to get some favorable loan arrangements through the Murchison financial interests, through the banks of the late Robert Kerr, or through the D.C. National Bank. Is Baker now being financed by the same interests, or has he found some new financial angel who has confidence that Baker's Serv-U will keep its big aerospace contracts, and these big aerospace firms will continue in favor with the Government.

Mr. NELSEN. Mr. Speaker, I wish to thank the gentleman from Iowa for the statement he has made. I might say that the covering up of the Baker incident in the Senate makes all of us suspect that there is something wrong. The degrading influence of such a performance, where a man employed by the Senate takes the fifth amendment and covers up the details of his wheeling and dealing. Certainly there must have been some influence somewhere which gave him the authority and the power and we have a right to ask what is being covered up and why. I regret that the Baker incident has been so conveniently swept under the rug. I thank the gentleman from Iowa for bringing it to the attention of the House.

Mr. GROSS. Mr. Speaker, I am confident the gentleman will agree with me that this whole sorry, sordid mess has cast a stigma upon the entire Congress.

Mr. NELSEN. Yes, I do.

MODERATE REPUBLICANISM AND THE CRISIS OF 1964

The SPEAKER pro tempore (Mr. LIBONATI). Under previous order of the House, the gentleman from Iowa [Mr. SCHWENGEL] is recognized for 30 minutes.

Mr. SCHWENGEL. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SCHWENGEL. Mr. Speaker, in the past 3 or 4 years and especially in the last 6 months I have traveled throughout this country speaking about the case for the moderate in politics. Over 300 copies of that speech have been mailed out in response to requests from those interested in government—this evidences some interest in this political posture. Because that supply has been diminished to one copy, and more importantly, because of the crises on the international and national front, and the crisis facing the Republican Party, I have been urged by some of my colleagues to discourse again on moderate Republicanism.

So today, I rise in this historic Chamber to speak out for what I believe is the greatest overall cause of this decade.

This cause is the past, present, and future position of the Republican Party in terms of its essential principles; this is the cause of the moderate Republican.

I believe that only the moderate Republican can make possible the arrival at a consensus.

Only the moderate Republican can coalesce the issues and the differences.

The moderate Republican can speak without hostility, without divisive consequences, without mutual recriminations, without bitterness.

The moderate Republican can more easily raise the banner of unity in the party and expect—with some confidence—that all the sincere and the substantial, all the disciplined and the restrained, all the progressive and the sound, will repair to it.

The moderate Republican can with more grace hold out the hand of understanding, if not the voice of agreement, even with the periphery groups in the party, whose extreme views and lack of perspective threaten to plunge us again down the dismal road of defeat.

But the moderate Republican is not the hero of a rescue squad. The Republican Party needed no rescue squads in the 1860's and needs none now.

I find it ironic and would find it amusing but for the majesty and the sweep of the problem, that there are those already standing at what they like to believe is the grave of the Republican Party, and solemnly uttering funeral orations.

Those who think that the Republican Party is dead or about to die have another think coming.

Today the party is very much alive, blessed with a reservoir of great talent, it is filled and nourished with the vitality of conflict, of discussion, of competition, of contest and of potential victory.

What this means is that the party is reevaluating, is taking a second look at the events of the immediate past. This means there are those who have done that evaluating, taken that second look, and are concerned by what they see. It means that from the grassroots up a growing number of Republicans, increasing day by day, are convinced the party must not abandon the course it has steered these 100-plus years, and now are willing, when that course seems threatened, to do something about it. What remains, is whether or not enough Republicans will show concern and whether that concern can be transformed into tangible action which can yet be determinative of the direction the party will take.

In the last analysis, the party itself will decide.

These days are reminiscent of the courage and combat of the days of Abraham Lincoln, the Wigwam and the fury and conflict of the Lincoln nomination in Chicago.

To speak of these manifestations as portents of disaster is to confuse excitement with fiasco and to overlook the elements of an inspiring rededication.

This is the major manifestation, as I see it, that had its beginnings with the evocation of moderate Republicanism in the State of New York, and that again showed its leadership and vitality, with the stance, the courage, the boldness and the quality of command that emerged from the State of Pennsylvania last Thursday, June 11.

I believe it has its counterpart in every State of the Union.

Lincoln seemed to speak for today when he said:

> My countrymen, one and all, take time and think well, upon this whole subject. Nothing valuable can be lost by taking time.

> Nothing worth preserving is either breaking or burning. If there be an object to hurry any of you, in hot haste, to a point where you would never go deliberately, that object will be frustrated by taking time; but no good object can be frustrated by it. Such of you as are now dissatisfied, still have the old Constitution unimpaired, and, on the sensitive point, the laws of your own framing under it; while the new administration will have no immediate power, if it would, to change either. If it were admitted that you who are dissatisfied, hold the right side in the dispute, there still is no single good reason for precipitate action. Intelligence, patriotism, Christianity, and a firm reliance on Him, who has never yet forsaken this favored land, are still competent to adjust, in the best way, all our present difficulty.

That is what I mean by calm wisdom.

Calm wisdom was expressed by Euripides when he noted that "Moderation is the noblest gift of heaven." This virtue is eloquently spoken of by La Rochefoucauld who observed that "the moderation of fortunate people comes from the calm which good fortune gives to their tempers."

To say that the Republican Party is on the brink of disaster is an example of some of the most irresponsible statements of political nonsense since the invention of free speech was twisted into sensational distortion.

But of course the Republican Party is, as I speak before this powerful and distinguished assembly, in a state of crisis.

Since when, I ask, has Republican wisdom and understanding, shrunk from crisis?

To be sure, if the courage and the vitality, the ruggedness and public acceptance of Republicanism were lacking, if indeed, confusion were compounded by impotence, then the Republican Party would stand where the Whigs and the Federalists stood before they disappeared in the dark forest of their political blindness.

But to say that of the Republican Party of 1964 is to be blind to the the truth.

To say that of the Republican Party of 1964 is to yellow-journalize, so to speak, with a small fact in the hope of shaping it into a wishful reality.

We, the Republican Party, stand now where Lincoln stood when in 1863, he wrote to Zachariah Chandler in the prophetic terms I wish I could command here today. Lincoln wrote then:

> I hope to stand firm enough to not go backward, and yet not go forward fast enough to wreck the country's cause.

There in the superb succinctness of the true human symbol of the Republican Party, we have, in the proverbial nutshell, what we, the Republican Party, are concerned with in this critical hour.

We want to stand firm.

We want not to go backward.

Yet—and I emphasize this—we want not to go forward fast enough to wreck the country's cause.

These are the very words, the very wisdom, the very philosophy that is tailored to our situation, the situation of the Republican Party in this hour of rededication, of rebirth, of travail and of hope.

This is what I mean by calm wisdom.

It means all that is implied in so grassroots a piece of solid wisdom as a headline I quote from my own district, from the Times-Democrat, of Davenport, Iowa. I quote this bit of down-to-earth thinking because, while it comes from Iowa, it is characteristic of a thousand times a thousand similar communities all over the United States.

Touching upon one of the most disturbing national agonies of our day, this headline says: "Moderates Must Put End to Race Strife."

I believe that is the answer in terms of policy.

It is the policy of restraint and firmness applicable in Cuba.

I believe it to be the answer in South Vietnam.

I believe it to be the answer in a hundred and one of our domestic issues.

We have emerged in two wars from the consequences of radicalism.

We have seen extremists all but destroy the very earth upon which we dwell.

We have seen extremists throughout our history excite hate and demoralization, mutual contempt, destruction, suspicion, only to be washed away, in due course, by the balm, the healing power, the force and compassion, the sound sense of a returning calm wisdom.

So when I plead for the moderate Republican I plead for the new dawn that is now facing the Republican Party.

The opportunity before us is immense.

We have, deep in the heart of the American people, public acceptance.

The offering we have to make as a party is that of making the issues crystal clear, and that of bringing to light the traditional principles of Republicanism.

We have the personal leadership on a high level of political dignity as we have seen.

Well, I know that I shall be asked: "What of the conservative thinking in the Republican Party?"

I shall be asked: "How do you propose to handle the extremists of the right?"

I shall be asked: "How do you propose to handle the proponents of the more ultraconservative philosophy whose principles have a somewhat sober aspect?"

What is my answer?

My answer is that so far as the Republican Party is concerned neither the extremists nor the ultraconservatives can hope to be masters of the situation in 1964 or any other year.

My answer is that Republican thinking and philosophy is too deeply entrenched, too profoundly respected, too rich in tradition, ever to be raided and conquered by the extremists of the right, or the ultraconservatives of a more sober aspect.

But my answer is also that all factions in the Republican Party have a right to a voice, a right to be heard, a right to be consulted, a right to be understood.

They have a right not to be read out of the party and not to be ignored.

The avenue for this understanding is the wide-open door of the moderate Republican.

The moderate Republican is the instrument of coalescence.

The moderate Republican carries the banner of conciliation.

The moderate Republican will not compromise but he will not turn a closed and bigoted ear even to those who are themselves inflammatory and excessive.

The moderate Republican will listen, to the protestations of the extreme right, and the moderate Republican may find here and there an idea worthy of evaluation.

Moreover, the moderate Republican will never cease to maintain that there is a truly conservative position and that this position, in the matter, for instance, of fiscal policy, has indeed a place in the Republican platform.

But the overwhelming outposts of moderate Republicanism must cling to the traditions that created the Republican Party and the procedures and the legislation that, through the last century, made it strong. The Republican Party can only accept the "calm wisdom," the thinking and the action of moderation in an age when unthinking decision can, literally, mean the end of all life on this earth. Whatever the goals, moderate republicanism means calmness and patience across the entire spectrum of public policy, at home and abroad.

In that philosophy is survival for the free world and for mankind.

In that philosophy is the intelligent furtherance of the basic philosophy of Lincoln moderation.

It is the motivation for the rule of reason.

Moderation is the silken string, as a theologian once put it, running through the pearl chain of all virtues.

My conviction that nothing fatal can happen to the Republican Party will remain unshaken no matter what the results in this presidential year. Our foundations are too powerful, our roots too deep, our record too unimpeachable, to be more than shaken by an adverse result in 1964. But this adverse result—God forbid—may take on a coloration of impending catastrophe if, as a party, we succumb to panic. Fear can move many of us into a state of noncombativeness, an attitude of political paralysis, a posture of defeatism and hopelessness.

Those of small heart and little faith who yield to this fear, and help to bring on a failure in 1964, are in the nature of things too weak to lead the Republican Party into an overwhelming stampede of despair. But their responsibility is grave. For they can provide that overplus of failure which may create wounds hard to heal in this decade and the next. It is the solemn duty of those of us who have faith and who believe in moderate republicanism to prevent the devotees of failure and of panic from creating the atmosphere for the defeat that can be avoided.

The defeat can be avoided if we seize the opportunity the leadership of moderation has thrust into our hands. It is up to such rank and file leaders as I see before me in this Chamber to take the torch that has been passed to us and support these top pilots of the party.

The hour is late.

We live in an era when the radical and the man with oversimplified answers and unlimited articulateness, can, for a strategic and a dangerous hour, make himself more arresting, more interesting, more spectacular than the man with calm wisdom. But the man with calm wisdom must emerge ahead of his competition if only his image can be made clear, his principles clarified, his decency conveyed to the people of the party and the people of the United States. Such leadership can find acceptance and support even in the ranks of the other party.

It is my position that we stand at the threshold of unlimited possibilities.

It is my position that we must show to our countrymen and to the world a convention charged with the open challenge.

I hope it will be a convention of free discussion.

I hope it will be a convention of free choice.

I hope it will be a convention indignant at the mere idea of a fait accompli.

I hope it will be a convention that will purge itself of every stigma of fear, of capitulation, of panic.

It will be a convention in the image of the Lincolnian convention of the 1860's.

The radicals may be there, but they will be absorbed.

The fear may be there but it will be surmounted.

The leaders of moderation will be there.

They will lead the party to victory and—at the very least—to a strengthening of the sinews of moderation greater than anything the Republican Party has known since it was created in what is now the antiquity of more than a century ago.

I hope you, who are Republicans, and who have faith both in your party and the two-party system, will be with our leadership of moderation fighting for the principles we have always believed in, and moving forward to the greatest glory the United States has known since the days of its founding.

I believe it is a manifestation that is awakening the conscience of the two-party system.

I believe that the people of this country want insistently the sober doctrine and the calm wisdom that the Republican Party has to offer.

The wisdom is the reverse of the pseudo-wisdom that floats its appeal on a Niagara of entrancing slogans to catch the fancy of what they believe is an easily beguiled electorate—slogans as extravagant as the so-called "unconditional war on poverty."

What do I mean by calm wisdom?

I mean what Lincoln meant, one of the great founders and the supreme prophet of all time of enduring republicanism, a moderate Republican.

Lincoln said in the report of a speech in 1856:

> In grave emergencies moderation is generally safer than radicalism. * * * As it now stands, we must appeal to the sober sense and patriotism of the people. We will make converts day by day; we will grow stronger by calmness and moderation; we will grow strong by the violence and injustice of our adversaries, and unless truth be a mockery and justice a hollow lie we will be in the majority after a while, and then the revolution which we will accomplish will be nonetheless radical from being the result of pacific measures.

Thus, as Lincoln is reported to have said then: "the goals of the more emotional—or some of them at least—may have a certain pertinence. But to get the best with what we have, the wisest course is the course of what he described as pacific measures."

Mr. Speaker, Prof. Paul Bechtold, one of the outstanding college professors in Iowa and formerly of the Social Science Department of William Penn College, Oskaloosa, Iowa, now retired, has authored an article entitled, "In Praise of Moderation." I believe that this article states with clarity and with eloquence the virtues of the moderate philosophy and further confirms my belief and faith in the moderate political philosophy. I include it at this point:

IN PRAISE OF MODERATION

(By Paul F. Bechtold)

"The longer we live the surer we find that all of life consists in avoiding two extremes."

This filler in the local paper, discovered during high school days, was recalled while studying Aristotle in college. His "golden mean" became part of the military and political philosophy of Dwight D. Eisenhower: He could lose both flanks, he said, and still win the battle if he could keep his main army going down the middle of the road. In his farewell presidential address, this balanced view was contained in a warning against the possible excesses of a growing military-industrial power complex.

Our first President's farewell to the American people included the hope that his friendly counsels might occasionally "moderate the fury of the party spirit." He genuinely believed that "the preservation of the sacred fire of liberty" for the world was the task of America's experiment with republican government. This fire, though, was one "not to be quenched," but also demanding "a uniform vigilance to prevent its bursting into a flame lest, instead of warming, it should consume." His "mischiefs of foreign intrigue" and "impostures of pretended patriotism" seem prophetic anticipations of current extremes of the left and the right. He wisely advocated an enlightened and moral public opinion. We need it.

In spite of his suspicions concerning "entangling alliances" with other nations, his expressed wish was "to see the whole world in peace, and the inhabitants of it as one band of brothers, striving who should contribute most to the happiness of mankind." In this spirit he opposed dueling and slavery; his will provided freedom for his own slaves. He also bore hardship, insult and injury with moderation and nobility; was once seen praying on his knees in the snow.

Likewise, in the face of ridicule because of awkward rusticity, malicious opposition in political life and family tragedies, Abraham Lincoln's balanced wisdom and sense of humor made possible such moderate statements concerning slavery as "justice will surely prevail"; an assurance given Americans in his first inaugural. "Why should there not be a patient confidence in the ultimate justice of the people? Is there any better or equal hope in the world?"

His counsel of moderation in regard to keeping the civil rights problem within the "peaceful channel of the ballot box" might well have been spoken at Cooper Institute in the 1960's instead of a hundred years ago. On February 27, 1860, Lincoln cited the precedent of the Federal Government controlling slavery in the Northwest Territory; then added:

"If we would supplant the opinions and policy of our fathers in any case, we should do so upon evidence so conclusive, and argument so clear, that even their great authority, fairly considered and weighed, cannot stand. Even though much provoked, let us do nothing through passion and ill temper."

Again and again, he referred to the Declaration of Independence, "which gave liberty not alone to the people of this country, but hope to all the world, for all future time." His firm belief in its great principles is indicated by his frequent use of the terms "all" and "equality." "With malice toward none, with charity for all" the United States should "do all which may achieve and cherish a just and lasting peace among ourselves and with all nations," he told the people on March 4, 1865. With a large humanitarian outlook, he considered no home too humble to be the cradle of greatness.

The Republican Party had such an origin. When the 1854 Kansas-Nebraska bill nullified the Missouri Compromise of 1850, one of the indignation meetings was held in a schoolhouse at Ripon, Wis. Many historians consider this the birthplace of a new Republican (or Union) Party.

It held a convention late in May 1856 at Bloomington, Ill. Lincoln was invited and asked to speak. "While in all probability no resort to force will be needed, our moderation and forbearance will stand us in good stead when, if ever, we must make an appeal to battle and to the God of Hosts." Because of its grandeur reporters forgot to write, so the "Lost Speech" has become a legend. As a "Clay man" in politics, Lincoln tried to hold the Union together by standing with anyone who would stand on middle ground. His insistence on principle combined with a spirit of moderation helped attract voters to the new party. Later, William McKinley and Theodore Roosevelt successfully avoided a class appeal by establishing a working consensus of farmers, workers, and capitalists.

Moderation means, not inaction, but temperate action; not passivity, but controlled emotions; not little thought, but constructive thought. "Let us have faith that right makes might" is not a colorless statement, nor is "Hate evil, but hate no man." "In that faith let us to the end dare to do our duty as we understand it," would indicate that moderates should be dynamic.

Lincoln regretted that he was not more pious, but certainly he had most of the Christian virtues. One of them was patience. Human ills long in developing, he saw clearly, require time for curing. Before taking hasty action, he wanted to understand each new situation. On June 16, 1858, he spoke moderately and wisely to a Springfield audience: "If we could first know where we are, and whither we are tending, we could better judge what to do, and how to do it."

Our country has had many thinking citizens of "temperate counsel," to use a term applied to Walter Lippmann by Rossiter and Lare in "The Essential Lippmann." Lippmann's "voice of reason" has been heard resoundingly on many issues. Holding that a free society should be a good society, he opposed rash action; for, "in a free society like ours a policy is bound to fail which deliberately violates our pledges and our principles, our treaties and our laws."

When the Greeks said "Everything in moderation" they didn't mean that Grecians should do everything; only that those things done should be done moderately. This requires a situational interpretation of history rather than a great man or great idea approach. "A revolution that simply turns over the past," wrote Sydney Harris, "is doomed to make the same terrible mistakes, only in an upside down position. Real changes are effected in society by those who are able to synthesize what is best out of the old and the new."

William Hard thinks of Americanism as "an effort to destroy—or, at any rate—to diminish, all arbitrary dominations, public or private. It is an effort to replace these dominations with a system of balanced governmental powers, balanced private rights, balanced economic elements, balanced social groups. It is an effort to arrive at that end not through a free chaos but through ordered law."

In 1841 Ralph Waldo Emerson presented a balanced vision of man as a remaker, or reformer, with a great faith in the dignity and worth of all men of moderation: "men transfigured and raised above themselves by the power of principles." Principles give dynamic lacking in expedients.

Too often politics as the art of the possible becomes the art of the popular. True, statesmen must in a sense follow public opinion, "the history of the state sketches in coarse outline the progress of thought, and follows at a distance the delicacy of culture and of aspiration." But statesmen may also be leaders, "they only who build on ideas build for eternity." There is a "common conscience" or a "middle measure" which provides a social situation in which men and ideas are interrelated. Those who understand this political climate of human values have insights giving direction to our civilization.

The above quotes from Emerson's "Man, the Reformer," and "Politics," reflect the same attitude as that of Allan Nevins in "The Emergence of Lincoln"; moderation and firm principle are harmoniously combined. "For Americans in 1861," he writes, "as for many other peoples throughout history, war was easier than wisdom and courage." If the moderates could have prevailed, "If secession could have been postponed by two decades, natural forces might well have placed a solution full in sight."

Speaking at the University of Chicago in May 1963, Commander in Chief Gerhart of the North American Defense Command said, "The old soldier is dead and buried. It takes a new type of man to be in military command."

The ice is breaking on the river of life. Not just the cold war, but many other rigid social patterns are becoming unfrozen. Can equality and freedom both be achieved and maintained?

The political moderate's answer is affirmative. As many "isms" and "ologies" are modified or discarded, he believes with Daniel Bell that, "the United States is probably the first large-scale society to have built change and innovation into the culture. Also, that the ship of state can be kept afloat and traveling in the direction of our highest goals and values."

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. SCHWENGEL. I yield to the gentleman.

Mr. ASHBROOK. I am glad that the gentleman has yielded to me because generally I could say to the very distinguished Representative from Iowa that I certainly would agree with what he has said. He mentioned the fact that all factions have a right to be heard and should be heard. I think, in truth, they have been heard and despite the liberal and radical blandishments of the press, I believe Republicans are making a good choice and have shown good judgment and that the front runner at the present time certainly represents the mainstream of American thinking:

As a scholar of Lincoln, I am sure the gentleman from Iowa would not tell the House that Lincoln was a moderate—whatever that term be. The gentleman from Iowa also mentioned the fact that sometimes there is a tendency to have oversimplification of issues. I would suggest that the great emancipator had a very simple answer to the perplexing problems of that day, and that was that all men should be free. This was not a moderate answer. This was, as a matter of fact, a radical answer for that day. What would be the moderate position, for example, between freedom and slavery? What would be the moderate position between equality and class or nobility? Indeed, there was not a moderate position. The position taken by the great Abraham Lincoln was a rather radical position which at the same time was oversimplified—simply that a man should be free. I know that the gentleman from Iowa is a great student of Abraham Lincoln and I am sure he knows, according to history, that at that time he certainly was not considered as a moderate. He was looked upon as a radical of the worst sort, subject to scorn and obloquy. It is an amazing thing to me now that Republicans, in making their choice, we find are choosing a man to be their standard bearer that all of a sudden the so-called liberal forces in our country call for the exact opposite of what they have always advocated—in effect, bossism.

The people are making their choice, but, it seems, the people must be wrong, so therefore we really must summon all of the leaders—we must ask former presidents and we must ask Governors of States to do everything possible to block the nomination which has been practically proclaimed for the Senator from Arizona by the people.

This, of course, is not moderation. This, of course, is a reversion to what I would term as "bossism," which is most radical in nature.

I would agree with the gentleman from Iowa that we have a distinct problem of defining labels. I am never too sure what the words "liberal" and "moderate" and "conservative" mean.

I remember the first brush I had with the word "moderation" or "moderate" was when I was in the Ohio Legislature. The temperance people came to see me, and they advocated "moderation," but to them "moderation" meant total abstinence. I had always thought that "moderation" had something to do with temperance, in the middle of the road, but to them "moderation" meant total abstinence.

Until we understand semantically what a person is really talking about, we do not know what he means by "moderation."

When we are talking about history, I sometimes wonder about the expression "moderation." I maintain that Lincoln was not a moderate. Certainly Jefferson, Paine, and Henry—all great Americans—were not moderates.

What is a moderate position, so far as John Paul Jones was concerned? John Paul Jones made a direct statement, "Don't give up the ship." I suppose the moderate position, in that sense, would have been to tell the seamen, "Well, normally, men, I do not believe in giving up the ship, but we have to think this over, and possibly on this occasion we should."

What is the moderate position? Patrick Henry, had he taken a moderate position in his very important and eloquent statement in the House of Burgesses of Virginia, perhaps would have said something more to the effect, "Well, on the whole, I believe in liberty, but we have to recognize that the British are a pretty rough outfit, and if we are too definite in what we think perhaps we will get hurt."

I suggest that perhaps, when we talk about the word "moderate," we really are not talking about something that is historic. I say this with the most favorable admiration of the gentleman. In talking of moderation perhaps we are really not talking about a political doctrine.

What is the moderate position on recognition of Red China?

What is the moderate position on the Soviet refusal to pay its dues and assessments under the U.N. Charter?

What is the moderate position on credit on sale of wheat to our enemies, the Soviet Union?

What is the moderate position on foreign aid to Communist countries?

What is the moderate position on deficit spending in good times?

Is a little bit OK?

I believe that, as a matter of fact, most Republicans are conservatives. If we define the word properly, I believe that the mainstream of Republican thinking is conservative.

The Governor from New York talked quite extensively about the mainstream, but I never felt he was really in it. We welcome, of course, the Governor of Pennsylvania into the race. He says he is a moderate. I hope, if he is to travel upstream—and it is a long way upstream—that he will use his paddle to propel his own craft and not swing it indiscriminately at those who find themselves in the mainstream of thinking—those of us who believe, as Republicans, we are in the mainstream of American thinking.

I believe that the mainstream of Republican thinking, under modern semantics and modern terminology, is not liberal and is not moderate.

I suggest to the gentleman from Iowa, very honestly and very kindly, I believe it is overwhelmingly conservative.

I thank the gentleman for yielding me this time.

Mr. SCHWENGEL. I thank the gentleman for his remarks, but I must respond, because I feel he is incorrect in classifying Lincoln as he has. I feel certain the gentleman would not question my quote from Lincoln, of 1856. I believe, if he will study the campaign and the convention of 1860 in Chicago, he will realize that that convention selected the moderate candidate, who was Lincoln.

The extremists of those times were the abolitionists, the secessionists. At different periods of history there have been different kinds of extremism.

Lincoln was a moderate in his approach to the solution of the Negro problem.

He was being pressured from all sides by the extremists on one hand to issue the Emancipation Proclamation. However, he knew so well the philosophy that all of us ought to try to emulate, which is that there is a right and a wrong way to do what is right and a right and a wrong time to do what is right. While Lincoln, as far as I know, never endorsed the conservative philosophy and never spoke of it, still he did speak of moderation from time to time. Of course, we get into an argument on semantics here, probably, but I assume you are as sure that you are correct as I am when I say that Lincoln was classed as a moderate, and most historians would do so, too. They recognize that the convention in 1860 nominated a moderate.

The SPEAKER pro tempore (Mr. Libonati). The time of the gentleman from Iowa has expired.

GOVERNOR KERNER SUPPORTS ARA

The SPEAKER pro tempore (Mr. Libonati). Under previous order of the House, the gentleman from Illinois [Mr. Gray] is recognized for 15 minutes.

Mr. GRAY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include a speech made by the distinguished Governor of Illinois, the Honorable Otto Kerner.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. GRAY. Mr. Speaker, I yield 10 minutes to the gentleman from Iowa [Mr. Schwengel].

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. SCHWENGEL. Yes. I yield to the gentleman.

Mr. ASHBROOK. I think if we draw a fine point here, the gentleman is correct. In the heart and mind of Lincoln, he was a moderate, but I thought I made myself very clear. In the context of his times I think by reading history carefully, the cartoons and vituperations with respect to him show Lincoln was not looked upon until later as a moderate. In the context of his times he was looked upon as a radical. Certainly tearing down the vestiges of slavery was not a moderate position but a radical position. The Emancipation Proclamation, which we all believe was not a moderate position but was radical, was looked upon in exactly the same light that many people in their heart and mind may consider themselves moderate today, but then to someone else they may seem to be an extremist either of the right or the left. So in heart and mind I agree Lincoln was a moderate, but in the context of his time and the views of his fellow men and the press and so forth, I believe it is fair to say that he was not looked upon as a moderate.

Mr. SCHWENGEL. Of course, in those times we did not have this kind of argument going on. I am glad to have the gentleman admit that Lincoln in his heart was a moderate.

Mr. ASHBROOK. Certainly.

Mr. SCHWENGEL. Which he truly was. The people appreciated that and elected him because he was. He was a safer candidate. People were afraid of the prospect of war which was imminent if Seward, the top candidate at that time, was nominated. Everyone admitted that he had the convention votes and was in, but when the convention met they had some second, sober thoughts about the matter.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SCHWENGEL. Yes. I am glad to yield to the gentleman.

Mr. GROSS. If we leave Lincoln out of this and go on to something that I am capable of assimilating, I wonder about the moderates' position. I do not know what the gentleman is talking about when he talks about moderates, because he did not define a moderate in terms of membership in the House and consideration there. I wonder if I can get him down to this point: with respect to a pay increase for Members of Congress, would a moderate be one who voted against a $10,000 annual increase but voted for a $7,500 increase? Would a moderate be one who voted then—having cast this vote to increase his pay by $7,500 but voted against a $10,000 a year increase for himself—would he then vote against an increase in the debt ceiling to $324 billion or would he vote for some figure between the present $315 billion and $324 billion?

I would like to find out what a moderate is and where he fits into a picture like this.

Mr. SCHWENGEL. The gentleman from Iowa is pointing his finger, and I know whom he is pointing it at, but I will say to him that in the days to come I shall attempt to answer that question. We all have to make difficult decisions here. On the question of the salary increase I was not nearly as interested in my own salary increase—and I said so many times. Of course, this bill we voted for was a little different from the bill we voted on earlier. But I have compassion and feelings, sir, for the postal employee who has to have a second job in order to keep things going at home. I have some tragic examples to put in the Record that will show the gentleman from Iowa [Mr. Gross] or anybody else who is interested, what happens when these people are not properly paid.

I had to decide between the raise for them and the whole bill that was necessary because we did not have fiscal sense enough here to get control of the inflationary forces. And I think I have a pretty good record of voting against some of these appropriations, as good as the average Member of Congress. I do not look upon this, as does my colleague from Iowa, whom I respect highly. I think he serves a very important function here in keeping us alert to unnecessary expenditures.

The gentleman knows that I often follow him, more often than not.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SCHWENGEL. Yes.

Mr. GROSS. I hope the gentleman will notify me so that I may be present. I want to hear this definition of a moderate when the gentleman gets around to defining a moderate.

Mr. SCHWENGEL. I hope to speak again and we shall probably talk further on that subject.

SCRANTON: "THE REPUBLICAN PARTY WILL ENDURE—IT WILL PROSPER—IT WILL PREVAIL"

Mr. MATHIAS. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. Weaver] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. WEAVER. Mr. Speaker, I congratulate the distinguished gentleman from Iowa for his forthright speech. The Republican Party has been strengthened by the candidacy of our outstanding Pennsylvania Governor. In a speech before the recent Maryland Republican State convention, Gov. William W. Scranton, of Pennsylvania, urged the Republican Party to move forward under the principles advocated by Lincoln.

His talk drew praise from fellow Republicans and the press. Because of the favorable widespread comment the talk created, I have placed the text of the speech in the Record.

Along with the speech I have included a news story covering the editorial endorsement of Scranton for the Republican nomination for President by the Chicago Sun-Times and the Chicago Daily News. The editorials, published before he announced his candidacy, are also included:

[From the Post, May 4, 1964]

Chicago News, Sun-Times Out for Scranton

Chicago, June 3.—The Chicago Sun-Times and the Chicago Daily News came out editorially today for Gov. William W. Scranton, of Pennsylvania, for the Republican nomination for President.

The Sun-Times said the California primary results intensified, rather than solved, "the Republican Party's dilemma." The time has come, it added, for "moderates to take charge."

The Daily News called Scranton "the best Republican in the field."

Marshall Field, Jr., is president and publisher of the Sun-Times and editor and publisher of the News.

[From the Chicago Sun-Times, June 3, 1964]

Nominate Scranton

The Republican Party's dilemma has not been solved by the results of the California presidential preference balloting; it has, in fact, been intensified by those results.

California definitely eliminated Gov. Nelson A. Rockefeller from further serious contention, if he ever achieved that status. If, by its big vote for Barry Goldwater, it makes the Arizona Senator's nomination certain, California may have eliminated the Republican Party from further serious contention in the 1964 election.

Goldwater should not—cannot—be entrusted with the presidency in these perilous times. He is not qualified for it. Furthermore, his candidacy would undoubtedly result in a GOP defeat of proportions similar to that of 1936.

The time has come for the moderates to take charge.

The California balloting has emphasized this. Who stopped whom in California, and why and how, makes for interesting political speculation and commentary. But it settles little.

Both Senator GOLDWATER and Governor Rockefeller are factionalists within the GOP. Neither is acceptable to the party's bigger and usually dominant element, the moderates. Neither would be acceptable to American voters in a general election. Senator GOLDWATER's backward looking, rightwing philosophy on domestic matters is as out of tune with the times as is his ready solution for most foreign policy matters: Send in the Marines.

The Sun-Times does not believe the Republican Party should nominate GOLDWATER as its 1964 standard bearer.

Two men have emerged as possible nominees. One is Richard M. Nixon, the party's 1960 candidate who was barely defeated by the late President John F. Kennedy. The other is Gov. William W. Scranton, of Pennsylvania.

Nixon's chances are, at this moment, probably better than those of Scranton. For Nixon is better known. Between the two, the Sun-Times prefers Scranton. It believes the Pennsylvania Governor would make a better candidate. And, more importantly, it believes the Pennsylvania Governor would make a better President.

Scranton, young, articulate, and possessed of a well-defined political philosophy—a philosophy centered on moderation, as his congressional career and his conduct of the affairs of Pennsylvania demonstrate—is an ideal candidate for the GOP at this critical juncture in its history. He would solidify the party. That is something GOLDWATER cannot do. It is something Nixon might fail to achieve.

Scranton is sound. He is also warmly human. He is an excellent administrator, as his progressive and able handling of Pennsylvania's diverse affairs has demonstrated. He appreciates that this is the nuclear age; not the age of the wagon train. He also knows that utopia is not achieved by legislative act or administrative fiat. But that hasn't prevented him from seeking to better the lot of his fellow man.

Scranton can be nominated. Scranton should be nominated. Scranton will be nominated if the Republican convention earnestly seeks to establish itself as the party of enlightened conservatism.

Scranton, who has not sought presidential nomination and is not anxious for it, is the GOP's best choice for 1964. He should be drafted.

[From the Chicago Daily News, June 3, 1964]

OUR CHOICE: SCRANTON

The Daily News proposes Gov. William Warren Scranton, of Pennsylvania, as the 1964 Republican nominee for President.

We offer this proposal in the knowledge that the political realities at this moment provide Scranton with only a modest chance of winning the required 655 votes in San Francisco in mid-July. He is a reluctant candidate—indeed in his own thinking no candidate at all. He has had hardly any of the "exposure" usually deemed so essential a part of a candidate's grooming. His image, while favorable, is nevertheless generalized and somewhat vague in the public mind.

And if eagerness is one of the essentials, William Warren Scranton is far and away the least eager among the whole field of Republican possibilities.

To be perfectly realistic, we presume the odds favor Richard Nixon. He has been waiting in the wings (and, meanwhile, doing and saying precisely what an eager presidential aspirant does and says) on the canny assumption that the warriors in yesterday's California primary, Mr. Liberal and Mr. Conservative, would eventually cancel each other out. In view of yesterday's close result, we suspect the assumption remains valid.

We cannot accept Nixon as the nominee. He is an able, tireless, resourceful politician. In 1960 he came within a few votes of winning the Presidency. If the party professionals at San Francisco emerge from the traditional smoke-filled room determined that Nixon is the man, we will understand. But he is not our man.

He could not be our candidate after the explosive, deeply revealing outburst against the press in the wake of his failure in 1962 in the California Governor's race. The savage rancor, the childish vindictiveness displayed in that hour simply dislodged him from that small company of leaders suited, in our judgment, to be the President of the United States.

We pass over the others as unlikely, each for special reasons, to be able to provide the whole broad spectrum of Republicans with a philosophy that could enlist them in common cause.

Scranton has that potential—if he can be nominated. At 46 he is both young and richly experienced. He has described himself, accurately we think, as "a liberal on civil rights, a conservative on fiscal policy, and an internationalist on foreign affairs." He has been an able Governor of a major industrial State. He understands business and he understands human beings, their needs, their hopes, and dreams. He knows how to inspire people and win votes.

Beyond all this, and perhaps most important, he is a man of style, of class, of character—a good-humored, broad-gaged man with the mark of leadership upon him.

He is the best Republican in the field. We endorse him wholeheartedly for the Republican presidential nomination.

KEYNOTE ADDRESS BEFORE THE MARYLAND REPUBLICAN STATE CONVENTION, BALTIMORE, MD., JUNE 12, 1964, BY WILLIAM W. SCRANTON, GOVERNOR OF PENNSYLVANIA, REPUBLICAN CANDIDATE FOR PRESIDENT OF THE UNITED STATES

In the tide of history, a political party can afford almost any adversity except to lose the bold spirit that gave it birth.

Our libraries and our archives are filled with the dry bones of the Federalists, the Whigs, and a score of others who met their moment of truth, but did not seize it.

Today the Nation—and indeed the world—waits to see if another proud political banner will falter, grow limp, and collapse in the dust.

"Has the Republican Party," our fellow citizens ask, "outlived its usefulness?"

And we Republicans ask: Can we pretend, even to ourselves, that it is possible for us to stand with one foot in the 20th century and the other in the 19th?

Can we afford to pretend that all is well, when all is not?

Can we in good conscience turn our backs on the century-old progressive history of our party?

You and I know we cannot.

I believe that as members of a party more than 100 years old we have no right to sell out to the modern expediencies of the easy answer, the fast draw, the quick solution.

I know we have an obligation, dearly bought by our forefathers, to remind ourselves and to remind America that our first national administration, under Lincoln, was elected because it was responsible, because it was creative, because it was imaginative.

Responsible for human liberty, its preservation on the North American Continent and its inspiration around the world.

Responsible for giving every American a fair chance at a share of the good life.

Responsible for underlining the injunctions of the Constitution and the Declaration of Independence: To put solid flesh on the noble words that all men are created equal.

Those responsibilities—for the liberty of all citizens, for the economic growth of a great Nation, for equal opportunities—those are the responsibilities which our party was born to bear—and which we have proudly borne.

Within those responsibilities is the bold spirit we dare not lose.

We were born to save the Nation from destroying itself from within. Our mission today can be no less.

I say that the true spirit of the Republican Party today stands equally dedicated to preserving this Nation from the dry rot of phony liberalism or the slow death of blind reaction.

I say that the time has come for us to stand fast against both those who would compromise us into slavery and those who would lead us there in a burst of irresponsible flames.

Lincoln led our party because he had faith in the commonsense of the American people. And I think that we had better get about the business of keeping faith with Lincoln.

For his work is not yet done. The work of Theodore Roosevelt is not yet done. The work of Robert Taft and of Dwight Eisenhower is not yet done.

We have the solemn duty to get on with the task. We have the solemn duty to drive fear from the heart of America.

Let us be done with the fear of our system spread by the bumbling promoters of boom or bust in the opposition party.

And let us be done with the fear spread by the small minded in our own party who hint that America has not enough prosperity to go around.

Let us be done with the fear of the black man and the fear of the white man, and let us have the courage to say that there are those in each party who wish to trade on both.

Let us be done with the irrational fear that man has too much liberty, and let us build an even greater nation on the theory that America is blessed by God to stand forever as the guardian of freedom.

For to defy those fears our party was born, and to defy those fears I am a Republican—and I think that's why most of you are too.

That is what the Republican Party is all about. The minute we forget it, is the minute we shall begin to die.

We shall not let that happen.

The Republican Party will endure. It will prosper. It will prevail.

The Republican Party will prevail because it will build upon the principles to which Americans have always pledged their heartfelt allegiance.

We shall prevail because we shall have the commonsense to gird our beliefs with solid political muscle.

Our party is not about to forget that the first great act of a great American President is to get elected.

Nor are we about to forget our candidates for the U.S. Senate, for the House of Representatives, for the Governors' chairs, for the State legislatures and for the local offices.

Lincoln would cry out in pain if we sold out our principles, but he would laugh out with scorn if we threw away an election.

Mr. Lincoln saved the Union, but he used his sagacity as a political leader to do it.

As a political leader he would applaud the quality of candidates on every level of government with which our party is blessed this year.

And caring a great deal about the unity of the Republican Party—which he knew was built from the precinct up—Mr. Lincoln might remind us today not to throw away those fine candidates.

He knew—as all of you know—that in a presidential year the candidate at the top of the ticket can help those below or he can doom them to undeserved defeat.

Therefore, any political party which seriously undertakes to lead the government of this Nation—not only in Washington, but also in the State capitols, in the courthouses, in the city halls—such a great party will not lightly throw away the top places on its ticket.

Choosing the top of the ticket is well under way in our party.

There are those who are so afraid of a free choice in San Francisco that they pretend the selection is already completed.

With more than half of the delegates not yet committed, they tell us to surrender the dignity of our party, the respect of our fellow citizens, and all hope of a Republican victory in the fall.

I stand before you today to challenge that view.

I for one believe that our party will not make its decision until the final rollcall has been completed 4 weeks from now.

I say that we are going to San Francisco to hold a convention, not a coronation—and I hope you agree that we are not going there to hold a wake.

We will convene there in 4 weeks time to select the man who best squares with the enduring principles of the Republican Party—not to embrace a cause which has no roots in American history.

We will convene there to select the man who can lead the whole ticket to victory up and down this Nation—not to embrace a cause which has written off most of America and has been written off by the rest.

We will leave San Francisco a united party, but united behind our traditional principles, not behind some weird parody on our beliefs.

In short, the Republican challenge in San Francisco is to plan our Nation's practical business, and to embrace her moral challenge.

But, there is a danger.

A stand must be made, but the hour is late.

We have waited dangerously long to call upon our party's conscience, upon its wisdom, upon its will.

For too many months we have been slow to act, but fast to say that it could not happen to us, not to our party.

I share responsibility with others of our leaders who until now have failed to act. I frankly express my admiration for those who earlier entered the lists, with energy and dedication.

Now, surely, all of us must confront reality.

It is about to happen to our party.

The Republican Party is in danger. And some say our country may be, too.

We could send down to defeat good men and good women who stand ready to carry our banner in the several States.

We could take the responsibility, the reason, the Lincoln, the heart, and the soul—all of these things we could take out of our party.

We will do so if we let an exclusion-minded minority dominate our platform and choose our candidates.

But, we have a choice.

And that is why I have come here today.

I have come here to offer our party a choice. I reject the echo we have thus far been handed—the echo of fear, of reaction; the echo from the never-never land that puts our Nation on the road backward to a lesser place in the world of freemen.

I come here to announce I am a candidate for the Presidency of the United States.

I offer leadership.

Leadership for the good fight.

The good fight to bring us victory in November.

The good fight to put America in first place throughout the world.

The good fight to strip away wornout formulas dragged out once again by the other party in a futile effort to lead America at home.

Let this be clearly understood: I am not entering this crusade for the privilege of presiding over a whipped minority.

We shall be satisfied with nothing less than a tremendous victory in November. And then in the years ahead we can build our party once again into the majority in America.

I need your help.

I need the help of every Republican. We are reading no one out of our party. We welcome every hand and every heart that believes in the true Republican cause.

That's why I say to you with every bit of feeling at my command:

Help me gain our party's nomination, and I will lead our party to victory.

Stand with me in the cause of freedom.

Stand with me for the integrity of our party and the security of our Nation.

Stand with me as free men, free women, free Republicans, free Americans.

Stand we me because our cause is right.

And, because it is right, we shall prevail.

ANTIDUMPING LEGISLATION

Mr. MATHIAS. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. KEITH] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. KEITH. Mr. Speaker, today, I am joining a number of my colleagues in filing legislation which would tighten the enforcement procedures of the Antidumping Act. The bipartisan nature of the support for this legislation is ample evidence of the need to correct the situation that presently exists.

Certainly, American industries are not adverse to competition—they thrive on it. Most of our major industries today are required to meet foreign as well as domestic competition. The philosophy behind the Antidumping Act, and the bill that I am now filing, is to prevent the sale in this country of foreign produced goods at prices below the fair market value of the goods in the exporting country.

As the matter stands now, the Antidumping Act has not been effective in preventing foreign exporters from loading the U.S. market with goods priced below that for which they sell in their own country. This country provides a vast consumer market for goods and, I believe, it is the duty of the Congress to insure that our domestic companies are protected from unfair competitive practices by foreign manufacturers and exporters.

This bill would strengthen the procedures to be used by the Secretary of the Treasury in making his determination of whether there has, in fact, been dumping of a certain commodity in the U.S. market. It will also strengthen and clarify the guidelines to be used by the Tariff Commission in determining whether there has been more than insignificant injury to a U.S. industry.

I hope that the Congress will act promptly on this matter. The dumping of goods in the lucrative U.S. market at cutrate prices should not be tolerated. American business, in its efforts to compete, has a right to expect that its Government will prevent the use of unfair competitive practices by foreign exporters. This is a moderate and constructive bill which, I believe, is entirely consistent with the trade policies of the United States.

GOVERNOR KERNER SUPPORTS ARA

Mr. GRAY. Mr. Speaker, southern Illinois is on the move. For years we have seen the clouds of uncertainty and despair hover over our economic horizons because of high unemployment and a general population decline. But, thank God for the new hope now being generated through a partnership program of development and cooperation between our local, State, and Federal governments. The official census figures show a population loss of over 100,000 persons in my 18-county congressional district between 1940 and 1960. We have seen persistent unemployment rolls numbering over 25,000 during this period but because of our best efforts at all levels we have stopped the regression and are committed to a full-scale effort to eliminate poverty and unemployment in southern Illinois. Mr. Speaker, one might ask how we intend to do this. The answer is simple. We intend to utilize our God-given natural resources with the help of tools being provided by our local, State, and Federal governments. In short, we have applied measures passed by Congress and the State of Illinois to the fullest use and they are paying off. Paying off to the general taxpayer as well as the unemployed because we are converting relief checks into pay checks.

One of the tools we are using very effectively is the Area Redevelopment Administration. Just recently the ARA Administrator, William L. Batt, Jr., and Harold Brown, Small Business Administration official and coordinator for ARA activities and the National Advisory Council composed of 25 nationally prominent business and Government leaders visited southern Illinois communities firsthand and witnessed what we are doing to make southern Illinois a prosperous area and bring back hope to these good folks. They were all very elated at what they saw. They all admitted that much remained to be done but conceded that we have come a long way in our redevelopment efforts.

Mr. Speaker, one of the highlights of the recent southern Illinois visit by this distinguished group was an address by our very able and distinguished Governor of Illinois, the Honorable Otto Kerner, at an evening banquet sponsored by Southern Illinois, Inc., at Carbondale, Ill. Governor Kerner and his administration have been doing an outstanding job in Illinois. Governor Kerner strongly supports the Area Redevelopment Administration and points out in his speech at Carbondale why every Member of Congress, and particularly our Republican friends from our own State should support this program. It has helped tremendously. Mr. Speaker, by unanimous consent, I include after my remarks, the speech of Governor Kerner at Carbondale, Ill., on June 2, 1964, in the RECORD. I strongly urge the opponents of ARA to read Governor Kerner's remarks and learn firsthand from one of the Nation's outstanding Governors what a little government help can do for people who want to help themselves.

The Governor's speech follows:

REMARKS OF GOV. OTTO KERNER, PREPARED FOR DELIVERY AT THE DINNER MEETING OF SOUTHERN ILLINOIS, INC., AT ENGELS RESTAURANT, CARBONDALE, ILL., AT 6:30 P.M., TUESDAY, JUNE 2, 1964

Our meeting here this evening is truly significant. All of us have a stake in developing the economy of southern Illinois, either as businessmen or as officials representing local, State, and Federal governments.

Our role in helping the people of southern Illinois cannot be underestimated. Our paths are clear and the road ahead is a challenging one that requires coordination between private industry and government. Though this is almost a cliche, we who have had experience in government operations know the tremendous difficulties which coordination efforts inevitably encounter.

We are meeting in an area where population and economic opportunities have declined and where unemployment and poverty persist. Although Illinois has had—and still has—an unemployment rate lower than the national average and lower than that of any other industrial State, there are pockets of unemployment. I know this and I know where the unemployment is. However, I also know what is being done about it, and the success is beyond our expectations.

I need not tell you of my interest and personal involvement in Southern Illinois, Inc. Much of the good work which has been done is a direct result of the operation of this organization. Your interest and success in industrial procurement, recreational development, and the fostering of educational programs are well known to me and to the southern Illinois community.

But allow me now to focus some attention on the Area Redevelopment Act and how it has manifested itself in practical applications.

I think we will all agree that a principal aim of the act was to provide, for the first time, an instrument to focus all resources of the Federal Government on the problems of those areas of the country which are suffering from substantial and persistent unemployment and underemployment.

In this respect, Illinois has faired well. Our State was fortunate in receiving the first area redevelopment loan under section C of the act. This loan of $455,000 provided the impetus for the establishment of a new factory in the city of Carbondale. I do not have to tell you gentlemen what a lift this has been for the Carbondale area. Since this loan was appropriated, additional moneys totaling $1,275,000 have been invested and almost 500 jobs have been created. I am happy to report that this company, Technical Tape Corp., recently announced a new expansion without Government funds which may create 200 more jobs.

Forty-six projects have been approved by ARA in the areas of industrial loans, public facilities loans and grants, technical assistance, and retraining. These projects entail loans and grants totaling almost $4 million and are expected to produce about 7,700 jobs or training positions.

In addition to ARA's contributions, other agencies such as Southern Illinois, Inc., and private sources are investing over $43 million.

ARA's impact and benefits have been felt the length and breadth of the State, in Metropolis, Pana, Carlyle, Sparta, Benton, Carbondale, Herrin, and the Saline Valley near Shawneetown.

ARA and the State of Illinois have provided $3,054,000 as technical assistance and public facilities grants to expedite the Rend Lake project in Franklin and Jefferson Counties. This is a 19,000-acre multiple purpose reservoir to be constructed by the Corps of Engineers at an estimated total cost of $42 million. It will provide flood control, municipal and industrial water supply, recreation, and fish and wildlife conservation benefits. The corps and ARA estimate that its ultimate impact will create 5,000 direct and indirect jobs. Without ARA and State assistance, the lake would probably not have been built for many, many years. As it stands, construction is expected to begin within a year.

The recent loan approval of $295,100 to Central Technology, Inc., of Herrin, represents a milestone in the reorientation of the southern Illinois economy of which ARA can justly be proud. CTI is a homegrown industry in terms of both initial financing and managerial and technical talent. At the same time, it is a sophisticated, space age industry that is entering on the ground floor of a mushrooming field of endeavor in space technology. We may look back in a few years and say that the changeover from a coal mining to a modern manufacturing economy in southern Illinois came of age with the advent of CTI.

At my request, ARA representative, Hall Fleming from Washington, met today with businessmen from Pinckneyville, Du Quoin, and West Frankfort in their own offices to explain the machinery involved in bidding on Government contracts.

Less than 2 weeks ago, a Federal grant of $65,000 to be matched by $25,000 in State funds was approved to study the recreational tourist program for southern Illinois. Already the program is underway. This study will be the most comprehensive undertaken in any State. Couple this with the Illinois Promotion Act, which is providing $500,000 to communities throughout Illinois, and you will see that we will succeed in offering the people of southern Illinois unparalleled economic opportunities in America today.

One of the very impressive achievements that can be attributed to the activities of the Area Redevelopment Administration and the Illinois Tourist Promotion Act is a very noticeable improvement in the morale of the people in our local redevelopment areas. I am sure that many of you gentlemen will agree that one of the unfortunate effects of economic decline, when it persists over a long period of time, is the sense of defeat that grows among the people who live in declining areas. Since their efforts meet with little or no success, these people begin to feel that there is no hope for improving their situation. In turn, this problem of poor morale reduces the ability of our local communities to do the job they must do to bring about economic change.

I have noticed in our redevelopment areas, particularly those in southern Illinois, that there is a much greater sense of hope for the future, a higher level of activity, and the beginning of new leadership since the Area Redevelopment Act was passed in May of 1961. It was just 3 months later that the Illinois Board of Economic Development was created and given the responsibility of coordinating local, State, and Federal planning programs in all areas with heavy responsibility in attracting new industry. I am pleased to say that since the board's inception, and now under the leadership of Gene Graves, over 200 new industries have located in Illinois, truly an accomplishment with which we can be proud.

There can be no doubt that the establishment of area redevelopment programs has provided a major impetus for the development of new attitudes at the local level.

All of this points out what can be done when business and government team up and play their vital roles in solving economic problems. When State and Federal agencies accept their responsibilities, local people are more ready to accept their responsibilities in the total program of economic improvement.

IN CELEBRATION OF THE 300TH ANNIVERSARY OF HOPKINS ACADEMY IN HADLEY, MASS.

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Massachusetts [Mr. CONTE] is recognized for 10 minutes.

Mr. CONTE. Mr. Speaker, it gives me a great deal of pleasure to call attention to the 300th anniversary of Hopkins Academy in historic Hadley, Mass. In the course of 300 years this high school has been witness to and participant in the ever changing history of education in America. Moreover, the very story of Hopkins Academy is itself exemplary of the evolution our school system has undergone. It is also representative of the great role Massachusetts has played in educating the youth of our Nation. Our State has made a significant mark on so many aspects of history but to have been instrumental in the history of education, is to have turned the wheel of history itself. As Aristotle has said:

> All who have meditated on the art of governing mankind have been convinced that the fate of empires depends on the education of youth.

Edward Hopkins, whose name the school still bears, although not its founder in the ordinary sense, shared in the ideals it perpetuates. It was his desire as expressed in his will, and I quote:

> To give some encouragement in those foreign plantations (our New England) for the breeding of hopeful youths both at the grammar school, and college, for the public service of the country in future times.

And thanks to two trustees of his estate, Mr. John Davenport and Mr. William Goodwin, and the support of some of the early inhabitants of Hadley, this desire eventually resulted in the establishment of Hadley's grammar school. Of course, these early days were not smooth and simple. The people of Hadley differed in the type of school they wanted. Some, feeling a grammar school was unnecessary in Hadley, wished to have the income from the Hopkins estate used for the support of a school that would not emphasize the classics. But fortunately for the future of education in Hadley, the supporters of the grammar school triumphed and this type of school, with its classical traditions, became the nucleus of secondary education more than a century later.

Even before the passing of the first 30 years of the 300 we celebrate today, Hadley ventured toward a daring new step. At the town meeting of March 1697, it was voted that "The teacher be paid wholly by the school committee and the town rate." This was the very idea of a free school, but it was an experiment too premature. Not all of the townspeople were willing to support public education. Persons who had no children of school age were unwilling to bear the necessary taxation.

However, it was not many years later in 1816 that the Hopkins Grammar

School moved ahead with the times and was incorporated as the Hopkins Academy. The fame of the academy extended west and south and pupils from Ohio, Georgia, Virginia, Alabama, and Florida entered to prepare for college.

But that seed for free public schools momentarily appearing over a century ago was taking root in our State. The academy became a transition institution in the history of education as our State opened the first public high school in Boston. The Hopkins Academy, along with the other academies, again had to change with the times. In 1827 Massachusetts established the first American law requiring the establishment of high schools, an important landmark in the history of the evolution of the high school. Many of the citizens of Hadley supported the idea of a free public high school as early as 1851 but it was not until 1860 that the idea became reality.

Mr. Speaker, it seems very appropriate to me that this high school should have survived for these 300 years with the name given to it originally. This name carries the richness of the years it has endured —the memory of its benefactor Edward Hopkins and the men who strived to actualize what he expressed in his will. It stands for the ideals of a grammar school, for the broader purposes of the academy, for the principle of free education and the truly American idea of the high school. Hopkins Academy, an excellent example of the American high school, serves both as an extension of the lower school and like its predecessor, the academy, it prepares our young people for college.

Today the demands upon Hopkins Academy are greater than ever before in its history. It is called upon to teach more than just the classical tradition. During the course of the 300 years since its founding society has changed, the character of the secondary school population has changed, and the complexion of the entire world has modified immeasurably. But Hopkins Academy has a history of flexibility, a record of keeping up with the needs of the times. It stands in a unique position with its experience of the past and its continuing ability to move into the future. Three hundred years in the history of America is time enough to have witnessed many of the most significant events in the life of our country and our State. But here in Hadley the Hopkins Academy has been more than just a witness to the events. Your school has been a participant in the history of education, a spoke that turns the rim of the very wheel that writes all of our history.

Mr. Speaker, I take great pride today in remembering the story of Hopkins Academy. I take pride in remembering such men as Horace Mann, a native of Massachusetts and probably the strongest spoke in the wheel of American educational history. I feel somehow that the people of Hadley have long ago believed and will continue to believe these words of Horace Mann:

> A human being is not, in any proper sense, a human being till he is educated.

Surely our commemoration of the founding of Hopkins Academy 300 years ago stands as proof of this belief.

ECONOMIC REVITALIZATION OF APPALACHIA

Mr. MATHIAS. Mr. Speaker, I ask unanimous consent that the gentleman from West Virginia [Mr. MOORE] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. MOORE. Mr. Speaker, legislation to encourage the economic revitalization of Appalachia will soon be before both Houses of the Congress. As a strong proponent of such legislation, I have intense interest in every approach to the solving of this difficult and serious national problem.

One approach made by Mr. Joseph E. Moody, president of the National Coal Policy Conference, in recent testimony before the ad hoc committee on Appalachia of the House Public Works Committee especially impresses me, and thinking that my colleagues will be benefited and guided by his statements, I herewith include his remarks in the RECORD. Since the production of coal is the area's single largest resource and industry and this solution is geared to expansion of such production, I hope my colleagues will carefully consider the following statement by Mr. Moody to the Public Works Committee.

Mr. Chairman, I am pleased to have this opportunity to express the views of the National Coal Policy Conference in regard to the proposed program for the economic rehabilitation of the Appalachia area. The group for which I speak represents all segments of the industrial federation built around bituminous coal—the coal-producing companies, the United Mine Workers of America, coal-hauling railroads, coal-consuming electric utilities and the manufacturers of coal mining machines and equipment—and, therefore, has a deep and abiding interest in Appalachia, the region supplying the majority of the Nation's coal.

We have followed with great interest the work of the President's Regional Commission on Appalachia and the introduction of legislation, now before this committee, to implement the recommendations of the Commission.

The legislative recommendations before you, as embodied in H.R. 11065, are geared to the temporary alleviation of hunger and suffering, and to the long-term economic improvement of Appalachia. But, they do not provide for what we believe is the most important basic need in Appalachia, an encouragement of private industry to create permanent, non-Government jobs that will offer a decent living to people who want to work.

Mr. Chairman, I do not question the crucial importance of long-range planning, such as would be contained in a greatly expanded program of research to develop new uses for coal and other natural resources. Although H.R. 11065 does not include funds or provisions for such research, I have been told that some such amendments may be offered, and certainly they should be adopted. Research holds out tremendous promise for future new markets for coal, and thus for future new jobs of Appalachian citizens.

For example, I am told that new developments now offer great possibilities of opening up large new markets for coal tar as binders in highway construction. We know that before too many years have passed we must develop efficient and inexpensive ways to produce gas and liquid fuel from coal, to supplement our own native resources of natural gas and petroleum. There are surely other uses which will come from the laboratories and pilot plants which will create new demands for coal. These efforts are important for the future of Appalachia, as well as of other coal-producing areas.

But the primary need in Appalachia today is jobs for its citizens. And these jobs must be created by private industry if Appalachia is not to be a dependent ward of the Federal Government from here on into the future.

Secretary of Labor Willard Wirtz expresses it very well in testifying before the House Select Committee on Government Research recently when he declared that the private sector of the economy must produce 10,000 new jobs per day, and added: "We have got to do whatever is necessary to release the private economy to produce more jobs." In another statement recently Secretary Wirtz declared that the problem of unemployment, including that in the Appalachia coal areas, could not be solved by the Government "although the Government can assist in creating conditions and a climate to encourage private industry to provide the necessary new jobs."

Coal is the most important indigenous industry and resource in Appalachia and the mining and transportation of coal has the potential of creating more employment in Appalachia than any other single industry. Thus, the creation of new jobs in coal must be at the heart of any program designed to aid Appalachia and I sincerely hope, Mr. Chairman, that the committee will write into this legislation the necessary language which will make it clear that the Congress recognizes this fact.

One suggestion which has been made and which, with your permission, I would like to submit for your consideration is to insert in line 13 on page 2 of H.R. 11065, immediately after the words "economic development", the following language: "by Executive and/or legislative action to encourage the mining of coal."

A healthy expansion of coal production would provide thousands of new, dependable, well-paying jobs in the immediate future. This is the type of help which is needed. The development of new uses for coal is necessary, of course, but here we are talking about long-range solutions. What is done through research to help coal, and thus help the Appalachia area, will be felt in the years ahead, but it won't solve the problem of the unemployed miner who is forced with his family to subsist amid appalling conditions.

For generations the fate of Appalachia has been tied to coal. As the coal industry grew and prospered, Appalachia generally prospered. And as coal entered upon stormy days, so did Appalachia. The coal industry was forced to mechanize—to increase productivity through laborsaving devices—to survive the loss of two markets almost simultaneously which accounted for 50 percent of production. The brunt of this technological revolution was felt the heaviest in Appalachia.

Despite the difficult years through which coal has passed, it still provides about 126,000 mining jobs throughout Appalachia. A recent survey of the impact of the coal industry upon the economy of seven States, five of which lie completely or in part within Appalachia, shows conclusively that coal remains a vital part of the economic bloodstream of the area. I have attached to my remarks, which you have before you, copies of a report on the five States which lie within

Appalachia and are pertinent to this hearing. I urge you to study them. They will convince you, I believe, of the overriding importance of coal to Appalachia.

Also, at this point I wish to call your attention to this map of Appalachian coal reserves. Untapped coal deposits are spread throughout the region. Reserves in these States total 132 billion tons, and mining these reserves, and transporting them to market, can be a source of many thousands of jobs.

Now, we in the coal industry believe the corner has been turned. Production has been edging up, because of improved production and transportation efficiency. The employment outlook is considerably brighter and there is firm agreement in the industry that productivity increases are leveling off to a point where any reasonably large increase in production would have to be met through substantial increases in employment.

At present levels of productivity, each million tons of coal that is mined in Appalachia directly provides full-time jobs for about 400 men. In addition, the transportation of this amount of coal means more than 200 more full-time jobs on the railroads, barge lines, or trucks.

Certainly, in the future there will be some additional increase in productivity, so that 400 men will be able to produce more than 1 million tons of coal per year. However, there seems no doubt that the rate of increase in productivity is leveling off; it declined from about 8 percent in 1961 to less than 4 percent last year.

The point has been raised by some Government agencies that any increased production could be taken care of by the present work force and, therefore, would not provide any direct benefit to Appalachia.

I think such an assumption is wrong. Many mines in the area are operating at or near capacity, and any significant increase in production would have to come from more production workers.

But let us assume that this added production could come from working present employees more days per year. What would this mean?

It would mean that for every added day worked, an additional $3,181,500 in cash wages, exclusive of all fringe benefits, would be poured into the area. Obviously, additional wages of this magnitude would have a profound effect upon the economy.

The National Coal Policy Conference recently asked the 21 leading coal producing companies in Appalachia to give us their best estimates of the new coal industry jobs which would be created by an increase of 50 million tons of production in the next 2 years and by an increase of 100 million tons in the next 4 years. The average estimate of all of the companies responding was that 16,465 new jobs would be created by an increase of 50 million tons and 32,000 new jobs by a 100-million-ton increase.

Coal is today a high-wage industry. If we could, through the expansion of coal production by about 25 million tons annually for 4 years, put 32,000 men to work in the mines, we would create a stable new payroll of more than $167 million annually, the effects of which would be felt throughout the entire economy. There would be money to buy food, clothing, new cars, houses, televisions, radios, haircuts, drugs, and various other items, and to pay the physician and the dentist and provide funds for education. The need for vast welfare programs would correspondingly decrease.

In addition, Mr. Chairman, I would like to point out that when we talk about the job-producing effects of an increase in coal production of 100 million tons we have to keep in mind that 12 to 15,000 new workers, with an annual payroll of $75 million to $100 million, would be needed by the railroads to transport the added coal production. These are also stable, well paying jobs and the beneficiaries of them would pour this additional income into the trade channels of the area, benefiting many thousands of people who are not directly involved with the production and transportation of coal but who, nevertheless, have a vital stake in a healthy and expanding coal industry.

All of these facts, Mr. Chairman, support our contention that the only real way to provide long-term assistance and to create lasting jobs in Appalachia, at a minimum cost to the Government, is for the Federal, State and local governments to unite in a determined program to enable the coal industry to increase its production.

The primary need is for the creation of a climate in which the coal industry can have reasonable expectation of growth. At present, several key Government policies are so designed as to inhibit the growth of coal and coal production. Such policies create uncertainties about the future. They contribute to unstable conditions which discourage investments in new job-creating facilities.

What is needed are policies that will give coal an opportunity to compete for a fair share of the growth market for fuel.

In closing, Mr. Chairman, let me repeat that coal means food and clothing for the families of Appalachia. The people of Appalachia want jobs. The coal industry is willing and anxious to spend the vast sums which are necessary to open new mines and build new transportation facilities to get the coal to market to provide these jobs. I hope members of this committee will recognize that without expanded coal production, the hopes for the full economic development of Appalachia will be difficult indeed.

Coal is bread to Appalachia, as the young people in these newspaper pictures reminded President Johnson on his recent visit to the eastern Kentucky area. Thank you.

PUBLIC OPINION SURVEY

Mr. MATHIAS. Mr. Speaker, I ask unanimous consent that the gentleman from North Dakota [Mr. ANDREWS] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. ANDREWS of North Dakota. Mr. Speaker, I am conducting a public opinion survey on matters of current interest to the First Congressional District of North Dakota, which I represent.

Opinion polls have been in the news much more than usual during the past few months. It has been some time now since one has been conducted in North Dakota, so I thought there would be interest in finding out what the current thinking of our area is.

Virtually all polls in the past have been sent to a certain list of names thought to be representative. We want to get as broad a coverage as possible so that everyone can participate, because to be worthwhile a survey must allow all the residents of an area an equal opportunity to make their views known. We are therefore sending our poll to all postal patrons. Anyone wishing to participate who does not receive a questionnaire shortly should contact his local mail carrier and ask him where it is. Because the poll will have to be tabulated by volunteer help, we are having it printed in a special form so it will be a self-addressed return post card. The results of this poll of public opinion will be made known in the near future. The questions included in the poll are as follows:

	Yes	No	No opinion
1. Do you favor the proposed medicare proposal to be financed by an increase in social security taxes?----------	☐	☐	☐
2. Do you believe the present law of presidential succession should be changed?----------	☐	☐	☐
3. Do you think our crash program to land a man on the moon is worth the estimated $40,000,000,000 cost and the effort?----------	☐	☐	☐
4. Are you satisfied with the present handling of the Vietnam situation?----------	☐	☐	☐
5. Do you think price support programs for farmers are necessary?----------	☐	☐	☐
6. Would you favor the proposal to keep Federal spending in line with Federal tax receipts each year?----------	☐	☐	☐
7. Do you favor passage of some form of civil rights legislation?----------	☐	☐	☐
	Good	Fair	Poor
8. How would you assess the job the United Nations is doing in preserving world peace?----------	☐	☐	☐

9. Who do you feel yould make the best Republican candidate for President?----------

10. Who do you feel would make the best Democratic candidate for Vice President?----------

Your residence:

☐ Farm
☐ Small town
☐ City

(Name—if you sign please print)

(Address)

GOVERNMENT EMPLOYEES SALARY REFORM ACT OF 1964

Mr. MATHIAS. Mr. Speaker, I ask unanimous consent that the gentleman from Maryland [Mr. MORTON] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. MORTON. Mr. Speaker, I had expected to vote for H.R. 11049 to adjust basic compensation of many Federal employees and officers of the Government as well as the members of the legislative branch. Having studied the bill and the committee report, I felt there was adequate justification to make at this time an adjustment in compensation for the many dedicated employees of the Government and for Members of Congress who obviously are having a difficult time making ends meet.

I understand the management requirements for keeping Government compensation, wherever practical, in line with compensation for equal work and for equal responsibility throughout the commercial sector of our economy. I believe this cannot be done by any automatic device or formula. I believe it has to be done as a management decision and must be undertaken as a basic responsibility of the Congress.

When the amendment offered by the gentleman from Arizona [Mr. UDALL] was adopted, it then became the intent of the Congress to automatically couple congressional compensation and the compensation of literally thousands of Federal employees to that of the commercial sector of the economy. Having served for many years on the salary and compensation committees of corporations in which the economic lives of more than 25,000 families have been involved, I conclude by experience that arbitrary formulas for adjusting compensation related to any specific indices or economic factors can be very risky business from a management point of view.

In many specific cases, industry compensation level for supervisory, intermediate executive, and higher executive responsibilities are correlated to Government rates of pay and determined on a comparability factor involving the various salaries which we here in this act are trying to correlate to industry. Therefore, it is very likely that the proposed policy for determining compensation in the Government will have an inflationary and upward spiraling effect on the compensation in industry and vice versa.

It was only a few short weeks ago when the President of the United States in a plea to both labor and management asked for stabilization of price and salary. It seems to me that the philosophy of this bill as changed by the Udall amendment is in direct conflict with the spirit of the President's desire. Therefore, in an effort to hold the line against inflation, I voted against the bill.

WASTE WON'T HELP WIN WAR ON POVERTY

Mr. MATHIAS. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. TALCOTT] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. TALCOTT. Mr. Speaker, almost everyone who becomes slightly or deeply involved with the Area Redevelopment Administration decides that the whole program should be thoroughly investigated by a committee of Congress before any more funds are appropriated for its use.

If we waste money intended for the poor, many of the needy who are entitled to, and deserving of, assistance will be neglected.

The sooner a full-scale investigation of ARA is instituted the better.

The following editorial from the Register-Guard of Eugene, Oreg., of June 2, 1964, indicates the view of many thoughtful citizens who are concerned about the Federal programs designed to fight real poverty.

WASTE WON'T HELP WIN WAR ON POVERTY

In reality, war against poverty has been underway in this Nation for three decades and more. And there has been little disagreement about the moral basis for this crusade.

There has been, however, and there continues to be, considerable disagreement about tactics employed by the Federal Government in its efforts to spearhead a national antipoverty offensive.

While he was President, John F. Kennedy did a superb job of dramatizing the importance of the battle. And, since he has been President, Lyndon B. Johnson has used both his own practical political know-how and emotions stirred by President Kennedy's assassination to promote this as an all-out struggle.

There remain, however, dedicated critics of, not what the war on poverty should accomplish, but of how it is being waged. Establishment of a Youth Conservation Corps, for instance, has had foes who believe it would not strike effectively at root causes of unemployment. And some Federal antipoverty programs already in progress have been judged ineffective, or, worse, as liabilities in the overall campaign.

The low-cost Federal lending program of the Area Redevelopment Administration was blasted in exactly this fashion when Reader's Digest published a May lead article querulously titled, "Is This the Way to Fight the War Against Poverty?"

And this obviously stung the ARA newspapers across the country have now been furnished booklets rebutting the magazine's allegations. And each has been informed that Reader's Digest has been asked to publish ARA's "side" of the controversy.

In essence, ARA's circular denies that it has exceeded its intended purpose, or that it has issued ill-advised loans to help industries, or, that its operations have not been effective in creating net increases in jobs available where jobs are critically needed.

Extensive investigation would be required to determine a winner in the argument between Reader's Digest and the ARA. However, it is a matter of record that ARA last year failed to convince Congress that it should be more liberally supplied with funds to loan applicants in "poverty pockets" about the Nation. And, even in its response to the Reader's Digest article, ARA does not deny that it would consider issuing loans in one-third of all U.S. counties.

In our own part of the country, ARA-supported projects have been consistently opposed for 2 years by Western Timber Industry, a trade newspaper published in Portland. A recent issue carried a lengthy, heavily documented "condensation" of a talk presented by WTI Editor Vernon S. White at the annual session of the Northwest Wood Products Clinic.

Here, again, it would be no easy task to make an accurate assessment of allegations that the ARA is operating "to spend money at a maximum rate of speed so as to justify to Congress the appropriation of still more funds * * * and to line up the votes to keep in office a President and Congress friendly to it."

But one fact does stand out in all of this. The ARA was originally established as an emergency apparatus to be employed only for 4 years. That term will be ending in 1965. Before ARA is given a permanent or a semipermanent role in the war on poverty, its policies and their net results should be carefully scrutinized. And the same procedure should be followed with regard to other Federal agencies being mustered into this fight. Federal funds are needed to help combat persistent poverty in some parts of the Nation. But Congress, proceeding with antipoverty legislation, should take care to invest taxes where they will really benefit the Nation's poor.

THE NEED FOR MASS TRANSPORTATION LEGISLATION

Mr. MATHIAS. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. WIDNALL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. WIDNALL. Mr. Speaker, the reasons and need for the mass transportation bill has nowhere been more clearly spelled out than in an article by Wolf Von Eckardt appearing in the Washington Post of Sunday, June 14, 1964. As Mr. Von Eckardt puts it:

> Transportation means life. People and goods must be able to get around quickly, efficiently, and conveniently if our cities are to survive. It is as simple as that.

The present strangulation of our metropolitan centers, large and small, cannot be allowed to continue. Although the major portion of the burden must be borne by the localities and States themselves, there is a legitimate role for the Federal Government to take. A significant step in the fulfillment of that role would be the passage of the mass transportation bill, authorizing Federal aid amounting to $500 million over a 3-year period.

I believe that on both sides of the aisle there is now sufficient realization of the justification for this bill to obtain a favorable vote in the House. It passed the other body, more than a year ago, and I urge the House leadership to place this legislation on its priority list for immediate action.

The article by Mr. Von Eckardt follows:

HOUSE CAN START TRAFFIC MOVING AGAIN

(By Wolf Von Eckardt)

The House of Representatives willing, the next few days could see a decisive turning point in the plight of the American city—passage of the long delayed Mass Transportation Act.

Transportation means life. People and goods must be able to get around quickly, efficiently, and conveniently if our cities are to survive. It is as simple as that.

The mass transportation bill (H.R. 3881), which passed the Senate more than a year ago, would make $500 million in Federal funds available to help cities plan and build new railroad communter and mass transit services and improve existing facilities. It would provide money for public transportation research and development and transportation planning.

It would not, as some people seem to fear, repeal the automobile or reduce sensible highway construction. Automobiles and trucks perform an essential function, even in the very heart of the city, that no other form of transportation can take away from them. We must therefore continue to try and adjust out cities to the motor age. And no highway engineer, road contractor or other highway builder need fear that he will lose his job or income.

But the highway builders cannot possibly do the whole job. The automobile is, of course, among the greatest blessings of our time. It gets more people around to more places than their grandparents ever dreamed of. It accounts largely for our high standard of living.

Now we must translate this high standard of living into a high standard of life.

This, for the 8 out of 10 Americans who now live in metropolitan areas, means urban life. And the quality, serenity, safety, health and welfare of our urban environment is threatened by the uncontrolled proliferation of the automobile and our almost exclusive reliance on it as a means of moving about.

Its insatiable demand for more highways and freeways and loops and parking spaces ruthlessly displaces people and buildings. It pollutes our air. Its traffic jams choke commerce and steal time away from leisure. People and stores are forced out into the open countryside, covering it with endless urban sprawl.

All this is fiercely expensive, taking an increasingly larger share of our national income. The total State and Federal expenditure for highways has increased about 123 percent between 1950 and 1960. The total national income in the same period increased only 50 percent.

Many people assume that automobile transportation pays for itself. They say that gasoline taxes, tolls, and fees paid by car and truck owners bring in the money needed for building, maintaining, and policing highways. But this is an error.

The money collected from highway users by the States pays just about what the States themselves spend on their highways. But these State expenditures are heavily augmented—up to 90 percent—by the Federal Government from taxes paid by all of us, whether we use highways or not.

It is therefore only reasonable that Federal tax money also be used to augment highways with mass transit. In fact, it is much less expensive.

To build a commuter railway capable of carrying 80,000 passengers from a New York suburb to the city, it has recently been estimated, would cost $283 million. To carry the same number of people on new highways would cost $4,752 million—a ratio of 1 to 16.

If the commuter rail service in New York, Chicago, Boston, Cleveland, and Philadelphia were to break down, it would cost $31 billion to build the highways needed to move the resulting increase in automobile traffic. Where, furthermore, would these cities put the additional cars? And what would be left of the cities if they were slashed by still more highways?

Bringing existing commuter rail service up to date and building new rapid transit systems in the cities that desperately need them—and Washington is one of them—can therefore no longer be delayed.

Many people, it is true, sneer at the idea of straphanging, no matter how tiresome it is to push their cars through traffic. They mentally associate rapid transit riding with the crowded, grimy subways of New York. They forget that most of these subways are half a century old.

The trouble is that the rapid transit manufacturers and advocates have woefully failed to whet our appetites for their product. The sketches of visionary subway trains and stations their engineers concoct are less than alluring.

Few people are therefore able to imagine the potential comfort and efficiency of riding to and from work in a truly modern train: Your wife drives you to the nearby suburban station. You kiss her good-bye and enter a glistening clean, noiseless, air-conditioned train. On your way to your seat you pick up a cup of coffee and the newspaper. Before you've even finished the funnies you have arrived. There's a short, bracing walk to your office and you start the day fresh and relaxed. At the end of the day you are home even before you have figured out what to do with the time you have saved.

New buildings and communities, furthermore, would tend to cluster around the new rapid transit stops. There would be urban concentration instead of urban sprawl and thus hope to save both the city and the open countryside.

President Johnson, for all these reasons, wants the mass transportation bill enacted. At latest count 40 Republican House Members are supporting it.

The House leadership now must break the legislative traffic jam in which the bill is caught if there is to be hope that we can break the traffic jams in our cities. They are a good part of the reason why an Englishman recently referred to our urban environment as "the mess that is manmade America."

EXTENSION OF THE JUVENILE DELINQUENCY AND YOUTH OFFENSES CONTROL ACT OF 1961

Mr. MATHIAS. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. BARRY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BARRY. Mr. Speaker, a modern society brings with it many good and wonderful things; it brings better health, better living standards, more leisure, more culture—to more people. These are the fruits of progress. But there are weeds in the garden of the modern society—elements which are not so good and so wonderful.

Juvenile delinquency has been a recurrent problem and has spread, weedlike, at a rate which justifiably alarms us. We have watched it sprout especially in the last decade and we have tried to find the best way to stem its prolific growth.

Most of these remedies have a great deal of merit. They attack the problem with understanding and deligence. But they have had distinct limitations. Either they have served too few young people to make appreciable gains against delinquency or they have concentrated on only one or two of the elements of a social illness which, we have discovered, has many facets.

There is one statement that can undisputedly be made about this problem whose solution evades us. Its causes are so manifold and complex—slum housing, ill health, family disintegration, racial discrimination, lack of recreational facilities, inadequate education, unemployment—that an overriding sense of hopelessness often deters action. Most juvenile delinquents have more than one of these problems and most of the proposed remedies have been too narrow in scope.

Today the House is considering H.R. 9876, a bill to extend for 2 years the Juvenile Delinquency and Youth Offenses Control Act of 1961. This bill has many merits, not the least of which is its recognition of the multifaceted nature of the juvenile delinquency problem.

About half of the funds authorized under H.R. 9876 are earmarked for demonstration projects—projects which, in 3 years of operation of the Juvenile Delinquency Act, are pointing to new solutions to our problems. These projects are based on careful planning—a lengthy and involved procedure which has drawn fire from critics of the bill. But insistence on thorough planning has made these programs blueprints for future action.

The object of demonstration projects under the Juvenile Delinquency Act is to attack all sources of delinquency by using the talents and services of all elements of the community—public and private, individual and collective. If these well-planned, well coordinated, fully comprehensive programs can make inroads against delinquency in their communities—and I think that the experience of the past 3 years have shown they can—then we have found a model for positive community action for the future. The other major section of the bill is a training program for youth personnel—teachers, policemen, parole officers, welfare workers, and the like. These training programs have been set up to work in coordination with the demonstration projects and are based on the premise that action programs can be no more effective than the persons who carry them out.

The cost of this program is small compared to the good it can accomplish. We have evidence that considerable progress has been made in the operating demonstration projects and that we cannot discontinue this program while the task is still incomplete. I do not wish to be unrealistic and imply that demonstration projects in a score of cities will rid us permanently of juvenile delinquency. Instead we must consider the funds we invest as "seed money"—money to stimulate other action projects on the community level in other cities.

In my State of New York, we have serious delinquency problems—since delinquency is greatest in our largest cities and New York State is the home of the largest. Up to this point, we have been unsuccessful in decreasing delinquency. Youth crime has risen precipitously in the past 14 years, a rise which has far outstripped the juvenile population growth. Let us continue a program which. in 3 short years of operation, has offered progress toward the solutions. We do not intend that this program be extended indefinitely. The victory over youth crime must be fought within the community with community people leading the way. This program will blaze the trail for local community initiative.

JUVENILE DELINQUENCY CONTROL ACT

Mr. MATHIAS. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. QUIE] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. QUIE. Mr. Speaker, I note that H.R. 9876, extension and amendment of the Juvenile Delinquency and Youth Offenses Control Act of 1961, is scheduled to come before the House. All such programs have not turned out well. The city of Cleveland, Ohio, has one such program which some members of the House Education and Labor Committee visited and found wanting.

Even though mistakes have been made, some projects seem to be operating with better results. Thus, I believe this act should be extended at this time, so that we may obtain the results of the programs currently being implemented. We will then be in a better position to judge the total effectiveness of this program.

One such project, which seems to be operating with the opportunity for good results, is the youth demonstration project at Minneapolis, Minn. The data gained from such projects may well put us in a position to provide worthwhile information for States and local communities to carry on such projects in the future. I plan to support the extension.

I would like to share with my colleagues at this point a report on the Minneapolis project developed by Mr. Larry Harris, who is project director.

Youth Development Demonstration Project

On June 1, 1962, the Community Health and Welfare Council of Hennepin County, Inc., was awarded a 2-year planning grant of $149,845 (youth development project) under the Juvenile Delinquency and Youth Offenses Control Act of 1961. The act is administered by the President's Committee on Juvenile Delinquency. Eighteen cities have been awarded planning or demonstration grants under the Juvenile Delinquency and Youth Offenses Control Act. The goal of the youth development project was to develop a comprehensive network of programs and services for children within two selected disadvantaged areas in Minneapolis. These programs were developed to help bridge the gap from childhood to productive adulthood without participation in delinquent behavior.

On April 27, 1964, an application for funds to carry out a comprehensive network of programs to reduce and control delinquency in two selected target areas of Minneapolis was submitted to the President's Committee on Juvenile Delinquency and Youth Crime. This extensive demonstration proposal requested Federal funds to help support programs in the areas of: education, employment, corrections and agencies, and neighborhood development. A number of related programs were also described in the proposal for which non-Federal funds are being sought. National foundations have been contacted and local support is being sought from a number of sources.

PLANNING

The planning which led to the demonstration proposal was carried out by a staff of five under the direction of a project committee of the Community Health and Welfare Council Board of Directors. The project committee, under the chairmanship of Mr. Alan H. Moore, was composed of representatives from schools, social agencies, city, county and State government, business and labor, and the University of Minnesota.

Two target areas for continued planning and action were chosen by the Youth Development Project Planning Committee. In addition to the target areas, some adjoining areas were designated as buffer areas. Similar data will be gathered in the buffer areas to allow for modification of the target areas if the need arises. The buffer areas will enable us to follow families that we anticipate will be moving between the target and buffer areas during the demonstration period.

The two target areas contain approximately 7½ percent of the population of the city (38,000 residents). The 1963 police contact rate per 1,000 children age 10 to 17 was 98 for the target areas compared to 49 for the city. Twenty-four percent of the AFDC cases, 16 percent of the old-age assistance cases, and 32 percent of the families on relief live in the target areas. The 1960 census showed that 20 percent of the target area families had an annual income of less than $3,000 and 44 percent of the target area adults (over 25 years of age) had an education of 8 years or less.

The youth development project studied the two target areas for 2 years. A number of surveys and studies were completed with volunteer help. YDP staff visited schools, agencies, neighborhood groups, and other organizations to obtain suggestions and ideas for better services for target area youth. The YDP stressed the use of the ideas and concerns of the community in developing programs.

A conceptual framework for action was written to give direction to the comprehensive network of programs. The conceptual framework stresses that delinquency is one form of behavior resulting from the disparity between aspirations of target area youth and the opportunities to achieve these aspirations in a legitimate way. The YDP is stressing programs which attack the underlying condition of a lack of opportunity for legitimately successful behavior for disadvantaged youth. The basic assumption here is that converting feelings of frustration to positive feelings of accomplishment will lead to nondeviant behavior. A reduction in dependency and school dropouts is also expected. The framework points to the need for changes in the predominant society and its institutions which serve disadvantaged youth. The need to help these youth make use of the community services available to them is pointed out. Finally, participation by target area residents in planning for their families, neighborhood, and community is stressed.

Suggestions for programs were solicited from throughout the community. Target area adults and youth contributed program suggestions as did staff and board members of agencies and institutions. The YDP chose to develop programs which will operate through existing agencies rather than developing new structures. This choice was made because of the well-developed structures of agencies in Minneapolis.

Many of the programs in the demonstration project will be evaluated and the net impact of the combined programs will be measured.

The programs have been developed so that they can be transferred to other parts of the community and to other communities in the Nation.

RELATED PROGRAMS

Family and children's service community casework consultant: To support target area clergy and other professionals working with individuals and family problems;

Family and children's service and Lincoln Junior High family referral program: To provide additional services to families of children in Lincoln Junior High and the elementary schools which feed it;

Vocational exploration post of the Boy Scouts of America: To be centered around target area boys who are interested in exploring opportunities for vocations.

School visitors program (developed by the Downtown Minneapolis Exchange Club): Stresses regular visits to target area schools by businessmen in order for them to become acquainted with and supportive of children in the elementary school setting.

University YMCA homework helper program: Uses students from the university to provide homework assistance and school support to children from target area elementary schools.

Social work associates program: A cooperative program between the Big Sisters and the training center for deliquency prevention and control at the university. The program is geared toward helping train capable, mature women to work with girls from the Big Sisters caseload.

Reading volunteers program: Women volunteers work with a local elementary school and neighborhood public library to provide support to second-grade youngsters who can use motivational help in reading.

Family life education program with the Minneapolis Health Department: Geared toward making family life education material and discussions available to target area mothers who are participating in the well-baby program of the health department.

The Training Center for Delinquency Prevention and Control at the University of Minnesota, which is funded under the same public law as the youth development project, has proposed 17 training programs to help provide additional training to professionals and residents involved in the youth development project.

EDUCATION

The education programs in the proposal are designed to increase the capability and skills of school personnel in working with children from our downtown communities. The programs, supplement ongoing school programs to stress maximum opportunity for every target area youngster to achieve an education to the best of his or her potential. The programs in this proposal have been planned to assist target area youth in five levels of their development:

Preschool programs: A pilot project under the sponsorship and support of the Minneapolis Junior League. Evaluation is to be supplied by the youth development project.

Elementary school programs: Projects in the area of reading materials development; a free summer school program; a coordinated camping experience for sixth grade students; teacher education and curriculum development with community involvement.

Junior high school programs: Projects demonstrating team teaching and development of curriculum for resistant learners. Special curriculums will be developed to combine industrial arts, science, mathematics and home economics. A nonschool building near the junior high school will be used as a laboratory for this course. Home management, home maintenance and repair, and job related activities will be emphasized; teacher education and curriculum development with community involvement.

Senior high school programs: Projects in utilization of a 13th-year counselor; teacher education; curriculum revision with community involvement; establishment of a flexible high school program in conjunction with a work opportunity center (see youth employment section); a dropout prevention work program; a job readiness camp program.

Adult school program: Establishment of adult education programs in the nonschool setting of the work opportunity center.

The above series of proposed programs represents those projects that will be carried out primarily as school projects. At the senior high school level, youth employment and education become so closely related that they will be considered as combined programs.

YOUTH EMPLOYMENT

The youth employment programs were developed after a careful analysis of the youth employment situation in our community. The programs proposed include a multiservice work opportunity center and two summer work programs.

Work opportunity center: A center to serve youth through a flexible high school program, a guidance program, and work training programs.

Flexible high school program: A program for in-school and out-of-school youth who need and can benefit from a work-oriented, skill-centered school program. It is a program which allows each individual to start at a level which assures success and makes progress toward realistic goals.

Youth guidance program: A program for out-of-school youth to improve their work attitudes and job-finding skills. Included in the guidance program will be counseling, orientation to work, job placement (full time and part time), and job followup.

Work training programs: A variety of work training programs will be developed to meet the needs of youth and the realities of the Minneapolis job market. Emphasis is on short-term job training not available elsewhere to out-of-school youth. Various forms of training will include classroom instruction, full-time and part-time on-the-job training, or a combination of training and work. Work crews will be organized for youth not ready for job placement who need experience working with others. Training may be supplemented with remedial instruction and communication training.

Dropout prevention work program: A dropout prevention summer program sponsored by the Minneapolis YMCA for junior high youth. Work experience, remedial help, recreation, and relating work requirements to education are important aspects of the program.

Job readiness camp program: A preemployment work program in a camp setting for unsuccessful, "hard core" dropouts. Work experience, counseling, and remedial education are essential parts of the program.

Labor resources team to assist target area school counselors: Labor personnel will work with individual students who wish information about occupations covered by organized labor. School counselors will act as a liaison between students and labor representatives.

CORRECTIONS AND AGENCIES

The programs in the corrections and agencies section proposal include:

A family and children's service worker to work with the crime prevention bureau: This caseworker will provide special services to families with children under the age of 12. These children are known to the police but have not been referred to juvenile court.

A prerelease coordinator for the Hennepin County Home School for Boys: The prerelease coordinator will develop a plan of action, with the agencies in the community, to support each boy who returns to the target areas from the home school for boys.

A Big Sisters groupwork program: This program will involve services to a group of girls from fatherless homes. The mothers of these girls will meet in discussion groups. The mothers and daughters will be brought together in groups to discuss new ways of improving their communications.

Target area public library program: This program is designed to make the library services more meaningful to target area residents. This will require keeping the target area libraries open two additional evenings a week and developing a range of materials aimed at vocational occupations, improved household management and other areas of interest to target area residents. A community librarian will be added to the staff of the two target area libraries to work with neighborhood groups in making more adequate use of the library.

School community worker: The school community worker will be added to the target area school staff. He will work with those social agencies which provide services to the youngsters who attend target area schools. The goal of this program is to help social agencies support youngsters in doing the best possible job in school.

Target area AFDC unit and home management aids: This program calls for the development of special units of aid to families of dependent children units in the target areas. A community liaison worker will be added to the unit to work with other community agencies in developing additional services for children in the AFDC families. Four home management aids will be added to the AFDC unit to assist AFDC mothers in becoming more skillful home managers.

Target area public relief unit: This program involves the realinement of relief cases and the addition of a trained social caseworker and a trained supervisor to work with the target area relief unit. This program will provide increased services for families on relief in the target area. The unit will be related to the training center at the University of Minnesota to provide additional training for relief workers in this unit.

NEIGHBORHOOD DEVELOPMENT

Neighborhood development program: A neighborhood development team composed of a neighborhood participation specialist, neighborhood visitor directors and resident visitors will be added to each target area. The neighborhood development team will work to strengthen the ongoing neighborhood organizations in the target areas. Target area residents will be helped to organize to improve the situations in which they live and work.

SERVICES TO GIRLS

Our research indicated that special stress must be given to girls in our community. While the national ratio of delinquency is 4 boys to 1 girl, the Minneapolis ratio is 3 boys to 1 girl and the target area ratio is only 2½ boys to each girl. There are fewer programs in the community for girls and girls' programs were not used to the same extent as boys' programs. Programs for girls in our schools, agencies and in employment will all be given special attention.

EVALUATION

There will be careful evaluation of selected programs and also an evaluation of the impact of the total range of programs in the target areas relative to reduced delinquency.

SUMMARY

The planning phase of the youth development project involved over 80 agencies and the efforts of countless individuals. The comprehensive network of programs developed to improve the opportunities for youth in the two target areas involve programs in: education, employment, corrections, agencies, and neighborhood development. The majority of the programs will be carried out through ongoing agencies. Helping the community become more aware of the needs and problems of disadvantaged youth will be stressed.

The Training Center for Juvenile Delinquency Prevention and Control at the University of Minnesota will provide training for professionals and volunteers participating in the programs of the YDP.

The YDP will be an action-research demonstration. Individual programs and the net impact of the total project will be carefully evaluated.

The youth development demonstration project calls for the total mobilization of community resources to work with the residents of the target areas in their efforts to prepare their children for productive adulthood. The total community will benefit socially and economically as target area youth are helped to become contributing citizens.

COMMUNITY SUPPORT

Local support for the demonstration period has come from varied sources. The Minneapolis Foundation and the Walker Foundation have made grants. The Minneapolis Junior League will support and conduct a comprehensive school readiness project as part of the overall project. A number of church and service groups have offered to continue their participation in volunteer projects. Several agencies (both public and private) have offered to contribute staff for programs during the demonstration period. The Minneapolis public schools has donated office space and will contribute staff.

YOUTH DEVELOPMENT PROJECT STAFF

Omar Schmidt, executive director, Community Health and Welfare Council of Hennepin County, Inc.; Larry Harris, project director; Donald D. Bevis, school services planner; Richard W. Faunce, research coordinator; Richard D. Moore, youth employment planner; Elaine Budd, girls' services planner (part time); Elio Monachesi, Ph. D., research consultant; and Robert D. Wirt, Ph. D., research consultant.

SCHOOL OF ANTI-COMMUNISM IS MEETING IN WASHINGTON

The SPEAKER pro tempore (Mr. LIBONATI). Under previous order of the House the gentleman from Ohio [Mr. ASHBROOK] is recognized for 5 minutes.

Mr. ASHBROOK. Mr. Speaker, I would like to call the attention of the Members of Congress to the fact that we are privileged to have in the Capital City all of this week the Washington School of Anti-Communism.

It is being held at the International Inn, 14th and M Streets NW. This school is the 30th such school to be held from coast to coast in the United States but it is the first time such a school has been conducted in our Nation's Capital. I know that many Members of this body join me in extending a cordial welcome to all who attend any or all of the sessions of this important school which will examine the pathology of the disease of communism. Tape recordings of all lecturers will be available through the Christian Anti-Communism Crusade, Box 890, Long Beach, Calif.

In November 1961, the Christian Anti-Communism Crusade was held in Columbus, Ohio. I personally attended most of the meetings and I can state that central Ohio has become an area of this Nation far more knowledgeable in the ways of the Communists because of the fine work of Dr. Schwarz and his associates. Some of the most astute and renowned experts on the subject of communism are serving as instructors at the Washington school. Many of them also appeared in Columbus. Lectures are being delivered from 8:30 a.m. until 9:45 p.m. Among those lecturing are Dr. Fred C. Schwarz, Herbert A. Philbrick, Dr. Anthony F. Bouscaren, Dr. David N. Rowe, Doris Buffet Wood, Prof. Edward J. Rozek, Dr. James David Atkinson, Dr. Charles Lowry, Serafin G. Menocal, Raymond Alcide Joseph, John W. Drakeford, Dr. Joost Sluis, Nathaniel Rangel, and Crum Ewing.

It was interesting to learn that some 450 college and high school students have registered on scholarships and that 49 States are represented. Numerous foreign students and representatives are also in attendance. The 1,000-seat auditorium at the International Inn has been near capacity for most of the sessions.

I am sure that my colleagues will wish to join in extending a cordial welcome to Dr. Fred Schwarz and his dedicated colleagues on the staff of the school and wish all the success in the world to them in their worthwhile efforts here in Washington. Maybe we can even hope that a few from the State Department are enrolled so they can learn a little about this enemy they have chosen to coddle.

RHODE ISLANDER WINS FATHER'S DAY AWARD

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island [Mr. Fogarty] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FOGARTY. Mr. Speaker, a distinguished citizen of Rhode Island and a personal friend is being honored on June 16 in New York City at the headquarters of the American Foundation for the Blind with the George Washington Medal of the National Father's Day Committee. He is the Honorable William E. Powers, associate justice of the Supreme Court of Rhode Island and formerly a member of our State house of representatives as well as attorney general.

Despite the fact that Judge Powers was totally blinded as a result of an accident at the age of 19, he went on to college and law school and has had a brilliant career in public service in my home State. His demonstration has served as an inspiration to all of us and, in particular, to thousands of young blind Americans who are striving for an opportunity to lead normal, productive lives as contributing citizens in their home communities.

Named in honor of our first President, the George Washington Medal, symbolic of the "Father of Our Country," is presented annually to the Nation's outstanding fathers who have distinguished themselves in their role as head of the family. It is bestowed upon those men who best exemplify the qualities of integrity, morality, and service to their fellow men.

Under unanimous consent, I include the announcement of the award to Judge Powers at this point in the Record:

Rhode Islander Wins Father's Day Award

An internationally famous Rhode Islander has been named 1964 Blind Father of the Year by the National Father's Day Committee and the American Foundation for the Blind, in New York City.

William E. Powers, an associate justice of the Supreme Court of Rhode Island, was blinded in an accident at the age of 19, but refused to let his handicap keep him from pursuing a career in law. Today he is at the very pinnacle of his profession. He is the father of three children and the grandfather of eight.

The George Washington Medal, presented annually to the Nation's 10 outstanding fathers, is awarded to those men who best exemplify the characteristics of integrity, morality and service to one's fellow men.

Elected by the Rhode Island General Assembly as an associate justice of the Supreme Court of Rhode Island in 1958, William Powers had previously served as attorney general, elected in 1948 and reelected in 1950, 1952, 1954 and 1956. Earlier he had served 10 successive years in the Rhode Island House of Representatives, where he was at times deputy floor leader of the Democratic Party and chairman of a number of committees.

William Powers was born in Valley Falls, R.I., in 1907, the oldest of seven children. Upon the death of his father he had to give up the idea of further education, and went to work to support his mother and brothers and sisters, working in the textile mills of the Blackstone Valley. In his late teens he was struck in the eye by a loose wire while attaching a battery to a radio, developed sympathetic ophthalmia, and after 17 months of hospitalization emerged totally blind at the age of 19.

Rather than giving up at this point, William Powers looked upon his handicap as an opportunity to resume his education and become a lawyer. He entered the Perkins Institution for the Blind near Boston, and after three and a half years qualified for Boston University Law School, in 1932. Throughout his six semesters of attendance there he was an honor student, graduated second in his class, was class orator and associate editor of the Boston University Law Review.

He was admitted to the practice of law in Massachusetts in October 1935, maintained a residence in his home in Rhode Island, and in 1936 he was appointed probate judge of the town of Cumberland, R.I., which position he filled until January 1949.

In June 1946 Judge Powers was admitted to the practice of law in Rhode Island on motion. He is a member of the Federal bars, including the U.S. Supreme Court. He holds a doctor of laws degree conferred by Boston University in 1958.

Married to the former Esther J. Johnson, William Powers is the father of two daughters, Mrs. Joseph Guertin and Mrs. Francis LaChance, and a son, Michael, age 17, who lives at the Powers home at 28 McGirr Street, Cumberland, R.I.

At ceremonies at the American Foundation for the Blind in New York on Tuesday, June 16, at 11 a.m., Judge Powers will receive his medal from Alvin Austin, chairman of the National Father's Day Committee.

Fact Sheet on Blind Father of the Year Award

Who: The Honorable William E. Powers, associate justice of the Supreme Court of Rhode Island, Providence, R.I.

What: National Father's Day Award, with presentation of the George Washington Medal by the National Father's Day Committee, to William E. Powers as "Blind Father of the Year."

When: Tuesday, June 16, 1964, at 11 a.m.

Where: American Foundation for the Blind, 15 West 16th Street, New York City.

Why: In recognition of his outstanding achievements as father, citizen, and judge.

About the award: Named in honor of our first President, the George Washington Medal, symbolic of the "Father of Our Country," is presented annually to the Nation's outstanding fathers who have distinguished themselves in their role as head of the family. It is bestowed upon those men who best exemplify the qualities of integrity, morality, and service to their fellow men.

About the recipient: Blinded by an accident at the age of 19, William E. Powers refused to let this stand in the way of his educational ambitions. After attending the Perkins School for the Blind, he entered Boston University School of Law in 1932, where he was an honor student, second in his class, and associate editor of the Law Review. Admitted to the practice of law in Massachusetts in 1935, and in Rhode Island in 1946, he progressed from probate judge of the town of Cumberland, and through 10 years in the Rhode Island House of Representatives, to the attorney generalship of Rhode Island, to which he was elected in 1948 by the largest plurality ever received by any candidate for this position up to that time. He was reelected in 1950 by an even larger plurality, and further reelected in 1952, 1954, and 1956. In 1958 he was elected by the Rhode Island General Assembly as an associate justice of the State supreme court. Married to the former Esther Johnson, he has three children: Mrs. Joseph Guertin, Mrs. Francis LaChance, and a son, Michael, as well as eight grandchildren.

Sponsors: The National Father's Day Committee, in association with the American Foundation for the Blind, will conduct the ceremony. Presentation of the medal will be made by Mr. Alvin Austin, chairman of the NFDC.

Special note: Arrangements have been made for photographers to take pictures prior to the actual ceremony. In order to meet deadlines, pictures may be taken at 10:45 a.m., at the American Foundation for the Blind, 15 West 16th Street, New York City. AP and UPI will be serviced with story and photographs. Judge Powers can be reached for interview at his home, 28 McGirr Street, Cumberland, R.I.

BIOGRAPHY OF WILLIAM E. POWERS

William E. Powers was born December 18, 1907, the oldest of seven children. Upon the death of his father it became necessary to abandon any further thought of education in order to support his mother and brothers and sisters. He worked in the textile mills of the Blackstone Valley until June of 1927.

While attaching a wire from the battery to a radio he was struck in the eye by a loose wire, and after 17 months of hospitalization sustained a complete loss of his sight through sympathetic ophthalmia. He was then 19 years of age.

Always interested in the law, he viewed his handicap as an opportunity to resume his education and become a lawyer. After 3½ years in Perkins School for the Blind in Watertown, Mass., he entered Boston University School of Law in 1932 and was an honor student throughout the 6 semesters of his attendance. He was graduated second in his class, was class orator and associate editor of the Boston University Law Review. Admitted to the practice of law in Massachusetts in October 1935, he maintained a residence in his home in Rhode Island and in 1936 was appointed probate judge of the town of Cumberland which position he filled until January of 1949. In June of 1946 he was admitted to the practice of law in Rhode Island on motion and is a member of the Federal bars, including the Supreme Court of the United States. He holds a Doctor of Laws conferred by Boston University in 1958.

In 1938 he was elected to the Rhode Island House of Representatives and served 10 successive years. During that period he was at times deputy floor leader of the Democratic and majority party, and chairman of a number of committees. In 1948 he became Democratic candidate for Attorney General after a successful contest in the first primary held in Rhode Island. He was elected in 1948 by the largest plurality ever received by any candidate for Attorney General up to that time and was reelected in 1950 by an even larger plurality. Again he was reelected in 1952, 1954, and 1956.

He was serving as Attorney General when on January 7, 1958, he was elected by the Rhode Island General Assembly as an Associate Justice of the Supreme Court of that State, which office he now holds.

He is married to the former Esther Johnson and has three children: Esther, now Mrs. Joseph R. Guertin; Barbara, now Mrs. Francis LaChance; and a son Michael, age 17. He also has eight grandchildren.

NAMES AND ADDRESSES OF ASSOCIATE JUSTICE WILLIAM A. POWERS' CHILDREN

Air Force Capt. and Mrs. Joseph R. Guertin (Esther Powers), 1353 Edith Lane, Colorado Springs, Colo. Children: Jo-Ann, age 6; Karen-Marie, age 4; James Bryan, age 1½; Lisa-Marie, age 8 months.

State Trooper and Mrs. Francis W. LaChance (Barbara Powers), Hines Road, Cumberland, R.I. Children: Barbara Anna, age 10; Francis, age 8; Cheryl, age 6; Stephen Joseph, age 8 months.

Michael Andrew Powers, age 17, 28 McGirr Street, Cumberland, R.I. (Judge's home address).

ADMINISTRATION OF EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island [Mr. FOGARTY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FOGARTY. Mr. Speaker, I take pleasure in introducing for the RECORD at this point a most significant statement involving the administration of education programs for handicapped children. Last year the Congress passed Public Law 88–164, which provides Federal assistance for health facilities for mentally retarded children; title III of the act provides for training of teachers of mentally retarded and other handicapped children. At a meeting of New England educators held on May 22 at Rhode Island College in Providence, Dr. Samuel Kirk made a progress report on the administration of the act by the Office of Education. In view of the great significance of the act for education and the extent to which it will help the Nation's schools fill a critical gap in teachers for handicapped children, I wish to call the report to the attention of all Members of Congress. I call particular attention to the fact that the program has been extremely popular and successful with the participating institutions. In fact, requests for aid that have been submitted amount to three times the funds now authorized in the act. I think this report signifies the need to give early attention to the act and further extensions and improvements in it. I also wish to compliment the Commissioner of Education on his success in obtaining the temporary services of Dr. Kirk from the University of Illinois to launch this new program.

ORGANIZATION AND IMPLEMENTATION OF PROGRAM FOR HANDICAPPED CHILDREN AND YOUTH—PUBLIC LAW 88–164, TITLE III, AND PUBLIC LAW 87–276

(Address delivered by Samuel A. Kirk at the regional meeting of educators, Rhode Island College, Providence, R.I., May 22, 1964)

I consider it a great privilege to be a participant in what I believe to be a historic turning point in special education in the United States.

This meeting has been arranged to acquaint you with the new legislation, title III of Public Law 88–164, which was signed by the late President Kennedy on October 31, 1963, and, also, to inform you of the program which is already underway as a result of this legislation.

Public Law 88–164 is cited as the Mental Retardation Facilities Construction Act of 1963. This bill contains three titles. Title I deals with an authorization for the construction of research and clinical facilities and for the construction of service facilities for the mentally retarded. Title II deals with the authorization of appropriations for the Construction of Community Mental Health Facilities. Title I is being administered by the National Institutes of Health. Title II is being administered by the Bureau of State Services. Title III is entitled "Training of Teachers of the Mentally Retarded and Other Handicapped Children." It also includes support for research and demonstration. The facilitation of this title is being administered by the U.S. Office of Education. This title is an amendment to Public Law 85–926.

MAJOR OBSTACLES TO PROGRESS

All of us know that during the past 15 years, efforts to educate handicapped children have often been frustrated. The American people want handicapped children educated to their highest level. They have persuaded State legislators to subsidize classes in public schools and have insisted on expanded programs. But there have been four major obstacles that have retarded development in special education and have served as a basis for much of our problems.

(1) First, classroom space and diagnostic facilities have been lacking. Expanded enrollments in schools have taxed both school buildings and school budgets. Superintendents have had a difficult time finding funds and classroom space needed for special education. Titles I and II of Public Law 88–164 which provides for the construction of facilities, will indirectly help this situation slightly, even though it is not under educational auspices.

(2) When space has been made available, superintendents have been unable to obtain a sufficient number of qualified teachers to conduct the classes. It has been estimated that we need 200,000 teachers to man the classes for 5 million handicapped children. We now have 50,000 to 60,000 such teachers.

(3) Some colleges and universities have for some time attempted to prepare teachers, supervisors, college instructors, and research personnel. But for every one professional person prepared in the past, four were needed. The graduates from teacher training institutions have really been only a minute part of the number needed. Colleges have had increased enrollments, and funds for college staffs have been limited. Many colleges have resisted the organization of special education departments because, understandably, they have not even had sufficient funds for traditional programs of science, engineering, law, medicine, and agriculture, etc. The new programs that were established, like special education, have had a struggle to keep alive in nearly every college that initiated the program.

(4) Most of the teachers in the field today have obtained training through short summer courses, extension courses, and workshops. Many teachers recruited for these classes were untrained or partially trained. So when we say we have 50,000 to 60,000 teachers of handicapped children, we will have to also say that only a portion of them have had specialized training.

RECENT STEPS TO REMOVE THESE OBSTACLES

In 1958, the U.S. Congress passed Public Law 85–926 which authorized an appropriation of $1 million a year for the training of teachers and leadership personnel in mental retardation. Since that date and through 1963, 667 fellowships have been granted to 482 individuals (some receiving fellowships 2 or 3 times). Of these the majority have become college and university instructors, or State and local supervisors and directors, while some remained teachers of the mentally retarded. This legislation has been of inestimable value in the preparation of leadership personnel, and, fortunately, it will allow some college programs for the preparation of teachers of the mentally retarded to proceed at a higher level.

In September 1961, Congress passed Public Law 87–276, dealing with the preparation of teachers of the deaf. It authorized a 2-year program of grants-in-aid in institutions of higher learning for the preparation of teachers of the deaf at the senior and first year graduate level. The law authorized the appropriation of $1.5 million a year for this purpose. During the 2-year period, 1962–63, 942 scholarships were awarded to 48 colleges and universities in 30 States and the District of Columbia. The number of students completing their preparation as teachers of the deaf was 470, more than double the number of teachers who had ever been prepared in a single year. Federal scholarship students accounted for 370 of these. This act has been extended for 1 year. The $1,500,000 appropriated by Congress will serve to support approximately 387 additional scholarships. After this year scholarships for teachers of the deaf will be included in Public Law 88–164.

TITLE III OF PUBLIC LAW 88–164

As indicated earlier, title III of the act gives the Commissioner of Education the responsibility for the administration of a program of grants-in-aid for the training of professional personnel and for research and demonstration related to the education of handicapped children. If we refer to the four obstacles to progress I mentioned earlier, you will note that this bill is a partial solution to three of these obstacles. Permit me to discuss these in some detail.

Section 301 of title III authorizes the Commissioner to make grants to public or other nonprofit institutions of higher learning to prepare professional personnel for the education of handicapped children. This includes:

Teachers in training at the senior level in an undergraduate program.

Supervisors of teachers and administrators of programs, studying at the graduate level.

College personnel to train teachers of handicapped children.

Research personnel for research related to the education of handicapped children.

Section 301 also authorizes the Commissioner of Education to make grants to State educational agencies for the preparation of the following personnel (either directly or through contract with institutions of higher learning):

(1) Teachers in all areas of the education of handicapped children, at the senior undergraduate year or at the graduate level.

(2) Supervisors of such teachers.

"Handicapped children" refers to all handicapped children—the mentally retarded, the deaf, hard of hearing, speech impaired, visually handicapped, seriously emotionally disturbed, crippled or other "health impaired children, who by reason thereof require special education."

Forty-seven million dollars have been authorized for a 3-year period for this purpose. Specifically, title III authorizes $11,500,000 for fiscal year 1964, $14,500,000 for fiscal year 1965, and $19,500,000 for fiscal year 1966. These funds will be used for stipends for students in all areas of the handicapped and for assisting colleges, universities, and State educational agencies with the cost of instruction.

Title III also authorizes the appropriation of $6 million for a 3-year period for research and demonstration in areas related to the education of handicapped children. Under this legislation, the Commissioner is authorized to make grants to (1) institutions of higher learning; (2) State educational agencies; (3) local education agencies; and (4) other nonprofit private or public educational or research agencies and organizations for research related to all handicapped children.

ORGANIZATION WITHIN THE U.S. OFFICE OF EDUCATION

To implement this new law and to continue the traditional functions of the Office of Education, a new organization has been accomplished. First, the Commissioner of Education has created a Division of Handicapped Children and Youth in the U.S. Office of Education. This gives the administration of work with handicapped children the same status as the Division of Library Services, the Division of Educational Research, the Division of Educational Statistics, and the Division of Educational Organization and Administration in the Bureau of Educational Research and Development. Last year the work in exceptional children was under a branch within the Division of Elementary and Secondary Education, and previous to that it was a section under a branch. Judging from the letters received in the Office, I am sure we are all grateful to the Commissioner for giving special education the status it now holds, and we think it deserves, in the U.S. Office of Education.

Second, under the division there are four branches:

(1) A branch for physical and sensory handicaps.

(2) A branch for the mentally retarded and the emotionally disturbed.

(3) A branch for research and demonstration.

(4) A branch for captioned films for the deaf.

Third, within each branch are the specialists in that area. For example, the branch for sensory and physical handicaps contains specialists in speech and hearing, deaf, crippled and health impaired, and visually handicapped. The branch on the mentally retarded has specialists in the mentally retarded and in the emotionally disturbed. A third branch is charged with administering the program of research and demonstration. The branch on captioned films for the deaf has only recently been transferred to the Division of Handicapped Children and Youth.

COMMITTEES

For awarding grants to institutions of higher learning or to State and local educational agencies, the Commissioner has organized a series of committees of professional experts who will evaluate applications for training or for research and demonstration. Committees have been created with five or more members in each area as follows:

(1) For the area of teacher training, six advisory committees have been selected, one for each field: visually handicapped, crippled and special health problems, emotionally disturbed, speech and hearing, deaf, and mentally retarded. These committees (composed of teacher training specialists from the field) are assigned the task of evaluating applications from institutions of higher learning and from State educational agencies for the preparation of professional personnel in all areas of the handicapped. The Commissioner relies on these committees for the approval or disapproval of applications.

(2) For research and demonstration, another six committees have been appointed, one for each field, utilizing research specialists from the field. Each committee of research specialists evaluates research and demonstration applications in its field and recommends approval or disapproval. In addition to these six panels, there is an overall research committee to help with the establishment of research policies and to give final review of the applications for research and demonstration.

(3) There is also appointed an advisory committee of nine distinguished scholars, most of whom are not in special education, who will advise the Commissioner on overall policies in the administration of the program.

RULES AND REGULATIONS

During November, December, and January the staff of the Division of Handicapped Children and Youth began the formulation of rules, regulations, and procedures for the administration of the grant-in-aid program. Consultants from State and local departments of education and from universities were invited to participate and to recommend procedures. In addition, five regional conferences were held in Atlanta, Dallas, New York, Chicago, and San Francisco. Key personnel from State and local departments and institutions of higher learning were invited to attend. From these conferences the following plan was evolved:

Grants-in-aid for the preparation of professional personnel would be allotted to State educational agencies and to public and private institutions of higher learning for full-time traineeships (senior undergraduates) and full-time graduate fellowships; full-time summer session traineeships; and full-time short-term institutes of 3 or more days.

State educational agencies were allotted a minimum of $25,000 and a maximum of $100,000, based on a population formula. Both State educational agencies and institutions of higher learning could request grants-in-aid for traineeships, fellowships, or short-term institutes.

The stipends and supporting grants established were as follows:

Traineeships: Each traineeship recipient (senior undergraduate) shall receive a stipend of $1,600 a year.

Fellowships: Each fellowship recipient shall receive the following stipend in addition to a dependents' allowance of $400 for each dependent (exclusive of himself)—$2,000 for the first graduate year of study; $2,400 for the second graduate year of study; $2,800 for the third graduate year of study, and $2,800 for the fourth graduate year of study.

Short-term traineeships: Each short-term traineeship recipient shall receive a stipend of $15 a day with a maximum of $75 a week.

Supporting grants: To partially support the institution's cost of training and study for a trainee, fellow, and short-term trainee, the participating institution or State educational agency shall receive for each traineeship, $2,000; for each fellowship, $2,500; for each short-term traineeship, full-time summer session, $75 a week; special study institutes, program support. (For special study institutes the supporting grant shall be based on the cost of instruction.)

IMPLEMENTATION OF PROGRAM

On February 10, 1964, President Johnson signed the supplementary (1964) appropriation of $11,500,000 for training of professional personnel and $1 million for research and demonstration in addition to the previous appropriation of $1,500,000 for Public Law 87-276. By this time the rules and regulations had been printed, and notification of the legislation had been sent to chief State school officers and to institutions of higher learning.

Because of the pressure of time, institutions of higher learning were requested to complete the applications by March 13, and the chief State school officers were requested to file applications by March 27. For research and demonstration the deadline was set at March 23.

In spite of the short time involved in preparing the regulations, and only 4 or 5 weeks allotted to the field to prepare the applications, the response from the field was overwhelming. By the respective deadline dates, applications from the field had poured into the Office of Education in greater numbers than had been estimated by anyone.

From institutions of higher learning 652 applications were received for traineeships, fellowships, summer session traineeships, short-term study institutes, and stimulation grants.

All 50 States submitted applications for grants-in-aid for training purposes.

A total of 155 applications were received for research and demonstration projects.

REQUESTS FOR TRAINING GRANTS

Table 1 summarizes the requests received from the field for fiscal year 1964 under the Program for Handicapped Children, (Public Law 88-164, title III, sec. 301; and Public Law 87-276) for training professional personnel. This table indicates that requests from institutions of higher learning and from State educational agencies far exceeded the congressional appropriation. For the mentally retarded, for example, the largest field, the requests from institutions of higher learning were three times the funds available for that area. For speech and hearing, the requests were five times the funds allotted for that area. For the visually handicapped, the smallest area, the requests were twice the funds allotted. For the deaf, where $1.5 million had been appropriated, the requests exceeded the allotted funds by over $1 million. In no area were the allocated funds close to the requests for grants.

TABLE 1.—*Funds requested in applications for teacher training for fiscal year 1964 under program for handicapped children, Public Law 88-164, title III, and Public Law 87-276*

Funds requested for training programs, fiscal year 1964	$31,839,315
Funds appropriated by Congress, fiscal year 1964	13,000,000

Area of training	Number of institutions requesting grants	Number of applications	Funds requested
Mentally retarded	163	255	$12,830,000
Speech and hearing	138	178	6,650,715
Visually handicapped	18	30	940,000
Emotionally disturbed	55	70	3,010,000
Crippled and other health problems	40	64	2,559,000
Deaf	55	55	2,649,600
State grant requests	----------	50	3,200,000
Total requests	[1] 154	702	31,839,315

[1] Total number of different participating colleges and universities is 154—139 in Public Law 88-164 and 15 in Public Law 87-276.

REQUESTS FOR RESEARCH AND DEMONSTRATION

Table 2 presents the requests for research and demonstration for each area of the handicapped provided in the appropriation. This table shows that while $1 million was appropriated by Congress for fiscal year 1964, nearly $6 million of grants were requested in 155 applications. Since research and demonstration projects are not generally completed in 1 year, the requests for all years, including the first, amounted to nearly $15 million.

Requests for research and demonstration, fiscal year 1964, $5,886,290.

Appropriation for research and demonstration, fiscal year 1964, $1 million.

TABLE 2.—*Requests for research and demonstration, Public Law 88-164, title III, sec. 302*

Area of training	Number	Requested funds	
		Fiscal year 1964	3-year total
Mentally retarded	73	$2,633,412	$6,294,812
Emotionally disturbed	16	832,661	2,399,551
Speech and hearing	12	376,132	717,342
Deaf	18	685,795	1,248,879
Visually handicapped	12	356,035	673,105
Crippled and other health impaired	12	461,462	2,001,971
Others	12	540,793	1,370,512
Total requests	155	5,886,290	14,706,172

As indicated earlier we had only a short period of time to develop procedures and to notify agencies that $1 million was available for research and demonstration. Actually people in the field had only about 5 weeks time to prepare research and demonstration projects. Many phoned the office stating that they did not have sufficient time to prepare adequately a research proposal, and that they would wait until the next year.

Up to a few days before the deadline date we did not know whether our people were ready for research and demonstration. To everyone's surprise, the people in the field were more than ready. Well thought out and well written reports poured in. The data in table 2 are concrete evidence of the readiness and eagerness of people to advance the education of handicapped children through research and demonstration.

Another surprise was the number of requests for research on the education of handicapped children that were submitted to cooperative research. As you know, the Cooperative Research Branch in the Office of Education has received applications and has made grants for research on handicapped children for a number of years. It would be expected that with the applications received under the new legislation (Public Law 88-164), research proposals to cooperative research would show a decrease. This was not the case. The Cooperative Research Branch actually received more proposals this year than ever before.

This volume of applications for training and research is difficult to interpret. My speculation is that the publicity given to our national effort by the President and Congress has given those in special education a new lease on life. Actually, I consider the present congressional appropriation as "seed money" and that the byproducts of this legislation in services to handicapped children will far outweight the direct benefits.

GRANTS-IN-AID ALLOCATED

During the month of April and the first week in May, 13 committees met for from one to four days each to process applications. Table 3 presents the approved grants-in-aid to institutions of higher learning and points out that 41 stimulation grants were awarded to institutions of higher learning to aid them in "tooling up" for the preparation of professional personnel in one or more areas of the handicapped; 587 traineeships were awarded to prepare teachers at the senior undergraduate level; 1,007 fellowships were awarded for master's degrees, and 151 for post master's degree study; 672 summer session traineeships were awarded for full-time summer school study; and 45 short-term traineeships were awarded for special study institutes.

TABLE 3.—*Approved grants to institutions of higher learning under Public Law 88-164, title III, sec. 301, and Public Law 87-276, fiscal year 1964*

Area of training	Number of participating—		Number of stimulation grants	Number of academic year traineeships and fellowships			Number of other traineeships	
	Institutions	States		Traineeships	Fellowships		Summer session	Short term institutes
					Master's degree	Post master's		
Mentally retarded	108	[1] 41+	15	347	304	84	479	0
Visually handicapped	14	11	2	29	44	4	56	20
Crippled and special health	33	20	5	54	82	12	97	25
Deaf (Public Law 87-276)	47	[2] 29+	0	135	297	0	0	0
Emotionally disturbed	28	[2] 17+	13	24	82	27	40	0
Speech and hearing	74	[2] 36+	6	0	198	24	0	0
Total	[3] 154	[4] 46+	41	587	1,007	151	672	45

[1] District of Columbia and Puerto Rico.

[2] District of Columbia.

[3] Total number of different participating colleges and universities is 154; 139 in Public Law 88-164 and 15 additional in Public Law 87-276.

[4] District of Columbia and Puerto Rico. Total number of different States and other areas participating in Public Law 88-164 and 87-276 is 46 plus the District of Columbia and Puerto Rico.

GRANTS TO STATE EDUCATIONAL AGENCIES

As indicated earlier, State educational agencies were allotted from $25,000 to $100,000 based on a population formula and were requested to apply for grants-in-aid for the training of professional personnel. Table 4 presents the grants made to States for full-time traineeships and fellowships, for full-time summer sessions and for short-term study institutes. Table 4 notes that all 50 States submitted applications and received grants. The emphasis by the States in their grant programs may be summarized as follows: 261 graduate fellowships; 84 undergraduate (senior) traineeships; 1,187 summer session traineeships; and 888 participants in short-term study institutes.

TABLE 4.—*Approved grants to State educational agencies under Public Law 88-164, title III, sec. 301, and Public Law 87-276, fiscal year 1964*

Area of training	Number of States participating	Number of academic year traineeships and fellowships		Number of other traineeships	
		Traineeships	Fellowships	Summer session	Short-term institutes
Mentally retarded	50	49	153	771	211
Speech and hearing	45	17	46	156	145
Visually handicapped	31	5	11	60	134
Emotionally disturbed	33	5	30	118	138
Crippled and special health	30	8	17	79	20
Other (supervisors, etc.)	8	0	4	3	240
Total	[1] 50	84	261	1,187	888

[1] Total number of different States participating in Public Laws 88-164 and 87-276 is 50.

As compared to the institutions of higher learning where funds were used primarily for full-time traineeships and fellowships, the State educational agencies emphasized summer-session traineeships and short-term study institutes. For their allotment of funds the State officials were desirous of providing summer-session training for teachers who were already employed but who were not trained or only partially trained. Actually, the institutions of higher learning utilized approximately 12 percent of their funds for full-term summer sessions and institutes whereas the State educational agencies allotted approximately 43 percent of their funds to summer-session study and to short-term study institutes.

When we combine the grants of the State educational agencies and the colleges and universities we find that 2,090 students will receive a full year of training through either traineeships or fellowships in 1964-65, 1,859 teachers will receive full-term summer-session instruction, 933 teachers will receive in-service instruction in new developments in their respective fields and 41 institutions will initiate a training program in one or more areas under a stimulation grant.

We recognize that this number of traineeships and fellowships will not solve the extreme personnel shortage problem, but all will agree that it will help. It is anticipated that the existing programs of teacher training will be strengthened in quality and that the numbers of students not under traineeships and fellowships will increase. The new programs in needed geographic areas will develop under the stimulation grants, and these will begin to produce needed personnel within a year or two. Under this program we should begin to make a substantial dent in the personnel requirements of the Nation in the education of handicapped children.

RESEARCH AND DEMONSTRATION

It was pointed out earlier that $1 million was available in 1964 for research and demonstration, and that the requests amounted to nearly $6 million. Advisory panels in each area reviewed the proposals and recommended approval or disapproval. The overall Research and Demonstration Advisory Committee reviewed the recommendations of the advisory panels and attempted to reduce the approved proposals to the amount of the appropriation. Their final recommendations for funds amounted to more than the million dollars appropriated. Currently, we have the unpleasant task of cutting budgets to conform to the congressional appropriation.

Out of 155 proposals submitted, the committees approved 34 projects or approximately 22 percent. The distribution of approved projects for research and demonstration among the different areas was as follows:

	Projects
Mentally retarded	12
Emotionally disturbed	4
Crippled and other health impaired	1
Visually handicapped	5
Speech impaired and hard of hearing	3
Deaf	6
Multiple handicaps	3
Total	34

SUMMARY STATEMENT

This is the story of title III, Public Law 88-164 and Public Law 87-276 as of May 15, 1964. In behalf of the Office of Education, the profession, and especially the children and their parents who will benefit from this legislation, I would be remiss not to mention the statesmen who have sponsored this legislation. Our gratitude must be extended to the late President Kennedy for emphasizing this legislation, to President Johnson who continues the emphasis, and to Congressman **FOGARTY** of your State who has worked so hard and so long to obtain such legislation. I must also mention Senator **LISTER HILL**, Congressman **OREN HARRIS** and many others who saw this legislation through the 88th Congress. Their reward will be in the benefits to handicapped children, their parents, and to our society.

WARTIME EXCISE TAXES SHOULD BE REPEALED

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr.

Multer] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MULTER. Mr. Speaker, I was privileged today to submit the following statement to the Honorable Wilbur Mills, chairman of the House Committee on Ways and Means. The statement is in support of my bill, H.R. 10273, which would repeal certain excise taxes:

Statement of Hon. Abraham J. Multer Before the House Committee on Ways and Means in Support of H.R. 10273, June 16, 1964

Mr. Chairman, I want to thank you for this opportunity to testify before you today. Recently, the Secretary of the Treasury, Douglas Dillon, stated that we would be better off without some of the Federal excise taxes. I could not agree more.

It would indeed be difficult for anyone to deny the need for excise tax revision. Federal excise taxes constitute probably one of the most inequitable and discriminatory parts of our tax system.

The recent enactment of the Revenue Act of 1964 has been an important step toward improving our tax structure. This act, however, was limited to income taxes. Now is the time to execute the next stage of necessary tax reform by removing some of the most irritating excises. I am not talking about action that would bankrupt the Government, but rather in terms of what Secretary Dillon was contemplating when he said "maybe cutting out $500 million to $1.5 billion."

The excise taxes that should be repealed immediately are listed in H.R. 10273, which I introduced on March 5 of this year. The broadest group of taxes that would be repealed consists of the so-called luxury taxes. These are the retailers' taxes levied on jewelry, luggage, cosmetics, and furs.

At one time in the history of our Nation these items might have been regarded as luxuries. But today, one would be foolhardy to justify these taxes on the basis that they are on luxuries and thus are good subjects of tax. Ask any woman, or man for that matter, if many of the cosmetics should not be regarded as necessities. Our way of life demands that everyone use many of these taxed items, such as watches, wallets, and handbags to name only a few.

I admit that during World War II when these retailers' taxes were first imposed they were amply justified. At that time almost any kind of a tax deemed necessary to finance our country's protection could have been justified. But now—almost two decades after the end of the war—the reason for imposing these taxes has long passed.

Fortunately, or we might say wisely, we have reduced our very high wartime income tax rates. We have also freed American business from the excess profits tax—which was considered a bad tax from almost every standpoint, except that it did raise revenues. But we have done little to straighten out the inconsistencies and inequities throughout our excise tax structure.

Besides proposing repeal of the retailers' taxes, my bill would repeal certain excises that are levied upon the manufacturer and passed on to the consumer in the form of higher prices. The specific taxes that would be repealed are those levied on electric, gas and oil appliances, electric light bulbs, photographic equipment, and phonograph records.

In at least one respect, a manufacturer's tax might be considered even worse than a retailer's tax because of the pyramiding of the tax at the different stages of distribution. For example, a dollar tax at the manufacturing level might raise the price of a commodity by $2 at the retail outlet. This results because the wholesaler, distributor, etc. will apply his markup to the entire price of the commodity including the tax.

Another excise tax that would be repealed by my bill is the tax on the transportation of persons by air. This tax is scheduled to be repealed effective as of July 1, 1964. But if we look back on the continual extensions of "temporary" taxes, we realize it would be quite presumptuous to rely too heavily on automatic repeal of the tax.

Excise taxes levied on transportation of property and of oil by pipeline have already been repealed. Also, the tax on the transportation of persons by carrier except airlines has been repealed. It is only fitting that the tax on air travel be abolished as well.

Another tax which is scheduled to be repealed at the end of June 1964 is the tax on general telephone service. My bill assures the repeal of this tax and also provides for repeal of the tax as it applies to other communication services including toll telephone calls, teletype, telegraph, and wire service. Communications is the only utility that bears a Federal excise tax and thus the tax is discriminatory. It bears most heavily on businesses that require extensive use of their telephones and other communication facilities. Moreover, since the tax is based on the charge for the service, it often discriminates against businesses that are located farthest from business and trade centers.

Several other miscellaneous excises that my bill will repeal are those on the use of safe deposit boxes and the admissions tax except for admissions to racetracks.

The annual yield on the safe-deposit tax is only about $6.5 million. It is difficult to justify such a low yielding tax when we realize that it, at the same time, discourages individuals from seeking a safe place to keep their important documents.

Finally, the admissions tax adds to the cost of entertainment and the cultural development of individuals. As a result, attendance at these recreational and cultural establishments is diminished. Not only are these organizations' incomes reduced, but their employees and the economy as a whole suffer financial setbacks. This worsens the strain on financing cultural events such as the live theater and musical performances which already often operate at a loss.

My bill does not correct the whole host of problems connected with excise taxes. It is geared more toward the minimum requirements of immediate action to remove some of the serious inequities. Limited action at this time has certain advantages. One such advantage is that the loss in Federal revenues will be kept at a level that will not seriously affect the budget. I might say, however, that the revenue loss can be regarded as only temporary. The removal of the tax from the price of commodities and services will stimulate more demand for the products and services of the relieved industries. The resulting financial improvement in these businesses will mean a proportionate rise in income tax revenues from them.

I wish to point out also that my bill will not interfere with financing programs such as the highway construction program for which certain excise tax receipts are earmarked. Nor will it affect the large revenues derived from the alcoholic beverage and tobacco taxes.

I have outlined above certain objections to the specific taxes that my bill will repeal. In addition, there are more general basic problems which are created by taxes on goods and services. Selective excises, for example, discriminate against industries whose products are taxed. Moreover, excise taxes bear proportionately more heavily on the lower income groups.

There is no substitute for the principle of taxation on the basis of ability to pay. However, since consumers must eventually bear the burden of excises, even families that are able to obtain only the bare necessities of life must bear the burden of these taxes.

Even more emphatically I object to continuance of those excise taxes which the Congress originally enacted as a temporary expedient to finance the war, but subsequently made a permanent part of the tax structure.

Enactment of my bill will greatly supplement the tax reform progress that we have already accomplished by passing the Revenue Act of 1964. It will remove at least some of the tax burden that tends to inhibit business activity. This beneficial effect on the business community will more than outweigh the temporary loss in revenue that we might expect from the removal of certain of these taxes. Thus, enactment of my bill will not only result in a more equitable tax structure but will provide a new stimulus to the economy. Thank you.

ALAN BOYD—CAB

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. Rooney] may extend his remarks at this point in the Record and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ROONEY of Pennsylvania. Mr. Speaker, an interesting new magazine has crossed my desk. It is Air Transport World, an extremely informative and attractive publication.

The second issue features a cover story on Chairman Alan S. Boyd, of the Civil Aeronautics Board.

I recently had the good fortune of sitting and talking with Mr. Boyd shortly after my appointment to the Interstate and Foreign Commerce Committee. I had heard many fine tributes paid the Chairman of the CAB. After meeting him, I have likewise been impressed with his manner.

Air Transport World has a cover feature that I think everyone should read, entitled "Alan Boyd: CAB Chairman With a Purpose." Written by Robert Burkhardt, he tells how the Chairman, as the subheadline puts it "tackled IATA and its powerful membership and won, and his stock and his stature have since taken on new proportions."

Mr. Speaker, I include as a part of my remarks the attached article that I have referred to:

Alan Boyd: CAB Chairman With a Purpose

(Alan S. Boyd: Born Jacksonville, Fla., July 20, 1922. Educated, University of Florida and University of Virginia (LL.B. 1948). Practiced law in Miami; chairman, Florida Aviation Development Committee; general counsel, Florida State Turnpike Authority. Served as troop carrier command pilot in World War II and Korea. Has over 3,000 hours as a combat and service pilot. Elected member, Florida Railroad and Public Utilities Commission, 1955–58. Served as chairman, 1957–58. Appointed member, Civil Aeronautics Board, November 16, 1959. Reappointed for 6-year term beginning January 1, 1962. Designated Chairman of the CAB each year since 1961.)

(By Robert Burkhardt)

Alan S. Boyd, who is sometimes referred to by his friends as "that tall southerner with a short temper," is a man who believes that what is good for the public is good for the airlines.

If Mr. Boyd were only a lawyer, which he is, or a pilot, which he is also, this belief would cause no trouble. But Mr. Boyd is Chairman of the Civil Aeronautics Board, and for the head of the most powerful of the Federal regulatory agencies to believe such a thing—well, the airline industry still doesn't quite believe that when he says the "public interest" he means the interest of all of the public and not just the airlines, or even just airline passengers.

Mr. Boyd may not quite believe it, either. Certainly he has never summarized his regulatory philosophy in quite so simple a form. At the same time, he has never concealed the fact that his first duty, as he sees it, is to guide and direct the CAB, and to cast his own vote in such a way as to advance the public interest.

As a consequence, Mr. Boyd is probably the best known, and least understood, Chairman the CAB has ever had. A good example of this fact was Mr. Boyd's stand on international air fares. With the backing of Member G. Joseph Minetti and Vice Chairman Robert Murphy, Mr. Boyd a year ago ruled that an air fare increase voted by all the international airlines of the world, U.S. flag as well as foreign, was not in the public interest.

By a 3–2 decision, the CAB refused to approve this worldwide passenger fare increase. Such an action had never before been taken; always the CAB had approved the fares and rates agreed to by the airlines via the traffic conferences of the International Air Transport Association. CAB might fume and fret about the fares decided upon, but always, before, at least a majority of the five-man board would feel "obligated" to honor the IATA fare decisions.

Chairman Boyd and his two colleagues did not feel they were pulling the rug out from under the U.S.-flag airlines when they refused to rubber stamp their compromise decisions—they felt, and said, that the decision was "not in the public interest."

Publicly the U.S.-flag carriers maintained a cool silence. In the privacy of their counsel chambers, and even in the semipublic IATA meetings, the story was different: The CAB, led by Chairman Boyd, had betrayed its own airlines. The only way unanimous agreement could be obtained on the complex pattern of worldwide air fares was by elaborate compromises. If the CAB—which was not a party to the compromise—would not endorse the decisions of their own carriers, the only possible result was fare chaos.

Heartened by the fact Chairman Boyd did not seem to have the backing of his own airlines, the European carriers put up a solid wall of opposition. There seems to be little doubt that the real purpose of the foreign carriers, and their governments, was to force the removal of Chairman Boyd. If they could defy the CAB, and raise fares, despite the opposition of what was after all only a small agency, Chairman Boyd would be discredited and his resignation must then follow.

When the British undertook to explain to Mr. Boyd the possible consequences of the CAB's "meddling" in international matters, the meetings both in Washington and in London were heated, to say the least. It was at this point that the British discovered that Chairman Boyd could be very tall indeed, and his temper very short. For the record it should be noted that almost the entire roster of British aviation officials who faced Chairman Boyd across the conference table a year ago are now either out of the government or have been transferred to other posts.

As it turned out, Chairman Boyd had in his corner a group even more powerful than the airlines—the public. In letters, telegrams and phone calls they cheered him on. This unsolicited ground swell of public support did not go unnoticed on Capitol Hill. Legislation was introduced to give CAB direct control over international air fares and the bill quickly passed the Senate.

FROM OPPONENTS TO TEAMMATES

When the extent of the public interest was finally appreciated, the U.S.-flag airlines hastily revised their tactics and, since they didn't appear to be licking him, they joined Chairman Boyd. As a result, by beating the publicity drum for lower fares—even though they had previously voted for the higher fares—Pan Am and TWA in particular were able to reap an important windfall benefit. The public, and particular the travel agents, began to favor the low-fare, U.S.-flag airlines for oversea travel. By one observer's calculations, Chairman Boyd's campaign for lower fares has benefited Pan Am and TWA to the extent of $10 million in revenues during the past 12 months alone.

Still, neither airline is able to "understand" Chairman Boyd. When he made a speech and said that under some circumstances mergers could be a benefit to the airline industry, Pan Am and TWA joyfully filed merger papers—only to have it made unmistakably clear that Chairman Boyd and a majority of his colleagues were not likely under any circumstances to approve a merger of these two giants.

This fact of life came as a severe shock to Pan Am and TWA for hadn't the Chairman said in one of his speeches that "in some situations it does appear that mergers may be accomplished that will save a great deal of expense and still provide the traveling public with a good transport system." So he had, but he also said in the same speech that "basic to this whole matter" was the question of "public benefit." And, to make his point as clear as he could, the Chairman warned that "mergers will not be approved unless they accomplish this, among other purposes." Among the hundreds and hundreds of pages filed by Pan American and TWA in support of their merger proposal, barely a handful were devoted to a discussion of this possible public benefit. American and Eastern handled their merger efforts in much the same way. And both merger approvals have been withdrawn with much private agonizing over the fact that "CAB has no merger policy; it is whatever the Chairman says it is from day to day."

Chairman Boyd's leadership in a recent decision to allow the supplemental airlines to perform split charters—that is, to charter half an airplane under one contract and the other half to a different charter party—has been so upsetting to the long-haul trunk airlines that they have joined together to challenge the Board decision in the courts. Chairman Boyd's reason for adopting the revolutionary new concept of what constitutes an aircraft charter?—"It is in the public interest."

BALTIC NATIONS DAY

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the gentlewoman from Michigan [Mrs. GRIFFITHS] may extend her remarks at this point in the RECORD and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mrs. GRIFFITHS. Mr. Speaker, on June 13, 1964, the Baltic Nations Committee of Detroit commemorated the 23d anniversary of the mass deportations of the Estonians, Latvians, and Lithuanians to Siberia by the Communists, by adopting the following resolution. This resolution urges the United States to exert every effort to restore freedom to the people of these countries:

RESOLUTION BY BALTIC NATIONS COMMITTEE OF DETROIT

Whereas during the independence between the two World Wars, the Baltic States showed great social and economic progress; and after the forceful incorporation of Estonia, Latvia, and Lithuania into the Soviet Union, the progress was replaced by misery, terror, and oppression. The Soviet occupation represents the crudest form of colonialism. At the time many countries throughout the world have gained independence from their colonial powers, the Soviet Union has expanded its colonial rule: Now, therefore, be it

Resolved, That we are thankful to the U.S. Government for refusing to recognize the forceful incorporation of the Baltic States and urge to continue this policy; and be it further

Resolved, That we urge the United States to adopt as a primary objective of its foreign policy the restoration of freedom and democracy in all countries now dominated by the Communists. This should be the basic policy to fulfill the goal of a world without fear, as advocated by President Johnson; and be it further

Resolved, That we urge the U.S. Government to bring before the United Nations the questions of the Baltic States, where the citizens are deprived of the right of self-determination for the last 24 years; and be it further

Resolved, That we urge the U.S. Congress to request the President of the United States to urge action in behalf of Estonia, Latvia, and Lithuania as introduced in the Senate and House in more than 50 resolutions; and be it further

Resolved, That we urge the U.S. Government to use extreme caution in entering into any agreements—political, trade, or cultural—and take no action that would indicate approval of Communist rule in any part of the world. Instead, we urge the U.S. Government to use all peaceful means to extend freedom to all mankind; and be it finally

Resolved, That the resolution be forwarded to the President of the United States, the Speaker of the House of Representatives, the Secretary of State, the chairman of the U.S. Senate Foreign Relations Committee, the chairman of the House Committee on Foreign Affairs, Senators from Michigan, Members of the House of Representatives from Michigan, the U.S. Ambassador to the United Nations, the Governor of the State of Michigan, and the mayor of the city of Detroit.

Done in Detroit, Mich., this 13th day of June A.D. 1964.

THE 22D ANNIVERSARY OF SOVIET BALTIC TERROR

The SPEAKER pro tempore. Under previous order of the House, the gentleman from New York [Mr. ROONEY] is recognized for 30 minutes.

Mr. ROONEY of New York. Mr. Speaker, 23 years ago the secret police of the U.S.S.R. began a ruthless mass murder and mass deportation of men, women, and children whose only crime was a desire to preserve their hard-gained democracy and to live in freedom. Twenty-three years ago the days of June 14, 15, and 16 were destined to become the symbol of grief, of terror, and of ruthless savagery perpetrated upon the brave and peace-loving peoples of Estonia, Latvia, and Lithuania.

These three small, justly proud and sovereign countries which had achieved independence after World War I could only enjoy that independence a relatively short period before they were forced to fight to keep it. They withstood both the Germans and the Russian Communists to the best of their ability but were incorporated into the Soviet Union in 1940 by force and illegal elections.

The story of the mass executions and the mass deportations of the tens of thousands of these people to slave labor camps in the Arctic mark those days as a shameful insult to humanity the world over. Let us not forget that the actions of the Soviet Communists both immediately after the perpetration of these inhuman acts and over the intervening years have done little to atone for their black deeds or to ease the lot of the brave survivors.

We Americans rejoice that some of these Baltic people managed to make their way to this country. We are proud indeed of the magnificent contributions which these erstwhile Estonians, Latvians, and Lithuanians and their descendants continue to make to our American way of life. These people who know so well the value of freedom and who appreciate to the maximum the benefits of living in a democracy have given generously of themselves to enrich the fields of labor, industry, and all the arts in America.

In commemoration of the tragic historic events of June 14-16, 1941, we as Americans can do no less than express our appreciation to and congratulate those Americans born in the Baltic States as well as those of Baltic descent for their great contributions to their fellow Americans.

In conclusion, let me say that we must convey to those people having to continue living their enslaved lives within the confines of these captive nations, an expression of our warmest affection together with an assurance of our continued efforts to return freedom and democracy to their countries.

AREA REDEVELOPMENT ADMINISTRATION'S ANSWER TO RECENT READER'S DIGEST ARTICLE

Mr. ROONEY of New York. Mr. Speaker, the May 1964 issue of Reader's Digest contained an article entitled "Is This the Way to Fight the War Against Poverty?" which the Honorable William L. Batt, Jr., Administrator of the Area Redevelopment Administration, claims is misleading and incorrect. He has prepared a list of the principal allegations in the article together with his reply to each.

In fairness, I should like to include with these remarks the following Area Redevelopment Administration's answer to this Reader's Digest article:

The Reader's Digest in its May 1964 issue made a series of allegations regarding the Area Redevelopment Administration in an article entitled: "Is This the Way to Fight the War Against Poverty?"

ARA has received many inquiries from Congressmen, newsmen, and interested citizens, and this paper has been prepared to provide a point-by-point, factual reply to the allegations in the article. The reply follows:

Allegation: That ARA loaned money for the Schweitzer Basin, ski resort at Sandpoint, Idaho, when two local men were about to open a ski run on nearby Baldy Mountain.

Facts: The Schweitzer Basin project had been under consideration by the local community leaders long before the Baldy Mountain project. The two local men mentioned in the article had sought support from the Sandpoint Chamber of Commerce and other community leaders, but were unable to obtain it.

The community, itself, financed a professional survey which showed the Schweitzer Basin site superior to the Baldy Mountain site. The community leaders applied for an ARA loan which was granted after careful consideration. The ARA loaned $320,000 on the $530,000 project. Some 700 Sandpoint residents—more than half of the wage earners in the town—bought stock in the venture and in all about $200,000 in private funds were invested by local sources, including the city of Sandpoint, itself.

The Schweitzer Basin ski resort opened for business last December and enjoyed a successful first season. More than 2,500 skiers visited the slope one day at Christmas time last year. Besides the scores of jobs the ski lift provided, it also had an impact on the local economy. The January 1964 issue of the Idaho Labor Market Report said: "The opening of the new Schweitzer Basin ski area in December boosted employment in the trade and service areas to near summertime levels."

A local certified public accountant, Ronald L. Hall, in a front page reply to the Reader's Digest article in the Sandpoint News-Bulletin, predicted that the success of Schweitzer Basin ultimately, "could be the making" of another ski resort on nearby Baldy Mountain.

Allegation: That an access road to the Schweitzer Basin ski area at Sandpoint, Idaho, was built "despite Idaho health department warnings that this could contaminate the municipal watershed." And that Sandpoint's water supply ultimately was condemned.

Fact: Dr. T. O. Carver of the State health department states that not only has the water supply of Sandpoint not been condemned, but that at no time within the last 2 or 3 years has the State health department ever warned Sandpoint about its water supply, or contemplated any sort of condemnation.

Allegation: That an ARA loan to Technical Tape Corp. had resulted in the firm's moving a division of its operation from Beacon, N.Y., to Carbondale, Ill., where the ARA had helped the community transform a city-owned warehouse into a factory building which Technical Tape took over. The allegation involved a gift-wrapping division of the firm and it quoted the Beacon Chamber of Commerce president as saying that the gift-wrap division was moved out because of the Carbondale development.

Fact: Mr. Paul Cohen, president of Technical Tape, in a sworn statement to ARA, says Technical Tape never considered a gift-wrapping division for Beacon because there was not enough space available in the Beacon plant.

As to allegations that the "Government induced an industry to expand in one depressed area at the expense of another" (namely, Beacon), Mr. Cohen says employment at his Beacon plant has increased steadily from 85 employees in 1961 to 358 employees presently. He says production in other facilities the firm has in New York and New Jersey are up 20 percent over 1961 figures and employment has remained constant despite technological improvements. He says the 428 persons working at the Carbondale, Ill., facility, which was assisted by ARA, "represent new additional jobs and payroll for the company and the community."

Mr. Cohen says he learned before publication that Reader's Digest intended to quote the Beacon Chamber of Commerce president as they did, and that the Reader's Digest was told that the statement was inaccurate before publication.

Allegation: That ARA staged a stepped-up campaign to pull other areas into the program in this election year, pointing specifically to the fact that seven major U.S. cities—Philadelphia, Cleveland, Toledo, Buffalo, Newark, Miami and Oakland—were made eligible for assistance under ARA.

Fact: These seven cities became eligible to qualify for ARA assistance under a new formula for measuring unemployment within the city limits, and this had nothing to do with politics. The move was prompted primarily by the interest which the cities, themselves, had expressed in the program. These cities, suffering from high unemployment within city limits, had been unable to qualify because they were included in a larger labor market area whose unemployment was not serious enough to bring them under the ARA act. Thus, ARA was faced with the irony of denying its aid to large blocks of jobless persons in the big cities while making it available to smaller blocks of unemployed in the smaller cities and rural areas.

Allegation: That "ARA has built a 72-room luxury motel" in Woodville, Tex., which is threatening the existence of a nearby 24-room motel owned and operated by a widow. Also, that "there is not much reason for Woodville, except the old courthouse and some lumber mills."

Fact: ARA did not build the motel. It loaned $420,000 of a $700,000 project to build it, but it was the community, itself, which came forward with the desire and the plan to build the motel. The motel, known as the Woodville Community Inn, was not built with an eye to competing with the widow's motel. Local leaders planned it as a means of helping to build up the town, itself. Some 100 Woodville residents bought stock in the motel, providing $130,000 of the total investment. Two local banks also participated in the financing.

The East Texas Tourism Association endorsed the facility because of its proximity to the McGee Bend Dam which is expected to generate tourism business in the area. The inn is located at the juncture of three main highways in the commercial center of Tyler County (population 10,700). It is equipped to handle sizable meetings and small conventions, and community leaders are of the opinion that as the economy of the area grows the inn will actually prove beneficial to the 24-room motel which the article said was threatened.

The article also referred to a sign erected at the project during construction identifying a Texas Congressman with the venture. The ARA, of course, had nothing to do with the sign.

Allegation: That jobs constitute the reason for ARA's existence but that ARA provides brazenly inaccurate figures and refuses to make reports on current employment figures available to the public.

Fact: The ARA does, of course, receive regular reports on employment from the projects it is interested in. But it does not make this available to the public on a regular basis because this is, in a sense, private information. Any reporter wishing to know how many people are employed by a certain business is free, however, to check with that business.

The ARA does publish regularly a record of approved projects and lists an estimated projection of employment expected after 1 year of activity. These are based on estimates provided by the applicants, who, as might be expected, sometimes miss the mark. There is no effort to mislead, however.

The ARA recently made a survey of 57 plants which had been in operation for at least a year to determine employment results and to see how the estimates of employment were holding up. This survey showed the 57 plants were expected to have employment of 8,543 after 1 year. Actual head count showed 9,376 employees. In 20 of the plants, employment was higher than anticipated; in 23, it was lower, and in five plants it was approximately as estimated and published in the ARA Directory of Approved Projects as of March 31, 1964.

Through March 1964, ARA has approved 459 loans and grants which will, when the projects are fully operational, help create an estimated 105,000 direct and indirect jobs.

The article cited as one example the North Vernon Processing Co.'s burned out forging plant in North Vernon, Ind., in an effort to prove faulty reporting on employment. It said the ARA claimed to have saved 60 jobs and created 40 new ones as a result of its postfire help. The article claimed only 50 persons were working there—15 more than before the fire. An ARA field check showed 92 persons working at the North Vernon plant, right in line with the original estimate on employment.

Another claim of faulty employment reporting was made concerning a co-op grain feed mill which an ARA loan helped get underway at Wetumka, Okla. It said the ARA, in lending $68,000, said the project was expected to create 20 jobs. The Reader's Digest reporter found only six men working and little prospect of any more jobs because the operation was highly automated. This is the most accurate report in the entire article. There will be six full-time and two part-time persons employed at the mill when it reaches peak operation in June 1964. The original job estimates were in error.

Allegation: That 75 county agricultural agents in Texas quit in disgust over the past 2 years because they were being used to organize communities to prepare to apply for ARA assistance.

Fact: A check with the U.S. Department of Agriculture and officials in charge of county agents at College Station, Tex., shows there was a turnover of 75 agents in the 2-year period. But only one had resigned because of dissatisfaction with his assignment. The others either retired, went to other jobs in the USDA, or to better paying jobs in private industry.

Allegation: That "less than $2 out of every $5 from ARA" goes into areas of highest unemployment.

Fact: $165.5 million or 81.9 percent of all ARA funds for approved financial assistance projects went into areas which are officially classified as areas of substantial and persistent labor surplus. That's $4 of every $5. These projects, incidentally, are creating an estimated 80,253 jobs.

Allegation: That Gregg County, Tex., dissatisfied with being classified as a redevelopment area, had to struggle 2 years to get the classification removed.

Fact: Gregg County originally was classified under detailed standards set forth in Public Law 87–27. After the chambers of commerce of the cities of Longview, Kilgore, and Gladwater passed resolutions requesting dedesignation, county officials wrote a letter on December 11, 1962, asking termination of the designation. ARA files show action to terminate the designation was taken on March 29, 1963, to be effective 10 days later. That's a spread of a little over 3 months—not 2 years.

The article also cited Gilpin County, Colo., as a horrible example of a county designated for ARA assistance as a low-income farm area. It noted that the county was high up in the mountains with few farms.

Fact: Gilpin County became classified because of a statistical error. When it was discovered, the classification was removed.

Allegation: That Rice County, Kans., is an example of a prosperous area which has been declared "a depressed area" by ARA.

Fact: Rice County came under the Department of Agriculture's Rural Areas Development program back in the administration of President Eisenhower. The Congress directed that these counties be brought in under ARA as a means of taking advantage of this kind of experience. The county obviously wanted to participate in the ARA program, for it filed an overall economic development program, as required by the act, and at least one ARA project has been approved there.

Allegation: That ARA is "dressing up" 5,000 acres of eastern Oklahoma land with a "palatial" State-owned resort, without its "costing the State a penny."

Fact: ARA loaned $9 million to a State agency, the Oklahoma Lake Redevelopment Agency, on this project. The $9 million is repayable with interest. This could hardly be described as not "costing the State a penny."

This is a $10.3 million project to create a State-owned recreation center at Lake Eufaula, a 143,000-acre lake being created by the U.S. Army Corps of Engineers; $1.3 million of it was financed by a public facility grant from the ARA.

It is designed to attract tourists to the area and help rebuild and diversify the economy which has been suffering from high unemployment and low incomes. Unemployment has been running from 8.4 percent to as high as 18.7 percent of the workforce.

The site is close to two important highways—Interstate 40 and the Tulsa-to-Texas turnpike, and the tourist facility being created is expected to provide jobs for 1,500 workers—500 at the resort center and an additional 1,000 at private cabins, boat sales and service centers, sporting goods firms, and other tourist services.

Allegation: That ARA went far beyond the original plan for the "40 single-industry regions" which were intended to receive assistance, and "dragooned or enticed" a third of the Nation's counties into "accepting the label of poverty to be showered with largess."

Fact: A total of 581 areas or 55 percent of all ARA areas meet the specific criteria specified by Congress in the act to identify areas of substantial and persistent unemployment. The remaining areas which were designated for eligibility meet standards for underemployment which were established by ARA and which are based largely on low average incomes for those living in the area.

As for "dragooning and enticing" areas into the program, the ARA early this year notified 152 areas that they would be dropped unless they expressed a firm desire to participate within a 1-month deadline. Only 15 of the 152 areas failed to respond.

ARA receives many requests every day from counties and areas wanting to know how they can qualify for assistance under the act. ARA applies strict statistical standards to all these requests, and only those areas which truly qualify on the basis of unemployment or underemployment are designated.

One reason more areas qualify for the act than were known about when the act was first passed is that unemployment statistics were not made available for many very small labor markets prior to 1961. It was only after the Area Redevelopment Act was passed that the Labor Department began providing this information.

Allegation: "The agency flouts the law under which it was created." The article cites four "examples" of ARA loans made to organizations able to make "reasonable" financial arrangements elsewhere.

Fact: Three of the four examples cited involve loans made not to large corporations, but to local development companies created under State law and promoting industrial development with local resources. The three large companies in question (Melpar Corp., a subsidiary of Westinghouse Air Brake; Rawlings Manufacturing Co., a subsidiary of A. G. Spalding & Bros.; and American Optical Co.) were all tenants of these local development companies and had no direct financial dealings with ARA.

The loan allegedly made to "the Howard Johnson chain together with a local concern" was in fact a loan made exclusively to the new business concern, which had a franchise from the Howard Johnson chain and was thereby entitled to use the Howard Johnson name. ARA's investigation of the availability of other financing to the concern disclosed that two large insurance companies had already declined to make a loan to the project. To confirm the fact that other financing was not available, ARA sought participation unsuccessfully from three other insurance companies. However, a local bank and the Government Development Bank of Puerto Rico both participated significantly in the project.

The article further charges that ARA by its policies has failed to keep faith with the statutory requirements pertaining to community participation in projects. The reference is apparently to ARA's policy of not restricting an industrial applicant from participating in community fundraising efforts provided that the community group does not simply use such a source of funds as a substitute for other reasonable potentials for raising funds on a broader base.

Other State and Federal programs have by tradition recognized the right of local development corporations to finance participating requirements by acquiring needed funds from industrial concerns benefiting from a project. The Area Redevelopment Act does not by its terms limit the source of the community funds. However, in keeping with the objective of developing a sense of local responsibility and a capacity for local initiative, ARA has required that communities make first resort to obtaining funds from diversified and independent sources.

The third allegation in this connection is that ARA assisted the Technical Tape Corp. to close down its plants in New Rochelle and Beacon, N.Y., and to relocate its operations at Carbondale, Ill.

The plant referred to in the article was leased from the city of New Rochelle. The city subsequently objected to the normal noise resulting from Technical Tape's machine operations. As a result of frequent police summonses for creating a nuisance, the plant ceased manufacturing in May 1961 and was converted to a warehouse and research facility. Manufacturing operations were transferred to the Beacon plant. When Technical Tape's lease expired in 1963, the city refused to renew. However, it is presently considering an offer from the company to reopen the plant as a research laboratory. Thus, the Technical Tape "factory" was closed down at the instance of the city 2 years prior to the date alleged in the article, and negotiations are now going on for a renewal of the lease from the city.

The implication that Technical Tape ever had a gift-wrap division in Beacon, N.Y., or intended to move one there, is incorrect. It is answered elsewhere in this paper.

Allegation: That ARA "bludgeoned" votes by letting a "political friend" make a project announcement involving an $844,000 ARA loan to help modernize an abandoned pulp and paper mill in New York Republican Representative Clarence E. Kilburn's district, the political friend being Kilburn's Democratic opponent.

Fact: Notification of approval of the project in Congressman Kilburn's district was advanced from the scheduled release date because the mayor of Norfolk informed ARA that unless ARA gave its decision immediately, the project would fall. When this became known, a wire was dispatched to the president of the local development corporation, informing him of ARA's decision to approve the project. No authorization was given for public release. Unfortunately, word was leaked to the press prematurely through no fault of ARA.

Allegation: ARA advanced money to reopen one, and expand a second coal mine in Carbon County, Utah, "where demand for increased coal output is just not present."

Fact: Both applicants for ARA assistance submitted to ARA letters from dealers, distributors, and private users requesting additional sources of coal to meet their expanding demand.

Many of the mines in the area are "captive" and their entire output is consumed by their owners and is not for public sale. ARA verified the claims of the applicants with experts, including the U.S. Bureau of Mines. The financial soundness of these two loans also was ascertained. The coal mined in Carbon County is among the highest in quality in the United States.

Allegation: That ARA helped the Salem, Ind., Redevelopment Corp. provide a plant and other facilities for the "foreign-controlled" Bata Shoe Co., and that firm was pouring 40,000 pairs of shoes a week on the abundantly supplied shoe industry.

Fact: Bata Shoe Co., Inc., is an American corporation chartered by the State of Maryland. It does have plants in many sections of the world, but it employs some 3,000 workers in factories located in the United States.

The Salem plant manufactures canvas and vulcanized footwear only, and this segment of the shoe industry has been growing at the rate of some 10 percent a year with 60 percent of the total U.S. market now being supplied by imports.

Bata Shoe is expected to export a significant part of its production, thus affecting the Nation's balance-of-payments problem.

Bata Shoe currently is employing about 250 workers and expects the payroll to grow to around 500 when the plant reaches full production.

The article also charged that Bata Shoe could pull out of Salem anytime it wanted. The firm has signed a 20-year lease on the facility.

Allegation: That the president of the Bata Shoe Co., Augustin Dolezal, told reporters that his firm had decided to locate a plant in Salem, Ind., long before it heard of ARA. It quoted Mr. Dolezal: "We would have built in Salem anyway."

Fact: In a letter to ARA dated May 4, 1964, Mr. Dolezal says: "I want to assure you that I have never spoken to any correspondent and told him we would establish a plant in Salem without ARA help. Contrary, it was the first condition that we stipulated * * * that they must procure the assistance of ARA.

"I am sure that this is a great contribution to the community and they are thankful to the ARA who made this project in their community possible."

Allegation: That ARA is financing new enterprises in industries already beset by overcapacity, thus jeopardizing existing jobs.

Fact: Since its inception, ARA has continuously considered the potential impact of its loans. Procedures have been developed to make sure that ARA funds will be used to create job opportunities in our expanding economy.

Industrial experts in the Department of Commerce supply ARA with information on the national capacity of a particular industry, the extent to which the industry is utilizing such capacity, the relative efficiency of existing capacity and, in appropriate cases, the impact of imports on the market.

Industrial market trends are analyzed for ARA by the Small Business Administration and by private marketing experts. The Department of Agriculture provides information on all agricultural and forest products proposals. The Department of the Interior reports on mineral-based industries. Other agencies and experts are used in special cases.

ARA has made public its concern for existing businesses and for the workers who depend upon these enterprises for jobs. A series of policy guidelines published and circulated nationally contain clear-cut criteria for use by ARA in the various circumstances involved in project consideration.

Policy guideline 13, for example, states that projects may be declined if "there is an oversupply of the particular product, either locally, regionally or nationally."

Policy guideline 26 provides that ARA will not finance new capacities in industries experiencing a long-run gap between production and capacity except under these circumstances: The excess capacity must be obsolete or outmoded, or the new capacity must compete with imports, or there must be an identifiable regional insufficiency of productive capacity, or such excess capacity must be only temporary because of a strong, growing demand for the product, or the new capacity must be capable of developing new markets for the industry.

These guidelines are constantly utilized by ARA, interested State and local agencies and prospective borrowers.

Allegation: That ARA helped finance a 432-room luxury hotel in Detroit, Mich., even though existing hotels suffered from the lowest occupancy rates of any city in the United States.

Fact: The Downtown Investment Corp., in cooperation with civic and business leaders, developed the proposal to construct a $9.1 million hotel (the Pontchartrain Hotel), directly across from Cobo Hall which is the focal point of a $70 million convention center recently constructed by the city in an effort to diversify its economy through convention and exposition business.

Civic leaders reported that Detroit was losing conventions and failing to utilize Cobo Hall and its facilities to the fullest because of the lack of a modern, high quality motel convenient to the convention center. No new hotels had been built in the city for more than 35 years. Marketing experts analyzed the quality and quantity of hotel accommodations and reported to ARA that the Pontchartrain project was economically viable and merited approval.

A combination of private lenders and investors, including the Detroit Metropolitan Industrial Development Corp., raised $7.2 million (approximately 80 percent) for the project. The ARA loaned the remaining 20 percent at 4 percent interest.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. QUIE (at the request of Mr. LANGEN), on account of official business, from June 16 to 24, inclusive.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. GRAY, for 15 minutes, today.

Mr. CONTE, for 10 minutes, today.

Mr. ASHBROOK (at the request of Mr. MATHIAS), for 5 minutes, on June 16, and to revise and extend his remarks and to include extraneous matter.

Mr. STAFFORD (at the request of Mr. MATHIAS), for 30 minutes, on June 25, and to revise and extend his remarks and to include extraneous matter.

Mr. O'HARA of Michigan (at the request of Mr. MURPHY of New York), for 15 minutes, today; to revise and extend his remarks and to include extraneous matter.

Mr. ROONEY of New York (at the request of Mr. MURPHY of New York, for 30 minutes, today; to revise and extend his remarks and to include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL RECORD, or to revise and extend remarks, was granted to:

Mr. ASHBROOK and to include extraneous matter in his remarks during general debate on H.R. 9876.

Mr. SAYLOR to extend his remarks in the body of the RECORD during the debate on the appropriation bill and to include extraneous matter.

Mr. DOWNING.

(The following Members (at the request of Mr. MATHIAS) and to include extraneous matter:)

Mr. TALCOTT

Mr. HORTON.

Mr. BOW.

(The following Members (at the request of Mr. MURPHY of New York) and to include extraneous matter:)

Mr. RIVERS of South Carolina.

Mr. MURPHY of New York.

Mr. CELLER.

Mr. GALLAGHER.

ENROLLED BILL SIGNED

Mr. BURLESON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1887. An act for the relief of Chang In Wu.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 103. Joint resolution to increase the amount authorized to be appropriated for the work of the President's Committee on Employment of the Physically Handicapped.

ADJOURNMENT

Mr. MURPHY of New York. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 16 minutes p.m.) the House adjourned until tomorrow, Wednesday, June 17, 1964, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2173. A communication from the President of the United States, relative to transmitting information that he has determined that it is in the national interest for the Export-Import Bank to issue guarantees in connection with the sale of U.S. products and services to Rumania. This determination is in addition to the determination relating to agricultural products of which he informed the Speaker and the Congress on February 4, 1964, and is intended to cover all types of U.S. products and services, pursuant to title III of the Foreign Aid and Related Agencies Appropriation Act, 1964; to the Committee on Foreign Affairs.

2174. A letter from the Comptroller General of the United States, transmitting a report on the need to strengthen requirements for establishing entitlement to social security benefits, Social Security Administration, Department of Health, Education, and Welfare; to the Committee on Government Operations.

2175. A letter from the Comptroller General of the United States, relative to excessive prices negotiated by the Defense Petroleum Supply Center, Department of Defense, under contract ASP-15734 for storage of petroleum in a new facility at St. Ignace, Mich., Department of Defense; to the Committee on Government Operations.

2176. A letter from the Comptroller General of the United States, transmitting a report which concerns the unreasonably expensive construction by the Bureau of Prisons, Department of Justice, of a one-family employee residence at the U.S. Penitentiary, Leavenworth, Kans. Our review disclosed that the Bureau incurred costs of about $100,000 to construct and furnish a residence for the warden at the penitentiary and to extend utilities and a road to the residence site; to the Committee on Government Operations.

2177. A letter from the Assistant Secretary of the Interior, transmitting a report on a project proposal relating to the Byron-Bethany Irrigation District, located in Alameda, Contra Costa, and San Joaquin Counties, Calif., which has applied for a loan of $1,756,700 for the rehabilitation and enlargement of its existing irrigation distribution system, pursuant to section 10 of the Small Reclamation Projects Act of 1956; to the Committee on Interior and Insular Affairs.

2178. A letter from the Secretary of State, transmitting the 11th report of the Department of State on its activities under the Federal Property and Administrative Services Act of 1949 for the calendar year 1963, pursuant to Public Law 81-152; to the Committee on Government Operations.

2179. A letter from the Comptroller General of the United States; transmitting a report on a review of unnecessary costs to the Government in the leasing of electronic data processing systems by Autonetics, a division of North American Aviation, Inc., Anaheim, Calif., Department of Defense; to the Committee on Government Operations.

2180. A letter from the Comptroller General of the United States, transmitting a report on a review of unnecessary costs incurred for M61 machinegun components under Department of the Army contracts with General Electric Co., Burlington, Vt., Department of the Army; to the Committee on Government Operations.

2181. A letter from the Comptroller General of the United States, transmitting a report on a review of unnecessary costs incurred due to the development and procurement of an expensive utility cap with serviceability limitations, Department of the Army; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Science and Astronautics. Report on Project Ranger. (Rept. No. 1487.) Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 136. An act to place in trust status certain lands on the Rosebud Sioux Reservation in South Dakota; without amendment (Rept. No. 1488). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 6151. A bill to increase the appropriation authorization for the completion of the construction of the irrigation and power systems of the Flathead Indian irrigation project, Montana; with amendment (Rept. No. 1489). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7215. A bill to authorize the Secretary of the Interior to convey certain lands to the United States in trust for the Citizen Band of Potawatomi Indians of Oklahoma and to convey certain other lands to the United States in trust for the Absentee-Shawnee Tribe of Indians of Oklahoma, and for other purposes; with amendment (Rept. No. 1490). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 8334. A bill to authorize the exchange of lands within the Salt River Pima-Maricopa Indian Reservation, and for other purposes; with amendment (Rept. No. 1491). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10973. A bill to provide for the disposition of judgment funds on deposit to the credit of the Lower Pend D'Oreille or Kalispel Tribe of Indians; without amendment (Rept. No. 1492). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 11118. A bill to provide for the disposition of funds from judgments in favor of the Nehalem Band of the Tillamook Indians and the Tillamook Band of the Tillamook Indians; without amendment (Rept. No. 1493). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HOLLAND:

H.R. 11611. A bill to establish a National Commission on Technology, Automation, and Economic Progress; to the Committee on Education and Labor.

By Mr. DANIELS:

H.R. 11612. A bill to etsablish a National Commission on Technology, Automation, and Economic Progress; to the Committee on Education and Labor.

By Mr. PUCINSKI:

H.R. 11613. A bill to establish a National Commission on Technology, Automation, and Economic Progress; to the Committee on Education and Labor.

By Mr. BROWN of California:

H.R. 11614. A bill to establish a National Commission on Technology, Automation, and Economic Progress; to the Committee on Education and Labor.

By Mr. CAMERON:

H.R. 11615. A bill to amend the act of July 23, 1955, to clarify the meaning of the term "common varieties" as used in certain laws of the United States relating to mining; to the Committee on Interior and Insular Affairs.

By Mr. GOODELL:

H.R. 11616. A bill to amend title II of the Social Security Act to provide that the child of an insured individual, after attaining age 18, may continue to receive child's insurance benefits until he attains age 21 if he is a full-time student; to the Committee on Ways and Means.

By Mr. KEITH:

H.R. 11617. A bill to amend the Antidumping Act, 1921; to the Committee on Ways and Means.

By Mr. MILLER of California:

H.R. 11618. A bill to authorize the Secretary of the Navy to convey to the State of California certain lands in the county of Monterey, State of California, in exchange for certain other lands; to the Committee on Armed Services.

By Mr. McLOSKEY:

H.R. 11619. A bill relating to the tariff treatment of parts designed for use or chiefly used in agricultural or horticultural implements or in tractors suitable for agricultural use; to the Committee on Ways and Means.

By Mr. NELSEN:

H.R. 11620. A bill to amend section 612(e) of title 38, United States Code, to authorize the furnishing of outpatient medical services to veterans of World War I; to the Committee on Veterans' Affairs.

By Mr. SELDEN:

H.R. 11621. A bill to amend the Immigration and Nationality Act to authorize, in the national interest, restrictions on travel by nationals of the United States in certain designated areas of the world; to the Committee on the Judiciary.

H.R. 11622. A bill to permit the vessel U.S.S. *Alabama* to pass through the Panama Canal without payment of tolls; to the Committee on Merchant Marine and Fisheries.

By Mr. TALCOTT:

H.R. 11623. A bill to authorize the Secretary of the Navy to convey to the State of California certain lands in the county of Monterey, State of California, in exchange for certain other lands; to the Committee on Armed Services.

H.R. 11624. A bill relating to the rate of duty on fresh and frozen strawberries which are imported from Mexico; to the Committee on Ways and Means.

By Mr. TUCK:

H.R. 11625. A bill defining the jurisdiction of the U.S. Supreme Court and all Federal courts inferior thereto, in certain instances; to the Committee on the Judiciary.

By Mr. VINSON:

H.R. 11626. A bill to authorize the payment of expenses incident to the evacuation of dependents of military personnel from Panama and Cyprus; to the Committee on Armed Services.

By Mr. DERWINSKI:

H.R. 11627. A bill to authorize certain modification of the project for Calumet Harbor and River, Ill. and Ind.; to the Committee on Public Works.

By Mr. SCHWEIKER:

H.R. 11628. A bill to amend the Randolph-Sheppard Vending Stand Act; to the Committee on Education and Labor.

By Mr. BROWN of California:

H.J. Res. 1043. Joint resolution designating the 6-day period beginning September 14, 1964, as "National Literacy Week," and for other purposes; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BELL:

H.R. 11629. A bill for the relief of Son Chung Ja; to the Committee on the Judiciary.

By Mr. FARBSTEIN:

H.R. 11630. A bill for the relief of Eliahu Aboud; to the Committee on the Judiciary.

By Mr. FINNEGAN:

H.R. 11631. A bill for the relief of James, Ruth, and Peter Hong; to the Committee on the Judiciary.

By Mr. FULTON of Tennessee:

H.R. 11632. A bill to authorize the Secretary of the Army to convey certain lands at the Old Hickory lock and dam, Cumberland River, Tenn., to the Tennessee Society for Crippled Children and Adults, Inc.; to the Committee on Armed Services.

By Mr. KEITH:

H.R. 11633. A bill for the relief of Marjorie E. Woodward; to the Committee on the Judiciary.

By Mr. MORRIS:

H.R. 11634. A bill for the relief of the estate of Newton Watson; to the Committee on the Judiciary.

By Mr. ROOSEVELT:

H.R. 11635. A bill for the relief of Mrs. Rosalia Nass and Mr. Joseph Nass; to the Committee on the Judiciary.

By Mr. THOMSON of Wisconsin:

H.R. 11636. A bill for the relief of Rosette Sorge Savorgnan; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

929. By the SPEAKER: Petition of Carl M. Buhlman, master, Mendocino County Pomona Grange No. 10, Willits, Calif., relative to Federal in-lieu payments; to the Committee on Agriculture.

930. Also, petition of A. S. Branco, secretary, Portuguese Continental Union of the United States of America, Boston, Mass., requesting the President of the United States and the Congress to name a Polaris A-3 submarine in memory of Peter Francisco; to the Committee on Armed Services.

931. Also, petition of Eugene Graney, city clerk, Erie, Pa., relative to supporting H.R. 3881, the Urban Mass Transportation Act; to the Committee on Banking and Currency.

932. Also, petition of Frederick Seelig, Los Angeles, Calif., relative to a redress of grievance concerning illegal imprisonment; to the Committee on the Judiciary.

933. Also, petition of John C. Marcin, city clerk, Chicago, Ill., to take whatever steps that might be possible toward the establishment of a U.S. mint in the city of Chicago; to the Committee on Public Works.

934. Also, petition of Henry Stoner, Avon Park, Fla., relative to the remarks made by Thomas Paine and read to the American troops in 1775 upon General Washington's orders upon his induction into the Army as General in Chief, and which referred to proper legislative apportionment and reapportionment; to the Committee on House Administration.

EXTENSIONS OF REMARKS

History and Current Status of the Municipal Industrial Aid Bonds

EXTENSION OF REMARKS

OF

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1964

Mr. TALCOTT. Mr. Speaker, there is an interesting and complicated interrelation between tax-exempt municipal bonds and ARA loans. I want to develop this.

In 1936 the town of Durant, Miss., issued $85,000 worth of bonds to build a plant for the Real Silk Hosiery Mills. This was the first time a municipality had ever issued what has become known as an industrial aid bond, using its credit to build or purchase a capital asset such as an industrial plant to lease or sell to a private enterprise. Since then 400 communities in 9 States have issued nearly $200 million worth of these bonds to attract industry, provide employment for their people, and compete with other towns in search of prosperity. Most of these towns are in the South and Southwest. Between 1957 and 1962 the issuance of these bonds increased tenfold, from $7 million to $65 million a year, as the race for industry got more competitive. Nor has this siren song seduced only the corporals and privates of American industry.

The captains and kings are also getting in on the gold rush. Cherokee, Ala., a town of 1,400, recently sold $25 million worth of bonds to build an Armour fertilizer plant. Carrying the craze to a perfectly logical absurdity, the 4,443 inhabitants of Ste. Genevieve, Mo., have announced their intention of floating a $500 million bond issue, the equivalent of $113,000 per inhabitant, to lure a suitable basic industry. At the top of their shopping list: a steel plant.

State legislators have written the laws so that some towns are engaging in savage headhunting expeditions.

Under New Mexico's legislation, a town may raise bond money to go into another State, buy business outright, move it back to New Mexico, build it a plant, and set it up in business anew—and one town already has. Nor are small local communities alone engaging in this rush. The States of New Hampshire, Pennsylvania, Kentucky, West Virginia, Oklahoma, New York, and Illinois have variations of such plans. And corporations like Borg-Warner, Emerson Electric, Fruehauf Trailer, General Tire & Rubber, Minnesota Mining & Manufacturing, Rand, McNally, Scott Valve Manufacturing, Standard Brass, and Swift & Co. are taking part. The big advantage: since the municipal bonds are tax exempt, and the plants built with them are Government owned and hence tax exempt, the corporations get out of Federal taxes on their high cost fixed assets such as buildings and plant machinery. Moreover, they can write off the entire cost of plants in 20 years instead of 50 as required under normal Internal Revenue Service depreciation schedules.

The cost of State industrial development programs is heavy. It takes money to make a slick, expensive and businesslike area presentation showing everything that an industry could want to know: available sites and costs, taxes, zoning, transportation, water, sewer, traffic studies, soil conditions, building costs, availability of markets, population structure and growth, labor supply and costs, climate, school and recreation facilities, availability, and cost of housing, ad infinitum.

The expense to States and communities of such programs is considerable. In those States with the most attractive programs, for example, the amount expended ranges from $1,000 to $1,500 for each new manufacturing job created.

In 1959 Tennessee spent $200,000 and Mississippi $375,000 just to administer their programs. Fairfax County, Va., with a modest and fairly typical program, has budgeted about $35,000 a year for the past 4 years. Also, when a community owns and leases a plant, it loses tax revenues. For fiscal year 1958 a Mississippi legislative committee estimated the State treasury lost $500,000 this way. Thus existing industries wind up supporting the tax burden and in effect subsidizing the new industries attracted under these giveaway programs.

The prizes, however, are also alluring. Mississippi's program has won credit for creating 35,760 jobs from the 1930's through the end of 1960 with an average annual payroll of $3,242 per job. This works out to an increase of $116 million in the income of the people of Mississippi. Since every dollar of increased payroll increases sales in a community about 4½ times, the total stimulus to Mississippi's economy was about half a billion dollars a year. This doesn't consider the rise in real estate values in a prosperous community. For example, when H. Alexander Smith moved its carpet plant to Greenville, Miss., it provided a thousand new jobs there and within a year 500 new homes had been built for the town. Nor do these figures consider fully the compound growth of industry growing from the fact that industry tends to attract other services and related industries.

Much of this municipal subsidy is actually industrial piracy. When Norge, for example, built its plant in Greenwood, Ark.—population 1,600—it provided employment for 1,750 persons, but left 1,800 out of work at Muskegon, Mich.

Everybody agrees that areas which have vigorously pursued overall development programs have achieved startling results—but controversy exists about the actual effectiveness of the various devices used to lure industry such as industrial aid bonds. For example, Drs. Bergin and Eagan, writing in the Michigan Business Review, reported on a survey of the managements of over 800 firms which had recently located or expanded in Kentucky, Tennessee, and Mississippi. They report that company executives generally say that a friendly attitude and the existence of adequate normal community facilities are more important than direct financing aid in any form. The doctors conclude that the bulk of expenditures in these industrial development programs go for factors which management does not consider of prime importance in selecting a new plant location. Most firms listed availability of labor and convenience to markets at the top of their considerations. Financial aid was way down on the list.

Plant location experts for the big eastern industrial firms who met with 250 area development representatives from chamber of commerce groups throughout the Nation in the summer of 1963 listed these five factors at the top of their list in selecting a plant site: availability of labor, nearness to markets, lower labor costs, availability of suitable buildings or sites, and availability of raw materials. Far down on the list in 13th and 15th places were the considerations of favorable tax structure and financial aid. In fact, the site seekers pointed out that communities who advertise "cheap labor, cheap electricity, cheap plant sites, and tax exemptions on property and machinery" cause a reaction among industrialists that "such an area must be a really bad locality if it has to mortgage itself so deeply."

The site seekers point out that such areas which subsidize new industry often drive out the older industries, which seek to relocate rather than bear the heavier tax burden necessary to subsidize the new plants. Instead, they said a community should strive for sound, responsible industry by offering basic inducements such as honest and reliable government, reasonable tax laws, good management-labor relations, good educational and church facilities.

With the rising stampede among State governments and local bodies toward "buying in" industries, many people in east Texas began to panic and wanted to join the stampede by pressuring the Texas Legislature to adopt a similar program. Texas industrial commissions had a research study done, which found that there were actually very few cases in which an industry went to another State around Texas on the basis of such offers as industrial aid bonds, and other easy "gimmick" financing, and those few were actually most often undesirable industries that would not contribute to a stable economy and sound economic development. "Texas, unlike its neighboring States, does not have to enter into any unsound or unwise financing schemes, 'buy in' desirable industry," the research study said. Texas should not be stampeded into any unsound scheme of publicly financed industrial inducement.

In contrast, it should advertise widely that Texas does not have such programs since it does not have to cover up disadvantages with gimmicks. Such an approach is bound to impress responsible businesses who want to pay their fair share and live in a community, not own it.

Texas employment commission statistics show that Texas gained 60,000 jobs between July 1961 and July 1962; unemployment was 4.8 percent. Moreover, Texas was second in the Nation, following only New York, in number of new industries gained in the first 6 months of 1963.

Said the Wall Street Journal of July 31, 1963:

> There are 18,000 to 20,000 community development organizations which provide financial or other inducements to attract industry.
>
> A tremendous amount of money has been spent by the Federal Government, States, and localities in the past generation, but with scant success for the most part.

In fact, this quest for gold at the end of the rainbow has gone to such an absurd extreme that Governor Kerner, of Illinois, asked the legislature to vote him $100,000 to establish an office in Washington for the board he created in 1961 to process applications for ARA grants and loans. Apparently the government feels that the State is not getting its full share of Federal handouts. The Washington bureau would "protect and enhance the economic development of the State of Illinois," Governer Kerner explained.

St. Louis Academy, Staten Island, N.Y.

EXTENSION OF REMARKS

OF

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1964

Mr. MURPHY of New York. Mr. Speaker, the annual commencement of St. Louis Academy was held Saturday, June 13, 1964. Sister Mary Peter, principal, graduated the largest class in the school's history. Rt. Rev. Msgr. Edward J. Dolan conferred diplomas on the graduates.

Miss Maureen B. Killen, valedictorian, received the General Excellence Award, and Miss Sandra Bansept, salutatorian, received second honors. Other awards were won by Patricia Willson, Patricia Nicolaus, Elyse Herbert, Leonor Mussenden, Mary Mulcahy, Kathleen Faller, Diana Diaz, Georgiana Phend, Barbara Van Valen, and Denise Rankin.

Mr. Speaker, under the leave to extend my remarks in the RECORD, I include my address.

In a conversation I had with Sister Mary Peter earlier today I neglected to explain to her that the reason I have not emerged successful in any debate throughout the 14 years of my marriage probably stems from the fact that my wife received 2 years of her academic training here at St. Louis Academy.

This is, of course, a compliment to the training in logic you receive here at St. Louis. My best advice to the ladies here today is to let someone at some time in the future win one every now and then.

To you young ladies (people) gathered here today, this occasion is a bittersweet experience. Joyous, yes, in the knowledge that you are on the threshold of new opportunities, new challenges, new and greater responsibilities; and sad, too, in the realization that now, after these school-tied years of friendship, you must part and walk alone to your individual destiny.

The pressures, the parties, the excitement of graduation leave little time for reflection, I know; but my guess is that each of you, sometime in the happy confusion of the past few days, has paused to wonder: "What has life in store for me? Will I reach the goal I have set for myself?" Now, I am a Congressman, not an oracle; I cannot tell you whether or not you will reach your goal, but I can tell you how you can reach toward it.

The key is education.

Education means different things to different people. To the young Peace Corps volunteer in an emerging nation in Africa, education means the God-given privilege of bringing the benefits of the modern world to an untutored savage; to the savage, education can mean so simple a thing as basic farming that will keep him and his family from want.

To the far-seeing scientist, education means widening the horizons of man's knowledge—and our horizons are still limited, despite the great strides we have made in the past quarter century—and applying this knowledge to build a better society and a more equitable one.

In short, education is another word for progress, whether it means the ability to scrawl a signature or the ability to launch a rocket to the moon.

It is theoretically possible, of course, to progress without education. Take the case of Alfred, who was the office janitor for a large corporation. Alfred was a crackerjack janitor; hard working, conscientious, and skilled at repairing the minor things that go wrong in an office. His bosses were highly pleased with him. But, one day there was a corporate merger and a new set of bosses moved in, among them a personnel manager who was a stickler for regulations. In interviewing Alfred he was horrified to learn that the janitor could not read or write. Good janitor or not, Alfred was fired.

Nobody else would hire him. So, in desperation, Alfred withdrew his small savings and opened a small tobacco shop. He was as good a businessman as he was a janitor; though illiterate, he was shrewd. In time, he opened a second shop, then a third * * * eventually, some of his wealthy customers induced him to open a chain and agreed to back him to the tune of $500,000. The day came to close the deal, and Alfred was across the desk from the banker, who handed him the contract to read and sign.

"I can't read or write," said Alfred.

The banker was astounded.

"What," he exclaimed. "You've done so well in business and you can't read or write. Just think what you'd be if you could read and write."

"I know what I'd be," said Alfred. "I'd be a janitor."

Now, that's a good story, but it's just that—a story. In today's increasingly complex world the illiterate—and even the semiliterate—is totally helpless and hopeless. It is a keenly competitive world; only those who are prepared can reap its rewards.

Let me tell you another story—this one true. Some 5 years ago, down in Prince Edward County, Va., the authorities closed the public schools rather than obey a U.S. Supreme Court order to integrate them. Public schools stopped for almost 3,000 children. For the whites among them, stopgap schools—in church basements, libraries, fraternal halls, anywhere there was room—were soon organized. In time, a whole new private school system, with its own buildings, libraries and other facilities, was provided for the white children in a massive community effort.

But for all except a few of the 1,650 Negro children in Prince Edward County there was no school at all for 4 long years. Until this year, when a group of public-spirited men and women put their time, talent, and money to work, there were no classes at all for Negroes. The new schools for them opened with high optimism—but not even the educators realized the damage that this 4-year blank had wrought.

Consider this—for hundreds of Negro children who entered school for the first time this year the loss was complete. An 11-year-old girl had to be shown how to hold a pencil. A 10-year-old boy clapped his hands to his sides and tearfully refused to touch a library book because, as he said, "I can't read." First graders couldn't or wouldn't say their own names; those of high school age had forgotten how to read or do grade school arithmetic, their speech was almost unintelligible; some of the young people, in the 18 to 22 age bracket, mind you, tried to take up their high school work again but found the pace too fast and quit, many have dropped out, permanently lost to themselves and to a society that simply cannot afford this waste of human resources.

Thus, you here today, with those cherished diplomas in your hands, are fortunate. But how will you use this good fortune? To what purpose will you put your education? How will you employ this magic key to the future? To open a door to a snug, smug, private world of security? Today, this is an alluringly easy door to open. There is opportunity on every side. Well-paying jobs seek you out; it is a buyer's market in employment for those who have the wherewithal—education. We live in an era of unparalleled material prosperity. The world of the magazines—a house in the suburbs, a good, safe job, happy, well-fed children and all the rest of it—is a reality, and all for a dollar down and a dollar a week.

Unhappily, we have all been so bedazzled with the false gold of materialism that we tend to accept it as an end in itself; our sense of values becomes distorted; the new job is accepted not because it offers a greater opportunity for accomplishment or a deeper feeling of satisfaction, but because it nourishes the ego; the new house is bought not so much to live in as it is to impress friends who perhaps cannot afford one; the old car is perfectly serviceable—and paid for—but the new car is a status symbol. It is a tidy life, and can be yours for the asking, but is it a worthy goal? Is this all that education really means? I think you will agree that it does not.

Education means the ability to grow—spiritually and intellectually as well as materially. And with education goes obligation—the obligation of each succeeding generation to carry on the perpetual quest for the improvement of society in other areas besides the material.

And, believe me, we have room for growth spiritually and intellectually. We are educated enough to destroy the world with a monstrous weapon, but not educated enough to see to it that this weapon will never be used; we are educated enough to orbit a man in the awesome environment of space, but not educated enough to seat a black child in a white school without the risk of violence; we are educated enough to produce a man such as the late President Kennedy, but not educated enough to cure the sick mind of the assassin who was destined to kill him.

But, you ask, what is it that I can do to grow, to repay this obligation my education has imposed upon me? First, you must continue to learn; your diploma, from this academy, or from college, is a beginning, not an ending. For too many today, the mental books close upon graduation, never again to open. We live in an age of specialization, which means that we are so preoccupied with a part of a project that we forget the whole of it. A rocket scientists, we'll say for purposes of illustration, is the Nation's foremost technician on solid fuels; his entire life is wrapped up in his work. He takes no interest in politics, he is oblivious of the cancerous social crises of the time, he simply cannot be bothered by the problems of the world beyond his own narrow horizon. What is this overspecialized man, then, really contributing to the society that provided him his opportunity? The answer is nothing, except in the strictly material sense.

Is this man, as intelligent as he is, contributing a tenth as much as those dedicated and caring people who devoted their time, talent, and money to provide schooling for the friendless Negro children down in Virginia?

No.

So, I urge you, never let your intellectual horizon shrink. Keep yourself mentally active, whether you become scientists or housewife and mother—and, more and more, I'm inclined to think the latter is the more important of the professions—keep pace with the events that vitally concern you—politics, international affairs, the schools, the whole varied, exciting world around you. Remember, most problems are not beyond solution; but in order to arrive at solutions you first must understand the problem; and to understand the problem you must be aware of it.

Awareness, unfortunately, is a scarce commodity; think of the tens of millions dully staring each night into the blue glare of television sets, comfortably numbing their minds, and you can readily understand why awareness is uncommon today. Turn off the television once in a while; read the newspapers; take a trip to the library and pick up some books, preferably by authors you don't agree with at all—there's nothing like a high sense of outrage for stimulating the intellect. You'll be surprised at the cogent arguments you can come up with. All of a sudden, you're growing.

But interest in itself isn't enough; you must get in the game of life instead of just buying a ticket and watching from the sidelines. Nothing is so deeply satisfying as to be a part of some undertaking, whether it be a church bazaar or a presidential campaign. Ask yourself, as you begin your adult life, what are your ideals, your political philosophy, your attitudes toward current issues. Then seek out those of like mind, and translate your ideas into action.

I cannot emphasize too strongly the importance of your participation in politics, which is the very fabric of our country. It is truly shameful that in our Nation—showcase of democracy for the world—more people do not vote than do, even in this comparatively enlightened era. Too many of us shrug and say, "Oh, well, what's one vote, one way or the other?" I can tell you how important one vote is—President Johnson's career on the national political scene was the result of just 84 votes—the slim margin that sent him to the U.S. Senate in 1948.

Even more important than your vote is your participation. I don't mean, of course, that you should run for office, though there is certainly no reason why you shouldn't. What I do mean is that you should make your voice heard for or against a legislative proposal, for or against a candidate. To believe in an idea or a man and not support it or him is to be untrue to yourself; political apathy is an evil that can have appalling consequences; tyranny is far more often the result of apathy than revolution; consider the bloody Nazi regime in Germany; Hitler did not seize the Government of Germany—he won it by default through the apathy of the German people.

Begin your participation at home, in your neighborhood. Look around you. What are the problems of your community? What does it need? How can you help? Does a family need aid? Does the Scout troop need adult leadership? Is the PTA withering for lack of interest? You have the education, you are aware, you understand. You have the key to constructive participation. Use it.

As you participate, you grow again, this time to a realization of the tremendous—and deeply rewarding—obligation you have to those less fortunate than yourself. To bring this home to you today, I want to tell you a story—a true one and a poignant one—that will take you back again to Prince Edward County, Va., where education is so important because there has been so little of it.

Among the Negro children who had never attended school was an 8-year-old boy named Beauregard Lee. Now Beauregard was no different than the rest, he too was timid and fearful. But when he took the general IQ test his teachers, these truly educated men and women who gave up the easy, well-furnished life to help these unfortunate youngsters—were astounded; Beauregard Lee came up with an IQ of 153 percent, which means he has more brain power than 99 percent of all Americans. Beauregard, at 8, is already solving algebraic equations.

But if it had not been for those who were faithful to the obligation of their education, Beauregard Lee would be forever lost to ignorance. So, wherever your career takes you, to whatever heights you climb, think occasionally of Beauregard Lee. At some time in your life you may pass a little boy or girl like him. If you do, pause and give him the magic key that was handed to you, the magic key to education. In doing so you will achieve the noblest goal that life has to offer. Thank you.

Address by Luther H. Hodges, Secretary of Commerce

EXTENSION OF REMARKS
OF
HON. THOMAS N. DOWNING
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 16, 1964

Mr. DOWNING. Mr. Speaker, on last Saturday, June 13, 1964, our able and beloved Secretary of Commerce Luther H. Hodges, delivered an excellent address to the 16th Annual News Seminar of the Virginia Press Association in historic Charlottesville, Va.

His remarks on that occasion constitute an excellent summary of the accomplishments of the present administration and the national goals it seeks to attain.

He also makes certain predictions concerning the upcoming national elections which I am sure will be of interest to colleagues on both sides of the political aisle.

The address follows:

ADDRESS BY SECRETARY OF COMMERCE LUTHER H. HODGES

Thank you for asking me here to the 16th Annual News Seminar of the Virginia Press Association to talk with you newsmen, young and old. I always like to meet the press.

I am delighted, too, to come to Charlottesville and the University of Virginia. Virginia, as many of you know, is the State where I was born, and although I grew up in the neighboring State of North Carolina, I feel very close to the Old Dominion.

As a Democrat—as any Democrat would—I am pleased to come here to the State that gave birth to and nourished the founder of our party—Thomas Jefferson. It was called the Democratic-Republican Party in those days, and one of the ways we have improved on it was to get rid of the second part of the title. Andy Jackson did that.

It is fitting that the Virginia Press Association should choose to meet here, for Jefferson was an ardent supporter of a free press. You will recall that he once said that if he had to choose between a government without newspapers or newspapers without a government he would prefer newspapers. Fortunately this is a choice we in the United States do not have to make.

As Jefferson observed, "The basis of our Government being the opinion of the people, the very first object should be to keep that right"—and in days, such as these, of rapid change and complex, worldwide issues, the job of keeping our people informed can be a difficult one.

Those of us in politics are singled out for particular attention in the country's newspapers—especially in a presidential election year—and rightly so. In no area does the press perform a greater public service than informing the citizens of America of the doings of their public servants.

You have a problem and under all the circumstances I think you do a good job. In meeting deadlines and covering controversial subjects there are bound to be errors. I will say I think those errors are honest and few. But when a candidate for public office yells foul at the press too loudly and too often—as a very active officeseeker recently has done—I can only say perhaps it is the truth that hurts.

I have been asked to discuss politics, which is a very big topic for the short time we have here today, and I have been asked to talk about the coming presidential campaign, which is also a very big topic and an uncertain one. I haven't any inside information on the future, so I would not care to predict who the Republican candidates will be or who the Democratic Vice Presidential candidate will be.

At a press conference in Germany last week, I was queried as to the possible Republican Presidential nominee. I said we have an expression in the South: "It don't make no difference."

I do say that President Lyndon B. Johnson will head the Democratic ticket and that the American electorate will endorse that nomination and sweep him back into office in the fall.

I feel confident that November will find the Democrats continuing in national office and gaining in local elections because I believe their program and their candidates best serve the people, which is the highest aim of politics.

Political action is the American way of selecting public officials who are responsive to public needs. Through the mechanism of politics we provide for the defense of our country; we work for a healthy economy at home and a strong competitive position abroad; we achieve the social aims of the community in its war against poverty, disease, and crime.

As Woodrow Wilson—another great Virginian besides Thomas Jefferson—pointed out in a political science textbook he wrote long before he became President: "If the history of society proved anything, it proves the absolute naturalness of government. If society itself be not evil, neither surely is government an evil, for government is the indispensible organ of society * * * its only potent and universal instrument."

It is my feeling, apart from partisan considerations, which I grant are strong, that President Johnson is the man best qualified in the United States today to lead our country toward the goals of peace and prosperity.

It would be hard to find an area in our national life with which he has not had contact and displayed his considerable skills. He began his career as Texas Administrator for the National Youth Administration.

He spent 11 years in the House of Representatives and 12 years in the U.S. Senate.

He served as Senate Democratic whip and Senate majority leader. He served on the National Security Council and the Council's Executive Committee. He was Chairman of the National Aeronautics and Space Council. He headed the President's Committee on Equal Employment Opportunity.

As Vice President, he represented the Kennedy administration on trips to 20 foreign nations. Indeed, as Vice President, he sat in on Cabinet and other important meetings and advised and helped shape the programs of the Kennedy-Johnson administration.

This program of the Democratic Party is a dynamic program designed to meet the vast and continuing challenges that face America at home and abroad.

This administration is pledged to provide: A national defense that is effective and economical; a rising standard of living for all of our citizens; and services to business, labor, communities and the individual that this great growing land of ours demands.

The administration built this program on the firm footings of a strong and growing economy. And to insure the health of this country's economy, it set about to create the atmosphere for business that would enable it to thrive and expand.

These efforts have been met with solid success. In 1961 the economy of the United States was at the low tide of recession. This tide was turned. Many of the problems that faced the country early in 1961 have greatly diminished.

Under the administrations of President Kennedy and President Johnson, our country has enjoyed the longest peacetime period of growth in a generation—an economic expansion now in its 40th month. And this growth was accomplished with remarkable price stability.

Unemployment has dropped from nearly 7 percent in early 1961 to 5.1 percent, the lowest level since February 1960. This is the sort of progress we are working for.

Gross national product is up 17 percent, measured in constant dollars.

Industrial production is up 24 percent.

Civilian nonfarm jobs are up over 3 million.

Personal income is up $75 billion or 18½ percent.

Corporate profits before taxes are up $16 billion, or 41 percent.

Total after-tax income of the American people is up $64 billion or 18 percent.

Real disposable income per family is up more than $700 in 1963 prices or 9 percent.

Certainly these economic gains came from the basic soundness of our economic system, the energies of the American businessman and the American people, and a set of complex economic circumstances. But as the great English historian, Edward Gibbons, once said, "The winds and waves are always on the side of the ablest navigators." Many of the economic gains our country has made must be laid to economic policies set down by this administration.

Government steps which helped to bring us out of the recession ranged from extended unemployment compensation through a far-reaching housing program. The administration instituted programs to retrain workers and bring industry to areas of severe underemployment.

Most important the administration acted to stimulate consumer demand through a tax cut bill. This reduction is expected to put $11½ billion into the private sector of the economy. It will add, through its multiplier effect, year after year, an estimated $35 to $40 billion more gross national product, $25 to $30 billion more consumption, and an estimated $5 to $7 billion more in business profits.

Investment is a potent stimulant to employment. The investment tax credit and the accelerated depreciation schedules established by this administration were two important steps for economic growth. The combined effect of these two actions gave industry an added cash flow of near $5 billion total for 1962 and 1963. And business expenditures on plant and equipment in 1964 are expected to hit a record $43.2 billion, 10 percent more than last year.

Most of all, the administration has restored confidence in the Nation. Long before the tax bill passed, businessmen and industrialists began to make plans for greater investment and spending because they had confidence.

This administration has proved to be more probusiness in a practical sense than any administration of either party for a long time.

We are proud of this, and there is just cause for this pride in our accomplishments. But in spite of more growth than this Nation has ever known, and in spite of a record level of accomplishment, we have yet much to do.

In spite of more than 70 million employed in this country, 3½ million are unemployed. In spite of the highest standard of living of any country on the globe, one-fifth of our people have not properly shared in this abundance.

This comparative poverty imposes a cost for every citizen in the United States. Raising the annual earnings of 10 million of our poor by only $1,000 a year will add $14 billion a year to our national output. Furthermore, we could then reduce public assistance payments which now cost us $4 billion a year, and we could cut the high costs of poverty-related problems of crime, delinquency, disease and hunger.

These are not conditions that will cure themselves. Nor are they conditions that we can with conscience tolerate. They are conditions which we must use our energies and imaginations to remedy.

I am basically a conservative—a businessman and a southern moderate. But I believe sincerely that our Democratic Party is best suited by tradition, action, and vision to do the best job for the common man—in a higher standard of living for him and in human rights that he deserves. If we help all the people, we grow a strong economy and a great nation—otherwise we fail.

The South has given as a new leader, President Johnson, who is offering us a program for advancement that is worthy of the noblest tradition of the South.

Thank you.

Baltic Deportations

EXTENSION OF REMARKS

OF

HON. FRANK J. HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1964

Mr. HORTON. Mr. Speaker, we like to think that the barbarities of man no longer exist and that society is now motivated by considerations of justice and humanity. However, acts of the utmost cruelty and savagery sometimes still burst forth. A case in point is that of the deportation of thousands of helpless Estonians, Lithuanians, and Latvians in June 1941 by Russian Communists.

These people, liberated from Russian domination in the aftermath of World War I, had enjoyed their hard-won freedom and had focused their attention on developing their own countries. They wanted nothing more than to be left alone, but they could not exist independent of the designs of the two great powers, Nazi Germany and Communist Russia, who lay on either side of them. Following the German-Soviet agreement, Russian troops poured into these three Baltic States in mid-June 1940 to extinguish their independence and incorporate them into the Soviet Union. Terror and repression, reminiscent of czarist days earlier, followed in the wake of the Russian Army.

But the worst of Soviet oppression had yet to come. On June 14, 1941, 1 year after the Russians had seized control, they instituted a wave of terrorism that equaled that of the Nazis. On that date, at the beginning of a campaign to suppress anti-Communist opposition, 15,000 Latvian men, women, and even innocent children were packed into cattle cars to begin a journey to the east.

This outrage was only the beginning. By the end of the year, 19,000 more of their fellow countrymen had been arrested, deported, or killed. The same story was reenacted in Estonia and Lithuania. On the night of June 14–15, Lithuania lost 30,000 people to the inhuman slave labor camps in Russia. Fifteen thousand Estonians were in like fashion deported. Most of these unfortunate victims, sacrificed to the totalitarian Communist order, never returned, or went insane, broken by Soviet brutalities and inhuman living conditions.

But what happened to their fellow countrymen at home? After the Germans drove out the Russians, they were in turn defeated by the Red Army which returned in 1944. Once more the tyranny and deportations reappeared, showing that the earlier atrocities were not just the child of impulsive barbarism. In all, half a million souls from these three former independent states, Latvia, Estonia, and Lithuania, were deported to suffer torture, disease, and starvation. We cannot describe the hideous acts that these people suffered. Many did not live to tell their story.

Mr. Speaker, for as long as these outrageous and wanton acts against the Baltic peoples go untried and unpunished, the conscience of freedom will be troubled. Our minds, because we hold dear to the tenets of justice, are deeply distressed by the slavery that now exists in the once free countries of Lithuania, Latvia, and Estonia.

I believe that we can do more than speaking of our sorrow for the plight of the Baltic peoples and their homelands; we can act. We can and should seek the immediate withdrawal of all Soviet troops, agents, colonists, and controls from the Baltic nations. Further, we can and should work for the return of all Baltic exiles from Siberia, prisons, and slave-labor camps in the Soviet Union.

Our actions should be taken through the United Nations where discussion of the Baltic States question should be initiated promptly.

Nearly a year ago, I introduced in the House, House Concurrent Resolution 197, providing that Congress request the President to instruct our U.N. delegation to pursue this matter. My resolution, by its adoption, also would express the sense of Congress that the President should instruct the U.S. mission to the U.N. to hold free elections in the Baltic States and punish the Soviet Communists who are found guilty of crimes against the people of these countries.

Mr. Speaker, 23 years have passed since those horrible days in Lithuania, Latvia, and Estonia. Yet, the lot of the Baltic peoples continues one of oppression.

Therefore, we must not delay any longer. The kind of response such heinous crimes should provoke is long overdue. And, until this Nation, which so highly prizes all that is denied to the Baltic countries, moves decisively to restore self-determination in these captive nations, we will not have fulfilled our democratic purpose.

Baltic Peoples and Their Woes in 1940–41

EXTENSION OF REMARKS

OF

HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1964

Mr. GALLAGHER. Mr. Speaker, World War II let loose many evil forces which caused death to tens of millions of peoples and misery to hundreds of millions. In Europe the war's most helpless victims were the peoples of the three small, independent republics of the Baltic countries—Estonians, Latvians, and Lithuanians. The tragedy of these peoples was brought on by the Soviet Government.

Soon after the outbreak of the war the Governments of these countries were browbeaten and bullied, and finally forced to sign mutual assistance pacts with the Soviet Union. Then they were compelled to agree to stationing Soviet troops at certain strategic points in these countries. And finally the Soviet Government accused the Governments of Estonia, Latvia, and Lithuania of anti-Soviet activities, and on this flimsy pretext the Red army attacked and occupied the three countries. In June of 1940 Soviet occupation was completed; Estonians, Latvians, and Lithuanians lost their freedom and were caught in the clutches of Soviet tyranny.

In the meantime wholesale arrests and imprisonments of prominent men in all three countries were carried out relentlessly. These unfortunate souls were hurriedly packed up in freight cars and deported to distant parts of the Soviet Union. This terror of arrests and imprisonments, and deportation continued for a year, culminating in the largest mass arrests and deportations in tens of thousands in one single day alone, on the night of June 13–14, 1941. It is no exaggeration to say many hundreds of thousands were thus uprooted from their homes and deported to inhospitable regions of distant Asiatic Russia, there to work and suffer in slave labor camps, seeking their salvation in death. The free world will never know the number of these unfortunate Baltic peoples thus doomed to certain death. All we know is that only a few of them were fortunate to survive the ordeal, and then return to their beloved homelands alive. Today on the solemn observance of the tragedy that was brought on these Baltic peoples by the Soviet Government, we pay due respects to its victims and pray for the betterment of the lot of those who survived that tragedy.

Are the Critics of Post Exchanges the Unwitting Enemies of Military Morale?

EXTENSION OF REMARKS

OF

HON. L. MENDEL RIVERS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1964

Mr. RIVERS of South Carolina. Mr. Speaker, recently, there has been a great deal of publicity given to the military commissary system. Most of the publicity has been adverse and implies that the service commissaries compete unfairly with commercial enterprises. Even the General Accounting Office has attacked military commissaries.

I think it is time for some self-appraisal of service benefits. I voted for the congressional pay raise, as well as a pay increase for Federal employees. I think we deserve a pay increase and I think Federal employees deserve a pay increase. But I noticed that the bill we passed the other day did not reduce or eliminate a single benefit now being received by Members of Congress or Federal employees. It is a strange commentary on our sense of justice that we can vote to increase our own pay while at the same time there are individuals in and out of the Congress who would eliminate or drastically reduce the commissary system which means so much to our service personnel.

The President has declared war on poverty and yet we know there are several thousand members of our armed services, with dependents, whose income, including all benefits, is considerably under the minimum of $3,000 per year established by the President.

When we discuss commissaries, I think it is wise to remember that if they are curtailed or eliminated, the people who will be hurt the most will be those young officers and enlisted men with families who need all the help they can get.

The commissaries are operating legally, they are performing a vital function, and if some of the chain stores in America are not making sufficient profit to satisfy themselves, they better find some other way of increasing their dividends without taking it out of the hide of our military personnel.

As far as I am concerned, the commissaries are operating properly today; they are indispensable to the morale of our armed services; and those who attack them are creating a great deal of unnecessary unrest among our service personnel.

I state with conviction that I will defend the commissary system and will oppose any effort to curtail their operation in any way.

If a single one is closed, it will be over my battered body.

In some areas, commissaries are absolutely indispensable, and in all areas, the relatively small savings that are affected as a result of purchasing in commissaries is vital to the service family—without it, many more of our service families would go on relief.

Mr. Speaker, I deplore these attacks upon the commissary system. I suggest we pay more attention to finding ways of improving the morale of our armed services.

Trans World Airlines

EXTENSION OF REMARKS

OF

HON. FRANK T. BOW

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1964

Mr. BOW. Mr. Speaker, a very distressing situation has arisen with regard to one of America's leading air carriers and the Government of Greece.

Trans World Airlines has worked hard to build up tourist travel to Greece, an operation that is of benefit not only to the carrier but to both the United States and Greece. For example, last year 147,000 Americans visited this ancient land—a record number. There is every reason to expect that increasing numbers will wish to do so, taking advantage of the direct travel facilities developed by TWA. However, this bright future is clouded by recent orders of the Greek Government that restrict the American carrier's operation.

This order provides that the carrier cannot carry passengers on certain flights moving over the following segments of its route, in both directions: Athens-Rome, Athens-Cairo, and Athens-Tel Aviv. Specific flights are included in this restriction. Thus 5 flights per week out of a total of 27 are restricted between Athens and Rome; 4 flights per week out of a total of 14 are restricted between Athens and Tel Aviv, and 3 flights per week are restricted out of a total of 13 between Athens and Cairo.

These specific flights are the flights that compete with Olympic airlines, a Greek airline owned by Aristotle Onassis who is well known to most Americans as one of the world's wealthiest ship owners.

To illustrate, the Greek Government will not permit the carrier to transport a passenger on a restricted flight from Athens to Rome even though this passenger is an American who merely wishes to stop over in Rome on his way to the United States and holds a through ticket.

Since these restrictions were imposed in late May, more than 500 passengers of TWA have been forced to transfer to other airlines in order to complete their journeys.

Most of these passengers were American citizens whose trips began and ended in the United States.

The restrictions are so rigidly enforced that two mechanics employed by the carrier in Athens who were needed in Tel Aviv to service an aircraft were not permitted to go to Tel Aviv on their own airline.

A TWA tour consisting of 23 Americans was not permitted to transit Greece. The tour flew from Cairo to Athens solely to make a connection from Athens to Ted Aviv but was not permitted to board the connecting flight.

Our Government and the airline feel that this is in violation of the Air Transport Agreement between Greece and the United States. This agreement gives the carrier relative freedom to schedule as required to meet the needs of through traffic moving between the two countries. The Greeks assert that anyone who stops in Greece, or on the way to or from Greece, is not a through passenger and therefore subject to special restrictions by the Greek Government.

This policy cannot help but have an adverse effect upon efforts to promote tourism to Greece. It is a serious inconvenience to the traveling public and it is prejudicial to TWA. It seems to me that on sober reflection, the Government of Greece will realize that this is not the proper way to promote the interests of good business and good relations between the citizens of our two countries. Certainly any benefit that may result by enhancing the competitive situation of Olympic Airline cannot outweigh the disadvantages of this policy.

I am told that Olympic operated with a profit last year without this artifically created competitive advantage. This makes the action of the Government of Greece even more difficult to understand.

Present Immigration Quota System Must Go

EXTENSION OF REMARKS

OF

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1964

Mr. CELLER. Mr. Speaker, under leave to extend my remarks in the RECORD, I am pleased to include my testimony before the House Judiciary Subcommittee on Immigration and Nationality, presented on Thursday, June 11, 1964, on my bill, H.R. 7700, to revise our immigration laws. My statement and section-by-section analysis of my bill follow:

TESTIMONY OF REPRESENTATIVE EMANUEL CELLER BEFORE THE HOUSE JUDICIARY SUBCOMMITTEE ON IMMIGRATION AND NATIONALITY

Mr. FEIGHAN, my distinguished colleagues, I welcome, indeed, the opportunity to talk on our immigration policy generally and my bill, H.R. 7700, specifically.

As you know, H.R. 7700 embodies a proposal submitted to the Congress in a special message by the late President Kennedy and formally supported by President Johnson.

The present law perpetuates the principle of national origins, an antiquated immigration system proven beyond peradventure of a doubt to be unworkable. It was devised in 1921—more than 40 years ago, in an atmosphere of fear bordering on hysteria—a direct result of the unsettled domestic and foreign conditions following World War I. H.R. 7700 erases it.

One of the very first speeches that I ever made in Congress inveighed against the national origins theory which was embedded in the 1921 law and was further extended in the 1924 act. At no time was this formula actually workable, constituting, as it did, a gratuitous insult to many nations whose friendship we forfeited.

The fundamental feature of my bill, H.R. 7700, is the elimination from our laws of the fallacious belief that the place of birth or the racial origin of a human being determines the quality or the level of a man's intellect, or his moral character or his suitability for assimilation into our Nation and our society.

In searching for a brief and comprehensive description of the underlying principle of my bill I use these words: "We do not intend to ask any immigrant, 'Where were you born?' We intend to ask him only 'Who are you and what can you do for the country in which you have chosen to live?' "

Since the enactment of the law which enunciated the contrived ideology of the national origins theory, the criticism has been both acute and unceasing. Historians, social philosophers, demographers have pointed again and again to the fallacious reasoning which led to the adoption of the national origins formula.

Forty years of testing have proven that the rigid pattern of discrimination has not only produced imbalances, but that Congress itself, through a long series of enactments forced by the realities of a changing world saw fit to modify this unworkable formula so that today it remains on the books primarily as an expression of gratuitous condescension. In fact, the condemned formula applies now to only 33 percent of our total annual immigration and even with regard to that 33 percent it is splintered time and time again by legislative patchwork attempting to prop up a crumbling structure.

I am firmly convinced that this formula would have been changed years ago had a workable substitute been found. I am offering that formula now in the bill H.R. 7700.

It is no secret to you, nor for that matter to anyone in Congress, that I have been highly vocal in decrying the national origins system of immigration selection. I have sponsored some and followed closely each successive act of Congress which fractured the untenable ratio of selectivity that allots annually some 65,000 quota numbers to Great Britain and some 300 to Greece and 250 to Spain.

Congress recognized well what it was doing when it adopted these one-shot acts. This committee is well aware of how the Congress shattered the national origin pattern, but whatever the reason, we chose not to call a spade a spade. In other words, we never did admit to the truth of what we were doing. In a sense, each of the acts of Congress I am about to enumerate has been an act of redemption, the slow retreat from the fears and failures of 1921 and 1924, and an open recognition of the unworkability of the basic principle of our immigration law.

As soon as Nazi Germany's surrender silenced the guns of World War II, the free world awoke to face the overwhelming task of resettling over 1.5 million victims of Nazi and Communist terror, the liberated inmates of concentration camps and Hitler's slave laborers; in short, the mass of humanity stamped "Displaced Persons." The United States decided to offer hospitality to what was deemed to be her fair share of the unfortunates. However, the national origins formula of the 1924 law remained an unsurmountable obstacle to what the people of the United States wanted to do; namely, to accept the responsibility which the U.S. position of leadership in the world had imposed.

In 1948, the 80th Congress passed the first Displaced Persons Act. Woefully inadequate as that law was, it permitted the entry of 200,000 displaced persons outside of the national origins quota limitation, but in spite of the objections of many, myself included, that law imposed an unfair mortgage of the immigration quotas.

The 81st Congress passed the second Displaced Persons Act, sponsored by myself. Once again, the Congress recognized that the national origins quota system must be disregarded if this country were to respond to the public demand and discharge its moral and humanitarian obligations. As a compromise, the unfortunate mortgage feature of the 1948 law was retained.

In 1957, however, under a bill sponsored in the Senate by the late President Kennedy and in the House by my late friend and colleague, Mr. Walter, the mortgage provision was stricken from the statute books in obvious recognition of the fact that the situation created by the simultaneous operation of the national origin system plus the mortgage, had become untenable. Congress knew that the doors to the United States could no longer stay tightly shut for immigrants born in some 11 countries of eastern Europe which suffered most under Hitler's and Stalin's rule.

The ink was hardly dry on the basic act of 1952 when, early in 1953, the Congress recognized that while the displaced persons and refugees resettlement problems have not yet been solved, the new law, by carrying forward the national origins formula, left this country without any instrumentality to cope with its responsibilities and the emergent needs of the homeless. A new refugee admission law was proposed and quickly passed. It is known as the Refugee Relief Act of 1953. It brought to these shores over 220,000 refugees outside of the quota system, outside of the national origins formula and even without the pitiful expediency of the mortgage used in the 1948 and the 1950 enactments.

Just as the two Displaced Persons Acts constituted the first loud and public admission of the obsolescence and the unworkability of the national origins formula of the 1924 law, the Refugee Relief Act of 1953, enacted only 8 months after the 1952 act became effective, remains an equally convincing piece of evidence of the bankruptcy of the system so very unfortunately incorporated in the statute now in effect.

Since 1957 every Congress, through the 87th, has been called upon to pass and did, indeed, pass a law further bending, chipping off, and whittling away the national origins formula.

Under pressure of inescapable facts, the 85th Congress passed the act of September 11, 1957, converting into nonquota status many thousands of immigrants in the first, second, and third preferences, the highly skilled aliens whose services were urgently needed in this country and the relatives of U.S. citizens and immigrants. Under the same law all unused numbers remaining from the Refugee Relief Act allocations were authorized to be used—again without regard to national origin of the applicants.

The Hungarian emergency caught the United States again unprepared to cope with the crying and most urgent need for offering asylum to the victims of Soviet terror. A broad interpretation of the law was used and the doors were open but the Congress had to act fast to redress the situation and the same 85th Congress enacted on August 8, 1958, the law authored by Mr. Feighan granting permanent residence to upward of 40,000 Hungarian refugees. The principle of national origins received another body blow.

From 1957 on, this trend of congressional action in the field of immigration became obvious—and permanent. Every year, through 1962, brought new laws admitting outside of the national origin system highly skilled specialists, relatives of U.S. citizens and permanently residing aliens as well as refugees; always, however, on a piecemeal basis, never reaching the core of the problem.

In 1958, the Congress passed four such laws, the acts of July 25, August 8, August 21, and September 2. The last one—Public Law 85-892—had an additional significance since it selected nationals of only two countries for relief, the Portuguese victims of the earthquake which took place on the Azores and the Dutch expelled from Indonesia—a truly convincing admission of the inadequacy of the national origins quota system, as the quota for the Netherlands is relatively large, while the Portuguese quota is very small—both equally inadequate to achieve congressional intent to help.

The 86th Congress acted twice along the same lines. The act of September 22, 1959, granted nonquota status to relatives of United States citizens and permanent residents who had already experienced a waiting period on the consular registers exceeding 10 to 15 years. The act of July 14, 1960, admitted more Portuguese and more Dutchmen as well as authorized the paroling of refugees with the built-in provision permitting the Attorney General to adjust their status to that of permanent residence after they had spent 2 years in the United States. National origin was again totally disregarded.

The 87th Congress did not deviate from this now almost traditional course of action. Again, under the act of September 26, 1961, the reuniting of immigrant families was expedited by exempting large numbers of registrants from the national origin restrictions. Following that, under the act of October 24, 1962, the Congress enlarged on the categories of relatives permitted to enter on a nonquota basis and for the fourth time since 1957 has extricated first preference applicants, the skilled specialists, from the national origins straitjacket.

Thus, year after year the Congress continued to tear away bits and pieces of the national origins system until a situation was created where that system, as of fiscal year 1963, governs the admission of only 33 percent of our total immigration intake while the onus of it remains nailed down to our entire immigration code.

In view of this history can we honestly say that we are now faced with a radical proposal? Are we really suddenly and dramatically departing from that which we presumably had held sacred for 40 years? Obviously, no. Instead of clean surgery we have indulged ourselves in operations of occasional blood infusion into a moribund system.

And you, gentlemen, know best how much time, effort, blood, and sweat you, yourself, put into the patchwork repair job of our immigration laws when you sit each week and examine thousands of private bills, never reaching the bottom of the barrel.

In H.R. 7700 careful provision is made for proper transition from the medieval formula into modern times. For 5 years each quota allotment will be reduced 20 percent until at the end of that period there will be no national allotments. The unallotted numbers will be placed into a general pool and issued in chronological order within statutorily defined preferences favoring highly skilled specialists and uniting of families. Special provisions are made for emergency situations, thus eliminating the need for emergency legislation which we have been called upon to pass over the years.

At this point I want to make it clear, since every discussion surrounding immigration changes is obscured by arguments about our unemployment, our lack of classrooms, our housing, etc., that these arguments are totally irrelevant since the bill before you in no way significantly increases the basic numbers of immigrants to be permitted entry. We are not talking about increased immigration; we are talking about equality of opportunity for all peoples to reach this promised land. We freely acknowledge the fact that we are a land of immigrants, that this amalgam of blood has given us the richness, the diversity, the creativity that no other country in history has been able to achieve. From the builder of tunnels to the atomic scientist, we have drawn from the pool of world talent and have created a pluralistic society which—and I do not exaggerate—remains the wonder of all living historians.

In this complex age, therefore, shall not we as a Nation have the means whereby we can choose freely from all corners of the earth the talents and the skills we need and not limit our own choice because one man of genius was born 5 miles east or south of an arbitrarily traced boundary. This is the prime merit of this proposal, the flexibility, the acknowledgement that talent does not repose in only a few chosen spots of land areas.

It is now 40 years, almost to the day, since the 1924 national origins law was enacted. I submit that the fears and phobias of four decades ago have no place in our society in 1964. I respectfully submit that the days of patching are behind us. Is it not time our surgery were direct, clean, and straightforward?

Now I shall give you section-by-section analysis of my bill, H.R. 7700.

SECTION-BY-SECTION ANALYSIS OF H.R. 7700

Section 1 amends section 201(a) of the Immigration and Nationality Act, under which quotas for each country are determined. It abolishes the national origins system by reducing present quotas by one-fifth of their present number each year for 5 years. As numbers are released from national origins quotas, they are added to the quota reserve established in section 2. Thus in the first year, 20 percent (roughly 32,800) are released to the pool; in the second year, the pool has 40 percent of present quotas (or 65,600); until in the fifth year, all numbers are allocated through the pool. To provide some immediate relief to minimum quota areas, the minimum quota is raised to 200, but is then reduced in the same manner as other quotas.

Section 2 establishes the quota reserve pool under which all numbers will be allocated by the fifth year. In each of the 5 years constituting the period of transition, the pool will consist of (1) the numbers released from national origins quotas each year, and (2) numbers assigned to the old quotas but unused the previous year because insufficient demand for them existed in the assigned quota area.

These numbers are issued in the order specified in amended section 203 of the Immigration and Nationality Act. That is, first call on the first 50 percent is given to persons whose admission, by virtue of their exceptional skill, training, or education, would be especially advantageous to the United States; first call on the next 30 percent, plus any part of the first 50 percent not issued to the skilled specialists, is given to unmarried sons and daughters of U.S. citizens, not eligible for nonquota status because they are over 21 years of age; first call on the remaining 20 percent, plus any part of the first 80 percent not taken by the first two classes, is given to spouses and children of aliens lawfully admitted for permanent residence; and any portion remaining is issued to other applicants, with percentage preferences to other relations of U.S. citizens and resident aliens, and then to certain classes of workers. Section 203 further provides that within each class, visas are issued in the order in which applied for—first come, first served. These preference provisions, which under present law determine only relative priority between nationals of the same country, will now determine priority between nationals of different countries throughout the world.

To prevent disproportionate benefits to the nationals of any single country, a maximum of 10 percent of the total authorized quota is set on immigration attributable to any quota area. However, this limitation is not applied if to do so would result in reducing any quota at a more rapid rate than that provided by section 1. Ultimately, of course, the limitation applies to all.

Exceptions to the principle of allocating visas on the basis of time of registration within preference classes are provided to deal with specific problems. Since some countries' quotas are now current, their nationals have no old registrations on file. To apply the principle rigidly would result, after 4 or 5 years, in curtailing immigration from these countries almost entirely. Such a result would be undesirable not only because it frustrates the aim of the bill that immigration from all countries should continue, but also because many of the countries so affected are our closest allies.

At a time when the national security rests in large part on a continual strengthening of our ties with these countries, it would be anomalous indeed to restrict opportunities for their nationals here. Therefore, the bill allows the President, after consultation with the Immigration Board (established by sec. 16), to reserve up to 50 percent of the reserve pool for allocation to qualified immigrants (1) who could obtain visas under the present system but not under the new bill, whose admission (2) would further the national security interest in maintaining close ties with their countries. He is also given authority to grant visas to such immigrants without regard to the 10-percent limit on the number of immigrants from any country.

The President may also disregard priority of registration within preference classes for the benefit of refugees. Many refugees, almost by definition, are uprooted suddenly. They have had no thought of immigration before being forced to leave their usual homes by natural calamity or political upheaval; or they may be fleeing from persecution or dictatorship, in which case previous registration would have been dangerous. He may consider these and other factors in deciding whether to admit any applicant as a refugee or require him to await his turn under the regular procedure.

Finally, it is provided that if the President reserves, against contingencies, any numbers during the year, but does not then find them needed for the named purposes, they are to be issued as if not reserved. Similarly, the 10-percent limitations on the number of visas to be issued to any quota area is removed where other persons would not be foreclosed from entry by its removal.

Section 3 amends section 201(c) of the Immigration and Nationality Act, which presently limits the number of visas issued in any single month to 10 percent of the total issued each year. This limit is needed to insure that persons entitled to preference by virtue of skills or family ties will not be foreclosed from that preference by a rush of earlier applications which exhaust the annual quota. To insure that all numbers are nevertheless issued, present law provides that numbers not issued during the first 10 months may be issued during the last 2 months of the fiscal year, without limitation up to the total annual quota for the quota area. Often, if close to the full 10 percent is not issued in each of the first months, undesirable administrative problems result in the last two. The amendment allows the issuance each month of the 10 percent authorized for that month plus any visas authorized but not issued in previous months. It thus allows more even spacing of visas issuance during the year.

Section 4 amends section 202 of the Immigration and Nationality Act to eliminate the so-called "Asia-Pacific Triangle" provisions, which require persons of Asian stock to be attributed to quota areas not by their place of birth, but according to their racial ancestry. By the end of 5 years, this provision would be superfluous in any case, since national origin will no longer limit the admission of qualified immigrants. But the formula is so specially discriminatory that it should be removed immediately, and not operate even in part during the 5-year transition period.

Subsection (c) raises the minimum allotment to subquotas of dependent countries, thus preserving their present equality with independent minimum-quota areas. The dependent countries' allotments are taken from the mother countries' quotas. To prevent the dependent countries from preempting the mother countries' quotas disproportionately, it is provided that the dependent countries' shares of the quotas will decrease as the governing countries' quotas are reduced.

Subsection (e) conforms the present section 202(e) of the Immigration and Nationality Act to the change in designation prescribed in subsection (c).

Section 5 repeals section 207 of the Immigration and Nationality Act, which prevents the issuance of visas in lieu of those issued but not actually used, or later found to be improperly issued. Thus in Germany alone, under present law, over 7,000 visas are taken by persons entitled to nonqouta status, and 2,000 more visas are issued to persons who do not apply for actual admission. All these visas are lost. Such a result is inconsistent with the new bill, which seeks full use of authorized quota numbers.

Substituted for section 207 is a specific command that nonquota immigrants shall not preempt visas which would otherwise be issued to quota immigrants.

Section 6 amends section 101(a)(27)(A) of the Immigration and Nationality Act, which grants nonquota status to spouses and children of U.S. citizens, to extend nonquota status to parents of U.S. citizens as well.

Section 7 amends section 101(a)(27)(C) of the Immigration and Nationality Act to extend nonquota status to all natives of independent Western Hemisphere countries. Under present law, such status is granted to natives of all independent North, Central, and South American countries, and of all Caribbean island countries independent when the Immigration and Nationality Act was enacted in 1952. The amendment extends the status to countries gaining their independence since then.

Section 8 amends section 203(a) of the Immigration and Nationality Act, which establishes preferences for immigrants with special skills and relatives of U.S. citizens and resident aliens.

Subsection (a) relaxes the test for the first preference accorded to persons of high education, technical training, specialized experience, or exceptional ability. Under present law, such persons are granted preferred status only if their services are "needed urgently" in the United States. The amendment allows their admission if their services would be "especially advantageous" to the United States.

Subsection (b) eliminates the second preference for parents of American citizens, now accorded nonquota status by section 6.

Subsection (c) grants a fourth preference, up to 50 percent of numbers not issued to the first three preferences, to parents of aliens lawfully admitted for permanent residence. It also grants a subsidiary preference to qualified quota immigrants capable of filling particular labor shortages in the United States. Under present law, if an immigrant does not meet the rigorous standards of the skilled specialist category, he is not preferred to any other immigrant even though he may answer a definite need in the United States which the other immigrant does not. The amendment allows to persons filling such a definite need a preference of 50 percent of visas remaining after all family preferences have been satisfied or exhausted.

Section 9 amends section 204 of the Immigration and Nationality Act, which establishes the procedure for determining eligibility for preferred status under section 203.

Paragraphs (1), (2), and (3) provide for the filing of petitions, on behalf of the workers granted preference by section 8, by the persons who will employ them to fill the special needs. Paragraph (1) provides for approval of these petitions by the Attorney General, and paragraph (2) requires that he consult with the Immigration Board and interested departments of Government before granting preference to these workers with lesser skills.

Paragraph (2) also exempts skilled specialists from the present petition procedure, to conform to the new procedure established in paragraph (4). Under present law, persons with high education, technical training, experience, or ability, may qualify for preferred status only when a petition requesting their services is filed by a U.S. employer. This requirement unduly restricts our ability to attract the educated, trained people whose services would significantly enhance our economy, national life, and general welfare. Thousands of such people have no way of contacting employers in the United States in order to get the necessary job. Even if they knew whom to contact, few jobs important enough to attract such highly skilled people are offered without personal interviews. And only a few very large enterprises and institutions have representatives abroad with possible authority to hire. Thus many highly skilled applicants cannot obtain the jobs presently required for preference; they cannot be hired abroad, because hiring is done domestically; and they cannot be hired domestically until they enter.

Moreover, the requirement of prearranged employment, as to these persons, is unnecessary. Such a requirement may serve two ends. First, it may help to insure that the immigrant, granted preference for a defined purpose, will fulfill that purpose; if we need engineers, he should work as one.

Highly skilled specialists, however, will always work at their specialty, provided that employment is open. The only check needed, therefore, is that the Attorney General ascertain from the Board (which has consulted the Secretary of Labor and studied such problems with specific reference to immigrants) that job openings exist in the immigrants' special field. The second end the present petition procedure may serve is confirmation of the applicant's own evidence of his training, education, or skills; presumably he would not be employed unless qualified. But such confirmation is superfluous if proper controls are enforced when the visa is applied for. And since we allow immigrants to enter without U.S. citizens vouching for their loyalty—a far more important matter—there seems no reason to require their capability to be thus additionally supported.

Paragraph (4), therefore, allows the Attorney General to grant preferred status to highly skilled immigrants upon affidavit of the immigrants, supported by such other documentary evidence as he shall prescribe.

Section 10 amends section 205(b) of the Immigration and Nationality Act, providing for petitions to establish the right to preferred status as a relative of a U.S. citizen or lawfully resident alien, to conform to the substantive changes made by section 8.

Section 11 amends the "Fair Share" refugee law to remove a provision which has hampered its operation. Presently, that law allows the entry only of refugees within the mandate of the United Nations High Commissioner for Refugees. The provision relating to the United Nations mandate is stricken out, so that our refugee law is no longer subject to outside control. In addition, subsection (b) repeals the "Fair Share" law's special provision for 500 "difficult to resettle" refugees; these have all been settled and the authority is now unnecessary.

Section 12 amends the Refugee Relief Act to allow the admission of refugees from North Africa generally, and Algeria particularly, who are unable to return to their countries because of their race, religion, or political opinions.

The act now admits such refugees from "any country within the general area of the Middle East," which is defined as the area between Libya on the west, Turkey on the north, Pakistan on the east, and Saudi Arabia and Ethiopia on the south. The amendment substitutes Morocco for Libya as the western border of this area.

Section 13 grants discretionary authority to the Secretary of State to specify the time and manner of payment of the fees for visa applications and issuances set by section 281 of the Immigration and Nationality Act. The discretion granted will allow him to control two undesirable situations.

One, many people in countries with oversubscribed quotas register their names on visa waiting lists even though they have no present intention of immigrating; they regard the registration as "insurance" against a possible future move. These registrations make planning difficult and encumber administration. The amendment would allow the Secretary of State to require a registrant to deposit part of the $5 visa fee at the time of registration. While not unduly burdensome on those who wish to come here, such a rule might discourage the most frivolous registrations.

Two, otherwise admissable immigrants, particularly refugees, are often unable to pay the $20 visa fee. Rather than bar them from entry, the Secretary is given authority to allow postponement of payment until they have earned the money here.

Section 281, is further amended to equalize the visa fees paid by all immigrants; at present, nonquota or preference applicants must pay $10 more than persons not entitled to priority.

Section 14, like section 13, addressed the problem of "insurance" registrations. Many people who applied for visas years ago, and have been offered visas repeatedly, have turned them down each year. They wish only to preserve their priority against some future event. This addition to section 302(c) of the Immigration and Nationality Act would allow the Secretary to terminate the registrations of those who had previously declined a visa. Like section 13, it also is important in connection with a projected reregistration of all applicants in certain oversubscribed quota areas, in which we have no way of knowing whether registrants have died, emigrated elsewhere, or changed their minds; the Secretary would terminate the registration of all persons who fail to reregister as required. The provision is not made mandatory to avoid embarrassing or endangering registrants in totalitarian countries, who have no desire to approach an embassy before visas are actually available for them.

Section 15 amends subsections (a)(4) and (g) of section 212 of the Immigration and Nationality Act to allow the entry of certain mentally afflicted persons. Under present law, no visas may be issued to aliens who are feeble-minded or insane, or have had one or more attacks of insanity, or who are afflicted with a psychopathic personality, epilepsy, or a mental defect. This provision has an unfortunate effect on families seeking admission though one member, often a child, is retarded or feeble-minded. Such families are forced to choose between leaving the child behind, or staying with it; in either case, the child is condemned to facilities for treatment which are often inadequate. The person afflicted may not enter even if the family is willing and able to care for him, nor even if he is one of the 85 percent of mentally afflicted persons who can be substantially helped by proper treatment.

The amendment gives the Attorney General discretionary authority to admit such persons who are the spouses, children or parents of citizens, resident aliens, or holders of immigrant visas. The Attorney General, after consultation with the Surgeon General of the U.S. Public Health Service, would prescribe the controls and conditions on entry, such as the giving of a bond to insure continued family support, as would be appropriate in each case.

The bars to epileptics are removed entirely, since this affliction is now under the control of modern medicine. Those few epileptics whose illness prevents normal functioning will be excludible under the provision barring persons likely to become public charges.

Section 16 establishes the Immigration Board. The Board is composed of seven members. Two are appointed by the Speaker of the House, two by the President of the Senate, and three, including the chairman, by the President. Members not otherwise in Government service are paid on a per diem basis for actual time spent in the work of the Board.

The Board's duties are to study, and consult with, appropriate Government departments on, all facets of immigration policy; to recommend to the President whether to reserve quota numbers in the national interest under section 2; and to recommend to the Attorney General criteria for admission under the occupational preferences of section 8.

Sections 17 grants consular officers discretionary authority to require bonds insuring that certain nonimmigrants will depart voluntarily from the United States when required. This amendment to section 221(g) of the Immigration and Nationality Act, by providing an additional safeguard against a later refusal to depart, would allow the issuance of visas in many borderline cases in which visas are now refused to students and visitors.

I wish to inform the subcommittee that I do not intend to ask for the enactment of H.R. 3926 and H.R. 6238, as their features are embodied in H.R. 7700.